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PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Tuesday, March 20, 1990*

The House met at 12 noon.

Brig. Gen. Matthew Zimmerman, Deputy Chief of Chaplains, U.S. Army, Washington, DC, offered the following prayer:

Almighty God, our Creator, as we pause here today in work and fellowship, we acknowledge, appreciate, and applaud the uniqueness of this body's interests, talents, and work. We are grateful that its efforts can be defined in terms of stewardship; stewardship of the well-being of this Nation and its people.

Help each Member, we pray, better to maintain an understanding and profound appreciation of the nature and the implications of their charter. Bless this body and its Members as agents of change and facilitators for excellence in the quality of our citizens' lives. As stewards of effectiveness and excellence, continue to challenge them with a firm recognition of the dignity and worth of our citizens.

Give to each of them generous portions of Your wisdom, grace, and strength. Enable them to believe strongly in what they do; remain confident in their objectives and abilities, to be aware of and celebrate the humanity of our people, and certainly to maintain a good sense of humor.

In Your name and with Your peace we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. STEARNS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. STEARNS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 258, nays 121, answered "present" 1, not voting 51, as follows:

[Roll No. 28]

YEAS—258

Ackerman	Dellums	Hutto
Akaka	Derrick	Jenkins
Alexander	Dicks	Johnson (CT)
Anderson	Dingell	Johnson (SD)
Andrews	Dixon	Johnston
Anthony	Dorgan (ND)	Jones (GA)
Applegate	Downey	Jones (NC)
Archer	Duncan	Jontz
Aspin	Durbin	Kanjorski
Atkins	Dwyer	Kaptur
AuCoin	Dymally	Kasich
Barnard	Dyson	Kastenmeier
Bartlett	Early	Kennedy
Bateman	Eckart	Kennelly
Bates	Edwards (CA)	Kildee
Beilenson	English	Kleczka
Bennett	Erdreich	Kolter
Berman	Espy	Kostmayer
Bevill	Evans	LaFalce
Bilbray	Fascell	Lancaster
Boggs	Fazio	Lantos
Bonior	Fish	Laughlin
Borski	Frank	Leath (TX)
Bosco	Frost	Lehman (CA)
Boxer	Gaydos	Lehman (FL)
Brennan	Gejdenson	Lent
Brooks	Gephardt	Levin (MI)
Broomfield	Geren	Levine (CA)
Browder	Gillmor	Lewis (GA)
Bruce	Gilman	Livingston
Bryant	Glickman	Long
Bustamante	Gonzalez	Lowey (NY)
Byron	Gordon	Luken, Thomas
Callahan	Grant	Manton
Campbell (CA)	Green	Markey
Campbell (CO)	Guarini	Martinez
Cardin	Gunderson	Matsui
Carper	Hall (OH)	Mavroules
Carr	Hall (TX)	Mazzoli
Chapman	Hamilton	McCloskey
Clarke	Harris	McCollum
Clement	Hatcher	McCrery
Coleman (TX)	Hawkins	McCurdy
Combest	Hayes (LA)	McDermott
Conte	Hefner	McEwen
Cooper	Hertel	McHugh
Costello	Hoagland	McMillen (MD)
Cox	Hochbrueckner	McNulty
Coyne	Horton	Meyers
Darden	Houghton	Mfume
Davis	Hoyer	Miller (CA)
de la Garza	Hubbard	Mineta
DeFazio	Huckaby	Moakley
Mollohan	Ray	Solarz
Montgomery	Richardson	Spratt
Moody	Rinaldo	Staggers
Morrison (WA)	Ritter	Stallings
Mrazek	Robinson	Stenholm
Murtha	Roe	Studds
Myers	Rose	Swift
Nagle	Rostenkowski	Synar
Natcher	Rowland (CT)	Tallon
Neal (NC)	Rowland (GA)	Tauke
Nielson	Russo	Tauzin
Nowak	Sabo	Taylor
Oberstar	Saiki	Thomas (GA)
Obey	Sarpalius	Torres
Olin	Sawyer	Torricelli
Ortiz	Scheuer	Traficant
Owens (UT)	Schiff	Traxler
Pallone	Schneider	Unsoeld
Parker	Schulze	Valentine
Patterson	Schumer	Vento
Payne (NJ)	Sharp	Visclosky
Payne (VA)	Shaw	Volkmer
Pease	Sisisky	Walgren
Pelosi	Skaggs	Washington
Penny	Skeen	Waxman
Perkins	Skelton	Wheat
Pickett	Slattery	Whitten
Pickle	Slaughter (NY)	Williams
Poshard	Smith (FL)	Wise
Price	Smith (IA)	Wolpe
Quillen	Smith (NJ)	Wyden
Rahall	Smith (VT)	Wylie
Ravenel	Snowe	Yatron

NAYS—121

Armey	Gradison	Miller (OH)
Baker	Grandy	Miller (WA)
Ballenger	Hammerschmidt	Moorhead
Bentley	Hancock	Morella
Bereuter	Hansen	Murphy
Bilirakis	Hastert	Oxley
Bliley	Hefley	Packard
Boehlert	Henry	Parris
Brown (CO)	Herger	Pashayan
Buechner	Hiler	Paxon
Bunning	Holloway	Petri
Burton	Hopkins	Porter
Chandler	Hunter	Pursell
Clay	Hyde	Regula
Clinger	Inhofe	Rhodes
Coble	Ireland	Ridge
Coleman (MO)	Jacobs	Roberts
Coughlin	James	Rogers
Courter	Kolbe	Rohrabacher
Dannemeyer	Kyl	Ros-Lehtinen
DeLay	Lagomarsino	Roth
DeWine	Leach (IA)	Roukema
Dickinson	Lewis (CA)	Saxton
Dornan (CA)	Lightfoot	Schaefer
Douglas	Lowery (CA)	Schroeder
Dreier	Lukens, Donald	Sensenbrenner
Emerson	Machtley	Shays
Fawell	Madigan	Shuster
Frenzel	Marlenee	Sikorski
Gallegly	Martin (NY)	Slaughter (VA)
Gallo	McCandless	Smith (NE)
Gekas	McDade	Smith, Denny (OR)
Gingrich	McGrath	Smith, Robert (NH)
Goodling	McMillan (NC)	
Goss	Michel	

Smith, Robert (OR)	Sundquist	Weber
Solomon	Thomas (CA)	Weldon
Spence	Thomas (WY)	Whittaker
Stangeland	Upton	Wolf
Stearns	Vucanovich	Young (AK)
Stokes	Walker	
	Walsh	

ANSWERED "PRESENT"—1

Roybal

NOT VOTING—51

Annunzio	Foglietta	Rangel
Barton	Ford (MI)	Sangmeister
Boucher	Ford (TN)	Savage
Brown (CA)	Gibbons	Schuette
Collins	Gray	Shumway
Condit	Hayes (IL)	Smith (TX)
Conyers	Hughes	Stark
Craig	Lewis (FL)	Stump
Crane	Lipinski	Tanner
Crockett	Lloyd	Towns
Donnelly	Martin (IL)	Udall
Edwards (OK)	Morrison (CT)	Vander Jagt
Engel	Neal (MA)	Watkins
Feighan	Nelson	Weiss
Fields	Oakar	Wilson
Flake	Owens (NY)	Yates
Flippo	Panetta	Young (FL)

□ 1228

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Nebraska [Mr. HOAGLAND] will come forward and lead the House in the Pledge of Allegiance.

Mr. HOAGLAND led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

□ 1230

CHAPLAIN MATTHEW ZIMMERMAN

(Mr. PAYNE of New Jersey asked and was given permission to address the House for 1 minute.)

Mr. PAYNE of New Jersey. Mr. Speaker, on behalf of my colleagues, it is my pleasure to welcome to the Chamber today our guest chaplain, Brig. Gen. Matthew A. Zimmerman, Jr., Deputy Chief of Chaplains, U.S. Army.

It is my pleasure to mention that on Thursday the President approved and intends to forward to the Senate for confirmation the promotion of our guest chaplain, Brig. Gen. Matthew Zimmerman, to the position of Chief of Chaplains of the U.S. Army, and his promotion to the grade of major general, and we are very pleased to announce that.

Although Chaplain Zimmerman was born in South Carolina, and has had many assignments around the country and overseas, I have a special association with the chaplain because his father, Rev. Matthew Zimmerman, Sr., serves as pastor of the Greater Abyssinian Baptist Church in the city of Newark, NJ, in my district.

Just as his father is known as a strong community and spiritual leader, so Chaplain Zimmerman has become one of the senior leaders of the chaplains' corps, known for his commitment to the men and women of our Army.

Chaplain Zimmerman entered the chaplaincy in 1967 at the rank of captain, and has risen in rank and responsibility until the past year when he was promoted to brigadier general, and as I indicated, he is now promoted to the position of major general. This action of the Army and the awards he has received are expressions of the confidence that has been placed in Chaplain Zimmerman, and are indications of his outstanding ability.

We are honored to have Chaplain Zimmerman lead the Congress in prayer, and we wish him continued success in his very important ministry to our country.

APPOINTMENT OF MEMBERS TO ATTEND CONFERENCE OF INTERPARLIAMENTARY UNION IN NICOSIA, CYPRUS

The SPEAKER. Pursuant to the provisions of 22 United States Code 276a-1, the Chair appoints to the delegation to attend the Conference of the Interparliamentary Union to be held in Nicosia, Cyprus, on March 30 through April 7, 1990, the following Members on the part of the House.

Mr. FEIGHAN of Ohio, chairman;
Mr. SCHEUER of New York, vice chairman;
Mr. BROWN of California;
Mrs. BOGGS of Louisiana;
Mrs. PATTERSON of South Carolina;
Mr. BATES of California;
Mr. HAMMERSCHMIDT of Arkansas;
Mr. BILIRAKIS of Florida; and
Mr. BLAZ of Guam.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 644, JEMEZ AND PECOS RIVERS WILD AND SCENIC RIVER ADDITION ACT OF 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-424) on the resolution (H. Res. 360) providing for the consideration of the bill (H.R. 644) to amend the Wild and Scenic Rivers Act by designating segments of the east fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System, which was referred to the House Calendar and ordered to be printed.

RECOGNITION OF AN INDEPENDENT LITHUANIA

(Mr. MILLER of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Washington. Mr. Speaker, the struggle in Lithuania goes on. It has all the passion, drama, and virtue of our own struggle of 1776. The dreams and aspirations of Jefferson, Madison, and Hamilton are the dreams and aspirations of Landesbergis, Zingeris, and Prunskiene. In the face of Soviet intimidation, Lithuanians continue their courageous struggle for freedom. And all they ask from us is for peaceful, moral, and political support. They deserve that support.

Mr. Speaker, President Bush, Secretary Baker, the U.S. recognition of an independent Lithuania, extended between World War I and World War II, should immediately be renewed.

I ask my colleagues to join us in a letter circulating today, that asks the President to do just that.

VIOLENCE TOWARD ETHNIC HUNGARIANS IN ROMANIA

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, the ugly vestiges of Nicolae Ceausescu's brutal dictatorship are still around us. We have had disturbing reports today that ethnic Hungarians have been attacked and injured, and there are unconfirmed reports that two may have been killed by the thugs of Ceausescu.

Temporary governments are in charge in Eastern and Central Europe. But they have an obligation to maintain law and order, and they have a responsibility to see to it that ethnic dissension and violence do not emerge to disrupt this newly democratic area.

I am calling on our administration to withhold any further discussion of extending most-favored-nation treatment to Romania or of providing any assistance of any kind to Romania until we are assured that the Government of Romania will take all steps necessary to protect the human rights of all of its citizens—whatever their ethnic origin.

STOP BICKERING AND SUPPORT THE PRESIDENT'S AID PACKAGE TO NICARAGUA AND PANAMA

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, the dramatic triumph of the democratic electoral process in Nicaragua is an example of stirring victory for the forces of democracy, liberty, and freedom. The rapid developments of the past several months, particularly movement toward democracy in Eastern Europe,

Panama, and Nicaragua, make clear that the President of the United States must have great flexibility in the way he conducts our Nation's foreign policy and responds to the rapid progress of world events.

These recent and exciting developments lead to the inescapable conclusion that Congress must work with the President to push forward much needed support for these budding democracies. Three Presidents from both parties, Carter, Reagan, and now Bush have committed America to the side of freedom and democracy in Nicaragua.

There is a real sense of urgency in this package of aid to Nicaragua and Panama. The dispute over the proposed deferring or transferring of various defense projects to offset the proposed outlays for Panama and Nicaragua this fiscal year should not be permitted to obscure the fact that we now face a common task in revitalizing progressive cooperation throughout the hemisphere helping the peoples of Panama and Nicaragua in reconstructing their economies and building stable democracies.

Because of the urgency of this matter, I hope my colleagues will put aside partisan pettiness and support the passage of the President's aid budget package before we break for Easter.

IT IS TIME FOR THE UNITED STATES TO TAKE CARE OF BUSINESS WITH JAPAN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Japan is not only winning the race, they are starting to rub it in. Japanese investors bought a 25-percent share of American super racehorse, Sunday Silence.

If that does not give you saddle sores, they want to ship him overseas to boot. Think about it.

No one can miss in Japan because no one can handicap a system better than the Japanese can. Just look at our trade deficit, folks. Let us face it, Japan is bombing Wall Street, Japan is bombing back street, and Japan is bombing Main Street all over America, and they are not shy about it.

They did not buy Old Dobbins. They bought the eclipse award winner because they are snorting a challenge, and what are we doing in this Congress? We are still horsing around.

It is time to develop a fair trade reciprocal agreement with Japan before all our horses are out of the barn. I do not think Congress should leave it up to Easy Goer.

I think it is time to take care of our business with Japan.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would respectfully advise the gallery not to join in any of the floor proceedings. We welcome our guests and are glad they are here, but the gallery is not to take part in the floor activities.

THE EMPEROR HAS NEW TAXES

(Mr. ACKERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ACKERMAN. We wanted to believe you, Mr. President. You said, "Read my lips: no new taxes," and the American people marched in your parade.

But now we hear a little voice off in the crowd. It is a little boy. He is saying, almost incredulously: "The emperor has new taxes."

While you were saying, "No new taxes," and we were reading the Presidential lips, here is what we have been getting: Social Security increases, user fees, revenue enhancers, surcharges, stock and bond transaction levies, permanent long-distance telephone communication fees, enforcement area opportunities, payroll charge collection acceleration, airport transaction facilitation charges, and now federally shifted State-imposed highway toll receipt extenders.

□ 1240

The emperor has no taxes.

Give me a break. The American people are neither fools nor suckers. Read your lips? No new taxes? You are giving us, Mr. President, nothing but "Bush lip," Bush lip, Bush lip.

The American people fought a revolution saying "No taxation without representation," but we are not stupid enough to think that we can get representation without taxation.

Come clean with us, Mr. President, be honest with us; we can handle it. A little bit of glasnost. What "newspeak tax" tomorrow? By morning we will all be knee-deep in Bush lip, pure unadulterated crock of Bush lip.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Before proceeding to the next speaker, the Chair would advise Members that the rules of the House require the President, for example, to be respectfully addressed in the third person through the Chair, not directly; the rules of the House disallow direct references in the second person.

NATIONAL AGRICULTURE DAY

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, on this first day of spring I would like to call my colleagues' attention to the 10th anniversary celebration of National Agriculture Day.

Mr. Speaker, there are more than 2 million farms in the United States—57,000 of which are found in my home State of Nebraska—forming our Nation's largest single industry. With assets totaling more than $1 trillion, agriculture contributes almost $730 billion to the U.S. gross national product and employs approximately 21 million people.

These 21 million people strive to provide U.S. consumers with the safest, most diverse, and least costly food supply in the world. Americans pay only 11.6 percent of their income on food while the average Russian spends more than 26 percent and the average Chinese spends over 50 percent.

Today, our farmers and ranchers continue to face profound uncertainties—the prospects of a third straight year of drought, unfair foreign trading practices, unfounded public hysteria regarding the safety of our food supply, and modification of our agricultural policies in the 1990 farm bill.

As a member of an 11th generation farm family, and as vice chairman of the House Appropriations Subcommittee on Agriculture, I applaud the hard work and dedication of my constituents involved in the production, processing, and transportation of agricultural products.

I hope every American recognizes the contributions of agriculture to this Nation and understands the importance for our future.

THE DEMOCRATIC PARTY IS THE PARTY OF NEW IDEAS

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, we Democrats have always been the party of new ideas. So when the White House or our Republican friends steal one of our ideas, we do not mind. But you would think that the least that the White House could do when they grab one of our ideas is to refrain from attacking the Democrat who originated the idea in the first place.

According to an interview published today, President Bush conceded that he could, and I quote, "foresee the day when after reforms take place, needed reforms, the Western world will be interested in helping bring along the reformed Soviet Union," and the President continued, "Clearly it is in the best interests of peace that take place, but we have to have that reform first."

Those sentiments are strikingly similar to the thoughtful remarks made by

our majority leader 2 weeks ago today. Way back then our majority leader was excoriated for committing the heresy of saying that United States trade and aid could be used to buttress peaceful change in the Soviet Union.

Mr. Speaker, I believe our President owes one of his famous "thank you" notes to our majority leader because the White House has now appropriated the very idea which the President's staff and political allies were denouncing DICK GEPHARDT for proposing just 2 weeks ago.

SDI-DIRECTED ENERGY PROGRAM

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I rise in recognition of some of the advances being made in the SDI Directed Energy Program. Last year, the SDI Organization's Directed Energy Office realized two significant achievements. First, the BEAR experiment was launched proving a neutral particle beam could operate in space. Second. the Alpha laser, a laser factor of 20 better than the Miracl laser at White Sands, was fired. This first firing and subsequent test have proven that all issues of physics have been resolved with respect to the Alpha laser. Both accomplishments underscore the need to continue to fund the SDI Program. The technology is in hand.

CORRECTING A FUNDAMENTAL UNFAIRNESS IN THE 1986 TAX REFORM BILL

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, and colleagues, today I rise to introduce a bill that will correct a fundamental unfairness to the nonprofit organizations and charities in my district in Nebraska. What I am showing you here is a pickle card.

Now this pickle card is used in Nebraska by hundreds of charities and nonprofit organizations to raise money. It includes Catholic schools, it includes little league teams, it includes the Booster Club for the University of Nebraska at Omaha football team, labor organizations, even a major drug treatment center.

Thousands of dollars every year are raised by these charities with these little pickle cards.

Because of a provision in the 1986 Tax Reform Act, these pickle card proceeds are being taxed as unrelated business income taxes. These taxes were not known to these charities in many cases until almost 2 years after the law went into effect.

We have a couple of parishes in Nebraska that are being sent letters demanding over $200,000 in back taxes, penalties, and interest because of overdue taxes on these pickle cards.

Mr. Speaker, I am introducing a bill along with Senators KERREY and EXON of the U.S. Senate to request retroactive repeal of this provision. I am hoping my colleagues on the Committee on Ways and Means will give the bill a favorable hearing.

H.R. 2589 AND CAMPAIGN FINANCE REFORM

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, what if I told you that here in America, millions of our citizens are being denied a very fundamental right? Millions of hard-working Americans are being completely disenfranchised from the political process. What if I told you that there is a systematic effort to negate the vote of these millions of Americans?

Would you believe that Federal laws not only make this possible, but actually encourage it? This may all sound unbelievable, but it is true. I am talking about the use of compulsory union dues for political purposes. I am talking about taking money from millions of Americans and using that money to support candidates and ideological causes that those working people oppose, thus negating their vote.

There is, however, an answer. Join me in cosponsoring H.R. 2589, a bill designed to implement the protection of the Supreme Court's Beck decision. Any campaign finance reform without it is a sham.

NATIONAL AGRICULTURE DAY

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER of New York. Mr. Speaker, today on National Agriculture Day, we celebrate the strength and productivity of agriculture and its associated industries. A bulwark of our national economy, American agriculture continues to lead the world in innovation and performance.

In New York State, as across the Nation, agriculture and its associated production, processing, and marketing industries remain the single largest industry and provider of jobs. In the four counties which comprise the 30th district of New York, a vital farm community sells over $250 million in agricultural products ranging from milk and corn to beets and blueberries.

This year as Congress fashions a farm bill which will guide agriculture policy over the next 5 years, we have a special responsibilitly to institute programs which will allow American farmers to maintain their competitiveness in the world markets, while meeting the challenges of lowering the Federal budget deficit, ensuring a safe food supply, and cleaning up our environment.

The farm bill is designed to help both farmers and consumers by modulating the price and income fluctuations inherent in an industry at the mercy of weather and disease. Our goal must be to provide that stability without stifling marketplace efficiences and while staying within our national means.

Mr. Speaker, National Agriculture Day is an opportunity to recognize the vitality and economic significance of this essential industry. I ask my colleagues to join me saluting American agriculture and working for its continued prosperity.

□ 1250

FREE ELECTIONS IN EAST GERMANY

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise his remarks.)

Mr. BUECHNER. Mr. Speaker, when the demonstrations in Leipzig and Dresden took place, those were the beginnings of the first democracy in East Germany, and probably the birth took place when the wall began to crumble, and holes were pushed in and people began to stream through. However, if that was the birth of democracy in East Germany, this week the first free elections in the history of that country, and the first time that men and women in that country had had an opportunity to vote in a free election for 50 years, that was the first step of that tottering new child called democracy.

I was lucky enough, under the leadership of the chairman of our Helsinki Commission group, the gentleman from New Mexico [Mr. RICHARDSON], I was lucky enough to be there, to meet the men and women, to be observers of the fairness and openness and freeness of those elections, to see the men and women as they stood there, of all ages, to say that this was the first time that they had voted in an election. We asked them, "You mean you had boycotted the elections before?" They said, "No, this is the first time we have voted in an election, where we have had a chance to exercise our right to choose who will represent us."

There are people that say that they voted because of economics. I think that is jaded. When I look at the people in this country that will not vote because it is so easy, and to look over there where it was so hard, where people walked to the polls, rode bicy-

cles, stood in line, and voted 93 percent for freedom; to have that opportunity, I would say to Americans to look at the people across the ocean. They know what freedom is, and they gave it a shot. We should learn from that dynamicism. We should learn.

EARTH DAY 1990

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I am pleased to note that there are only 33 days until Earth Day 1990, which will mark the 20th anniversary of our Nation's first Earth Day. On April 22, 1970, our Nation saw the beginning of the environmental movement, as well as the largest organized demonstration in history.

Now, with Earth Day, just a short month away, we have the opportunity once again to enact landmark environmental legislation to address new environmental problems which we are only beginning to understand.

As we celebrate Earth Day let us give attention to underutilized alternative forms of energy which takes many forms and can be as fundamental as energy conservation, and as complex and seemingly unattainable as nuclear fusion.

Even today, we continue to rely on the use of petroleum byproducts as our major source of energy, products which were the first major source of energy in our modern age. However, it is becoming increasingly apparent that the seemingly endless supply of petroleum is finite, and its production is no longer simple and inexpensive.

Accordingly, both economically and environmentally we must utilize alternative forms of energy such as biomass, photovoltaics, wind and hydropower, and, above all, implementing energy efficiency and conservation.

It is timely for an awesome Earth Day; a day for everyone to celebrate our planet and become actively involved in solving the many complex problems facing our environment.

Mr. Speaker, I urge my colleagues to join in exploring the many benefits of alternative energy as we celebrate Earth Day 1990.

OPEN ALL U.S. PORTS TO WARSAW PACT COMMERCIAL VESSELS

(Mr. PICKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKETT. Mr. Speaker, since 1972, the United States has had a policy of prohibiting Warsaw Pack commercial vessels from calling at ports where there are large military installations. Twelve ports across the country, including the port of Hampton Roads in Virginia, are subject to this restriction.

With democratic reforms sweeping Eastern Europe—and with this Nation's trade deficit a continuing concern at home—there is growing doubt whether these restrictions now serve the economic and political interests of the United States.

Informed observers find it hard to believe that coal colliers from Poland, or freighters from Czechoslovakia, pose the same security threat today that they did in 1972. Our own country needs the additional trade that we would gain from the modification or repeal of these restrictions. The Virginia Port Authority has estimated that eastern Virginia alone could realize an additional $200 million in commercial activity from a relaxation of this policy. And that figure could grow higher.

Mr. Speaker, I have asked the President for an immediate review of this policy that excludes Warsaw Pact commercial vessels from our ports. No one—particularly no one from my area—is even remotely suggesting any action that would compromise our national security.

We just question whether continuing the policy of making some of our ports off limits to Eastern bloc vessels is in the best interests of the United States and the democratic movement in Eastern Europe.

LITHUANIANS BULLIED BY SOVIETS

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, those eager to give the Soviets all kinds of economic assistance might consider what is going on in Lithuania.

Brave Lithuanians have proclaimed their independence from a great military power, just as Americans did 200 years ago.

For their courage, Lithuanian citizens are being subjected to the rumble of Soviet tanks and to the buzzing of Soviet jets.

The Soviets may no longer be Stalinists. They may try to show Americans a human face. But it is clear they have not lost their appetite for bullying small neighbors.

The Lithuanian people are demanding the right to preserve their national integrity and determine their own future.

I would hate to think that American dollars could some day be used to crush them.

REGULATIONS ON SEMIAUTOMATIC ASSAULT WEAPONS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute.)

Mr. MAZZOLI. Mr. Speaker, tomorrow, the Subcommittee on Crime has a chance to perform a very special public service for the people of America, and particularly for the people of Louisville, KY, whom I am honored to represent.

Our subcommittee will mark up H.R. 4225, a measure which I am proud to have sponsored with the chairman of our subcommittee, the gentleman from New Jersey [Mr. HUGHES].

H.R. 4225 allows for the prohibition of the domestic manufacture and sale of semiautomatic assault weapons.

As Members know, since July of last year such weapons of death cannot be imported into this country. Legislation restricting the availability of semiautomatic assault weapons is overdue. We need to put a stop to the bloodshed caused by these people-killer weapons. We need to put a stop to the senseless tragedies like the one which enveloped constituents in Louisville last September, when a gunman leveled an assault weapon at innocent people, killing 9 and wounding very seriously 13 others.

Mr. Speaker, I hope our subcommittee can given H.R. 4225 a very solid sendoff tomorrow on its journey to the White House, where I hope President Bush will sign this measure into law. It is much needed in America.

UNITED STATES ALREADY RECOGNIZES LITHUANIA

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, another word on the situation in the Soviet Union in general and Lithuania in particular. First, the Ukraine. At this moment, a delegation from the Ukraine, at one time the most prosperous of the 15 so-called Soviet Republics, is meeting with Mr. Gorbachev—Time magazine's delusioned choice as man of the decade—to discuss independence for the Ukraine.

It was Lenin himself—the father of this polyglot comprised of 15 so-called republic states, with 135 ethnic groups, and over 120 languages—who said "Lose the Ukraine, we lose our head."

Now, here is where a little trick which Stalin, Uncle Joe, pulled on President Roosevelt, will come back to haunt the Soviets. The Ukraine has a separate seat in the United Nations. A separate seat. So does Byelorussia. Now, back to Lithuania. All the papers say that since the plea on St. Patrick's day by the Lithuanians that their in-

dependence be recognized by other countries around the world, not a single nation has recognized them. Wrong. We, the United States have never unrecognized them.

When I came here as a freshman, the two salient foreign affairs facts unknown to most Members in the Chamber except for some senior Republicans were first, the Ukraine and Byelorussia have seats in the United Nations which means the Soviet Union has three seats to our one in the General Assembly; and second, there were three Embassies in this town for Ukraine, Estonia, and Latvia, complete with Ambassadors. I have visited them all.

□ 1300

Mr. Speaker, these embassies are still there. These people are struggling for freedom against history's most oppressive regime. Let us help Lithuania the way France helped the United States get its independence over two centuries ago.

THE BUSH ADMINISTRATION MUST MOVE FASTER ON EXPORT CONTROL REFORMS

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, the challenge in the days ahead is going to be an economic challenge rather than a military challenge. That is why it is so important that over 130 Members of both political parties have joined me in writing the trade officials of the Bush administration urging them to get moving on export control reforms so our companies can sell their products in Eastern Europe.

We are going to have to move much faster, because right now you can throw a bunch of computers into the back of a pickup truck by the Berlin Wall and drive them into Eastern Europe just like that. Our companies, those that make computers, electronics, communications, and health care equipment have the skill and the ingenuity to compete with anyone in the world. I think it is high time our trade negotiators stop dawdling on the express reform issue and make sure our companies are not left in the dust.

The letter that has been sent to the administration is bipartisan, and I'm particularly appreciative of the help of our colleagues, Congresswoman JOHNSON of Connecticut and Congressman GRADISON of Ohio.

THE TWO ALTERNATIVES ON CHILD CARE

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, there is a great deal of discussion about child care. There are two ideas proposed. First is that we have Washington run a child care center; we take the money to set up a Federal program, with Federal guidelines, and we give the Feds the money to run it. Then we charge the taxpayers for the bill, and if the parents like it, that is fine, and if they do not, that is tough.

The second alternative is that we give the money to the parents and we allow the parents to decide. We give them a voucher if they want to send their child to a day care center—35 percent of all child care in this country is done by religious-based institutions. If parents choose to send their child to some place in a church basement where they are allowed to have prayer before they have cookies, and that would be their right under a proposal by our colleague, Congressman STENHOLM.

Now, the proposal that is being given to us by the other side, by the left, says that we do not want to have anything to do with the church, and we certainly do not want them to use McGuffey's Readers that were used for so many years in this country and that reflected moral and spiritual stories and values. And it says that we want to have Washington decide; we want Washington to give the regulations and we want Washington to give the money and force the parents to go to the Washington directed institution.

Mr. Speaker, let me tell the Members that that is unpopular. That is so unpopular that the left has not been able to write the bill. Yet they tell us they are going to bring the bill to the floor tomorrow. It is so bad that they cannot even let us see a copy of it on this Tuesday afternoon at 1 o'clock, because they want to bring it to the floor tomorrow and not let America see how bad it is. Lest people would call their Congressman and say, "oppose it." They are hiding it somewhere in the bowels of this building, and it should be forced to stay there.

CLARIFYING DETAILS OF PROPOSED CHILD CARE LEGISLATION

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I have great respect for the gentleman from Ohio who just spoke, but I am a little bit disturbed when I hear him characterize the proposed child care bill that is coming up as one that would impose Federal regulations or that would impost a Federal bureaucracy and would tell the people, "We in the Federal Government are going to run the child care centers and not you."

That is not a proper characterization of the child care bill that will be coming before the House. It is one that does let the centers provide for some regulations, not the Federal Government. There will be no such Federal bureaucracy. It is one that also provides that those children who are now in school in the first and second grades will be able to stay in school, will be able to be there after school and before school, until their parents can pick them up, rather than having those kids go home without any parents being there. It is for these youngsters, too. It is one that will expand on the Head Start Program so we can take care of all those kids instead of only 20 percent. It is one, I think, that merits everybody's support, because it will permit the church-related day care centers to continue to operate and permit people to be able to provide assistance and have vouchers in order to have their children go to those day care centers.

DEA BOMBING IN FORT MYERS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, the war on drugs came to my doorstep this weekend. In the middle of the night on Saturday, the DEA office in Fort Myers, FL, became the first such office in the country to be firebombed.

Thankfully, no one was hurt in the blast—which destroyed some $4 million in property and sent shock waves through the Fort Myers community and the entire Nation.

This type of outrageous, brazen assault on our Nation's efforts to eliminate drug abuse, will not be tolerated.

NARCO-terrorism—whether it's overseas or in our own communities should serve only to strengthen our resolve to finish the terrorists and shut down their drug pipeline completely.

Mr. Speaker, I commend the swift and reasoned actions of DEA, the FBI, and local law enforcement officials in handling the situation in Fort Myers. I am confident that their good work will result in bringing to justice those responsible for this vicious attack.

I urge my colleagues to take heed—this incident clearly demonstrates that no community should consider itself immune to the terrible consequences of our Nation's drug crisis. The war is far from over.

PEACEFUL NEGOTIATIONS ON LITHUANIA THE ONLY HOPE

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, before speaking on my subject, I want to join the gentleman from Florida [Mr. Goss], who, I think, spoke well about the incident that occurred in his jurisdiction, and I want to tell him that we are united in that effort. I congratulate him for his remarks.

Mr. Speaker, we understand that large numbers of soldiers, tanks, aircraft, and other forms of military hardware have recently been observed in activity in Lithuania.

The Lithuanian people have stood up for freedom and against a deal that is now recognized even by the Soviets as an illegal international deal to subjugate the Lithuanian people.

We have been informed by Moscow that they are conducting military maneuvers in Lithuania and implementing priority measures to safeguard key industrial installations.

Lithuanians are disquieted but resolute. They are hopeful that President Gorbachev knows that the "military card" in the Baltics will be no more successful than martial law was in Poland. Even Mr. Gorbachev's apparent hard-line rival, Mr. Ligachev, has said that tanks are not the answer to the Lithuanian question.

Mr. Speaker, we trust that shortly the Soviet troops will go home from their maneuvers or guard duties or whatever they are doing in Lithuania, and that the Government of the Soviet Union and the representatives of the newly elected Lithuanian Parliament will be able to resolve their differences peacefully.

Earlier this year the Helsinki Commisson called for peaceful negotiations on the Lithuania situation. It is still the only hope for a just solution in the Baltics and for continuing progress in East-West relations.

CHILD CARE LEGISLATION STILL SEEN AS UNACCEPTABLE

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we are very grateful that a moment ago the gentleman from Missouri let us in on some of the details of the bill on child care that is going to be brought to this House evidently this week. At this point we on the minority side have not been given a chance to see that bill, so we have no idea whether the representations of the gentleman from Missouri about the bill are correct, although we have to assume that he may have a better idea than we do.

The thing we do know is that one member of the Democratic Party came to the floor yesterday and described the bill that is about to come before us as being a bill that is similar in nature to last year's bill. Last year's bill brought to us by the Democratic Party was the ABC bill. That is a big government, regulatory approach to child care. Our big fear is that a large portion of the bill that will come before us later on this week may also have those characteristics.

If that is the case, that is a bill which is unacceptable to the large bulk of the American people. The American people do want a bill that gives parents a choice, that gives parents an opportunity to select the child care that they believe is best for their children. That is the approach that is embodied in the Stenholm-Shaw substitute, and we would certainly urge that Members support that as the alternative that gives parents a choice about what is going to happen to their children.

□ 1319

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules.

EXTENSION OF STRATEGIC PETROLEUM RESERVE

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4167) to provide for a short-term extension of the strategic petroleum reserve, and for other purposes.

The Clerk read as follows:

H.R. 4167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION.

The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) is amended—

(1) in sections 171 and 104(b)(10), by striking out "April 1, 1990" each place it appears and inserting in lieu thereof "August 15, 1990"; and

(2) in section 281, by striking out "June 30, 1990" each place it appears and inserting in lieu thereof "August 15, 1990".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4167 is a bill to extend the Energy Policy and Conservation Act [EPCA] from April 1 through August 15, 1990. Unless EPCA is extended before April 1, 1990, the Department of Energy may not have sufficient authority to drawdown the strategic petroleum reserve [SPR] in response to an oil shortage. The Committee on Energy and Commerce will consider a long-term extension prior to the August expiration date. I believe this to be a noncontroversial extension.

The bill contains a 4½-month extension of title I and a 2½-month extension of title II. Title I contains authority to fill and use the SPR; title II contains an antitrust exemption for the major oil companies which would allow them to coordinate use of oil supplies during times of oil shortages. Part of the function of this bill is to put the expiration of title I and title II on the same schedule.

This short-term extension of title I is the second recent short-term extension. A previous extension had extended title I of EPCA from June 30, 1989, to April 1, 1990. An important feature of this extension was a requirement for the administration to complete a study of alternative financing mechanisms for the SPR.

This study was completed on February 2. It contained a recommendation that the Congress consider legislative language that allows, but does not require, the Department of Energy to lease oil for storage in the SPR. The legislative language is unusually complex and will require detailed review to assure it provides appropriate oversight safeguards as well as giving DOE sufficient latitude to credibly sit at a bargaining table with potential lessors of oil.

With their study, the Department submitted a recommendation not to expand the SPR beyond 750 million barrels.

These two issues alone are of sufficient importance and complexity that it will be impossible to adequately consider them before the current expiration of EPCA.

In addition to these issues, there are other unresolved issues related to the SPR. These include increased flexibility in Presidential authority to drawdown the SPR, the desirability of some refined product storage in the SPR, authority to allow the SPR to be used to respond to a domestic shortage, and authority to conduct test drawdowns of the SPR.

Therefore, the committee is recommending this short-term extension to allow proper and deliberate consideration of the reports, other related energy policy issues, and the implications they raise.

As a procedural matter, I note that the other body has already passed a similar bill, S. 2231. There is no substantive difference between S. 2231

and the committee bill; only a nonsubstantive, stylistic difference in language. In the interests of expediency, after the House has considered H.R. 3167, I will make a unanimous consent request that the House also adopt S. 2231 so that the EPCA extension may be sent to the President without unnecessary delay.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4167, a bill the gentleman from Indiana [Mr. SHARP] and I introduced on March 1, 1990, to extend titles I and II of the Energy Policy and Conservation Act through August 15, 1990. This is a compromise short-term extension of current law. The Committee on Energy and Commerce favorably reported the bill without dissent last week. On March 9, 1990, the Senate passed S. 2231 by unanimous consent, a bill which would accomplish the same purpose as H.R. 4167.

Title I of EPCA contains the legal authority to develop and drawdown the strategic petroleum reserve. This title of current law expires on April 1, 1990, which is only a little less than 2 weeks away. This is must legislation in that we cannot afford to allow this law to lapse and create unnecessary anxiety about whether we will be able to use the strategic petroleum reserve in the event of an energy emergency.

Title II of EPCA, which governs U.S. participation in the International Energy Agency and contains other provisions on energy emergencies, expires on June 30, 1990.

This short-term extension of current law to August 15, 1990, will allow us to pass a longer term bill, hopefully on a bipartisan basis. When we passed a similar short-term extension last year, we directed the Department of Energy to study whether the leasing of oil would be a cost effective alternative to, or supplement for, direct purchases.

The Department of Energy submitted its report to the Congress on February 2, 1990, in which it requested authority, but not a mandate, to pursue leasing. The Energy Department also submitted the results of an interagency task force which concluded that we should not expand the ultimate size of the SPR from the current plan of 750 million barrels to 1 billion barrels. As a long time supporter of a larger strategic reserve, I was disappointed by this recommendation. However, passing H.R. 4167 today will give our Subcommittee on Energy and Power more time to carefully consider the Department of Energy's views on this and other EPCA issues.

Another issue we need to examine is the fact that under current law the strategic petroleum reserve can only be used in the event of a cutoff of imported oil. My home State of California is dependent on oil from Alaska for much of its supply. The tragic spill from the *Exxon Valdez* 1 year ago this week showed that energy supplies and prices can be affected by the loss of U.S. supplies as well as foreign imports. I hope the subcommittee will look favorably on amending current law to make the SPR more useful in this regard.

In conclusion, Mr. Speaker, I commend the Chairman of the Subcommittee on Energy and Power, Mr. SHARP, for working with the Republican Members of the subcommittee in bringing this needed legislation to the floor in a timely fashion. I urge swift passage of H.R. 4167.

Mr. LENT. Mr. Speaker, I urge my colleagues to act favorably on H.R. 4167, a bill introduced by the gentleman from Indiana [Mr. SHARP], the chairman of our Subcommittee on Energy and Power, and the subcommittee's ranking Republican member, the gentleman from California [Mr. MOORHEAD]. The bill extends titles 1 and 2 of the Energy Policy and Conservation Act through August 15, 1990. In this way, the strategic petroleum reserve and U.S. participation in the International Energy Agency can go forward while we consider a long-term extension.

It is appropriate that we are considering this bill on a day when the weather in the Nation's Capital is more like winter than the summer-like conditions of recent weeks. I say this because this is the first piece of energy legislation out of our committee since the record run-up in home heating oil prices last December and early January. My home area on Long Island was hard hit, as were the districts of many of my colleagues from the Northeast and Midwest.

The Subcommittee on Energy and Power, which brings us this bill today, is to be commended for holding a hearing on January 9, 1990, which examined the heating oil price increase in some detail. We learned that one of the reasons why prices shot up a record 50 percent and more in a matter of a few weeks was that inventories of heating oil were unusually low going into the winter heating season. Thankfully, the warm weather in recent weeks, and the reopening of several refineries, has allowed the industry to bring inventories back up.

Mr. Speaker, we will have a number of issues to consider when the committee and the House act on a long term EPCA extension before the new August 15, 1990, date set by the pending legislation. I hope that one of the issues the committee will consider is whether and how the Department of Energy and others should more carefully monitor inventories and other indications as to whether the United States is adequately preparing for winter energy demand as the leaves fall off the trees in late fall. Our consumers were hit hard last winter and we should do what we can to avoid a repeat of that pain next year.

In conclusion, Mr. Speaker, I join in urging my colleagues to support H.R. 4167.

Mr. BROOKS. Mr. Speaker, I, too, wish to join my colleagues on this side of the aisle in congratulating Chairman SHARP of the Energy and Commerce Subcommittee on Energy and Power for the outstanding job that he and his colleagues on that subcommittee have done in crafting the Nation's Strategic Petroleum Reserve Program. Few policies are more vital to this Nation's effort to fashion an energy program which guarantees this Nation's energy independence.

I am pleased to have the Big Hill SPRO in my congressional district and fully support expansion of the strategic petroleum reserve which would create at least 100 construction jobs at Big Hill, which is located in an area which still has substantially high unemployment rates.

I think all of us would agree that our Nation's energy industry is facing a crisis of profound dimensions.

The drop in oil prices from 1982's $39 per barrel to 1985's $28 per barrel to this year's roughly $20 a barrel has dealt a severe blow to a large part of this Nation's economy. Daily crude production is dropping and spending for exploration and development are at historic lows. Moreover, the industry's infrastructure has been devastated, including the loss of tens of thousands of highly trained and skilled personnel. From an industry high of 4,500 rigs "making hole" in 1981, we now have only about 900. In many instances, the absent rigs have been dismantled and sold to foreigners or sold for scrap metal needs.

All of this has had a profound impact on virtually every industry and city in Texas and the southwestern United States. When producers cut back exploration and drilling projects, a chain reaction was set off among those groups that normally invest in the oil and gas industry.

As a consequence, we have the S&L crisis, bank deposits have dropped and many oil country independent banks have been closed by the Federal Government, the home building industry is in disarray throughout the southwestern United States, ship shipbuilding and repair yards have closed, and otherwise viable financial investments have been put on hold.

Not only has this situation raised serious questions for the stability and vitality of our domestic economy, but it also has potentially dangerous implications and ramifications for our country's national security.

It is vital that our military forces be assured of an adequate supply of petroleum products in order to function effectively and efficiently. Further, it is important that we as a nation be able to conduct our foreign policy without that policy being subject to the implicit threat of denial of a basic resource such as petroleum.

For these reasons and many others for which time does not permit an accounting, I believe that an effective national energy policy should include, at a minimum, a continuation of the very successful strategic petroleum reserve—at a maximum possible size, and with an accelerated fill-rate.

I urge my colleagues to vote for this extension.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 4167.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 4167, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

WOODROW WILSON MEMORIAL ACT AMENDMENTS

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2692) to amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life shall be members of the Board of Trustees of the Woodrow Wilson International Center for Scholars.

The Clerk read as follows:

H.R. 2692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN MEMBERSHIP OF THE BOARD OF TRUSTEES OF THE WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS.

Section 3(b) of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)) is amended to read as follows:

"(b) The Board of Trustees shall be composed of 19 members as follows:

"(1) the Secretary of State;

"(2) the Secretary of Health and Human Services;

"(3) the Secretary of Education;

"(4) the Chairman of the National Endowment for the Humanities;

"(5) the Secretary of the Smithsonian Institution;

"(6) the Librarian of Congress;

"(7) the Director of the United States Information Agency;

"(8) the Archivist of the United States;

"(9) one member appointed by the President from time to time from within the Federal Government; and

"(10) 10 members appointed by the President from private life.".

SEC. 2. CONFORMING AMENDMENTS.

Section 3 of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f) is amended—

(1) in subsection (c), by striking out "(8)" and inserting in lieu thereof "(9)"; and

(2) in the first sentence of subsection (d), by striking out "(9)" and inserting in lieu thereof "(10)".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes and the gentleman from Ohio [Mr. GILLMOR] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Wilson Center is a living memorial to our 28th President. It is an independent entity within the Smithsonian. The Center fosters scholarship and dialog in the humanities by bringing a variety of thinkers from around the world as fellows to Washington, DC.

H.R. 2692 would increase the membership of the Board of Trustees of the Wilson Center from 16 to 19. In 1968 Congress created the Board to maintain and administer the Center and to execute such other functions as appointing scholars and providing stipends, grants, and fellowships to those scholars. Additionally, the Board is entrusted to solicit, accept, and dispose of gifts for the Center's benefits.

The Woodrow Wilson Memorial Act designated that the Secretary of Health, Education, and Welfare act as an ex officio member of the Board of Trustees. However, when the Department of Health and Human Services was established, the Secretary of HHS was designated as a member, rather than the Secretary of Education. So closely related are the interests and functions of the Secretary of Education to those of the Center, it is appropriate that the Secretary of Education be appointed to the Board as well.

The Memorial Act mandated that the number of members from private life exceed the number of ex officio members on the Board of Trustees. The addition of two members from private life will effectively reestablish that balance between private and ex officio members, originally intended by Congress. I urge my colleagues to support passage of this bill.

□ 1320

Mr. GILLMOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2692, a bill which amends the Woodrow Wilson Memorial Act by adding the Secretary of Education and two individuals from private life to the Board of Trustees of the Woodrow Wilson International Center for Scholars. As my distinguished chairman has just explained, this change will add an important dimension to the Board as well as bring the membership of the Board in compliance with the original intent of Congress.

I thank the chairman for his work in bringing this bill to the floor and I urge my colleagues to support it.

Ms. OAKAR. Mr. Speaker, first, I would like to commend my friend and colleague, Chairman WILLIAM CLAY, for so expeditiously moving this legislation through his Subcommittee on Libraries and Memorials.

Mr. Speaker, I was proud to introduce H.R. 2692, legislation which proposes to amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life be members of the Board of Trustees of the Woodrow Wilson International Center for Scholars.

The Wilson Center, a living memorial to our 28th President, is an independent entity, within the Smithsonian Institution. The Center's mandate is to symbolize and to strengthen the fruitful relations between the world of learning and the world of public affairs. To that end, it fosters scholarship and dialog in the humanities by bringing a variety of thinkers from around the world as fellows to Washington, DC.

Mr. Speaker, the Wilson Center Memorial Act of 1968 designated that the Secretary of Health, Education and Welfare act as an ex-officio member of the Board of Trustees. However, when the Department of Health and Human Services was established, the Secretary of HHS was designated as a member of the Center, Rather than the Secretary of Education. Since the interests and functions of the Secretary of Education are so closely related to those of the Wilson Center, it is appropriate that the Secretary of Education be appointed to the Board as well.

The increase in the number of appointed members from private life would reestablish the original balance between private members and ex-officio members originally intended by Congress in the enabling legislation which stated that the number of members from private life will exceed the number of ex-officio members. Additionally, the Board will be able to more effectively carry out its legislated responsibilities, since the number of Board members to whom the Center can turn for service on its various committees has proved over the years to be limited by the weighty commitments of its ex-officio members. H.R. 2692 is sufficient to enable the Woodrow Wilson International Center for Scholars to better carry out its duties.

Mr. Speaker, I ask all my colleagues to support this important legislation.

The Woodrow Wilson International Center for Scholars is a Presidential memorial that fosters scholarship and dialog in the humanities and the social sciences. At the Center's 20th Anniversary Dinner, Director Charles Blitzwer eloquently stated one of the Center's guiding principles, "* * * in everything we do we shall continue to be scrupulously nonpartisan, offering a forum for the widest diversity of views and encouraging free and lively debate among them." The Center enriches the quality of knowledge and debate in the Nation's Capital and throughout the world by bringing fellows from around the world to Washington, DC, encouraging discourse among disciplines and professions, and publishing the results of these activities.

When the Congress passed the Woodrow Wilson Memorial Act of 1968 (Pub. L. 90–

637), it intentionally established a Board of Trustees on which the number of appointed members would exceed the number of ex-officio members. Since that time, two things have happened to affect the balance of the Board.

First, when the education and cultural programs of the Department of State were transferred to the U.S. Information Agency, the Director of USIA was added to the Center's Board, and

Second, when the Department of Health and Human Services was established, the Secretary of HHS was designated a member of the Board rather than the Secretary of Education.

In view of these development, I now propose that Public Law 90–637 be amended (a) to add the Secretary of Education to the Center's Board, and (b) to increase by two the number of appointed Board members.

The addition of the Secretary of Education is proposed because of the close connection between his Department's interests and activities and those of the Center. The addition of two new private members is proposed primarily to reestablish the original balance between appointed and ex-officio members intended by Congress in 1968. Additionally, the presence of these two new members will enable the Board to carryout more effectively its legislated responsibilities. Because of the weighty commitments of its ex-officio members, the number of Board members to whom the Center can turn for service on its various committees has proved over the years to be limited. The addition of two new appointed members, while still keeping the Board small (19), would enable it to better carry out its duties.

Mr. CLAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILLMOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 2692.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2692, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

U.S. COAST GUARD BICENTENNIAL MEDAL ACT

Mr. LEHMAN of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1091) to provide for the striking of medals in commemoration of the bicentennial of the U.S. Coast Guard.

The Clerk read as follows:

S. 1091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Coast Guard Bicentennial Medal Act".

SEC. 2. MEDAL COMMEMORATING THE BICENTENNIAL OF THE UNITED STATES COAST GUARD.

(a) COMMEMORATIVE MEDAL.—The Secretary of the Treasury shall design, strike, and sell a medal in commemoration of the bicentennial of the United States Coast Guard in 1990.

(b) SALES.—Medals struck pursuant to subsection (a) shall be sold at a price sufficient to cover the cost of such medals, including labor, materials, dies, use of machinery, and overhead expenses.

SEC. 3. DESIGN OF MEDAL.

The design of the medal authorized by this Act shall be selected by the Secretary of the Treasury after consultation with the Secretary of Transportation and the Commission of Fine Arts.

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. LEHMAN] will be recognized for 20 minutes and the gentleman from Indiana [Mr. HILER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, S. 1091, authorizes the minting of a bronze national medal to commemorate the bicentennial of the U.S. Coast Guard. The subcommittee passed, without amendment and by unanimous consent, the House version of the bill, H.R. 509, which is identical to S. 1091. The Senate passed S. 1091 without amendment on October 3, 1989. We are considering the Senate bill here today in order to expedite the legislative process so that a medal may be struck in time for the Coast Guard's bicentennial celebration in August.

The other branches of the armed services have been honored by such a medal in their bicentennial years, and thus it is most appropriate that we honor the Coast Guard in 1990 for 200 years of unfailing service.

I want to thank the gentleman from Illinois [Mr. ANNUNZIO] for his leadership on this legislation, and to acknowledge the very hard work done in acquiring the 218 cosponsors that are required by the Banking Committee for commemorative medal legislation.

Mr. Speaker, this is a noncontroversial bill that has bipartisan support. The bill was reported by our committee without dissent. I urge its passage.

Mr. HILER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1091, the U.S. Coast Guard Bicentennial Medal Act. I would like to commend Congressman ANNUNZIO and his staff for the fine work they have done in complying with the subcommittee rules and getting 218 cosponsors for this legislation.

The Senate bill before us is identical to the House bill, H.R. 509, reported out of the Banking Committee's Consumer Affairs and Coinage Subcommittee on March 14, 1990. Passing the Senate bill will allow the bill to go directly to the President. This will allow sufficient lead time so that the medals will be available for the actual bicentennial of the Coast Guard in August.

The language of the bill mirrors national medal bills of the past. The Secretary of the Treasury is authorized to mint the medals upon demand and at no cost to the taxpayer. The design of the medal shall be selected by the Secretary of the Treasury after consultation with the Commission of Fine Arts.

In the past 200 years the Coast Guard has provided fine service to our country. Most recently this branch of the service has served as the first line of defense in the drug war. This medal will show the Nation's appreciation for the efforts of the Coast Guard and is identical to medals issued to commemorate the bicentennial of other branches of service.

I urge my colleagues to support S. 1091, and vote for its prompt passage.

Mr. ORTIZ. Mr. Speaker, I rise today in support of the bill, S. 1091, to commemorate the U.S. Coast Guard with a bicentennial medal.

The 27th District of Texas is a coastal district, with many south Texans dependent upon the Coast Guard to provide safety maintenance and rescue in the waters surrounding that area.

As a member of the Merchant Marine and Fisheries Committee, I am in a unique position to fully appreciate the Coast Guard and the role they play in protecting the shores of this country.

As a member of the Select Committee on Narcotics Abuse and Control, and as a former law enforcement official, I know the effort it takes to deter and interdict the flow of drugs into our country.

We know less drugs are flowing through the Gulf, because the brave men and women of the Coast Guard have put a dent in the drugs coming into our State.

The Coast Guard is on the front line of drug enforcement; they deserve commemoration

every day, but especially on their 200th birthday.

Mr. DAVIS. Mr. Speaker, I rise in support of S. 1091 the Coast Guard Bicentennial Medal.

We have before us a bill that commemorates the 200th anniversary of one of the most effective agencies in the Federal Government, the U.S. Coast Guard. For 200 years the Coast Guard has served and adapted to the needs of the American people. It has been there to guard our coastlines against smugglers and to tend the lighthouse that flash their beacon of warning to sailors on storm-tossed seas. Our waterways remain safe for navigation because of the Coast Guard's vigilant maintenance of aids to navigation and the cleanup of pollution spills is relegated to the able management of their specialists. The "war on drugs" has been waged with the Coast Guard serving on the front line of defense; and in the event of a national emergency, the protection of our ports and shorelines in the sole responsibility of the Coast Guard.

Most significantly, few of us can imagine a time without the vigilant eye of the Coast Guard to call upon when a vessel is in danger. From every shoreline of this country—the North Atlantic to the Gulf of Mexico, and the unpredictable Great Lakes to the long Pacific coast—its dedicated men and women have always been there to respond to the distress of others. With little thought for personal safety, these valiant crews confront their own fears and face the elements under every imaginable condition to aid those in peril. For 200 years their heroism has been legendary.

I ask you to rise with me in support of S. 1091, the Coast Guard Bicentennial Medal, that we may honor the code of selfless dedication to the service of others that personifies the U.S. Coast Guard.

Mr. ANNUNZIO. Mr. Speaker, it is a great pleasure for me to rise in support of S. 1091, the U.S. Coast Guard Bicentennial Medal Act. I am the sponsor of H.R. 509, which I sponsored with the chairman of the Coast Guard and Navigation Subcommittee, the gentleman from Louisiana [Mr. TAUZIN], and the immediate past chairman of the Coast Guard Subcommittee, the gentleman from Florida [Mr. HUTTO], to honor the men and women of the U.S. Coast Guard during its bicentennial year.

H.R. 509 is cosponsored by 230 Members of the House, thereby meeting Banking Committee rules that it be cosponsored by more than a majority of House Members.

The legislation is also supported by the Reserve Officers Association, the Non-Commissioned Officers Association, the Coast Guard Sea Veterans of America, and the Navy League of the United States.

The Coast Guard is our Nation's first line of defense against drug smugglers. Its ships and planes patrol the surrounding waters and sky to intercept drugs before they reach our streets. In addition, the Coast Guard plays a major role in preventing and cleaning up oil-spills that threaten our Nation's coastline. It also stands ready to rescue those in danger at sea. Countless lives are owed to the brave members of the Coast Guard who put their lives on the line to save the lives of others. The Coast Guard motto "Semper Paratus," or "Always Ready," is an around-the-clock promise to those in need.

S. 1091 and H.R. 509 would add a Coast Guard Bicentennial Medal to the series of bicentennial medals commemorating the Army, Navy, and Marine Corps. It is a fitting tribute to the Coast Guard and one that will impose no cost on the U.S. Government.

I urge the House to act favorably on this legislation.

Mr. HILER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEHMAN of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. LEHMAN] that the House suspend the rules and pass the Senate bill, S. 1091.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

YOSEMITE NATIONAL PARK CENTENNIAL MEDAL ACT

Mr. LEHMAN of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3182) to provide for the striking of medals in commemoration of the centennial of Yosemite National Park, as amended.

The Clerk read as follows:

H.R. 3182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Yosemite National Park Centennial Medal Act".

SEC. 2. YOSEMITE NATIONAL PARK CENTENNIAL MEDALS.

(a) STRIKING AND DESIGN OF MEDALS.—In commemoration of the centennial of Yosemite National Park in 1990, the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall strike medals with suitable emblems, devices, and inscriptions capturing the scenic and historic significance of the park. The design of the medals shall be determined by the Secretary in consultation with the Secretary of the Interior and the Commission of Fine Arts.

(b) SALE OF MEDALS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the medals issued under this Act shall be sold by the Secretary at a price equal to the cost of designing and issuing such medals (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in paragraph (3).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) SURCHARGES.—All sales shall include a surcharge of $2 each.

SEC. 3. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of medals issued under this Act shall be promptly paid by the Secretary to a permanent endowment fund for the benefit of Yosemite National Park to be administered by the National Park Foundation. The net income from the fund shall be paid to the Secretary of the Interior for purposes of funding special supplemental projects relating to back country trail development and rehabilitation, and the preservation of Sequoia groves within the boundaries of Yosemite National Park.

SEC. 4. SALE OF MEDALS IN NATIONAL PARK FACILITIES.

The Secretary and the Secretary of the Interior shall enter into a memorandum of agreement to allow—

(1) the Secretary to deliver medals to the Secretary of the Interior; and

(2) the Secretary of the Interior to provide for the sale of the medals in national park facilities.

SEC. 5. METAL CONTENT AND SIZE OF MEDALS.

The Medals authorized to be struck and delivered under this Act shall be struck in bronze and in the size determined by the Secretary in consultation with the Secretary of the Interior.

SEC. 6. NATIONAL MEDALS.

The medals authorized by this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 7. EXAMINATION OF RECORDS.

The Comptroller General of the United States shall have the right to examine all books, documents, and other records of the National Park Foundation which are related to the medals authorized by this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. HILER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. LEHMAN] will be recognized for 20 minutes and the gentleman from Indiana [Mr. HILER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, H.R. 3182, authorizes the minting of a bronze national medal to commemorate the centennial of one of the world's most honored landmarks and treasured scenic resources, and one which I am proud to represent within my district—Yosemite National Park. On October 1, 1890, President Benjamin Harrison signed into law an act to set aside reserved forest lands surrounding Yosemite Valley. It is this date which has been formally recognized as the establishment of Yosemite as a national park for all the people of the United States.

Covering over 1,200 square miles, Yosemite National Park lies in the Sierra Nevada Mountains in central

California with the San Joaquin Valley to the west and the Great Basin to the east. Yosemite contains the headwaters for the Toulumne and Merced Rivers and is known worldwide for such landmarks as Half Dome, Bridalveil Falls, El Capitan, and, of course, the Yosemite Valley itself.

Historians say that native Americans first inhabited the magnificant landscape of Yosemite and the Sierra about 2,000 years ago. Non-Indian adventurers did not arrive until 1833, when it is believed that the famous Walker party led explorers to the cliffs of Yosemite in search of new fur trapping territory.

The first tourists came to Yosemite in 1855 with a party organized by James M. Hutchings who was the publisher of California Magazine. Hutchings' publications marked the beginning of Yosemite as an attraction for nature lovers and tourists. One of those early visitors to Yosemite was Horace Greeley who wrote: "I know no single wonder of nature on Earth which can claim a superiority over Yosemite." Landscape painters Albert Bierstadt and Thomas Moran lent their talents to idealized portraits of Yosemite and photographers C.C. Weed and Carleton Watkins exhibited their works in New York galleries. It was only a matter of time until both protection and promotion of Yosemite became a cause for California and for the Nation.

Although Yosemite's official birthday is October 1, 1890—the date when Congress placed the region surrounding Yosemite Valley into a reserve—in a symbolic sense Yosemite is the first and oldest national park in the world. In 1864, a businessman wrote California Senator John Conness to request that he introduce a bill to preserve Yosemite Valley and the Mariposa grove of giant sequoias . . . "to prevent occupation and especially to preserve the trees in the valley from destruction." On July 1, 1864, President Abraham Lincoln signed into law the first scenic reservation in America for public enjoyment, which came to be known as the Yosemite grant. The Federal Government granted Yosemite Valley and the Mariposa big trees covering 57 square miles to the State of California to preserve the area's outstanding scenic qualities. This first set-aside of land at Yosemite by the U.S. Government was the Birth of the National Park System idea and the birth of the State park systems throughout America.

On October 1, 1990, we will celebrate the official creation of Yosemite National Park. We will acknowledge that the last 100 years of park administration have not been perfect and that most of today's problems have ancestors dating from the 19th century. Over the course of the last 100 years at Yosemite, the size of Yosemite has diminished to accommodate mining and timber potential and to eliminate most private inholdings. During this period, management policies at Yosemite have fluctuated—trying to walk the precarious tightrope between visitor use and preservation of the natural environment.

Americans have much to celebrate during Yosemite's centennial; as we approach the 21st century at Yosemite, we have even more to contemplate. The challenges of natural preservation in concert with public use at Yosemite have existed from the very beginning. In the late 1920's and 1930's, Yosemite Park Superintendent Charles Thompson summed up these challenges very well. Thompson described it as reconciling two conflicting objectives, "First, the National Park Service is controlled by an earnest determination to preserve the parks for posterity * * * "Our second responsibility," Thompson said "is to make Yosemite as useful as possible to the people of this generation. * * *"

The national medal that this legislation would authorize would not only be a symbolic honor to Yosemite but would also raise funds for supplemental projects relating to back-country trail development and rehabilitation, and the preservation of sequoia groves within the boundaries of Yosemite National Park through the sales of the medals to the public.

At the subcommittee markup I offered an amendment in the nature of a substitute which brings the legislation into conformity with other national medal legislation by deleting the requirement that the medal be minted in gold and silver. In addition, a few other clarifying and technical changes were made to the bill.

Mr. Speaker, this is a noncontroversial bill that has bipartisan support. The bill was reported by our committee without dissent. I urge its passage.

Mr. Speaker, I reserve the balance of my time.

□ 1330

Mr. HILER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3182, the Yosemite National Park Centennial Medal Act. I am an original cosponsor of this legislation and I want to commend subcommittee Chairman LEHMAN and his staff for bringing this bill to the House floor today.

The bill before us conforms to standard national medal legislation. Chairman LEHMAN substituted this standard medal language at the subcommittee markup for his originial bill which treated the Yosemite medals more like a commemorative coin program. I strongly support the substitute bill reported out of the subcommittee as does the U.S. Mint.

The bill requires the Secretary of the Treasury to strike medals commemorating Yosemite Park's centennial upon demand and at no net cost to the Government. These medals may be sold at national park facilities and will carry a $2 surcharge. Surcharge revenues will go to a permanent endowment fund for the benefit of Yosemite Park administrated by the National Park Service.

Yosemite Park is one of our Nation's landmarks that receives thousands of visitors each year to enjoy its natural beauty. The centennial of this national park is well worth commemorating by national medal legislation.

I support H.R. 3182 and I urge my colleagues to promptly pass this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. LEHMAN of California. Mr. Speaker, I want to thank the gentleman from Indiana [Mr. HILER] for his hard work on both of these bills and express my appreciation to him.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. LEHMAN] that the House suspend the rules and pass the bill, H.R. 3182, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LEHMAN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3182 and S. 1091, the bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SELMA TO MONTGOMERY NATIONAL TRAIL STUDY ACT OF 1989

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3834) to amend the National Trail System Act to designate the route from Selma to Montgomery for study for potential addition to the national trail system, as amended.

The Clerk read as follows:

H.R. 3834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Selma to Montgomery National Trail Study Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that:

(1) The march from Selma to Montgomery led to the passage of the Voting Rights Act of 1965, which achieved the legal right to vote for all Americans.

(2) Events associated with the march from Selma to Montgomery and from what came to be known as "Bloody Sunday" sent shock waves around the world, raised the Nation's consciousness and convinced political leaders that the time had come for voting rights legislation.

(3) The designation of the route of the march from Selma to Montgomery as a national historic trail will serve as a reminder of the right and responsibility of all Americans to fully participate in the election processes. It will serve as a reminder that we must be ever vigilant in securing our right to vote. It will also give long overdue recognition to the men and women who have sacrificed so much for, and dedicated their lives to, voting rights for all Americans.

SEC. 3. DESIGNATION OF TRAIL FOR STUDY.

Section 5(c) of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1244(c)) is amended by adding the following new paragraph at the end thereof:

"(33) The route from Selma to Montgomery, Alabama, traveled by people in a march dramatizing the need for voting rights legislation, in March 1965, includes Sylvan South Street, Water Avenue, the Edmund Pettus Bridge, and Highway 80. The study under this paragraph shall be prepared in accordance with subsection (b) of this section, except that it shall be completed and submitted to the Congress with recommendations as to the trail's suitability for designation not later than 1 year after the enactment of this paragraph.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LIGHTFOOT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LIGHTFOOT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3834, the bill now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

This measure, H.R. 3834, was introduced by the gentleman from Georgia [Mr. LEWIS]. It would, of course, amend the National Trails System Act to provide for study of the route from Selma to Montgomery, AL, for potential addition to the National Trails System.

The events of March 1965 in Selma are still fresh in the minds of many of us here today. The attack on citizens peaceably demonstrating their support for the right to vote, the scenes of hope and despair, of indignation and brutality, present a vivid portrait of this period of struggle for the civil rights movement in our Nation.

Bloody Sunday, as March 7, 1965, has come to be called, was one of those events whose history, while infamous, was also instantaneous.

The Selma to Montgomery march marks a passage in the social history of our Nation. It raised the national consciousness and spurred enactment of legislation guaranteeing the right to vote for all Americans.

For our colleague, the gentleman from Georgia [Mr. LEWIS], the march holds special meaning, as JOHN LEWIS was one of the leaders of that march, as well as one of the first to be struck down in the attack that ensued.

The public outcry that followed demonstrated that the march touched many Americans deeply. That interest and concern is still evident today.

The unanimity and support for this measure, H.R. 3834, is impressive, and the timing of our consideration of the legislation during the 25th anniversary of the march is most appropriate.

In fact, tomorrow marks the anniversary of an important milestone in the Selma to Montgomery march. With the protection of Federal law enforcement officers and National Guardsmen, the march successfully got underway on March 21, 1965. Over the next 4 days participants marched some 54 miles, arriving in Montgomery on March 24, 1965. The 25th anniversary of that will be tomorrow, Mr. Speaker.

The study provided by the measure before us will, of course, develop the opportunities for furthering our understanding and appreciation of the historic events that occurred in Alabama in 1965, and of our rights under the Constitution, especially, of course, the important right to vote.

Mr. Speaker, I certainly wholeheartedly support this and commend my colleague, the gentleman from Georgia [Mr. LEWIS], for his role 25 years ago and his role today, Mr. Speaker, as a Member of this House.

I think the presence of the gentleman in this House epitomizes the types of changes that had been envisioned and hoped for in 1965, but then represented only a little bit of a dream.

We have attained a little bit of that dream today. Mr. Speaker, we have some ways to go before we accomplish and fulfill that dream for all Americans.

But this measure will permit us to mark an important milestone in history and provide a National Trail recognition as a small way of establishing a benchmark along the world.

Mr. Speaker, I reserve the balance of my time.

Mr. LIGHTFOOT. Mr. Speaker, I yield myself such time as I may consume. I rise in support of H.R. 3834, an act directing the National Park Service to study the route from Selma to Montgomery, AL, for possible designation as a historic trail under the 1968 National Trails System Act. This bill will authorize the study of a 54-mile route taken by about 525 marchers during an event which was a catalyst in the passage of the 1965 Voting Rights Act.

Mr. Speaker, Mr. LEWIS deserves special recognition in the consideration of this measure. In particular because he had the courage to participate in this historic event, but also because he had the foresight to submit this measure for consideration by the House. While the events commemorated by this route do not meet the customary 50-year test for historic significance, it is clear that what took place along this route between March 7 and March 24, 1965, has a place of special importance in the history of our country.

I note that the administration strongly supports this measure and has agreed to expedite the study process by reprogramming existing funds to accomplish the study within the 1 to 2 year timeframe. Their efforts to positively respond within the limited funding available is commendable. I would also like to recognize the efforts of the subcommittee chairman who perceived the strong support for this bill from all sectors and has expedited its consideration to bring it to the floor today.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to our special participant in that march 25 years ago, the gentleman from Georgia [Mr. LEWIS].

□ 1340

Mr. LEWIS of Georgia. Mr. Speaker, I would like to thank Chairman MORRIS UDALL for his strong support on H.R. 3834, the Selma to Montgomery National Trail Study Act of 1989. I appreciate the deliberate and speedy manner in which this piece of legislation has been brought before this body. I would also like to thank my subcommittee chairman and good friend, BRUCE VENTO for all of his assistance in bringing this measure before us today. I also want to thank my colleague on the committee the gentleman from Iowa [Mr. LIGHTFOOT] for his support.

Mr. Speaker, in 1965, 25 years ago, there were certain political subdivisions in the South where 50 to 80 percent of the population was black, but where there was not a single registered black voter. The tactics used to keep blacks out of the political process ranged from economic retaliation to outright violence. Black voting applicants had to pass the so-called literacy tests which were so complicated that college graduates could not pass them. There were black doctors, lawyers, ministers and teachers who were graduates of some of the leading colleges and universities that were told they could not read and write well enough and failed the literacy test. The questions on the test ranged from reciting the entire U.S. Constitution to interpreting certain sections of the State Constitution, to naming all the Presidents of the United States.

In many instances, brutal acts of violence were directed against those who tried to register to vote. Many people were harassed, intimidated, beaten, arrested and jailed. Some were killed for encouraging American citizens to become participants in the democratic process.

The years of anguish and struggle for the right to vote came to a head on Sunday, March 7, 1965, when a small but courageous band of unarmed men, women and children attempted to march from Selma, AL, to Montomgery, AL, to dramatize to the Nation that they wanted to participate in the political process. It was an orderly, peaceful, silent march. We started our journey at the Brown Chapel A.M.E. Church in Selma and our destination was the State capitol in Montgomery, AL. When we reached the apex of the Edmund Pettus Bridge leading out of Selma, we saw a sea of blue. We stopped about 25 feet from the police line. A voice said, "I am Maj. John Cloud, this is an illegal march. You have 3 minutes to disperse and return to your church. After a minute and a half he said. "Troopers advance." We were confronted by billy clubs, bull whips and tear gas. Women and children were trampled by deputies on horseback. This day which became known as "Bloody Sunday" sent shockwaves around the world, raised the Nations consciousness and convinced political leaders that the time had come for voting rights legislation.

It was not until the National Guard, 1,900 men of the Alabama Guards' Dixie Division, 2,000 more regular Army troops and hundreds of FBI agents and U.S. marshals came to our defense that we were able to complete the 3-day journey from Brown Chapel in Selma to the State capitol in Montgomery. One week after Bloody Sunday, President Lyndon Johnson spoke before a joint session of Congress. He said:

I speak tonight for the dignity of man and the destiny of democracy. At times, history and fate meet at a single time in a single place to shape a turning point in man's unending search for freedom. So it was at Lexington and Concord. So it was a century ago at Appomatox. So it was last week in Selma, AL.

Mr. Speaker, the Voting Rights Act was passed by Congress in July 1965, but the law was written by the marchers on the road from Selma to Montgomery.

As we observe the 25th anniversary of the Selma to Montgomery march, we can take pride in the fruits of the nonviolent democratic revolution in the United States. The designation of the Selma to Montgomery March as a National Historic Trail will serve as a reminder not only to the brave Americans who struggled and died for the right to vote. This designation will also demonstrate our commitment to voting rights and to dramatize the importance of going to the polls on election day. The nonviolent revolution we have witnessed in this country has served as a example around the world. We have heard "We Shall Overcome" on the streets of Johannesburg, on the streets of Prague and on the streets of Managua.

I urge my colleagues to join with me in supporting the inclusion of the Selma to Montgomery March into the National Historic trails system.

Mr. VENTO. Mr. Speaker. I think the eloquence of the words of our colleague from Georgia provide adequate justification for the unanimous support of this measure, one that should be revered in our history and looked upon as a benchmark of progress.

Mr. MILLER of California. Mr. Speaker, I rise in strong support of H.R. 3834, a bill to authorize a study of the route of the civil rights march from Selma to Montgomery, AL, for addition to the national trails system.

It is appropriate and fitting that a national trail be established to memorialize this historic event. Few events truly change history. But, this march—with our colleague Congressman JOHN LEWIS in the lead—and the bloody attack by the state troopers and police on the marchers shocked every civilized person.

The brutality of the march caused America and the rest of the world to cry with outrage. The message of the freedom fighters was finally heard.

The first march—or really attempt to march—took place on March 7, 1965. The marchers gathered in Selma to begin the 50-mile walk to Montgomery. Just outside Selma, the marchers were stopped at the bridge by the police. They were charged and brutally beaten.

One week later, President Johnson responded to that outrageous and tragic attack. He addressed a joint session of Congress and called Selma a "turning point." The President proposed the comprehensive voting rights legislation. Congress and the American people responded, and by August of that year, it was enacted into law.

The march from Selma to Montgomery finally took place on March 21, 1965, under the protection of a federalized National Guard and Federal law enforcement officials.

We still have a long way to go to bring about equal rights for all Americans. We must continue to press hard on all fronts to ensure that this happens. We also must pause for a moment and recognize and pay tribute to the courage and vision of the people who worked hard for voting rights for black America.

A Selma-Montgomery trail will be a part of that tribute. It will also be a reminder—an educational tool—of a critical part of the history of this Nation. It is my hope that the National Park Service will proceed promptly with the study of this proposed trail, so that we may make it a permanent part of our trail and heritage system.

Mr. Speaker, I'm proud to cosponsor this bill and I strongly urge my colleagues to support it.

Mr. EDWARDS of California. Mr. Speaker, I rise in strong support of H.R. 3834, the Selma to Montgomery National Trail Study Act. I am proud to be a cosponsor of this bill.

Twenty-five years ago, the events of "Bloody Sunday" at the Edmund Pettus Bridge during the historic march from Selma to Montgomery shocked and repulsed our Nation. In response to the bloodshed in Selma, and to insure the fundamental right to vote, Congress enacted the Voting Rights Act of 1965, the strongest civil rights law of our time.

The Subcommittee on Civil and Constitutional Rights, which I chair, has jurisdiction over the Voting Rights Act. We have witnessed the impressive record of progress under the act: Sharply increased minority voter registration and participation, and a fairer electoral process for all Americans.

The Selma to Montgomery march was led by our distinguished colleague and civil rights hero, the gentleman from Georgia, JOHN LEWIS. Like so many of the other marchers, JOHN LEWIS put himself at risk, which resulted in serious injury. The selfless response to these marchers, along with many other civil rights workers, brought about fundamental change in the South and throughout our Nation.

It is fitting, though perhaps long overdue, to honor the events of Bloody Sunday and the march from Selma to Montgomery, by exploring whether this route should be added to the national trail system. I look forward to receiving the recommendation of the Secretary of the Interior, and hope that this route, with its deep historic significance, will soon join the list of national historic trails.

Again, let me salute my friend and colleague, JOHN LEWIS, for his inspiration and courage throughout the civil rights struggle, as well as his leadership in this Congress. I look forward to speedy enactment of this bill.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

Mr. SPEAKER pro tempore. (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3834, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

DISCLAIMING U.S. INTEREST IN CERTAIN PROPERTY ON SAN JUAN ISLAND, WA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2566) to direct the Secretary of the Interior to transfer all right, title, and interest of the United States in certain property on San Juan Island, WA, to those persons who own such property because of an erroneous survey, as amended.

The Clerk read as follows:

H.R. 2566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

As used in this Act, the following terms shall have the following meanings:

(1) The term "1921 Act" means the Act of August 23, 1921 (42 Stat. 773), whereby the United States granted to the State of Washington, for the use of the University of Washington for purposes of a biological station and general university research purposes, certain lands comprising a military reservation at San Juan Island, San Juan County, Washington.

(2) The term "encroached lands" means those portions of the lands granted to the State of Washington by the 1921 Act that are designated as "Encroached Lands" on a map entitled "Encroachments on Research Station Lands, San Juan Island, Washington" dated March 1990, and comprising approximately thirteen acres.

(3) The term "University" means the University of Washington.

(4) The term "the State" means the State of Washington.

(5) The term "the Secretary" means the Secretary of the Interior.

(6) The term "occupants" means the parties who, on March 1, 1990, were listed on the tax records of San Juan County, Washington, as the owners of the encroached lands, and their heirs and assigns.

SEC. 2. EXEMPTION.

Subject to the provisions of section 3(b), the provisions of the 1921 Act relating to the right of the United States to assume control of, hold, use, and occupy the lands granted to the State by the 1921 Act, the provisions of such Act providing for reversion of such lands to the United States, and section 2 of such Act as amended by this Act shall not apply to the encroached lands.

SEC. 3. DISCLAIMER AND CONDITIONS.

(a) Subject to the provisions of subsection (b) of this section, the United States hereby disclaims all right, title, and interest in the encroached lands and, effective one year after the date of enactment of this Act, all right, title, and interest of the United States in such lands shall vest in the University.

(b)(1) Section 2 and 3 of this Act shall not take effect unless, not later than one year after the date of enactment of this Act, the State and the University have entered into a binding agreement with the Secretary whereby the State and the University agree—

(A) to accept the map referred to section 1(2) as accurate and conclusive and that the University and the State will not attempt to convey or otherwise transfer any portion of the encroached lands to any party or parties other than the occupant; and

(B) to pay to the Secretary, on behalf of the United States, an amount equal to the total amounts that the State and the University receive as consideration for conveyance of some or all of the encroached lands to any of the occupants in excess of reasonable costs incurred by the University and the State incident to such conveyance.

(2) All amounts received by the Secretary pursuant to this subsection shall be retained by the Secretary and, subject to appropriation, shall be used for the management of public lands managed by the Bureau of Land Management and shall remain available until expended.

SEC. 4. AVAILABILITY OF MAP.

The map referred to in section 1(2) shall be available for public inspection in the offices of the Secretary and the State Director of the Bureau of Land Management for the State of Washington, and the Secretary shall transmit copies thereof to the University and to the appropriate officials of the State and of San Juan County, Washington.

SEC. 5. AMENDMENT.

The 1921 Act is hereby amended by the addition at the end thereof of the following new section:

"SEC. 2. (a) Notwithstanding any other provision of this Act, if any land, or portion thereof, granted or otherwise conveyed to the State of Washington by this Act is or shall become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)), or if such land, or portion thereof, has been used for purposes that the Secretary of the Interior finds may result in the disposal, placement or release of any hazardous substance, such land shall not, under any circumstances, revert to the United States.

"(b) If lands granted or conveyed to the State by this Act shall be used for purposes that the Secretary of the Interior finds: (1) inconsistent with the purposes of this Act, and (2) which may result in the disposal, placement or release of any hazardous substance, the State shall be liable to pay to the Secretary of the Interior, on behalf of the United States, the fair market value of the land, including the value of any improvements thereon, as of the date of conversion of the land to the nonconforming purpose. All amounts received by the Secretary of the Interior pursuant to this subsection shall be retained by the Secretary of the Interior and used, subject to appropriations, for the management of public lands and shall remain available until expended."

The SPEAKER pro tempore. Is a second demanded?

Mr. LIGHTFOOT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LIGHTFOOT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill as reported from the Committee on Interior and Insular Affairs.

Mr. Speaker, this bill was introduced by the gentleman from Washington [Mr. SWIFT], to assist in the clearing of clouds from titles of the occupants of about 13 acres of San Juan Island, WA.

The background of this is a 1921 act of Congress that granted to the State of Washington military reserve lands on San Juan Island, to be used by the University of Washington for a marine sciences laboratory. The act contained a provision that if the lands were used for any other purpose, title would revert to the United States.

This 1921 act was tied to 1874 surveys by the National Government that had defined the boundaries of the military reserve. However, in 1919 the county surveyor had done a survey which places the supposed boundary of the military reserve further east, and subsequent subdivisions and development in this area were based on the 1919 line. As a result, there have been a number of encroachments on the lands granted to the State by the 1921 act. We understand 14 tracts are involved, which together make up the 13-acre encroachment area.

Neither the university nor State of Washington can convey the encroached-upon lands to the occupants because of the reversionary clause of the 1921 act. The National Government does not need or want these lands, and while after a reversion the lands could possibly be sold by the United States to the occupants for fair market value, the State and the university would prefer to obtain legislation that would not require such payments. We believe the bill will provide such a solution.

The bill would disclaim any U.S. interest in the 13 acres of land where encroachment has occurred. It would vest title to those 13 acres in the University of Washington, provided the State and university accept the bill's requirements. This would allow the occupants whose titles are in question to deal directly with the State and the university and would spare the nation-

al taxpayers the administrative costs associated with resolving this issue.

Before vesting title to these 13 acres in the university, the State and university would have to agree they will not transfer the 13 acres to anyone besides the current occupants of the land, and that they will pay to the National Government any profits from the possible sale of the land—above any reasonable costs incurred in making the transfer.

The bill would also amend the 1921 act to include protection against Federal liability for any possible contamination of the rest of the research station land resulting from disposal of hazardous or toxic materials.

Mr. Speaker, these provisions are merely precautionary. The committee included them in order to protect fully the Federal Government's interests in this situation. The bill would allow the university to be reimbursed for transfer costs, but would not require it to sell the land to the current occupants; and, so far as we know, there is no contamination on the grant lands.

I believe this bill will help to solve a problem for the occupants of these 13 acres without prejudice to the taxpayers of the Nation. It was unanimously approved by the committee, and I urge its passage by the House.

□ 1350

Mr. Speaker, I reserve the balance of my time.

Mr. LIGHTFOOT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2566 introduced by the gentleman from Washington [Mr. SWIFT]. This legislation will correct a property encroachment affecting 13 acres in Washington State caused by a faulty property survey done 70 years ago.

H.R. 2566 would vest title of these 13 acres with clouded title from the Federal Government to the State of Washington. The State would then have the complete responsibility to see that these lands are resurveyed and transferred to the current occupants. This legislation requires that any profits from the sale of this land—above reasonable costs to complete the transfer—be returned to the Federal Treasury. As a result, it prevents any windfall to the State of Washington at the expense of the Federal Government.

Mr. Speaker, I am most impressed that this legislation gives the State, and not the Federal Government, the opportunity to solve this problem. I hope we use this legislation as a model to allow States and local governments who are closest to the people to solve problems of this kind.

I urge my colleagues to support H.R. 2566 which takes a commonsense approach to solve a messy problem.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT], the sponsor of this bill.

Mr. SWIFT. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the chairman and the ranking Republican member and all of the members of the committee for dealing with this legislation in such an expeditious fashion.

You know, I sometimes think to people who come and watch the Congress in session and expect all the chairs to be filled the way they see them on television during the State of the Union, they get the impression that it is at times like this when not much is going on. I would suggest sometimes this is when this institution is at its most impressive, when there are some Members on the floor dealing with the committee's business. This House really is a creature of its committees.

If all we did here was those things that deal only with the huge implications of society, there would be so much that is important to people that would not get done.

This bill affects 14 families. For the U.S. Congress to take time and for this committee, a busy committee, to take time to deal with a piece of legislation like this is, I think, impressive because in a democratic society if one does not take care of the problems of individual people, one is really shirking the fundamental reason we are all elected to this body.

This only deals with 14 people and no one can argue that this is one of the earth-shattering bills of this session of Congress. But to those 14 families and to the University of Washington this is terribly important.

It is at times like this, I think, on the floor when we are not giving speeches but talking to each other when you really see the craftsmanship of this institution.

The legislation, as I introduced it, was not crafted as well as it might have been. This committee undertook to rearrange the language in an appropriate form so that when we pass this today and we in fact do transfer this property it will be done in a way in which there will be no legal questions, there will be no problems.

So I want to thank my good friend the chairman and my very good friend the ranking Republican for taking the time to put forth an effort and help the 14 families out in my district on San Juan Island and to show that the Congress of the United States in fact does care about individual folks as well as the Nation as a whole.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman for his remarks. The process here is one where we have a lot of small, what I would call land remedy measures brought before the committee. This one has not been considered in the Senate, so we want to make certain it gets attention.

It is not a controversial measure in the sense I think it is clearly understood what occurred and we can get the questions resolved fairly easily.

It involves a lot of staff work when we are talking about a survey that is 70 years past and a land conveyance, and trying to uphold it.

I think it is unique to Congress that we have preserved a role with regard to land use legislation and the disposition of lands in the public domain. This is one of the reasons that frequently our Subcommittee on National Parks and Public Lands has measures before the House, because Congress has chosen to take a more active, a more deliberate role in these classification issues.

Sometimes it is a smaller matter like these 13 acres that we are talking about today; very often it is more substantial in terms of millions of acres of land, for instance, that were enacted and classified according to the Alaska Lands Act.

But this is an area where I think Congress has been able to demonstrate a competence and an ability historically. I say that without reference to myself, but simply because of the nature of the land management agencies that we work with and the fact that a working relationship has developed with the Members in the process here.

So we, with the cooperation of a lot of Members, on a bipartisan basis have been literally able to process 100 bills in the last session, some like this, some much more controversial and of very great significance.

But Congress, whether they are small, whether they are greater acreages that are involved in significant land policy questions, has I think over the years been really in the forefront of that and has done the job that is necessary. I know with the cooperation of the Members of this House, with lively debate, on certain issues, we will be able to continue to do that.

□ 1400

Mr. Speaker, I commend the gentleman for his work on this, and the university and all the staff that cooperated to make this available.

Mr. SWIFT. Mr. Speaker, I thank the gentleman very much for yielding time to me. I yield back the remaining time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. MCDERMOTT].

Mr. McDERMOTT. Mr. Speaker, I rise in support of H.R. 2566, an act to

transfer Federal rights, titles, and interests to a small parcel of land on San Juan Island, WA, to the University of Washington. I would like to thank committee chairman, MORRIS K. UDALL, subcommittee chairman, BRUCE F. VENTO for their outstanding efforts in moving this legislation. I would also like to compliment my colleague from Washington State, AL SWIFT, for his leadership on this bill.

Mr. Speaker, I would like to emphasize how important this measure is to the University of Washington and the citizens of San Juan County whose titles are "clouded" because of the erroneous survey conducted in 1919.

Due to a reversion clause written into the original 1921 act, the university would be faced with two unacceptable alternatives, without passage of this bill before us. The University of Washington would either have to: First, claim property from citizens who have purchased it in good faith and have long paid full taxes on it; or, second, transfer ownership of its marine research lab to the Federal Government, since the lab is located on the lands covered under the 1921 act.

Needless to say Mr. Speaker, the University of Washington has asked me to extend its gratitude to everyone who has worked to push this bill forward. H.R. 2566 will resolve the problems caused by an erroneous survey conducted over 70 years ago at little if any cost to the Federal Government and I believe it deserves the support of the entire House.

Mr. VENTO. Mr. Speaker, I commend the gentleman from Washington [Mr. MCDERMOTT] who offered the substitute in committee, and who helped work on this. It was a collaborative effort between the gentleman from Washington and myself and our staffs. I appreciate his work on this legislation. It affects his home State.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LIGHTFOOT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2566, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

"EXXON VALDEZ" ANNIVERSARY

(Mr. VENTO asked and was given permission to address the House for 1 minute.)

Mr. VENTO. Mr. Speaker, 1 year ago this week 11 million gallons of crude oil were dumped into the waters of Prince William Sound, AK.

That environmental disaster shocked the Nation. It has left a legacy of destruction of natural resources and wildlife that is indelible on the memory of the American people. Unfortunately, the spill was unique only because of its size.

As a report being issued today by the Wilderness Society demonstrates, just in the year since the *Exxon Valdez* went onto Bligh Reef, there have been about 1,000 spills that have resulted in dumping 15 to 20 million gallons of oil onto America's lands or waters.

Equipment failures, human lapses, earthquakes, the causes for these leaks and spills are as numerous as the problems and the damage that result.

The lesson, Mr. Speaker, is that the production and distribution of petroleum is inherently a messy and dangerous business. It involves risks that can and must be lessened.

To lessen these risks, and to better prepare for future oilspills, there are a number of things we as a society must do. We must have new laws, such as the comprehensive oilspill liability bill now in conference. As a conferee for that important bill, I will be working to make it as strong and effective as possible, and I also urge the Senate to act promptly to approve separate legislation, already passed by the House, that would give the Secretary of the Interior additional legal tools to recover more fully for damages done to marine resources of National Park System units.

We must also keep oil production and delivery systems out of places that are too environmentally fragile to put into jeopardy. That would include the coastal plain of the Arctic National Wildlife Refuge, in Alaska, coastal waters of the Florida Keys, and the lands and waters of Antarctica.

And, we must take steps to reduce our current addiction to consuming oil at a heedless rate, through greater emphasis on conservation, development of renewable energy resources, and increased efficiency in the ways in which we use petroleum.

Finally, we must send a strong signal to industry that we will not tolerate mindless and careless misuse of natural resources.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 4167 by the yeas and nays; H.R. 2692 by the yeas and nays; S. 1091 by the yeas and nays; H.R. 3182 by the yeas and nays; H.R. 3834 by the yeas and nays; and H.R. 2566 by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in the series.

EXTENSION OF STRATEGIC PETROLEUM RESERVE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4167.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 4167, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 0, not voting 34, as follows:

[Roll No. 29]

YEAS—397

Ackerman	Chapman	Ford (MI)
Akaka	Clarke	Frank
Alexander	Clay	Frenzel
Anderson	Clement	Frost
Andrews	Clinger	Gallegly
Anthony	Coble	Gallo
Applegate	Coleman (MO)	Gaydos
Archer	Coleman (TX)	Gejdenson
Armey	Combest	Gekas
Aspin	Condit	Gephardt
Atkins	Conte	Geren
AuCoin	Cooper	Gillmor
Baker	Costello	Gilman
Ballenger	Coughlin	Gingrich
Barnard	Courter	Glickman
Bartlett	Cox	Gonzalez
Barton	Coyne	Goodling
Bateman	Dannemeyer	Gordon
Bates	Darden	Goss
Bellenson	Davis	Gradison
Bennett	de la Garza	Grandy
Bentley	DeFazio	Grant
Bereuter	DeLay	Gray
Berman	Dellums	Green
Bevill	Derrick	Guarini
Bilirakis	DeWine	Gunderson
Bliley	Dickinson	Hall (OH)
Boehlert	Dicks	Hall (TX)
Boggs	Dingell	Hamilton
Bonior	Dixon	Hammerschmidt
Borski	Donnelly	Hancock
Bosco	Dorgan (ND)	Hansen
Boucher	Dornan (CA)	Harris
Boxer	Dreier	Hastert
Brennan	Duncan	Hatcher
Brooks	Durbin	Hawkins
Broomfield	Dwyer	Hayes (LA)
Browder	Dymally	Hefley
Brown (CO)	Dyson	Hefner
Bruce	Early	Henry
Bryant	Eckart	Herger
Buechner	Edwards (CA)	Hertel
Bunning	Emerson	Hiler
Burton	Engel	Hoagland
Bustamante	English	Hochbrueckner
Byron	Erdreich	Holloway
Callahan	Espy	Hopkins
Campbell (CA)	Evans	Horton
Campbell (CO)	Fascell	Houghton
Cardin	Fawell	Hoyer
Carper	Fazio	Hubbard
Carr	Fish	Huckaby
Chandler	Foglietta	Hunter

Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Yatron
Young (AK)

NAYS—0

NOT VOTING—34

Annunzio
Bilbray
Brown (CA)
Collins
Conyers
Craig
Crane
Crockett
Douglas
Downey
Edwards (OK)
Feighan
Fields
Flake
Flippo
Ford (TN)
Gibbons
Hayes (IL)
Hughes
Lipinski
Martin (IL)
Morrison (CT)
Nelson
Oakar
Sangmeister
Savage
Schuette
Smith (NJ)
Stump
Tanner
Washington
Wolpe
Yates
Young (FL)

□ 1425

Mr. DONALD E. "BUZ" LUKENS changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2231) to amend the Energy Policy and Conservation Act to extend the authority for titles I and II, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Indiana?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, because of time factors it is very, very important that this bill be placed on the President's desk as rapidly as possible, and for that reason I have no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

That this Act may be referred to as the "Energy Policy and Conservation Act Extension Amendment of 1990".

SEC. 2. EXTENSION OF AUTHORITY.

The Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(a) in section 104(b)(1) by striking out "April 1, 1990" and inserting in lieu thereof "August 15, 1990";

(b) in section 171, by striking out "April 1, 1990" each place it appears and inserting in lieu thereof "August 15, 1990"; and

(c) in section 281, by striking out the term "June 30, 1990" each place it appears and inserting in lieu thereof "August 15, 1990".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 4167) was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

WOODROW WILSON MEMORIAL ACT AMENDMENTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2692.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 2692, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 0, not voting 32, as follows:

[Roll No. 30]

YEAS—399

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Billey
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Conte
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fish
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston

Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)

NAYS—0

NOT VOTING—32

Annunzio
Brown (CA)
Collins
Conyers
Craig
Crane
Crockett
Douglas
Edwards (OK)
Feighan
Fields
Flake
Flippo
Ford (TN)
Gekas
Gibbons
Hayes (IL)
Hoyer
Hughes
Lipinski
Martin (IL)
Morrison (CT)
Nelson
Oakar
Sangmeister
Savage
Schuette
Stump
Tanner
Washington
Yates
Young (FL)

□ 1434

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPLANATION OF MISSED VOTE

Mr. GEKAS. Mr. Speaker, I was meeting with a constituent group during the vote on rollcall No. 30 and was unavoidably detained.

Had I been present, I would have voted "yea" on rollcall No. 30, H.R. 2692, amending the Woodrow Wilson Memorial Act.

U.S. COAST GUARD BICENTENNIAL MEDAL ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 1091.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. LEHMAN] that the House suspend the rules and pass the Senate bill, S. 1091, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 402, nays 0, not voting 29, as follows:

[Roll No. 31]

YEAS—402

Ackerman
Akaka
Anderson
Andrews
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Billey
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Conte
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)

NAYS—0

NOT VOTING—29

Alexander
Annunzio
Brown (CA)
Collins
Conyers
Craig
Crane
Crockett
Edwards (OK)
Feighan
Fields
Flake
Flippo
Gibbons
Hayes (IL)
Hughes
Lipinski
Martin (IL)
Morrison (CT)
Nelson
Oakar
Sangmeister
Savage
Schuette
Stump
Tanner
Washington
Yates
Young (FL)

□ 1443

So (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

YOSEMITE NATIONAL PARK CENTENNIAL MEDAL ACT

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and passing the bill, H.R. 3182, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. LEHMAN] that the House suspend the rules and pass the bill, H.R. 3182, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 30, as follows:

[Roll No. 32]

YEAS—401

Ackerman	Clarke	Ford (TN)
Akaka	Clay	Frank
Alexander	Clement	Frenzel
Anderson	Clinger	Frost
Andrews	Coble	Gallegly
Anthony	Coleman (MO)	Gallo
Applegate	Coleman (TX)	Gaydos
Archer	Combest	Gejdenson
Armey	Condit	Gekas
Aspin	Conte	Gephardt
Atkins	Cooper	Geren
AuCoin	Costello	Gillmor
Baker	Coughlin	Gilman
Ballenger	Courter	Gingrich
Barnard	Cox	Glickman
Bartlett	Coyne	Gonzalez
Barton	Dannemeyer	Goodling
Bateman	Darden	Gordon
Bates	Davis	Goss
Beilenson	de la Garza	Gradison
Bennett	DeFazio	Grandy
Bentley	DeLay	Grant
Bereuter	Dellums	Gray
Berman	Derrick	Green
Bevill	DeWine	Gunderson
Bilbray	Dickinson	Hall (OH)
Bilirakis	Dicks	Hall (TX)
Billey	Dingell	Hamilton
Boehlert	Dixon	Hammerschmidt
Boggs	Donnelly	Hancock
Bonior	Dorgan (ND)	Hansen
Borski	Dornan (CA)	Harris
Bosco	Douglas	Hastert
Boucher	Downey	Hatcher
Boxer	Dreier	Hayes (LA)
Brennan	Duncan	Hefley
Brooks	Durbin	Hefner
Broomfield	Dwyer	Henry
Browder	Dymally	Herger
Brown (CO)	Dyson	Hertel
Bruce	Early	Hiler
Bryant	Eckart	Hoagland
Buechner	Edwards (CA)	Hochbrueckner
Bunning	Emerson	Holloway
Burton	Engel	Hopkins
Bustamante	English	Horton
Byron	Erdreich	Houghton
Callahan	Espy	Hoyer
Campbell (CA)	Evans	Hubbard
Campbell (CO)	Fascell	Huckaby
Cardin	Fawell	Hunter
Carper	Fazio	Hutto
Carr	Fish	Hyde
Chandler	Foglietta	Inhofe
Chapman	Ford (MI)	Ireland
Jacobs	Morrison (WA)	Shumway
James	Mrazek	Shuster
Jenkins	Murphy	Sikorski
Johnson (CT)	Murtha	Sisisky
Johnson (SD)	Myers	Skaggs
Johnston	Nagle	Skeen
Jones (GA)	Natcher	Skelton
Jones (NC)	Neal (MA)	Slattery
Jontz	Neal (NC)	Slaughter (NY)
Kanjorski	Nielson	Slaughter (VA)
Kaptur	Nowak	Smith (FL)
Kasich	Oberstar	Smith (IA)
Kastenmeier	Obey	Smith (NE)
Kennedy	Olin	Smith (NJ)
Kennelly	Ortiz	Smith (TX)
Kildee	Owens (NY)	Smith (VT)
Kleczka	Owens (UT)	Smith, Denny (OR)
Kolbe	Oxley	Smith, Robert (NH)
Kolter	Packard	Smith, Robert (OR)
Kostmayer	Pallone	Snowe
Kyl	Panetta	Solarz
LaFalce	Parker	Solomon
Lagomarsino	Parris	Spence
Lancaster	Pashayan	Spratt
Lantos	Patterson	Staggers
Laughlin	Paxon	Stallings
Leach (IA)	Payne (NJ)	Stangeland
Leath (TX)	Payne (VA)	Stark
Lehman (CA)	Pease	Stearns
Lehman (FL)	Pelosi	Stenholm
Lent	Penny	Stokes
Levin (MI)	Perkins	Studds
Levine (CA)	Petri	Sundquist
Lewis (CA)	Pickett	Swift
Lewis (FL)	Pickle	Synar
Lewis (GA)	Porter	Tallon
Lightfoot	Poshard	Tauke
Livingston	Price	Tauzin
Lloyd	Pursell	Taylor
Long	Quillen	Thomas (CA)
Lowery (CA)	Rahall	Thomas (GA)
Lowey (NY)	Rangel	Thomas (WY)
Luken, Thomas	Ravenel	Torres
Lukens, Donald	Ray	Torricelli
Machtley	Regula	Towns
Madigan	Rhodes	Traficant
Manton	Richardson	Traxler
Markey	Ridge	Udall
Marlenee	Rinaldo	Unsoeld
Martin (NY)	Ritter	Upton
Martinez	Roberts	Valentine
Matsui	Robinson	Vander Jagt
Mavroules	Roe	Vento
Mazzoli	Rogers	Visclosky
McCandless	Rohrabacher	Volkmer
McCloskey	Ros-Lehtinen	Vucanovich
McCollum	Rose	Walgren
McCrery	Rostenkowski	Walker
McCurdy	Roth	Walsh
McDade	Roukema	Watkins
McDermott	Rowland (CT)	Waxman
McEwen	Rowland (GA)	Weber
McGrath	Roybal	Weiss
McHugh	Russo	Weldon
McMillan (NC)	Sabo	Wheat
McMillen (MD)	Saiki	Whittaker
McNulty	Sarpalius	Williams
Meyers	Sawyer	Wilson
Mfume	Saxton	Wise
Michel	Schaefer	Wolf
Miller (CA)	Scheuer	Wolpe
Miller (OH)	Schiff	Wyden
Miller (WA)	Schneider	Wylie
Mineta	Schroeder	Yatron
Moakley	Schulze	Young (AK)
Mollohan	Schumer	Young (FL)
Montgomery	Sensenbrenner	
Moody	Sharp	
Moorhead	Shaw	
Morella	Shays	

NAYS—0

NOT VOTING—30

Annunzio	Flake	Nelson
Brown (CA)	Flippo	Oakar
Collins	Gibbons	Sangmeister
Conyers	Guarini	Savage
Craig	Hawkins	Schuette
Crane	Hayes (IL)	Stump
Crockett	Hughes	Tanner
Edwards (OK)	Lipinski	Washington
Feighan	Martin (IL)	Whitten
Fields	Morrison (CT)	Yates

□ 1451

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SELMA TO MONTGOMERY NATIONAL TRAIL STUDY ACT OF 1989

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and passing the bill, H.R. 3834, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3834, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 400, nays 0, not voting 31, as follows:

[Roll No. 33]

YEAS—400

Ackerman	Chapman	Foglietta
Akaka	Clarke	Ford (MI)
Alexander	Clay	Ford (TN)
Anderson	Clement	Frank
Andrews	Clinger	Frenzel
Anthony	Coble	Frost
Applegate	Coleman (MO)	Gallegly
Archer	Coleman (TX)	Gallo
Armey	Combest	Gaydos
Aspin	Condit	Gejdenson
Atkins	Conte	Gekas
AuCoin	Cooper	Gephardt
Baker	Costello	Geren
Ballenger	Coughlin	Gillmor
Barnard	Courter	Gilman
Bartlett	Cox	Gingrich
Barton	Coyne	Glickman
Bateman	Dannemeyer	Gonzalez
Bates	Darden	Goodling
Beilenson	Davis	Gordon
Bennett	de la Garza	Goss
Bentley	DeFazio	Gradison
Bereuter	DeLay	Grandy
Berman	Dellums	Grant
Bevill	Derrick	Gray
Bilbray	DeWine	Green
Bilirakis	Dickinson	Guarini
Billey	Dicks	Gunderson
Boehlert	Dingell	Hall (OH)
Boggs	Dixon	Hall (TX)
Bonior	Donnelly	Hamilton
Borski	Dorgan (ND)	Hammerschmidt
Bosco	Dornan (CA)	Hancock
Boucher	Douglas	Hansen
Boxer	Downey	Harris
Brennan	Dreier	Hastert
Brooks	Duncan	Hatcher
Broomfield	Durbin	Hayes (LA)
Browder	Dwyer	Hefley
Brown (CO)	Dymally	Hefner
Bruce	Dyson	Henry
Bryant	Early	Herger
Buechner	Eckart	Hertel
Bunning	Edwards (CA)	Hiler
Burton	Engel	Hoagland
Bustamante	English	Hochbrueckner
Byron	Erdreich	Holloway
Callahan	Espy	Hopkins
Campbell (CA)	Evans	Horton
Campbell (CO)	Fascell	Houghton
Cardin	Fawell	Hoyer
Carper	Fazio	Hubbard
Chandler	Fish	Huckaby

Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—31

Annunzio
Brown (CA)
Carr
Collins
Conyers
Craig
Crane
Crockett
Edwards (OK)
Emerson
Feighan
Fields
Flake
Flippo
Gibbons
Hawkins
Hayes (IL)
Hughes
Lipinski
Martin (IL)
Morrison (CT)
Nelson
Oakar
Parris
Sangmeister
Savage
Schuette
Stump
Tanner
Washington
Yates

□ 1458

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1500

DISCLAIMING U.S. INTEREST IN CERTAIN PROPERTY ON SAN JUAN ISLAND, WA

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and passing the bill, H.R. 2566, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2566, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 30, as follows:

[Roll No. 34]

YEAS—401

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bellenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Billey
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Conte
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Crockett
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—30

Annunzio
Brown (CA)
Carr
Collins
Conyers
Craig
Crane
Edwards (OK)
Feighan
Fields
Flake
Flippo
Geren
Gibbons
Hawkins
Hayes (IL)
Hughes
Lipinski
Martin (IL)
McDade
Morrison (CT)
Nelson
Oakar
Sangmeister
Savage
Schuette
Stump
Tanner
Washington
Yates

□ 1506

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to disclaim any interests of the United States in certain lands on San Juan Island, Washington, and for other purposes."

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 28, to approve the Journal, rollcall No. 29, Strategic Petroleum Reserve Extention, rollcall No. 30, More Trustees for Woodrow Wilson International Center, rollcall No. 31, Coast Guard Bicentennial Medal, rollcall No. 32, Yosemite Park Centennial Medal, rolcall No. 33, Selma Trail Study, and rollcall No. 34, Transfer Land Rights on San Juan Island. Had I been here, I would have cast the following votes: "present," "aye," "aye," "aye," "aye," "aye," and "aye."

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present I would have voted "aye" on rollcall Nos. 28, 29, 30, 31, 32, 33, and 34.

PERSONAL EXPLANATION

Mr. CRANE. Mr. Speaker, I was unable to be present in order to cast my vote on approval of the Journal and on six bills that were being considered under suspension of the rules. I was unable to be in attendance because yesterday was the day of the Illinois primary. As is my custom, I spend at least part of that day in Illinois in order to cast my vote. Had I been present, I would have voted against approval of the Journal and against H.R. 4167, H.R. 3834, and H.R. 2692. I would have voted in favor of H.R. 2566, H.R. 509, and H.R. 3182.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Kalbaugh, one of his secretaries.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 586

Mrs. BENTLEY. Mr. Speaker, after many hours of deliberation, I have reevaluated my position on H.R. 586, the National Beverage Container Reuse and Recycling Act. Although this legislation has excellent intent, I have found it in the best interest of my constituency to withdraw my name from sponsorship. Therefore, I request, by unanimous consent, that my name be stricken from the record as a cosponsor of H.R. 586.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

NATIONAL FORMER PRISONERS OF WAR RECOGNITION DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 190) Designating April 9, 1990, as "National Former Prisoners of War Recognition Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, certainly as a Member of this body I support this effort.

Continuing my reservation of objection, I will yield to several of our colleagues so that they can express themselves on this very important matter.

Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from Ohio [Mr. APPLEGATE], who is the chief sponsor of this joint resolution.

Mr. APPLEGATE. Mr. Speaker, I certainly want to thank the chairman of the committee, the gentleman from Ohio [Mr. SAWYER] and his vice chairman, the gentleman from Connecticut [Mr. RIDGE] for bringing this resolution to the floor.

What it does, simply, is recognize America's exprisoners of war who have served or who were captured and were incarcerated in various prisoner-of-war camps in different wars.

Since the turn of the century there were 125,000 prisoners of war, of which 73,000 are still surviving today. I think this is important.

The reason we picked April 9 is because it marks the 48th anniversary of the fall of Bataan in the Philippines where more than 30,000 of our soldiers were captured and put into prisoner-of-war camps at that time.

□ 1510

So I think it is very important that we take this time to recognize those men and some women who had been captured, who sacrificed their lives, their limbs, in order to protect the sanctity of freedom in America.

So I think it is very important. I am hoping that we get this to the desk of the President and he will sign it and give the exprisoners of war an opportunity to be able to plan for some ceremonies.

Mr. Speaker, I want to recognize the American Ex-Prisoners-of-War Association and John Edwards, their commander, and Charles Williams of Maryland, and Dr. Prigmore, its legislative officer, for their efforts which they put into this in helping us to bring it to this day.

Mr. RIDGE. Mr. Speaker, further continuing my reservation of objection, I yield to my friend and colleague, the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to express my appreciation for the leadership of the subcommittee in helping to bring this measure to the floor for speedy consideration. I particularly wish to commend the chairman, the gentleman from Ohio [Mr. SAWYER] and the ranking minority member [Mr. RIDGE].

I acknowledge and join my distinguished fellow Ohioan and Veterans' Affairs Committee colleague, Mr. APPLEGATE, who authorized this legislation, in urging passage of Senate Joint Resolution 190 for the purpose of designating April 9, 1990, as "National Former Prisoner of War Recognition Day." I was proud to cosponsor with the gentleman in introducing the House companion, House Joint Resolution 364.

It is important that we once again call national attention to the unique sacrifices, suffering, pain, and hardship endured by those brave Americans who were prisoners of war. From their stories, we have learned that the dangers of combat did not end with their capture.

In steaming, dehydrating Pacific jungles—in the freezing cold of Korea and Central Europe in wintertime—our former prisoners of war were forced to face unusual punishment under the roughest of conditions. Many of their comrades did not survive.

This resolution honors not just those who were captured, but also their families, who lived long months and even years in uncertainty.

Our Nation joined the POW families in proudly welcoming these special service people back home, and "National Former Prisoner of War Recognition Day" sends the message to the world that we will never forget their extraordinary bravery under difficult circumstances.

I join the other Members in requesting passage for this important joint resolution.

Mr. GILMAN. Mr. Speaker, I heartily rise in strong support of Senate Joint Resolution 190, which designates April 9, 1990, as "National Former Prisoner of War Recognition Day." This resolution is identical to House Joint Resolution 364, which I was pleased to cosponsor. I commend my distinguished colleague from Ohio [Mr. APPLEGATE], for his tireless efforts to honor those who were held as prisoners of war.

The Armed Forces represents the most dangerous possible way of serving our country, and those who were held in captivity by a foreign nation were forced to endure painful sacrifices. These valiant patriots often experienced degradation that was nearly unbear-

able, yet they somehow summoned the courage to hang on. No doubt they were able to do so because they felt that their sacrifice was a noble effort that would be appreciated by their fellow countrymen when they returned home. Unfortunately, this was not always the case.

Let us take this step to enhance our treatment of these patriots by designating April 9 as a day to commemorate their courage and determination in upholding the principles of freedom and democracy. For former prisoners who gave so much, we can do no less.

Accordingly, I urge my colleagues to fully support Senate Joint Resolution 190, establishing a National Prisoner of War Recognition Day.

Mr. MONTGOMERY. Mr. Speaker, I rise in strong support of this resolution today and I commend Representative DOUG APPLEGATE, the chairman of the Veterans' Affairs Subcommittee on Compensation, Pension, and Insurance, and the ranking minority member, Representative BOB MCEWEN, for introducing the legislation.

There are more than 75,000 living former POW's in the United States and they deserve this recognition. Because of the experiences they endured in the name of freedom, they have earned the Nation's gratitude and respect. They suffered great hardships during their time of captivity, but these extraordinary individuals overcame those hardships through their bravery and love for our great country.

We can only imagine what it was like during the times of solitary confinement, forced labor, and sometimes brutal beatings that these brave Americans had to suffer. We can't change what happened, but we as a country certainly can set aside time to honor these individuals. And, we can make sure here in the Congress that adequate benefits and services through the Veterans Department are provided to these former POW's.

They answered the call when this country needed them to help defend our freedom. Now, many of these veterans need us to ensure that the VA continue to provide the necessary programs to make their lives a little easier today.

I am committed to that goal, as are my other colleagues on Capitol Hill.

Again, I want to express my strong support for the resolution and thank our Ohio colleagues, Representatives APPLEGATE and MCEWEN for their leadership in bringing this measure to the floor. And I commend Representatives SAWYER and RIDGE for their help in guiding this bill to passage today.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 190

Whereas the United States has fought in many armed conflicts;

Whereas thousands of members of the Armed Forces of the United States who served in such wars were captured by the enemy and held as prisoners of war;

Whereas many such prisoners of war were subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war and died, or were disabled, as a result of such treatment;

Whereas in 1985, the United States Congress (in Public Law 99-145) directed the Department of Defense to issue a medal to former prisoners of war in recognition and commemoration of their great sacrifices in service to our Nation; and

Whereas these great sacrifices of former prisoners of war and their families deserve national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 9, 1990, is designated as "National Former Prisoners of War Recognition Day" in honor of the members of the Armed Forces of the United States who have been held as prisoners of war, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 190, the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANNUAL REPORT OF ACTION AGENCY, FISCAL YEAR 1989—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor.

(For message, see proceedings of the Senate of today, Tuesday, March 20, 1990.)

ANNUAL REPORT ON NATIONAL SECURITY STRATEGY OF THE UNITED STATES, 1990—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Armed Services.

(For message, see proceedings of the Senate of today, Tuesday, March 20, 1990.)

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The SPEAKER pro tempore (Mr. THOMAS of Georgia). Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONGRATULATIONS TO COLDWATER HIGH SCHOOL LADY CAVALIER BASKETBALL TEAM

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, March Madness is upon us. Representing the basketball rich area of western Ohio, I would like to recognize the superior achievements of Mercer County's Coldwater High School Lady Cavaliers.

In the Ohio High School Athletic Association, Division III championship, the Coldwater Lady Cavaliers completed a 25-2 season by defeating the Brookfield Warriors and won the State championship 62-55. Before 5,026 fans, the Lady Cavs battled to victory in their first championship game after semifinal appearances in 1985 and 1988. Connie Alig led the way with 22 points, 14 rebounds, two assists, one blocked shot, and two steals for Coldwater. Coach Charlie Maier coached his Lady Cavaliers to become the first women State champions from Mercer County.

Ohio, Mercer County, and the entire city of Coldwater are very proud of their Lady Cavs.

COLDWATER LADY CAVALIERS

COACHING STAFF

Charles Maier, head coach.
Ted Cully, assistant coach.
Joan Gilliland, assistant coach.
Marge Good, assistant coach.

PLAYERS

Connie Alig.
Connie Timmerman.
Amy Siefring.
Mandy Cully.
Jenny Bollendacker.
Cheryl Moeller.
Tammy Muhlenkamp.
Tessy Muhlenkamp.
Nancy Post.
Karla Thobe.
Nichole Mustard.
Jenny Rauh.
Kris Hemmelgarn.

[From the Celina Daily Standard, March 1990]

ALIG LEADS COLDWATER RALLY

(By Mike Buettner)

COLUMBUS.—With an 18-2 regular season record, the Coldwater girls basketball team didn't have a lot of experience coming from behind for victories.

But when they needed to, the Cavaliers found out they were real good at that too.

Against Brookfield in the Divison III State championship game Saturday morning at St. John arena, the Cavs found themselves trailing by double figures in the second half for the third time in their last five tournament games.

Once again Coldwater rallied to overtake the Warriors and win the state championship. Before 5,026 fans, the Cavs battled back to snag a 62-55 victory in their first championship game after semifinal appearances in 1985 and 1988.

In Thursday's semifinal, Coldwater had never led in regulation before catching Heath and winning 67-63 in overtime.

In their second straight come from behind victory, senior Connie Alig led the 25-2 Cavs with 22 points, 14 rebounds, two assists, one blocked shot and two steals. Alig had 12 points and 11 rebounds in the second half as the 25-2 Cavaliers overcame a 41-28 deficit.

"I never really thought about the score too much," said Alig. "We were down 14 to Ottawa-Glandorf in the third quarter (in the District championship), and all of a sudden we were ahead. We just tried to go with the flow and that's what we did.

"Tournament time is just chaos, it's March madness. We were only playing to win and that's what helped us. We were only thinking about winning."

Junior forward Nichole Mustard added 15 points and nine rebounds for Coldwater. Sophomore guard Amy Siefrig contributed 11 points.

Erin Scoccia led Brookfield (21-6) with 20 points. Latasha Jefferson had 12 for the Warriors.

Brookfield broke away from a back-and-forth battle with the last six points of the first quarter. The Warriors also scored the final six ponts of the second quarter to take a 37-28 lead at halftime.

Scoccia and Nikki Kelley scored the first two baskets of the second half for Brookfield as the Warriors pulled away to a 41-28 advantage.

More than two minutes later, Brookfield's lead was 47-37 when Jefferson scored two quick baskets with 4:16 left in the third quarter. Seven Coldwater points from Mustard kept the Warriors from getting farther away.

Then the final 12 minutes belonged to the Cavaliers.

An Alig jumper from the right wing started the Cavs on a nine-point run that trimmed Brookfield's lead to 47-46 at the end of the third quarter and Coldwater's pressing, trapping defense held Brookfield scoreless in the final 4:16 of the period.

"I think we felt they looked like they were getting tired at halftime" said Coldwater coach Charlie Maier. "They say that when you stand there and pull on your pants, you're tired. We saw five girls doing that."

Alig penetrated with an offensive rebound and scored the first two points of the fourth quarter to put the Cavs ahead 48-47. Jefferson and Scoccia sandwiched a basket by Mustard to give Brookfield a 51-50 lead wtih 5:13 left in the game.

An 8-0 run and a 12-4 finish gave the victory to Coldwater.

Freshman Jenny Rauh gave the lead to the Cavs for good with a rebound basket. Karla Thobe hit from the left baseline for a 54-51 Coldwater lead.

When Michelle Carbo missed at the foul line for Brookfield with 3:09 left, the Cavs went to their delay game and iced the victory from the foul line.

After hitting 12 of 25 shots and 13 of 15 free throws in the first half, Brookfield was just 8 of 31 from the field in the second half. The Warriors scored just eight points in the final 12:16 against Coldwater's pressure defense.

"A basketball game comes down to making shots," said Brookfield coach Tim Filipovich. "Several times in the second half the ball rolled around the rim and had a good opportunity to go in and didn't.

"Sometimes that's fatigue and sometimes that's luck. Coldwater's pressure defense was excellent although it didn't bother us in the first half. Our game plan was to go right to the basket. We just stopped making the easy ones."

With a 56-51 lead, Alig took over for the Cavs in the final 2:18. After scoring just six points in Coldwater's semifinal victory, Alig scored six points from the line in the final 2:18 against Brookfield to secure the win.

"I knew I wasn't going to do the same thing two games in a row," said Alig. "That's just not me. I'm the leader and I'm supposed to take charge. That's what I tried to do."

With Alig's six of six shooting at the line, the Cavs finished the final three minutes hitting eight of 11 from the foul stripe.

"With three minutes to go we went to our control offense," said Maier. "We knew they were going to foul us if we didn't get layups. If we don't make the free throws our control offense isn't working."

Two other factors in Coldwater's second half comeback were rebounding and defense. The Cavs outrebounded Brookfield 26-17 in the final two periods. And after putting the Warriors at the line 15 times in the first half, Brookfield got just four attempts in the second half.

"They hurt us on the offensive boards," said Filipovich. "That was the killer for us. Especially number 43 (Alig). When she missed she went right in the paint and got it back. They were a strong, physical team and they played our kind of game. They were just bigger than us."

Coldwater's switch to a softer press and a change from man-to-man to zone helped the second half defense.

"We kept them in front of us the second half," said Maier. "The first half they blew right by us for easy layups. We switched out of our man to halfcourt pressure to keep people in front of us. And we went to a matchup zone to keep them outside.

"When we were trailing them in the first half we were getting fouls. We didn't get many fouls in the second half because we kept them in front of us.

EAST GERMANY ELECTION REPORT

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, the last free election in East Germany took place when Adolf Hitler was elected in 1933. There was a free election on Sunday, and along with my colleagues, the gentleman from Missouri [Mr. BUECHNER], the gentleman from Texas [Mr. BRYANT], the gentleman from Colorado [Mr. SKAGGS], and Senator SARBANES, we witnessed an expression once again of freedom. Once again we witnessed the pollsters, as in Nicaragua, being dead wrong.

The East Germans ran a very clean, efficient, effective, and fair election. There were stars in the eyes of those voters. Precincts in rural areas, in urban areas, and at Potsdam where we visited five precincts, all were filled with enthusiastic voters. What they wanted to do was say that this election is so special they wanted to be certain to participate. They want to have democracy. They want to have a say in the future of their country.

I think it is critically important that we work on our future relationship with one Germany, because what this vote said was, "once again, we want immediate reunification;" and second, they were talking about new economic structures for their countries. They want capitalism, they want an open market system, and they were responding very, very clearly.

Mr. Speaker, we should work through the CSCE process. The Helsinki Commission is vindicated, created by the gentleman from Florida [Mr. FASCELL] and others. It is important that we play a supporting role in the opening of Eastern Europe. The Helsinki Commission is the ideal vehicle for this participation. A process which has already borne fruit and will be in the vanguard of Eastern Europe's renaissance.

HELSINKI COMMISSION DELEGATION OBSERVES FIRST FREE ELECTIONS IN GDR; DELEGATION CHAIRMAN DECLARES GERMAN PEOPLE THE WINNER

BERLIN.—A delegation of the Commission on Security and Cooperation in Europe (the U.S. Helsinki Commission), led by Representative Bill Richardson (D-NM), completed an election observing mission to the German Democratic Republic today. In contrast to the Soviet Union, which denied visas to Members of Congress earlier this month in order to prevent them from observing elections in the Baltics and Ukraine, the GDR government invited election observers from all the other 34 States participating in the Helsinki process.

In order to ensure the integrity of the observing process, there was no prior notification of which polling sites the delegation would visit. The delegation visited both rural and urban polling centers including stops in Guterfelde, Schenkendorf, Treptow, Koepenick Oberschoeneweide, and Potsdam. In accordance with a request from the Electoral Commission, the delegation did not ask voters for which Party had they voted. At all stops, the delegation was able to enter the polling center and hold discussions with voters and election officials.

As the polls opened in the morning, Chairman of the delegation and Helsinki Commissioner Bill Richardson commented, "This is not about who wins or loses this election; this is about the process. When the process

is open and fair and honest, then everybody wins."

The overwhelming majority of voters with whom the delegation spoke expressed great personal satisfaction with the mere fact that genuinely free elections were being held; many openly acknowledged that the previous electoral system had been a sham. A few elderly voters were more reserved in their comments, alluding to a lifetime of disappointments. Notably, no one with whom the delegation spoke expressed even the slightest fear that these elections would be falsified in any way.

Chairman Richardson was impressed by the warm reception the delegation received. "When we said we were from the U.S. Congress, people were polite. But when we said we were from the Helsinki Commission their faces lit up. Everyone here seems to know about the Helsinki process," remarked Richardson.

The Helsinki Commission hopes to send observer teams to other elections in the region, including those scheduled to take place in Hungary, Romania, Poland, and Czechoslovakia. This delegation included Representatives John Bryant (D-TX), David E. Skaggs (D-CO), and Jack Buechner, and Senator Paul Sarbanes (D-MD). They will stop in Bonn on Monday, 19 March, for the opening of the CSCE Economic Conference by FRG Chancellor Helmut Kohl.

HELSKINKI COMMISSION DELEGATION TO THE GERMAN DEMOCRATIC REPUBLIC AND THE FEDERAL REPUBLIC OF GERMANY

16-19 March 1990

TRIP SUMMARY

Friday, 16 March

Delegation departed Washington, D.C. at approximately 4:30 p.m.

Saturday, 17 March

Arrival at Ramstein Air Force Base, Federal Republic of Germany at 6:00 a.m.

Briefing on CSCE process by Ambassador Wise.

Briefing on German reunification issues by advisor Robert Hunter.

Additional comments on issues relating to U.S. military presence in Europe by Lt. Gen. Clifford T. Rees, Vice Commander-in-Chief, United States Air Forces in Europe.

Arrival in West Berlin at approximately 10:00 a.m.

Briefing at U.S. Embassy to the German Democratic Republic in East Berlin by Ambassador Richard C. Barkley, Deputy Chief of Mission James D. Bindenagel, Counselor for Political Affairs Jon Greenwald, Counselor for Press and Cultural Affairs Jaroslav Verner, and CSCE Staff Member Beth Ritchie.

Hotel check-in in West Berlin, administrative matters, and lunch 12:00-1:30 p.m.

Return to East Berlin to visit to political party headquarters of Neues Forum at the House of Democracy, the Liberal Democratic Party, and the Christian Democratic Union, 1:30-4:00 p.m.

Dinner at Ermeler Haus (Restaurant) in East Berlin, 6:45-10:00 p.m., with diverse political representatives (see attached guest list).

Sunday 18 March

Election observing throughout day at polling sites in both rural and urban polling centers in the GDR, including stops in Guterfelde, Schenkendorf, Treptow, Koepernick Oberschoeneweide, and Potsdam.

Late afternoon tour of Cecilienhof in Potsdam, GDR (site of third summit between Roosevelt, Churchill and Stalin, where famous "Potsdam Agreement" was reached).

Dinner hosted in East Berlin by U.S. Ambassador to the Federal Republic of Germany Vernon Walters (see attached guest list), 6:00-8:00 p.m.

Return to Palace of the Republic of East Berlin to watch election returns come in, 8:30-10:00 p.m.

Monday, 19 March

7:30 a.m. hotel departure for airport.

10:00 a.m. arrival in Bonn, Federal Republic of Germany.

Briefing at U.S. Embassy.

Meeting for Members at FRG Foreign Ministry on CSCE issues with State Secretary Dr. Juergen Sudhoff, 11:00 a.m.

Delegation hosted lunch at residence of Deputy Chief of Mission George F. Ward, Jr. with members of the American and FRG business community, and FRG political representatives on trade issues, 12:30-2:30 p.m.

Opening of the Bonn Economic Meeting of the Conference on Security and Cooperation in Europe at 3:30 p.m.; Host country representation made by Chancellor Helmut Kohl.

Depart Bonn at 6:00 p.m.; arrival in Washington, D.C. at 9:00 p.m.

GUEST LIST—DINNER AT ERMELERHAUS (ROSENZIMMER)

SATURDAY, MARCH 17, 1990

Hosts: Commissioners for the CSCE election observer delegation.

Delegation Members

Rep. William Richardson, D-NM.
Senator Paul Sarbanes, D-MD.
Mrs. Sarbanes.
Rep. Jack Buechner, R-MO.
Rep. John Bryant, D-TX.
Rep. David E. Skaggs, D-CO.
Mrs. Skaggs.
Ambassador Sam Wise, Staff Director.
Ms. Jane S. Fisher, Deputy Staff Director.
Ms. Erica Schlager, CSCE Commission Staff.
Ms. Beth Ritchie, CSCE Commission Staff.
Dr. Robert Hunter, Staff of Rep. Richardson.
Ms. Tera Maria Federci, Staff of Rep. Richardson.
Mr. John G. Keliher, Staff of Rep. Richardson.
Mr. Peter Abbruzzese.
Mr. Frank Sieverts.
Mrs. Sieverts.

G.D.R. Guests

Prof. Dr. sc. Reiner Springer, Prorektor Aussenwirtschaft, Hochschule für Oekonomie.

Prof. Dr. Kurt Wuensche, Minister of Justice, Deputy Chairman of Liberal-Democratic Party (LDP).

Ms. Magdalene Geisler, Neue Zeit.

Mr. Claus Moeller, Member of Electoral Commission.

Ms. Doris Pasloer, Member of Electoral Commission.

Pfarrer Gerhard Rosenau, Evangelical Church Berlin-Pankow.

Pralat Dieter Grande, Sekretariat der Berliner Bischofskonferenz, Catholic Church Berlin.

Mr. Konrad Elmer, Deputy Chairman of Social-Democratic Party (SPD).

One representative of Demokratischer Aufbruch (DA).

U.S. Embassy

Ambassador and Mrs. Richard C. Barkley.
Mr. and Mrs. J. D. Bindenagel, Deputy Chief of Mission.
Mr. G. Jonathan Greenwald, Political Counselor.
Mr. and Mrs. Jaroslav Verner, Public Affairs Officer.
Ms. Janice Weiner, Political Officer.
Mr. Robert Becker, Political Officer.

LUNCHEON—44 TURMSTRASSE

MONDAY, MARCH 19, 1990

Guests of Honor

Congressman Bill Richardson (D/New Mexico), CSCE Commissioner.
Senator Paul S. Sarbanes (D/Maryland), and Mrs. Christine D. Sarbanes.
Congressman John Bryant (D/Texas).
Congressman Jack Buechner (R/Missouri).
Congressman David E. Skaggs (D/Colorado) and Mrs. Laura D. Skaggs.
Ambassador Samuel G. Wise, Staff Director, CSCE Commission.
Ms. Jane S. Fisher, Deputy Staff Director, CSCE Commission.
Dr. Robert E. Hunter, Personal Staffer of Congressman Richardson.
Ms. Tara Maria Federici, Staffer.
Mr. John G. Keliher, Staffer.
Ms. Erika Schlager, Staffer.

Bundestag

Mr. Ludolf-Georg von Wartenberg (CDU).
Mr. Wolfgang Roth (SPD), Economic Spokesman.
Dr. Andreas von Buelow (SPD).

Others

Mr. William R. Frederick, Hughes Aircraft International Service Co.
Dr. Ulf-Dietrich Lorenz, DDR, CSCE Commissioner.
Dr. Franz Schoser, Executive Secretary, Federation of German Chambers of Commerce.

American Embassy

Mr. John A. Polansky, Jr., First Secretary, Economic Affairs.
Minister and Mrs. George F. Ward, Jr.

BUFFET RECEPTION HOSTED BY AMBASSADOR VERNON A. WALTERS IN HONOR OF CONGRESSIONAL DELEGATE RICHARDSON

SUNDAY, MARCH 18, 1990

Guests of Honor

Representative Bill Richardson (D-NM).
Representative Jack Buechner (R-MO).
Senator Paul Sarbanes (D-MD) and Mrs. Sarbanes.
Representative John Bryant (D-TX).
Representative David E. Skaggs (D-CO) and Mrs. Skaggs.
Mr. William Fritts, CSCE Commissioner from USDOC.
Ambassador Samuel Wise, CSCE Staff Director.
Ms. Jane S. Fisher, CSCE Deputy Staff Director.
Ms. Erika Schlager, CSCE Staff.
Dr. Robert Hunter, CSCE Staff.
Mr. Jack Keliher, CSCE Staff.
Ms. Beth Ritchie, CSCE Staff Press Officer.
Ms. Tara Maria Federici, Personal Staff of Rep. Richardson.
Mr. Peter Abbruzzese, Staff, House Foreign Affairs Committee.
Mr. Frank Sieverts, Staff, Senate Foreign Relations Committee and Ms. Sue Hubbell.

Military Escorts

Colonel Eugene Ronsick.
Major Steve Goldfein.

Sgt. Curtis L. Banks.
Sgt. Douglas E. Lovett.

U.S. Mission

Minister Harry J. Gilmore.
Mr. James A. Wiliams, Political Adviser.
Mr. Donald E. Huth, Chief, Administrative Section.
Ms. Diana E. Henshaw, Consul General.
Mr. Thomas H. Gerth, Deputy Political Adviser.
Mr. Anthony W. Sariti, Information Officer.
Ms. Helen Weinland, U.S. Liaison Officer to Senate and House of Represenatives.
Ms. Kristine L. Pelz, Political Officer; Aide to the Ambassador.
Mr. John P. Mondejar, Deputy Economic Adviser.
Mr. John Hamilton, Political-Military Officer.
Mr. Daniel F. Romano, General Services Officer.

LEGISLATION AFFECTING INVESTMENT AND OPERATIONS BY FOREIGN COMPANIES IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am introducing legisiation today that will address recent reports that some foreign-controlled U.S. subsidiaries and foreign branches may not be accurately reporting U.S. tax liability. This legislation includes provisions that will enhance IRS investigative and enforcement powers in order to determine whether U.S. tax laws are being manipulated in areas such as transfer pricing. In addition, this legislation also contains a provision that will tax the stock gains of foreign individuals and corporations, which is intended to provide more equitable treatment between foreign and U.S. investors.

The IRS has stated that it has stepped up its examinations of foreign-controlled U.S. subsidiaries because of suspicions that some firms may be understating income and frustrating IRS audits by withholding records and documents. IRS data shows that in 1986 foreign-owned companies reported a negative tax liability of over $1 billion while also reporting over $500 billion in gross income. It is critical that we ensure that foreign-owned companies are not underpaying their taxes, thereby gaining a competitive advantage over American companies that are paying their fair share of taxes.

I am proud of the fact that the provision enacted in the Omnibus Budget Reconciliation Act of 1989 that requires increased reporting and better recordkeeping on the part of foreign-controlled firms will provide the IRS with greater power to ensure compliance by foreign-owned firms with our tax laws. Increased sanctions for noncompliance are now available, including the complete disallowance of deductions and cost of goods sold for certain failures to comply. We hope that the future will bring more cooperation by foreign companies with the IRS and assurances that foreign-owned companies are accurately reporting and paying their U.S. tax liability.

The 1989 act provision, however, does not apply to ongoing audits covering past years, nor does it apply to foreign companies operating in the United States in branch form. In light of these recent reports of possible underpayments, I feel that it is necessary for us to consider application of the 1989 rules to open years of current audits and to cases involving foreign branches, so that the IRS will have the tools it needs to determine the true tax liability of foreign companies operating in the United States. This bill also provides the Secretary of the Treasury with the authority to extend the statute of limitations in appropriate cases.

I hope that these provisions will add to the tools that the IRS already has in pursuing these cases. In addition, however, consideration may be given to an additional provision that would establish a rebuttable presumption rule limiting the transfer price in certain foreign-related transactions. This rule would state that in determining the taxable income of a U.S. corporation from the sale of property acquired from a foreign person, a transfer price would be used that results in the U.S. corporation having taxable income from the sale of not less than 50 percent of the combined taxable income of the U.S. corporation and any related person from such property, unless the taxpayer proves otherwise to the satisfaction of the Secretary of the Treasury.

Mr. Speaker, I want to compliment Chairman JAKE PICKLE and the Subcommittee on Oversight for its vigorous examination of noncompliance by U.S. subsidiaries of foreign-owned companies. The subcommittee expects to hold hearings on this subject later this year when their investigation is complete. I expect a report of that investigation to be forwarded to the full committee with recommendation for legislation if further changes are determined to be necessary.

Mr. Speaker, recent Commerce Department data shows that foreign investors spent a record $61.3 billion in 1989 buying U.S. companies and real estate, which for the first time pushed direct foreign holdings here substantially above U.S. holdings abroad. Total foreign investment in the United States to date including both direct investment and portfolio investment is now close to $2 trillion of property. The Committee on Ways and Means recently held several days of hearings on the issue of foreign investment in the United States. Those hearings provided the committee with an opportunity for a thoughtful and comprehensive debate on the issue. I am well aware of the importance of foreign investment to this country and its impact on our budget deficit, trade deficit, and our economy.

It is equally important, however, that we ensure that Americans who are investing in their own country are not treated unfairly by the U.S. tax system relative to foreign investors. My proposal to tax stock gains of foreign investors in certain cases represents a step toward providing Americans with the opportunity to compete fairly with foreign investors. A similar proposal was included in the House version of the 1989 Reconciliation Act, but has been modified in this year's bill so as not to apply to residents of countries with which the United States has a treaty that addresses the taxation of stock gains. The proposal will, however, contain language that will prevent treaty shopping by nontreaty country residents unfairly seeking the benefits of U.S. treaties.

An issue that figures prominently in many of the IRS audits of foreign-controlled companies involves section 482 governing transfer pricing between related parties and whether foreign-controlled companies are manipulating these rules to avoid paying U.S. taxes. The Tax Reform Act of 1986 significantly changed these rules and mandated a study by the Treasury Department. I am hopeful that the regulations detailing these rules will be forthcoming in the very near future so that the IRS will be in a position to enforce them appropriately to carry out the intent of the 1986 act.

This country has always welcomed foreign investment and will continue to do so, especially as we continue to be a major player in a developing global economy. It is important, however, that the United States insist that foreign companies doing business here respect the integrity of our system and comply fairly and honestly with our laws.

INTRODUCTION OF THE FOREIGN TAX EQUITY ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT], is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, today I join with Chairman ROSTENKOWSKI to introduce the Foreign Tax Equity Act of 1990. In our fight for a fair trade policy for American farmers, workers, and businesses, we have often focussed on opening markets overseas. But there are also some measures we must take to level the playing field in the United States.

Today, we are introducing the Foreign Tax Equity Act, legislation which is another step in the fight for a fair trade policy here at home. Quite simply, if a foreign company wants to operate in the United States and benefit from the openness of our market, they've got to play by the rules.

In 1986, despite more than $800 billion in assets and more than $500 billion in receipts, foreign-controlled domestic corporations reported negative net income on their U.S. tax returns, and those that reported taxable income paid only $3 billion in Federal income taxes. That's more than unfair—it's a U.S. tax holiday for the competition.

It seems to me that foreign corporations that come to this country, and benefit from the quality of our workers, the strength of our transportation system, and the wealth of our natural resources ought to pay something in return. It's simple fairness.

It is time the administration stood up for working Americans. For if the American Government doesn't stand up for American jobs and American workers, who will?

What does this really mean? Let's look at the auto industry. Foreign-controlled corporations operating here claimed total receipts of about $7.7 billion. On this amount, they paid less than $12 million in taxes. By one measure, U.S. auto companies paid 530 percent more on their operations. No wonder they're having a hard time competing.

Congressman PICKLE's Subcommittee on Oversight is engaged in an investigation on

this matter. We look forward to the results of his investigation and, if appropriate, further legislation.

UNDERGROUND STORAGE TANK POLLUTION PREVENTION AND ASSISTANCE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, today I am introducing the Underground Storage Tank Pollution Prevention and Assistance Act. This legislation is needed to help small service stations, especially those in rural areas, obtain funding so they can comply with Federal underground storage tank [UST] requirements.

Last week, the EPA announced its decision to extend for 1 year the deadlines for owners of UST's to obtain pollution liability insurance. While extending this deadline may give UST owners enough time to comply with the regulations, the EPA decision does not address the exorbitant costs of replacing and upgrading the tanks.

The problem is that most insurance companies require a clean bill of health before they will issue a liability policy, so tank owners must first upgrade or replace their tanks or otherwise ensure there is no ground water contamination, at a cost of between $40,000 and $50,000 per location. Tank owners are finding it difficult to get the money they need to clean up prior releases, to test their tanks for leaks, or to upgrade or replace their tanks. Some lenders are unwilling to loan money to tank owners out of fear of future liability.

In my home State of Kansas, 95 percent of all UST owners have 12 tanks or less. My bill amends the Solid Waste Disposal Act to establish a national program to provide loan guarantees to small businesses for release detection, closure, replacement, and upgrading of UST's. There are 20,000 tanks in Kansas, 100 of which are currently under investigation as major sites of leakage. Leaking underground storage tanks present a real threat to our health and environment. We must act to assist tank owners in cleaning up existing contamination of soil and ground water and protect against new leaks.

This is a serious problem in Kansas and all of rural America. There are several public water supply wells with contamination—those water supplies have been closed down. Last year, a woman in Olsburg, KS, in the northeast part of the State innocently turned on her water faucet only to have gasoline filling up the bathtub. This is gasoline which had leaked into her private water supply well from a corroded underground tank owned by the service station across the street.

My bill establishes a national program to provide loan guarantees to small businesses for release detection, closure, replacement, and upgrading of underground storage tanks. The proposed loan program would affect owners of 1 to 12 tanks, located at not more than three facilities. Loan guarantees are limited to $200,000 and could not exceed $100 million in aggregate. Up to 20 years are allowed for full loan repayment.

This loan program will make it much easier for small business to get the necessary financing to replace their tanks by broadening the use of the leaking underground storage tank [LUST] trust fund. This Federal fund, which is currently used to clean up contamination that has already occurred, is financed through a tax on gasoline of one-tenth of 1-cent per gallon. The administration has already allocated $215 million for the trust fund in the fiscal year 1991 budget. In addition, most States have separate LUST trust funds for their own use in cleaning up contamination in the State. In Kansas, a 1-cent per gallon environmental insurance fee levied at the refinery gate finances a $5 million fund.

Mr. Chairman, we must move forward in implementing the underground storage tank program. We have serious health and environmental problems from leaking underground storage tanks. This bill would prevent a scenario in which rural gas stations, because of an inability to finance tank replacement, simply closeup shop, leaving behind a potential environmental catastrophe. I urge my colleagues to support this legislation for it will ensure that "mom and pop" gas stations all over rural America are able to continue to serve their customers in an environmentally sound manner.

□ 1530

AMERICAN MEDICAL ASSOCIATION ADOPTS A PUBLIC HEALTH RESPONSE TO THE HIV EPIDEMIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 60 minutes.

Mr. DANNEMEYER. Mr. Speaker, today I want to congratulate the American Medical Association for its courageous actions in Honolulu, HI, last December, when the overwhelming majority of its members voted to embrace a public health strategy to control the epidemic of HIV infection in America. In particular, I want to salute the physicians who prevailed over elements of the AMA bureaucracy, which wanted to perpetuate organized medicine's reliance on the education-only approach to epidemic control. The AMA membership has spoken clearly; it wants physicians and public health officials to treat HIV infection in the same manner as other sexually transmissible and communicable deseases.

The AMA, in other words, has formally embraced the simple truth that the HIV epidemic is an issue of public health and not one of civil rights.

What exactly did the AMA do in Honolulu, and what does it portend for the future of the epidemic?

The AMA House of Delegates approved an HIV policy update, which contains 108 separate recommendations for Federal, State, and local governments and covers virtually every aspect of the epidemic. The report contains sensible advice for policymakers who want to enact policies to control the epidemic. I would like to draw my colleagues' attention to the following recomendations:

THE VALUE OF EARLY DIAGNOSIS OF HIV INFECTION

Recommendation 17-B: That AMA encourage persons who suspect that they have been exposed to HIV to be tested so that appropriate treatment and counseling can begin for those who are seropositive.

AMA argues that "HIV testing accompanied by appropriate counseling can asssist in the behavior change process necessary to reduce a patient's risk of infection." The arguments in favor of early diagnosis of HIV infection are even stronger "now that treatments are available." The military experience, moreover, "demonstrates that accurate test results can be achieved in a relatively low prevalence population with relatively low costs of testing and counseling."

This effectively puts to rest the baseless fear that has plagued proposals to offer HIV tests to broad segments of the population; namely that such testing would produce too many "false positive" or "false negative" test results. It is imperative that every at-risk person know his or her serostatus.

MANDATORY HIV TESTING IN CERTAIN INSTANCES

The AMA has proposed implementing mandatory HIV testing in certain, carefully defined situations. Again, this sort of proposal was political dynamite only 2 years ago.

Recommendation 19-A: That AMA support mandatory HIV testing of donors of blood and blood fractions, and breast milk; organs and other tissues intended for transplantation; semen or ova for artificial conception; immigrants to the United States; and military personnel.

"Immigrants," the report notes, "have historically undergone a health assessment before admission into the citizenship process. To exclude HIV infection from the health assessment of those seeking United States citizenship would be a change in long-standing U.S. policy and difficult to justify on medical, scientific, or economic grounds."

"Recommendation 20-A: That AMA continue to recommend that testing be mandatory for inmates in federal and state prisons."

In justifying its endorsement of mandatory prison testing, the AMA explains that "disproportionately high numbers of inmates in specific geographical regions test positive for HIV." But the report goes further, using an argument that, if applied to the rest of society, would require HIV testing of tens of millions of high-risk individuals across America. The report states.

Complete medical care requires knowledge of an inmate's serostatus. As early care provides increasing benefits to those who are

HIV infected, the value to inmates of mandatory HIV testing will increase.

Substitute the word "patient" for "inmate" in the above passage and my point is obvious. In fact, the AMA has already accepted this principle for a noninmate population—infants—and in certain specified situations that may arise in hospital settings. "An infant born to a woman who is either thought, or known, to be HIV positive," the report states elsewhere, "should be tested so that appropriate treatment can be initiated immediately." Similarly, the AMA wants hospital medical staffs to develop guidelines "to allow HIV testing of a patient at the physician's discretion without prior consent in cases of puncture injury, or mucosal contact of health caregivers by potentially infected fluids."

ROUTINE TESTING IN CLINICAL SETTINGS

As AZT and other AIDS drugs have emerged, organizations and individuals who previously opposed most HIV testing, such as the AMA, have slowly but steadily come to accept the wisdom of early diagnosis of HIV infection through widespread routine testing programs. Indeed, the AMA report states that "HIV testing has become the gateway to early care." And, quite apart from the availability of AZT and other therapeutic drugs, quality medical care requires that physicians know their patient's serostatus in order to "reduce the likelihood that an HIV infection will be inadvertantly exacerbated by other treatments or conditions." This last argument has been viable since the onset of HIV testing; it is unfortunate that we have had to wait so long for it to be recognized.

AMA also recognizes the crucial link between widespread routine testing and partner notification programs. The report emphasizes that:

There are still individuals who need to know their serostatus to help them act responsibly. There are still those who will not suspect infection unless a seropositive sexual or needle sharing partner tests HIV positive and discloses this information to them.

Thus, the AMA recommendation with respect to voluntary testing is entirely consistent with the provisions in my own legislation, H.R. 3102, the Public Health Response to AIDS Act. According to the AMA, persons in the following categories should be offered and encouraged to undergo HIV testing:

Patients in clinics for sexually transmitted disease, drug abuse, family planning, and tuberculosis; the newborns of women who are or might be infected, as indicated by the mother's sexual or drug history and/or considering the prevalence of HIV infection in the local community; and hospital patients who require surgical or other invasive procedures, taking into account the prevalence of HIV infection in the local community.

Reflecting the growing concern that the epidemic is spreading out of control in certain urban areas, the AMA recommendation includes a warning that, if voluntary HIV testing is not sufficiently accepted, "the hospital and medical staff may consider requiring HIV testing." Again, this is a major philosophical change among organizations which have opposed most testing in the past.

HIV TEST CONSENT

The AMA has also adopted a wise policy with respect to the consent required from patients tested for HIV infection. Historically, physicians have sought to obtain a knowing commitment from the patient, which usually requires nothing more elaborate than the patient's verbal consent, but occasionally demands something more concrete, such as a written acknowledgement from the patient. To require that patients give their written consent in every instance, however, goes too far, and may prove unduly burdensome to harried physicians who seek to provide top quality care in crowded and less than ideal settings.

Thus, AMA advocates a consent procedure "that is appropriate to the setting and is the least burdensome to the person being tested, as well as those responsible for testing." This requires an approach that maintains the option for either written or verbal consent. The report notes:

In some circumstances a written consent will be appropriate, but in other situations a verbal consent will be adequate. Similarly, in some settings a lengthy form is appropriate, while in others a very brief acknowledgement will be sufficient.

The most desirable solution, I believe, would allow the physician to make the determination with respect to the consent procedure that best suits the medical needs of the patient being tested.

CONFIDENTIAL REPORTING AND PARTNER NOTIFICATION

In a departure from the usual even-handed and clinical tone of the recommendations, the delegates adopted forceful language to express their support of reporting HIV test results in confidence to public health officials and the implementation of partner notification programs in every community.

In a near unanimous demonstration of support, the AMA House of Delegates adopted the following resolutions:

Recommendation 27-A: That the AMA strongly recommends a system for contact-tracing and partner notification for unsuspecting sexual or needle-sharing partners who might have been HIV-infected should be established in each community.

Recommendation 27-E: That the AMA strongly recommends the reportability of HIV seropositive patients to the Departments of Health of the 50 states for the purposes of contact tracing and partner notification.

With the adoption of these resolutions, the AMA is now foursquare behind a public health response to this epidemic. These resolutions reflect what every poll of physicians and other health care providers has shown; namely, that the vast majority of physicians supports treating HIV infection in the same manner as other sexually transmissible diseases.

Why are partner notification programs so important that the AMA would "strongly" recommend that they be established in "each community" in America?

Under a partner notification program, every person who is contacted, infected or not, has been intimate with someone who is carrying a fatal virus. Those who are HIV-negative will understand that they have had a close brush with mortality and will be more likely to change their behavior in the future. For these individuals, the counseling and education that follows will be more meaningful and effective than if it had been offered to them in a vacuum. HIV counseling and education, in other words, must be offered where possible in the context of a partner notification program. Of course, seropositive individuals who are contacted have the opportunity to receive available treaments to prevent the onset of associated infections and to change their behavior to prevent further transmission of the virus to loved ones.

Why is HIV reporting so crucial that the AMA would urge all 50 States to adopt it?

First, confidential reporting is essential to the success of partner notification programs because public health workers must be able to locate infected individuals who refuse to voluntarily inform their contacts of their risk. For example, one study found that, 12 months after being notified that they were seropositive, only 64 percent of blood donors had voluntarily revealed their test results to their primary sexual partners. Under a system with identity-linked reporting, the sexual contacts of these recalcitrant donors would be able to learn of their risk and take appropriate steps to obtain available treatments and prevent further transmission.

Second, reporting enables public health officials to learn the extent of infection in their communities, and to better assess the efficacy of control programs. Annual group specific incidence rates can be tracked only through a confidential reporting system that collects unduplicated test results by name or other identifying data.

Third, reporting permits health officials to provide followup counseling to

tested individuals who fail to return for counseling.

Fourth, a reporting system would enable health providers to recall (a) seropositive individuals for effective antivirals that may subsequently be developed, and (b) seronegative individuals for retesting and administration of protective vaccines.

Fifth, reporting allows for the implementation of restrictive measures against sociopathic individuals who knowingly attempt to spread the virus to others. This is consistent with AMA recommendation 28, which endorses the imposition of sanctions against those who knowingly and willingly place unsuspecting persons at risk of infection.

WHY THE AMA ADOPTED A PUBLIC HEALTH RESPONSE TO THE EPIDEMIC

I have attached a copy of a remarkable firsthand account of the AMA's recent interim meeting in Honolulu written by the president-elect of the Arkansas Medical Society, William N. Jones, M.D. Dr. Jones fought doggedly for almost a year to convince the AMA leadership to place the questions of reportability and partner notification before the AMA House of Delegates. In order to prevail, Dr. Jones had to overcome the AMA staff's subtle, but pervasive, pressure against these initiatives.

Last June, at the AMA's annual meeting in Chicago, Dr. Jones spoke before the AMA's Reference Committee in support of a resolution introduced by the Medical Society of the State of New York. The New York physicians wanted the AMA to take the position that AIDS is a communicable and sexually transmissible disease, and that States should apply the same public health measures to contain the HIV epidemic as they have applied to control the spread of other communicable diseases. This straightfoward principle has formed the basis of the New York society's lawsuit against Gov. Mario Cuomo. Unfortunately, the AMA leadership voted to postpone consideration of these issues until the interim meeting in December.

When the AMA reconvened in December, the delegates were presented with a report that was inadequate in at least two important areas. Dr. Jones complained that:

> Its statement on contact tracing and partner notification was weak and there was no consideration, pro or con, on reportability of HIV sero-positivity.

The report merely directed the AMA to "urge all communities to consider implementing" contact tracing and partner notification programs. Jones and other physicians wanted to strengthen the language, noting that "the words 'urge to consider' were not strong enough direction." Addressing the hundreds of assembled delegates, Jones said:

> There is one glaring deficiency in this report. It fails to recognize the need for reporting HIV sero-positive persons to the health departments of the 50 states . . . If we do not require the reporting of HIV seropositive individuals, there is no way for an adequate contact tracing and partner notification program to be carried out and have a positive effect on slowing the spread of the epidemic.
>
> It is past time for the AMA to take a firm position of leadership and emphatically state the importance of HIV sero-positivity reportability and individual contact tracing. Everyone in this room must know by now and understand that HIV infection is a continuum of disease. To endorse reporting of AIDS cases and not HIV infection is inconsistent policy.

The delegates responded with a show of vocal support that "was greater in volume than the summation of all the applause other issues had received since we began deliberating that morning." Unfortunately, the advocates of a civil rights response continued to stonewall the issue. It took another 24 hours of behind-the-scenes maneuvering to secure the support of senior AMA officials. But, when the AMA establishment finally relented, the subsequent outpouring of support overwhelmed Jones and his allies. He described the scene:

> I was pleased with the enthusiasm and the volume of applause that followed. Immediately, endorsement came from the delegations from Mississippi, New York, Virginia, West Virginia, Florida, and the delegate from the American Academy of Dermatology. Opposition was basically from California and . . . the United States Public Health Service spokesman was negative in his remarks.

In the end, there "was no audible opposition" to the voice vote on the two amendments. At long last, the forces of public health had won.

In closing, I would like to comment briefly on the actions of the official representative of the U.S. Public Health Service at the AMA meeting. The official position of the Public Health Service was set forth in the July 21, 1989 issue of the Mortality and Morbidity Weekly Report, which includes a report that recommends confidential HIV reporting to the States.

Since receiving Dr. Jones' account of the meeting, I have sent a letter to Assistant Secretary James Mason requesting that he conduct an inquiry into this situation. The observations of Dr. Jones and other suggest that, in opposing the resolutions on reporting and partner notification, this individual deliberately misrepresented the position of the Public Health Service to the hundreds of AMA delegates in Honolulu.

For the record, I have also attached my letter to Dr. Mason, which describes my concerns.

CONCLUSION

Soon, the Subcommittee on Health will once again consider an omnibus AIDS bill. Although it is uncertain at this time, we expect the package will include legislation addressing HIV testing, confidentiality, and counseling issues in addition to a proposal to expand the Medicaid Program to make asymptomatic HIV infection a new category of eligibility for infected individuals who otherwise satisfy the income requirements of State Medicaid programs.

The significance of the AMA's actions in Honolulu to the legislative struggles that lie ahead cannot be overestimated. I welcome the voice of organized medicine in America to the side of public health and I pray that the Congress will soon adopt a responsible approach to control this tragic epidemic.

Mr. Speaker, the doctor in America who deserves the credit in my judgment for bringing the AMA to the point where they changed their position last December is Dr. Billy Jones of the State of Arkansas, the president-elect of the Arkansas State Medical Society. He has written a fine article entitled, "The System Works if You Are Willing To Work the System," and I will attach this article by Dr. Jones from Little Rock, AR, along with a copy of a letter that I have written to Dr. James Mason on March 5 as a part of my record in this special order on this day.

THE SYSTEM WORKS IF YOU ARE WILLING TO WORK THE SYSTEM

(By William N. Jones, M.D., President-Elect, Arkansas Medical Society, Chairman, Committee on AIDS)

(All of us who have taken on the responsibility of leadership from time to time have been critical about some aspect of the AMA and AMS. It behooves us to change what we perceive as wrong or poor policy because, like it or not, Congress and our state legislature look to those bodies for advice and direction in matters that concern the public health and how medicine is, and will be, practiced.)

I attended the 138th Annual Meeting of the American Medical Association in Chicago, June 18-22, 1989. Since it was my first experience at that level of organized medicine. I was excited and at the same time somewhat in awe of the proceedings. I attended as the President-Elect of the Arkansas Medical Society so I could become informed about the issues and concerns of organized medicine and be aware of the leadership's approaches to those problems.

Any member of the AMA may attend the Annual and Interim Meetings and address any item of business to come before the House of Delegates. The forum that allows this is the reference committee. Every report or resolution to ultimately be considered by the House of Delegates is first discussed in a reference committee.

The agenda of the House of Delegates included many resolutions pertaining to Human Immunodeficiency Virus (HIV). At the annual session of the Arkansas Medical Society, the AMS House of Delegates endorsed a resolution previously adopted by the Medical Society of the State of New York which declared that the AMA House

of Delegates should formally take the position that AIDS is a communicable/sexually transmissible disease and that states should apply the same public health measures to contain the HIV epidemic as are taken to control the spread of other communicable/sexually transmissible diseases. Appropriate notification of the AMS endorsement was sent to the AMA, the Medical Society of the State of New York and our senators and congressmen.

In Chicago at the June meeting, I spoke in Reference Committee E in support of the New York Resolution. I also pleaded with the reference committee to recommend to the House of Delegates the endorsement of reportability of HIV sero-positivity for the purpose of contact tracing and partner notification, important measures to take to slow the spread of the HIV epidemic. The opposition which included the Surgeon General of the United States and civil libertarians, true to form, stated that such policies would lead to breach of privacy and confidentiality of the infected index person. Additional arguments raised suggested that since there was no effective treatment there was nothing to be offered the person found to be HIV infected, that such a program would lead to decrease in volunteer testing and would not be cost effective.

In rebuttal, I told the reference committee that the purpose of those time proven strategies was to make it possible for the infected person to be counseled on all aspects of the infection and the determination of his or her sexual and drug contacts so they might be interviewed, counseled and offered testing. The process known as contact tracing has been an historically proven technique for the control of sexually transmitted diseases for over 40 years and in large measure contributed to the control of syphilis and gonorrhea.

Regarding privacy and confidentialitly of the infected index person, one should also consider the right of the previously uninformed contact. The rights of the individual to privacy and confidentiality are protected in any sexually transmitted disease program, however, the bottom line is that individual rights have to be second consideration to the rights of the public to be protected from the spread of this fatal viral epidemic.

For more than two years we heard anecdotal stories and information from experienced therapists of HIV disease that AZT lengthened the interval between infection and clinical disease. Published peer reviewed articles now have established this as fact.

In states where reporting of HIV sero-positive status is law or regulation, such as Arkansas and Colorado, volunteer testing has not been affected.

Ten resolutions pertaining to AIDS issues were debated in Reference Committee E. Subsequently the House of Delegates instructed the Board of Trustees to consider those resolutions while it updated the AMA Policy on AIDS—Report YY (1987)—and report back at the Interim Meeting in December 1989. This resulted in Report X (I-89) of the Board of Trustees—AMA HIV Policy Update as prepared by members of the staff of the AMA and the Council on Scientific Affairs.

Report X was a significant improvement in the 1987 AMA AIDS Policy but it was, I felt, inadequate in at least two major areas. Its statement on contact tracing and partner notification was weak and there was no consideration, pro or con, on reportability of HIV sero-positivity.

The Interim Meeting of the AMA House of Delegates was held in Honolulu, December 3-6, 1989. The various reference committees began their deliberations on the morning of December 4th. I attended Reference Committee E which had received Report X for discussion.

Just before the committee was called to order, I renewed acquaintance with Drs. Brian and Lawrence McNamee. These brothers have degrees in medicine and law and have published a book and several articles on AIDS issues. We discussed various deficiencies in Report X and how we might work to correct them. I suggested that we sit in different areas of the room and speak from each of the three microphones to create the appearance of general support for our points of view. Although the dress of the meeting was casual, we all wore dark suits and red ties! I also recommended that we allow the opposing viewpoint to be expressed first so we could both rebut and make our points in the middle and end of discussions. We also agreed not to speak too often in order to be listened to when we wanted to suggest a significant change in the document.

Report X of the Board of Trustees—AMA Policy Update—was 25 pages long and included 35 major recommendations, each of which had subparts A, B, C, etc. Each recommendation was discussed pro and con starting about 9:30 in the morning and continuing for the next five hours. Although I had much interest in the early discussions, I deliberately waited for the subject of contact tracing and partner notification on page 21.

Recommendation 29A stated, "That AMA urge all communities to consider implementing a contact tracing and partner notification program to warn unsuspecting sexual or needle-sharing partners, who might have become HIV infected."

Although I was pleased the report addressed contact tracing and partner notification, I was not pleased with the wording of the recommendation. I felt the words "urge to consider" were not strong enough direction.

The same old arguments in opposition to contact tracing and partner notification that had been raised in Chicago were again stated by persons of civil libertarian orientation and by representatives of the United States Public Health Service (USPHS).

I then addressed the committee as follows:

"Mr. Chairman: We have been debating particulars of this proposed policy for hours but there is one glaring deficiency in this report. It fails to recognize the need for reporting HIV sero-positive persons to the health departments of the 50 states. I rise to request the AMA Board of Trustees Report X be modified to include a section supporting the requirement of reporting HIV sero-positive persons. If we do not require the reporting of HIV sero-positive individuals, there is no way for an adequate contact tracing and partner notification program to be carried out and have a positive effect on slowing the spread of the epidemic.

"It is past time for the AMA to take a firm positive of leadership and emphatically state the importance of HIV sero-positivity reportability and individual contact tracing. Everyone in this room must know by now and understand that HIV infection is a continuum of disease. To endorse reporting of AIDS cases and not HIV infection is inconsistent policy.

"The rights of the individual to privacy and confidentiality have to be second consideration to the right of the public to be protected from this fatal viral epidemic."

The subsequent applause, both hand clapping and verbal, was overwhelming! But that did not deter further comment against this point of view from several persons including a member of USPHS and Dr. Lonnie Bristow, representing the AMA Board of Trustees. Among other things, he said that the trustees had considered this point and they felt it was not a timely recommendation.

INTRODUCED BY THE ARKANSAS DELEGATION AMENDMENT—REPORT OF REFERENCE COMMITTEE

Recommend the following Substitute Recommendation 29-A on page 22, lines 19-22 of Report X of the Board of Trustees:

19—Recommendation 29-A: That the AMA strongly recommends

20—a system for contact tracing and partner notification

21—for unsuspecting sexual or needle-sharing partners who

22—might have been HIV-infected should be established in

23—each community.

Recommend the following be added as Recommendation 29-E on page 22, lines 43-46 of Report X of the Board of Trustees:

43—Recommendation 29-E: That the AMA strongly recommends

44—the reportability of HIV sero-positive patients

45—to the departments of health of the 50 states for the

46—purposes of contact tracing and partner notification.

The profound show of support for my viewpoint suggested to me the silent majority was fed up with being intimidated and mesmerized by the vocal civil libertarian-homosexual advocate minority with its self-centeredness and calloused disregard for the health of others. It was past time to employ the same public health measures in the HIV epidemic as are used in other communicable and sexually transmissible diseases.

By this time all of the reference committees had concluded their hearings, and Speaker, Dr. John Clowe and Vice Speaker, Dr. Daniel Johnson were concerned that Reference Committee E might not finish its agenda until late in the night with over 43 more resolutions to be discussed. They suggested that the reference committee be divided into two sections, one to continue discussing AIDS issues and the other for the remainder of the agenda. Their suggestion got a resounding "No" vote. We then continued discussion of the last paragraphs of Report X.

The next resolution to be considered, Resolution 132, stated "Resolved, that the American Medical Association House of Delegates encourage state legislation to establish requirements for reporting and case follow-up for serious contagious diseases, to include AIDS nationwide."

I suggested to the reference committee that it should consider changing the word "AIDS" to the words "HIV infection." Although I would rather have this type recommendation in the overall policy statement, this change in Resolution 132 would have the same desired effect I sought.

I took the opportunity to point out to the reference committee, that although no votes are taken in reference committees, the sentiment in favor of the reportability of HIV sero-positive status, as expressed by the applause I had received, was greater in volume than the summation of all the ap-

plause other issues had received since we began deliberating that morning. This also received applause!

In the hallway, following the adjournment of the reference committee, I was approached by Dr. Roy Schwarz, Assistant Executive Vice President of the AMA, who complimented me on my endeavor and pointed out that for the first time there seemed to be significant support for this issue. He told me this subject had received heated debate in the committee which he chaired that was responsible for composing Report X.

Monday evening I met with the Dermatology Section and reviewed for its members the deliberations on Report X. It was suggested by that group of eleven physicians that I seek to express my viewpoint on the floor of the House of Delegates. They further suggested the mechanism would be to ask one of our state's alternate delegates to let me have this position temporarily and that I should then ask one of our delegates to give me his seat when Report X was under consideration by the House of Delegates. At this meeting I was assured that each of them would solicit support of their individual state delegations in behalf of my positions.

I later talked with several experienced delegates and found out that the suggestion of my dermatologic colleagues to become a temporary delegate was seldom, if ever, done and would not likely be possible.

Late that night I received a phone call from Brian McNamee who told me he had a conversation with a member of Reference Committee E and that we would be pleased with their report. I felt elation, and also relief, that no further effort on my part would be needed.

The report of Reference Committee E was not available until late in the afternoon, Tuesday, December 5th. Unfortunately, the reassurance that Dr. McNamee had received was not forthcoming in the report. I felt frustration. Do we wait months or years longer to get this done?

The reference committee report stated, "Based upon the testimony heard, the reference committee strongly recommends that in subsequent AIDS updates the Board specifically address the need for reportability of HIV sero-positive patients to public health agencies. . . ."

This presumably was put in to pacify us but it made me want to continue the challenge.

To further diffuse the issue, the reference committee did recommend that Resolution 132 delete the word "AIDS" and add the words "HIV infection" as I had suggested in the hearing.

I decided to contest this further, and during an afternoon recess, I found the Speaker and Vice Speaker in the hallway. I was aware of the parliamentary point—Privilege of the Floor—so I asked them about how I could receive it. They, at first, were hesitant saying it usually is used for special addresses to the House of Delegates. When I explained my dilemma, they agreed that if I could get a delegate to ask the Speaker, at the appropriate time, I would be allowed two minutes to state my case.

At this point, I sought the help and advice of Dr. A.E. Andrews. Dr. Andrews agreed to ask the Speaker for my Privilege of the Floor on Wednesday morning when Report X was to be presented. Together we composed the following amendments. The first amendment would substitute a much stronger endorsement of contact tracing and partner notification for the weak statement included in the report. The second amendment would add a section to Report X recommending the reportability of HIV seropositivity rather than have such a recommendation contained in a separate resolution. We then presented our amendments, in behalf of the Arkansas delegation, to the AMA staff who printed them and placed them on the desks of the delegates Wednesday morning (see Table 1).

Tuesday evening I met with the McNamees and told them of my plans. They offered to lobby Wednesday morning for the Arkansas amendments in several delegations, including Ohio and New York.

After my planning session with the McNamees, Ruthie and I had dinner in the Golden Dragon Restaurant. As the meal ended, we were presented with the traditional fortune cookies. Although I am not one who wishes on stars, nor consults with a palmist or shaman, my fortune cookie message was very reassuring. It read, "The seeds of a wonderful project could be right under your nose." How prophetic!

After dinner, I prepared the statement I hoped to make to the House of Delegates Wednesday morning. Several revisions, later, I got the statement down to a two minute presentation.

By Wednesday morning, everyone at the meeting was ready to finish up the deliberations as quickly as possible. Debate was to be limited and I was concerned that I might not get the chance to speak. On the way to the House of Delegates meeting, I met Dr. Schwarz who asked me if I was happy with the report of the reference committee. I explained my displeasure. He told me he had seen the report in rough draft and suggested the original draft would have been more to my liking.

Before he was to present the report of Reference Committee E, I found the Chairman, Dr. Carl Evers, and told him I was disappointed with the report and I planned to speak for reporting of HIV sero-positive status. He looked surprised and said, "We gave you what you asked for in Resolution 132" and I said, "Yes, but it should have been incorporated as a part of Report X." At this moment a young gentleman stepped up to us and said, for both of us to hear, "It is a done deal, the trustees will not fight the Arkansas Amendments. Lonnie Bristow will speak in favor of adoption of the amendments." Oh what a feeling! I could smell success!

Finally, we arrived at the House of Delegates consideration of Report X. The Speaker chose to take each recommendation one by one. At the appropriate time, Dr. Andrews asked the Speaker to consider the two Arkansas Amendments and for me to be given the opportunity to speak in behalf of the Arkansas Delegation in support of the amendments. Privilege was given and I made my two-minute prepared speech.

I was pleased with the enthusiasm and the volume of applause that followed. Immediately, endorsement came from the delegations from Mississippi, New York, Virginia, West Virginia, Florida and the delegate from the American Academy of Dermatology. Opposition was basically from California and again, the USPHS spokesman was negative in his remarks.

A substitute motion was made to refer this issue back to the Board of Trustees. The vote to refer was by voice and the Speaker hearing the vote said he was in doubt of the response and asked for a second voice vote. There was then overwhelming vote to not refer.

At this point, I felt passage of the Amendments was assured. Belated endorsements were then given for the Board of Trustees by Dr. Bristow and for the reference committee by Dr. Evers.

Immediately, the Speaker called for a voice vote on the two amendments and there was no audible opposition. The amendments had passed!

I made my way to the side of Dr. Bristow and thanked him for the Board's support.

As the meeting ended, the Arkansas Delegation received much praise and thanks from our colleagues.

Probably, the most startling comment came from Brian McNamee when he pointed out that I came to the meeting as a non-delegate with an ax to grind, was given the rarely used Privilege of the Floor, and successfully changed AMA policy.

Later that evening, as the thrill of achievement began to subside, I began to think about the ultimate impact this change in AMA policy would have on laws and regulations throughout the country. Thousands of lives will be saved as this policy is put into action. I want everyone who has been involved in the Committee on AIDS activities since May 1987 to feel a part of and take pride in this accomplishment. Not just members of the committee who have inspired and nurtured each other, but the AMS staff, the medical students of F.A.T.E. and all the physicians and auxilian volunteers. It is the summation of all their support and participation that brought about this success.

All of us who have taken on the responsibility of leadership from time to time have been critical about some aspect of the AMA and AMS. It behooves us to change what we perceive as wrong or poor policy because, like it or not, Congress and our state legislature look to those bodies for advice and direction in matters that concern the public health and how medicine is, and will be, practiced.

There is a system and it works but we must be willing to do the homework and sacrifice the time and energy to work the system.

"Mr. Speaker, Members of the House of Delegates:

I am William Jones, Chairman of the Arkansas Medical Society's Committee on AIDS, member of the Governor's Advisory Committee on AIDS, and President-Elect of the Arkansas Medical Society.

On Monday, the debate in Reference Committee E over each aspect of Report X was to be expected. Basically, Report X of the Board of Trustees is a significant improvement of Report YY-87.

In June, I pleaded with Reference Committee E to ask the House of Delegates to endorse contact tracing and partner notification. Subsequently, all of the resolutions on AIDS were referred to the Board of Trustees to update the HIV policy of the AMA. Most of those resolutions supported contact tracing, partner notification and the reporting of HIV sero-positive persons.

Report X endorses contact tracing and partner notification. However, there is one glaring deficiency in the report. Namely, it fails to recognize the need for reporting HIV sero-positive persons to the health departments of the various states. AIDS is reportable in all 50 states. HIV sero-positive status is reported in many states and others are considering such legislation at this time. It must be remembered that HIV infection is a continuum of disease leading to death.

The infected person is infectious to others from very early in his or her infection.

For too long we have failed to apply the same public health measures to contain the HIV epidemic as are taken to control the spread of other communicable and sexually transmissible diseases. This has resulted in over 65,000 reported deaths in this country. How many more lives have to be lost before we take a stand that, every physician in this country knows, should have been taken several years ago? It is past time for the American Medical Association to take a firm position and emphatically state the importance of reporting HIV sero-positive patients, contact tracing and partner notification. Concerns about the occasional breach of privacy and confidentiality of one individual have to be second consideration to the right of the public to be protected from this fatal viral epidemic.

The longer we delay taking this position, the wider spread the epidemic and the greater the tragedy in loss of lives that could be saved by these measures.

I urge you to vote affirmatively on the two amendments to Report X."—Dr. William Jones.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 5, 1990.

JAMES O. MASON, M.D.,
Hubert H. Humphrey Building, Washington, DC.

DEAR MR. MASON: I have enclosed for your review a remarkable firsthand account of the December 3-6, 1989 Interim Meeting of the American Medical Association in Honolulu, Hawaii. This account, written by William N. Jones, M.D., the President-Elect of the Arkansas Medical Society, raises some disturbing questions with respect to the representation of formal U.S. Public Health Service (USPHS) policies at this important meeting. Other physicians who participated in the Honolulu deliberations have confirmed Dr. Jones' account.

As you may know, the overwhelming majority of AMA delegates adopted two resolutions pertaining to the HIV epidemic which reflect my own preferred approach to containing the spread of infection. The Delegates adopted the following two resolutions:

Recommendation 29-A: That the AMA strongly recommends a system for contact tracing and partner notification for unsuspecting sexual or needle-sharing partners who might have been HIV-infected should be established in each community.

Recommendation 29-E: That the AMA strongly recommends the reportability of HIV sero-positive patients to the departments of health of the 50 states for the purposes of contact tracing and partner notification.

As you can see from Dr. Jones' account, it appears that the Delegate from the USPHS repeatedly opposed these resolutions at the interim meeting and, in fact, was one of only a few physicians to do so. To the best of my knowledge, the formal USPHS position with respect to HIV reporting was set forth in the July 21, 1989 issue of the Mortality and Morbidity Weekly Report (MMWR). That report urged states to adopt reporting measures, arguing:

"HIV infection reports are useful in directing HIV-related prevention activities such as patient counseling, partner notification and referral for appropriate medical management (e.g., evaluation for prophylaxis against Pneumocystis carinii pneumonia). Reporting of HIV-infected persons may enable earlier recoginition of persons with or at risk of HIV infection and earlier intervention to prevent further spread of HIV. Recent guidelines for initiation of therapy in some HIV-infected persons emphasize the need for identifying persons who need treatment before the diagnosis of AIDS is made. HIV infection reports are also useful for guiding pediatric medical and social support programs, including programs for infants whose infection status may remain undetermined until they are [under] 15 months of age."

The formal position of the USPHS with respect to partner notification programs was set forth in the MMWR of March 14, 1986, in which the USPHS recommended that the prospective and previous sexual and needle-sharing partners of infected persons be informed as to their potential exposure to HIV infection and urged to undergo HIV testing and counseling.

For the USPHS Delegate to oppose the AMA resolutions in Honolulu appears to be an unconscionable derelection of his duty to faithfully represent the positions of the USPHS. I would appreciate it if you or your staff could respond to the following questions:

Do you believe that Dr. Jones' description of the USPHS Delegate's activity is accurate?

If you believe it accurately describes the events in Honolulu, were you aware of this activity and have you taken any steps to reprimand the individual involved? According to the AMA's 1988-89 directory of the House of Delegates, the alternate Delegate from the USPHS is James D. Felsen, M.D. Did Dr. Felsen represent the USPHS in Honolulu?

Have you taken any measures to guarantee that such unilateral actions are not repeated in the future?

Finally, does the USPHS contemplate making an attempt to inform the AMA leadership and the hundreds of AMA Delegates of the true USPHS positions on these important public health issues?

Thank you in advance for your time and assistance.

Sincerely,

WILLIAM E. DANNEMEYER,
Member of Congress.

Mr. Speaker, let me say that the significance of this action of the American Medical Association in Honolulu last December cannot be overstated. This epidemic has marched across this land, and today we have a civil rights response being pursued in 11 States of the Union containing 78 percent of the cases. My State of California is in the unenviable position of being the State with the second largest number of cases, 20 percent, with the State of New York having about 23 percent. In both these States, in New York and California, a civil rights response is currently being pursued.

□ 1540

Mr. Speaker, it is a tragedy that such is the case. Dr. Axelrod, the health officer of New York State, should have been relieved from that job at least 3 years ago by the Governor of that State who should be watching out for the civil rights of the infected at least on the same basis as the civil rights of the infected.

Similarly, in my State of California, Dr. Kaiser, the health officer, should have been relieved from his job at least 3 years ago by the Governor of the State, Governor Deukmejian. I am happy to say that the State Republican Party in California in convention the weekend before last adopted a resolution requesting the California Medical Association to adopt a policy dealing with HIV infected people consistent with AMA policy. That State Republican Party and convention also adopted a resolution requesting the Governor of the State of California, Governor Deukmejian, to exercise his discretion which he has under the existing law to add HIV positive people to the list of reportable diseases.

Mr. Speaker, the time has long passed that this Nation would continue to treat the AIDS epidemic and HIV carriers as a civil rights issue. It should be treated as a public health issue, and what the AMA has done is now placed its voice as the official voice of organized medicine behind steps that are needed across this land to deal with the epidemic as a public health issue.

Tomorrow before a committee of this House, one of the housing subcommittees, efforts will be made to expand housing programs in this country to establish a hospice for treating persons with AIDS. I personally believe that treating the people with this tragic disease, for which we do not now have a cure, but hopefully will find one in a hospice setting, is a good alternative rather than a hospital setting.

We also will be considering later in this legislative year appropriation bills to deal with, hopefully, finding a cure to the epidemic.

The reality is that we Federal taxpayers are spending about $1.2 billion this year to control the AIDS epidemic. About $800 million is being spent to find a cure or a vaccine for the virus. About $400 million is being spent in the area of education, which has a certain ring of credibility to it in terms of preventing the transmissibility, but the reality is that the education-only approach that has been pursued essentially by the U.S. Government, as well as by the States with the largest number of cases; namely, New York, California, Florida, and Texas, has failed to stop this epidemic.

This epidemic, tragically, is the first politically protected disease in the history of the country. Those that are HIV carriers should be reportable to the health care system in confidence so that we can do contact tracing. That is why we pay taxes in this country, to provide for the functioning of the health care system.

When the House last considered this issue, in September 1988, this Member from California offered an amend-

ment to the bill then being considered by the House which dealt with the very issue the AMA considered at its convention last December in Honolulu. My amendment would have required that as a condition of the receipt of Federal money by any State in the Union to deal with the epidemic, that the State would have to have in place a law requiring that HIV carriers be reported to public health authorities and that we conduct contact tracing. The amendment at that time was not adopted by the House. I believe there were approximately 75 votes for it. In speaking in opposition to that amendment my opponent, one of them on the floor, was able to observe that he was then voicing the support of the American Medical Association in opposition to my amendment dealing with reportability for HIV carriers.

Mr. Speaker, I mention this to the House because it illustrates just how important it is what the AMA did in Honolulu last December, because now, when this issue comes to the floor again, this Member from California will be able to say that I spoke for the voice of organized medicine in America, that HIV carriers, whatever their status in life, whether they are intravenous drug users, whether they are heterosexuals or homosexuals, whether they got the virus as a result of a blood transfusion, whether they are hemophiliacs or whatever, those people who are carriers of that fatal virus, when their status is determined by their physician, would be reported to public health in confidence and that we would then conduct contact tracing. This is the means whereby our society has dealt historically with efforts to control the transmissibility of venereal disease, curable or noncurable, in America.

PRIORITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 60 minutes.

Mr. DELAY. Mr. Speaker, I take the well of the House and the floor of the House to talk a little bit about spending and taxation and where we are in our process today.

Mr. Speaker, I got a letter the other day from a good friend of mine. The letter was sent to me to remind me that I should be more regular in a weekly meeting, Bible study, that we have, and in the letter he quoted a famous author by saying, "If you say that you don't have time to do something, you haven't stated a fact. You've stated a priority."

Another way of saying that would be, "We don't have enough money to spend on the programs that we want, and, therefore, we have to raise taxes. You have not stated a fact. You've stated a priority."

Mr. Speaker, I take the floor this afternoon to discuss priorities, and in particular I want to discuss the plan that was submitted a week or so ago by the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], and in my presentation I hope to point out that it is time that the American public be heard and that the real problems that we have with deficits in this Congress and in this Nation is spending. Revenues have been increasing on a steady basis some 60 percent over the last 8 or 9 years, yet spending has also increased some 70 percent over the last 8 or 9 years, leaving us with the hugh deficit that we have incurred over the last 8 or 9 years.

Mr. Speaker, I think that alone tells you that the real problem is spending. Yet, if you listen to the television and the radio and read the newspaper, you would think that the only problems that we have in America today is that we have not raised enough taxes, and there is an increasing pressure on the President of the United States to renege on his promise of no new taxes, and many votes and many issues that come to this floor are designed to put pressure on the President to raise taxes and go back on his promise.

□ 1550

Those who criticize the President's no new taxes are saying one thing. They want to raise your taxes so that they can continue to go on with their spending. If you look at the Rostenkowski plan, this is the same old typical arguments that have been put out on this floor for years and years, and in some cases implemented on the floor of this House over the last 20 to 30 years, the same old—and I know it is an overused and tired cliche, the same old tax-so-that-we-can-spend approach to budgets in this Government.

The Rostenkowski plan calls for a freeze on program spending for 1 year. The freeze would include cost-of-living adjustments in all programs, including Social Security, but exclude means tested programs, like the AFDC, Aid to Families with Dependent Children, Medicaid, maybe food stamps, that is still in question, many of those entitlement programs over which there are no controls. They just go on and on and continue to increase.

This plan also calls for earmarking the peace dividend for deficit reduction. It provides for a freeze in defense spending from the current services base line for 1 year and a 3-percent reduction in spending for 3 years following.

It also eliminates the income tax bubble. This provision would add a third tax bracket with a 33-percent income tax rate, raising income taxes on Americans.

It also calls for increased consumption taxes on gasoline, alcohol, tobacco, pollutants, and rejects all tax cut proposals, and the key to his program, as is the key of many of the programs laid out in the last few years by the Democrats, repeal Gramm-Rudman.

The goal of the Rostenkowski plan, the 5-year tax plan is to eliminate the projected budget deficit by the end of 1994 and create surpluses every year thereafter, to do so Gramm-Rudman would have to be repealed.

I would like to take just a moment, Mr. Speaker, and take each one of these proposals by the Rostenkowski plan and evaluate each.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I am glad to yield to my colleague, the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I want to thank my colleague, the gentleman from Texas [Mr. DELAY] for taking this special order and sharing these thoughts with the Members of the House.

So that we have the issue in perspective, you know, there is a debate going on around the country from time to time about who sets spending priorities for the U.S. Government. You know, our friends on the Democrat side tried to say, "Well, why doesn't your President, President Reagan or President Bush, propose a balanced budget?" We have heard that many times.

We say on the political right, "Well, Presidents propose and Congress disposes."

So I think at a time like this it is appropriate to ask a very simply question. Under the Constitution of the United States, who has the responsibility for fixing the spending level in the U.S. Government? Is it the Congress or the White House?

Mr. DELAY. It is obvious to me and to even many high school government classes, it is the responsibility to set spending levels, it is the responsibility of the Congress to set spending levels, not the President.

Mr. DANNEMEYER. Mr. Speaker, if the gentleman will yield further, even more succinctly, I notice with interest that the distinguished Member, the gentleman from Illinois [Mr. ROSTENKOWSKI] has come out and offered something, a plan. He is not just a Member of this House. He is the chairman of what some would classify as the most powerful committee when it comes to spending, because he is head of the Committee on Ways and Means. That is not the Appropriations Committee, but it is the Tax Committee that sets the level of taxes for the people of this country.

When Mr. ROSTENKOWSKI as a Member of the leadership team on the Democrat side, the Democrats have

controlled this House continuously without interruption, as we know, since 1954, and for a spokesman of the stature and position of the gentleman from Illinois [Mr. ROSTENKOWSKI] to come forward and say to us in this country that we Americans are undertaxed as a part of what his proposal presents is to me an insult to the intelligence of those of us who serve, as well as the American people.

The problem as the gentleman pointed out in that beginning of his remarks is not that we Americans are undertaxed. We are spending too much, and I think that is what we should be focusing on, namely, up until now the unwillingness of this Congress to assert enough discipline to reduce or modestly reduce or bring under control spending that in the opinion of this Member from California is out of control.

Mr. DELAY. Well, I thank the gentleman for his input.

I might also point out that the Ways and Means Committee also spends about 40 percent of our budget, because in 1990 alone they have through entitlement programs, they are going to spend $424.6 billion. So it is not only a taxing committee, it is a spending committee.

We could look at a lot of the programs exempted from the spending freeze that come straight out of the Ways and Means Committee and try to reform those programs. We could reduce entitlements so that receipts do not automatically get payments by the government. They are appropriated by this Congress and oversight is implemented over the programs on an annual basis and moneys are appropriated.

I would like to take each of these items of the Rostenkowski plan and talk a little bit about them. You know, the program spending freeze has been pushed by conservatives for years. If a straight freeze were implemented for 2 years, resulting in $80 billion in savings per year, the budget would be running a surplus in the third year.

Since 1982, Congress has rejected the budget of the President and voted to spend billions of dollars more; however, the spending freeze in the Rostenkowski tax plan excludes entitlements, one of the largest budget categories. Therefore, the program spending freeze, nondiscretionary and Medicare freeze, only generates $5.4 billion in the first year. The nondefense, noninterest spending, which accounts for over 60 percent of all Federal spending would provide just $104 billion, or 20 percent of the $511 billion in 5-year savings.

Now, considering the Social Security portion, if a Republican President, Senator or Congressman, had proposed to eliminate the Social Security COLA's and jeopardize the Social Security financing system, as the Democrats have in fact proposed, there would be blood in the streets.

A Social Security COLA cut will not occur. Since 1984, there have been three House votes on freeze type plans that affect COLA's for Social Security. The Roemer Boll Weevil plan in 1984 would have reduced COLA's by 2 percent and lowered tax indexing by 2 percent. It received only 59 votes, and the gentleman from Illinois [Mr. ROSTENKOWSKI] was not one of them.

The Dannemeyer budget in 1985 was a freeze, with a minus 2 percent COLA for Social Security. It got only 30 votes.

The Leath-Slattery-McKay budget in 1985 was $12 billion in taxes and a COLA freeze, which received only 56 votes.

The defense cut, in talking about earmarking the peace dividend for defense deficit reduction, the defense cuts would total $150 billion of the $510 billion tax package over a 5-year period. This represents 29.4 percent of the entire tax package.

Under the Rostenkowski tax plan, defense spending would drop to 5.1 percent of the GNP in 1991, and then continually drop, setting postwar low levels of defense spending.

Now, some have suggested, not necessary this Member, but I am looking into it, some have suggested that if you use the peace dividend for deficit reduction, you are not getting at the priority of looking at spending, because if you take $10 billion out of the defense budget and apply it to deficit reduction, you are in fact giving $10 billion back to Congress to spend, and there is no pressure to look at spending and prioritize spending.

The next portion of the plan was to eliminate the tax bubble. By eliminating the tax bubble that was put on by the Ways and Means Committee, just to make up losses in revenue when we passed the Tax Reform Act in 1986.

□ 1600

But that tax bubble would be increased by 5 percent, increasing the total marginal rate from 28 percent to 33 percent. If Democrats are so concerned about closing the bubble, why do they not just eliminate the phaseout of lower income taxes and upper income earners instead of raising the top marginal rate, cut taxes and allow Americans to keep more of their money to spend the way they think it should be spent in the priorities it should have instead of giving it to the Government to spend for them?

The plan also eliminates or puts a moratorium on indexing, that most scurrilous problem in our Tax Code of the past, before Ronald Reagan, where inflation pushed the wage earner up into higher tax brackets, and through overspending by Congress, the taxpayer is pushed into higher tax brackets by inflation, a very sinister way of raising people's taxes.

We eliminate that and indexed it so that taxes would not be raised by inflation but, yet, the plan calls for a moratorium so that some people will be, by inflation, pushed into higher tax brackets.

Of course, repealing the Gramm-Rudman target is not the answer. Members of the House, Gramm-Rudman does work, and I would like to make a case on Gramm-Rudman and how it has worked. I would like to use the CBO baseline before and after Gramm-Rudman, the size of the deficit before and after Gramm-Rudman, the size of Government before and after Gramm-Rudman, and the impact of Gramm-Rudman on our Government.

Each year the CBO projects the baseline deficit for the upcoming fiscal year as well as the next 4. What has happened to those CBO deficit baseline projections since Gramm-Rudman passed? The CBO baseline deficit projections made each year for the following fiscal year during the 5-year period before and after Gramm-Rudman shows how effective Gramm-Rudman has been.

In the 5 years before Gramm-Rudman, in every year but one, the CBO projected a higher deficit. In every year but one the actual deficit was above the CBO projection for that year. On average, the deficit each year was $31 billion above the CBO-projected deficit during the 5 years before Gramm-Rudman.

In the 5 years after Gramm-Rudman, in every year but one, the CBO projected a lower deficit. In every year but one the actual deficit was below the CBO's projection for that year. On average the deficit was $15 billion below the CBO baseline deficit during the 5 years after Gramm-Rudman.

The bottom line is that instead of actual deficits, deficits greater than CBO's rising deficit projections, the actual deficits in the 5 years since Gramm-Rudman have been less than the CBO's falling deficit projections. This is a total reversal of our Nation's financial trends, and proof that Gramm-Rudman works.

If Members still are not convinced, look at the size of the deficit. Before Gramm-Rudman-Hollings passed in 1985, the CBO's 1985 deficit projection for 1986 was $215 billion. That same CBO report projected rising deficits for the next 5 years hitting $296 billion by 1990. That same CBO report projected deficits as a percentage of GNP in the 5.1-percent to 5.3-percent range over the next 5 years. None of those projections came true because of Gramm-Rudman.

Since Gramm-Rudman passed in 1986, deficits have been cut by a com-

bined $484 billion below what CBO projected in 1985. When interest cost savings were added, the national debt is at least a half a trillion dollars lower today because of Gramm-Rudman.

In each year since 1986, the deficit was on average $121 billion below what CBO projected in 1985. As a percentage of GNP, the deficit has shrunk since 1985, dropping from 5.4 percent of GNP to an estimated 2.6 percent of GNP for 1989. If Congress sticks to the Gramm-Rudman deficit goal of $100 billion for 1990, the deficit will be approximately 1.8 percent of GNP. That would be the second smallest deficit as a percentage of GNP since 1974.

Thus, in the last 15 years only in 1979 when the deficit was 1.6 percent of GNP will the deficit have been smaller than the 1.8-percent deficit projected for 1990. If that does not convince Members that Gramm-Rudman works, then let us look at the size of Government.

Since passage of Gramm-Rudman in 1985, the size of Government relative to the entire economy has declined from 23.9 percent of GNP in 1985 to approximately 21.4 percent of GNP in 1989. If we stay within the budget guidelines of the 1990 budget resolution, outlays would be 21.3 percent of GNP.

Interest payments for the Government before and after Gramm-Rudman, Federal interest payments as a percentage of GNP, were 1.5 percent in 1977, about what it had been for the past 30 years. Rising interest rates pushed interest payments up to 2.3 percent of GNP the year President Reagan took office. By 1985, the year Gramm-Rudman passed, rising deficits have pushed interest payments as a percentage of GNP up to 3.3 percent. Since 1985 interest payments relative to GNP have quit rising despite additional debt and have begun declining to 3.2 percent in 1989 and an estimated 3.1 percent in 1990.

By lowering deficits, the relative cost of our national debt has stopped growing and started to decline. Gramm-Rudman is probably the worst way to balance a budget except for all other ways that we have tried. Since passage of Gramm-Rudman, the deficit has shrunk substantially in relative, and except for 1 year, in absolute terms.

Gramm-Rudman requires a balanced budget by 1993, and I think Gramm-Rudman is the only discipline that this Congress has. Most of the proposals that we have seen in recent months and years have called for eliminating Gramm-Rudman. Why? Because they want to be able to increase spending. They want to raise taxes and they want to increase spending.

Getting back on the Rostenkowski plan, the Rostenkowski plan calls for an increase in excise taxes. Reports have shown over and over again that excise taxes are regressive, and the tax plan doubles these regressive taxes, thereby doubling the burden on the poor and lower income.

Although the tax plan does allow for low-income offset with the earned income tax credit, this does not fully offset the increase. The EITC is only awarded to those who work, and for those who do not work, those who are hit the hardest by increases in excise taxes, they do not receive the benefits of the offset.

Not only does the plan increase taxes, it also increases spending by expanding the earned income tax credit. Under the Rostenkowski tax plan, Americans would face 5 years of the highest tax burdens in the post-World War II years, the highest tax burden as a percentage of GNP in postwar history, which were 20.1 percent in 1981, and again in 1969 with the next highest level at 19.7 percent in 1982.

With ROSTENKOWSKI's taxes added to the CBO baseline, the Federal tax burden would hit 20.1 percent in 1991, and all the way to 19.8 percent in 1995. The first 2 years would tie the record for the highest postwar taxes, and each succeeding year would place as the second, third, and fourth highest tax burdens in postwar America.

□ 1610

He calls in the excise taxes for an increase of 15 cents a gallon on gasoline to go toward deficit reduction.

The American people have supported the gas tax and have supported increases in the gas tax, not only on the national level but on the State level, because they knew where that money was going. They knew that the gas tax was more of a user fee and going toward building more roads and bridges and providing for the finest transportation system this world and mankind has ever seen, providing the circulatory system for our economy.

But to propose that the 15-cent increase in gas tax go toward deficit reduction is opening the door for additional increases in gas taxes for deficit reduction.

A study prepared by Wharton Econometrics Forecasting Associates found that adding 10 cents to the cost of a gallon of gasoline would produce the following negative economic impacts. The gross national product would be reduced by nearly $10 billion in the first year alone. Automobile production would fall 1.3 percent. Housing construction would drop 0.9 percent. In the first year alone, 80,000 people would be put out of work. Petroleum refinery output would decline by nearly 1.2 percent. Income tax revenues would decline by nearly $1 billion annually. Personal savings would decline by nearly 3 percent. The Consumer Price Index would rise by 0.3 percent.

The Rostenkowski plan calls for not a 10-cent increase in the gas tax, but a 15-cent increase in the gas tax.

In conclusion, Mr. Speaker, the Rostenkowski plan is nothing but a tax increase plan to allow this Congress to continue more spending. The plan does challenge us to come up with a better plan.

Mr. Speaker, we have come up with a better plan. Time and time again we have come up with better plans. If we had passed the Reagan budgets as presented by the President over the 8 years he was President, we would have a balanced budget today.

If you compare the amount of spending that has occurred over the last 8 or 9 years, from 1982 to 1990, compare the request of the President versus the amount of money Congress actually spent, Congress has overspent $285 billion over what the President requested.

I submit to you today that if we had saved that $285 billion we would have balanced the budget sooner then even today. But we would be operating under a balanced budget today.

Most of the Reagan budget called for reprioritizing of spending. The Bush budget that was submitted this year is a thoughtful document that reprioritizes spending, looks at our efforts to invest in our future, those efforts that call for reforming mandatory programs and acknowledging some of our inherited claims, like the nuclear waste cleanup and the S&L bailout and managing for integrity and efficiency without raising taxes.

Once again, a Republican President has presented a budget. We do not have to come up with a plan in answer to the Rostenkowski plan. We have presented a plan through the President of the United States, a plan that reprioritizes spending, that keeps within the Gramm-Rudman targets to by 1993 have a balanced budget, and does not raise taxes.

That is the kind of Republican plan, the kind of responsibility that the Republican show in presenting plans, that will get us to a balanced budget.

Mr. MCEWEN. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I will be glad to yield to my friend from Ohio.

Mr. MCEWEN. I thank the gentleman for the excellent case he is making and wish to just augment one particular provision in which he mentions about President Reagan's budgets.

One of the more disingenuous acts of political cowardice is the constant refrain that Mr. Reagan did not give us a balanced budget and the devil made me do it. The reason Congress spent so much money is that we are just poor, leaderless, blind sheep. And that when Ronald Reagan did not give us a balanced budget with which to

deal with, everyone would understand that the combined talent and capability of the Congress would not be sufficient to come up with one on their own.

That idea is so unfair, because the truth is that Mr. Reagan's budgets consistently were balanced. He recommended each year that there be courses taken that over 5 years we would reach a balanced budget. And that is a requirement of the Budget Act, that they give out spending for 5 years.

Then when he would make these various recommendations, understanding that it costs a great deal of funds in order to close down the department because they have ongoing obligations, they have long-term contracts, they have rental agreements and agreements with maintenance of computers and all the rest, that it takes a great deal to shut down a department.

So money would be in there for the shutting down of the department, but over the next 2 to 3 years there would be a savings as that particular agency, unnecessary board or commission would disappear.

Mr. Reagan proposed that each year, 1982, 1983, 1984, 1985, 1986, and yet when he would do that, Members of Congress would elbow their way in front of each other to get to the cameras and say that we felt that the budget submitted by the President was dead on arrival, and there would be absolutely no way that such recommendations would be enacted and we would stand our ground in the Congress to make sure there would not be any reduction in spending.

And then they would fly around in March and April, around the Capitol here, Capital City, to each special interest group, and say yes, sir, I know Ronald Reagan is out to balance the budget, but we are going to do everything within our power to make sure that we maintain the spending that is going on.

So they would do that. Since the budgets are passed here, what they would do is pass any budget at all. Until finally the end of the year would come in October and they would drag it on until September or through the fall into November and even December in many instances through the time of the decade of the 1980's, and finally come up with a continuing resolution just saying, oh, there is nothing we can do about it. Let us just go ahead and keep spending at the rate we are going. We will deal with it next year, because on February 5, the President will give his new budget.

What am I saying? I am saying the President would make a proposal that would take us to a balanced budget in 5 years. The Congress threw it away each time. And for those who go around now and say the reason the deficit was not handled correctly during the 1980's was because of Ronald Reagan, that is absolutely, totally incorrect and unfair. The reason the deficit was allowed to continue was because the Congress refused to support the decisions and recommendations made by the President.

Let me say one thing. If we were to follow that course over a matter of years, then we would come to a balanced budget. But each year we would not do that.

So the next year the President had to propose a deficit. Because in that deficit he would propose his various recommended changes that would take it. And each year with the deficit there, but pointing toward a balanced budget, each year we moved it along, moved it along, moved it along, so President Reagan never could propose an ultimately balanced budget in the first year. He proposed a balanced budget over 5 years.

Those Members of Congress know that. And when they stand before a group and they say well, in all actuality we did not spend any more money than the President recommended, as the gentleman pointed out, that too is false. But also when they say the President proposed these unbalanced budgets, they know that that is unfair.

So the things that were under the control of the President, such as foreign policy, we saw in the last 36 months of the 1970's five countries went Marxist, and yet during the 1980's no countries went Marxist. In fact, the seeds were planted that brought them back to freedom and democracy and opportunity.

Mr. Reagan went to the wall and said tear down this wall, Mr. Gorbachev. When Mr. Gorbachev did not do it, they did it for him.

When Mr. Reagan went around the world and said that we stand firmly four square in favor of democracy. He did not go to Notre Dame as Mr. Carter said and say we really have no fear of communism. He went right to the heart of communism, right to the heart of the University of Moscow, and said this idea that you have been pursuing is wrong, and all you need to do is put it to a vote and that will be discovered. Because what we believe is in free markets and in free elections, and if your ideas are so good, they should be tested at the ballot box.

Because he did those things in foreign policy and in national defense. As you remember, national defense, we had the vote here on the floor in 1982, 1983, 1984, 1985, 1986, for a freeze amendment. They wanted to have a freeze. They wanted to freeze in superiority for the Soviets. They wanted to freeze in the cold war. And the President said we do not want a cold war, we want to end the cold war. We want to reduce arms.

But no, those on the left saw that it was about to collapse. So they said we want to have a nuclear freeze that freezes in that superiority. We want to freeze in all of those weapons. We want to freeze in all of those nuclear warheads.

Ronald Reagan said absolutely not. What we want to do is we want to reduce them. We want to have an INF agreement that wipes away an entire class of weapons. We want to have a START agreement that wipes away half of all the nuclear weapons on the planet. We want to reduce terror. And yet when they voted for a freeze, which was wrong, we were able to defeat them, and now we see the fruits of our labor working into the 1990's.

□ 1620

The only thing left under complete control of the Congress is the budget. That is where the spending comes in. The President really cannot control that. He cannot even appropriate enough money to start his car or to mow the lawn at the White House. The Congress does that.

So if there is excess spending, there is only one group to which we can point the finger, and that is the Congress of the United States.

The gentleman is absolutely right, for those who say somehow or other the devil made me do it, or Ronald made me do it, that is why we are in this condition, and that is not true. The problem is not because we are undertaxed, it is because we are excessively spending.

During 1980 revenues increased 8 percent and expenditures increased 11 percent. It does not take a rocket scientist to figure out the problem. Any shopowner, any farmer could figure it out.

So what we are doing in the 1990's is asking the very simple question: Do we continue to grow and prosper and control spending and come to a balanced budget, and the gentleman and I say we can, or the other alternative is to go back to the idea that says if we tax a little more and if we create more agencies, boards, and commissions, eventually we will reach Nirvana, and that is not the idea, that is not the free market. People and the economy solve the problems for themselves.

I thank the gentleman.

Mr. DELAY. I thank the gentleman for his eloquent comments. The gentleman from Ohio has been a champion of trying to set the right priorities for spending and to stop raising taxes to fund the spending habits of the Congress.

Mr. Speaker, I yield to my friend, the gentleman from Texas [Mr. ARMEY], the economics professor from northern Texas who has always been a leader in trying to reprioritize spending and not raise taxes.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

It is true, we have a lot of proposals before us today. The fact is America is concerned about the deficit, and America is somewhat frustrated that it has taken so long, and we have had so little luck in controlling this deficit.

As the gentleman from Ohio said, even though during the 1980's, since 1982, the longest peacetime expansion in any economy and any time in the history of the world, the revenues have gone up because of the growth in the economy, but at the same time Government spending has gone up at a higher rate, the deficit continued to grow and continued to grow.

There are two things that I think have been remarkable here, and I would like to go back to my undergraduate days when I first began studying economics way back in 1962. We had an economics profession that was agog over a new President. This wonderful man, John F. Kennedy, the profession argued, is teaching us in the profession of economics about economics. What Kennedy was praised for in 1962 was an insight, an insight that if we actually cut tax rates, that doing so would spur the economy to the extent that we could actually come back with more revenue for the Government, with lower rates.

We had the Kennedy tax cut in 1962, and I remember the dramatic first evidence of the truth of that proposition that thrilled the economic profession these years when I first began my study. That was in the third quarter of 1962 where with lower tax rates we took in more money to the U.S. Treasury than we had done in the third quarter of 1961, the first proof of this proposition that cutting taxes, leaving more money and more incentive in the hands of the working men and women of this country would spur the economy forward so that the growth that followed from all of these Americans having more reasons to work for themselves and their families, because their tax rate was lower, this growth allowed the government to reap more tax revenue.

I recall that time because I was a young student and I was full of energy. Everybody that I saw in the classroom said John F. Kennedy is a genius for having demonstrated this to us, the professional economists.

Now I leap forward to 1982. In 1982 Ronald Reagan said if we cut taxes we can generate more revenue to the economy, to the Government by way of the growth that will follow that tax reduction because more Americans will be working more full time, for a greater take-home pay. The same academic professional experts that I heard in 1962 that said Kennedy was a genius for this proposition said Ronald Reagan is all wet. But Ronald Reagan went forward. We did have the tax reductions and we did get the results.

Unhappily, between 1982 tax reductions and 1986 tax reductions, we did something to offset that which was to raise the FICA taxes, and that is another story, so we had a setback in the process. The result was that Government spending continued to grow at a faster rate than the tax revenues that came even from the spurt of growth in the economy, and the deficit prevailed, and it grew larger every year.

In Washington language, an increase is an increase in the rate of increase so that if it was 2 percent last year and it is 2.5 percent next year, that is an increase. A decrease is if it was 2 percent last year and a 1.9-percent increase this year, that is a decrease. But in Washington language that deficit was increasing, increasing at an increasing rate.

Then we had something that I consider miraculous. If we look at what we did, those of us who represent our constituents back home in this body, as the gentleman from Ohio said, basically had the privilege of doing three things with the money of our constituents. We can tax it, we can spend it, and we can borrow it. Throughout all of my lifetime we did those three things with absolutely no constraint, except what we could get away with politically, and we got away with murder. I should not say we because I was not in the body at the time. But the Congress got away with murder, and we taxed, and we spent, and we borrowed without any restraint whatsoever.

Just a few years ago Senator PHIL GRAMM hit on this idea, and the idea was if we can take these three legs of the fiscal triad, taxing, spending, and borrowing, and if we can define a hard limit on any of those three legs of the fiscal triad, that would mean that tradeoff decisions would have to be made. We passed Gramm-Rudman. That would not have been the limit I would have defined. I would have defined a limit on spending, but we could not do that. That was asking for us to have too much self constraint. I would define a limit on taxing, but that is difficult as well.

But he said let us define a limit on borrowing. Since borrowing had been conceived as free money, it was thought that this might be perceived as no tough constraint. We did pass something called Gramm-Rudman when we put that limit in place, and we said the limit on borrowing will be brought down year in and year out for the next 5 years until we eliminate this borrowing. We forced Congress into making hard choices and those hard choices today are between taxing and spending. That is basically the direction in which we want to go.

There are a lot of folks saying let us do one or the other, but let us do something about this deficit.

Why do I oppose taxing? For two reasons. As we increase taxes we get the opposite effect of what John F. Kennedy taught us in 1962 and Ronald Reagan taught us in 1982. If we increase taxes, people are less willing to work, and the GNP grows at a reduced rate, and we have reductions in the GNP, and the Government actually will lose money.

On the other hand, what about spending? Let me talk for a very quick moment about spending.

We have essentially three committees in this Congress that institutionally are thought to be responsible for the deficit: the Ways and Means Committee that raises the money, the Budget Committee that presumably is going to build us the grand plan, and the Appropriations Committee that spends the money. The gentleman from Texas is a member of the Appropriations Committee.

The other committees that I would like to talk about for a moment are those committees called the authorizing committees, and the authorizing committees define what are the programs on which the money will be spent. We saw something very dramatic with respect to the behavior of the authorizing committees in the 1960's and the 1970's, and that was redefining programs in a manner that today is described by the concept of entitlement. Essentially we said that we will automatically spend money in this program or that program based on the number of people that fulfill the qualifying description. So that if you have certain socioeconomic circumstances in your life, you automatically qualify for the largesse of the Federal Government.

When these programs were put in place, the projections of the future costs of the programs were made on the basis of current experience, without any understanding of what is known in the insurance industry as moral hazard. What is moral hazard? Moral hazard is the tendency that we all have. When somebody defines for us the circumstances that we must display, the conditions and characteristics that we must display in order to qualify for something, we have a tendency to adapt those circumstrances so that, in fact, if we can define the conditions under which I as an individual can qualify for free money, I will go out and emulate onto myself those conditions. So the numbers of people qualifying exploded, and more and more people qualified for more and more money, and it became impossible, unless the authorizing committees would redefine the legislation that defines the program for anybody to control the amount of spending.

□ 1630

And today over 51 percent of our budget is in entitlements. The Budget Committee, for all its efforts and with the kind of leadership it has today, particularly with the chairman, the gentleman for California [Mr. PANETTA], and ranking member on our side of the aisle, the gentleman from Minnesota [Mr. FRENZEL] it is very, very professional, but for all its efforts cannot redefine these spending programs as they are put together by the authorizing committees.

The Committee on Appropriations, for all its efforts, cannot touch many of these programs. And the Committee on Ways and Means is left holding the bag, saying, "All right, find the money to pay for all this," which for them is a constant pressure of "raise taxes, raise taxes."

I would argue institutionally if we are going to resolve this budget deficit we must understand that the authorizing committees, committees like the Committee on Agriculture, must get busy, look at these programs, see the manner in which they are defined as entitlements and redefine them in such manner as to build in true compassion, a compassionate program to help the needy people in this country, a program that will result in them no longer being needy, not a program that will guarantee that their children will also be there, needy and on that program in another generation.

I would argue that compassion without understanding is the most cruel thing in the world, and that is what we have seen in these programs.

So what I would like to see is our Congress to have the courage to take these major entitlement programs and to say, "What, then, is the manner in which we can define them in such a way as to make it possible for every American citizen to have a maximum equality of opportunity, to have the greatest opportunity in their lives to go through a period of hardship benefiting from these programs that separate the needy from the greedy people and give them the opportunity by which they can build for themselves the free and independent, self-sufficient life where they do not have to come to the Government?"

Until we can build that kind of compassion into the way we define these programs in the authorizing committees, we cannot resolve the budget.

Now the thing that I think we have to be very careful about here, if I could just say in closing, no matter how we put a program together, and we must do so, we must not give up the discipline that is brought to this process by Gramm-Rudman.

Any proposal that begins with the repeal of Gramm-Rudman is a proposal that says, "We would like to go back to the good old days where the only thing we were constrained by is what we can get away with politically."

We ought to have a hard number built into the law that forces us into making these hard, responsible decisions and, in doing so, we need to come around to a truly compassionate Federal Government that looks forward to the day when no American citizen need ever be concerned with the possibility they may for long have to be dependent upon a Government program for the very survival of their children.

Those children deserve better, they deserve parents that are free, independent, able, earning a living, and taking care of their children on their own terms; not a program that is defined by Washington bureaucrats that tells mom and dad, "You must care for these children in the way we define it because we are providing the money."

When we do that, then we have given those children an opportunity that is guaranteed by the American dream, an opportunity for equality of opportunity, not equality of dependence.

That is the kind of discipline we need, and that is the kind of discipline I think we are capable of getting.

Mr. DELAY. The gentleman from Texas [Mr. ARMEY] is so eloquent in his presentation, so knowledgeable about the right kind of economics that this Nation so rightly deserves. I might say the Rostenkowski plan flies in the face and is contrary to everything that the gentleman said because it follows the same old line of more taxes, more spending, more programs, more programs that create the culture the gentleman described of keeping people needy and down-and-out.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. If I may just add a little bit more about why we are so skittish about tax increases, I would like to just tell you an experience that I had in 1982 in which it looked as though the deficit was going to go to about $130 billion, $140 billion deficit. The President engaged in a great series of negotiations that eventually began to be referred to as the "Gang of 17," in which the leadership and the members of the Budget Committees of both Houses and others would meet on an ongoing basis.

They eventually had an agreement signed by the majority leader of the Senate, the Speaker of the House, the President of the United States, in which they would do two things.

No. 1, they would cut, as the gentleman from Texas pointed out, they would cut $60 billion out of the increase. And an agreement for cutting $66 billion out of the increased spending, the President of the United States would sign a $34 billion tax increase. So therefore you would get, as was explained in the Rose Garden with the leadership of both Houses present, that for every $1 in taxes there would be $2 cut in increased spending, not in actual cuts but in increased spending, reducing the deficit by $100 billion.

It was the responsibility of the President to then go around and round up the votes for the tax increase.

Well, the motion was made, and of course there are many people who are more than willing to vote for taxes anytime, any day of the week. But some of us were reluctant.

So the President worked very hard on many of us. I remember particularly he called and invited me to Camp David and to the White House and various meetings. I did not feel comfortable in going. I was not excited about going in to the President, who was then in his first term and with whom I agreed a great deal, to go and look him square in the eye and say, "I think you are wrong in this case." I thought it was fine, just let it pass.

It got down to the point where one or two votes were going to make the decision.

I remember he called on Friday. I simply could not make it down to the White House on that day because it happened to be that my son was born. I thought that took care of it because the vote was to be next week, the following week.

When we came in the next Monday, he called again and said, "Bob, I really want to talk to you about this."

So I went down to the Oval Office and sat there with the Vice President and the President and myself, the three of us, and the President began to pour out the reasons why I was key to the decision America was going to make during the 1980's.

I felt I was somewhat uncomfortable, but nevertheless, after making his presentation, just as I presented it to you, that he had given his word, I said, "Mr. President, I don't understand why you have to go first." I said, "We just cut taxes last year in 1981. And now we are back to increase taxes. You signed on for a $34 billion increase. I don't think they are going to come through on their side of the bargain. Mr. President, why do you have to go first on your $34 billion tax increase? Why don't we see a little performance on the Congress' side about controlling spending, because I think they are going to take your money and run. I think they are going to take your money and continue spending, they are going to continue to add to the deficit, and they are going to point the finger at you."

And I can still remember, he said, "Well, Bob, you know, I have got my veto pen here. You know, these are all honorable people we are dealing with, all honorable people." I said, "Mr. President, I don't think you are going to get your $66 billion spending cut. I think you are going to sign on for a

tax increase and Congress is going to take it and spend it."

What is the bottom line? The bottom line is it passed by 2 votes. I did not vote for it.

That was the summer of 1982. We had already planted the seeds of an economy that in the latter part of the seventies and eighties was collapsing, they were losing the jobs at a rate of 50,000 a week. We had the highest inflation and interest rates since the Civil War. Every political pundit and every economic pundit said America had collapsed. We were 16th in new inventions. They said the future was that we had better learn to live with less.

You remember you had to ride your bike, you had to wear your sweater, you had to turn down your lights, turn your thermostat down, "America is coming to an end next Tuesday a week, and there isn't anything anybody can do about it." You remember all that chant that we had entered a malaise in an era of limits in which we had to think small. That is what all the Jerry Brown's and Carter's and all the rest. I remember the Council of Economic Advisors in 1980, this is the fellow who is driving for us, this is the fellow who is our leader, he said, "The question is not whether or not America will have a declining standard of living in the 1980's, the question is whether or not Americans will learn to adapt to their declining standard of living in the 1980's." That is what they saw for us.

Yet in 1981 we cut taxes and did all the things that were just mentioned and we began to stir the investment and productivity and growth of America. And in the last quarter of 1982 America began to turn around, began to create jobs at the rate of 300,000 a month. I would just point out, it has nothing to do with this, but we are now in the 85th consecutive month, where we have created 330,000 jobs a month every month for 85 consecutive months, nearly 7 out of 10 jobs created on this planet since 1982 have been created in one country, the United States of America.

□ 1640

Take all the jobs created in Japan and all the jobs created in Europe and Africa, put them in a pile. Do Members believe we do not have as many jobs created in America since 1982, but the fall when the economy turned around we created taxes, and it did not bring in $42 billion as expected. The economy was growing more rapidly than anticipated, and it brought it $48 billion in new tax revenue.

What happened to the deficit? Of course, Congress did not follow through with the $66 billion cut. It took the additional money that was added to it, spent it all, and had a larger deficit than was anticipated. Who was blamed for it? It was Ronald Reagan's deficit. I can remember, and I can name them, and still see them every day coming to the well—the Reagan deficit, the Reagan deficit, the Reagan deficit. Ronald Reagan stood up there at the State of the Union address in 1984 and said, "I told you once. You won't fool me twice. I signed on for a tax increase. Congress took it and put it in their pocket and spent it all and left me holding the bag. I won't do it again."

That is why we are reluctant to sign on for new spending, I asked my constituents how many think we can continue to increase taxes so much, and we overwhelm the Congress with so much money and they will spend it, and slowly we will be back to a balanced budget. No, no, no. Congress can find a way to spend it. Feeding the crocodile is not successful. That is why we do not want to increase more taxes. We want, with the increased revenue coming in of 8 percent more a year, an additional $80 billion in new tax revenue coming this year alone. It ought to be more than enough to do what the city councils and State governments and State township trustees and county commissioners and all people in America do, and that is divide what is coming in, decide how much goes out, and balance the budget. It can be done. I thank the gentleman from Texas for his statement.

Mr. DELAY. Mr. Speaker, I thank the gentleman from Ohio [Mr. MCEWEN] for his input. He says it so well and so beautifully, that I know the American people believe it; unfortunately, many Members of this Congress, especially those in the majority in both Houses do not believe it. The press, the national press, does not believe it.

I will just quote from an article in a nationwide magazine, written on March 26, 1990 by Margaret Carlson: "Every official in the Capital knows that little can be done to bring down the Nation's appalling deficit or tackle the problems of drugs, education, and the environment without raising taxes." As demonstrated here this afternoon, No. 1, President Bush does not believe that, three Members of this House do not believe it, and there are many more Members of this House who do not believe we have to raise taxes in order to prioritize spending.

Mr. Speaker, the Rostenkowski plan smells of politics of old. It is raising taxes, so that they can spend more money.

VACATION OF SPECIAL ORDER AND GRANTING OF NEW SPECIAL ORDER

Mr. MCEWEN. Mr. Speaker, I ask unanimous consent to withdraw my request for a 60-minute special order today and replace it with one for 5 minutes.

The SPEAKER pro tempore. (Mr. THOMAS of Georgia). Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONCERN FOR CHILD CARE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. MCEWEN] is recognized for 5 minutes.

Mr. MCEWEN. Mr. Speaker, I would like to just direct our attention to the discussion that has been going on in this House today about the child care provisions which are currently being debated as we speak.

As Members know, last Thursday afternoon, the gentleman from Texas [Mr. STENHOLM] and the gentleman from Missouri [Mr. CLAY] presented a substitute bill for the child care provisions of the Reform Act that would be considered by the Congress. We thought we would have plenty of time to debate that and all would be able to be informed as to what was in the legislation.

We learned over the radio, over the weekend, that the Speaker had decided to bring up the alternative plan, the ABC plan that has not been written yet. We are not sure what all is in it, but expected it to be on the floor tomorrow. We then heard the Committee on Rules would meet this morning at 10 or 11 o'clock but canceled until 2 or 2:30 this afternoon, and then did not meet. We are just aware that there is an effort to bring a child care bill to the floor sometime either this week or next week.

Therefore, I would like to share with my colleagues a letter that was received today from the National Center for Montessori Education, promoting the standards of excellence in the Montessori community. It is addressed to the sponsor of the bill. The letter is as follows:

NATIONAL CENTER FOR
MONTESSORI EDUCATION,
March 18, 1990.

Congressman CHARLES W. STENHOLM,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN STENHOLM: As Executive director of the National Center for Montessori Education, a nationwide network of Montessori teaching institutions, I am vitally concerned with the well-being of American children. Montessori child development programs provide services to young children of all income levels in every state of this nation. I wish to express the following strong opinions with regard to child care legislation presently under consideration in congress.

As a Montessori educator, I heartily endorse your proposed legislation: "The Family Choice Child Care Improvement Bill." This legislation will expand the supply of quality child care and child devel-

opment services in the United States. It will provide needed assistance to enable parents to obtain child care and, most importantly, it will guarantee parents a real choice in determining who cares for their children.

The Stenholm bill will lead to an improvement in the lives of millions of American children. In contrast, it is my opinion—as a professional with years of experience in child development—that the legislation proposed by Congressmen Thomas Downey and Augustus Hawkins will cause severe harm to the development of millions of children in future years.

The foundation of any system of quality child care and child development must be a guarantee that parents have the right to choose who cares for their children. Your bill does guarantee that any parent given government assistance for child care has a right to select the childcare provider, including the right to choose relatives, neighbors, private sector daycare centers, and religious daycare centers. The legislation proposed by Congressmen Downey and Hawkins effectively prohibits choice for parents receiving government support, and will ultimately restrict the child care choices of all parents by driving most private sector and religious daycare programs, as well as most Montessori programs out of existence.

One of the most objectionable features of the Hawkins and Downey legislation is the creation of a new federal program to provide care for three- and four-year-old children in the public schools. The public schools are not an appropriate setting for young children. In fact, public school child development programs of the sort that would be established under the Downey and Hawkins bill would be actively harmful for children's development. Many parents are alarmed at the inability of public schools to adequately educate older children; few parents would elect to have younger children raised in public schools, if they had a choice. Unfortunately, the Hawkins and Downey legislation does not permit parental choice.

The Stenholm bill, while providing the same level of real assistance to parents as the Hawkins and Downey proposal, does guarantee that parents have a meaningful choice in determining who cares for their children. The Title 20 Social Service Block Grant provisions of the Stenholm bill guarantee that parents receiving assistance must have the option of receiving aid directly in the form of child care certificates. Your bill ensures that parents must be free to use the certificate with a wide variety of child care providers.

I hope that Congress is not misled by false claims that the Hawkins and Downey legislation permits parental choice. The public school provisions of the bill prohibit parental choice entirely. Under the Title 20 program, states may prohibit parents from receiving child care certificates. Historical experience with the Title 20 program clearly demonstrates that, under the Downey and Hawkins legislation, few state bureaucracies will offer certificates to parents, and that for those that do offer certificates the range of choice permitted will be extremely narrow.

Instead of offering assistance directly to parents, Congressmen Downey and Hawkins propose to create a new bureaucracy to allocate funds as grants to daycare centers and public schools. Such a program will inevitably generate a drab uniformity and a low quality of child care which will be harmful to American children. Child care programs such as Montessori would have little place in such a government system. Most would be driven out of business by government-subsidized competition within a few years.

Another important feature of the Stenholm bill are tax credits offered to parents who care for their own children in the home, including an extra credit for children under age one. A final aspect of the Stenholm childcare legislation which is very important to Montessori child development centers is the fact that parents receiving childcare certificates from the government are permitted to use those certificates in childcare programs which include religious activities such as prayer and bible stories. Many Montessori centers have religious activities as part of their programs. Parents, not bureaucrats, should determine how American children are raised. The government should assist parents to obtain child care; it should not dictate what type of care children receive. The Stenholm "Family Choice and Child Care Improvement Bill" assists parents and guarantees choice. Its enactment would be a blessing for American children. It deserves the support of all members of the Congress of the United States.

Sincerely,

CONNIE L. HAYDEN.

EUROPE WITHOUT FRONTIERS

The SPEAKER pro tempore (Mr. THOMAS of Georgia). Under a previous order of the House, the the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, in 1966, President Lyndon Johnson spoke before the National Conference of Editorial Writers warning of the perils of a divided Europe.

He said, "History warns us that until [the division of Europe] has been resolved, peace will never be secure * * * We must make Europe whole again."

Today, President Johnson's wish for a unified Europe is becoming reality. East and West Germany have begun the process of reunification, Eastern Europe is freeing itself from the bonds of communism, while the European Community is well on its way to becoming one economic community.

These new developments are revolutionary and exciting, but I still find myself looking for the catch. The rapid changes have been too easy—regions of the world that have never known democracy are deciding that Adam Smith's invisible hand, rather than Karl Marx's dialectical materialism, should guide their nations.

Not only are Eastern Europe and the Soviet Union changing tack, but the West European nations, our allies since World War II, are also changing. The economic integration of Europe has taken second seat to events in Eastern Europe—it is not as glamorous as people pick-axing their way through the Berlin Wall, but it is just as important.

Think about what is happening. Over the next 2 years, 12 independent countries shall sit as a jury to determine the U.S. economic involvement in the European Community or the EC.

The judgments this jury renders will have a direct impact on the United States. The EC soon will become the largest economic engine in the world—and it is a market worth $490 billion per year.

Twelve diverse nationalities are pursuing a common economic goal. Englishmen, Frenchmen, and Germans will be dipping into the well of a common European heritage—a well deep enough to persuade each member nation to cede sovereignty for the greater good of Europe.

Decades of economic stagnation have left Europe aching to be on top again—back to the days when Spanish, Portuguese, and Dutch ships sailed the oceans and English merchants dominated commerce in the new world.

The Europeans have learned a lesson. They have learned that the world does not wait for anyone to catch up. They have learned that things change—and as things change, so, too, do the rules of the game.

Apparently, both Europe and Japan have learned from the past, but what have we learned? We seem to be ignoring history and we will probably come to regret our lack of foresight; the world is changing and we remain the same.

The rules change before our eyes, but we cannot see. We go to the Uruguay round of GATT to talk about agriculture and patent issues, and are told that we should "consider limits on our national trade laws." They are telling the most open market in the world to play fair—they are asking us not to penalize countries that steal our technolgy—they want us to turn the other cheek.

It has been easy to overlook Europe's consolidation into the largest import and export market in the world—concerned with Japan and Eastern Europe—we haven't had the time. However, we need to make the time. The EC wants us to alter our "Super 301" trade protection laws; they don't think Super 301 is necessary.

Peter Brimelow of Forbes magazine says: "Americans have begun to worry about the possibility that a European superstate one day could emerge as a protectionist, corporatist, anti-American Frankenstein."

We have all heard of Fortress Europe. Once a vogue description of European integrations, Fortress Europe has been tossed aside in favor of more optimistic theories. Some believe that the European single market will be a boon to America—new, larger markets to conquer, with fewer barriers to trade.

However, others believe that the single market is a ruse for protection-

ism; where European free trade does not include outsiders.

Currently, Europe, like Japan, conducts its business different from America. Cartels, exorbitant value added taxes, and government-owned conglomerates, all give European goods a comparative advantage over American-made goods.

In France, for example, barriers to foreign trade and investment are pervasive. Investment in agricultural lands are prohibited and other foreign investments must first be approved by the Government.

Other maneuvers include what one journalist termed a French state strategy. A Journal of Commerce article, headlined, "French Takeovers Abroad Termed State Strategy," reports that the French Government approved a multibillion-dollar infusion of capital into "Nationalized industries so that they may shop for acquisitions abroad to better compete in the new world markets."

Since the announcement last October, Government-owned companies have made several strategic purchases. Groupe Bull of France purchased Zenith's computer unit, while France's Renault car company has teamed up with Sweden's Volvo AB.

Even more revealing is the purchase by Government-owned Air France of the largest private sector French airline. The airline, also known as the French Government, has been accused of forming another state-owned monopoly.

While Government-subsidized monopolies are thriving in France, EC Commission President Jacques Delors wants to enact stringent merger and acquisition controls throughout the Community.

Mr. Delors says the EC should have the right to screen company mergers to guard against monopolies and to promote competition. The motive, he says, is to prohibit one giant concern from cornering the market in any one economic sector. However, Mr. Delors does not tell you that he favored the French airline merger—he neglected to mention that he supports monopoly, but only on a selective basis.

Notwithstanding these warning signs, our Government continues to conduct business as usual—we even award Government contracts to state-owned monopolies like Thomson CSF of France. In America, the sky is the limit, but in Europe, you cannot take-off unless you obtain permission from the government.

Such blatant protectionism is in the best interest of France—and Japan operates in a similar fashion. They are protecting themselves from a fiercely competitive world. When limited to France, the penchant for ultranationalism and protectionism is a barrier to trade, but it is not an insurmountable barrier. However, if the practices of France become the standard for the entire European Community in 1992, things begin to look quite different.

First, the push to consolidate or, the larger is better syndrome, will make small manufacturers particularly vulnerable. Heightened international competition also will affect larger corporations. In the defense arena, American firms already are feeling the negative effects of European unification. The removal of trade and tariff restrictions has paved the way for the creation of a few, immense defense giants.

One recent example is the joint venture between British Aerospace and Thompson of France. As European companies pool their resources and compete for EC-wide defense contracts, there will be an overwhelming drive to "Buy European."

For American defense contractors, this only can spell disaster. Dwindling defense budgets are already forcing defense contractors to look elsewhere for new revenues. The possibility of Buy European measures, taken together with low export levels in the defense sector, makes our defense industrial base vulnerable.

As Debra Polsky of Defense News confirms, "Few U.S. companies have taken advantage of the European markets * * * Europeans will be pressed to give military contracts to companies who will perform the work domestically."

The push to manufacture in Europe has caused a stir in both Japan and the United States. Although EC officials claim that they are not pulling up the drawbridge, others claim that to Europe in 1992, they will be forced to set up shop in Europe—and, as I will explain—this perception has been the root of countless difficulties.

Mr. Speaker, why would the European Community want to push non-EC companies to set up shop in Europe? The policy does not make sense considering Europe's historical distaste and distrust of foreign investment.

For example, a recent EC decision classified Japanese cars assembled within the EC as imports—and these imports would be taxed accordingly.

Although furor over Japanese automobile transplants is no stranger in this country, the European contradiction remains: certain directives are roping foreign companies into Europe while other directives are discriminating against products manufactured in these plants.

Who's on first? No one seems to know and I don't think anyone is trying to find out. Forthcoming EC directives on local content requirements and rules of origin may also push companies into Europe—companies who would prefer to employ Americans and export from this country.

Companies that wish to remain in the United States and export to Europe are categorized as "behind the times" and are labeled "antiquities" in the new era of "globalization."

However, companies which worry that they are not keeping up with the globalizers of this world should take comfort in the knowledge that offshore manufacturing has its risks—especially for high technology companies. It is important to note that the EC considers Texas Instruments as a Japanese company because Texas Instruments produces in Japan, not America, and IBM European because it produces in Europe.

The EC has announced that it will provide economic protection for strategic industries like soybeans, steel, shoes, textiles, semiconductors, and consumer electronics. And future strategic industries certainly will include high definition television [HDTV].

Because the race for HDTV superiority will intensify competition between Japan, the United States and the EC, the Community's content requirements and rules of origin may be an attempt to obtain foreign high technology.

Consider this example. If a company wants to sell semiconductor chips to Europe, the chips must comply with EC content requirements or they will be taxed at a higher rate than European-made chips. To avoid the tax, the company would be forced to establish a plant in Europe to satisfy the content requirements.

However, the European plant would employ Europeans and use European equipment and suppliers—this makes the company vulnerable to technology transfer. The conclusion is simple: High-technology companies locating in Europe are risking their technology and, quite possibly, their entire company.

It is a catch 22—remain in the United States and pay exorbitant taxes to the EC or establish a base in Europe and take the risk of having your technology pirated and transferred throughout the Community.

The Commerce Department, usually gung-ho where Europe is concerned, also has reservations about 1992. The weekly report, Inside U.S. Trade, quotes Linda Powers, the Deputy Assistant Secretary for Services at Commerce, as saying, "There are four areas that Commerce would be monitoring closely: product standards, local content requirements, public procurement, and reciprocity."

Of these sectors, the United States and Europe already have skirmished over standards for beef and over local content requirements for automobiles, television programming, and electronic products. And I don't think we have even hit the tip of the iceberg.

The question of standards is very alarming to American exporters. No one is quite sure what to expect—there

are no ground rules. Many are afraid that Europe will establish its standards unilaterally, forcing non-EC nations to adopt European rules and regulations.

The situation posed by the Journal of Commerce best explains the worries of American exporters. The article says:

> The possibility exists that the EC will demand American exports be certified by an official European agency. If a product is made in Baltimore and the company wants to export to Paris, France, there may be several problems.
>
> First, the design data are several thousand miles away and the specifications are in a different language. Second, sending a prototype could cost thousands of dollars and take 18 months for the testing to be completed. Third, sending the product to Europe is risky. It could be an involuntary form of technology transfer and patent infringement.

The issue of standards possibly could affect a wide array of exports to Europe—agricultural products must meet health standards, automobiles must meet safety standards, factories must meet quality and procedural standards, and so on and so forth.

Stanford Erickson of the Journal of Commerce says,

> Although there is little concrete evidence that the EC will use technical standards as a barrier to imported goods, make no mistake that any standards that are adopted will benefit EC producers.

Others speculate that the EC may require imported goods to contain a certain percentage of European-made components which also would be costly to American industry. Again, companies would be forced to establish unnecessary plants in Europe or purchase components from foreign sources.

The drama being played out in Europe promises to provide an assortment of trade conflicts—when we tire of fighting the Japanese to open their markets to United States products, we can turn and fight European directives on public procurement and reciprocity.

The European public procurement market is worth almost $550 billion—and only 2 percent of this total has gone to nonnational firms. A New York Times article by Steven Greenhouse points out,

> In the past, contracts often went to domestic companies on a no-bid basis, so that it would be hard for an Italian company, not to mention an American company, to win a contract with West Germany's state-owned telephone company.

Although the EC talks about liberalizing public procurement, I don't think the European definition of liberalization concurs with the American definition of liberalization.

The EC defines liberalization this way: Covered entities will be permitted to discriminate against non-EC suppliers: They may exclude offers containing less than 50-percent EC content—and if members consider bids with less than 50-percent EC content, they must grant a 3-percent preference to equivalent offers containing 50-percent content.

Therefore, if an American company bids for an EC contract, 50 percent of its product or service must be European.

I wonder how it would go over in the EC if, under the umbrella of reciprocity, the United States adopted the 50-percent rule—if Europeans want to bid for contracts in the United States, 50 percent of their content must be American. Now that is reciprocity.

As the president of AT&T Europe, Robert Dalziel, points out, "You don't have to build a factory in Wyoming to sell telephone equipment in Wyoming." In other words, you don't have to locate in the United States to satisfy Buy America requirements.

Although Buy America provisions attempt to encourage Government purchases of American-made products, the provisions are, for the most part, just window dressing.

In one instance, the State of Pennsylvania awarded a telephone contract to Fujitsu of Japan even though Fujitsu was found guilty of bid-rigging—17 cents for a computer contract—in Japan.

Since we allow anyone and everyone to compete for our contracts and invest in our assets, the EC's reciprocity principles may not upset us too much.

And, like it or not, reciprocity might be the linchpin of European protectionism. Reciprocity directives may decide who does what within the community.

Reciprocity has several meanings and can be used as an across-the-board trade tool. Generally, however, reciprocity means equal access to markets. If European subsidiaries are treated like American companies in America, then American subsidiaries in Europe would be treated like European companies in Europe—this type of reciprocity is called national treatment.

In April 1988, an EC directive announced that banks from countries providing national treatment to EC banks would be guaranteed the right of establishment and the ability to offer universal services in Europe.

However, this directive was the Community's second choice. Their first choice was a more demanding type of reciprocity called equivalent access. For example, if British banks were to demand equivalent access in this country, they would be asking for privileges over and above those given to American banks.

We would be forced to change our rules to match England's, and if we didn't change our rules, we would be shut out of the British banking market.

A little over a year ago, the equivalent access directive spawned the term Fortress Europe—and although many have forgotten the first banking directive and its Fortress Europe frenzy, it may be foolish to write off fortress tendencies—we should not turn a blind eye on French and Italian protectionism.

Protectionism comes from fear—President Roosevelt once said that there is nothing to fear but fear itself; but we may not be able to convince our European allies of this. Fortress Europe fears Japan. They see how Japanese products and investment have distorted the American economy.

We cannot ignore Europe's growing fear of Japanese investment.

It long has been said that Western Europe was America's military first line-of-defense against the Soviet Union. Now, it seems that America will be Europe's economic first line-of-defense against the Japanese invasion of Europe—and American products may become the first casualties of this economic confrontation.

Our only recourse is to plead our case before the European jury. It is a jury legitimately concerned with its future and one that may view the economic facts based on past trade abuses by the Japanese.

We must do what we can to allay Europe's suspicion, but we must also be ready to respond—no matter what the European jury decides.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FIELDS (at the request of Mr. MICHEL), for today and the balance of the week, on account of a death in the family.

Mr. TANNER (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of a death in the family.

Mr. STUMP (at the request of Mr. MICHEL), for today and the balance of the week, on account of family medical emergency.

Mr. SANGMEISTER (at the request of Mr. GEPHARDT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STEARNS) to revise and extend their remarks and include extraneous matter:)

Mr. KYL, for 60 minutes, on March 21.

Mr. LEACH of Iowa, for 60 minutes.

(The following Members (at the request of Mr. SAWYER) to revise and

extend their remarks and include extraneous material:)

Mr. GLICKMAN, for 5 minutes.

Mr. SKAGGS, for 5 minutes.

Mr. ANNUNZIO, for 5 minutes.

Mr. POSHARD, for 5 minutes on March 21.

Mr. LIPINSKI, for 5 minutes, each day on April 3 and 24, and for 60 minutes each day on April 4, 18, and 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. STEARN) and to include extraneous matter:)

Mr. GINGRICH.

Mr. GALLO.

Mr. MCEWEN.

Mr. BROOMFIELD.

Mr. PORTER.

Mr. SUNDQUIST in two instances.

Mr. CONTE.

Mr. SCHULZE.

Mr. KYL.

Mrs. BENTLEY.

Ms. SNOWE.

Ms. ROS-LEHTINEN.

(The following Members (at the request of Mr. SAWYER) and to include extraneous matter:)

Mr. SOLARZ in three instances.

Mr. MILLER of California.

Mr. FASCELL in three instances.

Mr. BARNARD.

Mr. BILBRAY.

Mr. JENKINS.

Ms. PELOSI in two instances.

Mr. MAZZOLI.

Mr. LANTOS.

Mr. HOCHBRUECKNER.

Mr. OLIN.

Ms. SLAUGHTER of New York.

Mr. EDWARDS of California.

Mr. KANJORSKI.

Mr. SKELTON.

Mr. DARDEN in two instances.

Mr. LANTOS.

Mr. BROOKS.

Mr. WYDEN.

Mr. MOODY.

Mr. ENGEL.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolution of the Senate of the following titles:

S. 2231. An act to amend the Energy Policy and Conservation Act to extend the authority for titles I and II, and

S.J. Res. 229. Joint resolution to designate April 1990 as "National Prevent-A-Litter Month."

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 17 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 21, 1990, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2748. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1989, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2790. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to recover costs of establishing standards and specifications for agricultural products; to the Committee on Agriculture.

2791. A letter from the Inspector General, Department of Health and Human Services, transmitting a copy of a report entitled, "State Medicaid Fraud Control Units Annual Report for Fiscal Year 1988"; to the Committee on Energy and Commerce.

2792. A letter from the Secretary of State, transmitting a draft of proposed supplemental legislation to authorize appropriations for the Department of State to carry out its authorities and responsibilities in the conduct of foreign affairs during the fiscal years 1990 and 1991 and for other purposes, pursuant to 22 U.S.C. 2680; to the Committee on Foreign Affairs.

2793. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a report on the Corporation's activities under the Freedom of Information Act during calendar year 1989, pursuant to 5 U.S.C. 552; to the Committee on Government Operations.

2794. A letter from the Acting Administrator, General Services Administration, transmitting the agency's fifth and final annual report on competition advocacy during fiscal year 1989, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

2795. A letter from the Chairman, Resolution Trust Corporation, transmitting a report on the Corporation's activities under the Freedom of Information Act during calendar year 1989, pursuant to 5 U.S.C. 552; to the Committee on Government Operations.

2796. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2797. A letter from the Secretary of the Interior, transmitting the 19th annual report of the actual operation during water year 1989 for the reservoirs along the Colorado River; projected plan of operation for water year 1990, pursuant to 43 U.S.C. 1552(b); to the Committee on Interior and Insular Affairs.

2798. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting a report on the activities of the Community Relations Service for fiscal year 1989, pursuant to 42 U.S.C. 2000g-3; to the Committee on the Judiciary.

2799. A letter from the Attorney General, Department of Justice, transmitting a copy of the annual report on the Justice Assets Forfeiture Fund for fiscal year 1989, pursuant to 42 U.S.C. 524(c)(6); to the Committee on the Judiciary.

2800. A letter from the Director, Office of Management and Budget, transmitting his certification that the amounts appropriated for the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty, Inc., are $2,033,420 less than the amount necessary to maintain the budgeted level of operation because of exchange rate losses in the first quarter of 1990, pursuant to 22 U.S.C. 2877; jointly, to the Committee on Appropriations and Foreign Affairs.

2801. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled "The Airport and Airway Expansion Act of 1990"; jointly, to the Committee on Public Works and Transportation; Ways and Means; Science, Space, and Technology; and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. House Resolution 360. Resolution providing for the consideration of H.R. 644, a bill to amend the Wild and Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System (Rept. 101-424). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs H.R. 3834. A bill to amend the National Trails System Act to designate the route from Selma to Montgomery for study for potential addition to the National Trails System; with an amendment (Rept. 101-425). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI (for himself, Mr. GEPHARDT, Mr. DINGELL, Mr. ANNUNZIO, Mr. RUSSO, Mr. MATSUI, Mr. BONIOR, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. FORD of Tennessee, Mr. JENKINS, Mr. GUARINI, Mr. PEASE, Mr. ANTHONY, Mr. FLIPPO, Mr. DORGAN of North Dakota, Mr. COYNE, Mr. LEVIN of Michigan, Mr. ATKINS, Mr. COLEMAN of Texas, Mr. FRANK, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. MAVROULES, Mr. NAGLE, Mr. NEAL of North Carolina, Mr. SCHEUER, Mr. SLAUGHTER of Virginia, Mrs. UNSOELD, and Mr. WISE):

H.R. 4308. A bill to amend the Internal Revenue Code of 1986 to prevent avoidance of tax by certain foreign-owned corporations and to impose a tax on disposition of stock in domestic corporations by 10 percent foreign shareholders; to the Committee on Ways and Means.

By Mr. BOSCO:

H.R. 4309. A bill to establish the Smith River National Recreation Area in the State

of California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ASPIN (for himself, Mr. HAMILTON, Mr. FAZIO, Mr. MILLER of California, Mr. EDWARDS of California, Mr. MATSUI, Mr. LEVINE of California, Mr. BERMAN, Mr. WAXMAN, Mr. ROYBAL, Ms. PELOSI, and Mr. SAWYER):

H.R. 4310. A bill to provide for necessary closures and realignments of domestic and foreign military installations of the United States; jointly, to the Committees on Armed Services and Rules.

By Mrs. BOXER:

H.R. 4311. A bill to amend title 5, United States Code, to ensure that whistleblowers are protected from having to submit, without just cause, to psychological or psychiatric evaluations or counseling; to the Committee on Post Office and Civil Service.

By Mr. BROOKS:

H.R. 4312. A bill to declare certain portions of Pelican Island, TX, nonnavigable; to the Committee on Energy and Commerce.

By Mr. BROOKS (by request):

H.R. 4313. A bill to authorize the Secretary of the Treasury to adopt distinctive counterfeit deterrents for exclusive use in the manufacture of U.S. securities and obligations; to clarify existing authority to combat counterfeiting, and for other purposes; to the Committee on the Judiciary.

H.R. 4314. A bill to implement the Inter-American Convention on International Commercial Arbitration; to the Committee on the Judiciary.

By Mr. BROOKS (for himself (by request) and Mr. FISH):

H.R. 4315. A bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1991 and for other purposes; to the Committee on the Judiciary.

By Mr. CARR:

H.R. 4316. A bill to require employers to provide certain information concerning family leave policies and for other purposes; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

By Mr. FASCELL:

H.R. 4317. A bill to compensate certain public hospitals and local educational agencies for expenses incurred in providing certain services to aliens; jointly, to the Committees on Energy and Commerce and Education and Labor.

By Mr. FRENZEL:

H.R. 4318. A bill to extend until January 1, 1995, the existing temporary suspension of duty on cyclosporine; to the Committee on Ways and Means.

By Mr. GLICKMAN (for himself, Mr. ROBERTS, Mr. SKELTON, Mr. DORGAN of North Dakota, Mr. PENNY, Mr. VALENTINE, Mrs. VUCANOVICH, Mr. HOUGHTON, Mr. STALLINGS, and Mr. BAKER):

H.R. 4319. A bill to amend the Solid Waste Disposal Act to establish a national program to provide loan guarantees to small businesses for the closure and replacement of underground storage tanks; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. HOAGLAND:

H.R. 4320. A bill to provide that certain games of chance conducted by a nonprofit organization not be treated as an unrelated trade or business of such organization; to the Committee on Ways and Means.

By Mr. HOCHBRUECKNER (for himself, Mr. TOWNS, Mr. HARRIS, Ms. KAPTUR, Mr. RINALDO, Mr. GEJDENSON, Mrs. BOXER, Mr. STUDDS, Mr. DOWNEY, Mrs. COLLINS, Mr. MRAZEK, and Mr. TORRES):

H.R. 4321. A bill to establish an Office of Recycling Research and Information in the Department of Commerce, to require research on the recycling of scrap automotive tires, and for other purposes; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

By Mr. IRELAND:

H.R. 4322. A bill to prohibit the Department of Defense from obligating any funds appropriated for fiscal year 1991 for advance procurement until the fiscal year 1992 5-year defense plan is submitted to Congress pursuant to law; to the Committee on Armed Services.

By Mr. NOWAK:

H.R. 4323. A bill to amend the Federal Water Pollution Control Act relating to water quality in the Great Lakes; to the Committee on Public Works and Transportation.

By Mr. OWENS of New York (for himself, Mrs. COLLINS, Mr. CROCKETT, Mr. DYMALLY, Mr. EVANS, Mr. FAZIO, Mr. FOGLIETTA, Mr. FUSTER, Mr. GRAY, Mr. JONTZ, Mr. KOSTMAYER, Mrs. LOWEY of New York, Mr. MARTINEZ, Mr. MILLER of California, Ms. PELOSI, Mr. RANGEL, Ms. SLAUGHTER of New York, Mr. TOWNS, Mr. TRAFICANT, Mr. WILSON, Mr. FISH, and Mr. WHEAT):

H.R. 4324. A bill to authorize the Secretary of Housing and Urban Development to provide grants to urban and rural communities for training economically disadvantaged youth in education and employment skills and to expand the supply of housing for homeless and economically disadvantaged individuals and families; jointly, to the Committees on Banking, Finance and Urban Affairs and Education and Labor.

By Mr. SCHULZE:

H.R. 4325. A bill to grant temporary duty-free treatment to 3-Aminopropanol; to the Committee on Ways and Means.

By Mr. WOLF (for himself and Mr. PARRIS):

H.R. 4326. A bill to amend title 23 of the United States Code to authorize Federal-aid highway funds for construction of new toll highways, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. SCHUMER:

H.J. Res. 523. Joint resolution designating August 12 through 18, 1990, as "National Parents of Murdered Children Week"; to the Committee on Post Office and Civil Service.

By Mr. SKELTON (for himself, Mr. FLIPPO, Mr. SPENCE, Mr. DYSON, Mr. ESPY, Mr. COBLE, Mr. MONTGOMERY, Mr. BAKER, Mr. TALLON, Mr. BUSTAMANTE, Mr. PAYNE of New Jersey, Mr. SISISKY, Mr. ROBERTS, Mr. OWENS of New York, Mr. BROWDER, Mr. WHEAT, Mr. DELLUMS, and Mr. MFUME):

H.J. Res. 524. Joint resolution designating August 30, 1990, as "1890 Land-Grant Institutions Centennial Recognition Day"; to the Committee on Post Office and Civil Service.

By Ms. SNOWE (for herself, Mr. DOWNEY, Mr. RINALDO, Mr. ROYBAL, Mr. HEFNER, Mr. FLIPPO, Mr. ENGEL, Mr. CONYERS, Mr. SCHUETTE, Mrs. ROUKEMA, Mr. MILLER of Washington, Mr. EMERSON, Mr. BLILEY, Mr. CONTE, Mr. SPENCE, Mr. MCNULTY, Mr. MACHTLEY, Mrs. PATTERSON, Mr. SMITH of Florida, Ms. PELOSI, Ms. KAPTUR, Mr. DARDEN, Mr. KASICH, Mr. COUGHLIN, Mr. MCMILLEN of Maryland, Mr. CLINGER, Mr. HUGHES, Mrs. UNSOELD, Mr. SABO, Mr. RICHARDSON, Mr. MCDERMOTT, Mr. VALENTINE, Mr. WAXMAN, Mr. YOUNG of Alaska, Mr. BOUCHER, Ms. SLAUGHTER of New York, Mrs. MORELLA, Mr. COLEMAN of Missouri, Mr. CLARKE, Mr. DELLUMS, Mr. SMITH of Vermont, Mr. JONTZ, Mr. ACKERMAN, Ms. OAKAR, Mr. FRENZEL, Mr. MATSUI, Mr. TRAXLER, Mr. BENNETT, Mr. WOLF, Mr. ROE, Mr. LAFALCE, Mr. MCGRATH, Mr. ROWLAND of Connecticut, Mr. MADIGAN, Mr. PURSELL, Mr. HORTON, Mr. LAGOMARSINO, Mr. NIELSON of Utah, Mrs. BOXER, Mr. FRANK, Mr. DE LA GARZA, Mr. FISH, and Mr. BLAZ):

H.J. Res. 525. Joint resolution designating November 18-24, 1990, and November 17-23, 1991, as "National Family Caregivers Week"; to the Committee on Post Office and Civil Service.

By Mr. ENGEL (for himself and Mr. BURTON of Indiana):

H. Con. Res. 290. Concurrent resolution in support of the unified status of Jerusalem; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

334. The SPEAKER presented a memorial of the Commonwealth of Kentucky, State Senate, relative to urging the Congress to prohibit the Health Care Financing Administration from promulgating a rule disallowing the use of hospital assessments as a basis for Medicaid matching funds; to the Committee on Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. STENHOLM introduced a bill (H.R. 4327) for the relief of Eunice E. Choate; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 37: Mr. PALLONE and Mr. MACHTLEY.

H.R. 60: Mrs. BENTLEY, Mr. SMITH of Florida, Mr. MCCRERY, Mr. PARKER, Mr. WATKINS, Mr. WHITTEN, Mr. PARRIS, Mr. LOWERY of California, Mr. BILBRAY, Mrs. LLOYD, Mr. PURSELL, Mr. BAKER, Mr. KASICH, Mr. FAWELL, Mr. HUTTO, Mr. LAUGHLIN, and Mr. ENGLISH.

H.R. 108: Mr. JOHNSON of South Dakota.

H.R. 201: Mr. BRUCE.

H.R. 211: Mr. FLIPPO and Mr. DICKINSON.

H.R. 212: Mr. BOEHLERT.

H.R. 214: Mr. JOHNSON of South Dakota.

H.R. 216: Mr. BOEHLERT.

H.R. 500: Mr. MOODY.

H.R. 567: Mr. BOSCO.

H.R. 860: Mr. GALLEGLY and Mr. HUNTER.

H.R. 1008: Ms. SLAUGHTER of New York.

H.R. 1079: Mr. PASHAYAN.

H.R. 1287: Mr. INHOFE, Mr. PASHAYAN, and Mr. BILBRAY.

H.R. 1317: Mr. STUDDS.

H.R. 1691: Mr. RAVENEL, Mr. LANCASTER, Mrs. KENNELLY, Mr. BILBRAY, Mr. WALSH, Mr. BOSCO, Mr. DEFAZIO, Mr. POSHARD, Mr. VALENTINE, and Mr. FISH.

H.R. 2336: Mr. VANDER JAGT, Mr. CRANE, and Mr. FRENZEL.

H.R. 2373: Mr. JAMES, Mr. FOGLIETTA, Mr. NELSON of Florida, Mr. CHAPMAN, Mr. TOWNS, Mr. KOLTER, and Mr. WHITTAKER.

H.R. 2584: Mr. PENNY, Mr. GORDON, Mrs. MEYERS of Kansas, Mr. GEREN, Ms. LONG, Mr. MAVROULES, Mrs. ROUKEMA, Mr. POSHARD, Mr. CLEMENT, Mr. FRANK, Mr. DONNELLY, Mr. GAYDOS, Mr. MORRISON of Connecticut, Mr. SUNDQUIST, Mr. LANTOS, Mr. OBERSTAR, Mr. MORRISON of Washington, Mrs. BOGGS, Mr. GLICKMAN, Mr. LEWIS of California, Mr. DELLUMS, Mr. MCCLOSKEY, Mr. MOAKLEY, Mr. JONES of Georgia, Mr. LAGOMARSINO, and Mr. WAXMAN.

H.R. 2596: Mrs. KENNELLY, Mr. NEAL of North Carolina, Mr. TRAXLER, and Mr. EVANS.

H.R. 2707: Ms. SCHNEIDER.

H.R. 2715: Mr. ROWLAND of Connecticut, Mr. HAYES of Louisiana, Mr. BEILENSON, Mrs. LOWEY of New York, and Mr. KASTENMEIER.

H.R. 2816: Mr. JACOBS.

H.R. 2819: Mr. SWIFT.

H.R. 2826: Mr. SWIFT.

H.R. 2832: Mr. SWIFT.

H.R. 2972: Mr. BATEMAN.

H.R. 3344: Mr. WALKER, Mr. GINGRICH, Mr. BOEHLERT, and Mr. HAYES of Illinois.

H.R. 3475: Mr. EMERSON.

H.R. 3533: Mr. RAVENEL, Mr. WELDON, Mr. LAFALCE, Mr. LIGHTFOOT, Ms. PELOSI, and Mr. CRAIG.

H.R. 3552: Mrs. BOXER and Mr. SYNAR.

H.R. 3654: Mr. CONDIT.

H.R. 3686: Mr. LEWIS of Florida and Mr. BURTON of Indiana.

H.R. 3714: Mr. RANGEL, Mr. ENGEL, Mr. JAMES, Mr. HUCKABY, Mr. NEAL of North Carolina, Mr. BEILENSON, Mr. ATKINS, Mrs. LOWEY of New York, Mr. SHAYS, Mr. KOLTER, Mrs. VUCANOVICH, and Mr. MORRISON of Connecticut.

H.R. 3773: Mr. CONDIT.

H.R. 3802: Mr. KENNEDY, Mr. FLAKE, Mr. ROE, Mr. WALSH, Mr. KASTENMEIER, Mr. BORSKI, Mr. MCCLOSKEY, Mr. MCMILLEN of Maryland, Mr. PAYNE of Virginia, Ms. SLAUGHTER of New York, Mr. BROOKS, Mr. BROWDER, Mr. HASTERT, Mr. MCNULTY, Mr. CONYERS, Mr. OWENS of Utah, Mr. MCDERMOTT, Mr. ACKERMAN, Mr. ATKINS, Mr. HAYES of Illinois, Mr. FRANK, Mr. BROWN of California, Mr. JONES of North Carolina, Mr. DYMALLY, Mr. LEHMAN of Florida, Mr. PANETTA, Mr. MOAKLEY, Mr. BILIRAKIS, Mr. MOODY, Mr. STOKES, Mr. NATCHER, Mr. LAFALCE, Mr. BOSCO, Mr. DELLUMS, Mr. BATES, Mr. BERMAN, Mr. EDWARDS of California, Mr. LEHMAN of California, Mr. MILLER of California, Mr. MARTINEZ, Mr. UPTON, Mr. SOLARZ, Mr. LEVINE of California, Mr. DOWNEY, Mr. VENTO, Mr. MURPHY, Ms. OAKAR, Mr. DIXON, Mr. KOLTER, Mr. NOWAK, Mr. BONIOR, Mr. WAXMAN, Mrs. COLLINS, Mr. COLEMAN of Texas, Mr. WOLF, and Mr. FEIGHAN.

H.R. 3847: Ms. SNOWE, Mr. COOPER, Mr. TAUZIN, Mr. FORD of Tennessee, Mr. RAHALL, Mr. SANGMEISTER, Mr. SIKORSKI, Mr. MADIGAN, Mr. LANCASTER, Mr. GEKAS, Mr. JOHNSON of South Dakota, Mr. BRUCE, Mr. NELSON of Florida, Mr. TOWNS, Mr. FALEOMAVAEGA, Mr. OWENS OF UTAH, Mr. CONTE, Mrs. MEYERS of Kansas, Mr. JONES of Georgia, Ms. LONG, Mr. HOCHBRUECKNER, Mr. CONDIT, Mr. LEWIS of Florida, Mr. BUECHNER, Mr. SOLOMON, and Mr. DARDEN.

H.R. 3850: Mr. TOWNS, Mr. EVANS, and Mr. ECKART.

H.R. 3859: Mr. GEJDENSON and Mr. NEAL of Massachusetts.

H.R. 3860: Mr. SMITH of Florida, Mr. TOWNS, Mr. LIPINSKI, Mr. VENTO, and Mr. ECKART.

H.R. 3864: Mr. CLAY.

H.R. 3914: Mr. MOLLOHAN, Mr. TORRICELLI, Mr. MATSUI, Mr. ENGLISH, Mr. YOUNG of Florida, Mr. JONES of Georgia, Mr. SABO, Mr. STUMP, Mr. BLAZ, Mr. NEAL of Massachusetts, Mr. BLILEY, Mr. LEVINE of California, Mr. TALLON, Mr. ROWLAND of Georgia, Mr. BOSCO, Mr. CAMPBELL of Colorado, Mr. PRICE, Mr. HASTERT, Mr. STANGELAND, Mr. HOCHBRUECKNER, Mr. KOLTER, Mr. DORGAN of North Dakota, Mr. RANGEL, Mr. WYDEN, Mr. CONDIT, Mr. MARTINEZ, Mr. VENTO, Mr. HERGER, Mr. SWIFT, Mr. MADIGAN, Mr. DAVIS, Mr. CAMPBELL of California, Mr. BERMAN, Mr. PASHAYAN, Mr. LANCASTER, Mr. HARRIS, and Mr. NEAL of North Carolina.

H.R. 3978: Mr. COOPER, Mr. KENNEDY, Mr. LAFALCE, Mr. CLEMENT, Mr. LEHMAN of California, Mr. PERKINS, Mr. RAHALL, Mr. DONNELLY, Mr. HUGHES, Mr. MATSUI, Mr. MADIGAN, Mr. DURBIN, Ms. KAPTUR, Mr. TRAFICANT, Mr. CONYERS, and Mr. PRICE.

H.R. 3979: Mr. THOMAS A. LUKEN.

H.R. 4026: Mr. MOLLOHAN, Mr. CAMPBELL of Colorado, Mr. LAGOMARSINO, Mr. FAUNTROY, Mr. NEAL of North Carolina, Mr. STENHOLM, and Mr. DE LA GARZA.

H.R. 4041: Ms. SNOWE and Ms. SCHNEIDER.

H.R. 4079: Mr. DENNY SMITH, Mr. DANNEMEYER, and Mr. PETRI.

H.R. 4083: Mr. FISH.

H.R. 4101: Mr. WYDEN.

H.R. 4250: Mr. MURPHY, Mrs. VUCANOVICH, and Mr. MILLER of Washington.

H.R. 4253: Mr. TOWNS, Mr. CROCKETT, Mr. ANNUNZIO, and Mr. RANGEL.

H.R. 4254: Mr. GRANT.

H.R. 4269: Mrs. LLOYD, Mrs. SAIKI, and Mr. FAWELL.

H.J. Res. 240: Mr. HAWKINS, Mr. HEFLEY, and Mr. POSHARD.

H.J. Res. 420: Ms. PELOSI, Mr. MOAKLEY, Mr. SANGMEISTER, Mr. MCGRATH, Mr. GRAY, Mr. CARDIN, Mr. FORD of Tennessee, Mr. KLECZKA, Mr. VALENTINE, Mr. NAGLE, Mrs. BOXER, Mr. FISH, and Mr. EVANS.

H.J. Res. 436: Mr. GEJDENSON, Mr. EVANS, Mr. SHARP, Mr. UDALL, Mr. VOLKMER, Mr. BILBRAY, Mr. GILMAN, Mr. SCHAEFER, Mr. MORRISON of Washington, Mr. PANETTA, Mr. MCDADE, Mr. DICKINSON, Mr. SANGMEISTER, Mr. MILLER of Washington, Mr. SHAYS, Mr. STALLINGS, Mr. STUDDS, Mr. DEWINE, Mr. BENNETT, Mr. OWENS of New York, Mr. ROWLAND of Georgia, Mr. AUCOIN, Mr. CHAPMAN, Mr. ATKINS, Mr. KASICH, Mr. SKEEN, and Mr. VENTO.

H.J. Res. 459: Mr. LAFALCE, Mrs. MORELLA, Mr. KLECZKA, Mr. KOSTMAYER, and Mr. SYNAR.

H.J. Res. 467: Mr. KLECZKA, Mr. INHOFE, Mr. MARTIN of New York, Mr. DEFAZIO, Mr. PURSELL, Mr. HUGHES, Mr. VENTO, Mr. LANCASTER, Mr. MAZZOLI, Mr. GEREN, Mr. JACOBS, Mr. EVANS, and Mr. BALLENGER.

H.J. Res. 474: Mr. SAWYER, Mr. HALL of Texas, Mr. MARTIN of New York, and Mr. ROBINSON.

H.J. Res. 519: Mr. POSHARD, Mr. HAYES of Illinois, Mr. APPLEGATE, Mr. BERMAN, and Mr. DIXON.

H. Con. Res. 249: Mr. GORDON, Mr. LANTOS, Mr. VENTO, Mr. CALLAHAN, Mr. STUDDS, Mr. CARDIN, Mr. OWENS of Utah, Mr. CARPER, Mr. STARK, Mr. FORD of Tennessee, Mr. KOSTMAYER, Mr. HOCHBRUECKNER, Mr. CHANDLER, Mr. FLIPPO, Mr. BRYANT, and Mr. TRAFICANT.

H. Con. Res. 252: Mr. TORRICELLI, Mr. STUMP, Mr. NEAL of Massachusetts, Mr. TALLON, Mr. BOSCO, Mr. CAMPBELL of Colorado, Mr. PRICE, Mr. HASTERT, Mr. HOCHBRUECKNER, Mr. KOLTER, Mr. DORGAN of North Dakota, Mr. RANGEL, Mr. WYDEN, Mr. MARTINEZ, Mr. SWIFT, Mr. VENTO, Mr. PASHAYAN, and Mr. FISH.

H. Con. Res. 264: Mr. ARCHER, Mr. SCHUETTE, and Mr. TOWNS.

H. Con. Res. 271: Mr. FISH and Mr. KOSTMAYER.

H. Con. Res. 276: Mr. MANTON, Mr. FRANK, Mr. LEHMAN of Florida, Mr. OBERSTAR, Mr. FLIPPO, Mr. STUDDS, Mr. FOGLIETTA, Mr. FASCELL, Mr. FUSTER, Mr. HORTON, Mr. MCDADE, Mr. AUCOIN, Mr. FAWELL, Mr. HOCHBRUECKNER, Mr. HAYES of Illinois, Mr. HUCKABY, Mr. TOWNS, Mr. FAUNTROY, Mr. DYSON, Mr. HAMMERSCHMIDT, Mr. MCGRATH, Mr. SOLARZ, Mr. VENTO, Mr. ROE, Mr. MAZZOLI, Ms. KAPTUR, Mr. HEFNER, Mr. UDALL, Mr. LEWIS of Florida, Mr. HILER, Mr. MYERS of Indiana, Mrs. MARTIN of Illinois, Mr. BILIRAKIS, Mr. DWYER of New Jersey, Mr. NELSON of Florida, Mr. ACKERMAN, Mr. BALLENGER, Mrs. BOXER, Mr. MRAZEK, and Mr. LEVIN of Michigan.

H. Con. Res. 287: Mr. WOLPE, Mr. LAGOMARSINO, Mr. LANTOS, Mr. BEREUTER, Mr. AUCOIN, Mr. BEILENSON, Mr. FRANK, Mr. BATES, Mr. BROOMFIELD, and Mr. SCHEUER.

H. Res. 134: Mr. COX.

H. Res. 306: Mrs. KENNELLY.

H. Res. 312: Mr. LEHMAN of Florida, Mr. JAMES, Mr. MAZZOLI, Mr. DWYER of New Jersey, Mr. HUGHES, Mr. ROBINSON, Mrs. LOWEY of New York, Mr. FRANK, Mr. BATEMAN, Mr. BROWN of California, Mr. KOLTER, Mr. LAGOMARSINO, Mrs. MORELLA, Mr. MACHTLEY, Mr. MCCOLLUM, Mr. LANCASTER, and Mrs. SAIKI.

H. Res. 351: Mr. LEWIS of Florida, Mr. STUMP, Mr. BALLENGER, Mr. SHUMWAY, Mr. UPTON, Mr. DANNEMEYER, Mr. PORTER, Mr. LAGOMARSINO, Mr. RHODES, Mr. DONNELLY, and Mr. HERGER.

H. Res. 354: Mr. SCHEUER, Mr. FAZIO, and Mr. SMITH of New Jersey.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 586: Mrs. BENTLEY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3581

By Mr. DUNCAN:

—On page 75, after line 24 add the following new section and redesignate each succeeding section accordingly:

"SEC. 802. (a) For the purpose of promoting local job creation and private sector investment in rural communities, the Secretary of Agriculture is encouraged, where appropriate and feasible, to use private enterprise concerns located in rural areas, rather than government employees or government enterprises, to provide commercial activities or products to carry out the purposes of this Act."

(b) The Secretary shall develop and implement a plan that will result in increasing

the use of contracts awarded to private firms by the Department of Agriculture, and maximizing the use of grant, loan or other financial assistance made for the purpose of rural development to provide the goods and services purchased to carry out the purposes of this Act."

By Mr. STALLINGS:

—Page 93, after line 8, insert the following:

TITLE X—ENHANCING HUMAN RESOURCES

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Rural Economic Development and Education Partnership Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1001. Short title; table of contents.

Subtitle A—Rural Education and Business Development

Sec. 1011. Short title.

CHAPTER 1.—RURAL ECONOMIC DEVELOPMENT AND EDUCATION PARTNERSHIP

Sec. 1021. Purposes.
Sec. 1022. Program of grants for rural economic development and education projects.
Sec. 1023. Consideration of projects by review panels.
Sec. 1024. Administration of grant program.
Sec. 1025. State allotment formula.
Sec. 1026. Limitations on authorization of appropriations.

CHAPTER 2—BUSINESS DEVELOPMENT

Sec. 1031. Purposes.
Sec. 1032. General requirements.
Sec. 1033. Loans for business telecommunications partnerships.

CHAPTER 3—GENERAL PROVISIONS

Sec. 1041. Relationship to State law.
Sec. 1042. Regulations.
Sec. 1043. Definitions.

Subtitle B—Miscellaneous Rural Telecommunications Provisions

Sec. 1051. Short title.
Sec. 1052. Rural telecommunications zones.
Sec. 1053. Grants for emergency public safety telephone answering systems.
Sec. 1054. Study on use of telecommunications infrastructure by businesses in rural areas.

Subtitle A—Rural Education and Business Development

SEC. 1011. SHORT TITLE.

This subtitle may be cited as the "Advanced Rural Telecommunications and Economic Development Act of 1990".

CHAPTER 1—RURAL ECONOMIC DEVELOPMENT AND EDUCATION PARTNERSHIP

SEC. 1021. PURPOSES.

The purposes of this chapter are to—

(1) improve rural schools and school systems to attract and keep industry in rural areas;

(2) fully utilize rural school facilities and personnel to provide needed social services to rural areas;

(3) involve rural school facilities and personnel in supporting and creating an expansion of businesses that provide new and enhanced employment opportunities for youth and other residents of rural areas; and

(4) provide educational service providers with access to advanced telecommunications services and computer networks for training and retraining of the workforce in order to improve job opportunities and the business environment in rural areas.

SEC. 1022. PROGRAM OF GRANTS FOR RURAL ECONOMIC DEVELOPMENT AND EDUCATION PROJECTS.

(a) IN GENERAL.—The Administrator shall make grants in accordance with this chapter to enable rural economic development and education partnerships to carry out rural economic and education projects.

(b) RURAL ECONOMIC DEVELOPMENT AND EDUCATION PROJECTS.—A project is eligible for a grant under this chapter if the project, at a minimum, is designed to—

(1) train displaced farm families and other natural resource-based workers, displaced homemakers and single parent heads of households, and other rural underemployed and unemployed citizens;

(2) use school facilities for the provision of health care, feeding programs, early childhood and elderly day care, and transportation of individuals residing in rural areas to essential services;

(3) provide adult literacy training and retraining programs for individuals residing in rural areas;

(4) involve students and teachers in support of entrepreneurial enterprises offering services or products not currently available in the rural area in which such persons reside;

(5) create enterprises between local businesses and educational institutions to improve schools and to sustain and expand business investment and economic activity in rural areas;

(6) provide training programs for guidance counselors which would enable such counselors to provide information to secondary school students in rural areas about postsecondary opportunities for such students to obtain training to sustain and expand business investment and economic activity in such areas; or

(7) provide instruction and other educational opportunities for rural school districts using interactive audio, video, and computer technologies between distant locations, including—

(A) obtaining, through lease or purchase—

(i) computer hardware and software;

(ii) audio and video equipment;

(iii) telecommunications terminal equipment;

(iv) telecommunications transmission services or facilities; or

(v) interactive video equipment;

(B) developing rural distance learning curricula or computer software; and

(C) providing technical assistance and instruction for the development or use of rural distance learning curricula.

(c) RURAL ECONOMIC DEVELOPMENT AND EDUCATION PARTNERSHIPS.—A partnership is eligible for a grant under this chapter if the partnership—

(1) includes, at a minimum, a rural school district, a regional educational laboratory, and—

(A) in the case of a partnership established to carry out an activity described in paragraph (1), (2), (3), (4), (5), or (6) of subsection (b), an institution of higher education; or

(B) in the case of a partnership established to carry out an activity described in subsection (b)(7), an educational communications entity;

(2) is governed by an agreement which provides that—

(A) in the case of a partnership established to carry out an activity described in paragraph (1), (2), (3), (4), (5), or (6) of subsection (b), an institution of higher education in the partnership shall be responsible for—

(i) the overall administration of any project with respect to which a grant is made under this chapter; and

(ii) accounting for the funds of such projects;

(B) in the case of a partnership established to carry out an activity described in subsection (b)(7), a single member of the partnership shall be responsible for—

(i) the overall administration of any project with respect to which a grant is made under this chapter; and

(ii) accounting for the funds of such projects; and

(C) in the case of any partnership, a regional educational laboratory in the partnership shall be responsible for research-based technical assistance that will increase the probability that the school-based program will be successful; and

(3) submits to the Administrator an application which meets the requirements of subsection (d).

(d) APPLICATION REQUIREMENTS.—Each application by a partnership for a grant under this chapter shall include—

(1) a detailed explanation of the project for which the grant is requested;

(2) a description of other sources of funds for the project and a 4-year financial operating budget forecast for the project;

(3) a description of the manner in which the partnership intends to use the grant;

(4) an assurance that the partnership will not use the grant in any manner not described in the approved application for the grant;

(5) in the case of an application with respect to a project that includes any activity described in subsection (b)(7)—

(A) a copy of a binding commitment entered into between the partnership and each entity which is legally permitted to provide, and from which the partnership is to obtain, the telecommunications services and facilities required for the project, which stipulates that if the partnership receives the grant the entity will provide such telecommunications services and facilities in the area served by the entity within a reasonable time and at a charge which is in accordance with State law;

(B) an assurance that the partnership will use not less than 25 percent of the amount of the grant for instructional curriculum development and programming (including programming or software systems development to assist students, instructors, or teachers at elementary and secondary schools and at adult and vocational education and training centers), with priority given to programs in mathematics, science, writing skills, and foreign languages;

(6) a copy of all agreements governing the division of functions within the partnership;

(7) a description of how the project will be evaluated; and

(8) such other information as the Administrator may reasonably require.

SEC. 1023. CONSIDERATION OF PROJECTS.

(a) REVIEW OF APPLICATIONS.—

(1) REVIEW BY ADMINISTRATOR.—The Administrator shall—

(A) review each application submitted pursuant to section 1022(c)(3);

(B) determine whether or not the application meets the requirements of section 1022(d);

(C) approve each application which meets such requirements;

(D) disapprove each application which fails to meet such requirements; and

(E) transmit each approved application to the review panel of the State in which the partnership which submitted the application intends to implement the project described in the application.

(2) REVIEW BY STATE REVIEW PANELS.—

(A) IN GENERAL.—The review panel of each State shall examine each application transmitted to the review panel pursuant to paragraph (1)(E) to determine the technical and economic adequacy and feasibility of the project described in the application and the likelihood that the project will succeed.

(B) CONSULTATION WITH STATE EDUCATIONAL AGENCY.—The review panel of each State shall provide the State educational agency (within the meaning of section 1471(23) of the Elementary and Secondary Education Act of 1965) with such information with respect to the applications transmitted pursuant to paragraph (1)(E) as the agency may request, and shall solicit and obtain the views of the agency with respect to the ranking of the applications.

(C) AUTHORITY TO OBTAIN INFORMATION FROM APPLICANTS.—Each partnership which submits an application for a grant under this chapter shall provide the review panel of the State in which the partnership intends to implement the project described in the application such information as the review panel may reasonably request to aid in reviewing the application.

(D) AUTHORITY TO REQUEST APPLICANTS TO MODIFY PROJECTS.—The review panel may, before final consideration of an application of a partnership for a grant under this chapter, request the partnership to modify the project described in the application.

(b) RANKING OF APPLICATIONS.—

(1) IN GENERAL.—The review panel of each State shall rank, pursuant to a written policy and criteria, the applications that the review panel receives during any fiscal year for grants under this chapter, in an order which takes into account—

(A) the results of the review conducted under subsection (a)(2);

(B) the views of the State educational agency referred to in subsection (a)(2)(B);

(C) the extent to which the projects described in the applications would promote any area plan (as defined in section 360(b)(1) of the Consolidated Farm and Rural Development Act) developed for the areas in which the projects are to be implemented;

(D) all of the criteria set forth in section 361(b)(3) of such Act, without regard to the character of the projects described in the applications; and

(E) in the case of an application which describes a project which would duplicate existing services, the reasons therefor.

(2) GROUPING OF APPLICATIONS.—The review panel shall separate into 2 groups the applications received during a fiscal year. The 1st group shall consist of the applications received during the 1st 6 months of the fiscal year. The 2nd group shall consist of the applications received during the 2nd 6 months of the fiscal year.

(3) COMPETITION AMONG APPLICATIONS.—The review panel shall consider each application in a group to be competing only with the other applications in the group.

(4) WRITTEN POLICY AND CRITERIA.—

(A) IN GENERAL.—Subject to subparagraph (B), the review panel shall develop the written policy and criteria to be used to rank applications, in the same manner as the review panel develops the written policy and criteria used for purposes of section 361(b)(30 of the Consolidated Farm and Rural Development Act.

(B) PROHIBITION AGAINST FUNDING OF DEVELOPMENT OR ACQUISITION OF TELECOMMUNICATIONS TRANSMISSION SERVICES OR FACILITIES (OTHER THAN INSTALLATION CHARGES).—The policy and criteria developed under subparagraph (A) shall require that the project described in an application not include grant money for the operation of telecommunications transmission services or facilities (other than to establish such services or facilities).

(c) TRANSMITTAL OF RANKED APPLICATIONS.—A review panel in a State shall transmit to the State coordinator appointed pursuant to section 360(b)(3)(B) of the Consolidated Farm and Rural Development Act each list of applications ranked pursuant to subsection (b) of this section, in the same manner in which lists of applications ranked pursuant to section 361(b) of the Consolidated Farm and Rural Development Act are transmitted to the State coordinator pursuant to such section 361. The State coordinator shall transmit to the Administrator each such list received by the State coordinator.

SEC. 1024. ADMINISTRATION OF GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS TO ELIGIBLE PROJECTS.—The Administrator shall, with respect to each list transmitted by the State coordinator of a State pursuant to section 1023(c)—

(1) review the list and determine whether—

(A) each project and partnership described in an application in the list meets the requirements of section 1022; and

(B) the partnership proposing the project is committed to the continuation or successful completion of the project;

(2) remove from the list any application for a project if the project, the partnership, or the application proposing the project does not meet the requirements described in paragraph (1); and

(3) subject to the availability of funds allotted to the State under section 1025, make grants to eligible projects in the applications remaining in the list after the list has (if necessary) been modified pursuant to paragraph (2), giving great weight to the order in which the applications for such projects are ranked by the review panel under section 1023(b).

(b) REPORT REQUIRED IF ADMINISTRATOR INTENDS TO FUND PROJECTS OTHER THAN AS RECOMMENDED BY REVIEW PANEL.—If the Administrator determines to make grants to projects in a State other than in the manner recommended by the review panel of the State, the Administrator—

(1) within 10 days after making such determination, shall submit to the review panel, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the reasons for making grants to projects other than in the manner so recommended; and

(2) shall not make such grants before the end of the 7-day period beginning on the date the review panel and such committees have received such report.

(c) MONITORING OF USE OF GRANTS.—The Administrator shall take such steps as may be necessary to ensure that the grants made under this chapter are used in accordance with the approved grant applications.

(d) INFORMATIONAL EFFORTS.—The Administrator shall establish and implement procedures to inform providers of educational services, local governments, businesses, and residents in rural areas about the grant program established by this chapter, including application procedures and deadlines.

(e) PROGRAM EVALUATION.—

(1) REPORT REQUIRED.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Administrator, in consultation with the Secretary of Education, shall prepare a report on the grant program established by this chapter and the social and economic effects of the program.

(2) CONTENTS.—The report required by this subsection shall include for the period covered by the report—

(A) a complete description of each project which has received a grant under this chapter;

(B) an evaluation of the achievements and failures of the grant program; and

(C) the long range plans to develop the grant program further.

(3) SUBMISSION OF REPORT.—The report required by this subsection shall be submitted to the Committee on Agriculture and the Committee on Education and Labor of the House of Representatives, to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Labor and Human Resources of the Senate, and to each review panel.

SEC. 1025. STATE ALLOTMENT FORMULA.

(a) FORMULA.—From the sums appropriated for any fiscal year to carry out this chapter, the Administrator shall allot to projects in any State for the fiscal year the sum of—

(1) an amount which bears the same ratio to ½ of such sums as—

(A) the nonurban population of the State, multiplied by the State's sparsity factor; bears to

(B) the nonurban population of the United States, multiplied by the sparsity factor for the United States (determined as if the United States were a single State); and

(2) an amount which bears the same ratio to ½ of such sums as—

(A) the nonurban population of the State, multiplied by the State's school sparsity index; bears to

(B) the nonurban population of the United States, multiplied by the average school sparsity index for the United States (determined as if the United States were a single State).

(b) PRIMARY DEFINITIONS.—As used in subsection (a):

(1) SPARSITY FACTOR.—The term "sparsity factor" means, with respect to a State, a number equal to the lesser of—

(A) 10; or

(B)(i) the number of children in the United States who have attained the age of 5 years and have not attained the age of 18 years, divided by the total area of the United States in square miles; divided by

(ii) the number of children in the State who have attained the age of 5 years and have not attained the age of 18 years, divided by the total area of the State in square miles.

(2) SCHOOL SPARSITY INDEX.—The term "school sparsity index" means, with respect to a State—

(A)(i) the number of children in the United States who have attained the age of 5 years and have not attained the age of 18 years; divided by

(ii) the number of public schools in the United States, multiplied by the total area of the United States in square miles; divided by

(B)(i) the number of children in the State who have attained the age of 5 years and

have not attained the age of 18 years; divided by

(ii) the number of public schools in the State, multiplied by the total area of the State in square miles.

(c) SECONDARY DEFINITIONS.—A used in subsection (b):

(1) NONURBAN POPULATION.—The term "nonurban population" means the population of the State residing in nonurban areas, as determined by the Bureau of the Census on the basis of the most recently available data.

(2) PUBLIC SCHOOL.—The term "public school" means a public elementary or secondary school operated by a State or a local educational agency, as determined by the Secretary of Education.

(3) TOTAL AREA.—The term "total area" means with respect to a State, the land area of the State plus the water area of the State, as determined by the Bureau of the Census on the basis of the most recently available data.

(4) UNITED STATES.—The term "United States" means all of the States.

SEC. 1026. LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.

For grants under this chapter, there are authorized to be appropriated to the Administrator $20,000,000 for each fiscal year.

CHAPTER 2—BUSINESS DEVELOPMENT

SEC. 1031. PURPOSES.

The purposes of this chapter are to—

(1) provide funds to improve telecommunications service in rural areas; and

(2) provide access to adanced telecommunications services and computer networks to improve job opportunities and the business environment in rural areas.

SEC. 1032. GENERAL REQUIREMENTS.

(a) APPLICATION PROCESS.—

(1) SUBMISSION OF APPLICATION.—Any entity desiring a loan under section 310B(i) of the Consolidated Farm and Rural Development Act shall submit an application therefor to the Administrator.

(2) CONTENTS OF APPLICATION.—Each application for a loan under section 310B(i) of the Consolidated Farm and Rural Development Act shall include—

(A) a detailed explanation of the proposed rural telecommunications system, including the general telecommunications transmission services and facilities required, and a list of the specific equipment that the applicant proposes to purchase or lease, to implement the system;

(B) a description of the manner in which the proposed project is to be funded;

(C) a copy of a binding commitment entered into between the applicant and each entity which is legally permitted to provide, and from which the applicant is to obtain, the telecommunications services and facilities required for the project, which stipulates that if the applicant receives the loan requested in the application the entity will provide such telecommunications services and facilities in the area served by the entity within a reasonable time and at a charge which is in accordance with State law;

(D) a description of the manner in which the applicant intends to use the loan requested in the application;

(E) a descripion of how the proposed project will be evaluated; and

(F) such other information as the Administrator may reasonably require.

(b) CONSIDERATION OF APPLICATIONS.—

(1) REVIEW BY ADMINISTRATOR.—The Administrator shall—

(A) review each application submitted pursuant to subsection (a)(1);

(B) determine whether or not the application meets the requirements of subsection (a)(2);

(C) approve each application which meets such requirements;

(D) disapprove each application which fails to meet such requirements; and

(E) transmit each approved application to the review panel of the State in which the entity which submitted the application intends to implement the project described in the application.

(2) REVIEW BY STATE REVIEW PANELS.—

(A) IN GENERAL.—The review panel of a State shall examine each application transmitted to the review panel pursuant to paragraph (1)(E) to determine the technical and economic adequacy and feasibility of the project described in the application and the likelihood that the project will succeed.

(B) AUTHORITY TO OBTAIN INFORMATION FROM APPLICANTS.—Each entity which submits an application for a loan under section 310B(i) of the Consolidated Farm and Rural Development Act shall provide the review panel of the State in which the partnership intends to implement the project described in the application such information as the review panel may reasonably request to assist in reviewing the application.

(C) AUTHORITY TO REQUEST APPLICANTS TO MODIFY PROJECTS.—The review panel may, before final consideration of an application of an entity for a loan under section 310B(i) of the Consolidated Farm and Rural Development Act, request the entity to modify the project described in the application.

(3) RANKING OF APPLICATIONS.—

(A) IN GENERAL.—The review panel of each State shall rank, pursuant to a written policy and criteria, the applications that the review panel receives during any fiscal year for a loan under section 310B(i) of the Consolidated Farm and Rural Development Act, in the order which takes into account—

(i) the results of the review conducted under paragraph (1);

(ii) the extent to which the projects described in the applications would promote any area plan (as defined in section 360(b)(1) of the Consolidated Farm and Rural Development Act) developed for the areas in which the projects are to be implemented; and

(iii) in the case of a project which would duplicate existing services, the reasons therefor.

(B) GROUPING OF APPLICATIONS.—The review panel shall separate into 2 groups the applications for a loan under section 310B(i) of the Consolidated Farm and Rural Development Act received by the review panel during a fiscal year. The 1st group shall consist of the applications received during the 1st 6 months of the fiscal year. the 2nd group shall consist of the applications received during the 2nd 6 months of the fiscal year.

(C) COMPETITION AMONG APPLICATIONS.—The review panel shall consider each application in a group to be competing only with the other applications in the group.

(D) WRITTEN POLICY AND CRITERIA.—

(i) IN GENERAL.—Subject to clause (ii), the review panel shall develop the written policy and criteria to be used to rank applications, in the same manner as the review panel develops the written policy and criteria used for purposes of section 361(b)(3) of the Consolidated Farm and Rural Development Act.

(ii) PROHIBITION AGAINST FUNDING OF DEVELOPMENT OR ACQUISITION OF TELECOMMUNICATIONS TRANSMISSION SERVICES OR FACILITIES (OTHER THAN INSTALLATION CHARGES).—The policy and criteria development under clause (i) shall require that the project described in an application not include grant money for the operation of telecommunications transmission services or facilities (other than to establish such services or facilities.)

(3) TRANSMITTAL OF RANKED APPLICATIONS.—A review panel in a State shall transmit to the State coordinator appointed pursuant to section 360(b)(3)(B) of the Consolidated Farm and Rural Development Act each list of applications ranked pursuant to paragraph (2) of this subsection, in the same manner in which lists of applications ranked pursuant to section 361(b) of the Consolidated Farm and Rural Development Act are transmitted to the State coordinator pursuant to such section 361. The State coordinator shall transmit to the Administrator each such list received by the State coordinator.

(c) PRIORITY.—The Administrator shall establish procedures to target assistance under section 310B(i) of the Consolidated Farm and Rural Development Act to the rural areas and applicants that demonstrate the need for such assistance, taking into consideration—

(1) the relative needs of all applicants;

(2) the needs of the affected rural areas;

(3) the financial ability of the applicants, without such assistance, to use telecommunications for the business purposes for which such loans may be made; and

(4) the recommendations of the review panels for the States in which such areas are located.

(d) REPORT REQUIRED IF ADMINISTRATOR INTENDS TO FUND PROJECTS OTHER THAN AS RECOMMENDED BY REVIEW PANEL.—If the Administrator determines to provide loans under section 310B(i) of the Consolidated Farm and Rural Development Act to projects in a State other than in the manner recommended by the review panel of the State, the Administrator—

(1) within 10 days after making such determination, shall submit to the review panel, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the reasons for providing loans to projects other than in the manner so recommended; and

(2) shall not provide such loans before the end of the 7-day period beginning on the date the review panel and such committees have received such report.

(e) MONITORING OF USE OF AID.—The Administrator shall take such steps as may be necessary to ensure that aid provided under section 310B(i) of the Consolidated Farm and Rural Development Act is used in accordance with the approved application therefor.

SEC. 1033. LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding after the subsections added by section 402(a) of this Act the following:

"(i)(1) The Administrator may make loans under this subsection at low interest rates and at market rates to 1 or more businesses, local governments, or public agencies in rural areas to fund facilities in which the recipients of such loans share telecommunications terminal equipment (as defined in section 1043(10) of the Rural Economic Devel-

opment Act of 1990), computers, computer software, and computer hardware.

"(2) Sections 1032, 1041, and 1042 of such Act shall apply to the loan program established under this subsection.

"(3) For purposes of this title, the loan program established under this subsection shall be treated as a designated rural development program (within the meaning of section 360(b)(2) of this Act).

"(4)(A) For loans under this subsection, there are authorized to be appropriated to the Administrator $15,000,000 for each of fiscal years 1990, 1991, 1992, 1993, and 1994.

"(B) Amounts appropriated pursuant to subparagraph (A) shall remain available until expended.".

CHAPTER 3—GENERAL PROVISIONS

SEC. 1041. RELATIONSHIP TO STATE LAW.

This subtitle shall not be construed to affect in any manner the applicability of the Communications Act of 1934, the regulations and orders prescribed thereunder, or any State or local law relating to the regulation or provision of telecommunications facilities or services.

SEC. 1042. REGULATIONS.

Not later than 120 days after the date of the enactment of this Act, the Administrator shall prescribe final regulations governing the grant program established under chapter 1 and the loan program established under section 310B(i) of the Consolidated Farm and Rural Development Act, in accordance with the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, notwithstanding subsection (a)(2) of such section 553.

SEC. 1043. DEFINITIONS.

As used in this subtitle.

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Development Administration.

(2) EDUCATIONAL COMMUNICATIONS ENTITY.—The term "educational communications entity" means—

(A) an entity licensed by the Federal Communications Commission to operate a noncommercial educational television station;

(B) a telecommunications partnership organized on a multistate basis which meets the requirements of section 904 of the Education for Economic Security Act; or

(C) an institution of higher education with an advanced telecommunications ability.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" means any public or private college or university, including a land grant university and a junior or community college, that is accredited by a nationally recognized accrediting agency or organization approved by the Secretary of Education for purposes of section 1201 of the Higher Education Act of 1965.

(4) INTERACTIVE VIDEO EQUIPMENT.—The term "interactive video equipment" means equipment used to produce and prepare video and audio signals for transmission between distant locations so that individuals at such locations can see and hear each other, and related equipment.

(5) REGIONAL EDUCATION LABORATORIES.—The term "regional education laboratories" means the regional education laboratories described in section 405(d)(4)(A)(i) of the General Education Provisions Act.

(6) REVIEW PANEL.—The term "review panel" means, with respect to a State, the rural economic development review panel of the State, as established pursuant to section 361 of the Consolidated Farm and Rural Development Act.

(7) RURAL AREA.—The term "rural area" has the meaning given such term in section 306(a)(7) of the Consolidated Farm and Rural Development Act for purposes of loans for essential community facilities under section 306(a)(1) of such Act.

(8) RURAL SCHOOL DISTRICT.—The term "rural school district" means a school system in a rural area which provides elementary and secondary education.

(9) STATE.—The term "State" has the same meaning given such term by section 343(a)(6) of the Consolidated Farm and Rural Development Act.

(10) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term "telecommunications terminal equipment" means telecommunications equipment (excluding telecommunications transmission facilities) that—

(A) interconnects with telecommunications transmission facilities; and

(B) modifies, converts, encodes, or otherwise prepares signals to be transmitted through, or modifies, reconverts, or carries signals received from, the facilities.

(11) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term "telecommunications transmission facilities" means facilities (other than telecommunications terminal equipment) that transmit, receive, or carry signals between the telecommunications terminal equipment at each end of a telecommunications circuit or path.

Subtitle B—Miscellaneous Rural Telecommunications Provisions

SEC. 1051. SHORT TITLE.

This subtitle may be cited as the "Rural Telecommunications Infrastructure Improvements Act of 1990".

SEC. 1052. RURAL TELECOMMUNICATIONS ZONES.

(a) LISTS OF STATE RURAL TELECOMMUNICATIONS ZONES.—

(1) PREPARATION OF LIST.—Not later than July 1 of each calendar year, the Administrator shall, in accordance with regulations prescribed pursuant to subsection (e), prepare a report, for the Federal fiscal year beginning on October 1 of the Calendar year, which—

(A) contains a list compiled in accordance with paragraph (2) of the rural areas in each State that will have advanced telecommunications capability in place not later than the end of the 2-year period beginning on October 1 of the calendar year;

(B) contains the reasons why the Administrator has determined that such rural areas will be as described in subparagraph (A);

(C) ranks such rural areas in the order in which the Administrator desires data processing (or other telecommunications intensive) firms to locate in such areas during the Federal fiscal year beginning in the calendar year, based on projections of—

(i) the facilities in place in the area which provide advanced telecommunications capabilities;

(ii) the economic infrastructure needs of the area;

(iii) the employment needs of the area;

(iv) the availability of persons with telecommunications skills in the area; and

(v) the cost of labor in the area; and

(D) for each rural area on the list, provides a summary of the characteristics of the area which are set forth in subparagraph (C).

(2) NUMBER OF RURAL AREAS PER STATE IN LIST.—The number of rural areas in a State that the Administrator shall include on the list prepared pursuant to paragraph (1) shall be the greater of—

(A) the product of—

(i) the number of individuals who reside in rural areas in the State rounded down to the greatest multiple of 1,000,000 which is less than such number of individuals; and

(ii) 3/1,000,000; and

(B) 3.

(b) PROVISION OF REPORT TO FEDERAL AGENCIES CONSIDERING RELOCATING DATA PROCESSING OPERATIONS.—The Administrator shall provide to each Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year a copy of the report prepared pursuant to subsection (a) for the fiscal year.

(c) AGENCIES REQUIRED TO ANALYZE COSTS AND BENEFITS OF CERTAIN RELOCATION OPTIONS.—Any Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year shall—

(1) obtain from the Administrator a copy of the report prepared for the fiscal year pursuant to subection (a);

(2) select from the list contained in the report at least 1 or more areas which the agency regards as best meeting the requirements of the agency's data processing (or other telecommunications intensive) operation; and

(3) perform a comparative analysis of the costs and benefits of—

(A) not relocating the operation;

(B) relocating the operation to any of the areas selected from the list; and

(C) relocating the operation to any other area to which the agency is considering relocating.

(d) REPORT REQUIRED IF AGENCY DOES NOT RELOCATE DATA PROCESSING OPERATION TO AREA SELECTED FROM LIST.—If a Federal agency is not prohibited by law from relocating a data processing operation to any area selected by the agency pursuant to subsection (c)(2), and the agency determines that the operation is to be relocated to an area other than any such selected area, the agency shall submit a report detailing the reasons for the determination to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Administrator, the Administrator of the Rural Electrification Administration, and the Administrator of the General Services Administration.

(e) REGULATIONS.—The Administrator shall, in consultation with the Administrator of the Rural Electrification Administration, prescribe such regulations as may be necessary to carry out this section.

(f) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Development Administration.

(2) RURAL AREA.—The term "rural area" has the meaning given such term in section 306(a)(7) of the Consolidated Farm and Rural Development Act for purposes of loans for essential community facilities under section 306(a)(1) of such Act.

SEC. 1053. GRANTS FOR EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEMS.

(a) IN GENERAL.—The Under Secretary shall make grants to eligible governments for the development and installation of emergency public safety telephone answering systems, including the construction and installation of such street signs, the assignment of street numbers to such locations,

and the preparation of such maps as may be required for such systems to operate effectively.

(b) MAXIMUM GRANT PER LOCAL GOVERNMENT.—The Under Secretary shall not make a grant exceeding $30,000 under subsection (a) to any local government.

(c) MAXIMUM AMOUNT OF GRANTS PER YEAR.—The Under Secretary shall not make grants aggregating more than $3,000,000 under subsection (a) in any fiscal year.

(d) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under subsection (a), there are authorized to be appropriated to the Under Secretary not to exceed $3,000,000 for each of fiscal years 1990, 1991, 1993, and 1994.

(e) DEFINITIONS.—As used in this section:

(1) ELIGIBLE GOVERNMENT.—The term "eligible government" means a political subdivision of a State—

(A) which is a rural area; and

(B) which the Under Secretary determines would, within 2 years after the date of the enactment of this section, have an emergency public safety telephone answering system were it not for a lack of street signs, street numbers for locations, or maps required for such a system to operate effectively.

(2) EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEM.—The term "emergency public safety telephone answering system" means a telecommunications system operated by public safety authorities that—

(A) enables persons to report police, fire, medical, and other emergencies to such authorities by use of a telephone; and

(B) automatically identifies the telephone number and location of the telephone which is the source of such a report.

(3) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Agriculture for Small Community and Rural Development.

SEC. 1054. STUDY ON USE OF TELECOMMUNICATIONS INFRASTRUCTURE BY BUSINESSES IN RURAL AREAS.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study and evaluate—

(1) the availability, and effective use, of the telecommunications infrastructure by small and large businesses in rural areas; and

(2) the achievements and shortcomings of the programs established under this title and the amendment made by this title.

(b) COORDINATION.—The Secretary may coordinate the study required by subsection (a) with other Federal agencies with telecommunications expertise.

(c) RECOMMENDATIONS.—The Secretary may recommend to the Committee on Agriculture and the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation of the Senate, such legislation as will promote rural economic development through advanced telecommunications technology, as the Secretary considers appropriate.

(d) RURAL AREA DEFINED.—As used in this section, the term "rural area" has the meaning given such term in section 306(a)(7) of the Consolidated Farm and Rural Development Act for purposes of loans for essential community facilities under section 306(a)(1) of such Act.

By Mr. WISE:

—Page 93, after line 8, insert the following:

TITLE X—ENHANCING HUMAN RESOURCES

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Rural Business Development and Telecommunications Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1001. Short title; table of contents.

Subtitle A—Rural Business Development

Sec. 1011. Purposes.

Sec. 1012. Loans for business telecommunications partnerships.

Subtitle B—Rural Telecommunications Provisions

Sec. 1051. Rural telecommunications zones.

Sec. 1052. Grants for emergency public safety telephone answering systems.

Sec. 1053. Study on use of telecommunications infrastructure by businesses in rural areas.

Subtitle A—Rural Business Development

SEC. 1011. PURPOSES.

The purposes of this subtitle are to—

(1) provide funds to improve telecommunications service in rural areas; and

(2) provide access to advanced telecommunications services and computer networks to improve job opportunities and the business environment in rural areas.

SEC. 1012. LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding after the subsections added by section 402(a) of this Act the following:

"(i) LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.—

"(1) IN GENERAL.—The Administrator may make loans under this subsection at low interest rates and at market rates to 1 or more businesses, local governments, or public agencies in rural areas to fund facilities in which the recipients of such loans share telecommunications terminal equipment, computers, computer software, and computer hardware.

"(2) GENERAL REQUIREMENTS.—

"(A) APPLICATION PROCESS.—

"(i) SUBMISSION OF APPLICATION.—Any entity desiring a loan under this subsection shall submit an application therefor to the Administrator.

"(ii) CONTENTS OF APPLICATION.—Each application for a loan under this subsection shall include—.

"(I) a detailed explanation of the proposed rural telecommunications system, including the general telecommunications transmission services and facilities required, and a list of the specific equipment that the applicant proposes to purchase or lease, to implement the system;

"(II) a description of the manner in which the proposed project is to be funded;

"(III) a copy of a binding commitment entered into between the applicant and each entity which is legally permitted to provide, and from which the applicant is to obtain, the telecommunications services and facilities required for the project, which stipulates that if the applicant receives the loan requested in the application the entity will provide such telecommunications services and facilities in the area served by the entity within a reasonable time and at a charge which is in accordance with State law;

"(IV) a description of the manner in which the applicant intends to use the loan requested in the application;

"(V) a description of how the proposed project will be evaluated; and

"(VI) such other information as the Administrator may reasonably require.

"(B) CONSIDERATION OF APPLICATIONS.—

"(i) REVIEW BY ADMINISTRATOR.—The Administrator shall—

"(I) review each application submitted pursuant to subparagraph (A)(i):

"(II) determine whether or not the application meets the requirements of subparagraph (A)(ii);

"(III) approve each application which meets such requirements;

"(IV) disapprove each application which fails to meet such requirements; and

"(V) transmit each approved application to the review panel of the State in which the entity which submitted the application intends to implement the project described in the application.

"(ii) REVIEW BY STATE REVIEW PANELS.—

"(I) IN GENERAL.—The review panel of a State shall examine each application transmitted to the review panel pursuant to clause (i)(V) to determine the technical and economic adequacy and feasibility of the project described in the application and the likelihood that the project will succeed.

"(II) AUTHORITY TO OBTAIN INFORMATION FROM APPLICANTS.—Each entity which submits an application for a loan under this subsection shall provide the review panel of the State in which the partnership intends to implement the project described in the application such information as the review panel may reasonably request to assist in reviewing the application.

"(III) AUTHORITY TO REQUEST APPLICANTS TO MODIFY PROJECTS.—The review panel may, before final consideration of an application of an entity for a loan under this subsection, request the entity to modify the project described in the application.

"(iii) RANKING OF APPLICATIONS.—

"(I) IN GENERAL.—The review panel of each State shall rank, pursuant to a written policy and criteria, the applications that the review panel receives during any fiscal year for a loan under this subsection, in an order which takes into account—

"(aa) the results of the review conducted under clause (i);

"(bb) the extent to which the projects described in the applications would promote any area plan (as defined in section 360(b)(1)) developed for the areas in which the projects are to be implemented; and

"(cc) in the case of a project which would duplicate existing services, the reasons therefore.

"(II) GROUPING ON APPLICATIONS.—The review panel shall separate into 2 groups the applications for a loan under this subsection received by the review panel during a fiscal year. The 1st group shall consist of the applications received during the 1st 6 months of the fiscal year. The 2nd group shall consist of the applications received during the 2nd 6 months of the fiscal year.

"(III) COMPETITION AMONG APPLICATIONS.—The review panel shall consider each application in a group to be competing only with the other applications in the group.

"(IV) WRITTEN POLICY AND CRITERIA.—

"(aa) IN GENERAL.—Subject to subdivision (bb), the review panel shall develop the written policy and criteria to be used to rank applications, in the same manner as the review panel develops the written policy

and criteria used for purposes of section 361(b)(3).

"(bb) PROHIBITION AGAINST DEVELOPMENT OR ACQUISITION OF TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The policy and criteria developed under subdivision (aa) shall require that the project described in an application not include the development or acquisition of telecommunications transmission facilities.

"(iii) TRANSMITTAL OF RANKED APPLICATIONS.—A review panel in a State shall transmit to the State coordinator appointed pursuant to section 360(b)(3)(B) each list of applications ranked pursuant to clause (ii) of this subsection, in the same manner in which lists of applications ranked pursuant to section 361(b) are transmitted to the State coordinator pursuant to section 361. The State coordinator shall transmit to the Administrator each such list received by the State coordinator.

"(C) PRIORITY.—The Administrator shall establish procedures to target loans under this subsection to the rural areas and applicants that demonstrate the need for such loans, taking into consideration—

"(i) the relative needs of all applicants;

"(ii) the needs of the affected rural areas;

"(iii) the financial ability of the applicants, without such loans, to use telecommunications for the business purposes for which such loans may be made; and

"(iv) the recommendations of the review panels for the States in which such areas are located.

"(D) REPORT REQUIRED IF ADMINISTRATOR INTENDS TO FUND PROJECTS OTHER THAN AS RECOMMENDED BY REVIEW PANEL.—If the Administrator determines to provide loans under this subsection to projects in a State other than in the manner recommended by the review panel of the State, the Administrator—

"(i) within 10 days after making such determination, shall submit to the review panel, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the reasons for providing loans to projects other than in the manner so recommended; and

"(ii) shall not provide such loans before the end of the 7-day period beginning on the date the review panel and such committees have received such report.

"(E) MONITORING OF USE OF LOANS.—The Administrator shall take such steps as may be necessary to ensure that loans provided under this subsection are used in accordance with the approved application therefor.

"(3) RELATIONSHIP TO STATE LAW.—This subsection shall not be construed to affect in any manner the applicability of the Communications Act of 1934, the regulations and orders prescribed thereunder, or any State or local law relating to the regulation or provision of telecommunications facilities or services.

"(4) REGULATIONS.—Not later than 120 days after the date of the enactment of this subsection, the Administrator shall prescribe final regulations governing the loan program established under this subsection, in accordance with the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, notwithstanding subsection (a)(2) of such section 553.

"(5) DEFINITIONS.—As used in this subsection:

"(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Rural Development Administration.

"(B) REVIEW PANEL.—The term 'review panel' means, with respect to a State, the rural economic development review panel of the State, as established pursuant to section 361.

"(C) RURAL AREA.—The term 'rural area' means a county with an urban population of fewer than 25,000 individuals.

"(D) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term 'telecommunications terminal equipment' means telecommunications equipment (excluding telecommunications transmission facilities) that—

"(i) interconnects with telecommunications transmission facilities; and

"(ii) modifies, converts, encodes, or otherwise prepares signals to be transmitted through, or modifies, reconverts, or carries signals received from, the facilities.

"(E) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term 'telecommunications transmission facilities' means facilities (other than telecommunications terminal equipment) that transmit, receive, or carry signals between the telecommunications terminal equipment at each end of the telecommunications circuit or path.

"(6) TREATMENT OF LOAN PROGRAM AS DESIGNATED RURAL DEVELOPMENT PROGRAM.—For purposes of this title, the loan program established under this subsection shall be treated as a designated rural development program (within the meaning of section 360(b)(2)).

"(7) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—For loans under this subsection, there are authorized to be appropriated to the Administrator $15,000,000 for each of fiscal years 1990, 1991, 1992, 1993, and 1994.

"(B) AVAILABILITY.—Amounts appropriated pursuant to subparagraph (A) shall remain available until expended.".

Subtitle B—Rural Telecommunications Provisions

SEC. 1051. RURAL TELECOMMUNICATIONS ZONES.

(a) LISTS OF STATE RURAL TELECOMMUNICATIONS ZONES.—

(1) PREPARATION OF LIST.—Not later than July 1 of each calendar year, the Administration shall, in accordance with regulations prescribed pursuant to subsection (e), prepare a report, for the Federal fiscal year beginning on October 1 of the calendar year, which—

(A) contains a list compiled in accordance with paragraph (2) of the rural areas in each State that will have advanced telecommunications capability in place not later than the end of the 2-year period beginning on October 1 of the calendar year;

(B) contains the reasons why the Administrator has determined that such rural areas will be as described in subparagraph (A);

(C) ranks such rural areas in the order in which the Administrator desires data processing (or other telecommunications intensive) firms to locate in such areas during the Federal fiscal year beginning in the calendar year, based on projections of—

(i) the facilities in place in the area which provide advanced telecommunications capabilities;

(ii) the economic infrastructure needs of the area;

(iii) the employment needs of the area;

(iv) the availability of persons with telecommunications skills in the area; and

(v) the cost of labor in the area; and

(D) For each rural area on the list, provides a summary of the characteristics of the area which are set forth in subparagraph (C).

(2) NUMBER OF RURAL AREAS PER STATE IN LIST.—The number of rural areas in a State that the Administrator shall include on the list prepared pursuant to paragraph (1) shall be the greater of—

(A) the product of—

(i) the number of individuals who reside in rural areas in the State rounded down to the greatest multiple of 1,000,000 which is less than such number of individuals; and

(ii) 3/1,000,000; and

(B) 3.

(b) PROVISION OF REPORT TO FEDERAL AGENCIES CONSIDERING RELOCATING DATA PROCESSING OPERATIONS.—The Administrator shall provide to each Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year a copy of the report prepared pursuant to subsection (a) for the fiscal year.

(c) AGENCIES REQUIRED TO ANALYZE COSTS AND BENEFITS OF CERTAIN RELOCATION OPTIONS.—Any Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year shall—

(1) obtain from the Administrator a copy of the report prepared for the fiscal year pursuant to subsection (a);

(2) select from the list contained in the report at least 1 or more areas which the agency regards as best meeting the requirements of the agency's data processing (or other telecommunications intensive) operation; and

(3) perform a comparative analysis of the costs and benefits of—

(A) not relocating the operation;

(B) relocating the operation to any of the areas selected from the list; and

(C) relocating the operation to any other area to which the agency is considering relocating.

(d) REPORT REQUIRED IF AGENCY DOES NOT RELOCATE DATA PROCESSING OPERATION TO AREA SELECTED FROM LIST.—If a Federal agency is not prohibited by law from relocating a data processing operation to any area selected by the agency pursuant to subsection (c)(2), and the agency determines that the operation is to be relocated to an area other than any such selected area, the agency shall submit a report detailing the reasons for the determination to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Administrator, the Administrator of the Rural Electrification Administration, and the Administrator of the General Services Administration.

(e) REGULATIONS.—The Administrator shall, in consultation with the Administrator of the Rural Electrification Administration, prescribed such regulations as may be necessary to carry out this section.

(f) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Development Administration.

(2) RURAL AREA.—The term "rural area" means a county with an urban population of fewer than 25,000 individuals.

SEC. 1052. GRANTS FOR EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEMS.

(a) IN GENERAL.—The Under Secretary shall make grants to eligible governments for the development and installation of emergency public safety telephone answering systems, including the construction and

installation of such street signs, the assignment of street numbers to such locations, and the preparation of such maps as may be required for such systems to operate effectively.

(b) MAXIMUM GRANT PER LOCAL GOVERNMENT.—The Under Secretary shall not make a grant exceeding $30,000 under subsection (a) to any local government.

(c) MAXIMUM AMOUNT OF GRANTS PER YEAR.—The Under Secretary shall not make grants aggregating more than $3,000,000 under subsection (a) in any fiscal year.

(d) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under subsection (a), there are authorized to be appropriated to the Under Secretary not to exceed $3,000,000 for each of fiscal years 1990, 1991, 1992, 1993, and 1994.

(e) DEFINITIONS.—As used in this section:

(1) ELIGIBLE GOVERNMENT.—The term "eligible government" means a political subdivision of a State—

(A) which is in a rural area; and

(B) which the Under Secretary determines would, within 2 years after the date of the enactment of this section, have an emergency public safety telephone answering system were it not for a lack of street signs, street numbers for locations, or maps required for such a system to operate effectively.

(2) EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEM.—The term "emergency public safety telephone answering system" means a telecommunications system operated by public safety authorities that—

(A) enables persons to report police, fire, medical, and other emergencies to such authorities by use of a telephone; and

(B) automatically identifies the telephone number and location of the telephone which is the source of such a report.

(3) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Agriculture for Small Community and Rural Development.

SEC. 1053. STUDY ON USE OF TELECOMMUNICATIONS INFRASTRUCTURE BY BUSINESSES IN RURAL AREAS.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study and evaluate—

(1) the availability, and effective use, of the telecommunications infrastructure by small and large businesses in rural areas; and

(2) the achievements and shortcomings of the programs established under this title and the amendment made by this title.

(b) COORDINATION.—The Secretary may coordinate the study required by subsection (a) with other Federal agencies with telecommunications expertise.

(c) RECOMMENDATIONS.—The Secretary may recommend to the Committee on Agriculture and the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation of the Senate, such legislation as will promote rural economic development through advanced telecommunications technology, as the Secretary considers appropriate.

(d) RURAL AREA DEFINED.—As used in this section, the term "rural area" means a county with an urban population of fewer than 25,000 individuals.

—At the end of the bill, insert the following:

TITLE X—ENHANCING HUMAN RESOURCES

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Rural Business Development and Telecommunications Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1001. Short title; table of contents.

Subtitle A—Rural Business Development

Sec. 1011. Purposes.
Sec. 1012. General requirements.
Sec. 1013. Loans for business telecommunications partnerships.
Sec. 1014. Relationship to State law.
Sec. 1015. Regulations.
Sec. 1016. Definitions.

Subtitle B—Rural Telecommunications Provisions

Sec. 1051. Rural telecommunications zones.
Sec. 1052. Grants for emergency public safety telephone answering systems.
Sec. 1053. Study on use of telecommunications infrastructure by businesses in rural areas.

SUBTITLE A—RURAL BUSINESS DEVELOPMENT

SEC. 1011. PURPOSES.

The purposes of this subtitle are to—

(1) provide funds to improve telecommunications service in rural areas; and

(2) provide access to advanced telecommunications services and computer networks to improve job opportunities and the business environment in rural areas.

SEC. 1012. GENERAL REQUIREMENTS.

(a) APPLICATION PROCESS.—

(1) SUBMISSION OF APPLICATION.—Any entity desiring a loan under section 310B(i) of the Consolidated Farm and Rural Development Act shall submit an application therefor to the Administrator.

(2) CONTENTS OF THE APPLICATION.—Each application for a loan under section 310B(i) of the Consolidated Farm and Rural Development Act shall include—

(A) a detailed explanation of the proposed rural telecommunications system, including the general telecommunications transmission services and facilities required, and a list of the specific equipment that the applicant proposes to purchase or lease, to implement the system;

(B) a description in the manner in which the proposed project is to be funded;

(C) a copy of a binding commitment entered into between the applicant and each entity which is legally permitted to provide, and from which the applicant is to obtain, the telecommunications services and facilities required for the project, which stipulates that if the applicant receives the loan requested in the application the entity will provide such telecommunications services and facilities in the area served by the entity within a reasonable time and at a charge which is in accordance with State law;

(D) a description of the manner in which the applicant intends to use the loan requested in the application;

(E) a description of how the proposed project will be evaluated; and

(F) such other information as the Administrator may reasonably require.

(b) CONSIDERATION OF APPLICATIONS.—

(1) REVIEW BY ADMINISTRATOR.—The Administrator shall—

(A) review each application submitted pursuant to subsection (a)(1);

(B) determine whether or not the application meets the requirements of subsection (a)(2);

(C) approve each application which meets such requirements;

(D) disapprove each application which fails to meet such requirements; and

(E) transmit each approved application to the review panel of the State in which the entity which submitted the application intends to implement the project described in the application.

(2) REVIEW BY STATE REVIEW PANELS.—

(A) IN GENERAL.—The review panel of a State shall examine each application transmitted to the review panel pursuant to paragraph (1)(E) to determine the technical and economic adequacy and feasibility of the project described in the application and the likelihood that the project will succeed.

(B) AUTHORITY TO OBTAIN INFORMATION FROM APPLICANTS.—Each entity which submits an application for a loan under section 310B(i) of the Consolidated Farm and Rural Development Act shall provide the review panel of the State in which the partnership intends to implement the project described in the application such information as the review panel may reasonably request to assist in reviewing the application.

(C) AUTHORITY TO REQUEST APPLICANTS TO MODIFY PROJECTS.—The review panel may, before final consideration of an application of an entity for a loan under section 310B(i) of the Consolidated Farm and Rural Development Act, request the entity to modify the project described in the application.

(3) RANKING OF APPLICATIONS.—

(A) IN GENERAL.—The review panel of each State shall rank, pursuant to a written policy and criteria, the applications that the review panel receives during any fiscal year for a loan under section 310B(i) of the Consolidated Farm and Rural Development Act, in an order which takes into account—

(i) the results of the review conducted under paragraph (1);

(ii) the extent to which the projects described in the applications would promote any area plan (as defined in section 360(b)(1) of the Consolidated Farm and Rural Development Act) developed for the areas in which the projects are to be implemented; and

(iii) in the case of a project which would duplicate existing services, the reasons therefor.

(B) GROUPING OF APPLICATIONS.—The review panel shall separate into 2 groups the applications for a loan under section 310B(i) of the Consolidated Farm and Rural Development Act received by the review panel during a fiscal year. The 1st group shall consist of the applications received during the 1st 6 months of the fiscal year. The 2nd group shall consist of the applications received during the 2nd 6 months of the fiscal year.

(C) COMPETITION AMONG APPLICATIONS.—The review panel shall consider each application in a group to be competing only with the other applications in the group.

(D) WRITTEN POLICY AND CRITERIA.—

(i) IN GENERAL.—Subject to clause (ii), the review panel shall develop the written policy and criteria to be used to rank applications, in the same manner as the review panel develops the written policy and criteria used for purposes of section 361(b)(3) of the Consolidated Farm and Rural Development Act.

(ii) PROHIBITION AGAINST DEVELOPMENT OR ACQUISITION OF TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The policy and criteria developed under clause (i) shall require that the project described in an application not include the development or acquisition of telecommunications transmission facilities.

(3) TRANSMITTAL OF RANKED APPLICATIONS.—A review panel in a State shall transmit to the State coordinator appointed pursuant to section 360(b)(3)(B) of the Consolidated Farm and Rural Development Act

each list of applications ranked pursuant to paragraph (2) of this subsection, in the same manner in which lists of applications ranked pursuant to section 361(b) of the Consolidated Farm and Rural Development Act are transmitted to the State coordinator pursuant to such section 361. The State coordinator shall transmit to the Administrator each such list received by the State coordinator.

(c) PRIORITY.—The Administrator shall establish procedures to target assistance under section 310B(i) of the Consolidated Farm and Rural Development Act to the rural areas and applicants that demonstrate the need for such assistance, taking into consideration—

(1) the relative needs of all applicants;

(2) the needs of the affected rural areas;

(3) the financial ability of the applicants, without such assistance, to use telecommunications for the business purposes for which such loans may be made; and

(4) the recommendations of the review panels for the States in which such areas are located.

(d) REPORT REQUIRED IF ADMINISTRATOR INTENDS TO FUND PROJECTS OTHER THAN AS RECOMMENDED BY REVIEW PANEL.—If the Administrator determines to provide loans under section 310B(i) of the Consolidated Farm and Rural Development Act to projects in a State other than in the manner recommended by the review panel of the State, the Administrator—

(1) within 10 days after making such determination, shall submit to the review panel, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the reasons for providing loans to projects other than in the manner so recommended; and

(2) shall not provide such loans before the end of the 7-day period beginning on the date the review panel and such committees have received such report.

(e) MONITORING OF USE OF AID.—The Administrator shall take such steps as may be necessary to ensure that aid provided under section 31B(i) of the Consolidated Farm and Rural Development Act is used in accordance with the approved application therefor.

SEC. 1013. LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding after the subsections added by section 402(a) of this Act the following:

"(i)(1) The Administrator may make loans under this subsection at low interest rates and at market rates to 1 or more businesses, local governments, or public agencies in rural areas to fund facilities in which the recipients of such loans share telecommunications terminal equipment (as defined in section 1016(5) of the Rural Economic Development Act of 1990), computers, computer software, and computer hardware.

"(2) Sections 1012, 1014, and 1015 of such Act shall apply to the loan program established under this subsection.

"(3) For purposes of this title, the loan program established under this subsection shall be treated as a designated rural development program (within the meaning of section 360(b)(2) of this Act).

"(4)(A) For loans under this subsection, there are authorized to be appropriated to the Administrator $15,000,000 for each of fiscal years 1990, 1991, 1992, 1993, and 1994.

"(B) Amounts appropriated pursuant to subparagraph (A) shall remain available until expended.".

SEC. 1014. RELATIONSHIP TO STATE LAW.

This subtitle shall not be construed to affect in any manner the applicability of the Communications Act of 1934, the regulations and orders prescribed thereunder, or any State or local law relating to the regulation or provision of telecommunications facilities or services.

SEC. 1015. REGULATIONS.

Not later than 120 days after the date of the enactment of this Act, the Administrator shall prescribe final regulations governing the loan program established under section 310B(i) of the Consolidated Farm and Rural Development Act, in accordance with the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, notwithstanding subsection (a)(2) of such section 553.

SEC. 1016. DEFINITIONS.

As used in this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Development Administration.

(2) REVIEW PANEL.—The term "review panel" means, with respect to a State, the rural economic development review panel of the State, as established pursuant to section 361 of the Consolidated Farm and Rural Development Act.

(3) RURAL AREA.—The term "rural area" means a county with an urban population of fewer than 25,000 individuals.

(4) STATE.—The term "State" has the same meaning given such term by section 343(a)(6) of the Consolidated Farm and Rural Development Act.

(5) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term "telecommunications terminal equipment" means telecommunications equipment (excluding telecommunications transmission facilities) that—

(A) interconnects with telecommunications transmission facilities; and

(B) modifies, converts, encodes, or otherwise prepares signals to be transmitted through, or modifies, reconverts, or carries signals received from, the facilities.

(6) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term "telecommunications transmission facilities" means facilities (other than telecommunications terminal equipment) that transmit, receive, or carry signals between the telecommunications terminal equipment at each end of a telecommunications circuit or path.

Subtitle B—Rural Telecommunications Provisions

SEC. 1051. RURAL TELECOMMUNICATIONS ZONES.

(a) LISTS OF STATE RURAL TELECOMMUNICATIONS ZONES.—

(1) PREPARATION OF LIST.—Not later than July 1 of each calendar year, the Administrator shall, in accordance with regulations prescribed pursuant to subsection (e), prepare a report, for the Federal fiscal year beginning on October 1 of the calendar year, which—

(A) contains a list compiled in accordance with paragraph (2) of the rural areas in each State that will have advanced telecommunications capability in place not later than the end of the 2-year period beginning on October 1 of the calendar year;

(B) contains the reasons why the Administrator has determined that such rural areas will be as described in subparagraph (A);

(C) ranks such rural areas in the order in which the Administrator desires data processing (or other telecommunications intensive) firms to locate in such areas during the Federal fiscal year beginning in the calendar year, based on projections of—

(i) the facilities in place in the area which provide advanced telecommunications capabilities;

(ii) the economic infrastructure needs of the area;

(iii) the employment needs of the area;

(iv) the availability of persons with telecommunications skills in the area; and

(v) the cost of labor in the area; and

(D) for each rural area on the list, provides a summary of the characteristics of the area which are set forth in subparagraph (C).

(2) NUMBER OF RURAL AREAS PER STATE IN LIST.— The number of rural areas in a State that the Administrator shall include on the list prepared pursuant to paragraph (1) shall be the greater of—

(A) the product of—

(i) the number of individuals who reside in rural areas in the State rounded down to the greatest multiple of 1,000,000 which is less than such number of individuals; and

(ii) 3/1,000,000; and

(B) 3.

(b) PROVISION OF REPORT TO FEDERAL AGENCIES CONSIDERING RELOCATING DATA PROCESSING OPERATIONS.—The Administrator shall provide to each Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year a copy of the report prepared pursuant to subsection (a) for the fiscal year.

(c) AGENCIES REQUIRED TO ANALYZE COSTS AND BENEFITS OF CERTAIN RELOCATION OPTIONS.—Any Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year shall—

(1) obtain from the Administrator a copy of the report prepared for the fiscal year pursuant to subsection (a);

(2) select from the list contained in the report at least 1 or more areas which the agency regards as best meeting the requirements of the agency's data processing (or other telecommunications intensive) operation; and

(3) perform a comparative analysis of the costs and benefits of—

(A) not relocating the operation;

(B) relocating the operation to any of the areas selected from the list; and

(C) relocating the operation to any other area to which the agency is considering relocating.

(d) REPORT REQUIRED IF AGENCY DOES NOT RELOCATE DATA PROCESSING OPERATION TO AREA SELECTED FROM LIST.—If a Federal agency is not prohibited by law from relocating a data processing operation to any area selected by the agency pursuant to subsection (c)(2), and the agency determines that the operation is to be relocated to an area other than any such selected area, the agency shall submit a report detailing the reasons for the determination to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Administrator, the Administrator of the Rural Electrification Administration, and the Administrator of the General Services Administration.

(e) REGULATIONS.—The Administrator shall, in consultation with the Administrator of the Rural Electrification Administra-

tion, prescribe such regulations as may be necessary to carry out this section.

(f) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Development Administration.

(2) RURAL AREA.—The term "rural area" means a county with an urban population of fewer than 25,000 individuals.

SEC. 1052. GRANTS FOR EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEMS.

(a) IN GENERAL.—The Under Secretary shall make grants to eligible governments for the development and installation of emergency public safety telephone answering systems, including the construction and installation of such street signs, the assignment of street numbers to such locations, and the preparation of such maps as may be required for such systems to operate effectively.

(b) MAXIMUM GRANT PER LOCAL GOVERNMENT.—The Under Secretary shall not make a grant exceeding $30,000 under subsection (a) to any local government.

(c) MAXIMUM AMOUNT OF GRANTS PER YEAR.—The Under Secretary shall not make grants aggregating more than $3,000,000 under subsection (a) in any fiscal year.

(d) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under subsection (a), there are authorized to be appropriated to the Under Secretary not to exceed $3,000,000 for each of fiscal years 1990, 1991, 1992, 1993, and 1994.

(e) DEFINITIONS.—As used in this section:

(1) ELIGIBLE GOVERNMENT.—The term "eligible government" means a political subdivision of a State—

(A) which is in a rural area; and

(B) which the Under Secretary determines would, within 2 years after the date of the enactment of this section, have an emergency public safety telephone answering system were it not for a lack of street signs, street numbers for locations, or maps required for such a system to operate effectively.

(2) EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEM.—The term "emergency public safety telephone answering system" means a telecommunications system operated by public safety authorities that—

(A) enables persons to report police, fire, medical, and other emergencies to such authorities by use of a telephone; and

(B) automatically identifies the telephone number and location of the telephone which is the source of such a report.

(3) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Agriculture for Small Community and Rural Development.

SEC. 1053. STUDY ON USE OF TELECOMMUNICATIONS INFRASTRUCTURE BY BUSINESSES IN RURAL AREAS.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study and evaluate—

(1) the availability, and effective use, of the telecommunications infrastructure by small and large businesses in rural areas; and

(2) the achievements and shortcomings of the programs established under this title and the amendment made by this title.

(b) COORDINATION.—The Secretary may coordinate the study required by subsection (a) with other Federal agencies with telecommunications expertise.

(c) RECOMMENDATIONS.—The Secretary may recommend to the Committee on Agriculture and the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation of the Senate, such legislation as will promote rural economic development through advanced telecommunications technology, as the Secretary considers appropriate.

(d) RURAL AREA DEFINED.—As used in this section, the term "rural area" means a county with an urban population of fewer than 25,000 individuals.

SENATE—*Tuesday, March 20, 1990*

(Legislative day of Tuesday, January 23, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *Blessed be the name of God for ever and ever: for wisdom and might are his: And he changeth the times and the seasons: he removeth kings, and setteth up kings; he giveth wisdom unto the wise, and knowledge to them that know understanding; He revealeth the deep and secret things: he knoweth what is in the darkness, and the light dwelleth with him.*—Daniel 2:20-22.

Eternal God, thank Thee for this prayer of the prophet Daniel, who served as intimate counselor to four mighty ancient world rulers. In these high pressure days of explosive change, when monumental crises confront world leaders, save the Senate from the awful possibility of being busy rearranging the furniture while the building is burning down. Help them humbly to seek the wisdom and the light of the God whom Daniel served. In His name who is the light of the world. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 20, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is now recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, this morning following the time for the two leaders there will be a time for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each. At 10, the Senate will resume consideration of the clean air bill, with the modified Byrd amendment No. 132 as the pending amendment.

Prior to the recent recess period, I indicated to Senators that once we returned and resumed consideration of the clean air bill, any schedule restrictions, that is, in terms of late nights and when votes might occur, were no longer in effect for the duration of consideration of the clean air legislation.

For today, I will attempt and have attempted to accommodate those Senators who are returning from the recess, both from their own States and from other countries. We will do our best to accommodate as many Senators as possible in that regard, although Senators should be aware that votes are possible this afternoon and into the evening and, of course, throughout the days and evenings until we complete action on this bill.

From 12:30 until 2:15, the Senate will recess for the party conferences, with consideration of the clean air bill resuming when the Senate reconvenes at 2:15 p.m.

Mr. President and my colleagues, I note the presence in the Chamber of a number of our guests with the distinguished Senator from Colorado. I yield to my colleague from Colorado and ask him to recognize and introduce our guests today.

VISIT BY JAPANESE PARLIAMENTARIANS

Mr. WIRTH. I thank the distinguished majority leader.

Mr. Leader and Mr. President, visiting us this morning are eight very distinguished parliamentarians from Japan. They include, five members of the Liberal Democratic Party, one member of the Japan Socialist Party, one member of the Clean Government Party, and a member of the Democratic Socialist Party.

They are here as part of the Japan society's longstanding exchange program between parliamentarians in the United States and in Japan. At a time, Mr. President, when the relationship between the United States and Japan has become strained in some ways, I believe it is our interaction as parliamentarians which will bring this extraordinarily important relationship together again.

It is with great pleasure that I bring our Japanese colleagues to the Chamber and welcome them to the United States Senate.

I thank the leader very much for yielding to me for the purpose of introducing the eight parliamentarians.

Mr. President, I ask unanimous consent that their full titles be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1990 JAPANESE DIET DELEGATION

LIBERAL DEMOCRATIC PARTY (LDP)

Tsutomu Hata—Delegation Leader, House of Representatives (8th term—Nagano), Former Agriculture Minister.

Koichi Kato—Deputy Delegation Leader, House of Representatives (7th term—Yamagata), Former Defense Minister.

Kazuo Aichi—House of Representatives (6th term—Miyagi), Director General, LDP International Affair Bureau.

Takashi Kosugi—House of Representatives (4th term—Tokyo), Former Parliamentary Vice Minister of Environment.

Masayoshi Takemura—House of Representatives (2nd term—Shiga), Former Governor of Shiga Prefecture.

JAPAN SOCIALIST PARTY (JSP)

Ichiro Hino—House of Representatives (5th term—Miyagi), Member, JSP Central Executive Committee.

CLEAN GOVERNMENT PARTY (KOMEITO)

Tetsuzo Fuyushiba—House of Representatives (2nd term—Hyogo), Chairman, Komeito Foreign Relations Committee.

DEMOCRATIC SOCIALIST PARTY (DSP)

Kijuro Sugawara—House of Representatives (2nd term—Iwate), Vice Chairman, DSP Policy Board.

PARLIAMENTARY EXCHANGE PROGRAM SECRETARIAT

Co-Directors—Tadashi Yamamoto, President, Japan Center for Int'l. Exchange; William H. Gleysteen, Jr., President, Japan Society.

Staff—Hiroshi P. Kamura and Hiroshi Takaku, JCIE. Ruri Kawashima and John Wheeler Japan Society.

Interpreters—Terumi Gale and Maki Waronoff.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent to reserve the remainder of my leader time and all of the time of the distinguished minority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes.

Mr. MITCHELL. Mr. President, I encourage those of our colleagues who are present to greet our guests, and I now suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ANTI-SEMITISM IN THE SOVIET UNION AND EASTERN EUROPE

Mr. CRANSTON. Mr. President, the events transforming the political landscape of Eastern Europe today are as significant as any of the last half century. We truly are seeing a world made anew.

There is so much to cheer for in these stunning developments. The cold war is over. Freedom and democracy are emerging triumphant. Market economics are now hailed almost universally as the promise of the present and the way of the future.

This extraordinary transformation has brought marvelous outbursts of free speech. Playwrights long suppressed succeed to the Presidency. Art is reborn. Newspapers flower, so that now Moscow's Pravda prints more "truth" and Izvyestia more "news."

But these developments have a dark side as well. Behind the Iron Curtain totalitarian Communist rule has for generations been a sort of cholesterol hardening national arteries. With the flushing away of this system, new passions, long dormant in the politics of the region, are emerging. Ethnic tensions brutally repressed by Communist security forces are reemerging. The chaotic political developments have also raised the specter of neo-fascist elements increasing their power. And, tragically, there has been a renewal of anti-Semitism in the Soviet Union and several East European nations.

Unfortunately, this is the price one pays for free speech. The liberty to speak one's mind has always permitted a freedom to express hate. Yet it is especially tragic to see extremist elements hunting for scapegoats at a time of such opportunity in nations struggling along the path toward genuine democracy. And it is particularly disheartening to see some of these changing democracies remain silent in the face of anti-Semitic acts of violence, harassment, and intimidation.

Reports of pogroms to take place in the coming months and the unrestrained activities of anti-Semitic neofascist groups like "Pamyat" have created a palpable atmosphere of anti-Semitism in the Soviet Union.

As we in the United States seek to encourage democratic developments, we need to think hard on how we can help block the forces of extremism and ethnic hatred from reemerging in a region which has known such strife over the years.

I believe our first duty is to speak out. The United States needs to take the lead in condemning the forces of anti-Semitism and neofascism which have reared their ugly heads in Eastern Europe. We need to make clear that bigotry and ethnic strife have no place in the new European home and that regional rivalry and anti-Semitic zealotry have brought ruin and degradation to perpetrators for too many generations already.

Second, I believe U.S. leadership should be exercised to encourage the leaders of affected countries to themselves speak out against these new dangers. Let us press the Polish Prime Minister, the East German leadership, and the Romanians and the Soviet President to condemn the ideas of those whose hatreds would lead their countries backward again toward the fires of hatred and war which have consumed so many generations.

Third, let us remain vigilant in our commitment to tie foreign assistance to human rights progress. I am not eager to see U.S. taxpayer dollars given to aid leaders who do not speak out against anti-Semitism and neofascist movements. At a time when we are being generous to East European leaders, it is altogether legitimate to expect them to heed our concern in this regard. We should therefore consider placing some form of linkage on these issues in the new aid package we are proposing for Eastern Europe.

The greatest dangers, as always, lie in ignorance and in silence. Let us be aware of what extremists are saying. Let us speak out against their lies and their attempts at scapegoating as hard times are confronted. Let us use our good will to induce leaders in Eastern Europe to show vision and speak out against the scourge of anti-Semitism and the divisive dangers of fascism.

Mr. President, my introduction to international diplomacy came as a young journalist covering Mussolini's Italy and Hitler's Germany. I saw then the awful price of silence in the face of racial and religious prejudice. First the secret police came for the Communists. Then they came for the lawyers, then the Jews, then the clergy and, finally, the Christian Democrats. Soon there was no one left with the courage to speak out and the power to stop the Holocaust which ensued.

The United Nations has pledged to never again allow such a waste of treasured humanity. I for one have made this cause much of my life's work.

But to prevent the renewal of such hatreds—and to effectively bar the ascension to power of those who foment them—we must speak out and we must act every time they rear their ugly heads.

This requires forceful statements by our Government—now. And it requires forceful statements by leaders in the Soviet Union, Romania, Poland, East Germany, Western Europe and elsewhere so that freedom of speech does not lead to a renewal of freedom to hate.

For these reasons, I am very pleased to work with my colleague Senator GORE and others to draft a resolution which will condemn the rise of anti-Semitism in the Soviet Union and Eastern Europe, to call upon leaders of key nations to condemn these developments, and to instruct that the text of this resolution, once it is adopted by the full Senate, be transmitted to appropriate embassies.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

KOREAN BEEF QUOTA

Mr. BAUCUS. Mr. President, as chairman of the Senate Finance Committee's International Trade Subcommittee I have seen many trade agreements negotiated.

But none has been more successful than the agreement reached by the United States and Japan to open the Japanese beef market.

The Beef and Citrus Agreement between the United States and Japan was concluded in July 1988.

Less than 2 years later, beef now is the fastest growing United States

export to Japan. Beef exports to Japan are increasing at a rate of 80 percent per year.

America's share of the Japanese beef market has increased from 35 percent to 45 percent and is likely to top 50 percent this year.

Obviously, Japanese consumers prefer United States beef to Australian beef, our major competitor in Japan.

Exports to Japan have increased the price of the average United States fed steer by about $56, and that figure may more than double by the time the agreement is fully implemented.

When the Japanese beef market is fully opened, it will mean $2 to $3 billion in additional export sales for United States cattlemen each year.

No other trade agreement with Japan has yielded such spectacular results.

So what is the lesson of the Japanese beef agreement?

There are many.

But one that I particularly want to highlight is that beef is a highly competitive U.S. export. America can successfully export beef if foreign markets are opened.

Unfortunately, our efforts to open markets in other countries have not been as successful.

A number of our trading partners still maintain trade barriers to keep out U.S. beef exports.

We have particularly serious problems exporting beef to Korea.

Korea maintains a variety of import restrictions which strictly limit beef imports into that country.

In 1985, Korea completely banned importation of beef. In 1988, it began to ease restrictions somewhat, but very significant barriers remain.

On February 16, 1988, at my urging and with my strong support, Ambassador Clayton Yeutter accepted a section 301 petition on Korean beef import restrictions and began formal negotiations with Korea to eliminate these restrictions.

In April 1989, an international dispute settlement panel under the GATT—the international dispute settlement body governing trade—ruled in favor of the United States in this dispute.

The GATT panel called for Korea to phase out its restrictions.

Many months passed, but Korea has failed to act—even though Korea has agreed that its restrictions violate the GATT.

At various times, Korean officials have hinted that a breakthrough was near in these negotiations. But the progress has failed to materialize.

Under the current trade law the administration is required to retaliate against Korean exports to the United States if an agreement to open the Korean beef market is not reached by April 26 of this year.

This week, a delegation from Korea is in Washington to discuss Korean beef restrictions.

There have been rumors that progress is possible in these meetings.

I certainly hope these rumors are correct. We want the Korean beef market opened and would prefer not to resort to trade retaliation.

But if Korea continues to stonewall our negotiators we have no choice except to retaliate.

Further, this dispute with Korea has arisen at an opportune time. Between now and April 30, the United States will be deciding which countries maintain the most extensive barriers to U.S. exports under the super 301 provision of the 1988 Trade Act.

Last year, to the chagrin of some, Korea was not named as one of the worst offenders—known as "priority foreign countries"—under super 301.

If Korea continues to ignore its trade obligations under international agreements, I believe that it should be made a "priority foreign country" under super 301.

The super 301 provision was put in the 1988 Trade Act to address the kind of problem we now face with Korea.

The bottom line is simple. If the United States market is open to Korean Hyundais, the Korean market should be open to United States beef.

I hope the Korean trade delegation is able to reach an agreement with our negotiators to open their market.

Korean trade barriers against beef exports are costing American ranchers hundreds of millions of dollars each year in lost exports.

And we cannot stand by and let Korea maintain these barriers at a time when Korea runs a large trade surplus with the United States and the United States is spending millions to keep United States forces stationed in Korea.

American cattlemen have already been waiting for years and patience is short.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

PLO TERRORIST ACTIVITIES

Mr. GRASSLEY. Mr. President, I rise in response to recent statements by the Secretary of State concerning Yassir Arafat and the PLO. In a hearing before the House Foreign Operations Subcommittee on March 3, Secretary Baker testified that he is satisfied with the PLO's commitments made in December 1988 to recognize Israel and renounce terrorism. He stated that: "We have not received or seen evidence of complicity or encouragement or acquiescence by him of terrorist activity," and "we've really done pretty much all we can do."

I could not disagree more strongly with the Secretary's assessment. Not only do we have evidence that the PLO is carrying on terrorist activities, the United States has not done all it can to force the PLO to fulfill its commitments. Consider the following evidence.

Exhibit 1: In January 1989, only a few weeks after the December declarations, Yassir Arafat issued an ominous warning that: "Any Palestinian leader who proposes an end to the Intifada exposes himself to the bullets of his own people and endangers his life."

Exhibit 2: On February 21, 1990, the Wall Street Journal reports that nearly one-third of all Palestinians killed last year in the West Bank and Gaza were murdered by fellow Palestinians. Amnesty International released a report in November using the same statistics.

Exhibit 3: The Journal further reports that Israeli intelligence intercepted documents—whose authenticity was confirmed by Palestinians themselves—that the PLO approves and directs the killings of other Palestinians.

Exhibit 4: Our Ambassador to Israel aknowledged that Israel recently intercepted a Fatah sponsored terrorist incursion into Israel.

Exhibit 5: Various accounts report that PLO agents have coerced shopkeepers from opening for business and workers from going to work.

Exhibit 6: Last July, Palestinian terrorist hijacked an Israeli civilian bus, forcing it over a cliff and killing 16 people. The State Department described this incident as a terrorist attack.

According to a July 9 report in Cairo's Al-Akhbar, Arafat's response to the incident was: "I can offer no guarantee whatsoever that our people will not escalate things and use weapons to defend themselves."

Indeed, Arafat has made good on his threats of last year. And I am not satisfied at all that the PLO is fulfilling its commitments.

Contrary to Secretary Baker's statements, I believe we have substantial evidence indicating that the PLO has complied with, encouraged, and acquiesced in perpetuating, terrorist activity.

In times where I hear more and more talk about frustration with Israel, I strain to imagine why this frustration is not being expended on the PLO.

In light of the substantial evidence available, it is apparent that the United States has not done all it can. The first thing we can and must do is demand that the PLO live up to the promises it made in December 1988. These promises formed the basis on which our dialog began, and they must

serve as the condition precedent to continued discussions.

HUNGER IN THE UNITED STATES

Mr. HARKIN. Mr. President, on December 12, 1989, the Subcommittee on Nutrition and Investigations, which I Chair, held a hearing in Des Moines, IA, on "Hunger and Food Assistance Programs in the United States." Among the participants were several students who submitted brief essays on their perceptions of hunger in the United States. I want to commend those students who participated in the hearing, not just for their ideas and principles, but for their insights and keen logic which they shared with us. Several other high school students also submitted essays detailing their concerns. I have selected several of these outstanding essays which reflect original thought, vision, and deep convictions. I would like to share them with my colleagues for their consideration at this time. I ask unanimous consent that their essays be printed in the RECORD.

There being no objection, the essays were ordered to be printed in the RECORD, as follows:

THE COST OF HUNGER IN AMERICA

(Statement of Nicole Adams and Stephanie Leeper, Lincoln High School, Des Moines, IA)

In a land of plenty, such as America, how can we allow our people to go hungry?

There is no universal definition of hunger, but a concept generally accepted in the medical community is that a hungry person is chronically short of the nutrients necessary for growth and good health (Scientific America, Feb. 1987, p. 37). Hunger has reappeared as a serious national problem. In the 1970's hunger was virtually eliminated due to extensive federal aid. Presently in America, hunger is at an all time high because of federal cutbacks under the Reagan administration. The crushing burden of inflation has reduced the purchasing power of welfare benefits by a full 30 percent over a decade (World Hunger and Social Justice, Feb. 1987, p. 16). Their program of lowered taxes for the rich sowed the seeds of high interest rates, and reaped the longest and deepest recession in a generation (World Hunger and Social Justice, Feb. 1987, p. 16). The most unkind cut of all was when the Administration took dead aim on all important federal food assistance programs, proposing over a four year period, an overall cut of nearly 30 percent. When the recession hit, national unemployment grew from 7.2 percent in July 1981 to 10.8 percent in December 1982. Since the Administration's indiscriminate budget cuts had cut back sharply on unemployment benefits and that program was squeezed, it was nutrition that again felt the pinch.

In 1979, Second Harvest National Bank Network distributed 2.5 million pounds of food to those in distress. By 1985, this number had leaped to 100 million. And at the U.S. conference of Mayors in late 1984, nearly 75 percent of the municipalities reported that the need for emergency food assistance had increased in 1984. The total of meals provided rose by 200 percent over the figure for 1983 in Boston, 182 percent in Chicago, and 100 percent in Dallas. With unbelievable figures like these, how can we ignore this increasingly evident problem?

There are many situations to the hunger problem in America that have not been found. One solution we do know of is the food stamp program. But because of recent changes in regulations only about 19 million people received food stamps, even though some 33.4 million are living in poverty (Scientific America, Feb. 1987, p. 38). The average benefit per meal is 49 cents. Lowering the standards for eligibility will permit more poverty-stricken people to receive food stamps. Another way to solve our problem of hunger would help both the starving people and the farmers, by buying excess crops from farmers and giving to the poor. As Edward M. Kennedy stated "an administration that is bent on seeking $55 billion more for defense can also find $2.5 billion more to feed the hunger."

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Brown, J. Larry, "Hunger in the U.S." Scientific America, Feb. 1987, Volume 256.

THE COST OF HUNGER ON SOCIETY

(Statement of Melissa Albright, Hoover High School, Des Moines, IA)

We have all heard about starvation in third world countries, but what about the hungry people in our own country? Thirty-five to fifty million people out of 235 million are starving in the United States. One in five American children under the age of eighteen is in poverty. That is nearly fourteen million children. What does hunger cost society in the United States? What are we sacrificing because of the hungry? What is the price of starvation?

The most obvious cost is money. Taxes will go up to meet the needs of the hungry. Much money is invested in studying and researching hunger in the United States, planning and implementing food programs, processing paperwork, and distributing food. Further, poor nutrition leads to sickness, disease, and death. Society must pick up the cost of treating and hospitalizing the starving which is financed through taxes. While it costs society money to fund programs to help the poor, it is a good investment. Programs such as: the Food Stamp Program, the School Lunch Program and Breakfast Program, the Elderly Feeding Program, the Supplemental Food Program for poor pregnant women and their babies, food for isolated and older Americans, and Emergency Food Assistance help lift people out of poverty and return them to a productive level in society.

Another cost of hunger on society is crime. Studies have shown links between poverty and crime. Hunger drives people to desperation. They will steal for food, fight for food, and sometimes even kill for food. "More crime means greater cost for courts, prisons, police, and hospitals." (Page 37 of "Poverty in America" by Milton Meltzer.) Crime harms society. We pay a price for others' crimes. We pay in loss of money and loss of lives. However, society is committing a crime when we allow these people to live without food, clothes, or homes.

Hunger costs us our pride. We can't have pride in our country when so many of our citizens are starving. Hunger in the United States sacrifices some of the respect and admiration other nations and our own citizens have for this country. We feel ashamed in the eyes of countries who do take care of their hungry citizens. How can we allow some to starve while others have so much?

One of the least obvious sacrifices yet one of the most detrimental to our society is the loss of lives. We lose everything that these starving people had to offer. We lose their productivity, their talents, their ideas, and their contributions to society.

It is time to count the costs! Are we willing to pay such a heavy price? Don't we realize how much we're losing? Aren't we ready to start changing the hunger situation here in America, "the Land of Plenty?" Society cannot afford the costs of hunger any longer!

HUNGER IN AMERICA

(Statement of Bridget Baker and Kathleen Kernes, Lincoln High School, Des Moines, IA)

"Nothing more overwhelms the human spirit, or mocks our values and our dreams than the desperate struggle for sustenance." This is a timeless quote by Henry Kissinger emphasizing the continuing hunger crisis that has pervaded us practically since there has been a United States. How can a country like America, known for opening its vast, generous arms to the whole world and its problems, allow its 35 to 50 million starving and severely malnourished to continually suffer?

Hunger is America is definitely not a recent problem. In the 1940's, there was a devastating 85% of children in Vermont and 24% in North Carolina that had chronic diseases resulting from malnourishment. Additionally, in times of war, many men were rejected during U.S. military drafting because of serious nutritional deficiencies. The poverty rate in the country seems to always be high; that is very hard for one to believe. After the times of war, poverty rates appeared to stay fairly stationary. In 1959, the estimated poverty rate was an overwhelming 22%. It took quite a promising dive to 11% in 1973—but then began climbing more and more each year since 1979. The poverty rate in 1984 was set at 14.4%, but the unfortunate increase since that date added more than 9 million people to the unwanted, dreaded poverty-level statistics.

What is the price of hunger in America? Of course, the first concern in some of the minds of Americans would be the amount of money spent on programs, which is a great cost, but could be regulated by less military spending. Then there is the suffering of the poverty-stricken, that, of course is immeasurable. Millions of human lives, that could otherwise be productive and useful to society, are wasted and ruined from lack of nourishment.

With the "me" generation, and the beliefs of "bigger and newer is better," the starving people were left behind, unable to function in the modern world. We are so skilled at avoiding the starving people of our country that we often doubt their numbers. In Chicago in 1985, 20% of the population was below the poverty line, with another 20% just above it. These people are far from having three nutritional meals a day, and usually survive on such nutritionally unbalanced meals as macaroni and cheese.

It is very ironic that the only people that are aware of their problem, and are willing to help, are gang members that often raise illegal money to take starving children to the local McDonalds. People who kill the innocent, and steal, are feeding the malnour-

ished, where their government is obviously unable.

The fact also remains as stated in a quote that "No significant technical study of hunger in America has ever been made", however, Congress did order a scientific investigation on hunger by the President's Committee on Mental Retardation in 1968, and it showed major amounts of long-term brain damage, and a direct link between mental retardation and lack of a balanced diet.

The statistics are also vague on how much money has ever been spent on programs, such as the food stamp program. For many hungry and poor Americans, food stamps are the only means of acquiring enough food for their families. The massive $11 billion effort, implemented in 1974, has provided food for a countless many in the past, and provides for over 20 million Americans today. For one in eleven habitants of the United States, food stamps are a life-line. This line, however, is constantly weakened, as delays in mailing procedures for the coupons causes problems. Uneasy recipients have to take off work hours or a whole day from their jobs to discuss the problem with a social worker, or even to prove that they are still in need of governmental assistance, thereby losing needed money continually.

But for these poor that are considered "unqualified" for food stamps because of a lack of housing and address, soup kitchens and food pantries are their only recourse. Here they wait in line for the only meal they will probably eat that day, or even that week as the case may be. Most of these kitchens and pantries had to buy their own food, or rely on donations from private citizens and/or businesses.

In 1983, the U.S. government Department of Agriculture had one billion pounds of dry milk, 385 million pounds of butter and 774 million pounds of cheese in storage. The government gave out free cheese systematically, but the long waiting lines grew more and more desperate until, in that same year, the distribution of the cheese was cutback because it was ". . . adversely affecting sales in the commercial market."

What is the total cost of hunger in America? It is doubtful that anyone knows. How many children have become mentally retarded because of hunger-related diseases such as edema, marasmus, and kwashiorkor? How many more out of the numbers suffer from anemia, and are stunted physically with their young, severely hunger-stricken bodies wasted, never being able to function properly again? Not mentioning the cost in human pride, being painfully destroyed as the poor that are often unable to work much endure the shame of standing in line for food they so desperately need, and humiliated by being accused of free loading.

Although millions of dollars are being spent on providing for our hungry, is it enough? Is it being spent in the right directions? The social-safety net seems to have some vast, gaping holes in it, but people everywhere are divided on these issues. Instead of squabbling over our differences, let us look together for a solution. Why not freely educate the homeless and starving? Using the money from cuts in the defense budget, teach them to make their own rent-free housing, provide them with materials, and pay them for the labor. They would then have secure homes, and money to help them get back on their feet.

Are there any logical solutions besides socialism to remedy the problem of starvation and poverty in this country? There must be, for it thought out carefully, many sensible answers can be thought of for any problem.

Hunger costs us all a fortune. The government is spending, the guilty conscience of the people who are well off and could help, and of course the mental and physical costs of the poor. We spend our dream of promise, and the hope to succeed, on the empty promises for the hungry bellies of this country. Our beliefs of America being the land of opportunity will turn out to be nothing but lies to the poverty-stricken of this country, if we continue to let hunger get the best of us.

ROOSEVELT ROUNDUP EDITORIAL

(Statement of Amy Duke, Theodore Roosevelt High School, Des Moines, IA)

For many of us at TRHS, hunger is struggling with stomach gowls during third hour so we can go to McDonald's for lunch and pig out on Big Macs, or opening the refrigerator to find the Oreos eaten up by a younger brother.

We can't imagine what it would be like to open up the fridge and see the shelves empty—no oranges, milk, or eggs. We don't turn to the cupboards to find them bare—no Campbell's soup cans, Betty Crocker cake mix, and potato chips. We rarely open our wallet to find no money to restock our food supply.

True hunger seems far away, whether in Ethiopia, where bony children line up in hoards for a meager cup of corn meal, or in New York City, where a family can only afford $20 worth of food each week, only to end up at a soup kitchen on Wednesday afternoon. The hungry don't crave Twinkies when snack time comes around, they crave a bowl of vegetable soup stale to appease their two-day appetite.

Hunger surrounds all of us. Hunger isn't only in Ethiopia or the inner-city of New York, but in Des Moines, too. Unfortunately, we don't recognize that hunger exists because we aren't affected by it. If we are hungry we run down to the store and stock up or stop off at Burger King for an order of onion rings. The hungry see all of the grocery stores and Burger Kings, but can't satisfy their hunger. Instead, they adjust to their constant hunger pains, or head for a soup kitchen that might be closed because people didn't donate enough food to keep it open.

It seems almost criminal that there are mouths begging to be fed in a country claiming to be one of the wealthiest in the world. Most of us can't accept the hunger problem because it would be admitting our own selfishness.

What is the cost of this selfishness to society particularly to the young? Hunger causes headaches, inattention in the classroom, and abnormal intellectual development. Undeveloped human potential is the result of our uncharitable behavior.

The hunger in the United States is different than the hunger felt by those in Africa and elsewhere in the world. In Africa the people are starving together, but in the United States the hungry are starving alone. They don't have a world comforting them and singing songs of sympathy. Our hungry watch us enter McDonald's and order a full meal, only to exit and throw half of it away.

Most of us don't think about throwing away half of our meal, because we haven't ever experienced a true need for food. Have you ever felt true hunger? We dare you to resist the food that surrounds you for one or two meals, or even better, fast for an entire day. We ask that you ignore the luring aroma of fresh donuts and just say no.

There is something that we can do that will directly benefit the hungry of Des Moines. The Food Pantry, sponsored by the Des Moines Area Religious Council, accepts food and cash donations, which they in turn donate to the poor and hungry of Des Moines. In November, the organization fed 5,879 individuals and 2,105 families. There were 102,000 food items distributed, yet there are still more mouths to be fed. It is time we do something about the problem and share our holiday excess with the hungary.

Food Pantry food donations may be taken to 3816 38th St. It is open Monday through Friday from 8-noon or call 277-6969 for more information.

RURAL POVERTY

(Statement of Colleen Looker, Hoover High School, Des Moines, IA)

A five year old girl is playing in the front yard of a run down trailer. Her face is dirty and her smile reveals short, brown stubs. Inside, magazines and papers are piled all over the trailer. A stench fills the air. The girl's father is sitting on the couch watching TV, his back injured in a railroad accident. In the kitchen, his wife is yelling at one of their teenage daughters because she hasn't done all the housework yet. Their other teenage daughter is out with her drug-dealing boyfriend.

The problem of the rural poor is much greater than the public realizes. In 1988, 9.7 million rural Americans were living in poverty, including one fourth of all rural children. Unemployment in rural areas was 26% higher than in urban areas.

Part of the problem is a lack of jobs in rural areas. In fact, seven out of eight new jobs are found in cities. For this reason, many well-educated people leave rural areas. Those left in rural areas are lucky if they find jobs in the rising service industry with low salaries and few benefits. Another part of the problem is government aid is unavailable to many of the rural poor. Some are ineligible because they have jobs. Many rural families are two parent households and therefore, ineligible for Aid to Families with Dependent Children. For some, the problem is simply that relief offices and job training programs are hard to find in sparsely populated areas. Although the U.S. spends $1.31 billion on farm subsidies for Iowa, (over $18 billion in total U.S. subsidies), only 7% of rural Americans are farmers and the majority of rural poor don't benefit. In addition to agriculture, timber, oil, gas, mining, and routine manufacturing have deteriorated during the 1980's.

Rural poverty has a very negative effect on society. It creates a tremendous stress on families. It often results in family violence. Also, children don't receive health care because it's more important to pay for food and shelter. Young fathers often abandon their families.

Rural communities suffer greatly because of poverty. The well-educated people, who might be able to help the community get back on its feet, move away from it. People barely have money to satisfy their basic needs. As a result, the economy suffers even more. Those unable to satisfy their basic needs sometimes turn to selling drugs and other illegal methods which brings more problems to the community.

On a state and national level, poverty creates shame. The hungry are ashamed because they have to rely on others to fulfill their basic needs. Everyone is ashamed because we are one of the wealthiest nations in the world, but we have millions of people living in poverty. Also, many people won't support a government that allows them to starve.

Many solutions to the problem of rural poverty are being suggested. Some experts propose a diversion of farm subsidies into broader rural-development projects. Others suggest a sort of rural triage, with money channeled to the most promising areas. I think this idea just says that we've given up on the less promising areas and don't care that they will get worse. More specific ideas are: requiring all employers to provide health insurance for workers and adjusting earned Income Tax Credit for family size. I think one of the most important things is to provide more work projects and job training programs in rural areas. This would be a way of helping the rural poor without sacrificing their pride.

FIGHT HUNGER IN AMERICA

(Statement of Julie Reed, East High School, Des Moines, IA)

On a cold and blustery winter morning you snuggle up beneath the warmth of your blankets in your cozy little bed. You dread the thought of getting up, the bedroom always seems so cold. But you manage to throw on a robe, slip on your slippers, and wander out to the kitchen for your breakfast and morning coffee. But, have you ever stopped to think of what it would be like, on that very same morning, to wake up to a park bench under a blanket of old newspapers then wander over to the nearest garbage can to settle your rumbling stomach? Probably not.

It seems we only see what we want to see, shutting out the cold reality to our nation. Of course, it's much easier to turn our backs on our hunger and poverty stricken neighbors, but that is why they are losing hope and giving up. It is time to open our hearts and minds and realize that we shouldn't be all for himself, but rather himself for all.

Hunger and Poverty in America are not strangers to each other. Everyday, our teachers—the elderly, and our future—the children are dying. The elderly are wrestling with the question to pay the heating bill or to eat. The children are living on the streets and digging their meals out of the garbage cans or starving in vacant, rat infested apartment buildings. If we sit on the sidelines and watch we can be called nothing less than murderers, murders of our own destiny. But, we can pull together, set goals, and save our families and friends from hunger in America.

It is true that this tragedy is being faced worldwide. We are helping other countries, so why aren't we helping our own? Why aren't we saving and preserving our future? Where are we? We are hiding, hiding from the harsh reality of our America.

So today as you ponder over what outfit or suit you should wear, think of our poor who have nothing to ponder over. As you wonder what to eat or what shoes to wear, think of our poor who have nothing to eat, no shoes to wear. As you watch your children laugh and play, think of the dark faces of the children, eyes of storms in shades of grey and their tiny mouths turned down in crescent moons, who have nothing to laugh about. And as you celebrate the upcoming holidays, think of the broken hearts that don't feel your love and joy. It seems we all have something to think about, don't we. We have to stand up and save our people, instead of allowing them to die.

THE PRICE OF HUNGER

(Statement of Elizabeth Troyer, Hoover High School, Des Moines, IA)

The little girl looked at me with sad, cold, empty eyes when I drove by. Her parents sat behind her on the hood of the car holding the sign made clumsily from the back of a cardboard box. It read "Will work for food."

That little girl was only one of millions that go hungry in the United States. One of the many thousands here in Iowa. The state that produces much of the nation's and the world's corn still has people on the street hungry. It may be a flaw in the system, it may be an oversight of the many, including myself, who have warm homes, plenty of food to eat and even plenty for the luxuries that we don't need, who saw the girl and her parents, but did not stop to help. Whatever the cause, whatever the reason, that is no longer what matters. What really matters is that we are all going to pay for the ruined life of that child standing on the street.

That child could have been the next Gloria Steinem, or the first president of the United States. She could have more talents and intelligence that the average person can understand, but chances are that she will never get a chance to develop her skills. If the old car is her home, moving around could make it hard for her to attend any school. If she does attend school, she probably goes to school hungry and an unbalanced, unappetizing school lunch could be the only meal she has all day. Intelligent as she may be, it is impossible for a child to learn and grow emotionally and physically when she is wondering where her next meal is going to come from.

The children may be the hidden and tiniest victims of poverty in the United States, but the price we will all pay will be greater in the end. We will all miss out on the benefits and positive contributions children like this may be able to provide. No one will ever know what these children may be able to do for us—unless we help them before it's too late.

IOWA STATE UNIVERSITY EXTENSION PUBLIC POLICY EDUCATION

Mr. HARKIN. Mr. President, the ongoing debate on the 1990 farm bill has generated much interest among the citizens of Iowa. I want to express my appreciation to a group of young agricultural leaders from Iowa who recently came to Washington to present their views on the content of the next farm bill. I ask unanimous consent that their report on agricultural, environmental, food safety, and rural development policy be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PPEP—IOWA PUBLIC POLICY EDUCATION PROJECT

The Iowa Public Policy Education Project (PPEP) is committed to increasing the knowledge available to Iowa leaders and citizens on the major public policy issues concerning to Iowans.

Purpose

To build an on-going public-private partnership to support nonpartisan, issue-oriented public policy education.

To conduct education programs on high priority public policy issues.

To assist Iowans in developing a broader understanding of the facts and options related to high priority issues of concern to the state.

To foster participation in policy development processes. To foster enlightened discussion among Iowa citizens and leaders on the future of the state.

Iowa PPEP does not:

Take positions on public issues.

Expend funds on lobbying activities.

Endorse political candidates.

The Iowa Public Policy Council Members

Ruth Anderson, County Supervisor, Waterloo; Florence Buhr, State Representative, Des Moines; Ross D. Christensen, D.D.S., Orthodontist, Waterloo; Jill N. Euken, Extension Home Economist, Atlantic; Beverly Everett, Volunteer Extension Leader, New Sharon; John Gardner, Lee Enterprises Economic Development Director, Davenport; Mary Garst, Agribusiness Manager, Coon Rapids/Des Moines; Virginia Hagemann, Nurse and Farmer, Carroll; Clair E. Hein, Extension CRD Specialist, Waterloo; Dr. Robert Houser, Presbyterian Minister, Avoca; Calvin Hultman, State Senator, Red Oak; G. David Hurd, Chair and CEO, Principal Financial Group, Des Moines; Gary W. Kuehnast, Farmer and County Supervisor, Humboldt; John Liepa, DMACC Political Science and History Instructor, Indianola; Wayne Newton, Farmer, Luzerne; Donald Snyder, Manufacturers Bank and Trust President, Forest City; Thomas J. Vilsack, Attorney and Mayor, Mount Pleasant; Douglas Wakefield, Ph.D., U of I Assistant Professor, Iowa City.

1990 FARM BILL FOCUS GROUP

The Iowa Public Policy Education Project is a broad coalition of diverse interests that are supportive of nonpartisan, issue-oriented public policy education. The project is being staffed and co-sponsored by Iowa State University. Two issues are selected each year and a Focus Group of emerging leaders representing diverse interests and organizations is assembled from across the state to study each public policy issue in more depth.

Since September 1989, a 1990 Farm Bill Focus Group has been meeting to specifically examine the commodity program options, rural development policy, environmental issues, and food safety. Twenty-nine Focus Group members were selected for their demonstrated leadership and interest in the issues involved in the 1990 Farm Bill. These emerging leaders, ages 24–50, represent diversity of gender, geography, occupation, community size, educational level, volunteer activities and affiliations. Monthly programs organized on each topic have included face-to-face discussions with a variety of university and state experts.

A statewide satellite "Town Meeting" was held on November 20, 1989. Originating at Iowa State University, the program was downlinked to 95 sites statewide for a diverse audience of 2,800 participants. Focus Group members questioned the panel of experts on the air using more than 100 questions called in from across the state. Individual preference surveys were completed by the participants at all of the downlink sites

and are being compiled for the Focus Group's statewide report.

The Focus Group plans to file this report along with other information from its study with the Iowa Congressional delegation in mid-March. The opportunity exists for this group of emerging Iowa leaders to learn more about the public policymaking process by visiting directly with a variety of Washington policymakers and observing the process first hand.

The Iowa Public Policy Education Project does not take positions on issues nor does it support lobbying activities. The purpose of this trip is strictly educational and to provide an opportunity to learn more about the policymaking process. The survey results are only for educational purposes and they do not constitute a policy endorsement by Iowa State University or individual Focus Group members.

NEWS RELEASE ON SURVEY FINDINGS

SATELLITE TOWN MEETING GENERATES IOWA SUGGESTIONS FOR 1990 FARM BILL

AMES, IA.—The U.S. should attempt to coordinate the reduction of trade subsidies with other nations, but should not remove the income safety net for U.S. farmers, say Iowans responding to an opinion survey conducted by Iowa State University.

A new ISU report summarizes environment, commodity program, food safety, and rural development preferences from Iowans who participated in the Iowa Public Policy Education Project's Satellite Town Meeting on the 1990 Farm Bill last November. The 2,800 participants were spread over 95 locations at county Extension offices across Iowa.

Other positions supported by the respondents:

Iowans favor commodity base reduction and flexibility over reducing target prices or raising commodity loan rates, if budget cuts are required in the 1990 Farm Bill.

Farmers should be adequately compensated, if the government requires filter strips and other mandatory conservation measures.

The Delaney Clause, which imposes zero-tolerance of substances suspected of contributing to cancer, should be removed and negligible risk standards based on economic effects, health effects and simulated risks of causing no more than 1 death per million population in 70 years should be adopted.

The leadership of federal rural development programs should remain with the Secretary of Agriculture.

"Each of these findings was favored by nonfarm participants, as well as, the farmers in the program," said Mark Edelman, ISU Extension public policy economist who coordinated the project.

The results do not represent a random sampling of the population. However Edelman suggested that those who attended the meeting are more likely to participate in the political process on the Farm Bill.

"Part of the purpose of the meeting was to have farm and nonfarm talking to each other about their interest and concerns related to the Farm Bill. Therefore, we separated the farm preferences from the nonfarm preferences to provide some interesting comparison and because farmers represented a disproportionate share of the audience," Edelman said.

"For example, farmers participants tended to favor having the U.S.D.A. be responsible for establishing and monitoring groundwater standards. However, the nonfarm participants tended to favor giving this responsibility to the Environmental Protection Agency," he said.

In regard to food safety, the largest percentage of farmers said they felt that the food we eat is "very safe, but a minor concern." On the other hand, the largest percentage of nonfarm participants indicated a higher degree of concern.

The following findings were included in the report:

COMMODITY PROGRAM PREFERENCES

Farmers and nonfarm participants tended to agree that the U.S. should gradually eliminate trade-distorting farm programs if, and only if, other nations do the same.

Farmers and nonfarm participants tended to agree that export enhancement programs and other programs designed to match unfair trade practices should continue to be funded at present levels until the trade negotiations are resolved.

If budget considerations cause spending reductions in farm program payments, both farmers and nonfarmers tended to disagree with reducing target prices or raising loan rates. If spending reductions are required, both would tend to favor reducing the proportion of the crop base used in figuring deficiency payments and allowing farmers more flexibility in planting decisions on the remaining acres.

The use of marketing loans was evenly divided among those who agreed and disagreed for both farmers and nonfarm participants.

On the type of flexibility preferred in the 1990 Farm Bill, farmers gave slightly higher support of continuation of the present 10 to 25 percent crop-specific corn flexibility presently provided to soybeans and oats. Nonfarm participants tended to give higher support to a whole farm base, allowing any crop to be grown on the permitted acreage as long as the appropriate percent of the whole-farm base is set aside.

Farmers and nonfarmers tended to agree with reducing the emphasis on disaster assistance and attempting to improve participation and coverage in the present voluntary crop insurance programs.

ENVIRONMENTAL PROTECTION PREFERENCES

Iowa farmers and nonfarm participants tended to agree that general tax revenues should finance water and environmental protection. Both had more mixed views on using a tax on food. Farmers tended to disagree and nonfarmers were mixed on taxing chemical companies and farmers to finance water and environmental protection.

Farmers and nonfarm participants tended to agree with providing farmers with more incentives to build permanent wildlife habitat and plant trees on Conservation Reserve acres.

Farmers and nonfarm participants tended to agree with expanding the Conservation eligibility to include land that is sensitive for water quality, sodbuster, and swampbuster purposes.

Nonfarm participants tended to agree with strengthening soil erosion and environmental standards used in conservation compliance plans that farmers are to have implemented by 1995. Farmers were more mixed in their views.

Nonfarm participants tended to agree that target prices should be higher for farmers that adopt low-input, best management practices approved for environmental purposes. Farmers were more mixed in their views.

Nonfarm participants tended to agree that farmers should be trained, regulated, and required to keep records on pesticide use and field applications similar to commercial pesticide applicators. Farmers were more mixed in their views.

Nonfarm participants tended to agree that all Iowa streams and rivers should be required to have a 16.5-foot filter strip to reduce pesticide migration. Farmers were mixed in their views. Both tended to agree that farmers should be adequately compensated if government requires filter strips or other mandatory measures.

Farmers tended to disagree with having the government require that all private wells should be periodically tested with a well tax for paying the cost. Nonfarm particpants were more mixed.

Farmers tended to disagree that government should have the right to send site inspectors on to farm property to take soil and tissue samples to protest the environment. Nonfarmers were more mixed in their views.

FOOD SAFETY PREFERENCE

When asked for the most pressing food safety concerns, nonfarm participants were most concerned about cholesterol, pesticide residues, and preservatives. Farmers were most concerned about microbiological contamination, unhealthy weight reduction diets, improper food preparation, and pesticide residues.

Farmers and nonfarm participants tended to agree that all fish sold in this country should be subject to an inspection process similar to meat and poultry.

Farmers and nonfarm participants tended to agree that all imported foods should be subject to an inspection process that is similar to domestically produced foods.

Farmers and nonfarm participants tended to agree that the process for judging whether to ban pesticides suspected of causing health problems should be shortened.

Farmers and nonfarm participants tended to agree that certain health labeling of foods should be mandatory, not voluntary at the grocery, market, or restaurant.

Farmers and nonfarm participants tended to agree that general tax revenues should be used to finance the government's food safety assurance system.

Farmers and nonfarm participants tended to agree that both the Food and Drug Administration and U.S.D.A. should have a lead role in setting health standards for negligible risks regarding food additives and natural toxins in food.

Farmers and nonfarm participants strongly agreed that the U.S.D.A. should have a lead role in fish and imported food inspections. There was also a lower measure of support for the Food and Drug Administration having a role.

RURAL DEVELOPMENT PREFERENCES

Farmers and nonfarm participants suggested that the highest priority in rural infrastructure assistance was rural waste, water, and utility systems.

Farmers and nonfarm participants suggested that the highest priority in rural economic development assistance was research in new uses of agricultural products. In fact, nonfarm participants gave higher priority rating to this strategy than did farmers.

Farmers and nonfarm participants suggested that the highest priorities in rural development education assistance were leadership programs, strategic planning for rural leaders, adult retraining for rural industry, and incentives for pooling resources of local communities.

Farmers and nonfarm participants suggested that the highest priority in rural health care assistance was for reducing the reimbursement differentials between rural and urban hospitals.

Farmers and nonfarm participants were generally mixed in their views on which federal agencies should have an expanded role in administering rural development funds. The Small Business Administration received the highest support.

Farmers and nonfarm participants were generally mixed on who should make allocation decisions regarding federal rural development funds. The highest indicator of support was for sending funds directly to the states so agencies appointed by the governors could make the distribution decisions.

Farmers and nonfarm participants were generally mixed on which rural comunities should receive rural development dollars. The highest indicator of support was for allocating some funds to all rural communities based on population, road miles, etc.

Farmers and nonfarm participants tended to agree that communities should be required to prepare a community strategic plan before receiving federal rural development dollars.

PAM BRICKER: A COLORADO ENTREPRENEUR

Mr. WIRTH. Mr. President, I would like to take this opportunity to recognize a woman from my State, Pam Bricker, who has recently been selected as the recipient of the 1990 Presidential Job Training Partnership Act Award for her work as an outstanding private sector volunteer. This award was recently announced by Secretary of Labor, Elizabeth Dole, and represents recognition by the Federal Government for Pam Bricker's commitment to employment opportunity for the economically disadvantaged.

Pam also recently received the 1989 Greeley Business Woman of the Year award for her remarkable success as an entrepreneur and community activist. Her success in building a business as a florist in Greeley, CO, is all the more noteworthy because she has managed to raise a family and remain active in volunteer work with the United Way, the Greeley Chamber of Commerce and a wide variety of community service projects.

Pam Bricker represents the spirit of entrepreneurism at its best. She is the kind of business person who not only works hard to provide jobs and economic opportunity for others, but she also devotes her considerable talents to the betterment of her community.

Pam also happens to be the daughter of my esteemed colleague, the Honorable Senator JAMES EXON. She hails from Nebraska, but makes her home in Colorado—and I know that the Members of the Senate will want to join me in congratulating Pam Bricker and her family for this remarkable achievement.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a news story from the Greeley Style magazine which commemorates Ms. Bricker's achievement.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Greeley Style magazine, March-April 1990]

THE BEST BUSINESS HAS TO OFFER

(By Karrie Mowen)

BRICKER: MORE THAN JUST A GREEN THUMB

Even though Pam Bricker may never have imagined it, her work brings happiness to others. When a get-well bouquet is delivered to a hospital room, or a dozen roses are brought to a mother by her children or even when a plant is purchased to spruce up a business's barren hallways, Bricker is standing proudly backstage. She knows a good day's work was done.

Bricker, our 1989 Businesswoman of the Year, is co-owner of Mariposa Plants, a plant and floral shop on West 10th Street. Mariposa not only provides flower arrangements for every occasion, but also is known for superior plant expertise.

Being an enterpreneur is not something Bricker would recommend to others. "There are easier ways to make money than starting your own business," she says. For five years, Bricker says she has made major sacrifices in her life, including stress, long hours and time away from her family, to get her business off the ground. Even so, Bricker says the independence of owning her own business, and knowing that success or failure completely depends on her efforts, justifies the sacrifices. "I like building something that's my own."

Family is important to Bricker's success. Having the advantage of a spouse with a good job, she says, has been essential to her and to her partner, Chris Thomas, during the unprofitable times as the business grew. "My family has allowed me to do what I've done," says Bricker. Throughout the years, her husband has become a great cook and is getting more proficient with laundry. "They're a real independent lot," she says.

Bricker believes her entrepreneurial spirit and her belief in community involvement partly comes from her family. "My father was an entrepreneur and by example, that probably had a lot of influence on me," she says.

Her father was also a politician who believed that getting involved in the community was essential. He was a good role model. "I believe people are effective and can make things move," says Bricker. Being involved in what's going on around you allows you to change things, and that, she says, is satisfying.

Her commitments to the community include being vice president of the Greeley Chamber of Commerce, an appointment to the Private Industry Council, a founding board member of the Greeley Food Clearing House and involvement with the League of Women voters. Bricker was also the associate director of United Way before taking on the Mariposa venture, but now she prefers to volunteer for that organization. Working with the Chamber of Commerce was important to Bricker, and she believes all business people should take the time to be involved with the group. A healthy business community, she says, leads to a healthy community, which is good for everyone.

In Bricker's past, she remembers little pressure from her parents as far as a career was concerned. "I think they wanted me to be a teacher," she says, "because that was a safe job for a woman to have." As for herself, Bricker says a career was not a high priority. "I came from a generation that grew up, got married and had kids. We mostly talked about who we would marry."

Bricker says she has never been goal oriented. She got a psychology degree from the University of Nebraska, and says "I never had a great deal of thought about what I wanted to do with it."

Bricker says she does not want a career road map. "If an opportunity comes my way . . ., if I like the challenge and think I can make a difference, then I'll do it." Not being a goal-oriented person, Bricker says that before Mariposa came into being, "if you had told me this is where I would be in five years, I would be very resentful."

"I don't want to sound shiftless or that I make erratic decisions. I carefully plan for what I'm going to do, but I don't set long-term goals."

She explains that she spent three months researching before she launched the Mariposa venture. She even took personality tests to see whether she was a successful, entrepreneurial type. Even though business newcomers are told to set goals, Bricker says, "goal-setting is not one of my management styles. Maybe that's why I'm not wealthy." Bricker does admit, that if she sets any goals, they are to balance her time between her family and her business.

Bricker says she and her business partner feel "really, really good about what the business had done" since they opened Mariposa in 1984. At first, the business focused on plant care. Then it branched into floral obligations in 1986, and now serves over 50 maintenance accounts in Greeley. Bricker says that the floral side of the business has grown the most in recent years because of the good reputation the store obtained through plant care. Mariposa Plants expands by 20-25 percent each year, says Bricker, and the owners have now decided to increase the space in their store another 30 percent within the next few months.

Bricker believes what is most important in a business and what has made Mariposa so successful, is the commitment to service.

"We keep harping that service is where it's at," she says. "We bend over backwards to provide good service."

Developing an impeccable reputation for service depends on expertise, says Bricker. They not only have that expertise, but they also enjoy it. "When we see a new variety in plants, we're like kids in a candy store," says Bricker. Bricker and her partner have developed their expertise to such a degree that they often get referrals from Mariposa competitors who don't always know the answers to customers' questions.

Bricker says her strongest business quality is her ability to do many things simultaneously. "This helps, because I have demands from many different directions," she says. The simultaneous effort keeps her from "losing her mind." Bricker also feels creativity is a business quality that helps her overcome obstacles from competitors and the economy. Bricker says she has had problems with employee management.

"I've had some nightmare experiences with hiring and firing."

Knowing how to maintain the right relationship between being a boss and being a friend is difficult, she says. Time management has also plagued Bricker. In her business and her personal life, Bricker says her weakness has been making sure to take time for all aspects of her life. She says that balance is hard to achieve.

Bricker finds that balance with her husband and two children. Traveling, camping and skiing enable Bricker and her family to get away from business and enjoy each other. The little getaways, she says, keep her sane. As for hobbies, Bricker says, "people who own their own business don't have hobbies." Bricker says that she once had a hobby.

"But I took that and made it a business."

NATIONAL STUDENT/PARENT MOCK ELECTIONS

Mr. KENNEDY. Mr. President, every Member of this body understands the pressure of an election night. We know that the votes cast will determine the future leadership and direction of communities across the country, and of the country itself. We know that much of what we have worked hard to achieve rests with the voters' ballots, which are the essence of our democracy.

Just 5 days before election night another election takes place, one that will also have an influence on the future course of American life and politics.

On November 3, 1988, 3½ million elementary and secondary school students and parents, from the 50 States and the territories, cast their votes for President, Senators, and Representatives. These students participated in the national student/parent mock election, called by Time magazine the largest voter education project ever.

In family living rooms and classrooms, around dinner tables and lunch boxes, students, parents, and teachers discussed candidates and studied national issues. From nuclear armament to drug wars to taxes to the Federal deficit, participants took sides, held debates, and became personally involved in the democratic process.

In Massachusetts, where I was on the ballot for the Senate, students played the roles of the Senate candidates in a public debate. In Florida, students visited senior citizens and learned about past Presidential elections. In Pennsylvania, students aligned themselves with candidates, campaigned, and held videotaped interviews which were shown on mock election night. Across the country, young citizens learned that democracy means participation and that the issues on television, radio, and in the newspapers intimately affect their lives.

On mock election night, students across the country cast their votes and make recommendations on key national issues. State coordinators relay this information to New York City, where C-Span tallies it live in a 90-minute program. Hundreds of newspapers, radio, and television stations report the results. The final tally reflects the opinions of an informed and intelligent young citizenry who will soon be in a position to cast real votes in real elections.

This kind of large-scale voter education is more critical now than ever. In 1986, 119 million eligible voters did not bother to vote. In 1988, this figure fell to 91 million, or 50 percent of all voting age citizens. In the last congressional election, 4 out of 5 eligible voters under 30 did not go to the polls. Voter turnout in the United States is among the lowest in the world.

At a time when the nations of Eastern Europe are embracing democracy, America is failing to teach its own children the rights and responsibilities of citizenship.

One of every two 17-year-olds does not know that there are 2 Senators from every State. One of every two believes the President can appoint Members of Congress. The results of this ignorance can be disastrous. As Al Shanker, president of the American Federation of Teachers, writes: "The political consequences of poorly educated citizens are at least as serious as the economic ones, because these citizens will be making decisions that will influence the future of the country and the world."

The student/parent mock election can help us turn the tide of voter ignorance and apathy. Time, Inc. will run ads in all its publications, reaching 92 million readers, to urge them to participate in the mock elections in November 1990. Time, Inc. will also send teachers' guides on election issues to every school in the country. Students, teachers, and parents will vote for candidates for Governor and Congress. For the 1992 elections, organizers hope to involve up to 10 million participants.

The mock elections are funded by donations and run by volunteers. President Bush, President Reagan, and numerous Senators and Representatives are among its strongest supporters.

I hope that all Members of the Senate will support this important voter education program. I urge them to write their school superintendents in support of the mock elections. We should also do as much as we can to encourage business leaders, community leaders, teachers, parents, and school boards to participate.

The lessons that students and their parents learn as participants in the mock elections will benefit American politics for decades to come. If the next generation of Americans is well prepared for the challenges of democracy, our liberties will be in good hands.

HOSTILE TAKEOVER OF FUTURES REGULATION SHOULD BE PREVENTED

Mr. DIXON. Mr. President, I thank my colleagues for granting me this time. The problems in the junk bond market may be reducing the hostile takeover threat for American business, but not here in Washington. The lead in a story from Sunday's New York Times business page says:

Washington's version of a hostile takeover is starting to take shape. No money is on the table, and no stock will change hands. But the outcome could change the markets far more, and far longer, than even the biggest billion-dollar deal.

What the Times is talking about, Mr. President, is a typical Washington, DC, turf war—the attempt by the Securities and Exchange Commission to take over the Commodity Futures Trading Commission.

I think the takeover metaphor is an apt one, Mr. President. As in so many of the takeover attempts we have seen in recent years, this takeover is backed with lots of talk about how it will improve things for shareholders. In this case, that means the users of the futures and stock markets.

This proposed takeover, however, like so many other harmful takeovers, is not financed with equity, because there are no good equitable arguments for this change. Instead, Mr. President, it is financed with junk bond arguments, arguments that sound high yield, but which may be in fact, and probably are, in fact bankrupt.

Like a lot of junk financing, this proposal only looks good if you do not study it too carefully and if nothing ever goes wrong. Hostile takeovers usually depend on speed to succeed, but this is one Senator that intends to do everything he can to see that the very serious matters at issue get the kind of full, in-depth consideration they need.

I think that the Times' lead paragraph has it right, Mr. President. The outcome of this battle could result in fundamental changes in our markets. We need to spend the time necessary to do the job right, to make only those changes the evidence supports. We cannot afford to do a slipshod job based on politics and on turf war considerations.

We cannot afford to focus on illusory short-term benefits at the potential cost of our long-term financial leadership.

I will have a lot more to say about these issues at the appropriate time. For now, however, I ask unanimous consent to print the Times story in the RECORD, along with a recent speech I made on futures markets issues, and an opinion piece I authored that ran in today's Journal of Commerce which talks about the CFTC-SEC jurisdictional issues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 18, 1990]

THE BATTLE OVER REGULATION OF THE FUTURES MARKETS

(By Nathaniel C. Nash)

WASHINGTON.—Washington's version of a hostile takeover is starting to take shape. No money is on the table and no stock will change hands. But the outcome could change the markets far more—and far longer—than even the biggest billion-dollar deal.

The battle is pitting two of the nation's leading financial regulators against each other. It is also re-igniting a decades-old rivalry between New York's old-line Wall Street firms and Chicago's rough-and-tumble world of the commodities and futures trading pits.

The target of the would-be takeover is the Commodity Futures Trading Commission, regulator of all futures trading. The agency is led by Wendy L. Gramm, a scrappy economist and former whiz kid at the Reagan budget office.

The raider is the much larger Securities and Exchange Commission, watchdog of Wall Street, and its new no-nonsense chairman, Richard C. Breeden, a former securities lawyer and a self-assured protégé of President Bush who was the chief architect of the Administration's bailout plan for the savings and loan industry.

Behind Mr. Breeden is Secretary of the Treasury Nicholas F. Brady, close friend of President Bush and one-time head of Wall Street's Dillon, Read & Company. In recent weeks, Mr. Brady has sent shock waves through the Chicago pits by saying that the Treasury is studying a plan that would merge the two agencies, with the clear implication that the S.E.C. would come out as the dominant regulator. (The case for a merger: Forum, opposite.)

At the heart of the Treasury thinking is the contention that the divided regulatory responsibility for stocks and stock-index futures is weakening the American capital markets. Stock-index futures are contracts whose value is tied to a basket of underlying stocks; they permit investors to speculate on the future course of the market without owning any actual shares.

Among other things, Mr. Brady and Mr. Breeden argue that because of the split in jurisdiction, the Government cannot pursue effective enforcement of price manipulation between the futures and equities markets, and that different margin requirements create unacceptable levels of volatility. They also contend that jurisdictional squabbles are hampering the development of new financial instruments, jeopardizing future competitiveness of the United States in global markets. (See box.) They point to a lawsuit by the futures industry last year that stopped three stock exchanges from trading a new type of financial instru ment. Within months, that same instrument was being traded in London.

For their part, supporters of the C.F.T.C. argue that any risks are being overdramatized and that the agency is doing its job well. The move, they say, is nothing more than a naked power play by forces allied with Wall Street that have bridled at Chicago's growing influence.

While it is anybody's guess whether Mr. Brady and Mr. Breeden will pull off a full-blown merger, many people close to the infighting say it is all but certain that the S.E.C. will at least wind up with expanded jurisdiction over stock-index futures. "Anything less than that is unacceptable," said one senior Treasury official.

There are now many players in the growing battle, and few doubt that there will be plenty of blood on the floor by the time the fighting is over.

One of the other major figures is Leo Melamed, who earlier this month announced that he would step down at the end of the year as the chairman of the Chicago Mercantile Exchange, the most dominant of the commodities exchanges in that city.

Long considered the godfather of the financial futures industry, the outspoken Mr. Melamed has adroitly used his stature and Washington contacts to keep at bay for more than two years the forces that favor stripping the C.F.T.C. of its jurisdiction. Now, his lame-duck status is sure to weaken Chicago's hand.

Meanwhile, the fracas is likely to create deep tensions between the House and Senate Agriculture Committees, which have jurisdiction over the C.F.T.C., and the Senate Banking Committee and the House Energy and Commerce Committee, which oversee the S.E.C.

In the House, Dennis E. Eckart, Democrat from Ohio, and Dan Glickman, Democrat from Kansas, promised last week to introduce a bill to merge the agencies. In the Senate, Slade Gorton, Republican from Washington, has said he would propose a measure to give the S.E.C. jurisdiction over stock-index futures.

And ever in the background is Mrs. Gramm's husband, Senator Phil Gramm, the Texas Republican. Senator Gramm, an influential member of the Banking Committee, is also known as one of the Senate's most skillful tacticians. So far, he has been silent on the agency squabble. But Senate etiquette will require those who oppose his wife's position to proceed gingerly.

At the center of the fracas, of course, are Mr. Breeden and Mrs. Gramm, two formidable adversaries.

Mr. Breeden, who is 40 years old and who has earned a reputation as an astute Washington operative, has declined to say that he favors taking over part or all of the C.F.T.C.'s turf. But that has not stopped him from turning out a drumbeat of warnings about split jurisdiction.

"I have not publicly argued for any change in jurisdiction; I have tried to talk about the problems," Mr. Breeden said in a recent interview. "But I am not unwilling to eventually support some way of solving these problems."

Mrs. Gramm, 44 years old, is not in as strong a position politically. A Reagan appointee, she and her agency have come under intense criticism in the wake of last year's trading scandal in Chicago, which has resulted in the indictment of more than 30 traders on charges of price manipulation and trading fraud.

Moreover, her term expires next month and she is hoping to get reappointed. Thus, Treasury officials say it will be difficult for her to stand in the way of a full or partial merger with the S.E.C., especially if Mr. Brady convinces President Bush to put his weight behind the issue.

Nonethelesss, she is a long way from waving a white flag. "In the coming year, the future of this industry will be written in large part in Washington, not Chicago or New York," Mrs. Gramm told traders at the Futures Industry Association's annual meeting in Boca Raton, Fla., earlier this month. "We believe that the same agency that regulates all other futures should continue to regulate stock-index futures."

The debate over the need for two regulators is not new. In the 1970's the Chicago markets began trading interest-rate futures and currency futures, transforming the C.F.T.C. into more than just a regulator of pork belly, wheat and orange juice trading. Even then, the S.E.C. argued that it should regulate trading of the new financial instruments because of their impact on the securities markets.

A truce came in 1982. The S.E.C. got jurisdiction over stocks and options, and the C.F.T.C. got futures trading.

But the advent of stock-index futures began to raise concerns again about split jurisdiction, concerns that were heightened by the October 1987 market crash. The Presidential Task Force on Market Mechanisms, headed by Mr. Brady, then a private citizen, concluded that the use of index futures by major investment houses had exacerbated the market plunge. Mr. Brady also warned that low margin levels on index futures permitted excessive speculation and that authority to set margin levels be given to a Government agency, rather than left with the futures exchanges.

David S. Ruder, then S.E.C. chairman, took up the fight, arguing that since the stock-index futures were so linked to the price of the underlying stocks, the S.E.C. should regulate both instruments.

But Mrs. Gramm, who had just assumed the head of the agency, effectively parried Mr. Ruder's claims, convincing lawmakers that her agency was up to the task and that low margin levels on futures were not a cause of the stock market plunge.

Most important, in the high-powered White House Working Group on the Markets set up after the crash to promote greater regulatory coordination, Mr. Ruder found himself the lone voice, and Mrs. Gramm enjoyed the support of the Reagan Treasury.

Now the equation has changed. Mrs. Gramm finds that she is out-numbered on the Working Group, which over the last six months has made jurisdiction its primary concern. Treasury officials say that Mr. Brady has also decided to make jurisdiction a major issue this year.

In a March 2 letter to two Senators—Christopher Dodd, Democrat from Connecticut, and John Heinz, Republican from Pennsylvania—and again in a speech last week, Mr. Brady said a complete merger was one of several options being considered.

The rumblings by Mr. Brady and Mr. Breeden have definitely put the Chicago traders on the defensive. In a turnaround, Mr. Melamed said early this month that he would be willing to consider letting stock exchanges trade index-type products.

But not every Wall Street specialist is convinced that the markets will benefit by the demise or weakening of the C.F.T.C.

Edward H. Fleischman, an S.E.C. commissioner, thinks that the two regulatory bodies actually promote more innovation than they suppress. The C.F.T.C. has been much more willing than the S.E.C. to let exchanges develop new products, he said.

And he wonders whether the S.E.C. would be able to regulate the futures markets as effectively as the C.F.T.C. does.

"We really don't understand those markets, it is a different world." Mr. Fleischman said, adding that the S.E.C. has not earned a stellar reputation for its regulation of options. "You tell me what we would do differently. I would venture to say, nothing."

REMARKS OF SENATOR ALAN DIXON TO THE FUTURES INDUSTRY ANNUAL MEETING, MARCH 10, 1990

When they really want to wish a person bad luck, the Chinese say: "May you live in interesting times." You may feel that these are "interesting times" for the futures industry, given the news coming out of Washington, and the investigations that the U.S. Attorney's Office in Chicago has been conducting.

Headlines like "46 Indicted at the Chicago Board of Trade and the Merc" and "Program Trading Fuels Stock Market Volatility" don't exactly sound like good luck, and I'm sure that your review of the possible legislative alternatives Congress is now considering has not exactly improved your appetite.

You may not believe it, but there is a bright side. You could, for example, be the savings and loan industry. You could be Drexel/Burnam. You could be the stock exchanges, with all their problems.

What I'd like to do today is to talk a little about some of the issues that make these such interesting times, and about how I see these issues. Legislation directed at the futures markets is a distinct possibility, and you should know what options Congress is considering—and why.

There are those who now call our financial markets "casinos," run for the benefit of gamblers instead of investors. That sounds good on the numerous Sunday talk shows, and it makes for great headlines, but there is one problem with this notion—it isn't true.

As you know much better than I, trading in our equities markets and our futures and options markets is increasingly dominated by sophisticated institutional investors. Importantly, these investors are, in the main, fiduciaries for other peoples money. They are pension fund managers, mutual fund managers, corporate investors, trusts, and others with fiduciary responsibilities to their investors or customers. Is it reasonable to believe that they would disregard their legal responsibilities? Are fiduciaries really gamblers in disguise, willing to treat trading and investing decisions like the decisions on whether to take a hit or stand pat at the blackjack tables in Las Vegas or Atlantic City? I don't think so.

If the casino statement isn't true, though, why do some people, including some well-respected leaders in both industry and government, continue saying it. The short answer is: Because of change. Financial markets have changed dramatically, and the pace of change has been very rapid. Computerization, advances in communication technology, and fundamental changes in who is investing and how they are investing have combined to force major changes in financial markets. As the markets have evolved and adjusted to respond to these factors, they have changed in ways that make them less familiar to many observers who thought they understood the markets before these changes occurred.

Congress does not yet fully understand the new financial services markets, and particularly doesn't understand the new, prominant futures industry. What a number of Members of Congress and the executive branch believe, however, is that there are major concerns in the changed markets that need to be addressed. Concerns have been expressed about program trading, futures margin levels, dual trading, and the jurisdictional relationship between the CFTC and the SEC. I'd like to talk a little about each of these issues in turn.

First—program trading. The concern is that program trading in general, and index arbitrage in particular, contribute to greater volatility in the stock market. Now, as I understand it, program trading, in its most basic form, is nothing more than using a computer to advise a market participant on when it might be advisable to sell or buy stock index futures and when it might be advisable to sell or buy groups of stocks on the equities exchanges. Banning program trading, therefore, is like at least partially banning computers. In the 1920's, there were people who said we should ban the stock ticker for much the same reason as program trading—because it contributed to volatility.

Of course, the stock ticker wasn't banned; the stock market got used to it. Similary, financial markets are adjusting to the changes in markets that flow from program trading. I know program trading permits faster action, but we need to consider carefully whether it is even possible to aritficially limit that speed in anything other than emergency situations. Instead, perhaps it would be better to concentrate on how we can ensure that all investors, and particularly small investors, are treated fairly in the changing financial markets.

It is worth noting, by the way, that the Federal Reserve does not believe that program trading is linked to volatility. A newly released paper by three Federal Reserve Board economists—entitled "A Primer on Program Trading and Stock Price Volatility"—concludes that there is no theoretical or empirical data to support the accusation that program trading increases volatility. The paper points out that index arbitrage is "potentially stabilizing."

The same volatility charge is made about futures margins levels, but that allegation is also at variance with the facts. Are futures margins too low? Well, when the stock market crashed in October 1987, futures markets had no settlement problems. Overnight settlement and intra-day margin calls protected the financial integrity of the marketplace. Further, because of overnight settlement, futures margins and equities margins, where settlement takes 5 days, are not strictly comparable.

Even if futures margins are high enough for prudential purposes, though, might they still cause greater stock market volatility? Based on the available evidence, the answer to this question is also an emphatic no.

The Federal Reserve, in papers prepared both before and since the market crash, has found no evidence that "low" futures margins and transaction costs contribute to excessive volatility in the equity markets. Instead, the papers note a kind of commonsense truth that does not seem to be commonly known—that in periods of high stock market volatility, futures margins are high. The Fed has recognized what some commentators refuse to see—that futures margins are variable, and that when there is a need, the margin requirement goes higher.

A 1988 House Banking Committee report entitled "The Regulation of Futures Margins" reached the same conclusion. It found that the case for "harmonized" margins between the futures and equities markets "is surprisingly weak." The report goes on to note that "attempts to suppress 'excessive' speculation will render markets less liquid, and therefore more volatile." The report states flatly that "margin regulation is too blunt a tool to employ effectively against destabilizing speculation."

Dual trading, a third area of concern, is not about volatility. Instead, the fear is that dual trading creates a conflict of interest that cannot be protected against, providing an irresistible opportunity to cheat customers. In my own view, this concern is largely illusory—further legislative fixing isn't necessary. Both the House and Senate Agriculture Committees, during hearings on reauthorization of the CFTC, heard testimony that dual trading violations are the easiest to detect using an audit trail, and everyone acknowledges that the futures industry audit trail is the best. Interestingly, even though no other financial market has anything that is even close to being as good, our futures markets are spending a lot of time and money on further improvements in the audit trail, including tamper-proof, electronic, hand-held terminals for all traders. It is also worth noting that none of the indictments resulting from the recent investigations in Chicago involved dual trading.

While I do not believe that legislative action is needed to resolve any problems, I am sensitive to the appearance of conflict of interest that dual trading can sometimes create. It seems to me that decisions on when to permit dual trading or on whether to limit it should be left to the exchanges, their customers, and their regulators. These are the interests best able to judge the case for dual trading and best able to balance it with any risks that may exist. I'm told that dual trading helps create deeper, more liquid markets, and that the practice can help produce narrower spreads and better prices for customers. I'm also told that our international competition also permits dual trading under another name. I'm not the futures expert, though, and regulation of dual trading is something I think should be left to the experts.

The fourth area of concern involves regulatory jurisdiction. Since the crash in '87, there has been a lot of talk about the fact that markets are linked—in fact, that in the stock index futures-equities area, the futures and stock markets are "one market." I agree with this theory, but not its corollary—that there should be only one market regulator.

In numerous other areas regulated by the Federal Government, there is no one regulator, and there is no compelling case for one in the futures-equities area either. In banking, for example, instead of one Federal regulator, there are three. And these three Federal banking regulators are joined by 50 State bank regulators. In antitrust, Federal responsibility is shared by the Federal Trade Commission and the Department of Justice. In trade, the State Department, the Commerce Department, the United States Trade Representative, and the Defense Department all share overlapping responsibilities. Even in the equities markets, the SEC shares jurisdiction with the Federal Reserve Board, which has jurisdiction over margin requirements.

One market, or one functional area, therefore, doesn't necessarily create the need for one regulator. In fact, in the futures-equities situation, unless we want to give the SEC, or some new financial regulator, jurisdiction over all equities and futures products, including traditional agricultural and mineral contracts, it is impossible to use just one regulator.

Using more than one regulator can be an advantage. For example, the better, more sophisticated futures audit trail and clearing systems puts pressure on the SEC to get the equities markets' comparable systems

improved. The futures and equities markets are already cooperating well in policing intermarket trading violations. Intermarket front-running prohibitions are already in place. The only market not covered is the options market—which is already under the SEC's jurisdiction. The CFTC and the SEC are also already cooperating, together with the futures exchanges and the stock exchanges, in putting together systems to deal with future espisodes of market volatility.

All four concerns—program trading, margins, dual trading, and regulatory jurisdiction—do not represent problems that need quick legislative solutions. They are, instead, diversions, from the real changes and problems we should be addressing. Nonetheless, there is continuing, growing agitation to address these "non-problems."

Two basic reasons account for this desire to fix these things that aren't really broke. The first is the desire to do something. After all, there are signs of real problems. There was a crash, and it happened much faster than the '29 crash did. Individual investors do not own as great a percentage of stock as they used to. Stock prices have been moving around a lot, and many investors do feel seriously disadvantaged. Further, it is more and more difficult to raise new equity capital.

Congress, the executive branch, and for that matter, many participants in the equities markets, want to address these problems and are casting around for solutions. In that climate—and considering that no one in government likes to just sit back and watch—proposals to change futures market operations and regulations were bound to occur.

The second reason builds on the first. Congress and the executive branch like to respond quickly. That means fast solutions, usually without the time for in-depth analysis first. That can lead to jumping on solutions that don't solve the real problems. Because of the desire to move too quickly at times, errors in the analysis of the problem can creep in. Even worse, the solutions proposed may not address the problem, even when the problem itself is a legitimate one that needs to be addressed.

The futures industry is in danger of being victimized by these governmental tendencies. A number of my colleagues on the Banking Committee and I, together with the CFTC and the Federal Reserve, were able to prevent any hasty congressional action in 1987 and 1988. However, recent market events, together with the fact that it is past time for the CFTC reauthorization, have combined to reinvigorate congressional interest in legislation.

Unfortunately, our short-term approach to Federal budget problems, together with the President's no new taxes pledge, also creates a potentially serious problem for the futures industry. The President's latest budget request proposes a user fee of 11 cents per futures transaction. Now you may think that this proposal violates the President's no new taxes pledge. However, according to OMB, this is not a tax, it is a user fee designed to cover the costs of running the CFTC.

Why did the administration propose this fee? The answer is simple: To help meet this year's Gramm-Rudman-Hollings deficit reduction target. Did the administration consider the impact the fee might have on the futures industry? The answer is equally simple: No, the OMB budgeters were solely motivated by their short-term budget concerns; that is all they thought about.

The futures industry, however, cannot afford that kind of narrowly focused, short-term thinking. I'm sure you know what the effects could be; our international competition certainly is. They are waiting for us to take misstep. Sweden, for example has just scrapped a bond turnover tax and halved a similar tax on trading in equities and options because the tax had driven most trading abroad. Japan has just proposed a plan that will decrease taxes on futures by 90 percent in October of this year, in order to make their futures industry more competitive.

Yet here in the United States, we are proposing a high transaction fee and higher margin requirements. It is almost as if we are deliberately trying to push the business overseas.

If there is anything recent history should teach us, it is that trading will move to where the competitive conditions are most favorable. When the bond pit in Chicago stopped trading during the crash because it hit the daily price limit, trading in London picked up enormously. Market participants had the ability to trade there, and when they couldn't trade in Chicago, they moved the transaction to where they could trade.

We cannot afford to assume that our current leadership in the futrues area is permanent. We are already less dominant than we used to be. While overall U.S. futures volume is increasing, our international market share is decreasing. If we are not careful, if we do not consider the international ramifications of our actions before we act, we could push futures business off shore.

I don't want that. I'm working hard to try to ensure it never happens. The United States is the world's financial leader. I want to keep us that way, and that means having the kind of healthy, competitive futures industry that the entire world wants to emulate.

What Congress doesn't need to emulate is the behavior it finds so objectionable in the private sector—the focus on short-term considerations at the expense of the long term. We have to abandon the search for short-term, quick-fix solutions. Instead, we need to examine the changes that have occurred to see if we can begin to understand why they occurred. We need to take a hard look at fiduciaries, to see if we can try to understand how they act and why. We need to try to understand the role that taxes and changes in our economy play in our financial markets.

That's the only approach that offers real help for small investors. That's the only approach that may significantly reduce market volatility. That's the only approach that doesn't carry too-great a risk of inadvertantly hurting both our futures and equities markets.

I am, however, a practical politician, and one of the key rules of practical politics is that its tough to beat something with nothing—and I know that the "go-slow" approach I am advocating doesn't offer much to those who want quick action.

I will therefore soon introduce legislation designed to establish a logical regulatory framework for addressing intermarket issues—issues that affect both the equities and futures markets. This is something we can do now, something that will help without creating large, unforseeable risks.

The idea is a simple one: To make one of the SEC Commissioners a member of the Commodity Futures Trading Commission, and to make one Commissioner appointed to the CFTC a member of the Securities and Exchange Commission.

This kind of cross-membership will help further encourage the kind of regulatory cooperation we have already seen between these two bodies, and will institutionalize their working relationship.

The bill is based on the proposition that the regulators already have most, if not all, of the statutory authority that they might ever need. It also addresses the concern that a regulator might be considered by some to be too close to the industry it regulates.

There are precedents for this kind of arrangement. In the banking area, for example, the comptroller of the currency is on the Board of the Federal Deposit Insurance Corporation.

I am not in a position to guarantee that this approach will resolve all the problems facing the futures industry in Washington. Obviously, it does nothing about the transaction fee issue. I do believe, however, that it will help us put some of the market mechanics issues to rest, allowing us to focus on the more fundamental changes now underway.

We cannot afford to base our actions on "false facts", misunderstandings, or misperceptions. We can't afford legislative action based on "turf" considerations, or legislation designed to restore a time that no longer exists.

What we need is greater understanding of all of our financial markets. What we need is an appreciation of the changes in our financial system and an intelligent approach to managing the risks involved. That is what I'm working for. That is what I intend to continue working toward.

I invite you to join me in this quest. Where there are problems, let us work together to find solutions. Where there are opportunities for improvements, let us see that they get implemented. Where there are challenges to be met to maintain the world's foremost futures industry, let us meet those challenges.

[From the Journal of Commerce, Mar. 20, 1990]

LINK FUTURES MARKET REGULATORS

(By Alan J. Dixon)

In October 1987, the stock market crashed. The Dow Jones Industrial average declined over 508 points in a single day. While some believe that Congress should have quickly passed legislation to "solve" the problems that caused the crash, no legislation has been enacted.

Of course, that does not mean that the federal government ignored the crash. There have been extensive regulatory actions taken by the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Reserve and the Treasury Department to address the short-term issues. Moreover, last fall the Senate Banking Committee reported market reform legislation designed to address some of the regulatory gaps the crash uncovered.

The focus of many in Congress and the executive branch, however, has been too short-term and too narrow. There are broader issues that Congress should carefully examine and then act on, but although we had the time to conduct a comprehensive market review, we did not do so. Our fixation on the mechanics of trading blinded us to the broader concerns that really deserved our attention.

Unfortunately, some members of Congress seem more concerned with enacting some-

thing that with ensuring that the response addresses the real problems. Therefore they continue to advocate proposals designed to fix a number of "non-problems" relating to stock index futures and their impact on the stock markets.

One of the major non-issues now under debate relates to regulatory jurisdiction. The most prominent finding of the Brady Commission report on the market crash, authored by Secretary of the Treasury Nicholas Brady, was that the stock-index futures market and the stock market constitute one market. The one-market theory makes a great deal of sense. The same thing, though, cannot be said about its corollary—that one market demands a single regulator.

The Treasury Department and some of my colleagues find it disturbing that regulatory jurisdiction over this "one market" is split between the Commodity Futures Trading Commission and the Securities and Exchange Commission. Treasury has proposed a number of alternatives to cure what the department calls "regulatory fragmentation," merging the two agencies or transferring jurisdiction over some or all financial futures to the SEC. According to the advocates of this change, reform in this area is essential in order to coordinate regulatory mechanisms, to provide more effective ways of dealing with certain manipulative practices, such as intermarket front-running, and to ensure that the regulatory system can better cope with financial innovation.

Major regulatory changes are not needed, however, because we already have effective policy coordination. The CFTC, SEC, Fed and Treasury all meet together regularly to coordinate intermarket policies. Further, both the SEC and the Fed know how to coordinate policy among multiple regulators. The Fed shares banking regulatory authority with two other federal banking regulators and 50 state regulators. The SEC shares its authority with the Fed, which has jurisdiction over margins, and with the states, which control corporate governance issues.

Having multiple regulators need not hurt intermarket enforcement efforts. The CFTC and the SEC already have worked well together to coordinate their efforts against potential abusive practices. Further, the futures audit trail system, widely acknowledged to be superior to anything available in any other financial market, helps create pressure to improve the stock exchanges' comparable systems.

As to innovation, it was the existence of the CFTC that allowed the creation of the foremost market innovation in recent times: the stock index futures contract.

On the other hand, giving the SEC control over some or all financial futures, or all futures, creates potential new problems. The SEC, for example, does not regulate government bonds, currencies or agricultural commodities. If the justification for one regulator is the one-market theory and these markets are not part of that one market, why give regulatory jurisdiction to the SEC?

Giving the SEC jurisdiction over financial futures, or even just stock index futures, makes no sense to futures exchange traders. Currently, a trader can deal in eggs one day, and the Standard & Poor's 500 Stock Index contract the next. If jurisdiction is transferred to the SEC, what happens to a trader's ability to move about on the exchange floor? What impact will that have on market efficiency and liquidity? Why should we even consider having to try to find out?

Since the current ad hoc structure already effectively coordinates policy, major changes in that structure are unnecessary. However, it may be advantageous to institutionalize the cooperation between the SEC and the CFTC. I will, therefore, soon introduce legislation to make one of the SEC commissioners a member of the CFTC, and to make one CFTC commissioner a member of the SEC.

There are precedents for this kind of arrangement. In the banking area, for example, the Comptroller of the Currency is on the Board of the Federal Deposit Insurance Corporation.

This proposal will help keep both the SEC and the CFTC focused on the objectives that Secretary Brady so correctly laid out, while minimizing disruptions of the two agencies or the markets they regulate. Enactment of this approach, together with the market reform legislation reported out of the Senate Banking Committee last fall, should allow us to begin to focus on the fundamental changes in market structure that we need to more fully understand before taking any major new legislative steps.

BUSINESS WEEK HONORS LEO MELAMED

Mr. DIXON. Mr. President, an editorial in last week's Business Week called attention to the genius of Leo Melamed, and the tremendous contribution he has made to the Chicago Mercantile Exchange and our financial markets generally.

I have known Leo for a long time. He deserves every bit of credit that the Business Week editorial gives him—and a whole lot more.

Leo will be retiring from his posts at the Merc at the end of this year. I wish him well in all of his future undertakings.

Mr. President, I ask unanimous consent to print the Business Week editorial in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From Business Week, Mar. 19, 1990]

DON'T FORGET LEO MELAMED'S LESSONS

The retirement of Leo Melamed as head of Chicago's Mercantile Exchange marks the passage of the futures industry from adolescence to maturity. Melamed's achievements are legendary. It was he who glimpsed in the breakdown of the fixed-exchange-rate system in 1972 the promise of trading in a new commodity: currencies. Later, he led the industry into stock-index futures and, still later, the first international exchange linkup.

Melamed got attention on Capitol Hill after the 1987 stock-market crash by warning Congress not to let overregulation push futures trading to Japan. And when news broke of a government sting on Chicago's exchanges that yielded indictments of 45 traders, Melamed quickly initiated sweeping reforms, averting a wholesale housecleaning by the "outsiders" in Washington and vowing to put "the fear of God" into would-be thieves in trading jackets.

Melamed's departure leaves the futures industry firmly entrenched in the global financial marketplace, but facing new challenges. The exchanges must settle, for good, the regulatory anomaly that prevents the Securities & Exchange Commission from regulating stock-index futures, defying logic and the interests of stable markets. They must fairly and aggressively police floor trading and dissolve the cronyism that has threatened to frustrate such efforts in the past. Along with the Chicago Board of Trade, the Merc must implement Globex, the global computerized trading system whose development Melamed supported as essential to maintaining Chicago's position in international futures trading.

Asked to look back upon his career recently, Melamed mused: "There are some footprints in the sand I am very proud of." Now, his successors must ensure that those footprints aren't washed away.

TERRY ANDERSON BEGINS SIXTH YEAR OF CAPTIVITY

Mr. MOYNIHAN. Mr. President, I rise today to remind my colleagues that Terry Anderson is now entering his sixth year of captivity in Lebanon. Last Friday, March 16, we commemorated the end of his fifth year. Today marks his 1,830th day in captivity.

Mr. President, during that time, Terry Anderson has lost his father and his brother. His daughter was born. She is now 4 and has never seen her father.

When Terry Anderson was taken hostage on March 16, 1985, Ferdinand Marcos was in power, Solidarity was struggling against martial law, and the Iran-Contra affair had yet to make headlines. Since then, crack cocaine has gripped our cities, the cold war has ended, and the once widespread political ideology of totalitarianism has died. All this. And Terry Anderson has remained chained to a wall in a basement, somewhere in Beirut.

I would like to recall today the sad and sobering words of French journalist and former hostage Jean-Paul Kauffman, who wrote on the fourth anniversary of Terry Anderson's captivity:

> The truth is that the hostages in Lebanon today have become the damned of the West. Without hope of being saved, imprisoned in silence and darkness, deprived of the sight of the world of the living, forgotten, they no longer represent anything. * * * The most tragic thing is that this torment is administered as much from the outside by countries and people indifferent to their fate as on the inside by their captors.

Mr. Kauffman's poignant thoughts struck me then, as they do now. The plight of the hostages in Lebanon requires our constant care and attention. We must do all we can to convey to Terry Anderson and the others that we have not forgotten, that we are not indifferent, and that we will not stop fighting for their release until they are resting safely in their homes. Captivity is a day-to-day ordeal for them; it has to be for us as well.

Mr. President, I ask unanimous consent that three articles appearing in the Washington Post over the week-

end be printed in the RECORD at this point. One concerns the ceremony held in Lafayette Square on March 16, commemorating Terry Anderson's fifth year of captivity. The other two address the issues being raised by United States efforts to secure the release of the hostages.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 17, 1990]

HOSTAGE'S FIFTH YEAR IN CONFINEMENT IS MARKED

(By Eleanor Randolph and David Hoffman)

Through tears, prayers and emotional remembrances, friends and family of U.S. hostages yesterday gathered at Lafayette Square to mark the fifth year that journalist Terry Anderson has been a hostage in the Middle East.

President Bush—in a letter he presented yesterday to Anderson's sister, Peggy Say—said he plans "to keep open lines of communications with all parties, including Iran, who have influence over hostages takers."

Bush, who did not come to the ceremony across from the White House, told National Public Radio that he decided to meet with Say because, "Every day I'm president I have a heavy heart when I think of the hostages."

But the president added that he also had to keep a "delicate balance" between caring about the hostages and giving any signals "to the hostage holders that make them feel that there's more advantage in holding the hostages than in releasing them."

White House press secretary Marlin Fitzwater said "it was widely concluded that President Reagan's actions" in the Iran-contra scandal, in which he agreed to sell arms to Iran, "were guided by his personal contact with the hostage families and the great anguish that he received as a result of that."

Fitzwater said that "perhaps because of the Iran-contra experience . . . I don't think anyone has any fear of being driven to do anything irrational because of personal contact with the families. There is certainly no fear of that on the president's part."

Bush has said repeatedly in recent weeks there are no ongoing negotiations to win freedom for the hostages but that he would be willing to pursue any leads and talk to anyone who might aid in their release. Yesterday, Bush disclosed that he had had contacts with Syrian President Hafez Assad. "I've been in touch with him," Bush said as he toured the Tidal Basin to view the cherry blossoms.

Fitzwater said Bush had been in contact with Assad through "diplomatic channels" but declined to be specific. "There have been a number of overtures to leaders in the Middle East, including Assad, in recent months on the hostage matter," he said.

Bush also said he had received some reports from former president Jimmy Carter, who is traveling in the Middle East, and who met with Assad this week. Bush emphasized that Carter was traveling in an unofficial capacity.

At the noon ceremonies arranged by a Washington-based humanitarian organization called "No Greater Love," Say said she wanted to tell Anderson's captors that: "We are the American people and you have humiliated us and you have degraded us and you have shamed us . . . and you wonder why your claims of injustice fall on deaf ears.

"You say that your story is not being told, and yet, the man that told it so well has been chained to a basement wall for five years," she said.

The ceremony, which also acknowledged the time 17 other Western hostages has been held in Lebanon, included speeches by Sen. Daniel Patrick Moynihan (D-N.Y.), anchormen Dan Rather of CBS News and Tom Brokaw of NBC News, and the Rev. Lawrence Martin Jenco, a hostage locked up with Anderson before his release in 1986.

In the crowd were scores of journalists and colleagues of Anderson. Perhaps their strongest applause went for remarks by Thomas Friedman, chief diplomatic correspondent of the New York Times, Friedman told the crowd that at Anderson's commemorative service last year, he and others had appealed to the "moral self-interest" and religious teachings of Anderson's captors.

"But as we stand here today we have to look back on the last year and reflect that we were just talking into the wind," Friedman said.

Friedman said that so far other hostages have only been released by what he called "the market solution," in which hostages are essentially purchased by their government, or "the military solution," such as the 1976 Israeli raid on Entebbe Airport in Uganda to free hostages held by hijackers of an Air France jet.

Friedman said the United States has opted for a third method of dealing with the hostage issue "that I call the constitutional solution . . . where we sit back and say, 'I'm sorry, we just don't negotiate with kidnappers.'"

"As one who lived in Beirut for five years, I know the kidnappers understand the market solution. They understand the military solution, but I'm afraid they don't understand the constitutional solution," he said.

Friedman said it was time to come up with other ideas for Bush. "He's as confused as we are, and I don't blame him," he said.

Louis Boccardi, president of the Associated Press, said, "At this point, the greatest gift we can give [Anderson] is to press on, to not falter, to find an honorable way to get the job done.

"If I know Terry, that's what he's thinking too," Boccardi said.

[From the Washington Post, Mar. 18, 1990]

THE HOSTAGE LABYRINTH—MANY COMPLEX DEALS LIE BEHIND ANY RELEASE

(By Nora Boustany)

In Beirut's dilapidated southern suburbs, where American and other Western hostages are believed held, another round of Shiite fratricide broke out last week. The hostages are in earshot of the rattle of machinegun fire in the alleyways near the dim basements that imprison them, as well as the thunder of artillery from an inter-Christian war that has been waged house to house and street to street only two miles away.

In the meantime, the United States, with the help of its Arab and Gulf friends, and the region's ubiquitous "middlemen," is following its own maze of diplomatic streets and alleys, seeking the release of the eight Americans still languishing in Lebanon. As Terry Anderson, the longest-held American hostage, began his sixth year in captivity, the signals that Iran and the United States have lately been sending each other suggest that, despite continuing threats by pro-Iranian groups in Lebanon to harm their American hostages, both governments may now be willing to find a way out of the hostage impasse.

"The outline of a deal has come into focus," said Martin Kramer, Israel's leading expert on the hostage-holding group Hezbollah, and currently a fellow at the Woodrow Wilson Center. "The question is, what is Iran going to work out with the hostage holders and Syria? We are closer to the beginning of that process than the end."

Kramer is referring to the complexities Iran will face in getting the hostages released by their captors in Lebanon. Iran will have to persuade its regional ally, Syria, to allow groups such as the pro-Iranian Hezbollah to operate freely within Lebanon. Syria's Lebanese proxy, the Amal Militia, has been at war with the more militant Hezbollah since 1988 to keep it out of southern Lebanon.

Iran will also have to mediate between Lebanon's traditional power brokers and the web of fundamentalist groups that have made that troubled nation an extension of Tehran's foreign policy operations.

The actual Lebanese captors of the foreign hostages, who fall into the various categories of greedy contractors, rabid ideologues or relatives of Shiite activists held prisoner in Kuwait, will not be easy to sway. "There will have to be a process of arduous persuasion by the Iranians. [The captors] will also maximize what the hostages will bring them. They realize they have an asset that is losing in value, but this is still not a fire sale," cautioned Kramer.

One source familiar with several governments involved described the outlines of a possible deal; "The idea is to first release three hostages, then to see whether certain conditions are met. Iran is eager to be removed from the terrorism list," the source explained, "to have the United States unfreeze its assets. . . . There is some intransigence, but Gulf countries such as Oman, Algeria and Syria are involved in the process."

Conditions Iran would like to see addressed include a final resolution of conflicting monetary claims between Iran and the United States, which date back to the Shah's overthrow, and the more recent dispute over U.S. compensation for victims of the Iranian civilian airliner shot down by the USS Vincennes in 1988. It is unlikely that Iran has dropped any of its conditions, but it may be willing to reshuffle them and tell its allies in Lebanon that a hostage release is necessary.

According to Iranian and Lebanese fundamentalist sources, the captors are setting a number of conditions that would involve an exchange of some of the hostages for Lebanese and Palestinian prisoners now being held in Israeli jails. Among these would be clerical leader Abdel Karim Obeid, who was captured in southern Lebanon by Israeli commandos last summer.

The captors are also insisting that any deal not include Israeli soldiers taken prisoner in Lebanon since 1985, and that Israel refrain from building any settlements in northern Israel near its border with Lebanon. The captors fear that such settlements will be built to accommodate the expected influx of Soviet Jews into Israel, and that they will put added pressure on Lebanon's scarce water supply.

Furthermore, the captors are resisting realeasing all of their hostages; they want to hold on to some of them as a guarantee against retaliation.

Though most U.S. officials cringe at the mention of the word "deal," specialists and diplomats agree that regardless of the scenario or sequence of goodwill gestures, Iran sanctioned kidnapping in Lebanon for a future trade-off.

"Iran always wanted something in return for the hostages. [Iranian President Hashemi] Rafsanjani is an opportunist, not a philanthropist. If he wants to secure the release of hostages, he wants to be paid in some form," one State Department official explained.

As one European diplomat specializing in Middle East and hostage affairs here observed, "There is no free lunch in the Middle East."

Rafsanjani has a number of incentives for trying to make a deal for the hostages now rather than later. Rafsanjani may be coming to believe that the value of the American hostages is deteriorating, that they stand in the way of much-needed rapprochement with the West.

Such a rapprochement has nothing to do with any shift in Iran's perception of the West and its values, but with the hard facts of Iran's crumbling economy. Iran's general assembly, the Majlis, often the setting for virulent tirades against Western and other countries, has approved foreign funding for an ambitious five-year development plan.

Furthermore, the revolutionary changes in Eastern Europe may soon deprive the Islamic Republic of its geostrategic importance.

There have been numerous signs of movement from Iran. A Feb. 27 editorial in the influential Tehran Times stated that: "The time has come for all the hostages to be freed unconditionally, because their continued detainment has resulted in widespread negative propaganda against the Islamic Republic." The newspaper recommended that Moslem fundamentalist forces in Lebanon release the foreign captives on humanitarian grounds.

After a trip to Tehran, Lebanon's leading Shiite spiritual leader, and the eminence grise of Islamic fundamentalists, Ayatollah Mohammed Hussein Fadlallah, further fueled hopes with an optimistic forecast the day after the editorial appeared. There were "practical factors indicating that the western hostages in Lebanon will be freed," Fadlallah said. Usually in tune with current trends in Iranian thinking, and with the ripples in Tehran's power centers, Fadlallah added, "I can say that there is a general conviction, a favorable atmosphere, not abstract but based on tangible elements."

However, Ahmed Khomeini, the son of the late Ayatollah Khomeini, dampened some of the euphoria over Iran's change of heart by denying it was directly involved, with hostage-taking, and saying that the United States was wasting its time in trying to open channels to Tehran. "The United States will never see the day when the Islamic Republic will reach a compromise with Washington."

In a call to his protégés in Lebanon for defiance, former Interior Minister and Hezbollah founder Ali Akbar Mohtashemi wrote an editorial in the hard-line Kayhan newspaper last weekend warning that "freedom for the hostages means breaking the chains of bloodthirsty wolves."

Iranian observers and analysts in Tehran discount the significance of Mohtashemi's views, noting that the broad principle of foreign funding has been approved despite the factional bickering.

"The question of relations with the United States is so bitterly controversial, but Rafsanjani has an eye on the future," one Iran specialist commented.

President Bush repeated his open message to Iran last week that "good will begets good will." He also tantalized reporters at his Tuesday news conference with the suggestion that "When the whole story comes out on [the hostage process], you all are going to be very, very fascinated with the details," For now, U.S. counter-terrorism teams appear to be no more than keen spectators, processing messages, communiques and declarations from Iran, Syria and Lebanon for final reports and recommendations to the secretary of state and the president.

"The United States and Iran could have a normal relationship," said one U.S. official closely monitoring the hostage crisis. "Our interests are not inimical or antagonistic to one another."

"It was old men hating old men, and young men suffering for it," said Noel Koch, former deputy assistant secretary of defense for international security affairs, in a critique of President Reagan's attitude of hanging tough on the hostages.

Koch argued in an interview that it would have been better to try to deal with the hostage issue during Ayatollah Khomeini's lifetime, "even if it meant eating a little crow in the process," rather than let him die in a state of implacable hostility toward the United States. The situation has proven difficult to resolve under Rafsanjani.

As the myriad players seek some kind of payoff from kidnapping, revolution and war; as go-betweens probe for profitable opportunities; as governments seek the least humiliating solution to a problem that has lasted too long, the hostages, dehumanized, degraded and sometimes forgotten, are waiting. But they are still alive, and life is inestimable.

[From the Washington Post, Mar. 18, 1990]

. . . BUT OUR 'NO NEGOTIATIONS' POLICY MAY NOT HAVE HELPED

(By Noel Koch)

Hostage-taking is a form of terrorism, and the American record in dealing with terrorism has been marked variously by indifference, indecision, vacillation, venality and incompetence. Yet, in spite of the cost in American lives and treasure, U.S. policy toward all forms of terrorism still can be summed up in single meaningless phrase: "no negotiations, no concessions," a policy that has never run the risk of relevance.

Within the Reagan administration, where I dealt directly with counter-terrorism, there were endless disputes over the most effective way to deal with states involved in terrorism. Such disputes began at the bottom, with hair-splitting considerations of what was a state and what was state-supported—as opposed, say to state-sponsored—terrorism. Government officials, particularly those in the State Department dealing in Middle Eastern affairs, were utterly unmoved by any suggestion that nations within their purview might be acting in ways contrary to U.S. national interests.

For example, Iraq harbored a bomb maker named Abu Ibryhim, some of whose products turned up on American civil aircraft. At least one fatality could be traced to the explosives conceived in Baghdad, and that low number was luck; the bombs were placed to destroy at least two American jumbo jets. Iraq was on the State Department list of nations involved in terrorism. Then in 1983 Iraq was removed from the list. Iraq was still a terrorist state, but for reasons of regional political posturing, it was deemed necessary for the United States to favor Iraq in the war Iraq had launched against Iran.

On a similar note, the evidence of Syrian involvement in terrorism was—and for years has been—conclusive. Yet when a decision was made in 1985 to send Ambassador-at-Large for Counterterrorism Robert Oakley to Damascus to remonstrate with President Hafez Assad, officials in State's Bureau of Near Eastern and South Asian Affairs intervened, protesting that the straight-talking Oakley might offend Assad. Oakley was not sent.

A combination of circumstances led to the U.S. bombing of Libya in April 1986. These circumstances included the persistent and irritating posturing of Libyan strongman Mu'ammar Gadhafi, growing public and congressional disenchantment with the Reagan administration's failure to deal with terrorism—especially Middle Eastern terrorism; intra-governmental pressures, with elements within the administration at war with each other, and finally, the fact that Libya was simply considered the easiest target among terrorist supporting nations. In addition, the United States had evidence of Libyan involvement in an act of terrorism against Americans in Berlin.

The bombing of Libya had a curious impact, The Reagan administration insisted that it had stopped terrorism cold—especially Gadhafi's role in it. This was nonsense; Gadhafi barely skipped a beat, changing the communications system that had led to the discovery of his involvement in the Berlin bombings, and enlisting a more competent group of surrogates to continue his actions.

There were beneficial consequences, of course. These came with the sudden, major upgrading of European cooperation with the United States in addressing terrorism. European governments did not want the United States conducting military operations on NATO's southern flank, with all the risks that entailed for Europe, not to mention risks to European personnel and businesses operating in the Middle East. Therefore, a number of Libyan embassies in Europe were closed down, a number of Syrian diplomats were expelled, and cooperation between intelligence and enforcement services increased. The result was that terrorism declined during 1987 and most of 1988, offering a false dawn and permitting American officials to declare that terrorism was finished.

The chief source of inspiration and capacity for terrorism continues to come from nations on the Mediterranean littoral, and from Iraq and Iran. These threats rarely manifest themselves in the United States, but Europe provides a target-rich environment for those who want to kill or otherwise harm Americans.

The evolution of present-day terrorism policy begins in the aftermath of the 1967 Six-Day War in the Middle East, with Palestinian frustration and the ideologically inspired violence of European radicals beginning to make themselves felt at about the same time. One distinguishing feature that linked all early hostage-takings of that period was that authorities responsible for resolving these incidents felt compelled almost without exception to make some concessions in the interests of seeing the hostages freed. In the early years, the propriety of this step was rarely challenged.

One early attempt to challenge this policy come in Khartoum in 1973 with the takeover of the Saudi Arabian Embassy by Palestine Liberation Organization (PLO) terror-

ists. American Ambassador Cleo Noel and his deputy, George Moore, were among those seized. President Nixon refused the terrorists' various demands, and the Americans were killed, along with a Belgian diplomat.

The logic of the "no concessions" position, then and now, seems self-evident: Making concessions to terrorists provides an incentive for the commission of further acts of terrorism. Whatever else the U.S. government understood about the issue, it felt safe in clinging to that basic wisdom, and clung it has, even as terrorism has changed and appreciation of the problem has become far more sophisticated than it was in 1973.

The takeover of the U.S. Embassy in Tehran in 1979 provided President Carter's partisan opponents with a gift of seemingly incalculable political value, and they joined the Ayatollah Khomeini's Iran Revolutionary Guards in tormenting the president. At length, however, the gift proved poisonous: Candidate Ronald Reagan's repeated assertions of the ruthlessness with which he would address any acts of terrorism made his administration a prisoner of his campaign rhetoric (gratuitously amplified in his inaugural address).

Thus as terrorism accelerated in the face of President Reagan's promise of "swift and effective retribution," White House political operatives sought to shield the president from the growing public conviction that the world was becoming an increasingly less safe place in which to live and travel, and that somebody needed to take responsibility for managing the problem.

Relations between the United States and Europe went sour on this point. Behind closed doors, officials in Washington blamed the growing terrorism problem on the refusal of the Europeans clearly to enunciate and to implement a policy refusing to deal with terrorists. From the European perspective, the American attitude was just about intolerable. As noted, Americans were very often the targets of actions in Europe—actions that often did more damage to Europeans and their property than to Americans. Further, America had a credibility problem when it came to fighting terrorists; many nations—West Germany, the Netherlands, France, Great Britain, Italy, Spain, Turkey and Israel—had sent forces against terrorists and won.

The United States was not known to have enjoyed any successes in the war against terrorism; the will to confront the political and bureaucratic impediments to success was not there. Compounding the grievance, Americans seemed utterly incapable of keeping a secret; jealousy, bickering and noncooperation were the order of the day among U.S. intelligence services, and the calculated leak was part of the arsenal in their internecine wars. It was risky to share information with American agencies. Moreover, in spite of the endless parroting of "no negotiations, no concessions," European officials were aware that U.S. policy could turn on a dime.

In addition, the sheer intransigence of the "no negotiations, no concessions" policy was seen by Europeans to be inherently dangerous. As soon as the United States confronted a terrorism incident of duration—such as a hostage-barricade event—spokesmen would begin at once to insist that the United States was not going to deal with terrorists. Yet, as anyone who has dealt with the problem knows, should terrorists wish to attack the policy itself in order to demonstrate how the United States might be forced to make concessions, it would be child's play to do so. So stylized and bombastic had these declamations become by the mid-1980s, that it was suggested to the State Department that it ought to be sufficient simply not to make concessions and be quiet about it.

Finally, the policy foreclosed any exploration of possibilities for ameliorating conditions that often prompted the bloodiest acts of terrorism. As long as the United States saw itself in a test of wills with those who committed terrorism, terrorism would continue unabated.

Yet the United States seems married to a policy that has outlasted its purpose, if, indeed, the policy was ever congruent with its purpose. The anchor that continues to hold this policy in place consists of nothing weighter than the fact that the Reagan administration vociferously adopted it. President Bush cannot revise a policy with which he was associated as vice president without raising the question of why it was not done sooner, for instance, when he chaired the administration's Task Force on Terrorism. In addition, it must be determined whether revision acknowledges inadequacy and, if so, how the victims of that inadequacy—among them Americans who died in Beirut and others still alive there—are to be compensated.

The clearest indication that the policy of "no negotiations, no concessions" is inadequate to the problem it addresses can be found in the singular fact that Reagan himself violated it. Even had National Security Adviser Robert C. McFarlane not been duped into trading U.S. arms to Iran for American hostages, torturous efforts to circumvent the policy without appearing to violate it were already in evidence.

For the present, the prospect of retaliation for Pan Am flight 103, the absorbing internecine struggles within Iran, the preeminent attractions of the intifada, and Lebanon's national suicide all draw energy and attention from Middle East terrorism. That it will resume is certain.

The hostages in Beirut are an impediment to a change in the relationship between the United States and Iran. It is in the interests of both parties to find a way around this impediment. We know from experience that Tehran cannot simply wave a wand and effect the release of people held by pro-Iranian factions in Lebanon. Post-Khomeini divisiveness in Tehran make this all the more problematical.

We also know from experience that the hostages in Lebanon provide a dangerous, chronic opportunity for the United States to bring embarrassment upon itself, or have embarrassment brought upon it by the unscrupulous. Useless, cruel or self-aggrandizing initiatives associated with the hostages in Lebanon are endemic; the hostages are victimized by their own leaders no less than by their captors.

NORTHWEST INDIANA HIGH SCHOOL STUDENTS EXCEL IN COMPETITION

Mr. COATS. Mr. President, northwest Indiana is standing tall and proud after students from several local schools won top honors in recent scholastic competitions.

In this year's Indiana State Science Olympiad, area schools won first prize in both the middle school and the high school divisions at the competition held in Indianapolis. From there the 15-member teams from Valparaiso's Jefferson Middle School and Hammond's Gavit High School advance to the National Science Olympiad in Clarion, PA, this May.

This is the second consecutive State championship for Gavit High and its fourth in 6 years. Several other northwest Indiana teams also proved their scientific prowess at the State event.

Meanwhile in Valparaiso, IN, several high school teams were demonstrating their knowledge of Greek civilization at the Duneland Academic Conference Super Bowl. This competition, formally known as the Hoosier Academic Super Bowl IV, is part of the Indiana academic competitions for excellence program sponsored by the Indiana secondary school administrators.

Teams of students from eight local school systems competed for more than 3 hours, answering questions on social studies, math, English, science and the fine arts. The theme of the event was "The Glory That Was Greece," and all of the questions—a minimum of 20 in each of 6 categories—dealt with ancient Greece.

The winners were the team from Michigan City Rogers, which won the traveling trophy for best overall team and placed first in social studies, English and all-around. The Rogers team also won second prize in math and third in science.

Other teams placing in the competition, which is the first preliminary round, were Valparaiso, which won a first in science, second in English, and third in social studies; Michigan City Elston, which placed first in math, second in science, and third both in English and all-around; LaPorte, securing a first in fine arts and a third in math; Charleston, garnering seconds in social studies and fine arts; and Portage, winning a second in all-around and a third in fine arts. Also competing were high school teams from Hobart and Merrillville.

The teams will return for the area competition on April 17 at LaPorte High School. The winners will then proceed to the State competition on April 28. Teams from across the State are invited to the Super Bowl finals based on the number of points they have accumulated in their divisions.

Clearly northwest Indiana has its share of "smart kids," that is, the kind of students who find greater kicks out of brainpower than drugs, and who spend their time and energies on learning and learning to compete on the basis of academic achievement. The Science Olympiad and the Academic Super Bowl are the kinds of competition that bring out the best in our young people and contribute to their intellectual development and to our society's excellence and future ability to meet world competition.

Commenting on these gold medal performances, the Post-Tribune of Gary editorialized on March 16:

The great concern about the poor showing of this country's students in mathematical and scientific knowledge compared to other developed nations has been overshadowing the achievements of some of its students. It is young people like these who will be leading the way into the wonders of the 21st century, and it looks like northwest Indiana is going to have its share of the input.

To which I say: Amen. And congratulations to all the students and their teachers and coaches. And best wishes for continued success in academic competition and in the exciting challenges of life ahead.

SITUATION IN ISRAEL

Mr. PELL. Mr. President, the past weeks have been particularly difficult ones for our friends in Israel. The collapse of the coalition government led by Prime Minister Yitzhak Shamir provides evidence of the acute nature of the present debate within Israel as to how best to proceed in the peace process.

These are, indeed, difficult times for the Israelis, who understand better than we that their future is at stake now. Israelis know that a way must be found to a comprehensive settlement, and that taking that course will require difficult choices. Our hopes and prayers should be with them as they choose the government to lead them in this time of decision.

Unfortunately, the political crisis was brought on at least in part by the President's early this month calling into question the right of Jews to settle in East Jerusalem. It is quite regrettable that this controversy occurred.

The mayor of Jerusalem, Teddy Kollek, a person of considerable talent and intelligence, had this to say in a March 8, 1990, letter to the President:

I am aware of the policy of the United States toward the City of Jerusalem, namely that the city remain united but that its status be determined in the negotiations. In my opinion there is no conflict between this policy and the actual state of affairs. While there is a difference between Israel's thinking that Jerusalem is and shall remain the capital of Israel under Israel's sovereignty and American policy that leaves the city's ultimate status open, no conflict needs to arise from the existence of the new urban neighborhoods that have gone up in the last 22 years.

Mr. Kollek noted in his letter that in the 22 years since Israel took control of all of Jerusalem the numbers of both Jewish and Arab inhabitants have grown substantially. The numbers of Jews increased from 200,000 to 340,000 and the number of Arabs doubled from 75,000 to 150,000—making new housing necessary for Arabs as well as Jews.

Mr. President, I would hope that Israel's current difficulties underscore how important it is that the United States remain, in word and deed, a strong, unwavering ally. In this regard, the United States should not be saying or doing anything suggesting that there is a conflict between the United States and Israel on the status of East Jerusalem.

With regard to economic and military aid, it is important to give the clear message that there will be no cutbacks. The notion floated earlier this year of a 5-percent cut in aid to Israel and other major recipients has proved, deservedly, to be a nonstarter.

I have been in the forefront of those seeking ways to provide additional funding to emerging democracies. Surely, funds can be found by trimming in other areas, particularly in military assistance to nations other than our Camp David partners. Both Israel and Egypt face severe threats that will remain no matter how the military situation evolves in Europe.

Mr. President, we are witnessing profound change in the world around us. We hope a comprehensive peace in the Middle East will bring a new and vastly situation for the better in that region of the globe. Until the way to that settlement is clear, we should continue to demonstrate a willingness to help in finding the way and a resolve to continue to give full support to Israel and Egypt.

JOHN HUME OF NORTHERN IRELAND ADDRESSES THE COMMON FUTURE OF THE FAMILY OF NATIONS

Mr. KENNEDY. Mr. President, last month in Berlin, John Hume, leader of the Social Democratic and Labour Party in Northern Ireland, delivered an eloquent address on the future of the peoples of Europe and all nations.

In his address, which was delivered in the Reichstag in the presence of Willy Brandt and many other European political leaders, Mr. Hume spoke with great vision and sensitivity about the challenges and opportunities facing all of us in the wake of the dramatic peaceful revolution that is steadily transforming Europe and the world.

Mr. Hume himself, as leader of the SDLP in Northern Ireland, has won worldwide renown for his effective advocacy of peaceful change and an end to the violence and divisions in his own country. In a poignant passage in his address, he notes that although the Berlin Wall has come down, the Belfast Wall still stands, a dismal monument to the strife and confrontation that continue to plague his native land.

As Mr. Hume makes clear in his address, the larger challenge we face is not just to create a new Ireland or a new Europe, but a new world order, in which progress is possible for all the peoples of our planet. Leaders like Willy Brandt and John Hume have helped to bring us to this threshold of the future. They have much to teach us about that new world order.

Mr. President, I believe that Members of the Senate will find John Hume's address of great interest, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY MR. JOHN HUME, M.E.P., LEADER OF THE SOCIAL DEMOCRATIC AND LABOUR PARTY OF NORTHERN IRELAND, TO THE CONGRESS OF THE EUROPEAN SOCIALIST AND SOCIAL DEMOCRATIC PARTIES, BERLIN, FEBRUARY 8, 1990

It is indeed fitting that at this time we meet here in the very heart of Europe, and that we meet in this city, which for so long stood as the symbol of a divided continent but which today has become a bridge between East and West, offering new hope of a better future. It is fitting too that we meet in the presence of a man who has shared so closely the hopes and fears of this city and of all his people, a statesman who had the courage to abandon the sterile suspicions and distrust of the past, and who had the wisdom to choose a better course. In the extraordinary events of recent months we have witnessed the clear vindication of his courage and wisdom and we salute here today a man who will be recognized as one of the principal architects of a new Europe—Willy Brandt.

Some forty-five years ago the nightmare that was to have lasted a thousand years was brought to an end not far from where we meet but it left in its wake a continent in ruins with millions dead, millions homeless, millions hungry. Once again the people of Europe knew the terrible price to be paid for conflict and for dreams of conquest, this time on a scale unprecedented in their history.

In the years following that cataclysmic war there were men who vowed that such slaughter should never be repeated, men of vision who saw the need to bury forever ancient enmities and create a new order of relationships within Europe, men of differing cultures and backgrounds who recognised that what unites the peoples of Europe is far greater than what divides them.

From their vision of a new Europe was to grow the European Community of today, a community in which twelve European peoples have irrevocably linked their destinies and by sharing their sovereignty have sought to achieve a greater freedom in an interdependent world. Together they have now embarked on a process which will lead them ever closer and aims at nothing less than the total removal of the barriers that exist between them, not from any thirst for power, or desire for prestige, but in order to create the conditions in which best to protect common values and to promote shared aims. Above all, in seeking unity we do not seek any spurious uniformity, for we are convinced that one of the most precious elements of our common European culture lies in its diversity and we have recognised a fundamental truth which too often eluded our forefathers: that in our differences lies our strength rather than our weakness. The essence of unity is the acceptance of diversity—E pluribus unum.

I believe the Community stands as a model for the conduct of relations between states in Europe and offers a powerful example of how ancient wrongs and animosities can be overcome by new forms of cooperation and trust. Moreover, at this time when old certainties are crumbling, the Community can be a powerful source of stability and continuity in a changing Europe.

The post-war years bequeathed a legacy of bitterness to Europe, with a divided Germany and a sundered continent. East and West faced each other in ideological conflict. The drab oligarchies of the East could only be sustained by the denial of basic freedoms and ever fiercer repression. When many least expected it and against all hope, change has begun to sweep the regimes of the East, change brought about by new thinking and by the political and economic contradictions inherent in those systems of government. Above all, change has been wrought by the frustration and anger of peoples who for too long had been denied what was theirs by right, whose dignity had too long been trampled, whose spirit had too long been crushed. We have been privileged to witness extraordinary and inspiring scenes: men and women gathering in the ancient cities of Eastern Europe demanding that they be heard, demanding that they be treated with respect. We have shared in their joy as they found new freedoms and as the old tyrannies collapsed before the tide of popular will. We have seen the powerful cast down and those who had been outcasts chosen to lead free peoples.

To an Irishman who, in his lifetime, has led people in the streets in mass non-violent protest against the denial of basic civil rights, who with my party steadfastly uphold the democratic process in a society where the taking of human life is seen by some as the only means of change and by others as the means of upholding the status quo, where the doctrine of an eye for an eye leaves blindness in its wake, such scenes cannot fail to be deeply moving. The silent dignity of masses of people gathered in non-violence will bring about more change and will expose in minutes more repression than years of gunfire and bloodshed. Those who use the methods of the oppressor tend to end up worse than the oppressor. I bring with me today a symbol of past divisions and present realities. I have it here. Yes, it is a piece of a wall, but it is not from the wall on which the people of Berlin danced and which they helped to tear down. It is a piece of the "Belfast Wall", taken from one of the many walls that have been built to separate divided communities throughout the city. While barriers between peoples are crumbling across a continent, even as we speak another such wall is being built in Belfast and has been given by some the grotesque name of "peace-line", as if the bleak desolation created in parts of that city after twenty years of violence could be described as peace.

This lump of concrete reminds us that while walls may separate people, the real barriers cannot be seen because they exist in the hearts and minds of the people themselves and are built of hate and violence and fear. They are barriers which can only be overcome when we overcome our fears and have the courage to trust one another and to learn to accept and respect our differences. They are also a challenge for in reality they were built by past attitudes and the challenge is, if those walls and what they represent are to fall, to re-examine those past attitudes, all of them.

Twenty years of civil unrest in Northern Ireland have also served to strengthen my belief that political change is not served by violence. Violence is a catalyst of hate, not reform, and, as this stone bears eloquent testimony, violence only creates new divisions among a divided people.

This year in Ireland we mark the 300th anniversary of a battle which involved the armies of Europe and took place by the river Boyne in 1690. For a brief moment the rulers of Europe turned their attention to Ireland as James II and William of Orange met in a fateful encounter. In the encounter were Danes, Dutch, Germans, English, French on both sides, and of course Irish on both sides. The irony, of course, is that while the peoples which participated in that encounter have long settled their differences, the anniversary still has significance to us in Ireland, representing for some the destruction of liberty while for others the securing of their freedom. It is seen by many in Ireland as the beginning of our present problems.

But even if there are in Ireland those who would rehearse ancient rights and wrongs, when respect for the past paralyses their attitude to the future, I am not despondent about the future and my hope is based on the powerful example which Europe provides. If the most bitter of enemies who fought each other twice this century can compose their differences and contemplate even closer forms of political and economic union, I am certain that we in Ireland can find a way to live together in peace and mutual respect. The fact that both parts of Ireland are partners in the Community immediately places in a new context old questions of sovereignty and identity which were themselves European in origin, and provides the basis for a common future.

Recent events in Eastern Europe also show that new ideas can sweep away obstacles which had seemed immovable, and just as the darkest hour comes before the dawn, new beginnings can emerge just when we face despair. But I do not despair: as someone who has devoted my life to politics and the democratic process, I say with complete and utter conviction that there is no political problem which cannot be solved by men and women who chose to put aside former animosities and work together to find solutions, and who are prepared to act in a spirit of goodwill and trust. I say too that the time has come for us to tear down the walls which separate us and find a new liberty in freedom from hate and freedom from fear.

As the euphoria of recent weeks inevitably fades, it is evident that the countries of Eastern Europe face difficult and urgent choices. The outcome is uncertain but the prize is great: we have finally been offered a window of opportunity to make the historic adjustment in the relations between the nations of Europe and the chance to create democratic and stable societies in a reintegrated and peaceful continent.

Of one thing, I am certain: in the challenges which lie ahead for all of us in Europe, history will not judge us kindly if those in political life fail to make a generous and imaginative response to the demands of the moment. Already we hear siren voices, some urging caution, saying that there is nothing we in the West can do to make or mend the situation, others lamenting the passing of old certainties and the grim stability of the past, others still rejoicing in the difficulties of former adversaries. What madness! We in the West cannot hope to prosper with half a continent in turmoil. A tide of change is sweeping through Europe from the Atlantic to the Urals and it will take all our skill and nerve to ride the crest of the wave; those who cling to the rocks will be overwhelmed: we must have the courage to sail on into uncharted waters.

And as we move to build a new European order we should not forget that it can only have real meaning for Socialists as part of a new world order.

In recent times we have taken pride in the fact that Willy Brandt has been a distinguished symbol and a distinguished leader in his efforts to heal wounds in Europe and to bring about a common inheritance of freedom, democracy, and peace in a new Europe. But let us not forget that the challenges of East and West are not the only ones posed to us by the vision of Willy Brandt. To the people of the Third World he is a symbol not of a new Europe but of a new world economic order, of the need to address the underdevelopment, poverty, hunger, illiteracy and disease suffered by so many as a result of an unjust and inefficient world order and indeed as a result of the price in nuclear and military costs of the cold war.

Let there be no doubt that there is deep concern and fear in the developing countries that our preoccupation with the Single Market and with Eastern Europe will yet again put their problems on the back burner. Let us reassure them. If we accept as we do, that one of the travesties of the arms race and cold war was that it maintains such dreadful injustice and misery, then we must make a new global cooperation and meaningful North/South dialogue one of the prizes to be won from the changing East/West relationship. We seek a new European order, yes, but within a new world order.

We, as social Democrats, already face other more direct challenges. Just as in the 1980's new trends in economics were used by our critics to deny the public sector practically any valid role in society, so too now they are using the collapse of the regimes in the East to predict the death of socialism. We must be quick to defend our proud record in the creation of truly democratic and humane societies in Europe. We must assert that while we always were concerned about the creation of wealth, the focus of our agenda was ever on how best to use that wealth. That is a question which today more than ever demands the most urgent moral and intellectual consideration. We hear much in these days of *free* markets, of the *free* flow of capital, of the *free* movement of goods and services, but we must insist—and remind our critics—that these are useful only to the extent that they serve a more important *freedom*, that is the freedom of the individual, and the freedom that is afforded all our citizens, and not just a privileged few, to exploit the potential of the human condition. That is our agenda; it calls for no apology; it is one of which we can be proud.

We are the heirs to two thousand years of history and today we stand on the threshold of a new millennium. At the end of the century which has seen such unprecedented horrow and witnessed such unparallelled pain, we are called to heal the divisions of the past and to build a Europe that is a whole in a world that is whole.

Let us not fail. Let us try to usher in a new and kinder era in the affairs of our continent and our world, and let us hope that our children and our children's children will

be able to say of our generation in time to come, "Truly, they were men and women of vision: truly, they were men and women of peace."

Fifty years ago today, the Second World War was under way. The slaughter had begun. Millions, not for the first time in the century were to die. Cities like the one where we now stand were devastated. Bitterness and hatred were the order of the day. If someone had stood up then and said that in fifty years time we would be well on the way to a Single Europe, and the French would still be French and the Germans would still be German, that person would have been described as a fool or a dreamer. Thank God we did have dreamers. Thank God too that we had leaders of the calibre of Willy Brandt and Jacques Delors who dream dreams but who have the dedication and leadership to bring their dreams to fruition and to reality.

THE POLISH-GERMAN BORDER QUESTION

Mr. PELL. Mr. President, in the first free elections in 40 years in East Germany on March 18, the Alliance for Germany won almost half of the votes and is attempting to form a government.

I would like to extend my congratulations to the Alliance for Germany and to Mr. de Maiziere on their electoral victory. These elections are an historic landmark on East Germany's road to democracy and to reintegration into Europe.

One of the first tasks the new government will apparently undertake is to negotiate conditions for the unification of East Germany with West Germany. While I am not opposing such territorial unification, I share the concerns of Germany's neighbors, who have suffered greatly at the hands of Germany during the short 74 years that the country was united. Poland in particular has endured great suffering and destruction at the hands of German militarists.

I and 31 other Senators expressed our views concerning the current Oder-Neisse border between Poland and East Germany in a letter to former Prime Minister Modrow last month. In his response March 3, Mr. Modrow stated that his government advocated that both German States confirm in a mandatory form—even before unification—the finality and inviolability of the existing western border of Poland.

In my view, a democratically elected East German Government can undertake no lesser commitment than the former Communist one did. It is therefore my hope that the new East German Government will state publicly its irrevocable commitment to the Oder-Neisse line and seek to work out a joint statement with West Germany to that effect even before reunification takes place. Chancellor Kohl of West Germany should also make it clear that a joint declaration on the border issue is a top priority question for his government as well.

Only such an unequivocal commitment will reassure Germany's neighbors that a united Germany will not seek to reopen old border questions, which would inevitably invoke the specter of a "Greater Germany" from times past.

RHODE ISLAND LEGISLATURE PASSES RESOLUTION CONCERNING SOUTH AFRICA

Mr. PELL. Mr. President, recently the Rhode Island General Assembly passed a joint resolution pertaining to South Africa.

We have witnessed important developments in South Africa during the past year, and it is vital that the United States adhere to a policy that encourages the peaceful—and inevitable—transition to majority rule. The Rhode Island General Assembly resolution is explicit in the message that we should continue economic pressure and moral suasion to promote further change.

Because of the importance of this issue, I believe that my colleagues should be aware of and consider closely the resolution passed by the Rhode Island General Assembly. I ask unanimous consent that the joint resolution, introduced by Rhode Island Representatives Newsome, Rickman, Hernandez, Metts, and Kushner, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT RESOLUTION

Whereas, the government of South Africa systematically denies the Black majority basic human rights, freedom and justice under the policy of apartheid; and

Whereas, the apartheid regime continues to jail, torture and even assassinate its political opponents; and

Whereas, the White minority government, under tremendous pressure from the resistance of the Black majority and the impact of international sanctions, now seeks to portray itself as having "changed" by lifting some segregation provisions and releasing some political prisoners, most notably Nelson Mandela; and

Whereas, Nelson Mandela, an internationally recognized and respected political prisoner of conscience, born in 1918, has been imprisoned for 27 years for advocating fundamental human rights for South Africa's oppressed Black majority and for calling for resistance to the appalling social, political and economic discrimination perpetrated by the minority White government in Pretoria; and

Whereas, the people of South Africa welcome the release of Nelson Mandela, a leader of the African National Congress, but continue to insist that apartheid cannot be reformed, but must be completely abolished and replaced with full democracy, including the right to vote on the basis of one person, one vote, in a unified non-racial South Africa; Now, therefore, be it

Resolved, That this general assembly of the state of Rhode Island and Providence Plantations welcomes the release of Nelson Mandela, an international statesman and a leader of the African National Congress, and calls for the release of all other South African political prisoners. We go on to continue our strenuous condemnation of the racist apartheid system practiced by the minority South African government and call upon the United States Congress to maintain the present economic and political sanctions against the racist government of South Africa, and keep them enforced until full democracy is established in that country; and be it further

Resolved, That the secretary of state be and she hereby is authorized and directed to transmit duly certified copies of this resolution to the members of the Rhode Island delegation to the Congress of the United States.

HISTORIC DISTRICT COMMISSION MARKS A CHANGE IN LEADERSHIP

Mr. PELL. Mr. President, Antoinette F. Downing has stepped down as chairwoman of the Historic District Commission in Providence, an agency she helped create and led for 30 years. All Rhode Island owes her thanks for an exemplary job in Providence.

I also want to wish Karen L. Jessup, 44, the new chairwoman of the Historic District Commission, every success. I am confident that she will do well in a position that demands both commitment and leadership.

Mrs. Downing, 86, will remain a member of the commission and she continues to serve as chairwoman of the Rhode Island Historical Preservation Commission and the design review committee of the Capital Center Commission.

Only a few years ago, Antoinette received the Nation's highest award for historic preservation—the Crowninshield Award of the National Trust for Historic Preservation. I was pleased to be among those who nominated her for that honor.

Historic preservation works. It is not just an esoteric exercise for a few academics. It is a vibrant force in our economy and a source of jobs and pride to countless citizens throughout our country.

We are fortunate that Antoinette, who demonstrated this to the Nation, will continue to be a force for preservation. Both by her examples and her teachings, she remains an inspiration to us all.

I ask unanimous consent that an article from the Providence, RI, Journal of March 19, 1990, be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence (RI) Journal, Mar. 19, 1990]

DOWNING RESIGNS POSITION AS LEADER OF PROVIDENCE PRESERVATION AGENCY

(By John Castellucci)

PROVIDENCE.—Historical preservationist Antoinette F. Downing has stepped down as chairwoman of the Historic District Commission, an agency she helped create and led for 30 years.

Mrs. Downing, 86, will remain a member of the commission, which regulates changes to the exterior of buildings in the city's four historical districts. But the position of chairwoman will be taken by Karen L. Jessup, a preservationist appointed to the commission by Mayor Joseph R. Paolino, Jr., last week.

Jessup, 44, of 223 Morris Ave., is a self-employed consultant in preservation matters and professor of American and New England studies at Boston University.

Wendy Nicholas, executive director of the Providence Preservation Society, described her as "top-notch."

"She's a very articulate spokesperson for historic preservation. She knows her stuff."

Nicholas also praised Mrs. Downing: "She is the grand dame of historic preservation, certainly in Rhode Island, if not in all of New England."

The commission has the delicate task of telling home owners in the College Hill, Stimson Avenue, Broadway and Armory historical districts that they are prohibited from making changes that would drastically alter the appearance of their houses.

"What that requires is that everybody who comes before you, you handle courteously—but only as the caretaker of the house. Antoinette has been able to do that gracefully. And Karen Jessup is going to be able to do it gracefully," Rickman said.

Mary P. Turkel, executive director of the Historic District Commission, cited the reason for Downing's gracefulness: "She has always believed that you can't have historic buildings without people living in them.

"There is no other Antoinette Downing. You can't replace Antoinette," Turkel added. "But you need to keep the process going. And I think she recognizes that."

Besides the Historic District Commission, Mrs. Downing is chairwoman of the Rhode Island Historical Preservation Commission and the Design Review Committee of the Capital Center Commission.

As the preeminent Rhode Island preservationist, she still wields considerable influence.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLEAN AIR ACT AMENDMENTS OF 1989

The PRESIDING OFFICER. Under the standing order, we will now resume consideration of the pending business, S. 1630, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Mitchell amendment No. 1293, in the nature of a substitute.

(2) Baucus amendment No. 1307 (to amendment No. 1293, to grant Administrator authority to authorize limited production of halons after the year 2000 if necessary for aviation safety purposes.

(3) Wirth-Armstrong amendment No. 1310 (to amendment No. 1293), to establish emission testing and research centers to monitor high altitude conditions.

(4) Wirth-Armstrong amendment No. 1311 (to amendment No. 1293), to establish a research and technology assessment center to provide for the development and evaluation of heavy-duty vehicles.

(5) Wirth-Armstrong amendment No. 1312 (to amendment No. 1293), to establish a National Research Center for Environmental Lung Disease.

(6) Wirth-Armstrong amendment No. 1313 (to amendment No. 1293), to establish guidelines for alternative work schedules for Federal agencies within nonattainment areas.

(7) Byrd Modified amendment No. 1329 (to amendment No. 1293), to provide benefits for terminated coal mine workers.

Mr. CHAFEE. Mr. President, sometimes it is forgotten, as we debate this legislation, the clean air legislation, and as we deal with all the tailpipe emissions or costs of imposing controls on toxic air emissions from plants that are located in various sections of our country, whether it is petrochemical plants or whether they are coal-fired plants, whatever they might be, that this legislation is primarily health legislation. That is what we are talking about when we are talking about the clean air bill.

Mr. President, I call everyone's attention to a series of articles that are being written in the New York Times and in the Washington Post dealing with what is happening in different sections of the world where they do not have controls over emissions, where there are no air quality standards, where there is not debate over having clean air, or at least there is no effort to invest vast sums of money in order to obtain cleaner air.

I call the Senate's attention to an article that appears in today's Washington Post on the front page, where it talks about Eastern Europe Faces Vast Environmental Blight. There, where toxic air emissions and sulfur dioxide emissions have run rampant, it is an ecological disaster area. I just quote:

Poland, Hungary, East Germany and Czechoslovakia are considered environmental disaster areas, the most polluted of all industrialized countries, Western ecology groups say. Their rivers, lands, and forests are so contaminated that many are biologically dead, no longer capable of repairing damage unaided.

It talks about the effect on the health of the individuals in those areas, where—we are talking now about Czechoslovakia—heavy industry is concentrated, lifespans are 15 years shorter than the national average, according to governmental studies. The effect on children is listed elsewhere in articles such as this.

So, Mr. President, as we get bogged down in all of the details of permits and enforcement and what standard should be observed, let us not take our eye off the ball which, namely, is that we are trying to attain better health for the citizens of our Nation.

This legislation is what we call preventive legislation, preventive health legislation. Instead of this Nation investing vast sums of money, as we seem to be, constantly, on taking sick people and getting them well, this is an investment in keeping the population of America healthy, keeping them well in the beginning, without having them go through all the pain and suffering and the extreme expenses involved when somebody is sick and then you try and make them well. So, Mr. President, I encourage all our colleagues to bear this in mind as we continue our debate on this legislation.

I wish to add a postscript, if I might. We are here on the floor, ready to do business. The leader of the committee who is involved from the majority side is here, the distinguished senior Senator from Montana; I am here, and we are ready to do business. This is the time for individuals who have amendments to bring them over. We will debate them, and we will vote them up or down. Indeed, there are some amendments we have agreed to accept, if only the proponents of the measures will come over. We can get that done before we adjourn for our luncheon caucuses on both sides. I thank the Chair.

Mr. President, I ask unanimous consent that the article from today's Washington Post be printed in the RECORD in connection with my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 20, 1990]

EASTERN EUROPE FACES VAST ENVIRONMENTAL BLIGHT

(By Mary Battiata)

KRAKOW, POLAND.—The city is dying. Forty years of Communist industry—antiquated steel mills and sloppy chemical factories—have left the air as gray as an old sock. Acid rain eats the faces off stone statues at historic Wawel Castle.

Pollution is eating at humans, too. The soil is so contaminated by the tons of sulfur dioxide and carbon monoxide that pour from smokestacks that entire villages have been condemned.

Lead contamination in local apples and lettuce is 10 times higher than the limit set by the World Health Organization. Infant

mortality rates are four times the national average. Life expectancy has been dropping every year for a decade, while lung and breast cancer rates climb.

Among children, chronic bronchitis is endemic. On bad days, local doctors say, the city ambulances work all day rescuing children who are suffocating in the toxic breezes.

All of that is clear—to the politicians, to the local Ecology Club and to the people. What is less clear is what Poland's new democratic government will be able to do about it.

Six months after taking office, the Solidarity-led government's commitment to cleaning up this country's environmental problems already has snagged on the traditional thorns of democratic government: competing interest groups and a shortage of funds.

Krakow is a prime example of Poland's complicated new "eco-politics." The city is arguably the country's most picturesque, a university town with renaissance stone palaces and spidery Gothic cathedrals. But it also sits in the middle of the world's worst swath of industrial pollution, a choking belt that includes parts of neighboring Czechoslovakia and East Germany.

Poland, Hungary, East Germany and Czechoslovakia are considered environmental disaster areas, the most polluted of all industrialized countries, Western ecology groups say. Their rivers, lands and forests are so contaminated that many are biologically dead, no longer capable of repairing the damage unaided.

[At a conference on the environment Monday in Vancouver, Canada, former Norwegian prime minister Gro Brundtland said one of the greatest challenges facing Eastern Europe's emerging democracies will be to repair severe environmental damage.]

In Hungary, the government estimates that air pollution is costing $60 million a year in health damage. Four-fifths of the 5 million tons of hazardous waste produced there each year is disposed of improperly. In East Germany, nearly 9 percent of agricultural land has been ruined by pollution.

Czechoslovakians used to joke that the former Communist government was the only one practicing chemical warfare on its own people. The country's drinking water has so many harmful nitrates that it is no longer given to infants. In the north, where heavy industry is concentrated, life spans are 15 years shorter than the national average, according to government studies.

In Romania, the rapid industrialization under dictator Nicolae Ceausescu, who was ousted and executed last December, is believed to have left similar if not greater devastation.

COAL MINING LEAVES ITS MARK

Poland's situation is similarly dire, especially in the southwest, where coal mining and heavy industry are concentrated. Krakow and the nearby coal mining region of Silesia account for just 4 percent of Poland's area, but produce 50 percent of its air pollution.

Zygmunt Kolenda, leader of the local Solidarity election committee, remembers swimming and fishing in the Vistula River from a small beach at the foot of Wawel Castle. Now, the Vistula is so polluted from coal mine runoff that in many areas it is no longer fit even for industrial use. In other places, the water is so contaminated from raw sewage that it carries salmonella bacteria. "Only courageous people drink the tap water," Kolenda said.

Maria Guminska, a physician at Krakow's Institute of Medical Biochemistry and vice president of the Polish Ecology Club, the country's biggest environmental group, has known for years that the pharmaceutical factory in her neighborhood was emitting toxic solvents.

"Every night we would lie in bed and we could smell the chemicals—acetone, methanol and hydrochloric acid," Guminska said. Her husband died recently, of cancer that she believes was caused in part by pollution. Her granddaughter is ill.

Guminska has noticed changes in the neighborhood trees and plants as well. She keeps twigs snipped from trees and shrubs in a jar of preservative on her desk. The leaves are stunted and strangely shaped. Like the canary in a mine shaft whose death warns miners of the presence of lethal gas, the leaves are evidence of deep ecological damage, she said.

One of the prime sources in Krakow of pollution is the city's Nowa Huta steel mill, built on the orders of Soviet dictator Joseph Stalin in the early 1950s to punish Krakow residents for insufficient loyalty to the Communist party. The Communists are gone, but Nowa Huta's 700 chimneys are still spewing toxic plumes of inky black, chrome yellow and sulfurous orange into the air every day.

It produces roughly a third of all air pollution here. (The other two-thirds come from Czechoslovakian and East German border towns and from domestic and commerical coal-fired heaters.) Nowa Huta also is the city's biggest employer. More than 28,000 workers file through its gates every day.

Before Solidarity took office, residents' anger about the pollution had won some attention and lip service from Poland's former Communist leaders. They liked to visit the city and make promises to the city's ecology-minded population—promises that rarely translated into action.

Last October, however, just as the Solidarity-led government was taking office, the Krakow city council, still dominated by Communists, and local ecology organizations joined forces to activate a 1982 law that would force the mill to cut production by nearly half. The 1982 resolution threatened the mill with drastic production cuts by 1990 if it did not clean up its stacks.

Predictably, the mill's Communist managers protested to the Ministry of Industry. Less predictably, so did the local Solidarity trade union. It believed that cutting production would cost at least 5,000 jobs. The member of parliament from Nowa Huta said the production cut also would mean closure of 100 other factories for which Nowa Huta is the country's only source of rolled steel.

"It was pretty bad here for a while. There was lot of confusion at the plant. It took a lot of diplomacy to calm people down," said Zbigniew Paradowski, a Solidarity official. "People were scared that the limit on production meant they'd lose their jobs."

At the same time, the more radical of the large community of citizen ecologists demanded that Nowa Huta be closed immediately.

As tensions rose, the new government's minister of environment, Bronislaw Kaminski, was called in. Kaminski was the man who had drafted the 1982 law during his tenure as Krakow's chief environment officer. This time, however, Kaminski sided with Solidarity and the Ministry of Industry, saying that local jurisdictions lacked the authority to limit production at a national steel mill.

After two tumultuous public meetings this year, the minister, the mill, the city and the union worked out a compromise that appeased most but left no one happy.

THE NOWA HUTA AGREEMENT

Under that agreement, Nowa Huta will shut down a half-dozen of its most polluting chimneys and furnaces within the next two years. It has five years to completely modernize its aging plant and meet revised emissions limits. Kaminski estimates the closures will cut pollution from the plant by 30 percent. An official from the Polish Ecology Club says the figure will be more like a statistically negligible 10 percent.

"The truth is, no one knows," said Zygmunt Fura, president of the Polish Green Party.

Now, struggling to resuscitate Poland's moribund economy, Solidarity must temper environmental action with concern for jobs and the gross national product. As a result of its program to move Poland to a free-market economy, the country is in a recession. Production has dropped 30 percent since January. Unemployment is up, and could grow by several hundred thousand by the end of this year, according to some estimates.

"No one says Nowa Huta isn't polluting the city. It is," said parliamentary deputy Mieczyslaw Gil, whose district includes the mill. "But drastic cuts in production are unacceptable, for the mill, for the [Solidarity-led] Mazowiecki government, and for the entire economy."

Others say drastic action is Krakow's—and Poland's—only hope. "Some things are so urgent, they can't even wait a year," said Stefan Koslowski, a Solidarity deputy and chairman of the parliamentary committee in charge of overhauling the country's environmental legislation.

At dawn on a recent morning at the gates of Nowa Huta, workers lined up to buy cigarettes and newspapers said glumly they knew the plant was probably killing them, but it was easier to accept health costs than the loss of a paycheck. For them, and the Solidarity deputies who represent them, it does not seem fair that the workers whose strikes and other actions helped push the Communists out of power should now lose their jobs.

Instead, they hope that Western investors will help pay for new, clean technology. "I'm for closing down the most harmful furnaces, but on the other hand, it's difficult to get jobs," said 27-year-old Zbigniew Zambrozik. "What we really need is filters and cleaners."

MONEY REMAINS KEY ISSUE

The problem, in Poland and the rest of Eastern Europe, will be money.

The West German government estimates it will take $200 billion and 20 years to refit East European industry to Western standards. Those figures do not include the cost of cleaning up the mess already there.

Environment Minister Kaminski said it will take $20 billion and 15 to 20 years. "We have a lot to do," he said. "We should have started 20 years ago."

The Environment Ministry has published a list of 80 most polluting industries and given them two years to meet national emission standards. Kaminski has drawn up a program to clean Poland's waterways and beef up the office of environmental inspection.

But he has little money to do it with. This year, the budget of the Ministry of Environ-

ment is the third-smallest among all government agencies.

So Kaminski, who visited Washington last week to meet with U.S. Environmental Protection Agency, Department of Energy and other officials, is counting on the World Bank, Western countries and especially private investors to help refurbish outdated factories that use three times as much water and fuel as modern plants do for the same output. (Nowa Huta, with its 1920s-era machinery, is 10 times as wasteful.)

Sweden has given $45 million over three years to help Poland. The U.S. government has given Krakow alone at least $15 million, $10 million of which will go to refit Krakow power plants with clean technology.

But refitting even one plant would cost more than $100 million. The U.S. fund, said one Western diplomat, is meant as a gesture to encourage private investment.

Ecologists in parliament say the government is already allowing environmental work to fall behind. "The free market is coming, and we are not prepared to protect the environment. We are losing time, and the public perception is that ecology is neglected. There is an overall impression that we don't have a vision."

Without it, a free market is likely to bring as much pollution as it cures.

"The market will help . . . but it will also be a threat, because there will be more businesses, and they will be more cunning. They will try to minimize costs," Kaminski said.

The Green Party gospel is that attention to the environment must go hand in hand with care for the economy.

"Nowa Huta should produce, not poison, but the problem is how to do it," local union leader Paradowski said. "Nothing can happen overnight. And the timetable for change should ensure the interests of the people who work here. We must not have a paradox, where we have clean air, but no way to support ourselves."

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I remind all Senators that we are back on the Clean Air Act. The committee is ready to take amendments. A good number of amendments have been cleared by the staffs. I suggest that Senators with amendments talk to their staffs to determine whether in fact their amendments are on the list that has been cleared, so they can come to the floor and offer the amendments now and get them out of the way so that those Senators are not caught in the rush, either at the end of the day, or when we come close to finally passing this bill.

So again, I urge all Senators to check with their staffs to see if their amendments are cleared, so they can come to the floor. For that matter, if other Senators have amendments that are going to be debated, I encourage them to come to the floor, also.

Here it is Tuesday morning, a quiet time. It is an opportunity for us in the Senate to do business. Again, I remind Senators this is an opportune time.

Mr. President, during the past few days of the recess, many Senators have no doubt been hearing quite a bit about the two titles in the pending package of clean air legislation that relate to permits and enforcement. These titles are very important to the establishment of a strong and effective Clean Air Act, and I would therefore like to take a few moments of the Senate's time this morning to outline the essential elements of the permit and enforcement provisions in these titles.

PERMITS (TITLE V)

Title V of the pending leadership package establishes a new requirement under the Clean Air Act. It provides that a number of significant sources of air pollution obtain operating permits under a program administered by EPA and the States. At present, there is no requirement for a uniform, federally enforceable operating permit under the act. Instead, the source itself, the enforcement authority and the public all must look to a combination of legal authorities to determine the source's obligations.

In some cases, the implementation plan for the State in which the source is located represents the only statement of a source's pollution control requirements. In others, Federal regulations are all that apply. Normally, such implementation plans and regulations merely provide standards that apply to broad categories of sources, standards which cover emissions levels and general control requirements.

These broad categories, this different application, Mr. President, the combination are all inadequate. They just do not do what we are trying to do in this act. There is general agreement that a source-by-source permit program, however, would be much more helpful and for these reasons which I will now enumerate.

First. The permits would consolidate and integrate all the duties and requirements for a particular source in one handy reference point—the permit document itself. They will all be combined together.

Second. The permits would assist in keeping track of emissions inventories—a useful function in light of the new act's emphasis on emission "trading".

Third. The permits would help to ensure uniformity of enforcement across the country by standardizing the information base and by applying similar requirements to similar sources.

Under title V, sources with permits would be required to submit plans describing how they are complying with the Clean Air Act, to report periodically on their progress in compliance efforts, and to report permit violations promptly.

Permits would be issued for up to a 5-year term, and they could be modified during that term if modifications were necessary to protect public health, welfare or the environment, or to correct a material mistake made in the issuance of the permit. Permitted sources would be required to pay all fees associated with permit processing, as well as to pay for monitoring emissions to ensure compliance with all permit conditions.

Under title V, EPA is granted significant discretion to design a variety of permits to meet the needs of specific sources and operations. For example, certain process changes are allowed without the need for a full-blown permit modification, and general permits can be issued for an entire class of sources.

In addition, title V protects sources that are in compliance with their permits against allegations that they are violating their permit conditions. This is the so-called permit shield that Senators have been hearing about recently. Let me assure Senators that the leadership package contains a permit shield that is modeled closely after the one used to good effect in the Clean Water Act to protect sources that comply with the law.

There are other aspects of the permit program established in title V, but in the interest of brevity, I will end my summary of the high points here and move on to title VI, the enforcement title.

ENFORCEMENT (TITLE VI)

Title VI of the leadership package amends the enforcement provisions of the Clean Air Act in several significant respects. It is a sad fact, of course, that enforcement is a vital part of any effort to continue our Nation's progress in the clean air arena, and this title ensures that we will make that progress.

The enforcement title really amounts to an attempt to update the Clean Air Act so that it contains many of the same kinds of enforcement provisions that have been included routinely in environmental legislation enacted since the Clean Air Act was last amended in 1977. These new provisions include:

First. An expansion of the kinds of activities that can be the subject of civil or criminal sanctions. For example, new criminal sanctions are provided for various knowing failures to report material information to the EPA, as well as for knowing alterations of monitoring devices.

Second. Creation of criminal sanctions for the knowing or negligent release of hazardous air pollutants under certain circumstances.

Third. Creation of new administrative authority for the EPA to impose

penalties for violations of the act without the need to go to Federal court. This authority is limited in the amount of penalties that can be assessed and is modeled after a successful administrative penalty provision in the Clean Water Act.

These are a few of the key provisions of the enforcement title of the leadership package. In the days ahead, it will be very important for Senators to remember that a strong clear air bill is important for our country, but that a clean air bill cannot be strong unless it includes strong enforcement provisions. I can assure all Senators that the floor managers of this bill will fight to keep this strong enforcement title intact, just as we will fight to preserve the permits title as well. Both of these titles are essential if we hope to maintain our ability to monitor and implement our new Clean Air Act.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, it does seem that the permits and enforcement titles of the leadership package which we are now debating have received more attention lately than they did when we first brought this bill to the floor, so I would like to provide a little additional background for Senators about the two titles.

First, I think it is important to point out that the permitting and enforcement titles of this bill reported by the committee were virtually identical to those that the President had in his original legislation. Be that as it may, those provisions were the object of much concern and we have over the past several months worked diligently with the administration and with the affected groups to come up with some better ways to approach a variety of permitting and enforcement issues. The product of our labors is now before the Senate as part of the leadership package.

Title V deals with permits. Let me begin by addressing the permit system as it is created under title V in the pending leadership package. It has several features that are applauded by a very broad range of interests. First, the permit system will help everyone from plant managers to Government regulators to concerned citizens. It will help them all in understanding exactly what is required of each permitted plant in order to satisfy the requirements in the Clean Air Act. So, first of all, it gives definitiveness.

Second, the permit system will provide a convenient means for establishing and keeping track of emissions inventories—and this will prove invaluable to plants as they begin to operate under the acid rain restrictions which are imposed in this bill.

Third, the permit system will allow the States and EPA to tailor some emission limitations to specific sources and to take into account special conditions that may affect any particular source, a particular powerplant, for example.

Fourth, the permit system will insure uniform Federal enforcement of the requirements of the Clean Air Act. In other words, it is going to be equally enforced in Wyoming, in Virginia, in Montana, in New York, in California, in Arizona, in Rhode Island. Under the permit system, you will get uniformity for the Federal enforcers.

There is very broad agreement among a wide range of affected groups that these goals are important, the goals of uniform enforcement, the goals of definitiveness under the permit system, the goals of providing a convenient means for keeping track of emissions from a particular plant.

However, it is only fair to say there is some disagreement left as to how best to achieve these goals. The changes we have made in the substitute represent our best effort at resolving these differences, consistent with the goals that I have just outlined.

Let me turn to a brief summary of the permitting program as it is established under title V.

As we know, the current Clean Air Act has no provision of any kind requiring operators of plants that emit air pollutants to obtain permits under a uniform program administered by the Federal Government. That is not the way the current system works. There are no permits.

The Clean Water Act, which we passed here 2 or 3 years ago, routinely requires permits. That is the whole system under which the Clean Water Act is based. And these permits have proved to be of enormous assistance in the battle to clean up our water.

Instead of a straightforward system, in which these operators can apply for and be issued a permit under a uniform federally administered system, under the current clean air provisions the current act relies upon a combination of requirements and controls imposed upon plants by State implementation plans, the so-called SIP's; State implementation plans. We have various State permits, States have some permit plans, and the like.

I understand, Mr. President, that approximately 35 States have developed some sort of operating permits and that requirements under these programs vary enormously from State to State. As a result, across our Nation, there has been confusion and inefficiency.

Well, Mr. President, I am pleased to report in title V we have designed a permitting program that will resolve these significant problems that currently exist under the Clean Air Act. Let me just explain some details of this, so Senators will understand how it works.

First of all, title V sets out a generous timetable that allows time for EPA, States, and industry to put the program into effect. I just want to walk through the timetable, as it would apply for a specific source that is considered a significant contributor to air pollution.

Let us say some plant is an emitter of bad pollutants. Now, this is the timetable. EPA is granted 12 months, 1 year from the date of the passage of this act, to develop regulations implementing the permit program. That is the first item on the timetable. So there is a year for EPA to develop the regulations implementing the permits.

What happens next? Next, the States are given 2 years after EPA publishes its regulations to prepare and submit their own program to implement the permit process. Now, 3 years have gone by. Then, after the States submit their proposed programs to EPA, EPA is allowed another year, a 4th year, to review these proposals. And if EPA asks a State to revise its proposal we allow another 6 months.

So, there is 1 year for EPA to come up with the regulations; there are 2 years for the States to prepare their own programs to implement this permit program; then it comes back and they submit it to EPA, and EPA has 1 year to review that; and if they have to send it back there is another 6 months' grace.

I just want to make sure every Senator realizes nobody is rushing into this, nobody is cramming anything down industry's throat. A total of 4½ years have gone by. This is 4½ years just to get to the point where EPA-approved, federally enforceable, State-administered operating permit programs are in place and ready to process the first permit application.

We know, Mr. President, that sources subject to permit requirements will not spend those 4½ years with their heads in the sand. To the contrary, they will use their time, that is the industries and EPA, to monitor the development of the EPA regulations in the State proposals, and the industry and local governments will be ready to submit the application when the time arrives.

In order to avoid a logjam of permit applications, we have included a provision that would allow the permitting agents to establish a phased priority system for the submission of permits

over a period of 2½ years. This process would begin at the point roughly 4½ years after we have implemented the legislation and passed it, as I mentioned before.

Thus this amendment—the leadership package—neatly resolves the concerns that the permit process will result in regulatory gridlock. Agreeing to this title, title V, would ensure the gridlock can be avoided and the permitting process will work with a minimum of disruption and delay.

I would like to discuss some of the other major provisions contained in the permit title of the bill. In recent days, we have heard a concern that, as originally drafted, title V would require the States to collect $10,000 per day in fines from sources that violate this new permit system. Let me say we certainly did not and do not intend such a requirement be imposed. Therefore we have revised the language in title V in order to make clear that States are not going to be required to impose these minimum fines of $10,000 for permit violations. Instead, the bill as revised makes clear that States shall ensure that they have the authority to impose this. It is not mandated; it is authority.

Obviously, a State is not going to slam some $10,000-a-day minimum fine on an industry in its own State unless that industry has truly been a bad performer, totally recalcitrant in every effort.

We have also heard concerns from industry that title V would burden sources unduly by requiring them to submit, along with their permit applications, plans explaining how they intend to comply with all the requirements of the Clean Air Act.

Mr. President, we emphatically do not intend to burden industry with preparation and submission of unnecessary compliance plans. Accordingly, this package, the revisions that we have submitted to 1630, clarifies that any compliance plans would address only those actions through which the sources would comply with new requirements imposed by the act as it is finally signed into law. These plans would not need to address compliance for any existing Clean Air Act requirements unless the source is in violation of them.

The leadership package, therefore, should calm the concerns of industry that title V will impose unnecessary filing burdens with respect to compliance plans.

This leadership package addresses another concern. As initially drafted, title V would have a requirement that each State located next to another State, an adjoining State, in which an air operating permit is sought, to be given notice of that permit application. In other words you are in State A and you are filing for a permit and you have to notify the adjoining State, the adjacent State. Concerns were raised that in this contiguous State notification requirement, if it applied to each permit application, there was the potential for tremendous delay. The other State would not do anything.

Therefore, to address this concern, this amendment includes new wording to limit the requirement to notifying the State only if those instances where the source of emissions lies within 50 miles of the State affected by the emissions. In other words, they have to be close to the border.

I would like now to touch on the process by which EPA would review permit applications which were approved by the State. Remember the process. First come the regulations, 1 year. Then come 2 years for the States to come up with a system to prepare their applications. Then it comes to the EPA to review. Title V provides that EPA shall have 90 days to review the State determination to approve a permit and if EPA lodges no objections during this 90 days, the permit is OK; it is granted.

Mr. President, it bears noting that the vast majority of these permit applications will be noncontroversial. They will, in all likelihood, only codify the existing requirements of the applicable State implementation plan. These permits are likely to undergo minimal review and comment before being approved by the State and EPA.

However, title V of the leadership package does require EPA to object to any permit that would allow a violation of the Clean Air Act. And if EPA objects to the issuance of a permit, an additional 90 days is provided for the State to make revisions to the proposed permit. If the State chooses to forego that opportunity, then EPA is empowered to issue or deny the permit.

The bill allows for judicial review of the final EPA decision. If EPA does not object to the permit, the States would be free to issue it. Any person who participated in the public review and comment period will be authorized to challenge EPA's failure to object in a Federal district court.

What we are saying with these court review processes is that nobody is having anything done arbitrarily. There are these review procedures. Our amendment preserves the ability that exists under current law to subject EPA decisions on matters affecting air pollution to judicial review at the request of the public.

We also, under this leadership package, address concerns over the so-called permit shield which the distinguished manager of the bill touched on a little earlier.

Title V contains not just one but two permit shields. The first of these shields protects any source that has submitted its permit application in a complete and timely fashion from the allegation that it is operating without that permit. This first permit shield, I believe, is noncontroversial.

However, it is the second permit shield that has provoked much discussion and concern.

Title V of the leadership package makes it clear that the permit shield will apply only to those terms and conditions actually included in the permit. In other words, if the permit says you can do something, the EPA cannot come along later and say, it says you can do that but we have changed the terms now. In that case where it is clearly set forth in the permit, it is a shield.

Thus, under the leadership package, sources that comply with their permits can have assurance they will not be disturbed with respect to the permit terms. But at the same time, sources will not be able to hold up the permits as artificial shields if they ignore other requirements of the Clean Air Act.

By contrast, industry and the administration are suggesting that any source of air emissions that is in compliance with its permit terms ought to be able to use the permit as a shield to defeat claims that it is violating the act, even if the source is in fact violating other terms of the act that are not covered by the permit. What a shield is, you say we have a permit and we are following that, so nobody can pester us any more; EPA, stay away; we have our permit. That is a shield.

So the question is, How far does this shield go? Can it be used to defeat claims that that emitter is violating the act even if the source is out of compliance with any other requirement of the Clean Air Act that is not covered by the permit?

I do not think it is good policy to create this second kind of permit shield. It would be unprecedented and unwarranted, as well as bad public policy.

We do not believe that it is sound policy to tell a manufacturing plant that it can ignore monitoring or recordkeeping requirements that happen not to be included in the first permit. Let us say, for example, a permit is issued to a plant, and the permit does not cover every single detail. Then EPA comes along and says to the plant, "Hey, you're not doing any monitoring or recordkeeping." The plant says, "Well, look, here's my permit. It does not say I have to keep any records or have to do any monitoring." EPA says, "well, look, that wasn't included through an oversight and an understanding that that would take place anyway." Do we get to the situation where the plant can say, "Look, it is not in the fine print anywhere; we do not have to observe that," or do we say, "The Government requires this, it requires it in the act. We didn't have it

in the particular permit, but the act clearly requires it, so you ought to do it"? We believe, in that case, that where it is in the act, we should not permit the plant to use the permit as a shield and say "we are not going to observe the Clean Air Act because every detail is not set forth in our permit."

Let me give another example. Do you think a plant should be able to avoid the acid rain restrictions or the MACT restrictions, the maximum achievable controlled technology requirements, that happen to be imposed after a permit has been issued to that plant, and the plant can defeat the allegations it is in violation of the act simply by showing it is complying with the strict terms of the permit?

No, Mr. President. To allow a source to defeat allegations that it is in violation of the act simply by showing that it is complying with the terms of the permit it holds does not make sense when the terms of the permit have nothing to do with the alleged violation. Our approach gives sources the assurances they need without unnecessarily complicating and frustrating enforcement of the act.

Finally, the permit title contains the permit fees provision agreed to by the administration and the Senate leadership. A fee of $25 per ton, capped at 4,000 tons for any given source, will be imposed by the States. The funds will then go to the State air pollution control agency.

Mr. President, I will now discuss title VI, which is the enforcement provision. As in the case with the permit program, there is broad agreement among the administration, industry, and the environmental community on the need to improve the process by which the Clean Air Act currently is enforced. I wish to begin my summary of the enforcement title by providing a snapshot of the enforcement improvements that we have made in this bill. After I complete the introduction to the key elements of this title, I will describe the particular points on which the leadership package resolves the more controversial enforcement questions that have been the subject of negotiation over the past several weeks.

As an initial matter, the enforcement provisions of this title have been modeled upon the kind of provisions already found in the Clean Water Act. I keep referring to the Clean Water Act because the Clean Water Act we have had experience with and it is adjudged a success. That success is demonstrated by the fact that even though President Reagan vetoed the Clean Water Act on cost provisions 3 years ago, his veto was overridden in the Senate by a vote of 36 to 14, showing how the Senate at that time, with many Republicans in it, nonetheless voted 86 to 14 to override the President's veto of that Clean Water Act. So the act has worked well.

As I was saying, the enforcement provisions are very similar to those we have under other environmental statutes, especially the Clean Water Act. So there is nothing particularly novel about these enforcement provisions.

The bill expands the range of activities that can be the subject of either civil or criminal sanctions to conform to the scope of such sanctions provided under the Clean Water Act and the Resource Conservation and Recovery Act [RCRA]. Additionally the bill grants authority to the EPA to impose administrative penalties for violations of the act. EPA already has similar authority under the Clean Water Act, and it has proved quite useful in enforcing compliance.

Except for emergency situations, this legislation provides anyone who is served with an administrative compliance order the opportunity to have a public hearing before they have to comply with the order. This provision addresses the issue of preenforcement review, and grants defendants new rights that they do not enjoy under current clean air law.

Our legislation also allows citizens to sue the Government to compel action in the event there has been an unreasonable delay in performing nondiscretionary duties under the act. This provision will help to ensure that our progress in cleaning up the Nation's air continues at a steady pace, and that statutory requirements and deadlines are satisfied.

Each of these provisions is a marked improvement over existing law, and it is very important for the Senate to know that in developing each of these provisions we have worked with the administration and with the environmental community as well as with industry. This is not something that we just created full-blown with no background consultation whatsoever. To the contrary, we have consulted with industry, we have consulted with the administration, and with the environmental community.

For example, we have made sure in expanding the scope of potential criminal liabilities that possible prison terms are kept in line with those set out in the Clean Water Act and the Resource Conservation and Recovery Act. These prison terms are to be calculated on the number of violations, and not on a "per day of each violation" basis.

In addition, in authorizing EPA to impose civil penalties in administrative proceedings, we have placed a limit on the amount that can be assessed, and we have limited the agency's ability to use subpoenas to obtain documents and information.

Finally, by allowing those who receive a nonemergency compliance order to seek a public hearing in which to present their case before they have to comply with the order, we have responded directly to the concerns that under current law—which does not provide for one of these preenforced hearings—people are being put, as the saying goes, "between a rock and a hard place."

Under current law, alleged violators face the difficult choice of refusing to comply and risking significant penalties, or deciding to comply and spending significant sums that might not be needed in the final analysis to improve air quality. So we have taken care of that with these preenforcement hearings. Thus, this bill addresses these fairness concerns while at the same time protecting the ability of the Government to enforce the provisions of the act in a timely manner without unnecessary dilatory litigation.

In summary, Mr. President, the enforcement title of this bill contains much needed and well-balanced provisions designed to ensure that this act has the desired effect of protecting the quality of our country's air while at the same time allowing our economy to prosper.

I want to emphasize that the permit and enforcement titles are absolutely essential to the creation of a meaningful Clean Air Act. It would make no sense to all to enact vigorous legislation that addresses air toxics, ozone problems, mobile sources, acid rain and the like, and in the same breath deprive ourselves of any real ability to monitor, to implement, or to enforce the legislation. What good is a law if there are no enforcement provisions? It is precisely because these titles on permits and enforcement are so critical to the success of the Clean Air Act that we have spent many months striking the careful balance that is necessary for a fair and effective permits and enforcement program.

So let me assure you, Mr. President, and our colleagues, that I will join with the other managers of this bill to fight hard to maintain the current provisions of the permit and the enforcement titles of the leadership package.

Mr. President, a little earlier today I spoke about the effects of foul air, and pollutant emissions on Eastern Europe. I quoted somewhat from an article that appeared in today's Washington Post. But I would like to read a bit more, if I might, from that article, because it is so striking in what it says.

I might say, Mr. President, all of what we read about in this article could happen to us in this country if we did not have clean air legislation. The only difference between what is happening in Eastern Europe and, in this instance, Krakow, Poland, and what could happen in the United States is the fact we have clean air legislation.

There are a lot of people who are saying this clean air legislation is cost-

ing something. Sure it is costing something. It costs something now and it will cost something in the future. But what is the reverse side of the equation? The other side of the equation is we are getting something in return for our investments. We are getting a cleaner environment, and we are getting a healthier environment.

Listen to these statistics and this article dealing with Krakow, Poland:

The city is dying. Forty years of Communist industry—antiquated steel mills and sloppy chemical factories—have left the air as gray as an old sock. Acid rain eats the faces of stone statues at historic Wawel Castle.

Pollution is eating at humans too.

This is something we ought to bear in mind.

The soil is so contaminated by the tons of sulfur dioxide and carbon monoxide that pour from smokestacks that entire villages have been condemned.

When we talk sulfur dioxide we are talking about what comes from high sulfur coal, the emissions from coal-fired plants. That is why when we are talking acid rain we are talking control of sulfur dioxide. We are talking control over the carbon monoxide that comes out of tailpipes; auto emissions.

The article continues:

Lead contamination in local apples and lettuce is 10 times higher than the limit set by the World Health Organization. Infant mortality rates are four times the national average.

That is the national average in Poland, four times in this particular area, and Poland itself has high infant mortality because of the air pollution generally across the nation, never mind in this particular area.

Life expectancy has been dropping every year for a decade, while lung and breast cancer rates climb.

Among children chronic bronchitis is endemic. On bad days, local doctors say, the city ambulances work all day rescuing children who are suffocating in the toxic breezes.

Krakow is a prime example of Poland's complicated new "eco-politics." The city is arguably the country's most picturesque, a university town with renaissance stone palaces and spidery Gothic cathedrals. But it also sits in the middle of the world's worst swath of industrial pollution, a choking belt that includes parts of neighboring Czechoslovakia and East Germany.

Mr. President, in the latter part of last year, shortly after Thanksgiving, and in early December, I had the opportunity of being in East Germany, being in East Berlin, and there we saw what uncontrolled air pollution can do. As Yogi Berra said, "You can see a lot by looking." If you just look around at East Berlin, you can see the pollutants there. The distinguished Presiding Officer was there at the time and saw it.

Mr. President, I think that this legislation we are dealing with takes on an extra sense of urgency. I hope those individuals who have some qualms about the bill or cannot find every detail to match their standards of approval or receive their approval, will say, "Look, there is a greater good to be obtained here." What we are really seeking is to improve the air quality of our Nation, for two reasons: environmental reasons, what it does to the lakes, streams, and soil of our country; and also for health reasons, infant mortality reasons, life expectancy reasons, and the pain and suffering that comes when people are suffering from chronic disorders, bronchitis, and other health-afflicting diseases that arise from polluting air.

Mr. KENNEDY. Mr. President, at an appropriate time for the floor managers, I will propose the amendment which I have discussed with the floor managers which has been available to the membership for the period of these past few weeks with regard to health studies that are going to be authorized over a 5-year period to permit examination of the 200 new pollutants that will be referred to in this legislation. It is the purpose of this legislation to have authorizations so those studies can be done over the period of the next 5 years by the National Institute of Environmental and Health Sciences.

The other purpose of the legislation is to provide limited target grants to medical schools to ensure the training of medical personnel who will be able to deal with these issues over the period of the next several years. There is really a dearth of attention and focus by our medical schools on these particular issues that are raised in this legislation, and a lack of targeted funding to the medical schools to help them shape both course and program development in this area. The amendment is, I believe, both entirely appropriate and I think necessary for carrying forward the spirit of the legislation.

Mr. BAUCUS. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield.

Mr. BAUCUS. The Senator is correct. We have now seen the updated version of his amendment. If he wants to proceed to offer his amendment at this time, I ask unanimous consent that the pending amendments be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1343 TO AMENDMENT NO. 1293

(Purpose: To authorize the Director of the National Institute of Environmental Health Sciences to conduct certain research in connection with air pollutants)

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself, my colleague, Senator KERRY, Senator LAUTENBERG, and Senator WIRTH.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. KERRY, Mr. LAUTENBERG, and Mr. WIRTH, proposes an amendment numbered 1343.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, after line 9, insert the following:

(d) Section 103 of the Clean Air Act is amended by adding at the end thereof the following:

"(g) STUDIES.—(1) The Director of the National Institute of Environmental Health Sciences shall conduct a program of basic research to identify, characterize, and quantify risks to human health from air pollutants. Such research shall be conducted primarily through a combination of university and medical school-based grants, as well as through intramural studies and contracts.

"(2) The Director of the National Institute of Environmental Health Sciences shall conduct a program for the education and training of physicians in environmental health.

"(3) The Director shall assure that such programs shall not conflict with research undertaken by the Administration."

On page 512, line 25, strike out "Act." and insert "Act.".

On page 512, after line 25, insert the following:

"(4) In addition to the sums authorized by paragraphs (1), (2), and (3), there are authorized to be appropriated to the National Institute of Environmental Health Sciences such sums as may be necessary to carry out section 103(g)(1). Funds appropriated for each such fiscal year pursuant to this authorization shall be available for a 24-month period following the expiration of the fiscal year for which such funds were appropriated.

Mr. KENNEDY. Mr. President, I assure the membership that this in no way undoes any component of the compromise.

Also, the funding will not come out of EPA's budget. The amendment contains no passthrough mechanism like that contained in the Superfund law. These funds have been worked out over a period of time using the experience we had in developing similar studies under the Superfund legislation. From that experience and in talking with the professionals at the Institute, I had recommended in the initial amendment amounts that, I think, are sufficient for a bare bones program to accomplish what is enormously important.

My initial amendment would have authorized for NIEHS funds of $120 million over the next 5 years to administer a grants program for university and medical school based research to identify and document the health effects of air pollutants, and $20 million over the next 5 years for the education and training of physicians in environmental health. At the request of the leadership, I have removed the specific

dollar figures from my amendment, but I wanted to make clear the funding level that seems to me an appropriate minimum.

I think all of us know that as this legislation is implemented, we will need to better understand the kinds of health hazards that are posed by these airborne toxics. Gaining more and more information is not only going to have a very profound impact in terms of the health of the American people, but also in terms of potential economic dislocation. So this is a very prudent, wise, and I think important addition.

Again, we have had an opportunity to talk to the members of the committee. They prefer that we strike the exact dollar figures and be able to justify these figures to the Appropriations Committee on the basis of our own study and review. We believe that that can be done, and we will do it.

Mr. President, throughout its history, the National Institute of Environmental Health Sciences has furnished the Environmental Protection Agency with valuable data on the human health effects of air pollution.

The efforts and emphasis of the Institute and the EPA are different, but complementary. The work of both the EPA and the Institute is necessary to achieve real progress on air pollution.

The EPA's health research primarily involves in-house clinical studies—that is, research on voluntary human subjects in EPA laboratories. Without in any way discounting the importance of this research, it does not provide data on the long-term health impacts experienced by people who are exposed in their everyday environment to air pollution.

We must understand the long-term health effects of the various air pollutants to achieve the goals of the Clean Air Act. The National Institute for Environmental Health Sciences is the agency best suited to conduct this type of research that requires years of study on specific populations. Institute-funded research has already resulted in technological breakthroughs that will enable scientists to monitor large populations and to perform genetic analysis to determine the health impacts of airborne toxics.

However, it will take a long-term commitment of research funds to perfect this important technology. It was also due to the support of an Institute grant that the Harvard "six cities study" was undertaken. This study provided critical information on the health effects of air pollution—primarily in children. The information generated by the "six cities study" laid the foundation for the air pollution standards currently enforced by the EPA.

But EPA has only regulated seven substances since 1970, leaving hundreds of other toxic air pollutants without safe standards. Under the committee bill, EPA will be required to regulate nearly 200 additional toxic substances, and the institute will play a critical role in supplying EPA with health data on which to base these new standards.

The Institute has already supported work at a number of research centers around the country:

The center at NYU has developed an important new lung function test;

The centers at Cincinnati and Mount Sinai have provided key information about health effects of lead in children, especially about the problems associated with lead in gasoline;

Institute-supported research at UCLA, NYU, and Rochester has begun to document the type of health effects that occur from combinations of airborne toxics.

The National Institute of Environmental Health Sciences has a history of administering highly respected academic grant programs. It has consistently supported long-term research grants, such as the Superfund Basic Research Grants Program, which is similar in scope to what I am proposing under the Clean Air Act. Researchers at a number of prestigious universities, including MIT in Boston and the University of California, have received funding from the Superfund Basic Research Grants Program to develop new technology which has enabled them to identify and measure a wide range of chemicals in human blood samples.

Ultimately, the MIT research team will be able to determine if people living near a toxic wastesite in Woburn, MA, have suffered genetic damage from the chemicals present in their ground water.

This type of research represents a significant advance in our ability to understand the route of toxic exposure.

Similar initiatives are needed in the area of airborne contaminants. For example, we know very little about what chemicals enter our bodies while we breathe, and which chemicals cause the kinds of damage that lead to cancer and other debilitating diseases.

There are promising studies on the horizon. In the near future, molecular biology will likely be able to detect and quantify lung damage in large population groups.

But the institute needs the financial commitment to carry out the long-term research necessary to allow our best and brightest scientists to achieve these far-reaching goals.

Only by obtaining more scientific data can we hope to reduce the staggering incidence of respiratory disease caused by airborne pollutants that cause illness and death in thousands of Americans every year.

Only by obtaining more scientific data can we hope to set proper standards for airborne toxics. And only by obtaining more scientific data can we hope to acquire the best diagnostic, the best preventive, and the best curative measures.

Providing the institute with the necessary additional funds will go a long way toward reaching these goals.

In addition to the health study money, my amendment will authorize necessary funds for the institute to conduct a program for the education and training of physicians in environmental health.

We cannot hope to control the serious health effects of air pollution unless we begin to build a cadre of doctors who are trained to recognize and properly treat the damage wreaked by airborne pollutants.

While the institute currently sponsors fellowships and institutional grants to prepare graduate students in a number of fields—for example, biochemistry, toxicology, and biostatistics—to engage in research, there is no such training program for medical students. My amendment will help ensure that those who treat patients suffering the health effects of air pollution fully understand how the environment affects those patients, and what can be done to ease their suffering.

The institute will assist medical schools in making environmental health a core part of the curriculum.

I hope the Senate will adopt this amendment for health research and for training of America's future doctors, as a vital component of the Clean Air Act.

Mr. BAUCUS. Mr. President, the Senator from Massachusetts correctly states that this amendment was not part of and does not conflict with the so-called leadership agreement, the compromise provision of the bill before the Senate; that is, the Senator's amendment is not a deal breaker. It does not involve the subject that was discussed among the Members of the Senate and the administration who negotiated the compromise, the majority amendment before the Senate today to S. 1293. So the Senator is certainly correct in saying it is separate from and independent of that agreement. Therefore, it does not conflict with that agreement.

Mr. President, in addition, I understand the Senator has modified his amendment so that there are not specific dollar amounts in the authorization, although the Senator stated the amounts he thinks will be necessary to carry out the program.

Further, I understand that the amendment has been modified to state that the programs would not conflict with similar research programs administered by the EPA.

With that in mind, Mr. President, we are prepared to accept the amendment. I think it is a good amendment,

provides authorization for basic research on reaction of human health to air pollutants, and it will also provide for a program for the education and training of physicians in environmental health and help to train physicians in medical schools on the problems of air pollution and research in air pollution. With that, we are prepared to accept the amendment.

Mr. CHAFEE. Mr. President, I think the amendment is a good one. Unfortunately, we have not yet been able to reach the distinguished counterpart of the Senator from Massachusetts on the Labor and Humane Resources Committee, the junior Senator from Utah. I am sure he has no objection, but in courtesy to him we would like to let him know. What I would suggest, if it would be acceptable to the Senator from Massachusetts——

Mr. KENNEDY. Mr. President, if the Senator will yield, I would be glad to have the floor managers notify the Senator from Utah and then, after they do, if they would, dispose of this in hopefully a favorable way, and if not I can be notified.

Mr. BAUCUS. Mr. President, will the Senator yield.

The PRESIDENT pro tempore. Does the Senator from Rhode Island yield?

Mr. CHAFEE. Yes.

Mr. BAUCUS. Mr. President, we already have three amendments that are temporarily laid aside, and I do not think that is good procedure. We have accepted the amendment on this side. I fully expect the amendment to be accepted on the other side.

Mr. CHAFEE. So do I.

Mr. BAUCUS. I would suggest to the Senator from Massachusetts the amendment be withdrawn, and as soon as we reach clearance on the other side, we can bring up the amendment and adopt it, if the Senator is here or not here, depending upon what the Senator wishes to do. I would rather not keep adding amendments to those that are being temporarily laid aside. I do not think it is a procedure we should follow.

Mr. KENNEDY. Let me say we were prepared to bring this up at any time. I was told to bring it up. I left the Judiciary Committee to come over. I am more than happy to be accommodating; this is a complicated challenge the floor managers have, but I hope we can get some disposition.

I will withdraw the amendment.

The PRESIDENT pro tempore. Is there objection to the withdrawal of the amendment?

The Chair hears no objection. The amendment is withdrawn.

The amendment (No. 1343) was withdrawn.

Mr. BAUCUS. Mr. President, I might reassure the Senator from Massachusetts, if it is his wish, as soon as we receive clearance from Senator HATCH, I am willing to bring up the amendment of the Senator from Massachusetts if he so desires, or we can wait. It is up to the Senator from Massachusetts, whatever he prefers.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. SYMMS. Mr. President, last Thursday when we were in session, a week ago Thursday, there was what I considered to be a very important debate on the Senate floor which stemmed around the so-called Byrd amendment, which deals with compensation to coal miners who will lose their jobs as a result of this bill.

I say to my colleagues that I made the offer at that time that if there were any Senators that wished to discuss what the direct impacts were, economic impacts of the proposed Clean Air Act amendments on jobs lost and jobs at risk with Robert Hahn, Ph.D., and Wilbur Steger, Ph.D., that those two men could be made available.

I contacted Mr. Steger. He will be in Washington tomorrow, and we are presently looking for a room where Senators might be able to discuss this with them.

As you know, the distinguished majority leader, on that Friday, had put in a request to the Congressional Research Service of the Library of Congress to ask them to summarize the report findings of the job loss study that was done by the two economists.

Mr. President, I am quoting from the Congressional Research Service analysis of this in their summary. In the conclusion of their report, they state:

> In conducting their study, the authors array various air toxics control legislation in increasing order of stringency, and in combination with acid rain and permitting provisions, estimate employment impacts. This ranking of impacts of the various provisions is probably valid and is useful in identifying the localities and industries that will bear the initial impacts of regulation and increased costs.

Mr. President, I think it is significant that Senators recall the debate that we had on this Thursday night when Senator DOLE took the floor. I can quote from the column by Mr. Warren Brookes in today's Washington Times that Mr. DOLE proceeded to say:

> Nobody disputes the impact it is going to have on the coal industry; but that is not the only industry. It is not only workers; it is employers. Some people will not be able to buy cars because they will not have a job. So it affects those employees, too. It has a ripple effect. How big is that ripple? On air toxics alone, "It has been estimated we are going to lose between 20,000 and 200,000 jobs. Those jobs are going to be lost in 15 industries." Mr. Dole then intoned them by name, coke ovens, petroleum refineries, pharmaceuticals, pulp-and-paper mills, steel foundries, etc. As he spoke, senators mentally began counting constituents.
>
> I do not care if it is $800 million or $8 billion. It is going to help 5,000 while ignoring up to 200,000. There is such a thing as basic fairness.

And he goes on.

I have recently returned from my State, and, with great alarm, people have been contacting me when they study what is in this bill with respect to the bright line. It is questionable if the potash pulp and paper mill, such a significant contributor to Idaho's economy, would be able to remain open under the bright line stringent requirements in this bill if they were triggered.

So, I say to my colleagues that today in the Republican luncheon I will bring this up and ask for a room where Dr. Steger could be tomorrow just to answer questions and explain to Senators what their view was and how they came upon and did the study.

Maybe at a later time today I would like to highlight the summary of findings in the CRS report. It is very interesting. I have it here at my desk. Maybe at some point today I may put it in the RECORD so Senators may have an opportunity to read the entire report from CRS, although I am sure it is available to all our offices. It is easy to read.

Just directly, it goes through the summary findings and goes through the direct employment losses resulting from plant closures, negative effect of jobs, lower wages, less opportunities, fewer hours resulting from increased capital and operating costs. The provi-

sion of the Clean Air Act amendments analyzed for employment impacts title III on hazardous air pollutants; title V, acid deposition control; title IV, permits, with particular emphasis on small business.

Based on the legislative proposals as of early 1990, the report estimates the following range of jobs lost or affected by these selected Clean Air Act amendments:

Air toxics jobs impacts:

The authors estimate a minimum of "20,000 jobs almost surely to be lost."

The authors estimate a maximum of "over 2,000,000 jobs adversely affected and potentially lost" on air toxics.

The air toxics part will be the part that will affect my constituents in Lewiston, ID. The Potlatch Corp. and the employers there paid a very dear price to improve the quality of the air toxics and water toxics that emit from that plant. It has made great improvement throughout the years that I have watched it operate there. It is a massive capitalization which would probably take billions of dollars to replace. It is a very large contributor to the economy of Idaho and also a very large contributor to the trade balance of the United States wherein much of the export from our State is pulp and paper. It is the paper products that go to the Pacific rim. From that mill it goes from the port in Lewiston, down the Snake River, down the Columbia to Portland and exported by ship to the Pacific rim.

So I think the importance of this is surely not lost on most Senators. It certainly is covered extremely well in Warren Brookes' article today in the Washington Times how Mr. BYRD has forced Congress and the administration to consider, for the first time, the real economic consequences of the green flirtation and weigh them against the remarkably slender ecological benefits.

I think it is significant that Senators in the process of deliberating on this bill, I suppose for the next couple weeks or more, consider the economic impacts on their State and what the tradeoff is. And I know, the distinguished Presiding Officer coming from New England, there has been a great concern about acid rain. Now, more and more and more, as the evidence comes out on the acid rain section of the bill, it appears that it would be much less expensive to simply lime the lakes that are having more acid in them and have a direct impact at a minimal cost to lime the lake compared with the billions and billions of dollars of job losses, increased power costs, and what have you that we are talking about with respect to the acid rain portion of this bill.

But as I said, the authors estimate job losses of 232,000 workers, just from acid rain alone, in 1,719 plants in 20 States whose electric costs are estimated to rise by some 10 to 15 percent.

In the permit section of the bill, the authors estimate that the average small business in ozone nonattainment areas will be charged $15,000 for permit fees plus $50,000 to $250,000 for equipment to continuously monitor emissions of up to four pollutants.

These costs are then related to a selected group of small business industrial sectors—87,129 plants, with average of 13 employees per plant—this indicates that 1.1 million jobs would be affected by the permitting requirements.

Compounding influences:

For the air toxics proposals, the report finds that many affected counties have unemployment rates over 7.5 percent, suggesting that displaced workers have difficulty finding local employment.

The authors estimate that between 1.6 and 1.9 million people in the affected counties live in underclass neighborhoods—1 percent of total county population.

Total effects:

Depending on residual risk assumptions—title III amendments—the authors estimate that a minimum of 200,000-plus jobs will be quickly lost.

The authors estimate that job loss could easily exceed 1 million, even 2 million if the more stringent requirement were adopted that no one be exposed to a residual risk of more than 1 in 1 million.

The authors state that estimates are indicative of direction and magnitude.

Mr. President, the leading proponent of this legislation, the distinguished majority leader, requested this analysis by CRS. I believe that it is a very unbiased report, and the report is an attempt to estimate in a timely and comprehensive fashion the first round or direct employment impacts that may result from proposed clean air legislation. The method used in the report correlates county-level employment throughout the United States with categories of industries that will be potentially affected by selected legislative options under discussion as of February 1990. This is an acceptable method for identifying potential impacts, but it has specific limitations which are not adequately covered in the report.

So it may be that there are some other factors that need to be looked at, but, all in all, I think Senators would find this report fascinating, and I think, if they start matching up the people who work in their States and how they will be affected and what the risk is with their jobs, whether it be in the air toxics section, the acid rain section, the permitting section, all of the impact of small and large business alike, it does require some very, very careful consideration by all Senators.

That is why this Senator was so heartened on Thursday night a week ago when we had 80 Senators on the floor and Senator DOLE, by the words of the distinguished senior Senator from Kentucky, in speaking for the bill and against the Byrd amendment, I believe, if I can paraphrase what my good friend from Kentucky said, was that the distinguished minority leader has just made the most devastating speech in favor of why this legislation should not be passed as we have heard yet, because he started listing the different industries and jobs—chemicals, petroleum refineries, the coke industry, the steel industry, the pharmaceutical industry, and on down the list, the pulp and paper industry whose jobs would be lost with respect to this legislation.

That is why, at the appropriate time, Mr. President, I will be sending an amendment to the desk which will in effect allow for community involvement in closing decisions. When I see what this bill will do to the mill in Lewiston, ID—and I know if it can be done in Lewiston, ID, it can be done all over the country—it is my hope that those people that live along the banks of the Clearwater and Snake Rivers will have an opportunity, if they are supposed to cease operations or be put in jeopardy of ceasing operations because of action taken with regard to its permits, fees, or fines, as a result of exceeding standards issued pursuant to subsection (f) of this section, unless and until such time as a question shall have been placed in referendum before the community exposed to the risks which exceed the standard, and at least 50 percent respond in the negative.

In other words, Mr. President, it seems to me that if we are going to apply this very stringent standard of 1 in 10,000 and then the technology chasing on to 1 in a million when our chances, as we know, are 50 in a million that we will be struck by lightning in a lifetime—when I think of the thousands of families that have been raised and educated along the banks of the Clearwater and Snake Rivers and the beautiful place of Lewiston, ID, as a result of the employment that their families have at the Potlatch Corp. mill there in the pulp and paper industry, using a renewable resource that can be renewed and renewed and renewed, I believe that they should have the opportunity to vote on that.

So for that affected population, the question will be placed on the ballot and in the words of my amendment will be as follows: That the exposed population shall—and then the plant, the name of the plant, such as Lewiston, ID, Potlatch Corp. pulp and paper mill—"remain in operation notwithstanding the fact that the U.S. Environmental Protection Agency has pro-

jected the possibility that an individual born and standing on the fenceline of this plant for 70 years may be subjected to a lifetime cancer risk of greater than 1 in 10,000 or 1 in a million."

Mr. President, that I think is the essence of Americanism and what America all about.

We can all sit down here on the banks of the Potomac and be the great do-gooders of the world and force on those people that they may have to go to Canada to get a job in a pulp mill and paper plant or they can go to Mexico or go offshore some other place in the Caribbean Basin where there may be pulp mills and paper plants that will have to be built so that we can buy the product from them and import it back into the United States rather than manufacturing it and producing it overselves and using the best available technology, I might add, which has improved greatly throughout the time that I have been watching that mill since I was a young man in college in Moscow, very close, north of Lewiston, about 35 miles, to see the improvement.

There is absolutely no comparison in the quality of the air today than what it was 35 years ago. It has steadily improved. And only through certain meteorological events of inversion layers and so forth do they have very many days where the town is actually out of attainment, if at all.

Mr. President, the point I am making is that the air toxics provision of this bill, even though the air quality for the people has improved, it is my opinion that those people should have the opportunity to vote on whether or not their plant should be closed because of some residual risk, hypothetical risk standard that has evolved from the bureaucracy in Washington, which can be a great expense to the working men and women in this country, a great loss.

I know we can talk about the fact that it is also bad for public health and all those things, but I would remind my colleagues again that our people are getting healthier in this country. We have cleaner food, we have safer food, we have more abundant food, we have more convenient food, we have food that is a lower, more affordable cost per capita consumption of disposable income than any other group of people on Earth. We have better air. It is the West Germans who have had to waive the air quality standards so the cars can come from the Eastern bloc because they cannot meet the standard.

All one has to do is look at what it is in this country that has made so much headway toward improving technology, and what I would say it is that it has been the ability of Americans to generate enough capital to generate enough entrepreneurs who can come up with cleaner, better ways to designing things, to make scrubbers, to make other methods of filtering air, to come up with better technologies and all kinds of processes to have cleaner air for our people to breathe.

This legislation, in its current form, by its triggering massive unemployment, massive capital outflow offshore, will in fact, in my opinion, not do anything to further and improve the environment, as my colleagues who are so enthusiastically supporting it wish to do.

We have pending before us the Byrd amendment. I think the Byrd amendment is a statement by a Senator who is obviously very concerned about his constituents, as all Senators well should be.

I would just say, Mr. President, that my only real problem with the Byrd amendment—and I have told the distinguished President pro tempore this point—is this does not go far enough. It does not cover all the other people. It does not cover the people that will lose their jobs in the pulp and paper industry like in my State. And if the pulp and paper industry closes in Lewiston because of this legislation, well, then, the loggers in Clearwater County that provide the fiber, the loggers that work in the forest, who bring the fiber down to the mills, they will lose their jobs. The truckers who haul the chips from the mills in the panhandle region of Idaho to the Potlatch mill in Lewiston, who work for many of the different trucking companies, such as Buehl Trucking in Saint Maries, ID, the some hundred-plus drivers that have earned their living driving those trucks full of chips, they will lose their jobs because they will be no mill. So the ripple effect will be devastating if we cannot correct some of the inadequacies in this bill.

My amendment would allow for the affected people to make that decision. It would simply state on the ballot, no plant or facility or source shall be required to cease operations until they have had an election on the ballot. In other words, until the people vote on it. And if they vote to close the plant, of course it can go ahead and be closed. If they vote that they are willing to take the risk knowing what it is, 1 in 10,000 to 1 in a million, and they vote, the exposed population, then the EPA would be unable to go in and propose regulations to make them close the plant.

And at no such time, even if less than half did respond, so that they voted not to close the plant, no plant or facility or source may increase its emission of substance or substances whose risk was the subject of referendum beyond the level emitted at the time the question was placed before the exposed community.

Mr. President, I ask unanimous consent that at this point the article by the distinguished journalist, Warren Brookes—who has done this Nation a great service by the columns that he has written and the research that he has done on all different sectors of this clean air question—I ask unanimous consent that the article entitled "Byrd's Killer Amendment" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington (DC) Times, Mar. 20, 1990]

BYRD'S KILLER AMENDMENT

(By Warren Brookes)

Today the Senate returns to debate the Clean Air compromise forged by Senate Majority Leader George Mitchell, Maine Democrat, and the White House. Its fate may well hang on the first amendment it will take up, whose author, Sen. Robert Byrd, West Virginia Democrat, has proved again he still is a master political strategist.

Mr. Byrd's amendment calls for paying about $130,000 in "impact" assistance to each of the 5,600 soft-coal miners expected to lose their jobs due to this bill—a total cost of $730 million.

With this single outrageously bold stroke, Mr. Byrd has forced Congress and the administration to consider for the first time the real economic consequences of their green flirtation and weigh them against the remarkably slender ecological benefits. That already produced one of the best debates this town has seen.

On Thursday, March 8, between 11:00 p.m. and 1:30 a.m., C-SPAN viewers and 80 senators on the floor were treated to high drama from two old protagonists that produced light instead of heat.

No sooner had Mr. Byrd spelled out his own revised proposal than Senate Minority Leader Robert Dole, Kansas Republican, rose to the point:

"If we are going to do this for coal miners, there are 14 other industries that are going to be impacted. What happens to them? How many thousands of workers are not going to get benefits?"

Mr. Dole said the administration is already terrified over the implications: "If this amendment is adopted what happens to this bill? They said, 'That is it. It is over.' I have been told flat-out that it would kill the [clean air] bill." That's a frank admission that the administration acknowledges massive real job losses.

Then, in the guise of attacking the Byrd proposal, Mr. Dole proceeded to administer what looked like Clean Air's coup de grace. He cited a remarkably conservative estimate made by two first-rate economists, Wilbur Steger and Robert Hahn of Carnegie Mellon University, for the industry Clean Air Working Group which shows the immediate job loss of the Clean Air Bill will be 220,000 to 1 million jobs, with 3 million jobs put at risk:

Said Mr. Dole: "Nobody disputes the impact it is going to have on the coal industry, but that is not the only industry. It is not only workers; it is employers. Some people will not be able to buy cars because they will not have a job. So it affects those employees, too. It has a ripple effect." How big is that ripple? On air toxics alone, "It has been estimated we are going to lose between 20,000 and 200,000 jobs. Those jobs are going to be lost in 15 industries." Mr. Dole then intoned them by name, coke

ovens, petroleum refineries, pharmaceuticals, pulp-and-paper mills, steel foundries, etc. As the spoke, senators mentally began counting constituents.

"I do not care if it is $800 million or $8 billion. It is going to help 5,000 while ignoring up to 200,000. There is such a thing as basic fairness. In West Virginia, for example, there are 5,601 coal miners at risk but there are 7,332 chemical-industry jobs also at risk, and 9,373 primary metals jobs at risk.

"In my state of Kansas 7,500 transportation-equipment workers would be at risk, 2,900 electrical goods and sanitary-service jobs, 1,700 rubberworking and miscellaneous jobs and 1,200 petroleum refinery and related jobs."

In short, Mr. Dole said, "The administration says this is not going to cost $800 million. . . . It is going to cost billions and billions of dollars." True-confession time had finally arrived.

Mr. Dole then entered into the Senate record a state-by-state table showing air toxics alone put at risk some 2.4 million jobs; permitting costs for small business will risk 1.1 million more; acid rain directly risks some 232,000 (See Table.)

When Mr. Dole finally sat down, the fat was in the fire. Sen. Wendell Ford, Kentucky Democrat, a cosponsor of Mr. Byrd's amendment jumped up and said what was on the collective mid-American political mind:

"The distinguished Republican leader gave the most devastating speech against this bill anyone can give on the floor of the U.S. Senate. We talk about products coming into this country and costing jobs. Well, I will guarantee it is going to cost hundreds of thousands of jobs with this bill."

Mr. Ford then spoke movingly about the life of miners in his state and their sacrifices in war and peace, noting "all of a sudden we say to them, "We are going by public policy to put you out of work.' "

Sen. Edward Kennedy, Massachusetts Democrat, then got up and supported the Byrd amendment, citing the precedent of trade-impact assistance: Will this nation take care of its people, too, when we vote for clear air or for cuts in military spending?

Sensing the demise of his extremist environmental agenda, patrician greenie Sen. John Chafee, Rhode Island Republican, complained that coal miners had already been paid handsomely, concluding: "Do not anybody think if they vote for this amendment that they can go around the country and say, 'Hey I am for clean air. It is just I happen to be for this amendment.' By voting for this amendment, we will kill this legislation."

But Sen. Phil Gramm, Texas Republican, picked up Mr. Dole's theme: "In my state, we are talking about the loss of 38,372 jobs in chemicals, 19,813 petroleum-refining jobs, 12,518 jobs in the electric and gas industry. If we make a decision to adopt this amendment, we should be prepared to . . . extend these benefits to every worker in America that loses his or her job as result of the adoption of this bill."

No wonder, in a desperate effort to head this off, the Environmental Defense Fund now is backing Idaho Republican Sen. Steve Symms' "Bright Light" proposal to let workers decide if they will live with more than one in 1 million risk, instead of shutting down.

Whereupon, Sen. Warren Rudman, New Hampshire Republican, the acid-rain drumbeater, having listened to "the chilling statistics," wondered if such loss decisions were even warranted:

"I must say in all frankness that I still have doubts in my own mind about some of the scientific evidence that exists. There are more reports coming out. It would be ironic if the reports come out and we find we solved the wrong problem."

Or, as the massive $600 million National Acid Precipitation Assessment Project report recently implied, no problem, or at least none that is worth $5 billion to $7 billion a year and 232,000 jobs. Indeed, all the lakes in Mr. Rudman's beloved Northeast could be limed for less than $1 million a year and achieve more real results. NAPAP called it "the most effective mitigation method."

Mr. Rudman then said it all: "If in fact we are going to lose between 250,000 and 400,000 jobs in the next two years, then quite frankly I think you all ought to be going back to the drawing board."

Good advice. No wonder the Bush administration is pushing so hard against Mr. Byrd's amendment. The administration's ill-designed boondoggle cannot stand the economic or ecological test of real jobs lost.

JOBS AT RISK FROM BUSH/MITCHELL BILL

Large states only	Air toxics (1x10) [1]	Permitting (Small bus.)	Acid rain	Total
Total	2,414,804	1,114,088	231,895	3,760,787
Alabama	56,412	9,438	4,890	70,740
California	132,991	210,243	.....	343,234
Florida	26,619	30,781	7,599	64,999
Georgia	51,433	22,019	6,329	79,791
Illinois	109,660	79,707	6,250	195,617
Indiana	155,798	16,788	28,558	201,064
Kentucky	37,506	11,334	9,000	57,840
Louisiana	38,894	7,757	.....	46,651
Maryland	27,169	29,526	10,502	67,197
Michigan	181,083	36,272	3,464	220,819
Missouri	87,336	25,914	21,442	134,692
New Jersey	43,817	90,458	69	134,344
New York	140,458	98,652	8,570	247,680
North Carolina	114,736	27,427	.....	142,163
Ohio	210,170	69,351	46,780	326,301
Pennsylvania	135,015	71,533	24,714	231,262
Tennessee	92,377	17,833	8,305	118,515
Texas	114,967	69,377	.....	184,344
Virginia	107,378	19,642	.....	127,020
Wisconsin	74,949	16,731	26,437	118,117

[1] Assumes maximum available control technology with shutdown for failure to achieve residual risk of less than 1 in 10,000, rising to 1 in 1,000,000. Standard was slightly modified in Mitchell White House compromise from "maximum exposed individual" to "maximum REAL exposed individual" as an option to plants willing to do costly demographic and exposure studies.

Source: Economists Robert Hahn & Wilbur Steger, Analysis of Clean Air Bill S. 1630 for Clean Air Working Group, February 1990.

Mr. SYMMS. Mr. President, earlier I made comments about the distinguished Republican leader and the distinguished majority leader's comments in the debate Thursday night. Since that time it has been brought to my attention when I made reference to the Congressional Research Service Library of Congress report, there was a report from CONSAD. And just so the record is clear, CONSAD is a research corporation in Pittsburgh, PA, that has engaged Robert Hahn and Wilbur Steger to undertake an analysis of jobs at risk and job losses resulting in the Clean Air Act amendments.

The distinguished majority leader made comments about their report.

I ask unanimous consent to print a rebuttal written by Dr. Steger at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Re: Response to Comments on Hahn-Steger Study: U.S. Senate, March 8-9, 1990.
From: Wilbur A. Steger.
Date: March 14, 1990.

Senator Mitchell's comments appear in the CONGRESSIONAL RECORD, March 8, 1990, pp. S2443-S2444.

1. *Statement:* Senator Mitchell states that the "Hahn-Steger report was prepared at the request of an organization called the Clean Air Working Group, a consortium of industries which is opposed to the legislation and which has worked diligently to defeat this legislation."

Response: The report was *not* prepared for the Clean Air Working Group: it was performed at the request of the Business Roundtable, perhaps the most prestigious national business organization. The Roundtable is not a lobbying organization, affecting public policy primarily through research and discussion.

In December of 1989, Drs. Hahn and Steger believed that the nation, and many U.S. Senators, were frustrated by the lack of useful economic impact information about the Clean Air Act. Little, if any, of this information had been available from the agencies involved—neither from the Environmental Protection Agency nor a host of others. This report is the first such set of comprehensive "what if" forecasts, examining—under a variety of possible Clean Air Act (CAA) amendment scenarios ranging in their impacts from moderate to severe—the job consequences of differing versions of the proposed legislation. Drs. Hahn and Steger do not believe their views, and those of their study, in any way, are shaped by those of the Roundtable. Both Drs. Hahn and Steger have published numerous professional, referenced articles and reports on the subject of environmental economics, air quality policy, labor economics, community impacts, and regulatory policy analysis. The Clean Air Working Group has agreed to distribute the report to those that can make best use of its information. The Clean Air Working Group (CAWG) is a national, broad-based coalition of nearly 2,000 small and large businesses and trade associations working together to ensure effective and responsible clean air policies.

2. *Statement:* Senator Mitchell states that the "job loss estimates are intended to support the position that the legislation will have such severe adverse economic effects that it ought not to be adopted. That is the position of the organization which authorized and paid for this study, I am advised by staff."

Response: The statement is insulting and uncharacteristic of Senator Mitchell: implied is guilt by association, and with an incorrectly identified organization. (Senator Mitchell does state, later, that "I do not here purport to challenge the good faith of the office of this report or those who authorize it. They have a point of view, and presenting arguments which tend to support their point of view.") Drs. Hahn and Steger believe their work is completely professional. The method used is objective, straightforward, and replicable by others. The approach—microanalysis, utilizing individual plant data—is based on conventional economic theory, as described in CONSAD's report for the Environmental Protection Agency (*Methodology for Estimating Unintended Effects of Regulation,* prepared for the U.S. Environmental Protection Agency, November 1988). The authors have performed similar research for other agencies, public interest groups, and for academic

publication. They believe the general public has a right and a need-to-know about the potentially widespread economic impacts of such an important (proposed) statute: there has been little or no economic impact estimate of the air toxics title, the consequences for small business of the permitting sections, and the impacts of higher electricity costs on heavy electricity consumers. If the authors have any policy bias, it is that they believe that further advancement toward environmental excellence requires a balance between additional improvements in air quality and the preservation of American jobs and competitiveness. Hahn and Steger, also, believe that the subject matter involved, here, demands attention to practical, not abstract, study results.

3. *Statement:* Senator Mitchell claims that, to "arrive at those figures, the report makes certain assumptions and assertions which I submit to my colleagues are invalid and therefore invalidate the conclusions."

Response: Individual assumptions and assertions are discussed below. In general, it is not possible to perform a study of possible economic consequences without making certain assumptions and/or "givens." It is important, of course, that these be explicitly defined and stated, and that judgments be based on defensible grounds. In general, it can be said about this study that there are remarkable *few* "assumptions": it is straightforward and non-judgmental, by and large.

4. *Statement:* Senator Mitchell holds that the report asserts that "every employee at every small business that will be required to get an air emissions permit in order to operate is therefore in danger of losing his or her job. That is, every employee of every industry subject to regulation, required to get a permit as a result of this legislation, is assumed for the purposes of this report to have his or her job at risk" and that "every employee of every energy intensive facility using electricity produced by utility systems that will incur costs due to acid rain controls will be in danger of losing his or her job merely by virtue of that fact. That is, every employee of that industry is deemed to be in danger of losing his or her job."

Response: Senator Mitchell gets it right and wrong, here, almost in the same sentence. While he correctly recognizes that the study "embraces the two concepts" of "lost jobs" and "jobs at risk," he hopelessly entangles these concepts in the above statements. The Hahn and Steger report makes the distinction quite clearly, we believe: in the report, the use of the term "jobs affected" includes jobs lost and jobs whose characteristics may be altered, such as lower wage levels, reductions in hours worked, and layoffs. Exhibit 1 (attached) clarifies this distinction: in the plants investigated, under the varying assumptions, the effects on the labor force can take many forms. If the cost increase relative to the business's ability to pay and remain competitive is relatively substantial, and if the business entity can only partially pass the cost increase on to its customers and owners, then it must pass this burden—at least partially—back to its workers, in the ways indicated in the Exhibit. There is no "assumption," here. This is straight "Econ 101." The judgment enters in estimating *which* of these effects will occur, and under which business circumstances. Hahn and Steger focus their study, primarily, on "job effects," less on "job losses" (one of the possible effects). It is hoped that public and private agencies will pick up at this juncture and look, in further detail, at the *precise* effects which different economic sections, communities, and labor forces are most likely to experience.

5. *Statement:* Senator Mitchell states that "The report assumes with respect to the air toxics proposals that all sources unable to meet a 1 in 10 to the sixth residual risk standard will be forced to shut down. * * * the report assumes that every industry subject to the air toxics proposals will have to shut down on that standard."

Response: This is incorrect. The study *does not* claim a shut-down for all plants subject to the one-in-one million residual risk standard (see Chapter 3.0 of the report); however, the authors believe that *more* plants will be subject to shutdowns where the increase costs of pollution control are the highest and most onerous, as they often will be under the more rigorous residual risk regimes. Furthermore, the authors—working with EPA data bases and techniques (Chapter 4.0)—focus on those on *job loss* consequences tied to the following specific CAA Amendment cause: *no available technology* to meet a specified air toxics residual risk level requirement. Here, the authors quantify the extent that the lack of available technology will result in dislocation in specific industries. This analysis has benefited from the help of several industry and government officials. The principal finding of this chapter is that job losses are likely to be significant if a "bright line" residual risk level of one in one million is selected for the maximally exposed individual. If, instead, a residual risk level of one in ten thousand is selected, there are still likely to be significant job losses, but these are somewhat more difficult to estimate given the limitations of the data.

6. *Statement:* Senator Mitchell states that the study "does not attempt in any way to quantify the benefits that are created from pollution control investments as a result of this legislation, that is, no offsetting benefits which might flow from the legislation are included in the calculation.

Response: This is incorrect because the authors (Chapters 1.0 and 2.0) *do* assess the claims that pollution control leads to job gains. Hahn and Steger (p. 1.4) recognize that the acid rain provisions will stimulate demand for employment-producing scrubbers, that the ozone provisions will stimulate demand for new permit writers, and that the entire act will stimulate demand for legal services. The authors believe that such job effects must be considered and assessed, where possible, so as not to overestimate the social costs of job losses resulting from regulatory actions. Studies of job increase effects (such as that cited by Senator Mitchell) need—as the Hahn-Steger report does—to be summed across all sectors and places, and compared to the job effects of the Hahn-Steger report. Clearly, this is an EPA (*et al.*) responsibility. However, Hahn and Steger believe that these job effects are often short-term, one-shot increases, and that the job effects investigated in detail in their report (Chapters 3.0 and 4.0) will occur in thousands of communities where the adverse job effects will *not* be compensated for by short-term job effects elsewhere. Additionally, the "macroeconomic" studies reviewed in Chapter 2.0 (DRI, Jorgenson, *et al.*) reveal that the job gains effects are short-term and are, ultimately—even at the *macro* level—to be overtaken by the short-to-medium-to-longer term regulatory-induced job reductions.

7. *Statement:* Senator Mitchell states that "the report does not in any way attempt to analyze job and productivity losses already resulting as a result of exposure to air pollution, nor does it attempt to quantify any reduction in productivity."

Response: Senator Mitchell has not read Chapter 2.0 of the report, where productivity consequences are assessed; indeed, one of the studies cited there (Hahn and Hird, "The Costs and Benefits of Regulation: Review and Synthesis," Carnegie Mellon University, School of Urban and Public Affairs, Working Paper Series, Working Paper 89-37, August 1989) is a definitive review of regulatory-related productivity effects. This is a subject of substantial technical importance, receiving a more intensive, deep investigation than that possible in this report. Hahn and Steger do not believe that a deeper investigation would in any way invalidate their conclusions.

8. *Statement:* Senator Mitchell states that "all of these cost estimates that are being used do not take into account the current costs that are being imposed on our society. The American Lung Association estimates that, in health care costs and lost productivity, the current cost is far in excess of the estimate made by the administration of the cost of the bill. . . . So I think we ought to, when discussing the burden on society, evaluate not just the additional costs which will be imposed as a result of this, but the current costs which will be eliminated or reduced as a result of this. And one organization says we will save $20 billion, assuming that the administration's figure is correct."

Response: This is incorrect. Hahn and Steger evaluate the validity and credibility of the American Lung Association report (Chapter 1.0), finding that: first, the air pollutants for which estimates of health effects and related costs have been developed in those studies are predominantly "criteria" pollutants. The cost estimates thus relate predominantly to health effects associated with pollutants—and concentrations of those pollutants—that are currently regulated under the existing provisions of the Clean Air Act. Accordingly, the estimates are basically *unrelated* to the vast majority of the proposed amendments to the Clean Air Act—and almost all of the anticipated control cost increases—presently under consideration; and, secondly, that the underlying health effects studies have applied different forms of multivariate statistical analysis to derive estimators of the incremental amounts of particular health outcomes that are statistically associated with incremental concentrations of ambient air pollutants. The quantitative estimates, indeed, are generally found to be quite sensitive to the specific explanatory factors considered and the specific data sets analyzed in the studies. This critique is based upon a review by Dr. Fred Rueter ["Preliminary Comments on the Monograph *The Health Costs of Air Pollution: A Survey of Studies Published 1984-1989*, prepared by James S. Cannon for the American Lung Association (ALA)," CONSAD Research Corporation, February 15, 1990], which is available upon request. This is an important subject, meriting a more valid and credible estimate of the resulting health benefits than Dr. Hahn and Steger could perform in this report, given the time avaiable to them for their research.

9. *Statement:* Senator Mitchell states that his conclusion is that "there is likely to be very little net job loss in our society; that I think there will be some shifts in employment. But I think overall there will be very few jobs lost. . . . We are not the first to

participate in such a debate. Every time major environmental legislation has been presented especially the Clean Air Act, dire predictions have been made as to employment consequences. It is my belief that those dire consequences did not materialize, and that there were some substantial job shifts, increase in some areas and reductions in others."

Response: Clearly, this is where sound, economic judgment and opinion enter. Hahn and Steger believe that their estimates of adverse job impact are reasonable and, indeed, conservative, in several ways (e.g., not all titles of the Act and their consequences are included, no multiplier effects are examined, etc.). If this report facilitates the investigation, by others, of the economic consequences of this complex and far-reaching proposed legislation, the authors will have achieved their objective.

10. *Statement:* Senator Durenberger states (March 9, 1990, p. S2569) that the results of the study are either "without explanation" or "with explanation but poppycock."

Response: The Senator has not read the full and complete description of the methodology in Chapters 3.0 and 4.0 of the report. This is sufficiently detailed so that, with the same data bases and computer software, Senator Durenberger's staff could readily replicate the results. Were these results truly "poppycock," the Senate should rescind the public funds supporting the extensive EPA, Census, and other data bases used in this study, along with methods approved by the agencies themselves. More in-depth critique of the method by Senate Staffers would be most welcome.

11. *Statement:* Senator Durenberger states that there are too many "jobs affected" estimated by the study relative to their "true" impact under each of the provisions.

Response: The report's estimates of job impacts are based on the difficulty of large, medium, and small businesses in coping with the CAA amendment increases—from minor to moderate to large to extreme—relative to business size and base costs. The study analyzes several thousand medium to small plants, and more than one million small businesses. The Senator, apparently, does not believe that significant pollution control cost increases—perhaps two to one-hundred times their baseline pollution control costs—mean *anything* to a competitive business. This is totally incorrect, and has no basis in economic or financial theory. These are firms whose revenues will *not* increase as a result of the Act. Economic theory states, *unequivocally,* that there will be an adverse *affect* on labor as well as one on prices, output, owners, and competitive-enhancing R&D. The *degree* of effect (see Exhibit 1, above) is a matter of economic and business expert opinions: we have estimated that a small percentage of each industry sector's *affected* jobs will become *lost* jobs. Given that millions will be affected, it appears to be superficial, uncaring, and oblivious to economic reality to state that none (practically) would be seriously (adversely) affected. Here, of course, knowledgeable people might have different opinions as to the *degree* of effect (see Exhibit 1).

12. *Statement:* Senator Durenberger (and Senator Mitchell, later) states that the compromise bill is not examined in the Hahn-Stager report.

Response: This is completely erroneous: the Hahn-Steger report investigates the job effects of a range of scenarios, from those with 90 percent MACT reductions to 98 percent reductions and—in turn—each of these with either no residual risk, 1-in-10,000 residual risk, and/or a 1-in-1,000,000 residual risk. We also—as the bi-partisan compromise—assumed a sometimes effective 1-in-1,000,000 goal. Senator Durenberger chose to report on only *one* of the many possible scenarios examined in the report. Clearly, Hahn and Steger could not, with prescience, know by mid-February, the content of the early March Agreement.

13. *Statement:* Senator Durenberger implies that the 90 percent reduction MACT standard will apply, in contrast to the 98 percent reduction and that the MACT standard is "too stringent" in the Hahn-Steger study.

Response: Again: The Hahn-Steger report investigated the 90 percent as well as the 98 percent MACT standard with equal analytic vigor. It is *all* in the Hahn-Steger report. Furthermore, it is far from clear, in the proposed Bi-partisan Agreement, that it is *only* the 90 percent reduction (for VOC) which applies. It is 95 percent for particulate matter, for example. And, regardless, the emissions limitation shall not be less stringent than a number of best performing sources (Agreement, p. 243). Furthermore, we do not wish to forecast the results of the proposed National Academy of Sciences study of the risk assessment methods currently used by EPA and alternative methods in setting health standards, or the Commission's study (for Congress) on the use of risk assessment methods in controlling hazardous air pollutants. What is proposed in the Bi-partisan Agreement is that, if Congress does not choose a residual risk standard after the Commission reports, two residual risk standards for carcinogens are automatically adopted. The goal is a cancer risk not greater than 1-in-1,000,000 for those persons most exposed to emissions from a source. The upper limit on cancer risk is 1-in-10,000. We also do not wish to forecast the outcomes of site-specific health assessments of pollutants released from the source to show the actual impact of those pollutants on public health within the vicinity of the source. (Sources which impose actual cancer risks exceeding 1-in-10,000 must take mitigation measures or shutdown. Sources must use available technology to reduce actual cancer risks striving to reach the goal of cancer risk not exceeding 1-in-1,000,000 to the most exposed actual person.) Given the substantial uncertainties of the compromise agreements, we believe there is no alternative but to assume that the 90 percent MACT may well be a lower bound to the ultimate true cost of implementation for an affected source.

14. *Additional Remarks*—There are a number of other comments by Mitchell and Durenberger which we related to their critique of the Hahn-Steger study:

Durenberger's estimates of health benefits (particularly cancer reduction), often tied to the American Lung Association or non-cited sources (see comment #8, above) are very flawed: Exhibit 2 analyzes Senator Durenberger's estimates of health benefits, revealing his analysis to be completely erroneous.

"Administration job loss estimates" are said to be less than 15,000: no background support is cited for these estimates, which are likely to be those similar to the Hahn-Steger technology-lost jobs tied to the air toxics provisions; these estimates are *not* intended to cover job *effects* (not job losses) or job consequences of the acid rain, permitting, and other CAA provisions with economic consequences.

Job increases "everywhere" will *not* make up for whatever adverse job effects there are: at hundreds of regional and local levels, within dozens of States, such local and regional "adjustment" does *not* take place for years, if at all (see Hahn-Steger, Chapter 3.0); furthermore, jobs that do arise are typically *not* the same quality jobs as the jobs that are lost.

There may well be many job increases arising from the CAA Amendments: of course, these need to be estimated, and compared to estimates of job losses (see #6, above): Chapter 2.0 of Hahn-Steger discusses why we believe that such job increases tend to be short-term, one-shot increases, leaving the more permanent longer-term "regulatory drag," globally non-competitive effects considered in our study.

EXHIBIT 1

THE RANGE OF JOB EFFECT

Minimal Effect

Wage reduction.
Benefits reduction.
Fewer hours.
Intermittant layoffs.
Increased uncertainty over the future.
Less business growth due to lessened "competitiveness," given more environmental and less "competitiveness" R&D.

Moderate Effects

Prolonged layoff.
Less job growth.
Reduced wages and benefits.
Little or no business growth.

Extreme Effects

Job loss.
Plant closing.
Lost benefits.
Rapid business decline and, perhaps, bankruptcy.

EXHIBIT 2

REJOINER TO DURENBERGER'S ESTIMATES OF CAAA-RELATED HEALTH BENEFITS

	Durenberger	EPA
(1) Data inaccuracies:		
EPA estimate of number of cancer cases per year associated with outdoor air toxics	(A) 3,000	(B) 1,700–2,700
Number of carcinogenic chemicals studied by EPA	(C) 20	(D) 90
Total number of carcinogenic chemicals	(E) 200	(F) 191
Percentage of estimated cancer cases per year associated with emissions from major industrial point sources	[1] (G) 100	(H) 20

[1] Implicit.

(2) Assumptions made by Durenberger.

All cancer *cases* are cancer *deaths* (incidence = mortality)

Ratio of actual cancer potency of carcinogenic chemicals to cancer potency estimated by EPA=10 (I) (based on California studies on benzene, for which no citations were furnished). More realistically, ratio <1 (J) in light of the extremely conservative assumptions used in EPA's quantitative risk assessments (unit risk factors) for individual chemicals.

Proportion of estimated cancer deaths per year occurring in Texas=0.25 (K) (based on proportion of national petrochemical production occurring in Texas).

Durenberger's estimates of cancer deaths per year associated with major industrial point sources:

National: 3,000(A)×200/20(E)/(C)×1.00(G)/100×10(I)=300,000

Texas: 300,000×0.25(K)=75,000

	National	Texas
However, in 1989: Cancer deaths (mortality):		
All causes	502,000	27,000
Respiratory system	147,100	
(Lung)	(142,000)	(8,100)
Leukemias	18,100	1,000
Cancer cases (incidence):		
All causes	1,010,000	54,500
Respiratory system	171,600	
(Lung)	(155,000)	(8,800)
Leukemias	27,300	1,700

Source: American Cancer Society, Cancer Facts and Figures—1989.

Thus, Durenberger's estimates of cancer *deaths* per year associated with air toxics emitted from major industrial point sources are clearly excessive.

National Estimate

60 percent of total cancer *deaths* from all causes.

182 percent of cancer *deaths* for principal body sites purportedly associated with air toxics [i.e., respiratory system plus leukemias (for benzene)].

151 percent of cancer *cases* for principal body sites purportedly associated with air toxics.

Texas Estimate

278 percent of total cancer *deaths* from all causes.

138 percent of total cancer *cases* from all causes.

824 percent of cancer *deaths* for principal body sites purportedly associated with air toxics.

714 percent of cancer *cases* for principal body sites purportedly associated with air toxics.

More realistic estimates of cancer *cases* per year associated with air toxics emitted from major industrial point sources (based on EPA published estimates and Durenberger's assumption (K)):

National: (1,700-2,700)(B)×191/90(F)/(D)×0.20(H)/100×(<1)(J)=<(722-1,145)

Texas: <(722-1,145×0.25(K)=<(181-287)

The upper bound estimate for the nation thus represents <0.23 percent of total cancer deaths and <0.12 percent of total cancer cases from all causes nationwide.

The upper bound estimate for Texas represents <1.1 percent of total cancer deaths and <0.53 percent of total cancer cases from all causes statewide—and is based on the extreme assumption that petrochemicals production is the predominant category of major industrial point sources with regard to cancer cases associated with air toxics.

Mr. SYMMS. Mr. President, I thank the distinguished Presiding Officer.

I say further that I would hope that all my colleagues would have an opportunity to peruse through this. I will ask that the pages place on each Senator's desk the rebuttal of CONSAD to the distinguished majority leader's comments that he made March 8, 1990, about the report that they did that affects the employment of the working men and women of this country. I will ask the pages to place one of these on each Senator's desk so all Senators will have access to it.

Mr. President, I will just say that I think that this bill is boiling down to jobs and how much clean air can we afford. How much of a price are we going to go to and the extreme to throw the baby out with the bath water? Are we, in fact, going to do grave damage to the pharmaceutical industry, to the coke industry, to the steel industry, to the pulp and paper industry? How far should we go? What is the extent and the extremes to which we will carry legislation in this process?

Mr. President, I point out that the first paragraph of the Hahn-Steger report points out that this report was done not for the Clean Air Working Group, which is a lobbying group, but for the Business Roundtable, which is not a lobbying organization. I will quote from the report.

The report was not prepared for the Clean Air Working Group: it was performed at the request of the Business Roundtable, perhaps the most prestigious national business organization. The Roundtable is not a lobbying organization, affecting public policy primarily through research and discussion.

Mr. President, I yield the floor.

Mr. SYMMS. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate now stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:33 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

CLEAN AIR ACT AMENDMENTS OF 1989

The PRESIDING OFFICER (Mr. SANFORD). The Senate will now resume consideration of the pending business, S. 1630, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, was my leader time reserved?

The PRESIDING OFFICER. Ten minutes are reserved.

LEAVE OF ABSENCE

Mr. DOLE. Mr. President, I ask unanimous consent that Senator STEVENS be granted official leave of absence from the Senate on Tuesday, March 20, 1990, and March 21, 1990, to examine various oilspill sites in Alaska with Commandant Yost and other U.S. Government officials.

The PRESIDING OFFICER. Without objection, it is so ordered.

DOLE SALUTES HEROIC RESCUE AND RELIEF EFFORTS IN WAKE OF KILLER KANSAS TORNADOES

Mr. DOLE. Mr. President, when the going gets tough in Kansas, the tough lend-a-hand. There was no better example of this Kansas credo than last week, when a killer tornado ripped a wide path through my home State.

In the aftermath, neighbors, friends, and strangers faced the emergency together, working shoulder-to-shoulder to survive, to persevere, and to rebuild what Mother Nature destroyed.

Most Americans have never seen a tornado and are justificably thankful for the fact.

In Kansas, however, tornadoes are a fact of life—a terrifying, destructive, and all-too-often deadly occurrence.

Last Tuesday evening, as many as 20 tornadoes struck central and northeast Kansas. The largest and most powerful of these hit the town of Hesston and surrounding communities.

This deadly twister rampaged through three counties, cutting a half-mile wide swath; a 120-mile continuous path of destruction through fields, farms, and towns.

Two persons lost their lives, and many were injured. We mourn these deaths and send our deepest sympathies to the families.

Meanwhile, in Hesston, the damage is estimated to be at least $21 million. That is quite a bit for a city with a population of 3,400; more than 100 homes sustained substantial damage, many of them destroyed.

In fact, 10 counties were declared as a state of disaster emergency by Gov. Mike Hayden: Jewell, Morris, Shawnee, Jefferson, Reno, Harvey, Marion, McPherson, Saline, and Geary Counties. Sumner County also suffered substantial damage.

Mr. President, I want to take a moment to mention the men and women who, without hesitation, came to the aid of their neighbors.

First, the city and county officials of Hesston and Harvey County. Their high level of preparedness helped pre-

vent loss of life in the city itself, and minimized the number of injuries. The alarm was sounded three times before the tornado struck at 5:35 p.m. Before 9 that night, well-organized volunteer rescue teams searched every home. City manager, Jay Weiland, emergency director, Lon Buller, and Mayor John Waltner were outstanding, handling both rescue and cleanup efforts.

THE MENNONITE COMMUNITY IN KANSAS

The Mennonite disaster service was originally established in Hesston, and now has a network in 48 States and 3 countries. This time, these good people were needed close to home, and they responded with a will.

The day after the storm, more than 1,000 Mennonite volunteers from all over the country began reporting for cleanup duty and relief assistance; a remarkable volunteer effort, Mr. President.

HAM RADIO OPERATORS IN THE AREA

The county emergency center was quickly overloaded by calls and inquiries; meanwhile, telephone lines had been all but blown away by the twisters. But help was on the way—the four ham operators in the county worked around the clock handling communciations services, and coordinating search and rescue, until service was restored 3 days later.

THE RED CROSS AND THE SALVATION ARMY

These dedicated men and women were in Hesston in full force, doing an outstanding job. They were always there when needed. Their experience, leadership and coolness under fire were welcome relief to the beleaguered citizens of Hesston and their neighbors.

The National Guard, called out by Gov. Mike Hayden in the early hours of the crisis, played a key role by working around the clock to maintain order. They patrolled the town, protecting citizens by preventing looters, establishing a curfew, and assisting tirelessly in cleanup efforts.

Gov. Mike Hayden, who visited the disaster site the evening of the tornado, acted quickly by declaring a state of disaster emergency in the affected counties. He ordered the activation of the disaster response and recovery programs in the State disaster emergency plan.

Mr. President, I hope that my colleagues will join me in paying special tribute to these volunteers. They responded to neighbors in need, As a Kansan, I am proud and grateful of the efforts of the officials, church volunteers, and friends and neighbors in Hesston, KS.

Let me close by reciting one story that speaks volumes about the kind of people we have in Kansas: In the wake of the tornado, the Red Cross quickly set up a standby shelter for persons made homeless by the twister.

It was an excellent facility and took in 30 people the first night.

But guess what? By day two, almost all were gone. Why? Because their neighbors had taken them in.

Mr. President, that is what Kansas is all about.

NATIONAL AGRICULTURE DAY

Mr. DOLE. Mr. President, as the senior Senator from one of America's great farm States, I am proud to say that today is "National Agriculture Day."

It is a day when all of us can say thank you to the American farmer and his family; thank you for all the hard work and dedication; thank you for the safe and unending supply of good food; and thank you for making American agriculture the envy of the world.

No doubt about it, we are blessed to have such bounty.

KANSAS: AN AGRICULTURAL GIANT

I am especially proud of our Kansas farmers. My home State has long been known as the Wheat State, ranking No. 1 in wheat produced and wheat flour milled. Kansas farmers also hold the top spot in sorghum silage and grain produced, cattle processed, and flour milling capacity. We are No. 2 in acres of prime farmland, and total cropland acreage, as well as red meat produced by commercial slaughter plants. The annual value of Kansas agricultural production is more than $6 billion in crops and livestock.

Kansas farmers have done it the old fashioned way—they've earned their lofty status with an all-American work ethic. When times are tough, Kansans are tougher.

The people of Kansas have singlehandedly made our State the breadbasket of the world. Today, I join the rest of the Nation in honoring and extending our sincere thanks to those men and women who truly are America's providers.

AGRICULTURE IN 1990: ON THE RISE

Nineteen ninety marks a new decade in American agriculture; and it will start with a new 5-year farm bill. The past decade has been a rollercoaster of highs and lows for our farmers. we can learn a lot from the past 10 years as we move on to the 21st century.

The early 1980's was a tough time for many producers. Saddled with debt and racked with high interest rates, they struggled to maintain their operations.

Unfortunately, a strong dollar and an ever-widening agricultural trade deficit brought little hope to those farmers who hoped to see salvation in a vigorous overseas marketplace. What the American farmer really needed was a farm policy that provided income protection along with a get-tough policy in international markets.

We accomplished those goals with the 1985 Food Security Act. During the life of the 1985 bill, net farm income has risen 48 percent, from $32.4 billion to $48 billion. Export markets, with the aid of such trade weapons as the Export Enhancement Program, have pried opened some closed marketplaces, increasing both the volume and value of farm exports. Since the enactment of EEP in 1985, we have invested $2.7 billion in EEP, and as a result, sold nearly $10 billion worth of American farm products—now that's a good return on our investment:

Export volume has enjoyed a robust 76-percent increase in corn exports, and a 40-percent increase for wheat. The good news is, the 1985 farm bill has proven itself to be budget sensitive: As designed, Government payments have fallen from a high of $25.8 billion to $10.5 billion in 1989.

While the 1985 bill may not be a perfect piece of legislation, it does give us a solid and progressive base to build on. The 1985 act has brought desperately needed income security and growth into a struggling agriculture economy, and I'm sure many farmers would call it a lifesaver.

DEDICATION FOR THE FUTURE

New challenges face the American farmer this year, challenges which we are meeting head on. The farm community is serious about addressing environmental concerns in the new farm bill, and I look forward to working with other groups who share that same dedication. We are reviewing proposals to offer the farmer increased planting flexibility, and to allow him greater discretion in making planting decisions based on market conditions and prudent agronomic and environmental reasons. The support for these policies from farm country reflects the importance the American farmer places on the continued preservation of our country's most valuable resources.

As we reflect on the enormous achievements and technological advances made by the American farmer, let us remember his dedication and love for the land. No doubt about it, the American farmer has been a pioneer in environmental protection, and responsible stewardship for America's unrivaled resources.

We can all take pride that our farmers and ranchers are the most productive in the world. I know my colleagues—both urban and rural—join me today in saluting American agriculture.

WHO'S PLAYING POLITICS WITH THE FLAG?

Mr. DOLE. Mr. President, George Orwell is alive and well and is apparently working in the Office of the House Legal Counsel. "Slavery is freedom," "war is peace," and now—ac-

cording to the House legal counsel—the phrase "expedited review" means "delayed consideration."

THE HOUSE BRIEF

Last week, the House legal counsel filed a brief with the Supreme Court, urging the Court to take its time when reviewing the constitutionality of the Flag Protection Act of 1989. In their brief, the House lawyers argue that the expedited review provision in the flag statute doesn't really mean what it says—that Congress was just kidding when it drafted the provision—and that the Justices should go home, take a vacation, and let the flag burners enjoy the summer holidays.

To justify this conclusion, the House lawyers extract a few random sentences from last year's floor debate, and then claim that these statements are conclusive evidence that Congress wanted the Supreme Court to review the flag statute at a normal—almost leisurely—pace.

In fact, the House lawyers reveal their true—political—intentions by requesting the Supreme Court to delay consideration of the flag statute until the Court's fall term—conveniently after the November 1990 elections.

Even worse, the House legal counsel informed the Supreme Court that Republican Leader BOB MICHEL and Republican whip NEWT GINGRICH declined to cosign the brief—which is a pretty remarkable statement since neither knew that the brief even existed until after the brief had been filed with the Supreme Court.

Congressman MICHEL is understandably upset by this misrepresentation and may write a formal letter of protest later this week.

EXPEDITED REVIEW

Mr. President, the flag statute directs the Supreme Court to expedite its review of the statute's constitutionality to the "Greatest extent possible." Although I am obviously not a constitutional scholar, I know how to read a statute, and I know what the words "expedite to the greatest extent possible" really mean. They mean prompt consideration, and accelerated consideration of the flag statute—not 2 years or 3 years down the road, but very soon and perhaps this month.

That is what Congress meant when we drafted the expedited review provision. and that is what the American people want.

CONCLUSION

Mr. President, the supporters of a constitutional amendment have been criticized for playing politics with the flag. I have always believed that this criticism was unfair and untrue.

Now I know that the criticism is misdirected as well, since the real politicians are those who masquerade as lawyers and who claim to be committed to a fair and honest reading of the law.

Mr. President, I reserve any time I may have remaining.

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, the pending amendment is the Byrd amendment. However, I wish to inform Senators that I have spoken with Senator WIRTH, the Senator from Colorado, who is presently on his way to the floor to begin debate on the Wirth-Wilson amendment. That will be the next major amendment for the Senate with debate on that amendment, I expect, beginning roughly a half-hour from now.

It is my intention to stay on the Wirth-Wilson amendment today until we complete that amendment and then move on to other amendments once that amendment is disposed of. It is a major amendment.

I urge Senators to focus on that amendment so that we can dispose of that amendment today and then get on with other major amendments later today and tomorrow.

I have spoke with the Senator from West Virginia [Mr. BYRD]. He is amenable to proceeding to the Wirth-Wilson amendment, once Senator WIRTH gets to the floor. I am advised he is on his way to the floor now. We will begin debate on that amendment, and at that time we will get consent to temporarily lay the Byrd amendment aside so we can then proceed to the Wirth-Wilson amendment.

Mr. President, in the meantime, pending the arrival of Senator WIRTH, if other Senators have minor amendments which we can accept, I encourage those Senators to come to the floor so we can dispose of them as well.

Mr. President, seeing no such Senators at this moment, and hopefully some will arrive very quickly, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAHAM). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask unanimous consent that the pending business, the Byrd amendment, be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask unanimous consent the amendments offered, en bloc, 10 days ago by Senator ARMSTRONG and Senator WIRTH be split into its component parts.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1310, AS MODIFIED, TO AMENDMENT NO. 1293

Mr. WIRTH. Mr. President, first, I would like to offer amendment No. 1310, the end-use testing at high-altitude amendment. The purpose of this amendment is to assure the Environmental Protection Agency continues the work that it is now funding to test vehicles to assure they comply with emission standards while in actual use at high altitude. This testing is obviously very important because we have particular problems at high altitude. Everyone is familiar with all the debate on oxygenated fuels. I send a modification to the desk.

The PRESIDING OFFICER. The pending business before the Senate is amendment No. 1310.

The question to the Senator from Colorado is, Is it the Senator's intention to modify the original version of amendment 1310?

Mr. WIRTH. As submitted.

Mr. BAUCUS. Reservng the right to object—Mr. President, I no longer object. I understand it has been cleared on both sides. We agree to the amendment.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 210, add a new subsection 213(c), as follows:

(c) IN-USE TESTING AT HIGH-ALTITUDE.—Section 207(c) of the Clean Air Act is further amended by adding the following new paragraph:

"(6) The Administrator shall maintain through FY 1995 at least one testing center which shall be located at a site that represents high-altitude conditions to ascertain whether, when in actual use throughout their useful life (as determined under section 202(d)), each class of vehicle and engine to which regulations under section 202 apply conforms to the emission standards of such regulations. The Administrator shall, in cooperation with the States, conduct routine testing of a representative sample of classes or categories of vehicles and engines to which regulations under section 202 apply. In carrying out such tests, the Administrator shall assure that the testing procedures and methods are of sufficient accuracy and consistency to carry out the purposes of this section. For the purposes of this paragraph, the term "high-altitude conditions" refers to high altitude as defined in Environmental Protection Agency regula-

tions in effect as of the enactment of this Act. Preference shall be given to existing in-use vehicle emission testing and research centers located at high-altitude conditions."

The PRESIDING OFFICER. Is there further debate on the amendment, as modified?

Mr. CHAFEE. Mr. President, let me see if I understand. Did the Senator modify the original amendment No. 1310?

The PRESIDING OFFICER. The original amendment No. 1310 has been modified.

Mr. CHAFEE. I ask the Senator from Colorado, the modification was to strike out the language "shall at all times"? Was that the modification?

Mr. WIRTH. I handed the amendment to the Senator earlier. I just gave up my copy. I think that is correct. Whatever I gave to the distinguished Senator from Rhode Island.

Mr. CHAFEE. That is the modification.

The PRESIDING OFFICER. The clerk reports that is the modification.

Mr. CHAFEE. We have adopted the modification. Now we are going to adopt the amendment. No objection.

The PRESIDING OFFICER. By unanimous consent, we adopted the modification. We are debating the amendment, as modified. Is there any further debate?

The question is on agreeing to the amendment, as modified.

The amendment (No. 1310), as modified, was agreed to.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1311 TO AMENDMENT NO. 1293

Mr. WIRTH. Mr. President, I have a second amendment to the bill, and ask for its immediate consideration. This is amendment No. 1311.

The PRESIDING OFFICER. Amendment No. 1311 is the pending business before the Senate.

Mr. WIRTH. The Administrator, in cooperation with the Secretary of Energy and the Administrator of the Urban Mass Transportation Administration, and such other agencies as the Administrator deems approriate, shall establish a research and technology assessment center to provide for the development and evaluation of less-polluting heavy-duty engines and fuels for use in buses, heavy-duty trucks, and nonroad engines and vehicles, which shall be located at a high-altitude site that represents high-altitude conditions. In establishing and funding such a center, the Administrator shall give preference to proposals which provide for local cost sharing of facilities and recovery of costs of operation through utilization of such facility for the purposes of this section.

The purpose of this amendment is to authorize the development of the Colorado State Mines engines and fuels research and technology assessment facility.

While there are heavy-duty engine and vehicle emissions testing facilities at low altitude, there are none in the United States at high altitude.

High-altitude metropolitan areas in the Western United States have unique and frequently severe air pollution problems.

Technically, it is not feasible at this time to extrapolate emissions data from low altitudes to high altitudes; therefore, a new testing facility is required for compliance measurements.

In addition, a research and technology assessment center is also needed to evaluate: First, the economic, technical, and environmental impacts of alternative fuels usage at elevations above 3,000 feet; second, the effects of catalyst systems; third, novel heavy-duty engine designs; and fourth, the efficacy of emission abatement devices.

According to the 1987-88 Metro Denver Brown Cloud Study, a large fraction of Denver's visible air pollution in the winter comes from mobile sources. Scientific investigations have further shown how high-altitude conditions of lower air density, lower humidity, and more intense ultraviolet radiation levels can lead to a degradation of ambient air quality. Up to 25 percent of this high-altitude pollution is caused by diesel-powered vehicles. To meet this challenge and to move toward compliance with new Federal air quality standards, technological advances must be designed, engineered, and tested.

Without a high-altitude emissions testing facility capable of testing heavy-duty vehicles, we lack the ability to test new emission control devices, such as particulate traps, catalytic converters, fumigation devices, and alternative fuels, such as methanol and compressed natural gas, under high-altitude conditions.

Establishment of such a center will be a valuable resource for high-altitude population centers in Western States.

I believe this amendment, as well, has been discussed and cleared on both sides.

The PRESIDING OFFICER. Is there further debate?

The Senator from Montana.

Mr. BAUCUS. Mr. President, we reviewed the amendment and have no objections to it.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 1311) was agreed to, as follows:

On page 201, add a new subsection 208, as follows:

(c) RESEARCH ON HEAVY-DUTY VEHICLES.—Section 103 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

"( ) The Administrator, in cooperation with the Secretary of Energy and the Administrator of the Urban Mass Transportation Administration, and such other agencies as the Administrator deems appropriate, shall establish a research and technology assessment center to provide for the development and evaluation of less-polluting heavy-duty engines and fuels for use in buses, heavy-duty trucks, and nonroad engines and vehicles, which shall be located at a high-altitude site that represents high-altitude conditions. In establishing and funding such a center, the Administrator shall give preference to proposals which provide for local cost-sharing of facilities and recovery of costs operation through utilization of such facility for the purposes of this section."

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1312 TO AMENDMENT NO. 1293 WITHDRAWN

Mr. WIRTH. Mr. President, the third amendment offered by Senator ARMSTRONG and me, amendment 1312, that amendment, Mr. President, focuses on the issue of the research on environmental lung disease. We discussed that amendment earlier last week when Senator ARMSTRONG and I submitted this package. That amendment appropriately fits into the jurisdiction of another committee. Mr. President, at this point, I will withdraw that amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 1312) was withdrawn.

Mr. WIRTH. Mr. President, the purpose of the amendment is to establish a state-of-the-art clinical care and research facility, to accelerate the search for causes, effects, treatments, and cures for lung diseases related to environmental, occupational, and immunological factors. The amendment is designed to build upon and piggyback the outstanding medical research and patient care now being done at the National Jewish Center for Immunology and Respiratory Medicine, National Jewish, and to help it expand into new areas of research, particularly environmental and occupational studies involving high altitude air pollution, air pollution in general, and exposure to dust, silica, and beryllium.

The need for such a facility stems from the growing problem of lung diseases, the link to environmental and occupational causes, the need for and value of additional research at National Jewish—the world's foremost medi-

cal center for the study and treatment of lung diseases. The facility will supplement, complement, and make significant contributions to other health research work at such institutions as Penn State, University of West Virginia, MIT, and the University of Minnesota.

The work to be done at this facility will bring another dimension to the ongoing research by focusing on environmental factors that impair the operation of the lungs or serve a role in respiratory ailments. Establishment of such a facility at National Jewish is especially conducive to conducting research on the relationship between environmental and pollutant effects on the respiratory system at high altitudes.

Mr. KENNEDY. Mr. President, lung disease is the fastest rising among the leading causes of death in this country today—up to 25 percent in contrast to declines in mortality for most other major causes. Chronic lung disease costs the U.S. economy an estimated $32 billion annually in direct health care, lost productivity measured in wages lost due to illness, and indirect costs of lost potential productivity due to premature death.

I commend Senator WIRTH for raising this issue with his amendment calling for a National Research Center for Environmental Lung Disease. The Committee on Labor and Human Resources has pending on the Senate Calendar a bill, S. 1863, that will provide the type of assistance the Senator from Colorado is seeking in this amendment. I want to assure him that the Labor Committee will give serious consideration to this proposal during debate on S. 1863, and I look forward to working with him on this important issue.

Mr. WIRTH. Mr. President, I now have an amendment to the bill, the so-called Wirth-Wilson amendment. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, if the Senator will temporarily let me speak for a moment, this is the Wirth-Wilson amendment. I have discussed this amendment with Senator BYRD. The pending amendment would be the Byrd amendment but for any unanimous-consent agreement to lay that amendment aside.

I spoke with Senator BYRD and I ask unanimous consent, Mr. President, that the Senate now move to the Wirth-Wilson amendment and, pending the disposition of the Wirth-Wilson amendment, that the Senate return to the Byrd amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Following the disposition of the Wirth-Wilson amendment, that the next order of business would be the Byrd amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. I thank the Chair, and I thank the Senator.

Mr. WIRTH. Before offering the amendment, I want to thank the distinguished manager of the bill and the distinguished Senator from Rhode Island for their help on the previous amendments. These are very important to us in high altitudes. Senator ARMSTRONG and I have been working with various constituent groups and institutions on these amendments for a long time. We greatly appreciate the Senator from Montana and the Senator from Rhode Island for their help on this amendment.

As far as the lung disease amendment, we will be dealing with the distinguished Senator from Massachusetts in the Committee on Education and Labor later on on that amendment. I greatly appreciate the help of the senior Senator from Massachusetts on that amendment.

AMENDMENT NO. 1344 TO AMENDMENT NO. 1293

Mr. WIRTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. WIRTH], for himself and Mr. WILSON, proposes an amendment numbered 1344 to amendment 1293.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. WIRTH. Mr. President, I want to praise the leadership on both sides for their work on the Clean Air Act. This has been an enormously important undertaking for the Nation and is an issue that is extremely contentious and difficult. I remember my first meeting as a freshman Congressman in 1975 was in the office of the then chairman of the Health Subcommittee on the House side, the wonderful Congressman from Florida, Paul Rogers. My first meeting was a discussion of the Clean Air Act, and here we are 16 years later focused on a very contentious discussion again of the Clean Air Act.

The window of opportunity on this legislation only comes up so often, and it is absolutely imperative that we take that window and move as carefully as possible, as prudently as possible. I commend the leadership on both sides and the administration. We have broken the stalemate, we have broken the logjam that has infected the clean air legislation for almost 10 years, and I think all sides deserve a very, very major vote of confidence and thanks for their work.

Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of the Wirth-Wilson clean air, clean fuel amendment: MOYNIHAN, MCCAIN, LAUTENBERG, LIEBERMAN, HARKIN, KERRY of Massachusetts, CRANSTON, D'AMATO, DECONCINI, PELL, GORE, ROCKEFELLER, and BRYAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. I thank the Chair.

Mr. President, these are remarkable times as we embark upon the 1990's. The world around us has changed very significantly. Every one of us is extraordinarily aware of the changes that have occurred in Europe. The Berlin Wall came down. We see a rush for democracy and self determination among the peoples in Central and Eastern Europe. Similar changes are occurring in the Soviet Union. We just saw the remarkable shift in attitude of the South African Government toward Nelson Mandela and a very surprising election in Nicaragua.

As all of this is happening, Mr. President, we are asking the rest of the world to change. We are asking the rest of the world to shift the way in which they do business, to look at their future and to look at the world's future in a different way than they have in the past. That similar sort of request is one that we should be making ourselves right now.

We in the United States have also to change, have also to shift ourselves out of the old ways of doing business, out of the old ways of thinking, and look ahead to the future, to the 21st century, to an America that is going to be quite different in a world that is also going to be quite different. The Clean Air Act is the first opportunity this body has had, Mr. President, since the fall of the Berlin Wall, to reflect whether or not we are going to be willing to register that this is a different world. Are we going to vote in this legislation for the future or are we going to look over our shoulders to the past?

The legislation before us, the so-called compromise bill, is in some ways very good. It is good on acid rain. It is very forward-looking on acid rain, and I am very proud to have been significantly involved in that over the last few years. A lot of work on acid rain came out of Project 88, a work that Senator HEINZ and I did together: Project 88, Harnessing Market Forces to Protect Our Environment, Initiatives for the New President. We did this study right before the 1988 election, attempting to show where various market forces could be used in the environment. One of those was picked up in this very important acid rain provision in the bill.

I ask unanimous consent that the opening page from Project 88 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOREWORD

(By Senator Timothy E. Wirth and Senator John Heinz)

Timeless folk wisdom tells us there is more than one way to skin a cat. Common sense and this report tell us that there are also many ways to a cleaner environment. Among them are innovative measures to enlist the forces of the marketplace and the ingenuity of entrepreneurs to help deter pollution and to change the conduct that wastes and degrades nature's resources.

Project 88 is a nonpartisan effort to find innovative solutions to major environmental and natural resource problems. This report offers 36 specific recommendations resulting from that effort. In many instances, the recommendations are multipurpose ones that address the common causes of interrelated environmental problems. Where the report is most inventive, however, is in its emphasis on the practical employment of economic forces to achieve heightened protection of the environment at lower cost to society. Such approaches, properly implemented, can enlist the everyday economic decisions of individuals and businesses as powerful forces for environmental protection; reduce the costs of meeting our environmental goals; and engage the innovative capacity of our entrepreneurial system in our environmental enterprise.

We are not proposing a free market in the environment—far from it. This report is not about putting a price on our environment, assigning dollar values to environmental amenities or auctioning public lands to the highest bidder. What we are proposing is that once tough environmental goals are set, we should design mechanisms for achieving those goals which take advantage of the forces of the marketplace in our economy. In order to concentrate on that design task, Project 88 steps away from ongoing debates over specific environmental goals, to focus instead on finding better mechanisms for achieving whatever standards are set.

Our current array of environmental laws and regulations has done much over the past 25 years to check and even reverse spreading threats to air, water, land, wildlife, and health. But much remains to be done. Many problems are unsolved. The air in many of our cities is getting worse, not better. We have barely begun cleanup of toxic wastes from the past. And now new challenges are emerging, some of them—climate change and ozone loss—so enormous that previous policies hardly begin to comprehend them. New directions are needed in the ways we think about managing our environment and natural resources and the ways we allocate responsibility for progress.

Mr. WIRTH. I thank the Chair.

In Project 88 and in the acid rain provisions we really have looked forward. This is a very progressive part of the legislation involving emissions trading, polluter pays provisions, least cost for the economy. It is an extremely important provision, and that is one I think we can be proud of and ought to support.

Unfortunately, the same kind of progressive look, the same kind of move toward the future, was not left in the legislation. Initially, the bill offered by the President in June 1989 had a similar approach to the future. It was also a very progressive piece of legislation focused on the issue of mobile sources, automobile pollution. The President himself said in the East Room when he announced the Clean Air Act Amendments on June 12, 1989:

We propose bold new initiatives to reconcile the automobile to the environment, assuring continued economic growth without disruptive driving control. We will accomplish this through alternative fuels and clean-fueled vehicles. We propose to put up to a million clean-fueled vehicles a year on the road by 1997, but we are also proposing flexibility on the means, even as we remain firm on the goals. A city can either request inclusion in the program or they can show that they can achieve these ambitious reductions through other measures. We will scale back the clean fuel vehicle requirements accordingly.

That is a quote from the President of the United States when he introduced the Clean Air Act Amendments on June 12, 1989.

That promise was not kept. The administration and the President said we must reconcile the automobile with the environment. Unfortunately, between the time of the introduction of this legislation by the President of the United States to its arrival on the Senate floor we have not moved forward but backward.

The President started with very ambitious goals, and the amendment that Senator WILSON and I and many others are offering returns to his goals.

Let me speak about the goals related to emissions. If I might turn to the first chart, Mr. President, which we have in our presentation, it points out very graphically the goals of emissions. We are talking here about are we going to reach clean alternative-fueled automobiles.

Mr. President, if we look right down here, this is the President's post-2000 goal: 0.19 hydrocarbon emission, 0.19 grams per mile. Here is the President's goal set in his legislation in June of 1989. Here is the goal of the Wirth-Wilson amendment. It is the same: 0.19. We are consistent with the goal set by the President. Unfortunately, what happened to the President's goal along the way is that it did not get reached at all.

The compromise which is on the floor today is not 0.19 as proposed by the President. It is not 0.19 as proposed by Wirth-Wilson, but it is way back up here at 0.66. What a shame. The goals of the President are not reached by the compromise that is in front of the Senate this afternoon. One of the key goals of the Wirth-Wilson amendment is to get us from this unfortunate fallback back to the President's goal of 0.19.

The second goal is alternative-fueled vehicles. In addition to meeting the President's goal set out in June of 1989, another step we take in this amendment relates to alternative-fueled vehicles. Let me in this, if I might, Mr. President, quote from the Administrator of the Environmental Protection Agency, Bill Reilly. On September 26, 1989, before the Senate Subcommittee on Environmental Protection, Mr. Reilly said:

Another innovative feature of the President's proposal is the alternative fuels program. In order to help achieve urban air quality goals, the bill would initiate a program to phase in the use of alternative clean fuels and the vehicles that burn them. The alternative fuels provisions would result in the sale of a million clean-fueled vehicles a year by 1997. By introducing alternative clean fuels and vehicles on this scale, the President's bill would begin to build the economic infrastructure necessary to support a clean-fuel automobile fleet.

Mr. Reilly went on to say:

This represents not only an alternative to some of the more disruptive driving controls currently being considered by some States, but also a bold and innovative means of reconciling continued use of the automobile by a growing society with the need for cleaner air.

That is a second central goal of the Wirth-Wilson amendment: to reconcile the environment and the automobile, and to do that in part through clean fuel vehicles. Again, we are returning as we are in the goals for emissions, to the ambitious goal set by the United States to reach an alternative fuels approach, one that the President himself enunciated so clearly.

Third, alternative fuels themselves: We are setting tighter standards as the President did. We are, second, pursuing alternative fuels vehicles as the President did, the same goal that he had, and third we are pursuing in this amendment alternative fuels themselves.

On this, let me quote Mr. William Rosenberg, the Assistant Administrator for Air and Radiation of the EPA, in testimony November 14 before the Senate Energy Committee in support of the administration's approach on alternative fuels.

Mr. Rosenberg, who was deeply involved in the negotiations over the last month, said:

It is important to note that to date most of the efforts by the federal government and the private sector to reduce vehicle emissions have focused on engine and emission control system design. *Now there is a developing consensus that we must also pay attention to the fuels themselves if we want to continue to reduce vehicle emissions in a cost-effective manner.* (emphasis added)

The President's clean alternative fuels proposal is designed to be fuel neutral .* * * Automobile manufacturers would be free to sell any combination of fuel and vehicle technology that meets these standards.

State/local governments would assist to make clean fuel economical to owners.* * * I must emphasize, as I did in my testimony four weeks ago, that the President's proposal is absolutely fuel neutral.

That is a third key element of the Wirth-Wilson amendment. Our amendment is dedicated to returning to the very noble goal of the President of the United States on auto emissions, alternative fuels, and alternative fuel vehicles.

Now, we might ask ourselves, why is this important? First and foremost, Mr. President, we have very clear public health reasons. More than 100 major cities in the United States of America do not meet health standards. More than 150 million Americans are suffering unnecessarily from bronchitis, upper respiratory problems, lung disease, exposure to cancer-causing chemicals, and so forth. This is especially tough on the young, those with heart and pulmonary problems, the old, and the ill.

This last week, I had the privilege of visiting National Jewish Hospital, which is probably one of the most distinguished institutions in the country focused on lung disease and pulmonary disease issues. In addition, later a reporter for USA Today, Mr. Paul Clancy, visited the hospital, and let me quote from his article:

The kids at Denver's National Jewish Center for Immunology and Respiratory Medicine couldn't agree more. The youngsters are there for treatment of severe asthma.

"These are children who know by how they feel what the air quality is in their towns," says hospital president Michael Schonbrun.

"In the morning when my bus picks me up, you can see the smog over the buildings," says Ryan Truxell, 12. "My mom doesn't let me play outside when it's a bad day."

There are millions of people who feel that way, and unnecessarily.

I ask unanimous consent that the full text of Mr. Clancy's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From USA Today, Mar. 20, 1990]

CLEAN AIR FIGHT NOW HAS MANY HOLDING BREATH

(By Paul Clancy)

DENVER.—Sen. Tim Wirth, D-Colo., bounds from his Jeep Cherokee and attaches an air hose to a nozzle in front, injecting the car not with gasoline but with cleaner-burning compressed natural gas.

"We might even win this thing in the Senate," says Wirth with unguarded optimism.

The count looks close as the Senate resumes debate today on his and several other amendments to tighten a compromise clean-air bill negotiated by Senate and White House leaders last month.

All-out lobbying by industry and environmental groups, as well as senators with much at stake in the landmark bill, will accompany the debate.

It's been called the environmental contest of the year, if not the decade.

"There is no single environmental issue that has more impact on the American people than this one," says Robert Yuhnke of Colorado's Environmental Defense Fund.

Opponents agree, but from the other side of a battle as fierce as the range wars of old.

"It's worse than the original Senate bill, and that was our worst nightmare," says Tim McCarthy of the Motor Vehicle Manufacturers Association, the automaker lobby trying to defeat the amendments.

For Tom Green, lobbyist for the National Automobile Dealers Association, his greatest feat is unwanted cars. "If this is a bomb, we're looking at thousands of cars on our lots that nobody is going to buy."

The Wirth-Wilson bill, also named for Sen. Pete Wilson, R-Calif., would greatly tighten auto emission standards and require wider use of cleaner fuel like ethanol and natural gas. Cities like Denver, Los Angeles and New York say they can't achieve healthy air in the coming decades without tougher enforcement.

Denver is having a glorious winter. A combination of good weather and its mandated use of new oxygen-rich fuels has reduced its notorious "brown cloud", to only a few appearances. But without tough federal standards, the city will be right back in its carbon monoxide soup, they say.

"It's the number one public health issue out here," says Wirth. "This is the place where the environment and public health issues come together."

The kids at Denver's National Jewish Center for Immunology and Respiratory Medicine couldn't agree more. The youngsters are there for treatment of severe asthma.

"These are children who know by how they feel what the air quality is in their towns," says hospital president Michael Schonbrun.

"In the morning when my bus picks me up, you can see the smog over the buildings," says Ryan Truxell, 12. "My mom doesn't let me play outside when it's a bad day."

Mr. WIRTH. There are millions of Americans who unnecessarily have the same problems that that little guy had. He cannot go outside when the air is bad. We can do a great deal about that. There is a very clear relationship between the environment and energy policy.

The second chart, which is behind me here, focuses on petroleum products. What we are attempting to do in this legislation, as well, is to show that when we have this window of opportunity we can make great inroads on our current overdependence on foreign oil.

Transportation currently accounts for 65 percent of the petroleum used in the United States, and as you well know, Mr. President, last month the United States imported 53 percent of our oil. We imported 53 percent, the highest importation of oil in our Nation's history. This importation is rising and becoming increasingly dangerous for our national security. It is absolutely imperative that we begin to look at how we are going to break into this cycle.

The Wirth-Wilson amendment also offers an opportunity to break into this cycle. Transportation is obviously a key. If we look at the overall use of petroleum in the United States from 1950 to 1990, we see the curve of usage generally going up. But there have been major efforts at conservation. We see the industrial sector here; we see the residential and commercial sector in black here. But look at the very broad band here for transportation, and a great majority of that is automobiles.

What we have to do as well is to start to break into this cycle. The way in which we break into this cycle is to encourage alternative fuels.

The Wirth-Wilson amendment encourages alternative fuels in a number of ways. We encourage alternative fuels in terms of reformulated gasoline, and in terms of the second phase of super-clean vehicles, encouraging methane, natural gas, electric cars, a whole variety of alternative fuel systems that will meet the standards set in the legislation.

As I pointed out, Mr. President, it is only so often that we have this kind of a window open. The clean-air window opens very rarely. When it opens, it is our obligation again to look at the future and to do everything that we can to assure that we are using this opportunity as carefully as possible, and looking at this to lower our dependence on imported oil is absolutely imperative.

How badly is this imported oil situation going to get? According to the Department of Energy, they say:

Imports are expected to rise to ten million barrels per day in the year 2000, and consumption is expected to rise to 18.6 billion barrels per day. In short, the Energy Information Agency says that we will be almost 60 percent dependent on foreign oil in the year 2000 given current trends.

Gasoline going into transportation is increasing all the time. Just as we are seeing increasing fuels, we are seeing the number of automobiles increasing significantly.

Some people say in the debate of this amendment that what is going on is we are reaching the clean air standards. We may be reaching the clean air standards with the compromise today, but we are going to fall over the edge shortly.

If we look at the number of automobiles again, registrations in the United States, those have gone up very significantly. If we look at what has happened since the Clean Air Act was passed in 1970, it has gone up even more sharply by 1990. In a 20-year period of time, this has gone up very sharply. We can anticipate in every projection that this is going to continue to go up. There are going to be more and more automobiles on the road.

That is going to make it increasingly difficult for us to be in compliance with the Clean Air Act. Just as the

number of automobiles is going up, the number of vehicle miles traveled per year in the United States is also going up.

Again, the trend is up sharply. If we look at 1970 and then look at 1990, we see that in a 20-year period of time, the number of vehicle miles has doubled from 1 trillion vehicle miles per year to 2 trillion vehicle miles per year. The projections are, Mr. President, that this is going to increase even further, that we are going to be up toward 3.5 to 4 trillion miles per year by the year 2010. With those increased numbers of automobiles that are going to be on the road, with the increased number of vehicle miles traveled, even when we clean up automobiles some, as is done in the compromise, the amount of pollution will stay ahead of us. We are going to continue to pollute, and we are going to go over a point where even with the good work that is in the compromise, we are going to fall out of compliance in the late nineties or early 21st century.

So it is imperative, Mr. President, that we not fall back on our laurels, that we continue to press, that we continue to focus on cleaning up automobiles, making them clean for the future. It is absolutely imperative that we do this. Why are we going through all of this? Autos are obviously the biggest source of pollution in our cities, and as we can see, are growing by leaps and bounds. Other sources in cities may be growing, such as drycleaners, bakeries, print shops, power plants, and manufacturers, but their growth is almost flat, Mr. President. It is the automobile growth that is growing very significantly. Almost one-half of the pollution in our major cities comes from the automobile and, as we can see from these trends, it is going to be more and more.

Because of these very, very large numbers, Mr. President, a little bit of pollution saved from every automobile adds up enormously. A little from every automobile gets us a very big total. The economics are extremely favorable along this line. Senator WILSON will talk later very extensively about the economics of this, but the economics of cleaning up automobiles are cost-beneficial and are very good economics as a matter of who pays. We will come back to that later.

But let us keep in mind that we can only allow so much pollution in cities. We only allow so much pollution to exist. If automobiles get more than their fair share, the squeeze is then on everybody else. The cheapest pollution that we can take care of, Mr. President, is cleaning up automobiles. The Wirth-Wilson amendment is the most cost effective set of steps that we can take.

All of this is to do what the President asked. "We must reconcile the automobile with the environment." That is the thrust of the Wirth-Wilson amendment. Reflecting that thrust in discussion, Mr. President, I ask unanimous consent to have printed in the RECORD at this point two editorials from the Denver Post, an op-ed from the Rocky Mountain News, and one from the New York Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Mar. 11, 1990]

FUELING THE CLEAN AIR DRIVE

It seems likely that the clean-air bill now being overhauled in Congress will force the nation's automakers to produce cars equipped to run on natural gas or other alternative fuels.

But it's far from certain that Denver will see much benefit from such a provision, which may offer more bang for the buck than any other anti-pollution strategy currently under discussion.

The reason: Denver is not on the list of cities where alternative-fuels vehicles would have to be made available. Under the compromise worked out by leaders of the Senate and representatives of the White House, such sales would be mandated in only nine big cities plagued by serious smog problems: Los Angeles, Houston, New York, Chicago, Philadelphia, Washington, Baltimore, St. Louis and Atlanta.

Alternative fuels have been lauded mainly because vehicles that burn them put out smaller amounts of the pollutants that form ozone, a prime ingredient in urban smog. But they also emit lower levels of carbon monoxide and particulates, the two most troublesome contaminants in high-altitude cities like Denver.

Compressed natural gas, for example, is said to cut a new car's CO emissions by 80 percent and its particulates by 50 percent—and its even more effective in older vehicles. Propane, which is more expensive but initially would be easier for consumers to find, offers similar benefits.

The compromise would allow Denver and similar cities to request alternative-fuels cars once the nine top-priority cities were fully supplied. But there's no guarantee that any such vehicles would actually be shipped to the secondary markets, and in any case they might not show up on dealers' lots until months after they came off the assembly line.

Further action on revisions to the Clean Air Act has been postponed until after next week's recess. When the Senate takes up the legislation again, it should move to ensure that these clean-running cars will be available in any city with either ozone or carbon-monoxide problems—and in sufficient numbers to satisfy motorists' demands.

[From the Denver Post, Mar. 19, 1990]

CLEAN AIR IN THE NEXT CENTURY

Denver's air has been so clean this winter it's tempting to conclude that the brown cloud has been banished forever.

But that would be a false sense of security. As state pollution-control officials point out, the growth in traffic expected over the next decade may nullify all the progress made over the past decade unless further steps are taken to curb emissions from motor vehicles—the main source of atmospheric contamination here, and the one that's cheapest and easiest to control.

The package of Clean Air Act revisions to be debated in the Senate this week would do much to keep anti-pollution efforts from stalling out after the turn of the century. But some fine-tuning remains to be done—not only to preserve the gains made so far, but also to enable Denver and other cities in the West to enjoy the same benefits as their counterparts elsewhere in the country.

First, cars and other light-duty vehicles should be required to meet strict new-car emissions standards for at least 100,000 miles, not just 50,000. This would do almost as much to reduce tailpipe pollution over the long term as a requirement that cars start as cleanly in cold weather as in warm—a provision already included in the compromise legislation now under discussion.

Second, vehicles in government and commercial fleets should be required to use clean-burning fuels in all places that seriously exceed federal air-quality limits—including areas with high carbon monoxide levels as well as cities polluted mainly by ozone. Postal vans, delivery trucks and similar vehicles are ideal targets for such a mandate because unlike commuters' cars, they are in constant use and can be fueled from a central location.

Third, the Senate should ensure that the Environmental Protection Agency will continue to play a backup role in this nationwide clean-up effort, imposing its own anti-pollution strategies on cities that fail to take reasonable steps to comply with federal guidelines. Cities that take their pollution problems seriously—like Denver—shouldn't be placed at a disadvantage compared to cities that don't.

Senators Tim Wirth of Colorado, Pete Wilson of California and John Kerry of Massaschusetts have introduced amendments that would accomplish these objectives, among other goals. Their recommendations merit support from Colorado's senior senator, Bill Armstrong, as well as from several senators from neighboring States—particularly Utah, New Mexico, Nebraska and Kansas—whose swing votes are considered crucial to success in this fight.

The Rocky Mountain states may have a greater stake in a reform of the Clean Air Act than any other area of the country because their tourist-oriented economies depend so much on unimpaired views of the region's spectacular scenery. Their concerns shouldn't be written off just because their urban areas suffer less form ozone pollution or represent smaller consumer markets than the big cities of the East, Midwest and West Coast.

[From the Rocky Mountain News, Mar. 12, 1990]

CLEAR AIR BILL MAKES START, BUT WE CAN DO BETTER

(By Sen. Timothy Wirth)

The News' March 4 editorial concerning the Clean Air Act now being debated in the U.S. Senate was accurate as far as it went. It is true that the compromise represents improvements over existing law in a number of areas. For example, it will stop acid rain in the East and it relies on market-based incentives to do that—an approach I have long advocated and the News has supported.

But the compromise does not represent a victory for Denver and other areas with serious air-pollution problems. Under the provisions of the compromise, Denver can probably meet clean-air standards in the near future. But because it doesn't go far enough, in the not too distant future

Denver could well again fall out of attainment of the Health-protecting goals of the Clean Air Act. Why not take a few more steps now, do the job right, and ensure that our citizens will be breathing clean and healthy air in the year 2000 and beyond?

Looking a few years into the future, it is clear that there will be more people and cars in Colorado, and we will be giving more. As a result, it is important to clean up our cars, and keep them clean. You correctly pointed out that if every auto ran as clean as a new car fresh out of the showroom, our problems would be much less severe. But to keep these cars running clean, we have to insist that pollution-control devices last for 100,000 miles—the real useful life of a car. Unfortunately, the administration insisted on dropping that provision. I'm going to try and put it back in the bill.

Your editorial also pointed out that tighter emission standards may be required in the year 2003, if a number of cities remain polluted. But that list doesn't include Denver and other cities with carbon monoxide pollution. Instead, the list includes only cities with ozone pollution. (We are in compliance for ozone.) This means tighter carobon monoxide standards will depend on whether other cities clean up their ozone pollution. I'm not sure that make sense, especially since it is economically and technologically feasible to further reduce pollution from cars.

Finally, you editorial left out reference to the enormous potential of alternative fuel vehicles. Fueled with natural gas, for example, vehicles get the same mileage, run with much less wear and tear, use fuel (natural gas) that costs 50¢ a gallon, and burn "super clean." In addition, natural gas is a domestic fuel, so increasing its use will lower our dangerous dependence on imported oil.

Natural gas is abundant in Colorado, and its use will be especially good for our state's economy. Unfortunately, the administration caved in to the pressure of the oil industry and gutted the ambitious alternative fuel provisions of President Bush's original bill. We should restore the commitment to alternative fuels.

It is true that the compromise bill contains a number of good things. It will be a great help in cleaning up acid rain in the East. Of special virtue is the innovative emissions trading program that minimizes the cost of the acid rain provisions (a program advanced by Sen. Heinz, R-Pa., and me in our Project '88 package of cost-effective environmental initiatives, upon which the News editorialized favorably last year).

The legislation also includes the very important "cold start" provisions, which will do more than any single measure to advance clear air in Denver by allowing vehicles to burn their fuels more efficiently on cold, high-polluting winter days.

In addition, President Bush deserves credit for breaking the logjam over clean air, which will result in a new clean air bill this year.

Toward that end, the compromise is a start—but we can do better. It will be an uphill fight, but if we can put together a coalition of California, the Rocky Mountain states, the natural gas producing areas, agriculture and coal states with potential for alternative fuel production, and the dirtiest cities of the country, we can defeat the oil-Detroit axis. Wouldn't that be a refreshing victory?

[From the New York Times, Mar. 8, 1990]

CLEAN FUELS, CLEAN AIR

(By Timothy E. Wirth)

WASHINGTON.—As the Senate votes this week on proposals for amending the Clean Air Act, Americans' health and environment are on the line. If they are to be protected, the Senate must make long-overdue choices about fuels to be burned in cars and trucks.

The nation has fought a losing battle against urban smog since 1970. Deadlines for meeting Federal health standards have been missed repeatedly, despite local governments' use of every strategy available to meet them. The casualty list includes more than 100 major urban areas with unhealthy levels of air pollution and tens of billions of dollars of avoidable health costs.

The single biggest culprit is the gasoline-fueled car. Standards enacted by Congress in 1977 have made new vehicles cleaner, but each year Americans buy more cars and drive more miles. These increases in vehicle miles traveled force polluted cities to run hard simply to stay in place, let alone make progress toward reducing air pollution.

There is just one way to escape this treadmill. We must break our addiction to today's high-polluting gasoline and take advantage of new clean-burning fuels. As President Bush said, we must "reconcile the automobile to the environment."

That's what Mr. Bush proposed when he introduced his clean air bill last summer. Its centerpiece was a mandate for the production of a million clean-fuel vehicles yearly by 1997. William Reilly, Administrator of the Environmental Protection Agency, called this program "the most innovative and far-reaching" component of the bill.

New, proven technologies are already producing vehicles that run on low-polluting natural gas, ethanol and methanol. By early in the next century, nearly pollution-free vehicles powered by hydrogen, electricity and solar power should be available.

Clean fuels are good for the environment and the economy, and would enhance national security by reducing our dependence on foreign oil. We can reformulate gasoline to make it burn more cleanly, by replacing some imported oil with domestically produced alcohols and ethers, such as ethyl tertiary butyl ether, made from corn, wheat, barley and other crops. This shift would open up major new markets for our farmers, and it could save taxpayers millions of dollars in farm-price supports.

Domestically produced natural gas, a clean-burning fuel, can also be turned into methanol. The use of these fuels not only would displace foreign oils but also give a much-needed shot in the arm to domestic gas producers in Louisiana and the West.

Unfortunately, during recent closed-door negotiations on clean air in the Senate, oil and auto companies made quick work of the President's original proposal.

Aside from a very limited program for certain Federal and commerical fleets, the Senate compromise does not provide for a new generation of vehicles using natural gas, ethanol, methanol or electricity.

I hope the Senate will breathe new life into the President's original vision and put a strong clean-fuels program back in the Clean Air Act amendments.

Building on the Bush initiative, a successful clean-fuels program should have three central elements:

The first is to require that reformulated, clean-burning gasoline be sold in our most polluted cities. (It can be used in any car, no matter how old.)

The second is a program calling for large commercial fleets to begin using special super-clean fuels like natural gas and methanol in the mid-1990's. Fleet vehicles—taxis, garbage trucks, delivery vans—travel twice as many miles as private vehicles; thus they offer a cost-effective target for emission reductions. Since they are centrally fueled, they can be more easily converted to new fuels.

The third element is a program calling for these same special super-clean fuels to be used in passenger cars beginning in the late 1990's.

Congress must look beyond the auto and oil industries' preoccupation with the next quarter's profits. The Senate cannot afford to squander this opportunity.

Mr. WIRTH. With that as background, that gets us to the Wirth-Wilson amendment. Again, let me say that the economics of the Wirth-Wilson amendment make an enormous amount of sense. The energy policy makes an enormous amount of sense. The cost effectiveness is very clearly there. If we do not follow the Wirth-Wilson amendment and get back to the goals so well set by the President of the United States, we will find ourselves, because of increased transportation and increased numbers of automobiles, falling out of compliance.

There are five components to our legislation, Mr. President. The first focuses on making the catalytic converter, emission control device, for automobiles work for the useful life of the automobile. The second is an interesting compromise on the so-called second round. The third focuses on reformulated gasoline. The fourth is a fleet provision for Government and commercial fleets. And the fifth is the California-New York package for automobiles. Let me briefly discuss those, and I know Senator WILSON has an extensive discussion from his perspective.

First, 100,000 miles. In our legislation, manufacturers are responsible for seeing that the vehicle is designed to work for 100,000 miles. Mr. President, we go through this operation of setting very extensive standards for automobiles. We set all of these standards, we debate how tight the standards will be, or can it be a little looser, and so on, but I suspect most of us have assumed that the automobile is going to meet those standards for the useful life of the automobile. Wrong.

Unfortunately, under the compromise in front of us, the vehicle emission device is only guaranteed to work in complete compliance for 50,000 miles. It then drops off significantly for the second 50,000 miles for the automobile. Why is that? That makes absolutely no sense whatsoever. Why, we can, at almost no cost whatsoever, make that emission control device work for the full useful life of the automobile. How much will that cost? Well, according to EPA, the Office of Mobile Sources, Ann Arbor, MI, study

of September 1989, EPA estimated that the cost of complying with the full useful provision for certification and recall would cost approximately $25 per new car, meeting the 1993 emission standards. The Congressional Research Service estimates that the cost of a full useful life provision is approximately $240 million for 12 million cars, the equivalent of $20 per new car. That is from a study done by CRS, "Emission Controls on Motor Vehicles and Fuels."

Another EPA estimate determined that the full useful life provision for passenger vehicles will cost approximately $25 per new vehicle. That is from the Clean Air Act options paper, "Ozone Nonattainment," EPA, May 22, 1989. This can be done for the useful life of a car, making cars comply for 100,000 miles, for $20 to $25, about the cost of an ashtray in an automobile.

Not only is that very inexpensive, but it is the single most cost-effective program that we can embark upon to clean up our air. The cost per ton for doing it with this particular compliance gets us at about $500 per ton. If we do not do that, cities and States are going to have to move in and focus on stationary sources and stationary programs to control pollution, begin at about $3,000 a ton and escalate up to $5,000 a ton. Again, we can do this, and this is the cheapest way we can possibly clean up our air.

So the first provision of the Wirth-Wilson amendment focuses on the 100,000 mile useful life. I ask unanimous consent to have printed in the RECORD at this point, Mr. President, a letter from the Manufacturers of Emission Controls Association, the group that makes the emission control devices, and a discussion from them about the fact that this can be done; it is technically feasible, and it costs about the price of an ashtray. I ask unanimous consent that the letter from the manufacturers of these devices be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MANUFACTURERS OF
EMISSION CONTROLS ASSOCIATION,
Washington, DC, March 15, 1990.

Hon. TIMOTHY E. WIRTH,
U.S. Senate,
Washington, DC.

DEAR SENATOR WIRTH: The Manufacturers of Emission Controls Association (MECA) is pleased to respond to your request for our views on the technological feasibility of meeting proposed light-duty vehicle emission standards for 100,000 miles. As you are aware, MECA is a non-profit association of companies that manufacture various motor vehicle exhaust emission controls. Our membership includes companies with extensive experience and a proven track record in the development and application of catalytic converter technology. Our response to your inquiry is based on our industry's 20 years experience in the field of emission control technology.

As MECA stated in testimony before the House and Senate, we believe that with further refinement, optimization, and utilization of emission control technologies, either existing or under development, passenger car standards of 0.25 NMHC, 3.4 CO and 0.4 NO_x are technologically achievable for 100,000 miles. The final technical solution for meeting these Tier I standards will not simply be a better catalyst, but rather a complete system with advanced catalyst designs and improved engine controls.

The greatest engineering challenge to complying with more stringent emission standards is maintaining the durability of the control systems in use. We believe that (1) improvements in catalyst design, either in existence or under development, (2) utilization of multi-point fuel injection and other engine improvements, (3) a declining presence of trace lead in unleaded gasoline and (4) other expected improvements in fuel and oil quality make the prospects for developing durable systems excellent.

Of course, proper vehicle maintenance is an important element in insuring that vehicles designed and built to meet emissions standards actually achieve those levels of control in use. Improvements proposed in S. 1630 to the in-use compliance program such as strengthened state I/M emission testing, expanded anti-tampering inspections, and prohibitions against tampering and misfueling all would help insure that vehicles are maintained, that emission control components are protected, and in-use emissions are reduced.

The Senate is also considering second tier standards of 0.125 NMHC, 1.7 CO and 0.2 NO_x. While the technological challenge of meeting these standards is considerable, the past accomplishments in emission control, the pace of technological developments, expected improvements in fuel and oil quality, and well over a decade of lead time to develop and apply technological solutions suggest that meeting these levels is not beyond reach technologically. Indeed, prior history of the Clean Air Act has shown that the best way to insure that needed control technologies are developed is to establish firm emission standards with adequate lead time to develop and apply control technologies.

If you or your staff have any additional questions, please do not hesitate to contact us.

Sincerely,

BRUCE I. BERTELSEN,
Executive Director.

Mr. WIRTH. The second part of the Wirth-Wilson amendment focuses on the so-called second round of tailpipe standards. In the year 2003, cars will have to get even cleaner than the 1994 standards, some believe. Under the compromise bill, a second round of tailpipe standards—and this has become enormously controversial—goes into effect under a trigger that only gets pulled if 12 cities outside of California are still polluted. This means that, potentially, tens of millions of people could still be breathing unhealthy air. We would not be doing anything from the largest source of pollution, automobiles. For example, if only 11 of those cities were out of compliance, the trigger would not go off, or if dozens of cities were out of compliance with carbon monoxide, this trigger still would not go off.

I ask unanimous consent to have printed in the RECORD at this point a list of those largest cities in nonattainment which could still be in the year 2000 and not trigger tailpipe standards; 23 million people in 11 cities out of compliance with ozone and a similar sort of phenomena with cities out of compliance in carbon monoxide, the trigger in the current compromise does not work. I ask unanimous consent this list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Largest serious cities in nonattainment for smog which could still be in nonattainment in 2000 and not trigger tighter tailpipe standards for new cars

Rank and area:	*Population*
1. Philadelphia, PA	5,963,000
2. Boston, MA	4,109,000
3. Washington, DC	3,734,000
4. Atlanta, GA	2,736,000
5. St. Louis, MO	2,466,700
6. Providence, RI	1,125,400
7. Hartford, CT	1,067,600
8. Louisville, KY	967,000
9. El Paso, TX	585,000
10. Portsmouth, NH	220,400
11. Muskegon, MI	161,000
Total population	23,135,100

CITIES THAT EXCEED CARBON MONOXIDE STANDARD IN 1988 BY ONE-THIRD OR MORE

Rank and area

1. Steubenville-Weirton, OH-WV.
2. Winnebago, WI.
3. Los Angeles, CA
4. New York Region (NY, NJ, CT)
5. Spokane, WA
6. Albuquerque, NM
7. Denver-Boulder, CO
8. Phoenix, AZ
9. El Paso, TX
10. Seattle-Tacoma, WA
11. Las Vegas, NV
12. Fairbanks, AK
13. Minneapolis-St. Paul, MN
14. Provo-Orem, UT
15. Fresno, CA
16. Fort Collins-Loveland, CO
17. Sacramento, CA
18. Portland-Vancouver, OR-WA.

Mr. WIRTH. Our amendment sets up an EPA study, and this is the compromise that was reached initially by the distinguished junior Senator from Michigan [Mr. LEVIN], as I understand it, and by the leadership, particularly Senator MITCHELL. Our amendment goes back to that compromise. What that compromise did was to say we do not know yet if the second round of standards is going to be necessary.

EPA will do a study, and if EPA recommends that the only effective way, or an effective way, to clean up our cities is to go with a second round, EPA implements that second round, and Congress has the vote to approve or disapprove.

(Mr. KERREY assumed the chair.)

Mr. WIRTH. It seems to me this is a very reasonable approach. We do not

know if the second round is going to be needed. This compromise was reached. Let us have a jump ball on the situation. Defer the question until the late 1990's; have EPA do a study. If that study points out a second round is needed there, in effect we in the U.S. Congress can vote it up or down.

The third part of the Wirth-Wilson amendment focuses on the issue of reformulated gasoline. When we say "reformulated gasoline," that essentially means clean gasoline. The Senate compromise requires that new cars in the nine cities with severe ozone problems either use reformulated gasoline or find other ways to run slightly cleaner than normal cars beginning in October 1994. The Wirth-Wilson amendment requires that all fuels in these cities for old cars and new, not just new cars, but old cars and new, to be reformulated and extends this requirement to all cities with ozone problems in October 1994 depending on the cities' progress in meeting the clean air requirements. What we are essentially saying is that not only should new cars use reformulated gasoline but old cars should as well.

This gets us to the use of a clean fuel and, incidentally, Mr. President, not only are we using a clean fuel, we are using a clean fuel that is domestically manufactured. Approximately 10 percent of reformulated gasoline can be, for example, ethanol and methanol made out of agricultural products, particularly corn. What we are doing here is encouraging 10 percent of the gasoline market in the ozone nonattainment cities, generally the largest cities in this country, with an enormous population of automobilies, that 10 percent of that use reformulated gasoline, a domestic fuel. We are creating here not only cleaner air but are creating here a very real opportunity to develop a domestic marketplace.

Some will say now what are the costs of doing this? Arco is currently marketing this low polluting gasoline in southern California, and there that gasoline reduces ozone formulated emissions by 20 percent, and the fuel is produced and sold at the same cost of regular gasoline and the benefits are clear as well.

We are replacing all kind of compounds in so-called dirty gasoline. Essentially what we are doing is cleaning up the gasoline and I have an analysis of some of the benefits of that, Mr. President, and I ask unanimous consent that those be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REFORMULATED GASOLINE

Difference between Wirth-Wilson amendment and Senate compromise:

The Senate Compromise requires that new cars in the 9 cities with severe ozone problems either use reformulated gasoline or find other ways to run slightly cleaner than normal cars beginning in October, 1994.

Wirth-Wilson requires all fuels in these cities, for old cars and new, to be reformulated, and extends this requirement to all cities with ozone problems in October 1994—depending on cities' progress in meeting clean air standards, this could be as many as 101 cities. It also:

Directs EPA to establish regulations to achieve the greatest reduction of ozone-forming and toxic pollution possible through reformulation;

Requires the ozone-forming potential of gas to be reduced by at least 20 percent;

Establishes a minimum oxygen content limit (2.7 percent) and a maximum aromatic content (25 percent for regular gasoline) of the fuel; and

Requires fuel suppliers to sell only reformulated gasoline in nonattainment areas.

What are the costs?

ARCO Oil Company is now marketing a low-polluting gasoline in Southern California that reduces ozone-forming emissions by 20 percent—the fuel is sold for the same cost as regular gasoline.

What are the benefits?

Replacement of aromatic and olefin compounds that have been added to gasoline in recent years with lower polluting compounds, such as ETBE, MTBE or ethanol, will:

Reduce toxic motor vehicle pollutants significantly;

Reduce carbon monoxide pollution 10 percent or more

Reduce hydrocarbon pollution 20 percent or more

According to Systems Application Inc. and Information Resources Inc., the cost-effectiveness of reformulated gasoline is about $1,000 per ton of VOCs removed. This is much less than the typical cost for stationary sources, which EPA estimates are about $5,000 per ton.

Mr. WIRTH. Mr. President, finally, there is the fourth point which I will speak upon and then I will leave the fifth point related to California and New York to my distinguished colleague from California, Senator WILSON. The fourth point relates to commercial and Government fleets.

One of the most sensible ways, probably the most sensible way, for us to get alternative fuel vehicles started is to require that those happen with fleets. Why are fleets important? In Omaha, NE; Denver, CO; Butte, MT; or Chicago, IL, a vast amount of mileage is driven every day on the streets of those cities, driven by fleet vehicles, driven by panel trucks, for example delivery trucks, the telephone company, the public service company, and so on.

In Denver, it is estimated that fleet mileage is approximately 35 percent of the total mileage driven in the Denver metropolitan area. Mr. President, if we can get those fleets to operate as super-clean vehicles to operate on alternative fuels, we are going to be cleaning up a vast amount of the mileage that is driven anyway every day in those cities.

The Wirth-Wilson amendment sets a very strong standard to improve the technology and set up a demand structure for alternative fuels vehicles. The compromise deals with alternative fuels with only nine cities. Ours includes 40 cities. The compromise makes no reference to carbon monoxide problems in cities such as those that exist in Denver, Phoenix, Albuquerque or Salt Lake City. Ours has a separate program for carbon monoxide nonattainment cities.

Fleets are a terrific bridge, Mr. President, for clean cars for the general public and much better than the gasoline alternative. With the fleet provision, we are creating a real demand for Detroit. The fleet provision for commercial and government vehicles only increases very sharply the number of fleets, the number of alternative fuel vehicles overall.

The argument is made by some of our opponents, what are we going to do, have all the vehicles sitting on our lots? Wrong. The demand is there because fleet owners of 10 or more are going to be required to shift 30 percent and then 60 percent.

Let me point out if I might, Mr. President, just a difference between the Wirth-Wilson amendment alternative vehicles and the compromise. Ours is here in orange, and you can see the sharp rise. And this is just for commercial and government fleets only. We are creating a very significant demand. For the automobile manufacturers to say there is no demand created just look at this versus what is in the compromise before us. So we are creating a significant fleet provision and a significant demand for Detroit's product.

What will the impact be? All we have to do here is look at the number of vehicles on the ground as we move out toward the year 2000. Under the Wirth-Wilson amendment we are going to have a very significant fleet out there of alternative-fueled vehicles. And what does that mean? That means that we are testing, working on, working through the technology which is almost identical between the engine and the fuel system in a van or in a private automobile. We will be perfecting that, creating a very significant demand not only for those vehicles and that technology, but also creating a significant demand for the distribution system for those fuels.

Some will argue there is no market for distribution systems. We heard that tired argument back when we went to unleaded gasoline. What we are doing is creating a demand for alternative fuel and that is what you see here versus the compromise.

Mr. CHAFEE. I wonder if the Senator would answer one question.

Mr. WIRTH. Let me finish and I will be happy to go back to that.

Finally, what is the impact in terms of emission reductions? If we look at the blue line under Wirth-Wilson, the reductions are three times as great as those which exist under the Senate compromise. Again, if we are serious about cleaning up our air, if we are serious about developing alternative technologies, if we are serious about developing alternative fuel programs to begin to soften our extraordinarily dangerous dependence on imported oil, the Wirth-Wilson approach on alternative fuels and alternative fuel vehicles makes the most sense.

Mr. President, I cannot help but summarizing by saying this amendment which Senator WILSON and I are offering is good energy policy, good economic policy and good environmental policy.

One final chart, if I might, to show what we would accomplish:

We are looking here, Mr. President, at a comparison under existing technologies, a comparison of clean fuels emissions. If we look at the current technologies that are available, gasoline, methanol, ethanol, natural gas, electricity, look at the significant differences that occur if we encourage alternative fuels.

We have a major incentive for alternative fuels in our legislation, and that is good environmental policy, and that is good economic policy. Again the thrust of our amendment is to come back to the significant and again I would use the word noble goals set by the President of the United States when he announced his clean air program in June of 1989 in the White House. At that point the President of the United States said to us that we should develop a program that reconciles the automobile with the environment.

Unfortunately, the compromise in front of us does not meet the noble goals set by the President of the United States. The Wirth-Wilson amendment does go right back to those goals in terms of number of alternative fuel vehicles, reconciling the automobile with the environment and encouraging alternative fuels.

A final point, if I might, Mr. President. The argument is and has been made that this is a deal buster, that if the Wirth-Wilson amendment passes, the deal gets busted. I am reminded, Mr. President, of the debate that we had very eloquently here on the floor a week ago Thursday night when Senator BYRD, the distinguished senior Senator from West Virginia and the distinguished President pro tempore, raised the so-called Byrd amendment. At that point that was described as being the greatest deal buster of them all.

Over the last 10 days it appears to me it is pretty clear that now Senator BYRD appears to have a majority of votes but we do not see that amendment here on the floor. The so-called deal buster amendment is now being negotiated with the administration. The administration is sitting down and saying OK, you know you may have had a better idea; now we want to sit down and negotiate with you. I will tell you, Mr. President, that if there had been no compromise and no deal the Wirth-Wilson amendment would be getting 65 or 70 votes on the floor of the Senate. There is no question about the fact that that is what would happen. Overwhelmingly, all of our good environmental friends, some of whom are locked in because of the so-called deal, would be voting for the Wirth-Wilson amendment.

Is it a deal buster? I hope we have the votes and this can be a very close vote. If we have the vote, this is not a deal buster. We are going to do exactly what happened under the Byrd amendment. The administration will say, OK, you guys had a better idea, you had more votes, the majority of the Senate has worked its will, which is what this institution is supposed to do. The majority of the U.S. Senate is supposed to work its will not to confirm some deal, not to sit down and say yes, or no, we confirm something that was done in a room off the Senate floor, but rather to say what is the right public policy for the United States of America.

I submit, Mr. President, that the right public policy for us to pursue is a long-term cleaning up of our air, reconciling automobiles with the environment, developing an alternative fuel program that will make us less dependent on sources of foreign oil and doing this in a way that is more cost-effective than any other way of cleaning up our air. That is probably a fair summary of the Wirth-Wilson amendment, Mr. President, and I know Senator WILSON joins me in looking forward to negotiating with the White House after we have 51-plus votes on the floor of the Senate.

Thank you very much, Mr. President, I am happy to yield to the distinguished Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I seek the floor in my own right.

Mr. WIRTH. I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I know the distinguished Senator from California wishes to proceed, but I have a question for the Senator from Colorado. He was discussing the fleet matter.

My question is this: First, if I understand him correctly, the number of vehicles that constitute a fleet would be 10.

Second, would it be fleets that are centrally fueled or fleets that are cabpable of being centrally fueled?

Mr. WIRTH. The answer is capable of being centrally fueled. It is 10 vehicles or more, and those that are capable of being centrally fueled, a very important distinction from what is in the bill, and we can discuss that if you like.

Mr. CHAFEE. I am not sure what he means by being capable.

Mr. WIRTH. I can tell you exactly what we mean by that. In my State of Colorado and in the State of Wyoming, there are vehicles that run in cities and there are other vehicles that run in rural areas. Those city and rural areas clearly are not going to find—for example, if it is the Public Service Co. of Colorado and it is vehicles running in Gunnison, CO, you would not find them capable of being centrally fueled because there is only one or two in Gunnison, but there are dozens running around the Denver metropolitan area. So it essentially says those fleets that run in metropolitan areas and are capable of being centrally fueled.

Mr. CHAFEE. So a local building supply company that has 10 vehicles scattered around their employees, if they had never previously been centrally fueled nonetheless they would be considered as being capable because they are in some metropolitan area.

Mr. WIRTH. Only if they are in the same metropolitan area and were contiguous to the kind of supply system. In the legislation, as well, this is a decision that gets made by the States, who is and who is not. I think it is pretty clear we would know who is. The telephone company has a vast number of vehicles. So does the public service company. So do other major companies. What we are saying is this is the area—fleets—in which we would move first.

Mr. WILSON. Mr. President, first, let me commend my friend from Colorado for what I think was a splendid and a persuasive presentation. Quite seriously, I think it should be persuasive to all who heard it.

Before I proceed further, let me ask unanimous consent to add as a cosponsor of the amendment the junior Senator from Montana, Mr. Burns.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, while I am handing out commendations, I think I would be remiss if I did not comment on the very hard work and the good faith of the people who crafted the compromise. We have been told, indeed by the distinguished majority leader at the news conference at which he announced the committee substitute as the grand compromise, that it was the best bill that we could get, the best bill that could pass.

I think that was a statement that was completely sincere. I think that there was complete sincerity on the part of the majority leader and the administration in seeking to arrive at

this compromise. Both were motivated, and quite properly, by a desire to finally achieve a reauthorization of the Clean Air Act in this year. And they are right to be determined to achieve it.

I do not think they are right in the description of this bill as the best that we can get. What they thought was that the bill that was introduced by the administration, proposed by the administration, which was a much better and tougher piece of legislation than the committee substitute and the committee bill, which was a much better and tougher piece of legislation than the committee substitute, they thought those simply could not pass because in the 23 days in which they sought to negotiate the compromise, they heard primarily from Senators who, in good faith, with honest concerns, were representing constituents, constituents concerned with employment largely from the auto industry and from the oil industry.

Mr. President, the process was open. Anyone who wished to endure it was welcomed to sit in that black hole of Calcutta. There was some anomaly that the subject was clean air because, frankly, the air in that room was not particularly good. But I will tell you that the compromise, however much it may have been intended and bargained for in good faith, is not the best that we can do. It is not the best that we should settle for. The argument that you will hear today is that this amendment, if it is permitted to pass, will be a deal breaker, and we are to hold sacrosanct the deal.

Mr. President, I do sincerely appreciate the courtesies that were extended to me as I sat there with the others in those negotiations. It was not that anyone was denied access. It was not that any undercover deals were pulled. It is simply that a calculation was made that certain relaxations in standards had to occur in order to achieve enough votes for this bill—that is for the committee substitute—to pass the Senate.

Mr. President, we cannot accept this, because it is not good enough. Yes, in many respects it is an improvement. I would concede to that. I would agree with the description that has been made by my friend from Colorado. So let us give credit where it is due and then let us proceed to make this a much better bill, one that responds to the expressed needs and desires of a broad, broad spectrum, a clean air coalition all across this Nation representing people concerned about health, about job opportunities, about equity in terms of where the burden for clean up should fall.

Mr. President, perhaps we ought to begin with the consideration of health. And I do not wish to belabor the point, but we seem at some point to have lost sight of that. Perhaps there has been a stipulation, a tacit stipulation in the minds of many that, of course, a clean air bill is necessary and was intended in the first instance to deal with the health problems caused by unclean air. And, if so, fine, we should so stipulate.

But as a gentle reminder, let me just say that a part of that coalition includes the American Public Health Association, the State and Territorial Air Pollution Program Administrators Association and the Local Air Pollution Control Officials, the American Lung Association, and the Asthma and Allergy Foundation of America.

Mr. President, these are people whose first concern is health. And as an example of their concern, let me just read an excerpt. This is addressed to all Senators. It is sent by the American Lung Association, dated March 5 of this year. It says, as part of a very well written, closely reasoned more that two-paged, single-spaced letter, that we need to improve upon the committee substitute by the adoption of the Wirth-Wilson amendment and the Kerry-Wilson amendment dealing with nonattainment. And in order to make the point, the letter states:

While air pollution is a threat to all of us, for the 31 million children, 19 million elderly, 6.2 million asthmatics, and 7.5 million individuals with Chronic Obstructive Lung Disease living in areas not attaining the health standards, current levels of air pollution are severely limiting, debilitating, and painful.

They then refer to the committee substitute.

The Agreement means that most of these individuals will endure unhealthful air quality well into the next century. The Agreement also means that the health costs of inaction will continue to rise, escalating well beyond the reasonable current annual estimate of $100 billion.

Mr. President, when we are concerned with costs we cannot ignore that estimated $100 billion cost, because it is paid by all of us. We pay it, as taxpayers. We pay it, certainly as consumers. We pay it in increased premiums for insurance.

Mr. President, that is a very serious millstone upon American economic development and competitveness in a global marketplace. I would much prefer to spend that kind of money in a preventive way. I would much prefer it because this is remedial, it is after the fact of damage. It is much less cost effective because it is much less effective and, in the first place, health should be a paramount consideration.

Mr. President, I ask unanimous consent that the full text of this letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN LUNG ASSOCIATION,
Washington, DC, March 5, 1990.

Re: Administration-Bipartisan Clean Air Act Agreement.

DEAR SENATOR: The American Lung Association has carefully reviewed the so-called Administration-Bipartisan Senate Clean Air Act Agreement announced March 1, 1990. The American Lung Association firmly believes that if adopted without strengthening amendments, this Agreement makes it improbable that healthful air quality will ever be achieved throughout the United States.

The American Lung Association places a very high priority on preserving and strengthening the Clean Air Act. Today, our nation's air is heavily polluted and deteriorating. Over 100 areas of the country exceed one or more of the health-based ambient air quality standards. While air pollution is a threat to all of us, for the 31 million children, 19 million elderly, 6.2 million asthmatics, and 7.5 million individuals with Chronic Obstructive Lung Disease living in areas not attaining the health standards, current levels of air pollution are severely limiting, debilitating and painful. The Agreement means that most of these individuals will endure unhealthful air quality well into the next century. The Agreement also means that the health costs of inaction will continue to rise, escalating well beyond the reasonable current annual estimate of $100 billion.

The American Lung Association urges your support to improve the Agreement and reject provisions which will compromise this nation's public health. Specifically, ALA urges your support for the following amendments:

Nonattainment: Senator Kerry.

Senator Kerry is expected to offer a 3-part amendment which would:

Retain current law requiring the mandatory imposition of a Federal Implementation Plan if a state fails to develop a plan that demonstrates attainment of the health-based standards.

Mandatory Federal Implementation Plans are required by current law and many areas, including Arizona, Wisconsin, Illinois, Indiana, and Michigan, have had successful experiences with such plans. Further, such a requirement places pressure on states to implement their own programs, often requiring legislatures or governors to adopt necessary controls.

Restrict the ability of a state to obtain a waiver of the progress requirements if a demonstration can be made that such reductions will be too costly to achieve.

The Agreement abandons current law and the concept of attaining the health-based standards by allowing for the determination of an acceptable cost for controlling air pollution. Under the agreement it is possible that EPA may set a low threshold for obtaining waivers—lower than what most states are already requiring sources to spend to control emissions. This would allow inequities among areas, especially in those areas with aggressive clean-up programs in place.

Amend the Agreement's definition of a major source and restore current law requiring RACT on all stationary sources.

Sources emitting less than 100 tons per year are a significant source of air pollution. The Agreement would allow new sources emitting less than 100 tons per year to construct without any air pollution controls.

Mobile Sources: Senators Wirth and Wilson.

Senators Wirth and Wilson are expected to offer an amendment to strengthen the mobile source provisions of the Agreement including the following provisions:

Retain provisions of S. 1630 that would require full implementation of Tier 1 tailpipe standards and require that the same tailpipe standards remain in effect for the full useful life of the vehicle—100,000 miles.

Retain the language of the Mitchell/Levin agreement for Tier 2 tailpipe standards requiring full implementation of the standards in 2003 unless Congress determined such standards are not necessary to attain the health-based standards.

Motor vehicles are responsible for approximately 50% of the urban smog problem. Emissions from mobile sources are expected to increase later this decade due to increased numbers of vehicles and vehicle miles travelled. Without substantial short- and long-term motor vehicle emissions reductions, it will be impossible for the majority of nonattainment areas to meet the health-based standards. Further, such reductions are very cost effective. Without these reductions, states and cities will be forced to impose far more costly measures on stationary sources, including small businesses, in order to achieve reductions needed to meet the health-based standards.

The American Lung Association believes the Agreement as currently constructed abandons the Clean Air Act's public health standards and its promise of clean and healthful air quality for all Americans. The Agreement lacks the sense of urgency and commitment necessary, in our opinion, to address the nation's pervasive air pollution problem. The Senate will be debating the kind of Clean Air Act that will carry the nation into the next century—the Agreement is a high risk strategy that need not be pursued. The American Lung Association has identified the critical areas for improvement if we are not to sacrifice our nation's health in the name of compromise. Again, the American Lung Association again urges your support for strengthening amendments to the Agreement.

Sincerely,

FRAN DU MELLE,
Director, Government Relations.

Mr. WILSON. Mr. President, my friend from Colorado, I thought, in the two charts that he presented, and the accompanying text, made clear that the only reasonable anticipation on the part of the Members of this body is for continued dramatic growth in the use of the private automobile in this country. That has been our history. As his charts point out, not only has there been an escalation in automobile ownership far beyond the increase in our population, so that now a household of three or four typically has two, three, or four automobiles, but there has been as well a dramatic increase in the number of trip miles. We are driving further distances.

Why is that? Well, if my colleagues have visited population centers in this country, they will understand it. They are growing. They are growing larger. They are expanding outward. And even with freeways to replace the journeys that used to take place on surface streets, the trip miles are increasing dramatically.

In my home State, housing costs in certain areas have meant that people working in those areas cannot afford to live there. They cannot afford to reside there, so they reside someplace else in many instances at some distance from their place of work.

Those who work in Irvine, in Orange County, now are living and making a daily round trip from home in San Bernardino and Riverside Counties. Those who are commuting to jobs in East Bay are doing so from Tracy or Manteca, far to the east of Sacramento. These involve substantial distances. I am, indeed, put in wonder at the willingness of Californians to drive these long distances. But, then again, it is not entirely voluntary. They need to work and they need decent places to live. And sometimes they find that their places of work are separated at a great distance from their homes.

Mr. President, that is, perhaps, more the case in California than elsewhere. But it is by no means a phenomenon restricted to my home State. And what is quite predictable, Mr. President, is that we will see an increasing growth in population centers across this land.

It is no surprise to any of us that the area of extreme nonattainment is the South Coast Air Basin, the area around Los Angeles. But the other eight areas severely out of attainment with the requirements of the existing Clean Air Act are large cities and cities that have grown at a very rapid rate in some cases. And what we can expect, Mr. President, is that in 10 years and 20 years the charts that Senator WIRTH displayed will be valid or, in fact, will have to be adjusted to reflect an even more dramatic increase.

It is for that reason that the oil industry contemplates that over the next 20 years they will have to add to their refining capacity to accommodate an increase in the volume of fuels to be marketed of some 60 percent. They expect at least a 60-percent increase in market to reflect all those new automobiles, all those new drivers, all those additional trip miles being driven.

Here in the Washington area, Mr. President, we are seeing dramatic growth. Perhaps it is because government is a growth industry. But whatever the reason, we are seeing this area expand. Every time we drive to the Dulles International Airport we shake our heads because there, in what used to be open country, is new building. That is progress. It is, in the definition of some. But, in any case, it appears to be the inevitable lot, not just of the Washington, DC, metropolitan area, but, indeed, of areas throughout this Nation, widely separated geographically.

It is not just Los Angeles, but Houston and Hartfort and Chicago and New York. It is Denver and Phoenix. These are areas that are experiencing growth, population growth and economic growth, and they will likely continue to grow; their automobile populations will continue to grow, Everything that was reflected in the two charts presented by the Senator from Colorado can be expected to increase.

Mr. President, as that increases, I suspect and I predict that we will find new areas qualifying as those severely out of attainment. Some will become areas that are seriously out of attainment, unless we take the steps that are required to prevent it.

That leads to this amendment and the question of how we are to take those steps and, indeed, how we are to distribute the burden of reforming our practices so as to clean our air.

Let me come to the point. There are a couple of sources, one mobile, the other stationary. That is a slight oversimplification, but for the purposes of this discussion it is relevant to focus upon that simple fact. Because what we are concerned with is, in fact, the mobile sources, the vehicles that are contributing so much to the unhealthful quality of our air: The emissions they are contributing, the air toxics, the elements of ozone, the carbon monoxide. Mr. President, that is why the letter comes from the Lung Association.

Mobile sources account for about half the hydrocarbon and oxides of nitrogen emissions into the atmosphere—about half. Mobile sources account for 90 percent of the carbon monoxide emissions. And emissions from mobile sources will only increase at the end of this decade because of the combination of increased vehicle miles traveled and increased congestion. That is not a matter of speculation. It is inevitable. It is a fact I doubt anyone on this floor will dispute.

If attainment of a health-based air quality standard is to become a reality, we simply have to have greater reductions in mobile source emissions. Tier 1 standards, so-called, are basically the standards that are in effect in California today, and these would result in substantial reductions to ozone-forming emissions. Hydrocarbons would be reduced from 0.41 grams per mile to 0.25 grams per mile under this amendment. And nitrogen oxide, from 1 gram per mile to only 40 percent of that. The cost of these tier 1 standards would be roughly $100, or roughly equivalent to the cost of pinstriping the side of an automobile.

Mr. President, the reductions in these emissions from these tier 1 standards will be substantial. They will go a long way toward correcting the air problem in many of our nonattainment cities.

The Wilson-Wirth amendment will require that cars maintain these emission standards for 100,000 miles. Can Detroit do that? Can Tokyo do that? Of course, they can.

In the year 2003, our amendment proposes to restore the tier 2 standards unless Congress votes to delay,

reduce, or to cancel these more stringent standards. Under the committee substitute, there would have to be 11 non-California cities out of attainment.

How much better to have the standard one that automatically occurs unless Congress has sufficient evidence to think that we should not go forward. These tier 2 standards will reduce emissions from cars by an additional 50 percent, a dramatic improvement.

Many of this Nation's worst, most polluted areas must reduce mobile source emissions of these levels if they have any hope of attainment within the prescribed deadlines.

There are two very necessary reasons to include the tier 2 phase-in. First, the automatic hammer that is included in the compromise, the committee substitute, is just inadequate. It is not going to do the job. Second, under the compromise, 60 nonattainment carbon monoxide areas are totally dependent on what would happen to hydrocarbon and nitrogen oxide emissions, which is to say that the fate of these areas would depend on what happens to a totally different set of pollutants, and not every area has the same problem. Houston needs to reduce its nitrogen oxides. It may not need the same alternative fuel that another locality does.

While tier 1 costs about as much as the pinstriping on the side of your car, tier 2 costs about as much as a couple of electric windows, the power window option.

Mr. President, I think the reason that we travel so often with those windows up is because of the air we would otherwise be compelled to breathe. It seems to me the money might be even better spent in a better preventive, and that is the kind of tier 2 standard that will be available at the cost of about $130. That is not much when you are considering the health of 50 million people, as indeed it is being considered by the Lung Association.

Mr. President, having spoken of mobile sources, let me concentrate on what it means if we do not achieve the 100,000 mile guarantee of tier 1 requirements, the movement to a 50-percent cleaner tier 2 automobile, and the dramatic improvement that can come about by alternative fuels that need not a specification but a performance standard.

What it means if we do not take enough, Mr. President, from mobile sources, if we fail to maximize cleanup from that source, is that we have to visit a disproportionate burden upon stationary sources.

Stationary sources, Mr. President, to put it in layman's language, are businesses, including the small-base employers of 85 percent of the American work force. I want to focus upon that: 85 percent of employed Americans work for small businesses. Small business has boomed in the past decade. It has become the generator of the millions of new jobs that we have boasted of in an economy that has been the envy of the world, even in a time of our growing trade deficit.

For those small businesses to be able to make the kind of profit that permits them to employ the American people in growing numbers, and particularly entry-level workers, they must be competitive, they must be able to make a profit. We have talked about not overregulating or overtaxing them. We have had some splendid debates over the time that I have been in this body on that subject.

What we are now talking about is a choice, Mr. President. How much are we going to take from mobile sources, and how much of the burden of cleanup are we going to impose upon those small businesses? The answer is that we ought to take as much as possible from the mobile sources, from the vehicles. Why? First of all, it is a simple matter of equity.

Mr. President, I ask, who is in a better position to more equitably distribute the costs of cleanup: a mom-and-pop cleaning shop, an auto body paint shop that employs two, three, or four people, or the kind of economic concentration of power that is in the hands of a very few automobile manufacturers and a relatively few energy companies? The answer is very clear. It is the automakers and the oil companies who, through repeated sales of automobiles and gasoline at the pump, are better able, more equitably able to distribute the cost of cleanup than those small businesses.

Should the mom and pop cleaning shop in Los Angeles be required to pay $80,000 for a piece of new equipment in order to assure that the discharge from cleaning solvents does not contribute to contaminating the air? If that has to happen, the answer, I suppose, will be yes. But how much burden unnecessarily should be placed upon those small businessmen and women? No more, I submit, than is equitably required. And equity exists in using the broadest possible base, the user base, the people who drive, the people who buy the automobiles and who buy the fuel. That is equity.

Let me just give you an idea of what the failure of the Wirth-Wilson amendment will mean to those stationary sources all across the land, not just in California, let me assure you.

Let me read to you, Mr. President, from the recommendations of the State and Territorial Air Pollution Program administrators and the Association of Local Air Pollution Control Officials. These are their recommendations on the administration bipartisan Senate Clean Air Act agreement, better known as the committee substitute.

What they say, Mr. President, is that if there are to be equivalent reductions from stationary sources that would otherwise be accounted for by the improvement in air quality and the reduction in emissions that would come from phase 2, tier 2 motor vehicle standards, what will occur instead is that the following requirements in the following places will be required in terms of economic dislocation to stationary sources.

In the State of Georgia, the State would be required to eliminate hundreds and hundreds, indeed, all of the dry cleaners operating in the city of Atlanta. I do not think that is fair, Mr. President.

In the State of North Carolina, those who want to come to visit the great universities in that State, centers of medical research, high-technology research, those who wish to enjoy a vacation in the Piedmont country, or along that celebrated seashore, they might find that they have a difficult time getting there because, in fact, one of the options is that the Raleigh-Durham International Airport be required to reduce its traffic by 25 percent.

I daresay the Convention and Visitors Bureau in Raleigh-Durham will be distinctly displeased at the prospect of a 25-percent reduction in the operation of the airport. They might even be moved to prefer, instead, to shut down Raleigh's largest newspaper or all the small graphic arts operators, all the county's dry cleaners in Wake County, or that they lower the threshold of reasonably achievable, controlled technology on all stationary sources. That is in North Carolina.

Do you know what the dislocation would be in Illinois? The State would be required to eliminate all iron and steel manufacturing in the Chicago area. Let me repeat that: All iron and steel manufacturing in the Chicago area. Or alternatively, they could shut down the automobile and truck assembly plants. Would there not be some irony in that? Or close all dry cleaning operations or miscellaneous metal coating operations.

In the State of Delaware, in order to obtain a 2-percent reduction in emissions in New Castle County, the State would be required either to take 5,000 vehicles off the road each day, or they could, instead, simply shut down one-half of the organic chemical manufacturing operations.

That might have some impact on the economy there in New Castle County if they were to shut down half of all the organic chemical manufacturing. Or they could instead cut surface coating emissions by 35 percent in two large auto assembly plants.

In the State of Washington, to obtain a 2-percent reduction in volatile organic compound emissions, the State

would have to either shut down their aluminum, lumber, and paper mills—and I did not say "or," I said aluminum, lumber, and paper mills—or they could close all of the State's petroleum refineries, or they could eliminate all diesel, both on and off road. They could, in fact, do much to their shipping industry, both pleasure and commercial vessels. In addition, the State must rely solely on regulating vehicle emissions to abate its carbon monoxide problem.

In the State of New York, the State would have to require, among other things, a 20-percent reduction in vehicle miles traveled. It would have to institute a no-drive day program. It would have to close several industries and require mandatory retirement of vehicles beyond warranty. If their warranty has run out, get off the road.

Mr. President, I could go on and tell you similar horror stories of economic dislocation in Virginia, in Maryland, Wisconsin, and Arizona—we do not have time for what it will mean in California—Kentucky, Maine—perhaps I should have concentrated upon Maine—Ohio, Rhode Island. Mr. President, this list goes on. South Carolina; Michigan, proud home of the auto industry, would be required to require that incinerators on 15 paint spray booths be put out of business. They would have to regulate consumer commercial solvents, including many of the measures in their own industry, their own basic industry. They might not even be able to paint automobiles.

In the State of Texas, they would have to limit access to the central business districts in their major cities, adopt regulations for consumer commercial solvents, ban industrial growth, and relocate certain industries. That will go over big in Texas.

Mr. President, I am not being flippant. I am not being facetious. I am deadly serious when I tell you that we must take as much as we can from the air caused by vehicle emissions before we produce this disproportionate burden for stationary sources, which means businesses large and small. But again I emphasize to you the impact that will occur if small businesses are required to suffer this disproportionate burden.

Mr. President, it is for that reason I am pleased to announce that my colleagues who choose to vote for the Wirth-Wilson amendment will be able to do something that they cannot often do. They will not only cast a vote that is deemed perhaps the most important of the season by the Sierra Club, but this amendment has the endorsement of the National Federation of Independent Businesses, representing the owners of 570,000 small businesses across America spanning the entire spectrum of industrial activity. Why would the National Federation of Independent Businesses endorse this amendment if it were not in their self-interest? The answer is they would not. They have concluded that it is not fair to their constitutents, to the mom and pop operators, to the employers of America who are small businessmen and women, that they suffer any more of this disproportionate burden than is absolutely necessary when we have not made the effort we can and we should and will if, in fact, we adopt the Wirth-Wilson amendment.

Mr. President, that is a very serious matter in terms of the economic survival of small business in this Nation, and as small business goes, I suggest, so goes America's economic fortune and our future. I will tell you as an example—and I see my friend, the junior Senator from Connecticut on the floor—Hartford is a city that is in severe nonattainment. It is a bustling economic generator. In Hartford, they have already put into effect plans at least that relate to imposing upon businesses that comprise economic activities that generate 7½ tons of pollutants the kind of restrictions that severely constrain their ability to produce jobs, and they have done that because they are serious in Hartford about cleaning the air.

But why should they be put to that kind of almost draconian measure? I well tell you why. It is because currently we do not take enough out of the air from vehicles. Because of what is coming out of the tailpipe, because of what is evaporating from in-use operation of vehicles, they are compelled in Hartford to impose a very stringent standard. It is almost as stringent as that required in Los Angeles.

Mr. President, how can we justify that? No wonder the National Federation of Independent Businesses has supported and endorsed this amendment. It is in their interest to do so. It is far more equitable for the buyers of automobiles to pay $125 more for a catalyst that will put them in compliance with the tier 2 standards in the year 2003. It is certainly more important that we clean the air with those tier 2 standards and with alternative fuels than that they have power windows.

Mr. President, let me talk now about alternative fuels, and I will do so briefly because I want to clear up some misapprehensions. We are not talking about a specification. We are not saying that one fuel is the only fuel. To the contrary, we are for a performance standard and let the market operate, let the best fuel win. That may very well mean different fuels will be preferred in different places. In Houston, they may very well prefer compressed natural gas to the kind of ethanol or methanol mix that may be the preference elsewhere. But as the oil industry contemplates this bright future in which they are virtually assured of a 60-percent increase in market and the necessity, as a result, to engage in investment to create new refining capacity, is it a great hardship to them or to the people to whom they will pass on the costs at the pumps, whether the pump be pumping reformulated gasoline or some methanol-ethanol blend; is it too much to ask that they engage in investing in some refining capability that will permit those who choose to do so to have the option to follow the stringent standards which California is required to impose upon itself?

Let us talk about the fact that there will be some in nonattainment areas who wish to do so. Are they going to be permitted to do so under the committee substitute? If an area wishes to do what California is going to do, beginning in model year 1994, when we will require that there be sold 150,000 clean cars—which is to say those that satisfy that alternative fuel performance standard—and in the next year 300,000, and in the next year 400,000, if they wish to have a similar option, can Houston or Hartford or Chicago or Denver do so?

You will be told by the proponents of the substitute that they can. Mr. President, they really cannot. Let me tell you why. The language of the bill makes it very clear. Under the committee substitute, the States are really presented with two rigid choices. In the first instance, they can elect to take the California program lock, stock, and barrel, and most of them will not wish to do so because they will not have a need to do so. So, realistically, that is not much of an option.

Second, they may presumably request of the EPA Administrator that he assure that they can receive a lesser number, one commensurate with their need and require automakers to supply those clean burning cars to them and that the oil companies supply the fuel necessary to operate those automobiles.

But in order for the Administrator to grant their request, the Governor making that request has to assure the EPA Administrator that his request is not arbitrary or capricious. I find that a touch insulting. More to the point, the State is under an obligation, if it is to persuade the EPA Administrator to honor its request, to state what incentives the State will provide to make possible, to make feasible, the purchase of those automobiles.

Did you hear right? You did.

What does that mean? What incentive is the State required to provide? Well, it is not clear. It is not spelled out in the law. Therefore, presumably it will be left to regulations written by the EPA and God only knows what those will be. But let me give you some idea.

They are talking about economic incentives. They are talking about

saying, Governor, you want your State to be able to have those clean burning cars? Well, in order to assure that Detroit will be able to sell those cars, you have to come up with some dough. Perhaps you will see fit to impose a sales tax upon your people in order to allow the State really to offer the rebate on the sale of these vehicles, to sweeten the deal.

Mr. President, that is outrageous. Why in the world should the State have to do that when the Rockefeller-Sharp legislation was before us which offered to the automaker the option to have relaxation on the fuel energy requirements in the law if they would simply produce a sufficient volume of clean fuel automobiles?

We heard no objection from Detroit. We heard no objection from Tokyo. We heard no objection from any automakers. They said terrific. We can do that. We can make 100,000, say Taurus models or Cosicas, and as a matter of fact we can offer those at a relatively modest cost above current model prices.

Indeed that is what this chart is all about. If you do not make many prototypes, just as with a bomber, they are pretty expensive. But when you get into mass production, when you actually have a production line, and you bring down the costs because you are dealing in volumes of 100,000 or 120,000 vehicles, your costs fall off dramatically.

The red line is where you would start if you had a prototype ethanol engine. The blue line is the methanol engine. You see what happens? It falls off pretty sharply. Do not take my word for it. Listen to the representatives of the Ford Motor Co. as recently as 3 months ago. Last fall, when here in Washington at a conference expressly for that purpose, he gave assurance to his audience in a public hearing that somewhere between $150 and $300 would certainly permit the Ford Motor Co. to produce a clean burning vehicle in volume of about 100,000 with a production line of 100,000.

If those States that wish to do so can, as a practical matter, opt up to the California standard, or that portion of it that they think is necessary to meet their needs in order to avoid hardship on their small business stationary sources, if, in short, they want to be able to do what they can do under the Wirth-Wilson amendment, then we will have a growing market for these vehicles a growing market for this fuel, and the costs per unit will nosedive. It is called economy of scale. It is an old principle in production and in marketing. The move you make, the more efficient you can be per unit, your costs come down. It benefits the consumer.

And it will have another effect, Mr. President. As the market increases, the consitituency for that technology increases. When we look at the National Clean Air Coalition, it is not just the American Public Health Association, the American Lung Association, the Asthma and Allergy Foundation of America—it is all the predictable environmental organizations concerned with clean air, and it is the National Federation of Independent Businesses concerned as they are in their representation of over half a million owners of small businesses in America, the people who employ the American people. That is who we are talking about. They will want it.

I predict that our constituents, the motoring consumers, will want it as they grow in number, as they are more vehicles, and as they are driving more miles. They will say we want clean air in addition to mobility. We are not willing to trade health for convenience when we do not have to. If it is only the cost of some racing stripes or some power windows, that is not a bad investment. I cannot think of a young father or mother who would not think so with children riding in the back seat.

Mr. President, this is an amendment that has to do with equity. We are going to clean the air in America, and we should. Indeed, we will provide a model for others. I predict that by 2050 clean air will be an accepted standard in the industrialized world. America will have to lead the way. Since we are suffering from our failure to clean the air today, we are going to have to get busy. We should not unduly penalize localities that are seeking to do a decent job in cleaning the air, and certainly we should not impose upon the small business men and women of America a disproportionate share of the burden of cleaning our air.

That is what the Wirth-Wilson amendment is all about. Mr. President, it is equity. This committee substitute with all due respect, and I have great respect for them, with all due respect for the majority leader, is not as he told us—the best that we can get. We can do better. In fact, we should do better. My friend from Colorado is right. This would pass easily with a two-thirds vote, if it were not for the cry of "deal breaker, deal breaker."

Let me talk to you in conclusion about the deal. The deal is going to be broken. We all know that.

A moment ago, before my friend from Arkansas took the chair, the Presiding Officer was the distinguished junior Senator from Nebraska, the only State in the Nation with a unicameral legislature. The Congress of the United States is not a unicameral legislature. Friends, the deal is going to be broken. There is no question about that. The only question is what happens when the Senate goes to conference with the House? What happens when the Senate goes to conference with Chairman DINGELL?

Well, there is little need to speculate. If the Wirth-Wilson amendment does not pass, the leverage of the Senate negotiators will be—to say appreciably less does not begin to describe it. There will be little help for those with lung conditions, little help for the small business man or woman, little hope that we can in fact do equity while we are doing the right thing in terms of health. That is what is at stake here, Mr. President. It is that simple.

So let me urge my respected colleagues, and I do not say that with anything less than complete sincerity. This deal is going to be broken. It deserves to be broken here in the Senate where a very good bill came out of committee, where a much tougher administration proposal for the mandated sale of 1.2 million clean cars per year was before us until both the administration and the majority leader were persuaded that there were not enough votes for it.

Mr. President, I think there are enough votes for it. I hope so, because, otherwise, we will not do equity, and we will simply have to come back and revisit this issue. We will be required by health, by the anguished outcry of those small businesses who are threatened with closure, because of our inability to deal with this as we should.

I yield.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Montana.

Mr. BAUCUS. Mr. President, I strongly oppose this amendment because I want a clean air bill to pass. It is that simple. Mr. President, the Senator who previously spoke and the Senator who spoke ahead of him, the Senators from California and Colorado, are right. This is a deal breaker. It is a deal breaker, because if it passes, it will very seriously jeopardize the passage of any clean air legislation this year. That is why I very strongly oppose this amendment. I want clean air legislation passed this year.

If this amendment passes, and if it therefore breaks the deal, as it would, breaks the agreement, the agreement which many, many Senators have worked many weeks on to try to reach an agreement, then it is not at all clear, and, frankly, I think somewhat unlikely that there will be clean air legislation this year.

That means that people in the State of California, the people in the State of Colorado, indeed, the people of every State in this Nation will be breathing dirtier air. I do not think the people in those States want to breathe dirtier air. I think they want to breathe cleaner air.

The committee compromise is a dramatic improvement over current law,

dramatic. It may not be perfect; it may not be pure, but I submit that it is very close to being pure, very close to being perfect. It will dramatically increase the standards that apply to mobile sources, to stationary sources, and it will very dramatically clean up our air.

Look, for example, at the acid rain provisions of the bill. A dramatic reduction in sulfur dioxide emissions. Under our bill we do not say to major coal-fired utilities, "reduce the rate of emissions increases." We go much further than that. We do not say "put a cap on emissions." We go much further than that. We say, "reduce your emissions dramatically, coal-fired utilities."

Currently, this country emits about 23 million tons of sulfur dioxide a year. Under this bill, there will be a dramatic reduction in sulfur dioxide emissions. There will be a 10-million-ton annual reduction when this bill is fully implemented somewhere between the year 2000 and the year 2010, a very dramatic increase in the quality of air that this country breathes.

Look at the chlorofluorocarbon provisions, look at them. Again, a dramatic improvement over current law. Dramatic is an understatement. We completely phase out other production of chlorofluorocarbons by the year 2000. There may be an exception here or there, but we go further than the Montreal protocol that this country agreed to and many other countries have agreed to, much further than that. We essentially phase out the production of chlorofluorocarbons, a dramatic improvement over current law.

Air toxics. Again, a major improvement, dramatic improvement over current law. Under our bill, under maximum achievable control technology, the standards in this bill, there will be a 90-percent reduction in air toxics. That is not minimal. That is not negligible. It is very dramatic.

Look at the stationary source provisions. We phase in the dates by which cities must reach attainment. Of course, the dirtiest cities, those with the highest amount of hydrocarbons, nitrogen oxides, and carbon dioxides must reach attainment at a later date. In doing so, we add a major improvement over current law. We say to the States, to cities like Los Angeles and to Houston and to other serious areas, seriously not in attainment, submit a plan to show to EPA where you are meeting annual incremental improvement benchmarks; show on an annual basis what you are doing—3 percent, 4 percent a year—toward your goal. That is not in the current law.

Current law just says by the year, whatever it is, you be in attainment. But there is no benchmark, no incremental standard. I could go on down the list how much this bill is an improvement over current law, a dramatic improvement.

Mobile sources. I looked at these charts that the Senators from California and Colorado have shown to us. Essentially, it is because of those charts that I, the Senator from Montana, and Senator CHAFEE, very strenuously argue in favor of tier 2. We have a tier 2 in this bill because I have argued for it, the Senator from Rhode Island has argued for it, and many here do not want tier 2. I must say the administration was opposed to it.

We have tier 2 in this bill, a big increase, dramatic improvement over current law. We also have a tier 1 which is stronger than California, stronger than California in this bill. It is in the bill. Why? Because we saw the same charts weeks, months ago, and we see the increase in the vehicle miles traveled. We see the need for a strong tier 1, California tier 1.

We see the need for tier 2 which is not at all, of course, in current law. Let us kind of step back and see how much improvement tier 1 and 2 are over current law. Automobiles today must meet standards which are 96 percent cleaner, tailpipe emissions which are 96 percent cleaner than cars that were built in the seventies—96 percent cleaner. That is current.

What about the bill? We are providing that cars must be 25 percent cleaner when tier 1 goes into effect and 40 percent cleaner when tier 2 goes into effect—25 to 40 percent cleaner than a 96-percent cleanup already. We have come a long way, and we are providing in our bill to go much, much, much further.

So I tell the Senators who are offering this amendment that it is because of the charts that the Senators have shown us that we have argued strenuously for very strong provisions in this bill.

It is also why we have an alternative fuels provisions, a fair neutral, solid, significant, balanced alternative fuels provision, that is one that says OK, whether you are proposing methanol or whether you are proposing compressed natural gas or reformulated gasoline or ethanol, whatever it might be, you have a level playing field. That is we are saying to you who have an alternative fuel that is important to you that you want to propose, push, and develop, this bill says OK, you compete evenly with other alternative fuels.

I submit the amendment before us is not evenhanded; it is not at all. It essentially precludes some to the detriment of others, and that is frankly a fact that all will recognize when they dig into this a little more deeply. We say that is not fair. It should be fair across the board.

In addition, the committee bill offers much more flexibility to States. It says to States, OK, if you want to adopt California standards, you can adopt California standards.

The Senator from California says, well, that is not realistic because for some States, they may not have to go adopt all the mobile source provisions. I submit if they do not want to, if that is insignificant, then it is that insignificant. On the other hand, there are States who will want to more likely adopt the California standards, States like Connecticut, the New England States, the States that have the same kinds of problems that California has.

The alternative fuels provision is much more flexible, tailored to meet the problems. For example, we have the opt up provision. That is as to an area not in attainment. When a serious or severe area is not in attainment, it can opt up and increase the standards in its area that it thinks are necessary to put that area into attainment. It can opt up, if it so chooses, under the State implementation plan.

We also have opt in and that is an area not in attainment as opposed to severe or extreme; it can opt in if it wants to.

The flexibility is there to meet the situation and the level of the problem. Whereas the amendment before us, the alternative fuels provison, is a blunderbus approach much too broad in scope and it does not solve the problem.

Essentially, and I will get into many more details later, I must remind Senators that it has been 13 years since we have tried to take up and pass clean air legislation. Why is that? It is because the subject is so complicated. It is because this area is so diverse. It is because we have New England States, Southern States, Western States, and Eastern States. It is very, very difficult for this country to come together and agree on acid rain, to agree on mobile source provisions, to agree on air toxics provisions. It is extremely difficult.

The best evidence of the difficulty is not only the 13 years that transpired but also the number of weeks and months we have been on this bill—months. I have never seen a bill take so long—never. It is because it is so complicated; it is so difficult. As Senators know, groups of Senators, Republican Senators, Democratic Senators, meeting with top people of the administration, met for hours and weeks trying to find a critical mass, trying to find a consensus, trying to find a balance, so that we could have clean air legislation, so that we finally could pass a bill.

The compromise is that compromise. It is a resolution of all the various competing interests that exist in this country. That is why, the Senators from California and Colorado are correct. If this amendment passes it will bust the deal. It will very seriously

jeopardize the chances of passage of the bill.

We debated for hours the points raised by the Senator from Colorado. We debated for hours the points raised by the Senator from California, as we debated for hours the points raised by other Senators who have other interests in alternative fuels. What about the State of Michigan?

Michigan has a very direct stake in this provision. We debated all this with those Senators as well, Senators representing the State of Michigan.

Again, Mr. President, I strongly urge Senators to remember that perfection is the enemy of the good. This is a very good bill. It is a very good bill. It is a dramatic improvement over current law. Let us pass a bill this year. Let us pass a bill this year. Let us not, as we strive for perfection, end up with nothing.

As we swing for the fences, try to hit home runs, try to get perfect bills, we are going to strike out. If we swing for the fences and try to get perfection we are going to strike out. I submit let us hit singles; let us hit doubles; let us hit triples. Let us boost our RBI's; let us win this game. Let us win it with solid, steady, commonsense provisions which only will result if we keep our eye on the ball and try to pass a bill which very dramatically is an improvement over current law.

Let us not be starry-eyed; let us not try to hit home runs. Let us get a bill passed. I urge Senators to focus on that, focus on winning this game, and the winning of the game is getting this bill passed so we can begin down that road of cleaning up our Nation's air.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut, I think, was on the floor first seeking recognition.

Mr. LIEBERMAN. I yield to the Republican floor manager.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I thank the Chair and the distinguished Senator from Connecticut.

Mr. President, both sponsors of this amendment have fine environmental records. And for that reason alone I think we should pay attention to what they are attempting to achieve.

I certainly recall that Senator WILSON was the very strong proponent of alternative fuels and, of course, appeared at the hearing that we held in January on that very subject.

I paid close attention to what Senator WIRTH said when he first came to the House of Representatives in the mid-1970's and met with that distinguished gentleman, Representative Rogers, from Florida, that the subject that Representative Rogers wrestling with was clean air. When was that? That was in the mid-1970's.

Let us just remember that the last clean air bill passed in the Congress of the United States was in 1977. We have not gotten anywhere since then.

In the Environment Committee we have had four different measures that dealt with air, clean air measures. We brought them out and they did not get to first base, to continue the baseball analogy of my distinguished counterpart, the Senator from Montana.

So it is all well and good to parade out a whole series of attractive amendments, going to get tough, going to show who is boss around here, let the Senate work its will. The trouble is the Senate has not been able to work its will in 13 years.

Now the Senator from Colorado, in what I consider a rather blase manner, said do not worry about any agreement reached with the administration; why, all we have to do is adopt this amendment and they will come knocking at our door, eating humble pie, asking us to work out some compromise.

That is what is happening with the Byrd amendment, he said.

Let us just look at it. First of all, the Byrd amendment was not part of any intense negotiations. This subject that we are considering now was at the very heart of our negotiations that we conducted for some 22 days with the administration.

So when you talk of a deal breaker, this is the essence of the whole deal. What we are going to get in the first round, what we are going to get in the second round of automobile emissions, alternative fuels, that is what this amendment is all about. Those are matters that we discussed ad infinitum there. Did we all get what we wanted? Not at all.

I must say their amendment is very similar to what I proposed in the committee, but we did not get it. And I brought it up in the conference room where we were meeting with the administration. Back and forth we went. We got some; we did not get the others.

But to suggest, do not worry, fellows, we will get this, the administration will just come crawling along and seeking some compromise from us and everything will go through smoothly, that is nonsense, and it is all well and good to stand here and say we can get the best in the world; the trouble is we have not. We have not been able to achieve that in years and people who underestimate the power of the administration around this town make a terrible mistake. The administration reached a deal and it made concessions it felt went way beyond what it wanted. But they agreed, and this is the package, this is the compromise agreement that I am committed to and so is the Senator from Montana and the leadership and many others who worked so long on this and came into the room and participated.

This was not any closed secret in camera session of some type. Everybody had a shot. Anybody who was there will remember I counted 57 people in that room. It was the closest thing to the Black Hole of Calcutta we have seen around this place.

Let us just take a look at some of the provisons that we have. First, as was pointed out, the first round, the first tear of the automobile standards is tougher than California.

California is held up as the model around this place, and rightfully so, because they have done a lot there. We go beyond where they go, not only with on-board canister to absorb the VOC's, but also with the extension of the useful life. They only go to 75,000 miles. We go to 100,000 miles. Yes, there is a difference in our bill and what they would like. The first 50,000 miles is the same. After 50,000 miles, it drops off of the useful life and permits a 25-percent increase in the emissions.

Let us look at the second tier. For some peculiar reason, the second tier that we have in this compromise agreement seems to be blithely set aside. Let me tell you, I would bet the farm that that second tier that we have in here is going to go into effect. If more than 11 cities, non-California cities, are not in compliance, it kicks in the second round, the second tier. Anybody that does not think that something is going to occur, I think believes in the tooth fairy.

And what does that second tier do? Well, it provides more than a 50-percent reduction from the CAFE standard that we put in tier 1. It is more than 50 percent, because it extends out to 100,000 miles, and that is a pretty strong environmental program. What they propose, they have a study and some kind of a vote that something is going to take place, as best I can understand it, a vote to disapprove, although I am not quite certain on that. That appears to be what they have in their provision.

Let us look at the fleet vehicles and the alternative fuels. Well, we have a provision for fleet vehicles. Beginning in 1995, the Federal Government will begin purchasing ultraclean vehicles; that is, vehicles that are approximately 75 percent cleaner for ozone-producing pollution and for air toxics.

By 1990, 90 percent of the light-duty vehicles and light-duty trucks purchased by the Federal Government and operated in serious, severe, and extreme nonattainment zones will meet these ultraclean standards. Now, this is not any little, slight progress forward. This is the Federal Government's vehicles; 90 percent of the light-duty vehicles purchased by the Federal Government will have to meet these severe standards.

How about the private fleets, where we debated this back and forth: What is a fleet? Everybody that was there participated. Is it 10 vehicles, or is it 20 vehicles? We remember the debate. Did we win? I do not know. I know I wanted 10. But there was considerable sentiment there for 20; 20 vehicles also constituted a fleet. Then we got to the question of whether they are centrally fueled, and back and forth went the argument. I think the result is a good one.

Let us look at the alternative fuels. What were the arguments presented there? The arguments presented there were very similar to the proposal that is presented in this amendment. That was that you are going to have 30 percent of the vehicles 40 percent cleaner. And others said: "Well, no; why do not we have 100 percent of the vehicles 15 or 20 percent cleaner," and that is what was adopted.

It is far better, it was a conclusion, far better to get 100 percent of the vehicles significantly improved than just a split group where you get into all the problems of mandated sales. Who is going to buy the vehicles out there?

It was quoted or stated here—the President, I think has been quoted more today than he has ever been on this floor, certainly, by the distinguished Senator from Colorado. And he said the President's provision provided for a significant number of automobiles to be sold.

I want to congratulate the Senator from Colorado for all the kind things he said about our President today. I hope he will repeat them in the future. But what the President said was we are going to have significant sales of these, I believe it was something in the order of a million vehicles are going to be sold that meet these extra clean air standards.

And then people began thinking; we had a hearing on this. The Senator from Montana and I and others presided over that hearing. And here arose the problem. How do you sell the cars? Who is going to buy them? Suppose they do not buy them? And there is talk about the CAFE standards. This a dramatic departure from the CAFE standards. We all know that. To make the comparison, I think, is slighting some of the facts.

So there was a suggestion: Well, do not make the dealer bear the burden. First of all, there are a lot of dealers, and they vote. So we have to protect the dealers. So this provision was put in that the manufacturer had to bear the cost of the planning of these vehicles. They had to, in effect, be on consignment and the manufacturer had to take them back. And that is the provision that is included here.

But still, that does not get over the hurdle: Who is going to buy them? And so the decision was instead of going to, I believe it was 30 percent of the vehicles reaching 40 percent cleaner, that we would have all the vehicles be substantially cleaner so that all would be affected.

And now, is all this going to be obtained by alternative fuels, just some reformulated gasoline? Well, maybe; maybe in the first round. One thing to remember about this piece of legislation, for everything there are two rounds; call them two rounds, two stages, two steps, two tiers. That is the way the bill is. In the alternative fuels, there is the second round. And in the second round, it is pretty clear that reformulated gasoline is not going to achieve the goals of the alternative fuels.

And so there you are going to have some adjustments to the automobile, some reinvigoration, perhaps, of the reformulated gasoline, who knows? But a standard has to be met.

But I think the important point, Mr. President, about this, is that the goals that are being sought by this amendment we are going to achieve in this legislation. We may not achieve them as rapidly as the two distinguished cosponsors of this amendment seek, but we are going to achieve them. We are going to get a second round, second tier in the automobile tailpipe standards. We are going to have a second round in the alternative fuels. We are going to have fleets, whether it is Government or private fleets, that are going to have these very substantial reductions and it is going to involve new forms of fuel.

Mr. President, I think the important thing that we have to remember is we have a chance to get this legislation passed. And it is a chance that many of us on that committee have worked for for many, many years. I have been on the committee ever since I have been in the Senate.

In those years, we have seen one—as I mentioned before—one clean air bill passed. Now, I would just hate to see us kick away this opportunity where we make these substantial strides forward, not just in mobile sources, but in stationary sources, in acid rain, in CFC's. These are dramatic steps forward, and I just hate to see us stumble and fall because some people just want to achieve perfection.

I am for perfection. I do not think this is the last time we are going to see this legislation. I think there will be other chances in the future. But this is a piece of legislation we can be proud of. No one has has worked harder on it than the majority leader, and he was a key player in those negotiations.

I do not think anybody will throw any stones at the environmental credentials of those leaders in the Environment and Public Works Committee.

Everybody was in there, fighting for the environment and fighting for a bill that could get passed. It was pretty clear, Mr. President, we could not even get this bill considered on the floor of the Senate. We did not have enough votes to overcome a filibuster and that is why we made some arrangements.

These arrangements are a deal I am proud of. It is a compromise. Sure it is a compromise, we all recognize that. But it is a good compromise, it is good for the country and good for the health of our citzens.

So I hope this amendment will be rejected and that we can go on, go to conference, stick with our legislation, come back with a good, strong piece of legislation that the President will sign into law.

We have had people around here say, I do not care what the President says. You know, these Presidents are always talking veto. These Presidents sometimes talk tough. Well, this President does not. We have seen that happen around here. We had legislation dealing with Chinese students. Oh, his veto will never be sustained. Well, it is sustained. So, with this piece legislation, unless we stick to an agreement that was worked out over many, many days, we are liable to wind up with nothing.

It is like the little child who tries to sit in too many chairs and then ends up sitting on the floor. That is a strong point. And it is not that we do not have something we can be proud of. We have plenty we can be proud of.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. Mr. President, I rise to support the amendment proposed by my colleagues from Colorado and California, Senators WIRTH and WILSON.

If I may continue some of the metaphors that have been introduced here, I prefer the baseball metaphor to the Black Hole of Calcutta metaphor. They were addressed to the room in which I was privileged to be for those more than 20 days as members of the Environment and Public Works Committee negotiated with the administration to try to achieve a workable compromise on this great question of clean air.

To continue the baseball metaphor of my friend from Montana, the chairman of our committee, I would say it was a dugout in there, a crowded dugout, and there was more than one Yogi Berra participating. What emerged was a hit. It was not a strikeout. And I feel some pride in having been there, and some uneasiness at being part of an effort to amend what emerged from that dugout.

But, Mr. President, if I may draw on the metaphor that the Senator from Montana has introduced, what the committee produced, what the bipartisan agreement produced was a double

or triple. What this amendment is trying to do is to stretch it into an inside-the-park home run and that is why I support the amendment.

Mr. President, I support the amendment for reasons of science, history, and I guess I would say economics, real economics as well. I need not belabor the facts of science and medicine, that ozone is our most pervasive health risk pollution problem in the United States today. I say that having thought of the other environmental threats to our health, and I am thinking of toxic waste and radon and acid rain and asbestos and a whole host of other environmental threats to human health.

I would say that the most pervasive threat to human health, the one that most seriously affects most humans in this country, is ground level ozone and the most substantial contributor to ground level ozone is automobiles. That is why I think we want to turn out the best possible, strongest possible amendment we can, here, because it deals with public health and what I consider to be a public health crisis.

Senators WIRTH and WILSON have talked about public health. I can only tell my colleagues that, beyond the fact that 150 million Americans are living in areas of this country that have been officially declared unhealthy because of ozone, that doctors that I have talked to in Connecticut, which has a very serious ozone problem, tell me they are beginning to see the effects of ozone pollution not just in those who are most vulnerable, such as the young and the old and those who have lung diseases such as asthma, but they are seeing in healthy teenagers who are active in areas that have serious ozone problems, lungs that show a form of scarring. That indicates that as their lives go on they may suffer from chronic lung problems like bronchitis and emphysema.

I also support this amendment for reasons of history. I can say it very briefly. We only get to deal with this problem of clean air, it appears, once every decade or so. The bill in this area, mobile sources, as in some others, is actually an outstanding bill for the near term. But I fear we will not return to this subject after the near term is passed. And, therefore, we need this to be the strongest possible bill on into the future.

Finally on the question of this being a deal breaker, maybe it is. Maybe it is. I understand the deal that was struck was struck by some of the strongest advocates of clean air in the Senate, from both parties. It was struck by some of the strongest advocates of the provisions that are in this Wirth-Wilson amendment, out of recognition of the reality of the position that the administration took. And I believe that the basis of the position that the administration took here is wrong.

They established a monetary limit on their own cost estimates of how much they were willing—not to have the taxpayers pay—but on their estimate to have society pay for cleaner air. I think those estimates are faulty. They are based on speculation. They go on out into periods of time 10, 15, 20, 25 years from now. In my opinion they are not sufficient reason for us to yield in our effort to adopt the strongest possible bill.

I respect my colleagues on the committee, again in my opinion some of the greatest environmentalists in this Chamber, for making the judgment they have, because they want a bill.

Because of the severe ozone problem we have in Connecticut, in my State, and because of the enormous role automobiles play in creating that health problem, I felt obliged to try to go the distance and get the best we can, not just for the next 5 years but for the next 10 and 15 and 20 years.

Mr. President, the committee bill makes many significant steps forward that have been referred to already. Some of these are actually technical and have not received widespread attention but they really make a substantial difference, or will make a substantial difference in reducing ozone formation. For instance, the bill amends the provisions governing the testing procedures for motor vehicles that bring those procedures much more in line with reality. The bill also requires that EPA promulgate regulations to control evaporative emissions of hydrocarbons from motor vehicles during the operation of the car, or when the car is parked. And that is significant when dealing with hydrocarbon emissions during the summer when ozone formation is at its peak.

The regulations would require implementation of the greatest degree of emission reductions which the Administrator expects to be achievable. I think control of those emissions will go a long way toward reducing the contribution of cars to ozone formation.

In another important area the compromise bill is stronger than the legislation that was originally reported by our committee and that is clean fuels. One of the most significant outcomes of this year of hearings on the clean air bill before our committee was the recognition that the Clean Air Act must not only require that automobile manufacturers continue to clean up cars but that the fuel suppliers must produce a cleaner fuel.

These are some of the good items in the compromise that is before us. Some of those perhaps had not been mentioned before in this debate, but all the good provisions simply, in my opinion, are not enough. I want to deal with what I think are a couple of essential features of the Wirth-Wilson amendment that make it supportive. During debate, we heard from the automakers and others that the automakers have made a great deal of progress in controlling the emissions from the tailpipes of automobiles during the last 20 years. I agree with that. In fact, we should be grateful to them and particularly to the legislators who were here 20 years ago who enacted laws requiring tougher emissions controls.

But the fact is that it is not true that pollution from the tailpipe of cars has been reduced by 96 percent since 1970. Unfortunately, while a car tested in the laboratory will show a 96-percent reduction per mile driven, in reality, the cars on the road only attain about a 20-percent reduction of emissions from the 1970 levels. That is because cars actually on the road do not use the ideal fuel of testing conditions. The average person does not drive a vehicle in the same manner and under the same conditions as under the testing procedures. The test procedures do not reflect the conditions during a hot summer day when the maximum ozone problems occur, certainly in States like Connecticut.

The reduction in the amount of pollution emitted from tailpipe standards has been more than offset by the number of cars on the road and the number of miles each car has driven. The startling fact is that there are 140 million cars on the Nation's highways today, and that is over 50 million more than in 1970. They are driving 40 billion more miles per year.

Everything we hear from the experts says that that trend is going to continue. We actually heard testimony in the Environment Committee that the number of miles Americans will travel by car will continue to increase at an average of 25 billion miles per year. That, Mr. President, is equivalent to 1 million car trips around the planet Earth. Even that number may be an underestimate because, in fact, last year miles traveled by vehicles in this country increased by 40 billion. The total number of vehicles is actually estimated to grow by 76 percent by the year 2010. Obviously, there are other things we should try to do to reduce the vehicle miles traveled by cars through incentives for carpooling and through incentives for the use of mass transit. The reality is without further controls, emission levels from cars which are already unacceptable will cause even greater damage than now is occurring.

The bill originally reported by the Senate Environment Committee requires not only immediate improvements in tailpipe emissions controls but, as you know, additional improvements later on. It asks a lot of the automobile industry, that is true, but it did so only because automobiles con-

stitute such a significant part of the pollution crisis that we face.

Let me talk about the mandatory second round. There are many myths that were raised about the second round that the standards are technologically unfeasible, they are too costly, and that they are not worth the effort, and that the standards are not cost effective when compared with other strategies. After extensive testimony, our committee, in reporting out the bill, rejected all of those myths.

I believe that the compromise accepts the basic premise that the automakers, with 13 years of leadtime, will be able to meet stricter standards in a cost-effective manner. But instead of placing the requirements to achieve cleaner cars in the law and making it mandatory, the compromise before this Chamber leaves open the decision for 10 years, and then would only require the second round of standards if certain conditions are met.

Mr. President, I believe the compromise, therefore, significantly increases the likelihood that large areas of our country may never achieve the ozone and/or carbon monoxide health based standards and assures that the NO_x problem, another significant danger to health, in many areas will be significantly exacerbated.

During the course of the hearings before our committee, representatives of State and local governments from all parts of the country repeatedly emphasized the need for nationwide mandatory second round tailpipe standards. The Governors Association particularly supported those standards, and they rejected the argument that the administration made that there are other ways, perhaps through the use of alternative fuels, to achieve the same reduction in ozone pollution that the mandatory second round would. The Governors, our Governors, State and local air pollution control officials rejected that contention and have argued very strongly and, I think, effectively that both the second round of tailpipe standards and an alternative fuels program are needed to bring our Nation's most seriously polluted areas into attainment and to maintain those public health standards once they are attained.

The Governors reached that conclusion after studying the track record for at least 20 years. It is a record which demonstrates that every prediction about when areas will attain the health-based standard unfortunately has been wildly optimistic. Compromise in the second round, as you know, Mr. President, would only require a nationwide second round of 12 cities of influencing the ozone standard in the year 2000. Actually the number of cities in noncompliance with the ozone standard could be much higher than the 12 and still the second round would not be triggered.

A number of cities allowed to be in nonattainment without triggering a nationwide second round could, in fact, be as high as 86. Why do I say that? Because first there are four areas in California which are excluded in the terms of the compromise from the trigger. Second, by the year 2000, many of the Nation's 66 so-called moderate, less polluted ozone areas may not have attained the standard and would still be counted for purposes of the trigger. Not counting those moderate cities is particularly gregarious because they are required to attain the standard in 1995. If they are not in attainment by the year 2000, which is 5 years after the deadline, they need as much help as possible from national controls, and that means automobile controls.

Under no circumstances—I stress this because so much of Connecticut is now listed as a severe nonattainment ozone area—under no circumstances do severe and extreme areas out of attainment trigger a nationwide second round of tailpipe controls. So that the result of all of these provisions is that a second round of national automotive emissions controls will not be triggered even if tens of millions of people are living in areas that violate the health-based standard.

Compromise also means, I am afraid, that there will be a great tendency for the automobile companies not to go ahead and develop technology that will produce the cleanest possible cars. The fact is the history of the Clean Air Act shows that if standards are in place that are clear and unshakable, the automakers will develop cost-effective ways to meet them. Without standards, there will be an uncertain incentive not to do so.

Mr. President, the compromise also is insufficient to protect public health because it focuses solely on ozone air quality as a trigger mechanism and it, therefore, ignores the need to control NO_x, not only for its contribution to ozone pollution because, as the American Lung Association has stated, NO_x is a dangerous and pervasive pollutant of our air and water. It is now understood to be a prime factor in virtually every major pollution problem that we face. The abandonment of a mandatory, guaranteed second round of standards is particularly significant in light of another provision of the compromise bill relating to the first round of tailpipe controls.

The committee bill required originally that cars meet the new tailpipe standards for the full life of the car or, in other words, for the full time period that the average car is actually driven on the road, and that is 100,000 miles. This provision is critical because all the data that we have seen from EPA demonstrates that there is a substantial deterioration in emissions controls after 50,000 miles and that naturally results in greater air pollution and dirtier air. Under the compromise, cars are required to comply with the full earlier standards only for 50,000 miles of use, and that means the average car for the next 50,000 miles will be permitted to meet an emission level that is 25 percent higher than the level they are required to meet in the first round, and that will contribute to a deteriorating air quality picture.

The experts tell us that that change will substantially decrease the reductions that will be achieved in hydrocarbon and carbon monoxide emissions from automobiles.

Mr. President, arguments have been made on this floor in support of the compromise on the first round and the 50,000 to 100,000 useful life standard, and I want to deal, just very briefly, with a few of those.

My friend and colleague from Michigan, Senator LEVIN, more particularly, argued that a more lenient standard is required in the second 50,000 miles because cars deteriorate and therefore the automakers need some leeway in the form of easier standards. But if cars deteriorate during the second half of their life, that is all the more reason why we need to offset that deterioration by requiring carmakers to produce cars which can certify to a lower emission level and will be able to meet the standard for the full time period.

Second, the argument has been made that the compromise reflects California standards, and there is no need for the Senate to be stricter than California.

Mr. President, I respond that there are several compelling reasons why the original committee bill did choose to be slightly more stringent than California in this respect. The fact is that California meets on an ongoing basis with the automakers because of the seriousness of the air pollution problem in California. The State arrives at standards through an ongoing process of compromise and negotiation with the automobile manufacturers, and that is not the case in Congress, which, as we have said over and over, only considers clean air about once every decade.

While the committee bill may be slightly more stringent than California for the first round of cars, it is important to note that California, working together with the automakers, is far ahead of the rest of the Nation and, if the compromise is adopted, will remain far ahead for the foreseeable future in many critical areas of automotive emissions. For example, California has required that cars for the model year 1989 meet the NO_x standard which the compromise would not require be met until 1995. California also has on board diagnostic systems already in place which the compro-

mise will not require until the model year 1994.

Finally, California has already taken steps to introduce standards twice as strict as those required even under the second round of the committee bill. The plan for those higher standards is that they start as early as 1997.

Senator LEVIN also argued that it is technologically infeasible for cars to meet the standards for the full useful life. But that argument simply does not withstand the scrutiny of the testimony upon which the Environment Committee based its original commitment to the 100,000-mile useful life standard.

Manufacturers of emissions controls, those who actually make the technology that can meet these standards, testified that with further refinement and utilization of emission control technologies, either existing or under development, such standards, "that is, those in the original committee bill," would clearly be technologically feasible over the 100,000 miles useful life of the vehicle," and they based that on some very compelling evidence.

California studies show that based on its own recall testing program, many engine families for the years 1985 and 1986 are in fact today meeting the standards of the original committee bill for approximately 40,000 miles in use.

Mr. President, in commenting on the extremely low in-use emission levels for 1985 and 1986 cars, the California Air Resources Board has stated and concluded that "this is a good indication that manufacturers have the capability to apply modern technology to meet lower emission levels."

It is also important to note that the manufacturers of automobiles have substantial experience in designing vehicles to meet the full useful life. For example, light-duty trucks have been required to meet a full range of standards for 120,000 miles since 1985.

Mr. President, I support the recommendations of the National Governors Association on the need for the strongest possible emission controls. I urge the other Members of the Chamber to review the association's statement of policy. The view of those who must eventually implement the act should be a critical part of this debate.

Mr. President, in the Clean Air Act of 1970, Congress resolved that all Americans would breathe healthy air within a decade. That goal obviously was not achieved. In the years since the Clean Air Act was amended, which was back in 1977, the air has become dirtier and more dangerous to our health. Our uphill climb against the ravages of pollution has turned, I am afraid, into a downhill fall and only now are we recognizing the real impact on the health of our people that results from our failure to act.

Mr. President, the adoption of the Wirth-Wilson amendment, in my opinion, will help ensure that we put in place the tools necessary to ensure that the promise of cleaner air, which we are holding out in these deliberations to all Americans, will be a promise that will truly be kept.

I thank the Chair and I yield the floor.

Mr. McCAIN. Mr. President, I noted in the remarks by the distinguished Senator from Montana various baseball metaphors. I certainly appreciated hearing those, and perhaps they were in commemoration of the return of America's pasttime to active participation. I, of course, have some painful emotions about the baseball dispute since it took about half of the exhibition season away from my State of Arizona.

My friend from Connecticut stated that we might have to revisit the clean air issue. I certainly hope that this will not be the case anytime soon. Since he mentioned, as did the Senator from Montana, that we have been many years in achieving this compromise, it seems to me it is in our interest to make it as strong as possible. Mr. President, the Wirth-Wilson amendment, in my view, is a significant and much needed improvement to the leadership agreement.

I am also sensitive to the concerns of the prime sponsors of the bill about the possible damage this could do to a very hard won agreement. At the same time, if this amendment is adopted, we would have a stronger bill, which I think would be very difficult to oppose.

Mr. President, I want to take a few minutes of the Senate's time to explain why I believe adoption of the measure is, indeed, critical.

First I want to acknowledge those who worked hard in developing the leadership agreement on mobile sources. I know the negotiating was not easy and many difficult and reluctant compromises were made on all sides of the issue. I have no doubts, if adopted, the leadership agreement would be helpful in our clean air fight. Unfortunately, Mr. President, it will not win the war. When President Bush unveiled his clean air proposal he did so with a clear sense of purpose. His goal was to help finally fulfill the noble promise of the Clean Air Act: healthy and unspoiled air for all Americans.

Mr. President, we made that promise to the American people 20 years ago. Its fulfillment eludes us still today. Undeniably, progress has been made, but the unpleasant fact is that over 100 million Americans still breathe air that does not meet health standards. Our failure has taken its toll on national health and the quality of life of our people. The American Lung Association reports that air pollution costs us $40 billion a year in additional health care to treat pollution-related sickness.

Why, Mr. President, two decades after the Clean Air Act was first passed are we faced with these dispiriting statistics? What is the source of this insidious threat to human health and our environment? It is very simple, Mr. President, the automobile—and the pollution it causes which continues to plague the major metropolitan areas of this country, including the capital of my State, where we continue to see dramatic increases in numbers of automobiles on the road and an unfortunate increase in the degradition of what was once the most pristine air in America and now ranks among the most polluted.

Mr. President, gasoline-powered cars and trucks account for 90 percent of the carbon monoxide and almost 70 percent of the ozone pollutants choking our cities. At one time, my hometown of Phoenix was a sanctuary for people suffering from asthma and other lung and cardiovascular ailments. Suffice it to say, the air in Phoenix is no longer what the doctor orders for people suffering from such. The major reason, as I have stated, is auto pollution. The story is no different in cities and counties throughout the Nation.

I wish I could say that the future promises improvement. But the trends are not encouraging. The Office of Technology Assessment estimates that vehicle miles traveled will double by the year 2010. That increase, of course, will be larger in high-growth areas such as Arizona—more cars, more miles, more pollution, more sickness and discomfort.

What is the solution? How can we finally fulfill the promise of the Clean Air Act? I believe the Wirth-Wilson amendment provides the three-part answer:

First, it guarantees that new cars will operate as cleanly as possible.

Second, it ensures that cars and trucks continue to run cleanly throughout their useful life.

Third, and most importantly, it will embark on an aggressive campaign to bring the ultimate solution—clean alternative fuels—to the marketplace.

Let us take a closer look at each of these programs. First, let us address the issue of tailpipe standards.

I think it is important to understand that, remarkably, the leadership agreement does not guarantee new cars will ever emit less carbon monoxide than those rolling off the assembly line today. The so-called second-round of tailpipe standards, which includes a decrease in carbon monoxide emissions, will go into effect only if 12 of the 27 most ozone polluted areas do not meet EPA health standards by the turn of the century.

Tying carbon monoxide reductions to ozone nonattainment areas is an arbitrary and disturbing disconnect. It offers precious little comfort to cities such as Phoenix, Denver, and Albuquerque where the primary air quality concern is carbon monoxide.

The pending amendment, on the other hand, will tighten tailpipe standards beginning in 1993, and assures that new cars will run even cleaner—including a 50-percent cut in carbon monoxide—beginning in 2003.

Mr. President, these reductions are achievable and needed. And, the Wirth-Wilson amendment will make sure they are made.

Second, any effective air pollution control program must see to it that car-makers not simply build cars to run as cleanly as possible, but they make them to stay clean throughout their useful life.

Under the leadership agreement, emission control equipment will receive a warranty of only 5 years or 50,000 miles. I am sure I do not need to tell Senators that antipollution equipment which does not work does little to clean the air.

Moreover, replacing and repairing ineffective equipment costs the consumer money and places a tremendous burden on local vehicle inspection and maintenance programs. The Wirth-Wilson amendment would extend the manufacturer's warranty on emission control equipment to 10 years or 100,000 miles. This will ensure that cars made to run cleanly will do so throughout their useful life.

Finally, Mr. President, I would like to talk about the amendment's most important and progressive component: alternative fuels.

I wish simply racheting up tailpipe standards would do the trick. It would be far easier for all of us. But it will not solve the problem. While each car may run a little cleaner, in the long term, the increasing number of cars on the road will overwhelm our best efforts. We cannot fight the tide. Unless Congress is prepared to return time and time again to update the Clean Air Act in a perpetual and futile effort to stay ahead of the pollution curve, we must make fundamental changes in the fuels we use to meet our transportation needs.

The good news is that we have a choice. We have a variety of proven ultraclean fuels, such as methanol, ethanol and natural gas at our disposal. We have the capacity to make cars that can run on these fuels, without reducing mobility, inconveniencing consumers or compromising the quality of our transportation. But we have been unable to bring these technologies to market. We are bogged down in what some call "the problem of the chicken and the egg."

Carmakers say that if fuel producers would make gasoline alternatives readily available, Detroit would certainly build the vehicles to use them. Likewise, fuel producers argue that if only carmakers would start producing alternatively powered vehicles, the fuels would soon follow. And on, and on, and on.

Mr. President, the problem is not so much about the chicken and the egg, as it is about choice and resolve. We can continue to sit idly by and wait for the chickens and the eggs to solve their differences, or we can do something about it. The Wirth-Wilson amendment does something about it.

While the leadership agreement contains an alternative fuels program. The initiative is insufficient. It requires too little, too late, and focuses the program too narrowly on the nine dirtiest cities. This approach does little for areas with serious pollution problems—areas which need innovative and aggressive programs today no less than New York, Chicago, and Los Angeles. And, moreover, the agreement does not provide the mandates necessary to jumpstart the mass production of clean-fueled vehicles. The Wirth-Wilson amendment will.

Let us examine some of the differences of the two proposals. The leadership agreement would require the use of clean-burning reformulated gasoline within the nine dirtiest cities in the country. Why only the nine dirtiest? Reformulated gasoline can cut carbon monoxide and ozone emissions substantially. It can do so in a convenient and cost-effective manner. Many serious nonattainment areas need reformulated gasoline if they ever hope to reach the health standard.

The Wirth-Wilson amendment would make sure they get it by requiring reformulated gasoline in all areas with serious ozone pollution, not just the "dirty nine."

In addition, the leadership agreement calls for an advanced alternative fuels program to stimulate the use of gasoline substitutes in the nine dirtiest cities, beginning at the end of the decade.

Certainly this is laudable, but again, the pending amendment is more aggressive by requiring introduction of alternatively fueled vehicles in a more timely fashion, and by raising the standards for affected vehicles after the turn of the century.

Finally, I would like to say a couple words about the fleet programs of the respective proposals. Once again, the leadership agreement heads in the right direction by requiring the use of ultraclean vehicles within centrally fueled vehicle fleets. But, again, the program is tailored only to the nine most severely ozone polluted cities. It falls a little short.

Centrally fueled fleets, such as those operated by post offices and other large organizations, provide an excellent opportunity for the introduction of ultraclean vehicles. This program should be expanded. The Wirth-Wilson amendment extends the fleet provision to all seriously polluted ozone areas, and establishes a separate program for fleets in areas plagued by carbon monoxide pollution such as Phoenix and Denver.

The alternative fuel and vehicle fleet provisions of the amendment, represent a compelling national commitment to clean transportation. Requiring that more vehicles operate on clean fuels will stimulate expeditious and long-term changes in the carmaking industry. Enhancing commercialization will help lower costs and put us over the hump and on the way to clean air that can be achieved and maintained.

Mr. President, the American people want and deserve clean and healthy air. It is their right. If we ever hope to fulfill the promise of clean air made by Congress 20 years ago, we must begin today by passing the Wirth-Wilson amendment.

Mr. President, I yield that floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I rise in strong support of this amendment which will provide both clean cars and clean fuels in the 1990's and into the 21st century. I am pleased to be one of its first and prime sponsors of this amendment with Senator WIRTH and Senator WILSON.

Mr. President, I think it is important for us to keep the point in mind that the bill that we are now debating on the Senate floor will carry us into the 21st century. A good many years will pass before we have the opportunity to revisit the issue of clean air again. In light of that fact, we must make sure that the provisions included in the bill live up to the stated intentions of the bill and will, in fact, accomplish the goal of clean air for all areas around the country.

The purpose behind clean air legislation has always been to provide clean, healthy air for everyone—no matter where one lives. California currently has over 10 areas which fail to meet the health-based standard for ozone and over 7 areas that are out of attainment for carbon monoxide. There are 12 million residents in the Los Angeles area breathing the dirtiest air in the country.

Nationwide, a great many Americans are in the same plight. In 1990, nationwide attainment of health-based air quality standards remains a distant goal. Approximately 100 million Americans still live in areas where the air they breathe is unhealthy. There are over 100 areas in nonattainment for ozone and about 44 areas in nonattainment for carbon monoxide. Nearly 40

States have at least one nonattainment area.

These areas need strong Federal leadership in the battle against dirty air. Local pollution control districts in my State and in other States are unhappy with the compromise. They argue that we are, in this bill, giving States deadlines by which they must reach attainment or be sanctioned but not giving them the tools they need to achieve clean air within those deadlines.

This amendment would, to a great extent, remedy that problem. One of the most important steps we can take at the Federal level is to mandate strong tailpipe controls on conventional vehicles and implement a strong program for clean fuels and clean fuel vehicles.

This amendment would accomplish a number of things.

First, it would require light-duty vehicles to meet the original tier 1 standards for 10 years and 100,000 miles. This provision regarding useful life was part of the bill reported by the Environment and Public Works Committee. It was later scaled back during the compromise negotiations and a more lenient standard was substituted for the second half of a vehicle's life.

Second, this amendment would restore the second round tailpipe standards that were also part of S. 1630 by requiring that they go into effect automatically in the year 2003 unless Congress decides to take action prior to that time either to cancel or to delay the standards.

Third, this amendment would expand the required use of reformulated gasoline to all seriously polluted areas. Whereas the compromise requires reformulated gasoline in 9 cities, we would expand that to 40 cities.

And fourth, it would significantly expand the clean fuels program in terms of both fleets and passenger cars by requiring the use of clean and ultraclean cars.

Taken together, the components of this amendment will dramatically increase the likelihood that most areas around the country will in fact achieve clean air within the deadlines.

Mr. President, mobile sources are the dominant source of both smog and carbon monoxide pollution in urban areas. In fact, cars, trucks, and other vehicles create over 50 percent of the smog and 90 percent of the carbon monoxide emissions. Couple that with anticipated increases in both the number of vehicles on the road and the number of vehicle miles traveled and it is clear that pollution from this source will only grow worse unless strong, technology-forcing controls are required.

Motor vehicle registrations in the United States have increased 69 percent between 1970 and 1988. According to the Department of Transportation, the number of motor vehicles on the road in 1988 surpassed 183 million, up 4.4 million from the previous year.

Similarly, the number of vehicle miles traveled is increasing at a rate of about 25 billion miles per year. According to the Highway Users Federation, vehicle miles traveled in urban areas around the country could double between now and the year 2000. Both health and health care costs associated with a lack of adequate tailpipe controls are staggering.

A study conducted by the University of California at Davis reported that between 50,000 and 120,000 deaths could be linked to auto pollution every year.

According to studies done for the American Lung Association, annual health care costs related to automobile pollution range up to $93 billion.

Under the compromise measure, the tier 2 standards will only come into play if 12 seriously polluted non-California areas are out of attaintment in 2001. Under this trigger mechanism we do not know whether or not tier 2 standards will ever be implemented.

The tier 2 standards are a good idea. They would reduce emissions of smog-forming pollutants nationwide by 450,000 tons at a cost of about $2,000 per ton. Similarly, carbon monoxide would be reduced by almost 14 million tons for less than $250 per ton.

On the other hand, failure to implement tier 2 only means that the burden of the additional needed reductions will fall on stationary sources. States and local agencies will have to impose controversial and cost-ineffective controls on stationary sources which are already meeting a tough burden.

Critics argue that the tier 2 standards are too much—that they go too far. Mr. President, it was the technology-forcing tailpipe standards mandated in the 1970 Clean Air Act which produced the catalytic converter. Back then, the car manufacturers were screaming just as loudly that those 1970 standards could not be met because no known technology existed to meet them—the same refrain they are screaming now.

The tier 2 standards, although technology-forcing, will not require the tremendous leap in technology that was required back in 1970. In fact, California is again far outpacing the rest of the country on this issue with a proposal that goes much farther than the tier 2 standards we are discussing here today.

California already has the ability to set its own tailpipe standards. For whatever reason, California seemes to be less susceptable to the dire tidings of the automobile industry and as a result California has the toughest tailpipe standards in the country.

It seems to be simply ludicrous that one car, a cleaner car, is produced for California and a dirtier car is produced for the rest of the country. Especially when one considers that there are 101 ozone nonattainment areas and 44 carbon monoxide areas in the country. But that is again likely to be the case under the compromise bill unless the tier 2 standards go into effect nationwide.

The California Air Resources Board has already taken the first step in adopting a regulation that would begin, in just 4 years, to phase-in "transitional low-emission vehicles." These vehicles would have to meet close to the the equivalent of the tier 2 standards beginning in 1994—that is 9 years before these standards would have to be met by vehicles in the rest of the country.

In 1997, California would move to the next stage and begin to phase-in "low-emission vehicles." Twenty-five percent of new light-duty vehicles sold in California in 1997 would have to meet a nonmethane hydrocarbon standards of 0.075 grams per mile. That is a tougher standard than the tier 2 hydrocarbon standard.

By the year 2000, 4 years before tier 2 would take effect nationwide, 98 percent of all light-duty vehicles sold in California would be meeting a hydrocarbon standard that is tougher than the tier 2 standard and a NO_x standard that is equal to the tier 2 standard.

California is a significant market for automobiles—1 out of every 10 cars sold in the United States is sold in California. If the tier 2 standards are not implemented then by the year 2000, cars sold in California will be 50-percent cleaner than cars sold elsewhere. The gap between the California car and the national car will widen—not narrow.

The staff of the California Air Resources Board, who I might add has done more work in this area than anyone else, is convinced that the tier 2 standards can be achieved and achieved in a cost-effective manner.

Based on its extensive experience in analyzing auto emissions control systems, the board has indicated that the second round tailpipe standards can be achieved at a cost of about $125 per car compared to a car meeting the tier 1 standards—that is about half the sticker price of power windows.

Their testing indicates that compliance with a hydrocarbon standard of 0.125 grams per mile would not require significant modifications to current engine designs.

Furthermore, progress in this area is well underway. In testing conducted by our resources board, a number of vehicles have already met the tier 2 hydrocarbon standard in certification testing. In addition, a Nissan model car has already achieved the standard

in use for about 40,000 miles. In light of the progress already made, the tier 2 standards are not so much technology-forcing as they are a reasonable push.

According to the California Air Resources Board, the electrically heated catalyst is one of the most promising control technologies currently being tested. In studies conducted to date, this new technology has been able to reduce nonmethane hydrocarbons and NO_x emissions by 25 to 50 percent.

Just recently in Los Angeles, General Motors unveiled the "Impact"—its prototype of a new electric vehicle. This sort of effort shows us the tremendous potential that exists. It should make us question the protests of the auto industry when it comes to tier 2 standards.

If the tier 2 standards do not go into effect nationwide in 2003, we will again be in a situation where car manufacturers will be producing two cars—one, a significantly cleaner car for California—and the other, a dirtier car for the rest of the country, in spite of the fact that so many areas around the country are struggling to reduce both smog and carbon monoxide pollution and need cleaner cars just as badly as California.

To a certain extent the progress made in California is contingent upon strong, Federal tailpipe standards. Since one of our every five cars on the road in California is from out of State and thereby subject to more lax tailpipe standards, progress made in California can be undercut by a lack of leadership at the Federal level.

Mr. President, if 98 percent of the cars sold in California by the year 2000 meet the tier 2 standard for NO_x and a more stringent standard for hydrocarbons, then these cars should be made available to other areas around the country.

Under the pending amendment second-round tailpipe standards would go into effect automatically in the year 2003, unless Congress takes action to delay or cancel those standards.

Mr. President, under our proposed amendment, the automotive industry would not have to meet these standards for another 13 years. I personally believe we could go farther—California is a perfect example of a State willing to do that. At the very least, we must assure that the tier 2 standards that were in S. 1630 do go into effect nationwide. The compromise, unfortunately does not provide us with that assurance.

Mr. President, I believe the tier two standards are cost-effective and technically feasible as I have indicated, much progess has already been made. More important, I believe the tier 2 standards are absolutely necessary if we are truly committed to providing clean air for all Americans, as was our original promise in 1970. It is time to make good on that promise.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on or in relation to the pending amendment occur at 7:20 p.m. and that the time between now and then be equally divided between the two sides in the usual form under the control of Senator BAUCUS and Senator WIRTH or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. CRANSTON. Are further votes in order after that time?

Mr. MITCHELL. Yes. I was going to announce that.

For the information of Senators, we will vote on this amendment, under the agreement that has now been reached, at 7:20. After that vote, I am advised that Senators BOSCHWITZ and BOREN will have an amendment ready. That will be debated, and we will attempt to dispose of that this evening with a vote. I do not yet know how much time that will take. I hope not too long, but that remains for the managers and the sponsors of the bill to discuss when we begin that.

So we vote at 7:20 and then another vote later on on the Boschwitz-Boren amendment if we are able to complete debate on that this evening.

I thank my colleagues.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from New York [Mr. D'AMATO].

Mr. WIRTH. Mr. President, I yield 4 minutes to the distinguished Senator from New York.

Mr. D'AMATO. Mr. President, I rise as a cosponsor of the Wirth-Wilson amendment. It is an amendment that we need.

Mobile sources are the largest single category of air pollutants, not only in New York but across the Nation.

The American Lung Association estimates that automobile emissions in New York State result in over $5 billion in health costs annually.

Mr. President, I have pages and pages and we have heard hours and hours of debate. I am going to attempt to tell what the problem is. It is not too dissimilar in other areas.

The State of California faces it as do other regions in the country.

Stationary sources of pollution, our power plants, small businesses, and so forth in the New York metropolitan area contribute less than 20 percent of the region's severe pollution smog problems. But well over 40 percent of our smog comes from upwind States, much of which is from mobile sources; and another 40 percent or more is generated by mobile sources in the New York metropolitan area itself. Thus, it is automobiles, cars, buses, and trucks that are responsible for well over half of our smog.

Let me put it another way: If we shut down everything in the New York metropolitan area, every factory, every business, every bus, every car, every truck, we would still not achieve attainment. We could close down the entire region and not even get close to solving our problem. And the sorry fact is that we never will, even with the bill that has been crafted by the administration, unless we have this amendment.

We will never be able to get clean air in my State without large emission reductions from mobile sources. Unless we vote to adopt the Wirth-Wilson amendment, we will be telling tens of millions of Americans that their air will remain dirty and unhealthy; and that an America that sent men to the Moon in 9 years is technologically incapable of economically producing a clean car for decades to come. I will not endorse that kind of helpless, "can't do" spirit.

CLEAN FUELS

Because mobile source emissions are such a big part of the smog problem, it's time to start putting vehicles on the road that are fueled by cleaner fuels than the gasoline currently available.

This amendment sets forth a reasonable, phased program. It gives us a 3-year trial period to gain from the experience of California with clean fueled vehicles, so we can see what works and what does not before we start elsewhere.

Wirth-Wilson has emission standards that are ambitious but achievable. And they are constructed in a practical way. They don't rely on Government bureaucrats to tell the industries how to meet the goals. They allow the oil and auto industries, working together, to decide which combinations of fuels and vehicles are practical and will provide the emission reductions we need.

Wirth-Wilson also includes an aggressive and promising fleet program. We too often overlook the role of fleets in cleaning up our air. While fleet vehicles are not a large proportion of any city's cars, trucks, and buses, they are driven for many hours every day. In New York, for example, while fleet vehicles are only 10 to 12 percent of all vehicles registered, they account for about one-third of all miles driven. The fleet provisions of this amendment will deliver very significant reductions in mobile source emissions in our most polluted cities.

Additionally, the Wirth-Wilson clean fuels program for passenger cars would achieve at least a 60-percent reduction in smog-forming emissions compared to today's gas-fueled cars. The compromise Senate bill would achieve only a 20-percent reduction.

Similarly, Wirth-Wilson would require a 75-percent reduction in toxic pollution from mobile sources, while the compromise seeks at best only a 27-percent reduction.

Let us face the facts. Despite strong efforts from the auto industry in the past, and more that we will ask of them in this bill, we still cannot keep ahead of the growing numbers of cars and the increases in the miles they are driven. People want to continue to drive their cars, and they will continue. It is time to develop new technologies that can harmonize the right of individual mobility with the right to breathe clean air. We must drive much cleaner cars, new types of cars, in the long run. Only this amendment even tries to seek that very critical goal.

TIER 2 TAILPIPE STANDARDS

An aggressive strategy to clean up our air must include a clean fuels program and stricter tailpipe standards.

The compromise Senate bill adds a first tier of tailpipe and other controls in 3 to 5 years, but that is not enough. More cars are going on the roads every year, and most of those cars are being driven more miles than ever before. Without the second tier of tailpipe reductions that Wirth-Wilson provides, mobile source pollution will get worse again by the turn of the century. Remember, because over 150 million Americans already live in areas with unhealthy air, we can't afford to stay in the same place. Staying where we are means accepting that a majority of Americans will breathe dirty air indefinitely.

Some say tier 2 standards are not technologically feasible. But there are already prototype vehicles that meet it. In fact, 30 different models certified by the EPA in 1988 already meet the tier 2 standards for 2003. So under Wirth-Wilson, the auto industry has 13 years simply to make the emission controls systems it can already build last for the expected life of the car. That does not seem to me to be an unreasonable thing to ask.

Some say the tier 2 standards are too expensive to meet. But the California Air Resources Board reports that the controls can be achieved for $125 per car.

By the turn of the century, tier 2 controls will be the biggest single source of pollution reductions available to New York State—and, I suspect, to many other States. We can get 45,000 tons annually of VOC [volatile organic compounds] reductions from this one source alone.

CLOSING COMMENTS

We have been fighting a losing battle against urban smog for 20 years. There are more than 100 communities that do not meet clean air standards and over 150 million Americans that live in these areas.

It is clear that the single biggest culprit is the gasoline-fueled car. With more cars on the road driving more miles than ever before, our pollution problems are only getting worse.

The most effective way to solve our problem is to break America's love affair with today's high-polluting gasoline-fueled car. We must incorporate an aggressive clean fuels program and tough tailpipe standards into the clean air bill before us today if we are to breathe clean air in the next century.

Unless we vote to adopt the Wilson-Wirth amendment, we are going to be shutting down regions. We are going to be telling ourselves that we cannot do what we really can do. We are going to be piling on billions of dollars in costs as it relates to the health of Americans. And we are not going to be doing what we should be doing.

I yield the floor.

Mr. WIRTH. I yield 1½ minutes to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator from Colorado for yielding.

Mr. President, I have great respect for those who bring this substitute amendment, and very particularly Senator WIRTH and his leadership, but this amendment has to be tabled. This is actually a killer amendment and will break this package apart that the leadership has put together. I am proud to cosponsor that leadership package. My colleague, Senator LEVIN, I think, has done an outstanding job in negotiating on his behalf, certainly mine and others, items within this.

This bill put together by the leadership has very tough standards for the automobile industry to meet. We will meet them, but at enormous cost.

If we were to try to take that section out and rework it as this amendment that is before us now would propose, I think it undoes the entire bill, and that would be a real tragedy. Also, this amendment before us would require that alternatively fueled vehicles be produced with no buyers in sight. It is a totally unrealistic way to try to deal with that problem I do not think it should be in this bill.

The leadership agreement is the best hope for the clean air package. It is tougher and has difficult and demanding standards. I think if we stretch, we can reach them. I hope we can table this amendment and hold this package together.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator form Montana.

Mr. BAUCUS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAUCUS. If no Senator seeks recognition, is the remaining time divided equally between both sides?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAUCUS. I thank the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Colorado is recognized.

Mr. WIRTH. Mr. President, I yield myself a couple minutes of our time.

Mr. President, we are right at the end of this debate. It has been a very good and thorough debate. The central argument that has been made against the Wirth-Wilson amendment is that it is a so-called deal-breaker. I assume that the rationale behind that, to be consistent with that, is that the managers of the bill, if the Wirth-Wilson amendment does not prevail, will, of course, resist any amendment from the House and any amendments in conference because they will also be a deal-breaker. That is not the reason we are here, to vote whether or not there is a deal. If people are voting one way or another because of the politics of their particular situation or State I cannot debate that. But if they are voting because of a deal or not a deal, it seems to me that denies a possibility we have in this body to really think about the future and where we are going. The Wirth-Wilson amendment is the future of clean air in the 21th century. It is a future of the fuels program overall, alternatives for our dangerous importation of gasoline and oil. This is the only amendment that moves in that direction. It is currently the strongest environmental policy. We have heard that concession from all of the speakers on the other side as well.

If the vote is because of substantive problems, it seems to me those problems just are not there. On 100,000 miles, of course, we can make 100,000 miles and make the pollution control equipment work for 100,000 miles. We do it on light duty trucks now. The manufacturers say we can.

On a second tier, we have built in the compromise that was reached between the leadership and the distinguished Senator from Michigan.

On reformulated gasoline, that is a good alternative fuels program for the country and a good domestic fuel to lower our dependence on imported oil.

On the fleet amendment, ours is just a more aggressive and I believe significantly more enlighted and progressive approach. So I would hope that if Senators are coming to a conclusion on this, clearly the conclusion on the substantive grounds are on our side if your concern is clean air. If the votes are political, we cannot deal with that. But if they are substantive certainly the arguments are with us and with the future.

I reserve the remainder of our time, Mr. President.

How much time is remaining?

The PRESIDING OFFICER. The Senator from Colorado has 6 minutes

and the Senator from Montana has 11 minutes remaining.

Mr. BAUCUS. Mr. President, I yield 2½ minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator is recognized.

Mr. LEVIN. Mr. President, the Mitchell-Dole amendment contains tough standards which are going to give us substantial reductions in hydrocarbon emissions from motor vehicles. We are going to get a 33-percent emissions reduction through controls on the volatility of gasoline. That is on top of a 28-percent reduction we are going to get by just phasing out older, dirtier vehicles over the same period.

We are going to get a 22-percent reduction in tailpipe emissions from the tier 1 standards that go into effect.

This is a tough bill. It is tougher in all three areas than the Waxman-Dingell compromise in the House. It is tougher on tier 1, it is tougher on tier 2, and it is tougher on alternative vehicles. This is a clean air compromise, and should be seen as that. It is far tougher, as a matter of fact, than the original committee bill on alternative fuels as well.

The amendment which is before us would blow apart this bipartisan compromise; one that took so long to reach. Senator WIRTH has explained his amendment would require a 0.39 hydrocarbon emissions standard in 1995. EPA says that standard can be met by only two vehicles, one is a natural gas vehicle, and one is a dedicated methanol vehicle. However, natural gas vehicles could not meet the NO_x standard and would require a waiver. There is none in this statute. So you are left with one vehicle and one vehicle alone and that is a dedicated methanol vehicle.

Quoting the Office of Technology Assessment's Peter Blair, who is the program manager: "It's a growing consensus that methanol fuel vehicles don't have nearly the environmental benefits that are commonly thought."

"The overall effect on urban ozone of shifting to methanol vehicles is very uncertain," according to the OTA study.

Another report from the Energy Department found that: "Emissions from methanol vehicles are for the most part comparable to those from gasoline fuel vehicles." That is the Argonne National Laboratories.

In California, Thomas C. Austin, an automotive engineer for Sierra Research, Inc., said: "Methanol offers no clear advantage over gasoline in reducing vehicle emissions levels."

In addition to requiring methanol, one last point, if I may have 15 more seconds.

Mr. BAUCUS. Mr. President, I yield 15 seconds to the Senator from Michigan.

Mr. LEVIN. I thank the manager.

This amendment mandates the production and sale of 1 million automobiles. Unlike the compromise that it would amend, it does not provide for anyone to buy these. To have 1 million vehicles produced with no demand, no buyers, no purchasers, is wasteful, in fact it is unconstitutional. I hope we will reject this deal-busting amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Louisiana.

Mr. BREAUX. Mr. President, I thank the manager of the bill for yielding.

Mr. President, I think the question now comes down to the point of what kind of a bill we pass here in the Senate. Could this bill be stronger? Of course, it could be. If we make it stronger with the Wirth amendment, it is simply not going to be a bill able to survive a filibuster in the Senate. It is going to be a bill that is going to end up being tied up by debate and debate and debate.

If that brings a deja vu memory to anybody, I assure you it is absolutely correct. We tried to pass a stronger bill in the last Congress. We tried to introduce a stronger bill for the last 13 years. Those people who tried to strengthen it significantly are to be admired. But I would suggest that the reality of the situation is going to demand that we adopt a bill that has the potential to pass this body, get it to conference and be signed into law by the President.

There is not a section of this bill that could not be made a significant amount stronger than the current bill is. What are we talking about? Passing an amendment, or are we talking about adopting a bill that would go to conference?

I would suggest that we ought to be looking toward adopting a new piece of legislation. We talked about a window of opportunity. Yes, let us not make the same mistake that we made for 13 years in trying to offer amendments that are far stronger than reality will allow to become law.

If we are interested in making law, I suggest the compromise that has been put together by people like Senator CHAFEE, by people like Senator DURENBERGER, by people like the distinguished majority leader who has an agreement with the minority leader, Senator DOLE, is one that is capable of being adopted by this body without a filibuster, being sent to conference with the other body and in ultimately coming to the point where the President will, in fact, sign the bill.

Every area that the Wirth-Wilson amendment addresses is covered in the bill that is now before this body. We have a fleet program; we have a reformulated gasoline program. Everything is covered. I would suggest we should reject the Wirth-Wilson amendment and do something that is, in fact, doable.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana has 6 minutes and the Senator from Colorado has 6 minutes.

Mr. WIRTH. Mr. President, I yield 3 minutes to the distinguished Senator from New Jersey [Mr. LAUTENBERG].

The PRESIDING OFFICER. The Senator is recognized.

Mr. LAUTENBERG. Mr. President, I thank my distinguished colleague from Colorado.

Mr. President, I rise as a cosponsor of the Wirth-Wilson amendment which would restore the second round auto standards.

We need these standards for three reasons. First, we cannot get clean air without them. Second, they will be technologically feasible. Third, they will be cost effective.

Mr. President, the single most effective thing we can do to get clean air is to get clean cars. It is as simple as that.

Auto exhaust makes our air a stewpot of poisons. It is the cause of half the Nation's hydrocarbons, 43 percent of the nitrogen dioxide, and three-fourths of its carbon monoxide. Cars cause over half the cancer deaths caused by air toxics.

And in the New York-New Jersey metropolitan area, the figures are even higher: 61 percent of the hydrocarbons, 90 percent of the carbon monoxide, 53 percent of the nitrogen dioxide, and over 50 percent of the air toxics. Sure, the automakers will tell us about how much they've done to cut emissions. It is just not enough. Whether a person drowns in 100 feet of water, or 10 feet of water, they still drown. And we are still drowning in auto emissions—we are still drowning in smog, carbon monoxide, and air toxics that come from the tailpipe.

Roughly 150 million Americans live in areas where ozone and carbon monoxide levels exceed the existing public health standards. Mr. President, the ozone standard is not some esoteric rule. The carbon monoxide rule is not some esoteric rule. They protect us from these poisons. Carbon monoxide is sometimes chosen as a route to suicide. It is poison. And we breathe these poisons every day.

Ozone is formed by the mixture of hydrocarbons and nitrogen dioxide in sunlight. We are not talking about the ozone that is in the upper layer of the atmosphere—the so-called ozone layer. We are talking about ozone close to earth. Ozone is often called smog.

When the ozone health standard is not met, people cannot breathe, they get chest pains, they cannot catch their breath; they cough; they get

nauseous; their throats get sore; they are open to respiratory infections. When it is really bad, people die. Older people, weaker people die first. People die.

Ozone hurts our kids even more than it hurts us. And the hurt can often last longer. Children are particularly susceptible to both acute and permanent effects of ozone pollution.

People are not all that are hurt. Ozone pollution also can damage crops and trees.

That is what ozone does, Mr. President. Carbon monoxide is not any better. We all know about. We tell our kids to stand away from a car tailpipe, because we know that carbon monoxide is deadly. It robs the body of needed oxygen. When it is not bad enough to kill, it can slow you down. Less work gets done. People are less productive. And for pregnant women, it can hurt the fetus.

Our Nation faces a public health crisis because of air pollution. Health experts say that as many as 50,000 people die a year because of air pollution. And the American Lung Association says that air pollution just from cars, trucks, and buses are responsible for $40 to $50 billion in annual health care expenditures. That is the cost of the doctor's bills, the hospital bills. That is not the cost of lost earnings; that is not the price we pay emotionally, when someone is sick or dies.

Mr. President, as much as the automakers will say they have come a long way, the fact is, if we do not act, things are going to get worse, not better.

People are driving more than ever. Vehicle miles traveled are growing rapidly and in many urban areas may double between now and the year 2000. So pollution from these additional miles will soon overtake emissions reductions from cleaner cars. We need continued reductions in auto emissions from second-round standards if we are to achieve the clean air public health standards.

If emissions from mobile sources are not required, stationary sources, such as those in New Jersey which already have been subject to strict and expensive controls, will have to do even more. And it is questionable in many areas whether comparable reductions are even feasible from other sources.

In New Jersey, the second round standards are expected to reduce smog-forming hydrocarbon emissions by 8,500 tons by the year 2010. To get an equivalent reduction in hydrocarbons, the State would have to ban the use of all consumer and industrial solvents in the State.

And the existing ozone standard is not fully protective of health. Testimony at a Senate Environment hearing last April shows that long-term exposure to levels of ozone 50 percent below the exising standard can adversely affect lung function.

The second round standards also will provide a 3.7-percent nitrogen oxide emissions reduction and a 10-percent reduction in carbon monoxide by the year 2010. Nitrogen oxides are precursors of smog and acid rain. And the second round standards will reduce emissions of formaldehyde, benzene, butadiene, and other carcinogens resulting from auto emissions. This is extremely important because auto emissions are believed to cause 50 percent of the cancers from air toxics.

We need the second round standards, as well as cleaner fuels, to protect public health of all Americans.

That's why the National Governors' Association, the National League of Cities, the National Association of Counties, the State and Territorial Air Pollution Program Administrators, the Northeast States For Coordinated Air Use Management [NESCAUM], and others strongly support second round standards.

The question is whether these standards will be technologically feasible and cost effective.

The auto industry says that the standards are not feasible. But an auto industry advertisement quotes EPA as saying that the standards will cost $500 per car. I do not know how the industry can talk about a price for a technology it claims is not feasible. This is simply the same old refrain from the auto industry we have been hearing for 20 years.

Let me quote what the former executive vice president of Ford Motor Co., Lee Iacocca, said back in 1970 concerning the auto standards in the 1970 clean air legislation:

> Some of the changes in this bill could prevent continued production of automobiles. * * * Even if they do not stop production, they could lead to huge increases in the price of cars. They could have a tremendous impact on all of American industry and could do irreparable damage to the American economy. And yet, in return for all of this, they would lead to only small improvements in the quality of the air. * * * (T)his bill is a threat to the entire American economy and to every person in America.

And what happened. In 1970, the profits of the big three automakers were $1.1 billion and Chrysler actually lost money that year. By 1984 when the new standards were fully phased in, profits for the big three were almost $10 billion. According to a CRS analysis prepared at my request, automobile sales in terms of dollars have risen steadily since 1970. This is shown in the chart.

Based on overall sales dollars, General Motors is the largest company in the United States, Ford is in the top 5, and Chrysler is in the top 15. This is hardly a record of gloom and despair predicted by the auto industry in 1970. And there is even less reason to believe the same predictions of doom today.

Many 1988 model cars have been certified by EPA to achieve one or more of the round II emissions levels for 50,000 miles including the Pontiac Bonneville, Lincoln Continental, and Chrysler New Yorker. California is testing a Nissan engine family which has achieved the round II hydrocarbon emission levels at about 40,000 miles of actual use.

Studies by the California Air Resources Board, the Nation's leading experts on auto emissions, have shown that emissions from currently available cars can be lowered by the use of electrically-heated catalysts by one-half to one-quarter of the emissions from the same vehicle equipped with stock catalysts.

As fuels continue to improve, electronics evolve and technology advances, the second step is relatively modest compared to the changes required by the 1970 law. According to the American Lung Association:

> At that time, not one single car was on the road which was equipped with a catalytic converter much less having achieved the standards for 50,000 miles. Most cars were not designed to operate with unleaded fuel and most gas stations did not even sell it. With regard to the electronic control systems which have become such an integral part of today's systems, they were not even envisioned by the technology's forecasters.

So it is clear that the standards will be feasible. And California has proposed to introduce even more stringent requirements in an earlier time frame than provided in S. 1630. California has proposed to require that 10 percent of new cars meet the round II hydrocarbon standard beginning in 1994. By 1997, 25 percent of the cars will have to achieve both the hydrocarbon and nitrogen dioxide standards. Both California experts and the Manufacturers of Emissions Control Association [MECA] believe that the round II standards are feasible.

What about cost? EPA says that the round II standards will cost about $500 per car. This assumes that the catalytic converter will have to be replaced. But California and MECA believe this will not be necessary.

The California Air Resources Board says that the standards will be $122-$132, one-quarter the cost cited by EPA and the auto industry. This is far less than many options now available for cars. One of my staffers who recently bought a new car told me that the dealer wanted to sell him pinstripes for roughly that cost. Pinstripes.

At this cost, smog-forming pollutants would be reduced at a cost of roughly $2,000 per ton. The Office of Technology Assessment recently estimated the cost of reasonably available control measures for business and industry at $2,200-$6,600 per ton. And

these measures are less costly than controls on other measures which would be necessary to reduce emissions. So for the cost of pinstripes, we can get cost-efficient reductions in smog forming pollutants, carbon monoxide, and air toxics. Mr. President, these standards will be cost effective.

The substitute makes nationwide second round standards dependent on 12 of 27 non-California cities currently classified as serious nonattainment areas having ozone levels above the existing ozone-health standard.

Mr. President, there are a number of flaws with this trigger for second round standards. First, the trigger only uses cities now classified as serious nonattainment areas. It ignores areas now classified as "moderate" which fail to achieve attainment and are reclassified as serious. It ignores cities in California. It ignores areas classified as severe and extreme areas which contain close to 25 percent of the Nation's population. It ignores carbon monoxide nonattainment areas. And it assumes that the ozone health standard doesn't change. As I previously discussed, the existing health standard is not fully protective of human health. Finally, the trigger would require 44 percent of the cities classified as serious to be in nonattainment. Mr. President, close to 80 million people may live in areas failing to meet the ozone health standards without triggering the second round standards. This is clearly unacceptable.

Mr. President, the substitute provides that a cleaner car although not necessarily a car achieving the round II standards, would have to be sold in areas classified as severe and extreme which are not making adequate progress toward attainment. But this is not adequate for areas like New Jersey. It means that cars not bought in these cities will fail to achieve the necessary emissions reductions. These cars will contribute additional pollutants as they drive into and through these cites. Some of the additional pollutants they generate outside these cities will be transported through the atmosphere into the nine cities. My State and other States need reductions in pollution which will come from both cleaner cars and cleaner fuels.

In summary, the trigger for the round II standards established in the substitute imposes an unnecessary impediment to the imposition of round II standards.

Mr. President, I also want to discuss briefly some of the other key components of the Wirth-Wilson amendment. First, it reimposes the round I technology standards from S. 1630 back into the bill. The substitute delays imposition of the round I standards and allows a 25-percent increase in hydrocarbon emissions for cars with more than 50,000 miles.

The increase in emissions over a car's useful life allowed by the substitute is significant. It takes away a major incentive for car manufacturers to make more durable emissions control equipment. And it means more people continuing to breathe unhealthy air.

We will hear arguments that the round I standards for useful life are tougher than even the California standards. While this is true, it focuses on only one aspect of the California program. California has proposed to introduce even more stringent requirements in an earlier time frame than provided in the committee-passed S. 1630. The Wirth-Wilson amendment is much closer to the entire California program than the substitute.

And as to technological feasibility, the Manufacturers of Emissions Control Association say that further development of existing and new technologies will make the round I standard technologically feasible over the 100,000-mile useful life of the car.

The Wirth-Wilson amendment also requires more extensive use of cleaner fuels than it provided in the substitute. This will lead to significant reductions in emissions of hydrocarbons, nitrigen oxides, and carbon monoxide. And it also will result in a reduction in emissions of air toxics. According to EPA, air toxic emissions cause 56 percent of the cancer deaths from air toxics. Expanding the use of cleaner fuels is consistent with the amendment I offered to require EPA to regulate toxic emissions from mobile sources to achieve the President's own goal of reducing cancer deaths from air toxics by 75 percent.

I think it is appropriate to conclude by quoting the words that Senator Ed Muskie uttered on this floor 20 years ago during the first debate on the Clean Air Act. His words ring as true today as they did then. "Detroit has told the Nation that Americans cannot live without the automobile. The legislation would tell Detroit that if this is the case, they must make an automobile with which the Americans can live."

Mr. President, I urge my colleagues to support the Wilson-Wirth amendment.

I yield the remainder of my time back to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Colorado has 3 minutes remaining.

Mr. WIRTH. I yield 3 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 3 minutes.

Mr. WIRTH. How much time is remaining on their side?

The PRESIDING OFFICER. Five minutes.

Mr. DOLE. Six minutes.

The PRESIDING OFFICER. Six minutes, I am sorry.

Mr. WILSON. Mr. President, why is the National Federation of Independent Businesses, representing the 570,000-plus owners of small businesses in America, endorsing the Wirth-Wilson amendment? It is because they are concerned, and they should be, that if it does not pass, they and their constituency, those who employ 85 percent of the American work force, will find that they suffer a disproportionate share of the burden of cleaning our air. If it does not come from mobile sources they reason, and correctly, it will come from stationary sources. It will be on their heads.

They are worried about being competitive, rightly. The American Lung Association is worried that unless the Wirth-Wilson amendment is adopted, it will be unfair to 31 million children, 19 million elderly, 6.2 million asthmatics, and 7.5 million individuals suffering chronic obstructive lung disease who live in the serious and nonattainment areas.

Mr. President, this is not, as the Senator from Michigan indicated, a bill that specifies a particular alternative fuel. It is, instead, a bill that calls for a performance standard that would allow different alternative fuels to compete to meet that need best in the marketplace.

It is ironic. I have heard this amendment described as allowing only the use of CNG, only the use of methanol, only the use of ethanol. None of those things is true. Mr. President, what we have is an opportunity to be fair to those who suffer from respiratory disease, those who are concerned that their livelihood will be imperiled by having to suffer more than their share of cleaning up in the air.

Mr. President, let us do equity. Let us clean the air in a fair manner by agreeing to the Wirth-Wilson amendment.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 3 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, I ask unanimous consent a letter from the Deputy Secretary of Energy in opposition to the amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPUTY SECRETARY OF ENERGY,
Washington, DC, March 20, 1990.

Hon. ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: The Department of Energy's analysis of the Wirth-Wilson and Daschle clean fuels amendments reveals the following costs and problems:

About 40 urban areas are affected by either the Wirth-Wilson or Daschle reformulated gasoline requirements. These areas contain about 35% of the nation's population. Therefore, the programs proposed in these amendments are basically nationwide mandates.

The gasoline reformulation requirements are substantial. Major new refining facilities and modifications could be necessary.

Estimates of the amount that the industry would have to invest within 4 years to meet these requirements range up to $100 billion. (see attached for the equipment and process changes on which this estimate is based.)

Shortages of engineering contractors, skilled construction workers and component supplies could increase this cost substantially, and make it quite difficult to meet the reformulation requirements in 4 years.

High capital costs, shortages of skilled engineers and increases in input prices will translate into substantial increases in retail prices of gasoline.

These reformulation requirements will reduce domestic production of gasoline. It will be difficult to acquire imports that meet these requirements. Therefore, gasoline prices could further increase in order to ration reduced supplies in the affected areas.

The time required to design, permit, and construct new facilities to make up for this lost supply would make it difficult to offset this reduced supply in the near future.

Supplies of oxygenates necessary to meet the reformulation requirements may not be available. Imports of methanol, for example, would have to increase by about 2.4 billion gallons (600% increase over current methanol imports) in order to provide enough MTBE to supply the required 2.7% oxygenate.

I hope this information is helpful to you in the current debate. Please let me know if I can provide further informaion or assistance.

Sincerely,

W. HENSON MOORE.

BASIS FOR CAPITAL INVESTMENT ESTIMATE

The changes required to meet the reformulated gasoline requirements include the following:

Extraction facilities to remove the necessary volumes of benzene, toluene and xylene (BTX) from gasoline.

Distillation facilities to separate BTX into separate streams for further processing.

Facilities to fractionate high aromatics streams.

Facilities to convert normal butanes to MTBE or ETBE to comply with oxygenate requirements.

Additional processing facilities to produce high octane blending components to replace octane and gasoline volume losses.

Additional storage tanks and component blending facilities.

Methanol or ethanol plants.

Mr. DOLE. Mr. President, the Senator from Colorado showed us some very interesting charts earlier this afternoon, but they did not tell us the whole story. The Senate compromise—because it applies to all new vehicles in the worst polluted areas—gets the same total reduction as the President's original program. It does this without having to go to untested, exotic alternative fuels. The President's original program only applied to 30 percent of the new vehicles sold in the high ozone nonattainment areas.

In order to minimize the disruption to the marketplace, and to get the oil companies and the auto companies to develop a car that can run on reformulated gasoline, the Senate compromise set a tough standard. This standard of 0.66 grams per mile, when applied to all new cars, is a better approach because all new cars are much lower polluters than would be the case if the President's original plan were adopted.

Mr. President, is it not better that all automobiles using the new reformulated gasoline in these dirty ozone areas meet the standard set out in the Senate compromise?

No one knows for certain the type of performance we are going to get from vehicles that are forced to use 100-percent methanol or compressed natural gas or even electric vehicles as proposed by the Wirth-Wilson amendment. Are we sure these vehicles would be available in adequate numbers to meet the demand placed on the market by the Wirth-Wilson amendment? Is it not better if we are to examine the use of untested alternative fuels, that we do it as we approach other research programs—that is, do it in a logical, step-by-step demonstration program where the experts from Government, the oil industry, and the auto industry can evaluate the results of these demonstration programs?

This approach is part of the Senate compromise, particularly in the fleet area—for both Government and private fleets—where a limited number of vehicles will be using the alternative fuels which are not yet fully understood.

I read the Wirth-Wilson amendment to require the use of—at best—compressed natural gas, M100, and electricity in the clean fuel phase. This would apply of course to the private vehicles that you and I and our constituents will be required to purchase.

The ultra-clean program looks to me to be limited solely to electric vehicles. Some may question this analysis. But, when the Senator from Colorado showed us his bar chart comparing the various emissions levels of the Senate compromise, the President's program, and their own amendment, the Senator did not share with us the reductions in toxic compounds nor the reductions in NO_x emissions required under the amendment.

The Wirth-Wilson amendment mandates enormous reductions of NO_x and toxic compounds. This leads to the conclusion that the only types of cars that will be available will be electrical cars. Natural gas will be ruled out. This is because as the emissions of volatile organic compounds are decreased, the level of NO_x increases. We recognized this problem when we negotiated the compromise by granting a NO_x waiver for vehicles in the fleet program. Wirth-Wilson does not do this.

The beauty of the compromise is that it applies not just to 30 percent of new vehicles. Rather, it applies to all new vehicles. We get the same or even greater emission reductions than were contemplated under the President's original program. Is this not a better situation for the areas trying to reach attainment and for the consumer who will be buying the vehicle and the new fuels? I think it is.

Finally, let me be clear to my colleagues who believe this is an ethanol or farm State vote. The National Corn Growers Association and the Renewable Fuels Association both oppose this amendment. It will lead to less ethanol use, not more. Ethanol will be forever replaced by the massive foreign methanol projects that this amendment would lead to.

I hope my colleagues will vote to defeat the Wirth-Wilson amendment. I yield back any time I have remaining.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. In the remaining minute, Mr. President, I want to thank my colleagues for what I thought was a very good debate on this. Senator WILSON and I are trying to create a better bill. What we are up against here is the tendency of us in this institution to react to yesterday's issues and yesterday's institutions.

The basic political issue here is why are we going to allow the oil industry and the auto industry to keep us from bringing cleaner air to 150 million Americans? That is the fundamental issue we have to vote upon. Our Members of the Senate can vote for clean air in the 21st century. Are we going to vote for the future? We have that opportunity in this vote here. This is the most important vote we will have on the Clean Air Act. I hope our colleagues will join with Senator WILSON and me and so many others across the country in voting for cleaner air. That is the choice we have.

Mr. President, I thank the majority leader and all who have had a great deal of patience as we have moved along. I think this has been a very good exchange. I yield the remainder of my time.

WE MUST CRACK DOWN ON MOBILE SOURCES

Mr. PELL. Mr. President, I enthusiastically support the amendment offered by my colleagues the junior Senator from Colorado [Mr. WIRTH] and the junior Senator from California [Mr. WILSON]. I am pleased to be a cosponsor of this important measure to improve the Clean Air Act.

Automobile emissions clearly are the major contributor to urban smog and to dangerous levels of ozone and carbon monoxide. If it is to be effective, a strong clean air bill must in-

clude stringent restrictions on mobile sources—including two-phase automobile standards.

Motor vehicles remain the dominant source of air pollution. Nationwide, they emit nearly half the pollutants that cause smog—and an even greater share in some of our most polluted urban areas.

The Senate has limited choices if it is to achieve healthful air quality over the next two decades. We can restrict use of motor vehicles, or we can put the cleanup burden on business, or we can tighten emission standards.

The Clean Air Act, as originally reported by the Senate Environment Committee, came down squarely on the option of setting strict emissions standards.

Their measure required a 50- to 80-percent reduction auto tailpipe emissions in two stages, or tiers, between 1993 and 2003 and by requiring autos to meet new car standards for their full useful life.

The clean air compromise, however, delays tier 1 and makes tier 2 contingent on an air quality test and weakens the key provision governing the performance of cars in use. The compromise includes a clean fuels program that only encourages the use of reformulated gasoline in less than a dozen of our smoggiest cities.

The amendment, which I fully support, strengthens the Clean Air Act in critical areas by:

Retaining the provisions of the Clean Air Act that would require full implementation of tier 1 tailpipe standards and require that the same tailpipe standards remain in effect for the full useful life of the vehicle—10 years or 100,000 miles.

Retaining the language of the agreement for tier 2 tailpipe standards which would require full implementation of the standards in 2003 unless Congress determines the standards are not necessary to attain the health-based standards.

Requiring the nationwide use of reformulated gasoline. Clean fuels can provide an inexpensive and fast solution to air quality violations.

In addition, the emission reductions achieved by cleaner burning fuel will achieve immediate improvements in air quality.

The Wirth-Wilson amendment is needed to improve the Clean Air Act and has the support of a host of environmental, conservation, health, and wildlife organizations.

That group of advocates includes, but is not limited to, the National Clean Air Coalition, the Environmental Defense Fund, Environmental Action, the National Audubon Society, the Sierra Club, the American Lung Association, and the Public Interest Research Group.

I appreciate the work that has been done by all of those who labored so long and hard to produce the clean air compromise. I believe, however, that the product of their negotiations clearly is not written in stone.

It is our duty to improve the compromise, where the opportunity is available. We must do what we can to reduce air pollution and to reduce the threat that this pollution poses to the health of our citizens.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield all remaining time to the majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, upon the completion of the time I will move to table the pending amendment. I urge all of my colleagues to support the effort to table, in which I will be joined by the distinguished Republican leader. I do so for several reasons which I can only summarize briefly in the time that exists.

First, I recognize this is a subject of dispute between the parties, but it is my belief, based upon the best technical information we have been able to receive, that the effect of this amendment is to mandate the use of methanol. That is an extremely poor public policy. It is a risky, itself potentially dangerous material, extremely expensive, and primarily derived from foreign sources.

If a Senator is interested in the use of ethanol, he should be opposed to this amendment because this effectively mandates methanol.

Second, this amendment would mandate the production and sale of a specified number of vehicles. It is one thing to say, as we have said previously in the Clean Air Act, that auto manufacturers must include in every vehicle they make and sell, a catalytic converter. Or, as this bill says, they must include in every vehicle they make and sell an onboard canister. It is a completely different thing to say that, of the millions of vehicles they make, they must make 1 million of a specified type, different from all other vehicles, with no assured market for those vehicles.

This represents a massive intrusion into the private market that is without precedent in this clean air legislation and, I believe, for an undesirable purpose, that is vehicles that would use methanol. This amendment is flawed on the substance of it.

Finally, Mr. President, the committee substitute, the compromise now before the Senate, is a very strong, effective bill. Once again, we see here, as we have seen so often, the desire for perfection resulting in nothing. Those, who in good faith offer this amendment, run the risk of there being no bill at all.

We have had 13 years of speeches. Do we want 13 more years of speeches? Or do we want a bill? Do we want to make statements, or do we want to make law? That is the choice that this amendment presents to the Senate.

I say to my colleagues, if we do not get a clean air bill this year, we are not going to get a clean air bill in this century.

So that is the choice we have before us. Have we reached the point in the legislative process where 95 percent is never good enough; it has to be 100 percent of everything? Everything must be my way in my words as I propose it and no other way. Has compromise now fled the Senate? Are we unable as a body to reach agreement on legislation that, without dispute, substantially and dramatically strengthens and improves current law? Do we now measure every proposal in the Senate not as to what it does in comparison to current law but as opposed to some abstract standard of perfection that each Senator is now free to offer on his or her own? That is a prescription for deadlock. That is why we have not had a clean air bill for 13 years, and that is why the pending amendment, far from strengthening the battle against clean air, could very well result in no clean air bill. None, whatsoever.

So I urge the Senate, choose the course of responsibility. Let us make a law, not a statement.

The PRESIDING OFFICER. All time has expired.

Mr. MITCHELL. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1344. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—52

Baucus	Ford	Metzenbaum
Bentsen	Glenn	Mitchell
Biden	Gramm	Murkowski
Bond	Grassley	Nickles
Boren	Heflin	Pryor
Breaux	Heinz	Riegle
Bumpers	Hollings	Robb
Burdick	Humphrey	Rudman
Chafee	Inouye	Sanford
Coats	Jeffords	Sarbanes
Cochran	Johnston	Sasser
Danforth	Kasten	Shelby
Dixon	Kerrey	Simpson
Dodd	Levin	Specter
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Durenberger	Mack	
Exon	McConnell	

NAYS—46

Adams	Gore	Mikulski
Armstrong	Gorton	Moynihan
Bingaman	Graham	Nunn
Boschwitz	Harkin	Packwood
Bradley	Hatch	Pell
Bryan	Hatfield	Pressler
Burns	Helms	Reid
Byrd	Kassebaum	Rockefeller
Cohen	Kennedy	Roth
Conrad	Kerry	Simon
Cranston	Kohl	Symms
D'Amato	Lautenberg	Wallop
Daschle	Leahy	Wilson
DeConcini	Lieberman	Wirth
Fowler	McCain	
Garn	McClure	

NOT VOTING—2

Matsunaga Stevens

So the motion to lay on the table amendment No. 1344 was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, it has been our intention to proceed next to an amendment to be offered by the Senators from Minnesota and Oklahoma. I was advised approximately an hour ago that they would be prepared to go at 7:30 or immediately following this vote. I was most recently advised that they may not be ready to go.

I would like to inquire of the Senator from Minnesota and the Senator from Oklahoma, if they are present, if they are prepared to proceed at this time; and if so, whether it would be possible to obtain a time agreement with respect to their amendment.

Mr. BOSCHWITZ. Mr. President, since many of my colleagues are desirous of going home, if we lay the amendment down, can we get a vote on it tomorrow, and thereby have the Senators go home for the evening?

Mr. MITCHELL. Well, Mr. President, the problem with that—Senators should be aware of it—is that we have now disposed of about 35 or 36 amendments, leaving only about 210 to go. I understand the Senators' desire to leave at this time, but that means we will be here late tomorrow night and late Thursday night. To the extent we keep pushing this back and have Senators unwilling or unprepared to offer amendments, then it just defers it until a later time. I have, myself, a desire to complete this bill and to move on to other issues. I think the Senators generally are getting that feeling. I hope that we can proceed. I do not want to disadvantage any Senator in any way.

Mr. BOSCHWITZ. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. BOSCHWITZ. I do not think that I personally indicated to the majority leader or any Senator on our side that I would go ahead at a time certain. However, I am advised that legislative counsel are making an effort to revise the amendment and make it acceptable to those who have crafted this compromise, but we do not have it yet.

Apparently, they have gone back to legislative counsel. I would be happy to talk about the amendment, but it is not clear to me that we will have it in hand, even though it is not going to be much different than the language that we have presented to those who have crafted this.

Mr. MITCHELL. Well, Mr. President, I cannot force any Senator to offer an amendment if that Senator chooses not to do

Mr. REID. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. REID. Mr. President, it is my understanding that the amendment to be offered by Senator ADAMS and myself and Senator WIRTH was to follow the Boschwitz amendment; is that still the leader's intention, to follow the Boschwitz amendment, so we can plan or schedule it around that?

Mr. MITCHELL. Mr. President, in response to the question, I have been trying to get an amendment by the Senator from Washington and an amendment by the Senator from Massachusetts and an amendment by the Senator from Minnesota offered today, last week, the day before that, and the day before that. Yes, I would like to get any and all the above offered now.

Mr. REID. Senator ADAMS is not here, but I think we can follow him. We would be happy to follow Senator BOSCHWITZ.

Mr. MITCHELL. I have earlier been advised that that amendment would be ready this evening. Then I was advised it would not be ready this evening; it would be ready tomorrow.

Mr. REID. Does the majority leader wish to proceed with our amendment if Senator BOSCHWITZ is not available?

Mr. MITCHELL. I wish to proceed with an amendment. I will take any amendment that anybody would offer. The problem we have is that we have Senators who are eager and anxious to have their names included on a list of amendments to be offered and not eager and not willing to present their amendments on Senate floor when the time comes to offer them. So I am prepared to accept an amendment for consideration by any Senator on any aspect of this bill.

Mr. BOSCHWITZ. Mr. President, I hate to see the majority leader pleading. We will go forward with our amendment. Does the leader want to vote on it tonight or tomorrow?

Mr. MITCHELL. I hope to complete action on it tonight. Let us get the matter over with and proceed to a lot of other amendments tomorrow morning.

Mr. SIMPSON. Mr. President, I inquire of the Senator from Nevada, it is my understanding that there is to be a meeting tomorrow morning at 10 o'clock, which has already been set, to discuss the amendment with regard to the Senator from Washington.

Mr. REID. I would be happy to attend that meeting. I did not know about it. I spoke to Senator ADAMS a few minutes ago. However, if the Senator from Wyoming indicates there is going to be another meeting on this amendment, and there have been meetings going on for weeks, one more will not hurt a thing.

Mr. SIMPSON. That was my understanding. I will do my share. I have two or three amendments, and I will place them before the body. I hope the Senator will consider waiting until that hour, as I understand it.

Mr. REID. I certainly will do that. I was not aware of that. Senator ADAMS obviously was not aware. I am sure it is at the staff level. We will proceed to see if we can work something out.

Mr. SIMPSON. Mr. President, I appreciate that, and I hope we can work that out. If not, he will certainly want to go forward tomorrow.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER The majority leader.

Mr. MITCHELL. Mr. President, I have discussed the matter with the distinguished Senator from Minnesota, who I am grateful to for his willingness to be accommodating. He has indicated that he is willing to lay his amendment down, if we can gain consent for that, to have 1 hour of debate, and then have the vote set for tomorrow morning. That would accommodate, I believe, the largest number of Senators and enable us to begin in the morning.

I notice the presence of the distinguished chairman of the Appropriations Committee. It does, require unanimous consent to proceed to this amendment, because Senator BYRD's amendment is the pending business. Therefore, I want to inquire whether it is agreeable with him.

Mr. BOSCHWITZ. I did not hear that.

Mr. MITCHELL. I am about to propound a unanimous-consent request which would temporarily lay aside the Byrd amendment for the purpose of bringing up the Boschwitz-Boren amendment, with 1 hour of debate equally divided, with the understanding between the sponsors and the managers that if additional time is desired at the conclusion of that 1 hour this evening, it would be granted, and that there be a vote on that measure the first thing in the morning. I am going to propose 9:30. Is that satisfac-

tory to the Senator from Minnesota, for tomorrow morning?

Mr. BOSCHWITZ. That is OK, Mr. President. I want to be sure that the Senators have time to consider the amendment when they arrive in the morning. When does the majority leader intend to go into session, at 9?

Mr. MITCHELL. The Senator from Minnesota has been so accommodating on this, which I must confess has been hard to come by in recent days, and I would like to be accommodating to him. Would the Senator prefer the vote at 10 o'clock?

Mr. BOSCHWITZ. Yes.

Mr. MITCHELL. That is what we will do, Mr. President.

Mr. CHAFEE. Mr. President, I wonder if the distinguished majority leader will yield for a question.

Mr. MITCHELL. Yes.

Mr. CHAFEE. I have the feeling that if we schedule the debate tonight and the vote tomorrow, some Senators might be leaving and might not be staying for the debate. That is a possibility. I know that most Senators will be reading their journals early in the morning to catch the full tone of the debate. But for those that do not, is there a possibility we might have a half hour on this in the morning, 15 minutes equally divided?

Mr. MITCHELL. Could we have 9:30 for debate?

Mr. BOSCHWITZ. Yes.

Mr. SYMMS. Reserving the right to object, I saw the amendment of the Senator from Minnesota a few days ago. Has it been changed substantially?

Mr. BOSCHWITZ. Not much, I say to the Senator from Idaho. It remains a small business amendment. It makes it more possible for the small businesses of America to comply with this complicated piece of legislation.

Mr. SYMMS. I thank the majority leader. I wanted to say that I have an amendment that I am prepared to offer at any time the majority leader is looking for an amendment.

Mr. BOREN. Reserving the right to object, Mr. President, let me ask, under the unanimous-consent request we are considering—I certainly favor that request—if in the course of the debate there is some minor modification of the amendment that might cause it to be acceptable to the mangers, would we be barred from modifying the amendment based upon this request or not?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader retains the floor.

Mr. MITCHELL. I have not yet propounded the request. If it is agreed to, the Senator is correct. The answer is, yes, it would be. I think if there is a minor modification made acceptable to the managers and all of us.

Mr. BOREN. I thank the Chair.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Byrd amendment be temporarily laid aside, that the Senator from Minnesota be recognized to offer an amendment on his behalf and that of the Senator from Oklahoma, that there be 90 minutes of debate on that amendment equally divided in the usual form, 60 minutes of which are to occur today, this evening, the remaining 30 minutes of which will occur between 9:30 and 10 tomorrow morning, each to be equally divided, both the 1 hour segment tonight and the 30 minute segment tomorrow morning, and that a vote on or in relation to the amendment occur at 10 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I again thank my colleagues.

Senators should be aware that, unless the matter is resolved before then, there will be a rollcall vote on or in relation to the Boschwitz-Boren amendment at 10 o'clock tomorrow morning. There will be 30 minutes of debate equally divided between 9:30 and 10 o'clock.

Following the Boschwitz-Boren amendment, it is my hope that we will be able to proceed to amendments to be offered by the distinguished Senator from Massachusetts, if he is ready to go at that time and the distinguished Senator from Washington.

Mr. MOYNIHAN. Mr. President, will the majority leader yield for a question.

Mr. MITCHELL. Yes.

Mr. MOYNIHAN. Will it be possible to obtain 2 minutes as if in morning business?

Mr. BOSCHWITZ. I know the Senator from New York wanted 2 minutes to offer a resolution, I am offering together with him. I have no objection.

Mr. MITCHELL. I am certain there will be no objection.

Mr. President, I ask unanimous consent that the Senator from New York be recognized to address the Senate for 2 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized.

Mr. MOYNIHAN. I thank the Chair.

(The remarks of Mr. MOYNIHAN pertaining to the submission of Senate Concurrent Resolution 106 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1345 TO AMENDMENT NO. 1293

(Purpose: To require States to adopt a small stationary source technical and environmental compliance assistance program)

Mr. BOSCHWITZ. Mr. President, the amendment I am offering today that has been the subject of discussion between myself and the majority leader, and I am offering it together with Senator BOREN, will, if enacted, help provide a positive atmosphere for small business compliance with the standards and deadlines imposed under the Clean Air Act reauthorization, that is S. 1630.

This bill, I point out to my friend from Rhode Island, would assist small businesses to comply with the very complicated piece of legislation that we have before us.

This amendment is cosponsored by Senators FORD, WALLOP, BUMPERS, GRASSLEY, SYMMS, MATSUNAGA, HATCH, HELMS, BURNS, KASSEBAUM, DOLE, SHELBY, PRYOR, MURKOWSKI, MACK, NICKLES, MCCONNELL, and KASTEN.

I very strongly support the passage of strong clean air legislation. Very frankly, Mr. President, S. 1630 is one of the most complicated pieces of legislation that I have ever encountered during my two terms here in the Senate. We have been debating this legislation here in the Senate for almost 2 months including the 3-week period in which the closed-door negotiations were held under the direction of the minority leader, the majority leader, and others.

Many difficult choices were made and many more must be decided before the bill is ready for final passage. I say that because for the average small business owner who has not been following this issue closely, Clean Air Act compliance is going to be very difficult and very expensive. At a minimum we in the Senate have an alternative obligation to help make compliance affordable. And really that is what—and I will say again to my friend from Rhode Island—that is what this amendment tends to do; it is to make compliance affordable and possible and to make it for those who lack the technical or financial resources to do so on their own.

Mr. President, I am proud to say that the Boschwitz-Boren amendment is strongly supported by the small business community. It has been endorsed by the Printing Industries of America, the National Small Business United, the National Federation of Independent Business, the American Furniture Manufacturers, the Small Business Legislative Council, and the National Association of Truck Stop Operators.

I would say that in the event that we were really going out and trying to get other associations, I suppose we could have loaded the RECORD with a number of associations who would support the idea that small businesses should comply with the act. I would say to my friend from Rhode Island, that is the purpose of this bill, and it is the purpose of our amendment to make that more possible.

At this point, I ask unanimous consent to print in the RECORD the letters of support from the organizations that I have just identified.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, March 16, 1990.

Hon. RUDOLPH E. BOSCHWITZ,
U.S. Senate,
Washington, DC.

DEAR RUDY: I am writing to urge you to cosponsor an amendment to the Clean Air Act Amendments (S. 1630), that will be offered by Senators Boschwitz and Boren. Their amendment establishes a small business compliance assistance program as part of the regulatory apparatus of S. 1630. The amendment absolutely does not provide a loophole or exemption for small businesses from the air quality standards of the Act.

The Boschwitz-Boren amendment, in our view, is an attempt to recognize that a cooperative, rather than a purely adversarial, attitude on the part of the government may help us all reach our air quality goals. Small firms just do not have the technical, administrative, or financial resources to cope with massive new regulatory and paperwork burdens without some assistance. This amendment is a compliance assistance measure not an avoidance assistance one—again, there is no loophole in it.

Small business owners want cleaner air and support having the government require changed business practices to achieve it. Small business owners live where they work and understand that everyone has to do their part to clean up the air—but they don't want to be strangled by the pollution of government redtape, bureaucratic inflexibility, and technical jargon. The Boschwitz-Boren amendment is an attempt to prevent that from happening.

I have attached the answers to some frequently asked questions about the amendment. I hope you will support Senators Boschwitz and Boren when they offer their amendment. If I can be of any further assistance on this matter, please don't hesitate to call. The vote on this amendment will be a Key Small Business vote for the 101st Congress.

Sincerely,

JOHN J. MOTLEY III.

Enclosure

MARCH 5, 1990.

Hon. RUDY BOSCHWITZ,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOSCHWITZ: The organizations listed below, representing more than 4,000,000 small businesses in the United States, urge your support of Senator Rudy Boschwitz's amendment to S. 1630, the Clean Air Act Reauthorization, which would provide for assistance and incentives to small businesses in their efforts to comply with the Clean Air Act. We anticipate this will be the major small business amendment to S. 1630 and the only amendment endorsed by the entire small business community.

This amendment does not provide for any exemptions to any part of the Act nor does it mandate any lesser standards for small business, although the amendment would allow the states to consider the technical and economic strength of a small company in writing compliance agreements. Significantly, the amendment will provide for incentives for small business to comply with the Clean Air Act and to take steps beyond the Act's requirements to reduce the emission of air pollutants from their companies. We believe this amendment, if properly implemented, will provide a mechanism through which the relationship between the regulators in the state and small business will change from adversarial to cooperative.

We would welcome your support of the amendment. Please contact any of the individuals listed below if you require any additional information.

Sincerely,

Benjamin Y. Cooper, Senior Vice President, Printing Industries of America, 841-8115; Joseph G. Gerard, Vice President, American Furniture Manufacturers Association, 466-7362; John Paul Galles, Executive Vice President, National Small Business United, 293-8830; John J. Motley, Vice President, Federal Government Relations, National Federation of Independent Business, 554-9000; John S. Satagaj, President, Small Business Legislative Council, 639-8500; and Howard N. Menaker, General Counsel, National Association of Truck Stop Operators, 549-2100.

CLEAN AIR COMPLIANCE ASSISTANCE FOR SMALL BUSINESS

DEAR SENATOR: Senator Boschwitz intends to offer an amendment to the Clean Air Act Amendments, S. 1630, which would help small businesses comply with the new requirements of the Act. On behalf of your small business owner constituents, I urge you to support Sen. Boschwitz's amendment.

The amendment establishes a program of technical and regulatory assistance for small firms that volunteer to be a part of it. The basic thrusts of the program are (1) to provide a mechanism to assist small businesses to come into compliance with the standards and requirements of the Act sooner and in greater numbers than they might without such help; and (2) to attempt to create a cooperative, rather than adversarial, regulatory environment.

NFIB members want clean air and are willing to have the government require changed business practices to achieve it; but they need some recognition of their technical and financial limitations. Sen. Boschwitz's amendment allows for that recognition without reducing any air quality standards of the Act.

I urge you to vote for small business and for clean air—vote for the Boschwitz amendment. It will be a Key Small Business Vote of the 101st Congress.

Sincerely,

JOHN J. MOTLEY III,
Vice President.

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, DC, March 6, 1990.

Hon. RUDY BOSCHWITZ,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BOSCHWITZ: On behalf of the Small Business Legislative Council (SBLC), I wish to call to your attention an amendment to be offered by Senator Rudy Boschwitz and others to help small business comply with the new clean air bill.

We believe this amendment merits your attention. As you know, all too often in legislative debates, unfortunately, you have to be against something in order to be "for small business." This amendment represents an opportunity to create a positive, cooperative climate to help small businesses comply with the law. It is a chance to be for small business and for clean air. It does not jeopardize the broad policy goals of the bill, it encourages compliance.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of over one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of over four million small businesses in manufacturing, retailing, distribution, professional and technical services, construction, transportation and agriculture. While our policies are developed through consensus among our membership, we respect the right of individual associations to express their own views. For your information, a list of our members is enclosed.

Sincerely,

HOWARD MENAKER,
Chairman, SBLC Committee on the Environment.

AMERICAN FURNITURE MANUFACTURERS ASSOCIATION,
Washington, DC, March 16, 1990.

MEMORANDUM

To: All Senators Having Significant Furniture Manufacturing Establishments in Their States.
From: Joseph G. Gerard.
Subject: AFMA Key Vote—Clean Air Compliance Assistance for Small Business.

Last week I sent to you an AFMA Key Vote memorandum on the Boschwitz Small Business Amendment to the Clean Air Act Amendments, S. 1630. This may be voted on early next week. As surprising as it may seem and despite all rational arguments, there will be some opposition. The amendment would help small businesses comply with the new requirements of the Act. On behalf of your small business owner constituents, I urge you to support Senator Boschwitz' amendment. To date, other Senators supporting the amendment include: Boren, Bumpers, Ford, Matsunaga and Dole. This is the Small Business Amendment for the Clean Air Act. In last week's memorandum Senator Breaux was listed as a supporter. He is not. We had relied on information that we later discovered was in error. We regret any confusion and trust this resolves the matter.

The amendment establishes a program of technical and regulatory assistance for small firms that volunteer to be a part of it. The basic thrusts of the program are (1) to provide a mechanism to assist small businesses to come into compliance with the standards and requirements of the Act sooner and in greater numbers than they might without such help; and (2) to attempt to create a cooperative, rather than adver-

sarial, regulatory environment. No exemptions for these firms would be created. AFMA members want clean air and are willing to have the government require changed business practices to achieve it; but they need some recognition of their technical and financial limitations. Senator Boschwitz' amendment allows for that recognition without reducing any air quality standards of the Act.

I urge you to vote for small business and for clean air—vote for the Boschwitz amendment. It will be an AFMA Key Vote of the 101st Congress.

Mr. BOSCHWITZ. I believe our amendment will strengthen the bill that is before us and will allow thousands of small companies to remain in business in big and small cities across the country, without sacrificing the goal of clean air, and we do not want to sacrifice the goal of clean air. I would say again to my friend from Rhode Island that is not the purpose of this amendment.

I know that the Committee on Environment and Public Works, under the leadership of Senators BURDICK, BAUCUS, CHAFEE, and DURENBERGER, have labored mightily to craft a bill that protects the environment without shutting down our economy. Our amendment seeks to build on that foundation and we think it will provide a positive framework for small business compliance with the Clean Air Act.

Mr. President, the Boschwitz-Boren amendment establishes a national small business environmental compliance assistance program.

First, the purpose of this program is to provide small businesses with necessary technical assistance to enable them to comply with the new clean air goals and deadline.

The PRESIDING OFFICER (Mr. FORD). If the Senator will allow the Chair to ask him a question at this point, the time does not start running until he submits his amendment and he has not sent the amendment to the desk. Is that the Senator's intention?

Mr. BOSCHWITZ. My intention, I would say to the distinguished President, is not to extend the time, that I have no objection if the time were to be charged against me. I will send the amendment to the desk then.

The PRESIDING OFFICER. It would follow the procedure if the Senator would send it to the desk and have it read and then the time would start running.

Mr. BOSCHWITZ. Fine. I have no objection to the time already used. I was going to present the amendment at the end, which is also proper.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Minnesota [Mr. BOSCHWITZ] for himself and Mr. BOREN, Mr. FORD, Mr. WALLOP, Mr. GRASSLEY, Mr. SYMMS, Mr. MATSUNAGA, Mr. HATCH, Mr. HELMS, Mr. BURNS, Mrs. KASSEBAUM, Mr. NICKLES, Mr. DOLE, Mr. BUMPERS, Mr. SHELBY, Mr. PRYOR Mr. MURKOWSKI, Mr. MACK, Mr. MCCONNELL, and Mr. KASTEN, proposes an amendment numbered 1345 to amendment No. 1293.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with

The PRESIDING OFFICER: Without objection, it is so ordered.

The amendment is as follows:

On page 34 of the amendment, between lines 15 and 16, insert the following:

(a) Section 110 of the Clean Air Act is amended by adding at the end the following:

"(c) SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM.—

"(1) Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator as part of the State implementation plan for such State or as a revision to such State implementation plan under this section, plans for establishing a small business stationary source technical and environmental compliance assistance program. Such submission shall be made within 24 months after the date of enactment of this subsection. The Administrator shall approve such program if it includes, as appropriate, the following:

"(A) adequate mechanisms for developing, collecting, evaluating, and coordinating information concerning compliance methods and technologies for small business stationary sources (as defined in paragraph (6));

"(B) adequate mechanisms for advising small business stationary sources on pollution prevention, including providing information concerning alternative technologies, process changes, chemical products, and methods of operation that help reduce air pollution;

"(C) a designated State office within the relevant State agency to serve as ombudsman for small business stationary sources in connection with the implementation of this Act;

"(D) a program for voluntary compliance Agreement for Term permits that meets the requirements of paragraph (B) of this subsection; and

"(E) adequate mechanisms to assure that small business stationary sources receive notice of their rights under this Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed of final regulation or standard issued under this Act.

"(2) The Administrator shall establish within 9 months after the date of the enactment of this section a small business stationary source technical and environmental compliance assistance program. Such program shall—

"(A) assist the States in the development of the program required under paragraph (1) of this subsection and section 112(m);

"(B) issue technical guidance for the use of the States in the implementation of these programs that includes alternative control technologies and pollution preventing methods applicable to small business stationary sources;

"(C) implement the program required under paragraph (1) of this subsection in any State that fails to submit an approvable program under this subsection;

"(D) assure that any Compliance Agreement for Term permit to implement a control techniques guideline issued under section 108 or 185, a standard issued under section 111, a regulation issued under section 185(c), or a standard issued under section 112 shall take into account the technical and financial capabilities of small business stationary sources, and any such control techniques guideline shall take into account such capabilities and where appropriate, separately categorize small business stationary sources.

"(3) The State (or the Administrator) shall establish a permit program under part B of title III for small business stationary sources located within a nonattainment area, ozone transport area, or subject to a standard under section 112. Such program shall provide that—

"(A) a small business stationary source shall have the option of obtaining a Compliance Agreement for Term permit under this subsection as a substitute for any general permit issued under section 353(e);

"(B) such Compliance Agreement for Term permit shall be developed after consultation with the small business stationary source or with duly authorized representatives of the small business stationary sources and shall expire not less than 3 years and not more than 5 years after the effective date of such permit;

"(C) Compliance Agreement for Term permits issued under this subsection to small business stationary source shall require compliance with applicable emission limitations, pollution control measures, and recordkeeping and reporting requirements under this Act: *Provided*, That methods of compliance with any such standard or requirement may be modified for a small business stationary source in such permit based on the technical and financial capability of the small business stationary source or group of sources and the availability of less burdensome alternatives, and, in particular, pollution prevention measures, that will achieve comparable environmental benefits consistent with the goals and deadlines of this Act;

"(D) any Compliance Agreement for Term permit issued to a small business stationary source under this subsection shall be issued in accordance with the procedures under part B of title III of this Act, and shall be subject to review by the Administrator, as provided in such part;

"(E) the State (or the Administrator) may reduce any fee required under this Act to take into account the financial resources of a small business stationary source;

"(F) requirements for continuous emission monitoring may not be imposed on a small business stationary source (or sources) unless the State (or the Administrator) has determined, on the basis of substantial evidence, that such requirements are necessary and appropriate; and

"(G) any owner or operator of a small business stationary source who is not regulated under this Act may apply for a Compliance Agreement for Term permit if such source meets the requirements of this subsection.

"(4) With respect to small business stationary sources, in exercising prosecutorial discretion under section 113(c) of this Act, in issuing orders under section 113(d) of this Act, or in determining the amount of any penalty to be assessed under this Act, the United States, the State, and the court shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to

comply, the duration of the violation as established by credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

"(5) Compliance with the terms and conditions of a permit issued in accordance with the requirements of part B of title III and this subsection shall be deemed compliance with all requirements of the Act that are explicitly addressed by such terms and conditions: *Provided, however,* That compliance with the terms and conditions of a permit so issued shall not alter, modify, or otherwise affect the authority of the Administrator under section 303 (emergency power) or the requirement to comply with any order issued under section 303.

"(6) For purposes of this subsection the term 'small business stationary source' means any stationary source of air pollutants regulated under this Act that emits or has the potential of emitting 100 tons per year or less of volatile organic compounds or any other criteria pollutant or pollutant regulated under section 112. The Administrator, in consultation with the Administrator of the Small Business Administration and after providing notice and opportunity for public comment, may exclude from this definition any category or subcategory of sources that the Administrator determines to have sufficient technical and financial capabilities to meet the requirements of this Act without the application of this subsection.

"(7)(A) The Administrator, acting through the Director of the Office of Small Business Advocacy (hereinafter referred to as the 'Director') to monitor the Small Business Environmental Compliance Assistance Program under this subsection. In carrying out such monitoring activities the Director shall—

"(i) render advisory opinions on the overall effectiveness of the Small Business Environmental Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(ii) make periodic reports to the Congress on the compliance of the Small Business Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(iii) review information to be issued by the Small Business Environmental Compliance Assistance Program for small business stationary sources to ensure that the information is understandable by the layperson; and

"(iv) have the Small Business Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(8)(A) There shall be created a Compliance Advisory Panel (hereinafter referred to as the Panel) on the State level of not less than 7 small business owners. This Panel shall—

"(i) render advisory opinions concerning the effectiveness of the Small Business Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(ii) make periodic reports to the Administrator concerning the compliance of the State Small Business Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(iii) review information for small stationary sources to assure such information is understandable by the layperson; and

"(iv) have the Small Business Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(B) The Panel shall consist of—

"(i) 2 members selected by the Governor;

"(ii) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the lower house, or in the case of a unicameral State legislature, 2 members each shall be selected by the majority leadership and the minority leadership, respectively, of such legislature, and clause (iii) shall not apply);

"(iii) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the upper house, or the equivalent State entity); and

"(iv) 1 member selected by the head of the department or agency of the State responsible for air pollution permit programs.".

The PRESIDING OFFICER. Without objection the time used shall be charged to the Senator from Minnesota.

Mr. BOSCHWITZ. Fine.

Again, Mr. President, the purpose of this amendment is to establish a national small business environmental compliance assistance program. The purpose of the program is to provide small businesses with necessary technical assistance to enable them to comply with the new clean air goals and deadlines.

It provides a regulatory procedure geared to the management, economic, and technical limitations of a small business.

It will provide a positive incentive for small businesses that choose to apply for a permit, when they otherwise might not have to, in exchange for a fixed term of at least 3 years but no more than 5 years, so that in the event the small business has to make an investment, that it will at least know that the investment is good for a 3-year peirod or up to a 5-year period.

Thousands of small businesses will be subject to clean air regulations for the first time under S. 1630. They do not object. But if we expect small businesses to invest thousands of dollars to purchase new equipment or alter their manufacturing procedures, we must provide them with some certainty that their investment will not be wasted by a change in regulations during the term of the permit. Once completed, the permit cannot be altered without some evidence that renegotiation is required in order for a State to comply with the Clean Air Act.

I would hope, Mr. President, that my friend from Rhode Island would listen to a really careful explanation of the amendment.

Companies eligible for a small business compliance permit under our amendment are those that have the potential to produce emissions no greater than 100 tons per year of volatile organic compounds or any other pollutant regulated under the Clean Air Act.

We have been willing, as I mentioned to the Senator, to change that definition so that it will be applied to small businesses as defined by the Small Business Administration Act. The Administrator may, however, after consultation with the Administrator of the Small Business Administration, exclude from the program any source or category of sources found to have sufficient technical and financial capability to meet and comply with the requirements under the act.

There has been some concern raised about the standard we have chosen for designating eligible small companies. Some have argued that the standard in our amendment leaves room for the possibility that big companies with financial and technical resources will be eligible for individual attention under the Boschwitz-Boren small business program. I strongly disagree with that assertion. The Administrator and the States retain the absolute authority to exclude by regulation any source or sources which are determined to have the technical and financial resources to comply with the goals and standards established under S. 1630.

I would say again that the purpose of this amendment is not to diminish the Clean Air Act. The purpose of this amendment is to give small businesses an opportunity to comply. This is a technical and complicated piece or legislation. Small businesses simply are not geared, in most instances, to comply with this bill. So that this would establish a procedure that they could indeed comply and that they could come into compliance with the clean air provisions.

In addition, eligibility for the program established by our amendment does not, by itself, get a permit applicant anything more than the opportunity to work with a regulator on figuring out how to comply, given the unique characteristics of a given business.

I will repeat that again for my friend, particularly from Rhode Island. This does nothing other than get the permit applicant the opportunity to work with the regulators and figure out how to comply with the bill.

Our amendment does not alter the standards and deadlines imposed under S. 1630. The EPA and the States retain their discretion to reject the method of compliance proposed by the small business. Ultimately, of course, the permit issued to a small business must lead to emission reductions mandated by the act.

Let me speak about the structure of the program.

The Federal Environmental Protection Agency will be required to establish a small business compliance program;

Each State must establish an equivalent program in order to gain approval of a new or revised State Implementation Plan (SIP);

If a State fails for some reason to establish a program for small business compliance, then the Federal Government must step in and establish the program.

Let me now describe the small business compliance program.

Each State and the Federal Government will be required to establish a small business compliance program that does the following:

First, gathers information on compliance methods and technologies for small businesses;

Second, provide adequate means of advising small business on pollution prevention, including information on alternative technologies, process changes, chemical products, and methods of operation which help reduce pollution;

Third, establishes adequate means of notifying individual small businesses of their right to obtain a permit under this program, with adequate time to evaluate alternative compliance methods; and

Finally, ensures the right of a small business to receive individual attention regarding the development of their clean air permit, taking into account their technical and financial capability.

Let me be clear again about one thing. This amendment does not provide any exemption or waiver for small business under the Clean Air Act. The bill's deadlines are left intact; relevant environmental standards are untouched. In fact, we have adopted the language proposed to us by the committee staff in the area of standard setting and permit issuance. All we seek is some flexibility for small businesses in figuring out how to comply with the standards and deadlines. If a small business elects not to obtain a permit under our amendment, it will be subject to the permit standards and procedures imposed under S. 1630.

So that if it does not decide to go under the plan that we have, it then falls under the bill's laws.

Thousands of small businesses across the country, dry cleaners, who are so often talked about in this debate, auto body repair shops, print shops, bakeries, and other are going to become subject to comprehensive clean air regulation once S. 1630 is fully phased in. They will in most cases be unclear what options are available to them in order to comply and stay in business. The Boschwitz-Boren amendment, if enacted, will ensure that State and Federal regulators share technical compliance information with small businesses and work with them to ensure that the level of compliance satisfies the overall goals and objectives of the Clean Air Act as amended by S. 1630.

Let me now speak, if I may, for a moment about small business enforcement.

In spite of the earnest efforts of small business to comply, some will fail. Given the complexity of this legislation, I am confident the vast majority of businesses that fail to comply with the Clean Air Act will do so through honest error, such as by failing to document something properly or by forgetting to file a document when required.

In the event a company fails to comply, I want to be certain that issuance of sanctions or fines or criminal charges focuses on companies that have acted with reckless disregard for the rights and safety of others or with a clear intent to violate the law. If we do not make this distinction, we will drive underground the very small businesses we want to comply voluntarily with the act.

Under our amendment, compliance with the terms and conditions of a permit constitutes compliance with the act. Further, in determining whether to seek a civil or criminal sanction against a small business for a violation of the act, our amendment specifies that the State and Federal Government, as well as a judge hearing a civil or criminal case, must consider factors such as the size of the business, the economic impact of the proposed penalty on the business, the violator's record of compliance, good faith efforts to comply in the case under consideration, and the seriousness of the violation.

Mr. President, passage of the Boschwitz-Boren amendment will not deter efforts to rid this country of unacceptable levels of air pollution. It creates no loopholes, extends no deadlines, waives no requirements. Instead, it seeks to establish a framework whereby small businesses will be encouraged to comply, will be supported in their efforts to comply, and if they fail through inadvertence, are not treated as common criminals.

This legislation we are considering today is very complicated. It will be very expensive for big and small businesses to comply in many cases. I think we are obligated to assist the small business community in its efforts to comply. Adoption of our amendment will help us achieve that goal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I would be happy to yield to the distinguished Senator from Rhode Island if he wishes to proceed. I was just going to make some remarks about the amendment.

Mr. President, I wonder if the Senator from Minnesota might yield to me 5 minutes.

Mr. BOSCHWITZ. I yield such time as the Senator may require.

The PRESIDING OFFICER. The Senator from Oklahoma has such time as he desires under the unanimous-consent agreement.

Mr. BOREN. I thank my colleague from Minnesota, and I thank the Chair.

Mr. President, I am proud to join my colleague from Minnesota [Mr. BOSCHWITZ] in offering an amendment to provide technical assistance to small businesses seeking to comply with the new clean air regulations. To have an effective clean air bill we must insure that our Nation's businesses will be able to meet the many new and often confusing standards laid forth in the legislation. This amendment has already been cited by representatives of over 4 million of our Nation's small businesses as the single most important measure we will consider on clean air as it impacts small business.

This amendment will require the Environmental Protection Agency and each State to establish a small business environmental compliance assistance program. Any of our Nation's small businesses that emit 100 tons or less of regulated pollutants per year would qualify for this program should they choose to participate. If a small business opts not to participate in the technical assistance program, they will still be expected, nonetheless, to comply with the act's requirements and deadlines as pertains to their particular sources.

Small businesses that utilize the assistance program provided through this amendment will enter into a 5-year compliance agreement, negotiated with the appropriate State or Federal agency. The agency negotiating the 5-year compliance agreement will consider such factors as the economic and technological limitations of the small business and alternatives to costly pollution control technologies.

Mr. President, It only makes good sense to consider such factors as economic and technological limitations of small businesses. Any time we enact legislation, we as a body have a duty and a responsibility to consider all the possible consequences of our actions. The Senate would not be acting responsibly if we were to pass laws without including in our decision a recognition of the impact such a law would have on a family's livelihood. Small businesses are the backbone of our Nation's economy, so let us not fail to understand the many difficult challenges that these businesses face daily. Our intention in enacting clean air legislation is not to place such onerous burdens on our Nation's small businesses

that they feel they cannot comply with the rules and regulations.

Most importantly, Mr. President, this amendment will require Federal and State agencies to provide small businesses with the technical assistance in order to meet the standards in the compliance agreement. All of us debating the clean air standards are fully aware of how complicated and often baffling these new regulations will be. Most of the small businesses that will now be forced to comply with S. 1630 have never before fallen under these clean air mandates and simply do not have the technical expertise nor the resources to meet the bill's vigorous enforcement standards. Because we want clean air legislation to be fully complied with and adhered to, we must enable smaller businesses with fewer resources and greater demands to meet clean air requirements.

Mr. President, I would like to remind my colleagues of the importance of small business to our Nation's economy and to our Nation's people. Just a few quick statistics easily prove my point: 99 percent of our Nation's employers are small business owners; 58 percent of our Nation's private sector employees work for small businesses; and 39 percent of our GNP is a result of our Nation's small businesses. Obviously, Mr. President, we can not afford to let small businesses fail. But without assistance, many small businesses could be overwhelmed by the new clean air requirements. Did my colleagues know that 55 percent of our Nation's innovations come from our small businesses? But even the most innovative business leaders will have a difficult time understanding these regulations if they have never dealt with clean air requirements in the past and do not have technical and scientific experts already on staff.

As an Oklahoma Senator I simply can not afford to turn my back on the special needs of small businesses. Of the 300,000 new jobs created in Oklahoma between 1976 and 1986, small businesses contributed 62 percent of these jobs.

I might say, Mr. President, nationwide, with respect to either new businesses or businesses that had 10 employees or less, the growth of those jobs, which are the creation of new small businesses, accounted for more than two-thirds of all the new jobs created in the economic growth in our country during the previous decade. In a State facing severe economic hardships, small businesses have kept food on our families' plates.

This amendment will be the answer to the difficult question small businesses are now facing about how they could possibly understand and implement the new clean air requirements. I hope all of my colleagues will join Senator BOSCHWITZ and me in supporting what small business leaders cite as the single most important clean air amendment we will consider in meeting their unique and important needs.

Mr. President, I want to emphasize again to my colleagues, including the managers of this bill, the managers on both sides of the aisle, this amendment is not aimed at reducing the standards for small business. This amendment does not create any loophole, as some people have been misled into believing. It does not relax the standards which small businesses must meet. It simply allows help to small businesses, help in the form of technical assistance, help in working out an agreement that will allow the small businesses to meet these standards in the most cost-effective way and with practical technologies that are available to them as small businesses. It engages for once the agencies of our Government to help small businesses instead of imposing additional burdens on them.

Every time I have an opportunity to speak with my constituents I hear, Mr. President—and I will bet it is true of the Presiding Officer tonight, as he goes home to the great State of Kentucky, I will bet it is true of my colleague, Senator SIMPSON, when he goes home to Wyoming and goes up and down among the businesses on the small streets in the communities of his State, I am sure it is true in Rhode Island, and I am sure it is true in Montana—what is really strangling the small businesses of this country? What is really casting a burden upon them which they cannot meet? It is legislation which we have passed with all good intentions, which it is relatively easy for large business enterprises to comply with, these regulations that we pass, and legislation which we pass, because they have the technical expertise to do it, because they have a staff of lawyers and accountants and people to provide technical assistance, and data processors to provide programs for developing the information required in Government reports and Government regulations.

Mr. President, small businesses just do not have those resources. And many man- and woman-hours and days are spent by those who try to conduct small businesses in this country, trying to comply, as they will, with regulations and with provisions of laws which we pass.

Mr. President, this is an opportunity to send a strong message to small businesses in this country. "We understand your plight. We know you do not have a staff of experts in a small business to deal with new regulations and new standards. We know you want to play your part in creating a clean environment. But we are prepared for once not to have the Government as your adversary. We are prepared, for once, to recognize your problems and establish a mechanism for working with you and helping you to understand the law and the requirements and the technologies required so that together we can form a partnership that will benefit the environment of this country and will allow many small businesses to stay in operation and for once have a positive feeling about their Government that they support with their tax dollars. We will give help from that Government in terms of dealing with regulations instead of more burdens being placed on small businesses that do not have the technical expertise."

I hope my colleagues will seriously consider this amendment. I hope they will understand it for what it is. I want to vote for this bill. Many of my colleagues want to vote for this bill. We are concerned about the environment. But I do not want to vote for legislation that puts impossible burdens on small businesses, that they do not have the technical capability of dealing with.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, first of all, I would say this. When the distinguished Senator from Minnesota listed the cosponsors, one of them was Senator DOLE, the minority leader. I have since spoken to Senator DOLE.

The PRESIDING OFFICER. Will the Senator from Montana yield time to the Senator from Rhode Island?

Mr. BAUCUS. Mr. President, I yield such time that the Senator from Rhode Island desires.

The PRESIDING OFFICER. The Senator may proceed.

Mr. CHAFEE. I just want to say I have since spoken to Senator DOLE and I think tomorrow he will indicate that he no longer wishes to be a cosponsor of this. I will leave that for him, but I just wanted to make that point here now.

Second, I would like to say this amendment is being offered by two very thoughtful, intelligent Senators who have made a great many contributions in the deliberations on the floor of this Senate. And, therefore, it is with some reluctance that I have to oppose it.

Why? Because the amendment they have presented is far too broad to accomplish the purpose that they have set out to accomplish. We have been working diligently with the staff of the distinguished Senator from Minnesota to revise the amendment so it could protect the interests of small sources in a way that does not destroy the fundamental efforts that we are attempting to achieve under this clean air legislation. But so far, unfortunately, we have been unable to agree on mutually acceptable language.

Let me briefly point out some of the factors that are involved in this amendment. First, they wish to set up a designated contact for "small sources" in each State to work with those sources to help them comply with the requirements of the Clean Air Act.

Who could be against that? We are not. That is perfectly agreeable.

Second, they want to establish a system at both the Federal and State level to assure that technical assistance will be provided to small sources to help these small sources in their efforts to comply with the act. Fine. Agreed to.

Third, they want small sources to have some assurance that compliance with a permit issued to them under the act will protect them against disruptions by the Government or against allegations they are not in compliance. Fine. Agreed to.

These are good ideas, and they should be incorporated into the legislation. I would be pleased to join, as I am confident the distinguished Senator from Montana would be, with the sponsors of this amendment to effect the proposed changes to the Mitchell-Dole agreement to accomplish these goals. In fact, I have submitted revised language to the sponsors of the amendment that will do exactly that.

However, Mr. President, we cannot agree to the amendment in its present form. The reason is simple. As currently drafted, this amendment goes far beyond what the proponents indicate they seek and wrecks several carefully crafted provisions of the act that are fundamental to the act itself. It clearly, I might say, violates the bipartisan agreement that we reached that took many hours of negotiations with the administration.

This is described as a technical assistance program for small business but, in fact, Mr. President, this amendment would undercut health and technology standards for air toxics and urban smog——

Mr. BOSCHWITZ. Will the Senator yield?

Mr. CHAFEE. If I might finish, please. Urban smog would undermine the efforts we made, it would shield new industries from new regulations and waive current enforcement provisions for criminal violations of the law.

Just listen to this one, Mr. President. I wonder if the sponsors of the amendment are totally aware of what this does. In the act, we provided that a plant that emits air toxics in a sum total of 25 tons, or 10 tons of a single air toxic, is subject to these regulations, is subject to MACT, maximum achievable controlled technology. What this amendment does, it pushes that up to 100 tons. If you are in it less than 100 tons, you will get special dispensation, special rules, and that is to take care of so-called small business.

Mr. BOSCHWITZ. Will the Senator yield?

Mr. CHAFEE. No, I do not choose to yield. I am on my own time.

What are we talking about? We are talking small business, less than 100 tons, the Senator said. Pratt & Whitney Corp., 87 tons a year. Hammer Mill Paper Co., 97 tons. Bethlehem Steel, 82 tons. Uniroyal Chemical, 73 tons. Du Pont, 61 tons a year. Under their definition, these are small businesses. I wonder if the sponsors have been through this amendment carefully—I do not mean to be facetious—because I just think they have gone way too far in what they are attempting to do. We are talking air toxics.

Now, in the VOC's, the volatile organic compounds, we have 100 tons, yes. That is a limit. But we have other factors under certain conditions you can go below that to regulate.

This amendment defines small source as one which emits less than 100 tons of VOC's or air toxics without regard to any other business characteristics, such as the number of employees or annual revenues. As I said, many Fortune 500 companies would qualify as small sources under this amendment. They would be able to postpone compliance with the new regulations. They would be able to negotiate with State agencies in the conditions of their permits. That is what they have in the amendment. They would be able to negotiate with the States on their permits. You can see them coming in. They would be under the 100 tons. Our legislation says at 25 tons you have to comply. But they say up to 100 tons, you are entitled to these special provisions; you can negotiate with the State on what to do.

Any State that has a business like Du Pont, Bethlehem Steel, or Uniroyal, is going to be watching over them carefully, because that is jobs. When they come in to negotiate, they are going to say, "Oh, you are all right; you qualify as a small business. We are not going to put it to you in any harsh way because you are so important to our economy."

The amendment requires EPA to take into account the technical and financial capabilities of these small sources when writing national health and technology standards for hazardous air pollutants and the control of urban smog.

The Mitchell-Dole amendment, the agreement we are working on, incorporates a carefully balanced weighing on the costs and technical factors in setting these standards. This amendment would weaken those authorities by creating a loophole that would invite EPA to soften these standards whenever possible. It is inconsistent with the agreement of nonattainment and air toxics which we reached with the administration.

Although we wholeheartedly support a technical assistance program for small businesses to encourage compliance—these are the three points the sponsors came forward with—we support those. We do not argue with those. We do not want to undermine these health and technology standards I mentioned before.

I do not think, Mr. President, there is a need to choose between maintaining the integrity of the Clean Air Act and doing something about helping small business.

I find it difficult to understand why we cannot reach an agreement here. Knowing these two proponents of this amendment, I know they do not want to have air toxics blowing all over the countryside and destroying the health of the citizens of this country. Nobody says they want to do that. But, unfortunately, this act provides all kinds of loopholes that can lead to that.

I feel disappointed we have not been able to reach some kind of agreement.

Mr. BOREN. Will the Senator yield for a question?

Mr. CHAFEE. Sure.

(Mr. LEVIN assumed the chair.)

Mr. BOREN. I ask my colleague from Rhode Island—and I have great respect for him and we have worked together on many matters in the Senate, both on the floor and in the committee—I ask my colleague: Is it essentially a problem of the 100 tons as opposed to 25 tons and the problem of a lack of additional definition, let us say perhaps the SBA definition of what constitutes a small business; is that really the problem?

In other words, if this figure were 25 tons as opposed to 100 tons and we included in it the definition of small business that has been applied to Federal law, is this something the Senator from Rhode Island would be willing to consider?

It certainly is not the intention of this Senator, and I am sure it is not the intention of the Senator from Minnesota, in opening the doors to undercut the bill in any way. This Senator has consistently been voting against killer amendments. I am very concerned about the impact on small businesses. I know the Senator from Rhode Island hears this every time he walks into a small business, as I do.

You people in Washington do not understand our problems. We do not have a lot of engineers, accountants, tax lawyers, et cetera, to help in complying with regulations.

That is what we are trying to do. Will the Senator be willing to consider perhaps some modifications that we could discuss with him about the number of tons and perhaps the definition of small business?

Mr. CHAFEE. Obviously, I have to consult with my colleague, the distinguished chairman of the subcommit-

tee; but, yes, the Senator put his finger on the problem that bothers me. One hundred tons is a lot of emissions, and we are talking toxics here. This is not VOC's; these are toxics. To say that 100 tons we are going to treat in some special manner because somehow that qualifies as a small source I find deeply disturbing.

I know, I repeat, I know both the distinguished sponsors of this amendment are not casual about the health of our people. So I would hope we could work something out.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I thank the Chair. I am only wondering how much time has elapsed during this debate?

The PRESIDING OFFICER. The Senator from Minnesota has 3 minutes and 55 seconds, and the Senator from Montana has 18 minutes and 9 seconds.

Mr. BAUCUS. I am sorry, could the Chair please repeat those times?

The PRESIDING OFFICER. The Senator from Minnesota has 3 minutes and 55 seconds; the Senator from Montana has 18 minutes.

Mr. BAUCUS. Parliamentary inquiry. Did I hear the Chair say that the Senator from Minnesota has approximately 3 minutes left?

The PRESIDING OFFICER. Three minutes 55 seconds.

Mr. BAUCUS. Mr. President, at the appropriate time, I will yield some more time to the Senator from Minnesota.

The goal of the amendment offered by the Senators from Minnesota and Oklahoma is very laudable. The goal is to provide technical assistance to small business, to help small business.

Unfortunately, it is in the nature of a blunderbuss amendment. I do not mean to be critical or denigrate the effect of the amendment, but it lumps air toxics as well as VOC's together in the 100-ton category.

Now, I point out that there is a major difference between air toxics and volatile organic compounds, and the committee and the group that negotiated the compromise spent many hours, many days and weeks, trying to determine what the precise levels should be. Air toxics are much different than VOC's.

As the Senator from Rhode Island has pointed out, the bill has 100 tons per toxic, or 25 in combination, before MACT is required, and permits and enforcement provisions begin. To raise that to 100 tons would virtually delete two-thirds of all the sources from review—two-thirds. We are talking again about air toxics. This is really massive stuff.

Mr. BOSCHWITZ. If the Senator will yield——

Mr. BAUCUS. I will yield at a later moment.

In addition, our compromise, our agreement, the substitute that is before the body, also allows States to control to lower than 100 tons if they so choose. And I might point out to Senators, over one dozen States are already controlling sources that emit less than 100 tons a year.

It is my experience that States tend to be a little more sensitive to these kinds of concerns than not. The effect of the amendment that we are presently debating would preempt those States. It would say, "OK, States, you cannot reduce their limitation to lower than, you cannot have a cutoff level that is lower than 100 tons."

In addition, the Senator from Rhode Island has accurately pointed out that as the amendment is presently drafted, there are lots of loopholes, lots of exceptions, lots of ways in which sources that emit, say, less than 100 tons per year of either VOC's or air toxics would in effect be exempt.

I do not think that is the intent of the Senators from Minnesota and Oklahoma. They are trying to address the problems of small business. Unfortunately, they have crafted an amendment which allows a lot of bigger business off the hook. It is not really a small business amendment. Tonnage emission does not correlate very well to the number of employees in a firm; which is to say, this is not a small business amendment; this is a tonnage amendment; this is an emissions amendment. It is not a small business amendment.

I strongly urge Senators, frankly, to withdraw their amendment so that perhaps overnight or at a later date we can work out a true, good, solid, small business technical assistance amendment.

As I discussed earlier with the Senator from Minnesota, he told me that he has no intention of letting firms that emit more than 10 tons of air toxics to conform to a lesser standard than those firms that emit less. That is, he would apply MACT; he would apply the permits and the enforcement provisions; he would apply all of the same requirements with which larger size firms have to comply. So I think this amendment as it is presently drafted is flawed.

I am happy to yield to the Senator from Minnesota.

Mr. BOSCHWITZ. We do not intend to change the law with respect to these companies. We do not intend to let anybody off the hook. That is not the purpose of this amendment.

If the amendment is so drawn that the Senator from Montana or the Senator from Rhode Island believes that we have done that, we will redraft it or we will negotiate on the tonnage.

The Senator from Rhode Island says that the Fortune 500 companies are going to be excluded. I would point out that in my statement I said that the administrator may, after consultation with the Administrator of the Small Business Administration, exclude from the program any source or category of sources found to have sufficient technical and financial capability to meet and comply with the requirements under the act.

So I presume that all the people——

Mr. BAUCUS. Mr. President, I am wondering if the Senator would agree to a temporary quorum call. Maybe we can work this out in the next 5 to 10 minutes.

Mr. BOSCHWITZ. Sure.

Mr. BAUCUS. Perhaps we can come up with a provision that is acceptable to both sides.

Mr. BOSCHWITZ. Fine. I will agree to a quorum call.

I will try to work out this amendment in a manner that is agreeable. But the Senator from Rhode Island says that we are seeking to postpone compliance. It is not my understanding of the amendment we have before us that we are trying to get people to come out from under the necessity of complying. That is not it at all.

This is an amendment, as I described it to the Senator from Montana, to try to provide technical assistance to small businesses. If the Senator from Montana or the Senator from Rhode Island wants to change the definition of what is a small business to a small business as defined by the Small Business Administration and the acts that apply to it, that would suit us just fine. We are not trying to eliminate coverage. We are trying to see to it that this extraordinarily technical piece of legislation be made adaptable to the needs of small business.

I yield the floor.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. The Senator from Minnesota has 2 minutes 51 seconds left, I should alert Senators, and the Senator from Montana has 11 minutes 25 seconds.

Mr. BAUCUS. Mr. President I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I think we have made significant progress informally on this amendment. We have reached an agreement in broad out-

lines on the amendment. There is, however, one point on which there may not yet be agreement. But let me just very roughly explain the parts of the amendment to which we agreed.

No. 1, that there be a mandatory small business technical assistance program that would be set up that would apply to businesses as defined by EPA in reference to the Small Business Act.

No. 2—this is the point that is in disagreement—the States would either be mandated or States would have the discretion to set up an alternate compliance system for small businesses that emit less than 100-tons-per-year VOC's except for serious and extreme areas where it would be 50-tons-per-year. That is the same provision that is in the substitute amendment before the Senate. In addition, the alternative system, whether it is discretionary or mandatory, would apply to toxics where the source emits either less than 10 tons per single toxic or 25 tons if the emissions are in combination, if different toxics are in combination of 25 tons per year, and also if the firm meets the definition of a small business as defined by the EPA, again in reference to the Small Business Act.

That is essentially the board outlines. The point in disagreement, the point not yet determined, is whether that alternative compliance provision would be mandatory or discretionary. It is my very strong opinion, Mr. President, that it should be discretionary, the reason being I think we should not preempt States who wish to have a certain different standard as they regulate VOC or toxic emissions.

But that is the point in disagreement. As I understand it, the proponents of the amendment will overnight determine whether or not they wish to agree with the discretionary version, in which case we will agree with the amendment, or whether they want to push the mandatory version in which case I, as one of the managers of the bill, would be constrained to oppose the amendment.

Mr. CHAFEE. Mr. President, one minor correction. The 50-ton on the VOC's would apply to severe and extreme areas.

Mr. BAUCUS. The Senator is correct.

Mr. CHAFEE. Not serious—"severe and extreme" only.

Mr. BAUCUS. That is correct. Not serious, but only severe and extreme.

Mr. BOSCHWITZ. Mr. President, the managers of the bill have expressed the understanding that I have of the understanding that we have. I do not think that it will change between now and tomorrow morning because we want to go home, and probably we will not discuss it much further this evening. I believe we will come back tomorrow morning and make up our minds on really what is the distinction between us and the differences between us. But I must tell my friend from Montana that I give him no assurance that we will agree on this point, and we may change our minds on the other but I do not think so.

Mr. BAUCUS. Mr. President, I very much appreciate the comments of the Senator from Minnesota. I trust he will look forward to a good evening so tomorrow morning we can resolve this very efficiently.

Mr. President, I also suggest, since there appears no purpose to continue, that both sides yield back the remainder of the time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CHAFEE. Tonight's time.

Mr. BAUCUS. Tonight's time.

The PRESIDING OFFICER. All time is yielded.

Mr. CHAFEE. Yes. All time is yielded on this side.

The PRESIDING OFFICER. All time is yielded on that condition.

MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL AGRICULTURE DAY

Mr. SANFORD. Mr. President, I rise today to salute the farmers and their significant impact on American life. We are reminded of their contributions every day when we sit down with our families to enjoy healthful and bountiful meals.

Agriculture is the base of viable rural communities and a strong society. Our American system of farming is the most efficient system of food and fiber production in the world.

Debate is underway in the 101st Congress on legislation to replace the expiring Food Security Act of 1985. The omnibus food and agricultural legislation will continue a 57-year history of Federal farm programs that date back to the Agricultural Adjustment Act of 1933. I, along with my colleagues, intend to reaffirm the historic policy of the United States to foster and encourage the farm system of agriculture in this country.

Times have not always been easy for the farmer. Our farmers have had to endure fluctuations in the weather and in market forces. To sustain themselves in the face of constant changes in the agricultural environment, they have learned to diversify to survive, and we have all benefited from these efforts.

From the beginning, farmers were active in shaping the fledgling America. They had to overcome significant barriers to find unique solutions to a host of problems.

Of great significance is the positive impact the farmer has had on the local community. Farmers are active in civic, charitable, and religious activities. Their efforts create jobs thoughout the community. They are energetic and emphatic advocates of the industry to which they have devoted their life. Their sense of community has remained steady.

I am proud to salute the American farmer. The farmers' outstanding work is a shining example of what people can accomplish by working together for a common goal. I thank the farmers for their service and dedication, and wish them continued success in the years and decades head.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, and a treaty which were referred to the appropriate committees.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

NATIONAL SECURITY STRATEGY—MESSAGE FROM THE PRESIDENT—PM 101

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

To the Congress of the United States:

In accordance with section 603 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 50 U.S.C. 404a), I hereby transmit the annual report on the National Security Strategy of the United States, 1990.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1990.*

ANNUAL REPORT OF THE ACTION AGENCY—MESSAGE FROM THE PRESIDENT—PM 102

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with section 407 of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 5047), I transmit herewith the Annual Report of the Action Agency for Fiscal Year 1989.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1990.*

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on March 15, 1990, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following joint resolutions, without amendment:

S.J. Res. 229. Joint resolution to designate April 1990 as "National Prevent-A-Litter Month"; and

S.J. Res. 243. Joint resolution to designate March 25, 1990 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

The message also announced that pursuant to the provisions of Public Law 96-388, as amended by Public Law 97-84, the Speaker appoints on the part of the House Mr. Lantos, to the U.S. Holocaust Memorial Council to fill the existing vacancy thereon.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 243. Joint resolution to designate March 25, 1990, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

Under the authority of the order of the Senate of January 3, 1989, the enrolled joint resolution was signed on March 15, 1990, during the recess of the Senate, by the President pro tempore [Mr. BYRD].

MESSAGES FROM THE HOUSE

At 11:05 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1347. An act to amend the Panama Canal Act of 1979 with respect to compensation for certain members of the Panama Canal Commission, to extend retirement eligibility, and for other purposes; and

H.R. 2843. An act to establish the Tumacacori National Historical Park in the State of Arizona.

ENROLLED JOINT RESOLUTION SIGNED

At 2:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 229. Joint resolution to designate April 1990 as "National Prevent-A-Litter Month".

At 3:13 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2692. An act to amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life shall be members of the Board of Trustees of the Woodrow Wilson International Center for Scholars.

At 4:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, without amendment:

S. 1091. An act to provide for the striking of medals in commemoration of the bicentennial of the United States Coast Guard;

S. 2231. An act to amend the Energy Policy and Conservation Act to extend the authority for titles I and II; and

S.J. Res. 190. Joint resolution designating April 9, 1990, as "National Former Prisoners of War Recognition Day".

The message also announced that pursuant to the provisions of section 276a-1, of title 22, United States Code, the Speaker appoints to the delegation to attend the Conference of the Interparliamentary Union to be held in Nicosia, Cyprus, on March 30 through April 17, 1990, the following Members on the part of the House: Mr. FEIGHAN, Chairman, Mr. SCHEUER, Vice Chairman, Mr. BROWN of California, Mrs. BOGGS, Mrs. PATTERSON, Mr. BATES, Mr. HAMMERSCHMIDT, Mr. BILIRAKIS, and Mr. BLAZ.

ENROLLED BILL SIGNED

At 5:23 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading, clerks, announced that the Speaker has signed the following enrolled bill:

S. 2231. An act to amend the Energy Policy and Conservation Act to extend the authority for titles I and II.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1347. An act to amend the Panama Canal Act of 1979 with respect to compensation for certain members of the Panama Canal Commission, to extend retirement eligibility and for other purposes; to the Committee on Armed Services.

H.R. 2692. An act to amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life shall be members of the Board of Trustee of the Woodrow Wilson International Center for Scholars; to the Committee on Rules and Administration.

H.R. 2843. An act to establish the Tumacacori National Historical Park in the State of Arizona; to the Committee on Energy and Natural Resources.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on March 15, 1990, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 243. Joint resolution to designate March 25, 1990, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2539. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual report of the Forest Service for fiscal year 1989; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2540. A communication from the Secretary of Defense, transmitting, pursuant to law, a report entitled "Allied Contributions to the Common Defense"; to the Committee on Armed Services.

EC-2541. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Egypt for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-2542. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report on the Panama Canal Treaties for fiscal year 1989; to the Committee on Armed Services.

EC-2543. A communication from the Acting General Counsel of the Federal Emergency Management Agency, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1991 to implement the Federal Civil Defense Act of 1950; to the Committee on Armed Services.

EC-2544. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 47 of title 10, United States Code (Uniform Code of Military Justice), to improve the quality and efficiency of the military judicial system; to the Committee on Armed Services.

EC-2545. A communication from the Secretary of the Air Force, transmitting, pursuant to law, a report on the unit acquisition cost of a major defense acquisition; to the Committee on Armed Services.

EC-2546. A communication from the Secretary of the Air Force, transmitting, pursuant to law, a report on the unit acquisition cost of a major defense acquisition; to the Committee on Armed Services.

EC-2547. A communication from the Director for Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the calendar year 1989 report entitled "Extraordinary Contractual Actions to Facilities the National Defense"; to the Committee on Armed Services.

EC-2548. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of

proposed legislation to amend title 10, United States Code, to modify the physical examination requirement for members of the Ready Reserve of the armed forces; to the Committee on Armed Services.

EC-2549. A communication from the President of the United States, transmitting, pursuant to law, a copy of an executive order terminating the national emergency with respect to Nicaragua; to the Committee on Banking, Housing, and Urban Affairs.

EC-2550. A communication from the Acting General Counsel of the Federal Emergency Management Agency, transmitting a draft of proposed legislation to authorize appropriations to implement Title III of the Stewart B. McKinney Homeless Assistance Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-2551. A communication from the Acting Director of Administration and Human Resource Management, Department of Energy, transmitting, pursuant to law, the annual report of the Department of Energy on metrification for fiscal year 1989; to the Committee on Commerce, Science, and Transportation.

EC-2552. A communication from the Secretary of Transportation, transmitting, pursuant to law, the fourteenth annual report on the Automotive Fuel Economy Program; to the Committee on Commerce, Science, and Transportation.

EC-2553. A communication from the Secretary of Energy, transmitting, pursuant to law, the fourth quarter 1989 quarterly report and the 1989 Annual Report on the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC-2554. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of overpayment of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2555. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of overpayment of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2556. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of overpayment of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2557. A communication from the Chairman of the Advisory Council on Historic Preservation, transmitting, pursuant to law, the annual report of the Council for 1989; to the Committee on Energy and Natural Resources.

EC-2558. A communication from the Secretary of the Interior, transmitting, pursuant to law, the 19th annual report on the operation of the Colorado River; to the Committee on Energy and Natural Resources.

EC-2559. A communication from the Acting Administrator of General Services, transmitting, pursuant to law, an informational copy of the report of a building project survey on the Pentagon renovation; to the Committee on Environment and Public Works.

EC-2560. A communication from the Acting Administrator of General Services, transmitting, pursuant to law, an informational copy of a building project survey for the Pioneer Valley Region of Massachusetts; to the Committee on Environment and Public Works.

EC-2561. A communication from the Deputy Secretary of Agriculture, transmitting, pursuant to law, the annual report of the Department of Agriculture on its hazardous waste management activities for calendar year 1989; to the Committee on Environment and Public Works.

EC-2562. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of overpayment of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2563. A communication from the Director of the Office of Technology Assessment, transmitting, pursuant to law, the fifth special report on the Prospective Payment Assessment Commission; to the Committee on Finance.

EC-2564. A communication from the Director of the Office of Technology Assessment, transmitting, pursuant to law, the third special report on the Physician Payment Review Commission; to the Committee on Finance.

EC-2565. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the 1988 report on the Consolidated Federal Programs under the Maternal and Child Health Services Block Grant; to the Committee on Finance.

EC-2566. A communication from the President of the United States, transmitting, pursuant to law, the annual report of the Arms Control and Disarmament Agency for calendar year 1989; to the Committee on Foreign Relations.

EC-2567. A communication from the President of the United States, transmitting, pursuant to law, a report on nuclear cooperation with the European Community; to the Committee on Foreign Relations.

EC-2568. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-157 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2569. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-158 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2570. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-159 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2571. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-160 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2572. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-161 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2573. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-162 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2574. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-163 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2575. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-164 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2576. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-165 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2577. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-166 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2578. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-167 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2579. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-168 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2580. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-169 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2581. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-170 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2582. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-171 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2583. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-172 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2584. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-173 adopted by the Council on February 13, 1990; to the Committee on Governmental Affairs.

EC-2585. A communication from the Executive Director of the Japan-United States Friendship Commission, transmitting, pursuant to law, a review of the administrative procedures of the Commission by the General Services Administration; to the Committee on Governmental Affairs.

EC-2586. A communication from the Acting Federal Inspector, Alaska Natural Gas Transportation System, transmitting, pursuant to law, an audit report on the Office of Federal Inspector under the Inspector General Act Amendments of 1988; to the Committee on Governmental Affairs.

EC-2587. A communication from the President of the Legal Services Corporation, transmitting, pursuant to law, a report on the implementation of the Inspector Gener-

al Act Amendments of 1988; to the Committee on Governmental Affairs.

EC-2588. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Rent Expenses for the Presidential Building—415 12th Street, N.W."; to the Committee on Governmental Affairs.

EC-2589. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on competition advocacy for fiscal year 1989; to the Committee on Governmental Affairs.

EC-2590. A communication from the Acting Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the annual report on competition advocacy for fiscal year 1989; to the Committee on Governmental Affairs.

EC-2591. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1989; to the Committee on Governmental Affairs.

EC-2592. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the annual report on competition advocacy for fiscal year 1989; to the Committee on Governmental Affairs.

EC-2593. A communication from the Chairman and Members of the Personnel Appeals Board, General Accounting Office, transmitting, pursuant to law, the 1988 annual report of the Board; to the Committee on Governmental Affairs.

EC-2594. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, notice of the approval of a personnel management demonstration project; to the Committee on Governmental Affairs.

EC-2595. A communication from the Executive Secretary of the Barry M. Goldwater Scholarship and Excellence in Education Foundation, transmitting, pursuant to law, the report of the Foundation on compliance with the Inspector General Act Amendments of 1988; to the Committee on Governmental Affairs.

EC-2596. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report of the Board under the Government in the Sunshine Act for calendar year 1989; to the Committee on Governmental Affairs.

EC-2597. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Annual Report on D.C. Depository for FY 1988 and 1989" to the Committee on Governmental Affairs.

EC-2598. A communication from the Attorney General of the United States, transmitting, pursuant to law, the annual report on competition advocacy for calendar year 1989; to the Committee on Governmental Affairs.

EC-2599. A communication from the Freedom of Information/Privacy Officer, Interstate Commerce Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2600. A communication from Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2601. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report of the Federal Open Market Committee of the Federal Reserve System for calendar year 1989; to the Committee on the Judiciary.

EC-2602. A communication from the Deputy Director of the Central Intelligence Agency (Administration), transmitting, pursuant to law, the annual report of the Agency under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2603. A communication from the General Counsel of the Occupational Safety and Health Review Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2604. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annaul report of the Department of State under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2605. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, the annual report of the Federal Labor Relations Authority, the General Counsel of the Authority, and the Federal Service Impasses Panel under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2606. A communication from the Director of the Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report on program assessments that have been conducted on drug control programs; to the Committee on the Judiciary.

EC-2607. A communication from the Secretary of the United States Naval Sea Cadet Corps, transmitting, pursuant to law, the annual audit of the accounts of the Corps for calendar year 1989; to the Committee on the Judiciary.

EC-2608. A communication from the Director of the Office of Legislative and Public Affairs, National Science Foundation, transmitting, pursuant to law, the annual report of the Foundation under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2609. A communication from the Director of the Washington Office of the Girl Scouts of America, transmitting, pursuant to law the annual report of the Girl Scouts for fiscal year 1989; to the Committee on the Judiciary.

EC-2610. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report of NASA under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2611. A communication from the Assistant Secretary of the Interior (Policy, Management, and Budget), transmitting, pursuant to law, the annual report of the Department of the Interior under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2612. A communication from the Acting Assistant Attorney General (Legislative Affairs), transmitting a draft of proposed legislation to improve the administration of bankruptcy cases and to curb abuses by debtors; to the Committee on the Judiciary.

EC-2613. A communication from the Secretary of Education, transmitting, pursuant to law, the notice of final procedures for the Robert C. Byrd Honors Scholarship Program; to the Committee on Labor and Human Resources.

EC-2614. A communication from the Secretary of Education, transmitting, pursuant to law, the Handicapped Special Studies Program—Notice of Final Annual Evaluation Priorities; to the Committee on Labor and Human Resources.

EC-2615. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report on the activities of the National Technical Institute for the Deaf; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-424. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry:

"ASSEMBLY JOINT RESOLUTION No. 52

"Whereas the Office of Management and Budget proposes to repeal the export ban on unprocessed timber owned by the United States Forest Service; and

"Whereas demand for wood products domestically and internationally is at record levels and is expected to increase; and

"Whereas export of unprocessed timber compounds current log shortages caused by: (1) widespread administrative appeals and litigation; (2) high harvest levels resulting from strong forest products markets; (3) a low level of future-year timber sale preparation; and (4) timberland withdrawals; and

"Whereas export of unprocessed timber from public and private lands reduces the supply of logs available to domestic producers; and

"Whereas adoption of the Office of Management and Budget proposal and continued log exports will hasten the closure of mills in the states which are experiencing difficulty in maintaining log supplies; and

"Whereas repealing the export ban and continuation of log exports from private and state-owned lands will lead to increased unemployment in many rural areas in the state and other western states; and

"Whereas log shortages caused by exports of unprocessed timber are directly responsible for huge increases in lumber prices, which will continue to drive up the price of housing, making homes less affordable for consumers of low and moderate income; and

"Whereas, the proposal to repeal the ban and continued log exports from private and state-owned lands entails the loss of millions of dollars in state and local tax revenues resulting from reductions in the work force and in business activity; and

"Whereas, repealing the export ban and continuation of log exports from private and state-owned lands will exacerbate the extremely precarious timber market in the state; and

"Whereas, a permanent ban on the export of unprocessed timber from United States Forest Service lands, a prohibition on the practice of substituting federal timber for unprocessed logs exported from private lands, and authority for state governments to regulate or prohibit the export of timber

harvested from state-owned and private forest lands would greatly reduce these adverse impacts on timber supplies, employment, housing costs, and state and local tax revenues; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, that the Legislature of the State of California respectfully memorializes the President, the Department of Agriculture, and the Congress to establish a permanent statutory ban on the export of unprocessed timber owned by the United States Forest Service; and be it further

"Resolved, that the Legislature of the State of California respectively memorializes the President and the Congress to enact legislation which terminates the practice of substituting timber from federal lands for timber exports from private lands and which authorizes state governments to similarly ban or regulate exports of unprocessed timber from state-owned and private forest lands; and be it further

"Resolved, that the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-425. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT MEMORIAL No. 8003

"Whereas section 361 of the Public Health Service Act, found at section 306(i) of the Public Rail Passenger Service Act (45 U.S.C. Sec. 546(i)) exempts the practice of the roadway dumping of holding tanks by AMTRAK from state control; and

"Whereas this dumping creates both a health and safety problem for railway employees and others who use the railroad right of way; and

"Whereas this problem can be solved by AMTRAK installing holding tanks for all waste on all cars and then relieving these tanks at the terminal areas for proper waste disposal;

"Now, therefore, your Memorialists respectfully pray that AMTRAK, install sufficient holding tanks on its trains to prevent the future dumping of its holding tanks on the right of way; and be it

"Resolved, That copies of this Memorial be immediately transmitted to the Honorable George Bush, President of the United States, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-426. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT MEMORIAL No. 8025

"Whereas the state of Washington has experienced a number of major earthquakes in its history; and

"Whereas recent evidence indicates that at least five great earthquakes of the magnitude of 8.0-9.0 on the Richter scale have shaken Washington over the last 3,000 years; and

"Whereas in the last 135 years, there have been more than 1,000 earthquakes of moderate to large magnitude in the Puget Sound-Southern Georgia Strait, and major earthquakes have struck as recently as 1949 in Olympia and 1965 in Seattle; and

"Whereas there is a steadily growing body of evidence advanced by the United States Geological Survey, local geologists, and seismologists that supports a prediction of a massive Pacific Northwest earthquake within the next twenty years; and

"Whereas a catastrophic earthquake and its ensuing fire, injury, and death will result in billions of dollars of property and liability insurance losses, as well as additional billions of dollars in health and life insurance claims; and

"Whereas while current property-casualty insurance company reserves are sufficient to respond to losses resulting from a catastrophic earthquake, the remaining reserves of the industry would not be sufficient, as required by law, to allow it to continue to write the insurance in force or to write new policies; and

"Whereas a catastrophic earthquake would destroy insurance markets, leave the public without the needed availability of insurance and impact the national economy; and

"Whereas the availability of insurance would be necessary to allow for the rebuilding of the area devastated by a catastrophic earthquake; and

"Whereas there has been proposed by The Earthquake Project, the Federal Earthquake Insurance and Reinsurance Act (FEIRA), which would establish a universal program for earthquake insurance coverage; and

"Whereas the FEIRA would provide for both the continued viability of the property-casualty insurance industry in the wake of a catastrophic earthquake and affordable earthquake insurance coverage for the citizens of Washington;

"Now, Therefore, Your Memorialists respectfully pray that the concept of a federal earthquake insurance program and the work of The Earthquake Project be endorsed as vital elements towards enhancing Washington's earthquake preparedness; and that the Washington congressional delegation support the provisions of the FEIRA and work to enact the legislation at the earliest possible time; and be it

"Resolved, That copies of this Memorial be immediately transmitted to the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-427. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Energy and Natural Resources.

"SENATE JOINT MEMORIAL No. 8019

"Whereas the Fast Flux Test Facility (FFTF) Complex at the Hanford Site is the Department of Energy's (DOE) newest, most efficient, and most reliable reactor plant anywhere in the DOE field locations; and

"Whereas the FFTF has demonstrated world-record performance, operating at 97 percent efficiency since start-up in 1982, including a 126-day continuous full-power run; and

"Whereas the FFTF is the only reactor subjected to a review process equivalent to the Nuclear Regulatory Commission's licensing review; and

"Whereas having always met the licensing requirements, quality, safety, and environmental standards of commercial nuclear facilities, the FFTF is in a superior position to reactors that have not undergone the scrutiny inherent in these requirements; and

"Whereas the FFTF is extraordinarily versatile, allowing an increasing number of irradiation test programs to be conducted concurrently with the option of adding other production programs without affecting ongoing projects; and

"Whereas the FFTF contributes to a balanced mission at the Hanford Site in conjunction with the long-range program to clean up waste from nuclear defense activities; and

"Whereas the highly advanced projects undertaken at the FFTF complement the ongoing research and development mission at DOE's Pacific Northwest Laboratories at Hanford; and

"Whereas an ongoing mission at the FFTF would help ensure the likely breakthroughs in developing new technologies and methods to help immobilize and treat hazardous wastes at lower costs; and

"Whereas the FFTF could be used to destroy nuclear warheads from different countries in the event of an arms reduction treaty; and

"Whereas the FFTF could produce plutionium-238 to the quality standards of the National Aeronautics and Space Administration and the Jet Propulsion Laboratory for use in future space projects; and

"Whereas with the existence of the Fuels Material Examination Facility complex at Hanford, the FFTF would allow for the consolidation of certain operations within the DOE; and

"Whereas the FFTF facility presently employs nearly 800 highly qualified and dedicated people; and

"Whereas locating the plutonium-238 mission at Hanford would secure the future of ongoing missions and provide the opportunity for an additional 400 people to join the efficient and dedicated efforts at the FFTF; and

"Whereas the diverse representation of the Washington state delegation to Congress has unanimously supported this project;

"Now, therefore, Your memorialists respectfully pray that the United States Department of Energy continue the ongoing mission at the FFTF, and that the FFTF take over the mission of plutonium-238 production; and be it

"Resolved, That copies of this Memorial be immediately transmitted to the Honorable George Bush, President of the United States, the Honorable Admiral James D. Watkins, Secretary of the United States Department of Energy, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-428. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Finance.

"JOINT RESOLUTION

"Whereas surplus funds in the Social Security Tax Fund were intended to finance the retirement of the large number of workers born in the post-war period and scheduled to retire beginning in the year 2010; and

"Whereas Social Security is the most regressive of all taxes, as it is assessed on only the first $51,300 of annual income earned by workers; and

"Whereas from 1977 to 1990, the Social Security payroll tax rates for both employees and employers increased from 5.85 percent to 7.65 percent of earnings; and

"Whereas nearly 75 percent of all American taxpayers now pay more in Social Security taxes than they do in income taxes; and

"Whereas since 1980, Social Security tax revenue as a percentage of federal revenue has increased 23 percent while corporate income taxes have declined by an equal percentage; and

"Whereas the administration, with the consent of Congress, is currently using Social Security tax funds to pay for general government expenses, thus masking the actual size of the federal deficit; now, therefore, be it

"Resolved, That We, your Memorialists, respectfully recommend and urge the Congress of the United States to repeal the Social Security tax increase that took effect earlier this year, or to discontinue the use of Social Security contributions to fund general government expenses; and be it further

"Resolved, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H.W. Bush, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM-429. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Finance:

"SENATE JOINT MEMORIAL No. 8018

"Whereas a state has the constitutional power to impose a tax on income that is earned in that state regardless of the residency of the recipient; and

"Whereas persons who have retired in Washington state are being forced to pay income taxes on their retirement income to the state from which they came; and

"Whereas many retirees with modest means are unexpectedly receiving large bills for back taxes; and

"Whereas these retirees have no representatives in the Legislatures of the states from which they came; and

"Whereas Federal Congressional action is the most effective means to deal with this problem; and

"Whereas several bills have been introduced in Congress to permit the taxation of pension income only by the state of residency;

"Now, therefore, your memorialists respectfully pray that support be given for the successful passage of H.R. 1227, sponsored by Representative Vucanovich; S. 434, sponsored by Senator Reid; or any other similar legislation which permits the taxation of pension income only by the state of residency; and be it

"Resolved, That copies of this Memorial be immediately transmitted to the Honorable George Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-430. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Foreign Relations:

"JOINT RESOLUTION

"Whereas the people of Maine have watched with admiration during the past 6 months as the peoples of Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and Yugoslavia have, in one form or another, courageously stood for the cause of freedom and political plurality in changing their form of government; and

"Whereas this movement for freedom has even developed within the Union of Soviet Socialist Republics; and

"Whereas such expressions of freedom have also erupted, only to be put down with brute force, in Albania and the People's Republic of China; and

"Whereas the people of Maine are preparing to attend our local town meetings, a cherished Maine tradition and the purest expression of democratic government; and

"Whereas individual expressions of conscience and humanity have touched responsive chords in millions of fellow citizens of communist countries who have been inspired to add their voices to the collective demand for freedom of assembly, freedom of the press, freedom of religion, representative self-government and market-based economies; and

"Whereas on our own behalf, and on behalf of the people of the State of Maine, we wish to express our support for this evolving process, which is bringing new vitality, and the adoption of democratic values, decentralized governance and pluralistic self-representation to these countries; and

"Whereas we express our admiration for the efforts of these people and wish to encourage them in these efforts and to continue to move forward toward a world of reduced tension in which all governments recognize individual liberties and promote human dignity; and

"Whereas the long-neglected economies of these nations require not only fundamental restructuring, but also an infusion of funds to aid in the transition to market-based systems; now, therefore, be it

"Resolved, That We, your Memorialists, urge the President and Congress of the United States to support the efforts of the people of these nations to forge governments of their own choosing, to help them with sufficient moral and financial aid to ensure the success of those who have already achieved their freedom and to bolster the hopes and aspirations of those whose thirst for freedom has yet to be fulfilled; and be it further

"Resolved, That we further urge the President and the Congress of the United States to enact a new Marshall Plan to provide aid and assistance to the people and progressive institutions of those countries now engaged in changing from centrally planned economic systems and authoritarian governments to market economies and democratic representative governments; and be it further

"Resolved, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H. W. Bush, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM-431. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Governmental Affairs:

"SENATE JOINT MEMORIAL No. 8020

"Whereas certain departments and agencies of the United States government now maintain and in the future will continue to receive records and information correlated or possibly correlated to United States personnel listed as prisoner of war or missing in action from World War II (estimated 20,000 prisoners), the Korean Conflict (estimated 8,000 prisoners), and the Vietnam Conflict (estimated 2,500 prisoners); and

"Whereas the People of the State of Washington will that said information and records be released by said departments and agencies ("Disclosure"); and

"Whereas disclosure would allow a nation proud of its democratic heritage to no longer keep secret from itself those facts necessary to achieve long overdue introspection and, thus, final catharsis with regard to World War II and the Korean and Vietnam Conflicts; and

"Whereas disclosure would permit our Nation not only to better examine its past, but would also provide a more complete and accurate factual basis upon which future policy can be better developed; and

"Whereas disclosure would allow generations recalling World War II and the Korean and Vietnam Conflicts to pay tribute to and thank their contemporaries—those brave Americans who suffered and may continue to suffer the fate of prisoners of war, and those brave Americans who are still listed as missing in action—for the freedom which all Americans continue to enjoy today; and

"Whereas disclosure would churn within generations born after an appreciation of the ultimate sacrifices which Americans have made in the name of democracy; and educate these generations to the effect that Americans, too, like today's Romanians who faced down a dictator's bullets and like today's Chinese students who faced down repressing tanks, have placed a higher value on the freedom for all than they placed even on their own lives; and

"Whereas the beneficiaries of Disclosure might include not just Free Americans, but the surviving prisoners of war themselves insofar as Disclosure would hopefully result in the groundswell of informed support necessary to cause surviving prisoners of war to be, finally, ushered home; and

"Whereas H.R. 3603 accomplishes Disclosure and therefore accomplishes the abovenamed attributes of Disclosure; and

"Whereas, H.R. 3603 accomplishes Disclosure while at the same time provides for necessary protection namely, first, by protecting national security through safeguarding information concerning sources (without which protection the Bill would defeat its own purpose by potentially stemming the flow of information and records); and, second, by providing for the privacy of affected families: Now, therefore, Your Memoralists respectfully pray that the Congress of the United States take this Memorial into account along with the concerns of the People of the State of Washington when considering H.R. 3603; and be it

"Resolved, That the Congress of the United States pass and the President of the United States sign into Law H.R. 3603; and be it further

"Resolved, That copies of this Memorial be immediately transmitted to the Honorable George Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Rrepresentatives, and each member of Congress from the State of Washington."

POM-432. A joint resolution adopted by the Legislature of the State of South Dakota; to the Committee on Judiciary:

"JOINT RESOLUTION No. 1003

"Whereas residual powers assigned to the states by the United States Constitution

have been increasingly eroded in recent years by decisions of the United States Supreme Court and by actions of the Congress and the federal regulatory agencies; and

"Whereas representatives of all branches of the various states of the Union, acting through the Executive Committee of the Council of State Governments, have voted unanimously to seek to restore balance to the federal system by amendments to strengthen the United States Constitution to protect and revitalize the rights of the states; and

"Whereas the United States Constitution presently provides for such amendments to be proposed by two-thirds of both Houses of Congress, or by a convention called on application of the Legislatures of two-thirds of the states; and

"Whereas it is the sense of this body that more effective of these alternatives is proposal by Congress, which must be preceded by Congressional hearings; and

"Whereas the Council of State Governments, the National Conference of State Legislatures, the National Governors' Associations and many other prestigious state and local organizations have endorsed a new amendment to Article V that would provide a more positive and active role for the states in the process of amending the Constitution; and

"Whereas this proposed new section of Article V would in substance provide that wherever three-fourths of the Legislatures of the several states deem it necessary, they shall propose amendments to this Constitution that, after two years, shall be valid to all intents and purposes as part of the Constitution, unless disapproved by two-thirds of both Houses of Congress within two years of the date the amendments are submitted to Congress: Now, therefore, be it

"Resolved, by the House of Representatives of the Sixty-Fifth Legislature of the state of South Dakota, the Senate concurring therein, that the Legislature does hereby make application to the Congress of the United States that procedures be instituted in the Congress to add a new section to Article V of the Constitution of the United States, and that the Legislature of the state of South Dakota hereby requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, which would permit the states through their legislatures to directly propose and ratify amendments to the Constitution; and be it further

"Resolved, That copies of this Joint Resolution be sent by the Secretary of State to each member of the South Dakota Congressional Delegation; and be it further

"Resolved, That the Secretary of State is directed to send copies of this Joint Resolution to the presiding officers of both Houses of the Legislature of each of the other states in the Union, the Clerk of the United States House of Representatives, and the Secretary of the United States Senate."

POM-433. A joint resolution adopted by the Legislature of the State of Alabama, except in times of national security; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION No. 182

"Joint Resolution repealing Act No. 145, HJR 105, 1975 regular session, which petitioned the Congress of the United States to convene a Constitutional Convention for the purpose of proposing an amendment to the Constitution which would prohibit deficit spending by the U.S. Government, except in times of national emergency.

"Be it resolved by the Legislature of Alabama, both Houses thereof concurring, That Act No. 145, NJR 105, 1975 Regular Session, is hereby repealed; and be it further

"Resolved, That a copy of this resolution be sent forthwith to each member of the Alabama delegation in the United States Congress and the Clerk of the United States House of Representatives and the Secretary of the United States Senate."

POM-434. A joint resolution adopted by the Legislature of the State of Alabama; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION No. 26

"Joint Resolution repealing Act No. 302, NJR 227, 1976, regular session, which petitioned the Congress of the United States to convene a constitutional convention for the purpose of proposing an amendment to the Constitution requiring that Federal spending not exceed estimated Federal revenues.

"Be it resolved by the Legislature of Alabama, both Houses thereof concurring, That Act No. 302, HJR 227, 1976, Regular Session, is hereby repealed."

POM-435. A concurrent resolution adopted by the Legislature of the State of South Dakota; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION No. 9

"Whereas the Tenth Amendment, which is part of the original Bill of Rights, reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"; and

"Whereas the limits on Congress' authority to regulate state activities prescribed by the Tenth Amendment have recently been the subject of debate by the Supreme Court in the cases of Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985), and South Carolina v. Baker, 56 U.S.L.W. 4311 (U.S. April 20, 1988) (No. 94, Original); and

"Whereas these cases hold that the limits of the Tenth Amendment are structural, and not substantive, leaving states to find protection from Congressional regulation through the national political process, rather than through judicially defined spheres of residual state authority; and

"Whereas these U.S. Supreme Court decisions invite further federal preemption of state authority: Now, therefore be it

"Resolved, by the Senate of the Sixty-fifth Legislature of the state of South Dakota, the House of Representatives concurring therein, That it is the consensus of this body that the Tenth Amendment to the Constitution of the United States is and always has been of operational force governing and balancing the respective powers of the states and the federal government and that this body affirms that the Tenth Amendment is a substantive limit on national power and should so be applied as a test by the courts of the United States and of the several states in the cases coming before them if a question of the exercise of the federal authority is raised; and be it further

"Resolved, That copies of this resolution be forwarded by the Secretary of the Senate to the President and to the South Dakota Congressional Delegation urging them to protect and strengthen the position of the states in the federal union, avoid intrusion upon state prerogatives and afford protection to the proper governing authorities of the states."

POM-436. A joint resolution adopted by the Legislature of the State of Maine, ordered to lie on the table.

"JOINT RESOLUTION

"Whereas on December 20, 1989, the United States Senate Committee on Environment and Public Works reported Senate Bill 1630 and Report number 101-228; and

"Whereas section 303 of Senate Bill 1630, known as the Clean Air Act Amendments of 1989, includes a new provision that prohibits state and local governments from controlling forms of radioactive air pollution; and

"Whereas if adopted, Section 303 would transfer the power to regulate radioactive air emissions from Maine's Department of Environmental Protection, where it now resides, to the Nuclear Regulatory Commission and gives that commission exclusive authority to regulate the health hazards from the materials that it licenses; and

"Whereas section 303 would exempt all radioactive substances regulated by the Nuclear Regulatory Commission from the legal definition of "air pollution" in the Clean Air Act Amendments of 1989; and

"Whereas when the United States Congress transferred authority to regulate radioactive air emissions from the Nuclear Regulatory Commission to the Environmental Protection Agency in the Clean Air Act of 1977, Congress expressly stated that it did not intend to deny the right of any state or political subdivision of that state to adopt or enforce any standard or limitation respecting emissions of air pollutants; and

"Whereas any air emissions ordinances in existence or proposed in this State with respect to radioactive air emissions standards would be rendered invalid; and

"Whereas section 303 will have a direct negative impact on the ability of the Department of Environmental Protection to protect the health and welfare of the citizens of this State; and

"Whereas if the enforcement power of the Environmental Protection Agency is removed pursuant to the Clean Air Act of 1977, the states will lose the authority to enforce standards set by the Environmental Protection Agency; now, therefore, be it

Resolved, that We, your Memorialists, respectfully recommend and urge the President and the Congress of the United States to:

"1. Amend United States Senate Bill 1630, known as the Clean Air Act Amendments of 1989, to allow the continued control of radioactive air emissions by the State of Maine;

"2. Reaffirm the action taken by Congress in the Clean Air Act of 1977 that expressly disavowed any intent to preempt state and local authority in the matter of radioactive air emissions;

"3. Support an amendment to Senate Bill 1630 that allows state and local regulation of radioactive air emissions from facilities regulated by the Nuclear Regulatory Commission;

"4. Not allow any duties currently under the authority of the Environmental Protection Agency to be transferred to the Nuclear Regulatory Commission;

"5. Specifically preserve the traditional rights of state and local governments to protect against health hazards by expressly not preempting state and local laws that provide for the protection from and control of hazards of any form of radioactive emissions; and

"6. Protect the environmental, economic and health and safety interests of the citi-

zens of the State of Maine by protecting and expanding the rights of our citizens under the Clean Air Act Amendments of 1989; and be it further

Resolved, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H.W. Bush, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Ms. MIKULSKI:

S. 2294. A bill to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes; to the Committee on Small Business.

By Mr. D'AMATO:

S. 2295. A bill for the relief of Melissa Johnson; to the Committee on the Judiciary.

By Mr. PELL (by request):

S. 2296. A bill to authorize appropriations for fiscal year 1991 for the Department of State; to the Committee on Foreign Relations.

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. CONRAD, and Mr. MURKOWSKI):

S. 2297. A bill to reauthorize certain provisions relating to Indian alcohol and substance abuse prevention and treatment programs; to the Select Committee on Indian Affairs.

By Mr. DeCONCINI:

S. 2298. A bill to amend title II of the United States Code to provide that the actual and necessary expenses incurred by creditors and equity security holders' committees in making a substantial contribution to a case under chapter 11 may be paid as administrative expenses; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. BOND, and Mr. DANFORTH):

S. 2299. A bill to require the construction of a demonstration highway project between St. Louis, Missouri, and Minneapolis/St. Paul, Minnesota; to the Committee on Environment and Public Works.

By Mr. KENNEDY (for himself, Mr. KASTEN, Mr. HATCH, Mr. CRANSTON, Mr. WILSON, Mr. SIMON, Mr. DODD, Mr. ADAMS, Mr. PELL, Mr. LIEBERMAN, Mr. DOLE, Mr. BOSCHWITZ, Ms. MIKULSKI, Mr. GORE, Mr. HARKIN, Mr. D'AMATO, Mr. SPECTER, Mr. DURENBERGER, Mr. INOUYE, Mr. LEVIN, Mr. RIEGLE, Mr. MOYNIHAN, Mr. HOLLINGS, and Mr. WIRTH):

S. 2300. A bill to provide financial assistance to the Simon Wiesenthal Center in Los Angeles, California, for the education programs of the Museum of Tolerance; to the Committee on Labor and Human Resources.

By Mr. BOND:

S. 2301. A bill to amend the United States Housing Act of 1937 to improve public housing agency management; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BOND (for himself, Mr. LUGAR, Mr. FOWLER, Mr. McCONNELL, Mr. BURNS, and Mr. COCHRAN):

S. 2302. A bill to amend the Food Security Act of 1985 to revise and extend conservation programs under title XII, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY:

S. 2303. A bill to further the foreign policy of the United States by providing support and assistance to the new, democratic government in Chile; to the Committee on Foreign Relations.

By Mr. RIEGLE (for himself, Mr. GARN, Mr. CRANSTON, Mr. D'AMATO, Mr. BOND, Mr. HEINZ, Mr. MACK, Mr. GORTON, Mr. GRASSLEY, Mr. McCLURE, Mr. MURKOWSKI, Mr. CHAFEE, Mr. SYMMS, Mr. WILSON, Mr. COATS, Mr. KASTEN, Mr. DOMENICI, Mr. COCHRAN, Mr. McCONNELL, Mr. STEVENS, and Mr. DANFORTH) (by request):

S. 2304. A bill to amend Federal laws to reform housing, community and neighborhood development, and related programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HELMS:

S. 2305. A bill to amend the Internal Revenue Code of 1986 to deny net operating losses arising from operations conducted in controlled countries, to require certain extensions of credit to bear interest at a rate not less than the prime rate, and to require certain extensions of credit to be publicly announced; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2306. A bill to provide relief for national forests damaged by Hurricane Hugo, and for other purposes; placed on the calendar.

By Mr. RIEGLE (for himself, Mr. GORE, and Mr. KERRY):

S. 2307. A bill to require the Secretary of Health and Human Services to provide intensive outreach and other services and protections to homeless individuals; to the Committee on Finance.

By Mr. EXON (for himself and Mr. KERREY):

S. 2308. A bill to provide that certain games of chance conducted by a nonprofit organization not be treated as an unrelated trade or business of such organization; to the Committee on Finance.

By Mr. BREAUX:

S.J. Res. 273. Joint resolution to designate the week of October 7-13, 1990, as "National Health Care Food Service Week"; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S.J. Res. 274. Joint resolution to designate the week beginning June 10, 1990 as "National Scleroderma Awareness Week"; to the Committee on the Judiciary.

By Mr. PELL (for himself, Mr. HELMS, Mr. KENNEDY, Mrs. KASSEBAUM, Mr. KERRY, Mr. D'AMATO, Mr. DODD, Mr. HUMPHREY, Mr. DURENBERGER, Mr. DeCONCINI, Mr. SIMON, Mr. RIEGLE, Mr. MATSUNAGA, Mr. GORE, Mr. WALLOP, Mr. WILSON, Mr. COATS, Mr. COCHRAN, Mr. LUGAR, Mr. BRADLEY, Mr. CONRAD, Mr. MOYNIHAN, Mr. METZENBAUM, Mr. SARBANES, and Mr. KOHL):

S.J. Res. 275. Joint resolution designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD:

S. Con. Res. 105. Concurrent resolution to congratulate the people of East Germany on their free and democratic elections; to the Committee on Foreign Relations.

By Mr. MOYNIHAN (for himself, Mr. BOSCHWITZ, Mr. LAUTENBERG, Mr. D'AMATO, Mr. DIXON, Mr. EXON, Mr. GORTON, Mr. METZENBAUM, Mr. LEVIN, Mr. LIEBERMAN, Mr. PACKWOOD, Mr. WILSON, Mr. HATCH, Mr. McCAIN, Mr. BURNS, Mr. KASTEN, Mr. LOTT, Mr. McCONNELL, Mr. GRASSLEY, and Mr. RIEGLE):

S. Con. Res. 106. Concurrent resolution expressing the sense of the Congress concerning Jerusalem and the peace process; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI:

S. 2294. A bill to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes; to the Committee on Small Business.

WOMEN'S BUSINESS PROCUREMENT ASSISTANCE ACT

● Ms. MIKULSKI. Mr. President, I am introducing the Women in Business/Procurement Act of 1990. This bill will amend the Small Business Act to provide women entrepreneurs with greater access to Federal contracts.

One of the major obstacles women businessowners face is their lack of access to the world's largest buyer of goods and services, the U.S. Government.

Each year, the Federal Government contracts billions of dollars out to businesses, but rarely do these contracts go to women. In 1988, only nine-tenths of 1 percent of Federal prime contracts were awarded to women-owned firms.

Women businessowners need to have information and an understanding about the procurement process within Federal agencies. Women can also benefit from having access to temporary financing, and being included under the Small Business Administration's [SBA] section 8(a) program.

This bill will require that Federal agencies provide outreach to women businessowners and solicit women businessowners for competitive procurement. This will help to eliminate the inherent biases that exist in the Federal procurement process.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2294

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Business Procurement Assistance Act of 1990".

SEC. 2. GOAL SETTING.

Subsection (g) of section 15 of the Small Business Act (15 U.S.C. 644(g)) is amended to read as follows:

"(g) The head of each Federal agency shall, after consultation with the Administration, establish goals for the participation by small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals, in procurement contracts of such agency. Goals established under this subsection shall be jointly established by the Administration and the head of each Federal agency and shall realistically reflect the potential of small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals to perform such contracts and to perform subcontracts under such contracts. Whenever the Administration and the head of any Federal agency fail to agree on established goals, the disagreement shall be submitted to the Administrator of the Office of Federal Procurement Policy for final determination. For the purpose of establishing goals under this subsection, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by small business concerns owned and controlled by women and small business concerns owned and controlled by socially and economically disadvantaged individuals. The head of each Federal agency, in attempting to attain such participation, shall consider—

"(1) contracts awarded as the result of unrestricted competition; and

"(2) contracts awarded after competition restricted to eligible small business concerns under this section and under the program under section 8(a).".

SEC. 3. REPORTING.

(a) IN GENERAL.—Subsection (h)(1) of section 15 of the Small Business Act (15 U.S.C. 644(h)(1)) is amended to read as follows:

"(h)(1) At the conclusion of each fiscal year, the head of each Federal agency shall report to the Administration on the extent of participation by small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals in procurement contracts and subcontracts of such agency. Such reports shall contain appropriate justifications for failure to meet the goals established under subsection (g).".

(b) REPORTS TO THE PRESIDENT.—Subsection (h)(2)(A) of section 15 of such Act (15 U.S.C. 644(h)(2)(A)) is amended to read as follows:

"(A) The Government-wide goals for participation by small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged and the performance in attaining such goals.".

SEC. 4. SUBCONTRACTING.

(a) STATEMENT OF POLICY.—Paragraph (1) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)(1)) is amended to read as follows:

"(d)(1) It is the policy of the United States that small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals, shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals.".

(b) CONTRACT CLAUSE.—Section 8(d)(3)(A) of the Small Business Act (15 U.S.C. 637(d)(3)(A)) is amended to read as follows:

"'(A) It is the policy of the United States that small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals.' ".

(c) DEFINITIONS.—Subparagraph (C) of section 8(d)(3) of the Small Business Act (5 U.S.C. 637(d)(3)(C)) is amended to read as follows:

"'(C)(i) As used in this contract, the term "small business concern" means a small business as defined in section 3 and relevant regulations promulgated pursuant thereto.

"'(ii) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" means a small business concern—

"'(I) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

"'(II) whose management and daily business operations are controlled by one or more of such individuals.

The contractor shall presume that socially and economically disadvantaged include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and other minorities, or any other individual found to be disadvantaged by the Administrative pursuant to section 8(a) of the Small Business Act.

"'(iii) The term "small business concern owned and controlled by women" means a small business concern—

"'(I) which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

"'(II) whose management and daily business operations are controlled by such women.

The contractor shall presume that women have been subjected to gender based discrimination.' ".

(d) REPRESENTATIONS.—Subparagraph (D) of section 8(d)(3) of the Small Business Act (15 U.S.C. 637(d)(3)(D)) is amended to read as follows:

"'(D) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern, a small business concern owned and controlled by women, or a small business concern owned and controlled by socially and economically disadvantaged individuals.' ".

(e) PLAN REQUIREMENTS.—Subparagraph (D) of section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)(D)) is amended to read as follows:

"(D) No contract shall be awarded to any offeror unless the procurement authority determines that the plan to be negotiated by the offeror pursuant to this paragraph provides the maximum practicable opportunity for small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of the contract.".

(f) INCENTIVES.—Subparagraph (E) of section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)(E)) is amended to read as follows:

"(E) Notwithstanding any other provision of law, every Federal agency, in order to encourage subcontracting opportunities for small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals, as defined in paragraph (3) of this subsection, is hereby authorized to provide such incentives as such Federal agency may deem appropriate in order to encourage such subcontracting opportunities as may be commensurate with the efficient and economical performance of the contract. This subparagraph shall apply only to contracts let pursuant to the negotiated method of procurement.".

(g) CONTENT OF PLAN.—(1) Subparagraph (A) of section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)(A)) is amended to read as follows:

"(A) percentage goals for the utilization as subcontractors of small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals;".

(2) Subparagraph (C) of section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)(C)) is amended to read as follows:

"(C) a description of the efforts of offeror or bidder will take to assure that small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;".

(3) Subparagraph (F) of section 8(d)(6) of the Small Business Act (15 U.SC. 637(d)(6)(F)) is amended to read as follows:

"(F) a recitation of the types of records the successful offeror or bidder will main-

tain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in this plan, including the establishment of source lists of small concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by social and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns.".

(h) SMALL BUSINESS ADMINISTRATION RESPONSIBILITIES.—Subparagraph (B) of section 8(d)(1) of the Small Business Act (15 U.S.C. 637(d)(10)(B)) is amended to read as follows:

"(B) review any solicitation for any contract to be let pursuant to paragraphs (4) and (5) to determine the maximum practicable opportunity for small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate as subcontractors in the performance of any contract resulting from any solicitation, and to submit its findings, which shall be advisory in nature, to the appropriate Federal agency; and".

(i) SUBCONTRACT REPORTING.—Paragraph (11) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)(11)) is amended to read as follows:

"(11) At the conclusion of each fiscal year, the Administration shall submit to the Senate Committee on Small Business and the Committee on Small Business of the House of Representatives a report on subcontracting plans found acceptable by any Federal agency which the Administration determines do not contain maximum practicable opportunities for small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts described in this section.".

(j) EXCLUSION.—No business concern shall be deemed eligible for any contract or other assistance pursuant to section 1207 of Public Law 99-661 due solely to the provisions of this section.

SEC. 5. WOMEN-IN-BUSINESS SPECIALISTS

Subsection (k) of section 15 of the Small Business Act (15 U.S.C. 644(k)) is amended by striking "subsection, and" at the end of paragraph (8) by striking the period at the end of paragraph (9), and inserting ", and", and by adding at the end the following new paragraph:

"(10) designate an employee of such office to be a Women-in-Business Specialist responsible for the implementation and execution of programs designed to assist small business concerns owned and controlled by women.".

SEC. 6. OUTREACH.

Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end thereof the following new subsection:

"(p) Each Federal agency having procurement powers shall engage in affirmative efforts to identify and solicit offers from small business concerns owned and controlled by women and small business concerns owned and controlled by socially and economically disadvantaged individuals. To the maximum extent practicable, a representative number of such concerns shall receive solicitation packages for each proposed acquisition for which such concerns may be eligible to compete.".●

By Mr. D'AMATO:

S. 2295. A bill for the relief of Melissa Johnson; to the Committee on the Judiciary.

RELIEF OF MELISSA JOHNSON

● Mr. D'AMATO. Mr. President, on June 3, 1982, Melissa Johnson, who was then 5 years old, was molested and sexually abused by a U.S. Postal Service employee by the name of Luis Ojeda. Mr. Ojeda was arrested and charged with rape, sexual abuse, and endangering the welfare of a child. He entered a plea of guilty to the charge of sexual abuse and was sentenced to a term in prison.

Melissa Johnson, however, was left high and dry. The Federal Tort Claims Act specifically excludes claims based on assault and battery committed by a Federal employee. Melissa thus had no means of recourse.

Legislation to compensate Melissa was introduced and subsequently passed the House of Representatives. Today I introduce a companion measure that will provide just and equitable relief.

This matter has been studied at length in the House, and is clearly a compelling and deserving case. I urge my colleagues to join in swift passage of this bill.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a statement by Congressman HAMILTON FISH, the original House sponsor of the bill, describing the incident in greater detail.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF HON. HAMILTON FISH, JR., ON H.R. 3249

Thank you, Mr. Chairman. First of all, Chairman Frank, I want to express my appreciation to you for scheduling a hearing on H.R. 3249—private relief legislation which I have introduced on behalf of Melissa Johnson and her mother, Mrs. Barbara Johnson Lizzi. I fully recognize that you have a number of cases that you will be hearing this afternoon and, consequently, my remarks will be brief. Joining me at the table are Mrs. Lizzi and the attorney for the family in this case, Kathleen Peratis, Esquire.

This is the second consecutive Congress in which I have sponsored this measure. I would emphasize at the outset that I rarely introduce private claims bills, but have done so in this instance because I believe that this is an unusually meritorious case.

Briefly, the facts are as follows: On June 3, 1982, when Melissa Johnson was 5 years old, she was sexually molested by a letter carrier employed by the U.S. Postal Service. That individual was subsequently convicted in a New York State criminal proceeding. During the pendency of that criminal trial, Melissa's mother became aware of the fact that the defendant had been arrested on two previous occasions on charges of a similar nature and that his supervisors at the Postal Service were, in fact, aware of these prior arrests.

An administrative claim was filed on behalf of Melissa Johnson with the U.S. Postal Service as is required by the Federal Tort Claims Act, 28 U.S.C. 2672; 2675(a). That administrative claim was denied by the Postal Service on January 6, 1984. Subsequently, a civil action was filed against the United States in the U.S. District Court for the Eastern District of New York. That litigation was unsuccessful because of the threshold statutory defense ("lack of subject matter jurisdiction") available to the United States due to the terms of 28 U.S.C. 2680(h). This was characterized as an "assault and battery"—and claims against the United States based upon those intentional torts are prohibited by the express terms of the Federal Tort Claims Act. Subsequent appeals to both the Second Circuit Court of Appeals and the U.S. Supreme Court were unsuccessful as well. Because of the absolute defense available to Government lawyers, there never was a trial on the merits. Mr. Chairman, all administrative and judicial remedies have been exhausted.

I commend to the members of the Subcommittee Judge Pratt's dissent in the second circuit decision. Judge Pratt makes it ironically clear that the plaintiffs in this instance were in a "Catch-22" situation. It was essential to their case to prove that officials in the U.S. Postal Service were, in fact, on notice about prior aberrant behavior of this employee and that they nevertheless allowed him to deliver mail door to door in a trust capacity, knowing those circumstances. However, because the United States was successful with a threshold Rule 12 (FRCP) motion for "lack of jurisdiction over the subject matter", the plaintiffs were never able to engage in the necessary discovery of the relevant Postal Service files.

The core of the plaintiff's case was "negligent supervision"—failure to adequately oversee and supervise this employee. They argued that they should be permitted to proceed on the ground of negligence, even in the face of the exemption for claims arising out of an assault and battery under Section 2680(h). Unfortunately, that legal argument did not prevail.

Mr. Chairman, I think it is indeed very unfortunate that the U.S. Postal Service has declined your invitation to testify publicly here today. I say this because only that Agency can answer the key, remaining questions in this case: What was the extent (time and details) to which Postal Service officials were on notice about the letter carrier's prior arrest record? Why did the collective-bargaining agreement between the Postal Service and the relevant union prevent the Service from discharging or transferring this employee? The issue for the subcommittee is whether or not the Postal Service exercised reasonable and responsible supervisory authority in this instance. There is no question but that a 5-year-old girl was seriously and fundamentally harmed by these events. I urge this subcommittee to follow up with pertinent questions in writing to officials of the U.S. Postal Service.

One final note: The statutory exemption that prevents suits against the United States based upon the intentional torts of its employees is not law that should be viewed in sanctified terms. In fact, this very subcommittee has reported legislation to amend this section of the Federal Tort Claims Act on at least three different occasions since I have been on the Judiciary Committee. In each instance, those bills would have substituted the United States as a defendant in claims based upon "assault, battery, false imprisonment, false arrest,

malicious prosecution, and abuse of process". The bills were H.R. 9219 (favorably reported in 1978, 95th Congress); H.R. 7034 (favorably reported in 1982, 97th Congress); and H.R. 3142 (favorably reported in 1983, 98th Congress). The Ford, Carter, and Reagan administrations all have recommended comprehensive legislation to Congress to amend the Federal Tort Claims Act, and each of these proposals recommended the repeal of this portion of the exemption in section 2680(h)—

In conclusion, Mr. Chairman, this is a private claim that has, in my view, merit far exceeding the norm. I urge the subcommittee's favorable action on this claim.●

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. CONRAD, and Mr. MURKOWSKI):

S. 2297. A bill to reauthorize certain provisions relating to Indian alcohol and substance abuse prevention and treatment programs; to the Select Committee on Indian Affairs.

REAUTHORIZATION OF INDIAN ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAMS

● Mr. McCAIN. Mr. President, I rise today to introduce on behalf of myself, and Senators INOUYE, CONRAD, and MURKOWSKI legislation to reauthorize for 5 years several drug and alcohol abuse programs for native Americans that were included in the Anti-Drug Abuse Act of 1986.

As I am sure my colleagues are aware, native Americans suffer a greater incidence of alcoholism than any other segment of our Nation's population. The alarmingly high rate of alcohol consumption among native Americans results in correspondingly high rates of illness, accidents, and related incident. In fact, it also leads to a high rate of death. Experts tell us that the death rate among native Americans due to the consumption of alcohol is over four times that of any other segment of our population.

A number of tribes are now completely dry, and some are just beginning to recognize and want to deal with the high rate of alcoholism among their people. I believe we need to be assisting those tribes who wish to help their members who have a problem with alcohol to rid themselves of this disease. This means that we need to provide assistance in the areas of education, prevention, and treatment.

There are a number of good programs in Indian country, such as the programs for which continued funding would be provided by this reauthorization. But, we cannot be complacent with where we are at now—for the need is much greater than what is currently being addressed. A few weeks ago, I had the occasion to spend a Saturday night in Gallup, NM. The population of this rural town on the border of New Mexico and Arizona triples on weekends as Indians from three nearby reservations pour into town.

According to the police in Gallup, who often lock drunks up in what is termed "Protective Custody," an average month can see the detention of as many as 3,000. This particular weekend only saw 150, which made it a particularly slow weekend.

Towns this size average 11 liquor licenses—Gallup has 61. With the bars opening at 8 a.m., it is not uncommon to see the road from the Navajo Reservation to Gallup littered with the bodies of the drunk.

Traffic accidents caused by drunk drivers in this county are 19 times the national average.

I believe alcoholism will remain an epidemic among native Americans as long as native Americans continue to be deprived of opportunities to improve their circumstances. Until the prospects for improving the quality of reservation life are dramatically enhanced, there will be little we can do to achieve a meaningful reduction in the numbers of native Americans who abuse alcohol. Providing opportunities, not welfare, to native Americans should be a national priority. The creation of Indian Enterprise Zones—offering tax incentives to promote investment on the reservations—is a sensible step in this direction. Should this urgent necessity suffer the usual government neglect, more Indians will suffer the slow suicide of alcoholism.

Addressing the fundamental causes of alcohol abuse is essential to preventing future generations of native Americans from succumbing to the disease that has claimed so many of their parents. This legislation reauthorizes just such programs.

This legislation is not a be-all, end-all proposal in the area of alcohol and substance abuse. Rather, it is a vehicle to accomplish the necessary reauthorization of the programs included. More than that, however, it is a vehicle to allow the Select Committee to be able to discuss and act on related issues—such as FAS, and the need for more treatment facilities and programs. As such, I look forward to working with all of my colleagues in both addressing these important issues and moving this legislation.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2297

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress Assembled,

SECTION 1. The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401, et seq.) is amended—

(1) by striking out "1990, 1991, and 1992" in section 4213(e)(1) and inserting in lieu thereof "1990, 1991, 1992, 1993, 1994, and 1995",

(2) by striking out "1989 and 1990" in section 4216(a)(3)(B) and inserting in lieu thereof "1990, 1991, 1992, 1993, 1994, and 1995",

(3) by striking out "1990 and 1991" in section 4220(b)(1) and inserting in lieu thereof "1990, 1991, 1992, 1993, 1994, and 1995",

(4) by striking out "and 1992" in section 4229(c) and inserting in lieu thereof "1992, 1993, 1994, and 1995".●

By Mr. DECONCINI:

S. 2298. A bill to amend title XI of the United States Code to provide that the actual and necessary expenses incurred by creditors' and equity security holders' committees in making a substantial contribution to a case under chapter 11 may be paid as administrative expenses; to the Committee on the Judiciary.

TREATMENT OF CERTAIN EXPENSES IN BANKRUPTCY PROCEEDINGS

● Mr. DECONCINI. Mr. President, today I am introducing legislation to clarify that creditors' and equity security holders' committees are eligible to recover necessary and reasonable expenses as administrative costs in a bankruptcy proceeding. There is currently disagreement within the bankruptcy courts on whether or not such expenses are administrative costs. My bill will make certain the work of these committees is treated equitably.

Creditors' committees are intended to play a significant role in chapter 11 practice. The statute provides that the trustee appoint the unsecured creditors' committee as soon as possible after the order for relief is filed. The committee usually consists of the seven largest creditors who are willing and able to serve. These committees are granted broad powers to participate in all aspects of the bankruptcy proceeding.

A major function of these committees is to negotiate and consider the type of plan they will recommend to satisfy the creditors' claims. The creditors' committee is also responsible for monitoring the operations of the debtor to determine whether the debtor is complying with bankruptcy procedures. This function is especially important since the debtor generally remains in possession of its assets and manages its affairs.

When Congress created creditors' and equity security holders' committees, it was trying to protect the interests of the small unsecured creditors who are often underrepresented in a bankruptcy action. In the larger cases, the stakes are high and creditors actively participate in the committees. However, in smaller more routine cases, there is less incentive to serve and the burden of supervision shifts to the trustee. We need to encourage the active participation of the creditors' committees in bankruptcy proceedings to ensure the creditors' interests are adequately protected.

This bill will not change the standards for determining whether or not

the expenses should be reimbursed. Only those expenses which are actual and necessary will be allowed.

I am concerned that the reluctance of some creditors to serve on these committees results from the current uncertainty about whether or not they will be reimbursed for their expenses. This legislation will clarify that creditors' committees are entitled to reimbursement for actual and necessary expenses as administrative costs. I hope the bill will encourage active participation in the committee process by unsecured creditors and equity security holders and result in their fair and equitable representation in chapter 11 reorganization cases.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(3)(D) of title 11, United States Code, is amended by striking out "other than a committee appointed under section 1102 of this title".

SEC. 2. EFFECTIVE DATE: APPLICATION OF AMENDMENT.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendment made by this Act shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENT.—The amendment made by section 1 shall not apply with respect to any case commenced under title 11, United States Code, before the date of the enactment of this Act.●

By Mr. GRASSLEY (for himself, Mr. BOND, and Mr. DANFORTH):

S. 2299. A bill to require the construction of a demonstration highway project between St. Louis, MO, and Minneapolis/St. Paul, MN; to the Committee on Environment and Public Works.

AVENUE OF THE SAINTS HIGHWAY PROJECT

Mr. GRASSLEY. Mr. President, today I rise to introduce authorizing legislation for the Avenue of the Saints Highway Project.

The Avenue of the Saints Project is a highway system that connects the cities of St. Paul, MN and St. Louis, MO.

A study committee has recently finished its work. They were directed to study the feasibility of this highway project. Numerous items were considered by this study, including the impact on national, regional, and State economic development, funding feasibility, the status of existing highway routes, traffic demand, and environmental concerns.

This was an exhaustive and thorough study. The results of the study carry with them much thoughtful consideration. A tremendous amount of effort was put into this study by some very learned individuals.

The conclusion of the study committee was a route that would go north from St. Louis to Keokuk, Mt. Pleasant, Iowa City, Cedar Rapids, Cedar Falls/Waterloo, Waverly, Nashua, Charles City, Mason City, and continue north into St. Paul.

The authorizing legislation that I am introducing today, along with my colleagues Senators BOND and DANFORTH, is an important first step for this project in the U.S. Senate. I am willing to work with all of my colleagues, on both sides of the aisle, in order to insure the rapid completion of this project. We must move together in a united, bipartisan fashion in order to succeed.

This bill authorizes $100 million per year to complete this highway project. As my colleagues know, there are two ways of funding these types of projects—require the States to take money out of their apportionments or we can provide special earmarks, or demonstration projects. Obviously, since this highway is of national importance, we should be willing to earmark funding.

Though this highway project is of national importance, the States of Minnesota, Illinois, Wisconsin, Missouri, and Iowa will especially benefit by its completion. I urge all of my colleagues in these specific States to unite together on this project. With a united front, we cannot fail. With a divided front, our battle is that much more difficult.

By Mr. KENNEDY (for himself, Mr. KASTEN, Mr. HATCH, Mr. CRANSTON, Mr. WILSON, Mr. SIMON, Mr. DODD, Mr. ADAMS, Mr. PELL, Mr. LIEBERMAN, Mr. DOLE, Mr. BOSCHWITZ, Ms. MIKULSKI, Mr. GORE, Mr. HARKIN, Mr. D'AMATO, Mr. SPECTER, Mr. DURENBERGER, Mr. INOUYE, Mr. LEVIN, Mr. RIEGLE, Mr. MOYNIHAN, Mr. HOLLINGS, Mr. WIRTH, Mr. METZENBAUM, and Mr. KERRY):

S. 2300. A bill to provide financial assistance to the Simon Wiesenthal Center in Los Angeles, CA, for the education programs of the Museum of Tolerance; to the Committee on Labor and Human Resources.

AUTHORIZATION OF FUNDS FOR MUSEUM OF TOLERANCE

Mr. KENNEDY. Mr. President, I rise today—for myself and on behalf of 25 cosponsors—to introduce a bill that would authorize $5 million in support for educational outreach programs of the Museum of Tolerance being constructed at the Simon Wiesenthal Center in Los Angeles. The purpose of this legislation is to provide assistance to the Simon Wiesenthal Center's effort to prepare and provide educational materials about the Holocaust to schools and colleges who might want to include such instruction in their curriculum.

The Simon Wiesenthal Center is well known throughout America and throughout the world. The purpose of the center is to keep the memory of the Holocaust alive so that the words "never again" become a historical reality and not just a fond wish or a failed dream. The center has an extensive international membership that includes hundreds of thousands of Americans.

We all know what the historical significance of the Holocaust is—not just to Jews throughout the globe but to all humankind throughout history. It is a singularly horrible example of man's capacity for inhumanity. It is a chapter in human history that must never be forgotten so that it will never be repeated.

The engine behind this proposed legislation is our desire to encourage our teachers to teach and our students to learn about the Holocaust so that they can better understand the lessons to be drawn from that dreadful chapter in human history. We do not seek to impose or to require schools to include instruction about the Holocaust in their curriculum. But we do believe that such instruction should be an option for those schools that want to have it available for their students. And we do believe, for that reason, that educational materials about the Holocaust should be readily available to any schools—public or private—anywhere in the United States that want and choose to teach their children about the Holocaust.

It is our hope and understanding that the Museum of Tolerance, now being constructed at the Simon Wiesenthal Center in Los Angeles, will develop such materials, and the purpose of this legislation is to provide moral as well as material support for that effort. Our bill would provide $5 million in matching funds to assist in the support of this effort. Under the terms of this bill, the Wiesenthal Center must submit an education plan to the Secretary before it receives any funds.

Mr. President, this legislation already has widespread support in the Senate—as evidenced by the large number of cosponsors. I hope that my colleagues will join me in cosponsoring this legislation and will vote to enact it in this Congress. I ask unanimous consent that the proposed legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL AUTHORITY.

The Secretary of Education is authorized to pay to the Museum of Tolerance of the Simon Wiesenthal Center, located in Los Angeles, California, the Federal share of the cost of designing and operating education programs concerning the holocaust.

SEC. 2. APPLICATION REQUIRED.

No financial assistance may be provided under this Act unless an application is submitted to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may reasonably require. Each such application shall describe the type and kind of educational materials to be developed and the steps that will be taken to ensure that age appropriate products are available to school districts and institutions of higher education across the country.

SEC. 3. FEDERAL SHARE.

The Federal share of the cost of designing and conducting education programs under this Act shall be 50 percent. The portion of costs not paid by financial assistance provided pursuant to this Act must be paid from sources other than Federal, State, or local government.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000, to carry out the provisions of this Act. Funds appropriated pursuant to this Act shall remain available until expended.

Mr. HATCH. Mr. President, I am proud to introduce with Senator KENNEDY and Senator KASTEN legislation to provide Federal assistance for the educational programs of the Simon Wiesenthal Center's Museum of Tolerance.

Since its founding 12 years ago, the Simon Wiesenthal Center has emerged as one of this country's foremost educational institutions on human rights. Through their innovative educational programs and award-winning film and mobile exhibits, the center strives to maintain public awareness on these important issues in the United States and throughout the world.

The Museum of Tolerance will enhance the center's educational capabilities. The museum, currently under construction and scheduled to open in the fall of 1990, will be the only institution in the world dedicated to teaching tolerance as it applies to all people. By tracing the origins of the Nazi Holocaust, the museum puts into context racism, prejudice, and the system of justice as they relate to life in the United States. Complementing this 30,000 square feet of exhibits will be the computer learning center. This interactive videodisc computer project will provide visitors with in-depth information on the Holocaust through the sophisticated technology of multimedia computers. This technology and library of the future can be easily exportable to universities, high schools, and educational centers in every corner of the United States.

I believe we have a responsibility to support tolerance education programs. We need to underscore our Nation's commitment to justice, equality, and respect for human rights. The Simon Wiesenthal Museum of Tolerance will go a long way toward giving tolerance education in this country the priority it deserves.

Mr. PELL. Mr. President, I am proud to join with Senator KENNEDY in support of a bill to authorize $5 million for the educational and research programs of the Simon Wiesenthal Center Museum of Tolerance. Since its establishment, the center has endeavored to provide accurate and compelling information about one of history's most tragic events, the genocide of the Nazi Holocaust. It strives to educate the general public—with a particular emphasis on students—and to serve as an invaluable resource for educators, historians, writers, and journalists. As the demands to meet the needs of an ever increasing audience grow, so do the structural, organizational, and financial needs of the center. A show of fiscal support would clearly demonstrate the importance our Nation ascribes to the study of such tragic events and to the constant vigilance against future recurrence.

The Simon Wiesenthal Center operates on two fronts. It is at once an educational center disseminating historical information and a research facility for historical investigation. Visitors to the center will find interactive educational activities designed not merely to inform but to actually challenge their own values and attitudes. It is the philosophy of the center that the Holocaust was not simply an historical phenomenon but a contemporary issue, the roots of which—prejudice, fear, and hatred—we struggle with every day. And it is this emphasis on making the past relevant to the needs of today, in a context that encourages critical thought, which makes the center such a valuable cultural and educational institution.

I had the opportunity last week to tour the center. It was a very moving experience, and I came away with the very strong commitment to assist the center in its crucial work.

The significance of the Holocaust is indisputable, What we grapple with now are the steps we will take to preserve the memories of the past, no matter how unsavory, to learn lessons for the future. We must demonstrate with action, not just with commitment of the heart, that we remain unfaltering in our vigilance against oppression. We must provide the resources wherever and whenever possible for the preservation of the ideal of freedom which characterizes the American experiment. Our example must shine in the very fabric of the culture we encourage and create, and we must not miss the opportunity to assist the education of all citizens in the promotion of peace and justice.

Earlier this year, the Senate authorized assistance for the Wiesenthal Center as an amendment to H.R. 2666, the Mildred and Claude Pepper Scholarship Act. Unfortunately, it appears that the Pepper legislation may never go to conference. That situation makes it very clear that separate legislative action is necessary, which is the paramount reason we are introducing this bill today.

I believe it was George Santayana who once said, "Those who cannot remember the past are condemned to repeat it." The work of the center will most certainly ensure that we learn this tragic lesson of history over and over so that we will never again experience the horror of the Holocaust. It is a project that, without question, deserves our strong support, and I urge my colleagues to join me in making sure that this important legislation receives expeditious consideration.

Mr. CRANSTON. Mr. President, I rise today in support of S. 2300, a bill that would authorize support for educational programs at the Simon Wiesenthal Center's new Museum of Tolerance in Los Angeles, CA.

November 9 we will mark the 51st anniversary of the Kristallnacht, an ignominious day in the history of Germany, and indeed, all mankind. It was on this "night of broken glass" that the Holocaust turned the corner of history and brought civilization to its lowest depths. Over 50 years after the fact, I can clearly remember the horror I felt as I first read through the German language edition of Hitler's Mein Kampf and witnessed the horrific changes that took place in Germany as the Nazis rose to power.

In 51 years our world has traveled a long way from the horrors of the Holocaust. Ironically, it is this very fact—that we have come such a long way—that demands our eternal vigilance. It is of the utmost importance to our Nation and the nations of the world that we never forget the darkness of the Holocaust. While time will heal some of the wounds of this human tragedy, we must never use this healing as an excuse to forget the past.

Mr. President, since its founding in 1977, the Simon Wiesenthal Center, in my home State of California, has established itself as one of the world's preeminent centers for studying and remembering the Holocaust. With an extensive international membership and hundreds of thousands of American families on its membership rolls, the Wiesenthal Center has become the largest institution of its kind—dedicated to examining and confronting the lessons of the Holocaust's contemporary applications.

The Museum of Tolerance, which is now under construction, is committed to developing educational materials which can be used to teach the pain-

ful, but necessary lessons of the Holocaust. In addition, the Wiesenthal Center's programs will confront the issues of racism, civil rights, and morality throughout both our society and the world. In light of recent events in our country which seem to indicate that racism is not dead, the Museum of Tolerance will provide an important and timely message on the evils of intolerance and insensitivity.

The bill authorizes $5 million for the museum's education programs. I am pleased that the State of Calfornia has already provided for a $5 million matching grant toward the construction of this facility. It is my hope, Mr. President, that the Senate will see fit to provide assistance toward the educational dimension of this worthy endeavor. As the Museum of Tolerance works to educate our youth on the evils of intolerance and the horror of the Holocaust, we serve two lofty purposes. First, we provide a living memorial—through the education of future generations—to all the victims of an overwhelming atrocity. Secondly, we guarantee that the often heard words "never again" ring true across the future.

Mr. President, I urge my colleagues to join me in supporting this important legislation.

Mr. WILSON. Mr. President, I am proud to be an original cosponsor of legislation to provide financial assistance to the Simon Wiesenthal center in Los Angeles, CA, for the operation of education programs concerning the Holocaust at the center's Museum of Tolerance.

It was a few short years ago that I stood in this Chamber to cast the crucial 67th vote enabling the Senate to adopt the international convention against all forms of racial and cultural genocide. With this monumental action we collectively condemned the evil motives of men and governments that led them to systematically exterminate entire populations as a result of what they believed or the cultures into which they were born.

The legislation that we have before us today furthers our continued commitment to the proposition that those martyred millions of yesteryear did not die in vain. With this much needed Federal assistance the Simon Wiesenthal Center's Museum of Tolerance will be able to effectively confront those vital issues of morality and human dignity.

The Museum of Tolerance will be the first institution of its kind to examine prejudice and confront persecution. With historical artifacts, documents, newsreel footage, photos, and state of the art multimedia technology, the museum will study human behavior, the history of racism in America, and highlight the tragic story of the holocaust. By confronting prejudice, and witnessing the inspirational stories of Martin Luther King, Jr., and Raoul Wallenberg, visitors will learn how each of us has the capacity to be a force for justice and humanity; that each individual can participate in the struggle to ensure our democratic values and way of life.

Most importantly, the museum's purpose is to never give our society or any society an excuse to forget. To those nations who refuse to pass the torch of human rights to their people, the museum is a reminder to them that the world is watching and that the world cares, that they will hear more than a few of the pleas of those who carry the spiritual blaze against prejudice.

The historical lessons to be learned will show that there is much to be done to combat intolerance around the globe. Those that have the fortunate opportunity to visit the Museum of Tolerance will leave knowing that they can and must make a difference and thus keep alive the hope that agony suffered by the just could yet bring victory.

By Mr. BOND:

S. 2301. A bill to amend the U.S. Housing Act of 1937 to improve public housing agency management; to the Committee on Banking, Housing, and Urban Affairs.

PUBLIC HOUSING MANAGEMENT IMPROVEMENT ACT

Mr. BOND. Mr. President, I rise today to introduce legislation reforming the management of our Nation's public housing. This is the year that Congress is going to rewrite the laws governing our housing and community development programs and I feel that public housing has not gotten as much attention as it should. There are 1.4 million units of public housing in this country, and we spend $4 billion a year on operating subsidies and modernization money for this public housing. We owe it to the people living there to make sure that it is decent and safe housing.

I do not want this legislation to be viewed as a blanket indictment of public housing. Most public housing is well managed; it is a small minority of the units that are in deplorable shape and have been used by opponents of Government housing programs to discredit the entire program. These few glaring failures of our housing programs must be fixed so we can refute this criticism and move ahead with a new national housing policy.

Our public housing system has evolved over the years in a haphazard fashion and needs to be rationalized. Initially, the Federal Government built public housing and then gave it to local PHA's to run. Rents collected from the tenants paid for the maintenance of the buildings. The Federal obligation ended with the construction of the buildings.

During the sixties and seventies this system began to fall apart as the income from the tenants' rents was not sufficient to take care of the buildings. This is due to the fact that the Federal Government forced the PHA's to restrict public housing to a poorer group of tenants than the working poor who had been the initial occupants of public housing. The Federal Government restricted the rents that could be collected to 25 percent of a tenant's income. This was later raised to 30 percent.

These new Federal requirements necessitated the Federal Government subsidies to keep the PHA's in operation. Thus the operating subsidy and CIAP programs were born. We now have local officials spending Federal dollars and following Federal dictates.

If HUD doesn't like how local officials are spending the Federal money, their only tool is to cut the modernization money [CIAP] because it is awarded at the discretion of the regional office. It is not an entitlement. Operating subsidies are an entitlement and are given out on a per-unit basis. When the modernization money is cut, however, the only people who really lose are the tenants because then urgent repairs are not made on their housing.

Accountability for how Federal dollars are spent must be maintained, but Federal policies should not be enforced by punishing the tenants. What's needed is a new set of carrots and sticks for HUD to use.

HUD should set an objective set of performance standards—like vacancy rates, amount of rent collected, et cetera, that is on a project by project basis—and phase these in over time. HUD should also improve its audit capability so it can effectively monitor PHA performance.

If a PHA is doing an outstanding job, it should be given the flexibility to use Federal money for innovative, creative housing programs and it should be given its CIAP in block grant form so it can plan ahead. PHA directors who are doing a good job should not be micromanaged by the HUD regional offices and should not be spending all of their time filling out reports.

On the other hand, HUD needs some real leverage with PHA's that are not getting the job done. Rather than cutting the money, which only hurts the tenants, HUD should have the option to contract out the management of the housing out to someone else with property management experience and keep the Federal money flowing to the project. Under this legislation, troubled housing authorities will continue to receive their CIAP funding under the system currently in place, rather than by formula. They also are not al-

lowed any of the additional flexibility allowed to high-performing PHA's.

The Reagan administration did us all a disservice by cutting the money available for housing programs without looking at how to make them work better. I am hopeful that I can work with my colleagues to rectify this oversight before the 101st Congress adjourns.

Mr. President. I ask unanimous consent that a summary of the legislation and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Housing Management Improvement Act of 1990".

(a) PERFORMANCE STANDARDS FOR PUBLIC HOUSING AGENCIES.—Section 6(j) of the United States Housing Act of 1937 is amended to read as follows:

"(j)(1) The Secretary shall develop and publish in the Federal Register standards to be used by the Secretary to assess the management performance of public housing agencies. Such standards shall enable the Secretary to evaluate the performance of public housing agencies in at least the following major areas of management operations—

"(A) operating expenses relative to revenues;

"(B) operating reserves relative to maximum allowable reserves;

"(C) tenant rent collections;

"(D) annual inspection of units, compliance of units with housing quality standards or an equivalent standard, and existence of a system for making necessary repairs or replacements;

"(E) utility consumption;

"(F) vacancies;

"(G) repair and turnover of vacant units; and

"(H) such other factors as the Secretary deems appropriate.

"(2) The Secretary shall designate a public housing agency that meets the performance standards specified in paragraph (1) to be a high performing agency and—

"(A) shall exempt such agencies from such reporting, reviews, and preapprovals (particularly relating to the Comprehensive Improvement Assistance Program) as the Secretary deems to be appropriate and consistent with such management practices;

"(B) shall provide Comprehensive Improvement Assistance Program funding to such agencies on the basis of a formula developed under section 14(k);

"(C) shall make high performing agencies eligible for funding for other programs under this Act that is allocated on a competitive basis;

"(D) shall encourage high performing public housing agencies to submit applications for tax credits administered through Housing Credit Agencies; and

"(E) shall develop other appropriate incentives for public housing agencies to meet the standards specified in paragraph (1).

"(3)(A) The Secretary shall establish procedures for designating troubled public housing agencies, which procedures shall include identification of one or more serious failures to meet the performance standards specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate. Public housing agencies designated under this paragraph are not eligible for the benefits described in paragraph (2).

"(B) The Secretary shall enter into an agreement with each troubled public housing agency setting forth—

"(i) targets for meeting the performance standards specified under paragraph (1) and other requirements within a specified period of time;

"(ii) strategies for meeting those targets; and

"(iii) incentives or sanctions for effective implementation of those strategies, which may include such restrictions on the use of funds made available under this Act as the Secretary determines to be appropriate.

The Secretary and a troubled public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out an agreement under this subparagraph.

"(C) The Secretary shall continue to allocate assistance among troubled public housing agencies on a competitive process.

"(4) A public housing agency that does not qualify for designation under either paragraph (2) or paragraph (3) shall recive assistance under section 14 in the manner described in paragraph (2)(B) but shall not otherwise be eligible for the benefits described in paragraph (2).

"(5) The Secretary shall annually publish in the Federal Register lists of public housing agencies that have been designated as high performing under paragraph (2) or troubled under paragraph (3). The Secretary shall also publish an annual update describing the status of each troubled public housing agency.

"(6)(A) Notwithstanding any other provision of law or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default by the public housing agency with respect to the covenants or conditions to which the public housing agency is subject or an agreement entered into under paragraph (3), the Secretary—

"(i) may solicit competitive bids from housing managing agents in the eventuality that these agents may be needed for managing all, or part, of the housing administered by a public housing agency; and

"(ii) may petition for the appointment of a receiver (which may be a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated that is authorized to appoint a receiver for the purposes and having the powers prescribed in this subsection.

"(B) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

"(C) The appointment of a receiver pursuant to this subsection may be terminated, upon the petition of any party, when the court determines that all defaults have been cured and the housing operated by the public housing agency will thereafter be operated in accordance with the covenants and conditions to which the public housing agency is subject.".

(b) PROJECT-BASED ACCOUNTING SYSTEMS.—Section 6(c)(4) of the United States Housing Act is amended by adding at the end of the following:

"(E) the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair, and other operating costs) on a project basis.

The Secretary shall develop such guidelines and timetables as the Secretary determines to be appropriate, taking into account the requirements of public housing agencies of different sizes and characteristics, to achieve compliance with subparagraph (E) not later than January 1, 1993. Each public housing agency shall publish an annual financial statement of all its operations, including the financial status of each individual housing project.".

(c) ELIMINATION OF OPERATING SUBSIDY FOR VACANT UNITS.—Section 9 of the United States Housing Act of 1937 is amended by adding at the end the following:

"(f) After a determination that a public housing unit has been continuously vacant for one year or longer, the Secretary may not provide a full operating subsidy for such unit.".

(d) WAIVER OF THE SINGLE AUDIT ACT.—The Secretary of Housing and Urban development is authorized to waive the applicability of chapter 75 of title 31, United States Code, to public housing agencies. If the Secretary grants such a waiver, the Secretary is authorized to devise new auditing standards and procedures which more accurately reflect the expenditures of Department of Housing and Urban Development funds and the financial status of public housing agencies.

PUBLIC HOUSING REFORM BILL

This legislation is intended to ensure that all residents living in public housing have a decent and safe place to live. The way this objective can be accomplished is to develop a management system for public housing that is both more flexible and more accountable. With this legislation, HUD is given the tools to really find out what Public Housing Authorities (PHAs) are doing with their money and enforce standards, and at the same time PHAs are freed up from the burdensome requirements of the current system and are given more freedom if they are well managed.

Major provisions of the legislation:

HUD is to promulgate objective performance standards to measure how well the PHAs are doing.

Once these standards are in place, HUD is to designate both high performing and troubled housing agencies and is given a series of powers to reward and punish PHAs accordingly.

High performing agencies are given the following benefits:

They can be exempted from reporting requirements and preapprovals at the discretion of the HUD Secretary.

They can receive their modernization (CIAP) money according to a formula rather than by annual competition. This allows them to plan ahead.

They are eligible for the competitive programs administered by HUD. These pro-

grams include child care demonstration grants and funding for anti-drug programs.

They are encouraged to submit applications for tax credits administered by the state housing finance agencies.

Troubled agencies face the following sanctions:

HUD is to enter into agreeements with them to improve their performance.

Their CIAP will be allocated by the competitive process as under current law.

HUD is to solicit bids from qualified real estate managers and is authorized to contract out the management of all or part of the housing managed by a troubled PHA.

If all of this fails, HUD is authorized to petition the court for the appointment of a receiver to manage the public housing.

HUD is required to develop a project by project accounting system for PHAs. The PHAs shall publish an annual report disclosing this information.

Operating subsidies for vacant units are eliminated if the units have been vacant more than one year.

HUD is authorized to waive the Single Audit Act to develop a better auditing system for PHAs.

By Mr. BOND (for himself, Mr. DOLE, Mr. LUGAR, Mr. FOWLER, Mr. MCCONNELL Mr. BURNS, and Mr. COCHRAN):

S. 2302. A bill to amend the Food Security Act of 1985 to revise and extend conservation programs under title XII, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL CONSERVATION RESERVE AND ENHANCEMENT ACT

Mr. BOND. Mr. President, I rise today to recognize National Agriculture Day and introduce legislation which I believe will strengthen the future of this vital industry. Agriculture remains the backbone of this Nation, accounting for approximately 20 percent of all jobs and 17 percent of total gross national product. American farmers are the nucleus of a system which generates $800 to $900 billion of economic activity annually. In short, U.S. agriculture has been successful in balancing the needs of farmers with the public's expectations of a safe, abundant food supply at reasonable prices.

National Agriculture Day provides an excellent opportunity to rise above the day-to-day complexities of agricultural policy and celebrate the commitment and productivity of not only the American farmer but the entire agricultural industry. We should rise above concern over crop surpluses or Federal outlays and realize how lucky we are to be blessed with fertile soil, hardworking people and a bountiful food supply.

Throughout my terms as Governor, and now Senator, I have gained a true appreciation for agriculture's commitment to the environment. Representing an agricultural State with the distinction of having the fourth highest rate of soil erosion in the Nation, and as the ranking minority member of the Agriculture Committee's Subcommittee on Conservation and Forestry, I have worked to gain a thorough understanding of these complex conservation issues. My tenure on the Agriculture Committee has included the implementation of the Food Security Act of 1985, the first farm bill in history to devote an entire title to conservation.

Agriculture and the environment have always been inextricably linked. Agricultural producers are the ultimate environmentalists, for their livelihood depends directly on the productivity of the soil and the availability of natural resources. I believe strongly that our Nation's agricultural producers are willing to embrace new technology which further enhances their role in preserving soil and protecting water quality. At the same time, we must refrain from mandating programs which require producers to implement practices which fail to balance environmental goals with economic realities.

Mr. President, on behalf of Senators DOLE, LUGAR, FOWLER, MCCONNELL, BURNS, and COCHRAN, I am introducing the Agricultural Conservation Reserve and Enhancement Act of 1990, or ACRE, which builds on the solid foundation laid in 1985. This legislation was designed to improve the conservation programs established in the Food Security Act of 1985, not abandon them. I am very concerned that many have underestimated the impacts of the conservation provisions mandated in the 1985 farm bill.

Beginning last year, I held several farm bill meetings throughout Missouri. I heard many comments on current conservation provisions and several suggestions for improvements. These comments provided the framework for ACRE.

Let me provide one example of the magnitude of conservation programs, mandated by the 1985 farm bill, which are only now being implemented. Under conservation compliance, producers who have highly erodible cropland had to have a soil conservation plan approved by December 31, 1989, and implemented by January 1, 1995. Producers who fail to comply may lose eligibility for Federal farm programs.

Nationwide, this program impacts 139 million acres, or one-third of all U.S. cropland. A total of 1.4 million conservation plans were approved prior to December 31, 1989. The Soil Conservation Service [SCS] estimated recently that 54,416 staff years will be necessary in the next 6 years, while only 34,000 staff years are available. Compliance will also require building 216,000 miles of terraces and 45.5 million acres of conservation tillage.

In Missouri, we will need to construct approximately 29,000 miles of terraces and more than one-third of our cropland will be required to use conservation tillage or no-till. Conservation compliance alone is expected to cost some $250 million.

ACRE recognizes the important progress made in recent years, yet refrains from creating costly new mandatory programs. Let me highlight a few of the bill's provisions:

Extends the authorization for the Conservation Reserve Program [CRP] through 1995 for 38 to 45 million acres;

Authorizes the Secretary to alter the length of a CRP contract depending on the type of land he is addressing. For example, the Secretary could offer a 30 year contract for wetlands;

Requires the Secretary to offer several new incentives for planting hardwood trees on acreage enrolled in the CRP. These incentives include contract extensions, increased cost-share, permitting certain agronomic uses, and waiving current ownership requirements;

Authorizes the Secretary to develop an optional bid-back program for the least highly erodible acreage currently enrolled in the CRP;

Makes shelterbelts and windbreaks eligible for 15 year CRP contracts;

Expands buffer strip eligibility 22 to 99 feet along streams and rivers;

Requires the U.S. Department of Agriculture to study the future of the CRP and provide Congress with a comprehensive report on options and recommendations, including cost estimates, for this land as it expires;

Establishes a contract sanctity clause to avoid the effect of Gramm-Rudman-Hollings sequesters on annual CRP rental payments;

Requires the Secretary to develop a voluntary program to work with producers to create integrated farm plans to take into account their total farm resources;

Requires the Secretary to review the implementation of Swampbuster to determine the extent to which penalties for minor infractions have not been commensurate with the violation; and

Requires the Secretary to cost-share with producers who devote a portion of their acreage set-aside to a perennial cover crop.

Mr. President, I believe this bill improves upon the important conservation provisions in the 1985 farm bill. There are other Senators developing conservation legislation and I look forward to working with them to design a package acceptable to all. I plan to continue working with the chairman of the Conservation and Forestry Committee, Senator FOWLER, and other members of the Senate and interested organizations, in crafting such a package.

I thank the distinguished minority leader, Senator DOLE and the ranking minority member of the Senate Agriculture Committee, Senator LUGAR,

and their staffs for their support and assistance with this legislation. Also, I thank the American Farm Bureau Federation, and especially my friends John Datt and Mary Kay Thatcher, for their assistance in developing this package. Finally, I want to recognize the important contributions to this legislation provided by the University of Missouri-Columbia.

Mr. President, I am pleased to have broad support for this legislation within the agricultural community including the American Farm Bureau Federation, the American Soybean Association, the National Cotton Council, the National Association of Wheat Growers, the National Corn Growers, the National Association of Conservation Districts and other farm organizations.

Mr. DOLE. Mr. President, today I would like to join as a cosponsor with Senator BOND in introducing legislation to better conserve our soil and enhance the quality of our water, two vital concerns to farmers and others in rural America. I want to commend Senator BOND for his leadership in an area that is of growing concern to more and more Americans. I am also pleased to note that the legislation we are introducing today is supported by a majority of the agricultural community.

I believe this bill represents a good starting point for our deliberation on the conservation title of the 1990 farm bill. It has much in common with the directions and ideas introduced in 1988 in my "Environmental Conservation Acreage Reserve Program" legislation [ECARP] for short.

Senator BOND'S bill addresses concerns regarding the contamination of land, water, and wildlife areas. It calls for long-term acreage retirement efforts, with an emphasis on targeting environmentally-sensitive land and giving farmers more flexibility in dealing with environmental problems.

WATER QUALITY AND THE ENVIRONMENT

The protection of our Nation's water, particularly ground water, is receiving more and more attention. Ground water is the primary drinking water for one-half the U.S. population and over 97 percent of rural Americans. We are told that 61 percent of our Nation's counties are highly or moderately vulnerable to ground water contamination.

Mr. President, farm families care more than anyone else about their primary assets, the land and its water. They are the closest to our soil and water resources and care the most about their quality. Regardless of what some groups might like people to think, no one has more at stake or cares more than our own farm families.

PROVISIONS

The bill being introduced today would accomplish several objectives. It would extend authorization for a 38 to 45 million acre CRP, with signups through 1995. It encourages long-term land retirement and the enrollment of wetlands. Farmers who plant hardwood trees, shelterbelts, or windbreaks would be offered the option of 15-year contracts.

The legislation introduced today has other important features. It includes a discretionary bid-back option for the least highly erodible land. To ensure farmers receive annual rental payments, it exempts CRP payments from sequestration. It modifies Swampbuster, giving the Secretary authority to determine the extent to which penalties for minor infractions have not been commensurate with the violation.

BUDGET CONSIDERATIONS

Because the bill gives the Secretary considerable discretion, it gives the CRP needed flexibility. It allows the Secretary to target acres that would provide the greatest environmental benefits for the dollars spent. With $1.7 billion going annually for rental payments on the 34 million acres currently enrolled, fiscal accountability is a critical element. It is an element that will be a focal point of not only environmental policy discussions, but of the farm bill debate in general.

CONCLUSIONS

Mr. President, this legislation balances the concerns of farmers, environmentalists, and the Federal Government, which is incurring an elevated role in setting policy to protect our water and land. By directing our financial resources toward enrolling environmentally sensitive land, we can provide for the betterment of water quality and our land resources, to the benefit of future generations.

By Mr. KENNEDY:

S. 2303. A bill to further the foreign policy of the United States by providing support and assistance to the new, democratic government in Chile; to the Committee on Foreign Relations.

SUPPORT FOR DEMOCRACY IN CHILE ACT

Mr. KENNEDY. Mr. President, a dramatic and triumphant democratic revolution has occurred in our own hemisphere—the peaceful return of democracy to Chile.

Today, I am introducing the Democracy in Chile Act which applauds this historic achievement and offers United States assistance to help the people of Chile consolidate their gains.

The bill authorizes $50 million in assistance to Chile—primarily in the areas most neglected by the Pinochet regime—health, education, and housing.

For 16 years, the people of Chile lived under a repressive dictatorship, denied their basic civil, political, and human rights.

The overthrow of the Allende regime in 1973 interrupted Chile's long and proud tradition of democracy.

Torture and terror were the twin symbols of General Pinochet's regime. His official henchmen engaged in disappearances, summary executions and massive forced exiles. He denied the Chileans their fundamental right to choose their own leaders; he abolished the Congress and denied the rule of law. The Government's tentacles of terror even reached to the streets of Washington, DC, with the car bomb murder of his political opponent, Orlando Letelier, and an American, Ronni Karpen Moffitt.

Yet the irresistible tide of democracy rose higher and higher each year until it swept the dictator from power.

And in a remarkable triumph for freedom, the Chilean people came together in an extraordinary political coalition to defeat their oppressor. In answer to one simple question, the Chilean people resoundingly rejected continued rule by General Pinochet in the historic plebiscite on October 5, 1988. They voted: No to dictatorship; yes to democracy.

And on December 14, 1989, in elections judged the world over to be free and fair, the Chilean people elected Patricio Aylwin and a new democratic Congress to lead the country back into the family of democratic nations.

I had the honor of attending President Aylwin's inauguration last week as part of Vice President Quayle's delegation, and we witnessed firsthand the transfer of power from General Pinochet to President Aylwin.

I had last visited Chile in 1986 when the Government organized demonstrations against me and refused even to meet with me to discuss our differences. The atmosphere of this last visit was remarkably warmer—I knew the moment I stepped off the plane that a new era had begun in Chile.

The inauguration was an extraordinary celebration of the return to freedom in Chile, and respect for human rights was a centerpiece of the 2-day ceremony. When General Pinochet entered the Congress, newly elected members of congress silently displayed photos of the disappeared. In an historic act full of symbolism for democracy, General Pinochet removed his Presidential sash and the freely elected President of the new Senate placed a new sash on President Patricio Aylwin.

The inauguration of President Aylwin was followed by a celebratory performance of Beethoven's "9th Symphony," in tribute to newly won freedom of the Chilean people.

In the final event of the inauguration celebrations, the people of Chile gathered in the national stadium—the very place where in 1973, General Pinochet held tens of thousands of his fellow citizens rounded up as subversives. Many were later tortured and killed, including two Americans.

On the day of the restoration of democracy, the people of Chile returned to that stadium, to celebrate the triumph of their long struggle for freedom. This was a day which cleansed the stadium of its horrible past and brought about a new Chile—a Chile of justice and freedom.

With mothers of the disappeared displaying photos of their lost sons and daughters, the people of Chile pledged, never again.

For 16 years, the people of Chile had sought their liberty—not with instruments of war, but with the most powerful weapon on Earth—the invincibility of the human spirit.

Throughout the dark years of oppression, throughout the hard years of intimidation, throughout the difficult years of suffering, the people of Chile never wavered in their enduring commitment to be free. And the inauguration of President Aylwin is an impressive tribute to the idea of liberty and democracy.

The battle against dictatorship has been won in Chile. But the struggle for a just, fair, and democratic society has only just begun. As President Aylwin noted in his inauguration speech:

> The fact that we now have a government of the people does not mean that problems will disappear.

The United States must assist the new Chile in consolidating the impressive gains of its new democracy.

General Pinochet left behind a web of problems which President Aylwin's government must now overcome.

He remains as chief of the armed forces and the new government must ensure that the civilian authorities maintain full control over the military.

General Pinochet's economic programs hurt the poor of Chile, particularly in the areas of health, education, and housing, and the new government must move to assist the impoverished of Chile.

The United States can help by restoring trade and investment benefits under OPIC and GSP, thus helping the Chilean economy to grow and prosper.

We can provide expertise to combat the serious pollution problems faced by Santiago and the other cities of Chile. We can provide housing guarantees, health care assistance, and education funds to build schools in Chile's poorest areas.

The bill I am introducing today provides $50 million in health, housing, and education, authorizes the Peace Corps to resume operations in Chile, and provides technical assistance to the new congress.

It also provides technical assistance to help Chile combat its environmental problems and urges a speedy resumption of the trade and investment benefits and guarantees under OPIC and GSP.

We can offer our own expertise right from the United States Congress to help the Chileans set up their own new congress.

We can send teams of experts from OTA, CBO, GAO, and our Congressional Research Service to help Chile establish its own infrastructure to support a strong and effective legislative branch of Congress.

Finally, another issue to be addressed by the Aylwin government will be the still unresolved murder of Orlando Letelier and Ronni Karpen Moffitt in Washington, DC. Agents of the Pinochet regime traveled to the United States on forged passports to carry out this murder.

A United States court indicted members of the Chilean intelligence agency who remain at large today. Justice must be done and I am convinced that the new President fully shares this view.

The bill I am introducing today will provide essential assistance to help foster social, economic, and political development in a new, democratic Chile, and I urge my colleagues to support the measure.

A new day of freedom is dawning in Chile and throughout our hemisphere. Let us act wisely to support and build on this triumph.

I ask unanimous consent that the text of the bill and of President Aylwin's inauguration speech at the national stadium may be reprinted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Support for Democracy in Chile Act of 1990".

SEC. 2. STATEMENT OF FINDINGS.

The Congress finds that—

(1) the United States has a proud and successful tradition of providing support for democratic nations;

(2) it is in the interest of the United States to provide support and assistance to democratic governments to help them solidify and stabilize their system of governments and economies;

(3) for the last 16 years, the people of Chile suffered violations of their basic human, political and civil rights under the dictatorial regime of General Augusto Pinochet;

(4) despite a proud and distinguished tradition of democracy over the last 150 years, the people of Chile were denied the right to choose their leaders in democratic elections or elect representatives to Congress during the years between 1973 and 1990;

(5) on October 5, 1988, in a dramatic demonstration of support for democracy and freedom, the people of Chile voted in a well organized, free and fair plebiscite to reject a continuation of rule by General Pinochet;

(6) on December 14, 1990, the people of Chile participated in their first election in two decades and elected Patricio Aylwin President of Chile and a new Congress in a free and fair vote;

(7) on March 11, 1990, the Presidential sash and powers were peacefully transferred from General Augusto Pinochet to President Patricio Aylwin;

(8) the long overdue restoration of democracy in Chile is a triumph for the courage and determination of the Chilean people and a victory for freedom and democracy everywhere;

(9) the new government of Chile faces many challenges in promoting economic prosperity, meeting the social needs of its citizens and ensuring civilian control over the military; and

(10) the United States and other democratic nations can assist Chile in meeting these challenges and consolidating the impressive democratic victory.

SEC. 3. DECLARATION OF POLICY.

The Congress declares that it is the policy of the United States to promote democracy, respect for human rights and civilian control of the military through the extension of assistance and benefits to the new government in Chile. Such programs will also promote a better understanding of the American people abroad and a better understanding of other peoples within the United States.

SEC. 4. OVERSEAS PRIVATE INVESTMENT CORPORATION AND GENERALIZED SYSTEM OF PREFERENCES.

It is the sense of the Congress that the United States should provide to Chile investment guarantees and credits under the Overseas Private Investment Corporation (OPIC) and trade benefits under the Generalized System of Preferences (GSP) as soon as possible and that the U.S. interagency group reviewing Chile's petition for these benefits should move forward in an expeditious manner.

SEC. 5. PEACE CORPS PROGRAMS.

Notwithstanding any other provision of law, there are hereby authorized to be appropriated for fiscal years 1990 and 1991 to the Peace Corps not less than $1,500,000 solely for establishing and operating a Peace Corps program for Chile.

SEC. 6. ENVIRONMENTAL ASSISTANCE.

(a) In addition to specific authorities contained in any of the environmental statutes administered by the Environmental Protection Agency, the Administrator of that Agency (the "Administrator") is authorized to undertake such educational, policy training, research, and technical and financial assistance, monitoring, coordinating, and other activities as may be deemed appropriate, either alone or in cooperation with other United States or foreign agencies, governments, or public or private institutions, in protecting the environment, and preventing environmental contamination threatening public health in Chile.

(b) There is authorized to be appropriated up to $1,000,000 in each of the fiscal years 1990, 1991, and 1992 to carry out the purposes of this section.

SEC. 7. TECHNICAL CONGRESSIONAL ASSISTANCE.

(a) There is authorized to be appropriated $2,500,000 for the purpose of providing technical assistance, training, exchanges and equipment to the new Congress of Chile in accordance with this section.

(b) The Secretary of the Senate, the Clerk of the House of Representatives, the Librarian of Congress, the Office of Technology

Assessment, the Congressional Budget Office, the Congressional Research Service and the General Accounting Office are authorized to provide support and assistance to the Congress of Chile in developing its institution, including research, technology assessment, budget analysis and preparation, information systems, staff, equipment and materials.

(c) Further, these funds provided for in subsection (a) may also be applied to education and training seminars for the new Congress in conjunction with governmental agencies, universities, and other nongovernmental institutions.

SEC. 8. HOUSING ASSISTANCE.

The Agency for International Development is authorized to enter into an additional amount housing guarantees in Chile of $10,000,000. In extending such guarantees, AID shall direct the majority of the programs toward low income housing in impoverished areas of Chile.

SEC. 9. HEALTH ASSISTANCE.

There is authorized to be appropriated to the Agency for International Development $20,000,000 to be used for grants to the government of Chile to strengthen the country's primary public health care system, of which $1,000,000 shall be used only for drug treatment programs, $200,000,000 shall be used only for the Chilean Institute of Public Health, support for its research and training capabilities and to facilitate exchange programs with the United States National Institutes of Health and the United States Center for Disease Control, and $200,000 shall be used to carry out a program of mental health counseling and community education with respect to the victims of human rights abuse.

SEC. 10. EDUCATION ASSISTANCE.

There is authorized to be appropriated to the Agency for International Development $10,000,000 to be used for grants to assist the new government in the implementation of its program to repair, refurbish and build 900 basic elementary schools in poor urban and rural areas of Chile and to support technical and vocational training.

SEC. 11. UNITED STATES-CHILE DEVELOPMENT FUND.

There is authorized to be appropriated $2,000,000 for the establishment of a United States-Chilean Development Fund to promote in Chile, education, small business, improvement in the work force, innovative production techniques, applied science and post graduate training, and research.

SEC. 12. REPORTING REQUIREMENT.

Not later than twelve months after the enactment of this Act, the President shall submit to Congress a detailed report outlining the status of the programs referred to and authorized by this Act., An evaluation of each of these programs and a recommendation on how the United States might best support democracy and social justice in Chile.

SPEECH BY CHILEAN PRESIDENT PATRICIO AYLWIN AT THE NATIONAL STADIUM, MARCH 12, 1990, SANTIAGO, CHILE

This is our Chile, the Chile we all want, the country for which so many people during its history gave their lives to preserve. The just and democratic country, the nation of brothers.

Presidents, heads of governments, Ministers, Ambassadors of friendly nations, Members of the Government and Congress, Judges of the Fatherland, Chileans, Friends:

We are gathering here today with hope and joy. Hope, because at last we begin, with fraternal spirit and a yearning for freedom and justice, a new stage in our national life. Joy, because for the first time in 20 years we begin walking a path that we ourselves chose consciously and freely. It has not been imposed on us. It is the result of the free and sovereign will of the Chilean people.

Today we celebrate a new daybreak. [Applause.] In this beautiful gathering, more than celebrating the victory that was officially sanctioned during the inauguration at Congress yesterday, we make public our firm commitment to consolidate our national unity, seeking reconciliation among all Chileans on the bases of mutual respect and the nonrestrictive reign of truth, law, and justice. [Applause.]

This celebration is enhanced by the presence of our guests, leaders and representatives of friendly countries. They are with us at this happy moment as they were with us in solidarity during the days of persecution and pain. [Applause.]

They joined our struggle with the asylum they generously granted all exiled Chileans [applause], with their defense of the human rights of so many fellow Chileans, and with their solidarity with our people's struggle to recover democracy. In the name of our people, I now thank you, thank you very much. [Applause.]

We would also like to add something else. You can rest assured that the return of democracy in Chile will also mean that we will actively participate in all international cooperative efforts, that we may contribute to the development of the people, to justice and peace among nations, and to the reign of human rights in all countries of the world. [Applause.]

Millions of Chileans from one end of the nation to the other are with us in this festivity. Others who live abroad, either voluntarily or because they were forced to do so, have hopes for the restoration of democracy here. We are conveying to them our fraternal greetings. [Applause.]

During the sad, hateful, and blind days when force prevailed over reason, this stadium was for many countrymen a place of imprisonment and torture. We would like to say to all Chileans and to the world that never again will human dignity be violated [applause]; never again, fratricidal hate; never again, violence among brothers. From this site, where His Holiness Pope John Paul II told Chilean youth that the values of the spirit—like the daughter of (Jairo)—were not dead but sleeping, we would like to proclaim to the world that the traditional civic and democratic spirit of the Chilean people, which gave us prestige among nations, and which was reason enough to be proud, has never died. It was asleep, but after years of suffering, bitterness, struggle, and obstacles, it has awakened, alert and never to sleep again. [Applause.]

Today we are making a commitment to rebuild our democracy faithful to the values we inherited from our forefathers, values which Cardinal Silva Enriquez [applause], a just man and a great friend of the Chilean people, to whom we owe so much, described beautifully as the soul of Chile, the love for freedom, the rejection of all forms of oppression, the supremacy of the law over injustice, the supremacy of faith over any form of idolatry, tolerance of differing opinions, and the tendency not to exacerbate conflicts but to try to resolve them through agreement. These values will prevail among us again. [Applause.]

We have a beautiful and complex job ahead of us. We must restore a climate of respect and confidence among the Chilean people, no matter what their beliefs, points of view, activities, or the social class to which they belong; no matter whether they are civilians or military. [Booing.] Yes, gentlemen, yes fellow countrymen, no matter whether they are civilians or military, Chile is a single country. [Applause.] The innocent should not pay for the guilty. [Applause.] We must be able to reconstruct the unity of the Chilean family [Applause], be they workers or businessmen, laborers or intellectuals. We must open paths for democratic participation so that everyone may cooperate in achieving well-being. We must do away with the great differences that divide us and especially must raise the living standards of the most needy sectors to respectable and human levels. We must safeguard the health of our fellow countrymen. [Applause] We must estabish a fair relationship between those involved in the economic process. We must give our youths access to knowledge, job opportunities, and progress, which is in keeping with the time we are living in. [Applause.] We must grant our elderly the respect they deserve. [Applause] We must promote the participation and enhance the role of the women in Chilean society. [Applause.] We must promote growth and safeguard the stability of our economy. We must improve the terms of our foreign trade. We must preserve the environment [Applause] and our renewable natural resources. We must make our utmost contribution to Latin America's democratization, development, and integration, and to the consolidation of world peace. In sum, we must implement the policies contained in the program that the coalition of the parties for democracy [CPPD] proposed to the country.

Although the job that lies ahead of us is beautiful and complex, and demands from us our utmost effort and enthusiasm as we undertake it we must be fully aware of the difficulties it will pose. We are going to face difficulties caused by the obstacles and restraints that the past regime has left us. [Booing.] There will be obstacles stemming from the very nature of the various issues, and there will also be others, no less important, which we created ourselves. Nobody ignores that the previous government tried to perpetuate itself in power. [Booing.]

History tells us that such attempts have never prevailed over the people's right to govern themselves. [Applause.] We are witnessing this in various parts of the world. We are also proving this with this very event we are celebrating. However, the satisfaction we feel today must not prevent us from seeing the innumerable limitations, obstacles, and restraints that the regime that governed until yesterday created in its attempt to perpetuate itself in power. [Booing.]

Those who exercised full power made an effort to the last day to reduce the power of the new democratic officials. Those who used the assets of the state as their absolute owners, without any limitations, found the way to take away as many assets as possible from the administration to which it constitutionally belongs, from the President of the Republic. [Applause.]

Many people are asking why we accepted these things. They do not hide their rejection of the cordial way in which the transfer of power was being conducted, while these events were taking place. While I am supporting the moral condemnation that such a

conduct deserves, a condemnation which I am sure history will approve, I invite my countrymen to look at the other side of the issue.

We are happy with the peaceful path we took, without any emotional stress, to the Democratic Government. In order to avoid the limitations imposed by the former regime, should we have exposed our people to new violence, suffering, and loss of life? [Shouts of no.]

We, the Chilean Democrats, decided to achieve democracy by defeating authoritarianism on its own playing field. This is what we did, accepting the benefits and costs involved. [Applause.]

I sincerely believe that the path we chose was the best possible one. Courtesy does not mean cowardice. [Applause.] I believe that most of the obstacles used to try to restrain us will not resist the weight of reason and the law. [Applause.] I trust that the national congress, disregarding differences among parties, will approve the necessary reforms to insure the normal and prompt operation of our new democracy. I am sure that our armed and security forces will fulfill their institutional duties if anyone dared, or is tempted, to employ force against the will of the people. [Applause.]

We will also have to overcome the natural problem involving issues. Our program is large, the requirements are many. There are many needs that have not been fulfilled for years that must be met. We will not be able to do everything at once. We will have to establish priorities. The right thing to do is to begin with the poorest. [Applause.] There are many people with problems. We will give first priority to those who really need help. Our country belongs to the developing world. Our national per capita income is low. If we distribute our income among the 12 million Chileans, no one would be satisfied and we would stop our growth.

We need to grow if we want to overcome poverty. This requires that we stimulate savings, investments, creative initiative, and the entrepreneurial spirit. Government policies will have to reconcile the spirit of social justice and the legitimate requirement to satisfy essential needs with the unavoidable demand for growth and development.

Everything in life requires time. How many years did we spend trying to recover democracy? [Booing, whistling.] The fact that we now have a government of the people does not mean that problems will disappear. It only means that from this very moment, from now on, we will begin to work to solve these problems.

We count on everyone's effort and participation to the task. [Applause.] Only then can we consolidate our democracy and solve our problems.

We must also resolve other difficulties: the problems within ourselves. I will call them the great temptations: the temptation to consume all our time in settling old accounts, the temptation to begin everything anew, and the temptation of power.

It is legitimate and just for people to want truth after a long period of an absolute and mysterious power, with so much suffering, and with public matters held as inaccessible secrets. We have said before, and we solemnly reiterate today, that the moral conscience of the nation demands that we find out the truth about the missing people [applause], the truth about the horrendous crimes and other grave human rights violations that occurred during the dictatorship. We have also said, and I reiterate today, that we must face this delicate matter by reconciling the virtues of justice and prudence. After the responsibility for those crimes is determined, the time for pardon will arrive. [Shouts, whistling.]

There are also other unjust matters that demand reparation and prompt correction. Today I have signed decrees pardoning numerous political prisoners. [Applause.]

In the coming days we will resolve other cases. I have sent to Congress the appropriate bills to resolve the problems of all political prisoners. [Applause.] We will also have to clarify matters that have never been explained well. Some of these matters involve the state patrimony and the national interest.

In this necessary exercise of justice, we must avoid the risks of reenacting the past. We must avoid our past conflicts. We must avoid spending endless hours in inquiries, recriminations, or witch hunts. We must not forget our duty to the future. I consider it my duty to ensure that all our time is not spent looking at the past. The spiritual health of the country demands that we find formulas to complete—in a reasonable period of time—the moral cleansing of the nation. The time will come when we will all be able to look at the future with trust, to reconcile ourselves, and to join efforts in the task of developing the country. [Applause.]

In our determination we must also avoid the temptation to try to redo everything, to start from square one as if none of what already exists deserves being preserved. History tells us that countries are built through cumulative actions of successive generations. Each new phase is built on the previous one, with its achievements and mistakes. Chile wants us to preserve what is good, correct what is bad, and improve what is not so good. This is the only effective way to progress in our noble and just attempt to match reality with ideals.

We must also be careful of being tempted by power, either by believing it belongs to us and failing to see that we are mere governors of a sovereign people and responsible to them for our performance, or by turning the legitimate democractic controversy into a cruel struggle to preserve, increase, or win power. For us, power will be a mere tool to serve. We will preserve and increase our fellow countrymen's confidence if we are capable of efficiently working for the well-being of the nation.

As far as I am concerned, I assume the honorable and difficult responsibility entrusted to me by the people with the firm determination to be the first servant of Chile and Chileans. [Applause.]

What can my fellow countrymen expect from me? That I exercise the power entrusted to me honestly and wholeheartedly, without expecting honors nor avoiding sacrifices, always seeking the common good, abiding by my principles; that I always tell the truth, never straying away from law and zealously seeking justice; that I be loyal to the democratic principles, and also loyal—within the framework of the program that represents our commitment to the Chilean people—to those who honor me with their support; that I respect all the people and the various viewpoints; that I listen to everyone; that I always strive to promote understanding and to reach agreements; that I do not hestitate to make the decisions that, according to my understanding, are in the country's higher interests; in sum, that I try to be a good father to all my fellow countrymen and that with effort, self-sacrifice, and authority I achieve the well-being and happiness of my people, worrying especially about those who need me most, that is, the poorest and humblest. [Applause]

What do I expect from my fellow countrymen? I expect and demand, above all, that they understand that the task of building a true and sound democracy, and of achieving the development and justice we desire, are not tasks exclusively for the government, Congress, and other authorities, but tasks for all Chileans. We require everyone's imagination, effort, initiative, discipline, and sacrifice. We can accomplish our tasks only with everyone's cooperation.

Our government will not fulfill the duties of each and every Chilean citizen, face social organization, face enterprise. It will be here to support them, encourage them, back them, but nobody must forget that Chile belongs to everyone and must be built every day by everyone. [Applause].

I hope for and demand patriotism from everyone so that they can understand and accept that Chile's interests come before the interest of particular individuals, groups, or sectors. Everyone must cooperate generously, to the extent of his own abilities. If we are to achieve a fair and stable political, economic, and social order. I hope and demand that all Chileans abide by the law and reason in working for their own aspirations and that they refrain from resorting to violence in order to impose their intentions. [Applause.] Whoever resorts to violence will fail. The use of force belongs to dictatorships; reason and law are the tools of democracy. [Applause.]

I hope that we mutually respect our different viewpoints, that we give up all sorts of sectarianism and hegemonic pretensions, and that we make every effort possible to understand each other and find paths to consensus. I am well aware that many Chileans have been ill-treated and neglected during these many past years. I am aware that they are tired of waiting and believe that the return to democracy will quickly solve their problems that are often distressing. I understand their needs and urge them also to understand, as I have insistently said during the electoral campaign. That we will need time and a lot of cooperation. If you have been forced to wait for so long, I now ask you for some voluntary and reasonable patience. To the Chileans who have made progress in the midst of a peace imposed by force, I ask them to understand that in modern societies there is no stable order or safety if it is not based on rational consensus rooted in law. [Applause.]

The desire for peace that prevails among us demands our utmost effort to maintain and project toward the future the climate of understanding that has marked our transit toward democracy. In this spirit we must praise the dialogue that is being held by workers and businessmen with the purpose of reaching agreements in the economic and labor fields. In order to support and complement this initiative, I have instructed my finance, economy, and labor ministers to arrange meetings between the central labor union, the production and commerce confederation, and the Government. In order to reach an agreement that will represent a guarantee of progress, justice, and stability. [Applause.]

Fellow countrymen, may the Lord help us fulfill the task that Chile has entrusted us with. May the Lord give us wisdom and spare us from mistakes and clumsiness. May the Lord give us wisdom to face reality without mistaking desire from capability and to act effectively. May the Lord give us energy

to make the decisions and the courage not to be intimidated by difficulties. May the Lord give us the patience to overcome incomprehension and the humility to recognize our mistakes. May the Lord illuminate our minds and give us a powerful will to seek justice. May the Lord give us the love to always be united, to work together, and to help each other.

Chile is our home. Let us take care of it together, that its bread may feed all of its children, that the fruits of peace and the joy of living may grow. I have faith. I have a great deal of faith in Chile and in its people, in their sacrifices and common sense, in the strength of the Chilean women, in the spirit and imagination of our workers, in the creativity of our intellectuals and businessmen, in the idealism of our youth, in the moral values of our families.

Our beautiful history teaches us how this small and hard-working nation—overcoming the problems of poverty, its crazy and beautiful geography, and its earthquakes—was able to build an exemplary republic that is admired among nations. Because of several ideologies and various irreconcilable goals, hate prevailed for a while over solidarity; force prevailed over reason. After years of bloody divisions and the rule of violence, today we again have a patriotic spirit, and we stand ready to lead Chile into the new century as a prosperous and peaceful nation. [Applause.]

At this crucial time in our national life, I invite all of my countrymen to go deep into their minds to ask themselves how everyone can contribute to the great common task, and to be ready to assume their share of responsibility. The world is looking at us. The great leaders of our history demand that we act in a suitable manner. The future generations will judge our conduct. The task is beautiful: To build together the nation we want, free, just, and good for all Chileans. It is up to us countrymen. [Applause.]

By Mr. RIEGLE (for himself, Mr. GARN, Mr. CRANSTON, Mr. D'AMATO, Mr. BOND, Mr. HEINZ, Mr. MACK, Mr. GORTON, Mr. GRASSLEY, Mr. MCCLURE, Mr. MURKOWSKI, Mr. CHAFEE, Mr. SYMMS, Mr. WILSON, Mr. COATS, Mr. KASTEN, Mr. DOMENICI, Mr. COCHRAN, Mr. MCCONNELL, Mr. STEVENS, and Mr. DANFORTH) (by request):

S. 2304. A bill to amend Federal laws to reform housing, community and neighborhood development, and related programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE ACT

Mr. GARN. Mr. President, I along with Senators GARN, CRANSTON, and D'AMATO am introducing, by request, the Homeownership and Opportunity for People Everywhere Act of 1990 [HOPE].

The affordable housing crisis in the United States is clear for all to behold. Walk down the streets of any major city in our country and the homeless are visible without even looking. Some 730,000 Americans are homeless on any given night, and between 1.3 million and 2.0 million persons experience homelessness each year. Millions more are only one missed paycheck or personal crisis away from themselves becoming homeless. An MIT housing analyst has projected that if present patterns persist, by the year 2003, 18.7 million Americans will be unable to find affordable housing.

The Housing Subcommittee has been working on comprehensive legislation for more than 2 years. I want to commend subcommittee Chairman CRANSTON and ranking Republican D'AMATO for their leadership in this area and for their authorship of S. 566, the National Affordable Housing Act.

There are now two major housing initiatives before the Senate: S. 566, and the Homeownership and Opportunity for People Everywhere Act [HOPE]. These two bills are in many ways complementary, and the Banking Committee has already begun the process of merging them into a single package.

Housing legislation is an important priority of the committee this year. Such legislation must address the spectrum of housing needs faced by homeless people, low-income families and first-time home buyers. It must build upon public/private partnerships to expand the supply of affordable housing. It must create a strong low-income housing preservation program, encourage the conversion of public and assisted housing to tenant ownership where appropriate, and improve housing assistance in rural areas. It must provide affordable housing with supportive services for people with special needs, such as elderly people and people with disabilities. And, it also must increase rental assistance provided to low-income tenants.

Through a cooperative bipartisan effort it is our intention to enact comprehensive housing legislation this year.

Mr. CRANSTON. Mr. President, I join Senators RIEGLE, GARN, and D'AMATO in introducing, by request, the administration's housing proposals in the Senate today. I have long worked on a cooperative basis with Secretary Jack Kemp and others in the administration, and I'm pleased to have the opportunity to extend this courtesy on this occasion.

Secretary Kemp's determination and hard work have brought the legislation to this important milestone. I value the leadership he is bringing to policies that affect our Nation's housing, and I deeply appreciate his efforts to win White House approval of significant, new housing initiatives.

The "Homeownership and Opportunity for People Everywhere [HOPE] Act" incorporates ideas that Jack Kemp has strongly advocated for many years. I have shared his desire to make sure that low-income and moderate-income Americans have greater opportunities for homeownership and management of their housing.

I believe Secretary Kemp wants to work together on a bipartisan basis to achieve important housing legislation that deserves strong support by the administration, the Congress and the American people. I look forward to incorporating as many of his suggestions as possible into the housing legislation that the committee will mark up on May 2.

This is the approach this committee has been following over the past 3 years. We have reached out nationwide for the country's best housing ideas. Hundreds of the country's housing leaders have spent thousands of hours to refine these ideas into sound legislation. I look forward to working with Jack Kemp over the next few weeks to refine those ideas even further.

The Secretary's desire to work with Congress is vastly helpful. I am confident that Congress will pass major housing legislation this year. I am optimistic it will be comprehensive legislation. And I suspect that what we do this year will determine the shape of national housing policy for at least the next 2 or 3 years.

The question is not: "Will we get a housing bill?" The question is: "Will we get a good housing bill—a housing bill that we can be proud of?"

The need is growing ever more urgent. During the past decade Congress and the administration have taken a number of actions through tax policy, through regulation and through legislation that have had a very harmful impact on housing in this country.

Funding has been slashed, programs have been mismanaged, and scarce resources were being ripped off by the politically well connected and the greedy.

The Tax Reform Act of 1986 sharply reduced the value of tax incentives for ownership of rental housing. The passive loss limitation rules, changes in the method of depreciation and restrictions on tax-exempt financing have all had a devastating impact on the construction and maintenance of multifamily housing.

The problems, unfortunately, have been made even worse by more recent actions.

We are only now beginning to understand ways in which last year's thrift reform act is having unintended negative consequences for housing. The limits on loans to one borrower and the risk-based capital requirements have sharply reduced thrift lending for apartment construction and rehabilitation.

While all this has been occurring, something has been going very wrong with housing for the poor. And housing has become less affordable for

other Americans as well—as is shown by the declining home ownership rates.

But awareness of the housing problem is growing. I am convinced we have a rare opportunity—probably the best opportunity in several decades—to shape a fresh, effective national housing policy.

But we have to make sure we get a bill that will mobilize the country's resources to provide the affordable housing that our people will need during the next decade and beyond.

I believe a new housing bill should address the full range of our housing problem. It should help families to buy their first home. It should help preserve the stock of affordable low-income housing that is in danger of being lost during the next few years. It should help expand the supply of affordable housing that is so desperately needed. It should provide better housing opportunities for people with special needs, particularly elderly people, people with disabilities, and people who are homeless.

The administration's legislation offers a promising foundation for preserving the low-income affordability of federally assisted housing. The bill recognizes the need to provide service supported housing for the homeless and people with special needs. The package proposes valuable ways to target housing finance on urban neighborhoods. The bill would transfer ownership of federally assisted or owned housing to low-income families.

A separate piece of the package, which will be referred to the Finance Committee, would provide urgently needed tax incentives for housing. It would allow first-time home buyers to make penalty-free withdrawals from their IRA for a downpayment. And, lastly, the bill would extend the low-income housing tax credit program for 1 year at the current allocation rate. I feel strongly that new housing legislation should meet several important standards.

First, I believe the bill should ensure the long-term financial strength of FHA. I am concerned that past policies have exposed FHA to unacceptable losses in the coming years. Some of the problem results from mismanagement under the previous administration. Some of the problem is created by the arbitrary, nationwide ceiling on the size of FHA insured mortgages. Some of the problem is created by other elements of legislation that should be corrected.

I understand that the administration intends to offer major proposals on FHA after a report is received from Price-Waterhouse. I'm hopeful that the Senate has the administration's recommendations in plenty of time before markup.

Second, I believe a new housing bill should provide a permanent solution to the problem of prepayment. I appreciate the administration's recommendations included in this package. However, a cost-effective solution must involve changes in tax policy as well. Congress will need HUD's assistance to explore reasonable alternatives.

Third, I believe the bill should expand the supply of housing affordable to low-income and moderate-income Americans. Four million American families are living in substandard housing or are paying more than 50 percent of their income for rent. We are losing low-cost housing at a rate of 1.5 million units a decade, while the numbers of the poor are rising.

Any responsible housing bill must help reduce the size of that problem. Although tenant management and tenant ownership of low-income housing deserve support, national housing policy cannot be limited to transferring ownership of existing housing to current tenants.

Less than one-third of the Americans who are eligible for housing assistance are now receiving it. We have to provide decent, affordable housing for those who do not now have it.

Imagine that you are a sea captain. And at the break of dawn, you come upon the scene of a great shipwreck. You see there are only enough life boats in the water to hold 500 people, but more than 1,000 people are struggling in the sea.

Now, what if someone ran up to you and said, "Sir, we need to do something! Let's help the people in the boats become boatowners!"

I suspect that, instead, we would all want to do what we could to get more lifeboats out there for the poor souls who were drowning.

Well, that has got to be the objective of a new housing bill, as well. New legislation has got to help get more affordable housing out there for the people who desperately need it.

And that does not mean some simple-minded choice between vouchers and new production. We need a variety of approaches that meet the needs of widely different local housing conditions.

Fourth, the bill should build on the exciting new housing initiatives that have formed throughout the country. It should strengthen the housing partnerships—involving States, communities, nonprofit organizations, and private industry—that are finding better ways to meet the soaring need for low income housing.

The bill should give States and local governments flexibility to deal with local housing conditions and local housing markets that differ greatly throughout the country.

I am certain that we have the raw materials of good legislation that measures up to those important standards.

Together, the Senate and Secretary Kemp have the energy and commitment that we need to bring a new national housing policy into reality.

This is an exciting time to be working for affordable housing in our country. Many hurdles remain, but I am confident that—working together and redoubling our efforts—we will succeed in launching a new national housing policy that will improve the living conditions for millions of families in the years to come.

Mr. GARN. Mr. President, I am pleased to support and cosponsor Secretary Kemp and the administration's HOPE proposal. This morning I attended a hearing in which the Secretary described some of the new directions for housing contained in HOPE. I was quite impressed.

The HOPE proposal is an ambitious initiative which establishes a foundation upon which Congress, working with the administration, can develop a responsible housing authorization bill this year. While Members may have some disagreements over funding and policy, the thrust of the legislation embraces themes upon which we can all agree: expanding homeownership opportunities for low- and moderate-income families, providing supportive services with basic shelter assistance for the homeless, and resolving the prepayment problem to preserve low-income housing resources. I look forward to working with my colleagues and the administration to advance these ideas.

Mr. D'AMATO. Mr. President, I rise today in support of the administration's HOPE initiative. This proposal is the first housing legislative package to be submitted by the administration in a number of years. I commend the President and Secretary Kemp for generating innovative alternatives for our housing problems.

Senators RIEGLE, GARN, and CRANSTON join me in introducing this proposal. Similar legislation was introduced by Chairman GONZALEZ and Congressman WYLIE in the House last week. I am pleased to be part of a congressional effort to support and advance the administration's HOPE proposal.

The HOPE proposal has six major components. They include:

(1) HOPE GRANTS

A 3-year, $2.15 billion, multifaceted program to increase homeownership for low-income families in public housing, publicly held properties, and FHA distressed and foreclosed properties. States, localities, and nonprofits will be eligible to apply for the funding. A match of $1 for every $2 Federal dollars will be required.

(2) "SHELTER PLUS CARE" PROGRAM FOR THE HOMELESS

A 3-year, $761-million program that combines housing—group homes,

single room occupancies and rental assistance—with supportive services for the homeless who are mentally ill or alcohol and drug abusers.

(3) PRESERVATION OF LOW-INCOME HOUSING

Over $1 billion provided over 3 years to resident groups and nonprofits to purchase federally insured and federally subsidized buildings which are subject to prepayment of their mortgages.

(4) OPERATION BOOTSTRAP

In fiscal year 1991 alone, over 56,000 tenant-based vouchers and certificates will be combined with job training, child care, transportation, and other assistance in order to help welfare families and those with low earnings achieve upward mobility.

(5) HOUSING OPPORTUNITY ZONES

Fifty zones competitively designated to communities that eliminate costly, unnecessary State and local government regulatory barriers to affordable housing. Federal incentives include targeted FHA insurance and rental rehabilitation preference.

(6) SERVICE-SUPPORTED HOUSING

A $44-million demonstration project to provide service supported housing to help the elderly achieve independent living, rather than entering nursing homes.

The HOPE proposal also includes an extension of the low-income housing tax credit, use of individual retirement accounts [IRA's] for downpayments, and creation of enterprise zones—a total of $187 million in tax subsidies for housing. I have been a long-time advocate for all of these concepts. Many of these are included in S. 566, the National Affordable Housing Act.

IRA'S FOR FIRST-TIME HOME BUYERS

I have been a particular proponent of the use of IRA's as a downpayment for first-time home buyers. The Rouse-Maxwell Task Force made a similar recommendation to Senator CRANSTON and I in our development of S. 566. The HOPE initiative confirms the merit of this proposal by providing $190 million in tax subsidies over 3 years for this purpose.

RESIDENT HOMEOWNERSHIP

But the HOPE proposal also expands the accessibility of homeownership. This step should not be downplayed. While many of us may differ about specific policy questions, the concept of homeownership is one that we can all embrace. It has proven itself to be a means of building self-confidence and pride. In my own home area of Brooklyn, NY, the Nehemiah program has been a vivid example of this. A neighborhood that was once decimated has now become a safe and proud community.

SHELTER PLUS CARE: ASSISTANCE FOR THE HOMELESS

Another core element of the proposal is also contained in the National Affordable Housing Act. This is the concept of combining housing and services for the homeless and the elderly. Housing advocates have long focused almost exclusively on the housing needs of these two particular populations. In the past few years, some have gone so far as to say that homelessness is entirely a housing problem. I believe these individuls do not have a firm grasp of the complexities of homelessness today.

On the contrary, the administration's proposal is a simple, yet sophisticated, approach to addressing homelessness. The "Shelter Plus Care" Program provides vouchers to nonprofits who assist homeless individuals, particulary those who are seriously mentally ill or alcohol and drug abusers. The voucher must be accompanied by social services.

SERVICE SUPPORTED HOUSING DEMONSTRATION

The HOPE proposal is equally as balanced in its approach to dealing with the elderly. It is not new news that the elderly have a variety of needs. Some of these needs relate to housing. For instance, many of our elderly do not have the income to be able to afford rent. But our elderly also have other needs—in terms of their health, their transportation, and their daily chores.

The HOPE proposal responds to the comprehensiveness of these needs by creating a service supported housing demonstration project. This demonstration provides vouchers to the elderly in conjunction with social services.

A FRESERVATION STRATEGY

Over the next 15 years, owners of nearly 334,000 units of FHA insured multifamily housing will become eligible to prepay their mortgages. Prepayment could result in the elimination of low-income use restrictions on these properties, forcing residents to look for other places to live. As a Senator from the State of New York, I am worried that there may not be alternative, affordable places to live.

The HOPE proposal establishes a three prong approach to preserve this housing for low-income families. The first step would be to allow resident groups and nonprofits the opportunity to purchase their buildings and become homeowners. A grant of about $60,000 per unit would be provided for this type of buyout. Should tenants choose not to purchase the property, a second alternative is available to preserve the property. HUD will offer incentives to current owners in return for a renewed commitment to keep the projects affordable to low-income families. This is similar to aspects of the Low-Income Preservation Act of 1987. The last phase of the three prong strategy can be summed up with the word "voluntary". If, after a 24-month period, attempts to convert the project to home ownership or maintain it as a low-income rental project have been unsuccessful, the owner may prepay the mortgage and find alternative, affordable housing for the current residents.

I believe that the administration's preservation proposal provides an excellent foundation for a congressional and administration solution to this difficult problem. For the first time in 3 years, the administration has come to the table with a credible and creative approach to preserving housing for low-income families. It should be noted that this is on top of an additional $7.7 billion requested in the President's budget for section 8 contract renewals. With such a strong statement from the administration on preservation, it is my belief that the administration and Congress will be able to find a reasonable solution to this problem.

REPLACEMENT HOUSING

One of the major obstacles to public housing home ownership has been the lack of resources to meet the one-for-one replacement requirement. In many parts of the country it would be appropriate for section 8 certificates and vouchers to be used for this purpose. The HOPE proposal provides $250 million for rental assistance to cover operating expenses, relocation housing, and replacement housing. I am hopeful that these resources will facilitate home ownership conversions for those projects that have spent years battling regulatory standards and procedures.

CONCLUSION

As we all continue to wait for HUD's recommendations on the FHA program. I look forward to working with Secretary Kemp and Senators RIEGLE, GARN, and CRANSTON to develop housing legislation which will incorporate many of the concepts in HOPE with other housing initiatives which have broad support within Congress and the administration.

Mr. CHAFEE. Mr. President, today we are introducing HOPE—home ownership and opportunity for people everywhere. This bill proposes a number of thoughtful and practical solutions to one of the most urgent problems confronting the Nation today: The dearth of affordable housing opportunities.

A visit to any city or State will reveal the depth of America's housing crisis. One can see empty public housing buildings, neglected and graffiti-scarred—a portrait of the Nation's failed building programs. One can also see the growing homeless population—a tragedy in the midst of the wealthiest county in the world. We need strong action to address these problems.

The HOPE initiative provides much needed direction to the Nation's housing policy. HOPE will bring new life and new opportunity for low-income

Americans who have been squeezed out of the Nation's housing market. It will provide care and shelter homeless. It will bring new growth to depressed urban areas. And it will give hope to all Americans who are grasping at the first rung of the housing ladder.

First, I wish to thank President Bush for this innovative proposal. Tenants, builders, experts, Government officials, and social workers have all asked that someone come forth with a comprehensive housing plan to encourage homeownership and give poor and low-income Americans a stake in their community. Well, this is it. President Bush has listened and the result is home ownership and opportunity for people everywhere—HOPE.

From day 1 of his Presidency, George Bush has made housing policy a priority. His first move was to choose Secretary Jack Kemp to reorganize and breathe new life into the Department of Housing and Urban Development [HUD]. The President today offers a comprehensive housing plan to expand home ownership, help ease the plight of the homeless, and create jobs and opportunity to help low-income families achieve self-sufficiency.

The HOPE proposal will cost the Government $7.2 billion over the next 3 years—$4 billion in authorization and $3.2 billion in lost revenue—to relieve poverty, and to encourage home ownership, tenant management, entrepreneurship, and economic growth. Some will say this is too little; others will say this is too much. Seven billion dollars is a great deal of money and sends an important message to the country: President Bush is serious about bringing homeownership opportunity to each and every American.

The centerpiece of the plan is a $2.5-billion HOPE Grant Program to promote home ownership for low income and working poor families. These grants will allow public housing projects and other properties to be rebuilt—to rise from the dead if you will. Then, by turning renters into homeowners, HOPE will ensure that these units do not suffer from the problems of the past. Tenant ownership and tenant management will root people in their communities and allow people to take pride in their house, and in their neighborhood.

HOPE grants will provide $2 in Federal funding for every $1 raised on the State and local level. These funds will be used by public housing agencies, nonprofit organizations, and tenant groups to rehabilitate and transform Government-held public housing units.

In my home State of Rhode Island, we have a number of housing complexes, public housing authorities, and tenant groups that might fit the profile for HOPE grant recipients. For example, the Roger Williams Housing Development is a largely abandoned multibuilding project in a depressed section of South Providence. Its buildings are rat-infested, its windows are broken, its doors are bolted shut. Roger Williams and its small but creative tenant group would be an excellent candidate to rebuild this housing complex. HOPE grants could make it possible to bring life back to this property, and homeowners who would have a vested interest in ensuring that Roger Williams remains clean and safe.

Another component of the HOPE proposal is a $761 million "Shelter Plus Care" Program for the homeless. Perhaps no group of people have been harder hit by the Nation's housing crisis than the homeless. It is estimated that one-half of the homeless suffer from mental illness, or alcohol or drug dependency. Shelter plus care seeks to address the needs of those individuals by increasing Federal support to local programs designed to provide housing and services for the homeless mentally ill, or recovering substance abusers.

Shelter Plus Care would encourage the recreation of single-room-occupancy [SRO] housing so critical to the housing market. Many of these SRO units have been disappearing for much of the past two decades. The goal of the HOPE proposal is not to condemn the homeless to a lifetime in shelter care, but to provide those individuals with adequte housing and social services to meet their needs in a comprehensive and coordinated manner. The successful execution of this plan will see many homeless individuals moving from the streets, to the support of a SRO's, and ultimately back to the economic and social mainstream.

Many have been saying for years that the Government should include the private sector in its efforts to revitalize distressed areas and increase the supply of affordable housing. Some called for the removal of regulatory barriers such as restrictive zoning, obsolete building codes, and high permit fees. Others suggested "true" incentives such as reduced tax rates. HOPE incorporates these ideas by establishing 50 "housing opportunity zones" and 50 "enterprise zones" to facilitate the creation of affordable housing on the State and local level.

I am particularly pleased with title II of this legislation, "low-income housing preservation and resident ownership." This section addresses the need to protect and preserve the 300,000 plus units of FHA-insured multifamily housing units that could soon disappear from the low-income market.

HUD will provide more than $1 billion in preservation grants to resident groups in federally insured and subsidized projects when an existing owner chooses to prepay his or her mortgage. Prepayment has been like a dark cloud slowly moving over the Nation's low-income housing market. This section indicates that the Federal Government is prepared to intervene so that hundreds of thousands of public housing units are preserved for low-income use.

This preservation section will no doubt be welcomed by the Tenants Association at the University Heights Housing Development in Providence, RI. This 350-unit development is the State's first prepayment case, and represents a golden opportunity for tenants to become homeowners. The group is currently working with HUD to ensure that it has sufficient Federal support to complete its conversion. It appears that this element of the HOPE proposal will mean good news for the residents at University Heights and others as tenant ownership becomes an acceptable alternative to prepayment.

Another part of the HOPE plan extends home ownership opportunities to those Americans, often young people, who are trying to enter the housing market as first-time home buyers. HOPE would permit first-time home buyers to withdraw up to $10,000 from individual retirement accounts. [IRA's], without penalty, to use as a down payment on their first home. HOPE will spend $190 million to help these individuals reach the first rung on the home ownership ladder.

A year ago I joined Senators CRANSTON and D'AMATO as a sponsor of the National Affordable Housing Act. Over the course of the past 12 months this bill has been the subject of much discussion, and I am hopeful that the legislation is now ready to move forward. The President's HOPE initiative is a companion, not a competitor, to the National Affordable Housing Act. Both pieces of legislation propose strong medicine for the Nation's housing ailments.

The HOPE proposal will once again put housing policy at the top of the Nation's domestic policy agenda. Eighty million Americans don't own a home and don't have the means to join the ranks of homeowners. Some of these people are homeless. Others are low-income Americans struggling for decent, affordable housing. And still others are first-time home buyers who have trouble entering the housing market with limited savings for the downpayment. HOPE seeks to help those Americans move toward the American dream of home ownership.

The President's HOPE initiative is an important step forward the national goal of providing each and every American with safe, decent, and affordable housing. I look forward to seeing comprehensive housing legislation enacted this year.

Mr. GORTON. Mr. President, I am an original cosponsor of HOPE—President Bush's Homeownership and Opportunity for People Everywhere. I commend Secretary Kemp for his fervent and forthright advancement of a new national housing agenda and I commend it to my colleagues in the Senate.

Mr. President, last fall I urged the Bush administration to propose its own housing policy. President Bush and Secretary Kemp responded. HOPE represents a new agenda for the Federal Government to pursue in its efforts to help our Nation's poor and homeless.

Over the last year we have witnessed a series of disturbing events that draw into question our current method of providing housing assistance. The HUD scandals exposed the despicable practice of providing housing through a system which attracts a long line of developers, lawyers, consultants, ex-Cabinet members, and former debutante/bartending HUD officials who intervene between HUD and the poor, incur costly fees, and reduce the amount of financial assistance that ultimately reaches the poor.

Secretary Kemp proposed, and the Congress enacted, the HUD reform bill that rectified those policies. And now, Mr. President, we must take the next step.

The HOPE bill represents an encouraging first step toward a national affordable housing policy for the 1990's. The President's HOPE agenda empowers people, links individual effort and reward, gives poor people a stake in their neighborhoods and allows private enterprise to do a better job delivering affordable housing, decent jobs, and greater opporutnity.

Mr. President, at a time when Eastern Europe, of all places, is moving toward private enterprise and incentive-based philosophies as a means to create strong economies from once-stagnant states, it seems most appropriate that our own Federal policies to help the poor ought not ignore the potential that those philosophies offer.

Mr. President, as this body continues debate on natural resources issues—timber, wetlands, or clean air—it is time we recognize the human resources waiting to be tapped in our inner cities and rural communities.

I believe it is time we realize that we need look no further than our own public housing communities to discover bold new leaders for the tenant management programs proposed in HOPE.

It is time that Federal policies reflect that our Nation's poor need not remain wards of the state and a drain on the system indefinitely. There is a way up and out of poverty, up and out of public housing, into a life of self-respect and self-sufficiency. It is time our national housing policy not only reflect but compel those possibilities.

The HOPE package is by far the most advanced step toward a change in thought that this country most definitely needs. I congratulate President Bush and Secretary Kemp for steering a new path in the effort to provide homeownership opportunities as well as shelter and care for our most desperate citizens.

I would like to thank Senators MACK, KASTEN, and GRAMM for their continued interest and efforts on behalf of this new agenda. I look forward to working with my colleagues from both sides of the aisle on a bipartisan housing bill this year.

By Mr. HELMS:

S. 2305. A bill to amend the Internal Revenue Code of 1986 to deny net operating losses arising from operations conducted in controlled countries, to require certain extentions of credit to bear interest at a rate not less than the prime rate and to require certain extensions of credit to be publicly announced; to the Committee on Finance.

TAXPAYERS DEBT EXPOSURE REDUCTION ACT

Mr. HELMS. Mr. President, because of the wide-ranging changes taking place in the Soviet Union today, the United States must develop a coherent strategy to deal with increasingly persistent Soviet requests for foreign investment and Western financial support for its professed economic reforms. The legislation that I am introducing today is a step in that direction.

On February 7, the United States trade representative Carla Hills announced that the first round of talks would begin with the Soviet Union to discuss a U.S.-U.S.S.R. trade agreement. Both sides made it clear that they hoped this agreement will be ready to sign during Mr. Gorbachev's visit to the United States in June.

Ambassador Hills stated that, through these negotiations, the United States hopes to encourage economic reform within the Soviet Union, and create opportunities for American business in the Soviet Union.

Mr. President, these are important objectives, and I applaud Mrs. Hills' intentions. However, there are two problems that might result from such a U.S.-U.S.S.R. trade agreement. The first problem might be that the agreement may not be configured to ensure or encourage real economic reform in the Soviet Union. It would be a self-defeating result if the agreement merely were to reinforce the fundamental structural problems in the existing Soviet economy.

The second problem is that the record of American ventures in the Soviet Union is dismal, creating a risk that should in no way be transferred to the backs of American taxpayers. Investing in the Soviet Union is a high-risk business. The investors presumably are grown-ups. They should assess the risks, and be willing to lose everything if their judgment is wrong.

This applies not only to direct investors, but also to federally insured banks which lend money either to the Soviet Government or to joint ventures in the Soviet Union. An investment in the Soviet Union is not an ordinary and reasonable risk. Such investors should not be allowed to take tax writeoffs for loan defaults or business failures in the Soviet Union, nor should such losses be insured by the United States taxpayers. Moreover, any federally insured lending institution which participates in such high-risk activities should make full disclosure of such activities to its depositors and shareholders.

Mr. President, the achievement of economic reform in the Soviet Union is not a very likely outcome of any U.S.-U.S.S.R. trade agreement. Despite the recent saturation news coverage of the opening of the largest McDonald's restaurant in the world in Moscow, joint ventures with the Soviet Union have an impressively low success rate. Indeed, according to the New York Times, only 4 percent of the firms that have signed joint-venture agreements in the Soviet Union have even commenced operations, let alone make a profit.

An almost insurmountable obstacle to foreign investment in the Soviet Union is the inconvertability of the ruble. Despite massive devaluations internally, the ruble is still worth nothing abroad. Thus any foreign investor seeking to bring home profits from the investment must work out complicated swaps or barter deals—the unsung story of the McDonald's deal, which has yet to prove itself. An investor cannot live by rubles alone.

As a result American investments and trade would necessarily concentrate on exports to the dollar zone—and since Soviet manufacturing quality is poor, the evidence suggests investments must concentrate on export commodities and agricultural products to earn hard currency abroad.

Moreover, the structure of the Soviet economy is such that even so-called private joint ventures will have to deal with Soviet state trading entities—reinforcing the power and influence of these entities, instead of contributing to their demise. The effect of these private investments could well be an economic and political shot-in-the-arm for Soviet ministries and state enterprises entrenched in the system.

Finally, it should be pointed out that any entity trying to do business in the Soviet Union has to deal with the intractable Soviet bureaucratic system. Office space, supplies, trans-

portation, fuel, electricity—all are dispensed at the whim of a corrupt and decaying system. Private enterprises cannot expect a reliable source of raw materials when the Soviet enterprises themselves can't get what they need.

Mr. President, there simply is no reasonable business environment in the Soviet Union. There may be some Americans who will want to take such risks. But it is unreasonable to require the U.S. taxpayer to guarantee or participate in such risks.

Therefore, the bill I am introducing has three sections: one addressing the tax writeoff question, one prohibiting insured U.S. commercial banks from lending to Communist countries at rates below the prime rate, and one requiring full disclosure of loans to countries subject to national security export controls.

TAX WRITEOFFS

The first section of the bill will assure that U.S. taxpayers will not be liable for losses sustained by companies which invest in Communist countries. Specifically, it prevents U.S. corporations from claiming tax deductions for losses incurred in investments in Communist countries. In effect, under this section, any American company which invests in a Communist country such as the Soviet Union and loses money, will no longer be reimbursed for its loss by taking tax deductions for such losses.

This first section addresses section 172 of the Internal Revenue Code of 1986 which states that American businesses which take net operating losses in foreign countries may deduct those losses from their American taxes. The first section would rescind this deduction for the so-called controlled countries specified in the Foreign Assistance Act of 1961.

Mr. President, the message should be clear to U.S. businesses dealing with command economies in Marxist-dominated nations: If U.S. businesses wish to undertake the extraordinary risks inherent in operating in Communist countries, they should not look to the American taxpayer to pick up the tab if and when their investments turn sour. They must understand that it is their own money on the line.

FAIRNESS TO AMERICAN BORROWERS

Mr. President, the second section of this bill will prohibit American commercial banks from lending to Communists at interest rates below the prime rate. Specifically, this section of the bill will prohibit any federally insured financial institution from making loans to countries on the controlled country list, as enumerated in the Foreign Assistance Act of 1961, at interest rates below the bank's prime rate. Because of the insurance liability, lenders have a special obligation to U.S. taxpayers. Surely this lesson was learned in the savings and loan bailout.

The banks justify lending to the Soviet Union by claiming that the Soviets are a good credit risk, especially when there are few good sovereign credit risks left in the world. Thus, our major banks are actually competing to lend to the Soviets.

Mr. President, the Third World debt crisis and the recent $300 billion taxpayer bailout of the savings and loan industry have sensitized U.S. voters to the dangers of taxpayer liability posed by unsound commercial lending practices.

As the saying goes, twice burned, thrice shy. I believe U.S. taxpayers are starting to understand who is called upon to bail out the banks from reckless and irresponsible lending: the U.S. taxpayer is at risk since U.S. taxpayers guarantee U.S. bank deposits.

Loans to Communist countries are even riskier because multilateral lending agencies—such as the World Bank—help prop up artificially the credit worthiness of controlled countries. For example, since 1980 the World Bank handed out over $15 billion to Communist countries. Twenty percent of that $15 billion is provided by U.S. taxpayer contributions to the World Bank, representing a funding obligation of $3 billion by the U.S. Government to the World Bank. This represents an average of $40 for every American who filed a tax return last year.

ENDING STEALTH BANKING

Mr. President, the third and last section of this bill deals with full disclosure of loans made by American banks to countries subject to national security export controls. Presently, only two groups are privy to information on rates and terms on loans to Communist countries: First, the Communist country borrowing the money; and second, the American commercial banks doing the lending.

The key group which is excluded in this arrangement consists of the American taxpayers, who guarantee the deposits in U.S. banks, and who must bear the financial burden if and when the Communists default on their loans. We must end this stealth banking.

Needless to say, the financial stability of the banks is threatened if large loans are made to financially unstable countries. And as we see all over the world, Communist countries—everywhere—are broke. Therefore, since Americans are ultimately responsible for these loans, Americans should have an absolute right to know the nature and scale of American commercial bank lending to the Communist bloc and other potentially hostile or economically insolvent nations. Banks whose deposits are insured by the taxpayer have an obligation to the taxpayers to inform them of loans made to inherently economically unstable countries.

Mr. President, this final section of the bill would require insured banks to report to the American taxpayer on such loans. Specifically, any federally insured financial institution will be required to report, in the financial institution's Securities and Exchange Commission filings, annual reports to stockholders and in each report of condition required by the Federal Deposit Insurance Act, the rates and terms of any loans to controlled countries as listed in the Foreign Assistance Act of 1961.

Mr. President, I believe that there is a broad interest in knowing the financial condition of the Soviet Union. For example, the senior Senator from New Jersey [Mr. BRADLEY] has said in a television documentary:

> What we need is a much better reporting system, because, as of now, there is no way to tell what outstanding indebtedness the Soviet Union has. We know some official lines, but we have no idea what they're doing in the capital markets or through third parties.

DISCLOSURE REASONABLE

Mr. President, there is nothing unreasonable about requiring commercial banks whose deposits are guaranteed by the American taxpayer to disclose to their shareholders and the American people the rates and terms of lending to controlled countries. Commercial banks initiating such loans normally seek the participation of other commercial banks to form syndicated loans, and must divulge loan rates and terms to the international banking community in the process. The U.S. taxpayers deserve no less.

Mr. President, I ask unanimous consent that a list of individuals and organizations supporting this bill, as well as the text of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taxpayers Debt Exposure Reduction Act".

SEC. 2. DENIAL OF NET OPERATING LOSS DEDUCTION FOR BUSINESS CONDUCTED IN CONTROLLED COUNTRIES.

Section 172(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(7) DEDUCTION FOR OPERATIONS IN CONTROLLED COUNTRIES.—

"(A) GENERAL RULE.—The net operating loss for any taxable year shall be computed by not taking into account deductions allowed by this chapter which are properly allocable to sources within a controlled country to the extent such deductions exceed income allocable to such sources.

"(B) CONTROLLED COUNTRY.—For purposes of this paragraph, the term 'controlled country' means a country which is listed as a controlled country pursuant to section

620(f) of the Foreign Assistance Act of 1961.".

SEC. 3. LOANS TO COUNTRIES SUBJECT TO NATIONAL SECURITY CONTROLS.

(a) IN GENERAL.—It is unlawful for a covered organization to make, or participate in, an extension of credit to any country or entity described in subsection (c) unless the extension of credit bears interest at a rate in excess of the prime rate, as announced by the same institution and generally extended to other borrowers.

(b) DEFINITIONS.—As used in subsection (a):

(1) COVERED ORGANIZATION.—The term "covered organization" means—

(A) any bank, savings and loan association, credit union, or other entity the deposits or accounts of which are insured or guaranteed by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board;

(B) any organization the accounts of which are insured by the Securities Investor Protection Corporation; or

(C) any company subject to the provisions of the Bank Holding Company Act of 1956.

(2) EXTENSION OF CREDIT.—The term "extension of credit" means any transfer of currency or other thing of value pursuant to an agreement that provides for the repayment, in whole or in part, of the amount transferred. The term also includes a grant, subsidy, or concession made with respect to a transfer described in the preceding sentence, and any refinancing of an outstanding extension of credit.

(c) COUNTRIES SUBJECT TO THIS SECTION.—For the purpose of subsection (a):

(1) A country is described in this subsection if it is a country on the list of controlled countries established under section 620(f) of the Foreign Assistance Act of 1961.

(2) An entity is described in this subsection if it is owned or controlled, in whole or in part, by a country described in paragraph (1).

(3) An agency or other instrumentality of a country described in paragraph (1) shall be treated as a country described in paragraph (1).

SEC. 4. LOANS TO COUNTRIES SUBJECT TO NATIONAL SECURITY CONTROLS.

(a) IN GENERAL.—It is unlawful for a covered organization or any subsidiary thereof to make, or participate in, an extension of credit to any country or entity described in subsection (c) unless—

(1) the extension of credit and its terms and conditions are fully disclosed to the public at the time of extension;

(2) the terms and conditions are fully reported in all the organization's Securities and Exchange Commission filings, annual reports to stockholders, and in each report of condition required by the Federal Deposit Insurance Act; and

(3) such report includes a detailed statement of rates and terms of any debt exposures that are renegotiated restructured, or in any way extended beyond the original terms of the agreement and the commercial purposes of such extension.

(b) DEFINITIONS.—As used in subsection (a)—

(1) COVERED ORGANIZATION.—The term "covered organization" means—

(A) any bank, savings and loan association, credit union, or other entity the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Share Insurance Fund;

(B) any organization the accounts of which are insured by the Securities Investor Protection Corporation; or

(C) any organization subject to the provisions of the Bank Holding Company Act of 1956.

(2) EXTENSION OF CREDIT.—The term "extension of credit" means any transfer of currency or other thing of value pursuant to an agreement that provides for the repayment, in whole or in part, of the amount tranferred. The term also includes a grant, subsidy, or concession made with respect to a transfer described in the preceding sentence, and any refinancing of an outstanding extension of credit.

(c) COUNTRIES SUBJECT TO THIS SECTION.—For purposes of subsection (a)—

(1) a country is described in this subsection if it is a country on the list of controlled countries established under section 620(f) of the Foreign Assistance Act of 1961;

(2) any entity is described in this subsection if it is owned or controlled, in whole or in part, by a country described in paragraph (1); and

(3) an agency or other instrumentality of a country described in paragraph (1) shall be treated as a country described in paragraph (1).

LIST OF INDIVIDUALS AND ORGANIZATIONS SUPPORTING THE TAXPAYER DEBT EXPOSURE REDUCTION ACT

1. Dr. Constantine Menges, American Enterprize Institute.
2. The Black Silent Majority Committee.
3. The Conservative National Council.
4. Howard Phillips, Chairman of the Conservative Caucus.
5. Howard Segermark, President of Free the Eagle.
6. The Conservative Campaign Committee.
7. The Freedom Research Foundation.
8. Lt. General Daniel Graham, President, High Frontier.
9. Amy Moritz, President of the National Center for Public Policy Research.
10. The Ruff Political Action Committee.
11. David Ridenour, President of the Liberty Institute.
12. Michael G. Pauley, Director of the Catholic Study Council.
13. The United States Defense Committee.
14. The Committee for a Free Afghanistan.
15. Young Americans for Freedom.
16. The United Conservatives of America Political Action Committee.
17. The American Foundation for Resistance International.
18. TASS, Taxpayers Against Subsidizing the Soviets.
19. Coalitions for America.
20. International Freedom Council.
21. Eagle Forum.
22. Inter-American Security Council.

By Mr. RIEGLE (for himself, Mr. GORE, and Mr. KERRY):

S. 2307. A bill to require the Secretary of Health and Human Services to provide intensive outreach and other services and protections to homeless individuals; to the Committee on Finance.

HOMELESS OUTREACH ACT

● Mr. RIEGLE. Mr. President, Charles Winter of Ann Arbor MI, is homeless. He is also a Vietnam veteran who for 3 years tried to get Federal supplemental security income [SSI] assistance. Mr. Winter did not have the mental skills to pursue or followup on his own application. Because he lived off the highway somewhere, he never received any paperwork from the Social Security Administration, including denials. It was not until he got in touch with my office in Lansing that he was able to receive SSI and get off the streets.

The National Law Center on Homelessness and Poverty estimates that as many as 3 million Americans are homeless like Mr. Winter. The National Housing Alliance to End Homelessness says that between 1.3 and 2 million Americans are homeless at some point during the year.

Tonight, the Federal Government will send out 15,000 census takers to every corner of the country to scour shelters, subway stations, roadsides, and abandoned buildings in the first attempt ever to count the number of homeless Americans, a group that was not even part of the national consciousness when the last census was taken in 1980.

As many as 55 percent of these homeless Americans may be eligible for a modest amount of Federal assistance under the SSI Program because they are elderly, physically handicapped, or mentally ill, like Mr. Winter. Yet studies reveal that only 10 to 30 percent actually receive such benefits. These SSI benefits coupled with the State supplements, Medicaid, and the food stamps that often accompany such benefits could provide a way out of homelessness for Mr. Winter and others like him.

To help these people receive the assistance they need, I am introducing the Homeless Outreach Act of 1990. This act would require the Social Security Administration [SSA] to reach out to the elderly and mentally and physically impaired in soup kitchens, shelters, and day centers and teach them about benefits to which they are entitled but may not be aware of. The bill also enables SSA to award grants to States, local governments, and nonprofit organizations to conduct outreach programs.

Under the Supplemental Security Income [SSI] program, persons whose income is substantially below the Federal poverty level of $6,700 a year and whose resources are valued at less than $2,000 are eligible for SSI benefits. These benefits can amount to as much as $386 a month. In addition, most States supplement this amount.

Many homeless people who are eligible for these benefits lack information about them and also are unable to navigate the complex application process, which includes a 12-page form, a medical exam, and followup visits, without assistance. As a result, they do

not apply for or receive the benefits to which they are entitled. The bill would require that outreach services be available to assist homeless people with the application process, including obtaining proper documentation, medical exams necessary to determine eligibility, and transportation to such exams as well as any follow up assistance to ensure that they receive benefits.

This bill is not the Congress' first attempt to ensure outreach by the Social Security Administration to the homeless. Congress passed a law in 1987—Public Law 100-203, Budget Reduction Reconciliation Act of 1987, section 9117—providing for demonstration outreach projects to the homeless to combat the barriers that homeless people face in receiving benefits. The projects were supposed to help homeless people receive and appropriately use Social Security benefits to obtain permanent housing, food, and health care.

Despite congressional intent, SSA has not implemented the outreach demonstration program. As a result, the State of Michigan and seven other plaintiffs filed a lawsuit against the Social Security Administration [SSA] and the Department of Health and Human Services [HHS] for failing to implement the demonstration projects.

SSA contended that money for the outreach program was never appropriated, and it also claimed that it was already doing outreach. In February, a Federal judge ruled in favor of SSA and HHS. He determined that Congress was not clear in its direction and therefore SSA was justified in not implementing the outreach program.

As a result, there is no existing law requiring SSA to conduct outreach to the homeless and SSA does not have a nationwide outreach program in place. Thus, it is necessary to make what I believe to be a moral obligation a legal obligation, and that is to do everything possible to help our neediest Americans live decently.

Homelessness is one of the most troubling problems facing our Nation. This growing national problem affects all segments of our society and demands attention. If we help these people, the neediest in our society, receive benefits for which they are eligible, perhaps we will help bring about a more humane society where people care more for those who are less fortunate than themselves.

Senators GORE and KERRY have already agreed to cosponsor this legislation and I look forward to the support of many more of my colleagues. Our colleague in the House, Congressman MATSUI, will introduce a companion measure.

Mr. President, I ask unanimous consent that a list of organizations that have endorsed this legislation appear in the RECORD immediately following my remarks. I also ask unanimous consent that a copy of the bill be printed in full immediately following the list of supporting organizations.

There being no objection, the material was ordered to be printed in the RECORD as follows:

ACORN.
American Federation of State and County Municipal Employees.
American Psychiatric Association.
American Psychological Association.
California Homeless Coalition.
Cass Community United Methodist Church.
Catholic Charities USA.
Coalition on Human Needs.
Coalition on Temporary Shelter.
Denver Health Care for the Homeless.
Detroit/Wayne County Union of the Homeless.
Disability Law Center.
Downtown Cluster of Congregations.
Food Research and Action Center.
Georgetown Ministries.
Homeless Drop-In Center for Metropolitan Detroit.
Illinois Coalition for the Homeless.
Massachusetts Coalition for the Homeless.
Massachusetts Disability Determination Services, Homeless Coordinator.
Mental Health Law Project.
Michigan Legal Services.
Michigan, State of.
Michigan Welfare Rights Organization.
Minnesota Coalition for the Homeless.
National Alliance for the Mentally Ill.
National Association of State Mental Health Program Directors.
National Council for Community Mental Health Centers.
National Council of La Raza.
National Law Center on Homelessness and Proverty.
National League of Cities.
National Low Income Housing Coalition.
National Mental Health Association.
National Association of Social Workers.
National Urban League.
North Hudson Community Action Corporation, N.J.
Planners Network.
Shelter Partnership.
Travelers Aid International.
U.S. Conference of Mayor.
United Community Housing Coalition of Detroit.
Washington Legal Clinic for the Homeless.

S. 2307

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeless Outreach Act of 1990".

SEC. 2. STATEMENT OF FINDINGS AND PURPOSE.

Congress finds that homeless persons face extraordinary difficulties in securing benefits under the Social Security Act to which they are otherwise entitled. Without such benefits, homeless persons, lacking any resources, are unable to secure other vital necessities. This Act is intended to redress such critical needs by requiring the Social Security Administration to assist homeless persons in applying for, receiving, and maintaining Social Security benefits.

SEC. 3. OUTREACH TO HOMELESS INDIVIDUALS ENTITLED TO BENEFITS UNDER THE SOCIAL SECURITY ACT.

(a) IN GENERAL.—The Secretary of Health and Human Services shall no later than 150 days after the date of enactment of this Act, conduct outreach designed to ensure that homeless individuals eligible for benefits under the Social Security Act are provided benefits under such Act. In addition, the Secretary may award grants to States, local governments, and nonprofit organizations to conduct outreach (as described in subsection (c)).

(b) SCOPE OF OUTREACH.—In conducting outreach under this Act, the Secretary shall institute procedures and services to overcome barriers that prevent homeless individuals from receiving and appropriately using benefits under the Social Security Act. Such procedures and services shall include the following:

(1) VISITS TO PLACES FREQUENTED BY THE HOMELESS.—Regular visits by employees of the Social Security Administration or employees of entities awarded grants to soup kitchens, homeless shelters, and day centers for the homeless, during which such employees will do all of the following:

(A) PROVISION OF INFORMATION ABOUT BENEFITS.—Provide information to homeless individuals about the benefit programs under the Social Security Act, as well as information on other programs under which such individuals may be eligible for benefits, such as the food stamp program.

(B) ACCEPTANCE OF APPLICATIONS FOR BENEFITS.—Take applications of homeless individuals for the benefits described in subparagraph (A).

(C) ASSISTANCE IN SUBMITTING NECESSARY ELIGIBILITY INFORMATION.—Provide assistance to homeless individuals with respect to—

(i) obtaining appointments for any medical examination required in order to obtain benefits for which such individuals may be eligible under the Social Security Act so that all such examinations take place within a week after submission of the application for benefits under such Act; and

(ii) other matters relevant to obtaining benefits under the Social Security Act.

Such assistance shall include assistance in obtaining and developing evidence of disability and supporting documentation for nondisability-related eligibility requirements and arranging transportation and accompanying applicants to any necessary examinations.

(2) PREVENTION OF INAPPROPRIATE SUSPENSION OF BENEFITS; ACTION TO IMMEDIATELY RESTORE INAPPROPRIATELY SUSPENDED BENEFITS.—

(A) IN GENERAL.—If the Secretary notifies an applicant for or recipient of benefits under the Social Security Act that the individual must provide additional information before receiving benefits for which such individual has applied, or continuing to receive such benefits, and the individual fails to respond to or fully cooperate with such request, the Secretary shall, before taking any action to deny, reduce, suspend, or terminate such benefits—

(i) determine whether the individual is likely to have difficulty in responding to the request due to a mental or physical impairment, advanced age, inability to communicate in English or any other comparable limitations;

(ii) if so, take steps to affirmatively locate the individual and assist the person in securing the evidence required for restoration

of such benefits, and document such steps in the individual's file; and

(iii) if the steps referred to in clause (ii) are unsuccessful, and such benefits are suspended, reduced, or terminated, and the individual subsequently contacts the Social Security Administration to seek restoration of benefits, the Secretary shall immediately resume payment of such benefits. From funds retained in the local office accounts, the Secretary shall pay the individual's benefits for the current month and for subsequent months until resumption of benefits occurs.

(B) PROVIDE ASSISTANCE IN FILING DOCUMENTS FOR APPEAL AND IN SEEKING REPRESENTATION.—If the Secretary intends to issue a decision to deny, suspend, reduce, or terminate benefits under the Social Security Act to a homeless individual, the Secretary shall take steps to affirmatively locate the individual and provide such individual, if necessary, transportation to the local office of the Social Security Administration, at which time the Secretary shall—

(i) inform the individual of the importance of appealing such decision; and

(ii) if the individual indicates a desire to file such an appeal, assist the individual in filing the necessary forms.

(C) MAKE FEDERAL EMPLOYEES AVAILABLE TO TRAIN OTHERS IN RULES GOVERNING ELIGIBILITY FOR BENEFITS.—The Secretary shall make available staff who will train and assist public and nonprofit agency staffs, including shelter employees, on the rules for establishing eligibility for benefits under titles II and XVI of the Social Security Act (particularly benefits related to disability), as well as the procedures for establishing and maintaining such eligibility.

(D) PROVIDE ASSISTANCE TO ENSURE APPROPRIATE USE OF BENEFITS TO OBTAIN NEEDED GOODS AND SERVICES.—The Secretary may provide such assistance as may be necessary to ensure that homeless individuals appropriately use benefits under the Social Security Act to obtain permanent housing, nutrition, and physical and mental health care, and where appropriate, use their representative payees for case management services.

(E) OTHER HELPFUL PROCEDURES.—Such other procedures as the Secretary may approve.

(3) EXPEDITED CONSIDERATION.—(A) Except as provided in subparagraph (B), within 30 days after the Secretary receives an application for benefits from a homeless individual under the Social Security Act, the Secretary shall render a final decision on the application.

(B) IMMEDIATE BENEFITS FOR HOMELESS INDIVIDUALS WITH OBVIOUS MENTAL ILLNESS.—In the case of a homeless individual who has applied for benefits under the Social Security Act and is suffering from obvious mental illness, if the Secretary cannot render a final decision on the application within the 30-day period described in subparagraph (A), the Secretary shall make such benefits available to the individual immediately after the close of such 30-day period, retroactive to the date of application.

(c) GRANTS TO STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS FOR OUTREACH.—The Secretary shall promulgate regulations providing for the granting of funds to States, local governments, and nonprofit organizations, to conduct outreach programs. The Secretary shall provide grants under this section only to those entities which demonstrate to the Secretary that they are able to conduct outreach to the same extent as that described in subsection (a).

(d) ADMINISTRATIVE PROVISIONS.—The Secretary shall—

(1) promulgate such regulations as may be necessary to implement this section;

(2) notify States, local governments, and nonprofit organizations of the availability of grant funds to carry out this section within 60 days after the date of the enactment of this Act; and

(3) begin to award grants under this section as described in subsection (c) within 150 days after the date of the enactment of this Act or additional grants thereafter as the Secretary determines to be appropriate.

(e) REPORTS.—Not less frequently than annually, the Secretary shall submit to the Congress a full and complete report on the activities carried out under this section and such recommendations as may be deemed appropriate. The criteria used by the Secretary in evaluating such activities shall fully take into account the special circumstances of the homeless and their need for personalized attention and follow-through assistance, and shall emphasize the extent to which the procedures and assistance made available to applicants under such projects are recognizing such circumstances and meeting such need.

(f) DEFINITIONS.—As used in this Act:

(1) HOMELESS INDIVIDUAL.—The term "homeless individual" means an individual—

(A) who lacks a fixed, regular, and adequate nighttime residence; or

(B) whose primary nighttime residence is—

(i) supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(ii) an institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.●

By Mr. EXON (for himself and Mr. KERREY):

S. 2308. A bill to provide that certain games of chance conducted by a nonprofit organization not be treated as an unrelated trade or business of such organization; to the Committee on Finance.

CONDUCTING CERTAIN GAMES OF CHANCE

● Mr. EXON. Mr. President, today I am introducing legislation, along with my colleague Senator BOB KERREY, to repeal a hidden tax on churches and charities imposed by the 1986 Tax Reform Act. A companion bill is being introduced in the House by Representative PETER HOAGLAND.

This new tax from the 1986 act first arose in obscure language put in by the House Ways and Means Committee. It taxes funds of churches, charities, and other nonprofit organizations from certain games of chance. Bingo is excluded under another section of law.

The 1986 act language exempts nonprofit organizations in North Dakota from the tax. Fairness requires that this law be changed.

My bill repeals the new tax in this unfair 1986 amendment on a retroactive basis.

State laws and local customs vary, but using raffles, lotteries, or similar means for fundraising is not unusual for many nonprofits. For example, in Nebraska, many churches, charities, and other nonprofit organizations have for years been authorized by State law to sell "pickle cards."

Pickle cards are merely small pull-tab lottery cards. They are so nicknamed because they were often held for sale in empty pickle jars. In Nebraska, the effect of the 1986 change is to tax the income from pickle card sales by nonprofit organizations. Many of these organizations have been hit hard by this new tax.

The Internal Revenue Code for many years has had an unrelated business income tax [UBIT]. It applies to certain income from nonprofit organizations. The reason is so nonprofit organizations do not enjoy an unfair competitive advantage in commercial ventures over taxpaying businesses. Of course, this assumes situations where nonprofit organizations are potential business competitors with private enterprise.

In situations affected by the 1986 tax bill and my bill today, competition with private taxpaying businesses is not even possible. It only applies where a State law permits nonprofit organizations to use such fundraising games and where the State law prohibits for-profit organizations from using them. In other words, the reason for applying a tax to prevent unfair competition with private business is totally absent here.

No mention of this new tax was made in the House Ways and Means Committee's report accompanying the 1986 Tax Reform Act, nor in any subsequent Senate or conference committee reports on the bill. No mention of this new tax was made in the listing of revenue effects for the bill. Thus, today we have a situation where the IRS is hitting up nonprofit organizations for back taxes, even though those organizations had no knowledge the tax even existed.

Unfortunately, this new tax is another example of the many problems from the 1986 tax bill of which the public was not aware until afterwards. I had high hopes for the original goals of the 1986 tax bill, but had to vote against the final version. Congress could and should have done better. We all remember the heifer tax and other problems from the 1986 act, many of which have since been corrected. This new tax on nonprofit fundraising games still needs correction.

The Federal Government has cut many social programs and increased the need for private charitable resources. The drug problem shows the

need for the moral leadership from our religious organizations. This is not the time to send an IRS deficiency notice to the orphanage and the church.

I look foward to working with Senator BENTSEN and the Finance Committee to help remedy this problem. Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THE CONDUCTING OF CERTAIN GAMES OF CHANCE NOT TREATED AS UNRELATED TRADE OR BUSINESS.

Section 1834 of the Tax Reform Act of 1986 is repealed for games conducted after October 22, 1986, and subparagraph (A) of section 311(a)(3) of the Tax Reform Act of 1984 shall be applied and administered as if such section 1834 (and the amendments made by such section 1834) had not been enacted.●

● Mr. KERREY. Mr. President, I rise to join my senior colleague from the State of Nebraska [Mr. EXON] in introducing legislation to repeal a Federal tax provision that imposes a serious handicap on the fundraising and operating abilities of charitable organizations, such as churches, baseball teams, labor unions, and other nonprofit organizations in the State of Nebraska.

This provision, incorporated into the 1986 Tax Reform Act, calls for the collection of Federal income taxes, or "unrelated business income taxes [UBIT]", on the proceeds received by charitable organizations from "games of chance." It requires not only the payment of the future tax liability of funds collected, but also the payment of taxes back to 1986. The bill we are introducing today calls for a straightforward repeal of the provision included in the 1986 act and the return of the law to how it stood prior to passage of the act.

In Nebraska, many charities perform their fundraising activities by means of a pull-tab lottery system called pickle cards. Although not mentioned in the 1986 Tax Reform Act's official committee report and not enforced or apparently noticed by the Internal Revenue Service until very recently, the collection of taxes on pickle card proceeds, will have a devastating effect on the groups reliant on pickle cards for fundraising.

The effect of the collection of these taxes will be felt by a variety of groups performing inportant functions in the State of Nebraska. For example, a number of parish schools utilize pickle card revenues to finance athletic, transportation, equipment, tuition programs for students. Others negatively affected by the provision include the Septemberfest Salute to Labor; numerous athletic associations, such as the Nebraska Softball Foundation and Gladiators Athletic Association; the Knights of Columbus in North Platte and Schuyler, NE, along with other fraternal organizations; and other groups providing special services to their communities.

In a day when we, as a nation, have elected to rely more on private and nonprofit resources to provide important and needed services to our communities, we must not accept this provision that could wreak financial havoc on those organizations, groups, and associations that are left to pick up the pieces.

I urge that our colleagues give this legislation their consideration and approval.●

By Mr. BREAUX:

S.J. Res. 273. Joint resolution to designate the week of October 7-13, 1990, as "National Health Care Food Service Week"; to the Committee on the Judiciary.

NATIONAL HEALTH CARE FOOD SERVICE WEEK

● Mr. BREAUX. Mr. President, today I am introducing a joint resolution to designate the week of October 7 through 13, 1990, as "National Health Care Food Service Week."

Health care food service employees play an invaluable role in the overall system of health care in this country. Proper nutrition is a vital aspect of treatment in hospitals and long-term care facilities. The individuals who provide this care are dedicated professionals—dieticians, chefs, dietary assistants, and hospitals and long-term care facility administrators—whose services contribute immensely to the quality of our health care system.

The joint resolution that I am introducing recognizes the role that these professionals play in the healing process. A number of State and local governments, as well as the Federal Government, have recognized National Health Care Food Service Week in past years. I hope that my colleagues will add their support again this year.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 273

Whereas health care food service is a vital function of the provision of care and treatment of hospitalized persons;

Whereas health care food service workers, chefs, dieticians, dietary assistants, and administrators work in concert with other health care professionals to provide the best possible patient care; and

Whereas the provision of nutrition and sustenance is an essential component of the care and recovery of hospitalized persons: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 7 through 13, 1990, is designated as "National Health Care Food Services Week," and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that week with appropriate ceremonies and activities.●

By Mr. LAUTENBERG:

S.J. Res. 274. Joint resolution to designate the week beginning June 10, 1990, as "National Scleroderma Awareness Week"; to the Committee on the Judiciary.

NATIONAL SCLERODERMA AWARENESS WEEK

● Mr. LAUTENBERG. Mr. President, I rise to introduce a joint resolution designating the second week in June as "National Scleroderma Awareness Week."

Three hundred thousand Americans are affected by scleroderma, a chronic disease of unknown origin that has no cure. It causes thickening and hardening of the skin. In its most severe form, the hardening process spreads to the joints, causing decreased mobility and to the body organs causing functional impairment.

Scleroderma usually strikes healthy individuals at any time between the ages of 25 and 55 years old, but it occurs in women two to three times more frequently than men. Early diagnosis allows therapeutic treatment that may slow the progression of the disease.

But even with treatment, the prognosis for scleroderma patients varies widely; some experience a remission or have minor symptoms that do not interfere significantly with a normal lifestyle. But for others, who may develop kidney malfunction, respiratory weakness, heart spasms, digestive and intestinal problems, or respiratory weakness, the disease can be fatal.

Activities and events organized around a nationally designated week will heighten public knowledge of scleroderma and facilitate financial support of much needed research and patient support groups. I urge my colleagues to cosponsor this joint resolution, and I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 274

Whereas scleroderma is a disease in which connective tissue in the body becomes hardened and rigid, and might afflict any part of the body;

Whereas approximately 300,000 people in the United States suffer from scleroderma;

Whereas women are afflicted 3 times more often than men;

Whereas scleroderma is a chronic and often progressive illness that can result in death;

Whereas the symptoms of scleroderma vary greatly from person to person and can complicate and confuse diagnosis;

Whereas the cause and cure of scleroderma are unknown; and

Whereas scleroderma is an orphan disease and is considered to be under-studied: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of June 10, 1990, is designated as "National Scleroderma Awareness Week", and the President of the United Staes is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.●

By Mr. PELL (for himself, Mr. HELMS, Mr. KENNEDY, Mrs. KASSEBAUM, Mr. KERRY, Mr. D'AMATO, Mr. DODD, Mr. HUMPHREY, Mr. DURENBERGER, Mr. DECONCINI, Mr. SIMON, Mr. RIEGLE, Mr. MATSUNAGA, Mr. GORE, Mr. WALLOP, Mr. WILSON, Mr. COATS, Mr. COCHRAN, Mr. LUGAR, Mr. BRADLEY, Mr. CONRAD, Mr. MOYNIHAN, Mr. METZENBAUM, Mr. SARBANES, and Mr. KOHL):

S.J. Res. 275. Joint resolution designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet"; to the Committee on the Judiciary.

NATIONAL DAY IN SUPPORT OF FREEDOM AND HUMAN RIGHTS IN CHINA AND TIBET

Mr. PELL. Mr. President, I am today introducing a joint resolution to designate May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet."

We are fast approaching the anniversary of one of the seminal events in a year that has shaken the Communist world. In April 1989, students began to demonstrate in Tiananmen Square to commemorate the passing of Hu Yaobang, a reformist leader who had been ousted 2 years earlier.

The protests grew despite official attempts to shut them down, touching a deep nerve of frustration and discontent throughout China. The students were joined by journalists, by younger Communist Party members and sons and daughters of high officials, and by hundreds of thousands of ordinary workers. On many days the marching crowds in Beijing reached 1 million or more, and the vast majority of Beijing's population joined in the demonstrations at one time or another.

Despite the vast scope of the protests, the passions they unleashed, and the lack of organization that was inevitable in such a spontaneous movement, the demonstrations remained astonishingly peaceful. When troops first entered Beijing, they were met with thousands of citizens who passively blocked their way, but who also brought them food and water and tried to reason with them. Student leaders went out of their way to stop acts of vandalism.

On May 13, students began a hunger strike in Tiananmen Square. Their demands were not violent, and did not call for a radical overthrow of the regime, but rather for an admission that their demonstrations were patriotic, that steps be taken to curb rampant corruption, and for a continuing dialog with the leaders.

It is this day, May 13, that the students have requested we commemorate, rather than June 4, the day of the massacre. June 4 is a date that belongs to the regime, the date of what will most likely turn out to be its pyrrhic victory. May 13, however, is a day that commemorates the nonviolent ideals of the democracy movement, ideals that found fruition in Eastern Europe but were crushed in China itself.

This date will also serve to commemorate the peaceful demonstrations that have taken place in Tibet in recent years, demonstrations that have been answered only with brutality on the part of the Chinese military and police forces. It will commemorate the efforts of the Dalai Lama, the 1989 Nobel Peace Prize recipient, to resolve peaceably the situation in Tibet despite the bitterness engendered by Chinese occupation policies.

This joint resolution is meant to express bipartisan support for the Chinese students and ordinary Chinese and Tibetans. It is they who have decided to commemorate this day. The joint resolution is not meant to drive another wedge between the United States and China, but rather to promote support for the Chinese and Tibetan people and those in the leadership who seek a return to reform.

I thank Senators HELMS, KENNEDY, and KASSEBAUM, and the other Senators who join me in introducing the joint resolution. Corresponding legislation is being introduced in the House of Representatives. I urge the support of my colleagues in both the Senate and the House, and I ask unanimous consent that the full text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 275

Whereas the United States supports the legitimate and democratic aspirations for freedom of peoples throughout the world;

Whereas student and citizen groups throughout the world have taken great risks in pursuit of reform;

Whereas on May 13, 1989, Chinese students began a hunger strike in Tiananmen Square seeking nonviolent dialogue with the Chinese Government;

Whereas the Chinese Government responded to the Chinese students with violence, killing many;

Whereas the nonviolent resistance of the people of Tibet to the Chinese Government has also been met with violence;

Whereas the Chinese students and the Tibetan people follow the tradition of the Dalai Lama's and Mahatma Gandhi's doctrine of nonviolence, and have inspired the world;

Whereas student organizations throughout the United States and around the world have declared May 13, 1990, as an international day of fasting in support of democratic reforms in China and Tibet; and

Whereas this effort is being undertaken in the hope of bringing the current tragedies in China and Tibet to a peaceful end, and in the hope that productive dialogue will replace an atmosphere of suspicion and reprisal: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet," and calling on the people of the United States to observe such a day with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 11

At the request of Mr. CRANSTON, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 11, a bill to provide for the protection of the public lands in the California desert.

S. 16

At the request of Mr. CRANSTON, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 16, a bill to require the executive branch to gather and disseminate information regarding, and to promote techniques to eliminate, discriminatory wage-setting practices and discriminatory wage disparities which are based on sex, race, or national origin.

S. 276

At the request of Mr. DURENBERGER, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 276, a bill to establish a Department of Environmental Protection.

S. 434

At the request of Mr. REID, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 434, a bill to prohibit a State from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that State.

S. 513

At the request of Ms. MIKULSKI, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 513, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend certain retirement provisions of such chapters which are applicable to law enforcement officers, to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service.

S. 563

At the request of Mr. MATSUNAGA, the name of the Senator from Nevada

[Mr. REID] was added as a cosponsor of S. 563, a bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive retired pay concurrently with disability compensation after a reduction in the amount of retired pay.

S. 700

At the request of Mr. DOMENICI, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 700, a bill to amend the Internal Revenue Code of 1986 to meet the growing challenge of America's infrastructure needs.

S. 814

At the request of Mr. DOMENICI, the names of the Senator from Maine [Mr. COHEN], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 814, a bill to provide for the minting and circulation of one dollar coins, and for other purposes.

S. 1254

At the request of Ms. MIKULSKI, the names of the Senator from Florida [Mr. GRAHAM], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 1254, a bill to authorize the Secretary of Labor to make grants to public housing agencies for the provision of literacy training, training in basic and employment skills, and support services, and to establish the Gateway Task Force.

S. 1557

At the request of Mr. ROTH, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1557, a bill to amend title 17, United States Code, to permit the unlicensed viewing of videos under certain conditions.

S. 1560

At the request of Mr. BURNS, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1560, a bill to suspend the enforcement of certain regulations relating to underground storage tanks, and for other purposes.

S. 1627

At the request of Mr. MOYNIHAN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1627, a bill to amend the Internal Revenue Code of 1986 to generally treat bonds issued for section 501(c)(3) organizations in a manner similar to governmental bonds.

S. 1664

At the request of Mr. HEINZ, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1664, a bill to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941.

S. 1675

At the request of Mr. KENNEDY, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of S. 1675, a bill to provide financial assistance for teacher recruitment and training, and for other purposes.

S. 1676

At the request of Mr. PELL, the names of the Senator from Georgia [Mr. NUNN], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 1676, a bill to strengthen the teaching profession, and for other purposes.

S. 1696

At the request of Mr. KENNEDY, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 1696, a bill to amend title 28 of the United States Code to prohibit racially discriminatory capital sentencing.

S. 1758

At the request of Mr. GLENN, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 1758, a bill to provide for the establishment of an Office for Small Government Advocacy, and for other purposes.

S. 1770

At the request of Mr. JEFFORDS, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1770, a bill to assess the suitability and feasibility of including certain Shenandoah Valley Civil War sites in the national park system, and for other purposes.

S. 1791

At the request of Mr. ROCKEFELLER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1791, a bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes.

S. 1815

At the request of Mr. BOSCHWITZ, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1815, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer Social Security taxes on cash tips.

S. 1829

At the request of Mr. BIDEN, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 1829, a bill to amend the Controlled Substances Act to further restrict the use of steroids and human growth hormones.

S. 1853

At the request of Mr. CHAFEE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1853, a bill to award a Congressional Gold Medal to Laurence Spelman Rockefeller.

S. 1890

At the request of Mr. THURMOND, the names of the Senator from Idaho [Mr. MCCLURE], and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 1911

At the request of Mr. DODD, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1911, a bill to provide assistance in the development of new or improved programs to help younger individuals through grants to the States for community planning, services, and training; to establish within the Department of Health and Human Services an operating agency to be designated as the Administration on Children, Youth, and Families; to provide for a White House Conference on Young Americans; and for other purposes.

S. 1942

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1942, a bill to provide for home and community care as optional State-wide service, and for other purposes.

S. 2006

At the request of Mr. GLENN, the names of the Senator from Kentucky [Mr. MCCONNELL], the Senator from Wisconsin [Mr. KASTEN], the Senator from California [Mr. CRANSTON], and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 2006, a bill to establish the Department of the Environment, provide for a global environmental policy of the United States, and for other purposes.

S. 2021

At the request of Mr. DOLE, the names of the Senator from Wyoming [Mr. WALLOP] and the Senator from California [Mr. WILSON] were added as cosponsors of S. 2021, a bill to amend title 11, United States Code, to ensure that the bankruptcy laws are not used to prevent restitution to, or recovery of, failed financial institutions.

S. 2039

At the request of Mr. COCHRAN, the names of the Senator from Missouri [Mr. BOND] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 2039, a bill to improve the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms.

S. 2048

At the request of Mr. SARBANES, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2048, a bill to provide for cost-of-living adjustments in 1991 under certain Government retirement programs.

S. 2051

At the request of Mr. HEFLIN, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Montana [Mr. BURNS], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 2051, a bill to amend the Social Security Act to provide for more flexible billing arrangements in situations where physicians in the solo practice of medicine or in another group practice have arrangements with colleagues to "cover" their practice on an occasional basis.

S. 2056

At the request of Mr. HARKIN, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Oregon [Mr. PACKWOOD], the Senator from Colorado [Mr. WIRTH], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 2056, a bill to amend title XIX of the Public Health Service Act to provide grants to States and implement State health objectives plans, and for other purposes.

S. 2077

At the request of Mr. GRASSLEY, the names of the Senator from Utah [Mr. GARN], the Senator from Arizona [Mr. MCCAIN], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 2077, a bill to amend the Federal Aviation Act of 1958 to limit the age restrictions imposed upon aircraft pilots.

S. 2097

At the request of Mr. PELL, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2097, a bill to promote and encourage alternative nondefense uses of defense facilities, to provide assistance for the retraining of unemployed defense workers whose employment is terminated, and to provide adjustment assistance to communities adversely affected by the termination or curtailment of defense contracts or the closure or realignment of military installations.

S. 2104

At the request of Mr. KENNEDY, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 2104, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

S. 2111

At the request of Mr. MATSUNAGA, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2111, a bill designating the month of May as "Asian/Pacific American Heritage Month".

S. 2114

At the request of Mr. KENNEDY, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2114, a bill to promote excellence in American mathematics, science, and engineering education; enhance the scientific and technical literacy of the American public; stimulate the professional development of scientists and engineers; provide for education, training, and retraining of the Nation's technologists; increase the participation of women and minorities in careers in mathematics, science, and engineering; and for other purposes.

S. 2149

At the request of Mr. BOSCHWITZ, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2149, a bill to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments, and for other purposes.

S. 2178

At the request of Mr. LIEBERMAN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2178, a bill to amend title 18, United States Code, to establish a Federal criminal offense for illegal creation of a fuel shortage.

S. 2186

At the request of Mr. MCCONNELL, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 2186, a bill to repeal the provisions of the Revenue Reconciliation Act of 1989 which require the withholding of income tax from wages paid for agricultural labor.

S. 2187

At the request of Mr. COCHRAN, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2187, a bill to amend the Public Health Service Act to make grants to encourage States to establish Offices of Rural Health to improve health care in rural areas.

S. 2209

At the request of Mr. HEINZ, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2209, a bill to amend the Internal Revenue Code of 1986 to provide that small life insurance companies need not amortize acquisition expenses for purposes of the minimum tax.

S. 2210

At the request of Mr. D'AMATO, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 2210, a bill to provide for preservation of competitive rail freight service routes in the Northeastern United States.

S. 2215

At the request of Mr. HARKIN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2215, a bill to amend the Public Health Service Act to provide for the development and operation of a center to conduct research with respect to contraception and centers to conduct research with respect to infertility, and for other purposes.

S. 2229

At the request of Mr. DODD, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2229, a bill to reauthorize the Head Start Act for fiscal years 1991 through 1994, and for other purposes.

S. 2255

At the request of Mr. DASCHLE, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 2255, a bill to express the sense of the Congress that the Secretary of Agriculture should take certain actions concerning the modification and effects of acreage reduction programs and to require the Secretary to use existing programs to maintain prices for the 1990 crop of wheat resulting from a program modification, and for other purposes.

S. 2267

At the request of Mr. SYMMS, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2267, a bill to amend title II of the Social Security Act to exclude certain rental payments from self-employment income for the excess earnings test.

S. 2284

At the request of Mr. KASTEN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2284, a bill to amend the Federal Food, Drug, and Cosmetic Act to define the term light or reduced fat butter, and for other purposes.

SENATE JOINT RESOLUTION 224

At the request of Mr. BYRD, the names of the Senator from Indiana [Mr. COATS], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Delaware [Mr. ROTH], the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. MOYNIHAN], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 224, a joint resolution to designate the month of May 1990 as "National Trauma Awareness Month."

SENATE JOINT RESOLUTION 231

At the request of Mr. GRASSLEY, the name of the Senator from Colorado [Mr. ARMSTRONG] was added as a cosponsor of Senate Joint Resolution

231, a joint resolution to designate the week of June 10, 1990, through June 16, 1990, as "State-Supported Homes for Veterans Week."

SENATE JOINT RESOLUTION 235

At the request of Mr. HUMPHREY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of Senate Joint Resolution 235, a joint resolution proposing a constitutional amendment to limit Congressional terms.

SENATE JOINT RESOLUTION 248

At the request of Mr. BOSCHWITZ, the names of the Senator from Connecticut [Mr. DODD] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 248, a joint resolution to designate the month of September 1990 as "International Visitor's Month."

SENATE JOINT RESOLUTION 261

At the request of Mr. LIEBERMAN, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 261, a joint resolution making dire emergency supplemental appropriations for low-income home energy assistance.

SENATE JOINT RESOLUTION 265

At the request of Mr. DODD, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 265, a joint resolution commemorating May 18, 1990, as the 25th anniversary of Head Start.

SENATE JOINT RESOLUTION 266

At the request of Mr. JEFFORDS, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 266, a joint resolution designating March 1990, as "United States Naval Reserve Month."

SENATE JOINT RESOLUTION 269

At the request of Mr. D'AMATO, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Florida [Mr. GRAHAM], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 269, a joint resolution authorizing and requesting the President to designate the second week of March 1990 as "National Employ the Older Worker Week."

SENATE JOINT RESOLUTION 272

At the request of Mr. COCHRAN, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Indiana [Mr. COATS], the Senator from West Virginia [Mr. BYRD], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 272, a joint resolution to designate March 30, 1990, as "National Doctor's Day."

SENATE CONCURRENT RESOLUTION 87

At the request of Mr. KENNEDY, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Concurrent Resolution 87, a concurrent resolution in support of the United Nations Secretary General's current efforts regarding Cyprus.

SENATE CONCURRENT RESOLUTION 96

At the request of Mr. FORD, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Concurrent Resolution 96, a concurrent resolution to urge the administration in the strongest possible terms not to propose civil air transport services for inclusion under the General Agreement on Tariffs and Trade [GATT], or the proposed General Agreement on Trade in Services [GATS], and to actively oppose any proposal that would consider civil air transport services as a negotiation item.

SENATE CONCURRENT RESOLUTION 97

At the request of Mr. D'AMATO, the names of the Senator from Wyoming [Mr. WALLOP], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Concurrent Resolution 97, a concurrent resolution expressing the sense of the Congress with respect to popular anti-Semitism in the Soviet Union.

At the request of Mr. LUGAR, his name was added as a cosponsor of Senate Concurrent Resolution 97, supra.

SENATE CONCURRENT RESOLUTION 102

At the request of Mr. DIXON, the names of the Senator from Tennessee [Mr. GORE], the Senator from California [Mr. WILSON], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Concurrent Resolution 102, a concurrent resolution expressing the sense of the Congress regarding the existing borders between Germany and Poland.

SENATE RESOLUTION 231

At the request of Mr. BRADLEY, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Resolution 231, a resolution urging the submission of the Convention on the Rights of the Child to the Senate for its advice and consent to ratification.

SENATE RESOLUTION 239

At the request of Mr. DECONCINI, the names of the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Resolution 239, a resolution expressing the sense of the Senate denouncing the military offensive in Angola and urging an immediate ceasefire.

SENATE RESOLUTION 258

At the request of Mr. DURENBERGER, the names of the Senator from West Virginia [Mr. BYRD], the Senator from California [Mr. WILSON], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Resolution 258, a resolution to recognize and congratulate the 1990 International Trans-Antarctica Expedition.

SENATE CONCURRENT RESOLUTION 105—CONGRATULATING THE PEOPLE OF EAST GERMANY ON THEIR FREE AND DEMOCRATIC ELECTIONS

Mr. DODD submitted the following concurrent resolution; which was referred to the Committee on Foreign relations:

S. CON. RES. 105

Whereas on March 18, 1990 the people of East Germany participated in the first free and democratic legislative elections in almost 60 years;

Whereas an estimated 95% of those eligible to vote participated in those elections;

Whereas by the unanimous judgment of neutral observers the elections were conducted honestly and fairly;

Whereas this election for the people of East Germany meant the exercising of their right of self-determination toward the unity of the German people and within the framework of a free and peaceful Europe; and

Whereas the American people have always supported the rights of all peoples, including the people of East Germany, to freely choose their representatives, governments, and their political future: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the United States Congress—

Congratulates the people of East Germany and all the participating candidates for the dignified conduct of these free elections;

Congratulates the winners of those elections, the freely and democratically chosen representatives of the people of East Germany; and

Expresses its desire to work with those representatives for a free and peaceful Europe.

SENATE CONCURRENT RESOLUTION 106—CONCERNING JERUSALEM AND THE PEACE PROCESS

Mr. MOYNIHAN (for himself, Mr. BOSCHWITZ, Mr. LAUTENBERG, Mr. D'AMATO, Mr. DIXON, Mr. EXON, Mr. GORTON, Mr. METZENBAUM, Mr. LEVIN, Mr. LIEBERMAN, Mr. PACKWOOD, Mr. WILSON, Mr. GRAHAM, Mr. SIMON, Mr. RIEGLE, Mr. HATCH, Mr. MCCAIN, Mr. BURNS, Mr. KASTEN, Mr. LOTT, Mr. MCCONNELL, and Mr. GRASSLEY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 106

Whereas the State of Israel has declared Jerusalem to be its capital;

Whereas from 1948 to 1967 Jerusalem was a divided city and Israeli citizens of all faiths were not permitted access to holy sites in the area controlled by Jordan;

Whereas since 1967 Jerusalem has been a united city administered by Israel and persons of all religious faiths have been guaranteed full access to holy sites within the city;

Whereas the President and the Secretary of State have demonstrated their strong desire to achieve a just and lasting peace in the Middle East and have worked diligently toward that end;

Whereas ambiguous statements by the Government of the United States concerning the right of Jews to live in all parts of Jerusalem raise concerns in Israel that Jerusalem might one day be redivided and access to religious sites in Jerusalem denied to Israeli citizens; and

Whereas such concerns inhibit and complicate the search for a lasting peace in the region: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) acknowledges that Jerusalem is and should remain the capital of the State of Israel;

(2) strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected; and

(3) calls upon all parties involved in the search for peace to maintain their strong efforts to bring about negotiations between Israel and Palestinian representatives.

Mr. MOYNIHAN. Mr. President, I am today submitting a concurrent resolution which states that Jerusalem must never be divided again and acknowledges the reality that Jerusalem is the State of Israel's capital and will remain so.

I recently returned from a trip to the Middle East in my capacity as chairman of the Senate Foreign Relations Subcommittee on Near Eastern and South Asian Affairs. While I was in Israel I met with a broad cross-section of Israeli political and communal leaders and found that they had many different views on the peace process. There were, in fact, only two things on which they all agreed: Their desire to see a meaningful and secure peace between Israel and her Arab neighbors and their anguish over the continued confusion of American policy concerning the city of Jerusalem.

President Bush has, I am afraid, added to this confusion in a fashion that has already proven to be most unhelpful to the quest for peace in the Middle East when he stated that the United States opposes "new settlements in the West Bank or in East Jerusalem." The President thereafter wrote to Mayor Kollek arguing that the United States had also opposed the Jordanian occupation of East Jerusalem, but his words of reassurance would be more comforting if anyone could recall what the United States did to attempt to change the situation.

We were far too passive in May 1948 when the Jordanian Arab Legion drove the once flourishing Jewish majority out of the Old City at gunpoint. We were too passive when Israel's eternal capital was divided by barbed wire, mine fields, and cinderblock walls. A week ago I declared that President Bush's original statement "raises the frightful irony that a President who only 4 months ago celebrated the collapse of the Berlin Wall and the opening of the Brandenburg Gate might encourage the redivision of Jerusalem and the reimposition of the infamous Mandelbaum Gate."

Israel must make sacrifices for there to be peace in the Middle East. Yet no Israeli Government will join a process which it believes might end with the dismemberment of its eternal capital.

No Israeli Government can address the concerns of Jerusalem's Arab inhabitants if addressing these concerns will be construed as suggesting that it is prepared to negotiate away the right of Jews to dwell in security throughout a united Jerusalem. We would do well to remember that the Jewish presence in Jerusalem is not new. No people on Earth are as inexorably linked to any city as the Jewish people are to the city of Jerusalem.

For more than three millennia, ever since King David declared it the capital of his Jewish kingdom and bought the land on which his son Solomon would build his temple, Jerusalem has been the spiritual and cultural focal point of Jewish history. Yet Jerusalem's significance to the Jew goes back even further, for Jewish tradition states that Solomon's temple was built on the very spot where Abraham was prepared to sacrifice his son Isaac and where Jacob, the third of the patriarchs, dreamt of a ladder connecting heaven and Earth.

For 2,600 years Jerusalem has not been forgotten. The devout Jew prays six times a day—thrice in his daily prayers and thrice at grace—for the city of Jerusalem. No Jewish religious ceremony is complete without mention of the Holy City. And twice a year, at the conclusion of the Passover seder and the Day of Atonement services, all assembled repeat one of mankind's shortest and oldest prayers: "Next Year in Jerusalem."

Not only is Jerusalem central to Jewish prayer and religious practice but Jews throughout the centuries have risked their very lives to be able to live in, or at least visit, their Holy City. Conquering armies came and went—Roman, Byzantine, Arab, Crusader, Mongol, and Turk—but the Jewish community, despite deprivation and persecution, remained in Jerusalem. Indeed, the first authoritative Turkish census of the city in 1884 discovered that 7,120 of Jerusalem's 12,510 inhabitants were Jewish—and this before there was a "west" or "new" Jerusalem. Thus even the Old City of Jerusalem had a Jewish majority well over a century ago. And the Jerusalem of prayer and history is at the very heart of the East Jerusalem that President Bush speaks of as a Jerusalem in which Jews are to be viewed as unwelcome settlers.

It is interesting to note that in 1980 President Bush criticized the Carter administration for sending mixed signals about Jerusalem. He claimed that they "undermined confidence in America's policy and purpose in the Middle East." Specifically, in a campaign speech delivered on October 19, 1980, he told the Zionist Organization of America that:

I need not detail the recent history of mixed signals delivered in the U.N. and elsewhere around the world concerning the Carter Administration's policy on such issues as the PLO and the status of Jerusalem. The are only too well known. Nor need I stress that though these signals are mixed, they assume a pattern that has undermined confidence in America's policy and purpose in the Middle East.

I would also note that the United Nations General Assembly vote of November 29, 1947 acknowledged borders of an "International Zone" that acutally extended well beyond the present municipal boundaries of Jersualem. The United States and the Soviet Union both endorsed the 1947 boundaries. The Jewish Agency endorsed this plan as a "Jewish contribution to the solution of a painful problem." The Arab States rejected the plan and launched a brutal attack on the Jewish community of Jerusalem.

I believe it is time to reassure Israel. I believe that such reassurance is essential before this small nation can find the confidence to trust our initiatives. Accordingly, I am submitting this concurrent resolution. I invite my colleagues to join as original cosponsors of the resolution.

Mr. PACKWOOD. Mr. President, today I received a letter addressed to President Bush from a constituent of mine, Mr. Arden E. Shenker. Mr. Shenker is from Portland, OR, chair of the National Jewish Community Relations Advisory Council, and a respected member of the Jewish community. His letter is in response to the President's recent statements about Jerusalem. Because of Jerusalem's unique importance to Jews all over the world and because of our close relationship with the State of Israel, I respectfully request that Mr. Shenker's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL JEWISH COMMUNITY
RELATIONS ADVISORY COUNCIL,
New York, NY, March 8, 1990.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The National Jewish Community Relations Advisory Council welcomed the assurances that you gave Seymour Reich, chairman of the Conference of Presidents, in your telephone conversation last Monday that the United States is committed to a united Jerusalem. (The NJCRAC is comprised of 13 national agen-

cies and 117 community agencies listed on the reverse side of this letterhead.)

The American Jewish community, with all its diversity, is united in support of Jerusalem as the undivided eternal capital of the state of Israel. As we know you appreciate, Jerusalem maintains a special place in the hearts and minds of the Jewish people. It is uniquely significant to us in religious, historic and cultural terms. The fundamental right of Jews to live in this city must be respected.

Jews have lived in this ancient city without interruption since the days of the Bible. For much of Jerusalem's history, including well over the last 100 years, Jews have comprised the majority of the population of the city. Only from 1948 to 1967, under Jordanian rule, were Jews for the first time prohibited from living in parts of Jerusalem. Fortunately, this prohibition ended in 1967 when Israel successfully defended itself against Jordanian aggression.

We understand that U.S. policy now is that the final status of Jerusalem is to be determined by a negotiated settlement. We also believe that U.S. policy recognizes the right of Jews to live in any part of Jerusalem, a judgment expressed by Vice President Dan Quayle on Tuesday to the Conference of Presidents.

This was reinforced in the statement today by Margaret Tutwiler in which she declared "the United States' position, as was enunciated earlier this week, is, of course, Jews can live in East Jerusalem and West Jerusalem. There is no difference from that policy, and it's been stated, as you know."

We trust that this correctly states U.S. policy in regard to the right of Jews to live in Jerusalem.

Respectfully yours,

ARDEN E. SHENKER,
Chair.

AMENDMENTS SUBMITTED

CLEAN AIR ACT AMENDMENTS

KENNEDY (AND OTHERS) AMENDMENT NO. 1343

Mr. KENNEDY (for himself, Mr. KERRY, Mr. LAUTENBERG, and Mr. WIRTH) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health, protective national ambient air quality standards, and for other purposes, as follows:

On page 13, after line 9, insert the following:

(d) Section 103 of the Clean Air Act is amended by adding at the end thereof the following:

"(g) STUDIES.—(1) The Director of the National Institute of Environmental Health Sciences shall conduct a program of basic research to identify, characterize, and quantify risks to human health from air pollutants. Such research shall be conducted primarily through a combination of university and medical school-based grants, as well as through intramural studies and contracts.

"(2) The Director of the National Institute of Environmental Health Sciences shall conduct a program for the education and training of physicians in environmental health.

"(3) The Director shall assure that such programs shall not conflict with research undertaken by the Administrator.".

On page 512, line 25, strike out "Act."." and insert "Act.".

On page 512, after line 25, insert the following:

"(4) In addition to the sums authorized by paragraphs (1), (2), and (3), there are authorized to be appropriated to the National Institute of Environmental Health Sciences such sums as may be necessary to carry out section 103(g)(1). Funds appropriated for each such fiscal year pursuant to this authorization shall be available for a 24-month period following the expiration of the fiscal year for which such funds were appropriated.

WIRTH (AND OTHERS) AMENDMENT NO. 1344

Mr. WIRTH (for himself, Mr. WILSON, Mr. MOYNIHAN, Mr. MCCAIN, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. HARKIN, Mr. KERRY, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. PELL, Mr. GORE, Mr. ROCKEFELLER, Mr. BRYAN, and Mr. BURNS) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

In the matter between page 137, line 14 and page 138 of the amendment, line 1, strike all of Column B in tables 1a and 1b and footnotes 1 and 2.

On page 138 of the amendment, line 1, strike "(A) If more" and all that follows through "December 31, 2001, then the regulations" and insert "The regulations".

On page 138 of the amendment, line 10, strike "2004" and insert "2003".

Beginning on page 139 of the amendment, strike line 1 and all that follows through page 140, line 8.

On page 140 of the amendment, line 9, strike "(4)" and insert "(3)".

On page 141 of the amendment, line 14, strike "(5)" and insert "(4)".

On page 141 of the amendment, line 15, strike "(4)" and insert "(3)".

On page 141 of the amendment, lines 20 and 24, strike "2004" and insert "2003".

On page 142 of the amendment, lines 5 and 9, strike "2004" and insert "2003".

On page 142 of the amendment, line 10, strike "(6)" and insert "(5)".

On page 142 of the amendment, line 11, strike "(4)" and insert "(3)".

On page 142 of the amendment, line 13, strike "(5)" and insert "(4)".

On page 142 of the amendment, line 14, strike "(7)" and insert "(6)".

On page 142 of the amendment, line 16, strike "(5) and (6)" and insert "(4) and (5)".

On page 142 of the amendment, line 20, strike "(8)" and insert "(7)".

On page 143 of the amendment, line 3, strike "(2)" and insert "(8)".

On page 153 of the amendment, line 13, strike line 13 and all that follows through line 4 on page 201 and insert:

CLEAN FUEL VEHICLES

Sec. 206. Section 212 of the Clean Air Act is amended to read as follows:

"SEC. 212. CLEAN FUEL VEHICLES.

"(a) DEFINITIONS.—As used in this section—

"(1) CLEAN FUEL.—The term 'clean fuel' means any fuel or power source used in a clean vehicle or ultra-clean vehicle that complies with the requirements applicable to such vehicle under subsection (f) when using such fuel or power source.

"(2) CLEAN VEHICLE.—The term 'clean vehicle' means any motor vehicle which meets the emission standards applicable to clean vehicles under subsection (f) when operated on a clean fuel.

"(3) ULTRA-CLEAN VEHICLE.—The term 'ultra-clean vehicle' means any motor vehicle weighing less than 14,000 lbs (gross vehicle weight) which meets the emission standards applicable to ultra-clean vehicles under subsection (f) when operated on a clean fuel.

"(4) RETAIL FUEL PROVIDER.—The term 'retail fuel provider' includes any person dispensing fuel for ultimate consumption.

"(5) COVERED FLEET.—The term 'covered fleet' means 10 or more vehicles which are (A) owned or operated by a single person and (B) centrally fueled or reasonably capable of being centrally fueled. Such term shall not include emergency vehicles and law enforcement vehicles (as defined by the Administrator), vehicles used by manufacturers of motor vehicles for demonstration, testing, or evaluation purposes, vehicles rented or leased for use by the general public or held for sale by motor vehicle dealers (including demonstration vehicles). In determining the number of vehicles owned by a single person for purposes of this paragraph, all vehicles owned by such person, by any person which controls such person, by any person controlled by such person, and by any person under common control with such person shall be treated as owned by such person.

"(6) COVERED FLEET VEHICLES.—The term 'covered fleet vehicles' includes only those vehicles in a covered fleet which are centrally fueled or reasonably capable of being centrally fueled.

Nothing in this section shall apply to motorcycles.

"(b) URBAN BUSES.—

"(1) IN GENERAL.—Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1989 the Administrator shall promulgate regulations requiring new urban buses operated primarily in a metropolitan statistical area or consolidated metropolitan statistical area (as defined by the United States Office of Management and Budget) with a 1980 population of 1,000,000 persons or more to be clean vehicles and to use clean fuels. The regulations shall provide that all new urban buses beginning with the model year 1994 purchased or placed into service by owners or operators of urban buses in such areas shall be clean vehicles and shall be exclusively operated on clean fuels.

"(2) PHASE IN.—The Administrator shall prescribe a schedule phasing in the applicability of the requirements established by paragraph (1) over the 1991 through 1994 model years as follows: 10 percent of new urban buses purchased or placed into service in model year 1991; 25 percent of new urban buses purchased or placed into service in model year 1992; 60 percent of new urban buses purchased or placed into service in model year 1993; and 100 percent of new urban buses purchased or placed into service in 1994 and later model years.

"(3) RETROFITS.—Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1989 the Ad-

ministrator shall promulgate regulations requiring that, beginning January 1, 1994, any urban bus operating in any area specified in paragraph (1) shall, at the time of any major engine overhaul, be retrofitted so as to comply with the standards applicable under paragraph (1) to new urban buses purchased in the area in model years 1994 and thereafter. The Administrator shall, by rule, phase in the requirements of this paragraph prior to January 1, 1994.

"(c) AVAILABILITY OF CLEAN VEHICLES IN 1994 AND AFTER.—

"(1) IN GENERAL.—Within the time periods specified in paragraph (2), the Administrator shall promulgate regulations requiring motor vehicle manufacturers to certify, produce, and offer clean and ultra-clean vehicles for sale. The regulations shall require clean and ultra-clean vehicles to be certified, produced, and offered for sale in serious, severe, and extreme ozone nonattainment areas in sufficient quantities to meet the clean and ultra-clean vehicle requirements of subsection (e).

"(2) APPLICABLE DATES.—The regulations under paragraph (1) applicable to vehicles manufactured during the calendar years specified in Table A below shall be promulgated on or before the date specified in Table A:

TABLE A

Final Date for Promulgation	Applicable to Calendar Years
January 1, 1992	1994, 1995 and 1996.
January 1, 1994	1997, 1998, and 1999.
January 1, 1997	2000 and after.

The Administrator shall notify each manufacturer of its production requirements at least 2 years prior to the calendar year in which such requirements first apply. Each manufacturer shall thereafter notify the Administrator of the types and projected quantities of clean fuels required for the clean and ultra-clean vehicles such manufacturer intends to produce.

"(3) TYPES AND MODELS.—The Administrator may require manufacturers to produce a variety of types and models of clean and ultra-clean vehicles. Vehicle types and models shall be allocated among the areas concerned based upon the clean and ultra-clean vehicle requirements of implementation plans revised in accordance with subsection (e) and such other factors as the Administrator may determine appropriate.

"(4) ALLOCATION AMONG MANUFACTURERS.—The Administrator shall allocate production requirements imposed pursuant to this subsection among manufacturers based upon market shares in the areas to which such requirements apply and such other factors as the Administrator may determine appropriate.

"(5) SMALL MANUFACTURERS.—The regulations under paragraph (1) shall not apply to any manufacturer with annual motor vehicle sales in the United States of less than 5,000 vehicles.

"(6) COMPLIANCE.—Notwithstanding any other provision of law, manufacturers of clean and ultra-clean vehicles required to offer such vehicles for sale under this subsection shall satisfy such requirement by offering such vehicles for sale to motor vehicle dealers or furnishing such vehicles to dealers for retail sale on a consignment basis for a consignment period of 2 years. Manufacturers of such vehicles shall not require the purchase of such vehicles by dealers as a prerequisite of receipt of conventional gasoline-fueled vehicles. The provisions of the preceding sentence may not be waived by any dealer.

"(d) AVAILABILITY OF CLEAN FUELS.—

"(1) IN GENERAL.—Within the time periods specified in paragraph (2), the Administrator shall promulgate regulations requiring that clean fuels be produced by each fuel refiner and imported by each fuel importer and made available by such refiner or importer, directly or indirectly, to appropriate retail fuel providers located in an ozone nonattainment area to which the clean vehicle requirements apply under this section.

"(2) APPLICABLE DATES.—The regulations under paragraph (1) applicable to fuel made available by fuel refiners and importers during the calendar years specified in Table B below shall be promulgated on or before the date specified in Table B:

TABLE B

Final date for promulgation	Applicable to calendar years
January 1, 1992	1994, 1995 and 1996.
January 1, 1994	1997, 1998, and 1999.
January 1, 1997	2000 and after.

The Administrator shall notify each refiner and importer of its production requirements at least 2 years prior to the calendar year in which such requirements first apply.

"(3) QUANTITIES.—The regulations under this subsection shall specify the quantities of such fuel to be produced, imported, and made available to retail fuel providers. Such quantities shall be adequate to assure that all clean and ultra-clean vehicles operating in each nonattainment area to which the clean vehicle requirements apply under this section can operate, to the maximum extent practicable, exclusively on clean fuel. The Administrator shall annually review whether the quantities so specified are adequate for such purposes. The Administrator shall ensure that the types and quantities of clean fuels to be produced and made available are consistent with the clean vehicle requirements of this section.

"(4) ALLOCATION.—The Administrator shall allocate production requirements among refiners and importers based upon total market shares in such areas and such other factors as the Administrator may determine appropriate.

"(5) OTHER AREAS.—The regulations promulgated under this subsection may also require fuel refiners and importers to produce and make clean fuels available in appropriate types and quantities to retail fuel providers located along the Interstate Highway System and other major transportation corridors (including those to major recreation destinations) outside of such nonattainment areas if there is a demand for such fuels in such locations.

"(6) EXEMPTION; SMALL REFINERS AND IMPORTERS.—The rules under this subsection may provide for the exemption of small refiners and small importers (each as defined by the Administrator in such rule) from any requirements established pursuant to such rule.

"(7) PROTECTION OF RETAIL FUEL PROVIDERS.—(A) Refiners and importers shall not require the purchase of clean fuels by independent retail fuel providers (directly or indirectly) as a prerequisite of receipt of gasoline or diesel.

"(B) For the purposes of supplying vehicles with clean fuels necessary to meet the requirements of this paragraph, a retail fuel provider who dispenses an average 50,000 gallons or more of motor vehicle fuel per month at a service station (as defined by the Administrator) in an area where the availability of such clean vehicles is required under this Act, shall offer for sale at such service station—

"(i) at a minimum, 1 clean fuel other than reformulated gasoline; or

"(ii) at a maximum, 2 clean fuels

as determined by the Administrator by regulation.

"(C) If, on the basis of available information, the Governor of any State for which the requirements of subparagraph (B) apply determines that the clean fuels described in clauses (i) and (ii) would be readily available in the area for the period of an exemption described in subparagraph (D), such Governor may exempt any service station in the area from the requirements of subparagraph (B).

"(D) Pursuant to subparagraph (C), the Governor may, for a period of not more than 4 years after the effective date of such requirements, exempt any service station in the area subject to the requirements of subparagraph (B).

"(E) The Administrator shall promulgate regulations to ensure that if an owner or operator of a service station described in subparagraph (B) demonstrates, to the satisfaction of the Administrator or the Governor, that if—

"(i) in order to comply with the requirements of this subsection, it would be necessary to remove or replace any underground storage tank (as defined in section 9001(1) of the Solid Waste Disposal Act (42 U.S.C. 6991(1)) at such service station; and

"(ii) such owner or operator had, before the date of the enactment of this paragraph, removed or replaced the underground storage tank at such service station;

then the owner or operator shall be exempt from the requirements of this subsection for a period of 10 years after such tank was last removed or replaced pursuant to clause (ii).

"(e) STATE PLANS FOR OZONE NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Each State shall submit to the Administrator, on or before the date specified in this subsection, a revision of the State implementation plan under title I of this Act for the State for each serious, severe, and extreme ozone nonattainment area in the State.

"(2) FLEET VEHICLES.—

"(A) 1994 CLEAN VEHICLE REQUIREMENTS.—Each State required to submit a plan revision under this subsection shall, within 1 year after the date of the enactment of the Clean Air Act Amendments of 1989, submit a revision to require that, when replacing covered fleet vehicles or adding covered fleet vehicles during calendar years 1994 through 1999, the operator of each covered fleet operating in such area shall acquire for such purposes only clean vehicles complying with the emission standards applicable to such vehicles as provided in this section, except that during calendar years of 1994, 1995, and 1996 the State may phase in the requirements of this subparagraph. At a minimum, a schedule for the phasing in of such requirements shall require that 30 percent of the replaced or added vehicles described in this subsection shall be clean vehicles for the calendar year 1994, 50 percent of such replaced or added vehicles shall be clean vehicles for the calendar year 1995, and 70 percent of such replaced or added vehicles shall be clean vehicles for the calendar year 1996.

"(B) NEAR 2000 ULTRA-CLEAN VEHICLE REQUIREMENTS.—Each State required to submit a plan revision under this subsection for a serious, severe, or extreme area shall, within 4 years after date of the enactment of the Clean Air Act Amendments of 1989, submit a revision to require that, when replacing covered fleet vehicles weighing less than 14,000 lbs (gross vehicle weight) or adding fleet vehicles weighing less than 14,000 lbs (gross vehicle weight) during calendar year 2000 and thereafter, the operator of each covered fleet operating in such area shall acquire for such purposes only ultra-clean vehicles complying with the emission standards applicable to such vehicles under this section.

"(C) FUELS.—Each plan revision required under this section shall require that only clean fuels be used in clean or ultra-clean covered fleet vehicles when such vehicles are used in the area.

"(D) NUMBER OF VEHICLES.—Each State described in subparagraphs (A) and (B) shall determine for the purposes of this section the number of clean and ultra-clean vehicles required each year to meet the requirements of subparagraphs (A) and (B).

"(A) 1994 CLEAN VEHICLE REQUIREMENTS—Each State required to submit a plan revision under this subsection for an extreme area shall, within 1 year after the date of the enactment of the Clean Air Act Amendments of 1989, submit a plan revision specifying that at least 150,000 clean vehicles in 1994, 300,000 clean vehicles in 1995, and 400,000 clean vehicles in 1996 shall be subject to the rule promulgated by the Administrator under subsection (c).

"(B) 1997 CLEAN VEHICLE REQUIREMENTS.—Each State required to submit a plan revision under this subsection for a severe or extreme area shall, within 2 years after the date of the enactment of the Clean Air Act Amendments of 1989, submit a plan revision specifying the number of clean vehicles to be subject to the rule promulgated by the Administrator under subsection (c) for each severe and extreme area in the State, beginning January 1, 1997. Such number shall be equal to 30 percent of the total number of motor vehicles sold in any such area or such greater number as necessary to provide (in combination with other provisions of the applicable implementation plan) for attainment and maintenance of the primary ambient air quality standard for ozone by the applicable attainment date.

"(C) 2003 ULTRA-CLEAN VEHICLE REQUIREMENTS.—Each State required to submit a plan revision under this subsection for a severe or extreme area shall, within 4 years after the date of the enactment of the Clean Air Act Amendments of 1989, submit a plan revision specifying the number of ultra-clean vehicles to be subject to the rule promulgated by the Administrator under subsection (c) for each severe and extreme area in the State, beginning January 1, 2003. Such number shall be equal to 30 percent of the total number of motor vehicles weighing less than 14,000 lbs (gross vehicle weight) sold in any such area or such greater number as necessary to provide (in combination with other provisions of the applicable implementation plan) for attainment and maintenance of the primary ambient air quality standard for ozone by the applicable attainment date.

"(D) EXEMPTION.—The Administrator may exempt a State from complying with this subsection with respect to any area if the State demonstrates in such revision to the satisfaction of the Administrator that the use of clean or ultra-clean vehicles, as the case may be, would not contribute to improved air quality in such area or if such revision achieves an equivalent improvement in air quality by measures not otherwise required under this Act.

"(E) RECLASSIFIED AREAS.—In the case of areas reclassified as serious, severe, or extreme, the plan revisions required to be submitted under this subsection shall be submitted within 1 year after reclassification. Such plan revision shall implement the requirements applicable under this subsection at the time of reclassification and thereafter, except that (i) the requirements of subparagraph (3)(A) shall not apply to areas reclassified as extreme and (ii) the Administrator may adjust for a limited period the deadlines for compliance under paragraphs (2) and (3) where compliance with such deadlines would be infeasible. Upon approval of the plan revision, the Administrator shall revise the regulations under subsections (c) and (d) to ensure the production and availability of clean and ultra-clean vehicles and clean fuels for the area.

"(4) OTHER AREAS.—(A) The Governor of any State containing an area not included in the clean vehicle program under paragraph (3) of this subsection may submit to the Administrator a request to participate in such program. Such request shall specify the number of clean and ultra-clean vehicles required to be offered for sale in the area under the program. The Administrator shall approve any such request where the Governor has determined that participation is appropriate and would result in progress toward attainment and maintenance of any national ambient air quality standard and the Administrator finds that such determination is not arbitrary and capricious.

"(B) If the Administrator approves one or more requests under subparagraph (A) he shall, by regulation—

"(i) increase the total number of clean and ultra-clean vehicles that must be produced and offered for sale under subsection (c) by the amount requested; and

"(ii) revise, as appropriate, the requirements under subsection (d) regarding the production, importation, and availability of clean fuels in the area affected.

Any additional requirements resulting from such approval shall become applicable after such period as the Administrator finds necessary for the requisite vehicles and fuels to be made available (giving appropriate consideration to model availability and the cost of compliance within such period).

"(5) SAVINGS PROVISION.—Nothing in this subsection shall be deemed to preclude or limit the right or authority of any State which has, at any time, received a waiver under section 209(b) or exercised its authority under section 177 to adopt and enforce any requirements regarding clean or ultra-clean vehicles or clean fuels.

"(f) REQUIREMENTS APPLICABLE TO CLEAN VEHICLES AND ULTRA-CLEAN VEHICLES.—

"(1) MOTOR VEHICLES WEIGHING LESS THAN 14,000 LBS G.V.W.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1989 the Administrator shall promulgate regulations under section 202(a) containing specific emission standards for clean vehicles applicable to motor vehicles weighing less than 14,000 pounds (gross vehicle weight). Such emission standards shall apply to emissions of hydrocarbons, oxides of nitrogen, carbon monoxide, particulates, formaldehyde, benzene, 1,3-butadiene, and such other air pollutants as the Administrator may identify as a potential threat to public health or welfare. Such standards shall take effect with respect to the second model year after the model year in which such standards are promulgated. Such standards shall be based upon the best technology or other measures for the control of each air pollutant specified in this paragraph that can reasonably be anticipated to be available at the time such measures are to be implemented, taking into consideration the cost of achieving such emission reduction, and shall, at a minimum comply with each of the following:

"(A) REACTIVE ORGANIC GASES.—The standards shall limit the total emissions of reactive organic gases from any clean vehicle so that such emissions have the potential to form no more than 50 percent of the ambient ozone formed by emissions allowed under the most stringent standard for emissions of reactive organic gases from a conventional gasoline-fueled vehicle of the same type pursuant to standards under section 202 for the same model year.

"(B) HAZARDOUS AIR POLLUTANTS.—The standards shall limit the total emissions of hazardous air pollutants to no more than 50 percent of the actual level of such pollutants emitted by a conventional gasoline-fueled vehicle of the same type complying with the most stringent standards specified pursuant to section 202 for the same model year (or to such other levels as the Administrator determines will achieve at least as great a reduction in aggregate adverse health effects as such 50 percent reduction in emissions). The standards shall limit emissions of formaldehyde to no more than 0.015 per mile.

"(C) OTHER POLLUTANTS.—The standards shall prohibit emissions of oxides of nitrogen, carbon monoxide, or particulates in excess of the most stringent level allowed under emission standards applicable under section 202 to emissions of such air pollutants from a conventional gasoline-fueled vehicle of the same type and model year.

"(D) OTHER FUELS.—The standard shall permit clean vehicles to use a fuel other than a clean fuel, if, when operated on any such other fuel, such vehicle complies with the emission standards applicable under section 202 to conventional gasoline-fueled vehicles of the same type and model year.

"(2) ULTRA-CLEAN VEHICLES.—Not later than 36 months after the date of the enactment of the Clean Air Act Amendments of 1989 the Administrator shall promulgate regulations under subsection (a) containing specific emission standards applicable to ultra-clean vehicles. Such standards shall apply to emissions of the same air pollutants and to the same vehicles as the standards under paragraph (1). The standards shall take effect with respect to the second model year after the model year in which such standards are promulgated. The standards for ultra-clean vehicles shall be the same as the standards under paragraph (1), except as follows:

"(A) REACTIVE ORGANIC GASES.—The standards for ultra-clean vehicles shall, at a minimum, limit the total emissions of reactive organic gases from any ultra-clean vehicle so that such emissions have the potential to form no more than 50 percent of the ambient ozone formed by emissions allowed under paragraph (1) in the case of reactive organic gases emitted by a clean vehicle of the same type for model year 2000.

"(B) HAZARDOUS AIR POLLUTANTS.—The standards for ultra-clean vehicles shall, at a minimum, limit the total emissions of haz-

ardous air pollutants to no more than 50 percent of the actual level of such pollutants emitted by a clean vehicle of the same type complying with the standards applicable pursuant to paragraph (1) for model year 2000 (or to such other levels as the Administrator determines will achieve at least as great a reduction in aggregate adverse health effects as such 50 percent reduction in emissions).

"(C) NO_x and CO.—The standards for ultra-clean vehicles shall, at a minimum, limit emissions of oxides of nitrogen and carbon monoxide to no more than 50 percent of the level of such pollutants allowed under paragraph (1) for emissions of such air pollutants from a clean fuel vehicle of the same type in model year 2000.

"(3) HEAVY-DUTY CLEAN VEHICLES.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1989 the Administrator shall promulgate regulations under section 202(a) containing specific emission standards applicable to clean vehicles with a gross vehicle weight of 14,000 lbs (g.v.w) or more. Such standards shall take effect with respect to the second model year after the model year in which such standards are promulgated. Such standards shall be based upon the best technology or other measures for the control of each air pollutant specified in this paragraph that can reasonably be anticipated to be available at the time such measures are to be implemented, taking into consideration the cost of achieving such emission reduction. At a minimum the standards shall comply with each of the following—

"(A) NO_x or particulates.—The standards for heavy-duty clean vehicles and engines shall require that (i) emissions of either oxides of nitrogen or particulate matter shall not exceed 50 percent of the emissions of such air pollutant allowed under the emission standard applicable for such air pollutant for a conventional heavy-duty vehicle or engine of the same type and model year pursuant to standards under section 202 and (ii) emissions of particulate matter shall not exceed 0.10 grams per brake horsepower-hour.

"(B) ALL AIR POLLUTANTS.—The standards for heavy-duty clean vehicles and engines shall prohibit emissions of any air pollutant in excess of the level allowed under the emission standard applicable for such air pollutant for a conventional heavy duty vehicle of the same type and model year pursuant to standards under section 202.

"(4) PERIODIC REVIEW.—The Administrator shall review the standards under this subsection at least every 3 years and shall promulgate revised standards to reduce allowable emissions whenever the Administrator determines that more effective emission control technologies or fuels allowing lower levels of emissions will be available. The Administrator shall promulgate revised, more stringent, standards for clean and ultra-clean vehicles whenever the Administrator determines that adjustments are needed to reflect more stringent emission standards for conventional vehicles under section 202.

"(5) SAFETY.—The standards under this subsection shall specifically include provisions under section 202(a)(4) regarding the safety of fuel systems (including the safety of storage cylinders and the testing and retesting of such cylinders and fuel systems), as appropriate.

"(g) GUIDANCE.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1989, the Administrator shall publish guidance for use in carrying out the provisions of this section, including guidance for determining the required number of clean and ultra-clean vehicles to be produced and offered for sale under such provisions. Such guidance shall include methodology to determine the local and regional air quality impacts of the use of clean and ultra-clean vehicles, including assessment of the need for areas upwind of nonattainment areas to use clean and ultra-clean vehicles. Such guidance shall be compatible with the inventory, modeling, and planning methods used in the implementation plan revision process.

"(h) CONVERSIONS.—The Administrator shall promulgate regulations establishing emission standards and requirements for the conversion of new or used vehicles into clean and ultra-clean vehicles. Such regulations shall ensure that such vehicles comply with all emission standards applicable to clean or ultra-clean vehicles, (whichever are applicable). The standards under this subsection shall be subject to all provisions of this title applicable to standards under section 202 (including the provisions of sections 206, 207, 208, and 209) with such modifications of the applicable regulations implementing such sections as the Administrator determines to be appropriate, and such standards shall be enforced in the same manner as standards prescribed under section 202.

"(i) CREDITS.—The Administrator, by regulation, may grant persons subject to the requirements of subsection (b) or (c) an appropriate amount of credits for producing more than the required numbers of clean or ultra-clean vehicles, for producing vehicles which have emissions substantially lower than required under subsection (f), or for producing more clean fuel than required under subsection (c). Credits may also be granted to persons subject to the requirements of subsection (b) or (c) or to other persons for the conversion of new or used vehicles into clean or ultra-clean vehicles in compliance with subsection (d). Any person granted such credits may transfer some or all of the credits to one or more other persons for use in demonstrating compliance with the requirements of subsection (b) or (c) and the clean vehicle and ultra-clean vehicle requirements of subsection (d) (relating to State plan revisions). Credits may not be transferred between any motor vehicle manufacturer and any refiner or importer, either directly or indirectly through any third party. Credits may be granted and transferred upon such terms and conditions as the Administrator determines to be appropriate to achieve the purposes of this section and part D of title I. Credits may be granted and transferred only if the Administrator determines that the total emissions of each pollutant within the nonattainment area after such transfer will be equal to or less than the total emissions otherwise allowed in such area without such transfer.

"(j) OTA STUDY.—The Office of Technology Assessment, in consultation with the Administrator, the Department of Energy, the State of California, the South Coast Air Quality Management District, and the Northeast States for Coordinated Air Use Management, shall review the introduction of clean vehicles in extreme ozone nonattainment areas pursuant to this section. Such review shall include an assessment of the market availability and public acceptance of clean vehicles and the fuels for such vehicles, the economics of producing and distributing such vehicles and fuels, and the effect on vehicle dealers and service stations. Not later than July 1, 1995, the Office of Technology Assessment shall report its findings to the Congress, together with any recommendations regarding the expansion of clean vehicle requirements to other nonattainment areas. To assist in such review, the California Air Resources Board and the South Coast Air Quality Management District shall provide reports at least every 6 months after the date of the enactment of this Act, on the market availability of such vehicles and fuels, any incentives or disincentives that may exist for the acquisition of such vehicles or the use of such fuels, any information on the safety, driveability, performance, maintenance, or emission characteristics of such vehicles in use, including the emission of any unregulated pollutants.

"(k) GLOBAL CLIMATE CHANGE.—The Administrator shall conduct a study to (1) characterize the potential effects of clean and ultra-clean vehicles and clean fuels on the emission of gases that affect global climate change, (2) identify existing technologies which could be implemented to maximize the benefits of the use of clean and ultra-clean vehicles and clean fuels in reducing global climate change, taking into consideration effects due to the production, distribution, and use of such vehicles and fuels, and (3) recommend research and development programs to develop new technologies to minimize the emissions of carbon dioxide, methane, and other greenhouse gases that occur in the production, distribution, and use of such vehicles and fuels. Not later than September 30, 1993, the Administrator shall submit a report describing the methods of analysis and the results and conclusions of such study, together with any recommendations, to the Senate Committee on Environment and Public Works and the House Committee on Energy and Commerce.

"(l) CLEAN FUELS FOR CONVENTIONAL VEHICLES.—(1) Within 1 year after the date of the enactment of this subsection, the Administrator shall promulgate standards under section 211 establishing specifications for cleaner gasoline to be used in gasoline-fueled vehicles. Such standards shall require the greatest reduction in ozone-forming and toxic emissions achievable through the reformulation of conventional gasoline, taking into consideration the cost of achieving such emission reductions, any nonair-quality and other air-quality related health and environmental impacts, and energy requirements. At a minimum, the specifications shall include each of the following requirements:

"(A) The benzene content of the fuel shall not exceed 0.8 percent by volume.

"(B) The aromatic hydrocarbon content of the fuel shall not exceed 25 percent by volume.

"(C) During the high ozone season (as defined by the Administrator), the total emissions of reactive organic gases from vehicles using the fuel shall in the aggregate have an ozone-forming potential at least 20 percent below the ozone-forming potential of the reactive organic gases emitted by comparable vehicles using conventional gasoline (as defined by the Administrator) of the same grade which meets the Reid vapor pressure requirements applicable under section 211.

"(D) The fuel shall have no lead content.

"(E) The fuel shall contain additives to prevent the accumulation of deposits in engines.

"(F) The oxygen content of the fuel shall equal or exceed 2.7 percent by weight (except as otherwise required under this section or section 188).

"(2) The regulations promulgated under section 211 as required pursuant to this subsection shall include procedures under which the Administrator shall certify fuels as complying with the specifications established pursuant to paragraph (1). The regulations shall authorize the Administrator to certify a fuel as complying with such specifications if such fuel achieves equivalent or greater emission reductions than are achieved by a fuel meeting the specifications established pursuant to paragraph (1).

"(3) The regulations promulgated under section 211 as required by this subsection shall prohibit any person from selling, offering for sale, dispensing, supplying, offering for supply, transporting, or introducing into commerce in any ozone nonattainment area any fuel for use in conventional gasoline-fueled vehicles that has not been certified by the Administrator under this subsection. Such prohibition shall take effect not later than 3 years after the date of the enactment of this subsection.

"(4) Within 1 year after the date of the enactment of this subsection, the Administrator shall promulgate regulations to ensure that gasoline (other than gasoline subject to specifications required under this section) does not result in emissions of reactive organic gases, nitrogen oxides, carbon monoxide, or toxic emissions from motor vehicles in excess of the levels of emissions of such pollutants that would result if conventional gasoline of a similar grade sold in calendar year 1989 were used in such vehicles. Such regulations shall take effect no later than 3 years after the date of the enactment of this subsection.

"(5) (A) The regulations promulgated under section 211 as required under this subsection shall provide for the granting of an appropriate amount of credits to a person who produces and certifies a fuel that—

"(i) has an oxygen content that exceeds the minimum oxygen content specified in subparagraph (F) of paragraph (1); or

"(ii) has an aromatic hydrocarbon content that is less than the maximum aromatic hydrocarbon content specified in subparagraph (B) of paragraph (1).

"(B) The regulations described in subparagraph (A) shall also provide that a person who is granted credits may transfer all or a portion of such credits to another person for the purpose of producing and certifying a fuel that does not meet the oxygen content or the aromatic hydrocarbon content requirements specified in paragraph (1).

"(C) The regulations promulgated under subparagraphs (A) and (B) shall ensure the enforcement of the requirements for the issuance, application, and transfer of the credits. Such regulations shall prohibit the granting or transfer of such credits in a nonattainment area, if the granting or transfer of such credits would result in—

"(i) an average oxygen content of such fuel that is less than the minimum oxygen content specified in subparagraph (F) of paragraph (1); or

"(ii) an average aromatic hydrocarbon content of fuel used in conventional gasoline-fueled vehicles in such nonattainment area that exceeds the maximum aromatic hydrocarbon content specified in subparagraph (B) of paragraph (1)."

On page 215 of the amendment, line 6, after the comma insert "in addition to the requirements of section 212,".

On page 218 of the amendment, line 4, strike "(a)".

On page 218 of the amendment, strike line 10 and all that follows through line 10 on page 219.

On page 154 of the amendment, line 4, after "in," insert "(A) any area designated as a serious carbon monoxide nonattainment area, (B)".

On page 154 of the amendment, line 5, after "per million or greater" insert "(C)".

On page 155 of the amendment, strike line 18 and all that follows through line 20 and insert "purchase or placement into use pursuant to subparagraphs (B), (C), (D), and (E). For areas designated as serious carbon monoxide nonattainment areas, such standards shall contain, in addition to the standards otherwise applicable, standards that yield when the vehicle is operated exclusively on clean alternative fuels, reductions in emissions of carbon monoxide in the amount specified under subparagraph (D) of this subsection. For an area with an ozone design value equal to or exceeding .18 parts per million, such standards shall contain, in addition to the standards otherwise applicable,"

On page 162 of the amendment, line 18, strike "(D)" and insert "(F)".

On page 163 of the amendment, line 1, strike "(E)" and insert "(G)".

On page 163 of the amendment, line 8, strike "(F)" and insert "(H)".

On page 164 of the amendment, line 10, strike "(G)" and insert "(I)".

On page 165 of the amendment, line 3, strike "(H)" and insert "(J)".

On page 165 of the amendment, line 14, strike "(I)" and insert "(K)".

On page 166 of the amendment, line 13, strike "(J)" and insert "(L)".

On page 166 of the amendment, line 17, strike "(K)" and insert "(M)".

On page 168 of the amendment, line 1, strike "(L)" and insert "(N)".

On page 162 of the amendment, between lines 17 and 18, insert the following new subparagraphs:

"(D) CARBON MONOXIDE NONATTAINMENT PROGRAM.—(i) After notice and opportunity for public comment, the Administrator shall, not later than January 1, 1992, promulgate regulations that require for model years 1994, 1995, and 1996 the percentage calculated pursuant to subparagraph (A) of paragraph (2) of section 212(e) (and for subsequent model years the most recent percentage calculated pursuant to such subparagraph) of new fleet vehicles—

"(I) purchased by a covered fleet operator; and

"(II) operated primarily in an area designated as a serious carbon monoxide nonattainment area,

to meet a performance standard for carbon monoxide emissions.

"(ii) At a minimum, the regulations promulgated under clause (i) of this subparagraph shall provide for a reduction in emissions of carbon monoxide as follows:

"(I) For model year 1994 and 1995 vehicles, the regulations shall require an additional reduction of 35 percent over the amount of allowable carbon monoxide emissions (under applicable standards) for model year 1995 vehicles.

"(II) For model year 1996 and 1997 vehicles, the regulations shall require an additional reduction of 60 percent over the amount of allowable carbon monoxide emissions (under applicable standards) for model year 1995 vehicles.

"(III) For model year 1998 vehicles, and for subsequent model years, the regulations shall require an additional reduction of 80 percent over the amount of allowable carbon monoxide emissions (under applicable standards) for model year 1995 vehicles.

"(iii) Notwithstanding clause (ii), with respect to vehicles with a model year of 1998 and subsequent model years, if the Administrator determines that the amount of the reduction specified in clause (ii) would impose unreasonable costs (taking into consideration costs associated with vehicle acquisition, fueling facilities and fuel availability, operation, maintenance, safety, reliability, and resale value), the Administrator may modify the regulations described in clause (ii) to allow a reduction of less than 80 percent, but not less than 60 percent over the amount of allowable carbon monoxide emissions under applicable standards for model year 1995 vehicles.

"(iv) The Administrator shall promulgate regulations to allow a State to grant an appropriate amount of credits (applicable towards meeting the emission standards for carbon monoxide prescribed under this subparagraph) to a covered fleet operator for purchasing or placing into service additional vehicles that meet the emissions standards in this subparagraph, or for purchasing or placing into service vehicles with greater emissions reductions than are required under this subparagraph. Such regulations shall allow the Governor of the State to issue an appropriate amount of credits (applicable towards meeting the emission standards for carbon monoxide prescribed under this subparagraph) to an owner or operator of clean alternative fuel vehicles—

"(I) who has been designated as a covered fleet operator pursuant to subparagraph (M)(2);

"(II) whose vehicles meet the requirements under subparagraph (A);

"(II) whose vehicles are not subject to the requirements of clauses (i) through (iii); and

"(III) who operates the clean alternative fuel vehicles in a serious carbon monoxide nonattainment area.

The regulations promulgated under this clause shall provide that a person who is granted credits under this clause may trade, sell, or otherwise transfer all or a portion of such credits to a covered fleet operator (who operates in the serious carbon monoxide nonattainment area to which the credits may apply) for the purpose of assisting such covered fleet operator in meeting the requirements of this subparagraph.

"(E) WAIVERS FOR AREAS DESIGNATED AS BOTH CARBON MONOXIDE AND OZONE NONATTAINMENT AREAS.—For an area designated as—

"(i) a serious carbon monoxide nonattainment area; and

"(ii) a serious, severe, or extreme ozone nonattainment area,

the Administrator shall waive the requirements of subparagraph (D), unless the Governor of any State containing such area requests the Administrator not to waive the requirements of such subparagraph or to partially waive the requirements of such subparagraph. The Administrator shall approve any such request on the basis of a determination by the Governor that such are appropriate and would result in progress toward attainment and maintenance of applicable ambient air quality standards.

On page 162 of the amendment, line 19, strike "subparagraph (C)" and insert "subparagraph (B), (C), or (D)".

On page 164 of the amendment, lines 2 and 9, strike "subparagraph (C)" and insert "subparagraph (B), (C), or (D)".

On page 164 of the amendment, between lines 9 and 10, insert the following new clause:

"(iii) The requirements of subparagraph (A), (B), (C), or (D) may be met through the conversion of existing gasoline-powered or diesel-powered vehicles to vehicles which are capable of operating on a clean alternative fuel and which comply with applicable emissions standards when operating on such clean alternative fuel.

On page 165 of the amendment, line 7, strike "(B) and (C)" and insert "(B), (C), and (D)".

On page 165 of the amendment, line 18, after "(C)" insert "or (D)".

On page 165 of the amendment, line 24, after "183(b)(3)(B)" insert "or 190(b)".

On page 165 of the amendment, line 25, before the period insert "or (D)".

On page 166 of the amendment, line 3, after "183(b)(3)(B)" insert "or 190(b)".

On page 166 of the amendment, lines 4 and 16, after "subparagraph (C)" insert "or (D)".

On page 167 of the amendment, lines 14 and 20, after "(C)" insert "or (D)".

BOSCHWITZ (AND OTHERS) AMENDMENT NO. 1345

Mr. BOSCHWITZ (for himself, Mr. BOREN, Mr. FORD, Mr. WALLOP, Mr. GRASSLEY, Mr. SYMMS, Mr. MATSUNAGA, Mr. HATCH, Mr. HELMS, Mr. BURNS, Mrs. KASSEBAUM, Mr. NICKLES, Mr. DOLE, Mr. BUMPERS, Mr. SHELBY, Mr. PRYOR, Mr. MURKOWSKI, Mr. MACK, Mr. MCCONNELL, and Mr. KASTEN) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 34 of the amendment, between lines 15 and 16, insert the following:

(a) Section 110 of the Clean Air Act is amended by adding at the end the following:

"(c) SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM.—

"(1) Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator as part of the State implementation plan for such State or as a revision to such State implementation plan under this section, plans for establishing a small business stationary source technical and environmental compliance assistance program. Such submission shall be made within 24 months after the date of enactment of this subsection. The Administrator shall approve such program if it includes, as apropriate, the following:

"(A) adequate mechanisms for developing, collecting, evaluating, and coordinating information concerning compliance methods and technologies for small business stationary sources (as defined in paragraph (6));

"(B) adequate mechanisms for advising small business stationary sources on pollution prevention, including providing information concerning alternative technologies, process changes, chemical products, and methods of operation that help reduce air pollution;

"(C) a designated State office within the relevant State agency to serve as ombudsman for small business stationary sources in connection with the implementation of this Act;

"(D) a program for voluntary compliance Agreement for Term permits that meets the requirements of paragraph (B) of this subsection; and

"(E) adequate mechanisms to assure that small business stationary sources receive notice of their rights under this Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposal of final regulation or standard issued under this Act.

"(2) The Administrator shall establish within 9 months after the date of the enactment of this section a small business stationary source technical and environmental compliance assistance program. Such program shall—

"(A) assist the States in the development of the program required under paragraph (1) of this subsection and section 112(m);

"(B) issue technical guidance for the use of the States in the implementation of these programs that includes alternative control technologies and pollution preventing methods applicable to small business stationary sources;

"(C) implement the program required under paragraph (1) of this subsection in any State that fails to submit an approvable program under this subsection;

"(D) assure that any Compliance Agreement for Term permit to implement a control techniques guideline issued under section 108 or 185, a standard issued under section 111, a regulation issued under section 185(c), or a standard issued under section 112 shall take into account the technical and financial capabilities of small business stationary sources, and any such control techniques guideline shall take into account such capabilities and where appropriate, separately categorize small business stationary sources.

"(3) The State (or the Administrator) shall establish a permit program under part B of title III for small business stationary sources located within a nonattainment area, ozone transport area, or subject to a standard under section 112. Such program shall provide that—

"(A) a small business stationary source shall have the option of obtaining a Compliance Agreement for Term permit under this subsection as a substitute for any general permit issued under section 353(e);

"(B) such Compliance Agreement for Term permit shall be developed after consultation with the small business stationary source or with duly authorized representatives of the small business stationary sources and shall expire not less than 3 years and not more than 5 years after the effective date of such permit;

"(C) Compliance Agreement for Term permits issued under this subsection to small business stationary source shall require compliance with applicable emission limitations, pollution control measures, and recordkeeping and reporting requirements under this Act: *Provided,* That methods of compliance with any such standard or requirement may be modified for a small business stationary source in such permit based on the technical and financial capability of the small business stationary source or group of sources and the availability of less burdensome alternatives, and, in particular, pollution prevention measures, that will achieve comparable environmental benefits consistent with the goals and deadlines of this Act;

"(D) any Compliance Agreement for Term permit issued to a small business stationary source under this subsection shall be issued in accordance with the procedures under part B of title III of this Act, and shall be subject to review by the Administrator, as provided in such part;

"(E) the State (or the Administrator) may reduce any fee required under this Act to take into account the financial resources of a small business stationary source;

"(F) requirements for continuous emission monitoring may not be imposed on a small business stationary source (or sources) unless the State (or the Administrator) has determined, on the basis of substantial evidence, that such requirements are necessary and appropriate; and

"(G) any owner or operator of a small business stationary source who is not regulated under this Act may apply for a Compliance Agreement for Term permit if such source meets the requirements of this subsection.

"(4) With respect to small business stationary sources, in exercising prosecutorial discretion under section 113(c) of this Act, in issuing orders under section 113(d) of this act, or in determining the amount of any penalty to be assessed under this Act, the United States, the State, and the court shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

"(5) Compliance with the terms and conditions of a permit issued in accordance with the requirements of part B of title III and this subsection shall be deemed compliance with all requirements of the Act that are explicitly addressed by such terms and conditions: *Provided, however,* That compliance with the terms and conditions of a permit so issued shall not alter, modify, or otherwise affect the authority of the Administrator under section 303 (emergency power) or the requirement to comply with any order issued under section 303.

"(6) For purposes of this subsection the term 'small business stationary source' means any stationary source of air pollutants regulated under this Act that emits or has the potential of emitting 100 tons per year or less of violatile organic compounds or any other criteria pollutant or pollutant regulated under section 112. The Administrator, in consultation with the Administrator of the Small Business Administration and after providing notice and opportunity for public comment, may exclude from this definition any category or subcategory of sources that the Administrator determines to have sufficient technical and financial capabilities to meet the requirements of this Act without the application of this subsection.

"(7)(A) The Administrator, acting through the Director of the Office of Small Business Advocacy (hereinafter referred to as the 'Director') to monitor the Small Business Environmental Compliance Assistance Program under this subsection. In carrying out such monitoring activities the Director shall—

"(i) render advisory opinions on the overall effectiveness of the Small Business Environmental Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(ii) make periodic reports to the Congress on the compliance of the Small Business Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(iii) review information to be issued by the Small Business Environmental Compliance Assistance Program for small business stationary sources to ensure that the information is understandable by the layperson; and

"(iv) have the Small Business Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(8)(A) There shall be created a Compliance Advisory Panel (hereinafter referred to as the Panel) on the State level of not less than 7 small business owners. This Panel shall—

"(i) render advisory opinions concerning the effectiveness of the Small Business Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(ii) make periodic reports to the Administrator concerning the compliance of the State Small Business Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(iii) review information for small stationary sources to assure such information is understandable by the layperson; and

"(iv) have the Small Business Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(B) The Panel shall consist of—

"(i) 2 members selected by the Governor;

"(ii) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the lower house, or in the case of a unicameral State legislature, 2 members each shall be selected by the majority leadership and the minority leadership, respectively, of such legislature, and clause (iii) shall not apply);

"(iii) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the upper house, or the equivalent State entity); and

"(iv) 1 member selected by the head of the department or agency of the State responsible for air pollution permit programs.".

GRAND ISLAND NATIONAL RECREATION AREA

RIEGLE AMENDMENT NO. 1346

Mr. BAUCUS (for Mr. RIEGLE) proposed an amendment to the bill (H.R. 1472) to establish the Grand Island National Recreation Area in the State of Michigan, and for other purposes, as follows:

On page 5, line 23, insert ", stepchildren," after "children".

On page 7, lines 10 and 11, strike "the date of enactment of this Act" and insert "January 1, 1990".

On page 8, line 14, strike "historically consistent" and insert "architecturally compatible".

On page 9, line 11 insert "stepchildren," after "adopted),".

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Production and Stabilization of Prices of the Senate Committee on Agriculture, Nutrition, and Forestry will hold a hearing in preparation for the 1990 farm bill on April 2 at 10 a.m. in SR-332. The hearing will address deficiency payment problems associated with barley. Senator BAUCUS will preside. For further information, please contact Tamara McCann at 224-4352.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

This hearing will be a continuation of a hearing held April 3, 1990. The purpose of both hearings is to receive testimony on the Department of Energy's decision plan related to the opening of the waste isolation pilot plant in Carlsbad, NM. Testimony will also be received on any proposed legislation to withdraw the public lands surrounding the WIPP site.

The second hearing is scheduled to take place on Thursday, April 26, 1990, at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC. 20510, Attn: M.L. Wagner.

For further information, please contact Mary Louise Wagner at (202) 224-7569.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold its second full committee hearing on the President's proposed budget for the Small Business Administration and on the reauthorization of the Agency's programs on Wednesday, April 4, 1990. The hearing will take place in room 428A of the Russell Senate Office Building and will commence at 2 p.m. For further information, please call John Ball, staff director of the committee at 224-5175.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee's Subcommittee on Export Expansion will hold a hearing on Wednesday, March 28, 1990, to examine the effects of the 1992 European Community integration on U.S. small business. The hearing will be held in room 428A of the Russell Senate Office Building and will commence at 2 p.m. For further information, please call Annie Lesher of Senator MIKULSKI's staff at 224-8873.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the Senate and the public that hearings previously scheduled before the Subcommittee on Energy Research and Development have been postponed.

The purpose of the hearings was to receive testimony on Senate bill S. 1966, the Advanced Nuclear Reactor Research, Development, and Demonstration Act of 1989.

The hearings were scheduled for Thursday, March 29, 1990, at 9:30 a.m. and Monday, April 2, 1990, at 2 p.m. Future dates have not been determined at this time.

For further information, please contact Ben Cooper or Mary Louise Wagner at (202) 224-7569.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the Senate and the public that a hearing has been scheduled before the Subcommittee on Energy Research and Development.

The purpose of the hearings was to receive testimony on the Department of Energy's superconducting super collider program.

The hearing will take place on Tuesday, April 24, 1990, at 10 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to provide written testimony for the printed hearing record should send it to the Subcommittee on Energy Research and Development, U.S. Senate, Washington, DC. 20510, Attn: Ben Cooper.

For further information, please contact Ben Cooper at (202) 224-7569.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the Senate and the public that a hearing has been scheduled before the Subcommittee on Energy Research and Development.

The purpose of the hearings was to receive testimony on the Department of Energy's uranium enrichment program.

The hearing will take place on Tuesday, May 1, 1990, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to provide written testimony for the printed hearing record should send it to the Subcommittee on Energy Research and Development, U.S. Senate, Washington, DC. 20510, Attn: Cheryl Moss.

For further information, please contact Cheryl Moss at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Armed Services Committee be authorized to meet in open session on Tuesday, March 20, 1990, at 9:30 a.m. to receive testimony on the Department of Defense request for strength reduction management authorities in review of S. 2171, the Department of Defense authorization bill for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, March 20, 1990, at 10 a.m. to hold a hearing on high technology weapons in the war on drugs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., March 20, 1990, to receive testimony on S. 2088, the Energy Policy and Conservation Act Amendments of 1990, which would: Extend basic authority of titles I and II for 3 years; expand SPR to 1 billion barrels; and provide for the predrawdon diversion authority of SPR oil.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT INFORMATION AND REGULATION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Government Information and Regulation, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on March 20, 1990, at 9:30 a.m., to discuss the quality of U.S. health promotion statistics.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, March 20, beginning at 10 a.m., to conduct an oversight hearing on the Public Buildings Program of the General Services Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, March 20, 1990, at 10 a.m. to hold hearings on the administration's housing proposals; and to markup S. 1853, the Rockefeller Commemorative Medal Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, March 20, 1990, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FEDERAL ROLE IN LAW-RELATED EDUCATION

● Mr. INOUYE. Mr. President, on March 12, 1990, at a luncheon sponsored by the Consortium on Children, Families and the law, Gary Melton and Katherine Federle delivered the following briefing on the issue of the Federal role in law-related education.

The consortium comprised of the University of Hawaii, the University of Nebraska-Lincoln, State University of New York at Buffalo, University of Michigan, University of Virginia, and University of Pittsburgh, coordinates the network of participating institutions to facilitate independent and collaborative research on social, psychological, educational, economic, and legal issues affecting families. It disseminates the information in forms that will allow policymakers, governmental decisionmakers, and practitioners to take appropriate action.

Mr. President, I request that the following text be included in the RECORD in its entirety.

The text follows:

THE FEDERAL ROLE IN LAW-RELATED EDUCATION

(By Katherine Hunt Federle, Assistant Professor of Law, University of Hawaii, and Gary B. Melton, Carl Adolph Hippold Professor of Psychology, University of Nebraska-Lincoln)

Since its inception in the early 1950s as an integral part of liberal arts study, law-related education has pervaded the undergraduate, secondary, and primary curricula. Law enhances the liberal arts degree within the undergraduate institution by providing a broad context for understanding political and social issues and assessing the law's impact on public and private life. At the secondary and primary levels, law-related education at its most basic seeks to educate our youth about law, its processes, and its systems. While students at both levels explore fundamental legal principles, elementary school children focus primarily on the fundamentals of a democratic legal system. At the secondary level, students learn about the law's origins and roles and about substantive legal issues.

Inherent in the teaching of law-related education is a fundamental lesson about democratic values and an implication that, as a society, we must inculcate these values in our youth. Over time, however, this concept of law-related education has mutated into a program that will prevent and reduce juvenile and adult criminal behavior. This view of law-related education presupposes that crime is a function of undereducation and that learning to say "no" is a key to improve behavior and, ultimately, to better citizenship. This approach, however, fails to provide youth at risk, many of whom are minorities and poor, with a reason to participate in the societal mainstream. The challenge for law-related education is to provide these youths with some tangible benefit in society by teaching the relevance of good citizenship to their everyday lives.

The literature of law-related education as well as the role of the Federal Government in this area reflects this pedagogical schism, that is, the notion that law is a field of knowledge encompassing democratic values versus law as a crime prevention tool. The literature abounds with examples of cases that provide students with an understanding of their civil rights and of mock trial exercises that illuminate the legal process. Since many children have both the capacity and the competence to exercise their rights, these lessons create a stake in a well-functioning society. But the literature also emphasizes the responsibilities of students in terms that minimize the conceptualization of rights. The message thus conveyed is contradictory and increases the likelihood that youth at the margin will see no tangible benefit in participating within the societal mainstream.

The federal role in law-related education has supported both pedagogical aspects. Under Title 20 of the United States Code, the Federal Government has provided State and local school districts with federal monies for innovative educational programs, including programs designed to teach about the legal system. In 1978, Congress, enacted the Law-Related Education Act within the Elementary and Secondary Education Act of 1965 to enhance an understanding of the law and the legal system.

Although the Act was repealed in 1981 as part of the budget reconciliation process, Congress continued funding for a law-related education program. By 1984, the program received priority funding and, in 1988, the law-related education program was revitalized to provide nonlawyers with knowledge about the law, the legal system and its fundamental values.

Federal statutes also authorize law-related education programs designed to prevent juvenile delinquency. The Juvenile Justice and Delinquency Prevention Act provides federal funding for law-related education programs designed to prevent and reduce juvenile delinquency. The Anti-Drug Abuse Act of 1988 also envisions a decline in drug usage and, therefore, criminal behavior by utilizing law-related education programs. But federal involvement in these programs will not facilitate the reintegration of youth at risk into society. Law-related education must, of necessity, return to its origins and focus on democratic values and their benefits in the everyday lives of children to have a positive effect on our future citizenry.

The movement to a view of law-related education as intended to promote democratic participation is also lent credence by research on children and adolescents actually involved in the legal process. Juvenile respondents in deliquency cases are substantially less likely to comprehend Miranda warnings than are adult defendants. Moreover, experience in the juvenile justice system does not affect respondents' understanding of their rights. Similarly, victim witnesses in criminal sexual abuse cases know less on average about the legal process than do most children their age, even after their cases have been completed. These differences are related at least in part to social class; lack of an experience with entitlement results in lowered appreciation of the meaning of legal protections for oneself, for children as well as for adults.

Therefore, research-based approaches to education of children about the concepts underlying the legal process and rights within it are important not only because of their significance in citizenship education (itself a critical matter), but also because of their potential relevance to helping children to be active participants in the legal process and thereby to feel more in control and more satisfied and to be more effective as witnesses and clients. Such emphasis on preparation of witnesses and clients is likely to result in more confident participants in the legal process and to prevent trauma induced by the legal system and to do so without raising constitutional issues, as do many reforms of trial procedures to protect child witnesses.

Even primary grade children typically understand the rudiments of the adversary system and the reasons for it, although they know few relevant terms. Moreover, the more that children learn about the legal process, the fairer that they believe it to be. Therefore, children's sense of fairness, acquired in large part by the time that they enter school, provides an excellent foundation for teaching children about basic legal concepts (e.g., rights, due process, contract) and their application in the legal process as well as the children's everyday lives.

Pursuit of development of such curricula and the research base for them falls well within the historic role of the federal government in research and development of program models that the states may adopt. Although the Missing Children's Act (as amended) provides the Office of Juvenile Justice and Deliquency Prevention with express authority to conduct research on child witnesses, no federal agency currently has a priority for research on children's involvement in the legal system in all its' aspects (including, e.g., custody disputes and child protective proceedings). Such an initiative would be desirable for its long-term significance in educating citizens to be active participants in the democratic process as well as preparing children for involvement in the legal process, whether as respondents, witnesses, or the subjects of custody disputes. With its interdisciplinary, interjurisdictional approach, the Consortium on Children, Families and the Law is well situated to be an active participant in such an initiative for research and program development on children and the law.●

INTERNATIONAL PROFESSIONAL EXCHANGE, PHILADELPHIA, PA

● Mr. HEINZ. Mr. President, given the great changes that have taken place in Eastern Europe and, closer to home, in Central and South America, I would like to commend the International Professional Exchange of Philadelphia, PA, on the occasion of its 25th anniversary.

Over the past 25 years, great progress has been made in the social and economic development of underdeveloped nations, thanks in part to the efforts of IPX. International Professional Exchange has brought leaders of independent service industries, government agencies, medical and legal communities to the United States from more than 100 nations.

In this new era of increased openness and cooperation, all nations should strive to share their human assets. International Professional Exchange has been dedicated to this principle for the past 25 years, and on behalf of all Pennsylvanians, I would like to express my congratulations.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Kathy Chumachenko, a member of the Joint Economic Committee staff, to participate in a program in the Soviet Union, sponsored by USIA in conjunction with the Soviet Communist Youth League, from February 2-16, 1990.

The committee has determined that participation by Ms. Chumachenko in the program in the Soviet Union, at the expense of USIA in conjunction with the Soviet Communist Youth League, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Theodore Totman, a member of the staff of Senator GRASSLEY, to participate in a program in Japan, sponsored by the Government of Japan, from March 11-17, 1990.

The committee has determined that participation by Mr. Totman in the program in Japan, at the expense of the Government of Japan, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Rita Lewis, a member of the staff of Senator DASCHLE, to participate in a program in Japan, sponsored by the Government of Japan, from March 11-17, 1990.

The committee has determined that participation by Ms. Lewis in the program in Japan, at the expense of the Government of Japan, is in the interest of the Senate and the United States.●

WESTVACO CORP.

● Mr. WARNER. Mr. President, in honor of Earth Day, which will be celebrated on April 22, Westvaco Corp., a major manufacturer of paper, packaging, and chemicals, is distributing over 200,000 pine seedling to employees, shareholders, community neighbors, and friends.

We in Congress have been invited to be a partner with Westvaco in this tree-planting program. Today, March 20, every Member of Congress will be receiving pine seedlings, hand-delivered by a Westvaco employee. I am proud to accept this seedling and to recognize Westvaco's initiative because I know Westvaco and its commitment to Virginia.

Westvaco's partnership with the Commonwealth of Virginia began almost a century ago. The company's bleached board paper mill in Covington, the largest of its type in the world, along with converting, printing, and customer service facilities in Richmond and Low Moor, employ more than 2,500 Virginians. In addition, the mill and outlying wood buying yards provide a market for tree farmers and some 3,000 independent loggers and sawmillers.

Westvaco also manages 225,000 acres of highly productive forestland in the State, forming a land and raw material base for the mill at Covington.

Westvaco's commitment to Virginia, its people, and its economy can be seen in the fact that the company has more invested in Virginia than in any other State in which it operates. Virginia's sound economic and investment climate has been a principal factor in the company's investment decisions.

Westvaco has planted more than 1 billion seedlings and continues to plant 45 million more each year. Please join me in taking part in Westvaco's tree-planting program, for the benefit of generations to come.●

TRIBUTE TO GENE KLEIN

● Mr. WILSON. Mr. President, I rise today with a profound sense of loss to pay tribute to a splendid friend, a great American, and a preeminent Californian whose life and remarkable business success are legendary.

With Gene Klein's untimely death last week, our State and our Nation have lost a valued citizen, a man who

was a consummate sportsman, one who created a vast fortune with daring and talent, and one who so ably transformed the rewards of his personal success into pursuits which gave his California community enormous enrichment. Gene knew how to enjoy life to the fullest, but he was ever mindful of his civic responsibilities, and chose to share a large measure of his success with the people of California as a generous partner and supporter of myriad charities and deserving causes. He was a man who opened his heart and his home with magnanimity and an abiding sense of humanitarianism.

Gene Klein will be remembered for the business enterprise he built from an initial $2,000 investment into the giant conglomerate, National General Corp. But it was his love of football, cultivated during his own experience in college as an end for New York University, his fulfillment of a long-held dream to own a professional football franchise when he acquired the San Diego Chargers, which carved for Gene a revered place in the annals of California history.

With his purchase of the Chargers in 1966, Gene gave his fellow San Diegans many exciting years of professional football. His commitment to his team was so intense that he divested himself of his interests with National General to devote his full attention to turning the Chargers into a winning football team. That he succeeded in this mission was evidenced by the winning record that the Chargers compiled under his guidance and tenure of ownership.

When Gene sold his Charger franchise in 1984, he turned his irrepressible energies and winning ways to his thoroughbred horse farm and enjoyed the ultimate success from this pursuit when his horse, "Winning Colors" captured the Kentucky Derby in 1988.

As a bomber pilot with the rank of captain in the U.S. Air Force in World War II, as a highly prominent businessman, as a notable patron of sports and the arts, Gene Klein exemplified America's quintessential success story. He will be remembered with enormous affection and respect by his fellow Californians, and certainly by people across our Nation who were privileged to know this fine man.

I am proud to honor the memory of Gene Klein today in the U.S. Senate, and to illuminate for posterity his lifetime of success and achievement.●

TRAGEDY IN KOSOVO

● Mr. LAUTENBERG. Mr. President, I rise to draw my colleagues' attention to what has occurred in Kosovo, Yugoslavia, over the last few months and express my own deep concern about the situation. I am concerned about and condemn the violence which has taken place there. I am also concerned about ethnic Albanians who may be denied their fundamental human rights simply because they have peacefully advocated greater autonomy for Kosovo.

In late January and February, violent confrontations took place in the autonomous province of Kosovo in Yugoslavia which caused many deaths, and much pain and suffering. In demonstrations in late January, well over 100,000 ethnic Albanians throughout the region called for the resignation of local political leaders, the release of all political prisoners, and free elections.

Federal riot police units responded with force using water cannons and tear gas, among other things, to break up the demonstrations. Many of the protestors were detained. As clashes between authorities and protesters continued into February, there were numerous reports of actual shootings and several incidents of police atrocities.

The situation in Kosovo has since quieted somewhat. But the region remains tense and could explode again at any time. For this reason, we need to follow events in Kosovo and in all of Yugoslavia very carefully.

Yugoslavia is a signatory to the Helsinki Final Act. As such, it has pledged to respect human rights and fundamental freedoms, including the rights of members of national and ethnic groups to freely express their views. As a member of the Helsinki Commission, mandated to monitor and encourage compliance with the human rights and other provisions of the Helsinki Final Act by all signatory states, I intend to follow the situation to make sure that Yugoslavia complies with its commitments.

The causes of the current difficulties in Kosovo are as complicated as their effects are tragic. The overwhelming majority of the region's population—about 90 percent—is ethnic Albanian. A large number of Albanians want greater autonomy for Kosovo, which is currently part of the Serbian republic within Yugoslavia.

Serbs, however, claim Kosovo as their own, maintaining that it was the cradle of their culture and civilization. In recent years, they have rallied under the nationalist banner of Slobodan Milosevic. Through constitutional changes limiting Kosovo's autonomy, and a crackdown on Albanian protests, they have reasserted their control over the province.

Albanians and Serbs each allege that the other has instigated violent acts against them. The worsening economic situation in Kosovo, marked especially by high unempoyment levels, has seriously exacerbated the resulting tensions.

Mr. President, there is no easy solution to the tragedy which exists in Kosovo today. The best solution, however, is simply for all of Yogoslavia to move quickly and fully to a more democratic political system. That system should include free elections, political pluralism, respect for the rule of law, and human rights guarantees, including guarantees for members of national minorities. Only in such a system can there be a peaceful and open dialogue on issues on public concern, a dialogue which will lead to effective and fair results.

Fortunatley, it seems that an increasing number of Yugoslavs are rejecting violence and repression in favor of such an approach. They believe that only through a more democratic political system can Yugoslavia overcome its divisions and improve its economic performance. These people deserve our full support as they face the repressive forces which continue to exist.

As a nonaligned country that followed its own course of reform, Yugoslavia was once known as the best that could be hoped for from a communist country. This positive image has been seriously tarnished by the events in Kosovo and some other parts of Yugoslavia, especially in light of the many rapid strides toward democracy we are now witnessing in Eastern Europe and elsewhere. As a result, the Congress has been increasingly critical of Yugoslavia's human rights record.

By calling upon the Yugoslav Government to comply with its Helsinki promises, I join with many other Senators, including the Chairman of the Helsinki Commission, DENNIS DECONCINI, and the chairman of the Senate Foreign Relations Committee, CLAIBORNE PELL, who are concerned about human rights in Yugoslavia and the recent events in Kosovo.

I hope, Mr. President, that the Yugoslav Government will hear our expressions of concern, and will take immediate action to ensure that the problems plaguing Kosovo will be peacefully and democratically resolved.●

IRELAND'S ABBEY THEATRE

● Mr. MOYNIHAN. Mr. President, I rise to recognize Ireland's national theater, the Abbey Theatre, which is performing "A Moon for the Misbegotten" at the Studio Arena Theatre in Buffalo.

The Abbey Theatre evolved from a society formed by William Butler Yeats, Edward Martyn, and Lady Augusta Gregory to promote Irish drama and Irish playwrights. Two years after its inception, the society united with the well-known acting company of Frank and Willie Fay and, in 1904, moved into the Abbey Theatre in Dublin.

Since then the Abbey has nurtured many great actors, including Sara Allgood, Una O'Connor, Barry Fitzgerald,

Arthur Shields, and Cyril Cusak. And true to its original goal, the Abbey has focused on presenting Irish drama, including works by Yeats, J.M. Synge, Sean O'Casey, Brendan Behan, Brian Friel, Graham Reid, and Hugh Leonard.

It is appropriate that the Abbey players are presenting an O'Neill work in America, as O'Neill credited the troupe with showing him the existence of real theater when he saw them on their first American tour in 1911. He went on to become one of America's greatest playwrights, and a Nobel Laureate, and the Abbey Theatre has become one of the world's finest.

Perhaps among the audience in Buffalo is another future giant of the American theater, who will appreciate and build on Irish drama as presented by the Abbey players.●

CHARLES W. BONNER TO BE HONORED

● Mr. WILSON. Mr. President, it is with heartfelt admiration for a fellow Californian and civic activist, Charles W. Bonner, that I rise today in this Chamber of the U.S. Senate to publicly salute his long and productive association with the Fresno Philharmonic Orchestra for which he will be honored on March 30.

Charles Bonner has been a mainstay of the Fresno Philharmonic Orchestra since its inception 36 years ago, playing a central role in its growth and development through his extraordinary cultural activism and patronage. In doing so, he has blessed his California community in general, and its Central Valley in particular, with a rich legacy of cultural arts which will well serve many future generations of Californians.

The Fresno community and its orchestra correctly have chosen to honor this splendid philanthropist in this, his 80th year. It is an appropriate time to thank Mr. Bonner for the inestimable gift of music which he has bestowed on his community and for his enduring tenacity and leadership in creating an orchestra worthy of its "Metropolitan" status.

At the heart of any great community lies a steadfast commitment to its cultural arts. Charles Bonner has given rhythm and measure to the heartbeat of Fresno and has succeeded in creating a vibrant community, blessed with a first-rate orchestra and a thriving appreciation and support of its cultural arts.

I am privileged to join with the people of Fresno in paying tribute to Charles Bonner, a sterling Californian in every sense of the word.●

THE CHILDREN'S SUMMIT

● Mr. JEFFORDS. Mr. President, we have all been focused in recent days on the top party brass of the Soviet Union as they have attempted dramatic change in the Nation's political structure. It has certainly been fascinating to watch. We all hope this will allow new freedom and a greater exchange of ideas for the Soviet people.

But today, I would like to discuss another event in the Soviet culture and in our culture that is already helping to promote cultural freedom, and an exchange of artistic ideas. During a recent visit to the Soviet Union, I was very privileged to attend exciting performances that kicked off a new film partnership between the United States and Soviet Union, which will create films for children in both countries, and will benefit programs to help disadvantaged children in both countries.

Washington Film Associates and PARITET film of Moscow organized the unique charity events in Moscow and Leningrad to benefit Save the Children of Westport, CT, and the Soviet Children's Fund. The idea was originated by Charles W. Sutherland, the president of Washington Film Associates, who has been a "Save the Children" supporter for many years.

The events were called "The Children's Summit" to dramatize the needs of the world's children, including the Soviet Union which has many orphans and disadvantaged children. The performances helped to announce a 15-year partnership between the two organizations, Washington Film Associates, and PARITET, and a policy of donating a percentage of profits from the Soviet-American joint productions to Save the Children and the Soviet Children's Fund.

Washington Film Associates is pioneering innovative arrangements with the Soviet film industry to achieve, in the words of Charles Sutherland, "a free exchange of ideas, which is the cornerstone of democratic values, and financial cooperation, which creates partners instead of adversaries."

The benefit performance, which was attended by a number of disadvantaged Soviet children, included American performers Marty Balin—of Jefferson Starship—and his band, dancers Sharon and David Savor, and the Jhoon Rhee Martial Arts Ballet, which performed choreographed dances to the American and Soviet national anthems as a finale. Master Rhee, who many in Congress know from his classes in the House gym, dedicated the performance of the Soviet anthem to Mr. Gorbachev's "glasnost and perestroika," saying he hoped for "the beginning of a new age of freedom, prosperity, and happiness * * *."

Mr. President, I want to thank Mr. Sutherland, and Master Rhee for their great efforts as cultural ambassadors. I hope that this will become an example for future cultural exchanges, which will indeed build upon our new age of freedom.●

LITHUANIA

● Mr. DECONCINI. Mr. President, the Helsinki Commission is disappointed that Moscow has decided to take such a transparent step to intimidate the Lithuanian people. Troop exercises, aircraft overflights, cutting off the telephone, jamming the phone lines, "repairing" the television station, these are intimidating tactics unworthy of a nation that has lately made such progress in ending the cold war and living up to its Helsinki agreements. We trust that Mr. Gorbachev and his advisers will reconsider this policy of intimidation and will soon sit down with representatives of the Lithuanian Government to discuss the future of a sovereign Lithuania.●

TRIBUTE TO PERCY L. REDMON

● Mr. SASSER. Mr. President, I rise today to pay tribute to Mr. Percy L. Redmon of Murfreesboro, TN.

Mr. Redmon retired several years ago, but he wanted the opportunity to remain active in the community. He sought the help of the Rural Senior Employment Program, which referred him to the Social Security Office in Murfreesboro on May 15, 1978. Mr. Redmon was scheduled to work for a period of 6 weeks.

Twelve years later and at age 77, he works 20 hours each week, performing numerous clerical tasks essential to the smooth operation of the office. Mr. Redmon is a highly motivated and diligent employee who rarely misses a day of work. He has become a much-loved and respected addition to the Social Security Office. In his spare time, Mr. Redmon and his wife, Gladys, bake bread and other snacks to share with his coworkers.

There is legislation pending in the Senate, Senate Joint Resolution 269, which will designate the second week of March 1991, as National Employ the Older Worker Week. I am pleased to be a cosponsor of this measure. I feel that older workers possess an invaluable wealth of experience and knowledge that businesses and government should utilize. I am hopeful that this legislation will serve to promote a greater awareness by the American public of the value of older workers and will encourage employers to give senior citizens the employment opportunities they deserve.

Mr. President, Percy L. Redmon has set an example for other retirees and employers to follow, and it is fitting that he be recognized for his untiring efforts. I commend him for his energy and dedication and I wish him many more years of health and happiness.●

FINAL TOWN MEETING RESULTS

● Mr. LEAHY. Mr. President, earlier this month, I announced that an overwhelming number of Vermont towns approved a resolution calling for a reduction in military spending by 5 percent every year, until the end of the century. I inserted the results of the early returns into the CONGRESSIONAL RECORD.

The final tallies around the State are now complete and 4 additional towns approved the resolution, bringing the total to 114 communities. I ask that these additional results be included in the RECORD.

The information follows:

Addison County: Bristol, Starksboro.
Bennington County: Pownal.
Rutland County: Hubbardton.●

THE WAR IN ANGOLA IS FINALLY ACKNOWLEDGED

● Mr. DECONCINI. Mr. President, the old sayings goes, "Don't trust everything your read in the papers." On the other hand, in this town things frequently are ignored untill they are printed in the Washington Post. If you are a believer in this school of thought, then you will be interested in recent Post article that points out that there is a war being fought in Angola.

To those of us who have followed this issue, this comes as no surprise. We have been working with the State Department and UNITA and many others to find a negotiated solution to this civil war since last fall. We redoubled our efforts after the Soviet-backed regime in Luanda, the MPLA, launched a military offensive in December.

It is ironic that Gorbachev is winning praise the world over by releasing his grip on his satellites in Eastern Europe, yet at the same time he is escalating his proxy war in Angola—seemingly with impunity. There is no doubt that Angola no longer has any strategic significance to the Soviets, especially since it has withdrawn its troops from Afghanistan and allowed democracy to begin blossoming in Eastern Europe. If the Soviet press is to be believed, then the same people in Moscow who are complaining about the drain that Cuba represents on Soviet resources should also be complaining about the hundreds of millions—if not billions—of dollars in military equipment which is being dumped into this poor and devastated country.

David Ottaway's article in yesterday's Washington Post clearly focuses on the situation surrounding the events and losses currently being felt in the Angolan civil war. He notes the advanced Soviet aircraft being used against civilian UNITA targets and UNITA's headquarters. He also speaks of the diplomatic efforts being pursued by the State Department, Assistant Secretary Hank Cohen, and Secretary of State James A. Baker III. After much footdragging, the State Department has begun to raise this issue in loud terms with the Soviets, including Soviet Foreign Minister Shevardnadze.

As Chairman of the Senate Angola Task Force, I have been closely involved in the issue of achieving national reconciliation and free and fair elections in Angola for a number of years. More recently, I introduced a resolution (S. Res. 239) with a number of my Senate colleagues condemning the MPLA's military offensive, urging the administration to raise the issue of Soviet military assistance with the Soviets, and calling for a ceasefire and withdrawal of troops from the area of the fighting. Last month, my counterpart from the House Angola Task Force, Representative DAVE MCCURDY, joined me in sending a letter to National Security Advisor, Brent Scowcroft, urging him to take a personal interest in the issue of continued appropriate assistance to UNITA. And last week, a bipartisan group of Senators and Representatives joined Senator KASTEN and myself in sending a letter to Secretary Baker urging him to publicly raise the issue of continued Soviet military assistance and logistical advice with Mr. Shevardnadze when they meet this week in Namibia.

I ask that the article to which I referred, "Angolan War in Showdown as Superpowers Plan Settlement," be printed in the RECORD at the conclusion of my statement. I urge my colleagues to consider the issues raised in the article and also to consider joining me and a growing number of my colleagues in cosponsoring Senate Resolution 239 which calls for a cease-fire and withdrawal of troops in Angola.

The article follows:

[From the Washington Post, Mar. 19, 1990]

ANGOLAN WAR IN SHOWDOWN AS SUPERPOWERS PLAN SETTLEMENT

(By David B. Ottaway)

JAMBA, ANGOLA.—The Angolan civil war appears to be reaching a climax as U.S.-backed rebels led by Jonas Savimbi and the Soviet-armed Angolan army are locked in their biggest battlefield encounter, with heavy casualties on both sides.

After nearly three months of fighting, however, an offensive launched by the Angolan army Dec. 21 to take Mavinga, the gateway town to Savimbi's headquarters here, has reached what appears to be a stalemate just to the north.

The latest offensive in sub-Saharan Africa's only sustained conventional war, however, leaves the government in a stronger military position than before it attacked, and comes as U.S. and Soviet officials are preparing to discuss a possible joint intervention to settle the continent's last Cold War conflict.

Both superpowers have heavy and long-term stakes in Angola, with massive amounts of Soviet-supplied equipment used by government forces and with the Bush administration providing $50 million in covert military aid to Savimbi and an emergency airlift of supplies to help thwart the current offensive.

Secretary of State James A. Baker III and Soviet Foreign Minister Eduard Shevardnadze are planning a two-day meeting in Windhoek, the Namibian capital, beginning Tuesday, the eve of that country's independence from South Africa.

After its deepest penetration into Savimbi's heartland in southeastern Angola in the 15-year-old war, the Angolan army now finds its most forward units outside Mavinga in a tenuous position. The army's logistical lines are stretched 85 miles, from Cuito Cuanavale to the west, and are exposed to constant harassment by Savimbi's guerrillas. Its soldiers are facing shortages of oil, gasoline, food and water, according to Savimbi and his military intelligence chief, Gen. Peregrino Isidro Wambu Chindondo.

Savimbi said the two sides are now engaged in a "war of logistics." He claimed to be in a better position to prevail by bringing "the mostest and fastest" resupplies to the front, because the government forces "are in my land."

"No one is ambushing my convoys, no one is harassing my roads," Savimbi said.

The latest offensive, which even the government in Luanda has described as the last of the war, has caused heavy casualties on both sides. As of March 12, the Angolan army had lost 724 men and Savimbi's forces 186, with 558 wounded, according to his side's count.

Making use of hundreds of Soviet-provided, fast-moving armored personnel carriers, as well as Soviet tactics, the Angolan army has mounted its most impressive offensive to date, managing to cross the Lomba River and almost seizing Mavinga for the first time in the war. Pentagon officials estimate that the Soviet Union has provided $1.2 billion to $1.5 billion in materiel for this offensive over the past two years.

But the United States has come to the rescue of Savimbi's forces by mounting an emergency airlift of oil, gasoline and antitank missiles, allowing Savimbi to stall the Angolan offensive just shy of its main objective of capturing Mavinga.

The American airlift has made use of the Kamina air base in southern Zaire and involved scores of night flights to dirt-strip airports around here and Licua, 125 miles northwest, according to U.S. and Angolan sources.

The Bush administration had already earmarked at least $50 million for its covert military program to aid Savimbi's National Union for the Total Independence of Angola (UNITA) this fiscal year. It is unclear whether the United States has increased that amount or accelerated the shipment of weapons already in the pipeline, including Stinger antiaircraft missiles and TOW and LAW antitank missiles.

"Without the support we got from the United States, I think this time we would be in really serious trouble," said Savimbi in a late-night interview earlier this week at his underground bunker headquarters here. "They [the Americans] have been very, very helpful."

But he said it had been "very difficult" to convince the U.S. intelligence community that the Angolan government was seeking more than small-scale tactical advantages at the onset of the current fighting. The U.S. response was delayed "until they saw it was really a big offensive," Savimbi said.

Gen. Wambu said UNITA had committed 15,000 regular forces and guerrilla commandos to halt what he estimated to be 12,000

regular Angolan army troops using 400 tanks and armored personnel carriers to pierce UNITA's defenses.

Both Savimbi and Wambu said it was by far the Angolan army's biggest offensive and involved Soviet advisers and transport planes but—for the first time—no Cuban assistance.

Savimbi said the Soviets proved to be "the radicals" in favor of the offensive, while the Cubans were "the moderates." During secret meetings in Paris, Geneva and Vienna, Savimbi said, the Cubans told him that "they were against this offensive."

Cuba has become preoccupied with the logistics of withdrawing its 50,000 troops from Angola under terms of a U.S.-brokered agreement among South Africa, Angola and Cuba, signed in December 1988, which also set in motion the independence process for Namibia.

Cuba has notified South Africa that the mandated withdrawal of two-thirds of the Cuban force by April 1 is running a few hundred troops behind schedule. This was caused by a month-long halt to the pullout, ordered by Havana, after four Cuban soldiers were killed in a UNITA attack.

The Bush administration also believes that Soviets are deeply involved in the offensive and has complained repeatedly to Moscow about it, according to U.S. officials.

Savimbi appeared relaxed and relatively confident of success as he recounted an attack that day on a 47-vehicle convoy carrying food, fuel, water and ammunition to the Angolan army's most forward position, which he said was about five miles northwest of Mavinga.

"It is my feeling the offensive is going against them. I don't say all the resources of the [Angolan army] are depleted, not yet. They have more resources. But they have committed their best troops and commanders from the beginning. . . . They have committed the best they have. If the results are what they are, I don't see where they are going to get more troops to better the situation," he said.

Beginning in 1988, the Soviets have supplied hundreds of armored personnel carriers to the Angolan army and taught it how to use them in large numbers for fast strikes over long distances, Gen. Wambu said.

The Angolan forces have used Soviet-built MiG-23 and Su-25 attack aircraft to bombard UNITA positions. However, the warplanes have had to fly at such a high altitude to avoid the three-mile range of UNITA's U.S.-provided Stinger missiles that they are "not effective" in the fighting, Savimbi said.

He said UNITA intelligence estimated that only high-altitude missiles could shoot down the high-flying Angolan fighters, but these weapons were so sophisticated that he decided not to ask the United States to provide them.

Savimbi seemed to dismiss the threat of the Angolan warplanes, except to his headquarters in Jamba, which was bombed for the second time this month while three reporters visited last week.

UNITA officers accompanying the reporters handed them wet towels, for use in the event the warplanes dropped bombs that, they said, spewed canisters filled with nerve gas. They said the poison gas was responsible for paralyzing a number of UNITA soldiers and civilians.

Thirty-six hours after the bombing, the reporters were taken by UNITA officers to a spot where one of these bombs allegedly had exploded. Scattered over a 500-yard area and sometimes dug into the earth were a number of canisters that were the shape, and perhaps twice the length, of a soup can.

A white substance was visible around several of the canisters, which emitted a strong, pungent smell. However, it was impossible to determine whether the substance was toxic, as UNITA claims.●

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 101-15

Mr. BAUCUS. Mr. President, as in executive session, I ask unanimous consent that the injuction of secrecy be removed from Amendments to the 1928 Convention Concerning International Expositions, as Amended, Treaty Document No. 101-15, transmitted to the Senate today by the President.

I also ask that the treaty be considered as having been read the first time, that it be referred, that accompanying papers to the Committee on Foreign Relations be ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith amendments to the Convention of November 22, 1928, concerning International Expositions, as amended (Treaties and other International Acts Series 6548, 6549, 9948, and Treaty Doc. No. 98-1), with a view to receiving the advice and consent of the Senate to their acceptance. I also transmit, for the information of the Senate, the report of the Secretary of State on the amendments.

The main purposes of these amendments are: To halt the proliferation of world fairs by requiring 5-year intervals between such expositions, beginning in 1995; to establish a single category of "registered" international expositions (world fairs); and to create a new category of "recognized" international expositions.

I strongly support these amendments to the Convention concerning International Expositions, as amended, and recommend that the Senate give prompt consideration to the amendments and advise and consent to their acceptance.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1990.*

MEASURE PLACED ON CALENDAR—S. 2306

Mr. BAUCUS. Mr. President, on behalf of Senators HOLLINGS and THURMOND, I ask unanimous consent that S. 2306, a bill to provide relief for national forests damaged by Hurricane Hugo earlier today be placed directly on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—SENATE REPORT 101-251

Mr. BAUCUS. Mr. President, on behalf of Senator BIDEN I ask unanimous consent that the report 101-251 to accompany S. 865 be star printed to reflect the changes which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

FRANK E. MOSS U.S. COURTHOUSE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 482, H.R. 3311, designating the Frank E. Moss U.S. Courthouse in Salt Lake City, UT.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3311) to designate the Federal building located at 350 South Main Street in Salt Lake City, UT, as the "Frank E. Moss United States Courthouse".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 3311) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 3311) was passed.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

U.S. NAVAL RESERVE MONTH

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 266 regarding the designation of March 1990 as "United States Naval Reserve Month," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 266), regarding the designation of March, 1990, as "United States Naval Reserve Month."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The joint resolution (S.J. Res. 266) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 266

Whereas March 1990, is the 75th anniversary of the establishment of the Federal Navy Reserve Forces;

Whereas thousands of men and women of the United States have served the Nation as "Twice the Citizens" by serving with the United States Naval Reserve;

Whereas thousands of Reserve members have been a critical component of the Fighting Force of the United States Navy;

Whereas 600,000 individuals were members of the Naval Reserve during World War I and 80 percent of Naval personnel were reservists during World War II;

Whereas, in the Berlin Crisis, Korea, Vietnam, and most recently in the Persian Gulf, Naval reservists played vital roles;

Whereas the United States Naval Reserve continues to serve the Nation in peace time by maintaining military readiness and contributing to fleet support;

Whereas the reservists serve as part-time regular Navy personnel which economically fulfills important military missions and expands the operational abilities of the Navy around the world;

Whereas thousands of employers throughout the United States and the families of reservists have contributed to the support and encouragement needed for a successful Reserve program;

Whereas many Naval reservists have died while serving the Nation; and

Whereas in recognition of great sacrifice of Naval reservists during peace time and during war: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1990, is designated as "United States Naval Reserve Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the Nation to observe the day with appropriate ceremonies and activities in recognition of the 75th anniversary of the United States Naval Reserve.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GRAND ISLAND NATIONAL RECREATION AREA

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 469, H.R. 1472, the Grand Island National Recreational Area bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1472) to establish the Grand Island National Recreation Area in the State of Michigan, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 1472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF GRAND ISLAND NATIONAL RECREATION AREA.

In order to preserve and protect for present and future generations the outstanding resources and values of Grand Island in Lake Superior, Michigan, and for the purposes of providing for the conservation, protection, and enhancement of its scenery, recreation, fish and wildlife, vegetation, **[**botany**]** and historical and cultural resources, there is hereby established the Grand Island National Recreation Area (hereafter in this Act referred to as the "national recreation area"). These resources and values include, but are not limited to, cliffs, caves, beaches, forested appearance, natural biological diversity, and features of early settlement.

SEC. 2. BOUNDARIES.

The national recreation area shall comprise all of the Grand Island in Lake Superior, Michigan, and all associated rocks, pinnacles, and islands and islets within one-quarter mile of the shore of Grand Island. The boundaries of the Hiawatha National Forest are hereby extended to include all of the lands within the national recreation area. All such extended boundaries shall be deemed boundaries in existence as of January 1, 1965, for the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9). All federally owned lands within the national recreation area on the date of enactment of this Act are hereby components of the National Forest System and shall be administered by the Secretary of Agriculture as provided in this Act.

SEC. 3. ADMINISTRATION.

(a) ADMINISTRATION.—Subject to valid existing rights, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall administer the national recreation area in accordance with the laws, rules, and regulations applicable to the National Forest System in furtherance of the purposes for which the national recreation area was established.

(b) SPECIAL MANAGEMENT REQUIREMENTS.—The national recreation area also shall be administered according to the following special management requirements:

(1) Subject to such terms and conditions as may be prescribed by the Secretary, including the protection of threatened and endangered species and the protection of other natural, cultural, and scenic values, owners of privately owned land and homes within the national recreation area shall be afforded access across National Forest System lands.

(2) Consistent with section 7 of this Act, and the purposes of this Act, the Secretary shall provide for and maintain traditional public access, including vehicular roads for general recreational activities such as camping, hiking, hunting, fishing, and trapping.

(3) The Secretary shall permit the use of snowmobiles on Federal lands in the national recreation area in accordance with the rules and regulations of the National Forest System and consistent with the management plan developed pursuant to section 7 of this Act. Such use shall be regulated to protect the resources of the national recreation area in a way that minimizes the degradation of these resources.

(4) Timber management shall be utilized only as a tool to enhance public recreation, scenic quality, game and nongame wildlife species, and the protection and enhancement of threatened, endangered, or sensitive species. Trees damaged or downed due to fire, insects, disease, or blowdown may be utilized, salvaged, or removed from the recreation area as authorized by the Secretary to further the purposes of the national recreation area.

(5) The Secretary shall, after acquiring fee title to at least 10,000 acres of land on Grand Island, provide reasonable water transportation from the mainland to Grand Island. Transportation may be provided through concession, permit, or other means, and a reasonable charge may be imposed. Transportation shall be subject to reasonable regulation by the Secretary and shall not be required when the Secretary deems it to be unsafe because of factors such as weather and water conditions.

(6) The Secretary shall provide through concession, permit, or other means docking and lodge facilities consistent with the management plan developed pursuant to section 7 of this Act.

(7) The Secretary shall take reasonable actions to provide for public health and safety and for the protection of the national recreation area in the event of fire or infestation of insects or disease.

(8) Under the authority of the Act of March 4, 1915, as amended (16 U.S.C. 497), the Secretary **[**shall**]** *shall, as a condition of acquisition,* issue occupancy and use permits for any privately owned home as of the date of Federal acquisition of the land within the national recreation area on which the home is located. Any such permit shall be issued for an initial period of 20 years and shall be renewed thereafter for successive 20-year periods so long as the permittee is in compliance with the purposes of this Act, the terms of the permit, and other applicable rules and regulations. Any such permit shall be issued in accordance with the laws, rules, and regulations of the Secretary pertaining to the National Forest System, except that such permit shall be subject to the following special provisions:

(A) Such permit may only be issued to the owner of such home as of the date of Federal acquisition of the property, such owner's spouse, the children and grandchildren of such owner and spouse, and their direct lineal descendants (natural or adopted offspring).

(B) Only noncommercial recreation occupancy may be permitted.

(C) The Secretary shall collect fees on an annual basis based on the fair market value of the occupancy permitted.

(D) The expansion, remodeling, or reconstruction of such homes shall be subject to

approval of and regulation by the Secretary. No expansion, remodeling, or reconstruction may increase the height of structure or result in an increase of more than 25 percent of the sum of the exterior dimensions of a structure as it existed on the date of enactment of this Act. Any expansion, remodeling, or reconstruction shall be consistent with the criteria developed pursuant to section 7(b)(4) of this Act and shall be subject to such other terms and conditions as the Secretary may prescribe.

(E) Any such home may be purchased at the fair market value of the structure and improvements by the Secretary on a willing seller basis.

(F) The permit may be terminated at any time for failure to comply with its terms and conditions and applicable regulations without cost to the Federal Government in accordance with the permit.

(G) After termination of any such permit, if any improvements or property are not removed by their owner within one year of the termination, they shall become the property of the Federal Government.

(9) Solely for purposes of payments pursuant to section 6904 of title 31, United States Code, lands on Grand Island acquired by the United States after the date of enactment of this Act shall be considered to have been acquired for addition to a National Forest Wilderness Area (national forest portion of the National Wilderness Preservation System).

SEC. 4. ACQUISITION.

(a) GENERAL AUTHORITY.—[The] *Subject to the provisions of subsection 3(b)(8) and subsection (b) of this section, the* Secretary is authorized and directed to acquire by purchase, gift, exchange, or otherwise, lands, waters, structures, or interests therein, including scenic or other easements, within the boundaries of the national recreation area to further the purposes of this [Act.] *Act: Provided, That the Secretary may not acquire any privately owned lands within the national recreation area other than with the consent of the owner so long as the owner agrees to the restrictions contained in subsection (b)(1) of this section and grants the Secretary a right of first refusal as provided in subsection (b)(2) of this section.* The Secretary also is authorized and directed to acquire lands or structures by such means on the mainland to the extent necessary for access to and administrative facilities for the national recreation area. In acquiring lands or structures under this subsection, the Secretary is directed to give prompt and careful consideration to any offer to sell land or structures made by an individual, organization, or any legal entity owning property within the boundaries of the national recreation area.

(b) PRIVATE LANDS.—(1) An owner of unimproved real property within the national recreation area may construct recreational residences that are historically consistent with other structures within the national recreation area, as described by the management plan developed pursuant to section 7 of this Act.

(2) Any privately owned lands, interests in lands, or structures within the national recreation area shall not be disposed of by donation, exchange, sale, or other conveyance without first being offered at no more than fair market value to the Secretary. The Secretary shall be given a period of 120 days to accept an offer and, after such offer is accepted, a period of 45 days after the end of the fiscal year following the fiscal year in which the offer was accepted to acquire such lands, interests in lands, or structures. No such lands, interests in lands, or structures shall be sold or conveyed at a price below the price at which they have been offered for sale to the Secretary, and if such lands, interest in lands, or structures are reoffered for sale or conveyance they shall first be reoffered to the Secretary, except that this subsection shall not apply to a change in ownership of a property within the immediate family of the owner of record on January 1, 1989. For the purposes of this subsection, the term "immediate family" means, with respect to any such owner of record, the spouse, siblings, children (whether natural or adopted), and lineal descendants of that owner.

SEC. 5. FISH AND GAME.

(a) IN GENERAL.—Nothing in this Act shall be construed as affecting the responsibilities of the State of Michigan with respect to fish and wildlife, including the regulation of hunting, fishing, and trapping in any lands acquired and managed by the Secretary under this Act, except that the Secretary may, in consultation with the State of Michigan, designate zones where, and establish periods when, no hunting, fishing or trapping shall be permitted for reasons of public safety, administration, the protection of nongame species and their habitats, or public use and enjoyment.

(b) NOTICE OF SECRETARIAL ACTION.—As soon as practicable after each case in which the Secretary exercises authority under subsection (a), the Secretary, in consultation with appropriate officials of the State of Michigan, shall take steps to notify area residents as to the nature of actions taken, and the location of zones designated and periods established, under subsection (a).

(c) CONSULTATION.—Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect after consultation with the fish and wildlife agency of the State of Michigan.

SEC. 6. MINERALS.

Subject to valid existing rights, the lands within the national recreation area are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing including all laws pertaining to geothermal leasing. Also subject to valid existing rights, the Secretary shall not allow any mineral development on federally owned land within the national recreation area, except that common varieties of mineral materials, such as stone, and gravel, may be utilized only as authorized by the Secretary to the extent necessary for construction and maintenance of roads and facilities within the national recreation area.

SEC. 7. MANAGEMENT PLAN.

(a) DEVELOPMENT.—After the Secretary acquires fee title to at least 10,000 acres of land on Grand Island, the Secretary, within 30 months, shall develop with public involvement a comprehensive management plan for the national recreation area which implements the provisions of this Act.

(b) SPECIAL ISSUES TO BE INCLUDED.—The comprehensive management plan shall include, but not be limited to, the following issues:

(1) Public recreation, including consideration of a range of appropriate recreational opportunities consistent with the rustic, natural, and historic character of the island, including, but not limited to, a system of trails and campsites in conjunction with the lodge referred to in paragraph (2) of this section.

(2) The feasibility of a concessionaire constructed, operated, and maintained rustic lodge and educational facility on no more than 55 acres located so as not to impair or alter existing scenic views or the existing tree line and forested appearance of Grand Island from any point within the boundaries of Pictured Rocks National Lakeshore. The plan shall address the economics of constructing, operating, and maintaining such a facility by a concessionaire or other entity; access by roads and waters; utilities; waste water treatment, garbage disposal, and other associated environmental impacts; management operations including construction, operation and maintenance; and the potential for permitted uses by government agencies, profit and nonprofit organizations, or individuals.

(3) Prescriptions concerning any management and harvest of timber, subject to section 3(b)(4) of this Act.

(4) General design criteria for new facilities or the improvement of existing facilities that are compatible with the rustic, natural, and historic character of the island and their topographic and geological location, and that do not impair scenic views from the Pictured Rocks National Lakeshore.

(5) Water transportation from the mainland to the national recreation area by a concessionaire or other entity.

(6) The feasibility of concessionaire constructed, operated, and maintained docking facilities in the national recreation area and on the mainland.

(7) An inventory and assessment of existing traditional roads, the level of road use, access needs, and any vehicular regulation and management needed to protect the resources of the national recreation area while, at the same time, providing reasonable access to private property.

(c) CONSULTATION.—In preparing the comprehensive management plan, the Secretary shall consult with the appropriate State and local government officials, provide for full public participation, and consider the views of all interested parties, organizations, and individuals.

SEC. 8. GRAND ISLAND ADVISORY COMMISSION.

(a) ESTABLISHMENT.—Subject to appointments as provided in subsection (b), there is established a Grand Island Advisory Commission (hereafter in this Act referred to as the "Commission") comprised of 12 members for the purpose of advising the Secretary on the preparation of the management plan which is provided for in section 7 of this Act.

(b) APPOINTMENT.—(1) Commission members shall be appointed by the Secretary as follows:

(A) Three non-voting members, who shall be employees of the Forest Service including the Forest Supervisor of the Hiawatha National Forest.

(B) One member who shall be a resident of Munising, Michigan, who is not a Forest Service Employee.

(C) Two members who shall be recreational users of Grand Island who are not Forest Service employees.

(D) One member from nominations made by the Alger County Board of Commissioners who is a member of such board.

(E) One member from nominations made by the Alger County Economic Development Corporation who is a member of such corporation.

(F) One member from nominations made by the Grand Island Association who is a member of such association.

(G) One member from nominations made by the private landowners of Grand Island who is a private landowner on Grand Island.

(H) One member from nominations made by the Grand Island Township Board who is a member of such board.

(I) The Munising city manager, upon accepting the invitation of the Secretary.

(2) Any vacancy shall be filled in the same manner as the original appointment.

(c) QUORUM.—A quorum shall be six members. The operations of the Commission shall not be impaired by the fact that a member has not been appointed as long as a quorum has been attained.

(d) PROCEDURES.—The Commission shall elect a Chairman and establish such rules and procedures as it deems necessary or desirable.

(e) CONSULTATION.—The Secretary shall consult with the Commission on a periodic and regular basis with respect to the management plan.

(f) PAY.—(1) Members of the Commission who are not full-time officers or employees of the United States shall serve without pay.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission.

(g) PROPOSALS FOR NON-FEDERAL DEVELOPMENT ON FEDERAL LAND.—The Commission shall recommend proposals for non-Federal development on the 55 acres described in section 7(b)(2) of this Act. It shall submit any such proposals to the Secretary for approval, rejection, or revision. The Secretary shall include in the management plan a development proposal submitted by the Commission or arrived at by any other means available to the Secretary.

(h) TERMINATION.—The Commission shall cease to exist on the date upon which the management plan is adopted.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) ACQUISITION OF LANDS.—There are hereby authorized to be appropriated an amount not to exceed $5,000,000 for the acquisition of land, interests in land, or structures within the national recreation area and on the mainland as needed for access and administrative facilities.

(b) OTHER PURPOSES.—In addition to the amounts authorized to be appropriated under subsection (a), there are authorized to be appropriated not more than $5,000,000 for development to carry out the other purposes of this Act.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

AMENDMENT NO. 1346

(Purpose: To make certain technical amendments)

Mr. BAUCUS. Mr. President, on behalf of of Senator RIEGLE, I send four technical amendments to the desk, en bloc, and I ask for their immediate consideration, en bloc.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. RIEGLE, proposes an amendment numbered 1346.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 23, insert ", stepchildren," after "children".

On page 7, lines 10 and 11, strike "the date of enactment of this Act" and insert "January 1, 1990".

On page 8, line 14, strike "historically consistent" and insert "architecturally compatible".

On page 9, line 11 insert "stepchildren," after "adopted),".

Mr. RIEGLE. Mr. President, I rise today on the occasion of the enactment of H.R. 1472, a bill creating the Grand Island National Recreation Area. The bill will add one of Michigan's greatest wild areas to our national recreation system and open up the opportunity for many Americans to enjoy the island's splendor.

Grand Island is a unique natural treasure of unparalleled beauty. From the pristine and isolated beaches to the imposing sheer cliffs rising 200 feet above Lake Superior, this island is a wonder to behold. In the interior of the island you will find the world's third largest beaver-formed lake. Eagles, bear, and numerous other kinds of wildlife make the island their home.

This bill represents 3 years of careful discussion resulting in a measure acceptable to the parties concerned with this proposed recreation area. The islanders, who now have exclusive access to the island, are ready to share their seasonal home with the Nation. They are willing to do this with the knowledge that their island will be forever protected from unbridled development and unsound environmental practices. The people of Munising have agreed to this plan because they have come to realize that the qualities that make Grand Island a valuable economic resource are beauty, isolation, and quiet grandeur. Through the careful management of the Forest Service, many people will be able to enjoy this unique resource and will, I hope, leave with a new spirit of commitment to preserving our public lands.

The compromise that is represented by H.R. 1472 demonstrates that by working together we can reconcile the need for limited development and protection of fragile and unique resources. While 55 acres of the island are slated for development consistent with the forest management plan, over 12,000 acres will remain undeveloped and timber cuts are forbidden. Some roads will remain open to motorized vehicles, while others will be reserved for hiking only. Under the Forest Service planning process, with strong public involvement, Grand Island will be accessible to all.

I commend the people of Munising, the summer residents of Grand Island, the conservation community and local officials for their patience and willingness to develop a bill that is fair to all parties involved in this project. We must continue to work together to preserve our valuable wild areas places so future generations can experience this important part of our national heritage.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1346) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 1472), as amended, was passed.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 1862

Mr. BAUCUS. Mr. President, I ask unanimous consent that a star print be made of S. 1862, to reflect the change I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

POLICE FORCE OF THE NATIONAL ZOOLOGICAL PARK

Mr. BAUCUS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1521.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1521) entitled "An Act to amend Public Law 91-34 relating to the police force of the National Zoological Park of the Smithsonian Institution, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. INCREASE IN THE MAXIMUM RATES OF BASIC PAY FOR THE POLICE FORCE OF THE NATIONAL ZOOLOGICAL PARK.

(a) IN GENERAL.—Section 5375 of title 5, United States Code, is amended to read as follows:

"§ 5375. Police force of the National Zoological Park

"The Secretary of the Smithsonian Institution shall fix the annual rates of basic pay for positions on the police force of the National Zoological Park as follows:

"(1) Private, not more than the maximum annual rate of basic pay payable for grade GS-7 of the General Schedule.

"(2) Sergeant, not more than the maximum annual rate of basic pay payable for grade GS-8, of the General Schedule.

"(3) Lieutenant, not more than the maximum annual rate of basic pay payable for grade GS-9 of the General Schedule.

"(4) Captain, not more than the maximum annual rate of basic pay payable for grade GS-10 of the General Schedule.".

(b) CLERICAL AMENDMENT.—The item relating to section 5375 in the table of sections for chapter 53 of title 5, United States Code, is amended to read as follows:

"5375. Police force of the National Zoological Park.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to pay periods beginning after the date of the enactment of this Act.

The PRESIDING OFFICER. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

MEASURE REREFERRED—H.R. 1243

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 1243, regarding Metal Casting Competitiveness Research Centers, and that the bill then be rereferred to the Senate Energy and Natural Resources Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

RECESS UNTIL 9:15 A.M.; REDUCTION OF THE LEADERS' TIME

Mr. BAUCUS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m. Wednesday, March 21, 1990, and that the time for the two leaders be reduced to 7½ minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAUCUS. Mr. President, on tomorrow, at 9:30 a.m., when the Senate resumes consideration of the clean air bill, under a unanimous-consent agreement entered earlier tonight there will be 30 minutes for debate on the Boschwitz-Boren small business exemption amendment, amendment No. 1345, with a vote to occur on or in relation to that amendment at 10 a.m. on Wednesday.

RECESS UNTIL TOMORROW, AT 9:15 A.M.

Mr. BAUCUS. Mr. President, if the distinguished acting Republican leader has no further business, and if no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 9:15 a.m., Wednesday, March 21, 1990.

There being no objection, the Senate, at 10:09 p.m., recessed until Wednesday, March 21, 1990, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate March 20, 1990:

DEPARTMENT OF JUSTICE

STEPHEN D. EASTON, OF NORTH DAKOTA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF NORTH DAKOTA FOR THE TERM OF 4 YEARS, VICE RODNEY S. WEBB, RESIGNED.

MORRIS LEE THOMPSON, OF KANSAS, TO BE U.S. ATTORNEY FOR THE DISTRICT OF KANSAS FOR FOR THE TERM OF 4 YEARS, VICE BENJAMIN L. BURGESS, JR., RESIGNED.

STATE JUSTICE INSTITUTE

KEITH MCNAMARA, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1992, VICE JOSEPH WENTLING BROWN, TERM EXPIRED.

DEPARTMENT OF THE INTERIOR

THOMAS LAWRENCE SANSONETTI, OF WYOMING, TO BE SOLICITOR OF THE DEPARTMENT OF THE INTERIOR, VICE MARTIN LEWIS ALLDAY.

DEPARTMENT OF COMMERCE

ROBERT MARSHALL WHITE, OF MINNESOTA, TO BE UNDER SECRETARY OF COMMERCE FOR TECHNOLOGY. (NEW POSITION)

COMMUNICATIONS SATELLITE CORPORATION

JAMES B. EDWARDS, OF SOUTH CAROLINA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1993. (REAPPOINTMENT)

NATIONAL TRANSPORTATION SAFETY BOARD

JOHN K. LAUBER, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE TERM EXPIRING DECEMBER 31, 1994. (REAPPOINTMENT)

DEPARTMENT OF LABOR

KAREN L. GILLMOR, OF OHIO, TO BE DIRECTOR OF THE WOMEN'S BUREAU, DEPARTMENT OF LABOR, VICE JILL HOUGHTON EMERY, RESIGNED.

FEDERAL EMERGENCY MANAGEMENT AGENCY

JERRY D. JENNINGS, OF MICHIGAN, TO BE DEPUTY DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE ROBERT H. MORRIS, RESIGNED.

RESOLUTION TRUST CORPORATION

ROBERT C. LARSON, OF MICHIGAN, TO BE A MEMBER OF THE OVERSIGHT BOARD OF THE RESOLUTION TRUST CORPORATION FOR A TERM OF 3 YEARS. (NEW POSITION)

DEPARTMENT OF LABOR

JULIAN W. DE LA ROSA, OF TEXAS, TO BE INSPECTOR GENERAL, DEPARTMENT OF LABOR, VICE JAMES BRIAN HYLAND, RESIGNED.

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be assistant surgeon

GREGORY M. BUCHALTER
PAUL P. CARNES
MICHAEL C. ENGEL
NEIL W. GRAVEN
RONALD W. JOHNSON
DOUGLAS S. MITCHELL

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

To be medical director

RICHARD L. FODOR
JOHN I. GALLIN
MARK HALLETT
CURTIS C. HARRIS
WILLIAM J. MINER
PETER M. NAKAMURA
HOWARD W. ORY
WILLIAM A. PATON
EVERETT R. RHOADES
DIXIE E. SNIDER, JR.
HARRISON C. SPENCER, JR.
RICHARD G. WYATT

To be senior surgeon

DAVID E. HEPPEL
JAMES S. MARKS
WILLIAM J. MARTONE
BARTON C. MCCANN
STEPHEN B. THACKER
DONALD L. WEAVER

To be surgeon

DAVID M. BAND
RICHARD D. KLAUSNER
FRANK O. RICHARDS, JR.
WILLIAM M. SAPPENFIELD

To be senior assistant surgeon

KENNETH J. FATTMANN, JR.
EARL H. LYNCH
DIANE A. MITCHELL

To be dental director

JEROME L. GORDON
TOMMY N. JOHNSON
DAVID B. JONES

To be senior dental surgeon

JAY ARTHUR BALZER
ERIC D. BOTHWELL
ERIC B. BRODERICK
WILLIAM R. BURNS
GARY S. GRITZBAUGH

To be dental surgeon

GREGORY K. BAKER
MAUREEN P. CLEARY
ROBERT J. DAVIS
BETTY DEBERRY-SUMNER
LAWRENCE J. FURMAN
MICHAEL H. HESS
KENNETH E. HOFFMAN
KENNETY T. JONES
MICHAEL L. MARK
GENE J. MCELHINNEY
STEPHEN W. WYATT

To be nurse director

MARILYN W. GETTY
JULIA R. PLOTNICK
JEANETTE M. SCHEPPAN
JACK F. SLUSSER

To be senior nurse officer

KATHLEEN A. MCCORMICK
JERRILYN REGAN

To be nurse officer

MELISSA M. ADAMS
BRUCE C. BAGGETT
CLIPTON E. CARR, JR.
HOWARD E. DOTY
MARIE G. HARTMAN
GALE L. HEAVNER
MELINDA S. LEE
ANTHONY E. R. MANN
RUDOLF R. REICHELT
CRISTINO RODRIGUEZ
GALE G. WHITE

To be senior assistant nurse officer

THOMAS M. CONRAD
MARVA J. RANDOLPH

To be engineer director

OLIVER T. LOVE, JR.
RONALD A. ROBINSON
GENE W. SMITH
KENNETH R. WOODARD

To be senior engineer officer

STANLEY M. BLACKER
THOMAS G. GALLEGOS
RICHARD J. GUIMOND
JOHN R. HAMILTON
TIMOTHY R. WEBSTER

To be engineer officer

ROGER A. ANDERSON
CURTIS C. BOSSERT
DANIEL J. CARPENTER
DANIEL J. HABES
ROBERT M. HAYES
CHRISTOPHER G. MCCUNE
JAMES L. THODE
RANDY N. WILLARD

To be scientist director

THOMAS W. ATHEY III
RICHARD P. CHIACCHIERINI
STANLEY E. EDINGER
ROBERT W. GWADZ
JERRY M. JOHNSON

To be senior scientist

MARION G. CLOWER, JR.
LAURENCE W. GROSSMAN
GEORGE J. NEMO

To be scientist

JOHN J. JESSOP

To be sanitarian director

WAYNE A. BLISS
GREGORY J. GLAHN

To be senior sanitarian

GARY L. ROTHFUS
RICHARD J. SMITH III

To be sanitarian

RANDY E. GRINNELL
RICHARD S. SCHURZ
JOHN A. STEWARD

To be veterinary director

ALLAN LOCK

To be senior veterinary officer

MARTIN L. MORIN

To be pharmacist director

ARTHUR H. HOLMES, JR.
GORDON H. JENSEN
THEODORE A. WESTLEY

To be senior pharmacist

JAMES W. BREDON
RICHARD M. CHURCH
ARTHUR J. LAWRENCE, JR.
JAMES R. MINOR
WAYNE M. TURNER
RICHARD S. WALLING

To be pharmacist

JANET L. ANDERSON
ROBERT W. BOYCE
JOSEPH M. BUCCINE
EDWARD J. DANNENBERG
PAUL N. DERAMO
PAUL W. ERICKSON
JOHN A. HECKEL
PAUL L. HEPP
WILLIAM A. HESS
MICHAEL F. JOHNSTON
KEVIN M. LEMIEUX
RALPH B. LILLIE
JON A. MCARTHUR
THOMAS J. MCGINNIS
GLEN M. PREWETT
LINDA J. SHULL
RONNIE D. THOMAS
DENNIS J. VETTESE
STEPHEN W. WICKIZER

To be dietitian director

EDWARD R. TATE

To be senior dietitian

EMMA J. LUTEN

To be dietitian

JOHN E. FINN

To be therapist director

WILLIAM A. FROMHERZ
ARTHUR J. PLUMSTEAD, JR.

To be senior therapist

BARBARA A. SLOOP

To be therapist

CHARLES L. MCGARVEY
MARIE A. SCHROEDER

To be health services director

JOSEPH S. ARCARESE
WINSTON J. DEAN
ALAN S. HARRIS
ELLERY D. SAVAGE
JOSEPH G. SIRMONS

To be senior health services officer

AMY C. BARKIN
BRIAN W. FLYNN
BRUCE IMMERMAN
HOWARD C. LERNER
JAMES L. MORRISON
PENNI I. ST HILAIRE
JAMES W. LANGFORD

To be health services officer

MARY P. ANDERSON
EDITH M. BAILEY
THOMAS F. CARRATO
ROBERT L. DAVIDSON
DONALD W. GANN
JAMES W. GARVIE
TERENCE M. GRADY
RICHARD P. HASKINS
ELLEN M. HUTCHINS
THOMAS M. JAKUB
ROBERT M. KROCHAK
RICHARD A. LAENG
HECTOR LOPEZ
ARNULFO MANANGAN
SARAH E. MEACHEN
JOHN C. PYTLIK
CAROL REST-MINCBERG
GARY N. SANDEN
HERBERT L. VENABLE

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATED CODE, SECTION 1370:

To be general

GEN. JAMES J. LINDSAY, xxx-xx-xxxx, U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES W. BROWN, xxx-xx-xxxx, U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. ALLEN K. ONO, xxx-xx-xxxx, U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO BE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 610(A):

To be lieutenant general

MAJ. GEN. TEDDY G. ALLEN, xxx-xx-xxxx, U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. THURMAN D. RODGERS, xxx-xx-xxxx, U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR PROMOTION TO THE GRADE OF MAJOR GENERAL WHILE ASSIGNED AS CHIEF OF CHAPLAINS, U.S. ARMY, UNDER TITLE 10, UNITED STATES CODE, SECTION 3036(B):

To be major general

BRIG. GEN. MATTHEW A. ZIMMERMAN, xxx-xx-xxxx, U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, PROVIDED IN NO CASE SHALL THE FOLLOWING OFFICER BE APPOINTED IN A GRADE HIGHER THAN LIEUTENANT COLONEL.

LINE OF THE AIR FORCE

IRIS M. HAGENEY, xxx-xx-xxxx.

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED, PROVIDED THAT IN NO CASE SHALL ANY OF THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN LIEUTENANT COLONEL.

CHAPLAIN CORPS

THEODORE A. HENDERSON, xxx-xx-xxxx
ROBERT F. IPPOLITO, xxx-xx-xxxx.

MEDICAL SERVICES CORPS

SCOTT J. CALL, xxx-xx-xxxx.

BIOMEDICAL SERVICES CORPS

HAROLD D. ROSENHEIM, xxx-xx-xxxx.

IN THE ARMY

THE FOLLOWING NAMED RESERVE OFFICER'S TRAINING CORPS CADETS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

TIMOTHY L. ADAMS, xxx-xx-xxxx
MICHAEL D. ADDIS, xxx-xx-xxxx
KYLE J. ADRIAN, xxx-xx-xxxx
BRYAN F. AGENA, xxx-xx-xxxx
KELLY J. ALDRIN, xxx-xx-xxxx
DEXTER A. ALEXANDER, xxx-xx-xxxx
DAVID ALLEN, xxx-xx-xxxx
GREGORY D. ALLEN, xxx-xx-xxxx
BRIAN ALMQUIST, xxx-xx-xxxx
FELICIA F. ALSTON, xxx-xx-xxxx
KELLY J. ALTENHOFEN, xxx-xx-xxxx
ELIZABETH A. ALTER, xxx-xx-xxxx
REIK C. ANDERSEN, xxx-xx-xxxx
JAMES C. ANDERSON, xxx-xx-xxxx
MARK W. ANDERSON, xxx-xx-xxxx
CYNTHIA M. ANGELL, xxx-xx-xxxx
JOSEPH E. ANGERER, xxx-xx-xxxx
NICHOLAS M. ANTHONY, JR., xxx-xx-xxxx
GEORGE N. ANTONE, JR., xxx-xx-xxxx
FRANCISCO I. AQUINO, xxx-xx-xxxx
ADRIENNE B. ARI, xxx-xx-xxxx
CORTIER M. ARMSTEAD, xxx-xx-xxxx
KIRSTEN B. ARNDT, xxx-xx-xxxx
KRIS A. ARNOLD, xxx-xx-xxxx
THOMAS L. ARRINGTON, xxx-xx-xxxx
MARSHA ATCHISON, xxx-xx-xxxx
CATHY M. ATKINS, xxx-xx-xxxx
PAMELA J. ATTERBERRY, xxx-xx-xxxx
SUSANNE T. AZZI, xxx-xx-xxxx
MARK J. BACON, xxx-xx-xxxx
PHILIP C. BADAR, xxx-xx-xxxx
HAN S. BAE, xxx-xx-xxxx
SCOTT C. BAHRKE, xxx-xx-xxxx
MICHELLE BAILEY, xxx-xx-xxxx
PAUL F. BAILEY, xxx-xx-xxxx
WILLIAM J. BAILEY, xxx-xx-xxxx
JERRY L. BAIRD, xxx-xx-xxxx
GREGORY E. BAK, xxx-xx-xxxx
KIMBERLY K. BAKER, xxx-xx-xxxx
TRACY A. BALDWIN, xxx-xx-xxxx
JOSEPH A. BANKOVICH, xxx-xx-xxxx
TERESA M. BARBER, xxx-xx-xxxx
JEFFERY M. BARLUP, xxx-xx-xxxx
JOSEPH H. BARNES, xxx-xx-xxxx
LEE BARNES, xxx-xx-xxxx
JAMES E. BARNETT, II, xxx-xx-xxxx
PATRICK A. BARNETT, xxx-xx-xxxx
EDMUND J. BARRETT, xxx-xx-xxxx
JOHN BARRETT, xxx-xx-xxxx
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BRADLEY A. WHITE, xxx-xx-xxxx
LENELL D. WHITE, III, xxx-xx-xxxx
NATHANIEL R. WHITE, xxx-xx-xxxx
RODERICK S. WHITE, xxx-xx-xxxx
ERIC L. WHITEHURST, xxx-xx-xxxx
JAMAL WIGGLESWORTH, xxx-xx-xxxx
AUDIE M. WILKINS, xxx-xx-xxxx
MARK A. WILKINS, xxx-xx-xxxx
HARRY WILKLOW, III, xxx-xx-xxxx
ANDREA R. WILLIAMS, xxx-xx-xxxx
CHRISTINE E. WILLIAMS, xxx-xx-xxxx
FELITA P. WILLIAMS, xxx-xx-xxxx
JOSHUA B. WILLIAMS, xxx-xx-xxxx
LEMUEL K. WILLIAMS, xxx-xx-xxxx
PATRICK D. WILLIAMS, xxx-xx-xxxx
THOMAS M. WILLIAMS, xxx-xx-xxxx
GREGORY S. WILLIS, xxx-xx-xxxx
LAWRENCE D. WILSON, xxx-xx-xxxx
TODD P. WILSON, xxx-xx-xxxx
DAVID S. WINAKOR, xxx-xx-xxxx
JEFFREY S. WITHROW, xxx-xx-xxxx
ELIZABETH W. WITTIG, xxx-xx-xxxx
DOUGLAS A. WOJCIK, xxx-xx-xxxx
DONALD C. WOLFE, xxx-xx-xxxx
JOHN W. WOLTZ, xxx-xx-xxxx
DAVID L. WOOD, xxx-xx-xxxx
LYNN F. WOOD, xxx-xx-xxxx
DARRON L. WRIGHT, xxx-xx-xxxx
JOHN A. WRIGHT, xxx-xx-xxxx
MICHAEL T. WRIGHT, xxx-xx-xxxx
THOMAS E. YACKEY, JR, xxx-xx-xxxx
VICTORIA YATES, xxx-xx-xxxx
ARTHUR F. YEAGER, xxx-xx-xxxx
JOSEPH J. YINDRICK, JR, xxx-xx-xxxx
DAVID G. YONKOVICH, xxx-xx-xxxx
ANTHONY R. YOUNG, JR, xxx-xx-xxxx
MARK Q. YOUNG, xxx-xx-xxxx
PATRICK M. YOUNG, xxx-xx-xxxx
STEVEN D. YOUNG, xxx-xx-xxxx
WANDA L. YOUNG, xxx-xx-xxxx
LOUIS A. ZEISMAN, xxx-xx-xxxx
DENNIS M. ZINK, xxx-xx-xxxx
TODD M. ZOLLINGER, xxx-xx-xxxx

ARMY NURSE CORPS

To be second lieutenant

KRISTIN R. ANDERSON, xxx-xx-xxxx
BARBARA J. BAKER, xxx-xx-xxxx
CESAR J. CAVAZOS, xxx-xx-xxxx
JOSEPH B. CHAPMAN, xxx-xx-xxxx
KATHERINE A. COUCH, xxx-xx-xxxx
JILL M. COX, xxx-xx-xxxx
GRETCHEN J. DAMROW, xxx-xx-xxxx
SUSAN E. DAMSCHRODER, xxx-xx-xxxx
COLLEEN A. DASCHBACH, xxx-xx-xxxx
SHEILA M. DATKO, xxx-xx-xxxx
LORI L. FISHER, xxx-xx-xxxx
TIMOTHY L. FRAZIER, xxx-xx-xxxx
THERESA A. GARBER, xxx-xx-xxxx
REBECCA S. HALE, xxx-xx-xxxx
BETHANY L. HULTQUIST, xxx-xx-xxxx
MICHELLE M. HUSCHAK, xxx-xx-xxxx
CAROL S. JEMMISON, xxx-xx-xxxx
JENNIFER A. JONES, xxx-xx-xxxx
LYLE D. KEPLINGER, JR, xxx-xx-xxxx
TINA M. KNIGHTON, xxx-xx-xxxx
LEANN M. LAKIN, xxx-xx-xxxx
KATHERINE A. LARES, xxx-xx-xxxx
SHIRLEY M. MADRID, xxx-xx-xxxx
MOLLY E. MARLOW, xxx-xx-xxxx
RICK L. MARTIN, xxx-xx-xxxx
TAMMY J. MCCOMBS, xxx-xx-xxxx
VAN E. MCCOY, xxx-xx-xxxx
SCOTT D. MCDONNALD, xxx-xx-xxxx
ELIZABETH A. MCEACHEN, xxx-xx-xxxx
JEANETTE R. MEEK, xxx-xx-xxxx
DEBRA A. MOHORIC, xxx-xx-xxxx
MARGARET A. MOLONEY, xxx-xx-xxxx
REBECCA J. MOTTL, xxx-xx-xxxx
VIRGINIA R. MULLIN, xxx-xx-xxxx
ANNE M. NYE, xxx-xx-xxxx
SANDRA V. PEREZ, xxx-xx-xxxx
GEORGETTE M. RENEAU, xxx-xx-xxxx
CINDY S. RICE, xxx-xx-xxxx
NANCY A. SADDLER, xxx-xx-xxxx
MICKI D. SCARLETT, xxx-xx-xxxx
MICHELLE L. SCHREINER, xxx-xx-xxxx
MARY E. SHIVER, xxx-xx-xxxx
CARMEN M. SINGLETON, xxx-xx-xxxx
BETH A. SMITH, xxx-xx-xxxx
DANIEL L. ST ARMAND, xxx-xx-xxxx
JEANNEAN L. TURNER, xxx-xx-xxxx
RODRIGUEZ J. VELEZ, xxx-xx-xxxx
VERA F. VON RECUM, xxx-xx-xxxx
KATHLEEN M. WALTON, xxx-xx-xxxx
ANNE B. ZSCHOCHE, xxx-xx-xxxx

MEDICAL SPECIALIST CORPS

To be second lieutenant

TIMOTHY BRENNER, xxx-xx-xxxx
CHRISTINE K. LOTHEN, xxx-xx-xxxx

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THEIR ACTIVE DUTY GRADE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

VETERINARY CORPS

To be major

WILLIAM P. ELKINS, xxx-xx-xxxx

DENTAL CORPS

To be captain

THOMAS W. DACZKOWSKI, xxx-xx-xxxx

MEDICAL SPECIALIST CORPS

To be captain

LORI S. RYAN, xxx-xx-xxxx

IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICERS OF THE REGULAR MARINE CORPS FOR APPOINTMENT AND DESIGNATION AS UNRESTRICTED OFFICERS IN THE REGULAR MARINE CORPS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531 AND 5589:

To be lieutenant colonel

WILLIAM G. BYRNE, JR, xxx-xx-xxxx
RICHARD W. CHRISTIANSEN, xxx-xx-xxxx
WILLIAM B. CORLEY, JR, xxx-xx-xxxx
REX L. CURTIS, xxx-xx-xxxx
HUBERT A. GRUMMER, xxx-xx-xxxx
WILLIAM H. HAMLIN, xxx-xx-xxxx
HAROLD S. HEINBAUGH, xxx-xx-xxxx
ROLAND N. PANNELL, JR, xxx-xx-xxxx
ARTHUR H. RICHARDSON, JR, xxx-xx-xxxx
MINTER C. SKIPPER, JR, xxx-xx-xxxx
CHARLIE F. SMITH, xxx-xx-xxxx
BILLY W. WOODARD, xxx-xx-xxxx

To be major

CLARENCE T. ANTHONY, JR, xxx-xx-xxxx
JOHN C. BRADFORD, xxx-xx-xxxx
JOSEPH B. BURROUGHS, JR, xxx-xx-xxxx
MICHAEL G. CANTERBURY, xxx-xx-xxxx
JOHN W. CHANDLER, xxx-xx-xxxx
MELVIN L. COCHRAN, xxx-xx-xxxx
MATTHEW W. CONLEY, xxx-xx-xxxx
STEPHEN H. CZAIKOSKI, xxx-xx-xxxx
WILLIAM C. FARLEY, xxx-xx-xxxx
PAUL T. FILLA SR, xxx-xx-xxxx
STEPHEN H. FOREMAN, xxx-xx-xxxx
CLARENCE N. FRANCE, xxx-xx-xxxx
RICHARD M. FRAZIER, xxx-xx-xxxx
THOMAS E. FULTZ, xxx-xx-xxxx
EDWARD GREEN, xxx-xx-xxxx
DAVID A. HEALY, xxx-xx-xxxx
DANIEL A. HENRY, xxx-xx-xxxx
LARRY E. JELLISON, xxx-xx-xxxx
MICHAEL L. KERNAN, xxx-xx-xxxx
ROBERT M. LABROUSSE, xxx-xx-xxxx
STEPHEN C. LAMBETH, xxx-xx-xxxx
WALTER S. LAWSON, xxx-xx-xxxx
RICHARD W. LEVAN, xxx-xx-xxxx
MORGAN J. LOFTON, xxx-xx-xxxx
CHARLES A. LUNDY, xxx-xx-xxxx
WILLIAM E. MANGINEN, xxx-xx-xxxx
JAMES R. MILNER, xxx-xx-xxxx
MARK A. NALL, xxx-xx-xxxx
JAMES H. NEAL, JR, xxx-xx-xxxx
JOHN K. NEEL, xxx-xx-xxxx
DAVID T. PENN, xxx-xx-xxxx
GARY N. PETERS, xxx-xx-xxxx
LOREN D. PRIMMER, JR, xxx-xx-xxxx
MICHAEL L. ROBINSON, xxx-xx-xxxx
GARY A. SLOAN, xxx-xx-xxxx
PAUL SOFRANAC, xxx-xx-xxxx
TERRY G. STEVENS, xxx-xx-xxxx
DANNY W. SULLENGER, xxx-xx-xxxx
DANIEL G. WALCZAK, xxx-xx-xxxx
JAKE WALKER, JR, xxx-xx-xxxx
ALEXANDER W. WALMSLEY, xxx-xx-xxxx
JACK L. WARFORD, xxx-xx-xxxx
TERRENCE M. WESTERMAN, xxx-xx-xxxx
WESLEY WIECKOWSKI, xxx-xx-xxxx
KENNETH R. WILLIAMS, JR, xxx-xx-xxxx

To be captain

RUDY K. ABRAMS, xxx-xx-xxxx
EDUARDO ACOSTA, xxx-xx-xxxx
ALLEN D. ALSTON, xxx-xx-xxxx
JERALDO T. ALVAREZ, xxx-xx-xxxx
DONALD J. ANDERSON, xxx-xx-xxxx
TERRY R. ARMSTRONG, xxx-xx-xxxx
ROBERT R. BACK, xxx-xx-xxxx
RICHARD J. BALLENTINE, JR, xxx-xx-xxxx
RICHARD L. BARFIELD, xxx-xx-xxxx
LEONARD L. BERNAT, xxx-xx-xxxx
CAROL S. BONSON, xxx-xx-xxxx
CLIFTON BOURDA, xxx-xx-xxxx
BENJAMIN R. BRADEN, xxx-xx-xxxx
RONALD R. BRASSARD, xxx-xx-xxxx
DANIEL J. BRESNAHAN, xxx-xx-xxxx
KENNETH M. BROWN, xxx-xx-xxxx
FRANKIE D. BURGESS, xxx-xx-xxxx
DERRICK BURNSIDE, xxx-xx-xxxx
WAYNE D. CARSON, xxx-xx-xxxx
DANIEL D. CARY, xxx-xx-xxxx
ROBERT E. CICCOCIOPPO, xxx-xx-xxxx
JACK CIESLA, xxx-xx-xxxx
CARL L. COLLETTE, xxx-xx-xxxx
STEPHEN J. CONBOY, xxx-xx-xxxx
FRANCIS X. CUBILLO, xxx-xx-xxxx
WILLIAM A. CZARNIAWSKI, xxx-xx-xxxx
CHRISTOPHEM DALEY, xxx-xx-xxxx
JOSEPH R. DAVIS, xxx-xx-xxxx
STEVEN DELLAPORTA, xxx-xx-xxxx
THEODORE E. DEVLIN, xxx-xx-xxxx
DAVID A. DIPMAN, xxx-xx-xxxx
JOHN E. DIXISON, xxx-xx-xxxx
HECTOR J. DUENEZ, xxx-xx-xxxx
JAMES R. EDWARDS, xxx-xx-xxxx
MINERVA S. EDWARDS, xxx-xx-xxxx
JOHN E. EVANS, xxx-xx-xxxx
RONNIE J. FARMER, xxx-xx-xxxx
CLYDE FRAZIER, JR, xxx-xx-xxxx
GARY W. FUNK, xxx-xx-xxxx
REUBEN C. GENTRY, xxx-xx-xxxx
RAYMOND S. GIRARDIN, xxx-xx-xxxx
RUSSELL E. GLOVER, xxx-xx-xxxx
PATRICK S. GOETZ, xxx-xx-xxxx
STEWART O. GOLD, xxx-xx-xxxx
EARL GOODWIN, xxx-xx-xxxx
DOUGLAS M. GREEN, xxx-xx-xxxx
WILLIAM A. GRIPP, xxx-xx-xxxx
RONALD L. HALSTEAD, xxx-xx-xxxx
RALPH J. HANEGAN, xxx-xx-xxxx
MICHAEL A. HELLIGRATH, xxx-xx-xxxx
WILLIAM R. HOUSTON, xxx-xx-xxxx
JOHN E. JOY, JR, xxx-xx-xxxx
BEDFORD E. KAATZ, JR, xxx-xx-xxxx
WILLIAM D. KIDWELL, xxx-xx-xxxx
BRUCE E. KILLIAN, xxx-xx-xxxx
JOHN T. KRAUSE, xxx-xx-xxxx
FRANK R. LAWSON, xxx-xx-xxxx
ARTHUR E. LEONE, xxx-xx-xxxx
ROOSEVELT LINDSEY, JR, xxx-xx-xxxx
JAMES P. MACFARLANE, xxx-xx-xxxx
RICHARD D. MARTIN, xxx-xx-xxxx
DAVID E. MARVIN, xxx-xx-xxxx
RONALD J. MATTHEWS, xxx-xx-xxxx
DANIEL J. MCGEE, xxx-xx-xxxx
PATRICK J. MCGRATH, xxx-xx-xxxx
GARY W. MONTUORI, xxx-xx-xxxx
PETER D. MORNEAU, xxx-xx-xxxx
ROMEO NELSON, xxx-xx-xxxx
MICHAEL J. O'DONNELL, xxx-xx-xxxx
BRADLEY P. PANGLE, xxx-xx-xxxx
RAY D. PRATHER, xxx-xx-xxxx
STEVEN D. RAPP, xxx-xx-xxxx
PABLO F. RIBADENEIRA, xxx-xx-xxxx
SHIRLEY M. RITZDORF, xxx-xx-xxxx
JAMES A. ROBERTS, xxx-xx-xxxx
RONALD G. RUPPELT, xxx-xx-xxxx
PAUL V. SCHICHTEL, xxx-xx-xxxx
JOHN C. SEIBEL, xxx-xx-xxxx
THOMAS P. SEVERIT, xxx-xx-xxxx
JAMES C. SMITH, xxx-xx-xxxx
ROLAND C. SWENSEN, xxx-xx-xxxx
DONALD R. SWINGLER, xxx-xx-xxxx
RONALD E. TERHAAR, xxx-xx-xxxx
ROBERT S. THIEN, xxx-xx-xxxx
RICKY L. THOMPSON, xxx-xx-xxxx
RONALD E. TUCKER, xxx-xx-xxxx
IVAN L. WALLEN, xxx-xx-xxxx
MARK L. WARD, xxx-xx-xxxx
ROBERT V. WINTON, xxx-xx-xxxx
TONY L. WUNDERLICH, xxx-xx-xxxx

To be lieutenant

DEAN M. ARCHULETA, xxx-xx-xxxx
ANTHONY E. BLOUNT, xxx-xx-xxxx
RAND A. BRINKMAN, xxx-xx-xxxx
MARK S. BROWN, xxx-xx-xxxx
YANCEL C. CAMPBELL, JR, xxx-xx-xxxx
JOHN M. CARTER, xxx-xx-xxxx
HERSCHEL L. CLAYTOR, xxx-xx-xxxx
STEVEN M. CRUDDAS, xxx-xx-xxxx
JAMES R. DENNEY, xxx-xx-xxxx
THOMAS M. DURGIN, xxx-xx-xxxx
WILLIAM E. ENGLISH, JR, xxx-xx-xxxx
PAUL F. EVEN, xxx-xx-xxxx
ELSIE M. FAYSON, xxx-xx-xxxx
KEVIN M. FOX, xxx-xx-xxxx
JAMES R. GEHRIS, JR, xxx-xx-xxxx
STEVEN M. HANSON, xxx-xx-xxxx
GARY L. HARDY, xxx-xx-xxxx
ROBERT L. HEAD, xxx-xx-xxxx
JAMES L. HUFFORD, xxx-xx-xxxx
ROBERT B. HUTCHINSON, xxx-xx-xxxx
KIM C. JOHNSON, xxx-xx-xxxx
KENNETH W. JONES, xxx-xx-xxxx
DAVID A. KADERBEK, JR, xxx-xx-xxxx
JIMMY W. LEWIS, xxx-xx-xxxx
DONALD H. MCCOLLUM, xxx-xx-xxxx
STEPHEN D. MUDERY, xxx-xx-xxxx
BENJAMIN C. PATTERSON, xxx-xx-xxxx
STANTON H. PATTY, JR, xxx-xx-xxxx
FRANKLIN O. PAYNE, xxx-xx-xxxx
VIRGINIA E. PEREZ, xxx-xx-xxxx
ANTHONY P. QUINTANA, xxx-xx-xxxx
JOHN G. RHODEN, xxx-xx-xxxx
DOUGLAS D. ROBERTS, JR, xxx-xx-xxxx
LYLE S. SCHMITZ, II, xxx-xx-xxxx
DANNY R. STRAND, xxx-xx-xxxx
RICHIE L. SULLIVAN, xxx-xx-xxxx
LONZELL TERRY, xxx-xx-xxxx
VICTOR E. TOMPKINS, xxx-xx-xxxx
ALVIN J. VANSTEENBERGEN, xxx-xx-xxxx
MICHAEL V. VILLALVA, xxx-xx-xxxx

IN THE NAVY

THE FOLLOWING NAMED COMMANDERS OF THE RESERVE OF THE U. S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF CAPTAIN IN THE LINE, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICERS

To be captain

DAVID DONALD ABELSON
DALE ALAN ACHENBACH
DOUGLAS WILLIAM AHRENS
JOHN WOODRUFF ALEXANDER
WILLIAM VAN METER ALFORD, JR
LARRY NORTON AMLING
HAROLD ROBERT ARMET
CRAIG STEVEN ARMSTRONG
WILLIAM RAY BACUS
MORRIS W. BADOUD
THOMAS BRANSFORD BALLOU, JR
MICHAEL JAMES BARRETT
FRANCIS BARTOSIK
WAYNE LESLIE BATES
ROBERT MICHAEL BAXTER
CHARLES LEON BEAUCHESNE
RONALD EUGENE BECKER
JAMES D. BERENS
GARY WALTER BETHKE
CHARLES HAMPTON BIGGER
MICHAEL EDWARD BISGROVE
ROBERT STEWART BLACKBURN
ALAN JOSEPH BLANCHARD
EDWARD LEE BOHANNON
JOHN MEREDITH BONDS
LINDSAY LEE BOWEN
ROBERT R. BOZZELLI
DON ALAN BRADSHAW
ROBERT ALAN BRENNAN
ARTHUR FRANKLIN BROWN, JR
LYNN EDWARD BROWN
RICHARD FRANCIS BROWN, JR
TERRY DYER BROWN
THOMAS WATSON BROWN
ROBERT LEWIS BRUNNER
MICHAEL GRAHAM BUNNEY
ROSS WALDRON BURGESS
JOHN JOSEPH BURKE, III
RICHARD MILES BURSON
DENNIS RAY BYERLY
DWIGHT BURNETT CALDWELL
CARROLL EUGENE CAMPBELL
BERNARD FRANCIS CARLSON
REGINALD E. CASSIBRY, III
JOHN JACOB CATANIA
STEPHEN DRAKE CAVINESS
CARTER STANLEY CHAPMAN, JR
EDWARD JOSEPH COFFEY
EDWARD RICHARD COOPER
DANNY DWAINE CRAIGE
JOSEPH CECIL CRAIN
STEPHEN NEAL CRANE
GEORGE WAYNE CRUMP
JAMES ANTHONY CUTROPIA
DONALD JOSEPH DARRAH
STEPHEN BRODERICK DAUNIS
SCOTT HARVEY DAVIS
RICHARD WALLACE DEMING, JR
TIMOTHY PAUL DEWHIRST
JOHN ANGELO DIGIUSEPPE
MERRILL COLLINS DONAHOO
JON W. DOWIE
JESSE CYRUS DRAIN, III
FREDERICK GEORGE DREXLER
JOHN ROBERT DUCK, JR
GEORGE DUSKIN
KEVIN RICHARD DWYER
JOSEPH P. EITING
JAMES LEE ELDER
JOHN WARREN ELGIN
PATRICK WILHELM ELLIOTT
PHILIP CLARENCE EMMONS
GLENN CLIFFORD ERNST
MICHAEL FRANK EVANS
DENIS MICHAEL FAHERTY
NILE KIM FALK
WILBOURN MAX FARLEY
RAINER FELLER
VICTOR JAMES FERRAR
KEVIN PATRICK FINAN
DOUGLAS ROSS FISCHER
CHARLES A. FITZGERALD, III
MICHAEL THOMAS FLAHERTY
WILLIAM HARRY FLEMING, III
GEORGE HENRY FOLEY, JR
PETER J. FOLEY
DOMINIC V. FORTUNATO
JEFFREY BRIAN FOWLER
BRUCE CANA FOX
RODNEY WAYNE FREED
JOHN ROBERT FULLER
EDWARD IVEY FUTCH
VIRGIL FITZHUGH GANT
WILLIAM JOSEPH GEARY
THOMAS EUGENE GIBSON
JOHN RALPH GIVENS
XENOPHON GEORGE GLAVAS
JOHN PHILLIP GOSHOW
MICHAEL ANDREW GOSS
PATRICK DALE GRAVITT
CRAIG ALBERT GRAY
GLEN BURTON GRAY
JON SEVERN GREGORY
JOSEPH S. GREMILLION, JR
RICHARD LEE HABLE
DAVID PARKIN HALL
JIMMIE JOE HAMILTON
MICHAEL ALLEN HARBIN
RAY WILSON HARVEY, JR
GERALD DONALD HASER
ROBERT KARL HATCH
JOHN CURTIS HAVERTY
RICHARD THOMAS HEATLEY
JEFFREY MICHAEL HELLRUNG
CARMIE LYN HENRY
ROBERT STEVEN HERBERT
BILLY LEE HEWITT
HAROLD STROUD HICKS, JR
SPENCER HERBERT HIPP
CARL I. HOLMES
DANIEL CARTER HOLSENBECK
JAMES DENBY HOOKER
GREGORY HORNEY
EARLYN PERRY HOWARD
RONALD JOHN HREBENAR
FRANK CUTLER HUGHES
ALEXANDER PAUL HUISH
ROBERT TODD HYDE, JR
CHARLES BRADWELL ISH
RICHARD DOUGLAS JACOBS
JASPER TRUETT JERNIGAN
ERNEST FRANK ARTHUR JOHNSON
JAMES BRUCE JOHNSON
WILLIAM F. JOHNSON, II
DAVID LEE JOHNSTON
JOHN WESLEY JOHNSTON
WILLIAM EDWARD JOHNSTON
MEADE ADDISON JONES, JR
SAMUEL ARTHUR JONES
STANLEY ALFRED JORGENSEN
JOHN FORREST JOSLIN
WILLIAM PATRICK JUNGE
RICHARD LEE KAHLE
RANDALL M. KAWAMURA
WILLIAM ROSS KELLER, JR
JOHN LYNDON KIDDER
CARL DAWSON KILHOFFER
PHILIP KING, III
DONALD LEROY KINGERY
BRADFORD ALBERT KIRLEY
DAVID JOSEPH KLASSEN
JOHN ALBERT KNEIPP, JR
DEAN LESLIE KNUTH
FREDDIE RUDOLPH KOENIG, JR
DONNELL KENNETH KOOS
ARTHUR KENNETH KOZMA
WILLIAM RAYMOND

KRANDA
PETER PARK KRECH
JOHN WESLEY LAINHART
RICHARD WARREN LAMBERT
RONNY DEAN LANKFORD
DAVID PETERSEN LASKEY
CARLTON EDMUND LEE
MICHAEL FRANCIS LETTIERI
RICHARD DAWSON LLOYD
LINCOLN CLARE LOEHR
NORMAN ARTHUR LOFGREN
WILLIAM JOHN LOGAN
MICHAEL THOMAS LOPS
PETER WALTON LOVE
WALTER ARNE LUNDE, JR
ROBERT A. LUNDSTROM
ROBERT THOMAS LUTTRELL, III
JOSEPH MICHAEL MACDONALD
ROBERT WILLIAM MACELUCH
MICHAEL LEE MACWILLIAMS
RICHARD JAMES MAHAN
SAMUEL ARTHUR MALENE
MICHAEL PAUL MANNING
NICHOLAS SOTIR MARKOFF
WESLEY GILBERT MARSH
JOHN JAY MARSHALL
RAYMOND LEE MARZULLO
ROSS WARREN MAST
KEVIN MICHAEL MCCARTHY
WILLIAM R. MCCLELLAND, JR
ROBERT EDWARD MCCORRY, JR
JAMES MICHAEL MCCOY
BERNARD EDWARD MCELDOWNEY
JAMES EDWARD MCGROARTY
STEWART LAIRD MCINTYRE
DAVID ALLEN MCPHERSON
WILLIAM FREDERICK MEHLMAN
WAYNE WILLIAM MERTZ
MICHAEL DONALD METCALF
TOMMY LEE METHENY
GEORGE ALLEN MICHELSON
KENNETH MATHEW MICHLITSCH
ROGER ARLING MILAM
JOHN STANDEFORD MILLER
SCOTT FULLERTON MILNER
PERRY ETHELBERT MILTON, III
THOMAS PAUL MONAHAN, JR
DONALD GEORGE MONTGOMERY
TERRY ALLEN MOORE
THOMAS EDWARD MORAN
WILLIAM EDWARD MULLINS, III
TERRANCE MICHAEL MURPHY
THEODORE ALVA MYERS, JR
MICHAEL KENNEDY NATTER
DOROTHY MAY NAZARENUS
ALAN SANDERS NEELY
CHARLES DUNCAN NESBITT
DAVID PAUL NEWELL
ROBERT JOSEPH NICHOLSON, JR
JIMMIE RAY NIX
JOHN THOMAS NUGENT
GORDON HENRY OCHENRIDER, III
DANIEL WALTER OCONNELL
GEORGE MAKOTO OKI
FRANCIS MICHAEL OLAUGHLIN
TIMOTHY JOSEPH OLAUGHLIN
WAYNE RICHARD OLSON
DOUGLAS LEE OPPENHEIMER
HENRY CARRINGTON ORR
CLAUDE EDWARD PAGE
BRUCE PARIZEK
WALTER JOSEPH PARKER
DAVID WILLIAM PARSONS
DONALD JAY PATTERSON, JR
AUGUST THOMAS PAVLOCK
KENNETH BRYCE PENNEY
RALPH EVERETT PENNY
MICHAEL DOUGLASS PETERSON
DENNIS MICHAEL PINKARD
RAYMOND FRANCIS PIONTEK
ALAN RALPH PITTMAN
KARL JAMES EDWARD POND
NATHAN F. S. PORTER, JR
ROBERT GERALD POWDERLY
WALTER WINFIELD PRICE, III
MICHAEL ABRAHAM RANFTLE
HARRY RECTOR, III
CARL ARNOLD REED
RICHARD EDWARD REEDER
MICHAEL GEORGE REYNIERSE
JAMES WILLIAM RHODES
JOHN MOAK RICE, III
BENJAMIN CLAPP RIGGS, JR
GEORGE JAMES RIPPEL
WILLIAM NUNNALLY ROBERTS
ROGER JOHN ROBINSON
WILLIAM LAMARR ROBINSON
CARLTON DANIEL ROCK
PAUL FRANCIS ROSS
RICHARD K. RUFF
HOWARD FRANCIS RUNDELL, JR
LARRY WAYNE RYAN
JAMES MICHAEL SALE
GEORGE KIMBALL SARGENT, III
ROBERT LOUIS SCHMITT
JEREMY SCHNEIDER
PETER KENDALL SEIBERT
PETER MICHAEL SETTLE
FRANK XAVIER SHANNON, III
MATTHEW FRANCIS SHEEHAN, JR
DANIEL ALAN SIGLER
JOHN RODGER SINCLAIR
JOHN NELSON SKRIEF
GARY WEBB SMITH
GREGORY FRANKLIN SMITH
RONALD GORDON SMITH
RAYMOND WILLIAM SONNENBERG
GARY ERNEST SPEES
GERALD R. STAATS, JR
RICHARD MARVIN STAFFORD
RUSSELL LEROY STAI
ROBERT MARCUS STALLMAN
CHARLES MILTON STATTON, JR
DAVID W. STEPHENS
DAVID GORDON STILLINGS
FRANCIS MICHAEL STOCKREITER
DENNIS NELS STRAND
THOMAS WILLIAM STRAUGH
DAVID PARKS SUTTON
PETER WILLIAM SYMASKO
JOHN FREDERICK TAUSCHER, III
MICHAEL DAVID TEMPLE
THOMAS WAYNE THACHER
ROLAND C. THATCHER, III
MARILYN MASON THOMAS
LAWRENCE STEPHEN THOMSON
DAVID NEWELL TODD
THOMAS VINCENT TROTTER
JAMES D. TROWER
THOMAS RICHARD TUCKER, JR
THOMAS JONATHAN TURNER, III
GEORGE J. VELLELLA
MICHAEL JOHN VELTE
JAMES RAYMOND VENETTE
THOMAS JAMES VERRENGIA
ROBERT WAYNE VINING
NEIL STEPHEN WALSH
RICHARD EARL WALTERS
ANTHONY WAYNE
GARY NICHOLS WEAVER
CHAUNCEY FRANK WEBB
PETER BERNHARDT WEED
JOHN ALFRED WEEKES
ALFRED J. WEINSCHENK, JR
WAYNE LEONARD WESEMAN
ROBERT ALSBURY WHITEHURST
STEVEN KIRK WHITNEY
PAUL JOHN WILHELM
JOHN FREDERICK WILKINSON, JR
BRUCE LUXTON WILLIAMS
JOHN ALLEN WILLIAMS
JAMES STEPHEN WILSON
JAMES THOMAS WILSON
LAWRENCE EDWARDS WODA
GREGORY LAURENCE WOOD
ROBERT GRAHAM WOODFORD
ERIC GEORGE WYLIE
RICHARD MORRIS YEATES
JOHN MICHAEL ZEB, JR
SAMUEL REDDING ZIEGLER, JR
THOMAS GARY ZIELINSKI

UNRESTRICTED LINE OFFICERS (TAR)

To be captain

RONALD PAUL BORATEN
DAVID BRUCE BRADSHAW
THOMAS LEE BUSH
GEORGE WAYNE CONNER
FORREST EMERSON CURRAN
RICHARD ARTHUR ERWIN
BENNY VICTOR GARLINGTON
DONALD STEWART HARBISON
DAVID L. HARTSOUGH
JOHN P. HAZELRIG
CRAIG EDDIE HOWERTER
MICHAEL GEORGE KELLARD
JOHN MICHAEL KING
ANDREW JOSEPH KISELA, JR
JOHN S. KISTLER
KEITH R. LAFLAIR
ERIC LEONARD LEKBERG
RICHARD LAWRENCE LYMAN
STEVEN C. MAIFERT
HENRY JOSEPH NYLAND, III
THOMAS E. PLICHTA
JAMES JOSEPH QUINN
MICHAEL PAUL RISHEL
STEPHEN A. SPOTTSWOOD
ROBERT JOHN THOMAS, JR
SHIRLEY JEAN THOMAS
RICHARD BEATY WARNER

ENGINEERING DUTY OFFICERS

To be captain

DENNLY RICHARD BECKER
ROBERT WILLIAM BECKWITH
BRUCE ALAN CAMPBELL
THOMAS LLOYD DAHL
LEONARD ANTHONY DILORENZO
THOMAS CHARLES ELSASSER
WILLIAM HARLEY FRANKENFIELD
ROBERT TERRY NEWELL
DAVID ALAN STEIN
DAVID ALAN STOCK
GREG A. GILLILAND
JOHN JAMES GRIFFIN
KENT WILLIAMS HAMLIN
FRANCIS DANIEL KACZMARCZYK
MICHAEL ROY KOZIEWICZ
RANDALL JAMES MCEWEN
ROBERT LOUIS MERRING
JOSEPH ANDREW MIHALCIK
ROBERT HUGO NELSON
BARRY CRAIG STREETS
JOHN HUDSON TURNEY

AERONAUTICAL ENGINEERING DUTY OFFICERS (AERONAUTICAL ENGINEERING)

To be captain

PAUL LEONARD FONTAINE
THOMAS WYNNE GEORGE
JAMES NICHOLAS KRAFT
DENNIS MICHAEL LOSH
ANDREW JACKSON MILLER, JR
THOMAS PRESTON MILLER
KENNETH VAUGHN SPENSER

AERONAUTICAL ENGINEERING DUTY OFFICERS (AVIATION MAINTENANCE)

To be captain

CHARLES ANTHONY BENNETT, JR
MARK MICHAEL HAZARA
STEPHEN PAUL JOCA
MICHAEL DOUGLAS MORGAN
DAVID LOWELL OSBORNE
ROBERT EDWARD TREVETT

SPECIAL DUTY OFFICERS (MERCHANT MARINE)

To be captain

ROBERT E. DELL
GERARD HASSELBACH
WILLIAM MCCLAIN SWEATT, JR

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be captain

LYNN PIERRE CARLTON
JOHN WILLIAM HEINRICH, JR
JOHN ROBERT POIMIROO

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be captain

NORMAN JOHN AARON, JR
JAMES WYCLIFFE DELONG
PAUL DEWITT, JR
VANCE GEORGE DUNN
GEORGE MALCOLM FIELDING
JOHN JOSEPH FITZPATRICK
DOUGLAS RUSSELL HALE
JIMMIE RONALD HALE
THOMAS WALTER HUGHES
PAUL JOSEPH JORCZAK
TIMOTHY LESLIE KATHKA
GEORGE MARLOWE KISSINGER
CLEMENT CRAIG KOPSTAIN
EDWARD WILLIAM LOGAN
MARK WILLIAM MANLOVE
GUYTE PIERCE MCCORD, III
JAMES MICHAEL MCDONALD
RICHARD HENRY MILLER
CARY RICHARD PALMER
ROBERT BLAKE SATTERFORD, JR
JAMES JOSEPH SCHIADA
JOHN JOSEPH SCULLY
DELBERT EARL SMITH
GERRY DEE TURNER
JOSEPH DAVID WALSH
JAMES DAVID WHITE
JAMES SYDNEY WILLIAMS

SPECIAL DUTY OFFICERS (INTELLIGENCE) (TAR)

To be captain

EDWARD JOE WRIGHT

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be captain

JOHN FRANCIS CONNOLLY
EDWARD EELLS DARROW, JR
RITCHIE KENNETH EICH
DENNIS DOWE FISHER
JOHN ALEXIS GALLANT, JR
MICHAEL JOHN KASUN
JAMES ANTHONY NOONE
DALE GREGORY POTTS
JOHN CHARLES PREVES
LEWIS MONROE SMITH
PHILIP MEREDITH STRUB
MELVIN J. WOOD

PECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be captain

RODGER ALFRED LANGLAND
CHARLES JOEL MAUCK III
BYRON RICHARD MAXWELL

EXTENSIONS OF REMARKS

IT IS TIME FOR ALARM

HON. CONSTANCE A MORELLA
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mrs. MORELLA. Mr. Speaker, I am increasingly concerned by the explosion of anti-Semitism now taking place in the Soviet Union. In spite of protests which we in Congress and in the Bush administration have made to the Kremlin, many Jewish groups continue to document reliable reports of anti-Semitic demonstrations and violence. I find particularly disturbing those reports that indicate a growing anti-Semitism within Soviet intellectual circles.

I would like to bring to the attention of my colleagues two recent articles which discuss the increasing acceptance and justification of anti-Semitism in Soviet publications. The second article, "Soviet Monarcho-Nazis and the Specter of Antisemitism," was written by Vitalii Goldanskii, a member of the Council of People's Deputies and of the foreign relations committee of the Supreme Soviet. It appeared in the Washington Post National Weekly Edition (Feb. 26–Mar. 4, 1990).

The first article was sent to me by my constituent, Stephen Sella. Mr. Sella's extraordinary background makes him uniquely qualified to comment on the problem of anti-Semitism in Eastern Europe. Born in Poland, Mr. Sella escaped advancing Nazi troops in 1939, fleeing to the Soviet Union. He joined the Soviet Army in 1943 to fight against the Nazis, rising to the rank of captain by the end of the war. Transferring to the Polish Army in 1946, he faced growing anti-Semitism in his native country, and fled to Israel with his family in 1957. He went on to serve in the Israeli Armed Forces as a deputy armored brigade commander in both the Six-Day War and the Yom Kippur war. A true hero of the Jewish people, Mr. Sella correctly addresses the direness of the crisis in the Soviet Union not only in his article, but in the title: "It Is Time For Alarm."

Both articles, as well as Mr. Sella's bio, are reprinted below. I hope that this information proves useful to Members as we work together to fight the growth of anti-Semitism in the Soviet Union.

It Is Time For Alarm

(By Stephen Stella)

In the extremely fragile internal situation prevailing in the U.S.S.R. there are increasingly alarming signs of a rapidly growing, aggressively anti-Semitic movement among leading Russian intellectuals and nationalists.

Reading the Soviet press, one sees numerous articles and letters to the editor with the sharply anti-Semitic tone. The options being expressed, however, do not allow an outsider to gauge the depth of this extremism or whether it enjoys a wide sympathetic audience.

In a 1989 issue of the monthly *Nash Sovremiennik*, an official publication of the Union of Soviet Writers, an article appears by the world-famous mathematician Igor Shafarevich, which has become the manifesto of Russian Neo-Fascism. Shafarevich has for many years been a close friend of Alexander Solzhenitsin, and they shared the views presented in the article "Russophobia," a term devised and popularized by Solzhenitsin.

Shafarevich sees a "Small Nation," a euphemism for the Jewish people, completely alienated from Russia, acting "out of hostility to the country's spiritual principles" and waging war on the "Big Nation," i.e. the Russians. He argues that "the aim of the 'Small Nation' is the final destruction of religious and national foundations. The result will be a final catastrophe, after which probably nothing will remain of the Russian people."

Shafarevich's ideas have been embraced warmly by Russian nationalists of all kinds, including well-known writers. From this circle the theory is advanced that "some kind of Russophobic Satan is preventing things from getting better" in Russia. "Russophobia" has become the "enemy of the people" and the target of increasingly open, vitriolic anti-semitism.

This brand of nationalistic activity reached a new peak of intensity during the November 23–24, 1989 debates of the Board of the Writers Union of the Russian Republic, held in Leningrad. The wildest anti-Semitic remarks made by participants were received with applause and enthusiasm by the audience. On the other hand, isolated attempts to temper the trend did not enjoy any support from the audience. Here are some excerpts from the debate.

Anatoli Builov—"There are computers, and viruses penetrate them. Let's look closely. A virus was planted into our system, and it grew! The soil was fertile for it, and all went wrong . . . The Jews were named here, so let's talk about them! They are the only nation interested in sowing discord among us . . .

"On August 10th a new item appeared in *Pravda* reporting that a Zionist Committee has been organized. Look how quietly it was received! It is a terrible event . . . This virus was able to arouse masses of cosmopolitan people. Well, nobody was alarmed about this Zionist Committee. The editor of *Pravda* was removed, and I am confused. I don't know why they removed him. Maybe for publishing the tiny bit of information that we have Zionism here? Why are the Jews everywhere? I asked and was told: because they are smart. Well, O.K., I agree. They are smart. Then why did they bring us to a dead end? (General laughter and applause) Indeed, wherever we are, this problem always hangs in the air. Finally we have to solve it! Some people asked Gorbachev why he oppresses the Jews. He answered: "For God's sake, 20% of them are in the most important positions." Let's add three times more—those who have another name and are hiding under a cover of another nation."

Tatiana Glushkova—"The controversy in Moscow and also in Leningrad isn't at all between groups. Somebody calls it the controversy between Russians and Jews . . . This is a dispute with Zionism, the worst form of world fascism. . . . Everybody who appears like me risks his head. Like a Palestinian kid . . . (Applause) I will support Builov, not because he is a writer, but because he is a Russian, and Russians need support now a million times more than Jews . . ." (Stormy applause)

These were debates occurring among the national leadership of Russian writers. The daily press contains many examples of how these ideas have permeated other Soviet organizations, like the nationalistic and anti-Semitic "Pamyat."

In the February 4, 1990 issue of the weekly "Nyedyela" supplement to the government daily *Izvyestia* staff writer Boris Andreyev describes actions taken to help Russian refugees arriving in Moscow from Azerbaijan. "On Saturday a meeting of various social-patriotic movements took place in Ostankino (a Moscow suburb) under the slogan 'For the Rebirth of Russia.' They talked about the refugees from the Transcaucassas. Money was collected and addresses taken of those ready to share their 'Pamyat' displayed signs such as: 'Clean Russia from the Zionists.' 'Isn't it time to clean the motherland from the hydra?' The anti-Semitic slogans were dense in the air. Although deputies from the Soviet Parliament and candidates to the Supreme Soviet of the Russian Republic were present at the meeting, calling for reason and appealing to conscience, the activity of the 'Pamyat' activists just increased the tension in the atmosphere."

Andreyev concludes: "Where will this bad air lead us, if we by ourselves wouldn't put an end to it? Is it possible that there would be refugees from other regions? Is it possible, we wouldn't understand that firing up the hatred between nationalities leads to violence and blood? Would our children forgive us if we didn't stop this insanity? Would they be able to forget how their mothers escaped from their homes in fear?"

This is how the official newspaper of the Soviet Government views the situation in February 1990.

I have the strong feeling that history is repeating itself in the lukewarm reaction in the West to the grave danger and possible catastrophe for Soviet Jewry. It is not unlike the 1930s, when the Nazi speakers were dismissed as not worthy of attention. Today, we see the same sort of reaction, and the same lack of knowledge. What else should happen to open the eyes of the Jewish leaders and of the world's media to the grave danger?

It is time for world-wide alarm!

Biographical Sketch of Stephen S. Sella

I was born in Warsaw, Poland, in 1921, to a family of a furniture maker, Jacob Silberstein, a religious Jew, sympathetic to the Zionist movement.

We lived in a predominantly Polish, catholic neighborhood, where our family was isolated from neighbors, who refused to accept us as part of the community. My earliest

childhood memories include a bitter taste of religious and ethnic intolerance among the Polish population. There was broad support to the official Polish position of antisemitism and my earliest memories were tainted by injustices and humiliation at school and in the street for being a Jew. I frequently had to overcome the daily frustrations of being threatened and physically attacked only for being myself. In 1939 I escaped the Nazi troops and landed in a coal-mine in the Soviet Ukraine, where I worked as a miner for a year and half. Although being praised by the bosses as a model worker, I discovered soon, that despite the officially declared struggle against antisemitism the strong antisemitic feelings among the population was ever present. No real education to change attitudes was ever undertaken, and the severe punishments of jailing people found guilty publicly expressing antisemitic views, just fueled the hatred against Jews.

Lacking training and experience in my new profession as a miner, I was often given deliberately assignments by my foremen, that placed my life in jeopardy. Just by luck I was able to survive in an environment where death and work related injuries on work were a daily occurrence.

At the beginning of the Soviet-German war, I had to escape again the forthcoming Nazis. Early in 1943, I volunteered for the Soviet Army, and was sent to the Western Front to fight with a special commando unit until the end of the war. As a Soviet officer I was decorated several times for battle merits, and ended the war as a captain. During and immediately after the war I believed that the terrible experiences of the Russian and Jewish people at the hand of the Nazis would completely change the traditional hatred towards the Jews in the Soviet Union, but very soon I was disillusioned also in this belief.

After the war I married a Siberian born Soviet officer whom I met on the front. Her Russian colleagues—officers tried to convince her not to marry me because I was a Jew. None of my accomplishments were relevent in their eyes, just this fact. (After 44 years of a happy marriage we sometimes recalled that "friendly advise" she refused to accept.)

In September 1946, I transferred from the Soviet to the Polish Army. In order to avoid the unfriendly reception by my colleagues—officers and the general population I was supposed to live among, I had to change my Jewish surname Silberstein to a "pure" Polish name Sarnowski. Needless to say that throughout this time I had to hide my roots and identity as well as endure listening to extremely antisemitic remarks made in my presence by people by those who didn't know or guess the truth about my origins. Between 1950-1953 I learned about Stalin's antisemitic campaign in the Soviet Union, from a most reliable source, a Soviet KGB colonel, on assignment in Poland, who had befriended me and who, like myself had to hide his Jewish origins. He detailed the oppression, persecution and intimidation many Jewish heroes of the war were suddenly exposed to in the Soviet Union.

In 1955 I graduated as valedictorian from the Academy of the Polish General Staff (Gen. Jaruzelski was my classmate), and continued as a deputy armored regiment commander until the end of 1956. Due to the upheaval and turmoil accompanied by the change of the entire leadership of the army and of the country, I succeeded leaving Poland with my family in January 1957 for Israel. Between the period 1946-1956 I visited my parents-in-law in Siberia four times, and had the unique occasion to observe "real Soviet life", having been accepted as one of their own in a remote town, where never before had a stranger been exposed to the daily realities. It was during those visits that we became disillusioned with the Soviet system and decided to risk everything and leave for the West.

In Israel, where my parents and siblings had lived since 1946, I was accepted as an armored-corps specialist to the Army. I retired as a Lt. Colonel in 1965, however staying in the reserves. I had the opportunity to fight on the Golan Heights in 1967 and in 1973., as a deputy armored brigade commander.

Since 1970 I have been active with a private Israeli group helping Soviet Jews arriving in Israel to overcome absorption difficulties. I established a company that enabled about 80 Soviet immigrants to work in translation and publishing of technical documentation for American companies.

My son and his family live in Gaithersburg, MD, and were the reason for my settling in the Washington area.

I am currently writing a non-fiction book "Memoirs of a Soviet Officer in Poland", where I describe the process of Sovietization of Poland by the Soviets.

I have followed closely the current Soviet press as it is the most reliable source of information about what is happening inside the Soviet Union. My personal experiences and authentic knowledge of Soviet society had led me recently to a growing understanding and an unmistaken premonition of the hovering catastrophe facing Soviet Jewry, if the West doesn't intervene.

[From the Washington Post, Feb. 6-Mar. 4, 1990]

SOVIET MONARCHO-NAZIS AND THE SPECTER OF ANTISEMITISM

(By Vitalii I. Goldanskii)

(The following essay represents the sharpest public criticism to date by a senior Soviet official of the growing antisemitism in the Soviet Union. It was written by Vitalii Goldanskii, a prominent Soviet scientist and director of the Semenov Institute of Chemical Physics of the Soviet Academy of Sciences. Goldanskii is a member of the Council of People's Deputies and the foreign relations committee of the Supreme Soviet. He wrote this essay in English, with editing assistance from John P. Holdren, a professor of energy and resources at the University of California at Berkeley.)

Supporters of President Gorbachev's perestroika are increasingly alarmed by the possibility that this program of restructuring and reforms may collapse. Should this occur—and it cannot be ruled out even in the near future—it would be a disaster not only for the Soviet Union but also for all humankind.

Many of the difficulties being encountered by perestroika are well known outside the Soviet Union, as are some of the potential consequences if perestroika fails. But too little attention has been given, until now, to the special dangers posed by the growing aggressiveness in the Soviet Union of extreme right-wing, virulently antisemitic groups that seek to subvert perestroika, to blame the country's past and present problems on the Jews, and (as some of their propaganda states explicitly) to "finish what Hitler started."

These extremists are flourishing in the climate of spite, envy, scapegoating and hatred associated with the increasingly severe difficulties in the Soviet economy and growing ethnic tensions. They are perhaps already the strongest, and certainly the fastest-growing, of the divisive forces pushing the country toward bloodshed and civil war.

The extremist groups go by a variety of innocuous-sounding names, of which the best-known outside the Soviet Union is the "National Patriotic Front Pamyat" (pamyat means "memory"). A number of them recently entered into a confederation under the title of "Bloc of Social-Patriotic Movements of Russia." I prefer to call them Russian monarcho-Nazis (or monarchofascists), to reflect their combination of deep reverence for the autocratic czarist Russian empire and ferocious hatred of Jews.

Incredibly, the Russian monarcho-Nazis openly and widely condemn the Jews as the main culprits in all of the troubles of Russia from the October Revolution of 1917 up until the present—including genocide against the Russian people with the millions of Russian deaths in civil war, collectivization and purges; destruction of tens of thousands of Russian churches and historical monuments; and spiritual poisoning of the people through the introduction of decadent and corrupt Western culture alien to Russian tradition. They even accuse the Jews of ritual murders and a worldwide conspiracy against humankind, making reference to the disgraceful hoax, "The Protocols of the Elders of Zion."

There is striking similarity, in fact, between the views, programs and intentions of the Russian monarcho-Nazis and the original Nazi platform as laid out in Hitler's "Mein Kampf" and other infamous documents of the German Nazi period. This similarity, and the resemblance of the general situation in the Soviet Union in 1988-90 to that in Germany in 1931-33, have been publicized by progressive Soviet mass media. The newspaper Soviet Circus, for example, has printed a point-by-point comparison of Pamyat's manifesto with the program of the Nazi Party of the 1930s. The main organization serving as a coordinator of the monarcho-Nazi forces is the Union of Writers of the Russian Federation. As outlets for their propaganda they have at their disposal such newspapers and journals as "Literaturnaya Rossiya" (Literary Russia), "Nash Sovremennik" (Our Contemporary), "Molodaya Gvardija" (Young Guards) and "Moscow." Movement leaders include many notorious writers, some scientists, some artists and others.

These Nazi-type speeches and publications are becoming routine features of everyday life in the Soviet Union. Their form and content were analyzed by Prof. Herman Andreyev from Mainz University in West Germany in a recent issue of the weekly magazine Ogonyok. He concluded that in Western European countries such statements would be treated as unconstitutional, the persons propagating them would be called to account and the organizations supporting them would be dissolved.

Yet the monarcho-Nazis seem to be meeting no serious opposition—indeed, more often sympathy and connivance—from important party and government leaders of the U.S.S.R. It is instructive, for example, that in the platform of the Soviet Communist Party on ethnic problems published in August 1989, not a single word was said about the antisemitic campaign against so-called cosmpolites (1949), the shooting of leading Jewish writers and artists (1952), or the disgraceful "Doctor's plot" (1953), while many other Stalin-era crimes against vari-

ous nationalities of the Soviet people were scrupulously mentioned. Similarly, an appeal by more than 200 people's deputies of the U.S.S.R. to the Presidium of the First Session of the Congress of People's Deputies in June 1989, expressing concern about the "growing wave of antisemitic activities, including open calls for violence that could lead to irretrievable consequences," went unanswered. That was the fate of a letter written to President Mikhail Gorbachev on this subject by 10 distinguished scientists and writers in September 1989.

The explanation of such passivity on the part of the authorities seems quite simple. In addition to the evident sympathy of many authorities on different levels to the views of the monarcho-Nazis, others who do not sympathize hesitate to act because of the way the growing aggressiveness of the monarcho-Nazis is linked to the bloody ethnic conflicts and intensifying separatist movements in nearly all of the outlying districts of the Soviet Union.

Specifically, this situation offers the monarcho-Nazis considerable opportunities for blackmail and intimidation of Gorbachev and his closest advisers, through the claim that, in conditions of the "decline of empire," the Russian heartland and her "genuine sons" constitute the only reliable basis for the preservation of Gorbachev's power. Such arguments are being used to push Gorbachev toward the right and to divide him from his true supporters on the left—the liberal intelligentsia. The result could be a repetition of the circumstances that produced the downfall of Nikita Khrushchev in 1964.

In parallel with their attempts to intimidate Gorbachev, the monarcho-Nazis have been openly attacking his foreign policy. They even have accused Gorbachev of being an agent in the service of the CIA and the Israeli intelligence service, the Mossad. With this two-pronged strategy of intimidation and direct attack, the Russian monarcho-Nazis hope to attain either a decisive influence over Gorbachev's policies or his removal and replacement at the seat of power by supporters of their movement.

What would that mean for Soviet Jews? The answer is all too clear from the similarity of the monarcho-Nazis' program to that of Hitler. The Russian monarcho-Nazis already possess their equivalent to Hitler's SA and SS, in the form of the Pamyat movement. This movement does not disguise its intentions to carry out pogroms against the Jews, to whom it refers using the insulting word *"zhidy"* (yids). In fact, members of Pamyat have been organizing well-attended meetings all over the country to call for pogroms—even in Moscow's Red Square on Nov. 12, 1989—and no one has stood in their way.

Hitler treated as Jews those who have more than one-quarter Jewish blood. Pamyat goes further. It has announced its intention to search for Jewish progenitors back to the 10th generation. New recruits to Pamyat are required to prove their "racial purity" and to provide to the organization the home addresses of five Jews—no doubt for the purposes of the pogroms to come. Opponents of the monarcho-Nazi movement who happened to be "racially pure" or "Aryan" are characterized, along with all liberal intelligentsia, as "masons" (or *"zhido-masons,"* i.e., supporters of Jews); and these are also the targets of pogrom propaganda.

The brazenness of monarcho-Nazi threats against Soviet Jewry has been increasing. In addition to antisemitic rallies and the desecration of Jewish cemeteries around the country, which have been going on for some time, it now seems that meetings of liberal intellectuals are no longer safe from disruption by Pamyat thugs. On the evening of Jan. 18 of this year, for example, a meeting of the progressive "April" group of writers at the Central House of Writers in Moscow was invaded by dozens of Pamyat monarcho-Nazis with megaphones. They roughed up some of the writers, forcibly ejected others from the hall, shouted antisemitic slogans and announced that their next visit would be with automatic weapons. They also designated St. George's Day, at the beginning of May, for a pogrom. The police were called but took their time in arriving, and there were no arrests.

Further increases in antisemitic activities (especially, of course, actual violence) surely will lead to a mass exodus of Jews, people of partly Jewish extraction and "racially pure" liberal intelligentsia. This new wave of emigrants—refugees from monarcho-Nazi power—could reach several millions and would represent a serious brain drain from the U.S.S.R.

As for the possibility of another Holocaust, it certainly could not reach the scale of earlier Nazi crimes: The world has changed too drastically in the last half century for that. But a wave of pogroms more or less along the lines of the infamous *"Kristallnacht"* cannot be ruled out—weaker if a government like the present one tries to oppose them, stronger if a successor government of the monarcho-Nazi stripe sympathizes with the pogrom lust.

What should be done? As a start, the world public should be informed of the activities and intentions of the new followers of Hitler in the Soviet Union and should be told their names. The famous "Brown Book" published by anti-fascists in 1933 was the first important step in the exposure of the Nazi crimes of that era.

The stakes are high. If the monarcho-Nazis prevail and perestroika collapses in an orgy of chauvinism and racism, the results are likely to include not only a rapidly growing degree of anarchy in the Soviet Union but even the outbreak of civil war. In a country still laden with tremendous stockpiles of nuclear and chemical weapons, as well as a widespread network of nuclear power plants, such a chain of events could quickly become not just a national but an international catastrophe.

H.R. 4312, A BILL WAIVING NAVIGATIONAL SERVITUDE OVER PORTIONS OF PELICAN ISLAND, TX

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. BROOKS. Mr. Speaker, today I am introducing legislation to waive the Federal Government's right of navigational servitude over portions of Pelican Island in Galveston, TX, in my district. This bill, which I am sponsoring at the request of the city of Galveston, is necessary to promote development on Pelican Island, bolster the city's property tax base, and remove the cloud hanging over the title to certain properties on the island.

Today, Pelican Island comprises some 3,900 acres in Galveston Bay. In the 1800's, however, Pelican Island and nearby Pelican Spit were two relatively small upland masses surrounded by large areas of marsh land called flats. In the early 1900's, the U.S. Corps of Engineers began using the flats as a deposit site for the spoil from its local dredging operations in Galveston Channel. As a result of this dumping and buildup by natural accretion, by the 1960's Pelican Island, Pelican Spit, and the surrounding flats formed one land mass. Ownership of the island today is shared by the Federal Government, the city of Galveston, and dozens of other public and private property owners.

Over the past few years, the Corps of Engineers has been analyzing various options for a future spoil deposit site. In a preliminary report issued in 1988, the corps indicated that one likely option would involve acquiring the site by asserting the right of navigational servitude over properties on Pelican Island.

Derived from the commerce clause of the Constitution, navigational servitude permits the Federal Government to use, regulate, or compel the removal of obstructions in navigable waters—without providing compensation to affected property owners. The right may even be asserted over lands—such as portions of Pelican Island—that are now "fast lands" due to artificial fill, but were once the site of navigable waters.

Mr. Speaker, the prospect of the Federal Government asserting navigational servitude has created a number of problems for the city of Galveston and property owners on Pelican Island. A dark cloud now hangs over title to lands owned by the city and others. This cloud affects the value of Pelican Island properties for ad valorem tax purposes and hinders further development. Under current conditions, any owner of Pelican Island property subject to navigational servitude will think twice before investing a cent in improvements.

The legislation I am introducing today will address these problems. The bill waives the Federal Government's right of navigational servitude over all non-Federal properties on Pelican Island. It does not, however, waive important Federal environmental requirements, such as the Federal Water Pollution Control Act and the National Environmental Policy Act. The bill specifically states that these and other important statutes and regulations remain in place, where applicable.

Mr. Speaker, this legislation is not unique. On over 60 separate occasions, dating back to 1894, the Federal Government has waived its right to navigational servitude over certain waterways and lands. Moreover, the bill is a carefully balanced and prudent proposal to provide the certainty needed for beneficial development of Pelican Island while protecting important Federal interests. I am hopeful the House will give this proposal its prompt and overwhelming approval.

GREEK INDEPENDENCE CELEBRATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, on Sunday, March 25, the Greek people will be celebrating the 169th anniversary of Greek Independence. Inspired and encouraged by freedom-loving Americans such as Samuel Gardley Howe of Massachusetts, George Jarvis of Washington, and Jonathan Peckham Miller of Vermont, a small group of people—not formally organized but determined, struck out for their independence against the powerful Ottoman Empire. The Greek Revolution of 1821, and its success, resounded to the four corners of the world. These gallant freedom fighters derived strength from the slogan and song: "It is better to live 1 hour of freedom than 40 years of slavery and imprisonment."

The Primate of the Greek Orthodox Church of the Americas, Archbishop Iakovos, has designated March 25 as Greek Independence Day, to be celebrated in prayer and doxology. The Greek American community of southeast Florida, under the leadership of Dr. George Palatianos and Dr. Basil Yanakakis, has designated April 1, 1990, to celebrate this important event.

In light of the many changes the world has witnessed during the past few months, the many men and women who have worked so hard for true freedom in Romania, East Germany, Poland, Czechoslovakia, Nicaragua, we should also remember those who so many years ago did the same for Greece.

Mr. Speaker, it is an honor for me to congratulate the Greek Community of southeast Florida during this celebration of the spirit of freedom and justice that March 21, 1821, exemplifies.

MEMPHIS AREA NEIGHBORHOOD WATCH PRAISED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. SUNDQUIST. Mr. Speaker, all of us agree that winning the war against crime depends on the support and involvement of ordinary citizens. Perhaps no program or initiative has activated citizens as well as Neighborhood Watch.

In Memphis, TN, Attorney General Richard Thornburgh joined us in saluting those who have made Neighborhood Watch work in our communities for the last 6 years. I'd like to share with my colleagues an account of the awards breakfast and ask them to join me in saluting the award winners.

MEMPHIS AREA NEIGHBORHOOD WATCH, INC.

SIXTH ANNUAL NEIGHBORHOOD WATCH AWARDS BREAKFAST—MARCH 10, 1990

The Sixth Annual Neighborhood Watch Awards Breakfast sponsored by Memphis Area Neighborhood Watch, Inc. was held Saturday, March 10, 1990 at 8:30 a.m. in the Cotillion Ballroom of the Memphis Marriott. Approximately 500 persons attended the event.

Co-sponsor of the 1990 event was Big Star Supermarkets. The Kiwanis Club of Memphis and the East Memphis Kiwanis Club underwrote the awards. Christine Glenn of the Public Defender's Office was master of ceremonies. R. H. Pender, president of the Board of Directors of Memphis Area Neighborhood Watch, welcomed the group. Fred Leatherwood, interim executive director of Free The Children, gave the invocation.

Guest speaker for the occasion was the Honorable Richard Thornburgh, Attorney General of the United States, who was introduced to the group by Congressman Don Sundquist, representative for the Seventh Congressional District of Tennessee.

Seated at the head table along with Attorney General Thornburgh, Congressman Sundquist, Mrs. Glenn, Mr. Pender, Mr. Leatherwood, were Mrs. Thornburgh; Memphis Police Department Director James E. Ivy; Maida Pearson, member of the Board of Directors of Memphis Area Neighborhood Watch, Inc. and Republican National Committeewoman representing Tennessee; the Honorable William N. Morris, Mayor of Shelby County, Tennessee; U.S. District Attorney General Hickman Ewing; Linda Demos, Director of Consumer Affairs for Big Star Supermarkets; Shelby County Sheriff Jack Owens; and Vida J. Andersen, Executive Director of Memphis Area Neighborhood Watch, Inc.

Attorney General Thornburgh opened his speech with the following statement: "Today we give special recognition to those individuals and organizations who took that one extra step, that one determined step, forward, sometimes the toughest one to take to help stop crime before it occurs."

After Mr. Thornburgh's speech, the following persons presented tokens of appreciation to Mr. Thornburgh and Mrs. Thornburgh for their visit to Memphis and for his presentation: Mrs. Maida Pearson, member of the Board of Directors of Memphis Area Neighborhood Watch, Inc., and the Republic National Committeewoman from Tennessee, presented a plaque to Mr. Thornburgh expressing the appreciation of Memphis Area Neighborhood Watch, and she presented a box of chocolate-covered strawberries, a Memphis specialty, to Mrs. Thornburgh. Memphis City Council Chairman Jimmy Moore gave Mr. Thornburgh a certificate making him an honorary member of the Memphis City Council. Shelby County Mayor Bill Morris made Mr. Thornburgh an honorary citizen of Shelby County, Tennessee by acclamation of the persons present at the Breakfast.

Michael Sheahan, President of Kiwanis Charities, and George Barber, III, Treasurer of the East Memphis Kiwanis Club, presented plaques to the following winners:

Neighborhood Watch Leader of the Year (co-winners): Rachel Shannon and Otharee Perry.

Best Neighborhood Watch Patrol: Shankman Hill Watch Patrol.

Outstanding Neighborhood Watch Group: Glenview Community Action Association.

Outstanding NEW Neighborhood Watch Group: Raineshaven Civic Club Neighborhood Watch.

Outstanding Law Enforcement/Crime Prevention Officer (co-winners): Memphis Police Officer Troy Berry and Reserve Sheriff's Deputy Lt. Robert Ladley.

Innovative Project in Support of Crime Prevention: State Farm Agents of Memphis and Shelby County.

Outstanding Organization Supporting Crime Prevention: Greater Memphis Area Automobile Dealers Association and Honorable Mention, Hyde Park Coalition.

Also congratulating the winners—in addition to Mr. Sheahan and Mr. Barber—were Attorney General Thornburgh; Shelby County, Tennessee Mayor Bill Morris, who gave the Shelby County key chains to the winners; and Linda Demos of Big Star Supermarkets who gave gift certificates for shopping at Big Star to the individual winners.

More than thirty door prizes were distributed to persons whose ticket stubs were drawn.

TRIBUTE TO AN OUTSTANDING FEDERAL WORKER: TONY PEROTTI

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. SOLARZ. Mr. Speaker, I wish to pay tribute to Mr. Tony Perotti, manager of the Duffield Street Social Security office located in my district in Brooklyn, as Federal Worker of the Month.

In this day and age, we too often hear only of society's shortcomings and virtually nothing about its success stories. For this reason, it brings me great pleasure to be able to stand here before my colleagues and honor this remarkable human being. His uncommon professional ability and personal grace, shown to me, my staff, and constituents over and over again is unmatched by most public servants we come in contact with, making Tony most deserving of this honor.

In his dealings with my office, Tony has always acted in a most professional and courteous manner and has responded to questions and requests from my office efficiently and promptly. His broad knowledge of the Social Security System has made him invaluable in helping me to resolve countless, extremely complicated problems for many, many of my constituents who were unable to find help elsewhere.

Tony's enthusiasm in performing the job at hand, his gentle and considerate way of interacting with constituents, and his devotion to the highest standards of public service make him a credit to the Social Security Administration and, indeed, to the entire civil service industry in our country.

I am proud to honor him.

THE MAGNIFICENCE OF HAVEL

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. FASCELL. Mr. Speaker, we are entering what we all hope will be a magnificent new era in European history. The peaceful revolutions of 1989 began the quest for free and democratic regimes across the continent.

During the final days of the decade, the Czechoslovakian people unanimously elected

Vaclav Havel, a man who just 4 months ago was a dissident in jail, President of the first democratic government in Czechoslovakia since 1948. On February 21, Mr. Havel addressed a joint session of Congress. His eloquent words suggest that a positive future lies ahead for Europe and the United States. Mr. Havel, who voiced his expectations to a truly captivated audience suggested that, "We are living in very extraordinary times. The human face of the world is changing so rapidly that none of the familiar political speedometers are adequate * * * The totalitarian system in the Soviet Union and most of its satellites are breaking down, and our nations are looking for a way to democracy and independence."

He further noted the permanence and inevitability of the transition to democracy in Czechoslovakia and throughout the rest of the Eastern bloc, speculating that the changes would introduce a new, multipolar world accommodating the universal "family of man." Applause rang out as Havel said, "This I am firmly convinced is a historically irreversible process and, as a result, Europe will begin again to seek its own identity without being compelled to be a divided armory any longer * * * Europe will at last be able to stand guard over itself."

President Havel outlined a number of ways to accommodate the changes in the East into the world system. In addressing the key question, "How can the United States help?", Mr. Havel responded with the insightful plea: "Help the Soviets." More precisely, he said: "You can help us most of all if you help the Soviet Union on its irreversible but immensely complicated road to democracy * * * the more quickly, and the more peacefully the Soviet Union begins to move along the road to genuine political pluralism, respect for the rights of the nations to their own integrity and to a working—that is a market—economy, the better it will be not just for the Czechs and Slovaks but for the whole world * * * The millions you give to the East today will soon return to you in the form of billions in savings."

As we take the necessary steps to act responsibly and decisively to sustain the trends toward freedom across Eastern Europe and the Soviet Union, Congress should heed the insightful words of this new Czechoslovakian statesman.

MARITIME ADMINISTRATION SENDS WRONG SIGNAL

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Ms. PELOSI. Mr. Speaker, I was very disappointed to learn that the Maritime Administration has conditionally approved the sale of the SS *Monterey* to a foreign corporation. The SS *Monterey* is one of only three operational U.S.-flag passenger vessels. Once this vessel is gone, it is gone forever and with it the jobs, tax dollars, tourist dollars, shipyard work, and other economic benefits generated by this vital sealift asset.

More importantly, MarAd which is charged with promoting and developing the U.S.-flag industry is sending a dangerous and erroneous signal as to the future of the U.S.-flag industry. Their actions say that MarAd does not believe the private sector can successfully operate vessels under the U.S. flag and they are throwing in the towel. This capitulation will only benefit foreign interests and sends a deadly message to banks and other financial institutions that will destroy any chance for worthy U.S. corporations to receive financing for U.S.-flag maritime investments.

I urge my colleagues to join me in insisting that MarAd reject the application to sell to foreign interests the SS *Monterey* as inconsistent with U.S. shipping laws and detrimental to the national defense, foreign policy, and commerce of our country.

TRIBUTE TO THE LATE THOMAS EDWIN BASKIN

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. DARDEN. Mr. Speaker, Marietta, GA, lost one of its leading citizens with the recent death of Mr. Thomas Edwin Baskin. Mr. Baskin, who passed away at the age of 95, was a respected businessman who devoted much of his time and talents to worthy causes and community activities. He was the last surviving charter member of the Marietta Kiwanis Club. Mr. Baskin was also a devoted member of the Marietta First United Methodist Church, my home church. His family and many friends will miss him, but we can say with certainty that we are better people for knowing him.

RETIRED EXECUTIVE BASKIN DIES AT 95

Retired executive and Cobb community activist Thomas Edwin Baskin of Marietta died Friday at the age of 95.

Funeral services will be 11 a.m. Monday at the chapel of the Mayes Ward-Dobbins Funeral Home in Marietta.

The Rev. Charles Sineath and the Rev. Gordon Thompson will officiate. Interment will be at the Mountain View Cemetery in Marietta.

Baskin was a native of Temple in Carroll County. The son of Dr. Charles Lee and Martha Louise Connell Baskin, he attended Temple Grade School and Locust Grove Institute.

From 1910 to 1914, Baskin studied accounting by correspondence courses from LaSalle Extension University in Chicago.

Baskin retired in 1975 as secretary and executive vice president of Marietta Federal Savings and Loan, where he had been employed since 1954.

Prior to joining the Marietta institution, Baskin worked for A.J. Baskin Company in Carrollton, Railway U.S. Mail in Chattanooga, Tenn., W.A. Florence in Marietta, Berkeley Granite Company in Atlanta and the Georgia Highway Department in Atlanta.

He also was an employee of the Brumby Chair Company in Marietta and was the executive director of Marietta Housing Authority from 1943 until 1954.

Baskin joined Marietta First United Methodist Church in 1922 and was elected to the Board of Stewards in 1926. He served on the board until he was appointed honorary steward in 1977. He served two years as chairman of the board and two years as finance chairman.

Baskin was a co-organizer of the Marietta Young Men's Christian Association. He served two years as president, five years as treasurer and 25 years as director. He also was a co-organizer and life member of the Cobb Tuberculosis Association in which he served as director for 20 years and president for two years.

He was a charter member of the Marietta Kiwanis Club in which he served five years as director and one year each as vice president and president.

Baskin was a life member of Kiwanis International and the American Legion Post in Marietta where he served 21 years as director and treasurer.

A commissioner of the Marietta Housing Authority for six years, Baskin served one year as vice chairman. He served as president of the Georgia Housing Authority and for two years as director of Cobb Chamber of Commerce.

Baskin is survived by one daughter, Betty Baskin Rambo of Marietta; two sons, Ed Baskin of Marietta and Todd Baskin of Monroe, La.; six grandchildren, and seven great-grandchildren.

Contributions may be made to First United Methodist Church, 56 Whitlock Ave., Marietta 30064 or Georgia Lung Association, 1383 Spring St., Atlanta.

VOICE OF DEMOCRACY BROADCAST SCRIPT

HON. JIM OLIN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. OLIN. Mr. Speaker, each year the Veterans of Foreign Wars conducts the Voice of Democracy broadcast scriptwriting contest. The theme for this year was "Why I Am Proud of America"; the winner for Virginia was a constituent of mine, David E. Haynes.

David is a senior at Harrisonburg High School. He is an Eagle Scout candidate, is listed in Who's Who Among American High School Students and has served as a student ambassador to the U.S.S.R. He also is a member of the National Honor Society and has been active in forensics and debate.

I know how proud David's parents are of him because David's mother, Margaret E. Haynes, is my field representative in Harrisonburg. I join David's parents, his school, and his community in expressing my congratulations to him for being Virginia's winner in the VFW's Voice of Democracy scriptwriting contest.

Mr. Speaker, I have included the text of David's script below:

WHY I AM PROUD OF AMERICA

(By David Haynes)

When I was on the streets of Moscow buying flowers from an elderly woman and she asked me in her best broken English if I was American, and when I said yes, her face broke into a smile, I was proud of my country. She said, "We're trying to make changes here you know. Many of us want government more like yours." I said, "That's wonderful, and I wish you all the best of luck in the world."

As I returned to my hotel with my flowers, I thought about what it meant to be an American. After all, I was a part of the country that is the envy of all the world. Even in Moscow. But is that really why I'm proud of America. No, true pride for me comes from knowing that the United States is the leader of democracy, political freedom, and human rights around the world. No cause could be more noble than to fight to ensure that democracy be developed and sustained in foreign lands; no cause could be more noble than to encourage and endorse human equality and rights for all people.

To me, this is much more important than the wealth of our nation. For these values of liberty and political freedom are ones that stand the test of time, and I believe they should be at the forefront of global politics today. How proud I am that the United States is the country leading that fight. Whether it is donating aid to Eastern European countries to assist in their governmental reform or if it is condemning apartheid in South Africa, America is the leader of democratic policy throughout the world.

I am proud of my country because of the leadership role we have played in my lifetime. I am proud that we value democracy enough to have our own citizens fight for it. I am proud we assist in providing aid to developing countries and show them the path to a true government of, for, and by the people. It is also encouraging and exciting for me to know that America has led the way toward peace in the 1980's and no doubt will pilot the ship that charts the course to peaceful harmony throughout the world in the 1990's. George Bush will continue negotiations with Mikhail Gorbachev working towards the noble goal of nuclear disarmament, and Americans will continue to spread the message of the United States to other people in other lands as I was privileged able to do in the Soviet Union, and we, the people of America, will continue to lead the fight for peace and democracy to the death, for no values are more virtuous to us than those.

But I am not only proud of America for its present actions, but also for our past. We have a wonderful heritage to take pride in. From the origins of our country over 200 years ago when yesteryear's leaders declared that all men were created equal and set the guidelines for democractic ideals for years to come.

Those works have stood the test of time as has our country. And from recent events in Eastern Europe and elsewhere around the world we have every indication that our country and the ideals America stands for will lead the way in years to come.

This is evident in the faces of the Soviets and evident in the rest of the world. That alone gives me great pride in my country. To know that America is looked upon with honor and admiration from all others, to know our strength we draw from our history and our heritage. but the knowledge of our country's worth is not all, but to be a part of this nation, to be a part of this movement is something more, something for which I am very grateful. To be a proud American and be able to share our ideals anywhere around the world, even with that wonderful flower merchant in Moscow.

COMMENDATION OF NEW MEXICO NATIONAL GUARD'S EFFORTS IN THE WAR ON DRUGS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. RICHARDSON. Mr. Speaker, while so much is being said about the war on drugs, not enough is being said about the people who are doing the fighting.

Experts estimate that drug passage across our international border from Mexico into New Mexico has increased sevenfold to tenfold in the past 4 years alone. Nationally in 1988, 5,655 metric tons of marijuana were seized coming into the United States from Mexico. The State Department estimates that seizures in 1989 totaled 47,590 metric tons.

In an effort to end this increasing flow of drugs, the New Mexico National Guard has created the drug interdiction support program. Under this program, the New Mexico National Guard assists other law enforcement agencies in surveillance of high drug traffic areas, aircraft monitoring by radar, and drug seizure. About 25 successful missions have already been executed since the program began last February.

Mr. Speaker, I strongly commend the efforts of the New Mexico National Guard to help stop the flow of drugs into this country. I would like to share with my colleagues a recent article from the Albuquerque, NM, Tribune which details the important role the New Mexico National Guard plays in the war on drugs.

NEW MEXICO LEADS REGION IN MILITARY TACTIC

(By Danielle Cass)

New Mexico is responding to escalating in-state drug trafficking with a new drug interdiction program that combines the forces of the National Guard with local, state and federal law enforcement agencies.

While the program was described by drug czar William Bennett as "exemplary" and makes New Mexico stand out as a leader among other Southwest states bordering Mexico, not everyone is pleased with it.

"I find it extremely scary that we have soldiers, weekend ones or any sort, spying on us," said Reher Boult, co-legal director of the New Mexico American Civil Liberties Union.

A 19-year-old mechanic from Santa Fe, who, on weekends, has participated in the Guard's drug interdiction missions, said he believes the nation's drug war needs to be fought with military measures.

"I volunteered for the program because I've always had a really strong anti-drug feeling and I like crawling around on the ground being a real soldier," said the guardsman, whose anonymity was requested by his superior officers.

Drug passage across the international border into New Mexico has increased sevenfold to tenfold in the last four years, said Peter Lupsha, a University of New Mexico political science professor whose specialty areas are narcotics and crime.

Nationally in 1988, 5,655 metric tons of marijuana were seized coming from Mexico. In 1989, that figure rose to 47,590, the U.S. State Department said.

In response, the New Mexico National Guard created the Drug Interdiction Support Program.

Through the program, law enforcement agencies like the Drug Enforcement Administration, Bureau of Land Management, Bureau of Indian Affairs, U.S. Border Patrol and U.S. Customs inform the National Guard of suspected drug production and trafficking and the Guard helps them seize drugs.

A six-day program at Kirtland Air Force Base this month trained 30 National Guardsmen in surveillance, weapons, rope descent from helicopters and first aid.

About 25 successful missions have already been executed since the program began last February, said Maj. Barry Stout, counternarcotics coordinator for the New Mexico National Guard. The missions included guardsmen and at least one law enforcement officer who were:

Strapped into doorless helicopters using binoculars to search for marijuana plantations and methamphetamine laboratories;

Camouflaged and hiding in canyons across from marijuana plantations to observe with binoculars and night vision goggles and record the activities;

Camouflaged and hiding in bushes to observe with night vision goggles and with listening devices in areas where there have been reports of airplanes flying without lights and below Federal Aviation Authority radar;

Sitting on high peaks near the Mexican border to watch for mule train crossing, people with packs on their backs or people crossing over to hide things in culverts;

Helping U.S. Customs radar operators monitor aircraft flying over Mexico, just across the border; and

Hauling away marijuana for destruction after it was used for evidence in court.

In the first year of the program, last year, the Guard helped find, seize and destroy drugs valued at more than $100 million, Stout said. He said several 21-day missions have been planned through September.

Guardsmen receive brief, specialized training before each mission, said Lt. Col. Max Johnson, National Guard counternarcotics liaison to the 5th Army.

The program uses seven UH1 Vietnam-era helicopters and numerous transport vehicles but will get more modern helicopters with air-surveillance and night-vision capabilities as the program expands, said Maj. General Edward Baca, adjutant general of the New Mexico National Guard.

"A program like this is very important for New Mexico because legally the National Guard can do many things that federal troops cannot, so there is a greater flexibility of action," said Lupsha, who lectured to trainees last week.

The New Mexico ACLU is worried about the growing domestic role of military troops.

"No country can be a democracy if it involves its military in civilian law enforcement," Boult said.

Boult says he feels the program is a symptom of the larger problem of how the military will justify its existence now that the "Red Menace," and Cold War are subsiding.

The Drug Interdiction Program was born in 1989 when the Defense Appropriation Act gave the National Guard $40 million to get involved in the drug war, Baca said.

For fiscal year '89, the federal government gave the New Mexico National Guard $367,000 for the program, said Guard spokesman Tom Koch.

In fiscal '90, the Guard received $582,500 and expects to see more before the end of the year, Koch said.

"New Mexico first emerged as a leader when Governor Carruthers appointed Secretary Robert Kimball as the coordinator for drug interdiction, making him the one central point of contact," Baca said.

Kimball, cabinet secretary for the Department of Public Safety, perceived a need of a tight network in the Southwest border states and brought together the military support counterparts and drug patrol authorities from Arizona, California and Texas last month to outline New Mexico's program and encourage them to implement similar programs.

The program follows on the heels of a year in which drug seizures reached a record high in amount and volume, said Doug Mosier, a public affairs officer with the U.S. Border Patrol in El Paso.

In fiscal year 1989, drug seizures were up 285 percent from 1988 in the sector that includes New Mexico and part of West Texas, Mosier said.

In 1989, there were 1,645 drug seizures, estimated to be worth $225 million.

From Oct. 1 to March 1 of the current fiscal year, there have been 620 drug seizures in this area, estimated to be worth $60.2 million, he said.

The figures are determined by the Drug Enforcement Agency and are based on the current street value of the drugs at time of seizure.

IRAQ AGAIN VIOLATES HUMAN RIGHTS—THE WHITE HOUSE AGAIN IS SILENT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. LANTOS. Mr. Speaker, last week we were again treated to a display of the ruthless, vicious brutality of the Government of Iraq. An accredited British journalist in Iraq, Farzad Bazoft, heard reports of an explosion near the Iraqi capital. Suspecting that it was a problem at one of Iraq's plants producing poison gas, which was used against Iran in the recent Iran-Iraq war and more recently against Iraq's own Kurdish population, or one of its missile plants in that area, Mr. Bazoft disguised himself and went to the area to investigate, despite the fact that the area was closed to journalists. He was caught, tried as a spy, and summarily hanged.

Great Britain condemned the vicious act of barbarism and gross violation of human rights, and a number of other countries joined in protesting this action. The White House and our State Department deplored the action, but had little else to say or do about this latest example of human rights abuse by Iraq.

Mr. Speaker, William Safire wrote an excellent essay on this issue which appeared in yesterday's issue of the New York Times. I ask that it be placed in the RECORD, and I urge my colleagues to give careful attention to his views.

[From the New York Times, Mar. 19, 1990]

A DANGEROUS THING

(By William Safire)

WASHINGTON.—Saddam Hussein, widely feared as "the Butcher of Baghdad," declared a school holiday last Saturday to swell the crowds ordered to demonstrate in front of the British Embassy.

The dictator took offense because Mrs. Thatcher's Government dared to protest—as "an act of barbarism deeply repugnant to all civilized people"—his handing of a reporter for The London Observer.

"Mrs. Thatcher wanted him alive; we gave her the body," crowed the Iraqi propaganda minister, after the remains were turned over to the British Embassy in Baghdad.

The accredited journalist, Farzad Bazoft, had heard reports of an explosion at a plant to the southwest of Iraq's capital. Reporters were denied permission to investigate; suspecting trouble at one of Iraq's poison-gas or missile plants in that area, the reporter disguised himself and went anyway. He was caught, tried as a spy, and promptly hanged.

Not all the people of the civilized world found the lynching repugnant: "moderate" King Hussein of Jordan, no relation to Saddam, deplored "a concerted attack on Iraq for a long period of time without any reason to justify it."

Arab apologists are busily trying to besmear the victim: Mr. Bazoft had a prison record in the early 20's, was stateless, confessed to spying under the always-gentle Iraqi interrogation, etc. The P.L.O.'s Salah Khalef broadcast support for Iraq's gleeful leader.

Saddam sent no demonstrators to the U.S. Embassy for good reason: the Bush Administration's reaction was of such studied indifference as to border on condoning the assasination.

President Bush refused to join in the worldwide appeals for clemency. After the hanging, the President's spokesman, Marlin Fitzwater, said only that "we regret those [appeals] went unheeded. But we don't have a lot of details on the case itself."

At the State Department, our rip-'n'-read spokesman, Margaret Tutwiler, read "We deplore Iraq's decision . . ." but when asked what our Government intended to do about it, went into her usual flustered state: "I did not think to ask . . ."

A couple of questions we should all ask:

What terrible secret was the journalist trying to uncover? President Bush knows, from the same satellite observation that showed poison-gas production at Libya's Rabta plant, that Saddam is producing poison gas at 10 different locations. Some of that gas was used in the Iranian war, some in killing thousands of Iraqi Kurds. Three months ago, Iraq launched a three-stage, 48-ton rocket, demonstrating its missile capability. Was the damaged plant producing gas, rockets or nuclear weapons?

Why is Mr. Bush so eager to help the dictator of what has become the world's most dangerous nation/ When the Congress identified Iraq as a terrorist nation to be denied U.S. favor, Mr. Bush invoked an exception enabling him to ignore this ruling "in the national interest."

That's why Iraq still gets loan guarantees from us on grain purchases. The Atlanta branch of Italy's Bank of Lavoro scandalously slipped $3 billion in financing to Iraq, in a deal being laconically prosecuted by our Justice Department. Even after the scandal broke, and our Agriculture Secretary promised a Senate committee no new loan guarantees would be issued without notification, Secretary Yeutter supplied an additional $500 million guarantee.

When these fishy dealings were outlined in this space, with wonderment at Mr. Bush's needless exposure of U.S. taxpayers, the Iraqi press counselor in Washington, Abdul Rahman Jamil, wrote to my editor to insist our aid was used for grain, not missiles, explaining: "It is not uncommon to expect delays of payments in financial arrangements." That tipped off future repayment problems.

"Mr. Safire ought to be reminded," Mr. Jamil added, "that a little knowledge is dangerous, and he is using this knowledge dangerously."

A colleague cheerily passed this along with "Hope you weren't planning a holiday in Baghbad." (I did not take Mr. Jamil's reminder to be intimidation, noting it only as a misquotation of Alexander Pope's "A little *learning* is a dangerous thing.")

So now they're hanging foreign journalists in Iraq and nobody in the Bush Administration gives a damn. Mr. Bush ignores this state murder, allows the U.S. to become dependent on Arab oil while Saddam urges OPEC to raise prices, and keeps guaranteeing loans to the country that spends billions on mustard gas and missiles.

In what national interest? What hold does the Butcher of Baghdad have on the President of the United States?

VOICE OF DEMOCRACY WINNER

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. BILBRAY. Mr. Speaker, I rise today to congratulate Ms. Miranda J. Smith, a junior at Bonanza High School in Las Vegas, for being honored as this year's first place national winner in the 1990 Voice of Democracy Program.

Each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. This year more than 137,000 students participated in the contest competing for the 12 national scholarships.

The program is now in its 43d year, and requires high school student entrants to write and record a 3- to 5-minute script on an announced patriotic theme. "Why I am Proud of America" was this year's theme.

Miranda, the daughter of Mr. and Mrs. Charles Smith, was sponsored by VFW Post 1753 and its Ladies Auxiliary in Las Vegas, NV.

Mr. Speaker, I ask that Miranda's winning script be placed in the CONGRESSIONAL RECORD and urge my fellow colleagues to give it careful and thoughtful attention.

WHY I AM PROUD OF AMERICA

(By Miranda Judith Smith)

America, a glimpse into her past commences the pulse to quicken and the heart to throb with an intense loyalty. Hers is a fascinating history, rich with romance, violent with strife, and rife with intrigue. She is a nation comprised of dreams; dreams which have been preserved for over two hundred years—penned on fragile parchment and embedded upon the human soul.

She is a nation embodied by opportunities as boundless as the azure waters of the Atlantic Ocean, liberties, as numerous as the leaves upon a mighty oak, and people, as contrasting as the pink and violent hues of a summer sunset.

She is America, land of the free, home of the brave. She is blood, sweat, and tears; triumph, struggle, and defeat; man, womans and child. And I am proud of her, proud of her forefathers, whose resilience and determination shaped our Constitution. Proud of her citizens, both men and women, whose courage and strength unified our country. And proud of her leaders, whose prudence and hindsight better our country daily.

Much like the seedling, that with care and time grows into a mighty oak, America was a nation conceived in liberty. But this liberty, this freedom, endured only through the diligence and perseverance of our country's leaders. Men like Thomas Jefferson, John Adams, George Washington, and Abraham Lincoln. And women. Women like Betsy Ross, Susan B. Anthony, Harriet Tubman, and Elizabeth Cady Stanton. Men and women whose dreams and aspirations shaped our country's ideals and beliefs. Dreamers, perhaps, but what dreams these individuals possessed; life, liberty, the persuit of happiness. Freedom, equality, and choice. Their dreams have become our reality. Each day as I attend public school, voice my opinion, or engage in leisure activities each day, I experience what was once only a dream in the minds of a few brilliant men.

Our nation encompasses people of all races, creeds, and colors, viewpoints, goals, and beliefs. To some, our country would appear divided; when in actuality, our citizens share a common bond that penetrates skin color and transcends religious belief and political affiliation. This affinity overlooks our differences and focuses upon our similarities, much in the same manner the summer sky combines colors of every shade and hue. We, the people of the United States of America possess a dream, the American dream if you will. This aspiration is apparent in the actions of an inner-city school teacher, struggling to reach an impoverished pupil, it is visible in the salty tears of a Vietnam War veteran, whose horrific tales cannot overshadow his devotion to our country, and it radiates from the innocent blue eyes of a six-year old girl, who knows one day she will become a doctor, lawyer, or president of the United States.

It seems incomprehensible that people so diverse in nationality, background, and creed can share something as personal as the American dream, and yet, we do. We each desire the best for ourselves, for our children, and for our country, and together, we strive to achieve these goals. It is this desire, this passion, that unites us as one.

It is times such as these when I realize what America truly represents, both to myself and to others; dreams, opportunities, choices, people. That is why I am proud of the United States of America.

OIL IMPORT TAX

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. BROOKS. Mr. Speaker, I am submitting the following letter from Mr. Frank Pitts, a highly competent, farsighted, independent oil producer, who understood 5, 6, 10 years ago that we needed an import tax on oil and other incentives to maintain our energy production in the United States. He also was one of those independent Texas energy producers who recognized years ago that energy imports are a steadily increasing threat to the stability of American industry and our economy.

I commend his letter to you and suggest that it is a blueprint for resolving this problem.

PITTS OIL CO.,
Dallas, TX, February 28, 1990.

Hon. JACK BROOKS,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN BROOKS: Last February, I mailed members of Congress the enclosed chart which projects that our trade deficit, for oil imports alone, will climb to $112 billion annually by 1995 unless higher levels of U.S. oil and gas drilling are restored.

Voters are already calling for action. A study released this month by Cambridge Energy Research Associates of Boston, shows that two-thirds of the American public favor new U.S. oil and gas production tax incentives as the best means to slow imports. Every additional shipload of oil from overseas increases the danger of another environment-ravaging tanker spill.

Every other producing nation in the free world (to my knowledge) is providing strong tax relief and encouragement to their producers, except the United States! Current U.S. policies are driving American producers into the arms of foreign nations who welcome their investment and expertise at the expense of the American economy.

Imports are up a shocking 60 percent since 1985. New warnings of possible OPEC price increases abound. The study I commissioned in 1989 is still on track, and imports may exceed 50 percent this year, as indicated by the record-breaking January imports of 53.9 percent of U.S. demand.

The great economic power of this nation was created, and is maintained, by utilizing 37 percent of the world's energy output—and 70 percent of that use is oil and gas. A stable flow of oil and gas must continue to be available to Americans. Vast supplies of new natural gas, and a great deal of oil, can still be produced in this country with the simple expedient of incentives.

World oil and gas supplies are so delicately balanced that even a brief interruption of those foreign sources, for whatever reason, can seriously impair the U.S. economy and disrupt our physical security. U.S. production capacity must be brought into its full competitive potential so that we are prepared to fend off such possible blows.

I urge your active support of the several oil and gas incentive bills prepared by many of your congressional colleagues and the administration. Restoration of incentives can re-activate our nation's eager oil and gas industry, and help bring the unnecessary trade deficit into balance.

Cordially yours,

L. FRANK PITTS.

MISSION 1000

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, on March 26 of this year, 1,000 Miamians will participate on a mission to Israel. "Mission 1000," The Miami Mitzvah, organized by the Greater Miami Jewish Federation, and cosponsored by the Rabbinical Association of Greater Miami, is one of the most aspiring objectives ever envisioned by the Miami Jewish community.

Participants in this mission are certain to come away from the journey with a feeling for Israel which only a mission of this magnitude could instill. From the welcoming ceremony by Mayor Teddy Jollek to the gala farewell banquet, "Mission 1000" will feature one memorable event after another. Some of the other highlights will include a visit to Galilee with the Israeli Defense Forces, a tree planting ceremony in the Miami grove of the Galilee forest, a Shabbat solidarity march to the Western Wall, and a commemoration of the Holocaust at Yad Vashem.

Unlike other missions to Israel, individuals of all ages and professions will participate in "Mission 1000." Based on participants' requests, groups can be organized by profession, organizational affiliation, synagogue membership, special interests or friendships. There will be 25 buses, each with its own itinerary and special programming.

Miami "Mission 1000" was inspired to strengthen Miami's Jewish community, to show support for Israel, and to learn about the issues that are significant to the community. It is with great pleasure for me to congratulate the dedicated team of the mission: Kenneth Schwartz, Saby Behar, Jeffrey Dickstein, Bonnie Epstein, Rabbi Gary Glickstein, Alan Kluger, Joel Levy, Dr. Douglas Miller, Gail Meyers, David Parish, Helene Shear, and Joanne Solomon.

TELLING THE WHOLE TRUTH ABOUT NICARAGUA

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. SUNDQUIST. Mr. Speaker, as one who has visited Nicaragua and observed first hand what life under the Sandinistas meant for the people there, I was frequently surprised at the vastly different accounts by some others who spent time there. After reading an enlightening article by Frances Meeker of the Nashville Banner, I understand a little better how their view of Nicaragua could be so radically different from my own.

I'd like to share Ms. Meeker's remarks with my colleagues:

[From the Nashville Banner, Mar. 19, 1990]

GROUP WANTED TO CONTROL NEWS, NOT GET TRUTH OUT ON NICARAGUA

(By Frances Meeker)

I was excited to be accepted by Witness for Peace to go Nicaragua in its 112-member team of official observers for the much publicized Feb. 25 election.

The opportunity to be a part of such a historic event probably would come only once in my lifetime.

But I was not prepared for my rejection by the Witness for Peace team once they learned I am a fairly conservative secular journalist who wanted to see how Witness for Peace, one of the harshest critics of U.S. policy in Nicaragua, operates in the field.

I was not prepared for the acute disappointment in the defeat of Sandinista president Daniel Ortega expressed by most of the Witness for Peace team. I was not prepared for the excuses they gave for the reason the Nicaraguan people defeated Ortega at the polls in a free election where every voter was able to vote his or her conscience.

I was to be attached to the 16-member United Methodist delegation, since I am a United Methodist. There also were 16-member teams of Catholics, Episcopalians and Presbyterians as well as two interfaith teams.

I began receiving Witness for Peace material telling us our task would be to get the "truth" back to the United States about the election and about conditions in Nicaragua. I was ready to do that. However, I was not as keen on the organization's determination to change U.S. policy in that region.

We were told to be ready upon our return to contact our local news media and our congressman and to be ready to speak in churches in our area. Witness for Peace, which has had volunteers in Nicaragua since 1983, tries hard to influence public opinion and legislation in this country regarding Central America.

Apparently, my reputation preceded me. By the time the team arrived in Miami, Fla., for two days of orientation, there already was a move afoot to certify me exclusively as a journalist, thereby disqualifying me as an election observer privy to the group's "sharing" sessions, when they gave their feelings about the Nicaraguan situation.

But in Miami I was permitted to attend all the sessions, where the speakers mainly outlined what they called the "continuing violence" of the U.S. toward Central America for nearly a century. One speaker said Witness for Peace proposed "to form a shield of love to protect the people of Nicaragua from the violence of the U.S."

Another said the February election would give legitimacy to the Sandinista government and the U.S. would have to get out.

When we got to Managua, I continued to take notes at various interviews we had with a broad spectrum of people, including briefings by the Witness for Peace long-termers in Nicaragua.

These long-termers are a cadre of suntanned, highly-motivated young people who have a network of contacts throughout Nicaragua. My impression is that they try to convince Nicaraguans that U.S. citizens, especially the churches, don't support our government's policy in Nicaragua. They try to convince Americans that the Nicaraguans don't like the U.S.

I was not prepared for a statement made to our group by one of the long-termers.

"I am ashamed to admit that I am an American citizen," Witness for Peace long-termer Leslie Toser, a Presbyterian from Chicago, told us.

At that moment, the Rev. Wilson Boots, a United Methodist minister from White Plains, N.Y., interrupted the session.

"It offends me to see Frances Meeker taking notes in these sessions," Boots said.

Others immediately backed him up, saying they felt many of the things that were being said should not be publicized.

I reminded them of the main emphasis Witness for Peace had made—that we get the truth back to the people in the United States.

"I am trying to do that," I said.

For the next several days, meetings were held to try to determine what to do about me. Several told me that I had upset their "sense of community." Others said my presence caused them to have "a terrible situation on their hands."

Once I was almost abandoned in a rural town when the part of the delegation I was to accompany wanted to have a "sharing" session in the back of the truck they were to travel in to the next town. I was told to ride in another truck, which turned out to be going to a different town. I found out in time to catch a ride in the cab of the same truck with the Witness for Peace delegation.

We were stuck with each other for two weeks.

I believe that Witness for Peace wants to control the news coming out of Nicaragua. It didn't want a newspaper reporter along.

TRIBUTE TO OUTSTANDING FEDERAL WORKERS: JOANNE STADERMAN AND VINCENT VENTIMIGLIA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. SOLARZ. Mr. Speaker, I wish to pay tribute to Ms. Joanne Staderman and Mr. Vincent Ventimiglia, operations supervisors of the Avenue X Social Security office located in my district in Brooklyn, as Federal Workers of the Month.

In this day and age, we too often hear only of society's shortcomings, and virtually nothing about its success stories. For this reason, it brings me great pleasure to be able to stand here before my colleagues and honor these two remarkable human beings. Their uncommon professional ability and personal grace, shown to me, my staff, and constituents over and over again is unmatched by most public servants we come in contact with, making them most deserving of this honor.

In their dealings with my office, Joanne and Vincent have always acted in a most professional and courteous manner and have responded to questions and requests from my office efficiently and promptly. Their broad knowledge of the Social Security System has made them invaluable in helping me to resolve countless, extremely complicated problems for several of my constituents who were unable to find help elsewhere.

Their enthusiasm in performing the job at hand, their gentle and considerate way of interacting with constituents, and their devotion to the highest standards of public service make them credits to the Social Security Administration and, indeed, to the entire civil service industry in our country.

I am proud to honor them.

PUBLIC HOSPITALS AND SCHOOLS ALIEN COMPENSATION ACT OF 1990

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. FASCELL. Mr. Speaker, I have today introduced legislation to authorize funds for public school systems and for public hospitals severely impacted by aliens.

In those parts of the United States impacted by refugees, asylum applicant, and other alien entrants, the situation in our schools and hospitals continues to be critical.

Even if substantial flows of new entrants can be avoided, a hope but by no means a certainty, the staggering numbers of people already here have generated heavy costs and service requirements which must be met.

The first obligation of any government is to defend the borders, but our government has not been able to fully meet this obligation. That, in itself, is a grievous fault. By turning its back on the localities most seriously harmed by this failure adds insult to injury. The Federal Government can disregard, and has ignored, this problem despite repeated, urgent and bipartisan appeals for assistance. Impacted communities do not have this luxury. Children must be taught and the ailing must be treated, regardless of the cost or the circumstances. It is a burden our communities may neither shirk nor wish away, even though they bear no responsibility whatever for the problem.

Nor is it an insignificant burden. In my own Dade County the cost for Nicaraguans alone has been estimated in excess of $100 million. County authorities project the need for $40 million this year for health and education costs for undocumented, status pending, and other entrants. This does not count the long-term capital construction costs of over $140 million for new school space. Similar desperate situations prevail in other parts of the country with the same problem.

Aside from the unconscionable financial burden this places on the working men and women of these communities, they are forced to accept deteriorating educational and health care services from overcrowded and impoverished facilities. They see their children packed ever more tightly into classrooms and are forced to wait in ever longer lines for basic health services.

As we continue to promote freedom in Central America and as we move to bind up the wounds in Nicaragua, it would be tragic to neglect the ravages wrought in our cities by a decade of war and instability in those lands.

MR. AGING

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Ms. PELOSI. Mr. Speaker, I rise today to commend Jack McKay, "Mr. Aging" of San Francisco, on his retirement from Support Services for Elders, Inc.

Jack McKay was instrumental in planning Support Services for Elders, Inc., which provides unique protective services to seniors to enable them to extend their years of independent living. He has served as its executive director since its inception in 1982, and in that time has provided guidance to numerous groups around the country in starting similar services.

Between 1956 and 1980, Jack McKay served in several executive positions with the San Francisco Council of Churches initiating some 16 new and innovative programs such as the first Meals on Wheels service, senior drop-in centers, telephone reassurance programs, friendly visitor programs, and many more.

Jack has taught at universities and colleges in the bay area and provided leadership in developing geriatric mental health programs in San Francisco.

Although he is retiring from Support Services for Elders, he will remain actively involved with the Geriatric Coordinating Committee, the Stonestown "Y," Coalition of Agencies Servicing the Elderly [CASE], and other organizations involved with our older generation.

Because of Jack McKay's wise counsel to all involved with the elderly, it is clear why Jack McKay is considered "Mr. Aging" of San Francisco.

PEACE DIVIDEND

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. DARDEN. Mr. Speaker, our former colleague Elliott Levitas is widely recognized for his expertise in international policy and his knowledge of NATO. He recently wrote a special editorial for the Atlanta Journal/Constitution regarding the "peace dividend." He offers valuable insight on this issue, and I ask that this article be included in the RECORD.

[From the Atlanta Journal/Constitution Mar. 3, 1990]

PEACE DIVIDEND: PAYOFF FROM OUR INVESTMENT

(By Elliott Levitas)

(Mr. Levitas, a former Georgia congressman, was a member of the U.S. delegation to the North Atlantic Assembly (NATO's parliamentary arm) and Interparliamentary Union.)

The "peace dividend" is the financial, political and spirtual payoff flowing from the historic changes taking place primarily in Eastern Europe and the Soviet Union.

All dividends—including the peace dividend—are a result of investment. Little attention has been given to the peace investment that made it possible. That investment had four particularly significant components:

NATO's intermediate-range nuclear forces (INF) decision and steadfast adherence to it.

In 1978, under the leadership of President Jimmy Carter and West Germany, the alliance made the two-track decision to deploy modern intermediate-range nuclear missiles if Geneva negotiations did not result in the removal of the Soviet Union's SS-20 missiles.

President Ronald Reagan fully embraced the Carter/NATO plan. Mr. Reagan's proposal for the "zero" option of no INF missiles in Europe was laid on the table in Geneva, but the INF talks languished.

The Soviet Union mounted "peace offensives" in every NATO country to oppose INF deployment and to split the alliance's solidarity. As the INF deployment date neared, massive "peace" demonstrations, civil disobedience, political challenges, and missile referendums consumed Western Europe. The battle raged on the streets, in the parliaments and at the ballot box. Our allies remained resolute; the decision was supported and the Soviet "peace" offensive was defeated.

As the deployment began, the Soviets walked out of the Geneva talks, vowing never to return. Of course, they did return and negotiated INF withdrawal from Europe. The zero option and NATO prevailed. This failure to split NATO started the East bloc's slide down the slippery slope.

The defeat of nuclear freeze efforts and unilateral disarmament.

During the late 70s and early 80s, a widespread and mostly well-meaning "grassroots" movement emerged in Western Europe and North America. Its objective was to impose a freeze or substantial unilateral reduction of nuclear weapons in NATO and stop the modernization of the Western nuclear deterrent arsenal outside of the Geneva INF and strategic arms (START) negotiations.

The understandable fear of a nuclear holocaust brought wide public support to the unclear freeze movements. Their success would have given the Soviet Union a significant victory with reductions in NATO forces but without the necessity of negotiating the reduction of its own larger nuclear arsenals.

As democracies do, these issues were publicly debated, but in the end the U.S. Congress and other Western parliaments, defeated the nuclear freeze efforts. The Soviets had to rely on negotiations to reduce the nuclear weaponry on both-sides. More importantly, the Soviets realized the resoluteness and unity of the Western democracies.

The maintenance of a strong and credible military; the importance of sanctions in response to flagrant Soviet misbehavior; and the strength of a strong Western economy.

The buildup of U.S. and NATO military capability during the late 70s and early '80s let the Soviet Union know it had no "free ride." The Soviet's already-weak economy was required to devote resources to military needs—which they could not afford. Our economic sanctions in response to martial law in Poland or the invasion of Afghanistan posed serious problems to the Soviet economy. Their need for U.S. agriculture and technology became more apparent.

Our economic strength created worldwide problems for the Soviet Union. Growing internal pressure by Soviet consumers, who were learning more about a better life in the West, caused the Soviet leaders to realize the need to redirect resources from guns to butter and to realize the necessity of reforming their economic and political system to avoid losing altogether the support of their Soviet people.

Our adherence to our basic democratic principle and holding up this example as model for the world.

More important than our military or economic prowess is the American ideal of freedom, respect for the dignity and rights of individuals and a democratic system in which the people can determine their own destiny. Whatever our difficulties may be, the world saw, through our free press, that America is a nation that recognizes and deals with its problems of civil rights, economic disparities, religious diversity and political differences.

Our ideals and our system provided the hope that burned in the hearts of people around the world. It provided the model and blueprint for a better life. Our greatest weapon in the victory we have won over totalitarian communism, was, in the end, our principles.

Our strength lay, ultimately, not so much in the principle of our power, but rather in the power of our principles.

We should not forget the peace investments we have made that are now paying off.

WINDS OF CHANGE IN SOUTH AFRICA

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. GALLO. Mr. Speaker, when Republican leader ROBERT MICHEL asked me to be the Republican cochairman of an official congressional delegation to investigate current conditions in southern Africa, I was, frankly, skeptical about the prospects for a peaceful solution to the various conflicts that have been going on for quite a long time in South Africa.

The purpose of our trip was to assess the mood of the country and the progress being made in the talks about talks—the process of deciding who will sit at the negotiating table. We held 25 meetings in 4 days with government, community, business, and labor leaders and paid courtesy calls on Zambian President Kenneth Kaunda and Namibian President-elect Sam Njomo and members of his Cabinet.

Namibia becomes officially independent this month and the successful process of constitutional change, including free nonracial elections, is being watched closely by the parties to change in South Africa.

In South Africa, State President F.W. De Klerk took the first bold steps toward nonracial democracy in his February 2 speech before Parliament and his words gave reason for optimism.

In that historic speech, President De Klerk declared an electorial mandate to place South Africa "on the road of drastic change. Underlying this is the growing realization by an increasing number of South Africans that only a negotiated understanding among the representative leaders of the entire population is able to ensure lasting peace."

President De Klerk's words leave little doubt that he is committed to change:

The well-being of all in this country is linked inextricably to the ability of the leaders to come to terms with one another. The aim is a totally new and just constitutional dispensation in which every inhabitant will enjoy equal rights, treatment, and opportunity in every sphere of endeavor—constitutional, social, and economic.

The release from prison of Nelson Mandela and other black leaders, and the legalization of the African National Congress have provided black leaders with the opportunity to organize a coalition that can sit across the bargaining table from the Government to chart a new, nonracial course for the country.

Some black leaders are understandably skeptical that President De Klerk can be successful, based on their past experiences of being jailed and detained for years because they talked publicly of the need for change. Yet, I sensed none of the bitterness among black leaders that could be expected as a result of their past treatment by earlier South African Governments.

Our congressional delegation was a diverse mixture of individuals, but we all came away with renewed hope that there is a window of opportunity for a successful transition, as long as the process keeps moving forward.

My colleague from Michigan, Mr. WOLPE, who had been in South Africa just 6 weeks before he traveled with us said he was struck by the rapid change in attitude both by the Government and by the leaders of the ANC. He was hopeful that this new attitude was a permanent one.

This was my first trip to Africa and I sensed the great potential for leadership on all sides of the negotiations. In addition to Nelson Mandela and Walter Sisulu, who have been ANC leaders since the 1960's, a new generation of young black leaders, is emerging within the organization who have the political skills and ability to meet the challenges of governing with a nonracial democracy.

I was interested to see, for example, that one of these young leaders, Thabo Mbeki, responded to most of our questions during our meeting with ANC leaders in Lusaka, Zambia, one of the homes of the ANC in exile and its base of operations until the eventual move back to South Africa.

Within the white minority government, President De Klerk is considered to be a member of the new generation of leadership among the whites.

Recent polls released while we were there showed that the people are following the example set by the leadership. Although De Klerk's National Party had lost support on its right, it had gained support among more liberal white organizations and has held a firm level of support in the polls since the elections last fall that brought the De Klerk government to power.

The greatest sign of progress is the development of a common vocabulary among the black and white leaders who share a number of goals. There is common ground.

There is a recognition among whites and blacks that a non-racial democracy can be achieved, based on a new constitution with a bill of rights that provides a blueprint for transition by providing reassurances that, as Nelson Mandela told us, the new South Africa will not be a white tyranny or a black tyranny.

The road to a nonracial democracy is not without pitfalls, however, and progress down this particular road is not yet irreversible, but everyone understands that South Africa cannot go back to the way it was before.

Recent violence in the Homelands regions is an indication that black coalition building will take time and must be allowed to run its course, although there will be unfortunate short-term consequences.

We met with Homeland leaders, including General Holomisa of Transkei, who feels that the Homeland structure is one of the most devastating elements of the apartheid system. Holomisa views the Homelands as a sort of prison, where they are locked up and left to wither away.

Many Homeland leaders now being removed from office by force were put there by the South African Government as part of the apartheid system and are out of step with the new realities.

But the danger of this violence is that overreaction by the Government or by small groups of militants on all sides could have disasterous consequences.

As we look to the future, there are indications that further movement is possible by the Government and the black leadership to bring negotiations closer to reality.

President De Klerk indicated to us that he was considering use of the budget process within the current Government structure as a further sign of good faith toward further progress.

Statements by the ANC leadership showed a willingness to soften some of their more controversial positions such as the need for armed struggle and the call for far-reaching nationalization of the economy. The open discussions about these and other important issues are part of the commitment by most leaders we met to approach the table without preconditions.

Because our trip was factfinding, we avoided getting into a lengthy debate about the issue of United States sanctions on South Africa, but it was clear that their effects were being felt.

Virtually every black leader with whom we met agreed that sanctions have contributed to progress so far, but that the pressure must continue until the movement to end apartheid is irreversible.

I met with white business leaders who openly discussed the poor atmosphere for investment capital, which has slowed the country's growth rate from 8 to 3 percent in recent years. They expressed a hope that negotiations could bring about a settlement soon so that foreign investors would have the confidence to return.

I was impressed that these white business leaders agreed that the current system of apartheid is untenable and that there is a need for the black majority to share power.

I supported the 1986 sanctions law out of frustration with the lack of progress toward a peaceful resolution to the conflicts in South Africa, but I still questioned whether we were actually hurting the people we were trying to help—the black majority who would depend on the jobs created by a healthy South African economy.

I come away from this 5-day trip convinced that sanctions have played a positive role in bringing the South African Government and representatives of the black majority groups to the negotiating table with a common goal—creation of a nonracial democracy in South Africa.

I was also pleased that the gentleman from California [Mr. DELLUMS], who is author of the sanctions law, has said that this trip convinced him to suspend his call for divestiture and further sanctions, recognizing the progress has been made.

The United States has consistently imposed sanctions on nations such as Nicaragua and Poland that have suppressed the freedoms of their peoples. And, when those conditions were irreversibly changed, we lifted sanctions.

Now we are encouraging private as well as public investment in Eastern Europe and Central America under a program that I believe will come to be known as aid for trade. Unlike classical aid programs, investment is a two-way street.

In order to be consistent and send a clear signal to all the world that we are committed to freedom and democracy, I believe that we should apply the same principles to the nations of southern Africa.

It was clear to us all that there is an understanding among virtually all of the leaders across the spectrum of political thought in South Africa that there is no turning back—change is inevitable.

When the inevitability of change becomes irreversible, we should apply the aid-for-trade principle on an even-handed basis.

A STRATEGY FOR THE DRUG WAR

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. GINGRICH. Mr. Speaker, in May of last year, President Bush outlined a comprehensive program to combat violent crime. After more than 9 months of inaction by the Democratic leadership of both Houses, Senator PHIL GRAMM and I decided to introduce legislation which incorporated many provisions of the President's proposal. The National Drug and Crime Emergency Act, S. 2245/H.R. 4079, already has over 50 cosponsors in the House of Representatives. I urge my colleagues to read the article, "A Strategy for the Drug War," which appeared in the Washington Times editorial page on March 13, 1990, and to cosponsor the National Drug and Crime Emergency Act to finally implement some of President Bush's crime proposals.

[From the Washington Times, March 13, 1990]

A STRATEGY FOR THE DRUG WAR

(By Newt Gingrich)

Even as Eastern Europe is taking dramatic steps toward democratic freedom, the United States, leader of the Free World, seems to be plummeting toward the inevitable slavery of drug addiction and violence.

Even "casual" drug users, who assume that they can smoke a few rocks of crack cocaine without long-term addiction or permament physical damage, are forcing our society deeper and deeper into drug dependence. Their demand is sustaining the illicit and violent trade in drugs which threatens our entire society.

When the Justice Department estimates that 83 percent of Americans will be victimized by violent crime during their lifetimes, when a violent crime affects one person every 20 seconds, as it did in 1988, then we can accurately claim that we are losing our personal freedom at an alarming rate.

The primary purpose of civil government is to preserve freedom by protecting us from all enemies, both foreign and domestic. Over the past 45 years, the U.S. government has done a good job at protecting us from foreign aggression, but it has failed in the attempt to provide personal safety. The nation is free, but too many of our people live in fear. Instead of building bomb shelters in our back yards, we put bars on our windows and burglar alarms in our homes. How can America win the war on drugs and violent crime? How can we stand up against tremendous odds to provide for our personal security?

Part of the answer can be learned from our success in defending national security. For 45 years, the West has succeeded in protecting its borders against the threat of communist expansionism. This great success is partly the result of our policy of containment, of forcing communist revolutionaries to remain within their own borders.

In civilized society, a sovereign state is the only entity which has the right to use its strength to protect the interests of its citizens. The United States and our allies asserted this right and, with a strong military presence, maintained peace for the longest period in this century. Today, democracy is strong and vibrant, while communism is crumbling. Not only have we contained the communist threat, but we have diminished that threat by standing firmly against it.

In domestic society, however, exactly the opposite is true. Every day, we see crimes that go unpunished. We see the state neglecting to use an appropriate level of force, its legitimate weapon against crime, to protect innocent people. We see the abject failure of government in its primary duty. I would suggest that the threat posed by drug dealers is just as menacing as Marxist-Leninist ideology. Drug dealers will rot our society from within through drug addiction, and they are willing to destroy anyone or anything that stands in their way.

The United States has a duty to resist this threat with its strength, but the government seems unwilling to act against violent criminals, even in defense of innocent citizens. In 1985, 19 states reported the early release of thousands of prisoners, nearly 19,000 in all, because the prisons were overcrowded. According to the U.S. Bureau of Justice Statistics, 63 percent of state inmates were rearrested for a serious crime within three years of their discharge from prison.

That means that 19,000 criminals were roaming around because they were too crowded in prison. By 1988, 11,970 of those same criminals were arrested for similar crimes. Each day for those three years, at least 11 innocent people were victimized by someone who should have been in prison but wasn't, because the state decided to let him go free. Clearly, our priorities are misguided.

Our government must reconsider using its strength in defense of our freedoms. We must propose solutions big enough to tear down the "Berlin Wall" of drug addiction which threatens to enslave our young people. We must resist the oppression of violent crime, which denies individuals the freedom of walking in their own neighborhoods at night. We must contain the drug dealers who wish to expand their empires into every school and every neighborhood through addiction enslavement.

Sen. Phil Gramm, Texas Republican, and I have proposed a decisive solution which will provide sufficient strength to combat the drug menace. Our bill, The National Drug and Crime Emergency Act, is guided by the same principles that energized and sustained the mobilization for World War II.

The bill declares a national emergency for a period of five years during which extraordinary, forceful measures will be used to win the war on drugs and violent crime. The bill mandates that violent criminals and drug felons serve their full prison sentences. If necessary, they will be housed in temporary facilities, not released into general society, free to commit further crimes.

Prisoners will be required to work to help pay their own way. They may have to live without air conditioning, cable TV, or other luxuries which law-abiding citizens correctly understand are privileges they can not always afford. The American Civil Liberties Union may call this unfair, but it's not nearly as unfair as asking taxpayers to provide luxury commodations for convicted felons.

In addition to tough measures against drug dealers, the anti-drug policy of the 1990s must emphasize user accountability and strict user penalties. Domestic demand is the lifeline of the drug trade. It provides the tremendous profits which make people willing to kill, and it buys the weapons which give them the power to kill. The principle of zero tolerance, therefore, must guide enforcement efforts in schools, in businesses, on the roads and on the seas.

Revoking drivers' licenses and pilot's licenses, confiscating cars, boats and planes and withholding unearned federal benefits will serve to deter "casual" drug use. The threat of expulsion from school or termination from a job should have the same effect. Of course, sanctions alone cannot eliminate the demand for drugs. Our bill calls for drug-treatment plans in every state. It also encourages programs for drug- and alcohol-abuse prevention in schools at every level.

Many people will claim that our efforts are too stern or lacking in compassion. Our compassion is reserved for the innocent. The United States clearly is facing an emergency of crisis proportions, an emergency which threatens each individual as well as the very fabric of our society. If America is strong enough to stand up to brutal dictatorships, then we should find the strength to stand up against the thugs who directly threaten the well being of our own children. We simply need to reconsider the tools at our disposal and use them in dramatic new ways. We should be at least as energetic as the East Europeans in exploring new solutions to these desperate problems.

The Gramm-Gingrich bill is a decisive, new approach. Its emphasis is on strength because that is the tool for winning wars. The war on drugs and violent crime is a fight for freedom, and each American has a responsibility to participate. It can be won only if we have the courage to use every weapon at our disposal.

TRIBUTE TO BILL W. THURMAN

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. BROOKS. Mr. Speaker, the Federal work force includes many exemplary and dedicated individuals who serve our Nation with distinction. All of us who regularly interact with members of the civil service are well aware that among them are a special few who rise even above these high levels of acheivement. Bill Thurman of the General Accounting Office was one of the special few.

Bill Thurman was Director of Planning and Reporting for GAO's National Security and International Affairs Division when he passed away unexpectedly in September 1989. During his almost 28-year career, he served the GAO and, by extension, the Congress of the United States with extraordinary skill and insight. He was responsible for seeing to it that GAO reports to this body on matters affecting the management of Department of Defense operations and the security of our Nation were accurate, timely communicated, informative, and of maximum usefulness. He fulfilled this responsibility with utmost care and earned great respect and admiration from those he worked with at GAO, the executive branch, and the Congress. His commitment to excellence and his devotion to duty will serve as a standard for GAO for a long time.

Above all, Bill believed in the service. He placed great value in the taxpayers' trust and carried out his role in our democracy with serious dedication and good humor. His respect for and commitment to the Congress he served were evident to everyone who knew him. I am sad that he is gone, but very proud that the State of Texas sent such a remarkable public servant to Washington.

In recognition of the affection in which he was held, and considering Bill's many contributions to the General Accounting Office, to the Congress, and to the Nation, I ask that this tribute be made a part of the record of the House of Representatives.

A TRIBUTE TO THE SOUTH FLORIDA SHOMRIM SOCIETY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, at a time when fighting crime in south Florida is of prime importance, I am pleased to pay tribute to the South Florida Shomrim Society, a fraternal organization of Jewish law enforcement personnel. The Shomrim Society are having their sixth annual dinner dance on March 24, 1990.

The Shomrim Society, a Jewish fraternal and charitable organization of law enforcement personnel, was organized in New York over 60 years ago. Shomrim, in the Hebrew language, means guardian, or watcher. The society was then organized to be a guardian

against discrimination of Jewish police officers.

The south Florida chapter was founded in 1984 from the roots of previously established Shomrim societies. According to Shomrim president, Robert Singer, a Metro-Dade homicide detective, Shomrim does much more than battle anti-Semitism these days. Shomrim is a group in the Jewish community bound together by the common vocation of law enforcement to help the community at large. As a minority organization they have a special sensitivity to minority concerns of discrimination and harassment. Also, Shomrim offers more tangible services to the community, such as sending members to condominiums to instruct elderly residents on safety, and by raising money and foodstuffs for needy families.

Among the south Florida society's 125 members, there are two police chiefs, several judges, prosecutors, probation officers, police officers, and rabbis, serving as police chaplains. Mr. Speaker, I am proud to have the Shomrim organization, with its concern for minorities and less fortunate, in my congressional district.

TRIBUTE TO CHARLOTTE GERSHENSON

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. SOLARZ. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to my good friend, Charlotte Gershenson, upon the completion of the National Historical Pictorial Map Contest, which she administered in my congressional district.

Happily married for over 30 years, Charlotte and her husband, Monroe, are the parents of two lovely children, Peter and Eve, and the grandparents of two little boys, Jason and Joshua. In addition, Charlotte is one of those exceptional human beings who devotes an enormous amount of time to volunteer work, and—luckily for me—much of that time is spent as a volunteer in my district office back in Brooklyn.

During the years that she's been volunteering her time, Charlotte has undertaken and excelled at many tasks. A retired employee of the Veterans' Administration, she is a caseworker with skills in line with those of my full-time, professional staff. And, although her specialty in veterans' affairs might very well make her want to stay with this type of casework, Charlotte never backs down from tackling any topic or problem confronting her, in areas ranging from Social Security matters to consumer complaints.

Aside from casework, my staff and I probably rely most on Charlotte for her willingness to undertake long-term projects and see them to fruition. One such project is the National Historical and Pictorial Map Contest.

Early last fall, Charlotte began to organize both public and parochial schools in my district, on the elementary and high school levels, for participation in the contest. Her diligent efforts resulted not only in the tremendous success of the contest but, more importantly, in the education of many, many local students on the philosophical and historical background of the Constitution and the Bill of Rights and on the responsibilities which accompany the rights of citizenship in a democracy. Anyone would agree, I'm sure, that these are no small accomplishments. Add to this the fact that Charlotte turned down a free trip to our Nation's Capital in order to save the contest sponsors additional expense, and you will have a small sense of just what type of person Charlotte is.

Over the years, Charlotte has become like a real member of my staff and, in fact, she has outlasted many of my salaried district employees. Her thoughtfulness and sensitivity are unmatched, and she always goes out of her way to see that office birthdays are celebrated.

In light of Charlotte's exceptional dedication and loyalty, I am proud to count her as a constituent and a friend. I look forward to continuing our association for many years to come.

KENDALL AWARENESS WEEK

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. FASCELL. Mr. Speaker, from April 1 to April 8, the Kendall neighborhood of Dade County, FL, will be celebrating Kendall Awareness Week.

This neighborhood, which has been my home for the last 35 years, has seen tremendous growth since 1985 and has evolved into a cohesive, defineable community with its own flag, song and newspaper. It has become the community of choice for young families and is equally attractive to singles and senior citizens. Its schools and other community institutions are among the best in the county.

While Kendall has a predominantly suburban ambiance, it also encompasses rural areas with horse farms and u-pick-fields, and is on the edge of the everglades—one of our national treasures.

The residents of Kendall have taken an active role in the political life of Dade County, with numerous homeowner associations and the umbrella organization, the Kendall Federation of Homeowner Associations, to represent them on issues of concern at the local, State and Federal levels of government. Their influence is important and it is felt. They have had a significant impact on the kind of community Kendall has become.

It is a pleasure to bring to the attention of our colleagues this unique and very special community and to congratulate it during this upcoming week of festivities and observance.

Therefore, Mr. Speaker, I want to advise everyone that April 1–8 should be known as Kendall Awareness Week.

All citizens in the 19th Congressional District of Florida, which I am honored to represent, are requested to join in celebrating and commemorating this joyous event in Kendall, a great place to live. And, if any of our colleagues are in Florida, they are especially invited to join in the festivities, as are all folks who care to participate.

A WEEK IN THE LIFE OF A HILL DWELLER

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. McEWEN. Mr. Speaker, I would like to bring the attention of my colleagues to an article in the March 8 Roll Call by Duncan Spencer. The article is one more glaring example of the inability of the District of Columbia government to function.

A WEEK IN THE LIFE OF A HILL DWELLER

(By Duncan Spencer)

Leading the silent, sedentary, solitary—and often melancholy—life of a Capitol Hill writer makes one perhaps ovesensitive to the wild tumult of this city.

But last week was so extraordinary that I feel compelled, as was Samuel Pepys of London at the time of the great fire, to record it somehow.

For it was extraordinary.

MONDAY

Wife's car broken into again. Hmmm. Why do they want a brown, '83 Olds station wagon?

This time, they stole battery, distributor, wires, air cleaner. Police at substation don't even bother to investigate or take prints. They give out a report number over the phone "for insurance." Of course, we don't dare mention this to our insurance agent.

Downtown. Lunch with the Comite Jefferson/Lafayette; this tiny American French amity group plans to strike a handsome medal to celebrate the bicentennial of the L'Enfant Plan of the city for 1993 • • • sounds like this diamond-shaped medal, with L'Enfant's profile on one side, the grand city plan on the other will be the souvenir everyone will want; the French, headed by Pastor H. Stein-Schneider, a man of beautiful manners, wants a statue of L'Enfant erected here.

After lobster souffle; two wines; amiable wit of the host, DC Records administrator Phil Ogilive (who paid for the catered lunch); a seat next to gorgeous former aide to Sen. Bob Dole (R-Kan), Anne Quinn, now head of the National Aquarium, I think, "This is what makes city life a joy."

Was chased out of the adjacent uptown alley by savage dogs which somehow manage never to cut their feet on the broken glass.

TUESDAY

Down to Superior Court, the heart of the city's criminal justice system, a bizarre place.

If you want to see drug dealers in the flesh, this is it. Leather coats, coal black sunglasses, brillant shoes glitter on escalators and hallways.

I go to the Criminal Division to get a printout on the two men accused of killing Daniel Hotz last August. But when's the trial? Confusion reigns in the computer-ordered records.

The two men, 19 and 18, have not even been arraigned, one clerk says. This can't be true. I'm invited to leaf through 200 pages of indictment sheets. Drug mayhem reflected in almost every case.

Eventually discover they're in DC Jail and due for a court appearance March 15. While there, I learn a crazy fact: When dope dealers want to announce that the market's

open, they toss a pair of sneakers into overhead wires in the block. I've often wondered why those shoes were up there.

Tunnicliff's Tavern. 7th Street and North Carolina Avenue, SE, holds Mardi Gras: din of Cajun music, piles of plastic crawfish. Waiter Lee (Surf Boy) Bettis, former aide to Rep. Les Aspin (D-Wis) is dressed in harem pants, vest, beads.

Realtor Don Dention, gloomily sipping a "Hurricane," predicts Eastern Market will be sold for a condo development if renovation isn't done soon. Someone stuffs a crawfish in his breast pocket. A gorilla climbs onto the bar.

WEDNESDAY

The Washington Times runs a big front page story plus double truck inside on "Minister" Louis Farrakhan. The orator and leader of the Nation of Islam (and demagogue, race baiter, and Jew hater) is given the "total respect" treatment.

I figure the Moonies have flipped—this is one "exclusive" that will be theirs alone.

Go to a Hill community Eastern Market meeting called by a rump protest group. People demand to know, for about the 1,000th time, what's going to happen to Eastern Market in the city's $3.3 million renovation plan.

Many resent this "done deal" plan, want no change to the old market. Chad Glasgow, one of the merchants, asks who's going to pay if the city's planned dry goods grocery store in the north end of the market fails.

Says market renovation committee chairman Karen Walker, "That's a good question, Chad."

Whenever "Mayor" Marion Barry's name comes up (he's pushing the market rehab), there are snickers. The city's representative says, "We are marching to the Mayor's orders." Laughter, glances.

THURSDAY

The Washington Post, one day late, runs a big front-page story plus double truck inside on "Minister" Louis Farrakan. Treatment: "total respect." I figure Len Downie is off his gourd.

In the mail I get the city's notice of tax assessment: DC says my 1888 row house is worth 24 percent more than last year, when it was worth 20 percent more than the year before, etc., etc.

House, which cost me $57,000 in 1970, now assessed at $411,000. No garage, needless to say. No sauna, no deck, no pool.

Let's see: The house has increased in phony value 820 percent, the tax bill is now higher than the mortgage payments, the roof leaks, the walls seep.

I long, not for the first time, for one of those sleazy raw brick garden apartments in PG County.

DC city services have actually declined the same period, except for parking enforcement.

Post carries story about plans for a $20 million health facility to benefit city employees. Health studio, 100 bedrooms, four racquetball courts, two saunas; "wellness needs" is the explanation.

FRIDAY

Car's been fixed. Bill is $555. Cheerful John Distad at Distad's Amoco says that the thieves effectively destroyed the most valuable parts they stole by clipping wires. "But they sure knew what they wanted." I buy a car burglar alarm which is sure to go off and cause great neighbor-hate.

Post runs story about the city's Retirement Board, the head of which has been what's charmingly called here "loading her plate" by charging more than $90,000 for the past two years on the part-time job.

Buried in the story like a landmine is the fact that the future pensions for many of the 48,000 employees now on the payroll have been forgotten somehow, that no money has been set aside for them, that close to $5 billion will have to be squeezed and gouged out of the city tax base if this army of employees is to retire with financial ease.

FEDERAL FUNDS FOR TOLL ROADS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. WOLF. Mr. Speaker, I am introducing legislation today that would allow Federal funds to be used in the construction of new toll highways. Current Federal law prohibits the use of the Federal funds to build toll roads.

As Secretary of Transportation Skinner's National Transportation Policy documented, our Nation's transportation system is in need of dramatic improvements. Highway capacity must be expanded. Crumbling roads need to be rebuilt.

And new highways need to be constructed.

In the Washington metropolitan area, to make one example, we desperately need an outer bypass highway. An outer bypass would divert as much as 33 percent of northbound and southbound I-95 traffic that must now travel through the Washington metropolitan area.

In real terms, an outer bypass means that thousands of cars and trucks traveling north and south on I-95—most of which would perfer to avoid the congestion of the metropolitan area completely—would be able to do so by using the bypass.

In the metropolitan area traffic congestion on the Capital Beltway, the Wilson Bridge, the American Legion Bridge and other area highways could be dramatically decreased. Commuters would be able to get to and from work more quickly and have more time to spend with family and friends or productively at work.

Safety on area roads would also increase as thousands of dangerous trucks would use the bypass instead of coming through the metropolitan region where commuters in passenger vehicles are trying to get to work.

To Washington commuters, this description sounds like a dream. And, with local, State and Federal transportation resources limited, I fear the bypass, expected to cost $3 billion, may not get off the drawing board for many years.

The problem is the same in many other areas of the country. New roads are needed in many large urban and suburban areas.

I am introducing this legislation today because it will help many areas of the country, including the Washington metropolitan area, build the new roads that are so badly needed to reduce traffic congestion.

Under current Federal law, Federal funds cannot be used in the construction of new toll highways. The few exceptions to this rule are the result of special legislation passed for individual projects.

The legislation I am introducing would allow Federal funds to be used together with State and local funds and bond financing to construct new toll highways.

This approach would allow all of the necessary funds for road construction to be obtained at one time so that construction could begin early and be completed quickly. Most experts agree, there is no faster way to begin and complete construction of important and badly needed new highways than to use toll financing and I believe it is appropriate that Federal funds be used in this process.

The American Association of State Highway and Transportation Officials [AASHTO] supports linking Federal funds with tolls and Secretary of Transportation Skinner has endorsed the concept behind this legislation.

I encourage my colleagues to join me in supporting this initiative.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 129 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(1) CONSTRUCTION OF NEW TOLL HIGHWAYS.—

"(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Subject to the provisions of this subsection, the Secretary shall permit Federal participation in toll facilities on the same basis and in the same manner as in the construction of free highways under this chapter.

"(2) LIMITATION ON TYPES OF FACILITIES.—The Secretary may only permit Federal participation under this subsection in construction of new toll highways, bridges, and tunnels (other than highways on the Interstate System).

"(3) LIMITATION ON FEDERAL SHARE.—Notwithstanding any other provision of law, the Federal share payable for the construction of a toll highway, bridge, or tunnel under this subsection shall not exceed 75 percent.

"(4) PUBLIC OWNERSHIP REQUIREMENT.—Each highway, bridge, tunnel, or approach thereto under this subsection must be publicly owned and operated; except that Federal funds may participate under this subsection in the approaches to a toll highway, toll bridge, or toll tunnel whether the highway, bridge, or tunnel is to be or has been constructed by a State or other public authority.

"(5) LIMITATIONS ON USE OF REVENUES.—Before the Secretary may permit Federal participation under this subsection in a State, the State highway department must enter into an agreement with the Secretary which provides that all toll revenues received from operation of the tolled facility constructed under this subsection will be used only on the tolled facility, and only for construction costs, or for the costs necessary for the proper operation, maintenance, and debt service of the tolled facility, including resurfacing, reconstruction, rehabilitation, and restoration; except that any excess toll revenues may be used for construction of other transportation projects in the region.

"(6) EFFECT ON APPORTIONMENT.—Toll mileage constructed under this subsection shall not be used to increase a State's apportionment under any apportionment formula.

"(7) NEW TOLL HIGHWAY DEFINED.—For purposes of this subsection, the term 'new toll highway, bridge, or tunnel' means initial construction of a highway, bridge, or tunnel on a new location at any time before it is open to traffic and shall not include any improvements to a toll highway, bridge, or tunnel after it is open to traffic.".

NIGERIA IS TRYING FOR DEMOCRACY AGAIN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. SMITH of New Jersey. Mr. Speaker, because Nigeria is one of Africa's most important countries, the efforts of that nation to end military rule and restore democracy is of great importance to America—and of special importance to those of us who work with human rights issues as members of the Committee on Foreign Affairs.

The population of Nigeria now exceeds 110 million, making it the eighth most populous nation in the world. And by the turn of the century it is predicted that the population will pass that of Japan and Brazil, making Nigeria the world's sixth most populous nation. One out of every four blacks in Africa south of the Sahara is a Nigerian. Thus what is happening in that nation is of vital concern to all of us.

In the preparation of the new Nigeria pamphlet for his now 20-volume set on the "Constitutions of the Countries of the World"—with Dr. Gisbert Flanz; Dobbs Ferry, N.Y., Oceana Publications—Prof. Albert P. Blaustein of Rutgers University, the State university of my State of New Jersey, has drafted a memorandum, which I would like to call to the attention of my colleagues.

NIGERIA IS TRYING FOR DEMOCRACY AGAIN

Nigeria is seeking once again to end military rule and, in its own words, effect a "transition to civil rule." It is doing so via a new constitution, closely following the Constitution of 1979, which itself ended a long period of military government. The 1979 Constitution, praised for its modern approach to democratic constitutionalism, lasted only four years. It was suspended on December 31, 1983, following a coup d'etat under Major General Mohammed Buhari, who was replaced by the present Federal Military Government on August 27, 1985, in a bloodless coup led by the Major General, now General Ibrahim Babangida.

But the new military leaders almost immediately made plans for the end of their military power. The Federal Military Government on January 13, 1986, established a Political Bureau which shortly thereafter recommended the Transition to Civil Control (Political Programme) Decree of 1987 which established a Constitution Review Committee to review the 1979 Constitution. This was followed by the passage of the Constituent Assembly Decree of 1988 and the establishment of a Constituent Assembly to deliberate on the Draft Constitution prepared by the Constitution Review Committee.

The work of the Constituent Assembly was completed last year and the results of its deliberations presented for the review of the Armed Forces Ruling Council. The Council, with some changes, approved the work of the Constituent Assembly and, before the year ended, issued the Constitution of the Federal Republic of Nigeria (Promulgation) Decree 1989. This promulgates a new 1979-style civilian constitution to take effect on October 1, 1992—with provision that specified articles could come into force before that date.

There was virtually nothing eliminated from the 279-article, six-schedule Constitution of 1979. But significant material was added, creating a 331-article Constitution with seven schedules.

What was not eliminated (which is of special significance) is the long, detailed recital of human rights, now set forth in Sections 32 to 44. Section 44 is possibly the most comprehensive human rights provision that can be found in any constitution of the world dealing with enforcement of rights. It gives "any person who alleges that any provision of this [human rights] Chapter has been, is being or is likely to be contravened" access to "a High Court * * * for redress."

It also makes provision "for the rendering of financial assistance to any indigent citizen * * * where his rights under this Chapter has been infringed or with a view to enabling him to engage the services of a legal practitioner to prosecute his claim, and ensure that opportunities for securing justice are not denied."

The significant changes fall into four categories:

a. Expanded federalism.
b. Elections supervision.
c. Anti-corruption provisions.
d. Control over legislators through recall.

EXPANDED FEDERALISM

The long or official name of Nigeria is the Federal Republic of Nigeria—a federation consisting of 21 states and a Federal Capital Territory. But now there will be further distribution of power, more power-sharing.

This is accomplished principally through a new Chapter VIII establishing a "Local Government Councils for each Local Government Area in the Federation." There are then 28 sections dealing with the structure and functions of such Councils.

The new Section 8 provides for additional federalism through special councils based on tribal considerations. It provides first that the House of Assembly of a State "may enact a Law for the establishment of a Traditional Council for a Local Government Area or a group of Local Government Areas." And it directs that "each of such Councils are to be presided over by a "Traditional Ruler appointed in the manner prescribed by Law." Further, Part II of Schedule IV details the function of the Traditional Councils.

ELECTIONS SUPERVISION

There will now be more control over the elections process and consequently less opportunity for elections abuses. Section 269 is devoted to the establishment and jurisdiction of elections tribunals and Section 232 gives the Supreme Court exclusive jurisdiction to hear appeals from decisions of Presidential Election Tribunals. A comprehensive Schedule VI provides for the composition of these tribunals and the qualifications of its members.

ANTICORRUPTION PROVISIONS

Six added sections—and parts of sections—seek to reduce the possibility of official corruption by clauses requiring that both elected and appointed officials "declare assets and liabilities" before taking office. See in this connection Sections 50, 92, 137, 149, 183 and 274.

RECALL PROVISIONS

Also new are the provisions of Sections 68 and 109 on recall. The former establishes the procedure directing that a member of the Senate or the House of Representatives may be recalled if "there is presented to the Chairman of the National Electoral Commission a petition in that behalf signed by more than one-half of the persons registered to vote in that members's constituency alleging their loss of confidence in that member; and the petition is thereafter in a referendum * * * approved by a simple majority of the votes of the persons registered to vote in that member's constituency." The latter make similar provision for the recall of members of the State Houses of Assembly.

The most criticized section in the new Constitution is one obviously influenced by success in the United States and one obviously designed to further democracy. It is a provision prohibiting the one-party state for Nigerians know that the prevalence of one-party states has meant an absence of democracy in most of Africa. But instead of declaring against a one-part state and setting forth procedures for its prohibition, Section 220 states that "There shall be only 2 political parties in the Federation."

Such dictate denies the rights to exercise that combination of freedom of speech, freedom of assembly and freedom of petition which together give the people the right to express themselves collectively in freely established political parties. Last October, rules were announced providing that one party shall be to the right of center and one to the left of center—and that they would compete on the basis of economic and social issues rather than religion or tribal affiliations. However, the fear has been expressed that the two-party limitation creates the danger of intensified friction between the Muslim and Christian populations of that great nation.

JERUSALEM

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. McNULTY. Mr. Speaker, I join my colleagues in voicing my grave concern over the remarks made by President George Bush concerning the status of Jerusalem.

I am convinced that the President's position on this issue has undermined—if not fatally crippled—the process we all hoped would lead to a peaceful solution of the problems between Israel and the Palestinians.

Whether the President and our State Department recognize it or not, the fact remains that Jerusalem is the capital of the sovereign State of Israel.

The late Arthur J. Goldberg, when he was U.S. Ambassador to the United Nations, was one of the drafters of U.N. Security Council Resolution 242, which deals with Israel's withdrawal from occupied territory.

Ambassador Goldberg made it clear that this important resolution, considered for so many years an integral part of United States foreign policy affecting Israel, "in no way refers to Jerusalem, and this omission was

deliberate * * * Jerusalem was a discrete matter, not linked to the West Bank."

By opposing Jewish "settlement" in East Jerusalem, the President has drastically altered our foreign policy. And not only that, the President has repudiated his own Republican Party. The Republican platform of 1988 called for Jerusalem to "remain an undivided city with continued free and unimpeded access to all holy places by people of all faiths."

Several Democratic Party platforms in recent years have affirmed support of Jerusalem as the capital of Israel "with free access to all its holy places provided to all faiths."

This is not a partisan issue.

Jews have lived in Jerusalem for more than 3,000 years—even while Jordan captured the Holy City and controlled it from 1948 to 1967. Now, the President of the United States tells Israel that Soviet Jews cannot live in Jerusalem! And that the status of Jerusalem is in limbo.

There is no such thing as Jewish settlements in Jerusalem. There are Jewish homes. Jews do not occupy their homeland. Nor do they occupy its capital. Jews live in their homeland. They live in their capital. They have an inalienable right to do so.

The relationship between Israel and the United States is a two-way street. Both countries benefit from that relationship. Surely, since its establishment 41 years ago, the State of Israel—the only democratic ally we have in the Middle East—has demonstrated its value to the United States time and time again.

I don't know what made the President say these things about Jerusalem. But I do know that it is incumbent upon him and his administration to act swiftly to repair the damage already done at a time when Prime Minister Shamir was moving toward making elections in the occupied territories a reality.

I hope the President will retract his statement on Jerusalem. And I hope that such a retraction will help to breathe new life into the peace process.

TRIBUTE TO ELMONT MEMORIAL HIGH SCHOOL TEAM

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. McGRATH. Mr. Speaker, in my district on Long Island, NY, there are several high school's which have distinguished themselves with local, State, and Federal awards for outstanding performances.

This year, Elmont Memorial High School brought such distinction on a global scale. A team of dedicated students, their teacher, Mr. Lee Marcus, and his assistant, Mrs. Elaine Murphy were named fourth best in the world at the 1990 World Model United Nations Competition held at The Hague in the Netherlands.

The road to this honor began in 1988 when the Elmont team won their first national title at a Harvard University competition. Following several other victories, Elmont's Model U.N. Team was recognized as the finest in the Nation and eligible for the world competition.

Using every fundraising event they could think of, the students at Elmont High raised the $20,000 needed to send their team to Europe. Their efforts paid off handsomely. Thanks to hard work and the intense commitment of Lee Marcus, Elmont was one of only four teams represented to receive recognition.

I ask my colleagues to join me in congratulating the world-renown members of the Elmont Memorial High School Model U.N. Team. I am submitting their names into the CONGRESSIONAL RECORD: Aly Kayne, Jennifer Lindbom, Nataly Gross, Glen Hanna, Jaya Balbo, Ace Garcia, Jennifer Hili, Hussein Rachid, Monique Rahmi, John Gazzola, Diane Beasely, and Gary Nelson.

SUPPORT FAIRNESS FOR OUR VETERANS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. DORNAN of California. Mr. Speaker, the House Armed Services Committee's Subcommittee on Personnel and Compensation has scheduled hearings on Public Law 97-252, the Uniformed Services Former Spouse Protection Act [FSPA], for April 4. This hearing will address the problems addressed in H.R. 572, 2277, and 2300, legislation which I introduced last session. Specifically, the hearing will seek to determine if the FSPA warrants amending.

Public Law 97-252 is one of the most ill-conceived pieces of legislation the Congress has ever enacted. Rather than redressing the real concerns of the former spouse and the military member, the act literally promotes the breakup of American families by providing congressionally sponsored incentives for divorce. But there are other national security concerns including the effect this law has on our mobilization base because of Public Law 97-252's diversion of military compensation to third parties and I don't want to wait until a crisis to find out. Equally reprehensible is that Congress has delegated to the States the authority to determine the amount of retainer pay to be paid to military personnel for fulfilling a Federal mobilization obligation.

If you share my view that military retirement compensation is an important career incentive for the core of professionals who will always, even in a smaller military force, be necessary, then surely you must also join with me in observing that anything which adversely affects the military retirement system also adversely affects our security. Public Law 97-252 as it exists and is interpreted by the States is just such a disincentive.

This is not the gender-based issue. It equally effects all members of the armed services and their families—current and former. As a former active duty Air Force officer, I know the important contributions that spouses make to the career of the military member. But I also know that any division of property during a divorce must be fair, equitable, and determined by the courts on a case by case basis. Public Law 97-252 does not provide for an equitable division of property.

If you are not yet well read on Public Law 97-252, and I confess that I was not until its pernicious effects were brought to my attention, I commend to your reading my June 15, 1989 extension of remarks as well as a short article that I wrote for the Army Times.

Mr. Speaker, I for one don't relish the thought of answering in perpetuity the flood of mail from angry veterans and their spouses who have legitimate complaints. Perhaps it is time for Congress to get out of the military divorce business by repealing appropriate sections of this law?

[From the Army Times, Mar. 26, 1990]

FOR RICHER OR FOR POORER, FSPA PREVAILS

(By Hon. Robert K. Dornan)

Divorce. It is not a pleasant word. Unfortunately, it is one that has become prevalent in today's society.

The two hardest decisions a divorce court must resolve are the custody of the children and the division of property. In general, the courts do a good job of equitably determining division and custody on a case-by-case basis. But what happens when the federal government steps in and limits the court's ability to make a fair decision? In the case of our armed forces, the answer often is: inequality and injustice. Unfortunately, this is the unintended and unresolved fallout of the 1983 Uniformed Services Former Spouse Protection Act, or FSPA.

The intent of FSPA was to recognize the important role military spouses play in the careers of our military servicemen and women. The rigors of military life have not changed much over the years. There still are frequent moves from one base to another, sometimes extended separations for those on active duty, and the real risk, even in peacetime, of death in the line of duty. Many members of Congress believed these hardships placed military spouses at a disadvantage because they could not pursue individual careers. Thus, if a military couple divorces, the former spouse may be unprepared to compete in the civilian labor force. Ex-spouses now could claim, as their own, regardless of the circumstances of the divorce, a percentage of their former spouses's military retirement.

The catalyst for the FSPA was the 1981 Supreme Court decision *McCarty vs. McCarty*. The court ruled that military retirement benefits could not be divided as part of a divorce property settlement. The rationale behind the ruling was that a number of community property states had statutes that allowed their courts to divide military retirement pay, although federal law at the time, as interpreted by federal courts, prohibited such division. The Supreme Court ruled that in such instances, federal law should prevail over conflicting state law.

Another consideration is that under federal law, retired military personnel continue to be members of the armed forces. In other words, military retirement is treated more as retainer pay for possible future service. Also, the Internal Revenue Service considers military retirement as "wages" and the military member is taxed for the full amount. This tax treatment has complicated the determination of who is credited for the taxes withheld when pay is divided.

Since military retirement was not considered property in the same sense that civilian pensions or annuities were, the court suggested that if Congress wished to change the law and explicitly allow military retire-

ment to be divided, it could do so legislatively.

As passed, the FSPA was to affect only divorce decrees finalized on or after Feb. 1, 1982. The state courts then were free to treat limited portions of military retired pay as they would any non-military pension. While the new law did not stipulate a minimum amount of time a marriage should last, a minimum of 10 years was required for an automatic, direct federal payment to the former spouse. The 10-year mark also was intended to serve as a guideline to the state courts.

Why was the military subjected to these draconian laws? Quite simply, the Pentagon always has been an easy target for the whims of Congress. Other professionals are not. Any number of civilian professionals also suffers similar hardships that military careerists experience—long hours, frequent moves, separations, etc. The civilian spouse plays the same "critical" role in the advancement of his or her mate. It is unfortunate that these hardships sometimes lead to divorce.

Civilian pensions often are based on member contributions or annuities that constitute real property that accrued during marriage. During the course of their careers, civilians can quit at any time. This is not an option for the armed forces. Enlisted men and women must serve until their commitment is completed; officers may request to resign any time after their initial commitment is complete, but acceptance of that resignation is at the discretion of the president.

Furthermore, members of the armed services are obliged to accept a highly disciplined and controlled life. Military spouses endure these hardships with their mates, but it is the service members who is subject to the Uniform Code of Military Justice. Military retirement can be applied only under specific circumstances and those who accept retirement are subject to the code and are eligible for recall until the age of 60. Moreover, the retirement pay can be taken away if the service member is convicted of certain federal crimes. A change of citizenship also can extinguish retired pay for the service member, but has no effect on the former spouse.

Does Congress or any legislative body have the right to judge that one class of individuals—service members—automatically is presumed to be at fault? No. But that is exactly how state courts have interpreted the FSPA.

State courts consistently have ruled that if a former spouse reopens a divorce case under the FSPA, they are mandated to rule in favor of the former spouse, regardless of circumstances. As one Texas judge wrote when he had to rule in favor of a former spouse, "This court had no choice . . . If equity were permitted, this court would have come to a conclusion exactly opposite . . . The mandated result [of the FSPA] is grossly unfair and inequitable under the facts and circumstances of this case."

Was it congressional intent that all former spouses have a right to military retirement by virtue of marriage in all cases? Was the FSPA to be retroactive to divorces settled before the law was in force? I believe not.

The FSPA as currently interpreted is biased against those who have served and earned the right of military retirement pay. I know of no military spouse who has not shared in extraordinary sacrifices that our servicemen and women make every day. But to what extent do they have the right to share in the benefits accrued by that military member during the course of a career that spans more than 20 years?

Congress needs to revisit the issue of military retirement and draft legislation that will amend the FSPA so it provides equal and fair treatment to both the service member and the former spouse.

WESTVACO CORPORATION

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mrs. BYRON. Mr. Speaker, I would like to bring attention to the efforts of one of Maryland's outstanding corporate citizens. Westvaco Corp., a major manufacturer of paper, packaging, and chemicals, has been an important part of the State's economy for more than 100 years. The company's operations statewide employ over 1,400 Marylanders and include a fine papers mill in beautiful western Maryland, a container manufacturing plant in Baltimore, research facilities in Laurel, and an envelope plant in Jessup.

Westvaco has expressed a strong commitment to environmental excellence. It is appropriate that this commitment be associated with the 20th anniversary of the environmental movement during 1990, beginning with Earth Day on April 22.

President Bush recently challenged the American people to plant a billion trees. Westcavo can proudly say that they achieved this milestone in 1988, and continue to plant more than 45 million genetically advanced pine seedlings each year.

To commemorate this commitment to environmental excellence, Westvaco has initiated a pine seedling planting program nationwide. The company is making available over 200,000 pine seedings to employees, shareholders, customers, community neighbors, and friends. Today, March 20, is the day seedlings are being distributed to each Member of Congress. We are invited to join with Westvaco in planting these seedlings for the future—for the benefit of our children and their children.

I applaud Westvaco for this outstanding tree-planting program and for their continued commitment to environmental progress.

THE 36TH ANNIVERSARY OF WOMEN'S AMERICAN ORT, BRONX REGION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. ENGEL. Mr. Speaker, March 25, 1990 marks the 36th anniversary of the Women's American ORT [Organization for Rehabilitation Through Training], Bronx region.

In the Jewish religion, the number 18 signifies life, so the number 36 must mean twice as much. Giving an extra effort to enhance someone's life is the mission of the Women's American ORT.

As one of our Nation's largest volunteer organizations, Women's American ORT provides a network of vocational and technical training programs throughout the world. At the present time, more than 200,000 students are engaged in learning a wide range of trades and skills.

ORT is also an activist organization. Its members are involved in local issues that effect their neighborhoods, as well as national issues that impact on everyone's quality of life.

I represent a large part of Bronx County, which has a number of ORT chapters, and I know that each chapter is made up of active, concerned women who are dedicated to making our world a little better.

I commend the Bronx region of ORT for a job well done. They are the type of organization we can always point to when people ask, "Who is still concerned?"

Thank you Bronx region of Women's American ORT for your devotion and dedication.

SAN CLEMENTE CHAMBER OF COMMERCE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. PACKARD. Mr. Speaker, next month marks yet another major milestone in the long and distinguished history of the San Clemente Chamber of Commerce, located in my district, California 43.

April brings the 50th anniversary of this active and effective chamber which has been a leader in the community and throughout Orange County because of its innovative programs designed to promote the free enterprise system.

In its 50-year history, the San Clemente Chamber has organized numerous special events, educational forums and seminars for the benefit of its 700 members and the community at large.

As San Clemente has grown, so has the chamber of commerce. With that growth has come a greater responsibility to help ensure the continued economic well-being of the area. While following its main objective of championing the free enterprise system, the chamber leadership has instituted numerous scholarships and awards designed to recognize achievements both in business as well as education.

Each year the chamber recognizes an outstanding educator in the community. Also recognized is a citizen of the year; awarded to individuals who volunteer their time to make the community a better place to live, work and play.

Fortunately for the community, the chamber doesn't concentrate all of its energies on just the business community. There is also a growing concern for the environment and future leadership of the city. This is reflected through the chamber's various forums that involve everything from military affairs, trade and tourism to legislation.

This past year, President Chuck Kurtz adopted a philosophy of "Together We Can."

A statement that became the guiding light for all the organization's activities. Even more exciting programs are being formulated for the coming year under the direction of President Sharon Jansen, President-elect Don Kindred and the other members of the board of directors.

Fifty years ago momentous events were taking place in our world. Events such as the first successful helicopter flight in the United States, the first electron microscope was demonstrated, a new combustion chamber for jet engines was introduced, Franklin Roosevelt was reelected President for a precedent-setting third term with 54 percent of the vote and the Walt Disney classic "When You Wish Upon a Star," hit the charts.

Based on the distinguished record it has amassed over the past five decades, the San Clemente Chamber of Commerce has also earned special recognition on its golden anniversary.

CORNELIA, GA, AN INNOVATIVE CITY

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. JENKINS. Mr. Speaker, I ask permission today to recognize a town in my district for its innovative approaches in developing recreation facilities for its citizens. The Georgia Municipal Association chose Cornelia, GA to receive the 1989 City Innovations Achievement Award for its accomplishments. The award was based on the city's efforts in encouraging and coordinating a partnership of government, businesses, and citizens to develop and maintain recreation facilities.

Three projects represent those efforts. The city, the Georgia Department of Natural Resources, and the Nicolon Corp. jointly converted an abandoned landfill site to a jogging trail and fitness area including a ballfield and parking area. In another project, the city's staff worked with the First National Bank of Cornelia and the Cornelia Garden Club to turn an eyesore into a small neighborhood park in an area where there were no recreation facilities. And, in the third project, the local Coaches' Association, Habersham County Recreation Department, Smart Construction Company, Simmon's Grassing Co., Georgia Power Co., Standard Telephone Co., Coca-Cola Corp., Norfolk-Southern Railway and many individual citizens completely rebuilt the city's old ballfield in 6 weeks.

These projects demonstrate the coordination and cooperation of Cornelia's citizens in combining government and private resources to enhance the recreational facilities for the community. I want to commend the citizens of Cornelia, its business leaders, and city officials: Mayor Don Higgins; Commissioners Richard Grant, Fred Lowery, Bobby Pickens, and Terry Rogers; City Manager Howard Whatley; City Clerk Ross Maxwell; City Attorney Linton Crawford; and other city workers for their contributions to these and other community projects. Their "can do" spirit should serve as an inspiration to other small cities and towns.

OREGON EDUCATOR NAMED "TEACHER-SCHOLAR"

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. WYDEN. Mr. Speaker, I'm pleased to recognize Janet L. Martin, an English teacher from Grant High School in Portland, OR. Ms. Martin has been selected by the National Endowment for the Humanities [NEH] to be Oregon's NEH/Reader's Digest Teacher-Scholar for 1990.

The NEH announced the selected teachers on March 13, on the eve of a White House luncheon honoring the teacher-scholars. Ms. Martin was one of 52 educators selected for this honor from a pool of 566 eligible applicants. One teacher was chosen from each State, the District of Columbia, and the U.S. Virgin Islands.

The selected teachers have the opportunity for 1 year of academic independent study in the humanities. Ms. Martin will use her award to pursue her research project, entitled "Metaphor in Asian, African, and North American Mythology." She plans to bring the results of her year of study to the classroom, linking her insights with the very diverse ethnic backgrounds of her students.

Oregon should be proud, particularly the administration, faculty, and students of Grant High School. Her success can be an incentive for other educators.

I ask my colleagues to join me in congratulating all the NEH/Reader's Digest Teacher-Scholars. This unique program offers an opportunity for teachers at the elementary and secondary educational levels to pursue their academic interests both inside and outside the classroom.

The ideal learning evironment incorporates elements of new and old—ideas, beliefs, or facts—it is the synthesis of these elements that produces revelations. This type of exciting and learning intensive environment is where progress is charged. Creative energies can be tapped, momentum builds and the effect can be intoxicating. Students are motivated to learn, and teachers are excited to teach. The system is interdependent—teachers are spurred on by their students' drive, and the students are engulfed in their teacher's enthusiasm about the subject.

This is what constitutes education; the shared enthusiasm, energy, motivation, and creativity. We must have educators who demonstrate this attitude in the classroom. Janet Martin is an example of a dedicated teacher and scholar.

BASEBALL HERO REMEMBERED IN FIELD DEDICATION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. MILLER of California. Mr. Speaker, in the spirit of baseball we often recall the names and careers of great players such as Babe Ruth and Joe DiMaggio. On March 25, 1990, the Rodeo Baseball Association in Rodeo, CA, will remember and honor its own hometown hero, Vernon "Lefty" Gomez, baseball Hall of Fame pitcher for the New York Yankees.

Lefty Gomez loved pitching ball. Since grammar school, it had been his dream to wear the uniform of a professional baseball team. The more he pitched, the more intense his love for the game became and the more determined he was to achieve his dream. When not playing for the local team, Lefty was often seen practicing his pitching arm with rocks. He used his chores at home to strengthen his arm, among them milking the family owned cows. He still had time to play "marathon" baseball.

In 1929, Lefty's childhood dream became a reality. With a sensational high school pitching record, he was signed to the San Francisco Seals of the Pacific Coast League. A year later he was traded to the New York Yankees, where he became friends with fellow teammates Babe Ruth and Joe DiMaggio.

Lefty's 14-year professional baseball career is best illustrated by his overall statistics. Three times he led the American League in strikeouts and shutouts. Twice he held the league's best winning percentage, number of wins, and ERA. In 1934, he topped the league with 25 complete games, 281¾ innings pitched, 158 strikeouts and 6 shutouts. He was the winning pitcher for the historical first All-Star Game and in later years made four more appearances.

In 1943, Lefty Gomez went to the Washington Senators but retired from his playing career after pitching just one game. From there Lefty acted as a manager for the Yankees farm system, joined the Wilson Sporting Goods Co., and served as a consultant and unofficial goodwill ambassador for baseball. In 1964, Lefty was elected to his first term on the Babe Ruth League, Inc., board of directors and was an active member until his death in 1989. In 1972, Lefty Gomez was elected to the Baseball Hall of Fame.

On Sunday, March 25, 1990, the Rodeo Baseball Association will designate the baseball field where Lefty Gomez played as a child the "Lefty Gomez Field." A marble memorial will be unveiled to commemorate his career and to encourage the children who share Lefty's dream. Lefty Gomez will forever be the pride of Rodeo. His memory will remain in our hearts, and he will be an inspiration to all those who love the great game of baseball.

THE SELLINGER SCHOOL OF BUSINESS AND MANAGEMENT AT LOYOLA COLLEGE HONORS JACK MOSELEY AS BUSINESS LEADER OF THE YEAR

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mrs. BENTLEY. Mr. Speaker, my fellow colleagues, on Wednesday, March 21, 1990, I will have the pleasure of attending the Business Leader of the Year Award Dinner. This

year the Sellinger School of Business and Management at Loyola College will be honoring Mr. Jack Moseley as Business Leader of the Year for 1990.

Currently, Mr. Moseley is chairman of the board, president and chief executive officer of the USF&G Corp., a post which he has held since 1981. Mr. Moseley began his career with USF&G in 1953 as a trainee in the Birmingham, AL, office. Prior to his appointment as head of USF&G, he served in numerous senior positions.

Perhaps most impressive is Mr. Moseley's list of professional, personal and civic achievements. A graduate of Auburn University, Mr. Moseley quickly advanced at USF&G and undoubtedly helped the firm gain the reputation as one of the best insurance companies in the Nation. He also has devoted much of his time and energy in community activities as well.

I know of very few people who have given so much of themselves to better others. I truly believe that success cannot be measured by only professional achievements. All too often we tend to judge individuals by their material or monetary wealth. Unfortunately, few realize that wealth of spirit and character are much more desirable traits than simple material possessions.

Indeed, we all must realize the importance of character and spirit. Mr. Moseley has demonstrated that success does not just carry a professional connotation.

Among his professional and civic accomplishments, Mr. Moseley has served as a member of the board of directors for USF&G Corp., C&P Telephone Co. of Maryland, and Signet Banking Corp. He also has held directorships with the Baltimore Symphony Orchestra, the Greater Baltimore Committee, and the Ethics Resource Center. Other activities include serving as chairman of the Maryland Economic Growth Association and the Baltimore Convention Bureau, Inc. and as vice chairman of the John F. Kennedy Center for the Performing Arts.

Currently, Mr. Moseley is heading up USF&G's annual Drive to Cure Paralysis. I find it quite fitting that Mr. Moseley receives recognition as Business Leader of the Year, for he truly exemplifies the meaning of success.

I cannot help but be reminded of American statesman John C. Calhoun when he described the people and formation of the New England colonies. Mr. Calhoun spoke of the inconsiderable beginnings of the colonies and the insurmountable difficulties which they faced. However, he continued to say that their strength could be found in their high moral and intellectual qualities. He also said that it was their faith, piety, and confident trust in a superintending Providence; their stern virtues; their patriotic love of liberty and order; their devotion to learning; and their indomitable courage and perseverance. These are the causes which surmounted every obstacle, and which have led to such mighty results.

Undoubtedly, it was such traits that have brought this Nation from its humble beginnings to that of world power. I also strongly believe that those who seek excellence must possess such qualities. Mr. Moseley personifies these qualities for he shares a strong commitment to both his work and fellow man.

Mr. Speaker, my fellow colleagues, it is with great respect and admiration that I commend Mr. Jack Moseley on his recognition as the Business Leader of the Year.

CONGRESSIONAL CALL TO CONSCIENCE FOR SOVIET JEWS: DAVID AND OLGA MIKHAILEV

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. BEILENSON. Mr. Speaker, thank you for this opportunity to join my colleagues in supporting the 1990 Congressional Call to Conscience Vigil for Soviet Jews.

Today I would like to direct my colleagues' attention to the continuing plight of David and Olga Mikhailev, and their 9-year-old daughter, Marina. In 1975, David left his job as an applied mathematician at the Central Science Research Institute of Communications where his work involved theory only and where all his results were published in open literature. In 1978, David received his first refusal to emigrate on the grounds that he allegedly had access to state secrets while working at the institute, and his applications since that time have been repeatedly refused on secrecy grounds. Since his original application, David has been dismissed from jobs twice, and he is now working at a level below his abilities. As a long-time and active refusenik, David is now vice chairman of the public monitoring committee of OVIR.

In September of 1988, David and Olga were forced to obtain a fictitious divorce so that Olga and Marina could come to the United States to obtain necessary medical treatment for Marina, who has a genetic disorder. The United States is the only country which offers this particular treatment.

I would like to take this opportunity to urge the Soviet Union to honor its commitments as expressed in the Helsinki Final Act and allow David to be reunited with his family in the United States. Such action would be a positive example of the continued success of the glasnost campaign and would help to further amicable relations between our two great nations.

THE NEED TO RETAIN OUR AMERICAN-FLAGGED SEA-LIFT CAPABILITY

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. TAUZIN. Mr. Speaker, I would like to bring to my colleagues attention a recent policy decision which not only threatens the economic well being of our maritime industry, but also seriously compromises our strategic defense capabilities.

The Maritime Administration has conditionally agreed to approve an application filed under section 9 of the Shipping Act of 1916. This sale involves the American-flagged vessel *SS Monterey* to be operated under a foreign flag. The *SS Monterey* is one of only three operational U.S.-flagged passenger vessels capable of supporting an emergency transport of troops and supplies overseas.

The Commission on Merchant Marine and Defense estimated a need for troop-lift capacity of 27,000 personnel by the year 2000. The commission made note that with the *Monterey* in U.S. contol there would still be a two-thirds shortfall in U.S. military transport capability. It is, therefore, troubling to hear that this sale is being allowed. There is no doubt that this sale will be detrimental to our national defense.

Instead of allowing this vital asset to be removed from our U.S.-flag fleet, our Government should, by its words and actions, promote the operation of vessels which are flying our flag and crewed with American citizens.

Time is running short to preserve our sea-lift and defense capabilities.

I strongly urge my colleagues to register their protests with the Maritime Administration in regard to the sale of the *SS Monterey.*

INTRODUCTION OF TIRE RECYCLING PROMOTION ACT

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. HOCHBRUECKNER. Mr. Speaker, today I am introducing the Tire Recycling Promotion Act of 1990, a bill to encourage recycling of waste tires.

Nationwide, 240 million tires are scrapped each year. Most end up in unsightly and hazardous tire piles or are landfilled. Some are incinerated with mixed solid waste. In each of these disposal scenarios, they can create problems.

Tire piles present significant environmental and public health threats. They provide ideal breeding ground for mosquitos and other insects, and thus can encourage the spread of insect-borne diseases and require greater use of chemical insecticides. Tire piles also present severe fire hazards, and have been known to ignite and burn uncontrollably for months.

When buried, tires tend to migrate upward, and they have been known to poke through the top of a capped landfill. Such damage can allow rain water to enter a landfill, creating both surface and groundwater contamination. Landfill damage caused by tires can also allow methane gas to escape into the atmosphere, which contributes to the depletion of the ozone layer.

Solid waste incinerators experience problems with tires, unless the combustion system is designed to burn tires.

Given the inadequacy of current systems for disposing of tires, I believe the Federal Government should investigate potential technologies for reusing and reprocessing scrap tires.

A major form of recycling for tires is to retread and reuse them. Many companies with large fleets of trucks do this, but in general, retreading is much less common than it was a generation ago because new tires are so inexpensive. Recycling for tires currently consists of a smorgasbord of technologies that incor-

porate rubber from scrap tires in low-grade rubber products, in replacement material for certain plastics, and for other uses. Although there is increasing interest in developing and implementing tire recycling technologies, only a very small proportion of all scrap tires are being recycled.

The proposed Tire Recycling Promotion Act is compatible with another measure I have introduced, the Recyclable Materials Science and Technology Development Act (H.R. 500). Like H.R. 500, the Tire Recycling Promotion Act authorizes the creation of a Commerce Department Office of Recycling Research and Information, which would work cooperatively with the Environmental Protection Agency to support research and development of technologies and markets to facilitate solid waste recycling, and to collect and disseminate information. The bill I am introducing today would authorize this office to include in its research and grant-making activities support for innovative tire recycling technologies. Like H.R. 500, the Tire Recycling Promotion Act limits appropriations for this office to $10 million.

The Tire Recycling Promotion Act seeks to define for the Congress and the American people the extent of problems created by disposal of scrap tires and offers strategies for solving such problems. Should tires be shredded before burial to prevent them from disrupting landfills? Or should landfilling of tires be prohibited? The bill addresses these questions. It also directs the Federal government to catalog the technologies available for recycling tires and for integrating scrap tires into construction material, pavement, and durable products.

Finally, the bill directs the Secretary of Commerce to work with industry, government, and the public to search for economic incentives to increase recycling of tires.

PUBLIC WORKS AT WORK

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. PORTER. Mr. Speaker, in 1982 rains flooded several communities in my district near the North Branch of the Chicago River. I was dismayed to see the damage on television, and I was further discouraged when I found my campaign office under 5 feet of water.

Since then, I have worked with the Army Corps, State, and local governments, and the Public Works and Appropriations Committees to obtain flood control relief. Two reservoirs are now under construction, and a third breaks ground in August.

Mr. Speaker, last week extremely heavy rains drenched Illinois again. The Army Corps activated an unfinished reservoir, collected over 45 million gallons of water, and prevented $500,000 in damage to my district.

The district engineer for Chicago, Col. Jess Franco indicated that flooding and damage definitely would have occurred without the reservoir.

Mr. Speaker, flooding on the Des Plaines River in more recent years has caused an additional $100 million in damage to my district. I want to thank my congressional colleagues who helped bring the North Branch project to fruition, and remind them that I will again need their participation and help with Des Plaines River flooding.

NATIONAL FAMILY CAREGIVERS WEEK

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Ms. SNOWE. Mr. Speaker, today I am introducing legislation, along with my colleagues, to establish the week of Thanksgiving as National Family Caregivers Week. Since this measure has been enacted for the past 4 years, it is being introduced as a 2-year resolution this year.

For the past 3 years, the broad-based support and interest in this legislation has culminated in a national policy forum on caregiving which I have sponsored with Senator GLENN. This broad-based support is indicative of the vital role that families play in providing care to the Nation's elderly citizens.

Historically, family members provide over 75 percent of the care given to their elderly relatives. This care includes medically related and personal care, household maintenance, transportation, and shopping. Informal family-provided care is a key factor in delaying or preventing the need for nursing home placement.

Traditionally, the average family caregiver is a middle-aged employed woman with children under 18 years of age. However, the elderly themselves now are providing one-fourth to one-third of all care given to their spouses, and family, and friends. This trend is likely to increase as the population continues to age and the number of frail "old-old" grows.

The pressures of caring for elderly family members is of growing concern to families, employers, service providers, and community and government leaders. Today the average middle-aged couple has more parents than children. And a woman spends more years caring for elderly parents than caring for children.

Families provide care to their elderly members even though it is frequently at great emotional and financial cost to them. The stresses and demands of caregiving often result in absenteeism, decline in productivity and inefficiency at work as the caregiver attempts to meet conflicting demands. Therefore, employees and communities are collaborating to find ways to assist family caregivers. These services include information and referral, home health care, respite care, adult day care and support groups.

National Family Caregivers Week is a tribute to the significant role that families make in caring for our elderly citizens. It is also a time to focus on ways to strengthen and support family caregivers throughout the year. This bill reflects our Nation's appreciation for caregivers by recognizing and commending their important contributions.

CLAUDE PEPPER DESERVES TO BE HONORED WITH A POSTAGE STAMP

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. MOODY. Mr. Speaker, on June 12, 1989, I introduced House Concurrent Resolution 149, a resolution that expresses the sense of Congress that our late colleague Claude Denson Pepper should be honored with a postage stamp. This resolution requests that the Citizen's Stamp Advisory Committee consider waiving its usual requirement that an individual be deceased for 10 years before a stamp recommendation be made on that person's behalf.

Senator Pepper brought honor to the institution of Congress throughout his years of service. As both a Senator and a Representative he worked tirelessly to promote concern and care for the elderly, the poor, and the disadvantaged. Pepper's commitment to his causes never waivered, even when the political winds were against him.

First elected to the Senate in 1936, Pepper was a leading advocate for FDR's New Deal programs and he buoyed the Allies in World War II through the creation of Lend-Lease. After suffering a defeat in 1950 following a campaign fraught with McCarthyesque attacks, Pepper returned to Congress as the Representative of Florida's 18th Congressional District in 1962. For 27 years, until his death last year, Pepper served with distinction in the House, chairing the Select Committee on Aging and the Rules Committee and leading the fight on dozens of humanitarian causes.

Anyone surveying Senator Pepper's lengthy and diverse record can hardly fail to be impressed by his many accomplishments.

However, Pepper will always be remembered most for his championship of the elderly and his advocacy of accessible health care for all. Senator Pepper saw the aged population for what it is: a diverse group of individuals deserving respect and consideration. His articulate and passionate defense of the interests of the elderly made him the representative of millions; in that sense, Pepper's constituency numbered in the tens of millions. As one of the architects of Medicare and the protector of the integrity of the Social Security system, Pepper's actions epitomized good public service.

I would like to stress that this resolution does not direct, suggest, or in any way attempt to order creation of a Pepper stamp. We recognize the appropriateness of the 10-year rule in most cases. This resolution, rather, requests the Advisory Committee to consider the merits of waiving the rule in light of Pepper's singular and extraordinary career, and the profound impact he has had on American society. He is truly an historic figure.

Mr. Speaker, a postage stamp is a small but fitting tribute to Claude Denson Pepper. The number of cosponsors of my resolution in the House is approaching 300. Senator BOB GRAHAM recently introduced a companion bill

in the other body and has already been joined by 27 of his colleagues in honoring Claude Pepper. I hope the rest of my colleagues will agree to cosponsor House Concurrent Resolution 149 to acknowledge in our own small way Senator Pepper's selfless dedication and inspirational service in Congress.

HONORING COMDR. FRANK A. SEAMANS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. CONTE. Mr. Speaker, I rise today in honor of Comdr. Frank A. Seamans, Massachusetts District 13 Commander of the Veterans of Foreign Wars. It is an honor for me to have this opportunity to pay tribute to a great American.

Commander Seamans who joined the VFW in 1981 is hard-working and exceedingly dedicated. He has patiently served through the chairs on the District level and is currently serving as the commander. On the post level, he has held the office of post adjutant and is currently the post quartermaster of the corporation and serves as treasurer on the bingo committee. On the State level, Commander Seamans has served on the Rules and Regulations Committee and Budget Committee as well as serving as the VAVS Representative to the VA Medical Center in Leeds, MA.

Through his works on each of these levels, Frank has been known to be reliable and dependable. I salute Frank Seamans. Frank has worked tirelessly with all who he has come in contact with. His accomplishments, spurred by his love and dedication for humanity, are impressive.

Mr. Speaker, not only is Frank Seamans a kind and sharing individual, he is also industrious. He has faithfully served the community as an employee at AT&T, and at Lead Stamps, a printing shop which he owned.

On March 31, 1990, the family and friends of Frank Seamans will gather together at a testimonial dinner in his honor. There is good reason for this testimonial dinner, Mr. Speaker. Frank has spent most of his adult years helping others in any way possible. Whether it be the auxiliary, a neighbor, or a friend, Frank has always been there to lend a helping hand. This dinner is a small tribute to a big-hearted man.

Mr. Speaker, it is truly an honor to have the opportunity to speak on behalf of such a dedicated and loyal worker. Comdr. Frank A. Seamans is an exemplary man and devoted individual. Frank Seamans has been able to combine both business acumen and community service. Under his direction, his printing business flourished as did the 13th District of the Veterans of Foreign Wars. Through his outstanding achievements as commander and citizen, Frank Seamans has earned the respect of the entire Commonwealth. I am proud to have such an inspiration and role model in my First Congressional District of Massachusetts. I wish him the best of luck and continued success in the many years to come.

SOVIET JEWS STILL EXPERIENCE DISCRIMINATION AND SPECIAL PROBLEMS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. MAZZOLI. Mr. Speaker, at a time when relations between the United States and the Soviet Union are developing in very positive new directions, it is important to note that Soviet Jews still experience discrimination and special problems in the Soviet Union.

Many Jews who wish to leave the Soviet Union are repeatedly denied the right to leave. This is particularly poignant in the case of David Mikhalev.

David Mikhalev has been repeatedly refused a visa on the grounds that he holds state secrets from the Ministry of Communication, where he worked as a mathematician. Mr. Mikhalev has applied many times for a visa over the last 11 years to no avail despite the fact that in 1988, his wife, Olga, and their young daughter were permitted to emigrate to the United States. To accomplish their depature, Mrs. Mikhalev had to divorce her husband.

This heartbreaking story is only one of many existing cases of Soviet refusniks who have been denied the right to leave the U.S.S.R.

At a time when anti-Semitism appears to be on the rise in the Soviet Union, and when the secret organization, Pamyat, threatens pogroms against Soviet Jews, the Soviet Government should facilitate—not retard—the departure of any Jewish citizen who may wish to emigrate to another land.

BUD JOHNSON, SPORTS ENTHUSIAST

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Ms. SLAUGHTER of New York. Mr. Speaker, I join the community of Avon, NY, in mourning the recent loss of Bud Johnson, a local sports enthusiast who dedicated his life to helping young people discover baseball. As I pass a Little League game, watching the young players ready to give their all and their parents beaming with pride, I will be reminded of the significant contributions Bud Johnson made to the community of Avon as a coach, player, and spectator.

Bud instilled the virtues of sportsmanship, teamwork, and dedication into many a young athlete. Coaches, umpires, players, and friends who knew Bud through the years have all singled him out as a man who contributed significantly to the development of many responsible members of the community.

Bud worked for more than 40 years at A & A Equipment, never missing an early morning delivery of machine parts to customers on his long route, but his lifelong career was being a second father and mentor to every child who aspired to play sports in Avon. They responded, too, by rewarding his generosity and compassion with several championship teams.

Mr. Speaker, someone once said that baseball's most significant message for our lives is that the players always return home to score. Bud Johnson stayed in his hometown and helped generations of young athletes start on a firm footing. He deserves acknowledgement for tirelessly giving of himself on behalf of Avon's youth.

THE SDI PROGRAM

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. KYL. Mr. Speaker, yesterday, in a speech before the ADPA conference on SDI, Secretary of Defense Dick Cheney delivered some significant remarks concerning the SDI program. I will be sending those remarks around in a "Dear Colleague," but let me briefly say that Secretary Cheney reiterated that both he and President Bush are bullish on the SDI program and are committed to deploying defenses when they are ready. Secretary Cheney said it is no longer an issue of whether we can meet the President's goals, but how to meet the goals.

Tomorrow, I will be holding a special order on SDI. I cordially invite my colleagues to join me in discussing this very vital defense initiative.

COMMENDING PAUL M. CARON

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. SCHULZE. Mr. Speaker, I rise today to congratulate Paul Caron, of West Chester, PA, who will be receiving his fifth Eagle Palm on March 22, 1990, at a court of honor held by Boy Scout Troop 6, of West Chester.

In all, Paul has received 46 merit badges. To put this accomplishment into perspective, 21 merit badges must be earned to become an Eagle Scout. That means Paul has gone on to obtain 25 additional merit badges, with each Palm representing five badges. Indeed, this is a rare achievement.

I wholeheartedly applaud Paul for being the first scout in the 75-year history of Troop 6 to become so decorated, and am proud to have the opportunity to hail his impressive talent.

TRIBUTE TO DR. WILLIAM S. BOYD, RICHARD W. ALLEN, AND JIMMIE SUE MULLEN

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. BARNARD. Mr. Speaker, the St. Joseph Foundation in Augusta, GA annually recognizes three individuals who have greatly con-

tributed volunteer efforts in the categories of time, talent, and treasure at the Annual Good Samaritan Recognition Program. I rise today that recognition and acclamation may be given the following three individuals.

Dr. William S. Boyd has had an outstanding career in the practice of medicine in Augusta. He graduated magna cum laude from the University of Georgia and was a member of Phi Beta Kappa Honor Fraternity. He also graduated with high honors from the Graduate School of Emory University and the Medical College of Georgia.

Dr. Boyd has played an important role in the early development of the National Center for Disease Control in Atlanta and has served many years as an associate clinical professor at the Medical College of Georgia.

Dr. Boyd has had an intense interest and important role in the development and progress of St. Joseph Hospital having served on the executive committee, as chief of staff, as the medical director, and as a member of the board of trustees over a period of 35 years. In 1989, Dr. Boyd was the founding chairman of the Remembrance Society of the St. Joseph Foundation, Inc.

Music and painting are two areas of special interest to Dr. Boyd and he has made outstanding contributions in these areas as well. His works of art have been selected for inclusion in the Graphic Arts Division of the Smithsonian Institute in Washington, DC. In 1970, he funded the William S. Boyd Augusta Symphony Piano Competition, which has become international in scope. Dr. Boyd has also been awarded the nonalumnus distinguished service award and an honorary degree by Newberry College.

As a result of his many outstanding accomplishments and endeavors, William S. Boyd, M.D. has been named the Good Samaritan Award winner for Treasure.

Richard W. Allen has been described as a person who does not seek self-promotion and, therefore, few people are aware of his generous gifts to charitable organizations.

Mr. Allen has served as a member of the board of directors of the Exchange Club, chairman of the board of the Augusta Easter Seals Society, chairman of the Augusta Red Cross, member of the Augusta Symphony League, member of the United Way Budget Review Committee, member of the Augusta Opera Association, member of the board of directors of the YMCA of Augusta, member of the advisory committee of the Augusta Technical Institute, and is chairman of the Corporate and Foundations Committee of the Saint Joseph Foundation, Inc.

Mr. Allen also devotes time to his wife, Robin, and their children, Jennifer, Andy, Molly, and Robin Ann. He is recognized in the business community as owner of R.W. Allen and Associates.

Having proven that one can be a successful business person and lead a life dedicated to Christian service, Richard W. Allen has been named the Good Samaritan Award winner for Talent.

Jimmie Sue Mullen has devoted more than 45 years of service to a wide variety of volunteer activities in locations from Washington, DC, to Soperton and Augusta, GA.

In 1944, Mrs. Mullen began her volunteer career as a Red Cross nurses aide at Walter Reed Hospital in Washington, DC. She worked more than 2,200 volunteer hours in an 8-year period, and at Georgetown University Hospital, formed the Youth Volunteer Program known as the Pink Angels.

In 1960, when she and her late husband, Frank, returned to Augusta, she became an active member of the Women's Club and later a charter member of the Opera Guild and served as its president. She is also a contributing member of the Augusta Opera, the Augusta Ballet, Historic Augusta, and the Augusta Historical Society.

In Soperton, her hometown, Mrs. Mullen assisted in forming the Million Pines Arts and Crafts Festival, an annual event with more than 10,000 visitors each year. She also assisted in founding the St. Joseph Hospital Auxiliary as a charter member and has served as its president. She has worked more than 3,600 volunteer hours at St. Joseph Hospital.

Mrs. Mullen is a devout member of St. Mary on the Hill Church in Augusta and is happiest when she is involved in helping other people. She possesses the qualities of love and sharing which is the true meaning of a good samaritan.

In recognition of her love and devotion to volunteer activities, Jimmie Sue Mullen has been named the Good Samaritan Award winner for Time.

A FIVE-YEAR DEFENSE PROGRAM

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. IRELAND. Mr. Speaker, I rise to offer a piece of legislation on a matter that falls under the jurisdiction of the Armed Services Committee.

The purpose of this measure is quite simple.

If adopted, it would prohibit the obligation of all advance procurement money requested in the fiscal year 1991 budget until the Department of Defense [DOD] submits a Five-Year Defense Program [FYDP] that is consistent with the President's budget, as it is required to do by law—section 114a of title, 10, United States Code.

I offer the idea as a freestanding bill because this is the only way to formally introduce it legislatively at this juncture. When the Procurement Subcommittee of the Armed Services Committee begins marking up the fiscal year 1991 defense authorization bill, I intend to offer the measure in the form of an amendment.

Mr. Speaker, DOD is requesting $4.7 billion in the fiscal year 1991 budget for advance procurement, saying that this money is needed to support ongoing production programs in fiscal year 1992 and beyond.

Advance procurement bridges the gap between the budget and the outyears in the Five-Year Defense Program.

Unfortunately, a piece of the puzzle is missing. Congress has the budget. We have the advance procurement numbers. But, we have no FYDP. Without an approved outyear program, Congress has no way of knowing what the advance procurement money will buy. Without a FYDP, as Senate Armed Services Committee Chairman SAM NUNN has pointed out, Congress can't make rational decisions on the budget.

Mr. Speaker, DOD is required under the law to submit a FYDP to Congress each year, and it must be consistent with the President's budget. A recent ruling by the General Counsel of the General Accounting Office finds DOD in violation of that law.

The outyear numbers in the FYDP have not been updated since the April 1989 FYDP submission. They are no longer valid. Indeed, Secretary Cheney has testified that those numbers are meaningless—a fact recently confirmed in a General Accounting Office report, which estimates that the fiscal year 1992–94 program must be cut by another $137.9 billion in order to be consistent with the budget.

Mr. Speaker, until those decisions are made, we will not know which programs are in, and which ones are out. Those decisions will not be finalized until late this year.

Mr. Speaker, the Armed Services Committee cannot be expected to approve any advance procurement money until Congress has a FYDP that is consistent with the President's budget as required by law. We need a FYDP that tells us what the money is for and how it fits into a fully approved fiscal year 1992–95 program.

One important point needs clarification.

Mr. Speaker, I get the feeling that DOD would like Congress to look at selected programs independently of the FYDP. Well, it can't be done.

Congress cannot make judgments about the pieces independently of the whole. Outyear funding profiles for individual programs must be linked to an outyear topline that matches the dollars projected in the budget—otherwise they are truly meaningless. Without the contraints of a realistic topline, no hard choices are made—everything fits.

The military services have submitted congressional data sheets to Congress. These documents contain outyear funding information on selected weapon systems. Those numbers are supposed to be derived from and consistent with the FYDP data base. But which FYDP? Are they connected to the September 1989 FYDP submitted to Congress? If that's the case, then the problem is even worse than I thought.

Mr. Speaker, if this provision were adopted, it would not cause undue hardship for the military services, provided they do what is required under the law.

Under normal circumstances, DOD would not begin obligating advance procurement moneys until late in the year at the very earliest. By that time, DOD should have completed its internal program and budget review process and be in a position to submit the fiscal year 1992 budget and the fiscal year 1992–96 FYDP. If the programs in the new FYDP are fully consistent with the President's budget as required by law, then it could obligate the money as planned. If not, the prohibition would remain in effect until the outyears are brought into line with the budget.

Mr. Speaker, I am searching for a way to apply some leverage on the FYDP. I thought a provision of law would suffice. But DOD has chosen to ignore the law. For me, that is unacceptable. So I now take the next logical step—withhold the expenditure of money until the department complies with the law of the land.

Hopefully, this approach will yield the desired results and next year we see a FYDP that is properly aligned with the budget.

TIME/WARNER COMMUNICATIONS SUPPORTS HOWARD UNIVERSITY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to Time/Warner Communications, an innovative company, and Howard University School of Communications, an outstanding institution. These two giants in their respective fields have joined together to build a bridge which will be walked upon by many young people in their quest to fulfill their educational aspirations.

First, I salute the contribution of Time/Warner. At a time when social responsibility and community involvement are sorely needed but severely lacking, this company has acted definitively and decisively to forge a path for other corporations to follow. This corporate pioneer and communications giant has donated over $150,000 to help defray the production costs of a television series originating from the Howard University School of Communications studios.

I also want to salute the Howard University School of Communications. The series, entitled "Howard Vision", is an innovative approach to exploring topical issues which concern the Howard University community and the community of the Greater Washington Metropolitan area. In addition to enriching the university and community by illuminating difficult issues, this series provides an opportunity for students in the Howard University School of Communications to become involved in every facet of the broadcast industry. The students put their talent and intellect to work by serving as writers, directors, producers, editors, camera operators, and in all other capacities necessary to assemble a television production.

Time/Warner and Howard have embarked on a bold mission to join together to meet the desperate need of underrepresentation of minorities in the communications industry. Through the combined efforts of the Howard University School of Communications and Time/Warner Corp., these participating students have an opportunity to aspire and achieve challenging and meaningful educational experiences.

Time/Warner Communications has shown its commitment to the realization of the goals and objectives of this school. Howard University School of Communications has shown its commitment to the students and to the people of the community. I applaud all of the participants in this project. Hopefully, the tangible and intangible benefits created by this association will provide an incentive which inspires emulation and imitation. I am certain that the benefits of this project will be dispersed over the Nation when these gifted and talented students graduate from the university and take their rightful places in the communications industry.

CAREGIVING—A FAMILY MATTER

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. DOWNEY. Mr. Speaker, as the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I rise in support of the resolution being introduced today designating Thanksgiving week of 1990 and 1991 as National Family Caregivers Week.

As in the past, I would like to commend Hon. OLYMPIA J. SNOWE, the ranking minority member of our Subcommittee for introducing this resolution. This year's resolution differs only slightly from those Ms. SNOWE has introduced in the past, because it is a 2-year resolution. However, the issue has not changed and remains as significant as ever.

Caregiving is one of the most important issues facing the American people. Recent estimates indicate that more than 12 million older Americans have some form of limitation in their daily activities because of a chronic condition. Approximately 5 million of these people need assistance in one or more basic physical activities or require help in managing domestic activities. At the present time, there are over 2 million Americans who act as caregivers, providing help to elderly family members residing in the community. A recent survey indicates that 47 percent of all American families have had to deal with providing long-term care to a member of their family. More than two-thirds of functionally dependent elderly people live in the community, and 42 percent live with a spouse. Without these spouses and children, that quality of life for millions of older Americans would deteriorate immeasurably.

As we approach the end of the 20th century, the number of elderly Americans requiring assistance is bound to increase as the number of Americans over the age of 75 grows. Complicating the situation is the changing nature of the American work force as more and more women pursue full-time careers. Women, who have traditionally been the primary caregivers for their elderly relatives, face greater challenges and stress as they try to balance the competing claims on their time and energy. Clearly we need to find a better solution to the growing needs of older Americans and their caregivers.

Designating Thanksgiving week as National Family Caregivers Week reaffirms our commitment to finding that solution, and formally acknowledges the millions of people in our country who contribute vast amounts of their time and energy providing care for their loved ones.

REPRESENTATIVE FLAVEL BUTTS DIES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1990

Mr. SKELTON. Mr. Speaker, on Sunday, March 17, the State of Missouri lost a distinguished citizen. Flavel J. Butts of Camdenton, MO, passed away after a lengthy illness. Flavel, a lifelong resident of the Lake of the Ozarks area, was a businessman and community leader. He belonged to the Elks Club, several Masonic organizations, Farm Bureau, Camdenton Chamber of Commerce, Camdenton Booster Club, Linn Creek Lodge, American Legion, Disabled American Veterans, and Veterans of Foreign Wars. During World War II, Flavel served his country in the Pacific Theater.

In 1972, Flavel was selected to the Missouri General Assembly. He served his constituents and the people of Missouri commendably in this capacity until his death. Many of his colleagues in the general assembly have spoken of his courageous stands on moral issues, his kindness, and his dependability. He will be missed in the general assembly, and by the people of Missouri.

Flavel leaves his wife, Eileen, his son, Joe, and two grandchildren. I extend my sympathy to his family and know they will be comforted by the knowledge that Flavel served his fellow man to the best of his abilities.

HOUSE OF REPRESENTATIVES—*Wednesday, March 21, 1990*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mr. GEPHARDT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 21, 1990.

I hereby designate the Honorable RICHARD A. GEPHARDT to act as Speaker pro tempore today.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Reverend Dr. Ronald F. Christian, assistant to the bishop, Washington, DC, Metropolitan Synod, Evangelical Lutheran Church of America, offered the following prayer:

O God, our Father, we acknowledge Your presence in our midst, and we place our trust in Your care.

Hear our prayer this day, O God.

May our deeds mirror our words, may our words emanate from benevolent thoughts, and may our thoughts be rooted in Your goodness and love for us and for all people, everywhere.

Help us to be mindful of and concerned for those whom it would be so easy to forget: the old, the sick, the poor, and the disconsolate.

Hear our prayer this day, O Lord. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mrs. MORELLA. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. MORELLA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 282, nays 124, not voting 25, as follows:

[Roll No. 35]

YEAS—282

Ackerman	Fawell	Luken, Thomas
Akaka	Fazio	Manton
Alexander	Feighan	Markey
Anderson	Fish	Matsui
Andrews	Flake	Mavroules
Annunzio	Foglietta	Mazzoli
Anthony	Ford (TN)	McCloskey
Applegate	Frank	McCurdy
Archer	Frost	McDermott
Aspin	Gaydos	McEwen
Atkins	Gejdenson	McHugh
AuCoin	Gephardt	McMillen (MD)
Bartlett	Geren	McNulty
Bateman	Gillmor	Meyers
Bates	Gilman	Mfume
Bellenson	Glickman	Miller (CA)
Bennett	Gonzalez	Mineta
Berman	Gordon	Moakley
Bevill	Gradison	Mollohan
Bilbray	Grant	Montgomery
Boggs	Gray	Moody
Bonior	Green	Morella
Borski	Guarini	Morrison (CT)
Bosco	Gunderson	Morrison (WA)
Boucher	Hall (OH)	Mrazek
Boxer	Hall (TX)	Murtha
Brennan	Hamilton	Myers
Broomfield	Hammerschmidt	Nagle
Browder	Hansen	Natcher
Bruce	Harris	Neal (MA)
Bryant	Hatcher	Neal (NC)
Bustamante	Hayes (IL)	Nielson
Byron	Hayes (LA)	Oakar
Campbell (CO)	Hefner	Oberstar
Cardin	Hertel	Obey
Carper	Hoagland	Olin
Carr	Hochbrueckner	Ortiz
Chapman	Houghton	Owens (NY)
Clarke	Hoyer	Owens (UT)
Clement	Hubbard	Oxley
Clinger	Huckaby	Pallone
Coleman (TX)	Hughes	Panetta
Combest	Hutto	Parker
Condit	Jenkins	Patterson
Conte	Johnson (CT)	Payne (NJ)
Conyers	Johnson (SD)	Payne (VA)
Cooper	Johnston	Pease
Costello	Jones (GA)	Pelosi
Coyne	Jones (NC)	Penny
Crockett	Jontz	Perkins
Darden	Kanjorski	Petri
Davis	Kaptur	Pickett
de la Garza	Kasich	Pickle
DeFazio	Kastenmeier	Poshard
Dellums	Kennedy	Price
Derrick	Kennelly	Quillen
Dicks	Kildee	Rahall
Dixon	Kleczka	Rangel
Donnelly	Kolter	Ravenel
Dorgan (ND)	Kostmayer	Ray
Downey	LaFalce	Richardson
Duncan	Lancaster	Rinaldo
Durbin	Lantos	Ritter
Dwyer	Laughlin	Robinson
Dymally	Leath (TX)	Roe
Dyson	Lehman (CA)	Rose
Early	Lehman (FL)	Rostenkowski
Eckart	Lent	Rowland (CT)
Edwards (CA)	Levin (MI)	Rowland (GA)
Emerson	Levine (CA)	Roybal
Engel	Lewis (GA)	Russo
English	Lipinski	Sabo
Erdreich	Livingston	Saiki
Espy	Lloyd	Sangmeister
Evans	Long	Sarpalius
Fascell	Lowey (NY)	Sawyer
Scheuer	Spratt	Valentine
Schneider	Staggers	Vander Jagt
Schumer	Stallings	Vento
Sharp	Stark	Visclosky
Shaw	Stenholm	Volkmer
Sisisky	Studds	Walgren
Skaggs	Swift	Walsh
Skeen	Synar	Washington
Skelton	Tallon	Watkins
Slattery	Tauzin	Waxman
Slaughter (NY)	Taylor	Weiss
Smith (FL)	Thomas (GA)	Wheat
Smith (IA)	Torres	Whitten
Smith (NE)	Torricelli	Wise
Smith (NJ)	Towns	Wolpe
Smith (VT)	Traficant	Wyden
Snowe	Traxler	Wylie
Solarz	Unsoeld	Yatron

NAYS—124

Armey	Herger	Roberts
Baker	Hiler	Rogers
Ballenger	Holloway	Rohrabacher
Barton	Hopkins	Ros-Lehtinen
Bentley	Hunter	Roth
Bereuter	Hyde	Roukema
Bilirakis	Inhofe	Saxton
Bliley	Ireland	Schaefer
Boehlert	Jacobs	Schiff
Brown (CO)	James	Schroeder
Buechner	Kolbe	Schuette
Bunning	Kyl	Sensenbrenner
Burton	Lagomarsino	Shays
Callahan	Leach (IA)	Shuster
Campbell (CA)	Lewis (CA)	Sikorski
Chandler	Lewis (FL)	Slaughter (VA)
Clay	Lightfoot	Smith (TX)
Coble	Lowery (CA)	Smith, Denny (OR)
Coleman (MO)	Lukens, Donald	Smith, Robert (NH)
Coughlin	Machtley	Smith, Robert (OR)
Courter	Madigan	Solomon
Cox	Marlenee	Spence
Crane	Martin (IL)	Stangeland
Dannemeyer	Martin (NY)	Stearns
DeLay	McCandless	Stokes
DeWine	McCollum	Sundquist
Dickinson	McCrery	Tauke
Dornan (CA)	McDade	Thomas (CA)
Douglas	McGrath	Thomas (WY)
Dreier	McMillan (NC)	Upton
Edwards (OK)	Michel	Vucanovich
Fields	Miller (OH)	Walker
Frenzel	Miller (WA)	Weber
Gallegly	Moorhead	Weldon
Gekas	Murphy	Whittaker
Gingrich	Packard	Wolf
Goodling	Parris	Young (AK)
Goss	Pashayan	Young (FL)
Grandy	Paxon	
Hancock	Porter	
Hastert	Regula	
Hefley	Rhodes	
Henry	Ridge	

NOT VOTING—25

Barnard	Gibbons	Shumway
Brooks	Hawkins	Stump
Brown (CA)	Horton	Tanner
Collins	Martinez	Udall
Craig	Nelson	Williams
Dingell	Nowak	Wilson
Flippo	Pursell	Yates
Ford (MI)	Savage	
Gallo	Schulze	

□ 1424

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore [Mr. BRUCE]. Would the gentleman from Pennsylvania [Mr. WELDON] please come forward and lead the House in the Pledge of Allegiance.

Mr. WELDON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Kalbaugh, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3311. An act to designate the Federal building located at 350 South Main Street in Salt Lake City, UT, as the "Frank E. Moss United States Courthouse".

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1472. An act to establish the Grand Island National Recreation Area in the State of Michigan, and for other purposes.

The message also announced, that the Senate agrees to the amendments of the House to the bill (S. 1521) entitled "An act to amend Public Law 91-34 relating to the police force of the National Zoological Park of the Smithsonian Institution, and for other purposes."

NEW AVIATION TAX PLAN IS A TROJAN HORSE

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, last year, American air travelers were forced to endure more than 177 million hours of delays. Those delays were not trivial—they cost the national economy some $5 billion.

This week, the President sent us a bill to fix this problem by making air travelers pay two additional taxes. He must be using that special OMB math, because it just does not compute.

Before we talk about saddling air travelers with another tax, we should spend the $7 billion that OMB has stashed away in the aviation trust fund. Any new tax, even call it a user fee, call it a facility charge, it's still a tax, will just add to that stash. Under the administration spending plan, that new tax money would not even be needed until 1994. Until then, it would just be another smokescreen for the deficit.

The administration is asking these new taxes of the traveling public, who already pay the full cost of improvements to the aviation system. It's an administration con game in which air travelers think all their money is being spent to improve aviation, and it's not.

The Subcommittee on Aviation is crafting legislation that will meet these same needs with money from the trust fund, and read my lips, no new taxes.

For the traveling public and local airport authorities, the administration plan is nothing but a fiscal Trojan horse. It looks good on the outside, but if you let it in, it will eat you alive.

STOP APPLYING STEALTH TECHNOLOGY TO AVIATION AND TRANSPORTATION BUDGETS

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, with his reauthorization proposal for the FAA, President Bush engages us in a game of hide and seek. Seeking taxes from consumers to hide the extent of the budget deficit.

Although the President projects a fiscal year 1991 deficit of $63.1 billion, CBO expects it to be $131 billion.

We may be able to mask the B-1, but we should not try to hide the deficit in the air transport budget. We are talking about rebuilding our economic infrastructure to encourage more private investment and to increase productivity. We are not going to achieve that by not expending the aviation trust fund balance.

□ 1430

Although the President does call for a partial spend down in fiscal year 1991, at his rate it will take us 7 years to achieve a total spend down. The country cannot afford to wait that long.

And while the administration would point to its progressive spend down policy in aviation, they ask that we accrue further surpluses of $700 and $800 million in the respective highway and mass transit accounts next year.

Now you see it, now you don't.

Mr. President, its time to stop applying stealth technology to our aviation and transportation budgets.

SPECIAL ORDER ON STRATEGIC DEFENSE INITIATIVE

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, I want to invite my colleagues to join me this afternoon in a special order on the subject of the strategic defense initiative.

It was just 7 years ago this week on March 23, 1983, that President Ronald Reagan announced the beginning of work on the strategic defense initiative, a new concept for the defense of the American people.

The question is no longer one of technology. The technology is here. It will never be uninvented. The question now is a matter of political foresight in support of this important program.

Last weekend I visited the Lawrence Livermore Laboratories where I saw the work being done on Brillian Pebbles technology, and can assure my colleagues that this program will fly this year. Two tests are scheduled for this year.

So I urge my colleagues this afternoon to join me in discussing this important project, the strategic defense initiative, and to support the program proposed by the President for full funding of that program in this next fiscal year.

READ MY LIPS: RAISE YOUR TAXES

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, the "read my lips, raise your taxes" policy of the Bush administration continued yesterday with the FAA now the latest to fly in the face of common sense.

Mr. Speaker, the aviation trust fund has a huge surplus: $7.6 billion. So what does the President do? He raises aviation taxes. He raises taxes on airline tickets, raises taxes on airline fuel, he creates a so-called user-fee for round-trip tickets. But who is being used and abused here?

The answer is obvious. American consumers are being used and abused.

The President continues to mask the size of the deficit by raising taxes in those areas, Social Security payroll, aviation, which already have huge surpluses.

While the President's rich friends greedily eye a capital gains cut, while the deficit mounts, working Americans continue to be used by user fees. These are the friendlier skies of the Bush administration: The postal officials ride first class and sip wine, while the rest of us fly coach and pay user fees for peanuts.

USING THE "PEACE DIVIDEND"

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, today I have introduced legislation to direct the Congress to use 50 percent of any real reduction in defense spending, or peace dividend, directly for deficit reduction.

I am delighted and encouraged by the easing of cold war tensions in Eastern Europe. Communist countries continue to make remarkable progress toward self determination and democracy. Glasnost, the upheavals in the Warsaw Pact and the current budget crisis make major cuts in defense spending an achievable goal.

It is long past time for the Congress to take responsible action to reduce the huge national debt. The continued burden of deficit spending should not continue to fall solely on the shoulders of the American taxpayer. Fifty percent of any real peace dividend directly applied toward reducing the deficit would be a step in the right direction of fiscally responsible action on the part of Congress.

In determining use of the other 50 percent of peace dividend we are constantly looking for alternative methods of revenue, without raising taxes, to address vital domestic issues. I believe one of our priorities must be to direct funds to our local governments to assist in implementing a national infrastructure plan. Our Nation's roads, bridges, and sewers are of vital importance and must be developed and maintained, like any natural resource. We have got to remain innovative and competitive in utilizing technology to advance our transportation systems and strengthen our national infrastructure.

Research and development in the areas of mass transit, high speed rail, magentically levitated trains, computer operated smart cars and alternative fueled vehicles is necessary and costly. However, we cannot afford to lose ground in an area that is vital to the continued growth and productivity of our Nation.

This brings up my second point: competitiveness. The United States must remain competitive with foreign nations that consistently beat us to the mark with spectacular developments in the fields of science, technology, and communications. If the United States is to remain competitive, we must fund those programs that will ensure our superiority in the global marketplace.

Closer to home are the various regional problems across the country that tend to get lost in the budgetary shuffle between Congress and the administration. These programs have a serious impact on the quality of life for the entire Nation. I know that southern California is grappling with many social responsibilities relating to its large migrant population.

Current funding is insufficient in providing for adequate housing, health care, education and job training for a large majority of the migrant population. Local governments are left to deal with an enormous burden that the Federal Government has consistently underfunded.

These are just a few of the needs that should be addressed in consideration of how to best utilize a peace dividend. Join me in cosponsoring legislation to direct the Congress toward a commonsense approach to fiscal responsibility.

THE AMERICAN PEOPLE DESERVE A MEANINGFUL BUDGET

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, Franklin Roosevelt gave the American people the New Deal. Harry Truman offered the Fair Deal.

And when it comes to dealing with the Federal deficit, President Bush's program can best be described as the Three-Card Monte Deal.

Every time the American people think they have finally learned the true size of the Federal deficit, billions more pop up "over there" somewhere; tucked away and hidden by the "hand is quicker than the eye" misuse of a trust fund.

First it was the Social Security trust fund.

Now it's the aviation trust fund. Rather than use its money for what the trust fund was designed to finance—improvements in the Nation's airports and airways—the administration wants to use more than $3 billion from it to hide the Federal deficit.

And George Bush wants to raise airplane ticket and aviation fuel taxes to pay for it and impose new user fees, to pay for it.

Mr. Speaker, America has a serious and urgent need to invest in our transportation infrastructure. In rural America, our ability to diversify and strengthen our economies depend on it. In a rapidly expanding world market, our ability to compete demands it.

At this critical hour in our Nation's history, the American people deserve better than the sleight-of-hand budget tricks they are getting from this President. They deserve a meaningful budget.

AVOIDING FEDERAL MANDATES

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, business owners across America believe that parental leave is a valuable benefit for their employees. Many businesses, both small and large, offer individualized benefits designed to meet the needs of their workplace.

Employers offer voluntary leave, extended vacation or sick time, personal days, child care assistance, flex-time, work sharing, dependent health insurance coverage, and allow work in the home. Offering these individualized benefits is good policy and one that I support.

A 1988 Bureau of Labor Standards benefit plan survey of over 30 million employees at medium and large firms found that approximately 90 percent were covered by a disability leave with some level of income replacement. Another study found that in the absence of formal leave policies, 72 percent of respondents indicated that employers informally accommodated workers with ill or seriously ill children. Another small business study showed that 75 percent of small business owners provide leave to new parents.

Business owners currently have the flexibility to design a benefit package that best meets the needs of their employees. Promoting flexibility in the workplace is a far different matter than imposing an onerous Federal mandate on employers.

Rushing to mandate a benefit will limit employee choice and end the current trend toward creative and flexible benefits. Join me in opposing federally mandated family and medical leave.

ADMINISTRATION'S AVIATION POLICY

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, the President has said, "Read my lips; no new taxes," and then he presents the aviation policy, and I just want to read a list.

A 25-percent hike in user charges for airline passengers. That increases the ticket tax from 8 to 10 percent. That is a user fee. Do not worry, it is not a tax increase, they say.

Airports are permitted to charge their own passenger user fees of up to $12 per round trip.

Freight fees increased from 5 to 6 percent.

Aviation gasoline tax up from 12 cents a gallon to 15 cents a gallon.

Jet fuel tax up from 14 cents a gallon to 18 cents a gallon.

The Department of Transportation Secretary is given the power to increase airport taxes after 1991.

Every $1 collected by an airport would reduce Federal funds available to that airport by 50 cents.

Finally, Mr. Speaker, if we want to build airports, what this policy proposes is pay now, fly later, maybe. Or better said, to say no new taxes is to fly by night.

STRATEGIC DEFENSE INITIATIVE

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, it was 7 years ago this week when Ronald Reagan in a speech from the White House mobilized the genius of the American people and challenged our brightest minds to build a defensive system that would protect us from nuclear attack. It was the strategic defense initiative. It was called star wars. It has been a turning point in the cold war, and perhaps a turning point in all human history.

It was the strategic defense initiative, our moving forward with great gusto, and our scientific accomplishment in this area that made possible the first agreement to reduce Soviet and American nuclear arsenals. If we are to achieve further arms reductions agreements with the Soviet Union, SDI is essential. SDI will give us the leverage we need to make agreements so that if there is cheating they will not seem so threatening to the other side, because we will have some level of protection.

SDI is an insurance program for peace. SDI should be fully funded this year, and I call on my colleagues to support that position.

□ 1440

ANTIABORTION MOVEMENT CURTAILS FREEDOMS

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, something happened in the U.S. territory of Guam which shows the danger of the antiabortion movement and how our freedoms will be curtailed if their policies and the politicians prevail.

In Guam, an antiabortion bill was passed and a woman faces a 1-year prison term for merely stating at a press conference that the women of Guam could still get legal abortions in Hawaii.

This woman faces charges of abortion solicitation.

Imagine in 1990 such an incredible circumstance.

My friends, pro-choice means trusting the women of America to make their own private and personal choices.

Let us pass the Freedom of Choice Act so that women in every State and territory can have the right to choose.

WHERE IS H.R. 3, THE CHILD CARE BILL?

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, the whip notice for today indicates that we should be voting on H.R. 3, the child care bill. Where is the rule? Where is the bill? Could it be that the bill the majority leader promised us last October that we would protect religious day care is coming unglued?

Could it be that the Democrats are afraid to bring that bill out here and debate it on the floor?

This building was built and this room is here for debate and discussion. If every bill is going to come out under a close rule and if every bill is going to come out after the deal is made, then let us rent this place out as a movie theater, put a screen up here and let the taxpayers get some benefits from their money.

Otherwise let us do what they pay us to do.

Let us debate child care, debate parental choice, debate religious-based child care, debate whether we want a bigger bureaucracy or whether we want American parents to make these choices.

It is now Wednesday, and we still have not seen H.R. 3.

MORE JAPANESE UNFAIR TRADE PRACTICES

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, I rise today to bring to the attention of my colleagues a disturbing matter of unfair trade that the Japanese Government and Japanese companies are engaging in. These unfair trade practices are the subject of a petition submitted to the Office of the U.S. Trade Representative on March 5, 1990, pursuant to section 301 of the Trade Act of 1974, as amended by the Trade and Competitiveness Act 1988.

I hold in my hand a patented sample of amorphous metal made by Allied-Signal. It's not hammered out to this sheet—it's actually cast in this form. Allied creates this metal in my district, and it is the only place in the world where it is made.

This amorphous metal is extremely important. When used in electrical transformers it can dramatically reduce energy loss. Not only does that save energy but it saves on the fuel we use to run the power generators and therefore reduces the amount of air pollution emitted by those same facilities. In addition, this amorphous metal will have future use in the aerospace industry and in the semiconductor industry—two areas that we currently lead the world. This is the future of metallurgy, and the Japanese know it.

Allied, which developed, patented, and produces amorphous metals, would benefit from being able to sell these wonderous new high-technology materials in the lucrative Japanese market. However, the Japanese have steadfastly refused to allow this Allied product into their country. The reasons are simple: if the Japanese can refuse Allied long enough—and they have for years already—then the patents that Allied holds will expire and the Japanese will be able to produce this metal on their own. They want it, but seem to be unwilling to obtain it through proper means.

The Japanese Government has gone so far as to form and subsidize a cartel-like group of Japanese companies to develop Japan's own amorphous metal, so when Allied's patents expire the Japanese will be prepared for full production and world sales. This cartel refuses to deal with Allied, and the Japanese Government has orchestrated the manipulation of the Japanese patent system to delay and devalue Allied's patents until they expire. They have also pressured Japanese public utilities to refrain from purchasing transformers made with this amorphous metal, even in the face of clear energy savings.

Allied has made repeated, good-faith efforts with the Japanese to negotiate a contract for the sale of this product. All of this has been for nothing, and I find this situation so extraordinary that I now bring it to you, my colleagues.

I have written to Ambassador Carla Hills, asking her to take special note of this section 301 application from Allied. I have also written to the Secretaries of State, Commerce, and Treasury, asking them to take up this matter and correct it to the best of their ability.

For years, many have suspected that the Japanese have been engaging in unfair trade tactics, but this has been hard to document. But not this time. Let us not let another high-technology product, created here in the United States and rightfully owned by an American company, slip away. I ask you to join me in urging all of these departments to investigate these activities and seek an immediate halt to this pattern of unfair behavior by the Japanese Government.

PADEREWSKI SHOULD BE RETURNED TO POLAND

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, Ignace Jan Paderewski, Polish pianist, composer and statesman, dedi-

cated his life to his country's unity and freedom. Even after Nazi aggression in Europe drove him from his homeland, he traveled to America to speak on behalf of the Polish people, never giving up hope that Poland would be free again. In December 1941, he died in New York City and, by a grant from President Franklin D. Roosevelt, was interred in Arlington National Cemetery with the promise that he would be returned when Poland became free.

Poland suffered great humiliation, terror, and economic desolution under Nazi and then Communist totalitarianism. But now, almost half a century later, Paderewski's dream is becoming reality and there is hope that at last he will rest in peace in his native homeland. The fall of communism in Eastern Europe and the imminence of free elections this spring are encouraging indications that the Polish-American Congress will soon determine that it is time that Paderewski be returned home. Today's Poland, inspired by the courage and ideals of Mr. Lech Walesa, is the Poland that Paderewski hoped to build. Therefore it is imperative that Mr. Paderewski be welcomed under the leadership of this disciple who is carrying out his dream.

As a descendent of grandparents from Kracow, I am especially interested in both Paderewski's and Poland's fate. I have contacted the Polish-American Congress to reiterate my concern and I urge that everyone who believes in the cause of freedom also demonstrate support in having this Polish national hero returned as soon as Poland is politically free and stable.

SUPPORT THE COMPUTER MATCHING CORRECTIONS ACT OF 1990

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, I am pleased to join my friend, Congressman KLECZKA, in introducing the Computer Matching Corrections Act of 1990.

This measure is designed to correct a mistake in the Computer Matching and Privacy Protection Act of 1988.

The requirement ignored pre-existing due process procedures established by program regulation or statute which impose on State agencies A 10-day advance notice requirement.

For my State of Texas, the combined State-Federal costs for complying with the 30-day notice provision will add up to $5 million in 1990.

Congress never intended to place such a cost and administrative burden on Federal and State governments.

This measure corrects this mistake by exempting AFDC, Medicaid and food stamp programs from the 30-day advance notice and independent verification requirements.

I urge my colleagues to join me and Representative KLECZKA in supporting this bill.

DOES THE POSTAL SERVICE NEED A RATE INCREASE?

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, the U.S. Postal Service is asking for a large postal rate increase to take effect next January.

Why do they need this rate increase? Well, let me tell you: Last year, 1989, a year in which they barely broke even, postal costs rose at twice the rate of inflation. And how were the managers of our postal system rewarded for this? Seventy-five out of seventy-five of the managers received bonuses averaging over $6,000 for this management.

When the General Accounting Office reviewed 22 post offices, they found that in 20 of them the highly automated expensive equipment that you and I paid for with our postage stamps was routinely turned off while the mail was sorted manually with an overinflated labor source.

In fact, in that year alone the post office used 25,000 work-years of labor more than they projected going into the year. That is why their costs are out of control.

Mr. Speaker, I have introduced House Resolution 351, encouraging the board of governors to admonish the Postal Service to reduce their costs, not raise our rates.

FORMER PRESIDENT REAGAN'S TESTIMONY IN THE POINDEXTER TRIAL

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, today former President Reagan took center stage in the Poindexter trial. So help me God, he said, "I can't recall," and, "I can't remember," so many times he got lockjaw.

He could not remember anything Mr. Meese did, Mr. Shultz did, and he said, "Furthermore, I don't remember much about the Tower Commission," that he created.

When they asked him if he knew why Mr. Poindexter was indicted, he said he was not sure. They reminded him that it was for lying to Congress, and he says, and I quote, "I'll take your word for it."

What a soap opera. If you can believe this charade, you can believe in both Mother Goose and the Tooth Fairy, ladies and gentlemen.

Mr. Poindexter has the one chance, folks, to be found guilty like Mr. Secord. Then he will get no jail time, no fines, he would not even have to do community service.

That is show biz, folks.

CONGRATULATIONS TO NAMIBIA ON THEIR INDEPENDENCE

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, as the struggle for freedom continues throughout the world in Lithuania, China, Vietnam, and a wide range of other places, it is important for us to note the tremendous success which has taken place in a number of spots.

First of all, we today warmly welcome Prime Minister Tadeusz Mazowiecki to Washington from Poland. At midnight last night we saw a very historic occurrence in sub-Saharan Africa. We witnessed Namibia actually proclaim its independence, being the newest nation to join the United Nations and the Organization of African Unity.

I would like to extend my congratulations to President Nujoma and wish the people of Namibia very well as they move in the direction of independence and freedom.

□ 1450

HONORING PUBLIC SERVANT BOB HALL

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, I rise today to proudly associate myself with a fellow public servant, Mr. Robert J. Hall, our State of Hawaii Employee of the Year, and to join our State in commending and honoring him for his outstanding contribution to the people of Hawaii.

Bob is the manager of three major public housing complexes in urban Honolulu which, under his leadership, were tranformed into socially and physically attractive and desirable communities in which to live and raise families. He has been recognized with awards from Gov. John Waihee, Lynne Waihee, our first lady, and the private sector for his outstanding achievements in public housing management, beautification and voluntarism. Among his other honors is a certificate of special achievement from the Department of Housing and Urban Development, 1 of only 20 awarded nationally, for his dedicated and unrelenting fight against drugs in public housing, and for his excellence in ad-

ministration and management. Under his leadership, rent delinquency rates have been reduced and preventative maintenance minimized at a substantial cost savings, all contributing to making the housing complexes under his administration pleasant and desirable communities.

Mr. Speaker, Bob Hall is the epitome of a competent and excellent dedicated public servant. I praise you Bob for your continuing outstanding service to our community.

MITCH SNYDER'S TACTICS HARM HOMELESS

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, I am appalled by the actions of Mitch Synder, the so-called leader of the homeless here in Washington. His deliberate action to prevent an accurate count of the homeless people in our Nation's Capital is just another one of his futile attempts to "help" the homeless. By obstructing an accurate count of the homeless here in Washington, he will actually cause more harm than good to homeless people nationwide. What is he so afraid of? Is it possible that the studies that have estimated the number of the Nation's homeless far fewer than Mr. Synder's estimates might be true? Is that what he fears? Does he really believe that blatant obstruction of the census, an important part of our Constitution, will help the plight of the homeless? This is a travesty. By the way, does Mitch Snyder pay taxes?

LITHUANIA DESERVES SUPPORT

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, "When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another. * * *" Our history as a Nation is established on this principle. If we are to remain true to ourselves, we can no more deny it today to the people of Lithuania who seek to dissolve the bonds which have connected them to the Soviet Union than we could deny it to our own forefathers.

We all want to see Mr. Gorbachev succeed in reforming his country, but if the price of that success is the compromise of our own most basic national principles, then the price, Mr. Speaker, is very high indeed.

Fifty years ago America spoke with outrage as Stalin and Hitler conspired to deny Lithuania her sovereignty. Two generations later the proud people of Lithuania seek to repair this terrible injustice, and they look for America's support. To remain silent at this moment is to become complicitous in Stalin's theft of Lithuanian independence, while denying the principles that we hold most dear as Americans.

INTRODUCTION OF WETLANDS CONSERVATION RESERVE PROGRAM ACT OF 1990

(Mr. STANGELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. STANGELAND. Mr. Speaker, today several of my colleagues join me in introducing the Wetlands Conservation Reserve Program Act of 1990. The bill makes the Conservation Reserve Program more environmentally responsive by including wetlands and surrounding upland areas.

The Wetlands Conservation Reserve Program Act of 1990 would make wetlands and surrounding uplands eligible for inclusion in the Conservation Reserve Program. It would extend the Conservation Reserve Program another 5 years but would not change the existing acreage cap of 45 million. It does, however, acknowledge that at some point we may want to expand the cap and extend the Conservation Reserve Program for additional years.

My bill would target sensitive areas that have been farmed in the past as well as those likely to be farmed in the future. It's a preventive measure that builds upon public-private partnerships. We should share the costs and benefits of wetlands protection among the public at large—not solely among selected individual private property owners. It also embodies the recommendations of many—including the National Wetlands Policy Forum and environmental organizations—to establish an agricultural wetlands reserve or preservation trust.

I believe this is a workable and balanced approach to protect wetlands from future drainage, help meet the President's "no overall net loss" goal, and recognize private property owners' rights. Too often we resort to heavy-handed regulation steps when we can accomplish the same resource protection goals through other innovative measures.

Mr. Speaker, I look forward to working with my colleagues on moving this legislation in the 1990 farm bill. I would note that Congresswoman SMITH and Congressman SCHULZE and others have similar proposals. I think we can all work together on specific ways to improve the CRP. In addition, I hope to introduce more comprehensive legislation on wetlands protection involving agricultural practices and permitting programs—such as under the Clean Water Act—in the near future.

Attached is a section-by-section summary of the Wetlands Conservation Reserve Program Act of 1990.

WETLANDS CONSERVATION RESERVE PROGRAM ACT OF 1990

SECTION-BY-SECTION ANALYSIS

Section 1 provides the bill's short title: the Wetlands Conservation Reserve Program Act of 1990.

Section 2 expands the Conservation Reserve Program (CRP) to include "converted wetlands" and "wetlands" (as those terms are defined in the 1985 Food Security Act) and upland areas surrounding such converted wetlands and wetlands. These "surrounding areas" are eligible for CRP enrollment because of the many environmental benefits they often provide—such as wildlife and waterfowl habitat. Wetlands not yet converted are eligible for CRP enrollment if the Secretary of Agriculture determines such wetlands are likely to be converted based on technical feasibility, economic considerations, weather patterns, or other factors.

Section 3 extends the CRP for another 5 years (through 1995), while leaving unchanged the existing acreage limitation (45 million acres).

Section 4 requires the Secretary to report to House and Senate Agriculture Committees within two years on the need for and advisability of extending the CRP beyond 1995 and increasing the acreage limitation beyond 45 million. The Secretary must also report on the effects of increasing the cap, including the impacts on rural and national economies.

PRESIDENT REPUDIATES PARTY PLATFORM ON JERUSALEM

(Mr. MCNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCNULTY. Mr. Speaker, I join my colleagues on both sides of the aisle in voicing my concern about the recent statements by President Bush relating to Jerusalem. I just cannot understand his motivation.

Not only did the President repudiate his own party's 1988 platform, which calls for a "united" Jerusalem, he even repudiated his own stated position. In 1980, when the United Nations was considering a resolution opposing all settlements "including Jerusalem," then Vice Presidential candidate George Bush condemned it is an unwise policy that "undermines confidence in America's policy and purpose in the Middle East."

Mr. Speaker, this is not a partisan issue.

Most Americans believe Jerusalem should be the undivided capital of Israel.

That recognition can be found in several Democratic and Republican Party platforms.

As one who has been generally supportive of the Bush foreign policy, I urge the President to reconsider and retract his recent statements on Jerusalem. They have damaged the Israeli Government, they have damaged the

peace process, and they are not in the best interests of the United States.

CONGRESS IS READY FOR DEBATE

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, in this morning's Post is an op-ed piece by the distinguished majority leader entitled "How I Dare Criticize the President?"

I'm not going to get to the difference of opinion between the majority leader and our distinguished President, but there are several lines in the article that rather intrigued me. One, "We had better discuss and debate those choices * * * refusing even to debate important policies, we are doomed to be the victims of change."

Admittedly the majority leader was talking of foreign policy issues, and I would like to pick up on the comment of the distinguished gentleman from New Hampshire [Mr. DOUGLAS], when he expressed the lack of seeing the day care/child bill on the floor of the House of Representatives.

I do not know how long it has been scheduled, or how long we have been talking about the need for having it debated and discussed openly on the floor of the House. There are several plans on this side, maybe several plans on that side. Some of the intricate provisions I am not fully aware of, nor do I know the implications. That is a debating society. This is where it ought to take place. Let all Members have their say. I do not know why it has to be so manufactured and so dished out to Members, in such limited form that we cannot even alter it by a free debate here in this House. My view is we have several real controversial issues, including acid rain, clean air is coming down the pike, along with campaign reform and some others. We are not doing all that much with the days off on Monday and Friday and all in between. What are we waiting for? Let Members at least get something out here on the floor of the House. I cannot predict who will win, but let Members talk them all out.

NO NEW AVIATION TAXES

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, air travelers in the United States are being threatened today by a group of powerful pencil pushers who threaten to take us all to the cleaners.

The Office of Management and Budget has for years put up a brick wall which prevented the aviation trust fund from doing what it was intended to do: improve our airports and airways.

Now, not satisfied with the $7 billion surplus built up in the trust fund, OMB and the White House want to raise the tax that every passenger pays when they purchase an airline ticket.

To that I say, "Read this Democrat's lips: No new aviation taxes!"

The American people do not want to pay more money to have it only sit for years in OMB's equivalent of a Swiss bank account.

Mr. Speaker, the American people are demanding honesty and truth when it comes to spending the moneys entrusted to us. I believe we should spend every dime in the aviation trust fund to improve our airports and airways. Before raising aviation taxes, if the White House cannot live up to its end of the bargain, then I say let us live up to ours.

FORTRESS AMERICA

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, strategic defenses are likely to be essential for Americans to participate fully in the world of the 21st century. America as the richest, most successful, and avowedly democratic country, is likely to continue to be the chief target of ideologues and fanatics of several stripes. At the same time, the 21st century will be marked by the widespread proliferation of technologies for mass destruction across long ranges, and by extreme sophistication in the forces of our chief adversaries. This will enable precise, extraordinarily rapid, and powerful attack, in which undefended targets will have zero chance of survival. To put it plainly, they will be naked and vulnerable to attack.

Traditional deterrence of such threats based on counterthreats of retaliation against populations will have to handle attacks too fast and too effective for undefended forces to survive for retaliation; and some irrational attackers will not care if their resources are threatened offensively. Therefore, keeping the United States participating in the world, not surrendering to future coercion, must include defenses to ensure that free world leaders are able to resist and avoid pressures for quick or ineffective or life-threatening situations and reactions.

In other words, Mr. Speaker, there should be an SDI plan in our future.

CELEBRATING 75 YEARS OF AMERICAN AEROSPACE LEADERSHIP

(Mr. VALENTINE asked and was given permission to address the House for 1 minute.)

Mr. VALENTINE. Mr. Speaker, the first Saturday in this month marked the 75th anniversary of a little known event that profoundly enhanced America's position in the world. On March 3, 1915, President Wilson signed a naval appropriations bill that contained a $5,000 rider establishing the National Advisory Committee on Aeronautics, and instructing the committee to:

> Supervise and direct the scientific study of the problems of flight, with a view to their practical solution.

From those simple, but visionary, words came 75 years of discovery and innovation which secured for our Nation a position of unquestioned preeminence in aviation.

In 1958, the NACA became the core of another agency that has played an extraordinary role in American life over the past 30 years. I am speaking, of course, about the National Aeronautics and Space Administration [NASA].

As we reflect on those 75 years, on the legacy of the DC-3, the X-1, the P-51 Mustang and today's superb flying machines, I call on all of us to be true to the NACA heritage and to assure America's continued aerospace leadership.

A DREAM OF FREEDOM FOR LITHUANIA

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, I believe in the American dream. It is the dream to be able to bow our heads and worship our God at any time and any place we want. It is the dream to get up and say whatever we want to say, to have freedom of the press, to have the freedom to choose any occupation that we wish, and the freedom to choose to live anywhere we want to live and to raise our families. It is the dream of freedom. It is a dream of independence. It is the dream that we all want to pass on to our children.

It is the same dream that the people of Lithuania are struggling for today. It is the same dream that they want to pass on to their children. It is the same dream that some people are denying to give them so they may have that recognition that they deserve as a free and independent country.

Mr. Speaker, I challenge the President and I challenge my colleagues to give them that recognition so that they may pass those dreams on to their children.

THE NATION'S TRANSPORTATION SYSTEM FACES NEW CHALLENGES

(Mr. EMERSON asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, the transportation system of our Nation currently stands at a crucial crossroad. Years of hard work have given us the most extensive and most utilized transportation configuration in the world. We are the possessors of an interstate system that alone is nearly large enough to circle the globe twice. However, growth in population and expanded use have created levels of demand unimaginable by the system's founders. We must now, face the task of maintaining and expanding that system in an era of fiscal austerity.

Our transportation system is the result of a partnership between the Federal Government and the States. This partnership has historically centered on joint planning and joint funding. However, new patterns of partnership will be required for the challenges ahead

Additionally, the state of the Nation's transportation system is inexorably linked with the state of business. As we seek to strengthen commerce, both at home and abroad, our transportation system must become a central focus for our efforts. Just as the world of business never rests, so too must the Nation's transportation system reorient itself to maintain its role as a facilitator of commerce and provider of access for all its citizens. The National Transportation Policy provides guidance to achieve these ends.

For the past decade, it has been the administration's policy to identify any and all unnecessary Federal regulations that impede the activities of our citizens, and to otherwise remove any further encumbrances to the progress of its people. Today, perhaps more than ever, new initiatives along these lines are required in order to streamline the procedures of the Federal Government.

I feel confident that the National Transportation Policy will help us to face the obstacles that I have enumerated. I am grateful to Secretary Skinner for having provided us with so helpful a product to use as our blueprint for the future.

SEALED JUDGMENTS COVERUP JUSTICE DEPARTMENT ACTIONS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I have a very serious question, and that is: What has happened to the Justice Department? I am really startled by what they have been doing of late.

First of all, it has taken us a long time to crank the Justice Department up to do the things that they should be eager to do. It has taken everything we have had to get them to go after waste, fraud and abuse in the Defense Department and to go after some of the scandals in the savings and loans.

But now what do we see? Now that they have gotten in there and the waste and fraud jumped up and grabbed them, there was no way to cover it up and they are now sealing the judgments. Northrup's judgment will be sealed. They say, "Well, we brought them to justice, but you will never know what has happened because we are sealing the judgment."

They are now talking about sealing the judgment on many of the big eight accounting firms that cooked the books so that we could pay all the bills to bail out those savings and loans.

Mr. Speaker, that is not justice; that is a coverup. I think we should be very indignant that our tax money is going to that purpose, and I hope we straighten out the Justice Department.

THE STENHOLM-SHAW SUBSTITUTE ON CHILD CARE

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, as we know, there are basically two approaches to child care. One is that we allow the parents to make the decisions; the other is to have Washington make the decisions.

After a great deal of debate, there has been a very good piece of legislation introduced. It is called the Stenholm-Shaw substitute, which would empower parents to choose the kind of child care they wish their children to have. I believe it is appropriate that that bill be given a good hearing so that the American people would be informed about its contents. Under that legislation, empowerment would be given to the parents either through a certificate or a voucher or an income tax credit whereby they could choose what kind of child care their young child would have.

The alternative is to have Washington decide and set up licensed care centers and license those people who work there, certainly disqualifying the family members. That would be a wrong direction to take.

I am grateful that the Speaker has been reluctant to bring that bill to the floor this week, as was threatened. It would be unfair to all of us if such a major decision for the decade would be made under such hurried circumstances. Given the time of a week or two in order to discuss all the merits, I am sure that people will come down on the side of parental choice and support the parental choice bill as sponsored by the gentleman from Texas [Mr. STENHOLM] and the gentleman from Florida [Mr. SHAW].

□ 1510

PARENTAL DECISIONMAKING IN CHILD CARE

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, apropos of the comments just made by my distinguished colleague, the gentleman from Ohio, I would like to point out that there are not two, but really three proposals on child care before the Congress this week.

The original child care bill, known as the ABC bill, was largely the product of the Education and Labor Committee. It might fairly be described, as the gentleman described it, as bureaucrats in Washington making decisions, but the bill coming to the House floor will probably be the Ways and Means Committee bill which does provide the maximum amount of parental decisionmaking.

We expand the income tax credit. We funnel more money through an established vehicle in title 20.

The differences between the child care bill reported by our committee and the Stenholm amendment are relatively narrow and small, so I hope indeed, as my friend, the gentleman from Ohio says, that Members will take a careful look at this issue. It deserves to be looked at carefully by all Members of the House.

PROVIDING FOR COMMEMORATION OF 100TH ANNIVERSARY OF BIRTH OF DWIGHT DAVID EISENHOWER

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that the Committee on House Administration, the Committee on Post Office and Civil Service, and the Committee on Rules be discharged from further consideration of the Senate joint resolution (S.J. Res. 237) providing for the commemoration of the 100th anniversary of the birth of Dwight David Eisenhower, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. DELLUMS). Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 237

Whereas Eisenhower was born on October 14, 1890, in Denison, Texas, and soon thereafter moved with his family to Abilene, Kansas;

Whereas Eisenhower developed an interest in military history early in childhood, and attended the United States Military Academy at West Point, New York, from 1911 through 1915;

Whereas in 1915, upon graduation from the United States Military Academy, Eisenhower was commissioned as a second lieutenant and assigned to the 19th Infantry at Fort Sam Houston, Texas;

Whereas at the conclusion of World War I, Eisenhower assumed the rank of captain, and was promoted to the rank of major shortly thereafter;

Whereas in 1935, Eisenhower accompanied General Douglas MacArthur to the Philippines, where he served as a senior military assistant to General MacArthur;

Whereas Eisenhower was promoted to the rank of lieutenant colonel during his service in the Philippines;

Whereas Eisenhower was subsequently assigned to Fort Lewis, Washington, where he served as executive officer of the 15th Regiment of the 3d Infantry Division from January through November 1940, and as chief of staff to General Kenyon A. Joyce of the 9th Corps from March through June of 1941;

Whereas in March 1942, Eisenhower was promoted to the rank of General and named Chief of the Operations Division for the General Staff of the United States Army;

Whereas in June 1942, Eisenhower achieved the rank of Lieutenant General, and in December 1944, he became a General of the Armies;

Whereas Eisenhower served as President of Columbia University from 1948 through 1950;

Whereas Eisenhower was appointed by President Harry S. Truman as Supreme Commander of the North Atlantic Treaty Organization forces in Europe, and served in that position from 1951 through 1952;

Whereas Eisenhower was elected the 34th President of the United States on November 4, 1952, and was reelected to serve a second term on November 6, 1956;

Whereas President Eisenhower hosted 115 foreign chiefs of state and heads of government on visits to the United States, traveled to 28 foreign countries, and participated in 20 summit talks with foreign government leaders;

Whereas Eisenhower strongly supported education and promoted international understanding through education;

Whereas Eisenhower had a long and productive association with Gettysburg College, serving as a member of the College's Board of Trustees, using a campus office to write his memoirs and to fulfill the numerous duties of a former President, and receiving an honorary doctorate from the College;

Whereas after leaving office on January 20, 1961, Eisenhower retired with his wife to their farm and home in Gettysburg, Pennsylvania;

Whereas Eisenhower died on March 28, 1969, and was buried in military uniform in the place of meditation on the grounds of the Eisenhower Center in Abilene, Kansas; and

Whereas throughout 1990, various public and private organizations, including the Eisenhower Society, the Eisenhower Foundation, the Eisenhower World Affairs Institute, the Eisenhower Exchange Fellowship Program, Inc., the Eisenhower Centennial Commission, and others, will be sponsoring and conducting events across the Nation to commemorate the centennial of the birth of Dwight David Eisenhower: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 14, 1990, the 100th anniversary of the birth of Dwight David Eisenhower, is designated as "Dwight D. Eisenhower Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

SEC. 2. The members of the Senate and the House of Representatives who are members of the Dwight David Eisenhower Centennial Commission, with the assistance of the other members of that commission (referred to hereinafter as the "Commission"), shall—

(1) make arrangements for a joint meeting of the Congress to be held on Tuesday, March 27, 1990, or such other day as may be designated by the Speaker of the House of Representatives, in the Hall of the House of Representatives in commemoration of the centennial of the birth of Dwight David Eisenhower;

(2) plan the proceedings of and issue appropriate invitations to the joint meeting; and

(3) coordinate the foregoing arrangements with the activities of the Dwight David Eisenhower Centennial Commission.

SEC. 3. The expenses of carrying out this joint resolution shall not exceed $25,000 and shall be paid from the contingent fund of the House of Representatives upon vouchers approved by Speaker of the House of Representatives.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ANNUNZIO] is recognized for 1 hour.

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am happy to join my good friend and colleague, the gentleman from Kansas [Mr. ROBERTS] in supporting the purpose of this resolution. It is identical to House Joint Resolution 483, introduced by the gentleman from Kansas [Mr. ROBERTS]. I had the honor of managing the legislation that authorized the striking of the coins commemorating President Eisenhower, and this resolution further demonstrates our respect for this distinguished American.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I thank the gentleman from Illinois, my friend and colleague and distinguished chairman of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, of the Committee on Banking, for yielding me this time.

Mr. Speaker, I am pleased to rise today in support of Senate Joint Resolution 237, providing for the commemoration of the 100th anniversary of the birth of Dwight D. Eisenhower. In Kansas where Eisenhower grew up, across the Nation, and around the globe, we remember the many ways in which Ike's leadership and foresight helped to shape today's world. We remember, and we like Ike.

I would like to thank Chairman ANNUNZIO for his assistance in bringing this resolution to the floor. I would like to recognize once again Chairman ANNUNZIO's assistance with the Eisenhower coin when that bill was under consideration by the House Banking Committee.

As my colleagues remember, I introduced legislation in the 99th Congress along with Senator DOLE in the Senate that established the Dwight D. Eisenhower Centennial Commission to plan and coordinate the centennial events. That bill became Public Law 99-624 and laid the ground work for the resolution that is before us today.

This commemoration is in keeping with those held for other Presidents in their centennial year. The Roosevelt and Truman commemoratives are recent examples.

Senate Joint Resolution 237 does three things. First, it designates the date of Ike's birth, October 14, 1890, as "Dwight D. Eisenhower Day."

Second, it provides for a joint meeting of the Congress to be held March 27, 1990, in the Hall of the House of Representatives in honor of the centennial.

Third, it provides that the expenses of carrying out this resolution shall not exceed $25,000 and shall be paid from the contingent fund of the House of Representatives.

Mr. Speaker, I urge the passage of this important resolution.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, I thank my colleague for yielding to me. I applaud him on the introduction of this legislation and I urge my colleagues to support it.

Dwight David Eisenhower was buried in Abilene, KS, April 2, 1969. It was the city he grew up in. His mother, Ida, pregnant with Ike took his two brothers Arthur and Edgar to Texas to join her husband David when he had lost his business in Kansas. Not long after Ike was born, the family returned to Abilene.

From there Ike went to West Point, met Mamie when he joined the Army, and in 1952 became the supreme commander of allied forces in Europe. It was General Eisenhower who commanded the largest invasion ever on D-Day June 6, 1944, and it was on that day we won the war.

As President, it is ironic this great military man considered his highest achievements as ending the Korean war and keeping America out of war during his 8-year tenure. It was in his Farewell Address, January 17, 1961, when he made this oft quoted statement, which particularly consistent with the ideals and goals of the gentleman who now occupies the chair, Mr. DELLUMS. In that regard, Mr. Eisenhower said:

In the councils of government we must guard against the acquisition of unwarranted influence, whether sought or unsought,

by the military industrial complex. The potential for the disastrous rise of misplaced power exists and will persist.

When we honor that great Kansan, Dwight David Eisenhower, we honor a man of war and a man of peace and we honor an uncommon man who liked best to be seen as a common man. Perhaps therein lies his greatness.

Mr. ROBERTS. Mr. Speaker, I thank my colleague for his unique contribution.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I am happy to yield to my friend and colleague, the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding to me.

I just want the RECORD to note that Pennsylvania has a great deal to boast about with respect to the general and President of the United States, Dwight David Eisenhower. His grandfather, his grandparents lived in Elizabethville in Dauphin County, PA, and later, of course, everyone in the world knows that the general and President retired and chose to live in Gettysburg near the battlefield and near the points of history which preceded the making of the history of which he was a part. So when we proceed toward lauding the President of the United States who made us as proud, I for one want to make sure that the RECORD is clear that Pennsylvania had a great deal to do with his background and with the history that he made.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for his contribution.

Mr. ANNUNZIO. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Speaker, let me say as a member of the Centennial Commission, it gives me a great deal of pleasure and pride to stand before you today and talk about Senate Joint Resolution 237, which designates March 22, next Tuesday, for a joint session for the honoring of the centennial year of our 34th President.

It is interesting to listen to the Members from Kansas who say that Ike was one of them from Kansas, and then Pennsylvania gets up and says Ike is one of us, he is from Pennsylvania. Republicans get up and say he is ours, he is Republican. The Democrats have not gotten up yet, but I remember vividly back in 1948 when he was president of Columbia University and a torch light parade went up Morningside Heights, with the Democrats asking him to be their standard bearer for President that year.

So I think he does not really belong to Kansas or Pennsylvania or the Democrats or the Republicans. I think what he really epitomizes is an American, one who started as a humble beginner and achieved greatness, one that we all look to in a time of need to lead us and one that we can now sit back and say we are glad we knew him.

I have a very personal part in this, because as a young child when World War II broke out, he was a personal friend of my family, and came to my father and said, "I'm going to Europe to lead our troops. Mamie has no home."

And as it turned out, she moved in with us, and so for 3 years I was the little kid that ran up and down the elevator at the Wardman Park and alerted them as to who was coming, whether it was President De Gaulle, General MacArthur, General Marshall, and a wide assortment of individuals.

So it gives me a lot of pride and pleasure to serve on that Commission that will be here next week in a joint session to honor this great American.

Mr. ANNUNZIO. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, on Tuesday, March 27, we will hold a joint meeting of Congress to pay tribute to our 34th President and victorious World War II general born nearly 100 years ago on October 14, 1890—Dwight D. Eisenhower.

As a member of the Eisenhower Centennial Commission, I would like to urge my colleagues to join us in this tribute to President Eisenhower—a man with a clear vision for the future of this Nation, deep compassion for those less fortunate, a distinguished record of leadership, and solid family values whose 8 years in office brought this country an exceptional period of peace and prosperity.

Many distinguished individuals will be addressing the joint meeting including Ike's son, former Ambassador John Eisenhower; Newsman Walter Cronkite; Winston S. Churchill, grandson of the wartime Prime Minister; Washington Dean Clark Clifford; golf professional Arnold Palmer; and James D. Robinson III, Commission Vice Chairman and Chairman of the Eisenhower Centennial Foundation.

As we celebrate this distinguished President's 100th birthday, I would also like to call to the attention of my colleagues President Eisenhower's cultural achievements which he bestowed upon this Nation. For example, it was during the Eisenhower administration that the original National Cultural Center Act was passed. This was the legislation that established what was later named the John F. Kennedy Center.

Unfortunately, many do not know how extensive Eisenhower's cultural contributions were. Therefore, I would like to recommend a book that annals these accomplishments. The book is "Miracle On the Potomac; the Kennedy Center From the Beginning," and it gives a fascinating chronicle of Eisenhower's firm commitment to fostering this Nation's cultural heritage.

The book was written by a dear friend of mine, Ralph Becker. Ralph, a former Ambassador to Honduras, was a trustee and general counsel for the John F. Kennedy Center and is one of the founders of the National Cultural Center for Performing Arts. Without the devoted and untiring work of Ralph Becker, I assure you that there would be no Kennedy Center today.

Mr. Speaker, I commend to my colleagues the joint meeting of Congress on March 27 and the interesting and informative book by Ralph Becker—"Miracle On the Potomac."

Mr. SLATTERY. Mr. Speaker, I would first like to thank the chairman of the House Administration Committee, FRANK ANNUNZIO, the ranking minority member, BILL THOMAS, and the members of the House Administration Committee for their support in bringing this legislation to the floor today.

This legislation is identical to House Joint Resolution 483, introduced by Representative PAT ROBERTS, of which I am an original cosponsor.

Dwight D. Eisenhower's contributions to our country and the world—as President, general, and elder statesman—continue to positively affect the United States.

From his courageous commanding of the allied invasion of Normandy, to his signing of the Civil Rights Act of 1957—the first civil rights legislation since Reconstruction—President Eisenhower stressed his commitment to freedom and the principles Americans hold dear.

The influence the State of Kansas had on this great leader, and ultimately world events, makes those of us from the Sunflower State especially proud of our heritage at this moment.

As a fellow Kansan, I am indeed pleased to be able to stand before you today and endorse this effort to honor one of America's great leaders on the eve of his centennial celebration.

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Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 237, the Senate joint resolution just passed.

The SPEAKER pro tempore (Mr. DELLUMS). Is there objection to the request of the gentleman from Illinois?

There was no objection.

AUTHORIZING FUNDS FOR INVESTIGATIONS AND STUDIES BY STANDING AND SELECT COMMITTEES OF THE HOUSE

Mr. GAYDOS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 346) providing amounts from the contingent fund of the House for the expenses of investigations and studies by standing and select committees of the House in the 2d session of the 101st Congress, and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. GLICKMAN). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 346

Resolved, That there shall be paid out of the contingent fund of the House in accordance with this primary expense resolution not more than the amount specified in section 2 for investigation and studies by each committee named in such section, including expenses—

(1) in the case of a committee named in section 3, for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946; and

(2) in the case of a committee named in section 4, for provision of assistance for members of professional staff in obtaining specialized training under section 202(j) of such Act.

SEC. 2. The committees and amounts referred to in the first section are: Select Committee on Aging, $1,530,120; Committee on Agriculture, $2,027,519; Committee on Armed Services, $2,119,398; Committee on Banking, Finance and Urban Affairs, $4,523,254; Select Committee on Children, Youth, and Families, $780,652; Committee on the District of Columbia, $371,705; Committee on Education and Labor, $3,860,707; Committee on Energy and Commerce, $5,840,111; Committee on Foreign Affairs, $3,430,064; Committee on Government Operations, $3,492,470; Committee on House Administration, $1,320,000; Committee on House Administration—House Information Systems, $7,430,000; Select Committee on Hunger, $645,395; Permanent Select Committee on Intelligence, $305,000; Committee on Interior and Insular Affairs, $2,075,500; Committee on the Judiciary, $2,355,476; Committee on Merchant Marine and Fisheries, $2,302,435; Select Committee on Narcotics Abuse and Control, $753,580; Committee on Post Office and Civil Service, $1,802,906; Committee on Public Works and Transportation, $2,747,813; Committee on Rules, $672,413; Committee on Science, Space, and Technology, $2,800,042; Committee on Small Business, $1,029,000; Committee on Standards of Official Conduct, $1,500,000; Committee on Veterans' Affairs, $719,458; and Committee on Ways and Means, $4,221,000.

SEC. 3. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for consultant services under paragraph (1) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $30,000; Committee on Armed Services, $40,000; Committee on Banking, Finance and Urban Affairs, $100,000; Select Committee on Children, Youth, and Families, $10,000; Committee on the District of Columbia, $10,000; Committee on Education and Labor, $105,924; Committee on Energy and Commerce, $25,000; Committee on Government Operations, $35,000; Committee on House Administration, $35,000; Committee on House Administration—House Information Systems, $450,000; Committee on Post Office and Civil Service, $100,000; Committee on Public Works and Transportation, $15,000; Committee on Science, Space, and Technology, $10,000; Committee on Standards of Official Conduct, $1,200,000; Committee on Veterans' Affairs, $37,500; and Committee on Ways and Means, $10,000.

SEC. 4. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for specialized training under paragraph (2) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $5,000; Committee on Armed Services, $8,000; Committee on the District of Columbia, $1,500; Committee on Education and Labor, $10,000; Committee on Government Operations, $2,000; Committee on House Administration, $10,000; Committee on House Administration—House Information Systems, $280,000; Committee on Interior and Insular Affairs, $2,000; Committee on the Judiciary, $1,000; Committee on Post Office and Civil Service, $15,000; Committee on Public Works and Transportation, $35,000; Committee on Rules, $4,000; Committee on Science, Space, and Technology, $14,000; Committee on Standards of Official Conduct, $3,000; and Committee on Veterans' Affairs, $2,500.

SEC. 4. The Committee on House Administration—

(1) shall, through House Information Systems, develop, operate, maintain, and improve computer and information services for the House, including direct computer and information systems support for Members, committees, administrative offices, and other governmental entities, and shall conduct investigations and studies of such services;

(2) is authorized to receive reimbursement for services under paragraph (1) and to expend amounts so reimbursed with policies of the committee; and

(3) is authorized to provide for professional development programs, office and personnel management consultation services, and periodic publication of handbooks, guides, bulletins, and other items necessary for the House.

SEC. 6. Payments under this resolution shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 7. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon on January 3, 1990, and ending immediately before noon on January 3, 1991.

SEC. 8. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

Mr. GAYDOS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the resolving clause and insert:

That there shall be paid out of the contingent fund of the House in accordance with this primary expense resolution not more than the amount specified in section 2 for investigations and studies by each committee named in such section, including expenses—

(1) in the case of a committee named in section 3, for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946; and

(2) in the case of a committee named in section 4, for provision of assistance for members of professional staff in obtaining specialized training under section 202(j) of such Act.

SEC. 2. The committees and amounts referred to in the first section are: Select Committee on Aging, $1,481,499; Committee on Agriculture, $2,016,015; Committee on Armed Services, $2,070,657; Committee on Banking, Finance and Urban Affairs, $4,045,000; Select Committee on Children, Youth, and Families, $734,479; Committee on the District of Columbia, $324,512; Committee on Education and Labor, $3,686,681; Committee on Energy and Commerce, $5,491,231; Committee on Foreign Affairs, $3,369,145; Committee on Government Operations, $3,062,942; Committee on House Administration, $1,505,000; Committee on House Administration—House Information Systems, $7,089,000; Select Committee on Hunger, $628,505; Permanent Select Committee on Intelligence, $305,000; Committee on Interior and Insular Affairs, $1,873,875; Committee on the Judiciary, $2,189,205; Committee on Merchant Marine and Fisheries, $2,211,483; Select Committee on Narcotics Abuse and Control, $700,770; Committee on Post Office and Civil Service, $1,737,075; Committee on Public Works and Transportation, $2,630,875; Committee on Rules, $672,413; Committee on Science, Space, and Technology, $2,637,645; Committee on Small Business, $1,006,395; Committee on Standards of Official Conduct, $500,000; Committee on Veterans' Affairs, $719,458; and Committee on Ways and Means, $4,098,565.

SEC. 3. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for consultant services under paragraph (1) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $30,000; Committee on Armed Services, $40,000; Committee on Banking, Finance and Urban Affairs, $100,000; Select Committee on Children, Youth, and Families, $10,000; Committee on the District of Columbia, $10,000; Committee on Education and Labor, $105,924; Committee on Energy and Commerce, $25,000; Committee on Government Operations, $35,000; Committee on Housing Administration, $135,000; Committee on House Administration—House Information Systems, $450,000; Committee on Post Office and Civil Service, $100,000; Com-

mittee on Public Works and Transportation, $15,000; Committee on Science, Space, and Technology, $10,000; Committee on Standards of Official Conduct, $500,000; Committee on Veterans' Affairs, $37,500; and Committee on Ways and Means, $10,000.

SEC. 4. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for specialized training under paragraph (2) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $5,000; Committee on Armed Services, $8,000; Committee on the District of Columbia, $1,500; Committee on Education and Labor, $10,000; Committee on Government Operations, $2,000; Committee on House Administration, $10,000; Committee on House Administration—House Information Systems, $280,000; Committee on Interior and Insular Affairs, $2,000; Committee on the Judiciary, $1,000; Committee on Post Office and Civil Service, $15,000; Committee on Public Works and Transportation, $35,000; Committee on Rules, $9,000; Committee on Science, Space, and Technology, $14,000; Committee on Standards of Official Conduct, $3,000; and Committee on Veterans' Affairs, $2,500.

SEC. 5. The Committee on House Administration—

(1) shall, through House Information Systems, develop, operate, maintain, and improve computer and information services for the House, including direct computer and information systems support for Members, committees, administrative offices, and other governmental entities, and shall conduct necessary investigations and studies of such services;

(2) is authorized to receive reimbursement for services under paragraph (1) and to expend amounts so reimbursed in accordance with policies of the committee; and

(3) is authorized to provide for professional development programs, office and personnel management consultation services, and periodic publication of handbooks, guides, bulletins, and other items necessary for the House.

SEC. 6. Payments under this resolution shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 7. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon on January 3, 1990, and ending immediately before noon on January 3, 1991.

SEC. 8. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

SEC. 9. The Committee on House Administration shall have authority to make adjustments in amounts for investigations and studies under section 2, if necessary to comply with an order of the President issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 or to conform to any reduction in appropriations for the purposes of such section 2.

Mr. GAYDOS (during the reading.). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 1 hour.

Mr. GAYDOS. Mr. Speaker, I yield the customary 30 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH], the ranking minority member of the Subcommittee on Accounts, for purposes of debate only, pending which I yield myself such time as I may consume, with the understanding that any additional time which I may yield will be subject to the specific limitation, for debate purposes only.

Before explaining this amendment, I wish to thank all of the members of the Accounts Subcommittee for their hard work in considering each budget request from the respective committees. Attendance at each of the sessions was very good. The product which I present to the House has the support of a united subcommittee, it is not perfect, but it does reflect the best possible agreement that could be crafted in the spirit of reasonable compromise.

In particular, I wish to thank the ranking minority member of the subcommittee, BARBARA VUCANOVICH, and BILL THOMAS, the ranking minority member of the full committee for their diligent and thoughtful work. Additionally, I wish to thank Chairman ANNUNZIO for his consultations during the whole budget review process. As our distinguished chairman his views are always appreciated.

Furthermore, I wish to thank all of the chairmen and ranking minority members from the respective committees and their staffs. Their cooperation with the Accounts Subcommittee enabled us to evaluate all the budgetary requests in a thorough and timely manner. In particular, I commend the committee chairmen this year for submitting very reasonable and responsible budgets.

The committee amendment in the nature of a substitute is the product of the deliberations of the Subcommittee on Accounts over each committee's budgetary request. The subcommittee's proposed amendment was subsequently adopted without change by the full Committee on House Administration.

As the subcommittee deliberated during the proceedings, it was always mindful that this resolution was the first funding matter out of the legislative chute in the second session. The subcommittee recognized that there presently exists in this country a strong public concern over the manner in which Federal funds are expended. The debate is over both the size of the expenditures and the priorities for their allocation. Accordingly, in my view, the Subcommittee on Accounts in constructing the committee amendment in the nature of a substitute has balanced both of these interests and it has successfully met its major responsibilities. The subcommittee has ensured that the committees of the House have adequate funds to discharge their legislative and oversight responsibilities and it has made certain that this authorization from the contingent fund of the House is fiscally responsible.

Regarding the subcommittee's work product, the amendment in the nature of a substitute provides a total authorization of $56,787,425 for investigations and studies by all standing and select committees of the House of Representatives with the exception of the Committees on Appropriations and the budget for 1990. The total authorization for 1989, excluding funds provided to the Committee on the Judiciary for judicial impeachment matters, was $54,166,958. Therefore, the total amount approved by the subcommittee is $2,620,467 or 4.84 percent over this total 1989 authorization. In my judgment, this percentage is very reasonable when you take into consideration the 1990 pay comparability increase of 3.6 percent for Federal workers, the so-called Federal COLA; the projected inflation rate of 3.9 percent for 1990, and the raising of the cap on congressional staff salaries.

In making its determinations, the subcommittee did not use any set mathematical formula. Instead, it evaluated each budget proposal on its own merits. Proposed spending levels in each of the respective budget categories were examined very closely. The final product attempting to direct most of the large increases to the major legislative standing committees, such as Ways and Means, Banking, Energy and Commerce, Agriculture, Foreign Affairs, Public Works, and Science and Technology. This year, the subcommittee was able to assist two smaller committees, namely Veterans' Affairs and House Administration. The amendment also contains funds to enable the permanent Select Committee on Intelligence to purchase a secured information processing system.

Since, for the fiscal year beginning on October 1, 1990, the appropriations level has not been established, and since the possibility of sequestration does exists, the amendment provides authority for the Committee on House Administration to make adjustments in the authorized amounts if necessary to comply with any order of the President issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, or to conform to any reduction in the applicable appropriations. Similar authority was granted to this committee through the

1986, 1987, 1988, and 1989 omnibus primary expense resolutions.

On the subject of sexual discrimination in the determination of compensation for committee employees, I wish to indicate that the provisions of clause 9 of House rule 43 govern such determinations. Enforcement of this clause is within the jurisdiction of the Committee on Standards of Official Conduct. Additionally, House employees now have a detailed procedure for making discrimination complaints and resolving disputes. Specifically, the Office of Fair Employment Practices has been established in the House of Representatives to counsel, mediate, investigate, and hear alleged violations of the House antidiscrimination policy. However, as chairman of the Subcommittee on Accounts, I have encouraged the committee chairmen and the ranking minority members to review their compensation practices on a continuing basis to assure that there is no prohibited discrimination. This encouragement was made on the record during the hearings on the individual primary expense resolution and in the preliminary meetings between the staff of the Accounts Subcommittee and the staff directors of the respective committees. During the past 6 years improvements have been made. More and more women are occupying key policymaking positions at the subcommittee and full committee levels. For example, women hold the position of staff director on the Committee on Education and Labor, the Committee on Agriculture, the Committee on Post Office and Civil Service, the Select Committee on Children, Youth, and Families, and the position of general counsel on the Committee on Armed Services. On the Committee on House Administration the minority staff director is a woman. These are but a few of many examples indicating substantial progress.

Concerning the committee report (H. Rept. 101-419) which accompanies this funding resolution, it should be noted that the amount listed under the section entitled "General Discussion" on page 3 for the Committee on Small Business is erroneous due to a GPO typographical error. The correct amount for the Committee on Small Business is $1,006,395 as provided in the committee amendment in the nature of a substitute.

Finally, I urge my colleagues to vote in favor of the committee amendment in the nature of a substitute and the resolution.

□ 1530

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 346, providing expenses from the contingent fund of the House, for investigations and studies by standing and select committees of the House of Representatives. I enthusiastically commend Chairman GAYDOS and Mr. THOMAS, the ranking member of the full committee, for all their hard work, dedication, and the bipartisan cooperation which went into the formation of the 1990 committee funding measure.

House Resolution 346 authorizes $56.8 million for House standing and select committees as well as the House Information Systems [HIS]. The total authorization—$56,908,000—is a 4.8-percent increase over the 1989 authorization and over 6 percent less than the amount requested by the committees themselves.

As you know, Republicans comprise 40 percent of the membership in the House and represent over 97 million Americans. However, Republicans are collectively limited to only 19 percent of all standing and select committee investigative staff positions. One can certainly agree that in order to fully represent these citizens, Republicans understandably require proportionate committee resources and staff. In fact, since the primary function of Congress is to represent the American people, it is certainly ironic to note that when it concerns committee staff, Congress cannot fairly represent itself.

This is not a question of a minority request for additional resources, it is a question of the minority requesting its fair share.

During the 1989 committee funding process, House Administration Committee Republicans and Democrats reached an agreement that minority investigative staff positions have a floor of 20 percent, increasing annually through additional funding and attrition, to a goal of 33 percent. Please note, it is not my opinion that reaching the 33 percent mark requires substantial funding increases. In fact, I believe that these funding increases can be minimized through the use of attrition in concert with reasonable additions to committee resources.

Mr. Speaker, it is important that the Democratic leadership display a tangible commitment to reform throughout the committee funding process if Republicans are expected to vote for increases in committee funding levels. This commitment can be best illustrated in the allocation of committee staff and overall committee spending.

I believe that during the 1990 committee funding process, there have been signs of such a commitment. With some exceptions, committee chairmen have made progress in reaching this goal and in many cases genuinely understand the inequity of minority committee staff and resource rations. Unlike previous years, House Resolution 346 is a bipartisan effort which represents a funding resolution process that has seriously considered the minority throughout the committee budget deliberations.

I urge my colleagues to support House Resolution 346. Through the leadership of Chairman ANNUNZIO, Chairman GAYDOS, and the ranking member of the full committee, Mr. THOMAS, the Committee on House Administration has taken a positive step in the right direction.

Mr. Speaker, I reserve the balance of my time.

Mr. GAYDOS. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the full Committee on House Administration, the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I rise in support of House Resolution 346, our annual committee funding resolution. The resolution was reported from our committee by a unanimous vote, and deserves to be supported by every Member of this body.

The gentleman from Pennsylvania [Mr. GAYDOS] and the gentlelady from Nevada [Mrs. VUCANOVICH], together with all members of the Accounts Subcommittee, worked hard and long to complete this resolution. This is a tough year. We do not have unlimited funds. Every committee has a long list of things it wants to do. We cannot do it all, but within the limits of the money we had to work with, we have done the very best we know how to do.

Again this year, we have prepared a conservative and responsible proposal. To do that, we had to cut the requests, and they were meritorious requests, of many committee chairmen. We have tried to accommodate the minority as best we could within the money we had.

Mr. Speaker, I sat on the Accounts Subcommittee for many years, and I was its chairman. I know how difficult it is to deal with all of the other committees, and I can therefore appreciate the excellent job that JOE GAYDOS does. I can also appreciate how necessary it is to work with the minority, so that we can pass this bill with total support.

There should not be a single Member of this body voting against this resolution. It cannot be cut, and it cannot be defeated. It is the life's blood of the committee system, and none of you can carry out the work for which you were elected without total, complete passage of the funding resolution.

Mrs. VUCANOVICH. Mr. Speaker, I yield 3 minutes to the ranking minority member of the Committee on House Administration, the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I rise in support of House Resolution 346. I rise to commend both sides of the aisle on this particular endeavor. It takes a cooperative effort to determine who should and

who should not receive money. It is a very difficult job that we have to undertake in this subcommittee every year. People always request more than they are going to receive. For example, this year although budgets are going to be increased $2.6 million, that amount is $3.9 million less than the committees requested. So first of all you have friction over dollar amounts.

At times in the past there has been friction over particular committee assignments. The argument has been made that one committee is being favored over another, since many of us on the House Administration Committee have other committee assignments as well.

□ 1540

In addition, there has been at times partisan rancor in the subcommittee.

I wish to commend the full committee chairman, the gentleman from Illinois [Mr. ANNUNZIO], and the subcommittee chairman, the gentleman from Pennsylvania [Mr. GAYDOS], and all of the Democrats on the House Administration Committee for last year deciding that what we were trying to do as a minority on the Republican side was to create a more professional committee system. Rather than a partisan request, it was an appeal to improve the public's attitude toward this institution in terms of their respect or lack of respect for Congress. It was an attempt to put more professionalism into the way in which we run our committees. To that end the Committee passed a resolution indicating that they thought it was entirely appropriate that at the beginning a floor of 20 percent of the staff should be allocated to the minority, working toward what is currently a statutory percentage with certain committee staff of one-third.

We embarked this year on that rocky course. We were, I will have to say, not completely successful. We believe it to be a long-term journey, not a short-term one, and we will hear today from some ranking members who believe that it was a successful effort. We will hear from some who believe that it was not a successful effort.

All our committee can do is create an atmosphere for the chairman and the ranking member to resolve their particular problems. I am pleased to say that on many committees those problems have been resolved, and we will attempt to provide the wherewithal to continue to resolve their problems in the future. On some committees it has not been as worthwhile an experience. I am hopeful that we will focus our attention next year on making sure that those committees who have been able to understand the need for professionalism on both sides of the aisle, will have their requests looked at in a positive fashion, and those committees who have not understood the need for professionalism on both sides of the aisle will be looked at with a bit more scrutiny.

I am pleased to say the leadership on our side of the aisle is willing to continue their support for this kind of a funding resolution, which is about an average increase over the last 10 years in terms of money to committees, but with a significantly different atmosphere governing how it is to be allocated. We believe from a committee level that this should be a decision made at the leadership level, and not left continually to the subcommittee level.

But I would ask Members' support for House Resolution 346. It is not perfect, as some of my colleagues will tell you. It is always too much money, but within the normal constraints, we believe it is a positive step forward for professionalism within the committees.

Mr. GAYDOS. Mr. Speaker, I would like to compliment my distinguished friend and member of the committee, the gentleman from California [Mr. THOMAS] for his very accurate, and, I think, elucidating explanation of the problem we face. I agree with him. I think we have moved in that direction. Whether we have moved far enough rapidly enough, that is open for debate. I hope that eventually we are going to solve this problem in the very near future.

Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. ANDERSON], the distinguished chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as chairman of the Committee on Public Works and Transportation, I rise in support of House Resolution 346, the Committee Funding Resolution for 1990.

I want to thank and commend the chairman of the Subcommittee on Accounts, Mr. JOE GAYDOS, and the chairman of the Committee on House Administration, Mr. FRANK ANNUNZIO, and the distinguished members of the committee and the committee staff for their hard work on a resolution that is fair to our committee and to the American taxpayers.

Mr. Speaker, over the past 10 years, appropriations for all congressional operations, including House, Senate, and various support agencies, have actually declined by 3 percent, after accounting for inflation. In light of our Nation's deficit, this is a track record we can all be proud of.

With the limited allocation House Administration had available, theirs was an awesome task in creating some balance between needs and resources for our diverse priorities.

The recommendations they have brought to us are fair and reasonable. Mr. Speaker, I will be supporting this resolution and urge my colleagues to do the same.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of House Resolution 346, the committee funding resolution, and I commend the distinguished members of the House Administration Committee for their fine work.

I would also like to commend Chairman ANDERSON for his excellent work in ensuring that the Committee on Public Works and Transportation will have sufficient resources to carry out its mandate and in continuing the longstanding tradition of allocating at least 33 percent of those resources to the minority.

The Republican leadership of the House should also be commended for their efforts in attempting to obtain more staff and funding for Republicans in general. I was pleased to see that Republicans did make some gains, and hopefully in the near future the minority on all committees will be treated as equitably as the minority is treated on Public Works. The House of Representatives, as well as the entire country, will benefit by the broader participation in the legislative and investigative agendas of our committees.

Mr. Speaker, I urge my colleagues to support this resolution.

Mrs. VUCANOVICH. Mr. Speaker, I yield 3 minutes to our minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I guess it is really no secret that our Democratic friends have controlled this body for many many years running. As a matter of fact, I think this is the 36th straight year that there has been a Democratic majority in this House of Representatives. How should I remember it so well? Because this is my 34th year, and I have yet to enjoy the fruits of being a Member of a majority party in this body.

That ratio has fluctuated over a course of years. Currently we are roughly, as the Speaker and I make the determination on committee ratios around here, except for the Rules Committee, on a 60–40 basis, 60 percent Democratic, 40 percent Republican.

But as has been indicated through the course of this debate, the staff on committees certainly does not reflect that same kind of ratio, and I am not altogether sure that it should. But I think it does demonstrate that we do have some rights as a working minority to work in conjunction with a ma-

jority to craft legislation, and that we ought to have adequate staffing of a good professional caliber.

I like what the committee has done, at least for this year, as distingusihed from what it has not done in years past. I applaud them for making the progress they have, and particularly the work of the gentlewoman from Nevada [Mrs. VUCANOVICH], the gentleman from California [Mr. THOMAS], and what they have been doing in those committee deliberations to argue the case for the minority. I compliment them on that.

I am reminded that last year a report on the funding resolution stated, in reference to one-third staff resources for the minority;

The committee directed that the aforementioned views be referred to the Democratic Caucus for review by its Committee on Organization, Study and Review, for a determination as to whether the Caucus should propose changing House rules with respect to the minority request, which this committee is endorsing and recommending.

Institutionally, I was troubled by a committee of the House referring a legislative proposal to the Democratic Caucus for recommendation. To make matters worse, there has been no recommendation on the issue from the caucus after an entire year.

I guess I have to ask the distinguished chairman, what happened. Has the recommendation been lost in the files, or has the computer swallowed up the committee's views? I know "slow but sure" is a prudent policy, but after a year surely the caucus can speed up a bit.

I guess the patience of the minority is growing thin on the issue, to put it in the mildest terms. I hope that some resolution can be reached before consideration of next year's committee funding resolution.

But I do applaud you for the progress that you have made thus far. While there has been an inclination of Members on our side, frustrated in the role of the minority, to automatically vote against the funding resolution, today I think we have an obligation and a responsibility to act differently. We have taken this up in our own leadership in combination with what has been done by both parties in working out these allocations, and we have an obligation certainly in our leadership, and I would recommend to our Members, to support this funding resolution, and hopefully it will work to the advantage of both parties as we strive to move forward with the legisative schedule.

□ 1550

Mr. GAYDOS. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in strong support of House Resolution 346, the House committee funding resolution. This resolution provides funding for House committees during the second session of the 101st Congress.

Much of the debate surrounding the committee budgets this year has focused on the issue of the level of resources available to the minority. I personally dislike the notion of allocating specific percentages of resources on a partisan basis. Committee chairmen have the responsibility for insuring that the needs of all committee members are met. However, I am aware that each committee within the House operates differently. Since I have been chairman of the Committee on Ways and Means, we have always worked out issues such as this on an amicable and nonpartisan basis. Almost without exception, past minority requests for additional staff or other resources have been granted.

I am confident that we will continue this tradition in the future. For example, and although our budget request was not fully funded, I have assured Mr. Archer that the additional minority positions included in our original budget request will be protected.

All Members should realize that significantly changing the allocation of resources between the majority and minority of each committee can only realistically be achieved through increased funding. Most of us do not have excessive staff members on our committees. Thus, attrition could only be utilized in isolated cases. If we are to work together to resolve this ratio issue, we have to realize that we will have to continue working together not only on this bill but also on the legislative branch appropriations bill which will actually provide the increased committee funding necessary to achieve the desired staffing ratios.

Another area of concern relating to funding for committees is an area in which I have been outspoken in the past. We must make sure that we can hire and retain qualified staff in the House. Many of the staff on my committee could command significantly higher levels of pay in the private sector. This funding resolution partly addresses this problem—a problem which we will continue to deal with in future years.

The resolution before us today provides necessary funds for the major committees in the House, allowing us to properly conduct committee business and fulfill our legislative obligations. I urge the Members to support the resolution.

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. HILER].

Mr. HILER. I thank the gentlewoman for yielding.

Mr. Speaker, I rise in support of House Resolution 346, and I encourage my colleagues on the Republican side to vote for this measure.

Now there are some Members on our side who will vote against this, have always voted against it and will never vote for it. My remarks really are not directed to you.

But my remarks are directed to those Republicans who have voted for it, voted against it in the past. I would urge you that this is a time to vote for it.

We have set out in our caucus a desire to try to achieve a 33-percent ratio of our staffs and funding to the majority staff and funding. We will not get to 33 percent in 1 year. We probably will not get to it in 2 or 3 years. But this year we have made marginal progress toward getting to that point.

The response on the part of the Republicans to when we have been able to make progress ought to be affirmative votes for those budgets.

I would also direct remarks particularly to those committee members who find themselves on committees where the committees are doing a good job, where the chairman and ranking member are communicating, where they are doing a good job at either achieving the 33 percent or getting close to the 33 percent.

I would say to you that I think you have a responsibility to vote for this funding bill as well because clearly you are a committee that is benefitting from the efforts to get to 33 percent.

Now I think if you take the percentage increases for all the different committees and you rank them by percent, you will get an idea on those committees that have done a good job toward hitting the 33 percent and those that have not.

If you find yourself on one of those committees that has done a good job, I urge you to vote for this bill.

I think it is the proper response to make to the chairman and the committee members, and I think it is the proper response to make to the Committee on House Administration.

I know some will object to the 4.8-percent increase in overall funding, and maybe it would have been better if it were only 3 percent or 3.5 percent. But I can tell the Republican Members that it is a lot easier to swallow the 4.84 percent knowing that we got a significant amount of that 4.84 percent.

So I would commend the chairman of the full committee, the chairman of the subcommittee and the ranking members of both; I think you have done a good job in trying to effect a difficult compromise.

I urge Members to vote for the measure.

Mrs. VUCANOVICH. Mr. Speaker, I yield an additional minute to the gen-

tleman from Illinois [Mr. MICHEL], our minority leader.

Mr. MICHEL. I thank the gentlewoman for yielding.

I want to compliment the gentleman on his statement. It is a little bit more than simply getting a percentage of help around here.

We have in this country divided ourselves into two political parties, one a check upon another. I prefer that, frankly, to the proliferation of parties and all the log-rolling that goes on.

That means we have got to be a responsible minority in responding to the will of the majority, and the majority itself has got to, ought to, at least, give consideration to the minority's rights around here.

We all feel like we are honorable men and women trying to do the very best, to craft the best legislation.

If we are short-handed or our hands are tied behind our backs because we do not have the kind of professional staff to do what ought to be done, simply to ask the questions, simply to help crafting a better piece of language or a better phrase, then we have been deficient in our role. So it is not simply a percentage; this is directed towards getting comparable help to sustain the Members in their chores around here.

Mrs. VUCANOVICH. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. I thank the gentlewoman for yielding.

I gather this debate, and I hope it will continue to be, to be kind of an exercise in mutual admiration society.

I wanted to rise to extend my appreciation to the chariman of the subcommittee and the chairman of the full committee, particularly my friends and colleagues on this side, Mr. THOMAS and Mrs. VUCANOVICH, and to publicly express to the chairman of the committee on which I have the privilege of serving as the vice chairman, my respect and admiration and appreciation for his cooperation in coming closer at least to meeting proportional justice in the staffing arrangements on our committee.

That has not historically been the case in the past. We are much closer to fairness this time. It is largely due to his cooperation, and I am very proud to stand publicly on the floor of this House and to express that statement.

The system does in fact work, ladies and gentlemen.

Mr. GAYDOS. Mr. Speaker, how much time remains on each side?

The SPEAKER pro tempore (Mr. GLICKMAN). The gentleman from Pennsylvania [Mr. GAYDOS] has 16 minutes remaining, and the gentlewoman from Nevada [Mrs. VUCANOVICH] has 17 minutes.

Mr. GAYDOS. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Select Committee on Narcotics Abuse and Control, the gentleman from new York [Mr. RANGEL].

Mr. RANGEL. My colleagues, let me thank the leadership on both sides of the aisle for the support they have given to the chairman of the committee, Mr. ANNUNZIO, and certainly my friend from California, Mr. THOMAS.

In turn, they have placed their confidence in Mrs. VUCANOVICH and Chairman GAYDOS, listening attentively to the various problems that the committees and select committees have faced.

I was particularly taken by the fact that they took into consideration the expanded problems and responsibilities placed on the Select Committee on Narcotics Abuse and Control, the fact that we have had more hearings, more studies, more reports, and the fact that our membership has expanded.

Also I was taken by the intelligent questioning, the concern that we had about minorities and the balance that we seem to be achieving, as I and the ranking member of the Select Committee on Narcotics Abuse and Control were able to present our case to people who did not look like Republicans and Democrats but looked like colleagues trying to resolve serious fiscal problems with limited resources.

So even though we did not even come close to what we requested, we left knowing that the process was fair, consideration was given to our request, and we will continue to work with the committee and the rest of the committees and try to make some contribution in resolving this epidemic of drug addiction facing our country, indeed the world.

□ 1600

Mrs. VUCANOVICH. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I want to commend the gentleman from Illinois [Mr. ANNUNZIO], the gentleman from Pennsylvania [Mr. GAYDOS], the gentleman from California [Mr. THOMAS], the gentlewoman from Nevada [Mrs. VUCANOVICH], and all the members of the Committee on House Administration for an outstanding effort in bringing this resolution, as amended, to the floor. I think they deserve the appreciation of all the Members of the House, and we for the most part appreciate the progress toward fairness that has been made during these deliberations.

Regrettably, I rise in opposition to House Resolution 346, at this time I am unable to support this resolution because we do not have an allocation for the minority that meets our needs. I have been in extensive discussions with the chairman of the Energy and Commerce Committee and regret that we have not been able to resolve this in a satisfactory manner. I must, therefore, oppose the resolution.

The investigative budget allocation for the Republican members of the Energy and Commerce Committee has been a long standing problem. The need for an equitable allocation to fund the staffing of the Republican members of the committee is urgent.

Last year our allocation for investigative funds was 13.82 percent of the total committee budget. This year, it only increases to 14.62 percent. That is simply not an acceptable level of funding. Therefore, it is essential that we undertake an ongoing corrective course of action so as to make appropriate salary commitments needed to increase our staff ratio.

The House Administration Committee has confirmed in its report on this resolution the need for 20 percent staffing ratio for minority. This cannot be achieved in our committee until there is an adequate funding level for minority; 14.62 percent is far below the target agreed to by both minority and majority of the House Administration Committee of 20 percent.

Without a satisfactory resolution in this matter at this time, I must, with regret, oppose this resolution in protest to the allocation for minority in the Energy and Commerce Committee, and recommend that my Republican colleagues on the committee do likewise.

Mrs. VUCANOVICH. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, the way to analyze the level of spending that we are authorizing for investigative staff is to compare what we spent in the last calendar year, 1989, $51.386 million, with what we are authorizing to be spent this year. When we make that comparison, this issue before Members authorizes an increase of 10.5 percent for all investigative staff for all committees for calendar year 1990.

I got that by comparing what we are authorizing, which is $56.79 million, for what was spent in the preceding calendar year, $51.386 million. That, to me, is how we measure increases that we are authorizing. I do not think it makes sense for we, the stewards of the Nation's funds, to give an example to the American people that we are authorizing an increase that is twice the level of the rate of inflation. I believe that we should be limiting our increase to no more than the rate of inflation, as an example for the people in the country.

As a member of a committee that is spending one of the lowest levels of investigative staff, the Committee on Energy and Commerce, I come here on the floor almost with hat in hand to the majority. The majority has the votes, friends, to do anything they

want. The inequity that we Republicans are hearing and seeing in investigative staff in the House of Representatives is an abomination and a nuisance. Besides that, it is unfair. Members ought to cut it out. I ask for a "no" vote on this resolution.

Mr. GAYDOS. Mr. Speaker, I yield myself such time as I may consume.

For the edification of our colleagues, I would like to make one comment at this time, and that is that yes, it is true that that disparity does exist. However, I would like to emphasize the fact that we have always, on the committee, encouraged all of the committe chairmen to have no hesitation or regret when they come before our committee, to return funds. If that were not the case, and if they did not spend all their funds, we would start their funding the next year, for the next fiscal year, minus those funds that they returned. We would have just one stampede by every committee chairman to spend all their funds they had allocated the year before, or appropriated, or authorized. We do not want to create that situation.

We can look at the agencies throughout this entire Government and find that policy in effect. As soon as it comes time to have their budgets analyzed, and the submission of new requests, they start spending on foolish, unheard things, just to get rid of that money. We will not encourage it.

I think it is a good policy, and until the majority, along with the minority, on this very close-knit and close-working committee, until they agree to another policy, I think that we are going to continue along those lines. I think it has been successful.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, as a new member of the accounts subcommittee, it has been both a privilege and an education for me to participate for the first time in the annual committee budget review process. The funding resolution which Chairman GAYDOS brings to the floor today represents an excellent example of the spirit of bipartisanship on an issue which should never be partisan, that is, the adequate funding of the committees of the House of Representatives. In an era of declining resources we must be certain that our committees have sufficient funds to oversee the activities of the vast executive branch and private sector. We must also be certain that we do not exceed the appropriation. This difficult task was accomplished successfully in an atmosphere of comity and fairness to the needs of both the majority and the minority.

The subcommittee continues to be among the pioneers concerning the issue of the advancement of women employed by the House committees. This year more committee chairmen were pleased to report the appointment of more women staff directors, chief counsels and other women in key policy-making positions. Our colleagues on the subcommittee, Ms. OAKAR and Mrs. VUCANOVICH, were encouraged by the continuing progress in this area. Chairman GAYDOS made it clear that the subcommittee would continue to address this issue in the future.

As to the merits of the funding resolution itself, the total aggregate increase which we are recommending is only 4.84 percent over 1989's authorized level. This represents a fiscally responsible budget which does not exceed the appropriation. In addition, it is only slightly more than 1 percent over the 3.6-percent pay comparability increase approved by the President. I would suggest that this is a very frugal budget to deal with the many difficult tasks which we face this year.

The major standing committees which demonstrated pressing needs were funded at higher levels. We all agreed that these higher amounts were warranted given those committee's mandates to address many critical problems. It was recognized that if you are not willing to spend a few extra million for those committees whose jurisdictions involve such critical issues, you will never be able to solve these problems which are costing our taxpapers billions of dollars annually. I must stress that this 4.48 percent increase was approved unanimously by the subcommittee and the full Committee on House Administration. I reiterate, that the adequate funding of the House committees is an institutional rather than a partisan issue.

This, then, is the difficult task which was so ably met by Chairman GAYDOS and the accounts subcommittee. The tough choices were made with regard to the allocation of our limited resources. I am aware that some committees did not receive as much of an increase as they would like, but I would note that many of those committees have received generous increases in the recent past. Please support the hard work and sound recommendations of the accounts subcommittee.

Mrs. VUCANOVICH. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, in behalf of our distinguished ranking member of the Veterans' Affairs Committee the gentleman from Arizona [BOB STUMP] who has been called away on a family medical emergency, at his request I am reading his statement into the RECORD.

Mr. STUMP. Mr. Speaker, I support House Resolution 346 and urge the support of my minority members on the Committee on Veterans' Affairs. This resolution approves as requested increases for minority investigative staff salaries. It does not create new staff positions but fully funds our existing subcommittee staff, including provision for a greater degree of pay comparability with the majority staff.

The efforts of the chairman and ranking member of the subcommittee on accounts, Mr. GAYDOS and Mrs. VUCANOVICH, are very much appreciated as are those of Chairman ANNUNZIO and the membership of the full Committee on House Administration. Their willingness to address this longstanding problem of minority staff on the Veterans' Affairs Committee will result in an improved legislative product and better programs for our veterans. A particular note of appreciation is due BILL THOMAS, vice chairman of the full committee, for his special assistance.

As always, the consideration shown to the minority members of the Veterans' Affairs Committee by its chairman and my good friend SONNY MONTGOMERY has proven invaluable toward resolving our staffing situation in the most bipartisan fashion. It is a pleasure and privilege to work so closely with our distinguished chairman on behalf of the Nation's veterans.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the distinguished chairman of the committee.

Mr. MONTGOMERY. Mr. Speaker, I certainly want to follow up on what the ranking minority member has said about the Committee on Veterans' Affairs. I do thank him for his statement. I certainly support what has been said by the ranking member of our Committee on Veterans' Affairs. I want to thank the chairman of this subcommittee, the gentleman from Pennsylvania [Mr. GAYDOS], and also the charming gentlewoman from Nevada [Mrs. VUCANOVICH], as well as all the members of the subcommittee, for treating us so fairly.

This is a very decent resolution as far as veterans are concerned. It will help us run our committee staff in a fairer manner. I certainly want to join the gentleman from Arkansas [Mr. HAMMERSCHMIDT] in commending the full committee for being fair to the Committee on Veterans' Affairs.

Mr. Speaker, I rise in support of the resolution. Since assuming the chairmanship of the Committee on Veterans' Affairs, I have worked closely with the ranking minority member of the committee to keep expenses to a minimum. Our record will show we have been one of the more successful committees in accomplishing this.

In addition, I have fully cooperated with the ranking minority members of the committee in support of their efforts to obtain an adequate funding level for minority staff. Again, I think a review of the record will show that the Committee on Veterans' Affairs is among the leaders in regard to majority/minority staff ratio.

This year's funding for our committee has been worked out in conjunction and cooperation with the chairman of the Subcommittee on Accounts, my good friend, JOE GAYDOS, of Pennsylvania, and the very able ranking mi-

nority member, BARBARA VUCANOVICH, of Nevada. In addition, we have always had a fine relationship with the chairman of the full Committee on House Administration, FRANK ANNUNZIO, of Illinois, and the ranking minority member, BILL THOMAS, of California. Mr. ANNUNZIO and Mr. THOMAS have been very understanding of the needs of our committee.

Again, Mr. Speaker, I rise in support of the resolution and would like to thank the leadership of the Committee on House Administration and all members of the committee for working with us in providing an adequate funding level to carry out our investigative and legislative responsibilities.

Mr. GAYDOS. Mr. Speaker, I yield myself such time as I may consume so I may respond to my good friend, the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. Speaker, let me say that it is nicer and much better this way, because I recall that in the last 2 or 3 years we kind of overlooked the gentleman's committee. We are very happy that we had the wherewithal this time to take care of the gentleman and his committee. I like it much better this way.

Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, let me first commend the chairman of the committee, the gentleman from Illinois [Mr. ANNUNZIO], the subcommittee chairman, the gentleman from Pennsylvania [Mr. GAYDOS], the ranking minority member, the gentlewoman from Nevada [Mrs. VUCANOVICH], and all the members of the Committee on House Administration and the Subcommittee on Accounts for the excellent work they have done in this endeavor.

We on the Committee on Agriculture have always been very frugal. We have been responsible, and we have always leveled with the committee and given them the amounts that we felt we rightfully needed to perform our work.

I must say at this point that we are exceedingly elated at the kindness and generosity of the committee, but beyond that, I appreciate the responsible way in which they acted, allowing the committees to do their work and allowing us to fulfill our responsibilities in the Committee on Agriculture. We are now doing the farm bill, we are doing rural development, we have to do CFDC, and we are doing seafood inspection. We are doing legislation on environmental issues such as on pesticides. We are doing food safety.

All of those need adequate staffs and need the necessary consultants at times. We are able to do this by the assistance of the funding that we get from this committee.

So our commitment is to continue working with the chairman of the committee and with the members of his committee to do the best possible job that we can with the funds that they allow us. If, as we have always done before, there should be some reason we are able to save, we will come and tell the committee that we have saved and will do what we can to help them with their very difficult task.

Mr. Speaker, I must commend the committee chairman again for the excellent bipartisan way in which he has handled the committee, giving us the opportunity to follow what they have done as we fulfill our responsibilities in our own committee.

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, I rise to voice my opposition to House Resolution 346, the committee funding resolution for 1990.

House Resolution 346 would authorize $56.79 million for committee investigations and studies, a 4.8-percent increase over last year. However, if you account for the supplemental funding resolutions we can expect this year, the actual increase is well over 7 percent, a growth rate 56 percent greater than inflation.

For instance, this year's committee funding resolution claims a 67-percent decrease for the Ethics Committee over last year's funding level. What the resolution doesn't spell out, however, is that last year's Ethics Committee budget was increased 275 percent through supplemental authorizations. Compared to last year's original funding authorization, the Ethics Committee is not receiving a cut, but a 25-percent increase.

This increase is not an isolated case. Every year, we adopt committee funding resolutions that propose across-the-board increases. Through the last decade, for example, a number of committees have nearly doubled their budgets, including Agriculture, 80 percent; Armed Services, 130 percent; Foreign Affairs, 79 percent; Post Office, 91 percent; and Ways and Means, 85 percent. Considering our current deficit problems, this is not the type of fiscal leadership Congress should be displaying.

This year, as part of a compromise over minority party staff levels, Republicans have agreed to increase funding for those committees that budget for additional Republican staffers. I applaud the movement toward more equitable staff allocations, but reject the notion that it has to be done through higher spending.

Each year Congress gives lip service to holding down spending and balancing the budget, yet each year we increase the budgets of our legislative branch operations. As I pointed out last year, Congress is the most expensive legislative body in the world, outspending our closest competitor, Canada, by a factor of 10. When foreign representatives criticize the Federal deficit and our wasteful habits, our legislative branch funding stands out as a prime example.

Last year we asked hospitals, farmers, airlines, and business to bear the burden of balancing the budget. This was the same year we increased our committee funding by 7.5 percent. If we are going to ask the American taxpayer to accept fewer services from the Federal Government, then we need to address our own budgets in the same manner.

Mrs. VUCANOVICH. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. WALSH], a member of the committee.

Mr. WALSH. Mr. Speaker, as a member of the Committee on House Administration, I rise in support of House Resolution 346, the investigative funding resolution for the standing and select committees of the House.

I believe this resolution is fiscally responsible because spending would be increased by only 4.8 percent over 1989 levels. This certainly is a responsible figure based on our very heavy work load.

This resolution provides the respective committees of the House the necessary funding to meet their legislative and oversight responsibilities. We could not have achieved this goal however, without the dedicated hard work of several of our colleagues.

In particular, I would like to recognize Subcommittee on Accounts chairman, Mr. GAYDOS, the ranking member, Mrs. VUCANOVICH, for their hard work that produced this truly bipartisan agreement.

Let me also commend our distinguished chairman of the Committee on House Administration, Mr. ANNUNZIO, and ranking member Mr. THOMAS, for their expeditious handling of this matter.

I would, however, be negligent by not noting that we on this side of the aisle have been working for quite some time for equitable committee staffing levels.

I am delighted to see that this resolution supports in principle a 20-percent minority represenation on investigative committee staff, and that we are moving toward 33-percent representation over the next few years. I hope for continued bipartisanship in this area.

I respectfully urge your support for House Resolution 346.

Mrs. VUCANOVICH. Mr. Speaker, I would just like to make closing remarks and then let our whip finish up and use the remainder of our time. So at this point, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for many years, the committee funding process received

little or no input from the minority. This in turn has left the minority in a hole which will be very difficult to climb out of without a bipartisan commitment from the leadership.

The 1989 committee funding process began the House Administration Committee reaching a bipartisan agreement on a 20-percent floor and a 33-percent goal for minority investigative staff positions. This was a vital step in correcting the inequities the minority had incurred in previous years.

The 1990 funding process has been a continuation of the work we did last year. I will be the first to admit that the problem is far from being corrected, However, I am pleased that the committee remained on course and progress was indeed realized.

Mr. Speaker, before closing, I would again like to commend the staff on both sides of the aisle. We could not have completed this process without the hard work and dedication of our staff members.

Mr. Speaker, I would like to reiterate my support for House Resolution 346, and I urge the membership to support this funding measure.

Mr. Speaker, I now yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH] so that he may make the closing remarks.

The SPEAKER pro tempore (Mr. GLICKMAN). The gentleman from Georgia [Mr. GINGRICH] is recognized for 5½ minutes.

□ 1620

Mr. GINGRICH. Mr. Speaker, I appreciate this opportunity to close.

Let me first say, Mr. Speaker, that it has always been a pleasure to serve on two of the committees which have been, I think, among the most bipartisan in the House in their approach to things, both the Committee on Public Works and Transportation, which I cherish my status on, even though I am temporarily on leave, but which has always had a very bipartisan approach to things, and the Committee on House Administration where under the gentleman from Illinois [Mr. ANNUNZIO], the chairman, and in this particular subcommittee, the gentleman from Pennsylvania [Mr. GAYDOS], we have always been able to work together in a very bipartisan way.

Mr. Speaker, I am going to urge my Republican colleagues to vote yes today. I think this again, as last year, is a step in the right direction, but I want to take a minute or two to talk about why we are engaged in this exercise and why we are trying so hard to convince our friends on the Republican side to vote to support something they normally do not feel comfortable supporting.

Mr. Speaker, a sound legislative process has to involve mutual respect between majority and minority, and it has to involve the minority controlling their staff and having adequate staff. The very rise in the process of government, the complexity of the Department of Defense, the complexity of the Department of Transportation, the nature of the world market, and the complications that are brought about as we try to pass legislation affects both the Democrat and the Republican sides of a committee. Those committees which have not had adequate staff for the Republican side have not allowed the ranking Republican member adequate opportunity to manage that staff and to manage those resources, in effect short-changing the 47 percent of the American people who voted Republican in the last congressional election.

Mr. Speaker, I know some of my friends on the Democratic side make the point that the executive branch, which currently has a Republican President, does not allocate one-third or one-fifth of the Democrat Party, just as when Jimmy Carter was President there was not any great desire on the part of the executive branch to allocate one-third or one-fifth of the executive branch jobs to Republicans.

Mr. Speaker, I would make this point: I have had two different experiences in the House. I have had an experience of confrontational politics, and I have had an experience of collegial politics. I think, as I understand the Speaker's, the gentleman from Washington [Mr. FOLEY], general direction, he would much prefer to move us toward collegial politics, to recognize that the legislative branch has a joint interest together that transcends our parties, that we, as Members of the House, have a joint interest in the legislative process that transcends our parties.

So, Mr. Speaker, I would appeal to my colleagues who belong to the Democratic Party, but who cherish being in the House of Representatives and who cherish being in the legislative branch. I would appeal to them, as they look at our position in space, our position in controlling our resources, to ask themselves, to walk, if my colleagues will, a mile in our shoes, to look at the process and say, "If you really want a collegial relationship," as I said earlier, "in both House Administration and Public Works," and I have always felt we have had that kind of relationship, "then it's useful in every one of these committees, and it's useful in allocating space, and allocating staff, and allocating responsibility to recognize that while we're the minority, we're a minority that represents 40 percent of the membership, 47 percent of the vote, and we, therefore, deserve the kind of treatment, the kind of fairness, that you would want in return when you become the minority."

Let me say in closing, Mr. Speaker, that I want to urge every Republican, and I know some of my fiscally more conservative colleagues find it hard to vote for it, and I know that it hurts them seeing this kind of money being spent, but I want to argue that if we are going to ask for a fair share, then we have to carry out our fair share of the responsibility. If we are going to ask for a fair share of the staffing, then we ought to vote to pay for the staffing.

While this bill does not get us there yet, and this is not the promised land, this is one more significant step in the right direction. It continues to establish in the committee language, in the report language, the right principles. It rewards the committees which were good to a fair share for Republicans, and it frankly does not give quite as much to those who were not fair, and so I would think it is an important thing for us to move in the right direction and for us to continue to support this, and I would urge every Republican to vote for this because I think it is a fair thing.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I want to commend the gentleman from Georgia [Mr. GINGRICH]. I think his statement is a very profound one and one that a political science instructor could well deliver, and he has to be commended on the approach he has taken and the information he is providing the body.

I would just, as an addendum, and I must confess that I am not totally familiar with all the numbers in the resolution, but I will read the report before I vote. What is important is I would also add that from the standpoint of good government the majority party, whatever that party is, always has the responsibilities, as the gentleman from Georgia [Mr. GINGRICH] well knows, for the development of the legislation. It does require additional work in that regard.

Mr. GINGRICH. Sure.

Mr. TRAXLER. Mr. Speaker, I think the gentleman from Georgia [Mr. GINGRICH] would agree.

But what is important is that I want to commend the gentleman from Georgia [Mr. GINGRICH] for his statement, and I want to join with him in those remarks.

Mr. GINGRICH. Mr. Speaker, I appreciate that, and let me say, as I think the gentleman from Pennsylvania [Mr. GAYDOS], the chairman, will be glad to say, to save my colleague from the detailed work, from reading all of the report; the gentleman from Pennsylvania [Mr. GAYDOS] would be glad, I think, to assure my colleagues that the Democratic side is ably represented in developing this, and we agree with the gentleman from Michigan

[Mr. TRAXLER]. We are asking in the long run that we move to one-third of the staffing because we think that the majority does bear a disproportionate responsibility for developing legislation, for managing the institution, and we think it would not be necessarily appropriate to suggest proportional, but we do think every committee ought to accept two principles, that its goal is to get to one-third staffing for the minority and that the minority should control totally the resources that it gets within the framework so that it can work its will and have a fair, competitive relationship, trying to do the best it can within that context, and I think most Members can agree with that.

I would just strongly urge everyone on the Republican side to vote yes.

Mr. GAYDOS. Mr. Speaker, I would like to apologize to the Chair and to my colleagues, but I have a request for 1 additional minute for my good friend and yours, the gentleman from New Jersey [Mr. ROE], the distinguished chairman of the Committee on Science, Space, and Technology.

Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. I do not know whether it was necessary, Mr. Speaker, for the gentleman from Pennsylvania [Mr. GAYDOS] to apologize.

Mr. Speaker, I ventured over here for the purpose of extending my highest regards and support for the legislative process in the package that has been submitted and to offer my high regards to the gentleman from Pennsylvania [Mr. GAYDOS] who is the chairman, and equally high regards to the gentlewoman from Nevada [Mrs. VUCANOVICH] for the work she has been doing on this, and let me add one point, if I might, that may add a little light to the gentleman from Georgia [Mr. GINGRICH] who did such an eloquent job in his presentation. I think our committee has worked very closely in attempting to achieve these balances, but I think there is an important point to make here to the gentleman from Georgia [Mr. GINGRICH] if he would listen to me for a moment. I think the point we should make for our colleagues is that it is not necessarily the quid pro quo around here. I think what is basically important to the Members who do not understand the importance of this measure is the resources we need to do the job.

Mr. Speaker, as chairman of the House Science, Space, and Technology Committee, I believe this funding resolution appropriately reflects our Nation's concerns over global competitiveness.

I believe House Resolution 346 embodies the committee members' recognition that science, technology, and education are the underpinnings of America's current and future economic power. America's civilian science and technology programs are the vehicles for developing the new wealth for our country. These programs are proven mechanisms for increasing economic vitality. They are positive revenue producers. This new wealth is required to meet America's people needs, to improve the standard of living for all our citizens.

Mr. Speaker, I want to call attention specifically to the concurrence between the majority and the minority members of our committee. There has been a concerted effort on the majority's part to address and accommodate the minority's needs. We have approached this in a bipartisan manner with the goal of developing maximum effectiveness in the committee as an organization. My distinguished colleague and ranking Republican member of the committee, Congressman BOB WALKER, and I have worked together to develop these arrangements. They are institutional improvements, not partisan politics.

I want to compliment the distinguished chairman on his leadership. His efforts clearly represent his strong understanding of America's needs. I ask my colleagues to join me in voting for House Resolution 346.

Mr. GAYDOS. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, that was very nice of the gentleman from Pennsylvania [Mr. GAYDOS] to yield to me, and I just want to go on record as the ranking Republican on the Committee on Science, Space, and Technology to indicate that the gentleman from New Jersey [Mr. ROE] is absolutely accurate in his remarks. He has attempted to bring about a cooperative working partnership between majority and minority. We are utilizing the resources, as a result, to the benefit of both sides, and he is really, I think, working in the spirit of what the gentleman from Georgia [Mr. GINGRICH] and others have talked about here today, and I want to thank him for that.

Mr. GAYDOS. Mr. Speaker, in asking my colleagues to give an affirmative vote, let me just emphasize very hurriedly that 4.8 percent is not an outlandish figure. I think it is quite conservative, and a lot of hard work on both sides of the committee structure went at arriving at that figure under all the circumstances. We tried to be fair to all. We are cognizant, all of us are, that the caps on staff salaries are continually increasing. That creates a problem for us. I think the resolution we brought to the floor, the division of funds, is fair to the majority and the minority.

□ 1630

Admittedly, it is not perfect. I admit it is not perfect; however, I would ask you to look. I would ask everybody to be just a little patient with us on the committee. We have had a longstanding problem. The committee I think is resolving it and I think with your cooperation and understanding I am sure it will be resolved in conjunction with the Frost committee, and I think everything will work out to the satisfaction of all of us, because this is an area of basic and fundamental importance; that is, we have got to keep this Congress moving.

I want to conclude by saying there was a unanimous vote in the subcommittee and in the full committee. That speaks for itself and I call on my colleagues to support the resolution.

Mr. FASCELL. Mr. Speaker, I rise in support of House Resolution 346, which provides funding for the standing and select committees of the House in the second session of the 101st Congress.

Once again the Subcommittee on Accounts, chaired by the gentleman from Pennsylvania [Mr. GAYDOS] and the members of that subcommittee were faced with the difficult task of allocating limited financial resources among the standing and select committees of the House. The funds available to work with during calendar year 1990 represent only a 4.84-percent increase over funds allocated during 1989—a meager amount to address the individual committee mandates. In addition, the recent developments in the world and the need to respond to those changes impact on programs and activities of many committees, such as the Committee on Foreign Affairs.

I would also like to take this opportunity to thank my colleague from Michigan, Mr. BROOMFIELD, the ranking minority member of the Foreign Affairs Committee, for his cooperation and support during the budget process.

Mr. Speaker, 1989 was a year of revolution around the globe. As a consequence, 1990 has already begun as a year in which the work of the Foreign Affairs Committee has increased substantially. Changes in Soviet relations and the needs of emerging democracies in Eastern Europe, Panama, Nicaragua, and other regions of the globe will have enormous implications for and impact on the future course of United States interests and the direction of this Nation's foreign policy in the world of the 1990's. As the committee responsible for foreign policy, national security, and arms control, for example, the Foreign Affairs Committee has a special and primary responsibility and role to play in developing programs and policies to meet these new challenges and opportunities. What we do in committee and in the Congress will greatly influence what happens in this struggle to establish democratic governments around the globe. To ensure the job is performed adequately will require more, not less resources.

The committees of the House are the backbone of this body's ability to carry out the legislative and oversight programs of our Federal Government. It is, therefore, essential that the committees be given the resources to discharge their respective responsibilities. To do

less would undermine the progress made thus far and impede our current and future attempts to deal with the many far-reaching problems and domestic and international crises with which we are confronted today.

Accordingly, I urge my colleagues to support House Resolution 346, as reported from the Committee on House Administration.

Mr. DINGELL. Mr. Speaker, I rise in strong support of House Resolution 346, the committee funding resolution for 1990. I want to thank and commend the chairman of the Subcommittee on Accounts, Mr. GAYDOS, and the chairman of the Committee on House Administration, Mr. ANNUNZIO, for their excellent work in crafting this resolution. The Energy and Commerce Committee is grateful for the fairness and courtesy with which it has been treated in this process.

All Members of the House should recognize the extreme constraints under which the Accounts Subcommittee was forced to labor. The overall funding increase they were given was not even enough to maintain current services, much less allow for any growth.

Our committee's budget submission endeavored to recognize the needs of the minority for adequate funding. However, this will require real growth—an infusion of new funds. Attempting to enlarge the minority's share of the pie without also enlarging the pie is simply not a viable approach. I believe that good progress has been made in the last year in this respect and hope this progress can continue. But I urge my colleagues to think seriously about the importance next year of giving the subcommittee the increased funding necessary to increase the minority's resources on our committee and others.

Mr. GAYDOS. Mr. Speaker, I move the previous question on the committee amendment in the nature of a substitute and on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GLICKMAN). The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 349, nays 71, not voting 11, as follows:

[Roll No. 36]

YEAS—349

Ackerman	Annunzio	Atkins
Akaka	Anthony	AuCoin
Alexander	Applegate	Baker
Anderson	Archer	Barnard
Andrews	Aspin	Bartlett
Bateman	Goss	Moakley
Bates	Gradison	Mollohan
Beilenson	Grandy	Montgomery
Bennett	Gray	Moody
Bentley	Green	Morella
Bereuter	Guarini	Morrison (CT)
Berman	Gunderson	Morrison (WA)
Bevill	Hall (OH)	Mrazek
Bilbray	Hall (TX)	Murphy
Bilirakis	Hamilton	Murtha
Boehlert	Hammerschmidt	Myers
Boggs	Harris	Nagle
Bonior	Hastert	Natcher
Borski	Hatcher	Neal (MA)
Bosco	Hawkins	Neal (NC)
Boucher	Hayes (IL)	Nowak
Boxer	Hayes (LA)	Oakar
Brennan	Hefner	Oberstar
Broomfield	Henry	Obey
Browder	Herger	Olin
Brown (CA)	Hertel	Ortiz
Bruce	Hiler	Owens (NY)
Bryant	Hoagland	Owens (UT)
Buechner	Hochbrueckner	Oxley
Byron	Horton	Packard
Campbell (CO)	Hoyer	Pallone
Cardin	Hubbard	Panetta
Carper	Huckaby	Parker
Carr	Hughes	Parris
Chandler	Hutto	Pashayan
Chapman	Hyde	Patterson
Clarke	Ireland	Payne (NJ)
Clay	James	Payne (VA)
Clement	Jenkins	Pease
Clinger	Johnson (SD)	Pelosi
Coleman (MO)	Johnston	Penny
Coleman (TX)	Jones (GA)	Perkins
Combest	Jones (NC)	Pickett
Condit	Jontz	Pickle
Conyers	Kanjorski	Poshard
Cooper	Kaptur	Price
Costello	Kasich	Quillen
Coughlin	Kastenmeier	Rahall
Coyne	Kennedy	Rangel
Crockett	Kennelly	Ravenel
Darden	Kildee	Ray
Davis	Kleczka	Regula
de la Garza	Kolbe	Rhodes
DeFazio	Kolter	Richardson
Dellums	Kostmayer	Ridge
Derrick	LaFalce	Rinaldo
Dickinson	Lagomarsino	Roberts
Dicks	Lancaster	Roe
Dingell	Lantos	Rogers
Dixon	Laughlin	Ros-Lehtinen
Donnelly	Leath (TX)	Rose
Dorgan (ND)	Lehman (CA)	Rostenkowski
Downey	Lehman (FL)	Roukema
Durbin	Levin (MI)	Rowland (CT)
Dwyer	Levine (CA)	Rowland (GA)
Dymally	Lewis (CA)	Roybal
Dyson	Lewis (GA)	Russo
Early	Lightfoot	Sabo
Eckart	Lipinski	Saiki
Edwards (CA)	Livingston	Sangmeister
Edwards (OK)	Lloyd	Sarpalius
Emerson	Long	Sawyer
Engel	Lowery (CA)	Saxton
English	Lowey (NY)	Scheuer
Erdreich	Luken, Thomas	Schiff
Espy	Lukens, Donald	Schneider
Evans	Madigan	Schroeder
Fascell	Manton	Schumer
Fazio	Markey	Sharp
Feighan	Marlenee	Shaw
Flake	Martin (NY)	Shuster
Foglietta	Martinez	Sikorski
Ford (MI)	Matsui	Sisisky
Ford (TN)	Mavroules	Skaggs
Frank	Mazzoli	Skeen
Frenzel	McCloskey	Skelton
Frost	McCollum	Slattery
Gallegly	McCrery	Slaughter (NY)
Gallo	McCurdy	Smith (FL)
Gaydos	McDade	Smith (IA)
Gejdenson	McDermott	Smith (NE)
Gekas	McEwen	Smith (NJ)
Gephardt	McGrath	Smith (TX)
Geren	McHugh	Smith (VT)
Gillmor	McMillen (MD)	Snowe
Gilman	McNulty	Solarz
Gingrich	Meyers	Spence
Glickman	Mfume	Spratt
Gonzalez	Michel	Staggers
Goodling	Miller (CA)	Stallings
Gordon	Mineta	Stangeland
Stark	Traxler	Weiss
Stenholm	Udall	Weldon
Stokes	Unsoeld	Wheat
Studds	Valentine	Whitten
Sundquist	Vander Jagt	Williams
Swift	Vento	Wilson
Synar	Visclosky	Wise
Tallon	Volkmer	Wolf
Tauzin	Vucanovich	Wolpe
Taylor	Walgren	Wyden
Thomas (CA)	Walker	Wylie
Thomas (GA)	Walsh	Yates
Torres	Washington	Yatron
Torricelli	Watkins	Young (FL)
Towns	Waxman	
Traficant	Weber	

NAYS—71

Armey	Hancock	Pursell
Ballenger	Hansen	Ritter
Barton	Hefley	Robinson
Bliley	Holloway	Rohrabacher
Brown (CO)	Hopkins	Roth
Bunning	Houghton	Schaefer
Burton	Hunter	Schuette
Callahan	Inhofe	Sensenbrenner
Campbell (CA)	Jacobs	Shays
Coble	Johnson (CT)	Shumway
Conte	Kyl	Slaughter (VA)
Courter	Leach (IA)	Smith, Denny (OR)
Cox	Lent	Smith, Robert (NH)
Crane	Lewis (FL)	Smith, Robert (OR)
Dannemeyer	Machtley	Solomon
DeLay	Martin (IL)	Stearns
DeWine	McCandless	Tauke
Dornan (CA)	McMillan (NC)	Thomas (WY)
Douglas	Miller (OH)	Upton
Dreier	Miller (WA)	Whittaker
Duncan	Moorhead	Young (AK)
Fawell	Nielson	
Fields	Paxon	
Fish	Petri	
Grant	Porter	

NOT VOTING—11

Brooks	Flippo	Schulze
Bustamante	Gibbons	Stump
Collins	Nelson	Tanner
Craig	Savage	

□ 1651

The Clerk announced the following pair:

On this vote:

Mr. Stump for, with Mr. Craig against.

Mr. UDALL changed his vote from "nay" to "yea."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 346, the resolution just agreed to.

The SPEAKER pro tempore (Mr. PICKETT). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall 35 and 36.

TWENTY-THIRD ANNUAL REPORT OF UNITED STATES-JAPAN CO-OPERATIVE MEDICAL SCIENCE PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Wednesday, March 21, 1990.)

ANNUAL REPORT OF NATIONAL SCIENCE FOUNDATION FOR FISCAL YEAR 1989—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Wednesday, March 21, 1990.)

CONGRATULATIONS TO THE FORT RECOVERY INDIANS' LADIES BASKETBALL TEAM

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, yesterday I spoke of the Coldwater Lady Cavaliers becoming the first ever State basketball champions from Mercer County, OH. Just 3 hours after the Coldwater victory, the Fort Recovery Indians' ladies became the second State champion from Mercer County, winning the Ohio high school division IV championship from a gutsy Middletown Fenwick Falcons squad, 54–41.

What a year for the Indians from Fort Recovery. Not only were they Ohio's lone undefeated team, recording a 27–0 mark, but this was their first ever appearance in a State tournament. Coach Diane McClung was voted Division IV coach of the year and lady Indian Lynn Bihn won division IV player of the year.

Not to be overlooked were those courageous and tough Falcons from Middletown Fenwick. Coach Lockhart's team need not hang their heads, as they compiled a respectable 24–3 record.

But today belongs to the lady Indians of Fort Recovery. Two State champions from one county in the same year. Another first for Fort Recovery. Well done and congratulations to our new State champions, the lady Indians.

FORT RECOVERY LADY INDIANS

Head Coach: Diane McClung.

Assistant Coach: Jeff Roessner.

Players: Lynn Bihn, Tina Bihn, Becky Brunns, Jenny Etzler, Tammy Hartnagel, Jennia Jenkins, Kathy Lennartz, Jenny Rammel, Kate Schoeherr, Vikki Smith, Brenda Tobe, and Dina Weigel.

[From the Celina (OH) Daily Standard, Mar. 19, 1990]

MERCER DOMINATION: FORT RECOVERY GOES 27–0, WINS TITLE

(By Rusty Miller)

COLUMBUS.—Fort Recovery coach Diane McClung said it was an honor for her team to be deemed the best in the state in Division IV during the regular season.

But it was a bigger honor to be the best at the very end of the year.

"We didn't mind being No. 1 all year. We knew it didn't give us any extra points. When the season was over, we just wanted people to say we were No. 1 then," McClung said after her Indians broke away late to whip Middletown Fenwick 54–41 and win the small school state championship Saturday night.

The title was the second of the day for a team from Mercer County and the Midwest Athletic Conference. Coldwater, which Fort Recovery had beaten by 16 points in midseason, won the Division III crown earlier over Brookfield, 62–55.

Kathy Lennartz scored 18 points and Lynn Bihn had 16 and Fort Recovery finally broke free of Fenwick with a late 12–0 run to put the game away.

Lennartz was celebrating her 18th birthday.

Fenwick coach Mike Lockhart was more than a little perturbed with the foul differential. Fort Recovery was called for 12 fouls to 21 against Fenwick. The champions were 20 of 30 at the line to 5 of 12 for the Falcons.

"You can't beat a team when they go to the line (30) times and they get only two team fouls in the second half. We were not allowed to play defense," said Lockhart. "I'm not taking anything away from Fort Recovery because they earned it. Going 27–0 is a great season. But if this is supposed to be the state tournament, then you're supposed to have the best officials working."

Fort Recovery (26–0), rated No. 1 in the final AP regular-season poll, won the title in its first appearance ever at the state tournament.

Fort Recovery never trailed after the first basket, but was unable to put the Falcons (23–3) away.

The Indians led 13–4 after a quarter, 23–18 at the half and 33–28 through three quarters.

The Indians led 42–38 with 4:17 remaining after Fenwick's Jeri Lee hit a shot in the lane.

But Fort Recovery awakened to reel off the next 12 points over the next four minutes.

Lennartz hit three free throws and Bihn, the co-player of the year and a first-team All-Ohio selection, hit two free throws and a shot inside to make it 49–38 by the 1:36 mark, Jennia Jenkins then hit five free throws to close out the streak.

Jenkins added 11 points for the Indians.

Lennartz hit 5 of 11 shots from the field and 8 of 12 free throws, while Bihn, Jenkins and Bihn's sister Tina each had six rebounds.

All-stater Kathy Long led Fenwick with 13 points, while Denaire Nori had 11.

Fort Recovery hit 17 of 35 shots from the field for 49 percent compared to Fenwick's 17 of 37 for 46 percent. The Indians won the game at the line, where they were 20 of 30 to the Falcons 5 of 12.

Fenwick, which had lost in the semifinals in 1983 in its only previous state tournament appearance, was ranked fourth in the final regular season poll.

WHY I AM PROUD OF AMERICA

(Mr. CARPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARPER. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct the Voice of Democracy broadcast script-writing contest. This year more than 137,000 students participated in the contest competing for the 12 national scholarships totaling $56,000, which was distributed among the top 12 winners. The contest theme this year was "Why I Am Proud of America."

The winning contestant from each State came to Washington, DC, for the final judging as a guest of the Veterans of Foreign Wars.

I am proud to announce that Christopher David Castellani, from Delaware won sixth place honors in the Voice of Democracy broadcast script-writing contest. This young man, a senior at Salesinnum High School in Wilmington, DE, represents the very best in our Nation's young people. All of us in Delaware are proud of him. I am submitting Mr. Castellani's speech for the RECORD so that others may benefit and be inspired by this young man's words.

WHY I AM PROUD OF AMERICA

(By Christopher David Castellani)

Why I am proud of America. There is one story my father likes to tell more than any other. When he tells it, a glaze comes over his eyes as he looks far in the distance, like he can see it clearly though it happened over forty years ago.

The story is about a man, himself, leaving his love of many years behind and sailing to America after World War II. He faces a big country alone, ignorant of its language, and devoid of any skills except those learned from a third grade education.

The ride to America is long. Fifteen days long. But when he sees its shores, a feeling erupts uncapturable by poets or even dreamers. What is before him is his life, in all its possibilities; his life, in all its promises. He stays in America for a while, working in a small bakery, saving up enough to send for his love, who he is to marry. But instead of just sending for her, he goes himself, because he want to be there when she, too, first sees America; when her eyes grow red and heavy, when she sees what can really be theirs. At this point my father usu-

ally stops, and remarks how maybe someone who hadn't sacrificed thirteen Christmases in a row working in a hot bakery might not realize the absolute luxury of a warm bed, and three meals a day, and a gathered, happy family.

But I know. I look into my father's eyes and know why I am proud of America. It is because if a man so alone and unlearned as my dad was can become a father of three grown, happy children; a husband of thirty-five years; an owner of a paid-for house; and a happy citizen above all; then it is a direct result of the opportunity America gave to him. It is a result of the hope that was inspired in him by that first sight of land. But most of all, it is because America was and is a gift to all men and women. A gift that never goes out of style, or fades, or gets lost. It is the gift of self-betterment.

When I look at my family, and realize it came from nothing, I really do think I can feel what my father must have felt when he first saw the flag flapping in a forgotten breeze, or when he was first able to utter words in English, or when he saw his first child being born an American.

I, too, can feel the passion because it is a part of my everyday life; passion for family, and happiness, and for what is yet to come. For the possibilities are endless in a country where a leader can rise from ruin, and a saint from despair, all because of the freedom this country bestows on its every citizen.

So I am not only proud, but honored, to say "thank you America," for the opportunity you gave to a young, scared man long ago, and for the hope you keep giving as an example to the world of a dream's immense power.

REAL PEOPLE WILL BE HURT BY UNFAIR APPROACH TO CLEAN AIR ACT

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois [Mr. POSHARD] for 5 minutes.

Mr. POSHARD. Mr. Speaker, the people of southern Illinois accept their fair share of the burden to clean up our air. But we will not stand idly by and shoulder an unfair portion of that burden.

So, as I have done on several occasions before, I want people to know a little more about what's at stake.

Because proposals that do not include cost sharing are totally unfair and against the notion that we take care of national problems with national solutions.

Finding a reasonable approach to air-quality improvement is a complex undertaking. But it is not just a technical process. It is more than just deciding how many tons of sulfur dioxide and nitrogen oxide have to be eliminated.

This is something that will dramatically impact real people—living, working, people—neighbors of ours who are looking at economic disaster unless we come up with something better.

To underscore the importance of this issue I held a Small Business Subcommittee hearing in southern Illinois last year. I found that small businesses in coal areas will be absolutely decimated by the loss of economic activity of the coal mines and their employees. Under current proposals that do not include cost sharing, Illinois job loss estimates are pegged at nearly 20,000.

This is an area where counties regularly report unemployment rates of 10, 15, 20 percent or more. High unemployment—a shortage of steady employment—and now we're faced with severe losses in a linchpin industry.

I mentioned the hearing in southern Illinois. Here's just a little of what Keith Ward, a United Mine Workers of America member from southern Illinois, told the committee.

The money I make stays here in my community. It supports my friend who runs the auto parts store, helps the grocery store owner employ the lcoal kids who need a part-time job, and contributes to the sales and property tax base that keeps the courts open and fire trucks running.

I guess what I'm trying to say is this is not just my fight, or the fight of people who wear coal dust for a living. It involves everyone in southern Illinois who depends on the paychecks the coal mines provide to achieve their own goals and dreams. If we go, we take an awful lot of good people with us.

Truer words were never spoken. And with permission I will include into the record the complete statement of Mr. Ward.

There's someone else you need to meet. His name is Joe Pop, and his story is told by Cheryl Frank, who writes for the southern Illinoisan newspaper which serves my district. I'll enter this article for the record also with permission, but let me read just a bit of this article for you now.

Pop says the people running the show do not realize that they need people like him. "Why should miners be the ones to pay the full price of acid-rain pollution by losing their job?" Pop asks. "The bottom line is who's going to pay for it. I think it will be you and me.

One final headline for you. And with permission I'll enter the complete article for the RECORD. The headline says the price of clean air may be paid in the coal fields of southern Illinois. I'm afraid that's less a prediction and more a statement of fact.

And the same scenario lies in wait for other high sulfur coal regions unless there is a change in our approach.

Clean air does not have to come at the complete sacrifice of Midwestern coal miners, power companies, and the people who depend on them. We can do better. For their sake, as well as ours, we must do better.

TESTIMONY ON ACID RAIN CONTROL LEGISLATION

(By Keith Ward)

Those of us who work in the coal mines are at a real crossroads. We have to make sure the path we take leads us in a new direction instead of down a blind alley.

I have dedicated my life to working in a coal mine. That's my decision, although I'm proud to carry on a tradition that's been in my family and in my community for many years. I take a great deal of pride in the job I do alongside my union brothers and sisters. You better believe in what you're doing to take a man-car a couple of miles underground each day, with the nagging little fear in the back of your mind that disaster could strike, and this could be the last time you make that long hard trip.

I've attended enough memorial services, visited with enough widows and fatherless children, heard enough stories about what it used to be like in the mines before the union and before labor laws were enacted, to understand what it is to be a coal miner. We in the industry take that responsibility seriously. We believe in producing American energy with American jobs.

I can't tell you how much it hurts me to know that thousands of my co-workers are out of jobs, with a decent standard of living taken from them by factors out of their control. I urge you not to to do that to another generation of coal miners, who want nothing more than to work hard, support their families, and contribute to the American way of life we hold so dear in southern Illinois.

The money I make stays here in my community. It supports my friend who runs the auto parts store, helps the grocery store owner employ the local kids who need a part-time job, and contributes to the sales and property tax base that keeps the courts open and fire trucks running. I guess what I'm trying to say is this is not just my fight, or the fight of people who wear coal dust for a living. It involves everyone in southern Illinois who depends on the paychecks the coal mines provide to achieve their own goals and dreams. If we go, we take an awful lot of good people with us.

I'm also a man who enjoys the blessings God has given us. I respect and appreciate the lakes and forests of southern Illinois, and believe in protecting those areas for others to enjoy in their hometowns and backyards.

I urge the Congress and President Bush to find a compromise which will allow us to preserve the environment and preserve our jobs as well. We don't have to accept an either/or situation, and we can keep our men and women working to provide the energy that runs our factories and lights our homes, without hurting people we don't even know but still consider our neighbors.

Chairman Torres, members of the Subcommittee, and all of those with an interest in this debate, please consider the welfare of our families and our communities. Please resist the temptation to forge ahead until you consider the impact on the thousands of coal miners out here.

We are not hostile towards the environmental needs of this country. But it will be a hollow victory for a man without a job to fill his lungs with the clean air that cost him his piece of the American dream. That doesn't have to happen. We hope and pray that it won't.

Mr. Speaker, I include for the RECORD the full text of the articles I quoted from:

[From the Southern Illinoians, Mar. 4, 1990]

FAMILY LOOKS AT DIM DAYS AHEAD

(By Cheryl Frank)

KINCAID.—The Joe Pop family depends on extracting high-sulfur coal from the earth. Illinois mining jobs like Pop's are in jeopardy.

If acid rain legislation now pending in Congress is enacted this year—as most everyone involved predicts—thousands of miners in central and southern Illinois could be washed off the job as utility companies curb their use of the state's coal.

The mining camps-turned towns that line Illinois 104 and its by-ways in Christian County are abuzz with constant talk of new layoffs. They cringe at the thought that Commonwealth Edison Co.'s Kincaid power plant could close. The central Illinois plant uses all the coal produced at Peabody's Coal Co.'s mine No. 10 where Joe Pop works.

It is called a "mine-to-mouth" operation. The newly mined coal is funneled directly into the mouth of the power plant furnace.

Pop, age 49, is "honest and upfront" in the view of a fellow miner. Another brother of the mines calls him "controversial" for speaking out.

Pop says the people running the show do not realize that they need people like him. "Why should miners be the ones to pay the full price of acid-rain pollution by losing their jobs?" Pop asks. "The bottom line is who's going to pay for it. I think it will be you and me."

He and his forebears have paid a big price already. Tears come to his eyes when he talks of his father, who spent 43 years underground. In 1972 his father died in a roof cave-in at Peabody No. 10. Pop says it took seven people to lift the rock off.

Five years later, Pop broke a promise he made to his father when he began work as a miner. He works the second shift, 4 p.m. to midnight.

"Dad would probably turn over in his grave if he knew," Pop says. "But the money is underground. My check almost doubled." Miners make between $32,000 and $35,000 a year.

Now he regrets his decision, because at his age, Pop would have trouble finding another job that pays as well in this area. And Pop intends to stay in the tightly knit string of old communities that sprang up when Italian, Irish and other groups camped near the mines.

He became a miner after he married Debbie, 39, who works as a school cook.

Pop is of Hungarian lineage. The 6-foot, 2-inch, 230-pounder describes himself as an "emotional" third-generation miner. As the father of Joseph, 14, and Vince, 11, Pop is a family man interested in coaching and guiding youth groups.

Pop says if he can hold on to his job for six more years, he will earn enough seniority to earn a pension of $500 a month and keep his family's medical benefits.

Pop has had to undergo "expensive" back surgery and has been told it may be possible that he he will have to have more. Without his mining job and health coverage, he would have it rough.

Joe and Debbie Pop openly voice their fears. It's as heavy as the tons of coal mined by generations past, something both of them are constantly reminded of.

The Pops and their neighbors live in the shadow of the electric plant's main smokestack. The plant's flashing white warning lights blink across the highway, a beacon for its many employees who live in constent fear of becoming unemployment statistics.

PRICE OF CLEAN AIR MAY BE PAID IN COAL FIELDS OF SOUTHERN ILLINOIS

(By Cheryl Frank)

The congressional acid-rain compromise announced last Thursday would keep tons of chemicals out of the air that would otherwise fall to earth as acid rain.

The chemicals, sulfur dioxide and forms of nitrogen oxide, spew skyward when power plants burn high-sulfur coal mined in Midwestern states such as Illinois. The theory is that rainwater and polluting particles mix to form an acid.

The legislation hits home in Illinois, where the pending compromise legislation could be a threat to miners' jobs.

The miners' logic: Government regulations will become so stringent that utilities will no longer be able to afford to burn high-sulfur coal.

That, in turn, would shrink or destroy markets for the type of coal they mine. Most of the high-sulfur coal is purchased by power plants that burn it to generate electricity.

Acid rain has been blamed for casting a haze over nature that is killing trees, polluting air, ruining streams and lakes, killing fish, and eroding buildings and monuments.

Ironically, the situation is worse not in coal mining regions but in the northeastern United States and eastern Canada because of nature's eastward drift of air currents.

Focus of congressional debate is compromise legislation that combines the thinking of President Bush and of Senate Majority Leader George Mitchell, D-Maine, as well as other interests. The other parties include utility companies, the coal industry, environmentalists and the United Mine Workers.

But environmentalists are not that happy because they want stiffer pollution controls applied faster. And utility, mining and union interests are not happy because there is no cost-spreading in the compromise legislation. Cost-spreading means that the costs of pollution cleanup would be spread among all states and not concentrated in high-sulfur Midwestern states such as Illinois.

Legislative support comes from the Northeast—where acid rain is linked to dying forests—and the West, where low-sulfur, cleaner coal is mined.

While Illinois miners cling to their jobs, debate has raged in Washington, D.C.

The Bush-Mitchell compromise legislation, if passed, would require sulfur dioxide emissions to decrease 10 million tons by the year 2000 and nitrogen oxides 2 million tons by the same deadline. This is a drastic cut compared to the present emissions.

It includes "freedom of choice" for utilities. This allows them to meet pollution goals by various methods: They could install costly scrubbers to clean the high sulfur coal or decide to "switch" to low sulfur coal from Western states such as Montana, for example.

Devices such as scrubbers to clean utility plant emissions cost hundreds of thousands of dollars that would be passed on to utility customers, utilities have repeatedly said.

The legislation provides an "allowance or credit program." This would permit a low-polluting plant to sell or trade "credit" to a higher polluting plant to allow it to continue operating when otherwise it would not meet standards. This could keep Illinois coal burning in some cases, but the coal industry does not think this incentive goes far enough.

It does not include cost-spreading provisions of the magnitude deemed necessary to protect Illinois coal and coal miner jobs. Utilities generating pollution and ultimately consumers would be responsible for any costs connected to meeting new standards. (Some earlier proposals would have spread costs over the whole country by various ways, including a national utility surcharge.)

Separate amendments from Illinois and other high-sulfur states have been introduced. They would require high-polluting power plants to install scrubbers so that high sulfur coal can continue to be used. Costs would be shared nationwide.

Gerald Hawkins, chief lobyist for Illinois District 12 of the UMW, says without spreading the costs to all states, some 3,000 to 4,500 Illinois jobs could be lost.

He speculates that markets for Illinois coal would dry up, leading to widespread job losses.

ICF Resources Inc., a Virginia consulting firm that does work for the U.S. Environmental Protection Agency, confirmed in a September 1989 report that acid-rain legislation would result in significant shifts of coal mining jobs away from places like Illinois.

□ 1700

BELORUSSIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, 72 years ago, on March 25, 1918, Belorussia proudly proclaimed its independence, and today as the people of Belorussia struggle to regain their freedom and remove the yoke of tyranny of communist rule, it is appropriate that we in Congress recognize this important day in history of freedom-loving people.

The Belorussian Coordinating Committee of Chicago, will again celebrate Belorussian Independence Day at a luncheon banquet to be held on Sunday, March 25 at 1 p.m., at the Regency Inn in Chicago. I would like to take this opportunity to extend my greeting to Vera Romuk, the Secretary of the Belorussian Coordinating Committee of Chicago, IL, who has worked tirelessly on behalf of the Belorussian people, and all those participating in this imporant commemoration.

This year also marks the quincentenary of the birth of Dr. Francisak Skaryna, the printer and translator of the Holy Scripture in the Belorussian language in 1517. Dr. Skaryna also excelled as a writer, poet, scholar and doctor of medicine, and in recognition of his contributions and service to his people, UNESCO has dedicated 1990 in tribute to his memory.

During the many dark years of Soviet occupation, the Communists have been brutal in the treatment of the Belorussian people, attempting to completely destroy their rich culture and their language. Yet the desire to preserve Belorussian heritage and regain independence has remained strong.

Today the call for democratic reforms and representative government, free from Soviet interference, is sweeping across Eastern Europe, as well as the countries which were forc-

ibly incorporated into the Soviet Union. Recent elections in Belorussia clearly demonstrate an overwhelming rejection of Communist rule, and an unwavering desire to achieve freedom and independence for Belorussia.

Mr. Speaker, on this 72d anniversary of the Belorussian Independence, I am honored to join with Americans of Belorussian descent in the 11th Congressional District of Illinois which I am honored to represent, and Belorussian-Americans throughout our Nation, in their hopes and prayers that this year will see that Belorussian people move closer to the ultimate goal of an independent Belorussia, free from the tyranny and oppression of the Communists.

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

IN CELEBRATION OF GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes.

Mr. BILIRAKIS. Mr. Speaker, it is a great honor for me to pay tribute today to Greeks both ancient and modern who struggled to bring democracy to their countrymen and to the world.

In 4 days, people of Greek heritage and the Greek Orthodox faith—as well as freedom loving people everywhere—will celebrate a very special day.

March 25 is Greek Independence Day, the 169th anniversary of the beginning of Greece's struggle for independence from more than 400 years of foreign domination. It was on this historic day that the Greek people began a series of uprisings against their Turkish oppressors, uprisings which soon turned into a revolution that attracted international support and respect.

This long and arduous struggle by the Greeks against the Ottoman Empire is a perfect example of the ability of mankind to overcome all obstacles—obstacles that often appear insurmountable—if the will to persevere is strong enough. It is an example that oppressed people throughout the world may look to and gain strength from in their struggle to overcome their oppressors.

Mr. Speaker, I am happy to yield to the gentleman from New York [Mr. MANTON] for some remarks on this subject.

Mr. MANTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as a cosponsor of House Joint Resolution 473, legislation to designate March 25, 1990, as Greek Independence Day, I am proud to join my colleague Mr. BILIRAKIS in this special order. On Sunday, March 25, the people of Greece will celebrate the 168th anniversary of the beginning of the revolution which freed the Greek nation from more than 400 years of tyranny and oppression.

Mr. Speaker, it is fitting for Americans to celebrate Greek Independence Day because of the important role the nation of Greece has played in fostering freedom and democracy throughout the world. The concept of democracy was first conceived by the ancient Athenians 2,500 years ago. All of the free nations of the world are indebted to the Greeks for this most important tradition.

Mr. Speaker, the United States and Greece have a special friendship based on mutual respect and admiration—200 years ago when our Founding Fathers gathered to draft a constitution they looked to the ancient Greeks for their inspiration. In the 1920's, when the young nation of Greece began its fight for independence, the Greek people turned to the United States and translated our Declaration of Independence into Greek to use as their own. As allies, the friendship between Greece, and the United States has remained strong through peace and wartime. In World War II, the brave soldiers of Greece and America fought shoulder to shoulder against the Axis powers.

As the Representative of the Ninth Congressional District of New York, which has perhaps the largest Greek-American population in the United States, I am pleased to join my constituents in marking Greek Independence Day. On this special day, I urge my colleagues to join me in paying tribute to the wisdom of the ancient Athenians, the friendship of modern Greece and the important contributions Greek-Americans have made in the United States.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for his kind remarks and for his friendship toward the nation of Greece.

Mr. Speaker, the history of the Greek war for independence is one filled with heroes and heroism, of remarkable events by many peoples in a common cause. It is partly the story of the Klephtes, who descended upon the invaders from their mountain strongholds. It is also the story of the Hydriots, seafarers who broke the Ottoman naval blockade; and it is the story of the Philhellenes, who took these tales of courage to Europe where their significance was not overlooked.

These stories woven together formed the fabric of a free and independent Greece, of democracy returned to the cradle where it was born, and defended by the defiant cries of the Greek patriots: "eleftheria i thanatos"—liberty or death.

This year, Mr. Speaker, is one of special importance in this regard, for it marks the 2,500th anniversary of democracy itself. Dr. Bernard M.W. Knox, director emeritus of the Center for Hellenic Studies here in Washington, has noted the following:

> Twenty-five hundred years ago in 510 B.C., Hippias, the last tyrant of Athens, was driven out of the city. Athens had been under his dictatorship—and that of his father, Pisistratus, before him—for 30 years. Out of the political chaos and factional infighting that followed his expulsion, there emerged a new political system.
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> It was derived by the aristocrat Cleisthenes, one of the organizers from exile of the tyrant's downfall. It was a thorough reorganization of Athenian political institutions that gave supreme power to the full assembly of the free male citizens, to which annually elected magistrates had to render accounts of their year in office at the end of the year. It was called democracy—"the rule of the people"—and it was the first of its kind the world had ever seen.
>
> Almost at once the newborn democracy had to deal with foreign attempts to suppress it. "Its victory," said the historian Herodotus, "proved, if proof were needed, how noble a thing freedom is * * *. For while the Athenians were oppressed under a despotic government, they had no better success in war than any of their neighbors. Yet once the yoke was flung off, they proved the finest fighters in the world." This clearly shows that, so long as they were held down by authority, they deliberately shirked their duty in the field, as slaves shirked working for their masters; but when freedom was won, then every man amongst them longed to distinguish himself.

Mr. Speaker, these words by Dr. Knox hold great significance for all of us in 1990 as nation after nation in East Europe throws off the yoke of despotism that their people may live free.

Indeed, in this very special year for democracy and freedom, as the Berlin Wall collapses and the Iron Curtain lifts across Eastern Europe, we as Americans should reflect on the lessons learned from ancient Greece.

□ 1710

The ancient Greeks, of course, forged the very notion of democracy, placing the ultimate power to govern in the hands of the people themselves. Of course, our Founding Fathers drew heavily on the political and philosophical experience of ancient Greece in forming our government, and for that contribution alone we owe a great debt to the Greeks.

In the American colonial period, during the formative years of what would be our great Republic, no feature was more prominent than the extent to which Greek and Roman sources were cited by the Framers of the Constitution. The very basis of our Constitution derives from Aristotle and was put into practice in ancient Rome, in 18th century England and in the early State constitutions, before it was given its national embodiment by the Convention of 1787.

The overriding appreciation was for Aristotle's sense of balance, since the delegates viewed the tyrant and the mob as equally dangerous. Indeed, both James Madison and John Adams emphasized what Aristotle had written in "The Politics," that "The more perfect the admixture of the political elements, the more lasting will be the state."

Polybius, a leading authority on Greek city-states, also was of special interest to the Framers of the Constitution. In his "Histories," Polybius wrote that the best governments consists of one of three forms: kingly government, artistocracy, or democracy. Our own national experiment has shown us that, in fact, the best government is one that comprises all three.

The delegates in Philadelphia, of course, noted that the Executive represented the kingly power, the Senate the aristocratic and the House the popular power.

Centuries later, Montesquieu would expand on Polybius' ideas and the lessons of ancient Greece and Rome by writing that the vice of kingly government is monarchy; that of aristocracy, oligarchy; and that of democracy, rage and violence, into which, in process of time, each must degenerate.

Through the recognition of these processes, the idea of a separation of powers, a system of checks and balances, was instituted in American Government. Thus, as Polybius foresaw and wrote, "When one part, having grown out of proportion to the others, aims at supremacy and tends to become too dominant * * * none of the three is absolute * * *."

The idea of a union of separate States, in fact the necessity of a common defense, also was drawn by the Founding Fathers from the experiences with democracy by Greece and Rome. Alexander Hamilton noted that "Leagues among the old Grecian Republics were continually at war with each other, and for want of a union, fell prey to their neighbors."

This is why the states of Greece were splintered by Philip of Macedon and afterward by the Romans—because they contended for freedom separately.

In "The Continentalist" of 1781, Hamilton continued, "The commonwealths of Greece were a constant scene of the alternate tyranny of one part of the people over the other."

In a memorandum that he prepared for the convention, we see the recurring theme, the desire for a mixed government. Hamilton saw the Articles of Confederation as no more stable than the confederation of Greek city states. They had ample powers to declare war and use force against delinquent members, but these powers were self-destructive in the context of unity. The ancient democracies resulted in tyrannies, and this in turn resulted in an illusion of democracy.

In continuing to refer to the experience of the ancient democracies we refer to Lycurgus, who in wanting to avoid the anarchy into which these governments would degenerate, united in one all of the advantages and properties of the best governments, in order that no one branch would degenerate into the tyranny that accompanied its excesses.

Mr. Speaker, at this time I yield to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. I thank the gentleman very much for yielding. Let me commend the gentleman, my friend the gentleman from Florida [Mr. BILIRAKIS] for taking this very important special order.

Mr. Speaker, I also rise today to add my voice to the chorus of congressional support for Greek Independence Day. This anniversary commemorates the beginning of Greece's long struggle to free itself from the bonds of the Ottoman Empire. For it was on March 25, 1821 that Archbishop Germanos and his fellow Hellenes raised their banner of rebellion and began their triumphant march towards independence.

This year's anniversary is particularly moving because Greece is also currently celebrating the 2,500th anniversary of Greek democracy. In the 6th century B.C., the democratic reforms of Cleisthenes in Athens gave rise to the Western World's first true democratic government.

What more appropriate year to celebrate the 2,500th anniversary of democracy than 1990. Night after night on the evening news, we have witnessed the triumph of democratic movements throughout the world. From the countries of Eastern Europe to Panama to Nicaragua—from the meteoric rise of Vaclav Havel's chapter 77 party to the successful ouster of Noriega's government, to the triumphant electoral victory of Chamorro's united opposition—the walls of repression have come tumbling down.

However, at a time of democratic celebration, there remains one sore spot on the southern flank—the divided island of Cyprus. Sadly, 16 years after its invasion, 40 percent of Cyprus remains under Turkish military occupation. Recently, the once promising negotiations under the auspices of the United Nations between President George Vassiliou and Mr. Rauf Dengtash broke down. I would like to take this opportunity today to encourage the Bush administration to move the talks forward—to elevate the Cyprus issue on the United States foreign policy agenda. Specifically, I would like to see Secretary of State Jim Baker take an active role in articulating an American policy that makes it clear that a Cyprus settlement is important to United States policy in the region. It is time the winds of peaceful change sweep the divided island of Cyprus. As the 2,500th anniversary of democracy is celebrated throughout the world, it is my sincere hope that both Greek and Turkish Cypriots embrace the opportunity to renew negotiations on the democratic future of their island.

I also want to give President Bush credit—yesterday he signed into law a joint resolution recognizing Greek Independence Day.

Finally, I end on a personal note: As a Greek-American, I take particular pride in the winds of democratic change that have swept the world. It is my motherland and the motherland of all Greek-Americans that served as the cradle of western culture—the cradle of democracy. I appreciate the opportunity to speak on behalf of such a special anniversary.

Mr. BILIRAKIS. I thank the gentleman for his statement, my very close friend and fellow Greek-American, the gentleman from Massachusetts [Mr. MAVROULES].

Mr. Speaker, at this point I yield to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. I thank the gentleman for yielding and congratulate my colleague, the gentleman from Florida, for leading this effort to honor so many wonderful Greek-Americans in our country.

Mr. Speaker, it fills me with pride to join my colleagues in this celebration of Greek Independence. Our world has witnessed incredible changes during the past few months: the advent of democratic governments in Poland, Czechoslovakia, and Nicaragua, among many, many other countries. Nations who had been oppressed have united their voices to say "No!" to dictatorships and tyranny. The example set by the brave people of Greece during the 1821 Greek Revolution, as well as the legacy of classical Greece's democratic ideals, are being emulated by our modern-day fighters for democracy.

On March 25, 1821, a small group of Greeks, not formally organized but determined, struck out for their independence against the powerful Ottoman Empire. For over 400 years, the Greek people had been under Ottoman rule. Their pride and love for jus-

tice and independence could not be controlled anymore. This valiant group of Greeks received the support of freedom-loving Americans such as Samuel Gardley Howe of Massachusetts, George Jarvis of Washington, and Jonathan Peckham Miller of Vermont.

In Miami, the proud and thriving Greek community will be celebrating the 1821 Greek Revolution on April 1, 1990. Under the leadership of Dr. Basil Yanakakis and Dr. George Palatianos, they will come together to remember this most significant event in Greece's illustrious history. The revolution's slogan and song: "It is better to live 1 hour of freedom than 40 years of slavery and imprisonment" will be the force behind this celebration.

I congratulate the Greek-American communities in the United States for the many contributions they have made to our great Nation. The legacy of democracy which began so many centuries ago in Athens continues today as an inspiration to us all.

□ 1720

Mr. BILIRAKIS. Mr. Speaker, I thank the gentlewoman from Florida [Ms. ROS-LEHTINEN] for her remarks.

I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding. I thank my friend and colleague from Florida for calling this special order during the 2,500th anniversary of Greek democracy. Greece: the birthplace of a movement which in this 2,500th year has probably seen a greater expansion than in any other single year in all of human history. March 25 is Greek Independence Day, the 169th Anniversary of the beginning of Greece's struggle for independence from more than 400 years of foreign domination.

Greeks and Americans share a greater legacy. The Founding Fathers looked with great favor on the writings and the history of the Athenian democracy as they forged a new Nation. Today, our two countries share in the defense of freedom. Since the founding of NATO after World War II, Greeks and Americans have cooperated to defend freedom in the European theater.

Greek-Americans can be very proud of their rich cultural heritage. Our Lehigh Valley Greek-American community, which participates in national Greek-American activities, can be extremely proud—not only of the 169th anniversary of the struggle for independence from the Ottoman Empire—but also during this 2,500th anniversary of Greek Democracy.

Democracy! Perhaps the greatest gift that any nation has given to modern civilization—the forum of freedom.

Mr. Speaker, once again I thank the gentleman from Florida [Mr. BILIRAKIS] for his leadership in taking this special order.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. RITTER] for his remarks. I might add that the gentleman, on an everyday basis here in the House, exemplifies the courage and the stick-to-itiveness to principle that the ancient Greeks were so very famous for.

Mr. RITTER. Mr. Speaker, I thank the gentleman for his kind words.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I commend the gentleman for his organization of this special order on this very special occasion. Today we celebrate the 169th anniversary of Greek independence from the Ottoman Empire and the restoration of democracy to the very people who invented it more than 2,000 years ago. The ancient tradition of Greek democracy is enshrined in our monuments and public buildings, and finds expression, to this day, in the very underpinnings of our Constitution and way of life.

Today, in celebrating Greek democracy, we celebrate our own. For as Aristotle and Pericles handed down the principles of power emanating from the people and equality under law, so was the legacy of Thomas Jefferson and James Madison bestowed to the Greek Republic in 1821. That year, the Greek commander in chief declared to the Americans:

> Having formed the resolution to live or die for freedom, we are drawn toward you, by a just sympathy, since it is in your land that liberty has fixed her abode, and by you that she is prized, as by our fathers.

Adopting the American Declaration of Independence as their own, the Greeks sealed a bond, which has endured between our two peoples, ever since. As comrades in arms during the Second World War and partners today in NATO, both Greeks and Americans have stood together in the face of adversity to preserve our fundamental freedoms and democratic ideals, as we enter Greece's 170th year of independence and celebrate the greatest year for democracy since the end of the Second World War. Let Members reaffirm our historic partnership and work toward the day when every nation can point to their ballot booths and our proud example.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for his very powerful remarks.

I yield such time as he may consume to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I want to thank the gentleman for taking this time to commemorate this wonderful occasion.

I do not know how many people really understand the context and the significance of 2,500 years. The gentleman has pointed out that 2,500 years of Greek independence, when our historical reality, that which is the United States, the Declaration of Independence, the Constitution of the United States, espouse ideals which were to a large degree not crystallized, not formulated, but made into reality in Greece.

After this special order that the gentleman has taken out, I am doing a special order on Jerusalem. Jerusalem is even older than Greek independence, but it was in Greece where that Judeo ethic came alive and became a reality in the word that we now carry as the underpinning of our society, and that is democracy.

All I can say is that the proud tradition which the Greeks around the world, and especially the Greek-American community here in this country carry as part of their heritage, is something that they should cherish, and something that we should be envious of. For all that period of time, the tradition, the history, the reality of the glory that was Greece then, and is a modern-day Greece today, have been alive and well, and being the clarion call for what democracy can be, and taken by men of good will and of long, clear vision. I think that the Greeks of then had that vision and were able even through today to understand what it means to be a democracy.

Therefore, I congratulate the gentleman, rejoice with him in this anniversary, and hope that people not only in the United States but all over the world will stop for a minute and think how long that democratic ideal put into implementation in Greece has served the world well, for democracy.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for his most kind remarks, and I know that those remarks come from the heart.

If I might just hitchhike on the gentleman's comments, I find it amazing, even though I am Greek, that in spite of centuries of occupation by foreigners, we talk here about 400 years prior to independence, but we can go back even much further than that, and in spite of those centuries of occupation by so many different nationalities with our own religions, and with our customs and our own language, still, the Greeks were able to hold on to this culture and heritage that the gentleman from Florida refers to. That was in spite of all of the obstacles. I just find it amazing that our people have retained the religion, certainly stronger than ever, and have retained the culture and the heritage, and the language.

I certainly am just very proud to be a descendant of those tough, courageous people. I know I speak for all

Greek-Americans, and Greeks all over the world when I say that we are just grateful to those people: my parents and grandparents, and so many others throughout the world.

Mr. Speaker, in continuing now to refer now to the experience of the ancient democracies where we talked about those ancient democracies as a result of their self-destructive motives resulting in tyrannies, which in turn resulted in an illusion of democracy.

□ 1730

Mr. Speaker, in continuing to refer now to the experience of the ancient democracies, where we talked about those ancient democracies as a result of their self-destructive modus, if you will, which resulted in tyrannies and this in turn resulted in an illusion of democracy, I would like to refer to Lycurgus, who, in wanting to avoid the anarchy into which these governments would degenerate, united in one all the advantages and properties of the best governments in order that no one branch would degenerate into the tyranny that accompanied its excesses.

Does that sound familiar to us? I would like to think so, because our Founding Fathers were eager to relate the American experiment to the efforts of the ancient Greeks to establish a balance of powers. Such a relationship, it was hoped by the framers, would allow America to escape the disintegration of government that had proven inevitably fatal to such political systems throughout history.

So it is the example, I think, of the ancient Greeks that we celebrate each March 25, about which so many speakers here this evening have so very eloquently spoken, and that example is the return of democracy to Greece on this day of glory for the Greek people. The spirit of democracy and of this day lives on in the defense of the principles for which so many of the free world's citizens have given their lives.

The gentlewoman from Florida [Ms. ROS-LEHTINEN] spoke of the celebration on April 1 in Miami that the Greek-Americans and hopefully other philhellenes in the area will join in to celebrate the 2,500th anniversary of democracy, if you will.

And, Mr. Speaker, my community of Tarpon Springs, FL, will be celebrating on March 25 through a parade and through other speeches. I think it is just wonderful that so many philhellenes around the country, such as the gentleman from Florida [Mr. SMITH] and the gentleman from Utah [Mr. OWENS] and others, feel very strongly about this subject, because when we looked back, that is where we all came from.

Mr. Speaker, I would like to close my remarks by stating that it is fitting that we celebrate March 25 together with Greece in order to reaffirm the democratic heritage that our two nations share so closely.

At this point, Mr. Speaker, I am pleased to yield to the gentlewoman from Maryland [Mrs. BENTLEY] for her remarks.

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from Florida for yielding, and I want to commend him very much for taking this special order in order to commemorate Greek Independence Day.

Mr. Speaker, It is a pleasure for me once again to join with my colleagues in the Congress to commemorate Greek Independence Day. This is, as my distinguished colleague from Florida [Mr. BILIRAKIS] points out the anniversary of the return of democracy to the land that gave the world the very concept of democracy so long ago. I might point out, Mr. Speaker, that Mr. BILIRAKIS is one of the prides of the Greek-American community.

It was on March 25, 1821, that the Greek people, under the banner and leadership of the Bishop of Patras, rose in insurrection against the Ottoman Turks who had held the Greek people in both physical and cultural slavery for nearly 400 years.

This day of revolution was not chosen randomly, Mr. Speaker. In the Greek Orthodox faith, March 25 is the feast of the Annunciation, that holy event for which the Greek Orthodox mother parish in Baltimore, the Cathedral of the Annunciation, was named.

For Orthodox Christians, this feast marks the beginning of the plan of salvation that we celebrate during this Lenten season, culminating the feast of Easter in 3 weeks.

The Greeks turned this religious feast into a civic one by launching the insurrection that would bring salvation to the country on the day when they also commemorated the Archangel Gabriel bringing his good news to Mary of Nazareth.

It gives me great pleasure to join with our own Greek-American community in this country and with people of Greek descent around the world in celebration of the return of freedom and democracy to the Greek people.

And I send special greetings to the parishioners of the Greek Orthodox Cathedral of the Annunciation in my district, the church in which my husband Bill and I were married, as they celebrate jointly their religious feast day and this feast day for democracy that Greeks the world over will celebrate this weekend.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. BENTLEY].

Mr. Speaker, in closing, I would say that these principles of which we have spoken today are truly not uniquely Greek or American, but they are our promise to the world and they form a legacy that we cherish and have a responsibility to protect and to defend.

Ms. PELOSI. Mr. Speaker, I rise today in celebration of Greek Independence Day, and thank the gentleman from Florida [Mr. BILIRAKIS] for calling this special order.

After nearly 400 years of foreign domination, on March 25, 1821, the Greek people began a series of uprisings that led to the Greek Revolution. This struggle returned Greece to its early democratic traditions.

The love of freedom and the desire for self-determination motivated the Greeks to struggle for their independence. Much like the American Revolution, the Greeks had been deprived of their basic human rights. Religious freedoms where severely restricted, and access to education limited. It was the teaching of Aristotle that power should rest in the hands of the people, which eventually prevailed.

Even today, as Cyprus stands divided, Greek-Cypriots remain committed to the peaceful resolution of the island's armed conflict. It is fitting, on this day of celebration, to restate our responsibility to work for a unified Cyprus.

The rich history of Greece's contributions to our culture does not stop with ancient history. Over 3 million Greek-Americans live in the United States and have excelled in virtually every aspect of American life. San Francisco's mayor, Art Agnos, ranks among the distinguished list of Greek-Americans who have a significant impact on our society.

Again, I thank my colleague, Mr. BILIRAKIS, for calling this special order to recognize the importance of Greek Independence Day. We should all take a great deal of pride in celebrating the enduring relationship between our two countries.

Mr. RINALDO. Mr. Speaker, as we witness the rebirth of democracy in Eastern Europe, and calls for free elections in the Soviet republics, we can only admire the wisdom of the ancient Greeks who devised the best form of government known to mankind. Even when democracies have been crushed by the power of the state, they have inevitably been restored through the will of the people and the thirst for freedom and independence that the Greeks first recognized as an essential state of man.

As Aristotle said, "If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will best be attained when all persons alike share in the government to the utmost."

Our Nation was founded on the ideas of the Greeks. America's Founding Fathers relied on Greek thought and experience to write our Constitution, and it has worked remarkably well. It serves as a bond between our Nation and the Greek people.

In my State of New Jersey, thousands of Greek-Americans will celebrate the anniversary of Greece's independence from the Ottoman Empire. The freedom of the Greek people was won with their blood and courage as Greek villages stood up against their oppressors and finally ended foreign domination of their nation.

On March 25, we will celebrate Greek Independence Day and remind ourselves that

while democracy is the most natural form of government, it must be nurtured and defended if it is to endure.

The Greek-Americans have made many contributions to the growth and prosperity of our Nation, but none is more important than their respect and belief in democracy. It is everywhere, in the arts, humanities, philosophy and enterprise that the Greeks have taught us since ancient times. It is an unbreakable bond between our two nations.

I join my colleagues here today in commemorating the anniversary of Greek independence and in expressing my admiration for the Greek people who have enriched Western culture for over 2,500 years.

Mr. NEAL of Massachusetts. Mr. Speaker, as we continue to witness the emergence of democracy throughout the world, it is perhaps fitting that we pause today to recognize history's first democratic republic, Greece. This Sunday, March 25, marks the 169th anniversary of the Greek struggle for independence. In 1821, inspired by the lesson of the American Revolution, the Greek citizenry revolted against the oppressive Ottoman Empire. After nearly four centuries of Turkish rule, the men and women of Greece finally regained their sovereignty in 1827.

The crusade for an independent Greece is reflected in modern Greco-American relations. Both countries have shared a common commitment to the principles of equality and freedom, and in many ways, the American experiment might not have been possible without the Greek experience. Indeed, as Thomas Jefferson noted, "to the ancient Greeks * * * we are all indebted for the light which led ourselves, American colonists, out of Gothic darkness."

It is with this understanding that I enthusiastically join my colleagues in the House of Representatives in extending my personal best wishes to the people of Greece on the anniversary of their day of independence. It is my hope that this celebration will reinforce our relationship, and serve as an example to the many emerging democracies throughout the world.

Mr. YATRON. Mr. Speaker, on March 25, 1821, after four centuries of Ottoman rule, Greeks rose up in arms, fought valiantly, and finally achieved a dream centuries old—freedom from Turkish denomination.

The ancient Greeks created the very notion of democracy, in which the ultimate power to govern was vested in the people. As Aristotle said: "If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will be attained when all persons alike share in the government to the utmost."

It was this concept that the Founding Fathers of the United States of America drew heavily upon in forming our representative government.

Constitutional democracy has made the American way of life possible. For that contribution alone, we owe a heavy debt to the Greek people. But the contribution of democracy was not the only contribution made by Greek patriots to American society. The ancient Greeks contributed a great deal, both to our cultural heritage, as well as to European culture, in the areas of art, philosophy, science, and law. In the preface to his poem "Hellas" Shelly wrote: "Our laws, our literature, our religion, our arts have their roots in Greece."

Mr. Speaker, Greek-Americans have followed the rich traditiion of their ancestors. They have made their mark in many professions including medicine, science, law and business, among others. The welfare and progress of the Greek community, both here and abroad, is of great importance to all of us.

We have, through this special order, another opportunity to thank Greek-Americans for their contribution to the United States. Last Wednesday, March 14, the House passed House Joint Resolution 473, which President Bush signed yesterday, commemorating the ancient Greeks and paying tribute to the Greek-American community by designating March 25 as "Greek Independence Day." It called for a national day of celebration of Greek and American democracy. I am proud to have been a cosponsor of this legislation.

Greek Independence Day was a model for a new nation, and continues to be an inspiration for all those living in the darkness of oppression.

I want to commend the gentleman from Florida [Mr. BILIRAKIS] for authoring and sponsoring House Joint Resolution 473, as well as this special order. I also want to commend him on his leadership in this, and many other issues in the Congress.

Mr. BROOMFIELD. Mr. Speaker, I join my colleagues in sponsoring this special order celebrating Greek Independence Day and American democracy. I commend Congressman BILIRAKIS for his leadership on this issue. Today is an historic day for all people who treasure freedom.

March 25 marks the 169th anniversary of the beginning of the struggle that liberated the Greek people from the Ottoman Empire. In shedding their blood for liberty and winning their freedom, Greeks showed the world their deep and abiding commitment to democracy. Today also marks the beginning of one of America's most valued and rewarding friendships.

The roots of democracy in Greece are deep. This year represents the 2,500th anniversary of the practice of democratic government that was first seen in Athens in 510 B.C. Throughout history, Greece has represented an ideal in man's search for liberty. The principles of Greek democracy represent the greatest contribution a nation has ever made to society. Democracy and freedom are the guiding tenets that give hope to millions around the world and fuel the democratic revolution that is today sweeping the planet from Eastern Europe to Nicaragua. Those ancient principles guided our Founding Fathers and inspired Alexander Hamilton and James Madison in writing "The Federalist Papers."

As Greece gave America the gift of democracy, America later responded in kind and became the role model for Greek independence. The American Revolution guided Greece in its struggle for independence during the 1820's. Greek patriots adopted the American Declaration of Independence during their quest for freedom. Many Americans traveled to Greece to fight against the Ottoman oppressors. Today, Greeks and Americans continue that tradition of defending freedom through our partnership in NATO.

Greece has also given another gift to America. Nearly 1 million Greeks came to America's shores and enriched this great country of ours. They have distinguished themselves in professions ranging from government to entertainment. Some of our most illustrious citizens claim Greek ancestry. Those children of the cradle of democracy have made America—the leader of the free world—a better place to live.

Today's celebration of Greek independence is, in a sense, a celebration of the development of democracy for all mankind. Our most fitting tribute to Greece, the birthplace of democracy, is to continue the fight against tyranny wherever it exists.

Mr. BATEMAN. Mr. Speaker, on March 25, we will once again be celebrating the anniversary of the beginning of the effort by the Greek people to liberate themselves from oppression. As important as acknowledgement of Greek Independence Day has been in the past, it takes on even greater significance this year.

The past year has witnessed a monumental transformation in the international order established from the ashes of the Second World War. Around the world, Communist and right-wing dictatorships alike have been swept aside in favor of democracy. From Prague and Budapest to Santiago and Managua, the rights of people to live without fear and to freely elect their leaders are being firmly established and codified in national constitutions. Only the most hard-line Communist dictators, such as those in Cuba and North Korea, have resisted the collapse of their regimes. Not coincidentally, these are also the most belligerent regimes in the world.

This wave of pro-democracy sentiment, as with the United States Constitution, has its genesis in the experience of the Greek people. The democratic tradition begun in Greece and continued in the American experience is taking root in an increasing number of countries and the implications for world peace, while very uncertain, are nevertheless the most promising they have been in decades.

The most important lesson to remember on Greek Independence Day is that freedom and democracy do not come easily. This occasion has its origins in the struggle of the Greek people against the oppressive rule of the Ottoman Empire. The Greeks have subsequently fought to retain freedom and democracy against Nazi Germany and against the threat of communism in the years immediately following the defeat of fascism in Europe. Most recently, the Greek people rejected authoritarian rule in favor of a return to democracy. Greece is the living embodiment of the rewards available if a people are willing and able to fight for what they believe in. Witness the words of the former Supreme Allied Commander and late President of the United States Dwight D. Eisenhower: "* * * Greece asked no favor except the opportunity to stand for those rights in which it believed, and it gave to the world an example of battle * * * a battle that thrilled the hearts of all free men and women everywhere."

Greece is indeed the cradle of democracy; it is also a living example of what it takes to remain that way.

Mr. ANNUNZIO. Mr. Speaker, I join with my colleagues in the House of Representatives in celebrating Greek Independence Day. It is fitting that we in Congress join with our Greek friends in celebrating this important day in their history, not only because their struggle for self-determination has inspired others in their quest for freedom, but also because Greek philosophy, art, literature, and political thought have significantly contributed to our own civilization.

One hundred and sixty-nine years ago, on March 25, 1821, the people of Greece declared their independence, and began a series of uprisings against their Turkish oppressors, which culminated in the creation of an independent state. The Ottoman Turks had dominated Greek lands since the 1300's. However, inspired by America's own experience, a Greek national revival movement developed during the 1700's.

The flag of revolt was blessed by Bishop Germanos of Paleion Patron, at the monastery of Aghia Lavra, and for 7 years a handful of rebels in fierce fighting were able to contain the combined forces of the Sultan's Ottoman Empire. The confrontations at Valtetis, Dervenaia, as well as Missolonghi, where Lord Byron fought and died, rank among the most glorious and important pages of Greek history, and the exploits and victories of the Greek Navy, under Miaoulis, Kanaris, and Sachtouris, inspired the people of Europe, who finally brought pressure upon their governments to intervene in the fighting and compel the Sultan to recognize Greek independence.

On October 20, 1827, at the battle of Navarino, the Turkish fleet was finally defeated by the British, French, and Russian navies which had joined in the effort, and by September 14, after many centuries of foreign rule, freedom for the Greeks was regained by the Treaty of Adrianople of 1829 and later by the London Protocol of 1830.

Mr. Speaker, in recognition of the many contributions the Greeks have made to our civilization, and to reaffirm the longstanding friendship and democratic links between the people of Greece and the United States, I was glad to add my name as a cosponsor to House Joint Resolution 473, a bill to designate March 25, 1990, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." Similar legislation has been approved by the full Senate and the House of Representatives, and has been sent to President Bush for his signature into public law. A copy of House Joint Resolution 473 follows:

H.J. RES. 473

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas 1990 marks the two thousand and five hundredth anniversary of the birth of democracy;

Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;

Whereas March 25, 1990, marks the one hundred and sixty-eighth anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;

Whereas these and other ideals have forged a close bond between our two nations and their peoples; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1990, is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

Mr. Speaker, the Greek civilization which flourished in Athens in the millennium before the birth of Christ gave rise to the democratic principles which we cherish in the free world today. Greek philosophy, art, literature, and science have had a significant and lasting impact on Western civilization. This rich legacy has helped and enhanced our own traditions, and Greek immigrants who have come to the United States have contributed greatly to our national way of life.

As we celebrate Greek Independence Day, it is a genuine pleasure for me to extend my greetings to Greek-Americans residing in the 11th Congressional District of Illinois which I am honored to represent, and Americans of Greek descent throughout our Nation, as we recognize the ties of friendship and democracy which have linked our two nations and strengthened us both.

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Americans of Greek descent from my 17th Congressional District of Ohio.

As you know, March 25 is "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." This date is a very significant day in Greek history because it marks the 169th anniversary of Greece's deliverance from domination by the Turkish Empire. Greek Independence Day recognizes the devotion and dedication Greek-Americans lend to democratic principles and the preservation of civil and human rights in this country.

I am proud to have many Americans of Greek descent in my district. Greek civilization is thriving in our community and one of the most enduring institutions is the Arch Angel Michael Greek Orthodox Church. Many outstanding people are associated with this church, one of which is Rev. George T. Pappas, who has been with the church since it was established 35 years ago. Other outstanding individuals in the church are Irene Thomas, who has taught the Greek language, customs, and traditions to our children for more than 50 years; George Nicholis is the host of the Greek Radio Hour and has been an unfailing inspiration to Greek-Americans; and finally, Nick Franzeskos who is a former deputy sheriff and has devoted many hours of service to our community.

I am proud to be a cosponsor of House Joint Resolution 473 which commemorates Greek Independence Day. It is important that we recognize the contributions Greek ideas and principles have made to our democracy. The Founding Fathers of the United States applied many Greek democratic principles and political thoughts as examples for the system they founded over two centuries ago.

Mr. Speaker, I would like to take this opportunity to recognize and pay tribute to Greek Independence Day and to the Americans of Greek descent from my district. They have made great contributions to my district and to our country. I am honored to have these outstanding individuals in my community.

Mr. HORTON. Mr. Speaker, I join my colleagues today in commemorating Greek Independence Day. I want to thank the gentleman from Florida [Mr. BILIRAKIS] for taking this time out to reflect on the contributions to Western civilization that this great nation has produced.

This year's celebration of Greek Independence Day is especially fitting in light of the current wave of democracy which is sweeping the globe. As the birthplace of democracy, Greece holds a special place in the hearts of all freedom-loving people. The day Greece regained her independence was a victory for all democracies around the world.

Today, Greece is once again a vibrant democracy. In addition, it is a trusted ally in the North Atlantic Treaty Organization. Through its membership in NATO, Greece has helped set the stage for the current democratic surge in Eastern Europe, as have all of our allies in Europe. She plays a vital role due to her location on the southern flank of Europe and with her proximity to vital sea lanes.

In ancient times and today, Greece has been a true role model for other democracies. I can think of no other nation's independence day which it would be more fitting for the U.S. Congress to commemorate. Again, I thank Mr. BILIRAKIS for taking this time.

Mr. HUGHES. Mr. Speaker, this Sunday, March 25, 1990, marks the 169th anniversary of the beginning of the Greek people's struggle for independence. That struggle ultimately succeeded in liberating Greece from the Ottoman Empire, paving the way for democracy to return to its birthplace.

It is only appropriate that we celebrate this momentous day. As we look around the world we see country after country rejecting totalitarian rule and moving toward democratic government. The ancient Greeks developed many of the principles that serve as the basis for democratic governments around the world today, including our own. Perhaps the British poet Shelley said it best when he wrote:

We are all Greeks. Our laws, our literature, our religion, our arts have their roots in Greece.

The anniversary of Greek independence is also an appropriate time to acknowledge the many contributions of Greek-Americans to our own country. Our citizens of Greek ancestry have joined in that great American melting pot and distinguished themselves in every segment of our society. For these reasons and many more, I take great pleasure in joining with my colleagues here today to honor the celebration of Greek Independence Day.

Mr. DYSON. Mr. Speaker, it is with great pride and pleasure that I join my colleagues in recognition of March 25, 1990, as Greek Independence Day. This year, as we enter a promising new decade with freedom breaking out across the globe, it is especially fitting to celebrate the 169th anniversary of the independence of the Greek people.

Greeks and Americans alike can share in the historic meaning of this day because we are joined by a common baptism in democracy. The word, and the very concept of democracy, originated in ancient Greece, while in modern times, our own Constitution presented a bold example of democratic government. Our two nations share an illustrious history in defense of this cherished ideal.

In times of antiquity, the Greeks waged a heroic struggle against the aggression of the Persian Empire. Their triumph assured that the fruits of Greek civilization would be passed on through the ages. As Thomas Jefferson noted, "to the ancient Greeks we are all indebted for the light which led ourselves our to Gothic darkness."

In 1821, the Greeks again took to arms to drive out an imperial oppressor. This time, it was the example from America which inspired Greece as they adopted our Declaration of Independence and later our Constitution itself in their cause. Not only did they win their own liberty from the Ottoman Empire, but Greece's victory led other freedom-loving people to revolt against tyranny all across Europe.

Greece and the United States fought together in both World Wars. They twice shared in a victory over totalitarian aggression and advanced the democratic ideal for all the world to see.

After World War II, a new menace threatened the liberty of Greece. A Communist insurgency was devastating the already war-torn nation. This time, the United States came to the direct aid of Greece. In justifying our intervention, President Truman issued his famous Truman doctrine which committed the United States to assume the mantle of defense for freedom-loving people everywhere.

Today, after four decades of vigilance in pursuit of this policy of containment, we have witnessed the collapse of totalitarianism and watched the long-deferred blossoming of democracy in every corner of the world. The beacon of freedom first lit centuries ago along the shores of the Aegean continues to burn brightly on every continent.

As we reflect on the challenges to the democratic ideal still ahead of us, we can draw strength from the timeless contributions which Greece has made. Mr. Speaker, I extend my best wishes to the Greek people and especially the Greek-Americans in our own country. I ask of my colleagues and of all Americans, whether of Greek ancestry or not, that we pay homage to the special significance which Greek Independence Day holds for all of us.

Mr. FAZIO. Mr. Speaker, I rise today in recognition of Greek Independence Day on March 25, 1990.

This year marks the 169th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire. To commemorate this occasion, Congress passed Senate Joint Resolution 64, which I cosponsored, a joint resolution to designate March 25 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

As this auspicious day approaches, we must not forget the commingled history of Greece and the United States that has created the long-standing political system known as democracy. Democracy has a deep foundation in Greece, as is evident in a description of an ancient Greek constitution:

> Our constitution is called a democracy because power is on the hands not of the minority but of the whole people. When it is a question of settling private disputes, everyone is equal before the law; when it is a question of putting one person before another in positions of public responsibility, what counts is not membership of a particular class, but the actual ability which the man prossesses.

This description, by Pericles, of democracy in Greece was made nearly 2,000 years ago. Certainly this foundation of Greek democracy was a model used by the Founding Fathers in creating our own political system.

The American example has also served as a model for the Greeks in their formation of a modern democracy. While Greece was fighting for its independence 159 years ago, Petros Mavomichalis, Greek commander in chief, appealed to the citizens of the United States saying:

> Having formed the resolution to live or die for freedom, we are drawn toward you by a just sympathy since it is in your land that liberty has fixed her abode. . . . Hence, honoring her name, we invoke yours at the same time, trusting that in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you.

Given our common historical roots with Greece, I look forward to the celebration of Greek Independence Day on March 25 and to the United States' continued and special relationship with the Greek people.

Mr. FASCELL. Mr. Speaker, it is an honor for me to join with my colleagues in this special order commemorating Greek Independence Day. This honor rests upon the recognition of the inextricable links that Greece and the United States retain toward one another. These links are clearly delineated in the knowledge that the basis of the American system of government comes from Greece—the cradle of democracy.

Our country's most cherished heritage—that of a free and open political form of government—would not be possible in the absence of the significant and substantial contributions that Greece has made toward the development of such a form of government and its inherent institutions. Thus, our country's past, and indeed its future, remain interdependently tied to that of Greece.

Given the closeness of these ties, one cannot deny that United States-Greek relations remain a critical element to the long-term success and advancement of United States foreign policy interests in the Eastern Mediterranean. These ties have been forged upon mutually beneficial security cooperation efforts between our nations. Today, Greece remains an ally of paramount importance to the United States from both geopolitical and strategic perspectives.

In light of its strategic importance, the United States must remain cognizant and grateful for the fact that Greece has been and will continue to be a valuable friend and reliable ally. In this regard, there is no doubt that Greece could make vital and irreplaceable contributions to the defense of NATO's southern flank should such defense efforts ever be necessitated.

In recognition of this fact, the House of Representatives has authorized $350 million in foreign military financing for Greece in fiscal years 1990 and 1991. Further, in an effort to continue to maintain the regional military balance that currently exists within the Eastern Mediterranean, the House of Representatives specified that no more than $500 million in foreign military financing may be provided to Turkey in fiscal years 1990 and 1991.

These earmarks which are based upon a quantitative 7 to 10 ratio are designed to maintain the integrity of NATO's southern flank, without jeopardizing Greek security, and are intended solely for the defensive purposes of these NATO allies. These earmarks are designed to preserve Greek independence, as well as to promote a just and lasting settlement to the situation on Cyprus.

In my view, the current climate in United States-Greek relations remain warm. Clearly, these relations will continue to evolve into the future. Nevertheless, the foundations upon which these relations are based remain sound, and will serve to ensure that United States-Greek relations will continue to flourish and grow.

These foundations are based upon our mutual commitment to democratic principles and institutions, our shared willingness to take those steps that are necessary to defend those principles and institutions, and the deep cultural ties that bind our peoples and governments together. Taken together, these foundations auger well for the continued and excellent state of health in United States-Greek relations as we congratulate the Greek people on the anniversary of their independence day.

Mr. DWYER of New Jersey. Mr. Speaker, I would like to thank my colleague, Congressman BILIRAKIS, for arranging time today so that we might pause to commemorate Greek Independence Day.

America is a melting pot of people from diverse cultures, all of whom have made significant contributions which have enriched our Nation as a whole. The Greeks, however, have a special relationship with America because we modeled our very ideals of democracy on the constitutional form of government early Greeks were practicing over 1,000 years before our revolution.

Our country's Founding Fathers drew on the ideals expressed by Plato and Pericles when formulating the guidelines which would establish the new democracy of the United States. The freedoms which are the core of our own independence were equally precious to the Greek people centuries before there was an American Nation.

Conversely, our revolution became a model for the Greeks in the 1820's as they fought their war of independence; and our Declara-

tion of Independence was used by them as their own. When the world went to war in 1940, the Greeks fought and died with their allies for the cause of democracy. Over 600,000 Greeks, 9 percent of the entire Greek population, lost their lives during World War II. And, today, Greece continues to be a valued member of the North Atlantic Treaty Organization.

It has been 169 years since the Greeks secured independence from the Ottoman Empire. We join in their celebration of this anniversary, and I know that their contributions to freedom and democracy will continue to be vital in the international community.

Ms. SNOWE. Mr. Speaker, as a cosponsor of House Joint Resolution 473 designating March 25, 1990 as Greek Independence Day: A National Day of Celebration of Greek and American Democracy, I am pleased to join the gentleman from Florida [Mr. BILIRAKIS] in marking this important occasion again this year.

I think it is particularly relevant and worthwhile to commemorate democracy in this way, at a time when the democratic ideal is cherished and upheld as never before throughout the world. International events in recent months have brought stunning news of political upheaval and dramatic changes from one continent to another, in Eastern Europe, Central America, and Southern Africa alike.

But the common theme of these upheavals has been democracy: millions of citizens too long deprived of their basic political rights and human freedoms, rising up in largely peaceful protests to oust tyrannical regimes and to reclaim power over their own lives through free media, free parties, and free elections.

Greek contributions to the democratic ideal and practice have been fundamental, from classical times to the present, in Europe and here in America. The word democracy derives from the Greek, and liberal democratic thought owes much to the work of ancient Greek philosphers. Greece today remains a proud and thriving democracy, and its sons and daughters have carried on that tradition in their participation in the democratic system of our own country.

Mr. Speaker, as a Greek-American I am proud to hear the echo of Greek democracy today in the Soviet Union, in Poland, in Hungary, in Czechoslovakia, in Romania, in Panama, and in Nicaragua, to name only a few countries where democracy is now flourishing after the long night of repression. I am therefore delighted to join today in this national celebration of Greek and American democracy.

Mr. GILMAN. Mr. Speaker, on March 25, 1821, the Greek people took arms against four centuries of Ottoman rule, fighting bravely and valiantly to achieve freedom from Turkish domination.

Greek Independence Day has special significance to all Americans. It is the ancient Greeks who formulated the concept of democracy which is the keystone of the American political system. Democracy is but one of the myriad contributions of the Greek people to the development of civilization. Art, philosophy, science, and law are just a few of the disciplines in which the Greek people have enriched our culture.

Mr. Speaker, the contributions of Greek-Americans to the development of our great Nation are much too numerous to mention. Our Distinguished Congressional colleagues, GUS YATRON, OLYMPIA SNOWE, PAUL SARBANES, MICHAEL BILIRAKIS, GEORGE GEKAS, and JOHN BRADEMAS are just a few of the current examples of the many fields of endeavor in which Greek-Americans have excelled and contributed to our Government.

Through this special order, we have the opportunity not only to salute our own Greek-American community for their contributions, but to commemorate the independence of the Greek people.

I commend the gentleman from Florida [Mr. BILIRAKIS] for his work on House Joint Resolution 473, a bill to commemorate Greek Independence Day, as well as for his calling this special order.

Mr. MOODY. Mr. Speaker, this Sunday, March 25, 1990, has been designated "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." I'm pleased to join my colleagues in recognizing the unique contributions to our civilization of Greece and of Americans of Greek descent.

I have a special love and empathy for Greece and for its people, having lived in and attended high school in Athens. There are many Greek influences in my own upbringing.

The people of Greece are known for their warmth, their enthusiasm, their love of family, their intellectuality, and their rich appreciation of beauty and culture. These values live on in Greece today, and have enriched American values profoundly. To take but two examples: The artistic treasures of ancient Greece set standards of grace and form that still stand unchallenged in the West. The basic structure of logic invented in ancient Greece remains the structure today.

Democracy was first born in Greece over 2,000 years ago, based on the fundamental principle of consensual government self-determined by free citizens. It is fitting that we take this day to recall that precious political heritage as democratic ideals sweep the politics and social movements of Eastern Europe and Central America. The ideas forged in ancient Greece by brilliant minds of the day have such clarity and force that 2,000 years later they still hold more power than a host of armed weapons. These ideas and ideals are toppling dictators like Ceausescu, Zhivkov, Hoenecker. They are again rewriting national borders, as they did in Eastern Europe after World War I, as they did in much of the Third World—such as India—in the postcolonial period, and as they are today in modern, post cold war Germany.

The priceless ideas of democracy and equality born in ancient Greece have strongly shaped the American national identity, which became a beacon of freedom and dignity to the individual. They continue to give hope and inspiration to the millions around the world who yearn to live in a free society like ours. Greece set the example for us and we have set the example for countless others.

Mr. Speaker, it is appropriate that the Congress has set aside this national day of celebration in 1986, 1988, 1989, and again in 1990. Each year, it seems, we have a greater appreciation for the tremendous contribution of Greece to our American values and our priceless democracy.

Mr. RITTER. Mr. Speaker, March 25 will mark the 169th anniversary of Greek independence. This day marks the anniversary of the independence of Greek from the Ottoman Empire, after centuries of oppression.

Mr. Speaker, Greece is the birthplace of democracy—a movement which is in its 2,500th year. In 1990 this movement has probably seen more expansion than in any other year.

As Eastern Europe experiences a rebirth of democracy and independence it is fitting for America to remember and celebrate the same positive changes that were restored to Greece 169 years ago. Like many of the nations of Eastern Europe, Greece emerged out of a milieu of oppression that sought to deny it the things it cherished the most: freedom, democracy, and its national identity.

Mr. Speaker, at the end of World War II, America interceded with the Marshall plan and other United States assistance, and aided the people of Greece from falling back into the totalitarian darkness that shrouded Eastern Europe under communism.

As America has helped Greece in its struggle for freedom, so Greece has helped America.

America owes to classical Greece credit for many of the fundamental ideas—including freedom and democracy—which so influenced and guided many of our Founding Fathers during the conception and infancy of our Nation.

In defending its belief in democratic values, Greece and America have worked hand in hand in that post-war era. As a member of NATO, Greece has helped in protecting the southeastern flank of NATO and the strategic Hellespont Strait.

Mr. Speaker, we in America should be mindful of the rich contributions made by Greece to our Nation. American and Western culture has been richly embellished by Greece. Indeed, many of the architectural wonders of this our Nation's Capital—Washington, DC—point to this very fact.

Greek immigrants coming to America over the past two centuries have woven beautiful threads into our Nation's cultural tapestry. Indeed, the contributions of Greek-Americans to our Nation are legion.

Mr. Speaker, for these and other reasons, I have cosponsored House Joint Resolution 473 which designates March 25, 1990, as "Greek Independence Day." I encourage my colleagues to support this measure, and to join me in celebrating this important day.

Mr. FEIGHAN. Mr. Speaker, as we watch the enormous changes around the world, the steady march toward democracy in Eastern Europe, the celebration of Greek independence takes on a double meaning. Recognized as the birthplace of democracy, Greece celebrates the 169th anniversary of its independence. At the same time, in 1990 we celebrate the 2500th anniversary of the birth of the concept of democracy.

It was 510 B.C., in Hippias when the last tyrant of Athens was driven out of the city. The system that replaced the dictatorship was based on the rule of the people, where those

in public service were held directly accountable by the people. The power of that idea carried forth through the ages and found its way to the United States where our Founding Fathers used the Greek example in creating a Federal republic, accountable to the people. As we celebrate the anniversary of Greek independence, we celebrate our own love of democracy.

And just as our Founding Fathers saw democracy as the key to securing and protecting individual freedoms, we see these ideas shaping the democracy movements across the globe—in China, when a solitary student stood down a column of tanks. In Poland, where the once outlawed solidarity movement was swept into power in free elections; and today in Lithuania as a war of nerves continues between the Soviet Union and the Baltic Republic seeking its own independence.

This year's celebration of Greek Independence Day belongs not only to the Greeks or only to the Americans—but to all those countries who have struggled to live free throughout the world.

I am pleased to be a cosponsor of House Joint Resolution 473 and I commend the gentleman from Florida, [Mr. BILIRAKIS], for introducing the resolution and providing us the opportunity to celebrate Greek Independence Day.

Mr. COBLE. Mr. Speaker, I rise to honor Greece—ancient and modern. This year marks two historic occasions: the 169th anniversary of Greek independence, and a celebration of democracy as conceived by the Athenians 2,500 years ago. Those of us who cherish freedom, human dignity, and other Western values owe a great debt to Greece for her contributions to mankind.

On Sunday, March 25, we observed Greek Independence Day. Archbishop Germanos and his fellow Hellenes led a triumphant revolt in 1821 that ended 400 years of foreign domination. To some extent, the Greek freedom fighters drew on the American experiences of 1776 and 1787, which is highly ironic. For as we all know, the Founding Fathers looked to the ancients for philosophic guidance in crafting the U.S. Constitution. In fact, Aristotle's influence on Western development predates our republic. Ancient Rome, 18th-century England, and the early State constitutions all drew on the early teachings of this great master.

Such influence is alive and well today. We are all astonished by the pace and direction of world events, especially developments in the Communist bloc. Greek thought, while suppressed in the Soviet Union and Eastern Europe for years, was never smothered. These events are a real-life testimony to the power of great ideas.

I am also heartened by the modern day contributions that Greek-Americans have made to the United States. It is only natural that a country like Greece which has endured so many hardships—particularly foreign invasion—would produce citizens of stern moral fiber. Such character manifests itself in the Greek work ethic. I know that in the Sixth District of North Carolina a small but thriving group of Greek-Americans has left its mark in the fields of law, medicine, education, and numerous areas of business and commerce.

Again, Mr. Speaker, my colleagues and I salute Greece and those of Greek ancestry for their many contributions to freedom-loving people everywhere.

Mrs. BOXER. Mr. Speaker, it is fitting that today we take a moment to commemorate Greek Independence Day. As democracy is breaking out all over the world, we should pay tribute to the birthplace of democracy itself—Greece.

Twenty-five hundred years ago, the Greeks became the first people in the history of the world to establish democracy, the rule of the people. It became the most important political experiment the world has ever known. Now, centuries later, we have seen the fruition of that experiment. In the United States, democracy has given us a stability in government that many nations have never known. It has given us the power to influence the course of our country and to chart our own destiny. It allows us to speak, write, and worship as we wish, without fear of repression.

It is a happy irony that centuries after they invented democracy, the Greeks turned to the United States as their role model as they struggled to escape from rule by the Ottoman Turks. Their revolution for independence began March 25, 1821—169 years ago. Eight years later, the Greek people won their freedom. They used our Declaration of Independence as the basis for their own.

The contributions of the Greek people do not end with their remarkable achievements in the world of government. Indeed, our entire Western civilization is based on the ideals and culture that first sprouted in ancient Greece. The Greeks gave us poetry, drama, philosophy, and history. They were scientists too, making the first scientific studies of medicine, zoology, botany, physics, and geometry. Our debt to them is tremendous.

In modern times, these contributions have continued. Invention of the Pap test by Dr. George Papanicolau, which has saved the lives of many women, is only one example. For a nation the size of Alabama, the accomplishments of its sons and daughters to the worlds of science, religion, culture, and politics are immense.

As an American, I am proud of the long friendship between the United States and Greece. As a Member of Congress, I am pleased to have the privilege of representing the many Greek-Americans in my district and the honor of sitting with my Greek-American colleagues. As a Californian, I am proud of the Greek heritage of my good friend Art Agnos, the mayor of San Francisco.

On the 169th anniversary of Greek Independence Day, I salute the Greek people and their long and noble traditions. May they last another 2,500 years.

Mr. PALLONE. Mr. Speaker, the historic connection between America and Greece goes back at least as far as the drafting of our Declaration of Independence. Throughout the last two centuries, those common values shared and enshrined by Americans and Greeks—democracy, individual freedom and equal justice under law—have benefited both nations, and have also been an inspiration to people all over the globe. As we approach the occasion of Greek Independence Day, it is especially appropriate for Americans to pay tribute to the timeless ideals of Greek civilization, as well as the contributions and accomplishments of individual Greeks and Greek-Americans in our own time.

The inspiration of the ancient Greeks, their ideals of freedom, had a profound effect on the Founding Fathers of our Nation, just as Greek artistic and scientific attainment had inspired the European Renaissance several centuries earlier. When we look at the monuments and Government buildings here in our Nation's Capital, the soaring white marble pillars obviously evoke the ancient Greek ideals of aesthetics and rationality. A recent television advertising campaign for Greek tourism showing Americans of various ethnic backgrounds talking about going home to Greece was right on the mark. So much of what the Western World stands for is derived from that civilization that sprung up on the rocky shores and islands of the Aegean Sea millenia ago.

But, Mr. Speaker, of course the contributions of Greek civilization did not simply grind to a halt somewhere in the mists of antiquity. Modern Greece has emerged as a stable and prosperous democracy in the face of many daunting challenges. The Greek Independence Day that we celebrate on March 25th marks the 169th anniversary of the revolution that freed Greece from almost 400 years of political and cultural domination by the Ottoman Empire. During World War II, Greece suffered mightily at the hands of the Axis Powers. Over 600,000 people, 9 percent of the population, died during this heroic struggle. Then, in the early years of the cold war, the Greek people endured, and triumphed over a violent Communist insurgency. Eventually, Greece has rejoined the family of Western nations to which it provided so much inspiration, through membership in NATO and the European Community.

Of particular interest to those of us in this country are the impressive contributions and achievements of those sons and daughters of Greece who have come over to the United States, in the process greatly distinguishing themselves and enriching our society. In the early 1900's, approximately one in four of Greece's young men came to this country in the search for a better life, many of them bringing with them little more than their ambition and sincere work ethic. In the years since, the children and grandchildren of these immigrants have become among the most successful ethnic groups in the United States, with many distinguished leaders in the fields of science, medicine, politics, commerce and the arts.

So, Mr. Speaker, it gives me great pleasure on the occasion of Greek Independence Day to join my colleagues in saluting the Greek people for literally thousands of years of progress, achievement and leadership.

Mr. WALGREN. Mr. Speaker, the United States has a rich ethnic diversity and every nationality contributes to the unity of our coun-

try. Through the recognition of significant contributions of each individual group, our Nation gains greater strength and harmony. I am pleased to cosponsor House Joint Resolution 473, a resolution designating March 25, 1990 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

Our Founding Fathers based our system of government on the principles of democracy defined in Ancient Greece. In an address made in Greece over 2,000 years ago, Pericles stated:

Our Constitution is called a democracy because power is in the hands not of a minority but of the whole people. When it is a question of settling private disputes, everyone is equal before the law; when it is a question of putting one person before another in positions of public responsibility, what counts is not membership of a particular class, but the actual ability which the man possesses.

These basic principles define American society today.

As the Greeks struggled for independence from the Ottoman Empire during the early 1800's, Greek citizens looked to the United States as an example of the freedom for which they fought. Greek intellectuals translated the Declaration of Independence of the United States and used it as the basis for their own declaration. The United States became the role model for a new democracy emerging in Greece just as it serves as a role model for the emerging democracies in Eastern Europe today.

It is with pleasure that I join with my colleagues in honoring the spirit of democracy born in Ancient Greece and kept alive in the continued struggle for freedom throughout the world.

FOREIGN POLICY WITH REGARD TO ISRAEL AND JERUSALEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SMITH] is recognized for 60 minutes.

Mr. SMITH of Florida. Mr. Speaker, it really is rather difficult and sad for me to have to take the floor, having taken out this special order, to address the question of the foreign policy of the United States in regard to Israel and especially the question of Jerusalem. It is sad because for the last number of years, up until the advent of the Bush administration, the policy of the United States was, on an even-handed basis and on a balanced approach, to try to coalesce the conflicting parties in the region of the Middle East to come to some true and lasting peace.

Now, it is so that it did not bear great fruit, but by the same token, it was an approach that perhaps over the long term was calculated to be successful. Secretary of State Schultz had a commitment in that region to finding peace. President Reagan, for all that I have criticized him over the years—and that is a great deal—I believe, wanted to find peace and, I believe, understood the plight that Israel over the years found itself in.

It was conceived or born actually in 1948. For 40 years or more it has attempted to withstand the pressures of its neighbors. It has seen four wars, many dead, significant numbers of citizens killed, enormous numbers of terrorist attacks practiced against it, and it has been isolated, very isolated, as a single small nation against many others. It has been castigated in international bodies by the very same body that created it, it has been given short shrift, and as a Jew, I can tell the Members that ultimately and the worst of all, Israel and Jews have been insulted by the actions of millions of people around the world who refuse to acknowledge Israeli's right to exist. It is a right that stems from over 3,000 years of historical existence, and right that is not subject to the whims of some single group or a number of groups who think that a public relations campaign or a hate campaign or even a war can do what over 3,000 years of hatred was incapable of doing, and that is to wipe out the Jewish people or now to cause the existence of Israel to be diminished and snuffed out.

□ 1740

Mr. Speaker, the policy that this administration followed in the Reagan years was based upon prior administration policy, especially as it related to the question of Jerusalem.

Let me read to my colleagues, in addressing the rationale for the deliberate omission of the issue of Jerusalem from the U.N. Resolution 242, which addresses the question of territorial withdrawal by Israel and which Israel has endorsed as part of the whole peace process, then U.S. Ambassador Arthur Goldberg; Ambassador to the United Nations for the United States made the following statement:

I wanted to make clear that Jerusalem was a disassociated matter not linked to the West Bank.

United States policy prior to 1967 was a de facto acceptance that that part of Jerusalem known as East Jerusalem, because it was controlled by Jordan, and the West Jerusalem, which was in Israeli hands, was one city.

In fact, U.S. policy wanted to make it an international city. From 1969 to the present the United States has recognized territories won by Israel as occupied territories. Throughout the post-1984 history of Jerusalem successive administrations, including this one, have made statements supporting a unified Jerusalem.

And yet, Mr. Speaker, we have statements by this President which are most puzzling, made just recently, and they are most puzzling because of the policy of the United States with reference to our foreign policy vis-a-vis the Soviet Union. It has been our policy, at least since the mid-1970's enunciated, and even before, but enunciated significantly as a result of the Jackson-Vanik amendments, both congressional and administration policy for 15 years, that the Soviet Union should allow the release at will of any Soviet citizen that wishes to emigrate, whether Jewish, Pentecostalist, Armenian, native ethnic German, Seventh Day Adventist, anyone, whose rights, of course, are guaranteed by the constitution of the Soviet Union. For 15 years we have adhered to that policy; the Reagan administration adhered to it, and the Bush administration adhered to that policy. We raised the issue and all it is for around the world. We signed the Helsinki Final Accords, as did the Soviet Union, talking about the right of free emigration.

And, Mr. Speaker, it began to happen. In 1979, 50,000 Jewish people came out, and then the Soviet clamped down, afraid of a brain drain, among other things, and the message that would send to others in the Soviet Union and around the world that all of a sudden the Soviet Union was not such a popular place to live, that there was people who would get out, if they had any opportunity at all.

In the last couple of years our policy has begun to work miraculously with the advent of Gorbachev a year or two after he took power. The whole question began to crystalize and coalesce, and the numbers of people leaving the Soviet Union, Jew and non-Jew alike, became larger, and larger and larger. Last year over 75,000 left the Soviet Union, many of them settle in the United States and Israel, and, lo and behold, at a time when there is, in fact, almost unfettered ability to leave subject only to orderly processing more narrowed by the United States than even by the Soviets, the President of the United States decides to tell Israel, where now more of the immigrants are going than ever before, that they cannot settle in most places.

Mr. Speaker, this is while walls are falling in Berlin, and walls are falling in South America and the divisions between people are being taken down that the President, this President, builds a wall down the middle of Jerusalem and says to the Jewish people in Israel and the Jewish people in the Soviet Union: "You can't settle there. No settlements in that part of Jerusalem."

Since when? That has never been our policy.

Arthur Goldberg, the Supreme Court Justice, an ambassador to the United Nations, a professor of history, made our policy, I thought, very clear, that Jerusalem was totally disassociated with the question of occupied territories, and it is very sad to understand that this President has chosen at the height of the success of the foreign policy of the United States to destroy, to draw a distinction which no one has drawn for 3,000 years, except for the 20-year period when the Jordanians occupied what is known as the east part of Jerusalem. There has been no such distinction of East or West Jerusalem for 3,000 years, and all of a sudden somehow there becomes an East Jerusalem.

Mr. Speaker, I fail to understand how that happened, except for political purposes, because it has no basis in fact in history or in good, solid diplomatic foreign policy.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Florida. I would be happy to yield to the gentleman from Texas, my dear friend.

Mr. FROST. Mr. Speaker, I want to commend the gentleman from Florida [Mr. SMITH] for taking out this special order today because this is a subject upon which we cannot remain silent. It is a subject that Members of Congress must continue to speak out on and speak out vigorously.

Mr. Speaker, nearly 3 weeks after the calamitous remarks of President Bush that precipitated the collapse of the Israeli coalition government the American Jewish community still waits. We are waiting for a vote of confidence from our own Government. We are waiting for President Bush to renew his conviction for peace, not peace at the expense of Soviet Jews seeking relief in Israel, and not peace at the expense of the holy city of Jerusalem, but accords achieved through honest agreements without manipulation.

Mr. Speaker, it concerns me that this administration watched the fall of the Israeli government and yesterday announced that the Palestinian Liberation Organization is adhering to their commitment of renouncing terrorism. What has happened since December 1988 when Yasser Arafat said he recongized Israel's existence and said he renounced terrorism? Repeated acts of terrorism. Palestinian groups have led almost 30 border and rocket attacks against Israel. President Bush refuses to give the Palestinians any requisites on peace. He is not willing to acknowledge that their continued hostile activities still smell strongly of terrorism. President Bush was acutely aware of the explosive nature of the Jerusalem issue, yet he chose to deliver an ultimatum to the Israelis. He deliberately thwarted the peace process and threatened the Israelis with new U.S. policy conditions for peace in the Middle East.

Mr. Speaker, on March 3 the PLO applauded President Bush when it said that East Jerusalem was not undeniably Israeli territory open to all Jews who sought sanctuary there. The PLO cheered because they believe that Jerusalem is there for the taking. Where were the President's good intentions when he spoke such harmful words?

Mr. Speaker, a new Israeli Government will be formed that will need U.S. support so the process can move on.

□ 1750

Unfortunately, the Bush administration's lack of commitment and ability to bring about peaceful talks leaves us with a vote of no confidence.

Again I want to applaud the gentleman for continuing to bring this matter to the attention of the American public. It is one of the most serious mistakes made by this administration, perhaps made by this Government since World War II.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman. I want to commend him for his remarks and tell him that I could not agree more. I have never in my 8 years here seen what I consider to be as major a foreign policy blunder as this has been, and an attempt by the administration of the United States to meddle directly with an ally, not an enemy, not a system of government that is corrupt or a communist system or one that was an avowed enemy, but an ally, one of the strongest and closest allies this country has ever had. I have never seen an attempt made so to meddle in their internal affairs, which ultimately resulted in bringing down the government, and I commend the gentleman for his remarks.

Mr. OWENS of Utah. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from Utah, who shares with me a seat on the Foreign Affairs Committee.

Mr. OWENS of Utah. It is a junior seat.

To the distinguished gentleman from Florida, in all sincerity, I commend him. He is one of the great voices in the Congress on Foreign Affairs and brings an immense background and knowledge, not to mention oratorical skills, to this task. For all of these things, I admire him.

I want to associate myself with his concerns about the ineptitude with which our President addressed the most sensitive of all the Middle Eastern issues, Jerusalem, and the concern that I have in sharing with my friend, the gentleman from Florida, that the President had impacted adversely on the political activities of our greatest ally in the Middle East, this, the only real democracy in the Middle East.

I regret sincerely that the President was not sensitive to this most delicate question of Jerusalem. I think he spoke in good faith. I do not question that he misspoke in good faith. I think he did it not understanding how sensitive the issue of Jerusalem is, for it has been American policy since 1967, as the gentleman stated, that Jews can settle in Jerusalem. Moslems can settle in Jerusalem. Christians can settle in Jerusalem. It is not to be a divided city. It is to be a city where all religions have access to their holy places, and for reasons both political and substantive, our Government has chosen not to raise the Jerusalem issue, to be very careful and in all contexts to consider that separate and apart from the occupied territories in all discussions.

The President inadvertently blundered into that foreign policy disaster, I think, precipitating at least in part not only the fall of the Israeli Government, but the difficulty in the organization of a new government. Mr. Speaker, he made a serious blunder and caused a serious problem for our allies in the Middle East in their struggle toward peace.

I was here, Mr. Speaker, in 1974 in my first incarnation in this body and voted for Jackson-Vanik. Along with others in this body and elsewhere, I have struggled for those 16 years since to try to assist in the immigration from the Soviet Union of those Soviet Jews who decided to leave the Soviet Union. And we worked very hard to get them out.

I hope this body and the Congress will be assisting in a very material way very soon in helping to effectuate that outward migration.

When I was in Moscow 4 weeks ago, I had the opportunity of visiting the American Embassy with a number of refusnik leaders. I was impressed with the urgency of that outward migration from the Soviet Union, with the specter of pogroms, the rumors and the rise of anti-Semitism in almost all the republics of the Soviet Union. The imperative need to assist in that immigration is very real. This is an associated issue with Jerusalem.

I hope, Mr. Speaker, that Soviet Jews immigrating to Israel will not settle on the West Bank and in the Gaza. But I think it ought not to be American policy to interfere with their settlement in Jerusalem.

The Jerusalem issue is the most sensitive of all and must be left until last to be settled. American interference in the political process, whether through ineptitude or bad faith, and I believe in this instance it was the former, ought to be avoided.

I commend the gentleman for his statement.

Mr. SMITH of Florida. Well, I thank the gentleman. I certainly think he has made an appropriate anlaysis, especially historically.

The only thing I would find no fault with, but rather would take exception to, because of the facts subsequent, is the feeling that this was done on an inadvertent basis. I wish I could believe that. I wish I could truly believe that this was not a calculated design to meddle directly in the affairs of the Israeli Government, knowing they have hit one of the most sensitive and raw nerves around which most Israelis coalesce, and thereby by design actually forcing a confrontation between the opposing forces of how to get to that peace process that currently exists in Israel.

The reason I say that is because at a subsequent press conference the President refused to modify, refused to revoke, refused in any way to take back any portion of his statement. No one has really rushed to any degree at the State Department or any other agency to put any real spin control, as they normally do when the President makes an inadvertent statement.

Surely many of use are aware during all the Reagan years that spin control was No. 1 in everyone's mind because of all the inadvertent statements. My problem is that I give more credit to President Bush than I did to President Reagan with regard to avoiding inadvertent statements. I believe he knows much more about foreign policy. I believe he spent much more time in government and understands the ramification of the words that he speaks, the strong signal that those words send.

So while I agree with the gentleman very strongly on almost everything, the issue here about whether or not this statement was inadvertent or was calculated, to me is very unclear. I would like to believe the gentleman's view that it was inadvertent. Unfortunately, I have grave difficulty overcoming my belief that this was a calculated statement.

Mr. OWENS of Utah. Mr. Speaker, and may I say to my friend, the gentleman from Florida, perhaps it is a good idea to give the President good faith credit in this matter. It is a delicate and I think a complex differentiation that I do not think he consciously made at the time. Gratefully, I think it is starting to blow over. I note that in the most recent statements from the White House, they talk now not of Jerusalem in terms of prohibiting settlement, but they talk in terms of a nondivided Jerusalem in the future, reverting I think to more of the earlier rhetoric. I think if we accept that, hopefully it will become less and less a factor in this very delicate political situation.

Mr. SMITH of Florida. Well, I certainly appreciate the gentleman's remarks. I agree that it is always appropriate to allow the President of the United States latitude in the conducting of policy, foreign policy especially. By the same token, however, what strikes me as odd is that this statement was made in the context of other additional changes in policy thrust and statements made to the public with reference to the whole question of the peace process.

The gentleman is aware that I am talking about the statements made by Senator DOLE which were adopted by this administration and I think sponsored by this administration with reference to cutting foreign aid, including Israel, and the statements made with reference to the peace process by Secretary Baker with reference to the possibility of using the housing loan guarantees as a hammer to obtain some kind of Israeli compliance or consent to the latest series of Baker plan initiatives on the peace process.

□ 1800

In that context and with all the other ramifications including a nonbalanced approach which I will get into shortly, that strikes me as unique, especially in light of the fact that the statement was made about an issue which had been settled long ago in foreign policy terms. That is what bothers me.

I understand the gentleman, and I believe that he has an approach that most people would like to take. I personally have a significant problem with that. I thank the gentleman for his fine comments.

Mr. MILLER of Washington. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Speaker, I thank the distinguished gentleman from Florida for yielding and for holding this special order.

Mr. Speaker, at this special order I speak in response to the President's statement that Jews should not be allowed to settle in East Jerusalem.

As an American Jew, I was stunned by your statement, Mr. President, and I want to let you know why. Factors of religious history and fairness must be considered.

RELIGION

Jerusalem is the center of the three great faiths of the Western World. But in no faith is Jerusalem more important than in Judaism. "Next year in Jerusalem" resonates through Passover services and High Hold Days services and in Jewish marriages and funerals. To be told that for a substantial part of World Jewry there can be no next year in a major part of the Holy City comes as a shock to Jews all over the world.

HISTORY

For thousands of years Jews have settled and lived in all of Jerusalem. Today Jews form a large part of the population of East Jerusalem. It is true that during the period from 1948 to 1967 when East Jerusalem was under Jordanian occupation, Jews were prohibited from settling there. But that is the exception. Today under Israeli rule, as for most of Jerusalem' history, Jews and members of all faiths are allowed to settle in any part of the city.

FAIRNESS

Americans of all faiths oppose discrimination. We do not believe in banning people of any faith or race from any area. Yet, Mr. President, you propose that Jews—and only Jews—should not be allowed to settle in East Jerusalem. Other nations at various times in history have banned people from settling in countries or cities based on race or religion. But this should be the position of an American President.

Mr. President, the Arab-Israeli conflict has many issues and sub issues. I understand that in your effort to bring peace to the Middle East you cannot adhere to every position taken by our ally Israel. But please, Mr. President, whatever stance you take on other points in the Arab-Israeli negotiations, do not tell Jews they cannot settle in part of the world's holiest city.

Mr. SMITH of Florida. Mr. Speaker, let me thank the gentleman for a very, very edifying historical and current context analysis of what the President's remarks had to be placed within in order to make sense out of them.

When we do place it within those contexts, we come up with the fact that they just do not make sense.

Let me flesh our just a little bit what the gentleman has in a few moments put on the table: the historical context. The King of the Jews, the first king, David, 3,000 years ago, wrote, wrote a song of steps, and this is not made up. This is not something we just conjured up. This has been in the prayer books of Jews for 3,000 years. They cannot make this go away like some would like the Holocaust to go away, that it never happened.

He wrote:

I rejoiced when they said
"Let us go up to God's House."
Our feet would stand
Within your gates, O Jerusalem.
Jerusalem is built
Like a city that is bound together.
For it is there that the tribes ascend
The tribes of God
A testimony to Israel
To praise the name of God.
For it is there that thrones of justice are set.
Thrones of the house of David.
Seek peace for Jerusalem.
May those who love you prosper.
Peace be within your ramparts.

Prosperity in your palaces.
For the sake of my brothers and friends
I say, "Peace be within you."
For the sake of the House of the Lord our God
I will seek your good.

That God is the God that almost every religion of the world identifies as the supreme God. That God: 3,000 years ago that was written about Jerusalem, not West Jerusalem, not East Jerusalem, not Tiberius. Jerusalem.

In the era of 700 B.C.E., 2,700 years ago, in the prophecy of Isaiah, contained in the Bible in the chapters of Isaiah, he wrote:

And it shall come to pass in the end of days that the mountain of God's house shall be set over all other mountains and lifted high above the hills and all the nations shall come streaming to it.

And many peoples shall come and say: Come, let us go up to the Mountain of God to the house of the God of Jacob and He will teach us His ways and we will walk in His paths.

For out of Zion shall go forth the Torah and God's word from Jerusalem.

And He will judge between nations and decide between peoples.

And they will beat their swords into plowshares and their spears into pruning hooks,

Nation shall not lift up sword against nation neither will they practice war any more.

Twenty-seven hundred years ago this was written by the prophet Isaiah as emanating from Jerusalem, not West Jerusalem, not East Jerusalem, but Jerusalem, for all the nations of the world.

The first temple built on what is now the Temple Mount where the dome of the rock now sits is a mosque.

That temple was built by King Solomon. It stood for 410 years in what now the President of the United States would describe as "East Jerusalem." That was not and is not "East Jerusalem." There was no Jordanian occupation for that 19 years that the gentleman so aptly described. That was Jerusalem.

□ 1810

That temple was destroyed by Nebuchadnezzar and the Babylonians, as is written in the Hebrew Bible and in the Christian Bibles.

And 70 years later the second temple was built in that same place by Ezra. According to tradition it stood for 420 years, until it was razed by the Roman legions under Titus, which we know was near the beginning of the Christian era.

Mr. Speaker, we are not talking about some kind of current event. Jerusalem did not spring up overnight from some unique place and have a suburb called "East Jerusalem." This is a city that stood where it is standing for at least 3,000 years or more, we know from the excavations.

From the historical context there is no question that not only Jews, but others, are entitled to live anywhere in Jerusalem that they like, and have, and nothing that the President of the United States says will make that any different. He cannot wash that away. He cannot rewrite history. Some of us will not let him.

Mr. MILLER of Washington. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Florida. I would be happy to yield to the gentleman.

Mr. MILLER of Washington. I think the moving accounts that the gentleman has read illustrate a very important point here. We understand that the President can agree or disagree with this part or that part of Arab or Israeli policies in the Middle East. I think Members understand that the whole Israeli-Arab conflict over the past 40 years has been a very difficult one. There have been many issues and subissues and nuances.

However, whatever position one takes on whatever aspect of that conflict, and whatever position the President takes on whatever aspect of that conflict, the message I would give to the President is please do not take the position that Jews are not allowed to live in or settle in a part of Jerusalem.

Mr. Speaker, I thank the gentleman.

Mr. SMITH of Florida. I thank the gentleman for his contribution. I would certainly join the gentleman in that message, at least as being one of the messages that the President should understand.

Mrs. BOXER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Florida. I would be delighted to yield to the gentlewoman from California, my dear friend of many, many, many years.

Mrs. BOXER. I thank the gentleman so much for taking this time so that we can reflect on this very serious issue and for his eloquence.

The problems of the Middle East are very difficult. There is no question about that. There are no easy answers here. Trying to solve the very legitimate security needs of our ally and the only democracy in the Middle East, Israel, trying to balance those security needs against the needs of the Palestinians for some kind of self-determination, this is what we hope will come out of the peace talks eventually so that these people can live side by side.

It is very difficult. As history will tell us, in the beginning there was going to be a two-State solution. There was going to be the Palestinian State and and the State of Israel. But the Palestinians did not accept it. People forget that. The rest is history, and it has been a very brutal and a very difficult history.

Let me state, having said the difficulties as best I can, that there was one point that I always thought in recent history, since the reunification in 1967, one thought and one reality that really wasn't ever controversial, and that was that Jerusalem would be united and part of Israel.

No American President ever said that Jews could not move freely and live freely in Jersusalem. When this President said that, it took my breath away. It did that kind of collectively from the people who watched this area of the world with great concern.

When I was in Israel, the thing that struck me more than anything else is the incredible freedom of worship that goes on in that city of Jerusalem and the way Israel runs that city. It is a model. It is a thrill.

I went there with people of every race and religion. I say to the gentleman it was a real thrill for me.

The history of that city is being preserved by Israel. Respect to all the diversity is given by Israel in this city. We must have visited every church and synagogue there was. To see people worshipping side by side, it was really a thrill.

The Arab residents of East Jerusalem are entitled to Israeli citizenship. Noncitizen residents can vote in municipal elections. So the fact is with all the controversy swirling around the Middle East, this was one thing I thought would never come up again. That is why when President Bush threw this out there, and others in the administration unfortunately backed it up, it was very disquieting.

So I am glad that the gentleman took this special order today. I do not want to go on too long. I just want to say how I feel having been there, having seen the way this magnificent city functions, the way people live side by side, the international flavor and nature of this city, indeed it is really a model for the world just the way it is.

To throw this hand grenade into, if you will, the peace process, into the dialog at this time, was not good. I hope that the dialog that we are having here tonight will be helpful. I hope it will be healing. I hope that we can move forward with this administration toward peace, a just peace in the Middle East, for all sides. I think we can do it around a united Jerusalem.

Mr. Speaker, I thank the gentleman from Florida very much for yielding me this time.

Mr. SMITH of Florida. Mr. Speaker, I certainly thank the gentlewoman for her comments. They were very moving. I have been in that position and seen for the first time Israelis have many Jews and non-Jews, and have been moved in the same way.

Also I thank the gentlewoman for reminding us that there is a historical context which has been related that has not been mentioned before. First, there was a two-state solution proposed back in 1947–48 that was rejected by the Arab States. When in 1948 Israel was declared by the United Na-

tions as a State and recognized as a State, it was the fulfillment of a dream that had been 3,000 years old, and they were immediately attacked by those same groups and Arab States that had previously just a few short months ago rejected what would have been a permanent solution in that region, at least from the point of view of the United Nations at that time.

Second, the gentlewoman reminds us that we all want a just resolution to the self-determination of all the people in that region. Yet the President's remarks are interesting, because to him an avowed member of the PLO, a Palestinian, could move to East Jerusalem but a Soviet Jew whose tradition and roots may go back 3,000 years, cannot. What kind of self-determination is that?

The gentleman from Washington [Mr. MILLER] talked about the irrational logic of saying to some, "You can move there," but saying to others, whose history goes back to that very spot, "You cannot." That is not self-determination for everyone.

□ 1820

Finally, for reminding us about the administration by Israel of the city of Jerusalem. Before 1948 when it was run by others, there was freedom of the houses of worship, and some of those houses of worship fell into grave disrepair by neglect by their own people. After 1948 when the Jordanians captured that portion of the city which now people are glibly calling East Jerusalem, most of those houses of worship were closed, access was forbidden by the Jordanians, and they fell into total disrepair.

But since 1967 when people seemed to forget, but it is good to remind them, Israel was again attacked by the Arab State forces, and was triumphant to the extent that they were able to retake that portion of the city, Israel embarked on a campaign to open to everyone all those houses of worship, guaranteed access to those houses of worship, and has allowed for refurbishing and fixing, and has paid for some of that refurbishing and fixing of those houses of worship, both Jewish and non-Jewish alike.

Why is it that for some reason now Jews are the only ones who cannot settle next to a synagogue when an Arab can come and settle next to a mosque in East Jerusalem? The logic is flawed, if we want to be kind. I thank the gentlewoman for reminding us so that we can discuss the issue in this context as well, which again leads us to the puzzling question of what could the President have been thinking when he made these statements. I would imagine that he was thinking in political terms because it is the only way you can make sense of what he said.

But if you are thinking in terms of politics, then you must also think in terms of foreign policy and fairness and balance, and there has not been any. I am not speaking of the fairness the gentleman from Washington [Mr. MILLER] talked about, about having Jews be able to live where apparently now others can but they cannot, but the innate unfairness of a foreign policy that seems to want to punish those who are there now because in reality there has been no balance in the policy of that administration for quite some time.

The gentleman from Texas [Mr. FROST] talked about the issue of the Arab States, and what the rhetoric was from the chairman of the PLO, Mr. Arafat, and documented to some degree the number of terrorist attacks that have taken place. We could go on and on about that, and there are a lot of people I believe in both bodies of this Congress, the House and the Senate, who honestly believe that Mr. Arafat has not renounced terrorism at all.

But let us go beyond the PLO. Let us not talk about them, because there is always consternation. Let us talk about the other Arab States.

First of all, for a little geographic context and a little current context, there are about 100 million Arab citizens living in that area around Israel. There are a little over 3½ million Israelis. With the current migration, it may go to 4 million Israelis. That means it will be 100 million Arab citizens against 4 million Jewish, Israeli citizens. Does that represent a significant threat to anyone? I do not think so. I do not think this administration ever thought so, and yet, what do we have? We have statements by Arab nations, state after state, representatives of those nations, incredibly critical of the policy of the United States as enunciated by us for many years with the Soviet Union, and no reply by the United States, not one.

A member of the Lower House of Parliament of Jordan, Tahir Al-Masir, January of this year:

> The continued migration of Jews to Israel constitutes a grave danger to the Arab nations in general and the Palestinians in particular and, therefore, Arab governments must join hands to do all they can to contain such migration.

This is the policy of the United States. Has the gentlewoman heard the President of the United States or the Secretary of State of the United States speak out against this? This was in the Jordan Times.

Or this from Salah Khalaf (Abulyad), a terrorist and a member of Fatah Central Committee:

> PLO is against Soviet Jews immigration because it harms the Arab, pan-Arab security and greatly disturbs the balance of power in all aspects.

Is he kidding? It is 100 million to 3½ million, or maybe it will be 100 million to 4 million, and that upsets the balance of power? That was January of this year.

Let me read another one. King Hussein of Jordan. This was in the Washington Post, January 29, 1990:

> I warn of this serious impending danger. Whom will these thousands of immigrants replace, and what will happen to these replaced by these new arrivals? This is not a threat to Jordan only. It threatens the depth of the Arab world and the Palestinian people's national rights.

This is about a group of persecuted people who have been subjected to beatings, and stonings, and jailings, and mock trials, and anti-Semitism, and pogroms, and killings in the Soviet Union. And now, with our urging and at our policy urging, with our consent, they are leaving the Soviet Union, and the King of Jordan makes these irrational statements and we say nothing. There was not a blessed cry from anyone in this country, in the administration refuting what is basically a refutation of U.S. policy, not one.

Mrs. BOXER. Mr. Speaker, will the gentleman yield on that point?

Mr. SMITH of Florida. I am happy to yield to the gentlewoman from California.

Mrs. BOXER. Mr. Speaker, it is a supreme irony. How many speeches were made by leaders in the Reagan and Bush administrations along with so many of us in a bipartisan way to say to the Soviet Union: "You have to let those who want to leave, leave, you have to let them leave, that is what human rights is all about"? How many vigils did we all go to throughout this country, again hand in hand with Republicans, Republicans and Democrats alike?

Now, in a moment to cherish, a moment when the gates are opening, a moment when the words "next year in Jerusalem" can come true for these people, and then to hear these comments, it really is absolutely ludicrous.

I myself have worked to reunite divided spouses where we have one American spouse and one Soviet-Jewish spouse, and all these people wanted was to be together, to have a family, to reunite, to be productive members of society.

I never met one refusnik who was a threat. I never met one refusnik that wanted anything more to breathe the free air, and many of them were very elderly, and they had been trying to get out for many years.

So the gentleman is correct. Sometimes we are judged by what we do not say as much as by what we say, and I think the deafening silence emanating from this administration on this particular issue is really quite remarkable.

Let me say to the gentleman, because I must now go to a meeting in my office, how much again I appreci-

ate the opportunity to listen to him and to engage in a dialog with him. I look forward to continuing this type of dialog as we move forward in this legislative year.

Mr. SMITH of Florida. I thank the gentlewoman for her comments. Let me say her comment about the deafening silence is extremely appropriate, especially within the foreign policy context. It is not always what we say within that diplomatic context, it is also what we do not say, and the most damning of all is that just last week the Syrian President, one of the people that this country has no respect for, principle, policies, et cetera, said that he does not care what happens, he will continue his attempt to drive Israel into the sea, to push Israel out of existence.

□ 1830

Did you hear a single soul in this administration refute the President of Syria? I did not. A man that we put on the list of international terrorists-sponsored states, and we said nothing.

I thank the gentlewoman for pointing this out to us.

Let me go further. The speaker of the Palestinian National Council, Shaykh Abd al-Hamid al-Sa'lh, reviewing this grave issue and noting that its toleration is tantamount to tolerating Israel and the Balfour Declaration, only 70 years old:

> The total of 1 million Jews who will emigrate include experts and scientists who will support the Zionist entity, something that Israel itself had been planning.

My God, they actually let out people who think.

What a terrible grave danger to the rest of the world, people who actually are scientists are going to leave the Soviet Union, and that is a grave threat. Where has our administration been? Nowhere.

Jordan's King Hussein, on February 6 of this year, said,

> The emigration of Soviet Jews to the Israeli-occupied territories presents a real danger to the Arab world.

They never tell you what danger. They just say danger.

> This issue should be an incentive for us to meet at the highest level to discuss this danger in a frank and sincere manner and to adopt a suitable formula for confrontation.

That is the King of Jordan. Confrontation? Is this a declaration of war? Why does he not speak up?

In 1970 he had no problem when the Israelis moved their troops and tanks to the border between Jordan and Israel to scare the PLO and prevent them from taking over during a significant attempt on the life of that President Hussein and taking over Jordan itself. He has no problem with that. Oh, no.

But now, watch. You know, there may be a few more Jews in Israel and they may even be scientists. Boy, that will scare the heck out of a lot of people.

He said, Jordan's Hussein did, just a few days ago, "We should have an Arab summit to forge a unified Arab stand against the snowballing danger of Soviet Jews to Israel." He said further, "In the name of human rights," he said to the Soviet Union, to Mikhail Gorbachev, "we call on you to quickly intervene, to stop the Soviet Jewish exodus which is considered another Jewish invasion of our homeland."

Is now Jordan saying that Israel is their homeland too?

After all, in light of the fact that 70 percent of Jordan, which used to be Transjordan, and which was part of Palestine, in light of the fact that 70 percent is Palestinian, that is a rather awkward statement to make.

And so in the context of those statements with no reply by this administration at all to any of them, where is Defense, where is the balance? You want to meddle in Israel's internal affairs, do you? You want to make statements calculated to make Shamir over the edge, do you? Well, you have.

But you have also emboldened those who are our sworn opponents to our policy, U.S. policy. And it gets worse.

Following on the heels of the President's remarks about East Jerusalem, the hostage holders in Beirut issued a statement that said they were going to attack the airliners bringing Soviet Jews to Israel.

They never said that before. Emigration from the Soviet Union to Israel has been going on for 10 years. They never once threatened to blow up an airliner carrying Jews to Israel to the Soviet Union until the President made that statement.

Now I am not by any stretch accusing the President of the United States of attempting in any way—and I mean this in all sincerity—foster any kind of rhetoric like that. But the point is that by using those words impliedly he gave comfort to those who would destroy our policy, who would thwart our foreign policy goals.

That is what is wrong with what the President said. It was historically incorrect, it was incorrect from the former foreign policy views of this country held over many years by many different administrations and from the current context of foreign policy totally inappropriate, calculated only to result in an increased tension, an increased incapability to bring the peace process forward; a weakening of our ally, not a strengthening of Israel but a weakening by bringing the government down. Also a rash of irrational threats, now, against Israel and against Jews because those people take comfort, unfortunately, in the message that is being sent.

The President did not intend that, and I know that, and I believe that, but I would beg this President and the Secretary of State and others in this administration who seek to make policy to bring peace in the Middle East to give much more serious thought to the consequences of the statements made when dealing on this issue.

Historically peace in this region has never been present. One need only look at the issue of Lebanon to see what goes on between peoples, even of the same religion.

Mr. President, I urge you to give much greater thought to the kinds of statements you make if you truly wish peace to be achieved in your term in that region. We all want to help you. Help us help peace break out in the Middle East, bring peace to Israel.

Mr. LEVINE of California. Mr. Speaker, I rise to join my colleagues in reaffirming a fundamental truth about which there must be no ambiguity: Jerusalem has been and will remain the undivided capital of the State of Israel.

I want especially to thank and commend my good friend from Florida, Mr. Smith, for taking out time for the special order on this vital topic and also to commend my good friend from Ohio, Mr. FEIGHAN, for his special order on the same vital subject last week.

Mr. Speaker, at a time when conflicts in other parts of the world appear to be resolving themselves, the search for peace in the Middle East remains elusive.

I have publicly supported Bush administration efforts on the Mideast peace process and especially their efforts to bring the Shamir election plan to fruition. It has been a long process but, in my view, it is the only plan with any change of success. As I have often done before, I want to commend Secretary Baker for his persistence and patience in trying to bring the parties together.

It is precisely because those efforts at long last seemed within an eyelash of succeeding that the events of the last several weeks are so disturbing, in particular the President's regrettable remark on East Jerusalem. A Washington Post headline from last week says it best: "Bush's Remark Undercut Peace Plan."

I believe the process was finally about to move forward. My conversations with senior officals in the Israeli Government 3 weeks ago led me to conclude that the Israeli Government would likely agree to the formula for tripartite talks advanced by Secretary Baker. Israeli Foreign Minister Moshe Arens had already accepted such a formula.

In fact, published reports out of Israel the same weekend as the President's press conference indicated that Mr. Shamir was ready to sign on. Assuming those reports were true, my understanding was that the remaining stumbling block for the Prime Minister was Jerusalem. In other words, the administration knew that Jerusalem was the key issue on which Mr. Shamir sought reassurances. And yet, the President responded by contradicting previous American policy and essentially calling East Jerusalem "occupied territory."

Such a change is as offensive as it is wrong. The administration seems not to understand the universal consensus within Israel

and the Jewish community that Jerusalem will never again be divided. While the President's letter to Jerusalem Mayor Teddy Kollek was welcome in its reassurance that the United States will not support a divided Jerusalem, the letter had two flaws: first, the damage had already been done, and; second, it demonstrated little or no historical understanding concerning Jerusalem.

For Jerusalum was divided and occupied between 1948 and 1967 by Jordan, and that brought with it barbed wire and snipers. That brought with it complete denial by Jordan of access to the Jewish holy places. That brought with it a wholesale destruction of the city's Jewish heritage. And, ultimately, it brought on Israel's recapture of East Jerusalem in a war the Arabs started. As the April 2, New Republic, points out;

If the Arabs cared so desperately to maintain Arab dominion over the city, they should not have risked a war of annihilation * * * they lost the war, and so they lost the city.

No, Mr. Speaker, Jerusalem is not Jerusalem without its eastern half. To quote again from the New Republic:

Many hearts stir for Jerusalem, but no hearts stir more than Jewish hearts. If the faith and memory of Jews have an incarnation in a place, it is this city.

And so control of that half of this holy city will never again be turned over to anyone who might repeat the dastardly deeds noted above.

Furthermore, the President simply misstated American policy, which had never considered Jerusalem in the same category as the West Bank and Gaza. Jerusalem, rightly, was accorded a special status, one which recognized the unity of the city, which left it to the end of the negotiating process, which understood—even if implicitly—that Jerusalem, East and West, would forever remain the capital of the Jewish State.

President Bush chose to do otherwise. He chose to be the first American President to imply that Jews have no right to live in certain sections of that unique city called Jerusalem. His subsequent attempts at clarification do not change the fact that he said what he said.

As a consequence, Mr. Bush's statement has derailed the peace process. Indeed, the Washington Post story mentioned earlier starts by saying:

President Bush's recent comment * * * has led Israeli and American officials to question how a promising U.S. diplomatic effort to start peace talks in the Middle East came to be undermined by the President's own words.

And, make no mistake, Israelis across the political spectrum criticize the administration for contributing to the collapse of both peace efforts and the Israeli Government—probably the one government best able to deliver on an ultimate peace settlement.

Such liberal Israeli leaders as Shimon Peres, Teddy Kollek, and Simcha Dinitz have made it clear that this administration is in part responsible for the current situation. Teddy Kollek himself was recently quoted in the New York Times saying, "Why did the White House have to bring it up? Why didn't they know that by shooting their mouth off, they would bring this on? They brought this on, not us."

In addition, the administration may well have lost the support of the American pro-Israel community for its approach on Mideast peace.

Many of Israel's strongest friends in Congress and around the country wanted to see the peace process proceed. They have gone out on a limb in urging the Prime Minister to say "yes." They have even been willing to hold their fire in the face of the more questionable administration actions and statements regarding the peace process, especially concerning the PLO. They have done all these things even though many remain uneasy about the ultimate direction of this administration when it comes to the Middle East.

We now understand that our worst fears have been realized: That the Republican platform and candidate Bush say one thing, but President Bush says another.

In recent weeks, in addition to the Jerusalem faux-pas, this administration has made three separate statements whose inevitable consequence was to reawaken deep Israeli fears with regard to American policy:

First, they supported "shaving" aid to Israel.

Second, they continued to question the proposed loan guarantee for housing for Soviet Jews at the same time as these Jews face unprecedented peril in the U.S.S.R.

Third, they whitewashed PLO involvement in terror.

Coming as they did at such a delicate and significant time in our negotiations with Israel, the statements undermined Israel's ability to move forward, and highlighted the Bush administration's ineptitude in dealing with the Middle East peace process.

The point is crystal clear. Israelis of the right and left understand that this administration has set back prospects for peace. This development renders unlikely any possibility that the peace process can move forward in the immediate future, given the political turmoil in Israel.

Opportunities for success are rare in this region. Mr. Speaker, an opportunity was lost, and the White House has no one but itself to blame.

Mr. DEWINE. Mr. Speaker, as we all know, Jerusalem is the ancient capital of Israel. Its importance to the Jewish people cannot be understated. Jerusalem is the only religious and national center the Jewish people have ever had. It is a place where the ancient Jewish heritage is preserved in a modern urban setting. It is important that the United States recognize the indivisibility of Jerusalem. Jerusalem must remain wholly a part of Israel.

I am reminded, Mr. Speaker, that U.N. Security Council Resolution 242, which traditionally has been the basis of our policy toward peace in the Mideast, does not mention Jerusalem. This document calls for Israeli withdrawal from the West Bank and the Gaza Strip in return for full peace and security guarantees from the Arab States. It is silent of Jerusalem. This silence is a recognition of Jerusalem's special status. United States policy must do the same.

The Jewish people have been the most numerous residents of Jerusalem for a century. However, Jerusalem was not united under Israeli control until the 1967 Arab attack. Over 2,000 Israeli lives have been lost uniting and defending Jerusalem. The Israeli people will never stand for ceding any portion of their capital city.

Of course, one must remember that Jerusalem is unlike any other city in the world. It is a holy place to three of the world's major religions. Since 1967, Israel has allowed access of all peoples to their holy grounds. Prior to that time, the Jewish people were denied access to their most cherished places of worship. Today, the opposite is true; the rights of all peoples are respected and even guaranteed by the Israeli Government.

As Americans, historically we have treasured our religious freedoms. The Israeli Government has made Jerusalem a model for these values which we hold so dearly. Only Israel can ensure that these freedoms will continue to be respected.

It is clear, Mr. Speaker that Jerusalem is integral to the Israeli people. In addition, Jerusalem's special status and freedoms are best guaranteed by Israel. Consequently, the United States must continue to support Israel's claim to all Jerusalem.

Mr. BILBRAY. Mr. Speaker, I rise today to differ with President Bush's recent statements on Jerusalem.

In one phrase, he broke with a 20-year policy of tacit acceptance of permanent Israeli control over the unified city. Although the United States has never officially recognized Israeli sovereignty over the city to avoid disputes with Arab governments, the United States had never before protested any Israeli residence, construction, or the unified city government in Jerusalem. In this regard, Jerusalem had always been regarded as separate from other disputed territories, until this administration.

It had long been understood in Israeli and American circles that Israel would never relinquish control over Jerusalem, and would also insist on controlling the many strategic points captured in the 1967 war for the sake of its own military security. America's longstanding support for a unified Jerusalem had been seen as tacit acceptance of the Israeli stand.

Practically all Israelis insist that unified Jerusalem is the only possible capitol of Israel—which is why Israelis of every political stripe were so offended by Bush's statement. The belief that Jewish residence should be restricted in the eternal Jewish capitol has offended Israelis and Jews around the world. No Israelis consider the Western Wall negotiable, or the Jewish Quarter of the Old City of Jerusalem a settlement. The Old City had Jews in continuous residence for many centuries until 1948.

On Jerusalem I must strongly disagree with President Bush, and I feel confident that I do not stand alone, since the majority of Congress has agreed with me in the past. A majority of the House cosponsored a resolution in the 98th Congress to move the United States Embassy to Jerusalem and thus recognize Israeli sovereignty over the entire city. A similar resolution was cosponsored by a majority of the Senate. (H.R. 4877 and S. 2031)

Some prominent members of this administration appear to agree with me—Vice Presi-

dent DAN QUAYLE cosponsored the Senate resolution, as does HUD Secretary Jack Kemp who was on the House version.

The Bush administration has recently made a freeze in new settlements in captured territories a major demand on Israel, and even threatened to withhold aid for refugee housing without the cutoff. In one swoop, the Bush administration reignited Israeli nationalism regarding the settlements and reopened a major sticking point in the coalition regarding negotiations with Palestinians. All this despite the fact that practically no Soviet Jews are moving into such territories.

The Israeli coalition government was willing to enter negotiations if Israeli security would not be threatened by the primary Arab threats to Jerusalem and the borders needed to protect Israel. Recent administration statements have only threatened that feeling of security needed to enter negotiations.

I reject the administration threat to withhold housing aid for Soviet Jews. It is a needless threat and undercuts the historic American support for emigration rights for Soviet Jews.

The administration approach to housing aid is not only unnecessary, it is also a poor political move since it plays into the hands of antinegotiation Israelis who fear being bullied and blackmailed by the United States once they enter negotiations.

The recent administration comments: on the status of Jerusalem, making new aid conditional on a needless official freeze on new settlements, and supporting cuts in current aid levels can all be seen as trying to bully the Israeli Government to change a policy. Why shouldn't Israelis fear being bullied into insecure borders once they enter negotiations?

In closing I must ask, if the administration really wanted to start the Israeli-Palestinian talks—why has it been causing unnecessary conflicts with the Israeli Government?

Recent American statements toward Israel have been less than fully supportive—I can easily understand the reluctance of Israel to enter into major territorial negotiations without the support of its major ally.

I can only hope that the Israelis are soon reassured that their United States ally will not turn against them. Only then will they confidently enter negotiations with Palestinian representatives and take the next step toward a peace agreement.

GENERAL LEAVE

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. PICKETT). Is there objection to the request of the gentleman from Florida?

There was no objection.

THE STRATEGIC DEFENSE INITIATIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. KYL] is recognized for 60 minutes.

Mr. KYL. Mr. Speaker, this week is the seventh anniversary of the beginning of the strategic defense initiative. It was on March 23, 1983, that then-President Reagan announced to the people of the United States that this country would embark upon a bold, imaginative new program to defend the United States against any kind of a missile attack, deliberate or accidental, that might be launched against us.

His program was called the strategic defense initiative, or SDI.

Some people called his program star wars. But what it is, initially, is a program of research by contractors, laboratories, our services, even some foreign cooperative ventures, to determine whether or not it would be possible to build a defense that could actually protect the United States against a ballistic missile attack or an accidental launch by someone not friendly to the United States.

□ 1840

This research has progressed very, very well over the past 7 years to the point that we believe the President, the Secretary of Defense, and many Members of Congress believe that it will be possible to deploy an effective defense before the end of this century.

Tonight, what I would like to do, Mr. Speaker, is to address Members on this important topic during this anniversary week of the strategic defense initiative, to talk about the progress of the program, to answer some of the critics of the program, to describe its need in a new and changing world, and hopefully, to convince some of our more skeptical colleagues that the time has come to fully support the President's program when it comes to the time to appropriate funds, and to approve next year's funding level for the strategic defense initiative.

Now, of course, many people are under the erroneous assumption that the United States does have some kind of a protection against ballistic missiles. So the first thing that it is necessary to do is to understand that the United States has no such defense. To show the American people that if a missile were launched today, either out of belligerence or because of an accident, there is absolutely nothing that the President, the Secretary of Defense, our Armed Forces, or anyone else could do to prevent that missile from coming down on the United States at some point and destroying, literally, millions of American lives and, of course, if there were enough such missiles, literally to obliterate the United States from the face of the Earth.

It remains true that the only thing that could destroy every living thing in the United States of America is a ballistic missile attack from the Soviet Union. It would take about an hour, and there would not be any living thing remaining, at least on this side of our planet. The question is whether we could defend ourselves against any of that. The answer is no. Well, then, how did we prevent them from occurring during the time of the cold war between our two nations? A doctrine called mutual assured destruction, an idea that at least theoretically said if an enemy launched missiles against the United States, we would immediately launch our missiles against that nation, and thereby destroy both nations, and essentially, because of the amount of megatonnage involved, destroy an awful lot, if not all of the life on this planet.

That is a very scary thing upon which to base the peace of future generations. That is why President Reagan said in 1973 that there might be a better way, there might be a better way than risking and threatening mutual suicide as the basis for deterrence. His idea was to gather all the scientific community that he could together, to research this question of a defense which would be based both in space and on Earth to, in effect, shoot down those incoming missiles so that neither our people nor our military assets were threatened by such an attack. That makes more sense from a moral point of view. It also makes more sense in terms of preventing accidents or dealing with threats from the Third World that is gaining more of these weapons.

However, Mr. Speaker, the point that I would especially like to emphasize tonight is that it makes more sense in a changing world, and that is the question that many of our colleagues have been posing because, of course, the Soviets have made great strides, particularly in Eastern Europe, in demonstrating that they no longer have the economic capacity and perhaps the stomach for the kind of confrontation that would exist if they were to attack our NATO allies in the European theater.

As a result, they begin to reduce and even pull back some of their conventional forces in that area. So the question naturally arises: In this area of better feelings between our two countries, is it time to begin thinking of new strategies? The answer is yes. But one of those new strategies is no longer rely upon a doctrine of Mutual Assured Destruction, basically of two neighbors threatening to kill each other if one should make the first move; but rather, of building fences. As Robert Frost said, good fences make good neighbors—I am paraphrasing. However, the point is that a defensive nonthreatening way of saying to the other side, "We mean you no harm, but don't mind if we put a fence up that would preclude you from succeeding if you were to attack

us or if something were to accidentally happen."

In this changing world, it makes more sense among friends to uncock the guns and put them back in the holsters, and instead develop a technology which essentially is based upon a field or a defensive mechanism, at least in part, and thereby enable Members to reduce in significant numbers the amount of offensive forces that we have arrayed around the world.

We will first discuss the historical context of SDI for just a moment, because I think it presents a good backdrop for what I want to present in a moment. While the basic missions of strategic forces have remained fundamentally constant over the last 40 years, the capabilities of countries around the world have changed dramatically over time. The capabilities of ballistic missiles and even nuclear, and certainly chemical warhead technology is a genie that is out of the bottle. It is something we have to recognize. The world is not the same now as it was in the 1960's. Until the early 1960's, the United States relied on our massive strategic superiority, as I described. If deterrence failed, the United States would retaliate with an all-out offense attack. But it was precisely that superiority that stimulated the Soviet Union into building additional nuclear capability to achieve parity first, and ultimately, superiority in their nuclear aresenal.

The increasing importance of the ballistic missile in the Soviet arsenal by the late 1960's meant that air defenses would be increasingly ineffective in limiting damage from an attack. Initially, the United States responded by developing its own ballistic missile defenses, but that was shortlived. In 1972, the United States took a major step away from defenses by signing the ABM or Antiballistic Missile Treaty. There were two rationales that were offered for that treaty. It is important to discuss the treaty at this juncture, because if a strategic defense were employed, the AMB treaty would have to be modified like the Berlin Wall is anachronistic. If it had a purpose, it does not.

It is important to understand the precepts: The first rationale was that the technology of the time did not permit truly effective defenses. But instead, only ground-based limited area defenses, using nuclear-armed interceptors which, nevertheless, could be easily countered; second, people believed that given the state of technology the development of defenses would lead to a destabilizing action-reaction scenario. They hoped that the abandonment of the ballistic missile defenses would eliminate any incentive for the Soviet Union to proliferate its offensive forces, and in fact, to encourage offensive reductions. The United States signed the ABM treaty, as did the Soviets, and thereafter made no effort in effect to further develop our ballistic missile defense system.

However, during the same period the Soviets developed counterforce first strike capabilities, extensive air defenses, and modernized their ABM system. Signing the ABM treaty, in other words, did not deter the Soviets from building a large and effective force of offensive nuclear weapons. In fact, today, the number of weapons in their stockpile exceeds the 1972 force level by over 600 percent. So the ABM treaty, unfortunately, did not achieve the primary objective for which it was signed.

Now, that is one of the reasons why, in 1983, President Reagan decided that it was important for the United States to revisit this question of how best to defend the United States. By then the Soviets had acquired a vast superiority over the United States. They were modernizing their defense around Moscow, the United States still had none, and people were beginning to wonder whether the United States would be willing, for example, if an attack on Europe occurred, to push that nuclear button and unleash these horrible forces of war against the peoples of the Soviet Union in such a way that, clearly, all of the people in both countries would be obliterated. It is a sobering prospect for one man, the President of the United States, to face. Ronald Reagan understood that was a question he may have to face, for if there was one night he were told that a missile was incoming, that we did not know whether it was an accident or deliberate, but we know that in a matter of 20 minutes or so it would strike the United States, he had only two choices. He had the choice, first of all, of deciding that it was, in fact, an accident, and it would be acceptable for the United States to accept the loss of maybe 20 or 25 million people, and just chalk it up to a bad night; or, on the other hand, he could anticipate that this was really the first move in a decapitating strike by the Soviet Union, that the allegation that it was an accident was merely intended to keep the United States from launching our forces against the Soviet Union.

□ 1850

And we would, therefore, decide that nuclear war had come and that we had to make good on that threat that we would actually push the nuclear button and obliterate everything in the Soviet Union. By that time it would have been clear to the President and his advisers that our deterrent force had not worked because the Soviets had launched against us and now it was no longer a matter of deterrence but was a matter of striking back in retaliation to destroy everything in the Soviet Union.

Those are the only two choices our President would have, and I am sure that President Reagan weighed that very carefully and said to himself and to his advisers, "Isn't there a third way? Isn't there some way we can protect American lives without having to accept a damaging strike and without necessarily having to throw everything we have back at the Soviets? Isn't there a better way?"

Well, ironically it was Dr. Edward Teller, the father of the H-bomb, who said to the President, "Yes, Mr. President, there is a third way. It is called strategic defense."

That is why the President announced on March 23, 1983, that we would begin this program of trying to modernize our defense, our deterrence, by actually providing a defensive way of deterring attack.

Upon entering the office, President Bush asked for a review of the SDI program as it existed at that time, and based upon that review, President Bush determined the following things: First, the goals of the SDI program remained sound; second, pursuit of a robust SDI program provides a hedge against any Soviet effort to break out of the ABM treaty; third, the SDI program will be structured in a way that permits the President to make a decision within the next 3 years—in other words, before the end of his first term in office—on deployment of strategic defenses; fourth, the emphasis on program flexibility will continue toward deployment of a system that will meet the requirements of phase I of the strategic defense by focusing on an evaluation of the potential of the most rapidly advanced technologies such as brilliant pebbles; and finally, that these goals were important and necessary for the defense of the United States.

Now, I mentioned brilliant pebbles, and I am going to come back to that in a moment, but what I would like to do at this point is simply to describe, Mr. Speaker, the general architecture of what our scientists have come up with over these last 7 years so my colleagues will know what we speak of when we talk about a strategic defense. It can include different things. The decision of exactly what to do does not now need to be made and has not been made, but we do know the following components could effectively be deployed: The first thing we should have is some satellites in space to tell us when the launch of a missile has occurred, and that technology exists today.

Second, we need orbiting satellites which would have the capability of zooming down on that missile that has just been launched to destroy it, preferably while it is in its boost phase, that is, in the 3 to 5 minutes or so while it is going up through the heavy

atmosphere of the Earth rather slowly before it gets to the relative vacuum of space. The reason that is important is because the large Soviet missiles, the SS-81's have a capacity for at least 14 warheads—they are known to carry at least 10—and obviously if that missle could be destroyed as it is coming up out of the Earth's atmosphere, 10 warheads could be destroyed in effect for the price of 1.

But there is another stage. After the missile has gotten up in space, it coasts for quite a while before or during the process of the deployment of its warheads. It is called busing, because a vehicle that almost looks like a bus gradually throws off each of the warheads the missile carries, each one going to its lethal destination until all 10 or 14 warheads, or however many warheads there are, have been tossed off into their own orbits. At that point the bus is destroyed, and then the target is each of those warheads. In addition, the missile could carry decoys, and that could further complicate the process of discriminating between the warheads and the decoys and make it less effective as a defense.

So it is important to have these orbiting satellites that would be able to, upon command by someone on the Earth, zoom down and destroy that missile as it is coming up. That is the primary mission of brilliant pebbles.

How did brilliant pebbles get its name? Well, its predecessor was called smart rocks, and the reason they were called smart rocks is because these small satellites, no bigger than the table here before us, would be orbiting the Earth, and because of their intelligence—they had little computers in them—and the eyes they could see these missiles with and the fact that they carry no nuclear warhead or even a conventional warhead, were simply a self-contained little bit of metal that could zoom down on an incoming missile, and the combined speed of the two objects coming together would be enough to obliterate everything, including both of them. So they were called smart rocks. That was the first generation.

But out at Lawrence Livermore laboratory the scientists came up with a second generation of an even more sophisticated orbiting satellite, a single little satellite that weighs no more than about 10 pounds, fully fueled about 100 pounds, and with a few thousand of these orbiting, we could totally cover all the parts of the Earth from which a missile could be launched at any given time. So as that missile comes up, this even smarter rock, this brilliant pebble, smarter and smaller, could zoom down and destroy that missile.

Now, the idea is to destroy enough of them so that even though some would leak through, the Soviets would understand that their attack would not likely succeed, so they would be deterred from even launching it in the first place.

But what about those that leaked through? That is the third part of SDI. That is the ground-based missile. One of them is called ARIS. This missile would be based in the United States, and upon advice that a launch of adverse missiles was in process and some were beginning to leak through the brilliant pebbles part of our defense, these ARIS missiles would take off and with their sophisticated sighting capability, try to discriminate between the warheads and the decoys that were in space and pick off those that were remaining. The combination of brilliant pebbles and this ground-based ARIS system is such that the percentage of warheads getting through is so small that the Soviets clearly would be deterred from launching an attack because they would know an attack could not succeed.

A capability that will be coming along in the not too distant future and that could be added to this structure is a much faster burn point defense kind of missile. One kind is called HEDI. This is a smaller missile. It is very, very fast. It is clustered around things that we particularly want to defend, and if any missile happens to get through the brilliant pebbles and happens to get through the ARIS midcourse defense and begins to come back down through the atmosphere toward the United States, these HEDI missiles can be launched, and almost as fast as you can snap your finger they can get into the air and with their special sighting capability destroy those last few remaining missiles. So it is likely, with the development of this additional technology, that an extremely robust defense could be created.

In addition to these near-term technologies, as we call them, there are other things being researched that show great potential, but they would come along at a little bit later pace and could be used to complement the first phase I have described that would already be deployed by that point.

Interestingly enough, there are things which the Soviet Union might do if they had enough money in their economy and a strong enough economy, which is doubtful. If the Soviets were to do some of the countermeasures we suspect they might try to do, if they were successful with these things and they could afford them, after a 10- or 15-year period it is possible that they could effectively provide a countermeasure against some of our deployed system. It is these follow-on phases which, when added to the first phase, would prevent that from rendering our strategic defense impotent. As a matter of fact, it would make it much stronger and much more robust. The kind of things I am talking about is the kind that President Reagan talked about in his initial talk—the lasers, neutral particle beams, in other words, the so-called directed energy weapons, those things which are now being researched and tested and which seem to have great potential for working.

□ 1900

Mr. Speaker, some of them could be based on Earth. Some could be based in satellites in space, and these lasers and particle beams would have devastating effect, devastating impact, on any kind of missile attack that would ever be launched.

Those are a few years down the road, but, Mr. Speaker, my point is that this all is what is included in our strategic defense research program today, and it is important that that research continue both on those first phase programs that are relatively close to deployment and those that are longer term that would be deployed after the beginning of the next century.

Mr. Speaker, I have briefly described the architecture, so the next question, I think, is: What is the mission of SDI in a time when we are certainly bringing the cold war to a much warmer point of relationship, maybe bringing it to a close as a matter of fact? And what kind of technological progress have we made here? Could we really deploy this if we wanted to? In other words, what is the status of things as we speak today?

Mr. Speaker, let me briefly talk to the technology first. I just got back from the Lawrence Livermore Laboratory last weekend where I saw not just an idea of brilliant pebble, but I saw the actual brilliant pebble; in other words, the actual components of this little satellite that could be launched and put into space to defend us. I saw it being tested, flying around in its little chamber, sighting on a mythical star and a mythical target, and I saw it put together in a form that will actually be launched into space to conduct a test later this year to determine whether it really can sight with its great eye a star to orient itself, a missile that might be coming up to be attacked, and then there will be a test to engage the target, and all of this will be done within a space of just a little bit over a year so that in 13 or 14 months from now we will actually have seen brilliant pebbles do that which we want it to do. It will then be merely a question of building it, making the decision to build it and deploying it.

Mr. Speaker, the same thing goes with the other technologies. We have seen the effort to move this program along, greatly reduce the cost of the program, and also produce a lot of

technology that can be transferred to the commercial and private sectors and other defense areas as well. Just a little over a year ago the guidance system in one of these missiles, in one of these satellites, was a system that was used in the F-16. It is one of the most advanced in the world.

The question is: Is it bigger than a breadbox? Well, slightly. It was the size of a pretty big breadbox. Less than a year later they have gotten it down to the size of maybe a very large softball, and today it is down to the size of something just about as big as a golf ball, and the idea is eventually it would be put into the shape of something like a deck of cards, greatly lightened and much, much less expensive than that original, large gyro kind of a system, and that is just one of many, many technologies that has seen progress, reduction in cost and reduction in size.

As a result, Mr. Speaker, the original estimates of cost of the strategic defense program has been coming down over time. I remember one estimate that was $160 billion. Well, Mr. Speaker, I remember some of our colleagues talking about a trillion dollars, but that was fanciful. But then the cost came down maybe to $120 billion, and then I heard $75 billion, and then $69 billion, and then $55 billion. Today the official estimate is somewhere around $55 billion to deploy a complete phase one system with the spy-in-the-sky kind of satellites, these brilliant pebbles, these Eros rockets, as well as some other component.

However, Mr. Speaker, the truth is that the cost is coming down every day, and it could be possible within a very short period of time to deploy a system in the neighborhood of maybe $40 or $50 billion, and, if we wanted only a system that would provide us minimal protection; that is to say against an accidental launch, or a rogue missile, or to deal with a threat from a Third World nation or terrorist country, we could do that for in the neighborhood of only $10 billion.

Just to put these costs in perspective, Mr. Speaker, we know that today our deterrence relies upon our nuclear triad, our system of offensive land-based missiles, the missiles in our nuclear submarines and the bombs that are carried on the air-breathing leg of the triad or bombers. We are now talking about modernizing one part of one leg of that triad; that is to say, building the B-2 or Stealth bomber, which is part of our air-breathing leg, and the cost of building out the entire B-2 program would be in the neighborhood of $70 billion, $70 billion.

The point, Mr. Speaker, is that for $55 billion we could have a complete defense for less than the cost of modernizing just one part of one leg of our existing offensive nuclear deterrent, the offensive triad. Our offensive strategic systems are actually a large part of the overall defense budget. They only comprise approximately 12 percent of the total defense budget. The strategic defense initiative request for funding this year by the President of $4.6 billion represents less than a percentage and a half, 1½ percent, of our Defense budget, so on this first point on how far technology has come and how far we have driven costs down, I think it is clear to say that no one can really argue that either technology or cost is the inhibiting factor here.

The question rather is whether we really need this kind of a system in a changing world, and that is the second thing I would like to address, and the answer to that question, Mr. Speaker, is, as the President said not too long ago, "We need this program now more than ever."

As a matter of fact, in a speech just a couple of days ago, delivered by the Defense Secretary, Richard Cheney, he said the following. Secretary Cheney says:

> President Bush and I want to keep moving forward as fast as we possibly can on SDI. We are also committed to deploying strategic defenses when they are ready, not just to researching forever, wasting taxpayers' dollars, but to deploying defense when they are ready. In other words the President and I are bullish about SDI. We are convinced that the program is on track. We are also convinced, as the President has said, that in the 1990s strategic defense makes much more sense than ever before.

Well, why would the President say that? Let me read some other portions from Secretary Cheney's speech. He said:

> Almost everyone now will concede that a defense against ballistic missiles is possible within a very few years. I know that. Independent review boards tell us that a first phase strategic defense system with brilliant pebbles should be well within reach. Of course there is still development work to be done. That's the purpose of the SDI program. But I am convinced that the issue is how we can meet the President's timetable for SDI's deployment, not whether we can.

And I think the Secretary, as I said before, is correct on that point.

Well, what is the mission then? Why do we need it? The first mission, of course, is still to deal with that overwhelming superiority of Soviet strategic offensive weaponry, the most massive, destructive force ever amassed anywhere on earth at any time by the hands of man. It is a fearsome force that the Soviets have amassed, much larger than ours, many times over, more than necessary to achieve its goal.

As Secretary Cheney said, and I am quoting:

> We must never forget that the Soviets retain enormous military capabilities, and those military capabilities are getting stronger in the one area that is most dangerous to the United States, strategic nuclear weapons.

Mr. Speaker, let me digress to note that this is the only kind of force that can obliterate us from the face of the Earth in less than an hour. Is it likely that it is going to happen? No. But we, Mr. Speaker, those of us in this Chamber, and the President would be derelict in our duty not to provide a defense against that one thing that could absolutely destroy every American and everything, every living thing, in this country.

As Secretary Cheney said:

> At the same time the Soviets have begun to reduce their conventional threat, they are pursuing a major strategic modernization program, and that program will significantly improve their nuclear capabilities.

□ 1910

Well, what precisely is he talking about? First of all, the Soviets are building not one, but two different kinds of new mobile ICBN's. It is likely that at least one of them is in violation of the ABM Treaty, but leave that argument to another day. These two missiles are the rail mobile SS-24 and the road mobile SS-25. These are not on the drawing boards. These are missiles in existence today, being deployed, and Mr. Speaker, it is very, very difficult for us to find those missiles on rail cars in the Soviet Union.

In addition to these two brand new missiles, and the United States has nothing like either one of them in a mobile mode, the Soviets are upgrading their SS-18's. This is the hugest, largest, most destructive offensive weapon ever developed by man, a huge multiple warhead missile, which is in fixed silos in the Soviet Union, and which as I said has a capacity of at least 14 huge warheads. Moreover, its construction and basing mode make it particularly effective for a first strike capability, and that is the most discouraging thing, from a peace point of view that we face.

Well, are they really building and deploying these missiles? Last year, the fourth year that Mikhail Gorbachev has been in power, Time Magazine's Man of the Year, the Man of Peace, Mikhail Gorbachev, last year in his fourth and fifth years in power, the Soviet Union produced 140 of these new massive destructive capability ICBM's. The United States produced 12, and that was in 1989, the year that our critics say the threat went away.

The Soviets are also improving in other areas, their submarines, cruise missiles, their antiballistic missile system, which is the only deployed system in the world, and despite all their protestations about what we are doing, the Soviets have a long-standing program of their own for developing advanced missile defenses. We all recall Secretary Gorbachev himself saying, I guess it is now President Gorbachev, saying not too long ago that of

course, they were doing the same thing we were doing.

But let me point out, there is a big difference between the Soviet strategic program and that of the United States. As I say, the Soviets continue to upgrade their first strike ICBM's, the SS-18's. In contrast, the United States is not looking for a first strike capability. We never have. Our emphasis is on systems that can survive a first strike if necessary, and then respond flexibly. That has been the basis for our deterrence, as I said; but that is also, and now I want to quote from Secretary Cheney again:

> That is also why we believe it is crucial to move forward rapidly with strategic defense.

He goes on to say:

> Strategic defense can make a unique contribution to deterrence, even apart from the moral reasons for building defenses. It will make no difference to a brilliant pebble whether a ballistic missile is launched from a mobile or a fixed site on land or at sea. It will work against any ballistic missile.

And I would add, or launched accidentally whereby somebody in the Third World would do that.

As a matter of fact, Mr. Speaker, I think this is a very important point. It is unfortunate, but true, that the doctrine we have been relying on for deterrence over the last many years is fast becoming much less viable. Why? If we are talking about a Soviet Union with most of its missile force now in mobile capacity after the START Treaty and perhaps after the follow-on START Treaty, a large percentage of their force will be mobile. If we cannot find that force, we cannot hold it at risk. So if they have launched an attack against us with their large SS-18 missiles and we are counting on retaliating by destroying their SS-24's and SS-25's, but we cannot find them, then this whole notion of deterrence has fallen apart. It does not work anymore, and that is of course precisely the reason that they are trying to make their system survivable. They are making it mobile, and therefore survivable; so the old notion of deterrence does not work as well anymore.

It also does not work as well, of course, if you are dealing with someone in one of the southern republics of the Soviet Union who has access to these missiles and is trying to do something with them, not in a cold calculating logical way, which is what we have to rely upon if we are relying upon a theory of mutual deterrence by offensive destruction. The doctrine of deterrence based upon retaliatory force has no applicability to people whose idea of going to Heaven is dying in a Jihad or in a holy war of some kind or other; nor does our doctrine of mutual assured destruction do anything at all against a person like Mu'ammar Qadhafi or his ilk, who may want to threaten the United States for one reason or another. It matters not to him that we plan to blow up all the sand in Libya once he has launched a missile at us.

As a matter of fact, his threat is more likely to come along like this. He decides that West Germany, for example, has blown up his chemical plant—excuse me, his aspirin factory, or perhaps more to the point, he suspects that the Israelis or the United States or Germany or Great Britain is planning an attack on his chemical factory once he has got it rebuilt, or the Iraqus decide that they want to protect an emerging nuclear factory being built in their country, and they say to the world:

> We have a bill of sale here from one of these Chinese ICBM's. Here it is. They sold it to us. We have got it and we have screwed a chemical warhead on top of it and if any of you make one move toward us, that missile goes off. Now, we are not telling you which city it is going to, but it is either Tel Aviv or Bonn or London or anyplace else we might be able to reach, but just understand, it anybody comes after us, this missile gets launched.

Now, as we have seen in the last couple decades, Mr. Speaker, it is a lot easier to go after somebody in Granada or Panama where you are not likely to get a strike back than it is to try advance United States interests in the world and places where they have a capability of fighting back, of giving us a real bloody nose, particularly if it is a nuclear warhead delivered against us or our allies or one of those chemical warheads that practically everybody has in the world today.

Deterrence does not apply here at all, nor does deterrence apply against an accidental launch.

Now, why are we concerned about that? For 40 years there have been no accidental launches. In my mind that only means that for 40 years, it is like an earthquake, you know it is going to come sometime or other. We have been lucky the last 40 years, but that gets us ever so much closer to the day when it might happen.

Both the Soviet Union and the United States are relatively careful about what we do with our weapons. But as the weapons proliferate around the world, there is no guarantee at all that the kinds of very expensive and technical locking and protective devices will be developed and employed by the countries who will acquire these weapons so as to prevent their accidential launch and detonation. It is a very complex matter. We are working all the time to make ours safer and urging the Soviets to do the same thing, and as more and more countries get this kind of capability, the chance of an accidential launch increases dramatically.

The threat of mutual assured destruction or offensive retaliation has nothing to do with that. That does not stop a missile from coming our way. That is why in this day and age it makes a lot of sense to have some kind of protection against that kind of an accidental launch.

As I said, if all we wanted to do was to deploy enough brilliant pebbles, a couple hundred of them or so, to ensure that we could protect ourselves and our allies against that kind of accidental or Third World launch, it would cost no more than about $10 billion.

Now, just for protecting the people in the United States, that is a pretty good bargain if you want to calculate it out. What is an American life worth? What is an American city worth? I think you can see that the price is affordable for the threat that exists.

But there is another reason in this emerging time of peace that we need strategic defense now more than ever before, as the President said. We want to encourage further arms reductions. The START talks suggest to us that we can get our nuclear warheads down on both sides to about 6,000, still far too many, but about half of what the Soviets have today. It is a great first step.

Now, would it not be nice to even get below that point, maybe to 3,000 or 2,000, maybe even to 1,000, to a point where we had enough to ensure that if somebody around the globe wanted to trifle with us in a clearly improper way, we would have the ability to do something back to them offensively, but not enough to assure anybody in the world, particularly the United States and the Soviet Union, that we had any chance of winning a war with nuclear weapons against each other.

□ 1920

To get to that point, we need a couple of things. First of all, we need the ability to verify, and, unfortunately, if one has mobile missiles and smaller systems, it becomes virtually impossible to verify the compliance with these treaties. Therefore, cheating becomes much more important.

Let me give just an analogy: the old six gun in the West. If you had six bullets and I had five, and I cheated by putting one more in, it did not make a whole lot of difference between us, but if I had one bullet and you had one bullet and you cheated by putting just one more bullet in, you would have twice as much capability as I did. In other words, as both sides bring their forces down, even a small amount of cheating matters a whole lot. It adds to the capability of the other side in a devastating way, but it does not matter if you have a strategic defense, because you are still protected from a launch of those numbers of missiles. It encourages us to negotiate those num-

bers down and not to cheat. It does not do any good.

It also is necessary because of what is going on in the rest of the world. As CIA Director Webster pointed out, by the end of this decade, at least 15 more countries are going to have ICBM capability. Many of these countries will also have nuclear capability. Let us look at some of these countries: China, Iraq, Iran, Pakistan, India, Israel. Those are countries in a real hot area of this world. As each of these countries, in addition to those that already have them, acquires the ballistic missile, and Argentina, Brazil, by the way, and others in our hemisphere, as all of these countries begin to acquire this technology, they can become real powerful, a big player on the world scene if they have just a modest number of weapons, say, 50 or 100 or 200, which is very cheap to produce. They get to be almost as powerful in this sense as a country like the Soviet Union, France, or the United States.

In order to render those weapons impotent against us and our allies, we need a strategic defense system, because particularly at those levels of 1,000 or 2,000 warheads, there is no problem in a strategic defense protecting against all of those missiles even if they were launched all at once, so all of these countries that might be encouraged by events in this next decade and the next century to develop this offensive capability, we can respond to them by saying, "It is not going to do you any good, so do not bother to waste your money," and I think that is another important reason why in this changing environment we should move toward a defense and not rely upon offense.

I would like to refer just two more times to the recent remarks of Secretary Cheney, because he pointed out that it is true critics have pointed out potential problems with the strategic defense system, for example, countermeasures that might be deployed against it. The Secretary, however, responded to that by saying the following, and of course, much of this is classified and complex and cannot be discussed in this setting, Mr. Speaker, but even here on the floor of the House of Representatives we can say this much, and I will quote from the Secretary of Defense's recent speech:

> We are well aware of the countermeasures that have been discussed by our critics, and we acknowledge they must be addressed. However, our opinion so far is that countermeasures will not be easy or cheap to deploy and that they can be answered.

He points out that the countermeasures would cost far more than the original defensive deployment, so they are not economically efficient to produce. In addition, he says:

> We believe we can respond more cheaply to any next round of Soviet countermeasures, and that each stage of escalation, upgrading the defense should be cheaper than maintaining the offense.

That is what we mean by being cheaper at the margins. He concludes:

> We hope that the Soviet Union would avoid this kind of losing competition to move to a greater mutual reliance on strategic defense.

Then I would like to make this point: He says:

> When we began SDI, we assumed Moscow would spare no expense to counter a first-phase deployment. We thought in the neighborhood of tens of thousands of warheads, hundreds of thousands of decoys, and extremely high spending. Given the state of the Soviet economy, we no longer believe that that is likely to happen. In addition, a START agreement would limit the certain countermeasures such as decoys by reducing the number of missiles and warheads under the treaty.

Bear in mind that as we reduce each of these weapons in numbers by hundreds and thousands, we make a strategic defense more effective by that same amount. The Secretary says:

> Some of our critics would like to skip phase 1 entirely and keep funding this more advanced research.

And the Speaker will recall that I talked about the directed-energy weapons, the lasers and neutron particle beams that are on the drawing boards and being researched today, but the Secretary says:

> This is another example of rejecting a system that we can build in favor of the one still in the laboratory or in the mind's eye. It is a favorite tactic of people who oppose all kinds of defense spending. In this case it would mean not meeting today's threat because of a fear about some future threat that may never materialize. The remarkable thing, is that this fear comes from the very same people who say we have no reason to worry about the threat in any case; we do still have good reason to be worried about Soviet strategic capabilities.

And to conclude his speech on this point:

> A strategic defense system is a crucial element that will help protect us against a first strike for decades to come.

I noted a moment ago that there were at least 15 countries that would require the capability of launching their own ballistic missiles by the year 2000, many of which already have that capability. Also, by the year 2000 at least six developing countries will have intermediate-range missiles, not merely these shorter-range missiles we have seen in the past, and some are now developing nuclear weapons, as I pointed out.

Who among us is willing to bet that such a missile will never be used? Mr. Speaker, I would like to advise my colleagues here that that threshold has already been crossed.

In 1986 Libya fired two Soviet-made Scud missiles at a U.S. Coast Guard station on an offshore Italian island. These Libyan missiles fell short of their target, but most Americans do not know this fact because it has not been well publicized. They do know that Iraq and Iran have used hundreds of ballistic missiles during their recent war. This has become the weapon of choice for the poor countries who wish to wage war or threaten each other.

As I said before, and I would like to quote this from Secretary Cheney's talk:

> Fortunately Brilliant Pebbles will be able to give worldwide protection against all but the shortest-range missiles.

I might point out that the strategic defense initiative includes research on shorter-range interceptors, intercepting missiles such as the Arrow missiles, which we are jointly developing with the Israelis. The Israelis are people who understand the need for this kind of defense against missiles, because their opponents have rained missiles down upon them, and they understand that offensive retaliation does not always deter, that they need to have a protective way of preventing the missiles from ever reaching their population in the first place.

Let me conclude this portion of my presentation, Mr. Speaker, by quoting the last paragraph of Secretary Cheney's speech, after noting the technological progress of the SDI, the reduction in costs, the need for a strategic defense in a changing world, a world which is less threatening, the Secretary said that there is one thing remaining for us to do. He said:

> We can have greater stability only if Congress cooperates. We can move ahead with strategic defense or continue relying on offense. A balanced mixture would make for a better world. The choice should be clear. The question is whether Congress will make it.

□ 1930

Mr. Speaker, I wanted to quote that from Secretary Cheney's speech of a couple days ago because we will soon be debating in this Chamber the level of funding for the strategic defense initiative for this fiscal year, for fiscal year 1991.

The President has requested $4.6 billion for the SDI Program this year. Mr. Speaker, that is $1 billion less than was requested last year, almost a 20-percent reduction. It is $1 billion less than was requested last year.

As I said, it is less than 1½ percent of the defense budget. So we are not talking about an enormously large sum of money in relative terms. But this body has historically reduced the level of funding for SDI, primarily on the theory that if we cut it to a low enough point, we will be able to bargain it with the other body and achieve a level of funding that makes some sense.

Mr. Speaker, that is a dangerous game. We ought to be making decisions here based upon strategic realities, logic, and facts, not upon some

perceived ability to deal with someone else in the future and to create a level of funding which is so low that even we recognize it would be foolish in today's context.

But we do it in order to be able to bargain, to bring the other body down, particularly since we cannot be assured that the other body will produce a level of funding any greater than this body does.

Another thing that occurred last year that I hope we do not do this year was to use the strategic defense initiative as a cash cow. My colleagues know what I mean when I say that. We took the strategic defense initiative budget and raided it by well over $1 billion for other programs that were worthy programs to fund, like assistance in the drug war, assistance in environmental cleanup, but programs which, however worthy, could easily have been funded from other portions of our budget. They did not have to come out of SDI.

Our opponents have discovered that one way to reduce the SDI budget is not to attack it frontally, because that battle has been lost. The technology has been proven, so they can no longer say it will not work.

I do not think they can win the argument that it is not a good idea. So what they do is say well, SDI is not quite here yet. It is not quite ready. But we do have a need to fight the drug war or clean up our environment. After all, who can argue with those things?

Therefore, we say all right, if we do not really need the money for SDI right now, we will get to that later. But we will take that money and address it to these more pressing, more politically attractive concerns.

Mr. Speaker, that is a shame, because it deprives us of the ability to recognize that both can be important programs, and that it is important both to provide for the defense of our people as well as the protection of our environment and the protection of our streets from the horrible drug problem that we currently have.

As a great nation, a nation that has global responsibility as well as responsibility to our own citizens, we can indeed afford the resources necessary to attack the problems that face us. We have a responsibility elsewhere in the world if we are going to be a superpower to project our views, to be a beacon for others to follow, and to assist our allies in their time of need.

It requires the expenditure of relatively large sums of money in defense to be able to do this. We cannot go into a Panama or a Grenada or assist Corazon Aquino in the Philippines or do many of the other things that have to be done around the world that lead to a more stable world, a more peaceful world, a more just world, if we are unwilling to fund the programs that will enable us to play that important role.

That is why we should not be required to choose in this battle, but should understand that the first thing necessary is to develop a logical, coherent defense system, which will include the element of a strategic defense.

That is why the President and the Secretary have been much stronger this year I think in getting the message across that they want this level of funding to permit the program to go forward, because the President is determined to be able to make the decision before the end of his first term, to be able to deploy the system if it is deployable, to enable us to achieve that goal that President Reagan announced 7 years ago.

Mr. Speaker, I think that as we think back on the way the world was during the time that we felt great hostility with the Soviet Union, we are inclined to be relieved today and to feel that it is no longer necessary to spend the great sums of money for defense that we have in the past. But I would urge my colleagues to consider carefully testimony that has been received before the House Committee on Armed Services and the Senate Committee on Armed Services and that has frankly been presented in speeches by the President, the Vice President, and the Secretary of Defense, that with all of the changes occurring in Eastern Europe and in the Soviet Union relating to the conventional force reductions, there has been no decline in the strategic modernization program of the Soviet Union.

We tend to forget that. We say well, the world is changing. Therefore, let us reduce our forces. We have to be careful about which forces.

Unfortunately, Mr. Speaker, the problem in this body is that most of us have constituents at home in the form of a military base or a production or research program or company that is producing something like a tank or an airplane or a ship, and we want to be able to protect the interests of our districts, to continue the jobs and economic benefits that come with those military programs.

But it is largely those kinds of programs that are becoming obsolete as a result of the decline in the Soviet threat in Europe. The threat there is one of a conventional war fought with big battle tanks and airplanes and helicopters and artillery and so on that you fight those kinds of battles with.

Yet those, many of them, are the very kind of programs, the large numbers of troops in those kinds of land battles, conventional war weapons, the kinds of programs that our colleagues are seeking to protect in the defense budget, to the detriment of the future programs like strategic defense.

It is rather the long-term future programs embedded in our research and development programs, such as strategic defense, that will enable this country and the rest of the free world to remain free in the next century. It is into those areas that we ought to be putting more of our resources, not less.

We ought to therefore consider the political gamesmanship that goes on here as a very destructive program for the defense of this country. For that reason, Mr. Speaker, I urge my colleagues as this debate unfolds for the funding levels for defense for this coming year, that we consider strongly the importance, as President Bush said, now more than ever, of the strategic defense initiative.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. MORELLA) to revise and extend their remarks and include extraneous material:)

Mr. MCEWEN, for 60 minutes, today.

Mr. DELAY, for 60 minutes each day, on March 27 and 28.

Mr. MICHEL, for 5 minutes, today.

(The following Members (at the request of Mr. POSHARD) to revise and extend their remarks and include extraneous material:)

Mr. GEREN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. JONTZ, for 5 minutes, on March 22.

Mr. GONZALEZ, for 60 minutes, today and on March 26 and 29.

(The following Member (at the request of Mr. SMITH of Florida) to revise and extend their remarks and include extraneous material:)

Mr. FAZIO, for 15 minutes, on March 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. MORELLA) and to include extraneous matter:)

Mr. WYLIE.

Mr. RIDGE in two instances.

Ms. ROS-LEHTINEN.

Mr. SCHUETTE.

Mr. GREEN.

Mr. GEKAS.

Mr. HASTERT.

Mr. MACHTLEY in three instances.

Mr. MARLENEE.

Mr. SOLOMON.

Mr. MCEWEN.

Mr. LEWIS of California.

Mr. GILLMOR.

Mr. CRANE in two instances.

Mr. DENNY SMITH.

Mr. RITTER.
Mr. PARRIS.
Mr. COURTER.
Mr. DORNAN of California.
Mr. GRADISON.
Mr. SCHAEFER.
Mr. DREIER of California.

(The following Members (at the request of Mr. POSHARD) and to include extraneous matter:)

Mr. GUARINI in three instances.
Mr. TOWNS.
Mr. TRAFICANT.
Mr. KASTENMEIER.
Mr. MAVROULES.
Mr. NELSON of Florida in two instances.
Mr. HAMILTON.
Mr. SABO in two instances.
Mr. SLATTERY.
Mr. KANJORKSI.
Mr. MATSUI in five instances.
Mr. YATRON.
Mr. RANGEL.
Mr. HOYER.
Mr. ROE.
Mr. MANTON.
Mr. STARK.
Mr. PANETTA.
Mr. ROSTENKOWSKI.
Mr. DORGAN of North Dakota in two instances.
Mr. UDALL.
Mr. HAWKINS.
Mr. HERTEL.
Mr. ECKART.
Mr. HUTTO.

ADJOURNMENT

Mr. KYL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 39 minutes p.m.) the House adjourned until tomorrow, Thursday, March 22, 1990, at 11 a.m.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1989, TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the CONGRESSIONAL RECORD pursuant to section 4(b) of Public Law 85-804:

NATIONAL AERONAUTICS AND
SPACE AMDINISTRATION,
OFFICE OF THE ADMINISTRATOR,
Washington, DC, March 19, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In accordance with Section 4(a) of Public Law 85-804 (50 U.S.C. 1431-35), I am reporting to the House of Representatives on all calendar year 1989 actions taken by the National Aeronautics and Space Administration (NASA) under authority of that Act which involve actual or potential cost to the United States in excess of $50,000.

During calendar year 1989, the NASA Contract Adjustment Board did not grant any request for extraordinary contractual relief under P.L. 85-804.

On January 19, 1983, the Administrator made a decision to provide indemnification to certain NASA Space Transportation System contractors for specified risks arising out of contract performance directly related to NASA space activities. The authority of that decision was extended from September 30, 1984, through September 30, 1989, and has been extended again through September 30, 1994. Copies of the Administrator's Memorandum Decision Under Public Law 85-804, dated September 26, 1984, and November 5, 1989, are enclosed.

During calendar year 1989, four NASA prime contractors performing under 22 contracts were indemnified under the Memorandum Decision for the risks set forth therein. A summary description of each contract indemnified is also enclosed.

Sincerely,

RICHARD H. TRULY,
Administrator.

Enclosures.

MEMORANDUM DECISION UNDER PUBLIC LAW 85-804

Authority for National Aeronautics and Space Administration Contracting Officers to idemnify certain NASA contractors and subcontractors involved in NASA space activities

1. On July 4, 1982, the Space Transportation System (hereinafter STS) completed its design, development, test and evaluation phase and was declared an operational system of the United States for the transportation of payloads into and out of outer space for Governmental and commercial purposes. With the commencement of these space operations, the STS has conducted and will continue to conduct launch, in orbit and landing activities on a repetitive basis and at an increasing frequency.

2. Scheduled STS operations at an increasing frequency has dictated a continuing examination of the risks in repetitive space activities of the STS and the present availability of adequate insurance at reasonable premiums to manufacturers and operators of the system. While NASA's STS space activities are designed to be safe, and have been proven to be safe, there exists the remote and low statistical probability that a malfunction of either hardware, sofeware or operator error could occur resulting in an accident. This low probability of occurrence, albeit remote, cannot be totally removed. In the event that such a malfunction or operator error led to an accident, the potential liability arising from such an accident could be substantially in excess of the insurance coverage NASA contractors could reasonably be expected to acquire and maintain considering the availability, cost and potential terms and conditions of such insurance at the present time.

3. Pursuant to the authority of Public Law 85-804 and Executive Order 10789, as amended, and notwithstanding any other provisions of the contracts to which this determination may apply, I therefore authorize that certain NASA contractors, as further defined in paragraphs 4 and 5 below, be held harmless and indemnified against certain risks as specifically set forth herein. Accordingly, and subject to the limitations hereinafter stated, cognizant NASA contracting Officers are authorized to include in prime contracts, described in paragraphs 4 and 5 below, contract provisions for the indemnification of the contractors and their subcontractors at any tier, against claims or losses, as defined in paragraph 1A of E.O. 10789, as amended, arising out of contract performance directly related to NASA's space activities.

4. This authorization is limited to prime contracts which have an effective date before October 1, 1989, by or for NASA for:

a. Provision of Space Transportation System and cargo flight elements or components thereof;

b. Provision of Space Transportation System and cargo ground support equipment or components thereof;

c. Provision of Space Transportation System and cargo ground control facilities and services for their operation; and

d. Repair, modification, overhaul support and services and other support and services directly relating to the Space Transportation System, its cargo and other elements used in NASA's space activities.

5. This authorization is further limited solely to claims or losses resulting from or arising out of the use or performance of the products or services described in paragraph 4 in NASA's space activities. For this purpose, the use or performance of such products or services in NASA's space activities begins solely when such products or services are provided to the U.S. Government at a U.S. Government installation for or in connection with one or more Space Transportation System launches and are actually used or performed in NASA's space activities.

6. The risks for which indemnification is authorized are the risks arising under the contracts described in paragraph 4 and 5 causing personal injury or death, or loss of or damage to property, or loss of use of property. These risks are considered unusually hazardous risks solely in the sense that if, in the unlikely event, the Space Transportation System, its cargo or other elements or services used in the NASA's space activities malfunctioned causing an accident, the potential liability could be in excess of the insurance coverage that a NASA prime contractor would reasonably be expected to purchase and maintain, considering the availability, cost and terms and conditions of such insurance. In no other sense are the Space Transportation System, its cargo or other elements or services used in NASA's space activities unusually hazardous.

7. a. This authorization may be applied prospectively, without additional consideration, to existing prime contracts and subcontracts and in new prime contracts and subcontracts which otherwise meet the conditions of this memorandum.

b. Indemnification of prime contractors and subcontractors may be provided under this authorization only when the Government will receive the benefit of all cost savings, if any, to the prime contractor and its subcontractors at every tier.

8. All contract indemnification clauses shall comply with applicable provisions of Federal Acquisition Regulation 50.4 as modified by the NASA FAR Supplement 18-50.4.

9. This authorization is given upon condition that each prime contractor is approved by me and that such contractor maintains financial protection of such type and in such amounts as may be determined by me in writing to be appropriate under the circumstances. Each prime contractor shall provide a statement of applicable financial protection through the cognizant NASA contracting officer for my review and determination. In making this determination, I shall take into account such factors as the availability, cost and terms of private insurance, self-insurance and other proof of fi-

nancial responsibility and workman's compensation insurance.

10. When indemnification provisions are included in a prime contract pursuant to the authority of this decision, the cognizant Contracting Officer shall immediately submit directly to the Contract Adjustment Board a report referencing this decision and containing the information required by NASA/FAR Supplement 18-50.403-70—Reporting and records requirements.

11. The actual or potential cost, if any, of the actions hereby authorized is impossible to estimate since it is contingent upon the remote possibility of an occurrence and extent of loss resulting from certain space activities which malfunction. Such an event may never occur; however, should a major incident occur, millions of dollars of damage could result.

12. I find that this action will facilitate the national defense. In the remote event that the Space Transportation System, its cargo or other elements or services used in NASA's space activities malfunctioned causing damage in excess of insurance maintained by contractors and subcontractors, the resulting excess liability could place the contractors and subcontractors continued existence in jeopardy, making those contractors and subcontractors unavailable to continue to support space activities and the Department of Defense. I note that for purposes of the Defense Production Act of 1950, the term national defense is defined as "programs for . . . space, and directly related activity." (50 U.S.C. App. 2152(d).)

JAMES M. BEGGS,
Administrator.

Date: September 26, 1984.

MEMORANDUM DECISION UNDER PUBLIC LAW 85-804

Authority for National Aeronautics and Space Administration Contracting Officers to indemnify certain NASA contractors and subcontractors involved in NASA space activities

1. On July 4, 1982, the Space Transportation System (hereinafter STS) completed its design, development, test and evaluation phase and was declared an operational system of the United States for the transportation of payloads into and out of outer space for governmental and commercial purposes. Except for suspension of STS launches as a result of the Challenger accident, the STS has conducted and will continue to conduct launch, in orbit and landing activities on a repetitive basis and at a prudent frequency.

2. Scheduled STS operations have dictated a continuing examination of the risks in repetitive space activities of the STS and of the present availability of adequate insurance at reasonable premiums to manufacturers and operators of the system. While NASA's STS space activities are designed to be safe, there exists the low statistical probability that a malfunction of either hardware, software or operator error could occur resulting in an accident. This low probability of occurrence cannot be totally removed. In the event that such a malfunction or operator error led to an accident, the potential liability arising from such an accident could be substantially in excess of the insurance coverage NASA contractors could reasonably be expected to acquire and maintain, considering the availability, cost and potential terms and conditions of such insurance at the present time.

3. Pursuant to the authority of Public Law 85-804 and Executive Order 10789, as amended, and notwithstanding any other provisions of the contracts to which this determination may apply, I therefore authorize that certain NASA contractors, as further defined in paragraphs 4 and 5 below, be held harmless and indemnified against certain risks as specifically set forth herein. Accordingly, and subject to the limitations hereinafter stated, cognizant NASA Contracting Officers are authorized to include in prime contracts, described in paragraphs 4 and 5 below, contract provisions for the indemnification of the contractors and their subcontractors at any tier, against claims or losses, as defined in paragraph 1A of E.O. 10789, as amended, arising out of contract performance directly related to NASA's space activities.

4. This authorization is limited to prime contracts which have an effective date before October 1, 1994, by or for NASA for:

a. Provision of Space Transportation System and cargo flight elements or components thereof;

b. Provision of Space Transportation System and cargo ground support equipment or component thereof;

c. Provision of Space Transportation System and cargo ground control facilities and services for their operation; and

d. Repair, modification, overhaul support and services and other support and services directly relating to the Space Transportation System, its cargo and other elements used in the NASA's space activities.

5. This authorization is further limited solely to claims or losses resulting from or arising out of the use or performance of the products or services described in paragraph 4 in NASA's space activities. For this purpose, the use or performance of such products or services in NASA's space activities begins solely when such products or services are provided to the U.S. Government at a U.S. Government installation for or in connection with one or more Space Transportation System launches and are actually used or performed in NASA's space activities.

6. The risks for which indemnification is authorized are the risks arising under the contracts described in paragraphs 4 and 5 causing personal injury or death, or loss of or damage to property, or loss of use of property. These risks are considered unusually hazardous risks solely in the sense that if, in the unlikely event, the Space Transportation System, its cargo or other elements or services used in the NASA's space activities malfunctioned causing an accident, the potential liability could be in excess of the insurance coverage that a NASA prime contractor would reasonably be expected to purchase and maintain, considering the availability, cost, and terms and conditions of such insurance. In no other sense are the Space Transportation System, its cargo or other elements or services used in NASA's space activities unusually hazardous.

7. a. This authorization may be applied prospectively, without additional consideration, to existing prime contracts and subcontracts and in new prime contracts and subcontracts which otherwise meet the conditions of this memorandum.

b. Indemnification of prime contractors and subcontractors may be provided under this authorization only when the Government will receive the benefit of all cost savings, if any, to the prime contractor and its subcontractors at every tier.

8. All contract indemnification clauses and procedures shall comply with applicable provisions of Federal Acquisition Regulation (FAR) Subpart 50.4 as supplemented by NASA FAR Supplement (NFS) 18-50.4.

9. This authorization is given upon condition that each prime contractor is approved by me and that such contractor maintains financial protection of such type and in such amounts as may be determined by me in writing to be appropriate under the circumstances. Each prime contractor shall provide a statement of applicable financial protection through the cognizant Contracting Officer for my review and determination. In making this determination, I shall take into account such factors as the availability, cost and terms of private insurance, self-insurance and other proof of financial responsibility and workman's compensation insurance.

10. When indemnification provisions are included in a prime contract pursuant to the authority of this decision, the cognizant Contracting Officer shall immediately submit directly to the Contract Adjustment Board a report referencing this decision and containing the information required by NFS 18-50.403-70, Reporting and records requirements.

11. The actual or potential cost, if any, of the actions hereby authorized is impossible to estimate since it is contingent upon the remote possibility of an occurrence and extent of loss resulting from certain space activities which malfunction. Such an event may never occur; however, should a major incident occur, millions of dollars of damage could result.

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RICHARD H. TRULY,
Administrator.

Date: November 5, 1989.

CONTRACTORS INDEMNIFIED DURING CALENDAR YEAR 1989

Name of Contractor: Rockwell International Corporation

Date: March 15, 1989.

Affected NASA Contract(s): NAS10-11500—Shuttle Orbiter Logistics Operation.

Name of Contractor: McDonnell Douglas Corporation.

Date: May 5, 1989.

Affected NASA Contract(s): NAS10-11400—Payload Ground Operations.

Name of Contractor: Rockwell International Corporation.

Date: June 23, 1989.

Affected NASA Contract(s): Because this coverage is time-limited, the following active Rockwell International Corporation contracts are extensions of previously approved coverage:

NAS1-15309—Provision of Advanced Composite Mechanical Properties Test Specimens for Long Duration Exposure Facility.

NAS8-36700—Space Shuttle System Integration Effort.

NAS8-40000—Space Shuttle Main Engine Design, Development, Test, and Evaluation and Related Support.

NAS9-14000, Schedules B, C, D, and E—Space Shuttle Orbiter Production and Spares; Related Support, Integration, and Hardware.

NAS9-17800—Space Shuttle Orbiter (OV-105) and System Upgrades and Improvements.

NAS9-18000—STS Flight Program Support.

NAS10-11500—Shuttle Orbiter Logistics Operation.

The following inactive Rockwell International Corporation contracts are being extended for time, because they provide coverage for hardware that is still flying:

NAS8-27980—Space Shuttle Main Engine Design, Development, Test, and Evaluation and Related Support.

NAS8-33711—Provisions of the Monodispere Latex Reactor.

NAS8-35140—STS System Integration Support to Marshall Space Flight Center.

NAS8-36131—Space Shuttle System Integration Effort to Marshall Space Flight Center.

NAS9-16577—Provision of OSTA-3.

NAS9-17104—Technical Launch Support Effort.

NAS9-17244—Advanced Orbiter Flight Evaluation Experiment Design Development, Manufacture, Integration, and Certification for Installation on the Shuttle Orbiter.

NAS9-14000, Schedules A, K, and L—Shuttle Orbiter Design, Development, Test, Evaluation and Production and Related Support and Integration; Orbiter Sustaining Engineering, and Related Hardware; Orbiter Logistics Operation.

NAS10-9100—Technical Launch Support Effort.

Name of Contractor: Lockheed Space Operations Company.

Date: August 31, 1989.

Affected NASA Contract(s): NAS10-10900—Shuttle Processing.

Name of Contractor: General Dynamics Corporation, Space Systems Division.

Date: September 8, 1989.

Affected NASA Contract(s): NAS3-25059—Launch of Atlas/Centaur AC-68R Carrying FLTSATCOM F-8 Satellite.

Name of Contractor: Rockwell International Corporation.

Date: December 14, 1989.

Affected NASA Contract(s):

NAS9-18400—Orbiter Operations Support.

NAS9-18500—Orbiter Systems Integration.

NAS9-18600—Orbiter Payload Integration.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2802. A letter from the Comptroller General of the United States, transmitting a review of the President's second special impoundment message for fiscal year 1990, pursuant to 2 U.S.C. 685 (H. Doc. No. 101-161); to the Committee on Appropriations and ordered to be printed.

2803. A letter from the Secretary of Energy, transmitting notification that the Department was unable to complete the required greenhouse gas data collection study by April 1989, and anticipate completion by May 1990; to the Committee on Appropriations.

2804. A letter from the Auditor, District of Columbia, transmitting a copy of his report entitled, "Analysis of Cash-Flow Projections for Miscellaneous Disbursements," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

2805. A letter from the Secretary of Health and Human Services, transmitting the 1988 report on the consolidated Federal programs under the maternal and child health services block grant, pursuant to 42 U.S.C. 706(a)(2); to the Committee on Energy and Commerce.

2806. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to provide for the financing of the retirement system of the Public Health Service Commissioned Corps on an actuarially sound basis; to the Committee on Energy and Commerce.

2807. A letter from the Chief Special Master, Office of the Special Masters, U.S. Claims Court, transmitting the annual report on the activities of the Office of the Special Masters; to the Committee on Energy and Commerce. March 21, 1990.

2808. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting reports on policy toward recent armed incursions into Israel by PLO-affiliated groups; PLO compliance with its commitments; policies of Arab States toward the peace process, pursuant to Public Law 101-246, section 804(a), (b), (c); to the Committee on Foreign Affairs.

2809. A letter from the Director, Selective Service System, transmitting the agency's report of its activities under the Freedom of Information Act, calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2810. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the calendar year 1989 report on contractual actions to facilitate the national defense, pursuant to 50 U.S.C. 1431; to the Committee on Government Operations.

2811. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 26, United States Code, to require the Secretary of the Treasury to disclose certain information from the files of the Internal Revenue Service to the Secretary of Veterans Affairs for the purpose of verifying entitlement to, and determining the correct amount of, title 38, United States Code, pension benefits; to the Committee on Ways and Means.

2812. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; jointly, to the Committees on Public Works and Transportation and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 4014. A bill to amend Public Law 101-86 for purposes of carrying out the 1990 decennial census of population, and for other purposes (Rept. 101-426, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI (for himself, Mr. ARCHER, Mr. GIBBONS, and Mr. CRANE):

H.R. 4328. A bill to authorize appropriations for fiscal years 1991 and 1992 for the customs and trade agencies, and for other purposes; to the Committee on Ways and Means.

By Mr. ROE (for himself, Mr. WALKER, Mr. BROWN of California, Mrs. MORELLA, Mr. SCHEUER, Mr. RITTER, Mr. WALGREN, Mr. SCHIFF, Mr. VALENTINE, Mr. NELSON of Florida, Mr. WOLPE, Mr. HALL of Texas, Mr. TORRICELLI, Mr. BRUCE, Mr. PERKINS, Mr. MCMILLEN of Maryland, Mr. PRICE, Mr. SKAGGS, Mr. COSTELLO, Mr. BROWDER, Mr. FAWELL, Mr. MINETA, Mr. HAYES of Louisiana, Mr. PACKARD, Mr. BUECHNER, Mr. VOLKMER, Mr. NAGLE, Mr. STALLINGS, Mr. BOEHLERT, Mr. HENRY, Ms. SCHNEIDER, Mrs. LLOYD, Mr. HAMILTON, Mr. LEWIS of Florida, and Mr. SENSENBRENNER):

H.R. 4329. A bill to enhance the position of U.S. industry through application of the results of Federal research and development, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. HAWKINS (for himself, Mr. FORD of Michigan, Mr. GAYDOS, Mr. CLAY, Mr. MILLER of California, Mr. MURPHY, Mr. KILDEE, Mr. WILLIAMS, Mr. MARTINEZ, Mr. OWENS of New York, Mr. HAYES of Illinois, Mr. PERKINS, Mr. SAWYER, Mr. PAYNE of New Jersey, Mrs. LOWEY of New York, Mr. POSHARD, Mrs. UNSOELD, Mr. WASHINGTON, Mr. RAHALL, Mr. FUSTER, Mr. JONTZ, Mr. PANETTA, Mr. ATKINS, Mr. BONIOR, Mr. MONTGOMERY, Mrs. MORELLA, and Mr. NEAL of Massachusetts):

H.R. 4330. A bill to establish school-based and higher education community service programs, to establish youth service programs, and for other purposes; jointly, to the Committees on Education and Labor; Banking, Finance and Urban Affairs; Foreign Affairs; and Interior and Insular Affairs.

By Mr. BUECHNER:

H.R. 4331. A bill to require the National Science Foundation to establish a program of grants for the development and dissemination of learning technology; to the Committee on Science, Space, and Technology.

By Mr. COURTER:

H.R. 4332. A bill to direct the Administrator of the Environmental Protection Agency to carry out a study and make recommendations to the Congress with respect to the development of uniform standards and definitions of plastic degradability; to the Committee on Energy and Commerce.

By Mr. HUGHES (for himself, Mr. ROE, Mr. DWYER of New Jersey, Mr. SAXTON, Mr. MANTON, Mr. TALLON, Mr. CARPER, Mr. FOGLIETTA, Mr. GALLO, Mr. GUARINI, Mr. PALLONE, Mr. COURTER, Mr. KOSTMAYER, Mr. SMITH of New Jersey, Mr. HOCHBRUECKNER, Mr. PAYNE of New Jersey, Mrs. ROUKEMA, Mr. BORSKI, Mrs. SAIKI, Mr. TORRICELLI, and Mr. RINALDO):

H.R. 4333. A bill to establish the Clean Coastal Beaches Council to develop a program for monitoring coastal zone recreation waters; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mr. DORGAN of North Dakota:

H.R. 4334. A bill to amend the Internal Revenue Code of 1986 to deny the deduction for interest on junk bonds used in hostile takeovers; to the Committee on Ways and Means.

H.R. 4335. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain high yield discount obligations; to the Committee on Ways and Means.

By Mr. GEREN (for himself, Mr. SPENCE, Mr. HOAGLAND, Mr. BATEMAN, Mr. MOLLOHAN, Mr. BEREUTER, Mr. RAHALL, Mr. BRYANT, Mr. FROST, Mr. BUSTAMANTE, Mr. PARKER, Mrs. SAIKI, Mr. HALL of Texas, Mr. STENHOLM, Mr. COLEMAN of Texas, Mr. WASHINGTON, Mr. ANDREWS, Mr. BILBRAY, Mr. BARNARD, Mr. CHAPMAN, Mrs. SMITH of Nebraska, Mr. OWENS of Utah, Mr. HAYES of Louisiana, Mr. ESPY, Mr. COMBEST, Mr. GONZALEZ, Ms. KAPTUR, Mr. ROSE, Mr. MONTGOMERY, Mr. VALENTINE, Mr. JONES of North Carolina, Mr. AKAKA, Mr. RAVENEL, Mr. LOWERY of California, Ms. SLAUGHTER of New York, Mr. WISE, Mr. SARPALIUS, Mr. GRAY, Mr. LEATH of Texas, Mr. ARMEY, Mr. ANTHONY, Mr. LAUGHLIN, and Mr. NEAL of North Carolina):

H.R. 4336. A bill to amend the Public Health Service Act with respect to the size of the service areas of qualified organ procurement organizations, and to provide for the establishment of a temporary advisory committee to make certain recommendations with respect to the procurement and transplantation of human organs; to the Committee on Energy and Commerce.

By Mr. GILLMOR:

H.R. 4337. A bill to provide for a visitor's center and other facilities at Perry's Victory and International Peace Memorial in the State of Ohio, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HERTEL:

H.R. 4338. A bill to provide that no funds may be obligated for expansion of the Detroit City Airport, MI; to the Committee on Public Works and Transportation.

By Mr. JOHNSON of South Dakota (for himself, Mr. EMERSON, Mr. DORGAN of North Dakota, Mr. STANGELAND, and Mr. STALLINGS):

H.R. 4339. A bill to amend the Agricultural Act of 1949 to provide a support program for producers of sunflower seed, canola, rapeseed, safflower seed, and flaxseed; to the Committee on Agriculture.

By Mr. KASTENMEIER (for himself, Mr. SYNAR, and Mr. EDWARDS of California):

H.R. 4340. A bill to amend title 18, United States Code, to protect the privacy of telephone users; to the Committee on the Judiciary.

By Mr. LEATH of Texas (for himself, Mr. MONTGOMERY, Mr. LEHMAN of Florida, and Mrs. PATTERSON):

H.R. 4341. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make grants (in conjunction with the Secretary of Defense) for the establishment of research centers at qualifying medical schools; jointly, to the Committee on Veterans' Affairs and Energy and Commerce.

By Mr. LEWIS of Florida (for himself, Mr. HATCHER, Mr. EMERSON, Mr. GRANT, and Mr. PANETTA):

H.R. 4342. A bill recognizing the importance of the domestic fruit and vegetable industry in U.S. farm policy, and the importance of fruits and vegetables to the diets of the American people; requiring the Secretary of Agriculture to conduct a study of the domestic fruit and vegetable industry; and amending the Perishable Agricultural Commodities Act; to the Committee on Agriculture.

By Mr. MATSUI (for himself and Mrs. SCHROEDER):

H.R. 4343. A bill to provide, with funds available to the Department of Defense, for employment retraining of civilian personnel at military installations to be closed or realigned; jointly, to the Committees on Armed Services and Education and Labor.

By Ms. OAKAR:

H.R. 4344. A bill to amend title XVIII of the Social Security Act to provide increased protection against fraud and abuse with respect to the marketing and selling of Medicare supplemental policies, to establish a grant program for establishing toll-free hotlines to provide individuals with information concerning Medicare supplemental insurance, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. OBERSTAR (for himself, Mr. CLINGER, and Ms. OAKAR):

H.R. 4345. A bill to amend title 5, United States Code, to provide that service performed by air traffic second-level supervisors and managers be made creditable for retirement purposes; to the Committee on Post Office and Civil Service.

By Mr. RANGEL (for himself, Mr. AKAKA, Mr. FAUNTROY, Mr. GUARINI, Mr. LEVINE of California, Mr. MAZZOLI, Mr. MFUME, Mr. SMITH of Florida, Mr. STARK, Mr. TOWNS, and Mr. TRAFICANT):

H.R. 4346. A bill to amend title 18, United States Code, to prohibit certain exports of fully automatic or semiautomatic assault weapons; to the Committee on the Judiciary.

By Mr. RIDGE:

H.R. 4347. A bill to provide for the establishment of a wetland reserve program on agricultural land; to the Committee on Agriculture.

By Mr. RIDGE (for himself, Ms. SLAUGHTER of New York, Mr. BOEHLERT, and Mr. SMITH of Vermont):

H.R. 4348. A bill to amend the Agricultural Act of 1949 to modify the Price Support Program applicable to milk during fiscal years 1991 through 1995; to the Committee on Agriculture.

By Mr. SABO:

H.R. 4349. A bill to amend the Internal Revenue Code of 1986 to revise the Medicare tax, to impose a health insurance enhancement tax, and to set aside a portion of the revenues from such taxes for low-income and catastrophic health insurance programs; to the Committee on Ways and Means.

By Mrs. SAIKI (for herself and Mrs. BENTLEY):

H.R. 4350. A bill to prescribe the conditions under which contractors receiving operating-differential subsidy or their affiliates may engage in coastwise or intercoastal trade; to the Committee on Merchant Marine and Fisheries.

By Mr. SLATTERY (for himself, Mr. LENT, and Mr. RITTER):

H.R. 4351. A bill to make amendments to the Liability Risk Retention Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DENNY SMITH (for himself, Mr. AUCOIN, and Mr. DEFAZIO):

H.R. 4352. A bill to authorize the Secretary of the Army to release the reversionary interest of the United States in certain portions of Camp Withycombe, Clackamas County, OR, to the State of Oregon in exchange for a contingent interest in Camp Rilea, Clatsop County, OR; to the Committee on Armed Services.

By Mr. STANGELAND (for himself, Mr. MADIGAN, Mr. HUCKABY, Mr. SCHULZE, Mr. RIDGE, and Mr. WEBER):

H.R. 4353. A bill to provide for the enrollment of wetlands in the Conservation Reserve Program, and for other purposes; to the Committee on Agriculture.

By Mr. UDALL (for himself, Mr. YOUNG of Alaska, Mr. RHODES, Mr. CAMPBELL of Colorado, Mr. WILLIAMS, Mr. RICHARDSON, Mr. DEFAZIO, Mr. FALEOMAVAEGA, Mr. MCDERMOTT, and Mr. JOHNSON of South Dakota):

H.R. 4354. A bill to amend the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.); jointly, to the Committees on Interior and Insular Affairs, Education and Labor, Energy and Commerce, and the Judiciary.

By Mr. WALSH:

H.R. 4355. A bill to amend section 1126 of title 10, United States Code, to provide for the furnishing of gold star lapel buttons to the dependents of a member of the Armed Forces who dies as a result of an injury or illness sustained in the line of duty; to the Committee on Armed Services.

By Mr. HAYES of Louisiana:

H.J. Res. 526. Joint resolution designating the week of October 9 through 13, 1990, as "National Health Care Food Service Week"; to the Committee on Post Office and Civil Service.

By Mr. PANETTA:

H.J. Res. 527. Joint resolution designating May 20, 1990, as "Peace Day"; to the Committee on Post Office and Civil Service.

By Mr. BROWN of Colorado (for himself, Mr. BROOMFIELD, Mr. CLARKE, Mr. LAGOMARSINO, Mrs. MARTIN of Illinois, Mr. MCCLOSKEY, Mr. ROWLAND of Connecticut, Mr. SMITH of New Hampshire, Mr. SOLARZ, and Mr. WOLPE):

H. Con. Res. 291. Concurrent resolution expressing the sense of the Congress regarding the need to account as fully as possible for Americans still missing or otherwise unaccounted for in Southeast Asia and to secure the return of Americans who may still be held captive in Southeast Asia; to the Committee on Foreign Affairs.

By Mr. PACKARD:

H. Res. 361. Resolution expressing the sense of the House of Representatives that at least one-half of any future reduction in

defense spending shall be used for deficit reduction; to the Committee on Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 4 of rule XXII,

By Mr. McDADE:

H.R. 4356. A bill for the relief of John Barren; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 74: Mr. DEFAZIO.

H.R. 84: Mr. SOLARZ and Mr. WALGREN.

H.R. 283: Mr. KLECZKA.

H.R. 290: Mr. CHANDLER.

H.R. 303: Mr. PEASE and Mr. THOMAS of Wyoming.

H.R. 467: Mr. WASHINGTON.

H.R. 505: Mr. WASHINGTON.

H.R. 545: Mr. MARKEY, Mr. POSHARD, Mr. PORTER, and Mr. SCHEUER.

H.R. 857: Mr. WAXMAN and Mr. TOWNS.

H.R. 995: Mr. FISH and Mr. EMERSON.

H.R. 1200: Mr. YOUNG of Alaska, Mr. MARLENEE, Mr. ANDERSON, Mr. GRANDY, Mr. SWIFT, Mr. GALLEGLY, Mr. HALL of Texas, Mr. BROWN of California, Mrs. SAIKI, Mr. LIVINGSTON, Mr. MOORHEAD, Mr. MILLER of California, Mr. BERMAN, Mr. LOWERY of California, Mr. HAYES of Louisiana, Mr. FAUNTROY, and Mr. TAUZIN.

H.R. 1383: Mr. CROCKETT.

H.R. 1438: Mr. WALSH.

H.R. 1746: Ms. PELOSI.

H.R. 1875: Mr. PETRI, Mr. HEFLEY, Mr. STAGGERS, and Mr. BLILEY.

H.R. 2121: Mr. SKELTON, Mr. HILER, and Mr. FRANK.

H.R. 2192: Mr. IRELAND.

H.R. 2460: Mr. FISH and Mr. LANTOS.

H.R. 2617: Mr. DEFAZIO.

H.R. 2618: Mr. DEFAZIO.

H.R. 2700: Mr. GILLMOR.

H.R. 2740: Mr. CONTE.

H.R. 2761: Mr. MORRISON of Connecticut.

H.R. 2801: Mr. HYDE.

H.R. 2955: Mr. CARDIN.

H.R. 3423: Mr. ROWLAND of Connecticut.

H.R. 3498: Mr. MORRISON of Connecticut, Mr. CHANDLER, Mr. ROWLAND of Connecticut, Mr. GEREN, and Mr. SHUMWAY.

H.R. 3500: Mr. JONES of Georgia.

H.R. 3511: Mr. WELDON.

H.R. 3539: Mr. ANNUNZIO.

H.R. 3571: Mr. ROE and Mr. DWYER of New Jersey.

H.R. 3582: Mr. CHAPMAN and Mr. HERGER.

H.R. 3732: Mr. MCMILLEN of Maryland, Mr. GEREN, Mr. NEAL of North Carolina, Mr. ROE, Mr. HASTERT, and Mr. STAGGERS.

H.R. 3757: Mr. LEVINE of California.

H.R. 3768: Mr. BAKER.

H.R. 3805: Mr. JONES of Georgia, Mr. HAYES of Illinois, and Mr. ECKART.

H.R. 3821: Mr. SAVAGE, Mr. MARTINEZ, and Mr. FOGLIETTA.

H.R. 3859: Mr. CONYERS, Mr. POSHARD, and Mr. MOAKLEY.

H.R. 3862: Mr. TOWNS, Mr. BOSCO, Mrs. MORELLA, Mr. WISE, Mr. TORRICELLI, Mr. DORNAN of California, and Mr. MCDERMOTT.

H.R. 3880: Mr. COOPER, Mr. GOSS, Mr. RAHALL, and Mr. BILIRAKIS.

H.R. 3922: Mr. BONIOR, Mr. WHEAT, Mr. ENGLISH, Mr. WOLPE, and Mr. NIELSON of Utah.

H.R. 3923: Mr. MADIGAN, Mr. MARLENEE, Mr. JAMES, Mr. LENT, Mr. ROBINSON, and Mr. WELDON.

H.R. 3929: Mr. NEAL of Massachusetts and Mr. BEVILL.

H.R. 3934: Mr. PENNY.

H.R. 3979: Mr. LAGOMARSINO.

H.R. 3982: Mr. GONZALEZ, Mr. KANJORSKI, Mr. HUNTER, Mr. OXLEY, Mr. GALLEGLY, Mr. CHAPMAN, Mr. FRANK, Mr. KYL, Mr. BARNARD, Mr. GALLO, Mr. BURTON of Indiana, Mr. HYDE, Mr. NEAL of Massachusetts, Mrs. JOHNSON of Connecticut, Mr. LEACH of Iowa, Mr. BAKER, Mr. ROTH, Mr. NEAL of North Carolina, Mr. PRICE, Mr. RIDGE, Mr. MCCANDLESS, Mr. LAGOMARSINO, Mrs. ROUKEMA, and Mr. SHUMWAY.

H.R. 3988: Mr. FRENZEL and Mr. AUCOIN.

H.R. 4042: Mr. ROWLAND of Connecticut and Mr. YATRON.

H.R. 4059: Mr. BATES, Mr. BEILENSON, Mrs. BOXER, Mr. BRUCE, Mr. BUSTAMANTE, Mr. DORGAN of North Dakota, Mr. DWYER of New Jersey, Mr. EDWARDS of California, Mr. HAWKINS, Mr. HERGER, Ms. LONG, Mr. MARTINEZ, Mr. PEASE, Mr. TORRES, and Mr. TOWNS.

H.R. 4080: Mrs. UNSOELD.

H.R. 4110: Mr. DYMALLY, Mr. RUSSO, Ms. SLAUGHTER of New York, Mr. SOLARZ, Mr. FLAKE, Mr. WHEAT, Mr. FOGLIETTA, Mr. BILBRAY, Mr. DWYER of New Jersey, Mr. HAYES of Illinois, Ms. KAPTUR, Mr. KOSTMAYER, Mr. BRUCE, Mr. CONYERS, and Mr. HARRIS.

H.R. 4130: Mr. BUSTAMANTE, Mr. ROYBAL, Mr. SMITH of Vermont, Mr. FAUNTROY, Mr. PENNY, Mr. RICHARDSON, Mr. WHEAT, Mr. RANGEL, Mr. MCNULTY, Mr. BROWN of California, and Mr. LEHMAN of Florida.

H.R. 4144: Ms. LONG, Mr. ACKERMAN, Mr. FRANK, Mr. LEVINE of California, Mr. FAZIO, and Mr. LEWIS of Georgia.

H.R. 4146: Mr. SCHULZE, Mr. CAMPBELL of California, and Mr. DANNEMEYER.

H.R. 4159: Mr. HAYES of Illinois.

H.R. 4164: Mr. STARK and Mr. MARTINEZ.

H.R. 4184: Mr. SANGMEISTER and Mr. MANTON.

H.R. 4261: Mr. RANGEL, Mr. JAMES, and Mr. BAKER.

H.R. 4264: Mr. HANSEN, Ms. PELOSI, Mr. NEAL of North Carolina, Mr. ESPY, Mr. DE LUGO, Mrs. LLOYD, Mr. FAUNTROY, Mr. JONES of Georgia, Mr. EMERSON, Ms. SLAUGHTER of New York, Mr. OWENS of New York, Mr. MONTGOMERY, Mr. GEREN, Mr. DE LA GARZA, Mr. FROST, and Mr. NIELSON of Utah.

H.J. Res. 121: Mr. VENTO and Mr. KASICH.

H.J. Res. 180: Mr. ROYBAL and Mr. LAFALCE.

H.J. Res. 413: Mr. ALEXANDER, Mr. BERMAN, Mr. BROOKS, Mr. CONTE, Mr. COURTER, Mr. DEFAZIO, Mr. FORD of Tennessee, Mr. HALL of Ohio, Mr. HERGER, Mr. HILER, Mr. HOAGLAND, Mr. HOPKINS, Mr. HUCKABY, Mr. KENNEDY, Mr. KLECZKA, Mr. LEHMAN of Florida, Mr. LIGHTFOOT, Mr. LIVINGSTON, Mr. MATSUI, Mr. MRAZEK, Mr. ORTIZ, Mr. OWENS of Utah, Mr. PALLONE, Mr. RINALDO, Mr. RITTER, Mr. ROBINSON, Mr. SANGMEISTER, Mr. SKELTON, Mr. SMITH of New Jersey, Mr. SOLARZ, Mr. STALLINGS, Mr. STANGELAND, Mr. TAUKE, Mr. TAYLOR, Mr. TRAXLER, Mr. VALENTINE, Mr. WALGREN, Mr. WAXMAN, Mr. WEBER, Mr. WHITTEN, Mr. WOLPE, and Mr. WYDEN.

H.J. Res. 452: Mr. SMITH of Florida, Mr. SMITH of Vermont, Mr. DONNELLY, Mr. BONIOR, Mr. CONTE, Mr. ROWLAND of Connecticut, Mr. BURTON of Indiana, Mr. SKELTON, Mr. WATKINS, Mr. KLECZKA, Mr. GEJDENSON, Mr. MADIGAN, Mr. CLEMENT, Mr. LEHMAN of Florida, and Mr. ROBERTS.

H.J. Res. 463: Mr. MFUME, Mrs. BYRON, Mr. PALLONE, Mr. HORTON, Mr. LAGOMARSINO, Mr. TOWNS, Mr. BILIRAKIS, Mr. HAMMERSCHMIDT, Mr. PURSELL, Mr. EMERSON, Mr. DWYER of New Jersey, Mr. SKEEN, Mr. WALSH, and Mr. OWENS of Utah.

H.J. Res. 464: Mr. BLAZ, Mr. CHAPMAN, Mr. COBLE, Mr. DYSON, Mr. ESPY, Mr. FAUNTROY, Mr. GALLEGLY, Mr. HOYER, Mr. KASICH, Mr. MATSUI, and Mr. WILSON.

H.J. Res. 475: Mrs. MEYERS of Kansas, Ms. LONG, Mr. LAGOMARSINO, Mr. GREEN, Mr. GALLEGLY, Mr. COX, Mr. MURPHY, Mr. YATRON, Mr. FAZIO, Mrs. COLLINS, Mr. HYDE, Mr. VENTO, Mr. STUDDS, Mr. MAVROULES, Mr. CLEMENT, Mrs. BENTLEY, Mr. BUECHNER, Mr. COURTER, Mr. LEWIS of California, Mr. HANSEN, Mr. BLAZ, Mr. HALL of Ohio, Mr. HEFNER, Mr. LEVIN of Michigan, Mrs. LOWEY of New York, Mr. DAVIS, Mr. DUNCAN, Mr. GINGRICH, Mr. TOWNS, Mr. MINETA, Mr. FISH, Mr. COBLE, Mr. MARKEY, Mr. KLECZKA, Mrs. MORELLA, Mr. BAKER, Mr. LANTOS, Ms. SLAUGHTER of New York, Mr. BROWN of Colorado, Mr. POSHARD, Mr. JENKINS, Mr. EMERSON, Mr. FRANK, Mr. HUCKABY, Mr. BALLENGER, Mr. LEVINE of California, Mr. AKAKA, and Mr. NOWAK.

H.J. Res. 476: Mr. STANGELAND.

H.J. Res. 492: Mr. MARTINEZ, Mr. WALSH, Mrs. BOXER, Mr. SPENCE, Mr. VOLKMER, Mr. FAZIO, Mr. EVANS, Mr. SARPALIUS, Mr. DARDEN, Mr. LANCASTER, Mr. BAKER, Mr. LIVINGSTON, Mr. COOPER, Mr. GEREN, Mr. EMERSON, and Mr. FISH.

H.J. Res. 495: Mr. GRAY, Mr. PAYNE of New Jersey, Mr. VALENTINE, Mr. GEREN, Mr. WASHINGTON, Mr. FISH, Mr. LEWIS of Georgia, and Mr. MOAKLEY.

H.J. Res. 497: Mr. CARPER, Mr. MCNULTY, Mr. EMERSON, Mr. WISE, Mr. MOAKLEY, Mr. TANNER, Ms. SLAUGHTER of New York, Mr. VALENTINE, Mr. LENT, Mr. NOWAK, Mr. WYDEN, Mr. SMITH of New Hampshire, Mr. DENNY SMITH, Mr. ROBERT F. SMITH, Mr. CLEMENT, Mr. HOYER, Mr. BLILEY, Mr. AUCOIN, Mr. PICKETT, Mr. MILLER of Ohio, Mr. BOEHLERT, Mr. BUNNING, Mr. GORDON, Mr. GILMAN, Mr. SISISKY, Mr. MARTIN of New York, Mrs. VUCANOVICH, Mr. MARKEY, and Mr. MCCOLLUM.

H.J. Res. 500: Mr. SCHUMER, Mr. FROST, Mr. EARLY, Mr. LAUGHLIN, Mr. BATES, Mr. MORRISON of Connecticut, Mr. DONNELLY, Mr. BROWN of Colorado, Mr. RAVENEL, Mr. SANGMEISTER, Mr. DERRICK, Mr. RAHALL, Mr. THOMAS of Georgia, Mr. GUNDERSON, Mr. KASICH, Mr. DAVIS, Mr. VENTO, Mr. WILSON, Mr. MCHUGH, Mr. SABO, Mr. TALLON, Mr. BALLENGER, Mr. FOGLIETTA, Mr. GILMAN, Mr. PARRIS, Mr. UPTON, Mr. HOUGHTON, Mr. BOSCO, Mr. PETRI, Mr. WEBER, Mr. DARDEN, Mr. EMERSON, Mr. CARDIN, Mr. PAYNE of New Jersey, Mr. PAYNE of Virginia, Mr. VALENTINE, Mrs. SAIKI, Mr. MAZZOLI, Mr. JONES of North Carolina, and Mr. DELLUMS.

H.J. Res. 522: Mr. SHUMWAY, Mr. EMERSON, Mr. NIELSON of Utah, and Mr. LEWIS of Georgia.

H.J. Res. 524: Mr. MCNULTY, Mr. ROE, and Mr. KASICH.

H. Con. Res. 66: Mr. FEIGHAN.

H. Con. Res. 249: Mr. SMITH of New Jersey.

H. Con. Res. 265: Mr. GALLEGLY.

H. Con. Res. 273: Mr. FORD of Michigan, Mr. HOCHBRUECKNER, Mr. NOWAK, Mr. PALLONE, and Mr. CARPER.

H. Con. Res. 290: Mr. BORSKI, Mr. DOUGLAS, Mr. FRANK, Mr. MANTON, Mr. MATSUI, Mr. SCHEUER, Mr. SCHUETTE, Mr. WEISS, Mr. LENT, Mr. MCGRATH, Mr. OWENS of New York, and Ms. ROS-LEHTINEN.

H. Res. 298: Mr. ROWLAND of Connecticut.

H. Res. 351: Mr. SHAW, Mr. GINGRICH, Mr. SMITH of Texas, Mr. CALLAHAN, Mr. DICKIN-

SON, Mr. DOUGLAS, Mr. DORNAN of California, Mr. HUTTO, Mr. STEARNS, Mrs. LLOYD, Mr. HALL of Texas, Mr. HYDE, Mr. COX, Mr. MCCOLLUM, Mr. BROOMFIELD, Mr. WALKER, Mr. DELAY, Mr. HUNTER, Mr. JACOBS, Mr. PURSELL, Mr. DONALD E. LUKENS, Mr. ROHRABACHER, Mr. GOODLING, Mrs. VUCANOVICH, Mr. NIELSON of Utah, Mr. TAUZIN, Mr. LIVINGSTON, Mr. IRELAND, Mr. WHITTAKER, and Mr. MILLER of Washington.

H. Res. 358: Mr. PANETTA, Mr. HANSEN, Ms. SLAUGHTER of New York, Mr. FRANK, Mr. DE LA GARZA, Mr. POSHARD, Mr. STUDDS, and Mr. BALLENGER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3581

By Mr. DE LA GARZA:

—Insert at the end of Title II the following:

SEC. . LOAN AND LOAN GUARANTEE ALLOCATION AND TRANSFER.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), as amended by section 201 of this Act, is amended by adding at the end the following:

"SEC. 362. LIMITED TRANSFER AUTHORITY OF LOAN AMOUNTS.

"(a) TRANSFER OF FUNDS.—If the sums appropriated for direct loans for the water and waste or community facility program authorized under section 306(a) and made available to the State under such program for the fiscal year are insufficient to enable the Secretary to provide the full amount of the assistance requested for a project specified in section 360(c)(4), the Secretary may transfer, subject to subsection (b), to one program from the other such program part or all of the sums appropriated for loans made available to the State for such other program.

"(b) LIMITATION ON LOAN AMOUNTS TRANSFERRED.—

"(1) AMOUNTS TRANSFERRED WITHIN A STATE.—With regard to each State, the amount of direct loan funds transferred from a program under this section shall not exceed the amount for such program left unobligated after obligating to each project in an application ranked higher in priority on the list described in section 361(b)(6) the full amount of assistance requested for each such project.

"(2) AMOUNTS TRANSFERRED ON A NATIONAL BASIS.—On a National basis, the amount of direct loan funds transferred in a fiscal year from a program under this section (after accounting for any offsetting transfers into such program) shall not exceed $90,000,000.

"SEC. 363. ALLOCATION AND TRANSFER OF LOAN GUARANTEE AUTHORITY.

"(a) ALLOCATION OF LOAN GUARANTEE AUTHORITY.—The Secretary shall allocate among the States the loan guarantee authority appropriated under the water and waste or community facility program authorized under section 306(a), and the business and industry loan program authorized under seciton 310B, in a manner similar to that used for the allocation of direct loan and grant funds appropriated for such programs, and that the Secretary determines to be fair, reasonable, and appropriate.

"(b) TRANSFER OF LOAN GUARANTEE AUTHORITY.—

"(1) IN GENERAL.—If the sums appropriated for loan guarantees and made available to the State under a program specified in subsection (a) for the fiscal year are insufficient to enable the Secretary to provide the full amount of the assistance requested for a project specified in section 360(c)(4), the Secretary may transfer to the program from the other such programs part or all of the sums appropriated for loan guarantees made available to the State for such other program for such fiscal year.

"(2) LIMITATION ON GUARANTEE AMOUNTS TRANSFERRED.—With regard to each State, the amount of loan guarantees transferred from a program under this section shall not exceed the amount for such program left unobligated after obligating to each project in an application ranked higher in priority on the list described in section 361(b)(6) the full amount of assistance requested for each such project.".

By Mr. GRANDY:

—Amend section 361(c)(1)(J) as follows:

On page 30, strike lines 10 through 17 and insert the following:

"(J) one of whom is appointed by the Governor of the State from either a statewide rural development organization or a statewide association of publicly-owned electric utilities, neither of which is described in any of subparagraphs (C) through (I);".

By Mr. STALLINGS:

—Page 93, after line 8, insert the following:

TITLE X—ENHANCING HUMAN RESOURCES

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Rural Economic Development and Education Partnership Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1001. Short title; table of contents.

Subtitle A—Rural Education and Business Development

Sec. 1011. Short title.

CHAPTER 1—RURAL ECONOMIC DEVELOPMENT AND EDUCATION PARTNERSHIP

Sec. 1021. Purposes.
Sec. 1022. Program of grants for rural economic development and education projects.
Sec. 1023. Consideration of projects by review panels.
Sec. 1024. Administration of grant program.
Sec. 1025. State allotment formula.
Sec. 1026. Limitations on authorization of appropriations.
Sec. 1027. Relationship to State law.
Sec. 1028. Regulations.
Sec. 1029. Definitions.

CHAPTER 2—BUSINESS DEVELOPMENT

Sec. 1031. Purposes.
Sec. 1032. Loans for business telecommunications partnerships.

Subtitle B—Miscellaneous Rural Telecommunications Provisions

Sec. 1051. Short title.
Sec. 1052. Rural telecommunications zones.
Sec. 1053. Grants for emergency public safety telephone answering systems.
Sec. 1054. Study on use of telecommunications infrastructure by businesses in rural areas.

Subtitle A—Rural Education and Business Development

SEC. 1011. SHORT TITLE.

This subtitle may be cited as the "Advanced Rural Telecommunications and Economic Development Act of 1990".

CHAPTER 1—RURAL ECONOMIC DEVELOPMENT AND EDUCATION PARTNERSHIP

SEC. 1021. PURPOSES.

The purposes of this chapter are to—

(1) improve rural schools and school systems to attract and keep industry in rural areas;

(2) fully utilize rural school facilities and personnel to provide needed social services to rural areas;

(3) involve rural school facilities and personnel in supporting and creating an expansion of businesses that provide new and enhanced employment opportunities for youth and other residents of rural areas; and

(4) provide educational service providers with access to advanced telecommunications services and computer networks for training and retraining of the workforce in order to improve job opportunities and the business environment in rural areas.

SEC. 1022. PROGRAM OF GRANTS FOR RURAL ECONOMIC DEVELOPMENT AND EDUCATION PROJECTS.

(a) IN GENERAL.—The Administrator shall make grants in accordance with this chapter to enable rural economic development and education partnerships to carry out rural economic and education projects.

(b) RURAL ECONOMIC DEVELOPMENT AND EDUCATION PROJECTS.—A project is eligible for a grant under this chapter if the project, at a minimum, is designed to—

(1) train displaced farm families and other natural resource-based workers, displaced homemakers and single parent heads of households, and other rural underemployed and unemployed citizens;

(2) use school facilities for the provision of health care, feeding programs, early childhood and elderly day care, and transportation of individuals residing in rural areas to essential services;

(3) provide adult literacy training and retraining programs for individuals residing in rural areas;

(4) involve students and teachers in support of entrepreneurial enterprises offering services or products not currently available in the rural area in which such persons reside;

(5) create enterprises between local businesses and educational institutions to improve schools and to sustain and expand business investment and economic activity in rural areas;

(6) provide training programs for guidance counselors which would enable such counselors to provide information to secondary school students in rural areas about postsecondary opportunities for such students to obtain training to sustain and expand business investment and economic activity in such areas; or

(7) provide instruction and other educational opportunities for rural school districts using interactive audio, video, and computer technologies between distant locations, including—

(A) acquiring, through lease or purchase—

(i) computer hardware and software;

(ii) audio and video equipment;

(iii) telecommunications terminal equipment; or

(iv) interactive video equipment;

(B) developing rural distance learning curricula or computer software; and

(C) providing technical assistance and instruction for the development or use of rural distance learning curricula.

(c) RURAL ECONOMIC DEVELOPMENT AND EDUCATION PARTNERSHIPS.—A partnership is

eligible for a grant under this chapter if the partnership—

(1) includes, at a minimum, a rural school district, a regional educational laboratory, and—

(A) in the case of a partnership established to carry out an activity described in paragraph (1), (2), (3), (4), (5), or (6) of subsection (b), an institution of higher education; or

(B) in the case of a partnership established to carry out an activity described in subsection (b)(7), an educational communications entity;

(2) is governed by an agreement which provides that—

(A) in the case of a partnership established to carry out an activity described in paragraph (1), (2), (3), (4), (5), or (6) of subsection (b), an institution of higher education in the partnership shall be responsible for—

(i) the overall administration of any project with respect to which a grant is made under this chapter; and

(ii) accounting for the funds of such projects;

(B) in the case of a partnership established to carry out an activity described in subsection (b)(7), a single member of the partnership shall be responsible for—

(i) the overall administration of any project with respect to which a grant is made under this chapter; and

(ii) accounting for the funds of such projects; and

(C) in the case of any partnership, a regional educational laboratory in the partnership shall be responsible for research-based technical assistance that will increase the probability that the school-based program will be successful; and

(3) submits to the Administrator an application which meets the requirements of subsection (d).

(d) APPLICATION REQUIREMENTS.—Each application by a partnership for a grant under this chapter shall include—

(1) a detailed explanation of the project for which the grant is requested;

(2) a description of other sources of funds for the project and a 4-year financial operating budget forecast for the project;

(3) a description of the manner in which the partnership intends to use the grant;

(4) an assurance that the partnership will not use the grant in any manner not described in the approved application for the grant;

(5) in the case of an application with respect to a project that includes any activity described in subsection (b)(7)—

(A) a copy of a binding commitment entered into between the partnership and each entity which is legally permitted to provide, and from which the partnership is to obtain, the telecommunications services and facilities required for the project, which stipulates that if the partnership receives the grant the entity will provide such telecommunications services and facilities in the area served by the entity within a reasonable time and at a charge which is in accordance with State law;

(B) an assurance that the partnership will use not less than 25 percent of the amount of the grant for instructional curriculum development and programming (including programming or software systems development to assist students, instructors, or teachers at elementary and secondary schools and at adult and vocational education and training centers), with priority given to programs in mathematics, science, writing skills, and foreign languages.

(6) a copy of all agreements governing the division of functions within the partnership;

(7) a description of how the project will be evaluated; and

(8) such other information as the Administrator may reasonably require.

SEC. 1023. CONSIDERATION OF PROJECTS.

(a) REVIEW OF APPLICATIONS.—

(1) REVIEW BY ADMINISTRATOR.—The Administrator shall—

(A) review each application submitted pursuant to section 1022(c)(3);

(B) determine whether or not the application meets the requirements of section 1022(d);

(C) approve each application which meets such requirements;

(D) disapprove each application which fails to meet such requirements; and

(E) transmit each approved application to the review panel of the State in which the partnership which submitted the application intends to implement the project described in the application.

(2) REVIEW BY STATE REVIEW PANELS.—

(A) IN GENERAL.—The review panel of each State shall examine each application transmitted to the review panel pursuant to paragraph (1)(E) to determine the technical and economic adequacy and feasibility of the project described in the application and the likelihood that the project will succeed.

(B) CONSULTATION WITH STATE EDUCATIONAL AGENCY.—The review panel of each State shall provide the State educational agency (within the meaning of section 1471(23) of the Elementary and Secondary Education Act of 1965) with such information with respect to the applications transmitted pursuant to paragraph (1)(E) as the agency may request, and shall solicit and obtain the views of the agency with respect to the ranking of the applications.

(C) AUTHORITY TO OBTAIN INFORMATION FROM APPLICANTS.—Each partnership which submits an application for a grant under this chapter shall provide the review panel of the State in which the partnership intends to implement the project described in the application such information as the review panel may reasonably request to aid in reviewing the application.

(D) AUTHORITY TO REQUEST APPLICANTS TO MODIFY PROJECTS.—The review panel may, before final consideration of the an application of a partnership for a grant under this chapter, request the partnership to modify the project described in the application.

(b) RANKING OF APPLICATIONS.—

(1) IN GENERAL.—The review of each State shall rank, pursuant to a written policy and criteria, the applications that the review panel receives during any fiscal year for grants under this chapter, in an order which takes into account—

(A) the results of the review conducted under subsection (a)(2);

(B) the views of the State educational agency referred to in subsection (a)(2)(B);

(C) the extent to which the projects described in the applications would promote any area plan (as defined in section 360(b)(1) of the Consolidated Farm and Rural Development Act) developed for the areas in which the projects are to be implemented;

(D) all of the criteria set forth in section 361(b)(3) of such Act, without regard to the character of the projects described in the applications; and

(E) in the case of an application which describes a project which would duplicate existing services, the reasons therefor.

(2) GROUPING OF APPLICATIONS.—The review panel shall separate into 2 groups the applications received during a fiscal year. The 1st group shall consist of the applications received during the 1st 6 months of the fiscal year. The 2nd group shall consist of the applications received during the 2nd 6 months of the fiscal year.

(3) COMPETITION AMONG APPLICATIONS.—The review panel shall consider each application in a group to be competing only with the other applications in the group.

(4) Written policy and criteria.—

(A) IN GENERAL.—Subject to subparagraph (B), the review panel shall develop the written policy and criteria to be used to rank applications, in the same manner as the review panel develops the written policy and criteria used for purposes of section 361(b)(3) of the Consolidated Farm and Rural Development Act.

(B) PROHIBITION AGAINST DEVELOPMENT OR ACQUISITION OF TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The policy and criteria developed under subparagraph (A) shall require that the project described in an application not include the development or acquisition of telecommunications transmission facilities.

(c) TRANSMITTAL OF RANKED APPLICATIONS.—A review panel in a State shall transmit to the State coordinator appointed pursuant to section 360(b)(3)(B) of the Consolidated Farm and Rural Development Act each list of applications ranked pursuant to subsection (b) of this section, in the same manner in which lists of applications ranked pursuant to section 361(b) of the Consolidated Farm and Rural Development Act are transmitted to the State coordinator pursuant to such section 361. The State coordinator shall transmit to the Administrator each such list received by the State coordinator.

SEC. 1024. ADMINISTRATION OF GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS TO ELIGIBLE PROJECTS.—The Administrator shall, with respect to each list transmitted by the State coordinator of a State pursuant to section 1023(c)—

(1) review the list and determine whether—

(A) each project and partnership described in an application in the list meets the requirements of section 1022; and

(B) the partnership proposing the project is committed to the continuation or successful completion of the project;

(2) remove from the list any application for a project if the project, the partnership, or the application proposing the project does not meet the requirements described in paragraph (1); and

(3) subject to the availability of funds allotted to the State under section 1025, make grants to eligible projects in the applications remaining in the list after the list has (if necessary) been modified pursuant to paragraph (2), giving great weight to the order in which the applications for such projects are ranked by the review panel under section 1023(b).

(b) REPORT REQUIRED IF ADMINISTRATOR DETERMINES TO FUND PROJECTS OTHER THAN AS RECOMMENDED BY REVIEW PANEL.—If the Administrator determines to make grants to projects in a State other than in the manner recommended by the review panel of the State, the Administrator—

(1) within 10 days after making such determination, shall submit to the review panel, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry

of the Senate a report on the reasons for making grants to projects other than in the manner so recommended; and

(2) shall not make such grants before the end of the 7-day period beginning on the date the review panel and such committees have received such report.

(c) MONITORING OF USE OF GRANTS.—The Administrator shall take such steps as may be necessary to ensure that the grants made under this chapter are used in accordance with the approved grant applications.

(d) INFORMATIONAL EFFORTS.—The Administrator shall establish and implement procedures to inform providers of educational services, local governments, businesses, and residents in rural areas about the grant program established by this chapter, including application procedures and deadlines.

(e) PROGRAM EVALUATION.—

(1) REPORT REQUIRED.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Administrator, in consultation with the Secretary of Education, shall prepare a report on the grant program established by this chapter and the social and economic effects of the program.

(2) CONTENTS.—The report required by this subsection shall include for the period covered by the report—

(A) a complete description of each project which has received a grant under this chapter;

(B) an evaluation of the achievements and failures of the grant program; and

(C) the long range plans to develop the grant program further.

(3) SUBMISSION OF REPORT.—The report required by this subsection shall be submitted to the Committee on Agriculture and the Committee on Education and Labor of the House of Representatives, to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Labor and Human Resources of the Senate, and to each review panel.

SEC. 1025. STATE ALLOTMENT FORMULA.

(a) FORMULA.—From the sums appropriated for any fiscal year to carry out this chapter, the Administrator shall allot to projects in any State for the fiscal year the sum of—

(1) an amount which bears the same ratio to ½ of such sums as—

(A) the nonurban population of the State, multiplied by the State's sparsity factor; bears to

(B) the nonurban population of the United States, multiplied by the sparsity factor for the United Stated (determined as if the United States were a single State); and

(2) an amount which bears the same ratio to ½ to such sums as—

(A) the nonurban population of the State, multiplied by the State's school sparsity index; bears to

(B) the nonurban population of the United States, multiplied by the average school sparsity index for the United States (determined as if the United States were a single State).

(b) PRIMARY DEFINITIONS.—As used in subsection (a):

(1) SPARSITY FACTOR.—The term "sparsity factor" means, with respect to a State, a number equal to the lesser of—

(A) 10; or

(B)(i) the number of children in the United States who have attained the age of 5 years and have not attained the age of 18 years, divided by the total area of the United States in square miles; divided by

(ii) the number of children in the State who have attained the age of 5 years and have not attained the age of 18 years, divided by the total area of the State in square miles.

(2) SCHOOL SPARSITY INDEX.—The term "school sparsity index" means, with respect to a State—

(A)(i) the number of children in the United States who have attained the age of 5 years and have not attained the age of 18 years; divided by

(ii) the number of public schools in the United States, multiplied by the total area of the United States in square miles; divided by

(B)(i) the number of children in the State who have attained the age of 5 years and have not attained the age of 18 years; divided by

(ii) the number of public schools in the State, multiplied by the total area of the State in square miles.

(c) SECONDARY DEFINITIONS.—As used in subsection (b):

(1) NONURBAN POPULATION.—The term "nonurban population" means the population of the State residing in nonurban areas, as determined by the Bureau of the Census on the basis of the most recently available data.

(2) PUBLIC SCHOOL.—The term "public school" means a public elementary or secondary school operated by a State or a local educational agency, as determined by the Secretary of Education.

(3) TOTAL AREA.—The term "total area" means with respect to a State, the land area of the State plus the water area of the State, as determined by the Bureau of the Census on the basis of the most recently available data.

(4) UNITED STATES.—The term "United States" means all of the States.

SEC. 1026. LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.

For grants under this chapter, there are authorized to be appropriated to the Administrator $20,000,000 for each fiscal year.

SEC. 1027. RELATIONSHIP TO STATE LAW.

This chapter shall not be construed to affect in any manner the applicability of the Communications Act of 1934, the regulations and orders prescribed thereunder, or any State or local law relating to the regulation or provision of telecommunications facilities or services.

SEC. 1028. REGULATIONS.

Not later than 120 days after the date of the enactment of this Act, the Administrator shall prescribe final regulations governing the grant program established under this chapter, in accordance with the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, notwithstanding subsection (a)(2) of such section 553.

SEC. 1029. DEFINITIONS.

As used in this chapter:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Development Administration.

(2) EDUCATIONAL COMMUNICATIONS ENTITY.—The term "educational communications entity" means—

(A) an entity licensed by the Federal Communications Commission to operate a noncommercial educational television station;

(B) a telecommunications partnership organized on a multistate basis which meets the requirements of section 904 of the Education for Economic Security Act; or

(C) an institution of higher education with an advanced telecommunications ability.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" means any public or private college or university, including a land grand university and a junior of community college, that is accredited by a nationally recognized accrediting agency or organization approved by the Secretary of Education for purposes of section 1201 of the Higher Education Act of 1965.

(4) INTERACTIVE VIDEO EQUIPMENT.—The term "interactive video equipment" means equipment used to produce and prepare video and audio signals for transmission between distant locations so that individuals at such locations can see and hear each other, and related equipment.

(5) REGIONAL EDUCATION LABORATORIES.—The term "regional education laboratories" means the regional education laboratories described in section 405(d)(4)(A)(i) of the General Education Provisions Act.

(6) REVIEW PANEL.—The term "review panel" means, with respect to a State, the rural economic development review panel of the State, as established pursuant to section 361 of the Consolidated Farm and Rural Development Act.

(7) RURAL AREA.—The term "rural area" has the meaning given such term in section 306(a)(7) of the Consolidated Farm and Rural Development Act for purposes of loans for essential community facilities under section 306(a)(1) of such Act.

(8) RURAL SCHOOL DISTRICT.—The term "rural school district" means a school system in a rural area which provides elementary and secondary education.

(9) STATE.—The term "State" has the same meaning given such term by section 343(a)(6) of the Consolidated Farm and Rural Development Act.

(10) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term "telecommunications terminal equipment" means telecommunications equipment (excluding telecommunications transmission facilities) that—

(A) interconnects with telecommunications transmission facilities; and

(B) modifies, converts, encodes, or otherwise prepares signals to be transmitted through, or modifies, reconverts, or carries signals received from, the facilities.

(11) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term "telecommunications transmission facilities" means facilities (other than telecommunications terminal equipment) that transmit, receive, or carry signals between the telecommunications terminal equipment at each end of a telecommunications circuit or path.

CHAPTER 2—BUSINESS DEVELOPMENT

SEC. 1031. PURPOSES.

The purposes of this chapter are to—

(1) provide funds to improve telecommunications service in rural areas; and

(2) provide access to advanced telecommunications services and computer networks to improve job opportunities and the business environment in rural areas.

SEC 1032. LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding after the subsections added by section 402(a) of this Act the following:

"(i) LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.—

"(1) IN GENERAL.—The Administrator may make loans under this subsection at low interest rates and at market rates to 1 or more businesses, local governments, or public agencies in rural areas to fund facilities in which the recipients of such loans share telecommunications terminal equipment, computers, computer software, and computer hardware.

"(2) GENERAL REQUIREMENTS.—

"(A) APPLICATION PROCESS.—

"(i) SUBMISSION OF APPLICATION.—Any entity desiring a loan under this subsection shall submit an application therefor to the Administrator.

"(ii) CONTENTS OF APPLICATION.—Each application for a loan under this subsection shall include—

"(I) a detailed explanation of the proposed rural telecommunications system, including the general telecommunications transmission services and facilities required, and a list of the specific equipment that the applicant proposes to purchase or lease, to implement the system;

"(II) a description of the manner in which the proposed project is to be funded;

"(III) a copy of a binding commitment into between the applicant and each entity which is legally permitted to provide, and from which the applicant is to obtain, the telecommunications services and facilities required for the project, which stipulates that if the applicant receives the loan requested in the application the entity will provide such telecommunications services and facilities in the area served by the entity within a reasonable time and at a charge which is in accordance with State law;

"(IV) a description of the manner in which the applicant intends to use the loan requested in the application;

"(V) a description of how the proposed project will be evaluated; and

"(VI) such other information as the Administrator may reasonably require.

"(B) CONSIDERATION OF APPLICATIONS.—

"(i) REVIEW BY ADMINISTRATOR.—The Administrator shall—

"(I) review each application submitted pursuant to subparagraph (A)(i);

"(II) determine whether or not the application meets the requirements of subparagraph (A)(ii);

"(III) approve each application which meets such requirements;

"(IV) disapprove each application which fails to meet such requirements; and

"(V) transmit each approved application to the review panel of the State in which the entity which submitted the application intends to implement the project described in the application.

"(ii) REVIEW BY STATE REVIEW PANELS.—

"(I) IN GENERAL.—The review panel of a State shall examine each application transmitted to the review panel pursuant to clause (i)(V) to determine the technical and economic adequacy and feasibility of the project described in the application and the likelihood that the project will succeed.

"(II) AUTHORITY TO OBTAIN INFORMATION FROM APPLICANTS.—Each entity which submits an application for a loan under this subsection shall provide the review panel of the State in which the partnership intends to implement the project described in the application such information as the review panel may reasonably request to assist in reviewing the application.

"(III) AUTHORITY TO REQUEST APPLICANTS TO MODIFY PROJECTS.—The review panel may, before final consideration of an application of an entity for a loan under this subsection, request the entity to modify the project described in the application.

"(iii) RANKING OF APPLICATIONS.—

"(I) IN GENERAL.—The review panel of each State shall rank, pursuant to a written policy and criteria, the applications that the review panel receives during any fiscal year for a loan under this subsection, in an order which takes into account—

"(aa) the result of the review conducted under clause (i);

"(bb) the extent to which the projects described in the applications would promote any area plan (as defined in section 360(b)(1)) developed for the areas in which the projects are to be implemented; and

"(cc) in the case of a project which would duplicate existing services, the reasons therefor.

"(II) GROUPING OF APPLICATIONS.—The review panel shall separate into 2 groups the applications for a loan under this subsection received by the review panel during a fiscal year. The 1st group shall consist of the applications received during the 1st 6 months of the fiscal year. The 2nd group shall consist of the applications received during the 2nd 6 months of the fiscal year.

"(III) COMPETITION AMONG APPLICATIONS.—The review panel shall consider each application in a group to be competing only with the other applications in the group.

"(IV) WRITTEN POLICY AND CRITERIA.—

"(aa) IN GENERAL.—Subject to subdivision (bb), the review panel shall develop the written policy and criteria to be used to rank applications, in the same manner as the review panel develops the written policy and criteria used for purposes of section 361(b)(3).

"(bb) PROHIBITION AGAINST DEVELOPMENT OR ACQUISITION OF TELECOMMUNCATIONS TRANSMISSION FACILITIES.—The policy and criteria developed under subdivision (aa) shall require that the project described in an application not include the development or acquisition of telecommunications transmission facilities.

"(iii) TRANSMITTAL OF RANKED APPLICATIONS.—A review panel in a State shall transmit to the State coordinator appointed pursuant to the section 360(b)(3)(B) each list of applications ranked pursuant to clause (ii) of this subsection, in the same manner in which lists of applications ranked pursuant to section 361(b) are transmitted to the State coordinator pursuant to section 361. The State coordinator shall transmit to the Administrator each such list received by the State coordinator.

"(C) PRIORITY.—The Administrator shall establish procedures to target loans under this subsection to the rural areas and applicants that demonstrate the need for such loans, taking into consideration—

"(i) the relative needs of all applicants;

"(ii) the needs of the affected rural areas;

"(iii) the financial ability of the applicants, without such loans, to use telecommunications for the business purposes for which such loans may be made; and

"(iv) the recommendations of the review panels for the States in which such areas are located.

"(D) REPORT REQUIRED IF ADMINISTRATOR INTENDS TO FUND PROJECTS OTHER THAN AS RECOMMENDED BY REVIEW PANEL.—If the Administrator determines to provide loans under this subsection to projects in a State other than in the manner recommended by the review panel of the State, the Administrator—

"(i) within 10 days after making such determination, shall submit to the review panel, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the reasons for providing loans to projects other than in the manner so recommended; and

"(ii) shall not provide such loans before the end of the 7-day period beginning on the date the review panel and such committees have received such report.

"(E) MONITORING OF USE OF LOANS.—The Administrator shall take such steps as may be necessary to ensure that loans provided under this subsection are used in accordance with the approved application therefor.

"(3) RELATIONSHIP TO STATE LAW.—This subsection shall not be construed to affect in any manner the applicability of the Communications Act of 1934, the regulations and orders prescribed thereunder, or any State or local law relating to the regulation or provision of telecommunications facilities or services.

"(4) REGULATIONS.—Not later than 120 days after the date of the enactment of this subsection, the Administrator shall prescribe final regulations governing the loan program established under this subsection, in accordance with the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, notwithstanding subsection (a)(2) of such section 553.

"(5) DEFINITIONS.—As used in this subsection:

"(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Rural Development Administration.

"(B) REVIEW PANEL.—The term 'review panel' means, with respect to a State, the rural economic development review panel of the State, as established pursuant to section 361.

"(C) RURAL AREA.—The term 'rural area' has the meaning given such term in section 306(a)(7) for purposes of loans for essential community facilities under section 306(a)(1).

"(D) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term 'telecommunications terminal equipment' means telecommunications equipment (excluding telecommunications transmission facilities) that—

"(i) interconnects with telecommunications transmission facilities; and

"(ii) modifies, converts, encodes, or otherwise prepares signals to be transmitted through, or modifies, reconverts, or carries signals received from, the facilities.

"(E) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term 'telecommunications transmission facilities' means facilities (other than telecommunications terminal equipment) that transmit, receive, or carry signals between the telecommunications terminal equipment at each end of a telecommunications circuit or path.

"(6) TREATMENT OF LOAN PROGRAM AS DESIGNATED RURAL DEVELOPMENT PROGRAM.—For purposes of this title, the loan program established under this subsection shall be treated as a designated rural development program (within the meaning of section 360(b)(2)).

"(7) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—For loans under this subsection, there are authorized to be appropriated to the Administrator $15,000,000 for each of fiscal years 1990, 1991, 1992, 1993, and 1994.

"(B) AVAILABILITY.—Amounts appropriated pursuant to subparagraph (A) shall remain available until expended.".

Subtitle B—Miscellaneous Rural Telecommunications Provisions

SEC. 1051. SHORT TITLE.

This subtitle may be cited as the "Rural Telecommunications Infrastructure Improvements Act of 1990".

SEC. 1052. RURAL TELECOMMUNICATIONS ZONES.

(a) LISTS OF STATE RURAL TELECOMMUNICATIONS ZONES.—

(1) PREPARATION OF LIST.—Not later than July 1 of each calendar year, the Administrator shall, in accordance with regulations prescribed pursuant to subsection (e), prepare a report, for the Federal fiscal year beginning on October 1 of the calendar year, which—

(A) contains a list compiled in accordance with paragraph (2) of the rural areas in each State that will have advanced telecommunications capability in place not later than the end of the 2-year period beginning on October 1 of the calendar year;

(B) contains the reasons why the Administrator has determined that such rural areas will be as described in subparagraph (A);

(C) ranks such rural areas in the order in which the Administrator desires data processing (or other telecommunications intensive) firms to locate in such areas during the Federal fiscal year beginning in the calendar year, based on projections of—

(i) the facilities in place in the area which provide advanced telecommunications capabilities;

(ii) the economic infrastructure needs of the area;

(iii) the employment needs of the area;

(iv) the availability of persons with telecommunications skills in the area; and

(v) the cost of labor in the area; and

(D) for each rural area on the list, provides a summary of the characteristics of the area which are set forth in subparagraph (C).

(2) NUMBER OF RURAL AREAS PER STATE IN LIST.—The number of rural areas in a State that the Administrator shall include on the list prepared pursuant to paragraph (1) shall be the greater of—

(A) the product of—

(i) the number of individuals who reside in rural areas in the State rounded down to the greatest multiple of 1,000,000 which is less than such number of individuals; and

(ii) 3/1,000,000; and

(B) 3.

(b) PROVISION OF REPORT TO FEDERAL AGENCIES CONSIDERING RELOCATING DATA PROCESSING OPERATIONS.—The Administrator shall provide to each Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year a copy of the report prepared pursuant to subsection (a) for the fiscal year.

(c) AGENCIES REQUIRED TO ANALYZE COSTS AND BENEFITS OF CERTAIN RELOCATION OPTIONS.—Any Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year shall—

(1) obtain from the Administrator a copy of the report prepared for the fiscal year pursuant to subsection (a);

(2) select from the list contained in the report at least 1 or more areas which the agency regards as best meeting the requirements of the agency's data processing (or other telecommunications intensive) operation; and

(3) perform a comparative analysis of the costs and benefits of—

(A) not relocating the operation;

(B) relocating the operation to any of the areas selected from the list; and

(C) relocating the operation to any other area to which the agency is considering relocating.

(d) REPORT REQUIRED IF AGENCY DOES NOT RELOCATE DATA PROCESSING OPERATION TO AREA SELECTED FROM LIST.—If a Federal agency is not prohibited by law from relocating a data processing operation to any area selected by the agency pursuant to subsection (c)(2), and the agency determines that the operation is to be relocated to an area other than any such selected area, the agency shall submit a report detailing the reasons for the determination to the Committee of Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Administrator, the Administrator of the Rural Electrification Administration, and the Administrator of the General Services Administration.

(e) REGULATIONS.—The Administrator shall, in consulation with the Administrator of the Rural Electrification Administration, prescribe such regulations as may be necessary to carry out this section.

(f) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Development Administration.

(2) RURAL AREA.—The term "rural area" has the meaning given such term in section 306(a)(7) of the Consolidated Farm and Rural Development Act for purposes of loans for essential community facilities under section 306(a)(1) of such Act.

SEC. 1053. GRANTS FOR EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEMS.

(a) IN GENERAL.—The Under Secretary shall make grants to eligible governments for the development and installation of emergency public safety telephone answering systems, including the construction and installation of such street signs, the assignment of street numbers to such locations, and the preparation of such maps as may be required for such systems to operate effectively.

(b) MAXIMUM GRANT PER LOCAL GOVERNMENT.—The Under Secretary shall not make a grant exceeding $30,000 under subsection (a) to any local government.

(c) MAXIMUM AMOUNT OF GRANTS PER YEAR.—The Under Secretary shall not make grants aggregating more than $3,000,000 under subsection (a) in any fiscal year.

(d) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under subsection (a), there are authorized to be appropriated to the Under Secretary not to exceed $3,000,000 for each of fiscal years 1990, 1991, 1992, 1993, and 1994.

(e) DEFINITIONS.—As used in this section:

(1) ELIGIBLE GOVERNMENT.—The term "eligible government" means a political subdivision of a State—

(A) which is in a rural area; and

(B) which the Under Secretary determines would, within 2 years after the date of the enactment of this section, have an emergency public safety telephone answering system were it not for a lack of street signs, street numbers for locations, or maps required for such a system to operate effectively.

(2) EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEM.—The term "emergency public safety telephone answering system" means a telecommunications system operated by public safety authorities that—

(A) enables persons to report police, fire, medical, and other emergencies to such authorities by use of a telephone; and

(B) automatically identifies the telephone number and location of the telephone which is the source of such a report.

(3) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Agriculture for Small Community and Rural Development.

SEC. 1054. STUDY ON USE OF TELECOMMUNICATIONS INFRASTRUCTURE BY BUSINESSES IN RURAL AREAS.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study and evaluate—

(1) the availability, and effective use, of the telecommunications infrastructure by small and large businesses in rural areas; and

(2) the achievements and shortcomings of the programs established under this title and the amendment made by this title.

(b) COORDINATION.—The Secretary may coordinate the study required by subsection (a) with other Federal agencies with telecommunications expertise.

(c) RECOMMENDATIONS.—The Secretary may recommend to the Committee on Agriculture and the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation of the Senate, such legislation as will promote rural economic development through advanced telecommunications technology, as the Secretary considers appropriate.

(d) RURAL AREA DEFINED.—As used in this section, the term "rural area" has the meaning given such term in section 306(a)(7) of the Consolidated Farm and Rural Development Act for purposes of loans for essential community facilities under section 306(a)(1) of such Act.

By Mr. WISE:

—Page 93, after line 8, insert the following:

TITLE X—ENHANCING HUMAN RESOURCES

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Rural Business Development and Telecommunications Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1001. Short title; table of contents.

Subtitle A—Rural Business Development

Sec. 1011. Purposes.

Sec. 1012. Loans for business telecommunications partnerships.

Subtitle B—Rural Telecommunications Provisions

Sec. 1051. Rural telecommunications zones.

Sec. 1052. Grants for emergency public safety telephone answering systems.

Sec. 1053. Study on use of telecommunications infrastructure by businesses in rural areas.

Subtitle A—Rural Business Development

SEC. 1011. PURPOSES.

The purposes of this subtitle are to—

(1) provide funds to improve telecommunications service in rural areas; and

(2) provide access to advanced telecommunications services and computer networks to improve job opportunities and the business environment in rural areas.

SEC. 1012. LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932)

is amended by adding after the subsections added by section 402(a) of this Act the following:

"(i) LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.—

"(1) IN GENERAL.—The Administrator may make loans under this subsection at low interest rates and at market rates to 1 or more businesses, local governments, or public agencies in rural areas to fund facilities in which the recipients of such loans share telecommunications terminal equipment, computers, computer software, and computer hardware.

"(2) GENERAL REQUIREMENTS.—

"(A) APPLICATION PROCESS.—

"(i) SUBMISSION OF APPLICATION.—Any entity desiring a loan under this subsection shall submit an application therefor to the Administrator.

"(ii) CONTENTS OF APPLICATION.—Each application for a loan under this subsection shall include—

"(I) a detailed explanation of the proposed rural telecommunications system, including the general telecommunications transmission services and facilities required, and a list of the specific equipment that the applicant proposes to purchase or lease, to implement the system;

"(II) a description of the manner in which the proposed project is to be funded;

"(III) a copy of a binding commitment entered into between the applicant and each entity which is legally permitted to provide, and from which the applicant is to obtain, the telecommunications services and facilities required for the project, which stipulates that if the applicant receives the loan requested in the application the entity will provide such telecommunications services and facilities in the area served by the entity within a reasonable time and at a charge which is in accordance with State law;

"(IV) a description of the manner in which the applicant intends to use the loan requested in the application;

"(V) a description of how the proposed project will be evaluated; and

"(VI) such other information as the Administrator may reasonably require.

"(B) CONSIDERATION OF APPLICATIONS.—

"(i) REVIEW BY ADMINISTRATOR.—The Administrator shall—

"(I) review each application submitted pursuant to subparagraph (A)(i);

"(II) determine whether or not the application meets the requirements of subparagraph (A)(ii);

"(III) approve each application which meets such requirements;

"(IV) disapprove each application which fails to meet such requirements; and

"(V) transmit each approved application to the review panel of the State in which the entity which submitted the application intends to implement the project described in the application.

"(ii) REVIEW BY STATE REVIEW PANELS.—

"(I) IN GENERAL.—The review panel of a State shall examine each application transmitted to the review panel pursuant to clause (i)(V) to determine the technical and economic adequacy and feasibility of the project described in the application and the likelihood that the project will succeed.

"(II) AUTHORITY TO OBTAIN INFORMATION FROM APPLICANTS.—Each entity which submits an application for a loan under this subsection shall provide the review panel of the State in which the partnership intends to implement the project described in the application such information as the review panel may reasonably request to assist in reviewing the application.

"(III) AUTHORITY TO REQUEST APPLICANTS TO MODIFY PROJECTS.—The review panel may, before final consideration of an application of an entity for a loan under this subsection, request the entity to modify the project described in the application.

"(iii) RANKING OF APPLICATIONS.—

"(I) IN GENERAL.—The review panel of each State shall rank, pursuant to a written policy and criteria, the applications that the review panel receives during any fiscal year for a loan under this subsection, in an order which takes into account—

"(aa) the results of the review conducted under clause (i);

"(bb) the extent to which the projects described in the applications would promote any area plan (as defined in section 360(b)(1)) developed for the areas in which the projects are to be implemented; and

"(cc) in the case of a project which would duplicate existing services, the reasons therefor.

"(II) GROUPING OF APPLICATIONS.—The review panel shall separate into 2 groups the applications for a loan under this subsection received by the review panel during a fiscal year. The 1st group shall consist of the applications received during the 1st 6 months of the fiscal year. The 2nd group shall consist of the applications received during the 2nd 6 months of the fiscal year.

"(III) COMPETITION AMONG APPLICATIONS.—The review panel shall consider each application in a group to be competing only with the other applications in the group.

"(IV) WRITTEN POLICY AND CRITERIA.—

"(aa) IN GENERAL.—Subject to subdivision (bb), the review panel shall develop the written policy and criteria to be used to rank applications, in the same manner as the review panel develops the written policy and criteria used for purposes of section 361(b)(3).

"(bb) PROHIBITION AGAINST DEVELOPMENT OR ACQUISITION OF TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The policy and criteria developed under subdivision (aa) shall require that the project described in an application not include the development or acquisition of telecommunications transmission facilities.

"(iii) TRANSMITTAL OF RANKED APPLICATIONS.—A review panel in a State shall transmit to the State coordinator appointed pursuant to section 360(b)(3)(B) each list of applications ranked pursuant to clause (ii) of this subsection, in the same manner in which lists of applications ranked pursuant to section 361(b) are transmitted to the State coordinator pursuant to section 361. The State coordinator shall transmit to the Administrator each such list received by the State coordinator.

"(C) PRIORITY.—The Administrator shall establish procedures to target loans under this subsection to the rural areas and applicants that demonstrate the need for such loans, taking into consideration—

"(i) the relative needs of all applicants;

"(ii) the needs of the affected rural areas;

"(iii) the financial ability of the applicants, without such loans, to use telecommunications for the business purposes for which such loans may be made; and

"(iv) the recommendations of the review panels for the States in which such areas are located.

"(D) REPORT REQUIRED IF ADMINISTRATOR INTENDS TO FUND PROJECTS OTHER THAN AS RECOMMENDED BY REVIEW PANEL.—If the Administrator determines to provide loans under this subsection to projects in a State other than in the manner recommended by the review panel of the State, the Administrator—

"(i) within 10 days after making such determination, shall submit to the review panel, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the reasons for providing loans to projects other than in the manner so recommended; and

"(ii) shall not provide such loans before the end of the 7-day period beginning on the date the review panel and such committees have received such report.

"(E) MONITORING OF USE OF LOANS.—The Administrator shall take such steps as may be necessary to ensure that loans provided under this subsection are used in accordance with the approved application therefor.

"(3) RELATIONSHIP TO STATE LAW.—This subsection shall not be construed to affect in any manner the applicability of the Communications Act of 1934, the regulations and orders prescribed thereunder, or any State or local law relating to the regulation or provision of telecommunications facilities or services.

"(4) REGULATIONS.—Not later than 120 days after the date of the enactment of this subsection, the Administrator shall prescribe final regulations governing the loan program established under this subsection, in accordance with the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, notwithstanding subsection (a)(2) of such section 553.

"(5) DEFINITIONS.—As used in this subsection:

"(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Rural Development Administration.

"(B) REVIEW PANEL.—The term 'review panel' means, with respect to a State, the rural economic development review panel of the State, as established pursuant to section 361.

"(C) RURAL AREA.—The term 'rural area' has the meaning given such term in section 306(a)(7) for purposes of loans for essential community facilities under section 306(a)(1).

"(D) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term 'telecommunications terminal equipment' means telecommunications equipment (excluding telecommunications transmission facilities) that—

"(i) interconnects with telecommunications transmission facilities; and

"(ii) modifies, converts, encodes, or otherwise prepares signals to be transmitted through, or modifies, reconverts, or carries signals received from, the facilities.

"(E) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term 'telecommunications transmission facilities' means facilities (other than telecommunications terminal equipment) that transmit, receive, or carry signals between the telecommunications terminal equipment at each end of a telecommunications circuit or path.

"(6) TREATMENT OF LOAN PROGRAM AS DESIGNATED RURAL DEVELOPMENT PROGRAM.—For purposes of this title, the loan program established under this subsection shall be treated as a designated rural development program (within the meaning of section 360(b)(2)).

"(7) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—For loans under this subsection, there are authorized to be ap-

propriated to the Administrator $15,000,000 for each of fiscal years 1990, 1991, 1992, 1993, and 1994.

"(B) AVAILABILITY.—Amounts appropriated pursuant to subparagraph (A) shall remain available until expended.".

Subtitle B—Rural Telecommunications Provisions

SEC. 1051. RURAL TELECOMMUNICATIONS ZONES.

(a) LISTS OF STATE RURAL TELECOMMUNICATIONS ZONES.—

(1) PREPARATION OF LIST.—Not later than July 1 of each calendar year, the Administrator shall, in accordance with regulations prescribed pursuant to subsection (e), prepare a report, for the Federal fiscal year beginning on October 1, of the calendar year, which—

(A) contains a list compiled in accordance with paragraph (2) of the rural areas in each State that will have advanced telecommunications capability in place not later than the end of the 2-year period beginning on October 1 of the calendar year;

(B) contains the reasons why the Administrator has determined that such rural areas will be as described in subparagraph (A);

(C) ranks such rural areas in the order in which the Administrator desires data processing (or other telecommunications intensive) firms to locate in such areas during the Federal fiscal year beginning in the calendar year, based on projections of—

(i) the facilities place in the area which provide advanced telecommunications capabilities;

(ii) the economic infrastructure needs of the area;

(iii) the employment needs of the area;

(iv) the availability of persons with telecommunications skills in the area; and

(v) the cost of labor in the area; and

(D) for each rural area on the list, provides a summary of the characteristics of the areas which are set forth in subparagraph (C).

(2) NUMBER OF RURAL AREAS PER STATE IN LIST.—The number of rural areas in a State that the Administrator shall include on the list prepared pursuant to paragraph (1) shall be the greater of—

(A) the product of—

(i) the number of individuals who reside in rural areas in the State rounded down to the greatest multiple of 1,000,000 which is less than such number of individuals; and

(ii) 3/1,000,000; and

(B) 3.

(b) PROVISION OF REPORT TO FEDERAL AGENCIES CONSIDERING RELOCATING DATA PROCESSING OPERATIONS.—The Administrator shall provide to each Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year a copy of the report prepared pursuant to subsection (a) for the fiscal year.

(c) AGENCIES REQUIRED TO ANALYZE COSTS AND BENEFITS OF CERTAIN RELOCATIONS OPTIONS.—Any Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year shall—

(1) obtain from the Administrator a copy of the report prepared for the fiscal year pursuant to subsection (a);

(2) select from the list contained in the report at least 1 or more areas which the agency regards as best meeting the requirements of the agency's data processing (or other telecommunications intensive) operation; and

(3) perform a comparative analysis of the costs and benefits of—

(A) not relocating the operation;

(B) relocating the operation to any of the areas selected from the list; and

(C) relocating the operation to any other area to which the agency is considering relocating.

(d) REPORT REQUIRED IF AGENCY DOES NOT RELOCATE DATA PROCESSING OPERATION TO AREA SELECTED FROM LIST.—If a Federal agency is not prohibited by law from relocating a data processing operation to any area selected by the agency pursuant to subsection (c)(2), and the agency determines that the operation is to be relocated to an area other than any such selected area, the agency shall submit a report detailing the reasons for the determination to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Administrator, the Administrator of the Rural Electrification Administration, and the Administrator of the General Services Administration.

(e) REGULATIONS.—The Administrator shall, in consultation with the Administrator of the Rural Electrification Administration, prescribe such regulations as may be necessary to carry out this section.

(f) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Development Administration.

(2) RURAL AREA.—The term "rural area" has the meaning given such term in section 306(a)(7) of the Consolidated Farm and Rural Development Act for purposes of loans for essential community facilities under section 306(a)(1) of such Act.

SEC. 1052. GRANTS FOR EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEMS.

(a) IN GENERAL.—The Under Secretary shall make grants to eligible governments for the development and installation of emergency public safety telephone answering systems, including the construction and installation of such street signs, the assignment of street numbers to such locations, and the preparation of such maps as may be required for such systems to operate effectively.

(b) MAXIMUM GRANT PER LOCAL GOVERNMENT.—The Under Secretary shall not make a grant exceeding $30,000 under subsection (a) to any local government.

(c) MAXIMUM AMOUNT OF GRANTS PER YEAR.—The Under Secretary shall not make grants aggregating more than $3,000,000 under subsection (a) in any fiscal year.

(d) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under subsection (a), there are authorized to be appropriated to the Under Secretary not to exceed $3,000,000 for each of fiscal years 1990, 1991, 1992, 1993, and 1994.

(e) DEFINITIONS.—As used in this section:

(1) ELIGIBLE GOVERNMENT.—The term "eligible government" means a political subdivision of a State—

(A) which is in a rural area; and

(B) which the Under Secretary determines would, within 2 years after the date of the enactment of this section, have an emergency public safety telephone answering system were it not for a lack of street signs, street numbers for locations, or maps required for such a system to operate effectively.

(2) EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEM.—The term "emergency public safety telephone answering system" means a telecommunications system operated by public safety authorities that—

(A) enables persons to report police, fire, medical, and other emergencies to such authorities by use of a telephone; and

(B) automatically identifies the telephone number and location of the telephone which is the source of such a report.

(3) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Agriculture for Small Community and Rural Development.

SEC. 1053. STUDY ON USE OF TELECOMMUNICATIONS INFRASTRUCTURE BY BUSINESSES IN RURAL AREAS.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study and evaluate—

(1) the availability, and effective use, of the telecommunications infrastructure by small and large businesses in rural areas; and

(2) the achievements and shortcomings of the programs established under this title and the amendment made by this title.

(b) COORDINATION.—The Secretary may coordinate the study required by subsection (a) with other Federal agencies with telecommunications expertise.

(c) RECOMMENDATIONS.—The Secretary may recommend to the Committee on Agriculture and the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation of the Senate, such legislation as will promote rural economic development through advanced telecommunications technology, as the Secretary considers appropriate.

(d) RURAL AREA DEFINED.—As used in this section, the term "rural area" has the meaning given such term in section 306(a)(7) of the Consolidated Farm and Rural Development Act for purposes of loans for essential community facilities under section 306(a)(1) of such Act.

SENATE—*Wednesday, March 21, 1990*

(Legislative day of Tuesday, January 23, 1990)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable CARL M. LEVIN, a Senator from the State of Michigan.

PRAYER

The Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Bless the Lord, O my soul: and all that is within me, bless his holy name. Bless the Lord, O my soul, and forget not all his benefits: Who forgiveth all thine iniquities; who healeth all thy diseases; Who redeemeth thy life from destruction; Who crowneth thee with loving kindness and tender mercies.—Psalm 103:1-4.

Gracious God, Lord of life, full of mercy, grace and love, we commend to Your comfort and care Senator SPARK MATSUNAGA, his loved ones, and his staff; Robin Nickles and her parents, Senator and Mrs. Nickles; Officer Bill Ashton who enters the hospital today for treatment of his heart; Pat Makanui of the Journal office; and we pray for George McClain and any others among our large family who are ill or in need of the comfort of God.

Thank Thee, Lord, for the assurance of Your love and healing. In the name of Jesus, the great Physician. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 21, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning the time for the two leaders has been reduced to 7½ minutes each and at 9:30 the Senate will resume consideration of the clean air bill. Under the unanimous-consent agreement entered into last evening, between 9:30 and 10 there will be 30 minutes of debate on the pending Boschwitz-Boren amendment, with the vote relative to that amendment to occur at 10 a.m.

Following that vote, I expect that several Senators will be ready to proceed. I am advised that the distinguished Senator from Massachusetts [Mr. KERRY], the distinguished Senator from Washington [Mr. ADAMS], and the distinguished Senator from Idaho [Mr. SYMMS], all have amendments that they are prepared to proceed with. I hope they will be here at that time and work with the managers on a schedule for those amendments to take place.

Senators should expect numerous votes today, as we hope that other Senators will be prepared to come forward with their amendments.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I ask unanimous consent that I may proceed for not to exceed 10 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMPETITIVE RAIL SERVICE IN THE NORTHEASTERN UNITED STATES

Mr. HEINZ. Mr. President, we Americans believe strongly in the concept of competition. It is at the very heart of our economic policy. It is at the very heart of our approach in area after area. But competition can only exist when power has been brought into balance.

In the Northeastern United States, the balance of competitive power among railroads has been disrupted. The roots of this disruption go back to the mid-1970's and the creation of the Consolidated Rail Corporation, or, as we refer to it, Conrail.

What is at stake, of course, are not only jobs but captive shippers, businesses that depend on railroads to move their goods and to do so at competitive rates or prices.

Those of us who remember the Final System Plan of 1975 recall that it explicitly provided for a competitive rail system and structure. So, in addition to designating the property to be given to the Consolidated Rail Corporation, Conrail, which was originally created back in 1973 by the Regional Rail Reorganization Act, Congress also provided for the expansion of the Chessie System in order to provide some competition for the new entity of Conrail.

But history records that the Chessie System declined the offer and the new competitor designated by our legislation was to be the small Delaware & Hudson Railroad, a small railroad at that time which was to become larger and to afford some competition to Conrail.

As has been pointed out by some, the route structure that was provided to the D&H was flawed, it was inadequate, and as a result the D&H Railroad was doomed, in retrospect, to failure from square one. It never posted an operating profit. And now that the Delaware & Hudson is a bankrupt railroad, it was the little engine that could not.

Mr. President, I am one of Conrail's strongest and longest supporters. I was in the House serving on the Commerce Committee when we created it. When there was a proposal by the Reagan administration to sell it to another railroad and eliminate competition, I fought that administration, a Republican administration. I fought, instead, for the position that the Government sell its interest in Conrail, not to some other railroad, but that that interest be sold to the public and that Conrail be an independent entity, not absorbed as the captive of some other railroad competitor. And, in the 99th Congress, I sponsored resolutions and

amendments relating to the return of Conrail to the private sector through a public stock offering.

I did all of that, Mr. President, because, like most Americans, I strongly believe in competition. I felt it was vital that Conrail have the opportunity to compete against other railroads and that it could only do so if it was independent. And, of course, Conrail believed exactly as I do, at least at that time. Conrail, 7 or 8 years ago, said, "We want to be independent because we believe in competition." Eight years ago, Conrail stood for independence and competition. Today, I am sorry to say, Conrail stands on the other side of the tracks, opposing competition. Instead of being for competition, it is for driving the Delaware & Hudson Railroad into bankruptcy and out of business.

It is this Senator's view that Conrail cannot and should not have it both ways. The need for competitive rail service has never been greater. Mr. President, the fact is the Delaware & Hudson Railroad, which we need for competition, now has a prospective buyer. But that buyer recognizes it simply cannot just purchase the railroad and nurse it back to health as is. The Delaware & Hudson's route structure has to be modified but the modification depends on Conrail negotiating in good faith.

Conrail claims that providing the trackage rights that the buyers requested would cost it $50 to $100 million a year in business, or 2 to 3 percent of its annual revenue. It claims it would result in the loss of 600 to 900 jobs. This is an argument that this Senator would not just dismiss out of hand. Many of those jobs could be Pennsylvania jobs.

But I have repeatedly requested that Conrail provide me with its analysis of how they reach these figures. I would like to find out if they are sound, if they are true, or if they are false. These requests have been made in face-to-face discussions with Conrail executives as well as in writing.

I am sorry to say, nothing, absolutely nothing meaningful has been forthcoming—just the claims, the numbers, the figures—but none of the justification and backup.

Mr. President, last week I was encouraged by the news that Conrail and the D&H's buyer sat down with Members of Congress and a new offer was made. But this week I read in the Journal of Commerce an editorial by a Conrail executive that flies in the face of a good faith negotiating stand. I ask unanimous consent that this editorial appear in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEINZ. Mr. President, it is my sense that Conrail will not budge unless Congress gives them the incentive to budge and that incentive is the legislation introduced by my colleague the Senator from New York [Mr. D'AMATO]. Therefore, Mr. President, I ask unanimous consent that my name be added as a cosponsor to S. 2210.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I do not take this type of legislation lightly. I believe deeply in letting the marketplace decide. But I believe more deeply in competition.

When the public decided that competition was healthy for the telecommunications sector, the Government intervened and AT&T divested itself of the Baby Bells. The public has decided we must save the Delaware & Hudson to preserve competitive rail service in the Northeast. I only wish that in this matter Charles Warner was right when he said public opinion is stronger than the legislature. This time the public needs our help.

EXHIBIT 1

[From the Journal of Commerce, Mar. 19, 1990]

WHO PAYS TO SAVE THE D&H?

(By Charles N. Marshall)

About 20 years ago, the bankruptcy of six railroads threatened vital rail service throughout the Northeast and Midwest. Shippers across the nation demanded that Congress solve the "railroad crisis."

As a matter of public policy, Congress invested substantial tax dollars, creating Consolidated Rail Corp. to operate and rebuild that rail network. The public investment was a huge success. Today, Conrail provides high-quality, market-competitive freight service to customers throughout the region. In 1987 the government, after determining correctly that it ought not be involved in owning a company competing in the private sector, sold its interest in Conrail to investors through a public stock offering, and retired Conrail's debt after receiving a total of nearly $2 billion: $300 million in payments from Conrail and the rest through the stock offering. Conrail's investors paid the market value for what they received.

Today, another railroad is in bankruptcy, the Delaware & Hudson. The D&H, with a long history of bankruptcy, serves a few shippers and a much smaller area than the six railroads that formed Conrail.

Some believe that saving the D&H is a matter of important public policy. They believe this, even though "saving the D&H" is not necessary to preserve rail service for D&H customers, most of whom could easily be served by short-line railroads.

Those who want to "save the D&H" don't want to do so with public dollars. Instead, they want Congress to require that Conrail cede to the D&H freight traffic worth from $50 million to $100 million in annual revenues by giving D&H use of Conrail-owned and maintained tracks between Harrisburg, Pa., and Hagerstown, Md.

Even before the D&H bankruptcy trustee selected Canadian Pacific to purchase the D&H, Conrail began negotiations with the Canadian Pacific on access to Conrail's Harrisburg-Hagerstown tracks. But the most Canadian Pacific offered to compensate Conrail for its $50 million to $100 million annual revenue loss was traffic worth, at best, $1.5 million a year. Canadian Pacific refused to provide Conrail access to significant Quebec traffic. Both parties agreed that a settlement was unlikely, and ended discussions.

If Conrail is forced by legislation to grant Canadian Pacific or another D&H successor rights to its Harrisburg-Hagerstown tracks, more is at stake than Conrail revenue.

Jobs, for instance. As Conrail loses revenue, it would be forced to consider job cuts. If Conrail loses $50 million to $100 million, or about 2 percent to 3 percent of its annual revenue, that would mean 2 percent to 3 percent of Conrail jobs, or 600 to 900 positions. Is it fair to ask Conrail workers in Massena, N.Y., and Altoona, Pa., to sacrifice their jobs for a few hundred on the Canadian Pacific or the Delaware & Hudson?

And the cost could be even greater than lost revenue and lost jobs.

The bill now being considered in Congress would re-involve the government in the railroad industry in a significant new way, undermining the market-based principles which have restored most railroads to health over the past 10 years.

Government involvement in railroad business decisions was a major reason why the railroads of the Northeast and Midwest failed in the 1960s and 1970s. A return to this active federal economic intervention would return us to the "railroad crisis" of 20 years ago. This threatens not only the economic health of Conrail and the shipping public it serves, but of the entire U.S. rail freight network.

Trucks are the real competition for freight traffic today. It makes no sense to weaken a successful railroad just to allow the D&H trustee to sell the property for a huge price. What we must work toward is stable, continuing rail service for D&H shippers. This objective can be achieved without confiscating Conrail's property. Several short lines, led by the Delaware Otsego system, have proposed just such a solution.

Conrail is no stumbling block. But Conrail should not be made responsible for supporting and subsidizing the D&H. At the same time, Conrail remains open to reaching a solution fair to all parties. Subsidies seem not to be required. But if they are, as some contend, then it is the beneficiaries who should pay, not Conrail.

(Charles N. Marshall is senior vice president, Consolidated Rail Corp., Philadelphia.)

Mr. HEINZ. Mr. President, seeing no other Senators on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

CLEAN AIR ACT AMENDMENTS OF 1989

The PRESIDING OFFICER. The Senate will now resume consideration

of the pending business, S. 1630, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Mitchell amendment No. 1293, in the nature of a substitute.

(2) Baucus amendment No. 1307 (to amendment No. 1293, to grant Administrator authority to authorize limited production of halons after the year 2000 if necessary for aviation safety purpose.

(3) Wirth/Armstrong amendment No. 1313 (to amendment No. 1293), to establish guidelines for alternative work schedules for Federal agencies within nonattainment areas.

(4) Byrd modified amendment No. 1329 (to amendment No. 1293), to provide benefits for terminated coal mine workers.

(5) Boschwitz/Boren amendment No. 1345, (to amendment No. 1293), to require States to adopt a small stationary source technical and environmental compliance assistance program.

AMENDMENT NO. 1345

Mr. BOSCHWITZ. Mr. President, I send a modification of my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. If the Senator will suspend for a moment, the Chair informs the Senator that under the previous order issued last night, there will be a rollcall vote on this amendment at 10 a.m.

AMENDMENT NO. 1345, AS MODIFIED

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. I ask unanimous consent that I now be allowed to modify the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 1345), as modified, is as follows:

On page 34 of the amendment, between lines 15 and 16, insert the following:

(d) Section 110 of the Clean Air Act is amended by adding at the end the following:

"(q) SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM.—

"(1) Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator as part of the State implementation plan for such State or as a revision to such State implementation plan under this section, plans for establishing a small business stationary source technical assistance program. Such submission shall be made within 24 months after the date of enactment of this subsection. The Administrator shall approve such program if it includes, as appropriate, the following:

"(A) adequate mechanisms for developing, collecting, evaluating, and coordinating information concerning compliance methods and technologies for small business stationary sources (as defined in paragraph (6));

"(B) adequate mechanisms for advising small business stationary sources on pollution prevention, including providing information concerning alternative technologies, process changes, chemical products, and methods of operation that help reduce air pollution;

"(C) a designated State office within the relevant State agency to serve as ombudsman for small business stationary sources in connection with the implementation of this Act;

"(D) adequate mechanisms to assure that small business stationary sources receive notice of their rights under this Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposal or final regulation or standard issued under this Act, and

"(E) Such a program may, at the discretion of the States include a voluntary Compliance Agreement for Term permits as described in paragraph (3) of this subsection;

"(2) The Administrator shall establish within 9 months after the date of the enactment of this section a small business stationary source technical assistance program. Such program shall—

"(A) assist the States in the development of the program required under paragraph (1) of this subsection and section 112(m);

"(B) issue technical guidance for the use of the States in the implementation of these programs that includes alternative control technologies and pollution prevention methods applicable to small business stationary sources;

"(3) The State may establish a permit program under part B of title III for small business stationary sources located within a nonattainment area, ozone transport area, or subject to a standard under section 112. Such program may provide that—

"(A) a small business stationary source may obtain a Compliance Agreement for Term permit under this subsection as a substitute for any general permit issued under section 353(e);

"(B) such Compliance Agreement for Term permit may be developed after consultation with the small business stationary source or with duly authorized representatives of the small business stationary sources;

"(C) Compliance Agreement for Term permits issued under this subsection to small business stationary source shall require compliance with applicable emission limitations, pollution control measures, and recordkeeping and reporting requirements under this Act: *Provided,* That methods of compliance with any such standard or requirement may be modified for a small business stationary source in such permit based on the technical and financial capability of the small business stationary source or group of sources and the availability of less burdensome alternatives, and, in particular, pollution prevention measures, that will achieve equivalent emission reductions consistent with the public health, welfare and environmental protection goals and deadlines of this Act;

"(D) any Compliance Agreement for Term permit issued to a small business stationary source under this subsection shall be issued in accordance with the procedures under part B of title III of this Act, and shall be subject to review by the Administrator, as provided in such part;

"(E) the State (or the Administrator) may reduce any fee required under this Act to take into account the financial resources of a small business stationary source;

"(F) requirements for continuous emission monitoring will not be imposed on a small business stationary source (or sources) unless the State (or the Administrator) has determined, on the basis of substantial evidence, that such requirements are necessary and appropriate; and

"(4) With respect to small business stationary sources, in exercising prosecutorial discretion under section 113(c) of this Act, in issuing orders under section 113(d) of this Act, or in determining the amount of any penalty to be assessed under this Act, the United States, the State, and the court shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

"(5) Compliance with the terms and conditions of a permit issued in accordance with the requirements of part B of title III and this subsection shall be deemed compliance with all requirements of the Act that are explicitly addressed by such terms and conditions: *Provided, however,* That compliance with the terms and conditions of a permit so issued shall not alter, modify, or otherwise affect the authority of the Administrator under section 303 (emergency powers) or the requirement to comply with any order issued under section 303.

"(6) For purposes of this subsection, the term 'small business stationary source' is a small business concern as defined by the Small Business Act, 15 U.S.C. 632 and regulations promulated by the Environmental Protection Agency: *Provided,* That for any small business compliance program promulgated pursuant to paragraph 3 of this subsection, a 'small business stationary source' is further defined as any stationary source of air pollutants regulated under this Act that emits or has the potential to emit not greater than 100 tons per year of any criteria pollutant or of oxides of nitrogen or volatile organic compounds (or 50 tons of such compounds in any severe or extreme nonattainment area) and not greater than 10 tons per year for any pollutant or 25 tons per year for any combination of pollutants which have been listed as hazardous air pollutants under section 112. The Administrator, in consultation with the Administrator of the Small Business Administration and after providing notice and opportunity for public comment, may exclude from this definition any category or subcategory of sources that the Administrator determines to have sufficient technical and financial capabilities to meet the requirements of this Act without the application of this subsection.

"(7)(A) The Administrator, acting through the Director of the Office of Small Business Advocacy (hereinafter referred to as the 'Director') to monitor the Small Business Environmental Compliance Assistance Program under this subsection. In carrying out such monitoring activities the Director shall—

"(i) render advisory opinions on the overall effectiveness of the Small Business Environmental Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(ii) make periodic reports to the Congress on the compliance of the Small Business Environmental Compliance Assistance Program with the requirements of the Paper-

work Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(iii) review information to be issued by the Small Business Environmental Compliance Assistance Program for small business stationary sources to ensure that the information is understandable by the layperson; and

"(iv) have the Small Business Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(8)(A) There shall be created a Compliance Advisory Panel (hereinafter referred to as the 'Panel') on the State level of not less than 7 small business owners. This Panel shall—

"(i) render advisory opinions concerning the effectiveness of the Small Business Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(ii) make periodic reports to the Administrator concerning the compliance of the State Small Business Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(iii) review information for small stationary sources to assure such information is understandable by the layperson; and

"(iv) have the Small Business Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(B) The Panel shall consist of—

"(i) 2 members selected by the Governor;

"(ii) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the lower house, or in the case of a unicameral State legislature, 2 members each shall be selected by the majority leadership and the minority leadership, respectively, of such legislature, and clause (iii) shall not apply);

"(iii) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the upper house, or the equivalent State entity); and

"(iv) 1 member selected by the head of the department or agency of the State responsible for air pollution permit programs.".

Mr. BOSCHWITZ. Mr. President, this is a modification agreed to by all of the parties. It is an overview that does not preempt any State from its rights under this bill or its rights with respect to imposing clean air standards. It sets up a technical assistance standard for small businesses. It allows States to have a special permitting requirement for small business so that small businesses will be more easily able to comply with this very, very technical bill.

This bill, Mr. President, as I have said in my earlier statements, is one of the more complex pieces of legislation that I have dealt with since coming to the Senate. I foresee that there will be a great consternation among the small business community in terms of complying with this bill. It was the purpose of this amendment to try to make it easier for small business.

I think that our purpose will be achieved because we mandate technical assistance on the one hand, but on the other hand, the permitting is not mandated but discretionary. It is our hope that the States will take it upon themselves to use the discretion to have specialized permitting sections for the small businesses so that they will reasonably able to comply.

Mr. BOREN. Mr. President, I want to commend my colleague from Minnesota. It has been a real pleasure to work with him on this very important piece of legislation, and this amendment.

I want to express my appreciation also to the managers of the bill.

I think we have drafted a very constructive compromise here, one that will help small businesses, one that will provide technical assistance, and one which gives States and local governments flexible approaches to working out very difficult problems that small businesses may have in coming into full compliance.

I think it actually will result in more effective and full compliance, and thereby promote a cleaner environment as well. So it is a happy solution.

I commend my colleague for his leadership well done.

Mr. BOSCHWITZ. I thank the Senator from Oklahoma who has stated our goal very well. I say to my friend from Oklahoma and also from Montana that we went on until almost 11 last night. I had not eaten. I had not realized why I felt so, but I had to eat a little bit to stay alert.

I yield the floor.

The PRESIDING OFFICER. The Chair informs the Senate that under the previous order there is a vote scheduled at 10 a.m.

The time for the Senator from Minnesota under the previous order is expired.

The Chair recognizes the Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, I ask unanimous consent that that vote occur not at 10 o'clock but at 10 minutes after 10.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Does the Senator wish to allocate time?

Mr. BAUCUS. Mr. President, I ask unanimous consent that the remaining 10 minutes be allocated evenly between both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, this is a modified version of the Boschwitz-Boren amendment, and it is acceptable to the managers of the bill. The amendment essentially sets up a small business technical assistance program, so that small businesses can more easily comply with the provisions of the act, not only the air toxic provisions, but the nonattainment provisions.

The amendment has been modified, though, so that the alternative regulatory scheme that would apply to small businesses would be discretionary; that is, the State would not have to set up a program; it is not mandatory for a State to set up a program, but at its discretion the State may, if it so chooses.

In addition, the amendment has been so modified so that the program that a State may set up must have a result so the consequences of the small business, emissions consequences of the small business, in no way are less rigid than those that would apply if the State alternative program were not in effect. It is not only that the same environmental standards must be met, but the same public health standards. The amendment has been modified to make that last change.

With the modifications, I think it is a good assist, particularly providing technical assistance to the small business amendment. In no way will it degrade the environment. It is the intent of the authors that this amendment in no way degrades the environment. That is, if the amendment were not enacted, the standards the businesses would have to comply with would be just as stringent as the standards the businesses would comply with if the State were to set up an alternative scheme. There is no difference in environmental consequences or public health consequences. This amendment has been modified, and with that change, we accept the amendment.

Mr. DOLE. Mr. President, I rise today in support of the Boschwitz-Boren amendment because it is a commonsense solution to the problems of how to ensure small businesses understand the requirements of the act and how to assist them to comply.

The Boschwitz-Boren amendment combines a commitment to tough standards for cleaning the air with assurances to small businesses that they have the assistance they need to meet the new requirements. In addition, it achieves comparable health benefits consistent with the goals and deadlines of the act.

Small businesses want to do their fair share to clean the air. The results of a recent National Federation of Small Business survey of their membership revealed a majority of the small business owners were willing to make changes in their business practices to clean the air even though these changes were likely to be expensive.

In order for small businesses to contribute to environmental improvement and to stay viable, the technical and regulatory assistance contained in this amendment must be available to them.

This improvement will be welcome in my State of Kansas where there are numerous small businesses that will be

seeking advice on how to comply with this complex piece of legislation. The Small Business Environmental Compliance Assistance Program created through the State implementation plans makes for good policy and good sense.

I welcome the regulatory tone this amendment sets. The vast majority of small business owners want to be responsible, but resent being treated like wrongdoers and resent useless redtape. This amendment encourages small businesses to come into compliance earlier by offering technical assistance and a regulatory consideration of their financial and managerial limitations. I urge my colleagues to vote for small business and for clean air. I urge them to vote for the Boschwitz-Boren amendment.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time? The time is controlled by Senator BOSCHWITZ and Senator BAUCUS.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. CHAFEE] is recognized.

Mr. CHAFEE. Mr. President, I want to congratulate those who offered the amendment. The senior Senator from Oklahoma and the distinguished Senator from Minnesota have both been long interested in attention to small business. This is a helpful amendment for small business. It provides for technical assistance, regardless of the amount of the emissions. In other words, if the business qualifies as a small business under the SBA definition, then that business is entitled to the technical assistance provided by the EPA in meeting these difficult permit standards.

So I think it is a good amendment, as modified. It will accomplish the goals. Yet, as has been pointed out, it will not denigrate in any way the health standards that are provided for in this legislation. I congratulate both authors of the amendment.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that Senator GORTON and Senator LOTT be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. I yield back the remainder of my time.

The PRESIDING OFFICER. Senator BAUCUS still has 1 minute 13 seconds.

Mr. BAUCUS. Mr. President, I yield back the remainder of my time. I see no reason why we cannot have the vote immediately and ask unanimous consent that the vote on the Boschwitz amendment now be in order.

The PRESIDING OFFICER. Without objection, that will be the order.

Mr. BOSCHWITZ. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—98

Adams	Fowler	McClure
Armstrong	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Helms	Reid
Burns	Hollings	Riegle
Byrd	Humphrey	Robb
Chafee	Inouye	Rockefeller
Coats	Jeffords	Roth
Cochran	Johnston	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kasten	Sarbanes
Cranston	Kennedy	Sasser
D'Amato	Kerrey	Shelby
Danforth	Kerry	Simon
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Symms
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Durenberger	Lugar	Wilson
Exon	Mack	Wirth
Ford	McCain	

NAYS—0

NOT VOTING—2

Matsunaga	Stevens

So the amendment (No. 1345), as modified, was agreed to.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the distinguished junior Senator from Missouri [Mr. BOND] and myself both be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1329, AS MODIFIED

Mr. CHAFEE. Mr. President, the pending business, I believe, is the Byrd amendment.

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. Is there any objection to setting that aside to consider an amendment by the distinguished Republican leader, Senator DOLE?

Mr. BYRD. Mr. President, I have no objection to setting it aside. I have been ready to vote on that amendment since a week ago tomorrow. I have been ready to vote on Thursday, ready to vote on Friday.

I would be pleased to agree on a vote and make it a day ahead so that everybody knows when the vote is going to occur. I would be happy to do that, set some time for debate on it, so that we know the hour and the day. That would be satisfactory to me. It will have to be voted on at some point, or some amendment will have to be voted on; I think we are all aware of that.

I have not tried to obstruct the activity on the bill. I do not intend to. I have been ready to vote. But the more I thought about it, I have come to the conclusion that we ought to have a time and day for that vote. We have at least one Member of the Senate who is quite ill and whether or not he can come to the vote, I do not know. But at least if we set a time and a day everybody is on notice.

In the meantime, I have no objection to setting the amendment aside for the moment.

The PRESIDING OFFICER. Is there objection? Hearing none, the amendment is set aside.

AMENDMENT NO. 1347 TO AMENDMENT NO. 1293

(Purpose: To require a determination of the impact on small communities)

Mr. CHAFEE. Mr. President, on behalf of Senator DOLE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. DOLE, for himself, and Mr. PRESSLER, proposes an amendment numbered 1347.

At the end of the bill, add the following new title:

TITLE —MISCELLANEOUS PROVISIONS

IMPACT ON SMALL COMMUNITIES

SEC. 01. Before implementing a provision of this Act, the Administrator of the Environmental Protection Agency shall consult with the Small Communities Coordinator of the Environmental Protection Agency to determine the impact of such provision on small communities, including the estimated cost of compliance with such provision.

Mr. CHAFEE. Mr. President, this amendment is being offered on behalf of Senator DOLE. I think it is self-explanatory. Senator DOLE wishes to point out that most citizens of his State live in small communities that do not have the ability to analyze complex environmental legislation such as this. They rely on their elected representatives to analyze these bills and make the right choices when it comes to how they impact on the State. And

EPA has chosen to create a small communities coordinator who listens to the concerns of these towns when it comes to compliance with the rules and regulations that EPA implements. It is a unique service and one that is not well known outside the agency.

Mr. President, I believe that there is no objection on either side to this amendment.

Mr. BAUCUS. Mr. President, I come from a rural State, the State of Montana. I can tell you that most communities in my home State have a very, very difficult time finding the personnel, finding the resources, and finding the means to meet Federal and State requirements that are imposed upon them, whether this is environmental regulation of the Safe Drinking Water Act or whether it is now going to other regulations under the Clean Air Act. It is very difficult for smaller communities to do what they want to do. Larger cities have the resources, larger cities have the expertise, larger cities are closer to the agencies both in proximity and mentally, in some sense, than are smaller communities.

I frankly think that it is imperative, if we are to exercise our support here in the Senate, to assist smaller communities so that they can do what they want to do.

This is an excellent amendment. I endorse it very strongly. I am very happy that the Senator from Kansas, the Republican leader, has offered this amendment. I urge its adoption.

Mr. DOLE. Mr. President, I am offering a very important amendment that substantially improves the clean air bill. The sum and substance of many of the discussions that have been going on with regard to the bill's cost have left out a way to determine the severe impact on small communities.

Most of the citizens of Kansas live in small communities that do not have the ability to analyze complex environmental legislation such as this. They rely on their elected representatives to analyze these bills and make the right choices when it comes to how they impact our States.

EPA has chosen to create a small communities coordinator who listens to the concerns of these towns when it comes to compliance with the rules and regulations EPA implements. It is a unique service and one that is not well known outside the agency.

I believe it is important that EPA take a close look at the economic impact to small communities before implementing these rules. If small communities know in advance what they are going to be required to do it will greatly assist them as they plan.

I also believe it important that EPA be aware of the impact of its actions. Too many times my constituents remind me that Washington is quick to mandate and regulate without regard to the consequences. This amendment does those things and I encourage my colleagues to support it.

The PRESIDING OFFICER. Is there further debate on amendment No. 1347? If not, the question is on agreeing to the amendment.

The amendment (No. 1347) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, yesterday the Senator from Massachusetts [Mr. KENNEDY] offered an amendment essentially providing for basic research and also an authorization for medical school grants to help train medical students on environmental matters. Yesterday the amendment was not cleared on the other side. It is my understanding that it has been cleared.

Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1343, AS MODIFIED

(Purpose: To authorize the Director of the National Institute of Environmental Health Sciences to conduct certain research in connection with air pollutants)

Mr. BAUCUS. Mr. President, I ask unanimous consent the amendment of the Senator from Massachusetts now be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I send the amendment to the desk on behalf of the Senator from Massachusetts and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. KENNEDY, for himself, Mr. KERRY, Mr. LAUTENBERG, and Mr. WIRTH, proposes an amendment numbered 1343, as modified.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment as modified is as follows:

On page 13, after line 9,

At the appropriate place in the amendment (No. 1293), insert the following:

Section 103 of the Clean Air Act is amended by adding at the end thereof the following:

"(g) STUDIES.—(1) The Director of the National Institute of Environmental Health Sciences may conduct a program of basic research to identify, characterize, and quantify risks to human health from air pollutants. Such research shall be conducted primarily through a combination of university and medical school-based grants, as well as through intramural studies and contracts.

"(2) The Director of the National Institute of Environmental Health Sciences shall conduct a program for the education and training of physicians in environmental health.

(3) The Director shall assure that such program shall not conflict with research undertaken by the Administrator.

"(4) There are authorized to be appropriated to the National Institute of Environmental Health Sciences such sums as may be necessary to carry out the purposes of this subsection.

Mr. BAUCUS. Mr. President, we discussed this at some length yesterday. I think with the changes the Senator made and the modifications he made, it is acceptable to this side.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, likewise on this side, it is acceptable.

Mr. KENNEDY. Mr. President, this amendment would authorize necessary funds for studying the adverse health effects of air pollution, and for training medical students to recognize and treat those effects.

It will authorize $120 million over 5 years for the National Institute for Environmental Health Sciences [NIEHS] to conduct a program of basic research on the risks to human health from air pollutants.

NIEHS has already contributed invaluable data from long-term population studies on the health effects of air pollution. This amendment will permit the agency to continue awarding research grants to universities and medical schools, conducting intramural studies, and overseeing research contracts. The amendment authorizes $20 million for fiscal year 1991; $22 million for fiscal year 1992; $24 million for fiscal year 1993; $26 million for fiscal year 1994; and $28 million for fiscal year 1995.

It will authorize $20 million over 5 years for NIEHS to conduct a program for the education and training of physicians in environmental health.

NIEHS currently sponsors a program of fellowships and institutional grants to prepare graduate students in a range of disciplines—for example, biochemistry, toxicology, and biostatistics—to conduct research on the impacts of air pollution. But NIEHS does not currently have such a training program for medical students. The amendment authorizes $4 million each year over the next 5 years for NIEHS to promote the teaching of environmental health in medical schools. The amendment will promote the proper diagnosis and treatment of medical problems resulting from air pollution.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 1343), as modified, was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I see the Senator from Massachusetts [Mr. KERRY] on the floor. I think we are now ready to consider his amendment.

Might I ask the Senator from Massachusetts if he wants to proceed with his FIP amendment?

Mr. KERRY. Mr. President, I would be delighted to proceed at this time.

Mr. BAUCUS. Mr. President, I ask unanimous consent the pending amendment be temporarily laid aside so the Senate can now consider the amendment by the Senator from Massachusetts.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts [Mr. KERRY] is recognized.

AMENDMENT NO. 1348 TO AMENDMENT NO. 1293

(Purpose: To return to current law)

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration, on behalf of myself and Senator WILSON, Senator CRANSTON, Senator KENNEDY, Senator LEAHY, Senator BIDEN, Senator BRADLEY, and others.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. WILSON, Mr. CRANSTON, Mr. KENNEDY, Mr. LEAHY, Mr. BIDEN, Mr. BRADLEY, Mr. LIEBERMAN, Mr. WIRTH, Mr. KOHL, Mr. D'AMATO, Mr. PELL, Mr. KASTEN, Mr. LAUTENBERG, Mr. BRYAN, Mr. ADAMS, Mr. METZENBAUM, Mr. HARKIN, and Mr. GORE, proposes an amendment numbered 1348.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KERRY. Mr. President, the amendment that I sent to the desk on behalf of myself, Senator WILSON from California, and others, is a very simple amendment even though it is a long amendment because of the procedure. It actually only changes the substitute in five places, and only changes it in a way that restores the substitute to the state of current law. I want to emphasize that at the outset of all of my comments.

I approached, with Senator WILSON and others, the question of this particular amendment very sensitively with respect to the compromise situation that we find ourselves in. I would like to take a moment, if I may, just to address that.

I believe that Senator MITCHELL, the majority leader, deserves extraordinary credit from all of us for having even gotten this bill to this stage where we are able to be debating it on the floor. As a person who participated from time to time in the course of those negotiations, I understand how difficult they were and the needs that required a compromise to get us to the point where we were even able to debate.

Clearly, Senator MITCHELL's efforts on this have really been, I think, a legislative tour de force, and I give him extraordinary credit for that.

I likewise want to praise Senator CHAFEE and Senator BAUCUS, in fact all of those people mentioned who, I believe, would support the thrust of my amendment but for the fact that we are here on the floor of the Senate at this moment in a compromise situation.

I would like to question whether or not it is either appropriate or reasonable for the U.S. Senate, in the context of an effort to provide a clean air bill that is true to the original intentions of the clean air bill and the original action and words of the clean air bill of 1970—it is very difficult for me to understand how the compromise could stand in the way of maintaining existing law.

I have heard the distinguished majority leader—and I respect his words enormously—as he has tried to distinguish between those amendments that have come to the floor that attempt to establish new standards, or attempt to apply new statistics or new models of where we are going in the future and that require various new performance standards by various industries in our country. And, in accordance with the compromise, I can understand how interests might be ruffled in the process of those amendments being adopted.

But no U.S. Senator ever proposed the changes that we are now voting on. No U.S. Senator in the committee ever suggested that current law should be retreated from. No U.S. Senator, in the course of those negotiations, has ever suggested that there was a reason to apply some new standard to the EPA's right to apply a Federal standard to the States that do not comply, or some new loophole for a cost analysis which the Governors will involve themselves in, or a diffferent standard for the application of reasonable available control technology, or RACT, as we call it.

Mr. President, I heard the majority leader yesterday in his arguments say there is a difference between moving from existing law—I think his words were, "Let us make law, not a statement."

This is not a statement, Mr. President. This is an effort to make a good law and to keep a good law where there has been absolutely no showing whatsoever that that current law is somehow faulty or inadequate, or that there is a reason to change it from where we have been.

Mr. President, this is a debate about the primary pollution control law of this country. The outcome of this debate is going to determine the shape of our national cleanup effort for at least 10 years. And the decisions that we make, I believe, have to be made with an understanding of where we have been and what has brought us to this point, and the delays that have been built into the system and how the EPA has or has not chosen to respond in the past, as we measure what powers we do or do not take away from it now as we move into the future.

It is my belief, shared by colleagues who join me in this effort—and again I say I believe truthfully it is a view shared by some of those who may be forced to speak against it, that this compromise inadvertently, and I truly believe without full thought at that particular time as to some of the consequences—this is going to have the impact of having a dramatic adverse effect on the Nation's air pollution programs. And the reason is that these provisions which were put in at the final moments within the context of the negotiations essentially repeal essential elements of the 1970 Clean Air Act.

I know that not all Senators have had a chance to completely weigh every provision in this bill. I know how difficult it was, even as a sometime participant in the negotiations, to understand aspects of the bill with which committee members are not always familiar.

But, notwithstanding that, I am convinced that the results of the negotiations will be to have the unintended consequence that many of us often fear come out of our legislative efforts. What my amendment seeks to do is restore in three places the current law.

I respectfully suggest, whether one likes it or not, if we do not have those in the law we will have set back the capacity of the EPA and the States to be able to enforce what is the existing law and to enforce the standards that we are seeking in this current compromise.

I would like to just focus on the first area of change that we are proposing to restore. The substitute removes the Federal obligation to assure—and I underscore "obligation"—the obligation to assure that every city cleans up its smog and other pollutants to a healthful level.

That Federal role is a requirement of current law. It has worked in these past years. We merely seek to hold onto existing law, continually asking

the question why it is, if we are passing a law to have stricter standards and meet healthful standards in the long run, we would want to retreat from where we have been and from what has worked?

The second area my amendment seeks to change: The substitute would allow calculations of technology, cost, and non-air-quality considerations to slow down the progress toward health standards.

It is not intentional that they do that. I know they did not set out to slow it down. But the consequence of the change in language is that there will now be an entry into the process of a new calculation that is an opportunity and an invitation for polluters to engage in a new kind of economic pressure, a whole new opportunity to come to Governors in each State on a case-by-case basis and say, "We cannot meet the standard; give us a waiver."

My amendment would seek to go back to existing law, which does not allow that loophole.

The third area: The substitute would limit the State and local authority in imposing reasonably available control technology on existing sources of pollution. The RACT technology requirement is part of existing law. No Senator asked that this be taken out. No hearing has been held to show why it should be taken out. There is no documentation in the committee report that suggests it should be taken out, and yet it is taken out, and it will have an adverse effect on our ability to be able to promote the clean air standards and to meet them. This amendment would seek to restore existing law.

Mr. President, this is obviously a very technical bill. The last debate was very technical. I would like to try just for a moment, if I can, to bring the debate back to the 1970 Clean Air Act and what our efforts are supposed to be really all about. That is health standards. The entire purpose of this exercise is to meet a national health problem and to try to do the best we can in order to clean up our Nation's air in the effort to do that.

We have made some progress, but progess has slowed significantly, and it has ultimately been reversed, as we know, during the 1980's. In 1977, Congress gave the areas with the worst auto-related pollution 10 years, until 1987, to achieve healthful air quality. As late as 1982, the EPA testified that only a handful of areas were going to miss that deadline by 1987. The fact is that in 1990, Mr. President, there are 101 areas in the country still suffering chronic smog, 44 areas with carbon monoxide pollution, and more than 50 areas that are also suffering unhealthful levels of fine particle pollution.

Most of us are obviously aware of the scope of that problem, particularly the summertime smog problem in our cities. But I would like to just draw attention for a moment, if I may, to the scope of this problem. There is a chart in back of me which points to the ozone nonattainment areas of the Nation. There are 10 areas in the entire country that currently are in attainment. The rest of the Nation are out of attainment. Most disturbing is that the red areas that are shown are those that have been newly added in the 1985 to 1987 period. The yellow represents the areas from 1985 to 1987. So we have been, and science shows, a rapid increase of population.

It is clear that this is not the moment to allow any kind of change in our capacity to meet clean air standards, and that is really what we are talking about.

Let me talk for a moment about the health impact of this, if I may, because I think that has to be kept as the paramount driving force behind this effort.

Ozone, as we know, is a highly reactive gas. More than 90 percent of the ozone inhaled by human beings is not exhaled. It is fixed to the respiratory tissues by a chemical combination. Unlike some air pollutants, which concentrate very close to their source, ozone is a regional pollutant. It moves. Pollution levels hundreds of miles downwind from the source can be affected as the ozone travels on the prevailing winds.

Anyone can suffer from ozone problems, from the ill effects of ozone pollution. In fact, today in the United States, over half of our citizens live in areas where one or more of the air quality standards are not met. Those especially vulnerable to this pollution include 31 million children, 19 million elderly, 6 million asthmatics, and 7.5 million individuals with chronic lung disease. For these individuals—all of them—the millions of individuals, the current risk due to the air pollution that we have now that is growing at this point in time is severely delimiting, it is debilitating, and it is even painful, Mr. President.

All of us understand some basic biology. The respiratory system, as we know, is the principal site of the human being's interaction with air pollution. There are a couple of simple facts one ought to think about when we think about why this is so important for us in the larger context. We breathe, each and every one of us, as a human being, an estimated 20,000 liters of air every day. That is to be compared to maybe the 2 liters of liquid that we drink. Twenty thousand liters of air we breathe. Each minute, 6 to 10 liters of air move across the surface of the tiny air sacs in our lungs. If those air sacs were spread end to end, they would cover an entire tennis court. A child starts out with only 30 million air sacs, but by the time that child becomes an adult, those 30 million have grown to 300 million.

The phenomenal rate of lung growth is what particularly puts infants and children at the greatest risk, and that is precisely why the American Lung Association and the American Medical Association and others have taken pains to point out the billions of dollars of health care costs that this air pollution is costing us on an annual basis.

Our knowledge of the impact of ozone on each and every one of us has grown dramatically in the last few years. The fact is that since we began debating the Clean Air Act, we now know that when ozone is inhaled in those thousands of liters a day, it reacts with our sensitive lung tissues. What happens is it irritates and inflames lungs, it causes a variety of consequences, including chest pain, pain on deep respiration, shortness of breath, coughing, nausea, throat irritation, and increased susceptibility to various lung and respiratory diseases.

There is a growing body of evidence that also shows that repeated exposure to ozone pollution scars lung tissue permanently. Similar effects of that kind of repeated exposure actually result in a stiffening of the lungs, reducing capacity and creating what scientists refer to as a premature aging of the lungs.

As I mentioned, Mr. President, the greatest concern that scientists have expressed are the effects on children. Why? Because their lungs are still growing and the increased amount of ozone has the impact, obviously, of increasing their risk of disease, which, obviously, then increases our medical costs and the societal costs at the back end.

Mr. President, I apologize for going at such length into it, but we have been wrapped up with extraordinary technical language. We are talking about RACT, talking about available this, furthering progress and definitions. We have to remember why we are here, what this is about, and what the consequences of our not taking the strongest action that we ought to be taking are and certainly what the consequences of not leaving existing law the way it is would be.

I was not in the U.S. Senate when Senator Edmund Muskie of Maine guided this landmark legislation through the body and to signature at the President's desk. A participant in that debate, Senator John Sherman Cooper, said then about this act that "it may have had a larger impact upon the social and economic life and health of this Nation" than any bill that he had observed during his service in the U.S. Senate.

The bill at that time passed unanimously, Mr. President. The Clean Air Act of 1970 made protection of the

public health the primary purpose of air pollution control. It declared that when public health considerations conflicted with other concerns, public health was to be given the top priority.

Health standards were declared in 1970 to be the primary standards of this bill. The reason I emphasize this is that this amendment seeks to reassert the primacy of health standards, because what has happened in the compromise is that by virtue of the pulling away of those changes that no Senator asked for we are actually changing the primacy of the health standard. Now we are asserting a new process whereby each State will be free to choose and pick according to its waiver process and, worse, some States will be disadvantaged against other States because of economic considerations that will now gain a higher foothold above the primacy of those health standards.

The 1970 law set out to achieve healthful air quality as quickly as possible. The term was "as expeditiously as practicable." Very ambitious deadlines were set. Reductions were required for existing sources and state of the art controls were required on new soures. Where necessary, as we know, as in the case of automobiles, the act required the cleanup to go beyond the state of the art, and Congress recognized that modern society's ability to pollute outstripped our ability to control pollution, so the public health protection was given that higher priority and the law forced the development of technologies in order that we do an adequate cleanup job.

The 1970 act carefully balanced the responsibility to deliver healthy air and the Federal Government-State government roles in that process. The States and localities in 1970 were given the legal authority. The Federal Government had the power to review the plans and stood ready to step in when special interests made adequate State and local plans impossible.

The important point is that the original act contemplated, and we have successfully used for these 20 years, a major enforcement tool in the hands of the Federal Government.

The most significant enforcement tool of all was the right of citizens to be able to bring suit against the Government. A citizen had the right to force the Federal Government to do what it was supposed to do. That right of action is taken away, inadvertently, we believe, but it is taken away, by the substitute because there is no mandatory duty any more on the Federal Government side. Where there is no mandatory duty, the citizen has nothing to force. You cannot force a permissive or discretionary choice. You only have a right under administrative law to force a mandatory duty. The word "shall" has been removed so there is no mandatory duty and there is no capacity of a citizen to come to the Government and seek redress.

Mr. President, many of us have come to the Senate, have spent time in the Senate advocating the goals about which Senator Muskie and Senator John Sherman Cooper talked. We have criticized Presidents and EPA Administrators in the past for not adhering to those standards, and here we are now potentially about to join in a process that deletes the essence of the Clean Air Act's capacity to guarantee the meeting of these standards down the road.

I hope that is inadvertent, Mr. President. I hope we will correct it today, at this moment, when the Senate has the ability to work its will.

I say again to the distinguished majority leader and to the chairman of the subcommittee, who is managing this bill so well, that the whole notion of our approach to the compromise was that the Senate ought to be able to work its will. Senators ought to have the ability, when we come to the Chamber, to take whatever happened in a back room and improve it and shape it. It is my hope we are not going to be so locked into this notion that whoever participated in that process is somehow frozen by virtue of that process from having the Senate work its will effectively particularly on something so critical as maintaining the fabric of existing law.

The compromise strips away the enforcement power of the Federal Government. It leaves it discretionary. It leaves some sanctions. Indeed, it sets a percentage reduction, but it takes away the capacity of the Federal Government to step in and make people do what they clearly have proven over the last 20 years they are reluctant to do, they do not want to do, they will do as slowly as they possibly can.

The compromise substitute has, again I am confident, the absolutely unintended consequence but real consequence as a result of the language of saying to the States and localities that they can now get away with a loose concept of simply doing the best they can with limited expectations and limited cleanup tools. If they fail to do the best they can, the EPA can no longer threaten a Federal decisionmaking if the States and localities fail to act, or if it chooses to try to threaten one action or another it is usually going to be the least strong alternative and citizens are going to be left 10 or 15 years behind.

In a moment I will show how the 3-percent reduction process will leave us way out of attainment and far from the standards that we were supposed to meet under this bill.

So, Mr. President, not only does the compromise eliminate the mandatory duty under the existing law, but it repeals the right of the public to seek judicial intervention in order to assure healthy air.

Added to this is a critical provision that provides a loophole for pollution control evasion which, frankly, makes the pre-1986 Revenue Code look rigid. Without any public discussion, with no record in the Senate Environment and Public Works Committee, with no identifiable sponsorship, we have before us a provision which says that any Governor of any State can seek to walk away from pollution control requirements whenever someone with influence or access says pollution control costs too much or is not feasible or has nonair quality environmental impacts. What the amendment of the Senator from California and I and others seeks to do is maintain existing law which does not allow that loophole to exist.

Mr. President, the first part of our amendment requires the Federal Government to intervene where necessary. Now, during the debate on this amendment we will hear that the EPA is not really losing anything because the EPA has never voluntarily used the Federal cleanup authority; therefore, if they have never voluntarily used it, they are not about to use it, they are not really giving anything at all. The problem is this is a circular argument, Mr. President. In fact, it is not true.

I ask unanimous consent to have printed in the RECORD at the end of my remarks several documents which show specifically how the EPA has used this authority both at its own initiative and at the behest of citizen suits. I might note that the EPA in 1987 issued three Federal implementation plans for visibility protection alone.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

(See exhibit 1.)

Mr. KERRY. Mr. President, admittedly the Reagan EPA did not use the authority voluntarily. They only used it under legal duress. But I consider that a commentary not only on the Reagan Environmental Protection Agency, which did nothing to voluntarily move the processes, but it is also a comment on precisely what some States will choose to do absent the ability of the Federal Government to hold a sledgehammer over their heads. If nothing has happened voluntarily and you take away from the States' citizens the ability to be able to force people to do something, you are guaranteeing that in the future nothing is going to happen.

If those waivers existed previously, it is certain that they are going to exist to a greater degree when we get into the more difficult, more compressed choices of the last percentages, and of the newer technologies that are going to have to gather up

the additional pollution. It is clear that the very same attitude that conditioned the nonvoluntary response of the administration exists also in States. Therefore, if the States are willing to adopt the same lackadaisical, noninvolved attitude, you wind up with nobody responsible, and with no lever to be able to come in and create change.

The existence of successful court action in my view demonstrates the very strength of this existing Clean Air Act. Why change it? The very fact that the Federal Government came into Wisconsin, came into Tucson and Phoenix, came into California and made a difference is testimony to the fact that the current law works. And the question must be asked why at a moment when we are pressing a new Clean Air Act to move us forward are we stepping back from this powerful tool which has enabled us to be able to create the small progress that we have made at this point in time?

We will hear in this debate that the EPA can accomplish as much under the new discretionary authority that has been granted by the pending substitute. I respond to that and ask unanimous consent to have printed in the RECORD a speech made by Senator Muskie when he introduced the 1970 Clean Air Act to the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE DEBATE ON S. 4358, SEPTEMBER 21, 1970

Mr. MUSKIE. Mr. President, I move that the Senate proceed to the consideration of Order No. 1214, S. 4358.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read the bill by title, as follows: S. 4358, to amend the Clean Air Act, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. MUSKIE. Mr. President, one of the most troubling aspects of our national mood is the crisis in confidence which afflicts too many Americans in all walks of life. It is a crisis marked by self-doubt, by a fear that our problems may be greater than our capacity to solve them, that our public and private institutions may be inadequate at a time when we need them most.

Our environmental problems have contributed heavily to that self-doubt and fear. A nation which has been able to conquer the far reaches of space, which has unlocked the mysteries of the atom, and which has an enormous reserve of economic power, technological genius, and managerial skills, seems incapable of halting the steady deterioration of our air, water, and land.

The legislation we take up today provides the Senate with a moment of truth: a time to decide whether or not we are willing to let our lives continue to be endangered by the wasteful practices of an affluent society, or whether we are willing to take the difficult but necessary steps to breathe new life into our fight for a better quality of life.

This legislation will be a test of our commitment and a test of our faith: in our institutions, in our capacity to find answers to difficult economic and technological problems, and in the ability of American citizens to rise to the challenge of ending the threat of air pollution.

I am prepared to affirm that faith—on the basis of the knowledge we have gained from existing air pollution control legislation, on the basis of our committee's studies, and on the basis of what Americans have been telling me and other Members of the Senate about their determination to overcome the obstacles to clean air.

I. THE NEED FOR THE LEGISLATION

Mr. President, we are considering this legislation in a year of environmental concern. The President devoted much of his state of the Union message to the environment, young and old together marked Earth Day in April, and Congress has considered an unprecedented number of bills dealing with the degradation of our air, water, and land.

In January of this year the President signed the National Environmental Policy Act. That law commits all agencies of the Federal Government to continuing environmental concern. In April of this year the Water Quality Improvement Act, built upon the record established by the Congress since 1965 in the area of water pollution control, was enacted.

The bill we consider today, however, faces the environmental crisis with greater urgency and frankness than any previous legislation. The effect of these amendments to the Clean Air Act will be felt by all Americans. This bill states that all Americans in all parts of the Nation should have clean air to breathe, air that will have no adverse effects on their health. And this bill is aimed at putting in motion the steps necessary to achieve that level of air quality within the next 5 years.

It is a tough bill, because only a tough law will guarantee America clean air. It is a necessary bill, because the health of our people is at stake.

Over 200 million tons of contaminants are spilled into the air each year in America. Each year we soil more clothes and buildings, destroy more plant and animal life, and threaten irreversible atmospheric and climatic changes. And each year these 200 million tons of pollutants endanger the health of our people.

The costs of air pollution can be counted in death, disease and debility; it can be measured in the billions of dollars of property losses; it can be seen and felt in the discomfort of our lives.

A reduction of 50 percent in air pollution in urban areas would result in savings of over $2 billion in the annual costs of health care in America.

So there is a need for this legislation. During the past year all of us have recognized this need. Last month, in transmitting the first annual report of the Council on Environmental Quality, President Nixon recognized this need:

"Man—

He said—

"has been too cavalier in his relations with nature. Unless we arrest the depredations that have been inflicted so carelessly on our natural systems . . . we face the prospect of ecological disaster."

In hearings on the bill before us, Mr. Joseph Germano, a steelworker from Chicago, also recognized this need. He told the committee:

"This old philosophy, that when you see the smoke rolling out of the tops of the blast furnaces there is prosperity, doesn't go anymore. The people don't look at that anymore.

"Prosperity doesn't mean anything if they are not going to live to enjoy the prosperity."

All Americans have agreed on the need for action. It is now time to determine whether that agreement has reflected only a lack of disagreement, or a genuine commitment to action.

II. A REVIEW OF THE LAW

The bill now before the Senate would amend the Clean Air Act. It is consistent with the purpose of that law and with the basic approach of the present program. In the Air Quality Act of 1967, Congress adopted this basic approach in amendments to the Clean Air Act of 1963.

The Senate report on the 1967 bill stated the purposes of the legislation:

"(It) is the intent of the Committee to enhance air quality and to reduce harmful pollution emissions anywhere in the country, and to give the secretary authority to implement that objective in the absence of effective state and local control."

The committee feels that S. 4358 is consistent with those purposes and reflects knowledge gained since the law has been in force.

The 1967 act established procedures for the achievement and maintenance of federally approved regional standards of ambient air quality. These standards, based on Federal criteria documents describing the effects of pollutants on health and welfare, are adopted and enforced on the State and local level. In the event that adequate standards are not developed or enforced, the Federal Government assumes the responsibility.

The underlying wisdom of the original legislation has been confirmed. We have learned from the criteria documents which have been issued for five pollutants that more decisive action must be taken now. We have learned from the standards-setting process that public participation is important, and we have learned from experience with implementation of the law that States and localities need greater incentives and assistance to protect the health and welfare of all people.

III. WHAT WE HAVE LEARNED FROM THE LAW

From the operations of the existing law, we have learned a great deal—about the concern of Americans over air pollution, about the response of polluters to this concern, and about the sacrifices we must make to protect our health.

The effectiveness of existing law depends in great part on the willingness of people to make tough decisions concerning the quality of air they want to breathe. And it depends on their willingness to make their wishes known in public hearings on the local level. This experiment in public participation has worked. It has opened doors once closed. People have become involved in the standards-setting process. They have learned of the threats to their health and they have sought to make the program responsive to their needs.

At the same time, some industries have not exceeded their best efforts to control air pollution. Two steel companies in the Chicago area, for example, dumped more pollutants into the air in 1968 than in 1963—3,500 tons more. Oftentimes, funds which should have gone for air pollution control have

been spent on advertising and public relations designed to reduce the pressure on the companies to do what is necessary.

In the face of citizen concern and corporate resistance, we have learned that the air pollution problem is more severe, more pervasive, and growing faster than we had thought. Unless we recognize the crisis and generate a sense of urgency from that recognition, lead times may melt away without any chance at all for a rational solution to the air pollution problem.

IV. WHAT WE HAVE LEARNED ABOUT THE LAW

While we have learned much from the operations of the laws passed in 1963, 1965, and 1967, we have also learned much about the law itself.

It is clear that Congress was right in 1967 when national emissions standards without ambient air quality standards for stationary sources were rejected—in favor of regional ambient air quality standards with emissions standards as tools to meet them. Emissions standards alone will not—and probably cannot—guarantee ambient air quality which will protect the public health. The implementation of air quality standards must take more forms than emissions controls.

It is also clear that ambient air quality standards which will protect the health of persons must be set as minimum standards for all parts of the Nation, and that they must be met in all areas within national deadlines.

Congress did adopt emissions standards as the basic control technique for moving sources in 1965, because they are not controllable at the local level. Here we have learned that tests of economic and technological feasibility applied to those standards compromise the health of our people and lead to inadequate standards. It is clear that the long-range proposal for emission standards will only be adequate if the timetable is accelerated.

In 1963, Congress recognized that the Federal Government could not handle the enforcement task alone, and that the primary burden would rest on States and local governments. However, State and local governments have not responded adequately to this challenge. It is clear that enforcement must be toughened if we are to meet the national deadlines. More tools are needed, and the Federal presence and backup authority must be increased. [Sec. 116(a)] [1]

Finally, no level of government has implemented the existing law to its full potential. On all levels, the air pollution control program has been underfunded and undermanned. To implement the greater responsibilities of this bill, great financial commitments will have to be made and met at all levels. Air pollution control will be cheap only in relation to the costs of lack of control.

V. CHANGES RECOMMENDED

What we have learned—from and about the existing law—forms the basis of the changes recommended by the committee. Because we have fallen behind in the fight for clean air, it is not enough to implement existing law. We must go further. The Senate committee report on the Air Quality Act of 1967 warned polluters:

"Considerations of technology and economic feasibility, while important in helping to develop alternative plans and schedules for achieving goals of air quality, should not be used to mitigate against protection of the public health and welfare."

The warning, Mr. President, has been on the books of this committee for 3 years, for all to read.

Contrary to this intent, these considerations have been used as arguments to compromise the public health. Therefore, the committee has made explicit in this bill what is implicit to standards designed to protect our health. That concept and that philosophy are behind every page of the proposal legislation.

"The first responsibility of Congress is not the making of technological or economic judgments—or even to be limited by what is or appears to be technologically or economically feasible. Our responsibility is to establish what the public interest requires to protect the health of persons. This may mean that people and industries will be asked to do what seems to be impossible at the present time. But if health is to be protected, these challenges must be met. I am convinced they can be met.

"First, the bill provides for national ambient air quality standards for at least ten major contaminants that must be met by national deadlines. [Sec. 110(a)] This means that in every region of the country, air quality must be better than that level of quality which protects health. Anybody in this Nation ought be able at some specific point in the future to breathe healthy air.

"Second, national air quality goals—protective against any known or anticipated adverse environmental effects—will be set for the major pollutants and must also be achieved within specific time-frames on a regional basis. [Sec. 110(b)] Air quality goals are especially important because some pollutants may have serious effects on the environment at levels below those where health effects may occur. For example, the Secretary would be expected to disapprove regional air quality goals which would delay the application of controls required to protect plants and animals from the well-known hazards of exposure to fluorides.

"Third, the bill provides that newly constructed sources of pollution must meet rigorous national standards of performance. [Sec. 113] While we clean up existing pollution, we must also guard against new problems. Those areas which have levels of air quality which are better than the national standards should not find their air quality degraded by the construction of new sources. There should be no "shopping around" for open sites. These standards of performance would not specify what technology must be used by particular types of sources, only the emissions performance that must be met.

"Fourth, the bill provides the Secretary with the authority to prohibit emissions of hazardous substances. [Sec. 115] The committee was presented with strong evidence that any level of emissions of certain pollutants may produce adverse health effects that cannot be tolerated.

"Fifth, the bill provides the Secretary with the authority to set emission standards for selected pollutants which cannot be controlled through the ambient air quality standards and which are not hazardous substances. [Sec. 114] These pollutants could later be covered by either ambient air quality standards or by prohibitions as hazardous substances."

These five sets of requirements will be difficult to meet. But the committee is convinced that industry can make compliance with them possible or impossible. It is completely within their control. Industry has been presented with challenges in the past that seemed impossible to meet, but has made them possible.

As far back as 1869, the Alkali Act prohibited the emissions of hydrogen sulfides in England. Although industry had said that requirement could not be met, there was compliance within 2 years.

At the beginning of World War II industry told President Roosevelt that his goal of 100,000 planes each year could not be met. The goal was met, and the war was won.

And in 1960, President Kennedy said that America would land a man on the moon by 1970. And American industry did what had to be done.

Our responsibility in Congress is to say that the requirements of this bill are what the health of the Nation requires, and to challenge polluters to meet them.

The committee has also recommended significant changes in title II of the Act dealing with moving sources, and especially with automobiles.

In 1968, moving sources were responsible for more than 42 percent of the total emissions of the five major pollutants—including 64 percent of the carbon monoxide and 50 percent of the hydrocarbons. In health effects, these pollutants mean cancer, headaches, dizziness, nausea, metabolic and respiratory diseases, and the impairment of mental process. Clearly, solving the air pollution problem depends on the achievement of significant reductions in the emissions from automobiles. Clearly, protection of the public health requires quick and drastic reductions.

Since legislation to deal with the problem of automotive emissions was first introduced in 1964, the industry has known that they would have to develop the solutions to the problem. In 1965 they announced that national standards could be met in the fall of 1967.

As the report of the committee indicates, it is now clear that continued reliance on gradual reductions in automotive emissions would make achievement of the ambient air quality standards impossible within the national deadlines established in title I of this act. More important, it would continue hazards to our health long after they should have been eliminated.

In order to maintain those standards set under title I—standards which are necessary to protect the public health and which must be met in the next 5 years—the emissions standards for carbon monoxide, hydrocarbons, and nitrogen oxides which have been protected for 1980 must be met earlier. This bill would require that this be done by 1975. [Sec. 202(b)]

To insure that production line vehicles perform adquately, this bill would require that each vehicle manufactured comply with the standards for a 50,000-mile lifetime. [Sec. 207(c)] The manufacturer would be required to warranty the performance of each vehicle as to compliance with emission standards. The increased price of new cars that would be a result of the bill can be defended only if the emission control systems work satisfactorily for the life of the car.

The committee, in setting the 1975 deadline, made every effort to make that requirement consistent with what the industry has told the committee on many occasions over the years: It provides 2 years for research and development of the necessary technology, and 2 years to apply that technology in the mass production of vehicles.

[1] Section numbers in this chapter refer to section numbers of S. 4358, as reported (pp. 531-625).

In response to claims that these requirements cannot be met, the committee has included in the legislation an opportunity for a secretarial review of the 1975 deadline. A 1-year extension of the deadline could be granted upon a secretarial finding that such an extension would be necessary and justified. [Sec. 202(b)(4)(C)] The bill also provides for a review of that decision by an appellate court. [Sec. 202(b)(4)(D)]

It was only on the issue of secretarial review that the committee was divided. Several members, including myself, felt that an extension of the deadline was a major policy decision that should be made only by the Congress. We felt that if Congress decided that requirements of public health were not to be compromised in any way, any change in that policy would be properly reserved to the Congress.

It should be clear that the committee was unanimous on the important question of when review could be sought—either before Congress or the Secretary. In the committee's review, such review would not be available until the last possible moment. For an extension to be granted, the manufacturer would have to demonstrate not only impossibility, but also that all good-faith efforts had been made. [Sec. 202(b)(4)(D)]

The committee is aware of the problems these requirements might create for individual companies. Therefore, the bill provides a procedure for mandatory licensing which would make available patents, trade secrets, or know-how necessary to achieve compliance with the Standards Act to any manufacturer who can show a need and to whom the information is not otherwise available. This provision would also apply to stationary sources. [Sec. 309]

Mr. President, I should like to make the philosophy of the bill clear, with this emphasis:

Predictions of technological impossibility or infeasibility are not sufficient as reasons to avoid tough standards and deadlines, and thus to compromise the public health. The urgency of the problems requires that the industry consider, not only the improvement of existing technology, but also alternatives to the internal combustion engine and new forms of transportation. Only a clear cut and tough public policy can generate this kind of effort.

This philosophy has been stated by the committee before. In reporting the Air Quality Act of 1967 to the Senate, the committee said:

"The Committee recognizes the potential economic impact, and therefore economic risk, associated with major social legislative measures of this type. But, this risk was assumed when the Congress enacted social security, fair labor standards, and a host of other legislation designed to protect the public welfare. Such a risk must again be assumed if the nation's air resources are to be conserved and enhanced to the point that generations yet to come will be able to breathe without fear of impairment of health."

Detroit has told the Nation that Americans cannot live without the automobile.

This legislation would tell Detroit that if that is the case, they must make an automobile with which Americans can live.

The third major area in which the committee has recommended significant changes is the area of enforcement. Standards alone will not insure breathable air. All levels of government must be given adequate tools to enforce those standards. [Sec. 112]

The committee remains convinced that the most effective enforcement of standards will take place on the State and local levels. It is here that the public can participate most actively in bringing the most effective pressure to bear for clean air.

Public participation is therefore important in the development of each State's implementation plan. [Sec. 111(a)] These plans do not involve technical decisions; they do involve public choices that citizens should make on the State and local level. They should be consistent with a rational nationwide policy and would be subject to the approval of the Secretary.

The powers to enforce these standards must be increased for the State and local governments as well as the Federal Government. The bill thus requires adequate State enforcement authority as a part of implementation plans [Sec. 111(a)(2)(G)] and provides that abatement orders may be issued by the Secretary or his representative. [Sec. 116(a)(2)] Violations of these orders will be punishable by statutory penalties of as much as $25,000 for each day of a first violation [Sec. 116(b)(2)]

The bill also provides the Federal Government with the authority to use the influence of the Federal contract as an incentive to compliance with standards established under this act. [Sec. 306(c)] Federal contracts could be awarded only to facilities which were in compliance with the standards and requirements of this act.

Finally, the bill extends the concept of pulbic participation to the enforcement process. [Sec. 304] The citizen suits authorized in this legislation would apply important pressure. Although the committee does not advocate these suits as the best way to achieve enforcement, it is clear that they should be an effective tool.

VI. WHAT THE LAW CAN MEAN

These, then, are the commitments that the Congress should make—commitments to meaningful environmental protection; effective protection of the health of all Americans; and the early achievement of these goals.

Committing the Congress with this legislation, however, will not be enough. Here we can make only promises to provide the funds and manpower necessary to set and enforce the standards. We must carry this commitment through to the appropriations of those funds. If these promises that we make here are not kept, these will be empty promises.

May I reemphasize the point, Mr. President, that the number of personnel in the agency available today to deal with these problems is less than 1,000. We asked the administration to give us its best estimate of the numbers needed and the costs to administer and fully implement the bill before us if it is enacted into law.

The details on the administration's figures are in the report. Personnel would have to be increased to 1,741 in the present fiscal year; 2,535 in fiscal 1972; and 2,930 in fiscal 1973. In 1973, in order to provide the necessary personnel, the annual appropriations would have to be $320 million.

We talked about commitment, Mr. President. The 1967 act has not worked as well as it should have because we did not provide the manpower and the money to enforce it. For that reason, we are now forced to consider a more stringent law. So, for those who look to the law enacted in 1967, to those who are tempted to weaken this one let me make this point.

If the Senate passes the bill, if the House passes it in this form, and if the President signs it into law, we cannot make it work unless we have as a minimum the personnel and the dollars recommended by the administration.

Mr. President, I emphasize this because it is such an important point. The committee got these detailed estimates from the administration so that we could tell the Senate and the House of Representatives in advance what it is going to cost to make this law work.

I know the traditional attitude of the Appropriations Committee is that we in the legislative committees are good at putting together the big promises, but that since we do not have to concern ourselves with the details of what it will cost or how many people it will take, we are really not a very good bunch to write the figures into the law.

This is one time a legislative committee got the details. They are here for all to see. If the members of the Appropriations Committee are interested in those details, they are here.

If there is any doubt on the part of any Senator about whether he would support the appropriations necessary to make this law work, let him vote against the bill. Let us not vote for empty promises.

Mr. President, I emphasize that this bill seeks a commitment not only from Congress but also from the people. As I said earlier in this statement, clean air will not come cheap and it will not come easy.

The legislation would require new kinds of decisions with respect to transportation and land-use policies. [Sec. 111(a)(2)(D)] It would require new discipline of our desire for luxury and convenience. And it would require a new perspective on our world, a recognition that nothing is more valuable or essential to us than the quality of our air.

Mr. President, 100 years ago the first board of health in the United States, in Massachusetts, said this:

"We believe that all citizens have an inherent right to the enjoyment of pure and uncontaminated air and water and soil, that this right should be regarded as belonging to the whole community and that no one should be allowed to trespass upon it by his carelessness and his avarice, or even by his ignorance."

Mr. President, 100 years later it is time to write that kind of policy into law. The pending bill is such a law. I urge the Senate to approve it overwhelmingly.

Mr. President, at this point I would like to pay tribute to all members of the Committee on Public Works and the Subcommittee on Air and Water Pollution for their involvement in, their commitment to, and their dedication to what, for me, has been one of the most unusual experiences of committee work since I have been a Member of the Senate.

Hearings on this legislation began early this year. They were concluded early in the spring, in ample time for us to have simply passed out any one of the bills that were introduced and consider our work done. But we were conscious of the fact that the legislation already enacted had proven inadequate.

We were also conscious of the fact that in the climate of environmental concern which we faced in the country, it was important that Congress give to the country the best bill it was possible for Congress to devise.

Since the completion of the hearings, therefore, the subcommittee and the full

committee have spent long hours in deliberation and consultation and finally in decision. Never was a partisan line drawn in any of those deliberations. Never was there any effort to obstruct or delay the action of the committee.

The discussions were long because it was necessary to educate ourselves, the Senate and ultimately the country as to the options available to us and the implications of these options.

We have been conscious. I think, since early June that what we were considering writing into law could result in drastic changes in the pattern of the life we live in the urban areas of America. We felt that just such changes were essential if we were really to come to grips with the problem of air pollution. We cannot solve the problem of air pollution in the city of Washington by prohibiting the backyard burning of leaves. That has already been done in some of the suburban counties. It does not begin to touch the job.

All of us in the Senate travel about this country by air. I know of no city of more than 50,000—and that includes my own State—which is not threatened already by the pall of smog. Beyond any question the automobile is the principal contributor to that pall; and the results have grown visibly since 1967. The problem that troubled the committee most was not the problem of the new car, but the problem of the used car. There are more than 100 million on the road. And before this law takes effect, if it is enacted into law, four or five new generations of automobiles will become used cars at the rate of 8 million to 9 million a year.

After new cars roll out of the showrooms onto the streets and into the control of their owners, it is technologically almost impossible to make them clean cars.

In title I of this act we have written a national deadline for the purpose of implementing applicable ambient air quality standards. [Sec. 111] That is going to require every State Governor and the mayor of every city in this country to impose strict controls on the use of automobiles before the new car is a clean one.

The only way we can deal effectively with the used car is to begin making clean cars in Detroit. Under the program as it is presently planned, the used car population will not be cleaned up until 1990. Under the pending bill, the used car population would not be cleaned up until 1985. [Sec. 202(b)]

Mr. President, that is not too soon to be concerned about the health effects of automobiles on the lives of the people living in these cities.

Drastic medicine? Yes.

Necessary? Yes.

The industry will have 5 years to make its peace with this proposal. As we bear in mind the space program and other great technological achievements of American industry, I find it difficult to believe that, whatever their present doubts, they cannot meet the challenge of this bill.

They have been able to meet such challenges in the case of war when President Roosevelt asked them to build 100,000 planes a year.

They have been able to meet such challenges in the case of national curiosity when President Kennedy asked them to make it possible to send a man to the moon in the 1960's.

Here, in the case of a national objective more serious than either of those—the national health, I think that we have an obligation to lay down the standards and requirements of this bill.

I think that the industry has an obligation to try to meet them. If, in due course, it cannot, then it should come to Congress and share with the Congress—the representatives of the people—the need to modify the policy.

That is the philosophy of this bill. The committee felt it owned no less duty to the Senate and the Congress than to state it in these terms. That is why we have this kind of bill. It was not unreasonable or arbitrary in the sense that it was ill-considered. The committee spent hundreds of hours over weeks and months before it came to this hard decision.

Mr. President, I wish to list in the Record at this point the names of the members of the committee: Senator Randolph, Senator Young of Ohio, Senator Muskie, Senator Jordan of North Carolina, Senator Bayh, Senator Montoya, Senator Spong, Senator Eagleton, Senator Gravel, Senator Cooper, Senator Boggs, Senator Baker, Senator Dole, Senator Gurney, and Senator Packwood.

After all these hundreds of hours covering weeks and months of deliberations, all those Senators—obviously of widely varying political philosophies—voted unanimously to recommend to the Senate and Congress the passage of this bill, the goals it establishes, the sense of urgency it incorporates, and the program for meeting the problem. I cannot think of a major piece of domestic legislation that has had such complete committee support from that spectrum of opinion. There was no doubt in the minds of any of them about supporting it.

It is with that recommendation that I am proud to submit the legislation to the floor of the Senate.

At this point, I would like to express my heartfelt appreciation to the chairman of the committee, the Senator from West Virginia [Mr. Randolph], the ranking Republican member, the Senator from Kentucky [Mr. Cooper], the ranking Republican member of the subcommittee, the Senator from Delaware [Mr. Boggs], and every one of the members of the committee for the most conscientious attention of duty, committee meetings, and the responsibilities this legislation imposes that I have ever witnessed in a committee in my experience.

This is not the usual pat on the back one gets on the floor of the Senate. This is heartfelt. Not only did they contribute their energy and time, but the ideas in this bill could not be separated along party lines of Democratic and Republican. These are Democratic, Republican, liberal, and conservative ideas. This is an integrated piece of legislation incorporating the full thought of all members of the committee.

I would like to express my appreciation to the members of the committee staff. I include their names here because they have given such a fine example of the kind of staff work that is possible in Senate committees. The are: Mr. Richard B. Royce, chief clerk and staff director; Mr. M. Barry Meyer, chief counsel; Mr. Bailey Guard, assistant chief clerk for the minority; Mr. Tom Jorling, minority counsel; Mr. Leon G. Billings, Mr. Richard W. Wilson, Mr. Philip Cummings, Mr. Richard Grundy and Mr. Harold Brayman, professional staff members; and Mrs. Frances Williams, Miss Rebecca Beauregard, Miss Sally White, and Miss Cecily Corcoran of the committee staff.

I would like to express my appreciation to Mr. Eliot Cutler of my staff, and to the members of the staffs of members of the committee.

Mr. GRIFFIN. Needless to say, there are portions of this bill which have a significant impact on the State of Michigan. The Senator from Maine has addressed himself to those provisions. I realize, of course, that there are other important portions of the bill. I would be less than honest with the Senate if I did not indicate some serious misgivings about certain provisions of the bill which write into legislative concrete, in effect, that certain standards—standards which are exceedingly high—must be met by 1975 or 15 million workers will lose their jobs. [Sec. 202(b)]

Mr. KERRY. Mr. President, in that speech Senator Muskie made it very clear that it was exactly the abuse of discretion by the EPA and the Federal Government that led to the current law. It was the unwillingness of the EPA's predecessor to use their regulatory authority which resulted in Congress in the first place providing a more activist Federal role in order to achieve change.

Why is it that at this moment when we are recognizing the nonattainment problem, when we are here precisely because the goals have not been met, when we are here because we understand how difficult it has been to get here and because there are countless entities that do not want to proceed forward, that we would take away the very tool that was to provide the redress of abuse of discretion in the first place when Senator Muskie and others passed this legislation?

Mr. President, I respectfully suggest there is not one argument in the RECORD that shows why we would want to move to that position at this time.

Current law says that the administrator has to impose all of the sanctions that are listed in the legislation. The substitute would require that the Administrator only impose one sanction, and clearly the Administrator can choose to impose the less strong sanction if he so desires. Obviously we have seen too many instances in the past where they have chosen to do that. The least sanction could be something like simply withholding air pollution funds which is an authority that the Administrator has already.

Mr. President, we will hear in this debate that the requirement of a Federal cleanup plan where local government fails has been adequately replaced in the substitute by a provision that requires the Administrator to impose one control measure each year that a State fails to have an adequate plan. The control measures from which the Administrator can choose are generally obviously the easy regulatory requirements that most areas in the country are either in the process of imposing or already have imposed.

I should note that in the short term the compromise does not take into account the fact that right now while we are here debating this the EPA is considering revising the ozone health

standard. There is widespread scientific evidence, even as we are here debating how we are going to meet the current standard, that the fact is the current standard is too high to assure health protection. So not only would the compromise not produce clean air, according to the current standards, but it will fall dramatically short providing real health protection based on current scientific evidence which argues for tougher air quality standards. For areas which are downwind from regions with serious air quality problems, I believe the compromise has an even more deleterious effect.

In the State of Maine, for example, the Acadia National Park is a nonattainment area. The Kennebunkport area, which is the summer home of President Bush, and also the long time residence of the author of the Clean Air Act, Senator Muskie, is in nonattainment. It does not meet today's Federal standards for healthy air.

The pollution problem of the State of Maine however has little to do with the pollution that occurs from activities in Maine itself. The State of Maine just like the State of Rhode Island, of the distinguished Senator CHAFEE, have public health-related air pollution problems because of pollution which emanates from sources in other States. It is my perception and the perception of those who have studied this compromise that the compromise will make it impossible or much harder for those States to achieve healthy air, particularly like Maine and Rhode Island for the following reasons:

No. 1, without Federal enforcement, the reduction of pollution emissions in New York, Pennsylvania, or even Massachusetts, those downwind States, will be wholly dependent on the resistance within those States, and Maine and Rhode Island will wind up being subject to whatever it is decided will occur in those States with the potential that whatever is decided will be totally outside of the enforcement of the Federal Government.

Second, the cost test that the compromise has added gives upwind States a justification and probably a political imperative to go no further than the absolute minimum Federal law requires.

Third, a 25-percent reduction in emission in upwind States, which is all that the compromise requires, does not assure clean air either upwind or downwind.

Mr. President, the substitute would make Massachusetts, Rhode Island, Maine, and other downwind States even more vulnerable to the excesses of upwind States than they are today. Since there would be no Federal obligation—and I underscore "obligation"—does it leave a voluntary right? Yes, it leaves a voluntary right. But there is no Federal obligation to impose a cleanup plan. There would be no opportunity therefore for downwind States to sue to force the Federal intervention when the upwind States ignore the requirements.

Let me give you an example of where this makes a difference, Mr. President. The State of Wisconsin recently was able to use the current law to protect itself in precisely this situation. It had a severe ozone situation. There were bad violations reported each year in southern Wisconsin, right near the Illinois State line. Very little of the pollution causing the problem, however, was emitted in Wisconsin. The great bulk of those emissions originated in Illinois, but Illinois had not adopted an ozone plan. Wisconsin was able to go to court to force the EPA to fulfill its obligation to prepare a Federal plan. That led recently to an agreement that will protect Wisconsin.

Under the terms of the substitute, Mr. President, Wisconsin loses that remedy. The New England States would have no remedy if up wind States fail to act and the health of our people would be held hostage to decisions in other States over which they have no control and no opportunity to have an influence.

At best, the health problem that I referred to earlier would wind up becoming a matter of EPA discretion, the very thing that in 1970 Senator Muskie, Senator Eagleton, Senator Baker, and others sought to address when they created this law.

As the opponents of my amendments will no doubt point out, EPA is reluctant to fulfill its current obligations. That is precisely why they argue they are not giving up anything. But the fact is that we have to retain the power of the States to be able to take some kind of action when other States fail to do their fair share.

I mentioned earlier, Mr. President, the compromise before us would allow States to slow down programs for attainment of health standards, based on this broad cost and noncost factor. What does that mean? What is this new loophole? There is a section in the bill on page 73, section 3(4), line 11, which permits the Governor of the State, following a public hearing, and by a statement signed by the Governor, to demonstrate to the satisfaction of the administrator that the plan reflecting lesser amounts includes all measures that can be feasibly in the area, in light of technology achievability, costs and known air quality and other air quality health and environmental impacts.

In other words, Mr. President, there is now a secondary stage by which Governors will be besieged by industry or by one polluter or another in their State, and you can imagine what is going to happen with campaign contributions, jobs within the State; the whole process will be opened up to a new political involvement of the States. And you are going to have people pouring in the door saying, "Governor, we cannot meet the standard because it is too expensive. If you do not want us to move to another State, you better give us your approval of this waiver."

We have already seen this kind of problem, countless number of times. We have seen the kind of economic blackmail that takes place. And you are going to be able to encourage a State to perhaps become something of a polluter haven because they can say, in our State we do not apply a stronger standard and because there is no Federal imperative that you do it, you merely have to come to our State, and we will allow you to get your waiver, and we will sign it off and you go to the administrator, and you wind up again subject to the very discretion that in the final analysis this bill originally sought to preclude.

They do not have to show that the local pollution control requirements is going to cause economic harm. They do not have to show that the pollution control costs imposed in their region are any more expensive than those imposed in another region. All they have to do is assert that the controls are too costly. Indeed, they only have to assert that complying with the pollution control requirements will not maximize profits.

Mr. President, in simple terms, this language legalizes economic pressure, and it will legalize a new loophole of delay in the process. Any one of us could imagine the amount of paper that is going to be dumped in a Governor's office or in the hearing process as people try to make the arguments about technology achievements, et cetera, at yet a second tier of consideration. All of us know that the Clean Air Act has a first tier of consideratioin in deciding about the original control technology. It balances questions of cost and health. And it would be beyond anybody's wildest imagination that we intended for this second level of that very consideration to take place in the most political of circumstances.

In addition, Mr. President, I respectfully suggest that the impact would be to wipe out residual technology forcing benefits of the Clean Air Act. For instance, today, pollution control agencies establish emission standards at a degree of reduction which is required from any given source within an area in order to achieve the ambient air quality of that particular area. The responsibility rests with the polluter to find the most cost-effective means of attainment, or of getting those reductions. If we now give every polluter the opportunity to argue infeasibility, expense, or some other unquantified adverse impact, then the

American public is going to be guaranteed a slowdown in progress toward pollution control.

It would even be an admission against interest for any polluter to identify a feasible cost effective reduction technique. I suspect that if you were in business, it would be important for you as a business person to be able to find ways and find information that you could submit in a waiver request to permit you to avoid responsibility.

Mr. President, that is not hypothetical. In 1970, the auto industry conspired to suppress pollution control technology. The electric power industry collaborated to argue that scrubbers are infeasible, too expensive, and they have been doing that for decades. This amendment actually inadvertently memorializes the process by which they now will be able to do that.

Every pollution control agency, local, State, and Federal, has heard that every pollution control regulation is infeasible, not cost effective, produces unwarranted effects on other environmental values, and so forth. We have heard that for 20 years and now, at the very moment that we are supposedly moving forward to get more progress in clean air control, we wind up potentially codifying the very potential of that kind of argument to be made, yet again at another level and forever.

Mr. President, I ask unanimous consent that I be able to have printed articles from the Los Angeles Times and Business First at this point relative to that particular issue.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Feb. 7, 1990]

COALITION SEES HIGH COSTS, LOST JOBS IN AQMD CLEAN AIR PLAN

(By Steve Padilla)

A coalition of builders, manufacturers and labor unions charged Tuesday that a plan to clean Southern California skies will burden industry with costly and cumbersome regulations that could force at least 350,000 people out of work.

The South Coast Air Quality Management District should crack down on smog-producing vehicles, the main source of the region's air pollution, rather than place unreasonable demands on industry, which accounts for one-third of the problems, said William T. Huston, a builder and spokesman for the Community Air Quality Task Force.

"We need to have jobs and clean air," Huston said. "They have to go hand in hand."

The coalition created the task force about a year ago, shortly after the AQMD adopted a 20-year air quality management plan designed to bring the counties of Los Angeles, Orange, Riverside and San Bernardino into compliance with federal clean air standards.

At the time, a study by the Southern California Assn. of Governments suggested that there would be a net gain of more than 80,000 jobs and an industry study predicted the region would lose only 55,700 jobs.

But on Tuesday, in its first attempt to create widespread opposition to the plan, the task force released an 86-page study predicting that the loss would be much higher—350,000 positions immediately and the potential for a ripple effect that could displace 1.4 million in all.

The report said unnecessary regulation will drive businesses out of Southern California and into regions where government regulations are less stringent.

But Claudia Keith, an AQMD spokeswoman, said a district analysis done when the plan was approved showed that any loss of industry would be offset by overall economic growth. The AQMD analysis predicted an additional 3 million jobs in the region over 20 years.

"Some of the assumptions [the task force] made we wouldn't agree with," Keith said.

Speaking for the task force at a press conference were representatives of the California Manufacturers Assn.; the AFL-CIO Oil; Chemical and Atomic Workers International Union; the Construction Industry Air Quality Coalition; the Los Angeles County Federation of Labor, and a few owners of small businesses.

The air quality plan includes 120 rules which, among other things, restrict the use of certain chemicals or mandate extra pollution controls on manufacturing. Some rules already are in effect, such as car-pooling incentives and new controls on industrial emissions. Other rules still must be approved after public hearings, Keith said.

If all 120 rules are adopted, the aerospace industry would be hardest hit, losing at least 82,000 jobs, said Joseph E. Haring, an economist with the Pasadena Research Institute, which analyzed the potential impact of the plan on eight industries for the task force.

The task force report said the electric and electronics industry would lose 77,000 jobs; the fabricated metal products industry, 62,000; the chemical, rubber and plastics industry 45,000, furniture makers 45,000, and the construction industry 24,000. The plan would displace 13,000 workers in the motion picture industry but have a negligible effect on restaurants, the report said.

The figures were based on census data and surveys of the companies themselves, Haring said.

Huston said the task force is trying to find supporters in the state Legislature to introduce legislation that would require an independent analysis of the air-quality plan and its potential impact on jobs.

David Finegood, owner of a furniture company, said AQMD rules are forcing him to move a manufacturing plant from Compton to Tijuana, where he can still produce furniture at competitive prices. He said he laid off 200 workers at the Compton plant two weeks ago and expects to lay off 100 others. "We really cannot stay here," he said.

[From Business First, Aug. 15, 1988]

FURNITURE FOLKS FEEL HOT BREATH OF AIR AGENCY

(By Karen Morris)

Orange County furniture manufacturers are holding their collective breath over their next move—which may be out of the county.

"There's an AQMD Sword of Damocles hanging over our heads," said Gerry Rosen, vice president of operations for PCI Tandem in Buena Park.

He was referring to a recent South Coast Air Quality impact on the industry. The board's approval of Rule 1136 places stringent controls on wood furniture finishing processes that cause air pollution. The reduction of volatile organic compounds—chiefly hydrocarbons—must be accomplished within six to eight years with technology that may not be available, according to Rosen.

His uncertainty appears to be widely shared.

"It's too soon to tell the effect on the industry," said California Furniture Manufacturers Executive Vice President Les Riddell. "But we believe the rules of the district will cause manufacturers to move."

Rosen doubted that companies can afford the cost or find the technology to comply with AQMD standards. His own, he said, would have to spend $3 million to install clean air equipment and $500,000 annually to maintain it. Giants in the industry might be able to afford that, Rosen said, but smaller companies can't.

The alternative is to switch to water-borne finishes, he said, but they can't provide the high-quality, very transparent finish used for PCI Tandem's "top end of mid-priced" wood furniture.

"There's no technology to do that," claimed Rosen.

"We couldn't compete," he said, in the highly design-oriented market for his firm's office furniture," unless furniture manufacturers across the country—and the world—were subject to the same restrictions.

"I don't see companies staying in the county or basin," he said. "They'll move south possibly under the Maquilladora program to the Island Empire or North, over the Tehachapis.

The ruling affects only the makers of wood furniture and wood products.

"The industry is badly fragmented, said Rosen. "Shops that do only upholstery won't be hurt, for example."

Nor will the large firms that produce case goods.

"It (Rule 1136) will have very little impact on us because we don't make wood furniture," said Bob Ballard, vice president and general manager of Steelcase Inc., a $1.6-billion office furniture manufacturer in Tustin.

Mike Reed, Steelcase's plant manager, explained that the metal furniture industry is covered by AQMD rule 1107, to which no change is anticipated.

Custom shop owners aren't particularly alarmed, either. Leroy Smuskiewicz of Light Furniture in Tustin doesn't expect his business in medical suites and office furnishings to suffer. But he suggested other small manufacturers may not be so fortunate.

"I know of a lot of people moving out of Orange County," said Smuskiewicz. "They're keeping an office here, but not production. They're moving out where it's cheaper—to Riverside or Corona."

"We're in the same position as the auto industry in the '70s," PCI Tandem's Rosen said. "We may meet (air quality) requirements, but at the cost of quality and performance."

"The industry is about to shrink," he predicted. "Economically we can all fit here (in Orange County)," but Rule 1136 will drive some manufacturers elsewhere.

"If I were starting a business today, I wouldn't do it in South Coast AQMD," Rosen said.

Mr. KERRY. Mr. President, we are going to hear in this debate that the substitute maintains the requirement that all cities achieve clean air by a

deadline. This provision and others in the bill assure that, at best, no community is going to achieve public health protection before the deadline. In fact, the more realistic outcome is that cities are not going to meet their clean air goals at all because they will have lost the weapons I talked about a few moments ago.

It is my sense that the chairman of the subcommittee, who has worked so hard to bring this bill to this point, ought to be particularly sensitive to this point because in his own State, the Anaconda Co., I believe, spent many, many years pressuring the State of Montana into relaxing pollution control requirements on its smelters. It was only after they succeeded in stretching out compliance schedules well beyond a reasonable basis, and they pressured the State to relax the environmental rules. Once they had done that, and after they had received all the available financial benefits and assistance and extensions, bailouts, then they finally announced they were closing the plant and leaving the State of Montana, not because of pollution controls, but because the new owner, ARCO, wanted to get out of the mining business. That is a classic example of the difficulty that we face, potentially, in this kind of loophole.

Mr. President, there is not one of us in the context of this legislation who is not aware of the arguments that are made by those who were required to invest in some kind of pollution control technology.

It seems to me that you have to recognize why in the first place we originally required the capacity of the Federal Government to be able to assert a national standard. This legislation, I believe, permits now a process, for the first time in 20 years of the legislation, of moving away from a critical requirement which has held people accountable to a different standard.

Now, some people, I believe, will ask: Should not we be weighing cost; is it not important that we have the costs to clean up in the analysis balanced against the health costs that we have talked about?

Obviously, it is, and we have always recognized that. The 1970 legislation and the bill that originally came out of committee, as well as the 1970 law that we are currently operating under, take costs into consideration. The current Clean Air Act builds cost into the choice of the pollution control for every single facility, and it is a choice that is made at the local level in a process that I believe weighs fully all of the circumstances of that particular facility.

The law currently requires the words "reasonably available control technology," and EPA and the State agencies are specifically currently directed to weigh the costs of control technologies as well as to consider carefully whether a given control technology is really necessary to attain health standards.

In the words of the EPA, the pollution control officials are required now to give due consideration to the social and economic impact of alternative means of control.

To summarize on this important third part, costs are currently weighed, they are taken into account in the technology that is applied, and that process is carried out in a very specific way with the clear understanding of the terms of art that are applied to it.

What has happened in the negotiations process that has brought us the substitute is that a second level of consideration has been created where we will take into account far more nebulous costs than other factors, and do so in a way that is far more political than the original act contemplated.

The final aspect of this amendment simply restores the current law with respect to reasonably available control technology as applied to existing stationary sources. The substitute would eliminate what has really proven to be one of the least costly, least onerous, and most effective requirements of the 1970 act.

Again, I believe that this is an inadvertent or unintended consequence of the legislation, but the fact is that these so-called smaller sources of pollution would not be subject to the Clean Air Act restraints under the substitute that has been suggested.

Control of these sources, Mr. President, has actually proven far and away the most cost-effective pollution reduction option available. What we are talking about—let me try to simplify that a little bit. The compromise says that we will not have an automatic application, or any application at the EPA, to stationary sources that are emitters of less than 100 tons in a serious area, and less than 50 tons of emissions in a severe area.

The reason that changes the current law is that under the current law the EPA has the right to go down—and has gone down—to emitting sources as low as 3 tons. So what we are actually doing is taking away from the EPA its current capacity to go to the lower sources and restricting them to the 50-ton, 100-ton definition, which in fact restricts their ability to restrain some 43 percent of the ozone precursor emissions that are contributed in the country.

According to an OTA, Office of Technology Assessment study, small stationary sources, those emitting less than 50 tons of pollution per year, are responsible for nearly half of the Nation's smog-forming emissions, and they are by far the fastest growing segment of the emission emitting inventory.

As I noted previously, the EPA has repeatedly used its authority to require adequate clean air plans without actually promulgating the entire plan. There are thousands of examples of EPA and State and local control officials using the threat of Federal enforcement to achieve the clean air objective. I have included in the RECORD examples where citizens have used the mandatory responsibility of the Federal Government to assure healthier air, and I have included in the RECORD examples which document how the EPA regional officials have used their authority in the interest of clean air.

Against these examples, I cannot find on the record anywhere in this debate or in the committee report any support for changing this authority other than the President's proposal. There is nothing that shows why the EPA administrator and his associates should seek to avoid the authority which they have never voluntarily used but which is also the fundamental underpinning of the Federal role in achieving the healthier air quality standards.

I can certainly understand why polluters want to get rid of it, and I can understand why they want to be able to get into the political process, to have a second bite at the apple, and I can understand why they would like to avoid expenditures on pollution control. But I cannot understand what it is that brought us to a point in negotiations where in the name of getting a stronger Clean Air Act, we take away the power of the EPA to regulate those sources that provide almost 50 percent of the smog-causing ozone in this country. It simply does not make sense.

The sum of the negotiated retreat, in essence, is that the EPA does not want to get involved, that it does not want to make those tough decisions, or that someone does not want the EPA involved in making those tough decisions and in helping us.

So, Mr. President, I have spoken for a long time, and other colleagues want to join in this debate. But I ask unanimous consent that the original language of an article written in the Environmental Forum by Senator Muskie be printed in the RECORD at the end of my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. KERRY. I simply say those comments of Senator Muskie articulate very clearly how important it is to hold onto what we have, how vital it is that we not turn our backs on the power that was originally given to the Federal Government, which this substitute threatens to take away.

let me just share one paragraph of Senator Muskie's words. What he said was:

For many of the clean air emission standards, explicit deadlines were written into the law. In order to ensure attainment of these Federal standards by the deadlines specified, section 110 required States to develop the SIP's that limit emissions. EPA was then required to approve or disapprove the plans within the statutory deadline. If the State plan is inadequate, the administrator must promulgate another plan that will bring the State into compliance.

The 1970 Clean Air Act is significant, not just because it established statutory regulation of the auto industry, or because it established deadlines for achieving air quality levels protective of public health. The Clean Air Act was the first Federal environmental statute to include provision for citizen enforcement.

I believe that the reasons that existed in 1970 are in fact more important today, and that it is vital we take this opportunity.

Mr. President, this is not an amendment that sets new standards. This is not an amendment that depends on new evaluation of statistics. This is not an amendment that in any way places a new burden on any segment of American society.

The is an amendment that seeks to maintain the integrity of the Clean Air Act as it was originally passed. It is an amendment that seeks to maintain the original intent of the Environment Committee itself, which never contemplated these changes.

It is my fervent hope that the Senate will have the ability today not to be pushed into a corner of confrontation on this compromise, but to recognize our ability to be able to make a decision independently and work the will of the Senate, which is what the legislative process is about.

I know that Senator MITCHELL and Senator BAUCUS want the strongest bill possible, and I know that they are not opponents, per se, of this. But I hope the process will not tie us up and restrict us from the ability to be able to guarantee that, as Senator MITCHELL said yesterday, we do make good law, not a bad statement.

EXHIBIT 1

ENVIRONMENTAL PROTECTION AGENCY,
San Francisco, CA, December 26, 1989.
SECRETARY OF THE COMMISSION,
Federal Energy Regulatory Commission, Washington, DC.

DEAR SECRETARY: The Environmental Protection Agency (EPA) would like to express certain concerns suitable for treatment in the National Environmental Policy Act (NEPA) document planned to evaluate the proposed merger between the Southern California Edison Company and the San Diego Gas and Electric Company. We understand that at present the Commission (FERC) is examining materials submitted by the applicant and information generated by the California Public Utilities Commission's development of an Environmental Impact Report pursuant to the California Environmental Quality Act. Having reviewed the majority of these materials within the agency, the enclosed comments are provided pursuant to NEPA and our responsibilities under section 309 of the Clean Air Act.

We understand that uniting these two companies would create the largest privately-held utility in the U.S. The surviving company, Southern California Edison, could utilize its expanded power network in ways not previously feasible, some of which might result in increased air pollutants emissions. The air basins affected presently suffer the nation's worst air quality. The Proponent's Environmental Assessment submitted by Southern California Edison to the California Public Utility Commission projects increased air pollution in the South Coast, Ventura, and South Central Coast basins as a result of the merger. Any potential increase in pollution to this region is unacceptable.

We strongly support your decision to develop a NEPA document in conjuction with this proposed merger. NEPA requires the development of such a document when an agency proposes any major federal action with the potential to significantly affect the environment. Guidance on the preparation of NEPA documents is provided in the Council on Environmental Quality's "Regulations for Implementing the Procedural Provisions of NEPA." The regulations require that an agency consider developing an Environmental Impact Statement (EIS) when proposing a controversial action (1508.27). We encourage FERC to consider the value of preparing an EIS as opposed to an environmental assessment (EA). We also encourage you to involve the public and environmental agencies to the fullest extent possible (1500.2 and 1508.9).

Pursuant to NEPA, FERC should fully address the merger's potential environmental impacts and define mitigation measures that would eliminate any increases in pollutant emissions. FERC must ensure that any activity it approves conforms to the requirements and purpose of the Clean Air Act, including measures to attain and maintain compliance with the National Ambient Air Quality Standards (NAAQS) (42 USC 7506). In particular, emissions of "non-attainment pollutants," those for which ambient levels exceed the NAAQS, should be mitigated with "offsets" within the same basin as they are produced. These measures should be incorporated as conditions into the merger approval in order to achieve compliance with the Clean Air Act.

Under the Clean Air Act, EPA is ultimately responsible for compliance with the NAAQS. The South Coast and Ventura basins are under federal sanctions for failure to produce implementation plans that demonstrate attainment of the federal ozone standard. These sanctions prohibit the construction of major new sources of hydrocarbons and carbon monoxide. EPA is presently developing a Federal Implementation Plan (FIP) that would impose additional controls beyond those required in the air quality management plans for these basins. Under these circumstances, EPA would consider unacceptable any increase in the emissions of non-attainment pollutants to these basins (including nitrogen oxides as a precursor to ozone).

Thank you for the opportunity to provide input to your NEPA process. Our detailed comments are enclosed. Please send a copy of the scoping notice for the document to this office and to our Washington, D.C. headquarters office when it is distributed. We request that these comments be included as part of your public NEPA record. Please do not hesitate to call me at (415) 744-1051 or have your staff contact Lisa Micheli at (415) 824-4812 if you have any questions.

Sincerely yours,

JACQUELINE WYLAND,
Chief, Office of Federal Activities.

[From the Federal Register, Dec. 7, 1988]

The Notice recognizes that each of these alternative interpretations has significant strengths and weaknesses, and that none of them presents an easy resolution of the vexing legal and environmental problems that beset the South Coast. At this point, it appears difficult to project attainment of the standards in the South Coast Basin, even uder a plan stretching over twenty years, and containing measures that require some serious economic and social dislocation.

In filling the gap in the current statute, EPA must attempt to reconcile conflicting Congressional values embodied in the Clean Air Act, and each of the interpretations advanced fulfills different of these values to varying degrees. The immediate and five-year FIP interpretations—while satisfying an arguable Congressional desire for short-term attainment dates—would impose health control measures that would disrupt daily life in the South Coast beyond anything Congress might have envisioned, or that would be impossible to enforce, even with gargantuan efforts.

The longer-term FIP approach, while mitigating economic disruption by offering the possibility of more realistic and workable requirements, represents a departure from EPA's prior interpretations of the Act, and arguably puts EPA in shoes that only Congress should fill. While any significant extension of the attainment date beyond 1987 would necessarily reflect some legislative-type gap-filling by EPA, a longer-term plan might impose upon the Agency the responsibility for making especially difficult legislative choices about the direction and pace of technological, social, and economic change in the South Coast.

EPA solicits comment on how it should interpret the Clean Air Act to provide an appropriate attainment date for a FIP under the circumstances presented here. We seek comments on the legal interpretations we present, on whether EPA should explore any alternatives that it has not considered, on what EPA should conclude to be the most appropriate FIP attainment date under the current Act, and on what form the FIP should take.

II. STATUTORY AND REGULATORY BACKGROUND

This section discusses the historical development of the Clean Air Act and how the South Coast has attempted to comply with its requirements. Included is a review of EPA's development of several short-term attainment FIPs in response to the act and litigation, and the subsequent failure of these plans because of political, judicial and public opposition.

The federal government first became involved in the regulation of air pollution in 1955 with the passage of the Air Pollution Control Act, Pub. L. No. 84-159, 69 Stat. 322 (1955). This statute, as expanded in 1963 in the Clean Air Act, Pub. L. No. 88-206, 77 Stat. 392 (1963), provided technical and financial assistance to encourage the States to define and address the problem of air pollution. When the States failed to respond adequately to this encouragement, the federal government increased its role, primarily by the passage of the 1970 Clean Air Act.

A. The 1970 Clean Air Act

In 1970, Congress amended the Clean Air Act to establish a joint State and Federal program to control air pollution. New sections 109 and 110 of the statute directed EPA to establish in 1971 NAAQS for such pollutants as photochemical oxidants (currently measured as ozone and therefore referred to here as ozone) and CO, and these sections called on States to submit by early 1972 "State Implementation Plans" (SIPs), providing for attainment of those standards within nine months of promulgation of the NAAQS.

Section 110(a)(2) of the 1970 statute specifies the requirements for these initial SIPs. It directs EPA to approve a SIP within four months after its submission if, among other things, it "provides for the attainment" of the standard "as expeditiously as practicable but [subject to subsection (e)] in no case later than 3 years from the date of approval of such plan * * *." The law (section 110(a)(2)(H) also directs each State to revise its SIP whenever the Administrator finds that it is "substantially inadequate" to achieve the NAAQS or otherwise meet the requirements of the Act.

Section 110(e) permits a two-year extension of the three-year attainment period if the technology to attain within three years is not available and the State has applied "reasonably available alternative means" of attaining the standard in the interim. In the event a State fails to submit an approvable SIP of fails to submit a plan to promulgate its own implementation measures, section 110(c) directs EPA to make up this failure, by promulgating a FIP. Finally, under section 110(a)(3), a State may revise its plan at any time, but EPA may approve the change only if the SIP continues to conform to the requirements of this Act.

B. Implementation of the Act in the 1970's

1. Implementation of the Act Nationally: 1970-1977

In August 1971, EPA recognized that many States would find it extremely difficult if not impossible to attain primary standards[2] by 1975, that is, roughly within three years of the time their SIPs would be approved.[3] Accordingly, the Agency bowed to reality and granted blanket two-year extensions to all control regions that, even given the application of reasonably available technology, could not attain primary air quality standards by 1975, EPA also extended (or, as we shall see, tried to extend) another statutory deadline. Section 110(a)(1) required States to submit, by January 30, 1972, the transportation control portions of their plans for controlling ozone and CO. EPA, following the statute, required transportation control plans for all areas in which stationary source controls and federal emissions standards for new cars would not be sufficient to attain compliance by May 31, 1975. EPA proposed to move the deadline for submitting these plans from January 30, 1972 to February 1973.

EPA's efforts to read the law in the light of the real world problems of implementing it, however, were stymied in 1973, when the United States Court of Appeals for the District of Columbia Circuit held illegal EPA's grant of the one-year extension for States to submit the transportation control portions of SIPs. *See Natural Resource Defense Council (NRDC)* v. *EPA*, 475 F.2d 968 970-71 (D.C. Cir. 1973). The Court also ordered EPA to rescind its blanket two-year extension for NAAQS attainment. Furthermore it held that the Agency could allow additional extensions only if the requesting States had demonstrated under section 110(e) that, even given the application of reasonably available alternative technologies, they could not achieve air quality standards by 1975. *Id.* at 971. Thus, States were still required to produce SIPs showing attainment by 1975 in order to obtain an extension of the deadline to 1977. Finally the Court ordered EPA to promulgate the necessary plans under section 110(c) by September 1975. The decision in *NRDC* gave EPA a broad mandate to develop transportation control programs to attain the standards by 1977.

The obstacles to the States' attainment of air pollution control deadlines soon grew even greater. Under an agreement with NRDC, in April, 1973, EPA issued ambitious guidelines regulating a broad range of nonpoint or "indirect" pollution sources—including not only shopping centers and highways, for example, but also residential and commercial developments. These guidelines had the attention of NRDC and ultimately the courts, which under the language of the law, directed EPA to promulgate them. Few States followed them, however. Technical problems, political opposition, and legal difficulties compelled the Agency to narrow the scope of these guidelines and to propose its own indirect source review (ISR) program.

EPA's attempt in its own ISR program to interpret the law to make it more practicable, however, faltered once again. EPA lacked the resources necessary to implement and to enforce its ISR-program. The final regulations EPA published in 1974, therefore, failed to offer the technical support necessary for carrying them out. Because it operated under short-term deadlines, the ISR Program, moreover, had to apply fairly severe remedies—and it could not wait for better ones to be developed. And so, bearing questionable environmental results, confronted by various legal challenges, and troubled by technical infeasibility, the ISR Program, for all its lofty ambitions, became the victim of the same problems that doomed the earlier ISR guidelines. Perhaps recognizing this problem. Congress, in section 110(a)(5) of the 1977 Amendments to the Clean Air Act, prohibited EPA from conducting ISR (except for federally funded projects) and allowed the states to rescind previously published proposals.

This was not the last obstacle to EPA's efforts to imporve air quality. EPA's transportation control program proved no more edifying than its attempt at enforcing ISR guidelines.

In light of the *NRDC* holding, states would not be eligible even for two-year extensions under section 110(e) until they submitted plans showing attainment by 1975. States therefore submitted such plans—whether or not for *pro forma* reasons—in which they endorsed costly and possibly unworkable measures that would, colorably, attain air quality standards by the 1975 deadline. (The states might have considered that these measures, or many of them, might be rendered superfluous in any case by 1977, when the fleet of emission-controlled cars began to take over the highways and cause lower levels of ozone and CO.) Accordingly, states may have begun to write SIPs that they knew to be partly fictinal in order to obtain the extensions they required to make realistic progress toward air pollution goals.

When several states, rather than submitting SIPs they knew to be unworkable, balked at submitting plans showing attainment by 1975, EPA was forced to promulgate its own transportation controls programs for them. Thus, in 1973, EPA proposed control strategies containing a combination of far-reaching measures, including parking restrictions, mandatory bus and carpool lanes, and expansion of mass transit. Some of these provisions, however, ran into insurmountable political opposition. In early 1974, for example, Congress passed a provision ultimately codified in the Energy Supply and Environmental Coodination Act of 1974, prohibiting EPA from imposing surcharges on fees for parking cars.

By 1977, EPA found itself in a double bind. On the one side, the courts, as in *NRDC*, held EPA firmly to the deadlines that were explicity stated or implied in the Clean Air Act. If the state did not submit plans to attain air quality standards by those dates, EPA would be required to prepare plans, programs, or guidelines to make up for this failure. Hence, EPA's efforts at ISR review, transportation control programs, and the like.

On the other side, in a series of cases challenging EPA's legal and constitutional authority to adopt various transportation controls and other measures, the courts found that EPA had overstepped its statutory and constitutional authority in telling states what to do to clean up their air.

For example, in *Brown* v. *EPA*, 521 F.2d 827 (9th Cir. 1977), vacated on mootnees grounds in *EPA* v. *Brown*, 431 U.S. 99 (1977), the 1973 California transportation control plan was challenged. There, the United States Court of Appeals for the Ninth Circuit ruled that the Clean Air Act "permits sanctions against a State that pollutes the air, but not against a State that chooses not to govern pollutants as the Administrator directs." *Id.* at 839. The court ruled, in effect, that the Agency could direct States to improve air quality or to stop pollution within their boundaries, but EPA could not require States to pass legislation that effected the polluting behavior of individual citizens.

The plaintiffs in *Brown*, moreover, challenged the constitutionality of EPA's transportation control regulations on Tenth Amendment and Commerce Clause grounds. *Id.* at 837-842. Although the court expressed serious misgivings about whether the regulations would pass constitutional muster, it chose to rest its opinion solely on statutory grounds. *Id.* at 840. *See also District of Columbia* v. *Train*, 521 F.2d 971 (D.C. Cir. 1975) *vacated* 431 U.S. 99 (1977) (Act did not support Administrator's regulations, which require states to enact statutes).[4] Other hastily prepared FIPs that in-

[2] Section 109(b)(1), 42 U.S.C. 7609(b)(1) defines the primary standards as "ambient air quality standards the attainment and maintenance of which, in the judgment of the Administrator, based upon such air quality criteria and allowing an adequate margin of safety, are required to protect the public health."

[3] EPA arrived at the year 1975 by adding together nine months (after the 1971 NAAQS promulgation) in which the SIPs were to be submitted to EPA, four months for EPA to act on the SIPs, and three years from the date of approval in which to attain.

[4] With respect to the state inspection and maintenanced regulation, *Brown*, along with other cases from the Fourth and District of Columbia Circuits, was granted *certiorari* by the Supreme Court. When EPA admitted that it lacked authority under the act to force states to enforce EPA-promulgated

cluded transportation controls were challenged and overturned for lack of adequate technical support. *See, e.g. Texas* v. *EPA*, 499 F.2d 289 (5th Cir. 1974) *cert. denied* 427 U.S. 905 (1976) (Texas FIP); *South Terminal Corp.* v. *EPA*, 504 F.2d 646 (1st Cir. 1974) (Boston FIP). Lacking judicial and political support, generating nothing but public outrage, and draining resources, EPA's FIP efforts eventually failed.

2. Implementation of the Act in California: 1970–1977

California submitted its SIP for ozone and CO to EPA in February 1972. In May of the same year, EPA Administrator William Ruckelshaus disapproved the plan because it failed to show attainment by the deadline stated in the Act 1975. When EPA failed to promulgate a FIP under section 110(c) within six months of it disapproval of the SIPs for Los Angeles, a Los Angeles-based public interest group brought suit. In *City of Riverside* v. *Ruckelshaus*, 4 E.R.C. 1728 (C.D. Cal. 1972), the U.S. District Court for the Central District of California ordered EPA to produce by January 15, 1973 a plan adequate to bring Los Angeles—an area plagued with the worst air pollution in the country—into attainment by 1975 (three years from adoption of the plan) or 1977 (if the governor requested a two-year extension).

Ruckelshaus obeyed the order by proposing a plan that included, among other traffic control measures, a provision that would have required reducing gasoline supplies by 82 percent by the summer of 1977. 38 FR 2194 (1973). As Ruckelshaus explained to the citizens of Los Angeles. "Faced with the choice between my freedom and your mobility, my freedom wins," R. Shep Melnick, *Regulation and the Courts: The Case of the Clean Air Act, at 331–22 (1983).* With the intention of drawing wide public and Congressional attention to the dilemma presented EPA by the Clean Air Act, EPA held public hearings in 1972. The plan was decried by all concerned.

On July 2, 1973, the Administrator proposed a revised plan that set forth three options. Under the first option, literal compliance with the Act would be achieved through 100% gasoline rationing. Nothing else would do to meet the letter of the law. Under the second, gasoline consumption would be limited to 1972–3 levels and other transportation control measures would be introduced. Finally, under the third option, only existing control measures would be implemented. Again, the plans were assailed as unduly restrictive and unworkable.

On October 12, 1973, the Administrator announced a third attempt at formulating a plan for the Los Angeles area. 38 FR 31232. This third plan included several specific and drastic transportation control measures. It required the use of specified freeway lanes and surface streets exclusively by buses and carpools. In addition, by imposing a surcharge on commercial parking rates, it called for a radical change in the Basin's parking rate stucture. It also imposed initial annual surcharges on free parking spaces provided by businesses to their customers.

The plan went further. Employers were to impose a charge on employee parking spaces; they also were to provide employees with various other incentives to use carpools and mass transit systems. Portions of the funds collected were to be used to support mass transit facilities. The final plan also included a provision stipulating that literal compliance with the Clean Air Act would require a further reduction of vehicle miles traveled, and that gasoline limitations would be necessary. Commenting on the plan, the Administrator asserted: "The EPA does not believe that massive gasoline rationing is either socially acceptable or enforceable, and will work toward alleviating the necessity for such drastic control in 1977." *See* Chernow, Implementing the Clean Air Act in Los Angeles; the Duty to Achieve the Impossible, 4 *Ecol. L.Q. 537, 553 (1975). (citing* 38 FR 31232, 31237 (1973)).

These transportation control measures pleased the public no more than their predecessors. Soon after promulgation of the plan, plaintiffs filed many suits to enjoin the plan's enforcement, and the Administrator deferred the effective date of its more extreme provisions. 38 FR 34124 (1973). Eventually, EPA's authority to promulgate gas rationing regulations was upheld, *see City of Santa Rosa v. EPA*, 534 F.2d 150, 154 (9th Cir. 1976).

Public outrage at the Ruckelshaus plan ultimately led to its withdrawal in 1976. In explaining his rationale for withdrawal of the plan, Acting Administrator John Quarles stated: "I realize that this revocation will render the affected SIP defective as a legal matter, since such SIPs will no longer contain regulations which provide for NAAQS attainment. I am convinced, however, that whatever benefits may be gained from keeping a technically legal SIP on the books by retaining the gasoline rationing regulations are outweighed by the seriously disruptive social and economic consequences of such regulations." *See* 41 FR 45565 (Oct. 15, 1976). The withdrawal went unchallenged.

Q. The Clean Air Act Amendments of 1977

Congress in 1977 amended the Clean Air Act in response to persistent nonattainment of the NAAQS for ozone and CO and in reaction to the falled FIP and SIP efforts of the early 1970's. The House of Representatives Report on a bill to amend the Act (H.R. 6161) reviewed the history of the EPA Administrator's inability to use section 110(c)(1) promulgations to achieve the statutory objectives. H. Rep. No. 6161, 95–294, 95th Cong., 1st Sess., *reprinted in* 4 Legislative History of the Clean Air Act Amendments of 1977, at 2748–55 (1978). The Report noted that "this is a delicate area of Federal-State relations. Clearly, a careful balance is required as a matter of wise legislative policy, if not as a matter of constitutional requirement." *Id.* at 2755.

The Committee Report therefore concluded that the wisest course was to adopt "an approach that is intended to involve the least possible intrusion into State affairs consistent with the primary task of protecting public health." *Id.* at 4 *Legislative History* 2755. Noting that, "as a practical matter, State and local governments are in a better position than EPA to resolve those pollution problems, which involves millions of motor vehicles, through inspection and maintenance program and similar measures," the Report stressed the need to induce States voluntarily to adopt and implement their own transportation control programs. *Id.*

Similarly, the Committee Report on the Senate bill (S. 252) stated that the transportation control aspects of the bill had been designed to take into account that "[t]he Federal Government does not have and will not have the resources to do an effective job of running the air pollution control programs of the State." S. Rep. No. 95–127, 95th Cong., 1st Sess. 10 (1977), *reprinted in* 3 *Legislative History* at 1384–85. The Senate committee noted that "transportation planning," in particular, "is a local political process" and that any amendments to the Act should create incentives for local planning and remedy the "lack of local involvement in the process". *Id. at* 3 *Legislative History*, 1412.

Conceding that the plans had "imposed vast economic and social costs for relatively small improvement in the quality of the environment." Clean Air Act Amendments of 1977, H. Rep. 95–294, pp. 228–29, S. Rep. 95–127 (GPO, 177, p. 14), Congress extended the Act's deadlines and created a new Part D, a planning process to get the States to revise the SIPs for areas that were exceeding the standards.

The new Section 107(d) required EPA, by roughly March 1978, to identify those areas that in August 1977 were still experiences NAAQS violations. The States were then required by January 1, 1979, to adopt and submit such revisions to the SIPs for these "nonattainment" areas that would meet the requirements of Part D and the new section 110(a)(2)(I). Section 129(c).

Under Part D, each revision was to provide for attainment of the relevant primary NAAQS as expeditiously as practicable, but in general no later than December 31, 1982. Section 172(a)(1), 42 U.S.C. 7502(a)(1). A revision could provide for attainment of the primary standards for ozone and CO as late as December 31, 1987, if the State demonstrated that attaiment by the 1982 deadline was not possible, despite the implementation of all reasonably available control measures (RACM). Section 172(a)(2).

In any event, each revision due in 1979 was to provide for the implementation of RACM and for "reasonable further progress" (RFP)—defined as annual incremental reductions in emissions sufficient in EPA's judgment to provide for attainment by the applicable deadline, including such reduction as may be obtained through the adoption of "reasonably available control technology" (RACT). Sections 172(6)(3), 171(1).

Each revision also was to have, among other things, a permit program for the preconstruction review of major new sources of the relevant pollutants. Section 172(b)(6). As outlined by section 173 of the Act, the permit program would allow construction even before attainment occurs, upon a determination that (1) the source would have state-of-the-art controls; (2) Its emissions would be offset by greater than one-for-one reductions elsewhere, or would be accounted for in an approved demonstration of attainment by the applicable date for the area in which the source was locating: (3) the applicant's other sources in the state were in compliance with the SIP, and (4) the state was carrying out the SIP.

With respect to the areas with 1987 deadlines (i.e., "extension" areas) each revision due in 1979 had to identify any measures beyond RACM that would be necessary to assure timely attainment, and it had to continue commitments to adopt a motor vehicle inspection and maintenance program. In addition, each state with an "extension" area

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transportation control programs, the Court declined to rule on the program, as its ruling would amount to an advisory opinion and remanded the case for consideration of mootness and ripeness. *EPA* v. *Brown* 451 U.S. 104 (1977). *See also Brown* v. *EPA*, 586 F.2d 685 (9th Cir. 1977) (holding EPA's inspection and maintenance program for California invalid).

was to submit a supplemental revision before July 1, 1982, containing those additional measures necessary to assure attainment in those areas by the end of 1987. Section 129(c).

As part of the 1977 Amendments, section 110(a)(2)(I) required a construction ban that would operate against major new sources and major modifications of existing sources of the relevant pollutants in each nonattainment area after June 30, 1979, "* * * unless, as of the time of application of a permit for such construction * * *, such pain meets the requirements of Part D * * *."

As further incentive for timely submission of Part D SIP revisions, Congress added sections 176(a) and 316(b). Section 176(a) bars the Department of Transportation from funding certain highway projects, and EPA from making air program grants in an ozone or CO nonattainment area, upon a determination by EPA that the State has failed to make "reasonable" efforts to submit SIP revisions for the area that meet Part D requirements. Section 316(b) authorizes EPA to withhold certain grants for sewage treatment construction where an area has failed, among other things, to submit an adequate Part D SIP for the area.[5]

D. History of Regulatory Development Under Part D

1. Implementation of Part D Nationally: 1978–1985

The EPA began its administration of Part D with the promulgation in 1978 of attainment status designations under section 107(d). *See, e.g.,* 43 FR 8962 (March 3, 1978); 43 FR 40502 (September 12, 1978). Then, on April 4, 1979, EPA published a notice describing in detail the prerequisites to EPA approval of the SIP revisions that Part D required the states to submit in 1979 for areas that were designated nonattainment (44 FR 30372).

On July 2, 1979, EPA issued an interpretive rule establishing that the construction ban in section 110(a)(2)(I) would begin to operate immediately in any designated nonattainment area that was not yet covered by an approved Part D SIP (44 FR 38471 [now codified at 40 CFR 52.24(a), (1987)]. At the time, EPA had yet to approve a Part D SIP for any ozone or CO nonattainment area, so the ban came into effect in all of them. Gradually, the states submitted for most of these areas the first round of Part D SIP revisions that were due at the beginning of 1979, and EPA approved or conditionally approved these revisions. Thus, by the end of 1982, most ozone and CO nonattainment areas were free of the ban.

With respect to areas, like the South Coast, that had received an extension of the attainment date for CO or ozone to the end of 1987, EPA issued a new policy describing the criteria it would use to judge the supplemental SIP revisions that were due for such extension areas in mid-1982, 48 FR 7182 (January 22, 1981). The Agency received 1982 SIP revisions from all extension areas and approved many of them as adequate to produce attainment by the end of 1987. *See, e.g.,* 48 FR 51472 (November 9, 1983) (New Jersey, ozone); 50 FR 25073 (June 17, 1985) (New York City, ozone and CO). EPA also disapproved the SIPs for some extension areas and imposed the construction ban under section 110(a)(2)(I). *See, e.g.,* 50 FR 8616 (March 4, 1985) (Albuquerque, CO).

2. Implementation of Part D in the South Coast: 1978–1984

In the initial round of section 107 nonattainment designations in 1978, EPA found the South Coast in nonattainment for both CO and ozone. Several years after EPA's July 2, 1979 imposition of the section 110(a)(2)(I) construction moratorium, California submitted and EPA approved the 1979 Part D SIP for the area. As a result of that approval, on November 25, 1983, the Agency lifted the construction ban that it had imposed in July 1979, (48 FR 53114).

As part of the initial round of Part D SIP planning, the State of California requested that EPA approve an extension of the statutory attainment date to December 31, 1987 for CO and ozone for the South Coast. EPA approved the request. The State then submitted 1982 updates for the ozone and CO SIPs for the South Coast. Although these SIP revisions included control measures that would produce expeditious progress toward attainment of the applicable standards, the State conceded that the revisions did not demonstrate that the area would attain the standard by the statutory date of December 31, 1987. As a result EPA proposed to disapprove the plan on February 3, 1983, 48 FR 5074.

In final rulemaking published July 30, 1984 (49 FR 30300), however, EPA approved the emission control measures in the CO and ozone extension SIPs, on the ground that they strengthened the SIP. In addition, in that same rulemaking, EPA held open the question of whether the attainment and reasonable further progress (RFP) demonstrations in the South Coast SIP submittals met the requirements of Part D. In September 1984, a citizen named Mark Abramowitz filed a petition in the United States Court of Appeals for the Ninth Circuit seeking review of EPA's July 30, 1984 decision. *See Abramowitz* v. *EPA,* 832 F.2d 1071 (9th Cir. 1987).

3. The Reasonable Extra Efforts Program: 1984–1987

Beginning approximately in 1984, EPA began to explore how it might address the likelihood that many extension areas, as well as some non-extension areas that had already received SIP calls,[6] would not attain the ozone and CO standards in the near term with their existing SIPs and pending SIP revisions. In particular, EPA began to consider withholding disapprovals of the pending plan revisions and deferring sanctions where, though the states had failed to demonstrate attainment of the standards by the end of 1987 (or even shortly thereafter), they had submitted commitments to adopt all control measures that became reasonably available. EPA solicited comment on whether such an approach, as applied to the South Coast Air Basin and three other California (extension) areas, would be consistent with the Act. *See* 51 FR 34428 (September 26, 1986) (soliciting comment on the "Reasonable Extra Efforts Program" ("REEP") for four areas in California).

After reviewing the language and legislative history of the relevant provisions of the Act,[7] EPA concluded that the REEP approach, as well as a similar approach called the "Sustained Progress Program" ("SSP"), would be inconsistent with the Act—both for extension areas that had not yet received approval of the Part D SIP's and for areas that, though receiving such approvals, needed to revise their SIP's in response to notices of SIP deficiency under section 110(a)(2)(H). 52 FR 26404, 26.407 (July 14, 1987) (General Preamble). With regard to applying REEP and SPP to areas without approved Part D SIP's, EPA stated:

On its face Part D * * * contemplates an entirely different planning process [from REEP], under which such an areas [sic] must develop within a set period a fully plan to produce attainment by a fixed near-term deadline.

* * * * *

The only argument supporting REEP in the face of this statutory language is the one sketched by EPA in its REEP proposal and by industry in its comments, namely, that some extension areas could produce attainment by the end of 1967 only by the application of measures that would tear the economic and social fabric of the areas and that the 95th Congress could not really have intended the areas to put such draconian measures into enforceable form and actually begin to implement them.

The argument, however, misses the point * * *. In fact, the legislative history shows that the Congress set up the Part D system in order to force communities and industry to do their utmost to bring about attainment as rapidly as possible and expected that a future Congress would change the course it had set, if necessary, to avoid any unacceptable consequences.

In sum, REEP and SPP would frustrate the purposes of Part D by abandoning upfront, complete planning for attainment by a near-term fixed deadline in favor of iterative planning for progress alone.

[52 FR 26404, 26406 col. 3 (July 14, 1987)].

Based on this conclusion, EPA proposed to disapprove several pending ozone and CO SIP's for extension areas that did not contain persuasive demonstrations of attainment within such a short-term period, and to impose the construction moratorium in those areas. *See, e.g.,* 52 FR 26431 (July 14, 1987) (reproposal to disapprove California ozone and CO SIP's for the South Coast of Fresno; reproposal to disapprove California ozone SIP's for Ventura and Sacramento).

On November 3, 1987, the Ninth Circuit issued its opinion in *Abramowitz,* v. *EPA,* the challenge to EPA's 1984 decision to approve control measures in the 1982 South Coast SIP and to defer action on the plan as a whole. The court found that EPA had exceeded its authority by approving the South Coast control measures without finding whether California had submitted an adequate demonstration of attainment by December 31, 1987, and the Court ordered EPA to take final action to disapprove the relevant SIP provisions forthwith. 832 F.2d

[5] Congress also added two other funding sanctions for failure to implement a SIP. First, it extended the discretionary withholding of sewage treatment grants under section 316 to such failures. Second, it provided in section 176(b) for a withholding of air grants for any area in which the State is not implementing an applicable SIP. Beyond those funding sanctions, the requirement in section 173(4) operates, in effect, as a ban on the construction of major now sources in the event that a State is not "carrying out" the SIP. This means that, even when the SIP for a designated nonattainment area has been approved and is adequate, the area may become subject to a construction ban if it fails to carry out the SIP.

[6] Under section 110(a)(2)(H), 42 U.S.C. 7610(a)(2)(H), EPA may call for a SIP revision whenever the Administrator finds that the plan is "substantially inadequate" to achieve the NAAQS or in other respects fails to comply with the 1977 Clean Air Act Amendments.

[7] This analysis appears in a memorandum of EPA's General Counsel, dated November 25, 1966. The evaluation in this memorandum is reflected by the General Preamble discussed in the text below.

1071, 1079 (9th Cir. 1987). Pursuant to the court order, EPA took final action to disapprove those SIPs and to lay the groundwork for imposing the construction ban under section 110(a)(2)(I), 53 FR 1760 (January 22, 1988). The ban did not take effect until August 31, 1988, due to the sanctions freeze imposed by the Mitchell-Conte Amendment to the 1967 Continuing Resolution (Pub. L. 100-202).[8]

4. Formulation of Post-1987 Policy

On November 24, 1987, EPA issued a proposed policy on how, after passage of the December 31, 1987 statutory attainment date, states should correct their remaining ozone and CO nonattainment problems, 52 FR 45044. The proposal reflected EPA's view at that time of how to apply Part D to state plans after the statutory dates have passed. The Agency received over 2,000 comments on the proposal, and is still analyzing how those comments should affect EPA's final decisions on post-1987 ozone/CO policy. The Agency has not yet reached any conclusions on issues raised by the commenters. A summary of relevant sections of the proposed policy is provided below.

On it face, Part D (section 172(a)) calls for plans that "provide for attainment" of the standard by the stated date (December 31, 1982, or December 31, 1987). Because plans developed after 1987 cannot provide for attainment by either of these dates, under the strictest reading of Part D, a state (or EPA) could never develop a plan that meets Part D requirements, and hence could not actually satisfy the applicable requirements. But EPA stated its belief that Congress would have intended EPA in such circumstances to select, in place of the elapsed dates, a subsequent date consistent with the general principles of the Act and Part D. See *Chevron, U.S.A.* v. *NRDC*, 467 U.S. 837 (1984).

Although it is not clear what subsequent date Congress would have intended in these circumstances, EPA's post-1987 proposed policy referred to the history of the Act's planning requirements and suggested that Congress would have provided EPA (and these areas) an additional period analogous to the three- and five-year periods set forth in section 110(a)(2)(A) and section 110(e), respectively, 52 FR 45085. The Agency reasoned that, when Congress in 1977 directed EPA to initiate a new round of planning for areas that had failed earlier to produce an adequate plans meeting the section 110 requirements, it created new planning periods comparable to the section 110 periods (three-to-five years from EPA's approval of the State plan), rather than shortening those periods and thereby demanding plans for immediate attainment. Section 172(a)(1) required the SIP's for nonextension areas to provide for attainment by the end of 1982, four years from the date these submittals were due [January 1, 1989] (see section 129(c)).

EPA stated in the policy proposal that, to be sure, Congress had provided a much longer attainment period for extension areas—from January 1, 1979 to December 31, 1987, approximately nine years from the date of the initial Part D SIPs were due. But the Agency then noted that Congress had set up two planning periods for these areas—one to apply all "reasonably available" measures and a second to supplement those measures. Since one might assume that most reasonably available measures should already have been implemented in areas such as the South Coast by now, EPA stated that post-1987 planning for the area might be viewed as comparable to the second Part D planning period. That period spanned from the July 1982 submittal date (see section 129(c)) to the end of 1987, a period roughly consistent with the three- and five-year periods in section 110.

Based on analogy to sections 110(a) and (e) and the second Part D planning period of three to five years, the November 1987 policy proposed that EPA apply the relevant construction moratorium (or leave it in place) in all areas whose new plans do not contain a persuasive showing of attainment within three to five years after EPA action on the plan. Other sanctions would not follow if the plan indicated reasonable efforts. These reasonable efforts would be reflected in a rate of progress that would bring (at least presumptively) an average annual emission reduction of at least 3% of the base year inventory for the area, not including the reduction from certain baseline control measures.

The post-1987 proposed policy focused on how states should develop SIPs now that the December 31, 1987 statutory attainment date has passed. The proposal addressed FIPs only tangentially, and did not contain a detailed evaluation of the statute's FIP provisions. Nor did it describe how EPA might construct a post-1987 FIP for the South Coast Basin.

E. Recent and Current FIP Litigation

As the December 31, 1987 attainment date approached, citizens groups began to seek court action to compel EPA to promulgate FIPs for areas still lacking approved Part D ozone and CO SIPs. The first such case was a suit by the Arizona Center for Law in the Public Interest (ACLPI) to compel the Agency to impose highway funding sanctions and promulgate CO FIPs for Phoenix and Tucson, two areas whose 1982 Part D CO SIPs had not received EPA approval. In August 1987 the United States District Court for Arizona held that, although EPA was not under a nondiscretionary duty to impose the highway funding sanctions, its 1986 disapproval of the CO SIPs for those areas had triggered a duty for the Agency to create FIPs, *McCarthy* v. *Thomas*, slip op. (D. Ariz. 1987). The court then set a schedule for EPA to produce the FIPs or approve corrective SIPs for the two areas.

EPA proposed to promulgate a CO FIP for the Phoenix area on May 16, 1983, 53 FR 17378. The proposed FIP would have consisted of two measures that, together with the previously submitted SIP, would produce attainment of the CO standard within three years of FIP promulgation. Thus, the proposal would have applied EPA's views on post-1987 SIP attainment to the FIP for Phoenix. EPA stated that, while the two measures in the proposed FIP could not be said to be clearly practicable to implement, their implementation *might* be practicable and hence the Agency could not find grounds to support a two-year extension of the attainment date under section 110(e).

Subsequent to the FIP proposal, Arizona supplemented its SIP with new state-adopted measures sufficient in EPA's view to remove the need for a FIP for the Phoenix area. Because the SIP as supplemented would produce attainment within three years of SIP approval, EPA approved it. 53 FR 30220 (August 10, 1988). The notice stated, however:

Certain important qualifications apply to this analysis. First, EPA is here dealing with a situation in which attainment within 3 years is a practicable possibility given the size of the nonattainment problem and the measures that the state has submitted. EPA currently has rulemaking and policy proposals outstanding which raise the question of whether EPA must disapprove a SIP and thereby trigger a construction ban, even where a state has failed to submit measures that would provide for attainment with 3 to 5 years and where attainment by means of any measures would be impossible as a practical matter. See 52 FR 26404 (July 14, 1987) and 52 FR 45044 (November 24, 1987). Thus EPA has yet to decide in final form what the role of impossibility is under the Act for the purpose of approval or disapproval of SIPs.

Second, EPA is not deciding in this notice of final action what its obligations under section 110(c) to promulgate a federal implementation plan are. Again, the role of the doctrine of impossibility is uncertain. Further, it is uncertain in any event that EPA must promulgate a FIP that provides for attainment by a near term fixed date. EPA currently is exploring these issues in connection with the ozone and CO SIPs for certain areas in California including the South Coast Air Quality Management District. EPA does not intend by means of the discussion and analysis in this notice to express a final view on these issues.

Id. at 30,277, n.1. Thus, the Arizona rulemaking did not purport to address what section 110(c) requires in relation to an area facing such severe nonattainment that attainment within three to five years would destroy its socioeconomic fabric.

In early 1988, the Coalition for Clean Air and Sierra Club filed a complaint in the U.S. District Court in California to compel EPA to promulgate a FIP for ozone and CO in the South Coast Air Basin. Following some initial procedural filings, the court transferred the case from the Northern District (San Francisco) to the Central District (Los Angeles). Just before that transfer took effect, EPA had filed a response to the plaintiffs' motion on the issue whether EPA has a duty to promulgate a FIP. EPA's response acknowledged such a duty, which was affirmed by the court in an order dated September 19, 1988. Today's Advance Notice of Proposed Rulemaking reflects EPA's initial efforts to describe and solicit comment on how the Agency can and should fulfill its obligation.

The Agency is involved in similar litigation relating to ozone in other cities. A citizens group, Citizens to Preserve the Ojai, filed suit in the U.S. District Court for the Central District of California to compel EPA to disapprove the 1982 Ventura County ozone SIP and write an ozone FIP for that area. EPA published its disapproval of that

[8] The Mitchell-Conte Amendment to the Budget Reconciliation Act of 1987 (Pub. L. 100-202) (December 22, 1987), provided in relevant part:

No restriction or prohibition on construction, permitting or funding under sections 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of the Clean Air Act shall be imposed or take effect during the period prior to August 31, 1988 by reason of (1) the failure of any nonattainment area to attain the national primary ambient air quality standard under the Clean Air Act for photochemical oxidants (ozone) or carbon monoxide (or both) by December 31, 1987; (2) the failure of any State to adopt and submit to the Administrator of the Environmental Protection Agency an implementation plan that meets the requirements of part D title I of such Act and provides for attainment of such standards by December 31, 1967; (3) the failure of any State or designated local government to implement the applicable implementation plan or (4) any combination of the foregoing.

SIP on October 5, 1988, 53 FR 39087. The Sierra Club and the Environmental Council of Sacramento have filed suit in the U.S. District Court for the Eastern District of California to compel EPA to disapprove the 1982 Sacramento ozone SIP and promulgate a FIP. Finally, the State of Wisconsin has filed suit in the U.S. District Court for the Eastern District of Wisconsin to compel EPA to disapprove the 1982 Illinois and Indiana ozone SIPs for the Chicago area and create a FIP. EPA published its disapproval of those SIPs on October 17, 1988 (53 FR 40415) and November 18, 1988 (53 FR 46808). None of those three courts has ruled on the FIP issues.

III. THE SOUTH COAST BASIN: CURRENT PROBLEMS AND PLANNING

The South Coast Air Basin (Basin) consists of Orange County, and portions of Los Angeles, San Bernardino, and Riverside Counties. The Basin is bounded on the north by the San Gabriel Mountains, on the northwest by the San Bernardino Mountains, and on the east by the San Jacinto Mountains. Lying off the semi-permanent high pressure zone of the eastern Pacific * * * existing dependency on private vehicle use, and to reduce future needs for additional private vehicle trips to accommodate growth in population and employment. Most of these transportation and land use measures (such as provisions for jobs-housing balance or construction of new mass transit facilities) necessarily involve lead times of at least five years and, in some areas, more than 15 years, for full implementation.

1. State and Local Expertise

EPA has not yet fully analyzed all features of the South Coast AQMP, and does not yet know if it is adequate to provide for attainment, or whether it can be fully implemented within its projected timeframe. But the SCAQMD has consistently been recognized as one of the nation's most comprehensive, progressive, and effective air quality control agencies, particularly with respect to the development, application and refinement of effective controls of ozone precursors, VOC and NO_x. Their effort on the proposed AQMP, in conjunction with SCAG's, includes identifying and scheduling for adoption every feasible stationary source, transportation, and mobile source control measure. The plan has scheduled pilot studies, legislative needs, funding commitments, public awareness programs, and implementation time frames.

EPA's involvement in the South Coast planning effort has primarily been to oversee and provide technical assistance to the state and local agencies. EPA has limited expertise in the specific approaches that would be used to control emissions in the Basin. Much of EPA's regulatory approach to the control of emissions continues to be derived from the knowledge and experience of the SCAQMD and the ARB in the control of stationary, area, and mobile sources.

EPA would be unable to implement many of the measures identified in the South Coast draft plan. Many control strategies require commitments on the local level and must be initiated by local agencies. These include land use measures, incentive based transportation control measures (TCMs), and long-range transit planning. Because of the nature of these control measures, and the fact that there are over 150 local jurisdictions in the basin, local government coordination is essential.

EPA believes that air quality benefits are best achieved through a federal partnership with the state and local planning agencies to ensure that all needed control measures are adopted, monitored, and enforced primarily at the state and local levels. The SCAQMD, SCAG, ARB, and EPA have been working together successfully to refine control strategies included in the draft plan to generate local support for controversial measures. Federal preemption of the planning process at the culumination of a uniquely ambitious and resource intensive planning process, could jeopardize the extensive efforts and progress of the state of local agencies and jurisdictions.

2. Federal Versus State/Local Resource Allocation

The staff and budgets of the local and state agencies responsible for solving the air pollution problems in the Basin far exceed currently budgeted federal sources. The staff levels in the fiscal year 1989 budgets of the SCAQMD and the ARB are 900 and 670, respectively; this combined work force is more than 22 times the staff size (70) of the Air Management Division (AMD) in the EPA Region 9 office in San Francisco. The Region 9 office is responsible for directly implementing or overseeing the implementation of the Clean Air Act throughout the states of California, Arizona, Nevada, Hawaii, and the Pacific Islands. The approximate fiscal year 1989 budgets of the three agencies are similarly proportioned:

SCAQMD	$75,000,000
ARB	58,000,000
EPA Region 9 (AMD)	3,500,000

The imbalance of federal and state/local air pollution planning resources is still more extreme when the staff and budget of SCAG are considered. SCAG, which is the largest of the approximately 700 Councils of Government in the country, shares responsibility with the SCAQMD for preparation of the local air pollution control plan.

Appendix B: Technical Issues

I. Developing the Federal Implementation Plan

This Appendix is intended to provide a better understanding of the technical issues associated with the FIP process. The process of developing an implementation plan is similar whether the plan is to be promulgated by the state, as a SIP, or by the federal government as a FIP. Typically, states have been given only nine months to prepare and submit to EPA a fully adopted and approvable plan. During this time, EPA must complete appropriate guidance, and the state must gather information, conduct an analysis of the problem, select appropriate control measures, and write and adopt a plan. Because the development of post-1987 plans is expected to be more difficult than previous efforts, EPA in its proposed policy to address continued nonattainment of the ozone and CO NAAQS, proposed to allow states two years to develop post-1987 ozone and CO SIPs.

In order to produce a technically sound plan, the following types of activities are required:

a. development of data bases (inventories)
b. determination of emission reduction requirements
c. selection of control measures
d. preparation of the FIP or SIP
e. review and adoption of the plan.

A. Development of Data Bases

1. *Current Emission Inventory.* An emission inventory of air pollutants and their sources is essential in identifying major contributors of air contaminants. Sources of emissions are classified as either stationary or mobile sources. Stationary sources are further divided into point and area sources.

The most recent comprehensive inventory for the South Coast is for the base year 1983. For the purposes of the South Coast draft plan, the 1983 inventory was updated to create a 1985 base year emission inventory. The next comprehensive update is expected in 1990 for the base year 1987.

A technical evaluation of the South Coast draft plan inventory and projections has not yet been performed. However, some preliminary conclusions can be drawn about the inventory. Stationary VOC sources in the South Coast include surface coating operations, consumer use products, petroleum processing, and industrial/manufacturing processes. The total VOC contribution from stationary point and area sources comprise 48 percent of the inventory. For NO_x stationary point and area sources contribute 28 percent of the inventory. The major stationary NO_x sources include electric utilities, petroleum refineries, and manufacturing/industrial process. Stationary sources contribute only 4 percent to the CO inventory and are mostly fuel combustion sources.

Mobile source emissions are attributed to on-road vehicles (automobiles; light, medium and heavy duty trucks; buses; and motorcycles) and other mobile sources (airplanes, ships, trains, and mobile utility equipment). On-road vehicles account for 48 percent of the VOC emissions, 59 percent of the NO_x emissions, and 87 percent of the CO emissions in the South Coast.

2. *Forecasted Emission Inventories.* The 1985 base year inventory has been projected to create the baseline inventory for 2000 and 2010. The projected inventories take into account existing control strategies presently in the South Coast, including the California and the Federal Motor Vehicle Control Programs (CMVCP) and (FMVCP), and anticipated stationary and mobile source growth.

Due to existing efforts of local, state and federal air pollution control agencies, per source emissions of VOC, CO, and NO_x in the South Coast are declining. The SCAQMD estimates that per source emissions will continue to decline in the near future because of the effect of existing controls on air pollution sources. The major reason for this steady decrease in per source emissions is the expected turnover of vehicles in use due to the implementation of the CMVCP and the FMVCP. As older cars, which have higher emissions, are replaced by newer, cleaner burning cars, the associated emissions have decreased.

As noted above, however, the South Coast Basin is growing in population at a remarkable rate. If the excess cumulative emissions caused by this growth are not offset or mitigated, the South Coast will quickly begin to experience a net increase in emissions throughout the basin.

3. *FIP Emission Inventory.* The FIP emission inventory would give an indication of what sources would be able to provide additional reductions and would provide an overall baseline against which the adequacy of the control strategy is judged. The FIP emission inventory would include VOC, NO_x, and CO.

EPA would need to establish a base year inventory; a projected inventory for future years with no new control measures; and a series of projected control strategy inventories. This would involve the identification of sources; data collection on stationary source production levels.

[From the Environmental Forum, January/February 1990]

NEPA TO CERCLA

THE CLEAN AIR ACT: A COMMITMENT TO PUBLIC HEALTH

(By Edmund S. Muskie)

(A little more than 20 years ago, on the very last day of 1970, President Nixon signed the Clean Air Act into law. Senator Edmund Muskie, the primary author of the law, was not invited to the ceremony. At the time, Muskie was a front-runner for the Democratic presidential nomination and often antagonized the Nixon White House, particularly by attacking the Administration for denying stronger support to environmental concerns.

(This is the second in a special series of Forum articles on the laws of the environmental decade, Muskie reflects on the drafting and enactment of the original clean air law. "NEPA to CERCLA" celebrates the twentieth anniversary of Earth Day by offering reminiscences from the past and advice for the future from the primary architects of our major environmental laws.

(Serving as the first chairman of the Senate's Public Works Subcommittee on Air and Water Pollution from 1963 to 1980, Edmund Muskie compiled a remarkable record, forging innovative legislative mandates that have served as the basis for our system of pollution control. Under his leadership, many of the nation's major environmental laws were conceived and enacted—including the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, and the Resource Conservation and Recovery Act. As Secretary of State in the Carter Administration, Muskie continued to be a key spokesman for international environmental concerns. He is presently a partner in the D.C. office of Chadbourne & Parke, a New York-based international law firm.

(The Environmental Forum is pleased to present former Senator Muskie's remarks on the twentieth anniversary of the Clean Air Act. Next issue, former Senate staffer, Leon Billings, will look back on the passge of the Clean Water Act.)

This year marks the 20th anniversary of the Clean Air Act of 1970—the most comprehensive air pollution control bill in American history. It also marks the 20th anniversary of Earth Day.

In 1970, the members of the Senate Subcommittee on Air and Water Pollution were ready to launch a tough new approach to clean up the nation's air. Earth Day occurred during the hearings. Members were overwhelmed by mail from across the nation. We used every ounce of political leverage the Earth Day constituency created to prod a reluctant President and an equally reluctant House of Representatives to accept landmark clean air legislation.

Passage of the Act was a success against tremendous odds. We overcame political adversity and the business community's inertia. And because grasping the moment was imperative, we set goals, standards, and objectives beyond our reach.

The Clean Air Act of 1970 defined the air pollution control program we have today. It has been amended since then, but the basic principles still apply. My purpose here is to restate the basic objectives of the original Clean Air Act with the hope that they will be kept in mind in the current clean air debate.

THE EARLY YEARS: SHAPING CONVICTIONS

The 1970 Act had its modest beginnings in the 1960s, following the establishment in 1963 of the Senate Subcommittee on Air and Water Pollution. In the 1960s, air pollution was widely perceived as a Los Angeles smog problem. But as research programs and public hearings were convened across the country, we soon learned that it was a rapidly escalating national health problem. Our legislative initiatives evolved slowly but picked up momentum as the Subcommittee developed confidence in its understanding of what was required.

In the 1963 Act, we expanded programs for research and technical assistance and provided grants to states to develop and improve their air pollution control programs. We directed the development of "air quality criteria" to identify pollutant levels that cause adverse health effects. States could then use these criteria to regulate sources of air pollution. We authorized the Secretary of the Department of Health, Education and Welfare (HEW) to convene conferences of state and local authorities to deal with interstate air pollution problems. In 1965, we directed the Secretary to develop emissions standards for new motor vehicles and motor vehicle engines.

By 1967 there was broad agreement that current local and state efforts were inadequate. The nation's air quality, and the accompanying threat to public health, continued to worsen. Federal action was required. The Air Quality Act of 1967, which passed the Senate 88 to 0, provided the first comprehensive federal air pollution control by establishing ambient air quality standards based on federal "air quality criteria."

The debate continued over how to implement these criteria. State and local actions weren't enough, but federal regulation seemed insensitive to local conditions. A regional approach was chosen as a compromise. Under the 1967 Act, HEW was directed to designate broad "atmospheric regions" of the country, where meteorological, topographical, and other conditions were similar. In order to simplify regulations, these regions were also to conform to local political/jurisdictional boundaries with similar industrial conditions. States were required to adopt state implementation plans showing how they would achieve the air quality standards. HEW was directed to report within three years on progress towards meeting the new emissions standards.

Another major feature of the 1967 Act was the federal preemption of the authority of the states—with the sole exception of California—to establish automobile emission standards. The logic here was simple. Trucks and automobiles are mobile sources, frequently crossing state boundaries, and therefore require federal regulation. California fought hard to maintain sovereignty so that its tougher emissions standards would not be preempted. Since the size of the California auto market would prevent this from being too much of a hardship for manufacturers, it was agreed that the state could have such an exemption, and it stands today.

THE 1970 CLEAN AIR ACT

The experiences and lessons of the 1960s prepared the members of the Subcommittee for the challenge of the 1970 Act. It was clear that air pollution continued to threaten public health. Continuing squabbles over establishing the atmospheric regions and enforcing the law made it clear that—while implementation measures must remain sensitive to local conditions—federal standards and action were needed. By 1970 the Subcommittee members were ready to launch a tough new approach in the requirements and the procedures of the Clean Air Act.

A series of outside events helped build political momentum for a tough new law. Earth Day occurred during the hearings. That summer, Washington suffered the worst and longest air pollution episode in its history. Caught up in the spirit of the day, a coalition of labor and other environmental groups went so far as to call for prohibition of the internal combustion engine.

Three fundamental principles shaped the 1970 law. I was convinced that strict federal air pollution regulation would require a legally defensible premise. Protection of public health seemed the strongest and most appropriate such premise. Senator Howard Baker believed that the American technological genius should be brought to bear on the air pollution problem, and that industry should be required to apply the best technology available. Senator Thomas Eagleton asserted that the American people deserved to know when they could expect their health to be protected, and that deadlines were the only means of providing minimal assurance.

Over a period of several markup sessions, those three concepts evolved into a proposed Clean Air Act that set deadlines, required the use of best available technology, and established health-related air quality levels. The success or failure of the program would be determined by measurement against these criteria.

When the bill was made public, the business community was outraged. The auto industry complained about the unanticipated requirement that they achieve 90 percent reductions emissions by 1975. Most of the business community joined in a demand for hearings.

Public Works Chairman Jennings Randolph directed the committee staff to distribute the subcommittee's print for comment and to meet with any groups desiring an opportunity to discuss specific provisions prior to full committee markup. The result of that process was a modest delay in full committee consideration of the bill, and the inclusion of a provision authorizing a one-year extension of the strict emissions deadline upon a finding that the standards could not be met.

The bill was passed unanimously after just two days on the floor. After the vote, Senator Eugene McCarthy commented to me, "Ed, you finally found an issue better than motherhood—and some people are even against motherhood."

An extended conference with the House followed, interrupted by the mid-term congressional elections. The House was adamant on not accepting the Senate auto deadlines. But with an election year approaching, the congressional members wanted to pass a Clean Air Act. So the Senate stood its ground, and the conference agreement passed by voice vote in both houses. President Nixon finally signed the bill on December 31, 1970.

DEFINING THE CLEAN AIR AGENDA

As mentioned above, the 1970 Act set the three-pronged formula for air pollution regulation that is still essentially in place today. A quick review of several sections of the original Act illustrates how the concerns with protecting public health, forcing the use of the best available technology, and setting deadlines were written into law.

Under section 109, EPA is directed to publish National Ambient Air Quality Standards for specific pollutants. The decisions on which pollutants to regulate and at what level they were to be regulated are based on health and welfare criteria. The pollutants selected included carbon monoxide, nitrogen oxides, sulfur oxides, ozone, lead, and particulate matter.

The division between primary and secondary standards also reflects the emphasis on health-related issues. EPA was directed to set both primary and secondary ambient air quality standards; the primary standards are aimed at protecting human health with an "adequate margin of safety." and the secondary standards are expected to protect visibility, damage to buildings, materials, plants, and other aspects of public welfare.

Similar health concerns drove the regulation of toxic air pollutants. Section 112 directs EPA to establish limits for the emission of hazardous pollutants, or those air pollutants "which may cause or contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness."

Some standards were tied to the level of control technology available. While existing sources were controlled under State Implementation Plans (SIP), § 111 directed EPA to establish nationally applicable limitations on emissions coming from large new stationary sources, such as factories, smelters, and power plants. The strictness of the standards must represent the application of the best control technology that has been demonstrated to be available.

Development of better technologies was to be "forced" by §202, which required a 90 percent reduction of automobile emissions by 1975–76. Although there was no assurance that appropriate control devices could be designed and installed on cars within five years, strict standards and deadlines were expected to force the development of an appropriate control technology.

For many of the clean air emissions standards, explicit deadlines were written into the law. In order to ensure attainment of these federal standards by the deadlines specified, § 110 required states to develop SIPs that limit emissions. EPA was then required to approve or dispprove the plans within the statutory deadline. If the state plan is inadequate, the Administrator must promulgate another plan that will bring the state into compliance.

A CITIZEN'S RIGHT TO SUE

The 1970 Clean Air Act is significant, not just because it established statutory regulation of the auto industry, or because it established deadlines for achieving air quality levels protective of public health. The Clean Air Act was the first federal environmental statute to include provision for citizen enforcement. This so-called citizen suit provision allows individuals to sue violators of the Clean Air Act instead of relying on government action. Furthermore, the Act removed many of the former impediments to bringing suits in federal courts—such as the need for the plaintiff to reside in a different state than the defendant.

In order to make that provision effective, little discretionary authority was provided to EPA. Throughout the Act, the word "shall" was used to mandate the functions required to be performed by the Agency. Regulations, implementation, and enforcement all became specific, non-discretionary responsibilities, and enforceable civil and criminal penalties were included.

THE 1977 AMENDMENTS

In the seven years that followed, a great deal of work was done in the clean air laboratory of the real world. Governments imposed regulations and industries invested in pollution control. Great gains were achieved in controlling automobile emissions, and perhaps most important, new control technologies were developed. Some parts of the country even saw improvements in their air quality. At the very least, the deterioration of air quality in many of our growing urban areas was slowed.

In those same seven years, the special interests mobilized their forces. Industry and business groups—ranging from national oil and coal interests to service stations owners and local land developers—prepared a myriad of studies proving the inappropriateness of the application of the Clean Air Act. Law firms gathered environmental experts. Trade associations hired people specifically to cover the environmental legislation and committees. Environmental over-regulation became a buzzword of business and conservative interests.

The target legislative year was 1977, when the Clean Air Act authorization needed to be extended. The entire focus was on weakening and limiting the application of policies previously adopted. The auto industry waged an all-out battle against the statutory standards. A session-ending filibuster in the Senate pushed consideration of the amendments into 1977, and then the auto industry gained yet another delay of four years to comply with the statutory auto emission standards. Fortunately, most of the special interests' political capital was exhausted in the fight for the auto industry amendment, and we were able to avoid a number of other special industry efforts.

Since many of the deadlines had passed without achievement of the emissions standards, the 1977 law included a "non-attainment" section. For example, the amendments provided guidelines for construction of new facilities in areas where ambient air quality standards had not yet been attained. Five-year extensions of deadlines for compliance were provided for all areas that had not yet met the standards.

Tucked into the non-attainment section were a number of special interest provisions that removed important regulatory tools from the clean air toolbox. Land developers were exempted from any air quality related transportation controls. Similar exemptions were extended to service stations, small refineries, and the after-market parts industry. Such provisions may have been politically essential at the time, but they removed significant options available for achievement of health-based air quality standards.

Despite these setbacks, the 1977 amendments also incorporated several major new features. One of the most important was a "non-degradation" or "clean growth" policy to prevent the significant deterioration of air quality in regions where the air is already cleaner than the ambient air quality standards.

MAJOR GAINS AND UNFINISHED BUSINESS

The Senate subcommittee did not regard the 1970 Act as the ultimate solution to the problems generated by air pollution. Our knowledge as to its health effects was incomplete. It was impossible to identify a threshold below which health effects could be regarded as inconsequential. But we were convinced that progress toward a maximum reduction of adverse health effects must be the critical test of the Act's effectiveness. We realized that achievement of that result would require the development of technology not yet available. We established deadlines as a technology-forcing mechanism, with progress to be monitored by Congress itself.

As Senator John Sherman Cooper pointed out at the time of final action on the 1970 Clean Air Act, this was the most far-reaching piece of social legislation in American history; it would set in motion a course of events that history could not reverse. He was right. It began a process that yielded a change in the American people's fundamental relationship with their environment. It began an ethic that now pervades the academic, intellectual, and business structure of our country. And it put in place an infrastructure of air quality planning and management throughout the country.

Not everything we charted in the 1970 Act has been accomplished, however. Many of our goals have been delayed. Deadlines have been missed. The air is still dirty. But much has been accomplished and in a few cases we achieved more than expected. These accomplishments are particularly significant when viewed in the light of the continuing growth of the American population and the expansion of the economy over the last two decades.

A major achievement of the Clean Air Act has been the near elimination of lead from the atmosphere. EPA estimates that emissions of this toxic metal, emitted primarily from smelters and motor vehicles, have been reduced by 85 percent since 1970. And continued progress can be expected as older motor vehicles and agricultural equipment operating on leaded gas become obsolete.

In addition, most urban centers are now in compliance with the federal standard for sulfur dioxide (SO_2). Emissions have been reduced by almost 20 percent since 1977, notwithstanding an increase in coal consumption. This achievement will be enhanced if Congress adopts Senators George Mitchell's (D-ME) and Max Baucus' (D-MT) current Clean Air Act proposals requiring the reduction of emissions of SO_2 and nitrogen oxide (NO_x) which produce acid rain.

Because of repeated delays by Detroit to require new cars to meet statutory emissions requirements, and because of a constantly increasing number of cars on our roads each year, mixed results have been achieved in the reduction of pollutants from motor vehicles. But even though the original deadlines of the Clean Air Act were unfortunately permitted to slip, the "technology-forcing" provisions of the Act must still be regarded as substantially responsible for much of the success of mobile source regulation.

The number of vehicle miles travelled by automobiles has increased dramatically. From 1978 to 1987, for example, the number of vehicle miles travelled in the United States increased 24 percent. Despite this increase, emissions of particulate matter dropped by 22 percent, hydrocarbons by 17 percent, while NO_x emissions remained relatively stable. In fact, today's new automobiles produce only four percent as much pollution as did their 1970 predecessors.

Regulating emissions of carbon monoxide (CO) has been a particularly difficult feat. Even though CO emissions dropped 25 percent from 1978 to 1987, CO pollution persists today as one of the most intractable air pollution control problems facing society. Specifically, approximately 50 American cities are not in attainment with the CO standard, and 6 of these have a CO problem that EPA classifies as a "serious" health

hazard. In addition, about 100 million Americans live in some 80 urban areas that exceed the health standard for ozone.

The continued growth in population, travel, and industrial activity will only exacerbate these problems. One shudders to contemplate the magnitude of the problem with which we would be confronted had we neglected to address these conventional pollutants 20 years ago.

Our persistent air quality problems are also precipitated, at least in part, by the failure of state and federal governments to implement the goals of the Act as intended. Current information clearly indicates that further controls on stationary and mobile sources are required in order to achieve enhanced compliance with standards.

One serious failure, which I greet with great consternation, is the dilatory pace at which the federal government has proceeded to regulate, or rather, failed to regulate, hazardous air pollutants. While § 112 of the Clean Air Act clearly provides for the regulation of toxic air pollutants, only seven standards have been established. Many of the pollutants not yet regulated are known carcinogens. In fact, EPA estimates that approximately 1,500 to 3,000 fatal cancers per year may be attributed, at least in part, to the release of air toxics. This does not even include respiratory diseases and birth defects that may be caused by these emissions.

EMERGING PROBLEMS

In the past 20 years, scientific inquiries have revealed the alarming new problems of global warming and ozone depletion. We are now becoming increasingly aware of the contribution of greenhouse gases such as carbon dioxide (CO_2) and chlorofluorocarbons (CFC) to the phenomenon of global warming, and of the effects of the CFCs on the earth's stratospheric ozone layer. The scientific community tells us that global warming, or the "greenhouse effect," is believed to cause rising climatic temperatures, and that depletion of the earth's ozone is believed to cause skin cancer.

The Montreal Protocol is a positive step towards international cooperation on the problem of ozone depletion, but, as our knowledge of CFCs becomes more sophisticated, the international treaty may become outdated. With respect to global warming, many initiatives that could be taken to reduce CO_2 buildup in the atmosphere—such as improving energy efficiency and increasing reforestation—are attractive in and of themselves. However, many unresolved scientific issues still surround the phenomenon of global warming, and the need to accelerate research in both areas cannot be overstated. While we should continue to seek answers and international cooperation, let us not neglect to act on what we now know and, if necessary, to act alone.

The authors of the original Clean Air Act were also unable to anticipate the phenomenon of acid rain and the associated long-range transboundary pollution problems. However, the Administration's recent proposals attempt to provide a solution by restricting SO_2 emissions that are known to contribute to the production of acid rain.

To the contrary, indoor air pollution—another new and controversial issue that was discovered subsequent to the passage of the original Clean Air Act—does not appear to be receiving the level of attention that it deserves. New information suggests that a substantial and growing segment of the population suffers adverse health effects as a result of indoor air quality problems. Using the original Act's emphasis on health-related criteria as a guide, this problem deserves more attention.

LEGAL PIONEERS, THEN AND NOW

As we consider these and other new challenges, we should remind ourselves of an essential characteristic of the 1970 Act, one that holds true to this day: it was an "experimental law." It used innovative approaches to achieve the desired results on a more timely basis than provided under any previous law. It defined a new role for government in areas previously believed to involve a private right to a free resource. It was premised on a new and basic public policy tenet—that the federal government has a responsibility to assure that the health of the public is protected from the effects of air pollution. In other words, it was pioneering legislation.

The objectives of the original Clean Air Act are still valid. Poor air quality affects the health of millions of Americans. Thousands of rivers and lakes are being destroyed by a change in their acid composition. Auto emissions continue to contaminate the air in too many of American cities. And new pollutants are being found that pose a risk to the health and welfare of our people. It is true that cleanup efforts have already improved many of these conditions. But in considering the future of the Clean Air Act, we would do ourselves a great disservice to harbor any feelings of complacency when we consider the trade-offs at stake.

I continue to believe that a healthy economy and clean air are not mutually exclusive goals. As policymakers guide this Act through the winding corridors of change in national policy, I hope we will bear in mind that a great nation cannot be measured solely in terms of its industrial capacity and Gross National Product. Ultimately our progress as a nation will be measured by how well we preserve and improve our own quality of life and that of future generations.

Fortunately, today's Americans now believe that pollution is unacceptable ethically and economically. No amount of resistance to our clean air laws based on claims of cost or antagonism to objectives can change that. That is the message of the 1970 Clean Air Act.

Earth Day 1970 helped create the national psyche which molded that result. But a few committed, progressive Senators sitting in a back room in the Dirksen Senate Office Building made the political and intellectual commitment which forced the achievement of that objective. As Earth Day 1990 approaches, we should call the roll of that small band of men who changed history so we don't forget their important contribution! Jennings Randolph, West Virginia. Stephen Young, Ohio. B. Everett Jordan, North Carolina. Birch Bayh, Indiana. Joseph Montoya, New Mexico, William Spong, Virginia. Thomas Eagleton, Missouri. Mike Gravel, Alaska. John Sherman Cooper, Kentucky. J. Caleb Boggs, Delaware. Howard Baker, Tennessee. Robert Dole, Kansas. Edward Gurney, Florida. And Robert Packwood, Oregon.

The American people owe a great deal to Earth Day, as does much of my success in writing environmental laws. Without the political momentum created by this event, we might not have been able to pass such pioneering legislation. Nor would people the world over be rallying to the global warming issue without the spirit captured in classrooms, auditoriums, and amphitheaters across the country in 1970. Earth Day 1990—and today's Senators and Congressmen—have a similar opportunity. We must review that spirit so that our legislators can tackle the 1990 Clean Air Amendments with the same energy and innovative thinking.

Mr. SYMMS. Mr. President, I only want to remind Senators and announce Dr. Wilbur A. Steger, the author of "Jobs at Risk," is in the LBJ room. There may be some Senators who want to look at some of the materials he has and visit with him on how he came up with the numbers on job losses. I thank the Senator very much.

(Mr. SANFORD assumed the chair.)

Mr. BAUCUS. Mr. President, the amendment offered by the Senator from Massachusetts, I think, on examination, should be opposed very simply because it will not work. And the best evidence that it will not work is that it does not work. The Senator from Massachusetts is asking essentially that a full Federal implementation plan be mandatory if a State fails to submit an approval plan. There are some other portions of his amendment, but that essentially is his amendment. That has not worked.

In fact, I would like to ask the Senator from Massachusetts if he can name any single example when the full Federal implementation plan has resulted in any actual emissions reductions, because it never has. It never has because it has not worked.

Now, he might say there is a court order or two, but those court order still have not been enforced. There was never a case when the Federal implementation plan has actually resulted in emissions reduction. It has not happened.

Why has it not happened? Over 20 years, this has been in effect, why has it not happened? It has not happened because it does not work. The full Federal implementation plan system does not work. Why does it not work? It does not work because it is too broad based. It is not tailored to the actual problems, for example, in a State implementation plan. It is too broad based. It requires massive resources of the EPA to implement a Federal implementation plan for a State if a State fails to submit an approval plan.

The EPA and Federal Government are reluctant to fully implement a full Federal plan because of all the resources that are required. That is why it has not worked. And that is why EPA has been taken to court to implement the full Federal plan. In fact, in only several cases that come to mind is the EPA in court, and, as I said earlier, even those cases are not yet enforced. It is the kind of system that just does not work.

Mr. President, one other point here. I have the highest regard for the Senator from Massachusetts, but he has made some points here which are flatly erroneous. He is saying, for example, that the committee agreement

reduces or eliminates citizen suits. Now, I ask the Senator to turn to page 506 of the bill. Citizen suits are still in the bill. They are in the bill. He said earlier that citizens cannot sue to force the EPA to take an action. He is wrong. He is flat wrong. In the bill, citizen suits are fully kept. We keep that in the agreement. A citizen may sue the EPA for nondiscretionary action. That is the law today. It is still the law if this agreement is enacted.

Further, the Senator from Massachusetts says that the agreement eliminates mandatory Federal action; that is, the agreement provides discretionary action on the part of the EPA. That is wrong, too. I ask the Senator to turn to pages 28 and 29 of the bill. It is mandatory action—mandatory. That is, the administrator must take mandatory action either enacting one of the control measures or in selecting the sanction. It is mandatory. The Senator is wrong. He has not read the agreement. Under the agreement, there is mandatory action. The administrator must take mandatory action under provisions of that bill.

The Senator also says the agreement reduces the primacy of health standards. That is wrong, too. We do not reduce the primacy of health standards. The Senator also says—he did not say it directly, but he strongly implies—the agreement reduces the availability of States to set smaller emissions requirements; that is, to set an emissions allowance below 100 tons. The State of Massachusetts, for example, controls down to 20 tons. And we, in the agreement, allow the States to control the smaller sources if they so choose. That is in the agreement as well.

Mr. KERRY. Will the Senator yield?

Mr. BAUCUS. In just 1 minute.

The final point I want to make is there just are not instances wherein there has been actual reductions in emissions, because the present full Federal implementation plan system simply does not work.

The Senator from Massachusetts also goes on to say, well, the Senator from Montana, the Senator from Rhode Island, and perhaps the Senator from Maine really, deep down in their hearts, favor what the Senator from Massachusetts is proposing but that they are constrained by the agreement to oppose the proposal by the Senator from Massachusetts.

I must say, Mr. President, that, too, is incorrect. I have been persuaded that the committee bill was wrong with respect to its full implementation plan provision. I am convinced that it makes much more sense for the EPA to have a tailor-made solution, a tailor-made remedy, that is more like a scalpel, in effect, to be sure that the State does what it should do in implementing this plan.

Now, what am I saying? I am saying this: Under the agreement, we require a State, if it failed to submit an approval plan, to meet 3-percent annual increment reductions in ozone. That is not in current law. In addition, if a State fails to submit an implementation plan, we require the Administrator, after a year, to choose one of several control measures—that could be tailor-made—choose the control measure that seems to make the most sense. Also, he must choose one that has the greatest emissions reduction consequences. That is in there, too.

So I am saying, instead of an all-or-nothing approach, instead of a generalization, we are requiring annual increment improvements on the part of the State and also requiring the administrator to choose the control measure which seems to make the most sense for that State rather than taking over the full implementation plan; that is, tailor it to the circumstances that make the most sense. I believe that makes more sense.

I strongly support the agreement because the agreement is better. The agreement is an improvement upon the committee bill. It is an improvement. I submit that it is an improvement because in the past the full implementation plan system has not worked. In 20 years, it has not worked.

Now, if the Senator from Massachussetts really wants something that works, if he wants to in fact reduce ozone, reduce volatile organic compound emissions, reduce nitrous oxide emissions, I think he would want a plan that works.

There is another analogy here. The current Clean Air Act requires communities not in attainment to be in attainment by a certain date. We all know the history of the Clean Air Act. That has not worked either. Why has that not worked? Because that, too, has been an all-or-nothing approach; that is, we set a date out in the future for a city to meet. If a city does not meet that date, well, it does not meet it. Ordinarily, because it has been all or nothing, the State or the community has not met the attainment date.

The committee bill tries to address that problem. It addresses it by telling cities and States which are not in attainment to meet certain benchmark requirements on an annual basis of 3- or 4-percent annual improvement. That way we know whether a city, for example Los Angeles, is actually getting a job done or not. That is, we do not have to wait a full 20 years, to the year 2010, to find out whether L.A. is in attainment or not.

That is the reason why I believe the nonattainment provisions in this bill are much more workable and, therefore, increase the likelihood that we will reach our final goal. Likewise, the Federal implementation plan all-or-nothing approach has not worked either. But if we tailor it to the problem, find a solution that is tailored to the problem, I think we are more likely to reach the results that we have in mind.

So, again, just to summarize, I know the Senator means well, but he has made statements which just are erroneous. The agreement does provide for citizens suits. The agreement does have mandatory provisions in it. The agreement does not reduce health as a primary standard. In addition, the full implementation plan system approach has not worked. We are trying to come up with a system that does work.

Mr. KERRY. Will the Senator yield.

Mr. BAUCUS. Yes, I yield.

Mr. KERRY. Mr. President, I beg to differ on the question of whether or not I have misspoken here. I point out to the Senator that I have not said there is not a capacity for citizens to sue.

The Senator is correct that there is a section, which he has pointed out on page 509, which talks about civil penalty. We acknowledge there is a civil penalty capacity. But there is no capacity there for the citizen to take a suit to force the administrator to meet an obligation as to the overall health plan or standard. And the reason for that is that that power has been taken away. That power is taken away because there is no longer a mandatory duty, as the Senator has just acknowledged, to have a full implementation plan.

There are examples——

Mr. BAUCUS. If I might just ask the Senator the question, are there mandatory duties in the agreement? Not a full plan, but there are mandatory duties to implement one of the sanctions?

Mr. KERRY. That is correct.

Mr. BAUCUS. Mandatory duties which are subject to citizen suits?

Mr. KERRY. I acknowledge that, indeed, there is a mondatory duty with respect to the 3-percent reduction.

Mr. BAUCUS. And also the sanctions?

Mr. KERRY. And what it does——

Mr. BAUCUS. And also the control measures?

Mr. KERRY. Agreed. But that is begging the problem here. That does not solve the problem.

Let me show my colleague specifically why that does not solve the problem. First of all, the compromise will, in fact, delay the process by which we will wind up getting one of those mandatory remedies. If a State submits an inadequate plan and the administrator is then going to respond, the compromise calls for a process that consumes 5½ years to 6½ years, to achieve even a partial remedy. It goes as follows:

The State would submit a plan. The EPA would then find the plan inadequate. That would be 6 months to a

year-and-a half. If efforts are reasonable, the EPA then makes a second finding 1 year later and imposes one sanction only, if the problem is not cured. So, what the compromise does is say you have to apply one sanction which is a diminishment of the current power to apply all sanctions or even a full plan.

Second, 1 year later the EPA adopts one measure that achieves the mandatory 3-percent reduction that my colleague referred to and I acknowledge the Senator is right. That consumes 3 to 3½ years. Three years later it has to achieve a 3-percent reduction in emissions.

So, under the compromise bill, the EPA cannot, as the Senator has referred to, be required to adopt measures covering more than 1 year's failure at a time. That is a significant diminishment.

Mr. BAUCUS. May I respond to that?

Mr. KERRY. Absolutely.

Mr. BAUCUS. First, we have, in effect, 20 years where it has not worked. I stack up the empirical evidence against the theoretical.

The empirical evidence is the present system that has not worked. The system, which is what my colleague is advocating, has not worked. It has not worked. For 20 years we have been dealing with this problem and it has not worked. That is the empirical evidence.

The Senator says theoretically under the agreement, because of the 1-year delay and the time phasing it in, that takes too long. No. 1, again, empirically, the present law has not worked. That is No. 1.

No. 2, we have other provisions in the agreement which will make it much more likely that the State will be much more in conformance. The annual increment provisions, for example, and the monitoring provisions. There are many, many provisions that make it much more likely that a State will be complying with its emission reductions requirements.

No. 3, there is a reason for the 1-year delay.

Mr. KERRY. Will the Senator yield?

Mr. BAUCUS. That is, I think we would want the State voluntarily to come up with a plan that reduces ozone omissions, or organic compounds. So that is the reason for the year, to work with the State, to figure out a way to help the State and show the State how it can come up with its own plan on a voluntary basis.

Mr. KERRY. Can the Senator document to me how the States of Illinois, Indiana, Kentucky, and other States have responded voluntarily in the last 20 years?

Mr. BAUCUS. There are many reasons, I might say to the Senator. Again, under current law we have this kind of all or nothing approach which does not work. "Chicago will be in attainment by a certain date." Nothing happens, over 5, 10, 15 years as we get close to that date.

Again, under the agreement there are many, many provisions which make it much more likely that Chicago, that Los Angeles, that other nonattainment areas are going to be in attainment. That is No. 1.

No. 2, because of a citizen's suit, the EPA has been in court with respect to Chicago to implement a full implementation plan, as my colleague says, but that, too, is evidence the current plan is not working it because as people saw, the State did not do it, the Federal Government did not do what they should have been doing, and as I also said earlier, that has not been implemented yet. There have been no reductions in emissions as a consequence of the EPA suits. The point is, EPA did not respond voluntarily. That is a court order.

Mr. KERRY. I have agreed that the EPA has never responded voluntarily. That is precisely what underscores the critical nature of my amendment.

Mr. BAUCUS. If I might say to the Senator, again, the agreement provides for full availability of citizens to sue. That is undiminished in the agreement.

Mr. KERRY. Will the Senator show me the language?

Mr. BAUCUS. The agreement also has mandatory requirements on the part of the Administrator. I agree with the Senator there is no mandatory requirement for a full Federal implementation plan. I agree. I also say, this should not be. But I am saying there are mandatory requirements of the Administrator to implement a partial Federal implementation plan and there are other mandatory requirements, that is to impose sanctions. That is all mandatory. It is in the bill.

Mr. KERRY. Precisely. What this debate is about is the issue of whether or not it is adequate to have a partial or full plan.

Mr. BAUCUS. Correct.

Mr. KERRY. And absolutely whether or not there should not remain in effect the capacity to require the full plan.

Mr. BAUCUS. The whole debate here has been partial and full.

Mr. KERRY. Let me go one step further with respect to what the Senator has said in terms of the 3-year mandatory requirement.

The Senator from Montana has suggested that there is an adequate remedy here in this 3-percent reduction per year requirement. I would respectfully point out to the Senator that by the year 2000 which is the attainment date for 31 serious areas, under the compromise, the 3-percent rate will have reduced emissions by only 9 percent. In contrast, the average serious area should have had a reduction of 43 percent.

Similarly, for the eight severe areas, they need an average reduction of 59 percent in order to meet attainment. They will, by the year 2005, have achieved only 24-percent reduction.

What I am saying to the Senator is that the current compromise adopts a "mandatory requirement" of the 3-percent process; one sanction per year; and one effort per year. That will guarantee we will not meet the health standards by the attainment dates and furthermore, there is no recourse for a citizen to push to get an overall plan by which they have to meet the standard.

Mr. BAUCUS. I must say to the Senator, not only is there no guarantee that the full Federal implementation plan will achieve the same results but there is actual proof it has not achieved the results the Senator seeks and the results all of us seek. The present full implementation plan procedure which the Senator advocates has not worked. It has not resulted in a single ounce of emissions reductions. It has not worked.

I am trying to accomplish the same goal the Senator from Massachusetts is attempting to accomplish, that is emissions reductions. The agreement we have come up with is a better way to get emissions reductions.

Mr. KERRY. I think we ought to explore that because I think it is the critical point here. If the compromise of my colleague results in only a 9-percent reduction in areas that are supposed to be at 43 percent, and if they are only at a 24 percent in the eight most severe areas when they are supposed to be at 59 percent, what are we doing here?

Why are we not creating a mandatory requirement that the EPA enforce standards on them that would permit that to happen? The only way you are going to have a mandatory requirement to meet that, based on the lessons of the last year, is to permit a citizen to be able to go to court and enforce it. The fact is, the reason we do not have the full implementation reduction, is because we have not had the time. It has not taken place because we have been caught up in the process of really feeling out the full measure of the court process and FIP process and so forth.

But the reality is that the SIP process has only just taken place in Phoenix and Tucson. There was a 1985 lawsuit. Arizona revised its SIP for Tucson and Phoenix. The EPA announced its intent to impose highway funding sanctions. Phoenix would not demonstrate attainment. In the spring of 1988, they announced a plan. Finally, it was under the threat of that plan in June 1988 that the Arizona Legislature adopted a plan and now, presum-

ably, they have a plan in place that would put them in attainment. Absent the power to be able to enforce that, you are not going to be able to enforce any of these standards.

Mr. BAUCUS. I totally disagree. We have mandatory provisions. The citizen's right to sue is still available. Because of the other provision which I indicated to the Senator, if you add it all together, it is, first, more likely States are going to be on an annual basis reaching its emissions reductions target and, second, because of the mandatory requirements imposed on the Administrator, control sanctions on a partial FIP, then it is likely we get true emissions reductions, which is our goal. The difference here really is theoretical versus the practical. If the Senator's amendment is the theoretical pure pie-in-the-sky amendment, that is, we want everything all at once, it does not work.

In the real world, we have to take a significant step at a time. We have to be practical and pragmatic in achieving results. I have spent some time looking at this subject, and I am convinced that the full implementation plan approach which I earlier thought was better for the reasons outlined by the Senator from Massachusetts is unworkable; it does not work.

I am much less ideological about this. I am much more practical. I want a bill that works. The agreement we have, the partial Federal implementation plan procedure, is one that is going to work. That is why I strongly support the agreement. It is not because I am bound by the agreement. I think the agreement is better. It is an improvement to the committee bill.

Mr. KERRY. Let me say to the Senator from Montana—and then I will yield to the Senator from California—I think it is very important to point out that I understand what the Senator says about the theoretical versus what works and what does not work. The standard that is being adopted in the compromise is a lesser standard. In effect, section 110 of 172 of current law requires a deadline which has been applied under the law to require continued progress, reasonable further progress. Under current law, they have, in effect, had have no waiver, and that has permitted them to reduce. Under the compromise, they will now be granted a waiver that would actually permit them to step away from a continued process of reduction.

I fail to understand how the opening up of a new second tier of examination is going to facilitate or enforce this process. In the compromise, there is, in fact, more discretion being built into a process that at the very outset was designed to avoid discretion. What is there empirically to show that today States are now more prepared to take on this responsibility: Can they do it more effectively with different standards from State to State, and can Governors make decisions that have not been made at the national level?

Let me say, to the Senator from Montana, with respect to pragmatism, the State and territorial air pollution program administrators of the Nation support keeping the law as it is. The division of air quality in the Department of Environmental Conservation in Alaska wants to keep it the way it is. The California Air Resources Board, the South Coast Air Quality Management District, the Bay Area Quality Management District, and the San Diego Area Pollution Control District want to keep it the way it is. The Colorado Air Pollution Control Division, Department of Health, wants to keep it the way it is. The Connecticut Bureau of Air Management wants to keep it the way it is. The Delaware Resources Region wants to keep it. The Florida Air Programs and Environmental Protection Commission, the Indiana Air Programs, the Maine programs, the Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York Division of Air, Ohio Division of Air, Akron Regional Air Quality, Toledo, Southwestern Ohio, Oregon Air Quality Control, Pennsylvania, Rhode Island, Utah, Vermont, Washington, and Wisconsin—there are letters from countless Governors who argue: if you take this away from them; it is not going to happen. That is pragmatism, I suggest. Let me yield.

Mr. MITCHELL. Will the Senator yield for a moment? Might I inquire of the managers and the sponsors of the amendment, we have now spent about 1½ hours on this amendment, whether we might consider an agreement for a time for a vote? Almost all of the time has been used by the principal sponsor. We would like to get an even balance of time. Is the Senator agreeable to reaching some kind of understanding on when we might vote to give Senators an idea when the vote might occur?

Mr. KERRY. Mr. President, I will be delighted to come to an agreement. How long does the distinguished Senator from California need?

Mr. WILSON. Mr. President, I will probably consume about 20 minutes. I know the distinguished Senator from Wisconsin wishes to be heard also; the Senator from Connecticut; also the Senator from Arizona. It may well be that there are others who I am unaware of who wish to speak in favor of the amendment. The Senator from Wisconsin has indicated that he would like at least 10 minutes.

Mr. KERRY. Mr. President, I think the times that I have heard on our side from a couple Senators who are not here add up to something in the vicinity of about 2 hours.

Mr. MITCHELL. Two hours?

Mr. KERRY. Half hour, 25 minutes for the Senator from California; I believe 15 minutes for the Senator from Wisconsin; 15 to 20 minutes for the Senator from Connecticut; that is an hour there; 5 minutes here; and a couple Senators are not here. I know we are going to need a couple colloquys. That is about 2 hours; 1½ to 2 hours.

Mr. MITCHELL. The opponents have not had a chance to speak yet.

Mr. KERRY. I understand.

Mr. MITCHELL. Let the Senator from California go ahead. It is obvious we are not going to get an agreement.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. I thank the Chair. Mr. President, this amendment offered by the Senator from Massachusetts and myself is a relatively simple amendment, though this is obviously a complex area. What it will do is to restore the provisions of current law, existing law. It is not really a breaking of new ground. The so-called amendment, which is to say the committee substitute, has, in fact, retreated from existing law, and this amendment seeks to return to existing law in three specific ways.

It will restore, as in current law, the ability of the Federal Government to mandate a clean air program if a State fails to do so.

Second, it limits, as in current law, the role of costs as a consideration. It says instead that health will be paramount but, obviously, takes into consideration costs. That is what the current law does.

It restores, third, as in current law, the authority that existing pollution sources in areas violating public health standards must apply reasonably available control technology.

In each of those three specifics, Mr. President, in each of those three specific ways, the amendment returns to existing law. It will strengthen the committee substitute. You will hear in the debate today that we cannot really have a stronger bill without losing the entire package. That was the argument made last night by the distinguished majority leader. He said, "In striving for perfection we will achieve nothing. We will not have a clean air reauthorization in this century." Dramatic words.

Mr. President, there are many who think that whatever the other improvements of the bill—and I have been candid to acknowledge them; it requires no great generosity on my part to congratulate the sponsors of the committee substitute for what are in fact improvements, improvements, Mr. President, in the specifics that are addressed by the Kerry-Wilson amendment, there is a need to return to existing law, to strengthen the law.

That is not just the view of the Senator from Massachusetts and my own view. It is not just the view of the Senator from Connecticut. Significantly, Mr. President, it is the view of those who will actually have to administer the law and who have been administering current law and find it not simply preferable; they find it necessary to have the strength of the existing law, current law, in order to do their job.

Mr. President, I want to make clear to the Members who are listening to this debate the seriousness that is attached to this amendment by those who are on the front line, those who are the local air pollution control officers throughout this Nation. They are represented in two formal organizations. One is the State and Territorial Air Pollution Program Administrators, STAPPA, and the other is the Association of Local Air Pollution Control Officials [ALAPCO]. Between the two, they represent the 54 State and territorial agencies and over 165 major metropolitan areas across the Nation, and both have joined to express serious concerns with the committee substitute.

In fact, writing on behalf of STAPPA, Bradley J. Beckham, the president of that organization, in a letter dated March 5, stated that it is the belief of his organization that the compromise outlined in the agreement:

Represents a significant weakening to provisions contained in the committee bill, S. 1630, and in some cases represents a weakening to existing law. Moreover, as the State and local officials who hold primary responsibility for implementing our Nation's air pollution control laws and regulations, we are troubled by the fact that this agreement will make it difficult for us to expeditiously attain and maintain the health-based air quality standards nationwide. If we are to be successful in providing our citizens with heathful air, we must have strong regulatory tools with which to work. This agreement falls short in providing us with those tools.

That is putting it about as simply and clearly as it is possible to put it. But they are more specific. They are specific in ways that relate to the effort by the Senator from Massachusetts and myself, the Senators from Connecticut and Wisconsin, and others to try to restore the provisions of current law to strengthen the committee substitute.

I could not help but listen with fascination to the dialog that occurred between the chairman of the committee, the sponsor of the committee substitute, and the Senator from Massachusetts. Repeatedly my friend from Montana makes the claim that Federal implementation plans have not worked.

Well, he is wrong because they have worked. Who says so? Why, the very people to whom I think we should be looking for expert advice, the experts who are responsible for the administration of the law, for its implementation at the local level. They say so. They say it has worked.

My friend from Montana asked of my friend from Massachusetts, give me one example where this law has worked.

My friend from Massachusetts gave him one. He spoke of Arizona. He could just as easily have spoken of Wisconsin. Both the Senators from Wisconsin favor this amendment and well comment on the experience of Wisconsin as a downwind State troubled by the nonattainment not in their own area but in the Chicago area, by the transfer from Illinois and Indiana to Wisconsin. Finally, Wisconsin, through a lawsuit, was able to compel the threat of a Federal implementation plan. It is that very threat that has helped air administrators make progress for clean air attainment.

I say to my friend from Montana, there are several examples. Another is from my own State. I assure you that the threat of a Federal plan worked to produce change that had not occurred in all the many years since the standards were in the law. Now, I will tell him—and I think he knows—that the South Coast Air Quality Management District has submitted to the State agency, the California Air Resources Board, clearly the most stringent plan that exists anywhere. They will also tell you, the people who devised that plan, that it was under pressure, under fear of the threat of Federal implementation.

Now, I must confess I have some mixed feelings, as a States righter generally, about the necessity to threaten States and localities that fail to comply with the law. As a realist, I acknowledge that there is a necessity to have that kind of threat. And I will go further, as they have, and say that had it not been for that threat, the progress which has occurred very likely would not have occurred. But perhaps, since I am citing them, I would do well to specifically quote one of the more articulate of those local air pollution control officials who is in fact the President of all of them, who speaks formally as the representative for 220 local air pollution control officials throughout the Nation. Dr. James Lents, who is the executive officer of the South Coast Air Quality Management District for the South Coast Air Basin in the greater Los Angeles area, has spoken eloquently in a critique of the committee substitute, and what he has said is the reason that the Senator from Massachusetts and I others have brought this amendment.

He begins by describing himself and his colleagues as: "In a sense the foot soldiers in the war on smog. It is on our turf that the war will be won or lost. As a local air pollution control official, I am responsible for protecting the health of the 12 million Los Angeles area residents who breathe the worst air in the Nation. My compatriots who are here with me today"—and they represented a good dozen or more of the States that were ticked off by my friend from Massachusetts—"along with other members of our association who are with us in spirit, develop and enforce the clean-up plans for every single one of our Nation's polluted urban areas.

"We local officials are held accountable by our citizens to protect their health."

Again, I commend my friend for the very articulate fashion in which he detailed what the health impacts are. We had some discussion of that the other day; what happens when our citizens, particularly the young children, the elderly, those with allergies, those with chronic lung disorders, are compelled to breathe unclean air.

"We local officials are held accountable by our citizens to protect their health and we take a lot of heat from our industry, and chamber leaders, mayors, and other elected officials as we attack the problems of smog."

They find themselves between a rock and a hard place.

Mayors, having been one, are eager for economic development and responsive to the needs of local business because they are concerned with providing jobs for their people, and on the other hand the mothers of those children with allergies and chronic lung disorders are the people from whom air administrators take a lot of heat.

Dr. Lents continues: "We rely upon the Federal Government to provide the leadership and support in achieving local consensus."

That is a rather diplomatic way of saying they need the Federal pressure in order to bring about consensus between those understandably eager for economic development and those who insist upon the kind of clean air standards that are required for health.

Continuing, Dr. Lents says "Unfortunately the agreement"—referring to the committee substitute—"that has been reached provides us neither with the leadership nor the tools to achieve the national health-based standards."

How specifically? "The Administration-Bipartisan Senate Clean Air Act agreement, we believe, represents the opening shot in a new economic war between the States. It creates loopholes through which States can take a dive on cleanup efforts."

That is pretty strong language. That is a little less diplomatic.

He goes on to state:

Through exclusions, waivers and regulatory "triggers" which ignore areas with severe air quality problems, the agreement significantly retreats from basic prinicples underlying the 1970 Clean Air Act. The Act established a national mandate for progress

towards, and attainment of, health-based ambient air quality standards. These requirements could not be waived or avoided for any reason, including cost. The Act's mandates were backed up by provisions establishing a duty on the part of the Environmental Protection Agency to promulgate a comprehensive Federal Implementation Plan (FIP) to achieve attainment if a State failed to act. These provisions give areas which seek to apply effective emission control strategies assurance that their efforts will not result in flight by businesses to areas failing to live up to their air quality obligations, and give the public the ultimate assurance that healthful air quality will be achieved consistent with maximum economic vitality and equity among the States.

That is what he means when he speaks of the agreement setting off a second war between the States, an unfair economic competition as some seek to achieve waivers that will allow them to in effect become pollution havens to attract business.

Is that a way to encourage compliance? Is that a way to reward those who in fact do the best job in seeking to bring about clean air? Well, obviously the answer is no. It goes in exactly the opposite direction. That is why the Kerry-Wilson amendment is before us. It is to bring back the kind of assurance that Dr. Lents and his colleagues are seeking.

"The amendments," he continues "would eliminate EPA's duty to adopt a comprehensive Federal Implementation Plan if the State fails to adopt sufficient measures to attain air quality standards. EPA would only be required to adopt one measure per year pursuant to the FIP process. History has shown"—I wish my friend from Montana were here to hear this—"that the mere threat"—and he has underscored the word "threat"—"of a comprehensive Federal plan has created a strong incentive for creation of consensus among State and local officals, and the adoption of effective emission controls. This is particularly important in areas where measures must be adopted by numerous governmental bodies."

Well, he is talking about every metropolitan region in the country, every severe nonattainment area, every serious nonattainment area. We all have seen the multiplicity, the proliferation, of these different governmental bodies.

The amendments would eliminate the only real assurance that all States will carry out their obligations under the act so as to avoid unfair competitive advantage to businesses in noncompliance States.

The amendments would largely retain the current unrealistic 100-tons-per-year definition of "major sources," a definition which is critical because * * * it triggers several control requirements. This definition is virtually meaningless in nonattainment areas which must control relatively small sources in order to reach standards.

Oh, my friends, what a mistake we made yesterday when we did not pass the Wirth-Wilson amendment which sought to take the maximum possible pollutants out of the air by cleaning up mobile sources. Today we are compelled to look at the stationary sources, large and small, those that provide the economic base to employ our people. We made a terrible mistake and now having done so we are compelled to determine whether the law will be adequate to achieve the healthful air standards that this piece of legislation states are required if our people are not to suffer.

The definition of "major sources" at 100 tons is "virtually meaningless," according to Dr. Lents, "in nonattainment areas which must control relatively small sources in order to reach standards." The kind that my friend from Connecticut will tell us about with respect to Hartford, the kind that I will tell you about because what the South Coast Air Quality Management did under Dr. Lents' administration was to require truly stringent controls upon relatively minor sources.

That is why I was in such pains yesterday with my friend from Colorado to try to provide some relief in a far more equitable fashion by distributing the burden through the automakers and the oil companies. But we did not do that. Instead, we are now compelled by the compromise, driven by concerns for the oil industry and the auto industry, to inflict upon stationary sources what will be very painful requirements. And the reason that Dr. Lents and his colleagues are compelled to look at these small sources and seek to control them is because if they cannot get enough from mobile sources, then they are looking at about 35-percent contribution to unclean air from these smaller sources, smaller than 100 tons.

Dr. Lents says:

The amendments would permit an area to obtain a waiver from annual reduction requirements for "certain specified conditions." We understand that such waivers could be granted if required control measures were not considered to be cost-effective.

That appears to be the specified condition.

Who will determine cost-effectiveness?

Such consideration of cost-effectiveness in determining required overall emission levels (as opposed to the appropriateness of a particular control strategy) is a stark departure from principles underlying the current Act, which require reasonable further progress towards, an attainment of, ambient air quality standards, regardless of cost.

It is not that present law ignores cost, it does not. That is what reasonable control technology is all about. But what these area administrators are complaining about is that the loopholes which they have described in the committee substitute will, in their words, "encourage procrastination and divide the Nation." That is a fairly severe indictment.

But they are compelled to say in strong language what they believe because, as they have said, they are the soldiers on the front line, and the battle will be fought and won or lost on their turf. Of course, they are looking to the Federal law for the assistance that is required, the "assurance," as they put it, that they will be able to compel the consensus they seek which is from the business leaders eager to give employment who say, "my God, we are competing with these other States." We cannot declare ourselves Camelot and say we are off limits.

Well, the health-based standards which these administrators are being asked to administer prompt them to say that we can declare ourselves off limits to the health-based standards, but in order to bring about the consensus necessary, there has to be two things, both arising from the requirement under current law for a Federal implementation plan.

I say to my friend from Montana that it is compelled compliance that brought about the kind of State implementation plan in Arizona that the legislature clearly was reluctant to enact, and did not enact, until such time as they were compelled to do so by the threat of Federal overreaching, as they view it, Federal implementation, as the law views it. The same thing was true in California. The same thing was true with Illinois and Indiana, compelled to achieve attainment in order to not perpetuate nonattainment in Wisconsin, nonattainment which was not the fault of Wisconsin.

That is what is meant when Dr. Lents speaks of bringing consensus. And in order to do that, he has to be able to also state to those business leaders and those mayors and Governors who are eager for jobs in their States and localities, that they will not be at a competitive disadvantage with their competition throughout the Nation. And again, unless there is the Federal implementation plan to compel those who are reluctant to take the painful steps necessary to meet the clean air standards on a universal basis, why then, what they will be told by the mayor, Governor, and the business leader threatening to leave is that we do not have to do that in x State. We are not required to operate under these stringent conditions, so why should we stay here when it will cost us more to be clean? Tough question.

It is very difficult for the local administrator to answer that, unless he can say that they are going to be under the same pressure. You will not achieve anything by moving. It will not be cheaper for you to operate there. You will have to do the same thing.

I must tell you that I think it is grossly unfair, but just to these profes-

sionals who are the local area administrators, it is grossly unfair to those concerned with economic development. It is unfair to the Governors, the mayors, the business leaders, the Chamber of Commerce presidents who labor so long and hard to bring economic vitality to their communities, who spend so much on programs of institutional marketing for their communities, who say, for example, bring your plant to Milwaukee, bring it to Plymouth, bring it to my State, to my locality where we welcome you, where we want those jobs.

There is the need for some kind of equity, Mr. President. That is what this amendment is all about. It is a fundamental effort to restore equity by returning the committee substitute to current law.

I am not going to repeat the instances that were given by my friend from Massachusetts. As a response, my friend from Montana said to him, well, we are required to do these things under the committee substitute. It is without dispute that the discretion in the EPA to impose a Federal implementation plan is far greater than it is under current law. In the committee substitute, much greater discretion is given to the EPA, much greater discretion is given in determining whether the administrator will grant a waiver, if after years of presumed effort and compliance, it remains "not cost-effective" to achieve compliance.

That is why the administrators at the local level are so concerned. They see this discretion in the Federal Government as robbing them of the assurance that they need, of taking away the Federal pressure that is their means of assuring those local businessmen and governmental leaders that they will not suffer economically by compliance, by good efforts at compliance under a State implementation plan worthy of the name. So that is what is at stake. I will, at the risk of offending people for whom I have a deep respect and affection, read the words with which Dr. Lents concluded his presentation on behalf of the 220, which is all of the Nation's local area air administrators.

In describing the faults that they have addressed and which this amendment addresses in the committee substitute, he said:

These loopholes will encourage procrastination and divide the nation.

That is positively Lincolnian, but he is right.

They are designed, whether by purpose or chance, to force local elected officials to make an either-or choice between jobs and public health. Polluting industries can shop around from state to state to fnd those areas promising the least regulation.

And, of course, the dirtiest air.

States seeking economic development will be openly bidding for industrial growth based upon who does less to clean up the air.

Mr. President, he is right to be concerned, to protest. We are right to bring this amendment and to adopt it, because otherwise what has been heralded as a dramatic improvement, which in many respects it offers, will also be a retreat from existing law, and to the extent that it fails to address nonattainment it will be, and again I quote: "The opening shot in a new economic war between the States, one that creates loopholes through which the States can take a dive on cleanup efforts."

Mr. President, we should not allow that to happen. We should keep faith with those local administrators, with those local business and economic development officials, with those children and elderly persons, those who suffer respiratory disease and allergies; we should have the kind of assurance that we will in fact implement that health-based standard. Otherwise we make a mockery of the good intentions of the law.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Thank you Mr. President.

Mr. President, I rise to support the amendment offered by my colleagues and Senators from Massachusetts and California.

I do so with a certain sense of discomfort at being placed into conflict here with the chairman and ranking Republican member of the Environmental Protection Subcommittee who are and have been for a long time among the leading environmentalists in this country. I know they supported the original strong provisions in Senate bill 1630 which we in essence are trying to put back in with this amendment. I know they are supporting the compromise as that, a compromise with opponents of the bill, particularly the administration, to guarantee that we have some bill.

But I feel strongly, particularly because of the quality of the air in Connecticut, which is not good, and the sources of that dirty air, so many of which are from stationary sources of ozone, so many of which are from outside of my State, that I am compelled to join with and support the efforts to further strengthen this bill.

I think it is now accepted as an article of faith, at least among those Members of the Senate who are on the floor at this point, and I would say by most Members of the Senate, that ozone pollution is a real health problem in this country. It is in my opinion the most pervasive environmental threat to human health that we have, and I know that is an absolute statement.

If you look at all the studies and comparisons that have been done and you put on a list so many other environmental threats to human health like toxic waste and asbestos, even acid rain, I think that you have to say that there are more Americans whose health is threatened by ground-level ozone than by any other single source of pollution. It affects particularly those who are most vulnerable, such as the young and elderly and those with lung disease. But healthy adults are also affected by ozone pollution as well.

In one of the most alarming studies that have been done, researchers found in Los Angeles that severe lung lesions and chronic lung disease were occurring in one-fourth of the 15- to 25-year-olds that they studied who were otherwise healthy, had no particular long infirmities to start out with, no particular vulnerability, were just active young people in Los Angeles, and found that simply by being active and breathing the air they were damaging their lungs.

I know that regardless of our position on these amendments, I think most of us agree, certainly those again who are on the floor, that ozone is a serious threat to human health. The question is what do we do about it.

The compromise bill before us I think has some exceptionally good parts to it. Before I get into why I support these amendments, I do want to say for the RECORD and point out what some of those parts are because they are very important steps forward in dealing with ozone pollution in a very comprehensive manner, and they are based on more than 17 years of experience that we have now had in this country in trying to bring our various areas into compliance with health-based ozone standards which means make the air healthy to breathe.

Title I of this bill that deals with stationary sources of pollution is extremely complex and it is technical, and that is one of the reasons that some of the most important improvements in current law which are part of the compromise may not be as evident as they should be to those who looked at this bill.

I think those changes are going to be critical in making this law work and helping to bring our Nation's air into a healthier state.

They reflect the extraordinary work of those who labored on this committee, Senators and staff members, for years, and it is an unglamorous area. But it really involves the public health of the American people. I think all of us should be grateful to those who led this battle and supported it at the staff level over the years.

May I now just point out what I take to be the positive aspects of the compromise bill. The deadlines in the bill for achieving attainment with the health standards are realistic. While I think the ozone deadlines are longer

than I personally and others would like—in other words, they recognize the complexity of the ozone problem and the large amount of work that will be required to bring America's air to a healthier state. Importantly, however, the emphasis in the bill is not just on the deadline but on what happens in the time periods before the deadlines. The objective here is to assure that the nonattainment areas proceed on a course of emission reductions which will bring them into attainment with the ambient air quality standards by the deadlines set. The bill, therefore, requires annual percentage reductions in VOC's, volatile organic compounds, that are precursors, the stuff that makes ozone take place.

As my colleague, Senator BAUCUS, indicated on many occasions, the mandate on annual reductions is extremely important. It is designed to avoid a repetition of the situation that occurred when the 1977 amendments were passed. Those amendments required States to reach attainment by a certain date and to demonstrate how they would meet those deadlines in State implementation plans, otherwise known as SIP's.

The States submitted SIP's and showed they would reach attainment by the required date, but when the deadline finally came in 1987 there were still 102 areas not in attainment and that involved more than half the population of this country.

There are many reasons for this failure which have been discussed before the Environment Committee, but one point is clear: Earlier checkpoints would have shown that the expected progress was not being made and would have presumably brought about demands by EPA that more be done. The compromise bill now provides those checkpoints, and I think that is a very, very significant step forward.

Another important provision in the compromise which is particularly critical to my home State of Connecticut is the establishment of a Northeast Transportation Commission. The need to control pollution traveling from one State to another is a matter of basic fairness which cannot be addressed by the States themselves and will not in the normal course. It can only be addressed by Congress in this Clean Air Act.

Creation of a regional air quality commission is an important and very creative part of the bill. It recognizes the fact that you cannot put a bubble over an individual State. It puts some responsibility on all States to be good neighbors, but it does so with a degree of reason and a good degree of sensibility. I am very pleased and grateful that this provision remains in this bill that is before us in the compromise.

So there are many good aspects to the title I provisions.

Why am I therefore supporting this amendment? I am supporting it because the problem with the compromise fundamentally is that it takes away the certainty of controls which the States need to achieve attainment of the air quality standards, and that is to provide clean and healthy air for our people.

The ways in which that is done have been documented, described, and discussed here at some length. It simply reduces the number of mandatory Federal controls. In other words, the requirement that the Federal Government intervene and promulgate a plan of emission controls, which is the FIP, is eliminated in this bill. Instead, the compromise requires that EPA promulgate only one control measure per year.

As we heard here on the floor today, EPA has argued that it does not voluntarily use its FIP authority and that that mandatory duty simply creates bureaucratic burdens for EPA without significant benefits, but the record does not bear out that contention.

There has been colloquy here on the floor about this issue and I want to join it now, if I may. While EPA has consistently and unfortunately refused to act voluntarily to promulgate these Federal plans to clean up the air in the worst areas during the last 10 years, the Agency has repeatedly been forced to act through the intervention of the citizens filing lawsuits.

This action or even the threat of action by EPA has had extremely important tangible results during the last 13 years. One of the best examples which has been pointed out is the situation in Phoenix. In Phoenix there were years of delay in dealing with dirty air, and EPA finally disapproved the State's SIP, its own implementation plans in 1985, but then EPA took no action whatsoever to do what the law required them to do which is to promulgate a Federal plan to clean up the air in Greater Phoenix.

Citizens of the area then came along and filed a lawsuit, and the court in response ordered EPA to promulgate a Federal plan to clean up the air in Phoenix. Ultimately, the EPA did promulgate that plan according to the court order. And once it did, and only when it did, the Arizona Legislature, fearing that the EPA would not only adopt a plan but would come in and enforce mandatory controls within the State, acted quickly as the less troublesome of the then available alternatives.

Finally, after all of these years of delay, inaction, and litigation, the State did submit a plan for cleaning up the air which was approved, and the Federal plan was withdrawn.

That is not the only area where that has happened. Citizen suits have forced action by either the EPA or the States in other areas of the country, including Ohio, Idaho, Illinois, and, as Senator WILSON has indicated, four areas of California.

Since the announcement of the draft compromise, I have found in my office a virtual outpouring of protests from State and local government officials. They have told us as directly and compassionately as one can that the threat of the Federal Government to come in and promulgate a complete plan is the most effective tool available to them at the State level to do their job.

The ability of the Federal Government to establish control plans when States fail to adopt their own in those areas where the air quality is largely determined by air transported from other States is absolutely critical.

In other words, it matters where the State is facing perhaps political or economic objections to imposing a plan within its State. It matters because the State needs us to come along and say, "Folks, if you do not do it, we are going to do it." That is an excuse for the local officials to do what they know they need to do. But it is absolutely critical in cases where that dirty air is coming from outside of a particular State.

I presume, I am sure, that we will hear particular evidence offered in a moment or two about Wisconsin. But I remember at one moment when I was in the negotiations in that room, S-224, Senator KOHL spoke eloquently of the importance of this provision in current law requiring the mandatory FIP in his home State of Wisconsin, for the obvious reason that Wisconsin receives so much of its ozone from the Chicago area. I am sure Senators KOHL and KASTEN will document that in some detail.

But their case is a compelling argument on its own for why this amendment should be adopted. I can tell you that my own State of Connecticut may well find itself in a similar position to Wisconsin because so much of our ozone problem is caused by air transported from areas upwind of our State.

Mr. President, I was startled a couple of years ago when our State department of environmental protection, working with computer modeling, which is a sophisticated science at this point in predicting air quality, reached a conclusion that we in Connecticut could effectively shut down our State—no cars moving, no industry working—and still not satisfy the national air quality standards. Why? Because of the dirty air blowing in from the south of us, particularly from the Greater New York area.

Governor O'Neill, our Governor of Connecticut, has written to me as strongly and as forcefully as he could urging the adoption of the mandatory FIP provision, as he said in his letter,

because it is "needed to assure a consistent level of effort by all States and to prevent our air—Connecticut's—from being harmed by lax efforts elsewhere."

Mr. CHAFEE. I wonder if the Senator would yield for one question.

Mr. LIEBERMAN. Yes.

Mr. CHAFEE. I have listened to the litany of problems that currently exist. The Senator has just pointed out in his State, to comply with the attainment standards, they would have to shut down everything in the State. There could not be a car moved. Yet, after saying all that, he thinks we ought to maintain that existing system. I find that a little confusing.

Why stick with an existing system that is a total failure, by the Senators own testimony? Can the Senator help me on that point?

(Mr. ADAMS assumed the chair.)

Mr. LIEBERMAN. I will try my best to help. The response to the Senator from Rhode Island is because the existing system offers us more hope than the compromise bill, which reduces quite clearly our opportunity in Connecticut to go into court, have citizens from Connecticut go into court, as the folks in Wisconsin have done to protect themselves from dirty air from Chicago, as we one day may wish to do to protect ourselves from dirty air blowing in from the south of us.

There is here also in this bill the Northeast Transportation Commission, which will create a structure for improving that situation.

But there is no question that our Governor, our State environmental commissioner, and all the air quality enforcement people feel that as we go forward, making our own efforts in Connecticut to clean our air, that this is a tool that we want to have available to us if we find that States upwind of us are not taking the steps they should to clean their air.

Mr. CHAFEE. If I might comment just 1 minute. When the whole country was meant to achieve attainment by 1987, and we have massive areas, one-third of our population in the Nation, now living in nonattainment areas, to say that is the system we want; that is a great system; let us stick with it; do not change it, seems to me a very odd way to proceed.

Mr. KERRY. Will the Senator yield?

Mr. LIEBERMAN. Yes.

Mr. KERRY. If I could comment on what the Senator from Rhode Island has said, what you have to balance here is the two mechanisms that exist for getting this done.

The existing mechanism has really only been attempted to be enforced in the last few years, because Congress granted a waiver and, as everyone knows, the Reagan EPA was not watching anything. So it took time for those suits to make it through the legal process. The State of Wisconsin was in the legal process from 1985 to 1988.

But if you measure the right of people to be able to come into court to force an action against what the compromise has, which is not only no right, but on its face an absolute guaranted inability to meet the clean air standards by the year 2000 and by the year 2005 you are clearly not offering us a better alternative.

Now, just because we have not done away with crime in the streets of America, we do not disband police forces. Just because the troops have not gone into North Korea, we do not take them out of Korea. They are there to serve as a deterrence to potentially something that may happen.

In the very same way, we request the police officers to do what they are supposed to do, and provide greater capacity to be able to make them do it. That is precisely what I understand the Senator from Connecticut says this will do.

Mr. CHAFEE. The Senator from Connecticut has the floor, and I just want to make one comment, if I might. The Senator from Massachusetts has illustrated clearly the danger of arguing analogies. To get tangled up in what police forces do and do not do just gets us astray totally from the subject at hand.

The subject at hand is how are we going to clean up the air in the United States of America. We have had a system that has clearly been a failure. We hear these Senators say, "Stick with it. It is great. It has provided wonderful things for Wisconsin." And there was some talk about the Reagan administration doing nothing. The Wisconsin case, as has been pointed out, was in 1985.

But I will have my chance later. I thank the Senator from Connecticut.

Mr. LIEBERMAN. Let me just respond to this colloquy, and particularly the Senator's question, in this way. I have said earlier in my statement that I think the compromise bill before us contains some important steps forward that will make it more likely that Americans, particularly those living in the most severely polluted areas, will breathe cleaner air.

But why remove from the bill another tool that is available to achieve that objective just because it has not of its own achieved the kind of goals and quality of air throughout the country that we had hoped to achieve?

The fact is that the existence of the right to require a FIP through citizen lawsuits has helped in four or five areas of this country and helped substantially. It has probably helped in more areas just by result of the fact that one can threaten to try to implement the FIP.

So, I would say we have here in the compromise bill some reactions to the insufficiencies in existing law that meant that we have not achieved the air quality standards that were set out either in the 1970 bill or the 1977 amendments. But the existence of the FIP power and the citizen lawsuit to compel it is another outstanding tool to achieve that goal, and I would not withdraw it simply because it has not solved the whole problem.

Mr. President, I know some may argue it is inappropriate that the State officials are now urging us to write this legislation that will only need to go into effect if they themselves are not meeting their responsibilities under the Clean Air Act. But looking at the situation clearly, I think the mandatory FIP actually reflects what the role of our Federal Government should be in these areas, to give local and State officials the first right to protect the health of their citizens. If they do not, then and only then the Federal Government must act.

I also support the two other provisions in the Kerry-Wilson amendment. I previously addressed the requirement in the bill that areas achieve annual percentage reductions in VOC's, volatile organic compounds, the stuff that leads to ozone. Unfortunately, many of the benefits of that particular provision could be undermined if areas around the country are allowed a waiver that is based on cost. And, under the compromise that is before us now, the decision on whether or not areas will be allowed to waive out of percentage requirements will, in my opinion, in all probability be made by the Office of Management and Budget.

I say that because, if there is one message that has emerged from the whole process of negotiations and discussion that brought this bill to the floor of the Senate, it is that OMB and the White House have rigid limits on what should be spent by polluters to protect public health.

During the course of these negotiations, as is well known, the administration placed an absolute limit on the costs it would demand polluters pay, regardless of the health consequences or the health costs of pollution incidental to American business and individuals.

I am deeply concerned that allowing the kind of broad-based cost waiver that is in the compromise bill that would be eliminated by this amendment would permit OMB vast discretion to determine what is an appropriate level of expenditures to protect public health. Under the compromise, areas could repeatedly get waivers from their percent reduction requirements. While the areas are still required to reach attainment by the dates in the bill, the certainty that we previously had, in the literal wording of the compromise, that these dates

would actually be met, is gone. If areas get cost waivers from their annual requirements, they will simply not meet those dates.

Finally, the provision in this Kerry-Wilson amendment requiring installation of reasonably achievable control technology on existing sources is very important. It is significant that the technology that we are talking about, which is known as RACT, only requires those controls which are technologically and economically feasible for a majority of sources in a class or category of sources.

So we are dealing here not with maximum achievable control technology, a term that we are now familiar with from our debate on air toxics, but only what is reasonably achievable, and costs of that technology play an important part in determining what is reasonably achievable.

So, our concern for the financial impact on business and particularly on small businesess is reflected in this RACT proposal.

According to the Office of Technology Assessment, sources which emit between 25 and 100 tons of hydrocarbons per year actually account for between 15 and 35 percent of the total problem of VOC emissions. It is very important to point out that even sources which emit 25 tons are not in the category of what we would traditionally consider small business.

A source emitting 25 tons is not going to be your local drycleaner or your local bakery, as some have suggested. To get to over 25 tons, they would have to be a very large industrial cleaner or a very large commercial bakery. Essentially, they would have to be a good-sized factory.

Although Connecticut, as Senator WILSON pointed out, requires RACT on sources which emit very low amounts, in some cases actually sources which emit more than 7.5 tons per year, again the State alone does not have the ability to regulate sources of air pollution, ozone pollution, in other States which contribute to Connecticut's dirty air.

Again, Governor O'Neill has written to me:

> Without stronger Federal oversight, many States whose sources affect Connecticut's air may not take action to regulate these smaller sources.

One additional point, Mr. President. There has been a lot of talk about deal breaking. I understand the implications of it. There was a lot of work done that led to a compromise.

One of the basic points that led to the compromise was the limit that the administration set down about how much money they were willing to have spent to protect people from air pollution. I do want to point out a couple of things about that limit. We are not talking about taxpayers dollars here. We are talking about money that would be spent by people who create pollution to stop the pollution to protect our public health.

Second, the numbers are in large part speculation or estimates about things that may happen 10, 15, 20, 25 years from now. Several times in the debate on the amendments that have come up on the Clean Air Act, the amendments have been described as deal breakers because of a substantial cost that they would add to the Clean Air Act. Mr. President, as I view this amendment, and as I understood the standard that the administration was applying in costing out these various amendments, this should not be, at least financially, a deal breaker.

Most of the requirements that are now in law that would be preserved by this amendment add little or no cost. They certainly do not mandate costs, which was the ultimate standard that the administration applied to this bill. In that sense, I hope Members of the Senate who for one reason or another are concerned about the total dollar impact of the Clean Air Act on those who create pollution will understand that this amendment is not a costly amendment.

Mr. President, the provisions of the Clean Air Act dealing with standards for stationary sources which emit the ingredients of ozone pollution are very technical and complex. It is probably hard for people in the galleries and maybe those who are faithful enough to their citizenship to be watching on television to follow all of this dialog because it is so technical and complex. But they mean something very real and very understandable. And that is whether people around this country will breathe air that is harmful to their health or protective of their health.

These are the provisions that we are talking about today that will make the difference. They will really make the difference of whether or not the promise of cleaner air, which in the consideration of this legislation we are holding out to the American people, is a promise that will be truly kept.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTFN. Mr. President, first of all, I want to say that the point that was made by the Senator from Massachusetts, [Mr. KERRY], is exactly the point that all of us are trying to make, the analogy of crime and police. If we have crime in this country, and we do, and it is growing, that does not mean that we therefore reduce funding for the police department or start to lay off policemen. The analogy is perfect. We have a pollution problem in this country, and what we need is more and not less protection. And this amendment is a step back, not a step forward.

What we are simply saying is do not step back. At least maintain where we are. Do not step back from present law as, unfortunately, this bill before us, the so-called compromise legislation, does. It takes not a small step but a significant step back from present law.

And we in Wisconsin made present law. As I am going to say in a moment, the fact that this requirement was there, was the only way we were able to get as far as we have gotten addressing pollution and environmental protection and issues with regard to air quality coming from outside of our State border.

The current law requires the Federal Government to step in to implement air quality laws if States fail to act on their own. We are saying in the compromise legislation, let us get rid of that. As I said, Wisconsin, the State that I represent, is a State downwind from heavily polluting areas. The six southeastern counties of Wisconsin have great difficulty meeting any of the air quality standards not because of their air or the pollution that they are creating, but because air is so dirty when it blows into southeastern Wisconsin. That is the problem.

Wisconsin went to court to force the EPA to carry out the Federal implementation plan requirements that are mandatory under current law which this compromise seeks to drop. If these requirements were made optional, we would never have been able to get the States of Illinois and Indiana to take the necessary steps to protect Wisconsin's air. So when the Senator from Montana says the law does not work and that is why we are getting rid of it, or the Senator from Rhode Island says we have dirty air under the old system so let us change the system and, if you will, make it more lenient, I think they are wrong.

The fact is we went to court, and because we went to court, in the case of Wisconsin versus Reilly, we achieved an out-of-court settlement. The out-of-court settlement was the first step for regional cooperation, the kind of regional cooperation which we had been unable to get voluntarily from Illinois and the kind of regional cooperation that came only because of the threat of the EPA forcing a Federal implementation plan.

What we ended up with was an out-of-court settlement, a first step in regional cooperation, a State air quality plan and a State management plan. We are now making progress in our region toward solving the problems. It worked. We are the example. We did it under the present law.

If this amendment is not agreed to and this ability of a State to force the EPA to go forward with a Federal implementation plan is taken away, the progress that we made in Wisconsin will be turned back. This amendment,

I am proud to say the Kerry-Wilson-Kasten amendment—I am a cosponsor of this amendment—will assure that all States act to implement the Clean Air Act. The fact is we won our court case. This history—that Wisconsin has been successful in the court case—means that other States will see that in court they are going to lose if they fail to clean up and they, therefore, will voluntarily go forward and establish the necessary air quality plans. The fact that the threat is there and it has been upheld in the court is very, very important. We now are taking the threat away.

If, for example, Chicago and Gary had been as aggressive in complying with the Clean Air Act as we have been in Wisconsin, we would not have had an air quality problem in Milwaukee, and the surrounding areas and the southeastern counties.

The amendment levels the playing field. It gives some teeth to the legislation which assures that EPA does its job and assures that EPA carries out the requirements of this legislation.

I strongly support this amendment. I hope this amendment can be adopted. But for people to say it does not work, the present system does not work, therefore, let us change it and make it more lenient I think is crazy. This amendment has the support of the environmental community. It is one of the most important steps we can take to protect the health of all Americans and assure that every reasonable step is made to clean up our urbanized areas as soon as possible.

Mr. President, I would like, if I could, to ask the Senator from Massachusetts if he will yield for a question with regard to this legislation?

Mr. KERRY. Mr. President, I will be delighted to yield.

Mr. KASTEN. Members have expressed concerns about the cost of the pollution control technology. As I understand it, the pending substitute would allow calculations about technology, cost, and nonair quality considerations to slow progress toward public health standards. Governors would be authorized to seek a waiver from progress requirements based on these considerations.

Is it appropriate or, I should say, is it inappropriate to consider costs in developing clean air policy?

Mr. KERRY. Mr. President, I answer my colleague by saying, no, it is not, not at all in anyway whatsoever. I believe I mentioned that somewhat earlier. In fact, the Clean Air Act and the current EPA policy both require at this point in time a consideration of costs and other factors as an integral part of the case-by-case process of selecting the pollution control.

It seems to me it is inappropriate, though, to give equal weight to cost considerations and public health, which is what really happens as a result of the compromise.

As I understand it, the 1970 act gave primacy to attaining the health standards as quickly as possible, recognizing that it was not possible economically to clean up instantaneously. The substitute envisions deadlines as long as 20 years, which means really 40 years from the time of enactment of the original act.

Obviously, some pollution reductions are easier than others. Some technology is obviously cheaper than others. The best way to balance cost and reductions on a case-by-case basis and the case-by-case choice, in fact, is what is in current law for both existing sources and for new sources.

I should add that for existing sources in polluted areas, the law requires reasonably available control technology, which has been referred to as RACT. EPA and State agencies are specifically directed to weigh the costs of control technologies, as well as to consider carefully whether a given control technology is really necessary to attain the standards. The EPA, in fact—let me use the language they use—says they have to "give due consideration to the social and the economic impact of any alternative means of control."

So, obviously, they have the right now to weigh all the factors in coming to a consideration about what control technology to apply. That includes costs which are considered now not only in the RACT but also in the new source performance standards. By law, the choice of technology has to take into consideration the cost of achieving the emissions reductions and any nonair quality health and environmental impact and energy requirements.

So, every single choice of control technology passes a test of cost, and, it seems to me, that there is absolutely no reason at all to open up a new area of inquiry at a whole different level which is simply going to delay the process interminably.

Mr. KASTEN. I have the floor, but I would like to ask the Senator to respond. What would be the likely air quality impact of these waivers?

Mr. KERRY. Under the substitute, the areas with serious smog problems are going to be required to meet an annual reduction benchmark of 4 percent per year for 6 years and then 3 percent per year thereafter. What the waiver authority will do is allow polluted areas to make no additional reductions at all, to make no progress toward a health standard, and they can do that, supposedly, in the language of the compromise based on arguments of control technology, cost, and factors other than air quality.

So in answer to the Senator's question, if you can avoid the annual benchmarks by virtue of a waiver, at best you would delay attainment of the health standards and, at worst, you are going to wind up missing the deadlines altogether.

I think you have to put that in the context of what we have already learned by experience. In 1982, the Environmental Protection Agency was confidently predicting that all but a handful of areas were going to clean up by the 1987 deadline. Here we are in 1990, and we have 101 areas still suffering chronic smog; 44 areas with carbon monoxide health problems; and more than 50 with nonhealthful levels of find particle pollution.

So obviously there is an enormous impact, and a negative one, on the effect of the waiver provision on anything other than health-related standards.

Mr. KASTEN. I think it is important to point out that this is exactly the problem that we are dealing with in Wisconsin and exactly why we have had to work through the courts in order to force the agreement that we have been able to reach. Some people are saying, should not the individual States be given the opportunity to make all these decisions themselves? What does the Senator say to that?

Mr. KERRY. My answer to that would be that the Clean Air Act is supposed to be a national program, and it is that for several reasons because, first, public health is a national concern. We acknowledge that. Second, pollution does not know boundaries, as the Senator has described in the problem of Wisconsin. It was not Wisconsin emissions. It was coming from elsewhere. So obviously you need some kind of national application. Ozone smog is obviously a regional concern, and many of the rural areas of this country are affected by smog emissions of other people.

Third, every citizen deserves equal protection under the Clean Air Act, as under other laws, and you are not going to get that if you suddenly allow the States to begin to apply a patchwork process.

Fourth, the 1970 act established national minimum requirements and Federal enforcement to protect the States themselves. All you have to do is look at the list that I supplied earlier of agency after agency, in State after State in this country that says do not take this weapon away from us. Do not do this. Because there is not one of them that has not heard that a regulation is not feasible, that it is too costly, or that somehow it is not beneficial.

I believe that is the most singular constant of the entire debate on clean air. It seems to me that since the industrial community sees its interest in minimizing pollution control regulation without the Federal law, then the local agencies become much more vulnerable to economic pressure. Large

polluters are going to wind up playing State against State and shopping for the best pollution control deal.

Mr. KASTEN. As I understand it, the Kerry-Wilson, I will say Kerry-Wilson-Kasten amendment, works to correct the situation. I am just thinking for example of someone not even in an urban area in Wisconsin, someone in a rural area of Wisconsin, in the southeastern part of the State. They are not being exposed to Wisconsin pollution. They are being polluted by air contaminants generated in Illinois. Whatever we do in Wisconsin, and we have strong laws in Wisconsin, cannot possibly affect it. It must be a national standard. If you have a national standard, you have some element of national control. That is what the present law has and, unfortunately, what we, if we adopt the compromise without this amendment, will end up with.

Does the amendment impose any new requirements related to cost?

Mr. KERRY. Mr. President, no, it does not.

Mr. KASTEN. Does the amendment impose any new pollution reduction requirements?

Mr. KERRY. Mr. President, no, none that are not already imposed by the substitute itself.

Mr. KASTEN. So then basically we are back at current law. Does the amendment simply restore current law?

Mr. KERRY. Mr. President, all this amendment does is seeks to restore, retain, current law.

Mr. KASTEN. I thank the Senator. I believe that if we do not adopt this amendment, we will be taking a step in the wrong direction if, as the Senator from Rhode Island and the Senator from Montana are saying, the present system does not work. Do not change the system to make it less workable. We should be working to change it to make it more workable and, frankly, to give more teeth to some of the Federal implementation efforts. But at least if we do not give more teeth to those Federal implementation efforts, we should not be retreating from where we are. We would not in Wisconsin have been able to come to the agreement, the out-of-court settlement, if this law had not been in place. It is unfortunate that the so-called compromise is about to take away that tool we used successfully in Wisconsin. It is very, very important that this amendment be adopted.

Mr. CHAFEE. Mr. President, first a couple of points of clarification. There are no waivers whatsoever. There has been discussion of waivers for cost as though that is a duck-out system. There are no waivers whatsoever on the 4 percent that each State must attain under its plan for 6 consecutive years. So let us get that straightened out right away.

Mr. KERRY. Will the Senator yield?

Mr. CHAFEE. Let me finish. That is the first point we want to make clear.

The second point, there is some discussion that the Kerry amendment is a return to present law. Now, under the current law, EPA has approved plans that require RACT only on 100-ton or larger sources. Under the Kerry amendment, EPA could not approve a plan unless it controls all sources of VOC's or NO_x, no matter how small.

I would call everybody's attention—I do not think they know what is in this amendment. I really do not. I cannot believe that they have brought up this amendment. If you will look on page 51 of the amendment of Senator KERRY, it provides that within 12 months of classification—in other words, within a year of an area being classified as serious or above, that that area must implement RACT [Reasonable Available Control Technology], for all sources, all stationary sources, and require them to make a reduction of 80 percent or more.

We had a discussion yesterday about doing something about small business, and it was pointed out that to make a reduction in small business below 100 tons, why, the local dry cleaner was going to have to put in equipment that might cost $80,000. Under this amendment, they bring them down to 1 pound. I mean there it is. Read the language. It is absolutely clear.

I wonder if they know what they have in this amendment. They have thrown out the language that we had of a 100-ton minimum and 50 tons in severe or other areas. They eliminate that.

Let me just read the language. "Within twelve months of classification"—namely being listed as a serious area—"a revision to require implementation of Reasonably Available Control Technology"—RACT as we call it—"for all stationary sources"—there is no exception here—"of volatile organic compounds that are not covered," et cetera. "Such provision shall require the implementation of such technology no later than two years after classification and, in the case of volatile organic compounds, shall provide that reductions of 80 per centum or more from uncontrolled levels be achieved unless the State determines for a category sources that such level is not technologically or economically feasible." In other words, they are meant to go down by 80 percent. Now, you can squeeze up a little bit if there is some excuse, but all sources are covered.

We have not had anything like that in this bill before. I wonder what the National Federation of Independent Businessmen is going to say when they find out about that one.

Now, secondly, about what are we arguing? We are trying to achieve clean air. We have had a system where if a State is not in compliance, the Federal Government can come in and do the whole plan.

EPA can. EPA has not wanted to do that. Frankly, they do not have the manpower to do it. So they have dragged their feet.

Finally, they can be forced to do it by court suits. But as the distinguished chairman of the subcommittee and the floor manager of this bill has pointed out, never voluntarily since this act has been in effect has EPA come in and done a State plan, done a Federal implementation plan in place of the State plan—never.

At some point we are going to realize the system does not work. There have been all kinds of analogies to police departments around here. If there is a problem, just have more of it. That is not the solution. Let us step back and look and see what is going to work.

Under this system that we have proposed in the agreement, we provide what you might call a rifle-shot approach rather than just a shotgun approach, just laying down a barrage. What we provide is that EPA will come in and levy sanctions on that State unless they come up with its plan.

What are we talking about, sanctions? Are we talking some slap on the wrist? This has to do with one of the following four sanctions, and these are not little petty measures at all. What are the four sanctions? The highway funding for that State or area must be directed toward enhancing air quality. You cannot build additional highways. You may be able to work out something where there is ride sharing, parking lots, greater use of single automobile by more people. That is a stiff provision.

Second, they can, remember, levy a prohibition on drinking water hookups. In other words, you cannot attach any freshwater to newly built houses. That is what I call a pretty stiff provision. There are not going to be any more outlying suburbs because you cannot get the hookup with the freshwater.

What else? There is a reduction in Federal air pollution grants—no more air pollution grants which are important to carry out the very provisions of this bill.

Finally, there can be a construction ban. You want a new factory. No, you cannot have it. That factory is going to emit pollutants, and you just cannot have that factory built.

I will tell you, those are stiff provisions, every single one of them, and EPA must implement one of those provisions and can implement more if it wants.

So that takes care of the first year.

The State does not still come into compliance. What happens next? Have them submit a plan or a corrected plan. Then EPA must impose controls

that reduce the VOC emissions by 3 percent, and they can require them all, and if they do not do this, a citizen can sue. This is not any complicated suit. This is a simple suit, far simpler than a State requiring the Federal Government to impose a Federal plan on the State. So these are provisions that are going to get the job done.

Now the argument has been presented that cost waivers under the agreement will permit one area to induce business to migrate from a high-cost area to another one because of lesser regulations.

Well, it is this Senator's view as one of the chief sponsors of the agreement that took place and delved with this matter that we are concerned with today that a cost waiver can only be granted if the costs are higher than are incurred anywhere else in the country. In other words, you can only give a cost waiver, say, this is too expensive—it is more expensive than elsewhere in the country, anywhere else. I will tell you that is a tough hurdle to get over.

So, Mr. President, I hope this amendment will be rejected. I think it is a setback. I might say it gets States into areas they have never been in before, going down with no limitation on pollutant emissions, and the tonnage. that is going to be restricted. We have never had anything like that before.

Sure we have gone to 100 tons, in some cases to 50 tons, and the States can go in and go to 25 tons or 5 tons in very rare cases. But this mandates it. They have to impose reasonably available control technology on every single source of pollutants of VOC's in the whole State. If that is what people want, I would be very, very surprised.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise to speak today in support of the Kerry amendment. This amendment is one of the most important amendments which we will consider in the clean air bill. I urge every Member of this Chamber to support the Kerry amendment.

I am concerned that the compromise clean air bill now pending would seriously weaken current law by eliminating Federal implementation plans. These FIP's represent the best available means of forcing State and local governments to get down to the business of cleaning our air. If State or local officials will not cooperate at the local level to control pollution, they can be threatened with Federal intervention.

You can imagine the effectiveness of such a threat. Nobody likes being told what to do and under such a threat. Everyone involved is more likely to support the kinds of control measures needed to reduce areas of dirty and unhealthy emissions.

But FIP's have yet another important function. FIP's can be used by one State to force another State to clean up its dirty emissions. Current law recognizes that pollution does not respect State boundaries. States cannot always rely on each other to act in good faith with respect to pollution control.

My own State of Wisconsin is well aware of this. For many years, the residents of southeast Wisconsin have breathed dirty air blowing north from Chicago. On one side of the State line residents and industry in Milwaukee, Racine, and Kenosha were required to implement numerous control measures to curb emissions, and on the other side, residences and businesses in Chicago did very, very little. Yet people on both sides of the State line continue to breath the very same dirty air.

Wisconsin cannot build a wall to keep Chicago's dirty air out but Wisconsin could ask the EPA to step in and do something. When EPA refused, Wisconsin had grounds to sue in Federal court to require the EPA to fulfill its mandatory duty. And a Federal district court sided with Wisconsin. On appeal, the EPA, Wisconsin, and Illinois all agreed to a fair settlement. And now they are working together to solve the areas' pollution problems.

Right now things seem to be moving forward. Residents of Wisconsin have some assurance that their air will be cleaner in the very near future but that would not have been the case if it were not for the FIP provisions in the current clean air law.

I have to admit that the committee substitute gives us some protection. It does not go back retroactively and undo Wisconsin's court settlement. FIP's which are already required under current law or court order remain in effect. We fought hard to uphold Wisconsin's court victory and the committee substitute protects our favorable court settlement.

Chicago will be required to undertake immediate cleanup actions. And the States and EPA will continue to work on development of an urban air shed modeling system. But all that being said, the bill could be better. Without this amendment, the bill would prevent our ability to go to court in the future if Chicago or any other neighboring State refuses to clean up its air. The bill would deny other States the ability to get results as Wisconsin did.

So I need to repeat: The Kerry amendment restores current requirements under the Clean Air Act for the EPA to develop and implement a FIP if a State fails to curb its dirty emissions as required under the law. If a State either does not submit a State pollution plan, or submits an inadequate plan, the EPA is required to develop a comprehensive pollutant control strategy.

Mr. President, this is a matter of simple fairness and equity. If Wisconsin had not used the threat of a FIP to require cleanup in Illinois, our businesses and industries would have continued to operate at a competitive disadvantage. They would have been spending more on emissions controls than companies in Illinois or Indiana who would have continued to send dirty emissions north to Wisconsin.

Mr. President, I believe that our new clean air law must be fair to business. This bill should foster a healthy economic environment for business growth and job creation.

That is why I am a cosponsor of this amendment. That is also why I supported the Boschwitz-Boren amendment earlier today, to help small businesses comply with the clean air law. That is also why I voted for the Wirth-Wilson amendment yesterday, which was strongly supported by the National Federation of Independent Businesses. That amendment was fair to business because it would have shifted some of the cleanup burden away from small business who provide jobs and perform important services in our economy. By the same token, businesses and industry in Wisconsin know how important FIP's are. The residents know how important FIP's can be. FIP's inject fairness into the process.

We are not asking EPA to develop a lot of FIP's. We simply want to keep the threat of Federal intervention alive so that States and cities will do what they are supposed to do to clean up their air.

This is a good amendment. It ensures that we will get clean air in our communities, and I am pleased to offer the amendment with Senators KERRY and WILSON, this amendment with the ultimate purpose of our legislation, and I urge my colleagues to support this amendment.

Mr. CRANSTON addressed the Chair.

Mr. MITCHELL. Will the Senator yield for a moment?

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, we have been on this amendment now since 10:30 this morning—4 hours. Almost all of the time has been used by the proponents, and I wish to suggest that we attempt to reach some agreement limiting further debate and permitting the Senate to vote on this matter.

I believe there has been a full exposition of the issue, and I suggest to the distinguished Senator from Massachusetts that we now agree to a 1-hour time limit, equally divided. If we do that, that means we will have spent 5

hours on the amendment with 4 of the 5 hours for the proponents and only 1 for the opponents. It seems to me to be a reasonable request. I hope the Senator will agree to that.

Mr. KERRY. Mr. President, let me first thank the distinguished majority leader, because he has the right to move to table at any time. He has graciously withheld that exercise in order to permit us an opportunity to air this.

I certainly want to be helpful. I have a couple Senators who have asked to speak. I will try to cover our side because of those requests. Rather than a half hour to our side, may we have 45 minutes on our side, and we would agree to a time certain for a vote, so that I can make certain I can accommodate those Senators; would that be amenable to the distinguished majority leader?

Mr. MITCHELL. Well, obviously——

Mr. KERRY. I suspect, Mr. President, I would be able to yield some of that back. I just do not want to get into a corner.

Mr. MITCHELL. Mr. President, might I suggest that we agree to a vote at 3 o'clock, which would give us a little less than 1½ hours.

The PRESIDING OFFICER. Does the majority leader put that in the form of a request?

Mr. KERRY. Would he permit us to have an up and down vote on this?

Mr. MITCHELL. I am sorry. We have proceeded under the practice of tabling votes. While I agree to withhold the motion to accommodate the Senators who wish to speak on this, I am not prepared to relinquish the right for a motion to table.

Mr. KERRY. I will not object.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on or in relation to the pending amendment occur at 3 p.m., and that the time between now and then be equally divided in the usual form under the control of Senators BAUCUS and KERRY.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. MITCHELL. I thank my colleague, Mr. President, for his cooperation, and I thank the distinguished manager.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON addressed the Chair.

Mr. KERRY. Mr. President, I yield to the distinguished Senator from California 7 minutes.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I congratulate the Senator for this very important amendment. I rise in strong support of Senator KERRY's amendment.

Unlike most of the amendments that have been offered so far on this particular bill, this amendment does not attempt to strengthen existing law, it merely maintains current law.

This amendment attempts to undo the provisions in the compromise dealing with the ozone nonattainment title that weaken current law as it relates to Federal implementation plans—major stationary sources—and allowing States to obtain a waiver of the percent reduction requirement based upon the cost of control.

Mr. President, the purpose behind clean air legislation has always been to provide clean, healthy air for everyone. Today, nationwide attainment of health-based air quality standards remains a distant goal. Approximately 100 million Americans still live in areas where the air they breathe is dirty. There still remain over 100 areas around the country that are classified as ozone nonattainment.

Local pollution control districts in my State and in other States are unhappy with the compromise particularly as it relates to ozone nonattainment. They argue that we are, in the compromise bill, giving States deadlines by which they must reach attainment or be sanctioned—but not giving them the tools they need to achieve clean air within those deadlines.

What's worse is that in the compromise we are actually weakening current law as it relates to stationary sources in ozone nonattainment areas, which, given the tremendous obstacles that still lie ahead before we can deliver on our promise of clean air, is exactly the wrong thing to do.

The nonattainment provisions in the compromise represent a major setback in the fight for urban air quality.

The compromise would change current law by changing the mandatory nature of the Federal implementation plan. Tnis constitutes a serious and unnecessary weakening of the current Clean Air Act.

Mr. President, the Clean Air Act established a Federal mandate for attainment of health-based ambient air quality standards. The act backed this up with provisions which established a duty whereby EPA would step in and enforce a Federal air-quality plan for any State that either failed or refused to take action on its own.

The compromise, by removing EPA's duty to promulgate such a plan and instead requiring EPA to adopt only one measure a year, withdraws the Federal Government's obligation to achieve clean air where the States fail to do so.

Mr. President, the threat of Federal action has always provided healthy pressure on States to implement their air-quality plans—often forcing States to adopt necessary controls.

For example, in my State, the existence of mandatory sanctions was the spur that led California to implement a motor vehicle inspection and maintenance program. Similarly, the threat of Federal action played a key role behind the formulation of the south coast plan which is designed to bring the Los Angeles area, which has the worst air quality in the Nation, into attainment in 20 years.

Second, the compromise would allow an area to obtain a waiver from annual reduction requirements under certain conditions. Such waivers could be granted if the required control measures were not considered to be cost-effective. This is a dramatic departure from current law which requires reasonable further progress toward attaining healthy air—irrespective of cost. It would establish a precedent in which the costs of controls could determine whether or not the health-based standards are reached.

Third, the compromise would define major sources as those emitting 100 tons per year. This allows new sources emitting less than 100 tons per year to escape control and offset requirements.

These sources represent a significant portion of the stationary emission inventory. For example, in California these sources represent 39 percent of total stationary source VOC emissions. In New York City they represent 63 percent—nationwide, they constitute 34 percent.

These changes that were made as part of the compromise package go to the very heart of the Clean Air Act. These deficiencies in the compromise must be addressed. This amendment would do that by ensuring that current law is not weakened and that we are not taking away the tools that States and local agencies need in order to accomplish their task of attaining clean air.

Mr. President, the last thing we want to do is weaken in any way current clean air law. Voting for this amendment will be a vote to prevent that from happening.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, I yield to the Senator from New Jersey 12 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 12 minutes.

Mr. LAUTENBERG. I thank my colleague from Massachusetts and commend him for an excellent job done thus far in presenting his amendment. I strongly support it.

Mr. President, this amendment raises a fundamental question. It has been discussed several times throughout the day here.

The question, obviously, is why do we want to pass a bill that weakens certain provisions of current law? That is exactly what this substitute

would do. And that is what this amendment is intended to undo.

These are not abstract questions. We have passed clean air bills before, in 1970 and 1977. But what is the result today? The air is still filthy. We have learned a lesson. If we do not write into the Clean Air Act the tools we need, the only thing that will happen is that the air will continue to get dirtier.

Under existing law, EPA is required to develop and implement a FIP, Federal implementation plan, when a State fails to develop a plan which achieves air quality standards that are acceptable. The administration objected to this requirement, and the substitute only requires EPA to impose one additional control measure each year that the failure continues.

Mr. President, I was present throughout the negotiating sessions that took place day and night over a long period of time. I did not hear any Senators raise objections to the FIP plan; I did not hear any Senators request that this be dropped from the substitute. What I heard was an administration objection to which we agree.

Mr. President, we will hear arguments that EPA never voluntarily used its authority to implement the FIP's, but because this requirement exists, citizens have successfully sued EPA to require that they use their authority. And the record is clear that the threat of Federal involvement led many areas, including Arizona, California, and Chicago, to take action to reduce smog. There is simply no basis for the Clean Air Act to be weakened in this manner.

The substitute also weakens existing law by allowing States to obtain a waiver of the requirement to make improvements in air quality if it is deemed too costly to achieve reductions. This waiver would apply even if air quality is still far worse than allowed under the health standards. The waiver will in essence change the health-based standards established in the act to a cost-based standard, and the public health will suffer.

Mr. President, again it is hard for me to understand why, when we have the chance, we are agreeing to a weakening of existing law in this bill. Why should we give OMB and EPA the authority to set low thresholds for obtaining cost waivers? Why should States be allowed to escape the more stringent measures needed to achieve the health standards and control atmospheric transport, particularly when some States already are requiring sources to spend more than the waiver level which may be selected?

Finally, the amendment offered by the distinguished Senator from Massachusetts addresses the sources of pollution that must be regulated in areas that have failed to achieve health standards. The substitute only requires controls for factories emitting more than 100 tons of smog-forming pollutants per year in serious nonattainment areas, and more than 50 tons in severe and extreme nonattainment areas.

Under existing law, EPA regulates sources emitting lower amounts of pollutants. Sources emitting less than 100 tons per year contribute significantly to air quality standards. According to OTA, up to 34 percent of the smog-forming hydrocarbon emissions from stationary sources are from facilities which emit between 25 and 100 tons a year. So we will not be requiring States to address a major source of pollution.

This provision also is going to create economic inequalities. States which regulate sources emitting less than 100 tons a year will be at an economic disadvantage with States which do not regulate these sources.

And of particular concern to my State, New Jersey, the failure to require regulation of sources emitting less than 100 tons will exacerbate the problem of transport of air pollution. Downwind States like mine may not achieve the health-based standards even where they regulate sources emitting less than 25 tons because of the pollution that comes from upwind areas in which smaller sources are inadequately regulated.

I want to quote from a letter sent by our New Jersey Governor, Jim Florio. He says:

> New Jersey currently regulates sources that emit 25 tons or more per year, and our State right-to-know law has demonstrated that emissions from smaller commercial and industrial operations are one of the largest source categories of pollution. This change in the Federal definition will exempt facilities that are significant polluters and will put New Jersey and other States that regulate smaller sources at a serious economic disadvantage.

So it is clear that without the amendments offered by the Senator from Massachusetts, we are going to weaken existing law which has not yet achieved clean air. And we will not have the tools that we need to provide our citizens with to fight for clean air.

So, Mr. President, I urge my colleagues to support the amendment, and I hope that that will be the case.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, I wanted to address a couple of questions to the Senator from Rhode Island, who is not here at the moment. I do not know if the Senator from Montana intends to speak again on their time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I suggest I will do it at a later time; at a later time, yes.

Mr. KERRY. At a later time.

Mr. BAUCUS. Correct.

The PRESIDING OFFICER. If no one yields time, time will be charged equally.

Mr. KERRY. Mr. President, I am going to use some of the time, and what we may do is resort to the usual quorum call. I want to try to hold some of the time to yield back, if I can.

I am sorry that the Senator from Rhode Island is not here right now, but I would like to address a couple of points that he made, if I may.

He suggested, No. 1, that there is no waiver. He suggested, No. 2, that the RACT requirements of the Kerry-Wilson, et cetera, substitute will provide a more costly impact on small business. And he suggested, No. 3, that the sanctions that are put into place through the compromise are adequate. They are big tough sanctions.

I would like to deal with each one of those, because it is this Senator's belief that the Senator from Rhode Island is wrong on each count.

The Senator from Rhode Island has suggested that we are wrong in asserting that there is a waiver. Rather than make the assertion and let that try to carry weight, let me refer to the language of the compromise itself. Page 73 of the compromise, line 11, says: "The demonstration"—and what the language talks about is the demonstration to the Administrator referred to in a prior page—"the demonstration referred to in this paragraph may in order to meet the requirements, provide for an emission reductions in an amount less than 3 percent per year, following a public hearing, and by a statement signed by the Governor demonstrating to the satisfaction of the Administrator that the plan reflecting" this less amount—I am not reading the language now; I am interpreting the plan.

It now is permitted to be less than 3 percent; all they have to show is that there is technological achievability, or costs, or non-air-quality issues which merit them getting that less than 3 percent.

That is a waiver. That is a process which is new, which opens up the ability of Governors to be dragged into this process, and of individual arguments to be made about cost that permit a less-than-3-percent reduction per year.

That is a waiver.

Second, with respect to the issue of RACT, the reasonable available control technology, it is very clear that currently States are already applying less than the 100 tons and 50 tons per year, which is all that is required in this act. Pennsylvania has a 5-ton level; Wisconsin, 10 tons; Colorado, 10; New Jersey, 10; New York 3 to 4; Tampa, 3.

The point is that this amendment seeks to do nothing more than maintain the current discretion which is available to the EPA Administrator. The Administrator today has that discretion. The Senator from Rhode Island has argued that if you take out the 100-ton limit, we are going to require the EPA to apply technology requirements to smaller sources than is required by current law. Let me read the current law to you. The current law, section 172(b)(3) says that it requires all nonattainment areas to "require such a reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology."

Current law requires RACT on all existing sources. There is no exemption for 100-ton sources or 50-ton sources. It is the compromise that adds the exemption and weakens the requirements of current law.

So there is no additional new requirement.

Now, as to the third issue, when he asserts that these sanctions are somehow tough and adequate to do the job, it is clear that they are not adequate to do the job because the job has not been done. But let us compare the two laws.

Under the current Clean Air Act, EPA is required to impose sanctions if States do not submit or implement their air quality plans. If an area does not submit an approval plan, EPA is required to withhold Federal highway grants, impose a ban on construction of new sources of pollution, and withhold air pollution grants. And, additionally, if the area does not implement the provisions of its plan, EPA is required to impose a construction ban and withhold air pollution grants. That is current law, four requirements that EPA must do.

The compromise only requires EPA to impose one of the available sanctions if an area fails, and then it can only do so on this time-out basis, which effectively takes 6½ years before you get to a 3-percent reduction.

Now, construction bans are currently in effect in nine areas. Several have been in place for as long as 11 years. The impact of that has been limited for a lot of different reasons. But the point is that the current compromise actually relaxes current law. It does not strengthen it.

So in each and every comment that the distinguished Senator from Rhode Island made, the fact is that current law is stronger, current law does what we believe we ought to do with the exception that current law as to the RACT technology is not more expensive. It is simply the same discretion as we have had in place these years. And it does not weaken it, as the proposal of the compromise does, to limit it to simply 50-ton and 100-ton sources.

Let me add, we are not talking just about small businesses in a less than 50-ton source. There is not one mom and pop business that has been put out of business by the EPA's exercise of this discretion in the past. All that our amendment does is leave that current discretion in place. To apply to whom? Well, let us take a look at it.

You have furniture finishing, metal finishing, aerospace, film industry, airlines, chemical and industrial boilers, all of which are in the 25- to 50-ton area, hardly mom-and-pop businesses. In the 10- to 20-ton area, you have printing, breweries, electric lighting manufacturers, commercial bakeries, metal finishing, once again, hardly mom-and-pop establishments. But even if they were or are mom-and-pop establishments, the fact is that the EPA does not have a record of abusing that process or of applying technology under a definition of "reasonable" that is not reasonable.

So, Mr. President, I respectfully suggest that it is a very simple choice here. And the choice is between taking an existing tool and stripping it away because people have not been willing to apply it or to allow it to be applied.

Let me say to the distinguished Senator from California that I know he wanted a couple of minutes, so I think I will withhold further time and I reserve the additional time.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. BAUCUS. Mr. President, the Senator from Rhode Island is not here, but I would just like to make a point or two in response to the Senator from Massachusetts. I was here on the floor when the Senator from Rhode Island spoke, and I was here on the floor when the Senator from Massachusetts spoke. I heard what they both said. The Senator from Rhode Island said correctly that there is no waiver for 6 years. There is a 4-percent annual increment requirement to reduce VOC's, and there is no waiver, no exceptions, no waiver. No waiver for the first 6 years. It is in the language; it is in the agreement.

So the Senator from Massachusetts stood up and talked about a waiver. He is talking about the waiver that is provided for in the agreement after 6 years—after 6 years. There is no waiver the first 6 years, and it is a 4-percent annual increment requirement that must be met by a State in the first 6 years.

Now, let us talk about what happens after the first 6 years.

Mr. KERRY. Will the distinguished Senator yield?

Mr. BAUCUS. Yes.

Mr. KERRY. How does the distinguished Senator believe that? If a company knows it has the ability to come in for a waiver involving the Governor, which has never yet existed, what is the incentive for them to meet the deadline in those first 6 years?

Mr. BAUCUS. I will answer that. First of all, there is no waiver in the first 6 years; it is an increment that must go into effect in each of the 6 years. And if it does not, then the partial FIP can kick in. That is, if a State does not meet the 4-percent annual requirement during the first 6 years, according to the provisions that are in the agreement, someone could sue and bring an action against EPA saying it is not enforcing the 4-year provision. So that is one of many actions that could be taken.

But, in addition to that, let us say we are getting past the 6 years and we are into the 3-percent annual increment requirements when a waiver is required.

No. 1, the EPA does not initiate a waiver hearing. The waiver hearing, if there is a waive at all, must be asked for and sought by the Governor of the State. So the Governor of the State of California would have to ask for it in the first place, the Governor of the State of Massachusetts must ask for the waiver in the first place. It is not something that is sought by the EPA. Rather, the request must be made by the Governor.

Mr. KERRY. Will the Senator yield for a question?

Mr. BAUCUS. Not yet. I will later.

In addition to that, as the Senator from Rhode Island pointed out, there is not going to be any economic forum shopping or State shopping here because of cost. If cost is a consideration, if one part of the country says, well, it is too costly, but the cost for the same procedure in another part of the country is less, then it is the interpretation, it is the intent of this section that the waiver could not be granted to prevent economic State shopping or forum shopping around the country.

In addition to that, even if a partial waiver is granted—let us say, instead of a 3-percent, it is a 1-percent waiver, so the State must only reduce another 2 percent during the particular year—even if that is put into effect, the State must still meet its deadline. If it is a serious area, that is 10 years. If it is a severe area, it is 15 years. There is no waiver from the deadline. Let us say a serious area does not meet its deadline under the ageement, then that area is automatically kicked up into the next category, a severe area. And if it is kicked up in the severe area, then it must implement trans-

portation control areas, which serious areas do not have to, but severe areas do have to. There are other provisions, too, that are added on that a State must have to meet if it is kicked up into that category.

In addition to that, at the end of 15 years, because if a waiver is granted—I do not think a waiver would be granted, but is it is—and a serious area after 10 years has not done the job, then 5 years after that there are additional penalties. For example, all major sources must pay $5,000 a ton on 20 percent of their emissions. And that is the additional penalties.

There are all kinds of incentives here to encourage a State, with a serious or severe or extreme area, to meet the provisions that are required of them.

Frankly, to sum up on this one point, it seems very clear to me that there are a lot of hammers here, there are a lot of requirements on attainment areas to get the job done. It is clear to me that this is tailored as well as it could be to help encourage those attainment areas to get the job done.

Point No. 2, this is a small business buster, this amendment that we are now considering. The language of the amendment is clear. It says that within 12 months of classification, that is 12 months after the enactment of this bill, all stationary sources must meet reasonably available control technology. That is not just a 100-ton-a-year cutoff, not just a 50-ton-a-year cutoff, not just a 25-ton-a-year cutoff, not a 5-pound-a-year cutoff, not a 5-ounce-a-year cutoff; it means no cutoff. If you are a stationary source and you are emitting EOC's or you are emitting nitrogen oxides, you must use reasonable control technology. If that is not a small business buster I do not know what it is.

I do not think NAB knows what is in this or they would be here en masse. Think of all the businesses that would be regulated, controlled, would have to apply reasonably available control technology under this amendment that we are now considering. I do not think the sponsors of this amendment know what is in this amendment. They could not know. If they knew, something else is going on here. It does not make any sense because the language of this amendment requires reasonably available control technology to be applied to all existing stationary sources.

The PRESIDING OFFICER. The 5 minutes of the Senator has been exhausted.

Mr. BAUCUS. For that reason alone in addition to other reasons, this amendment should not be approved.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KERRY. Let me point out with respect to the last issue raised by the Senator from Montana, this is not a change from existing law. It is not a small business buster. It is precisely what has existed in the law until this date and it is applied according to the standards of the EPA.

The EPA generally defines the threshold for RACT which publishes a controlled technique guideline.

Mr. BAUCUS. Will the Senator yield? It is not required in existing law. I defy the Senator to show an example of a stationary source that is regulated in this country, I mean actually regulated in this country today, that emits, say 5 ounces, 5 pounds of VOC's or nitrogen oxides. It does not exist.

Mr. KERRY. Let me answer the Senator by saying I have in my hand a EPA regulation cutoff point which talks about, where EPA has previously specified 3 pounds VOC, or 15 pounds VOC—they have the discretion now to do that and they do it in certain cases.

Mr. BAUCUS. If I might say to the Senator, those are control technique guidelines. That is not RACT.

Mr. KERRY. I am not referring now to the control technique guidelines. The EPA has the power now, the discretion, to decide what it is going to apply to a particular industry or particular sources as the standard. They can go as low as they want right now.

The law, current law, section 172(b)(3) of current law requires all nonattainment areas to require such reduction in emissions from existing sources in the area as may be obtained through the application of reasonably available control technology. That is it, blanket. All across the board. It is open season.

The difference is they have chosen not to apply it in that way. What is happening in the compromise is——

Mr. BAUCUS. I might ask the Senator——

Mr. KERRY. The compromise is taking away from the EPA the ability to apply that, because the compromise has a cutoff of 50 tons and 100 tons, depending on whether it is serious or severe.

Mr. BAUCUS. That is correct.

Mr. KERRY. So in fact it is more restrictive—it is less demanding. The compromise demands less.

Mr. BAUCUS. But the amendment of the Senator requires, it mandates reasonably available control technology for all stationary sources regardless of size—regardless of size.

Mr. KERRY. That is exactly the current law.

Mr. BAUCUS. No, the Senator said discretionary. I am sorry, earlier the Senator said discretionary. There is a difference between discretionary and mandatory.

Mr. KERRY. It requires the application of it but it has been interpreted. It is discretionary under the definition of "reasonable." Reasonable, itself, infers a test. Let me read precisely. This is from the law. Only reasonable technology is required. The concept of reasonable inherently involves a balancing of environmental benefits and economic costs. Under the current regulation, RACT is defined as follows:

> Reasonably Available Control Technology means devices, systems, process modifications or other apparatus or techniques giving due consideration to the necessity of imposing such emissions, limitations, in order to attain and maintain the national health standard and, two, the social and economic impact of such limitations.

So the standard has been applied by them historically so they do not put mom and pop out of business.

It is exactly that same standard that this amendment seeks to maintain in place and the compromise, regrettably, takes away that discretion, takes away that application. It will only be the 50-ton and 100-ton sources, and that is worse. There is no other way to describe it.

Mr. BAUCUS. I must say to the Senator, there is no CTG under current law. The cutoff is 100 tons. I am asking the Senator, under the amendment of the Senator, if there are no CTG's, what is the emissions cutoff if any?

Mr. KERRY. Under our amendment the same standard would apply. If there is a CTG in place——

Mr. BAUCUS. I am talking about if there are no CTG's, if there are no control technique guidelines in effect. Under the agreement before the Senate the cutoff is 100 tons. As I read the Senator's amendment, if there are no CTG's in effect, still there is no emissions cutoff and all stationary sources must apply RACT?

Mr. KERRY. That is precisely what the current law calls for.

Mr. BAUCUS. It is not the current law.

Mr. KERRY. The Senator and I differ. The EPA has interpreted the 100 tons as to the general threshold for RACT, and that has been the sort of standard threshold they used. But on May 25 of 1988 EPA published a policy memorandum and in the 1988 policy memorandum, EPA required States and localities to regulate certain existing sources having the potential to emit more than 10 tons per year. So, EPA in fact has gone down to 10 tons.

Mr. BAUCUS. That is for CTG's, I might say to the Senator. The Senator confuses the availability and unavailability of CTG's.

Mr. KERRY. Let us come back to the other side of the question. What are we trying to do here?

Mr. BAUCUS. The Senator is trying to pass this amendment and I can tell the Senator this amendment is a small business buster because it requires full RACT for all stationary sources and I

do not think all small businesses can comply.

Mr. KERRY. I am happy to continue the colloquy. Can we take some of it from the time of the Senator from Montana because I will be getting low. Can we do that?

Mr. BAUCUS. Absolutely.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, the time for the colloquy will be evenly divided.

Mr. KERRY. Let me just say to the distinguished Senator that the EPA currently has a policy that goes down to 10 tons. The RACT application is very clear in so much as it only applies under the reasonableness standard. So, this would not put industry out of business. To describe it so is a scare tactic. If the Senator wants to come in here and tell people this is going to effect small business, that is the kind of argument we have grown used to.

Mr. BAUCUS. I say to the Senator the 10-ton requirement applies to CTG's. I do not think the Senator understands the difference between CTG's and RACT.

Mr. KERRY. Mr. President, what I am saying is that the same standard applies with respect to the application of RACT. That is the current standard. What I read to the Senator is the RACT standard. The RACT standard currently takes into account the economic costs and the balancing. That is precisely current law. That is precisely what would flow in this amendment. It does not change the application of RACT one bit. It is taken from the current law. The standard of the application of RACT is just very clear: Current RACT application directs EPA and the State agencies to weigh the costs of control. They do it now; they will do it under this amendment. Let me reverse the question, if I may.

Mr. President, I think the Senator agreed the time is being charged to the Senator.

The PRESIDING OFFICER. The unanimous-consent agreement, interpreted by the Chair, is that it is going to be equally divided. I believe the Senator from Massachusetts wanted to know if the Senator from Montana will absorb all the time for the colloquy; is that correct?

Mr. KERRY. That is correct.

Mr. BAUCUS. Mr. President, I yield myself 5 minutes for the purposes of this colloquy.

The PRESIDING OFFICER. And the previous time?

Mr. BAUCUS. The previous time equally divided. That was the understanding.

Mr. KERRY. The key question is, Mr. President, we are trying, I believe, to get the best means of meeting the air standard here, and the air standard is how we are going to get this 3-percent reduction process. Incidentally, I think that specific percentage reduction per year is an improvement. I think the Senator is correct in saying that it is helpful to have a per-year reduction where we did not have that previously and had no definition of further progress. But the difference is this: The 3-percent process will not, absolutely guarantee, a meeting of the goal of what we are trying to do here. It will not reduce those 31 nonattainment areas or the 8 severe ones according to the 3-percent rate; it will not meet the standard.

Mr. BAUCUS. If I might say to the Senator, the current program certainly has not resulted in any reductions. The current program has the full Federal shotgun implementation plan approach, and it has not worked. I am just saying to the Senator, what is really going on here is the difference between pure imperfection, on the one hand, and something that is pragmatic and workable on the other. It is analogous to the problem in the Clean Air Act we now have before us.

Mr. KERRY. Can I respond to that?

Mr. BAUCUS. That is on my time. Just a minute.

The present Federal implementation plan approach, the full Federal implementation plan has not worked. It just has not worked. So we on the Environment and Public Works Committee—Republican and Democratic Senators—and the administration negotiated all this and tried to find something that works better. I earlier thought that a full Federal implementation plan would make more sense for the reasons very well stated by the Senator from Massachusetts.

But, frankly, after listening particularly to the EPA, not OMB, not the White House, not others who have different axes to grind, but the EPA, I became convinced that they were right. I do not have a monoploy on good ideas, I can tell the Senator that. If somebody has a better idea and I am convinced it is a better idea, I am going to adopt it.

In this case, the EPA, after days and days of negotiating out this point, convinced me that they had a better idea. The better idea is to say, hey, we, the EPA, do not have the resources. We do not have the dollars. We do not have the personnel to implement a full Federal implementation plan for a whole State. We just cannot do it. We certainly cannot do it for 50 States. We cannot even do it, they say, for a major State like the State of California, or a major city like Chicago. It is so exhaustive. Instead, they say give us the authority to choose from a menu of actions that are very specific but, more important, very effective. Under the agreement, we say, OK, list three control measures and tell the EPA, you choose the one that has the greatest emissions consequences, or if they are in effect already, another that has emissions consequences that are as great.

The Senator should not forget that there is no slippage here. There is no slippage here whatsoever because a State still has to meet its deadline. If a State does not meet its deadline, it kicks up to the next category and has additional measures.

It is all very analogous to a story I read in the Wall Street Journal last week about Exxon. Exxon has dramatically cut back the number of employees it has. I have forgotten the percentage of Exxon employees, but it is much, much lower now than it was a couple of years ago. The whole point of this article is this: It is probably because of Exxon's stretching itself so thin—there have been so many Exxon oilspills lately. Not just *Exxon Valdez,* but the company is spread very thin now; its resources are spread thin. They just do not have quite the control to do what they know they should do.

I can say to the Senator, if the Senator wants the EPA to implement full Federal implementation plans, I am pretty well convinced that the EPA is going to be stretched so thin that nothing is going to happen, not only in this area, but Superfund, under the Clean Water Act, under all of the other areas that are administered by the EPA.

I must say to the Senator, too, I was with the Administrator of the EPA a few days ago in my home State of Montana. He explained to me it is so hard for him to allocate resources. He is going more to enforcement, forcing people to do what they should be doing in all areas under his jurisdiction. That means he is taking people away from developing regulations, developing control technique guidelines, away from all the things that have to be done.

The PRESIDING OFFICER. The time the Senator from Montana yielded himself has expired.

Mr. BAUCUS. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The time will be equally divided.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. Who yields to the Senator from California?

Mr. KERRY. Mr. President, I yield 5 minutes. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 17 minutes.

Mr. KERRY. I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mr. WILSON. Mr. President, this discussion I think has been interesting, but it has not covered all of the

considerations that should obtain to it. One of the things that I think has not been mentioned and should be, is that this reasonably available control technology is, in fact, under existing law factors in cost considerations. In other words, if you are seeking to determine whether something is reasonably available as a control technology, cost is a factor. It is not the determinant factor.

What we are objecting to is making it the determinant factor, but it is now under existing law very much a factor, a consideration. What the Kerry-Wilson amendment seeks to do is to continue existing law rather than weaken it, as with the committee substitute.

A point that has not yet been raised is that there will be those areas with special problems that have need of imposing a control technology that, in fact, they may be barred from imposing if the committee substitute goes through. What does the local air control administrator do if the strategy that he has devised is one that is not permitted by a combination of the operation of State law and Federal standard?

Under the Federal standard that now exists, States can and, in many cases, do impose a stricter standard than the 100-ton emission requirement that is proposed by the substitute. As a result of that fact, Hartford and Los Angeles are required, as a matter of meeting their clean air requirements within any kind of deadline, and presently impose a far more stringent standard than that, one that is painful for them to impose. But, Mr. President, there are 14 States, I believe, that would actually be forbidden from doing what Connecticut and California do, even if they wanted to do so, because they are precluded by State laws that say that they may not impose regulations more stringent than permitted under Federal law.

Under existing law, that may make some sense, but under the committee substitute, which has a far more lenient standard, one that imposes a much less stringent control, those States will be barred from doing something more stringent than Federal law, which is to say they cannot reach down to any source that is emitting less than 100 tons.

What that means is not just that they will be ignoring, or can be compelled to ignore sources that are fouling their own air, but again there is a thing called transfer. We are talking about air that moves. We are talking about the danger to those States that are downwind from those that are upwind.

Suppose there is a waiver granted to an upwind State. Suppose that that State is one of those whose State law precludes the State from imposing a more stringent standard than Federal law, and they do not. What happens to the State downwind? What happens to Wisconsin if they are unable to compel a cleanup on the part of those nonattainment States that border it?

The answer is they may be without hope of ever gaining attainment regardless of what they do in their own locality because of transfer from a State which has conveniently adopted a law which says that they cannot enforce anything more stringent than the Federal law, which in effect creates for them a pollution haven which makes them perhaps attractive competitively in bringing about new business. They may even say to the State whose air they are polluting——

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. WILSON. Mr. President, I request an additional 3 minutes.

Mr. KERRY. How much time remains?

The PRESIDING OFFICER. The Senator has 11 minutes remaining.

Mr. KERRY. I yield the Senator 3 minutes.

Mr. WILSON. Mr. President, we have the distinct prospect, not just the possibility but the prospect that in several States we will have the bitter irony of a State that is not doing the kind of job that it should, saying it is precluded from doing so by its State law, and at the same time, they may be sending economic development emissaries into the State whose air they are fouling urging that the businesses in that State relocate to the State that is guilty of that sin.

That is hardly fair, Mr. President. That is in fact a prospect because the committee substitute does not permit, as does current law, those jurisdictions that wish to do so from reaching sources less than 100 tons. That is what gives rise to the fear on the part of local air administrators that the committee substitute is the opening shot in a new war between the States. That is what prompts Dr. Lents to say this is a proposal which will divide the Nation because it creates loopholes through which the States can take a dive on attainment.

Serious charges, Mr. President, are entirely valid.

What we are suggesting is that there should be the kind of flexibility that the present law allows—not a retreat from present law, not a weakening of it.

There is a certain irony, I must say, Mr. President, in hearing the opponents of this amendment argue that it is a small business buster. These are the people who yesterday were arguing against the NFIB-endorsed Wirth-Wilson amendment.

So let us hear no pleas, let us not be mocked by any salty tears shed for small business on the occasion when we are compelled realistically to ask that present law be continued, because yesterday when we had the opportunity, we denied States and localities the opportunity to take more out of the air from tailpipe emissions, from evaporation, from in-use by vehicles. That is what we did yesterday. We defaulted on an opportunity to do it in a much more sensitive way.

Mr. President, this is a formula for unfairness. It is something that will divide the States. It will produce an unfair economic competition. It will produce pockets, havens of pollution, and as such it is not fair to small business any more than it is fair to those with allergies and chronic lung disorders.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Time will be equally charged against both sides.

Mr. KERRY. Mr. President, let me, if I may, try to summarize.

I would like to address one important issue that has remained unaddressed almost since the beginning of this debate, that is, the question of the citizen lawsuit. It was asserted that citizens do not lose the right to bring a suit, and I would like to clarify that a little bit.

There is a citizen suitability for a civil penalty contained within the language of the compromise, but that is not the operative issue with respect to the loss of a right of a citizen to enforce clean air standards.

On page 27 of the compromise it states, on line 8, "The Administrator may, after notice and opportunity for public comment, promulgate regulations setting forth an implementation plan."

The operative word is "may." That used to be "shall." By taking the word "shall" and making it "may," this compromise takes away a duty on the part of the Administrator. Lacking that duty, no citizen has a right to compel something which is not required as a mandate in terms of administrative action. Therefore, there is no longer a right of action for citizens to be able to compel an action except a subsequent action stated in a lesser paragraph. The action a citizen might compel is the 3-percent reduction process.

But you cannot compel an overall implementation plan. And the reason you cannot compel that is because the process is now being limited. That is a taking away of clean air power.

Mr. President, the tragedy of it is that at best the Senator from Montana has conceded citizens could require the EPA to get the partial plan in place. It seems to me that it is inappropriate for this compromise to limit what the citizens are able to do to protect the quality of air that this deal is supposed to provide them with.

Moreover, the plan, even if it works exactly according to Hoyle as described by the Senator from Montana, if it did everything he has said according to its best expectations, this plan will not meet clean air standards. And it will not meet clean air standards because the 231 cities with the serious ozone or smog problem that have to achieve those standards by the year 2000 are going to be way below this emission standard. In reality, they have to reduce it by more than 40 percent, and under the compromise they are only going to get a 9-percent reduction at best.

In addition, for the serious areas, they are going to get only 27 percent where they ought to be getting 57 percent.

So what we are about to do is pass a compromise that absolutely is guaranteed not to provide the States with the clean air they are supposed to get under the deal, and simultaneously it takes away from citizens the ability to be able to compel a broad overall plan.

The second issue is: Has this ever worked? The Senator from Montana asserted earlier it has never worked. There has never been a full implementation plan. Mr. President, it simply is not true that it has not worked. It worked in Phoenix and Tucson. It worked in California. It worked in Wisconsin. It has worked in Indiana, Illinois, Idaho, and Ohio. And in fact, there are specific examples of areas where there has been a significant reduction.

Ohio is a classic example. Back in 1975, tons of reductions had been made as a result of a Federal implementation plan being imposed. In a number of States in the Northeast, New York and Massachusetts among them, there were requirements made with respect to buses and car lanes. Those had the effect of reducing pollution.

This is a matter of common sense; simple common sense.

If you take away from the Federal Government the very right that was given in 1970 to be able to come in and force a State to comply, there is little there except the lanugage of this bill to make the State comply. When you examine the language of this bill that is supposed to make States comply, you realize that there are less enforcement measures than there are in current law, and you realize it will not meet the standards that we are supposed to be achieving here.

I know we are going to hear the words: "This is a compromise-breaker; if this passes we cannot have a bill" and so forth. I cannot understand how in the effort to pass a clean air act my amendment would break the compromise that is supposed to give us clean air, but in fact is taking away the very tools that best enable us to achieve clean air.

The Senator from Montana suggested that this will give the Governors the power in terms of the waiver. No Governor requested this power except perhaps Governor Sununu. I do not know that he did, incidentally. But not one of the Governors of this country asked for it.

In fact, I have here a letter from the National Governors Association, and I quote:

> NGA policy recommends reasonably available controls on existing hydrocarbon sources and we are concerned that the definition—the current definition—in the compromise of "major sources" as those emitting more than 100 tons may not be adequate.

Mr. President, I respectfully suggest that we have a chance here to hold on to a tool that works. It is an additional tool that adds to the tools that the administration and the compromise has created. I believe it will strengthen our ability to be able to have clean air, not detract from it.

I reserve the remainder of my time.

Mr. D'AMATO. Mr. President, I rise as a cosponsor of the Kerry-Wilson amendment.

This amendment simply restores the authority already established in the current Clean Air Act. It provides an invaluable weapon to State and local air pollution controllers to use against businesses and industries who are opposed to air pollution controls—the threat of Federal intervention.

New York has taken its clean air responsibilities seriously. We have some of the strictest standards in the Nation. But unfortunately, that does not protect our citizens from pollution originating from our neighboring States. Yet we in New York are powerless to control these sources of pollution.

Neighboring States that may seek to maximize economic development may be tempted to establish pollution havens attracting industry at the expense of States, such as New York, that have pursued air quality goals responsibly. The constant threat of tougher Federal standards has worked to encourage many of these States to crack down on polluters.

As proof of this success, I have some examples of businesses that have left New York State and relocated to areas with less stringent pollution control programs:

First, Kleer Pak, a printing company that emitted over 100 tons per year in violation of standards, left New York and moved to Pennsylvania;

Second, Equitable Bag Co., another printer that emitted over 1,000 tons per year, moved to Kentucky;

Third, Ulano Corp., moved portions of its business that were in noncompliance to Connecticut;

Fourth, Perfect Line, a metal surface coater that emitted 100 tons per year, moved to New Hampshire; and

Fifth, Korfund Dynamics, another metal surface coater presently in violation, just announced its intention to move to North Carolina in August of this year.

It has been said by opponents of this amendment that this threat of Federal intervention is not necessary and has not been employed. That is completely untrue.

There have been documented instances in Arizona, Wisconsin, Illinois, Indiana, and Michigan where the law has been effective.

It is clear that the present law works. We can not afford to meddle with such an important tool.

We have been fighting a losing battle against urban smog for 20 years. There are more than 100 communities that do not meet clean air standards and over 150 million Americans that live in these areas.

If we do not vote to adopt the Kerry-Wilson amendment, we will be taking a step back. We will be taking a step back. We will be retreating from current law.

This is our first opportunity in more than a decade to revisit the Clean Air Act. It is a virtual certainty that we will not get this opportunity again until the next century. We must ask ourselves do we want a clean air law that really has teeth in it, or will we cave in to special interests.

Mr. President, the future of America's health and environment are at stake. We need a strong clean air bill. We need this amendment.

The PRESIDING OFFICER. Who yields time?

If neither side yields time, the time is taken from both sides.

The time has been charged equally and the time of the Senator from Massachusetts has expired.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, parliamentary inquiry. How much time is remaining for the majority side?

The PRESIDING OFFICER. The time remaining is 24 minutes and 20 seconds.

Mr. BAUCUS. Mr. President, I ask that 8 minutes be reserved to the distinguished Republican leader and the balance of the time be allocated to the distinguished majority leader.

The PRESIDING OFFICER. The Senator from Montana has that right. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I thank my colleagues, the managers. I thank my colleague from Massachusetts and all those who participated in this debate. This has been a useful and informative discussion.

But I believe, as so often happens in the Senate, words were applied to circumstances that tend to inflate them beyond their true significance. Thus

the authority under law for the EPA to adopt Federal implementation plans, in those circumstances where State implementation plans are not submitted or are submitted in inadequate form, has been variously described here in the debate as a "powerful tool," the "most effective tool," the "tool that is working" to clean up the American air.

I submit, Mr. President and my colleagues, those statements are simply incorrect. For it is undisputed, it is beyond dispute that not one single pound of emissions reductions have occurred anywhere in this country in the 20 years that this authority has been on the books; not one pound. There have been no emissions reductions that have resulted from the existence of this authority.

Rather than being a powerful tool, rather than being an effective tool, rather than having worked, it has been an ineffective tool that has not worked. And the compromise attempts to put some teeth into a power that for 20 years has been toothless.

The Environmental Protection Agency has not ever voluntarily exercised this authority because, as has been made clear time and time again, the whole structure of the Clean Air Act is based upon State administration of the law. And the Federal agency simply does not have the resources to substitute for the States. The Federal implementation power was always intended as a last resort backup to force State action, and it has not accomplished that.

In those instances when Federal authority has been exercised, it has been pursuant to court order. The one instance in which reductions have been made which might arguably be indirectly the result of this authority is in Phoenix. But the authority that compelled the State action there continues to exist in law, and would continue to exist in the compromise.

Under current law, the EPA Federal implementation plan is "comprehensive." Under the compromise, the EPA Federal implementation plan is required to achieve a specific amount of emissions reductions, 3 percent a year.

So what all of this talk has been about has been whether we retain the word "comprehensive" in the law, or whether we substitute for it a specifically mandated reduction requirement of 3 percent a year.

And since the comprehensive language has demonstrably not worked, it has not produced 1 pound of reduction of pollution in this country in 20 years, substituting for it the 3-percent per year mandated reduction strengthens the law. This does strengthen current law. That is the reason it was included, because the current provision simply does not work.

Why are we so insistent on continuing to hold on to words and phrases and authorities which, in practice, have demonstrably not worked? Is not our objective to achieve reductions of those emissions which cause pollution? That is what we want to do, not to deal in abstractions of authority.

So I say to my colleagues, if we want a Federal authority with some teeth and some meaning and some specific requirements—not that the plan has to be comprehensive, not that it be defined in any way, but rather that it be required to achieve a result—that is what counts. Reducing pollution is what counts, not how you describe the authority.

That is what the compromise does. It does not tell the EPA that the plan must be comprehensive or not. It does not say whether it has to come in a blue, white, or red cover. All it says is that we have to produce a result, and the result is what we are trying to accomplish in this bill: the result of reducing the pollution that is creating the problem in our society.

So I will say to my colleagues, purely on the merits, purely on the question of whether or not we are going to achieve reductions in pollution, the compromise is stronger than what is proposed.

Contrary to what has been asserted, the pending amendment does not just retain current law. It goes far beyond current law in another respect that all Senator ought to be concerned about, and that is with respect to its application to small business. This is a small business killer amendment, and those Senators who have stood out here over the past few days and expressed concern about the effects on small business ought to read this amendment. This amendment extends authority far beyond what exists now with respect to small business, and it will subject thousands of small businesses to the possibility of regulation which does not exist under current law. Let me explain why.

Under current law, if an area is not in compliance and the EPA issues a control technique guideline, the EPA may then control sources of pollution of less than 100 tons. But under current law, if the EPA does not issue a control technique guideline, only sources of 100 tons or above may be controlled.

The amendment changes that. The amendment says that even if the EPA does not issue a control technique guideline, even then all sources may be controlled. There is no tonnage limit. A source emitting 10 pounds a year could be controlled, not 100 tons, not 25 tons, not 10 tons.

This will subject every small business of any kind that emits any amount of pollution to the possibility of regulation that does not now exist. And so any Senator who says he is concerned about small business ought to think twice before voting for this amendment, because no one has proposed extending to small business this type of regulation, as this amendment does.

Gasoline service stations, drycleaners, paint shops, print shops, fast-food outlets; there is hardly an enterprise that does not emit a few pounds. They are now subject to the possibility, under this amendment, of regulation that they are not subject to under current law in the circumstances which I have described; that is, in certain nonattainment areas where the EPA does not issue a control technique guideline. Under current law, only sources of 100 tons or above may be controlled in those circumstances. Under this amendment, every source, regardless of the quantity of emissions, is subject to being controlled.

So this does not retain current law; this changes current law in a way that every small business in America ought to be concerned about, and every Senator who is concerned about the effect on small business ought to be concerned about.

Mr. President, we face the same circumstance that we have confronted repeatedly with respect to the provisions of this compromise. With the very best of intentions and with the very best of faith, the proponents are trying to change the compromise because of a perceived flaw in it.

The reality is that the compromise, when compared with current law in this and virtually every other respect, is a substantial improvement, a substantial expansion over current law, and a change that will produce reduction of emissions of pollution. That is what we are trying to do in this law.

It does not matter what we call the authority. It does not matter what phrases and words are used. What matters is can we achieve reductions in pollution? That is what we are trying to do.

On the central issue now before us, this strengthens current law by requiring a reduction of 3 percent a year under the Federal plan, where no such requirement exists under current law.

The current law merely requires a comprehensive Federal plan and does not mandate any specific amount of reduction as a consequence thereof.

What we have done is to substitute a standard that is result-oriented as opposed to one that describes the power, because demonstrably the power, as it exists and described under current law, has not worked.

The only way this kind of an amendment would, in my judgment, improve current law is if the sponsors wanted to say, "Let us scrap the whole basis of the Clean Air Act; let us get the States out of the business and let the Federal Government take the whole thing over." That is a completely different concept. It is not proposed here. I do

not favor it. But then and only then would this type of an approach make sense.

The reality is, and Senators ought to know this and understand it, the Clean Air Act is based upon a regulatory scheme which provides for State implementation of the law. The Federal Environmental Protection Agency does not have, has never had, the resources to prepare and implement plans in each and every State.

So what we are saying here is let us now in those cases, which we hope are rare, that the States do not meet their responsibilities under law, create a power that has teeth and that will produce a specific result, 3 percent a year in reductions of emissions as opposed to the current law which does not require any specified amount of reductions in any given year.

That is the choice before the Senate. I strongly hope that Senators will join me and the distinguished minority leader in tabling this amendment and letting us proceed to move forward on what I believe is and will be a strong, effective compromise bill.

For these reasons, current law has not worked, the compromise amendment improves on current law, and, finally, because of the potentially drastic effect on small business as a result of this amendment, I urge Senators to join in tabling this amendment.

Mr. President, I yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, for all the thoughtful reasons stated by the distinguished majority leader, I am very pleased to join him in opposition to this amendment. It seems to me that there are a lot of short memories around here. We spent the whole month of February, a lot of Members, some on the floor here now, the two managers, probably every minute of that month trying to work out a compromise because we knew, at least we felt certain, that without some changes the bill would not pass.

Certainly the majority leader has been at the forefront of clean air legislation for a dozen years, as has the Senator from Montana, the Senator from Rhode Island, and many others who were on the committee.

A compromise was negotiated with the White House, with the administration. Now, as we had last evening, we have another test of whether or not the compromise will hold.

I can say that the administration, for whatever it may be worth for anybody on either side of the aisle, feels very strongly about this amendment. We agreed that all amendments which violated the provisions of the agreement would be opposed by the leadership and members of the committee who are signatories to the agreement.

That is why the majority leader rises in opposition, and that is why the Republican leader rises in opposition, because there is no doubt in my mind that this violates the basic agreement reached after weeks and weeks and hundreds of hours of negotiation.

I share the concern of the Senator from Massachusetts. We must ensure States submit implementation plans, that the plans must pass the scrutiny of the Environmental Protection Agency, and that States must take action to guarantee the State implementation plans, or SIPS, are put in place or enforced.

As a matter of fact, all the negotiators shared that concern, and a great deal of time was spent to make certain that the health and environmental goals set forth in the bill are achieved. And, as the majority leader has pointed out, we still have a very strong piece of legislation, too strong for many, as has already been demonstrated in some of the votes.

The basic flaw with the amendment, which calls for the Federal implementation plan, or FIP's, is that the Federal Government, as pointed out 2 minutes ago by the majority leader, does not have the resources, either financial or the number of employees which would be necessary, to successfully impose a Federal implementation plan.

I say to all those who have been wringing their hands privately and publicly about the impact of this bill on small business, I only wish we had 100 Senators who were here because most Senators are not concerned about small business. In fact, there was great discussion earlier today on the Boschwitz-Boren amendment, discussion last night on how we provide technical assistance to small business. But this amendment would have Federal employees, as pointed out again by the majority leader, visit gas stations, drycleaning shops, Dairy Queen's, you name it, because there is no limit on how far the possibility could go. It would have Federal employees run tailpipe inspections on every car in the State, have Federal employees visiting every business covered by this act to check monitors and manufacturing processes. Simply put, it is unrealistic to think that a Federal implementation plan would be successful in achieving clean air.

I do want to say, however, that the underlying principle of the amendment offered by the Senator from Massachusetts is one that I have been forced to reluctantly support in the past. The principle upon which this amendment is constructed holds that, in instances where a State cavalierly acts or fails to act in some matter which is contrary to the public good, the Federal Government must step in.

I believe in States' rights, but in some cases it does not work, and the Federal Government must be relied upon to step forward to make the tough decision, to act in the public good.

A similar situation has occurred in New England, as a matter of fact, in the States of New Hampshire and Massachusetts. Under Federal law, we require States to provide for the public health and safety by establishing emergency planning zones around commercial nuclear reactors so nearby residents can be evacuated in the event of an emergency at the nuclear facility. We told the States to do this because we are justifiably concerned with public health and safety.

But the States do not always act, as in this case it was Massachusetts did not act. They do not always share our concerns with the public health and safety. This occurred when the State of Massachusetts refused to provide for the health and safety of its citizens who reside near the Seabrook reactor. Even though the Federal Government directed the State to provide for the evacuation of its residents, to make certain that the men, women, and children of the Commonwealth of Massachusetts would be protected from a nuclear accident at Seabrook, the State refused to act.

I assume in this case, like in other cases the Senator from Massachusetts wants to protect against, the Federal Government had to step in. The Federal Government had to protect the citizens of Massachusetts. It did violate States' rights, but it was essential, and I assume the Senator from Massachusetts probably supports what the Federal Government is doing in that area.

To guard against that need in the clean air bill, the agreement provides for a series of sanctions against any State which acts in such a cavalier manner. They are tough sanctions. They are sanctions which will force responsible action by the States, without violating the States rights principle.

So, while I compliment the Senator from Massachusetts for what appears to be a tacit agreement that the Federal Government is sometimes, like in the Seabrook situation, forced to step in and offer protection to residents of particular States, I will say that when he transfers that to the Clean Act Act, it is unnecessary due to the provisions we already have in the agreement.

So I underscore what the majority leader has said. It seems to me that we are taking up amendment after amendment. There are 200 amendments left to deal with. This is one of those deal-breakers. This is one where we had an agreement. And I only hope that the Senators who are prepared to vote on this amendment understand the impact it is going to have on small business. Make no mistake about it. The possibilities are there. And for

those who are concerend about small businesses in their States and the impact of this litigation, the only way to protect that small business interest is by voting against the Kerry amendment.

Mr. PELL. Mr. President, I rise in support of the amendment offered by the junior Senator from Massachusetts [Mr. KERRY] and the junior Senator from California [Mr. WILSON]. I am an enthusiastic cosponsor of their measure.

Although I am enthusiastic about this amendment, I also appreciate the work that has been done by all of those who labored so long and hard to produce the clean air compromise.

I believe, however, that it is our duty to do what we can to make sure that the result is an improvement of the current Clean Air Act and clearly that it does not retreat from the standards we already have set into law.

Under the compromise measure, public health standards will be subordinate to cost. The compromise provides new opportunities to delay antipollution efforts in our urban areas by making cost and feasibility part of the decision process.

Current law already addresses these concerns in the beginning of the regulatory process. The compromise, however, would hobble local efforts and would foster competition among States as they try to attract jobs in exchange for air quality concessions.

Our amendment would not add new cleanup requirements, but would simply restore the authority already established in the current Clean Air Act. I am convinced that, if we do anything, we must not weaken the current law.

This amendment is designed to achieve three objectives:

Require EPA to institute a Federal implementation plan [FIP] as under current law, if States fail to implement the requirements of the Clean Air Act.

Eliminate a provision in the clean air compromise which would allow States to obtain a waiver of the percent reduction requirements after 6 years if control measures prove too costly.

Require the application of reasonably available control technology [RACT] on existing sources.

In my own State of Rhode Island, the Division of Air, within the Rhode Island Department of Environment, strongly supports our amendment. In a rare show of unity, their counterparts in each State in New England are all in favor of this amendment.

This, however, is not a regional issue, the air pollution agencies supporting our amendment include the Association of State and Territorial Air Pollution Program Administrators and includes agencies from Alaska and California to Florida and Maine.

We must give these agencies, which are on the front line of our antipollution efforts, the tools that they need to achieve our goal of healthful air for all of our citizens. We must not take away the tools that already have helped us toward that goal.

The PRESIDING OFFICER. Does the Senator from Montana yield further time? The majority leader.

Mr. MITCHELL. Do the opponents of the amendment have any more time?

The PRESIDING OFFICER. They do not. The opposition to the amendment has 1 minute and 26 seconds remaining.

Mr. MITCHELL. Mr. President, I merely want to take a minute, if I might, with the permission of the manager.

In my remarks I made the assertion that there is no instance of reductions as a result of this provision in the law. That is the information I have been provided by staff and the EPA.

The Senator from Massachusetts asserts that there have been such instances, specifically one in Ohio and some other places. The EPA remains insistent that has not occurred. So there is a factual dispute.

I merely want to make that clear. I am advised as recently as in the last few moments that the EPA stands by the assertion which I represented during my remarks.

So there is a dispute in the fact the Senator from Massachusetts alleges there have been some reductions in the past. EPA insists that there has not been. That was the basis of my remarks. I merely wanted the record to be clear that there is a factual dispute because I used the word "undisputed" in referring to that comment.

Mr. President, if all time has expired—may I have the attention of the distinguished Republican leader—I am prepared to move to table in behalf of the distinguished Republican leader and myself.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine [Mr. MITCHELL] to table the amendment of the Senator from Massachusetts [Mr. KERRY]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—53

Armstrong	Fowler	Moynihan
Baucus	Garn	Murkowski
Bentsen	Gramm	Nickles
Bond	Grassley	Nunn
Boren	Hatch	Pressler
Boschwitz	Heflin	Pryor
Breaux	Helms	Riegle
Bumpers	Inouye	Rockefeller
Burdick	Jeffords	Roth
Burns	Johnston	Sanford
Chafee	Kassebaum	Sasser
Cochran	Kerrey	Shelby
Conrad	Levin	Simpson
Danforth	Lott	Symms
Daschle	Lugar	Thurmond
Dole	McClure	Wallop
Durenberger	McConnell	Warner
Ford	Mitchell	

NAYS—46

Adams	Gore	Matsunaga
Biden	Gorton	McCain
Bingaman	Graham	Metzenbaum
Bradley	Harkin	Mikulski
Bryan	Hatfield	Packwood
Byrd	Heinz	Pell
Coats	Hollings	Reid
Cohen	Humphrey	Robb
Cranston	Kasten	Rudman
D'Amato	Kennedy	Sarbanes
DeConcini	Kerry	Simon
Dixon	Kohl	Specter
Dodd	Lautenberg	Wilson
Domenici	Leahy	Wirth
Exon	Lieberman	
Glenn	Mack	

NOT VOTING—1

Stevens

So the motion to lay on the table amendment No. 1348 was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion to lay on table was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I again encourage all Senators who have amendments they wish to offer to please come forward and do so. We have made good progress in disposing of several major amendments, and the managers are prepared to receive other amendments. I understand that some have been agreed to, worked out, and will be offered shortly.

The distinguished Senator from Washington advises that he will be ready on the floor about 4:15. In the interim, I am inviting any Senator who has an amendment to come forward. We continue to be in a situation where we have a very large number of amendments intended to be offered and then difficulty getting Senators to actually come and offer them. We are now waiting for further amendments to be offered. I will yield to the managers.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1349 TO AMENDMENT NO. 1293

(Purpose: To strike the joint EPA, NASA, NOAA "Domestic Methane Source Inventory and Control Options" with regard to methane emissions from livestock)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 1349 to amendment No. 1293.

On page 564 of amendment No. 1293, beginning on line 18 strike the words "and animal production".

Mr. SYMMS. Mr. President, the amendment is very simple, very self-explanatory. New Zealand's National Academy of Nuclear Physics has already conducted a study of methane emissions from livestock, and that study is available and I have it here for any Senators who are interested in it. I commend it to my colleagues. The use of that study could enable us to determine livestock emissions in the United States to three digits of accuracy.

While the rhetoric swirling around this bill would make one believe it is vitally important in saving of lives, then I would say how can we justify in this bill the time, the effort, the funds, the resources of EPA, in not saving lives but preparing an inventory of the intestinal gas of cows.

It seems to me that this provision has gone too far, as is true with many other parts of the bill. But it is full of many provisions that put the nose of the Federal Government in almost every place it does not belong.

It is self-explanatory. I hope my colleagues will accept the amendment.

Mr. BAUCUS. Mr. President, we have looked at the amendment, and we accept it.

Mr. CHAFEE. Mr. President, what the act does, it mandates a study of a whole series of methane emissions, and included in that, under section 524, IV, methane emissions associated with agriculture: "Such reports shall include an inventory of methane emissions associated with rice production and animal production in the U.S." The amendment of the Senator from Idaho takes out "and animal production" in the United States.

That is fine. However, if in the course of its studies they do that, I think that is possible. In other words, I do not read this as mandating that they cannot do it, although we are lifting the requirement that they do do it. Frankly, I do not think they will do it. But that is the way I read the language as it finally is, so we are agreeable to accepting the amendment.

Mr. GRASSLEY. Mr. President, I would like to express my gratitude to the Senator from Idaho [Mr. SYMMS] for offering his amendment to strike section 526, entitled "Domestic Methane Source Inventory and Control Options." The entire Senate should be in Senator SYMMS gratitude for his effort to save our collective face.

Among other things, this section required the Administrators of EPA, NASA, and NOAA to report to Congress on the methane emissions associated with agriculture, particularly with animal production. These very important, highly paid Administrators would then be required to develop a plan including measures to stop the growth of concentrations of methane, along with technical options for reducing methane, and finally identify the emission reductions that must be achieved.

Now the section clearly specified animals in the United States, so the Administrators would be spared from surveying methane gas spewing from those foreign animals—clearly a very sane, prudent limitation. After all, we all know that only American animals have problems with offensive methane gas releases.

Seriously, by limiting the methane monitoring to only American animals, we will save our Administrators a lot of work. For instance, the Department of Agriculture reports from its 1988 statistics book that we have about 100 million American cattle and buffalo. In sharp contrast, out of 48 other selected countries around the world, there are nearly 1 billion cattle and buffalo. Just think how relieved our Administrators are to learn they need only monitor 100 million head of cattle instead of 1 billion.

Certainly we have millions of other fine methane gas spewing farm animals, but come to find out, it is our poor cows that have really been singled out.

A Reuters News Service story reported that environmental groups have targeted the cow as the new Public Enemy No. 1.

The story reported that a member of the Natural Resources Defense Council warned that agriculture is a "significant contributor of emissions of methane * * *, and within agriculture, livestock flatulence is one of the principal sources."

One Natural Resources Defense Council staffer reflected that "I used to think of it in terms of flatulence, but I am told by scientists that its actually more akin to burping."

Of course at the time of the article which was printed last September, Congress had not yet had the opportunity to jump head first into the fray with a proposal aimed at controlling the American animal gas problem. The answer at that time was offered by the Greenhouse Crisis Foundation which urged "people worried about global warming, to reduce your consumption of beef and other meats. Let vegetarian cookbook ideas help you enjoy the transition away from a meat diet."

But Congress is always ready to set in with its own solution—get our Administrators of EPA, NASA, and NOAA out there in our cattle lots collecting cow gas. Now, that's a thought worth dwelling upon.

Think about it a moment. Is the problem really "burping" as our learned scientist explained to the Natural Resources Defense Council, or is the problem flatulence.

I think we better hedge our bets—we better monitor and collect the gas coming out both ends.

Now, we have not been told exactly how our Administrators are expected to collect this gas, but we might envision some sort of bag to catch gas.

Just think of it, our cows will be better equipped than our Detroit automobiles. Our cows will be equipped with two air bags, not just one.

Now, once the Administrators finish monitoring how much cow gas is spewed out by American cows, they will then proceed to identify the technical options available to reduce this cow gas. Who knows, if cows can have air bags, why not equip them with catalytic converters?

And if that does not work in reducing cow methane gas emissions, we can tax them. Call it another gas tax.

Mr. President, sometimes I wonder why the American public puts up with Congress. When we seriously consider such silly proposals as this, in a bill which is extremely important, no one need question why Congress is held in such underwhelming esteem.

In all fairness, section 526 was not without some redeeming value. I see that subsection 6 required similar monitoring and control of methane emissions associated with human activities. No doubt they had Congress in mind as a starting point.

The PRESIDING OFFICER. Is there further debate on the amendment? It not, the question is on agreeing to the amendment.

The amendment (No. 1349) was agreed to.

Mr. SYMMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS. I thank my colleagues.

Mr. BAUCUS. Mr. President, earlier this morning the Senate adopted the Boschwitz small business amendment. It is my understanding that in the drafting of that amendment a para-

graph was unintentionally omitted. I have that paragraph before me, and I ask unanimous consent that the language that I now send to the desk be incorporated in the Boschwitz amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator? If not, without objection, the previously agreed-to amendment will be modified appropriately.

(Note: Amendment No. 1345, as modified, appearing earlier in the RECORD, contains the correction as above ordered.)

Mr. BAUCUS. I thank the Chair.

Mr. President, that language really is the small business definition, the definition of the small business. For the purpose of that amendment, the definition of a small business was unintentionally omitted. The language which I sent to the desk is that definition, so that it is clear what is or is not small business for the purpose of the Boschwitz amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1350 TO AMENDMENT NO. 1293

Mr. CHAFEE. Mr. President, on behalf of the distinguished Republican leader, the senior Senator from Kansas, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. DOLE, proposes an amendment numbered 1350 to the amendment No. 1293.

On page 324, line 19, insert after "measures" the following: ", including process changes or substitution of materials".

Mr. DOLE. Mr. President, I would like to call attention to section 304 of the Clean Air Act, which is an important addition to the bill, and I commend the committee for addressing this issue. Accident prevention at facilities which handle extremely hazardous substances must continue to be a top priority of our Federal environmental policy.

Accidents involving the sudden release of hazardous substances that result in an adverse impact on health and the environment have become commonplace in the United States. Recent incidents involving extremely toxic substances illustrate the very real need for the kind of hazard assessment required under section 304. As the committee report so convincingly points out, there were 11,048 events in the United States between the years 1982 and 1987 involving the accidental release of extremely hazardous substances. These events caused 309 deaths, 11,341 injuries, and the evacuation of almost a half million people from their homes or jobs.

The bill before us requires facilities to anticipate the consequences of a sudden release of toxic substances, to provide information that may aid in the response to such a release, and to review measures designed to aid in the prevention or mitigation of such releases. In particular, the bill calls for a review of the effectiveness of various release and control measures.

I would like to suggest to the managers of the bill that it may also be worthwhile to require facilities to review all available alternate processes, since, in many instances, substitute processes—such as substituting sulfuric acid for hydrofluoric acid—may provide a more cost-effective method of minimizing and controlling risks at these facilities. Examples of possible substitute processes include the use of diaphragm cells instead of mercury cells, the use of sulfuric acid instead of hydrofluoric acid, the use of NMP solvent instead of phenol, and the use of hydrated and oxidized isobutylene instead of hydrogen cyanide. I have drafted a brief amendment which incorporates this concept, and which I believe is in the spirit of the language already contained in the committee bill.

Please note that this amendment does not require process substitutions of any additional controls for facilities. The amendment simply includes process substitutions among the range of control measures facilities should review in developing the hazard assessments which will be required by law.

Mr. CHAFEE. Mr. President, the bill before us requires facilities to anticipate the consequences of a sudden release of toxic substances, to provide information that may aid the response to such a release, and to review measures designed to aid in prevention of mitigation of such releases.

In particular, the bill calls for review of the effectiveness of various release and control measures. The Republican leader suggests to the managers that it would be worthwhile to require facilities to review all available alternative processes, since in many instances substitute processes, such as substituting sulfuric acid for hydrochloric acid, may provide a more cost-effective method of minimizing and controlling risks at these facilities.

For that reason, the amendment has been drafted and submitted. I believe it is in the spirit of the language already contained in the committee bill.

Mr. BAUCUS. Mr. President, I have reviewed the amendment. I think it is a constructive and important improvement to the present bill. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment—No. 1350—was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, momentarily the distinguished Senator from Wyoming will be offering three amendments that will be accepted by the managers. Subsequent to that I am advised that the distinguished Senator from Indiana [Mr. COATS] is on his way to the floor to offer an amendment which I am advised will be contested and will require a vote.

I inquire of the managers if my understanding is correct on that. Will Senator COATS' amendment be contested and require a vote or will it be accepted?

Mr. CHAFEE. I believe that has been cleared.

Mr. MITCHELL. Mr. President, I am now advised that it is unclear whether or not Senator COATS' amendment will be contested and require a vote or will be accepted.

Mr. CHAFEE. We will straighten that out soon.

Mr. MITCHELL. I understand from the managers that will be resolved shortly after Mr. COATS gets to the floor.

In either event the point I wish to make is we are now at the point where we are prepared to consider any further amendments. The pending amendment of Senator BYRD remains unresolved and I hope to discuss the timing of the vote on that with Senator BYRD again later today—we discussed it briefly this morning—and to discuss it as well with the distinguished Republican leader. But I am going to ask both colleagues, after consultation with my Republican colleagues and the distinguished manager, the Senator from Montana, to now hotline their Members and say if anyone has an amendment that they

wish to offer let us bring the amendment over and offer it. If not, let us proceed to complete action on this bill.

We are now at that point where Senators, if they have an amendment, no one can any longer credibly say they have not had time to prepare the amendment or they do not know what is in the bill. We have been on this bill for a very long time. I know all Members share my feeling that we would like very much to complete action on it and move on to other business.

So I again urge any Senator who intends to offer an amendment to come to the floor immediately and do so. The managers are prepared to accept them if possible; if not, to debate and vote on them. and I am asking both Cloakrooms to hotline the offices to give us an indication as to which Senators are able to do so. After we receive that information from both Cloakrooms, I will then be in a position to indicate to Senators the schedule for the remainder of the week with respect to this legislation and other matters. I thank my colleagues.

I thank the distinguished Senator from Wyoming for permitting me to make this statement before he proceeds with his amendments.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The pending amendment is set aside.

The Senator from Wyoming.

AMENDMENT NO. 1351 TO AMENDMENT NO. 1293

(Purpose: To authorize funding for acid deposition research)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 1351 to the amendment No. 1293.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 495, between lines 6 and 7, insert the following new section:

ACID DEPOSITION RESEARCH BY THE UNITED STATES FISH AND WILDLIFE SERVICE

SEC. 409. There are authorized to be appropriated to the United States Fish and Wildlife Service of the Department of the Interior an amount equal to $500,000 to fund research related to acid deposition and the monitoring of high altitude mountain lakes in the Wind River Reservation, Wyoming, to be conducted through the Management Assistance Office of the United States Fish and Wildlife Service located in Lander, Wyoming and the University of Wyoming.

Mr. SIMPSON. Mr. President, before I proceed—and it should take just a few moments to dispose of these amendments, which I hope have been cleared with the managers—I want to commend the managers of this bill for their work to this point. It is a difficult, difficult job which they are doing here. I commend Senator BAUCUS and Senator CHAFEE for their patience, understanding, courtesy, and ability.

It is a very complex bill, and there are many staff members and "principals," as we call ourselves, who are having a difficult time with the amendments because many of them are very difficult to understand. Other than that it is interesting work.

There are some amendments that have been pressed upon us from both sides of the aisle by people who have been working on the issue for 20 years. Unfortunately for them, they have never been able to get their particular tilt to this legislation. In the meantime, they have learned the most extraordinary nuances and sophistries of wording so that they might succeed in getting their language slipped into this bill. Fortunately we have a couple of managers who are able to slip it out again, and I appreciate that and I commend them both.

Then, of course, I want to commend the majority leader. I have legislated for 25 years, and I must say in complete sincerity that I have never seen a single piece of legislation so complex, yet so remarkably understood by a single legislator in every single aspect of its coverage. You cannot pull up anything on the reel in the Clean Air Act that Senator MITCHELL does not have some remarkable firsthand knowledge of and ability to describe, define, and debate. I think that we have to admire that. I certainly do. I say that as a legislator. That is what we are here to do.

I do commend those who have presented their amendments. They have been well presented, thoughtfully debated, in this ongoing and remarkable process. But we should all remember that we have been here 10 years trying to do something. If we can all remember that, then what we really have learned in those 10 years is how to kill a clean air bill but not how to pass one. Now we must remember how to pass something so that we can get on with our work and do the Nation's business. So I commend all of those who have participated, as I have been a very interested observer, in this very critical issue to all of us in the United States.

The amendment I offer relates to the Wind River Indian Reservation research funding. When we talk about acid rain we seem to think of it as an Eastern State phenomenon. It is not. We are also concerned about acid precipitation in the high country, in the high mountain lakes of the Rocky Mountain West. Those high mountain lakes have low buffering capacity and are very, very sensitive.

Several years ago I requested that the Forest Service install acid rain monitors in the sensitive Wind River Mountains of Wyoming. The Forest Service has done a very fine job in monitoring lakes in certain parts of the Wind River Mountains. Accordingly, we can determine if environmental problems are emerging there and do something before there is any damage.

Unfortunately and realistically, there are portions of the Wind River Mountains over which the Forest Service has no jurisdiction and which are not being monitored for acid rain. Those areas are located within the Wind River Indian Reservation and are controlled by the respected Shoshone and Arapahoe Tribes of Wyoming.

Some of the lakes and streams in the Wind River Mountains within the reservation are some of the finest trout fisheries in the Rocky Mountain West. Blue ribbon. These aquatic resources are very sensitive and it is important that we have a monitoring system in place to safeguard them.

For that reason I am offering an amendment today to authorize the appropriation of $500,000 to be used by the U.S. Fish and Wildlife Service and the University of Wyoming in order to establish a monitoring network in the Wind River Indian Reservation. This would complete the monitoring network that the Forest Service has already begun.

Research would be coordinated through the U.S. Fish and Wildlife Management Assistant's office in Lander, WY, and would allow the participation of the University of Wyoming Zoology Department in providing student assistance.

I urge adoption of the amendment.

The PRESIDING OFFICER (Mr. KERRY). Is there further debate?

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, 3 years ago I had the privilege of being in Western Europe viewing the results of profound acid rain depositions in Switzerland, Sweden, Germany, and England.

In Sweden we had the privilege of seeing in a mountain lake their attempts made to combat the acid depositions in that lake by liming the lake. It is an extremely interesting process and one that I think should be carried out in our country to see how well it succeeds.

So I think this is an interesting experimentation that the junior Senator from Wyoming has proposed. I commend him for it. It certainly has the total support of this side.

Mr. BAUCUS. Mr. President, I very much agree with the Senator from Rhode Island. The amendment by the Senator from Wyoming makes good sense. We have some high altitude mountain lakes in our State as well. Certainly the results of the Wind River Reservation study would be helpful to other areas as well. I com-

mend the Senator for his amendment and urge its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1351) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which it was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1352 TO AMENDMENT NO. 1293

(Purpose: To authorize funding for a study of buffering and neutralizing agents used to restore lakes and streams damaged by acid deposition)

Mr. SIMPSON. Mr. President, I send to the desk the second amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 1352 to the amendment No. 1293.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 455, between lines 11 and 12, insert the following new section:

STUDY OF BUFFERING AND NEUTRALIZING AGENTS

SEC. . There are authorized to be appropriated to the United States Fish and Wildlife Service of the Department of the Interior an amount equal to $250,000 to fund a study to be conducted in conjunction with the University of Wyoming of the effectiveness of various buffering and neutralizing agents used to restore lakes and streams damaged by acid deposition.

Mr. SIMPSON. Mr. President, I offer an amendment dealing with buffering agents.

Mr. President, we are going to pass an acid rain provision this year that will do much to reduce acid rain and safeguard lakes that are undamaged or have only experienced a small amount of damage. We are still going to have to deal with the lakes that have been so damaged that the fish have vanished from these aquatic resources. In that regard we are going to have to restore the Ph of those lakes by using some type of buffering or neutralizing agent and restocking the necessary aquatic organisms.

My feeling is that much of the focus in aquatic ecosystem repair has been on limestone or other conventional buffering compounds.

I am offering an amendment today that would authorize $250,000 in order for the U.S. Fish and Wildlife Service to conduct a study on the relative effectiveness of various buffering and neutralizing agents in order to determine if there are other agents that may be cheaper to use that may be more effective than conventional liming methods in restoring acid damaged lakes.

There may be other buffering agents such as trona minerals, soda ash, dawsonite, or nacholite or other minerals that may be more useful in restoring these damaged ecosystems. It is my intent that the Fish and Wildlife Service evaluate these and determine which of them may be more useful in restoring aquatic ecosystems.

That is the essence of the amendment.

Mr. BAUCUS. Mr. President, again, this is a very thoughtful, constructive, amendment. I think it would be very helpful to try to find various alternative buffering and neutralizing agents. Acid deposition is a problem and could be an even greater problem as the year goes by. Additional research would be helpful.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (No. 1352) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1353 TO AMENDMENT NO. 1293

Mr. SIMPSON. Mr. President, I send the final amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 1353 to the amendment No. 1293.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, add the following new section:

ENVIRONMENTAL IMPACT STATEMENT

SEC. . (a) The Secretary of the Interior and the Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency and the Director of the Centers for Disease Control, shall each prepare an environmental impact statement on the Federal forest fire management policy applicable to lands within their respective jurisdictions.

(b) Such environmental impact statements shall address, among other things, the health effects of cancer-causing chemicals in wood smoke and the impacts of smoke and particulates from forest fires on visibility in class I areas and regional haze.

(c) Based upon such environmental impact statements, the Secretary of the Interior and the Secretary of Agriculture shall determine whether to modify the Federal forest fire management policies applicable to lands within their respective jurisdictions.

(d)(1) The Secretary of the Interior and the Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency shall, where appropriate, install temporary air quality monitors at sites where natural fires are allowed to burn as well as adjacent to such sites where humans reside.

(2) The appropriate Secretary, in consultation with the Administrator, shall determine the nature and location of such monitors, the time and duration of such monitoring activity, and other appropriate criteria related to the monitoring program.

Mr. SIMPSON. Mr. President, this amendment has to do with our national forest fire policy. Not one of you here could forget—certainly, we who live in Wyoming next to Yellowstone Park do not forget—that period 2 years ago when Yellowstone Park burned so hideously. During that terrible natural disaster we saw a regional smoke problem that was very, very significant.

As I said in September 1988, if you can, imagine a cloud of smoke going to an altitude of 40,000 feet, forming its own cloud formations and then its own lightning bolts which flashed back to the Earth. That was seeing nature in its very rarest and rawest form. The particulate matter and pollution from that fire dwarfed all the pollution that could be created by the dirtiest cities in America over the entire summer. The smoke drifted into Pennsylvania and to Los Angeles. The dense smoke covered four States. It affected asthmatics. It caused healthy individuals to breathe cancer-causing chemicals and particulates in amounts that might actually be very threatening to the public health.

So we saw that this regional smoke problem was very significant. Tons and tons of pollution in the form of smoke were spread throughout the West. Cities like Denver were unable to meet their own clean air standards because of forest fire smoke from the Yellowstone fire.

We know too that forest fire smoke contains the potent carcinogen benzo-a-pyrene and other harmful chemicals. Wood smoke also contains particulates that interfere with visibility.

My amendment would direct the EPA Administrator in cooperation with the Secretary of the Interior and the Secretary of Agriculture to conduct an environmental impact statement on Federal forest fire management policies. It is my belief that those who have developed forest fire policies have not adequately taken into account the public health effects of forest fires. My amendment directs these agencies to place special emphasis on the health effects of cancer-causing chemicals in wood smoke.

In addition, the Secretary of the Interior and the Secretary of Agriculture are directed to develop a plan to in-

stall air quality monitors at sites where natural fires are allowed to burn—this is prescribed burning—and at sites near those fires where humans reside. In this manner we can determine if natural or prescribed fires are producing pollution which harms human health.

I certainly realize, and I have said publicly many times, that fire can have positive effects on an ecosystem. But when we have a policy which allows the uncontrolled burns to take place, without distinguishing between those caused by man or by nature, we have a very difficult situation when the fire is allowed to burn and then spreads onto private property. The Senator from Montana and I have worked on that issue in great detail.

When Federal agencies develop their fire policies—and they talk about prescriptive burns or "let it burn"—that they must remember that there is more to this issue than simply trees. In an ecosystem, there are severe impacts upon human beings and animals and, of course all life, caused from the heavy, heavy smoke, especially when a plume of smoke literally covered two States at one time.

I just want to ensure that they do take that into account—the air pollution impacts of their own forest fire policy. I believe that is an area that has been neglected in the past and that needs much more attention in the future. It is almost as if those who say they were most interested in human health and safety were forgetting completely the impact of this tremendous, overwhelming, and appalling pall of smoke over areas of my State and Montana and throughout the West, the Southwest, the Southeast and the Northeast.

These matters should not be neglected further and it requires much more attention in the future. For that reason, I present the amendment to the managers.

Mr. BAUCUS. Mr. President, this is a very helpful amendment to us in the West. The National Forest Service, the BLM, and the Park Service's so-called let-burn policy is one that is very much contested in our part of the country. In an addition, as a result of let-burn, there were massive fires in our State, massive fires in the State of Wyoming, including Yellowstone Park. The consequences of those fires were significant. And not only the cultural consequences of the forests, but also the health effects, as the Senator points out, the carcinogenic effects of the massive amount of wood smoke and the other environmental effects on animal life and plant life not only in the Yellowstone Park and in the forests but in adjacent areas.

I think it is important to know what those environmental effects are. I think it is important to know what the health effects are. This amendment offered by the Senator will help us find the answer to those questions.

I am also, I might say, Mr. President, a cosponsor of the amendment because I think it is such a good amendment, and I urge the Senate to adopt it.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I can well remember in June and really through September 1988, the terrible fires that took place in Wyoming and Yellowstone Park and can remember the concern of the distinguished Senator from Wyoming, both Senators from Wyoming, in connection with that matter and their very strong views that the policy that the National Park Service and Fish and Wildlife, I suppose, and others had adopted toward noncontrol of the fires.

Being somebody from the East, I was interested to learn more about the whole process. I, frankly, cannot claim any expertise about those great fires out West.

So I think this proposal of the Senator from Wyoming, cosponsored by the Senator from Montana, for a study of, not only the environmental effects, which would come from the Environmental Protection Agency, but also the Centers for Disease Control, for them to analyze what are the effects of these tremendous clouds of smoke that go up from the burned wood and forest. I think it is a good amendment, and I commend the sponsors for it.

The PRESIDING OFFICER. Is there further debate?

Mr. JOHNSTON. Mr. President, I appreciate the efforts of Senator SIMPSON with regard to this amendment. I am pleased that we were able to modify the language of his original amendment and come up with a compromise version which I could support. While I understand his interest in pursuing this amendment, it is still my view that such an amendment is in large measure unnecessary and is duplicative of what is currently required by existing law and regulations.

Through the land management planning procedures of the various Federal land managing agencies, the National Environmental Policy Act, and other existing statutes, there are already ample opportunities to assess the health effects of smoke and other pollutants from forest fires on Federal lands. It is my understanding that mechanisms are currently in place to establish monitoring devices on a temporary basis to establish weather trends and other information which could impact the behavior of fire and smoke. Models are already available which can help us determine if there may be any impact on welfare and safety as a result of projected smoke emissions from forest fires.

On September 28, 1988, after the Yellowstone fires, the Secretaries of the Interior and Agriculture chartered a Federal fire management policy review team and charged it with the task of reviewing current Federal fire management policies for all agencies within both Departments. The team's draft report was published in the Federal Register for public comment on December 20, 1988. Eleven public hearings were conducted around the Nation on this draft report. On June 1, 1989, the Secretaries issued a joint press release stating their acceptance of the report and concurrence with the team's recommendation. This final report basically reaffirmed that Federal fire management policies were sound but the implementation of those policies needed to be refined and strengthened. It is my understanding that those policies are indeed being reviewed and improved within the various land management agencies. If there are to be changes to this policy at some point in the future, CEQ guidelines would already require an environmental analysis for such changes.

In summary, Mr. President, while I continue to believe that this amendment is largely unnecessary and duplicates existing law and regulations, I believe that the amendment which the Senator has offered is much better than the original proposal and I have no objection to its passage.

The PRESIDING OFFICER. The Senator from Wyoming?

Mr. SIMPSON. Mr. President, I ask unanimous consent that Senator BURNS and my friend from Wyoming, Senator WALLOP, be included as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. I thank the Presiding Officer.

The PRESIDING OFFICER. Is there further debate?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (No. 1353) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I thank the managers. I will share with the managers, I believe we have worked out the visibility issue on the vista amendment with Senator ADAMS and Senator REID, and that may be offered in a few minutes. I wanted the managers to be aware of that.

I certainly appreciate the work of Senator ADAMS of Washington, and Senator REID of Nevada, and the able

work of Senator DOMENICI for their roles in developing a compromise on a very difficult issue which would have been another great and contentious thing to wrestle with on this bill. I appreciate very much their patience and their understanding and I think we reached a good result. I wanted to share that with the managers. We should be able to proceed very shortly with that.

Mr. BAUCUS. Mr. President, I see no Senators who wish now to offer amendments.

Does the Senator from Indiana have an amendment?

Mr. COATS. Mr. President, I do have an amendment which I am prepared to offer, but I believe staff is looking to see if it is acceptable. If we can just wait a few minutes.

Mr. BAUCUS. I thank the Senator.

Mr. President, pending resolution of staff discussion or otherwise of the amendment and also pending the arrival of the visibility amendment to be offered, apparently, by Senator ADAMS, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that Barry Zalcman be entitled privilege of the floor during the course of the clean air debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask that I might be permitted to proceed for no more than 5 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CALLING FOR DIPLOMATIC RECOGNITION OF LITHUANIA

Mr. D'AMATO. Mr. President, I believe that our Nation has a historic opportunity and obligation to stand up for freedom and democracy. Therefore, I urge our President to grant full diplomatic recognition to Lithuania.

Our country has a historic role to play in the cause of freedom, of democracy, and of self-determination. The people of Lithuania have spoken out with one voice for freedom, and at this crucial juncture we must support their efforts.

Having voted unanimously for independence on March 11, 1990, the Lithuanians are now locked in a standoff with the Soviets over the legitimacy of the newly proclaimed Republic of Lithuania.

On March 17, Lithuania offered an appeal for international recognition, a plea that has yet to be answered. I hope our President, President Bush, will grant full diplomatic recognition to the newborn Republic of Lithuania, just as France recognized the American colonies in 1778 and, in so doing, assured our eventual independence. We should help speed Lithuania on the road to freedom by granting recognition now.

I believe that the history of the Soviet domination of Lithuania leaves little doubt that Lithuania has the right to declare its independence. Further, I believe that history offers Mr. Gorbachev a way to free Lithuania without causing a crisis in the Soviet Union.

On August 23, 1939, German Foreign Minister von Ribbentrop and Soviet Foreign Minister Molotov signed the Soviet-German Non-Agression Pact in Moscow. That compact was and is recognized as the immediate cause of World War II. Less well-known, though, is the secret protocol attached to that treaty that carved up Poland and allowed for the occupation of the Baltic States.

The illegal annexation of the Baltic States has never been recognized by the United States. In fact, Mr. President, though few know it, we continue to maintain diplomatic relations with respresentatives of the pre-1940 Governments of Lithuania, Latvia, and Estonia.

For five long decades the Baltic people were pinned under the boot of the Soviets, but with the rise of Mikhail Gorbachev and the unfolding of his policy of disengagement in Eastern Europe, the people of Lithuania, Latvia, and Estonia saw a way out. Each State set forth on a course of independence. Lithuania took the lead on March 11, 1990, when its Parliament voted 124 to 0 in favor of a proclamation of sovereignty.

Last December, a commission of the Supreme Soviet appointed by Gorbachev repudiated the pact and its secret protocol. Freeing Lithuania is totally consistent with repudiating the secret protocol and need not result in the dissolution of the Soviet Union.

In conclusion, history provides Gorbachev an opportunity to grant Lithuania its independence without endangering the cohesion of the Soviet Union.

Mr. President, I submit we must do all that we can to ensure that the Soviets take this opportunity. I urge the President to move quickly and expeditiously, for the United States should answer that call for international recognition.

Mr. President, I yield the floor.

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I ask unanimous consent that amendment No. 1329 be temporarily set-aside in order that I may offer an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1354 TO AMENDMENT NO. 1293

Mr. ADAMS. Mr. President, I rise today to offer an amendment, which I will send to the desk in a moment, to the Clean Air Act on behalf of myself, Mr. REID, Mr. HATFIELD, Mr. BINGAMAN, Mr. WIRTH, Mr. ROBB, Mr. MATSUNAGA, Mr. KERRY, Mr. BRYAN, Mr. GORE, and Mr. SANFORD. I want to thank at this point the members of the staffs of all of these Senators, Senator SIMPSON and a number of the other Western Senators, who have worked very hard to achieve agreement on this amendment.

I believe this amendment will be agreed to by nearly all parties, but I am going to ask for a vote on this, Mr. President. And at this point, after I offer the amendment, I will ask that the yeas and nays be granted.

Mr. ADAMS. At this point, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS], for himself, Mr. REID, Mr. HATFIELD, Mr. BINGAMAN, Mr. WIRTH, Mr. ROBB, Mr. MATSUNAGA, Mr. KERRY, Mr. BRYAN, Mr. GORE, and Mr. SANFORD, proposes an amendment numbered 1354 to the amendment No. 1293.

Mr. ADAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add the following new section:

SEC. 169(B).

Studies

(a)(1) The Administrator, in conjunction with the National Park Service and other appropriate Federal agencies, shall conduct research to identify and evaluate sources and source regions of both visibility impair-

ment and regions that provide predominantly clean air in class I areas. A total of $8 million per year for 5 years is authorized to be appropriated for the Environmental Protection Agency and the other Federal agencies to conduct this research. The research shall include—

(A) expansion of current visibility related monitoring in class I areas;

(B) assessment of current sources of visibility impairing pollution and clean air corridors;

(C) adaptation of regional air quality models for the assessment of visibility;

(D) studies of atmospheric chemistry and physics of visibility.

(2) Based on the findings available from the research required in subsection (a)(1) of this section as well as other available scientific and technical data, studies, and other available information pertaining to visibility source-receptor relationships, the Administrator shall conduct an assessment and evaluation that identifies, to the extent possible, sources and source regions of visibility impairment including natural sources as well as source regions of clear air for class I areas. The Administrator shall produce interim findings from this study within 3 years of enactment.

Impacts of Other Provisions

(b) Within 24 months of enactment, the Administrator shall conduct an assessment of the progress and improvements in visibility in class I areas that are likely to result from the implementation of the provisions of the Clean Air Act Amendments of 1990 other than the provisions of this section. Every five years thereafter the Administrator shall conduct an assessment of actual progress and improvement in visibility in class I areas. The Administrator shall prepare a written report on each assessment and transmit copies of these reports to the appropriate committees of Congress.

Establishment of Visibility Transport Regions and Commissions

(c)(1) AUTHORITY TO ESTABLISH VISIBILITY TRANSPORT REGIONS.—Whenever, upon the Administrator's motion or by petition from the Governors of at least two affected States, the Administrator has reason to believe that the current or projected interstate transport of air pollutants from one or more States contributes significantly to visibility impairment in class I areas located in the affected States, the Administrator may establish a transport region for such pollutants that includes such States. The Administrator, upon the Administrator's own motion or upon petition from the Governor of any affected State, or upon the recommendation of a transport commission established under subsection (b) of this section may—

(A) add any State or portion of a State to a visibility transport region when the Administrator determines that the interstate transport of air pollutants from such State significantly contributes to visibility impairment in a class I area located within the transport region, or

(B) remove any State or portion of a State from the region whenever the Administrator has reason to believe that the control of emissions in that State or portion of the State pursuant to this section will not significantly contribute to the protection or enhancement of visibility in any class I area in the region.

(2) VISIBILITY TRANSPORT COMMISSIONS.—Whenever the Administrator establishes a transport region under subsection (c)(1) of this section, the Administrator shall establish a transport commission comprised of (as a minimum) each of the following members:

(A) The Governor of each State in the Visibility Transport Region, or the Governor's designee.

(B) The Administrator or the Administrator's designee; and

(C) A representative of each Federal agency charged with the direct management of each Class I area or areas within the Visibility Transport Region.

(3) All representatives of the Federal Government shall be ex officio members.

(4) The visibility transport commissions shall be exempt from the requirements of the Federal Advisory Committee Act (5 U.S.C. Appendix 2, section 1).

(5) Sections 113(a) and 113(a)(2) are revised to add "or of implementing section 169(B)" after "air pollution)".

Duties of Visibility Transport Commissions

(d) A Visibility Transport Commission:

(1) shall assess the scientific and technical data, studies, and other currently available information, including studies conducted pursuant to subsection (a)(1), pertaining to adverse impacts on visibility from potential or projected growth in emissions from sources located in the Visibility Transport Region; and

(2) shall, within four years of establishment, issue a report to the Administrator recommending what measures, if any, should be taken under the Clean Air Act to remedy such adverse impacts. The report required by this subsection shall address at least the following measures:

(A) the establishment of clean air corridors, in which additional restrictions on increases in emissions may be appropriate to protect visibility in affected class I areas;

(B) the imposition of the requirements of Part D of this title affecting the construction of new major stationary sources or major modifications to existing sources in such clean air corridors, specifically including the alternative siting analysis provisions of section 172(b)(11)(A) of this title; and

(C) the promulgation of regulations under section 169A of this title to address long range strategies for addressing regional haze which impairs visibility in affected class I areas.

Duties of the Administrator

(e)(1) The Administrator shall, taking into account the studies pursuant to subsection (a)(1) and the reports pursuant to subsection (d)(2) and any other relevant information, within eighteen months of receipt of the report referred to in subsection (d)(2) of this section, carry out the Administrator's regulatory responsibilities under section 169A, including criteria for measuring "reasonable progress" toward the national goal.

(2) Any regulations promulgated under section 169A of this title pursuant to this subsection shall require affected States to reivse within 12 months their implementation plans under section 110 of this title to contain such emission limits, schedules of compliance, and other measures as may be necessary to carry out regulations promulgated pursuant to this subsection.

Grand Canyon Visibility Transport Commission

(f) The Administrator pursuant to subsection (c)(1) shall, within 12 months, establish a visibility transport commission for the region affecting the visibility of the Grand Canyon National Park.

(g) NOTICE TO FEDERAL LAND MANAGERS.—Section 165(d)(2)(A) of the Clean Air Act is amended to read as follows:

"(2)(A) Upon transmitting a copy of a permit application and notice under paragraph (1) to the Administrator, the State shall also provide a copy of such permit application to any Federal land manager and any Federal official charged with direct responsibility for management of any lands within a class I area, or an area described in paragraph (1) or (2) of section 164(a), which may be affected by emissions from the proposed facility. The Administrator shall require applications submitted under paragraph (1) to contain sufficient information to enable the appropriate Federal land manager of such Federal lands to determine the potential effects of such facility on the air quality related values (including visibility) of such Federal lands.

(h) IDENTIFICATION OF POTENTIAL ADVERSE IMPACTS.—Section 165(d)(2)(b) of the Clean Air Act is amended—after the words "affirmative responsibilities to" add the words "identify and".

Mr. ADAMS. Mr. President, this amendment has been nicknamed "the visibility in the parks" amendment. It is a clean air amendment for clean air attainment in the parks and wilderness areas of the United States. This amendment, which has been worked on by staffs for both the majority and the minority, is our effort to move EPA forward from the 1977 amendments.

I was part of the Congress when the original Clean Air Act was adopted, and it is a great pleasure to be here today to say that we have achieved something. It is not as pleasurable to say that we did not achieve nearly as much as we hoped to achieve when we passed that measure years ago. And it is also a great disappointment that we have not achieved what we expected with the clean air amendments of 1977.

That is the reason I am offering this amendment on behalf of Senators WIRTH, REID, ROBB, MATSUNAGA, KERRY, BRYAN, GORE, SANFORD, LIEBERMAN, and myself. This amendment will move us toward a very important goal, that of assuring clean air in our national parks and wilderness areas.

In 1977, Congress enacted clean air legislation that directed the Environmental Protection Agency to preserve, protect, and enhance the air quality in national parks, national wilderness areas, national monuments, national seashores, and other areas of special national or regional, natural, recreational, scenic, or historic value."

This legislation identified certain parks and wilderness as class 1 areas, to be protected from manmade pollutants. Today, Mr. President, 13 years later, the promise of that legislation has yet to be fulfilled. In fact, the air in our parks is far worse than we ever imagined back in 1977.

The National Park Service estimates that the scenic vistas in the park are affected by man-made pollution over

90 percent of the time. Visibility is almost degraded, even in our most remote wilderness areas. A dramatic example, which my colleague, Senator REID, will show by visual portrayal, is the Grand Canyon, which is known worldwide as a scenic wonderland and whose visibility has been studies extensively. On a good day in the Grand Canyon, you can see at least 200 miles. On a bad day, you can barely make out the features of the Grand Canyon, let alone see the other side, which is only 10 miles away.

Unless we do something, this problem will get worse. Analyses indicate the growth and increased emissions projected for the West are that our present day's visibility will grow less and less with each passing year. And these breathtaking panoramas will vanish. This simply must not happen.

In my own State of Washington, Mount Rainier is suffering from haze. There are days when you cannot see it because of the pollution. People come from all over the world, both to live in the Northwest and to see these vistas.

Yet on many days, the scenic vistas are obscured by a thin layer of haze resting on the horizon.

Another extraordinarily beautiful park in my State, the Olympic National Park, is currently listed as one of the four places in the world with the purest air. Yet even this pristine area has reported plant damage resulting from air pollution. For this area to lose its precious purity as a result of our inaction would be a tragedy.

Every year, thousands of Americans visit our parks to escape the dirt and pollution of the big cities. They go to breathe deeply of the clean air and enjoy the majesty of the natural landscape. It is therefore not surprising that, according to a Park Service study, most visitors rank clear air among the most important features of a park or wilderness area. "Naturalness," or the lack of human disturbance, is universally the most important attribute. I believe that we have a responsibility to continue to provide these important experiences to the public.

Human beings are not the only ones who appreciate the undisturbed nature of our parks. Plants and wildlife in these areas also rely upon the purity of the air for their survival. Parks and wilderness areas have become our best hope of preserving natural systems in our otherwise human-dominated environment. In fact, many unique species of plants exist only in our parks. If we allow pollution to continue to degrade these ecosystems and destroy their living components, we will be causing irreversible damage. If we do not enforce the goals articulated in 1977 now, we may experience even graver problems in the future.

Mr. President, Congress specifically protected these important areas, their scenery and natural systems, from human destruction by drawing boundaries on a map—by designating these areas as parks or wilderness. We set aside these areas in order to preserve at least a portion of our irreplaceable natural heritage for the benefit and inspiration of mankind. We drew these lines to prevent many forces from ruining the natural attributes of the area. Unfortunately, Mr. President, dirty air does not respect boundaries on a map.

In 1980, the EPA said that it did not have sufficient technical knowledge to identify the sources of regional haze in class 1 parks and wilderness areas. However, in the last decade the National Park Service and others have advanced the scientific and technical knowledge substantially. Although there will always be uncertainties, we know enough today to take action. The amendment I introduce today reinforces the goals set forward in 1977 and provides guidelines to the EPA for reaching these goals. First, it authorizes EPA to spend $8 million per year to study the visibility problems in our parks and wilderness areas.

Simultaneously, States and regional commissions will be established to assess this information and make recommendations regarding improvement to EPA. EPA will then issue regulations based on these recommendations. Monitoring of the progress toward this goal will occur every 5 years.

Mr. President, this amendment is intended to require the administrator to undertake studies of the causes of visibility impairment in class I areas, with particular emphasis on impairment caused by regional haze.

EPA defines "regional haze" as widespread regionally homogeneous haze resulting from manmade air pollution. Regional haze has been reported in all of the class I areas managed by the National Park Service in the lower 48 States. It accounts for all of the visibility impairment identified in every class I area except for two class I areas where visibility impairment has been attributed to plumes from nearby industrial sources: the Georgia-Pacific paper mill in Maine and the Navajo generating station in the Grand Canyon.

EPA has failed to address the visibility impairment caused by regional haze under the visibility protection requirements added to the act in 1977. In the State of Maine versus EPA case, the court of appeals for the first circuit dismissed a suit by the States to require EPA to carry out its responsibilities to adopt requirements for regional haze designed to achieve reasonable progress toward the national goal in section 169A(a). The court held that even though EPA's duty may be nondiscretionary under the act, and therefore enforceable by citizen suit, it is no longer an enforceable duty because EPA announced its intention to address regional haze at a later date. I believe that this is not a correct reading of the district court's jurisdiction under section 305, but nonetheless, the court deprived the States of an opportunity to require EPA to adopt guidelines for State plans to address regional haze.

The adoption of guidelines was made critically important by a prior decision of the Second Circuit Court of Appeals in Vermont versus EPA which held that the States could not obtain EPA approval of visibility plans for regional haze until EPA had adopted guidelines for such plans. I believe this case also misinterpreted the statute. EPA's guidelines were intended to set minimum requirements for State plans, not serve as preconditions for the adoption of State plans.

Together, these two court decisions have served to prevent States from adopting plans that would protect class I areas. The courts have interpreted the act in such manner as to frustrate the intent of Congress, and not to secure implementation of the act. As a result, Congress is required to act again. The amendments to section 304 and 307 of the act address the specific circumstances raised by these cases. These amendments should clarify the jurisdiction of the district court to provide relief when EPA defers final action, and then fails to complete the action deferred. This amendment will allow a district court to provide the relief denied in the State of Maine case.

This amendment supplements the authority of EPA to protect class I areas under current law. This amendment was developed as a compromise between the sponsors and other members. The elements of the compromise include agreement that EPA's obligations to adopt guidelines for State plans to implement section 169A as enacted in 1977 remain unchanged and enforceable in a court with appropriate jurisdiction, and that the compromise would add new obligations to EPA's duties in current law. These new obligations are set out in the new section 169B that adds to, and does not modify current law. These new obligations include: First, a duty by EPA to perform studies to augment currently available information regarding the sources of regional haze—section 169B(a); second, a duty to assess the improvements in visibility in class I areas that are expected to result from the implementation of all provisions of the Clean Air Act Amendments of 1990 other than the new section 169B, and an assessment of actual progress and improvement in visibility in class I areas each 5 years thereafter; third, a

duty by EPA to establish a visibility transport region for the Grand Canyon National Park; fourth, a duty by EPA to adopt such regulations in addition to those already in effect under section 169A, as may be necessary to implement the requirements of section 169A with regard to achieving reasonable progress toward the national goal for visibility in the Grand Canyon; and fifth, requiring States included in any visibility transport region, including the region to be established for the Grand Canyon, to revise their plans in order to implement any supplemental requirements added by the administrator under subsection 169B(e)(1) to ensure progress toward the national goal. In addition, the administrator is required to set up other visibility transport regions and commissions whenever information becomes available to the administrator that interstate transport of air pollutants from one or more States contributes significantly to visibility impairment in class I areas.

The obligation to conduct research is intended to increase the evidence available regarding the sources of pollution that contribute to regional haze, and also to provide the data needed to determine visibility trends in class I areas. These date are to be used to carry out the other provisions of the amendment, including the assessments required under subsection (b), the collection of data for use by visibility transport commissions—but funding for data collection may not be used for the administrative or staff costs of such commissions—and the promulgation of supplemental guidelines needed to carry out the administrator's regulatory responsibilities under section 169A.

Funding authorized for studies under subsection (a)(1) shall be limited to expansion of current visibility related monitoring in class I areas. The sponsors recognize that visibility monitoring is already conducted by some States under existing visibility State implementation plans, and that both the National Park Service and the U.S. Forest Service have already implemented visibility monitoring programs in class I areas. This funding may not be used as a substitute for current funding sources, but is intended to expand the collection of visibility monitoring data.

Visibility monitoring is especially important for the assessment of actual progress and improvement in visibility required by subsection (b). This assessment will provide the basis for determining whether progress is being made toward the national goal as required by section 169A. If the monitoring data collected by existing monitors and the expanded network required by section 169B shows that progress is not being made, then the administrator should revise the guidelines under section 169A to ensure that the requirements of that section are met. The administrator has yet to provide a definition of reasonable progress under section 169A. We expect he will have to provide such a definition before he can determine whether progress and improvement in visibility is being achieved during each 5-year period. At a minimum, progress and improvement must require that visibility be perceptibly improved compared to periods of impairment, and that it not be degraded or impaired during conditions that historically contribute to relatively unimpaired visibility.

In the course of evaluating whether progress and improvement in visibility is being achieved, the administrator will also determine the extent to which monitoring data are needed to measure progress, and whether adequate monitoring data are being collected at each class I area—or areas in close proximity to one another—as part of existing SIP requirements. If this research shows that adequate data are not being collected to measure future progress and improvement over each 5-year interval, then the administrator shall require SIPs to be revised to provide adequate monitoring.

The authority to establish visibility transport regions and commissions is a supplement to the administrators obligation under current law to issue guidelines for State implementation plans. The administrator is not required to identify regions and appoint commissions as a prerequisite to the adoption of guidelines that identify States for which a plan is required under section 169A. The administrator may not delay requirements under section 169A because of the appointment of a commission for a region under section 169B.

The authority to appoint commissions is intended to allow flexibility to the States in the development of plans that affect more than one State. If emissions from more than one State contribute to visibility impairment, the States working together may develop more cost-effective strategies to achieve reasonable progress toward the national goal. Such strategies may be accepted as a supplement to individual State plans under section 169A, but only if the administrator adopts requirements for such multi-State plans under subsection 169B(e)(1). Such requirement must be consistent with the requirements of section 169A for achieving reasonable progress toward the national goal. They may not be used to slow or reduce the progress required in plans under section 169A.

The administrator is given discretion, upon the administrator's motion to establish visibility transport commissions for regions other than the region that contributes to visibility impairment in the Grand Canyon. This discretion is constrained by the usual requirements governing the exercise of agency discretion under the act, including the obligation to respond to petitions for the administrator to act on his own motion. Such petitions are not restricted to those filed by the Governors of two States. Any person affected by the failure to provide reasonable progress toward the national goal may petition for such action.

Another important section of this amendment clarifies the Federal land managers' role in protecting the class 1 parks and wilderness. In the past, these Federal land managers have protested they have been left out of decisions affecting and permitting new pollution sources.

The General Accounting Office recently studied this problem and said the program of coordination with land managers was not working well. Mr. President, I ask unanimous consent that a copy of the GAO report may be printed, in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ADAMS. Mr. President, I will quote just one short section from this report but I commend it to my colleagues. it says as follows:

> Land manager reviews conatinued to be hampered, however, because they do not have enough information about the resources they are trying to protect: Wildlife, vegetation and visibility. For example, the effects of air pollution on these resources. Without this information land managers cannot adequately carry out their responsibilities under the PSD program which is to determine whether proposed industrial sources will have an adverse effect on park resources.

A portion of our amendment is designed to cure this information gap. First, Mr. President, we clarify a provision allowing land managers to monitor parks and wilderness areas regarding the impact of emissions. Second, the amendment requires the States to notify Federal land managers about new permit applications early in the process so that the Federal manager can participate in the States' decisionmaking process.

Mr. President, the GAO report clearly shows that the law is not working to protect our national parks and wilderness. The GAO recommends that changes be made to ensure the protection we intended in 1977. These amendments will close the data gaps that leave Federal land managers without the information they need to carry out their statutory responsibility. Without these new tools, I believe we will continue to see the long-term degradation of our national parks and wilderness.

My goal, Mr. President, is a simple one, yet of vital importance: to ensure that our national parks and wilderness

areas have clean air. We owe future generations nothing less. I hope that my colleagues will join me in furthering this goal.

Before I close, Mr. President, I would like to express my appreciation to all members and staff people who have spent countless hours on this amendment. In particular, I would like to thank Sam Spina, Melissa Kehoe, and Anne Badgley on my staff, for their hard work and dedication. Melissa deserves special recognition as this was her first involvement in major environmental legislation. She has distinguished herself well and should be proud of her contribution.

Thank you, Mr. President. This concludes my remarks.

EXHIBIT 1

[U.S. General Accounting Office Report to the Chairman, Environment, Energy, and Natural Resources Subcommittee, Committee on Government Operations, House of Representatives]

AIR POLLUTION: PROTECTING PARKS AND WILDERNESS FROM NEARBY POLLUTION SOURCES

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, February 7, 1990.

Hon. MIKE SYNAR,
Chairman, Environment, Energy, and Natural Resources Subcommittee, Committee on Government Operations, House of Representatives.

DEAR MR. CHAIRMAN: Following your request, we reviewed federal and state efforts to maintain clean air in national parks and wilderness areas. As you know, the Clean Air Act Amendments of 1977 authorized the Prevention of Significant Deterioration (PSD) program. Among other stipulations, the PSD program required strict emission controls on major new stationary sources of air pollution that are located near the 158 national parks and wilderness areas designated by the amendments as Class I areas (national parks over 6,000 acres, national wilderness areas and memorial parks over 5,000 acres, and international parks.) Under the PSD program, states issuing construction permits are required to forward permit applications for facilities proposed within 100 kilometers, or about 60 miles, of Class I areas to the Environmental Protection Agency (EPA). EPA, in turn, must notify the responsible federal land management agency. These agencies—the National Park Service, the U.S. Fish and Wildlife Service, and the U.S. Forest Service—are then required to review the applications. If they find, and can demonstrate to the state, that the proposed facilities would adversely affect Class I areas, then the permits cannot be issued.

In discussions with your office, we agreed to examine (1) the extent to which stationary sources located near Class I areas are regulated under the PSD provisions of the Clean Air Act, (2) how federal land managers are carrying out their responsibilities to protect Class I areas from stationary source emissions, and (3) why states have added no other federal lands to those that originally qualified under the act for Class I designation. We selected 5 of the 158 Class I areas for review—Rocky Mountain National Park and Flat Tops Wilderness in Colorado, Shenandoah National Park and James River Face Wilderness in Virginia, and Cape Romain Wilderness in South Carolina. (See app. I for a more complete discussion of our objectives, scope, and methodology.)

RESULTS IN BRIEF

The permit requirements of the PSD program cover few stationary sources of air pollution near Class I areas—only 1 percent of the sources near the five Class I areas in our review. Sources that are exempt from those requirements—either because they are considered minor sources or because they were in existence before the PSD program went into effect—account for up to 90 percent of the pollutants emitted near these five areas.

Further, although administrative improvements are either underway or planned, federal land managers have not fully met their responsibility to review PSD permit applications because (1) the EPA region originally receiving the permit applications did not foward them all, (2) the federal land managers lacked sufficient staff and time to review the permit applications received, and (3) the managers lacked sufficient data to determine whether the proposed facility would adversely affect the air quality of the nearby Class I area.

Finally, although the Interior Department and the Forest Service recommended additional federal lands in 14 states for Class I designation, the states have not designated any new areas, citing a variety of reasons, including the belief that recommended areas where already amply protected and concern that Class I designation would hamper state economic development.

FEW SOURCES NEAR CLASS I AREAS ARE SUBJECT TO PSD PERMIT REQUIREMENTS

PSD permit requirements cover very few sources of air pollution around Class I areas. As further described in appendix II, 99 percent of the stationary sources near the five Class I areas we reviewed were either grandfathered in or considered minor sources and therefore did not have to obtain permits under the PSD program. These exempt sources, particularly those that were grandfathered, also account for up to 90 percent of five pollutants emitted around these areas. These five—sulfur dioxide, nitrogen oxides, carbon monoxide, particulates, and ozone—are pollutants for which EPA has set national standards under the Clean Air Act.

Around Shenandoah National Park, for example, where ozone levels in 1988 exceeded national standards, sources exempt from PSD permit requirements contributed 95 percent of the volatile organic compounds and 83 percent of the nitrogen oxides—substances that are both precursors to ozone formation—emitted near the park. Grandfathered sources accounted for most of these emissions.

Minor sources generally contributed only small portions of total pollutants emitted around the five Class I areas we reviewed. However, in some cases, their share was significant: They accounted for 60 percent or more of the particulates emitted around Rocky Mountain National Park and Flat Tops Wilderness and 64 percent of the volatile organic compounds emitted around Flat Tops Wilderness. EPA and the Park Service are already concerned about the contribution of minor sources, nationwide, to emissions of volatile organic compounds, and both have proposed that states consider lowering current thresholds for minor sources.

Under certain meteorological conditions, nearby sources can account for the major portion of pollutants that each Class I areas, and in a number of national parks some of these pollutants have already begun to exceed national standards. In Shenandoah and in Mammoth Cave National Park (Kentucky), the Park Service estimates that from 60 to 80 percent of sulfur dioxide emissions that enter the parks come from local sources. The Park Service has also found that impaired visibility in Grand Canyon National Park (see figs. 1 and 2), which is caused mostly by high concentrations of sulfates (the oxidized form of sulfur dioxide) in the air, is largely attributable to a nearby power plant that is grandfathered under the PSD program. According to an air program official there, Arizona believes that most of its air quality problems in clean air areas are caused by sources exempt from PSD permit requirements; for this reason, the state has not attempted to create additional Class I areas.

[Graphs not reproducible in the RECORD.]

Nearby sources may not account for all of the emissions that eventually enter Class I areas, however. Atmospheric modeling and monitoring data indicate that, to some extent, air pollutants are also being transported to some Class I areas over long distances from urban areas.

The Clean Air Act currently provides for this installaiton of retrofit technology on grandfathered sources, but this provision applies only in cases in which certain existing facilities are found to be adversely affecting visibility in Class I areas. In 1981, however, a National Academy of Sciences study found that visibility was not the only air problem then affecting Class I areas and suggested that additional controls on both existing and minor sources might be necessary to correct acid rain and protect other air quality-related values.

Since our review looked at only 5 of the 158 Class I areas, we cannot say with certainty that there are similar proportions of exempt sources near all Class I areas. Nor do we know the extent to which nearby sources contribute to air pollution in Class I areas other than Shenandoah, Mammoth Cave, and the Grand Canyon. However, we believe that it would be worthwhile for EPA to examine a broader group of Class I areas to determine the extent to which exempt sources are contributing to emissions and the extent to which air quality in these areas is affected by these emissions. Depending on the outcome of these studies, it may be necessary to revise the Clean Air Act to lower the threshold for minor sources of emissions or to require installation of additional controls on grandfathered major emission sources. We believe that with data maintained by state air quality offices and with currently available atmospheric monitoring and modeling capabilities, such a survey could be completed quickly enough to inform current efforts to reauthorize the Clear Air Act.

PERMIT REVIEW PROCESS IMPROVED BUT STILL HAMPERED BY LACK OF DATA

As discussed further in appendix III, the PSD permit review process has not been well implemented, although improvements are either underway or planned. EPA regions did not forward all the applications that should have been reviewed by federal land managers, and the land managers, with the exception of the Park Service, did not always have the staff or time to review the applications they did receive. Most of these problems, however, appear to have been addressed. EPA plans steps to help ensure that its regions forward PSD permit applications to land managers with sufficient time for review. The Forest Service and the Fish and

Wildlife Service have also devoted more staff to reviewing the applications.

Land managers' reviews continue to be hampered, however, because they do not have enough information about the resources they are trying to protect—wildlife, vegetation, and visibility, for example—and the effects of air pollution on those resources. Without this information, land managers believe they cannot adequately carry out their responsibility under the PSD program, which is to determine whether proposed industrial sources will have an adverse effect on park resources.

The Park Service, alone among the land management agencies, has been actively gathering information for a number of years. However, Park Service officials believe that they still need more information because their standards for information are highly rigorous: According to agency officials, any adverse impact determination might be legally challenged and would consequently have to be based on very certain information. By contrast, the Forest Service and Fish and Wildlife Service have collected far less information and have had much smaller research programs. The Forest Service now has plans, however, for a 10-year data-gathering and research program for which it has requested over $18 million. On the other hand, the Fish and Wildlife Service, which also has considerable data needs, has provided only a very small portion—$25,000 out of an estimated $10.5 million—of the funds that its air program staff believe is necessary to provide adequate information. According to an air program official, the Fish and Wildlife Service has given higher priority to other data needs—relating to groundwater contamination, for one—and refuge managers have requested funding for studies only if they perceive air pollution to be a problem.

STATES HAVE DESIGNATED NO NEW CLASS I AREAS

On the question of designating new Class I areas (discussed in app. IV), we found that although states have the authority to do so, they have not designated any new Class I areas in addition to those established by the Clean Air Act Amendments. Officials in the 14 states and territories with areas recommended for Class I designation by the Forest Service and the Interior Department in 1979 and 1980 offered a variety of reasons, among them a belief that the areas were already adequately protected, the lack of resources to conduct the studies necessary before redesignation, and a concern that Class I designation would hamper economic development in their state. In some states, officials believed that there are other, more effective means of controlling their air quality problems. Neither the Interior Department nor the Forest Service has taken an active role in redesignation, having chosen not to encourage the process.

The absence of state designations is not surprising. Without some sort of federal initiative or requirement, it is difficult to imagine why states would choose to create additional Class I areas. Although it could be used more broadly, Class I designation is, by and large, a tool to protect federal lands. While those lands lie within state borders, the responsibility for protecting the resources of Class I areas is fundamentally a federal one. It seems to us that only in exceptional cases would states choose to constrain development in order to protect lands for which they are not responsible. Unless the Congress were to do so, the designation of many more Class I areas appears unlikely. However, the desirability of creating additional Class I areas depends, first, on whether the PSD program can be changed to better control air pollution.

RECOMMENDATIONS

We recommend that the Administrator of EPA, in cooperation with the National Park Service, the Fish and Wildlife Service, and the Forest Service, expeditiously survey a group of Class I areas where nearby emission sources are believed or are known to contribute to air quality degradation. The survey should determine the extent to which sources exempt from PSD permit requirements are contributing to air pollution in Class I areas. At the end of his review, the Administrator should report his findings to the Congress. Since the Congress is currently considering reauthorization of the Clean Air Act, this information should be developed as quickly as possible, perhaps within the next 6 months.

We also recommend that the Secretary of the Interior instruct the Director of the Fish and Wildlife Service to develop a long-range plan for gathering the information necessary to support reviews of PSD permit applications. While we do not take issue with the agency's priorities, we note that the Fish and Wildlife Service has a responsibility to protect air quality-related values in its Class I areas, a responsibility it cannot exercise without sufficient information.

MATTERS FOR CONSIDERATION BY THE CONGRESS

Depending upon the results of the EPA survey, the Congress may wish to consider whether the current thresholds for minor sources and exemptions for existing major sources contained in the Clean Air Act ought to be revised. Should the survey indicate a need for legislative change, the Congress may also wish to consider revising the process for designating Class I areas to make federal land managers responsible, rather than the states.

We have discussed the factual information in this report with EPA, National Park Service, Fish and Wildlife Service, and Forest Service officials and have incorporated their comments where appropriate. However, as you requested, we did not obtain official agency comments on a draft of this report. As arranged with your office, unless you publicly release its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, copies will be sent to appropriate congressional committees, the Administrator of EPA, the Secretary of the Interior, the Chief of the Forest Service, and other interested parties.

This work was performed under the general direction of Richard L. Hembra, Director, Environmental Protection Issues, who may be reached at (202) 275-6111. Other major contributors are listed in appendix V.

Sincerely yours,

J. DEXTER PEACH,
Assistant Comptroller General.

APPENDIX I—BACKGROUND AND METHODOLOGY

The Clean Air Act Amendments of 1977 authorized the PSD program to ensure, among other things, that new development would not cause any significant deterioration of air quality in relatively clean air areas. Although the act established minimum air quality standards for the entire country, the PSD program goes beyond this to maintain the quality of air that was already cleaner than required by the standards.

The amendments gave the highest level of protection to 158 national parks and wilderness areas, designating them Class I areas. These areas, which make up about 1 percent of all U.S. lands, included the national parks over 6,000 acres, national wilderness areas and memorial parks over 5,000 acres, and the international parks that were in existence in 1977, when the amendments were enacted. All other areas in the United States that did not exceed national air quality standards were designated Class II. The Congress conferred authority on the states and Indian tribes to redesignate any of these Class II areas to Class I and directed federal land managers to determine if any other federal lands including national monuments and preserves or primitive areas, should be redesignated Class I.

The amendments set certain tests that must be met before a major new source of pollution can be built near a Class I area. First, the owner or operator of the new source must demonstrate that it will not cause the National Ambient Air Quality Standards to be exceeded. These standards are for six "criteria" pollutants: sulfur dioxide, nitrogen oxides, lead, carbon monoxide, particulates, and ozone, In addition, for two of the criteria pollutants—particulates and sulfur dioxide—a new source near a Class I area may not emit more than a small amount beyond existing levels, allowable increments that are specified in the amendments. The amendments authorized EPA to develop allowable increments for nitrogen oxides, carbon monoxide, and ozone precursors, but as of September 1989, EPA had done so only for nitrogen oxides.

To receive a construction permit under the program, the owner or operator of a proposed facility must demonstrate to the state regulatory agency that it will meet the required emission standards and that it will employ the best available control technology. Under section 165(d) of the Clean Air Act the state agency is required to send to EPA a copy of the permit application. EPA, in turn, must notify the responsible federal land manager of any permit application it receives that may affect a Class I area; EPA guidance requires federal land managers to be notified of a major source permit application within 100 kilometers, or about 60 miles, of a Class I area.

Once they receive a PSD permit application, federal land managers are responsible for determining whether emissions from new sources near Class I areas will have an adverse impact on the air quality-related values of the park or wilderness area. These values are the scenic, cultural, biological, recreational and other resources, including visibility, that may be affected by changes in air quality. If the federal land manager demonstrates to the state agency that the proposed facility will adversely affect these values, the facility may not be built, even if the allowable increments would not be exceeded.

The land management agencies that administer Class I areas include two agencies in the Department of the Interior: the National Park Service, which manages 48 Class I areas totalling 14.2 million acres, and the U.S. Fish and Wildlife Service, which manages 21 Class I wilderness areas totalling 2.3 million acres. The U.S. Forest Service, in the Department of Agriculture, manages 88 Class I wilderness areas totalling 13 million acres. One additional Class I area—the Roosevelt-Campobello International Park, which is in the United States and Canada—

is administered by the Roosevelt-Campobello International Park Commission.

The PSD permit requirements apply to major stationary sources of pollution built after the law was enacted and to major modifications of already existing facilities. The act defines as "major" any facility with the capacity to emit at least 250 tons a year of any of the pollutants regulated under the act; for certain types of facilities, such as fossil fuel-fired steam electric power plants, petroleum refineries, and ore smelters, the threshold is 100 tons a year. Facilities emitting less than these amounts are considered minor sources and do not have to obtain PSD permits.

Major modifications, which must also meet PSD permit requirements, are defined as changes to a facility or its methods of operation that increase emissions by more than certain minimal levels, which vary by pollutant. A modification that would result in an increase of 100 tons or more per year of carbon monoxide, for example, or 40 tons or more per year of nitrogen oxides, would require a PSD permit. However, EPA exempts from this requirement any increases that result from fuel switching, routine maintenance and other procedures, changes in ownership, and any increases that are offset by decreases in emissions that occurred in the previous 5-year period.

OBJECTIVES, SCOPE, AND METHODOLOGY

Following Chairman Synar's request and discussions with his office, we focused our review on (1) the extent to which stationary sources located near Class I areas are regulated under the Clean Air Act, (2) how federal land managers are carrying out their responsibilities to protect Class I areas from stationary source emissions, and (3) why states have added no other federal lands to those that originally qualified under the act for Class I designation.

To determine the extent to which stationary sources are regulated under the PSD program, we focused on five Class I areas in three states: Shenandaoh National Park and James River Face Wilderness in Virginia, Cape Romain Wilderness in South Carolina, and Rocky Mountain National Park and Flat Tops Wilderness in Colorado. These include two areas managed by the National Park Service, two managed by the Forest Service, and one managed by the Fish and Wildlife Service. From the Park Service, we obtained information on air quality in its Class I areas, including Mammoth Cave National Park in Kentucky and Grand Canyon National Park in Arizona.

From each of the three state air quality agencies, we obtained the most recent annual inventory of stationary source emissions, developed by the states, in part, as a means of determining compliance with national air quality standards. Since these inventories do not include data on lead, we collected information on just five of the six criteria pollutants. Using these lists, we identified sources located within 100 kilometers of the Class I areas—the distance established by EPA as requiring federal land manager review—and determined the level of air pollutants annually emitted by these sources. For the two Class I areas in Virginia, this 100-kilometer range extends into portions of West Virginia, Maryland, and the District of Columbia, but we did not include any sources in these states and the District because the relatively small area did not justify the extra effort involved in collecting data from their emissions inventories. We also obtained from state agency officials a listing of the nearby stationary sources that were exempt from PSD requirements and, in most cases, the reasons for these exemptions.

We determined the extent to which federal land managers carried out their PSD program responsibilities largely through information compiled by the agencies at our request. These data included information on the numbers of permit applications they had received for review and their disposition. Agencies also supplied information on funding for data collection efforts and the need for additional research and information and its costs.

To examine EPA's implementation of its PSD permit responsibilities, we interviewed responsible EPA officials and examined PSD program policies and procedures. We also used the results of EPA's audits of state air programs for 1985 and 1986-87.

In order to address the redesignation issue, we conducted a structured telephone interview with officials of the air pollution agencies in the 14 states and territories in which lands has been identified by federal land managers as suitable for redesignation. These included Alaska, Arizona, California, Colorado, Utah, Wyoming, and the Virgin Islands. In addition to asking officials why these areas had never been redesignated, we asked about any plans for redesignating other federal lands that had not been recommended in the earlier studies. We also interviewed federal land managers to determine whether they had followed up their initial efforts with other attempts to have additional Class I areas designated.

Following generally accepted government auditing standards, we conducted our review between August 1987 and August 1988, with some information updated to May 1989.

APPENDIX II.—FEW SOURCES NEAR CLASS I AREAS ARE SUBJECT TO PSD PERMIT REQUIREMENTS

Of the 2,332 stationary sources operating within 100 kilometers of the 5 Class I areas in our review,[1] only 27—1 percent—were required to have permits under the PSD program. The remaining 2,305 sources did not have to obtain PSD permits for the following reasons:

Ninety percent, or 2,105 facilities, were minor sources of pollution as defined by the act;

Nine percent, or 200 facilities, were "grandfathered," that is, they were major sources built before 1977 when the amendments were enacted. Among these, seven facilities had undergone major modifications, but they were exempt from PSD permit requirements because they could demonstrate that emission increases would be offset by previous decreases

NON-PSD PERMITTED FACILITIES

Collectively, non-PSD permitted facilities contribute from 53 to 90 percent of five[2] of the six criteria pollutants emitted within a 100-kilometer radius of each of the five Class I areas. (See fig. II.1.)

MINOR SOURCES

Minor sources, while large in number, generally contribute relatively small quantities of pollutants to the total. However, they account for nearly 30 percent of the particulates emitted around all five Class I areas, and in Rocky Mountain National Park and Flat Tops Wilderness, they account for over 60 percent. Minor sources around Flat Tops also account for 64 percent of the volatile organic compounds emitted by stationary sources within 100 kilometers.

Both EPA and Park Service officials have already expressed some concerns about the contribution, nationwide, of small sources to total emissions of volatile organic compounds. In its proposed post-1987 ozone policy, EPA noted that a significant portion of total emissions of volatile organic compounds generally comes from small sources. The agency, suggested that as part of an overall ozone control strategy, states might want to consider lowering thresholds for regulating new sources to 25 tons of volatile organic compounds a year. EPA acknowledged, however, that even this level might be too high, citing a study that had shown that modifications and new sources emitting less than 5 tons a year compose 55 percent of total new volatile organic compound emissions. In commenting on the proposed policy, the Park Service expressed similar concerns about small sources and supported lowering the threshold to 25 ton a year.

SOURCES OF POLLUTANTS ENTERING CLASS I AREAS

These exempt sources could account for most of the pollutants emitted near Class I areas. The Park Service has found that, under certain meteorological conditions, nearby sources are the primary source of air pollutants in Class I areas. According to an air program official, the Park Service estimates that local sources may account for 60 percent of the sulfur dioxide that enters Shenandoah National Park. Similarly, the Park Service has found that local sources can contribute about 70 to 80 percent of the sulfur dioxide in Mammoth Cave National Park in Kentucky, according to the air program official. In Grand Canyon National Park, the Park Service has traced visibility problems to a nearby coal-burning power plant. The agency has estimated that, at times, the power plant has contributed from 60 to 78 percent of the sulfur in the park, which, in the form of sulfates, is largely responsible for impaired visibility. On winter days with the worst visibility, the power plant is highly likely to cause 70 percent of the visibility degradation, according to the Park Service. Because the plant was built before 1977, it was not permitted under the PSD program, and it does not have any sulfur dioxide controls.

Under section 169A of the Clean Air Act, if EPA or a state regulatory authority finds that certain grandfathered sources are adversely affecting visibility in Class I areas, the agency can require the source to install retrofit technology to correct the problem. This retrofit provision applies only to cases of impaired visibility, however, and does not extend to other air pollution problems. Nevertheless, in a 1981 report on the implementation of the PSD provisions, the National Academy of Sciences found that impaired visibility was not then the only air pollution problem affecting Class I areas and warned that controlling only new sources would not deal adequately, in this century, with acid rain or the protection of other air quality-related values. The Academy study also concluded that minor sources could, cumulatively, cause significant deterioration of air quality and suggested that the administrative convenience and other factors that support the distinction between major and

[1] Although four additonal sources were listed in Virginia's inventory, the state's listing did not contain enough information on these sources to allow us to determine their status.

[2] These are sulfur dioxide, nitrogen oxides, carbon monoxide, particulates, and volatile organic compounds (measured as precursors to the formation of ozone.)

minor sources should not be allowed to subvert the basic intent of PSD, which is to regulate emissions causing significant deterioration, regardless of the type or source.

Information developed by the Park Service over the last several years indicates that, in addition to pollutants from nearby sources, some portion of certain types of pollutants that reach Class I areas are carried through the atmosphere from long-distance sources. For example, using data collected during the summer of 1978, the Park Service has estimated that high proportions of the airborne sulfate within four national parks in the eastern United States are the result of emissions quite distant from the parks. At Shenandoah National Park, the Park Service estimates that about 75 percent of airborne sulfates result from emissions generated more than 100 kilometers from the park. Similarly, it estimates that approximately 90 percent of the sulfate concentrations in Great Smoky National Park is attributable to sources more than 250 kilometers from the park, and that at Mammoth Cave National Park, 40 to 60 percent of sulfates come from sources more than 150 kilometers away.

APPENDIX III.—PERMIT REVIEW PROCESS IMPROVED BUT STILL HAMPERED BY LACK OF DATA

On the whole, federal land managers have not fully carried out their responsibility to review PSD permit applications, either because (1) EPA did not forward all applications to them, (2) they did not have the staff or time to review the permit applications when they were forwarded, or (3) they lacked sufficient information to determine whether the proposed facility would adversely affect the resources, or air quality-related values, of their Class I areas. Although many of these problems have been or are likely to be resolved, land management agencies—particularly the Fish and Wildlife Service—still do not have adequate information for determining the effects of proposed emission sources on the natural resources of Class I areas.

PERMIT APPLICATIONS NOT FORWARDED

Since August 1977, when the PSD program began, 27 PSD permits have been issued in the 5 Class I areas we reviewed. Of these, federal land managers had received the applications for 12. The remaining 15 had not been forwarded to them by the EPA regions. Although EPA established a policy in 1979 to notify land managers of proposed facilities within 100 kilometers of a Class I area, the EPA regional PSD coordinators we spoke with said that at the time many of the permits were issued, in the early days of the program, EPA's policy was not well known. In addition, these staff decided, on the basis of the data submitted with the application, that the projected emissions would not reach the Class I area. One case, however, involved a facility that would be located 10 to 15 miles from Rocky Mountain National Park. EPA's regional PSD coordinator said that neglecting to send the application to the Park Service had simply been an oversight.

EPA's reviews have yielded similar findings. In its fiscal year 1985 and 1986-87 audits of the air program, EPA could find no record that land managers had been notified of approximately 30 percent of the permits involving construction within 100 kilometers of a Class I area. EPA's report did not explain why these omissions might have occurred.

To address this and other problems, EPA's Assistant Administrator for air programs informed the EPA regions that they were to make sure that state and local regulatory agencies follow certain notification procedures, including notifying the regions of all PSD permit applications they received for major sources. To aid this effort, EPA devised a checklist for regional reviewers to use to help ensure that the state has properly handled the application. One of the items included in the checklist has to do with whether federal land managers have been notified when the application is near a Class I area. EPA transmitted the checklist to the regions in May 1989.

PERMIT APPLICATIONS NOT REVIEWED

Even when they have received applications for review, federal land managers have not always reviewed them and provided comments to the permitting agencies. From August 1977 to August 1987, nationwide, 392 permit applications had been forwarded to federal land managers. (See table III.1.) Of these, comments were provided on 261, or two-thirds. Land managers did not provide comments on the remaining 131 permit applications, for a couple of reasons. For one thing, federal land managers did not receive a number of the permit applications until 30 to 60 days before they were issued, at the same time they were made available for public comment. According to the Park Service, about one-quarter of the applications it received arrived at this time; about half the applications sent to the Fish and Wildlife Service also arrived at this point. (The Forest Service could not furnish us with similar information.) Federal land managers believe this is not enough time for them to complete a review of emission impacts.

To help deal with the problem of insufficient time, the Forest Service plans to institute a screening procedure that will help its managers use their time more efficiently. By using estimates of expected pollutant concentrations, Forest Service managers could screen out those applications that are not likely to cause adverse impacts and concentrate on obtaining additional, more detailed information from the other projects. Published as a proposal in April 1989, the screening procedure is expected to be developed over the next year.

Federal land managers also did not respond with comments because they did not have the staff to review permit applications. The Fish and Wildlife Service, for example, did not have any staff assigned to permit application review between November 1982 and the end of 1984, according to a member of the agency's air program staff. Since 1985, however, the agency has had two full-time staff members assigned to review PSD permit applications, among other things, working under an interagency agreement with the National Park Service's air program office and receiving technical support from that office. The Forest Service has also had problems with insufficient staff. However, it requested funds to enlarge its air program staff in fiscal year 1988 to 12 full-time equivalent positions, and it planned to increase the number to 21 in fiscal year 1989 and to 30 in fiscal year 1990.

As shown in table III.1, the Park Service has had a somewhat better record in reviewing and commenting on permit applications than the other agencies. It reviewed 82 percent of the applications it received and made recommendations to the permitting authority in 69 percent of the cases it reviewed, recommending, among other things, that applicants install better control technology. For example, in its review of an application to construct and operate an energy/resource recovery facility near Shenandoah National Park, the Park Service recommended that the state agency not issue the permit as drafted unless the applicant employed a dry scrubber/baghouse system to reduce emissions. In another case, involving a permit application to modify a Department of Energy fuel-processing restoration facility near Craters of the Moon National Monument in Idaho, the Park Service recommended that nitrogen oxide controls be installed to mitigate and perhaps eliminate any visibility impacts.

The Fish and Wildlife Service and Forest Service each reviewed about 60 percent of the applications. While the Fish and Wildlife Service recommended changes to 56 percent of the applications, the Forest Service recommended changes to only 17 percent of the applications. We were not always able to evaluate the outcome of these reviews, however, in part because agencies were not always informed by the permitting agencies about the disposition of their recommendations. The Park Service, for example, was not aware of how the permitting authority had handled about 44 percent of the applications on which it had made recommendations. In addition, even in those cases where land managers' recommendations were adopted, it is not clear whether changes were made because of the land manager review or whether the permitting agencies would have required the changes independently of the land manager review.

INSUFFICIENT INFORMATION FOR LAND MANAGER REVIEW

In order to evaluate whether a proposed facility will adversely affect air quality-related values in a Class I area, land managers believe they need to know what these values are—that is, the vegetation, wildlife and other natural resources of the area—the current condition of those values (or resources), the effect of anticipated pollution levels on those resources, and whether these effects are adverse. According to land managers, they have the burden of persuading the permitting authority that the emissions from a proposed source will have an adverse impact on air quality-related values. Therefore, assessments based on incomplete data or inadequate tools are likely to compromise the mangers' ability to be persuasive. However, agency officials feel that they do not now have enough information to adequately determine adverse impacts in all cases.

Fish and Wildlife Service

The Fish and Wildlife Service, for example, does not have a complete inventory of air quality-related values in any of its Class I areas, and has studied causes and effects of air pollution in only 3 of its 21 Class I areas. According to the Fish and Wildlife Service, only one Class I area has been characterized (i.e., inventoried and assessed) well enough to provide an adequate basis for approving or denying PSD permit applications, and only in terms of visibility.

To obtain complete information about all its Class I areas, the Fish and Wildlife Service estimates that it would require nearly $1.6 million over 5 to 10 years for inventories of air quality-related values and about $8.9 million more, and 8 to 10 years, to adequately assess ambient air quality, visibility and biological conditions. By contrast, in the 10 years following the Clean Air Act Amendments (to August 1987), the Fish and Wildlife Service spent a total of $145,818 on related data-gathering efforts. Nevertheless, the agency did not request any funds for in-

ventory purposes for fiscal year 1988 and requested and received only $25,000 in fiscal year 1989. Also in fiscal year 1988, the air program staff requested $64,000 for air pollution cause-and-effect studies in 2 of the agency's 21 Class I areas, but the studies were not funded by the Fish and Wildlife Service.

According to the Fish and Wildlife Service official in charge of the day-to-day operations of the agency's air quality program and one of his staff members, air quality issues have been a low priority within the Fish and Wildlife Service, falling below groundwater contamination and other concerns. They explained that funds for studies were made available only when refuge managers were concerned about air pollution and requested funds through the normal regional budget process. There has been no Service-wide budget initiative to support the air quality program, they added, especially for ambient and biological effects monitoring, in order to fulfill PSD responsibilities.

National Park Service

The Park Service, by contrast, has spent considerably more to monitor and evaluate air pollution effects and believes it has at least partially inventoried or assessed all its Class I areas for the purposes of PSD permit application reviews. At the time of a permit review, the agency says, the Park Service reviews available information and may supplement it with additional studies as necessary. Between 1977 and 1987, the Park Service spent about $4.6 million on inventory and monitoring activities, focusing on visibility and vegetation resources as indicators of air quality-related values. The agency also spent about $11.8 million on cause-and-effect studies during this same period.

According to officials of the Park Service's Air Quality Division, the agency still lacks sufficient information to determine, in all cases, whether a proposed facility will have an adverse impact on park resources. This is particularly true in cases involving ozone, where it is difficult to establish a source-receptor relationship because ozone is not directly emitted. It is also difficult in the case of ozone to determine precisely what constitutes an adverse impact, that is, whether spots on leaves can be considered an adverse effect, or whether some more drastic effect, like a change in an entire ecosystem, must be demonstrated. Park Service officials acknowledged that they have set highly rigorous standards for information, anticipating that any adverse impact determination might be legally challenged and would therefore have to be based on very certain information.

Although Park Service officials believe the agency's air quality data are good, they believe more information is needed on the resources of Class I areas, along with additional research on the biological effects of air pollution. The Park Service estimates it will need about $11 million over the next 10 years for inventory and monitoring activities and another $15 million for cause-and-effect studies, again focusing just on visibility and vegetation. For an adequate inventory of additional air quality-related values, including visibility and vegetation, the Park Service estimates it would need a total of $14.4 million over a 5-year period, or $300,000 for each of the 48 Class I areas.

Park Service officials believe that the current level of staff and resources is more or less adequate and will ultimately yield the necessary information if funding levels are maintained. According to its fiscal year 1988 action program, the Park Service plans to develop inventory and monitoring programs for at least 20 parks a year over the next 5 years, beginning in fiscal year 1989. Officials said that the Park Service also plans to continue its biological effects research program at least at current funding levels, although the agency is currently in the process of reviewing its program and anticipates some internal redirection.

Forest Service

Although it did relatively little in the past, the Park Service has begun to expand its air resource management program. Between 1977 and 1987, the agency spent $1.5 million on efforts to inventory air quality-related values, with no Class I area completely inventoried. Moreover, according to the Forest Service's watershed and air management director, none of the Class I areas had been adequately characterized for the purposes of reviewing Class I permit applications. During this same 10-year period, the Forest Service spent close to $10 million on research related to effects of air pollution, research it characterizes as applicable to numerous Class I areas.

In 1986, however, the Forest Service began to reevaluate its air resources program and its compliance with the Clean Air Act. According to its August 1987 draft report, the natural resources at risk from potential development around Class I areas were unknown. The Forest Service noted that because of this lack of information, permit applications were handled inconsistently, with regional foresters sometimes recommending approval of an application because of inadequate information, and in other regions, recommending denial for the same reason.

Following the evaluation, the Chief of the Forest Service decided to strengthen the agency's program by committing additional funds and staff to inventory and monitor the condition of air quality-related values in Class I areas. The Forest Service's goal is to inventory all Class I areas by the year 2000 and to monitor the 50 or so areas that are threatened. The Forest Service therefore added funds to its fiscal year 1988 and fiscal year 1989 air program budgets and requested $3.5 million for fiscal year 1990—more than twice the amount it spent on inventory activities in the entire preceding decade. The Forest Service plans to seek similar funding levels for inventory and monitoring purpose for each of the next 10 years. In addition, the Forest Service has undertaken a long-range research program on atmospheric effects on forest ecosystems. Although not aimed specifically at Class I areas, the Forest Service believes that research results are well suited for application to these areas. For fiscal year 1990, the Forest Service requested $14.7 million for the program and believes that the same amount (in constant dollars) would be required over each of the next 10 to 20 years to complete the studies necessary to adequately protect all Class I areas.

APPENDIX IV.—STATES HAVE DESIGNATED NO NEW CLASS I AREAS

In keeping with the states' overall responsibility for the PSD program, section 164 of the Clean Air Act authorized states and Indian tribes to designate any areas they deem appropriate as Class I areas. In addition, the act directed federal land managers to review national monuments, primitive areas, and national preserves, and recommend to the states and the Congress any areas appropriate for redesignation from Class II to Class I because of important air quality-related values. In 1979 and 1980, land managers recommended 59 areas to be redesignated. In addition, over 260 new national parks and wilderness areas have been created that meet the original acreage criteria for Class I areas. Nevertheless, the states have not designated any additional Class I areas.

Following the act, federal land managers evaluated 110 areas altogether: 82 national monuments, 2 national preserves, and 11 primitive areas administered by the Interior Department, and 15 Forest Service primitive areas. The Forest Service in 1979 recommended that all 15 of its areas be redesignated as Class I. In 1980, the Secretary of the Interior published a final list of 44 areas recommended for redesignation, based solely on the presence of air quality-related values. However, none of the 14 states and territories in which these 59 areas are located—Alaska, Arizona, California, Colorado, Florida, Idaho, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Wyoming, and the Virgin Islands—ultimately redesignated any of these areas, for a variety of reasons.

According to officials of the air quality agencies in 10 of these states,[1] the states often did not pursue redesignation because they lacked the resources or expertise to perform the redesignation studies required by the Clean Air Act, or because they did not believe they were responsible for conducting them. Although the act does not state who should conduct these studies, it requires an analysis of the health, environmental, economic, social and energy effects of redesignation, and it requires that public hearings be held before the states can redesignate any area.[2]

In Florida, which has three areas recommended by the National Park Service, an official of the state air quality office said that the state believes that it is up to the Park Service to conduct the environmental studies since the state has neither the responsibility nor the ability. Officials in both Wyoming and Montana report that their states require by law that the party seeking redesignation perform the necessary studies. In 1981, a citizens coalition petitioned the state of Wyoming to redesignate the Cloud Peak Wilderness, but the state denied the petition, according to its air program administrator, in part because the citizens had not conducted the required studies.

In other cases, state officials claimed that redesignation had not occurred because the state's air quality program already adequately protected the recommended areas; this was reported by Alaska, Montana, Nevada and New Mexico. Some state officials also believed that the PSD program was not the most effective way to deal with air quality problems. In California, for example, the state Air Resources Board began in 1980 to conduct redesignation studies for those areas recommended by federal land managers as well as for other Class II areas

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[1] Air quality officials in Idaho and the Virgin Islands were not familiar with redesignation recommendations and could not respond to our questions. In South Dakota, the air program administrator had been unaware that the portion of Badlands National Monument recommended for Class I designation was not already a Class I area, along with the rest of the monument.

[2] In a June 1983 opinion, the U.S. court of Appeals for the Ninth Circuit stated its view that the act required the state of California to conduct these studies.

in the state (such as areas that had been designated wilderness after the 1977 amendments to the Clean Air Act.) However, according to a staff member of the Board, the state's ozone problem shifted priorities and resources away from the redesignation studies. This staff member said that the state currently believes that solving urban ozone problems would also solve air pollution problems in remote areas that were caused by atmospheric transport of pollutants.

According to a state air program official, Arizona also did not pursue redesignation for the nine areas in the state that were recommended because the state believes that the PSD program is not adequate to solve air quality problems in the state's clean air areas, which come from sources that are exempt from regulation, including grandfathered and minor sources. Similarly, a Colorado air program official said that the state believes that the PSD program is not adequate to deal with regional haze and acid deposition, two of the state's biggest air pollution problems, and it has therefore not put much effort into redesignation. He said the state believes that an EPA standard for fine particulates is a less complex and less controversial tool for dealing with visibility problems than is redesignation.

For a number of areas recommended by federal land managers, state officials did not pursue redesignation because of concerns about the effects on economic development in the surrounding areas. In Utah, for example, which has seven areas that were recommended for redesignation, state air program officials said that the state dropped further plans after they were met with intense opposition from industry and elected officials during public hearings on redesignating one of the areas. In the case of Death Valley National Monument, which is located in both California and Nevada, the state of California undertook a redesignation study, but a Nevada air program official said that Nevada was opposed to redesignation because it claimed that it would cause economic hardship to nearby industries if they were required to reduce emissions. Similarly, according to an air program official, the state of Colorado dropped its plans to redesignate Dinosaur National Monument, which lies in both Colorado and Utah, after the state of Utah objected.

In a couple of states, officials told us that they had not pursued redesignation, in part, because federal land managers had not been more aggressive in recommending redesignation. Florida's air program official, for example, said that the state had given redesignation a low priority because the Park Service had not pressed the state. The Alaska air program official we interviewed said that he regarded Interior's recommendation as a finding of suitability rather than a recommendation for the state to act. He said that in his view, the federal land manager would have to actually recommend redesignation and conduct the necessary studies before the state would proceed. Neither Interior nor the Forest Service, however, have taken an active role in redesignation. The Forest Service's policy is to provide assistance and to consult with states considering redesignation but not to initiate redesignation. While Interior does not have a formal policy statement on redesignation, it has, in the past, discouraged Park Service officials from pursuing redesignation for wilderness areas in Alaska.

For the same reasons that kept them from redesignating areas to Class I status in the past, almost all of these states have no plans to pursue redesignation in the future. However, the state of Oregon began work in 1987 to redesignate 29 Class II areas in the state, most of which became wilderness areas after 1977. The state believes that a Class I designation would better protect these areas from possible new industrial sources and also from Forest Service burning practices. Formal action is not expected before the Spring of 1991.

APPENDIX V.—MAJOR CONTRIBUTORS TO THIS REPORT

RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION, WASHINGTON, DC

Peter F. Guerrero, Associate Director.
William McGee, Assistant Director.
Bernice Steinhardt, Assignment Manager.
Douglas Isabelle, Evaluator-In-Charge.
Carol Ruchala, Evaluator.

Mr. President, on this amendment I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Who seeks recognition?

The Chair recognizes Senator REID from Nevada.

Mr. REID. Mr. President, I am pleased to join Senators ADAMS and WIRTH in sponsoring this amendment which reiterates our concern and objective to set goals for the preservation, protection, and enhancement of air quality in our national parks and wilderness areas.

Mr. President, since speaking on S. 1630 during the first hours of debate, and the substitute amendment introduced 2 weeks ago, I took the opportunity to express my admiration for Senator BAUCUS and Senator MITCHELL on this side, and Senator CHAFEE on the other side of the aisle for the personal efforts they took to establish the framework and spirit of conciliations. Today, I would also like to express my appreciation on this particular amendment for the steadfast effort of Senator SIMPSON.

This amendment has undergone significant discussions over the course of consideration. Two weeks ago and again last night, we were ready to proceed in an adversarial way on this amendment. But based on Senator SIMPSON's persistent efforts to try to resolve contested issues, we went back to the bargaining table again today to find common ground. We believe that we have arrived at the right location at the right time.

As Senator ADAMS has indicated, this amendment will direct the Administrator to deal with regulations of both plume blight and regional haze as intended in the 1977 amendments. The National Parks and Conservation Association shares our view that, without this amendment, EPA will do nothing about regional haze. This amendment will provide us, in Congress, with assurances, on a periodic basis, that reasonable progress is being made toward a national goal of protecting and preserving visibility in our national parks and wilderness areas.

I admit, Mr. President, that I have a personal interest in this subject. In 1988, I authored an article on visibility in the National Parks magazine. It was entitled "Restricted Vision: Clean Air Amendments Are the Key to Saving Our Sweeping Vistas." We are at the point now where the Clean AIr Act may finally take into consideration what I wrote about in 1988. I said then, and I believe now, that the clean air amendments are essential to the preservation and protection of our magnificient vistas.

My experiences in Nevada lead me to conclude that—if we are to preserve for future generations, a number of memorable experiences in our lifetimes—then, today, we must preserve some of our heritage through the protection of our national parks and wilderness areas. Demands in national parks are increasing; air pollutants are increasingly impacting our national parks. All too often, visibility is degraded in the parks; in fact, there are reports of degradation in all of our parks in the lower 48 States.

Mr. President, I must call to your attention and to the attention of my colleagues graphic illustrations of the problem. They will remain available to my colleagues during the course of this debate on this amendment.

These must be kept in mind when each of us will decide what this generation shall pass along to the next. These pictures speak for themselves: They represent the wide range of visibility conditions that occur on the parks. These photographs are from Yosemite National Park, Glacier National Park, Shenandoah National Park, and the Grand Canyon National Park in my neighboring State of Arizona.

But, Mr. President, before we get too enthralled with these photographs, let us recognize that there is a reduction in visibility that is due to nature. That is where the name "the Smokies" came from; they were aptly named. The snowfall in the Nation's Capital yesterday decreased our visibility. In fact, a measure of precipitation intensity is its reduction in visibility.

But that is not what we are addressing. We are addressing manmade pollution and manmade impairment to visibility.

As I mentioned earlier, the Grand Canyon is something special to the residents of and the visitors to Nevada. As I spoke on the floor at the start of this second session, the junior Senator from Arizona was present. He talked about a trip that he took to Japan where some people in Japan actually thought the Grand Canyon was in Nevada. We take pride in the Grand Canyon even though it is not physically located in the great State of Nevada.

It is very common for Nevadans to take short trips to see nature's handiwork in all its colorful splendor. Visitors to Nevada do the same by the tens of thousands every month. We do not want to see, nor do our visitors want to see, these bright colors muted by haze.

I had the opportunity to speak to the substitute amendment 2 weeks ago and expressed, at that time, my concern that we must be careful that we do not allow significant increases in emissions of sulfur dioxide and oxides of nitrogen to lead to significant deterioration of these magnificent vistas in the West.

This amendment complements the acid rain provisions of the substitute amendment that is now before this body. With the reductions in emissions mandated under the other titles of the bill as well; namely, the nonattainment and air toxics provisions, we recognize that the potential for improvements in visibility exists. We welcome this!

We also recognize that we must be cautious with future development in the vicinity of those areas. We must not allow the breathtaking views of the West, the true national treasures, to be lost in the haze.

Proper siting of major facilities and effective use of air pollution control technology will provide the crucial balance between environmental protection and economic development. Our Nation needs both of these to sustain a vibrant "Quality of Life." This is not, I repeat, this is not a no-growth initiative. It is a sensible growth initiative.

We have seen the appreciation for the natural wonders of our Nation already reflected in the additional attention given to site selection for major stationary sources in the West. This was the intention of Congress with the 1977 amendments. So was dealing with regional haze. This is an unfulfilled promise to Americans that we must remedy; and we are doing that with this amendment.

The U.S. National Park Service reports that millions of people visit the parks each year in search of rest, recreation, and physical and spiritual renewal. Visitors continue to be astounded by these national treasures and place a high value on knowing these resources are being protected and preserved for future generations.

The research on the effects of visibility indicate that one of the most important features of the visitor experience in the park is the clean, clear air. The park visitors value an environment undisturbed by man above all other features. We must decide whether the visitors to our national treasures must resort to buying a picture postcard and say, "This is what I missed when I went to the national park."

And with these graphic statements, behind me, Mr. President, you can appreciate that on a clear day you can see almost forever; but when man-made haze envelopes these treasures you cannot see very far. This must be remedied.

The majority of "America the Beautiful" is vested in our National Park System. We proudly put our gems on display for all Americans and visitors from around the world to see. Let them see it in all of its splendor the way our forefathers envisioned when they created the National Park System.

I urge my colleagues to consider, seriously, the meaning of this amendment to our Nation and to future generations, and to support it enthusiastically. As far as I am concerned, this is a vital part of this clean air bill that has taken so much of the Senate's time. This amendment reaffirms the intent of Congress and ensures that EPA will finally move effectively to address plume blight, regional haze, and reasonable progress toward achieving our national goal.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I think this is a fine amendment. As a matter of fact I would like to be added as a cosponsor, if that will be all right with the sponsors of the bill. I think it has been eloquently explained by the Senator from Washington and the Senator from Nevada.

I must say the pricetag seems a little steep. I am not sure how they arrived at the particular figure of the $8 million for 5 years but I suppose these studies are expensive. But whatever, whether that is the right figure or it should be something less, I presume that the EPA can always contract it out for less than that to achieve the goals. But I think it is a fine objective they are seeking here. I am glad they brought up the amendment. But I would like to ask how did the Senator arrive at the figure?

Mr. REID. Mr. President, will the Senator yield?

Mr. CHAFEE. Yes, I would like to know the answer.

Mr. REED. This amendment, I say to Senator CHAFEE, has been in the process of being worked on now for weeks. The administration has been part of each negotiation and this was the best estimate we could all come up with. It may be a little bit less or a little bit more but this is the best we could come up with.

Mr. ADAMS. If the Senator will yield, this was the figure recommended by EPA with $5 million for the East and $3 million for the West and was an agreed-upon figure. We are happy to have the Senator join as a cosponsor and I ask unanimous consent that might be done, Mr. President,

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I thank the Senator very much.

The PRESIDING OFFICER. The Chair recognizes Senator BAUCUS.

Mr. BAUCUS. Mr. President, this is a very constructive amendment offered by the proponents of the amendment which we have gone through long and intense negotiations with to arrive at this point. I compliment the Senator from Washington and the Senator from Nevada for the very hard work they have undertaken so we can now here today take up their amendment.

There were some other Senators here that had some questions about earlier versions of the amendment. Those other Senators and their staffs have worked very long and hard to try to work out those differences, and I commend the Senator from Washington and the Senator from Nevada as well as other Senators, particularly the Senator from Wyoming, Senator SIMPSON, who has worked very diligently on this amendment.

It will help—that is, the study that is authorized by this amendment as well as the commission to be set up which would include Governors and administrators of the areas in question—the commission along with the study will very much help EPA adopt regulations to help assure that the State implementation plans in fact take visibility into due consideration.

Visibility is a problem in the West. There are many people who believe that there may be smog in some Eastern States, Eastern cities, and the air may be a little bit less pristine than the Southern cities in the country, but the West is pure, clean air. We in the West do have relatively clean air but there also are parts of the West where there is haze, where visibility is a problem. It is very important that, not only for the West generally but for all American visitors who visit our national parks, who visit our National Forest Service land, that the air is as clean as possible and the visibility is much less of a problem then otherwise might be.

So this is a very constructive effort here. I commend the Senators and thank them for offering this amendment.

Mr. President, I am unaware of any other Senator who wishes to speak on this amendment. I think we are ready for a vote.

Mr. ADAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senator SIMPSON and Senator DOMENICI be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, the pending amendment has a minor technical omission which, for drafting purposes, must be cleared up. I have checked with both sides. There seems to be no problem with it. I ask unanimous consent that the technical correction be added to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1354), as modified, is as follows:

On page 127 after line 2 insert the following:

Visibility

Section 169(A) of the act is amended by adding the following new section.

"SEC. 169(B).

Studies

(a)(1) The Administrator, in conjunction with the National Park Service and other appropriate federal agencies, shall conduct research to identify and evaluate sources and source regions of both visibility impairment and regions that provide predominantly clean air in class I areas. A total of $8 million per year for 5 years is authorized to be appropriated for the Environmental Protection Agency and the other federal agencies to conduct this research. The research shall include—

(A) expansion of current visibility related monitoring in class I areas;

(B) assessment of current sources of visibility impairing pollution and clean air corridors;

(C) adaptation of regional air quality models for the assessment of visibility;

(D) studies of atmospheric chemistry and physics of visibility.

(2) Based on the findings available from the research required in subsection (a)(1) of this section as well as other available scientific and technical data, studies, and other available information pertaining to visibility source-receptor relationships, the Administrator shall conduct an assessment and evaluation that identifies, to the extent possible, sources and source regions of visibility impairment including natural sources as well as source regions of clear air for class I areas. The Administrator shall produce interim findings from this study within 3 years of enactment.

Impacts of Other Provisions

(b) Within 24 months of enactment, the Administrator shall conduct an assessment of the progress and improvements in visibility in class I areas that are likely to result from the implementation of the provisions of the Clean Air Act Amendments of 1990 other than the provisions of this section. Every five years thereafter the Administrator shall conduct an assessment of actual progress and improvement in visibility in class I areas. The Administrator shall prepare a written report on each assessment and transmit copies of these reports to the appropriate committees of Congress.

Establishment of Visibility Transport Regions and Commissions

(c)(1) AUTHORITY TO ESTABLISH VISIBILITY TRANSPORT REGIONS.—Whenever, upon the Administrator's motion or by petition from the Governors of at least two affected states, the Administrator has reason to believe that the current or projected interstate transport of air pollutants from one or more States contributes significantly to visibility impairment in class I areas located in the affected States, the Administrator may establish a transport region for such pollutants that includes such States. The Administrator, upon the Administrator's own motion or upon petition from the Governor of any affected State, or upon the recommendation of a transport commission establishes under subsection (b) of this section may—

(A) add any State or portion of a State to a visibility transport region when the Administrator determines that the interstate transport of air pollutants from such State significantly contributes to visibility impairment in a class I area located within the transport region, or

(B) remove any State or portion of a State from the region whenever the Administrator has reason to believe that the control of emissions in that State or portion of the State pursuant to this section will not significantly contribute to the protection or enhancement of visibility in any class I area in the region.

(2) VISIBILITY TRANSPORT COMMISSIONS.—Whenever the Administrator establishes a transport region under subsection (c)(1) of this section, the Administrator shall establish a transport commission comprised of (as a minimum) each of the following members:

(A) The Governor of each State in the Visibility Transport Region, or the Governor's designee.

(B) The Administrator or the Administrator's designee; and

(C) A representative of each Federal agency charged with the direct management of each Class I area or areas within the Visibility Transport Region.

(3) All representatives of the federal government shall be ex officio members.

(4) The visibility transport commissions shall be exempt from the requirements of the Federal Advisory Committee Act (5 U.S.C. Appendix 2, section 1).

(5) Section 113(a)(b) and 113(a)(2) are revised to add "or of implementing section 169(B)" after "air pollution)".

Duties of Visibility Transport Commissions

(d) A Visibility Transport Commission:

(1) shall assess the scientific and technical data, studies, and other currently available information, including studies conducted pursuant to subsection (a)(1), pertaining to adverse impacts on visibility from potential or projected growth in emissions from sources located in the Visibility Transport Region; and

(2) shall, within four years of establishment, issue a report to the Administrator recommending what measures, if any, should be taken under the Clean Air Act to remedy such adverse impacts. The report required by this subsection shall address at least the following measures:

(A) the establishment of clean air corridors, in which additional restrictions on increases in emissions may be appropriate to protect visibility in affected class I areas;

(B) the imposition of the requirements of Part D of this title affecting the construction of new major stationary sources or major modifications to existing sources in such clean air corridors, specifically including the alternative siting analysis provisions of section 172(b)(11)(A) of this title; and

(C) the promulgation of regulations under section 169A of this title to address long range strategies for addressing regional haze which impairs visibility in affected class I areas.

Duties of the Administrator

(e)(1) The Administrator shall, taking into account the studies pursuant to subsection (a)(1) and the reports pursuant to subsection (d)(2) and any other relevant information, within eighteen months of receipt of the report referred to in subsection (d)(2) of this section, carry out the Administrator's regulatory responsibilities under section 169A, including criteria for measuring "reasonable progress" toward the national goal.

(2) Any regulations promulgated under section 169A of this title pursuant to this subsection shall require affected States to revise within 12 months their implementation plans under section 110 of this title to contain such emission limits, schedules of compliance, and other measures as may be necessary to carry out regulations promulgated pursuant to this subsection.

Grand Canyon Visibility Transport Commission

(f) The Administrator pursuant to subsection (c)(1) shall, within 12 months, establishing a visibility transport commission for the region affecting the visibility of the Grand Canyon National Park.

(e) NOTICE TO FEDERAL LAND MANAGERS.—Section 165(d)(2)(A) of the Clean Air Act is amended to read as follows:

"(2)(A) Upon transmitting a copy of a permit application and notice under paragraph (1) to the Administrator, the State shall also provide a copy of such permit application to any Federal land manager and any Federal official charged with direct responsibility for management of any lands within a class I area, or an area described in paragraph (1) or (2) of section 164(a), which may be affected by emissions from the proposed facility. The Administrator shall require applications submitted under paragraph (1) to contain sufficient information to enable the appropriate Federal land manager of such Federal lands to determine the potential effects of such facility on the air quality related values (including visibility) of such Federal lands.

(h) IDENTIFICATION OF POTENTIAL ADVERSE IMPACTS.—Section 165(d)(2)(b) of the Clean Air Act is amended—after the words "affirmative responsibilities to" add the words "identify and".

Mr. WIRTH. Mr. President, as I have traveled around this country in recent years, I have come to appreciate more than ever an extraordinary

resource that we enjoy in the American West—our largely pollution-free skies and nearly limitless visibility.

The grandeur of the American West lies partly in the shimmering snow-capped peaks of the central Rockies, and the vast panoramas of the canyon country throughout the Colorado plateau. But it is also the result of our ability to experience these natural wonders.

Without clean air and the ability to see nearly to the limits of the Earth's horizon, we would not be able to experience the full breath-taking scope of the Grand Canyon from the South Rim, or Colorado's mountain scenery.

In the Colorado plateau region of the West, average visibility exceeds 130 miles during the summer. This compares with average visibility in the East of only 10 miles. Visibility in the West is as good as any in the world. This is a resource that draws millions of visitors from around the world each year to see and experience the natural wonders of the American West.

This is a tremendous resource, both environmentally and economically. But, Mr. President, the National Park Service's research on visibility protection for national parks and wilderness demonstrates that visibility in the American West is an endangered resource.

We know from visibility records that visibility 45 years ago in the eastern United States averaged 50 miles. Now it is only 10. This deterioration in visibility is no longer a mystery. Park Service research shows us now that visibility degradation in the East is caused primarily by sulfates—the same pollutant that causes acid rain.

The increase in sulfate pollution in the East has followed from the large increase in sulfur emissions that has accompanied the installation of coal-burning plants since World War II. Most of what is seen as visible haze in the East today is not natural. It is sulfates in the air.

We can see the early warning signals of the same phenomenon occurring in the West. The National Park Service has been conducting visibility research and monitoring in Western parks for more than 12 years. They have dramatically demonstrated how manmade pollution contributes to visibility impairment in the Grand Canyon.

I have another example closer to home, Mr. President. Last Sunday, the Denver Post reported that the Mt. Zirkel wilderness area, high in Colorado's Park Mountains, suffers from the worst sulfate pollution levels in the Rockies. In fact, the Mt. Zirkel wilderness area receives 20 percent more sulfate pollution than does Rocky Mountain National Park, which is a wintertime victim to metro Denver's brown cloud.

The Denver Post explained that government scientists have long suspected that the Hayden powerplant was contaminating the wilderness area. On some days, forest rangers said, haze obscures the spectacular peaks and meadows of the wilderness area.

Mr. President, this pollution problem is what EPA calls regional haze. And while the Rocky Mountain West has made some real progress in reducing sulphate pollution—primarily from the cleanup of copper smelters—pollution levels are expected to begin increasing again. And increasing pollution means decreasing visibility.

A 1985 EPA study showed that visibility in the region is expected to decline by 10 percent between 1980 and 1995.

The National Park Service has also looked at future pollution trends in the West. Their research projects that bad pollution days in the Grand Canyon will increase from only 9 days per summer to about 30 days per summer by 2010 if expected increases in sulfate pollution occur. At the same time, the clean days depicted, are expected to nearly vanish.

Despite these findings, EPA has refused to move forward with the adoption of regional haze regulations under the 1977 visibility protection amendments. EPA defeated a citizen suit brought to require the adoption of regulations needed to control regional haze. As a result, the EPA has effectively repealed the protections we thought had been enacted in 1977.

Mr. President, 2 weeks ago the administration conceded, in testimony before a House subcommittee, that it does not intend to implement a regional haze program for at least another 10 years. Another 10 years.

But at the same hearing, Mr. President, the National Park Service and the U.S. Forest Service witnesses testified that it is time for EPA to act. The problem is going to get worse and the technical tools are available today to remedy this threat to our wilderness areas and national parks.

And EPA admitted that visibility in Western parks could be degraded by as much as 23 percent, even after the acid rain provisions in the bill now before us, have been implemented—because the acid rain reductions will occur primarily in the East and Midwest.

To protect our national parks and wilderness areas, EPA needs to get on with the task of identifying the sources of regional haze, and then developing as strategy to reduce this blight in our parks and wilderness areas. This amendment tells EPA to do that. I hope they hear the message of our amendment and move forward quickly to stop pollution of our parks and wilderness areas before the problem gets any more serious.

In closing, Mr. President, I want to emphasize the importance of this issue to the West. This is not just an environmental issue. This is an economic issue vital to the health of the economy of Colorado and other Western States. Today, tourism and outdoor recreation is the second largest sector of Colorado's economy. It has increased in this decade to the point where it exceeds mining and agriculture as a source of income for the people of my State. This is a bread-and-butter issue, Mr. President.

President Bush last summer expressed the importance of environmental protection as an essential element in developing a healthy economy. There is no better example than visibility protection in our parks and wilderness where environmental protection and economic growth go hand-in-hand. In this case, as in most cases, we can have environmental protection and economic growth, but in this case we must have effective protection of our world class resource to continue to promote the growth of our recreation-based industry.

I urge my colleagues to support the protection of our parks and wilderness. Let me remind you that last summer the President chose the Grand Teton National Park as the place to announce his Clean Air Act amendments. This was no accident. The whole world understands the importance of clean air in our national parks. The President promised his commitment to protect clean air in the parks. We can do no less.

This amendment is an important step toward assuring that we achieve that result.

I would have liked to do more. I would have liked to set up a far more aggressive program to clean up the air in our parks, and I hope that the Congress will return to this subject, and do that.

For now, Mr. President, this amendment represents a compromise which is a first step in this direction.

Mr. President, there is one thing I would like to make especially clear about this amendment. That is that it is in no way intended to in any way diminish or alter the duties the administrator of the EPA already has under part C of title I of the Clean Air Act to protect visibility in class I areas such as our national parks and wilderness areas.

Instead, this compromise amendment attempts to provide a series of new tools for the administrator and Federal land managers to work together with Governors of affected States and others to achieve the goals set by section 169A(a).

It is my belief that EPA needs to do more using its current authorities, and that the efforts it has made to control regional haze and visibility impairment have not met the intent of existing law, which is quite clear—to make reasonable progress toward the nation-

al goal of prevention of any future, and remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution.

In other words, Mr. President, the amendment before us is intended to provide additional ways to reach an important goal set out in existing law; but it in no way removes the obligation of the administrator and other Federal officials to do their utmost to meet that same goal by every other means at their disposal under the law.

Mr. SANFORD. Mr. President, I rise today in support of Senator ADAMS' amendment to S. 1630 of which I am a cosponsor. This amendment will protect and improve the visibility in our country's national parks and wilderness areas.

Mr. President, this amendment does not breach a new subject. The amendment merely directs the EPA to carry out the visibility protection goals and regulations that were previously adopted in this Congress in the 1977 Clean Air Act. The goals in 1977 were to protect the beauty and the ability to view the beauty of our Nation's most precious and nationally recognized parks and wilderness areas.

It is 13 years later and not only have these goals not been met but the situation has worsened in many areas. In my home State of North Carolina, the visibility in the Great Smoky Mountains National Park has declined from nearly 50 miles to less than 10 miles.

Mr. President, North Carolina has been blessed with an abundance of natural wonders; from the Great Smoky Mountains, the crown jewel of the Smoky Mountains, to the Cape Hatteras area and barrier islands. As my colleagues know, I have fought long and hard to preserve the beauty of these areas, for not only ourselves and our children, but also for our children's children.

To ensure progress in the fight to preserve our national parks and wilderness areas this amendment is essential. We have waited too long for visibility protection for our parks. While we waited, the visibility problem in North Carolina, as I am sure in every other State, has steadly worsened.

In addition, the beauty of our national parks and wilderness areas brings in revenue to the communities near those parks and areas. By not passing this amendment, we will be the cause of a negative economic impact on the communities that depend on the parks for their well-being.

Mr. President, Senator ADAMS' amendment will allow us to finally reach the goals of the 1977 Clean Air Act in regard to visibility. We have fought too long and too hard in the preservation of our Nation's natural treasures to allow the visibility problem in these areas to go unfixed. I call upon my colleagues to approve of this amendment in order to carry out the national commitment to protect our parks and wilderness for ourselves and future generations.

Mr. McCLURE. Mr. President, I rise in opposition to this amendment. It is, I believe, unnecessary, but is a vast improvement over earlier versions. As I understand it, the thrust of the amendment is to provide funding for additional research and studies on visibility problems within class I areas, as currently defined in existing law. The amendment is also designed to give added encouragement to the EPA to exercise its current regulatory authority under section 169A of the Clean Air Act. The amendment makes only minor substantive amendments with respect to the information requirement in section 169A.

It is important to note what the amendment does not do. First, it does not establish any requirement for EPA to issue regulations under 169A. If the Administrator does decide to issue regulations, then they must include certain provisions, but again, the decision to issue regulations is discretionary.

Second, the amendment does not authorize or envision, the establishment of visibility standards or integral vista outside the class I areas. Existing law remains unchanged on this point.

Because I believe this amendment does little to change existing law and its thrust could be accomplished by other less expensive means, I urge opposition to the amendment.

Mr. GARN. Mr. President, I would like to add my views to those already given by several Senators on the floor of the Senate here this afternoon. It has been purported that this amendment is a strong step toward achieving the original intent of the 1977 amendments to the Clean Air Act visibility standards. I mostly agree with those statements, but believe some explanation is required to place the issue in its proper context.

The original Adams amendment as proposed a few weeks ago would have wreaked havoc on my State of Utah. It would have established 200-mile buffer zones around existing and future national parks and wilderness areas, effectively eliminating any future industrial development—large scale or small—in the State. The National Park Service and the Environmental Protection Agency tried a similar gambit during the waning days of the Carter administration in 1980.

Thankfully, President Reagan and two Utah Governors stopped the Carter visibility standards and saved Utah from being locked-out of legitimate industrial development opportunities. I spoke out then against this interpretation of the visibility standards just as I am speaking out today. Specifically I am speaking out against the creation of so-called integral vistas in Utah's high altitude national parks. Geographically, these vistas would preclude any industrial development in over one-third the land area of Utah. I must emphasize that unelected Federal bureaucrats, the Federal land managers, identified these vistas only in national parks. Thank heavens there was no mention of including wilderness areas at that time. As I have said, this would create economic chaos in my State.

So, for the record let me say the original draft of the Adams amendment would have substantially codified the ill-conceived Carter administration interpretations. Fortunately, both Senator ADAMS, Senator REID, and their staffs have been very reasonable over the past couple of weeks in addressing my concerns and the concerns of several other Senators on the issue of visibility protection in the Clean Air Act.

I should point out that our staffs spent over 7 hours today in the majority leader's office negotiating a much more reasoned approach to visibility protection. As has been said, our national parks are treasures set aside for permanent protection. No one is more proud of Arches, Canyonlands, Capitol Reef, Bryce Canyon, and Zion National Park than I am. These five parks are Utah's crown jewels along with the Glen Canyon National Recreation Area. I want to keep them in a pristine condition for selfish reasons. I want my children, my grandchildren, and all of their decedents to be able to enjoy our parks and to enjoy quality visibility while they visit the national parks in my State. I also want the Grand Canyon in neighboring Arizona to be clear, and Mr. President, I believe it will be.

This amendment, rather than doing mischief to legitimate growth and development opportunities will hopefully provide the Administrator of the Environmental Protection Agency and other appropriate Federal agencies with the tools to assess in a scientific way, the effects of regional haze on our national parks. States will now play a significant role in establishing visibility transport commissions in regions around the country. The studies these commissions conduct will provide the EPA with valuable recommendations on how to deal with regional haze problems in the Eastern United States as well as in the West. The EPA administrator then can attack the source of the problem, the cause, and not simply take actions—like imposing integral vistas—which prevent legitimate future growth.

With strong requirements imposed on the automobile industry and the electric utility industry already in the bill, the EPA Administrator can now assess how cleaning up pollution problems associated with those industries

effect visibility. That is the point I wish to make. The Administrator does not have to impose integral vistas as his only course of action, in fact this measure we have just adopted, should place such integral vistas in their anachronistic coffins once and for all.

I am pleased to say that the State of Utah was way out in front on its recommendations that we attack the source of the regional haze problem back in 1985. As a result of today's negotiations, States can now deal with the real source of the problem based on good science. It was for those reasons, I could support the amendment and vote for it. Thank you, Mr. President.

Mr. ADAMS. Mr. President, I wish to particularly thank Senator BAUCUS and Senator CHAFEE for their courtesy. They have been most patient as we have worked this out. I thank the members of the staff and some of the others who worked long on it. I hope that we can vote on this now. If the managers are ready, we are certainly ready to vote.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 1354, as modified.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 92, nays 7, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—92

Adams	Fowler	McCain
Armstrong	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Hollings	Reid
Byrd	Humphrey	Riegle
Chafee	Inouye	Robb
Coats	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kasten	Rudman
Cranston	Kennedy	Sanford
D'Amato	Kerrey	Sarbanes
Danforth	Kerry	Sasser
Daschle	Kohl	Shelby
DeConcini	Lautenberg	Simon
Dixon	Leahy	Simpson
Dodd	Levin	Specter
Dole	Lieberman	Thurmond
Domenici	Lott	Warner
Durenberger	Lugar	Wilson
Exon	Mack	Wirth
Ford	Matsunaga	

NAYS—7

Burns	Kassebaum	Wallop
Conrad	McClure	
Helms	Symms	

NOT VOTING—1

Stevens

So the amendment (No. 1354) as modified, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BREAUX. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ABILITY OF STATES TO REGULATE FUELS AND FUEL ADDITIVES TO MEET AIR QUALITY STANDARDS

Mr. KASTEN. Mr. President, the State of Wisconsin is concerned that the compromise would impede the State's right to regulate the emission of volatile components of motor fuels. My State is particularly concerned that without the ability to regulate all motor fuels they could have difficulty complying with some of the attainment standards contained in this bill.

However, I understand that in fact the "compromise" retains the provisions in current law that allow a State to regulate any fuels as a component of the State Implementation Plan, SIP. I would like to ask the distinguished managers of the bill if that is correct?

Mr. CHAFEE. That is correct. Section 211(c)(4)(C) of the Clean Air Act allows States to control motor fuels to control emissions as part of the SIP. Therefore, the Senator's State of Wisconsin would continue to be able to control this type of emissions through the SIP.

Mr. KOHL. I want to be very clear. Current law allows a "state to prescribe and enforce * * * a control * * * respecting the use of a fuel or fuel additive" for automobiles. If a State needs to adopt an RVP standard that is more rigorous than the Federal requirement for fuel additives or fuels they have that authority under current law. That authority is maintained in the legislation we are now considering. Is my understanding correct?

Mr. BAUCUS. The Senators from Wisconsin are both correct. Wisconsin will be able to regulate fuels and fuel additives under the SIP. The Administrator of the Environmental Protection Agency shall allow this State action if he or she finds the State control is necessary to meet national primary or secondary air quality standards.

Mr. KASTEN. I thank the managers.

Mr. KOHL. I thank the managers for clarifying this issue of such importance to Wisconsin.

Mr. MITCHELL. Mr. President, may I have the attention of Senators? The Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MITCHELL. Mr. President, we now have reached the situation where we have completed several major amendments and there are a number of others pending. I am asking all Senators who have reserved amendments to be prepared to offer them this evening. We are making substantial progress.

Everyone has had plenty of opportunity to review the bill and to consider what amendments they want to offer. It simply inconveniences all the other Members of the Senate for Senators to say they want to offer amendments, insist on having amendments reserved, but then be unwilling to come to the Senate Chamber and offer them.

It simply means more days in which we do not use our time to maximum efficiency, and longer in the evenings.

I see the distinguished Senator from North Carolina present. Do I understand the Senator is going to offer an amendment?

Mr. HELMS. Yes.

Mr. MITCHELL. That is fine. Before he does so, I would like to make a unanimous-consent request. Again, we have this long list that is included in the unanimous-consent agreement.

I have asked both Cloakrooms to check with their respective Senators, and the response we got back on the Democratic side was very few were withdrawn but even fewer Senators are ready to come forward and offer their amendments. There just comes a point in time when we have to proceed to complete action on the bill. And so I again urge and implore all Senators, we are just going to stay here until we finish it. If Senators like to stay around until midnight, 1 o'clock wasting time, that is, of course, their privilege.

Mr. ARMSTRONG. Will the Senator yield?

Mr. MITCHELL. Yes.

Mr. ARMSTRONG. I am one of the Senators who has some reserved amendments, but so far as I know there has not been any delay, and I believe as soon as he can gain the floor, the Senator from North Carolina is going to offer an amendment, of which I am a cosponsor. But the Senator, the distinguished leader, makes the point that the result of any delay, if a delay should occur—I am not aware there has been a delay. As far as I know, there has been active debate on amendments all through this day and other days. But the leader makes the point if there were such a delay, it would result in our staying late.

For my own part, I have no objection to staying late. I am not eager to do so. But as one Senator, I do object when we stay late and then we create what are known as windows. If we are going to have a window that starts at 5 or 6 o'clock in the afternoon and extends until 8, 9, 10 o'clock at night, I would rather have the window go on until the next morning. It does seem

to me that to the extent we can avoid creating windows, it would serve us better in advancing the cause of the bill and convenience of Senators. I am not aware if there is any window contemplated tonight. I hope there is not. Generically, I wanted to offer that comment.

Mr. MITCHELL. I found in my limited experience that Senators are opposed to windows unless they themselves request them.

May I ask the Senator from Colorado—he is listed for five clean air amendments—is he able to identify those amendments and whether he intends to offer them and when he intends to offer them?

Mr. ARMSTRONG. If the leader will yield, I am not prepared to do so at this point, but I will shortly. We are running our trap lines now. My hope is we will not need all five amendments, and my desire is to move quickly on anything I have to offer.

Mr. MITCHELL. When the Senator says soon and very quickly, is the Senator talking about today?

Mr. ARMSTRONG. Not necessarily, Mr. President. But I want to point out that it took 10 years of activity to get us to this point, and if it may take me as much as 10 days, which would be another day or two, to run my trap lines in Colorado, that would not be excessive, in my opinion. It may even be, may I say to the Senator, that I will not offer the amendments. I hope that is the case. But there are some issues that I may need to raise and interests that I need to protect.

Mr. MITCHELL. I thank the Senator. I merely repeat that I would like to proceed. There have been substantial gaps during the day today in which no amendments were offered and matters were not debated. To the extent that occurs during the day, it means we stay later in the evening. I am just trying to accommodate the interests of most Senators.

I wonder if the Senator from North Carolina would perimit the distinguished Senator from New Mexico to address the Senate just briefly on the previous amendment which is relevant to this concern.

Mr. HELMS. By all means.

Mr. MITCHELL. And then the Senator is welcome to offer his amendment.

Mr. DOMENICI. Mr. President, I thank the distinguished majority leader for helping me get the floor and yet keeping the order and movement of this bill.

I will not take but a few moments. Basically, before we are finished with this bill, I will address a couple other issues in which I am interested and on which I worked very hard to get this bill where it is today. But now I want to take a few minutes to thank the distinguished Senator from Washington who offered the visibility amendment that we just adopted. I note he is on the floor, and I am delighted he is.

I might first say to the distinguished Senator, I was pleased to be a party to that amendment, to cosponsor it, and work with the Senator on it.

Mr. ADAMS. Will the Senator yield?

Mr. DOMENICI. I will be pleased to yield.

Mr. ADAMS. I express my gratitude and appreciation to the Senator and particularly to the staff of the Senator for the hours and hours of work that they spent in seeing to it that this amendment was properly drafted. I know of the great interest the Senator has in it and the great impact it has upon his State. I express the gratitude of myself and other Members of the Senate for the Senator's assistance in the adoption of this amendment. It is appreciated.

Mr. DOMENICI. I thank the Senator very much.

Mr. President, the Senator from New Mexico was involved in the 1977 Clean Air Act. I was on the committee that produced it. I take a great deal of pride in two portions of the bill, one of which is the subject matter of the visibility amendment. The other is the very diligent efforts to protect national monuments and the like from brandnew facilities that would have imposed upon them. That is another section of the law, and I think it has worked rather well, the so-called no-significant-deterioration portion of the 1977 act. That is not really a visibility issue in the sense of the amendment that we just adopted and that I am discussing, but essentially that portion called no significant deterioration has worked. What it really did was to establish a number of areas in the country, large in size, that deserved to have pristine air, as pristine as we could maintain, and it set in motion a permitting system that essentially said, if you are going to build a major source close by, let us look at it very carefully and do not locate it too close. Apparently, that has been working.

The visibility issue is another issue. Frankly, in many parts of the United States, I assume mostly in the West, we have some real majestic sites where people of the United States and the world go to see some of the real jewels of nature. If we do not have visibility protected, then much of the majesty is lost. So what we have been trying to do is, in a reasonable and credible way, begin to regulate such that we will minimize the adverse visibility effects of various ambient pollutants.

We have not been too successful, and the amendment we just adopted will eliminate one of the major problems. One of the major problems is that we have not had either the authority or the resources or the appropriate mix of people to do the studying so that we come up with the kind of conclusions and evidence required to try to get at the visibility issue.

The commission that was established in the amendment that just adopted will do that. The various regional commissions and the authority and the resources to do the studies in the best way possible with current technology and current science is, indeed, exactly what we have to do. There may be some areas we have to regulate in advance of this commission work with reference to visibility, but essentially we have done that.

The next thing we have done in this amendment is add the right players, so to speak, because we have added the States and their respective representatives, Governors, and the like. We have added informed citizens, the EPA, and others to the regional commissions that will be in charge of determining the kinds of studies which should take place to determine, once and for all, in an orderly manner over the next few years what is the visibility issue. Do we have sufficient information about the adverse effects on visibility and, if so, do we know enough about from whence they come?

That is what we hope will come about over the next few years, so that we will not have consistently and constantly before those of us who are concerned an argument that there is not sufficient information or knowledge about the adverse effects on visibility and what is causing it.

So I rise tonight to say to the distinguished Senator from Washington, the principal sponsor of this amendment, I congratulate him and all of those who participated. It is a good amendment. It is not as rigid as some would like. It does not get things done as rapidly as some would like. I think it will stand the test of time. I think it will stand the test of those who want to contest the costs that are going to be incurred by people of the United States or regions in an effort to control the visibility issue.

I am fully aware that it is complicated. We have both clean and haze. That is a very broad, broad range, and dust can come from miles and miles away.

Having said that, let me once again say that I hope when we go to conference we keep this. It will put a giant tool in the hands of those who want to affect this in a positive way. It will end up with objective evaluations, and I do not believe it is going to be too costly when you consider what it will cost, if we do not do it and do it right, and let this visibility issue which has been presented in an admirable manner on the floor further deteriorate over the years, such that none of us will be proud.

Thank you very much. I yield the floor.

Mr. HELMS. Mr. President, I ask unanimous consent that I might yield to my friend for the time he requires without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. I thank my friend.

Mr. President, I would like to associate myself with the remarks of my colleague from New Mexico concerning the amendment that was just agreed to.

Mr. President, I represent a State that has one of the great natural beauties of the world, and that is the Grand Canyon. As most of us know, there has been considerable controversy over reduced visibility in the Grand Canyon. I believe that there are short-term answers to this problem which are being addressed through studies, through the National Academy of Sciences, and other ways that show that not only Arizonans, but all Americans, are concerned about the visibility of this great crown jewel of America's park system.

At the same time I believe the commission which will be appointed as a result of the amendment of the Senator from Washington will cure the long-term problems as far as visibility in the Grand Canyon and other parks throughout the Nation.

Mr. President, these things are bound to cost money. They are bound to be of some financial cost to all of us. But how can you compare the cost of a commission and their studies and the results of those commissions to be implemented with the preservation of the greatest natural treasure that makes America and my State unique throughout the entire world?

It is not an accident that 6 million foreign nationals visited the Grand Canyon last year. It is because the Grand Canyon's notoriety has spread throughout the world. Mr. President, if they came and viewed this canyon or any other national park which is close to sources of emission and saw that they were clouded with smog or visibility, I think all of us as Americans would be embarrassed. But more important than that, our job is not only to protect our National Park System and its great natural beauty for present generations, but for future generations.

I believe that the amendment that we just agreed to so overwhelmingly will take the giant step forward in that obligation that we as Americans have to preserve the great natural beauties of American for future generations.

I thank my colleague from Washington. I think he is to be congratulated for his innovative proposal which I think will be a very valuable part of this legislation.

Mr. HELMS. Mr. President, with the understanding that I do not lose the floor, I ask unanimous consent that I may yield to my friend, Senator CHAFEE, for such time as he may require.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, the only reason that I wish to speak at this time is to commend the remarks of the distinguished Senator from Arizona who has long been active in the affairs dealing with the Grand Canyon National Park. He has called the attention of those of us on the floor here in the Senate to the glories of that park many, many times. He has enticed us all to go out in that direction and visit the park.

I want to commend him for his remarks and his continued interest in that great national treasure.

I thank the Chair. I thank the Senator from North Carolina.

Mr. HELMS. The Senator is quite welcome.

Mr. President, I ask unanimous consent to set aside temporarily the pending Byrd amendment in order that I may offer an amendment which I am able to offer under the unanimous-consent agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. I advise the Chair that before I offer the amendment, let me pay my respects to several Senators who are cosponsors of the amendment I shall offer. Senator D'AMATO, for example, originally intended to offer an amendment similar to the one I am about to offer. I think Senator PRESSLER and Senator MURKOWSKI were intending to join with him, but having read the text of the amendment that I shall shortly offer, they graciously agreed to cosponsor the amendment that I shall offer. The cosponsors of the amendment, in addition to Senator D'AMATO, are Senator PRESSLER, Senator MURKOWSKI, Senator ARMSTRONG, Senator KASTEN, Senator MACK, and Senator HUMPHREY.

AMENDMENT NO. 1355 TO AMENDMENT NO. 1293

Mr. HELMS. Mr. President, as I indicated, I shall shortly offer an amendment which will support the democratically elected leaders of the Republic of Lithuania, who redeclared Lithuania's independence from the Soviet Union on March 11. Without a doubt the Lithuanian parliament's declaration of the continuance of Lithuania's independence directly reflects the desires of the people of Lithuania for freedom and national self-determination.

However, despite this declaration, the independent Republic of Lithuania remains militarily occupied, and I think that is a disgrace. All democratic nations should immediately stand behind the newly elected president of the Republic of Lithuania, Vytautas Landsbergis, the new president, and the parliament as they take courageous steps to regain full control over their sovereign territory in the face of the omnipresent Soviet military force.

Mr. President, since the redeclaration of independence, the Lithuanians have experienced economic sanctions and military intimidation. Yet, the Lithuanian Government refuses to bow to such pressure, and God bless them for taking that position. With the support of the Lithuanian people their government now stands completely behind the reemergence of the independent Lithuanian state.

Yet, as the Lithuanians courageously move to return to the West as a pluralistic democracy, and ask for recognition of their government, they are being constantly rebuffed. Instead of being welcomed with open arms, and shouts of joy from the United States, they are greeted with hesitant words and mixed feelings. The Lithuanian people are asked to wait and to negotiate when what they really deserve, Mr. President, is immediate applause and recognition.

Let us look at a little history. For almost 50 years, the Soviet Union has militarily occupied the independent and democratic Lithuanian state. On June 15th, 1940, Stalin ordered the Red army to invade Lithuania in complete disregard for peace treaties signed between the independent Lithuanian state and the Soviet Union of Lenin in 1920.

Immediately following the Soviet Union's premeditated act of invasion, President Franklin D. Roosevelt adopted the policy of nonrecognition of the forced seizure of territories.

It is worthy of note, continuing the historical record, that every President since Franklin Roosevelt, including President Bush, has refused to recognize the Soviet claims to the independent states of Lithuania, Latvia, and Estonia. In addition, the United States has maintained diplomatic relations with the charge d'affaires at the legation of Lithuania, which has consistently and effectively represented Soviet-occupied Lithuania through the painful 50-year period of military occupation.

During the past month, Mr. President, the people of Lithuania have exhibited great courage as they have moved peacefully, step-by-step, to regain their independence. On February 24, the Lithuanian people elected representatives in the first free and democratic election in Lithuania since the Communist takeover.

Given the choice of candidates from the opposition group and other political parties, the Lithuanian people overwhelmingly chose candidates who supported independence from Moscow, the removal of Soviet troops and military installations, and the creation of free market economy. Candidates fol-

lowing the Communist Party of Moscow were unable to convince the people of Lithuania that their country will be better off within the Soviet Union. The Lithuanian people made that choice, and they made it in a flat-out clear way. The people of Lithuania indeed proved to the free world in a democratic process that communism has absolutely no future in Lithuania.

The new parliament, now controlled by the former opposition, met on March 11 and proclaimed—and get this, Mr. President—the "restoration of the exercise of sovereign powers of the Lithuanian State, which were suspended by an illegal occupation in 1940," and further declare that "Lithuania is once again an independent State."

Clearly, Lithuania has exercised its internationally recognized right of self-determination by declaring independence from the Soviet Union. Lithuanians have waited patiently since World War II for the day that justice would get around to triumphing over oppression. The Lithuanian move was hardly brash, hardly unnecessary, and certainly not unexpected. It was simple in the eyes of everybody who beheld it. It was the natural outcome of man's desire for freedom.

Mr. President, the popularly supported parliament immediately elected Vytautas Landsbergis, a non-Communist leader of the Sajudis opposition group, as President of the Republic of Lithuania. Together Mr. Landsbergis and the parliament have maintained law and order and human rights in the sovereign territory of Lithuania, despite the presence of hundreds of thousands of Soviet Red Army troops in that country.

The Lithuanian Government has set the removal of hundreds of thousands of Soviet troops and installations, the return of Lithuanian conscripts of the Red Army to Lithuania, and the removal of the KGB security apparatus; all of these things are a top priority. The Lithuanian Government is working to regain control over the borders and plans to issue passports and visas, to print a national currency, and very important, to privatize industry as soon as possible.

The Lithuanians have exhibited a commendable willingness to pursue bilateral negotiations with the Soviet Union. The Republic of Lithuania is hardly unreasonable in its demand for sovereignty and international recognition of its independent government.

The Soviet Union, by all laws, should recognize the democratic government and let Lithuania go free. The independent Republic of Lithuania is not a threat to the Soviet Union and, therefore, should not be treated as an errant child. No, the Republic of Lithuania is an independent State, and any declaration made by President Gorbachev and the Soviet Congress of People's Deputies is ultra vires.

Immediately following the declaration of the continuance of the independent Lithuania, President Landsbergis and the parliament called upon the governments of democratic nations to recognize the laws and legislative acts of March 11 and to recognize the new government of Lithuania.

Let us look at the words of this appeal issued to the nations of the world. Let me quote:

> Having declared the continuation of the independence of the Lithuanian State and returned into the family of free nations of the world, the Supreme Council of the Republic of Lithuania is hoping for their brotherly solidarity and support.

They asked, and I quote: "The governments of the democratic nations—that includes us—to recognize," and I quote again: "the laws and legislative acts of March 11, 1990, and to recognize the new government of Lithuania." It is signed, "So help us God and all people of good will."

Mr. President, the United States of America is a nation of good will. Is the United States going to sit back now and allow the Soviet Union to recapture Lithuania once again? The Lithuanian people are struggling as we speak in this Chamber this moment against economic coercion and other tactics of intimidation. They are brave people, but they are frightened, as well. They are frightened that they may lose their democratic gains to military force by the Soviet Union. So the question is paramount: Is the United States going to tolerate another Tiananmen Square massacre, this time in Lithuania?

As a nation that has historically committed itself to freedom and democracy in all of Europe, which includes the culturally Western Baltic States, and to the policy of non-recognition of Soviet seizure of Lithuania, Latvia, and Estonia, the United States, in the judgment of this Senator, should be the very first Nation to embrace the new government of Lithuania. As a symbol of our support, the United States should congratulate the President of the Republic of Lithuania and recognize his government. Without hesitation, the President of the United States should, under his constitutional authority, send an ambassador to the Republic of Lithuania and invite the democratic government of the Republic of Lithuania to send an ambassador to the United States.

Mr. President, the time for Lithuania's independence is 50 years overdue. The time has come, this Senator believes, for Lithuania to stop having to endure the devastating effects of communism on their ancient and proud land and to enjoy once again the Western democracy and political pluralism that the Lithuanina people naturally prefer.

Mr. President, the people of Lithuania want recognition like the people of Poland, Hungary, and Czechoslovakia have wanted. They want recognition of the government they have elected to represent the people of that country. I might add that there are about 2 million Lithuanian Americans in this country who have greatly contributed to this free Nation.

Mr. President, I send an amendment to the desk and ask that it be stated. I reiterate that this amendment is cosponsored by Senators D'AMATO, ARMSTRONG, KASTEN, HUMPHREY, PRESSLER, MACK, and MURKOWSKI.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

> The Senator from North Carolina [Mr. HELMS], for himself, Mr. D'AMATO, Mr. ARMSTRONG, Mr. KASTEN, Mr. HUMPHREY, Mr. PRESSLER, and Mr. MURKOWSKI proposes an amendment numbered 1355 to the amendment No. 1293.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of amendment 1293, add the following new section:

"SEC. . Relating to international cooperation with respect to the independent Republic of Lithuania.

The Senate finds that:

On February 16, 1918, the sovereign Lithuanian people declared their independence from foreign domination; and

On July 12, 1920, the Government of the Union of Soviet Socialist Republics recognized Lithuanian independence and renounced forever any claim over Lithuania or its territory; and

On June 15, 1940, the independent state of Lithuania was militarily occupied by the Soviet Union in violation of peace treaties signed by the Soviet Union and Lithuania in 1920; and

Immediately following the illegal annexation of Lithuania, Latvia and Estonia in 1940, President Franklin Delano Roosevelt refused to recognize the Soviet claim to the independent Baltic States and adopted the policy of nonrecognition of the forced seizure of territories; and

Each President through ten administrations of both political parties since the time of President Roosevelt, including President Bush, has refused to recognize the annexation of Lithuania, Latvia and Estonia by the Soviet Union; and

The United States has maintained diplomatic relations with the charge d'affairs at the Legation of Lithuania who has continued to represent Soviet-occupied Lithuania since 1940; and

On February 24, 1990, the people of Lithuania held free and fair democratic elections under the specter of the occupation Red army, in which candidates who supported independence from Moscow, the removal of Soviet troops and military installations and the creation of a free market economy succeeded overwhelmingly over the communist party loyal to Moscow; and

On March 11, 1990, the Lithuanian Parliament proclaimed "the restortion of the ex-

ercise of sovereign powers of the Lithuanian state, which were suspended by an illegal occupation in 1940," and declared that "Lithuania is once again an independent state."; and

Pursuant to the U.N Charter Lithuania has exercised its internationally recognized right of self-determination by declaring independence from the Soviet Union; and

The Lithuanian Parliament elected Vytautas Landsbergis, a non-Communist leader of the Sajudis opposition group, as President of the independent Republic of Lithuania and has formed a government which reflects the full aspirations of the Lithuanian people; and

The Republic of Lithuania is now in legal control of the Government and the territory of independent Lithuania; and

Hundreds of thousands of Soviet Red Army troops and all Soviet military institutions nevertheless illegally remain in the independent Republic of Lithuania, contrary to the wishes of the government of Lithuania; and

Soviet President Mikhail Gorbachev and the Congress of People's Deputies have called the Lithuania Parliament's declaration of independence illegitimate and invalid and maintain that Soviet law remains binding on the citizens of independent Lithuania; and

The declaration by President Gorbachev and the Soviet Congress of People's Deputies is ultra vires; and

President Vytautas Landsbergis has called upon "the governments of democratic nations" to recognize the "laws and legislative acts of March 11, 1990 and to recognize the new Government of Lithuania":

The Senate therefore—

(1) congratulates President Bush for responding to the declaration of independence by urging Moscow to begin negotiations with the Lithuanian leaders;

(2) urges the President to recognize immediately the current democratic Government of Lithuania headed by President Vytautas Landsbergis and to establish direct relations with such government, since it represents the democratic aspirations of the people of Lithuania;

(3) calls upon the President to send appropriately accredited diplomatic representation at the ambassadorial level to the independent Republic of Lithuania under his constitutional authority and to invite the Republic of Lithuania to name an ambassador to the United States; and

(4) urges the Soviet Union to desist from the threat of or use of military force, tactics of intimidation, or economic sanctions in order to suppress democracy in the independent Republic of Lithuania.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thought this was a clean air bill we have here. I am a little concerned over this amendment being attached to our clean air bill. We have, it seems to me, a lot of problems just with our bill alone as has been indicated by the fact we have been here on the floor for so long, I guess as long as any bill has been on the floor under active consideration since I have been here.

I understand the strong feelings of the distinguished Senator from North Carolina and his cosponsors. But I would be anxious to know just exactly what our President thinks of this amendment and what the State Department, which would reflect his views, thinks of the amendment.

I do note on page 2 that the Senator has included the provision as follows: "The Republic of Lithuania is now in legal control of the government and the territory of independent Lithuania."

I think that is the crux of the difficulty here. I am not sure that it is recognized or that our Government does say that the Republic of Lithuania is now in legal control of the government and the territory of independent Lithuania.

I will not suggest that I am an expert on Lithuania. But I do know that our President is moving with considerable caution through this thicket, and it is a time that seems to be fraught with problems, difficulties and challenges for all involved.

I notice that the President when asked about this particular situation responds in a very gentle manner, without making strong claims one way or the other. I think the President is very conscious of the role of Mr. Gorbachev in connection with all these problems. So the President has his own reasons for treading softly, you might say, in connection with matters dealing with Lithuania.

Therefore, I am relucant to proceed at this time on this measure without further understanding the view of the White House and especially the President and perhaps we can receive those view very shortly. But pending that, unless other Senators wish to speak, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from Rhode Island makes an excellent point. We do not know the view of the administration on this amendment. It would be appropriate that we have those view before we proceed further,

In addition, I have informed the chairman of the Foreign Relations Committee, Senator PELL, of the amendment and I am advised that he is coming to the floor so we will have the views of the Foreign Relations Committee on this amendment as well.

Pending the arrival of either the bearer of good views or the nature of the administration position itself, I think it is probably appropriate that we suggest the absence of a quorum, and I do so.

Mr. HELMS. Will the Senator withhold?

Mr. BAUCUS. I withhold.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I think no amendment could be more appropriate to the Clean Air Act than this one. We want to clear the air about the Soviet domination of Lithuania.

I cannot believe that President Bush will have any objection whatsoever with this amendment as some of the people around him might, some of these sophisticated State Department types who always want to make a deal with the Soviet Union, and that sort of thing.

But we will let Senators vote on it. I think the case is stated pretty clearly in the amendment itself, line by line, precept by precept, and I hope equally so in the statement that I just made.

In any case, the yeas and nays have been ordered, and I am perfectly willing to wait for whatever information we want.

I will say it is something of a novelty in this Chamber to be concerned about the opinion of the administration, but I will be delighted to hear what they say about it. I would like to hear them or someone from the State Department not only state their opposition if they care to do so but to state why they oppose this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, every year, I believe, since I have been a Member of the Congress, we have at some time during the year adopted the so-called captive nations resolution, a resolution which annually conveys the sense of the Senate or the sense of the Congress that the United States disapproves of the forceful subjugation of the so-called captive nations, Estonia, Latvia, and Lithuania. We have done it year after year and it has not been something that has been an item of controversy or debate. It has been something I believe for 40 years—in fact, although I have not been around here for quite that long—I think for about 40 years, year after year, Congress has said we do not recognize the illegal annexation of these independent countries by the Soviet Union.

Recently, as we all know, Lithuania took a bold and courageous step through their leaders there. It is a part of a trend which raises the spirits and morale and hearts of people who love freedom. To watch what is happening in Lithuania, Poland, and

Czechoslovakia and elsewhere is really to witness things that many of us believed would never happen in our lifetime.

Mr. President, now that the Lithuanian people, through their leaders, have taken this step of faith to declare their independence, to take a step which may have consequences that none of us can foresee at this point, it seems to me that the resolution which is propounded by the Senator from North Carolina [Mr. HELMS] of which I am proud to be a cosponsor, is really right on target. What it says is that we still feel the same way now that they have taken this step that we did all those years when year after year we passed resolutions to commemorate the captive nations and declaring our solidarity with those who cared about freedom in Lithuania, Estonia, and Latvia.

Mr. President, I do not know whether there will be those who will speak against this. I anticipate that somebody might come to the floor and say, "Well, we have not studied this enough." Mr. President, I hope that will not be said, because we have studied it. We have been studying this for 40 years.

This is not, in the final analysis, something that requires much in the way of subtle thought. It does require careful thought, but it is not a complex matter. This is just a basic issue of freedom, of the independence of a country which was swallowed up by its larger and repressive neighbor. And if the United States would fail to give diplomatic recognition and other forms of moral encouragement to the people of Lithuania on this occasion, it would be a blemish and a stain upon our reputation which would adhere to the United States all through the ages.

If we did so, it would not be the first time. There are some regrettable episodes in our history where we have held out some encouragement to people to fight for their freedom, to stand up and be counted, and when they did, we said, "Well, that does not mean we intend to do anything."

We all remember when people were fighting in Eastern Europe and even throwing rocks at tanks and they had some reason to think the United States would come to their rescue. We did not do that. In fact, we closed our eyes and turned our back. none of us can forget after World War II when the tragic survivors of the death camps, the handful who were still alive, came marching out from behind the barbed wire and they looked us in the eye and said, "Where were you when they were busing us and trucking us and sending us by railcar across Europe to our death? Where were the people of Western democracies?" We did not stand up and be counted. We let millions of people die.

Mr. President, I do not necessarily think that this resolution is quite that ominous or quite that serious, but it might be. Because, in fact, a few days ago the people of Lithuania declared their intention to be free. The drove off the imposed rule of the Soviet Government. Whether or not that will happen and whether or not that spirit of liberty will be again repressed may very well depend upon the reaction of the free nations of the world and principally that of the United States.

So what the Senator from North Carolina proposes and what I am glad to join him in cosponsoring is simply to put the Senate on record in favor of human liberty, on record in favor of the spirit of freedom which is rising, an unquenchable spirit in Lithuania and elsewhere.

Mr. President, I am just glad to have had a chance to come to the floor and express my approval of the resolution, and my compliments to the Senator from North Carolina for bringing it to our attention.

Mr. President, I do not presently see other Senators seeking recognition, so, unless someone wishes to speak at this time, I do suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, since no Senator seems to be seeking recognition at the moment, I might just amplify briefly my observations about the resolutions which we have passed each year.

I mentioned a moment ago my recollection that year after year, for all the years I have been here and I think going back for about four decades, that we have annually given recognition here in the Senate to the independent status of the so-called captive nations.

When I mentioned that, someone was kind enough to produce a copy of the RECORD of February 28, 1989, and the resolution which was adopted at that time. Although I referred to it earlier, since we seem to have a moment, I thought it would be useful, and perhaps worthwhile on this occasion, to just quote from it.

This is the resolution entitled "Baltic Freedom Day." It was passed, Senate Joint Resolution 63, on February 28, 1989, and appears on page 2953 of the RECORD of that date.

Whereas the people of the Republics of Lithuania, Latvia, and Estonia (hereinafter referred to as the "Baltic Republics") have cherished the principles of religious and political freedom and independence;

Whereas the Baltic Republics existed as independent, sovereign nations and as fully recognized members of the League of Nations;

Whereas 1989 marks the 50th anniversary of the infamous Molotov-Ribbentrop Pact in which the Soviet Union colluded with Nazi Germany, thus allowing the Soviet Union in 1940 to illegally seize and occupy the Baltic Republics and to incorporate such republics by force into the Soviet Union against the national will and the desire for independence and freedom of the people of such republics;

Whereas due to Soviet and Nazi tyranny, by the end of World War II, 20 percent of the total population of the Baltic Republics had been lost;

Whereas the people of the Baltic Republics have individual and separate cultures and national traditions and languages which are distinctively foreign to those of Russia;

Whereas since 1940, the Soviet Union has systematically implemented Baltic genocide by deporting native Baltic peoples from Baltic homelands to forced labor and concentration camps in Siberia and elsewhere;

Whereas by relocating masses of Russians to the Baltic Republics, the Soviet Union has threatened the Baltic cultures with extinction through russification;

Whereas through a program of russification, the Soviet Union has introduced ecologically unsound industries without proper safeguards into the Baltic Republics, and the presence of such industries has resulted in deleterious effects on the environment and well-being of the Baltic people;

Whereas the Soviet Union, despite recent pronouncements of openness and restructuring, has imposed upon the captive people of the Baltic Republics an oppressive political system which has destroyed every vestige of democracy, civil liberty, and religious freedom;

Whereas the people of the Baltic Republics are subjugated by the Soviet Union, are locked into a union such people deplore, are denied basic human rights, and are persecuted for daring to protest;

Whereas the Soviet Union refuses to abide by the Helsinki accords which the Soviet Union voluntarily signed;

Whereas the United States stands as a champion of liberty, is dedicated to the principles of national self-determination, human rights, and religious freedom, and is opposed to oppression and imperialism;

Whereas the United States, as a member of the United Nations, had repeatedly voted with a majority of that international body to uphold the right of other countries of the world to self-determination and freedom from foreign domination;

Whereas the Soviet Union has steadfastly refused to return to the people of the Baltic Republics the right to exist as independent republics, separate and apart from the Soviet Union, or to permit a return of personal, political and religious freedoms; and

Whereas 1989 marks the 49th anniversary of the continued policy of the United States of not recognizing the illegal forcible occupation of the Baltic Republics by the Soviet Union: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress recognizes the continuing desire and right of the people of the Baltic Republics for freedom and independence from the domination of the Soviet Union;

(2) the Congress deplores the refusal of the Soviet Union to recognize the sovereignty of the Baltic Republics and to yield to the rightful demands for independence

from foreign domination and oppression by the people of the Baltic Republics;

(3) June 14, 1989, the anniversary of the mass deportation of Baltic peoples from their homelands in 1941, is designated as "Baltic Freedom Day", as a symbol of the solidarity of the people of the United States with the aspirations of the enslaved Baltic people; and

(4) the President is authorized and requested—

(A) to issue a proclamation calling upon the people of the United States to observe Baltic Freedom Day with appropriate ceremoneis and activities, and

(B) to call upon the Soviet Union, the Federal Republic of Germany, and the Democratic Republic of Germany to renounce the acquisition or absorption of the Baltic Republics by the Soviet Union as a result of the Molotov-Ribbentrop Pact.

Mr. President, I am grateful to the member of my staff who handed me that after my earlier remarks because, while I had referred to the joint resolution that we passed a year ago and it is similar in tone and purpose to resolutions which we have repeatedly adopted, whoever wrote this summed up in a few words so well not only the circumstances and the facts surrounding the subjugation of Lithuania and the other Baltic Republics, but also, I think, put into words the best and highest traditions of this country in expressing its solidarity with people who struggle for freedom, whether it is in Eastern Europe or Africa or Latin America or Asia, or wherever it might be.

So, since this came to my attention, I thought it worth sharing with my colleagues.

Mr. President, I am going to yield the floor.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. ARMSTRONG. Yes, I will be happy to. By the way, there were 57 cosponsors of the resolution. I do not know who the actual author was, but 57 Senators cosponsored it.

Mr. D'AMATO. I found very interesting in reviewing the history of the annexation, the illegal annexation, the fact that the United States has never recognized this annexation. I am wondering, was the Senator aware of the fact that we actually continued to maintain diplomatic relations with representatives of the pre-1940 Governments of Lithuania, Latvia, and Estonia?

Mr. ARMSTRONG. Mr. President, the Senator perhaps knows more than I do. I am aware that we have never recognized the annexation. We regarded it as illegal. So, technically, whether we have diplomatic relations or whether a relationship is something slightly different than that, I would leave to him.

The resolution which is before us, however, makes it very clear that the Senate advises and requests that the President send an ambassador to Lithuania, and to receive the Lithuanian Ambassador here.

It is not, however, the technicalities I am concerned with; it is the spirit of this. And I know my friend from New York shares a desire to really commend and to lift up the people of Lithuania who are seeking their freedom.

Mr. D'AMATO. What I am concerned about—and I am wondering if the Senator is concerned about the same thing—is that here we have the Soviets calling upon the Lithuanians to surrender their arms, so to speak, moving troops across the border, doing the kinds of things that indicate that we may see a situation that some say, oh, no, could not take place, but took place in Tiananmen Square when we said oh, no, it could not happen, and a repeat of what took place in Hungary some time ago.

When a country stands up and broadcasts an appeal for international recognition, I would ask my colleague, who should be first?

Mr. ARMSTRONG. We should. The United States.

Mr. D'AMATO. Otherwise, we surrender the mantle of leadership that says yes, we stand for democracy.

Does the Senator believe, because there would be some who would say this to my distinguished colleague, that somehow this might in any way endanger Mr. Gorbachev or the peace?

Mr. ARMSTRONG. Mr. President, I do not know the answer to that. I do not know that the action of the United States may even in some sense precipitate a situation in Lithuania that is beyond my contemplation. The fact is the people of Lithuania have raised that issue. They are the ones who have taken the step of reaffirming their independence, and they are the ones, as the Senator from New York points out, who have asked for our support.

Since it is their lives on the line, it is their freedom, it is their homeland, indeed, it is literally their homes and families at stake, it is not up to us to try to second guess them or be Monday morning quarterbacks. It is up to us to stand up and be counted in their support. They made the tough decision. They are the ones literally under the gun. The least we can do is affirm our support and encouragement for them.

Mr. D'AMATO. I wonder if I might ask a question of my friend and colleague and also make a comment. First of all, I could not agree more. I am reminded of the brave people in Poland of Solidarity. We were all thrilled when we heard Lech Walesa make his statement at how they stood, and how there were so many who said they are crazy, they are mad, they are going to plunge us into war. Is this not an analogous situation?

Mr. ARMSTRONG. Exactly.

Mr. D'AMATO. One further thought. It seems to me we have been putting so much in the way of hopes and aspirations in Gorbachev: He is such a wonderful person; he stands for freedom and democracy. What better test than to see by way of deed now, rather than rhetoric, if, indeed, he is ready to give people freedom and democracy? Would this not be the real test?

Mr. ARMSTRONG. It seems to me it is a very appropriate test. I, myself, am disposed to believe that Mr. Gorbachev is sincere in his representations. I guess my credentials as a skeptic of Soviet leadership are pretty well in order. I am very much impressed with his statements and representation and developments within the Soviet Union. I hope and, in fact, I believe that his standing on this matter will reflect his intentions to be honorable in his dealings with people of occupied lands, including Lithuania. So I am optimistic he will respond correctly. But I do think the Senator makes a very good point that deeds speak louder than words.

Mr. D'AMATO. May I raise a question to whether or not this amendment should be considered at this point in time? We are considering clean air. What is clean air without freedom? Maybe it is a most appropriate place and opportunity in which to consider it.

Mr. ARMSTRONG. I am persuaded maybe the people of Lithuania did not know the Senate would be working on the clean air bill for a couple of weeks. They may have arranged things differently. I guess we have attracted a few potential speakers to the Chamber. I notice the Chamber is filling up a little. My hunch is in very short order we will have all had a chance to express ourselves. I do not know whether there will be 57 cosponsors of this resolution, but I would not be surprised if there would be a number who want to cosponsor and some who want to speak of it and proceed quickly to the adoption of it.

If that is the case, as I expect it to be, I hope the President will take seriously the advice of the Senate and will recall, as we are, the dozens of resolutions commemorating the spirit of independence in these captive nations and do just as the resolution suggests; that is, to receive an ambassador from Lithuania and to send an ambassador of this country there.

Mr. D'AMATO. I am pleased to join the Senator as an original cosponsor, and I believe that it is important that we send a signal that we are now looking for deeds and that we are prepared to undertake the actions that have been requested, indeed, that have been implored, by Lithuania and, if not the United States, then who? I commend my colleague from Colorado.

Mr. ARMSTRONG. Mr. President, I thank the Senator from New York for his statement and for his leadership on this issue and for his concern about the rights of people who seek to be free in Lithuania and elsewhere. It would be awfully easy for the Senator from New York to be unconcerned about these things. Lithuania is a long ways from home. The Senator from New York has spoken often and eloquently about his concern for such matters. I thank him for his participation.

Mr. President, I see other Senators, including the distinguished chairman of the Foreign Relations Committee, are in the Chamber wishing to address the Senate on this matter.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I sympathize with the spirit of this proposal because I used to be the Baltic desk officer at the State Department. Now, 30 years later we still recognize the charge d'affaires to Lithuania, Latvia, and Estonia. Having followed the fate of the Baltic republics for a long time, I have acquired, as all of us have, a tremendous sympathy and sense of sadness for the independence they have lost and the suffering they have experienced.

Now we see some bright lights on the horizon, and we see freedom moving across Europe. Soviet Foreign Minister Shevardnadze has said publicly that his government does not intend to use force to maintain any of these countries within the Soviet empire. He also stated this 2 months ago in private conversation, when I asked him directly whether force would be used. In that meeting, which I believe the Presiding Officer attended he assured us that force would not be used in this regard.

This is certainly not a time for confrontation with the Soviet leaders. I think we all agree that what Gorbachev has done is extraordinarily helpful to the cause of freedom and peace on the Earth. This is simply not the time to force confrontations. For that reason, I do not see any great purpose served by this amendment. However, I will be guided in my own thinking by what the views of the administration are on this matter and await anxiously to hear their view. We can adopt it, or we can, consider it separately which in my view would be preferable.

The PRESIDING OFFICER. Is there further debate?

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I view the resolution with some mixed feelings. I have been one who has spoken out consistently for freedom for Lithuania. I welcome the developments that have taken place over there. For a variety of reasons that this body does not need to get any background on, I have been very much interested in this whole question of freedom in Lithuania. I may be the only Member of the U.S. Senate where the Soviets denied me the opportunity to visit Lithuania perhaps 5 years ago or so. I tried to make a trip to Vilnius and was denied that opportunity by the Soviet Government at that point.

On the resolution itself congratulating President Bush for the way he has responded, I agree. No. 4, urging the Soviet Union desist from threat of use of military force, I agree.

The next two points, that we should immediately recognize the Government and send diplomats, I think we would be well advised to work with the administration, and my own feeling is I would be very interested in what the administration's attitude is. We do not want to do anything that could precipitate some damage over there. I am not going to vote against the resolution, or at least that is my present intent, but I am not sure we are doing any good for the cause with this resolution as it is right now. I have some real concerns.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SIMON. Mr. President, if there is no further debate, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FOWLER). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I noted on the television screen in my office the pending business is the amendment by the distinguished Senator from North Carolina on the Lithuanian issue. I think it is a very significant amendment. For those who watch the proceedings of the Senate on C-SPAN II, some may wonder how the clean air bill raises the issue of recognition of Lithuania, and a brief word of explanation might be in order. Although I did not hear all the preceding debate, under the rules of the Senate an amendment may be offered on virtually any subject at any time, and the offering Senator has the right to call for a vote and that is granted on most occasions.

I compliment the distinguished Senator from North Carolina on this amendment because I think it articulates a position which could have a profound effect on the future of Lithuania, and perhaps on the future of Latvia and Estonia as well, and beyond that on what will happen as the emerging position evolves with the Soviet Union.

It is a matter of some delicacy, but I believe the Senator from North Carolina is correct in calling for the voice of the Senate to urge the Soviet Union, in . paragraph 4 of his amendment, to desist from the threat of military force, intimidation, or sanctions.

The Soviet Union has undergone an enormous change, and we have complimented President Gorbachev on perestroika and glasnost. We have complimented him upon the movement away from a monolithic party, so that in a very unexpected way the Soviet Union has articulated the proposition that there ought to be a multiparty system, that the Communist Party ought not to have all of the power. And that is an enormous achievement and at least an initial step toward democratic values because as long as there is only one party you do not have a contest. That is a very important step forward.

The Soviet Union is beset by problems. As President Gorbachev has articulated a new policy, there are many of us in the United States, myself included, who hope that he succeeds. We continue to be concerned about the great arsenal of weapons which the Soviet Union has. We hope that their intentions are as good as they articulate them. We have to move with some caution in terms of how we respond to the Soviet Union so that we maintain our own strength and do not move away from our own position of preparedness precipitously. We doubt that the genie can be put back in the bottle but we are not sure as to what is going to happen in the Soviet Union or what President Gorbachev's tenure may be, but we do wish him well.

This amendment with respect to Lithuania puts some pressure on President Gorbachev. It is my sense that he has the strength to withstand the pressure. It is my sense that Lithuania ought to be recognized as an independent nation. We know the history of Latvia, Lithuania, and Estonia. We know they are rightfully independent States, independent nations, that they have been amalgamated into the Soviet Union against their will. On accepted principles of international law, they are entitled to be recognized as states.

The Soviet Union has made a declaration in general terms that the Soviet Union will not use force. The situation in Azerbaijan was different but it is the preferable course that Lithuania be able to maintain an independent position. It just could be that the voice of the U.S. Senate speaking on this issue could be decisive in saying to President Gorbachev and the others in power in the Soviet Union that the preferable course is to negotiate with the Government of Lithuania, to establish relations with that Govern-

ment, and not to use military force, intimidation, or sanctions against Lithuania to discourage Lithuania from its rightful position as an independent state.

The part of the amendment which calls on the President to send an Ambassador and invite Lithuania to name their Ambassador goes somewhat further. Our President has been circumspect and somewhat cautious on taking that stand, but I believe it follows as a logical course that such action be taken.

That, of course, is the President's prerogative but the voice of the Senate could be significant. It seems to me that this is a significant amendment, and that while it is obviously not directly relevant to the clean air bill it comes at a time when it could have great international significance.

So I support the amendment. I compliment my colleague, Senator HELMS, for offering it, and I urge my colleagues to support it.

I thank the Chair.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. I am just going to speak for 1 minute on this thing. Mr. President, I have, as I indicated earlier, probably spoken as much on the floor of the House and the Senate for freedom for Lithuania as anyone. But there are times when the Senate should speak out and there are times when we should be silent. And my feeling, frankly, is this is a time for us to be silent.

There is one fundamental question. Will adoption of this in any way help freedom in Lithuania? And my answer is that it will not.

I believe there are more Lithuanians in the State of Illinois than in any other State. I am sensitive to their wishes. Their wishes clearly are for freedom. But I do not think this amendment helps the cause, and I am going to vote no.

Mr. GORTON. Will the Senator yield?

Mr. SIMON. I will be pleased to yield to my colleague from Washington.

Mr. GORTON. I want to say I listened with great care to my friend's comments, with particular regard to the fact that he does represent more Americans of Lithuanian extraction, I believe, than any other Member of this body.

I tended very strongly to feel the way he does, that clearly the only question which we ought to be considering in this connection is whether or not the passage of this resolution will contribute to the liberation and the full independence of the Republic of Lithuania or whether it could detract from our ability to work toward that end. My own inclination is that the administration has been working with a degree of wisdom in this connection and that we continue to support freedom, not only for Lithuania, but for Latvia and for Estonia as well, as long as that liberation represents the majority view in each of those nations, which, indeed, I believe it does.

I guess the dilemma, on the horns of which each and every one of us is impaled at this point, is, assuming we do have to vote on this, will a vote against the resolution be as mischievous as a vote for the resolution? A vote against the resolution can be taken, and might easily be taken, by authorities in the Soviet Union to be an expression of indifference toward what takes place in those three Baltic nations.

So I would be happy to listen to the wisdom of my good friend from Illinois on that. I had tended to believe, starting from exactly the same position which he takes, that we should concern ourselves with what will do most to liberate Lithuania and the other two Baltic nations. I had reached, perhaps, the opposite decision, though maybe as did my friend from Illinois, that to vote against it could be taken as an expression of indifference toward the fate of those nations; that we were ignoring them, we were staying away from them.

Under those circumstances, while it is almost certain that the administration will simply ignore any resolution which is passed here, faced with these two bad choices, perhaps the less bad was to vote for it.

Does my friend from Illinois have any thoughts on that question?

Mr. SIMON. In response to my friend from Washington, the answers are bad either way. I do not want anyone misinterpreting a negative vote as believing I am not for freedom for Lithuania. But I really believe this amendment could cause some mischief right now when things are very, very delicate over there. The ideal answer—and my colleague from North Carolina is not present right now—the ideal answer from my perspective would be if the resolution were to be withdrawn.

I understand, and I think someone else can speak to this, I understand the administration is opposed to this. Sometimes the administration has not stood up as forcefully as I would like for freedom for Lithuania and the other Baltic States. But right now, with a very, very delicate situation over there, I think we would be wise to maintain some silence and to commend the people of Lithuania for what they are doing courageously for freedom, to commend the Soviets for not using force up to this point, and to hope that things can work out.

To needlessly meddle, and it will not do any good for the cause of freedom over there, I think is unwise.

Mr. GORTON. I fully agree with my friend from Illinois. Unfortunately, it does not look like we have the opportunity to remain silent. That is why I remain on the horns of dilemma in this connection.

Mr. BYRD. Mr. President, I am in agreement with the sentiments expressed in the amendment offered by the distinguished Senator from North Carolina. The people of the Baltic nations have been subjugated by the rule of Soviet Empire for more than 40 years. During that time the United States steadfastly refused to recognize Soviet sovereignty over these nations.

This month the Lithuanians have taken bold and courageous steps toward securing self-determination. In the wake of these historic events the United States seems suddenly to have lost sight of what we have hoped for all of these years. Suddenly it is not convenient for us to continue to support the cause of freedom for the captive nations. Now we have decided that the freely elected governments of Lithuania and the other Baltic Republics must meet some higher test before they can count on our support. Do we intend to wait until the Soviets have withdrawn all of their troops and relinquished any claim on Baltic territory before we show our support.

Mr. President, I wonder if the administration plans to wait until every Soviet soldier has been withdrawn from East Germany before we recognize the newly elected government there. I think not. Why then have we lost the will to act decisively in the case of the Baltic Republics? These people deserve our support, they have pleaded for international recognition, and we must make our position clear.

Mr. President, I do not know if this amendment is the proper vehicle to help the Lithuanians, but I know that the United States is obligated to do whatever we can to encourage the Soviets to grant them their freedom and I urge the President to move forcefully in that direction.

Mr. DURENBERGER. Mr. President, I will not be supporting the amendment by the Senator from

North Carolina to this bill. While I agree with his objective, to show support for the aspirations of the Lithuanian people, I have grave concerns that the vehicle he has chosen may do that cause more harm than good.

The situation in Lithuania tonight is extremely tense. The Soviet Government has ordered confiscation of all weapons in Lithuania; the borders are being secured. Emergency powers granted to Gorbachev only last week are being exercised. As our President has stated, the American people are concerned over the steps taken by the Soviet Government to date, and would view the use of force as a very serious violation of human rights.

There is no doubt in Lithuania or in Moscow tonight about where the United States stands. For that reason, we should not risk inflaming a very heated situation by making statements on the floor tonight which are susceptible to misinterpretation. That is why the administration opposes this amendment. This is no time for the U.S. Government to be speaking with multiple voices.

In matters of diplomacy, how you speak is often just as important as what you say. Of course we stand tonight with the people of Lithuania, and they know that. But it would be unwise for the Senate, at this crucial time, to risk confusing that issue by saying more than the President already has.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from California.

Mr. CRANSTON. Mr. President, I admire the leadership Mikhail Gorbachev has provided in the Soviet Union in opening up a path toward democracy and toward a wiser economy based upon market principles. I admire the courage of the Senator from Illinois for the stand he has taken on this matter. I do not admire the resolution. It will not advance the cause of freedom in Lithuania. It might well do the opposite.

I presume it will be adopted in part because the decision is made not to make such a big fuss about it and dignify a resolution that does not deserve dignified attention by this body. So it will be agreed to by an overwhelming vote.

It should be understood many people will vote for it who do not believe it is a wise resolution. It has nothing to do with the bill pending before us that relates to clean air. I presume the measure will be dropped when a conference comes about with the House on this measure. I will vote against it because I do not think it is a contribution to the cause of freedom in Lithuania.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on or in relation to the pending amendment occur at 8:10 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader, Mr. DOLE, is recognized.

Mr. DOLE. Mr. President, I want to just say for the record that I have been in contact with the President's National Security Adviser, Mr. Scowcroft, and with the Deputy Under Secretary Lawrence Eagleburger with reference to the pending amendment. The administration opposes the amendment. They also recognize that it will probably be adopted by the Senate. It is a sense-of-the-Senate resolution.

I think the record should reflect the opposition of the administration is pretty much the same as has been expressed on the floor. Are we helping or hurting Lithuania and the Lithuanian people? Those two spokesmen of the administration believe that we are making progress; that there are discussions ongoing between Mr. Gorbachev and the leaders of Lithuania and that we should not at this time be doing anything that might upset those discussions or in any way indicate that we are trying to meddle in their affairs.

Having said that, I also have had an opportunity to talk to a number of my colleagues. It seems to me we have a couple of choices: To start an all-out assault on the amendment to see if we can successfully table the amendment; or, everyone support the amendment, vote for the amendment because it is a sense-of-the-Senate amendment. I do not know when this bill will finally go to conference or finally go to the President, but it seems to me that the amendment is going to be adopted. It cannot be tabled based on my contacts.

I am just rising to reflect the administration's position.

There are a couple of troubling areas. One, on page 2, "the Republic of Lithuania is now in legal control of the government of the territory of independent Lithuania," that may or may not be accurate.

And then the recommendations congratulating the President for responding to the declaration of independence by urging Moscow to begin negotiations, that is going on right now, so there is certainly no problem with that first section. It urges the President to recognize immediately the current democratic government of Lithuania.

Third, it calls upon the Senate to send appropriately accredited diplomatic representation at the ambassadorial level to the independent Republic of Lithuania under his constitutional authority and invite the Republic of Lithuania to name an ambassador to the United States.

And, fourth, it urges the Soviet Union to desist from the threat of use of military force which they have agreed to do in talks with Secretary Shevardnadze and Secretary Baker.

I think the three parts that are objectionable, as I view it, would be the determination that Lithuania is now in legal control of the government and territory—but I understand that legal was used for a purpose; it may not be actual but legal control—and urging the President for immediate recognition and sending ambassadors and providing Lithuania to name an ambassador to this country.

Having said that, I have indicated to both Secretary Eagleburger and Brent Scowcroft, I do not believe there are the votes to table the amendment. I yield back my time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. MITCHELL. Will the Sentor yield? I wish to give him 5 minutes. The vote previously had been set at 8:10. The Senator from Arkansas asked for 5 minutes. I ask unanimous consent he address the Senate for 5 minutes and upon the conclusion of his remarks the vote occur.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. GORTON. Reserving the right to object, I believe, I say to the majority leader, there were a couple others who wished to speak as well. They do not include myself.

Mr. MITCHELL. Under the agreement now in effect, the vote will occur in 8 minutes. I am trying to get a few more minutes for the Senator who came in and wanted to speak. Unless we can get a unanimous-consent agreement, no one will be able to speak, and the vote will occur at 8:10.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. HELMS. Reserving the right to object, I would like 1½ or 2 minutes to respond to some of the things that have been said. The Senator from North Carolina being a sponsor of the amendment, I would think the majority leader would want us to have that.

Mr. MITCHELL. How much time will the Senator from Washington need?

Mr. GORTON. The Senator from Washington said he thought there are other people in the Chamber who did wish to speak.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. If I can just respond to the leader, I was going to speak for a minute or two but I hesitate to open this up to further time.

Mr. MITCHELL. There are only three people. Mr. President, I ask unanimous consent that the following persons be recognized for the following times to permit further debate without extending this too long because we already have notified Senators a vote is going to occur: 5 minutes to the Senator from Arkansas; 2 minutes to the Senator from North Carolina; 2 minutes to the Senator from Rhode Island [Mr. CHAFEE]; 2 minutes to the Senator from Kansas [Mrs. KASSEBAUM]; and 2 minutes to the Senator from Rhode Island [Mr. PELL].

Mr. FORD. I do not want any time, Mr. President.

Mr. MITCHELL. Upon the completion of those remarks that the vote occur on or in relation to the amendment.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. FORD. Will the leader answer a question for me? At what time will we now have the vote? We all left and got our cars and came up here for an 8:10 vote. I do not mind what is happening because I guess I can do the same things other Senators have done. When we were alerted by our Cloakrooms we were going to vote at 8:10, we all came up here to vote, and there are several Senators on their way. Then will we vote on this?

Mr. MITCHELL. I apologize to the Senator.

Mr. FORD. You do not have to apologize to me. You have no control over it.

Mr. MITCHELL. It is difficult to accommodate some Senators without inconveniencing others. If we can begin the debate, I estimate 13 minutes from now, at 8:23 p.m.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I may not take the full 5 minutes. I want to make a point as best I know how. I have been roaming around the floor of the U.S. Senate for the last 25 to 30 minutes.

I had not heard one single Senator do anything but lament the fact that they have to vote on this amendment. Not one Senator thinks it is a good idea. Every Senator thinks it is a continuation of the cold war so we can send out one more mailer, solicit money one more time, tell everybody how terrible communism is, which even Gorbachev says is dead as it can be. There is not a person in the Senate who does not want Lithuania free. We wish them well.

This amendment is mischievous. Everybody in the Senate knows it. And yet there is an assumption in virtually every word tonight that it will pass overwhelmingly despite the President's objection, despite the White House objection. All it can do is create mischief. It has no effect. No wonder the people of this country have so little confidence in Congress. Even when they disagree with us, the people of this country know that when things like this come up Members of the Senate are going to jump under their desks. So why would they have much respect for Members of the Congress?

Mr. President, one of the most exciting things that has happened around here in a very long time, to say nothing of all the dynamic events in Eastern Europe, was when Vaclav Havel came to town to address a joint meeting of Congress. I put him right up there with James Madison and Thomas Jefferson in my books. I have never been on an escort committee, never cared anything about being on an escort committee to escort somebody into the Chamber of the House of Representatives for a joint meeting. But I called the majority leader, Senator MITCHELL, and said, "Majority leader, this is one time I would like to be on an escort committee. Here is a real hero."

Why is he a hero? If nothing else, his inaugural address was only 8 minutes long. You could be elected king in this country if you could learn to make an 8-minute speech and put words together as he did.

But here is what he said. I recommend these words to the attention of the Members of this body. He told the Czechoslovakian people in January, for 40 years we have been lied to: We have bought into it. We have developed a mental state from which we are going to have to extricate ourselves. Above all, he said, for 40 years we have said one thing and believed in another.

That is what we do in this country. We are about to vote on an amendment that not 10 people in the Senate out of 100 believe is a good amendment. Mr. President, what we are going to do, if we adopt this amendment, is say we do not believe in it but we do not want to take any heat. It has nothing to do with our desire to see Lithuania free, or the Estonians, or the Latvians for that matter. What it has to do with is a continuation of the cold war.

Two weeks ago in Los Alamos, NM, a Soviet scientist named Sergie Kapitsa said, "I guess you know the cold war is over. And I guess you also know who won. The Germans and the Japanese."

Yet there are people in this country who want to spend another $2 trillion to fight an enemy that does not exist, continue an arms race against a party that has already dropped out, so they can get out one more mailer.

I recommend to all Senators, go back and read the inaugural address of Vaclav Havel and vote for the American people and for yourself. Do not vote one way and believe another.

I thank the majority leader very much for getting me the time.

The PRESIDING OFFICER. The time of the Senator from Arkansas has expired. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, on Monday when I was in Kansas, I said I believed we should recognize an independent Lithuania. We have never regarded Lithuania, or Latvia, or Estonia as part of the Soviet Union. They have been regarded as captive nations.

But I also believe, Mr. President, this is not the way to respond. I have great confidence that President Bush will be able to provide leadership, and that I think is where it should rest. At this time, on this particular measure, to respond in such a way that does cause confusion is not, I think, the correct response that as a body we are called upon to make. It is not a responsible action at this time of night to what I think is an extremely important and delicate situation. I think it is important to recognize an independent Lithuania, but I would agree with the Senator from Illinois [Mr. SIMON] when he said this is not the way to respond.

The PRESIDING OFFICER. The time of the Senator has expired. Who seeks recognition?

Mr. CHAFEE. Mr. President, first of all, this amendment has nothing to do with clean air, which is the subject before us.

Second, I do not think anybody should interpret a vote against this measure as having anything to do with lack of support for the Lithuanians or their bid for independence. These are times that demand diplomacy and skill and a sure hand. It does not demand that the Senate of the United States come thundering in and pass a resolution dealing with a matter that should be left to the President of the United States and his assistants.

The President, as we know, at this exact time is devoting a good deal of energy and skill and effort in dealing with the Lithuanian situation. I do not think we should be fishing in these waters. Therefore, Mr. President, I will vote against the resolution and hope that it will not prevail. Let us leave these matters to those who are, indeed, entrusted with them, the President of the United States.

Mr. DOLE. Will the Senator yield to me?

Mr. CHAFEE. Yes. I have a little time.

Mr. DOLE. Mr. President, somebody who asked me about my position said,

"You stated the administration position, you did not state your own."

I want to make it clear that as Republican leader, one of my responsibilities is to support the administration position, and I am going to vote against this resolution, even though it is only a sense-of-the-Senate resolution. It does seem to me, based on conversations with Mr. Scowcroft and Secretary Eagleburger, that there may be a better way to do this. So I wanted people to know I am not ducking it. I will be voting against the resolution.

Mr. LEAHY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Rhode Island yields back his 15 seconds.

Mr. CHAFEE. How much time do I have?

Mr. LEAHY. Will the Senator yield me 15 seconds?

Mr. CHAFEE. Whatever I have remaining, yes.

Mr. LEAHY. Mr. President, this is one of the most difficult and crucial times since the end of World War II. We have had the Marshall plan. We have had NATO. We have had all these other things in trying to bring about some kind of stability throughout Europe and with the Soviet Union.

The PRESIDING OFFICER. The time of the Senator from Rhode Island has expired.

Mr. LEAHY. Mr. President, briefly, I am one Democrat who will support the President on this, and I will vote "no."

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. As I said before, I do not believe this is a wise amendment. This is a time when we should be helping the Soviet leadership move down the path upon which it has embarked. It is not a time to seek confrontation. I know that as a candidate for reelection this year, voting against this amendment may not be popular. I have great respect for the Lithuania Club that is in my capitol city and their members, but I really believe their interest and that of Lithuania is best served by a negative vote in this regard, and I shall vote against the amendment.

The PRESIDING OFFICER. The Senator yields back the remainder of his time.

The remaining time belongs to the Senator from North Carolina, who is recognized for 2 minutes.

The Senate will be in order.

Mr. HELMS. Mr. President, the only thing wrong with the arguments tonight is that they are specious and false. I am sure the Senator from Arkansas is just as virtuous as he contends he is. The truth of the matter is this amendment was drafted in consultation with and at the urging of Lithuanian-American groups all over this country.

The oldest and most established Lithuanian-American group, the Supreme Committee for the Liberation of Lithuania, has endorsed this amendment.

If Lithuanians thought gaining international recognition would hurt their cause, they would not have declared their independence and sought international recognition.

Let me point out again, the President of Lithuania, duly elected in a free election, has called upon "the governments of democratic nations" to recognize "the laws and legislative acts" of March 11, 1990, and to recognize the Government of Lithuania.

He pleaded with us to stand up for once for Lithuania. That is what this amendment is all about. And the rest of what has been said here tonight is nonsense. Vote as you please, but do not try to fool the Lithuanians that you are voting in their favor when you vote against this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. All time has been yielded.

The question is on agreeing to the amendment of the Senator from North Carolina.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Alaska [Mr. STEVENS], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 36, nays 59, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—36

Armstrong	Grassley	McCain
Boschwitz	Harkin	McClure
Burns	Hatch	Mikulski
Byrd	Heinz	Murkowski
Coats	Helms	Nickles
Cohen	Humphrey	Pressler
D'Amato	Johnston	Riegle
DeConcini	Kasten	Rockefeller
Domenici	Levin	Specter
Garn	Lieberman	Symms
Gorton	Lott	Thurmond
Gramm	Mack	Wilson

NAYS—59

Adams	Cranston	Heflin
Baucus	Danforth	Hollings
Bentsen	Daschle	Inouye
Biden	Dixon	Jeffords
Bingaman	Dodd	Kassebaum
Boren	Dole	Kennedy
Bradley	Durenberger	Kerrey
Breaux	Exon	Kerry
Bryan	Ford	Kohl
Bumpers	Fowler	Lautenberg
Burdick	Glenn	Leahy
Chafee	Gore	Lugar
Cochran	Graham	McConnell
Conrad	Hatfield	Metzenbaum
Mitchell	Robb	Shelby
Moynihan	Roth	Simon
Nunn	Rudman	Simpson
Packwood	Sanford	Warner
Pell	Sarbanes	Wirth
Reid	Sasser	

NOT VOTING—5

Bond	Pryor	Wallop
Matsunaga	Stevens	

So the amendment (No. 1355) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, if I may have the attention of Senators.

The PRESIDING OFFICER. The Senate will please be in order. All conversations in the well will please cease.

Mr. MITCHELL. Mr. President, for the information of Senators, I will describe the schedule for the remainder of the evening as best I can at this time.

It is my understanding that the managers have cleared several amendments from Senators on both sides which will now be offered.

During that time, the distinguished Senator from Washington and others who join in his amendment are preparing to present their amendment, which will be contested and require a vote this evening.

So what we will do will be to have a period now in which some amendments will be accepted. It is my understanding the Senator from Washington will offer his amendment. That will be contested.

I am unable to estimate the length of time of debate on that because I have not discussed it with any of the principals, but upon the completion of that debate there will be a vote on that. So we will be in session for some time yet to go this evening, hopefully disposing of several of the amendments that remain.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOLE. Would it be possible, if the parties interested in the Gorton amendment, if agreeable, may have the debate tonight and have the vote occur first thing in the morning?

Mr. MITCHELL. If they are agreeable to that, certainly it will be agreeable, as it was previously.

I am unable to request that now because I have not had an opportunity to discuss it with the principals. I think in fairness to them we should wait and give them the opportunity.

Mr. DOLE. I would be happy to discuss it on this side. I know the Finance Committee will oppose the amendment, Senators PACKWOOD and BENT-

SEN. I will get back to the majority leader.

Mr. MITCHELL. Fine. We will attempt to do so with those on this side who are involved in offering the amendment and attempt to do it as we did previously.

Mr. President, I yield now to the distinguished chairman of the Appropriations Committee.

AMENDMENT NO. 1329, AS MODIFIED

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, while the two leaders are on the floor and while there are Senators on the floor, the pending amendment before the Senate is the Byrd, et al., amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I have been yielding to those who have wanted to bring up their amendments. The distinguished majority leader has just announced there are amendments that may be agreed to yet this evening and that there may be a rollcall vote.

I think I should say that I do not want for the moment to agree to set this amendment aside. I may do that later this evening. But I would hope that Senators would listen to what I have to say.

Mr. President, the pending amendment was offered by me on behalf of the following Senators: Messrs. BOND, DANFORTH, COATS, HEINZ, SPECTER, GLENN, METZENBAUM, FORD, MCCONNELL, ROCKEFELLER, KENNEDY, BURDICK, HEFLIN, SHELBY, MOYNIHAN, DIXON, and SIMON, and I ask unanimous consent that Senator SANFORD's name be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, this statement will take a few minutes. I hope that Senators will listen carefully.

The amendment before the Senate is one that has been pending since last Thursday. I was prepared to vote on the amendment last Thursday. I was prepared to vote on it on Friday.

I have indicated to the distinguished majority leader and the Republican leader that I would like to have a day's notice for a vote on the amendment. They both know why. I want Senators to have a day's notice so that they could be here to vote. There is one Member of the Senate who is ill. I do not know whether he can come and vote or not. But if he can, I think he ought to have a day's notice. I indicated earlier today that I hope that we could get an agreement today to vote on this amendment tomorrow.

Now, I have personally talked with scores of Senators about this amendment. I have talked with them on the telephone. I have talked with them on the floor. I have talked with them in their offices. I have visited more than 25 offices of Senators because I feel that this is a matter that is so serious and of such importance to the coal mining region, the Midwest and Appalachia, that the legislation ought to be adopted. So I have taken the time to personally talk with Senators in the interest of the legislation.

Meanwhile, I have not tendered any objection to going to other amendments. It was not my desire to slow up the business of the Senate. I have not had any desire to kill the bill. I have had no desire to filibuster. I stated that at the beginning. And the bill has been improved to some extent by virtue of the inclusion of the so-called Byrd-Bond amendment. For this, I am very grateful to the majority leader and to the Republican leader, as well, because had he not been willing to accept it, I am sure there would have been some problems.

But this is not enough. I feel very deeply about the people in my region of the country who are going to be hurt. So, the pending amendment is an amendment that is intended to provide temporary assistance to those coal mine workers who will lose their jobs as a direct result of enactment of the Clean Air Act Amendments of 1989.

According to the Environmental Protection Agency, 3,000 to 5,000 men and women who risk their lives to provide our Nation with the energy it needs are going to be put out of work because of the legislation we are now considering. I believe we owe something to these brave men and women along the lines I am suggesting and to their families and to their communities because coal mining is the backbone of many of these communities, the backbone of the economy of many of the counties in this region. I have no doubt that many of my colleagues believe we owe something to these men and women.

But I also know that many of my colleagues are troubled about providing assistance to terminated coal mine workers without providing any assistance to workers in other industries who may lose their jobs as a result of the bill before us. In response to the concerns of my colleagues, let me note that significant changes have been made in this bill over the last several weeks. As a result, the number of workers who will be affected by this legislation has been substantially reduced. In many industries, the number of workers who are expected to lose their jobs as a result of this legislation has been reduced to zero.

For example, the Environmental Protection Agency estimated that the air toxic provisions of the bill originally reported by the committee would have put at risk 11,300 to 14,400 jobs in the steel and petrochemical industries. According to the widely quoted Hahn and Steger study, the residual risk provisions of the original committee bill potentially could have put at risk 19,500 to 22,600 jobs in a broad range of industries. Yet, the residual risk standards contained in the original committee bill have been substantially modified. The residual risk provisions of the Mitchell-Dole substitute before us now are far more lenient than those contained in the original committee bill.

As a result, the expected job losses associated with those provisions have been substantially reduced, if not eliminated altogether. The Hahn and Steger study, for example, estimated that, if the residual risk provisions of the original committee bill were enacted into law, as many as 15,000 coke oven workers could have lost their jobs. Yet, because of changes negotiated over the last several weeks, the substitute before us now would provide coke ovens with an exemption from the residual risk requirements of the bill until the year 2020. In other words, coke ovens will be exempt from the residual risk standards of the bill for 30 years.

Furthermore, the actual residual risk standards have been relaxed for all industries. As a result, the expected job losses associated with the residual risk requirements of this legislation have been minimized. It has even been suggested on this floor that the number of jobs at risk of being lost because of the air toxics provisions of this legislation has been reduced to zero.

In a number of other areas, the Senate has acted to mitigate the potential impact of this legislation on affected businesses and, therefore, on affected workers. For example, earlier today, the Senate unanimously passed the Boschwitz-Boren small business stationary source amendment. This amendment provides small businesses with the option of negotiating alternative compliance agreements with State or Federal regulators. The effect of this amendment will be to reduce the burden this legislation will impose on small businesses across the country. By reducing the costs of compliance for small businesses, I would suggest that we have also reduced the potential impact of this legislation on small business employees.

Significant changes have also been made in the mobile source provisions of this legislation over the last several weeks. As a result, the impact this legislation is likely to have on the auto industry and on auto workers has been substantially reduced.

Changes have even been made in the acid rain provisions of the bill that will likely reduce the impact on coal mine workers, and I am pleased that these changes have been made. I have already referred to them. According to the EPA, the original committee bill would have resulted in the loss of be-

tween 5,000 and 9,000 high-sulfur coal mining jobs by 1995. I am pleased that through inclusion of key parts of the Byrd/Bond acid rain proposal, the estimated job loss has now been reduced to between 3,000 and 5,000 by 1995.

Although the changes that have been made in the acid rain title have been a step in the right direction, the fact remains that this legislation will still have a tremendously adverse impact on high-sulfur coal mine workers. The fact remains that the men and women who toil in our coal mines are likely to pay a far higher price, in terms of jobs, than any other group of workers in the United States. I do not believe there is any other industry in which 35 percent of all jobs will be lost as a result of the Clean Air Act Amendments of 1989. That is what the EPA is estimating will happen in the high-sulfur coal industry by the year 2000—one-third of all jobs will be lost over the next 10 years as a result of this bill.

This estimate on job losses in the high-sulfur coal industry is above and beyond the job losses expected to occur even without any new clean air legislation. As has been noted previously on this floor, employment in the high-sulfur coal industry has been declining for a number of years as a result of rising labor productivity. As the result of continued productivity gains, the EPA estimates that, absent any new clean air legislation, 13,000 to 14,000 high-sulfur coal miners will lose their jobs between now and the year 2000. What this bill threatens to do is eliminate 35 percent of the remaining jobs—doubling the expected job loss in the high-sulfur coal industry by the year 2000.

No other group of workers will be so directly and adversely affected by the legislation before us as high-sulfur coal mine workers. I say "will be so directly and adversely affected" because there is one further point that must be made about the various estimates that have been made about job losses in the high-sulfur coal industry and other sectors of the economy that could result from enactment of this legislation.

The estimated 3,000 to 5,000 high-sulfur coal mining jobs that will be lost as a result of the phase I sulfur dioxide emission reduction requirements of this bill are jobs that will be lost. They do not represent potential job losses that might occur 15 to 20 years after the date of enactment, as was true of the auto, chemical, and steel industry job loss estimates made with respect to the original committee bill. They represent actual job losses that will occur within the first 5 years after enactment of this legislation.

This is not what ROBERT BYRD says. This is what the EPA has said. This is what the administration said.

They represent actual job losses that will occur by 1995. And those 3,000 to 5,000 jobs that will be lost are held by real people, with real families, who live in real communities, all of which will feel the real effects of this legislation.

Simply put, coal mine workers are the only group of workers who will definitely be so adversely affected by this legislation. So my amendment targets assistance on coal mine workers because this bill targets the high-sulfur coal industry more than any other single industry in the United States.

Mr. President, there has been a lot of guessing going on as to how the vote will turn out on this amendment. The answer to that question is, only God knows. But I believe that more than any other Senator in this body knows, I know. And, if this amendment were put to a vote this minute or tomorrow, it could pass—it could be adopted. It might not be adopted. It is that close.

And I have been amazed at the number of Senators, and I think other Senators would be also, at the number of Senators who are willing to walk the plank for this amendment; who are not representatives of regions that would be affected by it. They see in this amendment the element of fairness and justice. So they are willing to do what, in their conscience, is right. And they are subject to all the pressures to which other Senators are subject. They are subject to the pressures from those who say, well, why are you willing to do this for coal miners? How about me? I may lose my job. What about this industry and what about this industry? They have those pressures. And yet, they are willing to walk the plank to vote for this amendment.

That vote is so close that I cannot say that I will win nor can I say that the amendment will not be adopted.

I use the personal pronoun "I." I have introduced this measure on behalf of 18 other Senators and everyone knows it is not just ROBERT BYRD. I have won and I have lost before. And I know that the day after the vote, we have other problems that always confront us as Senators and as the Senate. But there are a small number of Senators who really do not know how they are going to vote in the final analysis. And I have run into two or three, I am sure, who just hope the whole thing will go away and that in the final analysis they will not have a showdown either way.

So, why commit? I can understand that. So they hope the whole thing will go away. And the only thing that forces a showdown is a vote. When that vote comes, if it comes, I may get some or most of those who right now have not decided. I may not get some or most of those for this amendment. But I am leveling with you. I am not going to stand here and say I have 51 votes. But I can tell you, you do not have 51 votes either. I can tell you that I am very, very close.

And so, for all the conjecture and the guesswork that has been going on, may I say that that is the way I see it precisely. I do not have any cards under the table. I am not hiding anything.

I have worked at this. I hope that this amendment will be adopted and it may be adopted. It may not be adopted. But I have listened to the concerns of my colleagues. My two leaders—they are my leaders, too. My leader on this side of the aisle is my majority leader. I do not care who runs against him, if anybody does. I am going to vote for him the next time. I have not seen many majority leaders challenged around here.

Even this one, when he was majority leader. I have seen a few minority leaders challenged—this one. But I have never seen that one challenged. Not recently.

But let me say this, they are both my leaders. I respect them both and I understand the problems they have. I am fully aware of the problems they are confronted with. They have asked me if I would be willing to sit down and listen to the administration, try to work out a compromise. My leader on this side of the aisle called me from California during the break. "Would you be willing to sit down with the administration and listen to them?" I said yes. I would be willing to.

I hope there is not an unfair cell in my body, and I am certainly always willing to listen. Yes, I will be glad to. I have already compromised. I came down from $1.6 billion. That was a voluntary reduction, $1.6 billion, to a program which would cost at the maximum outside limit $700 million. That means, if the full 5,000 jobs go under, that means if no miner would die in that 4 years, that means if no miner paid income taxes during that time, put all that over on that side of the table, given you the absolute worst case scenario—$700 million. I voluntarily reduced it on behalf of my colleagues who are supporters of the amendment, who are coauthors of it, because I listened to my colleagues.

So, I said, yes, I will be glad to listen to what the administration has to say. I have read the stories and I have heard Senators by the dozens that said to me, "Well, how did the negotiations go?" They all think negotiations are going on. "How are you coming along, working out a compromise?"

Well, two representatives of the administration from the White House came up to my office at 10:30 on this past Monday morning. The Senate was out so we took our time and talked. And they let go with their verbal shots at my amendment, in a constructive

way, stating their problems with it. And, as best I could, I attempted to answer their questions.

Then I said, what are you proposing? I had understood from both leaders that the White House would be willing to compromise. I already compromised once of my own volition, but I said in response to them, I think I owe them that respect and that consideration; yes, I will sit down and see if they have something better. Do you have a proposal? No, we do not have any proposal.

I thought we were going to work out a compromise perhaps. What would you think about going back downtown and come up with an alternative? How about doing that? What do you think about trying to work out something? Would you want to do that? They said, yes, we will do that. I said, OK, now, I am going to hear from you, right? You are going to call me, right?

That was Monday at 10:30. I suppose we talked about an hour, so Monday at 11:30. Today at 12 minutes after 9, I have not received any call. The White House has not sent me any proposal. There has been no offer. I do not have any hearing aids. I can hear if they have an offer. I can see, not as well as I used to. But I have not seen anyone coming from downtown. No offer.

And so I have been negotiating with myself. I have continued to make the rounds and talk to Senators and find out what their problems are. I have listened to those problems, and they have raised legitimate concerns to me.

Meantime, I continued to chip away. Two more votes today.

But I have listened to those concerns. What are they? We think the price tag is too high. That is awfully high, $700 million. We wish there were some way whereby the other workers and other industries would have some compensation. Why do you single out the coal miners? I said the coal mines suffered a direct hit. Back in World War I, the Germans perfected a gun that could shoot 75 miles. Think of it. That was back in the days before I was in high school. I was born during World War I. Back in those days, all the talk was about going a mile a minute, 60 miles an hour. The Germans perfected that gun that would shoot 75 miles. Big Bertha. That is what they called it, Big Bertha.

I say to my colleagues who say what about those coal miners, they are constituents. Why are you singling out the coal miners? My answer is Big Bertha is going to score a direct hit on those coal miners. They are in the immediate line of fire. They are going to suffer job reductions amounting to 35 percent, according to the EPA. That is more than one-third, more than any other industry will suffer. That is why it has been narrowly drawn to affect that group that is going to suffer a direct hit.

So after listening to my colleagues, I have tried to weigh this matter, and I want to do what is right, too. I have not been negotiating with anyone. The White House has not negotiated. I have not received that telephone call. My colleagues are all laboring under the impression that negotiations are going on. There are no negotiations going on except those I am having with myself, and I must say they have been rather amicable. [Laughter.]

I do not fault the leaders. I did what they asked me to do. But I do not think the administration has been very forthcoming about this. And time is marching on. Here my amendment keeps getting put off, put off, and put off.

So I have negotiated with myself, having taken a few liberties along the way, to decide to draw back a little bit.

Here is the new proposal which I have, and it will require unanimous consent for me to modify my amendment. I hope I will receive unanimous consent to modify this amendment to make it in order.

This amendment that I would offer is a modification which would provide a 3-year program of benefits for terminated coal mine workers as follows: Understand, the first proposal I put up here, may I say to my dear friend from South Carolina, Senator HOLLINGS, that would cost at the outside $1.6 billion provided 100 percent for the first 2 years, 80 percent for the next 2 years, and 60 percent for the next 2 years. A total of 6 years. The proposal which I negotiated with myself and sent to the desk as a modification last Thursday, I believe it was, some days ago, cut that from 6 years to 4 years. Instead of 100 percent the first 2 years, it was 80 percent, 70 percent, 60 percent, and 50 percent, bringing the cost down to the absolute maximum outside, $700 million.

So now instead of the 4-year program, I have negotiated with myself further. The amount I now want to offer provides a 3-year program of benefits for terminated coal mine workers as follows: One, in the first 12 months following termination, a terminated worker would be eligible to receive benefits equal to 70 percent of the total compensation and benefits that such worker received during the 12-month period prior to termination. So I have come back now from Byrd, et al, amendment No. 2 which was 80 percent the first year down to 70 percent.

Second point: In the second 12 months following termination, a terminated worker would be eligible to receive benefits equal to 60 percent of the total compensation of benefits such worker received during the 12-month period prior to termination.

Third point: In the third and final year, the third and final 12 months following termination, the terminated worker would be eligible to receive benefits equal to 50 percent of the total compensation and benefits such worker received during the 12-month period prior to termination.

No. 4, which is in the amendment at the desk as well: To encourage worker retraining at any time during their period of eligibility, terminated workers would be eligible to receive an additional 20 percent of their prior compensation and benefits if enrolled in a full-time retraining or education program that is certified by the Secretary of Labor for a period not to exceed 12 months.

What is the impact of this proposed modification that I have? The maximum appropriation that would be required for this portion of the amendment is $500 million.

So the amendment has been dropped from $1.6 billion to $700 million now to $500 million. I am asking for the same amount of money that the administration is asking for Panama.

That would be the case if 5,000 coal miners lost their jobs as a result of enactment of the Clean Air Act. If all 5,000 eligible miners received the maximum benefits for all 3 years of eligibility and if all 5,000 chose to enter into a 12-month retraining program, and if all of them lived through those 3 years, and if they did not pay any income tax—which they will—but if they did not, that would be the maximum, $500 million.

EPA's estimate is that between 3,000 and 5,000 miners will lose their jobs as a result of enactment of this act, and if only 3,000—take the bottom range—were to lose their jobs, the maximum appropriation would be reduced to $300 million; if 4,000, the midrange, were to lose their jobs, the maximum appropriation would be $400 million.

But as with my original amendment, these benefits would be reduced dollar for dollar by any earnings from other employment during the period of eligibility. Also, the actual cost of this portion of the amendment would be much less than that of the worst case estimated since—let me sum this up now—since the benefits would cease upon the death of a recipient, many terminated workers will find other employment during their 3 years of eligibility, we hope, at least some will perhaps, and not all terminated workers would take advantage of the retraining and educational programs.

Furthermore, the net cost of the program to the Federal Government would be substantially less than the worst case estimate above since: First, the recipients of benefits would not be eligible for other Federal assistance; second, the ripple effect of mine shutdowns would be reduced, thereby reducing the need in mining communities for other Federal assistance; and third, the benefits paid to terminated

workers would be subject to Federal income taxation.

So I have now added a new section to the pending amendment that will provide benefits to noncoal mine workers who may lose their jobs as a result of enactment of this legislation. This new section would extend to these eligible terminated workers benefits that are now available under the Trade Act of 1974, as amended, to persons who lose their jobs because of trade imports. The benefits under the modified amendment, if I am allowed to modify it, would provide up to 52 weeks of trade adjustment allowances, including up to 26 weeks of training for eligible recipients. In other words, what we are going to do for the noncoal miner loser of a job, if the loss of that job is directly attributed to this act, is allow him trade adjustment assistance for a year beyond the 26 weeks that he would get in unemployment compensation.

So we have provided this for workers whose jobs are adversely affected because of the imports in certain cases, and what I have been seeking here is that those noncoal miners who lose their jobs because of this act may have 52 weeks of benefits in training such as they would get under the Trade Assistance Act on top of the 26 weeks of unemployment compensation to which they will be entitled in any event.

So that this modification would not be directed just at coal miners but it would help other workers, chemical workers, steelworkers, laundry workers, automobile workers, whatever, who lose their jobs directly as a result of this act passed by the legislative branch. They are also going to have a cushion.

That is in sum the modification that I seek to offer. So I say to every Senator here, if someone in their State as a direct result of this legislation loses their job, they will get trade adjustment benefits a total of 78 weeks, 52 plus 26.

So, in sum, I have lowered the cost of the benefits available to the coal miners. I reduced the number of years, reduced the percentage per year, and in doing so, I think I have heard and responded to Senators who have voiced these concerns about the amendment which I presently have at the desk.

Mr. President, I indicated to both leaders that I would ask unanimous consent to modify my amendment.

The PRESIDING OFFICER (Mr. LEAHY). Is there objection?

Mr. BYRD. I am going to ask unanimous consent, and I will ask it now while I have the floor.

I ask unanimous consent that I may modify my amendment with the amendment which I now send to the desk.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from West Virginia?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, reserving the right to object, and I am not certain whether I will object, I would like to comment on the statement and the amendment.

First, I would like to know what it is going to cost, what is this additional coverage going to cost. If it is $500 million just for the coal section, are there any estimated costs covering the other industries?

Again it is a question of some importance because we are looking at the total cost of this bill, trying to meet the guidelines set down in the President's letter of 2 or 3 months ago. If the distinguished President pro tempore has that information, it would be helpful.

Second, I know that the distinguished Senator from West Virginia is persuasive. I saw it in the Armenian resolution. He pealed off one after another around here on my Armenian resolution, and I know when I asked unanimous consent to modify my amendment, the Senator from West Virginia objected twice.

So it is very difficult to say no to the distinguished Senator from West Virginia, and I know that he has been knocking on doors, making house calls, visiting with Senators, and I know how strongly he feels about those who work in the coal mines, which is certainly justifiable, and I do not quarrel with that at all.

But, as the Senator from West Virginia knows, sometimes you have to pay a penalty for leadership. I have just paid one. I had to vote against my distinguished friend from North Carolina on an amendment on Lithuania because of administration opposition.

While there may not have been negotiations between the distinguished Senator from West Virginia and the administration, I can assure my friend from West Virginia that we were negotiating. I was negotiating; the Senator from Maine was negotiating, or trying to get the administration to negotiate on the basis that if we could come to the Senator from West Virginia with a counteroffer, if it were reasonable, he might accept it or he might say, well, with the following changes, I will accept it.

I can say that as recently as 7 p.m. this evening, I have been in contact with the White House—the majority leader just shortly before then—stressing the need to send up some counterproposal, some generic proposal, something that would cover coal miners and steelworkers and chemical workers and something that would cover more than the acid rain section and the air toxic section where there are going to be some people out of work, chemical workers.

In fact, Senator, I had letters today from the West Virginia steelworkers, letters addressed to me with copies of letters sent to the distinguished Senators from West Virginia, saying do not forget us—steelworkers.

I think I can report with some accuracy the administration's first preference is to defeat the Byrd amendment and go ahead and pass this bill. It has been my suggestion that they give us, give me or the leadership, or whatever, something to work with so that we can tell our colleagues that, if this Byrd amendment is defeated, there will be an opportunity to vote for a generic amendment that covers extra workers, steelworkers, rubber workers, whatever. And it would be based on the Trade Adjustment Act that the Senator from West Virginia referred to, and that has been referred to in the previous debate here last week.

I believe that information will be forthcoming from the White House in the morning.

I have said before I think this is probably the most important legislation Congress is going to consider all year. Sometimes you do not win every time. We have been successful in defeating a couple of major amendments that might have impact on whether or not this bill survives. The votes were very close—six votes on one and seven votes on the other.

I said the other night that if the Byrd amendment were adopted in the form that we are in, before it was modified, and even after the modification, that might be the end. I am not certain what the administration's view would be. But I am wondering if the distinguished Senator from West Virginia would permit the Republican leader at least to look at what the White House sends up before he makes his request.

I do not like objecting to the request of the Senator from West Virginia or any other Senator. I have not made a practice of it in 20 some years I have been around here. But since this information was probably not known to the Senator from West Virginia when he made the statement in the request, it still may be that there can be some resolution.

I did say that we have been trying to find a resolution to satisfy the legitimate concerns not only of the Senator from West Virginia, but of other Senators who are convinced that some people will lose their jobs as a direct result of this legislation, not because of increased technology in the coal mines or whatever it might be. There are going to be people who lose their jobs in any event in the coal mines because of the new technology, not as a result of this legislation. They are going down in any event, whether this

legislation passes or not. I have the figures of how much the employment will drop to. I do not see them in front of me. But they are dramatic between now and the year 2000.

I would like to be able to craft an amendment that a great majority could vote for with the distinguished Senator from West Virginia. And I indicate to the Senator now that I have no objection if the request were made in the morning. But I think, in fairness, at least I hope the Senator from West Virginia would see, in fairness, that this Senator would like to have an opportunity to look at what the administration may have crafted since I indicated they would have that up here by tomorrow morning.

Is it possible that we might make the request in the morning?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished Republican leader appeals on the basis of fairness. That is kind of what brought me to the floor with this modification. I have waited and waited and waited. The administration had its opportunity. I have nothing. I received nothing and I have waited. And how long can I wait?

Just now I am exercising my rights. The distinguished Republican leader will be exercising his rights if he objects. But I understand this situation very well. The Republican leader is doing a good job as a representative of his administration. If I were in his shoes, I would say exactly what he has said. Can you wait? Would you wait until in the morning?

Now, in the morning what we get is something from the administration. So I have shown my hand. The administration can react to this after it is modified. My ears are not closed after it is modified. I may not want to go along with whatever the administration might want to propose. I think I have gone back and back and now am in the third trench from where I was. I do not think that it is right for the coal miners to have to wait until tomorrow morning to have the modification at the desk. I have done what I have felt was fair to my colleagues and fair to the other workers of the country.

I was told, I have heard it on this floor, that the losses in jobs to steel, chemicals, coke ovens, all these have been reduced to a minimal. They have been minimized to virtually zero.

The distinguished Republican leader raised the question about costs. If the losses in other industries have been reduced to virtually zero, it is not going to be much additional cost for the trade adjustment portion of this amendment.

The cost will be negligible if the number of job losses have been reduced to negligibility. If they have not been reduced, then we ought to know that. If the losses are still going to be great in the chemical industries, if the job losses are still going to be great in the steel industries, I want to know, too, because I have steel. I have the great steel mills in the northern panhandle of West Virginia. I have one of the largest chemical complexes, if not the largest. I will not say it is the largest. It is one of the largest. It may be the largest in the Western Hemisphere in the Kanawha Valley, along the Ohio River.

I have been led to believe that those job losses have been reduced to virtually zero. If they have not been, I would like to know. We need to know whether the jobs reduction element has been reduced to zero, near zero, or it has not been reduced. If it has not been, we may need to craft a new amendment.

As to my good friend who said that Senator BYRD has objected twice on the Armenian resolution to the leader's request to modify, of course I did. And I explained why. Lest anyone did not hear at that time or has not read the RECORD, there was a basic reason for objecting. The distinguished Republican leader wanted to change a Senate joint resolution to a simple resolution or to a concurrent resolution, which means that that resolution would only be agreed to by both Houses, and it would not have to go to the President. The President would not have to veto it if he did not like it. He would not have to sign it. It would just be a matter among us folks up here. I wanted the President to have to showdown on that.

My good friend, Mr. DOLE, spoke of how the tables have been turned now, which I am requesting that I be allowed to modify an amendment when I objected to his doing so. The second reason I objected to the Senator doing so was because the concurrent resolution, as the verbiage read, would have been just as potently injurious to our relations with Turkey as was the language in the Senate joint resolution.

So there was no difference in the language. It would have been just as insulting to the Turks as a Senate joint resolution. No change in that. Besides, as I said, it would not go to the President.

The other way the table has been turned, since my good friend mentioned the tables being turned—and the Senator is right; the tables did turn. But he also turned the tables. The Senator said tonight during the debate on the Lithuanian resolution that he was the Republican leader, and it was his job to defend the administration's position. He was not defending the administration's position on that Armenian resolution.

I talked with the President on the phone. He did not call me; I called him. I talked with Mr. Eagleburger on the phone. He did not call me; I called him. I talked with the President's Security Adviser, General Scowcroft. He did not call me; I called him, not once, but twice or three times. I talked to him. I talked to him on Air Force One. I talked with the Secretary of State. He did not call me; I called him.

All of them, to the man, including the President, was opposed to the Armenian resolution. Yet, my good friend, Mr. DOLE, opposed the President's position. So tonight Senator DOLE says he has to support the President's position and the administration's position, and indeed he is supporting it. He indicated again that the adoption of this amendment might cause the President to veto the bill. I do not presume to speak for the administration. I could not do that.

I have been around here long enough to know that if there is an extremely controversial bill that the President is supporting and wants, and he has publicly stated that he wants it, and because when an amendment is adopted in one body, it still has to go to conference, to the other body, it has an obstacle course to run, at best.

But if it emerges from this obstacle course as a part of the legislation, I cannot believe that the President would veto this bill because of that legislation. If he vetoes this bill because of that, what assurance does he have that he will get another bill? What assurance does he have?

Members of this body have been working on this bill for years. It has already been before the Senate for 3 months. It is in the third month. And it still has a long way to go. If it is vetoed and it finally passes the Senate along about April or May or June, or whatever, and we have all these other matters, budget matters, appropriations matters, and so on, what assurance does the President have that he is going to get another bill, and if he does, what assurance does he have that it will not be worse than this one, in his viewpoint? So I take that with a grain of salt.

I do not presume to speak for the President on this, but I have heard that around here. Common sense tells me that the President is going to think once, twice, three times or more before he vetoes this bill because of this amendment. It may be included with other amendments so that the President would feel like he would want to veto it, but I want each Member to think about that, just think about it.

It will not be easy if the President vetoes this bill. I do not think it will be a quick turnaround if he gets another one. I hope that Senators will not be presuaded by that argument on this amendment, because this amendment is demanded by justice.

39-059 O-91-12 (Pt. 4)

The PRESIDING OFFICER. The Chair asked if there is objection to the further modification of amendment No. 1329, the unanimous consent request.

Mr. BYRD. I have not yielded the floor, Mr. President.

The PRESIDING OFFICER. The Chair has shown a great deal of leeway with the Senators on the reservation of the right to object, but there was a unanimous consent request.

Mr. MITCHELL. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, it is not my intention to object, but I wish to make a brief comment, and then I want to ask the distinguished Senator from West Virginia a couple of questions, because I did not fully understand the modification which he seeks to make.

First, in fairness to the administration, I think it important that the full sequence of events be described. As the distinguished Senator from West Virginia indicated, I telephoned him last week and asked if he would meet with a representative of the President, because this is an important amendment to the Senator from West Virginia and to the President.

The Senator agreed to, and I then telephoned the President's representative and asked him if he would be willing to meet with Senator BYRD. The representative indicated that he would, and as a consequence of my calls to both of them, which followed discussions I had had prior to that with the distinguished Republican leader, the meeting occurred on Monday, 2 days ago.

When I received a report of that meeting upon my return to Washington late Monday, I discussed the matter further with the distinguished Republican leader and the administration and encouraged the administration to review the matter and to make a proposal. To further encourage such activity, today I took the initiative and asked my staff to draft a proposal, which I had previously indicated to the distinguished Republican leader and to the administration that I thought represented an appropriate approach to what many of us feel is a serious problem. That was drafted today and delivered to the President's representative this afternoon as well as to the distinguished Republican leader.

Earlier this evening, prior to the statement by the distinguished Senator from West Virginia, I indicated to him that I was in the process of developing such a proposal and I hope to gain agreement with the administration and to be in a position to present that to the distinguished Senator from West Virigina as soon as possible. That was immediately prior to his statement when he indicated to me he was going to make a statement on the floor here.

I had hoped to receive final indication this evening. I do not know if I may have been called in the meantime. I have been on the floor for the last several hours.

So it is my hope that a proposal either identical to or similar to or based upon the one that I suggested would be available to be made. It did, as I indicated briefly to the distinguished Senator from West Virginia, include provisions that applied to other workers because, as he himself has indicated in his remarks here tonight, that is a concern that has been troubling many Senators; that is, how can we adopt legislation which says one category of workers that loses their jobs as a result of this legislation receives benefits, but all other workers who may suffer the same fate will receive no benefits. He is obviously attempting to respond to that concern now.

It remains my hope that this matter can be resolved in a manner that will be acceptable to all, and it is my hope that if not this evening—the hour is now late—the first thing in the morning, or as soon as possible tomorrow, hopefully the first thing in the morning, that I will be in a position to discuss this further with the distinguished Senator from West Virginia.

I had initially suggested that the discussions be between the Senator from West Virginia and the administration. Since that did not produce a specific counterproposal, I indicated to the administration and to the distinguished Republican leader that I felt I would take the intitiative and draft this proposal and discuss it with the Senator from West Virginia. That remains my intention, and I hope it will be possible to do that whatever happens with respect to the proposal.

Having said, that, I would like to make just an inquiry of the Senator from West Virginia regarding the substance of the proposal.

First, as he will recall, in our prior discussions I had expressed a reservation about a provision in his initial proposal which created a rebuttable presumption that any person who lost his job during the covered period did so as a consequence of this legislation. I indicated to the Senator from West Virginia that I felt that that effectively negated the certification process that was required in another provision of the law that in effect required the Secretary to certify that the loss was due to this legislation. We had some discussions about that, and I wonder if the Senator in his modification is proposing to eliminate that rebuttable presumption.

Mr. BYRD. The rebuttable presumption has been eliminated.

Mr. MITCHELL. I thank the Senator. I think, as I indicated to him, that is a step which I think is important because otherwise there would not be a certification process.

My second question is, because I did not fully understand it, do I understand what the Senator has suggested is that for coal miners who have lost their jobs the benefits will be those described in the original proposal, that is, a percentage of their income prior to the job loss for the 3-year period in the percentages stated in the Senator's amendment?

Mr. BYRD. Yes.

Mr. MITCHELL. But for persons who lose their jobs who are not coal miners, that the benefits will be those under the Trade Adjustment Assistance Act extended under this proposal for an additional 53 weeks?

Mr. BYRD. That is correct.

Mr. MITCHELL. And it is further my understanding that the benefits under the Trade Adjustment Assistance Act, of course, entitles one to unemployment compensation as determined by the State of residence of the person involved plus payments for the cost of training, plus job search and relocation assistance, if that is appropriate. Is it my understanding that those are the benefits that the Senator from West Virginia is contemplating having the benefits that exist under current law out of the Trade Adjustment Assistance Act for persons who lose jobs as a result of imports be available to those persons who lose their jobs as a result of this legislation but who are not coal miners?

Mr. BYRD. That is correct.

Mr. MITCHELL. I ask the Senator from West Virginia then, since the concern to which he is obviously attempting to respond and which many Senators have expressed to him, to myself, to the Republican leader, and others of having some benefits for coal miners and no benefits for others, is he concerned about the fact that under his proposal, while there are some benefits for others, they are different, less in amount, and shorter in period than those with respect to coal miners?

Mr. BYRD. They are.

Mr. MITCHELL. And I inquire further whether or not that does not at least permit the continuation of the same concern that previously existed that two categories of persons are being created by virtue of this proposal, one who will receive a certain type of benefits and others who will receive another type of benefits lesser in duration and lesser in amount during the period of coverage.

Mr. BYRD. I still have the floor, Mr. President?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. MITCHELL. That is an inquiry.

Mr. BYRD. There is a difference.

Mr. MITCHELL. I am sure the Senator has the same concerns as others have, and I want to make certain there was that difference, and perhaps he might address that.

Mr. BYRD. Yes, I would be happy to address that.

The bill targets the high sulfur coal miner by singling that group out for a 35-percent reduction in jobs. That is according to the EPA. If I am wrong, they are wrong.

In no other industry is that the case. The average age of the coal miner is 39 years. Eighteen percent of the coal miners are under 30; 41 percent are between 30 and 40; 41 percent are between 40 and over; and 16 percent are 50 and over.

The mean average experience for coal miners is 11 years. I do not believe it can be contemplated that coal miners are going to take a retraining course and go into some complicated microchip industry, do computer work or whatever if it were even there for them to do.

The mining regions of the Midwest and Appalachia have been ravaged. They have been devastated already. West Virginia has an 8.6 percent unemployment rate, the highest in the Nation. Louisiana is next with 7.9. Mississippi is next with 7.8. Arkansas is next with 7.2. Michigan is next with 7.1. And Alabama is next with 7 percent.

Where are they going to get jobs? The steel industry in my State has suffered as a result of imports. We need to have great pottery mills, shoe factories. They are gone—gone. When I ran for the House of Representatives I had 130,000 coal miners in West Virginia. Now we have 29,000. There are two different sets of figures. One says 29,000 plus but the other says 29,000. There are between 29,000 and 30,000.

The average number of workdays in the coal industry of this country are 202, at 5 days a week, 52 weeks a year, they could work 260 days. I am answering the majority leader's question. But, this past year, at least the latest we have figures for, is 202 days.

And so, let us say, as some would say, well, there will be an increase in the number of jobs in the low sulfur industry that will absorb those jobs that are lost in the high-sulfur industry. They will merely crank up the machinery and work more days, so that they could work 260 days and still produce far more coal. The country produced 949 million tons of coal, the latest year, I believe 1987, 949 million.

We produced 143 million of it; Kentucky produced 158; and my good friend from Wyoming that represents a State that is in the lead, they produced 163 million tons that last year. What I am saying is, do not look to the low sulfur areas to pick up the jobs that are lost in the high-sulfur areas.

All this goes to what I said about the high-sulfur coal being targeted. Nobody intends to target it, but that is where the cookie crumbles. The high-sulfur industry is being targeted not intentionally, but that is the result of this bill. And I have already explained why. So I am targeting the high-sulfur industry for relief.

These miners work in the most hazardous job that there is. I know. My brother-in-law died of pneumoconiosis. His father was killed in a slate fall. My dad was a coal miner back in the days of the carbide lamp and my wife's father was a coal miner. I have the blood in me of coal miners, and they are going to be hurt.

But not only is that coal miner going to suffer, the communities in which he lives are going to be seriously impacted. And for every coal mine job that is lost here, two nonmine jobs are estimated to be lost.

Now you know what that is going to do to the coal mining communities of West Virginia, Kentucky, Pennsylvania, Ohio, and other States. Those communities are going to be devastated. And so what I am trying to do here is target a group that is due for a direct hit, a hard hit and an immediate hit. I am trying to give them the kind of consideration that I think they deserve, remembering that if that coal miner still has some income, that community could live.

So if the bill targets them and if their areas are already devastated, as my State is devastated in many of its areas, and they are 40 years of age and they live the life of their father and their grandfather, it is only fair that they be given an adjustment that is not what they are accustomed to by any means, but that is higher than other workers who have not been earning that much money. Other workers do not have that hazardous a job.

Get on one of those mine motors if you have not been on one. Ride it along there, having to bend over in the motor to keep your brains from being bashed out when they strike the ceiling of that mine.

Walk under one of those kettle bottoms. I saw in the CONGRESSIONAL RECORD the word that was used was tunnel bottoms. It is k-e-t-t-l-e bottoms. Why? Because it is a piece of slate shaped like a kettle only it is upside down, the small end is up above. So, if you just jar that, hit it, and it would drop right out. Go in that kind of a condition. Go back into that face, walk around in the water a little bit all stooped over. Lie down in one of those continuous miners that grind out the coal, tons of it every day. Live in that dust a while, then you will understand why the miner gets more pay than people who work in many other occupations.

I would not want to work for that wage. I would not want to work in the mines for any wage.

But to them it is their life, it is their bread and butter. It is all they have ever had. Their fathers took them into the mines. It is an extremely hazardous duty. That is why they ought to be paid more. I do not have that hazardous duty here.

Of course, there is a difference. There is a difference in that amendment that I had at the desk at the beginning. I did not have any provisions to pay any other dislocated worker anything. In Byrd, et al., No. 2, there is no provision to pay any other worker. And yet we are at the river's edge. Perhaps we will have to go ahead with that amendment, I do not know, and vote on it.

I am entitled to offer another amendment. I do not have first recognition here. I understand the situation I am in and the situation is at some extremity. I am offering Senators a choice. Do you want to vote on that bill that is at the desk that has nothing for the other dislocated workers and costs more for the dislocated coal miner? I am offering something that I think is reasonable.

There is a difference, I do not deny it, and there are reasons for it. There are reasons for the distinction in the two. I understand that. I think there is some justice in the fact that coal miners, working in the hazardous jobs that they have, earn more money than a lot of the other workers in my own State.

So this is not just the coal miners of West Virginia bidding against noncoal miners of other States. I have noncoal miners who will lose their jobs perhaps, too. But if what I have read and heard on this floor is accurate, job reductions in other industries are going to be minimized as a result of the amendments that have been accepted, the amendments that were worked out in the distinguished majority leader's office. And if that be the case, the other industries are not going to suffer much by way of job losses.

Now that is my response. It was lengthy, but I have attempted to answer what I think is a very reasonable question by the majority leader, because he has posed a question that a lot of people ask.

So, Mr. President, I would like to have my request acted upon.

I do not intend to keep the majority leader or minority leader from speaking, but I do have the floor and I have put a request. I do not lose the floor by virtue of making a unanimous-consent request.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from West Virginia is certainly correct. He does

not lose the floor by virtue of making that request.

Is there objection?

Mr. DOLE. Reserving the right to object.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, first, I want to clarify. I do not want to redebate the Armenian resolution. I would say to the distinguished Senator from West Virginia that I sought to modify so I could accommodate the concerns expressed by the President of the United States, just as my colleague is now seeking to modify to accommodate the concerns some of his colleagues have expressed.

Had the modification been permitted—and we were only on a motion to proceed, we did not even have the bill before us, just to take it up which I was not even allowed to do—the President supported the modification. So I would not want the record to reflect that I had, by design or intention, literally, intentionally confronted the President of the United States on this issue.

We had a difference of opinion and I acceded to the concerns of the President. If I had been permitted to modify, it would have been before us in a way that was supported by the President of the United States. That was objected to on two occasions.

But, I also am aware that the Senator does have another amendment, can offer another amendment. He is going to be recognized sooner or later.

Mr. BYRD. Mr. President, would the distinguished Senator yield? If I said anything that, by implication connoted that I meant the distinguished Senator was dissembling in any way, fashion, or form, I certainly did not mean that, would never intend it. We are kind of debating this thing. The Senator was telling how I reversed the situation on him, and I was simply saying, well, the way I thought, it had had been turned, likewise, on the Armenian resolution. I certainly meant nothing dishonorable by what I said.

Mr. DOLE. No, I understand. I just wanted the RECORD to reflect what I thought the facts were at the time.

But I would say, it seems to me we are still dealing with the same basic problem, even with modification. Because you are giving preferential treatment to one person who loses a job and has a family, and you are giving a different treatment, different benefits, different duration, to somebody, a steelworker who is in a very dangerous, hazardous job but the benefits he would receive will be much less. He may have the same number of children, the same obligations, the same mortgage payments, the same grocery payments, and he gets much less. Or maybe it is a textile worker. Or maybe it is somebody else.

What this Senator has been trying to do, and I think I can say the majority leader and I have been trying to figure out, is to try to figure out how we can make certain there is fairness. If you are out of work you are out of work.

I assume the Senator from West Virginia is correct; coal mining is probably the most hazardous job in America. But the bottom line is, when you lose that job, or lose the job in a rubber factory, or auto plant, or steel plant, or whatever, you are out of work. You do not have many things to turn to. You do not have any recourse. Unless there is some generic proposal in this measure which would address that problem for a period of time while you were retrained, if possible, or while you were trying to find another job or relocating.

Under the proposal by the distinguished Senator from West Virginia, still in the first year, if you were in training you would get 90 percent in the first year, 90 percent——

Mr. BYRD. Seventy.

Mr. DOLE. Seventy plus the twenty.

Mr. BYRD. If he takes retraining, yes.

Mr. DOLE. So you would get almost your full pay the first year. But somebody in the textile plant, or somebody in the steel plant, or whatever, they would get unemployment compensation. I am not certain what the payment is. It would be different by State.

The reason I wanted to focus on the amendment, make certain I understood it—again, I do not quarrel with the Senator's intent. He knows precisely what he wishes to do because of his strong conviction about people who work underground, in the coal mines, in the dark, in danger. But, it would seem to me if they lose that job they are not in any more danger than a steelworker who has lost his job, or a farmer who might lose his job. They are not in the mines. They are on the ground, and they are all out of work. They all have families to feed. They all have obligations to meet.

So, I would still make the argument, if in fact the Byrd amendment as modified were adopted, you are giving preferential treatment to one class of Americans. And that was the basic objection in the first place.

I just say, with all respect, I do not believe this changes it much, unless everybody accepts all of the coal miners' level, or all of the other level. And that is why I was suggesting that I would like to have at least until tomorrow morning to have a chance to focus on the amendment. But I am advised and I would ask parliamentary inquiry—the Senator from West Virginia stated, and I know it to be a fact, that he is permitted to offer another amendment?

The PRESIDING OFFICER. The Senator does not have another amendment on the list that was part of the unanimous-consent agreement adopted that is jobs related.

Mr. DOLE. It is jobs related. If he withdrew the amendment, it would take unanimous consent at this point. But, in any event, say the amendment is defeated, the Senator from West Virginia is going to offer this amendment sooner or later. I am not going to object to his modification. And I want to preserve that next one in case we reach some agreement. There will still be an opportunity for the Senator from West Virginia to further modify.

So, I would say to my friend from West Virginia, I am not going to object. I am going to try to, as I indicated earlier, receive from the administration what I hope they have prepared, and hope at that point we can submit it to the Senator from West Virginia for his perusal.

Mr. DOMENICI. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. DOMENICI].

Mr. BYRD. Mr. President, I thank the Republican leader for indicating he will have no objection.

Mr. DOMENICI. Might I say to the distinguished chairman of the Appropirations Committee, I reserve the right but I do not intend to object. But I think this is an opportunity to just clarify a few things and, in a sense, express some concerns.

Might I do two things? First, let me say to the distinguished majority leader, and the Republican leader, and to my good friend, the chairman of the Appropriations Committee, I did not just stand up here because I have a inquisitive mind. I spent a lot of time trying to get a clean air bill to the floor. And it was a rare privilege to see us working together. We had the majority leader, we were there under the auspices of the minority leader, and I think the senior Senator from West Virginia will acknowledge that it took a long time.

But he has used the words "fairness" tonight. We did a lot of fairness in that room. A number of us worked for fairness for the cause of the distinguished Senator from West Virignia. I think Senator BYRD knows a number of us had problems with our States in terms of the allowance system. We worked together and ultimately in a bipartisan manner we came to the floor with a very good bill. The Senator's State came out better, as did the other six Midwestern States that have a big problem of cleanup under this 10-million-ton limitation that we are imposing. So I spent a great deal of time at that and I do not want to see our effort lost. I am not suggesting that it will be.

Having said that, I am a bit concerned about what we are talking

about tonight. I would just like to ask a couple of questions. I think I am correct, the Senator from New Mexico believes he is correct in saying that on the acid rain cleanup there are two phases to this bill. There is a phase I, which goes to around the year 2000 or shortly thereafter, and then there is an extended phase.

Mr. BYRD. I believe it is to 1995. And then——

Mr. DOMENICI. To 1995, and then.

Mr. BYRD. Then.

Mr. DOMENICI. On the toxic air pollutants, there are at least two phases. We do not have exact times, but one of them is the time it takes to get the maximum available control technology on the industry, a very broad industry. Then there is a next phase. We are not sure that is standard yet, but it will be there when we have to impose it, perhaps 7½ years out.

Then there is another major section of the bill on attainment, for some of the nonattainment, some of the very major cities. All of these are part of this Clean Air Act and all change, to some extend, the way we live, the way we work, the way people do business, and all could have an impact on jobs, one way or another.

I am concerned because this Clean Air Act is going to run for a long time the coal industry, like the uranium industry, in New Mexico.

Let me say to the Senate, the distinguished chairman of the Appropriations Committee indicated how he called the Secretary of State during the previous debate on Turkey. Let me suggest that he did not call the Senator from New Mexico; I called on him. He did not call on me; I called on him. I did that because I am seriously concerned about his problem, the problem of his miners and of this bill. But I also am concerned about the American economy and its future. That was a private discussion, and I will go no further than to say we had a very good conversation about the problem.

Might I say to the distinguished chairman of the Appropriations Committee, my concern is how long will the modified Byrd amendment, the one he is going to get here tonight without objection, for how long will we continue to apply it to coal miners and those who might be entitled to trade adjustment if that is what we choose to do? For the first phase of the bill or for as long as this Clean Air Act has economic implications on the American worker and American business?

Mr. BYRD. Through 1995.

Mr. DOMENICI. For every provision, including trade adjustment, 1995 and we are finished.

Mr. BYRD. That is correct.

Mr. DOMENICI. Might I ask, with reference to getting rid of the rebuttable presumption, had the distinguished majority leader not asked, I would have asked, so let me ask a follow-on question. If the rebuttable presumption is gone, will the distinguished Senator—and I do not want to put him to a lot of trouble; he has been standing a long time on this floor—tell us briefly how his amendment goes about determining the person is entitled to either his percentage of their previous pay or trade adjustment?

Mr. BYRD. The Secretary of Labor draws up regulations in consultation with the appropriate congressional committees, makes the determinations as to who will qualify and who will not qualify.

Mr. DOMENICI. That is it. That certification is final, binding. When the Secretary of Labor determines that a person has suffered a job loss, I assume it is as a direct result of this act.

Mr. BYRD. That is correct.

Mr. DOMENICI. I take it then that in some of these Midwestern States, I say to my good friend, where the concern has been the dramatic rise in electric rates that might occur—they may be right; they may not be right—just as I assume here the loss of coal miner jobs is an estimate, and I will ask him a question about estimating shortly, but I believe some are estimating electric bills will go up in some of these Midwestern States 30, 40, 50 percent. I assume if that happens, some people might be put out of jobs. In fact, I can envision entire factories closing if the price of electricity goes up high enough.

Are those people in Indiana or Illinois entitled to trade adjustment compensation?

Mr. BYRD. Not under this provision.

Mr. DOMENICI. And that is because you assume the word "direct" means that they are not entitled because they are "indirect."

Mr. BYRD. I am saying that those who directly lose their jobs as a result of Government action enacting this bill into law are entitled to the benefits that are included in the amendment.

Mr. DOMENICI. Then I assume that the Senator from West Virginia is saying if a computer manufacturer in the State of Indiana closes down and moves to New Mexico or Taiwan because utility rates go up dramatically under this law and 400 workers are laid off, they get neither 70 or 80 percent of their pay nor trade adjustment under this bill.

Mr. BYRD. The amendment speaks for itself. It provides for those who lose their jobs directly as a result of this law. I removed "rebuttable presumption," and the Secretary of Labor, I would think, would make the determination under the regulations that the Secretary formulates.

Mr. DOMENICI. This is my last question, and I hope the Senator understands that I am trying to learn. I suggested that when we talked this morning.

Mr. BYRD. The Senator said that he asks incisive questions and I admire him for that. I wish more people would ask incisive questions about a lot of things. That is not something to apologize for.

Mr. DOMENICI. I said my mind asks me a lot of questions. I do not always ask them. Let me have one more.

Might I ask, is this a true statement? In the event the EPA's estimates of miner job loss, the loss of miner jobs or the loss of other jobs, am I correct in assuming that either coal miners who lose their jobs and are unemployed or others who might directly lose their jobs and be entitled to the trade adjustment provisions, that the best we are doing on the floor in giving EPA's estimates, and if EPA's estimates are wrong, we will pay whatever employees lost their job under this act whether it is 3,000, 5,000, 1,000, or far more; is that fair to say?

The Senator is using an estimate, but if the estimate is wrong, we are going to pay the reality.

Mr. BYRD. No; we are not.

Mr. DOMENICI. How will we prevent that?

Mr. BYRD. Because this is not creating entitlement. When the appropriations for a particular year are utilized, then the remaining appropriations will be reduced on a pro rata basis for those who qualify.

Mr. DOMENICI. The Senator is suggesting that he has a cap on this and to the extent those entitled might exceed the cap on an annualized basis, that the amount to be received will be reduced to fit within the cap? Maybe he did. I do not know that, and that is why I am asking.

Mr. BYRD. That is a good question, and I was very careful not to create an entitlement here. I was very careful not to put something in here concerning which point of order would lie at some future time. I will find that for the Senator.

Mr. DOMENICI. Might I say, while the distinguished Senator is looking, I was not asking about entitlements now within the purview of the Budget Act.

Mr. BYRD. I understand that. I am responding to the Senator by telling about that language, lest it be seen as an entitlement which would result in exactly what the Senator is going after. An entitlement would not make any difference if it was 8,000, 10,000, or 20,000. It would all be entitlement for that.

That is not what I am intending to do, create an entitlement.

Now, I read section 610(a):

The Secretary shall be responsible for the payment of all benefits provided coal mine workers pursuant to this title.

(b)(1) There are authorized to be appropriated to the Department of Labor, such sums as may be necessary not to exceed $500 million.

So there I am using the EPA's estimates as to the number of jobs that would be lost. I am using the outside range, 5,000. The first year that would amount to, at the maximum, with 70 percent, $175 million, the second year would be $150 million, the third year would be $125 million, plus the $50 million for training, which adds up to $500 million.

I am using the EPA's outside estimates, highest range. So I put in this legislation that there are authorized—it does not make any appropriation at all. That is a good point, too, which I overlooked earlier. We are not appropriating money. This also has to run the additional obstacle course of appropriations.

There are authorized to be appropriated to the Department of Labor such sums as may be necessary not to exceed $500 million—

There is a ceiling—

and such sums shall remain available until such sums are expended, to meet obligations payable pursuant to sections 605 and 606 of this title. In any fiscal year, the Secretary shall limit—

And this is the answer to the Senator's question—

the total benefits payable under this title to an amount not in excess of the appropriation provided in advance for such fiscal year. If the requirements of sections 605 and 606 of this title exceed the limitation set herein, benefits shall be reduced to the extent necessary to comply with such limitation.

So I am using EPA's estimates.

Mr. DOMENICI. I thank the Senator.

Mr. BYRD. I am not providing for an entitlement. We computed as to the EPA's estimate the number of jobs that would be lost, amount of moneys that would be required. That is it. If the EPA has underestimated, well, it is too bad as far as this legislation is concerned.

Mr. DOMENICI. I thank the Senator.

Mr. BYRD. I thank the Senator.

Mr. THURMOND. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the distinguished Senator from West Virginia came here in 1957, just about 2½ years after I came here, and I want to say that I feel great personal affection for him. He is a man of conscience. He is a man of principle. He is a man of understanding. I admire him for his long, capable, and faithful leadership here in the Senate. I doubt if any man in the history of this Senate has served in leadership positions longer than he has. I have had tremendous faith in him and still do.

But I am disturbed about giving certain benefits to one class of workers and not to another. For instance, today, this very day, I have two announcements here of textile mills closing. What is going to happen to these people? Here is an announcement. This company announced that in approximately 60 days the company will close the plant; 235 people will be out of work. This announcement says the company has continually invested in new company renovation of plant facilities and new projects development. However, textile imports have adversely impacted the Robins operation for several years. Mr. Miles Hodge, the Robins plant manager, announced that while all of us have worked very hard to be successful with our customers, it has not been enough to overcome the massive continuing growth of imported textile products into the United States. Overall textile imports entering the United States rose 13 percent last year, 1989. The total value increased to $32 billion. Think of that: $32 billion of textile imports coming in here and taking jobs of Americans.

In the month of January, this past January, it broke all-time records for that month, increasing almost 10 percent. Imports of fabric and apparel increased from 10.7 billion square meters in 1988 to almost 12 billion square meters in 1989. This huge escalating textile import burden has directly impacted the Robins plant and made it impossible for the plant to continue operations.

That is an announcement that was made today.

For another plant that will reduce operations in 60 days, the manager of that plant says, "We have had the most modern textile equipment, renovated facilities, and new product development, but we never have gotten our Federal Government's attention on the devastating textile import problem."

Now, Mr. President, I know how much work has been put in there. We passed that bill in the Senate. The President vetoed it and we lacked a few votes overriding the veto. But these textile workers have worked there for many years, some of them 25 or 30 years. It would be hard to retrain them.

I can certainly sympathize with the able Senator on these coal miners. There is no tougher job in the world than that. I sympathize with him. On the other hand, how can I go back home and tell my textile workers that I voted for an amendment here that would give benefits to certain workers who are put out of jobs because of Government action, while Government action caused them to be put out of jobs? Government action—entering into agreements—textile agreements, is what caused these thousands of people to be put out of jobs. Just in the past few years between 350,000 and 400,000 textile workers have been put out of jobs. In my State alone, between 25,000 and 30,000 workers have been put out of jobs.

Mr. President, this disturbs me. If the able Senator is willing to modify his amendment to include textile workers, I will vote with him. Otherwise, I do not see how I could vote for the bill and explain to my people why I did not try to protect them when they were put out of jobs while others who worked in coal mines were protected.

Again, I hold the Senator in high affection and esteem. At the same time, I cannot support this amendment unless we include these textile workers in this bill.

Mr. BYRD. Mr. President, I would like very much to have the support of the distinguished Senator from South Carolina [Mr. Thurmond]. I had hoped he would support the amendment that I had offered earlier. I had no indication that he intended to support it. And now I have offered an amendment that does broaden the assistance to noncoal mine workers.

I was here and helped the distinguished Senator and his colleague, Mr. HOLLINGS, when it came to legislation to protect the textile workers. I had many meetings with labor groups, other groups, and stood shoulder to shoulder with them when their people were hurting. I did not have any textile workers in West Virginia. I am talking about the Trade Act. But I am a little like Webster was when he responded to Hayne during the famous Webster-Hayne debate of 1830. Hayne took 2 days to address the Senate and his speech was a ringing, ringing confirmation of the theory of nullification.

And during that debate, he implied that his State had no interest in railroads and canals in other States of the Union. Webster replied, and he had 12 pages of notes. And his speech also took parts of 2 days.

But in his speech, he said that the distinguished Senator from South Carolina, Senator Hayne, has indicated that the State of South Carolina has no legitimate interest in canals and railroads in any other State. In other words, the Senator from South Carolina, Mr. Hayne, has no more interest in a canal in Ohio than he would have in Mexico.

But Webster said "We are narrow-minded New Englanders, and do not think thusly. We believe that Ohio and South Carolina are parts of the same country," and States under the same form of government, for interests that are common and intermingled and associated. And he said, "We

do not put geographical limits on patriotic feelings."

This is where I want to get what the Senator has said. Webster said to Hayne, "We are narrow-minded New Englanders," and "We do not put geographical limits on on patriotic feelings." He said, "We do not follow rivers, mountains, and lines of latitude to determine lines beyond which public improvements do not benefit us." And he said, "If I were to stand up here and say that Massachusetts has no interest in a canal or railroad in South Carolina, even though I were convinced of its national significance and national magnitude, I would not have the face to go back to my constituents."

What I am saying is that I have never drawn the line, may I say to my good friend from South Carolina, I have never drawn a line to say where people need help, that I would not help them. I have never said that patriotism lies wholly and solely within the boundaries of West Virginia. And whatever affects South Carolina affects West Virginia, as well.

I tried to help the Senator when the textile legislation was before the Senate. When the act of God imposed the terrible catastrophe on the State of South Carolina, I was the first to stand here at this desk, propose an amendment, and manage the bill that gave relief to the States that had been stricken by Hurricane Hugo. Coal miners are not going to lose their jobs as a result of an act of God.

But whatever affects South Carolina affects West Virginia. Whatever affects any other State in the Union affects West Virginia.

John Donne said that "No man is an iland, intire of it selfe . . . every man is a peece of the continent, a part of the maine . . . And therefore never send to know for whom the bell tolls; It tolls for thee."

That is the way I look at it. Right now we are dealing with a bill that targets high-sulfur-coal miners. That is what I am dealing with. The bill targets them. I have said already it does not intentionally do it, but it targets them. I am pleading the case of those people.

I anticipated this argument. The Senator would not have voted for the amendment that I had at the desk before. It made no provisions to help textile workers who lose their jobs, but if any textile workers lose their jobs directly as a result of this legislation, they would qualify for the trade assistance provision that adds a year to the 26 weeks of unemployment compensation for his textile people.

If they lose their jobs as a result of this legislation, that is what I am talking about. I am not trying to deal with every job that is lost in this country, jobs that are lost because of imports. That has already been done under the Trade Adjustment and Assistance Act.

I say to my friend, I am not trying to deal with every kind of job that is lost and for whatever reason that one may conceive of. I am talking about jobs that are directly lost and can be proved to have been lost as a result of this act which this Government hopes to make a law.

Mr. THURMOND. Mr. President, if this bill passes and the coal miners lose their jobs, they lose it as a result of the Government action. Textile workers are losing their jobs because of Government action.

Mr. BYRD. In this bill?

Mr. THURMOND. Not this bill. I am just speaking about in general.

Mr. BYRD. Yes; that is right.

Mr. THURMOND. How can we grant special favor to any one group, whether it is on this legislation or some other legislation? Government action will be the cause of coal miners losing their jobs. It is the cause of textile workers losing their jobs. And I just think they ought to all be treated the same and given equal treatment, and show no partiality to any group.

I think if the Senator is willing to accept an amendment where coal miners will be affected by this job or any job—in other words, whatever they put out—and apply it to textile workers, too, that would be a fair thing to do.

I do not know how I can explain to my people that we give coal miners certain special considerations; we ignore textile workers and do not give to them, where both have lost their jobs because of Government action.

Mr. President, that is my position. I hope the Senator will see it and will see fit to amend his amendment and bring in these textile workers. If he does, I will vote for this legislation.

Mr. BYRD. Mr. President, I respect the Senator's views.

Has objection been made to my request?

The PRESIDING OFFICER. No objection has been heard.

Mr. SIMPSON. Mr. President, reserving the right to object, I will be brief at this hour.

I have been listening with great interest to the debate of the Senator from West Virginia, and all other individuals.

I just want to clarify one thing that I do not think has come forth, and I think there is a bit of misconception or misinterpretation about; that is that any delay here has not been occasioned by the majority leader or the minority leader. Some perhaps, but a great deal of the delay has been to accommodate the Senator from West Virginia who is waiting for one more vote to come from a far-flung region of the United States.

I think that needs to be fairly said. We are talking about fairness.

There is a great deal of talk about fairness here tonight. I think that needs to be said. A lot of that delay was to accommodate a Senator, and that Senator will not be here until tomorrow. That is the Senator who will support Senator BYRD's position and a Senator from our side of the aisle. That is the way the game should be played. No one has any complaint about that. But to leave the impression that somehow the delay in getting to this has been created—and the Senator from West Virginia has been more than accommodating in letting us leapfrog that amendment all day—I think it is very important that that be entered into the record.

Then, just swiftly, I am curious as to why the Senator from West Virginia—and we have discussed this before, so perhaps I do not want to belabor the point—does not concur with at least what the EPA is telling us, that low-sulfur-coal jobs will increase in West Virginia. That now seems to be in dispute here.

I know that these underground miners are not able sometimes to go into the strip mining. We do not call it that in Wyoming. We call it surface mining. That low-sulfur production is going to help offset the losses in the high-sulfur sector. I heard the Senator speak the other evening of the geographical areas within the State. Nevertheless, that is what we are told. We have a provision here under the modified amendment which, as I gather, is $500 million for something between 3,000 and 5,000 people, in a 3-year period, which in effect, if there are 5,000, is $100,000 per person, per miner, a tremendous expenditure. We have never done that before in anything, whether it was the redwood workers or Conrail or wherever. We have never, ever done that kind of generous act.

And then I guess it still hangs down in the craw of those of us in the low-sulfur-coal States, and it comes back to the issue of what goes around comes around, and if we stay in this business long enough and legislate, we will eventually get bit by something we did 5 years, 10 years ago, and each person I see here on the floor tonight has been, I think, a State legislator or given a shot at that. All of us remember deep in our bosoms that, "I better be careful because some day the Big Bertha will be headed my way."

In 1977 they loaded the howitzer in this Chamber and shuffled about 22 1,000-pound rounds in and fired them all toward the West. At that time, Senator Ed Muskie, one of the great statesmen of this place and a man that was chairman when I came here, and I think one of the most respected Members of the Senate; Senator MITCHELL worked with him when he was first in Washington, when they did a number

on the West with great glee, and some of the ones who did it are still here—not in this Chamber tonight, or maybe some are—but when that occurred in 1977, Senator Muskie rose and said this. This was called percentage reduction. It was a blatant attempt to do one thing and one thing only, to protect the high-sulfur-coal industries in the United States—nothing more. It had no other function, nothing.

That percentage reduction requirement has been in place for 13 years, and this is the reason high-sulfur-coal employment has been artificially high, higher than it would have been in the normal course of the decline of this industry, which is going to continue, apparently, not from my studies, but the studies we read.

So that makes the job impact seem ever more significant, But here is what Senator Muskie said:

The dominant thrust of this amendment is not its relationship to clean air, but its relationship to the economics of the areas that it is designed to protect. For that reason, I regret that it is being offered to a clean air bill.

Then Senator BYRD was relating to regional difficulties, earlier debates in this Congress by remarkable historians, and then here is what Senator Muskie said:

Second, I must say in all candor that the constitutional convention was the result of the fact that 13 colonies were busily erecting trade barriers against each other. I do not think we want to get to another constitutional convention. I just see this as a first step, benign as its intentions are, in that kind of regionalization, around regional economic interests. It disturbs me a great deal.

That is what he said. Then he concluded:

It is a propensity we all find in all of our regions and in all of our States from time to time. For that reason, I will oppose it.

Then he said:

Insofar as its mechanisms are concerned, I think they could stand refinement, in fact, if it were to be determined that it would be something we should do.

That was what Senator Muskie said. And now we are here, really seeing that those who imposed that terribly stringent thing are seeking fairness. It is a curious business. One of those, who is not in the Chamber, will be on the floor with an amendment which is not exactly an environmental amendment. It will be an amendment to open up the stacks in the United States. So the wheel does come around. And when the uranium industry went belly up, Senator DOMENICI and I did not point out Three Mile Island and say what happened there with NRC has closed our minds in New Mexico and Wyoming, it has killed our industry, and now we want a Federal program to take care of our people, for the displaced uranium miners. No, we took our lumps.

When the bottom fell out of the oil and gas industry and prices went from 40 bucks a barrel down to $9 and less, we took our lumps. And I have seen the Senator from West Virginia fight the good fight. I do not know what more he could do, but the people of West Virginia, and especially in the coal mines and in the unions of West Virginia, ought to know that there is no better protector of their remarkable craft—and a terribly hazardous one it is—than this man from West Virginia. He has fought the good fight. But the fight has been so good over the years that the Senator from West Virginia has also parlayed into the Eastern high-sulfur-coal States, not $500 million, but billions—$5.3 billion has come into the high-sulfur-coal States through clean coal technology programs, right here on the floor of this Senate.

Until this year, DOE never made a grant to a Western State, not one. First round, second round, and finally on the third round a few crumbs dribbled west of the Mississippi and fell off the edge of the wagon as it went through. And so he has been extraordinarily successful, extraordinarily, in placing billions of dollars for programs designed primarily to help Eastern high-sulfur coal, much of that in West Virginia.

Why cannot some of those miners work at these new clean coal plants? And I was one who for the Byrd-Bond amendment I held strong. I had the stuff still in me that I did not want to do that and yet I said we cannot penalize those people and we did not. The Byrd-Bond amendment was a result of that and we took it on.

We could have played big stuff at that point. I did not choose to do that. I am not a vindictive man. But we got clean coal technology. It is narrowly defined. Why cannot some of these miners work for the clean coal plants that are being built and will be built in the future?

So here we are now at this stage with Senator THURMOND ably speaking for the textile workers. There will be others speaking for every other group as soon as we get into this amendment, modified or unmodified.

So we have the clean coal program. We have the Byrd-Bond amendment, which gave allowances to the Midwest, allowances that can be sold, methods for them to sell them in ways they can buy the pollution equipment. Pollution equipment is detrimental to the low-sulfur coal. But we are going to let them do that, stretch it out.

Now, what is next? We are going to get a job relief amendment. I do not know what all is lurking. There is no unidentified relevant amendments in that stack of 200 that I will ever know, but I know we are going to be here to watch carefully. There is going to be a tax credit amendment and we remain very wary, those of us who were treated this way in 1977.

It is odd to me as to whatever happened to the risks of capitalism? Now you go broke and you come to your Government to be made whole. It used to be in capitalism you could make a wad or go broke. Now if you go broke, you come to the Government to be made whole. That is a bad precedent. Government becomes the indemnifier of employees in America. We cannot afford that. We voted for a debt limit of $2.3 trillion. I do not know what that is but we did that last session.

These are called the risks of capitalism and even if we did not do a thing, this marvelous piece of work is not going to die. I am not going to let this die, not with the work people put in it for 10 years while extremists on both sides picked it off every year. They are trained on how to kill a bill and not pass one. We discovered that from mean greenies and soot-covered slobs. We have done all that.

Now we have the risks of capitalism. We are trying to remove those from the picture and that is a disturbing trend, a most disturbing trend.

So we shall continue to remain wary. I am not going to object. I do not believe I have ever done that in my 11 years here. I will not do it now, but we will have the administration's proposal in the morning and I know that the Senator has indicated that he will review that because indeed it must be not a good experience to continue negotiating with oneself.

The PRESIDING OFFICER. Is there objection to the request for a further modification of amendment No. 1329? Without objection, the amendment is so further modified.

The amendment (No. 1329), as further modified, is as follows:

On page 567 of the amendment No. 1293, on line 20, strike "dioxide" and insert the following:

TITLE VIII—RELIEF FOR TERMINATED WORKERS

BENEFITS

SEC. 801. The Clean Air Act is amended by adding at the end thereof the following new title:

TITLE VI—RELIEF FOR TERMINATED WORKERS

"SHORT TITLE

"Sec. 601. This title may be cited as the 'Relief for Terminated Workers Act'.

"PURPOSE

"Sec. 602. The purpose of this title is to help minimize the effects on workers who are terminated from their employment as a result of the enactment into law of the provisions of this Act, as added by the Clean Air Act Amendment of 1990.

"DEFINITIONS

"Sec. 603. As used in this title, the term—

"(1) 'terminated coal mine worker' means any individual employed as a coal mine worker on the date of the enactment of this title, and who, after having been employed, prior to or after date of enactment, as a coal mine worker for a period in excess of 6 months, is terminated at anytime thereafter

from such employment as a direct result of the enactment into the provisions of title IV of this Act, as added by the Clean Air Act Amendment of 1990;

"(2) 'eligible terminated employee' means any individual, other than a terminated coal mine worker, who is a member of a group of workers that the Secretary of Labor certifies, under the procedures described in subchapter A of chapter 2 of title II of the Trade Act of 1974, as eligible to apply for assistance under this title because the Secretary determines that—

"(A) a significant number or proportion of the workers in such workers' firm or appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

"(B) the sales or production, or both, of such firm or subdivision have decreased absolutely; and

"(C) compliance with the provisions of the Clean Air Act Amendments of 1989 was the direct cause of such total or partial separation, or threat thereof, and of the decline in sales or production.

"(3) 'Secretary' means the Secretary of Labor.

"PROGRAM OF BENEFITS

"SEC. 604. (a) Prior to the expiration of the 180-day period following the date of the enactment of this title, the Secretary of Labor, by regulation, shall establish and carry out a program to provide benefits for coal mine workers in accordance with this title.

(b) Prior to the issuance of such regulations, and from time to time thereafter, the Secretary shall consult with the appropriate Committees of Congress with respect to such regulations and the implementation of this Act.

"TERMINATION ALLOWANCES

"SEC. 605. (a) In promulgating regulations pursuant to section 604, the Secretary shall include provisions which assure that, under such program, a terminated coal mine worker shall be entitled to a monthly termination benefit computed as follows:

"(1) The monthly termination benefit for the first 12-month period following the date on which a coal mine worker is first determined to be a terminated coal mine worker shall be an amount equal to 70 percent of such worker's average monthly compensation determined by computing the total compensation received by the worker, including vacation allowance and monthly compensation guarantees, during the last 12 months immediately prior to his employment being terminated, and by dividing the total compensation by 12, thereby producing the average monthly compensation.

"(2) The monthly termination benefit for the second 12-month period following the date on which a coal mine worker is first determined to be a terminated coal mine worker shall be an amount equal to 60 percent of the amount of the average monthly compensation of such worker computed in accordance with paragraph (1) of this subsection.

"(3) The monthly termination benefit for the third 12-month period following the date on which a coal mine worker is first determined to be a terminated coal mine worker shall be an amount equal to 50 percent of the amount of the average monthly compensation of such worker computed in accordance with paragraph (1) of this subsection.

"(b) Each monthly termination benefit to which a terminated coal mine worker is otherwise eligible under this section shall be reduced by an amount equal to the amount of any earnings of such worker from employment during the period for which such benefit is payable, and shall be further reduced by any benefits to which such worker is otherwise entitled as a result of having been employed as a coal mine worker.

"(c) A coal mine worker and his representative shall be furnished by the employer of such worker with such worker's average monthly compensation and average monthly time paid for, computed in accordance with the provisions of this title, together with the data upon which such computations are based, within 30 days after the worker notifies the Secretary in writing that he has been terminated from employment. The coal mine worker shall make such information available to the Secretary.

"RETRAINING AND EDUCATION PROGRAMS

"SEC. 606. At any time during the 3-year period described in section 605(a), any terminated coal mine worker while engaged in a full-time retraining or educational program certified by the Secretary, after consultation with the appropriate Committees of the Congress, as appropriate for purposes of this title, shall, while satisfactorily participating, receive, in addition to the benefit under section 605, an amount equal to 20 percent of the average monthly compensation of such worker computed in accordance with section 605(a)(1), for a period not to exceed 12 months.

"OTHER FINANCIAL ASSISTANCE

"SEC. 607. For the purpose of any law, other than this Act, providing Federal benefits or assistance to an individual based on need as determined by the earnings of that individual, benefits under this title shall be deemed earnings for the purpose of determining whether such individual qualifies for benefits or assistance under such law.

"TERMINATION OF BENEFITS

"SEC. 608. Benefits payable under this title shall cease on the date of the death of the individual entitled to such benefits.

"LENGTH OF BENEFITS

"SEC. 609. Any terminated coal mine worker shall be entitled to benefits, in accordance with this title, for the 36-month period following the date on which such worker first becomes a terminated coal mine worker, or for a period of months following such date equal to the number of months that such worker was employed as a coal mine worker prior to such termination, whichever is less.

"PAYMENT OF BENEFITS

"SEC. 610. (a) The Secretary shall be responsible for the payment of all benefits provided coal mine workers pursuant to this title.

"(b)(1) There are authorized to be appropriated to the Department of Labor, such sums as may be necessary, not to exceed $500,000,000, and such sums shall remain available until such sums are expended, to meet the obligations payable pursuant to sections 605 and 606 of this title. In any fiscal year, the Secretary shall limit the total benefits payable under this title to an amount not in excess of the appropriation provided in advance for such fiscal year. If the requirements of sections 605 and 606 of this title exceed the limitation set herein, benefits shall be reduced to the extent necessary to comply with such limitation.

"(2) There are authorized to be appropriated to the Department of Labor, annually, such sums as may be necessary to provide for additional administrative expenses to be incurred by the Secretary in carrying out his functions under this title.

"REPORTS

"SEC. 611. (a) The Secretary shall report annually to the Congress with respect to the carrying out of the provisions of this title, together with the recommendations, if any, of the Secretary.

"(b) Within 12 months of enactment and annually thereafter until utility unit emissions reductions and controls are fully implemented, the Secretary shall determine the potential adverse employment effects (including the number of jobs at risk of termination and the schedule for job termination) of title IV of this Act on the coal mine workers of the Gascoyne Mine, Knife River Coal Mining Company, Bowman County, North Dakota, and report such determination along with supporting information to Congress together with any recommendations.

"RETROACTIVE CLAIMS

"SEC. 612. Claims based upon terminated employment of terminated coal mine workers must be filed not later than 180 days following the date on which such termination occurred. Claims for such termination which took place during the period beginning on the date of the enactment of this title and the date on which the program established by the Secretary pursuant to section 604 becomes operative may be made within the 180-day period following the date on which such program becomes operative.

"PROGRAM OF BENEFITS FOR ELIGIBLE TERMINATED EMPLOYEES

"SEC. 613. (a) Not later than 180 days after the date of the enactment of this title, the Secretary of Labor shall, by regulation, establish for eligible terminated employees—

"(1) a program of readjustment allowances substantially similar to the trade readjustment allowance program under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.),

"(2) a program for job training and related services substantially similar to the program under part II of subchapter B of chapter 2 of title II of such Act (19 U.S.C. 2295 and 2296), and

"(3) a program for job search and relocation allowances substantially similar to the program under part III of subchapter B of chapter 2 of title II of such Act (19 U.S.C. 2297 and 2298).

"(b) The Secretary is authorized to enter into agreements with any State to assist in carrying out the programs under subsection (a) in the same manner as under subchapter C of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2311 et seq.).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 614. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 613 of this title. Such sums shall remain available until expended. In any fiscal year, the Secretary shall limit the total benefits payable pursuant to section 613 of this title to an amount not in excess of the appropriations provided in advance for such fiscal year. If the requirements of such section exceed the limitation set herein, benefits shall be reduced to the extent necessary to comply with such limitation.

"TERMINATION

"SEC. 615. No application for benefits under section 605 or 613 of this title may be filed after December 31, 1995.".

Mr. BYRD. Mr. President, I do not intend to belabor the time of the Senate, but I just want to apologize to my majority leader who has been sitting here waiting patiently, and to the other Senators.

But I must say I have not delayed action on my amendment. The distinguished Senator from Wyoming mentioned delay. I have not. I said I was ready to vote last Thursday and ready to vote Friday. I did say, I believe it was yesterday, that I would like to have a day's notice so that Senators will be given notice.

One of my leaders said you are wanting to wait until Senator STEVENS gets here. I said, "yes." Also, I was thinking of another Senator who is ill and I felt if it were possible to do so we have a day's notice to give him a chance to make a decision to come in.

But the request was never put. I would not have objected if we voted yesterday or today.

I do not have the advantage I used to have in charge and knowing what Senators are coming and who is leaving and precisely what hour. But I did know of a couple of Senators' problems.

I will not go into the low-sulfur/high-sulfur job opportunities to which the distinguished Senator has referred briefly.

He made a point over and over and over again about what happened in 1977. I did not do whatever happened in 1977. It was not ROBERT BYRD who did that. As I understand, that was something that happened in conference. I was not a conferee. And the Senator has mentioned the Senator who was here in the past.

Mr. President, I do not think we can be governed by, I will not say the dead hand of the past, particularly the Senator who was mentioned, the former Senator, is not dead. But the past is dead insofar as that Senator. I do not think I am any part of that past. That is, whatever was done was done. I was not on the committee. I was not a conferee. I do not believe I made any speech in support of whatever provision there was in that bill.

I hope we are not vengeful. I will not hold responsible today's people who are going to be impacted by today's problems by something that happened in 1977. I can understand if the people in the Far West felt they were treated unfairly. I understand the feeling. But we are long past 1977, and we are dealing with today's problems and we have taken our lumps too. We all take our lumps around here. I have taken my lumps.

The distinguished Senator mentioned the clean coal technology program. I think it is $2.7 billion that I have been able to get for that program, a total of 2.7. It is not all there yet but I have it appropriated ahead I believe for this year and next year, a total of 2.7 in all, $2.7 billion.

And those clean coal plants, the distinguished Senator says why can the miners not work at those clean coal tech-nology plants?

No. 1, the miners are not technicians. I do not know who will be employed at those clean coal technology plants. There will probably be some scientists involved.

In the second place, I have no jurisdiction over where those plants go. I do not know if any are going to West Virginia. I do not know if any are going to Kentucky or not. We do not decide. Senators do not decide where those plants will go. That is not our function.

That is determined on the basis of the interest that is shown by the private sector which is supposed to pay half. And I think the experience has been that the private sector has been paying two-thirds. We have had a good response from the private sector and the Department of Energy will determine what proposals are going to be accepted, what contracts will be accepted, and so on. That is not any of my doing.

I do not know that any of those clean coal technology plants will be located in West Virginia. There has been indication one will be located around Point Pleasant, but that is not a foregone conclusion and I certainly am not one who will decide that. They may be located in Wyoming or somewhere else. I do not care where they are located. As a matter of fact I would like to see some big ones in West Virginia. But the object is not where the plant is located. That is not my purpose in seeking funds for clean coal technology, but to get clean coal technology to try to improve the acceptability of coal, make coal, provide coal that can be burned in an environmentally acceptable manner and to increase the use of coal.

So wherever that plant is located and accomplishes that fact that I think is our goal. But we are interested in improving the use of coal, increasing the use of coal, and burning it, as I say, in a manner that is environmentally acceptable.

I do not care to engage any longer in holding the floor. I thank the majority leader again and I thank the distinguished acting Republican leader and friends of the Senate.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

FRIENDS OF IRELAND ST. PATRICK'S DAY STATEMENT—1990

Mr. KENNEDY. Mr. President, this is the 10th year in which the Friends of Ireland in Congress have joined together in an annual St. Patrick's Day statement on Northern Ireland.

Formed in 1981, the Friends of Ireland is a bipartisan group of Senators and Representatives dedicated to maintaining close historical ties between the United States and Ireland, opposing the use of violence in Northern Ireland, and developing a United States policy that promotes a just, lasting, and peaceful settlement of the conflict there—a tragedy that has cost over 2,700 lives in the past two decades, and that has brought economic devastation and political instability to the region.

The Friends of Ireland statement this year urges all sides to the conflict to reject the path of violence and work for a negotiated settlement that addresses the concerns and needs of both communities in Northern Ireland.

Mr. President, I believe that all our colleagues will be interested in this statement, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD as follows:

ST. PATRICK'S DAY STATEMENT OF FRIENDS OF IRELAND, U.S. SENATE AND HOUSE OF REPRESENTATIVES, MARCH 17, 1990

As Friends of Ireland in the United States Congress, we join today with people of Irish heritage everywhere on this first St. Patrick's Day of the new decade to honor Ireland and to support the cause of peace, reconciliation, and justice for Northern Ireland.

Again this year, in the strongest possible terms, we condemn the violence and bloodshed in Northern Ireland. Absolutely and unequivocally, we abhor all attempts to achieve political goals in Northern Ireland through a campaign of hate and terror. We oppose all those in Ireland, the United States, or anywhere in the world who lend support to this terrorism, and we call on them to cease any political or financial support for violence.

We are troubled at this time by two developments in the past year that are serious setbacks for the cause of reconciliation in Northern Ireland.

First, while we welcome the British Government's acknowledgement of the gross miscarriage of justice in the case of the Guildford Four, we continue to be deeply concerned by the lack of relief in the Birmingham Six case. Inevitably, the circumstances of the Guildford Four case call into question the convictions of the Birmingham Six, who were sentenced to life imprisonment for the 1974 bombings of two pubs in Birmingham, England. We urge the British Government to support the fullest possible review of this case and we take particular notice of the recent resolutions introduced

in both the House and Senate calling for a review of the Birmingham Six case.

Second, we are concerned over reports of collusion between British security forces and extremist paramilitary groups in Northern Ireland. Reports of such collusion only serve to deepen the mistrust in Northern Ireland. The allegations that British security officers have provided information about the identities and activities of Nationalists in Northern Ireland are extremely troubling. We urge the British Government to get to the bottom of these allegations immediately, to make the findings of the investigation public, and to prosecute any officers responsible for such reprehensible activities.

We welcome the successful recent efforts of the Irish Government in reviving the economy and in achieving a rate of economic growth of 3 to 4 percent a year, one of the highest rates of growth among the nations in the European Community. We hope that this progress will soon be reflected in a significant decline in unemployment.

For too long, emigrants from Ireland have endured unnecessary additional hardships because of the injustices in U.S. immigration laws. We applaud the success of the Donnelly visa program and its contribution toward reducing these injustices in recent years.

We commend President Bush and his administration for their continuing support for the efforts of Ireland and Great Britain to work together to address the social, economic, political and security problems of Northern Ireland, and we stand ready to work with the Administration to achieve these goals.

We continue to support the work of both the Irish and British Governments through the framework of the Anglo-Irish Agreement to promote peace and reconciliation in Northern Ireland. We remain committed to the belief that the solution to the problems of Northern Ireland will be found in a context which involves improved relations between the two communities in the North, between all the people sharing the island of Ireland, and between Ireland and Great Britain.

We commend the work of the International Fund for Ireland, established in a bilateral agreement between Great Britain and Ireland in 1986, to promote cooperation in economic and social development projects in areas most affected by the conflict in Northern Ireland.

We are encouraged by the success of the Fund in providing assistance for more than 1,200 projects and helping to generate over 8,000 permanent full-time jobs, half in the past year. We commend the Fund's shift in focus in 1988 toward assisting disadvantaged areas and helping local groups in depressed communities to revive their local economies. In our view, economic development is an essential part of the reconciliation process in Northern Ireland, and we urge the Fund to expand these important efforts.

We continue to be concerned about the disparity in unemployment rates between the two communities in Northern Ireland. We note the recent enactment by the British Parliament of a new Fair Employment Act, and we are hopeful that it will be vigorously implemented to reduce discrimination against the Nationalist minority in Northern Ireland.

Finally, we renew our commitment to the goal of Irish unity. We encourage the leaders of both the two great traditions in Northern Ireland, as well as the British and Irish Governments, to become part of the sweeping process of global reconciliation so that the spirit of reconciliation may come to all of Ireland too.

NEEDED: A NEW ROADMAP FOR UNITED STATES-SOVIET RELATIONS

Mr. CRANSTON. Mr. President, the transformation of the Eastern bloc continues at a rate unimaginable just a few short months ago. The Soviet Communist Party has begun to relinquish its monopoly on power and has opened the way to some forms of private ownership. Peaceful revolution has been sweeping Eastern Europe, ending nearly a half century of totalitarian rule and paving the way for democracy and economic liberalization. Germany is reunifying. Unprecedented proposals have been made by both NATO and Warsaw Pact nations to cut troops and reduce nuclear arsenals. In short, our foreign policy objectives of the past 40 years are being realized. And yet too many U.S. policymakers are still approaching the new world with the same formula that has guided our perceptions and our policies since WWII—a model characterized by the zero-sum competition of the cold war.

It is time—indeed past time—for the United States to construct a new paradigm. While the Soviet Union retains a formidable nuclear arsenal, the ideological contest of the cold war is over. We won. Democracy has shone through as the promise of the future. It is now incumbent upon us to work with the newly democratic and swiftly democratizing nations of Eastern Europe to build a solid foundation for freedom.

We need to redefine our relationship with the Soviet Union.

We need a new vision of how this relationship will fit into a changed world.

We need to keep pace with the change, so that we do not become an anachronism in a new order, without a seat at the table, unable to influence events, not a player.

In short, we need a new vision to guide our foreign policy toward Eastern Europe and the Soviet Union.

Congress has made a modest beginning. The Support for East European Democracy Act [SEED] and its successor SEED II address some of the most immediate needs of the nascent East European democracies. Food aid, currency stabilization, election training, and educational programs are included in these aid programs. These efforts are clearly designed both to provide humanitarian aid and to help ensure that these new democracies do not founder. In additon, the SEED legislation takes important steps to broaden economic relationships with the Soviet Union.

Yet our basic approach to the world—the cornerstone of which is our relationship with the Soviet Union—has changed very little. Fundamental questions remain to be addressed:

Should we aid President Gorbachev?

Will Gorbachev survive the upheavals overtaking his country?

How much has the security threat diminished?

What will be our future security concerns?

I would like to take this opportunity to explore these questions, to help begin the process of formulating foreign policy in a less reactive fashion.

DEMOCRACY IN THE SOVIET UNION

I strongly believe that we should encourage President Gorbachev in the efforts he is making to liberalize the Soviet Union. We should respond to his initiatives positively—and provide initiatives of our own. Remarkably, President Havel of Czechoslovakia reached this conclusion in his address to the Congress when he requested our support for Gorbachev's policies of change—which Havel believes is crucial to the success of democracy in Czechoslovakia.

The United States must begin to remove some of the trade barriers that are in place. Jackson-Vanik is a good place to start. This legislation was designed to be used as a leverage against the Soviet Union's prohibitive emigration tax. Now that remarkable progress has been made in this area—and more than 70,000 Soviet Jews were permitted to leave last year—we should uphold our intentions and relax this sanction. We need to make clear that we are willing to live up to the spirit of our own policies and that when our conditions are met, we will remove our sanctions.

There are those who argue that removing Jackson-Vanik, relaxing Cocom restrictions, or otherwise normalizing economic relations with the Gorbachev government will merely prolong the collapse of the Soviet empire. This view maintains that we should indeed be more severe in our policies toward the Soviet Union in the hopes of accelerating change. I do not believe this is an effective way to proceed.

I believe that swift but orderly change is the best hope for a democracy in the Soviet Union. The pressures on the people of the Soviet Union—a people intensely dissatisfied with economic and political stagnation—is proving to be an irresistable impetus for change. One hundred thousand people rallied for democratic change in the streets of Moscow on February 25. They need to experience the benefits of a more liberal state. Democracy cannot be supported by destitution.

I am convinced that, should we refuse to respond to liberalization in the Soviet Union, the danger for chaos will increase and the prospects for a democratic government will diminish.

I emphasize that U.S. cooperation will not bolster a faltering Communist dictatorship, rather it will encourage and strengthen those pluralistic forces that are finally beginning to be heard.

REDUCTION OF BILATERAL TENSIONS

The security threat from the Soviet Union has greatly diminished. We need to take advantage of this new security environment not only to swiftly conclude those outstanding negotiations—Conventional Armed Forces in Europe [CFE], Strategic Arms Reduction Talks [START], Conventional Test Ban Treaty [CTBT]—but to push for new, more comprehensive proposals that look toward the future. We should not limit ourselves to treaties and agreements that were structured during the heyday of the cold war. For example, given the rapid pace of change, the emerging START Treaty may prove a modest step for nuclear reductions.

We need to complete these agreements promptly. But we should not be satisfied with them. To those who say do not go too fast I respond: "events are outstripping the capacity of U.S. bureaucrats and policymakers to address them." It has been 18 years since the ratification of a strategic arms agreement with the Soviets. It is hardly rushing to now finally move to conclude another.

NEW SECURITY CONCERNS

We must work for a more stable security environment, recognizing that while the most deadly threat—the Soviet threat—has eased, new concerns are emerging. As dictators topple and regimes change in Eastern Europe and as the chains of dictatorship loosen in the Soviet Union, latent ethnic and religious hostilities are reemerging. These developments are destabilizing and disturbing. Our policies must not support those whose independence movements mask a supremacist program. We must support change, but we must ensure that it is democratic change.

We must also work with the Soviet Union, as well as the other Eastern block nations, to address their security concerns in the light of inevitable and rapid German reunification. Their perceptions and concerns regarding a unified Germany will affect our own security. There are grave questions that attend these developments, questions that I fear are being skirted in the momentum of events. And I am deeply concerned that few people seem willing to address these questions in a serious way. In my mind, the issues are threefold:

First, the issue of the German-Polish border needs to be satisfactorily resolved. Not later, when a unified Germany can debate the issue, but now. I understand that Chancellor Kohl has domestic political concerns that make him reluctant to take unequivocal action on the inviolability of the Oder-Neisse border. Nevertheless I firmly believe that the international security concerns of the nations of Europe—individually and collectively—should take precedence. It is irresponsible demagoguery to suggest that this border—that any of the borders established in Europe at the end of the Second World War—are subject to negotiation or debate. These borders are permanent, and responsible governments should acknowledge that irrefutable fact.

Second, while I understand the desire of the German people to reunify according to their own specifications, it is altogether appropriate that those countries who suffered greatly through two world wars should have some consultative role in shaping a new Europe. Yes, 40 years can be a long time, but in human history it is very short. The past 40 years have changed many things. But they have not erased the security concerns bred over the course of centuries. I am not anticipating German aggression toward its neighbors. But I am acknowledging that security rests on confidence and confidence requires participation. I for one feel that the pace of German reunification should be slowed and expanded to allow for such essential confidence building to take place.

Third, I believe we need to pay more attention to the sensitivities of ethic minorities not only in Germany, but in other East European countries, the Soviet Union and here in the United States. Ethnic rivalries and virulent animosity are beginning to appear once again. Reunification raises renewed fears of persecution. I hope that these fears can be assuaged as the process of liberalization and unification continues.

As I watch the staggering political upheaval in Europe, I am reminded of another tumultuous time, when, as a young reporter, I was stationed in Rome for International News Service.

It was the mid-1930's, and I covered the rise of Mussolini and Hitler. I decided to return home, and do what I could to awaken our people to the changes I had seen and the threats we all faced.

It was clear to me that America could not be complacent—that the Nazis and Fascists would stop at nothing, and that we needed to prepare to fight for freedom.

Fortunately, the changes in Europe today are more hopeful, far more promising—but perhaps no less significant to the future of that continent and to world peace.

And they are no less urgent in their cry against complacency.

Today, the challenge for the United States is not to bring an end to worldwide aggressions and tyranny, as it was in the 1930's but to nurture the infant democracies that are just being born and to seize this golden opportunity to bring about a reduction in deadly nuclear arsenals and in the costly burdens of the arms race.

We must not shrink from this challenge.

If you look at the new political map of Europe, you see that the Warsaw Pact has collapsed. The Communists in Poland, Hungary, Czechoslovakia, East Germany, Bulgaria, and Romania no longer hold dictatorial power in their hands.

These events present us with the most significant opening for arms reductions since the end of World War II.

But so far, how has President Bush responded?

His answer is to propose to increase military spending in fiscal year 1991 by $5 billion—from $301 to $306 billion. He wants more missiles and more bombers.

I submit that to increase military spending when the Communist threat to us is so greatly reduced would be a profligate waste and misuse of the American taxpayers' money. In the face of revolution, to change the status quo, we should not be defending the status quo.

The Pentagon's planning guide for fighting the Warsaw Pact countries is unchanged from 1 year ago. Yet the 55 central European divisions of the Warsaw Pact have been swept off the table. Or, more likely, have moved to our side of the table.

If we are supposed to build up our nuclear armaments to fight in Europe, who does the President expect us to fight?

Vaclav Havel in Czechoslovakia?

Lech Walesa in Poland?

Three former military heads of the Joint Chiefs of Staff, who served under Presidents Reagan and Carter, have recently stated that we do not need both the MX and the Midgetman missiles and could get along without either.

These hardened military men see that times have changed. Why can't President Bush?

I believe we can at least do away with both the MX and the B-2 Stealth bomber. Each B-2 will wind up costing $1 billion. The B-2 is the first airplane in the history of the world to literally cost more than it would cost if it was made of solid gold. The B-2 has no clear military mission. Experts believe that if B-2's are ever sent out to bomb, the odds that they will ever return are not too good.

I am leading the fight against the B-2 here in the Senate.

And I will be a leader in the fight to make sense out of the military budget—to cut from it all that we can, consistent with our security. That is my highest priority now in the Senate because it touches everything. If I and

many Democrats and Republicans in Congress who share my view succeed in reducing military spending significantly, a sizable part of the savings should be used to cut the overall deficit. The rest should be put to work. If, step by step with matching military reductions by Mikhail Gorbachev's Soviet Union, we move far enough and fast enough in this direction, we may be able to avoid a tax increase while slashing the deficit and addressing the real needs of our people, like education.

The prospects have never been better for improvements in United States-Soviet relations. The Soviets' acquiesence—indeed, their encouragement of the changes in Eastern Europe—together with the funadmental changes occurring in their own nation auger well for the birth of a new era in this most important of bilateral relationships. We must assist in this transformation. We must give carrots when progress is made; we must use sticks when progress is halted. And we must be ready to follow through with both. The changes that have occurred during the past few months were unimaginable 1 year ago. The next few months have even more changes in store. With some insight, with some imagination, and with a purposeful foreign policy, we can help shape these changes in a way that will enhance peace and the prospects for democracy in Europe, in the Soviet Union, and throughout the world.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,831st day that Terry Anderson has been held in captivity in Beirut.

THE DEMISE OF THE FAMILY—LIES AT THE DOORSTEPS OF ALL-POWERFUL GOVERNMENT

Mr. HELMS. Mr. President, in February I made the first in a series of statements on the condition of the American family. Today I continue that series by addressing the destruction that Federal tax policy has wrought upon our Nation's households.

Mr. President, for many years the tax policy of the U.S. Government has meant misery for the American family. The message has gone out from Washington that the traditional family is of little consequence to the tax-and-spend policymakers inside the Capital Beltway. Every special interest group imaginable has managed to shelter itself in tax legislation—except the most important part of our society: Husband, wife, and children.

In an era when the Congress so often makes discrimination the political focus of debate, the one part of American life which has suffered most from clearly discriminatory treatment has been the families of our Nation. The tax burden of a profligate government has been unfairly shifted to them and the consequences can be seen on the streets, in the homes, and in the schools of this country.

What has been accomplished in the last four decades? Let us take a look:

In 1948, the median family of four paid little or no income tax and only $30 a year in direct Social Security tax. In 1948, the personal exemption was set at $600, which removed those small American families from most income tax liability. Incredibly, the exemptions taxpayers received for themselves and their dependents remained virtually unchanged as inflation eroded it and income rose. If the tax exemption in 1990 were equivalent to the 1948 average percentage, it would be $6,300 for this family of four.

Between 1960 and 1990, the average tax rate for a family of four, the parents and two children, rose 43 percent. But for a family with four children, the increase was a shocking 223 percent. Yet, some in this town wonder why stable family life and productive work falter. Could it be that our families are overtaxed and underserved by us? Of course—that is precisely the point.

Mr. President, I realize that reeling off statistics perhaps does not hit home. But what does hit home is dollars and cents. Just about everybody understands the message when put in those terms.

The average moderate-income family of four—earning $45,000—is today required to send Uncle Sam a check for $12,938 in payment of taxes. It gets worse when this family's share of the Federal deficit—about $718—is added in because that average American household then has a $13,656 burden in 1990.

Every day there are more and more stories about families who cannot meet medical bills, cannot buy a home or send their children to the school of their choice. How can they meet their family's needs when their governmental masters continue to eat away at their income?

To support the Federal deficit and a $1.23 trillion budget, Mr. and Mrs. America must pay the Federal Government almost one-third of their hard-earned income. And this is only Federal taxes, not State and local. This prompts a question about politicians who unfailingly propose to spend the so-called peace dividend on more Federal programs, more Federal waste, and more Federal bureaucracy instead of returning that money to its rightful owners, the families who hold the future of our democracy in their hands.

Tax fairness for families was a major impetus for President Reagan's tax reforms during the last decade. However, when it came time to make a real difference, the big spenders in the Congress balked.

The child care tax credit is a prime example. Many called that tax credit "pro-family." But that tax credit will do nothing for those who need it most. For example, the credit can be claimed by two wage earners—but not by parents who choose to stay at home. In other words, more than one-half of America's families pay higher taxes because one parent spends more of the time at home. Those citizens subsidize the Government's march toward socialized child care.

If tax policy will not promote the care of children in the home, at least it should not be skewed in favor of a massive, impersonal, Federal child care program. Men and women who stay at home, often at considerable sacrifice, provide an incalculable service to our Nation. But it is clear that their traditional lifestyle doesn't fit the so-called progressive agenda of so many in the Congress.

Mr. President, Americans are the most beneficent people in history. In his great treatise, "Democracy in America," Alexis de Tocqueville marveled at the extent of private giving and community service he witnessed as he traveled around our young country. Like de Tocqueville, the American people understand that works of the greatest importance can best be accomplished by institutions closest to home: the family, the church, and volunteer organizations. These institutions provide better services because they approach people with a caring attitude which bureaucracies and social engineers will never be able to duplicate.

To continue to tax away the family's resources bodes ill for the future of our Republic. It is ironic that as people across the world are fighting and dying to dispose of state-sponsored tyranny, our Government continues to erode our greatest bulwark against despotism: "the family." When the family is finally swept away, we will be left with, as President Reagan said, "big government and small individuals and in that match up the State always wins."

Mr. President, I ask unanimous consent that an article by Thomas Humbert of the Heritage Foundation, a report by the Tax Foundation, and an article by Gary Bauer of the Family Research Council be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Heritage Foundation, Jan. 30, 1989]

ENDING THE TAX CODE'S ANTI-FAMILY BIAS BY INCREASING THE PERSONAL EXEMPTION TO $6,300

(By Thomas M. Humbert)

INTRODUCTION

Every lawmakers claims to be pro-family. Yet the income tax code devised by Congress reflects a different reality. The federal income tax system treats children less favorably than a business lunch. Like spending for the movies, the costs of raising children are for the most part considered a routine, discretionary expense, instead of America's most important investment in its future.

Reflecting this strange premise, the tax allowance for the costs of nuturing children—the personal exemption—has been permitted to erode dramatically in value over the years. The result has been a half century of steeply increasing federal income taxes on Americans who raise children. In 1948, the median-income family of four paid virtually no income taxes, and only $30 a year in direct Social Security taxes (1 percent of income). This year, the equivalent family will pay $2,669 in income taxes and over $2,500 (7.51 percent of income) in Social Security taxes. Just looking at federal income taxes, this median-income family's tax burden has soared over 2,500 percent from 0.3 percent of income to over 8.0 percent of income in about four decades. Singles and married couples without children, by contrast, largely have escaped this income tax increase.

Sapping Families' Financial Health. As taxes on children have climbed, the family's ability to provide for its own needs has been impaired. New government programs are touted as a cure for the family's financial ills. But these congressional "remedies" are for a problem created by Congress. And new taxes to finance government programs would sap even further the financial ability of the family to stand on its own.

A far more effective strategy to address the problem would be simply to allow a family with children to keep a greater portion of its own income. Restoring the personal exemption to the equivalent of its level after World War II would allow that family to keep thousands of dollars more of its own money, making the family less dependent on government, improving access to health care, child care, and education opportunities, and giving the working poor a fighting chance to climb out of poverty.

Toward a Fair Tax System. As a political strategy, increasing the personal exemption could head off government-provided day care, mandatory health care, education subsidies, and similar initiatives that would prolong the process of first taking away family income and then giving it back in government-determined services. It could also reduce pressure for a boost in the minimum wage—which would cut employment opportunities for the poorest and least skilled Americans.

In the presidential campaign, George Bush recommended a $1,000 tax credit for each child under age four in families earning less than $20,000. The Bush proposal would be an important step toward a fair tax system for the American family. Moreover, the Bush plan does not discriminate between traditional families and families where both spouses work. It does not subsidize one life style at the expense of another. Further, the tax credit approach gives the same financial assistance to all families, not bigger tax breaks to wealthier families.

Yet this "toddler tax credit" is not enough. The real challenge for Congress and the incoming Bush Administration is to empower the family by rolling back the postwar tax increases on children. This strategy will require tax policy to recognize that children are America's most important capital investment and are fundamental to productivity gains and to future economic growth.

Reversing 40 Years of Discrimination. As its ultimate goal, the Bush Administration should press Congress to increase the personal exemption to at least $6,300—$4,300 above where it now stands. At this level, the personal exemption would shield from taxes about the same portion of income as it did in 1948 when the modern income tax first began to take form. This would give the median-income family of four over $25,000 in tax-free income. Combined with the current $5,000 standard deduction, this exemption would eliminate from the income tax rolls those four-person families earning less than $30,200 yearly—about one-half of today's tax returns.

More important, with this action, Congress and the Bush Administration would strengthen the family and reverse 40 years of mounting tax discrimination against children.

HOW THE TAX CODE BECAME ANTI-FAMILY

On October 13, 1981, senior Treasury official Eugene Steuerle told a tax conference that "perhaps no change in the nation's tax laws has been more significant, yet less recognized, than the shift since the late 1940s in the relative tax burdens of households of different size." [1] In the years since Steuerle's observation, the anti-family, anti-children bias has remained, despite the 1981 and 1986 tax acts.

The 1981 Economic Recovery Tax Act (ERTA) at least has kept matters from getting worse by indexing the tax system for inflation and by providing modest additional tax relief. Had ERTA not been enacted, inflation-induced "bracket creep" and the erosion of the personal exemption would have raised the average income tax on the median-income [2] family of four from about 10 percent in 1980 to almost 13 percent by 1986. But thanks to ERTA, the median-income family's tax burden actually fell one percentage point to about 9 percent of income. Families of all sizes experienced similar tax reductions (see Table 1).

The 1986 Tax Reform Act was the most pro-family and pro-children legislation in 50 years. At last, the income tax threshold was raised above the poverty line, with 5 million poor families taken off the tax rolls altogether. Moreover, a disproportionate share of tax relief was given to larger families, as a result of doubling the personal exemption, which will take full effect this year.

TABLE 1.—FEDERAL INCOME TAX FOR MEDIAN INCOME FAMILY BY FAMILY SIZE AND TYPE, 1948–89 [1]

Year	Median family income	Single		Joint						Head of household			
				No children		2 children		4 children		2 children		4 children	
		Tax	Tax as percentage of income	Tax	Tax as percentage of income	Tax	Tax as percentage of income	Tax	Tax as percentage of income	Tax	Tax as percentage of income	Tax	Tax as percentage of income
1948	$3,187	$300	9.7	$208	6.5	$9	0.3	0	0	$109	3.4	0	0
1954	4,167	534	12.8	402	9.6	162	3.9	0	0	282	6.8	$42	1.0
1960	5,620	780	13.9	625	11.1	385	6.9	$145	2.6	511	9.1	265	4.7
1966	7,532	962	12.8	741	9.8	524	7.0	328	4.4	668	8.9	451	6.0
1972	11,116	1,544	13.9	1,201	10.8	916	8.2	631	5.7	1,108	10.0	814	7.3
1978	17,640	2,602	14.8	2,101	11.9	1,768	10.0	1,408	8.0	2,093	11.9	1,722	9.8
1980	21,023	3,348	15.9	2,643	12.6	2,176	10.4	1,756	8.4	2,600	12.4	2,110	10.0
1982	23,433	3,543	15.1	2,767	11.8	2,327	9.9	1,904	8.1	2,757	11.8	2,297	9.8
1984	26,433	3,641	13.8	2,844	10.8	2,421	9.2	2,061	7.8	2,888	10.9	2,429	9.2
1986	29,458	4,107	13.9	3,217	10.9	2,744	9.3	2,348	8.0	3,283	11.1	2,767	9.4
1987	30,853	3,869	12.5	2,876	9.3	2,306	7.5	1,736	5.6	2,611	8.5	2,041	6.6
1989 [2]	33,499	4,244	12.7	3,269	9.8	2,669	8.0	2,069	6.2	2,969	8.9	2,369	7.1

[1] Figures for 1948–78 from Eugene Steuerle "The Tax Treatment of Families of Different Size," Taxing the Family, 1983, p. 76.
[2] Estimates based on projected median family income using CPI figures from the U.S. Government.

Note: Example assumes itemizable expense equal to 23 percent of AGI in all years. No deductions are made for 2-income families.

Source: Median family income—U.S. Bureau of the Census, "Money Income of Households, Families and Persons in the United States."

[1] Eugene Steuerle, "The Tax Treatment of Households of Different Size," in Rudolph G. Penner, ed., Taxing the Family (Washington, D.C.: American Enterprise Institute, 1983), p. 73.

[2] Median income is the level of income such that 50 percent of all families are above it, and 50 percent, below. Median family income is a useful measure for tax purposes because it provides a snapshot of the financial condition of the household in the middle of the income distribution. Average family income is total income divided by number of households, and thus average family income could be anywhere in the income distribution of families and is therefore less representatives of the typical household.

Neither the 1981 nor the 1986 tax reforms, however, completely removed the decades of accumulated tax bias against families. The median-income family of four will have its income taxes cut to 8.0 percent of income in 1989, down from the 1989 level of 9.3 percent. But this tax burden is still far above the level for the median-income family with children throughout most of the 1940s, 1050s, and 1960s (see Table 1).

TAX INCREASES ON THE FAMILY

Despite the 1981 and 1986 tax reforms, the American family is still overtaxed. Table 1 shows the tax burden on singles, heads of household, and married couples with no children, two children, and four children. Measured as a percentage of income, the income tax burden has risen most dramatically for families with children, with the biggest tax increases hitting the largest families. Single Americans and married couples without children pay about the same portion of their income in taxes as they did in the 1950s.

The reason for such a tax increase on families has been the erosion of the real value of the personal exemption as a result of inflation. The personal exemption is $2,000 per person under current law. By comparison, adjusted for inflation, the personal exemption in 1948 was worth $3,000, $7,000 in 1940, and around $10,000 in the 1920s and 1930s. Though increased numerous times, the personal exemption has fallen far behind the amount needed to keep up with inflation.

Nor has the value of the exemption kept up with increases in income. The exemptions for a median-income family of four shielded 75 percent of income from tax in 1948. The exemptions for the same median-income family today would shield less than 25 percent of household income. The personal exemption would have to equal about $6,300 per person, or over $25,000 in tax-free income for a family of four, to shield the same proportion of income as in 1948. Simply put, today's family faces heavy tax discrimination compared with equivalent families in earlier generations, and its tax status also has eroded when it is compared to that of single Americans or couples without children.

Advent of the Income Tax. The best standard for judging the current tax code is the immediate postwar period. During that time, the modern income tax emerged as the basic government revenue source. Prior to World War II, the U.S. government was far different in size and scope. In 1929, for example, total government receipts were less than 4 percent of gross national product (GNP). But in the years preceding and immediately after World War II, the U.S. became a modern industrial society and assumed world leadership. To finance these growing domestic and foreign responsibilities, the income tax was extended to a majority of workers; and in 1943 income tax withholding became the backbone of the current system.

Starting in the postwar years, receipts have tended to average 15 percent to 20 percent of GNP, with the individual income tax accounting for the overwhelming proportion of general revenue funds. Thus, making comparisons between the late 1940s and late 1980s gives an accurate and valid picture of how the tax burden has changed, given the similar scale of government activity as a feature of national economic activity.[3]

[3] Economic Report of the President, Council of Economic Advisors, February 1988.

THE CASE FOR INCREASING THE PERSONAL EXEMPTION

There is little justification in tax theory for allowing the personal exemption to decrease in real value when measured against income growth or inflation. Nor is there any rationale for shifting the burden of taxation more onto families with children, especially for imposing the largest tax increase on those families least able to pay. Admittedly, Congress never legislated the change specifically, least of all did lawmakers explicitly try to justify raising taxes on children. Indirectly and unintentionally, however, by not legislating remedies to soften the effects of inflation, Congress has eroded the value of the personal exemption.

Inflation and other factors have, of course, affected various groups. Some might argue, therefore, that there is no particular reason to turn back the clock to aid families rather than other groups. But there are at least six reasons why good tax policy requires restoring the relative value of the personal exemption to what it was in the 1940s.

Reason No. 1: There is growing concern about the cost of raising children. It is a longstanding principle of taxation that some relief should be given to parents for their financial sacrifice in raising children. In the immediate postwar period, in fact, the median-income family with children was not subject to income taxes at all. But especially during the 1960s and 1970s, income taxes on the family soared, even as the costs of raising children also jumped, and education, housing, and health expenditures outpaced inflation. Even moderate-income families today face a severe financial burden in raising children. Increasing the personal exemption would help roll back tax increases and offset some of the higher costs of raising chidren.

Reason No. 2: Demographic changes are straining the economy and social insurance programs. Raising the personal exemption could provide an incentive for Americans to have more children. American Enterprise Institute Senior Fellow Ben Wattenberg argues that the U.S. will need a higher fertility rate to sustain its growing economy and social benefits. He points out that, in recent years, the fertility rate in the U.S. has fallen significantly below its long-term replacement rate. This poses a number of problems. For one thing, it means that the economy will face a decline in young workers. For another, it means that such social programs as Social Security will come under increasing financial strain as a rising population of elderly Americans have to be supported by contributions from a declining population of workers.

Reason No. 3: Raising the exemption would aid the working poor and encourage more Americans to go off welfare. It makes no sense to tax low-income workers so much that government support programs—paid for out of those taxes—are necessary to give them a subsistence income. To be sure, the 1986 Tax Reform Act raises the income tax threshold (which includes exemptions plus the standard deduction) slightly above the poverty line for virtually every type of family, except singles.[4] Yet families significantly above the poverty line have not been given sufficient tax relief to roll back the tax burden accumulated since 1940's.

Incentives for the Poor. The working poor are especially vulnerable; they are hit with a high initial tax bracket of 15 percent, together with the equivalent of an additional tax if they lose benefits by leaving the welfare rolls. This combination can easily raise their effective marginal tax rate to higher levels than now are imposed on the rich.

If the personal exemption were increased to $6,300, the income tax threshold for a family of four would increase to 250 percent of the poverty level, up from 105 percent under current law. Thus such a family would not begin to pay income tax until it was well clear of the poverty level. The benefit of this is that incentives are enhanced for the poor and working groups to save, work, and invest. Families of other sizes would enjoy similar proportionate increases in tax-free income under such a change.

Moreover, an increase in the personal exemption would be very effective in directing government financial assistance toward those moderate- and low-income workers who suffered the heaviest tax increases over the last 40 years and faced the greatest barriers to work effort. In fact, a $6,300 personal exemption initially would wipe out at least the federal income tax burden for low-income and working families.

Reason No. 4: The change would be of immediate help to the embattled middle class. Middle-income Americans have been hard pressed by escalating taxes on the family. These families today are forced to make heavy financial sacrifices to raise their children. This has encouraged many middle-income families to press for new government programs to assist them with such expenditures as child care and college tuition—even though these programs limit their discretion as parents and cost tax dollars, imposing a heavier tax burden and a further erosion of their financial situation.

Increasing the personal exemption would allow middle-income families to escape this "Catch 22" situation. They would be able to keep more of their income and thus to pay for the costs of raising their children. This would reduce the pressures to seek new programs that could be financed only through tax hikes. The overwhelming portion of the tax benefits from higher exemptions would go to those earning less than $70,000 per year.

When the family is strong, the need for government programs is reduced. Increasing the personal exemption is a strategy to empower the family, strengthen its resources, and liberate it from reliance on government.

Reason No. 5: Raising children should be treated as an "investment" for tax purposes, not as an item of "consumption."

Economists long have disagreed about the nature of expenditures on children. Some believe that they should be treated as any other item of "consumption." Parents, they say, receive pleasure from raising children, so they alone should bear the cost. In this view, there is little reason for giving a special tax preference for children, any more than providing a tax break for purchasing a television set.

This view is disputed by a growing body of economic literature. It considers outlays on such items as health services, housing, and education as an investment in "human capital," which leads to higher productivity and future output, much like maintaining or

[4] Joseph A. Pechman, *Federal Tax Policy* (Washington, D.C.: Brookings Institution, 1987), pp. 83 and 84.

constructing an industrial machine.[5] Moreover, the prospective returns on investments in education, according to one 1988 British government analysis, could be about 25 percent, much larger than most investments in the British or American economies.[6]

Investing in People. The distinction between capital and consumption—always somewhat arbitrary—is particularly difficult in the case of spending on human beings. Yet reasonable distinctions are possible. The U.S. tax code allows businesses to deduct their expenditures for the health or training of their workers, but gives very limited tax benefits to parents investing in their children's future productivity.

A higher personal exemption is one practical way of providing some allowance for the outlays in raising children, such as education and health care, which are more in the nature of human capital expenditures.

Reason No. 6: The family is the basic unit of taxation, and exemptions should reflect this. Most tax theorists regard the family household as the basic unit of taxation. Thus one goal of tax policy has been to impose equal taxes on families who have command over equal resources. The two-earner deduction, different rate schedules for marital status, and income splitting have been used in the past as rough devices to help adjust taxable income for family circumstances. The personal exemption is another adjustment for the taxpaying ability of the family.

For example, a single person earning $25,000 enjoys a much higher standard of living than a family with children earning the same amount. The personal exemption is supposed to help account for the greater sacrifices and necessary costs of raising a family, thereby more accurately measuring a family's actual living standard.

The current $2,000 personal exemption does not come close to measuring the true sacrifice required by a family to raise a child. A larger exemption would lead to a tax liability more in line with each household's real circumstances.

COVERING THE REVENUE LOSS FROM INCREASED EXEMPTIONS

Raising the exemption to $6,300 for all Americans would reduce the U.S. Treasury's income tax revenues by about $100 billion to $130 billion.[7] This revenue loss could be lowered, however, by limiting the increased exemption to children claimed as dependents. A $6,300 children's exemption, for example, would cut income tax revenues by about $30 billion to $50 billion.[8] If limited further to children under five years of age, the tax revenue loss would be less than $12 billion.[9] George Bush's proposal to give families earning less than $20,000 a $1,000 tax credit for each child under four would cost $2.5 billion.[10]

Some imaginative proposals, however, would link increases in the personal exemption with other social policy objectives, potentially leading to less revenue loss for the U.S. Treasury. Under one plan, the personal exemption could be increased in return for further tax reform. The deduction for state and local income and property taxes is used primarily by upper-income families and tends to subsidize high-tax states. Eliminating this deduction would raise $15 billion.[11]

Another option would be a floor for itemized deductions of 20 percent of adjusted gross income. Under this plan, only the amount of allowable expenses exceeding 20 percent of income would be deductible from taxes. This would raise $31 billion.[12] While eliminating many tax-induced distortions in the economy, however, a deduction floor would make no distinction between economically efficient and inefficient deductions.

Relief for the Middle Class. Changes in the homeowner's mortgage interest deduction could be viewed as another option to offset an increased personal exemption, as some studies show that the mortgage interest deduction inefficiently shifts resources to the housing stock and away from more valuable capital investment and saving.[13] Few deductions enjoy more popular and political support, and home purchases currently are regarded as the family's most important capital investment, deserving of special tax treatment. yet many American families fiercely support the mortgage deduction mainly as a tax break for the middle class, rather than an objective in itself. They argue that they need the tax relief to help finance other family expenditures. Increasing the personal exemption would give them this relief and could soften their support of the mortgage deduction. And in general, increasing the personal exemption would provide more total tax relief to middle-income families with children than they can obtain from the current deduction for mortgage interest.

THE DYNAMIC EFFECT OF RAISING THE EXEMPTION

In reality, concerns about revenue losses are vastly overstated. Little faith should be put in "static" revenue estimates because they do not incorporate any change in economic incentives for work, saving, or investment. In essence, these models assume that the economy would be no more productive or robust following the tax cut than before. Such static assumptions were shown to be erroneous in 1981, when they predicted that tax cuts would trigger an economic slowdown and a sharp reduction in tax revenue. They are just as unrealistic when used to assess the impact of an increase in the exemption.

Drawing Americans Off Welfare. Exempting upwards of one-half of all taxpayers from the income tax rolls obviously would have enormous consequences for economic incentives and social welfare outlays. Reducing the marginal income tax rate for millions of low paid taxpayers to zero would give poor and working Americans an enormous income boost as well as an incentive to work, engage in entrepreneurial activity, and pursue work training or further education. And by making work more rewarding, a higher exemption also would draw people off the welfare rolls and make them less dependent on government support programs, thereby reducing government social welfare spending.

Middle-income Americans also would enjoy lower marginal tax rates. With higher exemptions, millions of middle-income taxpayers would drop from the 28 percent tax bracket into the 15 percent bracket—enjoying almost a 50 percent increase in productive incentives.

Thus, by increasing such incentives for economic expansion, a higher exemption would boost the size of the nation's economy and lead to more tax revenues flowing into the government's coffers. A significant portion of the tax cut thus would ultimately be recouped in increased government revenues through faster economic growth.

CONCLUSION

As the foundation of a free society, the incubator of traditional values, and the crucible for instilling good character in future generations, the American family must be the first priority of a free and democratic society. Yet the financial pressures on traditional families raising children are acute. The government's discriminatory tax treatment of children has undercut the family's financial security and impeded the ability of parents to provide for the health, education, and welfare of their children. Many point out the bias in the U.S. tax code against saving and investment. They are correct. The greatest bias, however, is that against families with children.

Tax Relief for Rearing Children. Two paths lie ahead. Down one are more government programs to support weakened families. If high taxation of the family is allowed to continue, families, increasingly will be unable to provide for themselves. They will look increasingly to the govenment for help to meet the burden of raising children. The prospect of government taking over the functions and choices of parents should alarm most Americans.

The other path leads toward strong families, a more appropriate role for government, and a growing economy. This path begins by giving American families substantial tax relief for the costs of rearing children. It will require a major, long overdue change in tax policy—it will treat children as an investment in America's future.

Restoring the personal exemption to where it was, in relative terms, in 1948 would allow America's median-income families with two children to keep over $2,500 more of their own income to raise and nurture their children. A median-income family with four children would enjoy almost a $44,000 tax cut. With this income boost, families would be less reliant on government programs and have access to vastly improved health and education opportunities.

Strengthening the Family. George Bush's proposal for a "toddler tax credit" shows that he appreciates the vital role in America of families raising children. But to strengthen that crucial institution, his Administration ultimately must ask Congress to roll back a half century of unfair and discriminatory tax increases on America's children.

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[5] See Gary S. Becker, *Human Capital* (Cambridge, Massachusetts: National Bureau of Economic Research, 1964).

[6] Cleve Wolman, "A Better Way to Finance Students," *Financial Times*, December 1, 1988, p. 17; see also, Becker, *op. cit.*

[7] Estimates based on Internal Revenue Service, "Individual Income Tax Returns," *Statistics of Income*, 1984, p. 61. Since these estimates are based on numerous simplifying assumptions, they should be viewed as broadly indicative of possible revenue losses, rather than as precise figures. They are also "static," and therefore unrealistically assume no changes in economic behavior resulting from the change.

[8] IRS, *op. cit.*

[9] *Statistical Abstract of the United States*, 1987, U.S. Department of Commerce, Bureau of the Census. No phase-out of the exemption is assumed.

[10] Figures released by Bush campaign staff.

[11] Pechman, *op. cit.*, pp. 358-363.

[12] 12 *Ibid.*, p. 100.

[13] Patricia H. Hendershott and Sheng-cheng Hu, "The Allocation of Capital Between Residential and Nonresidential Uses: Taxes, Inflation, and Market Constraints," Working Paper No. 718 (Cambridge, Massachusetts: National Bureau of Economic Research, 1981).

[From the Tax Foundation, Feb., 1990]

AVERAGE FAMILY FACES TAX BILL OF $12,938 IN 1990

President Bush has released the Administration's budget to an uproar of criticism and commentary from interest groups all along the political spectrum, but few people are asking the most basic, down-to-earh question: How much will the government tax the average American family and how will that money be spent? According to Tax Foundation economists, a moderate-income family—two workers earning $45,000 with two dependent children—faces a tax bill of $12,938 for 1990. That covers the family's direct and indirect federal taxes. Add to this its $718 "share" of the federal deficit and the average family will contribute $13,656 to support the estimated $1.23 trillion Uncle Sam plans to spend in the new budget.

Assuming that the $12,938 tax bill is allocated to cover the typical family's entire share of federal spending, the following expenditures stand out:

Income security tops the list at $418.5 billion. This comprises primarily Social Security, federal retirement, and unemployment, extracting 33 cents of each $1 the American family sends to Washington, for a per-family total of $4,237.

National defense will cost $303.3 billion—or 24 cents out of each tax dollar. For the moderate-income family, this amounts to $3,070 per year.

Interest payment on the federal debt ranks third at $173 billion, costing a family 13 and ½ cents of its tax dollar, or a whopping $1,751 per year.

Health outlays, mainly Medicare and Medicaid, will take 13 cents of each tax dollar. The typical family will send Uncle Sam $1,643 in 1990 to pay for the $163.3 billion national health bill.

These four items alone will claim 83 percent of all federal spending and will cost the moderate-income family $10,701, or 83 cents of each tax dollar. Compared to these big four items, spending on all other programs is relatively small. With the remaining 17 cents, Uncle Sam will spend 3 cents of the family's tax dollar on education, and less than 3 cents each on environment, transportation, science, and administration of justice.

THE FAMILY TAX BILL

Direct federal taxes—individual income and personal Social Security taxes—will cost this family $8,219 in 1990. However, direct levies do not explain the whole tax burden, accounting for only about three-fifths of what the government takes in. To these must be added such indirect taxes as the employer share of Social Security taxes; corporate income taxes; excise taxes on such items as gasoline, liquor, and tobacco; and miscellaneous levies. These will take another $4,719 from the average family's income.

Direct and indirect federal taxes will claim 28.8 percent of this family's annual income, but even that does not tell the whole story. All told, current federal taxes and borrowing will add up to nearly 30 percent of the moderate-income family's earnings.

See table below for futher details.

HOW THE FEDERAL GOVERNMENT WILL SPEND A FAMILY'S TAX DOLLAR IN 1990 [1]

Function	Family's Share		
	Amount	Percent of Total	Spending (billions)
Income security [2]	$4,237	32.75	$418.5
National defense	3,070	23.73	303.3
Net interest	1,751	13.54	173.0
Health [3]	1,643	12.70	162.3
Education, training, employment, social services	415	3.21	41.0
Veterans' benefits and services	307	2.37	30.3
Transportation	302	2.33	29.8
Environment and natural resources	184	1.42	18.2
International affairs	184	1.42	18.2
Commerce and housing credit	174	1.35	17.2
General science, space and technology	168	1.30	16.6
Agriculture	151	1.17	14.9
Administration of justice	128	.99	12.6
General Government	114	.88	11.3
Community and regional development	79	.61	7.8
Energy	30	.23	3.0
Total [4]	12,938	100.00	1,233.3

[1] This example uses a two-earner family earning $45,000 per year with two dependent children.

[2] Primary social security. Includes Federal employee retirement, unemployment compensation, and nutrition assistance. Excludes veterans' income security.

[3] Primarily Medicare and Medicaid. Excludes veterans' health care.

[4] After deducting $44.7 billion in undistributed and offsetting receipts not classified by function.

Source: Tax Foundation computations based on fiscal year 1991 U.S. budget presented January 29, 1990, and 1990 tax laws from U.S. Department of Treasury.

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THE "PARENTING PENALTY"—HOW THE TAX CODE DISCOURAGES PARENTAL CARE

(By William R. Mattox, Jr.)

Should parents be penalized for spending time with their children? Before dismissing such a crazy question, consider this: a provision in the U.S. tax code actually has that effect. It penalizes parenting.

The provision is the Dependent Care Tax Credit, a write-off afforded taxpayers who pay someone to care for their children while they work.

While easing the tax burden on families with young children is certainly laudable, the problem with the Dependent Care Tax Credit is that it ties tax benefits to child care expenses—a configuration which perversely rewards parents for not spending time with their children.

Generally, the more time a child spends in substitute care, the greater the family's day care expenses. And the greater the day care expenses, the higher the family's tax credit.[1]

Thus, the current Dependent Care Tax Credit discourages parent-child interaction by increasing the "opportunity cost" (in foregone after-tax earnings) that parents pay to spend time with their children.

In essence, the credit redistributes income from families that make little or no use of paid day care to those that make extensive use of such services. Not only does this penalize families in which one parent stays home full time to care for children, but it also shortchanges two-income and single-parent families that seek to minimize their use of paid substitute care by working part time, working different shifts, working from home, or having a grandparent or other relative care for their children.

FAULTY REASONING

Despite the fact that the Dependent Care Tax Credit penalizes parenting, there are those who defend it by asserting that paid child care is a mandatory precondition to employment. "When the second parent or a single parent takes a job, [paid] child care is as mandatory as union dues for a Teamster or gasoline for a cabbie," argues the Philadelphia Inquirer in a recent editorial.[2]

But this is not necessarily true. According to a recent Census Bureau survey of child care arrangements, half of all preschool children with employed mothers are primarily cared for outside the paid day care market.[3] Some are cared for by grandparents or other relatives. Others have "tag-team parents" who work different shifts and trade off caretaking responsibilities. Still others have "doubletime mothers" who hold jobs which allow them to care for their children while they earn income. Thus, paid day care is clearly not a precondition to employment. Despite recent rises in maternal employment, many families—indeed, most families—primarily care for their own children at home.[4]

Supporters of the current Dependent Care Tax Credit are quick to point out that all employed parents do not have extended family networks or flexible work arrangements which permit them to minimize their use of paid child care. While this is true (and lamentable), it serves as no justification for tying tax credits to day care expenses. Indeed, doing so only penalizes families that make financial sacrifices to care for their own children. And public policies which penalize parenting undermine efforts to develop more family-sensitive work arrangements for employed parents.

Since the Dependent Care Tax Credit cannot be defended credibly by arguing that paid day care is a mandatory precondition to employment, supporters of the current credit often turn to a second argument to justify linking tax benefits to day care expenses. They argue that families that make extensive use of paid child care are deserving of special tax benefits since they use their after-tax earnings to pay for child care while families that care for their own children receive their child care "free."[5]

Not only does this reasoning overlook the significant opportunity cost families pay to care for their children, but it implies that people who hire housekeepers, butlers, gardeners, interior decorators, and chauffeurs are also deserving of special tax breaks since they use their after-tax earnings to purchase services that other people provide "free" for themselves.

Of course, most defenders of the current Dependent Care Tax Credit see a big difference between giving families a tax break for child care expenses and giving people a write-off for hiring a chauffeur. Caring for children is, after all, an investment in the future of our nation, economy and culture.

Here, dependent care credit proponents are right. Caring for children is of far greater social value than hiring a butler, buying a poodle, or making some other discretionary expense. It is an investment in our future. But if the justification for the current Dependent Care Tax Credit is based upon the fact that child care is an investment rather than a discretionary expense, a strong case can be made that this tax credit should be extended to families that invest in children outside the paid day care market.

An investment is an investment whether it is paid in parental time or paid by parental money. Indeed, most child development experts would argue that the investment of parental time in a child's life is more important (or, to use economic terms, pays greater long-term dividends than an investment in paid day care services.

Footnotes at end of article.

BREAKING THE LINK

Given the significance of parental time with children, the tax code in no way should penalize taxpayers who forego extra income to spend time with their children. Instead, tax credits should be extended to all families with preschoolers—irrespective of whether or how much they used paid day care services.

Congressmen Clyde Holloway and Dick Schulze recently introduced legislation designed to address the "parenting penalty." The Holloway-Schulze Bill severs the link between child care expenses and tax benefits by replacing the current Dependent Care Tax Credit with a new refundable credit worth up to $1,000 per preschool child.

This new credit, which is structured much like the Earned Income Tax Credit, allows parents to keep more of their own earned income to purchase or provide child care for their preschoolers. Apart from eliminating the "parenting penalty," the Holloway-Schulze Bill would:

Reduce the Tax Burden on Families with Children. During the last four decades, families with children have seen their federal tax liability rise dramatically. In 1948, a median-income family of four paid two percent of its gross earnings to the federal government in income and payroll taxes. Today, a median income family of four pays 24 percent of its earnings to the Federal Treasury.[6]

The failure of the personal exemption to keep pace with inflation has been the primary cause of rising income taxes on families with children. If the exemption had been indexed since 1948, it would now be $6,300.[7] Instead, it is a mere $2,000.

The erosion of the personal exemption's value has had an especially deleterious effect on families with children, because the exemption is the tax code's primary mechanism for adjusting tax liability to reflect variations in family size. Since 1948, the income tax liability of families with two children has risen nearly three times as much as the income tax burden borne by single taxpayers and childless couples.[8]

The Holloway-Schulze Bill increases the tax benefits available to families with preschool children, including those that currently claim the Dependent Care Tax Credit. Under the Holloway-Schulze plan, all families with an annual income below $45,000 (and some above this threshold) would experience a net tax reduction. In all, tax benefits would be distributed among the families of 15 million preschool children. And nine families out of ten affected by this bill would enjoy a cut in taxes.

Target the Greatest Tax Relief to Lower-Income Families. The Dependent Care Tax Credit has long been a boon to the rich. In 1985, the average tax benefit for a family earning less than $10,000 was $247. In the same year, families making more than $200,000 enjoyed an average Dependent Care tax benefit of $522.[9]

Moreover, many lower-income parents currently receive no benefit at all from the Dependent Care Tax Credit because their children are exclusively cared for by family members.

For families earning less than $10,000, the Holloway-Schulze Bill offers 12¢ for every dollar earned up to a maximum of $1,000 per child or $2,000 per family. While credit size declines as income rise, credit amounts remain quite large for middle-income taxpayers. For example, a family earning $30,000 a year can claim a $700 per child tax credit under the Holloway-Schulze Bill. This represents a 46 percent increase over the maximum credit permitted under current law.

Encourage Parenting Without Discouraging Economic Self-Sufficiency. The Holloway-Schulze Bill recognizes that public policies directed at families with young children should attempt to both encourage economic self-sufficiency and facilitate parent-child interaction. This legislation is designed to help parents meet their responsibilities as both providers and nurturers.

By tying the credit's size to the amount of earned income, the Holloway-Schulze Bill differs markedly from some European child allowances which offer no work incentive to low-income families. As such, this legislation largely builds on recent welfare reform initiatives which have sought to reduce dependence on government spending programs by encouraging greater economic self-sufficiency.

Maximize Parental Choice and Autonomy. Allowing parents with young children to keep more of their own earned income strengthens their economic standing and gives them greater autonomy over important life decisions, such as how to care for their children. While the Holloway-Schulze Bill would not penalize familial care of children, neither would it penalize families which utilize some form of paid substitute care. Indeed, by giving parents the freedom to use their tax credit as they see fit, the Holloway-Schulze Bill ensures that parents will find it easier to provide or purchase the child care arrangement of their choice.

Enhance the Quality of Substitute Care. In testimony before a Senate Subcommittee, a licensed family day care provider named Deanne Dixon noted that parents strongly prefer family day care over center-based care for their infants and toddlers. And she noted that most family day care providers are themselves mothers of preschool children who care for their own children while offering substitute care to other families. Ms. Dixon said that offering a tax credit to all families with children (rather than just those who pay for care) would prevent some family day care providers from feeling economic pressure to take in more children than they are able to adequately care for.[10] In other words, a universal tax credit like that found in the Holloway-Schulze Bill would enhance the quality of family day care by keeping provider-child ratios low.

Avoid Preschool Policy Schizophrenia. If parenting leave legislation were enacted and no changes were made in the current Dependent Care Tax Credit, the federal government would be simultaneously urging parents to take leave from their jobs to care for their newborns while offering a tax break only to those families that refused such leave and paid for child care. The Holloway-Schulze Bill addresses this inequity by breaking the link between day care expenses and preschool tax benefits. It ensures that parents who take leave from work to care for children will not be penalized.

DISTRUSTING PARENTS

However meritorious the Holloway-Schulze Bill might be, some critics have suggested that breaking the link between day care expenses and tax credits is unwise because it offers no guarantee that parents will use their new $1,000 tax rebate for child care purposes.

This argument shows a fundamental distrust of parents. It implies that the very people society expects to clothe children cannot be trusted to purchase or provide care for them. Moreover, this argument fails to recognize that, except among the very poorest families, the money being offered in tax credits is money parents originally earned. Unless the government imposes a 100 percent tax rate on all taxpayers, there will always be a risk that citizens in a free society will use their own money in ways the state does not like.

Furthermore, since there are laws which protect children from neglect, society has some recourse if a family fails to adequately care for its children. Indeed, the presence of child abuse and neglect laws strengthens the case for across-the-board tax credits because they help to explain why the tax treatment of child care should be different from the tax treatment of charitable contributions.

Under current tax law, individuals that make financial contributions to charities are eligible for a tax deduction, while those that do volunteer work receive no comparable tax break (largely because donations of time are difficult to measure and verify). While some argue that child care tax benefits should follow a similar pattern, it is important to note that individuals who do not volunteer time to a charity do not violate the law for failing to volunteer, yet parents that fail to care for their own children or to find adequate substitute care violate child neglect statutes. In other words, there is no law which compels one to contribute time or money to charity, but there are laws which compel parents to provide or purchase care for their children.

Accordingly, the measurement and verification problems associated with unpaid "volunteer work" are not found with unpaid child care. And since all parents are responsible for the care of their children, the tax code should not distinguish between those that purchase substitute care and those that provide care themselves.

IRRECONCILABLE DIFFERENCES

While the Holloway-Schulze Bill would eliminate the "parenting penalty" found in current law, several other legislative initiatives would exacerbate it. For example, legislation recently introduced by Senators Robert Packwood and Daniel Patrick Moynihan would increase the tax benefits offered to day care users under the current Dependent Care Tax Credit.

As such, the Packwood-Moynihan Bill is a classic case of making a bad law worse. The Packwood-Moynihan Bill directly challenges the "level playing field" principle found in the Holloway-Schulze Bill, and it directly contradicts pronouncements from President Bush that federal law should not discriminate against families that care for their own children.

Indeed, the Packwood-Moynihan Bill bears a strong resemblance to other bills—like Senator Chris Dodd's Act for Better Child Development and Education Act—which discriminate against families that care for their own children.

The Dodd and Hawkins bills, which attempt to supplant parental responsibility for child rearing with new government spending programs, are often touted as possible bridegrooms should there be Congressional interest in a marriage between a nondiscriminatory tax credit and a new day care spending program. Clamors for such a marriage are frequently heard from day care ad-

vocates who claim, rather curiously, that tax credits designed to help parents purchase or provide care for their children are not "child care proposals."

Essentially, these advocates want to undo whatever progress is made towards eliminating the "parenting penalty" by creating a new government spending program that transfers income from families that care for their own children to families that make extensive use of day care. Thus, a "compromise" bill which combines a non-discriminatory tax credit proposal with an ABC-type spending program amounts to nothing more than a cruel shell game for families currently victimized by the "parenting penalty."

THE BOTTOM LINE

In the late 1960's, Congress addressed the federal tax code's "single's penalty." In the early 1980's, it took on the tax code's "marriage penalty." Now is the time for Congress to eliminate the "parenting penalty."

Certainly, doing so will reduce federal revenues. But the net revenue loss of the Holloway-Schultz Bill (an average of $2.9 billion per year over five years) is not unreasonable.[11] Indeed, this price tag is comparable to the cost of the Senator Dodd's ABC Bill. And the Holloway-Schulze proposal offers much better bang for the buck since 100 percent of its benefits flow directly to parents, whereas one dollar in four under ABC goes to administer the new federal bureaucracy it would create.

The Holloway-Schulze Bill recognizes that the best federal policy is one that breaks the link between day care expenses and tax benefits by replacing the current Department Care Tax Credit with a new refundable tax credit that offers significant tax relief to lower- and middle-income families with preschool children. Such a policy is equitable, affordable, and long overdue.

FOOTNOTES

[1] The correlation between time in day care and size of tax benefits is a general truism—not an absolute rule. Since all substitute care arrangements do not cost the same per hour and since there is a ceiling on the amount of expenses which can be claimed, a moderate user of expensive day care could receive tax benefits equal to or greater than those claimed by a heavy user of less expensive care. Also, for families below the median income, variations in the percentage of expenses which can be claimed may also affect the opportunity cost parents pay to care for their own children.

While these variables prevent one from drawing absolute correlation between time in day care and size of tax benefit, they in no way contradict the basic premise of the "parenting penalty" which is that the Dependent Care Tax Credit redistributes income from families that make little or no use of paid day care to those that make substantial use of such services.

[2] "Say No to Paid Homemaking," The Philadelphia Inquirer, August 6, 1988.

[3] Bureau of the Census, U.S. Department of Commerce, series p. 70, No. 9, Who's Minding the Kids? May, 1987.

[4] When one factors in the children cared for by full-time mothers at home, approximately 76% of all children under age five are primarily cared for by one or more family members. See William R. Mattox, Jr., "Notorious Myths About Child Care," The Washington Post, June 4, 1988.

[5] Michael Kinsley, "Discrimination Against Full-Time Mothers?," The Washington Post, May 26, 1988.

[6] Robert Rector, "The 'ABC' Child Care Bill: An Attempt to Bureaucratize Motherhood," Issue Bulletin, The Heritage Foundation, October 6, 1988.

[7] Thomas Humbert, "Ending the Tax Code's Anti-Family Bias by Increasing the Personal Exemption to $6,300," Backgrounder, The Heritage Foundation, January 30, 1989.

[8] Ibid.

[9] "1985 Dependent Care Tax Credit Data," National Women's Law Center, December, 1988.

[10] Deanne Dixon, Testimony before the Subcommitee on Children, Families, Drugs and Alcoholism, U.S. Senate Labor and Human Resources Committee, January 24, 1989.

[11] The Holloway-Schulze Bill will be phased in over a five-year period between 1990 and 1994. During this phase-in period, eligible taxpayers will be permitted to choose between the current Dependent Care Tax credit and the new credit. Fully phased-in, the new credit will replace the Dependent Care Tax Credit and will reduce federal revenues $5.6 billion per year. This net cost reflects the total cost of the new credit minus the savings gained by discontinuing the current Dependent Care Tax Credit for families earning above $50,000 a year and the Employer-Sponsored Dependent Care Assistance Plan. The Employer-Sponsored Dependent Care Assistant Plan (or DCAP) is a little-known tax provison which allows employed parents to shield from taxation up to $5,000 of employer-provided day care assistance. Since DCAP ties tax benefits to day care expenses, it is every bit as discriminatory as the current Department Care Tax Credit.

A TALE OF TWO FAMILIES

Mrs. Jones and Mrs. Smith are two working women who have a lot in common. Both live on the same block. Both have husbands who earn $26,000 a year. And both are pregnant with their first child.

After her child is born, Mrs. Jones decides she will return to her $12,000 a year job immediately. Conversely, Mrs. Smith decides to take at least a year off to be home with her baby.

When April rolls around and Mrs. Jones prepares her family's taxes, she discovers that she can claim a $480 tax credit for day care expenses incurred while she and her husband were working.

No such credit is extended to the Smiths. Indeed, the taxes they pay help subsidize the day care expenses incurred by their wealthier neighbors.

Now, the Smiths and Joneses have a good bit less in common. Not only do the Joneses have a significantly higher income than the Smiths, but they also have twice the tax-free employee benefits. And thanks to the Dependent Care Tax Credit, the Joneses now have a lower marginal tax rate than their poorer neighbors.

Not surprisingly, the Joneses, soon buy a larger house in the suburbs (and reap the benefits of a greater tax deduction for mortgage interest).

Meanwhile, the Smiths—who have no particular desire to keep up with the Joneses—continue to wonder why federal tax policy penalizes their decision to devote significant attention to raising their own child.

WHITHER MANAGED TRADE?

Mr. HEINZ. Mr. President, I have been asked by Caterpillar, an important company in my State, to bring to the Senators' attention a speech given last November by the company's president and chief operating officer, Donald V. Fites. I am asking that that speech be printed in the RECORD today following these brief remarks because it reflects what has been the prevailing thinking about trade policy, particularly trade with Japan, for 40 years, and that thinking deserves viewing before it is finally laid to rest.

Yet, laid to rest it ultimately must be, Mr. President, not because it was wrong for its time, but because times have changed. Mr. Fites' comments are based on the idea of the liberal trading system first articulated by Adam Smith and David Ricardo in the 18th and 19th centuries, respectively. And his ideas work—in that system.

What he—and the rest of us—must grapple with in 1990 is the impact a mercantilist actor has on the trading system and how it forces the rest of us to change our tactics. There is growing awareness in the United States that Japan is such a power and that the policies it pursues very effectively will ultimately destroy our ability to compete internationally in critical sectors of our economy. While a liberal trading response may be theoretically best, it may not be practically possible in a mercantilist world. Here there are only second best solutions and very little time left to pursue them.

Mr. Fites attacks one of those solutions—managed trade—without ever managing to explain precisely what it is. No doubt some definitions would have little public support and little effectiveness. Others, which take a microeconomic approach, focusing on sectoral discussions designed to achieve concrete results are well within the traditional Japanese approach to settling trade disputes, and could well be the most effective way to produce mutually satisfactory results. We should not let the ideology of the past dictate the policies of the future, but rather we should open our minds to innovative solutions to unprecendented challenges. Macroeconomic solutions to the bilateral trade deficit with Japan have manifestly failed. Managed trade can be nothing more than a page out of Japan's own book—which is perhaps why they oppose it so strenuously.

So, Mr. President, I do not agree with Mr. Fites, but in the interest of full disclosure and continuing the trade policy debate, I want to make it available to Senators. Accordingly, I ask that it be printed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

MANAGED TRADE: BEYOND THE RHETORIC

(Remarks of Donald V. Fites)

There's a catchy new phrase making the rounds in Washington. Politicians are using it. So are businessmen—and educators—and members of the press. They're talking about a new way to address the U.S.-Japan trade relationship . . . and they're calling it "managed trade."

Most advocates of managed trade claim to be free traders at heart. They extol the virtues of an open trading system . . . but at the same time, they contend that because Japan's culture and economic system are unique, we ought to treat the country differently. Free market forces won't work in Japan, they argue, so we should deal with the Japanese in another way. We should "manage" our bilateral trade relationship, and in so doing, we'll restore balance to it.

The managed traders have done a clever job packaging their position. Just the use of the word "manage" makes the concept ap-

pealing to some members of the business community. People like us are conditioned to believe that if something is managed—as opposed to unmanaged—it's automatically better. And when proponents of managed trade start labeling it an "organized approach to free trade" and a "results-oriented" trade policy, they make the idea sound even more logical—to business people and others.

But when you cut through all that carefully chosen rhetoric and take a good look at what managed trade is all about, you'll find that it's really protectionism repackaged. It's a more acceptable way to bash Japan . . . and a more legitimate way to close U.S. markets to Japanese imports.

Protectionism is back in the headlines again, partly because of the controversy surrounding the book by Messrs. Morita and Ishihara—*The Japan That Can Say "No."* There's no doubt about it . . . the book is provocative. But before we let trade friction escalate into a trade war, we'd all do well to remember that the book doesn't reflect mainstream Japanese thinking. I'm not saying that there isn't cause for concern about the U.S.-Japan bilateral relationship. But the solution is not managed trade.

Some of you might think Caterpillar would support that solution because our most formidable competitor is Japanese. Komatsu, a $5.6 billion company, is a major force in the U.S., Japanese, and European construction equipment markets. They strengthened their foothold in the United States during the early eighties when the dollar was grossly overvalued with respect to the yen. More recently, they've expanded their presence—in the United States and in Europe—by opening manufacturing facilities and by teaming up with former competitors in both regions of the world.

Komatsu is global competitor in every sense of the word. They're aggressive and tenacious . . . and they'd like nothing more than to replace us as industry leader. So why don't we want the U.S. government to step in and help us "manage" the situation?

Quite simply, because in the long run, managed trade weakens our own competitiveness and threatens the strength and vitality of the entire world trading system. We—Caterpillar—and we—the nation's business community—have little to gain and much to lose if the managed trade concept is allowed to drive U.S. trade policy.

What's at stake for Caterpillar? Three things: sales, profit, and jobs. We traditionally do more than half our business outside the United States, so any policy that affects world trade affects Caterpillar. Last year we sold more than $5 billion worth of products and parts in overseas markets. Close to $3 billion of that was exported from U.S. facilities. Exports represented 40 percent of total U.S. production and supported 16,500 Caterpillar jobs in the United States. That makes our company one of America's largest net exporters. In fact, if you look at exports as a percent of sales, we're consistently ranked among the top five.

I should emphasize that Caterpillar is more than just a U.S. exporter. We're a global competitor. We design and manufacture products in more than 30 facilities located in North and South America, Europe, Asia, and Australia. Parts are distributed from 22 additional facilities located in 10 countries. Caterpillar's supplier network also spans the globe. And our worldwide dealer organization—more than 200 members strong—serves customers in over 150 countries.

When you put it all together, we have a global presence our competitors are trying to match. Protectionist trade policies weaken that presence . . . and can do irreparable damage to our worldwide competitive position.

The protectionist policy now called managed trade has the potential to be especially devastating because of its focus on Japan. Japan is a strategic market for Caterpillar—the second largest in the world behind the United States. It also happens to be home to our biggest customer. Yoshihiro Yamazaki is co-owner of Yamazaki Construction Company Limited. He's one of Japan's largest contractors with more than 100 major projects currently under way. We've done business with Mr. Yamazaki for close to 25 years, and he now owns more than 1200 pieces of Caterpillar equipment. That makes him the world's largest single private user of our products.

Yamazaki could do business with a whole host of Japanese suppliers, but he's shopped the world—and selected us—because we provide a premium value product. And he's not the only important customer we have in Japan. Last year, Cat exports to Japan were up 76% over the previous year. Today, more than half of the large construction machines sold there were made in Illinois and bear the Caterpillar name. As does about 70% of the large equipment at work on the Kansai airport project.

We've been a key player in the Japanese construction equipment market since 1963 when we joined forces with Mitsubishi Heavy Industries. Our 50-50 joint venture was one of the first of its kind between a U.S. and Japanese company. In 1987, we doubled the size of the company by merging another Mitsubishi product line and an additional Japanese factory into the original joint venture. Now the joint venture—which we call SCM—an acronym for Shin Caterpillar Mitsubishi—with "shin" being the Japanese word for "new"—is a $2.5 billion company with more than 7000 employees. Products are sold and supported by 18 dealers located throughout the country.

But SCM is more than just a manufacturing and marketing organization. It also has worldwide responsibility for design of a key Caterpillar product family called hydraulic excavators. Each year about 40% of the construction machines sold around the world are excavators—and more than half of those units are sold in Japan. That's one of the primary reasons why we created a hydraulic excavator design center in Japan and staffed it with a team of U.S. and Japanese employees. They're at work developing a new world-class line of excavators that will be manufactured in the United States, Japan, and Europe.

So obviously Japan plays a critical role in our global business strategy . . . and consequently, we have a big stake in the managed trade debate. But we oppose the issue for a number of other reasons.

One is as basic as the mechanics of the process. Just exactly how would the United States manage its trade relationship with Japan? And who would do the managing? The talk these days is long on generalities and short on specifics. But it seems to be the consensus that politicians would be the trade managers . . . and the "management tools" of choice would be tariffs and quotas.

We don't like the idea of giving government more control over market forces. Nor are we comfortable with the prospects of additional tariffs and quotas. Unilateral tariffs nearly always result in retaliation . . . so if we choose that alternative, we must be prepared to pay the price—more barriers, more political pressure, a lower overall volume of trade, higher prices for consumers, and fewer American jobs. Quotas—or voluntary restraint agreements as they're often called—can have even more onerous consequences, the primary one being that quotas tend to become permanent. Steel quotas are a case in point.

In 1984, the Reagan administration imposed voluntary restraint agreements on foreign steel producers. This extended the special treatment American steel companies had been receiving since 1968. After the quotas were imposed, the steel industry cut costs, streamlined operations, and invested in new equipment. In short, they got competitive . . . and some companies even began selling in foreign markets. That was the good news. But the bad news was that when the 1989 expiration date rolled around, and the steel industry came back to the U.S. government. They asked that quotas be renewed for another five years and be extended to cover additional countries not included in the original agreement.

Caterpillar helped form a 320-member coalition of American steel using manufacturers to oppose extension of the quotas. We argued that the steel industry had become competitive and no longer needed government protection. We also pointed out that VRAs had created artificial shortages . . . which increased our steel costs by about 10%, caused inefficiency in our manufacturing operations, compromised our $1.5 billion factory modernization program, and frustrated our efforts to increase production in U.S. facilities.

To add a note of irony, we found that many of the very countries engaged in unfair steel trade practices actually liked VRAs. The reason: Rather than being forced to open their markets or end subsidies, unfair traders were being guaranteed a share of the U.S. market—by virtue of the VRAs. And because supply was restricted, they were getting a better price for their product. In addition, foreign steel producers that had affiliated with U.S. companies were receiving the kind of protection originally designated for American manufacturers.

For another example of a VRA that backfired we need only look to Detroit. Auto VRAs allowed American manufacturers to sidestep their competitiveness problems for years. And in the meantime, Japanese manufacturers profited from quota-induced price increases in the U.S. marketplace . . . which, in turn, were a major encouragement to establishing low-cost manufacturing bases in the United States.

But aside from the fact that managed trade—with its proliferation of tariffs and quotas—would hurt American competitiveness and help foreign producers, there's another important reason why we oppose the concept. It violates the fundamental principle of the General Agreement on Tariffs and Trade—the principle of nondiscrimination. A basic tenet of GATT is that member countries grant each other equal treatment. But the whole premise of managed trade is that Japan is different—and should be treated as such.

What's the harm in a GATT violation like this? Proponents of managed trade argue that the agreement's been broken dozens of times—by many member countries. So another violation won't really make much difference.

We disagree. In the first place, managed trade isn't a minor violation like, for example, the U.S. oil import fee to fund toxic waste cleanup. Nondiscrimination is to the GATT what the Bill of Rights is to the Constitution. It's the foundation. Weaken it, and the whole agreement comes tumbling down.

The Uruguay round of GATT negotiations has been positive and productive . . . and the member countries are well on their way toward negotiating an agreement with some teeth in it—an agreement that will serve as a more effective mechanism for regulating the world trading system. Clearly, now isn't the time to take action on any bilateral front that could undermine the multilateral process. Managed trade would do that.

One final reason why we oppose managed trade: It would allow uncompetitive U.S. manufacturers to avoid making the tough decisions necessary to become world-class competitors.

There are no short cuts to competitiveness. If you really want to be a global competitor you have to act like one. That means you don't rely on quotas and other trade barriers to restrict imports. Instead, you get busy and do what it takes to increase exports.

You offer a differentiated product or service that represents value to customers. You get your costs down and your quality up. You focus your research and engineering resources on technologies that satisfy customer needs. You improve the efficiency of your manufacturing operation and the responsiveness of your distribution system. And you support your product after the sale with first-class customer service.

It all boils down to making customers the focal point of your business. And that means every action you take—every decision you make—is evaluated in terms of its impact on the people who buy and use your products.

Above all, a company that wants to be a global competitor must play for the long haul. It's tough to succeed in foreign markets. The risks are high, and the margins can be razor thin. Like I said before, there are no short cuts. You must be willing to endure a volatile business environment—ride out the tough years—and sacrifice some short-term profitability for long-term gains. If you can't make that kind of a commitment, you won't be a viable global competitor—no matter what kind of trade policy comes out of Washington.

Caterpillar believes the primary responsibility for correcting the U.S.-Japan trade imbalance rests with individual companies—not just U.S. exporters, but global competitors—on both sides of the Pacific. But that doesn't mean we've let our governments off the hook.

Access to the Japanese marketplace is a serious problem in some sectors of the economy. The Japanese government must move more swiftly to open markets and dismantle trade barriers. The U.S. government can help in that process by working within the context of current trade laws.

Both the U.S. and Japanese governments are also responsible for maintaining sound fiscal and monetary policies—policies that stimulate worldwide economic growth and ensure that currencies remain properly valued. They're not responsible, however, for the management of trade. Let's leave that to the experts—the men and women who manage the day-to-day operations of global companies like IBM, Boeing, 3M, and Caterpillar—Toyota, Matsushita, Hitachi, and Komatsu.

Managed trade is a threat to the world trading system. On the surface it may sound logical—this "common sense", "results-oriented", "organized" approach to trade. But when you strip away all the jargon, you're left with little more than protectionism repackaged—a policy that perpetuates the plight of an uncompetitive manufacturer and undermines the strength of a competitive one.

So rather than look for new ways to bash Japan—or close markets—or restrict trade—American business, labor and government need to concentrate on increasing exports. Let's avoid the quick-fix solution managed trade promises . . . and get to work on the long-term challenge of building and sustaining a competitive advantage.

VERMONT'S AWARD-WINNING WIC PROGRAM

Mr. LEAHY. Mr. President, last week the U.S. Department of Agriculture awarded a special citation to the Vermont Women, Infants and Children [WIC] Program for exceptional efforts in coordinating with the Medicaid Program to foster better health and nutritional services for pregnant women.

This special recognition is well deserved. Vermont's WIC program is one of the best in the country, in part because it works so well with other agencies to fill unmet needs. Helping people make sense of government forms and letting them know what services are available to them are important parts of the WIC mission.

Last year on Child Health Day, Vermont Gov. Madeleine Kunin and I announced that our State would be the first in the country to allow pregnant women to apply for Medicaid and WIC at the same time through a simplified, one-page form.

This change makes it easier for Vermont's pregnant women to get early, regular prenatal care. They can apply for WIC and Medicaid benefits, as well as the State's prenatal and children's health program, in one stop at any WIC clinic or any health department or social welfare office.

I encourage other States to follow Vermont's lead. This is the kind of initiative I had in mind when we developed the Commodity Distribution and WIC Reform Act. That law requires States to better coordinate their WIC and Medicaid programs.

There are many other examples where Vermont's WIC program serves as a model for the Nation. To name just one, our program has long used a wholesale purchasing system to buy infant formula and WIC foods and then turned any savings into serving more women and infants. This is one of the reasons the Vermont program boasts the highest State participation rate in the Nation. Over 75 percent of those eligible for the program receive the extra food and nutritional education WIC provides.

With the Child Nutrition and WIC Reauthorization Act passed last year, all States are now required to buy infant formula through competitive bidding or other cost saving measures. This change, inspired by Vermont's successful system, will save an estimated $300 to $350 million in this fiscal year and allow WIC to serve an additional 600,000 to 700,000 pregnant women and children at no cost to taxpayers.

My sincerest congratulations to Vermont's WIC Program and the dedicated and caring people who work in the 63 clinics around the State. WIC makes a difference for thousands of Vermonters. And it can make a difference to thousands more. Our job will not be done until every eligible woman, infant, and child is served.

VFW VOICE OF DEMOCRACY EIGHTH PLACE WINNER JOSHUA T. BURGESS OF CALIFORNIA

Mr. CRANSTON. Mr. President, I am delighted to note that a constituent of mine, Joshua T. Burgess of Corona, CA, placed eighth nationally in the 1990 Voice of Democracy Scholarship program sponsored by the Veterans of Foreign Wars and its ladies auxiliary. The VFW presented Josh with a $1,500 scholarship in recognition of his excellent presentation. This is the 43d year that the VFW has sponsored this program to encourage patriotism in our Nation's students.

Josh is the son of Donald and Karyn Burgess and a senior at Corona High School. He enjoys tennis, singing, volleyball, and public speaking and plans to pursue a career in politics or the ministry at Biola University.

In 1987, another Californian, Lori Ann Martens of Gustine placed second in the Voice of Democracy contest, and three other Californians have won this great contest—Cindie Pridy of Long Beach in 1973, Steven Russo of Santa Clara in 1974, and Elaine Barnett in 1986.

The theme of this year's program was "Why I Am Proud of America", and over 134,000 students participated in the program nationwide.

Mr. President, I want to congratulate Josh on a job well done and ask unanimous consent that the text of his very stirring speech be printed in the RECORD at this point so that all of my colleagues can share in his very special message.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

WHY I AM PROUD OF AMERICA

(By Joshua Thomas Burgess)

The darkening night pressed down harshly as the rain fell to the ground all around the mall. After some disoriented searching, I found what I was looking for. At other

malls, people were shopping, looking for articles of clothing, but at this special mall I was searching the list of 58,175 names carved in a granite wall. I was at the Vietnam Veterans' Memorial in Washington, DC.

Finally, I found the name of a high school friend of my parents. He had been the same age as my father, and now I was staring at this deceased friend's name on that granite wall. My father had served, too, but this man had paid the supreme sacrifice. I was thankful to him, and proud that such a man stood for America.

The following day, I joined a crowd of several hundred respectful mourners at the Tomb of the Unknown Soldier. But it wasn't all sadness at the tomb. There was pride, pride in the United States and her people.

More than a century ago, Senator Daniel Webster said, "I was born an American; I will live as an American; I shall die an American." Many men and women have died as Americans, fighting for their land on foreign soil. Yes, those men and women were proud of the United States; they were proud enough to die. Through war after war, the people of America have risen to the call to arms in time of need.

I am proud of America because of those soldiers who willingly chose to lay down their lives for the United States. Such displays of patriotism caused the English Statesman William Pitt to say, "You cannot conquer America." Why is this? It's because of the unceasing willingness of Americans to sacrifice for the good of their country.

My comments would be meaningless were it not that they are shown to be demonstrably true by history. A 1951 recruiting poster pictured a U.S. soldier and said, "But for him . . . words would be sterile meaningless things . . . words like freedom, liberty, justice, equality . . . words that make pacts, proclamations, constitutions, charters . . . hopes for a better more peaceful future."

Because of the faithful souls who have lived and died to protect our liberty, I am proud of America.

The people of the United States have always stood up and been counted for America. From the Revolution to the present, America has shown herself worthy of respect. A parent's pride in a child grows as the youngester develops into maturity, pursuing excellence. In the same way, our pride in America has grown as our nation has matured, seeking after excellence in every way. America has always risen above its troubles . . . social, economic, or political . . . to show itself to be the greatest nation in the world. This is why I am proud of America.

Yet, there are still more reasons to be proud of the United States. Consider this: homeowners will tell you that it is pride of ownership that causes them to take good care of their houses. The same is true for our democracy. Because Americans have pride of ownership in this great land, we protect our investments, our equity, our heritage to be passed on to future generations. This incomparable heritage was purchased with tears, sweat, and blood.

In 1989, thousands of persons fled Eastern Europe for freedom in the West. Many of these refugees will not rest until they have come to our nation of open borders, the land of the free, the home of the brave. It is democracy which fosters freedom and America, the strongest democracy in the world, still stands as a beacon of liberty to a beleaguered people. That's another reason why I am proud of America.

And more recently, when a terrible hurricane ripped through the east coast and a 7.1 earthquake devastated portions of the San Francisco Bay area, the people of America banded together to help one another. They showed that the people of this country have heart and compassion for their fellow man. That is why I am proud of America.

For all these reasons, I take pride in my right and responsibility to vote . . . for I thereby help preserve freedom here and abroad. I could easily keep going as the reasons to be proud of America are countless. These are but a few. But, if these few reasons truly were the only reasons to be proud of America, I would still be bursting at the seams with pride. America is certainly the greatest nation on our planet. With good cause, I echo the pride of that great patriot Daniel Webster, who declared, "Thank God, I am an American."

THE VIRGINIA MOTOR VEHICLE CONFERENCE AND THE VIRGINIA ROAD AND TRANSPORTATION BUILDERS ASSOCIATION

Mr. WARNER. Mr. President, yesterday I had the honor to participate in a breakfast meeting hosted by the Virginia Motor Vehicle Conference and the Virginia Road and Transportation Builders Association for the congressional delegation. The meeting focused on a critical piece of legislation for our State—the reauthorization of the Surface Transportation Assistance Act in 1991. The transportation sector is vital to the economic development of the State of Virginia as we begin the new decade. Today, Virginia's economy is threatened in urban areas where gridlock results in lost time and business. In the rural areas of the State, roads must be built to expand business and residential communities.

As the Congress begins to hold hearings on authorization of a new Surface Transportation Act, the call is for the Federal Government to adhere to its commitments to appropriate transportation funding. Since 1986, the Commonwealth of Virginia has taken steps to raise revenue to cover the costs of improvements in its transportation infrastructure. The general assembly has gone beyond the traditional motor fuel, titling and vehicle license taxes in order to raise needed transportation revenues.

The general assembly has authorized privatization of toll roads where feasible, State-operated toll roads, an increase in the general sales tax by ½ cent—and dedicated it to the Virginia Transportation Trust Fund—and special tax districts for transportation purposes. The legislature also has approved an increase in the titling tax on motor vehicles from 2 to 3 percent, raised motor vehicle licensing fees by $3, increased the tax on rental cars by one-third, and raised the motor fuel tax by one cent per gallon. Further, Virginia has increased the road tax differential by 1.5 cents per gallon, raised the aviation fuel tax by 1 percent on additional purchases, dedicated a portion of the recordation tax to fund rebuilding of Route 58 across southside Virginia and authorized bonds to expedite that $700-plus million project.

The total additional "revenue enhancement" from these actions is well over $400 million annually. The general assembly is doing its part to meet some of the transportation needs of the Commonwealth.

Mr. President, last Thursday March 15, the Governor of the Commonwealth of Virginia, the Honorable Lawrence Douglas Wilder, testified before the Surface Transportation Subcommittee of the Committee on Public Works and Transportation in the U.S. House of Representatives. As a member of the Senate Committee on Environment and Public Works, I would like to ask that the full text of the Governor's statement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. Mr. President, the Virginia delegation is now in a much better position to work together due to our respective committee assignments, and to pursue our fair share of the Federal funds allocated when negotiations commence with respect to the reauthorization of the Surface Transportation Act. As Governor Wilder stated at the hearing, the Commonwealth of Virginia is prepared to meet its transportation responsibilities. We also expect the Federal Government to also play its traditional part in the negotiations.

EXHIBIT 1

STATEMENT OF GOV. LAWRENCE DOUGLAS WILDER BEFORE THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, SURFACE TRANSPORTATION SUBCOMMITTEE, HOUSE OF REPRESENTATIVES, MARCH 15, 1990

THE FUTURE FEDERAL SURFACE TRANSPORTATION ACT

Good morning, Chairman Mineta, Congressman Payne, Members of the Subcommittee. I'm Doug Wilder, Governor of the Commonwealth of Virginia.

I appreciate the opportunity to testify on one of the most important issues facing Virginia and the nation as a whole. . . . the need to re-energize our partnership on transportation. The Commonwealth appreciates your consideration of our views and concerns.

During the 1980s, Virginia's population grew by 12 percent, but highway travel in the Commonwealth increased by 50 percent, to more than 57.5 billion miles travelled.

With 116,250 lane miles of state-maintained highways, Virginia has the third largest state highway system in the nation. Not surprisingly, we are hard at work maintaining and improving our transportation systems. We estimate that this year's transportation funding in the Commonwealth will total $1.8 billion. But, still, we are falling behind.

And yet, Virginia is prepared to meet its transportation responsibilities. But we expect the federal government to play its traditional part.

In my State of the Commonwealth address on January 15, of this year, I indicated that re-enactment of the Federal Surface Transportation Act would be one of my top priorities. Consequently, I come here, today, to offer to work with you as a partner to achieve that objective.

As you consider these issues over the next several months, Mr. Chairman, I ask you to help to renew a partnership that will meet those national transportation needs. I can assure you that Virginia will do her part in this joint effort.

As a foundation for that partnership, we believe that the federal government should give to the taxpayers the transportation improvements for which their federal gasoline tax dollars have already paid.

With that objective as a beginning, I ask you to join with us in developing a forward-looking national transportation policy that will:

. . . deal with the growing problem of congestion and its environmental consequences within our urban and suburban areas;

. . . reward efforts such as those in Virginia that make imaginative use of new financing techniques;

. . . push the private sector, as well as state and local governments, to continue research and development in the transportation field;

. . . focus on moving people, not just automobiles; and

. . . support our efforts to use transportation policy as a means to encourage economic development and progress in our rural areas.

We estimate that at the end of the fiscal year, Virginia will have a $179 million apportionment balance in the Trust Fund. These are monies that have been paid in motor fuel taxes intended for highway improvements in the Commonwealth, but are being held hostage in the Old Executive Office Building where they are not doing anyone any good.

The sum of $179 million is the equivalent of nearly one year of our current federal program. We have projects in our urban and suburban areas just waiting for that money which Virginia taxpayers rightly deserve.

I expect, Mr. Chairman, that this very morning you and other members of this subcommittee crawled through traffic in corridors that cried out for these funds.

Mr. Chairman, my request is simple: Let our money go.

I urge that this subcommittee use its considerable influence in this body to set the Highway Trust Fund obligation ceiling at least $15 billion for the coming fiscal year.

All of the studies show that this can be done safely, while maintaining the necessary reserves and funding the urgent needs.

For my state, raising the obligation ceiling in this manner would add an additional $24 million in this year alone.

Ours is a national transportation system—not simply fifty state systems linked together. The movement of goods and people in interstate commerce . . . . as well as the requirements of national security . . . . place this issue on your desk as well as on mine.

Secretary Skinner acknowledges that we have to deal with the urgent issue of congesting in our urban and suburban areas. But he has yet to back up that conclusion with flexible federal dollars to address these problems.

Moreover, he must acknowledge—as Virginia has done in its most recent initiative—that it costs more to build in congested areas; the formula should be weighted accordingly.

Furthermore, Secretary Skinner needs to consider a special program focusing on those areas—one which will back up that rhetoric with funding.

Likewise, the secretary should reward states like Virginia that have addressed the issue head-on through new initiatives and creative solutions.

Yes, we are flattered that reference was made in his report to the HOV lanes on I-95 and I-395; to partnerships with the private sector such as our special tax assessment districts on Route 28 near Dulles Airport—as well as the proposed private toll facility linking Dulles with Leesburg to the west.

And yet, it would be appreciated if he mixed his shower of praise with a sprinkling of dollars as well.

Yes we are heartened by his commitment to intensified federal interest in research and technology, such as our contemplated use of "smart" highway technology between Roanoke and Blacksburg.

But breakthroughs come only after effort and a lot of shared costs.

And only the federal government has both the resources and the national perspective to lead that research effort.

Yes, we know that he agrees with our view that transportation policy requires a balanced commitment to move people: by transit, by automobile, by bicycle, and by foot.

If he and you will join us, we will finish the 103-mile Metrorail system in this area;

. . . we will bring commuters north by rail from Fredericksburg and Manassas;

. . . we will provide the transportation links in the regions of Virginia critical to national security;

. . . we will open up some of the rural areas of our state to the economic progress which can be provided by essential transportation links such as Route 58 across Virginia's southern border.

Mr. Chairman, we are prepared to be a partner.

We are prepared to do our share.

We have significantly increased the resources of the Commonwealth devoted to this effort since the last time this Committee considered the Surface Transportation Act.

We ask only that you join us in this commitment.

I thank you for your time, and look forward to working together during the coming months.

APPENDIX A

HOV LANES ON I-95 AND I-395

The current Six Year Improvement Program of the Commonwealth Transportation Board envisions the extension of the high occupancy vehicle lanes in the I-395/I-95 Corridor from Springfield in Fairfax County to Route 619 (Triangle) in Prince William County a distance of 19.1 miles at an estimated cost of $345 million.

The project when complete would provide for at least six conventional lanes with two separated lanes for high occupancy vehicles.

One project near Springfield is under construction at a cost of approximately $30,000,000 with a second project extending the construction to Accotink Creek anticipated in July 1990 at an estimated cost of approximately $46,000,000.

The advertisement of the balance of the work in the corridor is dependent upon the I-4R apportionments to the Commonwealth under the 1991 Reauthorization Legislation.

ROUTE 28 PRIMARY HIGHWAY TRANSPORTATION IMPROVEMENT DISTRICT

The 1987 session of the General Assembly approved legislation granting authority for special tax districts to provide localities with an alternate means of financing critical transportation improvements.

In December 1987, Fairfax and Loudoun Counties, in cooperation with local property owners, formed the Route 28 Primary Transportation Improvement District to improve the Route 28 corridor in the Dulles Airport area.

Specifically, the proposal called for expanding Route 28 in two separate phases. Under Phase I, the existing two-lane roadway will be widened to six lanes with three interchanges. Phase II will expand the roadway to an eight-lane facility with ten additional interchanges. The 1988 General Assembly authorized the sale of $160.7 million.

The two counties enacted a special levy of 20 cents per $100 valuation on all commercial and industrial property located within the Transportation District effective calendar year 1988. The financial obligation for the payment of principal and interest on the 30 year bonds is 80% by the District special tax revenues and 20% by the State's Transportation Trust Fund.

Construction began and the entire Phase I construction should be completed by mid 1991.

DULLES TOLL ROAD EXTENSION—PRIVATE INITIATIVE

The Loudoun County Board of Supervisors in May 1983 identified the Dulles Toll Road Extension as a part of its Dulles North Area Management Plan. The Extension is 14 miles in length and connects to the existing Dulles Toll Road at Route 28 to the Route 15 Bypass at Leesburg.

The preliminary engineering for the project was initiated by the Commonwealth Transportation Board in February 1987 with the location adopted by the Board in November 1988.

In March 1988, the General Assembly enacted the Virginia Highway Corporation Act permitting privately constructed and owned toll facilities. A preliminary application was filed by the Toll Road Corporation of Virginia (TRCV) with the Commonwealth Transportation Board (CTB) in March 1989 with amendments in May 1989. The CTB approved the application in July 1989.

The TRCV filed its application with the State Corporation Commission (SCC) on February 2, 1990 and it is expected that the SCC will take action within the next 90 to 120 days.

ROANOKE TO BLACKSBURG "SMART" HIGHWAY

The Six Year Improvement Program of the Commonwealth Transportation Board provides finding for the preliminary engineering for the improvement to Route 460 between Blacksburg and I-81.

The preliminary engineering studies have identified a number of alternatives with two having the support of all of the local governing bodies.

This construction of the direct connection as a federal project to use as a laboratory to test the technology associated with "Smart Highways" has been supported by the local governments in the area and, in concept, by the CTB. The proximity of the corridor to the research facilities at Virginia Polytechnic Institute & State University and the desire by the local governments to attract

the manufacturers of the technology to be used in future transportation systems lend credence to such a proposal.

U.S. ROUTE 58 CORRIDOR DEVELOPMENT PROGRAM

The U.S. Route 58 Corridor Development Program contemplates the development of a modern, safe and efficient highway system generally along the U.S. Route 58 Corridor. This corridor extends approximately 508 miles from Cumberland Gap in Lee County in the west along the southern border of Virginia to the ocean front in Virginia Beach.

The final location of all of the improvements has not been determined, but several alternatives are now under study. To the maximum extent possible, the U.S. Route 58 Corridor will conform to the existing arterial highway network and will utilize existing four-lane divided highways and available rights-of-way. The most expensive alternatives being considered would cost an estimated $1.2 billion, while the least expensive would cost an estimated $638 million, both in 1988 dollars. The final location of the highway system will depend on a number of factors, including engineering and environmental considerations, cost and economic development benefits.

The Program is funded from a $40 million annual appropriation from the State Recordation Tax. In addition, the 1989 Special Session of the General Assembly authorized the issuance of $600 million in 9(d) bonds. The Transportation Board issued $200 million in debt in November 1989 and plans to issue the remaining $400 million over the next 3 to 4 years.

ROUTE 64—CITIES OF HAMPTON AND NORFOLK PROPOSED THIRD HAMPTON ROADS TUNNEL

Although I-64 was recently improved to a six-lane roadway between I-664 and Mallory Street in the City of Hampton, it is already experiencing congestion during peak hours. The existing traffic, which is over 72,000 vehicles per day, is expected to reach 132,000 vehicles per day by the year 2010.

The volume of heavy trucks (six-tired vehicles or larger) ranges from 10 to 12 percent of the traffic volume. This heavy volume of trucks is an indicator of the vital role played by the Hampton Roads Bridge-Tunnel in the economy of Hampton Roads. However, this heavy truck traffic effectively uses up the capacity of the right lane of each tunnel and severely limits the total capacity of the tunnels during the week days. This causes the tunnels to operate at a level of service F during weekday peak periods. Also, on weekends during the tourist season, the heavy traffic demand causes the tunnels to operate at a level of service F (stop and go conditions).

In an effort to relieve some of the traffic congestion on this section, VDOT formed the Hampton Roads Tunnels Advisory Committee to explore ways of improving communications and advising motorists of alternate routings. The strategies of this committee have had a positive effect on this severe traffic congestion. Although this section of I-64 is expected to gain some relief with the opening of I-664, traffic is still expected to grow to the level of 147,000 vehicles per day by the year 2010.

Regional Transportation plans for the Peninsula and Southeastern Virginia, as well as VDOT's Statewide Transportation Plan, show the need for 8 lanes on I-64 from I-644 in the City of Hampton to I-564 in the City of Norfolk. This proposed widening which includes the Hampton Roads Bridge-Tunnel is estimated to cost $1.13 billion to construct.

COMMUTER RAIL FROM MANASSAS AND FREDERICKSBURG TO WASHINGTON, D.C.

The Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission are continuing their efforts to have commuter rail service in operation by the fall of 1991. The service is proposed for operation on two existing rail lines. One line will originate near Manassas, Virginia and the second will originate near Fredericksburg, Virginia. Both lines will end at Union Station in Washington, D.C. Bonds in the amount of $79.35 million have been sold and the rail cars have been ordered. Bids for locomotives are expected to be received this month. Assistance is needed from Congress to ensure that this service has access to Union Station. The Amtrak Reauthorization bill contains an amendment which limits Conrail's liability. Conrail is requiring such a limitation on liability prior to allowing the commuter rail to operate over its tracks and into Union Station.

CONSTRUCTION OF METRO RAIL IN THE WASHINGTON, D.C. METROPOLITAN AREA

The Metrorail System for the Washington, D.C. area was planned as a coordinated 103 mile rail system. Legislation enacted in 1979 (Stark-Harris) authorized $1.7 billion in federal funds for the completion of the full 103 mile rail system. Including FY 89 funds, a total of $1.507 billion has been appropriated so far. Due to increases in construction costs, the original $1.7 billion will be sufficient to build only 89.5 miles of the planned system. Legislation pending in Congress H.R. 1463 and S. 612 would authorize federal funding to construct the remaining 13.5 miles at a cost of $2.6 billion.

Funding would start in 1991 and $200 million per year would be provided to complete the system by the year 2002. These funds would support 80% of the total cost of constructing the system.

APPENDIX B

SELECTED LEGISLATIVE INITIATIVES BY THE GENERAL ASSEMBLY SINCE 1986

Enactment of Senate Bill 79 provided about $60 million per year to posture the Department for substantial increases in funding for transportation purposes. Funding was used to initiate preliminary engineering on critically needed projects on all State systems.

Enactment of Senate Bill 10 which created the Commission on Transportation in the Twenty-First Century to verify needs, develop a funding package to address the needs, and examine the relationships between the Commonwealth and local governments and agencies in transportation matters.

Enactment of a transportation revenue package approximately $422 million per year with 85% dedicated to highways, 8.4% to public transportation, 4.2% to ports, and 2.4% to airports.

Enactment of Primary Highway District legislation which permits the owners of fifty-one percent of the industrially and commercially zoned properties to petition a local jurisdiction to create such a district and to impose a maximum of twenty cent per one hundred dollars assessed tax surcharge and to dedicate such proceeds for a specific transportation improvement.

Enactment of the Virginia Highway Corporation Act of 1988 which encourages the privatization of transportation projects and improvements and establishes the mechanism for such initiatives.

Enactment of the Route 58 Corridor Development Program which dedicates $40 million in general funds from the State Recordation Tax to support a debt issuance in the amount of $600 million for the development of a four-lane divided highway across the southern boundary of the State connecting ports and recreational areas of the Tidewater area with the most western parts of the Commonwealth.

Enactment of legislation which would permit municipalities with the approval of the Commonwealth Transportation Board to dedicate up to one-third of their urban highway construction allocation to the repayment of loans by the municipalities or debt issued by the municipalities for highway projects.

Enactment of legislation calling for a constitutional amendment to permit the issuance of pledge bonds supported by revenues from the Transportation Trust Fund and established the statutory mechanism for the issuance of the pledge bonds subject to the passage of the referendum in November 1990.

Enactment of numerous pieces of legislation which permit local governments through zoning and site plan activities to cope with major developments.

Enactment of legislation which would permit the local governments in Northern Virginia and the City of Norfolk, after referendum, to impose up to 1.0% income tax for transportation and education purposes.

Increased through the State Budget, the Rail Industrial Access Program which provides funding for rail access to industries seeking to locate in the Commonwealth.

THE DEEPENING CRISIS IN BURMA

Mr. MOYNIHAN. Mr. President, the crisis in Burma continues. The assault on human rights and political reform has taken a sharp and precipitious turn for the worse in that country. The New York Times today reports that the military regime in Rangoon has implemented a policy of forced migration of Burmese from their homes in cities throughout the country to relocation camps—what one diplomat was quoted as characterizing as "a Burmese form of gerrymandering." With every passing day, events in Burma bring to mind Pol Pot's genocidal policy in Cambodia in which more than a million persons were exterminated. Atrocities are nearly countless in Burma, and attacks against minority peoples on the border with Thailand are nothing short of genocide.

I would remind my colleagues that elections in Burma have been scheduled for May of this year. Since that announcement, Gen. Saw Maung's regime has, with shameless disregard for the most basic democratic principles, subverted any possibility of those elections being free and fair. Indeed, the leading and most popular opposition figure, Daw Aung San Suu Kyi, has been confined to house arrest and she is banned from participating in that election. The chairman of the Na-

tional League for Democracy, U Tin Oo, was sentenced to 3 years at hard labor for treason and conspiracy. U Nu, a former Prime Minister of Burma, has also been sentenced to house arrest. There was but one remaining obstacle, the people themselves. The regime seems well on its way to solving this problem too.

Mr. President, this is a country governed by the most contemptible persons. Despite a resolution of condemnation which was adopted by the Human Rights Commission in Geneva earlier this year and which our Government strongly supported, conditions in Burma deteriorate dramatically. Contemptible government. Only one rule applies: No matter what this Government may tell you—it is in all likelihood a lie.

The Congress has spoken on this on numerous occasions. It had been my understanding that the Congress and the administration were now of one voice on this subject. Apparently not. The DEA's policy is at odds with the State Department's. And it is repugnant to see.

As example, I would simply note the Department of State's recent assessment of human rights in Burma. In its "Country Reports on Human Rights Practices for 1989," the administration states: "During 1989, the Government"—the Government of Burma, that is—"sought accommodation with several insurgent/narcotic trafficking groups, to gain short-term advantages vis-a-vis other dissident groups, to reinforce a split in the Burma Communist Party, and to secure areas for teak and logging concessions." In nondiplomatic language this simply means the Burmese Government are criminal traffickers. No different—indeed, perhaps worse, if that is possible—than the government of General Noriega.

Despite this assessment of that Government, I read shortly thereafter in the Sunday Times that our DEA agent in charge in Rangoon traveled with members of the Burmese Government to participate in a burning ceremony at which some amount of opium was destroyed—he was given the honor of starting the fire—and he reportedly found a new willingness by the Burmese Government to cooperate with United States drug eradication efforts. A lie, Mr. President, a lie.

Recall that we suspended aid to the Burmese Government in September 1988. Our Ambassador in Burma reportedly does not speak to the Government in Rangoon. Apparently this does not deter our drug enforcement personnel from proceeding. It would appear that DEA is running its own foreign policy. Indeed, in testimony delivered just this month to the Senate's Committee on Foreign Relations, David Westrate, Assistant Administrator for Operations at the DEA, stated publicly that "On February 26, 1990 DEA met with a Burmese delegation headed by the Burmese Foreign Minister and discussed initiatives. The Burmese want DEA training and now recognize the official presence of DEA in Burma." Can we possibly be prepared to give it? It defies all logic.

At this same hearing, Mr. President, the State Department's Assistant Secretary of State Melvyn Levitsky warned us of the kind of government with which we are dealing.

> In a country like Burma it is just that you have to be very skeptical about whether, in fact, that issue is being used by the other side to try to draw you into a relationship that seems to legitimize themselves as a government and where they can say that the United States after all has a relationship with us.

And in the most recent turn of events, our Department of Justice has indicted the notorious drug trafficker, Khun Sa whose involvement with the regime in Rangoon has been known for years. Indeed, as has his free access to Thailand. In response to a question at a news briefing on the indictment which was reported in the Baltimore Sun the Attorney General, Dick Thornburgh, said of the Burmese Government, "They are as determined governmentally as we are to deal with the problem."

Hardly. This is not my assessment of that Government nor is it apparently the opinion of some in the administration. It seems that DEA is permitting the Attorney General to be used, and it is most disturbing. Certainly, if he were given the facts he would hold an opinion much closer to Secretary Levitsky. The Burmese Government is undoubtedly willing to end its long collusion with Khun Sa in order to establish the appearance of responsibility—there are others who will replace Khun Sa. Others have already been put in place by the Burmese regime—namely the remnants of the former Burma Communist Party. A party which has now disintegrated into its component parts—the largest being the major drug trafficking organization in Burma. The regime has done nothing more than change business partners. Turn on Khun Sa and get the public relations advantage that the Attorney General and DEA are giving them. Use the former Communist Party—turn an armed enemy into a willing drug trafficking partner.

This is an outdated, brutal dictatorship willing to do or say anything to preserve its grasp on the complete control of that country. Its most recent actions continue to demonstrate this fact.

Mr. President, I would ask that an article which appeared today in the New York Times be printed at this point in my statement.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 21, 1990]

BURMESE MILITARY IS FORCING MASS MIGRATION FROM CITIES

(By Steven Erlanger)

BANGKOK, THAILAND, March 20.—At least 500,000 Burmese are being forced to move from Myanmar's cities to new, ill-prepared outlying towns where malaria and hepatitis are rampant, diplomats say.

The military Government calls the relocations, which began late last year, a beautification measure to re-house "squatters." But with the approach of military-controlled elections in May the forced exodus in fact appears to be intended to break up areas where anti-Government sentiment erupted in demonstrations in 1988, said the Western and Asian diplomats, who are based in Myanmar, formerly Burma.

"These population movements have overtones of what the Khmer Rouge did in Cambodia," said a senior diplomat who has witnessed the relocations. "It's an absolute horror story."

During their rule of Cambodia from 1975 to 1979, the Communist Khmer Rouge guerrillas undertook a radical remaking of Cambodian society, emptying Phnom Penh and other major cities and forcing the population to work as peasants in the countryside. More than a million people perished.

The relocations in Myanmar are not as thoroughgoing as those in Cambodia and lack the same ideological impetus, the diplomat said.

The diplomats described Burmese families sitting along the roadside by their dismantled houses with all their belongings, waiting for up to three weeks for army transport. Their destinations—reclaimed rice paddies that lack fresh water, shade, sanitation, health care and markets—are hours away from their jobs and former homes. Some people have died from the lack of medical care, the diplomats said.

The cities were focal points of large-scale demonstrations for democracy that were crushed by military gunfire in September 1988. Many of the neighborhoods being torn down were known to support the strongest opposition party, the National League for Democracy.

The military authorities have scheduled elections for May 27, but have imprisoned thousands of political leaders, diplomats say, including nearly all the leaders of the two main opposition parties. Some have been tortured, American diplomats have said.

FORM OF GERRYMANDERING

The chairman of the National League for Democracy, U Tin Oo, was sentenced to three years of hard labor for sedition, and the party's popular leader, Daw Aung San Suu Kyi, has been under house arrest since July 20. In January, she was disqualified from running in the election. U Nu, a former Prime Minister and leader of the League for Democracy and Peace, was put under house arrest in late December.

The residents of the new towns have no idea where they are supposed to vote, the diplomats said, "It's a Burmese form of gerrymandering," a diplomat said. "They don't move the boundaries. They move the people."

Myanmar has been largely closed to foreign journalists for nearly a year and repeated efforts to secure visas have been unsuccessful.

The diplomats, who were interviewed by telephone or in Bangkok, said the reloca-

tions have been taking place in most major cities: the capital, Yangon, formerly Rangoon, Mandalay, Bassein, Prome and Taunggyi.

250,000 MOVED FROM CAPITAL

At least 250,000 people have been moved out of areas of the capital, they said, including neighborhoods around the central Shwedagon Pagoda and a major intersection near the airport, an area where about 30,000 people once lived.

About a year ago, the military authorities announced in the country's only remaining newspaper, the official Working People's Daily, that about 160,000 "squatters" would be relocated to such satellite towns. But the relocations did not begin until late November, and recently they have been accelerated, the diplomats said.

Disputing the military authorities' claim that slums of squatters are being demolished the diplomats said many of the neighborhoods that were leveled had two-story buildings of brick, framed timber or even steel-reinforced concrete. The inhabitants are rarely compensated for the loss of their land and must pay for the dismantling and reconstruction of their houses, the diplomats said.

THEY LIVE IN SHANTIES

Many displaced people must wait by the roadside for days, some up to three weeks, for military trucks to bring them to their new locations, the diplomats said. There is no protection from the weather and theft is common, they said.

Once in their new areas, which can be up to 50 miles away, the Burmese are required to buy land and secure and pay for Government permits to rebuild.

"Most haven't received the permits," a diplomat said, "so they live in shanties, with no shade, few working wells and normally no electricity or medical facilities." Needed building supplies can be purchased only from the Government, the diplomats said.

There are at least five new satellite "towns" around Yangon, the diplomats said. The best-established one is called Shwe Pyitha, or "the golden country," and seems designed for Government employees or supporters of the Government-backed party, the National Unity Party. Another Ayemya Thayar, which diplomats described as squalid, means "tranquility in the country."

DIPLOMATS BARRED FROM TOWNS

A third, Hlaing Thayar, across the river from Insein, near Yangon, is built on treeless, reclaimed farm land, with shanties built in rice paddies that are prone to flooding as soon as the monsoons begin. It's population is now estimated at about 180,000, the diplomats said.

Most of the new towns cannot be visited, since diplomats are prohibited from traveling more than 25 miles outside the city center or from crossing any body of water without Government permission. Some diplomats have driven toward the satellite towns, picking up residents trudging home from work, but have been prevented from entering them by soldiers.

Most of the relocated Burmese spend several hours a day getting to and from their jobs in the central city by foot, river ferry and bus, the diplomats said. The fares can take as much as three-fourths of a laborer's daily wage of 20 kyat. The kyat is worth 17 cents at the official exchange rate, but only 2 to 3 cents on the black market.

"The resentment among the population is enormous and growing," a diplomat said. I used to see evolutionary possibilities for Burma, but I no longer see anything changing except through violence."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT—PM 103

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I am pleased to transmit the annual report of the National Science Foundation for Fiscal Year 1989. This report describes research supported by the Foundation in the mathematical, physical, biological, social, behavioral, and computer sciences; in engineering; and in science and engineering education.

Achievements such as those described here are the basis for much of our Nation's strength—its economic growth, national security, and the overall well-being of our people.

The National Science Foundation will be 40 years old in 1990. Over those years, it has played a key role in supporting this Nation's remarkable research achievements. The Foundation looks forward to the challenges and accomplishments of the new year, the new decade, and the new century.

GEORGE BUSH.

THE WHITE HOUSE, *March 21, 1990.*

ANNUAL REPORT OF THE UNITED STATES-JAPAN COOPERATIVE MEDICAL SCIENCE PROGRAM—MESSAGE FROM THE PRESIDENT—PM 104

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with section 5(h) of the International Health Research Act of 1960 (Public Law 86-610; 22 U.S.C. 2103(h)), I transmit herewith the Twenty-third Annual Report of the United States-Japan Cooperative Medical Science Program for the period of July 1988 to July 1989.

GEORGE BUSH.

THE WHITE HOUSE, *March 21, 1990.*

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The ACTING PRESIDENT pro tempore [Mr. LEVIN] announced that on today, March 21, 1990, he had signed the following enrolled bill and joint resolution previously signed by the Speaker of the House:

S. 2231. An act to amend the Energy Policy and Conservation Act to extend the authority for titles I and II; and

S.J. Res. 229. Joint resolution to designate April 1990 as "National Prevent-A-Litter Month."

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, March 21, 1990, he had presented to the President of the United States the following enrolled bill and joint resolution:

S. 2231. An act to amend the Energy Policy and Conservation Act to extend the authority for titles I and II: and

S.J. Res. 229. Joint resolution to designate April 1990 as "National Prevent-A-Litter Month."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2616. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, notice that the funds appropriated for the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty are less than the amount necessary to maintain the budgeted level of operation; to the Committee on Appropriations.

EC-2617. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for the fiscal years 1991 and 1992 for certain maritime programs of the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-2618. A communication from the Acting Director, Improved Energy Productivity Division, Office of Industrial Programs, Conservation and Renewable Energy, Department of Energy, transmitting, pursuant to law, a report on the status of the Metals Initiative Program; to the Committee on Energy and Natural Resources.

EC-2619. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a revised list of projects or separable elements of projects which have been authorized but for which no funds have been obligated; to the Committee on Environment and Public Works.

EC-2620. A communication from the Secretary of the Interior, transmitting, pursuant to law, the first annual report of the United States Fish and Wildlife Service on expenditures for the conservation of endangered species; to the Committee on Environment and Public Works.

EC-2621. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the expenditure and need for worker adjustment assistance training funds under the Trade Act of 1974; to the Committee on Finance.

EC-2622. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the provision of emergency military assistance to Columbia; to the Committee on Foreign Relations.

EC-2623. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreement, other than treaties, entered into by the United States in the 60 day period prior to March 15, 1990; to the Committee on Foreign Relations.

EC-2624. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, a draft of proposed legislation to authorize appropriations for fiscal year 1991 for the Department of State; to the Committee on Foreign Relations.

EC-2625. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, a draft of proposed legislation to amend title 39, United States Code, to curb abuses of postage subsidies, to provide more equitable rates for Government mail, and for other purposes; to the Committee on Governmental Affairs.

EC-2626. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the establishment of an automated management information system for the Indian Health Service; to the Committee on Governmental Affairs.

EC-2627. A communication from the Chairman of the United States Arctic Research Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1989 entitled "Arctic Research: A Focus of International Cooperation"; to the Committee on Governmental Affairs.

EC-2628. A communication from the Attorney General of the United States transmitting, pursuant to law, the annual report on the private counsel debt collection pilot project for fiscal year 1989; to the Committee on Governmental Affairs.

EC-2629. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: EPA's Financial Statements for Fiscal Years 1988 and 1987"; to the Committee on Governmental Affairs.

EC-2630. A communication from the vice president of Farm Credit Services (Human Resources and Planning), transmitting, pursuant to law, the annual audit reports for the Twelfth District Farm Credit Retirement Plan and Thrift Plan for calendar year 1988; to the Committee on Governmental Affairs.

EC-2631. A communication from the Acting Administrator of General Services, transmitting, pursuant to law, the annual report of the General Services Administration on competition advocacy for fiscal year 1989; to the Committee on Governmental Affairs.

EC-2632. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2633. A communication from the Acting Administrator of the Agency for International Developmment, Department of Agriculture, transmitting, pursuant to law, the fourth quarterly report on progress made in implementing the recommendations of the Agricultural Trade and Development Missions; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2634. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated March 1, 1990, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-2635. A communication from the Acting Assistant Secretary of Energy (Environment, Safety and Health), transmitting, pursuant to law, the annual report on implementation of the requirements of the Superfund Amendments and Reauthorization Act for fiscal year 1989; to the Committee on Environment and Public Works.

EC-2636. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on methods to manage and control plastic waste; to the Committee on Environment and Public Works.

EC-2637. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation to amend title 26, United States Code, to require the Secretary of the Treasury to disclose certain information from the files of the Internal Revenue Service to the Secretary of Veterans Affairs for the purpose of verifying entitlement to, and determining the correct amount of, title 38, United States Code, pension benefits; to the Committee on Finance.

EC-2638. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Harmonized Tariff Schedule of the United States provisions implementing Annex D of the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials, and for other purposes; to the Committee on Finance.

EC-2639. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to provide for further participation by the United States in the International Development Association and for the establishment of the legal status of the International Finance Corporation's securities in the United States; to the Committee on Foreign Relations.

EC-2640. A communication from the Executive Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, with amendments:

S. 137. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes (Rept. No. 101-253).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 29. A bill to provide for a 2-year Federal budget cycle, and for other purposes (Rept. No. 101-254).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 1853. A bill to award a Congressional Gold Medal to Laurence Spelman Rockefeller.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON (for himself, Mr. MACK, and Mr. GRAHAM):

S. 2309. A bill to establish a Presidential Advisory Committee for Policy Toward Cuba; to the Committee on Foreign Relations.

By Mr. SASSER (for himself, Mr. DOMENICI, Mr. LEAHY, Mr. HARKIN, Mr. BOSCHWITZ, Mr. JOHNSTON, Mr. RIEGLE, Mr. SIMON, Mr. DECONCINI, Mr. DODD, Mr. DASCHLE, Mr. LAUTENBERG, Mr. CONRAD, Mr. FOWLER, Mr. PRYOR, and Mr. KERREY):

S. 2310. A bill to improve certain food programs through the expansion and reauthorization of such programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROTH (for himself, Mr. GARN, and Mr. SANFORD):

S. 2311. A bill to modify the Qualified Thrift Lender Test, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SYMMS (for himself, Mr. PRYOR, and Mr. BOREN):

S. 2312. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. KENNEDY, Mr. SPECTER, Mr. CRANSTON, Mr. DECONCINI, Mr. D'AMATO, Mr. KERRY, Mr. ADAMS, Mr. LIEBERMAN, Mr. JOHNSTON, Mr. SIMON, Mr. BRADLEY, Mr. PRYOR, Mr. METZENBAUM, Mr. HEINZ, Mr. HEFLIN, and Mr. BAUCUS):

S. 2313. A bill to provide emergency Federal assistance to drug emergency areas; to the Committee on the Judiciary.

By Mr. FOWLER (for himself, Mr. MCCONNELL, Mr. HELMS, and Mr. FORD):

S. 2314. A bill to amend the Agricultural Act of 1949 with respect to the level of milk price support in effect for 1991 through

1995; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FOWLER (for himself and Mr. MCCONNELL):

S. 2315. A bill to amend the Agricultural Act of 1949 to provide soybean producers with fair income and freedom of planting choice support, and to eliminate any indirect subsidization of foreign oilseed production; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BRADLEY (for himself, Mr. ROTH, Mr. MOYNIHAN, Mr. LAUTENBERG, and Mr. PELL):

S. 2316. A bill to amend the Agricultural Act of 1949 to establish an equitable sugar price support program, and to require the use of a tariff rate quota to make this program effective; to the Committee on Finance.

By Mr. MCCONNELL:

S. 2317. A bill to require Federal, State, and local law enforcement agencies to report all cases of missing persons under age 18 to the National Crime Information Center of the Department of Justice; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 265. Resolution amending Senate Resolution 171 of the One Hundred First Congress (agreed to on August 4, 1989); considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON (for himself, Mr. MACK, and Mr. GRAHAM):

S. 2309. A bill to establish a Presidential Advisory Committee for Policy Toward Cuba; to the Committee on Foreign Relations.

PRESIDENTIAL ADVISORY COMMITTEE FOR POLICY TOWARD CUBA

● Mr. SIMON. Mr. President, today I am introducing legislation, along with my colleagues Senator MACK and Senator GRAHAM, to establish a Presidential Advisory Committee for Policy Toward Cuba.

As democratization sweeps the world, we should be prepared to see those changes come to Cuba's shores as well. This Presidential Advisory Committee will advise and make policy recommendations to the President and the Secretary of State on sound policies toward Cuba while the dictatorship there continues, and will also recommend policy options to encourage freedom in Cuba, including designing a plan for proceeding with appropriate assistance in the event the present government is changed by the people of Cuba. In addition, the committee will make recommendations on immigration and trade policy. No appropriation is necessary to establish this committee.

I encourage my colleagues to join in this effort, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRESIDENTIAL ADVISORY COMMITTEE FOR POLICY TOWARD CUBA.

(a)(1) PRESIDENTIAL ADVISORY COMMITTEE FOR POLICY TOWARD CUBA.—The President shall establish a Cuban-American Advisory Committee for Policy Toward Cuba (hereafter in this Act referred to as the "Advisory Committee") to provide overall policy advice and recommendations on matters concerning United States policy toward Cuba. The Advisory Committee shall be composed of not more than 7 individuals appointed by the President, not more than 4 of whom may be from the same political party. Each member of the Advisory Committee shall serve a three-year term.

(2) The President shall appoint one of the members of the Advisory Committee to serve as Chairman. The Advisory Committee shall meet as may be necessary at the call of the Chair or at the call of two-thirds of the members of the Committee.

(3) The Secretary of State shall make available to the Advisory Committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

(b) PURPOSE.—(1) The Advisory Committee shall advise and make policy recommendations to the President and the Secretary of State on sound policies toward Cuba while a dictatorship continues. The Advisory Committee shall recommend policy options to encourage freedom in Cuba, inlcuding designing a plan for proceeding with appropriate assistance in the event the present government is changed by the people of Cuba. The Advisory Committee shall also advise the President and make recommendations on immigration and trade policy.

(2) The Advisory Committee shall submit annual reports detailing its recommendations and a final report 30 days before its termination date. The Advisory Committee shall submit these reports to the President, the Secretary of State, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(c) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act shall apply to the Advisory Commnittee, except that—

(1) the meetings of the Advisory Committee shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or his designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of policy toward Cuba; and

(2) meetings may be called of special task forces or other such groups made up of members of the Advisory Committee.

(d) SCOPE OF PARTICIPATION BY MEMBERS OF ADVISORY COMMITTEES.—Nothing contained in this section may be construed to authorize or require any member of the Advisory Committee or any other indiviudal to participate directly in any other official Government meeting on any matter referred to in subsection (b). To the maximum extent practicable, the members of the Advisory Committee shall be informed and consulted before and during any such meetings. Advisory Committee members may be designated as advisors to a United States delegation to such meeting and may be permitted to participate in other international meetings to the extent the President deems appropriate, except that they may not speak or negotiate for the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(f) TERMINATION.—Nothwithstanding the Federal Advisory Committee Act, the Advisory Committee shall terminate 3 years after the date of enactment of this Act.●

By Mr. SASSER (for himself, Mr. DOMENICI, Mr. LEAHY, Mr. JOHNSTON, Mr. RIEGLE, Mr. SIMON, Mr. DECONCINI, Mr. HARKIN, Mr. BOSCHWITZ, Mr. DODD, Mr. DASCHLE, Mr. LAUTENBERG, Mr. CONRAD, Mr. FOWLER, Mr. PRYOR, and Mr. KERRY):

S. 2310. A bill to improve certain food programs through the expansion and reauthorization of such programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

HUNGER PREVENTION ACT

● Mr. SASSER. Mr. President, I am pleased to be joining the distinguished ranking member of the Senate Budget Committee, Senator DOMENICI, on the Senate floor today. We are here today to submit to the Senate a bill that addresses one of the most compelling and troublesome issues in America today: hunger.

Make no mistake about it, hunger is taking its toll on American children.

Consider these statistics. In infant mortality, we rank 19th in the world. In the mortality rate for children under 5, we rank 22d. And in low birthweight babies, we rank 19th.

If nations are judged by how they treat the less fortunate of their citizens, these numbers respresent an index of shame for the United States of America.

A few weeks ago, the Senator from New Mexico and I convened a hearing of the Senate Budget Committee dealing with hunger and America's children. We learned that more than 9 million American children are hungry or at nutritional risk, 2 to 5 million of these children may have severe hunger problems.

These numbers only confirm what I have seen with my own eyes. In my State of Tennessee, I have seen the many children, particularly in the eastern mountainous areas of the State, who experience the problem of hunger each and every day. And I have heard personal testimony from their mothers and fathers.

We are fortunate in this country to have a wide range of Government programs and community-based volunteer efforts to assist families in need. Unfortunately, poverty and hunger continue to plague a large proportion of our people. We can and must do more to combat hunger in Tennessee and the Nation.

That is why I have joined efforts with the distinguished ranking member of the Budget Committee in preparing and introducing the single largest expansion of antihunger efforts in this country in more than a decade. We are pleased to be joined by the distinguished chairman of the Senate Agriculture Committee and the chairman and ranking member of the Nutrition Subcommittee as original cosponsors of this landmark legislation.

The key features of this legislation are as follows:

First, funding for the Women's, Infant, and Children's Program would be increased by $150 million per year for the next 4 years. Consequently, nearly all eligible women and children would be served by the program by the mid-1990's.

Second, more food stamp benefits would be directed to families with excessively high housing costs. Three out of ten poor households pay more than 70 percent of their income on housing costs. Currently, these high housing costs substantially reduce benefits to many low-income families.

Third, basic food stamp benefits would be raised to reflect the actual cost of food and thereby prevent benefits from running out before the end of every month. Eighty-three percent of all food stamp benefits go to children.

Fourth, low-income rural households would not be penalized as much for their automobiles, thereby gaining more benefits. Right now many households in rural areas do not receive food stamps because they own a vehicle that is essential for transportation to and from work, shopping, and medical facilities.

Fifth, the temporary Emergency Food Assistance Program would be reauthorized to continue the mandatory distribution of emergency food to households in need. Other emergency and supplemental food programs would also be continued. Nutrition assistance for Puerto Rico would be increased to begin to redress current inequities and expand participation.

Sixth, food assistance for homeless children would be expanded and homeless families would have better access to food stamps.

This antihunger initiative as well as other measures that may be pursued by this Senate this year are long overdue.

As chairman of the Budget Committee, I am well aware that the fiscal constraints we face require that we carefully establish our priorities and target our resources to those most in need. Therefore, it is my intention to insure that the funds required for a strong antihunger program will be contained in the 1991 budget resolution.

When one-fifth of our children live in poverty and perhaps as many as 9 million children experience hunger in their daily lives, we cannot stand idly by.

Poor children without enough food to eat need us now. They need food to grow, to learn, and to be productive.

Our country and our economy will most surely need these children in the future.

Mr. President, I ask unanimous consent that additional background materials describing the contents and costs of the Hunger Prevention Act of 1990 be included in the RECORD.

SASSER/DOMENICI ANTI-HUNGER BILL

PRIMARY OBJECTIVES

1. Children: Focus on children and their families, the poorest and hungriest segment of the population.

2. Housing and homelessness: Target poor families with excessively high housing costs who are facing the impossible tradeoff between paying for food and paying for shelter.

3. Child support: Encourage families and individuals who receive government support to seek alternative sources of income through work or child support collections.

4. Barriers to participation: Improve accessibility to food programs among low-income rural families, the homeless and other groups that are difficult to reach by simplifying rules and expanding outreach.

5. Emergency food aid: Continue federal support for local emergency food distribution efforts.

LEGISLATIVE PROPOSALS

1. WIC: Increase funding for the Women, Infant and Children (WIC) feeding program by $150 million per year above the CBO current services levels.

Currently, the WIC program serves only about 55-60 percent of the eligible low-income mothers and children at nutritional risk. By steadily increasing WIC funding over the next five years, nearly the entire eligible population could be served.

Subject to appropriation.

2. Food stamps and housing costs: Remove the current cap on the "excess shelter deduction" so that all eligible households can deduct the full amount of their excess shelter costs for determining the amount of food stamp benefits.

This provision primarily affects families with children who currently can deduct only $177 from their monthly income in calculating their food stamp benefits. Currently, only the elderly and disabled can deduct their full shelter costs. Housing costs are taking up an increasingly large share of the family budget among the poor so that fewer dollars are left over for food.

Outlay Cost: 1991: $330 million; 1991-95 $2,255 million.

3. Food stamps and child support: Allow food stamp households to collect the first $50 of child support per month without penalizing food stamp benefits.

This provision encourages families to seek child support as an alternative source of income and standardizes the rules for participants in both the AFDC and food stamp program. The bill's authors also believe that current child support enforcement procedures should be improved for single-parent families who receive food stamps. Securing more child support payments for these families would encourage greater self-sufficiency for families in need and decrease long-term dependence on public assistance.

Congress and the Administration should work together in framing legislation this year that requires greater cooperation between the agencies that administer food stamps and child support, provides adequate safeguards for food stamp applicants and recipients, and reduces long term federal costs. Savings generated from enhanced child support enforcement, such as the proposals being offered by the Administration, could help offset some of the costs of this bill.

Outlay Cost: 1991: $70 million; 1991-95 $535 million.

4. Low-income households and reliance on motor vehicles: Increases the current limit on the value of motor vehicles that may be owned by food stamp households from $4,500 to $5,500 in 1991 (indexed annually thereafter, according to the consumer price index).

This provision, which was recommended by President Reagan's Task Force on Food Assistance in 1984, would assist low-income households, particularly in rural areas, who are currently disqualified from food stamps because they own a vehicle (with a market value exceeding $4,500) for essential transportation to work, shopping and medical facilities.

Outlay Cost: 1991: $35 million; 1991-95 $590 million.

5. Increase in food stamp basic benefits: Increases benefits from 103 percent to 105 percent of the Thrify Food Plan spread out over 4 years.

This provision would increase basic benefits by one-half percent of the Thrifty Food Plan per year from 1992-1995. This expansion would allow benefit levels to better reflect the actual costs of food, which usually exceed projections from the previous year, and help households get further through the month before running out of food stamps.

Outlay Cost: 1991: $0 million; 1991-95 $1,045 million.

6. Reauthorization of funding for the Food Stamp Program: Authorizes "such sums as may be necessary" to fully fund the food stmp program.

In order to avoid potential disruption in benefits, this provision changes the current annual authorization cap on food stamp spending. This more flexible authorization would eliminate the need for supplemental appropriations in the event of higher program costs due to unanticipated participation or food price inflation. Currently, food stamp benefits can be cut if the annual authorization limit is reached.

No direct spending impact.

7. Reduce barriers to participation in rural areas: Sets up demonstration projects and requires mail-issuance of food stamps to improve accessibility to food programs in rural areas.

These provisions would expand outreach efforts, improve coordination with other agencies and simplify application procedures. Problems of physical isolation, inadequate transportation, and lack of information compound the problems of the rural

poor who have difficulty accessing government benefits and services.

Outlay Cost: 1991: $1 million; 1991-95 $19 million.

8. Improved assistance to the homeless: Expands access to food stamps and assistance among the homeless.

Many homeless families and individuals have difficulty obtaining and using food stamps without cooking or storage facilities. This provision addresses this problem directly by allowing the homeless to use food stamps to: (1) purchase prepared meals at shelters and soup kitchens, and (2) purchase meals at restaurants offering reduced prices. In addition, the federal government would continue purchasing and distributing commodities to soup kitchens and food banks serving the homeless after the current program expires at the end of 1991.

Homeless Outlay Costs: 1991 $1 million; 1991-95 $9 million.

Soup Kitchens Outlay Costs: 1991 $0 million; 1991-95 $128 million.

9. Emergency food assistance: Reauthorizes the Temporary Emergency Food Assistance Program (TEFAP) and continues mandatory purchase requirement.

Requires that USDA provide $120 million per year worth of commodities, above and beyond any available surpluses, to state and local food distribution centers. This provision is a continuation of curent law which expires at the end of 1990.

Outlay Cost: 1991: $120 million*; 1991-95 $600 million*.

*Since TEFAP is not included in the CBO baseline, continuation of current funding levels is scored as a cost.

10. Homeless preschoolers: Increases funding to pilot projects for providing food assistance to homeless pre-schoolers who are currently left out of existing nutrition programs.

This provision uses federal funds to encourage organizations to set up food service programs for homeless children under the age of 6. In general, these children do not benefit from the school lunch and breakfast program because they are not yet in school.

Outlay Cost: 1991 less than $500,000; 1991-95 $6 million.

11. Reauthorization of the Commodity Supplemental Food Program: Continues the distribution of surplus commodities to low-income women, infants, children and elderly.

No Direct Spending Costs

12. Reauthorization of the Nutrition Assistance Program for Puerto Rico: Continues the current mandatory block grant for nutrition assistance to Puerto Rico and indexes funding levels consistent with the CBO baseline.

No Direct Spending Costs.

13. Demonstration of electronic benefit transfer [EBT] systems: Encourages use of EBTs to address food stamp fraud and modernize food stamp delivery to improve access and lower administrative costs.

By expediting and coordinating tests of EBTS now in progress in several states, this provision would allow states to undertake their own projects by April 1992. These projects must meet standards set by the Department of Agriculture and their costs must not exceed those of current issuance systems. In addition, this provision establishes safeguards to ensure that food stamp participants in states where EBT tests are held will not be subject to any discriminatory procedures or added inconvenience. As under current law, retail food stores are exempt from incurring additional costs due to EBTs.

No anticipated additional costs.

14. Effective dates and sequestration: All food stamp provisions would take effect on January 1, 1991 except in the event of across-the-board cuts triggered by the Gramm-Rudman-Hollings (GRH) law.

All food stamp provisions would be delayed until October 1, 1991 if there is a final sequestration order from the President for 1991 that is not later rescinded. Other provisions in this bill affecting TEFAP and other reauthorizations would not be affected by sequestration.

Total direct spending costs: $557 million in 1991; $5,188 million over five years.

REPORT TO ACCOMPANY THE HUNGER PREVENTION ACT OF 1990, S. 2310

HUNGER IN AMERICA: THE NEED FOR LEGISLATIVE ACTION

Poverty in the United States remains entrenched in spite of six years of economic growth and low unemployment. Of the 32 million Americans that were poor in 1988, some 12.4 million were children, a substantial increase from 10.2 million poor children in 1979, at a similar point in the business cycle. Children have a one in five chance of being poor in American today. Among black children, the chances of being poor are greater than 2 in 5. In rural areas, nearly 3 out of every 5 black children are poor.

A primary consequence of this intractable poverty has been the escalation of hunger, particularly among children. An ongoing study of childhood hunger being conducted by the Food Research and Action Center (FRAC) estimates that there are 2 to 5 million low-income children in the U.S. today that are hungry. The same study claims that more than 9 million children are hungry or at risk of being hungry.

Reports by the Conference of Mayors indicate that emergency food requests are rising by an average of 19 percent in cities that were surveyed. In more than 8 out of 10 cities surveyed, emergency food facilities were being used not only for emergencies but as a steady source of food.

Our Nation's experience with poverty and hunger over the past decade has taught us many lessons:

That a "rising tide" of economic growth by itself does not lift the poor out of poverty or feed the hungry;

That poverty and hunger plague cities and rural areas in almost the same proportions;

That particular groups, especially children, are disproportionatly hurt;

That the erosion of wages, the erosion of government benefits, and the increase in the proportion of female-headed households have contributed to the intractability of poverty in this country; and

That work is no longer a guarantee of lifting a family out of poverty or providing enough food on the table.

This year provides the perfect opportunity to launch a full-scale attack on the hunger crisis in America. The primary objective of the Hunger Prevention Act of 1990 is the reduction and eventual elimination of hunger among America's children. This legislation would expand and improve utilization of the government programs and community volunteer efforts that are most effective in providing food and nutritional assistance to low-income children and their families.

Two years ago, the Senate Budget Committee was instrumental in finding room in the budget resolution to fund the Hunger Prevention Act of 1988. Once again, it is time to act. The Budget Committee will take the lead in 1990 by providing funding for a major initiative in the 1991 Budget Resolution.

STRENGTHENING THE FOOD STAMP PROGRAM

The food stamp program, which is subject to reauthorization by Congress this year, should be the primary vehicle for expanding the federal government's role in this war on hunger. The food stamp reforms in the Hunger Prevention Act of 1990 are targetted at the following objectives:

Meeting the food needs of families with children;

Targeting benefits to poor families with excessively high housing costs;

Expanding participation and improving accessibility to the program among eligible recipients who currently do not receive benefits;

Facilitating other income sources for households thereby encouraging more self-sufficiency and less need for governmental assistance.

The food stamp program is the government's largest and most universal assistance program for low-income Americans. Other programs target benefits to specific groups in need of assistance: Supplemental Security Income (SSI) serves the elderly, blind and disabled; Aid to Families with Dependent Children (AFDC) serves families with children; Unemployment Compensation serves individuals who have lost their jobs. Food stamp eligibility, however, is based almost exclusively on the income and assets of a household rather than demographic criteria. Some 94 percent of food stamp households have incomes below poverty and nearly 40 percent have incomes below half the poverty line.

The food stamp program is the nation's leading child nutrition program. The largest group of low-income people that are assisted by food stamps are families with children who receive some 83 percent of total benefits, according to the Department of Agriculture (USDA). Important changes in food stamp program rules are essential to respond to the increasing burden of housing costs on the budgets of these poor families. Other rule changes are needed to simplify and rationalize procedures for households to qualify for and receive benefits. Only one-half to two-thirds of eligible recipients actually receive food stamps, according to data from the Congressional Budget Office (CBO) and the USDA.

In the early 1980s, the food stamp program was scaled back by President Reagan and Congress. According to CBO estimates, food stamp budget cuts totaled $7 billion during the first four years after enactment. There were 1.1 million fewer people receiving benefits in 1988 than in 1980 although there were 2.6 million more people living below the poverty line. During this same period, the poor themselves have been getting poorer. According to the Center on Budget and Policy Priorities, the proportion of the poor with annual incomes below half the poverty line—the so-called "poorest of the poor"—was as high or higher in 1988 than at any other time in the past 15 years.

TEFAP AND EMERGENCY FOOD ASSISTANCE

The Temporary Emergency Food Assistance Program (TEFAP) was set up in the early 1980s to reduce the federal government's huge inventories of surplus commodities, especially cheese, and to provide emergency food assistance to needy Americans. At its peak in 1983, TEFAP provided emergency food assistance to 15 million people at a value of approximately $850 million. In

1989, about 12 million people received food packages valued at $250 million.

For the most part, TEFAP distribution centers are operated by community-based organizations. About half of the commodities are provided to urban areas and half to rural areas. Households that received food packages through TEFAP often do not participate in other public assistance programs. Many recipients—particularly the elderly and those from rural areas—prefer TEFAP because it does not involve long application procedures or dealings with the welfare office. As many of 40 percent of TEFAP recipients are not on food stamps. Although a large share of TEFAP benefits are provided to elderly households, nearly half of TEFAP communities go to families with children.

Although TEFAP serves a critical role in filling the gap of other food programs, TEFAP does not serve as poor of a population group as food stamps. While 58 percent of all food stamp benefits go to households with gross incomes below half of the poverty line, according to USDA, 31 percent of TEFAP benefits go to this group. While 98 percent of food stamp benefits are provided to families below the poverty line, 75 percent of TEFAP benefits are provided to these same families (although the remaining 25 percent have incomes near the poverty line).

Until enactment of the Hunger Prevention Act of 1988, TEFAP exclusively distributed surplus commodities from USDA stocks. Because food surpluses were running low and cheese became totally unavailable, the Hunger Prevention Act of 1988 mandated that the Secretary of Agriculture provide $120 million per year in food commodities, above and beyond any available surpluses. These additional commodities would be purchased in U.S. markets and distributed through established TEFAP centers. Without this mandatory purchase requirement, only $130 million worth of surplus food would have been provided through TEFAP in 1989.

SECTION-BY-SECTION ANALYSIS

(1) Reauthorization of funding for the Food Stamp Program [Section 2(a)]:

The current authorization for the food stamp program expires at the end of fiscal year 1990. This provision authorizes "such sums as may be necessary" to fully fund the food stamp program through the end of fiscal year 1995.

In order to avoid potential disruption in benefits, this provision changes the current annual authorization cap on food stamp spending. This more flexible authorization would eliminate the need for supplemental appropriations in the event of higher program costs due to unanticipated participation or food price inflation. Currently, food stamp benefits can be cut if the annual authorization limit is reached.

(2) Provided a modest increase in basic benefits to more closely reflect the costs of food [Section 2(b)]

Food stamp benefits are based upon the costs of the Thrifty Food Plan as calculated each year by the USDA. The Thrifty Food Plan is a computer estimate of the least amount of money a family of four with cooking and food storage facilities would need to spend each month to provide meals meeting minimum nutritional requirements. Food costs in the month of June are used for determining the Thrifty Food Plan for the following fiscal year. One study has found that actual food costs have been an average of 5 percent higher than projections used for the Thrifty Food Plan.

Under the current benefit structure, food stamps normally do not last the entire month for households. One study conducted in New Haven Connecticut found that 93 percent of hungray families ran out of food stamps before the end of the month and that on average, benefits lasted only 2.4 weeks. Oftentimes, households must rely upon emergency food assistance to make it through the last week of the month. Food stamp benefits currently average only 65 cents per person per meal. The maximum benefit for a family of four is 92 cents per person per meal.

Under current law, maximum food stamp benefits in 1991 will be based on 103 percent of the value of the Thrifty Food Plan. This provision would increase basic food stamp benefits by one-half percent of the value of the Thrifty Food Plan for each year over four years: 103.5 percent in 1992, 104 percent in 1993, 104.5 percent in 1994 and 105 percent in 1995. This two percent increase spread out over four years should allow low-income persons to purchase at least two additional meals per month on average. This expansion would also allow benefit levels to more accurately reflect the actual costs of food which oftentimes exceed projections from the previous year.

(3) Provide improved assistance to the homeless [Section 2(c) and (d)]:

This provision expands access to food stamps and assistance among the homeless. Many homeless families and individuals without cooking or storage facilities have difficulty obtaining and using food stamps. This provision addresses this problem directly by allowing the homeless to use food stamps to: (1) purchase prepared meals at shelters and soup kitchens, and (2) purchase meals at restaurants offering reduced prices. In addition, up to $1 million is made available for grants to public and private organizations for projects designed to improve the effectiveness of the food stamp program in delivering food assistance to homeless individuals.

(4) Allow families to receive the first $50 of child support payments each month without lowering their food stamp benefits [Section 2(e)]:

Under current law, families who participate in the Aid to Families with Dependent Children (AFDC) program may receive the first $50 per month in child support payments without having their benefits reduced. This rule was designed to give these families more incentive to help state agencies track down absent parents and collect court-ordered child support. Under current law, however, these same families would have their food stamp benefit reduced because their monthly income would be increasing by $50.

This provision would expand the current allowance by permitting AFDC families to collect $50 per month in child support without a reduction in their food stamp benefits. This change would achieve many objectives: 1) encourages families to cooperate with government agencies in collecting child support; 2) opens up other income sources for these families thereby reducing the family's long-term dependence on public assistance; 3) standardizes the rules for families who participate in both the AFDC and food stamp programs. Other efforts should also be undertaken to assist these families in securing court-ordered child support payments.

This provision was included in the House welfare reform bill in 1987 but was later dropped in conference.

(5) Remove the cap on the excess shelter deduction [Section 2(f)]:

Housing costs are taking up an increasingly large share of the family budget among the poor so that fewer dollars are left over for food. Seven out of ten poor households pay more for housing than the maximum amount (30 percent of income) considered affordable under federal standards. Three out of ten poor households pay more than 70 percent of their income on housing expenses.

These excessive housing costs have put too many poor households in the impossible position of choosing between food and shelter. Fortunately, the food stamp program does allow households with high housing costs relative to their income to qualify for increased benefits. However, the current "excess shelter deduction" could be expanded so that fewer families will face this Hobson's choice.

The amount of a household's food stamp benefits is based on the income of the household (among other things). In determining monthly income, current law allows households to deduct housing expenses that exceed 50 percent of their income. For elderly and disabled households, there is no limit to the amount of excess housing costs that can be deducted. For everyone else, the maximum amount that can be deducted from income is $177 per month.

This provision would allow *all* eligible food stamp households to deduct the full amount of their excess shelter costs for determining the amount of food stamp benefits. According to CBO, this provision would affect more than one million households per month. The prime beneficiaries will be families with children who are most burdened today by the high cost and scarcity of housing.

(6) Raise the $4,500 limit on the value of motor vehicles [Section 2(g)]:

Current food stamp rules require that eligible households may not own a motor vehicle with a market value greater than $4,500. This vehicle limit was established in 1977 and has never been indexed although automobile prices have increased by 120 percent. Many otherwise eligible households with low-incomes are denied food stamp benefits because they own vehicles used for essential transporation. Low-income households in rural areas are hurt the most because owning a vehicle is often an obsolute necessity to cover the great distances between home, work, shopping and medical services. Unemployed households also face a difficult tradeoff between having a vehicle to look for work or selling the vehicle in order to qualify for food stamps.

Although the President's Task Force on Food Assistance recommended in 1984 to raise the vehicle limit to $5,500 immediately, another six years has passed without Congress changing the law. Legislative action is required now so that these households do not have to face the dilemma of working to earn an income or receiving food stamps to avoid being hungry.

This provision would make this long overdue change by increasing the limit on the value of vehicles to $5,500 in 1991 and indexing the vehicle limit in each year thereafter (consistent with the consumer price index of cars).

(7) Reduce barriers to participation in rural areas [Section 2(h) and 2(j)]:

Households in rural areas face particular difficulties in participating in the food stamp program. These barriers include: long distances to state or county food stamp centers; reliance on others for transportation; social stigma in small towns and farming areas that deters eligible participants from applying for benefits. As a result, food stamp participation is quite low in many impoverished rural areas.

This bill provides funds for demonstration projects of at least two year duration to study and break down these barriers to participation in rural areas. The Secretary of Agriculture would be required to conduct projects over a five year period designed to improve accessibility to the food stamp program. Additionally, upon the approval of the Secretary, states could conduct their own demonstration projects and receive a 60 percent funding match from the federal government to cover costs. Since states normally would receive only 50 percent of administrative costs, this enhanced matching rate is designed to encourage states to participate.

Demonstration projects would be designed to study and test the following procedures aimed at increasing participation: increased availability of in-home and telephone interviews and mail applications; more flexible office hours; more accessible sites for eligibility certification and benefit issuance; expanded outreach activities; outstationing of agency staff; reduced verification and reporting requirements; and enhanced coordination with other agencies such as the Expanded Food and Nutrition Extension Program, community action agencies, and other local organizations in providing program information, screening and advising applicants, and providing transportation. Other procedures for improving accessibility and participation could also be considered.

In order to make food stamps more accessible in rural areas, this bill also requires states to issue food stamps through the mail in designated regions. Households in outlying areas with transportation difficulties will greatly benefit from this simplification of procedures. Under current law, states already have the option to issue stamps through the mail in rural counties. While expanding mail issuance, this bill includes exemptions for areas and households with high mail loss rates.

(8) Reauthorization of Nutrition Assistance to Puerto Rico [Section 2(i)]:

Like the food stamp program, the authorization for the Nutrition Assistance Program for Puerto Rico is set to expire at the end of fiscal year 1990. This provision extends the authorization for five years through the end of fiscal year 1995. Funding levels for the current mandatory block grant are increased each year above the 1990 level of $937 million consistent with the CBO baseline: $974 million in 1991, $1,014 million in 1992, $1,054 million in 1993, $1,096 million in 1994, and $1,140 million in 1995. These increases help to redress the current inequities of the Puerto Rico program with a view towards ultimate full participation consistent with budgetary considerations. The people of Puerto Rico currently are the only U.S. citizens not entitled to the benefit levels of the food stamp program.

(9) Alternative Methods of Issuance: Electronic Benefit Transfer (EBT) Systems [Section 2(k)]:

This provision encourages the use of electronic benefit transfer systems as an alternative to the standard issuance of food stamp coupons. The expanded use of EBTs is designed: (1) to address problems with the fraudulent usage of food stamp coupons, and, (2) to modernize food stamp delivery to improve access and lower administrative costs.

By expediting and coordinating tests of EBTs now in progress in several states, this provision would allow states to undertake their own projects by April 1992. These projects must meet standards set by the Department of Agriculture and their costs must not exceed those of current issuance systems. In addition, this provision establishes safeguards to ensure that food stamp participants in states where EBT tests are conducted will not be subject to any discriminatory procedures or added inconvenience. In an area where EBT systems are required, a sufficient number of retail food stores must provide EBT services to preserve the shopping choices available to food stamp households. Additionally, participating stores must operate EBTs at all checkout lines so as not to separate and stigmatize food stamp beneficiaries. Retail food stores would not incur additional costs due to installation of EBTs.

(10) Effective dates and sequestration [Section 2(1)]:

The reauthorization of the food stamp program and the Nutrition Assistance Program for Puerto Rico would take effect on October 1, 1990. All other food stamp provisions would take effect on January 1, 1991 except in the event of across-the-board cuts triggered by the Gramm-Rudman-Hollings (GRH) law.

These other food stamp provisions would be delayed until October 1, 1991 if there is a final sequestration order from the President for 1991 that is not later rescinded. Other provisions in this bill affecting TEFAP and other reauthorizations would not be affected by sequestration. Current exemptions of existing programs from sequestration would not be affected.

(11) Reauthorize the Temporary Emergency Food Assistance Program (TEFAP) and extend support for soup kitchens [Section 3]:

This bill would extend for five years the authorization for TEFAP which expires at the end of 1990. The Secretary of Agriculture would be required to continue purchasing $120 million worth of commodities, above and beyond available surpluses. These commodities are necessary to make up for declining food surpluses. As under current law, surplus commodities would still be distributed when available and $50 million would be authorized for administrative costs. Additionally, the name of the program would be changed to the Emergency Food Assistance Program to more accurately reflect the program's permanent nature.

In addition, this bill would extend federal commodity support for soup kitchens and food banks which primarily serve the homeless. Funding for soup kitchens and food banks provided in the Hunger Prevention Act of 1988 is set to expire after 1991. This bill would provide mandatory funding of $32 million per year through 1995.

(12) Expand the authorization for the Womens, Infant and Children (WIC) feeding program [Section 4]:

This provision sets the authorization level for the WIC program at $2,361 million for fiscal year 1991, an amount equal to $150 million above the 1991 CBO baseline and $235 million above the 1990 appropriated level. For the subsequent three years, this provision authorizes "such sums as may be necessary" for WIC, consistent with current law. It is the intention of the bill's authors to seek increased funding for the Women, Infant and Children (WIC) feeding program of $150 million per year above the CBO current services levels for the remaining four years of the WIC authorization.

Currently, the WIC program serves only about 55-60 percent of the eligible low-income mothers and children at nutritional risk. By steadily increasing WIC funding over the next five years, nearly the entire eligible population could be served. The $150 million annual funding increases envisioned by this provision would add approximately 300,000 eligible women and children per year to the program.

One way or another, our society has to pay the bills associated with at-risk babies and unhealthy children. In a period of budgetary constraint, it is critical to allocate our resources to cost-effective programs like WIC that emphasize preventive health and early intervention. At Vanderbilt University Hospital in Tennessee, it costs an average of $23,708 to keep a newborn baby in the emergency neonatal clinic. Yet, it costs only $787 in Tennessee to provide 12 months of prenatal and post-partum assistance to a low-income mother plus six months of support for her baby.

(13) Reauthorization of the Commodity Supplemental Food Program (CSFP) [Section 5]:

The Commodity Supplemental Food Program is scheduled to expire at the end of fiscal year 1990 along with other programs in the farm bill. The authorization of this program would be extended for five years. Funding levels are subject to appropriations. This provision would continue the distribution of surplus commodities to low-income women, infants, children and the elderly. CSFP currently provides nutritional counseling and government-acquired commodities as food benefits in 13 states.

(14) Food Service for Homeless Preschoolers [Section 6]:

Homeless children under the age of 6, who are not yet in school and therefore, do not benefit from the school lunch and breakfast programs, do not have ready access to the government's nutrition programs for children. Because of the extreme disruption in the lives of their families and the lack of a fixed residence with storage and cooking facilities, the Food Stamp and Women, Infant and Children (WIC) program are usually not able to provide assistance to these kids. The Summer Food program is not year-round and most children do not qualify for assistance under the Child Care Food Program. As the number of homeless families with children in this country increases, the nutritional needs of these children must be given greater attention.

The Child Nutrition and WIC Reauthorization Act of 1989 set aside a small amount of funding for pilot projects to provide year-round food service to homeless children under age 6 in emergency shelters. Currently, the Archdiocese of Philadelphia is working with the U.S. Department of Agriculture to design a meal service program for children in homeless shelters that may begin as early as this summer.

This bill would provide increased funding to encourage similar projects in other cities and would simplify the complicated funding mechanism set up by last year's legislation. This bill establishes minimum funding amounts that would be expended by the Secretary of Agriculture from child nutrition accounts in each year: $500,000 in 1991, $2 million in 1992, $2 million in 1993 and $4

million in 1994. These amounts are mandatory (assuming a sufficient number of applicants) and would not be subject to appropriation. If excess funds are available from child nutrition administrative accounts, they would also be made available for these projects, as under current law. A maximum of $5 million would be available in total each year.

APPENDIX

TARGET: RURAL HUNGER AND POVERTY

The Hunger Prevention Act of 1990 contains numerous provisions targetted at rural areas. Poverty is no less a problem in America's rural areas as it is in our cities. Problems of physical isolation, inadequate transportation, and lack of information compound the problems of the rural poor who have difficulties accessing government benefits and services.

From 1978-1987, the poverty rate in rural areas increased by 3.5 percent, more than in urban areas. While central cities remain the poorest areas of the country with a poverty rate of 18.6 percent in 1987, rural areas are not far behind with a poverty rate of 16.9 percent. Compared to the cities, the poor in rural areas are more likely to be from two-parent families with the head of the household working.

For specific, high-risk groups, poverty is worse in rural areas than in the cities. In the cities, three of every nine blacks are poor compared to four of every nine blacks in rural areas. Among black children, 46 percent are poor in the cities compared to 57 percent in rural areas. Among black elderly, 29.1 percent are poor in the cities compared to 46.4 percent in rural areas. The need for government food assistance is further punctuated by a Census Bureau study which showed that from 1983-1986 one in every six rural families received food stamps for at least one month.

Behind these statistics is increasing evidence that rural households have fewer resources of their own to purchase food. Housing costs are eating up a larger share of the family budget in rural areas so that fewer dollars are left over for food and other necessities. Nearly three out of four (72 percent) of all rural poor households exceed the federal standard of affordable housing by paying more than 30 percent of their income for housing. More than one in four of these poor households are paying more than 70 percent of their income for housing.

To combat the intractability of poverty in rural areas and the inaccessibility to government assistance, particularly food stamps, the bill includes numerous provisions (discussed in more detail elsewhere in this report) that address the particular problems of the rural population:

Assists low-income rural families that require vehicles for transportation by increasing the limit on the value of vehicles that food stamp recipients may own;

Provides funding for pilot projects designed to improve accessibility to the food stamp program and increase participation in rural areas;

Simplifies procedures for receiving food stamps by requiring states to issue food stamps through the mail in designated areas;

Reauthorizes the Temporary Emergency Food Assistance Program (TEFAP) which has approximately half of all food distributions sites and 55 percent of all recipients in rural areas;

Increases funding for the WIC program which successfully reaches low-income pregnant women and children at nutritional-risk that often have limited access to other health programs.

CHILDREN IN AMERICA

Poor: 12.4 million.

Hungry: 2-5 million.

Hungry or at risk of hunger: More than 9 million.

Average cost of maintaining low-birthweight baby (Intensive Care Clinic, Vanderbilt University Children's Hospital, Nashville, TN), $23,708.

Average one-year cost of WIC Program for a low-income mother and newborn baby (Tennessee), $787.

OTA: Save between $14,000 and $30,000 for every low-birthweight baby that is averted.

HUNGER AND POVERTY

Nearly 32 million Americans live below the poverty line.

The poverty rate for all persons was 13.1 percent in 1988, a year of modest economic growth and low unemployment. In no year during the 1970's, including the recession years of 1974 and 1975, was the poverty rate this high.

Nearly 20 percent of all U.S. children are poor, an increase from 16 percent in 1979. The poverty rate was 44.1 percent for Black children and 37.8 percent for Hispanic children.

In 1988, 12.4 million children were living in poverty, as compared to 10.2 million in 1979.

One in every two Black children under age six is poor.

For Black children, 57 percent living in rural areas are poor compared to 46.2 percent in central cities.

Poverty rates between 1978 and 1987 rose from 13.5 percent to 16.9 percent in rural areas and from 15.4 percent to 18.6 percent in central cities.

The Census Bureau has estimated that cash benefits lifted from poverty only 10.5 percent of families with children compared to 18.9 percent lifted from poverty in 1979. AFDC benefits fell roughly 25 percent in real terms between 1975 and 1987.

Combined benefits from AFDC and Food Stamps brought a poor household to only 66.3 percent of the poverty level in 1988, a decrease from 70.9 percent in 1980.

The poverty rate among women is much higher than among men. In 1988, 12.9 percent of adult women were poor compared to 8.3 percent of adult men.

Nearly half of all poor renters—some 3 million households—paid at least 70 percent of their income on housing in 1985.

Hunger is a condition of poverty. In 1985, the Harvard's Physician Task Force on Hunger in America estimated that 20 million people, or one in twelve Americans suffered from hunger at least some time every month.

COMMUNITY CHILDHOOD HUNGRY IDENTIFICATION PROJECT FINDINGS ON CHILDHOOD HUNGER

2 to 5 million low income children in the U.S. today are hungry.

More than 9 million children are hungry or are at risk of being hungry.

44 percent of the children from families with insufficient food supplies ate nothing for lunch.

In 1987, 18 percent of low-income families with children in a New Haven, Connecticut neighborhood were found to be chronically hungry and 47 percent were at risk of being hungry.

In 1988, the Washington State Governor's Task Force on Hunger reported that chronic hunger among low-income families with children in three regions of the state ranged from 21 to 42 percent.

Hungry children were more likely to have a variety of health problems—fatigue, frequent colds, an inability to concentrate, irritability and weight loss—at levels significantly higher than children from non-hungry families. These health problems among hungry children were strongly associated with more absenteeism from school.

Hunger has a negative impact on children's ability to learn. Children who do not eat breakfast perform poorly at school.

93 percent of hungry famiiies reported that Food Stamp benefits did not last all month.

Single female-headed households were more likely to be living below the poverty level than other households. The total income of these households averaged 74 percent of the poverty level.

In the state of Texas, a statewide survey of nearly 2,000 emergency food providers revealed that the number of people requesting food assistance more than doubled from 1984 to include nearly four million people a year by 1986.

The average shelter cost for hungry families was 55 percent of their income.

EMERGENCY FEDERAL ASSISTANCE

In every year since 1982, the U.S. Conference of Mayors has documented an increase in the demand for emergency food assistance.

The demand for emergency food assistance increased in all but one of the surveyed cities by an average of 19 percent in 1988.

The demand by families with children increased in more than 9 out of every 10 cities surveyed.

In 81 percent of the survey cities, emergency food assistance facilities were relied upon by families and individuals both for emergencies and as a steady source of food over long periods of time.

In nearly ¾ of the cities, emergency food assistance facilities must turn away people in need because of lack of resources.

SOURCES

1. A Status Report on Hunger and Homelessness In America's Cities: 1989. The United States Conference of Mayors.

2. A Vision for America's Future. Children's Defense Fund.

3. Poverty in Rural America, A National Overview. Center on Budget and Policy Priorities.

4. The Community Childhood Hunger Identification Project. Food Research and Action Center (FRAC)

(Prepared by Senate Budget Committee, Majority Staff, February 1990.

THE CHANCES OF A U.S. CHILD BEING POOR

If:

White, one in seven.

Black, four in nine.

Hispanic, three in eight.

In a female-headed family, one in two.

Younger than three, one in four.

Three to five, two in nine.

Six to seventeen, two in eleven.

The family head is younger than twenty-five, one in two.

The family head is younger than thirty, one in three.

THE STATUS OF CHILDREN IN THE U.S.: INTERNATIONAL RANKING

Infant mortality rate: 19th.
Mortality rate for children under the age of 5: 22nd.
Low-birthweight births: 19th.
Childnood poverty (among eight industrialized countries): 8th.●

● Mr. DOMENICI. Mr. President, it's not often when the chairman and ranking member of the Budget Committee can jointly offer a new initiative while we face budget deficits. However, today, I am pleased to join the distinguished chairman of the Budget Committee to offer a food and nutriton initiative, designed to assist vulnerable low-income families.

Before I discuss this initiative, let me say for the record that the Federal effort in this area has been and continues to be extensive. There is a false impression, I believe, that Congress significantly reduced the assistance for these programs in the 1980's. That is simply not true. In 1980 the Federal Government expended $12.6 billion for food programs. This last year, that figure exceeded $23.7 billion, an 88 percent increase.

In addition to Federal food assistance expenditures, other programs providing aid to low-income Americans have increased. Mr. President, I ask unanimous consent that a table highlighting the growth in Federal expenditures for low-income Americans be inserted in the RECORD at the point.

Even with these resources, we still find areas where additional targeted assistance is required. Our nutrition initiative will benefit the 19 million individuals who receive food stamps each month, and we add approximately 300,000 recipients under the nutritional assistance program for women, infants, and children [WIC]. Our bill will also benefit homeless and rural households that are eligible to receive food stamps.

This initiative was developed following a hearing held by our Budget Committee on the subject of hunger in America and its effect on our children. In that hearing we learned that some Federal initiatives in this area are working, and working well.

The Nutritional Assistance for Women, Infants, and Children is one of those programs. However, the eligible population exceeds current participation. Our legislation focuses on this program, authorizing additional funding of $150 million each year over the next 5 years.

This program will continue to grow as it has throughout the 1980's, from $872 million in 1981 to $2.4 billion this year. Indeed, this program has been the fastest growing low-income nutrition and medical assistance in the 1980's—an astonishing 171 percent increase between 1981 and 1990.

Our initiative also reauthorizes food stamps, the Commodity Supplemental Food Program [CSFP], and the Temporary Emergency Food Assistance Program [TEFAP]. We ensure that $120 million in commodities will be provided above and beyond available surpluses in the TEFAP program.

In my State, the CSFP has been a key program in providing food supplements to 6,300 individuals per month on average in 1990. Since only 10,500 children participate in the WIC program in New Mexico—far less than the estimate of the eligible population—this supplemental program has been extremely beneficial for us.

In addition to these authorizations, we propose to improve the Food Stamp Program:

Assisting an additional 3.3 million individuals, by removing the cap on the deduction that food stamp households can claim for shelter expenditures, in excess of 50 percent of their income. It is estimated that in 1985, 45 percent of all low-income households paid at least 70 percent of their income for housing costs. The shelter deduction cap limits the effectiveness of the Food Stamp Program. As a result of this provision, those households that expend a significant percentage of their income on housing costs—allowing a larger share of these costs to be deducted in determining their food stamp benefits—will literally not have to choose between housing and eating at the end of the month.

Allowing food stamp households to receive the first $50 of child support payments each month without lowering their food stamp benefits. This provision would standardize rules between AFDC and food stamps. In addition, it would provide the incentive for families eligible to receive child support payments to seek such payments.

Assisting 85,000 additional households by 1995, through an increase in the value of vehicles that can count toward the allowable asset test—$2,000 for nonelderly or disabled households. Currently the fair market value of motor vehicles in excess of $4,500 is counted against the asset test. This provision increases that limit to $5,500. We do not believe a family owning a modest car should see their eligibility for food stamp benefits jeopardized. It is a modern fact of life that a car is essential for transportation to work, the grocery store, and the doctor, particularly in rural areas of this country.

Reducing barriers to participation in rural areas by mandating mail-issuance of food stamps. This now optional in a number of States.

Assisting all food stamps recipients by increasing the basic food stamp benefit by ½ percent per year, to more closely reflect the cost of food in the thrifty food plan. By the end of the fiscal year, the current food plan used to determine benefits is 12 months out of date.

Allowing the homeless to use food stamps to purchase meals at shelters and reduced-price meals at some restaurants, extending government support of soup kitchens and food banks, and supporting a homeless preschoolers pilot project.

Our initiative also would improve the efficiency of food stamps issuance by expediting the testing of electronic benefit transfers [EBTs]. New technologies and welfare programs need not be a contradiction in terms. The State of New Mexico and a number of other States are now testing an electronic benefits transfer card. Through such initiatives, we can make progress on an essential goal: Reaching more people in need per Federal dollar spent.

The food stamp improvements in this initiative would add to Federal costs by $557 million in 1991 and a total of $5.2 billion over the 5-year period ending in 1995. In preparing the budget for this year, we will be required to find offsets for the increased spending assumed in this bill.

Is this level of Federal spending too much or not enough?

I am not sure, but I am convinced it will continue to increase. The challenge we face in Congress is to try to make sure that the money is spent wisely and targeted to those most in need. The Sasser/Domenici initiative does just that, by supporting expansion of an effective program [WIC] making improvements in food stamps, and encouraging research to improve delivery and increase the efficiency of low-income assistance.

As a final note, I am concerned that if we fail to meet our overall budget targets this year, across-the-board cuts in low-income discretionary benefits will reduce with one hand what we are giving out in food stamp benefits with the other. This initiative includes a provision to delay the food stamp provisions of this bill for 1 year if across-the-board cuts occur.

Both Chairman SASSER and I look forward to working with our colleagues in the House and Senate to fashion an effective, yet fiscally responsible initiative, meeting the nutritional needs of our Nation's most disadvantaged citizens.

Mr. President, I ask unanimous request that a table of Federal spending on assistance to low-income Americans be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FEDERAL SPENDING FOR ALL PROGRAMS ASSISTING LOW-INCOME AMERICANS

[In billions of dollars]

Program	Fiscal years—		Change in	
	1981	1990	Dollars 1981 +/— 1990	Percentage 1981 +/— 1990
Health program	25.3	53.8	28.5	112.9
Cash assistance	30.8	45.6	14.8	48.2
Food	15.1	23.7	8.6	56.6
Housing	7.5	15.9	8.4	113.0
All other	21.9	23.2	1.3	5.8
Total	100.6	162.2	61.6	61.3

Source: CBO Re-estimate of the President's Budget.

Prepared by SBC, minority staff Mar. 20, 1990.

Note.—General inflation measured on the CPI-W increased 41.0 percent between fiscal year 1981 and fiscal year 1990.●

● Mr. LEAHY. Mr. President, I am pleased to sponsor the Hunger Prevention Act of 1990.

This bill is a natural continuation of the Hunger Prevention Act of 1988. This bill extends or expands key provisions of that act. The Hunger Prevention Act of 1988 was labeled by Time magazine as "landmark" nutrition legislation. This bill deserves the same label.

At our hearing on February 27, 1990, the Committee on Agriculture, Nutrition, and Forestry was honored to have Senator SASSER and Senator DOMENICI as the leadoff witnesses.

They vividly described the need for significant nutrition legislation. As the chairman and ranking minority members of the Senate Budget Committee their support is crucial to the success of this effort.

I was pleased to hear Senator JIM SASSER state: "I intend to work hard to push antihunger legislation through the Congress this year and to provide the funds in the 1991 budget resolution we are now preparing in my committee. I intend to make this initiative one of my highest priorities this year."

Similarly, Senator PETE DOMENICI eloquently described the need for legislation this year and his commitment to that end. Their early and strong support for a major nutrition this year deserves the praise of every Senator.

At that hearing, Senators SASSER and DOMENICI set forth the blueprint for a broad nutrition initiative, which I strongly endorsed.

Their support will enable the Agriculture, Nutrition and Forestry Committee to begin work immediately to achieve the objectives of their proposal.

My plan is to include a major nutrition title in the 1990 farm bill—which will be the heart and soul of the farm bill. At that hearing I was very pleased to hear the ranking member of the Agriculture Committee, Senator LUGAR, call for a "compassionate nutrition title to the 1990 farm bill."

Hunger is not a political issue. It is a moral issue. It gnaws at the inner fiber of our Nation's health.

It jeopardizes the future of our entire Nation.

One in every five children in America lives in poverty. When kids go to school with empty bellies, they simply cannot learn.

If our Nation's children are not learning, our Nation's future is seriously at risk. We must not surrender our future.

Nutrition programs are a test of the conscience of this Nation. The farm bill cannot be complete until the needs of the hungry are met.

America is the richest, most self-sufficient Nation on Earth. Yet millions go to bed hungry. This problem is not limited to the homeless living on our street corners. It is far more extensive.

It's time to shatter the stereotype of the hungry.

Millions of Americans work day in and day out, but still do not earn enough to make ends meet. They work hard, but often they do not earn enough to adequately feed and clothe their children.

Eight million Americans who work live in poverty. The working poor are one of the fastest growing segments in our society. They are my neighbors. They are your neighbors.

Let's look at the hard facts. Housing costs are skyrocketing. Forty-five percent of poor renters spend 70 percent of their family income on housing. Many of these families must often choose between paying their rent or feeding their children.

Farmers, storekeepers, factory, and steelworkers across this country are sending their sons and daughters to school hungry every day. Millions of Americans are two or three paychecks away from hunger.

A 1988 Carnegie Foundation study in my home State of Vermont, found that 81 percent of Vermont teachers reported that undernourished children were a problem in their schools. In the world's wealthiest nation, this is truly a disgrace.

It's time to get our priorities straight.

I am also making a commitment to Puerto Rico in this nutrition effort. In the early 1980's, USDA food assistance to Puerto Rico was greatly reduced. Hungry American citizens everywhere must be treated fairly. Puerto Ricans have died defending America's freedoms—we must not treat them unfairly.

I am very proud that this committee has established a grand bipartisan tradition on nutrition legislation. Ranking minority member, Senator DICK LUGAR, and the ranking member on the nutrition subcommittee, Senator RUDY BOSCHWITZ, deserve a great deal of praise. Senator BOB DOLE played a major role in establishing this bipartisan tradition.

Senator HARKIN, the chairman of the Nutrition Subcommittee, has fought for years to help the hungry. He is a true friend to the needy.

Senator MCCONNELL has already introduced child nutrition legislation this year which I think the committee should carefully consider.

The committee has joined together in recent years to enact major nutrition legislation. The Hunger Prevention Act of 1988 represented the most significant commitment to hunger relief in over 10 years.

The Commodity Distribution Reform Act and WIC Amendments of 1987, approved 97 to 0, and the Child Nutrition and WIC Reauthorization Act of 1989, approved by voice vote, also made major improvements in child nutrition programs. The nutrition title of the McKinney Homeless Assistance Act also was broadly supported by the Agriculture Committee.

These four laws indicate the strong support of Democrats and Republicans, on this committee, to America's children and America's future.

The nutrition title of the farm will will demonstrate their continuing commitment.

I will just discuss a few of the provisions of the Hunger Prevention Act of 1990. As I mentioned earlier, this bill builds on the Hunger Prevention Act of 1988.

The Hunger Prevention Act created the "mandatory purchase" program within the Temporary Emergency Food Assistance Program, the TEFAP Program, for the first time. That mandatory purchase program was created because of a huge drop in surpluses provided by USDA to TEFAP.

Thus, TEFAP now provides surplus foods from USDA stockpiles of wheat, corn, butter, or other surplus commodities and foods with high nutrient density, such as peanut butter, canned meats and beans, purchased by USDA under the Hunger Prevention Act of 1988.

In fiscal 1990, USDA will purchase 72 million pounds of peanut butter, 30 million pounds of canned pork, 38 million pounds of beans and 7 million pounds of raisins under the mandatory purchase program.

These commodities will be distributed along with the distribution of surplus commodities: 144 million pounds of flour, 48 million pounds of cornmeal, 72 million pounds of butter and 41 million pounds of honey.

TEFAP Program expires this year. This bill—the Hunger Prevention Act of 1990—extends that important program for the length of the farm bill.

Up to 15 million Americans per month depend on TEFAP. TEFAP is a vital safety net—families may have to wait up to 30 days for food stamps.

Almost half of TEFAP families contain children. Sixty percent of TEFAP participants are not on food stamps,

many elderly and rural residents do not apply for food stamps.

Another important provision of the bill affects the food stamp excess shelter cost deduction. Under the nutrition title of the McKinney Homeless Assistance Act, the amount of that deduction was increased. Nonetheless is it still too low.

Under current law, households may deduct shelter expenses that exceed 50 percent of their incomes, but only up to $177 a month. This cap of $177 may force families to choose between paying rent and eating. This cap of $177 does not apply to households containing an elderly and disabled person.

The most significant new problem faced by the poor is soaring housing costs. Homelessness among poor families with children has dramtically increased in recent years.

Forty-five percent of all poor renters in the United States were spending at least 70 percent of their income for housing costs—including rent and utilities.

Two-thirds of all poor renters were spending at least half of their income for housing. Yet in 1988, only 29 percent of all poor renter households received Federal, State, or local housing assistance.

The bill thus "uncaps" the excess shelter cost deduction.

Another provision of this bill—the Hunger Prevention Act of 1990—directly builds on the Hunger Prevention Act of 1988.

The Hunger Prevention Act of 1988 increased food stamp benefit levels modestly. Food stamp benefits are based on the cost of purchasing a theoretical "market-basket" of foods for 1 month called the thrifty food plan. Since the creation of that plan in 1977 food price inflation has eroded the ability of food stamp recipients to buy the thrifty food plan worth of food each month.

The Hunger Prevention Act of 1988, of course, helped in that it based food stamp benefits in 103 percent of the cost of the thrifty food plan, starting in fiscal year 1991.

Even that increase is not enough. Under current law, the cost of that plan in June of the previous fiscal year is used to determine benefits for each of the 12 months in the current year.

Over the 13-year history of the thrifty plan, the average cost of the plan in the last half of the fiscal year has exceeded the cost in the previous June by an average of 5.4 percent.

Using the cost of 105 percent of the thrifty food plan, for June of the previous year, as the basic benefit level will normally assure that participants have benefits based on the cost of the thrifty food plan for the month they receive the benefits.

This bill gradually increases the basic benefit levels for food stamp recipients.

I am anxious to begin work in the committee as soon as possible on this vital effort. I again want to thank Senator SASSER and Senator DOMENICI for helping make this effort possible.●

● Mr. BOSCHWITZ. Mr. President, I am pleased to join with my distinguished colleagues in proposing the Hunger Prevention Act of 1990.

Nutrition programs have a strong bipartisan tradition here in the Senate. Another Minnesotan—Hubert Humphrey—was the founder of WIC, and worked on nutrition programs with George McGovern and BOB DOLE. I am pleased that this bipartisan coalition continues with the introduction of this bill today.

As the senior Republican on the Senate Nutrition Subcommittee, I have been a strong supporter of Federal nutrition programs such as food stamps, WIC, school lunch and breakfast, the Commodity Supplemental Food Program [CSFP], and the Temporary Emergency Food Assistance Program [TEFAP].

As part of the 1990 farm bill, several nutrition programs must be reauthorized. This bill will serve as our basis in strengthening these important programs. I look forward to working with my colleagues on the Nutrition Subcommittee and the full Agriculture Committee in formulating the nutrition provisions of the 1990 farm bill.

I want to commend Senator SASSER and Senator DOMENICI for their commitment to alleviating hunger in our Nation and for putting this proposal forward. This bill will go a long ways toward ensuring that those in need receive vital nutritional assistance.●

● Mr. FOWLER. Mr. President, I am pleased to join my distinguished colleagues Senators SASSER and DOMENICI in introducing this important piece of legislation, which represents the largest expansion of Federal nutrition programs in more than a decade.

All across this country, particularly in rural America, we see families suffering the pains of poverty and hunger. We cannot afford to ignore this because rural Americans are the people who clothe and feed us. They are the keepers of our national heritage for, as a society, we owe our beginnings to rural America.

In these days of growing limits on Federal assistance, how do we address the problems of poverty all across America? One answer is that, as we look at our enormous Federal budget deficits, we need to make sure that every dollar we spend is a sound and necessary investment in our future. In my mind, as I have watched things like homelessness triple in this decade even in Atlanta, I have no doubt that adequate housing for our people is just such an investment.

Right now, many Americans are hurting. Among these are our most vulnerable, our most innocent—our children. They are also our most precious resource and we must make a commitment to improve the quality of the lives of those who need it most in our society. We must help them to help themselves.

This legislation makes that commitment. It doesn't throw money at problems. It meets the challenge of being responsible, dedicated, and innovative in using our Nation's resources by carefully targeting these investments. It provides resources for Outreach programs and grants through the Department of Agriculture for emergency food assistance. The authorization for the women, infants and children [WIC] feeding program would be increased. These programs are of vital importance to my State, particularly in the rural areas.

The bill focuses on child support by encouraging families and individuals who receive government support to seek alternative sources of income through work or child support collections. It improves accessibility to food programs among low-income rural families and other groups by simplifying rules and expanding Outreach.

Again, I commend my two colleagues for providing the necessary leadership to move this country in the moral direction that should never have been strayed from in the beginning. Congress must respond to the cries for help from our neediest population and this legislation accomplishes that.●

By Mr. ROTH (for himself, Mr. GARN, and Mr. SANFORD):

S. 2311. A bill to modify the qualified thrift lender test, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MODIFICATION OF THE QUALIFIED THRIFT LENDER TEST

Mr. ROTH. Mr. President, today I am introducing legislation to cure one of the major defects in last year's savings and loan legislation, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. That defect is the restrictive qualified thrift lender test. This test is an asset composition test imposed on institutions to measure their "thriftness." It is a test of faith in residential home mortgages.

Last year when the Senate first considered the FIRREA legislation, I voiced strong objection to the effort to make the QTL test more restrictive. Failure to meet the QTL test was not the cause of the industry's problems. The more restrictive QTL test, designed to make even healthy thrifts fail, was hardly the cure. The amendment's rationale was that if the bill was going to bury the dead thrifts, it should bury the healthy heretics, too.

As I said on April 18 of last year:

I do not criticize the new QTL test because I am soft on the thrift industry. It is because I am soft on the taxpayer. And the best thing for the taxpayer is to create a healthy thrift industry so that depositors do not face the risk of default. Thus, for the taxpayers' sake, the best policy is to invite capital to flow into this industry. But we make the invitation unattractive if we create new tougher tests of housing purity and limit investment options.

Believing that the more restrictive QTL test was a formula for disaster, I opposed adoption of the FIRREA conference report. Then and now, I believe that the QTL test sucks the opportunity for profit out of the industry and repels new capital.

On August, 4, 1989, I voiced my concerns:

The thrift industry needs new capital. Correctly, the bill requires it. But where will it come from? Will volunteers come in from the sidelines when their investment choices are so limited? I fear they will not come forward in sufficient numbers.

If we want to phase out the thrift industry, I suspect that there is a kinder, gentler way to do it than to give them a fresh start but stack the deck against them. The path this legislation takes is certainly more expensive for the taxpayer.

In my view, the fundamental philosophical rationale of the reform is flawed. Investment restrictions do not attract investors. By choking off the supply of voluntary capital, the taxpayer is left to shoulder the burden of meeting depositor obligations. And that is simply the wrong answer.

So now the RTC has accumulated nearly 350 thrifts and finds it difficult to sell them. The lack of profitability, because of the 70-percent QTL test, is making resolutions more costly.

Chairman Seidman of the FDIC, responding to a question from Senator GARN on the 70-percent QTL test, reached a similar conclusion:

The 70 percent QTL test on thrifts may require a concentration of asset risks and thus carries with it a potential for problems, particularly in a volatile interest rate environment. While a 70-percent QTL test may have some positive effect in reducing credit risk, it may well have negative implications for profitability, as a 70-percent QTL test may limit thrifts' ability to react to fluctuating interest rates. While it is possible to sustain profitability in a volatile rate environment, the maintenance of the suitably matched position needed to do so becomes increasingly more important. Potential difficulties in attaining desired levels of profitability may very well increase the costs of resolving thrift industry problems:

Manuel Johnson, Vice Chairman of the Federal Reserve Board, responded to the same question in similar fashion:

Whether it was a mistake or not to impose the QTL provisions of FIRREA depends upon a number of considerations. On the one hand, the test encourages thrifts to concentrate on their traditional function of providing housing finance and, in this regard, may limit their ability to engage in more risky nontraditional activities. On the other hand, by requiring thrifts to concentrate in the mortgage lending business, such limitations will tend to make thrifts more vulnerable to interest rate risk unless they take steps, through use of variable rate mortgages or other means, to minimize such exposure. Moreover, while it is entirely the prerogative of the Congress to seek to subsidize or encourage certain activities, such as home ownership and financing, it is not clear that the QTL test is the most efficient way, from an economic or financial standpoint, to achieve this objective. To the extent the QTL requirement reduces the attractiveness of some thrifts to investors, it would also increase the initial costs of resolving the thrift problem, at least somewhat.

That's exactly the point. The 70-percent QTL test increases the cost of resolving the thrift problem. It doesn't help thrifts. It doesn't help housing and it doesn't help the taxpayer.

The stricter QTL test enacted in FIRREA affected thrifts in two different ways. First, it raised the percentage of a thrift's portfolio that had to be invested in housing-related assets from 60 to 70 percent. Second, it tightened the definition of which assets qualified. It was commonly viewed that the 60-percent requirement before FIRREA was closer to a 50-percent requirement. Thus the effect of FIRREA was to raise the requirement from 50 to 70 percent.

The legislation I am introducing today would reduce the 70-percent requirement down to 50 ercent. I chose not to repeal the FIRREA provisions in total because that would have reinstated the loose definition of QTL assets that was criticized by some members of the Banking Committee as an imprecise formulation. Rather it is my purpose to confront the question of the level of the QTL test directly rather than rekindle former arguments about the definition.

My intention is not to strip savings associations of their thriftness but to increase their value in the eyes of those who might be able to buy them or invest in them. If we do not make thrifts more attractive to investors, the industry will deteriorate, and a valuable provider of home Mortgages will be lost. The present test-intended to promote housing—is counterproductive.

The second change made by my bill is to allow domestic residential real estate loans to be included as qualified thrift investments. Inadvertently, I believe, Congress permitted only loans for domestic residential Housing to be included when it rewrote the definition. The difference is that it appears that residental land loans are excluded. In many parts of the country it is common for the prospective homeowner to buy his lot first and then go about selecting a builder. The land loan would appear not to be covered by the present language which is limited to housing. My bill would correct this error.

Third, my bill would include as a qualified thrift asset any loans held by the savings association that were made to purchase any asset from the resolution trust corporation. In my opinion, salvaging the thrift industry is housing related in view of the special role of thrifts in promoting housing. Moreover, I believe that thrifts have a special obligation to help clean up their own mess. RTC assets have plummeted in price and have bottomed out. Loans to purchase such devalued assets should not pose unusual risks for savings associations.

Finally, one reason why RTC assets are not moving is the lack of available financing. This change would help address that problem.

Mr. President, the S&L problem, indeed, required quick congressional action. While Congress reacted quickly, it did not act wisely. The QTL test was one of the major mistakes made in enacting FIRREA. Someday congress will have to face that fact. I hope this bill hastens that day.

Mr. GARN. Mr. President, today, I join with Senator ROTH in cosponsoring legislation that would revise the qualified thrift lender or QTL test adopted in last year's savings and loan legislation. The QTL test mandates that a savings and loan association maintain a certain percentage of its assets in residental mortgages and related investments. The 1989 legislation amended this test so that effective July 1, 1991, a savings association must maintain at least 70-percent of its assets in QTL-qualified investments The bill I am cosponsoring today would lower this percentage to 50 percent. It would also permit assets purchased from the RTC as well as loans on and investment in residential real estate to count toward meeting this test. The bill would not permit any investments that would otherwise be prohibited by Federal law. It simply would provide that if an investment is otherwise permissible. It could count in meeting the QTL test.

I agreed to cosponsor this bill because it is vital that every effort be made to assist the RTC in minimizing the cost of resolving insolvent thrift institution cases. Earlier today RTC Chairman William Seidman stated that the the QTL test imposed by the 1989 legislation may be hampering the ability of the RTC to obtain the maximum value for thrift institutions under its jurisdiction, and he urged Congress to reexamine this provision as soon as possible.

While I do not necessarily agree that 50-percent is the appropriate level for the QTL test, I do believe that this legislation will provide the vehicle for the reexamination process recommended by Chairman Seidman. During this process, other alternatives also should be explored. For example, we may want to provide additional

QTL credit for mortgage originations and sales.

We cannot afford to delay taking legislative action that will help the RTC in doing its job, and thus save taxpayer funds. This legislative proposal provides an excellent opportunity for beginning this process with respect to the QTL issue.

Mr. SANFORD. Mr. President, I rise in support of the bill introduced today by my colleague from Delaware. As I stated many times during the debate on the savings and loan legislation last year, I am convinced that the crisis in the thrift industry can be traced to a number of things, including: First, lax enforcement and supervision by the administration; second, the interest rate squeeze that many thrifts were caught in during the early 1980's; third, fraud and abuse on the part of a significant number of thrifts; and fourth, regional economic difficulties in the Southwest.

It is the interest rate squeeze problem, among others, that this bill focuses on. The problem that many thrifts faced in the early 1980's was large portfolios of long-term mortgage loans at low interest rates at a time of high interest rates. The cost to thrifts for bringing in funds was therefore significantly higher than their earnings. I am concerned that we not repeat those problems by mandating a very tight qualified thrift lender [QTL] test which again forces thrifts to lend long and borrow short. Should we enter a period of rapidly rising interest rates, this could have disastrous consequences for the thrifts.

During debate on the FIERREA legislation, the decision was made to strengthen the existing QTL test by raising the percentage of assets that must qualify from 60 percent to 70 percent and by tightening the definition of what qualifies as housing related lending for purposes of meeting the QTL. I fear that in so doing, the Congress may have gone too far. The result of this overreaching may be making it more difficult for the RTC and the FDIC to dispose of failed thrifts, thereby raising the cost to the taxpayers in addressing the thrift crisis. My fears were confirmed in a speech made today by William Seidman, Chairman of the FDIC, who noted that the stringent QTL test is a problem that must be addressed by the Congress.

While I don't know if 50 percent is the magic number or if we have arrived at a perfect definition of what should be included within that 50 percent, I do think the Congress should take another look at this issue. I don't think we can afford to be placing restrictions on the thrifts which both raise the cost of the resolution to the taxpayers and add an element of risk from interest rate mismatches in the future. I commend my colleague Senator ROTH for raising this issue and look forward to working with him and others on the Banking Committee to arrive at the proper test.

By Mr. SYMMS (for himself, Mr. PRYOR, and Mr. BOREN):

S. 2312. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures; to the Committee on Finance.

TAX TREATMENT OF COST OF ENERGY CONSERVATION

Mr. SYMMS. Mr. President, every American should be committed to energy conservation and efficiency as a means of meeting our long run demand for electricity, natural gas, and water. Since the sudden awareness of the rising costs of energy and clean water have come upon us in the recent past, many industries have significantly increased their efforts for conservation—since conservation of existing supplies and capacity is a good substitute for new supplies and new production capacity.

The electrical utility industry, for example, spends more than $1 billion each year to promote energy efficiency and, at present involves more than 15,000,000 residential customers in some type of energy program. These programs enable the industry to influence the consumption of electricity by curtailing use at times and by promoting its efficient use.

While individual customers are the most direct beneficiaries of public utility conservation programs, all customers ultimately benefit from the impact on total demand, which allows the several public utility industries to postpone or avoid the construction of new generating facilities. For that reason, many public utility programs include consumer-payment incentives for participation in energy conservation and efficiency programs.

The Internal Revenue Service, however, in a technical advice memoranda, has recently indicated that payments made by a utility for energy efficiency activities must be included in a customer's gross income and reported by the taxpayer. The IRS ruling apparently overlooks the existence of section 216(i) of the National Energy Conservation Policy Act, which, until June 30, 1989, allowed a customer to exclude from gross income incentives paid by a utility for energy conservation measures. NECPA expired last summer—it was not repealed or overturned by Congress; it simply sunset.

I understand the IRS is reviewing its decision based on additional input from the electric utility industry and others and may reverse its decision based on the long-standing public policy of encouraging conservation.

Mr. President, I sincerely hope the IRS will administratively review its decision, and reaffirm the generic concept that incentives paid in cash to consumers by suppliers simply constitute trade discounts or reductions in the purchase price, and therefore are not taxable income to the consumer.

However, the outcome at the IRS is unclear at this time and a legislative effort, in parallel with the work at the Internal Revenue Service is in order.

Prior to the issuance of the technical advice memo, commercial and industrial customers have, in many instances, used incentives paid by the utility to acquire more efficient capital equipment. As a reduction in an asset's purchase price and, therefore, a reduction in depreciation expense the Federal Government has benefited as well on the revenue side due to a resultant increase in the utility consumer's net income subject to tax.

The result of the IRS ruling on commercial and industrial customers is that they must include the incentive directly as income. This turns an incentive into a disincentive. What a shortsighted ruling. This will inflate the income of the customer over previous methods of accounting to the point that the customer may not be interested in participating in the public utility's conservation program. Then subsequently the public utility will have to invest in future production capacity to supply a generally less conservation-oriented population. Afterall the moaning and groaning we have had to undergo in the debate over the clean air bill, I would certainly expect all of my colleagues to support my proposal here to establish the principle that cash incentives are nothing more than reductions in price to consumers.

To provide legislative authority that would state conclusively that incentives paid for energy efficiency are not included in gross income calculations I am introducing today a bill to reinstate the exclusion from gross income, for all public utility customers, both residential and commercial-industrial, incentives paid for energy efficiency. In the commercial and industrial sectors the incentives would be allowed to be carried as some other tax treatment, including but not limited to modifying, depreciation schedules and rates for energy efficiency measures promoted by the utilities.

By Mr. BIDEN (for himself, Mr. KENNEDY, Mr. SPECTER, Mr. CRANSTON, Mr. DECONCINI, Mr. D'AMATO, Mr. KERRY, Mr. ADAMS, Mr. LIEBERMAN, Mr. JOHNSTON, Mr. SIMON, Mr. BRADLEY, Mr. PRYOR, Mr. METZENBAUM, Mr. HEINZ, Mr. HEFLIN, and Mr. BAUCUS):

S. 2313. A bill to provide emergency Federal assistance to drug emergency areas; to the Committee on the Judiciary.

DRUG EMERGENCY AREAS ACT

● Mr. BIDEN. Mr. President, today I am introducing the Drug Emergency Areas Act of 1990, a bipartisan alternative to the President's approach. The drug emergency areas legislation will provide emergency assistance to the cities, towns, and communities that have been the hardest hit by the drug problem confronting this Nation.

The drug crisis in this country is taking a toll on U.S. cities unlike any natural disaster in modern history. Each year, thousands die in drug-related violence and overdoses. Tens of billions of dollars are lost in health costs and lowered productivity. The drug crisis has—literally—destroyed neighborhoods in every major city in this country.

When natural disasters have hit this country—Hurricane Hugo and the San Francisco earthquake to name the most recent ones—this Nation responded in a selfless fashion, rushing billions of dollars in Federal emergency assistance to help these areas rebuild.

No one seriously questioned how much it would cost, or where the money was coming from. The safety, health, and welfare of thousands of Americans was at stake. They were emergencies. They required an emergency response.

Mr. President, we need a similar response to the drug crisis in this Nation.

This is not the first time that we have tried to address the drug crisis in our cities. In November 1988 Congress passed—and the President signed—the Anti-Drug Abuse Act. This law directed the President to designate high intensity drug trafficking areas. Once designated, these areas were to receive immediate Federal assistance to these hard hit areas.

Fifteen months after the law required the President to act, not a single Federal dollar, not a single extra police officer, not a single extra treatment bed has been delivered to these hard hit areas.

Fortunately, the President's latest drug plan does designate five cities as high intensity areas. New York City, Miami, Los Angeles, Houston, and the Southwest border. At some point in the future, these areas will split approximately $50 million to beef up antidrug efforts—about $10 million each. And, if history is a guide, the money will be used primarily for Federal law enforcement efforts—based on the Washington, DC, plan launched by Director Bennett last summer.

Frankly, the President's plan is simply too cautious to respond to the drug crisis in these areas. In the 15 months that we have waited since the high-intensity drug law was enacted, the drug problem in our cities and communities has not gone away. In many areas, it has gotten worse. And virtually nothing has been done to help less-populated areas—rural and suburban communities—where drug traffickers have overwhelmed the ability of local law enforcement agencies.

That's why 16 of my colleagues and I are introducing the Drug Emergency Areas Act of 1990 as a bipartisan alternative to the President's plan. Our legislation is both simple and direct. It would:

Provide $300 million—six times the amount in the President's antidrug plan—in emergency Federal assistance to those areas of the Nation hardest hit by drug trafficking, abuse, and related violence;

Direct that emergency Federal aid be available not only for big cities, but also to rural and suburban areas, where the drug crisis has overwhelmed the ability of State and local law enforcement agencies to respond; and

Allow funding for both law enforcement and prevention and treatment initiatives—to attack the problem at every possible level.

Mr. President, there is one additional—and perhaps the most critical—difference between this new initiative and the President's plan.

My bill offers direct Federal assistance to the cities and counties where the drug problem hits the hardest, and where emergency assistance is needed the most. Federal assistance to drug emergency areas should be delivered the same way we help areas affected by natural emergencies—directly to the local officials who know what needs doing, and how best to do it.

Last month, at a Judiciary Committee hearing on the urban drug crisis, the Republican mayor of Kansas City, Richard Berkley, and the Democratic mayor of New York, David Dinkins, endorsed my drug emergency areas legislation. The bill is also strongly supported by the National League of Cities and the Delaware League of Local Governments.

Mr. President, drug trafficking and abuse in our cities is a national emergency. We need an emergency response. I believe the Drug Emergency Areas Act is a major step in the right direction.

I ask unanimous consent that the bill, an explanatory factsheet and a chart comparing this legislation with the President's plan be printed in the CONGRESSIONAL RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Emergency Areas Act of 1990".

SEC. 2. DRUG EMERGENCY AREAS.

Subsection (c) of section 1005 of the National Narcotics Leadership Act of 1988 is amended to read as follows:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may be regulation require. One or more cities, counties or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) Any request made under clause (A) of this paragraph shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that effective response to save lives, and to protect property and public health and safety, that Federal assistance is necessary.

"(C) The President shall not limit declarations made under this subsection to highly-populated centers of drug trafficking, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor(s) chief executive officer(s) shall—

"(i) take appropriate response action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State and local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, $50,000,000.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(ii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor(s) or chief executive officer(s) may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) Any State and/or local government receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Within 90 days after the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal Assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of such assistance based on the goals contained in the application for assistance.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1991, 1992, 1993, 1994, and 1995, $300,000,000 to carry out the purposes of this subsection.".

DRUG EMERGENCY AREAS ACT OF 1990

GENERAL BACKGROUND

Modeled closely on the Federal Disaster Assistance program, the Biden-Kennedy-Specter-Cranston Drug Emergency Areas Act (DEAA) would provide direct federal aid to areas that are particularly hard hit by drug abuse, trafficking and violence—and where state and local agencies are overwhelmed and unable to respond effectively.

WHO WOULD GET HELP?

The Drug Emergencies Areas bill would allow any local official to apply directly for aid:

Any city (irrespective of its population) could receive aid if the President declares that the area is in need of federal assistance due to a high level of drug trafficking, drug abuse, or drug-related violence.

A "yes or no" response by the Drug Director's office to any such application would be required within 30 days.

EXACTLY WHAT ASSISTANCE DOES THE DEAA PROVIDE?

Funding.—Up to $50 million in "emergency relief aid" would be available to a specific drug emergency area.

These funds would be provided directly to the state or local government.

Other.—The Act also authorizes increases in the number of federal agents in such areas.

Also, it provides communications, intelligence and equipment to such areas.

WHAT ARE THE MAJOR DIFFERENCES BETWEEN THIS PROPOSAL AND THE ADMINISTRATION'S PLAN?

The Drug Emergency Areas Act is an alternate to the Administration's High Intensity Drug Trafficking Area Plan. What are the differences between them?

1. More aid.—The DEAA would provide $300 million in new aid to hardest-hit areas—up to a maximum of $50 million per city.

The Administration's plan provides a total of $50 million.

2. More cities eligible.—As mentioned above, any city could apply for and receive aid under the DEAA if designated an "emergency area" by the President.

The Administration's plan limits aid to five specified areas (New York, Los angeles, Miami, Houston, and the Southwest Border).

3. Direct funding.—The DEAA provides immediate and direct aid to local governments, designated "drug emergency areas."

The Administration's plan, according to current accounts, will focus on expanding federal task forces within the five specified areas.

4. Use of funds for demand reduction.—The DEAA directs that local governments spend emergency relief funds on both supply and demand reduction efforts, unless local conditions dictate otherwide.

The Administration's plan is expected to focus almost exclusively on law enforcement.

COMPARISON OF PROVISIONS FOR DRUG EMERGENCY AREAS

Issue	Bush plan	Bipartisan alternative
Funding level	$50 million	$300 million.
Funding targets	100% enforcement (?)	50% enforcement; 50% prevention.
Targeted areas	New York, Los Angeles, Houston, Miami, Southwest Border.	Any area designated a drug emergency area by the President.
Direct funding		Yes (100%).●

● Mr. SIMON. Mr. President, I rise today in support of important legislation that will provide much-needed assistance to communities battling the scourge of drugs and crime. The Drug Emergency Areas Act of 1990 represents our commitment to win the war on drugs, on all fronts.

Mr. President, our Nation is faced with a terrible crisis. While Government studies report a decrease in casual drug use, there are more people using dangerous drugs like cocaine, and its derivative crack, in greater quantities than ever before. The ravaging effects of illegal drug use and drug abuse do not discriminate between young and old, rich or poor, black or white. We, as a nation, are all victims.

The Drug Emergency Areas Act is an alternative to the administration's high-intensity drug trafficking area plan. The act is a better way to attack the problem of drugs and crime in the United States. It provides $300 million in new money for communities across the Nation currently unable to cope with their drug-related problems. The administration's plan earmarks only $50 million for the effort, and specifies only five areas to receive funds. I am very concerned that Chicago, a city that unfortunately has it share of drug-related problems, is not included in this group. The legislation introduced today would enable all communities to apply for and receive aid.

This act recognizes the plight of many American communities beset with the problems of drug use, abuse, and related criminal activity. Funding will be made available directly to any community, or collection of communities, designated as emergency areas by the President. We are not excluding any area from the possibility of receiving emergency aid, nor are we biased toward high-population areas. In my own State of Illinois, I want to ensure that rural areas, many of which have contacted me in search of support for local or regional programs, have as much opportunity to receive funding as a city like Chicago, which is also deserving of assistance. The drug problem is as serious in many rural areas as it is in our cities—all communities deserve relief.

The legislation also recognizes that the drug problem is multifaceted, that a variety of tactics must be used to combat it. This is a point missed by the administration. Its plan is not only limited geographically, but it will focus almost exclusively on law enforcement programs. My support for our men and women in law enforcement is well known, but I also believe that education, counseling, and treatment are of key importance in our efforts to combat drugs. Communities receiving emergency aid under this act must divide it evenly to develop supply and demand reduction programs. I applaud this even-handed approach; law enforcement is not going to solve the problem alone. It must be complemented with education, treatment, and counseling programs.

Mr. President, the war on drugs is one that we as a nation must win, one that we will win. The front line of this war is at the local level. That is why this legislation is so important. By providing emergency relief to communities of every size, the battles can be fought effectively by people at the local level who know what they are trying to accomplish. Now is not the time to abandon these efforts.

I am proud to consponsor the Drug Emergency Areas Act of 1990, and I strongly urge my colleagues to join me in this effort.●

● Mr. ADAMS. Mr. President, I am pleased to join as an original cosponsor of the Drug Emergency Areas Act of 1990. This legislation will provide local communities with vitally needed Federal resources to enable them to fight back against the drug trafficking, drug abuse, and drug-related violence that is beginning to overwhelm communities across this country.

When Congress passed the National Narcotics Leadership Act of 1988, we gave the Director, or so-called drug czar the authority to designate high-intensity drug trafficking areas, and to commit additional Federal resources to assisting State and local authorities in waging the war against domestic drug trafficking. Unfortunately, Director Bennett has chosen to interpret this authority in a narrow and restrictive manner, giving primary consideration to high-population, high-volume areas such as New York, Miami, Los Angeles, and Houston. While those areas are, obviously, in need of assistance, there are other cities and counties, many of which are in rural, less populated areas where the need for Federal help matches, and in some cases, exceeds, the needs in our major urban cities.

Mr. President, earlier this week, yet another national news program focused on Yakima County, WA, and the effect that drug trafficking is having on that community. The reporter sat with local officials as they watched Mr. Bennett's nationally televised address announcing the second year of the administration's effort to reduce the supply and demand for drugs in this country. The mayor of Yakima, Pat Berndt, expressed the disappointment of her entire community when Mr. Bennett listed his choices for designation as high-intensity drug trafficking areas. Yakima County was conspicuously absent from the list.

Mr. President, I ask unanimous consent that my letter to Director Bennett urging that designation for Yakima County, together with the letter of response from Stanley Morris, Deputy Director of the Office of Supply Reduction be entered in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 8, 1990.

WILLIAM BENNETT,
Director, Office of National Drug Control Strategy, Old Executive Office Building, Washington, DC.

DEAR DIRECTOR BENNETT: I very much appreciate your having taken the time to visit several communities in the state of Washington to discuss your role, and that of the Office of National Drug Control Policy, in leading the federal government's war on drugs. In recent months, I have had the opportunity to spend time with many of the same local officials and private citizens in each of the communities you visited, to get a first hand view of the extent of the drug problem locally, and to try to ascertain how our federal government can help those on the front lines of this urgent national effort.

It has become apparent that existing state and local resources, and present federal support, are simply inadequate to deal with the nature and extent of the narcotic trafficking problem in the Yakima Valley. Therefore, I am writing to urge that you utilize your authority under Section 1005(c) of the National Narcotics Leadership Act of 1988 to designate Yakima County, Washington, a "high intensity drug trafficking area". I am aware that you have already given this designation to the cities of New York, Miami, Los Angeles, and the Southwest border region of our country. My reading of the criteria for such designation contained in the statute, together with data assembled by state, local and federal authorities who are aware of the magnitude of the drug trafficking problem in Yakima County lead me to conclude that such a designation is fully warranted.

The trail of death, criminal behavior, and strained local resources that accompany this illicit trade is growing by the day in virtually every community in the Pacific Northwest. While our larger counties are managing to cope with the crisis, the criminal justice system in Yakima County is on the verge of collapse. I believe that an urgent need exists for you to utilize your authority to put additional federal resources into the state and local battle against narcotics trafficking in Washington state that emanates out of Yakima County.

On November 20, 1989, local officials in Yakima County held a Law and Justice Summit entitled "The Criminal Justice Crisis in Yakima County". I understand that you have been provided with a copy of the report of that meeting. The statistics released at that conference document a frightening trend: a 34% increase in major felonies over the last five years, over 80% of which are drug related; a 206% increase in narcotics arrests in the City of Yakima in the last four years, 87% of which involve cocaine or herioin; an overloaded criminal justice system with twice as many felony filings per capita than the rate in our state's most populous county; prosecutors, public defenders, juvenile and adult probation officials whose caseloads are as much as three times the recommended national standards. In addition, the relatively new Yakima County Jail is operating 30% over capacity, while thousands of felony arrest warrants, many for narcotics violations, remain outstanding because there is no space in which to house additional prisoners. As a result of Yakima County's status as a major regional narcotics distribution point in our state, the already excessive demand for police, prosecutors, defense services, judicial administration and jail capacity is expected to continue to grow.

As you know, the use of illegal drugs in the major cities of my state has created law enforcement problems similar to many of the other urban areas you have visited around the country. Because of the particular "pipeline" effect existing in this largely rural county, I am convinced that your immediate attention to the problem of narcotic trafficking in central Washington would have significant benefits. For several years, highly potent Mexican "black tar" heroin has been distributed through Yakima County to Seattle, Tacoma and Spokane. In more recent years, large quantities of "crack" cocaine have moved through the Yakima Valley distribution points to my state's urban areas. Law enforcement officials have advised me that Mexico is the source of these narcotics, and illegal aliens are the couriers.

As we approach the first anniversary of your tenure in office, I want you to know that I look forward with keen anticipation to your February 1, 1990 submittal of the annual National Drug Control Strategy as required by law. As a member of the Senate Appropriations Committee, I am prepared to be a tenacious advocate for additional funding to assure local communities the resources to match or exceed the rhetoric that has come from Washington, DC. regarding federal assistance in this effort. As a former United States Attorney, I firmly believe this battle can be won at the local level, but only if the federal government is a full partner in the struggle.

Directing additional federal resources and personnel from the Drug Enforcement Administration and Immigration Service into Yakima County at this time will benefit the urban counties of King, Pierce, and Spokane, where street sales of narcotics distributed through that area is overburdening local criminal justice systems. Perhaps most importantly, designating Yakima County, Washington as a "high intensity drug trafficking area" would demonstrate the commitment of your office to assuming the kind of aggressive federal role contemplated by the Congress in passing the National Narcotics Leadership Act of 1988.

Sincerely yours,

BROCK ADAMS,
U.S. Senator.

OFFICE OF NATIONAL DRUG CONTROL POLICY, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, February 1, 1990.

Hon. BROCK ADAMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR ADAMS: Thank you for your letter of January 8, 1990 regarding your concern for the serious drug trafficking problems in the Yakima, Washington area. After Director Bennett's visit to the Yakima area last fall, I was asked to review the drug situation in the Central Washington area and to identify ways to support Federal, State and local efforts.

The Office of Supply Reduction recognizes that the Yakima area is a drug trafficking hub that effects the supply of drugs to other areas in the northwest and will make recommendations for additional resources to support ongoing law enforcement efforts. An enhanced Federal presence of DEA, INS and prosecutors, for example, is being reviewed.

Though your area was not designated as a "High Intensity Drug Trafficking Area,"

I'm sure you understand the significance of the five major areas selected: Los Angeles, New York, Miami, Houston and the Southwest Border. Los Angeles and the Southwest border effect the supply of drugs in your area, so by concentrating our resources there we can also make some impact on the supply to Yakima and other areas.

Sincerely,

STANLEY E. MORRIS.

HIGH INTENSITY DRUG TRAFFICKING AREA

To simply recite that the federal government "recognizes that the Yakima area is a drug trafficking hub that affects supply of drugs to other areas of the Northwest" does nothing more than state the obvious. During his first year in office, Mr. Bennett personally visited Yakima, met with local officials, and saw the effects on a county that is now spending 70% of its general fund budget on law and justice. By visiting a beautiful, central Washington community that has emerged as our regional crime capital, Director Bennett obtained personal knowledge of the crisis that community faces. And despite the fact that Yakima now has a drug-related serious crime rate that exceeds every city designated for special assistance in Mr. Bennett's address, Yakima receives only a vague promise of some potential future federal assistance. Mr. President that is just not good enough. Clever sound bites and inspirational speeches are of no use to the citizens of Yakima County. The legislation we are introducing today will provide real, meaningful assistance to help Yakima and other local communities stem the flow of drugs and drug related crime that are driving the institutions of local government to the brink of collapse.

The Drug Emergency Areas Act of 1990 will allow Yakima County and other local communities to apply directly to the President for emergency assistance. Within 30 days of receipt of the application, the Director of the Office of National Drug Control Strategy would have to respond, "Yes or no". Quite frankly, given the scope of the problem now facing Yakima County, and in light of the excellent job done by local officials last November at their law and justice summit conference entitled "The Criminal Justice Crisis in Yakima County", Director Bennett should need about 30 seconds to designate Yakima for assistance under this legislation.

Mr. President, if a county anywhere in this country suffered from the effects of a hurricane, or a flood, or some other natural disaster, that county would apply for and receive federal disaster assistance. Under this bill, when a county such as Yakima is suffering from a flood of drug trafficking, and from the unnatural disaster of cocaine importation, and Mexican "black tar" heroin sale and use, similar federal assistance would be forthcoming.

Our national drug strategy is being fine-tuned and improved by this legislation. The local officials I have met with over the last year in Yakima, Seattle, Tacoma, Spokane and Vancouver have unanimously asked for some form of federal assistance in cutting off the flow of drugs from Yakima. This legislation responds to that request. Those same officials have also pointed out that the front line of our drug battle is on the streets of local communities. This bill responds to that fact by allowing local officials to play a key role in developing strategies for fighting back at the local level.

To have an impact on our nation's 150 billion dollar illegal drug business, we need a strategy that is as creative and imaginative as the distribution plan being followed by the drug dealers. We cannot help Yakima by relying on a plan that focuses on major cities, while ignoring Yakima and other small towns and rural communities that are now attracting major drug dealers. The institutions of local government: the criminal justice system, the courts and treatment programs, the drug prevention programs in local schools, and all the other pieces of a local drug prevention strategy will be outspent and outgunned if the federal government fails to be a full partner in the effort.

I call my colleagues attention to the clause of this bill which states' "The President shall not limit declarations made under this subsection to highly-populated centers of drug trafficking, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond". I appreciate Chairman Biden's willingness to add this clause to the bill. I call it "the Yakima amendment", because it provides Director Bennett with specific direction, and it provides the citizens of my state with some hope that the disappointment experienced by the citizens of Yakima County after Mr. Bennett's recent speech need not continue indefinitely.

I urge my colleagues on both sides of the aisle to join with those of us who have introduced the Drug Emergency Areas Act of 1990 today. This legislation recognizes an emergency situation, and responds to it. It would certainly be an ironic legacy of the 101st Congress for us to respond to the emerging democracies of eastern Europe with assistance, and to the rebuilding of democratic institutions in central America, and yet neglect the threatened and besieged democratic institutions in Yakima County, Washington and other small towns and rural areas of America.●

● Mr. KENNEDY. Mr. President, the 1988 Anti-Drug Abuse Act gave the Drug Director specific authority that Senator BIDEN and I authored to designate certain areas as "high intensity drug areas." We left considerable discretion with the Director in exercising that authority. Our concept was intended to provide a mechanism for the Federal Government to bring greater pressure to bear on areas of the country hardest hit by the drug problem.

The legislation we introduce today expands on this concept by authorizing the President to declare "drug emergency areas." Currently, the Drug Director's authority is limited to reassigning existing resources and that authority is important. This new proposal will authorize the President, on the advice of the Drug Director to inject new resources to high density areas, instead of taking away important resources from other assignments. This legislation will provide an important and indispensable weapon in our fight against drug abuse. I intend to pursue similar authority to enable the President to direct emergency relief for areas with acute educational treatment needs.

The Nation is at a critical turning point in the war on drugs. A winning strategy against drug abuse involves three approaches: law enforcement, prevention, and treatment. Each is vital, and none can be downgraded or ignored. On the enforcement side of the drug war, wiser policies and more resources are needed, especially at the State and local level—where the real war is fought every day on our streets and in our communities. We must learn to support our State and local police—and do it without abandoning fundamental constitutional guarantees or turning any local jurisdiction into a police state.

More important, Federal law enforcement officials must do a better job of coordinating Federal efforts, so that we direct drug enforcement resources in a way that brings maximum pressure on drug trafficking organizations here and abroad.

In recent months the Senate has approved enhancements in State and local law enforcement authority, tougher asset forfeiture, quicker prosecutions of drug offenders, broader use of civil sanctions, high-intensity drug trafficking area improvements, and additional Federal trial judges for areas of the country hardest hit by the drug crisis.

We have also included a provision to encourage Federal prosecutors to make broader use of civil injunctions, including stay-away orders to keep offenders out of drug trafficking areas and crack houses, and to use RICO's civil and forfeiture sanctions against all criminal offenders. Offenders who violate these civil orders would be subject to enhanced punishment at the discretion of the court.

Taken together, these provisions will provide substantial new assistance to all levels of our law enforcement and civil justice system.●

● Mr. BRADLEY. Mr. President, I rise to join Senator BIDEN in introducing the Drug Emergency Areas Act of 1990. This legislation will provide $300 million in aid to areas particularly hard hit by drug abuse. The bill provides more police officers on the street to cut the supply of drugs as well as more education and prevention programs in our schools and communities to reduce the demand for drugs.

Mr. President, last year Congress provided $25 million to expand Federal law enforcement efforts in areas designated by the President as "high-intensity drug trafficking areas." Earlier this year, the administration designated the New York area as one of the areas to receive extra help. It is my understanding that because of this program, North Jersey should receive extra Federal agents to combat the drug problem.

This legislation goes much further. Localities hardest hit by the drug problem need more than extra Federal agents. They need a larger police pres-

ence on the streets to protect our citizens and more comprehensive drug education programs in their schools to help ensure that the future of our children is a safe and healthy one.

Some of the urban areas of New Jersey have been particularly hard hit by the drug problem. Under this legislation, these cities could receive extra Federal aid if the President declares that the area is in need of assistance due to the high level of drug trafficking, drug abuse, or drug-related violence. I fully expect that many New Jersey communities will benefit greatly by this new program.●

Mr. CRANSTON. Mr. President, I am pleased to join as an original cosponsor of the Drug Emergency Areas Act of 1990. This legislation would provide $1.5 billion, equally divided over a 5-year period, to areas on the front lines in the war against drugs.

In the Anti-Drug Abuse Act of 1988, Congress recognized that some localities needed additional Federal resources if they were to battle the drug crisis successfully. Accordingly, Congress authorized the designation of high-intensity drug trafficking areas, areas which, because they faced acute drug problems, would receive additional Federal help in their antidrug efforts. The administration finally acted this year to name Los Angeles, New York, Miami, Houston, and 34 counties along the Southwest border as high-intensity areas. However, the President's budget only allocates $50 million for the high-intensity program for the fiscal year 1991, a $25-million increase over current funding. Mr. President, I have been one of the principal supporters of the high-intensity designations. However, given the proposed funding, the administration's program simply is not good enough.

If we are serious about fighting drugs in this country, we must give cities and States the resources they need to do a thorough job, and we must encourage them to create their own plans of attack. The Federal Government must do far more than it is doing if we're going to respond adequately to the drug crisis that is destroying neighborhoods and communities across the country.

The legislation introduced today is an important beginning. It would allow any area that can prove that its drug problem is so severe that it cannot be managed solely by the State or local government to apply for up to $50 million in Federal grants to help combat drugs. Any Federal funds received must be augmented by State or local governments, with no more than 75 percent of the money coming from Federal grants, and no less than 25 percent coming from the government of the area which receives the funds. The requirement that the areas receiving funds provide at least 25 percent of the total means that cities and States must make a serious commitment to working with the Federal Government in combating this national problem.

Under this bill, hard-hit drug areas like Oakland, Sacramento, and San Diego no longer will have to wait to be designated specifically for special help. Any locality that can show its need would be eligible for Federal assistance. Moreover, under the provisions of this bill, the money could be used for drug treatment and antidrug education as well as for law enforcement.

It would be easy in legislation such as this to focus exclusively on the law enforcement approach to the drug crisis. But such an approach, to the exclusion of the demand side, is an unbalanced approach. Thousands of people die each year from drug-related violence and overdose, and tens of billions of dollars are lost in health costs and lowered productivity. If we reduce the demand for drugs through treatment and community-based prevention efforts, we can make law enforcement more effective and reduce the problems our law enforcement officials face. Passage of this legislation would allow local governments to balance better their treatment and law enforcement needs.

Mr. President, in order to mount a credible war against drug abuse and its attendant effects, cities and States must have the resources and the autonomy to do what they believe best. To that end, this legislation is a needed boost in our battle against drugs.

● Mr. LIEBERMAN. Mr. President, I am pleased to be an original cosponsor of the Drug Emergency Areas Act of 1990, which was introduced today by my colleague from Delaware, Senator BIDEN. I would like to commend Senator BIDEN for the initiative he has shown, not only with this measure, but in leading the Senate's fight in the war on drugs.

Modeled on the Federal Disaster Assistance Act with which we are all familiar, the Drug Emergencies Areas Act allows the President, upon request by either State or local government, to declare certain States, counties, or cities to be a drug emergency area. These States, counties, and cities would then be eligible for Federal assistance to combat drug trafficking, drug abuse, or drug violence. The act would require the Director of National Drug Control Policy to forward a recommendation to the President within 30 days of application by a State, county, or city for designation as a drug emergency area.

Mr. President, I am pleased that this act, unlike the President's high-intensity drug trafficking area plan, focuses on demand reduction problems as well as supply reduction. While we must vigorously attack sources of drug supply, we must also vigorously look for ways to lower the demand for drugs in our communities. Indeed, until we can curb demand, we will not have halted our drug plague.

In stark contrast to the administration's budget, which would allocate only $50 million for emergency assistance, this bill would authorize $300 million a year to be appropriated for local drug emergency assistance. While such a large figure always makes me think twice during this era of budget deficits, I know we must not be penny-wise and pound-foolish. Failure to take strong action now to stem the tide of drugs will result only in larger and greater expenditures in the future.

We must invest now in a drug-free America. I urge my colleagues to support this act, which would give our State and local governments some badly needed added assistance in fighting the war on drugs.●

By Mr. FOWLER (for himself, Mr. MCCONNELL, Mr. HELMS, and Mr. FORD):

S. 2314. A bill to amend the Agricultural Act of 1949 with respect to the level of milk price support in effect for 1991 through 1995; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY STABILIZATION ACT

● Mr. FOWLER. Mr. President, I rise to introduce, along with my friend, the Senator from Kentucky, the Dairy Stabilization Act of 1990, which establishes a price support program for milk through 1995.

This bill, we hope, will accomplish what its title suggests. We are emerging from a decade of budget problems and inefficiency in our dairy programs. Through this legislative effort, we seek to avoid a return to the difficulties of the last decade in the 1990's.

This legislation does not repeal or amend any existing dairy laws, but it does make a major change in calculating dairy surpluses by using both the milkfat and the nonfat solids components of whole milk. Present law uses only the milkfat component of milk in these calculations. In addition, the bill raises levels at which price adjustments are triggered.

The price support level would be increased if purchases of both milkfat and nonfat solids exceed the amounts contained in 3.5 billion pounds of milk. Price support reductions would not be triggered until purchases exceed both the milkfat and nonfat solids contained in 7 billion pounds of milk. If purchases of either milkfat or nonfat solids exceed the amounts contained in 10 billion pounds of milk, the support price would be reduced.

CCC purchase prices will be adjusted to better reflect the relative market values of the milk components when either the milkfat or nonfat solids

exceed the amount contained in 7 billion pounds of milk. Additionally, the Secretary of Agriculture will have discretionary authority to implement production adjustment measures if either the milkfat or nonfat solids exceed the amounts contained in 12 billion pounds of milk. This authority would also limit the extent of additional price support adjustments.

In contrast to the dairy programs of the 1980's, this legislation will establish a cost-effective and fiscally responsible program. At the same time, it will ensure a stable market for America's dairy farmers.●

● Mr. McCONNELL. Mr. President, today I join my colleague from Georgia as we introduce the Dairy Stabilization Act of 1990. This bill would establish a new 5-year price support program for milk. It does not repeal or amend any existing dairy laws, but simply allows for a change in calculating dairy surpluses.

Over the 40-year period that the Federal dairy price support program has been in effect, there have been only two occasions when milk production exceeded commercial use to the extent that burdensome surpluses of dairy products have been held by the Commodity Credit Corporation. The first was in the early 1960's and more recently in the 1980's.

The Food Security Act of 1985 had the primary objective of increased market orientation through a gradual realignment of supply and demand through price support adjustments. There is a general consensus among dairy producers of my State of Kentucky and also with producers nationwide that dairy policy is working.

Currently, supplies are stable and consumption is strong, nearly balancing supply and demand. Government stocks of cheese and powdered milk have disappeared, and the support price for butter is being adjusted to closely reflect its market value. Therefore, I believe there is no time to be proposing major changes in the Dairy Program. Instead, let us focus on small changes that will prepare and enhance the future of the dairy industry.

Mr. President, this bill will extend authority for a market-oriented dairy price support program through 1995, while also providing discretionary authority for the Secretary of Agriculture to implement additional adjustment measures. Government inventories will be maintained within limits sufficient to meet the demand for dairy products needed in Federal food assistance programs and still keep budget outlays, associated with the program, within generally acceptable limits.

More specifically, beginning January 1, 1991, the Secretary shall base price support adjustments on estimates of annual Commodity Credit Corporation purchases of both milkfat and nonfat solids components. Price support reductions would not be triggered until purchases exceed both the milkfat and nonfat solids contained in 7 billion pounds of milk. Also, if purchases of either milkfat or nonfat solids exceed the amounts contained in 10 billion pounds of milk a price support reduction would be triggered.

CCC purchases prices for dairy products will be adjusted to better reflect the relative market values of the milk components, when either the milkfat or nonfat solids exceed the determined level. This new method of calculating the support price will help avoid the situation where there is an imbalance in the product that is being purchased. Currently, only butter is being purchased making it the only milk product available to food assistance programs.

I believe this is a fair approach and one equitable to dairy farmers. It allows producers to maintain flexibility and promote efficiency on their farms. Furthermore, the bill will keep Government inventories within acceptable limits and very importantly, does it without transferring the cost of the program to the producer through an assessment or tax. Because the bill does not mandate reductions in herd size, administrative costs associated with a quota system are avoided.

Finally, Mr. President, this legislation would provide a national framework for dairy policy. The proven parts of existing law are maintained and changes will allow the industry to adapt to changing market conditions. Farmers can expand herds in milk deficit areas without being penalized. The goal of developing and expanding markets for fluid milk and dairy products will continue both domestically and abroad. Mr. President, our bill is a producer program designed to benefit not a few dairy farmers but U.S. dairy farmers.●

By Mr. FOWLER (for himself and Mr. McCONNELL):

S. 2315. A bill to amend the Agricultural Act of 1949 to provide soybean producers with fair income and freedom of planting choice support, and to eliminate any indirect stabilization of foreign oilseed production; to the Committee on Agriculture, Nutrition, and Forestry.

SOYBEAN GRADUATED EQUITY LOAN PROGRAM ACT

● Mr. FOWLER. Mr. President, I rise today to introduce, along with my friend the Senator from Kentucky, the Soybean Graduated Equity Loan Program Act of 1990. This bill is designed to ensure that the United States remains a major soybean producer in the world market.

Soybeans are an important crop in our country, and in my home State of Georgia. Last year, over 400,000 soybean farmers produced 1.9 billion bushels of soybeans on 59 million acres, with a crop value of over $10 billion. Soybeans rank as Georgia's No. 2 farm income crop. However, I am concerned that Georgia soybean acreage has fallen by almost 50 percent in the last decade and, with it, farm income.

Overall, despite a 25-percent growth in world demand for soybeans over the last 10 years, U.S. production of soybeans had decreased by 17 percent. Our foreign competition has seized this opportunity to expand their production by 75 percent since 1979. The lost income potential for American farmers in 1989 alone amounts to an estimated $2 billion.

One has to wonder why this is happening when market prices are so favorable to soybean production. The answer is that our farmers find more attractive economic returns from program crops.

That is why the 1990 farm bill must include a farm program for soybeans which unleashes the productive potential of the Nation's soybean farmers to produce profitably for the growing world market. The Graduated Equity Loan Program will help level the playing field for American soybean producers and encourage them to plant for the market.

During the past 3 out of 4 years, market prices have been more profitable for soybeans than for corn, yet soybean acreage has continued to fall. In 1988, the same was true for soybeans in comparison to cotton, yet farmers did not respond. We need the Graduated Equity Loan for soybeans to balance the economic returns for soybeans compared to program crops.

By establishing this soybean program, we will, at a very limited cost to the taxpayers, help American farmers regain their prominence in the world soybean market. We will, at the same time, encourage farmers to practice environmentally sound crop rotations that conserve soil and enhance water quality.

Most importantly, this legislation will allow our farmers to base their planting decisions on market signals, not competing Government programs.●

● Mr. McCONNELL. Mr. President, I join in support of legislation introduced to establish a graduated equity loan for soybeans. The Soybean Graduated Equity Loan Program Act of 1990 provides a combination of income support and planting freedom for U.S. soybean farmers.

Times have changed, 10 years ago the United States was the dominant producer of soybeans in the world. We were the leader in not only soybeans, but soybean products. We had captured and held 65 percent of the world trade in soybeans and soybean meal.

Then in 1985, when the Food Security Act of 1985 was written, the U.S.

held less than 50 percent of the world trade in soybeans. In 6 short years we had lost or given away an extremely valuable share of the world market and we are still far short of our potential.

A major goal of the farm bill in 1985 was to make agriculture more competitive, but unfortunately soybean production was not properly addressed. The current non-recourse loan program for soybeans encourages foreign competition by making the U.S. government the buyer of last resort at a guaranteed price in the event of a world surplus. As a result of our policy on soybeans, over the past 10 years, foreign soybean production has increased 75 percent while, U.S. production has decreased 17 percent.

During the time this shift in production was taking place, world demand for soybeans and soybean products increased nearly 25 percent. For every acre of soybeans cut in the United States, our competitors planted an additional 1.3 acres. In my home State of Kentucky, soybean acreage has declined steadily. Kentucky has lost 500,000 acres of soybeans over the last 10 years and nationally there are 14 million fewer acres of soybeans planted.

Farmers are not to blame for this acreage loss; they made sound economic decisions. Even when market prices favor soybean production, producers see larger incentives to plant program crops. Not only would they lose deficiency payments for the program crop acreage shifted to soybeans, but they would also lose acreage base that would have longer term implications to their farming operation.

A combination of these factors have reduced the U.S. share of the world soybean market to only 35 percent. If we do not change our soybean policy this year our acreage will decline more and by 1995 South America could be a larger producer of soybeans than the United States. Think of our lost market share. If the United States had been able to maintain the position we held in 1979, U.S. exports would be 330 million bushels greater in 1989. That is equal to the combined production of Alabama, Arkansas, Georgia, Mississippi, Missouri, Tennessee and my home State of Kentucky.

Erosion in market share must be stopped. The soybean industry is vital to this country and action must be taken before more markets are lost. The Graduated Equity Loan Program will provide a combination of income support and planting freedom crucial to U.S. soybean producers. Farmers across the country have worked together to set up this program, a program that farmers in Kentucky and across the Nation support.

Furthermore, the program could easily include other oilseed crops. As we continue to debate the 1990 Farm bill, I hope that we will be able to incorporate the farmers ideas into the final proposal so it will work for them also. This legislation is a great opportunity to help our farmers and change the current policies that benefit our foreign competitors.●

By Mr. BRADLEY (for himself, Mr. ROTH, Mr. MOYNIHAN, Mr. LAUTENBERG, and Mr. PELL):

S. 2316. A bill to amend the Agricultural Act of 1949 to establish an equitable Sugar Price Support Program, and to require the use of a tariff rate quota to make this program effective; to the Committee on Finance.

SUGAR EQUITY AND REFORM ACT

● Mr. BRADLEY. Mr. President, I rise today to introduce the Sugar Equity and Reform Act of 1990. I am pleased to have Senators ROTH, MOYNIHAN, LAUTENBERG, and PELL join me as cosponsors of this legislation.

Mr. President, our Sugar Program is in desperate need of modification. The program is not good agricultural policy. It is not good foreign policy. And it is not good trade policy. This year, as we draft a new farm bill, we have an excellent opportunity to address some of these problems. I believe the Sugar Equity and Reform Act provides some of the solutions we need.

Under the current Sugar Program, our 12,000 sugar farmers are guaranteed a price of 21 to 22 cents per pound for their sugar, about 7 cents above the current world market price. According to a USDA report released last month, this premium translates into a benefit of up to $50,000 for each of the 9,900 sugar beet farms and a whopping $235,000 for the 1,900 sugar cane farmers. That's a total of $1 billion, a hefty price to pay for a no cost program.

But these high returns to sugar farmers have other pernicious effects. No other crop is so profitable. Indeed, whereas the 1985 agricultural bill decreased price supports for all other major commodity groups, the loan rate for sugar farmers remained the same. This disproportionate return to sugar has had predictable consequences—sugar farmers have increased their acreage, often at the expense of farmers who grow other crops. The total acreage devoted to sugar beet production grew 21 percent between 1982 and 1987—30 percent in California—while cane acreage in Florida increased 17 percent during the same time.

This increase in the area farmed has in turn had predictable consequences—domestic production has expanded rapidly. Cane production was up nearly 25 percent between 1980—the year before the program began—and 1988. Sugar production from beets rose 11.5 percent. And despite a slight decline in the harvest last year, due to the drought in the Midwest and the freeze in Florida, the USDA in its February report expects record harvests this year for both beet and cane.

Mr. President, given the way our current program operates, this record harvest will mean another major decrease in sugar imports, since this is the only instrument the Secretary of Agriculture has to regulate overall supply and thus maintain the mandated market stabilization price. Imports have already been slashed 70 percent from the 4 million ton level the year before the program, with disastrous foreign policy consequences.

Over the past decade, we have spent literally millions of dollars fighting the scourge of communism in Central America and the burgeoning drug trade from the Andean region. Yet, while taxpayers shell out this money in foreign assistance, we undo that aid by closing our market to one of the few ways these same countries have to earn money. According to a Department of Commerce report, in 1987, cutting the sugar quota effectively transferred $126 million from the poor in the Dominican Republic to American sugar farmers. Similarly, we took another $90 million from the Philippines, $35 million from Guatemala, and about $20 million each from Panama and El Salvador. The Caribbean Basin Initiative was designed to bring economic growth and social stability to the countries of the region, and yet the Overseas Development Council estimates that our Sugar Program has offset the entire benefit of CBI. Peru's quota is now 64 percent below what it was in 1982—had it been able to ship at the 1982 rate, some 114,800 tons, it would have had nearly $75 million in export earnings to help promote growth and perhaps discourage production of some of the cocaine that is now devastating American youth.

As the dramatic changes in Nicaragua last month show, we can no longer afford the luxury of an agricultural policy which conflicts so directly with our foreign policy goals. We do not have the money in our budget to provide Violetta Chamoro the resources she will need to reconstruct the Nicaraguan economy, ravaged by years of war and Sandinista mismanagement. And yet sugar is a major export for the country. While the deficit is constraining our aid budget, are we going to add insult to injury by telling Mrs. Chamorro that we're sorry, but we're only going to import 14,700 tons of sugar—a 75-percent cut from 1982?

Mr. President, these flaws in our Sugar Program were obvious before, but the program has resisted change. Now the use of absolute import quotas to maintain the sugar support price at no cost to the Government has been declared illegal by the GATT. We

have no choice but to change the program.

We can make virtue out of this necessity. We can gradually reduce the support prices for our sugar farmers, maintaining their safety net on a basis equitable with other crops. This will allow us to increase imports gradually, promoting our foreign policy objectives. And we can maintain the support program at no cost to the U.S. Government, not by using absolute quotas as before, but by establishing a tariff rate quota which will discourage imports above a level set by the Secretary of Agriculture.

Mr. President, this is in fact what the Sugar Equity and Reform Act of 1990 does. It mandates a 5-percent decrease in the support price over a 5-year period. This decrease is very much what was required of other crops in the 1985 farm bill, restoring balance between the crops. Domestic sugar production will gently return to its more traditional levels as marginal land. This land is now used for sugar only because of the high sugar price and should be taken out of production.

This decline in domestic production will allow the Secretary of Agriculture to gradually increase the level of imports consistent with maintaining the required market price, and given anticipated demand. The overall import level will be divided among our current suppliers, as is done now, and will be charged the current rate of duty: Zero for beneficiaries of the Generalized System of Preferences and Caribbean Basin Initiative, and two-thirds of 1 cent for all others. My bill does set a low, but gradually rising, floor for the import quota to provide some certainty to our suppliers in Central and Latin America, the Philippines and elsewhere, but this floor will remain well below the import quantities expected under the designated support price level.

Finally, SERA establishes a tariff rate which will ensure that any imports above the quantity designated by the Secretary of Agriculture will always cost 1 cent more than the market stablization price of 21 to 22 cents. This difference is sufficient to ensure that, when domestic sugar is available, it will be bought. There will be no forfeitures on CCC loans, and the support program will continue at no cost the U.S. Government.

Mr. President, this bill is essentially the same as S. 552, the Sugar Supply Stabilization Act of 1989, which I introduced on March 9, 1989, along with Senators ROTH, MOYNIHAN, CHAFEE, SPECTER, LAUTENBERG, DOMENICI, KENNEDY, and PELL.

There are, however, two key differences. SERA is a much more moderate program. The loan rate declines only 4 cents from its current 18-cent level over a 5-year period. The previous bill asked for a 5-cent decline in 4 years. In addition, while S. 552 mandated that the import quota increase 500,000 tons each year for 4 years, SERA suggests increasing the quota floor by half that amount—250,000 tons—each year until it reaches a level of 2 million tons in 1955.

The second difference is the use of the tariff rate quota rather than absolute quotas to regulate supply and demand. This would make the Sugar Program fully legal under the General Agreement on Tariffs and Trade. But there is more to it than that. Every day that we delay implementation of the GATT decision against our sugar quota regime, we give our trading partners an excuse not to implement GATT decisions in our favor, notably increasing access for our dairy products in Canada and for our beef in Korea. Once again, sugar is benefitting at the expense of other agricultural sectors.

I believe that reforming our Sugar Program now, making it GATT consistent, will provide a significant impetus to the agricultural talks in the Uruguay round. If we are seen as willing to undertake politically difficult reforms, we will give others—most notably the Europeans—courage to do the same. By establishing a tariff rate quota that is gradually liberalized over 5 years, we will also be showing other countries how they can dismantle some of their barriers to agricultural trade. Indeed, the administration has proposed a similar mechanism in the GATT talks; we will strengthen the American negotiating position if we are seen as being clearly willing to take some of our own medicine.

There are many other reasons to adopt the Sugar Equity and Reform Act. The current program is bad industrial policy, weakening U.S. competitiveness. As merely one example, the candy industry saw imports skyrocket 140 percent between 1980 and 1987; many other food processing industries have been similarly affected. The program is also bad environmental policy, as the debate over the ecological impact of the sugarcane industry on the Everglades shows. And it is bad consumer policy—for after all, it is the consumer who pays $2 to $3 billion a year to maintain this no cost program.

But in the end, it is the inequities created in our agricultural policy, the contradictions with our foreign policy, and the inconsistencies with our trade policy, that demand that the sugar program be changed this year.

Mr. President, I ask unanimous consent that a section-by-section analysis of this bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SUGAR EQUITY AND REFORM ACT OF 1990: SECTION-BY-SECTION DESCRIPTION

Title I.—Modifies the Agriculture Act of 1949 to establish an equitable sugar price support program.

Section 101.—The Secretary is required to reduce the loan rate for raw sugar by five percent a year in order to gradually adjust supports to a more equitable level. This would result in the following loan rates:

Crop year:	*Cents/pound*
1991	17.10
1992	16.25
1993	15.44
1994	14.67
1995	13.94

The effective level of price support (the Market Stabilization Price or MSP) would eventualy decline 18-20 percent, depending on how much ocean freight costs increase over the next five years.

This would impose the same 10-15 percent reduction on sugar as the Food Security act of 1985 imposed on other crops, and would provide for a modest additional reduction comparable to what other crops might experience either in the 1990 Farm Bill or as a result of other measures to reduce the federal budget deficit. By 1995/96 the MSP would be about 18 cents per pound, i.e. the same as the current loan rate.

Other aspects of the sugar program would be continued in their current form. The Secretary would set the loan rate for refined beet sugar at its traditional level relative to that for raw cane sugar. Loans would be for a period of six months and would mature before the end of the fiscal year in which they are issued so that the Commodity Credit Corporation books will not show significant outlays or revenues from the sugar program.

Title II.—Requires the use of a tariff rate quota to make the sugar price support program effective and to enable the United States to meet its obligations under the General Agreement on Tariffs and Trade, provides guidelines for implementation of such tariffs, and strikes the no cost provision.

Section 201(a).—This requires the Secretary to announce both a "market stabilization price" (MSP) and a "threshold price' 30 days before the marketing year (fiscal year) begins. In comparison to current regulations, the MSP would be based on the loan rate for raw cane sugar in Hawaii, rather than the national average, since the purpose of the MSP is to represent the level of market prices that would prevent Hawaiian sugar destined for East Coast refineries from being forfeited under the loan program. The only other change is to delete the unnecessary "incentive factor" of 0.20 cents per pound from the MSP formula.

The threshold price is defined as the MSP plus one cent. It serves as a reference level for determining one of the tariff rates, as described further below.

Section 201(b).—This section directs the President to use his existing authorities to implement a tariff rate quota. The articles covered by the current quota system would be allowed to be imported subject to current tariff rates of approximatley 0.625 cents per pound of raw sugar up to a specified quantitative limit. Duty free treatment on those quantities currently provided through the GSP or the CBI would be preserved, but imports entered above quota limits at higher tariff rates would not be duty exempt.

Section 201(c).—Quotas for entry at the lowest tariff rate would continue to be allo-

cated on a country-by-country basis, with the same shares as in recent years, recognizing that countries are occasionally added to or deleted from the list of eligible suppliers, that minimum quantities for the basket category change from year to year, and that shortfalls have to be reallocated. A minimum quota of one million metric tons is established for 1991-92, with subsequent increases of 250,000 tons per year until the minimum reaches 2 million metric tons in 1995-96.

This provision would once again give foreign suppliers a significant share of the U.S. sugar market. The final minimum import level of two million tons is approximately equal to the minimum import quota that could be imposed under section 22, i.e. 50 percent of the average 4 million metric ton import level in the 1975-81 period when quotas were not in effect.

The Secretary retains the discretion to adjust the length of quota periods and the size of the quota in order to insure that supply and demand are kept in balance and that adequate stock levels are maintained. Therefore he could continue to adjust the level and pace of imports as necessary to insure effective operation of the sugar program, provided that imports do not go below the minimum level assured to foreign suppliers.

Section 201(d).—With a tariff rate quota, sugar may enter the United States at a higher tariff rate in addition to the quota amounts that can enter at the lowest tariff rate. This section defines the higher tariff rate as the difference between the threshold price and the ten-day average of the world price for raw sugar, FOB Caribbean, delivered to the United States. Consequently, if domestic raw sugar prices rise above the threshold price, it will become profitable for refiners and sugar importers to bring in non-quota sugar and pay the higher duty. As long as the world price is below the U.S. price this will provide a ceiling on U.S. prices, just as the sugar price support program provides a floor.

Section 201(e).—This section provides that quota-exempt sugar entered for production of polyhydric alcohol or for re-export as refined sugar or in sugar-containing products will enter at the lowest tariff rate.

Section 202.—This eliminates the no-cost provision included in the 1985 farm bill, putting sugar on the same footing as all other price support crops. However, no budget costs are expected to be incurred if this legislation is passed. Projected supply demand balances indicate that imports would need to be higher than the minimum levels in any case.●

By Mr. McCONNELL:

S. 2317. A bill to require Federal, State, and local law enforcement agencies to report all cases of missing persons under age 18 to the National Crime Information Center of the Department of Justice; to the Committee on the Judiciary.

NATIONAL CHILD SEARCH ASSISTANCE ACT OF 1990

● Mr. McCONNELL. Mr. President, today I rise to introduce a bill that would unite our search efforts for missing children throughout the Nation by funneling information to our primary source, the National Center for Missing and Exploited Children. As my colleagues will recall, in 1987 I introduced legislation, which subsequently passed, that provided States with assistance to establish or expand clearinghouses to locate missing children. Over the past 3 years, these clearinghouses have successfully assisted parents and local authorities in locating thousands of missing children. To date, 48 States have developed such clearinghouses, and the two remaining States are preparing to implement similar programs. The ground swell of support for these types of organizations is providing hope to families across America that maybe theirs will be the next child found.

Now, Mr. President, the time has come to bring the resources of these missing children clearinghouses together. A time to implement a system through which divisions of the Office of Juvenile Justice could retrieve information relating to every reported case of a missing child in the United States. I have spoken with the Department of Justice, the International Association of Chiefs of Police, the FBI and numerous children's organizations concerning the matter. These groups agree that State police departments and clearinghouses should report missing children information to the National Crime Information Center in a uniform fashion. They are confident that this would greatly increase the ability of the National Center for Missing and Exploited Children to do exactly what Congress mandated with the Missing Children Assistance Act of 1984, find our missing children.

The National Center for Missing and Exploited Children is the coordinating agency for the child search effort, working with parents and police to track children as missing. Since its inception, the center has found over 12,000 children and trained 30,000 law enforcement officers in child location techniques.

However, this child search effort has been hindered by the lack of a comparable nationwide network of State clearinghouses. Although these States have methods of collecting information on missing children cases, there is not a cohesive network among these States.

Currently, the facilities are in place at the National Crime Information Center to receive these missing children reports, and the State clearinghouses and police departments are ready to provide the needed information. All that's missing, ironically, is Congress.

The process is quite simple. State authorities would provide information pertaining to missing children cases in their State to the National Crime Information Center in Washington. The National Crime Information Center would then process and store the data in their computer banks. When the time arose that an agency required assistance with a particular case, the National Crime Information Center could easily provide necessary data and reports from across the country instantly. For those States which fail to report to the National Crime Information Center, cases of missing children in their jurisdiction, funding authorized by the Missing Children Assistance Act of 1984, would be withheld.

Today, I ask my fellow Senators to provide the leadership and direction for this cause by taking another step to protect our Nation's future, another step to locate our missing children. A nationwide resource center to provide information relating to all missing children reports is necessary now. So little is needed to accomplish so much.●

ADDITIONAL COSPONSORS

S. 137

At the request of Mr. BOREN, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 137, a bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

S. 416

At the request of Mr. DOMENICI, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maine [Mr. COHEN], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost of living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 1216

At the request of Mr. SIMON, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1216, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such act to employers and employees in similarily situated industries, to give to such employers and performers the same rights given by sections 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1349

At the request of Mr. PRYOR, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1349, a bill to amend the Internal Revenue Code of 1986 to exclude small transactions and to make certain clarifications relating to broker reporting requirements.

S. 1629

At the request of Mr. SPECTER, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1629, a bill to establish clearly a Federal right of action by aliens and United States citizens against persons engaging in torture or extrajudicial killings, and for other purposes.

S. 2005

At the request of Mr. GRAHAM, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Idaho [Mr. SYMMS], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 2005, a bill to repeal the provision of law exempting intercity rail passenger service from certain waste disposal requirements.

S. 2034

At the request of Mr. BINGAMAN, the names of the Senator from Ohio [Mr. GLENN] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 2034, a bill to authorize the creation of a National Education Report Card to be published annually to measure educational achievement of both students and schools and to establish a National Council on Educational Goals.

S. 2035

At the request of Mr. BINGAMAN, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 2035, a bill to establish a commission to examine the advisability of lengthening the school day and school year in U.S. public elementary and secondary schools.

S. 2041

At the request of Mr. SYMMS, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 2041, a bill to amend title XVIII of the Social Security Act to provide uniform national conversion factors for services of certified registered nurse anesthetists.

S. 2067

At the request of Mr. FOWLER, his name was added as a cosponsor of S. 2067, a bill to amend the National Trails System Act to designate the route from Selma to Montgomery for study for potential addition to the national trails system.

S. 2119

At the request of Mr. LEAHY, the names of the Senator from Maine [Mr. COHEN] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 2119, a bill to amend the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, to increase the total amount of commitments which may be made to finance projects for housing and infrastructure in Israel for Soviet refugees, and for other purposes.

At the request of Mr. KASTEN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2119, supra.

S. 2179

At the request of Mr. SIMON, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 2179, a bill to maintain funding for State and local law enforcement programs in the war against drugs and crime.

S. 2210

At the request of Mr. HEINZ, his name was added as a cosponsor of S. 2210, a bill to provide for preservation of competitive rail freight service routes in the Northeastern United States.

At the request of Mr. D'AMATO, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 2210, supra.

S. 2216

At the request of Mr. COATS, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 2216, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize grants to States for boot camp projects to demonstrate innovative alternatives to the imprisonment of persons for nonviolent offenses and nonviolent drug-related offenses.

S. 2234

At the request of Mr. PRESSLER, his name was added as a cosponsor of S. 2234, a bill to extend the price support program for wool and mohair.

S. 2241

At the request of Mr. GRAHAM, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2241, a bill to provide scholarships to law enforcement personnel who seek further education.

SENATE JOINT RESOLUTION 224

At the request of Mr. BYRD, the names of the Senator from Missouri [Mr. BOND] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 224, a joint resolution to designate the month of May 1990 as "National Trauma Awareness Month."

SENATE JOINT RESOLUTION 231

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of Senate Joint Resolution 231, a joint resolution to designate the week of June 10, 1990, through June 16, 1990, as "State-Supported Homes for Veterans Week."

SENATE JOINT RESOLUTION 240

At the request of Mr. SYMMS, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Maine [Mr. COHEN], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Joint Resolution 240, a joint resolution designating the week of June 10, 1990, through June 16, 1990, as "Multiple-Use Sustained-Yield Week."

SENATE JOINT RESOLUTION 246

At the request of Mr. BOSCHWITZ, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Joint Resolution 246, a joint resolution calling upon the United Nations to repeal General Assembly Resolution 3379.

SENATE JOINT RESOLUTION 262

At the request of Mr. SIMON, the names of the Senator from Virginia [Mr. WARNER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Indiana [Mr. LUGAR], the Senator from South Carolina [Mr. THURMOND], the Senator from Ohio [Mr. GLENN], the Senator from Utah [Mr. GARN], the Senator from Idaho [Mr. MCCLURE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Alabama [Mr. HEFLIN], the Senator from Alaska [Mr. STEVENS], the Senator from Maine [Mr. MITCHELL], the Senator from North Dakota [Mr. CONRAD], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 262, a joint resolution designating March 1990 as "Irish-American Month."

SENATE JOINT RESOLUTION 269

At the request of Mr. D'AMATO, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of Senate Joint Resolution 269, a joint resolution authorizing and requesting the President to designate the second week of March 1990 as "National Employ the Older Worker Week."

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. DODD, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution commending the decision of the Board of Immigration appeals to allow Joseph Patrick Doherty to apply for political asylum, expressing concern at the Attorney General's June 30, 1989, decision to deny Joseph Patrick Doherty a political asylum hearing, and asking the Attorney General to respect the BIA decision on political asylum and immediately to release Joseph Patrick Doherty on bond pending final completion of the immigration proceedings.

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. HATFIELD, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of the Congress with respect to achieving common security in the world by reducing reliance on the military and redirecting resources toward overcoming hunger and poverty and meeting basic human needs.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. SIMON, the names of the Senator from Virginia [Mr. ROBB], the Senator from Delaware [Mr. BIDEN], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of Senate Concurrent Resolution 94, a concurrent resolution relating to the release of Nelson Mandela and other positive developments in South Africa.

SENATE CONCURRENT RESOLUTION 95

At the request of Mr. SIMON, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Concurrent Resolution 95, a concurrent resolution concerning the consultations of nations at the conference on the reunification of Germany.

SENATE CONCURRENT RESOLUTION 97

At the request of Mr. PRESSLER, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Concurrent Resolution 97, a concurrent resolution expressing the sense of the Congress with respect to popular anti-Semitism in the Soviet Union.

SENATE CONCURRENT RESOLUTION 104

At the request of Mr. BIDEN, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Concurrent Resolution 104, a concurrent resolution expressing the concern of the Congress regarding the Birmingham Six, and calling on the British Government to reopen their case.

SENATE CONCURRENT RESOLUTION 106

At the request of Mr. FORD, his name was added as a cosponsor of Senate Concurrent Resolution 106, a concurrent resolution expressing the sense of the Congress concerning Jerusalem and the peace process.

At the request of Mr. MOYNIHAN, the names of the Senator from Rhode Island [Mr. PELL], the Senator from California [Mr. CRANSTON], the Senator from Iowa [Mr. HARKIN], the Senator from Maryland [Mr. SARBANES], the Senator from Delaware [Mr. BIDEN], the Senator from North Carolina [Mr. SANFORD], the Senator from Connecticut [Mr. DODD], the Senator from Texas [Mr. BENTSEN], the Senator from Wisconsin [Mr. KOHL], the Senator from Massachusetts [Mr. KERRY], the Senator from Arizona [Mr. DECONCINI], the Senator from Washington [Mr. ADAMS], the Senator from North Dakota [Mr. BURDICK], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maine [Mr. COHEN], the Senator from Indiana [Mr. COATS], the Senator from Missouri [Mr. BOND], the Senator from Florida [Mr. MACK], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Dakota [Mr. CONRAD], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Concurrent Resolution 106, supra.

SENATE RESOLUTION 231

At the request of Mr. BRADLEY, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Resolution 231, a resolution urging the submission of the Convention on the Rights of the Child to the Senate for its advice and consent to ratification.

SENATE RESOLUTION 239

At the request of Mr. DECONCINI, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Resolution 239, a resolution expressing the sense of the Senate denouncing the military offensive in Angola and urging an immediate ceasefire.

AMENDMENT NO. 1321

At the request of Mr. GORTON, the names of the Senator from New Hampshire [Mr. RUDMAN] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of amendment No. 1321 intended to be proposed to S. 1630, a bill to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

AMENDMENT NO. 1329

At the request of Mr. BYRD, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of amendment No. 1329 proposed to S. 1630, a bill to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

AMENDMENT NO. 1345

At the request of Mr. CHAFEE, his name, and the name of the Senator from Missouri [Mr. BOND] were added as cosponsors of amendment No. 1345 proposed to S. 1630, a bill to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

At the request of Mr. BOSCHWITZ, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Washington [Mr. GORTON], and the Senator from Indiana [Mr. COATS] were added as cosponsors of amendment No. 1345 proposed to S. 1630, supra.

SENATE RESOLUTION 265—AMENDING SENATE RESOLUTION 171 OF THE ONE HUNDRED FIRST CONGRESS

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 265

Resolved, That Senate Resolution 171 of the One Hundred First Congress (agreed to on August 4, 1989), as amended by Senate Resolution 241 of the One Hundred First Congress (agreed to on February 6, 1990), is amended—

(a) In section 1(a)(1) by adding "including the District of Columbia," after "United States,"; and

(b) by redesignating section 6 as section 7 and adding after section 5 the following section:

"SEC. 6. Notwithstanding the provisions of rule XXXVIII of the Standing Rules of the Senate, and pursuant to the Senate rulemaking authority provided by subsection (b)(1) of section 7353 of title 5, United States Code, in carrying out the purposes of this resolution the delegation is authorized to solicit, accept, and administer gifts of money, other property, and services, and conduct other transactions related to such purposes.".

AMENDMENTS SUBMITTED

CLEAN AIR ACT AMENDMENTS

DOLE (AND PRESSLER) AMENDMENT NO. 1347

Mr. CHAFEE (for Mr. DOLE, for himself and Mr. PRESSLER) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes, as follows:

At the end of the bill, add the following new title:

TITLE —MISCELLANEOUS PROVISIONS

IMPACT ON SMALL COMMUNITIES

SEC. 01. Before implementing a provision of this Act, the Administrator of the Environmental Protection Agency shall consult with the Small Communities Coordinator of the Environmental Protection Agency to determine the impact of such provision on small communities, including the estimated cost of compliance with such provision.

KERRY (AND OTHERS) AMENDMENT NO. 1348

Mr. KERRY (for himself, Mr. WILSON, Mr. LIEBERMAN, Mr. WIRTH, Mr. KOHL, Mr. D'AMATO, Mr. BIDEN, Mr. PELL, Mr. KASTEN, Mr. KENNEDY, Mr. LEAHY, Mr. CRANSTON, Mr. LAUTENBERG, Mr. BRYAN, Mr. BRADLEY, Mr. ADAMS, Mr. METZENBAUM, Mr. HARKIN, and Mr. GORE) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

Strike from the beginning of line 1, page 28 through the end of line 8, page 78 and insert in lieu thereof, the following:

(d) Section 110 of the Clean Air Act is amended by adding at the end the following:

"(q) SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM.—

"(1) Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator as part of the State implementation plan for such State or as a revision to such State implementation plan under this section, plans for establishing a small business stationary source technical assistance program. Such submission shall be made within 24 months after the date of enactment of this subsection. The Administrator shall approve such program if it includes, as appropriate, the following:

"(A) adequate mechanisms for developing, collecting, evaluating, and coordinating information concerning compliance methods and technologies for small business stationary sources (as defined in paragraph (6));

"(B) adequate mechanisms for advising small business stationary sources on pollution prevention, including providing information concerning alternative technologies, process changes, chemical products, and methods of operation that help reduce air pollution;

"(C) a designated State office within the relevant State agency to serve as ombudsman for small business stationary sources in connection with the implementation of this Act;

"(D) adequate mechanisms to assure that small business stationary sources receive notice of their rights under this Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standard issued under this Act; and

"(E) Such a program may, at the discretion of the States include a voluntary Compliance Agreement for Term permits as described in paragraph (3) of this subsection;

"(2) The Administrator shall establish within 9 months after the date of the enactment of this section a small business stationary source technical assistance program. Such program shall—

"(A) assist the States in the development of the program required under paragraph (1) of this subsection and section 112(m);

"(B) issue technical guidance for the use of the States in the implementation of these programs that includes alternative control technologies and pollution prevention methods applicable to small business stationary sources;

"(3) The State may establish a permit program under part B of title III for small business stationary sources located within a nonattainment area, ozone transport area, or subject to a standard under section 112. Such program may provide that—

"(A) a small business stationary source may obtain a Compliance Agreement for Term permit under this subsection as a substitute for any general permit issued under section 353(e);

"(B) such Compliance Agreement for Term permit may be developed after consultation with the small business stationary source or with duly authorized representatives of the small business stationary sources;

"(C) Compliance Agreement for Term permits issued under this subsection to small business stationary source shall require compliance with applicable emission limitations, pollution control measures, and recordkeeping and reporting requirements under this Act: Provided, That methods of compliance with any such standard or requirement may be modified for a small business stationary source in such permit based on the technical and financial capability of the small business stationary source or group of sources and the availability of less burdensome alternatives, and, in particular, pollution prevention measures, that will achieve equivalent emission reductions consistent with the public health, welfare and environmental protection goals and deadlines of this Act;

"(D) any Compliance Agreement for Term permit issued to a small business stationary source under this subsection shall be issued in accordance with the procedures under part B of title III of this Act, and shall be subject to review by the Administrator, as provided in such part;

"(E) the State (or the Administrator) may reduce any fee required under this Act to take into account the financial resources of a small business stationary source;

"(F) requirements for continuous emission monitoring will not be imposed on a small business stationary source (or sources) unless the State (or the Administrator) has determined, on the basis of substantial evidence, that such requirements are necessary and appropriate; and

"(4) With respect to small business stationary sources, in exercising prosecutorial discretion under section 113(c) of this Act, in issuing orders under section 113(d) of this Act, or in determining the amount of any penalty to be assessed under this Act, the United States, the State, and the court shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

"(5) Compliance with the terms and conditions of a permit issued in accordance with the requirements of part B of title III and this subsection shall be deemed compliance with all requirements of the Act that are explicitly addressed by such terms and conditions: *Provided, however,* That compliance with the terms and conditions of a permit so issued shall not alter, modify, or otherwise affect the authority of the Administrator under section 303 (emergency powers) or the requirement to comply with any order issued under section 303.

"(6) For purposes of this subsection the term 'small business stationary source' means any stationary source of air pollutants regulated under this Act that emits or has the potential of emitting 100 tons per year or less of volatile organic compounds or any other criteria pollutant or pollutant regulated under section 112. The Administrator, in consultation with the Administrator of the Small Business Administration and after providing notice and opportunity for public comment, may exclude from this definition any category or subcategory of sources that the Administrator determines to have sufficient technical and financial capabilities to meet the requirements of this Act without the application of this subsection.

"(7)(A) The Administrator, acting through the Director of the Office of Small Business Advocacy (hereinafter referred to as the 'Director') to monitor the Small Business Environmental Compliance Assistance Program under this subsection. In carrying out such monitoring activities the Director shall—

"(i) render advisory opinions on the overall effectiveness of the Small Business Environmental Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(ii) make periodic reports to the Congress on the compliance of the Small Business Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(iii) review information to be issued by the Small Business Environmental Compliance Assistance Program for small business stationary sources to ensure that the information is understandable by the layperson; and

"(iv) have the Small Business Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(8)(A) There shall be created a Compliance Advisory Panel (hereinafter referred to as the 'Panel') on the State level of not less than 7 small business owners. This Panel shall—

"(i) render advisory opinions concerning the effectiveness of the Small Business Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(ii) make periodic reports to the Administrator concerning the compliance of the State Small Business Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(iii) review information for small stationary sources to assure such information is understandable by the layperson; and

"(iv) have the Small Business Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(B) The Panel shall consist of—

"(i) 2 members selected by the Governor;

"(ii) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the lower house, or in the case of a unicameral State legislature, 2 members each shall be selected by the majority leadership and the minority leadership, respectively, of such legislature, and clause (iii) shall not apply);

"(iii) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the upper house, or the equivalent State entity); and

"(iv) 1 member selected by the head of the department or agency of the State responsible for air pollution permit programs.".

SYMMS AMENDMENT NO. 1349

Mr. SYMMS proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 564 of amendment no. 1293, biginning on line 18 strike the words "and animal production".

DOLE AMENDMENT NO. 1350

Mr. CHAFEE (for Mr. DOLE) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 324, line 19, insert after "measures" the following: ", including process changes or substitution of materials".

SIMPSON AMENDMENT NOS. 1351 and 1352

Mr. SIMPSON proposed two amendments to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

AMENDMENT No. 1351

On page 495, between lines 6 and 7, insert the following new section:

ACID DEPOSITION RESEARCH BY THE UNITED STATES FISH AND WILDLIFE SERVICE

SEC. 409. There are authorized to be appropriated to the United States Fish and Wildlife Service of the Department of the Interior an amount equal to $500,000 to fund research related to acid deposition and the monitoring of high altitude mountain lakes in the Wind River Reservation, Wyoming, to be conducted through the Management Assistance Office of the United States Fish and Wildlife Service located in Lander, Wyoming and the University of Wyoming.

AMENDMENT No. 1352

On page 455, between lines 11 and 12, insert the following new section:

STUDY OF BUFFERING AND NEUTRALIZING AGENTS

SEC. . There are authorized to be appropriated to the United States Fish and Wildlife Service of the Department of the Interior an amount equal to $250,000 to fund a study to be conducted in conjunction with the University of Wyoming of the effectiveness of various buffering and neutralizing agents used to restore lakes and streams damaged by acid deposition.

SIMPSON (AND OTHERS) AMENDMENT NO. 1353

Mr. SIMPSON (for himself, Mr. BURNS, and Mr. WALLOP) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

At the appropriate place in the amendment, add the following new section:

ENVIRONMENTAL IMPACT STATEMENT

SEC. . (a) The Secretary of the Interior and the Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency and the Director of the Centers for Disease Control, shall each prepare an environmental impact statement on the Federal forest fire management policy applicable to lands within their respective jurisdictions.

(b) Such environmental impact statements shall address, among other things, the health effects of cancer causing chemicals in wood smoke and the impacts of smoke and particulates from forest fires on visibility, in class I areas and regional haze.

(c) Based upon such environmental impact statements, the Secretary of Interior and the Secretary of Agriculture shall determine whether to modify the Federal forest fire management policies applicable to lands within their respective jurisdictions.

(d)(1) The Secretary of the Interior and the Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency shall, where appropriate, install temporary air quality-monitors at sites where natural fires are allowed to burn as well as adjacent to such sites where humans reside.

(2) The appropriate Secretary, in consultation with the Administrator, shall determine the nature and location of such monitors, the time and duration of such monitoring activity, and other appropriate criteria related to the monitoring program.

ADAMS (AND OTHERS) AMENDMENT NO. 1354

Mr. ADAMS (for himself, Mr. HATFIELD, Mr. BINGAMAN, Mr. REID, Mr. WIRTH, Mr. ROBB, Mr. MATSUNAGA, Mr. KERRY, Mr. BRYAN, Mr. GORE, Mr. SANFORD, Mr. MCCAIN, Mr. CHAFEE, Mr. SIMPSON, Mr. DOMENICI, and Mr. WARNER) proposed an amendment, which was subsequently modified, to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 127 after line 2 insert the following:

Visibility

Section 169(A) of the amendment is amended by adding the following new section.

"SEC. 169(B).

Studies

(a)(1) The Administrator, in conjunction with the National Park Service and other appropriate federal agencies, shall conduct research to identify and evaluate sources and source regions of both visibility impairment and regions that provide predominantly clean air in class I areas. A total of $8 million per year for 5 years is authorized to be appropriated for the Environmental Protection Agency and the other federal agencies to conduct this research. The research shall include—

(A) expansion of current visibility related monitoring in class I areas;

(B) assessment of current sources of visibility impairing pollution and clean air corridors;

(C) adaptation of regional air quality models for the assessment of visibility;

(D) studies of atmospheric chemistry and physics of visibility.

(2) Based on the findings available from the research required in subsection (a)(1) of this section as well as other available scientific and technical data, studies, and other available information pertaining to visibility source-receptor relationships, the Administrator shall conduct an assessment and evaluation that identifies, to the extent possible, sources and source regions of visibility impairment including natural sources as well as source regions of clear air for class I areas. The Administrator shall produce interim findings from this study within 3 years of enactment.

Impacts of Other Provisions

(b) Within 24 months of enactment, the Administrator shall conduct an assessment of the progress and improvements in visibility in class I areas that are likely to result from the implementation of the provisions of the Clean Air Act Amendments of 1990 other than the provisions of this section. Every five years thereafter the Administrator shall conduct an assessment of actual progress and improvement in visibility in class I areas. The Administrator shall prepare a written report on each assessment and transmit copies of these reports to the appropriate committees of Congress.

Establishment of Visibility Transport Regions and Commissions

(c)(1) AUTHORITY TO ESTABLISH VISIBILITY TRANSPORT REGIONS.—Whenever, upon the Administrator's motion or by petition from the Governors of at least two affected states, the Administrator has reason to believe that the current or projected interstate transport of air pollutants from one or more States contributes significantly to visibility impairment in class I areas located in the affected States, the Administrator may establish a transport region for such pollutants that includes such States. The Administrator, upon the Administrator's own motion or upon petition from the Governor of any affected State, or upon the recommendation of a transport commission establishes under subsection (b) of this section may—

(A) add any State or portion of a State to a visibility transport region when the Administrator determines that the interstate transport of air pollutants from such State significantly contributes to visibility impairment in a class I area located within the transport region, or

(B) remove any State or portion of a State from the region whenever the Administrator has reason to believe that the control of emissions in that State or portion of the State pursuant to this section will not significantly contribute to the protection or enhancement of visibility in any class I area in the region.

(2) VISIBILITY TRANSPORT COMMISSIONS.—Whenever the Administrator establishes a transport region under subsection (c)(1) of this section, the Administrator shall establish a transport commission comprised of (as a minimum) each of the following members:

(A) The Governor of each State in the Visibility Transport Region, or the Governor's designee.

(B) The Administrator or the Administrator's designee; and

(C) A representative of each Federal agency charged with the direct management of each Class I area or areas within the Visibility Transport Region.

(3) All representatives of the federal government shall be ex officio members.

(4) The visibility transport commissions shall be exempt from the requirements of the Federal Advisory Committee Act (5 U.S.C. Appendix 2, section 1).

(5) Section 113(a)(b) and 113(a)(2) are revised to add "or of implementing section 169(B)" after "air pollution)".

Duties of Visibility Transport Commissions

(d) A Visibility Transport Commission:

(1) shall assess the scientific and technical data, studies, and other currently available information, including studies conducted pursuant to subsection (a)(1), pertaining to adverse impacts on visibility from potential or projected growth in emissions from

sources located in the Visibility Transport Region; and

(2) shall, within four years of establishment, issue a report to the Administrator recommending what measures, if any, should be taken under the Clean Air Act to remedy such adverse impacts. The report required by this subsection shall address at least the following measures:

(A) the establishment of clean air corridors, in which additional restrictions on increases in emissions may be appropriate to protect visibility in affected class I areas;

(B) the imposition of the requirements of Part D of this title affecting the construction of new major stationary sources or major modifications to existing sources in such clean air corridors, specifically including the alternative siting analysis provisions of section 172(b)(11)(A) of this title; and

(C) the promulgation of regulations under section 169A of this title to address long range strategies for addressing regional haze which impairs visibility in affected class I areas.

Duties of the Administrator

(e)(1) The Administrator shall, taking into account the studies pursuant to subsection (a)(1) and the reports pursuant to subsection (d)(2) and any other relevant information, within eighteen months of receipt of the report referred to in subsection (d)(2) of this section, carry out the Administrator's regulatory responsibilities under section 169A, including criteria for measuring "reasonable progress" toward the national goal.

(2) Any regulations promulgated under section 169A of this title pursuant to this subsection shall require affected States to revise within 12 months their implementation plans under section 110 of this title to contain such emission limits, schedules of compliance, and other measures as may be necessary to carry out regulations promulgated pursuant to this subsection.

Grand Canyon Visibility Transport Commission

(f) The Administrator pursuant to subsection (c)(1) shall, within 12 months, establishing a visibility transport commission for the region affecting the visibility of the Grand Canyon National Park.

(g) NOTICE TO FEDERAL LAND MANAGERS.—Section 165(d)(2)(A) of the Clean Air Act is amended to read as follows:

"(2)(A) Upon transmitting a copy of a permit application and notice under paragraph (1) to the Administrator, the State shall also provide a copy of such permit application to any Federal land manager and any Federal official charged with direct responsibility for management of any lands within a class I area, or an area described in paragraph (1) or (2) of section 164(a), which may be affected by emissions from the proposed facility. The Administrator shall require applications submitted under paragraph (1) to contain sufficient information to enable the appropriate Federal land manager of such Federal lands to determine the potential effects of such facility on the air quality related values (including visibility) of such Federal lands.

(h) IDENTIFICATION OF POTENTIAL ADVERSE IMPACTS.—Section 165(d)(2)(b) of the Clean Air Act is amended—after the words "affirmative responsibilities to" add the words "identify and".

HELMS (AND OTHERS) AMENDMENT NO. 1355

Mr. HELMS (for himself, Mr. D'AMATO, Mr. ARMSTRONG, Mr. KASTEN, Mr. HUMPHREY, Mr. PRESSLER, Mr. MURKOWSKI Mr. MACK, and Mr. DOMENICI) proposed an amendment to amendment No. 1293 (in the nature of a substitute), proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

At the end of amendment 1293, add the following new section:

"SEC. . Relating to international cooperation with respect to the independent Republic of Lithuania.

The Senate finds that:

On February 16, 1918, the sovereign Lithuanian people declared their independence from foreign domination; and

On July 12, 1920, the Government of the Union of Soviet Socialist Republics recognized Lithuanian independence and renounced forever any claim over Lithuania or its territory; and

On June 15, 1940, the independent state of Lithuania was militarily occupied by the Soviet Union in violation of peace treaties signed by the Soviet Union and Lithuania in 1920; and

Immediately following the illegal annexation of Lithuania, Latvia and Estonia in 1940, President Franklin Delano Roosevelt refused to recognize the Soviet claim to the independent Baltic States and adopted the policy of nonrecognition of the forced seizure of territories; and

Each President through ten administrations of both political parties since the time of President Roosevelt, including President Bush, has refused to recognize the annexation of Lithuania, Latvia and Estonia by the Soviet Union; and

The United States has maintained diplomatic relations with the charge d'affairs at the Legation of Lithuania who has continued to represent Soviet-occupied Lithuania since 1940; and

On February 24, 1990, the people of Lithuania held free and fair democratic elections under the specter of the occupation Red army, in which candidates who supported independence from Moscow, the removal of Soviet troops and military installations and the creation of a free market economy succeeded overwhelmingly over the communist party loyal to Moscow; and

On March 11, 1990, the Lithuanian Parliament proclaimed "the restortion of the exercise of sovereign powers of the Lithuanian state, which were suspended by an illegal occupation in 1940," and declared that "Lithuania is once again an independent state."; and

Pursuant to the U.N Charter Lithuania has exercised its internationally recognized right of self-determination by declaring independence from the Soviet Union; and

The Lithuanian Parliament elected Vytautas Landsbergis, a non-Communist leader of the Sajudis opposition group, as President of the independent Republic of Lithuania and has formed a government which reflects the full aspirations of the Lithuanian people; and

The Republic of Lithuania is now in legal control of the Government and the territory of independent Lithuania; and

Hundreds of thousands of Soviet Red Army troops and all Soviet military institutions nevertheless illegally remain in the independent Republic of Lithuania, contrary to the wishes of the government of Lithuania; and

Soviet President Mikhail Gorbachev and the Congress of People's Deputies have called the Lithuania Parliament's declaration of independence illegitimate and invalid and maintain that Soviet law remains binding on the citizens of independent Lithuania; and

The declaration by President Gorbachev and the Soviet Congress of People's Deputies is ultra vires; and

President Vytautas Landsbergis has called upon "the governments of democratic nations" to recognize the "laws and legislative acts of March 11, 1990 and to recognize the new Government of Lithuania":

The Senate therefore—

(1) congratulates President Bush for responding to the declaration of independence by urging Moscow to begin negotiations with the Lithuanian leaders;

(2) urges the President to recognize immediately the current democratic Government of Lithuania headed by President Vytautas Landsbergis and to establish direct relations with such government, since it represents the democratic aspirations of the people of Lithuania;

(3) calls upon the President to send appropriately accredited diplomatic representation at the ambassadorial level to the independent Republic of Lithuania under his constitutional authority and to invite the Republic of Lithuania to name an ambassador to the United States; and

(4) urges the Soviet Union to desist from the threat of or use of military force, tactics of intimidation, or economic sanctions in order to suppress democracy in the independent Republic of Lithuania.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Wednesday, March 28, 1990, beginning at 2 p.m., in 485 Russell Senate Office Building on S. 381, recognition of Mowa Band of Choctaw Indians; S. 1413, Aroostook Band of Micmacs Settlement Act; S. 1747, Ponca Restoration Act; and S. 1918, Jena Choctaw.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Thursday, March 22, 1990, beginning at 9:30 a.m., in 485 Russell Senate Office Building on Indian health facilities.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the Senate and the public that a hearing has been scheduled before the Subcommittee on Energy Research and Development.

The purpose of the hearing is to receive testimony on Senate bill S. 1848, the Natural Gas Cofiring Promotion Act of 1989.

The hearing will take place on Tuesday, May 8, 1990 at 2:15 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to provide written testimony for the printed hearing record should send it to the Subcommittee on Energy Research and Development, U.S. Senate, Washington, DC 20510, Attn: Ben Cooper or Cheryl Moss.

For further information, please contact Ben Cooper or Cheryl Moss at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, March 21, at 9:30 a.m., for a hearing on S. 2274, the Federal Pay Comparability Reform Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on International Finance and Monetary Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, March 21, 1990, at 10 a.m. to hold hearings on Third World debt strategy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, March 21, 1990, at 10 a.m., to hold a hearing on the impeachment of article III judges, Senate Joint Resolution 232, Senate Joint Resolution 233, and Senate Joint Resolution 11.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 21, 1990, at 2:30 p.m. on magnetically levitated transportation: S. 1898 and S. 2286.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 21, 1990, immediately following the 10 a.m. full committee nomination hearing, on FCC's syndicated exclusivity and network nonduplication rules.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 21, 1990, at 10 a.m. on the nomination of James B. Edwards to be a member of the Communications Satellite Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Armed Services Committee be authorized to meet in open session on Wednesday, March 21, 1990, at 2 p.m. to receive testimony on the lessons learned from recent procurement fraud investigations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, March 21, at 10 a.m. to hold a hearing on American business initiative in Eastern Europe.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, March 21 1990, at 9:30 a.m. to hold a hearing in preparation for the 1990 farm bill. The hearing will address general farm issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, March 21, 1990, at 10 a.m. for a hearing on reauthorization of the National Bone Marrow Registry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Wednesday, March 21, 1990, at 9:30 a.m. The committee will hold a hearing on the problems that confront small businesses in complying with the Environmental Protection Agency's regulations on underground storage tanks.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 21, 1990, at 2 p.m. to hold a hearing on various proposals, including a Kassebaum-Dole bill (S. 1654), exploring the effects of short-term trading on long-term investments.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $3.5 billion in budget authority, and over the budget resolution by $4 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $114.6 billion, $14.6 billion above the maximum deficit amount for 1990 of $100 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 20, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1990 and is current through March 9, 1990. The estimates for budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report is submitted under section 308(b) and in aid of section 311 of the Con-

gressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since may last report, dated March 5, 1990, there has been no action that affects the current level of spending or revenues.

Sincerely,

ROBERT D. REISCHAUER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 101ST CONG., 2D SESS., AS OF MAR. 9, 1990

[In billions of dollars]

Fiscal year 1990	Current level [1]	Budget resolution, H. Con. Res. 106	Current level (+/−) resolution
Budget authority	1,325.9	1,329.4	−3.5
Outlays	1,169.2	1,165.2	4.0
Revenues	1,060.3	1,065.5	−5.2
Debt subject to limit	2,984.6	3,122.7	−138.1
Direct loan obligations	19.1	19.3	−.2
Guaranteed loan commitments	114.7	107.3	7.4
Deficit	114.6	[2] 100.0	[3] 14.6

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 268. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with Sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] Maximum deficit amount [MDA] in accordance with section 3(7)(E) of the Congressional Budget Act, as amended.

[3] Current level plus or minus MDA.

PARLIAMENTARIAN STATUS REPORT, 101ST CONG., 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS MAR. 9, 1990

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			1,068,600
Permanent appropriations and trust funds	954,917	791,226	
Other legislation	639,255	638,374	566
Offsetting receipts	−237,825	−233,738	
Total enacted in previous sessions	1,356,347	1,195,862	1,069,166
II. Enacted this session			
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution:			
Salaries of judges	−2	5	
Payment to judicial officers' retirement fund	−4	−4	
Judicial survivors' annuities fund	−3	−3	
Fees and expenses of witnesses	−2		
Justice assistance	−4		
Fisherman's guaranty fund	1	1	
Administration of territories	−1		
Firefighting adjustments	−624	−192	
Federal unemployment benefits (FUBA)	5		
Advances to unemployment trust fund	(48)	(48)	
Special benefits	−24		
Black Lung disability trust fund	52	32	
Vaccine improvement program trust fund	7	7	
Federal payment to railroad retirement	1	1	
Retirement pay and medical benefits	−4		
Supplemental security income	263	263	
Special benefits, disabled coal miners	21		
Grants to States for Medicaid	−907		
Payments to health care trust funds	(325)	(325)	
Family support payments to States	84	84	
Payments to States for AFDC work programs	15	15	
Payments to States for foster care	−83		
Health professions student loan insurance fund	−25	−7	
Guaranteed student loans	−175		
College housing and academic facilities loans	−3	−3	
Rehabilitation services	−79		
Payments to widows and heirs	(1)	(1)	
Reimbursement to the rural electrification fund	111	111	
Dairy indemnity program	(1)	(1)	
Conservation reserve program	720		
Special milk program	−2		
Food stamp program	−800		
Child nutrition programs	−74		
Federal crop insurance corporation fund	(1)		
Agriculture credit insurance fund	342		
Rural housing insurance fund	(1)		
Rural communication development fund	(1)		
Payments to the farm credit system financial assistance corporation	−2		
Coast Guard retired pay	−17		
Payment to civil service retirement	(84)	(84)	
Government payments for annuitants	−3	−2	
Readjustment benefits	−62		
Compensation	448	398	
Pensions	−62		
Burial benefits	−4		
Loan guaranty revolving fund	238	238	
Disaster relief	−1,100	−883	
Total entitlement authority	−1,757	62	
VI. Adjustment for Economic and Technical Assumptions	−28,685	−26,763	−8,900
Total current level as of Mar. 9, 1990	1,325,905	1,169,160	1,060,266
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		3,960	
Under budget resolution	3,495		5,234

[1] Less than $500 thousand.

Notes.—Numbers may not add due to rounding. Amounts shown in parenthesis are interfund transactions that do not add to totals.●

A TRIBUTE TO H. JOSEPH RHODES

● Mr. SYMMS. Mr. President, during the past decade I have been privileged to work with many fine Federal employees who give unselfishly of themselves for the betterment of public policy. One of these individuals is H. Joseph Rhodes of the Federal Highway Administration.

With no fanfare and little public acclaim, Joe epitomizes the finest of what the term "public servant" is meant to connote. His reliance on sound professional judgment, combined with an uncompromising adherence to the highest ethical standards, has earned him the respect and friendship of Senate and House Members on both sides of the aisle, as well as the esteem of all segments of the highway community.

For more than 20 years Joe Rhodes has constructively influenced national transportation policy here in Washington, serving with the American Association of State Highway and Transportation Officials [AASHTO] and subsequently with the FHWA. As liaison to the National Governors Association, the National League of Cities, the National Conference of State Legislatures, the National Association of Counties, the U.S. Conference of Mayors, and the National Association of Regional Councils, his insightful understanding of the social and economic implications of transportation policy has well served the Nation, and has helped envolve today's highway policy which is not only to build better roads, but to do so with sensitivity to the environment and to the people they affect. He is a true professional, combining knowledge with integrity and common sense.

On March 9, 1990, Joe ended his decade of outstanding service with the Federal Highway Administration, and he is now Managing Director designee of the Interstate Commerce Commission. We of the Senate Environment and Public Works Committee especially will miss him. Mr. President, I know that my colleagues here in the Senate, our staffs, his associates in Government, and the literally hundreds of individuals throughout the highway community who have benefited from his wise counsel and friendship throughout the year, join me in thanking Joe for his many contributions to the Nation's vital highway program, and wish him continued success in his new undertaking with the Interstate Commerce Commission.●

TERM LIMITS

● Mr. HUMPHREY. Mr. President, support for term limits is growing every day. Although 98 percent of all House incumbents who ran in 1988 were reelected, a recent Gallup Poll has shown that 70 percent of the American public favors the concept of term limitation. In addition, several former Members of Congress have expressed their support for this concept. For the benefit of my colleagues, I would like to share a letter I have recently received from former Congressman Clair W. Burgener, who represented the 43d District of California from 1973 to 1983. The Senator from Arizona [Mr. DECONCINI], and I have introduced Senate Joint Resolution 235, and at present, 10 other Senators have cosponsored. I urge all Senators to examine this important resolution. I ask that former Congressman Burgener's letter be inserted in the RECORD immediately following my statement.

The letter follows:

RANCHO SANTA FE, CA,
March 6, 1990.

HON. GORDON J. HUMPHREY,
U.S. Senator, New Hampshire,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HUMPHREY: Thank you for your kind and informative letter asking me, as a former Member of Congress, my support for Senate Joint Resolution 235 (Humphrey-DeConcini) which would limit Senators and Members of the House of Representatives to 12 years in office.

I offer my unqualified support for the measure and believe it to be totally and absolutely in the public interest. During my ten years in the House (1973-1983) I introduced similar legislation. The "Press" suggested to me that my authorship of such legislation was not an act of great courage since it was obvious at the time that the Congress would never enact such legislation proposing a Constitutional Amendment. I agreed that its chances were "slim to none"—since only incumbents would be acting upon it. Then they asked the next obvious question—"even if your legislation does not become law, will you apply its provisions to your own political career?" The answer was an unqualified "yes"—and I left after ten years in the House—representing one of the "safest" seats in California. Nothing unusual about that—about 98 percent of the seats in the House—nationwide—are "safe" for the incumbent. This is due, of course, to heavy-handed Gerrymandering—enjoyed by members of both parties in the House—but of course—not in the Senate.

Enough of my "frustration venting"—put me down as a long-term supporter of your proposed legislation—S.J. Resolution 235—and I commend you both for your vision and insight.

Warm personal regards,

CLAIR W. BURGENER,
Former Member of Congress, 43d District, Calif., 1973-1983; Former Chairman, California Republican Party, 1986-1987.●

CONGRATULATIONS TO HUNTINGTON NORTH, INDIANA'S HIGH SCHOOL GIRLS BASKETBALL CHAMPS

● Mr. COATS. Mr. President, recently the team from Huntington North High School captured the title at the 15th Indiana high school girls basketball State championship. Before a crowd of 14,762 in Market Square Arena in Indianapolis, Coach Fred Field's valiant Vikings upset previously unbeaten Bedford North Lawrence by a close score of 50 to 47.

This victory marked the triumphant conclusion to a 21-game winning streak as Huntington North finished its season 26-4 overall. Earlier the girls of Huntington had pulled a stunning upset victory when they made a spectacular comeback from 15 points down late in the third quarter to post a 46 to 42 win over Noblesville in the semifinals. Senior Kamie Arnold scored 17 points and junior Diane Poulson added 16 points in the final contest. Earlier in the season Kamie Arnold was forced to miss several games due to a stress fracture, and the team was forced to rebuild its backcourt after the graduation of Indiana all-star Nancy Hoover. But in the final game Huntington North could do no wrong, as it masterfully mixed its man-to-man, 3-2 and matchup defenses while successfully running its fast break and shooting 50 percent—19 for 38—from the field.

Bedford ended its season 25-1, and Coach Pete Pritchett's team played a great game.

However, Bedford's Shannon Cummings was selected by the IHSAA executive committee to receive the Mental Attitude Award for girls' basketball. This award is presented annually to a senior player in the State finals who excels in mental attitude, athletic ability, scholarship, and leadership during her 4 years in high school. Miss Cummings, a 6-1 forward, captained the stars and, with an 11.8 scoring average, was one of the main reasons for Bedford North Lawrence's success this season. Off the court she has maintained a 3.8 grade point average and is involved in student council, the National Honor Society, and Pep Club, among other activities. She has been a member of the girls' varsity squad during all 4 years of high school.

Shannon Cummings is the kind of well-rounded female athlete that makes Indiana high school basketball so exciting and inspiring. She has earned for her school a $1,000 scholarship from Farm Bureau Insurance, and from us Hoosier high school sports enthusiasts our admiration and best wishes.

Both the Huntington North and Bedford North Lawrence teams are to be congratulated for making it to the finals and providing an exciting conclusion to the girls' basketball season. Special kudos to Huntington North under Coach Fields for winning the State championship.

I would be remiss if I failed to mention those players who were selected for the All-Tourney Team in high school girls' basketball. My congratulations go to Amy Walker, of Bedford North Lawrence, Monica Cox, of Noblesville, and Angela Cotton, of Anderson, all of whom are forwards; Kamie Arnold, of Huntington North, and Areatha Beard, of Anderson, who are centers; Carrie Mount, of Bedford North Lawrence, and Diana Poulson and March Hiner, of Huntington North, are guards.

Clearly, Hoosier basketball players are maintaining the high standards of athletic prowess that we in Indiana have come to expect from our home teams.●

REMOVING RESTRICTIONS ON BELL OPERATIONS

● Mr. SYMMS. Mr. President, I was recently contacted by Senator Mike Crapo and Representative Tom Boyd, the president pro tem of the senate and the speaker of the house of the Idaho Legislature. The Idaho Legislature recently passed House Joint Memorial 15, which encourages Congress and the President to enact appropriate legislation to remove restrictions currently imposed on Bell operating companies. Senator Crapo and Speaker Boyd asked me to insert the memorial in the CONGRESSIONAL RECORD for my colleagues' review, and I am pleased to do so. I ask that this joint memorial appear in the RECORD following my remarks.

The joint memorial follows:

HOUSE JOINT MEMORIAL NO. 15

Whereas, advances in technology have brought our society to the threshold of the information age; and

Whereas, the national welfare will be greatly enhanced by bringing about the universal availability of the information age to the American people through the development and deployment of innovative technologies; and

Whereas, the provision of information services, and the removal of judicially imposed restrictions on the development and availability of such services, will stimulate and encourage use of information age technology by the American people; and

Whereas, it is the responsibility of Congress, rather than the courts, to determine communications public policy including its effect on economic competitiveness, national security, and foreign trade which are essential elements of a sound national telecommunications policy; and

Whereas, the continued economic growth and international competitiveness of American industry are dependent upon permitting all American companies to provide information services, to conduct research and to design, develop, manufacture, and market software, firmware, telecommunications equipment and customer premises equipment for all American residential, business and governmental telecommunications users; and

Whereas, it is imperative that American industry provide new and innovative telecommunications services and an efficient, reliable, state-of-the-art, and internationally competitive public telecommunications network to serve the growing needs of the people of the United States; and

Whereas, existing new and innovative telecommunications technologies are less accessible and less affordable in rural and small communities than in larger, urban centers; and

Whereas, the Federal Communications Commission is the appropriate federal agency, in conjunction with appropriate state regulatory agencies, to ensure fair competition in the telecommunications industry, while protecting the interests of the basic local exchange customers; and

Whereas, the court order, referred to as the "Modification of Final Judgment" (MFJ) that broke up the former Bell System, prohibits the divested Bell operating companies from participating in certain telecommunications markets, namely, manufacturing and information services and long distance services; and

Whereas, the MFJ has prevented some two-thirds of America's domestically-owned telecommunications industry from compet-

ing with foreign telecommunications firms in the United States; and

Whereas, removal of MFJ restrictions on manufacturing of telecommunications equipment and customer premises equipment and on provision of information services would foster American competitiveness because:

(a) Removal would facilitate competitiveness with foreign telecommunications companies who are free to compete in markets in the United States;

(b) Removal would help bring needed telecommunications technologies that are already in existence, but which the Bell operating companies are prohibited from providing by the MFJ, to hearing impaired persons, rural schools and hospitals and others who might benefit from improved and affordable telecommunications;

(c) Removal would help stimulate the invention of new and innovative telecommunications technologies and facilitate access of said innovations to rural America;

(d) Removal would encourage investment in research, development, design and manufacture of telecommunications and customer premises equipment: Now, therefore, be it

Resolved by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, That we urge the President of the United States, George Bush, and the Congress of the United States to remove restrictions that prohibit Bell operating companies from engaging in the manufacture of telecommunications equipment and customer premises equipment and the provision of information services, in the public interest of the citizens of the state of Idaho and the citizens of the United States of America, through the passage of appropriate legislation: Be it further

Resolved, that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, George Bush, and to the President of the Senate and the Speaker of the House of Representatives of Congress, and to the congressional delegation representing the State of Idaho in the Congress of the United States.●

WILKENING LEAVES BIG FOOTPRINTS AT WILDER

● Mr. DURENBERGER. Mr. President, a subtle change was made recently in the fabric of St. Paul's community service structure. It made no bold headlines in the area's daily papers. And, it was not the result of budget cuts, a hostile take-over or an election.

Rather, it was the decision of one dedicated man to draw to a close his service to a powerful community legacy, and the great good for which it has come to stand.

Leonard H. Wilkening has served the people of the St. Paul area community, via his position as CEO of the Amherst H. Wilder Foundation, for more than two decades.

The Wilder Foundation is the largest nonprofit human services organization in Minnesota and has gained a national reputation for its commitment, compassion, and results. That standing can be traced directly to Wilkening's leadership, and the direction he has given the 80-year-old foundation.

Under Wilkening's administration, the foundation has not only grown in its financial stability, but maintained its historical intention to support and foster community residents in need. The foundation's endowment has grown substantially in the past 20 years, as has its operating budget.

Subsequently, the Wilder Foundation has become a formidable employer, and, under Wilkening's governing hand, a breeding ground for those concerned with addressing unmet community needs.

Over the years, Wilkening has gained a herd of followers and admirers who are sorry to see him retire from his hands-on leadership of the foundation. However, there is no one more deserving of many years of relaxation and family time than he.

That which Wilkening has given to the community is indeed a tremendous gift. And as we continue to receive from him, in his new role as the organization's first "Wilder Fellow," we can rejoice in his generosity and good spirit, making tomorrow's world even better.

Ron Clark, the St. Paul Pioneers Press' editorial page editor feels much the same way. He recently wrote an insightful tribute to Wilkening which I ask to insert at this point in the RECORD, as a proper honor to the distinguished career of Leonard Wilkening.

The article follows:

[From the St. Paul Pioneer Press, Mar. 4, 1990]

WILKENING LEFT BIG FOOTPRINTS AT WILDER

(By Ronald D. Clark)

For more than two decades, Leonard H. Wilkening has been a giant around these parts. You don't expect giants of his size to slip into retirement with little or no fanfare. But Wilkening managed to do so as skillfully as if some Jack had lent him a magical beanstock on which he could climb out of view.

Wilkening, 64, joined the staff of the Amherst H. Wilder Foundation in 1968 and became its chief executive officer in 1971. He was only the third CEO of the foundation, created in 1910 with $2.6 million from the family fortune of one of St. Paul's pioneer businessmen, Amherst H. Wilder.

When a national search for a new CEO settled in January on Thomas Kingston, Wilder's senior vice president and head of direct care services, Wilkening decided not to stick around until June 30 as planned. Kingston was ready to go; no transition period was necessary. So Wilkening—the Regina, Saskatchewan, native, former United Way executive and Navy Air Corps veteran—left in mid-February.

In his last few days on the job, Wilkening was toasted at various Wilder celebrations, the largest being a gathering of some 300 present and former staff members and the directors at the foundation's headquarters at 919 Lafond Ave. in St. Paul. Speakers there helped make connections between Wilkening's two sides; hard-driving, aggressive and very results-oriented on the one hand, and tender and supportive on the other.

"He was very demanding, always on the side of making sure something was done right, never satisfied until it was done right," said Kingston. At times, those demands could get under the skin of Wilder's staff, but no one could argue with the results. At the going-away party, staff members took time to thank Wilkening for the "tough love" he showed toward them, said Kingston.

Tributes also flowed at several receptions for Wilkening at Wilder facilities, including a day care center that serves many children and families of color in the Frogtown neighborhood. A party thrown by some 100 youngsters at the center moved Wilkening to tears.

His retirement ends a remarkable era for a remarkable St. Paul-based non-profit human service organization, the largest of its kind in the state and one with few peers nationally. Wilder is not flashy; it doesn't get its name in the newspapers or on TV and radio a lot. It just quietly goes about making life easier for people in the Metro East area who are in difficult circumstances.

Widler means many things, most of them related to helping families, refugees, children and the elderly in need. It also owns and manages more than 1,000 units of housing.

Under Wilkening's tenure, Wilder's programs have taken root and blossomed as rapidly as daffodils in spring. Operating expenses went from $2.8 million in 1969 to $35 million this year. The foundation now operates more than 50 direct service programs. The growth was possible without draining the endowment, now at $143.7 million, because of a rule of thumb Wilkening imposed: He insisted on leveraging $3 from the outside—government, the private sector, other foundations—for every $1 of trust money. He consistently met that target. Endowment earnings applied to this year's operating budget are expected to be nearly $9 million.

Wilkening has become such a part of the social services fabric in the Metro East area that its marks are everywhere. In 1989, the foundation provided direct care assistance to nearly 20,000 community residents; it supplies housing for 2,380 residents. Many cities around the country would turn cartwheels to get a Wilder in their midst.

Not to speak of getting a community leader like Wilkening. "He has done as much as anyone I know to help this community address human need," said Diane Ahrens, Ramsey County commissioner. She has frequently turned to Wilkening to help the county evaluate human service problems and design programs to meet them. "Whenever I knew there was a tough job to be done, frankly, I called Leonard," she explained. "He never ever turned me down."

Wilder is planning a community reception to honor Wilkening in April. He and his wife Jean, who uses a wheelchair as a result of polio in 1952, will split their retirement years between homes in Grand Rapids and St. Paul. He is exploring options to consult and launch a development program for Widler to increase its endowment. Wilder's directors also have named him their first Wilder Fellow, meaning that he will continue serving as a Wilder ambassador to the community on human service issues.

Translation: Giants that ascend beanstalks don't disappear forever. In Leonard Wilkening's case, that's good news.●

EXCELLENCE AWARD FOR TROSTEL

● Mr. KASTEN. Mr. President, I rise today to honor the accomplishment of one of my truly distinguished corporate constituents—Albert Trostel Packings, Ltd., of Lake Geneva, WI.

Trostel has been a real leader in quality and cost containment—and its achievements have earned it the General Motors Mark of Excellence Award, a recognition of quality that has been conferred on only 86 of General Motors' more than 14,000 suppliers.

Trostel is the largest employer in the Lake Geneva area, and has earned widespread praise for its precision seals for automotive and other manufacturers. Robert Gamache, the company's president, says this recent award is a tribute to Trostel's employees—I agree, and I think all America could learn from Trostel's dedication to quality and its example of hard work.●

QUESTIONING JAPAN'S HONOR

● Mr. DURENBERGER. Mr. President, I was interested to discover recently that a constituent of mine from Prior Lake, MN, had a paper published in the August 1989 issue of Stars and Stripes. Dr. Guy J. Kelnhofer, Jr.'s paper, "Questioning Japan's Honor," is an essay on the history of American and Japanese relations, beginning with World War II, and the prospects for future relations with Japan.

Dr. Kelnhofer spent nearly 4 years in a Japanese prisoner of war camp following the surrender of Wake Island in 1941. He is disabled as a result of the injuries he received, and is a member of the American Defenders of Bataan and Corregidor, the Wake Island Defenders, and the Disabled American Veterans. As a tribute to his outstanding service to his country and his unique insights, I ask that Dr. Kelnhofer's paper appear at this point in the RECORD.

The document follows:

QUESTIONING JAPAN'S HONOR

(By Guy J. Kelnhofer, Jr., Ph.D.)

There are certain events which change the world. Our world was never the same after December 7, 1941. That begun as a peaceful Sunday morning until the calm was shattered in Pearl Harbor, Hawaii. People on their way to church or just sitting down to breakfast found their ordered world destroyed suddenly by wave after wave of bombing and strafing Japanese war planes. This was how the Japanese Government informed the United States that war was declared. It was truly a "day of infamy."

The long, bloody war that followed the unprovoked attack on Pearl Harbor stands out as a watershed event in the history of Japan and the United States. Yet, it is a conflict which now is largely forgotten and seemingly it is ignored by the current generation of Americans and Japanese. Partly, it is the result of deliberate policy. Through a judicious mix of revisionist history and censorship, Japan tries to escape reminders of her past mistakes. America also downplays this aspect of our relations with Japan as it seeks to building strong ties to a country that has become an important economic and political ally.

This conspiracy of silence about the recent past endangers the development of that trust which both countries strive to achieve in their transactions each other. There remain lingering after with effects of that war because certain questions persist which leave that conflict not wholly settled. Japan and the United States need to move beyond these lasts doubts if we are to have a durable peace and ensure harmonious relations between our two peoples.

More than forty years have passed since Japan was forced to give up its grandiose plans of establishing through military conquest a Greater East Asia Co-Prosperity Sphere. When Japan surrendered in 1945, its economy was destroyed; its major urban centers were piles of smouldering rubble; and its people were starving. Despair and fear gripped the defeated Japanese. There was a widespread expectation that the victorious Americans would deal as harshly with the defeated civilians of Japan as Japan's own forces had dealt with the populations of the territories they had so recently occupied.

Through the generosity of the American people, the humanity and vision of General McArthur, and the industriousness of the Japanese workers, Japan rebuilt its economy. Today, more than forty years after the cessation of hostilities, Japan is recognized by the world community for its wealth, its inventiveness, and its productivity. The discipline of its labor force is admired and its production techniques are studied and emulated throughout the world.

Americans find it admirable that our former enemy has risen from the ashes of defeat to become a world renowned economic success. Many of us, however, temper our admiration for Japan's progress with a gnawing suspicion about that country's ambition concerning economic and political leadership. We are not sure that Japan is really the trustworthy ally that it purports to be.

Looking back on Japan's past behavior, many Americans question whether the present economic contest between our two countries is wholly peaceful in its intent. Some have suggested that this economic rivalry constitutes a strategic continuation of the struggle that we thought was ended in the surrender ceremonies aboard the U.S.S. *Missouri* in 1945. It seems to many Americans that Japan gave up the military phase of its campaign of domination but that it failed to give up its imperialist ambitions.

Are these unwarranted suspicions? Is there reason to believe that Japan is not an honorable nation in which we can safely repose our trust? How well would the Japanese score on our tests of their ethical standards in foreign relations?

Foreign observers have commented on the high regard accorded to personal honor by the people of Japan. Affronts to a man's dignity, to his family name, or to his community reputation are deadly serious matters to a Japanese. We Americans share many of these same values, respecting courage, honesty and integrity. Unlike the Japanese, however, we seldom feel impelled to commit suicide to redeem our honor as a consequence of some social disgrace. The Japanese code of honor appears to be more demanding in that respect.

Reviewing Japan's international conduct in the past, we Americans find it difficult to understand how that conduct conforms to our own concepts of honorable behavior. We wonder whether the Japanese may have two different codes of honor; one for their interpersonal and community behavior and another for their behavior abroad. Perhaps the Japanese regard foreigners as little more than brute barbarians whose good opinion is not worthy of regard and may safely be ignored.

For example, in 1941 Japan launched a surprise military attack against the United States while their diplomats were negotiating with ours in Washington, D.C. From an American point of view, that was a treacherous and cowardly action; one which an honorable people would not countenance. Yet, the men who were responsible for that unprincipled act, whose policies brought their country to the very brink of annihilation, are honored and respected by the people of that country. We wonder how to interpret these examples of Japan's concern for international honor.

Americans do not understand how an honorable people could give their allegiance to a military organization which won the reputation of being one of the most brutal and merciless in the annals of history. Testimony at the Tokyo Tribunals by witnesses, survivors and participants proved beyond any doubt that Japanese troops regularly engaged in acts of murder, mutilation, rape, arson, infanticide and cannibalism. Japanese military photographers even filmed such atrocities as the Rape of Nanking. There, in 1937, hundreds of thousands of innocent Chinese civilians were tortured and butchered in a bloody rampage that went on for forty days. Is this the behavior of an honorable people?

The many victims of Japanese cruelties during WW II find it especially difficult to forgive their enemies for their transgressions. The Japanese pretend that there is nothing to forgive. They admit to no wrongdoing. Americans believe that an honorable person admits his errors and tries to atone for any injuries he has caused to innocent parties through his neglect or misconduct.

Recent newspaper accounts tell us about how Japanese leaders are trying to cover up Japan's past misdeeds. Seizuki Okuno, director general of the national land agency, declared that Japan, the country that occupied Korea, invaded China, and attacked the USA in peacetime, was not an aggressor nation in WW II. His views, we read, were supported by 41 members of the governing Liberal Democratic Party. In 1986, Education Minister Masayuki Fujio wrote in a magazine article that Korea was partly to blame for its occupation by Japan in 1910. It was reported also that, in 1980, the Education Ministry censored a high school text book which referred to medical experiments conducted on prisoners of war by the Imperial Army's Unit 731 in China; referred to the invasion of China as an "advance"; and called the forced transfer of Koreans to Japan an "implementation of the national mobilization order to the Koreans."

In January 1988, the press carried reports of the efforts of the Shochiku Fuji Co. to delete from the film "The Last Emperor" the scenes depicting Japanese atrocities in the occupation of Nanking. These are examples of Japanese attempts to escape the consequences of their behavior by lies and evasions. Americans would condemn such a course of action as both cowardly and dishonorable. How do the Japanese justify this

as the proper conduct of an honorable people?

Following WW II, the German Government acknowledged its guilt and confessed it shame for the atrocities committed by the German people under the rule of the Nazi Party. To show its repentance, German leaders have gone to Israel to lay wreaths at memorials dedicated to the victims of the Holocaust. Reparations have been paid by the German Government to many of those who were the objects of the criminal acts of the German people in WW II. An honorable people could do no less.

Contrast this civilized behavior with that displayed by Japan, a country that professes to place great importance on upholding its national honor. No Japanese leader has come to Pearl Harbor to lay a wreath on the sunken U.S.S. *Arizona* and its entombed crew. To my knowledge, no Japanese leader has ever come forward to any American forum to admit that Japan engaged in atrocious behavior in its treatment of allied prisoners of war; or declared that the Japanese people are truly sorry for the terrible suffering they caused by their actions in WW II.

It would be naive to believe that these few words here will move the Japanese to respond with appropriate expressions of remorse and a request for America's forgiveness. Convinced of their racial and cultural superiority, they see themselves as a chosen people, descendants of the sun god, with a destiny of leadership to fulfill. Those inferior peoples who would stand in the way of that ordained mission must suffer the consequences. More than likely, the majority of the Japanese people have never felt and may never feel any shame about the atrocities committed by their troops in WW II. Our Judeo Christian ideas of what is proper behavior among nations seem to be foreign to Japanese cultural standards. This observation is made without implying any disrespect or supposing inferiority to the Japanese because of these differences from our own cultural norms.

Nevertheless, it is important for the Japanese to understand that they are regarded with suspicion in the West because of their failure to respect our Western sensibilities. Former enemies of Japan retain a deep and abiding mistrust of the Japanese. How could it be otherwise? This distrust is not likely to abate so long as Japan continues to indicate to the world that Japan will judge its behavior by its own internal standards of national honor and will ignore outside opinions and foreign notions of rectitude.

Pragmatic considerations alone should convince the Japanese that the way foreigners view Japan can have important effects for the export-dependent economy of their country. There must be many hundreds of thousands of foreign customers who will not buy goods made in Japan regardless of its merits. They have long memories and they harbor resentment against the Japanese for the way they or their friends and relatives were treated by Japan during WW II. Some of these disaffected people are influential individuals in commerce, government and finance. It would be in the best interests of Japan to cultivate the good opinion of these important people who do not feel comfortable dealing with the Japanese or buying Japanese products.

The time has come for Japan to act and to speak in ways that are designed to satisfy America's legitimate aspirations for resolving this unsettled business which continues to divide us. Japan has many moral debts to settle in America if she is to satisfy her creditors and close her accounts on WW II. Although it might not prove feasible for Japan to compensate properly the remaining foreign survivors for the unnecessary cruelties inflicted on them by their Japanese captors, much could still be done to alleviate some of the economic consequences visited on their widows and children.

Trust funds, scholarships, endowed university chairs, the establishment of specialized hospitals, and the funding of research institutes are just a few examples of the kinds of measures Japan might take to demonstrate its concern for the victims of its criminal behavior. Japanese commercial interests have a role to play also in this accounting. Japanese industrial conglomerates benefitted economically during WW II by employing prisoners of war as slave laborers to unload their ships, mine their coal and pour their steel. Back wages, plus interest, could be paid to survivors of the former prisoners of war who made up these slave labor parties.

Western sensibilities and public opinion would be affected in a vey positive way by the delivery of a personal apology by a respected Japanese leader for the unprovoked attack on the United States in 1941. A public act of contrition would rebound to the benefit of Japan and would go far to strengthen the relations between our two countries. Such an act of statesmanship would win worldwide attention and engender a significant shift of world opinion in favor of Japan.

Japan may be confident that it has abided by its own concepts of its national honor. Until it takes steps along the lines suggested here, there is little prospect that Japan will be regarded as an honorable nation in the world that America represents.●

A SALUTE TO SOME BRAVE WISCONSINITES AND A CALL FOR HOUSING NOW

● Mr. KOHL. Mr. President, earlier this year, I was visited by some very special people from Wisconsin. I would like to take a moment to salute them and pass along their message to the rest of the Senate and to the Nation.

During the first week in January, Karina O'Malley, Bill Mullooly, Tami Fedyna, James Tews, and Eugene Kienert experienced life without a home under a Route 395 overpass. Preceding this courageous group was Richard Dickerson, Ray Young, Willie Night, Irene Zvaigznitis, and Henry Clark who survived the same living conditions for the week beginning Christmas Eve. And for those of you who don't recall the weather during that time, let me tell you that it was vintage Washington winter: cold, damp, and windy.

Now, these people did not travel hundreds of miles just to be cold. There is plenty of that back home. No, these people came all this way simply to dramatize the Nation's criminal lack of affordable housing.

By day, they passed out pamphlets to passers-by on the Capitol steps and visited congressional offices in hopes of gaining an open ear and, even better, an open mind to hear their protest against the lack of affordable housing. By night, they huddled together, each of them shivering from the cold and moving restlessly due to the uncomfortable circumstances of trying to get rest on hard pavement.

The minutes that I shared with these individuals were very inspirational. To look into the eyes of these sleepless, yet determined, crusaders was a very encouraging experience. It is rare to meet people that are willing to take off from work or use a semester break from school to dedicate their time to such a hellish week for such a noble cause.

They told me that their experience gave them even more respect for the daily trials of our country's homeless population. They certainly brought the problem home for me and others here in Congress. America's homeless were without shelter the many nights before and the many nights since my friends visited Washington. It is a problem that has gone on for far too long.

We agreed that present funding levels for public housing are inadequate. I gave them my commitment to support effective legislation which would more adequately fund housing programs. We have the resources: They are just being spent on the wrong priorities. I share their call for action and I salute their dedication. We need housing now.●

ST. PATRICK'S DAY

● Mr. SIMON. Mr. President, March 17 was St. Patrick's Day, a day of celebration and joy. In cities and communities all across the United States, people gathered in the streets, in the churches, and in their homes to commemorate the life of the patron saint of Ireland and to pay tribute to the innumerable contributions the Irish people have made to our own great Nation.

As sponsor of Senate Joint Resolution 262, which designates March 1990 as "Irish-American Heritage Month," I am particularly proud to honor St. Patrick's Day today. The warmth, wisdom, courage, and faith of the Irish have touched all of our lives in some way.

By 1776, nearly 300,000 Irish men and women had emigrated to the United States. Thousands fought in the Revolutionary War; nine men of Irish origin signed our Declaration of Independence. A century later, waves of Irish immigrants brought talent and energy to our growing Nation. Their contributions to the arts, athletics, politics, science, and other fields of human endeavor have been extensive and need no elaboration.

In the 1980 census, just over 40 million Americans claimed to be of Irish descent. Many Irish-Americans reside

in my own State of Illinois, and Chicago is host to a fabulous St. Patrick's Day parade—one I march in every year with both pleasure and pride. This year I was especially honored to march as the guest of the Irish Immigration Reform Movement. There are other St. Patrick's Day events in Chicago as well: dances, dinners, and even a race known as the Shamrock Shuffle. And in Chicago, as in every community, the warmth and spirit of St. Patrick's Day embraces all citizens, not just those of Irish descent.

But as we all must recognize, the festivity and good humor of St. Patrick's Day cannot erase the violence and conflict that have rent the Emerald Isle for so long. I am deeply saddened by the bloodshed and confusion in Ireland, and hope with all my heart that the new decade will bring peace to its proud people. As we pay tribute to that beautiful country and its people, let us renew our plea for peace, freedom, and justice in the spirit of St. Patrick.●

TRAGEDY IN KOSOVO

● Mr. LAUTENBERG. Mr. President, I rise to draw my colleagues' attention to what has occurred in Kosovo, Yugoslavia, over the last few months and express my own deep concern about the situation. I am concerned about and condemn the violence which has taken place there. I am also concerned about ethnic Albanians who may be denied their fundamental human rights simply because they have peacefully advocated greater autonomy for Kosovo.

In late January and February, violent confrontations took place in the autonomous province of Kosovo in Yugoslavia which caused many deaths, and much pain and suffering. In demonstrations in late January, well over 100,000 ethnic Albanians throughout the region called for the resignation of local political leaders, the release of all political prisoners, and free elections.

Federal riot police units responded with force using water cannons and tear gas, among other things, to break up the demonstrations. Many of the protestors were detained. As clashes between authorities and protesters continued into February, there were numerous reports of actual shootings and several incidents of police atrocities.

The situation in Kosovo has since quieted somewhat. But the region remains tense and could explode again at any time. For this reason, we need to follow events in Kosovo and in all of Yugoslavia very carefully.

Yugoslavia is a signatory to the Helsinki Final Act. As such, it has pledged to respect human rights and fundamental freedoms, including the rights of members of national and ethnic groups to freely express their views. As a member of the Helsinki Commission, mandated to monitor and encourage compliance with the human rights and other provisions of the Helsinki Final Act by all signatory States, I intend to follow the situation to make sure that Yugoslavia complies with its commitments.

The causes of the current difficulties in Kosovo are as complicated as their effects are tragic. The overwhelming majority of the region's population—about 90 percent—is ethnic Albanian. A large number of Albanians want greater autonomy for Kosovo, which is currently part of the Serbian republic within Yugoslavia.

Serbs, however, claim Kosovo as their own, maintaining that it was the cradle of their culture and civilization. In recent years, they have rallied under the nationalist banner of Slobodan Milosevic. Through constitutional changes limiting Kosovo's autonomy, and a crackdown on Albanian protests, they have reasserted their control over the province.

Albanians and Serbs each allege that the other has instigated violent acts against them. The worsening economic situation in Kosovo, marked especially by high unemployment levels, has seriously exacerbated the resulting tensions.

Mr. President, there is no easy solution to the tragedy which exists in Kosovo today. The best solution, however, is simply for all of Yugoslavia to move quickly and fully to a more democratic political system. That system should include free elections, political pluralism, respect for the rule of law, and human rights guarantees, including guarantees for members of national minorities. Only in such a system can there be a peaceful and open dialog on issues of public concern, a dialog which will lead to effective and fair results.

Fortunately, it seems that an increasing number of Yugoslavs are rejecting violence and repression in favor of such an approach. They believe that only through a more democratic political system can Yugoslavia overcome its divisions and improve its economic performance. These people deserve our full support as they face the repressive forces which continue to exist.

As a nonaligned country that followed its own course of reform, Yugoslavia was once known as the best that could be hoped for from a Communist country. This positive image has been seriously tarnished by the events in Kosovo and some other parts of Yugoslavia, especially in light of the many rapid strides toward democracy we are now witnessing in Eastern Europe and elsewhere. As a result, the Congress has been increasingly critical of Yugoslavia's human rights record.

By calling upon the Yugoslav Government to comply with its Helsinki promises, I join with many other Senators, including the chairman of the Helsinki Commission, DENNIS DECONCINI, and the chairman of the Senate Foreign Relations Committee, CLAIBORNE PELL, who are concerned about human rights in Yugoslavia and the recent events in Kosovo.

I hope, Mr. President, that the Yugoslav Government will hear our expressions of concern, and will take immediate action to ensure that the problems plaguing Kosovo will be peacefully and democratically resolved.●

BEING OVERSENSITIVE

● Mr. SIMON. Mr. President, I confess I was appalled at the amount of pressure that the Turkish Government was able to leverage within the administration and outside of the administration to defeat a simple resolution calling on us to remember the massacre of the Armenian people that took place three-quarters of a century ago.

It was not a criticism of the current Government of Turkey. It was not a criticism of the people of Turkey. But the oversensitivity of that government to even this innocuous resolution has caused me to pay a little more attention to Turkey, and I found a few paragraphs in the publication, Extra!, of interest. Extra! has a special edition on human rights and the coverage of human rights in American journals.

I ask to insert these paragraphs in the RECORD at this point. I urge my colleagues, as well as journalist who cover the world scene, read this commentary. The excerpt follows:

Among the 35 signatory nations of the 1975 Helsinki Accord, Turkey is one of the most egregious human rights violators, yet it is a low priority for US media. When the Turkish government figures in human rights stories, they are usually about the brutal mistreatment of the Kurdish ethnic minority (see page 58). Occasional articles dicuss the Bulgarian government's persecution of its Turkish minority. But very little is said about the Turkish government's ongoing oppression of its own people.

"The coverage of Turkey is terrible," says Helsinki Watch director Jeri Laber. "It's amazing how little gets into the press." Laber has spoken with US journalists who have filed human rights stories from Turkey (the fourth largest recipient of US aid), only to have them killed by editors more interested in travel articles. Ironically, freedom of movement is a right many Turks cannot exercise. Since the military coup in 1980, as many as 300,000 Turkish citizens have been denied passports, and, according to Amnesty International, 250,000 political prisoners were detained and nearly all were tortured; 200 Turks died while in custody because of torture.

Turkey gets far more coverage in Western European countries with large communities of Turkish immigrants and guest workers. Even so, one might think that US news organizations would show more interest when their own employees are brutalized by Turk-

ish authorities. But the US media didn't publicize the case of Ismet Imset, a UPI reporter who was beaten and imprisoned on trumped-up charges in 1984. (Imset was fired by UPI after he criticized how it responded to the incident.) Nor have US media shown much concern for the 2000 reporters and editors who've been tried in Turkish courts since a civilian government was installed in 1983, or the 41 journalists currently in jail.

Labor unions have also been a prime target of Turkish government repression. Martial law in Turkey in the early 1980s put an end to collective bargaining, and the trade union movement was decimated by mass arrests, torture and executions. This occurred at a time when the fledgling Solidarity movement in Poland was receiving a great deal of US press attention. Driven more by US policy interests than by a concern for human rights, many in the mass media averted their eyes from the nightmare in Turkey, and thereby helped to perpetuate it.●

NAMIBIAN INDEPENDENCE

● Mr. DECONCINI. Mr. President, yesterday, Africa's last colony became not only the newest member of the family of nations, but the latest member of the growing ranks of the world's democracies. According to the Washington Post's description of this event, the 20,000 people that attended the celebration "roared in full-throated approval as Namibia's new red, blue, and green banner emblazoned with a vibrant sunburst was raised * * * marking the official instant of independence."

This exuberant description of the scene was matched by the enthusiastic comments of the participants. U.N. Secretary Perez de Cuellar reportedly hailed the event as "the triumph of the international rule of law" and refered to the U.S. mediated settlement as an "imaginative venture of statesmanship."

As the euphoria of this event recedes into history, Namibia's people and its leadership will find that independence and a new democratic constitution are only the beginning of a long and perhaps difficult process of governing. This new country faces serious problems. It must overcome the backlog of unmet social and educational needs that are a part of the legacy of apartheid. It must learn to balance a national budget without subsidies from South Africa. Even with the help of Namibia's international friends and supporters—and I hope we move quickly to join the ranks of these nations—the solutions will not come easily.

The Namibian people have chosen a good starting point for this journey by adopting one of the few truly democratic constitutions on the continent. The Washington Post said that the atmosphere of the independence celebration "was one of near euphoria and diplomatic achievement." Namibia has every right to celebrate, as do all democratic nations worldwide. I ask that the article "Namibia Gains Freedom in Midnight Celebration" from the March 21 Washington Post be included in the RECORD following my statement.

The article follows:

NAMIBIA GAINS FREEDOM IN MIDNIGHT CELEBRATION—AFRICA'S LAST COLONY BECOMES NEWEST NATION

(By David B. Ottaway)

WINDHOEK, NAMIBIA, March 21.—Namibia, Africa's last colony, gained independence early this morning in an international celebration that marked the end of 105 years of German and South African rule and more than four decades of guerrilla warfare and contentious negotiation over the territory.

The midnight ceremony was attended by the largest crowd of foreign dignitaries ever assembled for such an occasion in Africa, and indication of the international importance that the struggle over this southwest African nation gained in recent years.

United Nations Security General Javier Perez de Cuellar and South African President Frederik W. de Klerk shared the platform in this city's small soccer stadium with Namibia's first president, Sam Nujoma, to watch the South African flag lowered over this mineral-rich desert land of 1.5 million people.

"Down! Down! Down!" the crowd of 20,000 cried as the orange, white and blue South African ensign fluttered earthward. Moments later they roared in full-throated approval as Namibia's new red, blue and green banner emblazoned with a vibrant sunburst was raised at 22 minutes past midnight, marking the official instant of independence.

Perez de Cuellar administered Nujoma's oath of office under the country's new constitution, a far-reaching document that guarantees one of the rare multi-party political systems in Africa. It was believed to be the first time a U.N. secretary general has played such a role in the birth of a nation.

Perez de Cuellar, referring to the United Nations' 40-year struggle to gain South Africa's acceptance of a U.N. mandate over Namibia, hailed the country's independence as "the triumph of the international rule of law." He called the lengthy U.S.-led negotiating process with South Africa, which ruled Namibia since it ousted German colonial authorities in 1915, "this imaginative venture of statesmanship."

A solemn-looking de Klerk, invited to speak by the new Namibian government, also referred to the country's "long and arduous road" to independence 30 years later than most of the rest of Africa.

But the white South African leader seemed more eager to mark the turn of a new page in his country's relations with Namibia and all of southern Africa, saying: "I stand here tonight as an advocate for peace. The season of violence has passed for Namibia and for the whole of southern Africa."

A new era was dawning in the region, he told the crowd—the result of protracted negotiations "in which we Africans found a solution to an African problem."

"We extend a hand of friendship to our new neighbors," he said. "Good neighborliness is in our mutual interest."

Among those congratulating de Klerk on his speech was Palestine Liberation Organization leader Yasser Arafat. Also looking on with approval was Nelson Mandela, leader of South Africa's most prominent black nationalist group, the African National Congress, who was recently released by de Klerk from 27½ years in prison.

Nujoma, leader of the South West African People's Organization (SWAPO), which led a guerrilla war against South African rule in Namibia for 24 years and then was elected to form the first Namibian government, spoke last at the ceremony and thanked the international community for its role in gaining Namibia's independence.

"Africa's last colony is from this hour liberated," he said. He called South Africa's decision to withdraw from Namibia "an act of statesmanship and realism," which he said de Klerk would demonstrate further in dealing with his own country's internal problems.

None of the other 50 black and Arab African nations witnessed such a gathering of foreign leaders for independence celebrations as did the one here today. Hundreds of dignitaries from 70 countries took part, and the atmosphere was one of near euphoria and diplomatic achievement.

A delay in the flag-raising ceremony, originally scheduled for mid-night, was caused partly by the problem of seating the large number of foreigners present. Such was the crush that both Secretary of State James A. Baker III and Soviet Foreign Minister Eduard Shevardnadze had to struggle to make their way to their seats through the crowd of presidents, foreign ministers and other guests.

Perhaps the most surprising guest was de Klerk, the first time any white South African leader had been welcome at the independence ceremony of a black African nation.

Namibia's transition from a de facto South African colony to an independent nation has been seen as a triumph for U.S. diplomacy and the United Nations.

A senior Bush administration official said today that the United States was "very proud" not only because it had played a central role in the negotiations for Namibia's independence but because the result was a constitution embodying a pluralistic democracy. "We'd like to see this emulated all over Africa," he said.

The constitution was written after U.N.-sponsored elections held last November, the outcome of which seemed to have included something that pleased virtually everyone—SWAPO, the 100,000 white residents of Namibia, South Africa, leaders of South Africa's black neighboring states and the United Nations.

SWAPO won 57 percent of the vote and 41 of the 72 seats in the new national assembly, short of the two-thirds majority needed to write its own constitution.

This forced it into making many compromises with the mixed white-black Democratic Turnhalle Alliance, which surprised most observers by winning nearly 30 percent of the vote and 21 seats. Five other parties, one white-led but all of them with mixed constituencies, won the other 10 seats, giving Namibia a true multi-party system.

Former Assistant Secretary of State Chester A. Crocker spent the entire eight years of the Reagan administration seeking a solution to both the conflict here and the withdrawal of Cuban troops from neighboring Angola. He became the chief architect of the December 1988 agreement providing for a settlement of both issues.

Crocker, attending the ceremonies here as part of the U.S. delegation, said he had "a very warm feeling" about seeing Namibia

become independent. "It's wonderful, wonderful."

"The constitution here could enable Namibia, after Botswana, to become the second real democracy in the whole region," Crocker said in an interview. "What's exciting about it is that the various sides [blacks and whites] are looking at democracy with comparable enthusiasm, though perhaps for different reasons. . . . It seems to tell us that minorities can take heart from democractic constitutions, and so can majorities."

The U.N. supervision of the elections here Nov. 7 was the largest such operation ever undertaken by the organization. it involved 4,500 troops, 1,500 police officers and, at its peak, 7,900 total personnel.

The cost of the operation, budgeted for $416 million, is now estmated at $367 million, according to Cedric Thornberry, director of the office of the U.N. special representative here, Martti Ahtisaari.

Thornberry said the U.N. operation was unique in that the United Nations had been asked both to provide security and logistics for the elections and to become involved in instruction Namibians how to vote.●

WINNER OF THE WESTINGHOUSE SCIENCE TALENT SEARCH

● Mr. SIMON. Mr. President, I would like to take this opportunity to congratulate Matthew Headrick, of Hyde Park, IL, this year's winner of the Westinghouse Science Talent Search. Matthew's project on molecular genetics was the top entry among 1,431 projects submitted by students from 36 States.

Matthew's teachers and school deserve congratulations as well, not just because of his success, but because the school appears to be able to turn out many future scientists. University High School had another first-place winner 3 years ago, and a third-place winner the following year.

Mr. President, I ask that a Chicago Tribune article about the Science Talent Search Award winner be reprinted in the RECORD.

The article follows:

TEENAGE SCIENCE WHIZ CAPTURES NATIONAL HONOR

(By Marja Mills and Eric Smith)

A 17-year-old Chicago student won the Westinghouse Science Talent Search Monday, and with it, national recognition as a young scientist to watch.

Matthew Headrick, of Hyde Park, was awarded the honor for his project on molecular genetics at a banquet Monday night in Washington, D.C. He received a $20,000 college scholarship.

Matthew is a senior at University High School, part of the Laboratory Schools of the University of Chicago. He said he plans to attend Princeton or Stanford Universities next year, and major in math.

In terms of the long-term future, I want to get a Ph.D. in math and become a theoretical physicist," he said.

A field of 1,431 students from 36 states was whittled to 300 and then to 40 finalists before Matthew was selected the winner.

His project "used molecular genetics techniques to isolate for the first time the gene that is necessary for nitrogen fixation in a fresh-water blue-green alga, according to Eileen Milling, a spokeswoman for the Westinghouse competition.

"It has vast significance in terms of agriculture," Milling said.

Matthew will have plenty of opportunities to try to put all that in simple terms, predicted Wendell McConnaha, principal of University High School, 5840 S. Kenwood Ave.

Past winners of the competition, sponsored by Westinghouse Electric Corp., did rounds of television and newspaper interviews.

Since 1942, when the competition was established, five of the first-place finishers have gone on to win Nobel Prizes.

"The fact that he won puts him in a very elite group of scientists," McConnaha said.

"The hope is that Matthew and the others will make a real impact on the scientific community. They have the potential."

But first, there is celebrating to be done at a Chicago high school where the students appreciate better than most the thrill of the science award.

A pep rally is in the works for Matthew, much like the one that three years ago when Louise Chang, then a senior and now a Harvard student, won first place in the Westinghouse competition.

The rally was held after Louise made the round of morning talk show interviews in New York and just before the Laboratory Schools' elementary students collected her autograph.

Add Matthew's to the list of signatures in demand.

This, after all, is a high school where being on the math team, as Matthew is, can actually enhance one's social status, and talk of molecules mixes easily with discussions of baseball scores.

"The kids will be blown away by this," McConnaha said. "But it's not an oddity."

A year after Chang won the competition, another University High School student took third.

For more than a year, Matthew spent hours after school poring over the project in a laboratory, McConnaha said.

The teenager, who attends classes at the University of Chicago as well as the high school, also is a strong history and math student, the principal said.

The Westinghouse competition brought Matthew and the 39 other finalists to Washington for a final evaluation of their scientific creativity and potential.

"The main thing about the past five days is how amazingly fun it's been," Matthew said.

The second-place winner entered a neuroscience project and the third-place winner submitted work that involved genetic coding. Both received $15,000 scholarships.●

GREEK INDEPENDENCE DAY

● Mr. SARBANES. Mr. President, each year millions of Greeks throughout the world join in celebrating March 25 as Greek Independence Day. On that day in 1821, the Greek nation began its long and arduous struggle to reestablish its independence after nearly four centuries of Turkish Ottoman rule. For 8 difficult years, determined Greek patriots fought tenaciously and against tremendous odds to secure the liberty of their homeland and to reaffirm the individual freedoms which are the heart of the Greek tradition.

Regarded skeptically by the monarchical governments of Europe, the uprising in Greece nonetheless captured the imagination and commanded the admiration of peoples on both sides of the Atlantic. This was particularly true in the young American Republic. President James Monroe remarked in 1823 that "the whole civilized world took a deep interest in the heroic struggle of the Greeks which brought to mind both exalted sentiments and the best of feelings."

American sympathy for the Greek uprising was rooted in our young Nation's own experience in overthrowing colonial domination and establishing a democratic republic. State legislatures and town meetings across the nation passed resolutions in support of the Greek effort, and in the House of Representatives Congressman Daniel Webster eloquently put the Greek case to his colleagues in the 18th Congress:

"The Greeks," he declared on the floor of the House in 1823—

A people of intelligence, ingenuity, refinement, spirit, and enterprise, have been for centuries under the most atrocious, unparalleled Tartarian barbarism that ever oppressed the human race.

They look to us as the great Republic of the Earth and they ask us by our common faith, whether we can forget that they are now struggling for what we can so ably enjoy? I cannot say, sir, that they will succeed; that rests with heaven. But for myself, sir, if we tomorrow hear that they have failed—that their last phalanx had sunk beneath the Turkish scimitar—that the frames of their last city had sunk in ashes and that naught remained but the wide melancholy waste where Greece once was, I would still reflect with the most heartfelt satisfaction, that I had asked you, in the name of seven million of free men, that you would give them at least a cheering of one friendly voice.

The Greek patriots drew inspiration from the American Revolution, as the founders of the American Republic had earlier drawn from the ancient Greeks. The noted American historian Henry Steele Commager has discussed the extent to which the architects of the Revolution and the authors of the Declaration of Independence, the Constitution, and the Bill of Rights were familiar with Plutarch and Thucydides, and with the ancient Greek ideas of civil liberty and citizenship. There is, he wrote, a "continuous rain of references" in the debates in the experience of the ancient world, and in the Federalist Papers to ancient history. As Thomas Jefferson observed of himself and his colleagues, "to the ancient Greeks * * * we are all indebted for the light which led ourselves out of Gothic darkness."

The ties which join the two nations and the two peoples were thus forged through mutual inspiration in the early days of our republics; for more

than 150 years they have been reinforced in countless ways. As nations and peoples in World War I, Americans and Greeks were steadfast allies. During the darkest days of World War II, when it seemed inevitable that Hitler and Mussolini's forces would overrun Europe with little resistance, the courageous Greek people defeated Mussolini's army, thus giving the free world its first victory over the Axis powers and effectively delaying their occupation of Greece. Nowhere was the Nazi occupation more brutal than in Greece; and nowhere, in turn, was the resistance more determined or heroic than in Greece.

In the postwar period, the commitment of President Harry Truman and the American people helped the people of Greece to turn back a communist insurgency and to rebuilt their country, ravaged by years of armed conflict. Today Greece is a stable democracy, a member of the NATO alliance and of the European Community. The enduring ties of history are reinforced every day by the very personal ties which join the American and Greek peoples, and by the role Americans of Greek background play in the cultural, scientific, economic and, indeed, every aspect of our national life.

The Greek people are justly proud of the abiding commitment to freedom which marks their heritage, unwavering through the centuries and enduring in the face of great adversity. The continuing Turkish occupation of a significant portion of the Republic of Cyprus therefore remains a source of great concern among Greek Americans. In the past year, there have been signs of a renewed commitment to the search for a just and enduring solution to this situation. It is in the best interests to all to promote the healing of this society torn by war and military aggression.

Mr. President, 169 years later we commemorate the Greek War of Independence which serves as a reminder of the strong ties of friendship and solidarity and the mutual respect between the peoples of the United States and Greece. It is not only an inspiring chapter in the long history of Greece's steadfast devotion to the principles we also cherish; it is a milestone in the struggle for freedom in the modern world. In the words of the resolution which for the first time officially authorized March 25 as Greek Independence Day, "The ancient Greeks developed the concept of democracy, in which supreme power to govern was vested in the people. The Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy." In celebrating Greek Independence Day, we celebrate and reaffirm our commitment to the principles which inspires the free and democratic peoples of America and Greece.●

ILLINOIS TEACHER OF THE YEAR, LORNA ANDERSON

● Mr. SIMON. Mr. President, I would like to take this opportunity to congratulate Lorna Anderson, the Illinois Teacher of the Year, who was honored in a special television program on literacy last Sunday. Ms. Anderson is proof that the key to a good education is a good teacher.

Researchers at Harvard University discovered this by accident some years ago. They were studying all of the new, modern audio-visual tools used in foreign language teaching, to determine which was effective, and which wasn't. They came to a very interesting conclusion: if you have a good teacher, you learn, and if you don't have a good teacher, you don't learn—no matter what fancy equipment you might have.

Mr. President, Lorna Anderson is to be commended for her dedication to education. Her students learn because she is a good teacher. I ask that a March 16 Chicago Tribune article about Ms. Anderson's appearance on last Sunday's television special be printed in the CONGRESSIONAL RECORD.

The article follows:

[From The Chicago Tribune, Mar. 16, 1990]

"MEAN" TEACHER? READ THAT AS "SUCCESSFUL"

(By Kenneth R. Clark)

Lorna Anderson, Illinois' 1989 teacher of the year, is warm, caring, softspoken and, by her own admission, "the meanest teacher you ever met."

Her views might shock some fellow educators and infuriate civil libertarians, but when it comes to teaching the illiterate to read, she gets the job done as few other teachers have been able to.

Anderson, who lives in Forest Park, teaches adult classes at South Suburban College. Along with other leaders in First Lady Barbara Bush's drive to check the epidemic of illiteracy, she will be honored on nationwide TV Sunday when ABC, in conjunction with public broadcasting, presents "The Bell Atlantic Showcase: To Be Free" (6 p.m., WLS-Ch. 7).

The national-literacy-honors special, pretaped in the East Room of the White House with President and Mrs. Bush as hosts, will feature Morgan Freeman, Patrick Swayze, Barbara Mandrell, Anita Baker, Jamie Lee Curtis, Beau Bridges, Jim Henson and Kermit the Frog.

In addition to Anderson, who was named teacher of the year by the Illinois State Board of Education, it will honor Harold McGraw Jr. of the McGraw-Hill publishing empire, and Wally "Famous" Amos for their efforts in the campaign, as well as two other teachers and three "new learners" who have turned their lives around by learning to read.

The show-biz approach is fine with Anderson, so long as the spotlight is on illiteracy, a problem that she said is worse than most people realize: An estimated 23 million U.S. adults are functionally illiterate.

"Illiteracy was widespread back in the 1950s, but it was not publicized," she said. "It was something they thought would go away if they didn't look at it. It was swept under the rug because once you start talking about it, suddenly you're talking money; you're talking grants."

A NATION AT RISK

"We're more of a nation at risk today than we were 10 years ago," she said. "The prime cause is children not going to school. Back in those days, parents were different. There was more of a home environment. Children were made to go to school. So many juveniles today are getting into trouble; so many are being expelled.

"Before, there were always a few young women in high school who became pregnant, but now you've got them at 12 and 13 years of age. It's an issue that goes beyond reading and writing."

Anderson goes beyond by serving as parent, guidance counselor and therapist to her charges. Many of them—men 18 and older, and girls of any age who are raising children on welfare—are a hard-case lot. Some, on parole from prison terms, come to her only because a judge or a parole officer has ordered them to.

They live, unemployed and uneducated, drug-ridden ghettos, and while simply learning to read and write is a vital goal, other matters frequently take precedence.

"Maybe I want to teach English, and they want to talk about something that happened on the street last night," she said. "I have to be able to set aside the English lesson and deal with them and straighten up their problems. They can be sitting next to a student at 1 o'clock today, and at 1 o'clock tomorrow, that student is dead. You don't just forget it and let them talk on the corner. All teachers in GED [adult] education have to do this. You have to be more than just a teacher. You have to be whatever the student needs you to be at the time."

Everything, that is, but a pushover for excuses. If her students fail to show up, she goes to their homes to find out why, and self-pity has no place in her curriculum. The Canadian-born Anderson can empathize. Early in her life, after a divorce, two heart attacks and a slipped disc, she found herself raising two daughters on public assistance. She used the 2½-year welfare hiatus to return to school.

"They can't tell me anything about public aid," Anderson said. "They will try excuses: 'The system did this to me,' and, 'You don't understand—there was slavery.' I tell them, I don't want to hear it. The system did something through slavery to your great-grandparents; the system hasn't done anything to you. The way the world is today, you can find an excuse for everything that goes wrong in your life, but I don't accept it.

"When they say, 'Oh, Miss Anderson, you're so hard on us; you're mean,' I say, 'Fine, if you think that of me then I know I have your attention. Until you have your diploma—until you walk in here and say. "See, I got it"—then I'm going to be the meanest teacher you ever met.'"

A PUPIL'S PRAISE

Mary McClaskey is one former student who knows what Anderson means about "mean". Like Anderson, McCaskey found herself in her mid-30s with four children, no husband, no high school diploma and plenty of despair, contemplating a future chained to the wheel of welfare. She was in no mood for the hassle Anderson gave her.

"When I first went into this, I wanted to kick her butt!" McCaskey said, laughing at the idea. "She would say, 'If you ever want to get off public aid, you have to do this," and I'd say, 'You ain't got to tell me I'm on public aid, and I ain't asking you for nothin'!' But she wouldn't accept that. She just kept coming back, saying, 'You can do it; you can do it.' Finally, I said, 'Well, I'll give it one more shot, and, if not, leave me alone.' "

Under Anderson's prodding, McCaskey gave it one more shot, then another and another. Finally, in 1986, she got her high school diploma and, in May 1989, her associate degree in social work. She is now Anderson's assistant and will enroll in September at Chicago State University to work on her bachelor's degree.

"She's a strong motivator," McCaskey said of Anderson. "Without her, I wouldn't be where I am today."

MANDATORY SCHOOLING

Anderson is so committed to literacy and subsequent education that she would like to see nursery schools set up and education made compulsory for anyone on welfare.

"People on public assistance should be made to come to school," she said. "You have a young woman on public aid, and she has one child. She gets about $4,000 a year. Add the food stamps, and it comes to about $5,000 a year. That young lady can stay on until the child is 18 years of age. That's something like $60,000 you and I are going to pay her for that one child, but she's young and she's going to have three or four more children.

Wouldn't it be better to have a nursery where these young mothers can put the babies, and then order [the mothers] to return to school? Let's make it mandatory. Let's say, 'We don't mind paying to help you with your children, but you must do something with your life.' Let's have no more of this, 'You're infringing on someone's civil rights to make them get an education if they don't want it.' Aren't you infringing on my rights when you take my tax dollars and use them to support this system? If a person does not want to be educated, why should they receive benefits?"

Anderson is equally hard on the school system, which she said is timid and so balkanized in terms of curricula that one district has no idea what a neighboring district is doing.

"I tell my students every day; 'Don't allow the system to use you. Use the system, but while your children are growing up and going to school, you grow up with them and you go to school. Then you can stand on your own two feet, and your children will start to appreciate you and respect you.' "

And do her students respect the "meanest teacher" they ever met?

"I can get very angry with them, especially the young ones," she said. "But the next day, they're all back. I think this is what the school system is going to have to do, especially with adults. We're going to have to start to care." ●

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, upon the recommendations of the majority and minority leaders, pursuant to Public Law 98-237, appoints the following Senators to the Advisory Commission on Conferences in Ocean Shipping:

From the Committee on Commerce, Science, and Transportation: The Senator from Louisiana [Mr. BREAUX] and the Senator from Oregon [Mr. PACKWOOD].

From the Committee on the Judiciary: The Senator from Ohio [Mr. METZENBAUM] and the Senator from South Carolina [Mr. THURMOND].

AUTHORIZING THE SECRETARY OF THE SENATE TO MAKE TECHNICAL CHANGE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make the following technical change in the engrossment of Senate Joint Resolution 266, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL CONFERENCE ON GLOBAL ENVIRONMENT

Mr. MITCHELL. Mr. President, on behalf of myself and Senator DOLE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 265) amending Senate Resolution 171 of the One Hundred First Congress (agreed to on August 4, 1989).

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 265) was agreed to, as follows:

Resolved, That Senate Resolution 171 of the One Hundred First Congress (agreed to on August 4, 1989), as amended by Senate Resolution 241 of the One hundred first Congress (agreed to on February 6, 1990), is amended—

(a) In section 1(a)(1) by adding "including the District of Columbia," after "United States,"; and

(b) by redesignating section 6 as section 7 and adding after section 5 the following section:

"Sec. 6. Notwithstanding the provisions of rule XXXVIII of the Standing Rules of the Senate, and pursuant to the Senate rulemaking authority provided by subsection (b)(1) of section 7353 of title 5, United States Code, in carrying out the purposes of this resolution the delegation is authorized to solicit, accept, and administer gifts of money, other property, and services, and conduct other transactions related to such purposes.".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW

RECESS UNTIL 9 A.M. AND MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Thursday, March 22, and that following the time for the two leaders, there be a period for morning business, not to extend beyond 9:45 a.m., with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, at 9:45 a.m. tomorrow, the Senate will resume consideration of the clean air bill with rollcall votes occurring throughout the day and into the evening, I anticipate.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 9 a.m. on Thursday, March 22, 1990.

There being no objection, the Senate, at 11:11 p.m., recessed until Thursday, March 22, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate March 21, 1990:

INTER-AMERICAN FOUNDATION

JAMES HENRY MICHEL, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 20, 1992, VICE M. ALAN WOODS, DECEASED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be major

RANDALL W. MARTIN, xxx-xx-xxxx

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED, PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN CAPTAIN.

NURSE CORPS

DONALD L. THORNTON, xxx-xx-xx...

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF LIEUTENANT COMMANDER AS INDICATED, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 628, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be lieutenant commander

DAVID A. LEWELLYN

MEDICAL CORPS

To be lieutenant commander

DAVID O. CHILDERS, JR.
STEPHEN L. HENDRIX

WITHDRAWAL

Executive message received March 21, 1990, withdrawing from further Senate consideration the following nomination:

INTER-AMERICAN FOUNDATION

RONALD WILLIAM ROSKENS, OF NEBRASKA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 20, 1992, VICE M. ALAN WOODS, DECEASED, WHICH WAS SENT TO THE SENATE ON JANUARY 25, 1990.

EXTENSIONS OF REMARKS

SPEAK OUT AGAINST ANTI-SEMITISM

HON. BILL GREEN
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. GREEN. Mr. Speaker, almost daily now there are deeply distressing accounts of growing anti-Semitism in the Soviet Union.

Fears that pogroms are again a possibility in the U.S.S.R. are increasingly being heard. We must not ignore those dangerous warning signs. The rise of popular anti-Semitism—as opposed to the official anti-Semitism that preceded it—is a problem with which the Soviet Jewish community is ill prepared to deal, because of past Soviet legal restrictions on Jewish organizations in the U.S.S.R. Obviously, until the last couple of years, anyone who tried to organize a Soviet Anti-Defamation League or similar endeavor would have been subject to persecution by the Soviet authorities. Fortunately, that day appears to have passed, but given 70 years in which Soviet Jews had no possibility of forming community organizations, the Jewish community has little ability to deal with the new anti-Semitism.

We must continue to insist that Soviet officials root out institutional bias in universities and other establishment centers and speak out loudly against racial attacks. I am especially concerned because not enough has been said by President Gorbachev himself. I urge Mr. Gorbachev to exert strong leadership on this issue, and to encourage all Soviet officials to send out an unambiguous and forceful message to all their citizens that crimes of racial violence will be not tolerated.

The following special report, from the March 1990 edition of Physics Today, focuses on this deeply troubling problem and reminds us all that we must remain ever vigilant in speaking out against bigotry and racism:

THE PARADOX OF PERESTROIKA: ETHNIC TURMOIL AND ANTI-SEMITISM

A specter is haunting Soviet society. The specter is the economic, cultural and political turmoil that a writer in the government newspaper *Izvestia* likens to "a fever . . . that weakens *perestroika* . . . and deafens the leadership to the voices that cry out in alarm to prevent disorder and anarchy." As democracy and diversity sweep through much of Eastern Europe, the Soviet behemoth is mired in ethnic upheavals and nationalist upsurges. Such is the nature of the troubles in this era of *glasnost* that extremist groups with names like Fidelity, Renewal, Fatherland and Memory, all xenophobic and ostensibly devoting themselves to the preservation of historic buildings, churches and monuments, combating drunkenness or reviving Russian folksinging, are waging a rearguard action, deploring Western-style freedoms and advocating anti-Semitism. The actions of these groups cause Soviet Jews to think about a modern exodus.

Though worries about anti-Jewish outbursts have been increasing for nearly two years, anxieties were inflamed by recent events—notably the disruption of a meeting of "April," the liberal writers' society, at the Central House of Writers in Moscow on the evening of 18 January. A gang of about 30 bullyboys, members of a paramilitary group called *Pamyat*, broke into the hall, shouting, "Yids, get out to your Israel" and "Today we are here with loudspeakers; tomorrow we will come with guns."

Anti-Jewish episodes are becoming bolder. Jewish cemeteries have been desecrated. Since late January, posters have appeared on Moscow's Arbat Street with the text "If you are Russian, kill the Jewish." *Pamyat* has gone so far as issuing a blacklist on which appear the names of prominent Jewish physicists such as Arkady Migdal. In addition, leaflets are being distributed warning that pogroms will take place in May.

To many Soviet Jews the organized hatred is a paradox. Conditions for Jews have improved considerably under Mikhail S. Gorbachev's policies. Synagogues have been allowed to reopen. Jewish books and newspapers, though still few in number, are being published again. Jewish cultural societies have sprung up in Moscow, Leningrad, Kiev and many provincial cities, especially in the Baltic republics. Jews are being admitted to more universities and taking command of the news media. Many more Jews are being allowed to emigrate, and more visas have been issued for Jews to travel.

Yet memories of tsarist oppression and Stalinist violence run deep. The mood of Soviet Jews hovers between pessimism and panic.

Soviet leaders have been curiously silent. Last year, a Lithuanian Jewish writer, Grigory Kanovich, joined by two members of the Soviet Academy of Sciences, physicist Vitaly Ginzburg and biophysicist Oleg Gazenko, submitted a petition to Gorbachev, signed by more than 200 of their fellow members of the Congress of People's Deputies, calling on him to condemn anti-Semitism and to create a special committee to investigate the problem. The petition was buried. A few weeks later, ten prominent scientists and writers sent a letter on the subject to Gorbachev (see the box on page 54). No formal answer was received—though one of Gorbachev's associates informed them that their message was discussed with Politburo members.

Then, on 21 February, Soviet prosecutors indicated they had begun a criminal investigation of *Pamyat*, the most aggressive faction of the anti-Jewish extremists. The Interior Ministry announced the same day that "rumors of pogroms against Jews . . . have no grounds whatsover." The statements did not allay fears. As one Jewish physicist told an American colleague, "Whenever a stranger comes to my door I think I am about to be shot dead."

Jewish scientists have long been prey to open and furtive discrimination. But after the end of the Stalin era their condition improved—through they could still be sent to prison or gulags for acts considered hostile to Soviet policies, such as participating in human rights demonstrations. Refuseniks were fired from their jobs for no other reason than that they applied for an exit visa.

Today's enemy of Soviet Jews seems to be, ironically, *glasnost* and *perestroika*, which have unleased forces that appear out of control. Gennadi I. Gerasimov, spokesman for the Soviet Foreign Ministry, told an interviewer recently that "we have no history of democratic experience. Freedom to some means anarchy."

When the Soviet public contemplates the harsh realities of food shortages, urban crime and ethnic strife, along with the deterioration of authority, they may wonder whether their leaders, Gorbachev included, aren't just fiddling while the USSR burns.

In his column in *The New York Times* on 12 February, William Safire wrote that "with their inborn barometers of bigotry, Soviet Jews sense a coming disintegration of authority and now they will be scapegoats in any return to ethnic passions." While Soviet authorities are unsure of the exact number of Jews in the country, US groups estimate that about 15 million consider themselves Jews. Increasing numbers seek to emigrate.

Indeed, Soviet scientists are coming to the US as immigrants and visitors in record numbers. "It would be easy for any one of my colleagues to get a tenured professorship here," says a visiting Soviet physicist. "But I don't know any who want to emigrate. Still the Jewish ones are frightened about the political instability and the anti-Semitic insanity."

In the past year or two, "Little Russias" have emerged at such universities as MIT, Princeton and the University of Minnesota. Yuri Cherniak, a planetary physicist at MIT who once ran the refusenik science seminar in Moscow, insists that Soviet authorities aren't likely to improve conditions for Jews—and that negligence, he says, will impel more scientists to "join the brain drain" from the USSR.

One who understands the current situation is Vitalii I. Goldanskii, director of the Semenov Institute of Chemical Physics and a member of the Soviet parliament. Goldsanskii recently wrote a pointed and poignant essay; it is pubished in this issue, beginning on page 53.

ON "SPECIAL DANGERS" OF PERESTROIKA TO SOVIET JEWS, SCIENCE AND SOCIETY

(By Vitalii I. Goldanskii)

(Vitalii I. Goldanskii is the director of the Semenov Institute of Chemical Physics of the Soviet Academy of Sciences, in Moscow, and a member of the Congress of People's Deputies and of the foreign relations committee of the Supreme Soviet.)

Supporters of Mikhail S. Gorbachev's perestroika are increasingly alarmed by the possibility that this program of economic restructuring and reforms may collapse. Should this occur—and it cannot be ruled out, even in the near future—it would be a disaster not only for the Soviet Union but for all humankind.

Many of the difficulties already encountered by perestroika are well known outside

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the Soviet Union, as are some of the potential consequences if the program fails. But too little attention has been given, until recently, to the special dangers for Soviet society posed by the increasing aggressiveness of extremist right-wing, virulently anti-Semitic groups that seek to subvert perestroika, to blame the country's past and present problems on the Jews, and (as some of their propaganda states explicitly) to "finish what Hitler started."

These extremists are flourishing in a climate of spite, envy, scapegoating and hatred associated with the increasingly severe troubles in the Soviet economy and the steadily mounting tensions in ethnic regions. They are perhaps already the strongest, and certainly the fastest growing, of the divisive forces pushing the country toward bloodshed and, in the worst scenario, civil war.

The extremist groups go by a variety of innocuous-sounding names, of which the "National Patriotic Front Pamyat" (pamyat means "memory") is the best known outside the Soviet Union. A number of them recently entered into a confederation under the title of "Bloc of Social-Patriotic Movements of Russia." I prefer to call them Russian Monarcho-Nazis (or monarcho-Fascists), to reflect the combination of their deep reverence for the autocratic tsarist Russian empire and their ferocious hatred of Jews.

Incredibly, these monarcho-Nazis openly condemn the Jews as the main (if not the sole) culprits in all of Russia's troubles from the 1917 October Revolution up to the present—including genocide against the Russian people in the form of the millions of deaths during the civil war, collectivization and various purges; destruction of tens of thousands of Russian churches and historical monuments; and spiritual poisoning of the people through the introduction of "decadent" and "corrupt" Western culture alien to Russian tradition. These extremists also accuse the Jews of ritual murders and of a worldwide conspiracy against humankind, making reference to the falsified and discredited "Protocols of the Elders of Zion."

There is a striking similarity, in fact, between the views, programs and intentions of the Russian Monarcho-Nazis and the original Nazi platform as laid out in Hitler's Mein Kampf and other infamous documents of the period. The resemblance of the current situation in the Soviet Union to that of Germany in 1931-33 has been publicized by progressive Soviet mass media in recent weeks.

The principal organization serving as a coordinator of the monarcho-Nazi forces is the Union of Writers of the Russian Federation (RSFSR). As outlets for their propaganda the extremist groups have at their disposal such newspapers and journals as Literaturnaya Rossiya (Literary Russia), Nash Sovermennik (Our Contemporary), Molodaya Gvardija (Young Guards) and Moskva. The leaders of this movement include many writers, some scientists, some artists and others.

The speeches and publications of these Russian neo-Nazi groups are becoming routine features of everyday life in the Soviet Union. Professor Herman Andreyev of Mainz University in the Federal Republic of Germany analyzed their form and content in a recent issue of the weekly magazine Ogonyok. He concludes that in Western European countries such statements would be treated as unconstitutional, the persons propagating them would be called to account and the organizations supporting them would be dissolved.

Yet the monarcho-Nazis seem to be meeting no serious opposition—indeed, more often sympathy and connivance—from important party and government leaders of the USSR. It is instructive, for example, that the platform of the Soviet Communist party on ethnic problems, published in August 1989, said not a single word about the anti-Semitic campaign against so-called "cosmopolites" (1949), the shooting of leading Jewish writers and artists (1952) or the disgraceful episode of the "doctors' plot" (1953), when it was alleged that several Jewish physicians and surgeons were attempting to murder Stalin. By contrast, many other Stalin-era crimes against various nationalities of the Soviet people were scrupulously singled out in the party platform.

Similarly, in June 1989, more than 200 people's deputies expressed their concerns to the Presidium of the First Session of the Congress of People's Deputies about the "growing wave of anti-Semitic activities, including open calls for violence that could lead to irretrievable consequences." The appeal went unanswered. That was also the fate of a letter on the subject that ten distinguished scientists and writers sent to Gorbachev the following September.

The explanation of such passivity on the part of the authorities seems quite simple: It is the evident sympathy of many Soviet government officials on different levels to the views of the monarcho-Nazis. Others in positions of authority who do not sympathize nonetheless hesitate to act because of the way the growing aggressiveness of the extremist groups is linked to the bloody ethnic conflicts and intensifying separatist movements in nearly all of the outlying districts of the USSR.

Specifically, this situation offers the monaracho-Nazis considerable opportunities to blackmail and intimidate Gorbachev and his closest advisers by claiming that with the "decline of the empire" the Russian heartland and her "genuine sons" constitute the only reliable saviors of Gorbachev's power. Such arguments are being used to push Gorbachev toward the right and to divide him from his true supporters on the left—the liberal intelligentsia. The result could be a repetition of the circumstances that led to the downfall of Nikita Khrushchev in 1964.

In parallel with their attempt to intimidate Gorbachev, the monarcho-Nazis have been openly attacking his foreign as well as domestic policies and the underlying principles of his "new thinking"—the primacy of universal human values, disarmament, ending the Cold War, and building a "common European home." They even have accused Gorbachev of being an agent in the service of the CIA and the Israeli intelligence service, the Mossad. With this two-pronged strategy of intimidation and direct attack, the Russian neo-Nazis hope to attain either a decisive influence over Gorbachev's policies or his removal from power and his replacement by members of their own movement.

What would that mean for Soviet Jews? The answer is all too clear from the similarity of the Russian monarcho-Nazi program to that of Hitler. The Russian extremists already possess their equivalent of the storm troops of the SA and SS, in the form of the Pamyat movement. Pamyat does not disguise its intentions to carry out pogroms against the Jews, to whom it usually refers by the denigrating term zhidy, or "yids." In fact, members of Pamyat have been organizing well-attended meetings all over the country to call for pogroms—one such meeting even took place in Moscow's Red Square last 12 November—and no one has stood in their way.

Hitler treated as Jews those who have at least one Jewish grandparent. Pamyat goes further. It has announced its intention to search for Jewish progenitors back to the tenth generation. New recruits to Pamyat are required to prove their "racial purity" and to provide to the organization the home addresses of five Jews—no doubt to locate them for the pogroms to come. Opponents of the monarcho-Nazi movement who happen to be "racially pure," or "Aryan," are characterized, along with all the liberal intelligentsia, and "masons" or "zhidomasons" (that is, supporters of Jews). These are also the targets of pogrom propaganda.

The brazenness of monarcho-Nazi threats and actions against Soviet Jewry has been increasing. In addition to the anti-Semitic rallies and the desecration of Jewish cemeteries around the country, which have been going on for some time, it now seems that meetings of liberal intellectuals are no longer safe from disruption by Pamyat thugs.

On the evening of 18 January, for instance, a meeting of the progressive "April" group of writers at the Central House of Writers in Moscow was invaded by several dozen Pamyat thugs with megaphones. They roughed up some of the writers, forcibly ejected others from the hall, shouted anti-Jewish slogans and announced that on their next visit they will be armed with automatic weapons. They also designated St. George's Day, 2 May, as the date for a pogrom. St. George, the dragon slayer, is a patron saint of old Russia.

Further increases in anti-Semitic activities (especially, of course, actual violence) surely will lead to a mass exodus of Jews, people of partly Jewish extraction and "racially pure" members of the liberal intelligentsia. This new wave of emigrants—refugees from monarcho-Nazi extremism—could reach several millions and would represent a serious brain drain from the USSR.

As for the possibility of another holocaust, it certainly could not reach the scale of the Nazi crimes. The world has changed too drastically in the last half-century for that to happen. But a wave of pogroms more or less along the lines of the infamous Kristallnacht cannot be ruled out—weaker if a government like the present one tries to oppose the neo-Nazi bigots, stronger under a government with monarcho-Nazi sympathies and a lust for pogroms.

What should be done? For starters, the worldwide public should be informed of the intentions and activities of the new followers of Hitler in the Soviet Union and should be told their names. The famous Brown Book published by anti-Fascists in 1933, after all, was the first important step in the exposure of the Nazi crimes of that era. Clearly, the publishers and editors of newspapers, journals and books as well as producers and writers in the electronic media have an important role to play.

The stakes are high. If the monarcho-Nazis prevail and perestroika collapses in an orgy of chauvinism and racism, the results are likely to include not only a rapid heating of an atmosphere of anarchy in the Soviet Union but even the possibility of a civil war. In a country bearing a huge stockpile of nuclear and chemical weapons, as well as possessing a far-flung system of nuclear power plants, a not implausible chain

of events could quickly lead to not just a national but to an international catastrophe.

TO THE GENERAL SECRETARY OF THE CENTRAL COMMITTEE OF THE COMMUNIST PARTY OF THE SOVIET UNION, CHAIRMAN OF THE PRESIDIUM OF THE SUPREME SOVIET OF THE U.S.S.R.—COMRADE M.S. GORBACHEV

Dear Mikhail Sergeevich,

Basing our remarks on events in our country and on discussions held between June and August of this year with a number of prominent foreign political figures, scholars and writers, we want to express in this letter (and, if possible, in person) our most serious apprehensions about what might happen in the next months and years if urgent measures are not taken to guarantee Jews safe residence in the USSR, unpoisoned by streams of ethnic insults, destruction of graveyards and direct threats of pogroms.

. . . in earlier times, the main source of emigration was those Jews who . . . could be considered part of the Jewish culture because of their use of the ancient Hebrew language or of the Yiddish language that developed much later in Europe. Now, as a consequence of the increasing aggressiveness by several monarcho-Fascist groups, through acts and publications, Jews whose flesh and blood have been infused with Russian culture since childhood, whose spoken and written language is Russian and who make contributions, commensurate with their abilities, to the life of our country and to the development of our culture and science are being literally forced to flee our borders. It should be noted that as many as 75% of the Jewish population of the USSR may consider themselves in peril from actions taken or proposed by the extremist groups. In addition it should be kept in mind that our monarcho-Fascists consider as Jews (or, as they call them, Judo-Masons) those who are half Jewish . . . or one-quarter Jewish, those who have even a small amount of Jewish blood and those who are married to or were married to Jews. (In the future, no doubt, these monarcho-Fascists are likely to search for signs of "racial inferiority" in each other.) In a word, the extremists, both in their propaganda and practice, are guided by the Nuremburg laws of Fascist Germany—right down to their demand for the prohibition of mixed marriages.

They compare Jewish people to a parasitic vine that twists around a healthy tree and eventually drains the vitality of the tree. Their publications contain anti-Jewish characterizations such as "This is a people without a homeland." . . . In their diatribes they assert that Jews exclude from their thoughts, speech and writings such concepts as motherland, patriotism, *et cetera.*

Even Lenin's famous decree "On the Struggle Against Anti-Semitism" provokes a frenzy in members of the extremist groups. "If you open your mouth against the Jews, they will drag you around the corner and shoot you, and this will be covered up by the thunderous music of the 'Internationale,'" said *Molodaya Gvardija* in a recent issue. An Italian woman, teacher of history who accidentally found herself at a *Pamyat* meeting in Leningrad, was moved to write, "It seemed to me that I was attending a replay of a Fascist rally during the 1930s." Demonstrations by *Pamyat* in Moscow, on Pushkin Square, are replete with signs, posters and T-shirts that bear such slogans as "Down with the occupation of Russia by Jewish Nazis!" and "Down with the domination of the 0.69%!"

Every day, *Pamyat* agitators gather outside your offices in Moscow. Is it possible to imagine that in the center of Moscow they could go unpunished for insulting the national dignity of, say, Yakuts or Byelorussians or demanding the exile of Ukrainians or Georgians?

Appeals such as ours in this letter, written in a multinational state, acquire an explosive force. The work of the monarcho-Fascists is leading to the point where, in the coming years, the country may be deprived of 5-6 million of its best and brightest scholars, engineers, doctors, artists and others. History has already taught the awful lesson of Nazi Germany and her Fascist allies. It is easy to see and be convinced which countries lost and which gained from the banishment of "racially impure elements" (like the Jewish physicist Einstein or the Italian physicist Fermi, who was married to a Jewish woman) and which people benefited or did not after Jews were forced into exile from their native lands . . . .

It may seem to you that, against the background of the events in Nagorno-Karabakh, in the Baltic regions and in Moldavia, the problem of anti-Semitism does not look so alarming or so primary in importance. As a matter of fact, events are occurring with such rapidity that, if they are not stopped now, the consequences may be irreversible. The situation has caused deep distress for many people in the Communist Party who remember the unlawful acts that were tolerated during the years of Stalinism and the miserable manifestations of anti-Semitism that were propagated from above, such as the campaign against "stateless cosmopolitans," the devastation and extermination of the Jewish Anti-Fascist Committee and the notorious "doctors' plot.

In our view, your agenda at the forthcoming Plenum of the Central Committee of the Communist Party of the Soviet Union must include discussions of the most acute national problems. Your views, as the author of *perestroika*, must be expressed explicitly and unambiguously about anti-Semitism in the USSR and its potential to destroy the chances for transforming our society.

Dear Mikhail Sergeevich! *Perestroika* meets everywhere with the most fervent, impassioned sympathy. People want to campaign for *perestroika*; they want to promote it by all available means. Each of us, using the means available to us, has discussed possible ways of bringing this about with political figures, industrialists and scholars here and abroad, and in these conversations many different projects and prospects became clear.

In the declaration adopted by highly authoritative scholars from 42 countries after the 39th Pugwash conference in Cambridge, Massachusetts, from 23 to 29 July 1989, an appeal was made to the world scientific fellowship—not without difficulty, we observe—to support *perestroika*. As a rule, Pugwash declarations do not contain statements dealing with internal matters of individual countries, but in the case of last July's meeting the conviction prevailed that the fate of our *perestroika* is likely to determine the future not only of the USSR but also of the entire world.

In such a situation, any shadow cast over our *perestroika* may lead to horrifying results, not only for the internal life of our country, but for world opinion toward the Soviet Union. The nationalities question is one of the indicators [of world public opinion]—one of the most sensitive sore points. It is ironic the during the observance of the 50th anniversary of the start of the Second World War, the world feels especially sharply the danger of any kind of recurrence of Hitlerism and Stalinism, and the intelligentsia of the West very guardedly takes notes that precisely in the years of *perestroika* the Soviet Union has become the focus for the most aggressive activities of neo-Nazis and monarcho-Fascists in Europe and for the most repulsive and massive propaganda on anti-Semitism.

Such are the external political impressions that we would like you to consider as part of our appeal for the active measures that we called for in the first part of this letter.

In conclusion, we want to repeat our request for a personal meeting.

Yours very respectfully,

Gregory Baklanov [editor in chief of Znayma, a literary magazine]
Yevgeny Yevtushenko [poet and People's Deputy in the Soviet parliament]
Andrei Voznesenkii [poet]
Roald Z. Sagdeev [former director of the Space Research Institute and now head of the institute's theory division; a People's Deputy]
Vitali I. Goldanski [director of the Semenov Institute of Chemical Physics and a People's Deputy]
Vyacheslav Ivanov [director of the State Library of Foreign Literature, a noted Linguist and a People's Deputy]
Bulat Okudzhava [poet and popular folksinger]
Anatoli Rybakov [writer and author of Children of the Arbat]
Yuri Chernichenko [Soviet TV commentator of agricultural matters, essayist and a People's Deputy]
Oleg Bogomolov [director of the Institute of Economics of Socialist Countries and a People's Deputy]

September 5, 1989.

HONORING YOLANDA A. CODA

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. GUARINI. Mr. Speaker, I rise today to honor a woman whose work has been so important to improving the well-being of Italian immigrants in the United States, Yolanda A. Coda.

On Sunday, March 25, 1990, the Staten Island chapter of the ACIM will honor Yolanda A. Coda and the Reverend Joseph A. Cogo at the ACIM annual fundraiser [Un Ballo in Maschera] which is being chaired by Giovanna Scana and Norma D'Arrigo. Ms. D'Arrigo was the founding president of the Staten Island chapter of ACIM.

Yolanda Coda was born in London, England to Italian immigrant parents. She earned degrees in business administration and languages at the Notre Dame de France, London, England; the Sacred Heart Convent in Ivrea, Italy; and Pitman's College in London, England.

From 1943 to 1946, she served in the British Auxiliary Territorial Service. She was personal assistant to the colonel-psychiatrist, president of the War Office Medical Board,

and was associated with the War Office in London throughout her time of service.

In 1946, she was asked to serve as assistant-liaison interpreter to the managing director of Eagle Lion Films, which at that time was establishing film distribution centers throughout the Italian peninsula.

In 1949, she left Rome for the United States to become personal bilingual secretary to Judge Marchisio, president of the Boys Republic of Italy. In 1952, she followed Judge Marchisio to the ACIM, which he founded with Bishop Edward E. Swanstrom, Howard Molisani, and Dr. Mario F. Tagliagambe at the request of His Eminence Cardinal Stritch of Chicago. Together, Yolanda A. Coda and Judge Marchisio started the office in 6 months. They raised $10,000 from a small group of Italian-Americans, established their headquarters on 51st Street in Manhattan, and hired a small staff to start what became the core of the national organization. Soon, Yolanda was promoted to executive assistant of the ACIM.

After a brief sabattical in Greece with her family, Yolanda returned the United States in 1956 and founded the women's division of ACIM. As its director, she developed women's chapters throughout a few years thereafter, she was promoted to ACIM national coordinator, the position she holds today.

On 1967, Yolanda Coda was awarded the Cavalierato of the Star of Solidarity by the President of Italy. In 1977, she received the Pro Ecclesia et Pontefice from the Holy Father on behalf of her efforts for Italian immigrants.

ACIM is a nonprofit organization that promotes fair immigration policies aimed at reuniting families. It assists immigrants with resettlement and assimilation problems, among them citizenship, Social Security, and pensions from Italy.

I am sure my colleagues here in the House of Representatives will join me in honoring Yolanda Coda and the many other people at ACIM who have devoted so much time and energy to the betterment of life for Italian immigrants in the United States.

DAIRY 1990: POLICY OR PUNISHMENT?

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. RIDGE. Mr. Speaker, the 1985 farm bill proposed a policy designed to control surpluses of milk on the market. Through a series of price support cuts, farmers were to be "encouraged" to reduce production levels thereby reducing the surplus. While attractive in theory, the reality for our dairy farmers was quite different.

Under the 1985 farm bill, if production of milk exceeds 5 billion pounds, the Secretary of Agriculture reduced the price support price by 50 cents per hundredweight. This 5-billion-pound figure does not take into account those commodities purchased by the Government for school lunches, feeding programs, or meals for military personnel. Instead, these commodities are considered surplus. How can products needed and used for these programs be considered surplus? While there still remain surpluses of butterfat on the market, there are shortages of fluid and dry milk.

In addition, the 50-cent-per-hundredweight cut in price support does little, if anything, to prevent overproduction by large dairy corporations. Instead, it forces small, family owned farms to close down. At this time, we are seeing a shift in dairy production from all parts of the country to the South. Many or our areas are being left without a local source for fresh dairy products.

Today, I have introduced the Dairy Price Stabilization Act. My proposal changes the formula for calculating surplus into two separate tests:

(a) If the Secretary of Agriculture estimates that net CCC purchases of milkfat will exceed 5 percent of commercial use, the USDA will establish an effective inventory management program designed to reduce that specific surplus;

(b) If the Secretary of Agriculture estimates that net CCC purchases of milk solids exceed 5 percent of commercial use, the USDA will again implement an effective inventory management program designed at targeting a milk solids surplus.

Why two formulas? Formula (a) targets the surpluses of butter, while formula (b) targets the possibility of surpluses of fluid milk.

Under no circumstances will the support price fall below $10.60 throughout the next 5 years.

The new 5-percent figure takes into account products used by the Government for its own feeding programs.

I look forward to working with you on the Dairy Price Stabilization Act, and hope you will cosponsor this necessary change in policy.

IN MEMORY OF JOHN SMITH KINGDON

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. MATSUI. Mr. Speaker, I rise today in great sadness to advise you that an outstanding citizen of the Washington, DC, metropolitan area, Mr. John Smith Kingdon, has recently passed away. He has made numerous contributions to his community and the legal profession and we will all miss his presence.

John was a man who gave of himself in many ways. Being active in church and school organizations was a very important priority of his. John's involvement in community and educational organizations included serving as a vestryman at St. Patrick's Episcopal Church in Washington and as a member of the board of trustees of St. Patrick's School. He was also a regent of Northwestern University and a member of its John Evans Club, an alumni service group. In recognition of his service to Northwestern, John received the university's "Distinguished Service Award." Additionally, John was a member of the Metropolitan Club and the Congressional Country Club.

Born in Jacksonville, FL, and raised in Indianapolis, John graduated from Northwestern University, where he was a member of Phi Beta Kappa. He went on to receive a law degree from the University of Virginia, and in 1968, relocated to Washington to work for the Justice Department in the tax division. He joined the Howrey & Simon law firm in 1970, and became a specialist in antitrust matters. Upon his death, he was a partner in the firm.

John is survived by his wife of 25 years, Jo Ann Reynolds Kingdon of Chevy Chase, MD; two sons, John S. Kingdon, Jr., and James R. Kingdon of Chevy Chase, MD; his father, Henry R. Kingdon of St. Simons Island, GA; and two sisters, Dr. Margaret Kingdon of Takoma Park and Marie Kingdon of East Lansing, MI. We will all mourn the loss of such a giving, dedicated, and exceptional man.

GAS TAX—ONE MORE TIME

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. CRANE. Mr. Speaker, in recent months we have once again heard the cry to increase gasoline taxes in an effort to help solve some of our budgetary woes.

Some Members of Congress and others outside of the Congress, including the Governor of my State of Illinois, have made various proposals to increase the Federal gas tax. Some of these proposals call for the proceeds of such an increase to go directly toward reducing the deficit, while others call for putting all or a portion of the money in the highway trust fund. Both of these approaches are poor policy.

First of all, the highway trust fund presently contains a surplus of $16 billion that could be used for repairing our Nation's roads and bridges. We do not need to be raising taxes at this time to add to a fund that is already sufficient and is not being fully used. Second, with regard to using any new proceeds for deficit reduction, increasing excise taxes is the most regressive manner in which to close the deficit. As I have emphasized time and again on the floor of the House and in the Ways and Means Committee, increasing excise taxes for the purpose of raising revenue to reduce the deficit results in the middle class and the poor contributing a disproportionately large share toward the solution of our budgetary woes.

In his January 5, 1989, column entitled "Nose of the Tax Camel," William Murchison discusses why a gasoline tax increase is inappropriate. Although his column is more than a year old, the points he makes are worth repeating and I highly recommend the column to the attention of my colleagues.

[From the Washington Times, Jan. 5, 1989]

NOSE OF THE TAX CAMEL

(By William Murchison)

Read my lips: Higher gasoline taxes are d-u-m-b. This is contrary to Washington wisdom, which holds that increasing the federal gasoline tax, as a means of Closing the Deficit, is ever so smart an idea.

The idea is politically smart, but that is a horse of another color entirely from economically smart. I would go so far as to say that a politically smart tax increase is the

kind we should fear most, on the grounds that there's no telling what it may lead to.

We were speaking of horses just now; let me turn the conversation to a different steed—the camel.

Gasoline taxes represent the camel's nose in the taxation tent. George Bush has invited us to read upon his lips his unswerving opposition to new taxes, but the so-called "responsible" leadership in Congress professes to know better. It thinks the way to deal with Mr. Bush is to nickel-and-dime him. Nobody's going to vote for higher income tax rates this year, so we lay before Mr. Bush a series of small, gentle, tax increases—civic minded increases, the kinds on which right-thinking hearts beat in unison.

Liquor and cigarette tax increases are an example. Goodness, we can't let the foul pastimes of smokers and drinkers stand in the way of fiscal rectitude.

Another such proposal is for higher gasoline taxes. The rationale is so high-minded you can barely see it for the clouds.

A gasoline tax would raise money—supposedly a billion dollars for every penny increase. It would cut gasoline consumption and help free us from the monstrous exactions of those foreigners who sell us cheap oil. The very highest-minded ones talk of raising the tax by $1 a gallon. The more pragmatic ones talk of 10, 15, 20 cents a gallon. Why, in any case, that is just pennies a day to the ordinary American. Take our word for it—he will spend more than that renting Playboy videos at the grocery store.

We all heard just such arguments, 25 years ago, in favor of the poll tax: Its cost equaled two six packs of beer. The Supreme Court proved to be unimpressed with this line of reasoning. It laid poll taxes in the dust.

The gasoline tax is unquestionably constitutional, nor is it even unfair as taxes go. If you drive a car you pay it; if you don't, you don't.

Fairness isn't the issue here. The issue is that the tax-and-spend Democrats on Capitol Hill, and their allies in the economics profession, are endeavoring to shove their camel, nose first, into Mr. Bush's tent.

They want the old sheik to say: "Read my lips now; oh, if during the convention I had only known how pressing were our economic needs, I would never have promised no tax increases."

First the smokers, the drinkers and the gas guzzlers. Having smitten these small-bore sinners, Congress moves on, cautiously but firmly, to the serious work—enacting a national sales tax.

This is the unspoken summum bonum of liberal tax policy. Few on Capitol Hill have the stomach to raise income tax rates significantly; a national sales tax, piled atop the state sales taxes almost all Americans pay, looks increasingly like the answer. You go in cheap—a penny on the dollar, then you ooch it up—a half-cent here, a quarter-cent there. Pretty soon you're at 5 percent, or 6 or 7, and you're rolling in money.

Would that the taxpayer could say as much, but he's the one paying the freight.

It's time to put a stop to this nonsense about balancing the federal budget by tax increases. Economists and congressmen may not live in the real world, but taxpayers do. These apprehend Congress' disposition to spend every red cent raised through the tax laws.

Congress' problem is not too little money; it is too much enthusiasm for spending all the money it has, plus all it can borrow. Some of us, in Christian charity, understand the propensity to spend, spend, spend. This because we share it, but then the money we spend is our own. Congress has not a penny of its own.

How ironic that a special commission recently cleared Congress (together with the President and the Supreme Court) for whopping pay increases. Just at the moment Congress contemplates feathering its own nest, its leaders talk of defeathering ours, through tax increases.

What's George Bush going to do about it? It is harder to read minds than lips, but one course of action commends itself. The president-elect can say, slowly and distinctly, to the proponents of gasoline taxes: "Get that camel outta here!"

END THE JUNK BOND/HOSTILE TAKEOVER CONNECTION

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, today I am introducing legislation that would attempt to discourage hostile takeovers by restricting the junk bond financing that drives most of these deals. Specifically, my legislation would deny the deduction for interest on risky junk bonds that fuel hostile takeovers.

Over the past several months, we have all read in the papers about the virtual collapse of the junk bond market and the number of investors looking to dump their entire junk bond portfolios. We are now seeing a growing number of companies that played the junk bond game being forced into bankruptcy because they cannot afford to make interest payments on junk bonds.

It did not take more than one quick look into a crystal ball to predict what is now happening in the area of grossly speculative hostile takeovers and LBO's. While the administration sat idly by, the number of below-investment-grade junk securities skyrocketed to over $200 billion. Repeatedly, Treasury officials came to Congress and testified that they did not think junk bonds and hostile takeovers were a problem, and if this activity became a problem the market would correct itself.

A few of us in Congress saw things much differently from Treasury. We believe that this merger mania is unhealthy for the economy and it became clear that the hostile takeover engine was being fueled by junk bonds. Unfortunately, the market's now adjusting itself which means that some once-strong companies have been completely raped of value and many good folks have been pushed out of their jobs.

We need to take this opportunity to tell Wall Street that enough is enough, and that we will no longer continue to be a party to the junk bond charade by providing tax benefits to these funny-money pushers who float junk bond issues for hostile takeovers.

Let me be clear about junk bonds. I do not believe that all bond issues that are below investment grade are bad. Some can be very productive and very important and useful to small- to medium-sized firms that need capital with which to grow. I do, however, think that the use of junk bonds for hostile takeovers is a terrible practice for this country's economy. Armed with junk bonds, midgets become giants in search of and scavenging for underpriced assets. They float 19-percent junk bonds that rest on projections of 20 percent annual growth rates to allow them to buy assets they could not afford with money they did not have. Is it any wonder that the house of cards has begun to collapse? Does anybody think we should sit idly by and let this continue to happen? It seems to me that it is time for us in public policy to say that we will no longer provide tax subsidies to those who want to use junk bonds for hostile takeovers. That is what my legislation intends to accomplish.

The highlights of the bill are as follows:

First, the interest deduction for junk bond indebtedness is denied where such financing is used to purchase 20 percent or more of a company's stock if the acquisition is accomplished pursuant to a hostile offer. The term "hostile" is defined as any offer to acquire stock of a corporation if a majority of the independent members of the board of directors of such corporation disapproves of such offer.

For purposes of this legislation, prohibited "junk bonds" means any corporate obligation that has a below-investment-grade rating from a nationally recognized rating agency.

I urge my colleagues to cosponsor this legislation to curb the use of junk bonds that drive hostile takeovers and LBO's which threaten the stability of our national economy.

The full text of the bill follows:

H.R. —

A bill to amend the Internal Revenue Code of 1986 to deny the deduction for interest on junk bonds used in hostile takeovers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DENIAL OF DEDUCTION FOR INTEREST ON JUNK BONDS INCURRED TO ACQUIRE STOCK OR ASSETS IN HOSTILE TAKEOVERS.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280I. INTEREST ON JUNK BONDS INCURRED TO ACQUIRE STOCK OR ASSETS IN HOSTILE TAKEOVERS.

"(a) GENERAL RULE.—No deduction shall be allowed under this chapter for interest on junk bonds incurred or continued by a corporation (hereinafter in this section referred to as the 'issuing corporation') to purchase or carry the stock or assets of any corporation if—

"(1) such stock is purchased as part of a partial hostile qualified stock purchase, or

"(2) such assets are acquired on or after the partial acquisition date and were held by such corporation on such date.

"(b) PARTIAL HOSTILE QUALIFIED STOCK PURCHASE.—For purposes of this section—

"(1) IN GENERAL.—The term 'partial hostile qualified stock purchase' means a hostile qualified stock purchase determined by substituting '20 percent' for '80 percent' each place it appears in section 1504(a)(2) for purposes of applying section 338(d)(3).

"(2) HOSTILE QUALIFIED STOCK PURCHASE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'hostile qualified stock purchase' means any qualified stock purchase (as defined in section 338(d)(3)) if any significant portion of the stock included in such purchase is acquired pursuant to a hostile offer.

"(B) HOSTILE OFFER.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'hostile offer' means any offer to acquire stock of a corporation if a majority of the independent members of the board of directors of such corporation disapprove such offer.

"(ii) REVOCATION OF DISAPPROVAL.—An offer shall not be treated as a hostile offer if—

"(I) a majority of the independent members of the board of directors of such corporation revoke such disapproval, and

"(II) no stock is acquired pursuant to such offer before such revocation.

"(iii) INDEPENDENT DIRECTORS.—For purposes of this subparagraph, a member of a board of directors shall be treated as independent if such member is not, and was not at any time during the 1-year period ending on the date of his approval or disapproval of the offer, an officer or employee of the target corporation.

"(3) SPECIAL RULES FOR DETERMINING WHETHER THERE IS A QUALIFIED STOCK PURCHASE.—In the case of a hostile offer, for purposes of determining under section 338 whether there is a qualified stock purchase—

"(A) the person (whether or not a corporation) who makes the offer to acquire stock of a corporation shall be treated as the purchasing corporation, and

"(B) all stock acquired by—

"(i) any person acting in concert with such offeror, and

"(ii) any person who is related (within the meaning of section 5881(c)(2)) to such offeror or to the person described in clause (i),

shall be treated as acquired by such offeror.

"(c) JUNK BOND DEFINED.—For purposes of this section, the term 'junk bond' means any obligation of a corporation evidenced by a bond, debenture, note, or certificate, or other evidence of indebtedness, unless such obligation, at the time of its issue, was rated in 1 of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization.

"(d) PARTIAL ACQUISITION DATE.—For purposes of subsection (a), the term 'partial acquisition date' means, with respect to any corporation, the 1st day on which there is a partial hostile qualified stock purchase with respect to such corporation.

"(e) SUCCESSOR CORPORATION INCLUDED.—The corporation referred to in subsection (a) shall be treated as including its successor described in section 338(a)(2)."

(b) CLERICAL AMENDMENT.—The table of sections for such part IX is amended by adding at the end thereof the following new item:

"Sec. 280I. Interest on junk bonds incurred to acquire stock or assets in hostile takeovers."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to indebtedness incurred after the date of enactment of this Act.

"BORN ON THE FOURTH": IT'S A LIE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. RITTER. Mr. Speaker, as communism implodes worldwide, those who fought against it in Vietnam are still not receiving the justice that comes with simple truth. Hollywood's rich and famous, particularly one Oliver Stone, continue to do grave injustice to the memory and legacy of Vietnam combat veterans by characterizing them as heinous villains.

I would like to place into the CONGRESSIONAL RECORD a piece written by Richard Eilert, a Vietnam veteran who served, and was seriously wounded, as a rifleman with the 26th Marine Regiment. This piece is a poignant response to the film "Born on the Fourth of July."

Mr. Speaker, I would also like placed into the CONGRESSIONAL RECORD the piece written by Toan Truong which also discusses Hollywood's misrepresentation of the Vietnam war.

[From the Washington Post, Feb. 6, 1990]

"BORN ON THE FOURTH": IT'S A LIE

(By Richard Eilert)

"Born on the Fourth of July," Oliver Stone's latest offering, is another box office bonanza and may win several Oscars. Stone has shown again that, like the divas of yesteryear, if you play to the critics in the "Golden Horseshoe" instead of the people in the cheap seats, success is just around the corner. Stone has talent as a director, particularly in his ability to bring to the screen the subtle sights and sounds that inflame the memory of those who were there and stir the imagination of those who were not.

"Born on the Fourth" and "Platoon" share common characteristics. Both are laced with enough fact to make the stories difficult to refute, while at the same time they are saturated with so much hateful negativism that in the end of the proper term to describe them is probably "propaganda" or "disinformation." In the end, both films seem to work most effectively on the guilt of those who did not serve in Vietnam, while at their kindest they disappoint the honest expectations of those who did.

I, like many who were seriously wounded in Vietnam, have a bone to pick with both Stone and Ron Kovic, the paraplegic Marine Corps veteran whose "true story of innocence lost and courage found" comprises "Born on the Fourth." There is an inherent dishonesty in Stone's depiction of those who served. And there is an overwhelming self-pity in Kovic that seems even to have shaped his politics.

It was not easy for any of us. During the time I was hospitalized at the Great Lakes Naval Hospital, I was surrounded by some of the most hideously wounded people the war produced: single and double amputees, the blinded, the paralyzed, some without testicles—America's finest, now broken-hearted from the loss of friends in Vietnam and sweethearts at home. A visitor once commented that it was a miracle many of us survived. I replied that the real miracle was that so many even wanted to survive. Up to my crotch and armpits in plaster, trying desperately to prevent doctors from amputating my legs, shot also through the face, I kept a cynical sign over my bed: "All The Way With LBJ/Made Me What I Am Today."

But there was a camaraderie and acceptance of responsibility in that hospital—and even today among those who have known heavy combat—that curiously seem to have evaded both Stone and Kovic. Men fight wars for each other. Most commendations for heroism I observed were to men who came to the aid of wounded friends. In Vietnam simple decisions, such as which trail intersection to follow or who had the "watch," had enormous consequences. We walked point when it was our turn because if we did not, our friend would have to do it for us. And so we learned about interdependence and accountability for our actions.

These concepts are not a part of either Stone's or Kovic's makeup. In all of Stone's films, his characters are unlikeable. They are humorless, friendless. They make acquaintances but never confide in or rely on others. And they are patronizing and arrogant about those around them.

Near the opening of "Platoon," as Stone takes us on an ambush, the main character is voicing over a letter to his grandmother. The character describes his fellow soldiers by saying, "They come from the end of the line. They're the bottom of the barrel and they know it." He then reassures Grandma, who no doubt is sitting on the veranda back in the Hamptons, that they're the best he's seen. Come on—if this was true, why did he trash them in the film?

There may be an even deeper hatred here. In "Platoon" Americans killed each other and innocent civilians. In "Born on the Fourth" this theme intensifies. At the same time Kovic emerges holding himself blameless for the actions he has taken, because he has purged himself of these sins by denouncing his parents, his God, his country and the Marine Corps for having created his original circumstances.

What is hard to swallow for those who know the Marine Corps well is that Kovic was on his second tour when he was wounded. He seems to be telling us that the killing and maiming of others—including fellow Marines—was acceptable during his first tour, and became reprehensible only when he himself was disabled. In the film, Kovic remains the quintessential Marine, until after his release from the VA hospital, when he finds himself alone. No one is around to reaffirm his sacrifice, to show him love or compassion. He searches for acceptance and finds it among those who want to use him for their own ends.

Over the past 22 years, I have journeyed through many hospital wards in the process of undergoing 47 operations (and counting) as a result of my Vietnam wounds. I have met hundreds of veterans whose lives were changed with a terrible finality by their service in our nation's wars. When I think about all the dignified, courageous people I have met in those hospital stays, sometimes I feel so proud of them that I honestly could cry. And after seeing the disservice that this lauded Hollywood lie does to them, I wanted to.

[From the New York Times, Feb. 19, 1990]

HOLLYWOOD'S VIETNAM, NOT MINE

(By Toan Truong)

SAN FRANCISCO.—I grew up in Vietnam during the war and came to the U.S. in 1975 with the first wave of refugees. It is always with mixed emotions that I watch Vietnam war movies like "The Deer Hunter," "Full

Metal Jacket," "Platoon" and, now, "Born on the Fourth of July," which has received eight Academy Award nominations.

The average American has never cared about the Vietnamese people and still doesn't; Vietnam has become an abstract symbol for pundits who debate about ideology and politics. These movies, although powerful and moving, are vehicles for men like Ron Kovic, who wrote "Born on the Fourth of July," and Oliver Stone, who directed it, to atone for the their past misdeeds.

Mr. Kovic's spine was severed in Vietnam and he is confined to a wheelchair. Watching the movie, I felt his pain and admired his courage. I even cried at his triumph at the end of the film. But I wondered if, even now, he has any idea about the kind of pains the Hanoi Government is still inflicting on the Vietnamese people. For all of us, the suffering continues.

While Americans tend to remember the Vietnam War through images depicting the massacre of innocent civilians by American troops, what is chiseled in my own mind is footage of Vietnamese wailing over the bodies of loved ones who were buried alive in huge mass graves by the Viet Cong during the Tet offensive, in 1968. I will never forget how the Viet Cong killed thousands of civilians who were fleeing toward Hue on Highway 1 in 1975.

Most Americans remember the late 60's as a time in which the forces of truth and righteousness triumphed over the lies and hypocrsies of government and the military-industrial complex. But I remember my parents' concern that anti-war demonstrations would undermine U.S. support for the war at a time when Russian and Chinese support for North Vietnam was stronger than ever.

I cannot even begin to describe the feeling of abandonment my countrymen felt at the start of North Vietnam's offensive in 1975, when our soldiers were restricted to firing a few rounds a day because the bullets had run out and none were forthcoming.

At one point in "Born on the Fourth of July," the hero says that the U.S. was interfering in the Vietnamese people's struggle for independence. The "Vietnamese people" are always being quoted as supporting the North and rejecting American imperialism. Yet, I know of no public opinion poll on what Vietnamese people really wanted during the war.

I believe that they only wanted to be left alone to farm that ancient piece of land and enjoy the fruits of their labor. They did not want to shoot each other or shoot Cambodians. The Vietnamese people would prefer not to be so oppressed that they feel obliged to seek freedom elsewhere, as they have done since 1975. We tend to forget that, after the American pullout, the free people of South Vietnam succumbed to totalitarianism, and Communists gained control of Laos and Cambodia.

Is defending freedom in the world a worthy goal for the U.S.? Americans do not ask that question about their involvement in Europe during World War II. Why is Vietnam different?

The difference, I think, lies mainly in the fact that Europeans are just plain easier to identify with, whereas Vietnamese are just a bunch of "gooks." What the hell was the U.S. doing there, risking the lives and limbs of good American kids? As casualty figures came in on the evening news, the idea of fighting for democracy in Vietnam became only a vague concept related to some Asians 13,000 miles away.

I visted the Vietnam War Memorial in Washington in November. A similar monument for Vietnamese soldiers would stretch 20 times longer. As I walked down that black slab, scanning the names, it was painful to realize that, although these men gave their lives for my country, I knew nothing about them.

In a guest book at the monument, I wrote a dedication, not only to those who had fallen, but to all American Vietnam veterans still alive: "Thank you all for having fought for my people. We will never forget your sacrifice."

TRIBUTE TO JEAN HICKS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor an exemplary member of my community who has been recognized for her contributions to local minority residents.

Jean Hicks, of Portsmouth, RI, has been selected as the winner of the George Downing Award. The award was presented to her recently at the Rev. Robert Williams National Black History Month Assembly. Ms. Hicks currently is the executive director of New Visions for Newport County, a local community action program. She has also been appointed by Rhode Island Governor, Ed DiPrete, to the Balance of State Private Industry Council, the Interagency Coordinating Council, the Governor's Human Service Advisory Council, and the Minority Affairs Council.

In past years Ms. Hicks has been named as 1987 Woman of the Year by the Women's Division of the Newport County Chamber of Commerce and has received many other accolades.

It is with great pleasure that I congratulate Ms. Hicks for her tremendous efforts for her community. I wish her the best and great success in the future.

HONORING ELIAS KARMON

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. ENGEL. Mr. Speaker, I rise today to salute a living legend in the history of the Bronx, Mr. Elias Karmon, who is being honored by the people of the borough on the occasion of his 80th birthday.

Few people can boast of the accomplishments that Elias Karmon has achieved during his life. The list of his civic affiliations is endless, as are the acts of generosity he has bestowed on his neighbors through his activities. He can be called a community activist, a concerned businessman, or a philanthropist—but even these titles fall short in describing the contributions Elias Karmon has made.

Some of the organizations that have grown to reach their highest potential because of Elias Karmon's work include the Albert Einstein College of Medicine, the Bronx Chamber of Commerce, and the Bronx Urban League Advisory Board. Even as he enters his ninth decade of life, Elias Karmon remains active in these and many other organizations.

While searching for a classic example of Elias Karmon's generosity among the many things he has done, I was reminded of one of his most heart-warming activities. Beginning in 1959, Elias took over the entire RKO Franklin Theatre for a day and hosted an annual Christmas party for the children of the Bronx. More than 3,000 children from local schools, churches, Boy and Girl Scout troops, and settlement houses were invited as his guests. Until the theatre was closed down 9 years later, Elias Karmon personally organized this annual event, and no doubt he personally touched the lives of many young men and women.

It is this spirit of community and generosity that the people of the Bronx are celebrating when they honor Elias Karmon. On behalf of my constituents, I say thank you Eli and wish you health and happiness in the years ahead.

INTRODUCTION OF THE MEDIGAP FRAUD AND ABUSE PREVENTION ACT OF 1990

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Ms. OAKAR. Mr. Speaker, today I join my colleague of the other body, Senator KOHL of Wisconsin, in introducing the companion to his legislation, the Medigap Fraud and Abuse Prevention Act of 1990.

Let me say up front, that I would rather see the need for Medigap insurance done away with completely in our Nation through a national, universal health plan. However, the sad fact is that Medicare currently covers only 45 percent of the health care needs of elderly and disabled Americans. Therefore, they must contend with a deluge of confusing advertising ploys and programs which, in many ways, claim to bridge that gap.

A recent report by the House Committee on Aging Subcommittee on Health and Long-Term Care, looking at exactly how well both Federal and State provisions were working for controlling the cost of Medigap insurance, revealed that a significant number of insurance companies around the country were not meeting the Federal minimum standard of paying out 60 percent for individual policies. In other words, companies paying out 60 percent of the premiums they take in, back to policy holders in the form of benefits, and 75 percent for group policy holders in the form of benefits.

The study found that a whole host of companies were below the 60 percent mark, which raised questions about what was going on at the State level in assuring that the Federal minimum standard was being met. The study of the 150 or so insurers who offer Medigap policies, found 10 to 20 insurers ranging from 60 percent down to 50 percent; another 20 to 30 ranging from 50 percent down to 30 percent; and they found two going all the way down to an 8 percent premium to benefit ratio. In the latter case, the elderly people who were

holding those policies, could only get back 8 cents on every dollar they had paid in premiums. Yet, those policies were allowed to be in force in some States, despite the minimum requirements of 60 percent. Just as a point of comparison, the Medicare Program pays about 97 percent of funds it takes in on claims.

Mr. Speaker, I am proud to join Senator KOHL today, and I commend his efforts to bring some justice to bear and sort out the confusion for America's seniors. The Medigap Fraud and Abuse Prevention Act will do three things. First, the bill will require that all Medigap policies maintain a minimum 75 percent premium to benefit ratio. Fines for failure to comply with this standard will also be increased significantly. Finally, the bill calls upon States, with Federal assistance, to set up toll-free Medigap hotlines to disseminate information on the myriad of confusing choices that seniors are called upon to make as they shop for a Medigap policy.

Mr. Speaker, as I have said, I would rather forge ahead with a national universal health and long-term care program, as addressed in my bill H.R. 4253, that would once and for all do away with the need for these expensive supplemental policies. Seniors are too often duped into purchasing several duplicative policies that still don't cover all of their needs, and the ripoff has got to stop. Those who dishonestly profit by playing on older Americans' worst fears deserve to be punished severely. It is a shame that this continues to happen in America. I urge all of my colleagues to support this important legislation.

THE MEDICARE TAX FAIRNESS ACT OF 1990

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. SABO. Mr. Speaker, one of the most disturbing trends of the last dozen years is the growth in the inequity of the Federal tax system. The extent to which the system is skewed in favor of the richest Americans is finally getting some needed attention.

A recently released study by the Citizens for Tax Justice shows that most taxpayers are earning less and paying more taxes, while the extremely wealthy are making more and paying less. The study reveals that, because of tax law changes made in the last dozen years, this year alone the richest 1 percent of the population will pay $84 billion less in taxes than they would have under the pre-1978 system; the top 10 percent will pay $93 billion less. At the same time, the other 90 percent of the population will pay $26 billion more.

Senator MOYNIHAN has grabbed the attention of Washington and the American public with his blunt and honest talk about the use of the Social Security trust fund to support a deficit-spending government. He has clearly outlined how regressive it is to fund the daily operations of government with a payroll tax.

Today I introduced legislation that is designed to address part of this inequity in our tax system. The Medicare Tax Fairness Act of 1990 makes the system of taxation we use for Medicare much more equitable. The bill also raises an additional $10 billion, which is designated to help insure the uninsured and to support a new Federal catastrophic health insurance program for senior citizens.

There is a sound theoretical basis for funding Social Security retirement and disability benefits out of a limited payroll tax, because there is a direct relationship between income and benefits. There is a correlation between the amount contributed and the benefits received.

This is not true for Medicare. There is absolutely no relationship between how much you pay in Medicare payroll taxes and the benefits you receive. That is why I believe we need a fairer system of financing Medicare.

IMPROVING MEDICARE FINANCING

Under the current Medicare payroll tax system, employees pay 1.45 percent on the first $51,300 of their salary. Likewise, employers contribute 1.45 percent of the first $51,300 of an employee's salary.

The most significant part of my bill reduces Medicare payroll tax rates and broadens the base from which Medicare taxes are collected. My bill changes the employee's tax to 1.1 percent of Federal adjusted gross income. It changes the employer's tax to 1.3 percent of total payroll.

The new tax rate structure is designed to retain the 50-50 split between business and individual contributions to the Medicare fund. The employer rate is higher because the base for individual contributions has been broadened through the inclusion of unearned income.

In other words, for individuals, both earned and unearned income would be taxed under my bill. Since there is no relationship between earned income and the Medicare benefits people receive, there is no good policy reason for financing Medicare primarily from earned income. Likewise, there is no limit on benefits, so there is no good reason for applying the tax to only a limited portion of income.

Under my bill, most workers would pay lower taxes. In fact, all workers whose incomes are less than $67,000 would pay less. Higher income people and those with significant amounts of unearned income would pay more.

Here are a few examples of the tax savings working Americans would enjoy: A worker with a $20,000 salary and no other income would save $70 a year; a worker with a $30,000 salary and $500 in other income would save $99.50; a worker with a $40,000 salary and $2,000 in other income would save $118.

Most businesses would pay less too. In fact, most firms that do not have a high concentration of highly paid employees would pay less.

Here are two examples of how my bill would affect businesses. A firm with 10,000 employees earning less than $51,300—at an average salary of $25,000—and 300 workers earning more than $51,300—with an average salary of $70,000—would save $325,155 a year. A firm with 50 employees earning less than $51,300—again, at an average salary of $25,000—and three higher-paid workers earning an average of $70,000 would save $16,637.

ADDRESSING OTHER HEALTH CARE PROBLEMS

My bill also raises an extra $10 billion a year. The tax fairness improvements could, of course, be made in a revenue-neutral manner. If we don't have the will to raise additional revenue, I think we should still make Medicare taxation more equitable. That is the primary purpose of this bill, to bring greater fairness to the Medicare tax system.

But my bill offers a good way to raise money that is needed to address two serious health care problems. The staggering number of Americans—37 million—who are not covered by health insurance and the lack of adequate protection from catastrophic illness for many of our senior citizens are problems that are too serious to ignore.

First, my bill designates $6 billion to help States develop programs to provide health insurance for low-income people. The money would be distributed on a per capita basis. Great flexibility would be granted to the "laboratories of the States" to encourage them to try innovative approaches to help these people gain access to coverage.

I have introduced separate legislation—H.R. 872, The Comprehensive Health Care Improvement Act of 1989—that would guarantee all Americans access to comprehensive and affordable health insurance. Part of that bill would create a State-run, low-income assistance program. The $6 billion provided by the Medicare Tax Fairness Act of 1990 could be used for that kind of program.

Second, my bill designates $4 billion to support a new catastrophic health insurance program for senior citizens. Although our earlier effort on catastrophic insurance did not succeed, the problem remains and we need to address it. My bill does not create a specific program, but it does provide money to deal with the problem.

FOR TAX FAIRNESS AND BETTER HEALTH CARE

A paramount issue of 1990 must be the inequity of the U.S. tax system. A top priority for the 1990's must be to restore greater fairness to our tax laws, which are far too skewed in favor of those at the very top of the economic ladder.

Our challenge today is to examine every tax proposal with an eye on whether it makes our tax system more regressive or progressive. We need to choose the route of greater progressivity and reject calls for giving more tax breaks to those who have already benefited so much from tax changes over the last dozen years.

We will never have perfect equity in the Nation's Tax Code. But that does not mean we should stop trying. It means we should try harder and keep working at it.

My legislation addresses the need for greater tax fairness in one significant area. It deals with an important and large part of the Tax Code. Taking this important step forward, will help us move down the road toward a fairer and more equitable tax system.

THE MEDICARE TAX FAIRNESS ACT OF 1990

The bill makes the system of taxation we use to finance Medicare much more equitable and provides an extra $10 billion to help insure the uninsured and to support a new catastrophic health-insurance program for senior citizens.

IMPROVING THE WAY MEDICARE IS FINANCED

	Tax rate (percent)	Tax on
Employees:		
Current law	1.45	Earned income up to $51,300.
Sabo plan	1.10	Federal adjusted gross income.
Businesses:		
Current law	1.45	First $51,300 of workers' wages.
Sabo plan	1.30	Total payroll.

(The new tax rate retains the 50–50 split between individual and employer contributions to the Medicare fund. The tax fairness improvements can also be made in a revenue-neutral way.)

EXAMPLES OF THE IMPACT OF THE MEDICARE FAIRNESS ACT OF 1990

Employees: All workers with income below $67,000 will experience some tax savings.

Salary	Other income	Tax savings
$20,000	$0	$70.00
$30,000	500	99.50
$40,000	2,000	118.00

Businesses: Most firms that do not have a high concentration of highly-paid employees would pay lower taxes. Here are two examples of the tax savings. The first shows a firm with 10,000 workers earning less than $51,300 (with an average wage of $25,000) and 300 workers earning more than $51,300.

	Number of workers with average wage of $25,000	Number of workers with average wage of $70,000	Tax savings
Firm 1	10,000	300	$325,155
Firm 2	50	3	16,637

RAISING MONEY TO ADDRESS THE HEALTH CARE PROBLEMS

The bill designates $6 billion to be distributed to the states on a per capita basis to help them provide health insurance for low-income people. (States would design their own programs.) It also designates $4 billion to support a new federal catastrophic health-insurance program for senior citizens. (No program is created.)

REPRESENTATIVE SABO OFFERS FAIRER MEDICARE TAX PLAN—PROPOSES WAY TO FUND HEALTH CARE ACCESS AND CATASTROPHIC PROGRAMS

In an effort to bring greater equity to the way Medicare is financed, Congressman Martin Olav Sabo (D-MN) today introduced legislation that would sharply revamp the Medicare tax system. The bill would reduce Medicare payroll tax rates and broaden the base from which it is financed. It would also raise an extra $10 billion a year to support programs that will help insure the uninsured and provide catastrophic coverage for senior citizens.

Under the Sabo plan, most workers and businesses would pay lower taxes. High-income people and those with substantial unearned income would pay more.

"There is a sound theoretical basis for funding Social Security out of a limited payroll tax," Sabo said, "because there is a direct relationship between income and benefits. That's not true for Medicare."

Under the current system, employees and employers each pay into Medicare 1.45% on the first $51,300 of salary. Sabo would change the employee's tax to 1.1% of federal adjusted gross income. In other words, unearned and earned income would be taxed. Workers with incomes under $67,000 would pay less. Employers would pay 1.3% of total payroll. Most firms that do not have a high concentration of highly-paid employees would pay less. (The new tax structure retains the 50–50 split in employee and employer contributions to Medicare.)

"There is no link between earned income and the Medicare benefits people receive," Sabo noted, "so there is no good policy reason why the financing of Medicare should be derived primarily from earned income. Just as there is no limit on benefits, there is no reason for the tax to be applied to a limited portion of income."

"We can improve the tax fairness of the Medicare system in a revenue-neutral way," Sabo said, "and even if we can't raise more money we should make it more equitable. But I think we should raise more money to deal with two serious health-care problems. This is a good way to do it."

Sabo's bill would raise an extra $6 billion that would go to states on a per capita basis to support programs that provide health insurance for low-income people. "This will help the states develop innovative approaches to give these people access to coverage," he explained.

(Sabo has introduced separate legislation that would guarantee access to affordable health insurance to the 37 million Americans who lack coverage. Part of that measure would create a state-run, low-income assistance program. The $6 billion provided here could be used for that kind of program.)

Sabo's plan would provide $4 billion to support a new catastrophic program for senior citizens. "Although our earlier efforts on catastrophic insurance didn't succeed, the problem remains and needs to be addressed," Sabo said. "My bill doesn't create a specific program, but it provides the money to help finance a program when we develop one."

VOICE OF DEMOCRACY WINNER

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. MARLENEE. Mr. Speaker, it is my profound pleasure to submit the following essay written by Mark Stott of Fairfield, MT, for my colleagues to read. He was the Montana winner of the 1989–90 Veterans of Foreign Wars Voice of Democracy scriptwriting contest. We are living in exciting times, with many changes in the Eastern bloc for democracy and freedom. Mark reminds us of our precious heritage, which continues to serve as a light beacon for the rest of the world. His essay is as follows:

WHY I AM PROUD OF AMERICA

On April 19, 1775 the Revolutionary War began. On that same day men left their homes, their families, and their crops, to fight for the freedom of self-government. They gave their lives for "Old Glory," the flag that represents the freedom of life, liberty and the pursuit of happiness.

I can't be anything but proud every time I see red, white and blue flying overhead in a wave of glory. I remember, as a Cub Scout, marching the flag down the street in a Fourth of July parade. Quickly the hats would be taken off, hands would be placed on hearts, and a look of awe and respect would come on the crowds faces. Editors of the Reader's Digest wrote, "It triggers within us the deepest feelings about a place where breadlines, prison camps, and tanks in the square, are not the general order of things. The flag signals to us a phenomenon of history that protects us from indignities, permits us peace, draws refugees with priceless hope and offers help with a boundless heart.

I am proud to live in a country where the people have one common belief of freedom. People like Robert Stethem, a passenger on the TWA Flight 847 the day it was hijacked. When the terrorists asked for passports, Robert quickly stood up and stated that he was a member of the U.S. Navy. He did not cry out once while being beaten. Other passengers later said that if it hadn't been for his courage, the rage of the terrorists would have fallen on them also. Robert Stethem was the only hostage killed. It was later said that his heroism shows to the world America's proudest traditions of strength, sacrifice for others, unwavering faith in God and a love of country. I am proud to have been born in a country where such men have lived.

Other countries look to us with respect and jealousy. During the Chinese student occupation of Tianamen Square, a "Statue of Liberty," freedoms most powerful beacon, stood in the political center of a communist state. And the famous American words, "Give me liberty or give me death," was their motto.

I am proud and grateful to live in a country that is not surrounded by fences and walls holding us in. How often do we, on impulse, jump in our car and head for the mountains, or go see friends in another state?

We have the freedom to travel freely without hesitation, permits, or informing the government of our plans.

I am proud to live in a country where our states are united into one nation under God. During the Olympics, a warm sense of pride swept over me every time an American won a medal. But that pride was not even comparable to the feeling I had when hearing of the sacrifices made, time spent, and money donated to the victims of the hurricane in South Carolina and those people devastated by the earthquake in California.

I am proud to live in a country where people can sit outside their homes, listen to the birds, watch a beautiful sunset, and talk about the next election. I am proud to live in a country where you don't have to stand in lines to buy a pillow or a blanket, where milk, bread or for that matter, Coco Puffs, can be bought at the nearest grocery store.

We are one nation under God, indivisible, a nation with justice for all. I am proud of my country. I am proud to be an American.

FIGHTING DRUGS: HOW CITIZENS CAN HELP

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. GUARINI. Mr. Speaker, problems in American society seize public attention suddenly and then fade out of sight, like a tidal wave breaking and receding from the sand. The rhythm of politics intensifies this trend:

Politicians ride the rhetorical tide during campaigns, then let the issue ebb away after election day. So it is with the issue of drug abuse.

Everyone agrees the problem is overwhelming. Some 23 million Americans use drugs regularly; 1.3 milllon are intravenous abusers. Illicit drugs—especially crack—are the major contributor to the recent wave of crime and prison overcrowding. Crack continues to devastate the lives of increasing numbers of minority and inner-city youth, single-parent mothers, and innocent babies, while treatment lags far behind.

And while Federal agents frantically work to stop the drugs pouring over our borders, the cocaine supply skyrockets. In 1988, approximately 400 metric tons of cocaine entered the United States and wholesale prices dropped to a record low. Children are first trying drugs at younger ages, being sucked into criminality and jamming our juvenile courts. Jails in Hudson County, and across the Nation, are so full that police must stand by as their arrestees walk back out on the street.

Still, we've only begun to fight. Clearly, the Federal Government has a responsibility to allocate more money for prison space, local law enforcement, and treatment. But what can the ordinary citizen do about the drug problem? There are several concrete and realistic steps he or she can take.

First, citizens should work closely with police to report drug dealers in their neighborhood or housing projects. Set up a police hotline or neighborhood watch if one doesn't already exist. Studies show that the best policing occurs where police and citizens work together to protect their neighborhoods.

Second, residents must keep city officials and police aware of vandalism or run-down spots and get them repaired imediately, perhaps employing local youth to do so. Blocks with abandoned houses, damaged windows, broken lighting and fencing are open invitations to dealers to set up shop. Don't let them.

Third, parents and schools must throw real resources and imagination into drug prevention programs. New research shows that effective programs can significantly reduce the incidence of drug experimentation and abuse. Make sure your children participate and follow up with them after school.

Fourth, we must reach out to the young people most at risk for substance abuse, including minority, inner-city dwellers with single parents. If these young people are in school, we should help them participate in prevention programs; if not, community outreach must be conducted for them.

Finally, workers and employees should institute EAP's—employee assistance programs. These programs, tailored to individual private or public workplaces, provide intervention and treatment for substance-abusing employees and can help drastically reduce the costs of drug abuse and the attendant absenteeism, accidents, and low productivity in the workplace. For example, the Jersey City police and fire departments provide rehabilitation for employees under confidential circumstances as part of their EAP.

With active, focused public activity, New Jersey citizens can make real progress in the war on drugs. In the end, the national drug problem will not be solved by Congress alone but together with individual citizens, working to glue their communities back together. While the tide of concern flows, let us build a seawall to permanently stop substance abuse from eroding our society.

INTRODUCTION OF THE PERMANENT WETLANDS AGRICULTURAL RESERVE ACT

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. RIDGE. Mr. Speaker, I rise to introduce the Permanent Wetlands Agricultural Reserve Act, a bill to preserve wetlands and substantially assist farmers in their efforts to protect America's environment.

We all recognize that wetlands are a valuable natural resource that must be protected. While estimates vary with respect to actual wetlands losses, the U.S. Department of Agriculture [USDA] estimates that between the mid-1950's and mid-1970's, 87 percent of wetland losses have occurred on agricultural property. The farmers in my northwestern Pennsylvania district understand this phenomena full well. The Federal Government encouraged and paid for much of the wetland conversion. Today, due to a better understanding of wetlands values, our Federal policy is changing. It is therefore essential that the Government become every bit as active a partner in conservation as it was in providing incentives for increased production.

Since President Bush embraced a policy of no overall net loss of wetlands, there has been a considerable amount of discussion and a number of congressional hearings on the subject. Now is the time to stop talking and start working. This year's farm bill provides an excellent vehicle for progress. However, any action which we take must meet the challenge of wetlands conservation head on. Any approach to wetlands conservation must include a recognition of private property rights within the context of a long-term environmental management plan. The legislation which I introduce today calls for the Federal Government to fully assist America's farmers by creating permanent wetlands reserves on private property.

The legislation requires the Secretary of Agriculture to establish a wetlands reservation program of no less than 2.5 million acres of eligible wetlands, converted wetlands, and adjacent lands located on eligible agricultural property. It also mandates that we stay within the currently authorized cap of 45 million acres as established in the Conservation Reserve Program between now and 1995.

The bill requires that the Secretary of Agriculture consult with the Secretary of the Interior in the development of a long-term management plan which will be included in a permanent conservation easement agreement. The expertise and interest of the Department of the Interior, particularly as it relates to wildlife and waterfowl protection, should be productively utilized.

In return for the landowners significant commitment to the private stewardship of wetlands, the owner of the property will be compensated for the fair market value of the land. In addition, the farmer will receive compensation for the income that would have been generated by the lands placed in the wetlands reserve program had they continued to be used for agricultural purposes.

While the reserve provisions will assist in the permanent protection of existing wetlands, we will also need to reclaim lost acreage if no overall net loss of wetlands policy is ever to become a reality. Therefore, my legislation would require the Federal Government to pay up to 100 percent of the cost of restoring converted wetlands and 50 percent of the cost of establishing vegetation in existing wetlands. The Federal Government would also be encouraged to provide technical assistance to the farmer in carrying out the obligations of the permanent easement agreement.

The commitment to conservation must work both ways. The Federal Government must be willing to come forth with real financial incentives for conservation on private agricultural property. While the benefits of wetlands conservation are distributed to society as a whole, the burden of the regulations falls to a few. A Government that for decades paid farmers to drain their land for agricultural production must now provide real incentives for conservation.

I plan to encourage members of the Agriculture Committee to take a careful look at my proposal for a permanent wetlands conservation reserve program. Proposals for short-term conservation reserves are not cost effective and provide no solace to those who know that wetlands losses must be halted. We have an opportunity to expand our Nation's wetlands base in a manner which compensates rather than punishes America's farmers. I would urge all of my colleagues to recognize the need and to seize the opportunity for substantial progress to be made on the road to a fair and effective national wetlands policy during consideration of this year's farm bill. Thank you.

OUTSTANDING STUDENT ATHLETES OF SACRAMENTO VALLEY, CA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to 15 high school and 3 college members of the Sacramento community upon their acceptance as this year's National Football Foundation Sacramento Valley Chapter's Scholar Athletes of the year. These outstanding individuals deserve to be recognized for their dedication to the pursuit of excellence not only in their sport but also in their academic undertakings.

Tonight's ceremony is to recognize the achievements of a very elite group of outstanding student athletes in the Sacramento Valley area. The 3 college students: Ted Diehl, University of the Pacific; Ty Endean, California State University Sacramento; James

Tomasin, University of California Davis, along with the 15 high school students: Mark Hatzenbuhler, Galt High School; Greg Hoffman, Del Oro High School; Andrew Stoddard, El Camino High School; Curtis Vals, Nevada Union High School; Mario Carreon, Yuba City High School; Jason Savorn, Cordova Senior High School; Brandon Johnson, Davis High School; Jason Fisk, Davis High School; Lenny Tran, Tokay High School; James McGahna, Folsom High School; Dan Gibbons, Bella Vista High School; Jason Skaggs, Nevada Union High School; Tony Cline, Davis High School; Tolan Dworak, Lincoln High School; and Mike Sample, Bear River High School, are to be congratulated for their outstanding achievements. It is through their commitment and skill that these individuals have made significant contributions to the entire Sacramento community.

Mr. Speaker, I commend the 1990 Scholar-Athletes for their many accomplishments. I am sure that my colleagues join me in saluting these invaluable members of the National Football Foundation and Hall of Fame for their expertise and their sportmanship. It is through their hard work and sacrifice that these young men have met the challenge of excelling in two different environments head on. I extend my best wishes for their continued success in all their future endeavors.

A "POINT OF LIGHT," THE RABBI ALEXANDER S. GROSS HEBREW ACADEMY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am honored to have this opportunity to extend my wholehearted congratulations to the Rabbi Alexander S. Gross Hebrew Academy, Fana Holtz High School. On March 9, 1990, President George Bush awarded the school one of the "Thousand Points of Light" for outstanding community service.

In 1946, Rabbi Alexander S. Gross came to Miami Beach with the dream of establishing a community-supported day school. As the school's spiritual and scholastic founder, Rabbi Gross met with community leaders interested in the project which agreed was needed to fill a community need. And in 1948, the same year Israel became a nation, the modest school opened its doors with Rabbi Gross as its first principal.

As the school grew, the goal of the program became to acquaint the students with social, economic, and psychological programs of those less fortunate. The Hebrew Academy also wanted to adopt a realistic program in which the students can help achieve these programs and provide for the common good.

The school's late principal, Rabbi Josef Heber, wanted community service to become an integrated part of the education provided by the Hebrew Academy. Their community service programs in the past have involved basically the older students, and, in time, Rabbi Heber felt that the younger students should have the chance to participate. He believed that if you educate the students early enough, community service would eventually become a part of their lives.

The Hebrew Academy's first project, "Poverty" turned into an instant success. The project began by teaching the students about poverty through the use of background information. Each class provided the students with knowledge on poverty. For example, in English class, they received poems and essays on the poor. In social studies, the students learned of poverty levels, what makes a person poor, and social programs provided by governments. Each week the students were introduced to various guest speakers who would discuss aspects of poverty existing in south Florida.

Following the weeks of speakers, films, activities, projects, and meetings, the students prepared a program to present on their visit to meal sites on Miami Beach. They collected money and purchased coffee urns as gifts for each site, as well as distributing cake following their presentation. The interaction between the students and the needy people derived pleasure and enthusiasm from the time shared together.

There are numerous other projects the Hebrew academy is involved in, including services to hospitals, collections of cans, toys, and clothes, and projects involving the elderly. Everything the students at the Rabbi Alexander S. Gross Hebrew Academy study and learn is shared with the community at large.

On January 24, of this year, I had the pleasure of meeting Ryan Feig, a student from the Hebrew Academy in Washington, DC. Representing the school as a participant in the Presidential Classroom for Young Americans Program, Ryan observed firsthand the inner workings of the Federal Government, adding a new perspective to the process of textbook learning.

I commend the efforts of the founders, leaders, and staff of the Rabbi Alexander S. Gross Hebrew Academy. The work done at the academy is essential to our country, because the youth of today are the leaders of tomorrow.

LEGISLATION TO TIGHTEN THE JUNK BOND RESTRICTIONS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, today I am introducing legislation to tighten a provision in the 1989 reconciliation bill which restricts the tax deduction for interest on certain OID junk bonds. The provision was written in an attempt to dampen the speculation in the type of junk bonds that were issued that were called PIKS and ZEROS—payment-in-kind and zero coupon. These so-called payment-in-kind and zero coupon bonds were the most recent devices used by Wall Street's fast buck artists to give a new definition to "risk" in the name of unharnessed greed.

These bonds don't actually pay interest when interest is due—they pay more bonds. And yet the issuer gets to deduct the interest as a business expense.

The 1989 act generally defers, under certain conditions, the interest deduction for junk bonds until the interest is actually paid. Congress did that to discourage the use of these junk bonds that drive LBO's and hostile takeovers. We wanted to limit the deductibility on the junk bond debt service until cash payments were actually made. Unfortunately, this provision applies only to junk bonds that have a term of more than 5 years.

When the Ways and Means Committee enacted this provision I felt that we had been too generous in drawing the line at 5 years. Frankly, I was afraid that some people would come forward and float these risky securities for 4½ years—just under the 5 year limit—and continue to deduct interest payments that they in fact, don't make. It appears that's what is now happening. And that's why I am introducing legislation today to limit the interest deduction for these junk bonds with a term of more than 2 years, rather than the 5 years that currently exists. Requiring actual cash payments for interest on junk bonds with terms of more than 2 years make sense to me. It will raise some additional money—the Treasury will save up to $300 million, I am told. It also just makes good common sense. Why should people get deductions for interest they didn't pay, use those deductions to generate cash refunds and then use to go out and engage in more hostile takeovers.

Those who have rushed to paper America's financial hallways with junk bonds are now in plenty of trouble. But there is an army of recruits ready to take their place and we've got to begin regulating this activity in a way that makes sense.

I urge my colleagues to join me in trying to further restrict this loophole. Wall Street can't police itself. The junk bond lobby has demonstrated its willingness to do almost anything to make money, even if it is not healthy for the country. I think it's our responsibility to respond to the public interest on these issues and that's why I'm introducing this bill.

The full text of the bill is as follows:

H.R. —

A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain high yield discount obligations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN HIGH YIELD DISCOUNT OBLIGATIONS.

(a) DEFINITION OF APPLICABLE HIGH YIELD DISCOUNT OBLIGATION.—Paragraphs (1)(A) and (2)(A) of section 163(i) of the Internal Revenue Code of 1986 (defining applicable high yield discount obligation) are each amended by striking "5 years" and inserting "2 years".

(b) DISQUALIFIED PORTION OF ORIGINAL ISSUE DISCOUNT.—Clause (ii) of section 163(e)(5)(C) of such Code (defining disqualified portion) is amended by striking "plus 1 percentage point".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to instruments issued after the date of the enactment of this Act.

(2) SPECIAL RULE.—The amendments made by this section shall not apply to any instrument to which the amendments made by

section 7202 of the Revenue Reconciliation Act of 1989 do not apply.

GOV. LOUIS KOSSUTH

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. RITTER. Mr. Speaker, March 15, 1990, the United States accepted the gift of the American Hungarian Federation, a bust statute of Gov. Louis Kossuth, the legendary Hungarian freedom fighter and statesman of 1848 in the form of a solemn ceremony led by Representative TOM LANTOS with the participation of the congressional leadership and the administration.

Afterward the American Hungarian Federation sponsored a gala dinner at the Rayburn House Office Building at which I served as the main speaker. President Matyas Szuros of Hungary was also present at both the ceremony and the dinner. I want to express my sincere appreciation to the American Hungarian Federation for a work well done in connection with the Kossuth statute.

SPEECH BY REPRESENTATIVE DON RITTER, PLACEMENT OF A BUST HONORING HUNGARIAN PRESIDENT LOUIS KOSSUTH

Ladies and Gentlemen: As the son of a father born in Hungary, it is a distinct pleasure for me to address this gathering on Hungarian National Independence Day, especially as we celebrate the permanent placement of the bust of Governing President Louis Kossuth in the United States Capitol.

Indeed, there is an organic connection between Louis Kossuth and March 15, 1848—the July 4 of the Hungarian nation. Without the work of Kossuth during the Metternich era which landed him in jail as a young journalist, and without the accomplishments of the Era of Reform between 1825-48, there would have been no rising of the Hungarian youth on March 15, no overthrow of the feudal, absolutist regime, and no establishment of Hungarian democracy.

During his lifetime, Kossuth was one of the foremost revolutionary democrats in Europe. Despite his commitment to the Hungarian nation, he remained a European; a freedom fighter who sympathized with Germans, Italians, and other nations in their yearnings for freedom and democracy; a man who was respected and loved by Mazzini and the German democrats as well.

Yet Kossuth loved his nation first. His oratory, his sincerity, his idealism and patriotism, caused the Hungarian nation to follow him first to victory, then to the bitter end following the Tsarist intervention. The contemporary song stated it well: "If Kossuth calls again, we all have to go to replace those fallen."

The Fight for Freedom between March 15, 1848, and August 1849, constituted one of the golden pages of Hungarian history. Incredible heroism stopped the military might of the Hapsburg Empire, and created a democratic Hungary in which the nobility voluntarily surrendered their privileges, the serfs were emancipated, and a government responsible to a parliament was called into being.

Throughout their history, the love of freedom is a typical Hungarian trait. Liberation campaigns were led by Prince Francis Rakoczy II between 1704 and 1711. And again, the blood of Hungarian youth was shed profusely in the dark days of October and November, 1956, when the nation rose as one against Soviet occupation and the Communist dictatorship. It is a wonderful irony that as I am speaking here, Soviet troops are finally withdrawing from Hungary. With free elections only 10 days away, a new day of democracy is dawning in Hungary.

These are exciting days in Hungary, despite the economic hardships. A nation is being reborn. Out of the bonds of a 40-year-old tyranny, Hungary is resuming its rightful place in Europe, from which it was separated by Soviet Communist fiat. As we welcome these developments, we must remember the legacy of Kossuth to the people of Hungary, and to the world.

What were the basic tenets of Kossuth's philosophy? First, belief in the freedom of the individual as the keystone of all democracy; and the faith that the individual rather than the monarch or the state should be governing the realm. Without democracy, there can be no guaranteed individual freedom; without individual freedom, there can be no national unity. This brings us to Kossuth's second tenet: the national self-determination of peoples. In this, Kossuth pre-dated President Wilson by many decades. He spoke out for the national self-determination of all peoples; and only because he believed in it could he espouse, without reservation, the national self-determination of the Hungarian people. He was no chauvinist; he respected the freedom of all nations, and worked with the Italian and German democrats to create Italian and German unity, sending emissaries to the German Parliament as it was writing the German Constitution at St. Paul's Cathedral, and to the leaders of the many Italian city states struggling to become one.

It is interesting to note that today, we are witnessing new efforts to reunite the divided people of the German nation, also kept from unity by Soviet Communist fiat. History repeats itself.

Kossuth, both during his short-lived reign in his exile, promoted the cooperation of the peoples of Central and Southeastern Europe. He know the pressures put on the Hungarian people by the Austrian Hapsburg power and the imperialist Russian power of Tsar Alexander II. He knew that without cooperation between the peoples of the region, either Teutonic or Russian imperialism would wrest control of their destinies away from them.

The geopolitical situation has changed only a little since then. But events have placed an onerous burden on the Hungarian nation. As a result of the Trainon and Paris Peace Treaties, one-third of all Hungarians live in the neighboring states as minorities, especially in Rumania, which harbors 2.5 million Hungarians, mostly in Transylvania. Without a just resolution of the problems of these national minorities, the region will remain a hotbed of ethnic conflicts, an easy prey for outside powers to dominate.

We in the United States are aware of the problems. We have denounced the chauvinistic-communist measures of the Ceausescu regime for many years. Here I must praise your Federation and Dr. Z. Michael Szaz, the Chairman of the International Relations Committee, for the fine work in Congress on the issue. We're glad that that repressive period has come to an end. It is a particular pleasure to have here with us the Reverend Laszlo Tokes from Temesvar, whose eviction and arrest sparked the revolution against Ceausescu in Rumania by Hungarians, Rumanians, Germans and Serbs alike. He is a shining example of total commitment to human and religious rights—even amid persecution and brutality. We hope that the new Rumanian government will use his tremendous prestige and goodwill for a reconciliation between the two peoples rather than to give away to renewed nationalist passions which are not far from the surface.

Finally, let us ask ourselves: what is Louis Kossuth's message for us today? For Americans living in a bountiful land of freedom and democracy, for Hungarian-Americans who partake in this freedom and prosperity, yet here the anguished cries of our former fellow countrymen for freedom, justice, and economic progress.

I believe Kossuth's famous words that a world cannot live half-free and half-slave must be echoing in our ears. We must promote democracy, freedom and justice in Hungary, and in all countries of Central and Southeast Europe, not only with words, but by technical and managerial aid, investments, and—only were it can be effectively applied—financial assistance.

We must remember that unless we find a just solution to the problem of national minorities we can never establish a lasting peace in the region. Freedom and democracy mean tolerance and the respect for national self-determination. It is on these principles that we hope to establish a new world order in the wake of the decline of communism and dictatorship. And it is to these principles that I am pledging my support—and to you and the Hungarian people everywhere.

TRIBUTE TO KELLIE McCULLOUGH

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate an outstanding student from my community who is being recognized for her overall excellence.

Kellie McCullough, of Newport, RI, was one of the top award winners at the recently held Rev. Robert Williams National Black History Month Assembly. Kellie received the Marcus Wheatland Award and Scholarship, which is given annually to a senior from Rogers High School in Newport.

Kellie was chosen for this award for her outstanding academic and extracurricular work at Rogers. Kellie, as cited from one of her teachers, is "an outstanding student who has superior academic ability." Kellie also participates in cheerleading, volleyball, the school yearbook, and other activities while attending Rogers. She also teaches Sunday school and is a past president of the Baptist Youth Foundation Teen Club. Kellie plans on attending college and is interested in majoring in engineering.

Perhaps one aspect of Kellie's life that is not seen in her academic or extracurricular work is her genuine caring for others. Kellie dedicated her award to the memory of her friend, Lisa Pierce. Lisa died tragically at 15

years old after collapsing during a basketball game.

It is with great pleasure that I recognize Kellie McCullough for her outstanding record both inside and outside of the classroom. I wish her continued success in her future endeavors.

HONORING WILLIAM C. DANA, PRINCIPAL OF P.S. 21

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. ENGEL. Mr. Speaker, today I wish to join the people of the Bronx in honoring William C. Dana, who is celebrating his 20th year as principal of Public School 21.

It is virtually impossible to count the number of lives that have been touched by William Dana over the years. As a teacher of science since 1956, and a school principal since 1970, Bill Dana has developed curriculum, formed teacher training programs, and most importantly, educated the children of the Bronx in a creative way.

The list of Bill Dana's accomplishments and affiliations also goes on and on. Clearly, his influence has been felt not only in the Bronx but throughout the entire educational community. Examples of his work include his association with professional and teacher training programs in conjunction with Columbia University, Fordham University, and Lehman College. He has been a leader in emphasizing the educational needs of minorities, and he has supervised after-school and summer programs in reading and the training of para-professionals.

Despite all his credentials, Bill Dana remains a principal who students can look to for support. It is his understanding of his pupils' needs and abilities that has enabled Bill Dana to endure as a principal.

His reward is not only the celebration being held in his honor, but also the knowledge of knowing that he helped countless students reach or exceed their potential. For that, and for all the good things he has done for the Bronx community, I thank William Dana on behalf of all my constituents.

LITHUANIAN INDEPENDENCE

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. ECKART. Mr. Speaker, I rise today to express support for the people of Lithuania during their struggle to regain their freedom from the Soviet Union. Last November, the Soviet legislature granted economic autonomy to the three Baltic republics, giving them full control over their land and resources. In February, Lithuania held multiparty elections and on March 11, Lithuania declared its independence from the Soviet Union.

The Soviet Union, however, maintains that the Lithuanian declaration of independence is illegal. Soviet troops have exhibited unusual troop movements in Lithuania since March 11. If the Soviet legislature granted the Baltics economic autonomy, why are they now denying them political autonomy?

Ever since 1940 when the Soviet Union forcibly annexed the Baltic States, United States policy has been not to recognize Soviet claims on the Baltic States. The United States has never condoned, and will not condone any attempts by the Soviet Union to deny freedom and independence to the valiant people of the Baltic States.

Soviet President Mikhail Gorbachev has repeatedly renounced the use of force to settle disputes. It is crucial for the Soviet Union to uphold the principles of national sovereignty as they have done in the rest of Eastern Europe, and continue the policy of nonviolence. The United States must persevere in assisting nations gain their sovereignty and their human rights against oppressive regimes such as we have done in China and South Africa.

ORGAN PROCUREMENT PROCESS REVIEW ACT OF 1990

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. GEREN. Mr. Speaker, today I am introducing legislation that will amend the Public Health Service Act with regard to the size of organ procurement organizations that serve this country and will create a temporary advisory committee to review the organ procurement program.

The legislation has been cosponsored by the following Members of Congress: SPENCE, HOAGLAND, BATEMAN, MOLLOHAN, BEREUTER, RAHALL, BRYANT, FROST BUSTAMANTE, PARKER, SAIKI, R. HALL, STENHOLM, COLEMAN, WASHINGTON, ANDREWS, BILBRAY, BARNARD, CHAPMAN, V. SMITH, OWENS, HAYES of Louisiana, ESPY, COMBEST, GONZALEZ, KAPTUR, ROSE, MONTGOMERY, VALENTINE, JONES, AKAKA, RAVENEL, LOWERY, L. SLAUGHTER, WISE, SARPALIUS, GRAY, LEATH, ARMEY, ANTHONY, LAUGHLIN, and NEAL.

Organ procurement organizations [OPO] are nonprofit organizations that identify potential organ donors, recover and distribute donated organs around the country. The OPO's operate through the United Network for Organ Sharing [UNOS] network which ensures the effectiveness of the Nation's organ procurement, distribution, and transplantation system and increases the availability and access of donor organs for patients with end-stage organ failure. There are currently 73 OPO's that are certified by the Health Care Financing Administration [HCFA] and each OPO has an identified service area within each State.

Of these 73 OPO's, 41 are in jeopardy of losing their HCFA certification and eligibility for Medicare payments due to a provision that was included in Public Law 100-607 which was signed into law on November 4, 1988. The legislation I am introducing today amends Public Law 100-607 and would correct this situation.

Public Law 100-607, the Health Omnibus Programs Extension Act of 1988, included a provision that set the geographical OPO service area "at such a size that the organization can reasonably expect to procure organs from not less than fifty donors each year." This provision replaced the prior OPO size certification standard of "at least 50 potential donors."

This new standard was based on the premise that bigger OPO's are better. However, performance records of the Nation's OPO's show the premise to be unfounded. There are many OPO's that transplant more organs pe capita than some of the larger OPO's, but are in jeopardy of losing their certification just because they are below the 50-donor limit. This 50-donor rule is clearly an arbitrary number that is not supported by the facts.

I would like to cite an example of how this provision would affect an organization in the district I represent. The Tarrant County Organ Donor Program is located in the 12th Congressional District of Texas. The Tarrant County Organ Donor Program:

Ranked 14th out of 73 OPO's in renal recovery rates in the U.S.; in the top 19th percentile in the U.S.;

Ranked 19th out of 73 OPO's in total donor recovery rates; in the top 24th percentile;

Ranked 23d out of 73 OPO's in heart recovery rates; top 31st percentile;

Ranked 14th out of 73 OPO's in liver recovery rates; top 19th percentile;

Ranked 6th out of 73 OPO's in pancreas recovery rates; top 8th percentile; and

Ranked 17th out of 73 OPO's in multi-organ recovery rates; top 23d percentile.

Although these numbers show that the Tarrant County program is in the top percentile of organ transplants, this program would be decertified because it does not meet the requirement of the 50-donor rule of Public Law 100-607. Additionally, of the top 10 OPO's in the United States 5 of the OPO's—50 percent—do not do 50 donors per year. Yet, these OPO's are doing an outstanding job in organ recovery, and unless this provision is changed, these programs would be threatened with decertification, regardless of the quality or track record of a program.

Mr. Speaker, the organ procurement program as it exists is an effective health program that saves lives; however, we currently are experiencing a shortage of transplantable organs. This is not the time to decertify over 56 percent of the organizations that are participating in the program.

We need an opportunity to review the organ program to ensure that a reasonable approach is taken in evaluating the health of the OPO system and formulate a plan to improve it. This legislation calls on the Secretary of HHS to form a 27-member committee to study OPO's, develop criteria for their evaluation, and report his findings to Congress within 1 year of formulation of the committee. I believe that this is the approach we should take. The provision contained in Public Law 100-607 is unworkable and threatens to wreak havoc with the organ procurement system.

I would hope that the Secretary of Health and Human Services will reconsider his Department's position of beginning the decertification process on April 1, 1990, and delay im-

plementation until after Congress has had an opportunity to review this issue.

THE 75TH ANNIVERSARY OF THE JEWISH HOME FOR THE AGED

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. MORRISON of Connecticut. Mr. Speaker, on March 25, the friends of the Jewish Home for the Aged will celebrate its 75th year of providing compassionate and attentive care to older citizens. Located in New Haven, CT, the home continues to fulfill its pledge of nourishing and improving life for its residents. I want to take this opportunity to join their celebration and thank them for all of their good work.

Originally, the Sisters of Zion established the Jewish Home for the Aged to aid the Jewish poor and the sick, both young and old alike. Even though there were many services available to Jews in the New Haven community, the Sisters noticed that no services had been specifically provided for the aged. They decided to concentrate their efforts on feeding and housing the Jewish aged.

In a very short time, the Sisters of Zion formed a corporation, developed community and rabbinic support, and found and acquired a suitable building. Because of the home's overwhelming success, it quickly outgrew the original facility. A new main building was erected to facilitate more residents. Not forgetting their heritage, the Sisters established a synagogue on the first floor of the new building for the convenience of the residents.

Although the primary needs of the residents were perceived to be food and shelter, it was soon realized that medical care would also be of great importance. Round-the-clock medical coverage by physicians was instituted, and later a full-time nursing staff was provided.

Today, nursing care, recreation, counseling, and dietary and rehabilitative services combine to create a comfortable living environment for the residents. This compassionate and attentive care has greatly contributed to low mortality statistics, long resident stays, and few trips to the hospital emergency room.

Most importantly, each resident of the Jewish Home for the Aged is recognized as a unique and precious individual.

On the occasion of its 75th anniversary year, I congratulate all those who have done so much to keep the Jewish Home for the Aged an enriching residential experience for southern Connecticut's aged.

CONGRESSMAN DALE E. KILDEE HONORS HELEN B. HARRIS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. KILDEE. Mr. Speaker, I ask my colleagues to join me in paying tribute to a person who has dedicated herself to improving the quality of life for the residents of my hometown on Flint, MI, Mrs. Helen B. Harris.

Born in High Point, NC, Helen and her husband, Dr. Wendell Harris, moved to Flint in 1952 after learning the community was in need of black professionals. As a sign of those bleak times in our country's history, Mrs. Harris was denied a teaching position in the Flint school system because she was black. It is at this time that Helen began a career in public service that has changed the lives for so many people in the Flint area. Ironically, 17 years after being denied a position in the Flint school system, Helen was elected a member of the Flint Board of Education with the highest vote total of any candidate, and she eventually served two terms as the board's president.

Mr. Speaker, it gives me great pleasure to speak highly of an individual who I personally know and truly respect. For the last 37 years, Helen Harris has dedicated more than just her time and energy to our community, she has given her soul. In one way or another, she has touched all our of lives. During times of economic and social trouble, Helen Harris was able to work with all segments of our community to resolve many difficult issues. She has been our social conscience and a tireless soldier in the war to attain justice and equality in our society. She has also devoted much time and effort to her life long love of education. Helen has made our school board more racially sensitive, and our school system more efficent and productive. She has worked to improve our neighborhoods, the quality of health care, and the availability of housing. In essence, Helen Harris has worked to improve the human dignity of our community.

Helen continues to serve our community as an active member of the Delta Sigma Theta Sorority, president of the Flint Area Educational Foundation, trustee of the Community Foundation of Greater Flint, board member of Questar School for the Gifted and Talented, chairperson of the Ebony Fashion Fair fundraiser, and several other organizations.

In addition to Helen's community service, she has taken the time to help produce a feature length film titled "Chameleon Street", a movie which won the top award at the prestigious U.S. Sundance Film Festival in Utah. Dr. and Mrs. Harris have also passed on the value of education and community involvement to their children. Their eldest son, Wendell, Jr., a graduate of Julliard School of Fine Arts, has received numerous awards for his innovative film "Chameleon Street", which he wrote, starred and directed. Charles Harris was a graduate of the Minnesota School of Arts and Design and operated an art gallery in Flint before he became active in the family effort to produce "Chameleon Street." Their youngest son, Hobart, is a graduate of Harvard Medical School and is completing his surgical residency at the University of California. Truly, the Harris family is a remarkable success story, and we in Flint are indeed fortunate to have shared in their lives. They are stalwarts in our community, and they serve as role models for all the people of Flint.

Mr. Speaker, on March 23, 1990, the American Lung Association of Genesee Valley will honor Helen Harris as the Health Advocate of the Year. This tribute is fitting to an individual who has dedicated herself to ensuring that all residents in our community receive proper medical treatment. But Helen is not just a health advocate, she is an advocate for the poor, for the children, for the elderly, and for those who are the most vulnerable in our society. It is for these reasons that I am proud to honor Helen Harris and thank her for all she has done for making Flint, MI a better place to live.

HONORING THE REVEREND JOSEPH A. COGO

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. GUARINI. Mr. Speaker, I rise today to honor a man who has devoted his career to promoting the well-being of Italian immigrants in the United States, the Reverend Joseph A. Cogo, C.S. For 24 years, Reverend Cogo has been executive secretary of the American Committee on Italian Migration [ACIM]. In January 1990, he was named vice chairman of the board of the ACIM.

On Sunday, March 25, 1990, the Staten Island chapter of ACIM will honor the Reverend Joseph A. Cogo and Yolanda Coda at its annual fundraiser, Un Ballo in Maschera, which is being chaired by Giovanna Scana and Norma D'Arrigo. Ms. D'Arrigo was the founding president of the Staten Island chapter of ACIM.

The Reverend Joseph A. Cogo, C.S. was born in Italy in 1933 and became a United States citizen in 1966. Father Cogo attended elementary schools of Schiavon (Vicenza) and the Istituto Scalbriniano-Tirondolo (Junior High) at Bassano del Grappa (Vicenza). He studied liberal arts at the Istituto Scalabrini-Obrien at Cermenate (Como); he studied philosophy and science at the Istituto Scalabrini at Piacenza, and theology at the Sacred Heart Seminaries of Stone Park, IL and St. Charles of Staten Island, NY.

He served at Our Lady of Pompei Church in New York from 1959 through 1965, where he worked with Italian immigrants, and on August 22, 1966, he was appointed executive national secretary of the American Committee on Italian Migration. The American Committee on Italian Migration is a private, voluntary, nonprofit agency which supports a fair immigration policy and offers services to assist Italian immigrants in their problems of resettlement and assimilation.

In his capacity as ACIM executive national secretary, Father Cogo has often testified with regard to immigration legislation before the House and Senate Immigration Subcommittees. He was received with ACIM delegations by Presidents Johnson, Nixon, and Carter.

He broadcasts an Italian language radio program three times weekly on behalf of ACIM giving information on immigration, citizenship, and social services. He also appears on Italian language television on alternate Sundays.

Father Cogo was the founding father of the Italian committee on education, which sponsors the teaching of Italian to children of Ital-

ian immigrants and the teaching of English to recently arrived immigrants.

In line with the unique character of the Society of St. Charles—Scalabrini Fathers—Father Cogo has developed new forms of ministry among Italian immigrants in the New York metropolitan area. He is responsible for coordination of the ministry in Italian in 15 churches on a weekly basis and of many other occasional services.

He is a member of the executive board of the Northeast Italian Apostolage Conference, a group of priests, religious, and lay people, organized for the purpose of promoting and coordinating the spiritual and social care of Italian immigrants in the eastern seaboard States.

He broadcasts a 10-minute religious program weekly in Italian on WEVD for the Italian Church of Our Lady of Pompei in New York City.

He is director of the Italian Seaman's Club on West 44th St. in New York City where seamen, mainly but not exclusively Italian, are being provided with a home away from home when they call on the Port of New York.

In recognition of Father Cogo's work on behalf of Italian immigrants, the Government of Italy conferred upon him in 1977 the Knighthood in the Order of Merit of the Republic of Italy, and promoted him to the rank of commander in 1985.

He received the Medal of Liberty Award from the readers of Il Progresso Italo-Americano as an outstanding member of the Italian-American community. This award was presented in Washington by H.E. Rinaldo Petrignani, Ambassador of Italy to the United States, in October of last year.

Father Cogo has been reassigned last January and is now pastor of Sacred Heart Church, the oldest Italian church in the historic north end of Boston, and coordinator for the Archdiocese of Boston for the pastoral care of immigrants of all nationalities.

ACIM was founded by Judge Juvenal L. Marchisio, Bishop Edward E. Swanstrom, Howard Molisani, and Dr. Mario F. Tagliagambe. ACIM is a nonprofit organization that promotes fair immigration policies that favor reunion of families. It assists immigrants with resettlement and assimilation problems, among them citizenship, Social Security and pensions from Italy.

I am sure my colleagues here in the House of Representatives will join me in honoring Rev. Joseph A. Cogo and the many other people at ACIM who have devoted so much time and energy to the betterment of life for Italian immigrants in the United States.

BUILDING BRIDGES IN OUR COMMUNITY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, there are always a few precious members of our community who are peacemakers. Those few make all the difference. I take this opportunity to tell you about a man who is both a peacemaker and visionary, Mr. Eduardo Martinez. Mr. Martinez sponsors a spectacular Fourth of July celebration for the Miami area, attempting each year to surpass the last. But this annual event is much more than a party, it is a event to build bridges across ethnic and racial divides.

Our Nation's Independence Day has been transformed by Mr. Martinez into an occasion to bring Miami's diverse population together. "A Tribute to America," the title of this Fourth of July celebration, is offered to the community free of charge. The exciting entertainment program includes: music, theater, circus acts, and sports. The central theme of all these events is a celebration of ethnic, racial, and religious diversity in America.

Mr. Martinez is in immigrant, not unlike myself, who found in America ethnic tolerance and freedom to succeed. He has recognized that tolerance and freedom cannot be taken for granted, rather they must be nurtured. In his words: "a divided community is a weak community," thus it is his vision to bring Miami together. It is his vision that by celebrating our Independence Day together that we might recognize the wonderful freedom that we share. Together, Mr. Speaker, our society can solve a myriad of problems. And Mr. Martinez has made bold steps in this direction.

TRIBUTE TO RITA G. EVICCI

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. MATSUI. Mr. Speaker, I rise today in great sadness to advise you that an outstanding citizen of the Sacramento community, Mrs. Rita G. Evicci, has recently passed away. She has made numerous contributions to the Sacramento community and we will all miss her presence.

Rita was an extremely valuable part of the community because of her commitment to the people of Sacramento, especially the senior citizens. Together with her husband, Rita founded the Senior Citizen Weekly, now Senior Spectrum newspaper, for seniors in 1973. Rita worked with the paper for 13 years, during which she covered stories, took pictures, and wrote a column called "Neither Here Nor There."

Prior to founding and working on the Senior Spectrum, Rita was editor of the weekly San Lorenzo Journal, where she wrote a column called "As I See It." She, along with her husband, also lived in Woodland, CA, and worked for the Yolo County newspapers for approximately two decades. Rita was born in Lowell, MA, on January 19, 1916, and had resided in California since 1943.

Rita is survived by her husband of 50 years, Fred Evicci; two children, Judy Goss and Fred Evicci III; three grandchildren, Jackie Carrick, Jennifer Morrison, and Laura Sobal; and a cousin, Helen Gallagher. Rita has made a tremendous contribution to all our lives and she will be missed greatly. I offer my sincerest sympathy to her entire family and friends We will all mourn the loss of such a giving, dedicated, and exceptional woman.

POSTAL SERVICE SHOULD CUT COSTS BEFORE ASKING FOR A RATE INCREASE

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, I am strongly opposed to the recent proposal by the U.S. Postal Service to raise its postage rates by up to 19 percent. It was only 2 years ago that the cost of sending a first class letter increased from $0.22 to $0.25. Now the American consumer is being asked to dig deeper into their pockets and come up with nearly 20 percent more for the same first-class letter. In addition, the Postal Service is proposing a rate increase at the very same time it proposes to reduce service by changing first- and second-class delivery in some areas of the country. This makes no sense.

According to the GAO [Government Accounting Office], this rate increase could have been prevented. Mismanagement, poor productivity, and a considerable underestimation of the cost saving of automated equipment resulted in this rate increase request. In fact, the Postal Service's deficit is expected to reach a whopping $1.65 billion in fiscal year 1990.

The Postal Service closely predicted the amount of mail volume and operating receipts, however, they predicted a work force which was 5 percent below the actual workyears utilized, and this alone will cost postal consumers close to $1.34 billion. The U.S. Postal Service has spent over $1.2 billion in the past decade on automated equipment which the Service predicted would save 22,000 workyears. However, the Postal Rate Commission reported to Congress in 1987 that no cost improvement was accomplished.

The GAO concluded in its testimony before the Postal Office and Civil Service Committee that if the U.S. Postal Service does not put "resources to effective use, the financial performance of the Postal Service will continue to be disappointing". I think that it is time the U.S. Postal Service be forced to increase efficiency and cut costs before it even considers another rate increase.

Even the Postmaster General, Anthony Frank, said that the increase is "too much, too soon". I agree, Mr. Frank, it is far too much and far too soon.

TRIBUTE TO JEAN CAHILL

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to an outstanding member of my community who has been nationally recognized for her charitable efforts.

Mrs. Jean Cahill, of Uxbridge, RI, is one of five recipients from Rhode Island of the Jefferson Award for public service in a local community. Mrs. Cahill has devoted her time to provide social and recreational programs for

the developmentally delayed. She is the founder of the Valley Adult Counseling Service's Social/Recreation program for the mentally handicapped. This program serves over 300 residents from 15 towns in the Blackstone Valley area in Rhode Island. Participants enjoy many social activities from dances and dinners to horseback riding and bowling.

Mrs. Cahill started this program on a volunteer basis in 1972 and through her tireless efforts, Mrs. Cahill managed to gain State funding for this worthy program. However, due to financial difficulties, State funding was cut and Mrs. Cahill had to return the program to a volunteer effort. Nevertheless, Mrs. Cahill continued her efforts and has kept the program going strong. According to one coworker, "Jean has a great gift of finding volunteers and getting them to do what they never thought was possible. Remarkably, Mrs. Cahill manages to hold down a full-time job while still finding time to coordinate activities three nights a week, to recruit volunteers, and to raise funds for the program.

It is with distinct pleasure that I salute Mrs. Cahill for her efforts on behalf of the mentally handicapped. Her years of dedicated work in the Blackstone Valley area have been a great service. I wish her and her program continued success and in the future.

TRIBUTE TO LATE PATERSON, NJ, MAYOR FRANK X. GRAVES

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. ROE. Mr. Speaker, it is with a great sense of sadness, and yet at the same time a tremendous sense of admiration for a life lived to the fullest that I rise today to pay tribute to a truly great man who was taken from us earlier this month.

I am speaking of Frank X. Graves, Jr., the outstanding mayor of Paterson, NJ, and one of New Jersey's foremost State senators who passed away suddenly on March 4, 1990. The tributes which have poured forth for Mayor Graves tell the story of what he meant to the people of his community, his city, the State of New Jersey, and to our Nation.

Mr. Speaker, for the RECORD, I would like to insert two of those tributes, the homily for Mayor Graves by Rev. Msgr. M. Giordani, and a resolution adopted by the Paterson City Council in Mayor Graves' honor. I believe these two tributes speak volumes about the giant of a man that Frank Graves was, and how his spirit will live on in the fond memories so many of us have of him:

"The son of man has come not to be served, but to give his life in ransom for the many"—(Mk. 10:45).

Frank X. Graves, in his own unique way, certainly gave his life in service for others. His unexpected death has shocked us all. The city of Paterson will never be the same.

As Sheriff Ed Englehardt said: "With the death of Frank X. Graves an era ends and he becomes a legend in our hearts that will never die." Gruff and rough as he appeared to many, at the same time he was sensitive, compassionate, loving to all in need. People may not realize what a great heart Frank had for children. He would stop by various schools in the city with gifts such as sport equipment and candies. He kept toys in the car to comfort children in times of emergencies like a fire.

Many people felt his charity, generosity, and love in the unexpected gifts he gave them to cheer and brighten their lives with no desire for a return.

Frank X. Graves was truly a human dynamo. He could answer four phones at the same time and call out orders to 10 staff members at the same time. He was a man of action and when you came to him for help you received a prompt and generous reply.

Frank Graves was a man of firm law enforcement. He could shout out orders on his car radio to clean up a littered street or graffiti on a statue—you can bet the response was immediate. Everyone had a real fear of Frank. People in a position of authority need our prayers as well as our support. It is not an easy task to balance one's obligation to God and office, to be in authority over others and yet still be humble before God.

This past January someone was threatening to jump off a roof, Frank arrived at the scene and looked up at the man and said: "Do you know who I am?" and the man replied, "You are the mayor." At that the mayor offered the man a cigarette and he came down. We could go on describing Frank's human touch and the power he exercised over the lives of all of us.

Frank X. Graves used the proceeds from various fundraising events in his honor to help needy families or some worthy projects. I remember once having a victory dinner for him at St. Gerard's. We netted about $10,000; we gave Frank a plaque and we kept the $10,000 for the parish. Frank said to me jokingly, "That's the most expensive plaque I've ever received."

His good friends for many years, Sheriff Ed Englehardt said: "Frank X. Graves dedicated his life to public service and public service took his life."

He began his political career as alderman in 1950. He then served on the board of freeholders of Passaic County from 1954 to 1960. In November 1960 he was elected mayor of Paterson and served two terms until 1967. In 1971 he was appointed to Passaic County Parks Commission. In 1974 he was elected to the Paterson City Council and the council elected him as president. In 1977 he was elected to the State senate. In 1981, the N.J. Legislature approves Graves' proposal to raise the drinking age from 19 to 21 and also passed Graves' act, which provides a mandatory jail term for anyone using firearms to commit certain crimes. In 1982 he was reelected once again as mayor of Paterson. In 1987, the Drug Reform Act which Graves cosponsored, is passed by the legislature, establishing mandatory sentence for anyone selling drugs within 1,000 feet of a school.

Mayor Graves zealously endeavored to rid the city of Paterson of drugs. A former Governor said of Frank that he was the greatest crime fighter in the State. Mike Adamo, his other good friend for many years and PBA president said: "Frank looked on the Paterson cops as his own. As much as he made high demands on them he loved them much and was proud of them. He had a most profound concern for the welfare of all people. His love for others is beautifully symbolized in the two purple hearts that he received during World War II.

Mayor Graves was loved and supported by a most extraordinary wife, Ethel and family. He was a most dedicated and consciencious public servant and many demands were made upon his time. Because of this the family was often time deprived of his presence. We commend Ethel and the family for the sacrifices they have made.

In the name of the church and on behalf of the city of Paterson I wish to extend our most profound heartfelt sympathy and prayers to you Ethel; daughters, Karol, Nancy, Linda; and granddaughters, Lisa and Jennifer.

We pray that Christ will receive Frank into his heavenly kingdom. We intercede for him that he may enjoy the light and love of God for all eternity and that he may interced for us from heaven. Death puts a period at the end of earthly life and marks the termination of familiar things. It is the end of breathing, the end of human endeavor, the end of going to work and returning home again, the interruption of relationships that to some of us are dearer than life itself.

There is an unmistakable, undeniable note of finality in the moment of death.

But here is the beautiful part that belongs to us through Christ—it really isn't the end at all, it is only the beginning.

A wealthy and famous Christian layman stated it like this: "Some day you will pick up the paper and read that I am dead. Don't you believe it. I will be more alive in that moment than I have ever been before."

In the old testament the patriarch job said essentially the same thing. His words were these: "I know that my redeemer lives and though worms may destroy this body of mine, yet in my flesh I shall see God".

And finally we remember the promise of Chirst: "He that believes in me though he should die, yet shall he live". We need not fear death. It is a door through which the followers and friends of Jesus walk to a fuller, more meaningful life.

Mayor Frank X. Graves, we the city of Paterson salute you, a man of action, a man of strength, a man gruff and tough, a man of justice, a man of compassion, a man of boundless generosity and love. We love you, we miss you, we'll see you again.

RESOLUTION OF THE CITY OF PATERSON, NJ

Whereas the City of Paterson has suffered a great loss in the untimely and sudden death of its Mayor and State Senator Frank X. Graves, Jr.; and

Whereas the City now faces the long and difficult future ahead without the leadership of this dynamic and energetic man; and

Whereas Frank X. Graves, Jr. reached out and touched every person in the City, regardless of their ethnic, social or political background and beliefs, and dedicated himself to pulling those individuals together for the benefit of everyone living within the City; and

Whereas Frank X. Graves, Jr. dedicated his life to the tradition of public service beginning with the service on the Paterson Board of Alderman in 1959, his election to the Passaic County Board of Freeholders, and his election as Mayor of the City in 1960; and

Whereas Frank X. Graves, Jr. exemplified this City's long tradition of tenacity and courage by coming back from political defeat in his career to be reelected again as Mayor in May of 1982 with an astounding 82% of the vote and repeated said victory in his mayoral campaign in May of 1986; and

Whereas Frank X. Graves, Jr. was an untiring advocate for the City of Paterson and

other urban communities within the State of New Jersey in his capacity as a member of the New Jersey Senate since November 1987; and

Whereas Frank X. Graves, Jr. leaves us as a legacy of his Senate membership legislation committed to winning a victory against the war of drugs and crime including the Graves Act and the legislation regarding selling drugs within 1,000 feet of a school; and

Whereas the death of Frank X. Graves, Jr. has left a void within the City of Paterson that no man or woman will ever fill in the distinctive and personal fashion in which he served the City; and

Whereas the manner in which Frank X. Graves, Jr. handled every aspect of the day-to-day management of the City of Paterson, won the admiration and respect of even his most grudging critics for his quickness, dedication, and involvement with the City; and

Whereas the Municipal Council wishes to pay tribute to Frank X. Graves, Jr. for his life of dedication to the City of Paterson, and the residents therein; and

Whereas the Council wishes to extoll Frank X. Graves, Jr. for the passion, dedication, individual concern and the life which he dedicated to his fellow citizens: Now, therefore, be it

Resolved, That the municipal council, of the City of Paterson on behalf of every resident of the City of Paterson pays tribute to the Honorable Frank X. Graves, Jr. for the life of dedicated public service which he so generously gave in every aspect to the City of Paterson and its citizens; and be it further

Resolved, That the Municipal Council extends its condolences to the widow and children of Frank X. Graves, Jr. who must mourn the loss of husband and father as the City mourns the loss of a great public figure and friend; and be it finally

Resolved, That the Municipal Council pledges to the memory of Frank X. Graves, Jr. its commitment to follow in the footsteps of Frank X. Graves, Jr. and calls on all citizens of the City to dedicate their untiring efforts to help the City not only survive these troubled times but to triumph in the future and fulfill the final legacy of Frank X. Graves, Jr.

CALLING UPON EPA TO STUDY DEGRADABLE PLASTICS MISLEADING CLAIMS

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. COURTER. Mr. Speaker, today I am introducing legislation to direct the Administrator of the Environmental Protection Agency to carry out a study and make recommendations to the Congress with respect to the development of uniform standards and definitions of plastic degradability.

The solid waste disposal crisis faced by our Nation is well documented. The Office of Technology Assessment estimates that over 160 million tons of municipal solid waste, more than one-half ton per person, is generated in the United States each year. Plastics account for approximately 7.3 percent of the municipal solid waste stream and are estimated to account for over 9 percent by the year 2000.

In 1986, almost 80 percent of the Nation's municipal solid waste was disposed of in landfills. The Environmental Protection Agency estimates that 80 percent of existing permitted landfills will close within 20 years, and that nearly half of the municipal landfills that were in operation in 1986 will close by 1991.

In an effort to develop and encourage solid waste disposal alternatives, many proposed bans on polystyrene or other nondegradable plastic products require or promote the substitution of degradable products. However, although the term "biodegradable plastic" generally refers to a plastic that can be broken down by biological means and the term "photodegradable" means that there is a breakdown due to the effect of ultraviolet radiation on chemicals that have been blended with the basic plastic resin, uniform definitions of these basic terms have not yet been established, nor have uniform methods of testing been developed.

Furthermore, the rate of biodegradation depends on the presence of micro-organisms, temperature, and moisture conditions, starch content, and additives used, and photodegradation depends upon the presence of sunlight. However, both of these degradation processes are greatly retarded in landfills where entombed waste in deprived of the necessary conditions, and even naturally degradable items, such as newsprint, often take decades to waste away. Many of us are familiar with the work of archeologist, William L. Rathje, who in 1989 recovered from a landfill a legible newspaper from 1952. In addition, little is known about what happens to plastics when they degrade. Depending on conditions, metal additives could be released in soluble forms and become part of leachate which can contaminate ground water.

In fact, a 1988 General Accounting Office report found widespread concern among officials and scientists about the current lack of standards such as uniform definitions and methods of testing for degradable plastics. The report further stated that testing remains necessary to resolve two basic technical uncertainties about the performance of degradable plastics in the environment: the rate of degradation and the safety of the end products.

Everyone has a role to play in seeking solutions to the solid waste disposal crisis. Eliminating the problem at the source through coordinated pollution prevention research efforts is the ideal solution. The quest for new technologies to achieve this goal must be encouraged, as must the continued advancement of recycling research and development. Industry's efforts must also be matched by those of the consumer. It is a lot easier to complacently rely upon future generations to clean up after us than it is abandon our throwaway, consume-and-dispose mentality, reeducate ourselves and conscientiously alter our habits.

While strides are being made to effectively address these issues, I am concerned that claims on product degradability made on several plastic products, particularly garbage bags and diapers, may be misleading. If in fact these products end up in a landfill where degradation is stunted, these claims are serving to perpetuate a reliance on products that do not contribute to the reduction of the solid waste stream. The environmentally conscientious consumer is deprived of the information necessary to make environmentally sound purchasing decisions. For example, a mother may choose to forgo the use of a cloth diaper service because the local grocery store shelves are stocked with disposable diapers which claim to be biodegradable.

Furthermore, widespread consumer responsiveness to products which claim to be safe for the environment may discourage industry to continue to seek alternative solutions. In fact, the producer of one brand of plastic trash bags which advertises the degradability of their product admits in its own literature that biodegradation may not be desirable in landfills, that the gaseous byproduct of the biodegradation process, methane, is unhealthy to breathe and explosive, that the biodegradation process is greatly retarded in landfills where moisture and air are in short supply and that photodegradation may give people a "license to litter." Shockingly, however, in the very same brochure the company states that it will "make degradable products if our customers want them. But, to do so would be a costly and ineffective solution since neither bio nor photodegradation provides a solution to our solid waste problem."

I believe we need to ensure the dissemination to consumers of environmentally sound packaging information so they can make environmentally responsible purchasing decisions. The bill I introduced today would achieve this goal by requiring the Administrator of the Environmental Protection Agency to conduct a study of the process by which plastics degrade and make recommendations to Congress for the purpose of developing standards and definitions of plastic degradability which can be used in the packaging of consumer goods to prevent consumer reliance on misleading claims.

My bill also provides that the study shall be conducted in consultation with other relevant agencies, and taking into consideration any previous relevant data collected. In particular, an investigation into the accuracy of claims that certain degradable plastics are good for the environment is currently being conducted by the Federal Trade Commission. Furthermore, GAO's 1988 report stated that the National Institute of Standards and Technology was planning an experiment to evaluate degradable plastics, and that the private-sector American Society for Testing and Materials was preparing to develop formal definitions and methods of testing.

Mr. Speaker, I urge my colleagues to support this much needed legislation, and it is my hope that we will send a strong signal to those who share my concern for the environment by swiftly enacting this bill.

TRIBUTE TO THE LATE EDMOND COMBATALADE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. MATSUI. Mr. Speaker, I rise today in great sadness to advise you that an outstanding citizen of Sacramento, CA, Mr. Edmond Combatalade, has recently passed away. He has made numerous contributions to the Sacramento community and the State of California and we will all miss his presence.

Mr. Combatalade, also known as Mr. Camellia, was an extremely active member of the Sacramento community. He is remembered most for having founded the Sacramento Camellia Festival Association in 1955. Over the years, the festival has evolved into one of Sacramento's longest standing events, featuring various children's parades. The festival was initially planned to occur at time which would enhance the already existent annual Sacramento Camellia Show. It has been 35 years since the first festival, and the celebration has been a success ever since.

Ed was a man who gave himself in many ways. Being an active member of his community was an important priority of his. In addition to founding the Camellia Festival, Ed took on leadership roles in several local and national groups including: the Rotary Club of Sacramento, Boy Scouts of America, the Golden Empire Council, the Gold Spike Centennial Celebration, the California State Junior Chamber of Commerce, the Sacramento County grand jury, the Salvation Army, and the Sacramento Convention Bureau, to name a few.

In 1929, Ed began teaching at Sacramento High School. He went on to earn a master's degree in education at Columbia University in New York in 1935, after which, he served in the Army throughout World War II. In 1946, he returned to Sacramento where he taught for another year at Sacramento High. Ed was employed as the public relations director for the Sacramento Municipal District for 26 years, after which he retired in 1973.

Ed is survived by his wife, Barbara; his son, Albert; his brother, Robert, of Oregon; and two grandchildren. I offer my sincerest sympathy to his entire family and friends. We will all mourn the loss of such a giving, dedicated, and exceptional man.

NATIONAL LEAGUE OF CITIES REPRESENTATIVES, MEETING

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. RANGEL. Mr. Speaker, on Tuesday, March 6, 1990, I had the distinct opportunity to host a meeting with over 30 representatives from the National League of Cities. This was in conjunction with the league's congressional city conference here in Washington, that week. There were representatives from as far west as the State of Washington and as far east as my hometown of New York City.

I, as well as Select Committee Narcotics members JOSEPH E. BRENNAN, BENJAMIN A. GILMAN, JAMES M. INHOFE, and BILL GRANT, were joined by JIM MOODY and PETER GEREN in listening to the overwhelming plea from the league representatives for congressional support to give the cities more control over Federal anti-drug law enforcement assistance funds.

The common, yet critical complaint from the representatives was with the present system of allocating the Federal drug grants totally to the States. It is often an entire year before the cities see any of that money and what they have seen was substantially less than what they had requested. Mayor Bob Bolen of Fort Worth, TX, and president of the National League of Cities, emphasized to the members in attendance that the cities were often not able to participate at the State level in discussions concerning how to set up the drug funds. This lack of communication has led to gaps among law enforcement programs throughout the Nation. Congress needs to realize that cities have varied law enforcement needs and the States, based upon criticism received to date, have not taken that into account when allocating the Federal antidrug funds.

Mayor Kathryn Whitmire of Houston, TX, president of the U.S. Conference of Mayors, convened her appreciation for the commitment that Members of Congress share with the cities to deal with the problem and to take our streets back from drug criminals. When cities are asked about the Federal money they have received, Mayor Whitmire informed us that "too little too late" is what she heard from the front lines of this war on drugs.

As other representatives from the league spoke, it became evident there was a tremendous lack of money reaching the cities where it was desperately needed. The cities agreed the grants have helped, but by far, have not solved the problem nor have they reached areas where most needed. The league felt that local government officials were most familiar with the drug problems in their own communities and knew best how to solve them.

The league representatives also emphasized a need to increase treatment facilities. In many cities, the waiting period is up to 9 months for treatment. That is 9 months too long. We heard from many municipal officials who echoed the same problem. In Los Angeles County for example, where there were 5,379 juvenile drug law violations in 1988 there are only 12 beds available for juvenile delinquents with drug problems.

The National League of Cities supports House Concurrent Resolution 279, which I introduced on March 1, 1990. This resolution expresses the sense of Congress that Federal support for local drug enforcement should be substantially increased and that a mechanism for direct funding to local governments should be developed. I have urged them to lobby every Member of Congress so that measures that address the direct funding of law enforcement programs are passed by this Congress. The meeting provided a rare opportunity for their membership to hear directly from Federal policymakers and for the Congress to gain input from the municipal level.

Mr. Speaker, if we truly want to end this scourge, it is imperative that we continue the dialog with the municipal level.

Those invited to attend the meeting included:

LIST OF NATIONAL LEAGUE OF CITIES REPRESENTATIVES WHO HAVE CONFIRMED PARTICIPATION IN MARCH 6, 1990, MEETING WITH CHAIRMAN RANGEL AND OTHER HOUSE MEMBERS

The Honorable Bob Bolen, Mayor, Fort Worth, Texas, President, National League of Cities.

The Honorable Sidney Barthelemy, Mayor, New Orleans, Louisiana, NLC First Vice President.

Ms. Glenda Hood, Commissioner, Orlando, Florida, NLC Second Vice President.

The Honorable James Moran, Mayor, Alexandria, Virginia, Chairman, NLC Human Development Committee.

The Honorable John Norquist, Mayor, Milwaukee, Wisconsin.

The Honorable Ronald Norick, Mayor, Oklahoma City, Oklahoma.

The Honorable Bill Thomson, Mayor, Pasadena, California.

Ms. Kathryn Nack, City Director, Pasadena, California.

Ms. Pamela Plumb, Councilor, Portland, Maine, Past President, National League of Cities.

Mr. Lynn Buchanon, Mayor, Pro Tem, Yakima, Washington.

Ms. Bev Numbers, Council Member, Spokane, Washington.

The Honorable Kathryn Whitmire, Mayor, Houston, Texas.

Mr. Wayne Creelman, Town Councilor, Cape Elizabeth, Maine.

Mr. Anthony Gazzana, Councilmember, Lakewood, Ohio.

The Honorable Bill Souder, Mayor, Hurst, Texas.

Mr. Henry Wilson, City Council, Hurst, Texas.

Ms. Elaine Pfalzgraf, Mayor, Pro Tem, Cedar Falls, Iowa, Vice-Chair, Human Development Committee, President, League of Iowa Municipalities.

Peter King, Executive Director, League of Iowa Municipalities.

Brian O'Neill, Council Member, Philadelphia.

Ruth Messinger, Manhattan Borough President, New York City, or her designee.

The Honorable Daniel Frawley, Mayor, Wilmington, Delaware.

Fred Van Sant, Executive Director, Delaware League of Local Governments.

Mr. Steve Gallegos, Council President, Albuquerque, New Mexico.

Mr. Calvin Goode, Councilmember, Phoenix, Arizona.

Mr. Thomas Kaplin, Councilmember, Columbus, Ohio.

Mr. Bill Gillespie, Councilmember, Northglenn, Colorado.

Ms. Beverly Hodges, Councilmember, Oklahoma City, Oklahoma.

Mr. B. Don Skelton, City Councilman, La Porte, Texas.

Mr. Thomas Werth, Councilman, Rochester, Michigan.

The Honorable Raymond Flynn, Mayor, Boston, Massachusetts.

Ms. Jane Noland, Councilmember, Seattle, Washington.

Mr. Charles Swearingen, City Council, Hurst, Texas.

Mr. Ralph Bryan, City Council, Hurst, Texas.

SUMMERS COLUMN REFUTES LIES IN "BORN ON THE FOURTH OF JULY"

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. SOLOMON. Mr. Speaker, I don't need to see—and I will not honor by seeing—"Born on the Fourth of July" to know that it is one of the most dishonest, most anti-American, anti-veteran movie ever made.

Beyond the million or so Americans who have given their lives in our Nation's wars, hundreds of thousands have been wounded, many of them even more seriously than Ron Kovic, the lead character and author of the original book. Most of them, I am grateful to say, went about their lives without a trace of the whining and bitterness shown by Mr. Kovic. I am particularly displeased at seeing an ex-Marine helping director and fellow Vietnam vet Oliver Stone afflict this country with his slick, anti-American films.

In this latest movie, we are given scenes of disgraceful care at the South Bronx Veterans Hospital, which invite us to imagine such care as typical. It was not. Nor is it typical of such care at VA hospitals today.

That is why I am pleased to submit for today's CONGRESSIONAL RECORD a recent Washington Times column by Harry G. Summers, Jr., a retired colonel, who tells the truth about how America cares for its veterans.

TAKING CARE OF AMERICA'S VETERANS

(By Harry Summers)

With the Academy Awards near at hand, one of the movies sure to get a lot of attention is Oliver Stone's Vietvetsploitation film, "Born on the Fourth of July." One of its powerful segments is the supposed travail of its protagonist, Ron Kovic (played by Tom Cruise), in the South Bronx Veterans Hospital as he undergoes treatment for his paralysis.

The portrayal of the filthy, rat-infested wards and the uncaring hospital staff made for gut-wrenching drama, although it did beg the question of how Mr. Kovic not only lived through that treatment but also evidently prospered from it. Unfortunately, many Americans will believe that those scenes are typical of how America cares for its veterans.

But just as the whining, sniveling, self-pitying Mr. Kovic is not representative of America's veterans, including its paraplegic veterans, so the staged scenes at the South Bronx Veterans Hospital are not representative of the care provided by the Veterans Administration, now the Department of Veterans Affairs. It was not representative of the care provided during the Vietnam War, as the detailed account of VA hospital care in the September 1970 issue of the American Legion magazine makes clear.

And it is certainly not true today, if for no other reason than the top VA leadership would not permit such dereliction. The top leadership of the VA was once portrayed as a bunch of old fogeys out of touch with the needs of Vietnam-era veterans. If that was ever true, it certainly is not true today. Of the top eight officials, only the secretary, Edward Derwinski, and David Lewis, the assistant secretary of veterans affairs for acquisition and facilities, are World War II veterans. The remainder are combat veterans of the Vietnam War.

When it comes to hospital care, one cannot imagine the assistant secretary for veterans liaison, Allen Clark, tolerating the conditions depicted in the movie. A Vietnam War Special Forces veteran who lost both legs during the battle of Dak To in 1967, Mr. Clark is one of two former Green Berets serving in the upper echelons of the department. The other, Ronald Ray, now the assistant secretary of veterans affairs for human resources, won the Medal of Honor, America's highest award for bravery, on the battlefield in Vietnam.

Former Marine Edward Timperlake, the assistant secretary for congressional and public affairs, flew F-4 Phantom fighter-bombers in Indochina and Ted Lewis, the assistant secretary for information resources management, served with the 3rd Battalion, 5th Marine Regiment, in combat in Vietnam. The department's deputy director, Anthony Principi, commanded a River Patrol Force in the "Brown Water Navy" which fought in Vietnam's inland waterways.

These men have assumed an enormous responsibility, for one of every three Americans is a potential VA beneficiary, including 27 million veterans and 53 million dependents and survivors. Widows and children of Civil War and Indian Wars veterans still draw VA benefits, as do more than 4,300 dependents and survivors of the Spanish-American War. The 9,310,000 living veterans of World War II make up the largest subgroup, with the 8,276,000 Vietnam-era veterans following close behind. Next are the 4,966,000 Korean War veterans, followed by the 100,000 still living veterans of World War I.

As of March 1989, the median age of all 27 million veterans was 54.7 years, with World War II veterans at 67.4 and World War I veterans at 92.1. Twenty-five percent of all veterans are 65 or older. This requires a major emphasis on health care, and the VA operates the largest medical system in the country, with 172 hospitals, 231 outpatient clinics, 119 nursing homes and 27 domiciliaries. In addition, the VA operates some 194 "storefront" centers across the country providing specialized counseling for Vietnam veterans.

Medical care is but one of the VA's three major program areas. Another, memorial affairs, includes maintenance of 112 national cemeteries and the provision of headstones and markers.

But the programs that has touched most American lives is the benefits programs. These include the 2.8 million veterans now receiving disability compensation or pension payments, as well as an additional 900,000 widows, children and parents of deceased veterans, including 119,089 survivors of Vietnam era veterans. Also included in this category are home-loan assistance, life insurance (the VA operates the nation's fifth-largest life-insurance program) and the more than 20 million Americans who have received GI Bill educational benefits. Through September 1988, the cost of educational benefits has totaled $69 billion, or $33 billion more than the United States spent to fight World War I.

Like all bureaucracies, the VA has its problems. But its new leadership is working hard to resolve them with new and innovative programs. For example, while Ron Kovic was whining himself across the networks promoting his movie, other paraplegic Vietnam War veterans were in Colorado, thanks to the VA, learning to sitz ski. Instead of feeling sorry for themselves, they were enjoying life. Helping veterans and promoting such positive attitudes is what the Department of Veterans Affairs is all about.

H.R. 4330, THE NATIONAL SERVICE ACT 1990

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. HAWKINS. Mr. Speaker, as we enter the last decade of this century, a consensus has emerged on the need for a governmental catalyst to promote and coordinate efforts to address social problems through community service. As a result, I am pleased to introduce the National Service Act of 1990, a comprehensive service bill that addresses the needs of school children in grades K–12, channels the desires of America's college students to improve their communities through loan deferment or loan forgiveness, authorizes the creation of the American Conservation Corps [ACC], and establishes the Youth Service Corps [YSC].

This bill authorizes $35 million to promote service learning, a tool which combines community service with academics and is a method through which teachers energize themselves and their students. It provides $25 million to encourage college students to tutor disadvantaged students in chapter 1 schools; to encourage participants in the Student Literacy Corps to tutor the illiterate parents of disadvantaged elementary school students; and to enable institutions of higher education to create or expand service opportunities for their students and to train teachers and other personnel.

The bill authorizes $83 million for the ACC and YSC. The ACC is intended to perform such projects as conservation, rehabilitation, and improvement of wildlife habitat, rangeland, parks, and recreational areas, as well as urban revitalization and historical and cultural preservation, environmentally desirable projects, and energy conservation projects, among others.

YSC's are intended to work to address unmet social needs. Such service may be in government agencies, nursing homes, day care centers, libraries, and other facilities, law enforcement agencies, nonprofit organizations, and other activities. It may not be in businesses, labor unions, partisan political organizations, religious activities, and domestic or personal service companies or organizations.

The legislation also authorizes $40 million for a series of demonstration projects intended to call attention to special social needs and promising programmatic approaches. For example, the bill authorizes a demonstration program to encourage intergenerational exchange by encouraging foster grandparents to participate in Head Start Programs. It also creates a program intended to enhance service opportunities for rural youth, and one which provides construction skill training for disad-

vantaged youth. Because we agree with President Bush that meritorious service should be recognized and promoted, the bill creates a series of Presidential Volunteer Service Awards for that purpose.

I believe that this bill is faithful to a set of principles which emerged from hearings conducted by the Education and Labor Committee. First, it categorically rejects any linkage between service and student financial assistance. Second, it contains adequate and realistic protections regarding job displacement. Third, the service programs authorized include appropriate compensatory education and job training, where necessary. Fourth, the programs contained in this bill are run through existing departments and agencies. It does not create a new bureaucracy.

I am convinced that existing public and private service programs mean that no major new Federal initiative is required. Given the large number of service efforts underway in virtually every American community, the programs included in the National Service Act of 1990 are intended to build upon, not smother, existing efforts. A summary is attached.

I want to note that this bill reflects the input of many Members on, and off, the Education and Labor Committee. Mr. FORD of Michigan, Mr. WILLIAMS, Mr. KILDEE, Mr. MARTINEZ, Mr. OWENS of New York, Mr. PERKINS, and Mr. LOWEY on the committee have made key contributions to the legislation. Mr. PANETTA, Mr. MONTGOMERY, Mr. BONIOR, Mr. ATKINS, and Mrs. MORELLA have also been instrumental in developing this bill.

Finally, I urge Members on both sides of the aisle to cosponsor this bill, which I believe makes a significant contribution to voluntary national service in this country.

The summary follows:

BILL SUMMARY—THE NATIONAL SERVICE ACT OF 1990

TITLE I—SCHOOL-BASED AND HIGHER EDUCATION COMMUNITY SERVICE

Part A. The Secretary of Education is authorized to make grants to States to implement school-based service learning programs. The authorization level is $35 million for FY1991, not less than 80% of which must be passed through to localities.

The Director of ACTION is authorized to make grants for up to 90% of the costs of Youthbuild projects, which provide service opportunities for economically and educationally disadvantaged youth in the construction or rehabilitation of low-income housing. The authorization level for FY1991 is $10 million.

Additional funds for Federal Volunteer Service Programs are authorized for FY1991: $2 million for a rural youth demonstration project; $3 million for Governors' initiatives in nonschool-based voluntary service projects; $5 million for the development of a model service-learning program; $10 million for model programs for out-of-school youth; $5 million to increase the number of Foster Grandparents participating in Head Start programs; $2 million for program evaluations and the establishment of clearinghouses on national service; and $1 million for Presidential Volunteer Service Awards.

Part B. The Secretary of Education is authorized to make $25 million in grants to institutions of higher education to permit the creation or expansion of service activities for attending students. Priority activities will include the expansion of the Student Literacy Corps and the creation of a demonstration Student Tutorial Corps.

In addition, students who enter 1) full-time volunteer community service, 2) professional employment in drug counseling or prevention programs, or 3) full-time volunteer service providing health care to Native Americans, may have their Guaranteed Student Loans deferred and their Direct Student Loans partially cancelled.

Part C. The Director of Peace Corps is authorized to carry out a training and educational benefits demonstration at the $2 million level. Participants will receive 2 years of educational benefits and specialized training in exchange for a 3 year service commitment with the Peace Corps.

TITLE II—THE AMERCIAN CONSERVATION AND YOUTH SERVICE CORPS

Part A. The ACC is established to allow youth to perform such projects as conservation, rehabilitation and improvement of wildlife habitats, historical and cultural preservation, and environmentally desirable projects. The Secretaries of Agriculture and Interior will administer the ACC on federal lands and make grants to states for work on nonfederal lands and waters. The authorization level for FY1991 is $38 million.

Part B. The Director of ACTION is authorized to make $28 million in grants to Youth Service Corps to undertake projects of substantial social benefit in meeting unmet need. Service may be in government agencies, nursing homes, day care centers, and other nonprofit organizations.

Part C-E. Both the ACC and YSC shall maintain or enhance the educational skills of enrollees. $13 million is authorized for in-service and post-service education. An additional $4 million is authorized for clearinghouses, training, and technical assistance.

Total authorization is $183 million.

HIGH-SPEED TRAINS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 21, 1990, into the CONGRESSIONAL RECORD:

HIGH-SPEED TRAINS

A futuristic technology known as magnetic levitation—"maglev," for short—may revolutionize train travel in the coming decades. Prototypes have carried passengers at speeds up to 250 miles an hour on test tracks in West Germany and Japan. Now, private investors and government officials in the U.S. are taking a growing interest in maglev as a way to reduce the congestion on our roads and in our airports.

BENEFITS

Maglev technology is promising for several reasons. Because maglevs use electricity rather than fuel, energy costs are low. It is an environmentally friendly transportation system, producing neither engine noise nor fumes. Maglev trains are easy to maintain once set up, and have a smaller chance of derailment. However, high speed is the major appeal; for trips under 500 miles, maglev trains offer an alternative to airplanes. High-speed trains may challenge aircraft on many of the prime routes within the next decade.

COMPETING TECHNOLOGIES

In contrast to conventional trains, maglev trains travel along a steel-cement guideway that is elevated to even out contours of the land. The train floats above the guideway on a magnetic wave, much like a surfer rides a wave. Because there is no friction, maglev trains can achieve speeds of 300 miles per hour and more.

Although U.S. scientists came up with the key idea for maglev trains, West Germany and Japan have done more to develop the technology. The West German system uses conventional magnets, whereas the Japanese system uses more sophisticated, superconducting magnets, which must be cooled to minus 452 Fahrenheit. While superconducting maglev is more difficult to develop, it could mean lighter and cheaper guideways and cars, and lower costs resulting from superconductivity research. Most maglev research in the U.S. has pursued the superconductor approach.

Maglev train technology must also compete with advances in traditional rail technology, such as that used in the French and Japanese bullet trains. Because the cost of the largely untested maglev technology is still high, bullet trains offer strong competition, at least for now.

PLANNED SYSTEMS

Currently only the German system is ready for market. A low-speed 1.1 mile "people mover" is under construction in Las Vegas based on a design already operating in West Berlin. A more ambitious plan is underway to link Disney World to the Orlando airport. The $500 million maglev system, to be built with German technology and considerable Japanese capital, would make the 13-mile trip in about five minutes. As many as 2.5 million riders a year are expected. Proposals for high-speed trains (either maglev or rail) are also being developed for other corridors, including Los Angeles-Las Vegas, Tampa-Orlando-Miami, Chicago-Detroit, and Cincinnati-Cleveland.

In any national transportation system jet aircraft will cover the long-distance market. But high-speed rail can be just the thing for heavy traffic corridors between 250-400 miles. By the end of the century high-speed trains will be operating throughout Western Europe, cutting many rail journey times in half. The United States is lagging behind, but my guess is that we will move quickly after we see the success of foreign systems. I think maglev trains will become widely used in the next century.

FEDERAL ROLE

Japanese and German consortiums have spent large sums on maglev development and are clearly ahead of us. But interest is growing in the U.S., as airport and road congestion becomes an increasingly expensive problem. President Bush's national transportation policy mentions the role the federal government can have in stimulating maglev R&D. The question is how far the federal government should go to back maglev.

Most experts agree that maglev can be self-financing in high density corridors if two federal subsidies are available. The first is a tax exemption for bonds used to raise revenue for high-speed trains. Congress granted that in 1988, but a federal cap on the use of tax-free bonds limits the subsidy: Only 75% of high-speed train bonds are exempt from the federal cap; by contrast, airports and docks enjoy a 100% exemption. Maglev proponents say that the full exemp-

tion is critical. The second essential federal contribution is authority to construct high-speed train lines along the right-of-way of federal highways. Pending legislation would give states such authority.

The evidence that high-speed trains (not just maglev) can in fact pay for themselves comes from the Los Angeles-Las Vegas and Florida plans. In both cases, the financing for construction and operation—roughly $10 million per mile of two-way guideway—is coming largely from the private sector. In return, investors get development rights to the land surrounding proposed stations, as well as passenger and freight revenues.

In addition to the essential federal contributions, maglev proponents favor a federal role in supporting research and development of the technology itself. A group of scientists and businessmen recently recommended that Congress fund a seven-year, $750 million program to develop and demonstrate alternative maglev designs, with the goal of "leapfrogging" the West German and Japanese technologies. The President's budget would fund federal maglev R&D for the first time in fifteen years, providing $10 million in 1991. Although an ambitious federal R&D program for maglev could help the U.S. recapture its technology lead, it runs up against current budget constraints. More money for maglev could mean less money for something else.

I do not expect Americans to abandon their automobiles or the airports, but I do think it is important that we look at all the options and invest in new technologies offering the greatest promise. Maglev is one of the options, and it should not be dismissed. High-speed rail travel is coming to the U.S., offering a new excitement. Some of the dreams for it will turn into sturdy and even profitable realities.

MARK AND DIANE COHN RENEW WEDDING VOWS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute and to congratulate Mr. Mark Cohn, a longstanding friend and citizen of Sacramento, who renewed his wedding vows with his lovely wife, Diane, March 17, 1990.

Mark has been an outstanding citizen of Sacramento and a respected leader in the community for many years. An entrepreneur, Mark has always taken time out of his busy schedule to contribute to the enrichment of our community through his exceptional work with the Anti-Defamation League as well as with other organizations dedicated to service. His active participation clearly demonstrates his commitment to service above self.

On Saturday, Mark and Diane celebrated their 10 years of commitment to each other by renewing their wedding vows in the company of their family and friends. This day marked another beginning of their lives together and will serve to commemorate their deep love and dedication to one another. I rejoice in their happiness and join with their family and friends in wishing Mark and Diane many wonderful years ahead.

Mr. Speaker, I ask that my colleagues join me in congratulating Mark and Diane on their marriage.

INTRODUCTION OF THE LIABILITY RISK RETENTION AMENDMENTS OF 1990

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. SLATTERY. Mr. Speaker, in 1986, Congress enacted the Liability Risk Retention Act (Public Law 99-563), to facilitate the ability of businesses, professionals, nonprofit organizations, and governmental entities to form convenient and competitive alternatives to traditional sources of liability insurance. The act achieves its purpose by simplifying and streamlining State regulation of certain State-licensed liability insurance programs, such as risk retention groups and purchasing groups.

In one respect, Mr. Speaker, the Liability Risk Retention Act is a legislative success story. There is no question that despite the "soft" liability insurance market conditions that have existed since its enactment 3 years ago, the act is being utilized widely. Clearly, the act has both enhanced the availability and affordability of liability insurance, particularly for small enterprises, and had a positive competitive effect on the insurance industry generally.

Despite the preemption of State regulation provided by the act, however, some State regulatory authorities have attempted to institute burdensome and conflicting multistate regulation of Risk Retention Act entities. I am concerned that the Liability Risk Retention Act will fail to achieve its full potential in the current climate.

In September 1987, and December 1989, the Department of Commerce issued reports regarding implementation of the Act which discuss many of these State-imposed restrictions. The Department concluded that revisions to the Liability Risk Retention Act are necessary if congressional objectives are to be met, and the Commerce Department's staff developed a draft legislative proposal to amend the act. The Senate Commerce, Science and Transportation Consumer Subcommittee held an oversight hearing in May 1989, regarding implementation of the Act at which the National Risk Retention Association [NRRA] and others presented testimony detailing current restrictions. NRRA unveiled its own comprehensive legislative proposal for amending the act at that time. S. 1936, the Liability Risk Rentention Amendments of 1989, was later introduced by Senator ROBERT KASTEN of Wisconsin.

I am today introducing similar companion legislation in the House of Representatives: the Liability Risk Retention Amendments of 1990. Representative NORMAN LENT, the ranking Republican on the House Energy and Commerce Committee and Representative DON RITTER, the ranking Republican on the Commerce, Consumer Protection and Competitiveness Subcommittee, are original cosponsors of this measure. The purpose of this legislation is to clarify the rules under which group liability insurance is to clarify the rules under which group liability insurance programs form and operate, achieve a greater degree of consistency in the regulation of entities operating under the act, and maximize the potential of the act to add capacity to and enhance competition in the liability insurance market. This legislation seeks its objective within the confines of the public policy upon which current law is predicated and within the regulatory structure contemplated by the 1986 act.

In the Liability Risk Retention Amendments of 1990, provisions applying to both risk retention groups and purchasing groups deal with uniform registration forms, fees, direct marketing, and the preemption of countersignature laws. Other provisions address the specific needs of risk retention groups: uniform financial statements, letters of credit, reinsurance, premium taxes and financial responsibility laws.

In addition, the Liability Risk Retention Amendments of 1990 would clarify that the insurer of a purchasing group need file the rates and policy forms for the group or its members only in the State in which the group maintains its "principal place of business." This provision would overturn the U.S. Court of Appeals for the Second Circuit in Insurance Company of the State of Pennsylvania versus Corcoran, which held that the act does not exempt an admitted insurer providing coverage to a purchasing group from State policy form and rate regulation.

Finally, the measure would clarify that a purchasing group is the resident of a single State—the State in which it maintains its principal place of business. This provision is consistent with the decision of the U.S. Court of Appeals for the Eighth Circuit in Swanco versus Hager. The Liability Risk Retention Amendments of 1990, however, would overrule the Eighth Circuit's holding in Swanco that Congress did not preempt the right of "nonlocation" States to apply their licensing laws to an insurer providing coverage to a purchasing group member residing in their State. Under the Liability Risk Retention Amendments of 1990, reporting requirements would be established for purchasing group insurers that parallel those of risk retention groups under current law. Additionally, the amendments would establish minimum financial criteria for purchasing group insurers.

Let me emphasize, Mr. Speaker, that I share the concern of many in both Congress and elsewhere regarding the solvency of insurance companies, a matter that remains the subject of close scrutiny by the House Energy and Commerce Oversight and Investigations Subcommittee. The subcommittee's recent report: "Failed Promises: Insurance Company Insolvencies" is a sobering indictment of the way in which insurers are regulated for solvency and it deserves the careful attention of all Members of this body. Clearly, entities doing business under the Liability Risk Retention Act must be subject to the same level of scrutiny in this regard. For this reason, I believe Congress must enhance public protection by acting to ensure that purchasing group insurers are indeed financially sound and adequately regulated. The minimum financial

standards and strengthened reporting requirements for insurers of purchasing groups that are set forth in the Liability Risk Retention Amendments of 1990 speak to that concern.

The time for Congress to consider and act upon these issues is now, Mr. Speaker. The current market environment for liability insurance offers us an opportunity to do so in a thoughtful, measured way. I am introducing this legislation because I believe it offers a meaningful springboard for discussion in the House Energy and Commerce Subcommittee on Commerce, Consumer Protection and Competitiveness, on which I serve. While I am not giving my unqualified endorsement to every provision of this measure, I believe that the amendments proposed by this bill will help to crystallize the issues regarding implementation of the Liability Risk Retention Act which Congress should address this year.

I recognize that a consensus among affected players in the insurance marketplace in support of some of the provisions of the Risk Retention Amendments of 1990 does not exist. For example, concerns regarding provisions of this measure have been brought to my attention by Kansas Commissioner of Insurance Fletcher Bell, who currently is completing a distinguished 20-year tenure in that office. As the subcommittee considers this legislation, I want to ensure that concerns he has raised with me regarding overturning of insurance Company of the State of Pennsylvania versus Corcoran and modification of Swanco versus Hager, as well as the issue of countersignature requirements, are addressed fully and thoughtfully. I have requested of Commerce, Consumer Protection and Competitiveness Subcommittee Chairman DOUG WALGREN that he scheduled a hearing concerning implementation of the Liability Risk Retention Act and the proposals contained in the measure I am introducing today, and I hope that Commissioner Bell will be able to testify.

I urge my colleagues to cosponsor the Liability Risk Retention Amendments of 1990, a section-by-section description of which follows:

SECTION-BY-SECTION ANALYSIS OF THE RISK RETENTION AMENDMENTS OF 1990

Section 1. This section is the short title of the bill, the Liability Risk Retention Amendments of 1990.

Section 2. This section specifies that whenever an amendment specifies a section, the reference is to the Liability Risk Retention Act.

Section 3. Adds a new purpose section to the Act stating that the purpose of the Act is facilitate the formation and operation of risk retention groups and purchasing groups by eliminating certain government regulations that would otherwise prevent or hinder the operation of these groups in interstate commerce. This section is intended to give additional focus to the importance of exempting risk retention groups and purchasing groups from regulations that prevent or hinder their operation in interstate commerce.

Section 4. Section 2(a)(1) of the Act is amended to simplify the definition of insurance.

Section 5. Section 2(a)(2) of the Act is amended by adding a new provision to permit insuring all coverages included in commercial motor vehicle and trucking policy forms and to authorize insuring employers' liability insurance in excess of any coverage required under applicable state workers' compensation laws. The purpose of the first provision is to authorize a risk retention group (or purchasing group) to include all of the standard commercial motor vehicle coverages, including physical damage and collision, that are included in a standard commercial motor vehicle or trucking policy form. Excess employers' liability coverage is authorized so that risk retention groups can incorporate these risks into their policies to the same extent they are included in standard commercial excess and umbrella policy forms.

Section 6. Section 2(a)(4)(G)(ii) is amended to permit a risk retention group to reinsure the liability exposure of "its own members." Thus, a risk retention group is authorized to reinsure the risks that are written by a "fronting" company that issues liability insurance policies to the group's members.

Section 7. Section 2(a) is amended by adding a definition of the principal place of business of a purchasing group. Principal place of business is defined as the city and state in which a purchasing group maintains its principal office, if the group has and maintains members in that state. This definition is intended to replace the concept of the state in which a purchasing group is "located," which has caused misunderstanding and litigation.

Section 8. Section 3(a)(1)(B) is amended to provide that a risk retention group may be required to pay, on a non-discriminatory basis, applicable premium taxes and other taxes which are levied on admitted insurers. This conforms to the practice of the vast majority of states which treat risk retention groups as admitted insurers for the purpose of taxation. It will prohibit a state from treating a risk retention group as a surplus lines insurer for the purpose of determining the amount or method of payment of premium taxes.

Section 9. Section 3(a)(1)(I) is amended to permit a risk retention group notice that it is not covered by a state guaranty fund and is not subject to all insurance laws may be in 10 point "or larger" type. The purpose of this amendment is to prevent state insurance departments from threatening a risk retention group with technical violation of its regulations because it has provided notice to its policyholder members in type that is larger than the minimum required under the Act.

Section 10. Section 3(a)(3) of the Act is amended to clarify that an insurance policy issued to a risk retention group is not required to be countersigned by an insurance agent or broker. The language of the current Act prohibits a state from requiring a policy to be countersigned by an agent or broker "residing in the state" and some states have construed this as permitting them to require policies to be countersigned by a non-resident agent or broker. Because the purpose of the Act was to remove all counter-signature requirements, it is amended to clearly implement this policy.

Section 10. Section 3(a) is amended by adding three new paragraphs. Paragraph (4) prohibits a state from preventing a risk retention group from ceding any or all of the insurance issued to its members to a reinsurer which meets the requirements of the risk retention group's chartering state for allowing balance sheet credit for reinsurance ceded. The purpose of this provision is to require recognition of reinsurance that is recognized in the group's chartering state.

Paragraph (5), as added by these amendments, prohibits a state from requiring a risk retention group to file its policy forms and rates for approval. This simply clarifies existing practice and implements the policy that except as specified in the Act, a risk retention group is exempt from insurance regulation except in the state in which it is licensed as an insurance company.

Paragraph (6), as added by these amendments, prohibits a state from refusing to recognize as an asset of a risk retention group a letter of credit that has been issued by a bank that is a member of the Federal Reserve System, if the letter of credit is drafted in a form that has been approved by the commissioner of the state in which the group is licensed as an insurer and that commissioner has recognized the letter of credit as an asset of the group. Several states, including states with special captive insurance laws, recognize a letter of credit as an asset for determining if the group meets the state's minimum capital and surplus requirements. Other states under their Statutory Accounting Principles do not recognize a letter of credit as an asset although they recognize surplus notes and other instruments.

Because it is a policy of the Risk Retention Act to promote the formation of risk retention groups which can be licensed as captive insurance companies, and to exempt these groups from most insurance regulations of a non-chartering state, a non-chartering state should recognize a letter of credit as an asset of the group. Of course, if a non-chartering state believes that the letter of credit is a forgery, or is invalid or has no value, or that the risk retention group is otherwise in a "hazardous financial condition," then that insurance department may take action to enjoin the operation of the risk retention group in that state.

Section 11. Section 3(c) of the Act is amended to specify in greater detail persons who are eligible to act as an agent of a risk retention group and to define those situations in which such a person must be licensed as an agent. Paragraph (1) provides that officers, directors, and full-time employees of a risk retention group may engage in the direct sale and servicing of insurance to members of the group without being licensed as an insurance agent or broker under the laws of any state.

Paragraph (2) provides that other persons acting as an agent or broker for a risk retention group must obtain a license from the group's chartering state, but that state may not impose any qualification that discriminates against a non-resident agent, impose licensing requirements different from those applicable to resident agents, or require a risk retention group to appoint a licensed agent, if no person is acting or offering to act in that capacity.

Paragraph (3) provides that any person who is licensed as an agent by the state in which the risk retention group is chartered may act as an agent on behalf of that group in all states in which it does business, notwithstanding the insurance agent licensing laws of any other state.

The purpose of these amendments is to simplify and clarify the insurance agent licensing requirements for a risk retention group. Because the purpose of the Act is to remove conflicting and burdensome state insurance regulations, it is necessary in carrying out that policy to exempt persons acting as an agent for risk retention group from these multi-state licensing requirements. The amendment also exempts the officers,

directors and employees of a risk retention group from agent licensing requirements and does not impose any licensing requirements if a group solicits members through direct marketing without the use of any agents or brokers.

Section 12. Section 3 is amended by adding two new subsections. Subsection (d) provides that a risk retention group may provide insurance for a non-member that is assumed under a contract entered into during the course of any business or activity that is similar or related to the business or activity of the members of the group. The purpose of this amendment is to permit a tenant or lessee of equipment to include as an additional named insured the owner of the property or equipment so that the group member can meet the requirements of a lease agreement requiring it to include the owner of the property or equipment as an additional named insured and to permit other coverage in other situations where contractual liability coverage is a common business practice.

Subsection (e) provides that no state other than the jurisdiction in which the risk retention group is chartered, may require the group to submit to an examination for the purpose of determining whether its members are engaged in similar or related businesses or activities as defined in Section 2(a)(4)(F) of the Act. Generally, risk retention groups have been formed by homogeneous groups of businesses or professionals. There have been some instances, however, of state insurance departments requiring risk retention groups to submit extensive information to prove that their members have a similar or related exposure liability. Review by the chartering state is considered sufficient to assure that this requirement is met.

Section 13. Section 4(a)(2) of the Act is amended to permit the insurer of a purchasing group to provide liability insurance on a group basis or on any other basis which affords "rate, coverage, policy form, or other advantages to a purchasing group which are not available to persons who are not members of the purchasing group." This incorporates the exemption as set forth in the Department of Commerce Risk Retention Proposal of 1979 and, gives insurers greater flexibility in the manner in which an insurer may offer special terms regarding rates, coverages, or policy forms to members of a purchasing group.

Section 4(a)(7) is amended to prohibit any state from requiring an insurance policy issued to a purchasing group or any member of the group to be countersigned by an insurance agent or broker. This clarifies the exemption from countersignature laws contained in the existing Act and is identical to Section 3(a)(3).

Section 14. Section 4(c) of the Act is amended in exactly the same manner as Section 3(c) to simplify the licensing requirements of any person acting as an agent or broker of a purchasing group.

Section 15. Section 4(d)(1)(C) is amended to specify in greater detail the information about a purchasing group insurer that must be provided to each state insurance department.

Section 4(d)(1) is amended by adding three new subparagraphs: (E) which requires the group to identify its principals or officers; (F) to identify any organization engaged to manage or service the operation of the purchasing group and the address of any such organization; and (G) to certify that all members of the purchasing group are engaged in similar or related activities with regard to their exposure to any liability which is insured under the group's program.

Section 16. Section 4(f) is amended to provide that a purchasing group may purchase insurance from any insurer meeting the requirements set forth in a new Section 5 added by these amendments. Reference to the state in which a purchasing group is "located," which had lead to litigation is deleted. The purpose of this amendment is to clarify the requirements for an insurer providing insurance to a purchasing group.

Section 17. Section 4(g) is amended by adding after the phrase "purchasing group" the phrase "or purchasing group insurer." The purpose of this amendment is to clarify that a state may apply any of its insurance laws to a purchasing group or the group's insurer that are not preempted by the Risk Retention Act.

Section 18. This section contains a new Section 5 of the Act that specifies the qualifications of an insurance company that is eligible to provide liability insurance to a purchasing group, specifies certain state laws, reporting requirements that apply, and specifies enforcement actions that may be taken against any such insurer.

Section 5(a), as added by these amendments, provides that an insurer is authorized to write coverage for a purchasing group if the insurer is: (1) admitted in at least one state; (2) retains risk, net of reinsurance, in an amount less than the maximum permitted for admitted insurers under the laws of each state in which the insurer is writing insurance for a purchasing group or its members; and (3) maintains minimum capital and surplus of at least $3 million as determined in accordance with the Statutory Accounting Principles of the state in which the group has its principal place of business. In addition, an alien insurer that is listed on the most recent NAIC "Non-Admitted Insurers Quarterly Listing" is authorized to insure a purchasing group. The purpose of this provision is to establish some minimum financial or listing qualifications for the insurer of a purchasing group.

Section 5(b) provides that the insurer of a purchasing group shall be regulated "by the state in which the purchasing group has its principal place of business and the authority of other states in which insurance is provided to any member of the group is limited to those matters authorized by this Section [5]." The purpose of this provision is to focus the regulation of the purchasing group insurer on the insurance department of the state in which the group maintains its principal place of business. The insurer of a purchasing group is not, however, totally exempt from regulation or review by the insurance departments of other states.

Section 5(b)(1) provides that the state in which a purchasing group has its principal place of business shall apply its laws to the policy form, coverage, and rates of the purchasing group's insurer in the same manner as it applies those laws to an admitted insurer doing business in that state.

Section 5(b)(2) provides that any state may require a purchasing group insurer to (A) to comply with its unfair claim settlement practices law, (B) pay on a non-discriminatory basis applicable premium taxes, (C) register with and designate the state insurance commissioner as the insurer's agent for service of process, if it has not already done so, (D) submit to an examination by a state insurance commission of any state in which it is doing business, if the commissioner of the insurer's domicile has not begun or refused to initiate such an examination, except that any such examination must be coordinated to avoid unjust duplication and repetition, (E) comply with a lawful order issued in a delinquency proceeding or a voluntary dissolution proceeding, (F) comply with any state law regarding deceptive, false or fraudulent acts or practices, (G) comply with an injunction issued by a court of competent jurisdiction based on a finding that the insurer is in a hazardous financial condition or is financially impaired and (H) provide a notice in 10 point or larger type in any insurance policy issued by a purchasing group that the insurer may not be subject to all of the insurance laws of the state and that the insurer (if it is a non-admitted carrier) is not covered by the state's guaranty fund.

Section 5(b)(3) provides that no state may (A) require any insurance policy issued to a purchasing group to be countersigned by an insurance agent or broker, (B) require the submission of declinations or certificates of non-availability prior to or as a condition of writing purchasing group insurance; or (C) otherwise discriminate against a purchasing group insurer.

Section 5(b)(4) provides that no state, other than the state in which the purchasing group has its principal place of business, shall have the right to regulate policy forms, rates, or coverage provided to a purchasing group except as otherwise authorized by the Risk Retention Act.

Section 5(c) provides that a purchasing group insurer must furnish to the insurance commissioner of the state in which the purchasing group has its principal place of business information regarding (A) the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the insurer intends to offer to the purchasing group, (B) a copy of the insurer's annual financial statement, which must be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expenses rendered by a member of the American Academy of Actuaries or a qualified loss reserve specialist and (C) any other information the commissioner may require. Copies of all of this information must be filed with the insurance commissioner of each additional state in which the purchasing group is doing business. Copies of any documents filed with the state in which the purchasing group has its principal place of business shall be sufficient for submission in all other states.

Section 5(d) provides that nothing in this section shall be construed to affect the authority of any federal or state court to enjoin (1) the solicitation or sale of insurance by a purchasing group insurer to any person who is not eligible for membership in the group, (2) the solicitation or sale of insurance by or the operation of a purchasing group insurer that is in a hazardous financial condition or is financially impaired, or (3) any false, deceptive, or fraudulent conduct by a purchasing group or its insurer, agents, or broker. The purpose of Section 5(d) is to clarify that state insurance commissioners retain the authority to take action to prevent or halt any false or deceptive acts or practices or the insurance operations of any insurer that is in a hazardous financial condition.

Section 5(e) provides that nothing in the Risk Retention Act shall be construed to affect the authority of any state to make use of any of its powers to enforce the laws

of that state with respect to any activities of a purchasing group insurer which are not exempt from state regulation under the Risk Retention Act. This simply restates a provision of existing loss—that any activity of a purchasing group insurer which is not exempt from state regulation remains subject to that regulation—and (2) that if a state seeks an injunction regarding the conduct described in Section 5(d), the injunction must be obtained from a federal or state court of competent jurisdiction.

Section 5(f) provides that nothing in the Risk Retention Act shall affect the authority of any state to bring an action in any federal or state court.

Section 5(g) provides that a purchasing group insurer must register with and designate the state insurance commissioner of each state in which the purchasing group has insured members (and in which it has not already appointed the insurance commissioner as its agent) as the insurer's agent solely for the purpose of receiving service of legal documents or process.

Section 5(b)(2), (b)(3), and (b)(4), and Sections 5(c), 5(d) and 5(g) are virtually identical to similar provisions dealing with the requirements of a risk retention group and the authority of a state insurance commissioner to regulate such a group.

Section 19. Section 2(a) of the Act is amended by adding a new paragraph (9) defining "group basis" to include a group master policy, coverage issued on an individual basis pursuant to a mass marketing plan, or any other arrangement providing liability insurance to members of a purchasing group on substantially the same terms and conditions. The purpose of this amendment is to set forth a broad definition of the meaning of group basis and thereby provide insurers with substantial latitude in developing group liability insurance programs under the Act.

Section 20. Section 5 (now Section 6) is amended by adding a new paragraph 2 which provides that the ownership interest in a risk retention group shall be considered an exempted security for the purpose of the broker-dealer registration requirements of Section 15(a)(1) of the Securities Act of 1933, 15 U.S.C. § 77o(a)(1). Because the ownership interest in a risk retention group are not primarily investments but a necessary capital expenditure to permit the formation of a joint insurance venture, and because in most cases these ownership interests are promoted on an accommodation basis rather than for the purpose of earning fees or commissions, the exemption from the registration requirements under the securities laws is extended to the broker-dealer registration requirements.

In addition, a new Section 6(d) provides that the exemption from the registration requirements of the securities laws includes the promotion, sale, and distribution of ownership interests in a company or association which is being organized solely for the purpose of qualifying as a risk retention group. The purpose of this amendment is to clarify that the exemption from the registration requirements of the securities laws extends to the activities, including capital formation, which necessarily precede the licensing of a risk retention group as an insurance company and its certificate of authority to commence doing business.

Section 21. Section 6 (now Section 7) of the Act is amended by (1) adding after the words "risk retention group" in subsections (a), (b), and (c), the phrase "or purchasing group insurer"; (2) by amending subsection (d) to provide that state financial responsibility laws will apply only if they are incorporated in a state statute or regulation issued under a state statute that specifies financial responsibility as a condition for obtaining a license or permit to undertake specified activities, and by defining "acceptable means of demonstrating financial responsibility" to include a demonstration that a risk retention group or the insurer of a purchasing group maintains the minimum capital and surplus required for an admitted insurer in the state in which coverage is provided to a group member.

In addition to a new Section 7(e) is added which provides that no state may prohibit any political subdivision or other public entity from becoming a member of a risk retention group or a member of a purchasing group or from obtaining insurance provided by or for a group of which it is a member. The purpose of this provision is to prohibit states from enacting laws and to prevent state insurance commissioners from promulgating regulations that attempt to defeat the purpose of the Risk Retention Act by preventing political subdivisions and other organizations of a state from participating in risk retention insurance ventures.

Section 22. The Risk Retention Act is amended by adding four new sections that further clarify the exemption of risk retention groups and purchasing groups from state insurance regulation and provide methods for reducing misunderstandings regarding the scope of this exemption.

Section 8, as added by the amendments, provides that no state, except the state in which a risk retention group is chartered or the state in which a purchasing group maintains its principal place of business, may require a risk retention group or purchasing group to pay any registration fee. The purpose of this amendment is to prevent state insurance departments from imposing burdensome registrations fees and annual fees on risk retention groups and purchasing groups when the only purpose of the registration is to appoint the insurance commissioner as the group's agent for service of process.

Section 9, as added by the amendments, provides that the Attorney General or the Secretary of Commerce (with the concurrence with the Attorney General) may bring a civil action to enjoin a state insurance commissioner from (1) applying any state law or regulation that is inconsistent with the Risk Retention Act or (2) discriminating against a risk retention group or a purchasing group. The purpose of this provision is to allow the federal government to initiate legal action in those cases where a state is interfering with the policy of the Risk Retention Act by applying its laws or regulations in a manner that are inconsistent with the Act or that discriminate against a risk retention group or a purchasing group. Similar authority is granted to the United States and government departments under many other laws.

Section 10, as added by these amendments provides that whenever the Risk Retention Act establishes a requirement or authorizes an activity, no state or political subdivision of a state may establish or apply any requirement or limitation on the authority of a risk retention group or purchasing group which is not identical to those set forth in the Risk Retention Act. The purpose of this provision is to prevent states from enacting risk retention laws or regulations that depart from the provisions of the Risk Retention Act and that seek to impose different or conflicting burdens or requirements on risk retention groups and purchasing groups.

Section 11, as added by these amendments, provides that the Secretary of Commerce shall, in accordance with the Administrative Procedures Act, promulgate standard forms for the filing of notification by a purchasing group or risk retention group that it intends to do business in a state and to promulgate a standard form appointing the insurance commissioner as the group's agent for service of process. The Secretary is required before issuing any such standard forms to consult with the National Association of Insurance Commissioners. The purpose of this provision is to prevent the unnecessary burden now imposed on purchasing groups and risk retention groups of filing out fifty different registration forms.

SENIORS DELIBERATELY MISLED

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. ROSTENKOWSKI. Mr. Speaker, in recent years, many of my colleagues have heard from senior constituents who were frightened and outraged by deliberately misleading information distributed by various organizations.

A constituent of mine recently sent me a copy of such a letter from "The Senior's Coalition" signed by former Congressman Mark Siljander. This letter seems to be written purposefully to create enough anxiety among seniors to produce a successful fundraising appeal.

I would like to submit for the RECORD and for the benefit of my colleagues a copy of this letter and my response to former Congressman Siljander.

THE SENIOR'S COALITION,
Brentwood Station, Washington, DC.

Please take just a minute of your time and take part in our 1990 Medicare and Social Security Questionnaire.

I'm asking you how you seniors feel about the future of Medicare, the type of benefits it should provide, and how those benefits will be funded.

You will also see I'm asking you to sign a petition to President Bush asking him to hold firm on his campaign promise to veto any attempts to tax Social Security or Medicare benefits. I need you to return the petition with your completed survey.

As you know, last year's infamous Catastrophic Health Tax Battle is over. But we cannot rest on our laurels and wait for the next political attack to distort or destroy Medicare.

Because right now, the same professional politicians and bureaucrats who gave us the Catastrophic Medicare Tax are already hatching some new schemes. For instance . . .

House Ways and Means Chairman Dan Rostenkowski wants to cut back on amounts Medicare will pay for doctor's bills. This may lead to rationing of health care and big bills for seniors.

Other proposals include taxing 100% of Social Security benefits that are now only 50% taxable.

And Budget Director Richard Darman was recently looking into taxing the value of Medicare benefits, which are now not taxed.

The results of this survey will be revealed to Congress by the Seniors Coalition in early 1990.

That's important, because there are several critical Medicare and Social Security issues that will come up next year.

Remember how the Senior's Coalition fought for a repeal of the Catastrophic Health Tax? Next year we could face similar battles. And now is the time to find out how you and other Seniors feel about this issue.

That's why we must remain united and keep up our battle to preserve the Medicare benefits we've earned.

Just as important, the whole future of Medicare is now open to question as to what types of benefits senior citizens really need and want, and how to pay for them fairly.

Clearly, we cannot depend on the politicians in Congress to protect the interests of seniors.

If anything, the whole ugly Catastrophic Health Tax episode shows that too many Congressmen and Senators are completely out of touch with the needs of the average senior citizen.

What's more, seniors cannot even count on some of the traditional senior citizen organizations to properly represent them in Washington.

The leaders of some of the most prominent senior citizen groups actually lobbied for the Catastrophic Medicare Tax and continued to support it in the face of senior citizen opposition.

Unfortunately, some "senior citizen leaders" have become part of the Washington establishment and lost sight of the true interests of their groups' members.

So you are entirely justified to ask: "Who can we count on? I, for one, hope you will continue to count on us at the Seniors' Coalition.

When many politicians and other groups let you down, we were there leading this historic battle to protect your interests.

That's why I hope you'll stick with that battle now and help the Seniors' Coalition keep fighting for your interests.

As a former Congressman and member of the House Select Committee on Aging, I can tell you the biggest battles are yet to come.

The arrogant leaders of the House and Senate are angry that senior citizens rebelled against their Catastrophic Medicare Tax. If anything, they'll now look for ways to cut Medicare benefits or stick seniors with coverage they don't want and find new taxes to pay for it.

Some politicians are looking at ways to reduce benefits and tax Social Security and Medicare.

This is why we've got to act now and take advantage of our winning momentum from the Catastrophic Medicare battle. That's why I urge you to take part in the enclosed 1990 Medicare and Social Security Questionnaire and return it to me today.

You see, this Questionnaire will do the one thing our opponents fear the most we might do:

It will let senior citizens like you tell Congress:

What Medicare benefits you most prefer.

What coverages you fear may be cut.

How Medicare should be fairly financed.

Whether Medicare or Social Security should be taxed.

Few, if any, members of Congress attempted to poll senior citizens this way before passing the Catastrophic Medicare Tax in 1988. If they had, I think our views would have been quite clear and we could have avoided the tax battle.

Our goal is to use the results of this Questionnaire to achieve action on what senior citizens want done in the future.

First, we will distribute Questionnaire results every 90 days to every Congressman and Senator on Capitol Hill. No longer will they be able to say they don't know what seniors want.

Second, we'll also release our Questionnaire results to the nation's newspapers, TV networks, and local radio and TV stations. That publicity can help keep our politicians honest.

Third, and most important, the Questionnaire results will also guide us in mobilizing our own grassroots lobbying efforts to fight for the Medicare preferences of most senior citizens.

The Seniors' Coalition has already shown Congress how effective we can be in channelling senior citizen public opinion. We used it to help defeat the tax—and we can use it again to help protect Medicare and shape its future directions.

So, frankly, I do hope that every single person I'm writing to will join in taking part in the enclose Questionnaire. Remember, we beat the tax because we all joined in signing petitions. Our Questionnaire will likewise succeed only if we all take part in it.

However, our Questionnaire will only work if we can put it to use—and that means we must raise the money to do so.

I estimate that we will need to raise some $132,000 to pay for this Questionnaire project, and further funds in the future for our lobbying campaign to drive home the Questionnaire in Congress.

That's why I must ask you include a contribution when you complete the survey. Your contribution will help pay for the survey and remaining costs of our massive campaign against the Catastrophic Health Tax as well as on past, present and future efforts against taxes and for traditional values.

The Seniors Coalition is just that: A voluntary coalition of concerned citizens who've banded together to support this vital cause with our own donations.

We don't receive funding from big corporations or special interests that might want to sacifice senior citizens' interests. Nor do we take any government grants that would compromise our independence. We're totally dependent on donations from citizens like you whose interests we protect.

Your contribution will help us pay current, future and past expenses associated with the campaign I mentioned earlier.

So please be as generous as you can. $10, $15, $20 will help us move forward with the plan described and pay for this important survey.

But whatever amount you can give, it's most critical you take part in the 1990 Medicare and Social Security Questionnaire and return it to me for tabulation today.

We can't sit back and just wait for the politicians to start tinkering with Medicare and taxes once again. This time, we've got to seize the initiative and tell them what we want.

Please let me have your views on these vital Medicare issues today. I look forward to receiving your Questionnaire.

Fighting to Protect Medicare,

MARK D. SILJANDER,

U.S. Congressman (Ret.)

P.S.—Remember, your enclosed 1990 Medicare and Social Security Questionnaire can help make the difference in protecting Medicare from more political tinkering, and in guaranteeing full, fair, and adequate Medicare coverage for your needs. The real Medicare fight is just beginning. Help win it by returning your Questionnaire with your most generous contribution, today. Remember, we oppose efforts to increase the role and cost of government and we are dedicated to protecting the interests of seniors. Your contribution will help us pay for this survey, the Catastrophic Health Tax battle, and our past, present, and future efforts to protect Medicare and Social Security, traditional values, and fight efforts to increase taxes.

COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, March 20, 1990.

Hon. MARK SILJANDER,
The Senior's Coalition, Brentwood Station, Washington, DC.

DEAR MR. SILJANDER: I am writing to express my strong objection to your recent letter mailed to senior citizens regarding Congressional action on policies affecting the Medicare program.

Your letter was clearly drafted to alarm seniors about the future of Medicare. I regret that you and others use such tactics in an effort to raise funds for operations such as The Senior's Coalition.

More specifically, I object to the statement: "Chairman Dan Rostenkowski wants to cut back on amounts Medicare will pay for doctor's bills. This may lead to rationing of health care and big bills for seniors."

Nothing, as you should know, could be further from the truth.

Over the years the Committee has reported legislation to reduce the rate of increase in payments to hospitals and physicians only upon the direct instruction of the entire Congress as expressed by the annual budget resolutions.

The budget resolutions have provided reductions of Medicare spending substantially less than those proposed by the Reagan and Bush Administrations. These resolutions have been adopted with bipartisan majorities.

For the past several years, I have written to the Budget Committee to express my concern about the Administration's proposed cuts in the Medicare program. The budget resolutions provided reductions in Medicare spending substantially less than those proposed by the Reagan and Bush Administrations. These resolutions have been adopted with bipartisan majorities.

In developing budget reconciliation provisions with regard to payments to physicians, the Committee on Ways and Means has generally followed the recommendations of the Reagan and Bush Administrations. Since 1986, Presidents Reagan and Bush have proposed reductions in Medicare Part B spending of $1.4 billion while the Congress has adopted savings of $1.3 billion.

The Committee, under my Chairmanship, has worked effectively to protect senior citizens against extra-billing by physicians on unassigned claims. Since the establishment of the Medicare participating physician program in 1984, the share of physician services on assignment has increased to over 80%. Limits on extra-billing by physicians on unassigned claims adopted by the Committee provide further protection for the elderly against high physician bills.

I trust that any future mailings to the elderly will accurately represent my position on these vital issues.

Sincerely,

DAN ROSTENKOWSKI,
Chairman.

THE BENEFIT TO THE CONSUMER FROM SUGAR PROGRAM REFORM

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. GRADISON. Mr. Speaker, consumers pay a great deal for the generous price support, relative to other commodities, that the Federal Government provides for domestic producers of sugar. In April 1988, the U.S. Department of Commerce issued a report, "United States Sugar Policy: An Analysis," which asserted that the sugar program cost consumers over $3 billion annually. More recently, the U.S. Department of Agriculture, in its recent report on the sugar market, "Sugar: Background for 1990 Farm Legislation," concluded that the sugar program cost consumers, at a minimum, an average of approximately $1.9 billion per year over the last 3 fiscal years. Variations in methodology and the time periods observed account for the disparity in the figures. That there is a substantial consumer cost, however, is beyond question.

I have long been a proponent of reform of the sugar program. The evidence shows that the current program encourages domestic overproduction which bears little relationship to demand. This has resulted in restricted market access for traditional foreign suppliers to the American market, which works against our foreign policy interests and violates our obligations under the General Agreement on Tariffs and Trade. It has also artificially inflated the domestic price of sugar. For that, consumers pay.

Defenders of the current program are quick to discount the effect of the sugar program on consumers. They argue that consumers would see no change in the price of processed foods and beverages which contain sugar, or in the price of a 5-pound bag of refined sugar on the supermarket shelf, if reform resulted in lower prices for raw sugar in the U.S. Market. They would have you believe that in the intensely competitive environment of the market, raw material costs do not matter and that the laws of comparative advantage and supply and demand have been repealed. Of course, this is utter nonsense.

On March 15, 1990, the House Subcommittee on Cotton, Rice, and Sugar held its final hearing prior to markup of the sugar provisions of the 1990 farm bill. Ms. Eva Lynne Disbro, manager for communications and public relations, of the McKee Baking Co., made a strong case that the consumer will benefit from reform of the sugar program. I commend Ms. Disbro's testimony to my colleagues.

STATEMENT OF THE INDEPENDENT BAKERS ASSOCIATION

My name is Eva Lynne Disbro, and I am employed by McKee Baking Company in Collegedale, Tennessee. We are also a member of the Independent Bakers Association, and I am representing them today as Vice Chairman of its National Affairs Committee. Our company is the nation's largest independently owned snack cake bakery. McKee Baking produces Little Debbie Snack Cakes and Sunbelt snacks. More than 3,300 people work at our bakeries in Tennessee and Arkansas. Another McKee plant is under construction in Virginia to handle projected sales growth. Consumers in 43 states recognize the great value and good taste of Little Debbie Snack Cakes.

As a high-volume wholesale producer of sweet snacks, we use thousands of tons of sugar each year. The current sugar program keeps domestic sugar prices artificially high while benefitting only a few producers. Since July of last year, raw sugar prices have been on a roller coaster ride, mostly upwards. We are now paying prices for sugar that are more than fifteen percent higher than we paid a year ago. Yet we have not had a significant increase in our suggested retail price since September, 1988. Sugar prices make up a large portion of our ingredient costs. Any increase or decrease in sugar prices has a definite effect on our total costs.

The bill introduced by Representatives Thomas J. Downey and Willis D. Gradison would lower our sugar costs almost a million dollars the first year and even more in successive years. Very little, if any, of the savings would fall to our bottom line as increased profits. The consumer would be the primary beneficiary because the savings in sugar cost would be used to offset increases in other areas. Almost daily we see price adjustments that affect our cost of doing business. For example, our employee health insurance costs for 1989 were 22.9 percent higher than in 1988, and we are spending almost 15 percent more for cartons today than we did a year ago. For the consumers' benefit, we try not to pass along price increases every time we have wage or ingredient cost increases. If the savings in sugar cost were to be greater than the other cost increases incurred in a given year, we would pass along the cost savings through lower prices. We are committed to producing high value sweet snacks. Our track record bears this out. Since Little Debbie Snack Cakes were first introduced in 1960, our selling price has just slightly more than doubled while the Consumer Price Index has quadrupled. Two times in the past 14 years we have passed on cost savings when ingredient costs came down.

I urge to rewrite the United States sugar program in 1990. Reduce the sugar loan rate and increase import quotas. Both American business and the American public—our customers and your constituents—will benefit.

TELEPHONE PRIVACY ACT OF 1990

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. KASTENMEIER. Mr. Speaker, today I am introducing a bill that would bring automatic number identification devices within the purview of Federal law. In 1986, Congress passed the Electronic Communications Privacy Act [ECPA], bringing together civil liberties groups, the Justice Department, businesses, and consumers. The Subcommittee on Courts, Intellectual Property, and the Administration of Justice, which I chair, held extensive hearings on ECPA, in which all witnesses agreed that technology had outstripped our laws regulating the interception of electronic communications and that the laws did not cover a variety of new technologies. As the House report on ECPA stated:

Although it is still not twenty years old, the Wiretap Act was written in [A] different technological and regulatory ERA. Communications were almost exclusively in the form of transmission of the human voice over common carrier networks. Moreover, the contents of a traditional telephone call disappeared once the words transmitted were spoken and there were no records kept. Consequently the law primarily protects against the aural interception of the human voice over common carrier networks.

The [wiretap law] did not attempt to address the interception of text, digital or machine communication. This statutory framework appears to leave unprotected an important sector of the new communications technologies.

Many communications today are carried on or through systems which are not common carriers. Electronic mail, videotex and similar services are not common carrier services. Under existing law the interception of these services or the disclosure of the contents of messages over these services are probably not regulated or restricted. Moreover, totally private systems are rapidly being developed by private companies for their own use. It is not uncommon for businesses now not to use the local telephone company [or] in some instances the long distance companies in the creation of voice and data networks. Since these networks are private they are not covered by existing Federal law. In addition, data is transmitted over traditional telephone services as well as by these services. Since data, unlike the human voice, cannot be aurally intercepted, it is also largely unregulated and unrestricted under present law.

Today, we have large-scale electronic mail operations, cellular and cordless telephones, paging devices, miniaturized transmitters for radio surveillance, and a dazzling array of digitized information networks which were little more than concepts two decades ago. Unfortunately, the same technologies that hold such promise for the future also enhance the risk that our communications will be intercepted by either private parties or the government.

Society had come to believe that these new technologies were appropriate for use, but the laws did not set forth the parameters for that use. ECPA attempted to consider each of these new technologies and, where possible, to integrate them into the law.

Technology changes so quickly that, unfortunately, only 4 years later, we are already faced with new devices that may not be covered by ECPA. Automatic number identification, commonly known as Caller ID or ANI, is an example. ANI is designed to trap the telephone number of a caller and display it on a device next to the telephone of the party being called. Presumably, the party being called may decide, upon review of the telephone number, to answer the call or not.

I welcome new technological developments and believe that they should be made avail-

able to consumers. However, technological advances must always be balanced against competing societal interests.

While in appearance ANI is a simple electronic device, it promises to significantly alter the communications landscape. There are privacy interests on both sides of the ANI debate. Congress must assess the impact that this new service will have on the privacy interests of both telephone callers and call receipients. We must evaluate how it will affect practices and customs that have developed over many years, and how to protect against adverse uses of information that was once considered private, but that will now be widely available through use of ANI.

Advocates of ANI contend that the new service will expand privacy protections for telephone call recipients. ANI will serve the same function as a peephole in one's front door, allowing the called party to decide whether the person calling has a familiar number, and whether to answer the telephone. Adherents further believe that ANI will deter harassing telephone calls by enabling people to easily screen callers. They therefore oppose any limitations on the use of the service, arguing that any limitations would defeat these purposes.

On the other hand, many people are concerned that ANI may invade privacy because it shifts the historical privacy balance away from the calling party and to the called party. It has become accepted in our society that when a person places a telephone call, it may be done anonymously. It is only when and if the caller decides to reveal his or her identity that the recipient knows who is calling. Contrary to present practice and custom, ANI would automatically display the caller's telephone number with or without the caller's consent. Even answering machines today permit callers to decide whether or not to leave a message and thereby reveal their identities.

ANI would suspend this expectation of privacy on which callers have come to rely, even with respect to callers with unlisted telephone numbers. Those expressing concerns about the service maintain that a privacy custom that is so ingrained in our society must be safeguarded. Accordingly, they either oppose the service altogether, or at a minimum urge the imposition of specific measures to protect the privacy interests of the calling parties.

As a preliminary matter, there are questions about whether the new service is necessary to achieve some of its stated purposes. For example, as noted, ANI has been promoted as a means to protect people against harassing telephone calls. However, other technologies may serve the same purposes, without the potential privacy invasions created by ANI. The technology exists to allow a recipient to "trap" a caller's number within the system, thus permitting the telephone company to read it and identify the caller. A person can also block all future calls from certain numbers. Finally, answering machines can screen out unwanted telephone calls.

Information obtained through the ANI service may erode personal privacy interests in ancillary but important ways. For example, if consumers call mail order companies for information, the companies can obtain the consumer's phone number and, through a reverse directory, the consumer's name and address. As a result, the consumer may be involuntarily added to mailing lists and be subjected to unwanted telephone sales solicitations.

Moreover, by affording the caller privacy, our current telephone system furthers many vital societal purposes. These purposes arguably would be frustrated if the ANI service is implemented without safeguards. For example, those taking refuge in battered women's shelters who call home to talk to their children would have their whereabouts revealed to their husbands. Those contacting AIDS hotlines, or serving as news sources, police informants, or as whistleblowers often do so by using the telephone. They depend on anonymity in making those calls. Similarly, psychiatrists, other medical professionals, and social workers who need to call their patients or clients from their homes could not do so without disclosing their telephone numbers and home addresses.

Finally, certain businesses might use ANI to screen calls and thereby discriminate against minorities or people who live in poor neighborhoods by refusing to respond or to provide services.

I know that telephone companies across the country are developing their own policies about ANI. Some companies have decided to offer it; some have decided that the privacy concerns must be ironed out first, and have not decided whether or not to offer it. Some have decided to offer ANI, but only with blocking devices for those who want them.

I am also aware that some of the telephone companies that have offered ANI have reported enthusiastic consumer reaction. Others have determined that their customers want blocking devices.

Communications policy is a Federal matter, and there should be uniformity. If it is to be effective, that policy should not be made by the States or regions, or by individual telephone companies.

In addition to the policy arguments about whether and how ANI should be implemented, there are significant legal issues involved. The primary one is whether ECPA already covers ANI. The Library of Congress has provided my subcommittee with a legal analysis that concludes that ECPA does in fact cover ANI, and that it prohibits it. If this is the case, then the telephone companies that are offering the service are violating the law. I know that there are legal opinions to the contrary. These questions must be resolved clearly and promptly.

I am therefore introducing a bill that I believe will resolve these legal and policy questions. I am pleased to cosponsor the bill along with another member of my subcommittee, the gentleman from Oklahoma, Mr. SYNAR. The bill will provide uniformity, and will adequately balance the various privacy concerns expressed by the supporters and opponents of ANI. It will permit the telephone companies to offer ANI to their customers, but it will require them to also offer blocking devices to customers who do not want their telephone numbers revealed.

A blocking device would maintain the status quo, at least for those who want it. There may be some who have no problem with having their telephone numbers revealed. They do not need to request a blocking device. But for those who do not want their numbers revealed, blocking devices would be available.

The premise of the bill is simple. It amends 18 U.S.C. 3121, which currently sets forth general prohibitions on the use of pen registers and trap and trace devices. ANI is a trap and trace device "which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted" (18 U.S.C. 3126(4)). The bill creates an exception to section 3121's prohibition for the use of devices allowing telephone call recipients to determine any "individually identifying information" about the caller or the caller's number. This exception applies only if the telephone company provider enables the caller to block receipt of the identifying information. Section 3121 already makes certain exceptions, but they apply to providers, rather than users, and would thus be inapplicable to ANI devices. Section 3121 now provides for criminal penalties. This bill would also create civil liability, with remedies set forth in 18 U.S.C. 2707, for providers who enable telephone call recipients to obtain individually identifiable information about the caller, but who fail to provide blocking devices.

The approach taken in this bill is supported by the White House Office of Consumer Affairs, by State attorneys general around the country, such as in Pennsylvania and North Carolina, and by the National Association of State Utility Consumer Advocates. In addition, law enforcement officers have expressed concerns that offering ANI without also providing blocking devices will compromise their efforts by discouraging confidential informants.

We should not allow ANI to be offered without Federal guidance. The Congress must consider the importance of a uniform communications policy, the significant privacy concerns that I have noted, and the implications of a change in the status quo such as ANI would cause. In addition, I am aware that questions exist about whether the state of technology today will permit complete and immediate implementation of the bill's requirements. These questions will be fully aired when the Subcommittee on Courts, Intellectual Property, and the Administration of Justice, which I chair, holds early hearings on this bill. I am confident that the concerns of all sides will be resolved satisfactorily.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, October 18, 1989.

To: House Committee on the Judiciary.
(Attention: Virginia Sloan)
From: American Law Division.
Subject: Caller identification telephone equipment and the Electronic Communications Privacy Act.

This is in response to your request for information as to whether installation or use of caller identification telephone equipment is contrary to the proscriptions of the Electronic Communications Privacy Act of 1986 (ECPA), Pub. L. No. 99-508, 100 Stat. 1848 (1986). It appears to be. The language of the Act prohibits installation and use. Under ordinary circumstances the statutory exceptions appear inapplicable. The legislative history, while not specific, seems to support

such an interpretation. The courts, on the other hand, might consider the privacy interest involved relatively minor and accordingly find that Congress did not intend to preclude the use of such equipment.

Caller identification telephone equipment uses a device to identify the number of the telephone from which an incoming call originated and then to display a name associated with that number. It may also be used in conjunction with equipment which remotely records or displays the telephone number or a name associated with that number for either incoming or outgoing calls or both.

The ECPA established a new chapter 206 in title 18 of the United States Code, 18 U.S.C. 3121-3127, which prohibits the installation or use of pen registers or trap and trace devices.[1] Pen registers record the numbers of the telephone instruments dialed from a particular telephone instrument; trap and trace devices record the numbers of telephone instruments upon which calls to a particular instrument have been dialed.

Caller identification equipment constitutes a "trap and trace device" for purposes of the ECPA, for it meets the definition of 18 U.S.C. 3127(4) regardless of whether a number or a name associated with the number are displayed after the trap and trace has occurred.[2]

The ECPA's legislative history seems to confirm a Congressional intent to embody the type of equipment under consideration here within the prohibitions of 18 U.S.C. 3121. Admittedly, the equipment does not appear to have been specifically mentioned anywhere within that history and its discussion of trap and trace devices involved surreptitious use of those devices by a third party, ordinarily either the phone company or the police. THe ECPA was intended to protect communications privacy against both private and law enforcement intrusions.[3] Congress also intended to protect communications privacy against threats possible under the existing state of technology and those that might become possible in the future.[4]

The most persuasive argument within ECPA's history seems to flow from Congress' treatment of tracking devices. H.R. 3378 and S. 1667, the bills under consideration during the hearings which led to enactment of the ECPA, each have added a new chapter 206 to title 18 of the United States Code. That chapter would have forbidden the installation and use of pen registers and tracking devices except under certain designated circumstances.

During the hearings evidence was offerd that suggested that the definition of tracking devices had been drafted so as to arguably encompass ordinary private use paging devices (including video display pagers), rather then merely surreptitious use.[5]

Both committees responded by removing the tracking provisions from chapter 206. The Senate committee also added language elsewhere in the bill designed to outlaw the interception of communications to, but not the use of, video display paging devices. It then inserted trap and trace device provisions into chapter 206.

Neither the Senate committee report nor the subsequent debate in either House explain the substitution in specific terms. It is difficult to believe, however, that Congress would have unintentionally approved a definition of trap and trace devices which facially proscribed their use by both parties and nonparties to a communication when it had so recently rejected such a definition of tracking devices.

Even assuming Congress intended the trap and trace provisions of chapter 206 to apply to the use of caller identification display equipment it does not necessarily follow that it restricts all such use. The ECPA's trap and trace restrictions are subject to a number of exceptions. Two of these involve installation and use pursuant to court orders issued either under the procedures of chapter 206 or under those of the Foreign Intelligence Surveillance Act, 18 U.S.C. 3121(a). The caller identification display is likely to be offered by a communications provider as a customer convenience rather than for purposes of criminal investigations or foreign intelligence, the purposes upon which the court orders must be based. The court order exceptions are therefore not likely to be applicable in most cases.

The provider exceptions are arguably more relevant and in earlier memoranda we noted that the prohibitions do not apply when the provider exceptions are available. ("The Application of Restrictions on Trap and Trace Devices to Phone Service Allowing Display of Phone Numbers of Incoming Callers," July 14, 1989; "Trap Devices and the Electronic Communications Privacy Act of 1986, P.L. 99-508," August 31, 1989).[6]

The first exception exempts "use of a pen register or trap and trace device by a *provider* of electronic or wire communication service—(1) relating to the operation, maintenance, and testing of a wire or electronic communication service or to the protection of the rights or property of such provider, or to the protection of users of that service from abuse of service or unlawful use of service." 18 U.S.C. 3121(b)(1) (emphasis added.)

On its face the exception does not exempt use of a trap and trace device by users of wire or electronic communication service. It affords the exception only to providers. In other parts of chapter 206 where Congress intended an exception to apply to both providers and their customers it stated that intention clearly, see e.g., 18 U.S.C. 3127(3) which includes both provider and customer use within the billing exception to the restriction of the use of pen register. Finally, the legislative history of the exception supports the view that it was only to be available to providers.

When the legislation was introduced the exception was limited to only the operation, maintenance and testing language component of the current exception. The current language appeared in the clean bills reported out by both the House and Senate committees, although in the case of the House version the exception was limited to pen registers since proposed chapter 206 only covered pen registers in the House version.

The Senate report simply paraphrases the language of the exception, S. Rep. No. 541 at 46, but the House report identifies a number of instances where the original language would not reach pre-existing protective practices, "[t]elephone companies can use pen registers to verify long distance billing information. Telephone companies can use pen registers to detect the use of illegal devices, such as 'blue boxes' [devices used to avoid toll charges for long distance calls]. Additionally, a pen register could be placed on the phone of a person suspected of placing harassing or obscene calls." H.R. Rep. No. 647 at 24 n.50.

During the House hearings telephone company representatives had described their use of pen registers or trap and trace devices and/or called for amendments consistent with their past uses in terms comparable to those added to the exception.[7]

Even assuming that the exception could be read to embrace user rather than provider use of trap and trace devices, its authorization seems limited to uses designed to prevent toll charge fraud, obscene or harassing phone calls or similar threats or abuses. It does not seem to permit perpetual use offered as a customer convenience.

Congress' treatment of internal communications systems may offer a final hint as to whether chapter 206 was intended to include a user exception. Prior to the enactment of the ECPA, an employer who monitored his employees' calls on a private, internal communications system had been found not to have violated the wiretap prohibitions. Those proscriptions, it had been held, applied only to the interceptions occurring on a wire communications system furnished or operated by a communications common carrier, *United States* v. *Christman*, 375 F.Supp. 1354, 1355 (N.D.Cal. 1974); cf., *People* v. *Santos*, 26 Cal.App.3d 397, 402, 102 Cal.Rptr. 678, 681 (1972). The ECPA amended the definition of "wire communications" to overcome that result.[8] The same definition of wire communications applies for both purposes of the wiretap law and chapter 206, 18 U.S.C. 3127(1). Absent that change an employer would be permitted to use pen registers and trap and trace devices to monitor communications within an internal communications system. By redefining wire communications and by limiting the exceptions to providers Congress may have believed it was affording a level of protection that would not be available it subscribers were permitted to qualify for the provider exceptions.

Much the same can be said of the second exception which permits "use of a pen register or a trap and trace device by a *provider* of electronic or wire communication service— . . . (2) to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful or abusive use of service." 18 U.S.C. 3121(b)(2) (emphasis added).

This exception appears to mean that the telephone company, in order to prevent toll charge fraud and misuse of service by obscene or harassing calls, may use pen registers and trap and trace devices to record customer calls placed and received. It does not appear to authorize the telephone company to offer, nor its consumers to use, trap and trace devices as continuous convenience. The legislative history cited above with respect to the first exception seems to confirm this.

Any suggestion that either of these exceptions authorizes a user's employment of a trap and trace device to identify all incoming calls in order to avoid answering those from sources likely to be obscene or harassing overlooks the fact that permissible use is limited to providers.

The third exception is somewhat more obscure. It permits "use of a pen register or a trap and trace device by a *provider* of electronic or wire communication service— . . . (3) where the consent of the user of that service has been obtained" 18 U.S.C.

[1] Footnotes at end of article.
[2] Footnotes at end of article.
[3] Footnotes at end of article.
[4] Footnotes at end of article.
[5] Footnotes at end of article.

3121(b)(3) (emphasis added). The term "*the* user" rather than "*a* user" as found in the second exception seems to imply the exception is restricted to consent to use a trap or trace in connection with a particular call where there is only a single user who may consent, as opposed to continuous use of a trap and trace device in connection with a particular line which might over the course of time have many users.

The terminology "use . . . where . . . consent . . . has been" indicates that the consent exception is limited to instances where there has been *prior* consent to use of the device with respect to a particular call.

The language from the legislative history quoted earlier concerning pre-ECPA practices appears to confirm both of these interpretations.

The consent exception therefore cannot embody consent of a telephone subscriber to include a continuously operating trap and trace device as a feature of his or her telephone service. Such instances involve use of the device by the user or subscriber rather than the provider.

It is possible to argue that anyone who purchases or subscribes to a telephone service which includes a caller identification display feature has given prior consent to its use. Such an argument has weaknesses beyond the fact that the exception is limited to providers. The phrase "the user" imples that the exception is limited to particular calls rather being a general exception. Since the trap and trace has already occurred when the name associated with the calling number is displayed regardless of whether a "user" chooses to answer the call or not, there is no "the user" to consent when a call is not answered. But the situations where the subscriber is not the user present greater difficulties. Even if a subscriber may be presumed to have consented to use for purposes of his or her calls, other users cannot be presumed to have consented because they do not necessarily have any effective means of denying that consent and the exception clearly envisions user consent rather than just subscriber consent.[9]

The final exception is inapplicable for purposes of our discussion since it is contained in the definition of a pen register and is limited to billing activities.[10]

It is possible that notwithstanding the language of chapter 206 and the fact that its legislative history at least fails to contradict that language, a court may feel that Congress simply did not intend chapter 206 to reach commonly available caller identification display equipment. Some courts reached an analogous conclusion with respect to spousal wiretapping within the home, see *Simpson* v. *Simpson*, 490 F.2d 803 (5th Cir. 1974). Such a result may be more likely in cases where the privacy intrusion may seem relatively minor to some. Since this result occurs in the absence of facial or legislative history support, it must be acknowledged but is virtually impossible to predict.

In summary, use of telephone equipment which displays a name associated with the number of the instrument used for incoming calls appears to be prohibited by the language of 18 U.S.C. 3121 enacted as part of the Electronic Communications Privacy Act of 1986. The Act's legislative history fails to refute the plain meaning of the Act's language and may be read to confirm that Congress intended the Act's proscriptions to apply to such cases. None of the Act's exceptions appear applicable under most circumstances.

CHARLES DOYLE,
Senior Specialist.

FOOTNOTES

[1] "§ 3121. General prohibition on pen register and trap and trace device use; exception

(a) IN GENERAL.—Except as provided in this section, no person may install or use a pen register or a trap and trace device without first obtaining a court order under section 3123 of this title or under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

(b) EXCEPTION.—The prohibition of subsection (a) does not apply with respect to the use of a pen register or a trap and trace device by a provider of electronic or wire communication service—

(1) relating to the operation, maintenance, and testing of a wire or a wire or electronic communication system or to the protection of the rights or property of such provider, or to the protection of users of that service from abuse of service or unlawful use of service; or

(2) to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful or abusive use of service; or (3) where the consent of the user of that service has been obtained.

(c) PENALTY.—Whoever knowingly violates subsection (a) shall be fined under this title [not more than $100,000 if the offender is an individual and not more than $500,000 if the offender is an organization] or imprisoned for not more than one year, or both."

[2] "As used in this chapter—. . . (4) the term 'trap and trace device' means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted." 18 U.S.C. 3127(4).

[3] "These new modes of communication have outstripped the legal protection provided under statutory definitions bound by old technologies. The unfortunate result is that the same technologies that hold such promise for the future also enhance the risk that our communications will be intercepted by either private parties or the Government." 131 Cong. Rec. 24396 (1985) (remarks of Rep. Kastenmeier upon the introduction of H.R. 3378). See also, S. Rep. No. 541 at 3; H.R. Rep. No. 647 at 18.

[4] "The first principle [upon which the ECPA is based] is that legislation which protects electronic communications from interception by either private parties or the Government should be comprehensive, and not limited to particular types or techniques of communicating. . . . Any attempt to write a law which tries to protect only those technologies which exist in the marketplace today, that is, cellular phones and electronic mail is destined to be outmoded within a few years." 132 Cong. Rec. 14886 (remarks of Rep. Kastenmeier accompanying H.R. Rep. No. 647) (1986).

[5] See e.g., *Electronic Communications Privacy Act: Hearings Before the Subcomm. on Courts, Civil Liberties, and the Administration of Justice of the House Comm. on the Judiciary*, 99th Cong., 1st & 2d Sess. 98-9 (statement of John Stanton, Chairman of Telocator Network of America) (1986); *Electronic Communications Privacy: Hearing Before the Subcomm. on Patents, Copyrights and Trademarks of the Senate Comm. on the Judiciary*, 99th Cong., 2d Sess. 118-19 (statement of John Stanton) (1986). These hearings will hereinafter be cited as House Hearings and Senate Hearings respectively.

[6] Our earlier memoranda also point out that it would be somewhat inconsistent for Congress to have outlawed a customer convenience in a law that was otherwise designed to protect customer wire and electronic communications from unjustified, surreptitious intrusions.

[7] "The gist of the statutory exception is for use of a pen register when such use relates to the operation, maintenance and testing of an electronic communication service. . . . However, they do not appear to permit two of the most common uses of pen registers, i.e., in toll fraud and abuse of service (harassing call) investigations." House Hearings at 421 (memorandum of James S. Golden, Southwestern Bell Corp.).

"To my everlasting surprise, it has been the other area, involving the tracing of more common events, that seems to present the most problems. These events are normally obscene or harassing telephone calls. While I believe there are actually fewer wiretap orders than most people might expect, telephone call tracing is fairly common. . . With tracing devices, no entry is required. An adjustment in the central office permits a circuit to stay open or be pinpointed so that the number of the caller and called party can be identified. The particular activity depends upon the technology used in the telephone company's central office switch. Interception of conversation does not occur in those cases. With traces, the cooperation of a victim is needed to match the time of the call that is traced by the telephone company with the time of the call identified as offensive or harassing by the victim." id. at 454-55 (letter of Martin T. McCue, Centel Corp.); see also id. 526, 536 (memorandum of John R. David, AT&T); id. 550 (comments of H.W. William Caming).

[8] "Subparagraph (D) specifies that wire, cable or similar connections furnished or operated by any person engaged in providing or operating such facilities for the transmission of 'communications affecting interstate or foreign commerce,' are within the definition of a 'wire communication.' This language recognizes that private networks and intracompany communications systems are common today and brings them within the protection of the statute."

[9] It should be noted that such remote recording might be considered permissible under either of the first two exceptions in 18 U.S.C. 3121(b) but for the fact those exceptions are only available to providers.

[10] "The term 'pen register'. . . . does not include any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business" 18 U.S.C. 3127(3).

PEACE DAY 1990

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. PANETTA. Mr. Speaker, I rise today to introduce comemorative legislation that would designate the third Sunday in May as Peace Day 1990.

In light of the recent and rapid changes in the world and the resulting spirit of hope for peace, it would be only fitting that we recognize May 20, 1990 as Peace Day 1990. 1989 was a historic watershed for the cause of peace. From Poland to Czechoslovakia, throughout all of Eastern Europe and down to Nicaragua, the citizens of the world have loudly proclaimed their devotion to peace, their thirst for democracy. The idea of peace includes not only the absence of war, but also the ideals of individual liberty, basic human rights, and freedom to pursue economic enterprise.

Peace Day 1990 will recognize the efforts of the many people who have given of themselves selflessly to fight for freedom and democracy around the world. Accordingly, the United States should be the first to recognize the importance of these peace movements. Let us remember the sacrifice of the Chinese students, the sacrifices of East Europeans, and the sacrifices of so many other peoples in search of freedom and peace.

On this we can all agree: peace is the great equalizer; it cuts across all social lines, all nationalities and race, and all economic levels. Peace should be at the forefront of all endeavors and an ultimate goal for United States foreign and domestic policies.

The State of California has already designated the third Sunday in May as Peace Day 1990. This is the second year that Californians will celebrate Peace Day. The Second Annual Peace Day's theme will be "discovering our common ground." It would certainly be appropriate to focus our national effort on "discovering our common ground" with the peoples of the world who have fought for freedom and peace on earth.

I encourage my colleagues to join me in sponsoring this legislation to designate Peace Day 1990, and I urge its speedy adoption.

The text of the resolution follows:

H.J. RES —

Whereas peace is a primary goal for all peoples, regardless of political association, nationality, or race;

Whereas peace and freedom are primary goals of the United States for its own citizens and for those of other nations;

Whereas the United States has led the world in helping to establish peaceful democracies;

Whereas there has arisen within many nations a strong voice calling for its leadership to seek peace with other nations of the world and to banish the threat of nuclear war;

Whereas international cooperation among all nations is essential to prevent military and environmental crises;

Whereas it is vital that people everywhere acknowledge and understand their role in achieving peace at the local, State, Federal, and global levels;

Whereas the citizens of the United States now call on other nations of the world to unite and demonstrate their commitment to the promotion of peace and peaceful acts; and

Whereas such efforts reinforce community cooperation and help to nourish a spirit of peace, notwithstanding the diverse cultural, economic, political, racial, and ethnic groups involved: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 20, 1990, is designated as "Peace Day" in recognition of the desire of the people of the United States to establish a solid and binding peace in the world, and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

ATTACKS BY ETHNIC ROMANIAN GANGS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. DORNAN of California. Mr. Speaker, several of my colleagues reacted with disgust and concern to the press reports today and yesterday reporting 2 days of continued attacks by ethnic Romanian gangs armed with clubs and axes against ethnic Hungarians and their party, the Hungarian Democratic Federation in Romania. The attacks took place in Tirgu Mures (Marosvasarhely), a city whose population is still 50 percent Hungarian.

This Romanian group, Vatra Romanesca, was not curbed by the Romanian army until 2 people were dead, and 16 ambulances were needed to carry the injured to hospitals. Among the severely injured was the famous playwright, Andras Suto, who lost sight in one of his eyes, and suffered several fractured ribs, and a broken arm. He had to be transported first to Bucharest, then to Budapest by helicopter, for operations. While not bloody, anti-Hungarian demonstrations spread to Cluj (Kolozsvár), Satmar (Szatmárnémeti) and Oradea (Nagyvarad).

I call upon our State Department to protest strongly the mob attacks against the peaceful Hungarian minority and warn the Romanian Government that without an adequate solution of the Hungarian and other nationality problems, democracy cannot flourish in Romania.

Mr. Speaker, I would also like to submit the following Washington Times article on this violence for the RECORD.

[From the Washington Times, Mar. 21, 1990]

ROMANIANS ATTACK ETHNIC HUNGARIAN PROTESTERS; 2 KILLED

TIRGU MURES, Romania—About 2,000 Romanians armed with scythes and clubs attacked 5,000 ethnic Hungarian protesters yesterday in this Transylvanian town, killing two persons and injuring about 60, police said.

Eyewitnesses said the Romanians charged the Hungarians and drove them from the central square, where they had occupied the town hall.

They reported seeing Hungarians clubbed to the ground, and Arad Kovacs, an official of the Hungarian Democratic Union party, said, "I am afraid this is going to be a horrible night."

But as night fell, seven army tanks formed a barricade between the rival groups.

The Hungarians had gathered yesterday morning to protest a Romanian attack on the Hungarian Democratic Union headquarters in Tirgu Mures the previous night.

Four persons in the building were seriously injured while police tried to escort them to safety.

They included Andreas Suto, an ethnic Hungarian who is one of Romania's best-known writers. He was flown to the Bucharest military hospital suffering from eye injuries, broken ribs and a broken arm.

President Ion Iliescu visited Mr. Suto before he was taken to Hungary for treatment in Budapest to save his sight.

Tensions have been growing between Romanians and the 2-million-strong Hungarian minority in Transylvania since the December revolution in which communist dictator Nicolae Ceausescu was ousted and executed.

Romanian nationalists fear Hungarian demands for greater autonomy could lead to the creation of a separatist movement in Romania's richest province.

The Hungarian government has protested to Romania against "grave atrocities" and said the Hungarian community had been subjected to "pogromlike" attacks.

Hungarian radio said Prime Minister Miklos Nemeth sent a letter yesterday to Romanian Premier Petre Roman protesting the attacks.

"The Hungarian government is particularly aggrieved over the fact that while all this was going on the Romanian forces of order remained inactive," the letter said.

In Budapest, an estimated 70,000 Hungarians bearing torches and waving national flags rallied in the main square Tuesday protesting the attacks in Romania.

Gaspar Miklos Tamas, a leading Hungarian opposition politician who left Romania in 1978, urged Romania's leaders to act immediately against "fascist gangs" in Transylvania, which belonged to Hungary before World War I.

"We can promise one thing," Mr. Tamas told the crowd in Budapest. "We will never standly idly by and watch our Hungarian brothers being maltreated in Transylvania."

A TRIBUTE TO REV. ERNEST GIBSON, RELIGIOUS LEADER

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. FAUNTROY. Mr. Speaker, today I would like to call to the attention of my colleagues in the House of Representatives the life and work of Rev. Ernest Gibson, pastor of First Rising Mt. Zion Church and the retiring executive director of the Council of Churches.

Reverend Gibson was born on August 20, 1920, in Southwest Washington. His birth into this era came during the struggle for the abolition of the lynching, segregation, and overall degradation of black people in America.

Responding to the call to serve mankind, through the will of God, Reverend Gibson chose a path of higher education which resulted in him graduating from the Washington Baptist Seminary in 1952; a bachelors of arts degree in 1962, from Howard University; and a bachelor of divinity degree, carrying a cum laude status, from the Howard University School of Divinity in 1966.

Two years before the deliberation of the U.S. Supreme Court on the 1954 Brown versus Board of Education case in Topeka, KS, which overturned the separate-but-equal laws in the United States, Reverend Gibson, a young assistant pastor of First Baptist Church, in Southwest Washington, was chosen to lead the congregation of the First Rising Mt. Zion Baptist Church.

Under his 38 years of leadership, First Rising Mt. Zion has been erected from a storefront church with 65 members to a church building with over 1,500 members. In addition, he has spearheaded the building of a 217-unit apartment complex for low- and moderate-income families and an education building for the church.

In August 1975, the board of directors of the Council of Churches of Greater Washington unanimously appointed Reverend Gibson to the position as the executive director of the body. His nomination marked the third time in the history of the council that a black minister had held this position.

The Council of Churches is a public charity, representing over 250 churches, 17 denominations, and 5 ecumenical groups, established in the District of Columbia and surrounding areas.

During his tenure, Reverend Gibson has touched the lives of thousands of people from all walks of life in the Nation's Capital and throughout the country. His dedication to improving the quality of life has resulted in providing shelter for the homeless; feeding the hungry; educational opportunities; training and

employment for youth; health care services; and drug counseling to individuals and families.

Reverend Gibson is the recipient of several prestigious awards and honorary positions for his commitment to and achievements in the cultural, economic, and political and religious development of the elderly, the poor, the disenfranchised, and our youth. On January 29, 1982, Reverend Gibson was named a "Washingtonian of the Year," by Washingtonian Magazine for his dedication and service to meeting the needs of the people in the District of Columbia and surrounding areas. During the summer of this same year, the American Federation of Teachers presented him with the "Human Rights Awards," during their annual meeting in New York City. And in 1983, he received the NAACP Public Service Award.

Troubled by the influx of drugs and the violence and destruction it has plagued and planted in our communities, Reverend Gibson has taken to the streets to preach the need to win the war on drugs.

Capturing the essence of the foundation of the church, Gibson has and continues to preach that "The Church must be much more than its internal workings. It must be a living witness, a vital force for good, a creative organism that gives life and with God's help, brings the power of a resurrected and living Saviour into the lives of people and the structure of society."

THE TRUE GENTLEMAN

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. DREIER of California. Mr. Speaker, I recently had the privilege of being initiated as an honorary member of the Sigma Epsilon national fraternity at the University of La Verne in California. Since we refer to each other as gentlemen and gentlewomen I thought that the SAE creed might be interesting reading for our colleagues.

THE TRUE GENTLEMAN

The true gentleman is the man whose conduct proceeds from good will and an acute sense of propriety, and whose self-control is equal to all emergencies; who does not make the poor man conscious of his poverty, the obsecure man of his obscurity, or any man of his inferiority or deformity; who is himself humbled if necessity compels him to humble another; who does not flatter wealth, cringe before power, or boast of his own possessions or achievements: who speaks with frankness but always with sincerity and sympathy; whose deed follows his word; who thinks of the rights and feelings of others, rather than his own; and who appears well in any company, a man with whom honor is sacred and virtue safe.

JOHN WALTER WAYLAND.

LT. GEN. JOHN J. YEOSOCK HONORED DURING TESTIMONIAL DINNER

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to Lt. Gen. John J. Yeosock, deputy commanding general, U.S. Forces Command and commanding general 3d U.S. Army, for his years of service and the lifelong commitment he has made to the armed services.

General Yeosock was born on March 18, 1937 in Wilkes-Barre, PA. He was educated in the public schools of Plains Township through the 10th grade and completed his high school education at the Valley Forge Military Academy. He entered the U.S. Army through the Reserve Officer Training Corps upon graduation from the Pennsylvania State University in August 1959 with a bachelor of science degree in industrial engineering. He also has earned a master of science degree in operations and research and systems analysis from the U.S. Naval Postgraduate School and attended the Advanced Management Program for Executives at the University of Pittsburgh. His military schooling includes the armor officer basic course, the U.S. Marine Corps Amphibious Warfare School, the Armed Forces Staff College, and the National War College.

For his first assignments, General Yeosock served in company grade troop command and staff positions in the 3d Cavalry Regiment and 2d Infantry Division in the United States and Germany. He also served in Vietnam as a senior district adviser.

General Yeosock was assigned as an operations research/systems analyst in the management information systems directorate, Office of the Assistant Vice Chief of Staff, Headquarters, Department of the Army, Washington, DC, and then as an analyst for the project manager reorganization in the Office of the Chief of Staff of the Army. He was again assigned to the 3d Cavalry Division, Fort Bliss, TX where he commanded the 3d squadron of the regiment.

He was assigned as the Chief of Force Development, Office of the Assistant Chief of Staff, J3—Operations Directorate—United Nations Command/United States Forces/Eighth United States Army, Korea. He commanded the 194th Armored Brigade, Fort Knox, KY and was the Chief of Staff of the 1st Cavalry Division, Fort Hood, TX.

After General Yeosock was assigned as the project manager, Saudi Arabian National Guard Modernization Program, he returned into the 1st Cavalry Division as the assistant division commander. General Yeosock left Fort Hood to assume duties as the Deputy Chief of Staff, Operations, U.S. Army Forces Command, Fort McPherson, GA, in January 1984. He again returned to Fort Hood and commanded the 1st Cavalry Division from June 1986 to May 1988. General Yeosock was then assigned as Assistant Deputy Chief of Staff for Operations and Plans, Headquarters, Department of the Army in June 1988. On March 16, 1988, he assumed the positions of deputy commanding general, Forces Command, and commanding general, 3d U.S. Army. His current assignment charges him with the rsponsibility of guiding the training and readiness of almost 1 million soldiers. This strategic force is made up of the Active Army, Army Reserve and Army National Guard who can respond rapidly to a broad spectrum of operations needs. As the commanding general of "Patton's Own" 3d Army, he must plan, exercise and deploy Army Forces in response to contingencies threatening vital United States interests in the 19-country area covering Southwest Asia, Northeast Africa and the Persian Gulf.

General Yeosock's awards include the Distinguished Service Medal, the Legion of Merit—with oak leaf cluster, the Bronze Star Medal with V Device—with oak leaf cluster, the Meritorious Service Medal, the Army Commendation Medal, the Combat Infantryman Badge, and the Army General Staff Identification Badge.

In addition, he has been named the "1990 Outstanding Engineer" at the Pennsylvania State University. This award is presented annually to recognize and reward graduates who have established themselves in their respective fields of engineering and who hold promise for continued contributions to the engineering profession. It is the highest honor that the college can bestow on one of its alumni.

He is married to the former Betta L. Hoffner of Clarks Summit, PA. They have a son, John, and his wife Lori, in Chicago, IL, and a daughter, Elizabeth J. Funk, the wife of an Army captain, Paul, in Germany with his grandson Matthew.

General Yeosock will be honored for his years of service during a testimonial dinner on Saturday, March 24, 1990. I know my colleagues in the House of Representatives will join me in congratulating General Yeosock on his dedication to his country and the great contributions he has made to the U.S. Army.

IN HONOR OF NEW YORK STATE SUPREME COURT JUSTICE JOSEPH G. GOLIA

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. MANTON. Mr. Speaker, it is my great honor and a distinct privilege to bring to my colleagues attention an outstanding jurist from my home State, New York State Supreme Court Justice Joseph G. Golia. My good friend Justice Golia has had a long and distinguished career, and he is being honored on March 27, 1990, by the Queens Borough Lodge No. 878 of the Benevolent and Protective Order of Elks. Lodge 878 is located in Elmhurst, Queens, which I have the pleasure to represent as the Representative of New York's Ninth Congressional District.

Mr. Speaker, as you might expect, Justice Golia has demonstrated an unyielding dedication to the law and his fellow citizen during his many years on the bench. He has received numerous honors and awards, including a

valued Presidential Citation by President Jimmy Carter.

Mr. Speaker, Justice Golia graduated from the New York Law School in 1965, after having received his bachelor's degree from New York University. From 1965 to 1968 he worked in the legal department of the Hartford Insurance Group in New York City. In 1968 he became an assistant district attorney for Queens County, where his outstanding work resulted in his appointment as chief of the youth bureau. His position as assistant district attorney provided him with substantial trial experience where he achieved an envious track record for convictions. Justice Golia also exhibited outstanding administrative skills within the district attorney's office, including managing the in-house computer network, and the supervision and training of other assistant district attorneys.

Upon completing his tenure with the district attorney's office in 1973, Justice Golia clerked for State Supreme Court Justice Bernard Dubin. This first experience within the State Supreme Court resulted in his appointment as principal law clerk. In 1982, Justice Golia was appointed as judge of the Civil Court, city of New York, where his professional capabilities resulted in his election to a full term in 1983.

Mr. Speaker, in January 1987, Justice Golia joined the bench of the Supreme Court of the State of New York where he has continued to exhibit his superior abilities and substantial knowledge of our laws and the legal system. I have no doubt Justice Golia will continue to excel as a justice of the New York Supreme Court.

Justice Golia's achievements are numerous, and they are not restricted to his professional activities. He has been active in many areas. While in undergraduate school, Joe was a member of the student council, Theta Chi fraternity, and the wrestling team. In law school, he was a member of both the Phi Delta Phi professional legal fraternity, as well as a representative to the Student Bar Association. Since leaving school, Joe Golia has been extremely active, achieving recognition in a variety of professional and volunteer positions; including membership in various bar associations and legal organizations, community planning boards, local Democratic organizations, the Queens County Youth Development Corp., and as Catholic Youth Organization basketball coach.

Mr. Speaker, I believe lodge 878 has made an excellent choice for their honoree in Joe Golia. He is a well-rounded individual who has exhibited many outstanding characteristics. He is a distinguished jurist and an active leader in his community. I am confident Justice Golia will continue to serve the law and our fellow citizens well in the years ahead. I hope my colleagues will join me in congratulating Justice Golia on his selection as "Man of the Year" by Elks Lodge 878. I also want to extend my congratulations to Joe's wife and their two children.

A TRIBUTE TO CAROL YOCOM

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today an outstanding and dedicated leader, Carol Yocom of Redlands, CA, who is being recognized on April 4 for her many years of community service. Indeed, Carol Yocom exemplifies the meaning of voluntarism and community service.

Carol Juanita Polumbus Yocom was born of Italian ancestry, the only child of Bill and Mable Polumbus in Tulsa, OK. She frequently reminds others that her grandfather, Emile Polumbus, came from Italy when he was 16 and was proud to be an American citizen when he died in 1961. From a very early age, Carol became involved in school and community activities, and she graduated from high school in 1947 ready to contribute her many skills and talents to the world.

Carol's life changed dramatically in 1955 when she met, and a year later, married a Navy man from California, K.G. (Jerry) Yocom. After moving to California in 1958, Carol became very involved in a number of community and service organizations including the local PTA, the March of Dimes, the Cub Scouts, the Heart Fund, and the San Jose City Council.

In 1968, Carol moved to Redlands where she met her now longtime friend, Mary Wilson, who introduced her to many new and varied community activities. Carol was elected president of the Redlands Republican Women in 1970–72 and served as a delegate to the National Republican Womens Convention in Washington, DC, in 1971 and in Dallas in 1975. In 1969, Carol began volunteering for the YWCA, an interest she has maintained to this day.

Never too busy to become more involved, Carol served as special gifts chairman for the United Way, vice president of the Contemporary Club, program chairman of the Breakfast Club, treasurer of Bowl Associates, and also participated in the Assistance League of Redlands, as well as her childrens' many school activities. Carol left Redlands in 1979, but returned 7 years later and continued to contribute her time and energy to the community through her involvement with the Assistance League, the Redlands Country Club, the Contemporary Club, and pursuing other interests too numerous to mention.

Mr. Speaker, helping people means everything to Carol Yocom. Please join me, her husband Jerry, her children, grandchildren, and many friends in thanking and congratulating Carol for her outstanding achievements and for offering so generously her time to our community. Her commitment, leadership, and hard work have made and will continue to make a difference to the people of Redlands in the years ahead.

WILMA JOHNSON RETIRES AFTER 34 YEARS OF SERVICE

HON. FORTNEY PETE STARK

SPEECH OF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Ms. Wilma Johnson, the director of Public Health Nursing Services for Alameda County, in California's Ninth Congressional District. Ms. Johnson is retiring after serving the community with distinction for 34 years.

After earning a B.S. from the Stanford School of Nursing, Ms. Johnson entered the nursing profession in 1952 as a registered nurse at Stanford University Hospital in San Francisco. In late 1952, she moved to New York where she completed her masters at Columbia University. She then returned to California and accepted a position at Kaiser Hospital in Oakland, CA.

In 1955, Ms. Johnson began her career as a staff public health nurse. She immediately began to show the supervisory and leadership skills which came to characterize her entire career by becoming involved in the development of many new and innovative programs at the hospital, including the "Oak-Chip" Program and the Home Health Care Program.

In 1977, Ms. Johnson became director of Public Health Nursing, a position she held until her retirement. As the community began to change and new health needs began to emerge, Ms. Johnson was instrumental in keeping nursing focused on, and advocating for such emergent health needs as interdisciplinary training for professionals serving the Chemically Dependent Families Project, the Drug Exposed Infant Project, AIDS Case Management and Education Projects, and the current measles epidemic.

As community health care and public health nursing became more complex and marked by rapid changes, Ms. Johnson provided a clear vision of the long-term picture as well as the nursing leadership which kept the focus on client and community services, positive action, and humanistic values.

Ms. Johnson has always been an advocate of both affirmative action and women rights—she is used to being the first. At her high school graduation she was not only the first black, but also the first female commencement speaker. She was the first black nursing student at Stanford, the first black public health nurse in Alameda County, and, the first black public health nursing director in both Alameda County and the State of California.

Ms. Johnson is the recipient of numerous awards including the Ross Award for Distinguished Service in Maternal and Child Health and, the North Award for Outstanding Professional from the California Public Health Association.

Ms. Johnson has also served on numerous professional and community boards and committees including the American Nurses Association, the American Public Health Association, the Bay Area Black Nurses Association, the Stanford Nurses Club, the California Conference of Local Health Department Nursing

Directors, the Oakland Chapter of Planned Parenthood, the YWCA, the Easter Seal Society, the College of Holy Names of Nursing, and the University of California Education Innovation Program.

Mr. Speaker, I would like to commend Ms. Johnson for 34 years of service to the community and to wish her happiness in her retirement. Her leadership and dedication will be missed by all.

THE BEACHES ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH ACT OF 1990

HON. WILLIAM J. HUGHES

SPEECH OF

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. HUGHES. Mr. Speaker, I rise today to introduce the Beaches Environmental Assessment, Closure, and Health Act of 1990. This legislation would require uniform beach testing and monitoring to improve and protect public safety and environmental quality of recreation waters along the coast.

Every year, millions of people visit our Nation's beaches to swim, surf, and walk along the shore. Yet, protection from bacteria and viruses in coastal waters may vary from State to State. High bacteria concentrations in the coastal waters of some States may only lead to an advisory warning, while in other States the beaches would be immediately closed.

The BEACH Act of 1990 would address these inconsistencies among States' water quality standards, testing methods, and decisions to close beaches. It would establish a 15-member clean coastal beaches council to develop new criteria and protocols for uniform monitoring of coastal recreational waters.

The council would be chaired by the National Oceanic and Atmospheric Administration [NOAA] and include representatives of the Environmental Protection Agency [EPA], the National Institute of Environmental Health Sciences, the National Academy of Sciences, coastal States, and public and private organizations.

The Council would develop environmental quality criteria for pathogens, disease-carrying organisms, and floatable debris in coastal zone recreational waters. The Council woud also develop uniform beach monitoring and testing protocols.

Each coastal State with a federally certified Coastal Zone Management Program would be required to submit a coastal beaches plan for approval by NOAA to become part of its Coastal Zone Management Program. The plan would identify the recreational waters in the State, detail the steps the State will take to assure its recreational waters comply with the criteria, contain procedures for monitoring and testing beaches, describe a process the State will use to close beaches that are found to exceed that criteria and to reopen those beaches when they are clean. It will also provide for penalties to be assessed against persons whose activities resulted in a beach closure.

Clean beaches are essential to public health and the environment. Clean beaches are also necessary economically. In 1989, State beaches in New Jersey, for example, attracted 5.7 million vacationers, who spent some $7.5 billion. In Florida, over 13 million people used the State's beaches, generating over $4.5 billion in revenues.

The tourist industry of coastal States along the east, west, and gulf coasts, and the Great Lakes rely on clean beaches and coastal waters. However, all have endured water quality and marine debris problems. If coastal States are to continue to attract people to their beaches and assure their health and well-being, action is needed to develop national criteria and uniform beach monitoring procedures.

My own State of New Jersey has adopted one of the strictest beach monitoring programs in the country. By testing weekly at some 300 sites along the coast, beach-goers are assured that the waters are safe for swimming—if not, the beaches are closed. While this program has resulted occasionally in negative publicity and public concern over the quality of New Jersey's coastal waters, it has served the public interest and will benefit our economy in the long term.

Incidents of high bacteria concentrations in coastal waters may happen anywhere along our Nation's coast. All coastal States should be required to respond effectively and in the same manner. As importantly, the public should have the right to know the true water quality.

THE INTRODUCTION OF LEGISLATION TO REAUTHORIZE THE INDIAN ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT ACT OF 1986

HON. MORRIS K. UDALL

SPEECH OF

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. UDALL. Mr. Speaker, President Bush and the Congress have joined together in a bipartisan effort to declare war on alcohol and substance abuse. These efforts have been set forth in comprehensive legislation which begins to address the crisis our society faces in combating drug abuse. I am pleased to note that the Omnibus Drug Act included native Americans.

The epidemic of drug addiction discriminates against no one. It has touched people of all races. Men, women, children and even the unborn all have become victims. While we have provided great resources in the area of eradication, more needs to be done in the area of treatment and prevention. Nowhere is this more true than on Indian reservations. As chairman of the House Interior Committee, I have seen the devastating impact that alcohol and substance abuse has had on Indian people.

There are now more than 1.5 million native Americans who live on reservations and in urban areas. Statistics concerning native Americans are grim. It can be argued that native Americans are among the most impoverished population in the United States. Unemployment ranges anywhere from 65 to 80 percent and more than one-third live below the poverty line. Many reservations and Indian communities are located in rural isolated areas where it is hard to obtain basic services such as running water and electricity. These life situations have led to a high rate of alcoholism, crime and suicide.

Alcohol and substance abuse is the leading health and social risk factor among Indians. Alcohol-related deaths are above the norm. Four of the top 10 causes of death among Indians are alcohol and drug-related. In response to these statistics, my committee developed comprehensive alcohol and substance abuse legislation specific to the unique needs of Indian people. Public Law 99-570, the Omnibus Drug Act included the Indian Alcohol and Substance Abuse Prevention and Treatment Act which provides direction, to the Bureau of Indian Affairs and the Indian Health Service for several initiatives which we believe are responsive to the situations in Indian communities. Today, I am introducing legislation to reauthorize these critical programs.

The following is a brief summary of broad array of programs authorized in the act. First, the Bureau of Indian Affairs has responsibility for programs in education, social services, and law enforcement. In the area of prevention, the Indian Alcohol and Substance Abuse Prevention Act implements educational programs in the schools. The Bureau assists Indian tribes in establishing, licensing, and operating emergency shelters or half-way houses for Indian youth who are alcohol or substance abusers. The Bureau also provides law enforcement and judicial training for investigation and prosecution of offenses relating to illegal narcotics and in alcohol and substance abuse prevention and treatment.

The Indian Health Service provides various health services relating to alcohol and substance abuse prevention, treatment and rehabilitation efforts. The IHS is the primary health care provider for educational intervention in Indian communities; acute detoxification and treatment; community-based rehabilitation programs; and training of health care personnel. The IHS is responsible for establishing in-patient youth alcohol treatment centers in each of its 11 regional areas. This includes funds for constructing or renovating such facilities. In addition, IHS makes funds available for staffing and operation of treatment centers. When services are not available, the IHS may enter into contracts with public or private providers. This legislation also provides similar health-related services to the Indian urban population.

As you can see, we have the mechanism in place to address drug abuse on Indian reservations. The Indian Alcohol and Substance Abuse Prevention and Treatment Act is due for reauthorization. I hope my colleagues will join me in supporting reauthorization and amendment of this critical legislation.

39-059 O-91-15 (Pt. 4)

TRIBUTE TO THE ACHIEVEMENT SCHOLARSHIP PROGRAM

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. SCHAEFER. Mr. Speaker, a new milestone has been reached by a successful citizen program in this area designed to slow down the revolving door for the ex-offender. The Achievement Scholarship Program [ASP] has been taken over by the ARCH Training Center of Washington, DC to assure ASP's future.

ASP provides second-chance seed-money scholarships to ex-offenders on parole/probation in the Washington, DC metro area to help them attend college, trade school or special school and move back into the community as productive citizens.

ASP was founded in February 1973 by Helene C. Monberg, a native of Leadville, CO, and a veteran Washington newswoman with a long history of working with youth. Now semiretired, Ms. Monberg recommended to the ASP board of directors, and it approved on November 30, 1989, the transfer of administration of ASP to the ARCH Training Center.

Both ASP and ARCH are Washington-based, nonprofit, tax-exempt organizations. ARCH provides on-the-job training [OJT] and other services to disadvantaged youths in the Washington metro area. Previously independent, ASP has become, in effect, the college and trade-school arm of ARCH under a new board of directors. ARCH President Duane Gautier, who directs the community development services program for the Potomac Electric Power Co. [Pepco], has taken over as ASP's new president. He succeeds Ms. Monberg, ASP's founder, who has become ASP president emeritus and a member of the new ASP board of directors.

The success of ASP speaks for itself. From February 1973 through November 1989 ASP provided more than 340 scholarships to Washington metro area youths to attend college, trade school, special school or OJT. Its' awardees have maintained a completion rate consistently higher than for the general population, even though all ASP recipients are ex-offenders, mainly young black males. From January 1986 through July 1989 ASP's completion rate stood at 40.6 percent, twice that of the general population for post-high school completions. During ASP's nearly 17-year life span, the completion rate stood at 29.7 percent, also much higher than for the general population. Additionally, the recidivism rate for ASP recipients has been low, less than 5-percent.

Always privately funded, ASP scholarships have increased over the years, from a low of two at $500 in 1973, when the program was founded, to a high of 42 scholarships awarded in 1988 at $1,500 per scholarship. The ASP board voted in May 1989 to increase the ASP scholarship in 1990 to $1,600 per awardee. About $400,000 was raised for ASP from 1973-89 from private sources only and no qualified applicant has ever been turned down for lack of funds. ASP has always operated in the black.

Since 1978, ASP has been the recipient of nine awards and citations for its no-nonsense approach to help those in need who want to help themselves.

Political writer Neal R. Pierce, who has served on the ASP board of directors and is a long-time ASP contributor, recently stated that under Ms. Monbergs guidance, ASP befriended youths, overwhelmingly black, who'd gone so far astray as to get into prison. She looked these young in the eye, told them they could make it, could advance their educations, and they responded. The product is there to see today—in hundreds of saved advanced, successful lives. In the meantime she looked hundreds of us, her friends, in the eye. We had to help ASP help these young people with their educations, she said. Of course, we responded.

Donald H. Shannon, a Washington correspondent for the Los Angeles Times, also a long-time contributor to ASP, recently said: "ASP represents the best kind of help that can be given or received: it's helping people help themselves. Teaching a skill and following the student into the job comes as close to a fail-safe method as anybody has come up with yet to get a youth on his feet after a bad start." He called ASP a program with heart.

IN RECOGNITION OF CHARLES A. WEEKS ON BEING NAMED AS MISSISSIPPI'S NEH/READER'S DIGEST TEACHER-SCHOLAR FOR 1990

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress, in the people's Chamber, to speak in honor of a great citizen of my district, Charles A. Weeks.

Mr. Weeks, who teaches humanities at St. Andrews Episcopal School in Jackson, MS, has been named as Mississippi's National Endowment for the Humanities/Reader's Digest Teacher-Scholar for 1990. He holds a bachelor's degree in European history from Dartmouth College in New Hamsphire, a master's degree in American history from the University of Michigan, Ann Arbor, and a Ph.D. in Latin-American history from Indiana University. Mr. Weeks will use the award to study conflicts between European and native American cultures in the Old Southwest between 1527 and 1820.

Mr. Speaker, I am pleased to have this opportunity to recognize one of Mississippi's great educators. I am sure that every Mississippian would join me in wishing him the best in his year of independent study in the humanities.

THE MARITIME ADMINISTRATION BETRAYS MANDATE

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. ENGEL. Mr. Speaker, the U.S. Maritime Administration is responsible for developing and maintaining a strong U.S. merchant marine capable of meeting our Nation's requirement for both commercial trade and national defense. They are further directed to ensure adequate seafaring manpower for peacetime and national emergencies.

For this reason, I was dismayed and shocked to discover that MarAd had conditionally agreed to approve the sale of the SS *Monterey* to a foreign corporation. If the approval is allowed to stand, foreign interests will be the sole beneficiaries. This decision will also ensure that the many American enterprises and citizens who are creditors of the SS *Monterey* will never recover any of their losses.

It will ensure the loss of a vital national security asset and with it the U.S. jobs, taxes, and other economic benefits that would be generated by its U.S.-flag passenger vessel operation.

The Maritime Administration has no financial interest in this vessel. Therefore, their action will generate no money for the U.S. Government. Instead, this pure and simple bailout for foreign interests will forever serve as a prime example of the betrayal of their mandate.

Our merchant fleet and commercial sealift capability are at their lowest point since World War II. We cannot afford further destruction of our minuscule fleet.

I call on my colleagues to demand that this approval be reversed. If MarAd refuses, I call for oversight hearings so that MarAd will have an opportunity to explain their protection of foreign interests.

WATSON HIGH SCHOOL GRADUATING CLASSES 1948-54

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. ANTHONY. Mr. Speaker, today I rise to recognize the many men and women whose educational background originated at Watson High School in Watson, AR, located in my district. This weekend dozens of graduates from the classes of 1948-54 will gather at the annual Watson Fish Fry to participate in a reunion.

I commend the many teachers, administrators, and community leaders who over the years supported the educational endeavors of the Watson High School and its deserving students. Mr. Speaker, I am delighted to pay tribute to an outstanding vessel of public education and ask my colleagues in the Congress to take notice of the productive contribution to the community and this country which Watson High School has made in the form of its grad-

uates from 1948 through 1954. Clearly, the people of Watson, AR, are truly fortunate to be served by this dedicated educational entity.

HONORING BERT DONLIN

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. HERTEL. Mr. Speaker, I rise today to honor Bert Donlin, on the occasion of his 80th birthday.

Bert has a long and interesting history of involvement in politics for over 60 years. It first began in Huron, SD, where he became involved in Al Smith's Presidential campaign in 1928. Shortly thereafter he held his first political office as the president of the Huron County Young Democrats where he became first acquainted with Hubert Humphrey who was the president of the neighboring county's young Democrats chapter. He continued his interest in politics by helping his mother's successful bid for county clerk.

In the 1930's with some political experience under his belt, he left South Dakota and headed for Michigan. He began to work at Chrysler and got involved in UAW Local 7. This is where he first met Walter Reuther and Doug Fraser and continued involvement in UAW politics. He later served as the deputy sheriff for Wayne County yet always found time for politics. He worked on Harry Truman's 1948 campaign and also on G. Mennen Williams' campaigns for Governor of Michigan.

Bert was instrumental in getting a strong and active 14th District Democratic Party in the 1950's. He discovered Bill Ryan, a former speaker of the Michigan House of Representatives, Zolton Ferency, and Michigan State Representative Robert Mahoney. The 14th District was an exciting place to be during that time. Every meeting had over 150 people and huge parties and banquets were held. In 1956 when Bert was still chair he hosted a banquet which featured John F. Kennedy. This was one of the most memorable events for the 14th District Democratic Party.

In the 1960's he worked on Jerry Cavanaugh's first campaign as mayor of Detroit and was later named by him the secretary of the board of health. He served in this position until 1969 when he became a bailiff in the Wayne County Courts and later retired in 1980 at the age of 70.

Bert Donlin is a man of tremendous ambition and always full of energy. He is a legend in Michigan politics and has contributed greatly to the Michigan Democratic Party and the State of Michigan. My dear colleagues please join me in honoring an outstanding individual on the occasion of his 80th birthday.

PANAMA CONGRATULATIONS

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. HUTTO. Mr. Speaker, my constituent, Walther H. Humphrey of Fort Walton Beach, FL, has asked that I make the following telegram which was sent to President George Bush on the morning after the Panama invasion a part of the official record of the House of Representatives:

DEAR MR. PRESIDENT: On behalf of the Board of Directors and the 2,000 plus member of the Air Commando Association, an organization dedicated to the support of Special Operation Forces, we commend you and offer our congratulations on your decision to take military action in Panama. We are confident that the vast majority of the American people are fully behind you in this undertaking.

For much too long America has been humiliated by the self-proclaimed Dictator Noriega. The people of Panama have been denied the services of a government duly elected by the majority of their citizens in accord with democratic processes, America's society has been damaged greatly by the criminal drug activities of Noriega, and until now he has avoided appropriate legal proceedings, or otherwise been held accountable.

We are profoundly proud of you, our Nation, and the gallant members of our military services as we follow the developments of America's expression of will to do what is morally our obligatiion.

WALTER H. HUMPHREY,
President, Air Commando Association, Fort Walton Beach, FL.

H.R. 3581—THE RURAL ECONOMIC DEVELOPMENT AND EDUCATION PARTNERSHIP ACT OF 1990

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. WILLIAMS. Mr. Speaker, I was pleased to work with my colleague GLEN ENGLISH on H.R. 3581, the Rural Economic Development and Education Partnership Act of 1990. As he knows, I would have preferred adding a rural education component to this package, but the rule didn't allow me to offer it.

Nevertheless, were I not on important business in Montana, I would be joining Mr. ENGLISH, both in working and voting for this bill.

A TRIBUTE TO JAMES F. COUCH, JR.

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. HOYER. Mr. Speaker, today I rise in tribute to Judge James F. Couch, Jr., a friend and constituent of mine, who passed away on March 4, 1990.

Judge Couch had a remarkable career in the judiciary. He was the only Marylander in history to serve at every level of the judiciary in our State. In 1987, he had retired judge of the Maryland Court of Appeals. It had been my privilege and honor to support him in his nominations both to the Maryland District Court and to the circuit court early in his judicial career.

Judge Couch began his judicial career in 1971 when he was appointed to a position on Maryland's District Court. A year later he was elevated to the circuit court to handle cases from Prince George's County and Southern Maryland. From 1977 to 1982, he served on the court of special appeals. With his appointment to the court of appeals in 1982, he became the first and, to date, only judge to serve at all four levels of the Maryland court system. Clearly, James Couch was a brilliant judge.

Before becoming a judge, Jim Couch was the senior partner in the law firm of Couch, Blackwell & Miller. He was president of the Prince Georges Bar Association in 1967 and 1968. I first came to know him because of the very active role he played in democratic politics as I was beginning my political career.

Throughout his career as an attorney and judge, Jim Couch was known for his intelligence and for the fair manner in which he treated everyone. Young people who knew Jim Couch will remember him as always ready to lend a hand or guidance.

My wife Judy and I want to send our heartfelt sympathy to Jim's lovely wife Evelyn, his son, Jimmy, his two grandchildren Chris and Alice, and his brother Joseph.

HONORING EDWARD J. ANGELETTI RECIPIENT OF THE THOMAS D'ALESANDRO GOOD CITIZEN AWARD

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Ms. PELOSI. Mr. Speaker, I rise to congratulate Edward J. Angeletti who will be receiving the Thomas D'Alesandro good citizen award on April 20, 1990. The award is being given to Judge Angeletti by the order of the sons of Italy in America. Judge Angeletti is the State chairman of the OSIA in Maryland.

Edward Angeletti was born in Pittsburgh, PA, on January 26, 1931. He received a B.A. in criminology from the University of Maryland in 1960. He received his LL.B and J.D. from the University of Maryland School of Law in 1963. He was admitted to the Maryland bar in 1963. He is a member of the American, Maryland State, and Baltimore City Bar Associations; American Judicature Society, and the Archdiocesan Pastoral Council, Baltimore.

Judge Angeletti served in the U.S. Army from 1955 to 1957. He was an assistant State's attorney for Baltimore City from 1963 to 1967 and an assistant public defender for Baltimore City from 1971 to 1979.

Gov. Harry Hughes appointed Judge Angeletti to the district court for Baltimore City in 1981, and later to the circuit court for Baltimore City in 1983. Judge Angeletti currently serves as the administrative judge for criminal matters in the circuit court for Baltimore City.

Over his career, Judge Angeletti has handled thousands of cases. He is a humanitarian, and his integrity is above reproach. His devotion to the Italian-American community is well documented.

TRIBUTE TO ROBERT W. JONES

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to attorney Robert W. Jones, who passed away on February 2. Robert Jones was a man who devoted his life to serving those less fortunate than himself. He was a brilliant criminal lawyer and a devoted family man. The community has truly suffered a great loss.

Robert Jones began practicing law in 1960. A graduate of Youngstown Law School, Robert has been described by close friends as "a classic lawyer for the underdog." Attorney Calvin Woodward best summed up the life of Robert Jones when he said, "He found the good—at least one good thing—in every person and that is difficult in our profession." Robert was well known for his integrity and strong sense of fairness. He believed in justice for all, and was dedicated to ensuring that the less fortunate had their rights protected.

In addition to his work as an attorney, Robert Jones was also involved in many community organizations. He served as a special counsel to the State attorney general and as a trustee of the Ohio Academy of Trial Lawyers. Robert was a member of the Ohio State and Trumbell County bar associations, the National Association of Criminal Defense Lawyers, and the American Trial Lawyers Association. He was also a former trustee and general counsel of the First Methodist Church and a former president of the Warren Optimist Club. He was involved as well in the Trumbell County Council on Alcoholism, the Trumbell County Mental Health Center, and the Civil Service Commission.

Mr. Speaker, Robert Jones stands as a model of compassion and human service. His outstanding contributions to his community have made him a towering example of leadership and citizenship. We would all do well to follow the example of this generous man. Robert will always live in the memories and hearts of those who knew and loved him. We will long remember Robert Jones for his tremendous gifts to his fellow human beings.

NATIONAL AGENT ORANGE SCREENING AWARENESS WEEK

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. HASTERT. Mr. Speaker, today, my esteemed colleague, LYNN MARTIN, introduced a resolution proclaiming July 8 through 14 "National Agent Orange Screening Awareness Week." I support her efforts to heighten the awareness of agent orange screening among Vietnam veterans.

This resolution encourages the over 3 million Vietnam veterans to be screened at their local VA clinic. Although the screening itself does not reveal if the dioxin is in the veteran's system, it can reveal previously undetected conditions which may require treatment.

It is extremely vital that all Vietnam veterans be screened. Many veterans came into contact with agent orange during their service in Vietnam. Of those veterans exposed to agent orange, only 239,000 have been screened. A majority of veterans who were exposed to agent orange therefore have not been screened and may be experiencing medical complications that could be treated if screened by a VA clinic.

We owe an enormous debt of gratitude to the many men and women who fought for democracy in Southeast Asia. This resolution is but one way that we as a Nation can demonstrate our concern for the health and welfare of the veteran.

MARITIME ADMINISTRATION AT ODDS WITH MANDATE

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. MAVROULES. Mr. Speaker, the U.S. maritime industry is at its lowest point since World War II. Those of us who strongly believe in the importance to this Nation of a vital and growing merchant marine have long been concerned about its decline.

Therefore, I am extemely disturbed to learn that the Maritime Administration has conditionally approved the sale of the SS *Monterey* to a foreign corporation. I find it unbelievable that the agency entrusted with the responsibility for developing and maintaining a strong U.S. merchant marine could so completely ignore its mandate.

If MarAd goes forward with this planned approval, they will have turned their backs on the industry they were created to preserve and protect. They will have ignored their mandate to the benefit of foreign interests and the detriment of the U.S.-flag merchant marine and the American taxpayer.

MarAd has no financial interest to protect in the SS *Monterey.* This proposed action will generate no revenues for the U.S. Government. What it will do is lose the U.S. jobs, taxes, and other economic benefits generated by the U.S.-flag passenger operation.

What makes this proposed action even more dangerous is that the impact will not be limited to the SS *Monterey* but would in all probability, ensure that no new U.S.-flag cruise ships would enter into operation in domestic trade. Why? After such a clear and negative message that, in the opinion of MarAd, Americans cannot successfully operate in this trade, no lending institution would retain confidence in American shipping.

I urge my colleagues to take the strongest possible action to convince MarAd to reverse this ill-conceived action and return to carrying out their original mandate.

CONGRATULATIONS TO BOB FEENEY, DISTRICT COORDINATOR OF BICENTENNIAL PROGRAMS

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. HOCHBRUECKNER. Mr. Speaker, we have just witnessed a year in which millions of people have toppled governments in their quest for freedom and democracy. We, who have benefitted from the longest lasting constitutional democracy in history, should rejoice in the courage and strength of those citizens who recognized the importance of the freedom we have cherished for so long.

At the same time, we must not neglect to pass on to our own youth the understanding of the fundamental principles and values of our democratic institutions. In this regard I would like to commend the efforts of Bob Feeney, chairman of social studies for the William Floyd School District of Long Island, whose dedication to educating our students has been exemplary. Mr. Feeney coordinates the "We the People" bicentennial programs of the Constitution and Bill of Rights in the first congressional district. That program includes the National Bicentennial Competition, its noncompetitive companion program, Congress and the Constitution, and the National Historical Pictorial Map Contest.

Through Mr. Feeney's efforts, thousands of upper elementary, middle and high school students have studied the program's curriculum. Under his tutelage, the Smithtown East School District has become the State champion this year. But, more importantly our young people were introduced to the philosophy of our Founding Fathers and the issues and debates that shaped the writing of our Constitution. These students learned how our Government works and how it protects the rights and liberties of all citizens. They also learned the responsibilities of every citizen who is part of a democracy.

At a time when only one in five eligible voters under 30 takes the time to vote, it is very necessary to reach our young so that they understand how vital it is that they become informed, educated citizens who exercise their right to choose. I feel that Mr. Feeney has made an impressive contribution toward that goal.

EARTH DAY 1990

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. SANGMEISTER. Mr. Speaker, I rise today to remind my colleagues that "Earth Day 1990" is only 32 days away. Hopefully, on this day, everyone will rise to the challenge of assuring a clean environment for future generations. We must all start identifying ways, however small, that we can contribute

to help preserve our planet—be it by reusing plastic materials, recycling newspapers, or something as simple as remembering to turn off the lights in our home. Earth Day offers us the ideal opportunity to draw attention to problems that transcend party affiliation or national boundaries. I encourage Members to participate in this event and want to emphasize the importance of getting children involved. In my district, I am sponsoring an Earth Day coloring contest for elementary students, and an essay contest at the junior high level. These projects are easy to organize and a fun, effective way of raising our kids' environmental awareness. There is still time to become involved in Earth Day and make an impact. I encourage every Member to do so because what cause is more important than educating our kids and preserving our environment?

TRIBUTE TO ANN LOEHNERT KITZMILLER

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. GILLMOR. Mr. Speaker, I rise today to honor Mrs. Ann Loehnert Kitzmiller, an outstanding Ohioan. I often try to place the spotlight on the citizens in my State who set a fine example for others to follow, and Ann Kitzmiller is one such citizen.

Mrs. Kitzmiller has had a distinguished professional career in fields ranging from education to personnel management to public relations. But her job experience only tells a small part of her ability to contribute to the society around her. I have heard much about her personal contributions of time and effort to that which she puts her mind to; particularly the National Society, Daughters of the American Revolution.

Her service in numerous DAR leadership positions, culminating in her service as State Regent of Ohio, is evidence of the respect and esteem that she has earned from her peers. In all of these positions of responsibility, Ann Kitzmiller has been an admirable embodiment of traditional values and American strength.

Whether it is her religious, political, or community activism, Ann Kitzmiller has labored to seize the opportunities and responsibilities that our freedom gives us. It is for this reason, Mr. Speaker, that I pay tribute to her today.

CAMP WITHYCOMBE/CAMP RILEA LAND TRANSFER LEGISLATION

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. DENNY SMITH. Mr. Speaker, today I am introducing, along with my colleagues from Oregon, Mr. AUCOIN and Mr. DEFAZIO, the House companion legislation to S. 1948. This bill would exchange Federal reversionary interest in Camp Withycombe, Clackamas County, for a contingent interest in Camp Rilea, Clatsop County. This transfer will be at no cost to the Federal Government, despite the fact that the value of the land and improvements at Camp Rilea is twice that of Camp Withycombe.

The State of Oregon needs to use 156 of the 234 acres at Camp Withycombe for a much needed extension of an expressway designed to relieve hazardous congestion at a nearby interchange. The other 3 acres included in the reversion—which are not contiguous with the rest of the camp—would be used to establish a railroad museum. The final 75 acres would maintain their current status, and still be subject to the original reversion clause.

In exchange for this land, the State of Oregon has generously offered the Federal Government a reversionary interest in a 166-acre parcel of land at Camp Rilea. This land has already undergone numerous improvements, and is a much better facility than Camp Withycombe. It has close access to the deep-water port at Astoria, as well as extensive road, sewage, water, and electrical distribution systems. It currently has no reversionary interests, but this legislation would complete transfer of the interests from the Camp Withycombe parcel to Camp Rilea, ensuring the Federal Government full access to the tract in time of national emergency. Finally, this entire transfer would take place without any additional financial commitment on the part of the Federal Government.

I believe this trade is in the best interests of both the United States of America, and the State of Oregon. I urge quick consideration of this legislation, and urge my colleagues to support this bill when it comes to the floor.

TRIBUTE TO CAPTAIN DON GENTILE

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. WYLIE. Mr. Speaker, I would like to bring to the attention of the House of Representatives a move to strike a Congressional Gold Medal in honor of the late Capt. Don Gentile, an American Air Force hero in World War II.

Captain Gentile was born in Piqua, OH on December 6, 1920. He was a sensitive, shy, and devoutly religious young man who suffered deep anguish over the deaths not only of his friends and comrades but also the killing of the German Luftwaffe airmen he shot down. When he destroyed his 30th Nazi warplane, on April 8, 1944, Captain Gentile had shot down more enemy aircraft than any fighter pilot in American history. This achievement propelled him into the national spotlight as a war hero. Captain Gentile was tragically killed at the age of 30 when he sacrificed his own life in a vain attempt to save the passenger in his 2-seater training jet.

Gentile's decorations include 2 Distinguished Service Crosses (our country's second-highest award), 8 Distinguished Flying Crosses, the Silver Star, 4 Air Medals, and various British, Italian, Belgian, and French medals, totaling 26 in all. A Congressional Gold Medal would convey the gratitude of a thankful nation to Captain Gentile's family. It is past time to bestow this national honor. I hope that those who have not already done so can join me and a growing number of our colleagues in cosponsoring H.R. 2436, Congressman ANNUNZIO'S bill to award a Congressional Gold Medal to Don Gentile.

TIRGU MURES VIOLENCE

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. MCEWEN. Mr. Speaker, it is with disgust I learned from the Washington Times of March 20 about the violence done to the Hungarian leadership in Tirgu Mures (Marosvasarhely) resulting in the vicious beating of the best know Hungarian playwright in Rumania, Andras Suto. Suto had to be brought to Budapest by helicopter via Bucharest to a hospital. He is unable to see with one of his eyes, suffered broken ribs and a broken arm and also abdominal injuries from kicking.

Is hatred going to replace the brutal communism of Ceausescu in Rumania? Is the army, which is the power behind President Iliescu going to countenance and even promote anti-Hungarian violence? Yesterday peaceful Hungarian demonstrators in Tirgu Mures were met with armed gangs of the Vatra Romanesca (Rumanian Hearth) and attacked viciously.

I call upon our State Department to protest in strongest terms this return to medieval barbarism in Tirgu Mures (Marosvasarhely).

PRESIDENTIAL ELECTION IN THE REPUBLIC OF CHINA

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. YATRON. Mr. Speaker, the Republic of China's National Assembly just elected President Lee Teng-hui and Dr. Li Yuan-zu as the eighth president and vice president of the Republic of China. This is good news for the United States, because we can be assured that over the next 6 years the Republic of China will continue its present successful economic and political policies.

Taiwan is a prosperous country. Its GNP of $7,300 is comparable to Japan's GNP a decade ago. The people of Taiwan are well-educated and friendly toward the United States. Its cabinet level ministers of state include Chicago-educated, Lien Chan and Georgetown Ph.D, James Soong. Most importantly, Taiwan is committed to improving its existing relationship with the United States and closing the trade gap within the next few years.

Mr. Speaker, Taiwan is a major economic power—being our fifth largest trading partner and the 13th largest economic entity in the world. It is therefore important for the United States Government to promote Taiwan's

place in the international community, such as supporting its application for membership to the General Agreement on Tariffs and Trade [GATT] and in the Organization of Economic Cooperation and Development [OECD].

Politically, Taiwan has moved steadily toward a full constitutional democracy. In its latest annual survey, the New York-based human rights organization, Freedom House gave Taiwan high ratings in both categories of political rights and civil liberties. I hope to see even more political reforms in the months and years ahead in the Republic of China in such areas as political pluralism, press liberalization, and parliamentary rejuvenation.

In the last 18 months, the Republic of China on Taiwan has been well represented by Minister Ding Mou-shih. Ambassador Ding is a premier diplomat, who has considerable knowledge about issues affecting the Republic of China and the United States. He has significantly enhanced our understanding of his country, his people, and his president, to whom we send our warmest congratulations on the occasion of his being elected as the chief executive of our friend across the Pacific: the Republic of China.

INTRODUCTION OF THE OILSEEDS EQUITY LOAN ACT OF 1990

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. JOHNSON of South Dakota. Mr. Speaker, I am today introducing the "Oilseeds Equity Loan Act of 1990 or OELA," which will provide producers of sunflowers, rapeseed—including canola—safflowerseed, and flaxseed, with an adequate level of income support and planting flexibility for the 1991 through 1995 crop years.

This legislation addresses one of the major flaws in the Food Security Act of 1985—the lack of meaningful opportunity and incentive for farmers to produce oilseeds as part of their rotation with traditional program crops. Outside the Farm Program, oilseeds have had to compete not only with the stimulus of current programs to increase base acreage, but with the mandated expansion of the Conservation Reserve Program. Moveover, the absence of equitable income protection has made the U.S. oilseed sector vulnerable to the rapid growth in oilseed production and subsidized exports by our major foreign competitors.

The crisis facing our domestic oilseed industries can be best summarized in terms of the devastation of sunflower production during the 1980's. In 1981, sunflower acreage reached a high of 5.5 million acres. Last year, sunflowers were produced on only 1.8 million acres—a decline of nearly 70 percent. Half of the sunflower crushing facilities have gone through bankruptcy in the past decade, and the remaining plants are operating at between 50 percent and 62 percent of capacity.

The same conditions now confront efforts to develop a viable canola industry in the United States. Canola has the lowest saturated fat content of any vegetable oil—about 6 percent. Canola oil was approved for food use by the Food and Drug Administration in 1985. Since then, the United States has imported the annual equivalent of 450,000 acres, primarily from Canada. If this promising and healthful new crop is going to become a part of farmers' planting rotations, we must provide fair and balanced treatment, both between oilseeds and between oilseeds and program crops.

Much has been said about the benefits of increasing the flexibility of the current Farm Program to allow farmers to choose the best crops for their operations, based on market prices, weather conditions and environmental concerns. The reality is that if we are going to address this issue in this year's farm bill, flexibility must either be coupled with crop-specific income protection or decoupled from program benefits, as proposed by the administration.

In my view, current farm policies provide a needed and necessary relationship between production decisions and program eligibility for individual program crops. This approach has worked well in providing voluntary incentives for producers to reduce production when supplies of a particular crop have been excessive. Rather than eliminating the time between production decisions and benefits, we need to find a way to provide equitable treatment for oilseeds, combined with the flexibility farmers need in order to choose the crops which best fit their rotations.

The "Oilseed Equity Loan Act of 1990" responds to both of these needs. First, it will establish an income protection level for sunflowers, canola, rapeseed, safflower and flax that reflects historical price relationships between these crops and wheat, which is the primary program crop produced in the same growing regions of the country. The level of support could be reduced by up to 10 percent in order to maintain the proper relationship with the support levels of alternative crops, taking into account supply and demand factors and any unpaid acreage limitation programs.

Second, this approach allows farmers to repay their equity loan at prevailing world market prices. This is similar to the highly successful marketing loans which the 1985 act established for cotton and rice. Repayment at an adjusted world price will ensure the competitiveness of U.S. oilseeds products with exports of our global competitors.

Finally, my legislation will provide producers the opportunity to substitute oilseeds on up to 30 percent of their program crop permitted acreage, without loss of base. Substituted oilseeds will be eligible for the equity loan rather than for program crop deficiency payments. This approach will put oilseeds on an equal footing with program crops in years when market prices, weather or other considerations encourage rotation on base acreage.

In conclusion, I hope this legislation will provide my colleagues on the Agriculture Committee with a useful starting point for consideration on how to best address the current crisis in the oilseed industry, and the need for greater flexibility.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 22, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 23

9:00 a.m.

Foreign Relations

Western Hemisphere and Peace Corps Affairs Subcommittee

To hold hearings on U.S. policy with respect to El Salvador.

SD-419

9:30 a.m.

Finance

Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee

To hold hearings to review the Internal Revenue Code rules governing private pension plans and options for simplification.

SD-215

Small Business

To hold hearings on small business opportunities with the Soviet Union and Eastern Europe.

SR-428A

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Agriculture, focusing on the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, and Agricultural Marketing Service.

SD-138

Appropriations

Legislative Branch Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1991 for the Architect of the Capitol, and the Capitol Police Board.

SD-116

Banking, Housing, and Urban Affairs

To hold hearings on the nominations of David W. Mullins, Jr., of Arkansas, and Edward W. Kelley, Jr., of Texas, each to be a Member of the Board of Governors of the Federal Reserve System, and Robert H. Swan, of Utah,

to be a Member of the National Credit Union Administration Board.
SD-538

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on proposed legislation reauthorizing funds for the Institute of Museum Services.
SD-430

MARCH 26

9:30 a.m.
Energy and Natural Resources
To hold hearings to examine the outlook for the world oil market in the 1990s and its implications for U.S. energy, economic, and security interests, focusing on future price and production patterns, the effect of recent events in Eastern bloc nations, the role of OPEC, and implications of new environmental policies.
SD-366

10:30 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for military construction programs, focusing on base closure and NATO infrastructure.
SD-192

2:00 p.m.
Armed Services Readiness, Sustainability and Support Subcommittee
To resume hearings on S. 2171, to authorize funds for fiscal year 1991 for military functions of the Department of Defense, and to prescribe military personnel levels for fiscal year 1991, focusing on ammunition programs.
SR-222

MARCH 27

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on manpower and personnel programs.
SD-192

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-138

Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 1355, to assist private industry in establishing a uniform residential energy efficiency rating system.
SD-366

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Consumer Product Safety Commission, the Consumer Information Center, and the Office of Consumer Affairs.
S-126, Capitol

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Indian Health Service of the Department of Health and Human Services, and the U.S. Fish and Wildlife Service, Department of the Interior.
S-128, Capitol

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SD-G50

11:00 a.m.
Finance
To hold hearings to examine savings trends in the United States and proposals to improve the low rate of personal savings.
SD-215

Judiciary
To hold joint hearings with the Caucus on International Narcotics Control to examine recent developments in Andean nations.
SD-226

11:15 a.m.
Environment and Public Works
To hold hearings on the nominations of L. Joyce Hampers, of Massachusetts, to be an Assistant Secretary of Commerce for Economic Development, and Brig. Gen. Arthur E. Williams, to be a member and president of the Mississippi River Commission.
SD-406

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SD-192

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on Central America.
SD-366

MARCH 28

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on S. 2227, to revise the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (P.L. 80-104) governing exported pesticides.
SR-332

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to review the President's proposed budget request for fiscal year 1991 for the National Aeronautics and Space Administration, focusing on the space station and space shuttle programs.
SR-253

Environment and Public Works
Toxic Substances, Environmental Oversight, Research and Development Subcommittee
To hold oversight hearings on the regulation of lawn chemicals.
SH-216

Veterans' Affairs
To hold hearings on S. 1398 and S. 1332, to provide for the realignment or major mission change of certain medical facilities of the Department of Veterans Affairs.
SR-418

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Bureau of Public Debt, and the Office of Personnel Management.
SD-116

Finance
To hold hearings to examine investment trends in the United States and the President's proposal to lower the tax rate on capital gains income.
SD-215

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on miscellaneous public lands measures, including S. 456, H.R. 1109, S. 465, H.R. 1159, S. 1756, S. 1864, H.R. 76, S. 2059, S. 2208, and S. 1770.
SD-366

Small Business
Export Expansion Subcommittee
To hold hearings to examine the effects of the 1992 European community integration on U.S. small business.
SR-428A

Select on Indian Affairs
To hold hearings on S. 381, to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama, S. 1413, to settle all claims of the Aroostook Band of Micmacs resulting from the Band's omission from the Maine Indian Claims Settlement Act of 1980, S. 1747, to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and S. 1918, to provide for Federal recognition of the Jena Band of Choctaws of Louisiana.
SR-485

3:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on noxious weeds.
SR-332

MARCH 29

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on research issues.
SR-332

Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-116

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation to reauthorize the National Earthquake Hazards Reduction program.
SR-253

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on Army posture.
SD-192

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Science Foundation.
S-126, Capitol

Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SH-216

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Oceanic and Atmospheric Administration, and the National Institute for Standards and Technology.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Urban Mass Transportation Administration and the Washington Metropolitan Area Transit Authority.
SD-138

Finance
To hold hearings to examine possible causes for the decline of corporate income tax revenues, and to compare the U.S. corporate tax burden with that in other industrialized countries.
SD-215

1:30 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SD-192

2:00 p.m.
Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings on proposed legislation to strengthen and improve agricultural programs, focusing on conservation issues.
SR-332

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1880, to revise title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates.
SR-253

MARCH 30

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 639, to establish a research and development program for the development of a domestic hydrogen fuel production capability.
SD-366

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Agriculture, focusing on the Farmers Home Administration, Federal Crop Insurance Corporation, and the Rural Electrification Administration.
SD-138

APRIL 2

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on deficiency payment problems associated with barley.
SR-332

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Bureau of Land Management, Department of the Interior.
S-128, Capitol

APRIL 3

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to review the U.S. global change research program and NASA's program, the Earth's Observing System.
SR-253

Energy and Natural Resources
To hold oversight hearings on the Department of Energy's Decision Plan relating to the opening of the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico, and on proposed legislation to withdraw the public lands surrounding the WIPP site.
SD-366

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on Air Force posture.
SD-192

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. bilateral assistance.
SD-192

APRIL 4

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Agriculture, focusing on Agricultural Stabilization and Conservation Service, Foreign Agricultural Service, General Sales Manager, and Soil Conservation Service.
SD-138

Appropriations
Energy and Water Development Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SD-192

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SD-192

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 626, to revise the Lanham Trademark Act to prohibit the importation or sale of goods manufactured outside the U.S. and bearing an identical trademark of goods manufactured within the U.S.
SD-226

Small Business
To resume hearings on the President's proposed budget request for fiscal year 1991 for the Small Business Administration.
SR-428A

APRIL 5

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To resume hearings on S. 1400, to regulate interstate commerce by providing for a uniform product liability law.
SR-253

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on Navy and Marine posture.
SD-192

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Highway Traffic Safety Administration and the Research and Special Programs Administration.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the U.S. Postal Service, and the National Archives.
SD-116

Finance
To hold hearings to examine the security of retirement annuities provided by insurance companies.
SD-215

2:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Emergency Management Agency.
SD-192

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2117 and H.R. 2570, bills to designate certain lands as wilderness in the State of Arizona.
SD-366

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

APRIL 6

9:30 a.m.
Finance
Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee
To hold oversight hearings on the implementation of the Omnibus Taxpayer Bill of Rights (P.L. 100-647).
SD-215

Governmental Affairs
Government Information and Regulation Subcommittee
To resume hearings on the quality of U.S. health promotion statistics.
SD-342

APRIL 18

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETS, the Vietnam Veterans of America, the Veterans of World War I, and the Non-Commissioned Officers Association.
SH-216

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Housing and Urban Development
SD-138

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Park Service, Department of the Interior, and the National Gallery of Art.
S-128, Capitol

APRIL 19

9:30 a.m.
Select on Indian Affairs
To hold hearings on S. 1289, to improve the management of forests and woodlands and the production of forest resources on Indian lands.
SR-485

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Small Business Administration, and the Legal Services Corporation.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak).
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of Management and Budget, and the Executive Office of the President.
SD-116

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on multilateral development banks.
SD-138

2:15 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for the Department of Energy, focusing on atomic energy defense programs.
SD-116

APRIL 23

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Forest Service of the Department of Agriculture.
SD-192

Select on Indian Affairs
To hold oversight hearings on the Indian Federal acknowledgement process, including S. 611 and S. 912, bills to establish administrative procedures to determine the status of certain Indian groups.
SR-485

APRIL 24

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on the National Guard and Reserves.
SD-192

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Transportation Safety Board and the Federal Highway Administration.
SD-138

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's superconducting super collider program.
SD-366

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on refugee programs.
SD-138

APRIL 25

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of the Attorney General.
S-146, Capitol

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the General Services Administration.
SD-116

APRIL 26

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Aeronautics and Space Administration.
S-126, Capitol

10:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for defense intelligence programs.
S-407, Capitol

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of State.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the General Accounting Office.
SD-138

2:00 p.m.
Energy and Natural Resources
To resume hearings on the Department of Energy's Decision Plan relating to the opening of the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico, and on proposed legislation to withdraw the public lands surrounding the WIPP site.
SD-366

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 1957, to provide for the efficient and cost effective acquisition of nondevelopmental items for federal agencies.
SD-342

APRIL 30

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for fossil energy and clean coal technology programs of the Department of Energy.
S-128, Capitol

Select on Indian Affairs
To hold oversight hearings on provisions of S. 1203, to provide tax incentives for businesses on Indian reservations, and S. 1650, to allow an Indian employment opportunity credit for qualified employment expenses of eligible employers on Indian reservations; to be followed by a business meeting to mark-up S. 143, to establish the Indian Development Finance Corporation to provide development capital for Indian businesses.
SR-485

MAY 1

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's uranium enrichment program.
SD-366

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Supreme Court of the United States, the Judiciary, and the Federal Trade Commission.
S-146, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on eastern Europe.
SD-138

MAY 2

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.
S-146, Capitol

MAY 3

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on strategic programs.
S-407, Capitol

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Bureau of Mines, all of the Department of the Interior.
S-128, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the U.S. Coast Guard.
SD-138

10:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Council on Environmental Quality, the National Space Council, and the Office of Science and Technology Policy.
SD-116

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Corps of Engineers.
SD-192

MAY 4

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Resolution Trust Corporation.
SD-138

MAY 7

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Minerals Management Service and the Office of Surface Mining, Department of the Interior.
S-128, Capitol

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings to examine the Indian health service nurse shortage.
SR-485

MAY 8

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on tactical airpower.
SD-192

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. military assistance.
SD-138

MAY 10

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on initiatives for Indian programs for the 1990s.
SR-485

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on land warfare.
SD-192

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Veterans Administration.
S-126, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Aviation Administration.
SD-138

MAY 14

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for activities of the Secretary of the Interior, the Secretary of Energy, and the Secretary of Agriculture.
S-128, Capitol

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on S. 1021, to provide for the protection of Indian graves and burial grounds, and S. 1980, to provide for the repatriation of Native American group or cultural patrimony.
SR-485

MAY 15

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on seapower.
SD-192

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans' Affairs, Housing and Urban Development, and independent agencies.
SD-138

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on population policy and resources.
SD-138

MAY 16

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans' Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 17

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on space programs.
S-407, Capitol

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans' Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 22

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for the Department of Defense, focusing on classified programs.
S-407, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on the global environment.
SD-138

MAY 24

9:00 a.m.
Appropriations
Defense Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for defense programs.
SD-192

JUNE 5

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense.
SD-192

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
SD-138

JUNE 7

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 2203, to settle certain claims of the Zuni Indian Tribe, S. 2075, to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality, and S. 1934, to revise the United States Housing Act of 1937 to provide for the payment of fees for certain services provided to Indian Housing assisted under such Act.
SR-485

JUNE 12

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on organization and accountability.
SD-138

JUNE 19

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
Room to be announced

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
Room to be announced

JULY 12

9:30 a.m.
Select on Indian Affairs
To hold hearings to examine protective services for Indian children, focusing on alcohol and substance abuse programs.
SR-485

CANCELLATIONS

MARCH 23

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1741, to increase competition among commercial air carriers at the Nation's major airports.
SR-253

POSTPONEMENTS

MARCH 29

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1966, to implement a research, development, and demonstration program for the generation of commercial electric power from nuclear fission.
SD-366

APRIL 2

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on S. 1966, to implement a research, development, and demonstration program for the generation of commercial electric power from nuclear fission.
SD-366

APRIL 4

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 1880, to revise title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates.
SR-253

HOUSE OF REPRESENTATIVES—*Thursday, March 22, 1990*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We remember with gratitude, gracious God, those people who have gone before us along the paths of life, who have shared their gifts of kindness and peace and friendship with us, whose love has been lavished for our benefit and that of many more. For those family and friends whose grace and generosity have been the foundation on which we have built our lives, and whose names we remember in the quiet of our own hearts, we offer this word of thanksgiving and praise. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Wisconsin [Mr. KLECZKA] please come forward and lead the House in the Pledge of Allegiance.

Mr. KLECZKA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 266. Joint resolution designating March 1990, as "United States Naval Reserve Month."

The message also announced, that pursuant to Public Law 98-237, the Chair on behalf of the President pro tempore, upon the recommendations of the majority and minority leaders, appoints Mr. BREAUX and Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, and Mr. METZENBAUM and Mr. THURMOND, from the Committee on the Judiciary to the Advisory Commission on Conferences in Ocean Shipping.

APPOINTMENT AS MEMBERS OF CONGRESSIONAL AWARD BOARD

The SPEAKER. Pursuant to the Congressional Award Act (2 U.S.C. 803), the Chair appoints the following individuals to the Congressional Award Board on the part of the House: from the U.S. House of Representatives: Representative PAYNE of New Jersey, and from private life: Mr. Thomas Hale Boggs, Jr., of Washington, DC.

COMMUNICATION FROM THE HONORABLE ROBERT H. MICHEL, REPUBLICAN LEADER

The SPEAKER laid before the House the following communication from the Honorable ROBERT H. MICHEL, Republican leader:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 24, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 4 of the Congressional Award Act (2 U.S.C. 803) as amended by Public Laws 98-33, 99-61, and 100-674, I hereby appoint the following individuals to the Congressional Award Board: Rep. Tom Lewis of Florida; Ms. Candice Shy Hooper of Alexandria, Virginia; and Mr. Glen D. Gaddy of Baltimore, Maryland.

Sincerely yours,
ROBERT H. MICHEL,
Republican Leader.

INTRODUCTION OF COMPUTER MATCHING CORRECTIONS ACT OF 1990

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, today my good friend Congressman ALBERT BUSTAMANTE and I are introducing the Computer Matching Corrections Act of 1990.

This bill will correct an unintentional and expensive mistake in Public Law 100-503, the Computer Matching and Privacy Protection Act. This oversight is estimated to cost States and the Federal Government over $90 million this year.

Public Law 100-503 extended the notice period for States reducing or ending certain welfare benefits from 10 to 30 days.

Our bill corrects this mistake by restoring the 10-day notice period for recipients of food stamps, Medicaid, and aid to families with dependent children.

The law needs to be changed because it forces States and the Federal Government to provide 20 additional days of benefits to ineligible recipients. These 20 days of benefits cost the States and Federal Government roughly $91 million.

This legislation would ensure that all due process rights are protected and that all individuals would continue to have 60 to 90 days to appeal any change in their benefits.

It should be noted that the American Public Welfare Association and State human service agencies endorse the Computer Matching Corrections Act.

All Members have been sent a dear colleague letter listing how much this legislation can save your State. If you agree that the law must be changed, please join Congressman BUSTAMANTE and myself in cosponsoring the Computer Matching Corrections Act. Your State's taxpayers will thank you.

LITHUANIAN INDEPENDENCE

(Mr. MILLER of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Washington. Mr. Speaker, the courageous struggle of Lithuania goes on. A nation of a few million people peacefully seeks to reclaim its independence, an independence stolen by the collaboration of Hitler and Stalin 50 years ago.

Soviet President Gorbachev has promised not to use force on this issue.

Mr. Speaker, the world should hold him to that promise. Soviet relations with this country and much of the world will depend on whether the man who has spoken of glasnost and the peaceful resolution of disputes means what he says.

Mr. Speaker, I thank the scores of our colleagues who joined in our letter urging the President to renew recognition of an independent Lithuania.

Mr. Speaker, Mr. President, leaders of all three nations, now is the time to answer Lithuania's call for peaceful political and moral support.

THERE ARE 31 DAYS UNTIL EARTH DAY

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, there are only 31 more days until Earth Day 1990.

Why celebrate Earth Day? Is it because every 20 minutes, the people of this country dump enough cars into junkyards to form a stack as high as the Empire State Building? Is it because each year a leading fast-food restaurant chain uses enough foam packaging to cover Washington with a foot-deep layer of trash? Is it because, laid end-to-end, the 18 billion disposable diapers thrown away in this country every year could reach back and forth to the Moon seven times? Is it because on the average, a car adds its own weight in carbon to the air each year?

Mr. Speaker, the answer is yes to all of these questions.

Each and every one of us needs to lead our constituents in celebrating this very important 20th Earth Day. I urge you and all of my colleagues to participate in the activities during the week preceding and on Earth Day next month. With proper care and attention, we can set this planet back on course for a healthy future.

□ 1110

OLD JOE STALIN WOULD BE PROUD

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, an iron curtain is closing around Lithuania. Step by step, the Soviets are putting on the squeeze.

Old Joe Stalin would be proud of his successor in the Kremlin.

America can not and will not send tanks and planes to rescue the Lithuanian people. But there are some things we can and should do.

First, Congress should boldly restate America's long-time recognition of Lithuania as a sovereign and independent state. Today, Congressmen EDWARDS, JOHN MILLER and I are introducing a resolution urging our Government to recognize Lithuania and we urge support of the Members.

America must show the world that it places the same faith in self-determination that it did 200 years ago.

Second, we should make it clear to Gorbachev that a Stalinist foreign policy will put an end to the thaw in United States-Soviet relations.

No aid, no trade benefits, no help at all. If the Soviets insist on beating up small, defenseless nations, they will have to do it without our support.

ADMINISTRATION AVIATION PLAN WILL NOT GET OFF THE GROUND

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, although the President has pledged no new taxes, the administration's aviation plan clearly does call for tax increases at both the Federal and local levels. For instance, increased Federal taxes include taxes on aviation gas, jet fuel, passenger ticket taxes, and freight waybills.

With more than $6 billion now sitting already idle and unspent in unobligated aviation trust funds, how does the administration claim they need more money, yet it wants to raise money from airport users in order to continue to mask the budget deficit with the aviation trust fund?

Airports receive Federal funding but if they levy passenger taxes under the administration plan, they can lose 50 percent of that Federal funding. Mr. Speaker, it makes no sense. With passenger use up, with airports with delay time expected to double in the next 10 years, clearly this is an administration policy that simply will not get off the ground.

TRIBUTE TO MIDDLETOWN LADY FALCONS

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, although the fiesty Middletown Lady Falcons fell to the Fort Recovery Indians 54-41, in this division IV State basketball championship, they captured the hearts of Ohio.

Fenwick head coach Mike Lockhart took his well prepared Lady Falcons into the State finals in his first year as head coach, finishing with a very respectable 24-3 record. Although the final score was not to the liking of the Fenwick followers, these young ladies displayed a never-die attitude of which true champions are made.

The afternoon following the game, a huge rally was held in Middletown, at Fenwick High School. Hundreds of people attended, including the players, coaching staff, Principal Butch Rossi, Athletic Director Dick Martin and Fenwick Boosters Club President Bob Weaver.

All of Middletown is very proud of their Lady Falcons basketball team, runner-up victors in the State. Like the Maltese Falcon of Hollywood fame, these Lady Falcons are special gems to those who watched them play.

[From the Middletown Journal, Mar. 19, 1990]

FALCONS: "NO. 1 IN OUR HEARTS"

(By Rick McCrabb)

The St. John Arena scoreboard high above the floor displayed the final result: Fort Recovery 54, Fenwick 41.

There would be no state girls basketball championship this year in Middletown.

The 1989-90 Fenwick High girls basketball team will be forever labeled the runner-up in the Division IV state basketball tournament.

But Sunday afternoon, less than 17 hours after Fenwick lost to Fort Recovery in the Ohio High School Athletic Association Division IV finals, the Falcons were given a champion's welcome home party.

More than 100 Fenwick followers, many of them still tired from the two-game weekend, showed their support for the team at a rally in the high school gymnasium.

The team attended Mass Sunday morning in Columbus, then returned to Middletown in the afternoon for the celebration.

After the team, which finished the season 24-3, entered the gym, it was greeted with a thunderous standing ovation.

Mike Lockhart, the first-year coach, his assistant, Mary Jo Gephart, and the players joined Principal John "Butch" Rossi and Athletic Director Dick Martin in folding chairs on the floor.

"You're No. 1 in our hearts," said Bob Weaver, the president of the Fenwick Boosters Club. "You have helped put Middletown on the map. You've brought the pride back to Middletown."

Fenwick's Principal Rossi, who coached the boys team to a state championship in 1982, said the Falcons displayed tremendous character during the tournament.

"Fort Recovery brought a bigger crowd, and Fort Recovery and Buckeye Central had bigger players," he said, "but nobody had bigger hearts than the Fenwick Falcons. They're the best. You young ladies have what it takes to be champions."

Martin, the school's football coach and AD, said "It's really hard to be in this position. It's the end; it's sad. But you're winners."

Then Lockhart, who enjoyed tremendous success in his first year as a coach of a girls team after coaching boys teams in Louisiana and Washington, D.C., discussed the difficult transition to coaching at Fenwick, a Catholic institution.

"I know it wasn't easy for you at first," said Lockhart, an assistant pastor in Middletown. "I wasn't a part of the Fenwick community, the Fenwick family. It was difficult. But this team has made a lot of us very proud. The Fenwick community and the entire city of Middletown should be proud of these young ladies. They're a special group of ladies."

Lockhart said the Falcons shouldn't be judged by their tournament loss.

"They came out ahead on the scoreboard in 24 of the 27 games," he said. "They're champions."

INTRODUCTION OF LEGISLATION DIRECTING MINTING OF WORLD WAR II COMMEMORATIVE COIN

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, next year marks the 50th anniversary of U.S. entry into World War II.

Franklin Roosevelt once said:

Those who have long enjoyed such privileges as we enjoy forget in time that men have died to win them.

Today I am introducing a companion bill to my bill to authorize the construction of a World War II memorial here in Washington, DC. This bill directs the U.S. Treasury Department to mint a commemorative coin to honor the 50th anniversary of U.S. involvement in World War II.

Proceeds from the sale of this coin will be used to fund the construction of the World War II Veterans' Memorial here in the Nation's Capital.

During that war 405,399 Americans made the ultimate sacrifice in defense of our freedoms around the world. Over 16 million Americans served. Their sacrifice bears witness to this Nation's ongoing commitment to securing the fundamental rights inherent to freedom-loving peoples everywhere. It is time to commemorate them.

Over 270 Members have joined me in cosponsoring my original memorial bill, H.R. 2807—221 are now cosponsors of this commemorative coin bill. Please join us in cosponsoring this important legislation.

INTRODUCTION OF LEGISLATION ENCOURAGING ENTRY OF DISPLACED HOMEMAKERS INTO WORK FORCE

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, today I am introducing legislation, as I have in two previous Congresses, that would encourage the entry of displaced homemakers into the work force. A displaced homemaker is an individual who has not worked in the labor force for a number of years and is seeking reentry.

They are known as the hidden poor, many of whom are already receiving public assistance, due to the loss of a spouse or the demands of single parenting or even the regular financial burden of raising a family. That, Mr. Speaker, is a financial overloading of the American family that we should all be able to understand.

My legislation would amend the Internal Revenue Code to allow employers a tax credit for hiring displaced homemakers. It would do this by expanding the targeted jobs tax credit program to include displaced homemakers.

This approach is extremely cost effective. If we give these people a second chance and a helping hand, then we will save the money that would have to be spent later on them and their families for general support.

Mr. Speaker, I hope my colleagues will see the logic and compassion of this bill and join me as cosponsors.

NEW TAXES FROM THE ADMINISTRATION

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, President Bush, who coined the phrase "Read my lips, no new taxes," is seeking dramatic increases in aviation ticket and fuel taxes, taxes that millions of passengers, our constituents, pay every time they fly.

In my judgment these new taxes will simply be used to further build up revenues in the idle aviation trust fund to mask the true deficit size.

Mr. Speaker, there are current real aviation needs that remain unfunded despite a pending balance of over $7 billion in the trust fund. Ask anyone who flies, and their No. 1 concern is safety. So why do we not spend these existing trust fund moneys to purchase new weather radar enhancements, explosive detection equipment, the most advanced collision avoidance systems or to hire additional air traffic controllers to meet capacity demands?

Since we are not spending the moneys we already have collected from the taxpayers in the skies, why does the President believe we need to raise the tax rate to collect additional funds? This skyway robbery is just another example of a tax increase from the no-new-taxes President.

Talk about a plane that will not fly: this proposal is like a glider made out of a lead weight.

URGENT MESSAGE TO PRESIDENT GORBACHEV

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, this is an urgent message to President Gorbachev.

President Gorbachev, we understand that you have made great strides in the last year toward opening up and restructuring the Soviet Union, and all of us in the United States Congress recognize these achievements.

But recent moves by Soviet authorities, the Red Army, and the secret police in Lithuania are extremely disquieting to the Congress and the American people.

We urge you, we implore you, we beg you: let the Lithuanian people go.

The United States has never recognized the forcible incorporation of the Baltic nations into the U.S.S.R. That incorporation was a result of the Hitler-Stalin Pact in 1939.

Indeed, history shows that the Soviet attack on the Baltic nations was an act of war helping to precipitate World War II.

Please, President Gorbachev, do not squander the good will that you have built up in this Congress and among the American people by holding on, with brute force, to something that was never yours.

Prove to the world that "the ghost of Stalinism" is gone from the Kremlin.

We urge that you recognize the Lithuanian people's right to self-determination, freedom, and independence—and that you cease all military, political, and security measures now being used to obstruct the will of Baltic peoples to restore their freedom.

ADMINISTRATION IS PRACTICING VOODOO MATHEMATICS WITH THE AVIATION TRUST FUND

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the administration is practicing voodoo mathematics. The actual extent of the Federal deficit is being masked both by the surpluses in the Social Security trust fund and by the over $7 billion of surplus in the aviation trust fund.

Heaping salt on the deficit wound, the administration proposes to tax air travelers to pay for needed improvements in the air system rather than spending down the surplus in the aviation trust fund.

I am pleased that congressional leaders including the senior Senator from Kentucky in the other body are denouncing this misguided effort.

Rather than raise the tax on travelers, Mr. Speaker, the administration should authorize release of the funds in the bloated aviation trust fund for worthy airway projects, including the project in Louisville, KY, to expand Standiford Field.

Mr. Speaker, we in Congress should take every step to ensure that funds for needed airport and airway improvements across this Nation are made available to the communities and not used to mask the Federal deficit.

□ 1120

WESTLANDS WATER DISTRICT RISES TO CHALLENGE

(Mr. PASHAYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASHAYAN. Mr. Speaker, agriculture, its practioners and its scientists, have again risen to a challenge. This time the occasion is near Kesterson National Wildlife Refuge in California, where the Westlands Water District has begun the process of establishing a wildlife preserve to help to control the problems associated with naturally occuring selenium.

It was not too many years ago that some of us sat at a hearing in Los Banos, CA, and heard from the Department of the Interior that the collector and drainage system for Westlands Water District was going to be closed because of the threat of selenium salts that constituted the drainage water of about 42,000 acres.

Instant experts emerged, no answers came forth, and the problem persevered. But Westlands, with the help of the State of California, the Bureau of Reclamation, and the Soil Conservation Service, took the road to the answers.

What Westlands developed and will promote is called "Los Arboles," Spanish words meaning "The Trees." Los Arboles at its current stage will create a 4,240-acre forest of trees, which should both alleviate the problem of selenium and provide a wildlife habitat where none exists now.

Perhaps its design will serve as a prototype for other parts of the country where selenium threatens agriculture or the environment.

Westlands' concept is that the highly salt-tolerant eucalyptus trees will naturally and safely draw the salt water out of the ground. In addition to 480 acres of these trees, Westlands will add 120 acres of atriplex, a salt-tolerant shrub. As well, Westlands proposes to acquire an additional 3,640 acres of marginal lands near the Los Arboles site for conversion into an upland game habitat.

In saluting the entire board of directors of Westlands for taking this bold step, I should point out that the $10.5 million cost of this project will require no Federal expenditures.

The 600,000 trees that will be planted at Los Arboles will serve the San Joaquin Valley and its air resources problem by removing carbon dioxide from the area. The Los Arboles project is but a few miles removed from a major interstate highway that links the commercial interests of San Francisco and Los Angeles, which is a contributor to the carbon dioxide problem facing that particular area of California.

STAPLE LIPS INSTEAD OF READING LIPS

(Mr. ESPY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ESPY. Mr. Speaker, the administration has come up with another Stealth program in their aviation proposal, another program on Stealth taxes. They want to raise the aviation taxes to hide the truth from the American public. They want to increase the aviation gas tax from 12 cents to 15 cents per gallon. They want to increase the jet fuel tax from 14 cents to 18 cents per gallon. They want to raise the tax on passenger tickets from 8 percent to 10 percent. To add to all of this misery, Mr. Speaker, they want to invisibly pad the deficit from what is now about $7 billion in surpluses in the trust fund.

We need to use this money, Mr. Speaker. Our urban airports are crowded. Eleven of our major airports have severe delay problems. We need to use this money. In rural America we need airport improvements to keep our economies strong.

Mr. Speaker, on the tax side, instead of reading lips, perhaps we need to staple lips. And certainly we need to unstaple these tremendous surpluses in the aviation trust fund.

ECONOMIC CONTROL MEANS POLITICAL CONTROL

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Japan keeps buying America. From back streets to side streets, from byways to highways, from main street to Wall Street, Japan keeps buying America.

Ladies and gentleman, yesterday they bought the massive 7-Eleven store chain. And I am not talking about a crapshoot here. The only question that might remain is when Japan buys the White House, will it be the Best Western or the Best Eastern?

Let me remind Members, when Japan buys something, Japan controls it. When you have economic control, you have political control. Congress better take a look at this thing before it becomes a fire sale. Japan bought 7-Eleven yesterday. What is tomorrow's paper going to tell us?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOYER). The Chair would admonish the gallery that it is against the rules of the House for guests in the gallery to demonstrate or express their opinion in any way, and the Chair would ask the guests to respect those rules.

BREAD OR BAYONETS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, before I begin I want to join in the remarks of the gentleman from Ohio [Mr. TRAFICANT].

First, Budapest; then, Prague; and now, Vilnius.

The ghosts of Stalin, Andropov, and Beria are again marching west as KGB stormtroopers "reconnoiter in force" at the Lithuanian border.

Gorbachev demands Lithuanians turn over their weapons—or they will be confiscated. How he does not say, but the velvet gloves are coming off the Soviet fist.

At the same time, Soviet are requesting concessions from United States trade negotiators.

The Soviet Union wants most-favored-nation status; they want United States wheat for the Soviets; they want bread for their troops.

Secretary of State Kissinger once advocated linkage.

There should be linkage.

The Soviets want trade concessions. Fine. But United States trade concessions must be matched by Soviet military restraint.

The Soviets must be informed that the choice is theirs—Soviet repression or United States economic assistance, but not both; Soviet bayonets or United States most-favored-nation status, but not both; Soviet guns or United States bread, but not both.

CONGRESSIONAL EMPLOYEE COMP TIME BILL

(Mr. MURPHY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY. Mr. Speaker, I rise today to introduce a resolution to apply the comp time provisions of the Fair Labor Standards Act [FLSA] to employees of the House of Representatives.

The FLSA as amended by recent legislation will require all of the Members of this body to pay overtime wages to nonprofessional, nonmanagerial, congressional or committee staff, and other House employees. Understandably, the financial cost of compliance with the overtime provisions in section 7 of the FLSA has become a matter of concern in many Member's offices. The effective date for these new congressional payroll obligations is April 1, the same day that the minimum wage increase goes into effect for employers all over the country.

Mindful of this imminent deadline, I have been studying the statutory and legislative history of the FLSA to see if there is a way to alleviate some of the budgetary burden on my colleagues while preserving essential overtime pay protection for our dedicated employees. As many of the Members of this body may recall, a few years ago we passed legislation to allow State and local governments to provide their employees with compensatory time off in lieu of overtime pay for hours worked in excess of the normal workweek. Our bill was enacted by the House and Senate and signed into law by President Reagan on November 13, 1985, as Public Law

99-150. Many people commonly refer to this act as the "Garcia Law." I believe it is both timely and appropriate for us to extend comp-time coverage to congressional employees.

Comp time is ideally suited for the cyclical work schedule of the House of Representatives. My bill allows our offices the opportunity to provide compensatory time off, in lieu of cash overtime pay for all hours worked in excess of 40 in a workweek. The language of this resolution is identical to certain provisions of section 7(o) of the FLSA which has worked quite well for State and local governments and their employees since the 1985 Garcia amendments. It would work as well and as fair for congressional employees.

An hour and one half of compensatory paid leave at a later date would be banked for every hour of overtime work. Such leave would, of course, have to be in addition to regular annual or sick leave that is customarily provided to employees. Congressional district work periods and adjournment should provide ample opportunity for House employees to make good use of additional time off either with their families or simply to get away from the office.

The original intent of the overtime premium pay requirement in the FLSA was not to give a windfall of additional pay to workers but to reduce excessive hours for all workers by making the excessive hours more expensive for employers. This commendable purpose is still being served today, creating a financial incentive for employers to hire additional workers rather than over working their existing staff. In a properly managed business more workers can mean more profits so any additional costs can be passed on. In public service there are no profits only expenditures funded by the taxes of our constituents. In recent years our budgets have become leaner while our workload has increased. Consequently, the additional cost of overtime pay would be borne not by us as employers but by the people we represent. Since we may have more time than money in the years ahead I think it is prudent that we seek an arrangement that gives essential overtime protection to nonprofessional congressional employees while mitigating the impact of compliance costs on the Federal budget.

Complying with Federal wage and hour laws is a serious obligation for all employers. My resolution will be a positive incentive for all congressional employers to fulfill their statutory obligations. Staff, as well as Members, will benefit from the increased flexibility in dealing with the sometimes extraordinary demands on our time and our patience. Our organization is unique. Our work can be very rewarding and sometimes exasperating. However, it should not be humiliating or exploitive for our staff.

I ask all of you to join with me to promptly approve this measure so that we may have a smooth transition to a new era of statutory labor protections here on Capitol Hill.

ALLOW FULL DEBATE ON FLAG BURNING ACT

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to read from papers.)

Mr. GINGRICH. Mr. Speaker, I asked to be allowed to read from papers because I want to read into the record what Senator DOLE said yesterday. I think it is very important for Democrats in this House to understand what we are about to do.

Mr. DOLE said, quoting from page S 2731 of the CONGRESSIONAL RECORD:

> George Orwell is alive and well and is apparently working in the Office of the House Legal Counsel. "Slavery is freedom," "war is peace," and now, according to the House Legal Counsel, the phrase "expedited review" means "delayed consideration."
>
> Last week, the House Legal Counsel filed a brief with the Supreme Court, urging the Court to take its time when reviewing the constitutionality of the Flag Protection Act of 1989.

It goes on to say:

> Even worse, the House Legal Counsel informed the Supreme Court that Republican Leader BOB MICHEL and Republican Whip NEWT GINGRICH declined to co-sign the brief—which is a pretty remarkable statement since neither knew that the brief even existed until after the brief had been filed with the Supreme Court.

Mr. MICHEL will presently offer a privileged resolution. I would urge the Democratic leadership not to attempt to cut off debate, but instead to allow this to be fully explained to the House.

□ 1130

RECOGNITION FOR LITHUANIA

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, the people of Lithuania are crying out, and they are turning to this country for hope. As they see the Soviet troops begin to build up in their small country, as they see the Soviets demanding their weapons to be turned in, they turn to us for help, not asking for money, they are not asking for us to move our Navy to the Baltic, they are not asking for us to furnish them with tanks or planes, they are only asking for one thing, and that is recognition, recognition as a free and independent country.

So please, Mr. President, listen to their cries of hope for freedom and independence and peace, and give them that recognition that they deserve.

REVIEW OF FLAG BURNING CASE BY THE SUPREME COURT

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, the distinguished minority leader is about to offer a privileged resolution, and I want to rise and support it ahead of time and let people know what is going to happen, as our whip just said, because what has happened is an outrage.

This House and the Senate and the President signed a law that said the Supreme Court should expedite to the greatest extent possible the flag case. The Democrats in the House who wrote that brief now want to give flag burners the entire summer to be free to burn flags, because they have asked the Supreme Court not to expedite this case.

It is an outrage to think that a law passed by the U.S. Congress is being negated by a brief filed by the Clerk and the Counsel of this House, and I hope that every Member who comes here when we start to vote makes a decision whether they want to protect the flag and have the Supreme Court decide the case this term, before July, or if they want to wait until after the November election so they can con the American public again.

CLEAN AIR

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, like many others, I was disappointed by the clean air compromise which appears to be exiting from the U.S. Senate. A compromise bill is one thing, Mr. Speaker, but this compromise is another one which has been polluted by too many bad decisions.

The House, which usually does the substantive work around here, will apparently have the responsibility to lead on clean air. The Energy and Commerce Committee is debating these issues at markup, and I want to offer my unqualified support to the gentleman from California [Mr. WAXMAN], for his comprehensive amendment to title I. I hope the full committee will ultimately support his determined effort. If it does not, I believe the House will do so later on the floor.

Salt Lake County, my home district, has special clean air problems which must be addressed. Because of the seriousness of the issue to my constituents, and because of the timeliness of

the current debate, I am sponsoring a public clean air conference this weekend at the University of Utah in Salt Lake City. Speakers from industry, Federal agencies, public interest groups and government will participate.

No other issue currently before Congress has such significant impact on the health, environment, economic growth and aesthetic beauty of this country. I hope that in a few weeks we will be found adequate to this historic task, and can report to our constituents that Congress has responded to their increasingly serious needs with a tough and effective clean air bill which begins to address this desperate problem.

REVIEW OF THE FLAG PROTECTION ACT STATUTE

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, will history repeat itself? Will the majority party in this Chamber once again vote to gag and stifle a free debate over an important issue of procedure?

Shortly the gentleman from Illinois [Mr. MICHEL] will offer a privileged resolution relative to the brief that the Clerk of the House filed with the Supreme Court on the Flag Protection Act statute. The House was clear last year in stating that the review in the Supreme Court should take place as soon as possible, and now the Clerk's legal counsel has filed a brief trying to delay and delay this matter until after the November election.

I was quoted out of context in that brief, and I would like to be able to explain to the House and the American public why in more than a minute. I hope that the House will allow the free and full debate on the gentleman from Illinois' privileged resolution and not do what was done in the House Judiciary Committee last week when by a party line vote a witness was not allowed to present her complete testimony.

Please vote for a complete and fair debate on the resolution to be offered by the gentleman from Illinois [Mr. MICHEL].

ETHNIC TENSIONS IN ROMANIA

(Mr. ATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, last week Rev. Laszlo Tokes, father of the Romanian revolution, stood in the well of this House and offered a prayer for the salvation of his country; he recalled ". . . walls separated Romanians and Hungarians from each other within their own country" but "now all these differences, contradictions and hostilities have begun to disappear." Reverend Tokes was looking forward to a time when the people of Romania would escape the terrible darkness of the Ceausescu years and learn to live again as free people, in harmony and mutual trust.

Events of the past week have tragically shown that Reverend Tokes' vision is yet unfulfilled. Terrible ethnic riots have swept through Transylvania. Three months ago, Hungarians and Romanians stood side by side, as they united to free themselves from the horrors of the Ceausescu regime. Today, those same Hungarians and Romanians have embarked on a path of violence that jeopardizes all that they have achieved.

A true test of the transition from totalitarianism to freedom is tolerance. Romania's challenge is now to overcome the terrible ethnic tensions that are tearing the country apart. If they fail, they are in danger of a resurgence of the totalitarianism they sacrificed so much to conquer.

ENGLISH AS OFFICIAL LANGUAGE

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, the English language amendment which has been proposed in the past is probably one of the most grossly misunderstood pieces of legislation I have seen in my five terms in Congress. I have heard protests from folks who are under the mistaken belief that declaring English as the official language of the United States will put a halt to the teaching of all foreign languages.

This argument is entirely fallacious. In fact, supporters of official English strongly encourage the teaching of foreign languages in our schools. But the emphasis must be on English first. The study of a foreign language can open doors to new and exciting worlds for young students. But if these same students are not proficient in English, the doors of our own country will be closed to them.

I would like to share with you some thoughts on the subject by Yolanda T. De Mola, the coordinator for study abroad and assistant foreign study advisor at Fordham University. Ms. De Mola has written, "With many others whose first language was not English, I am convinced that its mastery is the fastest route out of the ghetto, the best formula for professional and personal success * * * as long as we remain a polyglot society without one common linguistic system to unite us, fear of one another is perpetuated and ethnic prejudices endure."

Fear of one another. Therein lies the root of hatred and prejudice. We need not—indeed, should not—all be alike, but we do need to know and to understand our differences. First and foremost, we need to be able to talk to one another. Let's learn foreign languages, and learn them well. But let us learn English first.

CLEAN AIR

(Mr. POSHARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POSHARD. Mr. Speaker, clean air is a national challenge. It deserves national attention and a national solution.

Any approach to cleaning up the air we breathe that abandons that premise is flawed, and particularly unfair to the coal mines and the utilities in Midwest States like Illinois which I represent. We have historically dealt with large issues that impact all of us with solutions that ask for some sacrifice for all of us. If we achieve cleaner air by putting thousands of miners out of work and raising electricity rates for Midwestern businesses and residents, it will be a hollow victory.

Cleaning up our coal is a national problem which demands a national solution. This Nation eventually will have to use every ton of high sulfur coal. A few States should not have to bear the entire burden.

Share the burden, share the cost, and share the reward of improving the quality of life for every American.

□ 1140

WE SHOULD NOT DELAY CONSIDERATION UNTIL THE FALL TERM

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, the Republican leader will soon rise on a question of privilege. He should not have to rise.

We spoke clearly last summer when we passed a statute on the flag, when we said that should this matter come before the Supreme Court that the Supreme Court should clear the docket and hear it expeditiously.

Yet, against that statute we had a brief filed supposedly on behalf of the House, in which the Republican leaders were not consulted, that says that now we should delay it until the fall term. This is wrong. You will not deceive the American public. They know better and they will remember in November. Let us hope so, anyway.

ON THE ANNIVERSARY OF THE "EXXON VALDEZ" OILSPILL

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, we are closing in on the anniversary of the *Exxon Valdez* spill, which many consider the worst environmental disaster this country has ever known.

Attorney General Thornburgh has said that the recent indictments in Alaska "throw the book" at Exxon. Unfortunately, it is too thin a book.

Simply put the law hasn't kept up with technology. We live in an age of potential industrial disasters beyond the imagination of our parents. The punishments are minimal.

What the *Exxon* case shows is that there is a hole in the law big enough to drive a tanker through. We need a new law which makes a connection between size of the environmental crime and the size of the punishment.

The Environmental Crimes Act of 1989, which I introduced last year, would make that connection. The act punishes those who knowingly or recklessly commit environmental catastrophes, and forces the guilty company to actually change its dangerous policies.

Finally, on this anniversary, I hope that we will see an end to efforts to reach out-of-court settlements against the wishes of the State of Alaska. Having been victimized once by a terrible accident, they should at least have a say in deciding the proper settlement.

FLAG BURNING SEEMS TO BE LEGAL UNDER THE LAW THAT WE PASSED AND WILL BE FOR SOME MORE MONTHS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, recently the Democratic leadership field an astounding brief with the Supreme Court. Despite the fact that when we debated the flag law back some months ago and the chairman of the Committee on the Judiciary told us on the floor that the real protection for the flag would be in the fact that we would expeditiously consider any challenge to this law in the courts, the Democratic leadership went to the court with a brief suggesting we ought not expeditiously consider this matter before the Supreme Court.

In essence, what that means is that the flag burning which now seems to be legal under the law that we passed, can continue for several more months and we would do nothing about it.

We should make certain we are expediting consideration of this matter. But it appears as though we are going to not be able to debate the question of that brief here today, and I will tell my colleagues if we move to cut off debate it will be clear that the Democrats wanted to stop the Supreme Court from expediting consideration of the flag and now want to stop the House from debating that action.

BIG BROTHER GOVERNMENT IS ON THE PROWL AGAIN

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, Big Brother Government is on the prowl again. It used to be that the feet of women were bound or women were sold like chattel, or widows were thrown on the funeral pyres of their husbands.

Now they are coming after women with balls and chains and the threat of jail.

A woman stood up to speak in Guam recently, where the most repressive legislation known to women has just been adopted; she merely told the women of Guam that they could go, they could still go to Hawaii to obtain a legal abortion.

She was arrested.

Mr. Speaker, that most personal decision must not be made by Big Brother Government, must not be made by politicians. That difficult decision must be made by women.

ANOTHER BLACK DAY IN THE ANNALS OF THE HOUSE

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, soon the minority leader of the House will rise to make a preferential motion. That motion presents a couple of issues that need to be thought about before that time.

First is whether the House, when it wrote in the law, meant expedited review, or did not. Anyone who can read will agree that it did.

The second is whether the brief filed by the House Clerk in the name of the House of Representatives has any standing at all because it ignored the Representatives who were put here by 47 percent of the people. Most people would say it does not.

The third point is the most important of all. It is that the distinguished majority leader of the House is likely to make a motion intended to prevent a vote on the minority leader's motion. For me that is a clear and flagrant violation of the precepts of this House.

The founders believed that this House was an arena in which ideas could clash; and in which compromises or winners could rise, and that the people could review those decisions if they wished.

To make a motion to prevent a vote on the minority leader's resolution is, in my judgment, a breach of the founders' intention and expectations for this House.

It will be another black day in the annals of the House and a step backward in the annals of free speech, open debate, and open decisionmaking if that motion were allowed to stand. Let's quash that motion early so the majority leader won't make the mistake again.

THE AMERICAN PEOPLE HAVE MADE IT CLEAR THEY WANT OUR FLAG PROTECTED

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, in light of recent transgressions against the flag, the American people have made it very clear they want our flag protected.

A year ago there was a great debate on how to best protect our flag. The debate was: Should we use a constitutional amendment, or should we use a statute?

Last year the Flag Protection Act of 1989 was passed by this body. I voted against it. I voted against it because I believed the way the statute was written it did more to protect flag-burners than it did to protect the flag.

To this point at least the court seemed to uphold my judgment of the manner in which that bill was written and is now a matter before the Supreme Court.

Now I am told that the Democratic leadership, the people who wrote the statute, have written a brief to the Supreme Court and said, "Please do not expedite your procedures to review these decisions," and have done so on behalf of the leadership of the House.

My leadership on the House on the Republican side did not see the brief, and our leader today is going for a chance to talk about that, and I think it ought to be aired out on behalf of the American people.

WILL THE RULING PARTY IN THE HOUSE ALLOW THE MINORITY TO CONDUCT A FREE, FAIR, AND OPEN DEBATE?

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Vermont. Mr. Speaker, the issue as we stand here today before we begin the business of the House is not the issue of flag-burning, it is not the issue of an expedited brief, but far more than that, which is something my colleague from Minnesota just said. It is a question of

whether or not the ruling party in this House will allow the minority party and the leader of that party to conduct a free and fair and open debate on an issue of tremendous importance to all Americans. Right now what we are standing here talking about and warning the American people about is that there will not—may not be that debate. If in fact we can close debate and vote away issues when in fact the minority party believes that a wrong has been done, I take you back to the phrase of de Tocqueville, when he came to this country so long ago and he talked about the protection of the rights of the minority and the "terrible tyranny of the majority" when it ran amok.

I say to my colleagues on the other side: What are you afraid of? I come from Vermont, where we are not afraid to have the debates and let the chips fall where they may, and I hope you will let us do that today.

WE ARE WORKING ON A DOUBLE STANDARD

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, it seems to me we had the debate just mentioned by the gentleman from Vermont on Monday, and I am again puzzled by the attitude of the minority which spent the entire year praising the majority for our fairness and even-handedness, for our willingness to take their concerns into consideration.

But it would seem that we are working on a double standard here: As long as the majority meets the wishes of the minority, we will be treated as fair and not subject to denunciation from the floor. But the minute we exercise our will as we should as the majority party, they wish to regurgitate all the kind things they have said about us and consumed on previous occasions.

□ 1150

I would only remind the minority, distinguished as it is, they cannot have it both ways. They cannot praise this side and praise this side and praise this side, and when one thing does not go their way, denounce this side.

We have been fair and we will continue to be fair.

APPEAL TO MAJORITY LEADER

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, let me make it very clear, the majority leader and the Speaker are aware of this: I have not supported a constitutional amendment relative to the flag-burning issue. The majority leader is aware of the fact that I worked with him and with the majority, at some risk to myself on my side of the aisle, in trying to expedite the floor consideration of the majority's alternative on this issue. I did so out of the matter of conviction and principle.

Quite frankly, I feel a sense of betrayal at this point that a petition would go to the court asking for a delay without at least the involvement of our side on what was part of a broader, bipartisan approach, as to how the procedure would unfold in this regard. I simply appeal to the majority leader, in a sense of fairness, to honor the concerns of those Members who, in fact, worked with the other side in conjunction with this issue, earlier in this congressional session.

PLEDGE BROKEN CONCERNING DEBATE

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, I may be just a little bit out of breath here because I just heard that we were not going to be able to debate the proposition, that the majority in this House is not willing to have an expedited hearing in the U.S. Supreme Court over the flag-burning issue. I distinctly remember that when we debated the issue in this House, those Members who believed that a statute alone would not solve a problem, were assured that if the courts so held, we would expeditiously get that issue before the U.S. Supreme Court.

I voted against the statute that came before Members, the bill, because I knew that it would require a constitutional amendment. I practiced constitutional law myself in the U.S. Supreme Court.

Therefore, it was a shock to me to hear we were not willing to back up the pledge that had been given to try to get this issue resolved in the U.S. Supreme Court as soon as possible, so that we could then have a debate in this body, whether we want to initiate a constitutional amendment or not. I believe that we ought to do that so that our States can debate the issue and decide for themselves whether or not to amend the Constitution to prohibit flag-burning. I sincerely hope that we will have the opportunity to debate this issue today.

REPUBLICANS RESERVE RIGHT TO PROTEST

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, the gentleman from Iowa seems to be saying to Members that if the majority refrains from committing mayhem on the minorities for 3 months, we should be grateful. Then when the majority turns on the minority and whacks Members down, that we should let it go without comment. I am afraid it does not work that way.

We certainly do not take back the kind words we have said in the past, but we certainly also do not waive our right to protest when the tables are turned on Members.

REQUEST TO DISCHARGE COMMITTEE ON APPROPRIATIONS AND COMMITTEE ON FOREIGN AFFAIRS FROM FURTHER CONSIDERATION OF HOUSE JOINT RESOLUTION 471 CORRECTING ENROLLMENT IN DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations and the Committee on Foreign Affairs be discharged from further consideration of the joint resolution (H.J. Res. 471) to make technical changes and correct enrollment errors in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, and to make technical changes in the Foreign Relations Authorization Act, fiscal years 1990 and 1991, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. HOYER). The Chair has been notified preliminarily that the Speaker's guidelines have been met with regard to this request.

Is there objection to the request of the gentleman from Iowa?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the distinguished gentleman from Iowa to explain what he intends to do.

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for yielding, and I recognize the gentleman's position and that he feels very strongly that all new appropriations should be offset by reductions, but I would like to point out the unusual situation we are in: a provision of permanent law which is a holdover from the Vietnam era, provides that the State Department and the USIA cannot spend any of their appropriations without an enacted authorization. Due to a dispute between the administration and Congress last fall, they were not able to get an authorization for fiscal year 1990 enacted before the Congress adjourned, and so as a compromise, the committee waived this section of permanent law but limited the State Department's and USIA's obligations general-

ly to the fiscal year 1989 level. Since that time, an authorization bill has been enacted.

I would like to point out that we were within our 302(b) allocation both for budget authority and outlays for this appropriations bill. We stayed within it, including the increase of $363 million in budget authority and $258 million in outlays that would be involved in the repeal of section 614.

When Hurricane Hugo occurred and the earthquake occurred in California last fall, the Congress used the reductions in budget authority and outlays in the State Department and USIA resulting from section 614 to finance the additional SBA disaster assistance laws without offsets. However, the State Department and USIA need the funds badly that were originally agreed to for fiscal year 1990 and would be made available by repeal of section 614, especially in view of the changes that have taken place in Eastern Europe and the Soviet Union since last fall.

I think this is a special case, and I might say OMB agrees. They recognized that it is a special case that does not require offsets, although they object to not having offsets in any other case where the Congress wants to increase spending for fiscal year 1990. The Committee on Foreign Affairs supports this joint resolution and I bring it up because I believe it is a special case. I would like to have it passed, if it is possible.

At this point in the RECORD I will insert two letters, one from the Office of Management and Budget and the other from the Congressional Budget Office that further discusses this matter:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, March 13, 1990.

Hon. NEAL SMITH,
Chairman, Subcommittee on Commerce, Justice, State, and the Judiciary, Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: This letter concerns the possible repeal of Section 614 of the Commerce, Justice, State Appropriations Bill for FY 1990. I was asked about this when I testified before the House Appropriations Committee on February 7, 1990. Representative Conte inquired about the need for offsets. I responded that I was torn on the issue.

On the one hand, I favored offsets—for all the obvious, conventional reasons. On the other hand, I felt it was unfair to penalize State and USIA for what had been our collective failure to insist on offsets in funding emergency relief for the California earthquake. I said I was about 93 percent of the way toward decision.

After the hearing, I asked my staff to review the programs under the Subcommittee's jurisdiction to see if any legitimate offsets could be found that would not unfairly penalize an innocent party. We discovered that the SBA Disaster loan fund had over $2 billion in available resources and that less than half of that total would be used during FY 1990. We therefore suggested rescinding $475 million of the SBA funds in order to offset the budgetary impact of repealing Section 614. This rescission would have had no impact on the disaster program in FY 1990. It seemed reasonable to propose the offset to maintain the important principle of providing offsets for discretionary supplemental appropriations.

Apparently, the offset that we proposed is not acceptable. In view of this response, I have been asked to consider once again my position on offsets—given that this is an unusual case.

The case is, indeed, unusual. At the time that the first Commerce, Justice, State conference was completed (October 19th), our Subcommittee was within your 302(b) allocation. The House-Senate Conference Report included the higher funding levels for State and USIA that we are now proposing to make available by repealing Section 614. At the time of the conference, you would have had enough room under your 302(b) allocation to repeal Section 614 without going over your limit.

On October 25th, however, Congress passed the second continuing resolution. It included earthquake disaster relief (with $500 million for SBA disaster loans and an increase in the SBA loan limitation to $1.8 billion). During consideration of the second continuing resolution, the House waived any Budget Act points of order that could have been raised as a result of the disaster assistance funding. In the Senate, no Member raised Budget Act points of order. In the interest of providing assistance to the State of California quickly, the Administration supported passage of the resolution.

The additional SBA funding (and the $219 million in associated outlays from increasing the loan limit) is now included in the Budget Committee's scoring of the Subcommittee allocation. It is the reason that you have only $45 million in budget authority and $39 million in outlays remaining in your 302(b) allocation.

Of the four subcommittees that received earthquake disaster funding, yours is the only one that remains under the 302(b) ceilings. The other three, Transportation, VA/HUD, and Treasury/Postal exceed their budget authority limits by a total of over $3.4 billion. This fact lends further credence to the view that your Subcommittee had planned to accommodate funding at the Section 614 repeal levels, only to have the plan overtaken by the disaster bill.

Given that the Congress did not raise the points of order against the second continuing resolution in October, and that that is what caused the current problem, and given the apparent absence of offsets that are both acceptable and fair, I now conclude that it is unfair to insist on the points of order that could be raised against your resolution (H.J. Res. 471) to repeal Section 614 if it is not offset. In reaching this conclusion, however, please let me assure you that I view this as a very special case. The peculiarities of timing involving your original intentions, the subsequent action which triggered the interest in repeal, and the intervening decision on disaster funding apply only to your Subcommittee and the Section 614 limit. I do not view this as precedential. Indeed, I continue to believe in the fundamental importance of offsets and intend routinely to seek them for discretionary supplemental appropriations.

With best regards,

RICHARD G. DARMAN,
Director.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 14, 1990.

Hon. NEAL SMITH,
Chairman, Subcommittee on Commerce, Justice, State, and Judiciary, Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: At the request of your committee staff, the Congressional Budget Office has estimated the budgetary effect of repealing section 614 of the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162).

Section 614 imposes an obligation limitation on almost all Department of State and United States Information Agency funds included in the act. If section 614 is repealed, we estimate an increase of $363 million in budget authority and $258 million in outlays in fiscal year 1990 above amounts now scored for that year. This estimate is consistent with the technical and economic assumptions used by the Budget Committees in the budget resolution for fiscal year 1990. Also, the scoring effects of repeal are the same—but, opposite in sign—as the amounts scored when section 614 was enacted.

The Administration, however, estimates that the repeal would increase budget authority by $188 million and outlays by $190 million in fiscal year 1990. The estimates for budget authority are different not because the funding levels after repeal are in question (they are stated in the bill) but mainly because different assumptions were used in calculating the budget authority with the section 614 restriction. OMB's base (i.e., its estimate of budget authority with the section 614 restriction) is higher than CBO's scorekeeping estimate. Therefore by arithmetic, the difference between OMB's base and the funding levels stated in the bill is less than the difference derived from CBO's estimate. The estimates for outlays are different because of the difference in the CBO and OMB bases, and also due to different spendout rates.

In a letter to your committee dated February 8, 1990, the Administration proposed to offset the increased budget authority and outlays by rescinding $475 million of unobligated balances in the Small Business Administration's (SBA) Disaster Loan Fund account. For 1990, we have estimated direct loan obligations of $796 million from the Disaster Loan Fund, while the Administration has estimated obligations of $1.8 billion. As a result, the CBO scoring base includes $1.2 billion in fund balances that will not be obligated in 1990, and the rescission of a portion of them would have no 1990 outlay impact. The only effect of such a rescission would be to reduce the unobligated balances in the SBA Disaster Loan Fund.

We would be pleased to provide you or your staff with any additional information about these estimates that would be helpful. The CBO staff contacts are Kent Christensen for section 614 (226-2840) and Doug Criscitello for the SBA Disaster Loan Fund (226-2860).

Sincerely,

ROBERT D. REISCHAUER,
Director.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Kentucky [Mr. ROGERS], the distinguished Republican vice chairman of the subcommittee.

Mr. ROGERS. Mr. Speaker, just to further elucidate that the predicament was not caused by our subcom-

mittee, and Mr. Darman, that the OMB has written to the chairman on March 13 of this year giving his approval for what the chairman is seeking to do here. Certainly I join the chairman in asking that we approve this repeal because of the peculiar nature of the way the situation arose.

To quote from the letter of Darman, he says in the last paragraph:

Given that the Congress did not raise the points of order against the second continuing resolution in October.

And that was the disaster resolution, and that is what caused the current problem—

And given the apparent absence of offsets that are both acceptable and fair, I now conclude that it is unfair to insist on the points of order that could be raised against your resolution—

That is the one before the Members today—

to repeal section 614 if it is not offset. In reaching this conclusion,

Mr. Darman says—

however, please let me assure you I view this as a very special case,

And he continues on.

So, the Director of OMB says it would be unfair, under the circumstances, to object to the passage of this repeal. I would hope that we could do just that, repeal section 614, so that State and the USIA will be able to continue what we asked them and hope that they could do.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I do not disagree with the statements made by the two distinguished gentlemen who have just completed their statements. Mr. Speaker, I will object to the consideration of House Joint Resolution 471, a bill to repeal section 614 of the Commerce, State, Justice and Related Agencies Appropriations Act for 1990. Section 614 states that funds appropriated for the Department of State for the U.S. Information Agency may be obligated only at the rates provided for in fiscal year 1989 or the levels provided in the Senate-passed appropriations bill for fiscal year 1990—whichever is lower.

This obligation limitation was placed in the appropriations bill because the State Department authorization had not yet been completed and disputes remained between the authorizing committees and the appropriations committees. I have been informed that there was an understanding that once the State Department authorization had been completed, section 614 would be repealed, thereby allowing the higher, appropriated amounts for fiscal year 1990 to govern State Department and USIA operations.

A problem exists from a Budget Committee point of view because the Appropriations Committee has already breached its committee allocation provided in the fiscal year 1990 concurrent budget resolution by $1.7 billion in budget authority and $2.6 billion in outlays. The repeal of section 614 would add an additional $363 billion in budget authority and $258 million in outlays to these overages, in violation of section 302(f)(1) of the Budget Act. Furthermore, the aggregate outlay ceiling contained in the fiscal year 1990 budget resolution has also been breached by $6.2 billion—again, this bill adds another $258 million amount over the aggregate outlay ceiling, thereby violating section 311(a) of the Budget Act.

In terms of the fiscal year 1990 bipartisan budget agreement, this bill would cause the level of budget authority set for the international affairs function to be exceeded by approximately $140 million, but outlays would still be $10 million under the level set in the agreement.

Due to the Budget Act violations created by this legislation, I must oppose its passage. Some will argue that taking out the disaster assistance provided for in the fiscal year 1990 appropriations, the Appropriations Committee is below its budget authority allocation—outlays are, however, still over the committee allocation even with this adjustment. I believe that Congress must take responsibility for all of its actions, even unexpected events, otherwise levels set by a budget resolution become irrelevant. Once budget resolution levels have been reached, new spending must be accommodated by accompanying offsets.

In conclusion, Mr. Speaker, because the budget has been violated, I am obliged to object, and I do so.

The SPEAKER pro tempore. Objection is heard.

Mr. BROOMFIELD. Mr. Speaker, I support this resolution and hope that it will bring the lengthy process of State Department authorization to a close.

I understand that this compromise is essential to completion of the State Department budget process. Let me make clear, however, that I will continue to insist that State Department funds receive authorization from this committee before being spent.

Mr. Chairman, I want to thank you for your efforts on the State Department authorization bill. Your leadership and persistence have protected the committee's role as an authorizer in the budget process. Both Republican and Democrat members of the committee have benefited from your efforts.

□ 1200

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 471, and that I be permitted to include tables, charts, and other extraneous material.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Iowa?

There was no objection.

PRIVILEGES OF THE HOUSE—SUPREME COURT REVIEW OF CONSTITUTIONALITY OF STATUTE TO PROTECT THE FLAG

Mr. MICHEL. Mr. Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 362) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 362

Whereas, the statute to protect the Flag has been twice found unconstitutional and the question of constitutionality must be resolved by the Supreme Court before the statute can protect the Flag;

Whereas, Congress intended that such Supreme Court review be expedited so that the lapse of time in which the flag goes unprotected would be as brief as possible and the statute states: "The Supreme Court shall, if it has previously not ruled on the question, accept jurisdiction over the appeal and advance on the docket and expedite to the greatest extent possible.";

Whereas, as an example of its intent for expedited review of the Flag statute, the Committee Report cited a similar provision in the Gramm Rudman Hollings law, which resulted in a Supreme Court ruling in less than seven months, and already almost five months have lapsed since the Flag protection statute became law;

Whereas, the Chairman of the Judiciary Committee stated in his floor remarks that expedited review is provided in the statute "so that we will have *immediate* consideration by the Supreme Court" and that such language insures "that we will have *prompt* Supreme court review of the constitutionality of the revised Federal Flag protection law";

Whereas, a brief filed with the Supreme Court on behalf of the House indicates, contrary to this legislative history, that the House did not intend for the Court to expedite its own proceedings, and that the House preferred that the Court wait until next fall to hear arguments on the case;

Whereas, the brief, which states "The Court can, and should, set a briefing schedule that guarantees full consideration, and give the case priority when it devises its argument calendar for *October*", is wholly inconsistent with the plain reading of the statute adopted by the House;

Whereas, the Bipartisan Legal Advisory Group should have, but did not, meet to discuss the brief, as at one time had been the practice regarding legal activities of the House;

Whereas, the integrity of the House suffers when officers or employees of the House misrepresent legal positions by Members as was the case with the Republican Members of the Bipartisan Legal Advisory Group who were not notified of the brief, but are cited in the brief as having declined to support it; and

Whereas, such action involves the conduct of officers and employees of the House, affects the integrity of the proceedings of the House, and affects the protection of the constitutional prerogatives of the House re-

garding expedited review which is now directly questioned in the courts and thus involves a question of privilege of the House: Therefore be it

Resolved, that the House directs the General Counsel to the Clerk of the House to withdraw the Brief for the Speaker and Leadership Group of the U.S. House of Representatives in Support of Jurisdictional Statements pending a full and proper review by the Bipartisan Legal Advisory Group.

The SPEAKER pro tempore. The Chair wishes to make a statement prior to proceeding further.

Having reviewed the resolution offered by the gentleman from Illinois [Mr. MICHEL], the Chair finds that the resolution does constitute a question of the privileges of the House under rule IX.

MOTION OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I move to refer the resolution to the Committee on the Judiciary.

PARLIAMENTARY INQUIRIES

Mr. MICHEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. MICHEL. Mr. Speaker, is it not true that under rule XVI if the gentleman from Illinois were to move the previous question at this juncture, it would be a motion of higher privilege than that offered by the distinguished majority leader?

The SPEAKER pro tempore. The minority leader is correct.

Mr. MICHEL. I have a further parliamentary inquiry, Mr. Speaker.

Mr. Speaker, is it not true that if I were to pursue that course and the previous question were adopted, I would be within my rights to demand the 40 minutes of debate equally divided between the two sides?

The SPEAKER pro tempore. The minority leader is again correct.

Mr. MICHEL. I, therefore, move the previous question on the resolution, Mr. Speaker.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and on a division (demanded by Mr. MICHEL) there were—yeas 21, nays 10.

Mr. GEPHARDT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 203, nays 204, not voting 24, as follows:

[Roll No. 37]

YEAS—203

Annunzio	Armey	Barnard
Applegate	Baker	Bartlett
Archer	Ballenger	Barton
Bateman	Herger	Ravenel
Bennett	Hiler	Regula
Bentley	Hochbrueckner	Rhodes
Bereuter	Holloway	Ridge
Bevill	Hopkins	Rinaldo
Bilirakis	Horton	Ritter
Bliley	Houghton	Roberts
Boehlert	Hubbard	Robinson
Broomfield	Huckaby	Rogers
Brown (CO)	Hughes	Rohrabacher
Buechner	Hunter	Ros-Lehtinen
Bunning	Hutto	Roukema
Burton	Hyde	Rowland (CT)
Callahan	Inhofe	Rowland (GA)
Campbell (CA)	James	Saiki
Campbell (CO)	Jenkins	Sangmeister
Chandler	Johnson (CT)	Sarpalius
Clinger	Kasich	Saxton
Coble	Kolbe	Schaefer
Coleman (MO)	Kyl	Schiff
Combest	Lagomarsino	Schneider
Conte	Leach (IA)	Schuette
Coughlin	Lent	Sensenbrenner
Courter	Lewis (CA)	Shaw
Cox	Lewis (FL)	Shays
Crane	Lightfoot	Shumway
Dannemeyer	Livingston	Shuster
Darden	Lloyd	Skelton
Davis	Lowery (CA)	Slaughter (VA)
DeLay	Lukens, Donald	Smith (NE)
DeWine	Machtley	Smith (NJ)
Dickinson	Madigan	Smith (TX)
Douglas	Martin (IL)	Smith (VT)
Dreier	Martin (NY)	Smith, Denny (OR)
Duncan	McCandless	Smith, Robert (NH)
Dyson	McCollum	Smith, Robert (OR)
Edwards (OK)	McCrery	Snowe
Emerson	McDade	Solomon
Erdreich	McEwen	Spence
Fawell	McGrath	Stangeland
Fields	McMillan (NC)	Stearns
Fish	Meyers	Tauke
Frenzel	Michel	Tauzin
Gallegly	Miller (OH)	Taylor
Gallo	Miller (WA)	Thomas (CA)
Gekas	Montgomery	Thomas (GA)
Geren	Moorhead	Thomas (WY)
Gillmor	Morella	Traficant
Gilman	Morrison (WA)	Upton
Gingrich	Murphy	Vander Jagt
Goodling	Myers	Vucanovich
Goss	Natcher	Walker
Gradison	Nielson	Walsh
Grandy	Oakar	Watkins
Grant	Oxley	Weber
Green	Packard	Weldon
Gunderson	Parker	Whittaker
Hall (TX)	Parris	Whitten
Hammerschmidt	Pashayan	Wolf
Hancock	Paxon	Wylie
Hansen	Perkins	Young (AK)
Harris	Petri	Young (FL)
Hastert	Porter	
Hayes (LA)	Pursell	
Hefley	Quillen	
Henry	Rahall	

NAYS—204

Ackerman	Clarke	Espy
Akaka	Clay	Evans
Alexander	Clement	Fascell
Anderson	Coleman (TX)	Fazio
Andrews	Condit	Feighan
Anthony	Conyers	Flake
Aspin	Cooper	Foglietta
Atkins	Costello	Ford (MI)
AuCoin	Coyne	Ford (TN)
Bates	Crockett	Frank
Beilenson	de la Garza	Frost
Berman	DeFazio	Gaydos
Bilbray	Dellums	Gejdenson
Boggs	Derrick	Gephardt
Bonior	Dicks	Gibbons
Borski	Dingell	Glickman
Bosco	Dixon	Gonzalez
Boucher	Donnelly	Gordon
Boxer	Downey	Gray
Brennan	Durbin	Guarini
Bruce	Dwyer	Hall (OH)
Bryant	Dymally	Hamilton
Byron	Early	Hatcher
Cardin	Eckart	Hawkins
Carper	Edwards (CA)	Hayes (IL)
Carr	Engel	Hefner
Chapman	English	Hertel
Hoagland	McMillen (MD)	Schumer
Hoyer	McNulty	Sharp
Jacobs	Mfume	Sikorski
Johnson (SD)	Miller (CA)	Sisisky
Johnston	Mineta	Skaggs
Jones (GA)	Moakley	Slattery
Jones (NC)	Moody	Slaughter (NY)
Jontz	Murtha	Smith (FL)
Kanjorski	Nagle	Smith (IA)
Kaptur	Neal (MA)	Solarz
Kastenmeier	Neal (NC)	Spratt
Kennedy	Nowak	Staggers
Kennelly	Oberstar	Stallings
Kildee	Obey	Stark
Kleczka	Olin	Stenholm
Kolter	Ortiz	Stokes
Kostmayer	Owens (NY)	Studds
LaFalce	Owens (UT)	Swift
Lancaster	Pallone	Synar
Lantos	Panetta	Tallon
Laughlin	Patterson	Torres
Leath (TX)	Payne (NJ)	Torricelli
Lehman (CA)	Payne (VA)	Towns
Lehman (FL)	Pease	Traxler
Levin (MI)	Pelosi	Udall
Levine (CA)	Pickett	Unsoeld
Lewis (GA)	Pickle	Valentine
Lipinski	Poshard	Vento
Long	Price	Volkmer
Lowey (NY)	Rangel	Walgren
Luken, Thomas	Ray	Washington
Manton	Richardson	Waxman
Markey	Roe	Weiss
Martinez	Rose	Wheat
Matsui	Rostenkowski	Williams
Mavroules	Roybal	Wilson
Mazzoli	Russo	Wise
McCloskey	Sabo	Wolpe
McCurdy	Sawyer	Wyden
McDermott	Scheuer	Yates
McHugh	Schroeder	Yatron

NOT VOTING—24

Brooks	Flippo	Roth
Browder	Ireland	Savage
Brown (CA)	Marlenee	Schulze
Bustamante	Mollohan	Skeen
Collins	Morrison (CT)	Stump
Craig	Mrazek	Sundquist
Dorgan (ND)	Nelson	Tanner
Dornan (CA)	Penny	Visclosky

□ 1227

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Brooks against.

Mr. Stump for, with Mr. Nelson of Florida against.

Mr. Marlenee for, with Mr. Brown of California against.

Messrs. SCHEUER, GAYDOS, HALL of Ohio, MARKEY, and WILSON changed their vote from "yea" to "nay."

Messrs. CAMPBELL of Colorado, WHITTAKER, BARNARD, JENKINS, and HUGHES changed their vote from "nay" to "yea."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DORGAN of North Dakota. Mr. Speaker, due to my involvement with pending business with the Ways and Means Committee, I was inadvertently detained and missed rollcall vote No. 37 on the previous question on the Michel motion. The motion sought to withdraw a brief drafted by the counsel for the Clerk of the House in support of the constitutionality of a law which banned the burning of the American flag. Had I not been detained, I would have

voted "no." My vote would have been cast to keep this law on the books.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

PRIVILEGES OF THE HOUSE—SUPREME COURT REVIEW OF CONSTITUTIONALITY OF STATUTE TO PROTECT THE FLAG

The SPEAKER pro tempore (Mr. HOYER). The gentleman from Missouri [Mr. GEPHARDT] is recognized for 1 hour on his motion.

□ 1230

PARLIAMENTARY INQUIRY

Mr. MICHEL. Mr. Speaker, may I propound a parliamentary inquiry?

The SPEAKER pro tempore (Mr. HOYER). The Chair recognizes the minority leader.

Mr. MICHEL. Mr. Speaker, as I indicated in my earlier parliamentary inquiry prior to the vote, if the previous question were to be adopted, I would have demanded the 40-minute rule, which would have given both sides 20 minutes of debate.

My understanding now, the previous question having been defeated, is we are back to square one and the motion of the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader, on referring the resolution to committee. I suspect that the gentleman is then given an hour of debate on his resolution.

The SPEAKER pro tempore. The Chair would advise the distinguished minority leader that he is correct. There will be 20 more minutes of debate than if the House had adopted the notion of the minority leader for the previous question.

The Chair recognizes the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I yield 30 minutes of my time to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], for purposes of debate only.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I would be happy for the gentleman from Illinois [Mr. MICHEL] to begin the debate, if that would be the wish of the gentleman.

The SPEAKER pro tempore. The Chair recognizes the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first thank the majority leader for honoring the practice here of yielding one-half of the time to the minority side.

At the heart of this resolution is our concern with the general counsel's communication to the Supreme Court on behalf of the House that the Court should address the flag issue next October. In our view that communication is wholly inconsistent with the plain reading of the statute and what Congress intended.

In our resolution we make mention of those references in the statute specifically. For example, "The Supreme Court shall, if it has previously not ruled on the question, accept jurisdiction over the appeal in advance on the docket and expedite to the greatest extent possible." That is what we said. That is what was adopted.

The chairman of the Judiciary Committee stated in his floor remarks that expedited review is provided in the statute, "so that we will have immediate consideration by the Supreme Court," and that such language ensures, "that we will have prompt Supreme Court review of the constitutionality of the revised Federal flag protection law."

Now, this incident indicates to me that there has been a breakdown I guess in the institutional machinery whereby Members are informed and made part of the prefiling process.

We have to rebuild that. I have talked to the Speaker this morning about it on the phone when discussing what I felt I had to do today by way of introducing the resolution and bringing it to the attention of the House so that what has been an error can be corrected.

Now, the minority whip, the distinguished gentleman from Georgia [Mr. GINGRICH], and I were not informed, and there is no question that unwarranted assumptions were drawn in the brief about our respective views. There is no question but that I had made it quite clear in earlier conversations about my being opposed, obviously, to petitioning the Court, because I voted against the statute.

But that is not cause enough for the kind of communication dispatched to the Court when I was not told the specific language of how our views were going to be communicated to the Court. That is where I run afoul of our general counsel.

Mr. Speaker, what we have here is not simply an isolated case of poor communication. Unfortunately, it is a part of a pattern in which the filing of such briefs has become the prerogative of the Legal Counsel's Office with insufficient consultation with all the members of the bipartisan legal advisory group.

In such sensitive matters as this, the Legal Counsel's Office cannot simply assume to know or to guess at the intention or views of Members. This is particularly important in a matter dealing with sensitive questions such as the definition of expedited procedure.

This is not just a case of minority rights and sensitivities being ignored, although that certainly plays a role here. More importantly, it is a case where the reputation of the House as a fair, open and deliberative body is publicly damaged. The brief as filed ought to be returned to the House, where we can treat the questions involved with dignity, sense of comity, and institutional seriousness they most certainly deserve.

Those are the points I wanted to make here very briefly, my colleagues. I know earlier on I thanked my colleagues for their contribution to this, thinking there would not be any time to discuss it whatsoever, and opening up the whole question of the validity of the statute and all the rest, when frankly the core of my argument today is one of improving the institutional integrity of this body by making absolutely certain that on matters of this kind there is the kind of consultation that we have come to recognize as being a part of our deliberations on sensitive matters of this kind.

Mr. GEPHARDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker and Members of the House, I would like it if the House would indulge me to give a version of the facts of what transpired here which I think support the idea that this motion should be referred to the committee.

Mr. Speaker, I have great respect for our minority leader. I know that he is acting in good faith and believes that the procedure here was not perfect or what the gentleman would have liked it to have been.

We have had a close and good working relationship on all matters and on the matters of how the House will be represented, and I expect and believe that that relationship will continue.

In this case, when the counsel talked to the leadership that forms this committee between the leadership about this brief debate at the district court level, the counsel was informed by the distinguished minority leader and the distinguished minority whip that they declined to take part in the brief or in the argument on behalf of the statute. Clearly that is their prerogative.

In the Supreme Court brief which has been filed there is a footnote, as there was a footnote in the argument to the district court, that said this:

> For the purposes of this brief the leadership group joining the Speaker consists of Majority Leader Richard Gephardt and Majority Whip William Gray.

Then it goes on to say:

> Republican Leader Robert Michel and Republican Whip Newt Gingrich declined to join in this brief.

It was assumed by the counsel that that would remain the position. Perhaps there should have been another meeting. Perhaps there should have been for this purpose another communication. But the assumption was made that since they did not want to be part of the moving party on behalf of the House and on behalf of the statute at that level, that that position would continue.

So that people understand here the expedited procedure, we are operating in the Supreme Court under an expedited procedure. It is not as I understand it the case that in an expedited procedure you have necessarily a briefing procedure which is also expedited or different than a normal briefing procedure. In a normal briefing procedure one side brings down their brief and then there is about a 20-day period in which the other side can bring their brief.

What our counsel is simply asking the Supreme Court to do is to allow that normal 20-day period. Now, the question is why are they asking for the 20 days? The reason they are asking for the 20 days is that they want to argue this case from a unique viewpoint because it is a unique case. They feel that it deserves a historical analysis that cannot be easily done on the very day that the opposing briefs are filed, which could be done, uniquely sometimes is done, but their feeling is should not be done in this case. And the reason for that, quite simply, is they want the best possible opportunity for the statute to be upheld.

□ 1240

Let us go back to the basics of what this is all about. The House decided by an overwhelming vote last year that we wanted to try to solve this problem of flag burning by the passage of a statute. We continue to hope and believe that the Court will uphold that statute and, in fact, after the original Supreme Court case saying that you could burn flags in this country, which we have tried to overcome, there was an Eighth Circuit case that took an opposite view. So it may be that we can win this case. We believe we can.

One other thing I would like to note. The only thing that exists in the law today, that keeps people from burning flags, is this statute. I believe that if the statute is ruled unconstitutional that this House and the Senate will move to promulgate a constitutional amendment, because I think the people of the country want the flag to be protected. But that will take time. It has to be ratified by the States. I realize that could happen quickly, but right now the best thing that stands between us and the burning of flags is this statute, and we should give it its best chance to be upheld by the Court. We all want it, I think, to be upheld by the Court. There is a great deal of unanimity about that. Why in the world would we not want the best possible brief to be on the books to be in front of the Court so that we would have the best possible chance of winning this argument?

The final point is this: While I can understand the concern on the other side and the feeling that there was not the fullest and best type of communication, I want to assure all of the Members of the house that on the part of this Member, and I am sure I speak for the Speaker, and I am sure I speak for the majority whip, there was absolutely no intention of delaying this case or trying to see that it was held over to the October term. I am told that that may be what happens, but I am also told that the Court could, if it wanted to, and it may, because this is an expedited procedure, not hold this over this summer and go ahead and decide the case.

There is no motivation, absolutely none on this side to delay, to try to put this off, to try to see that it can be moved beyond the November period. We want the case decided, but we want the best possible chance of getting the Court to uphold this statute. We think that is in the best interests of this House, and the best interests of this country.

So we would respectfully ask that the Members vote to refer this to the committee. The Chairman of the subcommittee that is involved will make his own statement about how this motion will be handled, and the hearings that might be held. We think it is a reasonable way to handle this, and again to give us the best possible opportunity to convince the Supreme Court to uphold the statute we passed, which we think is the fastest and the most effective way to protect the American flag.

The SPEAKER pro tempore (Mr. HOYER). The gentleman from Missouri [Mr. GEPHARDT] has consumed 8 minutes, and the gentleman from Illinois [Mr. MICHEL] has consumed 5 minutes.

Mr. MICHEL. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the majority leader just said there was no intention on the part of this brief to have this case laid over to October. Let me quote from the brief.

The brief says:

> The Court can and should set a briefing schedule that guarantees full consideration and give the case priority when it devises its argument calendar for October.

Not for sometime this spring, not for sometime this summer, for October.

So I would want to make clear on the RECORD that the intention of the brief was to make certain that the expedited procedures were held over till at least October.

Mr. MICHEL. Mr. Speaker, I appreciate the contribution of the gentleman from Pennsylvania. That was one of the things that struck us in reading the brief and caused part of the concern.

Mr. Speaker, I am happy to yield 5 minutes to the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from Illinois for yielding me the 5 minutes. I do not want to publicly disagree with the majority leader, Mr. GEPHARDT, on this issue, but I believe that the point the gentleman from Pennsylvania made on what the brief says ought to be emphasized and reemphasized.

It says in the beginning of the brief that:

> For purposes of this brief, the leadership group joining the Speaker consists of majority leader Richard A. Gephardt and majority whip William Gray, III.

And the next to the last sentence says that:

> The Court should give priority consideration to this case when it devises its argument calendar for October.

That goes clearly against the plain text of the statute that was passed by the House and Senate and which was allowed to become law without the President's signature when the 10-day period expired. So the brief that the majority leadership has signed on goes contrary to the clear intent of Congress and the plain wording of the statute as well as the statements that were made by the chairman of the Judiciary Committee, the gentleman from Texas [Mr. BROOKS] during the floor debate in determining what the legislative intent would be.

I would like to address my remarks specifically to the motion of the gentleman from Missouri [Mr. GEPHARDT] to refer this matter to the Judiciary Committee. The Judiciary Committee, as we all know, is Brooks' domain. We have not had a full Judiciary Committee meeting since October. I do not know of any full Judiciary Committee meeting that is currently scheduled, whether it is for next week of otherwise.

The gentleman from Missouri [Mr. GEPHARDT] has said in the course of his remarks that the matter will be referred to the subcommittee headed by the gentleman from California [Mr. EDWARDS], on which I serve as the ranking Republican member. This is nothing but a move to delay the consideration of whether the brief accurately stated what the House said or whether it did not, and meantime the Court is going to determine the question before it, and that is whether to have an expedited briefing schedule with the simultaneous submission of

briefs before the Congress can act on speaking its mind on this resolution.

The motion to refer to the Judiciary Committee is purely and simply a move to delay. Already two Federal district courts have declared the Flag Protection Act of 1989 unconstitutional. There is no Federal statute until the Supreme Court reverses those two district court determinations, and the longer this House delays and tries to muddle up the procedure in the Supreme Court, the longer the flag goes unprotected.

So when I vote on the motion pending before the House at the present time, is it going to leave that flag unprotected for a longer period of time, maybe all summer, maybe till after the election? A no vote will cause the Clerk of the House to withdraw the brief, which is very clearly inaccurate, from the plain English language in his wording matched up against the statute, and allow the Court to do what the House said, and that is to give this case the highest priority possible, so we will know before we break for the election, and before the Court breaks for the summer whether or not we have to pass a constitutional amendment and send that matter to the States for their hopeful speedy ratification.

Please defeat the Gephardt motion to delay and refer to committee. Please adopt the Michel resolution, and let us stand up for the integrity of the House in the briefings that we filed before a coordinate branch of government.

I thank the gentleman from Illinois for giving me this time.

Mr. GEPHARDT. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. EDWARDS].

□ 1250

Mr. EDWARDS of California. I thank the majority leader for giving me this time.

I would first like to suggest that the gentleman from Wisconsin [Mr. SENSENBRENNER] ought to check his law books. The statute passed overwhelmingly by the House of Representatives and which it is the House of Representatives' obligation to defend before the Supreme Court is still in existence, still working.

If someone burns the flag, except perhaps in a couple of districts in the State of Washington and in the District of Columbia, the law is very much in effect. One district judge or two district judges cannot speak for the entire country.

So what we intended when we passed the law so that we would not have to face at this time the enormously dangerous prospect of amending for the first time in our history the Bill of Rights, that is what we are talking about. And that is why we passed a statute with only 43 Members voting against it. Only 43.

Most of the Republicans voted for that statute, and now the Republicans, our friends in the minority, want us to rush to judgment, to give the Supreme Court, to give the lawyers who are defending mightily this statute for the House of Representatives and indeed for the people of the United States 15 or 16 days to prepare their briefs. What an enormous responsibility. And that is superexpediting this issue.

Who started this? Who started this expediting? The Solicitor General of the United States.

The Solicitor General, in essence, is not in favor of the statute. The defenses put up so far by the various U.S. attorneys, Republican U.S. attorneys throughout the country, are not very effective; 15 days, 16 days, 20 days, whatever it is, I think it is to April 26, is certainly not enough time. And I might say the attorneys for the flag-burner Johnston—is that what his name is—they do not want this ridiculous superexpedited treatment requested by the Solicitor General.

So let us lay the facts out. We did not insist on slowing the process down.

What happened is the process was working very well. The statute requires expedited treatment, and that is what was going on until the Solicitor General jumped in and asked for superexpedited consideration.

Lastly, Mr. Speaker, in the event this matter is referred to the Committee on the Judiciary and in the event the chairman, Mr. BROOKS, in his wisdom assigns it to the subcommittee I chair, I assure the Members it will receive fair treatment with all sides being heard. We held hearings on the statute before. We did not have one single complaint from anybody on this side or this side, that everybody was not heard and not treated fairly.

Mr. Speaker, I urge approval of the majority leader's motion.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. I thank the gentleman for yielding.

Mr. Speaker, there have been two points made by the gentleman from California to which I would like to respond.

The first is that the law is still in effect in those States in which a district court has not ruled. While that is technically true, all lawyers and judges understand that by virtue of precedent which is used by the courts in this country to determine what to do in hard cases, the district courts around this country will use the precedent of the other two courts, probably, to also find the statute unconstitutional in their district.

In addition to that, the law enforcement officers are going to be less willing to enforce this statute when it is pending in the Supreme Court and at least two district courts have found it to be unconstitutional.

So it is not correct, I think, to argue that the existence of the statute protects the flag in the other States of the Union.

Second, to the point that 15 or 20 days is not a long time and therefore it does not really matter, I would refer again to the point that the gentleman from Pennsylvania and Mr. SENSENBRENNER just a moment ago both made, and that is that we are not talking here about 15 or 20 days. What we are talking about is withdrawing a brief which explicitly says, and I quote:

> The court can and should set a briefing schedule that guarantees full consideration and give the case priority.

When? When it devises its calendar for October.

So we are not talking about 15 or 20 days. We are talking about a brief that specifically argues that the case should not be considered until October.

Now if we were just talking about 20 days, I would say that I probably have heard and read more articulation, some would say pontification, by lawyers and judges and other experts, law professors, on this subject than on about just anything else in recent memory, and because the case has been fully briefed before, I do not think it is a matter of lawyers needing more time to find the arguments to make in this particular case. So I do not think we can realistically say that there is some reason why we have to have this additional time.

But certainly since the brief itself argues for going forward in October, it seems clear that the question is very simple: Do we want to stand here for a decision as soon as possible so as to be able to protect the flag; or do we want to stand, in effect, on legal technicalities to argue to our constituents that we are willing to take a chance that the flag will not be protected, that some courts might still find it constitutional, notwithstanding the other decisions against it and notwithstanding the fact that it is pending in the Supreme Court? I do not want to have to argue that point to my constituents because as a lawyer I think I know what is going to happen. And that is the statute is not going to be enforced.

So I believe that resolution should be defeated, that we should withdraw the brief and we should expedite this matter in the Supreme Court as much as possible.

Mr. GEPHARDT. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, let me focus in on what has obviously become the debate, which is the line on page 14 of the brief where the counsel says:

The court can and should set a briefing schedule that guarantees full consideration and give the case priority when it devises its argument calendar for October.

Now why is that in that brief? Well, it is simply in that brief because it is following the orthodox method that we use to allow the Supreme Court to set its own schedule.

If we file a brief and we allow the regular period of time to expire, the Court will be in recess during the summer and therefore what we are asking the Court to do is to put it as the priority in the October session as they come back. That is exactly what we did with the Sentencing Commission. When those were filed in the spring of that year, the briefs were done during the spring and summer, and we asked the Court to take it up, and they did in October.

The point of this is that we are not following an unorthodox or unusual procedure. What we are saying is the Supreme Court should follow the expedited procedure. As all of us who voted for this statute originally remember, there were no specifics in the statute because, as in previous statutes such as Gramm-Rudman and others that we have used expedited review, we did not specifically mention how they should review it.

Now in the Supreme Court, when expedited review is done, they follow a procedure to have briefs and cross briefs and replies, and the question is: If we allowed the district court to follow that procedure, is it not proper that the Supreme Court should follow that same procedure? The answer is "Yes." The Supreme Court should be given the opportunity to follow that same procedure.

Now since the statute did not indicate that the rules of the Court were to be waived, the only prior example that the Court has is Gramm-Rudman and, secondly, the Sentencing Commission. And as I pointed out, with the Sentencing Commission they took the briefs during the spring and summer, they moved it to early consideration in October, and that is exactly what our counsel asked.

Let me conclude by saying that it is regrettable that we are here today. This is too important of a matter that is disserved with the political tone that it is getting. This issue more than any other issue that we have dealt with in this 101st Congress is one that deserves full debate and full review and full briefing so that when the Court finally makes the decision all parties are satisfied that their side was heard.

That is what this brief is all about. That is what the counsel filed in behalf of, that is why the counsel filed it only on behalf of the leadership and the Democratic Party because those in the Republican Party said they did not want to be part of that brief. And we are trying to uphold that law and statute which the Court has before us.

□ 1300

Mr. MICHEL. Mr. Speaker, I yield 7 minutes to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Speaker, I want to go back just a little bit into history as to what happened, because we have heard from the gentleman from California [Mr. EDWARDS] about how the committee had full and fair discussion of this issue. That is true. We had good discussion from witnesses who testified. What we did not have, and I participated, was the chance to take up the constitutional amendment. Everything that has happened since last summer in that committee has been a sham and joke. They got an "F" when they wrote that statute, and they are going to get an "F" on the briefs.

The reason is very simple. They know, despite all the rhetoric, that they cannot write a statute to overturn the Texas versus Johnson decision. They said, "Look, let us try, and the deal we will make is to those who support the amendment such as me is this: We will expedite this case."

I refer to page 10 of the committee report, and it says:

In order to achieve prompt Supreme Court review of the constitutionality, the bill includes a provision for expedited review. The procedure is similar to the provisions included in the Gramm-Rudman-Hollings law.

So the committee said to the American people:

Let us try this statute, and we are going to give you the same speedy review, we are using the same language as in Gramm-Rudman.

What was the period of time for Gramm-Rudman? Seven months from start to finish in the Supreme Court.

The gentleman from Texas [Mr. BROOKS] stood on the floor of the House and said on September 12, 1989. "I think it will be held constitutional. To provide that it has immediate consideration by the Supreme Court, we have provided in this bill the following provision." "Immediate," the chairman said. He wants it "immediately."

The law itself is clear, and it has been quoted. It is fairly simple. "This Supreme Court will advance on the docket and expedite to the greatest extent possible."

Now, I was a judge on a supreme court for 8 years, and if some lawyer said to me, "Your Honor, the statute says 'expedite to the greatest extent possible' "—I cannot think of any way to say it faster. That is fast.

The chairman says "immediate," but the House brief—now there is a work of art. All that meant, and I am quoting from page 12 that the gentleman from Oklahoma [Mr. SYNAR] did not quote from, where it says;

Congress intended that clause to avoid delays of an order of magnitude greater than those of a regular briefing period.

Now, that is phenomenal. "Expedite to the greatest extent possible" means avoid a delay. Normal delays are all right, but if it is any longer than that, that is what we mean to expedite to the greatest extent possible.

Now, come on. It is very hard to say that with a straight face. It is amazing that someone wrote it and put it in a brief on behalf of a House that very specifically said the point of the exercise is that we are willing to try this sham, we are willing to do it. I voted against the sham, but they wanted to try it. However, what is terrifying them is July 4. They know the Supreme Court goes out in June, and something might happen before the Fourth of July or the anniversary of that opinion.

The Justice Department, unfortunately, had to end up definding the House statute. They had to say:

We oppose what the House is doing, and the reason we oppose it is what the House said in the statute namely, to 'expedite to the greatest extent possible.'

This is an exercise in sophistry. It is a humiliation to the House to think that its own lawyer would try to say to the Court that all we mean is to not delay it more than the normal routine, and that that is what "expedite to the greatest extent possible" means. That is what the reference to Gramm-Rudman means. We will all have a chance, very soon, to vote on that constitutional amendment, because next Wednesday I am filing my discharge petition, right here, and I am placing everyone in this House on notice that I will not be bound by the rule that says hypocrites can hide by not having anyone know if they signed that petition.

Mr. GEPHARDT. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Speaker, the problem that I have with the discussion so far is I have failed to hear anyone articulate why it is necessary that there be some resolution before the November elections.

What is the connection, logically, if there is one, between the elections being held in November, and the flag? The flag does not belong to the election process. In fact, to politicize the flag, to me, is as bad as to burn the flag. It seems to me that we desecrate the flag in a number of ways, and burning is only one of them. For politicans to use the flag as a cheap means of glorifying themselves, and that is as much a desecration of the flag as anything else.

What has the November election to do with this flag-burning amendment and with the Flag Protection Act? I suggest nothing, except someone

wants to use it for political purposes in the November election. That, to me, is desecration of the flag. We set a poor example for the people in this country when we politicize the flag. The flag is not the subject of politicalization in my opinion. The flag is something that we should revere in this country. The flag is something we should protect. The flag is something that we defend in many parts of the globe and on many occasions. However, to put this pressure on, and I do not think anyone is fooled by this, and I would like to have someone come up here and articulate it.

I heard the distinguished minority leader in his opening remarks use October and a slip of his tongue, November. November is when we have the election, Mr. Minority Leader, not when the Supreme Court meets. The Supreme Court meets in October. The election is held in November.

The people of this country ought to make that decision free and unfettered by how we feel about the flag. It seems to me that when they decide about the candidates and which elections they would like to have elected, but it seems to me that much is being said today that has absolutely nothing to do with the flag but who gets elected to what office and when. I think the people of this country are tired of that, and I think they ought to show that to the people of both parties when the elections come in November. We ought to do what we can for the flag. We ought to do what we can for the flag, but without partisan politics, because that is the cheapest trick of all.

Mr. MICHEL. Mr. Speaker, I yield myself 1 minute.

I would like only to respond to the distinguished gentleman from Texas [Mr. WASHINGTON], to remind him that when the distinguished gentleman from Mississippi and I joined in a constitutional amendment as the means by which we thought this issue ought to be dealt with, it was all done on a bipartisan basis. Everything we did had to do with keeping it a nonpartisan kind of issue.

I would never have talked about the merits or demerits of the flag during the course of this resolution I have introduced today, other than the fact that it opened some kind of flap about the possibility of limiting debate here, because all I was concerned about was the institutional problem that we had in not having the kinds of consultation with the minority that I thought we were deserving of having, and that they be on specific instances when there are these different communications submitted as this case, through the Supreme Court.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I appreciate the minority leader yielding time to me.

Let me simply say this to the majority: I have supported your position on the flag issue. I personally have never supported an amendment to the Constitution on the flag-burning issue, and at the request of the majority leader and the Speaker, I joined with Members in standing up to what I personally, as an individual, felt was yet a needless and reckless politicizing of the issue.

I will say it, I said it then, I will say it again, but to try to duck the issue in the way which has been done today, and to betray a trust that was part of the agreement when we voted on this procedure last year is nothing more than trying to carve out profiles in Jell-O. Jell-O. Members talk about having courage to defend the Bill of Rights. I will get down here and defend the Bill of Rights and defend it in my district before the election. However, do not doublecross the minority and do not use high-faluting language about trying to preserve the Constitution when Members are busy involved in inconsistent legislative arrangements here that really betray a trust that was granted to the minority as part of a bipartisan agreement on the procedure itself, which becomes part and sum of the substance.

□ 1310

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOYER). The Chair wishes to admonish the Members, as the Chair is sure all the Members know, that it is contrary to the rules to characterize the motives of another Member. Let us caution ourselves to follow the rules and conduct the debate, which is an important debate, in the fashion as required by the rules.

The Chair recognizes the majority leader.

Mr. GEPHARDT. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I thank the majority leader for yielding this time to me.

Mr. Speaker, I think we need not debate the question of politicizing this issue. I am quite content, let me say in response to my friend, the gentleman from Michigan, that I believe the American public can determine who politicized this issue.

But the question really is the brief itself, and I think this is much ado about nothing. I think the majority counsel, the counsel for the House, honestly felt in terms of the time sequence that the Court could not entertain this matter until the October session. But that is for the court to determine, and whether "for October" needed to be part of the brief is problematical. The fact is that we do need to have a brief. There are people who support the statute. The House of Representatives supported that statute, and as a matter of fact, we need representation in the Supreme Court, and that brief represents that position.

I am sorry that there are so many people or so many Members apparently who are now unhappy with the statute that we voted for. I would think at this late hour the least we could do is try to defend that statute, to uphold it and thereby uphold the flag.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield for one moment?

Mr. KASTENMEIER. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I just want to make the point that I think in a Freudian slip the gentleman stated precisely our concern when he said it was the majority counsel. The counsel to the Clerk is the counsel to the House, and there is a procedure for involving all of the House through the leadership committee. That is our point. And, by the way, we have been through this routinely in the past. We would normally have declined, but we would have known what was going to happen. So I would ask the gentleman to reconsider. This is not the majority counsel; this is the Clerk's counsel for the House.

Mr. Speaker, I thank the gentleman for yielding.

Mr. KASTENMEIER. Mr. Speaker, I thank the gentleman from Georgia.

Mr. Speaker, it may have been a procedural slip, but it was not a Freudian slip on the part of the gentleman from Wisconsin. But whoever is responsible for it, we need a brief represented before the Supreme Court.

The position of the minority is to withdraw the brief, and that has to be rejected here by agreeing to the motion offered by the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. The Chair would again caution visitors in the galleries that expressions of support, of pleasure, or of displeasure are against the rules of the House, and the Chair would request our guests to refrain from any such expressions.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, let me say to the Members that I notice that the brief, in terms of the legal counsel that submitted it, was submitted by Steven Ross, general counsel to the Clerk, and I note this brief is filed in its terms on behalf of one of the Members on the floor, our majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Would the gentleman be kind enough to listen to a question by me?

Mr. GEPHARDT. Surely.

Mr. DANNEMEYER. Mr. Speaker, would the gentleman please explain to the Members how the legal counsel to the Clerk of the House functions? On whose behalf does this lawyer speak when he speaks on behalf of the Clerk of the House?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, as I get it, his task is to represent the views of the House in this legal proceeding on behalf of the Clerk. He is directly assigned to the Clerk.

Mr. DANNEMEYER. Is there a proceeding or a committee of the House that meets to advise legal counsel as to what position to take on behalf of the House?

Mr. GEPHARDT. There are frequent meetings of the joint leadership with the legal counsel, and matters are discussed as to the position of the House on various different subjects.

Mr. DANNEMEYER. Mr. Speaker, I have been told there is a legal committee consisting of five Members that serve in the House to give advice and direction to the Clerk and to legal counsel for the Clerk; is that correct?

Mr. GEPHARDT. The gentleman is correct.

Mr. DANNEMEYER. Are there Members of the minority on that legal committee?

Mr. GEPHARDT. There are.

Mr. DANNEMEYER. And in the proceeding that produced this brief, were the Members of the minority asked with respect to whether or not they took a position on the filing of this brief?

Mr. GEPHARDT. As I understand it, the Members—and in some cases it may have been their staffs—were asked prior to the pleadings being filed in the district court.

Mr. DANNEMEYER. Mr. Speaker, let me say to the gentleman from Missouri [Mr. GEPHARDT] that I am talking about this brief that was dated March 15, 1990.

Mr. GEPHARDT. To the Supreme Court?

Mr. DANNEMEYER. Yes. That is prior to the filing of this latest document I hold in my hand.

Mr. GEPHARDT. Mr. Speaker, the counsel assumed—and I mentioned this in my statement—that the position taken at the time the district court pleadings were filed was the position of the Republican members of that committee throughout the litigation.

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague for his response, and I think that makes my very point. We have in existence in the House a legal committee that is in business for the purpose of considering what actions shall be taken on behalf of the House, and if I heard what the majority leader said, in this instance for reasons that are not entirely clear, the legal committee that is in business and in existence was not asked, at least insofar as a member of the minority on the committee is concerned. I think that was an error of judgment on his part. I am willing to concede that it was innocent, but I think the way to correct that error of judgment is not to refer this matter to the committee but to let the House take it up today.

Mr. GEPHARDT. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise as the chairman of the Committee on the Judiciary to clarify some issues that have been raised surrounding the Flag Protection Act, the provision for expedited review by the Supreme Court of that act, and the legal brief which has been filed in defense of that act on behalf of the House. As the Members undoubtedly are aware, during consideration of the act by the committee, the House, and the Congress last year, a provision was added to respond to the concerns of a number of witnesses—including former Federal judge Robert Bork—over the delay and uncertainty that might result from protracted litigation to determine the constitutionality of the act.

The so-called expedited review provision of Public Law 101-131 provides for an appeal to be taken directly to the Supreme Court of the United States from a district court ruling on the constitutionality of the act. It also requires that the Supreme Court accept jurisdiction over the appeal and "advance on the docket and expedite to the greatest extent possible." This process, in fact, is exactly what has taken place. The case has been moved expeditiously to the Supreme Court, by passing what would have been a lengthy process of review at the appellate level.

To read into this provision a mandate that the Supreme Court bypass due process considerations at the Supreme Court level is, in my mind, a misreading of the intent of the committee and the Congress in enacting the expedited review provision.

Nowhere, either explicitly or implicitly, does the act mandate that the Supreme Court foreclose the standard and valuable process of permitting opportunity for the filing and cross-filing of briefs on this matter. Nor do I believe this was the intent of the committee. I would note that the issues at hand touch on basic questions of constitutionality. There is little to be gained, and much to be lost, by bypassing due process at this stage of judicial consideration.

As to the question of whether or not the House brief misrepresents the position of the minority leadership, I believe that the minority leadership has made it clear consistently through this process that it was not inclined to participate in defending the constitutionality of the Flag Protection Act—notwithstanding the fact that an overwhelming number of the Republican Members of the House voted for its enactment. As such, I do not believe that the House brief unfairly or inaccurately portrays the position of the minority leadership.

□ 1320

The SPEAKER pro tempore (Mr. HOYER). The gentleman from Illinois [Mr. MICHEL] has 6 minutes remaining and the gentleman from Missouri [Mr. GEPHARDT] has 3 minutes remaining.

Mr. MICHEL. Mr. Speaker, I would just like to make one quick comment.

The price of those big bulk of Republican votes was the assurance in the State that there would be an expedited procedure to the court. That is what brought the votes, and that is the bone of contention.

Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, the flag—and the Constitution it represents—does not fly proudly today.

As it stands, free speech to the Federal district courts includes burning the flag—and free speech to the general counsel apparently includes delaying review of those decisions by the Supreme Court.

Last year, Congress passed a law to protect the flag. We passed the law because we were assured it was enough, that a constitutional amendment was not needed.

It now appears that a law is not enough to protect the flag when the general counsel can disregard the intent of Congress by asking the Supreme Court to delay an expedited review of the lower court rulings.

The general counsel's brief specifically refers to having this case scheduled for the Court's October Calendar, which puts any Supreme Court decision beyond the wishes of the voters this November.

The Supreme Court must review these lower court decisions.

This Congress must know whether we need a constitutional amendment to protect the flag.

The flag—and those who have died to preserve it—deserve no less.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MICHEL], the majority leader, has 5 minutes remaining, not 3. Each party now has 5 minutes remaining.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, when I started in law school, longer ago than I care to remember, I remember my first professor saying that a lawyer has to be plausible in support of groundless motions, and I must say this is a groundless argument being

made by the majority party here today, and they are not even being plausible.

First of all, Mr. Speaker, the brief that was filed was filed on behalf of the Democratic leadership, and, although it was filed by counsel who says he is counsel for the House, the Republicans had no look at that brief. It was not submitted to them, even though the brief says they declined to participate.

Mr. Speaker, I say to my colleagues, "You can't decline unless you're offered a look at the brief," so that was not done.

Second, counsel for the Democratic leadership presumes to suggest to the court when this should be heard, even though the language, the plain English language, which I do not think anybody could have any trouble understanding, says, "Expedite to the greatest extent possible."

However, Mr. Speaker, counsel for the Democrats says, "Suggest that be October."

I would suggest again that that be left to the court to decide, when the greatest extent possible for expedition is attained.

Now, Mr. Speaker, the gentleman from Texas [Mr. BROOKS] talked about politicizing the flag. Many of us voted for this statutory remedy to burning the flag on the premise that the language meant what it said, that a constitutional evaluation of this statute would be expedited to the Supreme Court, and based on that we did not press for a constitutional amendment at that time. Now two judges have found it unconstitutional.

Mr. Speaker, all we ask for is what the statute itself says, and I find it incredible that the English language does not mean what plainly the words mean. It reminds me of stepping through the looking glass.

Mr. MICHEL. Mr. Speaker, I yield the balance of our time to the distinguished gentleman from Georgia [Mr. GINGRICH].

The SPEAKER pro tempore. The gentleman from Georgia [Mr. GINGRICH] is recognized for 3 minutes.

Mr. GINGRICH. Mr. Speaker, I appreciate very much the gentleman from Illinois [Mr. MICHEL] recognizing me, and I appreciate the fact that he took to the floor with this point of personal privilege.

Mr. Speaker, I think there are two questions at issue in this question of personal privilege or privileges of the House rather. The first is the question of procedure in the House, and in the last few minutes after the gentleman from Oklahoma [Mr. SYNAR] spoke, I met with him and with counsel for the Clerk, and I think we have reached an agreement that counsel for the Clerk in fact made a mistake, that it was the wrong procedure, that we were not asked whether or not we declined on this brief, that on this brief it is clear that neither the gentleman from Illinois [Mr. MICHEL], nor myself, were involved and that that was an error.

However, Mr. Speaker, there is a larger issue at stake. What would we have done? It is not just a question of our egos or our personalities. Had we been approached with a brief which suggested that the Court wait until October, we would have asked for a meeting of the leadership committee, and we would have pointed out that the House had been assured during the debate on September 12, 1989, that the Court would be asked to give it immediate consideration.

Now the gentleman from Texas [Mr. BROOKS], the very distinguished chairman of the Committee on the Judiciary, spoke earlier and talked about expedited procedure. That is not the word he used on September 12, 1989. He said:

> To provide that it has immediate consideration by the Supreme Court, we have provided in this bill the following provision.

I voted on final passage for the bill that was in the House because I had been promised by the chairman of the Committee on the Judiciary that the Supreme Court would be asked to test the legality. I frankly do not think the bill is constitutional. I think the Court will throw it out, but I was prepared to give the Democratic leadership the benefit of the doubt because they had asked for immediate consideration.

It is interesting, if my colleagues will read the Biden quote which is on page 12 of the brief. He says:

> The House added a provision for expedited procedure, and if I can note parenthetically the reason for that: One of the things that the critics of this approach, the legislative approach, have is they say "Now, wait a minute, Biden; if you and Thurmond and others go ahead and pass a piece of legislation * * * at some point in the future the Court may strike this down, a year, 2 or 3 years from now, and then we will have lost a great deal of time in dealing with * * * a constitutional amendment.

Mr. Speaker, that is quoted on page 12, but on page 13 they cut out the beginning of the quote, and they talk about no realistic prospect of, quote, "2 or 3 years from now," dropping a year.

But the fact was very simple. We wanted this bill to go to the Court in time for this Congress in this session to decide on a constitutional amendment if the Court rules it unconstitutional. Now, as somebody who has voted for this bill, I believe that we clearly were promised immediate consideration. I believe that the brief is misleading, and I would urge every Member to vote "no" because a "yes" vote on this motion is a vote to urge the Supreme Court not to decide on constitutionality until after this Congress has adjourned, and that is explicitly not what we were offered.

Mr. GEPHARDT. Mr. Speaker, I yield myself the balance of our time.

Mr. Speaker, I think this has been a useful debate. I understand what the distinguished minority whip was saying about the kind of consultation that we would like to have. I think the lawyer for the Clerk made it very clear that he made an assumption. Perhaps he was wrong in making this assumption, but he made the assumption based on conversations he either had with the Republican Members or their staff prior to the filing of the pleadings in the district court, and his recollection of those meetings was that the view of those Republican Members, the distinguished minority whip, the distinguished minority leader, was that the statute was not constitutional, that they were not confident of our case on constitutionality, and they wanted us to know of their decision not to participate in the pleadings and in the case.

□ 1330

I understand Members who believe that this statute is not constitutional. There were Members, primarily on the other side, who voted against the statute and wanted a constitutional amendment. I understand that. That is a legitimate position for one to take. It however was not the position of the House.

I want to go back, no matter what miscommunication or lack thereof transpired, I want to go back to what is going on here. What is going on here is how do we get into the position where we have the maximum possible opportunity to have the Supreme Court uphold this statute?

It is the opinion of our counsel who we hire and pay to put the best foot forward on behalf of the position of the House, that he needs 15 or 20 days in order to develop the best possible historical argument to support our position on the case.

It was said earlier that it is the position of the solicitor that we should not make this kind of a historical argument. The solicitor simply wants to say to the Supreme Court, "Change your mind."

So what is at stake here is whether or not we are going to stand behind our counsel to put that kind of best case forward, giving him the time to do the research, to consult the books, to get the experts behind this kind of an opinion that will give us the best possible case.

Why would we not want to do that? Why would we not want the Court to see our best possible arguments, and why would we not want to settle this issue with the Supreme Court saying the statute is constitutional? That is what we should want to do.

If the Court decides they can do this in a quicker manner, that they can

break some of their rules, fine, let us do it; but let us not now back up and let us not now say to our counsel that we are not going to take those 15 or 20 days, we just want to run to the Court, because we do not think, some of us may not think, a minority of us may not think, the statute is going to be constitutional.

So I ask Members, if you are interested in the statute being held up, if you are interested in the flag being protected in the fastest and the most effective manner we can find, then vote for the motion to refer and let us let our counsel do his work and let us win this case before the Supreme Court.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. HOYER). The question is on the motion offered by the gentleman from Missouri [Mr. GEPHARDT].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MICHEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 176, nays 233, not voting 22, as follows:

[Roll No. 38]

YEAS—176

Ackerman	Durbin	Kennelly
Akaka	Dwyer	Kildee
Alexander	Dymally	Kleczka
Anderson	Early	Kolter
Andrews	Eckart	Kostmayer
Anthony	Edwards (CA)	LaFalce
Aspin	Engel	Lantos
Atkins	Espy	Lehman (CA)
AuCoin	Evans	Lehman (FL)
Bates	Fazio	Levin (MI)
Beilenson	Feighan	Levine (CA)
Berman	Flake	Lewis (GA)
Bonior	Foglietta	Lowey (NY)
Borski	Ford (MI)	Luken, Thomas
Bosco	Frank	Manton
Boucher	Frost	Markey
Boxer	Gejdenson	Martinez
Brennan	Gephardt	Matsui
Brooks	Gibbons	Mavroules
Bruce	Glickman	Mazzoli
Bryant	Gonzalez	McCloskey
Campbell (CO)	Gordon	McCurdy
Cardin	Gray	McDermott
Carper	Guarini	McHugh
Carr	Hall (OH)	McMillen (MD)
Clay	Hamilton	McNulty
Clement	Hawkins	Mfume
Coleman (TX)	Hayes (IL)	Miller (CA)
Condit	Hertel	Mineta
Conyers	Hoagland	Moakley
Coyne	Hoyer	Mollohan
Crockett	Hughes	Moody
de la Garza	Jacobs	Murtha
DeFazio	Johnson (SD)	Nagle
Dellums	Johnston	Natcher
Dicks	Jones (NC)	Neal (MA)
Dingell	Jontz	Neal (NC)
Dixon	Kanjorski	Nowak
Donnelly	Kaptur	Oakar
Dorgan (ND)	Kastenmeier	Oberstar
Downey	Kennedy	Obey
Ortiz	Sawyer	Torricelli
Owens (NY)	Scheuer	Towns
Owens (UT)	Schroeder	Traxler
Pallone	Schumer	Udall
Panetta	Sikorski	Unsoeld
Payne (NJ)	Skaggs	Vento
Pease	Slattery	Visclosky
Pelosi	Slaughter (NY)	Walgren
Penny	Smith (FL)	Washington
Pickle	Smith (IA)	Weiss
Price	Solarz	Wheat
Rangel	Staggers	Whitten
Richardson	Stark	Williams
Roe	Stokes	Wise
Rose	Studds	Wolpe
Rostenkowski	Swift	Wyden
Roybal	Synar	Yates
Sabo	Torres	

NAYS—233

Annunzio	Gunderson	Payne (VA)
Applegate	Hall (TX)	Perkins
Archer	Hammerschmidt	Petri
Armey	Hancock	Pickett
Baker	Harris	Porter
Ballenger	Hastert	Poshard
Barnard	Hatcher	Pursell
Bartlett	Hayes (LA)	Quillen
Barton	Hefley	Rahall
Bateman	Hefner	Ravenel
Bennett	Henry	Ray
Bentley	Herger	Regula
Bereuter	Hiler	Rhodes
Bevill	Hochbrueckner	Ridge
Bilbray	Holloway	Rinaldo
Bilirakis	Hopkins	Ritter
Billey	Horton	Roberts
Boehlert	Houghton	Robinson
Boggs	Hubbard	Rogers
Broomfield	Huckaby	Rohrabacher
Browder	Hunter	Ros-Lehtinen
Brown (CO)	Hutto	Roukema
Buechner	Hyde	Rowland (CT)
Bunning	Inhofe	Rowland (GA)
Burton	James	Russo
Byron	Jenkins	Saiki
Callahan	Johnson (CT)	Sangmeister
Campbell (CA)	Jones (GA)	Sarpalius
Chandler	Kasich	Saxton
Chapman	Kolbe	Schaefer
Clarke	Kyl	Schiff
Clinger	Lagomarsino	Schneider
Coble	Lancaster	Schuette
Coleman (MO)	Laughlin	Sensenbrenner
Combest	Leach (IA)	Sharp
Conte	Lent	Shaw
Costello	Lewis (CA)	Shays
Coughlin	Lewis (FL)	Shumway
Courter	Lightfoot	Shuster
Cox	Lipinski	Sisisky
Crane	Livingston	Skeen
Dannemeyer	Lloyd	Skelton
Darden	Long	Slaughter (VA)
Davis	Lowery (CA)	Smith (NE)
DeLay	Lukens, Donald	Smith (NJ)
Derrick	Machtley	Smith (TX)
DeWine	Madigan	Smith (VT)
Dickinson	Martin (IL)	Smith, Denny (OR)
Dornan (CA)	Martin (NY)	Smith, Robert (NH)
Douglas	McCandless	Smith, Robert (OR)
Dreier	McCollum	Snowe
Duncan	McCrery	Solomon
Dyson	McDade	Spence
Edwards (OK)	McEwen	Spratt
Emerson	McGrath	Stallings
English	McMillan (NC)	Stangeland
Erdreich	Meyers	Stearns
Fawell	Michel	Stenholm
Fields	Miller (OH)	Tallon
Fish	Miller (WA)	Tauke
Frenzel	Montgomery	Tauzin
Gallegly	Moorhead	Taylor
Gallo	Morella	Thomas (CA)
Gaydos	Morrison (WA)	Thomas (GA)
Gekas	Murphy	Thomas (WY)
Geren	Myers	Traficant
Gillmor	Nielson	Upton
Gilman	Olin	Valentine
Gingrich	Oxley	Vander Jagt
Goodling	Packard	Volkmer
Goss	Parker	Vucanovich
Gradison	Parris	Walker
Grandy	Pashayan	Walsh
Grant	Patterson	Watkins
Green	Paxon	Weber
		Weldon
		Whittaker
		Wilson
		Wolf
		Wylie
		Yatron
		Young (AK)
		Young (FL)

NOT VOTING—22

Brown (CA)	Hansen	Savage
Bustamante	Ireland	Schulze
Collins	Leath (TX)	Stump
Cooper	Marlenee	Sundquist
Craig	Morrison (CT)	Tanner
Fascell	Mrazek	Waxman
Flippo	Nelson	
Ford (TN)	Roth	

□ 1355

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Stump against.

Mr. Brown of California for, with Mr. Craig against.

Mr. SPRATT and Mr. DERRICK changed their vote from "yea" to "nay."

Mr. ANTHONY changed his vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

Mr. MICHEL. Mr. Speaker, I think it is quite clear and evident by the vote that was just cast that the House has spoken. Unless there is any reason for extended debate on the part of any other Member, it would be the inclination on the part of the gentleman from Illinois simply to move the previous question.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GEPHARDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 309, nays 101, not voting 21, as follows:

[Roll No. 39]

YEAS—309

Akaka	Boucher	Costello
Alexander	Brennan	Coughlin
Anderson	Broomfield	Courter
Andrews	Browder	Cox
Annunzio	Brown (CO)	Crane
Anthony	Bruce	Dannemeyer
Applegate	Buechner	Darden
Archer	Bunning	Davis
Armey	Burton	de la Garza
Aspin	Byron	DeLay
Baker	Callahan	Derrick
Ballenger	Campbell (CA)	DeWine
Barnard	Campbell (CO)	Dickinson
Bartlett	Carper	Donnelly
Barton	Carr	Dornan (CA)
Bateman	Chandler	Douglas
Bennett	Chapman	Downey
Bentley	Clarke	Dreier
Bereuter	Clement	Duncan
Bevill	Clinger	Dwyer
Bilbray	Coble	Dyson
Bilirakis	Coleman (MO)	Eckart
Billey	Combest	Edwards (OK)
Boehlert	Condit	Emerson
Boggs	Conte	Engel
Borski	Conyers	English
Bosco	Cooper	Erdreich

Espy	Lent	Robinson
Fawell	Levin (MI)	Roe
Feighan	Lewis (CA)	Rogers
Fields	Lewis (FL)	Rohrabacher
Fish	Lightfoot	Ros-Lehtinen
Frank	Lipinski	Rose
Frenzel	Livingston	Rostenkowski
Frost	Lloyd	Roukema
Gallegly	Long	Rowland (CT)
Gallo	Lowery (CA)	Rowland (GA)
Gaydos	Lowey (NY)	Russo
Gekas	Luken, Thomas	Saiki
Geren	Lukens, Donald	Sangmeister
Gibbons	Machtley	Sarpalius
Gillmor	Madigan	Sawyer
Gilman	Manton	Saxton
Gingrich	Martin (IL)	Schaefer
Goodling	Martin (NY)	Schiff
Gordon	Matsui	Schneider
Goss	Mavroules	Schuette
Gradison	McCandless	Sensenbrenner
Grandy	McCollum	Shaw
Grant	McCrery	Shays
Green	McDade	Shumway
Gunderson	McEwen	Shuster
Hall (OH)	McGrath	Sisisky
Hall (TX)	McMillan (NC)	Skeen
Hamilton	McNulty	Skelton
Hammerschmidt	Meyers	Slaughter (NY)
Hancock	Michel	Slaughter (VA)
Hansen	Miller (OH)	Smith (NE)
Harris	Miller (WA)	Smith (NJ)
Hastert	Moakley	Smith (TX)
Hatcher	Montgomery	Smith (VT)
Hayes (LA)	Moorhead	Smith, Denny (OR)
Hefley	Morella	
Hefner	Morrison (WA)	Smith, Robert (NH)
Henry	Murphy	
Herger	Murtha	Smith, Robert (OR)
Hertel	Myers	
Hiler	Natcher	Snowe
Hoagland	Neal (MA)	Solomon
Hochbrueckner	Neal (NC)	Spence
Holloway	Nielson	Spratt
Hopkins	Nowak	Stallings
Horton	Oakar	Stangeland
Houghton	Olin	Stearns
Hubbard	Ortiz	Stenholm
Huckaby	Oxley	Tallon
Hughes	Packard	Tauke
Hunter	Pallone	Tauzin
Hutto	Parker	Taylor
Hyde	Parris	Thomas (CA)
Inhofe	Pashayan	Thomas (GA)
Jacobs	Patterson	Thomas (WY)
James	Paxon	Torres
Jenkins	Payne (VA)	Traficant
Johnson (CT)	Pease	Udall
Johnson (SD)	Penny	Upton
Johnston	Perkins	Valentine
Jones (GA)	Petri	Vander Jagt
Jones (NC)	Pickett	Volkmer
Kanjorski	Pickle	Vucanovich
Kaptur	Porter	Walgren
Kasich	Poshard	Walker
Kennelly	Price	Walsh
Kleczka	Pursell	Watkins
Kolbe	Rahall	Weber
Kolter	Ravenel	Weldon
Kyl	Ray	Whittaker
Lagomarsino	Regula	Whitten
Lancaster	Rhodes	Wilson
Lantos	Richardson	Wolf
Laughlin	Ridge	Wylie
Leach (IA)	Rinaldo	Yatron
Leath (TX)	Ritter	Young (AK)
Lehman (CA)	Roberts	Young (FL)

NAYS—101

Ackerman	Dellums	Glickman
Atkins	Dicks	Gonzalez
AuCoin	Dingell	Gray
Bates	Dixon	Guarini
Beilenson	Dorgan (ND)	Hawkins
Berman	Durbin	Hayes (IL)
Bonior	Dymally	Hoyer
Boxer	Early	Jontz
Brooks	Edwards (CA)	Kastenmeier
Bryant	Evans	Kennedy
Cardin	Fazio	Kildee
Clay	Flake	Kostmayer
Coleman (TX)	Foglietta	LaFalce
Coyne	Ford (MI)	Lehman (FL)
Crockett	Gejdenson	Levine (CA)
DeFazio	Gephardt	Lewis (GA)
Markey	Payne (NJ)	Swift
Martinez	Pelosi	Synar
Mazzoli	Rangel	Torricelli
McCloskey	Roybal	Towns
McCurdy	Sabo	Traxler
McDermott	Scheuer	Unsoeld
McHugh	Schroeder	Vento
McMillen (MD)	Schumer	Visclosky
Mfume	Sikorski	Washington
Miller (CA)	Skaggs	Waxman
Mineta	Slattery	Weiss
Mollohan	Smith (FL)	Wheat
Moody	Smith (IA)	Williams
Nagle	Solarz	Wise
Oberstar	Staggers	Wolpe
Obey	Stark	Wyden
Owens (UT)	Stokes	Yates
Panetta	Studds	

NOT VOTING—21

Brown (CA)	Ireland	Roth
Bustamante	Marlenee	Savage
Collins	Morrison (CT)	Schulze
Craig	Mrazek	Sharp
Fascell	Nelson	Stump
Flippo	Owens (NY)	Sundquist
Ford (TN)	Quillen	Tanner

□ 1416

The Clerk announced the following pairs:

On this vote:

Mr. Sharp for, with Mr. Nelson of Florida against.

Mr. Stump for, with Mrs. Collins against.

Messrs. McMILLEN of Maryland, ATKINS, and EARLY changed their votes from "yea" to "nay."

Mr. HOAGLAND and Mr. AKAKA changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

A POINT OF PERSONAL PRIVILEGE—MISQUOTATION OF MEMBER IN BRIEF OF THE COUNSEL TO THE CLERK OF THE HOUSE

Mr. SENSENBRENNER. Mr. Speaker, I rise to a point of personal privilege.

The SPEAKER pro tempore (Mr. BRUCE). The Chair is aware of the gentleman's position, and he will be recognized on his point of personal privilege.

The gentleman from Wisconsin [Mr. SENSENBRENNER] is recognized for 1 hour.

Mr. SENSENBRENNER. Mr. Speaker, in my 11½ years as a Member of this body I have never before risen to a point of personal privilege. I am compelled to do so at this time because the brief that was filed by the counsel for the Clerk of the House, Mr. Steven Ross, with the Supreme Court of the United States names me by name and flat out misrepresents the position that I took during the markup in the Judiciary Committee on the Flag Protection Act of 1989.

I am taking the time of the House this afternoon in order to correct the record as well as to express my profound disappointment that the Clerk's counsel decided to file this erroneous and misleading brief quoting me.

On page 12 of the brief the brief states relative to the expedited review clause contained in the Flag Protection Act of 1989, and I quote:

The cause rose in reaction to complaints such as those of Representative Sensenbrenner, the ranking minority member on the House subcommittee with jurisdiction over the measure, that the legislative consideration of the statute delayed adoption of a constitutional amendment. Representative Sensenbrenner forecast further delays in considering a constitutional amendment "even if this statute reaches the Supreme Court and is found unconstitutional several years down the road." Transcript of the markup session on H.R. 2978, House Committee on the Judiciary, July 26, 1989, at page 17, emphasis added.

The brief continues to state, and I quote:

The complaint that it would take several years before the Supreme Court would hear a case continued to reverberate. The sponsors of the statute responded.

That is the end of the quote from the brief.

The complaint that I made during the markup session in the Judiciary Committee was not that the Supreme Court would delay but that the Congress would delay. Furthermore, the insertion of the expedited review procedure in H.R. 2978 was not done following my comments as just quoted in the House Judiciary Committee, but those provisions were contained in the legislation which I was debating then and there.

Mr. Speaker, I ask unanimous consent that H.R. 2978, as introduced by Mr. BROOKS and Mr. EDWARDS of California on July 24, 1989, be inserted in the RECORD at this point.

The material referred to is as follows:

H.R. 2978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flag Protection Act of 1989".

SEC. 2. CRIMINAL PENALTIES WITH RESPECT TO THE PHYSICAL INTEGRITY OF THE UNITED STATES FLAG.

(a) IN GENERAL.—Subsection (a) of section 700 of title 18, United States Code, is amended to read as follows:

"(a)(1) Whoever knowingly mutilates, defaces, burns, or tramples upon any flag of the United States shall be fined under this title or imprisoned for not more than one year, or both.

"(2) This subsection does not prohibit any conduct consisting of the disposal of a flag when it has become worn or soiled.

(b) DEFINITION.— Section 700(b) of title 18, United States Code, is amended to read as follows:

"(b) The term 'flag of the United States' as used in this section, shall include any flag, standard, colors, or ensign, or any part or parts of either, made of any substance, of any size evidently purporting to be either of

said flag, standard, colors, or ensign of the United States of America.

SEC. 3. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

Section 700 of title 18, United States Code, is amended by adding at the end the following:

"(d)(1) If the question of the constitutionality of this section, under the first article of amendment to the Constitution of the United States, is properly presented in any case before a United States district court, that court shall, if the Supreme Court of the United States has not previously ruled on that question, immediately certify that question to the Surpeme Court.

"(2) The Supreme Court shall, if it has not previously ruled on that question, accept jurisdiction over the certified question and advance on the docket and expedite to the greatest extent possible the disposition of that question. The Supreme Court may, with respect to such question, give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.

"(3) The Clerk of the Supreme Court shall promptly notify the Clerk of the House of Representatives and the Secretary of the Senate of the receipt of such certification, and each House of Congress shall have the right to intervene in the case for the purpose of defending the constitutionality of this section.".

Mr. SENSENBRENNER. To give the Members of the House an idea of what I actually did say in the Judiciary Committee rather than what the counsel for the Clerk of the House filed with the Supreme Court of the United States, I will read the transcript of that markup session verbatim.

□ 1420

I am afraid that the leadership in this committee is determined to make the flag issue go away. As I alluded in the first day of our hearings, rather than to address the problem in a way that would fix it forever. The American people must be made aware of this. Even if the statute reaches the Supreme Court and is found unconstitutional several years down the road, there is still not a commitment by Chairman Brooks and others to then set the amendment motion in process.

Now, I believe that whenever someone approaches the courts, stating a position of the House of Representatives, they should clearly and accurately quote the debate in the context in which it was given, rather than taking bits and pieces out of transcripts to serve their own personal purpose. I chose not to debate this issue during the Michel resolution's consideration because it did not go to the procedure under which Mr. Ross filed this brief with the Supreme Court of the United States, but the actual argument that was contained in that brief. I believe that Mr. Ross was flat-out misleading the Court as to the position that I had taken. Had he had the time to consult with me before writing this brief and filing it with the clerk of the Supreme Court of the United States, he would have found out that my intent was to try to get a commitment by Chairman BROOKS to bring a constitutional amendment up for a vote, should the statute be struck down by the Supreme Court of the United States, whenever that time may have been.

I hope that the counsel for the Clerk of the House of Representatives takes greater care in his drafting and filing briefs which are to represent the House as an institution. He did not do so in this instance, particularly as it related to the remarks that I made in the Committee on the Judiciary markup.

The House of Representatives is the highest legislative body in the United States of America. That means that our counsel, when we go before the two coordinate branches of government, should take care to be professional and accurate and as ethical as possible. On page 12, Mr. Ross failed, and I have taken this time in order to set the record straight.

Mr. DOUGLAS. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Speaker, if I may I have the opportunity to say I agree with the gentleman. I think he brings up a very good point, and I think also if the gentleman from Wisconsin would consider it one of the problems we have had here in the House is a lack of clarity between the role of the counsel to the Clerk when it comes to the merits of statutes.

I was just wondering if the understanding the gentleman has is that the Clerk's attorney is here really only to represent Members in an institutional case? For instance, a wage-and-hour dispute, or some interbranch dispute, or is it to just take a political position that really should be taken by the Democratic National Committee and their attorneys, as opposed to ours as an institution where our rights or privileges are being infringed?

Mr. SENSENBRENNER. The gentleman from New Hampshire states my feelings precisely. In previous instances the Clerk of the House has gone before the courts, including the Supreme Court of the United States through his counsel, particularly when there have been attempts to abridge the speech and debate clause upon which the independence of the Congress is based. That is when the institution of Congress is being legally challenged, and I believe in that instance we do need vigorous and effective representation.

It is obvious that the brief that was filed in this instance was a politically motivated brief, and it seems to me that that is best done outside of the institution of the House of Representatives. I think all Members have been parties to lawsuits, challenging the constitutionality of statutes or filed briefs amicus curiae urging the Supreme Court to take one position or another. However, we have gone out and retained independent counsel to prepare those legal arguments rather than relying on the counsel of the Clerk of the House of Representatives, which we had always believed was there to represent the institution of Congress, and the prerogatives and privileges that are conferred upon the Congress as an institution and its Members by the Constitution of the United States.

Mr. Speaker, I thank the gentleman from New Hampshire [Mr. DOUGLAS] for his contribution, and I yield back the balance of my time.

STATEMENT REGARDING BRIEFS

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I understand from the gentleman from Wisconsin's remarks his concern with references made to him in the brief filed by the counsel for the Clerk of the House. I respect his right to state his opinion, as he has very clearly. But I would not let the RECORD seem to show that silence on this side indicates any concurrence either in the suggestion that counsel for the Clerk had acted deliberately to misrepresent the gentleman's views, or that he had acted in a way designed to present a political belief to the court, rather than express the view of Members on whose part it was filed. Nor would I wish the RECORD to indicate that by supporting a full debate and briefing of the Court in defense of a statute passed by the House by an overwhelming vote of its Members—to declare such statute in our opinion to be constitutional in its criminal sanctions against the burning of the American flag—are we in any sense departing from our conviction that this statute is constitutional. Nor do we pose any motive other than to impress upon the court our conviction that it is constitutional, and that the American people have a right through their Congress to enact such a statute and to defend its constitutionality.

I am deeply concerned if there is any sense on either side of the aisle that we are proceeding in a legal matter before the courts in a way that does not reflect the greatest attention to comity and concern between the Members of the House. I intend in all of my efforts to ensure that comity and respect is fully complied with on every occasion. However, I emphaticaly state that there was no political and is no political motive in the filing of this brief other than to undertake the fullest defense of a statute of this House passed by an overwhelming bipartisan

vote of its Members. To defend—I repeat, to defend—the constitutionality of the statute declaring that it is a crime to burn an American flag.

I am sure the Members on the other side of the aisle believe that the statute should be defended. I am sure they believe that the Court should have the fullest opportunity to make a determination so important to the constitutional concerns of this House and of its legislative responsibility.

I am, in response to the resolution adopted by the House, asking the Members of the Speaker's Bipartisan Legal Committee to meet at 4 o'clock this afternoon. We will undertake, I hope as quickly as possible, to deal with the matter that has been expressed in the resolution.

RURAL ECONOMIC DEVELOPMENT ACT OF 1989

The SPEAKER pro tempore (Mr. BRUCE). Pursuant to House Resolution 355 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3581.

□ 1430

IN THE COMMITTEE ON THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3581) entitled the "Rural Economic Development Act of 1989," with Mr. KOSTMAYER Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose on Thursday, March 15, 1990, the amendment offered by the gentleman from North Carolina [Mr. ROSE] had been disposed of and the bill was open for amendment through title VIII.

No amendments to said substitute, except pro forma amendments for the purpose of debate, are in order today except those printed in the CONGRESSIONAL RECORD on or before Wednesday, March 21, 1990.

Are there further amendments to the bill through title VIII?

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the remainder of the Committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The remainder of the Committee amendment in the nature of a substitute, consisting of title IX, is as follows:

TITLE IX—NATIONAL FOREST-DEPENDENT RURAL COMMUNITIES

SEC. 901. SHORT TITLE.

This title may be cited as the "National Forest-Dependent Rural Communities Economic Diversification Act of 1990".

SEC. 902. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the economic well-being of rural America is vital to our national growth and prosperity;

(2) the economic well-being of many rural communities depends upon the goods and services that are derived from national forests;

(3) the economies of many of these communities suffer from a lack of industrial and business diversity;

(4) this lack of diversity is particularly serious in communities whose economies are predominantly dependent on timber and recreation resources and where management decisions made on the national forests may disrupt the supply of those resources;

(5) the Forest Service has expertise and resources that could be directed to promote modernization and economic diversification of existing industries and services based on forest resources;

(6) the Forest Service has the technical expertise to provide leadership, in cooperation wih other governmental agencies and the private sector, to assist rural communities dependent upon national forest resources to upgrade existing industries and diversify by developing new economic activity in non-forest-related industries; and

(7) technical assistance, training, education, and other assistance provided by the Department of Agriculture can be targeted to provide immediate help to those rural communities in greatest need.

(b) PURPOSES.—The purposes of this title are—

(1) to provide assistance to rural communities that are located in or near national forests and that are economically dependent upon forest resources or are likely to be economically disadvantaged by Federal land management practices;

(2) to aid in diversifying such communities' economic bases; and

(3) to improve the economic, social, and environmental well-being of rural America.

SEC. 903. DEFINITIONS.

As used in this title—

(1) the term "action team" means a rural forestry and economic diversification action team established by the Secretary pursuant to section 904(b);

(2) the term "economically disadvantaged" means economic hardship due to the loss of jobs or income (labor or proprietor) derived from forestry, the wood products industry, or related commercial enterprises such as recreation and tourism in the national forest;

(3) the term "rural community" means—

(A) any town, township, municipality, or other similar unit of general purpose local government having a population of not more than ten thousand (according to the latest decennial census) that is located in a county where at least 15 per centum of the total labor and proprietor income is derived from forestry, wood products, and forest-related industries such as recreation and tourism; or

(B) any county or similar unit of general purpose local government having a population of not more than twenty-two thousand five hundred and fifty (according to the latest decennial census) in which at least 15 per centum of the total labor and proprietor income is derived from foresty, wood products, and forest-related industries such as recreation and tourism

that is located within the boundary, or within one hundred miles of the boundary of a national forest; and

(4) the term "Secretary" means the Secretary of Agriculture.

SEC. 904. RURAL FORESTY AND ECONOMIC DIVERSIFICATION ACTION TEAMS.

(a) REQUESTS FOR ASSISTANCE.—Economically disadvantaged rural communities may request assistance from the Secretary in identifying opportunities that will promote economic improvement and diversification.

(b) ESTABLISHMENT.—Upon request, the Secretary is authorized to establish rural foresty and economic diversification action teams to prepare an action plan to provide technical assistance to economically disadvantaged communities. The action plan shall identify opportunities to promote economic diversification and enhance local economies now dependent upon national forest resources. The action team may also identify opportunities to utilize value-added products and services derived from national forest resources.

(c) ORGANIZATION.—The Secretary shall design and organize any action team established pursuant to subsection (b) to meet the unique needs of the requesting rural community. Each action team shall be directed by an employee of the Forest Service and may include personnel from other agencies within the Department of Agriculture, from other Federal and State departments and agencies, and from the private sector.

(d) COOPERATION.—In preparing action plans, the Secretary is authorized to cooperate with State and local governments, universities, private companies, individuals, and nonprofit organizations for procurement of services determined necessary or desirable.

(e) ELIGIBILITY.—The Secretary shall ensure that no substantially similar geographical or defined local area in a State receives both a grant for technical assistance to an economically disadvantaged community under this title and a grant for assistance under a designated rural development program, as defined in section 360(b)(2) of the Consolidated Farm and Rural Development Act, during any continuous five-year period.

(f) APPROVAL.—After reviewing requests under this section for financial and economic feasibility and viability, the Secretary shall approve and implement in accordance with section 905 those action plans that will achieve the purposes of this title.

SEC. 905. ACTION PLAN IMPLEMENTATION.

(a) IN GENERAL.—Action plans shall be implemented, insofar as practicable, to upgrade existing industries to use forest resources more efficiently and to expand the economic base of rural communities so as to alleviate or reduce their dependence on national forest resources.

(b) ASSISTANCE.—To implement action plans, the Secretary is authorized to make grants and enter into cooperative agreements and contracts to provide necessary technical and related assistance. Such grants, cooperative agreements, and contracts may be with the affected rural community, State and local governments, universities, corporations and other persons.

(c) LIMITATION.—The Federal contribution to the overall implementation of an action plan shall not exceed 80 per centum of the total cost, including administrative and other costs. The Secretary shall attribute the fair market value of equipment, person-

nel, and services provided in calculating the Federal contribution.

(d) AVAILABILE AUTHORITY.—The Secretary may utilize the Secretary's existing authorities under the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) and other authorities in implementing action plans.

SEC. 906. TRAINING AND EDUCATION.

(a) PROGRAMS.—In furtherance of an action plan, the Secretary is authorized to utilize the Extension Service of the Department of Agriculture to develop and conduct education programs that assist businesses, elected or appointed officials, and individuals in rural communities to deal with the effects of a transition from being economically disadvantaged to economic diversification. These programs may include—

(1) community economic analysis and strategic planning;

(2) methods for improving and retooling existing enterprises now dependent on national forest resources;

(3) methods for expanding existing enterprises and creating new economic opportunities by emphasizing economic opportunities in other industries or services not dependent on national forest resources; and

(4) assistance in the evaluation, counseling, and enhancement of vocational skills, training in basic and remedial literacy skills, assistance in job seeking skills, and training in starting or operating a business enterprise.

(b) EXISTING EDUCATIONAL AND TRAINING PROGRAMS.—Insofar as practicable, the Secretary shall utilize existing Federal, State, and private education resources in carrying out these programs.

SEC. 907. LOANS TO ECONOMICALLY DISADVANTAGED RURAL COMMUNITIES.

(a) IN GENERAL.—The Secretary, under such terms and conditions as the Secretary shall establish, may make loans to economically disadvantaged rural communities for the purposes of securing technical assistance and services to aid in the development and implementation of action plans, including planning for—

(1) improving existing facilities in the community that may generate employment or revenue;

(2) expanding existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies now dependent on national forest resources; and

(3) supporting the development of new industries or commercial ventures unrelated to national forest resources.

(b) INTEREST AND OTHER CHARGES.—The interest rates on a loan made pursuant to this section shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loan, plus not to exceed 1 per centum, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.

SEC. 908. AUTHORIZATION OF APPROPRIATIONS AND SPENDING AUTHORITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Except as provided in subsection (b), there is authorized to be appropriated—

(1) an amount not to exceed an amount that is equal to 5 per centum of the sums received by the Secretary from sales of timber and other products of the forests, and of user fees paid in connection with the use of forest lands; and

(2) such additional sums as may be necessary to carry out the purposes of this title.

(b) LIMITATION ON AUTHORIZATION.—Subsection (a) shall not in any way affect payments to the States pursuant to chapter 192 of the Act of May 23, 1908 (16 U.S.C. 500).

(c) SPENDING AUTHORITY.—Any spending authority (as defined in section 401 of the Congressional Budget Act of 1974) provided in this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

Mr. MILLER of Washington. Mr. Chairman, I rise in support of H.R. 3581 and in specific support for title IX, which will help communities that are dependent on our national forests.

My colleague SID MORRISON has done yeoman work on this title and deserves our thanks.

Title IX recognizes three crucial realities. First, the cut level on our national forests will decline. Second, many communities whose economies are almost totally dependent on national forests need our help to survive into the 21st century. And, third, if we don't act soon, it may be too late for small towns.

I understand that some bureaucrats downtown don't think the Forest Service should provide this assistance. I also know that this title has solid support from my State government, the environmental community and from timber dependent communities. The Forest Service has the expertise, the resources, and the obligation to help these communities. Many in the Forest Service live in these communities and want to help. Under this title, the Forest Service will work with State and local governments, and it will work with private businesses in the communities to help these communities renew themselves.

Mr. Chairman, I urge my colleagues to support H.R. 3581 and I urge the administraton to drop its objections to title IX.

Mrs. LLOYD. Mr. Chairman, I rise in support of the Rural Economic Development Act of 1990. This measure is designed to focus and strengthen Federal rural development activities and allow local areas greater input into the allocation of Federal funds for rural development. It is my belief that rural communities and citizens can best make decisions about their own needs and goals and it is my hope that this legislation will facilitate better management and distribution of existing services in areas in dire need of assistance.

The need for this legislation is evident, as we are all aware that rural America is faced with tremendous obstacles in providing basic services which many Americans take for granted, such as clean water and safe sewage disposal systems. Basic elements of life in many communities, such as health care, transportation, and education are faced with severe shortages of resources. Coupled with that, rural unemployment rates are substantially higher than those in the rest of the Nation and rural job growth continues to lag well behind job growth in urban centers.

It is imperative that we act to improve the delivery of rural development programs and I believe that this legislation is a positive step in that direction. By giving each State the opportunity to fund their priority programs, we are recognizing that as a nation our needs are diverse and that our own communities have individual needs that deserve Federal support. And, by requiring rural communities to work with local governments, business, industry, finance, transportation, utility, labor, agriculture, and education entities, in preparing economic development plans we are ensuring that all interested parties are involved in seeing that the Federal assistance dollars available are wisely spent.

This proposal offers us a good opportunity to provide rural communities with the tools that are necessary for them to become economically viable and deserves to be adopted with all possible speed. I urge my colleagues to join with me in supporting the Rural Economic Development Act of 1990.

Mr. GRANDY. Mr. Chairman, may I first commend Chairman DE LA GARZA for his bipartisan and cooperative handling of this legislation and for his heartfelt desire to bring to the House a well-rounded and effective bill that will positively impact rural America. I also believe Mr. ENGLISH, chairman of the Conservation, Credit, and Rural Development Subcommittee on which I serve, and Mr. COLEMAN, ranking member of the same subcommittee, deserve recognition for their leadership in formulating this legislation. While some have reservations about particular aspects of the bill, and as we have seen, have acted upon those reservations, I believe it is a balanced approach which provides a better delivery mechanism while at the same time improving existing programs and providing increased authorizations which will truly benefit rural America.

One of the designated rural development programs recognized under H.R. 3581 is the Nonprofit Rural Development and Finance Corporation or NNC Program established under section 1323 of the Food Security Act of 1985. This program has been vitally important and widely successful in providing business enterprise loans to rural businesses across America. It was my hope that H.R. 3581 would contain provisions reauthorizing and improving the NNC Program. Due to uncertainties regarding the operation of this program under the new State rural economic development review panel and reservations about earmarking Federal dollars for a program which all States have not taken the advantage of, the Committee on Agriculture did not choose to include such language.

I believe the section 1323 program operates in a manner consistent with the objectives of Congress regarding rural development and of H.R. 3581. I believe that some technical changes are needed, however, to ensure that the dollars expended under the program may be used as effectively as possible in aiding rural businesses and State economic development initiatives.

Section 1323 or NNC Program has been utilized by approximately 20 States in offering low-interest loans to businesses located in rural areas for expansion of current operations and the addition of new jobs. It is currently administered by the Farmers Home Administration, and under H.R. 3581, would be transferred to the Rural Development Administration and subject to the review of the State Economic Development Review Panels.

The NNC Program has been responsible for assisting companies in various States that employ over 1,500 people. These figures are

just from two of the three NNC's currently operating and almost half of these jobs are ones created by the expansion activities financed through the NNC Program. The types of businesses funded range from a catfish processing facility in Drew, MS, to a wood products manufacturing plant in Belmond, IA, to a business incubator project in Winton, CA, to a low-income housing project in Hilton Head Island, SC. In many States, the program is just getting started.

The total NNC Program, which is administered by the Farmers Home Administration, is operating with $19.1 million in loan guarantees and $14.3 million in grant funds. These dollars are already in the program, they will remain until expended, and the program will continue to exist because the moneys are utilized on a revolving fund basis. Also, several foundations are currently working with existing NNC's on plans to pump more capital into the section 1323 program. One of the beauties of this program is that it leverages private dollars. The section 1323 moneys cannot finance over 75 percent of the proposed project and existing loan figures indicate that the leverage ratio is much closer to 50/50. This leveraging is what we need in today's fiscally prudent times.

Mr. Chairman, I believe that the reauthorization and improvement in an existing rural development program that has proven itself as an effective tool for aiding rural businesses across the country are necessary and will help provide greater assistance to rural Americans. Although such language is not included in H.R. 3581, it is included in the Senate's measure, S. 1036, with which H.R. 3581 will be molded. It is my hope that the final conference measure will include provisions improving and revitalizing this worthwhile and effective program.

Mr. CRAIG. Mr. Chairman, I rise today in support of the rural economic development bill, H.R. 3581.

Rural communities have been the lifeblood of our Nation since its foundation. For Idaho, this is particularly true. From the mining and logging towns of north Idaho to the farm communities of southern Idaho, these communities have been the heart of Idaho's economy.

But, today we are seeing change in rural America. While agriculture and natural resources will remain the base for these small communities, they also must search for new businesses and avenues to utilize the resources available to them. One obstacle for rural towns in attracting new businesses is the lack of sufficient infrastructure such as the availability of waste water systems, telecommunication capabilities, and adequate support facilities for new businesses. This bill begins to address these shortcomings by providing rural areas with grants and loans to develop the necessary infrastructure and encouraging the development of business enterprises.

We need to support and encourage small business enterprises based on rural communities' need.

H.R. 3581 is one step in helping rural communities as they strive to develop a more diverse economy. By providing for greater State and local involvement in Federal rural development programs we are giving rural areas more control over their own destinies.

Rural America and Idaho face a myriad of problems in 1990. From the loss of persons to urban areas, to the lack of adequate educational facilities and funds, and finally, the burden of updating or developing the physical plants of their communities in the face of new environmental regulations, rural communities must address all these problems in the near future. H.R. 3581 will provide needed assistance to these rural communities as they search for solutions.

Mr. WOLPE. Mr. Chairman, I rise today in support of H.R. 3581, the Rural Economic Development Act of 1989, as amended by the gentleman from Texas [Mr. DE LA GARZA]. This act is an innovative and dynamic approach to providing flexibility for State and local citizens in meeting the individual needs of their rural communities.

Today, most of rural America faces adverse economic conditions, with limited resources to address the increasing number of burdens such as inadequate health care facilities and sagging infrastructures. This act offers the tools that are necessary for rural communities to regain their economic viability. It will facilitate rural economic development by encouraging coordination between local communities and State governments in the development of strategic plans and in the setting of priorities. And it provides for a far more effective and responsive delivery system with the creation of the Rural Development Administration in the Department of Agriculture.

Indeed, absence of coordination and the inability to establish long-term development plans has caused my home State of Michigan to turn back allocated funds in community and business programs. In one of many examples, Michigan was forced to turn back more than $2 million in fiscal year 1989 community facility loans—yet the funds clearly were needed in other rural development programs within the State. Mr. Chairman, this makes no sense.

Under the amended bill Michigan's rural communities would be able to more effectively utilize these scarce rural development funds by being allowed to transfer funds from one loan program to another loan program where additional funds are needed. This additional flexibility will allow our rural communities to determine where these funds will best serve their unique needs.

Mr. Chairman, the Rural Economic Development Act of 1989 is effective rural development. I would urge my colleagues to support this measure and thereby reaffirm our commitment to rural America.

Mr. GEPHARDT. Mr. Chairman, I want to thank Chairman DE LA GARZA, Chairman ENGLISH, and my colleagues from both sides of the aisle for their hard work in crafting a good bill and moving us forward on this important issue.

The purpose of this legislation is simple: To enable the 60 million people in rural America the opportunity to build a better future.

The committee in its report has amply documented the problem facing our rural areas. In the past decade, rural America has endured upheavals in agriculture and industry as profound as any in our history, with dire consequences for communities, schools, businesses, and families. For all of the administration's glowing talk about record employment in our economy, the fact is that disproportionately few of the new jobs are created in rural areas. As opportunities have dwindled, people, particularly the young, have left their communities in droves: 1 million in 1986 and 1987 alone. Rural America's unemployment rates, poverty rates, dropout rates, and suicide rates all remain higher than urban ones.

Throughout the 1980's, the Reagan/Bush administration turned its back on rural needs, proposing deep cuts or outright elimination of entire programs. It was left to Congress to preserve a Federal commitment to rural development.

So far the President's program has fallen short. As he has with so many other programs, his proposals would leave us no better off—or even worse off—than where we already are.

We can and must do better. The people in rural America don't want to have to move to the cities to find work. They don't want to have to beg companies to move low-wage jobs into their communities. And they don't want just empty promises from Washington.

They want instead to try to build their own futures and reclaim control over the destinies of their communities. This bill is a positive step in that direction. It is past time to put Government back on the side of people in rural America.

AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA:

Insert at the end of Title II the following:

SEC. . LOAN AND LOAN GUARANTEE ALLOCATION AND TRANSFER.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), as amended by section 201 of this Act, is amended by adding at the end the following:

"SEC. 362. LIMITED TRANSFER AUTHORITY OF LOAN AMOUNTS.

"(a) TRANSFER OF FUNDS.—If the sums appropriated for direct loans for the water and waste or community facility program authorized under section 306(a) and made available to the State under such program for the fiscal year are insufficient to enable the Secretary to provide the full amount of the assistance requested for a project specified in section 360(c)(4), the Secretary may transfer, subject to subsection (b), to one program from the other such program part or all of the sums appropriated for loans made available to the State for such other program.

"(b) LIMITATION ON LOAN AMOUNTS TRANSFERRED.—

"(1) AMOUNTS TRANSFERRED WITHIN A STATE.—With regard to each State, the amount of direct loan funds transferred from a program under this section shall not exceed the amount for such program left unobligated after obligating to each project in an application ranked higher in priority on the list described in section 361(b)(6) the full amount of assistance requested for each such project.

"(2) AMOUNTS TRANSFERRED ON A NATIONAL BASIS.—On a National basis, the amount of direct loan funds transferred in a fiscal year from a program under this section (after accounting for any offsetting transfers into such program) shall not exceed $90,000,000.

"SEC. 363. ALLOCATION AND TRANSFER OF LOAN GUARANTEE AUTHORITY.

"(a) ALLOCATION OF LOAN GUARANTEE AUTHORITY.—The Secretary shall allocate among the States the loan guarantee authority appropriated under the water and waste or community facility program authorized under section 306(a), and the business and industry loan program authorized under section 310B, in a manner similar to that used for the allocation of direct loan and grant funds appropriated for such programs, and that the Secretary determines to be fair, reasonable, and appropriate.

"(b) TRANSFER OF LOAN GUARANTEE AUTHORITY.—

"(1) IN GENERAL.—If the sums appropriated for loan guarantees and made available to the State under a program specified in subsection (a) for the fiscal year are insufficient to enable the Secretary to provide the full amount of the assistance requested for a project specified in section 360(c)(4), the Secretary may transfer to the program from the other such sections part or all of the sums appropriated for loan guarantees made available to the State for such other program for such fiscal year.

"(2) LIMITATION ON GUARANTEE AMOUNTS TRANSFERRED.—With regard to each State, the amount of loan guarantees transferred from a program under this section shall not exceed the amount for such program left unobligated after obligating to each project in an application ranked higher in priority on the list described in section 361(b)(6) the full amount of assistance requested for each such project.".

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Speaker, let me mention at the outset that the leadership has requested our cooperation and has asked that we conclude this measure by 3 o'clock. It is our intention to do so. This amendment is part of the effort to expedite the matter.

As most of the Members recall, there was debate on an amendment offered by our distinguished colleague, the gentleman from North Carolina [Mr. ROSE], and that amendment was adopted by the House. This indicated that there was a division not only within the committee but within the Membership of the House.

In an effort to conciliate the differences and to arrive at some degree of compromise, I consulted our distinguished colleague, the chairman of the subcommittee, the gentleman from Oklahoma [Mr. ENGLISH], our distinguished ranking minority member of the subcommittee, the gentleman from Missouri [Mr. COLEMAN], and our distinguished colleague, the gentleman from North Carolina [Mr. ROSE], and all of them were very amenable and very cooperative. We discussed diligently the issue to arrive at a compromise satisfactory to all the parties.

In discussing this matter with Members from other States and other areas who had questions on this issue, we find that this appears to satisfy the greater majority of those who had any concern about the amendment.

Mr. Chairman, again I want to reiterate my appreciation and commendation to the subcommittee chairman, the gentleman from Oklahoma [Mr. ENGLISH], our ranking minority member, the gentleman from Missouri [Mr. COLEMAN], and our colleague, the gentleman from North Carolina [Mr. ROSE].

Mr. Chairman, I include the following letter of March 14, 1990 addressed to me:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, March 14, 1990.

Hon. E (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to inform you that the Department of Justice will remove its objections to Title II of H.R. 3581, the "Rural Economic Development Act of 1990," as reported by the Committee, if the following changes are made to section 360(c)(4):

Substitute "consideration" for "great weight" (page 17, line 20); and

Substitute "that determination" for "not assisting any project ranked higher in priority by the panel" (page 18, lines 4–5).

The Department has also objected to the provisions in Title VII of the bill that govern the appointment of the members of the Rural Telephone Bank Board. Since we have not been informed that these provisions have been modified, we retain our objections to Title VII. With respect to the remainder of the bill, the Administration's views were expressed in a Statement of Administration Policy sent to the House of Representatives on March 9, 1990.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

BRUCE C. NAVARRO,
Acting Assistant Attorney General.

Mr. Chairman, if I might, I will yield briefly to the gentleman from Oklahoma [Mr. ENGLISH], the chairman of the subcommittee.

Mr. ENGLISH. Mr. Chairman, I appreciate the gentleman's yielding to me.

Mr. Chairman, this compromise meets the concerns, I think, of both sides. It provides the flexibility we were looking for in the original legislation as brought to the floor, and it calms many of the fears, I think, that some had about the water and sewer provisions. It consists of allowing transfers of funds as far as guaranteed loans are concerned between the business and industry guarantees and the community facility guarantees and water and sewer guarantees. It also allows the transfer among the categories on direct loans up to $90 million in community facility loans and in water and sewer loans. Under the grant funds, there is no transfer allowed between the categories.

Let me say, Mr. Chairman, that this does not cause any serious damage to the legislation at all, and we would simply urge the strong support of the Members for this compromise. I think without question it will allow the objective of the legislation as it came to the floor to be met, and at the same time I think it recognizes and, as I say, calms the fears of those who were concerned.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman from Oklahoma [Mr. ENGLISH].

Mr. Chairman, again let me express my very sincere appreciation and commendation to the gentleman from North Carolina [Mr. ROSE] for his cooperation and his interest in promoting the rural legislation.

Mr. Chairman, I am happy at this time to yield to my colleague, the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Chairman, I thank the chairman of the committee for yielding.

Mr. Chairman, I am glad that we have worked out a compromise. I will say that after the passage of the Rose amendment the gentleman from Texas and the gentleman from Oklahoma [Mr. ENGLISH] talked a little better than they did before the passage of the Rose amendment, and we are certainly appreciative of their consideration. But the gentleman and the gentleman from Oklahoma [Mr. ENGLISH] had said at the time of the debate last week that we had misled some of our colleagues in the House.

I do not want to make this a point for debate, but we certainly did not intend by the Rose amendment to mislead anybody. In a Dear Colleague letter that the gentleman from Oklahoma [Mr. ENGLISH] and the gentleman from Missouri [Mr. COLEMAN] sent out, the last line of it says: "Under the status quo nearly 5 million people left rural America during the last decade." And the status quo is what the Rose amendment provides.

We are trying to work in a peaceful environment in the Agriculture Committee, and one of the reasons that I have agreed to this compromise is because we have a farm bill ahead of us, and I want us to work together. But I think we ought to be as accurate as we can when we describe the legislation that we deal with, and then, whether we win or lose, we should never attribute any motives or intentions to what the result is.

The CHAIRMAN pro tempore. The time of the gentleman from Texas [Mr. DE LA GARZA] has expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 5 additional minutes.)

Mr. ROSE. Mr. Chairman, will the gentleman yield further.

Mr. DE LA GARZA. I continue to yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Chairman, my last comment is that in 1981 32 percent of the American population lived in poverty, and at the conclusion of the Reagan years 38 percent of the American population lived in poverty. Most of that poverty is reflected in what is happening in rural America.

The intentions of the gentleman from Oklahoma [Mr. ENGLISH] are to make rural America a better place for people to live in. That is the intention of the gentleman from Texas also, and I am very happy to cooperate with him and with the gentleman from Oklahoma. I totally support the compromise amendment that the gentleman has introduced, and I will support it on passage of this bill. Although it is not everything we hoped it would be, it is in the best interest of the country and of the Congress, and I thank the chariman of the committee for offering it.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman from North Carolina [Mr. ROSE].

Let me just state that any interpretation of my comments at the end that would indicate any disrespect or any accusation against Members, that was not my intention then, and it is not my intention now. Unfortunately, there had been information from within and without this House that did not fully apprise the Members of the impact of this. But I think that has now been put to rest. It never will be my intention and it never has been my intention in all the years I have been a Member of this Congress to attribute to any Member any such thing.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I, too, would like to rise and thank the chairman of the committee for working with us and accommodating us in trying to take care of some local sewer and water concerns. This is obviously not everything we would like.

I think, if the Members will recall what I said, it forces us to fight one another because we are really looking at shortage of moneys in each one of the categories. I hope what we can all do in the House, is to go to the appropriations process, and through the appropriations process see if we can get some additional money in there so that then we can make this a real fine bill for rural America.

Mr. Chairman, I do support the thrust of the legislation.

Mr. Chairman, I thank the chairman of the committee and the chairman of the subcommittee for working with us in trying to reach our concerns.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman from Arkansas [Mr. ANTHONY].

Mr. Chairman, the gentleman can rest assured of our continued cooperation and our effort to continue working in this respect with all the Members who basically have at heart the interest of what we are trying to do for rural America.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to our distinguished colleague, the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas [Mr. DE LA GARZA] because I think what it has done is to capture the essence of what the gentleman from Oklahoma and I were trying to do in our original bill, and that is to find flexible funding for States to still be able to, under this amendment, transfer some funds from one program to another to assure that local decisions and the priorities of each State can be met, not by requirements or limitations set by Washington but with those priorities determined by review panels and the ability to look at various programs and mixes of programs. That is what we have, I think, captured here. I think it is a breakthrough, and I think it is a good one.

I am glad to say that we have been able to resolve this, with the cooperation of the gentleman from North Carolina [Mr. ROSE] and others.

There were differences of opinion and there are still differences of opinion, but the legislative process lends itself to compromise. I think this is a true compromise. I am glad we have the precedents set, and I certainly support the amendment offered by the gentleman from Texas [Mr. DE LA GARZA].

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment was agreed to.

□ 1440

AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA: Page 81, after line 19, insert the following:

(2) in paragraph (3), by striking "paragraph (1) and (2)" and inserting "paragraphs (2) and (3)";

Page 81, line 20, strike "(2)" and insert "(3)".

Page 81, line 22, strike "(3)" and insert "(4)".

Page 82, line 17, strike "and".

Page 82, after line 17, insert the following:

(vi) in paragraph (d), by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

Page 82, line 18, strike "(vi)" and insert "(vii)".

Page 83, strike line 9, 10, 11, 12 and 13 and insert the following:

(f) SECTION 343(a) AMENDMENTS.—Section 343(a) of such Act (7 U.S.C. 1991(a)) is amended—

Page 83, line 19, strike "(h)" and insert "(g)".

Page 83, line 22, strike "(c)" and insert "(C)".

Page 83, line 16, strike "(i)" and insert "(h)".

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. KANJORSKI). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, this is a technical amendment which corrects typographical errors, et cetera, and I would hope that my colleagues would approve it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TALLON

Mr. TALLON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TALLON: At the end of title VIII of the bill insert the following new section:

"SEC. . EXTENSION OF QUALIFIED SMALL ISSUE BONDS.

"(a) EXTENSION.—Section 144(a)(12)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 144(a)(12)(B)) is amended by striking '1990' and inserting '1995'.

Mr. TALLON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. ANTHONY. Mr. Chairman, I reserve the point of order against the amendment.

Mr. TALLON. Mr. Chairman, I intended to offer this amendment today because I believe reauthorization of the small issue development bond program can unlock the economic future for many rural communities. SIDB's represent exactly what we are trying to get at with rural economic development. They are a proven vehicle for raising low-cost capital to stimulate growth. They create jobs. They are an equal opportunity development tool that is available to all towns and cities regardless of size or location. They have provided for the construction of new plants and the expansion of exist-

ing facilities in communities across South Carolina and, indeed, across this Nation, and, best of all, they are a bargain.

Mr. Chairman, the SIDB Program operates with no direct Federal expenditures, and a 1-year extension of the SIDB Program represents a revenue loss of less than $10 million.

This program has made a tremendous difference to the futures of many small communities across the country. I cannot think of a more worthwhile thing to do today than to reauthorize the SIDB Program.

While I do not intend to offer my amendment today, I wanted to let my colleagues know how important this program has been to rural communities across our Nation and in my State and our strong support for the long-term reauthorization of this program once it expires in September.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN: On page 75, after line 24 add the following new section and redesignate each succeeding section accordingly:

"SEC. 802. (a) For the purpose of promoting local job creation and private sector investment in rural communities, the Secretary of Agriculture is encouraged, where appropriate and feasible, to use private enterprise concerns located in rural areas, rather than government employees or government enterprises, to provide commercial activities or products to carry out the purposes of this Act.

"(b) The Secretary shall develop and implement a plan that will result in increasing the use of contracts awarded to private firms by the Department of Agriculture, and maximizing the use of grant, loan or other financial assistance made for the purpose of rural development to provide the goods and services purchased to carry out the purposes of this Act."

Mr. DUNCAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Mr. Chairman, this amendment would encourage USDA, where appropriate and feasible, to use private firms located in rural areas to provide commercial services or products needed to carry out the provisions under this bill. USDA is also directed to develop and implement a plan that will result in an increase in contracts awarded to private firms by USDA and maximizing the use of grant, loan, or other financial assistance made for the purpose of rural development to provide the goods and services purchased to carry out the purposes of this act.

It encourages the Secretary of Agriculture to use private enterprise concerns located in rural areas whenever appropriate and feasible in carrying out the purposes of this act.

Most business in rural America is small business.

Small business is in a real struggle to survive all over this country today, but particularly in rural areas.

This amendment would help create jobs and promote and assist many small businesses wherever this act is carried out.

It is a flexible amendment and does not tie the Secretary's hands—it simply encourages him to use the private sector where it is appropriate.

This amendment could help provide an increase in contracts awarded to private firms by the USDA.

It would not eliminate a single job in the department, whose employees already have a heavy workload and where assistance is needed from the private sector.

This is an amendment primarily in support of free enterprise and small business, and to make sure that the purposes of this act get carried out to the fullest extent possible.

This amendment helps define the bills basic intent—that real economic development in rural areas should be in small businesses across America.

I appreciate the assistance of Mr. ENGLISH and Mr. COLEMAN on this amendment and I urge its adoption.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, we have no objection to the amendment. It is a fine amendment, and we will be happy to accept it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Tennessee [Mr. DUNCAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WISE

Mr. WISE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WISE: Page 93, after line 8, insert the following:

TITLE X—ENHANCING HUMAN RESOURCES

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Rural Business Development and Telecommunications Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1001. Short title; table of contents.
Subtitle A—Rural Business Development
Sec. 1011. Purposes.
Sec. 1012. Loans for business telecommunications partnerships.
Subtitle B—Rural Telecommunications Provisions
Sec. 1051. Rural telecommunications zones.
Sec. 1052. Grants for emergency public safety telephone answering systems.
Sec. 1053. Study on use of telecommunications infrastructure by businesses in rural areas.

Subtitle A—Rural Business Development

SEC. 1011. PURPOSES.

The purposes of this subtitle are to—

(1) provide funds to improve telecommunications service in rural areas; and

(2) provide access to advanced telecommunications services and computer networks to improve job opportunities and the business environment in rural areas.

SEC. 1012. LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding after the subsections added by section 402(a) of this Act the following:

"(i) LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.—

"(1) IN GENERAL.—The Administrator may make loans under this subsection at low interest rates and at market rates to 1 or more businesses, local governments, or public agencies in rural areas to fund facilities in which the recipients of such loans share telecommunications terminal equipment, computers, computer software, and computer hardware.

"(2) GENERAL REQUIREMENTS.—

"(A) APPLICATION PROCESS.—

"(i) SUBMISSION OF APPLICATION.—Any entity desiring a loan under this subsection shall submit an application therefor to the Administrator.

"(ii) CONTENTS OF APPLICATION.—Each application for a loan under this subsection shall include—

"(I) a detailed explanation of the proposed rural telecommunications system, including the general telecommunications transmission services and facilities required, and a list of the specific equipment that the applicant proposes to purchase or lease, to implement the system;

"(II) a description of the manner in which the proposed project is to be funded;

"(III) a copy of a binding commitment entered into between the applicant and each entity which is legally permitted to provide, and from which the applicant is to obtain, the telecommunications services and facilities required for the project, which stipulates that if the applicant receives the loan requested in the application the entity will provide such telecommunications services and facilities in the area served by the entity within a reasonable time and at a charge which is in accordance with State law;

"(IV) a description of the manner in which the applicant intends to use the loan requested in the application;

"(V) a description of how the proposed project will be evaluated; and

"(VI) such other information as the Administrator may reasonably require.

"(B) CONSIDATION OF APPLICATIONS.—

"(i) REVIEW BY ADMINISTRATOR.—The Administrator shall—

"(I) review each application submitted pursuant to subparagraph (A)(i);

"(II) determine whether or not the application meets the requirements of subparagraph (A)(ii);

"(III) approve each application which meets such requirements;

"(IV) disapprove each application which fails to meet such requirements; and

"(V) transmit each approved application to the review panel of the State in which the entity which submitted the application intends to implement the project described in the application.

"(ii) REVIEW BY STATE REVIEW PANELS.—

"(I) IN GENERAL.—The review panel of a State shall examine each application transmitted to the review panel pursuant to clause (i)(V) to determine the technical and economic adequacy and feasibility of the project described in the application and the likelihood that the project will succeed.

"(II) AUTHORITY TO OBTAIN INFORMATION FROM APPLICANTS.—Each entity which submits an application for a loan under this subsection shall provide the review panel of the State in which the partnership intends to implement the project described in the application such information as the review panel may reasonably request to assist in reviewing the application.

"(III) AUTHORITY TO REQUEST APPLICANTS TO MODIFY PROJECTS.—The review panel may, before final consideration of an application of an entity for a loan under this subsection, request the entity to modify the project described in the application.

"(iii) RANKING OF APPLICATIONS.—

"(I) IN GENERAL.—The review panel of each State shall rank, pursuant to a written policy and criteria, the applications that the review panel receives during any fiscal year for a loan under this subsection, in an order which takes into account—

"(aa) the results of the review conducted under clause (i);

"(bb) the extent to which the projects described in the applications would promote any area plan (as defined in section 360(b)(1)) developed for the areas in which the projects are to be implemented; and

"(cc) in the case of a project which would duplicate existing services, the reasons therefor.

"(II) GROUPING OF APPLICATIONS.—The review panel shall separate into 2 groups the applications for a loan under this subsection received by the review panel during a fiscal year. The 1st group shall consist of the applications received during the 1st 6 months of the fiscal year. The 2nd group shall consist of the applications received during the 2nd 6 months of the fiscal year.

"(III) COMPETITION AMONG APPLICATIONS.—The review panel shall consider each application in a group to be competing only with the other applications in the group.

"(IV) WRITTEN POLICY AND CRITERIA.—

"(aa) IN GENERAL.—Subject to subdivision (bb), the review panel shall develop the written policy and criteria to be used to rank applications, in the same manner as the review panel develops the written policy and criteria used for purposes of section 361(b)(3).

"(bb) PROHIBITION AGAINST DEVELOPMENT OR ACQUISITION OF TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The policy and criteria developed under subdivision (aa) shall require that the project described in an application not include the development or acquisition of telecommunications transmission facilities.

"(iii) TRANSMITTAL OF RANKED APPLICATIONS.—A review panel in a State shall transmit to the State coordinator appointed pursuant to section 360(b)(3)(B) each list of applications ranked pursuant to clause (ii) of this subsection, in the same manner in which lists of applications ranked pursuant to section 361(b) are transmitted to the State coordinator pursuant to section 361. The State coordinator shall transmit to the Administrator each such list received by the State coordinator.

"(C) PRIORITY.—The Administrator shall establish procedures to target loans under this subsection to the rural areas and applicants that demonstrate the need for such loans, taking into consideration—

"(i) the relative needs of all applicants;

"(ii) the needs of the affected rural areas;

"(iii) the financial ability of the applicants, without such loans, to use telecommunications for the business purposes for which such loans may be made; and

"(iv) the recommendations of the review panels for the States in which such areas are located.

"(D) REPORT REQUIRED IF ADMINISTRATOR INTENDS TO FUND PROJECTS OTHER THAN AS RECOMMENDED BY REVIEW PANEL.—If the Administrator determines to provide loans under this subsection to projects in a State other than in the manner recommended by the review panel of the State, the Administrator—

"(i) within 10 days after making such determination, shall submit to the review panel, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the reasons for providing loans to projects other than in the manner so recommended; and

"(ii) shall not provide such loans before the end of the 7-day period beginning on the date the review panel and such committees have received such report.

"(E) MONITORING OF USE OF LOANS.—The Administrator shall take such steps as may be necessary to ensure that loans provided under this subsection are used in accordance with the approved application therefor.

"(3) RELATIONSHIP TO STATE LAW.—This subsection shall not be construed to affect in any manner the applicability of the Communications Act of 1934, the regulations and orders prescribed thereunder, or any State or local law relating to the regulation or provision of telecommunications facilities or services.

"(4) REGULATIONS.—Not later than 120 days after the date of the enactment of this subsection, the Administrator shall prescribe final regulations governing the loan program established under this subsection, in accordance with the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, notwithstanding subsection (a)(2) of such section 553.

"(5) DEFINITIONS.—As used in this subsection:

"(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Rural Development Administration.

"(B) REVIEW PANEL.—The term 'review panel' means, with respect to a State, the rural economic development review panel of the State, as established pursuant to section 361.

"(C) RURAL AREA.—The term 'rural area' has the meaning given such term in section 306(a)(7) for purposes of loans for essential community facilities under section 306(a)(1).

"(D) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term 'telecommunications terminal equipment' means telecommunications equipment (excluding telecommunications transmission facilities) that—

"(i) interconnects with telecommunications transmission facilities; and

"(ii) modifies, converts, encodes, or otherwise prepares signals to be transmitted through, or modifies, reconverts, or carries signals received from, the facilities.

"(E) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term 'telecommunications transmission facilities' means facilities (other than telecommunications terminal equipment) that transmit, receive, or carry signals between the telecommunications terminal equipment at each end of a telecommunications circuit or path.

"(6) TREATMENT OF LOAN PROGRAM AS DESIGNATED RURAL DEVELOPMENT PROGRAM.—For purposes of this title, the loan program established under this subsection shall be treated as a designated rural development program (within the meaning of section 360(b)(2)).

"(7) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—For loans under this subsection, there are authorized to be appropriated to the Administrator $15,000,000 for each of fiscal years 1990, 1991, 1992, 1993, and 1994.

"(B) AVAILABILITY.—Amounts appropriated pursuant to subparagraph (A) shall remain available until expended.".

Subtitle B—Rural Telecommunications Provisions

SEC. 1051. RURAL TELECOMMUNICATIONS ZONES.

(a) LISTS OF STATE RURAL TELECOMMUNICATIONS ZONES.—

(1) PREPARATION OF LIST.—Not later than July 1 of each calendar year, the Administrator shall, in accordance with regulations prescribed pursuant to subsection (e), prepare a report, for the Federal fiscal year beginning on October 1, of the calendar year, which—

(A) contains a list compiled in accordance with paragraph (2) of the rural areas in each State that will have advanced telecommunications capability in place not later than the end of the 2-year period beginning on October 1 of the calendar year;

(B) contains the reasons why the Administrator has determined that such rural areas will be as described in subparagraph (A);

(C) ranks such rural areas in the order in which the Administrator desires data processing (or other telecommunications intensive) firms to locate in such areas during the Federal fiscal year beginning in the calendar year, based on projections of—

(i) the facilities place in the area which provide advanced telecommunications capabilities;

(ii) the economic infrastructure needs of the area;

(iii) the employment needs of the area;

(iv) the availability of persons with telecommunications skills in the area; and

(v) the cost of labor in the area; and

(D) for each rural area on the list, provides a summary of the characteristics of the areas which are set forth in subparagraph (C).

(2) NUMBER OF RURAL AREAS PER STATE IN LIST.—The number of rural areas in a State that the Administrator shall include on the list prepared pursuant to paragraph (1) shall be the greater of—

(A) the product of—

(i) the number of individuals who reside in rural areas in the State rounded down to the greatest multiple of 1,000,000 which is less than such number of individuals; and

(ii) 3/1,000,000; and

(B) 3.

(b) PROVISION OF REPORT TO FEDERAL AGENCIES CONSIDERING RELOCATING DATA PROCESS-

ING OPERATIONS.—The Administrator shall provide to each Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year a copy of the report prepared pursuant to subsection (a) for the fiscal year.

(c) AGENCIES REQUIRED TO ANALYZE COSTS AND BENEFITS OF CERTAIN RELOCATIONS OPTIONS.—Any Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year shall—

(1) obtain from the Administrator a copy of the report prepared for the fiscal year pursuant to subsection (a);

(2) select from the list contained in the report at least 1 or more areas which the agency regards as best meeting the requirements of the agency's data processing (or other telecommunications intensive) operation; and

(3) perform a comparative analysis of the costs and benefits of—

(A) not relocating the operation;

(B) relocating the operation to any of the areas selected from the list; and

(C) relocating the operation to any other area to which the agency is considering relocating.

(d) REPORT REQUIRED IF AGENCY DOES NOT RELOCATE DATA PROCESSING OPERATION TO AREA SELECTED FROM LIST.—If a Federal agency is not prohibited by law from relocating a data processing operation to any area selected by the agency pursuant to subsection (c)(2), and the agency determines that the operation is to be relocated to an area other than any such selected area, the agency shall submit a report detailing the reasons for the determination to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Administrator, the Administrator of the Rural Electrification Administration, and the Administrator of the General Services Administration.

(e) REGULATIONS.—The Administrator shall, in consultation with the Administrator of the Rural Electrification Administration, prescribe such regulations as may be necessary to carry out this section.

(f) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Development Administration.

(2) RURAL AREA.—The term "rural area" has the meaning given such term in section 306(a)(7) of the Consolidated Farm and Rural Development Act for purposes of loans for essential community facilities under section 306(a)(1) of such Act.

SEC. 1052. GRANTS FOR EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEMS.

(a) IN GENERAL.—The Under Secretary shall make grants to eligible governments for the development and installation of emergency public safety telephone answering systems, including the construction and installation of such street signs, the assignment of street numbers to such locations, and the preparation of such maps as may be required for such systems to operate effectively.

(b) MAXIMUM GRANT PER LOCAL GOVERNMENT.—The Under Secretary shall not make a grant exceeding $30,000 under subsection (a) to any local government.

(c) MAXIMUM AMOUNT OF GRANTS PER YEAR.—The Under Secretary shall not make grants aggregating more than $3,000,000 under subsection (a) in any fiscal year.

(d) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under subsection (a), there are authorized to be appropriated to the Under Secretary not to exceed $3,000,000 for each of fiscal years 1990, 1991, 1992, 1993, and 1994.

(e) DEFINITIONS.—As used in this section:

(1) ELIGIBLE GOVERNMENT.—The term "eligible government" means a political subdivision of a State—

(A) which is in a rural area; and

(B) which the Under Secretary determines would, within 2 years after the date of the enactment of this section, have an emergency public safety telephone answering system were it not for a lack of street signs, street numbers for locations, or maps required for such a system to operate effectively.

(2) EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEM.—The term "emergency public safety telephone answering system" means a telecommunications system operated by public safety authorities that—

(A) enables persons to report police, fire, medical, and other emergencies to such authorities by use of a telephone; and

(B) automatically identifies the telephone number and location of the telephone which is the source of such a report.

(3) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Agriculture for Small Community and Rural Development.

SEC. 1053. STUDY ON USE OF TELECOMMUNICATIONS INFRASTRUCTURE BY BUSINESSES IN RURAL AREAS.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study and evaluate—

(1) the availability, and effective use, of the telecommunications infrastructure by small and large businesses in rural areas; and

(2) the achievements and shortcomings of the programs established under this title and the amendment made by this title.

(b) COORDINATION.—The Secretary may coordinate the study required by subsection (a) with other Federal agencies with telecommunications expertise.

(c) RECOMMENDATIONS.—The Secretary may recommend to the Committee on Agriculture and the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation of the Senate, such legislation as will promote rural economic development through advanced telecommunications technology, as the Secretary considers appropriate.

(d) RURAL AREA DEFINED.—As used in this section, the term "rural area" has the meaning given such term in section 306(a)(7) of the Consolidated Farm and Rural Development Act for purposes of loans for essential community facilities under section 306(a)(1) of such Act.

Mr. WISE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. WISE. Mr. Chairman, I offer my amendment also on behalf of my coauthor, Congressman STALLINGS. The legislation—which we call the Rural Business Development and Telecommunications Act of 1990—would assist rural America in tapping the potential of telecommunications to help revitalize our Nation's less developed areas.

Recent years have been a time of rapid technological development in the telecommunications industry. Urban businesses and consumers have come to take for granted such minor miracles as fax machines, personal computers, and computerized databases.

But for some rural Americans even single line telephone service is stil not yet a reality. Because of the comparative expense of bringing new telecommunications services to sparsely populated areas, there is a danger that it will be many years before the entire country will fully enjoy the technological advances of recent times.

As a nation we can't afford to let the informaion age pass rural America by. Small-town America is striving to recover from a period of economic decline. The rural economy has shifted away from its traditional mainstays—mining, manufacturing, and agriculture—and turned instead to service industries. Deregulation of the transportation industry has made travel and transport less available and more costly for rural residents. As a result people are leaving the less populous regions of America to make their fortunes in our increasingly congested and polluted metropolitan areas.

Information age technology is a major key to reversing this trend. Modern telecommunications can help replace the buses, trucks, and trains that pass the small towns by. It can help existing rural businesses compete and it can allow businesses such as mail order companies and airline reservation services to locate in rural areas.

Our amendment would expand the provisions of section 310B of the Consolidated Farm and Rural Development Act to permit businesses, local governments and public agencies in rural areas to obtain Federal loans to fund facilities for shared telecommunications equipment and computer hardware and software. The loans would be made pursuant to an application and ranking process wholly consistent with the procedures established in H.R. 3581.

Our amendment contains two additional provisions. The first would encourage—but not require—Federal agencies to move their data processing and other telecommunications-intensive operations to rural areas capable of supporting advanced telecommunications services.

The other provision would make funding available to rural local governments for the creation of street addresses in rural areas that are unable to have emergency 911 service due to the lack of such addresses.

Finally, I would like to mention language that is not included in the amendment we offer today. As originally drafted, our amendment included a medical link provision. That provision would have enabled rural hospitals and other rural health care providers, through a loan guarantee program, to take advantage of telecommunications technologies, computer networks and related advanced technologies for the purpose of improving medical diagnosis and treatment.

In recent days my colleague from California, Congressman WAXMAN, and my colleague from Michigan, Congressman DINGELL, have expressed some concern that our health care provisions might duplicate to some extent existing Federal programs. Congressman WAXMAN has assured me that he plans to include in upcoming legislation programs that will meet the goals Congressman STALLINGS and I share for improving health care in rural America. The gentleman from California has generously offered to work with Congressman STALLINGS and me to ensure that we have a voice in the shaping of that legislation.

Based upon these assurances—and in order to facilitate smooth passage of our amendment and H.R. 3581—Congressman STALLINGS and I eliminated the health care telecommunications provisions from our language. We look forward to working with the gentleman from California [Mr. WAXMAN].

Mr. Chairman, our amendment to the Rural Economic Development Act would enhance the ability of the rural areas of our country to overcome the economic obstacles they face. And that is good not just for rural America but for the entire Nation. I urge support for our amendment.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, we have no objection to the amendment. We think it is a fine amendment, we are happy to accept it, and we commend the committee.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, it is a fine contribution to what we are doing in this amendment, and I thank the gentleman from West Virginia [Mr. WISE].

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from West Virginia [Mr. WISE].

The amendment was agreed to.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in keeping with our commitment with the leaders I will be very brief, but I just wanted to show the Members, as graphically as I can, what this bill is all about.

I have here a photograph that was taken in my congressional district. My colleagues can see a little boy on a broken-down bicycle with a smile on his face. They can see the shacks behind them. There is one REA light pole. There is no water. There is no drainage. There is no sewerage. There is no pavement.

Mr. Chairman, this is what this bill is all about.

Mr. ENGLISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would simply like to say at this particular point that this legislation that is coming together we think is an outstanding piece of legislation. It is one that does, I think, offer real hope to rural America.

The one point that we made when we opened debate pertaining to this bill was the fact that given the budget crisis that we face here in Washington there is very little new money that is available. Certainly not in large sums.

So, Mr. Chairman, what we have to attempt to do is to make sure that we use those dollars that we have much more wisely, and that is the way that this legislation has been crafted.

I think that what we end up with certainly is 95 percent of what we came into the House of Representatives with, into the full House. It contains, certainly, the most vital part of the rural development legislation.

However, Mr. Chairman, we leave this House with something that is probably far more important than that 5 percent, and that is the commitment of every member of the Committee on Agriculture that we will in fact fight for this legislation in conference. It is one that we think puts us in a very strong position, certainly much stronger that we would have been had we had a hundred percent of this bill when we left this House with a divided committee.

So, Mr. Chairman, I would simply like to say that I am very optimistic, I am very pleased, and I want to thank the Members of the entire House for their cooperation, and I want to thank the fine contributions that have been made to this legislation, and I also, in particular, want to commend my ranking member on the Subcommittee on Conservation, Credit, and Rural Development, the gentleman from Missouri [Mr. COLEMAN], the fine contributions which he has made. He has been a great partner, and I have enjoyed working with him on this legislation.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, this has been, I think, the culmination of many years of work. I think it is a very important thing that we are about ready to pass here on the floor of the House, and I also think the gentleman from Oklahoma [Mr. ENGLISH] and I both agree that we would like to see a separate rural development bill passed and sent to the President this year as opposed to having a part of the farm bill which must pass later on this year.

Mr. Chairman, this issue is one that is important enough to stand on its own two feet legislatively, and I hope we will be able to dip into Congress and be able to expedite what we do over there with the other body in order to assure that the needs of the community of the gentleman from Texas [Mr. DE LA GARZA], as well as all of us all over rural America, will be met.

It has been a pleasure to work with the gentleman from Oklahoma [Mr. ENGLISH]. He is truly a gentleman.

This is a bipartisan bill. There is nothing that I could say. There has not been a finer opportuntiy for me to work in the House of Representatives than on this bill, and I really appreciate the courtesies he has shown to the Republican side and to me personally in evolving, and supporting, and introducing and now helping getting the bill passed.

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Mr. TALLON. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I yield to the gentleman from Alabama.

Mr. TALLON. Mr. Speaker, I just thank the gentleman for yielding to me. I want to express my support for the bill and also to add my appreciation for the hard work that the chairman and the subcommittee chairman have done on this bill, and let us work to get it passed.

Mr. COLEMAN of Missouri. Mr. Chairman, I move to strike the last word.

I do so, Mr. Chairman, because I know we want to get out of here in 10 minutes. I think there will be a recorded vote.

I also have a Member who I understand wants to offer an amendment that has been published in the RECORD. I cannot offer it on his behalf, according to my understanding. If he is not here in the next 2 minutes, I am going to let it go.

There was and is some interest in this bill as a result of the reorganzation of the Department of Agriculture under the Rural Development Administration. I know that some of my colleagues were thinking about offering amendments on an educational component.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. COLEMAN of Missouri. Surely, I yield to the distinguished gentleman from Texas.

PARLIAMENTARY INQUIRY

Mr. DE LA GARZA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DE LA GARZA. Mr. Chairman, under the rule, would it be permissible for a Member to ask unanimous consent to introduce the amendment printed in the RECORD by another Member?

The CHAIRMAN pro tempore. Any Member can offer an amendment printed in the RECORD.

Mr. COLEMAN of Missouri. Mr. Chairman, I thank the gentleman.

AMENDMENT OFFERED BY MR. COLEMAN OF MISSOURI

Mr. COLEMAN of Missouri. Mr. Chairman, I offer an amendment, the Grandy amendment.

The Clerk read as follows:

Amendment offered by Mr. COLEMAN of Missouri: Amend section 361(c)(1)(J) as follows:

On page 30, strike lines 10 through 17 and insert the following:

"(J) one of whom is appointed by the Governor of the State from either a statewide rural development organization or a statewide association of publicly-owned electric utilities, neither of which is described in any of subparagraphs (C) through (I);".

Mr. ENGLISH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COLEMAN of Missouri. Mr. Chairman, this is the amendment that the gentleman from Iowa [Mr. GRANDY] wanted to offer.

The gentleman from Iowa wanted to make sure that an alternative on the review panel of 16 people might be able to have a publicly owned utility representative there on the statewide association in lieu of either investor-owned or electric co-ops.

Under the circumstances, the gentleman from Oklahoma [Mr. ENGLISH] is supporting this and has no opposition to it.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I have no objection to the amendment and would ask that it be accepted.

Mr. GRANDY. Mr. Chairman, may I first commend Chairman DE LA GARZA, Mr. ENGLISH, chairman of the Conservation, Credit and Rural Development Subcommittee on which I serve, and Mr. COLEMAN, ranking member of the same subcommittee for their leadership in formulating this legislation. They have done a yeoman's task in bringing this bill before the House.

Mr. Chairman, I rise to offer this amendment to section 361(c) of the Rural Economic Development Act of 1990 which outlines the composition of the State Rural Economic Development Review Panel. Currently the last seat on that panel is either filled by a representative from a statewide rural economic development organization or it is left empty if such an organization does not exist. My amendment will allow that seat to be filled by either a representative from a statewide rural economic development group or from a statewide association of publicly owned utilities; the seat will not be empty.

I offer this amendment due to the vital role which the electric utility industry plays in rural development. There is no doubt that our rural infrastructure is a key to economic development. While many of our rural areas are served by cooperative electric companies or investor-owned utilities, there are a large number of small communities whose source of power comes from publicly owned systems. Public power systems provide about 15 percent of electricity in the United States; this is compared with co-ops which supply about 10 percent, and investor-owned facilities which generate about 75 percent. While rural electrics and investor-owned utilities have direct representation on the State Economic Development Review Panel, public power does not. Some States, as I believe Mr. STAGGERS of West Virginia noted in committee, are not even served by electric cooperatives. This amendment recognizes those facts, and gives publicly owned electric utilities, if chosen by the Governor, an opportunity to be represented on the State Rural Economic Development Review Panel.

Almost 88 percent of all public power systems serve 10,000 or fewer customers. In May, the American Public Power Association profiled small public power systems. In summary, the report found that of the 1,982 publicly owned and operated electric systems that provide electric service at retail, the median public power system serves 1,696 meters—or a population of approximately 4,500 people. Almost 64 percent of these smaller systems are located in the nine States of Iowa (113 of 138), Nebraska (99 of 159), Kansas (96 of 122), Minnesota (82 of 126), Missouri (52 of 89), Ohio (50 of 84), Wisconsin (48 of 82), Indiana (43 of 72), and Oklahoma (38 of 63).

This amendment does not guarantee anyone a seat on the State Economic Development Review Panel. What it does do, however, is provide those States where publicly owned utilities play a vital role in rural America or where a statewide rural economic development organization does not exist with the opportunity to have those areas served by these utilities represented on the panel and/or to have a full panel of 16 members.

Thank you for your consideration of this amendment, and I urge your support.

Mr. STALLINGS. Mr. Speaker, this afternoon I had planned to offer an amendment to the Rural Economic Development Act of 1990 to improve the quality of rural communities, schools, community centers, and businesses by providing technical assistance and funding to rural economic development partnerships. By fully utilizing the largest investment in rural areas—the schools—economic development partnerships can provide services and facilities not now available in rural areas. This amendment, the Rural Economic Development and School Partnership Act of 1990, was developed jointly with Congressman WISE.

In order to more refine this amendment to address the critical needs of our rural communities, and improve upon its primary purpose of economic development using school facilities, I have agreed to withdraw the amendment from consideration today, and will reintroduce it early next week.

Mr. Speaker, there is strong bipartisan support for my amendment. Mr. ENGLISH and Mr. COLEMAN, the chairman and ranking member on the Conservation, Credit and Rural Development Subcommittee, and the sponsors of the Rural Economic Development Act of 1990, have agreed to help this measure move expeditiously through the Agriculture Committee. I believe that with the commitments I have received from both Education and Labor and Agriculture Committee leadership, we can improve upon this amendment, and have it available for floor consideration promptly so that it can be available to the conference committee members as they work on the Rural Economic Development Act of 1990.

Specifically, this amendment would provide States with a pool of grant money for economic development projects. The projects would be designed and administered by local partnerships involving business and education communities. Using the investment already present in local schools, residents can identify their own needs and construct their own solutions with technical and financial assistance provided for in this amendment. The State economic review panel, as outlined in H.R. 3581, would rank and prioritize eligible projects.

This amendment provides technical and financial assistance to rural economic development education partnerships to:

First, improve rural schools and school systems as a means of attracting and keeping industry in rural areas,

Second, involve rural school facilities and personnel in creating and supporting businesses that provide employment opportunities for youth and other residents of rural areas, and

Third, provide educational service providers with access to advanced telecommunications services and computer networks to improve job opportunities and the business environment.

Mr. Speaker, rural communities are invaluable to the fiber of our country, yet they are often overlooked when it comes to Federal economic development efforts. It is critical that we promote economic health in rural America and provide resources and expertise to these communities that they can use as they see fit. I believe this amendment will accomplish this goal. I am looking forward to its prompt consideration by the full House.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri [Mr. COLEMAN].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. PANETTA] having assumed the chair, Mr. KOSTMAYER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3581) entitled the "Rural Economic Development Act of 1989," pursuant to House Resolution 355, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COLEMAN of Missouri. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 360, nays 45, not voting 26, as follows:

[Roll No. 40]

YEAS—360

Ackerman	Bevill	Byron
Akaka	Bilbray	Callahan
Anderson	Bilirakis	Campbell (CO)
Andrews	Billey	Cardin
Annunzio	Boehlert	Carper
Anthony	Boggs	Carr
Applegate	Bonior	Chandler
Aspin	Borski	Chapman
Atkins	Bosco	Clarke
AuCoin	Boucher	Clay
Baker	Boxer	Clement
Barnard	Brennan	Clinger
Barton	Brooks	Coble
Bateman	Broomfield	Coleman (MO)
Beilenson	Browder	Coleman (TX)
Bennett	Brown (CO)	Combest
Bentley	Bruce	Condit
Bereuter	Bryant	Conte
Berman	Buechner	Conyers
Cooper	Jones (GA)	Petri
Costello	Jones (NC)	Pickett
Coughlin	Jontz	Pickle
Courter	Kanjorski	Poshard
Coyne	Kaptur	Price
Crockett	Kastenmeier	Rahall
Darden	Kennedy	Rangel
Davis	Kennelly	Ravenel
de la Garza	Kildee	Ray
DeFazio	Kleczka	Regula
Dellums	Kolbe	Rhodes
Derrick	Kostmayer	Richardson
DeWine	LaFalce	Ridge
Dickinson	Lancaster	Rinaldo
Dicks	Lantos	Ritter
Dingell	Laughlin	Roberts
Dixon	Leach (IA)	Robinson
Donnelly	Leath (TX)	Ros-Lehtinen
Dorgan (ND)	Lehman (CA)	Rose
Downey	Lehman (FL)	Rostenkowski
Duncan	Lent	Roukema
Durbin	Levin (MI)	Rowland (CT)
Dymally	Levine (CA)	Rowland (GA)
Dyson	Lewis (FL)	Roybal
Early	Lewis (GA)	Russo
Eckart	Lightfoot	Sabo
Edwards (CA)	Lipinski	Saiki
Edwards (OK)	Lloyd	Sangmeister
Emerson	Long	Sarpalius
Engel	Lowery (CA)	Sawyer
English	Lowey (NY)	Saxton
Erdreich	Lukens, Donald	Scheuer
Espy	Machtley	Schiff
Evans	Madigan	Schneider
Fascell	Manton	Schroeder
Fazio	Markey	Schulze
Feighan	Martin (IL)	Schumer
Fish	Martin (NY)	Sharp
Flake	Martinez	Shaw
Foglietta	Matsui	Shuster
Ford (MI)	Mavroules	Sikorski
Frank	Mazzoli	Sisisky
Frost	McCloskey	Skaggs
Gallegly	McCrery	Skeen
Gallo	McCurdy	Skelton
Gejdenson	McDade	Slattery
Gekas	McDermott	Slaughter (NY)
Gephardt	McEwen	Slaughter (VA)
Geren	McGrath	Smith (FL)
Gibbons	McHugh	Smith (IA)
Gillmor	McMillan (NC)	Smith (NE)
Gilman	McMillen (MD)	Smith (NJ)
Gingrich	McNulty	Smith (TX)
Glickman	Meyers	Smith (VT)
Gonzalez	Mfume	Smith, Denny (OR)
Goodling	Michel	Smith, Robert (OR)
Gordon	Miller (CA)	Solarz
Grandy	Miller (OH)	Solomon
Grant	Miller (WA)	Spence
Gray	Mineta	Spratt
Green	Moakley	Staggers
Guarini	Mollohan	Stallings
Gunderson	Montgomery	Stangeland
Hall (OH)	Moody	Stark
Hall (TX)	Morella	Stenholm
Hamilton	Morrison (WA)	Stokes
Hammerschmidt	Murphy	Studds
Hansen	Murtha	Swift
Harris	Myers	Synar
Hastert	Nagle	Tallon
Hatcher	Natcher	Tauke
Hawkins	Neal (MA)	Tauzin
Hayes (IL)	Neal (NC)	Taylor
Hayes (LA)	Nielson	Thomas (CA)
Hefner	Nowak	Thomas (GA)
Herger	Oakar	Thomas (WY)
Hertel	Oberstar	Torres
Hiler	Obey	Torricelli
Hoagland	Olin	Towns
Hochbrueckner	Ortiz	Traficant
Holloway	Owens (NY)	Udall
Horton	Owens (UT)	Unsoeld
Houghton	Oxley	Upton
Hoyer	Packard	Valentine
Hubbard	Pallone	Vander Jagt
Huckaby	Panetta	Vento
Hughes	Parker	Visclosky
Hunter	Parris	Volkmer
Hutto	Pashayan	Vucanovich
Inhofe	Patterson	Walgren
Jacobs	Paxon	Walsh
James	Payne (NJ)	Washington
Jenkins	Payne (VA)	Watkins
Johnson (CT)	Pease	Waxman
Johnson (SD)	Pelosi	Weber
Johnston	Penny	Weiss
Weldon	Williams	Wylie
Wheat	Wilson	Yates
Whittaker	Wise	Yatron
Whitten	Wolf	Young (AK)
	Wolpe	Young (FL)
	Wyden	

NAYS—45

Alexander	Fawell	Moorhead
Archer	Fields	Perkins
Armey	Frenzel	Porter
Ballenger	Goss	Pursell
Bartlett	Gradison	Rogers
Bates	Hancock	Rohrabacher
Bunning	Hefley	Schaefer
Burton	Henry	Sensenbrenner
Campbell (CA)	Hopkins	Shays
Cox	Hyde	Shumway
Crane	Kasich	Smith, Robert (NH)
Dannemeyer	Kyl	Stearns
DeLay	Lagomarsino	Walker
Dornan (CA)	Livingston	
Douglas	McCandless	
Dreier	McCollum	

NOT VOTING—26

Brown (CA)	Kolter	Roth
Bustamante	Lewis (CA)	Savage
Collins	Luken, Thomas	Schuette
Craig	Marlenee	Snowe
Dwyer	Morrison (CT)	Stump
Flippo	Mrazek	Sundquist
Ford (TN)	Nelson	Tanner
Gaydos	Quillen	Traxler
Ireland	Roe	

□ 1519

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Marlenee against.

Mr. Schuette for, with Mr. Stump against.

Messrs. PORTER, MOREHEAD, LIVINGSTON, and McCOLLUM changed their vote from "yea" to "nay."

Messrs. HUNTER, WHITTEN, and UDALL changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill entitled the 'Rural Economic Development Act of 1990.'"

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall 40.

□ 1520

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT ON H.R. 3847, ESTABLISHING A DEPARTMENT OF ENVIRONMENTAL PROTECTION

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight to file a privileged report on H.R. 3847, a bill to establish a Department of Environmental Protection.

This request has been cleared with the minority.

The SPEAKER pro tempore (Mr. WEISS.) Is there objection to the re-

quest of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3581, RURAL ECONOMIC DEVELOPMENT ACT OF 1990

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill (H.R. 3581), the clerk be authorized to correct the table of contents, section numbers, punctuation, citations, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3581, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON DISTRICT OF COLUMBIA TO HAVE UNTIL 4 P.M. FRIDAY, MARCH 23, 1990, TO FILE REPORT ON H.R. 1463

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia have until 4 p.m. on Friday, March 23, 1990, to file a report on H.R. 1463.

The SPEAKER pro tempore. The Chair would ask the gentleman from California, has this been cleared with the minority?

Mr. DELLUMS. It has, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this 1 minute so that I might inquire of the distinguished majority leader the program for the balance of this week and next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, our business will soon be finished for the day and there will be no session of the House tomorrow.

On Monday, March 26, 1990, the House will meet at noon. However, there will be no legislative business.

On Tuesday, March 27, 1990, the House will meet at 9 a.m. The House will recess immediately and reconvene at 10 a.m. for a joint meeting to commemorate the centennial of Dwight David Eisenhower.

Following that meeting there will be six suspension bills. Recorded votes on suspensions will be postponed until after debate on all suspensions.

We will be considering H.R. 4328, Trade Agency Authorization Act; H.R. 2209, Soybean Promotion, Research, and Consumer Information Act; H.R. 3386, Safe Transportation of Food Act; H.R. 908, FERC Member Term Act of 1989; Senate Concurrent Resolution 98, to permit a public event on the Capitol Grounds in recognition of Earth Day; House Joint Resolution 471 regarding Commerce, State, Justice, the Judiciary and Related Agencies Appropriations for fiscal year 1990; and H.R. 3847, to establish a Department of Environmental Protection, subject to a rule.

On Wednesday, March 28 and Thursday, March 29 the House will meet at noon Wednesday and 11 a.m. on Thursday to consider H.R. 3, Childhood Education and Development Act, subject to a rule; H.R. 1463, to amend the National Capitol Transportation Act of 1969 relating to the Washington Metrorail System, subject to a rule; and H.R. 644, to amend the Wild and Scenic Rivers Act by designating the East Fork of the Jemez and Pecos Rivers in New Mexico, open rule, 1 hour debate.

On Friday, March 30, the House will not be session.

Mr. MICHEL. I thank the distinguished leader.

HOUR OF MEETING ON WEDNESDAY, MARCH 28, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, March 27, 1990, it adjourn to meet at noon on Wednesday, March 28, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 27, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 26, 1990, it adjourn to meet at 9 a.m. on Tuesday, March 27, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ADJOURNMENT TO MONDAY, MARCH 26, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR THE SPEAKER TO DECLARE RECESSES AT ANY TIME ON TUESDAY, MARCH 27, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses at any time on Tuesday, March 27, 1990, for the purpose of a joint meeting to commemorate the 100th anniversary of the birth of Dwight D. Eisenhower.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

NATIONAL TREE TRUST ACT OF 1990—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. Doc. No. 101-162)

The SPEAKER pro tempore (Mr. EVANS) laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Agriculture and ordered to be printed:

(For message and statement, see proceedings of the Senate of today, Thursday, March 22, 1990.)

NO COMPROMISE ON THE FAMILY AND MEDICAL LEAVE ACT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include therein extraneous material.)

Mr. BALLENGER. Mr. Speaker, as the debate continues on the Family and Medical Leave Act, I wanted to clarify that small businesses in New Jersey were bitterly opposed to the enactment of parental leave.

As pointed out in a recent editorial, "In the areas of employee-employer relations and negotiations, the 9,000 New Jersey members of the National Federation of Independent Business [NFIB] firmly believe that government has no role." A copy of the editorial is submitted for the RECORD.

As a former small businessman, I can tell you that most small firms just want the flexibility to choose the types of benefits offered to their employees. Freedom of choice ensures that the type of benefits offered meets the needs of the employees and the employer.

The issue is not whether the leave is a good policy to pursue, the issue remains the appropriate role for Government. Let's support freedom of choice for benefits and oppose the mandate. Join me in voting "no" on the Family and Medical Leave Act.

[From the Record, Dec. 31, 1989]

SMALL BUSINESS OWNERS WON'T COMPROMISE ON PARENTAL LEAVE

EDITOR, THE RECORD: New Jersey's small-business owners did not and will not compromise on the issue of parental leave. In the area of employee-employer relations and negotiations, the 9,000 New Jersey members of the National Federation of Independent Business (NFIB) firmly believe that government has no role.

Last year, 86 percent of the NFIB members in New Jersey said government should not require employers to provide parental leave. The issue of government interference in employer-employee relationships is one of the top concerns of the state's small-business owners; the Legislature's fondness for mandated employee benefits is not favorably viewed by the state's small-business owners.

This does not mean that small firms are insensitive or oblivious to the needs of employees. Small business values capable employees and will often make arrangements on an individual basis to keep good workers when personal demands make it necessary. About half of the NFIB members in New Jersey now accommodate employees with time off to care for sick family members or the birth of a child.

NFIB's refusal to compromise on its parental leave issue boils down to flexibility. Small-business owners ask only that government allow them the flexibility in structuring benefits so those benefits are best suited to the individual and mutual needs of the employee and employer.

The concept of mandated parental leave is also discriminatory, favoring one group of employees over another. Certainly leave to care for a sick child or to give birth is a laudable benefit for those employees with children. But other employees might prefer employer-paid dental benefits or subsidized day care. Under the parental leave legislation sent to the governor, all employees not using this extended leave would subsidize others through the diminution of other benefits.

Mandated benefits deny employers and employees the right to choose a mix of wages, salaries, and benefits most appropriate to their situation. Government intervention results in a one-size-fits-all approach to New Jersey's diverse workplace.

Our members have strong opinions about the impact of government intervention in the marketplace. Those opinions are based on experience, not theory. Their experiences have shown that when necessary, parental leave and other benefits will be offered. And the benefits when offered will suit the situation, not the whims of the Legislature.

LAURA GIANNOTTA,
Director, NFIB-New Jersey, Trenton.

POST-TRAUMATIC STRESS DISORDER AND THE FINDINGS OF THE "TWINS" STUDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. JONTZ] is recognized for 5 minutes.

Mr. JONTZ. Mr. Speaker, I would like to call to the attention of my colleagues the findings of a study published in the March 2 edition of the Journal of the American Medical Association regarding the relation of military service during the Vietnam era on post-traumatic stress disorder [PTSD], a mental health problem associated with combat-related service in Vietnam and previous wars. The study used a sample of over 2,000 male identical twin pairs who both served in the military during that era.

In 715 of the twin pairs, one twin served in the Vietnam theater while the cotwin served elsewhere. Among this group, PTSD was found to be strongly associated with military service in the Vietnam theater. The prevalence of PTSD was 16.8 percent in twins who served in the Vietnam theater compared to 5 percent in their cotwins who did not serve in the Vietnam theater.

There was a ninefold increase in the prevalence of PTSD comparing twins who experienced high levels of combat with their cotwin who did not serve in the Vietnam theater. These results show that nearly 15 years following the end of the Vietnam war, there remains a substantially increased prevalence of PTSD among veterans who served in the Vietnam theater.

This study confirms the findings of the Research Triangle Institute's National Vietnam Veterans Readjustment Study published in December 1988. The RTI study, which was contracted by the Department of Veterans Affairs, found that 479,610 veterans—a number much higher than previously estimated—are currently afflicted with PTSD. The RTI study also concluded that only 10 percent of veterans with PTSD received help from the VA in the last year of the study. Eighty percent of the estimated 963,000 veterans with life-time PTSD have never used VA resources for treatment. The VA accepts these findings.

Mr. Speaker, it has been over 14 months since the RTI study was completed but the VA has not adequately responded. For each of the past 6 years, the chief medical director's own special committee on PTSD has recommended substantial improvements in the VA's service delivery system for PTSD treatment, but the VA has done little to expand its capacity to serve these veterans who have PTSD problems, including many category "A" veterans.

There are only 16 PTSD inpatient units within VA medical centers nationwide, and many of these have waiting lists 18 months long. Cities as big as Toledo, OH, and Nashville, TN—both with substantial minority veteran populations—have no vet centers. The quality of treatment for PTSD problems varies widely across the Nation. In fact, Mr. Speaker, 110 of our country's 172 VA medical centers do not have a dedicated PTSD treatment unit of any kind.

While the President is proposing a $900 million increase for the VA medical care programs, and the Veterans' Affairs Committee an additional $539 million, funding for PTSD programs is not expected to change from the fiscal year 1990 level except for a $7 million increase which I proposed when the Veterans' Affairs Committee considered its recommendations to the Budget Committee. A $7 million increase is not nearly enough to meet the needs which exist, but it is a start and I believe that we can do even more this year.

Mr. Speaker, I would urge my colleagues to consider the findings of the twins and RTI studies and to talk to veterans back home regarding the level of service which your nearest VA facility provides for PTSD treatment. Chances are that the veterans will tell you about 4-hour drives to seek treatment and year long waiting lists, and will ask you why no one seems to care.

I hope that we will show these veterans that we do care and will act to improve the services they receive for PTSD. I believe that it will take congressional action to reach more of these veterans. We need to take the lead and give the Department of Veterans Affairs a push in the right direction if we are to correct this inequity. It is a national disgrace that there are approximately 430,000 American veterans who aren't being served by the Government that sent them into battle.

I fully appreciate the budget constraints which we are facing, but we can't afford to wait an additional year or more to see if this problem is otherwise resolved by the VA.

COPYRIGHT AND MASK WORK DISPUTE SETTLEMENT AUTHORITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KASTENMEIER] is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, today I am introducing a bill to establish a dispute settlement procedure for bilateral relations between the United States and foreign countries in the context of copyright and semiconductor chip mask work law. This bill will promote respect for principles of dispute resolution and the rule of law in international intellectual property disputes. Since American copyright law does not generally have extraterritorial operation, our relationships—through bilateral and multilateral agreements with foreign countries—become the primary mode of enforcement.

The effective intellectual property protection of copyrights and mask works in international fora is essential to United States interests. To that end, the United States adheres to several multilateral treaties and has concluded many bilateral agreements respecting copyrights. But because the minimum standards are not being enforced, billions of dollars in potential income to United States nationals are lost through piracy. A recent report issued by the Annenburg Washington Program—Curbing International Piracy of Intellectual Property—Policy Options for a Major Exporting Country—confirmed this proposition by stating that the "piracy of copyrights, patents and other intellectual property costs the U.S. economy tens of billions of dollars and thousands of lost jobs every year."

Our international intellectual property agreements do not contain adequate enforcement procedures or mechanisms, and therefore fail to provide adequate protection.

In the multilateral context, the United States has recently adhered to the Berne Convention for the Protection of Literary and Artistic Works which provides a high level of copyright protection to United States nationals in foreign nations, but does not contain internal enforcement mechanisms or procedures for resolving disputes between members about the correct interpretation of treaty obligations.

The General Agreement on Tariffs and Trade [GATT] does contain dispute settlement procedures, but does not reach all aspects of intellectual property, and the United States is actively seeking inclusion of standards and enforcement procedures to ensure adequate and effective enforcement of all intellectual property rights.

On a positive note, the World Intellectual Property Organization [WIPO], at its last administrative meetings—in September 1989—considered the proposal of a new multilateral treaty establishing a mechanism to settle disputes concerning the interpretation of several WIPO intellectual property treaties, including the Berne Convention. A meeting of experts was held earlier this year and another is scheduled to occur later in the year.

A recently drafted WIPO treaty on the protection of semiconductor chips—in May 1989 in Washington, DC—provided for the first time in an intellectual property treaty for the settlement of intellectual property disputes. In article 14, the treaty provides that where a dispute arises concerning the interpretation or implementation of the treaty, member parties shall engage in consultations and attempt to reach, in a reasonable period of time, a mutually satisfactory solution to the dispute. If an amicable resolution is not reached, the parties may use other means designed to lead to a settlement of the dispute, such as conciliation, mediation, or arbitration. If a consensual solution is not identified through these means, either party may ask the assembly of all the member states to examine the matter. The assembly will convene a panel from a list of experts, hear from the parties on the matter, and prepare a written report containing a statement of facts and recommendations for the resolution of the dispute. Finally, the assembly shall, by consensus, make recommendations to the parties to the dispute as to an ultimate resolution. In the opinion of expert observers, however, the treaty did not go far enough in terms of providing for adequate and effective dispute settlement.

United States bilateral copyright and mask work relations, based on Presidential proclamations, lack dispute settlement mechanisms. The failure to provide for such mechanisms arises in part from a gap in American intellectual property laws, and in part from similar gaps in the laws of foreign countries. The U.S. Copyright Act—in section 104 of title 17—provides authority for the President of the United States to extend, by proclamation, copyright protection to works of nationals and domiciliaries of a foreign country which protects United States works on substantially the same basis as it protects works of its own nationals and domiciliaries—so-called national treatment. As regards semiconductor chip products, section 902 of title 17 provides for the extension of protection to foreign mask works on a similar basis.

Without the existence of effective mechanisms for settling disputes regarding the nature and scope of rights within international agreements and providing means of enforcement of such rights, American works cannot receive effective protection. Therefore, to stem the tide of piracy and to promote the efficient resolution of disputes, it is of paramount importance that the United States buttress its trade laws by requiring the establishment of dispute settlement mechanisms as a condition of bilateral copyright and mask work agreements.

This bill would therefore condition further Presidential proclamations concerning copyright and mask work relations with foreign countries on the latter's agreement to follow the delineated dispute settlement procedure. Under this procedure, either the United States or the foreign country could initiate consultations if there was a disagreement about the fulfillment of the obligation to accord adequate and effective copyright or mask work protection. The settlement process would end if the parties could reach agreement.

If either party did not agree to consultations, or their consultations did not resolve the dispute within one year of initiation, the other party could demand arbitration by a panel of three governmental intellectual property experts who would prepare a report for submission to the United States President and Congress, and their foreign equivalents.

The Register of Copyrights would be required to monitor developments regarding dispute settlement procedures and issues and file annual reports to the Committees on the Judiciary of the Senate and House of Representatives. To recommend modification of the procedure in title 17, the Register of Copyrights would have to consult with the U.S. Trade Representative, the Secretary of Commerce, and the Secretary of State.

Mr. Speaker, the proposed legislation confirms the importance of formalized and peaceful dispute settlement techniques between foreign countries. The proposal, which is firmly rooted in congressional authority to promote the progress of science and useful arts, also solidifies the important partnership that exists between the executive and legislative branches to use law and diplomacy to protect American intellectual property interests both domestically and internationally. Further, the bill will promote the development of and reliance on multilateral dispute settlement—such as the GATT—as preferable to bilateral dispute settlement. Finally, a short-term effect of the bill may be to stimulate membership in the world's intellectual property treaties—such as the Universal Copyright Convention, the Berne Convention, and the mask work treaty—since the proposed legislation will only be triggered in instances when the United States and a foreign country do not have multilateral copyright or mask work relations.

I urge my colleagues to give serious consideration to this proposal. If there are any questions, please contact the Subcommittee on Courts, Intellectual Property, and the Administration of Justice, 2137 Rayburn Building, Washington, DC 20515; telephone (202) 225-3926.

PAUL HARVEY RECEIVES THE 1990 DANTE AWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise to call to the attention of my colleagues in the House of Representatives the many accomplishments of Paul Harvey, nationally known radio, television, and newspaper commentator, who will receive the 19th annual Dante Award of the Joint Civic Committee of Italian Americans at a luncheon to be given in his honor on Friday, April 6, 1990, at the Como Inn in Chicago.

The Dante Award was established by the Joint Civic Committee of Italian Americans, an umbrella organization comprised of more than 40 civic organizations in the Chicagoland area, to extend recognition annually to an individual in the mass media communications field who has made a positive contribution to the profession of journalism.

Born in Tulsa, OK, on September 4, 1918, Paul Harvey began his career in broadcasting as a radio announcer at KVOO in Tulsa in 1941. Joining ABC as a news commentator in 1944, his broadcasts are now heard on 1,348 radio stations—more than any other single na-

tional network radio program. In 1954, he became a syndicated columnist for General Features Corp., which is now the Los Angeles Times Syndicate, and his columns today appear in 300 newspapers throughout the country. His television commentary, "Paul Harvey Comments," appears in 120 television markets. He has also written several books, and has produced several records. His books, records, newspaper columns, and radio and television commentaries have reached millions of people.

Paul Harvey has also been very active in community and charitable endeavors. He serves on the board of directors of the John D. and Catherine T. MacArthur Foundation. In recognition of his efforts, he has received several awards, including certificates of merit from the American Legion, the Veterans of Foreign Wars of the United States, and the Humane Society of the United States; as well as the "American of the Year" award from Lions International.

In recognition of his contributions to the communications industry, Paul Harvey has received over 10 honorary degrees, and scores of awards, including his induction into the Hall of Fame by the National Association of Broadcasters in 1979, and the John Peter Zenger Freedom Award in 1975. He also richly deserves the Dante Award, because it was Dante Alighieri in his book "Divine Comedy," who said, "if I should prove a timid friend of truth, I fear to lose my fame among the people whose age will call the present era ancient."

The 19th annual Dante Award luncheon will be held at the Como Inn, under the auspices of the human relations committee of the JCCIA, chaired by Richard B. Caifano. The president of the JCCIA, Dominic Di Frisco, will serve as the master of ceremonies for the luncheon. The invocation will be offered by the Rev. Lawrence Cozzi, C.S., administrator of Villa Scalabrini, the Italian Old Peoples Home in Melrose Park.

For the 15th consecutive year, the John Fischetti Scholarship will also be awarded at the luncheon. The scholarship was established by the Joint Civic Committee of Italian Americans to further the study of Italian-American students in communications, and is named after the Pulitzer Prize-winning political cartoonist. This year's award of $2,000 will be presented by Michael Coli, chairman of the board of trustees of the JCCIA.

Mr. Speaker, I extend my warmest congratulations to Paul Harvey on receiving the Dante Award, and for the strong and constructive impact he has made on the communications industry. His career, his character, and his splendid record of achievement demonstrate that he is, indeed, a "friend of truth."

THE DEVASTATION OF ACID RAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. BOEHLERT] is recognized for 60 minutes.

Mr. BOEHLERT. Mr. Speaker, we are on the threshold of the Congress of the United States passing significant environmental legislation to deal with the very serious problem of acid rain. We have dealt with this issue year after year. A lot of press releases, but not much progress.

There has always been that missing ingredient, and George Bush has filled the void, leadership from the top.

Last July the President of the United States submitted to the Congress of the United States the most comprehensive package of amendments to the Clean Air Act since the inception of that very significant legislation. A cornerstone of that package is a program to effectively, aggressively and completely deal with the problem of acid rain which does so much damage to our environment.

Mr. Speaker, I am encouraged about the criticism that is being launched at the recent national acid precipitation assessment program report. Just recently the New York Times ran an article outlining the scientific dispute. I would like this article included in the RECORD.

I was horrified to find out that the original report ignored a number of studies suggesting serious air pollution problems caused by acid rain. I am even more frustrated to learn that many interest groups used that report as fodder to conclude that acid rain is not a problem. Anyone who would suggest that acid rain is not a problem just is not paying attention to what is going on in the United States.

I invite these scientists and interest groups who have some question about the seriousness of the problem to leave their laboratories and offices for a day or so and come to my area of the country to talk to the people who daily have their lives negatively impacted by the destructive powers of acid rain.

There they will learn about the murder and rape of our countryside, there the people can show them fishless lakes and streams, the decimated maple syrup industry, the dead red spruce stands, the decaying monuments and gravestones and the steady, tragic decline of so much of our wildlife, mink, otter, loons, blue heron, toads, frogs, and darting needles.

Our ecological balance is under serious threat. Acid rain is acidifying thousands of lakes and streams in the United States and Canada, threatening our public health and the survival of our environment.

I am encouraged that the scientific community for the most part is rising to the challenge and they are challenging the shortsightedness of that NAPAP report and the lack of thoroughness in the study.

Let us not let emotion guide our actions, let scientific fact.

Come up to the Adirondack Mountains in beautiful upstate New York where at least 25 percent of those lakes are certifiably dead, no longer can sustain wildlife. Go to our Nation's great forests, not just in New York, New Hamsphire or Vermont, but all up and down the east coast, and what do you see? Trees that are slowly being strangled. The once-beautiful, pristine forests of America are dying.

What is the cause? A little problem called acid rain.

We are determined to do something about it. We must do something about it. I have told you the bad news. The bad news is that systematically we have witnessed this year after year after year repeatedly, my colleagues, Democrats and Republicans alike concerned about our environment, have come to the well of the House to talk about that problem.

□ 1540

There has been a lot of talk in this Chamber, Mr. Speaker, but quite frankly, there has not been much action. I think the time for action is now. The good news is that finally we have in the Oval Office a President of the United States who places environmental concerns at the very top of his agenda. Not only did he campaign on environmental issues, having a strong platform dealing with urban smog and toxic waste and acid rain in our Nation's wetlands, not only did he talk about that as a candidate, and we all know from experience that candidates do a lot of talking, but what happens after the votes are tallied? What happens when that candidate who does all the talking is successful? I have to admit, Mr. Speaker, too often in the past the talk has been nothing more than so many words. It has not been followed by action once the election is over.

However, George Bush is different. George Bush committed himself to the American people to deal with the problem of acid rain, to put the environment high on his agenda. He has followed through. One of the first things he did is to nominate for the position of Administrator of the Department of Environmental Protection—it is now an agency, but it will soon become a department, and I will address that in a moment or two—one of the first things he did was nominate William Reilly to be the Administrator of the Environmental Protection Agency. The first time in the history of that agency, which dates back to the Nixon administration, that we have had a committed, professional, environmentalist at the top. My friends in the environmental community such as the National Audubon Society, the Sierra Club, the National Wildlife Federation, all those people in white hats who, day in and day out, are so committed to doing everything they possibly can constructively to enhance the quality of our environment, they stood up in chorus and applauded the appointment of Bill Reilly. But

that was not all the President did. He did not just put one committed environmentalist in a very sensitive post. He followed up with definite proposals, and the Clean Air Act amendments he sent to the Congress in July 1989 were universally acclaimed as being a major step forward.

Now, I wish to point out that not everyone accepts chapter and verse of that very comprehensive package. Not everyone says that all of the provisions go as far as they would like them to go. I am the first to admit it. I have never seen a perfect plan yet. I came to this town 26 years ago as a bright, starry-eyed staff member, and now I am privileged to serve as a Member of the House. I have never seen perfect legislation. That is part of our responsibility, to take a package that is advanced, fine-tune it, strengthen it where necessary, and then finally bring it to its logical conclusion, passage. That bill submitted by the President has 3 major components, and it is my purpose today to address one of those components. That deals with the problem of acid rain.

Mr. Speaker, I can say in all good conscience that Democrat friends as well as my Republican colleagues, that this is the strongest feature of the President's plan. This is the feature that gets the most acclaim from all people concerned about the problem of acid rain. However, I am disturbed, Mr. Speaker, I am disturbed because I keep counting, I keep looking at that calendar, and July turns to August and fall turns to winter, and here we had a new year, and still we do not have action on the President's plan. Now, who is at fault? I would suggest to Members that it is the Congress that has to take the heat. We deserve the criticism. It should be directed at the Congress because the President has given Members a package, and he said, "I will work with Members." We have had a lot of talk, but still no definite complete action. But there is even good news here, and I will turn a lot for this, some people claim that these are rose-colored glasses. But they are not really. They just have clear lens bifocals reflective of my middle-age status. I see things very clearly. What I see happening now encourages me about the future.

The Senate of the United States finally is in the midst of debate which hopefully will lead to the conclusion we want—passage in the very near future before the next recess, of the Clean Air Act Amendments. The administration and the leadership of the Senate, Senator GEORGE MITCHELL, a colleague and a Democrat from the State of Maine, a committed environmentalist. Bill Reilly, at the Environmental Protection Agency, committed environmentalist. The President of the United States, George Bush, a committed environmentalist. They are all working together to fashion a package that will pass the test and do the job that needs to be done. So we expect action very soon from the Senate. There are encouraging words from the chairman of the House Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL]. He, too, is telling Members and the American people that this important legislation is now on the fast track. Hopefully, by the end of next month the House will be able to act its will. This will be the first time in the whole protracted history of debate on this subject of acid rain that the House of Representatives, the People's House, will be allowed to work its will.

I could not be prouder than I am of my fellow Republicans who in some quarters are viewed as being just the supporters of big business, do not care about the environment. Let me tell Members that is unmitigated nonsense. Quite frankly, we have some people in my party that I am not particularly proud of when I examine their environmental record, and there are some people on the other side I am not particularly proud of when I examine their environmental record, but collectively, we have strong majority sentiment in Republican and Democrat ranks to get on with the job of cleaning up our environment, of adequately addressing the problem of acid rain.

Many of my colleagues have been so helpful these last couple of years. One of them, a colleague from New Hampshire, [Mr. DOUGLAS], has taken a leading role. I appreciate that because if we are going to do that, what we need to do, it cannot be one or two or three or four. It has to be a majority. We have to have people who have had experience and exposure. One of them, as I say, is my friend, the gentleman from New Hampshire [Mr. DOUGLAS].

I will be pleased to yield to the gentleman from New Hampshire [Mr. DOUGLAS] for any comment he would care to make in line with this consideration.

Mr. DOUGLAS. Mr. Speaker, I thank the gentleman for yielding.

I wanted to say that I certainly praise the work that the gentleman from New York [Mr. BOEHLERT] has done as chairman of the House Working Group on Acid Rain. It has been important that we have somebody who takes a leadership role. This gentleman has done that. The gentleman and the folks who work in that House Working Group on Acid Rain deserve to be commended for making it possible to keep the pressure on for not only a clean air bill but finally to do something about acid rain.

I wanted to share with Members an experience I had, because I know the gentleman mentioned New Hampshire, mentioned New England and art. Two summers ago, back in 1988, I had the opportunity to go to Cornish, NH, which is over near the Connecticut River over near Vermont. In that district of mine is the Saint-Gaudens Memorial. Saint-Gaudens is a very famous sculptor. In fact, if anyone has seen the movie "Glory," the ending sculpture is one done by Saint Gaudens. He did the sculpture of Col. Robert Gould Shaw in the 54th Regiment of Massachusetts. That is what inspired that movie.

□ 1550

Augustus Saint-Gaudens has a mausoleum in Cornish, and it has a temple. It is called the temple, and it is where his remains are at this national park. But when I went there, it is amazing how much damage acid snow and acid rain have done to that magnificent marble temple that is only 75 years old. If it will do that to a structure of such beauty made of marble, not made of paper mache but a solid stone-like marble, we know how involved and how dangerous the continuation of this process is.

I just wanted to ask the gentleman from New York [Mr. BOEHLERT] this question: To what extent does he feel the acid rain provisions of the bill he and I support will start to work some miracle at least in preserving our artistic treasures in this country?

Mr. BOEHLERT. Mr. Speaker, I think it is going to move us in the right direction by leaps and bounds. It has been estimated that acid precipitation—and I use the term, "acid precipitation" now, as opposed to "acid rain" because, as we know, it comes down in many forms, in rain, snow, and fog, so "acid precipitation" is a more inclusive phrase—it has been estimated that acid precipitation does approximately 7 billion—that is billion—dollars' worth of damage to public buildings and structures in the United States every single year.

Under the innovative proposal of the President of the United States, George Bush, we will have approximately a 50-percent reduction in sulfur dioxide emissions over a 10-year period. Some people might ask, "Why don't you do it immediately? Why don't you do it overnight?"

We would love to do it that way, but obviously that is not practical. It is not feasible from a dollar-and-cents point of view. It would threaten to throw thousands of people out of work, so we cannot do it that way. It has to be a systematic plan phased in over a 10-year period.

But I would point out that the President's goal, that is, the reduction that he has envisioned over the decade of the 1990's, is the same goal embraced by all the major environmental groups in America, and we are going to make the progress that we want so the beautiful works of art the gentleman de-

scribed and all those public buildings owned by the taxpayers of America are protected and so we will see a beginning of the end of the steady deterioration of those works of art and public buildings. And that is good news.

Mr. DOUGLAS. Mr. Speaker, I am glad the gentleman mentioned the President because, of course, both the gentleman and I feel that he is the "environmental President," and there have been some attacks recently on the President, as well as on the Chief of Staff.

I note that my colleague, the gentleman from New Hampshire [Mr. SMITH], has joined us, and I know BOB has served with the gentleman as the vice chairman of the House working group on acid rain and has been one of the leaders in this Congress in the fight against acid rain.

But one thing that concerned me is that I think people forget that the Chief of Staff, whom obviously BOB and I know because he was Governor of our State, was the first in the Nation to enact a State acid rain law. He has always been a very strong supporter of acid rain reduction, and his efforts have led to a dramatic reduction in New Hampshire-produced precipitation from powerplants and other sources that contribute to this degradation of our environment.

So while we applaud the President, I think we also have to recognize—and I am sure the gentleman from New York [Mr. BOEHLERT] does—that there have been a lot of cheap shots made, and I think unjustifiably, about the commitment not only of the President but of our Chief of Staff, especially in the area of acid rain.

Mr. Speaker, I would ask the gentleman if he has any comments on that. I ask that because there have been statements made in recent weeks that we have heard from the other side of the aisle on this subject.

Mr. BOEHLERT. Mr. Speaker, as my colleague, the gentleman from New Hampshire [Mr. SMITH] knows full well, because he has been cochairing the working group on acid rain with me for several years, before John Sununu came to town as Chief of Staff to the President of the United States, was in fact Governor of the gentleman's State, and in that capacity he played a leading role in fashioning a program to deal very effectively with the problem of acid rain.

But now he is in a new capacity, and quite frankly, if he is going to do the job we want him to do, he must be more than just a cheerleader for the President; he has to answer some of the tough questions. He has to occasionally put obstacles in front of the path so we do not just rush ahead too fast.

I have some areas where I do not agree with the Chief of Staff to the President, Mr. Sununu, and I certainly do not qualify as a rubber stamp of the President of the United States. I am not reluctant to oppose him when I think the plan he advances is wrong. I tell the people I represent, "If I differ with the President, you can assume he is wrong and I am right." That is said a little bit in jest and having some fun.

But in this instance I think the media, quite frankly, does not know how to respond to a Republican in the Oval Office who is an environmentalist. We have not had one since Teddy Roosevelt. They are looking around and saying, "Wait a minute. Everything is going too well and too smoothly. We have got to find some controversy here." So what do they do? They try to develop a war between Bill Reilly, the Administrator of the Environmental Protection Agency, and John Sununu, the Chief of Staff to the President. So this makes for some good copy.

But in the final analysis, the gentleman and I both know that we have been looking at this problem for a long time, and that we have an ally in the White House and in the Chief of Staff. We have a strong advocate in the EPA in Bill Reilly, the Administrator. But that is not nearly as important as the most important feature of all in this battle. We have a President of the United States in George Bush in the Oval Office who, in his gut, in his heart, in his words, and in his deeds, is an environmentalist.

Mr. DOUGLAS. Mr. Speaker, if the gentleman will yield, I see that our distinguished colleague, my senior in the New Hampshire delegation, is here. We are seeing the entire delegation from New Hampshire, if the gentleman from New York does not mind, and I would be happy to hear the comments of the gentleman from New Hampshire [Mr. SMITH], as well if we could.

Mr. SMITH of New Hampshire. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from New Hampshire.

Mr. SMITH of New Hampshire. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just want to say that it is a privilege to come down and join my colleague, the gentleman from New Hampshire, and my colleague, the gentleman from New York, on this very important issue and pick up on the conversation the two gentleman have been engaged in.

For years and years, I say to the gentleman from New York [Mr. BOEHLERT], you have worked diligently in the working group on acid rain, trying to craft some legislation that we could use as a vehicle to get acid rain legislation and the Clean Air Act out on the floor of this Congress. I remember a lot of meetings we have had over the past several years with the gentleman, and we have been through a lot of frustration because we could not get enough of our colleagues to join with us. And, quite frankly, in the past, there has not been a lot of support from the executive branch either.

But this year it has been different. I can recall Governor Sununu asking us down on a number of occasions. There were a couple of meetings at which I was present myself either at the White House or some other place involving White House personnel. We talked to Mr. Reilly and talked to Governor Sununu, and in essence we had a tremendous amount of input into that legislation and into the Clean Air Act that is now before this Congress. We were provided that opportunity.

That is leadership. This was not just a piece of legislation George Bush and John Sununu and some of his advisers sat down and wrote somewhere in a back room. They invited our input from the Congress side. We provided that, and I think it was good input. We had some differences, and we still do, with the current legislation.

The vehicle is here, but where is it? It is still tied up in the committees of the House, and that has been the story, as we know, for a number of years. I think it is time the leadership of these committees got this bill out here on the floor, as it is being debated in the Senate. I think it is time to get it out on the floor and let us debate it, and if we have amendments to strengthen it, we could offer those amendments, and if somebody wants to weaken it with amendments, that is their prerogative. That is the process, and that is what the American people want.

I think that joining in this effort, as my colleague, the gentleman from New Hampshire [Mr. DOUGLAS] said, to slam John Sununu or George Bush is just simply uncalled for. It is not helpful. The responsibility lies right here. Nobody is blaming anybody. There has been enough blame to go around through the years we have tried to get this legislation. But it is here now, and it is the vehicle. We can change it, we can amend it if we can get it to the floor under an open rule. That is the way the process should work.

Mr. Speaker, I know the gentleman feels as I do, that we ought to get this legislation out here and get it passed.

Mr. BOEHLERT. Yes, I do, Mr. Speaker, and I thank the gentleman for his participation. More importantly, I want to thank him for his commitment over the years. He has been right here in the front ranks, and sometimes our ranks were thin initially as we started this. But more and more, as we talked with our colleagues, as we presented them with the evidence, they began to appreciate how

serious the problem of acid rain is across America.

I can recall when I first came here in 1982, when I was elected in 1982, that a good part of my campaign was that I was going to try to make a difference in Washington in dealing with environmental concerns.

□ 1600

Mr. Speaker, when I came to Washington and started making speeches from the well of this House about the problems of acid rain, invariably, after I made the speech, one of my colleagues from the Midwest, or the South, or the Far West, would grab me as we were walking over after and said, "Gee, I can understand why you're so concerned. It's a big problem up in your neck of the woods. But that's your problem. That's not a national problem."

Mr. Speaker, I would say to my colleagues in response, "Don't think it's just New York, or New York and New England. This is truly a national problem, documented. Scientific evidence proves conclusively, among other things, that some of the most seriously negatively impacted waterways in America are not in New Hampshire, or New York, although we've got our problems, but in the State of Florida, one of the fastest growing of our United States. Some of the most severe damage to our Nation's forests, in addition to New York, and New Hampshire and New England, occurs in the State of North Carolina."

I mean we have got problems with acid rain all over the United States. It is not simply a northeast regional problem. As a matter of fact, it is an international problem.

When our previous President, Ronald Reagan, went to Canada to meet with the prime minister, I think he was prepped, as he always was, for this meeting, and he had a lot of briefings, but I think the President was caught off guard because he probably figured Prime Minister Mulroney would say, "The most important issue between our two nations is trade or defense."

Prime Minister Mulroney said;

Mr. President, the most important issue is the unresolved issue of acid rain which is systematically destroying the North American Continent.

Now, Mr. Speaker, to prove my credentials as being someone who is not blindly partisan and not someone who is just a cheerleader for the occupant of the Oval Office when this person is of my party, I would like to remind my colleagues that I was a frequent critic of President Reagan for his inaction on this issue. Quite honestly I do not think he quite adequately ever addressed it, but that is history.

Now we have someone in the Oval Office who is quite different, someone who campaigned on the issue, who is knowledgeable about the issue and is following through, not just with words, but with deeds, so I know my colleague, the gentleman from New Hampshire [Mr. SMITH] and I share the view that it is time for action, and I would remind everyone that every single committee of the House and Senate is chaired by a Democrat.

Mr. Speaker, I am not suggesting that the Democrats are not as concerned as we are about the environment. They are. I mean GEORGE MITCHELL, the Senate majority leader, is someone who is deeply concerned about that, and I applaud that. But the fact that we do not have this legislation on the floor for our consideration is not the fault of any single Republican, and we have got to keep that in mind.

Mr. SMITH of New Hampshire. Mr. Speaker, if the the gentleman would yield for just a moment, I would also point out that I agree with him on some of the frustrations that we felt during the Reagan years, however it is also in defense of Ronald Reagan important to point out that Ronald Reagan never vetoed an acid rain bill. He never got one. And the Congress of the United States represents the American people, and they should be the conduit to bring this legislation to the floor.

One of the things that the gentleman from New York [Mr. BOEHLERT] was talking about earlier was the cost. There is a lot of emphasis put on how much it is going to cost to clean it up. Sometimes we forget the costs of not cleaning it up, what I think the gentleman was addressing when I came into the Chamber. It is estimated that about $5 billion a year, just in the eastern part of the United States, in our area of the country, just on such things as health effects, materials, visibility, climate, nonhuman biological effects, agriculture, forestry, fishing, residential. What damage does it do to the ecosystems? It goes on, and on and on. Tremendous costs. It is not even very difficult to measure those costs.

So, Mr. Speaker, the gentleman from New York [Mr. BOEHLERT] is absolutely right. It is time for action, and I think we have debated this thing, we have studied this thing, about as much as we can debate and study it, and I think it is time to bring it here where we can resolve it once and for all.

Mr. BOEHLERT. Mr. Speaker, I thank the gentleman from New Hampshire [Mr. SMITH], my colleague, very much.

Mr. CARR. Mr. Speaker, if the gentleman will yield I want to assure the gentleman from New York [Mr. BOEHLERT] that there are plenty of Democrats who want to do something about acid rain, and I congratulate him on taking this particular special order.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 876

Mr. CARR. Mr. Speaker, I ask unanimous consent to withdraw my name from cosponsorship of H.R. 876.

The SPEAKER pro tempore (Mr. EVANS). Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BOEHLERT. Mr. Speaker, I thank my colleague, the gentleman from Michigan [Mr. CARR] for that observation, and I would like to stress that in this Chamber. There are strongly committed environmentalists in this Congress, Democrat and Republican alike, who want to do something about the problem of acid rain.

This is not a partisan issue by any stretch of the imagination, but I think what my be lost in the shuffle, as we consider what is happening, is the fact that the missing ingredient, the person who is critical to the overall success of a program, is George Bush. The missing ingredient has been leadership, and he is providing it. That is the significant point I wish to make today. It is so heartwarming to me, not as a Republican, but as a citizen of this country who is concerned about our environment; it is so heartening to me to see someone like George Bush providing that leadership as we address the problems of acid rain.

As my colleagues know, I like to joke. I tell my friends, and supporters and my family, too, that, when they gather around, the clan gathers around, for the reading of the will when I am no longer here and I am gone, if people are assembled there with the thought that they are going to have some great legacy in terms of dollars and cents from me, they are going to be disappointed because quite frankly I am just like most Americans. I mean I spend money on a house, on a car, and I educate my children, and our family enjoys a good time, and it seems as though I spend about what I make. I think that is sort of the American way. I try to save a little, but I am not going to accumulate any great nest egg, and I do not come from any great wealth.

Mr. Speaker, what I hope to leave as a legacy for future generations is a positive impact on enhancing the quality of our environment. If I am able to do that and we collectively, as Members of this Chamber, this magnificent House of Representatives, if we are able to make a contribution toward enhancing our environment, I think we will be able to hold our heads up very high and say that we have done a good day's work. This is very serious business.

When I get a report, as I have had, from the New York State Department of Environmental Conservation which tells me that of the 1,500 lakes in New

York State that 352 of them, 25 percent, are critically acidified, they are dead, they no longer can sustain fish life—that is 352. There is an equal number where the obituary is about to be written, and some people used to joke, one of the previous Directors of the Office of Management and Budget, used to say, "Oh, you guys worried about acid rain, all you care about is fish, and, if you equate it all up, it will end up costing us about $9,000 per fish saved."

Well, Mr. Speaker, that was a little attempted humor. I did not think it was very funny. I am not a fisher person. I have not fished since I was a little kid. That is not what we are talking about. We are talking about enhancing and preserving the quality of our environment. I mean the water we drink, the air we breathe, the public buildings we pay for, our very public health is at risk unless we do something constructive about the issue of acid rain.

There are a number of people in the Republican ranks who have been in the forefront, who have done so much to help us get where we are now. One of those individuals, the gentlewoman from Maryland [Mrs. MORELLA], is someone who has worked particularly hard, and I wish to acknowledge her efforts, and I would be more than happy at this juncture to yield to her for any comments she may care to make.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman from New York [Mr. BOEHLERT] very much, and I certainly want to thank the gentleman from New Hampshire [Mr. SMITH]. Both of them are cochairing the House working group on acid rain. I appreciate their leadership. The gentleman from New Hampshire [Mr. DOUGLAS] is here, and he is a very active member of it, too.

As my colleagues know, Shakespeare once said, "To nature none more bound," and I think that he or she was very prophetic in terms of the situation that we now face, and I want to talk a little bit about my area that I represent.

Mr. Speaker, 1 week ago today, President Bush visited the Potomac Electric Power Co. Chalk Point station on the Patuxent River in Maryland. The headline in the Montgomery County, MD, Journal was "Bush Visit Promotes Clean Air Act."

There is a lot to be learned from this visit. Both the President of the United States and the president of Pepco have made an important statement by supporting the effort to introduce acid rain controls, and by showing a willingness to put the health of the Nation over out-of-pocket additional costs for pollution controls.

I believe that this is a very important point, for the Washington area is not immune to the monetary effects of clean air legislation. I have discussed the acid rain provisions of the bill with as diverse businesses as Baltimore Gas and Electric, with five powerplants serving Maryland, and Washington Metropolitan Area Transit Authority [WMATA], which has told me how much it will cost for them to install new fueling devices in 10 garages full of buses.

I have also discussed the Clean Air bill with the National Conservation League, the Sierra Club, the Maryland Public Interest Research Group [Maryland PIRG], and many others. Of paramount interest is health, of course, but the actual costs do not go unnoticed.

What may be different in my district, however, is that despite this specter of increased costs, there is genuine support for whatever is necessary to clean up our air, or keep it clean. Perhaps they prefer for a slower phase-in period, perhaps they prefer some mitigation of the regulations, but without exception, they have expressed support for the national effort.

I have joined in cosponsoring a clean air research bill, H.R. 4197, which has just been approved by the Science, Space and Technology Committee. I believe that this is an essential component to the Clean Air Amendment Act, and it will help to provide the science and the technology to ease in pollution controls.

Mr. Speaker, I know how difficult it has been to obtain agreement on an effective clean air bill, and I want to commend the leadership and both the House and the Senate committees for their perseverance, hard work, and insight. I offer support and encouragement to finish the job and pass a strong clean air bill before the Easter recess.

□ 1610

Mr. BOEHLERT. Mr. Speaker, I yield to my colleague, the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Speaker, I thank the gentlewoman for her remarks, and I thank the gentleman for yielding to me.

One of the problems that we face with this legislation, as the gentleman knows, is that there is a tremendous amount of regional, political and economic conflict, in terms of how to resolve this thing. It has left us in this legislative stalemate.

I think it is to President Bush's credit that he has addressed that in this legislation. We are not saying that every stone of the President's proposal has to be set just the way he has it, but we certainly ought to insist that any bipartisan acid rain bill include certain features that the President has there. I think one ought to be deep reductions in SO_2 and NO_x emissions, both from utility and nonutility sources. Certainly the President has set a goal of 10 million tons. I think we ought to expect that minimally, and also in terms of the deadline, as the gentleman knows, the President's bill contains a two-phase reduction in SO_2 and NO_x in 1995 and the year 2000. We think those midterm targets are economically and technically feasible and would bring quicker environmental relief than otherwise.

Also, I want to commend the gentleman on this, because I remember in a couple meetings where the gentleman was so emphatic about the cap, how important it was that we did not want to see this cap be lifted and in essence there be no cap by the year 2000, otherwise it would be all for naught, and the gentleman was so strong and forceful in the meetings that we had with all the individuals involved, from the White House and the other groups, environmental groups as well, in making that point. I think it is because of the gentleman's leadership that that cap is in the President's proposal.

Finally, I think the President's proposal provides a great deal of flexibility. It is realistic. It is not as strong as some of us would like. It is probably too strong for others. The point is that it does provide flexibility. It gives us an avenue, a vehicle, a conduit, or whatever, to decide how to tailor the control strategy to local conditions, and it is a strategy that I think we favor overall.

So I think the President, as the gentleman has said, and certainly the gentleman from New York [Mr. BOEHLERT] deserves credit for getting this bill where we are now, and hopefully very soon, certainly before the end of this session I hope we see it on the floor.

Mr. Speaker, I thank the gentleman again for yielding to me.

Mr. BOEHLERT. Mr. Speaker, I thank the gentleman. I am so glad the gentleman used a key word in his presentation. That key word that is the cornerstone of President Bush's program is flexibility.

We all know and the scientists confirm this, that high sulfur content coal is a significant problem in terms of contributing to acid rain.

Now, we could mandate tomorrow that no longer could high sulfur content coal be burned in the United States of America. That would help solve the problem of acid rain, but it would throw tens of thousands of people out of work, and the people who are burning this high sulfur content coal would have to go to other sources of energy.

Now, if you solve the problem of acid rain and in the process you unemploy thousands of people, I do not know if you are really making much progress. We do not want to do it that way; or

we have the technology in place, we know how to do it, install this sophisticated new expensive technology in these smokestacks so that when the gook comes up the chimney, it is filtered out and it does not go into the sky and form acid rain and come over and kill our lakes and forests and damage our buildings and public health.

We could say tomorrow, "all you people out there who are polluting America, you must install this technology," but the cost would be prohibitive. We cannot do that. That is not realistic.

Many of them would say, "Well, we can't afford that. We are going to have to close up shop and unemploy a lot of people."

Or the utilities would say, "Well, all right, we will do it. It's going to be very expensive," and they would jack up dramatically the utility rates of all those people they serve, and that would not be reasonable.

Now, what we have got to do, and as we know so well, is be flexible. The President has presented a flexible program. Some will fuel switch. They will go to a new source of energy. Others will put in new technology. That is the way to do it. Give him the choice, not the heavy hand of the Federal Government coming in and saying you must do it this way, and that is the only way you can do it. Flexibility is the key.

Once again let me stress that the environmental community in America, the Sierra Club, the Audubon Society, the National Wildlife Federation, all those people who share our concern for the environment, have applauded this provision of the President's program so we are all in this together, and that is very good news.

I want to tell you a little story that I have not used very often publicly, but it is a significant story because it says a lot about the President of the United States. I was privileged in 1988 to be actively involved in his campaign for the Presidency. One time during a tour of New York State, I was flying with him on a plane as we were coming on Air Force II from Syracuse, NY. It was in April 1988 from Syracuse, NY, down to New York City, where the President was due to throw out the first ball in the New York Mets home opening game of baseball. Flying down on the plane, lunch was being served and the steward said the Vice President, at that time Mr. Bush was Vice President, would like to see you. So I came up and sat down at the table. He said:

Sherry, I know you have been really active in acid rain legislation and you are doing a lot with this working group on acid rain. Let's talk about it a little bit.

And for the next 20 minutes I had the undivided attention of the next President of the United States, not because I was important, but because the issue was important. That is the measure of the man. He reached out and listened and then followed through.

I will tell you another little story. Once I had the Vice President at that time up to Cooperstown, NY, in my congressional district. Cooperstown, as we all know, is the home of the National Baseball Hall of Fame and Museum.

□ 1620

George Bush is a great baseball fan. As a matter of fact, he was an outstanding first baseman for Yale. He did not have a particularly good batting average, only .256, but he was a slick fielder, and I reminded him that .256 slick-fielding first basemen today are making millions of dollars, so if he wants to give up the Presidency and try major league baseball, he could probably do better financially.

I had him up to Cooperstown, NY, for the induction ceremony for the new entrants to the national baseball Hall of Fame Museum. We went to the ballgame. They always have a ball game in conjunction with this, a National League team which will play an American League team, and it is sort of an exhibition game. I was like a little kid at a Sunday school picnic. I have had idols all of my life, and one of my boyhood idols was a guy called "the Splendid Splinter" who used to be the great outfielder for the Boston Red Sox, Ted Williams. There I was in this box at Doubleday Field, where baseball originated, in Cooperstown NY, sitting between Ted Williams, the Hall of Fame idol of my youth, and George Bush, the political idol of my adulthood, and I am in the middle, and the two guys are talking between innings about fishing and complaining about the damage to the environment.

I tell that story because it demonstrates, I think in very vivid form, that this President is sort of an outdoors person who sees for himself, and he knows the damage being wrought on our environment by acid rain. He is determined to do something about it, and I am determined to help him.

I know my colleague, the gentleman from New Hampshire [Mr. SMITH] is, too. I know there is a sizable segment of the Republican Party in this Chamber who are just as committed as George Bush is to doing something about the problem of acid rain.

We know the bad news. We have it reported to us every single day, lakes dying, forests being destroyed, public buildings being damaged, the public health being jeopardized. We know those stories all too well. That is the bad news.

But the good news is that we have in the President of the United States a man who is committed to being part of the solution, not someone who is going to stand idly by and let the problem perpetuate. I could not be prouder of my President as he deals with this very sensitive, important issue, and I could not be happier than I am at the prospect in the very near future in this Chamber that the vote is going to be called for, and we are going to be put to the test. The American people will be watching, and they are going to be pleased by the result, because this Congress is going to pass an acid rain bill that is meaningful, a bill that addresses the problem in a very comprehensive manner, and all of this will be possible because a lot of people who worked long and hard to convince the doubter that it is time for action, and it will be made possible because finally we have a President of the United States in George Bush who is committed to do the job.

Mr. SMITH of New Hampshire. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I am happy to yield to the gentleman from New Hampshire.

Mr. SMITH of New Hampshire. Mr. Speaker, the gentleman is very eloquent, and I did not want to break in on his train of thought.

I think it is important to point out, and I think the gentleman senses this, because I have worked with him now for 6 years on this issue very closely here in the Congress, and I think he senses, as I do, that the debate and the focus of the debate now has moved. It is not whether we are going to get a bill anymore. It is when and how. I think that is really where it is.

I think that President Bush has brought us to that point. I think the gentleman senses it, and I sense it. There is certainly much more enthusiasm among our colleagues. We see what is happening in the other body, and the President deserves a great deal of credit for that, as the gentleman well knows.

I think one of the other things that has been touched upon here, but it is very important, because I know there are a lot of people out there who would say, "Well, yes, it all costs money," and I think that most people realize where I come from how I vote on spending or lack thereof in this body. I have a pretty good record in that regard. It is important to point out that the President's bill rejects the attempts to impose some specific technology on a specific site with massive Federal subsidies. It rejects all of that. Instead, it sets the precedent that a mission target can be achieved in a cost-effective manner by using innovative market-based initiatives. That is the beauty of this plan. It is not quite as fast as the gentleman and I would like it to happen, but realistic in the sense that we are going to get this vehicle out here before us.

President Bush has offered Congress a credible, coordinated plan against

acid rain. He has given us the strongest chance yet for a comprehensive solution to the problem, and I think he has brought a lot of people into the loop, even some of our colleagues in the Midwest who otherwise may not have been there.

The gentleman and I both know, and have shared, the frustration in many meetings without casting any aspersions on anybody else, but the gentleman and I both know that for many years the only people who came to an acid rain task force meeting or any meeting on acid rain were the guys from the Northeast. The folks from the Midwest did not want anything to do with it, and they were kind of skeptical. I think we have moved that dialog. We have moved that debate, as I say, not from whether, but when and how, and George Bush and John Sununu and folks here in the Congress who have worked so hard on it; I think the American people are grateful to all of them for moving that debate to that point.

I certainly want to thank again my colleague for calling this special order and asking me to participate. It is a privilege, and I am sure that because of some of the things said here today we will help to move this issue out here on the floor where we will have the opportunity once again, the gentleman and I, to debate this matter again.

I thank the gentleman again.

Mr. BOEHLERT. Mr. Speaker, I thank the gentleman.

There is one other name that I would like to mention. There are a number of names I could mention. This may surprise some people. The Prime Minister of Canada, Brian Mulroney, who has been absolutely magnificent.

Mr. Speaker, he is the individual who first took the initiative to try to convince the then-President of the United States, Ronald Reagan, that this was a serious issue dividing our allied nations, and Prime Minister Mulroney repeatedly said to President Reagan, "You must do something about it," and Prime Minister Mulroney persisted.

The Embassy of Canada here in Washington, DC, has been very helpful to so many of us, and to the credit of President Reagan, he did get some action going by the appointment of a special envoy, Drew Lewis, who is former Secretary of Transportation, and from the Canadian side, Prime Minister Mulroney appointed Bill Davis, the former Premier of Ontario. Those two people, in the last years of the Reagan administration, developed a plan to begin to address the problem. It got started then.

But it was going, quite frankly, at a snail's pace until the new team came, in, the new leader was aboard, and that leader is George Bush, and he is doing it for America.

Mr. Speaker, I am including in the RECORD an article that appeared in a recent issue of the New York Times.

ACID RAIN REPORT UNLEASHES A TORRENT OF CRITICISM

(By Philip Shabecoff)

WASHINGTON.—A comprehensive Federal report that was supposed to resolve the issue of how much damage is caused to forests by acid rain has come under criticism from some distinguished scientists who are reviewing it.

The critics said that the report gave an incorrect impression that air pollution was not causing any large-scale problems for forest ecosystems. They also said that the report, still in draft form, ignored a number of studies suggesting serious air pollution problems.

But other experts contend that the general conclusion of the report is essentially right. The report concluded that with the exception of damage to red spruce at high elevations in the East, forests in the United States are not suffering serious damage from acid rain.

CLEAN AIR LEGISLATION

The debate over the draft report has become important because Congress is now considering new clean air legislation and will almost certainly pass a new clean air law before the report can be issued in final form this summer or fall.

The document on forest damage is one part of the final draft of a Federal assessment of current scientific knowledge about the effect of acid rain on lakes and streams, forests, health, atmospheric visibility and materials. After it is reviewed, the assessment will be the basis of a separate report, to be issued in September, on strategies for dealing with acid rain.

Dr. James R. Mahoney, director of the National Acid Precipitation Assessment Program, or Napap, which coordinated the Federal research effort, said that he agreed with some of the reviewer comments about the forest problems and that the final report would probably be changed to reflect them. He said that there had been comments in "both directions," with some reviewers saying, "We don't have evidence of damage and we shouldn't try to find something that isn't there."

But lobbyists are using the draft report to try to influence the debate over legislation to amend the Clean Air Act of 1970 that is on the Senate floor. In the House, the Energy and Commerce Committee began drafting new clean-air legislation last week. Laws passed this year will affect the way the nation deals with air pollution problems for at least the next decade.

Diane Smiraldo, a spokeswoman for the Edison Electric Institute, which represents the private electric utility industry, said the Napap report "lends credence to our argument that the industry should be given flexibility in dealing with acid rain." She said the study "shows that rain is causing damage but much less than anticipated."

Several senators have referred to the draft report in questioning whether the high cost of an acid-rain control program was proportionate to the seriousness of the problem.

Napap was created 10 years ago when Congress ordered that an interagency Federal group be set up to study the nature and environmental consequences of acidic air pollution from coal-powered electricity plants and other sources. The idea was to enable lawmakers to make informed decisions when they came to vote on the problem.

The report now being reviewed is the final draft, completed at a cost of nearly $500 million. It examines the effects of other pollutants, like ozone, as well as acid deposits, and it concludes that air pollution causes far less environmental damage than has been feared.

An interim report issued by the study group in 1987, before Dr. Mahoney became director, was sharply criticized by many scientists. They contended that it tailored research findings into conclusions that matched the political goals of the Reagan Administration, which opposed new controls on air pollution. No such criticism has been leveled at the 28-volume final draft, which has been generally praised as a sound scientific document.

There is, however, some unhappiness among scientists with the volume dealing with forest health and productivity in the United States and Canada.

Dr. Ellis B. Cowling, associate for research at North Carolina State University's College of Forest Resources, said in a telephone interview: "The tone is that we don't have a problem except in southern California, and with red spruce at high altitudes. That is not a fair statement of the state of scientific knowledge." He added, "Perhaps the authors were a bit too hasty in reaching conclusions."

Dr. Cowling, who is highly regarded by colleagues as a conservative, solid scientist, wrote a memorandum to the authors of the forest health volume. He offered a series of suggestions for changing the wording of conclusions in ways that he said would reflect the state of science more accurately.

The first of those would change a finding that stated. "The vast majority of forests in the United States and Canada are not affected by decline." To be more consistent with the data, Dr. Cowling said, the conclusion should read: "Most forests in the United States do not show unusual visible symptoms of stress, marked decreases in the rate of growth or significant increases in mortality."

Just because symptoms of forest decline are not currently visible, Dr. Cowling argued, does not rule out the possibility that they are under way.

Dr. Cowling also urged that more studies be incorporated into the final report, including work by Dr. Robert Bruck, a plant pathologist at North Carolina State University who has done extensive research on tree damage in the Appalachians and believes that air pollution is seriously affecting the forests. Dr. Bruck said that he had submitted a number of papers on his work at the request of the Environmental Protection Agency and Agriculture Department, both participants in the Napap process, but that none were included among the roughly 400 studies in the report's list of references.

Dr. Gerard Hertel, national program manager of the Forest Response Program, a joint research effort of the United States Forest Service and the Environmental Protection Agency, said the Napap forest report needed "beefing up."

He noted that only 31 lines were devoted to what was happening to Southern forests, despite reports by Dr. Bruck and others of severe problems there. He also said the report gave short shrift to recently emerging evidence that pollution might be affecting hardwood forests in the East.

Dr. Hertel and Dr. Jay S. Jacobson, a plant physiologist with the Boyce Thompson Institute at Cornell University, both said the report did not deal adequately with the issue of how acid deposition might be affecting nutrients in the soil.

Sulfur and nitrogen carried in acidified water or dry particles are building up to high levels in the soil, Dr. Jacobson said. He added that other nutrients required by trees, particularly phosphorus, calcium and magnesium, appear to be replaced in the soil or leached from foliage by acid rain.

While the seriousness of this problem is still uncertain, Dr. Jacobson said, it could create nutrient imbalances that over the long run could lead to serious forest declines.

Among those who defend the report is Dr. John M. Skelly, a professor of plant pathology at Pennsylvania State University. "The report is well written and clearly states our present knowledge at the time the report was required to be submitted," Dr. Skelly said. "The report says that there are species in decline, but that the causes are well identified and they are not air pollution. That is what I read in the report and that is what I strongly concur with."

Dr. Alan A. Lucier, an author of the forest report, said that he agreed with some of the comments made about his work and disagreed with others. He rejected the conclusion that the report understates the seriousness of the issue.

Dr. Lucier, who is wetlands program manager for the National Council of the Paper Industry for Air and Stream Improvement, said that so little space had been given to the Southern forests "because the data does not support the contention that there is an unusual decline or any sort of decline in the Southern Appalachians."

Dr. Mahoney said that all comments received after the Hilton Head meeting would be considered by the authors of the various volumes of the report and that the reports would be changed or modified where appropriate. The revised report would then be peer reviewed by scientists and by Government agencies before it is released in September, he explained.

INTRODUCTION OF AMENDMENT TO EARTHQUAKE HAZARDS REDUCTION ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FAZIO] is recognized for 15 minutes.

Mr. FAZIO. Mr. Speaker, earthquakes are truly a national problem. More than 35 States—with three-quarters of our Nation's population—are at risk from earthquakes at least as large as last October's earthquake which killed 62 people, collapsed freeways, and caused $10 billion in damage.

Future earthquakes are geologically inevitable and a great earthquake could strike Memphis or Seattle or Boston or Charleston as well as Los Angeles or San Francisco. In a truly great earthquake, which would be much, much stronger than last October's moderate quake, thousands or tens of thousands of people could be killed and property damage could exceed $50 billion. The economic disruption resulting from a major quake would have a devastating impact on our whole national economy.

According to the U.S. Geological Survey, the following areas are all at high risk for major earthquake disasters: First, northern California; second, southern California; third, Mid-continent—Missouri-Illinois-Arkansas-Kentucky-Tennessee, the New Madrid fault zone—fourth, Pacific Northwest—Seattle area, extending southward along the coast into Oregon—fifth, Utah—Salt Lake City area; sixth, Montana-Idaho-Wyoming—Yellowstone area—seventh, Alaska; eighth, California, eastern—Nevada, western; ninth, Charleston, SC, and tenth, Boston, MA. Many other parts of the country are also at significant risk.

The terrible price communities will pay for not being prepared is emphasized by the recent examples in Armenia where a quake smaller than last October's California earthquake killed more than 25,000 people or in Australia where a small quake of less than magnitude 6 resulted in many deaths, many collapsed buildings, and more than $1 billion in damage. Future earthquakes are inevitable but the deaths and the economic costs are not. If Congress takes responsible action now, we can reduce the loss of life and minimize property damage and economic disruption from future earthquakes.

"Every part of the National Earthquake Hazards Reduction Program is now funded at a level well below that required to achieve the primary goal of reducing losses of life and property on a time scale acceptable to society." This is the stark conclusion drawn by a nonpartisan, expert review panel. Our bill would revitalize the earthquake program by funding a pragmatic, national program of risk assessment and risk reduction.

Last October, we in Congress appropriated $3.5 billion dollars in disaster relief funding. Does it really make sense to spend billions on post-disaster relief when a few million dollars before the disaster could greatly mitigate the human and economic cost of such disasters? Earthquake experts tell us that a modest investment now will pay off enormously in saving lives and minimizing damage from future earthquakes.

The funding authorized for the National Earthquake Hazards Reduction Program by this bill will make possible a sensible, pragmatic national program that can significantly mitigate earthquake hazards. Given adequate funding, the agencies responsible for reducing earthquake hazards could carry out their critical responsibilities in a timely manner. There are two essential themes: risk assessment and risk reduction.

To assess risk we need to better understand regional seismic risk by intensively monitoring the most hazardous fault systems. We need to determine the local extreme-risk areas by conducting microzonation studies of urban and other highly developed areas. We need to perform seismic safety inspections of critical buildings—schools, hospitals, and other public facilities—and of lifeline infrastructure—transportation, utilities, and communications). In particular, we need to inspect Federal buildings for seismic safety.

To reduce risk we need to develop the seismic engineering techniques to retrofit buildings and other structures in a cost-effective manner. We need a rapid implementation program to expedite incorporating seismic engineering research into building codes and actual building practice. We need to develop short-term predictive capability for future earthquakes.

If we invest modest resources in these programs now, we can save thousands of lives and billions of dollars in future earthquakes. If we do not, then our penny-wise and pound-foolish inaction will reap a terrible harvest of casualties and destruction in future earthquakes that could have been mitigated by constructive action now.

SURFACE IRRIGATION ENCOURAGEMENT ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 15 minutes.

Mr. ALEXANDER. Mr. Speaker, the old adage has it that "you never miss the water until the well runs dry."

Today I'm introducing legislation, the "Surface Irrigation Encouragement Act of 1990," that will help keep the wells from going dry in the first place.

As debate over the next farm bill grows near, there is a lot of talk about water quality. In northeast Arkansas, as in the rest of the country, water quality is an important issue. But perhaps even more important to the sustainability of agriculture in Arkansas is water quantity.

The First Congressional District of Arkansas produces more rice than any State, except for Arkansas itself. Rice cannot be grown without irrigation, and in Arkansas that means wells.

What's more, the severe drought of 1988 and the very hot summer of 1989 convinced many northeast Arkansas soybean farmers that irrigating was the only way to produce yields large enought to ensure a profit. That means wells, too.

Over the years, much progress has been made in bringing water for residential use to northeast Arkansas. Since 1968, the Farmers Home Administration has made $85.9 million in loans and $56 million in grants to rural water systems in the First Congressional District.

Nonetheless, in some places in Arkansas and many places around the country people still depend on wells to provide water for daily living.

In northeast Arkansas, the wells may indeed run dry in the next 40 years if we don't do something soon. Similar problems exist throughout the South, the Southwest, and the Midwest. Underground aquifers millions of years old are being depleted at an alarming rate.

One hears a great deal these days about sustainable agriculture. If agriculture is going to be sustained in the 21st century, water conservation is critical.

What can be done about this problem? In Arkansas, we've led the Nation in finding out.

For 6 years, the U.S. Soil Conservation Service, in cooperation with the Arkansas Association of Conservation Districts, the Arkansas Soil and Water Conservation Commission, individual conservation districts throughout the State, and the U.S. Geologic Survey, has in-

tensively monitored groundwater supply and use in 26 Arkansas counties.

The East Arkansas Water Conservation Project, as the study is known, was the brainchild of the Jackson County Conservation District in Jackson County, AR. Farmers in Jackson County experienced dry wells in the severe 1980 drought. Naturally, they had a lot of questions about what was happening to the aquifers, and what could be done to save them.

The project has come up with answers to those questions.

It has determined that two things must be done to save the aquifer in northeast Arkansas.

First of all, farmers must be encouraged to adopt best management practices to increase the efficiency of their irrigation. These practices include installation of irrigation pipelines, land leveling, tailwater recovery systems, and the like.

Secondly, farmers must be encouraged to build storage reservoirs to capture winter and spring rainfall and surface runoff. This stored water can reduce the demand for groundwater.

It's this second recommendation that poses a problem.

The current farm law discourages the construction of on-farm reservoirs. Under the current system, a farmer who wants to build a reservoir has to take the land for the reservoir out of production, and then he must take still more land out of production to meet the set-aside requirements of the Government farm programs. If he does the right thing by building a reservoir, he plants fewer crops and makes less money.

The Secretary of Agriculture has the authority to count an acre of reservoir as an acre of set-aside land. However, this Secretary and his predecessor have steadfastly refused to do so. Therefore, legislation is needed.

I propose that instead of penalizing farmers for construction surface reservoirs, we should encourage them.

That's why I've just introduced the "Surface Irrigation Encouragement Act of 1990."

This bill would provide farmers with credit for two acres of set-aside for every acre of land on their program crop base that they put into a reservoir. It would also provide credit for one acre of set-aside for every acre adjacent to the base that was put into a reservoir.

Here's how it would work:

Let's assume that a farmer with a 100-acre milo base wanted to build a reservoir. Under provisions of my bill, he would have two options.

His first option would be to build a reservoir on part of his base acreage. Each acre of the farmer's milo base devoted to the reservoir would count as two acres toward the set-aside. Therefore, he could construct a 5-acre reservoir, have that count as the required 10 set-aside acres, and plant 95 acres of milo.

His second option would be to build a reservoir on land adjacent to, but not part of, his acreage base for the farm. Each acre not part of the base but devoted to the reservoir would count as one acre toward the set-aside. The farmer could build a 10-acre reservoir on land adjacent to his base, count it as the required set-aside, and plant 100 acres of milo—100 percent of his base.

To sum it up, under current law, if you build a reservoir you plant less and lose money. Under my bill, if you build a reservoir, you plant a little more and make money.

There are some limitations contained in the bill. It would be applicable only in counties designated by the Soil Conservation Service as areas of severe ground water depletion, and farmers would not get set-aside credit for converting virgin wetland to a reservoir.

But these provisions should not damage the enthusiasm for reservoir construction in those areas where it is most desperately needed. As one farmer said the other day, "If they gave me two for one set-aside credit, I'd build a reservoir tomorrow."

I hope the new farm bill will embrace the concepts of the Surface Irrigation Encouragement Act of 1990. In this way, we can help keep the water flowing and the crops growing. I invite all of my colleagues to join me as sponsors of this bill.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HASTERT) to revise and extend their remarks and include extraneous material:)

Mr. MCEWEN, for 60 minutes, today.

Mr. LEACH of Iowa, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ENGLISH, for 5 minutes today.

Mr. KASTENMEIER, for 5 minutes today.

Mr. ANNUNZIO, for 5 minutes today.

Mr. ALEXANDER, for 15 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HASTERT) and to include extraneous matter:)

Mr. BROOMFIELD in two instances.

Mr. VANDER JAGT.

Mr. BALLENGER.

Mr. RITTER.

Mr. LIGHTFOOT.

Mr. PORTER.

Ms. ROS-LEHTINEN.

Mr. CONTE.

Mr. HORTON.

(The following Members (at the request of Mr. GONZALEZ) and to include extaneous matter:)

Mr. DINGELL.

Mr. THOMAS A. LUKEN.

Mr. RAHALL.

Mr. FASCELL in two instances.

Mr. WALGREN.

Mr. NELSON of Florida.

Mr. FROST.

Ms. PELOSI.

Mr. MAZZOLI.

Mr. HOYER.

Mr. RANGEL.

Mr. WEISS.

Mr. MONTGOMERY.

Mr. NEAL of Massachusetts.

Mr. ENGLISH.

Mr. SANGMEISTER.

Mr. STARK.

Mr. STOKES.

SENATE RESOLUTION REFERRED

A resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 266. Joint resolution designating March 1990, as "United States Naval Reserve Month;" to the Committee on Post Office and Civil Service.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee has examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3311. An act to designate the Federal building located at 350 South Main Street in Salt Lake City, UT, as the "Frank E. Moss United States Courthouse."

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 1091. An act to provide for the striking of medals in commemoration of the bicentennial of the U.S. Coast Guard;

S. 1521. An act to provide for an increase in the maximum rates of basic pay for the police force of the National Zoological Park;

S.J. Res. 190. Joint resolution designating April 9, 1990, as "National Former Prisoners of War Recognition Day"; and

S.J. Res. 237. Joint resolution providing for the commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.

ADJOURNMENT

Mr. BOEHLERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 29 minutes p.m.) under its previous order the House adjourned, until Monday, March 26, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from

the Speaker's table and referred as follows:

2813. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's 12th annual report on the administration of the Fair Debt Collection Practices Act, pursuant to 15 U.S.C. 1692m; to the Committee on Banking, Finance and Urban Affairs.

2814. A letter from the Assistant Vice President, Government and Public Affairs, National Railroad Passenger Corporation, transmitting the annual review of rail passenger service routes, which includes actual financial performance results for fiscal year 1989 and projections for fiscal year 1990 and fiscal year 1991, pursuant to 45 U.S.C. 564(c)(4)(C); to the Committee on Energy and Commerce.

2815. A letter from the Comptroller General, transmitting the annual report of activities of the General Accounting Office for the fiscal year ending September 30, 1989, pursuant to 31 U.S.C. 719(a); to the Committee on Government Operations.

2816. A letter from the Administrator, U.S. Small Business Administration, transmitting the 1989 annual report of the agency's activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2817. A letter from the Secretary of Agriculture, transmitting a copy of "Report of the Forest Service, Fiscal Year 1989", pursuant to 16 U.S.C. 1600-1614; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

2818. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a Governor's certification for the Commonwealth of Puerto Rico, supplementary information to the Governor's certification for the Commonwealth of Massachusetts, and a submittal from the State of Vermont concerning the State's status for the 1990 milestone under the act; these were received subsequent to the letter (Ex. Com. No. 2458) transmitting Governors' certification for 30 States and the District of Columbia of their capability to manage any low-level radioactive waste generated within the State, pursuant to 42 U.S.C. 2021e(e)(1)(E); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 4328. A bill to authorize appropriations for fiscal years 1991 and 1992 for the customs and trade agencies, and for other purposes (Rept. 101-427). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. H.R. 3847. A bill to establish a Department of Environmental Protection, and for other purposes; with amendments (Rept. 101-428). Referred to the Committee of the Whole House on the State of the Union.

Mr. BONIOR. Committee on Rules. House Resolution 364. Resolution providing for the consideration of H.R. 3847, a bill to establish a Department of Environmental Protection, and for other purposes (Rept. 101-429). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTION

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 4357. A bill to encourage the construction of on-farm reservoirs, and for other purposes; to the Committee on Agriculture.

By Mr. APPLEGATE (for himself and Mrs. McEWEN) (both by request):

H.R. 4358. A bill to amend title 38, United States Code, to revise the formula for computation of dependency and indemnity compensation paid to a surviving spouse of a veteran who dies from a service-connected disability or while on active duty; to the Committee on Veterans' Affairs.

By Mr. BILIRAKIS:

H.R. 4359. A bill to amend the Internal Revenue Code of 1986 to allow employers a tax credit for hiring displaced homemakers; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 4360. A bill entitled the "Federal Crop Insurance Reform Act of 1990"; to the Committee on Agriculture.

By Mr. FASCELL:

H.R. 4361. A bill to amend title 28, United States Code, to provide that amounts shall be made available from the Department of Justice assets forfeiture fund to support trauma care services provided by local nonprofit hospitals; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. FAZIO (for himself, Mr. BROWN of California, Mr. EMERSON, Mr. BOEHLERT, Mr. WALGREN, and Mr. CLINGER):

H.R. 4362. A bill authorizing funding for certain programs under the Earthquake Hazards Reduction Act of 1977, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Science, Space, and Technology.

By Mr. JOHNSON of South Dakota (for himself, Mr. GRANDY, and Mr. PENNY):

H.R. 4363. A bill to promote the development of new and expanded markets for the export of U.S. agricultural commodities and products, and for other purposes; jointly, to the Committees on Agriculture and Foreign Affairs.

By Ms. KAPTUR:

H.R. 4364. A bill to extend until January 1, 1994, the existing temporary suspension of duty on umbrella frames; to the Committee on Ways and Means.

By Ms. KAPTUR (for herself, Mr. GONZALEZ, Mr. MONTGOMERY, Mr. MICHEL, Mr. STUMP, Mr. AKAKA, Mr. APPLEGATE, Mr. ARMEY, Mr. AUCOIN, Mr. BARNARD, Mr. BATEMAN, Mr. BATES, Mr. BENNETT, Mrs. BENTLEY, Mr. BEREUTER, Mr. BEVILL, Mr. BLAZ, Mr. BOEHLERT, Mrs. BOGGS, Mr. BORSKI, Mr. BOSCO, Mr. BOUCHER, Mrs. BOXER, Mr. BRENNAN, Mr. BROOKS, Mr. BROWN of California, Mr. BROWN of Colorado, Mr. BRUCE, Mr. BRYANT, Mr. BURTON of Indiana, Mr. BUSTAMANTE, Mr. CAMPBELL of Colorado, Mr. CARDIN, Mr. CARPER, Mr. CHAPMAN, Mr. CLARKE, Mr. CLEMENT, Mr. CONTE, Mr. CONYERS, Mr. COOPER, Mr. COSTELLO, Mr. COX, Mr. CRANE, Mr. DEFAZIO, Mr. DELAY, Mr. DE LUGO, Mr. DERRICK, Mr. DEWINE, Mr. DINGELL, Mr. DONNELLY, Mr. DORNAN of California, Mr. DOUGLAS, Mr. DOWNEY, Mr. DURBIN, Mr. DYMALLY, Mr. DYSON, Mr. EARLY, Mr. ECKART, Mr. EMERSON, Mr. ENGEL, Mr. ENGLISH, Mr. ERDREICH, Mr. ESPY, Mr. FALEOMAVAEGA, Mr. FASCELL, Mr. FAUNTROY, Mr. FEIGHAN, Mr. FISH, Mr. FLAKE, Mr. FRANK, Mr. FRENZEL, Mr. FROST, Mr. FUSTER, Mr. GALLEGLY, Mr. GALLO, Mr. GAYDOS, Mr. GEREN, Mr. GIBBONS, Mr. GILLMOR, Mr. GORDON, Mr. GRANT, Mr. GUARINI, Mr. HALL of Texas, Mr. HAMMERSCHMIDT, Mr. HANCOCK, Mr. HARRIS, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HERGER, Mr. HERTEL, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. HOYER, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. HYDE, Mr. JAMES, Mr. JOHNSTON of Florida, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. JONTZ, Mr. KANJORSKI, Mr. KASICH, Mr. KENNEDY, Mrs. KENNELLY, Mr. KILDEE, Mr. KLECZKA, Mr. KOLTER, Mr. KOSTMAYER Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LANTOS, Mr. LAUGHLIN, Mr. LEATH of Texas, Mr. LEVIN of Michigan, Mr. LEWIS of Georgia, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mr. LIVINGSTON, Mrs. LLOYD, Mr. THOMAS A. LUKEN, Mr. DONALD E. LUKENS, Mr. MCCLOSKEY, Mr. MCDERMOTT, Mr. MCEWEN, Mr. MCGRATH, Mr. MCMILLEN of Maryland, Mr. MCNULTY, Mr. MACHTLEY, Mr. MADIGAN, Mr. MANTON, Mr. MARTINEZ, Mr. MATSUI, Mr. MAVROULES, Mr. MAZZOLI Mr. MFUME, Mr. MILLER of Ohio, Mr. MILLER of California, Mr. MILLER of Washington, Mr. MINETA, Mr. MOODY, Mr. MOORHEAD, Mrs. MORELLA, Mr. Morrison of Connecticut, Mr. MRAZEK, Mr. MURPHY, Mr. MYERS of Indiana, Mr. NAGLE, Mr. NATCHER, Mr. NEAL of Massachusetts, Mr. NEAL of North Carolina, Mr. NELSON of Florida, Mr. NIELSON of Utah, Ms. OAKAR, Mr. OLIN, Mr. Owens of New York, Mr. OXLEY, Mr. PALLONE Mr. PANETTA, Mr. PARKER, Mr. PARRIS, Mrs. PATTERSON Mr. PAYNE of Virginia, Ms. PELOSI, Mr. PENNY, Mr. PERKINS, Mr. PICKETT, Mr. POSHARD, Mr. PURSELL, Mr. RAHALL, Mr. RANGEL, Mr. RAVENEL, Mr. RAY, Mr. RICHARDSON, Mr. ROBERTS, Mr. ROE, Mr. ROSE, Mrs. ROUKEMA, Mr. ROYBAL, Mr. SANGMEISTER, Mr. SAWYER, Mr. SCHIFF, Mr. SCHULZE, Mr. SCHEUER, Mr. SHARP, Mr. SHUMWAY, Mr. SHUSTER, Mr. SISISKY, Mr. SKEEN, Mr. SLATTERY, Ms. SLAUGHTER of New York, Mr. DENNY SMITH, Mr. SMITH of Florida, Mr. SMITH of Iowa, Mr. SPENCE, Mr. SPRATT, Mr. STAGGERS, Mr. STALLINGS, Mr. STENHOLM, Mr. STOKES, Mr. TALLON, Mr. TAYLOR, Mr. THOMAS of Georgia, Mr. TOWNS, Mr. TRAXLER Mrs. UNSOELD, Mr. UPTON, Mr. VALENTINE, Mr. VANDER JAGT, Mr. VOLKMER, Mr. WALGREN, Mr. WALSH, Mr. WAXMAN, Mr. WEISS, Mr. WHEAT, Mr. WHITTEN, Mr. WOLF, Mr. WOLPE, and Mr. YATRON):

H.R. 4365. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States involvement in World War II; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KASTENMEIER:

H.R. 4366. A bill to amend title 17, United States Code, to create a dispute settlement

procedure for bilateral agreements between the United States and other countries with respect to copyrights and mask works, and for other purposes; to the Committee on the Judiciary.

By Mr. KLECZKA (for himself and Mr. BUSTAMANTE):

H.R. 4367. A bill to amend section 552a of title 5, United States Code, to exempt State and local governments from verification requirements applying to certain information disclosed to computer matching programs, and for other purposes; to the Committee on Government Operations.

By Ms. LONG (for herself, Ms. KAPTUR, Mr. MILLER of Ohio, Mr. BURTON of Indiana, Mr. EVANS, Mr. TOWNS, Mr. INHOFE, Mr. HOUGHTON, Mr. HAMMERSCHMIDT, Mr. JACOBS, Mr. WALGREN, Mr. GAYDOS, and Mr. MURPHY):

H.R. 4368. A bill to treat all semimanufactured and manufactured glass products as import sensitive under title V of the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. THOMAS A. LUKEN (for himself, Mr. WHITTAKER, Mr. SWIFT, Mr. RINALDO, Mr. BOUCHER, Mr. TAUKE, Mr. MANTON, Mr. MCMILLEN of Maryland, Mr. TAUZIN, Mr. ECKART, Mr. RICHARDSON, Mr. SKELTON, Mr. CAMPBELL of Colorado, Mr. NELSON of Florida, Mr. TALLON, Mr. POSHARD, Mr. TOWNS, Mr. WILSON, Mr. DE LUGO, Mr. MACHTLEY, Mr. LENT, Mr. HANSEN, Mr. LANCASTER, Mrs. VUCANOVICH, Mr. HATCHER, Mr. UPTON, Mr. BILBRAY, Mr. NOWAK, Mr. NEAL of Massachusetts, Mr. RAHALL, Mr. ROTH, Mr. MRAZEK, Mr. PAYNE of Virginia, Mr. BATEMAN, Mr. HENRY, Mr. BOEHLERT, Mr. LEHMAN of Florida, Mr. EMERSON, Mr. HEFNER, Mr. LAGOMARSINO, Mr. GRANT, Mr. FUSTER, Mr. RANGEL, Mr. RITTER, Mr. AKAKA, Mr. COSTELLO, Mr. NIELSON of Utah, Mr. CRAIG, Mr. DARDEN, Mr. HAMMERSCHMIDT, Mr. OLIN, Mr. MAVROULES, Mr. MINETA, Mr. SIKORSKI, Mr. DYSON, Mr. MAZZOLI, Mr. WOLPE, Mr. PALLONE, Mr. FIELDS, Mr. LIVINGSTON, Mr. BLAZ, Mr. HALL of Texas, Mr. BEVILL, Mr. SCHEUER, Mr. MCEWEN, Mr. HANCOCK, Mr. PICKETT, Mr. CLEMENT, Mr. WISE, Mr. MOLLOHAN, Mr. BILIRAKIS, Mr. PARRIS, Mr. MORRISON of Washington, Mrs. UNSOELD, Mr. MILLER of Washington, Mr. THOMAS of Wyoming, Mr. ESPY, Mrs. COLLINS, Mr. BUSTAMANTE, Mr. SKEEN, Mr. INHOFE, Mr. GILLMOR, Mr. GEKAS, Mr. CHANDLER, Mr. DICKS, Mr. VALENTINE, Mr. JENKINS, Mr. OXLEY, Mr. LEWIS of Georgia, Mr. STAGGERS, and Mr. SCHAEFER):

H.R. 4369. A bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes; jointly, to the Committee on Energy and Commerce and Ways and Means.

By Mr. MRAZEK (for himself and Mr. HOCHBRUECKNER):

H.R. 4370. A bill to authorize appropriations for fiscal year 1991 for a construction project at the Department of Veterans Affairs Medical Center at Northport, NY; to the Committee on Veterans' Affairs.

By Mr. RANGEL:

H.R. 4371. A bill to provide for a permanent extension of the targeted jobs credit, and for other purposes; to the Committee on Ways and Means.

By Mr. SAXTON:

H.R. 4372. A bill to amend title 10, United States Code, to encourage recruitment and retention of members of the reserve components through extension of various educational assistance programs of the Department of Defense; to the Committee on Armed Services.

H.R. 4373. A bill to amend title 38, United States Code, to strengthen the enforcement procedures with respect to violations of the reemployment rights of veterans; to the Committee on Veterans' Affairs.

By Mr. SCHULZE (for himself, Mr. GUARINI, Mr. GALLO, Mr. PEASE, Mr. REGULA, Mr. DWYER of New Jersey, Mr. DANNEMEYER, Mr. WALSH, Mr. TALLON, Mr. PETRI, and Mr. LAGOMARSINO):

H.R. 4374. A bill to amend the Omnibus Trade and Competitiveness Act of 1988 and the Trade Act of 1974 in order to achieve the international harmonization of patent laws; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 4375. A bill to amend the Internal Revenue Code of 1986 to promote savings for qualified higher education expenses; to the Committee on Ways and Means.

By Mr. HOCHBRUECKNER:

H.J. Res. 528. Joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. LEWIS of Georgia (for himself, Mr. DE LUGO, Mr. SHAYS, Mr. MANTON, Mrs. UNSOELD, Mr. GRAY, Mr. KILDEE, Mr. GORDON, Mr. FAUNTROY, Mr. RAHALL, Mr. RAY, Mr. HAYES of Illinois, Mr. DEFAZIO, Mr. SAVAGE, Mr. ACKERMAN, Ms. PELOSI, Mr. FOGLIETTA, Mr. STOKES, Mr. DIXON, Mr. GEREN, Mr. FUSTER, Mr. HORTON, Mr. PALLONE, Mrs. COLLINS, Mr. FORD of Tennessee, Mr. ERDREICH, Mr. BUECHNER, Mr. TOWNS, Mr. OWENS of Utah, Mr. MCNULTY, Mr. LEVIN of Michigan, and Mr. EVANS):

H.J. Res. 529. Joint resolution designating the year 1990 as the "Year of the Vote;" to the Committee on Post Office and Civil Service.

By Mr. PAYNE of New Jersey:

H.J. Res. 530. Joint resolution designating July 2, 1990, as "National Literacy Day;" to the Committee on Post Office and Civil Service.

By Mr. BROOMFIELD (for himself, Mr. EDWARDS of Oklahoma, and Mr. MILLER of Washington):

H. Con. Res. 292. Concurrent resolution to express the sense of the Congress on continued United States support for democracy in Lithuania, the right of the Lithuanian people to national independence, and the establishment of diplomatic relations with the Government of Lithuania; jointly, to the Committee on Foreign Affairs and Ways and Means.

By Mr. MICHEL:

H. Res. 362. Resolution relating to a question of privilege of the House; considered and agreed to.

By Mr. MURPHY:

H. Res. 363. Resolution to apply the compensatory time off provisions of the Fair Labor Standards Act of 1938 to employees of the House of Representatives who are covered by that act; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DYMALLY:

H.R. 4376. A bill for the relief of Miguel A. Perez; to the Committee on the Judiciary.

By Mr. MILLER of Washington:

H.R. 4377. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. WELDON:

H.R. 4378. A bill for the relief of Rebecca T. Zagraniski; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 159: Mr. SMITH of New Hampshire.

H.R. 173: Mr. THOMAS of California and Mr. NEAL of North Carolina.

H.R. 520: Mr. FUSTER, Mr. POSHARD, Mr. MOODY, Mr. LEVINE of California, Mr. RANGEL, Mr. MCNULTY, Mr. FROST, and Mr. ERDREICH.

H.R. 521: Mr. FUSTER, Mr. POSHARD, Mr. MOODY, Mr. LEVINE of California, Mr. RANGEL, Mr. MCNULTY, Mr. FROST, and Mr. ERDREICH.

H.R. 522: Mr. FUSTER, Mr. POSHARD, Mr. MOODY, Mr. LEVINE of California, Mr. RANGEL, Mr. MCNULTY, Mr. FROST, and Mr. ERDREICH.

H.R. 523: Mr. FUSTER, Mr. POSHARD, Mr. MOODY, Mr. LEVINE of California, Mr. RANGEL, Mr. MCNULTY, Mr. FROST, and Mr. ERDREICH.

H.R. 563: Mr. PICKLE.

H.R. 707: Mr. DWYER of New Jersey.

H.R. 726: Mr. HATCHER.

H.R. 780: Mr. ROWLAND of Connecticut.

H.R. 1024: Mr. SKAGGS.

H.R. 1028: Mr. ROBINSON, Mr. BLILEY, Mr. FAUNTROY, and Mr. HUBBARD.

H.R. 1141: Mr. JAMES, Mr. DUNCAN, Mr. GALLEGLY, and Mr. PORTER.

H.R. 1390: Mr. CRANE.

H.R. 1699: Mr. COURTER, Mr. YATES, Mr. DYMALLY, Mr. NIELSON of Utah, Mr. HENRY, Mr. MURTHA, Mr. CROCKETT, Mr. STOKES, Mrs. SAIKI, Mr. VANDER JAGT, Mr. FROST, Mr. UPTON, Mr. WHITTEN, Mr. BLAZ, and Mr. GALLEGLY.

H.R. 1994: Mr. AUCOIN and Mr. ROYBAL.

H.R. 2098: Mr. RINALDO, Mr. HERTEL, Mr. BOUCHER, and Mr. WHITTAKER.

H.R. 2213: Mr. BROWN of California, Mr. WOLPE, Mr. MACHTLEY, Mr. MARKEY, Ms. SCHNEIDER, Mr. JONTZ, Mr. DERRICK, Mr. MCNULTY, Mr. RAVENEL, Mrs. PATTERSON, Mr. SPRATT, Mr. DEFAZIO, Mr. TALLON, Mr. RANGEL, and Mr. ROWLAND of Connecticut.

H.R. 2319: Mr. YATES Mr. POSHARD, Mr. COSTELLO, Mr. BRUCE, and Mr. WELDON.

H.R. 2418: Mr. RHODES, Mr. MOODY, and Mr. GUNDERSON.

H.R. 2460: Mr. MARLENEE.

H.R. 2648: Mr. TORRICELLI.

H.R. 2826: Mr. DICKS.

H.R. 2832: Mr. DICKS.

H.R. 2870: Mr. LEWIS of Georgia, Mr. BRENNAN, and Mr. RINALDO.

H.R. 2881: Mr. RINALDO and Mr. WHITTAKER.

H.R. 3126: Mr. CHAPMAN.

H.R. 3349: Mr. BUECHNER, Mr. VALENTINE, and Mr. AKAKA.

H.R. 3432: Mr. EVANS.

H.R. 3440: Mr. INHOFE, Mr. SHUMWAY, and Mrs. SAIKI.

H.R. 3520: Mrs. COLLINS, Mr. COURTER, and Mr. DWYER of New Jersey.

H.R. 3732: Mr. CRANE, Mr. RAHALL, Mr. BALLENGER, Mr. MRAZEK, Mr. PAXON, and Mr. FLAKE.

H.R. 3735: Mr. TRAXLER, Mr. THOMAS of Georgia, and Mr. DOWNEY.

H.R. 3763: Mr. ATKINS, Mr. NIELSON of Utah, Mr. BRYANT, Mr. ENGEL, Mrs. MEYERS of Kansas, Mr. WISE, and Mr. VENTO.

H.R. 3789: Mr. BILBRAY, Mr. BRENNAN, Mr. BROWN of California, Mr. EVANS, Mr. GORDON, Mr. GUARINI, Mr. HATCHER, Mrs. LOWEY of New York, Mr. RAHALL, and Mr. WHEAT.

H.R. 3800: Mr. WISE, Mr. PEASE, Mr. SKAGGS, Mr. GEREN, Mr. STENHOLM, Mr. COOPER, Mr. BROWDER, Mr. RICHARDSON, Mr. BUSTAMANTE, Mr. TALLON, Mr. CLEMENT, Mr. BARNARD, Mr. VISCLOSKY, Mr. JOHNSTON of Florida, Mr. HUCKABY, Mr. STALLINGS, Mr. PARKER, and Mr. LEATH of Texas.

H.R. 3813: Mr. HOLLOWAY.

H.R. 3831: Mr. OWENS of New York, Mr. SLATTERY, Mr. RANGEL, Mr. TOWNS, Mr. GILMAN, Mr. BONIOR, Mrs. COLLINS, Ms. SCHNEIDER, Mr. GREEN, Mr. TALLON, Mr. NOWAK, Mr. SPRATT, Mr. PENNY, Mr. OBERSTAR, Mr. BATES, Mr. DYMALLY, Mr. DELLUMS, Mr. SIKORSKI, Mr. SISISKY, Mr. DYSON, Mr. ENGLISH, Mr. BOSCO, Mr. LAGOMARSINO, Mrs. PATTERSON, Mr. CONDIT, Mr. HUCKABY, and Mr. JOHNSTON of Florida.

H.R. 3859: Mr. JONTZ.

H.R. 3880: Mr. DIXON.

H.R. 3895: Mr. FRENZEL and Mr. LEWIS of Georgia.

H.R. 3904: Ms. SCHNEIDER, Mr. SCHEUER, Mr. ROE, Mr. HUGHES, Mr. HOCHBRUECKNER, and Mrs. MEYERS of Kansas.

H.R. 3927: Mrs. MARTIN of Illinois.

H.R. 3937: Mr. BUNNING.

H.R. 3957: Mr. SLAUGHTER of Virginia, Mr. WYDEN, and Mr. COBLE.

H.R. 3974: Mr. OWENS of Utah.

H.R. 4006: Mr. FROST, Mr. FUSTER, Mr. HAYES of Louisiana, Ms. PELOSI, Mr. PORTER, Mr. MRAZEK, and Mr. RANGEL.

H.R. 4026: Mr. BEVILL, Mr. LEWIS of Georgia, and Mr. HAYES of Louisiana.

H.R. 4075: Mr. BUSTAMANTE, Mr. MILLER of Washington, Mr. NAGLE, Mr. FROST, Mr. HOUGHTON, and Mr. CLAY.

H.R. 4081: Mr. KYL.

H.R. 4083: Mr. SIKORSKI and Mr. BATES.

H.R. 4147: Mr. HOCHBRUECKNER, Mr. WHEAT, Mr. TOWNS, and Mr. FISH.

H.R. 4149: Mr. KOLTER, Mrs. SCHROEDER, Mr. ROBERTS, and Mr. WHEAT.

H.R. 4198: Mr. GUNDERSON.

H.R. 4201: Ms. PELOSI.

H.R. 4207: Mr. HUNTER, Mr. CHAPMAN, and Mr. LEATH of Texas.

H.R. 4220: Mr. MARLENEE, Mr. KYL, Mr. PETRI, Mr. SLAUGHTER of Virginia, and Mr. SMITH of Vermont.

H.R. 4250: Mr. RAHALL and Mr. BEVILL.

H.R. 4262: Mr. FOGLIETTA.

H.R. 4269: Mr. VENTO and Mr. RIDGE.

H.R. 4337: Mr. PAXON.

H.J. Res. 51: Mr. HOLLOWAY.

H.J. Res. 457: Mr. FISH, Mr. PACKARD, Mr. MCHUGH, Mr. MINETA, Mr. OWENS of Utah, Mr. BROWN of California, Mr. WEBER, Mr. DOUGLAS, Mr. PANETTA, and Mr. MCNULTY.

H.J. Res. 498: Mr. CHAPMAN, Mr. DE LA GARZA, Mr. JONES of Georgia, Mr. LANCASTER, Mr. LEVINE of California, Mr. MARKEY, Mr. MARTINEZ, Mr. ORTIZ, Mr. OWENS of New York, Mr. PERKINS, and Mr. WILSON.

H.J. Res. 500: Mr. NAGLE, Mr. BEVILL, Ms. PELOSI, Mr. SCHUETTE, Mr. GRANDY, Mr. ROBERTS, Mr. CRANE, Mr. LANCASTER, Mr. SPENCE, Mrs. BENTLEY, Mr. BROOMFIELD, Mr. GONZALEZ, Mrs. BYRON, Mr. GEREN, Mr. BRENNAN, Mr. ROSE, and Mr. LANTOS.

H.J. Res. 505: Mr. CARDIN.

H.J. Res. 518: Mr. KOLTER, Mr. NEAL of Massachusetts, Mr. MOAKLEY, Mr. CLARKE, Mr. SISISKY, Mr. ROE, Mr. VALENTINE, Mr. HARRIS, Mr. HATCHER, Mr. WOLPE, Mr. MAVROULES, Mr. JENKINS, Mr. BOUCHER, and Mr. SOLOMON.

H. Con. Res. 138: Mr. GONZALEZ and Mr. DONNELLY.

H. Con. Res. 249: Mrs. UNSOELD, Mr. HORTON, and Mr. FUSTER.

H. Con. Res. 281: Mr. LIPINSKI and Mr. NEAL of North Carolina.

H. Res. 359: Mr. LIVINGSTON, Mr. NIELSON of Utah, Mr. FRENZEL, Mrs. VUCANOVICH, Mr. THOMAS of California, Mr. KYL, and Mr. HERGER.

SENATE—*Thursday, March 22, 1990*

(Legislative day of Tuesday, January 23, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Is anything too hard for the Lord?—Genesis 18:14.

** * * with God all things are possible.*—Matthew 19:26.

Almighty God, the assurance implicit in Your question to Abraham, "Is anything too hard for the Lord?" confirmed by Jesus, "* * * with God all things are possible," speaks to our present situation. As the Senate struggles with this Herculean task, finding solutions to the accumulative pollution resulting from technical and scientific progress, plus generations of human neglect, selfishness, greed, carelessness, and thoughtlessness, when no matter what is done, many will suffer, many will be angry, and few, if any, will be satisfied, move the Senators to look to Thee, Creator of a universe which You declared to be "all very good." May they seek the wisdom of the Lord of history as they find their way through the maze of conflicting and controversial efforts. In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 22, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the majority leader is now recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders this morning there will be a period for morning business not to extend beyond 9:45 a.m., with Senators permitted to speak therein. At 9:45, the Senate will resume consideration of S. 1630, the clean air bill. Votes are expected throughout the day and late into this evening on this measure.

RESERVATION OF LEADERS' TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for morning business not to extend beyond the hour of 9:45 a.m. with Senators permitted to speak therein. The Chair recognizes the Senator from Virginia, Senator WARNER.

CURRENT WORK OF THE ARMED SERVICES COMMITTEE

Mr. WARNER. Mr. President, in the absence of the distinguished Republican leader I wish to thank the majority leader for making available this time. Senator NUNN, as I understand it, is going to speak with respect to his perspectives on the current work of the Armed Services Committee and the eventual work of the Senate as a whole in connection with the authorization bill for fiscal year 1991.

I have had the opportunity to work with my distinguished colleague in his preparations for this series of comments. I anxiously await his views on this. Perhaps at some point at the conclusion, the Senator from Virginia would ask for a few minutes recognition for the purpose of making some reply.

The ACTING PRESIDENT pro tempore. The Chair recognizes Senator NUNN.

DEFENSE BUDGET BLANKS

Mr. NUNN. Mr. President, I thank my colleague from Virginia and thank the majority leader for making this time available this morning to begin discussing one of the most important and one of the most contentious of issues, and that is the overall defense budget for fiscal year 1991.

My colleague from Virginia and I have worked for 2½ months, very long and hard hours, and our whole committee has done the same thing, in focusing on the defense budget for this year and particularly the changed circumstances in the world, the threat change, what strategy changes have been made. This is the first in a series of speeches that I will be making on the floor. I am encouraging our committee members on the Democratic side of the aisle as well as the Republican side of the aisle to also offer their comments as we go along.

This is the beginning of the deliberation, not the conclusion of it. Our subcommittees have not finished their own hearings. Our full committee has not completed all of our hearings. We have not even begun to put a pencil to the budget. We have not even started that process. So these are initial observations. I believe in the circumstances we are in today we are called on to go ahead and make our initial observations so the Budget Committee and others can begin to get a feel for the picture as we see it on the Armed Services Committee.

I speak only for myself this morning. I make no attempt to speak for any other Senator. Everyone will be speaking for themselves and until the committee acts there is no such thing as a committee position.

Mr. President, the Committee on Armed Services has been reviewing the threat, our military strategy, and the Defense Department's fiscal year 1991 budget request for the past 2 months.

In my view, Defense Secretary Cheney has the toughest job in town, and I want to say that loud and clear right now at the beginning. I will have some critiques to make of the Department of Defense as I go through my remarks this morning and in the next several weeks. But I want to put it in

this perspective. He has the hardest job in town. I do not envy him that job and I think he deserves credit for making some very difficult choices in putting this defense budget together. The problem is the Defense Department is a long way from finishing the job.

We have a great deal more work to do—and so does the Department of Defense—before we can report a fiscal year 1991 defense authorization bill to the Senate. However, in light of the increasing amount of attention being given to what level of defense spending is appropriate for next year, I do want to take a few minutes today to outlines what the committee has learned to this point.

The Armed Services Committee review has shown the administration's 1991 defense budget and the 5-year defense plan contains at least five big blanks.

First, there is the threat blank. The basic assessment of the overall threat to our national security on which this budget is based is rooted in the past.

Second, there is a strategy blank. The development of a new military strategy that responds to the changes in the threat has not yet occurred.

Third, there is a dollar blank. The Department of Defense has identified only $70 billion of the overall $167 billion in budget cuts necessary to bring the Pentagon spending levels down to the 5-year target levels for national defense contained in President Bush's own 1991 budget. In other words, there has been an announcement of $167 billion in cuts over 5 years. So far, we have seen only $70 billion of those cuts identified.

Fourth, there is a force structure blank. The Defense Department has not told us what the size and structure of our military forces will be over the next 5 years at their own budget levels.

And fifth, there is a program blank. Secretary Cheney has initiated top-to-bottom reviews of major weapons programs for which he is requesting tens of billions of dollars in the fiscal year 1991 budget.

Mr. President, in summary, I have concluded that the Bush administration's 1991 defense budget proposal is based on a 1988 threat and a 1988 strategy. Essentially, the administration took the level of spending and programs for fiscal year 1991 that was developed back in 1988 and reduced it for fiscal reasons. They have not adjusted the underlying assumptions about threat and strategy. The few adjustments that have been made in ongoing programs have been made primarily for fiscal reasons. With threat strategy and program assumptions that are at a minimum 2 years out of date, we are left with big blanks in the fiscal year 1991 defense budget.

By the time we get our bill on the floor, Members of the Senate will expect, and indeed many will demand, that the Armed Services Committee report a defense authorization bill for fiscal year 1991 that is based on the world as it is today, one that looks forward and not backward.

If the Department of Defense wants to remain relevant to this process, they must begin filling in these big blanks in the defense budget.

At the request of the majority leader and as we have in previous years, the Armed Services Committee began our work this year with a series of hearings on the implications of the changes in the Soviet Union and Eastern Europe for our national security policy, our military strategy and, ultimately, our defense budget.

In these hearings, the Armed Services Committee received testimony from representatives of the United States intelligence community in both open and closed sessions concerning the changes in the nature of the threats to our security from United States experts outside the Government concerning the changing nature of the threat and its impact on force structure; from European and Japanese experts; and from a delegation of the North Atlantic Assembly on allied perceptions of the changing threat; and from three former Secretaries of Defense and three former Chairmen of the Joint Chiefs of Staff on how the United States and our allies should respond to the changing threat.

Virtually all of the Government and private witnesses who testified before the committee confirmed what we have all seen on television every night: the world has changed dramatically, probably in permanent ways. These changes have fundamentally altered many of the basic assumptions on which our national security policy, our military strategy, and our defense budgets have been based for the last 40 years.

Former Secretary of Defense James Schlesinger summed up these changes very well, as he always does, when he told the committee:

> The military balance has been radically altered. How long the Warsaw Pack may survive as a political institution is open to question, but its role as a military alliance and a military threat is largely broken.

With these hearings as a backdrop, the committee began its review of the President's fiscal 1991 defense budget and 5-year defense plan. We heard from many witnesses, including the Secretary of Defense and the Joint Chiefs. We heard from the unified and specified combatant commanders, the service chiefs, the service Secretaries and from Charles Bowsher, the Comptroller General.

Mr. President, our committee's overall challenge is to determine whether the fiscal 1991 defense budget and the 5-year defense plan respond to the changes in the threats to our national security, the political situation in the Soviet Union and Europe and the fiscal situation here at home. That is what we will have to present when we come to the floor, and we will have to answer questions on that point, as well we should.

Our committee is asking three broad questions in order to meet out own responsibilities: First, how do the recent changes in the Soviet Union and Eastern Europe affect our national interests, and how have these changes altered the traditional threats to our national security? What new threats have to be encountered in the future?

Second, how has our military strategy been revised in light of these changes and the threat to our national security? By military strategy, I do not mean our fundamental national security objectives such as deterring military attacks against the United States, preventing nuclear war and deterring attacks against our allies, or insuring access to markets of the world for our country. By military strategy, I mean the way that we structure and plan to use our military forces based on the threat and resources available to achieve our national security objectives.

Third question: What do these changes in the threat mean for our force structure, our overseas deployments, and the future modernization of our military forces? What level of defense spending over the next 5 years is appropriate to deal with the changing threat overseas and with the fiscal constraints at home? In short, how do we change our defense budget in light of the changes in the threat and the development of a new strategy?

So far, Mr. President, the Department of Defense has only provided us with fragmentary answers to these questions.

FISCAL YEAR 1991 DEFENSE BUDGET AND THE 5-YEAR DEFENSE PLAN

This year represents the first complete budget submitted to the Congress by President Bush and Secretary Cheney. Overall, the fiscal year 1991 defense budget is $22 billion below the fiscal year 1991 figure submitted to Congress last year in the biennial 1990-91 budget. The biennial budget was developed in 1988 and submitted to the Congress in 1989. That means that the basic structure of the fiscal year 1991 defense budget is 2 years old.

The budget continues the effort begun last year to terminate marginal acquisition programs. Some of these program terminations will be controversial, but there is no doubt that some of the current weapons programs will have to be terminated to meet the budget targets of the next 5 years. In

fact, I am certain that more programs will have to be terminated than the Department of Defense has recommended so far.

The beginning of the force structure reductions that will result in a smaller active duty force in all of the military services are also reflected in this budget. Overall active duty military strength declines by 91,500 from 1989 to 1991. In Secretary Cheney's budget and President Bush's budget that has been submitted, two Army divisions will be deactivated in 1991. The Navy will retire two battleships and eight attack submarines in 1991 and begin planning for the deactivation of two nuclear cruisers in the outyears.

In general, Secretary Cheney and Secretary Powell have begun the process of restructuring our Military Establishment in response to the fiscal threat, but not yet in response to the changing military threat. Mr. President, this restructuring is still in the very early stages, and there are some very critical blank spaces in the fiscal year 1991 defense budget and the 5-year defense plan that have been submitted to the Congress. The Armed Services Committee and the Congress really should not act on the fiscal 1991 budget until most of these blanks have been filled in.

I hope these blanks will be filled in by the Defense Department, but the Congress will have to act if the Defense Department does not. At this time, we do not have any firm indication of when or if this information will be provided. We have a pledge from Secretary Cheney to continue to keep us informed, but we have no timeframe yet to anticipate the information.

Let me take just a few moments to expand on what I mean by the blanks and why they are important.

THREAT BLANK

The first blank involves the basic assessment of the threats to our national security. The central question is how these traditional threats, particularly from the Soviet Union and the Warsaw Pact, have changed in the past year. This broad question cannot be answered, however, without addressing a large number of other questions, such as: Are the changes in the Soviet Union reversible? Are the changes in Eastern Europe reversible? If so, how fast can these changes be reversed and how rapidly would the threat to our national security interests increase if these changes are reversed?

We need to keep this term "reversibility" in mind during our deliberations this year because we have to adopt a strategy; we have to adopt a force posture; and we have to adopt an overall modernization program that will allow us in this country to reverse course, if need be, if the threat changes. We have to keep that in mind.

The second question: Have there been any significant changes in the pace and the scope of the Soviet's modernization of their strategic nuclear forces? That is a subject we have not heard a lot about lately, but a very important subject that is going to be a major part of our deliberations this year.

Third question: How have the changes in the Soviet Union and the Warsaw Pact altered the conventional balance in Europe?

Fourth question: Are there changes in Soviet naval deployment and operations that could affect our own naval deployment and operations?

Fifth question: Do we still expect our military forces to defend against a Soviet invasion of Iran to seize the Persian Gulf oil fields, a contingency on which we have put an enormous effort and resources.

Administration officials have given different and sometimes conflicting answers to these questions in recent weeks. I do not expect and I do not think anyone expects complete agreement within the administration on the assessment of the current and future threats to our national security. I think it is healthy to have more than one opinion. I am not one of those who believes the debate between CIA Director Webster and Secretary Cheney is an unhealthy debate. I feel strongly the reason we have a CIA, primarily going back into the late 1940's and 1950's when it was created, was because we wanted an independent assessment. I think we should all encourage Director Webster and his people to continue to give us that independent assessment. That is what we have them there for, and that is what they are paid for.

We should, however, in all of this debate expect some form of general consensus on the range and priority of threats that we must be prepared to count on. We have not yet received that from the administration. We should also expect that the changes in the threat would be more apparent in the Defense Department's budget interest.

STRATEGY BLANK

The second blank is in the area of our military strategy and how we respond and the changes in the threat.

Just before the fiscal 1991 budget request was released, President Bush said that he would propose "a defense budget that begins the transition to a restructured military, a new strategy that is more flexible, more geared to contingencies outside of Europe while continuing to meet our inescapable responsibility to NATO and while maintaining the global balance."

I agree completely with President Bush that we need a new military strategy that takes into account the dramatic changes in the Soviet threat and the resources which we will have to have to meet this threat.

Many of the witnesses testifying before the Armed Services Committee shared this view that we need a new military strategy. Former Defense Secretary Frank Carlucci said:

We need at a minimum to redefine our key interests around the world and to develop a new blueprint for the forces needed to defend these interests.

At the time the fiscal 1991 budget was released after President Bush's remarks, Secretary Cheney stated that this is "the worst possible time to contemplate changes in defense strategy."

When I asked Secretary Cheney at our hearing whether this statement contradicted the President's statement on the call for a new military strategy, he responded by saying, "If the President says we need a new strategy, obviously we need a new strategy."

There may be some differences in how people define military strategy. Some define strategy in terms of broad national objectives, deterring nuclear war, ensuring U.S. access to world markets, to which no one can object, and other broad sweeping kinds of national objectives.

I regard military strategy in a more practical sense: how we structure our military forces to achieve these broader national objectives, or stated another way, what is it we expect our military forces to do to protect our Nation's interests? That is what I mean by military strategy and that is what the services think of when they structure their forces and make their budget requests.

Using this more focused definition of military strategy, we have some fundamental rethinking to do. Major changes to our military strategy are both necessary and inevitable.

DOLLAR BLANK

The next blank is the dollar blank. In his testimony before our committee, Secretary Cheney indicated that the current 5-year defense plan has been reduced by a total of $167 billion from last year's 5-year defense plan. So far, however, the Defense Department has indicated how approximately $70 billion of these savings will be achieved.

I should note at this point that $39 billion of the accumulated savings over the next 5 years come from proposals in the Defense Management Report, and the definitive path to these savings has not yet been revealed. It will take strong leadership in the Defense Department to achieve these savings, and if the savings are not achieved in the activities outlined in the Defense Management Review, other defense programs will have to be reduced instead.

But the most important point is that the Defense Department has identi-

fied less than half of the savings in defense programs necessary to bring last year's 5-year defense plan in line with the 5-year defense spending levels in the President's budget submitted this year.

Last year's 5-year defense plan must still be reduced by at least $90 to $100 billion in what we call the outyears, meaning the years beyond fiscal year 1991. It could be more. The General Accounting Office has testified they believe the figure for the reduction still to be made is closer to $138 billion.

Mr. President, dollar reductions of this magnitude to our defense programs over the 5-year period will require major restructuring. The Armed Services Committee and the Congress need to have a clear idea of how these reductions are going to be achieved in fiscal 1992 before we act on the fiscal 1991 defense budget. As Comptroller Bowsher told the committee last week, if we have no view of the outyears of our defense year budget, if we cannot see beyond 1 year, we have no way to judge this year.

FORCE STRUCTURE BLANK

The fourth blank is the area of force structure. Both Secretary Cheney and General Powell have indicated that the size of our military forces will be reduced over the next 5 years if the CFR and START agreements are signed.

What kind of reductions will be made in our force structure over the next 5 years? How large a force will we keep stationed overseas? What will be the balance between Active Forces and Reserve Forces?

Unfortunately, we do not have the answer to these questions yet. Beyond the force structure reductions in fiscal year 1991, the Defense Department has not yet told us what our force structure will look like over the next 5 years. The Department has given us a glimpse. They have indicated there is a possibility of eliminating three more Army divisions in addition to the two being deactivated in fiscal year 1991 and five Air Force tactical fighter wings, but at this point, these are only national reductions. They are not yet firm proposals. The Navy has even maintained that the recent changes in the Soviet Union and Eastern Europe have not changed the requirement for naval forces. Admiral Trost, the Chief of Naval Operations, made the rather puzzling statement before the committee recently that "the requirement for globally deployed naval forces has not been reduced."

Again, Congress needs to know what our force structure will look like over the next 5 years before we can make reasonable decisions on this year's budget.

PROGRAM BLANK

The final blank in the fiscal 1991 budget in the 5-year plan is what I call the program blank. I am not complaining about this one. I want it to be clear that I think this programmatic review is necessary, but I want it also to be clear that we cannot make our decisions until that review is completed.

Secretary Cheney told the committee that he has initiated top-to-bottom reviews of five major defense programs: the B-2 bomber, the C-17 aircraft, the advanced tactical fighter, the advanced tactical aircraft, and the SDI Program. Since his appearance, other programs have been added to this list. I congratulate Secretary Cheney for taking these steps. These and other major defense programs must be thoroughly reviewed in light of the threats to our national security.

In his confirmation hearing before the committee last month, the new Vice Chairman of the Joint Chiefs of Staff, Admiral Jeremiah stated—and I think he is absolutely on mark here—that "We need to go back and look at the requirements documents for weapons systems that are on the street and decide whether these things that were needed a year ago or 2 years ago still have the same requirements in terms of the weapon systems or the capability, the numbers, * * * and the required operational capability."

Mr. President, we must not develop and we should not buy weapon systems to meet a threat that has substantially changed or no longer exists. But Admiral Jeremiah cannot carry out his weapon review until there is a threat reassessment, until there is a warning time reassessment, and until there is a strategy reassessment. It cannot be done because if you have the same projected threat or warning time or strategy as assumption, or you are going to get the same weapons systems unless you have different people making different subjective judgments. So there is a fundamental foundation that is missing, and that is what I keep emphasizing.

The problem right now is that over $16 billion requested in this year's budget is involved in just those five programs I mentioned. Each of these programs over their procurement lifetime will cost at least $30 billion to complete and some of them much more. We are talking about $200, $250 billion just in these five programs. The review of these programs underway could have a major effect on this year's budget, but the reviews have not yet been completed. Congress must know the outcome of these top-to-bottom reviews before authorizing and appropriating large sums of money for these programs in fiscal year 1991.

BUDGET DISCONNECTS

Mr. President, I want to make a few more observations. There are some disconnects in the fiscal year 1991 defense budget request. I cite these as examples as to why I believe this is a fiscally driven budget that has not been calibrated to the strategy or the threat changes. Let me just give you a few examples.

Why is the Army requesting $112 million for the follow-on-to-Lance Program when German officials have made it clear they will never permit that system to be deployed on their soil, and the commander of United States forces in Korea says he has no requirement for it?

I see the Senator from New Mexico on the floor. He has been a leader in this respect. He and I have talked and I know he is going to have some comments in this respect. I believe it is time for a complete reassessment of NATO's nuclear posture. Short-range nuclear weapons which cannot reach beyond the borders of Germany and Czechoslovakia have no mission in today's changed world.

Another example: Why is the Air Force continuing to procure F-16 aircraft at a procurement rate designed to support 36 tactical fighter wings when the Defense Department has indicated the likelihood of eliminating five Air Force tactical wings over the next 5 years? Another question.

Why is the Army requesting $40 million to set up a second source for the TOW antitank missiles when the current producer has sufficient capacity to produce three times as many missiles per year as the Army plans to buy?

Next question: Why is the Army proposing to send $4 billion over the next few years to develop a new heavy tank that will not see service for the next 6 to 8 years when they believe that the threat posed by the Warsaw Pact today has diminished to the point that it is no longer necessary to produce a main battle tank?

Another question: Why do the recruiting and training budgets for the Army and for the Air Force increase in fiscal year 1991 when the number of people in these services is being reduced in fiscal year 1991 with larger reductions likely in the outyears?

Another question: Why does the fiscal year 1991 defense budget contain over $1 billion for new military construction projects overseas when the level of our forces deployed overseas will almost certainly be reduced over the next several years?

Finally, why does the Pentagon leadership keep saying that people are their highest priority when they fail to seek Presidential exemption from the fiscal year 1990 sequester for the military personnel accounts, preferring instead to reduce the sequester impact on hardware programs?

Mr. President, the Armed Services Committee will be looking at these disconnects very carefully in the coming weeks.

In order for the Armed Services Committee and the whole Congress to make decisions on the fiscal year 1991 defense budget we must have a clear vision of where our defense policies are going over the next 5 years. Our committee has repeatedly emphasized the need to take a long-term multiyear approach to the process of adjusting defense program and policy.

Some people are calling for reductions in the fiscal 1991 defense outlays of $12 billion, $15 billion, or even $20 billion. People are going to hear a lot about this term "outlays in budget authority." I can see some of the articles already saying "Why do you speak in these arcane terms?" Well, if you do not understand the difference between outlays and budget authority you cannot understand the defense debate that is going to take place this year because it is a very important difference.

One of the tragedies of the Gramm-Rudman-Hollings proposal that we now have is that it measures everything in outlays, and the Defense Department is run on budget authority, budget authority represents funds that can be spent over several years, rather than how much is actually going to be spent this year, which is outlays. Outlays are what will actually be spent this year. There is a big difference.

In my view, large and immediate reductions in the defense budget to achieve outlay savings of $12 billion, $15 billion, $20 billion, would result in severe disruptions of our military personnel programs and operations.

Our military personnel today are volunteers. They are not draftees as they were when we drew down the forces after World War II, after Korea and after Vietnam. We have to understand that. If we are not careful, and if we are not sensitive in handling our men and women in uniform, then we will damage our Nation's ability in the future to respond to threats that today no one foresees.

The Congressional Budget Office recently testified before the Senate Budget Committee on what actions would be necessary to achieve $15 billion in outlay savings in Defense Department programs for fiscal year 1991. The Congressional Budget Office testified that "To reduce outlays by $15 billion in 1991 would require reducing budget authority by $35 billion below the CBO baseline, which is roughly $26 billion more than the reduction recommended by the administration."

If anyone thinks that reductions of $26 billion in budget authority and $15 billion in outlays would be easy to achieve in 1 year and would not adversely affect our Nation's security, they should look at some of the things the CBO says we would have to cut. I am going to walk through a couple of those examples.

The military personnel accounts under this $15 billion hypothetical outlay reduction would have to be reduced by $1.6 billion from the budget request. CBO noted that the reduction of 100,000 active duty personnel would save only $1.4 billion, and the savings would be less if Congress approved separation payments for enlisted personnel who are involuntarily thrown out of the service. This massive layoff of military personnel in 1 year would be extremely disruptive under the All Volunteer Force concept.

It would do damage to those people who are being terminated, but it would also do damage to those who remain because they would lose a great deal of confidence in their own future.

In the operation and maintenance accounts, CBO projects that $6.5 billion in budget authority would have to be cut. That is in the area we call operation and maintenance. CBO noted that these "large O&M cuts would, among other things, require layoffs of civilian personnel, reductions in tempos of weapons systems, and postponement of repairs to DOD property that would adversely affect the readiness of the remaining military forces."

For example, if DOD laid off 100,000 civilian employees in fiscal year 1991, the savings would be only $1.8 billion, less than one-third of the O&M cuts necessary to again achieve this $15 billion hypothetical outlay target.

Mr. President, CBO's analysis indicates that the most logical way to achieve significant savings in the military personnel and O&M account is to reduce the size of our force structure. We can do that over time. But force structure reductions take time to carry out, and do not achieve significant savings in the first year. That is what people need to understand.

There is a big difference in reducing force structure and what you can save over 3 years and what you can save in that first year. CBO has pointed out, for example, that eliminating an additional active Army division, two active Air Force tactical fighter wings, and an entire Navy carrier battle group—a total of 66,750 militarily personnel—would save only $2 billion in budget authority and $1.4 billion in outlays in fiscal year 1991. Savings would be much larger in 1992, 1993, 1994, but not in fiscal year 1991.

Procurement programs under this hypothetical example would have to be cut $9.5 billion below the fiscal 1991 budget request under CBO's example.

Everyone has their own candidates for major programs to terminate. I expect we will have some lengthy debates on some of the program terminations, because it will be very difficult to get a majority in the Senate to endorse termination or reductions in major weapons systems of this magnitude—not impossible, but difficult.

People need to remember that procurement funds spend out very slowly. Large cuts in weapons programs produce very little outlay savings in the first year, but larger outlay savings in the future.

I want to give some examples to show people the difficulty of making this kind of large cut in defense outlays in 1 year. If you were hypothetically—and I emphasize "hypothetically" I do not advocate this—if you were to cancel all strategic modernization programs, that is, no procurement, or military construction for the B-2, for the rail garrison MX, for the Trident submarine or the D-5 missile, in other words, eliminate everything in terms of the strategic modernization programs, you save $8.6 billion in budget authority. But you save only $700 million in outlays—only $700 million in outlays.

Somebody is talking about a $15 billion outlay reduction. Knocking out all the modernization of all strategic weapons programs would save only 5 percent of this outlay reduction.

Another example: terminating new programs. We could terminate the SSN-21—that is the new attack submarine—terminate the C-17 transport plane; terminate the LHX helicopter; terminate the ADATS Program, and terminate the National Aerospace Plane as well as the new Air Force tactical fighter. Guess what we save in fiscal year 1991? $8.3 billion in budget authority; $1.5 billion in outlays. If you knock all of those programs out of the budget, you save only $1.5 billion out of this $15 billion target some people are bandying around.

A third example I would give that may strike close to home with some people in this body: let us assume you terminated all major current generation platforms—ships, planes, tanks, fighting vehicles and so forth. Let us take the F-15, the F-16, the F-18, the AV-8B, the DDG-51, Minehunters, tanks, fighting vehicles, the M-1 tank, the Bradley fighting vehicle—terminating those programs this year would save $12.6 billion in budget authority, but only $800 million in outlays. That is knocking them all out of the fiscal year 1991 budget. Why is that? The reason is because most of these programs spend out over a long period of time. The money we are spending this year is based on previous years' contracts. If you terminate those contracts, you have very big penalty clauses which can end up costing you more than you save.

So if you cancel all the strategic modernization programs, terminate several new programs, which I enumerated, and all the major current generation platforms you save a total of $3 billion in outlays in fiscal year 1991 out of the $15 billion so many are talking about.

Finally, CBO notes that under their example, almost $5 billion would have to be cut from the R&D budget request and, of course, that would require some very disruptive changes.

Mr. President, I summarize by saying I am confident that substantial savings will be possible in the level of defense spending requested in the fiscal 1991 budget. In the near term, these savings should be much larger in budget authority than outlays.

Budget authority is what we actually authorize and appropriate in a given fiscal year. Some categories of budget authority, particularly in the procurement accounts, are actually spent in from 3 to 7 years after they are authorized and appropriated. Outlays are the actual expenditures in a given fiscal year. We are going to have to repeat that many times during the course of the next several months, because unless people understand that, we cannot arrive at a logical defense decision that is in our national interest. This is not arcane. This is the very heart of what we are going to be debating.

As the CBO example shows, large immediate reductions in the Defense Department budget to achieve outlay savings would result in severe disruption of the personnel programs and operating activities and would not get into large capital investment programs that drive up outlays in the future.

If we are given that kind of outlay redirection target, there is really only one thing we can do—take it out of people and operation maintenance. There is really no way you can achieve these savings in procurement cuts, although we will try to do some of that also.

What we are going to have to do, Mr. President, is reduce the appetite for budget authority in the near term by cutting back on the large investment programs and by reducing the size of military forces in an orderly fashion, with sensitivity to the men and women in the military. That is the key to reducing defense outlays over the long term and yet preserving our ability in the national security field to meet the threats that we will have to meet today and tomorrow. This approach means larger savings, including large outlay savings, will be possible but in the outyears.

Mr. President, I know that the rapid and dramatic pace of change over the past year has made long-range planning very difficult in the Pentagon. Secretary Cheney and General Powell are currently in the process of addressing these issues. They promised to keep the Armed Services Committee informed of the important decisions on the 5-year defense plan.

I hope that the Defense Department will fill in the blanks in the budget that I have discussed today. We want and need to know what their priorities are, and the Pentagon can show us their priorities by submitting a complete 5-year defense plan that meets the spending cuts announced by President Bush and Secretary Cheney.

Mr. President, the Armed Services Committee will meet our responsibilities to the Senate in the authorization process for national defense programs. In the absence of administration decisions on major program and force structure issues, the committee will have to rely on our own best judgments about the changes in the threat and our military strategy, and the implications of these changes for the future structure of our military forces.

I am constantly being asked for a bottom-line defense number. "Senator NUNN, what do you think the defense number ought to be for 1991? How much can we cut over 5 years? What is the peace dividend? Give us a number."

Mr. President, I do not know of any logical way to arrive at a figure without analyzing the threat first, and without, second, determining what changes in our own strategy should be made in light of changes in the threat; and then, finally after looking at the changed threat and the new strategy, determining what the force structure and the weapons programs are that we need to carry out this revised strategy to protect our security in the future. To decide on the size of the defense budget without first going through this process would be little better than just reaching up into the air and pulling out a number—which is what is happening in a lot of places these days.

Mr. President, over the next several weeks, I will lay out some of my own views on the changes in the threats to our national security. I will make some suggestions for ways we should consider revising our military strategy in light of these changes in the threat. I will attempt to point out some changes in our force structure and weapons programs that we should consider in light of this revised strategy. And I will offer my views, finally, after going through that process, on the appropriate level of defense spending in light of this revised strategy for the next 5 years.

These will be one Senator's views, not the views of the committee. I have kept in close touch with the members of the committee, and I have encouraged the members on the Democratic side to come to the floor and give their own views.

I see the Senator from New Mexico is here this morning, and he will be making some very important statements. I know the Senator from Virginia is going to be part of this dialog all along. He and I have been together in virtually every meeting we have had this year on this budget, public and private.

We are going to be hearing from, I am sure, many members of the committee on their own views. Senators COHEN and MCCAIN have undertaken a view. So we are not going to come out here on the floor with one unified view, but we will give our colleagues a bit of our own thinking as we go through this process, because there is a vacuum here, and we are going to have to have the best judgment of the Senate before this year is over in terms our national security and the changed threat and what our strategy should be. It is our duty in the Armed Services Committee not only to arrive at judgments, but to give our colleagues, in this rare set of circumstances, a view of how we are arriving at those judgments, so they will not only know the final result when they are required to vote on various items on the floor of the Senate, they will also know what our assumptions were based on. That is the process by which I think we can play our own limited role in trying to fill this vacuum.

I thank the Members of the Senate, and I thank my colleague from Virginia for his continued splendid leadership in the defense area.

I yield the floor.

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

Mr. WARNER. Mr. President, I am advised by the Republican leader that the Senator from Virginia may have his time. The distinguished majority leader, as he departed the floor, reserved the time for both leaders.

Might I inquire as to the amount of time the Republican leader has, which he has now given to the Senator from Virginia?

The ACTING PRESIDENT pro tempore. The Republican leader reserves 10 minutes.

Mr. WARNER. Thank you, Mr. President.

Mr. NUNN. Will the Senator yield for a minute? I have used more time this morning than I anticipated. I thought I would have 10 minutes remaining, and I was going to yield that to the Senator from New Mexico.

I ask unanimous consent that there be an additional 10 minutes for the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WARNER. Mr. President, first, I want to say to my good friend that I think he has given chapter 1 of our very pragmatic overview of the problems that confront not only the Senate, but the Congress as a whole, and both the executive branch and the legislative branch, as we struggle to reach sound judgments in this all-important area of our national security.

I particularly cite his comments with respect to Secretary Cheney. I have

had the opportunity in the past few days to visit with Secretary Cheney. I witnessed this morning that he was on national television addressing the very points that the distinguished chairman of the Armed Services Committee covered today. And we all recognized that this man working with the President is doing the very best he can under most unusual circumstances.

But, Mr. President, I say to my good friend, I think he has used one word today which I find somewhat troublesome, and I hope, as time passes, he might reconsider the choice of words and substitute another word for the word "blank" because we recognize that the President, in his message to the Congress on the State of the Union, and the Secretary of Defense, both in his written statement and his testimony before our committee and other committees, have indeed provided the Congress with their current insights into all five of those areas which the chairman characterized as blanks. The word "blank" implies that there is nothing. I do not think that the distinguished chairman meant that. Those five areas, critical as they are, are moving targets.

As the Secretary of Defense was preparing the budget for presentation to the President and then to the Congress, the changes taking place throughout the world were dramatic, foremost those in Eastern Europe. All the world is grateful for the courage displayed by those brave individuals in those countries as they have sought and have succeeded in rolling back the forces of communism. But that chapter is just beginning and in no way has run its full course.

Each of the witnesses that came before the various hearings that Chairman NUNN enunciated, that our committee held, I asked each witness, "Could you have predicted, in the fall of 1989, the events that transpired leading to the elections which we are now witnessing in Eastern Europe?" Not one, Mr. President, not one of these experts said that he or she could have predicted the magnitude, the unprecedented goals that these moves in Eastern Europe have achieved.

Therefore, in fairness to the Secretary of Defense, who concurrently was working on the strategy, the budget, how could he have predicted the outcome of these events and the impact on the 1991 budget and in the 5-year program? So with a sense of fairness and to seek bipartisanship, which is absolutely essential to the success of the foreign policy of this country and the security policy of this country, I think we should provide the President and the Secretary of Defense with that opportunity to come forward again and again to the Congress and update us with respect to their perspective on those five categories, which indeed are not blanks.

Mr. President, I had the opportunity, on Monday of this week, to debate a Member of this body on national television on these same subjects. In preparation, I looked over the various public statements that this particular Member of the Senate had made. And he had espoused cuts of $15 billion, but on that particular program at 7:10 in the morning he espoused $20 billion, saying in a matter of days he had upped the ante from $15 to $20 billion of outlays that could be cut from this defense budget. He has a perfect right to give his views to this body, to the American public, but I say to that Member, if the Secretary of Defense has to fill in the blanks, to use that word, so does each and every Member of this body holding positions of responsibility who want to go out and state that this is the level of spending that should be taken out of the defense budget.

So it seems to me, on one hand there is a responsibility which I feel is being discharged by the President and the Secretary of Defense to keep the Congress advised with respect to these five categories, but I say, on the other hand there is an equal and commensurate responsibility for those Members in positions of authority in this body over these issues to likewise fill in the blanks.

Mr. President, returning once again to the dramatic events in Eastern Europe, that is but one section of the world, and while we rejoice in the progress being made and recognize that the Warsaw Pact is rapidly becoming an insignificant military alliance, we further recognize that the United States must keep a credible, stable force there for purposes of stability. We cannot let that one geographic area drive all thinking throughout the world with respect to our security interests.

This morning I met with a distinguished group of parliamentarians from South Korea. We discussed the strategic questions throughout the Pacific Rim region, the instability that exists today and could worsen tomorrow in North Korea with respect to our alliance with South Korea and the instability in the Philippines, the question about Chinese leadership. Those are factors that impact on this budget.

Then, turning to another part of the world which, in the judgment of this Senator, is the most serious overall, the Middle East, we see a rapid proliferation of a certain category of weaponry known as tactical ballistic missiles threatening the very existence of our most valued ally in that region, the State of Israel.

No, I say, Mr. President, we cannot let one epochal development or series of developments in Eastern Europe drive the thinking for the entirety of our analysis no matter how much we rejoice in that success.

Last, Mr. President, this Nation is engaged in a series of arms control talks in Vienna of a multilateral nature, in Geneva of a bilateral nature with the Soviet Union, and we are on the very threshold of the most dramatic breakthroughs of arms control in the history of the world. We cannot jeopardize the success, the potential success, of those agreements, and I am confident that the distinguished chairman, in his subsequent remarks to this body with respect to strategic issues, will cover those points. But bear in mind there are many factors that focus upon these moving targets of strategic and budget planning as it relates to our national defense.

Mr. President, I thank the Chairman of the Senate Armed Services Committee for coming to the floor of the Senate today to publicly state his concerns about the complexities that surround the defense budget for the coming years.

As my colleagues well know, during my 12 years in the Senate, and most especially during the last 3 years while serving as ranking Republican member of the Armed Services Committee, I have sought a bipartisan approach to questions involving our national defense. I believe that the chairman and I have largely succeeded in ultimately forging such a bipartisan approach in most instances, and I thank Senator NUNN for his willingness to work with Members on both sides of the aisle on these important national security issues. It is my hope and expectation that, when all has been said and done, we will again this year emerge from this process having found an approach that is bipartisan and can be supported by Members of both parties. Such a result is in the best interest of our Nation.

However, in attempting to find bipartisan common ground, it is important that all Members have an understanding of the arguments on both sides of the issues. Therefore, while I may find myself in personal agreement with much of what the chairman has said here today, and what he may say in the coming weeks, it is my intent to make short replies to the chairman's speeches on the fiscal year 1991 defense budget in hopes that the chairman and I can provide the Senate with a comprehensive record of the arguments on those issues.

Turning now to the subject addressed by Senator NUNN today, I am in agreement that, at the present time, there are many uncertainties surrounding the fiscal year 1991 and outyear defense budgets. Not the least of these uncertainties is the changing threat throughout the world. I agree with the chairman that the Congress will be better served if and when we have the administration's complete updated views about what these

changing world conditions mean for our future defense needs. But at the same time, we must all recognize that none of us—not the President, not the Secretary of Defense, not a single Member of this body—has a crystal ball. Any view expressed about what an event of today may mean for the future can only be tested by time. So when we demand that the Secretary of Defense provide us with a complete "updated defense budget," we should temper our request with the understanding that such a budget is up to date only so long as nothing else changes in the world.

When we note that we do not have a complete 5-year defense plan for the outyears, we should remember that such an undertaking involves the adjustment of tens of thousands of individual programs in the budget. Making those thousands of adjustments is not merely a matter of changing the numbers. It also involves an analysis of the changing threat as it relates to each program, of the economic impact of changing the program, as well as the overall total cost resulting from those changes.

We in Congress also bear a responsibility for much of the difficulty in preparing long-term planning documents. Each time we alter a particular program or add a new one, the 5-year plan must also be altered. This past year, we too were late as we did not complete action on the fiscal year 1990 defense budget until late in November, some 7 weeks after that fiscal year began. This was then followed by a partial sequester on every item in the defense budget. These two congressional actions alone required the Department of Defense to make adjustments in every line item in the then-existing 5-year defense plan. While I agree that the preparation of these long-range planning documents is the responsibility of the Secretary of Defense and that we in Congress have a right to expect that the Secretary will provide us with his plans, we cannot and should not expect that to be done overnight.

Today, thousands of people in the Department of Defense are dedicating their total efforts toward revising and updating our long-range defense plans. This is a constant, day-to-day effort as each program, project, and activity is reevaluated for its evolving role in our defense needs. The Secretary of Defense has assured me that the Department is expending maximum effort to provide the Congress with the kind of information which we must have as we seek to make decisions about our future defense. While it may be helpful to have a complete 5-year plan for every program in the budget, I believe that it is more important that we focus on the overall approach to the future envisioned by the President and the Secretary of Defense. Secretary Cheney has undertaken major and comprehensive reviews of some of the most significant programs now in the budget to determine how they will fit into our evolving strategy, and has assured me that Congress will be provided with the results of those reviews in the near future.

So, Mr. President, while I join with Chairman NUNN in noting that we do not now have all the information that might make our task easier this year, I have been assured by the administration that it will continue to provide the Congress with updated planning and budget information. Some of the information which we wish we had may simply not exist, but that is a function of the changing world. But I am sure that, working together here in Congress and with the administration, we can, if we wish, find that common ground upon which our national security has been and should be based.

Mr. President, I ask unanimous consent to print in the RECORD a letter, dated March 8, 1990, to the chairman and ranking minority member of the Committee on the Budget, from the chairman and ranking minority member of the Committee on Armed Services.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, March 8, 1990.

Hon. JIM SASSER,
Chairman,
Hon. PETE DOMENICI,
Ranking Minority Member, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR JIM AND PETE: In accordance with the provisions of Section 301(d) of the Congressional Budget Act, we are forwarding the views of the Committee on Armed Services on the President's budget request for the National Defense function for fiscal years 1991 through 1995.

The Armed Services Committee has been conducting a series of hearings on the implications of recent changes in the Soviet Union and Eastern Europe for our national security policy, our military strategy, and ultimately our defense budget. As part of these hearings, we have also received testimony on the President's FY 1991 defense budget from Secretary Cheney, General Powell, and other senior officials in the Department of Defense.

These hearings have demonstrated that there are still a large number of critical uncertainties or gaps associated with the President's FY 1991 defense budget and the Five Year Defense Plan. For example:

Secretary Cheney has indicated that the current five-year spending plan for the Defense Department is $167 billion below last year's Five Year Defense Plan. So far, Secretary Cheney has indicated how approximately $70 billion of the savings will be achieved. This leaves approximately $100 billion of program reductions from last year's Five Year Defense Plan still to be identified to bring current defense spending plans in line with the defense spending levels in the Administration's FY 1991 budget proposal.

Secretary Cheney has also indicated that he has ordered a detailed review of five major defense programs—the Advanced Tactical Aircraft; the Advanced Tactical Fighter; the C-17 transport; the B-2 bomber; and SDI. Each of these programs will cost tens of billions of dollars to complete. We understand that additional programs have been added to this review as well. We need to know the outcome of these program reviews before we act on the FY 1991 defense budget.

So far, the Defense Department has not provided Congress with adequate details regarding what the size or structure of our military services will be over the next five years or what the balance between active and reserve factors will be.

At this time, the Defense Department has not filled in these gaps in the Five Year Defense Plan. Frankly, we recognize that the rapid and dramatic pace of change over the past year has made long-range planning very difficult. Secretary Cheney and General Powell are currently in the process of addressing these issues, and they have promised to keep the Armed Services Committee informed in a timely manner for the FY 1991 budget cycle of important decisions on the Five Year Defense Plan.

Our challenge is determine whether the FY 1991 defense budget reflects the realities and the full dimension of changes in the threat, the political situation in Europe, and the fiscal situation here at home. In order for the Armed Services Committee and the whole Congress to make decisions on the FY 1991 defense budget, we must have a clear picture of where our defense policies are going over the next three to five years. In the absence of Administration decisions on major program and force structure issues, Congress will have to rely entirely on its own judgements as to the threat and the outyear structure of our military forces. For this reason, the Defense Department must provide Congress with a complete Five Year Defense Plan that meets the spending limits in the President's FY 1991 budget, or at least a five year spending plan outlining major military force levels and program decisions.

We want to emphasize the need for a long-term, multi-year approach to the process of adjusting defense programs and policies. Large, outlay-driven reductions in the defense budget in the near-term can be very disruptive. We expect that savings will be possible from the level of national defense spending requested in the FY 1991 budget, and larger savings will be available in the outyears assuming current diminishing threat trends continue.

With the information available to us at this time, we are not able to make an informed recommendation on the appropriate level of national defense spending for FY 1991 and the next five years. We will keep the Budget Committee informed on the progress of our continuing review of national defense programs in the coming weeks.

Sincerely,

SAM NUNN,
Chairman.
JOHN W. WARNER,
Ranking Minority Member.

Mr. WARNER. I thank the Chair and I thank the Members.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from New Mexico [Mr. BINGAMAN].

Mr. BINGAMAN. Mr. President, I rise to second the sentiments expressed by my colleague from the State of Georgia, the chairman of the Armed Services Committee, and particularly with regard to the "disconnects" that he sees and anomalies in the defense budget. These anomalies not only reflect a waste of funds but they are indicative of a deeper confusion on the part of the administration. Particularly, I believe this confusion affects the posture that we are taking as a nation regarding the timing and content of arms control negotiations in Europe.

I think that posture as it now stands is not realistic. It is anachronistic and it is counterproductive to U.S. interests.

The reason why the administration's policy in my view is counterproductive is that it takes little account of the great watershed events of our time, the collapse of Communist rule in Eastern Europe and the disappearance of the specter that haunted us all for the last 40 years, a Soviet and Warsaw Pact invasion of Western Europe.

While few could have forseen the breakneck pace of change in the Warsaw Pact, that change is ongoing and is on the road to consolidation. Nothing could signal more strongly that we have seen a definitive break with the past than the recent presence in this Congress of Czechoslovakia's President, Vaclav Havel, a heroic figure dedicated to leading his country into the democratic family of nations. Even more dramatic events are occurring in Germany, the very cockpit of the cold war and the crossroads of the NATO and Warsaw Pact alliances, where soon we will see the formation of a single German state.

Unfortunately, while all these sweeping changes proceed, in my view at least, the administration remains hobbled by what can only be characterized as old thinking. The President's fiscal year 1991 defense budget requests funds for the modernization and upgrading of short-range nuclear forces in Europe. With the virtual elimination of a military threat from the Warsaw Pact, the question as to why there is a need for such new forces, including the Follow-on-to-Lance missile, is one the administration is hard pressed to answer.

I questioned Defense Secretary Cheney and Chairman Powell, the chairman of the Joint Chiefs of Staff, before the Armed Services Committee on this issue and they responded that our decision was taken in response or consistent with the decisions of the NATO heads of State at their May 1989 North Atlantic Council meeting. However, with the events of the last year, the circumstances which led to those decisions have changed irrevocably and all justification for proceeding with these short-range nuclear systems has disappeared. In fact, West German Foreign Minister Genscher, in speaking about the Follow-on-to-Lance missile on the eve of the Ottawa Open Skies Conference, declared, "This is politically dead. * * * It would be laughable if anybody would come and bring it up again." Unfortunately, the administration is bringing it up—is proposing to the Congress that we fund it—and it is no laughing matter.

What is most disturbing in the administration's reliance on NATO's May 1989 decision is the effect it will have on the timing of negotiations on short-range nuclear forces of SNF. The NATO decision, made largely at U.S. insistence, postpones SNF negotiations until after reductions in conventional forces in Europe [CFE] are underway. That presumably must await the ratification of a CFE treaty. When the time required to finalize negotiations, bring a CFE treaty before the Senate for ratification, and begin implementation of such reductions are all added up, the start of SNF negotiations could be postponed until as late as 1992. Given the rapid course of events in Europe, adherence by the administration to this schedule, in my view, is outmoded and threatens to make the United States an also-ran in the shaping of a future Europe.

Already the Governments of Czechoslovakia and Hungary are pressing the Soviet Union to remove its troops from their countries in the shortest possible time. A prospective united Germany can be expected to argue for the same treatment in any talks with four Allied Powers. Surely the administration cannot believe that Soviet forces departing these countries would leave short-range nuclear missiles behind when they go. Former Defense Secretary Schlesinger testified to the Armed Services Committee about his fear that extended CFE negotiations might legitimize the continued presence of Soviet troops in Eastern Europe. Similarly, we must guard against a rigid schedule for SNF talks legitimizing the presence there of Soviet SNF forces as well.

According to the Arms Control Association here in Washington, there are approximately 10,000 nuclear warheads on the two sides poised for combat in central Europe. Well over half of these are launchers that are located on German soil, aimed at German soil; that is, both launchers on the Soviet side and launchers on the side of NATO.

One of these days, and in my opinion very soon, the Germans are going to tell the Soviets and ourselves to get those missiles out. This is an area in which we should be leading, Mr. President, not hanging back and waiting for the inevitable to occur. President Bush should take the initiative. He should lead the NATO allies to commence discussions with the Soviets on a timetable for the withdrawal of all short-range nuclear weapons from central Europe.

This is not a situation like START where we want to have reductions in weapons. It seems obvious to me that with a unified Germany there will soon be a demand for the withdrawal of all short-range nuclear weapons from German soil.

Senator NUNN stated it very well in his statement this morning when he said short-range nuclear weapons, which cannot reach beyond the borders of Germany and Czechoslovakia, have no mission in today's changed world. There is no reason why we should be the last to wake up and smell the coffee and understand this new reality.

I urge the President to take the initiative in reformulating with our NATO allies the schedule for SNF negotiations and in bringing alliance strategy into line with the evolving realities of Europe.

Mr. President, I yield the floor.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,832d day that Terry Anderson has been held in captivity in Beirut.

BRAD BUTLER'S LEADERSHIP ON EDUCATION REFORM

Mr. KENNEDY. Mr. President, the Committee for Economic Development, an organization of senior executives from the Nation's top businesses, is one of America's leading advocates for educational reform. CED, under the leadership of Chairman Brad Butler, the retired chief executive officer of Procter & Gamble, has been an effective advocate for early childhood education, school restructuring, and other innovations to reinvigorate our Nation's system of public education.

Through his tireless efforts for education reform, Brad Butler and CED have won international renown. Recognizing this groundbreaking work, Daiwa Securities Co., Ltd., of Tokyo has made a gift of $1 million to CED for the Owen B. Butler Program in Education Studies. CED and Daiwa recognize that economic success depends on the skills and abilities of educated citizens. Daiwa's generous gift will make it possible for CED to continue its leadership role in improving American education, and I commend Brad Butler, CED, and Daiwa for this farsighted project that reflects the best in educational reforms and international cooperation.

I ask unanimous consent that a press release about the gift may be printed in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

DAIWA SECURITIES GIVE $1 MILLION ENDOWMENT FOR CED EDUCATION STUDIES

NEW YORK, September 13.—Daiwa Securities Co. Ltd. of Tokyo announced today a gift of one million dollars to the U.S. Committee for Economic Development (CED) for the "Owen B. Butler Program in Education Studies."

In presenting the check to Mr. Robert C. Holland, President of CED, Mr. Takuro Isoda, Chairman of Daiwa Securities America, made the following statement:

"All of us at Daiwa Securities are proud and pleased to make the initial contribution to this important endowment fund for the following reasons:

"It is part of our basic corporate philosophy to be good corporate citizens in every country in which we operate.

"We believe that people are the key to prosperity in every country and to the success of every corporation. In the long term, the strength of our own U.S. operations will entirely depend on the abilities of the U.S. citizens who will be a key part of those operations.

"We believe that the finest possible public education system is essential to the development of the human resources in every society, and we believe that the Committee for Economic Development has been and continues to be a national leader in developing sound policies for improving public education in the United States. This endowment fund will help ensure that this work can continue for many years to come.

"We are, of course, particularly pleased that this endowment is named for CED's Chairman Owen "Brad" Butler, who has led the education studies at CED for the last seven years and who also serves as Senior Advisor to Daiwa Securities America.

"We hope this gift will serve as an inspiration to other companies—both U.S. and foreign—to support, through endowment programs, the important work of the Committee for Economic Development."

In acknowledging the Daiwa gift, CED President Robert C. Holland commented, "This endowment recognizes the importance of long-term investments in U.S. educational excellence. Daiwa's generous contribution will enable CED to continue the pioneering work we have done in developing innovative education policies, in identifying practical programs and strategies, and in helping American businesses and communities forge effective and lasting partnerships."

Daiwa Securities Co. Ltd., established in 1902, ranks among the world's largest securities firms. A leader in the financial services industry, Daiwa plays an active role in key international capital markets as a broker, dealer, underwriter, distributor, and financial advisor.

While the parent company is based in Tokyo, Daiwa Securities America has been a U.S. corporation for 30 years. In 1986, Daiwa Securities America Inc. became the first Japanese company to become a primary dealer in U.S. government bonds.

The Committee for Economic Development is a private, nonprofit research and education organization. CED's 250-member board is composed chiefly of presidents and chairmen of major corporations and university presidents. CED's trustees conduct research and develop policy recommendations on major national and international economic and social issues.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. LIEBERMAN). Morning business is closed.

The Chair recognizes the Senator from Missouri [Mr. DANFORTH].

Mr. DANFORTH. Mr. President, I ask unanimous consent to proceed as though in morning business.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. CHAFEE. Mr. President, I think the request was for 5 minutes, was it?

Mr. DANFORTH. Mr. President, I am going to attempt to keep this to about 5 minutes. I do not think I will take much longer than that. I fully recognize the desire of the floor manager, who has labored on this bill for months, maybe years, to get on with it. I am not going to take a lot of time. I have certainly not taken much of the Senate's time on the bill so far, and I would like to proceed on another matter that will not take long.

The PRESIDING OFFICER. The Senator from Missouri.

REDUCING THE DEFICIT IN THE FEDERAL BUDGET

Mr. DANFORTH. Mr. President, at the beginning of the last recess, the chairman of the House Ways and Means Committee, DAN ROSTENKOWSKI, wrote a very interesting piece in the Washington Post that was covered nationally, and it had to do with the question of getting on with the process of reducing the deficit in the Federal budget.

I believed, when I read that piece in the newspaper, that when I returned to Washington and got back and started talking with my colleagues in the Senate, the place would be abuzz with Congressman ROSTENKOWSKI's article. In fact, to my knowledge, at least to my hearing, the Senate has been less than abuzz. I think it is fair to say that people are either ignoring it or they wish that he would not have said it in the first place.

I would simply like to indicate to the Senate that this is one Senator who believes that Congressman ROSTENKOWSKI made a real contribution. I hope that all of us, including those within the executive branch, would take this as an opportunity to open up some important questions for our country.

I recognize that in his campaign for the Presidency in 1988 George Bush made some solemn commitments relating to taxes and relating to the entitlement programs. But, Mr. President, the world has changed more dramatically since the summer of 1988 than during any other period in our history, perhaps.

Country after country has turned from a Marxist system toward a free political and free market system. And they have literally shown up at our doorstep. Lech Walesa, Vaclav Havel, some of the people associated with Mrs. Chamorro in Nicaragua, have all come here and asked for help. And they have asked for more than just aid. They have asked that they might attach themselves to the greatest engine of economic growth in the world since World War II, which is the United States.

I think what is at stake is whether or not we are going to hear that call and whether we are going to continue to be the engine for economic growth.

I believe that the question that has been put to us by the people of Eastern Europe and the people of Nicaragua is whether or not the United States of America is going to lead or whether we are not going to lead. They have come to us, in effect, and they have said to us, "Does the free market system work?" We have a marvelous opportunity to answer that question in the affirmative, but I am not sure we are going to do it.

The conventional political wisdom is, of course, that no one wants to have a single benefit cut, nobody wants to pay any new taxes in any form. But it seems to me that if we in Washington were to ask the American people whether they want America to lead the world or whether they want America to drift behind, most people would say that they want America to lead. Most people would want to say that, unlike the title of Ezra Vogel's book a decade or so ago, they want America to be No. 1, and they recognize that there is a price to be paid by continually building up the national debt. The price that we are paying is a continuing weakness in our country.

There are, in my opinion, some things that we should be doing in addition to balancing the Federal budget. We should be investing more in education. The President has recognized that. We should be investing more in our Nation's infrastructure. We should be investing more in science and research and development.

But there is no way that we can do any of that with the numbers out of balance as they now are. There is no way that we can do any of that if we are locked into decisions that were made 2 years ago during the 1988 Presidential campaign.

I know that any politican is reluctant to change his mind. I admire the President very greatly and I applauded the commitments that he made back in 1988. But I would simply like to indicate that there is one Senator who would be very supportive if the President were to decide that changing times required some changes in decisions previously made; and that the worst thing that can happen in the changing world is for our country to

be locked into decisions that were made at another time under different circumstances.

I hope that Congressman ROSTENKOWSKI's article would generate yet more discussion. I think it has not sufficiently done so yet. I hope that we in the Congress could indicate some support for changing some of the decisions we made in the past and I hope that the administration would be open to serious negotiations on these proposals that Congressman ROSTENKOWSKI made.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to make comments on the remarks of the Senator from Missouri and ask him a question.

I agree with everything the Senator said. Indeed, I have been long concerned over this situation, where the present administration is locked into a pledge for no tax increases that was made during an election campaign 2 years ago.

I might say I find receptivity to an increase in the marginal rates beyond what they are currently, for adding another bracket, perhaps getting rid of the so-called bubble so the rates would remain at 33 percent for those high-income taxpayers.

The problem I find, and I wonder if the Senator from Missouri has any solution to this—I believe people would be receptive to that type of procedure. I might say, perhaps it can be coupled with the capital gains cut, because unquestionably it is the rich who are going to get most out of the capital gains cut. But the belief is, and I think a correct one, that there is no point in doing it unless that money is truly going to go for reduction of the deficit. And so far, it seems to me, no one has been able to come up with a solution that guarantees that these funds brought in by an increase in the marginal rate, or adding another bracket, indeed will go to reducing the deficit.

The fear is that a voracious Congress will consume those funds and spend them on worthy programs, certainly, whether better education, better health, better day care. But when all is said and done, maybe the country will be a little better off in those categories but the deficit will be no better off.

What do we do about that dilemma?

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I share the concern Senator CHAFEE has expressed. I think we do have a tremendous ability around here to blow what resources we have. I think the business of Government is setting priorities. The first priority has to be reducing the budget deficit.

There are some investments we have to make in infrastructure and in education and in science. But to me the question is one of immediate enjoyment versus long-term investment, and that we should follow a strategy of long-term investment.

How do we do it? Maybe we are just a couple of voices crying in the dark. I do not know. But I think the only way to find out is to see if there could be some meaningful negotiations involving Democrats and Republicans, members of the executive branch and Members of the Congress, to see if we could not make some kind of arrangement whereby we do invest in the future and we do not just squander whatever we come up with on very popular spending programs for the day.

I think it is worth a try. We go over to House of Representatives and listen to these wonderful speeches made by Lech Walesa and President Havel of Czechoslovakia, and then we all come back to the Senate and we say, well, that was certainly a good speech. But we never move from that to what we are supposed to do about it.

What is America's obligation in the world? I think the time has come to start asking ourselves what constructive steps should be taken, and not just giving up in advance and saying, in effect, well, whatever we do we will blow it.

I never realized, before I took this job, that when people said I was going to get a seat in the U.S. Senate, it should be taken quite as literally as it is. It seems we are sitting. Maybe we should move beds into this place. But at a time when we are really called upon by the rest of the free world, and looked to for answers, and asked whether we are going to show the world that the free market system functions, that the response we give is—drift. Nothing. No answer there.

We should at least see if we can put together some sort of answer, on a bipartisan basis. I think we can, and I think the American people would welcome it.

I think, if we were a little less timid, the American people would say, fine, let us get on with it. America is No. 1. America does have responsibilities, and we want our country to grow and not shrink. And if it continues on its present path it will shrink.

So, I am very optimistic that we could put something together but I think we are going to have to start the ball rolling right here.

Mr. CHAFEE. Mr. President, I have a proposal involving some of the measures that the distinguished senior Senator from Missouri was discussing. I look forward to discussing those with him further, if this clean air bill ever finishes. I hope we can get on with something else.

I agree with what the Senator said, although I will note that certainly President Lech Walesa asked for additional aid. President Havel did not, but Lech Walesa did. And, of course, additional aid means the spending of the funds that come in from the increased taxes rather than going toward reduction of the deficit, which we set forth as our top priority. That is point 1.

Point 2, I have never seen anyone rise in support of additional money for education or health or day care who does not give a fiery speech saying this is not an expenditure, this is an investment. Thus, money that we thought was going to go for the deficit instead is invested for the future betterment of the Nation, of the Nation we all love here. So, we are beset by all pressures.

Finally, I will say, as recognizing a fellow warrior who survived that battle, I believe it was in 1985 when the Senate, at least most of the Republicans and one Democrat, bit the bullet, so-called, and had a cost-of-living adjustment freeze on Social Security for a year. We passed that, brought in one of our colleagues on a stretcher, practically with blood plasma going into him, for a dramatic vote. It passed by one vote. Then we got down to the White House 2 days later, and the President said, well, he did not support us. So if you ever saw a group of Senators way out on the end of the limb with the limb being sawed off, that was it. I think we both were way out there on that limb, and it was hardly a plus in the following election.

We have to get the administration on board. Clearly we have to get the House of Representatives on board, or it does not go anywhere. So I want to thank the Senator for his remarks.

CLEAN AIR ACT AMENDMENTS OF 1989

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, S. 1630, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Mitchell amendment No. 1293, in the nature of a substitute.

(2) Baucus amendment No. 1307 (to amendment No. 1293), to grant Administrator authority to authorize limited production of halons after the year 2000 if necessary for aviation safety purposes.

(3) Wirth/Armstrong amendment No. 1313 (to amendment No. 1293), to establish guidelines for alternative work schedules for Federal agencies within nonattainment areas.

(4) Byrd modified amendment No. 1329 (to amendment No. 1293), to provide benefits for terminated coal mine workers. (By unan-

imous-consent, the amendment was further modified.)

AMENDMENT NO. 1329, AS FURTHER MODIFIED

The PRESIDING OFFICER. The pending question is amendment No. 1329, as further modified.

Mr. BAUCUS. Mr. President, we are back on the Clean Air Act. We have, I think, several noncontroversial amendments, which we can accept.

Before moving forth with the amendment to be offered by the Senator from Washington, Senator GORTON, Mr. President, I ask unanimous consent that the pending amendments be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1356 TO AMENDMENT NO. 1293

Mr. CHAFEE. Mr. President, on behalf of the junior Senator from Mississippi [Mr. LOTT] I send an amendment to the desk and ask for its immediate consideration.

Mr. President, I note that the cosponsors of this amendment are Senators BURDICK, BOSCHWITZ, COATS, COCHRAN, HEFLIN, DIXON, MACK, MCCLURE, MCCONNELL, FORD, LUGAR, and HELMS.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. LOTT (for himself, Mr. BURDICK, Mr. BOSCHWITZ, Mr. COATS, Mr. COCHRAN, Mr. HEFLIN, Mr. DIXON, Mr. MACK, Mr. MCCLURE, Mr. MCCONNELL, Mr. FORD, Mr. LUGAR, and Mr. HELMS), proposes an amendment numbered 1356 to the amendment No. 1293.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 426 strike line 15 through page 428, line 16, and insert:

"SEC. 407. (a) APPLICABILITY.—On the date that a coal-fired utility unit becomes an affected unit pursuant to sections 404, 405, 409, or on the date a unit subject to the provisions of 404(d) or 409(b), must meet the SO_2 reduction requirements, each such unit shall become an affected unit for purposes of this section and shall be subject to the emission limitations for nitrogen oxides set forth herein.

"(b) EMISSION LIMITATIONS.—(1) Not later than eighteen months after enactment of the Clean Air Act amendments of 1989; the Administrator shall by regulation establish annual allowable emission limitations for nitrogen oxides for the types of utility boilers listed below, which limitations shall not exceed the rates listed below: *Provided*, That, the Administrator may set a rate higher than that listed for any type of utility boiler if the Administrator finds that the maximum listed rate for that boiler type cannot be achieved using low NO_x burner technology. The maximum allowable emission rates are as follows:

"(A) for tangentially fired boilers, 0.045 lb/mmBtu;

"(B) for day bottom wall-fired boilers and for cell burners, 0.50 lb/mmBtu.

After January 1, 1995, it shall be unlawful for any unit that is an affected unit on that date and is of the type listed in this paragraph to emit nitrogen oxides in excess of the emission rates set by the Administrator pursuant to this paragraph.

"(2) Not later than January 1, 1997, the Administrator shall, by regulation, establish allowable emission limitations on a lb/mmBtu, annual average basis, for nitrogen oxides for the following types of utility boilers:

"(A) wet bottom wall-fired boilers;

"(B) cyclones;

"(C) all other types of utility boilers.

The Administrator shall base such rates on the degree of reduction achievable through the retrofit application of the best system of continuous emission reduction, taking into account the available technology, costs and energy and environmental impacts; and which is comparable to the costs of nitrogen oxides controls set pursuant to subsection (b)(1). Not later than January 1, 1997, the Administrator may revise the applicable emission limitations for tangentially fired and dry bottom, wall-fired boilers (including cell burners) to be more stringent if the Administrator determines that more effective low NO_x burner technology is available: *Provided*, That, no unit that is an affected unit pursuant to section 404 and that is subject to the requirements of section (b)(1), shall be subject to the revised emission limitations, if any.

"(c) REVISED PERFORMANCE STANDARDS.—(1) Not later than January 1, 1993, the Administrator shall propose revised standards of performance to section 111 for nitrogen oxide emissions from fossil-fuel fired steam generating units, including both electric utility and nonutility units. Not later than January 1, 1994, the Administrator shall promulgate such revised standards of performance. Such revised standards of performance shall reflect improvements in methods for the reduction of emissions of oxides of nitrogen.

"(d) ALTERNATIVE EMISSION LIMITATIONS.—The permitting authority shall, upon request of an owner or operator of a unit subject to this section, authorize an emission limitation less stringent than the applicable limitation established under subsection (b)(1) or (b)(2) upon a determination that:

i. a unit subject to subsection (b)(1) cannot meet the applicable limitation using low NO_x burner technology; or

ii. a unit subject to subsection (b)(2) cannot meet the applicable rate using the technology on which the Administrator based the applicable emission limitation.

The permitting authority shall base such determination upon a showing satisfactory to the permitting authority, in accordance with regulations established by the Administrator not later than eighteen months after enactment of the Clean Air Act amendments of 1989, that the owner or operator:

(1) has properly installed appropriate control equipment designed to meet the applicable emission rate;

(2) has properly operated such equipment for a period of 15 months (or such other period of time as the Administrator determines through the regulations), and provides operating and monitoring data for such period demonstrating that the unit cannot meet the applicable emission rate; and

(3) has specified an emission rate that such unit can meet on an annual average basis.

The permitting authority shall issue an operating permit for the unit in question, in accordance with section 408 and part B of title III:

i. that permits the unit during the demonstration period referred to in subparagraph (2) above, to emit at a rate in excess of the applicable emission rate;

ii. at the conclusion of the demonstration period to revise the operating permit to reflect the alternative emission rate demonstrated in paragraphs (2) and (3) above.

Units subject to (b)(1) for which an alternative emission limitation is established shall not be required to install any additional control technology beyond low NO_x burners. Nothing in this section shall preclude an owner or operator from installing and operating an alternative NO_x control technology capable of achieving the applicable emission limitation.

"(e) EMISSIONS AVERAGING.—In lieu of complying with the applicable emission limitations under subsections (b)(1), (b)(2) or (d), the owner or operator of two or more units subject to one or more of the applicable emission limitations set pursuant to these sections, may petition the permitting authority for alternative contemporaneous annual emission limitations for such units that ensure that (1) the actual annual emission rate in pounds of nitrogen oxides per million Btu averaged over the units in question is a rate that is less than or equal to (2) the Btu-weighted average annual emission rate for the same units if they had been operated, during the same period of time, in compliance with limitations set in accordance with the applicable emission rates set pursuant to subsections (b)(1) and (b)(2).

If the permitting authority determines, in accordance with regulations issued by the Administrator not later than eighteen months after enactment of the Clean Air Act amendments of 1989; that the conditions in the paragraph above can be met, the permitting authority shall issue operating permits for such units, in accordance with section 408 and part B of title III, that allow alternative contemporaneous annual emission limitations. Such emission limitations shall only remain in effect while both units continue operation under the conditions specified in their respective operating permits.

Mr. CHAFEE. Mr. President, this is an amendment that deals with the nitrogen oxide provisions of the legislation in such a manner that will benefit both the environment and the utilities because the utilities will not be forced to install unreasonably expensive equipment.

This has the support and concurrence of those on the other side. It is consistent with the bipartisan agreement which we have reached to base NO_x emission rates on the application of low NO_x burner technology.

It is the belief of the sponsor of the amendment that more reasonable and cost-effective methods have proven to be successful in achieving significant NO_x reductions.

Mr. BAUCUS. Mr. President, this is a good amendment. It essentially encourages the most cost-effective utilization of new NO_x production technologies. The EPA set its resource performance standards and those stand-

ards should be based as much as possible on the least costly alternative. The amendment by the Senator from Mississippi will help move us in that direction. I urge adoption of the amendment.

Mr. LOTT. Mr. President, I commend my colleagues who have attempted to write a clean air bill which will balance environmental benefit with costs to industry and consumers. I also want to thank them for working with me to establish the nitrogen oxide provisions in such a way that the environment will benefit and utilities will not be forced to install unreasonably expensive equipment.

I am most pleased to offer this amendment which is consistent with the bipartisan agreement to base NO_x emission rates on the application of low-NO_x burner technology, a much more reasonable and cost-effective method proven to successfully achieve significant NO_x reductions.

We are fulfilling our promise to enact major legislation to protect our environment, and we are allowing industry the flexibility to comply with these strict regulations in the most cost-effective manner.

Again, I thank my colleagues for their good spirit in negotiations and for working with me to do all that is possible to strike a balance in this bill which would address our environmental needs without placing an impossible burden on industry, the economy, and especially on the consumer.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1356) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1357 TO AMENDMENT NO. 1293

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself, Mr. KERREY, and Mr. HARKIN, proposes an amendment numbered 1357 to the amendment No. 1293.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 213, line 20, strike "1991" and insert in lieu thereof "1992";

On Page 213, line 24, strike "may" and insert in lieu thereof "shall";

On Page 213, line 25, strike "1991" and insert in lieu thereof "1992";

On Page 213, line 25, immediately following "deadline" insert "annually";

On Page 213, line 25, strike "two" and insert in lieu thereof "three";

On Page 214, line 2, immediately following "that", insert "adequate".

Mr. EXON. Mr. President, this amendment is offered by myself, my colleague from Nebraska, Senator KERREY, and Senator HARKIN from Iowa. It addresses a prohibition that we discovered in the bill and the substitute to the bill by the committee.

The purpose of the amendment is a simple one. Under the committee bill, and the substitute, leaded gasoline is prohibited from highway use beginning January 1, 1991. Discretionary flexibility, however, has provided for a 2-year delay if the Environmental Protection Agency determines that this prohibition would result in the unavailability of leaded gasoline for farm vehicles that use such fuel and that if, in the future, substitutes are not readily available.

By way of background, let me just say many farm vehicles require small amounts of lead or other lubricants to avoid valve recession. I appreciate the risk of lead in the urban areas, but I want to be sure that flexibility is maintained for farmers. I think this amendment accomplishes that without upsetting the apple cart.

The amendment postpones a prohibition for 1 year and says that the EPA "shall", rather than "may", delay the prohibition of an annual basis for up to 3 years. In a nutshell, this makes the review of availability an annual thing rather than a one-shot deal. This amendment provides flexibilities for farmers while maintaining the overall momentum for reducing lead emissions in the area where that is a problem.

I urge the adoption of this amendment. I believe it has been approved on both sides.

The PRESIDING OFFICER. Is there further debate?

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, in order to accommodate the managers of this very difficult bill—I thought the amendment had been cleared on both sides. That is why I offered it. I understand there may be some kind of a hitch or glitch. I think we can straighten that out. To expedite things, I will withdraw the amendment at this time and offer it at a later date.

The PRESIDING OFFICER. Is there objection? Hearing none, the amendment is withdrawn.

The amendment (No. 1357) was withdrawn.

Mr. BAUCUS. Mr. President, we are now ready for the Gorton amendment. I ask unanimous consent that the pending amendments be temporarily laid aside.

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I object, temporarily.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. I hope the Senator will understand that at some point I probably will have no objection, but I would like to speak on the pending amendment for the time being.

The PRESIDING OFFICER. The pending question is on amendment No. 1329, as further modified. The Senator from Virginia, the President pro tempore, is recognized.

Mr. DIXON. Mr. President, will my distinguished friend yield for a question?

Mr. BYRD. Yes, I will be happy to yield.

Mr. DIXON. May I ask my distinguished friend, the President pro tempore, who is discussing a subject matter on which I completely support his position, how long he expects to be on this matter this morning. In view of the fact—and I apologize in advance for interrupting—that the Senator from Washington and this Senator are scheduled to do the next amendment, we are trying to determine, with particular reference to other committee assignments and other things we have, how much time may transpire this morning in connection with what I consider an important subject which the senior Senator from West Virginia is addressing.

Mr. BYRD. I will respond to that question, but before I attempt to get directly to it, may I say that last evening, when it was rather late, I came to the floor with a further modification to the amendment which has been pending at the desk for several days.

Mr. DIXON. I was here at the time. I remember.

Mr. BYRD. The Senator was here. But as the discussions went on and the evening lengthened and Senators saw there was going to be no vote, the audience naturally thinned out. The media representatives had probably thought that the votes of the day had ended and controversial issues had already been dealt with, and most of the press were gone.

So, as a result I feel that I have to again this morning lay out the background of the further modification

that I offered on behalf of myself and other Senators yesterday.

Mr. DIXON. May I say to my colleague, I fully support that, have no problem at all with it, and cannot think of anything more important than protecting American business and American jobs, which is the effort we see centered in what my distinguished friend, the senior Senator from West Virginia, is doing.

I am only trying to determine from a scheduling standpoint, for my colleague and myself, what we could expect the plan to be for a little while this morning. I support fully what the Senator is doing.

Mr. BYRD. I thought it necessary that I explain for all who are listening why I believe it is important that I again at this moment, at this early hour in the day, seek the floor and explain the further modification.

Having said that, I have no problem with yielding to the Senator for a short length of time. Can he indicate how much time might be required?

Mr. DIXON. May I advise the Senator of our problem? During the course of time that my friend and colleague was discussing his hope for further modification of his amendment, the amendment I support and the modifications of which I support, discussions were taking place with the managers last night, may I advise my colleague and friend.

It was understood that we would proceed to the Gorton-Dixon amendment this morning, which has to do with job losses as a consequence of countries that do not meet our environmental standards in attempting to send goods and products into this country, a related subject I am sure my colleague considers very important.

We would take that up this morning after morning business, and have a vote about 1 o'clock. We do not have any problem at all in yielding to our colleague, except we are trying to determine how we reconstitute our arrangements with respect to this amendment in view of the fact that I have a committee meeting, a subcommittee that I chair.

My colleague has to make a speech here on the Hill elsewhere. So we are trying to determine how we proceed. I say with all the affection and respect to my colleague, that is our sole and only purpose in making this inquiry.

Mr. BYRD. I understand. Of course, I was not part of that understanding. I knew nothing about it.

If the Senator will indicate how much time he feels he would need at this point so he could go to his committee meeting, perhaps I could relinquish the floor with the understanding that I not lose it, and pick up later where I left off. If it is going to be a considerable length of time, however, I would want to weigh that a bit.

Mr. DIXON. I say to my colleague, I would prefer for my colleague to proceed on the matter at hand, if we would only know thereafter when we could turn to this amendment so we could schedule accordingly.

I think we are talking about this amendment, which incidentally will be opposed, as I understand it, by the distinguished chairman of the Finance Committee, the ranking members, and others. In view of that, I think it is an extended debate that probably will require a couple of hours, perhaps as much as 3.

So that what we had intended to do was to proceed near 9 and conclude with the rollcall at 1. That obviously cannot now take place, but there was other intervening matters as well. So I accept that, of course, as the business of the Senate as it goes forward. We are only now trying to determine when we might reschedule. It is as simple as that.

Mr. BYRD. I understand now more fully what the Senator has in mind. I wonder if I could take, suppose, until—it is a quarter of 11 now—no longer than an hour and 15 minutes, at this point. It probably would take longer otherwise. If that would help the Senator and his colleague——

Mr. GORTON. Will the Senator yield?

Mr. DIXON. If I could interrupt and then yield, may I say to my friend from West Virginia, I have no problem with that. The Illinois congressional delegation has a luncheon meeting from 12 to 1 on the House side in Congressman BOB MICHEL's office.

We meet sometimes, 22 House Members and 10 Senators. Since I am Secretary-Treasurer and keep records and run the meetings, I have to be there from 12 to 1. That would put us into a 1 o'clock timeframe. I have no problem with that, I may say.

To the extent that my colleague from Washington could accommodate that, I am ready anytime after lunch. I thank my distinguished friend and continue to support in every way his effort.

Mr. BYRD I yield to the Senator for a question.

Mr. GORTON. This Senator is a joint sponsor with the distinguished Senator from Illinois on this amendment. I simply wish to agree with Senator DIXON. Our amendment will require some time. It is very likely to require a rollcall vote. I would prefer not to interrupt the remarks of the distinguished President pro tempore at all, and simply to get together with the managers of the bill and reschedule our amendment for sometime later on in the day.

Mr. BYRD. Very well. I thank the distinguished Senator. I certainly want to accommodate both Senators.

Mr. BAUCUS. Mr. President, will the chairman of the Appropriations Committee yield?

Mr. BYRD. Yes.

Mr. BAUCUS. I wonder if the Senator from Washington would agree to setting his amendment for a certain time.

Mr. DIXON. One o'clock suits me.

Mr. GORTON. Mr. President, answering the distinguished Senator from Montana, the next time at which it would be convenient for this Senator would be no earlier than 3 and perhaps as late as 3:30.

Mr. BAUCUS. In view of that, Mr. President, I think it appropriate not to set a time certain.

I thank the Chair and I thank the Senator from West Virginia.

Mr. BYRD. I am sorry if I am discommoding the managers. They certainly played fair with me all along. I had no indication that this was the situation. I walked onto the floor without any understanding that there had been any tentative agreement reached with respect to any other amendment and the time which debate would occur thereon.

So I apologize to them.

Mr. CHAFEE. Would it be possible for them to proceed?

Mr. BYRD. As I indicated, my speech last night, which was a very eloquent and persuasive one, as is always the case with the West Virginia Senator from the coal fields, and I am trying to be rather modest about that, my speech largely fell upon deaf ears because as I have indicated a good many people in the Chamber and those in the press had gone home.

I feel that they are entitled to some enlightenment as to what my further modification attempts to do. I hesitate to wait until the shank of this afternoon and begin anew. I thought it might be well if I had the floor now. I have no intention of speaking overly long, but at least I think I owe them that explanation.

Mr. CHAFEE. Mr. President, I heard the distinguished Senator's speech last night. I was here the whole time. I found it persuasive; not totally persuasive, but certainly eloquent.

I noticed that the distinguished Senator from West Virginia was commenting that he had to end up negotiating with himself. I thought negotiations between himself came out rather well. They reduced the amendment. My thought was that perhaps the best system would be for him to go back to negotiate some more with himself. [Laughter.]

I thought he was bringing the amendment right down to the realm of sensibility.

My thought was the distinguished Senator from West Virginia, the senior Senator, should meet with the President pro tempore and talk with each

other, and probably get this amendment right down into some reasonable type of shape, because he has made a lot of progress talking with himself.

Mr. BYRD. Yes, I have. I have made a great deal of progress.

I made a lot of progress. He travels farthest who travels alone. So I have been traveling alone. But I am in the third trench here. I have to make that clear. I first had my trench dug out in a forward position, at a cost of $1.6 billion, the absolute maximum. And then I retreated to a second trench and brought the cost down to $700 million. That was an absolute maximum. Now I am in the third trench. I have now reduced the cost to $500 million. I will not retreat further, I must say.

Mr. CHAFEE. First of all, in your negotiations you were negotiating with a very able person, and if there could be a few more trenches back there, it would improve the situation.

Mr. BYRD. The point is that there are no more trenches. I must say that the Senator has certainly made a noble effort to disarm me by his soothing compliments, but I think I have voluntarily retreated about as far as I can go backward.

I suggest the absence of a quorum, with the understanding that when the quorum call is ended, I will be recognized to offer my speech.

The PRESIDING OFFICER. Is there objection? Hearing none, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1329, AS FURTHER MODIFIED

Mr. BYRD. Mr. President, the pending amendment is the amendment that is offered by myself on behalf of 17 other Senators. That amendment, as modified, is intended to provide temporary assistance to those coal mine workers who will lose their jobs as a direct result of enactment of the Clean Air Act Amendments of 1989.

The men and the women that my amendment is designed to help are not people who might possibly face higher utility bills as a result of this legislation. They are not business executives who might find their profit margins slightly diminished. They are not plant managers who might have to deal with higher operating costs as a result of the legislation. The men and women that my amendment is designed to help are the men and women who will lose their jobs as a result of the enactment of this legislation.

So that the rest of the Nation, including my own people in Appalachia and the Midwest, may benefit from cleaner air, the hard working men and women of the coal fields, especially in Appalachia and the Midwest, are being forced to pay a very high price, the loss of their livelihoods, and I believe we owe something to those men and women.

I would certainly prefer to be able to stand here today and assure them that they will not lose their jobs as a result of the enactment of this legislation. Toward that end, other Senators from Appalachia and the Midwest, including the distinguished Senator from Illinois [Mr. DIXON] who is on the floor at this moment, and I have worked hard to minimize the job loss that will occur as a result of this bill. I believe that we have achieved some success, some success.

We in the Midwestern and Appalachian group have been meeting since last fall in an effort to develop legislation on which we could unite and that would help minimize the economic impact on this region.

Mr. President, I know that it is not possible to protect every high-sulfur coal miner or every low-sulfur coal miner in the country from being adversely affected by legislation that mandates such major reductions in emissions of sulfur dioxide.

Despite the best of efforts, thousands of coal miners are still going to lose their jobs as a result of this legislation. According to the Environmental Protection Agency, enactment of this legislation will still result in the loss of 3,000 to 5,000 high-sulfur coal mining jobs in 1995, even with the changes that we have been able to make in the original committee bill in recent weeks, the changes being the so-called Byrd-Bond amendment that was agreed to in the task force meetings that went on in the distinguished majority leader's office for several weeks. That portion of our amendment, dealing with phase I, was agreed to. Although the phase II provision, for which Senator BOND and I hoped to get an extension of 2 additional years, and for which all of the other Midwestern and Appalachian State Senators hoped to get an extension of 2 years, so as to enhance the chances of the utilization of clean coal technology, was not included, I think the bill was made better in any event.

Yet, I believe that we owe the men and women who will lose their jobs some temporary assistance that will help them to make the transition to new jobs and new careers.

Fairness requires that we help these men and women, and so does common sense. I do not believe that we can afford not to provide the assistance that this amendment would provide. When a coal mine shuts down, not only do the miners and their families suffer but whole communities are also put at risk. For each mining job that is lost as a result of this legislation, it is expected that two nonmining jobs will also be lost.

By adopting this amendment, as modified, we can ensure that the loss of 5,000 jobs does not spread to a loss of 15,000 jobs. And by doing so we can prevent the accumulation of tremendous additional social costs. I am saying again that the loss of one coal mining job is attended by a loss of two nomining jobs.

So, when we use the absolute maximum reduction in jobs that has been given to us by the EPA, the maximum figure, the 5,000 coal mining jobs, we are really talking about 15,000 jobs. My amendment does not, of course, address the additional 10,000 jobs that will be lost, the nomining jobs, but it would address the 5,000. But, in addressing the 5,000, of course that has a ripple effect in the communities. So by adopting this amendment we avoid some of the severe results of such a ripple effect in those communities.

There are those who ask why we should be providing more assistance to coal mine workers who will lose their jobs as a result of this legislation than to workers in other occupations who might also lose their jobs.

I have listened to that concern that has been expressed by my colleagues on both sides of the aisle. This is not a party matter, and, as a consequence, I have attempted to contact Senators on both sides of the aisle. It is a matter of enormous consequence to people who live in Appalachia and the Midwest. The impact will be so great on coal mining jobs. Those people who are coal miners and who are noncoal miners, who would be so severely affected, are not Republican or Democrat in that sense. They are Republicans and Democrats, and a hungry stomach does not pause to inquire as to what the political faith of the affected individual may be.

No other group of workers is likely to be so directly and adversely affected by the legislation before us as would be the high-sulfur coal mine workers. There may be some job losses in other industries. The EPA estimated that the air toxics provisions of the original committee bill could have resulted in the loss of between 11,000 and 15,000 jobs in the steel and petrochemical industries.

The Hahn-Steger study suggested that an even greater number of jobs would have been put at risk. Yet, both the EPA and the Hahn-Steger estimates were based on an analysis of the original committee bill. That bill is no longer being considered on the Senate floor and we are now debating the Mitchell-Dole substitute, which is a substantial modification of the original committee bill.

The residual risks, then, have been greatly modified. As a result the expected job losses have been significantly reduced, possibly even driven to zero in many instances. It is my under-

standing that the Congressional Research Service now indicates that the potential job losses projected by the EPA in the Hahn-Steger study have been eliminated. As a result, I seriously question whether this legislation will cause any significant number of job losses in other industries.

My colleagues may debate the issue of how many jobs may be lost in other industries, but if we are to take the words of the EPA at full value and perforce take the words of Senators who have made statements on this floor at full value, which we do, then it has been indicated that as a result of the actions that have been taken on this bill off the floor and on the floor, the job losses in other industries have been reduced to virtually zero.

Now if that is not the case, then Senators ought to know. We ought to know if job losses have indeed not been reduced to zero. But as of now that has been the indication. So, that being the indication that other industries are not going to suffer from job losses as a result of this legislation, I feel that we ought to direct our attention to the industry that is targeted by the bill, not targeted by intent, but the results of this bill, and that is the high-sulfur coal industry. There is where the jobs are going to be lost. We have not reduced that figure to zero by a long shot.

There should be no debate as to how many high-sulfur coal miners' jobs will be lost as result of this legislation. I have seen no study that disputes the EPA is estimated that between 3,000 and 5,000 high-sulfur coal jobs will be lost between now and 1995. I have seen no study that disputes the EPA is estimated that 35 percent of all jobs in the high-sulfur coal industry will be lost by the year 2000, as a direct result of this legislation.

As I have noted before, this estimate on job losses in the high-sulfur coal industry is above and beyond the job losses expected to otherwise occur even without any new clean air legislation. Employment in the high-sulfur coal industry has been declining for a number of years as a result of labor productivity and mechanization. More high-sulfur coal is being produced today than 10 years ago and yet high-sulfur employment is much lower today than it was 10 years ago. Assuming continued increases in productivity, it is reasonable to expect that high-sulfur coal employment will be lower 10 years from now.

As a result, there are those who do not believe that 5 years from now it will be possible to distinguish between those coal mine workers who will have lost their jobs due to increased productivity and those who will have lost their jobs as a direct result of whatever new clean air legislation we might enact.

While attempting to draw a direct connection between job losses and enactment of the Clean Air Act Amendments of 1989 is likely to be difficult if not impossible in many industries, I do not believe it will be difficult to do so with respect to job losses in the high-sulfur coal industry.

(Mr. BRYAN assumed the chair.)

Mr. BYRD. Mr. President, high-sulfur coal mine workers are going to lose their jobs in the years ahead as utilities switch from high-sulfur to low-sulfur coal in an effort to comply with the emission reductions requirements of this legislation. The cancellation or the nonrenewal of high-sulfur coal contracts combined with cutbacks in production should enable the Secretary of Labor to determine without any great difficulty whether or not particular coal industry job losses are the direct result of enactment of the legislation before us.

Mr. President, let me again explain the modification that is now before the Senate.

The first proposal that was submitted by me on behalf of myself and 17 other Senators, provided for a total cost—absolute maximum, based on EPA's unemployment figures resulting from this legislation—of $700 million. That was the absolute worst-case scenario. That would provide 100 percent of the compensation to the coal miners who lost their jobs as a result of this legislation for the first 2 years immediately after their termination from their jobs. The first 2 years they would get 100 percent. The next 2 years they would have gotten 80 percent, and the next 2 years they would have gotten 60 percent—a total of 6 years. And with all the attendant costs, it would have amounted to the maximum outside limit, taking the highest range of job losses estimated by the EPA resulting from this legislation in the high-sulfur coal mining, $700 million.

Then, having listened to the concerns of Senators, I offered a modification that reduced the number of years from 6 years to 4, and made these changes in the 4 years. Instead of the first 2 years being 100 percent, as in the first Byrd, et al., amendment, that was reduced to 80 percent the first year, 70 the second, 60 the third, and 50 the fourth. The absolute outside maximum would then have been $500 million.

So it would have dropped the cost from $1.6 billion—I think I misstated the cost for the first amendment. The cost for the first amendment would have been over $1.6 billion. Then the modification—for the sake of cutting down on verbiage, I shall call it Byrd, et al., No. 2—reduce the costs for the reasons I have stated from $1.6 billion to $700 million.

Then, after listening further to my colleagues on both sides of the aisle—as I say, this is no party matter, so I felt the liberty to talk with Senators on both sides of the aisle—last evening, I sent to the desk a further modification. So we will refer to that as Byrd, et al., No. 3.

In that proposal, I reduced the number of years further for coal miners from 4 years, as in the second modification, to 3 years—70 percent the first year of the total compensation that the dislocated coal miner would otherwise have received, 60 percent the second year, and 50 percent the third year, which in turn reduced the outside maximum cost, if 5,000 coal miners lose their jobs as a result of this legislation, to $500 million. The cost has been dropped from $1.6 billion-plus, to $700 million, to $500 million. In addition, in the modification that I sent to the desk last evening, I provided for noncoal mining workers who lose their jobs as a direct result of this legislation.

Now, I had been advised that the substitute had been changed to the point that the impact on steelworkers and chemical workers, the impact on coke oven workers, and the impact on other workers had been reduced to virtually zero. Whether or not that is the case, I do not know, but that is what has been stated on this floor, at least that is my understanding.

Nevertheless, there may be workers in other industries who would lose their jobs as a direct result of this legislation. And so the amendment, in addition to the 26 weeks of unemployment compensation which workers would normally get when they lose their jobs, provides for 1 year of trade adjustment assistance benefits. Nonmine workers, instead of getting only 26 weeks of unemployment compensation, would now get an additional 52 weeks, making a total of 78 weeks, in addition to the other services that are provided in the Trade Adjustment Act.

Therefore, we now have a modification before the Senate that gives assistance to workers in any industry, in any of the 50 States, who lose their jobs as a result of the enactment of this legislation. I am not talking about workers who lose their jobs for other reasons, but rather, workers who lose their jobs because of this legislation.

All workers in 50 States who lose their jobs, in whatever industry, as a direct result of the enactment of this clean air legislation, would be helped by this modification.

That, in brief, is the explanation. Now let me detail it a little more thoroughly.

This amendment now provides a 3-year program of benefits for terminated coal mine workers as follows:

In the first 12 months following termination, a terminated worker would be eligible to receive benefits equal to 70 percent of the total compensation

and benefits such worker received during the 12-month period prior to termination.

In the second 12 months following termination, a terminated worker would be eligible to receive benefits equal to 60 percent of the total compensation and benefits such worker received during the 12-month period prior to termination.

In the third 12 months following termination, the terminated worker would be eligible to receive benefits equal to 50 percent of the total compensation and benefits such worker received during the 12-month period prior to termination.

Moreover, to encourage worker retraining, at any time during their period of eligibility, terminated workers would be eligible to receive an additional 20 percent of their prior compensation and benefits if enrolled in a full-time retraining or education program that is certified by the Secretary of Labor for a period of not to exceed 12 months.

The maximum appropriation that would be required for this portion of the amendment is $500 million. That would be the case if 5,000 coal miners lose their jobs as a result of enactment of the Clean Air Act, if all 5,000 eligible miners receive the maximum benefits for all 3 years of eligibility, and if all 5,000 chose to enter into a 12-month retraining program.

If we take the lower end of that range, if only 3,000 miners lose their jobs, the maximum appropriation would be reduced to $300 million instead of $500 million.

We could take the middle of the range, the median number between 3,000 and 5,000. If we take 4,000 coal miners and say they lose their jobs, then the maximum appropriation would be $400 million. So, for 3,000 it would be $300 million; for 4,000 it would be $400 million; and for 5,000 it would $500 million.

But, as with the original amendment which I introduced on behalf of myself and 18 other Senators, these benefits would be reduced, dollar for dollar, by any earnings from other employment during the period of eligibility. Also, the actual cost of this portion of the amendment would in all likelihood be much less than the worst case estimate.

Why? Well, No. 1, benefits would cease upon the death of a recipient; No. 2, some of the terminated workers will find other employment during their 3 years of eligibility; and, No. 3, not all terminated workers will take advantage of the retraining and education bonus.

Furthermore, the net cost of the program to the Federal Government would be substantially less than the worst case estimate above since, first, recipients of benefits would not be eligible for other Federal benefits; second, the ripple effects of mine shutdowns would be reduced, thereby lowering the need within mining communities for other Federal assistance; and third, benefits paid to terminated workers would be subject to Federal income taxation.

A new section has been added to the pending amendment that would provide benefits to noncoal mine workers who may lose their jobs as a result of enactment of this legislation. This new section will extend to these eligible terminated workers' benefits that are now available under the Trade Act of 1974, as amended, to persons who lose their jobs because of trade imports. These benefits will provide up to 52 weeks of trade readjustment allowances, including up to 26 weeks of training for eligible recipients.

Mr. President, I have mentioned on previous occasions that there are precedents for this legislation. As I have talked personally with many Senators on both sides of the aisle, some have raised the question, or made the suggestion that we would be setting a precedent in adopting this amendment. But it would not be a precedent. Let me talk briefly about some precedents.

For example, the Urban Mass Transportation Act, enacted in 1964. The start of eligibility was as of the date of termination of the affected person's job. The benefits would be full salary, plus benefits, plus COLA's plus relocation assistance. The length of benefit was the length of service or 4 years, whichever is the lesser.

In Amtrak legislation, which was adopted in 1970, there again, the start of eligibility was as of the date of termination of the affected person's job; the benefits would be full salary, plus benefits, plus COLA's. This legislation that I have introduced does not provide for COLA's, does not provide for full salary. The length of benefits under Amtrak was the lesser of the length of service, or 6 years.

As to Conrail legislation, title V, 1976; 1981. Again, the start of eligibility was as of the date of termination of the job. The benefits were full salary, plus benefits, but not to exceed $2,500 per month, plus inflation increases, plus COLA's, plus relocation assistance.

If relocation was required, then the affected job loser would be assisted in relocating himself and his family.

As for the length of benefits, the length of service if less than 5 years, 5 or more years of service would equal the date of termination to age 65. In other words, if it was less than 5 years the person had been employed, then that would be the length of benefits, whatever length of service that was—4 years, 3 years, whatever. But if he had had more than 5 years of service, then his benefits would extend from the date that he lost the job until he became 65 years old.

Then there was a title VII modification in 1981-86, which provided for benefits to those persons affected by the Conrail legislation—$350 per month, times the months of service, or $25,000.

Now, in 1978, the Redwood National Park employee protection program was enacted. The start of eligibility was to be as of the date of termination. The benefits were to be the full salary, plus benefits, plus relocation assistance, plus retraining. The length of benefits was for length of service up to 7 years, or to age 65, whichever is less.

Regarding trade adjustment assistance, the start of eligibility is after the unemployment compensation is exhausted. That would be the case in the modification that I have offered. The average payment is $197 a week, and what it means is that there is an additional 52 weeks of unemployment benefits plus retraining.

Let me say further with respect to Conrail, title V of the 3R Act guarantees to employees of the railroads incorporated with Conrail that their pay and benefits would continue in amounts not less than the level of the jobs reached. Employees who had 5 or more years of service on January 1, 1974, were protected until age 65. An employee with less than 5 years of service on January 1, 1974, was guaranteed benefits for a period equivalent to the length of service as of that date. Section 505(b)(1)(e), however, set the monthly displacement allowance at not to exceed the sum of $2,500 in any month except that such amounts shall be adjusted to reflect subsequent general wage increases. This meant that the maximum annual allowance in 1974 could not exceed $30,000 per year. But this monthly displacement allowance was inflated each year thereafter.

Also, the amount of $30,000 in 1974 was set because that amount was adequate to cover the full salary plus benefits of virtually all rail workers except possibly for engineers. In addition, there was no provision in title V to require that these benefits be reduced by any earnings that these qualified rail workers may have during their period of coverage.

Conrail has not been able to provide me with the inflationary increases that have occurred since 1974, but they would be substantial in light of the high rates of inflation during the 1970's.

Public Law 97-35, the Omnibus Budget Reconciliation Act enacted on August 13, 1981 repealed title V of the 3R Act and replaced it with title VII, as I indicated earlier. This title provided employee protection for Conrail employees effective September 1, 1981.

To receive title VII benefits, an employee had to meet the following requirements. To qualify for benefits under section 701, an employee had to meet these eligibility requirements: One, as of August 31, 1981, the individual had an employment relationship with Conrail and was protected under title V of the Regional Rail Reorganization Act.

Two, the employee was deprived of employment. He had to have been deprived of employment because of action taken by Conrail under provisions of the Regional Rail Reorganization Act or the Northeast Rail Service Act.

Number 3, the employee was unable to obtain work with Conrail, Amtrak, a commuter authority, or acquiring railroad, through the exercise of his seniority.

An employee deprived of employment could elect one of two benefit options. Each option provided for a maximum of $20,000 in total benefits, and the total options were, one, resign, and accept a separation allowance or, two to remain in furlough status and receive one or more of the following benefits: daily subsistence allowance, health and welfare coverage, new career training assistance and reimbursement for moving expenses.

There was a lump sum separation allowance also.

An employee who elected to receive a separation allowance terminated his employment relationship with the carrier. The amount of the lump separation allowance was $20,000. The allowance was reduced, however, by the amount of any health and welfare premium paid on behalf of the employee in the period beginning on the date an employee was deprived of employment and ending on the date of his election to receive the allowance.

Subsistence allowance, health and welfare coverage, new career training assistance and moving expenses, an employee who elected to remain in furlough status and retain seniority rights was eligible to receive $20,000 which could be paid by accommodation of subsistence allowance, retraining expenses, moving expenses and payments for health and welfare coverage.

As to the subsistence allowance, a subsistence allowance of $42 per day for up to 5 days per calendar week was payable for each day an employee was deprived of employment beginning September 1, 1981. The allowance was payable in addition to any unemployment benefits payable to the employee under the Railroad Insurance Act. A subsistence allowance was reduced by the amount of earnings an employee had during the claim period but only to the extent the earnings exceeded unemployment benefits that would have been payable to the employee had he not earned remuneration during the claim period.

As to health and welfare coverage, employees who elected to receive a subsistence allowance were eligible for continued health and welfare coverage under group policies unless such coverage was waived at the time of benefit election. Employees were eligible for up to 19 months of health and welfare coverage. No coverage was provided, however, for any month that the employee was otherwise covered by the group policy because of employment in the railroad industry.

The premium amounts paid on behalf of the employees were applied toward the maximum of $20,000 in benefits that an employee could receive.

As to new career training assistance, an employee who elected to receive a subsistence allowance and who was enrolled in a retraining program at a qualified institution could receive a maximum of $3,000 in new career training assistance.

As to moving expenses, an employee was eligible to receive reimbursement for moving expenses if he was required to make a change of residence to obtain or maintain employment with Conrail, Amtrak, a commuter authority, or a railroad which acquired a portion of Conrail under the provision of the Regional Rail Reorganization Act or the Northeast Rail Service Act of 1981.

Mr. President, there are those who feel that, granted, there will be a loss of jobs in high-sulfur coal regions as a result of the enactment of this legislation; that there will be a concomtant increase in employment in low sulfur regions which, in turn, will absorb, should absorb all or most of the workers who have been displaced and whose jobs have been terminated as a result of the legislation in the high-sulfur area.

But I should point out, Mr. President, that this will not be the case. The average number of days coal miners have worked over the last several years has ranged from 184 days in 1982 to 202 days in 1987. That is nationally. In West Virginia, they ranged from 202 days in 1980 to 203 days in 1988. What does that mean? That means that there are somewhere between 50 and 60 weekdays that were not worked, that were not utilized by coal miners. They were not working, for one reason or another.

But when we take the spread of years in West Virginia, there were an average number of 202 days: 1981, an average of 177 days worked; in 1982, an average of 182 days worked; in 1983, an average of 181 days worked; in 1984, an average of 189 days worked; in 1985, an average of 192 days worked by the coal miners; in 1986, there was an average of 192 days worked by miners; 1987, an average of 200 days; in 1988, an average of 203 days.

It might be said that in a particular year, perhaps, there was a strike which reduced the number of days in which the coal miners worked. That cannot be said with reference to the spread of the full 9 years which I have enumerated for the RECORD.

So taking the highest number, 202 days in 1980, 200 days in 1987, 203 days in 1988, taking the highest number of days worked, one can see that the coal miners have not been able to work 5 days a week all of the weeks of the year, even under the best of circumstances.

And so I think it is reasonable to say that if there is an increase in low-sulfur-coal production, which is expected to occur, that increase will ipso facto absorb the loss of jobs in the high-sulfur sections.

But I say that that increase will simply mean that those miners in the low-sulfur regions will work more. They will work more days out of the year. Take 5 days a week, 52 weeks a year. That is 260 days. One would say, well, they would not be expected to work 5 days a week during Christmas week. Well, I have seen the time when coal mines did operate during Christmas week.

But in any event, if one wished to eliminate that week entirely, that would mean 51 weeks out of the year, 5 days a week. That would be 255 days. So there is quite a spread between 200 days or 203 days or 177 days or 189 days, whatever number I have mentioned in any one of the 9 years I have laid in the RECORD, quite a spread between that number and 255 or 260 days.

So those mines in the low-sulfur regions can increase their days of work and fulfill the needs for the increased tonnage of low-sulfur coal mined, which may result from the cancellation of high-sulfur coal contracts or the nonrenewal of high-sulfur coal contracts by utilities.

It does not merely mean an increase in the number of days worked in those mines in low-sulfur regions—there is already high unemployment in the low-sulfur regions of West Virginia—in which event, if those low-sulfur coal mines had to add on persons, they would simply pick up the persons who are now living on welfare and put them back to work.

Those skilled workers are there, some of them. Some have died. Some have finally faded away from the State, perhaps the younger ones, very young, and others are still around living on welfare, food stamps, living with their children, making it the best way they can.

What I am saying is that those miners in the high-sulfur regions of Appalachia and the Midwest would

not ipso facto go to the low-sulfur regions and get jobs. And in addition to that, even if they did, what about the barber, the baker, and the candlestick maker who are in those communities in the high-sulfur regions? Are we to imagine that they, too, would flock down to the low-sulfur regions of southern and western West Virginia and that they would set up stakes there? Why, one has to believe in Alice in Wonderland to contemplate that.

Thus, for every one of those high-sulfur jobs that are lost in northern West Virginia—I take just my State, for example, because that is closest to me—those communities in the high-sulfur regions of northern West Virginia are going to suffer when those miners lose their jobs.

In some counties, 30 percent of the income, in some counties 40 percent of the income in the county comes from coal mining, high-sulfur coal mining. And so counties have already been devastated, these regions I am talking about in Appalachia and the Midwest have already been devastated, devastated for many reasons—the increase in productivity, the inexorable march of mechanization, and other factors which have led to the devastation of those regions.

Just take West Virginia for an example. In many of the counties, there has been such a terrible devastation, such a terrible loss of jobs, remembering that coal mining has been and is the backbone of the economy. If you do not have a job in the mines, what do you do?

The average age of the coal miner is 39 years. Only 18 percent of the coal mining jobs in this country are held by persons under 30 years of age; 41 percent by persons from 30 to 40; 41 percent 40 and over. Of those 40 and over, 16 percent of the total number of jobs are held by persons 50 years and older.

We are not talking about a negligible group of young miners who are beginning to spread their wings. We are talking about people who have grown, grown to the soil, who are working as their fathers worked, working as their uncles worked, working as their grandfathers worked, toiling in the coal mines.

Eighty percent of the coal that is mined in West Virginia comes out of the deep mines, not surface mines, not strip mines. Twenty percent of the coal in West Virginia is produced by surface mines. Unlike the mining in the West, where it is mostly surface mining, here in the East it is deep mining. That means a miner goes down into a shaft or he goes into the ground to mine a perpendicular vein of coal.

You may go underground 2 miles, 3 miles, or more. That is the only living they know. If they could be retrained to work in the microchip or computer industry, to work as scientists in various other industries, there would not be any such industries nearby. All they have is the coal mines.

Therefore, it is unreasonable to believe that those people will be picked up by any increase in low-sulfur coal mining as a result of this legislation.

Let me take just a few counties in southern West Virginia. I am talking about that part of West Virginia—incidentally, I have indicated to the managers of the bill, I indicated to Senator BAUCUS about close to 25 minutes ago that I would yield the floor at any time if he has an amendment which he wished to take up.

So I want the record to show and those who are watching and listening to know I am not here just to hold the floor. I made the statement that I indicated I wanted to make with respect to the modification and was ready to yield the floor at around 11:30.

So the distinguished manager of the bill is attempting to find out if there are some amendments around that could be taken up, and I indicated I would be happy to fill in until he could do so, at least for a while. That is why I am continuing at this point. I am ready to relinquish the floor at any time when another Senator wishes to speak or other amendments are taken up, to have this amendment set aside for amendments that can be taken up and addressed in a reasonably short length of time, or that are agreed upon and worked out in advance. I am not saying I would want to lay this amendment aside for any major amendment, but I certainly want to cooperate with the lesser amendments so progress on the bill can go forward.

In southern West Virginia—West Virginia is a State which has both high-sulfur and low-sulfur coal. High sulfur coal is mined in the main in the northern part of West Virginia. Low-sulfur coal is mined in the main in the southern part of West Virginia.

Let us take the suggestion that the increased tonnage in the low-sulfur coal mines will ipso facto absorb the job losses that would occur in northern West Virginia in the high-sulfur coal regions as a result of this legislation. Let me just paint this picture of southern West Virginia where the low-sulfur mines are located.

Let us take Boone County, for example. In Boone County, which probably has more coal in West Virginia, more recoverable coal, than any other county, certainly one of the top, in 1979 there were 5,410 coal miners employed in that county. In 1988, 10 years later, 1988 included, the number of coal miners employed in Boone County had dropped from 5,410 to 3,350. In other words, that is a drop of 38 percent.

Proceed there to a county slightly south of Boone County but adjoining Boone County. Let us take a look at Logan County, a great coal-producing county. These counties I am talking about are great coal-producing counties. Logan County employed 4,720 coal miners in 1979. That dropped in 1988 to 2,540, a drop of 45 percent, almost half.

Now let us go to my own home county of Raleigh, one of the largest counties in West Virginia populationwise. There were 5,030 coal miners employed in 1979 in Raleigh County's low-sulfur coal fields. That dropped by 1988 to 48 percent, almost one-half, getting closer and closer to one-half.

Let us take the adjoining county to Raleigh County, Wyoming County, which I used to represent along with Raleigh County in the West Virginia State Senate. Wyoming County is another great coal-producing county. The number of miners employed in 1979 in Wyoming County was 5,630. By 1988, that had dropped 65 percent—65 percent—to 1,950 coal-mining jobs. In other words, two-thirds of the coal-mining jobs in Wyoming County as of 1979 had been lost by 1988, including 1988.

Now, let us go to McDowell County, which at one time was the greatest coal-producing county in West Virginia, southern West Virginia, low-sulfur coal, the county in which my foster father worked in the coal mines at Land Graff, West Virginia many years ago. As late as 1979, McDowell County had 8,260 coal miners employed, 8,260 in 1979. By 1988 there were 1,320. In other words, 83 percent of the coal-mining jobs in what was once the largest coal-producing county in West Virginia among 55 counties, McDowell County had lost 83 percent of its jobs in 10 years; 83 percent.

If that is not virtually total desolation, I would like to know what is total desolation. I suppose 100 percent would be total. But for all practical purposes that county has been ravaged and devastated, decimated, 83 percent.

How can one expect that if low-sulfur coal tonnage were to be increased that the high-sulfur jobs in northern West Virginia, that would flock down to Raleigh and McDowell, Wyoming and Logan and Boone, the five counties I mentioned, that those miners would get their jobs down there. Why there are still miners down there living on welfare. They do not want to live on welfare. They want to work. They were working at one point in time. They should have their jobs back. Some of them are still living in the area.

So those high-sulfur coal miners in northern West Virginia that would lose their jobs need not look to southern West Virginia for succor and comfort and relief in jobs, because there are people already down there who are unemployed.

This is a bit of the picture, Mr. President, with which we are confronted in West Virginia. I am sure that it can be repeated in other areas of Appalachia and the Midwest. So this is a region that is suffering, that has suffered and will continue to suffer.

These States, most of them in Appalachia and in the Midwest, have no seacoast. Take my own State, for example, we have no seacoast. We cannot expect a naval base. We have mountains, high winds, storms, and temperatures fluctuate. We cannot expect, for various reasons, to have army bases or air bases. We cannot expect the Government to build a Pentagon over in West Virginia.

We have some steel jobs remaining in West Virginia. One of the largest complexes, if not the largest in the Western Hemisphere, of chemical plants, is in West Virginia, in the Kanawha Valley, up near the Ohio River, a great chemical complex.

We used to have the largest ax factory in the world, pottery plants, several footwear plants, shoe manufacturing plants. These are gone. We do not have them any more.

When I came to the House of Representatives 38 years ago, we had six Members of the House from West Virginia. After this census, we are going to be down to three. We have four now. We will be down to three after the census is taken.

That speaks for what is happening to West Virginia. Where are these people going when they lose their jobs? I have heard that the bill has been changed to protect the steel industry, the chemicals industry, some of the other industries, the coke oven industry, to the extent that there will not be the serious job losses that were earlier contemplated when the original committee bill was reported. So they are down to virtually zero. If that is accurate, then it is true that the coal industry is being targeted by this bill—not intentionally by anyone, but that is the fallout, the result for the coal industry, especially the high sulfur coal industry.

Contracts are going to be broken by utilities, because they are going to want to switch to low sulfur coal inorder to meet the emissions requirements. When they renew their contracts, they are not going to renew them with high sulfur coal operators. They will renew them with low sulfur coal. So this is an industry that has been ravaged.

The figures I gave about the last 10 years constitute less than half of the real picture, because using the first year of 1979, talking about the losses of jobs in our southern West Virginia counties, that is just since 1979. If we go back to 1952 when I ran for the House of Representatives, there were 130,000 coal miners in West Virginia. In 1979, there were 62,500, less than half of what there were earlier. By 1988 they were down to 29,400. So we are down now under 30,000. And that has served as the basis of the economy for so long, as is the case in many other regions of Kentucky and Ohio and Pennsylvania and other States in the Midwest and Appalachia. It is a hard luck, bleak picture that confronts us.

Now government action is about to take those jobs, further reducing the number of jobs in the high sulfur-producing areas of the country.

For those who say, "why single out the coal miners," I am not singling out the coal miners. The bill singles out the coal miners. Why single out the coal miners? The bill singles out the coal miners.

And there are those who say, "Well, people in my State wonder why we want to do this for the coal miners. We do not have any coal miners in our State." So they wonder why do we want to do this to help the coal miners. Mr. President, anything that affects one State in this country adversely affects the whole country.

As I said last night, John Donne wrote:

> No man is an island intire of it selfe, Every man is a piece of the Continent; A part of the maine;
>
> * * * * *
>
> Therefore, never send to know for whom the bell tolls; it tolls for thee.

That means every one of us. It tolls for me. It tolls for Senators, and it tolls for the States that are not in these regions that are going to be directly affected as a result of this bill. It tolls for all of us.

Daniel Webster said: "Let our object be our country, our whole country, and nothing but our country." That is what we are saying. We, in the coal mine region, say there is no geographical limit or boundaries to patriotism. We are talking about what goes through the anatomy of the whole country, not just to those States that are the coal-producing States, high sulfur coal-producing States of the Union.

(Mr. FOWLER assumed the chair.)

Mr. BYRD. Mr. President, the distinguished senior Senator from South Carolina [Mr. THURMOND] said last night that his textile workers had suffered loss of a job. Why are they not included? Well, my answer is that if they lose their jobs directly as a result of the enactment of this clean air legislation they will receive help from the amendment that is now before the Senate. They will receive in addition to the 26 months of unemployment compensation to which they will be normally entitled a year of trade adjustment assistance.

So again I repeat this amendment goes to 50 States, all the States in the Union. It is not confined just to States in the Midwest and Appalachia where the high sulfur coal mining industry is going to suffer a severe, a direct hit as a result of this legislation.

Now I have modified the amendment so that it will provide some assistance to all workers, laundry workers, drycleaning workers, chemical workers, steel workers, workers anywhere in the United States of America, our country, our whole country—it will help all of them. All 50 States are involved in this amendment.

I am not just talking about coal mine workers now. We are talking about workers in any industry. Automobile workers—if they lose their jobs as a direct result of this legislation they are going to get an additional 52 weeks of unemployment compensation benefits.

As Webster said: "It is our country, our whole country and nothing but our country."

The administration is asking for $500 million for Panama, and it is in a hurry, we have to have it now. Once the appropriation runs through both Houses, through conference, if there has to be a conference, it is to be on the President's desk by the Easter break. Why the hurry? Why $500 million? There are some questions that need to be answered as to why $500 million for Panama. We have already helped Panama. Why $500 million more?

Well, $500 million is the outside limit to the cost for the coal miners in Appalachia and the Midwest who will lose their jobs, no ifs, ands or buts. According to EPA, 3,000 to 5,000 coal miners are going to lose their jobs as a direct result of this legislation.

So the cost is $500 million. Now take it from there. Do we appropriate $500 million for Panama with few questions asked, and we want it done by the Easter break? What about $500 million for the coal miners of West Virginia, Kentucky, Ohio, Pennsylvania, Alabama, Tennessee, Indiana, Illinois? What about $500 million for them?

What did I run into last night? A piling on. It almost appeared to be a piling on. The Senator from West Virginia ran into a storm. There were a lot of questions when I introduced my modification. Five hundred million dolars? This is money that will be spent in the United States of America and will have a ripple effect. Every dollar that is put in the hands of those coal miners who lose their jobs is going to be spent, most of it right in the community where they live, and it will have that ripple effect. There will be taxes paid on it.

And it will take the place of unemployment compensation benefits just because they will be subtracted and it will be money spent, and it will be money put across that meat counter, across that dry goods counter. That will be spent here in this country. Five

hundred million dollars for Panama—where will that be spent, and for what? I think there is a matter of justice involved here, and we ought to weigh it. That is the case I am offering for my colleagues to consider.

As I have indicated already I will be happy to yield the floor to any Senator who wishes to speak, or if there are other amendments that will be taken up I will yield the floor for them as I have indicated to the distinguished manager of the bill 45 minutes ago, beginning 11:30 a.m. today. I am finished for now and I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON].

Mr. FORD. Mr. President, I want to say a few words about the so-called Byrd amendment. If anyone, I say to the floor leader, comes with another amendment, I would be more than pleased to step aside and allow that amendment to be brought up.

Mr. President, the other evening, I made mention of Harlan, KY. On the lawn of the courthouse, there is a large monument of marble that contains almost 1,400 names of residents of Harlan County who had lost their lives in coal mines. They paid a dear price. It is a way of life, however. It takes a special person to go 3, 5 miles underground, extract the coal and bring it to the top of the surface and ship it to other communities so they might fire their factories and move their assembly lines and employ people, which they have for years.

The question of me after that statement was: What connection is that of Harlan County to the Harlan Boys Choir that sang for the inauguration? I was pleased with their performance there and pleased that President and Mrs. Bush would invite them to sing during the inauguration. This Harlan Boys Choir has been going on now for, I believe 26 years. They have been all over the world at different times performing. They went to Vienna while I was Governor and brought back first place in 1972 or 1973, I am not sure of the exact year.

The director of that choir now teaches six classes a day in school, coaches the girls' basketball team, and directs the choir. The boys who went to Vienna in the early seventies are now the fathers of the sons that sang for the inauguration last year. Those that are the fathers of these sons are coal miners—a very special group.

They do not want a handout. They would like to have a job. The economic situation of mechanization of the coal operation has caused a decline in jobs. The same argument could be made for other industries.

Mr. SIMON. Mr. President, I join in support of the amendment by Senator BYRD. Perhaps other than Senator FORD and Senator BYRD, I have been in more coal mines than any other Member of the Senate. I spent a good portion of my life with coal miners. I go back to the time, and my guess is that Senator BYRD and Senator FORD may do the same, that I have been in coal mines where they used mules back in the early days. I have seen these men risk their lives day after day after day. Now there are a few women who join those ranks.

A couple points have been made here that I think we should respond to. One is the inequity between coal miners and others. The argument is used that because there is an injustice and inequity therefore we should not have any help to anyone. We do not use that same argument, for example, with Medicaid or AFDC. In fact, the inequity is greater because in those programs it is the richer States that get more Federal funding on a per capita basis than the poorer States in terms of individuals.

To say because there is something of an inequity in response, therefore we are not going to help anyone, results in the greater inequity.

My strong hope is that we can respond affirmatively to the amendment offered by the distinguished Senator from West Virginia.

Then the second thing where there really is a difference in addition to the hazardous difference that there is between coal miners and any of the other major occupations, there is this difference and that is what happens to the communities. Last night the senior Senator from West Virginia, who also serves as the President pro tempore, talked about the Big Bertha, a big gun from World War I that could at that point go an unbelievable 75 miles.

That Big Bertha is aimed not just at coal miners but at communities. When that coal mine goes down, that community is just devastated. It is true that there are other aspects of this bill that will spread more generally throughout the State of Illinois or the State of West Virginia or the State of Kentucky. But this Big Bertha is aimed right at these communities. The Byrd amendment is an attempt to give those communities a chance.

Mr. President, I think it is extremely important that we provide some protection to a region, to people who have risked a great deal to provide energy to this country and to communities. I am certainly going to support the Byrd amendment. I hope a majority in this body will support the Byrd amendment.

Mr. BAUCUS. I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection it is so ordered.

AMENDMENT NO. 1358 TO AMENDMENT NO. 1293

(Purpose: To direct the Administrator to submit a report on the feasibility and effectiveness of requiring all cities of 100,000 population or higher to use oxygenated fuels of 3.1 percent or greater during the period from October 1 through March 31)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] purposes an amendment numbered 1358 to amendment No. 1293.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 216 of the amendment No. 1293, line 12, immediately after the period, add the following: "Not later than twelve months after the enactment of this subsection, the Administrator shall submit to the Congress a report on the feasibility and effectiveness of requiring the provisions in this paragraph to be applied to all cities of 100,000 population or greater regardless of their attainment status.

Mr. SIMON. Mr. President, this is an amendment that I believe has been agreed to by both sides. It calls for a study by the EPA Administrator to take a look at requiring that the 3.1 percent of oxygen content in gasoline be required for all cities of 100,000 or more in population. It is a request for a study only, but I believe that study is going to find, first, we are going to have cleaner air as a result; second, we help American farm products; and, third, we help the revenue of the U.S. Government. So I think it should result in a major plus. But it is only a request for a study.

I have discussed it with representatives of both sides. I believe it is acceptable. I know of no opposition to the amendment.

Mr. BAUCUS. Mr. President, I have seen and examined the amendment by the Senator from Illinois [Mr. SIMON]. Frankly, I think it is a very good amendment. I would like to ask the Senator from Illinois if I could be a cosponsor.

Mr. SIMON. I would be honored to have Senator BAUCUS as a cosponsor.

Mr. President, I ask unanimous consent that Senator BAUCUS be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I urge adoption of the amendment.

Mr. CHAFEE. Mr. President, this is a good amendment and we accept it on this side.

The PRESIDING OFFICER. The question is on agreeing to the amend-

ment of the Senator from Illinois [Mr. SIMON].

The amendment (No. 1358) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The pending business is the Byrd amendment, as further modified.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1359 TO AMENDMENT NO. 1293

(Purpose: To amend provisions of the Mitchell-Dole substitute relating to requirements for extreme areas)

Mr. BAUCUS. Mr. President, on behalf of Senator CRANSTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. CRANSTON, proposes an amendment numbered 1359 to amendment No. 1293.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 81 of the amendment No. 1293, between lines 17 and 18, insert the following:

"(3) The Administrator may approve provisions of an implementation plan for an extreme area which anticipate development or improvement of control technologies, and an attainment demonstration based on such provisions, if the State demonstrates to the satisfaction of the Administrator that:

"(A) such provisions are not necessary to achieve the periodic emission reductions required by paragraphs (2) and (3) of subsection (b) during the first ten years after enactment of this subsection; and

"(B) the State has submitted enforceable commitments to develop and adopt contingency measures to be implemented as set forth herein if the anticipated technologies do not achieve planned reductions. The contingency measures shall be submitted to the Administrator no later than three years prior to proposed implementation of the plan provisions. The contingency measures shall be adequate to produce emission reductions sufficient to, in conjunction with other approved plan provisions, achieve the periodic emission reductions required by paragraph (3) of subsection (b) and attainment by the applicable dates. If the Administrator determines that an extreme non-attainment area has failed to achieve an emissions reduction requirement set forth in paragraph (3) of subsection (b) or to attain by the applicable date, and that such failure is due in whole or part to an inability to fully implement provisions approved pursuant to this subsection, the Administrator shall require the State to implement the contingency measures to the extent necessary to assure compliance with paragraph (3) of subsection (b) or to achieve attainment.

"(C) the plan contains enforceable, adopted measures establishing an economic incentive program that the Administrator determines is adequate, when considered in conjunction with other enforceable plan measures, to induce the development or improvement of the anticipated technologies.

Mr. BAUCUS. Mr. President, this amendment that I am offering on behalf of Senator CRANSTON pertains to the Los Angeles area only. Specifically, it concerns the south coast air quality plan which is designed to bring the Los Angeles area into attainment in 20 years.

Los Angeles has the dirtiest air in the Nation. The south coast plan is an ambitious plan to clean the air. The plan is divided into three phases. The second and third phases of the plan relies and anticipates the development of new technologies.

Under current law, a plan must demonstrate that it will provide for attainment by the appropriate deadline. Since the south coast plan relies, to a certain extent, on technologies that have yet to be developed, EPA may not be able to approve the plan.

This amendment allows EPA to approve the plan provided that certain contingency measures are included in the plan which would go into effect to achieve the necessary reductions if the technology fails to materialize.

Mr. CRANSTON. Mr. President, I have an amendment here that I understand has been cleared on both sides of the aisle and the committee is willing to accept the amendment.

Mr. President, this amendment pertains to the Los Angeles area and specifically it relates to the local air quality plan that has been put together for the south coast air basin, known as the south coast plan.

Los Angeles has by far the worst air quality problem in the Nation. Ozone levels are three times the Federal standard. Carbon monoxide and fine particulate levels range up to twice the national health-based standards. Air pollution costs residents of the area about $13 billion a year in health expenses and damage to property and crops. Add to this the fact that population in the basin is expected to rise from 11.3 million people to 15.5 million, or 37 percent, over the next 20 years.

It will not be easy but the Los Angeles area is committed to achieving healthy air. In an effort to do this the south coast air quality management district has put together an ambitious plan which is designed to bring the area into attainment in 20 years as required under this legislation.

The south coast plan is divided into three phases. The first phase of the plan will entail the adoption and implementation of all known control technologies. This will include controls on paints and solvents, on the petroleum industry and other industries, on residential and agricultural pollution sources, and on motor vehicles. All in all this will require adopting 123 new regulations. It is anticipated that these measures will reduce peak ozone levels by 31 percent.

The second phase of the plan envisions, among other things, converting 40 percent of the cars and 70 percent of trucks and diesel buses to clean fuels. The third and final phase of the plan, which will go into effect from 1998 to 2007, anticipates the development of new control technologies such as electric vehicles.

The plan also contains contingency measures which would be implemented if the hoped-for technological breakthroughs do not materialize. These measures would provide the necessary emissions reductions if for any reason the technology did not materialize.

Mr. President, the south coast plan has already been approved by the California Air Resources Board and is now awaiting EPA approval. However, under current law and S. 1630, a plan must demonstrate that it will provide for attainment by the applicable date. Because the phase 3 and possibly the phase 2 technologies will not be fully developed at the time of plan submittal, the south coast may not be able to demonstrate that attainment will timely occur. EPA may therefore be unable to approve the portions of the plan which rely upon the development of new technologies.

This amendment would allow EPA to approve a plan for an extreme area that relies upon technology-forcing measures so long as the plan includes contingency measures producing equal reductions which would be implemented should the improved technologies not develop.

Mr. President, unfortunately, short of taking draconian measures such as gasoline rationing or prohibiting the registration of new vehicles, Los Angeles will not be able to achieve ambient air quality standards without advances in technology. Fortunately, there is great potential in a number of new areas such as fuel cells, solar cells, storage batteries, and superconductors. But these new technologies need additional time. EPA should be allowed to approve this plan and give these new potential technologies a chance. If these new technologies prove disappointing the contingency measures which are also in the plan can be implemented to achieve the necessary reductions.

Mr. President, on behalf of Senator CRANSTON, I urge the amendment be adopted.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, this side concurs with the amendment and also urges its adoption.

The PRESIDING OFFICER. If there be no further debate on the amendment, the question is on agreeing to the amendment of the Senator from California.

The amendment (No. 1359) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I ask unanimous consent the pending amendments be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1360 TO AMENDMENT NO. 1293

(Purpose: To strike certain fee and tax provisions from the clean air bill)

Mr. BAUCUS. Mr. President, I send an amendment to the desk on behalf of the chairman of the Finance Committee, Senator BENTSEN, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. BENTSEN, proposes an amendment numbered 1360 to amendment No. 1293.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, beginning with line 4, strike out all through line 23 on page 43.

On page 43, line 24, strike "(e)" and insert "(d)".

On page 84, beginning with line 18, strike out all through line 15 on page 85.

On page 85, line 16, strike "(4)" and insert "(3)".

On page 89, line 20, strike out "limitations, or fees" and insert in lieu thereof "or limitations".

On page 90, beginning with line 1, strike out all through line 6.

On page 367, line 13, beginning with the comma, strike out all through "article" on line 14.

On page 440, line 12, strike out "FEE" and insert in lieu thereof "PENALTY".

On page 440, line 13, strike out "FEE" and insert in lieu thereof "PENALTY".

On page 440, line 22, strike out "fee" both places that it appears and insert in lieu thereof "penalty".

On page 440, line 26, strike out "fee" and insert in lieu thereof "penalty".

On page 441, line 19, strike out "FEE" and insert in lieu thereof "PENALTY".

On page 441, lines 4, 5, 8, 20, 24, and 25, strike out "fee" each place it appears and insert in lieu thereof "penalty".

On page 461, beginning with line 3, strike out all through line 4 on page 462.

Mr. BAUCUS. Mr. President, the purpose of this amendment is to modify certain fee provisions contained in the substitute amendment. The intent behind the fee provisions is to help provide resources to EPA to implement the new requirements of the legislation. Our colleagues in the House have indicated that they have some problems with the way those fees are structured, and that certain provisions infringe upon their constitutional prerogative to initiate revenue legislation.

This amendment will delete the provisions of the bill that authorize the EPA Administrator to directly assess certain emission fees.

I have discussed this amendment with Senator BENTSEN. He is fully supportive and committed to considering these provisions in the context of the 1990 tax bill. Based on that commitment, I am willing to accept the amendment.

CLEAN AIR AMENDMENT FUNDING PROVISIONS

Mr. BAUCUS. The Environment and Public Works Committee included several fee provisions in this legislation to help provide the Environmental Protection Agency and the States with resources to implement the bill's requirements. It is my understanding that the chairman of the Finance Committee has concerns about the fee mechanisms and proposes changes to them. I ask my distinguished colleague if he would elaborate on those concerns.

Mr. BENTSEN. I strongly support this legislation, and I agree with the managers of the bill that the Environmental Protection Agency should have the resources it needs to fully implement the clean air program. We will not accomplish the objectives of this bill if the EPA's budget is in a straitjacket; if it is unable to hire the necessary staff and perform the necessary testing and monitoring programs, it cannot carry out the mandate of this bill.

I am prepared to work with the managers of the bill to come up with measures that would raise the revenues needed to fund the clean air program. However, the problem we face today is that we cannot include revenue raising measures in this bill without violating the House's constitutional prerogatives that all revenue measures shall originate in the House. And that is a prerogative the House jealously protects.

I am prepared to make a commitment to the managers of the bill that, when the Finance Committee marks up a tax bill this year, we will work to come up with appropriate measures to provide revenues needed to fund the Clean Air Act.

Mr. BAUCUS. I appreciate the statement of the chairman of the Finance Committee respecting funding for the Clean Air Act amendments. The issues the chairman of the Finance Committee brings forward are relevant. It is my sense that if the fees remain in the bill adopted by the Senate, our colleagues in the House would raise objections. However, EPA must have the resources to implement the amendments or they will be severely constrained in their ability to meet the requirements of the law.

The Environment and Public Works Committee has given this matter careful consideration and included mechanisms in the bill to provide resources to help States and EPA meet the additional responsibilities that will result from this legislation. In particular, as part of the substitute amendment, there is included a $15-per-ton emissions fee that would result in $90 million of revenue to support EPA air quality activities, and Agency contingency authority to assess other fees in the event States fail to do so. I ask the distinguished chairman if the Finance Committee would be agreeable to specifically considering the revenue proposals contained in the substitute clean air amendment when the committee takes up a tax bill this year?

Mr. BENTSEN. I say to the floor managers of the bill, that the fees proposed in the clean air substitute amendment will receive careful consideration when the Finance Committee takes up a tax bill this year.

Mr. CHAFEE. I appreciate the comments made by the distinguished chairman of the Finance Committee, and the comanager of the clean air bill, Senator BAUCUS. It is my belief that we must divise a dedicated revenue source to assure that the requirements of the clean air legislation are met.

I would observe that some of the fees in the substitute amendment were proposed as well in the clean air bill submitted by the administration to Congress. Further, these fees were part of the amendment package that was carefully negotiated and agreed upon with the administration. I would urge that the specific proposals that were included in the substitute amendment receive particular consideration when the Finance Committee takes up a tax bill this year.

Mr. BENTSEN. I appreciate the willingness of the managers of the bill to accept my amendment to strike the revenue provisions of the bill.

Mr. CHAFEE. Mr. President, this side concurs with the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 1360) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1361 TO AMENDMENT NO. 1293

Mr. BAUCUS. Mr. President, on behalf of Senator BURDICK, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. BURDICK, proposes an amendment numbered 1361 to amendment No. 1293.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 416, line 5, strike "After" and insert the following in lieu thereof: "Except as otherwise provided in paragraph (3), after".

On page 417, line 10, after "factor.", insert the following: "(3) After January 1, 2000, it shall be unlawful for any existing utility unit with an actual 1985 emissions rate equal to or greater than 1.20 lbs/mmBtu whose annual average fuel consumption during 1985, 1986 and 1987 on a Btu basis exceeded 90 per centum in the form of lignite coal which is located in a State in which, as of July 1, 1989, no county or portion of a county was designated non-attainment under section 107 of this Act for any pollutant subject to the requirements of section 109 of this Act to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions."

Mr. BAUCUS. Mr. President, I am offering this amendment on behalf of the chairman of the committee, Senator BURDICK. This amendment concerns lignite-fired powerplants in States where all areas are in attainment for all pollutants.

These powerplants burn low-sulfur coal and lignite coal at the mouth of the mines. These powerplants, covered by the amendment are all located in the State of North Dakota, where no areas are in nonattainment.

Lignite coal is a form of coal that cannot be economically transported at any great distance. It is a coal that is relatively low in heat content, Btu content, but is relatively large in volume.

It is a fuel that is heavily relied upon to provide power in my part of the country, Mr. President, and also certainly in the State of North Dakota.

About three-quarters of the power generated from lignite-fired powerplants in North Dakota is from scrubbed units, North Dakota has already paid a very high price to keep its air clean—not just for SO_2, but all pollutants. In fact, North Dakota is one of the three or four States in the Nation that is an attainment State. The entire State is presently in attainment.

Moreover, lignite-fired powerplants are not owned and operated by utilities that have units subject to the first phase of sulfur dioxide reductions. That means they do not have an opportunity within their systems to overcontrol some plants and create allowances to continue operations at current levels.

This amendment will allow the current level of emissions in North Dakota and prevent economic losses in a State that has already endured considerable economic hardship. It seems only fair to the people of that State who have already paid a heavy price for clean air, who have achieved clean air and who have made North Dakota a complete attainment State.

I urge the Senate's adoption of the amendment that I am offering on behalf of the Senator from North Dakota.

Mr. BURDICK. Mr. President, this amendment concerns unscrubbed lignite-fired powerplants in attainment States. These powerplants burn low-sulfur lignite coal at the mine. These powerplants are located in North Dakota.

Lignite coal cannot be economically transported any great distance. It is a fuel that is heavily relied upon to provide electricity in my region of the country.

Seventy-five percent of the electricity generated from lignite-fired powerplants in North Dakota is from scrubbed units. North Dakota has already paid a high price to keep its air clean. North Dakota is one of three or four States that is an attainment State.

Lignite-fired powerplants are not owned and operated by utilities that have units subject to first phase sulfur dioxide reductions. These utilities do not have an opportunity within their own systems to overcontrol some units to create enough allowances to continue operations at current levels.

Lignite units in Canada are in the same international power pool as the North Dakota lignite units. Yet no coal-fired powerplant in Canada is scrubbed and none of the Canadian units west of the Manitoba-Saskatchewan border are required to reduce emissions or participate in an "allowance system."

This amendment will allow the current level of emissions in North Dakota and prevent economic losses in a State that has already endured considerable economic hardship. This seems only fair to people who have already paid a heavy price for clean air and have made North Dakota an attainment State.

Mr. CHAFEE. Mr. President, I think it is important to stress that this does not break the cap. In other words, the amount that is committed under this amendment does not exceed the cap that has been imposed on overall sulfur dioxide emissions in the country from the year 2000 on.

It is an amendment that I think is a worthy one, understanding the particular situation in North Dakota where, as was mentioned, the entire State is in attainment. So I support the amendment, as does this side.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from North Dakota.

The amendment (No. 1361) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, is it in order to send an amendment to the desk that was cleared by the managers?

Mr. BAUCUS. Mr. President, I ask unanimous consent the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1362 TO AMENDMENT NO. 1293

(Purpose: To require the Administrator of the Environmental Protection Agency to correct factual errors in data from which Phase II units' baselines or actual 1985 emission rates have been calculated)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 1362 to amendment No. 1293.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 388, after line 22, insert the following:

(4) CORRECTION OF DATA.—The Administrator shall, upon application or on his own motion, by December 31, 1991, correct any factual errors in data from which affected Phase II units' baselines or actual 1985 emission rates have been calculated. Corrected data shall be used for purposes of issuing allowances under the title. Such corrections shall not be subject to judicial review, nor shall the failure of the Administrator to correct an alleged factual error in such reports be subject to judicial review.

Mr. LEVIN. Mr. President, this amendment requires EPA to correct data that the agency uses to determine utilities' allowable phase II emissions. If the agency should find, upon petition or its own initiative, any errors in that data, it shall revise that data by 1992.

Under the clean air bill that the Senate is now considering, utilities would have been locked into the National Utility Reference File, NAPAP, version 2, as published earlier this year without any recourse should there be a mistake in that file.

There are a number of databases and forms that the Federal Energy Regulatory Commission and the Agency require utilities to file on each of their units' heat input, sulfur dioxide content in their fuel, and sulfur dioxide emitted. Given the complexity of the calculations involved and the possibility that errors can occur in transposing numbers, I think that it is fair to allow the affected utilities to have a mechanism by which their position can be reevaluated by EPA, if they have reason to believe that an error has been made in calculation or transposition or measurement in the compilation of NURF-NAPAP data. We do not want to lock any utility into a position that would not allow them to produce power at an optimal capacity because of a bookkeeping mistake.

I would also like to command the managers and the concerned Senators who have arrived at a workable compromise on the provisions in the substitute affecting the nitrogen oxides emission rates of utility boilers. The amendment which effects that compromise will be protective of the environment, still reaches the tonnage reduction goals set out by S. 1630, without unduly harming the economic viability of our utilities.

Mr. LEVIN. Mr. President, I am interested in assuring that the utilities in my State get credit for the investments that they have made to control sulfur dioxide emissions. I am also interested in assuring that the "Class of '85" fix in the compromise compensates for low-capacity problems experienced by Michigan utilities in that year.

According to the EPA and committee staff, the State of Michigan will receive at least 404,000 allowances for sulfur dioxide emissions under the substitute amendment No. 1293. This is 24,000 more allowances than would have been provided under the revised administration proposal. Are these statements correct?

Mr. BAUCUS. The Senator from Michigan's statements are correct.

Mr. LEVIN. Furthermore, the distribution system for these allowances is complex and makes it difficult to determine with certainty to which units or systems these extra allowances will be distributed. This makes it hard to determine the exact impact within the State of this part of the bill. Therefore, I request that the Senator from Montana, as the chairman of the Subcommittee on Environmental protection, attempt to determine where the extra 24,000 allowances allocated to Michigan would go on a unit by unit basis, before the bill goes to conference.

Mr. BAUCUS. I will make every effort to do so.

Mr. LEVIN. I thank the Senator for his assistance and his leadership on this issue. I would also like to convey my thanks to the committee staff for their cooperation in this area and in the other areas of this bill in which I have a particular interest.

Mr. President, I note the managers have cleared this. It is an error correction amendment, when those errors are determined to be in existence by the EPA.

Mr. BAUCUS. Mr. President, I have examined the amendment and accept it.

Mr. CHAFEE. Mr. President, likewise we have examined the amendment on this side and find it acceptable.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 1362) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1363 TO AMENDMENT NO. 1293

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of myself and Senator JOHNSTON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Idaho [Mr. McCLURE], for himself and Mr. JOHNSTON, proposes an amendment numbered 1363 to amendment No. 1293.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend Amendment No. 1293 on page 42, line 1, by amending the sentence beginning with "Emissions" to read as follows: "Emissions reductions otherwise required by this Act for a pollutant shall not be creditable as emissions reductions for purposes of any such offset requirement to the extent this Act requires the reduction of the pollutant."

EMISSION REDUCTION CREDITS

Mr. McCLURE. Mr. President, emission reductions may be imposed on a stationary source under several different titles of the Clean Air Act; for example, for the purposes of nonattainment under title I, or as hazardous emission controls under title III, or as acid rain controls under title IV.

Controls imposed for one purpose often may have secondary benefits in other areas. For example, controls imposed under title III to achieve hazardous emission reductions also may achieve nonattainment benefits. However, as presently structured the source may not be able to take credit for these title I related reductions.

As presently drafted, section 106(a) prohibits a source from receiving credit under title I for related benefits achieved as a result of actions under other titles of the Clean Air Act. By comparison, no such limitation exists under current law.

Under current law the situation, in a nonattainment area, is that a new or modified source cannot increase emissions. In practice, before construction or operation of a source can commence such source must obtain emission offsets equal to or greater than the emissions anticipated from the new or modified source. Current law does not

restrict where these offsets may be obtained.

My amendment would preserve this situation. The amendment permits sources to take credit under title I for emission reductions accompanying reductions required under provisions of the Clean Air Act other than title I. For example, if a source undertakes to control a specific pollutant under title III and in the process also controls other pollutants as a secondary benefit of control of the toxic pollutant, or is able to achieve greater control than MACT, then the source would be permited to take credit for these secondary reductions under the nonattainment provisions of title I. Credit for these secondary reductions would be allowed for the purposes of offsets under title I. Provision for such a credit would provide an incentive and additional benefits for facilities that undertake to modernize existing facilities for the purpose of hazardous emission reductions since by such modernization the sources may be able to obtain secondary benefits that they can utilize in nonattainment areas.

Mr. President, I understand that this amendment was discussed with the committee staff and, if I am correct, there are no objections.

Mr. CHAFEE. Under the air toxics program established by this bill, sources may be granted an exemption from the MACT standards for a particular hazardous air pollutant, if they achieve a voluntary reduction of 90 percent or more. Since that is a voluntary reduction, a question may be raised as to whether the full amount of that reduction could be used as a VOC offset under the nonattainment program. My view is that it could not be used as an offset, because it is in lieu of an otherwise required reduction for purposes of the air toxics program. It is in that sense a required reduction. In the same vein, a reduction accomplished to fulfill an offset requirement under the nonattainment program would not be considered a voluntary reduction for the purpose of the MACT standard. Does the sponsor of this amendment agree that the language of the amendment should be interpreted in that way.

Mr. McCLURE. Yes. Emissions reductions required for the purpose of the air toxics program, for example, would not qualify for offsets under the nonattainment program except to the extent that the emission reductions are in excess of those required under the air toxics program or are reductions of pollutants not regulated under that program. If a voluntary reduction of greater than 90 percent is made in order to achieve an exemption from MACT, the reductions in excess of 90 percent would qualify for offsets as would any incidental pollutants controlled by such reduction.

Mr. President, it is my understanding the amendment has been discussed with staff on both sides and is acceptable on both sides. I urge adoption of the amendment.

Mr. BAUCUS. Mr. President, the Senator is correct. We have examined the amendment. It addresses the interrelations between air toxics and nonattainment. We accept the amendment.

Mr. CHAFEE. Mr. President, likewise on this side we have examined the amendment. It is totally agreeable to this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 1363) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANFORD. Mr. President, I come to the floor to say a kind word about Senator BYRD's amendment that is now pending. I have always admired Senator BYRD's compassion and concern for people, and I have admired a lot of other things about him. But I think that his particular caring about people who need help is commendable at any rate, and I hope that from time to time I can emulate that.

I was reminded of this as I was preparing for a Jefferson-Jackson Day speech this weekend and looking at a quote that I think is appropriate for this occasion, and for this bill. Jackson, while talking about the distinction between the privilege of the rich and the poor, said about men of high standing, that "In general, the great can protect themselves, but the poor and humble require the arm and the shield of the law."

Mr. President, some 22 or 23 years ago when I was Governor of North Carolina, when John Kennedy was President, we undertook an endeavor that ultimately put together the Appalachian Regional Commission. That effort was instigated and brought about because of our concern for what had happened to the people of the Appalachian region—especially those individuals in the mountains of West Virginia, Kentucky, Tennessee, and North Carolina, though extending as far north as Pennsylvania and as far south as Alabama. It struck me at that time, as I began to ponder their problems, that here indeed was an enigma, that the people who settled the mountains of America were of the hardiest pioneer stock. They were the people not willing to stay in the safety and relative comfort of the coastal areas of the new world. They pressed onward and pushed toward conquering the new land, and here, 100-some years later, they found themselves destitute and neglected, and cut off from the rest of the world. But it was not because of any lack of character nor lack of ability, it simply was a lack of opportunity.

Neither time nor geography has served them well. We need to do those things that might be done to help them help themselves. Certainly, that has been the creed of the Democratic Party in the Government, I contend. I did not really intend to be partisan, Mr. President, but I have been working on the Jefferson-Jackson Day speech, and it gets you in the mood to be partisan. Certainly, our creed and direction has been to care about people and to understand that the way to build a great State or Nation is to help people build greater opportunities for themselves. So the whole Appalachian region concept was based on the fact that these strong, sturdy survivors and pioneers could very well make it for themselves if we gave some additional assistance.

North Carolina had its own set of problems. Primarily, it had the problem of isolation and building roads, as well as providing other parts of basic infrastructure, and it pretty well did there what needed to be done.

West Virginia had those same problems, but had the added problem of a collapsed and collapsing coal economy. But by opening up, by providing health care, by enhancing education, not only with whatever work the Appalachian Commission did, but also the work of our distinguished colleague, shortly later, the then-Governor of West Virginia, Senator ROCKEFELLER, who added to the kind of effort that gave all of those people new hope and life and ultimately a new level of prosperity.

But for all of that, the coal miners have always suffered, have always been closer to the bottom of the American working force than any other group. So that is how I view Senator BYRD's effort to do something special for those miners and their families, who would be more immediately and directly adversely affected by what we are doing to improve the clean air for the people of this country. It seemed to me that this has very little to do with the bill itself, and truly has nothing to do with clean air itself.

But it is simply a matter of fairness, a matter of fairness to a group of people who have never had very many breaks in life. I decided at that point that it was a small price to pay to do justice to these people, whom once again have been given such a cruel blow, to give a little added break in life.

I was perfectly willing to go with Senator BYRD on his first proposal. Nevertheless, Senator BYRD, in order to accommodate the doubts and the reservations that others had, amended immediately the proposal and then last night amended it once again.

So, Mr. President, I strongly support and ask Senator BYRD to permit me to be a cosponsor. But I also support strongly the clean air bill. These two views are not contrary. I want the clean air bill to pass. I want it to get the President's approval without a veto. I think it is a good bill. I think that the Senator from Montana has provided the most skilled leadership during one of the most complicated subjects of anyone I have seen since I have been in this body. I am totally in support of this bill.

I do not think I am parting company, I might be parting votes, but I am not parting company with that general thrust and direction when I decide to support Senator BYRD in his appeal. Senator BYRD is appealing for those people who have for so long had all the bad breaks in life because while we are in order to serve the rest of the Nation we are giving those people yet another tough break.

So, Mr. President, it is with a great deal of satisfaction that I carry forward my interest of a quarter of a century in the people of the Appalachian region, particularly the distressed areas of that region and, more particularly, the coal miners in that region who had it worst of all by supporting Senator BYRD's noble effort to put these people in some way right again. Senator BYRD's amendment will help those who will be suffering so much because of this very good legislation that we are in the process of passing.

I thank you very much, and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am just curious as to the rationale. Can somebody explain to me why two people lose a job, one person is a coal miner and one person who is a textile worker——

Mr. SANFORD. I will be glad to do that since I represent the textile workers.

Mr. CHAFEE. Wait a minute until I finish the question.

Mr. SANFORD. That is about all the question I want.

Mr. CHAFEE. There are two people and one is working at a lower wage than the coal miner. One has a family to support, a mortgage to carry, trying to earn a living where wages such as paid to the coal miner, true, it is more dangerous, are way above anything that that textile worker gets and he loses his job due to a clean air legislation directly. Somehow the Senator comes up with a theory, and he used the words equity and fairness several times, that it is fair that this individual who has been scraping along in a modest job, gets thrown out on the street and gets only to be an extension really of unemployment pension, maybe $143 a week or something like that; somebody else gets something like $500 a week for 3 years, where the textile person gets it for 1 year. If the Senator can work equity out of that, I would like to hear it.

Mr. SANFORD. The Senator asked exactly the right person because I can work equity out of that. In the first place, I have watched the textile workers and fought for the textile workers for a long, long time. The textile workers are not directly threatened by this legislation.

Mr. CHAFEE. That was an assumption that I made, that both lost their jobs directly due to the clean air legislation. That is what this bill is all about. That is what the provision the Senator is discussing is about.

Mr. SANFORD. Why should we use false assumptions. The coal miner mining high sulfur coal is immediately affected because the basis of his job is in effect outlawed. I have watched this very carefully as we have gone forward in supporting this bill. I have been constantly looking for ways that we could help improve the bill's effect on workers with more or less technical amendments. I am well aware of what the textile workers as well as other workers in North Carolina face and we have more textile workers in North Carolina than any other State.

Our great problem in the textile business has not been that we are going to be directly put out of business by the clean air bill. There has been another set of problems. But there are two or three reasons that I can distinguish the plight of the coal miners from that of the textile workers with a clear conscience.

One is that the cost of cleaning up any pollution in the textile industry can be handled with additional investment. Not so in the coal industry.

The second thing is that for the most part the textile industry is located where there are standing, diversified business opportunities, where it is much easier to get another job, much easier to readjust, much easier to get the kind of training that can put one back to work. But in the coal mining regions, by and large, that kind of diversity is not available.

So I have no problem at all in distinguishing. But I am told—and I have not read the details but my notes indicate that Senator BYRD has been willing to expand the amendment to make workers in industries other than coal eligible for expanded benefits if they lose their jobs because of this bill. I would go along with his amendment if that were not in it. But I think that being there helps explain why there is a distinction between the coal miner whose loss is immediate and others who are working in jobs where the situation is correctible. In any event, that is my thought.

And I thank the Senator.

Mr. CHAFEE. Mr. President, I want to say that I remain unconvinced. You have two Americans both losing their jobs under the hypothesis directly due to the Clean Air Act. And one gets these very substantial large benefits for 4 years and another gets a mere extension of unemployment compensation and that is what the modified amendment of the distinguished senior Senator from West Virginia provides for, in effect, trade adjustment assistance, an extension of unemployment compensation for those who lose, the others, noncoal miners.

To me that is a basic unfairness. I think it is treating two groups of our citizens completely differently. But I am sure we are going to have a chance to discuss that on the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, we are at a time now when we are open to accept amendments and we are accepting amendments and disposing of a good number of them. At the same time various Senators have spoken on the bill and also on the Byrd amendment. Senators who are speaking on the amendment have told me as manager of the bill that they will temporarily cease their expositions if at that time there are other amendments that we are willing to work on and process and take at that time.

I thank those Senators for making those statements and giving me those assurances. The main point is therefore we can and will accept amendments virtually any time for the next several hours. So I strongly encourage Senators who may be listening, members of their staffs who may be listening to undertake that extra effort to get the amendments put together and try to clear them with our staffs as quickly as possible so that those amendments can be taken up now.

I remind Senators and remind staff that the closer we get to final passage

of this bill, the more difficult it will be for Senators to clear their amendments. It is a natural progression. That is the closer we get to the end, the harder it is. That deadline makes it more difficult for amendments to be cleared and accepted. So I encourage Senators to take advantage of the lull we have now, the opportunity we have now to bring their amendments to the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, what is the order of business? Is it necessary to lay aside an amendment to call up another amendment?

The PRESIDING OFFICER. That is correct. The pending question is No. 1329, as further modified.

Mr. DECONCINI. Mr. President, I ask unanimous consent that it be set aside to bring up an amendment.

The PRESIDING OFFICER. without objection, it is so ordered.

AMENDMENT NO. 1364 TO AMENDMENT NO. 1293

(Purpose: To provide for a program to monitor and improve air quality in regions along the border between the United States and the United States of Mexico).

Mr. DECONCINI. Mr. President, very shortly, I will send an amendment to the desk regarding the Clean Air Act. Before I do so, I wanted to talk about it for just a moment. In my opinion, it is a very significant step that we deal with this whole subject matter. I want to compliment the ranking member, the chairman of the subcommittee, the managers of the bill, and also the leadership for the outstanding work that they have done on this for I guess 4 weeks or more.

In the Southwest and the Western part of our great Nation, we border a great nation, which is Mexico, and that country has tremendous problems in many, many areas, one of which is environmental and the lack of control in environmental conditions, not too dissimilar to what the United States has. In protecting the health and environment of those Americans living along the border between the United States and Mexico, this amendment will be offered.

This amendment is consistent with S. 192, legislation which I introduced last year, and is cosponsored by Senator BINGAMAN. This amendment that I send to the desk is on behalf of myself, Senator BINGAMAN and Senator BENTSEN. Congressman COLEMAN has introduced this legislation in the House.

As Congress considers legislation that will hopefully become the first major revision of the Clean Air Act since 1977, we must not forget those Americans living in border communities along the United States-Mexico border. These people are breathing air that does not meet current air quality standards, let alone the new ones that are being proposed in this legislation.

In Arizona, for example, there are three border communities that are nonattainment areas for particulate pollution. Studies by the Arizona Department of Environmental Quality have determined that in at least two of these cities, Douglas and Nogales, the predominant sources of the air pollution are the many miles of unpaved roads in the Mexican communities just to the south—Agua Prieta and Nogales respectively.

Air quality degradation along the United States-Mexico border is not isolated to just Arizona border communities and to just particulate pollution. El Paso and San Diego, for example, have been classified by the EPA as serious ozone nonattainment areas.

The problem, Mr. President, lies in the fact that the northern border of Mexico is the fastest growing area in that country and infrastructure development has not kept pace with this growth.

Mr. President, this amendment is offered on behalf of myself, the Senator from Texas [Mr. BENTSEN] and the Senator from New Mexico [Mr. BINGAMAN].

Mr. President, I send to the desk the amendment and ask that it be immediately considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. BENTSEN, and Mr. BINGAMAN, proposes an amendment numbered 1364 to amendment No. 1293.

Mr. DECONCINI. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment insert the following:

SEC. . ESTABLISHMENT OF PROGRAM TO MONITOR AND IMPROVE AIR QUALITY IN REGIONS ALONG THE BORDER BETWEEN THE UNITED STATES AND THE UNITED STATES OF MEXICO.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") is authorized, after consultation with the Department of State and the affected States, to negotiate with representatives of the United States of Mexico to authorize a program to monitor and improve air quality in regions along the border between the United States and the United States of Mexico. The program authorized under this section shall not extend beyond July 1, 1995.

(b) MONITORING AND REMEDIATION.—

(1) MONITORING.—The monitoring component of programs conducted under this section shall identify and determine sources of pollutants for which National ambient air quality standards (hereinafter referred to as "NAAQS") and other air quality goals have been established in regions along the border between the United States and the United States of Mexico. Any such monitoring component of the program shall include, but not be limited to, the collection of meteorological data, the measurement of air quality, the compilation of an emissions inventory, and shall be sufficient to the extent necessary to successfully support the use of a state-of-the-art mathematical air modeling analysis. Any such monitoring component of the program shall collect and produce data projecting the level of emission reductions necessary in both the United States of Mexico and the United States to bring about attainment of both primary and secondary NAAQS, and other air quality goals, in regions along the border in the United States. Any such monitoring component of the programs shall include to the extent possible, data from monitoring programs undertaken by other parties.

(2) REMEDIATION.—The Administrator is authorized to negotiate with appropriate representatives of the United States of Mexico to develop joint remediation measures to reduce the level of airborne pollutants to achieve and maintain primary and secondary NAAQS, and other air quality goals, in regions along the border between the United States and the United States of Mexico. Such joint remediation measures may include, but not be limited to measures included in the Environmental Protection Agency's Control Techniques and Control Technology documents. Any such remediation program shall also identify those control measures implementation of which in the United States of Mexico would be expedited by the use of material and financial assistance of the United States.

(c) ANNUAL REPORTS.—The Administrator shall, each year the program authorized in this section is in operation, report to Congress on the progress of the program in bringing nonattainment areas along the border of the United States into attainment with primary and secondary NAAQS. The report issued by the Administrator under this paragraph shall include recommendations on funding mechanisms to assist in implementation of monitoring and remediation efforts.

(d) FUNDING AND PERSONNEL.—The Administrator may, where appropriate, make available, subject to the appropriations, such funds, personnel, and equipment as may be necessary to implement the provisions of this section. In those cases where direct financial assistance of the United States is provided to implement monitoring and remediation programs in the United States of Mexico, the Administrator shall develop grant agreements with appropriate representatives of the United States of Mexico to assure the accuracy and completeness of monitoring data and the performance of remediation measures which are financed by the United States. With respect to any control measures within the United States of Mexico funded by the United States, the Administrator shall, to the maximum extent practicable, utilize resources of the United States of Mexico where such utilization would reduce cost to the United States. Such funding agreements shall include authorization for the Administrator to—

(1) review and agree to plans for monitoring and remediation;

(2) inspect premises, equipment and records to insure compliance with the agreements established under the purposes set forth in this Act; and

(3) where necessary, develop grant agreements with affected States to carry out the provisions of the Act.

Mr. DECONCINI. Mr. President, I will be very brief. I know there are other amendments on the way, ready to go.

It authorizes the Administrator of the Environmental Protection Agency to enter into negotiations with the appropriate authorities in the Mexican Government to establish joint air quality standards in the United States.

This data will allow projections to be made on the amount of emission reductions necessary to both the United States and Mexico to bring about attainment of air quality standards.

Second, it authorizes the Administrator to negotiate with the Mexican Government to develop joint remediation measures to reduce the level of air pollution in the border region. These joint remediation measures may include those that are outlined in the EPA's control techniques and control technology documents.

Third, it gives the Administrator the authority to make available funds, personnel, and equipment to carry out the joint monitoring and remediation programs.

The Administrator may also develop grant agreements with Mexico to carry out the provisions of the act.

This legislation also requires the Administrator to assure that American resources used in Mexico are effectively utilized in implementing the provisions of this legislation.

Mr. President, I know there have been other amendments offered here, one by the Senator from Texas, Mr. GRAMM. This goes much further than that amendment, in my opinion. I was here when he offered the amendment. It is a good step in the right direction, and I know the manager accepted that amendment.

But this amendment puts up kind of an umbrella, or puts it into a package, what is going to be done along the border—not just in, particularly, El Paso or one counterpart city across the border that would happen to be polluting, and then their pollution would be included in any determination on our side. This actually goes further. It directs the EPA Administrator to get involved with the Mexican Government to try to study and find out what the problem is and see what can be done to cope with it.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this amendment goes to one of the major problems that we have in trying to control air pollution. Namely, whether it is air toxics or hydrocarbons or volatile organic compounds or whatever, air pollutants do not respect State or national boundaries. The pollution does not care whether it is one State or another, or one country or another. Air pollution tends to go from wherever it emanates to wherever the wind or air currents take it.

We have significant problems with the country of Canada to the north. That is why Canada is so very, very interested in the United States passing this legislation, particularly the acid rain portions, so the acidification in Canada, caused in some respect by American coal-fired powerplants, is diminished so there is less acid rain damage in Canada.

We are very proudly working on this bill so we can in fact help not only Americans by reducing acidification of lakes and streams and other health-effects damage, but also, likewise achieve the same reductions in environmental degradation in the condition of Canada.

We now have the same problem with respect to our neighbor to the south, Mexico. Unfortunately, prevailing winds tend to flow from Mexico north across the border to the United States.

Of course, if American utilities along our southern border and American stationary sources and American mobile sources conform with the provisions of this act, and yet those areas are still not in attainment because of air pollution from the country of Mexico, then we will not have accomplished very much. Americans will be spending a lot to reduce their pollution, yet it will somewhat be for naught.

This amendment offered by the Senator from Arizona is another in a series of amendments that we are dealing with and will accept to help address that problem. The Senator from Texas offered an amendment earlier providing the amount of pollution which might flow from Mexico into the State of Texas, particular communities in the State of Texas, would be offset in calculating the attainment requirements for those communities in the State of Texas; a necessary provision.

Now the Senator from Arizona is going even further. He is seeking an amendment which, in effect, will allow and require the EPA to negotiate joint air quality monitoring agreements with the country of Mexico with appropriate jurisdiction in Mexico.

It is important to know where the pollution is coming from; how much of it is coming from American sources and how much from Mexican sources. This amendment will help address that problem and find a solution to that problem.

In addition, the amendment will authorize the Administrator to negotiate with the Mexican Government to develop joint remediation measures to help reduce air pollution levels in this border region; another necessary effort.

As we move along, as we learn how to control air pollution, we will continually adopt amendments like the one offered by the Senator from Arizona because it moves us forward in a joint, cooperative way so we Americans are trying to control our pollution not only jointly with Canadians to the north, but also jointly with our Mexican neighbors to the south.

I commend the Senator for his farsightful efforts in finding ways to constructively resolve border air pollution problems.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I would like to echo the comments of the Senator from Montana on this amendment. He, like I, comes from a State that borders Canada, and we are pleased and proud with our ability to cooperate with that country. And it would make no sense if we did not move to try to do the same with the southern border.

I would like to make one statement and ensure I properly understand the amendment. As I understand the amendment, it merely authorizes, it does not mandate, that the Administrator of the Environmental Protection Agency have the authority, after consultation with the Department of State and the affected States, to enter into the program which is outlined and has been outlined under the bill; and that it would require, in other words, the consent of the administration to move forward and it would not require the expenditure of funds at this particular time.

I want to make sure I have a clear understanding on that, and I would yield to the Senator.

Mr. DECONCINI. The Senator from Vermont is correct. This does not directly mandate that they do it, but it does authorize them to do it. There was some question whether or not you could even mandate it.

But it does authorize them, and now there is opinion that they do not have that authority under the present law or in the bill that is before us here today.

Mr. JEFFORDS. Mr. President, with that understanding, this side of the aisle supports the amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I would like to thank the Senators from Vermont and Rhode Island and their staffs, and certainly the Senator from Montana for his willingness to work with us on this amendment.

Also the staff, David Steele, in my office, who has worked about 3 weeks putting together this 10-minute amendment here.

But it is very important to our part of the country, and I think to our relations with Mexico, and I hope for the whole Nation. I appreciate it very much.

Mr. President, I have proposed an amendment to the Mitchell compromise to S. 1630 that takes significant steps in protecting the health and environment of Americans living along the United States-Mexican border. This amendment is cosponsored by Senator BINGAMAN and Senator BENTSEN. Also, this amendment is consistent with legislation which I introduced in November of last year concerning this subject.

As Congress considers legislation that will hopefully become the first major revision of the Clean Air Act since 1977, we must not forget those Americans living in communities along the Mexican border. These people are breathing air that does not meet current air quality standards, let alone new ones being considered in the legislation currently before the Senate. In Arizona, for example, there are three border communities that do not meet attainment standards for particulate pollution. Studies by the Arizona Department of Environmental Quality have determined that in at least two of these cities, Douglas and Nogales, the predominant sources of the air pollution are the many miles of unpaved roads in the Mexican communities of Agua Prieta and Nogales, just south of the border.

The major provisions of my amendment are:

First, authorizes the Administrator of the Environmental Protection Agency to enter into negotiations with the appropriate authorities in the Mexican Government to establish joint air quality monitoring agreements. This program will identify and determine the Mexican sources of pollutants that cause the nonattainment of air quality standards in the United States. This data will allow projections to be made on the amount of emission reductions necessary in both the United States and Mexico to bring about attainment of air quality standards in border areas.

Second, authorizes the Administrator to negotiate with the Mexican government to develop joint remediation measures to reduce air pollution levels in the border region. These joint remediation measures may include those outlined in the EPA's control techniques and control technology documents.

Third, gives the Administrator the authority to make funds, personnel and equipment available to carry out the joint monitoring and remediation programs. The amendment allows the Administrator to develop grant agreements with Mexico to carry out the provisions of the act. This legislation also requires the Administrator to ensure that United States resources used in Mexico for air quality remediation are effectively utilized in implementing the provisions of this legislation.

The adoption of this amendment will, in my estimation, go a long way in providing those Americans living along the United States-Mexican border the air quality benefits of S. 1630.

Mr. BAUCUS. I thank the Senator from Arizona. He has long recognized a need for this country to address binational air quality issues with our neighbor to the south. As the Senator is aware, the Senator from Texas [Mr. GRAMM] offered an amendment concerning United States-Mexico air quality issues which was agreed to by the Senate. I wonder if the Senator from Arizona has had the opportunity to review Senator GRAMM'S amendment and assess its relationship to the amendment he is offering.

Mr. DECONCINI. In response to the floor manager, I have had an opportunity to review Senator GRAMM'S amendment and I commend the Senator for his efforts in this regard. However, Senator GRAMM'S amendment only addresses a part of the problem. The amendment, as I understand it, provides different treatment of States under the Clean Air Act if such States demonstrate to the satisfaction of the Administrator that the pollution causing their nonattainment comes from outside the United States. Unfortunately, Mr. Gramm's amendment does not address the source of the pollution so that these areas can achieve acceptable air quality standards. The comprehensive approach of my amendment allows the Administrator to work with his or her counterparts in the Mexican Government to address binational air quality issues affecting the health and environment of those living along the border. In light of the passage of the Gramm amendment, I think it is absolutely imperative that we also adopt the DeConcini amendment.

Mr. BAUCUS. I thank the Senator for responding to my question. I would agree that his amendment provides a vehicle to comprehensively address air quality issues affecting both the United States and Mexico.

Mr. BINGAMAN. I am pleased to join my colleagues, Senator DECONCINI and Senator BENTSEN, in cosponsoring this amendment. I am also very concerned with the growing problem of air degradation along the United States-Mexico border. The citizens of southern New Mexico have recently become exposed to air quality conditions that were previously unknown to this part of the State. I am interested, as other New Mexicans are, in finding out what causes this problem so that we can work for potential solutions. For this reason, I offered an amendment on March 8 that would authorize a clean air study of the causes of degraded visibility in southern New Mexico. I am pleased that the Senate agreed to this amendment as part of S. 1630.

However, the citizens of southern New Mexico are just one group of Americans being exposed to adverse air quality conditions along the United States-Mexico border. Further, these air quality problems are not limited to visibility degradation. I consider my amendment as just one component of a broader strategy needed to address this health threatening issue. Senator DECONCINI'S amendment, which is identical to the United States-Mexico Air Quality Improvement Act he introduced last year, addresses these large concerns. Adoption of this amendment is essential to ensure that those Americans living along the United States-Mexico border will enjoy the air quality benefits Americans in other parts of the country will enjoy as a result of passage of the legislation currently before the Senate.

Mr. BAUCUS. As always, the Senator from New Mexico states his position with clarity. I agree with him that the Clean Air Act should provide air quality protection to all Americans, including those living along the United States-Mexico border.

Mr. BENTSEN. I join my fellow border colleagues, Senator DECONCINI and Senator BINGAMAN, in cosponsoring this amendment to provide for a program to monitor and improve air quality along the United States-Mexico border. I am sure the floor managers are aware of the fact that El Paso is a serious carbon monoxide and ozone nonattainment area. It is Texas' largest border city with a population of approximately a half million. Juarez, Mexico, is El Paso's sister city; it has approximately 1.2 million inhabitants. Juarez contributes significantly to the area's air pollution with exhaust from mobile sources, open wood fires. It has substantial industry also. There has already been an amendment added to this bill which gives El Paso and other border cities a chance to demonstrate that its nonattainment problems are due to their location as international border cities. That amendment, as useful as it is, may not go far enough. The DeConcini amendment cuts to the source of the problem and authorizes EPA to work with the proper Mexican authorities to begin the work necessary to improve air quality in border cities. This is a useful development and I am pleased to support the amendment.

Mr. BAUCUS. The Senator from Texas raises excellent points with respect to the unique environmental problems facing cities along the United States-Mexico border. The Senator's comments point to the need for passage of the DeConcini amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 1364) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

CLEAN AIR ACT AMENDMENTS OF 1989

Mr. ROCKEFELLER. Mr. President, I want to thank the distinguished managers of the bill for permitting me to offer some observations at this point.

In fact, I would like to comment on several aspects of the amendments that we are considering, and the Clean Air Act in its entirety. The legislation, I think, has received very widespread attention because it is very, very significant environmental legislation.

I feel quite strongly that the bill does more than set important environmental policy. It establishes national industrial policy with sweeping effects across the country on industry, on employment, and on communities. I feel, therefore, that the legislation must be considered in all of its dimensions to be considered fairly.

The debate so far on this important legislation makes me, in fact, very optimistic in many ways about the years that are ahead. Americans will experience a cleaner and a healthier environment. In other respects, I think the bill needs improvement. For example, I am hopeful that as this legislation moves, we will see stronger encouragement of alternative fuels to help combat urban smog and, as importantly as that, to decrease our dependency upon imported oil.

However, the debate so far has also caused me profound concern, particularly with respect to how the costs and the burdens of environmental cleanup are going to be allocated across this country.

States like my own State of West Virginia and the central industrial States have experienced very difficult economic times during the past decade. My senior colleague, Senator BYRD, referred last night to an unemployment rate in West Virginia of around 8 percent. He did not go on to say that probably 200,000 of our best and brightest over the last 2 to 5 years have left the State. I remember only too recently, when I was Governor of West Virginia in 1982 and 1983, our unemployment was officially designated at 21 percent, which, in effect, means it is 25 percent, which is what it was during the depression.

I ask my colleagues to consider what that means in the psyche of a State and to the people of a State when one out of every four people have been unemployed, remember when they were unemployed, and, therefore, as they look to the future, may fear such unemployment again. It can get built into the psychology of a people, and it is devastating.

Many of these problems have been caused in large part, in fact, by national policies. And the difficulties of the region have been, I think, bad for the country as a whole.

Now, with large environmental cleanup work before us, there has been a debate over who would pay the costs of the acid rain cleanup. Both the administration bill and the bill reported by the Senate Environment Committee would place a disproportionate share of the burden for acid rain cleanup on a few States, including the one that I represent.

This approach, to me, is intensely unfair, and it is a mistake. It is damaging, obviously, to the States that are targeted and ultimately, I believe, it will be damaging to our country as a whole.

The question honestly is not who is more of an environmentalist. We, in West Virginia, have seen the effect of acid rain on our red spruce. When I was Governor, I observed the pH content as it changed in the streams of our own State. I have strong environmental feelings and have a strong environmental voting record in this body. We, in my State, are intensely proud of the State's beauty. A large part of our State's economy comes from its beauty. Seventy-seven percent of the State is forested. Only 4 percent of the State is flat, which means that virtually all of industry and all of the people and all of the communities and all of the infrastructure have to fold into a 4-percent area of the State.

So this is not a debate, at least in this Senator's mind, about who is an environmentalist. This is a debate about how we pay the costs of the cleaner environment that each of us passionately wants.

As I have listened to the debate over the many months and, more recently, on the floor of this Senate, I am truly dismayed by the extent to which it is dominated by misleading cliches and misinformation. They say that the industrial Midwest must pay more under new regulations because of the guiding principle that "the polluter pays." That has a nice kind of equitable ring about it until one looks at it closely and one does not find, in fact, equity.

The administration's bill and the committee bill require 13 States—mine and a number of others—which contribute 55 percent of U.S. sulfur dioxide emissions, to make 80 percent of the reductions. Mr. President, this is not equity.

Or compare some individual States. Under these bills, States that are among the largest overall emitters of sulfur dioxide and nitrogen oxide escape their cleanup responsibilities. Texas is the sixth largest emitter of sulfur dioxide, and its combined emissions of nitrogen oxide and sulfur dioxide are the highest of any State in the country. Yet, it largely escapes resonsibility because most of its emissions are from refineries and other industrial sources rather than from utilities. What happened, Mr. President, in that case of the principle of "polluter pays"?

Under these bills many so-called clean States will have to make lower, often considerably lower, reductions as a percentage of nationwide emissions reductions that they contribute in emissions. What happened to equity, Mr. President, in these instances?

The fact of the matter is that since the emitters in a State like Texas are dispersed while those in States using coal-fired utilities are concentrated, it is cheaper for Texas to pay the States targeted by the legislation for cleanup than to do the cleanup itself.

For these and other reasons, many of us from the targeted States have advocated cost sharing for the cleanup of acid rain. We have advocated it not to avoid the principle of "the polluter pays," but to make it work as a principle fairy and to ensure that we only pay our fair share. Cost sharing has somehow been cast aside as outdated. I do not understand that. Cost sharing strikes me and has always struck me as fair, but that is gone now from this bill. It is considered moot and it is gone. I question the equity of that.

Another troubling aspect of the debate on this subject is that it is often carried on in overly abstract terms. We are not talking about an abstraction. We are talking about jobs. As Senator BYRD indicated last night, we are talking about real people with families, with mortgages to pay, with kids to get through school, with college education to hope for, and with everything on the line. Many have failed to recognize or even count as part of the cost of this legislation the thousands of jobs that are threatened. I myself feel that far more than what EPA is estimating could be lost in the way of jobs.

Mr. President, the Nation enjoyed the benefits of cheap electricity from coal for decades. It has been part of the privilege of other States to grow prosperous off the resources that we have in West Virginia. Jobs were created by the coal industry, and people are relying on those jobs. It is not acceptable now to just say, "oh, well, the country has changed its mind." It is not acceptable when the result could be to throw thousands and thousands

of coal miners out of work, as well as others dependent on that income.

That is a cost, Mr. President, and that is a terrible human cost imposed by a national change of mind. And yet it is a cost that the administration and the committee bills do not allocate on a national basis. They target a few. They put the burden disproportionately on a few States and on the few people in those States, and particularly on fewer people in those States who mine the coal that gives prosperity to so much of the rest of the Nation.

Some of our friends from other parts of the country respond to all of this with historical arguments about expenditures made in earlier decades. I am convinced, however, that when you are through adding and subtracting who paid what and when, all of those arguments have answers, and the justification for misallocating the burdens of acid rain cleanup remain thoroughly unpersuasive.

But I think there is an even broader issue than the arithmetic of costs. There is a more basic inequity in what is going on than what is reflected in the numbers. Compare this legislative debate, Mr. President, to other recent Federal initiatives and this is where the blood begins to boil.

Tax dollars from West Virginia, not a rich State, and the Midwest went to earthquake victims in California, without question; hurricane victims in the Carolinas, without question. We did not begrudge that aid at all, and no one suggested that we calculate who will pay whom the most for earthquakes over the years or in what region of the country.

Americans from across the country were asked to pay billions, billions to deal with bank failures, largely concentrated in the Southwest. That legislative bailout, Mr. President, did not give any break or any consideration to those States, in fact, lacked high rollers or speculative fever in real estate markets.

Nor do the ledgers in this debate take into account the benefits that the country has gained over the decades from the States that are being asked to bear the cost of the burden of acid rain cleanup. The coal miners of West Virginia, the coal miners of Kentucky, of Pennsylvania, and of other States have been going down into the mines for generations to haul out the means that gave America the highest standard of living in the world. The coal they mined powered the railroads west, electrified our farms, and helped fire the furnaces of the American industrial heartland in war and in peace.

More than 50 percent, Mr. President, of the electricity generated in New Hampshire has been coming from West Virginia coal. I am glad of that. But understand that the 2.3-percent unemployment rate in New Hampshire bears a relationship to what is happening in the coal mines of West Virginia. Their prosperity, our hard and dangerous work.

For all of this our miners have paid a high price in lung disease, in injury, and in death. It is a grim irony that these miners gave Americans the prosperity and that these miners gave Americans the time to become environmentalists.

Last week at some point the senior Senator from Wyoming and I engaged in a brief debate about black lung benefits. I pointed out that 3 percent of American miners who ask for black lung benefits get them. I do not think it was his intention to say it as such, but the basic result was that the junior Senator's answer was that that proves that all of those other 97 percent must have been cheating.

I have no words, Mr. President, to describe my anger at that lack of understanding about black lung. I want to point out that in Wyoming 99.3 percent of coal mining is done through surface mining, and I have been to those mines in Gillette and other places where people ride in big, huge, air-conditioned trucks, and never touch something called coal.

In West Virginia, 76 percent of the coal mined is underground and the people have to go down there where the dust is, where the danger is, and where the dirt is, to get it out.

What is black lung? I have been in mines lots of times. I have never worked in one, but as the distinguished Presiding Officer would understand, if you go into a mine for, let us say, 2 or 3 hours, you will be blowing your nose to get rid of the black soot for 2 to 3 days afterwards—for 2 to 3 hours underground. And when those of us who are Senators or Governors go into these mines, they are cleaned up, so they can be at their cleanest.

It is not the way it works for the miners. It is not the way it worked for the miners in the old days. It is not the way it works for the miners today. You go down there, you work 8 hours, you do it every day, and you breathe that stuff into your lungs, it cakes your lungs. I would bet anybody and debate anybody, in fact, on the presumption that if you have served in the mines for 10 years you, by definition, have black lung.

Black lung miners as cheaters? I am offended by that, I wonder if the junior Senator from Wyoming has ever seen a miner with black lung attempt to get up from his chair on one side of the room and simply walk to the other side of the room to turn off the television set or to turn it on. It is a half day's journey.

The miner rises wheezing, gasping, weak, buckled, and crosses the room slowly, probably with a cane, adjusts the television set, and it is a half day's journey to go back to this chair. His life is in the chair or his life is in the bed because his lungs are caked with pneumoconiosis, black lung dust. It is a horrible, horrible way to end your life. People die from it. Those who do not, sometimes probably wish they could. It makes it impossible to breathe. It takes away all activity.

I am angered when somebody stands on the floor of the Senate and refers to black lung claimants as cheaters. Three percent get the claims because the Congress and the administration, before I got here, made a judgment that that is what the country could afford, I guess. But let there be no misunderstanding about the need for black lung benefits, about the agony of black lung and the certainty of black lung if one goes down into the mines in the central Appalachian coalfields day after day for 10, 20, 30 years.

So what do miners ask for in return? The United Mine Workers of America recently celebrated their 100th birthday, Mr. President. They are led today by Richard Trumka, one of the most progressive people in the country. The UMW is today, as it has been for a century, a force for positive change in our national life.

The summer before last, Mr. Trumka and Majority Leader Mitchell spent a lot of time together trying to work out an acid rain bill. In fact, they reached agreement. That may not be known to everybody who happens to be listening or to my colleagues. I hope they would note that. They reached agreement.

The UMW was not trying to destroy the environment. They did not come to the Capitol to stand in the way of stronger environmental protection. The President of the United Mine Workers and the majority leader of the Senate reached agreement on an acid rain bill.

The miners said let us have tough environmental protection. They did not come to Capitol Hill and try to use this legislation to regain the tens of thousands of jobs, hundreds of thousands of jobs, that were lost due to mechanization since World War II. That was another subject. They did not even come and say they want to use this legislation to gain more jobs than what they would have had without this legislation. They did not, even though at this time of supposed prosperity there is still double-digit unemployment in coal counties of West Virginia and other States. Some people have simply dropped out of the system, have given up. There are places where the psychology of failure is deep in the coal fields of central Appalachia.

I remember, Mr. President, seeing Hubert Humphrey in 1968 traveling into one of our southern counties on his Presidential campaign in a bus and

weeping at what he saw. That was in 1968 when the coalfields were booming. Bobby Kennedy came to West Virginia and wept at what he saw of the hollows, up the creeks. He did not know that life was like that in this country.

All the United Mine Workers and all the miners have said is do not take away the jobs that we have. All they have said is if America wants the benefits of a clean environment and a high standard of living, we should all be willing to pay our fair share of it. They did not ask for charity. They asked for justice.

Justice. Is it possible that the message of this legislation is that a clean environment will be purchased not only with dollars but at the price of justice? Is it possible that it will be paid for with the jobs of thousands of people who are willing to work and with the well-being of entire communties dependent upon their jobs? It seems to me inconceivable and yet the administration's own data shows thousands of jobs lost in the wake of the bills. My suggestion to you, Mr. President, and to my colleagues, is that it could be far more than 5,000, far, far more—public policy ending jobs. Alternatives that I and others have urged to avoid such an outcome have been accepted but only in part.

I suggest there are even broader implications that go beyond this bill. The whole experience shows that there has to be a more serious consideration given to the potential social troubles that could be created by this kind of legislation.

A few years ago there was a debate on Capitol Hill about the need for this Nation to have an industrial policy. Critics said then and they say now that the Government should not involve itself in decisions about industrial policy, and that the picking of winners and losers is not something that Government ought to be doing.

Some of us replied that in the face of fierce international competition and complex social problems here at home there will be times when Government will inevitably become involved. We argued that the issue is not whether Government will become involved but whether when it does it will do so in a way that is enlightened, open, and fair.

The echoes of that debate have faded, but the issue is back. This legislation is industrial policy with a vengeance. It could determine the rise and fall of whole industries and of whole regions of this country. It could determine the fate of thousands of jobs and communities. It makes the notion of nurturing productive enterprise debated some years ago and criticized as picking winners and losers look insignificant by comparison.

Yet in my judgment this is only the beginning. After this there will come the debate over global climate change and whether to deal with it there will need to be a massive industrial restructuring throughout the world. The implications are staggering. Those implications dwarf the matters that we consider in this legislation.

So before it is too late we had better stop and consider what we are doing and how we should be doing it. What we are doing has implications far beyond whether the air is clean. We should be doing it in a way that is fair and that preserves our people and our environment at the same time. We can, Mr. President. We should to the extent possible have both jobs and clean air.

That is where cost sharing comes in. Unpopular it may be to some but it is fair. In considering environmental legislation, we can pursue a course of regional conflict or we can pursue a course of regional accommodation. We are not going to achieve a fair national policy that accomplishes both our economic and our environmental goals if we follow the course of conflict, and it is that course that we are now following.

Maybe you can maintain the popularity of programs for a while by projecting an image of widespread benefits but at the same time imposing the heaviest burden on a minority. But in the long run it will not work. It will not work even for those who seem to benefit in the short term. It is not an acceptable way to govern. It is not I believe what the American people want.

Is it in the interests of Americans to devastate one region of the country supposedly to the benefit of the rest? I think not. States like my own State of West Virginia and the central industrial States have been the foundation of this Nation's global economic strength. That has been said on this floor before and it ought to be said many, many times. Our industries are not glamorous. Steel, coal, is not glamorous. But it is what built this Nation.

Without economic strength in our States, America will follow a sure road to economic decline. Yet, in the decade, national policy has dealt our region punishing blows. Budget and trade deficits have decimated our competitive position in the markets of the world.

West Virginia has more padlocked plant gates than any State in the Nation. We lead the Nation, unhappily, in plant closings. Now we are facing the prospect of bearing a disproportionate share of the burdens of environmental cleanup.

This is not a prospect in keeping with either American traditions or American interests. In The Federalist Papers, Hamilton observed that the new government should be adopted to remove the dangers of commercial rivalry among the States. Under the old confederation, he argued, economic conflict was developing to the point where the citizens of one State would consider those of another "in no better light than that of foreigners and aliens." The Constitution was written to avoid that kind of conflict among the States over economic issues.

Two centuries later we live in a world in which we face rivals that know how to mobilize all their resources, human and material for economic competition. We cannot afford to waste the resources of any group of our people or any region of our country.

We cannot afford to waste our children, a disastrous one-fifth of whom today are growing up in poverty.

We cannot afford to waste the contribution to our national life of the more than 31 million Americans who live in constant jeopardy because of a lack of health insurance.

We cannot afford to write off any region of this country, much less the industrial heartland that is the keystone in the arch of America's prosperity.

Ultimately, what we come to is one's view of government. We will not enjoy the promise of American life unless all Americans enjoy it.

So I say to my colleagues who have worked so hard, and in some respects so successfully, on this clean air legislation, that our challenge is even greater than it may at first appear. It is not enough to be for the environment, Mr. President. It is not enough. We must take care to preserve opportunity for all Americans. We must try to ensure that in distributing the costs of protecting the environment, Government does more than just register the will of the strongest interests of the moment, and that is what is happening on this floor today. We should move America toward the long run best interests of the entire country.

I know that some of my colleagues share my views—probably a minority—and have been trying to modify this legislation accordingly. It remains to be seen whether by the time this bill emerges from conference the better policy will prevail. But, Mr. President, eventually it is going to prevail. It will, indeed. It will, because in the end an approach that seeks popularity at the expense of particular regions, groups, and people will discredit itself.

I intend, vigorously, to keep this issue before the public. I owe no less to my State, to my coal miners and, frankly, to my country. Even if we do not fully succeed now. Mr. President, eventually the tide will turn and we will.

I thank the Chair and yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Thank you, Mr. President.

Mr. SIMPSON. If I might ask the Senator to yield for a moment so that I might briefly respond to my friend from West Virginia.

Mr. GRASSLEY. Yes, I yield.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for a response.

Mr. SIMPSON. I thank the Senator.

I was kind of rambling through the Chamber and heard my friend from West Virginia speaking with great passion and great frustration. He represents a State that is going to be very much affected by this bill. There is no question about it.

I have come to know Senator JAY ROCKEFELLER. I have the greatest admiration and regard for him. We have a very real friendship. He is very special. That is not just a preface for an opportunity to "let her rip!"

However, I do have a comment or two in response, because this really may be the first time that the Senator from West Virginia has had the opportunity to express to his constituents the awesome impact of this bill on his State.

It is a tough bill. That is why for the last 10 years nothing has been done to improve the air quality in this Nation. We all knew that when we reached this point, the bill would affect heavily the high-sulfur coal-producing States or those States who did not choose to participate fully in the pollution control reduction process in the past.

We all know that during the consideration of this bill many people are watching closely and saying, "what are you going do for us?" and "we are watching you," and "we are watching Senator BYRD," and "you had better produce." This is especially the case when you have a rough, tough, 400-pound gorilla like UMW head Don Trumka looking over your shoulder.

I called him that once, and he gave me a whole bunch of bananas! He is an interesting chap and a very steady person. GEORGE MITCHELL and I were working on a clean air bill together last year. We were an ace away from getting it done, until Trumka waddled into the scene and swung the big stick of unionism. I think that he believes he is some kind of poor man's version of John L. Lewis or something. Maybe, one day, he will reach that stature, and I do not think so. To his credit, he is tough, canny, wily, attractive and garrulous, and he swings a big stick in the coal country.

Unfortunately, while he is swinging that stick in the high-sulfur coal country, he does not do anything for his own members in Wyoming, who are members of the United States Mine Workers. As I said the other evening in debate, my father was a member of the United States Mine Workers, so it is not some foreign thing to me.

Obviously, the remarks I made about black lung triggered in my friend from West Virginia a "sense of anger." But I have a hunch that it was not the remarks of the Senator from Wyoming, as much as it was the awesome reality of what is going to happen to West Virginia, regardless of what we do with this bill, because the hard scrabble, high-sulfur coal industry is going to the pits, literally. It will not matter what we do here. It is a dying industry, and that is not an attempt to debate or enrage or engorge one about the situation. It just is.

As the senior Senator from West Virginia said, the employment was 320,000 when he came here, and now it is 120,000. It is going to continue to decrease. So I can understand the sense of anger. I can also say that although I used a rich tapestry of words to describe people who have misused the black lung benefits system, but I do not believe the word "cheater" was one of them.

I believe I said clearly, and I remember very succinctly, that I am familiar with people who have been involved with the Black Lung Program. I recall one individual in particular who said, "I cannot believe they would do this to me." He had worked for the Union Pacific Coal Co., but he had never been in a mine. He worked in their retail store. I have previously described that. I could revisit it, but I shall not.

I know what black lung is. We probably have more victims per capita than any State in the Union. We have a marvelous Miners Hospital in Rock Springs, WY which treats these deserving people. A description of their lives and the anguish they endure, is exactly as the Senator from West Virginia has described it: very real, very tragic, very pathetic. And I am sensitive to their tragedy, and have voted for the program each time I have had the opportunity to do so, so is the administration. The fiscal year 1991 budget request for black lung programs is $915 million in budget authority.

The black lung disability trust fund is collected from the coal industry under the Black Lung Benefits Revenue Act of 1981 and the Reconciliation Act of 1985. The funds are raised through an excise tax on coal tonnage and by borrowing from the Federal Treasury. From the beginning, it was anticipated that the bulk of the funds would be derived through the excise tax, and not from the general treasury. The fund pays compensation, medical, survivor benefits to eligible miners and their survivors where mine employment ended before 1970, or, where no other mine operator can be assigned the liability, it pays the cost of administering the benefits.

When the program was initiated in 1969, the highest cost estimate was that it would cost $3 billion over 20 years. Instead, we have now paid out $25 billion over that period. That constitutes an increase of over 800 percent of the highest estimated costs.

Two-thirds of those costs have already come directly from the Federal Treasury. I cannot think of any other Federal program where spending has so exponentially surpassed all estimates. Spending has been reduced somewhat in recent years. In 1978, 86 percent of the claims made were approved. That figure dropped to 5 percent in 1985, and it is less than 10 percent today. These figures speak for themselves. It is inconceivable that there is no correlation between this huge drop in accepted claims and the elimination of at least some measure of abuse of the system.

An example might be the person who has been out of the mine for 40 years and smokes three packs of cigarettes a day and suddenly revisits himself or herself on the Black Lung Program. That is what happens in real life, without question.

We spend entire days in this place, using emotion, fear, guilt and racism as engines to drive the legislation we advocate here.

We have hearings on farm programs that are attended by movie stars, who just finished some dazzling terrifying picture about the destruction of the family farm. They testify about what policies we should pursue, and that serves to tear us further apart. So we put together a bill. But we forget that about 70 percent of the money goes to 17 percent of the producers. Some are real heavy hitters who do about 2 million bucks or more of activity a year. People have learned to work the programs instead of the land. That is an example of what we do all day long here.

To always believe that every single person who is a veteran, or a miner, or a lawyer, or a teacher, is somehow unsullied by greed or gimmickery is just a fake. There are people who are not so highly motivated. That is exactly what the junior Senator from Wyoming, not the senior Senator from Wyoming who is my fine long-time friend, MALCOLM WALLOP, is saying.

So today we are talking about the Black Lung Program, which has gone almost off the rail in terms of spending from the time it was established until today. The best example of why is what my friend from West Virginia said the other night, about a 97-percent rejection rate for benefits in the Black Lung Program. That was his figure. Guess why? It is because 97 percent of them do not deserve to be

taking money out of the black lung system.

Good heavens, if you showed me a 50-percent rate I would have been intrigued, but my distinguished friend said it was 97 percent. The reason for such a high rate it is that those who are not the good ones, not the people who are spasming their life away with emphysema, they are the ones, they are the people saying, "Hey, I have heard about that program. I am going to try it, too." They have and that worked for a while until we tightened it up.

When we try to tighten things up around here, those of us who are goofy enough to try, then get the 30-second spot slapped in our face the next election. "This is the slob who diddles with your Social Security. This is the slob that took all our veterans benefits. This is the slob that messed with our railroad retirement."

I have been here.

So I just say to my colleagues that the frustration level has got to be so heavy * * * if you were using a scale of from 1 to 10, it is an 11 for the two Senators from West Virginia. I truly understand that totally and it matches equally the frustration level of the two Senators from Wyoming who were then here in 1977. They got it rammed in their ear with an ice pick on a thing called "percentage reduction."

I have tried to put aside that issue for now, although I speak of it because I feel just as strongly about my fine constituents as the Senator from West Virginia feels about his.

So, I think it is time to get on with the action. We will. We are going to get a bill this time. We are not going to succumb to the people on both sides who throw in emotion, fear, and guilt. I guess we should leave racism out, but that will be used next week on somebody. If we can put aside those "engines" of destruction, we will then get at this issue which for 10 years has been befouling the United States of America while we have all talked grandly about what we wanted to do but have not allowed it to get done.

I pledge, and I have pledged, and the Senator from West Virginia knows, that I will continue to assist in any way I can with this compromise, as I did with the Byrd-Bond proposal. I could have in my own small way filibustered that proposal a bit in our sessions. I did not choose to do so because I knew of the pain the authors felt and I watched the senior Senator from West Virginia express that pain. Let us try to keep our eye on the rabbit. What is it we are trying to do? We are not trying to do a number on anybody in America.

But I tell you the issue of black lung is totally ancillary to this debate. I did not insert it. But someone who can debate better than I will have to tell me why in the world you would have a 97-percent rejection rate on the program of black lung claims. Somebody else will have to explain that to me in some rational, honest appraisal of just why in any stretch of imagination we would think it is not or has not been misused and gimmicked. Of course it has. That is what I said and that is what I meant. But I did not use the word "cheater." Thank you.

Mr. GRASSLEY. Mr. President, at the time I yielded the floor to the Senator from Wyoming I was rising to address the Senate on two points. One is on the amendment that was discussed yesterday, but before I do that, I want to address the Senate on the subject of our newest of nations, Namibia.

(The remarks of Mr. GRASSLEY pertaining to the submission of Senate Concurrent Resolution 107 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

AMENDMENT NO. 1349

Mr. GRASSLEY. Mr. President, I would at this time also discuss an amendment that was adopted yesterday. It was adopted very quickly. I was going to participate in the debate. I was looking for a very long discussion of this issue, but it was very quickly accepted and I am thankful for that.

But I want to express my gratitude to the Senator from Idaho, Senator SYMMS, for offering his amendment to strike section 256, entitled "Domestic Methane Source Inventory and Control Options." The entire Senate should be in Senator SYMMS' gratitude for his efforts to save our collective face.

Among other things, this section required the administrators of the EPA, NASA, NOAA, to report to Congress on the methane emissions associated with agriculture, particularly with animal production. These very important, highly paid administrators, all three of them, would then be required to develop a plan including measures to stop the growth of concentrations of methane, along with technical options for reducing methane, and finally identifying the emission reductions that must be achieved.

Anybody who has been in rural America at all, even rural areas right here in nearby Virginia, and who has ever watched a cattle operation knows that this sort of bureaucratic intervention that was proposed by this legislation just is not the real world in agriculture.

The section clearly specified animals in the United States, so at least these administrators of these agencies would be spared from surveying methane gas spewing from all the foreign animals on the face of this Earth—clearly a very sane, prudent limitation that the authors of this legislation had in the original bill. After all, we all know that only American animals have problems with offensive methane gas releases.

Seriously, though, and statistically, by limiting the methane monitoring to only American animals, we will save our administrators a lot of work. For instance, the Department of Agriculture reports from its 1988 statistics book that we have about 100 million American cattle. In sharp contrast, out of 48 other selected countries around the world, there are nearly 1 billion cattle. Just think how relieved our administrators are to learn that they need only monitor 100 million head of cattle instead of 1 billion head of cattle.

Certainly we have millions of other fine methane gas spewing farm animals, but come to find out, it is our poor cows that have really been singled out.

A Reuters News Service story reported that environmental groups have targeted the cow as the new Public Enemy No. 1.

The story reported that a member of the Natural Resources Defense Council warned that agriculture is a "significant contributor of emissions of methane * * *, and within agriculture, livestock flatulence is one of the principal sources."

One Natural Resources Defense Council staffer reflected that, "I used to think of it in terms of flatulence, but I'm told by scientists that it's actually more akin to burping."

Of course at the time of the article which was printed last September, Congress had not yet had the opportunity to jump head first into the fray with a proposal aimed at controlling the American animal gas problem. The answer at that time was offered by the Greenhouse Crisis Foundation which urged "people worried about global warming, to reduce your consumption of beef and other meats. Let vegetarian cookbook ideas help you enjoy the transition away from a meat diet."

But, of course, Congress is always ready to step in with its own solution—get all three of these administrators or these three very busy organizations, these three big bureaucracies, out there is our cattle lots collecting cow gas. Now, that is a thought worth dwelling upon for awhile.

Think about it a moment. Is the problem really "burping" as our learned scientist explained to the Natural Resources Defense Council, or is the problem flatulence.

I think we better hedge our bets—we better monitor and collect the gas coming out both ends.

Now, we have not been told exactly how our administrators are expected to collect this gas, but we might envision some sort of bag to catch gas.

Just think of it, our cows will be better equipped than our Detroit auto-

mobiles. Our cows will be equipped with two air bags, not just one.

Now, once the administrators finish monitoring how much cow gas is spewed out by American cows, they will then proceed to identify the technical options available to reduce this cow gas. Who knows, if cows can have air bags, why not equip them with catalytic converters?

And if that does not work in reducing cow methane gas emissions, we can tax them. Call it another gas tax.

Mr. President, sometimes I wonder why the American public puts up with those who write legislation. And in turn, that is the responsibility that is on our backs, because there is no legislation written here that at least does not have a Member signing on.

When we seriously consider such proposals as this in a bill which is extremely important—and this clean air legislation is probably one of the five or six most important pieces of legislation that we are dealing with in this Congress, as well as this is the first clean air bill that will pass this Congress in 13 or 14 years—then I guess in my judgment, as I think about it, when we consider these small portions of this bill, that shows that Congress is not very practical as it approaches how to solve the dirty air problems, and no one need question why Congress is held in such underwhelming esteem.

Now in all fairness, section 526 was not without some redeeming value. I see that subsection 6 required similar monitoring and control of methane emissions associated with human activity. Did they, Mr. President, have Congress in mind as a starting point on that section?

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The cleark will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent that the pending amendments be set aside temporarily.

The PRESIDING OFFICER. Without objection the pending amendments are set aside temporarily.

AMENDMENT NO. 1365 TO AMENDMENT NO. 1293

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Mr. DANFORTH, proposes an amendment numbered 1365 to amendment No. 1293.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered

The amendment is as follows:

On page 417, line 13, after "(1)", strike "After" and insert in lieu thereof: "Except as provided in paragraph (3), after December 31, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which became operational on or before December 31, 1965, which is owned by a utility operating company with a total fossil fuel steam-electric generating capacity greater than 250 MWe and less than 450 MWE that serves fewer than 78,000 electrical customers as of the date of enactment of the Clean Air Act Amendments of 1989 shall be subject to an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by its actual 1985 emission rate divided by 2000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions. After December 31, 2010, each unit subject to the emissions limitation requirements of this paragraph shall be subject to an annual emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 1.20 lbs/mmBtu, divided by 2,000.

On page 418, line 20, strike "3" and insert "4" in lieu thereof.

Mr. BOND. Mr. President, today I rise on behalf of Senator DANFORTH and myself to offer this amendment to ensure that small municipal utility systems, under 450 megawatts, be able to meet their responsibility under the acid rain title of the clean air legislation that is currently before us. According to the Environmental Protection Agency, there are approximately five such utilities in the country. It happens that three of these small, old utility systems are owned and operated by Springfield, MO, and Independence, MO. A small system in St. Joseph, MO, is also included.

They currently burn high-sulfur coal and they must comply with the bill's requirement to reduce their SO_2 emissions.

There is no question that they are committed to reducing their emissions, and to generate electricity in an environmentally responsible manner. The only request we make on their behalf is to help them achieve this goal in a fair and economically feasible way.

Under the compromise, these systems would be required to make the same emissions rate reductions in the same time frame as the largest utility systems in the country, systems as large as 10,000 to 20,000 megawatts.

But these systems are small, under 450 megawatts, and rely on many aging and small generating units to generate electricity for their communities. They are planning to replace these old units, Mr. President, with new, clean-burning units. But they need extra time to reach that goal.

Under the current requirements of the bill, they would have to install scrubbers on each of these old units. The cost of this would be prohibitive for these systems and their ratepayers.

Under this amendment, they would be allowed 10 extra years, to 2010, instead of the year 2000, to meet the bill's toughest emissions rate standard. In 2010 they will have to meet the emissions limit of 1.2 pounds of SO_2 per billion Btu's, just like the largest utilities.

Mr. President, the impact of this amendment will be to protect the ratepayers of small municipal electric utility systems in St. Joseph, Springfield and Independence, Missouri, from an unacceptable rate shock that would result if they had to install scrubbers. It is neither economically feasible nor responsible to force them to incur the costs of installing scrubbers when they already are planning to replace the old, dirty units with clean burning units.

To me, it is a question of fainress, and I am grateful to the managers of the bill, to the majority leader, to Senator CHAFEE, to my colleagues from Montana and Vermont for their understanding of this particular problem. Their help in finding a solution has been invaluable. I am, indeed, grateful to each and everyone of them. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from Missouri offers an amendment which perfects and defines a particular problem that we addressed in the bill; namely, smaller units and smaller systems. The smaller units and smaller systems face particularly onerous economic hardships.

We established in the bill the principle that those smaller units and smaller systems would generally get an appropriate increase in additional allowances to offset that hardship. The Senator from Missouri takes that same principle. It is a slight expansion of the principle. It would apply for the years 2000 to 2010 and sunset, that is end, after the year 2010.

I think it is an improvement. It is a perfection of a principle already established in the bill that face small units and small systems. I thank the Senator for this improvement.

The PRESIDING OFFICER. The Senator from Vermont, Senator Jeffords.

Mr. JEFFORDS. Mr. President, I have reviewed this amendment and it is my understanding, in addition to what the Senator from Montana has expressed, that this does not in any way affect the cap on the amount of emissions, but really redistributes a

small percentage of the allowance to assist these particular utility systems to be able to operate as they have to keep their cost of electricity within bounds and to give them some leeway, but only until the year 2010.

With that understanding, this side of the aisle has no objection to that amendment.

Mr. BAUCUS. Mr. President, I would like to underline the point made by the Senator from Vermont that this does not increase the cap. It does not break the cap. The cap is a very important principle. It is important that principle be retained in this bill.

There are several requests on the part of various interests around the country that would have the effect of breaking the cap. We are not going to break that cap, frankly. We have fashioned the amendment in a way so that the cap is not broken. I again commend the Senator from Missouri for finding a way to accomplish that objective as well.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1365) was agreed to.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1366 TO AMENDMENT NO. 1293

(Purpose: Fuel volatility: Reid Vapor Pressure)

Mr. McCLURE. I send an amendment to the desk on behalf of myself and Senator JOHNSTON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for himself and Mr. JOHNSTON, proposes an amendment numbered 1366 to amendment No. 1293.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend amendment No. 1293 on page 210, by amending from line 24, through page 211, line 16, to read as follows:

"(2) Regulations under this subsection shall include a standard for gasoline volatility which shall apply to all gasoline sold, offered for sale, or introduced into commerce for use in motor vehicles during the high ozone period of each year. as determined by the Administrator under paragraph (3). Effective with respect to gasoline sold in the second high ozone period which commences after the date of enactment of the Clean Air Act Amendments of 1989, the standard shall require that such gasoline sold, or offered for sale, or introduced into commerce for use in motor vehicles in class C areas (as defined by the American Society of Testing Materials, as of said date of enactment) shall not exceed a Reid vapor pressure of nine pounds per square inch except that the Administrator may establish a lower Reid vapor pressure as necessary and appropriate to achieve further overall reductions in motor vehicle emissions contributing to the formation of ozone, taking into account safety, enforceability, driveability, and public health. The Administrator shall establish standards for gasoline volatility for class B and class A areas that achieve comparable overall reductions in motor vehicle emissions to those achieved by the standard for class C areas; taking into account appropriate variables such as temperature and humidity.".

Mr. McCLURE. Mr. President, the substitute pending before the Senate contains a provision that directs the EPA Administrator to promulgate regulations to reduce evaporative emissions from motor vehicles. In high-ozone areas the applicable gasoline standard may not exceed a Reid vapor pressure of 9 pounds per square inch. Additional authority is provided to establish a lower vapor pressure in certain instances.

However, environmental and safety problems may arise at lower pressures. In addition, at lower pressures, in some instances, overall emissions from motor vehicles may actually increase. But, more importantly, on cold days certain gasoline formulations present safety problems, as they develop explosive properties.

The amendment clarifies that the Administrator is to consider these and other factors when establishing Reid vapor pressures in class C areas below 9 pounds per square inch.

In addition, the provision requires that the Administrator establish comparable standard for class B and A area to those for class C area. Of course, it is anticipated that the Administrator would consider such appropriate variables between such areas, such as temperature and humidity, and other relevant factors affecting the formation of ozone.

Mr. President, I understand that this amendment was discussed with the committee and, if I am correct, there are no objections. I urge the adoption of the amendment.

Mr. JOHNSTON. Mr. President, I am happy to cosponsor the amendment of Senator McCLURE concerning fuel volatility, which is an important factor in evaporative emissions from motor vehicles. The amendment specifies that the EPA Administrator must take into account various factors if he deems it necessary and appropriate to establish a Reid vapor pressure lower than 9 pounds per square inch to achieve further overall reductions in motor vehicle emissions contributing to the formation of ozone.

This amendment ensures that the Administrator must take into account the safety of gasoline with lower Reid vapor pressure, the enforceability of such standard, the effects such reduction would have on driveability factors including starting and hesitating during operation, and public health.

The amendment clarifies that the Administrator must also take these factors into account if EPA deems it necessary and appropriate to reduce volatility further in certain geographic areas with warmer climates to achieve ozone forming emissions reductions.

The American Society of Testing Materials classifies these warmer areas as either class B or class A, covering much of the United States west of the Mississippi River.

This amendment improves the original language requiring the Administrator to order directly proportional reductions in these extensive class B and A areas despite the fact that preliminary data from the California Air Resources Board indicates that ozone forming emissions may actually increase at Reid vapor pressures somewhat below 8 pounds per square inch.

Mr. BAUCUS. Mr. President, the majority side has had an opportunity to examine the amendment. It addresses characterization of Reid vapor pressure. It is an improvement upon the bill, and we accept it.

Mr. JEFFORDS. Mr. President, this side of the aisle, likewise, has reviewed the amendment and finds it acceptable.

The PRESIDING OFFICER. Is there further debate: If there be no further debate, the question on agreeing to the amendment.

The amendment (No. 1366) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1321 TO AMENDMENT NO. 1293

(Purpose: To express the sense of the Senate regarding provisions that should be included in the bill by the House of Representatives concerning global environmental protection and enhanced competitiveness of domestic business)

Mr. GORTON. Mr. President, I have an amendment at the desk for which I ask immediate consideration.

Mr. BAUCUS. Mr. President, I ask unanimous consent the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself, Mr. DIXON, Mr. BOSCHWITZ, Mr. LOTT, Mr. SPECTER, Mr. MCCONNELL, Mr. COHEN, Mr. RUDMAN, and Mr. D'AMATO, proposes an amendment numbered 1321 to amendment numbered 1293.

Mr. GORTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following new section:

SEC. . ACTIONS TO ENCOURAGE GLOBAL ENVIRONMENTAL PROTECTION.

(a) SHORT TITLE.—This section may be cited as the "Global Clean Air Incentive Act."

(b) FINDINGS.—The Senate finds that—

(1) global air pollution has adverse health effects on United States citizens;

(2) businesses in the United States are disadvantaged in international markets due to the costs of reducing air polluting emissions, resulting in the potential loss of jobs for working Americans;

(3) air pollution released anywhere adversely affects the Earth's environment;

(4) foreign polluters, which are not required to pay pollution control costs comparable to those paid by businesses in the United States, should not be allowed to undersell United States businesses on comparable products as a result of savings made by not incurring pollution control costs;

(5) an import fee will reduce the incentive for domestic businesses to eliminate domestic jobs by siting business facilities in foreign countries;

(6) an import fee will equalize international competition and prevent unfair competitive advantage being gained by air polluting foreign industries that are not required to meet air pollution standards comparable to the Clean Air Act;

(7) an import fee will insure that the prices of foreign goods produced by air polluting industrial processes reflect the same costs incurred by domestic businesses meeting air quality standards under the Clean Air Act;

(8) the United States has an obligation to provide global leadership to promote pollution control while at the same time continuing its economic and political leadership; and

(9) the legislation proposed in subsection (d) will enhance global environmental protection by providing an equitable mechanism through which all countries can pay pollution control costs while maintaining economic competitiveness.

(c) REQUEST.—In recognition of the prerogative of the House of Representatives under the Constitution to originate bills raising revenue, the Senate most respectfully requests that the House of Representatives amend this Act to include the provisions described in subsection (d).

(d) REQUESTED PROVISIONS.—The provisions referred to in subsection (c) are provisions that would—

(1) require the Secretary of Commerce to implement on January 1, 1992, a schedule of fees which would be—

(A) imposed on any product imported into the United States that has been subject to processing, or manufactured from a process, which does not comply with the air quality standards prescribed under the Clean Air Act, and

(B) in an amount (adjusted annually), according to industry groupings, equal to the differential between the cost incurred by businesses located in the United States in meeting such air quality standards and any expenditures made by foreign businesses to reduce air polluting emissions, and

(2) make the revenues derived from any of such fees available to fund programs that enhance the export of products of the United States, the costs of which are increased by the Clean Air Act.

(e) NEGOTIATIONS.—The United States Trade Representative shall take steps to initiate for negotiations an amendment to the General Agreement on Tariffs and Trade that would allow any country to impose additional duties on the importation of products of any foreign country that does not comply with air quality standards comparable to those prescribed under the Clean Air Act.

Mr. GORTON. Mr. President, as every Member of this body is aware, this debate has been long, detailed, and intense. This debate has been highly worthwhile. We are dealing with the most important piece of environmental legislation which this body has dealt with in a decade. It is complicated.

In its present form, before any of the floor amendments have been adopted, it is 567 pages in length and it deals with a major and vital set of social and political goals; the health of the American people, the American work force, and very specifically our lifestyle, our very desire for clean air.

During the course of this debate, we have seen Eastern Europe open up. We have seen what countries and cities look like which are indifferent to clean air. Some of the photographs of parts of East Germany, Poland, Czechoslovakia, Poland, and Romania have been profoundly moving and profoundly shocking.

The reason, however, that a bill which is aimed at such important social and political goals nevertheless becomes one of intense controversy and intense scrutiny is that these improvements in our air quality are not without cost. There are great concerns expressed about the impact of this legislation and similar legislation on the economic system of this country. That economic cost is very real. It will undoubtedly affect our international competitiveness both with respect to domestic industries which compete with imports and with those of our domestic industry which are engaged in the export business.

In fact, one of the reasons for the intensity of this debate is the sincerely held belief that there are a number of business enterprises, the very existence of which is threatened by some of the provisions of the legislation and an equal threat to the jobs of the employees of those businesses.

The single amendment which has occupied the greatest amount of our time, the Byrd amendment, is designed to deal with the expected impact of this bill on a very, very important part of our basic economy. We can note how strongly felt these views are when we read some of the other news stories about Eastern Europe. It was only yesterday that a long article appeared in the Washington Post about what may be the most polluted single city in the Republic of Poland where some 700 stacks belch out undiluted filth and where the life expectancy of the citizens has been extremely, sharply, adversely impacted. Nevertheless, workers in that mill, when they are interviewed, seem often to prefer dirty air and jobs to clean air and unemployment. So these are concerns with which we really must deal.

All of this introduction, Mr. President, is simply background for the amendment which my good friend, the distinguished Senator from Illinois [Mr. DIXON] and I propose to the Senate at this point.

We have, I believe, a unique amendment in the consideration of the literally hundreds which have either already been voted upon or are to be considered in the future, unique in that this amendment is supported by the coalition of environmental organizations which are the spearhead and the philosophy behind this constructive change in America's Clean Air Act, backed by labor union organizations representing industrial workers in the United States, and backed as well by a wide range of business organizations which are a part of the clean air group. As far as we can determine, the most important opposition to this amendment comes from foreign polluters, an organization which we hope are not overly well represented in this body.

What does the amendment do, Mr. President? The amendment deals both with improving the environment of the world and in retaining the competitiveness of American industry. If the costs of this bill have the effect of causing business and industrial enterprises now located in the United States to seek more comfortable surroundings elsewhere outside of the borders of the United States where they will not be subjected to this Clean Air Act, we will not have caused a net cleanup in the world's air. In fact, we may have caused a net deterioration, because there is no other country which has a Clean Air Act even as strong as the present U.S. law. Some of these exported industries will not even go around the world to India or Malaysia. They can cross the Rio Grande to Mexico where their emis-

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sions can have a marked, measurable, adverse impact on the air here.

If we have learned anything in the course of our many years of debate over environmental issues, Mr. President, it is that we live in one world and that the United States standing alone cannot solve all of the problems related to global warming. We alone cannot prevent emission of other kinds of pollutants into our atmosphere. We should do everything we can to encourage policies which are similar to our own in the rest of the world, whether it has a direct impact on air quality in the United States or not. At the same time, we should show a great deal of concern for the impact of these changes on businesses, industries, employees, and consumers in the United States of America.

The amendment Mr. DIXON and I have just submitted would petition the House of Representatives seriously to consider and to adopt an import fee on all manufactured goods imported into the United States which would make up precisely the difference in costs imposed upon domestic producers of those goods by the Clean Air Act and foreign producers who do not have to meet such requirements. It is really as simple as that.

It is designed to equalize the competitive field between our industries and offshore industries which compete with our American industries. It is not to gain any special advantage but to create an equal playing field. Senator DIXON and I hope that this proposal will not produce any significant additional revenues because it will give an incentive to these various competing countries to improve the quality of their own clean air acts, to bring their own houses in order, to improve the environment of the entire world. But if they are not so motivated, this will protect our industries against unfair competition, against the loss of jobs and opportunity in this country, against the export of industries to places in which they can go without significant controls and pollute the air of other parts of the world.

It is in the form of a sense-of-the-Senate resolution, Mr. President, for one profound, deep, and significant constitutional reason. The Senate is not entitled under the Constitution to initiate a revenue bill. This, of course, would be a revenue proposal. But we are entitled to say that we are seriously concerned about this question both from the perspective of the quality of the air here and abroad and from the perspective of the competitiveness of our own industries. So the form is a request to the House for those constitutional reasons.

But it is not only those industries which will be adversely impacted with respect to their domestic economy here in the United States by foreign competitors who do not meet these requirements. Not only our industries who can suffer some significant economic loss when their costs for complying with the Clean Air Act rise. It is also obviously those industries which depend on exports here in the United States. And so we propose in this amendment to take any money, any import fees, which come into the Treasury as a result of the implementation of this idea and to use them for export enhancement.

The Presiding Officer and I serve together on the Senate Committee on Agriculture. We understand export enhancement for our agricultural products. Much of it is motivated by an uneven playing field due to the subsidies which foreign producers provide for their farmers.

This is the same thing by analogy for industrial goods produced by American manufacturers, who will find themselves less competitive because of this legislation.

Finally, Mr. President, there is a third element in this proposal. It is directed at the proposition which will be argued in opposition to this amendment that to impose such an import fee would violate the General Agreement on Tariffs and Trade. Mr. President, that is not certain to be the case. Nations have the right for health reasons to impose restrictions of this sort. A good argument could be made that this is just such a restriction.

Nevertheless, the third part of this amendment directs our international trade representative to negotiate the validity of import fees of this sort with the General Agreement on Tariffs and Trade itself.

In summary, Mr. President, we wish to deal generically and as broadly as possible with a concern expressed by members of both parties frequently which has underlaid much of the debate over the amendments to this bill which have already been considered; that is, the fact that we want clean air and a prosperous economy at the same time.

We believe we can attain both clean air and a prosperous economy. We believe that we can encourage and provide incentives for cleaner air in other countries, whether they lie adjacent to the United States or halfway around the world. We believe that we serve the American people best by passing a strong Clean Air Act which works to clean up our own air and does not undercut our economic competitiveness in what is an increasingly competitive world.

It is for that reason that we have such great interest and such strong support across the spectrum from environmental organizations, from labor unions, and business and industrial organizations at the same time.

Can we answer at this point all of the details of exactly how such a proposal would be both written and implemented? No Mr. President, we cannot. We need the expertise of the Ways and Means Committee in the House and of the Finance Committee in the Senate to come up with the very complex details which are necessary to implement this proposal. But even if the Finance Committee had wished to do this, it could not do so in the absence of consideration of some revenue bill in the House of Representatives first.

But I believe that we are attempting to do what most Members in this body would like to accomplish with this bill. We have come up with an idea which will help the environment here in the United States and the environment around the world, and also retain jobs in this country and the competitiveness of our American industries.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, this particular amendment has broad support. Let me say it also has broad opposition and bipartisan opposition. The administration is against it. The ranking Republican on the Finance Committee is opposed to it. And the chairman of the Finance Committee is opposed to it.

My friend also talks about it being a broad, generic piece of legislation. It sure is. It reaches across the spectrum. I might say that it would have enormous repercussions from an international trading standpoint. Here we are working at GATT and trying to get concessions from our trading partners. Here we have a proposal that is very disruptive and is likely to create an enormous reaction that will hurt us.

We just have been through the problem with the Customs user fee, trying to make it GATT compatible. That was a rather minor thing and something that could be measured. This fee is for broader and immeasurable.

I have had 20 years in the Senate. I have looked at a lot of amendments. I believe this is one of the most poorly drafted amendments, one of the most badly flawed amendments that I have seen since I have been here. When I think of trying to measure it, trying to decide how much has been contributed by air pollution, by not having scrubbers, whatever it might be, for all of these businesses around our country and then around each of these countries that it deals with, it would be an enormously complicated problem. It would be virtually impossible to come up with the specific numbers. Let me give you an example.

Let us suppose we went down to Mexico and we were looking at the imports of tile or pottery. You went down to Guadalajara and tried to determine there how much of the cost came from the fact that you had a utility plant which was providing elec-

tricity that was doing what it had to do insofar as cleaning up air.

Let us suppose that we came into our own country, and we looked at the variety of products that we would have to evaluate here and determine how much U.S. businesss spend to clean up the environment, think of the number of employees that we would have to put in the Commerce Department, and think of charing the Commerce Department with this kind of responsibility.

I do not know how you get enough employees to try to do this. I can think of many instances where the cost in trying to evaluate it and decide the difference in the quality of air, and the cost involved for business in a foreign country and a business here—would be greater than the duty that might be imposed.

So I do now see how this can possibly work or how it could be effective.

In addition, this is obviously a GATT violation. Article 20 really refers to trying to protect against contaminated meat, against rabid dogs, against infected plant life. It has no relationship to this kind of amendment. I do not think it is applicable at all.

The Senator from Washington has tried to take care of the "blue slip" problem making it, in effect, sense of the Senate directed toward the Chairman of the House Ways and Means Committee; if that is the objective, that could be accomplished by just writing a letter to Chairman ROSTENKOWSKI and trying to affect his opinion. But to take this approach I think is a major violation of the jurisdiction of the Finance Committee.

As I talk about the complications of trying to apply it, and try to evaluate the difference in costs, it shows that not enough scrubbing of this particular piece of legislation has been done, and shows the necessity of referring it to the jurisdiction of the Finance Committee where we could have appropriate hearings and find out if there is an effective way to accomplish the objective.

I must tell you in all candor I do not see how you can do it.

I look at other things we do in this country and then see them not done in other countries. When I look at OSHA as we try to see that we have safe working conditions in this country. Then if you go down to a country like Thailand, go down to Indochina, Indonesia, or get into Mexico, and see the lack of stringent regulations placed on their production, and try to evaluate that, it raises and important question. Why do not we have our costs on minimum wages put into the equation too, say we ought to check the diffence on that, and impose a tax because of the differential?

Then I look at the countries to which it would be most injurious.

The countries it would affect the most would be Third World countries that have done the least in trying to clean up some of their air and some of the products that they are producing. But which countries are doing the most; countries like Germany and Japan, the two countries that have the biggest surplus of trade with us today, they are the ones that would benefit by this kind of legislation, and their competition from Third World countries would be the ones that would be the most injured.

I really think that the amendment has not been throught through and that it would be a very disruptive piece of legislation and would be harmful to us. I strongly urge my colleagues in this body to reject it.

We do not have an allocation of time on this, do we?

The PRESIDING OFFICER. The Senator is correct.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I am sure in the course of this afternoon's debate a great deal will be said concerning this amendment and the economic impact upon businesses in corporate America and small businesses on main streets all over little towns in the United States, and the working people of this country.

Just as we heard, I think, the finest debate I heard in many years the other night, when we heard the exchange between the distinguished President pro tempore and the Republican leader about the number of jobs that might be adversely affected by this bill, I am pleased to join my friend from Washington State, the distinguished Senator who has just spoken, Senator GORTON, and others, Mr. President, in proposing this global environmental incentive amendment to the clean air bill.

I believe that the amendment that Senator GORTON and I and others have offered will send a powerful message to our foreign trading partners that if they want our markets, they have to help clean up the air.

I think clean air is a global responsibility, Mr. President. I think we are deceiving ourselves, if we think that the United States alone can do the job. We cannot clean up the air in this world all by ourselves, and we are undermining our own economy, in my view, if we allow foreign competitors to escape the costs paid by our industries and our working people to reduce air pollution in this country.

All this amendment does is urge the House of Representatives, which is jurisdictional, to pass legislation that requires foreign industries, foreign industries selling products in this country, to either meet the stringent environmental controls that we are going to require in the bill under debate of our manufacturers, this nice thick bill right here, S. 1630, or to pay a fee that matches the costs borne by our industries for environmental compliance.

Nobody here will question the fact, and in every debate I have heard everybody has conceded the fact that this bill places upon American industry and American working people and American consumers a tremendous expense. All we are saying is, in the appropriate place to look at it, let us impose a similar fee on our competition that is already killing us in the American marketplace.

My friends, if the Constitution of our country did not prohibit such revenue raising measures from originating in this body, I would have already introduced an amendment here in the Senate to this bill saying that we ought to do it right here. We checked that out. My good friend, and he is my good friend, a great, great Senator, the senior Senator from Texas, knows the jurisdiction for this question under the Constitution lies in the House.

So we are asking our colleagues to join us in a sense-of-the-Senate resolution—that is all this is—to provide instructions to the other body saying they should consider it.

I think it simply does not make economic sense for American industry to shoulder the costs of global environmental protection. My friends, this bill says that. Meanwhile, foreign industries continue to pollute the world. It is the same air. And those foreign industries are consequently awarded with an increased share of the U.S. market. Is our trade deficit not enough now, without doing that?

I think we cannot accomplish our environmental goals if we do not keep U.S. businesses competitive. If we do not include a provision something like this one, in the clean air bill that we send to the President of the United States, we will be giving our foreign competitors another advantage in an increasingly competitive global market.

It is an international market, ladies and gentleman of the Senate. We are not America alone in this world; we are America competing with all of these other countries of the world and all of these other working people and all of these other massive industries of the world in an international competitive marketplace.

There are two goals that this amendment want to reach. I want the world to get the message that environmental protection is a worldwide responsibility, and I also want very much, Mr. President, to keep the international trade playing field a level playing field.

My friends, we are never going to have a healthy environment in this country if we have a sick economy.

My friend, the great Senator from Texas, and he is my friend, mentions Mexico and other countries, that truly life-threatening pollution in the economically weak states of Mexico, Poland, and the Soviet Union stands as proof of this fact that I have just talked about. Let us not put ourselves in a position that allows countries that are not respecting the environment to injure our economy. That is the point here.

If as a consequence of this clean air bill, this one right here I keep showing you, we shut down our coke and steel plants, is there anyone here that would deny that those activities will go on somewhere else in the world?

Is the environmental community satisfied to simply stop the pollution here under this bill, only to send it to some poor Third World that would jump at the chance to increase its exports of coke and steel?

I promise you that other nations that manufacture goods which can no longer be economically manufactured in this country will do so, and they will do it without the strict controls that we already require right now.

My friend from Washington State made that point, that with reference to the existing law, we are tougher under existing law than almost every other competitive nation in the world. The reality is that we live in a global economy, and my friends, we live in a global environment; a global economy, but also a global environment. Can we really accomplish an environmental purpose such as we want to accomplish under this bill if we do not keep the United States and its businesses competitive internationally?

I submit we cannot. If we allow ourselves to become noncompetitive, we will send American jobs overseas. That is the message. This will result in a loss to the American economy, and incidentally it will result in no net gain to the global environment in the long-term. We have to ensure that developing nations do not continue to compete with U.S. businesses while simultaneously sacrificing the environment.

As my friend, the Republican floor manager from Rhode Island, pointed our earlier this week, the New York Times has covered the horrendous environmental devastation that is occurring in Eastern Europe. Eastern Europe, which has so recently thrown off the shackles of a controlled economy, is hungry for economic development.

What do you think these countries are going to do? Will they spend their modest resources on environmental controls? I do not think so.

Will they make decisions to get their economies on track so that they can raise their standards of living to match those of their Western European neighbors? I guess it is plausible that they will do a little of each, or perhaps more likely a little bit of environmental control and a lot of economic development.

To be sure, the neophyte democracies in Eastern Europe will make decisions that they consider to be for the best for them, for the long-term future of their countries.

Mr. President, we ought to think along the same lines. Certainly protecting our environment serves the long-term interest of this country.

My friend from Montana is to be congratulated on thinking in those terms. But we must not, however, proceed blindly without regard to the long-term effects of American competitiveness, and American competitiveness will be affected by the passage of this clean air bill.

Those of us who are sponsoring this amendment, this sense-of-the-Senate amendment, have suggested that the Senate ought to consider certain things. Sometimes we debate here and I think many times we do not look at the amendment. Folks come here and vote. They look at the table. They vote.

We will have some of our important leaders on both sides of the aisle obviously very much against this amendment. I respect them. They are good people. They have influence here.

But what does this amendment say? Well, the first thing the amendment says is this: The Senate finds this, and I quote. Here is what the amendment says: "Global air pollution has adverse health effects on the United States citizens." Everybody here believes that.

The next thing we find is that "Businesses in the United States are disadvantaged in international markets due to the cost of reducing air polluting emissions resulting in the potential loss of jobs for working Americans." We know it is so. It was part of the debate the other night.

In the course of that debate, when my friend from West Virginia discussed the loss of thousands of jobs to coal miners, my friend the Republican leader got up and said: Wait; why do we sort those out? Hundreds of thousands of jobs will be affected.

I think it is given here in this debate that is the case. If that is given, have we not the courage to vote for an amendment here that is a sense-of-the-Senate resolution that says it is so? We know it is so.

Now we say next. I am just reading down this amendment: "Air pollution released anywhere adversely affects the Earth's environment."

Does anybody think that is not so? Does anybody think that air stops at the line of the border between the United States of America and Mexico at the Rio Grande?

Then we say: "Foreign polluters which are not required to pay pollution control costs comparable to those paid by businesses in the United States should not be allowed to undersell United States businesses on comparable products as a result of savings made by not incurring pollution control costs."

Who would not agree with that? Who would not agree with that? You want to talk about Mexico. I have been there a lot of times. If they are polluting down there to make a product that is going to come into the United States of America and compete with the product made in this country, we ought to be able to do something for a fair level playing field about it.

There ought to be fairness. I am not talking about unfairness. I am not talking about giving us an advantage. I am talking about making it fair for American working people that carry American lunch buckets to American business houses to compete.

Then it says: "An import fee will reduce the incentive for domestic businesses to eliminate domestic jobs by siting business facilities in foreign countries."

It is happening now, and everybody knows it. We know American businesses are going offshore now under existing laws. They are doing it by the hundreds, maybe by the thousands. It is an established fact and a reality of economic life in this country that that is occurring, and all we are saying is that that will be accentuated and that that will occur in larger numbers under this bill.

Then we say: "An import fee will equalize international competition and prevent unfair competitive advantage being gained by air polluting foreign industries that are not required to meet air pollution standards comparable to the Clean Air Act."

Does that not make sense? I think everybody knows it is so.

And we say: "An import fee will ensure that the prices of foreign goods produced by air polluting industrial processes reflect the same costs incurred by domestic businesses meeting air quality standards under the Clean Air Act."

I could go on and read the remainder of it, which is the suggestion about what ought to be done. But suffice it to say there is not one thing said in this amendment as a sense-of-the-Senate resolution that is not a fact. Every bit of it is.

I hear what is being said by those who chair the jurisdictional committees. I am sensitive to that. I respect them. They play an important role. I see the ranking member, who before that was the distinguished chairman here, and I understand where they are coming from and I understand their concerns.

But let me say this: If we do not do something along the lines of what my distinguished friend from the State of

Washington wants to do and we then pass this bill—which we are going to pass whether this Senator votes for it or not, and this Senator does not yet know what he will do. But whether he votes for it or not, this Senator knows this bill is going to pass. I have been around awhile, and I know when a bill is going to pass and this bill is going to pass.

But let me tell you something, friends, and I am not being humorous when I tell you this; I weep when I tell you this; I weep when I tell you this. Here is what I do not know. I do not know how much of this is true. I do not know how much of this is true.

But a newspaper in this city printed this. It is already in the RECORD. And it says: Jobs at Risk from Bush-Mitchell bill, and it is, of course, the study that has been done by economists by the names of Robert Hahn and Wilbur Steger. It is an analysis of this bill, Senate bill 1630.

And here is all I know that that says. It says for my State, that under this bill, under the air toxics features, it could affect 109,660 working men and women in my State. It says that the permits part for small businesses could affect on the main streets of my home town of Belleville and all over Illinois, in Linchfield, Effingham, Carbondale, Milford, and Kankakee, 79,707 jobs. And it said here that the acid rain part could affect 6,250.

What that is in my State, my dear friends, is 195,617, and I am going to tell you something. The biggest city in our State is Chicago. After that comes Rockford, and next Peoria. And 195,617 is bigger than any other city in my State. I care about that a whole lot.

I am sure this is in the RECORD, but I am going to ask unanimous consent that it be printed again because it lists every State from Alabama to Wisconsin. It adds up to millions of jobs—millions of jobs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOBS AT RISK FROM BUSH/MITCHELL BILL

Large States only	Air toxics 1 × 10-6) [1]	Permitting (Small bus.)	Acid rain	Total
Total	2,414,804	1,114,088	231,895	3,760,787
Alabama	56,412	9,438	4,890	70,740
California	132,991	210,243	.....	343,234
Florida	26,619	30,781	7,599	64,999
Georgia	51,433	22,019	6,329	79,791
Illinois	109,660	79,707	6,250	195,617
Indiana	155,798	16,788	28,558	201,064
Kentucky	37,506	11,334	9,000	57,840
Louisiana	38,894	7,757	.....	46,651
Maryland	27,169	29,526	10,502	67,197
Michigan	181,083	36,272	3,464	220,819
Missouri	87,336	25,914	21,442	134,692
New Jersey	43,817	90,458	69	134,344
New York	140,458	98,652	8,570	247,680
North Carolina	114,736	27,427	.....	142,163
Ohio	210,170	69,351	46,780	326,301
Pennsylvania	135,015	71,533	24,714	231,262
Tennessee	92,377	17,833	8,305	118,515
Texas	114,967	69,377	.....	184,344
Virginia	107,378	19,642	.....	127,020
Wisconsin	74,949	16,731	26,437	118,117

[1] Assumes Maximum Available Control Technology with shutdown for failure to achieve residual risk of less than 1 in 10,000, rising to 1 in 1,000,000. Standard was slightly modified in Mitchell White House compromise from "maximum exposed individual" to "maximum REAL exposed individual" as an option to plants willing to do costly demographic and exposure studies.

Source: Economists Robert Hahn and Wilbur Steger, Analysis of Clean Air Bill S. 1630 for Clean Air Working Group, February 1990.

Mr. DIXON. I heard one of my friends talking about the minimum wage. We are not talking about whether there is philosophical differences between us as partisans about a wage level. We are not talking about the question of philosophical differences among us as partisans about whether there ought to be some kind of parental leave or anything of that sort.

We are talking here about whether we will pass a bill this big to clean up our air and say to all the rest of the world, "It's OK with us if you do not clean up yourself. It's OK with us if you send your dirt to our country for us to breathe. And, at the same time, an extra break you are going to get here is send your products here, too, that you manufacture cheaper and we will let you undersell us in the American marketplace and lose more American jobs when you do that."

Well, one of my friends suggested that the amendment is not too well drafted. I want to say this. I do not know how well you can draft a bill to avoid the constitutional implications of the fact that it is really the House that has to do this first. But if we do not send some kind of message in this bill about this problem, then I want each one of you to explain to me and tell the folks in our townhall meetings how we let this take place with the knowledge we had and suffer the consequences of it.

Without a question, I say to the Senate, this bill that I hold in my hand is going to go out of this place almost the way it is now, page for page. Oh, you are going to mess around the edges a little bit, and my friends, the managers, are going to take a little something here and there, but you can bet all that you have got that you are about looking at this bill. The toxic part is worked out. The acid rain part is worked out. The automobile emissions part is worked out. Everything is pretty well determined. This bill is a given. America out there, get ready. This is coming. it is coming out of here and it is going through the House and it is going to the President of the United States. His administration was a party to this, and his administration, having been a party, indicates that he will sign it. This is going to be a law. All we ask is that when we commit this act that we take into account American business interests and American workers.

I just read an article in this morning's paper—I have it in my office; I am going to make a little speech on it later—by the Secretary of Commerce, Mr. Mosbacher, talking about how the Japanese are eating our lunch right now, telling about how we invent something and they do not let it get in here until they reinvent it over there and do it at least as good and make it competitive and so forth.

If you think they are eating our lunch now, if you think that we have a trade deficit now, if you think we are in trouble now, if you wonder why the United Auto Workers in Rock Island do not have any work to go to anymore and the same in Peoria and the same in other places in my State now, oh, my dear friends, if you wonder that now, you have to understand that when you do this without doing something correspondingly to protect our interest, they are going to really do a job on us; 3,760,787 jobs—I do not really believe it is that bad, but let me tell you, that is depression-type statistics. That is bitter stuff.

So I just want to say in conclusion, before we hear from our friends who are the authorities on these questions, I do not want to impose on anybody else's jurisdiction. I do not want to tell anybody how they ought to do these things around here. A lot of people have been doing things for a long time pretty well around here. But if we do not have some way to figure how to deal with this problem, if we are just going to trust the marketplace to work or the International Trade Representative to do something about this—you know, I have been trusting that a long time and seeing it get worse and worse and worse and worse and deteriorate to the point where it is a public scandal—we do not send some kind of a message in this bill, if we send this thing out of here naked on this question and it goes to the House that way, I really weep for American business interests and I weep for American workers that suffer the consequences of this.

I want clean air. So does every American. I want the kind of clean air that will protect our workers and our businesses and our jobs and our opportunities for a future in America. I do not want to destroy it. I think it is at risk here. I think my colleagues ought to bear that in mind.

So I say with the deepest and most heartfelt sincerity that we ought to be giving some thought to do, and we ought to be doing, something about that in this bill. I urge my friends to consider it in the light of the problem that I think is so very apparent.

I yield the floor.

Mr. PACKWOOD. Mr. President, I thank the Chair.

I hate to disagree with my good friend from Illinois because he and I are bound in common cause in some other issues that are of great concern to both of us. But on this one, I think he is begging the question. He is comparing apples and oranges.

We have a general Agreement on Tariffs and Trade. Through the agreement we are trying to lower tariff barriers in all the countries all the time, ours and theirs. We are trying to make it easier for American products to get overseas, where we are willing and able to compete. We talk about a level playing field. It is a major issue. We are involved with negotiating with all the principal countries of the world right now in the so-called Uruguay round.

There is no question if this sense-of-the-Senate resolution goes over the House, becomes a bill, and is sent back and enacted, it violates our obligations under the GATT. It violates them in any number of places. First it violates the GATT, because it says import restrictions are to be on a nondiscriminatory basis, and with this amendment they would be on a discriminatory basis.

Second, it violates the GATT because it raises the duties on imports where we have agreed to not raise our tariffs—what we call being bound. Now, the sponsors of this sense-of-the-Senate resolution realized the GATT problem. The sponsors want us to go back after we pass this provision to get the GATT charged. They want us to do this at the very time when we are trying to lower tariffs and make the world more competitive for American products. And, let us face it, Mr. President, most of the world is more protective of their markets than we are. And we will be better off and will serve the workers of this country better if we get foreign trade barriers down. But perhaps the worst flaw in this amendment is the almost impossibility of enforcement or even understanding if you extend this concept to other forms of pollution.

Now, my good friend, the chairman of the Finance Committee, mentioned minimum wage. Our good friend from Illinois says it is really not the issue. But I say it is the issue. If we are talking about American jobs—and that is what our friend from Illinois is talking about—then why not say if they do not pay what we pay, put a tariff on it. If we do not have the same water pollution standard, we put a tariff on it.

Canada is a good example. My friend, who is managing the bill at the moment, Senator BAUCUS, is well familiar with the problem of imported Canadian lumber. Unfortunately, we need the lumber. We do not have enough logs in this country. We import 30 percent of the logs we buy. But the Canadian environmental standards are infinitely lower than ours. So under the theory of this amendment, what would you do? Put a tariff on the Canadian lumber which we have to buy because we do not have enough in this country and raise the price to the American consumer?

I will give my colleagues another example. After fighting and fighting, we have finally succeeded in getting the Scandinavian countries to open their markets to pears and apples. They used to let American apples and pears in after their seasons closed. Well, we got them to say OK, you can come in all year. And our pear growers and apple growers are delighted.

But ironically, the Scandinavians have higher pollution standards than we do. So, if we are going to start talking about tit for tat and reciprocity, I can see what will happen. They will start considering amendments like this and up go their tariffs on our products because we do not meet their standards.

What are we going to do, go around the world and look at Tanzania's smokestack emissions? Or say to Mozambique, let us see what you have coming out of this coal-generating facility and then try to factor into each country's gross national product and determine whether they are meeting this standard and how much cheaper it is allowing them to produce a product?

What do you do when you have a business downstream from a foreign electric generating plant that is generating by coal and because they have dirty air the electricity can be cheaper? Then a company down the road buys the electricity, sells the product and sells it in the United States. We are going to try to go through those kinds of contortions in every country with every kind of air pollution and if the theory is right, it will apply to water pollution and air pollution and everything else you can think of. And I think the argument about minimum wage is a valid one.

So, if we adopt this sense-of-the-Senate resolution and then enact it into law, we will be in stark violation of the GATT—there is no question about that. If we are in stark violation and then turn around and try to renegotiate the agreement, we start down the road of an impossible enforcement situation in trying to figure every source of pollution and every source from every country in the world; then try to quantify that and qualify it and figure by how much does it allow them to produce a cheaper product, assuming we can actually figure that, and then try to put a tariff on it?

You want to have a bureaucracy? Do you want to hire 100,000 people? You can do it right here with this provision.

Then, lastly, for those countries that have higher standards—and I will say again it is not just the Scandinavian countries—be prepared for the reciprocity and the tariffs going up on the products we are trying to sell overseas. All this, at the very time we are trying to knock down trade barriers to our products going overseas.

Mr. President, for all of those reasons I hope we would defeat this sense-of-the-Senate resolution and not start down a road which would be unwise, which would violate our GATT obligations, and which in the long run would not serve the interests of this country.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Idaho.

Mr. SYMMS. Madam President, I have to say much of what the Senator from Oregon says about trade policy, I agree with. I heard him and the chairman both speak. I do not disagree philosophically with what they said. But I think the Senator from Illinois and the Senator from Washington are helping drive home a point here, that the American people thus far have barely recognized—thanks to the distinguished President pro tempore they are starting to recognize—that there are no free lunches. We have all heard that said for a long time, and there are no environmental free lunches.

One of the great things about the United States of America is that we have not had industrial policy. That was very popular in the late 1970's and the American people voted against that policy. We got away from that. We said no, we want to stay on the track of a market economy so people can have an opportunity to rise up and improve their own standard and improve their happiness, if they will.

Madam President, there is no question, the bill before this U.S. Senate today is industrial policy, clear and simple. It is going to put the Environmental Protection Agency in a position, more powerful than the IRS, more powerful than the Commerce Department, more powerful than any other Department, and they will be able to run America. They are going to be able to tell people what they can do.

My view is, if we are going to shove this kind of legislation down the throats of the American people in the name of a very noble cause, clean air—industrial policy is what it is—we need to tell them in advance you are either going to get lower wages or you are going to lose your job, and you are going to pay more for the products you buy and have a lower standard of living in order to have this cleaner air that we all want to have. That is exactly what we are talking about.

I think the Senator from Washington and the Senator from Illinois are doing us a favor here, to draw the attention to this of the American people. We are going to apply standards to the working men and women of the United States of America that will not be applied to the people who will then have to buy the products. That is basically what the whole thing is about.

So I am glad they brought the amendment forward. It may have some philosophical rubs in it, but I would say for those who get up and give the great speeches about free trade and free markets, there is absolutely nothing in this legislation that is free trade or free market. This bill is replete with Government edicts, authority, power to run the lives of the American people from top to bottom. It is going to cause millions of Americans to lose their jobs, and I think the general public, concerned people in general, are learning. It is a slow process but there are no environmental free lunches.

If we want legislation, it is going to cost us dearly. We have had the argument here about how many people are going to lose their jobs, and the Hahn-Steger report indicates that this bill will have, at a minimum, 2.7 million Americans lose their jobs.

I would say one thing, Madam President. If they do not lose their jobs in order to comply with the air toxics section, to comply with the acid rain section, mobile source emissions and so forth in this bill, then all those costs that are imposed on our economy are going to come out of profits and if profits are not there, they are going to come out of wages, or capital will then flow out of the United States.

It may be a little hard to measure how many jobs are lost in this bill, and how many people lose their opportunities for a better life. One thing we can be sure of, there are no environmental free lunches and I salute the two Senators for bringing this amendment forward so we can have a discussion about what the essence of this bill on industrial policy is.

This is a bill on industrial policy. I think if we are going to have industrial policy, and we are going to have a government-controlled command economy here in the United States, I can see it is perfectly consistent for the Senator from Washington and the Senator from Illinois to try to control and command those economies outside of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I hold the distinguished Senator from Illinois and the distinguished Senator from Washington in the highest regard, but I do not hold this amendment in similar high regard. In a sense, this amendment is just a sense-of-the-Senate resolution. But it is more dangerous than the Byrd amendment. While the logic behind it is well-intended and I think our colleagues have offered it with the best of intentions and the purest of hearts, this amendment could not be more wrong headed, and if implemented could not be more harmful to the American people.

Madam President, I assume the proponents of the amendment believe it would lessen the impact that we are imposing on the American economy from the Clean Air Act by imposing protectionist measures to eliminate the foreign competition that would be enhanced, as a result of the new costs that we would impose on American industry and agriculture from this bill.

Madam President, I will argue that, if this amendment were adopted and if the House did respond and if their response became law, it would multiply the cost of this bill to the working men and women of America many fold; it would cost us many times more jobs lost than the bill without the implementation of these proposals; it would greatly hurt our ability to compete on the world market; it would generate a new and bottomless pit of arguments for protectionism; and it would almost certainly lower the living standards of the American people and precipitate a trade war that could remove America from the center stage of the world economy.

Those are pretty general, broad, massive assertions. Let me start out and try to explain why it is so.

First of all, in terms of price, our distinguished colleagues from Idaho have talked about the costs this bill imposes. Those costs are real. They cannot be wished away. But they also cannot be protected away. There is no doubt about the fact that, to the extent that we, as a society, choose to have cleaner air, we are weighing the benefits of that against the costs, but the costs are real and they cannot be hidden by protectionism.

In the extreme case, what about products that could not be produced under this bill? What if it is not possible to produce products that are important components for the American economy under the standards of the Clean Air Act set in this bill? Madam President, I am not arguing those products do exist or do not exist, but I am trying to point out a fundamental flaw in the bill, though while it is not critical to my argument, I think it is important and interesting.

Let us say that under this bill there is a major component of the industrial process that could not be produced domestically, that the 10 to the minus 4 actual risk standard in the air toxics section might produce the situation where, under the existing technology, we could not produce a product which is fundamental to the American economy. I think anyone in here would say that that is possible. What would you do under this bill? What would the tariff be on the importation of that product? The tariff, by the directive, would be that price which would equalize competition, but I ask my colleagues if, under the Clean Air Act, we could not produce this product at any price given any available technology, what would the tariff be?

Mr. SYMMS. Will the Senator yield?

Mr. GRAMM. I do not want to break my train of thought, and I will yield at the end. Let me finish the point.

My point is, under this bill, the tariff would have to be prohibited because there is an infinite differential because under this law, we could not produce the product. We would generate an absurdity. America needs a component to create jobs, growth, and opportunity. We decide by our clean air standards that we cannot produce it here, so what do we do? We put a tariff on the product coming into the country and, in this extreme case, it is infinite tariff. As a result, we cannot buy the product which we cannot produce.

I am sure that our colleagues believe that they are protecting the steel industry. I believe our colleagues would argue that they are protecting the plastics industry, that they are protecting the petrochemical industry, but let me make the point as to why it is not so. Let us say that under the Clean Air Act, as it is now written, that the cost of producing steel in America rises by 10 percent. Let us say that we impose a protective tariff on steel of 10 percent, in addition to the protectionist measures we already have in effect.

You could argue that that will protect American steel jobs and, in fact, it eliminates the differential or advantage that these foreigners have by allowing a dirty environment. But I remind my colleagues that there are relatively few jobs in steel production. If you looked at the American economy and you looked at the production of raw steel and you looked at the number of jobs there and then you looked at all the jobs in fabricating steel, you would find that steel production is important to individual districts, it is important to individual States, but as compared to fabrication of steel—making tractors, making automobiles, making tools, making eyeglasses, making microphones, making component parts of furniture—that steel is relatively small as compared to the jobs in fabrication.

If we raise the cost of steel production in the United States and we prohibit the importation of steel except at that higher cost, we keep raw steel out of the country, we eliminate its competitive advantage, and we protect a few steel jobs. But do we really protect those jobs? I argue we do not. We do not import raw steel, but we import automobiles. We do not import raw steel, but we import tractors. We do not import raw steel, but we import drilling rigs. We do not import raw steel, but we import millions of component parts that embody that steel. We not only lose the jobs in our steel

plants, but we lose hundreds of times those number of jobs in fabrication unless my colleagues propose imposing a protective tariff on everything coming into the country that is made in any minute part from this proposal.

Take plastics. I happen to be one who knows something about this because I have a lot of people working in the plastics business in my State. In the plastics industry, we are looking at this bill's environmental impact, and so we might say, look, we can help a State like Texas or we could help the country if we said if the cost of making plastic goes up by 25 percent, we just say if you are going to import plastic, you have to pay a 25-percent tariff, and we keep raw plastic out. But the problem is, we do not protect the jobs in plastics because they come in the form of windshields, eyeglasses, drinking cups, and styrofoam. We lose the jobs in plastics, and we lose the jobs in all of the fabrication parts. And the fabrication jobs are hundreds of times as important as the jobs that we are protecting and protecting the raw material.

Madam President, what we have here is an effort to do what cannot be done. What we have here is a well-intended amendment that seeks to violate the basic laws of economics, and the basic law of economics in this case is if you want clean air, you are going to have to pay for it.

We can debate here forever, Madam President, whether this bill really gives us what we are paying for. I think there are strong arguments on both sides. I think this bill, quite frankly, is a lot better than what we started with. My guess is it is better than we are going to do again. Whether it is worth what we are going to pay for it or not is an open question.

But we cannot, through protectionism, lower that cost. If it costs more to produce steel in America, it costs more to produce steel and you cannot cover it up. You cannot protect the steel industry without destroying thousands of jobs in other industries that use steel. I am not talking about some abstract theory. Steel is one of the most protected industries in America, and yet employment in the steel industry has gone right through the floor. It has gone right through the floor because we protected raw steel, but we have imported steel in automobiles, in tractors, in drilling rigs, in tools, and we have lost not only the steel jobs, but we have lost the fabrication jobs.

The same is true in virtually every basic building block of industry and agriculture you can talk about because the environmental problems are in fabricating the basic component parts of production. They, by and large, are not in manufacturing. So this amendment would greatly disadvantage the very industries that we are competitive in.

Let me also say that while one can argue for or against this bill, one of the checks on excesses in going too far is foreign competition. One of the things that has been on all of our minds as we have written this bill has been, what does this do to American competitiveness? Madam President, if we took this approach, not only would it not work, not only would it greatly multiply the jobs lost and the cost to the consumer, but it would tend to eliminate one of the balancing elements hereby inducing a coalition of groups that are not imperiled by extremist environmental moods with those who long ago have forgotten about economic growth because they have gotten a piece of the pie. The result can be ever-increasing standards and ever-increasing tariffs, and the result would be a pristine environment of a country that primarily is poor and hungry.

This bill does not help exports. It talks about funneling some subsidies to export, which would clearly be in violation of all of our trade agreements and would create tremendous retaliation. But the point is, if we are producing something, we are selling it on the world market. What we are producing, and much of that would be agriculture, would be subject to retaliation in terms of protective tariffs.

So if you are from a farm State and you really take this amendment seriously, under existing trade agreements, you are voting for retaliation against agriculture products when you vote for this amendment.

Finally, quite aside from the argument that was made by the Senator from Oregon about how in the world you would ever figure this stuff out, how you would ever figure out all of these components and these costs, I think most people can realize that every industry in America that was trying to protect itself from competition—and that is every industry in America—would argue that their lack of competitiveness was due to the Clean Air Act.

We would have the candied cherry industry coming into Washington saying, "If it weren't for the Clean Air Act, we could compete. And so we ought to have a protective tariff on candied cherries." And since we are responsive to all those pressures, if we were making candied cherries in Texas, I can assure you their argument may be nonsense but it would be heard if I had anything to say about it.

We will induce every industry in America, whether they have a problem with the Clean Air Act or not, to try to use this vehicle to get protective measures adopted, to try to stop the competitive process.

So let me, Madam President, conclude by saying that this bill will raise the cost of the Clean Air Act to the American consumer and it will raise it manyfold because it generates the absurd situation where, if something becomes too expensive to produce, you cannot buy it. It is sort of like saying, "I am going to stop dealing with A&P. I am going to stop going to the grocery store because they are not buying anything from me so I might stop buying something from them." Or if I decide I cannot in my own house produce it, I do not want to go outside to produce it because it is unfair to others in my household. It makes absolutely no sense. It will cost us more. It will destroy jobs in the fabricating industry, many times more jobs than it will ever protect in terms of the raw materials. In fact, those jobs will be lost as well. It will eliminate any checks and balances that world competition has on the setting of environmental standards. It will decimate our export industries in agriculture because of retaliation. And finally, it will create another excuse for protectionism.

In addition, Madam President, I do not think we need to encourage the House to be adopting protective legislation. I think there is plenty of encouragement to do that.

This is a well-intended amendment, but it is a very bad and harmful idea. I hope that it is not encouraged by a big vote. I am concerned that people will walk down on the floor and see this as the ability to be for something that on the surface looks good and we get to bash all those foreigners and it looks like a throwaway vote because it is a sense-of-the-Senate resolution.

But, Madam President, this is a very dangerous issue. We should tread very lightly on it. I assume there will be a motion to table or a straight up-and-down vote. I hope that this amendment will be voted down with a sound vote because it is very important, if we want to have clean air and jobs, which is what I want, that this amendment be rejected.

I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The manager of the bill.

Mr. BAUCUS. Madam President, I note the presence of Senator BREAUX and Senator FORD, who have not yet spoken on this amendment. I am wondering if the proponents of the amendment would be willing to enter into a time agreement on this amendment, say, by 5 o'clock, the time to be equally divided?

Mr. GORTON. Madam President, I would not be willing to enter into such a time agreement at this point. The Senator from Kentucky [Mr. MCCONNELL] has expressed his desire to speak, and the Senator from New Mexico [Senator DOMENICI]; Senator BOSCHWITZ was here ready to speak but was called back to his office. At the very least I want to summarize in

one more opportunity, so I think the request, while it may be appropriate later, is premature.

Mr. BAUCUS. I thank the Senator.

I yield the floor.

Mr. BREAUX. Madam President, I think the debate and discussion on this issue has been very, very interesting because it really goes to the heart of two major problems we have as an industrial nation. No. 1, what requirements and procedures and standards are we going to continue to impose on American industry to the point of making them noncompetitive because of protections that we decide are good for the citizens of this country with regard to the question of competition from overseas? How far are we going to go before it starts becoming a real impediment to our industries to survive and compete in the world because, obviously, we are talking about world trade, not just trade within the boundaries of the United States. That is the first point.

The second point goes to how valuable is the U.S. market to other countries. Are they willing to do nothing in order to have the right to sell their products freely in this country?

These are two questions that I think are extremely important and that Congress has addressed in previous examples.

My good friend from Illinois, who spoke so aggressively on behalf of this amendment, was on the floor when we had the horrible problem in the fishing industry, when we were requiring the U.S. shrimp industry to follow certain rules and procedures. This Congress—and it is adopted into law—passed a provision that simply said shrimp imports from foreign countries that do not have a comparable program to ours will have their products banned from this country.

It calls on the Secretary of State—which they are doing right now, by the way—to survey foreign countries to see if they have a comparable program to ours. If they do not, then their products are going to be banned from import into this United States.

So I say if we are willing to consider doing that for fish products and for endangered species, are we not at least willing to consider the same type of action to protect human life? In existing law in the fisheries area, we tell foreign countries which catch tuna, if they do not have a program that is comparable to ours in protecting dolphins—the Senator from Washington State knows this with regard to the Dolphin Protection Act—that if foreign countries do not have a program equivalent to ours in the protection of dolphins, the tuna products they catch are banned from export into the United States.

So we as a nation have said very clearly that if you want our market, you are going to have to follow some rules and procedures that are at least comparable to the standards that we have in this country as to how you catch those products. That is the law. That law is aimed at protecting animals, whether it is dolphin or whether it is sea turtles. As the Senator from Illinois knows very well, that precedent and that standard has already been set.

As a Senator from a State that is very prominent in the production of oil and gas products as well as chemical products, our industries, our plants are going to have their costs increased, I do not by how much, 10 percent, 5 percent, 20 percent, depending on what the maximum available control technology is going to cost. With additional control technology running up to 10 to the minus 6 being required, it is going to cost them a lot of money. And yet we are saying that chemical plant manufacturers across the border in Mexico, for instance, can produce the same product, not having to meet any of these standards, and they have a free access to our market.

Something is wrong there. Something is wrong when we legislate in areas that affect international trade and put us at a disadvantage and we do not even consider a sense-of-the-Senate resolution to move towards doing something to compensate for that loss. I think it is high time that Congress start looking at what we do, not just in the vacuum of inside the beltway, and yet not even inside the boundaries of the United States. We have to start looking at these questions internationally, how it affects our competitiveness overseas.

Why would I not as the CEO of a chemical plant operating in Louisiana, looking at millions of dollars of extra cost, move my plant across the border to Mexico where I could produce the same product, put it in a box, ship it back to the United States at substantially less cost and sell it in the same market?

I think this sense-of-the-Senate resolution is good way to tell the rest of world like we have already done in fish, when we are dealing in human health, when they want our market they have to do some things we are requiring our citizens to do if they want our citizens to buy their product.

Mr. FORD. Madam President, let me compliment my friend from Illinois and my friend from Washington for the introduction of this sense-of-the-Senate resolution. I have been listening to the debate and it has been a good debate. There is a thread through all of the debate that we are now more dependent on others. For the last decade we have been going downhill and downhill and downhill as it relates to our deficit and balance of trade.

If we look at how small it was in 1989, it was a $105 billion deficit. We purchased more from them than they purchased from us. I was vigorously in favor of a trade bill. I hope that it is beginning to work. But I heard the simple explanation of it that if they trade with us we could trade with them. That was the simple explanation of that bill. I kind of liked it. I did not have to study all of the paragraphs and GATT and all that sort of thing. They will trade with us and we will get to trade with them. I kind of liked it.

I am not sure that anything will come of this sense-of-the Senate resolution. No one in this Chamber can guarantee what will happen to it. But we have started a debate of what is happening to America's business. The world was used to depending on us and now we are depending on them. We are over 50 percent in the import of the oil we use domestically. We had about 28 percent when we had an embargo in 1973. It scared us all to death, and then lost about 250 or 300 million barrels a day. That scared us again in about 1977. That is control on our economic well-being.

My colleagues who are arguing against this amendment, I respect and respect them very much. They are my friends. So I hope, Madam President, that as a result of this debate we will begin to look and look very hard at what we can do.

The Senator from Louisiana [Mr. BREAUX] talked about just moving across the border a very few miles, producing the same product, put it in the same box, and send it back to us. What is happening to our major industries? They are moving to Mexico, Canada, and other places in the world. And they send it back to us. We are trying to accommodate other countries, and trying to attract them here. But we have flights of industry from this country, and it is time we try to do something to turn that around.

We talk about fish, we talk about dolphins, and we talk about other things. We put a limit on products coming into this country with certain pesticides that are not healthy. That is an easy vote. But to protect a man's job, we have a hard time making a decision. We do not want to do that. The livelihood, the future, the education of our children, we spend hundreds of millions of dollars, billions of dollars, yet we do not protect that individual that is going to pay the tax so we can use this money for the future of this country.

Regardless of the outcome of the vote, I think our two Senators from Illinois and Washington have done a great service. At least we have looked at the possibility of what is going to happen to us. I think that possibility should frighten us considerably.

Madam President, I will not take any more time. But I hope that we can

send a message, and that the message will be one that we should take an added interest in protecting the jobs here at home. I do not want to not trade with other people. They have products we want. But when you go to North Dakota, up in Montana, that area, and 3 miles south of the border you have a utility generating facility with a scrubber on it, and you go 3 miles over the border and they have nothing on it, that tells you something. They are generating their energy at a lot less cost than we are because they do not have the clean air rules that we have initiated here in this country.

So it is a border thing really. We are not going to tell other countries what they can do. We just will not trade with them, and that will give them an incentive to clean up and do the things that are necessary.

I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, despite the intentions of the author of this amendment, this amendment in fact, if it is enacted, is an antijobs provision. It will take away jobs. It will hurt jobs, not help jobs. Why do I say that? I say that, first, very simply, because if this amendment were enacted into law, it would be the opening shot of a trade war, a world trade war. If the United States started imposing fees on products that come into this country, we can be sure that other countries are going to start imposing fees and tariffs on products that go from America into their countries. It is tit for tat in this world.

Let us just put ourselves in their shoes, turn the tables. What if, for example, we export products to another country, and that other country starts to put a tariff on our products for whatever reason. The country says well, it is because you Americans do not have quite the same health and safety standards as we do. You Americans do not do something the same way we do.

How are we going to feel? We are going to feel what right do they have to tell us what to do. We are going to show them. We will put a tariff on their products. That is human nature.

People in the countries of Spain, Japan, Asia, are people, too. Human nature is not confined only to the United States. Human nature is worldwide. People are people. If we start enacting tariffs on other countries' products that come to this country, other countries are going to start enacting tariffs on our products into those countries.

The Senator from Oregon, Senator PACKWOOD, spoke earlier and mentioned that we are now in the middle of the Uruguay round of the GATT negotiations with other countries. What is the point of these negotiations?

The point is market opening. The point is to reduce tariffs and barriers to trade. The point is to reach agreement on services in intellectual property rights. The point is to reach agreement on subsidies in agriculture—to reduce them so that we are opening worldwide trade, not constricting it.

The fact is if we enact this amendment, if it were to become law, we would be dramatically regressing. In earlier rounds of GATT negotiations substantially reduced tariffs. At the time, it was tariffs that were constricting world trade. Those tariffs are now reduced.

So we are now going to the next step to reducing other kinds of trade barriers, the so-called nontariff trade barriers.

So if we enact this amendment, if it were to become law, we Americans would be saying to the world we are going backwards. We are going back to the tariff trade war.

I submit, Madam President, with all of the growth of the freedom in Eastern Europe and with the changes in the Soviet Union, and with the democratic elections in Central America, countries are opening up, we Americans cannot go backward.

We do not want to go backward. We want to go forward. We want to be world leaders. I tell you we all know that American leadership in the next decade in the next century is somewhat in question. There is no guarantee that the United States of America is going to be the world leader in the next century, no guarantee. We have to work for it. We have to earn leadership. I can guarantee you if we adopt this amendment we will start a trade war because we raise tariffs. We will be going backwards. There is no doubt about it.

Let me take a couple of examples. The Senator from Washington, one of the sponsors of this amendment, is very concerned about negotiations this country is now undertaking with Japan—the Super 301 action on satellites, supercomputers, and processed forest products.

We Americans right now are in the middle of very intense negotiations with the country of Japan to reduce its tariffs on American processed forest products—plywood, lighter board, fiberboard. We are asking them to reduce their tariffs because they are unfairly discriminating against American-processed forest products.

Let us say we enact this amendment and it becomes law. What is Japan going to say? They are going to say, "Well, those Americans are going to start enacting fees on Japanese automobiles, Japanese products in the United States. So they say the heck with Americans, we are not going to reduce our tariffs on processed forest products." That is a logical, probable consequence of this amendment.

In addition, the Senator from Washington says, well, article 20 in the GATT is an exception for health and safety standards. Let me tell you how the EEC used article 20 to unfairly discriminate against the United States. They have banned American beef from coming into Europe under the guise of health and safety.

The Europeans know they did not ban our beef in the European market because of health and safety. It is straight protectionism, to help European cattle producers.

I last year met with Margaret Thatcher. And I asked her this question. She agreed and said, that it is pure protectionism. But she could not convince the rest of the Europeans to back off.

I am telling you very, very simply, very directly that if this amendment passes, countries will find all kinds of excuses for enactment of tariffs. It could be for whatever reason. They can call it health and safety, but it will be because we Americans are putting a fee on their products. It is going to happen.

So that is why I say this amendment is an antijobs amendment. It is going to restrict trade in the world, reduce employment in the world. It is not going to help it. It is a bad amendment. It may be well intended, but the consequences will be severe if it is enacted.

The Senator from Washington and the Senator from Illinois have legitimate concerns. The legitimate concern is, we Americans, we are enacting good, strong environmental control laws and regulations, and it may have an adverse economic effect on America. What are we going to do if other countries do not enact similar standards.

If we are honest about it, there are a couple of answers to that point. No. 1, there are definite economic costs for enacting pollution control legislation. There is no doubt about it. There are all kinds of estimates. Who knows which estimates are accurate. But there also are very direct economic consequences for a failure to enact environmental protection laws.

I am not talking about the anxiety and pain and suffering of illness and disease, which in itself is a very dramatic and tragic cost because of increased illiness or death. I am talking beyond that of the economic costs of failure to enact good, strong environmental control legislation. The economic cost of doctors bills, hospital bills, lost employment, lost work. These are a direct economic costs.

They are economic costs on the other side of the ledger that have to be calculated in determining the true

economic cost of the legislation we are passing.

So I ask the sponsors, if this bill before us becomes law—and I think there will be clean air legislation this year—does the Commerce Department then give a country a rebate because of the diminished economic costs in lower doctor bills, less hospital costs, less absenteeism because of health in the United States? Do they add those benefits in too? Logically, they have to be added in.

I do not think the sponsors thought of this. But the fact is, those are economic benefits that should also have to be calculated, if we are honest about it.

In addition, it seems to me we should remember another point. There is a strong correlation between increased environmental control equipment that a company puts in, and increased productivity that that company experiences.

That is, when a company undertakes the capital costs to add to, remodernize, or to build a new plant to meet higher environmental standards there is a strong correlation with increased productivity.

The company figures out a better way to build a new facility, or enact a better processing facility and a better process that is more productive.

It happened in the automobile industry. When this Congress required the automobile industry to begin to enact tighter standards on its tailpipe emissions on their automobiles, what happened? First, the auto industry said they could not do it. We enacted the law, and they did it. You know what else happened? It was a good excuse for the auto industry to become more productive and build better and more efficient cars. They admit that; it helped them build better cars.

So there is also economic benefit, a very definite economic benefit, because of the additional environmental standards that we are enacting.

Madam President, this is not a good amendment. The Senators are correct in suggesting that we Americans should try to forge agreements with other countries so that they too, adopt similar environmental control regulations and standards. Many environmental consequences are not limited only to that country, they are worldwide.

That is, chlorofluorocarbons emitted in this country affect the stratospheric ozone level, and therefore affect everybody in the world. CFC's emitted in Japan or in France deplete the stratospheric ozone level and affect Americans as well.

We already have a Montreal protocol on CFC's. The next major worldwide pollution problem is global warming. It is the greenhouse gases, carbon dioxide, methane, about which this country has been meeting and will continue to meet with other countries under UNEP. To begin to agree upon a protocol and a worldwide agreement to address the greenhouse phenomenon, to address ways to control greenhouse gases.

That is the way to get at the problem, not by beginning a trade war by enacting tariffs on other countries' products. It will not work. Not only will it not work, I guarantee that it is going to cause many, many more problems than it can solve.

I strongly urge Senators to remember that this is no throwaway vote. This is serious stuff. Americans are smart. They know what is really going on. They know they want cleaner air. They know that perhaps we have to undertake a little bit of extra effort to exercise leadership so that other countries also have cleaner air. But they also know that you do not do it by starting a trade war.

The Senators raise a problem that must be addressed, but it should not be addressed in the way they suggest in their amendment. There are other better ways to answer the problems that they are raising.

I strongly urge that this amendment not be adopted.

Mr. CHAFEE. Madam President, I cannot think of a more inappropriate day for this legislation to be brought forth. Last evening, a dinner was given at the White House for the Prime Minister of Poland. Today at lunch, our two leaders from the majority side and the minority side gave a luncheon for the Prime Minister of Poland, at which the distinguished Presiding Officer was present, as were others.

What we are saying with this amendment is, welcome, free Poland. We are delighted you have attained your freedom and democracy has been achieved there, just like we are thrilled with what has taken place in Czechoslovakia. But at the same time, you Poles who are striving to get your country together, we recognize you have the dirtiest polluted section of the world.

So we are not going to let you send your goods here. We are going to slap a tariff on these goods because we are spending money to clean up. You Poles over there, you are just striving to get your act together, and you have not been able to put on these scrubbers, air pollutant control devices, and you will not be for a long time.

I wonder how many read the article in yesterday's New York Times about Krakow, Poland. The place is a disaster area from toxic air pollutants and other pollutants, and it will not be able to be cleaned up. Why? Because the Poles just cannot afford the equipment. They are scrambling out of the Middle Ages industrially. They have been occupied for 40 years and with the heavy hand of the Soviets, as have the Czechs, as have the Hungarians, as have the Baltic regions, as have the Romanians, each of those countries. We applaud what they achieved. Now we are turning around with this amendment, "We cleaned up. You have not. Do not send your goods here. Do not try to compete with us. We are slapping a tariff on them."

I know the distinguished Senator from Illinois has a lot of Polish constituents. I would be curious of his reaction to what he is proposing here. Is this really what he wants to do? Is this really what he is doing to the country that so many of his citizens have come from and look back with pride and are trying to help out and realizing that the first thing they could do is not to clean up their air and control these emissions. Look at this wealthy country of ours. Look how long it has taken us. We have not had a clean air act in 13 years, and we are struggling to get this one passed. How long have we been on it? We have been on it since January 23 to February, to March, 2 months, and we are not through yet. I have a daughter-in-law that is expecting a baby in September. I want this act to be through before that baby arrives, and I think it is going to be a close call the way we are proceeding around here.

Madam President, that just gives a little indication of what these proponents of this legislation are talking about. These countries are struggling. They think it is a bash-the-Japanese program. Look, the Japanese are getting their air pollutant control devices. If you think you are going to punish the Japanese with this, I think you better think it over a little more. They are doing a good job. In many areas they are way ahead of us, certainly in solid waste control. That is point one.

Point two, I think it is clearly a violation of GATT, and that has been taken up by those who have spoken before me.

Point three, where do you draw the line? You say clean air legislation. Well, as you know, we have OSHA, occupational safety and health laws. Many countries do not have those. Can we not compute what it costs our manufacturers to observe OSHA, and should we not tack that onto the tariff?

All right, how about solid waste disposal legislation and hazardous waste disposal? You cannot take our hazardous waste and go out in the field and dump it somewhere because you will be slapped with a $1 million fine, and somebody might go to jail. Add to that a cost because they have to send it to a special hazardous waste processing plant. And let me tell you, that is expensive, that is far more expensive than this Clean Air Act is going to be for many of our plants.

What about the Clean Water Act? You talk to any plant in our country.

They have invested literally millions of dollars in trying to clean the water discharges from their plants. Is that happening all over the world? It certainly is not happening in Poland. I read in one of these articles the description of what is happening in some of those rivers in Poland, and it is a shame, and we all deplore it, and we want to do something we can to help them. But I must say when they are struggling to get on their feet over there, this will not be the first thing they tackle.

That is where I would like to hear some answers to these when Senators have a chance to reply. Where do you draw the line? Child safety laws. Now child safety laws cost some money. You cannot have a 13-year-old working in your plant. Once upon a time in textile plants in the early days of this century there would be 15-year-olds, 14-year-olds tending the looms and bobbins. That is not true any more.

I suppose that cost some money to have to hire people and observe the child age limitation, whatever it might be in certain States, 18 and above for dangerous work, clearly. That cost a plant some money. Are you going to figure that in? I would like to know what the answers are to some of these questions.

Let us take the reverse side of this. Somehow there is a view that we are a net importer of all the countries in the world. That is not true. We have a net export dollar figure with Australia, for example. In 1989, we ended up with net exports to Western Europe. Suppose the Australians or the Europeans say, "Well, look, we have certain controls on that you do not have, certain protection that we take," whether it is for certain wildlife that they might choose to protect that we did not, certain species, whatever it is, it adds a cost. What do you do about that? Suddenly Australia one day is applying it on all the agricultural products or machinery products, all Boeing aircraft that we ship to them—is not that interesting? The Senator from Washington, where Boeing is made, has proposed this. Suppose the Australians said, "We have got tighter child labor laws than you do, and we have got tighter occupational safety and hazardous laws in our plants than you do, and it is costing us a lot of money. Therefore, we are slapping a tariff on every Boeing aircraft that we buy from you, just to help us share the burden."

Is that what you propose?

I must say in conclusion, Madam President, I think this resolution should be entitled the "Accountants Full Employment Act of 1990." If we have got any labor shortages or unemployed in the accounting industry, they ought to be thrilled at the possibility this suggestion would ever pass. How in the world do you ever do this accounting, because you have got all sorts of accounts to work. Clearly, if you are going to talk clean air, you have to talk clean water, solid waste, hazardous waste. You have to talk child safety. Look, I think probably you ought to talk education, too, because the heaviest single part of any plant's real estate bill is education. Any plant, anywhere in this country, pick up their real estate bill, and two-thirds of it, I am sure, goes for local education. That ought to be added on. That is something we are trying to do. We have got a law in this country that children have to finish school. We work hard to prevent dropouts. Other countries do not have that. They have got an advantage probably if you look at it that way.

So all the accountants who are busy figuring this out—but then they have to do the reverse because, presumably, there are some savings from these health measures we are taking. I should not say "presumably." I know it is a fact, that through cleaner water and cleaner air we are improving the health of our population. That ought to be figured out on the other side. That is a saving. So, Madam President, I find this a very, very odd amendment, and I hope it will be rejected.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Madam President, I listened to my friend from Rhode Island speak, and one would almost get the impression that he is not for clean air beyond our own borders as though the air will know to stop at our borders and not come across. We are indeed seeking to be constructive with this amendment, the Gorton-Dixon amendment, the countervailing duties amendment, and I say that if this amendment is an accountants' full employment act, the bill itself is probably another one of our unrelenting efforts to feather the nests of the attorneys of this country because certainly this bill is going to give much relief to the lawyers of this country. The lawsuits will abound, and the interpretations of this bill will go on for months and years.

We do not intend to make this an accountants' full employment act. As a matter of fact, they are fully employed in this country, perhaps too much, and perhaps too much so because of various government regulations already. However, we do not want the accountants to figure out the losses that our companies are now going to suffer because factories move abroad. It does not have to be from here to Poland. It just has to be from southern California down into Mexico, and I will dwell on that in my more formal remarks here.

Madam President, I am about as much a free trader as any Member of the Senate, and I believe very much in it, but I do not believe that we should unilaterally enact here penalties against our side of that free trade equation. We are debating the Clean Air Act in order to improve the health as the Senator from Rhode Island has said and the environment of all Americans. I am concerned, however, because I fear that other nations will not follow our lead and will continue to pollute, and the air actually is shared, of course, by all the people of the planet.

Our actions here will not only have great consequences for our environment, but for our economy as well, and I think that is what our amendment says.

American industry currently spends between $30 and $35 billion on pollution control. It is important to recognize in this debate that pollution control is not something that was just discovered with this bill; that clean air is not something that does not exist, that it will only exist after this bill.

In my State of Minnesota, the air is indeed clean and with most elements of the bill, we are already in compliance; with almost every aspect of the bill, we are almost in compliance, with the exception of Minneapolis-St. Paul in one element of the automobile section of the legislation.

Our actions here will not only have great consequences, as I said, for our environment, but for our economy. American industry currently spends $30 to $35 billion on pollution control. And again this bill is going to lay another $20 billion on top of that. So we will be way ahead of the rest of the world.

I understand that we have to make some sacrifices to protect our environment, and I am not against doing that. As the Senator from Illinois said before, this is a bill that is going to pass. He said repeatedly if he knows one thing about the legislative process it is that this bill is going to pass. But I fear that other countries will not begin to make anywhere near the same sacrifice as we are willing to make and as we will make with this bill.

I recently visited East Germany. The Senator from Rhode Island spoke about Krakow, Poland. While I was there, I smelled things and I had a sensation of smelling things that I have not smelled for 20 or 30 or 40 years in this country. I went to a cemetery, and next to it was a rubber plant. I smelled the smell of burning rubber and I realized I had not smelled that for an awfully long time.

The sight of factories coughing thick black smoke is something we have not seen here in the United States for many years. Everywhere I went in East Germany, I saw this high-sulfur coal laying outside in little briquettes

and everybody was burning it and in a totally unprotected manner.

In countries like East Germany, industrial pollutants are the same as they were 50 or 100 years ago, perhaps even worse because of the volume that is coming out today.

While most developing countries spend almost nothing on pollution control, even the developed countries in west Europe spend much less than the United States.

The data are scant, but according to one study conducted by the Organization for Economic Cooperation and Development, the OECD, as percentage of gross national product, the United States spends four times as much as Japan and France, and three times as much as West Germany, for pollution control. No wonder that our economy is not competitive in every element.

While I recognize that the United States will take the lead in pollution control technology and the pollution control industry worldwide, there will be job losses in other industries. It is a simple matter of economics. This bill will make it much more expensive for many industries to do business in the United States. Installing pollution control technology, maintaining detailed records, and hiring lawyers to interpret this act all cost money. And indeed, it includes accountants, too. We will keep them busy by this bill. They probably do not need this amendment, as a matter of fact, to become fully employed.

In response to these costs, companies will be inclined to move abroad to countries that do not have strict antipollution laws. And some of these companies may move to our neighbor countries—not to Poland or Hungary or to these other countries that are trying to develop—but they will move into our neighbor countries where their emissions will still have a great effect on the air that we breathe here within the United States.

For example, already many furniture manufacturers in southern California have moved south to Mexico in response to strict pollution control laws in southern California. But do the emissions from those plants in Mexico know where the border is with California? And do they know that they should stop there and not come forward? Do they know we have these laws? Of course not. These plants continue to pollute California's air, and because Mexico's pollution control laws are so lax, far, far more lax, if they exist at all, than the pollution control laws that already exist in the United States, the pollution is often worse than it was before the plants move out of the United States and went south of the border.

This sense-of-the-Senate resolution would ask the House of Representatives to introduce legislation that would impose a fee on any product imported into the United States that has been manufactured in a manner that would not meet the standards of our own Clean Air Act. If there is a particular developing nation that—some were named by the distinguished floor leader from Rhode Island—if there are some nations, perhaps they should be omitted. If there is some element that should be considered that would exclude a nation from this particular amendment or this particular fee, perhaps that can be undertaken.

But this fee is still something that has to encourage cleaner air not only in the United States but in other parts of the world. The fee, as my friends from Washington and Illinois have said, is the difference between what the U.S. company producing the product pays in pollution control equipment and what foreign companies pay for similar controls if they are indeed necessary in those countries.

This amendment will not only reduce the incentive for domestic businesses to move their factories to foreign countires, it will also provide an incentive for other countries to follow our example on environmental policy.

How often here in the Senate do we pass resolutions of one type or another seeking to influence other countries to do certain things? Why not in the case of clean air? The import fee, along with the GATT negotiations on environmental tariffs called for in this amendment, will encourage foreign countries to adopt stricter pollution control laws.

For some time now, I have been calling for the United States to provide global leadership in the area of environmental policy, especially global warming. Regretfully, this Clean Air Act really does not deal with global warming. Indeed, this Clean Air Act, because of the provisions with respect to high-sulfur coal, worsens the problem of the greenhouse effect. This amendment will at least allow us to provide that leadership in the worldwide effort to clean up the air, while, at the same time, maintaining the competitiveness of American industry in global markets.

I should add that after consideration of this amendment, I plan to offer another amendment calling upon the General Accounting Office to conduct a study of how the clean air standards in other countries compare to our own standards and how foreign sources of pollution affect the U.S. environment and the health of our citizens. Currently there are little data about this problem and we will need more if we are to ensure that we have clean air not only in the United States, but around our entire planet, as well.

I yield the floor.

(Mr. LAUTENBERG assumed the chair.)

Mr. DANFORTH. Mr. President, I just want to make some brief points, because I think they have already been pretty well made in opposition to this amendment.

This amendment is, of course, not binding. It simply takes a position of what the House of Representatives should do in trade legislation. But it really states terrible trade policy. I think it would be a serious mistake if the Senate went on record in favor of a differential tariff, such as this amendment would urge on the House of Representatives, or flatly a violation of the concept of most-favored nations, therefore, clearly, a violation of the General Agreement on Tariffs and Trade.

Not only that, but the whole concept of trying to squeeze international trade and reduce it and make it more difficult and more expensive, which is the thrust of this amendment, is absolutely contrary to what we are attempting to accomplish, even now in the Uruguayan round of trade negotiations. Our policy has been to try to open the markets of other countries, not attempt to close down international trade.

We have believed that the United States would do very well in a world of open markets and that has been the position of our negotiators. I thought it was the position of most Members of Congress. This legislation goes in exactly the opposite direction of the kind of open trading system that we have been trying to achieve.

I do not understand how we could enter this area of trying to impose costs to other countries on the basis of governmental regulations that are imposed in the United States and draw the line at environmental regulations alone. Why, as a matter of concept, if this rule in this amendment is going to be the law of the land, why should not precisely the same theory be applied to all other kinds of costs that Government imposes on the private sector?

For example, if we do this with respect to environmental regulations, how about tax equalization? Why should we not say that the policy of the Government of the United States is to equalize tax burdens, and if other countries charge less taxes than we charge, then we are simply going to impose tariffs on those countries so this will be, as we constantly tell ourselves, a level playing field?

Or how about Social Security taxes? Why not utilize the same principle with respect to Social Security taxes and say that if other countries do not impose the same Social Security tax we do, we are going to tax them? Or unemployment compensation? Or OSHA? Or minimum wage regulations? Or anything else? How can we stop at environmental regulations?

It really is a bad precedent and, as I say, it is terrible trade policy. It is contrary to what we have been trying to achieve. Part of this amendment would provide that the revenues that are extracted by the imposition of these tariffs would be used to provide an export subsidy for American goods. If we are going to provide an export subsidy I take it that that would be a violation of the subsidy code, and I take it that that, in turn, would trigger countervailing duties on U.S. exports to other countries. I wonder if that is what we want.

Furthermore, this amendment invites our trading partners to do the same. In fact, it makes it an objective of trade negotiations for the United States to accomplish a mirror of this provision in other countries. And, if we do that, then what we are going to do is to simply invite other countries to do precisely the same thing to us. It is a costly provision. It is going to end up costing the consumers. It is contrary to the trade policy of this country, flatly contrary to international agreements, a very bad precedent, and my hope is that it will be soundly defeated.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, I had originally intended to offer an amendment to the bill, not dissimilar from the one offered by the distinguished Senator from the State of Washington and the Senator from the State of Illinois.

What I had been thinking about, Mr. President, was an amendment that would say that after a certain time, no automobile company could market automobiles in the United States if they were marketing automobiles elsewhere in the world without pollution control devices. The purpose of that, Mr. President, would be to use the market power of the United States to see if we could move on the very complex and difficult but extremely important issue of carbon dioxide emissions from automobiles and use the power of our marketplace and say to people, if you want to market here you have to be good citizens around the world.

The problems that I ran into, in just thinking about it, are not dissimilar from the arguments that have been raised here on the floor, about the GATT issues that get raised, what kinds of economic impacts are going to exist on this, what burden are we putting on poorer countries and so on; some very complicated issues.

Consequently, I backed off of that position and have been drafting an amendment which I will be offering a little bit later on. Senator BOSCHWITZ and I are trying to get an amendment together, basically a similar kind of approach, to do an analysis of this whole question. There are some extremely important issues out here in terms of global environmental pollution, in terms of global warming, in terms of carbon dioxide production, in terms of what is going on with air pollution in cities around the world, what the impact is around the United States, what the trade issues are and so on.

At this point I think we should not accept the amendment offered by the distinguished Senator from Washington and the Senator from Illinois, but rather turn that down and get a little more data before we get into this. I think the statement made by the Senator from Washington, that this issue is going to come back, is exactly right. It is going to come back. We are going to be seeing more and more of this issue. We are going to become more and more aware of the fact that we have a globally interconnected economy and globally interconnected environment and that all of the impacts elsewhere are going to show here.

So, I will come back later with an amendment. I hope Senator BOSCHWITZ and I will be able to meld our two amendments together. I know the distinguished manager of the bill is very concerned about putting responsibilities onto EPA. We have discussed that. I understand his concerns on that front. It seems to me we might be able to find another agency to do this particular kind of study and get the data back.

It is the concern, obviously, of EPA. They have jurisdiction over air, and I think they would be interested in this issue. Maybe we can find another agency to get this kind of data. We cannot ignore it and I hope the Senate would not ignore this amendment.

I think the Senator from Washington is doing a very good job of bringing this issue up and reminding us of the fact that there are a number of interconnected global issues. Let us not ignore it. Let us perhaps pick it up in a different form.

I want to again commend the Senator for bringing the issue up. I do not agree with the way in which we are moving on this but having us debate this, having us talk about the issue and understand the ramifications of this, is extremely important.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I will be extraordinarily brief, particularly by Senate standards. At the outset I would like to commend the distinguished Senator from Washington for bringing to the floor a most important debate. As has been said previously by other speakers, we do not exist in splendid isolation, either in terms of the environment or in terms of the economy. America is a part of the rest of the world.

The amendment of the Senator from Washington, as everyone knows, is a sense-of-the-Senate resolution. It would not be binding but does, I think, send a message. That is the way we send messages around this place, with sense-of-the-Senate resolutions. So I think the Senator from Washington has correctly decided that that is the best way to address this particular issue.

His amendment raises two important points. No. 1, the global nature of the clean air issue, and No. 2, the impact of clean air legislation on the competitiveness of U.S. industry.

The amendment of the Senator from Washington will encourage other nations to develop clean air standards that are at least as stringent as ours, thereby contributing to the eventual solution to the global problem of air pollution.

Also, I believe this amendment will help ensure that we do not put our industries at a competitive disadvantage relative to industries in nations with weaker clean air requirements.

As a nation, Mr. President, we are about to impose upon ourselves a very strict, very sweeping clean air program. Virtually every sector of the economy and every region of our country will be affected in some way by this program. Some will be affected more than others, but all will be impacted.

Once this clean air program is implemented, the United States will have perhaps the toughest, most comprehensive clean air requirements of any nation in the world. As a country, we will pay a high price to meet those requirements. In many cases, jobs will be lost, workers will be dislocated, utility rates will rise and businesses will be forced to close their doors.

The absolute cap on sulfur dioxide emissions contained in the acid rain title will hinder our ability to cost effectively generate electric power and this, Mr. President, will certainly hinder economic growth and negatively impact our energy and national security.

Industries in our country will be forced to invest in pollution control equipment and to make certain changes in their operations and their manufacturing processes. The cost of electricity to industry will rise, as will the administrative costs of maintaining compliance with the requirements of the program. All of these factors will raise production costs.

This will occur, Mr. President, just as many of these industries are regaining their ability to maintain market share in the face of fierce international competition. Many of these industries have spent millions of dollars to modernize their facilities and improve productivity. As a result, these industries have begun to regain market

share both here and overseas, and our balance of trade has begun to improve.

I am worried, though, that the clean air requirements we are enacting here will not be enacted in other countries and that these recovering industries will be put at a disadvantage.

Let me just say, Mr. President, a number of us are extremely interested in clean coal technology, not only because we believe it will allow us to burn coal more cleanly in this country, but because we expect it to be a great export product once a number of different clean coal technologies come on line.

But, Mr. President, I wonder if other countries would purchase our clean coal technology. It seems to me they could easily reach the conclusion that it pays to pollute. Simply produce your products with as much impact on the environment as possible and undersell the Americans.

So the Senator from Washington has raised an extraordinarily important point here. There will be a cost to our own economy in terms of lost jobs and it will be a frustrating experience if the end result of all the environmental steps that we take is that America is increasingly uncompetitive in the rest of the world and the rest of the world chooses not to improve its environment comparable to ours.

It is clear, Mr. President, that we cannot force other countries to adopt the same stringent air pollution controls being employed here in the United States. However, we can prevent other nations from taking advantage of the situation by selling products in this country at prices which reflect the lack of environmental controls in those nations.

We can charge a fee on imports from those countries which equals the added costs manufacturers in this country will incur as a result of the tough clean air requirements in place here. This will ensure that producers in polluting countries cannot come to the United States and undersell our domestic manufacturers.

Mr. President, clean air is truly a global issue. The United States is only one of many countries contributing to the global air pollution problem and, hopefully, we will not be the only nation contributing to its solution.

However, until other nations follow our lead and begin imposing similar environmental controls, it seems only prudent that we prevent them from stealing market share from our own industries which will soon be struggling to meet these new clean air requirements.

Mr. President, this Chamber has already accepted an amendment I offered to the acid rain provisions of the clean air bill to help ensure that our efforts to reduce acid rain emissions will be matched in Canada.

The amendment offered today by the distinguished Senator from Washington in many ways expands on that idea, and I hope my colleagues will support it.

I close again by commending my friend from Washington for a most important amendment that has added significantly to the debate on the clean air bill. I think it is right on the mark. At what price, Mr. President, do we achieve clean air? How many people will be unemployed? And will anybody else in the rest of the world mirror our efforts to improve the enviroment?

It is a most serious question, and I think the sense-of-the-Senate resolution, a nonbinding sense-of-the-Senate resolution is an appropriate way to raise the issue on this bill. This is entirely germane to this bill, entirely appropriate that we consider it, and it is hard for me to believe, Mr. President, that this measure would not pass this body overwhelmingly.

I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I certainly do not impugn the motives of the authors of this amendment. I am sure they have the highest goals of the country in mind, and I think I understand the rationale for the amendment. The rationale almost has to be the fact that this bill is going to cost American industrialists a lot of money. Nobody would argue with that.

In many instances, utility rates are going to go up; electric rates are going to go up for many of our industries. That is a very significant part of their cost of operations. And there is a genuine fear among everybody here about the loss of jobs that may occur, as a result of this bill. So apparently this sense-of-the-Senate amendment would say we choose not to import any product from any country that has environmental standards less stringent than those imposed on American businessmen by this bill.

I used to be, when I was an undergraduate student, an absolute egalitarian. I thought everything ought to be equal, everybody ought to be equal, that only good should always prevail and that good was always easily discernible compared to the bad. Quite frankly, I carried a lot of that with me to the Governor's office in my State, and I found that oftentimes it is not quite that simple. Life cannot be pigeonholed into good and bad. Oftentimes there are gray areas.

I knew a woman one time who told her daughter to do something. She did not do it immediately, and she just slapped her. I said, "Why on Earth would you do that?" She said, "Because I have six children and I do not have time to tell all of them twice what I want them to do."

My mother was a great one for believing that everything could be easily categorized into good or bad, right and wrong.

This amendment has some merit, but on balance, I must oppose it. No. 1, it has no effect. It is simply a sense-of-the-Senate resolution. No. 2, if the goals of the amendment were ever to be codified into law, I do not know how you would enforce it. No. 3, we will never make everybody like us. We will never make every country meet the environmental standards of this country. No. 4, how do you deal with countries who are making a monumental effort to improve their environment but simply have not arrived yet?

Finally, Mr. President, how does this affect the people of Eastern Europe where the environment is about as bad as any Third World nation on Earth and where they are absolutely determined to clean up their environment, but where it is going to take years to get to the level of environmental protection we have right now?

I heard the distinguished Senator from Rhode Island [Mr. CHAFEE], mention a moment ago that the Prime Minister of Poland was here. I walked by to visit with him a minute at lunch. Poland is going to want to export to this country. I doubt that there is a country in the world, and certainly none in Eastern Europe, for whom this body has a greater respect. So are we going to say to the Poles who have suffered under a tyrannical system for 45 years, now that you are 3 or 4 months out of that system, when are you going to try to clean up your environment? Until you do, we cannot buy any of your products.

I was in Germany last week and had the opportunity to go to Leipzig, which is about 100 miles inside East Germany. I had never even been to Berlin before. I am still awed by the barbarity of that wall. You can see it on the evening news, and you can see pictures of it in the magazines, but, as far as I was concerned, nothing will prepare you for the fact that here was a country that enslaved its people, a government that enslaved its people.

One night the young people came storming out of the St. Nicolai Church in Leipzig and began that bloodless revolution that toppled Erich Honecker and the insidious Communist rule of 45 years. To talk to the people in East Germany and share their euphoria was exhilarating to me. But we went up on the top floor of perhaps the tallest building in the area—I forget whether it was a hotel, a trade center or what—for lunch and 25 floors up you could hardly see the ground. They burn high-sulfur coal raw in Leipzig, as they do all over Eastern Europe.

While those people are not asking us for any assistance, and they are in

East Germany, for example, depending mostly on West Germany to help them clean up their plants, I can tell you that every single person I talked to said that now that they have achieved democracy, the No. 1 topic of discussion was their environment.

Maestro Masur, conductor of the Gewandhaus symphony orchestra of Leipzig, and a hero of that revolution, said, "The children of this country are virtually all infected with respiratory illnesses. We must do something and do it soon." You can hardly breathe in that city.

Are we to say to the people, the brave people of Leipzig, the brave people of Prague, the brave people of Warsaw, of Bucharest, of Budapest, are we to say to all those people, "We admire you very much for your courage in overthrowing the yoke of communism, we think that is just hunkydory that you have done that, and we admire you, but don't try to seel us any of your products because you still have some sulfur smoke in the air here." That is just how mischievous this could be. There is not a person here who wants that result.

Mr. President, I close by saying it will come as no surprise to the Members of this body that the junior Senator from Texas [Mr. GRAMM] and I do not agree very often on economic policy or much of anything else, but he made a very cogent argument a while ago against this amendment. I think it has not been as well thought out, even as a sense-of-the-Senate resolution, as it should have been. On the face of it looks highly meritorious to put everybody on a even playing field, and there may come a time in the not too distant future when we can do it, when a lot of people can sit down and we can hold hearings on it and everybody can conclude what would work and what would help clean up the world environment, but until that time we ought not to impose these kinds of penalties on some of our dearest friends.

I yield the floor.

Mr. WIRTH. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. WIRTH. I agree with the statement made by the distinguished Senator from Arkansas. Again he pointed out the need for us to understand this issue a lot better.

Senator BOSCHWITZ and I are going to be offering an amendment focused on trying to understand this, having the head of the General Accounting Office take a look at these issues, a lot of the variables involved in it from the public health and economic point of view, and overall emissions, so that we do get the right kind of data and we can come back and look at it in a quite systematic fashion.

The issue is serious. It is a terribly important one. People in the world are catching on to it. We cannot impose this on the rest of the world at this point.

Again, the issue is very well raised by the distinguished Senator from Washington, but we should not do that at this point. Let us take a little bit longer look, and that is what Senator BOSCHWITZ and I will be doing in the amendment which we will offer later.

I thank the distinguished Senator for yielding.

Mr. BUMPERS. I have yielded the floor but, Mr. President, If I may continue, I compliment the Senator from Colorado, who is always on the cutting edge of these issues. I too laud the authors of this amendment for raising the issue. I think it is good for all of us to start focusing on it and to state that it is a very laudable goal. But it is premature, even as a sense-of-the-Senate resolution, to do this right now.

Having said that, just to show the Senator how laudable the goal of the amendment is, I read the other day an interesting statistic. A main thrust of this bill is to reduce sulfur dioxide emissions by 10 million tons, over 50 percent, by the year 2000, and during that same precise period of time the Third World nations of the Earth will increase their sulfur dioxide emissions by 10 million tons. And so what we are pointing out is that health, global warming, ozone depletion, all of those things, are international environmental problems and you cannot deal with them in a vaccum.

Mr. President, I again yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. I thank the Chair.

Mr. President, as I listened to my friend from Arkansas observe that it is not often he is in agreement with our colleague, the junior Senator from Texas, I could not help but observe that alliances upon this floor are properly transient; that they do relate to single issues and do not bind us through the entire spectrum of issues that face this body.

Recently, my friend from Colorado and I engaged in an heroic, if unsuccessful, effort to try to reduce pollution from mobile sources, and I suspect that that effort is only the first and that within a very, very brief period of time this body will be compelled to revisit this issue. But here he and I disagree. He seeks a study.

My friend from Washington, in an amendment that he proposes, wants the Senate to go on record expressing its sense that the House of Representatives should undertake legislation which presumably will involve some analysis on their part of the kind he has already made, leading to equity of a kind that my friend from Colorado and I were very much concerned with the other day.

On the succeeding day, my friend, the junior Senator from Massachusetts, and I spent a good deal of time on the subject of nonattainment, and most of my concern related to the expressed fear of many local air pollution administrators that the so-called committee substitute would lead to, in effect, a bidding war or, as one of them said rather eloquently, "a new War Between the States creating loopholes through which States can take a dive."

Several of them expressed the fear that there will be pollution havens created under the substitute.

Well, Mr. President, if we have that concern, as properly we should, in a time when we are very much concerned with the impact of clean air reform upon employment, then it certainly would be a dereliction, a case of, at the most charitable really, unforgiveable naivate to spend all this time being concerned about the attractiveness of the place to do business within one locality of a State to another and ignore completely our reform efforts in terms of our competitive position worldwide.

I am sure that many on this floor—in fact I am not sure it was not all on this floor—in a unanimous vote not so long ago agreed there should be an international compact directed at reducing and ultimately eliminating the manufacture of CFC's. The point being very simply that it was understood that the United States alone should not in some unilateral effort undertake that but that we should, if we take the lead, at least assure we will be joined by other nations, by manufacturing nations.

Now, my friend from Arkansas has just expressed with proper sensitivity a fear that we may by our zeal for clean air in the United States inflict limitations upon the industrial capability of newly emerging democracies in Eastern Europe. That is not an unrealistic concern. I quite concede that. But I have also a concern, as does my friend from Washington, that not Third World nations, not newly emerging democracies, but highly industrialized competitors who are not operating under our clean air rules may engage in what is in fact a competition which will be distinctly unfair to American workers.

I am not among the protectionists on this floor. I am a free trader, but not one who believes in a free trade ideal that exists nowhere in the world.

As it happens, we have been compelled in recent times, with great reluctance on the part of President Reagan who was a dedicated free trader, we have been required in that administration and will be in this, I promise you, to take justified retaliation in order to combat protectionism on the part of our trading partners.

But what we are talking about is really much more akin to the decision that we made when we voted for an international assault upon the ills that flow from the manufacture and use of CFC's.

In a similar vein, very shortly I hope we will consider the necessity for a global ban upon pesticides and insecticides that we find so dangerous that we will not register them in the United States or countenance their use. If they are so dangerous that we cannot use them here, we should not permit them to be exported. It seems to me almost immoral, if they are that dangerous, to send them abroad where they can do presumably the same harm that we fear they would do if employed here.

But once again, Mr. President, we cannot do that unilaterally. It makes no sense for us to do that in perpetuity without being joined by other manufacturers of those pesticides, those same insecticides, those dangerous chemicals which we find too dangerous to use in this country.

Here we have a similar situation. The people of the United States, beginning with the passage of the Clean Air Act by the Congress in 1970, decreed that we would breathe healthful air, that is our concern for a vital free-enterprise system, for the kind of economy that we hoped would be as near to full employment as a free nation and a free economy can produce, we would nonetheless insist that the air be healthful even though it meant imposing scrubbers upon manufacturing so that there would not be emitted into the air, through tall stacks or through tailpipes or through any other sources, the kinds of emissions that genuinely threaten health in a significant way.

That, of course, should not need too much elaboration. That is what we spent all these long hours doing, passing a reauthorization that will, we hope, improve that first effort.

What the Senator from Washington is not seeking to do with the Senator from Illinois in a bipartisan effort is to see that there is an even playing field, not just with CFC's, not just with pesticides, but that the United States not take unilateral action in cleaning the air at the expense of our competitive position in the world markets.

It is a very simple and a very obvious and a very good idea to say let us not only have clean air in the United States, but let us emphasize the need to have clean air worldwide. Certainly, to have clean air. Just as we are concerned with what the downwind impact in Wisconsin may be from activities in Indiana and Illinois, what the downwind impact will be in the United States from Mexico or Canada, and what the downwind impact may be economically if in fact we insist upon clean and healthful air and import at much less cost those products which are less costly, because the cost to the manufacturer in foreign countries is less because they are not compelled to take the same pains as U.S. manufacturers, some say this is protectionism.

Then what they are really saying is that any time the United States undertakes an initiative for good health, whether it be the removal of dangerous pesticides from the marketplace, or efforts to combat sources of emissions that dirty our air, or CFC's, we are going to have to do so in a unilateral way and simply suffer the competitive disadvantage, recognizing that our reward will be in Heaven.

Mr. President, this is a sense-of-the-Senate resolution. The Senate cannot originate this kind of substantive legislation. Only the House can do so. It is necessary that we not ignore our obligations under GATT.

The sense-of-the-Senate amendment by the Senator from Washington and the Senator from Illinois addresses that point. It calls upon the U.S. Trade Representative to work to pass a GATT amendment allowing any country to impose duties upon another which does not comply with comparable clean air standards.

Mr. President, what the Senator from Illinois and the Senator from Washington are asking for is equity, just as it is equitable to apply uniform standards in a way that does not permit one part of America to become a pollution haven at the expense of jobs in another.

So it makes equal sense for us to recognize the need to protect American jobs, as well as American health, by the simple action of saying there must be in the GATT bylaws, the kind of authorization that will bring about not a unilateral U.S. action, but worldwide cooperation that will result first in clean air for children to breathe in every country, and second the kind of equal playing field in terms of international trade that the amendment seeks to bring about.

Mr. President, a study is a good thing. I am sure that the House will not enter lightly into complex legislation without a study. But it seems to me that the time is now; that the time is now; that the vehicle appropriate to urge them to undertake this action is this sense-of-the-Senate resolution.

I commend my friend from Illinois and my friend from Washington for undertaking this because, if we do not do so, we are bypassing not just an obvious opportunity and an obvious vehicle, but I think by failing to make this statement, we are in fact saying something. We are indicating that we are willing to undertake in perpetuity a unilateral action, the inescapable consequence of which will be the loss of jobs from the United States offshore.

That is not fair to American workers. It is not fair to those whose health we seek to protect, because just as certainly as we are standing on this floor, if enough jobs flow offshore and the announced reason for their departure is the implementation of the Clean Air Act, there will be pressure to undo it, to say it is not nearly as unhealthful to breathe a little smog as it is to be unemployed.

Mr. President, we speak every day of being competitive in a global marketplace, whether we are talking about education, math and science, or whether we are talking about the need to cooperate in eliminating the manufacture of CFC's. There is no more compelling example, no more real and urgent example that requires our action than that addressed by this sense-of-the-Senate amendment proposed by Senators GORTON and DIXON.

I am pleased to join them as a cosponsor if they will have me, and I ask unanimous consent, if they are willing, to be added as cosponsor of their amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCLURE. Mr. President, I will speak very briefly on the pending amendment. I will not take the time of the Senate on this bill, either positively or negatively, because there has been plenty of talk of air pollution. I do not intend to contribute very greatly to that problem in this country at this time, and particularly after the debate has gone on as long as it has on this subject matter.

But I do feel compelled to make a couple of observations. First of all, this amendment is a sense-of-the-Senate resolution. It does not legislate. It asks that legislation be undertaken. For those people who say, "Not now, study it," I am perplexed. That is about all this does, is to say we ought to move forward on this, let us look at it and see whether or not we can develop the legislation that would, in the appropriate manner, proceed through the legislative process to a resolution. So I do not understand the "do not do it now, let us study it" question. This initiates that period of retrospection that will lead to that kind of result.

The second thing that puzzled me a bit was a comment I heard made earlier, listening with one ear while conducting conversations in my office, with respect to the fact that this is only going to impose fees on some of our best friends; I think that was the terminology used. In my view, Ameri-

can men and women who are going to lose their jobs because of this are our best friends. If we lose sight of the fact that our obligation lies to our citizens more than it does to someone else, then I think we are fundamentally misguided.

The third point I wish to make at this particular time is something I heard my good friend, the Senator from Arkansas, say, that we are going to reduce carbon dioxide emissions by 10 million tons. Meanwhile, the Third World, in their development over the same period of time will contribute an equal amount of pollution to the Earth's atmosphere.

I say, Mr. President, that it is my view that if we do not protect ourselves against the export of jobs under this legislation, the Third World will contribute a great deal more than that, because all we will have done for the world is to export our pollution quotient to the areas of the world that now do not produce it. There are some who believe that is an overstatement, that indeed other countries cannot possibly pick up these industries and will not get the chance, and we will clean up our own industries and they will stay here.

I tell you, just as an example, in the northern panhandle of Idaho we used to have a smelter and we used to smelt lead, zinc, and silver or concentrate as it came out of the mine in that smelter, and market the primary products within this country. The mines are again operating after they were closed for a period of time. They are operating again. They concentrate those ores. The ores are shipped to Belgium to go through a smelter in Belgium.

Tell me, if you can, how we bettered the Earth's atmosphere by closing down a smelter in the United States and having the same activity occur in Belgium and in Trail, British Columbia, just across the line where they still go on with the same activity that we closed down in our country. Do not tell me that you do not just export the activity and keep the pollution flowing into the Earth's atmosphere. I can give you concrete examples. It is not just there.

Look what they did in the States of New Mexico and Arizona as the copper industry in that part of our country closed down. Meanwhile, partially financed by the United States, officially, not just our financial markets, but official economic assistance to Mexico, they built and increased the operations just south of the border in Mexico in, again, a mining enterprise. Harsh, concrete examples of exactly what this amendment is trying to forestall.

Finally, Mr. President, this is precisely the kind of initiative I have been trying to support for several years, to find a way to assess the costs of our environmental cleanup in this country so that we can impose an environmental tariff at the barrier that does not encourage other people around the world to continue to pollute but also to increase their pollution, as business is exported from our country. It seems to me that if we do nothing else in this action, we ought to at least tell the rest of the world, "Do not just pick up what we have managed to clean up so that you can have the business and pollute."

Let us take the pollution benefit away from foreign competitors. We are not asking for anything unfair in something like this. It seems to me that this is totally supportable. It is incredible to me that there would be arguments against the theory, particularly when this is only a sense-of-the-Senate resolution. The theory is right. Why should we reward someone else to do the polluting that we are trying to stop? Why should we penalize our producers in this country by encouraging their competitors? That is what we do.

If we do not find a way to prevent the very thing this sense-of-the-Senate amendment starts us toward, then we are indeed saying to the rest of the world, "You go ahead and pollute, go ahead and take our jobs, you go ahead and do the things that we say are bad for the Earth's environment, not just for us but the entire Earth's environment."

Tell me if we are really talking about the right things here in the discussion on this bill, how it helps the global atmosphere to have pollution taken out of the air over the United States and put into the air over Brazil, Mexico, or Canada or wherever it may be. We ought to be moving toward a more positive and affirmative global assault upon global problems. Instead, if we do not address this, we will have simply said, "Hey, you take it up, we will wink at what you are doing. We will reward you. You take out the pollution quotient we have handed you, and you can have the jobs, and we, because you are good friends of ours, will reward you for doing it," and we will penalize whom? The American workers, the men and women and industries in this country that will lose the opportunities to continue within our own country as we export the jobs overseas.

I hope this amendment is adopted. I hope it is taken seriously. I hope it is the beginning of the fundamental effort that must be undertaken to develop the means by which we truly make this a global effort, not just a U.S. effort.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I rise to compliment the Senator from Washington on his amendment. I think it is a very, very astute amendment. I intend to vote for it. And for those who think Senators are incapable of speaking briefly on any subject, I submit my statement on this legislation as an example to the contrary. This is a good amendment. I spoke for it.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. Senator from Illinois.

Mr. DIXON. Mr. President, I sense that this debate is coming to a close. I simply want to say this in conclusion: I think it has been a very informative debate for all of us. I only want, in closing remarks, to respond to several things that everybody said here, because my friend, the Senator from Rhode Island, one of the managers, sort of put the challenge to us and said, "What do you say to the charge I am making?" So there are several things that have been said against this amendment that I want to respond to by very competent, highly respected Members of this body who have taken the floor in opposition to the amendment.

My friend from Texas, on the other side, in the course of his remarks, dwelled at considerable length on protectionism.

Mr. President, I do not come here, and I think that my colleague and friend from the State of Washington does not come here, and I am satisfied that others that I have heard in support of this amendment do not come here, advocating protectionism. Protectionism is saying that we do not want to let goods and products come in here that we want to advantage American business.

We are not saying that here. We are saying make it competitive, give American business a chance, prepare for a level playing field so that American business can compete, the very point that my friend from Idaho made a moment ago when he talked about a smeltering plant in his own State of Idaho where the business has gone to Belgium because of American laws.

I am saying it is not protectionism to say put us in a competitive position. I reject protectionism. I reject it out of hand. But give American working people and American business an opportunity to compete fairly. I think that is significantly important.

Now my friend, who is not on the floor, the manager on the other side, the distinguished Senator from Rhode Island, talked about the fact that this Senator has a great many Polish people in his State. I do, friends. I do. With the exception of Warsaw, there are more Poles in Chicago than any place in the world.

But I am going to tell you something. They are fine American citizens. I know and love and have a close relationship with hundreds of them. They

believe in what I am saying. They want a competitive America. They want a level playing field with respect to our trade practices with other countries. They want that very much.

I say to my friend from Rhode Island that I do not have any trouble in going back to those people and discussing the fundamental principles of fairness and equitable relationships with other countries.

Now, others here have said that this is going to destroy the GATT, this is going to destroy the trade system that now exists.

You have not read the amendment. I refer the Senator to the last page of the amendment offered by the distinguished Senator from Washington and this Senator. What does it say? Page 4, lines 10 through 16, for anybody who wants to go to the trouble of reading this:

The United States Trade Representative shall take steps to initiate for negotiations an amendment to the General Agreement on Tariffs and Trade that would allow any country—

Friends, any country, not just the United States.

any country to impose additional duties on the importation of products of any foreign country that does not comply with air quality standards comparable to those prescribed under the Clean Air Act.

This bill right here is going to pass. I want to tell you again, it is going to pass, and we are talking about every country in the world being involved in negotiations to adopt fair standards.

Now, my friend, the manager on this side, who has done a brilliant job on this—the people of America, I know, respect the work that he has done to bring about the passage of this legislation—said that if we adopt this sense-of-the-Senate resolution there will be a trade war and we will lose the trade war.

Friends, there is a trade war going on right now, and we have been losing it for years. It reminds me of the story of a friend of mine in southern Illinois, who said he played on the last Southern Illinois football team that had a perfect record. And I said, what was the record that year you played on the team? He said 0 and 9, 0 and 9.

And that is the perfect record we have since I have been here in the Senate. Nine years on trade, we are 0 and 9 like SIU was the year that Boom Boom played on the team; 0 and 9. And we are going for 0 and 10, 0 and 11, 0 and 12, 0 and 13, on down through the decades.

My friend said out there in the negotiations and the trade with foreign countries it is tit for tat. I agree. It ought to be tit for tat. But it is not tit for tat.

Read this morning's Washington Post, Secretary of Commerce Mosbacher, where he talks about what is occurring to us. Ask anybody in your home State whether they think that the trade relations now with foreign countries are tit for tat?

What we are trying to do in this bill is memorialize the House, the jurisdictional body, to look at an appropriate remedy, and the International Trade Representative to seek an appropriate solution to this problem at the GATT in Uruguay and other places in the rounds of talks that take place.

One of my dear friends on this side, an eloquent speaker and a man for whom I have the warmest personal affection and the highest regard, made a moving speech awhile ago talking about a Third World country and the emission of sulfur dioxide. He said is it fair to the brave people of Prague, Bucharest and Warsaw, to say they cannot sell these products that emit a little sulfur dioxide?

I say it is as fair to them as it is to the brave people of Herrin, IL; Marion, IL; Carbondale, IL; Taylorville, IL; and my hometown of Belleville, IL. They are just as brave and fought as hard in many wars and have just as much right to have a level playing field with respect to trade practices between countries.

So I conclude by saying this bill only seeks common, decent equity and fairness between nations. I think we owe it to American business and we owe it to American working people that we are going to pass this kind of legislation to see to it that they are protected in the international marketplace and with respect to international competition.

I think we fail in our duty if we fail in this legislation and if we do not adopt this resolution, which is nothing more than a sense of the Senate. I think we have made a profoundly serious error that we will explain many, many years and that will be a great detriment to what we are trying to do here in this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise to take just a few moments to support the Gorton amendment. I am sure that if I wanted to I could find some technical reasons that as to the exact ideas contained in this sense-of-the-Senate resolution, I could find some flaws, and I could find some reasons to say it may not work in every instance.

But, Mr. President, about four nights ago or five when we were on this bill when we first started to address the economic or jobs impact of America's efforts to cleanup her environment, and the distinguished chairman of the Appropriations Committee had his amendment up, the distinguished Repubican leader followed and as I recall the discussion that night was whether there was going to be an accommodation to permit the distinguished chairman of the Appropriations Committee, Senator BYRD, to modify his amendment. I recall Senator DOLE, the Republican leader, started to talk about the jobs impact, loss of jobs impact potential, of the legislation.

And that changed the discussion. We have been talking about that for almost a few weeks now.

That evening as we discussed that, Senator RUDMAN stood up and, as I recall, said this is the first time we have heard anything about this. Could somebody explain? Are we really going to lose jobs as we seek to impose additional costs on American business, large and small, American utilities?

I would add he could have said even if we know it is right and the thing we should do. He did not necessarily phrase it that way.

But an hour followed when people tried to say there will be some job losses. And I recall speaking for a moment. And the reason I came back is because I reflected on what I said to Senator RUDMAN that evening, and I did not think I did a fair job of describing the previous history, as I know of it, of America's involvement in environmental cleanup legislation.

I believe when we passed the first Clean Air Act, I would say to my friend from Idaho, who was on the committee then, there was little discussion about the major impact of that bill on American jobs because two things were significantly different. We were in the first phase of cleaning up America's ambient air and which we had been principally focusing on the initial stages of ratcheting down the pollution coming out of stationary stacks, and we were beginning to ratchet down on what came out of tailpipes of automobiles, and clearly there was some discussion of how much we would add to the price of the car. And there was some discussion of whether we could accomplish the technological requirements especially on nitrous oxide out of the tailpipes of cars.

The reason there was not a great discussion about the economic impact is that we were not engaged in the kind of cleanup that we are going to accomplish in this bill, which I support. But, second, and more important, the United States of America was not involved in the economic competition that she is involved in today.

The automobile business was different than today. Steel was beginning to change into a major international market. Petrochemicals from that date to this have become hugely competitive in the international market.

What I should have said to Senator RUDMAN that night is indeed if we impose $19 billion or $20 billion worth of new additional costs on selective American industries, obviously you are going to raise the cost of their prod-

uct. I do not see how we can assume that we will not.

Or, Let me put it another way, if there is already competition for those same products in the international market and we have to add $19 or $20 billion to our cost base, and the world does not add it to their cost base in competitive industries, I leave anybody that is listening to conclude what might happen.

I believe two things happen. One, you lose a competitive edge, and in a significant manner; and, second, I say to my friend from Washington, the second one that is equally as serious and hard to measure is that the decision may be made by a brand-new industry.

Let us assume that we are going to put together a billion-dollar improvement in a major petrochemical plant. Perhaps it is even a new one. We look out at the current site in the State of—let us pick one, Texas, Louisiana, or maybe New Mexico. Although we have the oil and the gas, we do not have petrochemicals.

So we are going to see whether we are going to invest a billion dollars. What are we going to ask? We are going to ask how much is it going to cost to build the plant, and how sure are we after we finish that we comply with the clean air laws of the United States?

One of the reasons some of us worked very hard on the air toxic pollutant section of this bill and the so-called 10-to-the-minus-6 test is because we were very concerned that many American industries looking at that would say, "Let us move to another country, we can sell the product in America anyway." I was very fearful, and so were others, that we ought to be sure that we have health data and scientific data about the risks and the standards, and make it more certain so that that would not occur.

Now, interestingly enough, for those who do not remember history, the distinguished Senator from Idaho has already spoken—and he does and this Senator does—about the copper industry. The distinguished manager on the Democratic side remembers the copper industry, but it is almost a faint part of his recollection because his copper industry is about gone.

Not all but part of the reason that the copper industry went down in the United States is because the United States said, "Cleanup the smelters." And we did. And for some to clean up the smelter meant close down the plant, because the cost to clean it up exceeded any opportunity to make a profit. Yet, competition in the world, with many other advantages, were building new smelters without controls. In fact, the distinguished chairman of the Interior Committee in the House of Representatives who comes from a copper State has tried to find ways to equalize the copper costs through environmental assessments of one type or another. So the concept is not very new.

It was very difficult for the copper State Senators to do it alone. We even found at one point—and I do not say this with one bit of an acrimony today—we did find at one point in time while we were closing down much of it—not all; let us say some of it—because of costs for pollution control across the border to the south, built with World Bank money were new facilities not as clean as ours. In the same ambient basin, the air was flowing into Arizona and New Mexico and we were cleaning it up, and they were using international money, a substantial portion of ours, to dirty it up.

Now I repeat that I do not stand here tonight knowing the precise solution to this very difficult problem, but I want to make two quick points.

One, it is time for the United States of America to encourage, cajole, and lead the developing world, not to hold them down, but to encourage them to use modern technology in the major polluting businesses, companies in their countries. We ought to join in offering them technical assistance.

I say to my friend from Idaho, if ever there was a reason to leave an international lending function, it is that. We ought to collectively lend those countries money if they will clean up the stacks that they are now using to generate electricity by burning dirty coal. If we could talk China into using modern technology and the free world lent them the money, the United States of America would come out on the long side.

Let me assure you that if we do not do something like that in the major polluting sources, sulfur dioxide, which we are very, very interested in here, and those pollutants which come out of the stacks in China and other countries, those countries and others are going to say to America, "You keep on. You reduce that last 4 or 5 percent because you are big and powerful and you are already a mature industrial nation. When we get big and powerful like you, we will clean ours up."

Do you know what will happen? The sum total will be we will continue to clean ours up—which I am for. The net effect is the ambient air will be dirtier when we are finished with ours than when we started. So something has to happen.

I am sure that it is difficult to take the entire gamut of competitiveness here and figure out a GATT solution, or a specific solution as contained in this resolution. But I perceive that this is a vote saying we ought to be doing something about this disparity. If it is nothing more than finding a way to cause other countries to do more, if it is nothing more than that, it is worth an aye vote. I perceive that it might work beyond that.

So for those two reasons, I believe this is an appropriate vehicle to seriously discuss this issue. I hope the message and the signal and idea gain some momentum as a result of a realistic discussion by some of us who want to proceed to clean up America's ambient air, to get rid of some toxics that we know we can get rid of, to get rid of some of our nonattainment areas and bring them to attainment, to continue to push mobile sources, our automobiles to more and more clean tailpipes and alternative fuels.

Those are all good things to be doing. But equally good is for us to set about to tell others that they have to do their share and that they will not have an open avenue to putting our companies out of business or enticing them to move from our shores to theirs and put our people out of work if we can find some way to address this issue collectively and more sensibly than is occuring today.

I yield the floor.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from Colorado.

PRIVILEGES OF THE FLOOR

Mr. WIRTH. Mr. President, I ask unanimous consent that a congressional fellow in my office, Darrell McElhaney, from NOAA, be granted the privilege of the floor when the amendments he has been working on under this bill are up for consideration before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I appreciate the statement of my colleague from New Mexico, and I also appreciate the effort of my colleague from Washington in bringing to the attention of the Senate, I think, an important issue.

While I concur in many of the things that the Senator from New Mexico said, relative to the fact that we need to do something about the cost differential that exists between goods manufactured here in the United States and goods manufactured overseas, due to the difference in environmentally imposed costs, I have a great deal of problem with this specific remedy.

I know this is a sense-of-the-Senate resolution, asking the House of Representatives to address this matter. And, while we may want to request that they look at this and try to come up with a remedy, I think that this specific sense-of-the-Senate resolution goes beyond what we ought to be asking the House to do. Because we not only ask them to address the problem, we ask them to impose a specific remedy, and I guess that is where I differ from my colleague from New Mexico. Because, yes, I would vote to say we need

to do something about this problem, but I cannot vote to say we need to do something about this problem and here is what we ought to do.

As I read the resolution that is offered here, I find it very difficult to disagree with many of the findings that are presented. Certainly, global air pollution has adverse health effects on U.S. citizens. Certainly, businesses in the United States are disadvantaged in international markets to the extent that costs imposed by our laws to deal with the environment are greater than costs imposed by industries or laws of other nations for manufacture of products sold here in the United States. I certainly agree that air pollution released anywhere adversely affects the Earth's environment.

Where I have a problem is with the findings that follow, because they imply that if House of Representatives drafts legislation imposing this remedy, that we will solve the problem that currently exists and that we will therefore end up with fair competition across the board.

What really bothers me is I think what we would be creating here is an absolute administrative nightmare. For if we require the Secretary of Commerce to implement on January 1, 1992, a schedule of fees to be imposed on any product imported into the United States that has been subject to a manufacturing process and that competes with a product made here in the United States subject to a manufacturing process that ties in restrictions to the Clean Air Act as currently exists and as will be amended—for I, too, believe the bill will pass and will be signed into law—we are requiring that a Secretary of Commerce to, No. 1, identify every product in the United States that is manufactured in any process that involves the imposition of the Clean Air Act or the Clean Air Act as we will amend it, and to make a finding and a determination as to a specific dollar and cents amount of that product's cost that is attributed to the Clean Air Act.

I do not know how many products we are talking about, but surely we are talking about hundreds of thousands, if not millions, of processes. In making an automobile, we are talking about manufacturing processes that are almost—well, I guess we can count them but we cannot count them very easily. We are running into tens of thousands of separate manufacturing processes.

Each one of those processes is going to have to be examined to determine what the incremental cost is going to be relative to compliance with the Clean Air Act. Then we are going to have to determine the nature of and the number of products that are imported into the United States which compete with those U.S.-made products.

I do not know how we are going to begin to even calculate it, and how much administrative cost and burden is going to be imposed, just to find out what the incremental cost is of U.S. products. But assuming we could do that, how in the world are we going to determine what the incremental cost is of foreign-made products? Are we going to ask the governments of the hundred-and-some nations around the world that import products into this country to give us a chart outlining the cost of the product that they are importing into the United States that is attributed to imposition of environmental laws of their country so we can measure the differential between the two? I cannot think of any government that is going to be rushing forward to supply us with those details and those costs.

Assuming that they will not do that, are we then charging the Secretary of Commerce to set up an army of bureaucrats to travel into every country in this world to somehow measure the incremental cost of environmental controls to be imposed—under the laws of that nation—on the cost of production of that particular product so we can then bring that back and compare it? I am not sure what government would allow us to come in to do that.

But, beyond that, I cannot conceive of the administrative nightmare and the tens of thousands of bureaucrats that would have to be shipped overseas to nose around in every small, little, tiny manufacturing process that takes place in making a product that comes into the United States.

So while the goals of this sense-of-the-Senate resolution are worthy goals, and while it is an issue that we ought to find the answer to in terms of equating the imposition of environmental costs on a global basis, because we all live on this globe and we all breathe the same air and we want to achieve a more competitive basis on which to sell our products, the impossibility of imposing the remedy provided by this sense-of-the-Senate resolution I think leads all of us to say to our friend from Washington, this is a worthy issue to be discussed; it is a legitimate question to raise; but it is not the remedy that will bring us the answer and solve the problem. Therefore, would it not be better for the Senate to express the sense of the Senate in terms of achieving the goal but not providing the remedy? Because we are asking the House of Representatives to do an impossible thing.

Having served in that body for 8 years, I have seen many attempts to do the impossible. And what I worry about is that they will write this thing into law and they will turn it over to the Secretary of Commerce. The Secretary of Commerce will say, "You need to double my appropriation and you need to triple the amount of people working here. Because in order to administer this I am going to need an army of people to travel into every country in the world to try to find out what the differential costs might be imposed by environmental laws of those countries."

Therefore, I reluctantly stand to oppose the measure offered, I think, with very good intentions by a very good friend, that addresses a very good issue. But I oppose it, as politically popular as it would be at home, as great as it would be to go home and talk about this in a State that is probably impacted as much by the Clean Air Act amendments on this floor as any State in the Nation. Steel, autos, electric utilities, coal-fired utilities, industrial processes—I doubt if any State is going to be impacted more by this bill than the State of Indiana.

How wonderful would it be to go back and say we are going to nail these other countries and we are going to make sure that our goods are competitive.

Well, that is my goal. I want to make our goods competitive. I want to bring about environmental changes on a global basis. I want to even the scales and make sure that we are all competing on a fair basis, and I wish this was the way to do it. But, my colleagues, I do not believe it is. I think a close examination of the remedy prescribed under this sense-of-the-Senate resolution has to lead all of us to say: Good intention, wrong remedy.

Let us send a message to the House of Representatives that they ought to address this issue but not prescribe to them the remedy with which they must come back, written into law that I think will cause this country great problems, great administrative nightmares, perhaps provoke retaliation, international trade war—and then we all lose.

So, I stand here expressing my concern about the Senate passing this and trust my colleagues will vote this down and then move on to pursue a means of expressing our concern about this in a different way.

I yield the floor.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, we have legislation here for which the chairman of the committee that has jurisdiction of this type of legislation, the ranking minority member and I think certainly most members of our committee feel this is the wrong way to go.

I want to say to the distinguished Senator from Indiana, I think he did a superb job explaining the concern and problem we are facing. What worries

me, if you read the amendment, and I have seen what is written there—I can agree with all of those things. They are worthy objectives.

But I do not think anyone in this Senate has fought any harder than I have to try and open up foreign markets. I was the lead sponsor of the trade bill. I now see Korea—because of the pressures of Super 301 and also those countries that have been the most protectionist—open up markets substantially and make all kinds of concessions. That is making some headway.

We must remember that we are the largest exporter in the world and that we have great vulnerability to protectionism. I have watched this grandly disguised pretext of environmental safety—those kinds of things—used time and time again in Japan and Europe. That is what they did because we used hormones. All the scientists said that was all right, but they said that was a health problem and, therefore no U.S. beef into Europe. That is what we fought. We heard the Japanese say U.S. container trucks could not make right-hand turns off major roads in Japan because that was supposed to be dangerous. We heard Japan say that they could not use our skis because somehow their snow was different and our skis were dangerous and, therefore, we could not bring them into that country. We have fought those time and time again.

We have the Uruguay round coming to a conclusion. We put a deadline on those negotiations: The end of this year. We see our Trade Ambassador out there trying to convince them that they should open up their markets, using every pressure she can.

I have friends who I am sure will walk down and read that and say that this is a freebie; that is an easy one; it is a study; it is something that is not going to be put into the law. Do not believe that you will not have to face that one, because the first time we have a tax measure over here, someone is going to offer that and they are going to remind you of how you voted on this amendment. So you are going to take a position that is going to end up affecting what you might do later when you get to other legislation.

I am telling my colleagues that if we have a vote that carries in the U.S. Senate on this kind of a measure talking about this thinly phased protectionism, we are going to hear trade repercussions around the world, and the job of our Trade Ambassador is going to be exceedingly difficult and is going to continue to be complicated in these closing days of the Uruguay round. If my colleagues think the United States has had some trouble in trying to sell our points in the Uruguay round, wait until we have something like this adopted by the U.S. Senate.

I think of the kinds of exports that we have. I think of the corn from Illinois. I think of the wood from the State of Washington. I think of the capital equipment from my own State of Texas. If this amendment is adopted, I think we will find protectionism resulting all around the world and particularly under this Uruguay round.

My friends, this is not a freebie. This is not a vote you can casually cast and think it will not come back to you with concerns because I think it will. I think you will look at the Uruguay round and what we try to do in breaking down protectionism around the world and determine that will be severely complicated by this kind of a measure being adopted. That is why the administration is opposed to it. That is why the chairman of the Finance Committee is opposing it and, in turn, the ranking member of the Finance Committee that has the jurisdiction, because the complications of administration, the bureaucracy that will be created and, in many instances, the cost of trying to determine the information will be far more than any duty that might be imposed. I hope that my colleagues will defeat this resolution.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the distinguished Senator from Montana, who is the floor leader of this bill, is rightly proud of the vital role he played 2 years ago in strengthening and creating what is now called section Super 301 of the 1988 Trade Act. With the authority and the direction which was put into law in that section, the United States is now negotiating with Japan with a series of demands that Japan overturn decades of internal economic customs and laws in order that it import more goods from the United States.

It is difficult to think of a proposal which makes more demands on the internal structure of a major nation's economy. The distinguished Senator from Montana, however, is not quite satisfied with the present state of the law which allows but does not require the United States to retaliate against a country which has been cited under Super 301 and which fails to respond in a satisfactory manner to the United States. He wishes to make that retaliation mandatory.

I agree fully and completely with the distinguished Senator from Montana. I believe that he did a service to the people of the United States in leading to the passage of that proposal, and I believe that his proposals to strengthen the requirements of some kind of reaction, in the case of a nonresponse, is quite appropriate because the goals that we are seeking are goals which are vital for the economy of the United States.

This amendment also proposes to change some of the customs and laws of other countries which are trading partners of the United States. It, however, is not directed at activities which have their overwhelming impact only within those countries. It is aimed at environmental degradation in those nations which can have an immediate and adverse impact right here in the United States.

We are saying in this amendment that to the extent that those countries do not respond, not that they will be barred from the American economy or from the American market, but they will simply be required to make up by an import fee for the advantage which they illicitly gain over American businesses which are competing with them.

Mr. President, what in the world is the difference between what the Senator from Montana has so eloquently backed and so successfully backed with respect to trade policies and what this proposal asks for with respect to environmental policies? Can it be that the environment is less important than these economic barriers? I do not believe that the opponents of this amendment would make that kind of statement. I believe we are talking about precisely the same thing.

Is this going to create some immediate and negative reaction? We do not have to deal with that question as a matter of theory. The thoughtful and distinguished Senator from Louisiana pointed out in his remarks that we ban a number of types of imports from countries which do not engage in environmental practices in the seas, in their fisheries, which are the equivalent of ours. We just do not impose a tariff on those goods; we ban them.

Has there been some horrible protectionist reaction on the part of nations seeking American markets under those circumstances? There has not. I submit that the environmental practices of those countries which want markets in the United States in that respect have actually been improved.

Mr. President, we have been engaged in this debate for close to 4 hours. I think the amendment is important enough to have rated that debate. I have been on the floor during that entire period of time, and I believe that the arguments against the amendment, with a single exception, which I will come to later, fall into five categories. The sixth category was the pure free-trade position, totally unalloyed free trade position outlined by the distinguished junior Senator from Texas, and I will get to that at one point.

But to consider the remarks of other Members who have opposed it, their first argument is, well, if we actually pass such a law, it would be in viola-

tion of the General Agreement on Tariffs and Trade.

As I said earlier during the course of this debate, that may well be true, though the question is not without doubt. It is for precisely this reason that the operative section of this amendment calls on our International Trade Representative to negotiate with GATT for the allowance of exactly such requirements, not just on the part of the United States but on the part of any country which wishes to clean up its air and to encourage other countries to do so.

You cannot start down this road unless you start down this road. If we defeat this amendment, I can be quite well assured that there will be no such negotiations and we will simply pay the price which so many of my colleagues have already so eloquently outlined.

The second argument against this amendment falls perhaps under two subheadngs. The first is, oh, that it is just much too complicated; it would cost far too much to enforce any such requirement. We simply could not do it. It would require legions of accountants or lawyers or the like.

It is interesting that none of them have discussed how many accountants and lawyers it is going to take to comply with the 567 pages of the proposal which they have before us at this time. They legitimately ignore this question to a certain extent because it does have a good and a positive social goal, as does this amendment.

But the answer to all of those mythical accountants who have to pore over Mexico and every other country in the world is a very, very simple one: My guess is that if we wrote this and wrote this bill right, we would simply assume that these other countries were not complying with the law in any respect whatsoever, and require them to prove their compliance with it. It would be up to the countries that want American markets to do that work, not to a large number of bureaucrats from here in the United States.

At the same time, there is a legion of ways in which we could reach the goal which the Senator from Illinois and I have from the perspective of the United States itself. We could, of course, if we wished and thought it practical, go item by item, we could go category by category, we could go nation by nation.

To say that we should abandon an idea which is very important to the environment of the world and to the economy of the United States because we have not dotted every I and crossed every T in this initial discussion of the idea, and to say maybe there is some other way we can do this but not to present the other way in which we are to do this, seems to me to be a counsel of despair, Mr. President.

If in fact we can write a clean air bill, if we can write a trade bill, if we can write a tax bill, we can certainly write a bill which accomplishes this goal.

The Senator from Illinois and I have not done it. We are not members of the Finance Committee. We recognize the constitutional requirement that revenue bills begin in the House of Representatives, and we are in essence saying take this on. If you tell us this is absolutely impossible under any circumstances and persuade us of that case, perhaps then it would be appropriate to withdraw this idea, but not simply on the basis of a set of criticisms that we cannot do it from here.

The second branch of that argument was one made most forcefully by the Senator from Rhode Island, and that was, well, if you are going to do it for the Clean Air Act, you have to do it for everything else. You cannot be consistent if you do not do it for the Clean Water Act, for that matter worker safety, and the like.

My answer to that argument is that if we had to solve every problem to perfection every time we came to the floor of the Senate, we would spend very little time here at all. It is simply the classical argument in which the perfect is the enemy of the good.

If in fact we draw a statute based on this sense-of-the-Senate resolution, and if in fact it has the positive and beneficial effects the Senator from Illinois and I believe it will have, there will be time enough for us to adapt it to other environment requirements as well. You can be assured that the two of us will be among the leaders in doing so.

The third point which the opponents make is one that I have aready discussed, and so I will go over it briefly, that this will automatically create a great degree of retaliation.

Mr. President, that is simply not true. The American market is the largest market in the world. Countries want into it and the actual reaction, the actual invariable reaction to American demands for environmental excellence on the part of other countries, as the Senator from Louisiana has already pointed out, has been that those countries seeking our market attempt to comply and do not attempt to retaliate.

The fourth point which they make is that this is terribly injurious to Third World countries, to Poland, to East Germany, and the like.

Well, Mr. President, again there are two answers to that argument. The first one is that those 60- or 70-year-old steel mills in Poland and East Germany are not going to be selling steel in the United States with or without this amendment. They are far too inefficient and ineffective ever to get into this market against their Western European competitors unless and until they are modernized and modernized in a way which not only improves their technology but improves their environment as well.

The second point was the one that was made so well by the distinguished senior Senator from Idaho. While we have great sympathies there, while we must have great concern for the residents of Poland, I, like the Senator from Illinois, believe that our primary constituents are the Polish Americans in the United States, and for that matter all other working people in the United States, and not those in other countries, and that they should not be encouraged to continue to produce inefficiently, ineffectively, and in a polluting manner by artificially being given our markets and taking our jobs.

The fifth and, I suspect to some, the most important objection has been that we have trod on the toes of the Finance Committee. The implication in that argument is that nonmembers of the Finance Committee, though they are Members of the Senate, have no business attempting to bring up trade or tax issues; that, in the words of the chairman of the Finance Committee, we ought to write a letter to the chairman of the Ways and Means Committee in the House.

Mr. President, I simply do not agree with that. I am perfectly in agreement with the proposition that we cannot on the floor of the Senate write the details of the statute which we seek, but we can certainly express the views of the Members of the Senate that such a statute ought to be written by the committees which have jurisdiction.

Finally, of course, there was the forceful and eloquent statement by the junior Senator from Texas to the effect that we should never impose any kind of trade restrictions for all practical purposes under any set of circumstances.

The distinguished Senator from Texas, for some reason or other, seems to believe that the proposal that Senator DIXON and I have made applied only to raw materials and that, applying only to raw materials, it would increase the cost of our manufactured goods; and, that they would be undercut by similar manufactured goods, automobiles, tractors, and the like from other nations. That is a misconception of the amendment. It would obviously apply to those competing automobile and tractor manufacturers just as it does to those raw materials. So that part of his argument falls of its own weight.

He made one statement, however, which I think is true. He said there is not any way for us, as Americans, to escape the cost of the Clean Air Act. In that respect the junior Senator from Texas was entirely right. We are going to have to pay for the cost of

the Clean Air Act. The difference is that we can pay for it once by spreading it out through the entire American economy, on our consumers, each of us paying his or her own fair share, or we can pay by adopting this amendment, or we can pay for it twice by ignoring this amendment and paying for it, first, in the loss of jobs here in this country; and, second, by sending all of that money overseas only to come back to own the capital stock of America.

You bet your life the people of the United States will pay for the Clean Air Act. But I think we will pay for it fairly, more effectively, and it will be far better for our own economy if we adopt this amendment.

To summarize, this is the only chance that Members of this body will have to vote for an amemdment to this bill which has been endorsed by environmental organizations, by labor unions, and by much of the business community. The reason for that is that it is both an environmental amendment and a jobs amendment. It is designed primarily to improve the environment not just in the United States but of the entire world. But it is also designed to see to it that we do not forfeit perhaps hundreds of thousands of jobs, as the distinguished Senator from Illinois pointed out, perhaps even in single States here in this country.

In summarizing, I simply want to read into the RECORD a few excerpts from those support communications which we have received.

From the National Clean Air Coalition:

DEAR SENATOR GORTON: One of the arguments frequently levied against America's environmental consciousness is its alleged potential to put U.S. firms at a competitive disadvantage in the world marketplace. Your trade amendment to the Clean Air Act would address this question. We fully support the concept of your amendment.

While we have always believed that there is more smoke than substance in the business community's claims of injury, the fact remains that not every nation has developed the same level of environmental consciousness. Many developing countries have made jobs and growth virtually the exclusive goal of their economic policies. These countries often are unwilling to demand environmental responsibility or are unable to resist pressure from industries shopping for the pollution control concessions in return for jobs. Thus your proposal, by seeking to eliminate the incentives for nations to seek commercial advantage in degrading the environment and public health represents a positive contribution to the current clean air debate.

I could not have put it better, Mr. President.

And from the administrator of the Clean Air Working Group:

DEAR SENATOR GORTON: I am writing to commend your efforts to recognize the potentially severe competitive effects that can result from passage of Clean Air Act Amendments. * * *

Last July, two Harvard professors concluded that environmental laws and regulations have been a major factor in this nation's growth slowdown since 1973, the first year the Clean Air Act of 1970 was really implemented. The Department of Commerce estimates that the Act now costs Americans $32 billion each year. * * *

While the Clean Air Working Group is unable, under the brief time frame, to adopt a position in support of your amendment, we support the amendment's recognition of the difficulty American products face in international markets against foreign products that do not have our environmental conscience and resolve built into the cost of goods sold.

Finally, Mr. President, from the United Steelworkers of America. They back, among other things:

A negotiation during the present Uruguay Round of a tariff rates which would be imposed by a host country on those trade items produced without comparable environmental controls—Gorton Amendment.

This amendment is both an environmental plus and it is at the same time something which will help American competitiveness both in this country and overseas.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LAUTENBERG. Mr. President, I rise to support this amendment because I believe it addresses important issues and sends a necessary message to the industrial nations of the world. I agree with much that my colleagues Senators GORTON and DIXON have said in favor of this amendment.

What are we trying to achieve, Mr. President?

First, I agree with the amendment's sponsors that environmental pollution is not just our problem; it is a global problem. Many forms of pollution know no boundaries. We all face global warming, acid rain, and a host of world wide environmental challenges.

All countries have to make sure that economic growth goes hand-in-hand with environmental protection. It should be one of our Nation's policy goals to encourage economic development abroad that is environmentally sound development.

Second, I agree that American industry should compete on a level playing field. Clean air costs money. It costs American industry money to comply with pollution abatement and control legislation. When foreign industry subjects its workers and citizens to pollution that we won't tolerate and which we have asked our industries to prevent—then American industry operates at a disadvantage. American industry may lose sales, because its costs are higher. American workers may lose jobs.

There is another point. Mr. President, we are passing a tough clean air bill because we want to protect the health of the American people. The American Lung Association has estimated that the health costs of air pollution amount to $100 billion a year. Farmers face billions of dollars of crop losses as a result of air pollution. We are passing this bill because, while the costs of cleaning up the air are substantial, the costs of not cleaning up are even higher.

Many of our foreign trading partners are only beginning to realize that. We can look at the sad legacy of environmental neglect in Eastern Europe. We can point to our own costly burdens, in cleaning up Superfund toxic waste sites. America should be a leader, in convincing our neighbors that cutting corners on environmental protection is a false economy. They should clean up not because it is in our interests. They should clean up because it is in their interests.

So, Mr. President, we have a number of policy goals at play here. We want a cleaner global environment. We want fair trade. We want to persuade our trading partners that environmental protection is in their interests.

The question is how best to accomplish those goals. While I intend to vote for the amendment before us, I do so with some reservations about the implications of the precise approach proposed. I would hope that if the appropriate committees take up this issue, they will explore these questions.

We need to be mindful of our treaty obligations, and to seek solutions that would not provoke retaliation that could impose harm on our own industry and workers.

We must also keep in mind that the negotiations called for may be long and difficult. Other nations that are party to the GATT are not going to rush to make the changes called for in this amendment. These negotiations are tough. They are time consuming. They represent a wide diversity of economic and political views. Some have serious environmental problems. Others have excellent codes and standards to protect the environment. Communication among these countries about the relationship between international trade and environmental protection will be slow and careful. Negotiations may take years.

Should we pursue more immediate steps to encourage environmental awareness among our trading partners? I think we should.

Mr. President, I think we should also consider the extent to which we are ready to demand absolute parity among our trading partners when it comes to environmental pollution abatement costs. I want strong environmental protection around the world. But, we need to be mindful that different nations face different circumstances, and must weigh different

risks and benefits, and may make different choices, while still being concerned about the environment.

Mr. President, I appreciate the sponsors' concerns. I share many of their goals. I also understand some of the reservations which have been stated. I will vote for the amendment because I think they have raised an important issue that should be addressed by our trade law writing committees and by the Congress as a whole.

Mr. President, I do want to discuss an alternative approach which I intend to incorporate in a bill I plan to introduce. I believe it will address the same issues in a way that comports with international trade rules; that takes account of the different circumstances of different countries; but that still pursues the policy goals I think we all agree on—that we should have a more level playing field, that we should encourage environmentally sound development abroad.

I will be introducing legislation that would tackle the problem in three ways. First, it would link compliance with environmental standards to the granting of generalized system of preference status to developing countries. As we know, GSP status provides developing countries and their products with important United States tariff reductions. The legislation I have in mind would require that before we grant GSP status to developing nations, we consider whether they have effective pollution and abatement control standards appropriate to their level of economic development.

In a similar vein, the legislation would encourage countries that benefit from the Caribbean Basin Initiative to establish effective and reasonable standards for environmental protection.

The proposed legislation would also expand the section 301 definition of unfair trade practices to include failure to provide a minimum standard of environmental protection in the production of goods.

The first two parts of this legislation are concerned with developing countries and encourage economic development which is environmentally sound. The 301 legislation will largely affect our trading relations with the developed world.

I believe that this legislation is in compliance with GATT. It is consciously modeled after the labor standards in section 301 and in the GSP law, a standard which I believe has been successful in encouraging a free labor movement in the world.

It is legislation which can achieve its goal of helping American industry and workers right away. It is based in our own international trade laws. It will not take years of complex negotiations to achieve. It cannot be derailed by the determined diplomacy of a group of countries unwilling to assume responsibility for industrial pollution.

I expect that it will be welcomed by many of our trade partners who are protecting their workers and citizens from the ravages of pollution.

In sum, Mr. President, I will support this amendment because it raises important issues that must be addressed. However, I do believe that the alternative I have outlined may provide a more promising avenue for achieving the goals that the sponsors have discussed.

Mr. LEVIN. Mr. President, the goals of the amendment offered by the Senators form Illinois and Washington are laudable: protecting the environment and preventing United States jobs from being exported to countries that do not have as stringent environmental protection measures as the United States does.

However, I am somewhat concerned that the fee mechanism as it has been described could be better defined. Also, it is important that we determine its practicality, its effectiveness and its impact on GATT before we can proceed with legislating such a fee mechanism.

But, it is important that we send a message that such legislation should be considered which prevents us from being put at a competitive disadvantage for taking this lead in environmental protection. We should not be penalized by other countries' unwillingness to follow or join with us to protect the global environment. For that reason, I will vote for this amendment.

Mr. SANFORD. Mr. President, I rise today to cast light on an important but overlooked issue in the clean air debate; air pollution caused by another Nation's businesses. The Clean Air Act is a health measure, designed to protect the health of our citizens, but we are overlooking a prime culprit of ill health in our own Nation.

Air pollution is global in nature. One nation's air pollution will have adverse health effects on another nation's population. One only needs to look at the United States and Canada, the United States and Mexico, and all over Europe for examples of this fact.

Mr. President, the clean air legislation we are working on now is needed. I have supported this legislation and will continue to support it until the legislation becomes law. The distinguished majority leader, the bill's floor manager, and all the others who have brought us this bill deserve nothing but the highest praise for their hard work.

However, to really solve the problem of air pollution we need to take the lead and encourage the world to clean their air.

Mr. President, there are many Senators who are very concerned about this issue. Senator GORTON is proposing an amendment to encourage other nations to impose their own clean legislation by levying fees on the imports of goods from nations that do not have clean air legislation similar to what we will pass.

I have proposed that before we enact legislation to impose fees the GAO study the feasibility of such action, because this issue has the potential to be very complicated. However, the important point is not the difference between my distinguished Senator from Washington's idea and my own but the fact that we are both concerned about this issue and are seeking to solve it.

Mr. President, I have drafted a proposed amendment on this topic that is a step toward establishing global clean air standards. To truly solve the problem of air pollution global standards are essential.

There is also a positive side effect of this type of legislation on the potential loss of jobs due to this clean air legislation. The fee would put our Nation's businesses on an equal footing with that of other nations that do not have as stringent clean air laws.

Mr. President, I urge my colleagues not to ignore this important issue and offer myself and my proposal to all concerned. There is no need for my burdening this legislation with this amendment. We can get our study without an amendment.

Mr. CHAFEE. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island to lay on the table the amendment of the Senator from Washington. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—52

Adams	Exon	McCain
Baucus	Fowler	Mitchell
Bentsen	Glenn	Moynihan
Bingaman	Gore	Nickles
Bond	Graham	Nunn
Boren	Gramm	Packwood
Bryan	Hatfield	Pryor
Bumpers	Hollings	Reid
Burdick	Humphrey	Riegle
Byrd	Inouye	Robb
Chafee	Johnston	Sarbanes
Coats	Kassebaum	Sasser
Cochran	Kennedy	Simpson
Cranston	Kerrey	Stevens
Danforth	Kerry	Wallop
Daschle	Kohl	Wirth
Dodd	Lugar	
Durenberger	Mack	

NAYS—47

Armstrong	Grassley	Mikulski
Biden	Harkin	Murkowski
Boschwitz	Hatch	Pell
Bradley	Heflin	Pressler
Breaux	Heinz	Rockefeller
Burns	Helms	Roth
Cohen	Jeffords	Rudman
Conrad	Kasten	Sanford
D'Amato	Lautenberg	Shelby
DeConcini	Leahy	Simon
Dixon	Levin	Specter
Dole	Lieberman	Symms
Domenici	Lott	Thurmond
Ford	McClure	Warner
Garn	McConnell	Wilson
Gorton	Metzenbaum	

NOT VOTING—1

Matsunaga

So, the motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. FORD). The majority leader.

Mr. MITCHELL. Mr. President, for the information of Senators, according to the managers there are now lined up and ready to go three amendments: First, an amendment by the Senator from Indiana [Mr. COATS]; second, an amendment by the Senator from Wyoming [Mr. SIMPSON], and the Senator from Idaho [Mr. SYMMS], jointly, both of which will be accepted; therefore they will not take long; and then an amendment by Senator SYMMS which will not be accepted. It will be contested, an amendment that will require a vote.

I hope by the time that vote occurs that I will be in a position to indicate to Senators the schedule for the remainder of this week and next week regarding this matter and other matters. I, of course, will discuss it with the distinguished Republican leader prior to that. He and I have already had some discussions about that and we hope to firm them up.

There may be further amendments this evening, so I do not want anyone to conclude from the remarks I made this is all that will be done. All I am saying is this is all that will be done now. At this point we will be in a position to indicate how we plan to proceed.

Mr. DOLE. Mr. President, I just indicate we have discussed this, and I think, as indicated, later on this evening the majority leader will try to lay out what we need to do.

We have a lot of Members on the floor. It is a good time to indicate there are a couple hundred amendments there. It would be helpful to those on our side and the other side, if Members do not intend to offer amendments they would let us know, because I think the majority leader's intention is to complete action on this bill if it takes every night next week. If Members do not intend to offer amendments, let us know on our side and we will give the majority leader hopefully a short list.

Mr. MITCHELL. In addition, may I say, a number of Senators have amendments that we will accept. We have disposed of a large number of amendments in this bill already. We are making good progress. But it will require Senators willing to come forward and offer their amendments. I say we now have these three and I hope at the time of the vote on the Symms amendment to be in a position to indicate how we intend to proceed later this evening and for the remainder of the week.

Mr. EXON. Will the majority leader yield for a question?

Mr. MITCHELL. I yield.

The PRESIDING OFFICER. The majority leader yields to the Senator from Nebraska.

Mr. EXON. Mr. President, the majority leader outlined a series of Senators allowed to offer an amendment. Will the Senator tell what the order is? The Senator from Nebraska offered an amendment this morning, early and I was ready to debate the amendment. I drew it down with the consideration of the request of the two leaders after, I guess, I thought it was agreed to. I am prepared to offer it, and have been prepared to offer it since 10 o'clock this morning. I will offer it. How do I get in line to make my wish known?

Mr. MITCHELL. I will discuss it with the distinguished manager at this moment.

Mr. PRYOR and Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, if the distinguished majority leader will yield, I was not quite in earshot a moment ago when the majority leader was talking about the Symms amendment. Is there a time limit on the Symms amendment and, if that answer is in the negative, is it possible to discuss with the Senator from Idaho if a time limit is possible?

Mr. MITCHELL. The answer is that there is no time limit.

The Senator from Idaho is on the floor and I will be pleased to ask him to respond.

Mr. SYMMS. Mr. President, I do not know how the other Senators feel about it. I say to the distinguished leader, I do not believe it will take me too long to explain the amendment, but I do not know how other Senators feel about it. I think some Senators may think it is somewhat controversial. But in my opinion it should not take over 1 hour. Maybe we could start into it and see, but I am not opposed to a time agreement.

Mr. MITCHELL. Would the Senator from Idaho be willing to agree to a 1-hour time limit, equally divided, right now?

Mr. SYMMS. I think I would rather wait until we get into it and see how it goes. If there is not a lot of opposition to it and everyone understands the amendment, maybe we would not take that long.

Mr. WIRTH. Mr. President, I also have an amendment on the independent power producers that Senator LEVIN and I have which has been waiting to go for a good part of the day, if we could go on that.

Mr. MITCHELL. I am advised that the managers would be prepared to accept your amendment.

Mr. WIRTH. Could we do that before we get to the Symms amendment, if that is going to carry on for a long time?

Mr. MITCHELL. I think that would be for the managers to decide. Senator BAUCUS indicated that that would be acceptable to him if it would be acceptable to the Senator from Idaho.

Mr. WIRTH. I thank the leader.

Mr. MITCHELL. Mr. President, I will shortly yield the floor and the managers will be prepared to take what are now three amendments and then there will be the debate on the Symms amendment. I invite all other Senators who have amendments to please come forward and make that known to the managers.

I thank my colleagues for their patience and courtesy.

The PRESIDING OFFICER (Mr. DIXON). Who seeks recognition?

Mr. COATS. Mr. President, I have two amendments, both of which I believe have been fully cleared by the managers of the bill.

The PRESIDING OFFICER. May we have order in the Senate? The Senator from Indiana is addressing a question to someone.

Are you addressing the managers, may I inquire of the Senator from Indiana? I wonder if one of the managers would accommodate the Senator from Indiana.

Mr. COATS. I think we are all set, Mr. President. As I said, I have two amendments, both of which I believe have been cleared, and they are both at the desk. I would offer the first amendment at this time.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendments be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1367 TO AMENDMENT NO. 1293

(Purpose: To make a technical change)

Mr. COATS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes an amendment numbered 1367 to amendment No. 1293.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, line 17, after "(m)", insert the following: "and in newly designated subsection (1)(l)(A), after 'implementation plan' insert 'or of any requirement under section 411 (concerning excess emissions penalties or offsets) of title IV of the Act',"

On page 440, line 22, after "emission fee", add "except where such emissions were authorized pursuant ot section 110(1)."

Mr. COATS. Mr. President, this amendment would tie the enforcement provisions in title IV, the acid rain portion of S. 1630 to the emergency waiver provisions which are part of the current Clean Air Act.

I believe my amendment will give utilities the necessary flexibility to deal with emergencies, natural disasters, and fuel shortages which are not of their making. Electric utilities' primary function is to provide power to the public. The law should not penalize them for providing this service during a natural disaster.

In fact, the current Clean Air Act allows for a temporary emergency suspension of a State's Implementation Plan in the event of a temporary energy emergency involving high levels of employment or loss of necessary energy supplies for residential dwellings. I just want to make sure that this provision will be applicable to the utility emission allowance system, which is not part of current law.

I support the emissions cap concept. I believe it makes little sense to make expensive reductions, the responsibility for which would, incidentally, be centered on the Midwest, and then allow emissions to continue to expand and grow after the phase II deadline in the year 2000. However, I do not believe that power producers should be forced to pay for providing power in the event of an unexpected emergency requiring additional emissions.

The emission cap and substitution provisions of the bill allow a utility to trade its allowances among its affected units, as long as it doesn't exceed its total annual emission allowances. Many utilities will comply with the requirements of the bill by increasing the utilitization of their cleaner units and decreasing utilization of their higher emitting units.

But what if, for some unforeseen reason, the clean unit was unable to produce power for some period of time? The utility would have these choices:

First, it could cut back on power. During this past winter, we saw so-called brown-out conditions in several parts of the South. In the Midwest, we have long, cold winters. Power cutbacks are a definite threat to the public health and safety of Hoosiers.

Second, a utility could store up its excess allowances, or buy up sufficient allowances, for use in case of an emergency. This option is both expensive and unnecessary. The cost depends on what you think the value of these allowances will be. Why should utilities, which are generally acknowledged to be conservative by their very nature, have to put aside allowances for a rainy day, just in case they should experience an earthquake, hurricane, drought, or other natural disaster? This option would also limit the flow of allowances in the market, as utilities would be tempted to bank their excess allowances, not only for growth, but in case of an emergency.

A third option would be for utilities to pay the stiff fine imposed in the bill for violation of the emissions limitations. This fine is specifically stipulated to be $2,000 per ton of excess emissions.

Mr. President, I do not believe utilities should be expected to pay for energy emergencies which are either an act of God or sabotage, or some other unforeseen emergency. I believe this amendment is a necessary safeguard to protect utilities from penalties under the emissions cap, and I urge adoption of the amendment.

Mr. President, I believe this amendment is acceptable.

Mr. BAUCUS. Mr. President, I have examined the amendment and I accept it.

Mr. CHAFEE. Mr. President, this is a very thoughtful amendment that the Senator from Indiana has brought forward. It certainly covers a situation that is not completely taken care of in the pending legislation. I commend him for it. It is totally acceptable by this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana [Mr. COATS].

The amendment (No. 1367) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1368 TO AMENDMENT NO. 1293

(Purpose: To make a technical change)

Mr. COATS. Mr. President, my second amendment is also at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes an amendment numbered 1369 to amendment No. 1293.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 142, line 20, after "(8)" insert "(A)".

On page 143, between line 2 and table 2 insert the following new subparagraph:

"(B) Notwithstanding any other provision of law, upon the completion of the regulations promulgated under this paragraph to accomplish the emission standards specified in table 2, the Administrator shall not promulgate additional regulations establishing emission standards under this paragraph that would be effective prior to January 1, 2002.

Mr. COATS. Mr. President, I am offering an amendment today which will simply require that the EPA Administrator not promulgate additional regulations establishing emissions standards for heavy-duty engines which would be effective prior to January 1, 2001.

The heavy engine industry is already being required by EPA to develop and market cleaner engines. S. 1630 includes the current standards which are in the process of being implemented by EPA. In fact, heavy duty engines have just met an important new emissions standard in January, and currently face another NO_x standard in 1991, as well as particulate standards in 1991, 1993, and 1994.

Furthermore, S. 1630, as amended by the Mitchell-Dole substitute, adds a further standard of 4 grams per brake horsepower hour [GBH], which must be in place by 1998. I think these tough standards demonstrate that diesel engines are willing to contribute their share of particulate and NO_x reductions. This is why I offer this amendment, which requires a 3-year period of stability after the industry's final NO_x deadline in 1998.

Mr. President, Indiana is home to about 10,000 employees of the heavy-duty engine industry, and Columbus, IN is the headquarters of the Cummins Engine Co. and itself employs about 7,000 Hoosiers. The industry has worked long and hard in the past decade to remain competitive in a tough field, I believe these Hoosiers who are struggling to ensure the survival of their company are entitled to fair consideration under this bill.

For this reason, I would also like to acknowledge that the Mitchell-Dole compromise amendment makes two important changes in the original language of S. 1630. First, I have already noted that the NO_x standard required of diesel engines now faces a 4-gbh standard beginning in 1998. This more reasonable deadline is enormously important to and industry which is already in the process of complying with strict EPA-mandated tailpipe stand-

ards at the same time it is facing even tougher competition overseas.

Second, as reported out of committee, S. 1630 would have repealed the current ability of heavy engine manufacturers to average tailpipe standards among model types. I am pleased to note that averaging has been included in the compromise language offered by Senators MITCHELL and DOLE. Averaging is especially important to heavy-duty engines, since some model types would be impossible to build in compliance with the standards and still do the job of hauling, moving, and pulling, which is frequently the purpose of a heavy-duty engine.

I ask my colleagues in the Senate to consider the importance of domestically manufactured diesel engines to the American economy, and I urge adoption of the amendment.

I believe this amendment has also been cleared by the managers of the bill.

Mr. BAUCUS. Mr. President, we are prepared to accept the amendment.

Mr. CHAFEE. Mr. President, this is an amendment that deals with engines, primarily diesel engines. It is a very thoughtful amendment. It takes care of a situation that could arise, actually would arise but for the effect of this amendment providing for regulations dealing with emissions standards not being effective prior to the January 1, 2002.

So I congratulate the Senator for the amendment. It is supported by this side.

Mr. COATS. Mr. President, I just want to thank the managers of this bill before us for their cooperation in negotiating these two amendments and for accepting them and for all the hard work that went into making them acceptable so we did not have to debate them on the floor.

Mr. CHAFEE. Mr. President, I would like to congratulate the Senator from Indiana for his building tenacity in connection with these amendments. He has pursued us relentlessly in order to achieve acceptance of his amendments. He has done an excellent job.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Indiana, [Mr. COATS].

The amendment (No. 1368) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WIRTH. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment to consider the amendment by the Senator from Colorado?

Without objection, it is so ordered.

AMENDMENT NO. 1369

Mr. WIRTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH], for himself and Mr. LEVIN, proposes an amendment numbered 1369 to amendment No. 1293.

Mr. WIRTH. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 400, after line 20, add the following new subsection:

"(h) Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a state in which such program is established."

On page 424, after line 21, insert the following:

"(4) Any unit that is a qualifying small power production facility or qualifying cogeneration facility within the meaning of section 3(17)(C) or 3(18)(B) of the Federal Power Act [16 U.S.C. (17)(c) or 796 (18)] that:

"(A) has commenced operation as of December 31, 1989, or

"(B) has entered into a power sales contract prior to December 31, 1989, shall not be subject to the emissions limitations pursuant to this section, or to any other provisions of this title, except if the Administrator has approved a designation of such unit under section 410."

On page 440, line 3, after "shutdown" insert the following: "; *Provided*, That such allowances may be transferred or carried forward for use in subsequent years to the extent that the reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this section, with thermal energy generated by any other unit or units subject to the requirements of this title, and the designated unit's allowances are transferred or carried forward for use at such other replacement unit or units."

On page 452, line 22, after "sources", insert: ", including units subject to section 405(g)(4) of the Clean Air Act,".

On page 453, line 2, after "sources", insert: ", including units subject to section 405(g)(4) of the Clean Air Act,".

On page 453, line 8, after "emissions", insert: ", including units subject to section 405(g)(4) of the Clean Air Act,".

On page 453, line 9, after "sources", insert: ", including units subject to section 405(g)(4) of the Clean Air Act".

Mr. WIRTH. Mr. President, this is the so-called independent power producers amendment, which I am offering on behalf of Senator LEVIN, as well.

The purpose of this amendment is to clear up some oversights related to ensuring access to adequate allowances for independent power producers which are a small but increasingly important group of cogenerators of energy.

Let me begin, Mr. President, by congratulating the leadership for the outstanding package they have put together on acid rain. The acid rain provisions of this bill are based on one of the most innovative and significant environmental policies that has come before this body in some time. Specifically, I am referring to the system of acid rain credits that create market incentives for the private sector to protect the environment.

For the past 2 years, I have joined with my good friend, the Senator from Pennsylvania [Mr. HEINZ], to seek new ways to harness the remarkable powers of the marketplace to reach our environmental goals. Last year, we cosponsored what I believe was a groundbreaking report on market-based environmental policy. Project 88 was credited by the President with helping him shape his acid rain proposal, which is the basis for title V of the compromise bill.

I bring up this history only to point out that I am a strong supporter of the credit system and of the outstanding work Senators MITCHELL, BAUCUS, and CHAFEE, the administration and others have put together in this title.

As a member of the Energy Committee, however, I do think that in putting together the credit system, the drafters may have overlooked a new player in the energy sector. It would be ironic, Mr. President, if in activating market forces for control of SO_2 emissions, we destroyed another important market—the competitive market for wholesale electric power.

Like all of my colleagues, I am a strong believer in competition and in providing options in the marketplace. The introduction of competitive power arrangements, which began at the end of the 1970's, has gone a long way toward assuring that competitive options are available in the utility sector. This is not to say that there have not been growing pains in developing the process. But competition is working reasonably well and American ratepayers are better off for it.

The development of this new industry of independent power producers and a new set of incentives in the marketplace works in the favor of electric ratepayers in a number of States. Thus far, 19 States, including my own State of Colorado, have active bidding programs for power supply contracts, and another 8 States are in the process of developing competitive bidding programs.

There are any number of beneficiaries as a result of competition in wholesale electricity supply—including consumers, the environment and the Nation's energy security. Consumers have benefitted through lower prices. The environment has benefitted from

the pioneering work of independent power producers in demonstrating the feasibility of both energy saving and clean coal technology—technology that can achieve SO_2 levels that are four times less than allowed under current new source performance standards.

The Nation's energy independence has benefitted as well from these innovative technologies. In its report language, the Senate Environment Committee acknowledged the growing role of independent power when it noted that 40 to 50 percent of the new electric supply additions during the next 10 years will come from efficient independent energy producers.

Because these independent energy producers are relative newcomers, however, they will get relatively few allowances under the proposed acid rain compromise and some of these facilities fall outside the traditional definition of existing facilities. Further, many of the existing independent power plants are so clean that they have very little ability to generate additional allowances by cleaning up. Consequently, independent power producers who want to build new plants in the next decade will have to buy these allowances in the marketplace—from their competitors. And their competitors have testified that they will need most of their own allowances to meet their own growth needs.

Under these circumstances, I believe there is a very real risk that our attempts to create the market for pollution control could stifle State competitive bidding programs. These programs simply cannot work if successful bidders for power supply contracts cannot get access to the allowances they need to build a new plant. Of course the vast majority of States will undoubtedly recognize this problem. But in order to ensure that these issues are considered, my amendment suggests advisory language to the States and asks them to conduct a proceeding to consider these issues.

I believe that we must make it clear that this legislation is not intended to interfere with State-established programs for competitive bidding, nor with the development of the budding independent power industry. And that is what my amendment is all about.

The amendments I am offering today simply correct several minor inequities in the compromise bill.

The compromise bill contains a provision that is aimed at preventing industrial facilities from abusing the privilege of taking boilers off line to create allowances. This is a good provision. But as I said, independent power producers operate under very unique circumstances. An independent producer might—for example—enter into an arrangement with a papermill, where the mill shuts down its dirty boiler and agrees to buy steam from a cleaner facility from an IPP. The independent producer produces steam as an intermediate step toward generating electricity, so it has steam to sell. In this case, the independent producer ought to be able to purchase any unused allowance from the papermill. I believe the EPA agrees with this procedure because this would not add emissions to the inventory—it would actually reduce emissions from the overall total.

The second part of my amendment, Mr. President, includes a provision that clarifies the situation for independent units that began operation or had entered into a power sales contract prior to July 31, 1989. This amendment would classify IPP's with contracts or accepted competitive bids as of December 31, 1989, to be classified as an existing unit. I think my colleagues would agree that this is a not an emissions buster and in fact given the emissions cushion that I believe exists, should not be a problem. Grandfathering these units is fair because these units are under contract or have accepted price bids. Any they cannot pass on extra costs of allowances the way a regulated utility can.

In summary, Mr. President, these are sound, procompetitive amendments for a small but growing segment of the energy industry. They will strengthen an emerging industry that is critical to the Nation's energy sector. I urge my colleagues to join me in support of these amendments.

I believe this has been cleared on both sides.

I thank the managers for their help in clearing this amendment and I want to thank the committee staff, particularly Joe Goffman, and the staff at EPA for their assistance.

Mr. DOLE. Mr. President, 60 municipal electric systems in Kansas operate generating units with less than 40 megawatts of capacity—with many of these units having less than 10 megawatts of capacity.

These clean oil and gas-fired units were operated during the baseline period—1985-87—for emergency standby, back-up and peaking purposes. Because of the infrequent use of these units during the baseline period, future operations of these units could be unfairly restricted to this low usage unless their owners secure additional allowances.

Most municipal utilities are small operations serving small communities. They do not have numerous large generating units that would afford them the opportunity to create allowances internally. S. 1630 recognizes the unjustifiable economics of retrofitting small units, and the value these small units represent to small municipal utilities. However, the bill allows small, dirty units to operate at higher capacity factors, but does not afford the same type of relief for small, clean units.

This amendment would allow these small, clean units to operate at the reasonable level of a 60-percent capacity factor. This increased utilization will provide considerable savings to the municipal systems and the consumers they serve, and represents a negligible emissions level.

I am proud to be a cosponsor of this amendment. The operation of these units allows municipal utilities to reduce costly power purchases and ensure reliable service.

Mr. BAUCUS. Mr. President, this is a good amendment. Essentially, it ensures that existing nonutility generators do not get inadvertently caught up in the acid rain provisions. It was never the intention of the agreement, either in the version of the bill or in the Environment and Public Works Committee that existing nonutility generators be subject to the same provision as the utility electric generators. We accept the amendment.

The PRESIDING OFFICER. Is there any further discussion on the amendment offered by the Senator from Colorado?

If not, the question is on agreeing to the amendment.

The amendment (No. 1369) was agreed to.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there any objection to laying aside the pending amendment to consider the amendment of the Senator from Nebraska?

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the Senator from Nebraska has been very, very patient. I appreciate that. He came here earlier this morning and as I told him at the time, I had to check on this side. I talked with the Senator from Iowa, who was concerned with this same amendment, and tried to arrange a meeting and perhaps he did get in touch with the Senator from Nebraska.

If the Senator would withhold his amendment once more, I just have to check with him once again. He has been very patient.

Mr. EXON. If I agree to withhold the amendment once more, may I have some general outline whether it will be hours or days before we get back to it?

Mr. CHAFEE. I guarantee it will not be days. I cannot assure there will be sweetness and harmony after I talk with the Senator from Iowa, after I track him down, but I feel I have to do that.

Mr. EXON. I believe I still have the floor.

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. EXON. Mr. President, I say this is a typical exercise in futility that this body goes through time and time and time again. The quality of life is supposed to be of substance here. We have been debating on a sense-of-the-Senate resolution since 2 or 3 o'clock this afternoon. I am trying to become efficient. I must advise the people on that side of the aisle that even if this is controversial I am going to propose it at a proper time.

The Senator from Iowa, who my colleague has been consulting with, Senator GRASSLEY, is the one who called this matter to my attention in the first instance. I have been trying to work with him on it. We have called his staff the last 2 days. We have called him today. We have talked to him. All I am asking for, very respectfully, is an answer and not delay.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The assistant Republican leader.

AMENDMENT NO. 1370 TO AMENDMENT NO. 1293

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment for the consideration of the amendment by the distinguished Senator from Wyoming?

Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 1370 to amendment No. 1293.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 135 after line 22 add the following new subsection:

(c) INCREMENT EXEMPTIONS.—Section 163(c)(1) of the Clean Air Act is amended by—

(1) replacing the comma and "and" at the end of subparagraph (C) with a period;

(2) replacing the period at the end of subparagraph (D) with a comma and "and"; and

(3) adding a new subparagraph (E), to read as follows:

"(E) except for purposes of determining compliance with the maximum allowable increases in ambient concentrations in any area designated as class I under this part, concentrations of particulate matter attributable to the increase in fugitive emissions resulting directly or indirectly from surface coal mines.".

Mr. SIMPSON. Mr. President, I am offering an amendment today that will remedy a situation that is unique to the West in general and Wyoming and Montana in particular.

Out in the land of high altitude and low multitude we often have furious wind storms that blow up huge clouds of prairie dust. When we have a storm like this in the Powder River Basin where our coal mines are located it is impossible to separate the natural dust from the so-called fugitive dust from the mines. This phenomenon coupled with our inability to accurately model surface mine dust emissions may cause problems for mines that may be required to expand production in an effort to help solve the acid rain problem.

EPA and many States have determined that for purposes of increment consumption it is not necessary to count fugitive dust emissions. We find with dust from mines and natural sources that the dust particles are relatively large—larger than 10 microns in size—and that they fall out very near to the mine site or the natural source. These particles do not degrade air quality because they are not a health threat and they do not stay suspended and therefore do not decrease visibility.

During the EPW Committee markup we were able to develop an amendment that requires EPA to develop new models for surface mine dust emissions which will be more accurate than existing models. The Senator from Montana indicated at that time that he would be willing to consider an amendment dealing with increment issue, but because we ran short of time during the markup we agreed to pursue this issue on the floor.

My amendment would simply allow the governor of a State to exempt surface mine fugitive dust emissions from measurements of increment consumption under Prevention of Significant Deterioration [PSD] reviews, except in designated class I areas.

EPA has already ruled that surface coal mines are not considered major sources for purposes of PSD review. This administrative determination was made after exhaustive review under authority of section 302(j) of the Clean Air Act. However, under current law, fugitive dust emissions from surface mines must still be considered for purposes of determining increment consumption under PSD reviews.

This is why my amendment is needed. It does not make sense to require fugitive emissions to be counted when surface mines are not major sources or when the dust is not affecting air quality.

I ask unanimous consent that a letter from the State of Wyoming air quality administrator regarding this amendment be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMPSON. I believe the amendment is a good one. It has, I believe, been cleared on both sides of the aisle.

EXHIBIT 1

DEPARTMENT OF ENVIRONMENTAL QUALITY,
Cheyenne, WY, January 25, 1990.

Hon. ALAN K. SIMPSON,
U.S. Senate, Washington, DC.

DEAR SENATOR SIMPSON: I have reviewed the proposed amendment to Title I of S 1630 concerning increment exemptions for surface coal mine fugitive dust. I can see no problem with coal mines in Wyoming complying with PSD allowable increments for particulate matter even if emissions from non-point sources are excluded for purposes of increment consumption.

To ally fears that such an amendment would allow significant increases in fugitive dust emissions, Wyoming can demonstrate through ambient monitoring data gathered for ten (10) years or more that increases in coal production do not cause a significant deterioration in air quality. During the period from 1980 through 1988 coal production in the Powder River Basin increased from 59 million tons to 140 million tons and yet overall the air quality in Basin has remained very good and in fact has improved in the City of Gillette which is very close to several large mines.

Wyoming believes that with a very active permit and control program which requires the use of best available control technology and which enforces compliance with ambient short term standards based on monitoring, surface coal mines will not be a significant threat to clean air areas. We have just not seen significant impacts based on our experience.

If I may be of further service to you, please do not hesitate to call on me.

Sincerely,

CHARLES A. COLLINS,
Administrator, Air Quality Division.

The PRESIDING OFFICER. Is there further discussion? The Senator from Montana.

Mr. BAUCUS. Mr. President, I have been working with the Senator on this amendment. The Senator is correct. When the bill was reported out of committee we did not have time to find a resolution involving fugitive dust that comes from surface coal mines. It was a fairly complex issue. We decided it best to postpone resolution until we came to the floor.

I have been working with the Senator from Wyoming as well as other Senators. The proposal that we now have before us is the result of those efforts. It essentially allows a State, which has an approved plan, after notice and the opportunity for public hearing, to exclude from the PSD increment consumption, except in class 1 areas, fugitive emissions resulting directly or indirectly from surface coal mines.

It is, frankly, needed to we can strike the right balance between, on the one hand, allowing coal mines to continue to operate and on the other hand, pro-

tecting the class 1 as well as class 2 and 3 areas from undue particulate matter as well as concentrations of sulfur dioxide.

I compliment the Senator. It is a complex matter. I think we reached a correct balance.

Mr. SIMPSON. Mr. President, I have an inquiry. I want to make certain we understand the meaning of section 113(b) of the bill and how the States will comply with this provision.

Section 113(b) requires EPA to analyze the accuracy of the industrial source complex model using AP-42 compilation of air pollutant emission factors and also make revisions to the model and revisions to the emission factors as may be necessary to eliminate any significant overprediction of air quality. Until EPA develops the revised model and emissions factors, which could take up to 4 years after the date of enactment, we want to assure that a State may use empirical based modeling approaches pursuant to guidelines issued by the EPA Administrator.

It is my understanding that until EPA issues its guidelines, that the State may use air quality monitors and State empirical modeling in order to demonstrate compliance with EPA fugitive dust standards or requirements for existing mines. For new mines or mine expansions permitted after the date of enactment, EPA's industrial source complex model will continue to be used until such time as EPA issues any new guidelines. At the time EPA's guidelines are issued, the States empirical based modeling would have to conform to the newly issued EPA guidelines. I believe the EPA Administrator should issue guidelines as soon as possible and no later than 9 months after the date of enactment.

Mr. BAUCUS. I would like to respond affirmatively to the Senator from Wyoming. I believe that a State may continue to use its empirical based modeling and air quality monitoring to demonstrate compliance with EPA's fugitive dust standards for existing surface coal mines, until the Administrator of EPA issues guidelines. New mines and mine expansions will continue to be subject to EPA's industrial source complex model for new source review until EPA issues new guidelines.

We accept this amendment.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (No. 1370) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

AMENDMENT NO. 1365 AS MODIFIED

Mr. BAUCUS. Mr. President, I ask unanimous consent the Bond amendment 1365 which has been agreed to, be modified to conform with the correct language which was erroneously omitted earlier. The correct language is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1365), as modified, is as follows:

On page 417, line 13, after "(1)", strike "After" and insert in lieu thereof: "Except as provided in paragraph (3), after".

On page 418, after line 19, insert the following: "(3) After" December 31, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which became operational on or before December 31, 1965, which is owned by a utility operating company with a total fossil fuel steam-electric generating capacity greater than 250 MWe and less than 450 MWe that serves fewer than 78,000 electrical customers as of the date of enactment of the Clean Air Act Amendments of 1989 to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by its actual 1985 emission rate divided by 2000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions. After December 31, 2010, it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 1.20 lbs/mmBtu, divided by 2,000.

On page 418, line 20, strike "3" and insert "4" in lieu thereof.

AMENDMENT NO. 1371 TO AMENDMENT NO. 1293

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 1371 to amendment No. 1293.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the Mitchell substitute on page 216, line 12, after "greater.", add the following new sentence—

"At the request of a State with respect to any designated area as nonattainment for carbon monoxide, the Administrator may reduce the period specified in the preceding sentence, if the State can demonstrate that because of meteorological conditions a shorter period will assure that there will be exceedances of the carbon monoxide standard outside of the time that such fuels are to be sold."

Mr. DOMENICI. Mr. President, my amendment is quite simple. The bill before us requires that carbon monoxide nonattainment areas only sell during the period of October 1 to March 31 fuel that has an oxygen content of 3.1 percent or greater.

I support the requirement that oxygenated fuels be used in the winter months because it has been shown that these fuels are an important tool in our battle against carbon monoxide.

For the past 2 years, the city of Albuquerque has had an oxygenated fuels program. In the first year, it was a voluntary program; this year it was a mandatory one. The support for the program has been impressive.

This amendment makes one modification to the bill before us. It provides the possibility of a reduction in the 6-month requirement, at the request of a State and only after a showing can be made that a shorter period of time will not create violations of the standard.

This is a simple matter. Carbon monoxide is a winter problem. The 6-month period specified in the bill might not be necessary in some areas of the country. This amendment allows the possibility of some shorter period of time only if it will not jeopardize attainment of the standard.

I believe this amendment has been cleared on both sides and I thank the committee for their assistance in developing the amendment.

Mr. President, this amendment, clearly and simply stated, permits a State with respect to any designated area as nonattainment for carbon monoxide to request that the Administrator of EPA reduce the period specified for oxygenation to a period of time as low as 2 months, if they can prove that such is going to maintain the attainment requirements and if in that period of time that reduction is predicated upon meteorological findings that 6 months is not needed.

Essentially, in Albuquerque, NM, what has happened, we have had a voluntary program for 1 year, and then a mandatory one.

And it has found, because we have a very peculiar winter cycle and certain wind and meteorological phenomenon, that you can accomplish the goals of the Clean Air Act with a shorter period of time than 6 months.

This merely says they can ask for it; all things being equal, the EPA Administrator may permit it. He does not have to. I think it adds flexibility that is good and desirable. I do not believe there is any objection.

Mr. BAUCUS. Mr. President, the Senator is correct; there is no objection on this side. We accept the amendment.

Mr. SIMPSON. Mr. President, it is acceptable to this manager.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amend-

ment of the Senator from New Mexico.

The amendment (No. 1371) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I ask unanimous consent the pending amendment be laid aside.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment? Without objection, it is so ordered.

AMENDMENT NO. 1372 TO AMENDMENT NO. 1293

(Purpose: To waive provisions of title III requiring catalytic emission reductions if they cannot be attained through other means that do not increase the United States' dependence on the Republic of South Africa for strategic minerals).

Mr. SYMMS. Mr. President, I call up an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 1372 to amendment No. 1293.

At the appropriate place in title II of amendment No. 1293, insert the following new section:

"WAIVER FOR PROVISIONS REQUIRING DEPENDENCE ON THE REPUBLIC OF SOUTH AFRICA

"SEC. . WAIVER FOR CATALYTIC REDUCTIONS RESULTING IN INCREASED DEPENDENCE ON STRATEGIC MINERALS FROM SOUTH AFRICA.—Any provision of this title requiring catalytic reductions of emissions from motor vehicles shall be waived, in whole or in part at the Administrator's discretion, if such provision is determined to require importation of any strategic mineral from the Republic of South Africa (including platinum, palladium, and rhodium) in excess of 150 percent of 1990 levels. Such determination shall be made within one year of enactment of this Act by the Director of the Bureau of Mines, Department of the Interior, who shall consider all possible alternative sources for these minerals. This determination notwithstanding, the Administrator may elect not to waive such provisions upon demonstration, approved by the Secretary of Transportation, that alternative technologies to achieve the catalytic motor vehicle emissions reductions required by this title are reasonably available, considering costs and any non-air-quality health and environmental impacts and energy requirements, and do not require importation of strategic minerals from the Republic of South Africa in excess of 150 percent of 1990 levels.

Mr. SYMMS. Mr President, about an hour or so ago, the Senate voted, when they voted to table the Dixon-Gorton amendment, to say that we recognize that there are no environmental free lunches; we recognize that we cannot have this clean air bill that is before us without paying a price for it; and that we are willing to export our jobs abroad and also export the pollution that goes with it. That is the message that comes out of the tabling of that amendment; that there just simply are no environmental free lunches.

This amendment that we have crafted tries to do two things. What we are doing by passing the Clean Air Act amendments with the second-stage auto emissions is passing a national industrial policy that triples our dependence on South Africa.

I think the American people need to know this, and I am trying to offer Senators an opportunity to reconcile two national policies that are going apart.

Everyone knows, Mr. President, that this bill will require significant ratcheting down of the tailpipe standards, 50 percent by the mid-nineties, and very likely 50 percent again in the year 2003, if the 11 cities do not reach attainment.

About the only technology that we know of to achieve these tighter standards to date is the load-to-load catalytic converters. Our modern three-way catalytic converter contains a form of platinum, palladium, and rhodium. Each metal is critical to the catalyst being able to remove the different pollutants.

Mr. President, it is my concern that these standards in this bill are so extreme that it is going to force our demand for platinum-group metals to skyrocket. In fact, I made an inquiry to CRS. They tell me that the standards in this bill may escalate our demand for rhodium alone by 260 percent.

Where are we going to get the rhodium? We have little reserves in the United States that are available. Most of the reserves in the Soviet Union are locked up and currently are letting no new sales contracts. Only South Africa, with 93 percent of the known reserves, fulfills the additional demand of the United States.

Mr. President, I want to read to my colleagues a letter I received November 16, when we were pushing at that time to waive the second-tier tailpipe standards, from Mr. Benjamin Hooks, the executive director of the National Association for the Advancement of Colored People:

DEAR SENATOR SYMMS: I write to express the concerns of the NAACP about legislation now before the Congress to amend the Clean Air Act. I hope that you will consider these concerns.

The NAACP is not concerned by the proposal to amend the Clean Air Act; we support revision of the legislation. However, it has come to our attention that certain proposed provisions would impose stringent requirements that exceed those necessary to improve the nation's air quality. Specifically, we understand that it is proposed to adopt mobile emission standards that are more stringent than those contained in the Administration's clean air proposal. The tough clean-air bills that are before the Congress need not be made any tougher.

The NAACP is concerned that the adoption of more stringent mobile emission standards would have serious implications for the auto industry, auto dealers and consumers. Customer acceptance and satisfaction could be jeopardized by unreasonable standards which, in turn, could have a severe impact on the market and cause job losses. In recent years, the industry has lost thousands of jobs; many of these job losses were borne by minorities.

In our view, the Administration's proposal adequately toughens current emission requirements, but avoids the magnitude of disruption to the economy that is inherent in alternative proposals. Accordingly, we urge you to support the bipartisan Administration bills, H.R. 3030 and S. 1490.

Sincerely,

BENJAMIN L. HOOKS,
Executive Director.

Mr. President, the reason I point that out is when one examines where we are going with respect to our policy, we are now putting ourselves in a position, with the second stage, that most likely will be triggered in the year 2003—if it is not, then probably this amendment could be accepted and would have no impact on the legislation. But if it does trigger, we will be in the position where we are not only saying that we are going to pay a high price in America for this legislation; we are admitting that there will be thousands of Americans who will be unemployed.

We are also admitting with no environmental free lunches that there will be other Americans who will be employed, but their jobs simply will not pay. A $17 an hour job may end up paying $12 or $15 an hour so those people can have enough money to meet the environmental standards of the bill, to keep the plants operating, and so forth.

Maybe the $8 workers may find out they are working for $6, and the $6 workers may find out they are working for $4.50. It has a ratcheting effect in the country. If that is what we want in this country, then I think we need to tell the American people that is what we are going to have.

We are passing a national industrial policy piece of legislation where the EPA will be able to be not only what the IRS is to money, what the Commerce Department is to business, but a combination of all. The EPA will really be able to direct the national industrial policy of the United States.

In addition to that, we are going to make ourselves much more dependent on other countries for some of these goods. We have already voted on two occasions, once on an amendment that I offered earlier, and then today again on the amendment offered by the distinguished Presiding Officer and my colleague from Washington [Mr. GORTON] to try to address the problem of what this legislation does, what this

national industrial policy does. It is going to shove jobs offshore.

But we are also going to push the pollution offshore. We also have a policy that we are trying, through our policies that have been passed by this Congress, to have an influence on the Government of South Africa that we would feel a favorable influence. So this amendment simply states that if we go past 150 percent dependence on South Africa, the Administrator will have to either—we have a sufficient amount to meet the first round in the standards, but in determining our dependence, the Bureau of Mines is required to look at all the other potential sources, including the possibility of boosting our domestic production. I want to repeat that. We could, through this amendment, boost domestic production.

This Senator believes we have a lot of platinum group metals. There is one mine in Montana. There is still potentially unlimited amounts of platinum group metals in Alaska. But the Congress, in the late seventies and in 1980, the last of 1980, actually ended up passing a bill which put most of those areas off limits to the prospectors and the extractors in the State of Alaska where those reserves lie. But this would be an alternative that the Administrator would be able to look to.

Then, after we find that we have become dependent, Mr. President, the Administrator has to look to Alaska and look to Montana, he could look in other areas in the Rocky Mountains where there may be potential that some of these minerals are locked up, but then, even if the Bureau of Mines still finds our dependence on South Africa will increase to more than 150 percent, the Administrator of EPA would be permitted to require alternate methods to achieve the tailpipe reductions that do not require such high increases in the platinum group metals loaded catalytic converters.

As I said earlier, the Bureau of Mines, in September 1988 reported the following findings: Studies indicate that there are no substitutes for platinum and rhodium in the emission control systems, nor could the development of promising alternatives be expected before 1995.

My amendment simply provides the Administrator with the authority to require alternate emission controls. For example, the Bureau of Mines does indicate that they are supporting research to develop substitutes for PGM catalysts, maybe another one. They have one that has some promise. A zirconium-nickel compound has been identified that might possibly even be superior to platinum group metals-based catalyst, and it may result from future research.

My amendment would have the Administrator of EPA seek out and encourage those substitutes in lieu of increasing U.S. dependence on South Africa of more than 150 percent.

Finally, Mr. President, if the Bureau of Mines can find no other source of platinum group metals besides South Africa, and if the Administrator can find no alternatives to achieve emission controls besides the heavy loading of platinum group metals catalysts, then and only then the Administrator shall modify any requirement in the mobile source title as necessary to prevent the United States dependence on South Africa from increasing to more than 150 percent.

Mr. President, I guess it is very simple here, so Senators understand this. I know it sounds more complicated than it is, but it is not. For Senators who wish to vote "yes" on this, at least we are going to have some intellectual honesty, in what our policy is consistent with what the United States policy is currently toward South Africa. If they vote "yes" for this amendment, it is consistent with U.S. policy. It gives the Administrator all kinds of flexibility to look for ways to solve this, to not be dependent on South Africa. If all else fails, he can waive the second tier emission standards so that we will not be dependent on South Africa. If you vote "no" on the amendment, you are saying up front that we are willing right today to admit that, in addition to the other votes that have been cast here so far on this bill and what we are going to do if this bill does pass and become law and thousands of Americans find their lifestyle disrupted, thousands of Americans find that they are working for lower wages so we can meet and achieve these pristine clean air standards that we all say we want, there are no environmental free lunches and, yes, we are willing to be hypocritical with respect to our policy, and we are willing to say that we may double and even triple our dependence on South Africa if the second stage tailpipe emissions go into effect. It is very simple.

This Senator has no wish to debate this amendment to any lengthy degree. I hope the committee will accept this amendment, because I think it makes sense with the past votes of the Senate. It is consistent with the policy of the United States of America. It is consistent with the good policy of human rights, and it gives us an opportunity to admit up front that there are other prices that must be paid if we are going to demand the ultimate in perfection in this legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho yields the floor. Who seeks recognition?

Is there any further debate on the amendment?

Mr. SYMMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Idaho asks for the yeas and nays. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. Is there any further debate?

The Senator from Montana.

Mr. BAUCUS. Mr. President, the amendment offered by the Senator from Idaho is an interesting one. Frankly, I am a bit surprised to find, in effect, a foreign policy amendment on the Clean Air Act. In fact, it is, I think, one of the main reasons why it can be troubling for us in the Senate to adopt this amendment. It is just that. It really is a matter that deals with foreign policy. It deals with imports of strategic metals from the country of South Africa, the metals of platinum, palladium, and rhodium. It is really a matter that has nothing to do with the Clean Air Act, but it has quite a bit to do with the foreign policy of this country with respect to the country of South Africa.

The Senator from Montana is no expert on foreign policy with South Africa. We do know, however, that negotiations and relations with that country are in a potentially positive mode; that is, with the release of Nelson Mandela, with the change of leadership in South Africa, it appears that perhaps our country is moving toward better relations with South Africa and perhaps the country of South Africa is moving more toward democratic rule where one man will finally have one vote and the majority vote will eventually rule in the country of South Africa.

But all that very much depends on United States embargoes or sanctions it may have with respect to South Africa, and the amendment offered by the Senator from Idaho is in the nature of, not sanctions, not embargoes, but an amendment which would have a significant effect on this country's relationship with that country. And so for that reason, Mr. President, I am troubled with the amendment. It is much more in the nature of a foreign policy amendment than it is a Clean Air Act amendment.

Now, there are other reasons which trouble me about this amendment as well. First, this amendment looks like it could be a camouflage attempt to waive the tailpipe standards in the act. Why do I say that? The amendment of the Senator is directed toward tailpipe precious metals, tailpipe strategic metals, platinum, palladium, and rhodium. It is not directed at other strategic metals that are also in automobiles; for example, magnesium, chrome or vanadium, titanium. Those, too, are strategic metals. It seems to me that if those strategic metals were also included, it might appear more that this

amendment is geared toward America's strategic stockpile position rather than an attempt, in a camouflaged way, to attempt to waive the tailpipe standards. Now, the tailpipe standards in the Clean Air Act are very important; they are exceedingly important; they are very important. Automobiles today, even with improved tailpipe standards and improved technologies, account for half of the volatile organic compounds and half of nitrogen oxide which causes smog in our Nation's cities.

It also is the cause of 90 percent of the carbon monoxide in the nonattainment areas of this country. Ninety percent of the carbon monoxide in our Nation, its cities, comes from automobiles. And the tailpipe standards that are tightened up in this act in round 1 and round 2 will substantially reduce carbon monoxide as well as substantially reduce volatile organic compounds and nitrogen oxides. It is very important.

The tailpipe standards have been probably one of the singular successes of the Clean Air Act. They have gone a long way. The automobile industry is justifiably proud of its efforts to reduce emissions with the catalytic converters that have been developed. In addition the auto industry has cut back the cost of catalytic converters by about 50 percent. Because these metals are expensive, the industry has gone the extra mile, if you will, to find ways to reduce the cost of the catalytic converter and still be as effective in reducing emissions as much.

The industry has done that. They have reduced the cost down to about 50 percent.

So I suggest that it looks like there is sort of an end run, back door attempt to strike at, perhaps, or strike out the tailpipe standards in the bill. These tailpipe standards were negotiated under the agreement. The administration, Senators from the Republican side of the aisle, the Senators from the Democratic side of the aisle, at the behest of the majority leader—and the majority leader worked long and hard to work out an agreement that was a compromise; a very, very long protracted set of negotiations, debate back and forth, to try to find a Clean Air Act that in fact could pass and make sense.

We agreed to certain tailpipe standards. So I would like the Members of the Senate to know, therefore, this amendment is a deal breaker. This breaks the deal, the agreement that we reached on tailpipe standards and other provisions of the bill. This is a deal breaker. For that reason alone the amendment should be opposed.

In addition, Mr. President, the standards that this amendment uses are solely economic and have nothing to do with health. Basically the amendment says, if we import these metals at the rate of 150 percent of the levels of 1990, then the trigger could be implemented. The only alternative would be if there are other alternative ways to achieve emissions depending upon economic costs and other non-health-related reasons. There is not one word in this amendment, or even attempt, to balance the economic costs with the health needs.

So for that reason, too, I suggest we do not adopt this amendment.

So for a series of reasons; one, this is really a foreign policy amendment. It should not be on the Clean Air Act. Second, there are no health-based standards that would trigger the amendment. That is it is not balanced. No. 3, it is really a deal breaker. This amendment busts the agreement. The agreement is over. I do not say the agreement is over, but the passage of this amendment is definitely a deal breaker. For that reason, and all the other reasons I indicated, I feel that this amendment should not be adopted.

The PRESIDING OFFICER. Is there further debate?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, on behalf of Senator CHAFEE, our manager of the bill on this side of the aisle—he is presently necessarily absent and will return very shortly, and I have not been personally prepared to address this amendment—from listening to the debate and hearing the comments of my friend from Montana, the senior Senator from Montana, I say, and respectfully, to my friend from Idaho that it seems this is really much more of a foreign policy issue.

I know that the Senator from Montana has addressed it as that. I think I can see what is intended there, a theme which has been very real from the Senator from Idaho, which is a very mineral rich State with some very strategic minerals, with a very strategic stockpile emphasis, which is something that the Senator has talked about for many years, all the time I have known him on the floor of the Senate.

So that is a very clear theme here. I do not see it as something terrible sinister, but I do not think it has anything really to do here with the Clean Air Act. It has to do with foreign policy.

The issues of sanctions, the issues of watching the South African Government now, the issues then do apply to the Clean Air Act, and that is with regard to mobile sources.

I think it just creates a bit of confusion, and perhaps doubt as to what we are doing here, as we must know that unless we do something with mobile sources, if we fail to take the strides we need to—and that has been a tough grapple for us here—then of course these restrictions and the requirements for lessening that in the atmosphere will come from other sources; stationery sources obviously.

So I think from that standpoint it is something that throws things out of balance. We really do not know what we will be accomplishing until we get through conference on that. But I would just suggest that at this time I think it is not appropriate to be dealt with here. I do not know the intent of the manager of the bill. Is it the intent to make a motion to table this particular amendment?

I do not want to do that until everyone has had an opportunity to address it. But I indicate that on behalf of my colleague here, I was going to make that motion. I do not make any attempt to cut off debate at this time.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I have the highest esteem for my colleague from Wyoming, and my good friend from Montana, Mr. President.

The interesting thing about this debate is that it is obvious where the votes are. I want to summarize. I know where the votes will be on this amendment. I would be pleased if they would accept the amendment because I think it would be a very honest thing to do for the United States.

But I say to my colleagues that you noticed that no one denies that we are saying we are going to be more dependent on South Africa once this bill passes. I would also say to my colleagues that if we have a hot year like 1988, when the test year comes there will not be less than 11 cities out of attainment because some of these things happen with meteorological events, the weather, and so forth, that can put cities out of attainment.

I also say—and I will wrap this up and we go on to a vote as far as I am concerned—the Clean Air Act, which is an industrial policy act of 1990 in the United States of America, has foreign policy implications. I say to my good friend from Montana, you simply cannot pass legislation that reaches the big arm of government into every facet of Americans' lives and not have foreign policy implications.

I have heard the chest beaten by Senators on this Senate floor for the last 9 years about how we must be more competitive. We must be more competitive.

So that is one of the things that we tried to do, to reduce the burden of taxation on people, to reduce the burden of regulation, and tried to make America more competitive so American men and women can have higher wages, a better opportunity to raise their families. I did not come to the Senate to make people more miserable in the United States, to impose

all kinds of rules and regulations on them.

Then I heard the great debate here how we must do something about apartheid, which I abhor and all Senators abhor, apartheid. Now we have already voted on this bill on two occasions, that we are willing to export the jobs of the working men and women of America, and we are willing to export the pollution, also.

We are going to drive the jobs and the investment offshore out of the United States, and we will let those foreigners take the pollution, and then we will bring the stuff back in here and buy it. Then we find that there is nothing that is more abhorrent to Americans than apartheid. We are saying, by passing this bill, that we can assuredly guess that we will not even give the EPA Administrator the flexibility to say maybe it would be better to go to Alaska and start mining platinum and group metals.

There is an area up there as big as the State of California, the largest State of the Union in terms of population, and one of the largest in terms of geography. There is an area in Alaska as big as the State of California that this Congress—I was still in the other body when it happened—put that land away into wilderness and said, "you prospectors cannot even go look for those metals." I will believe to my grave that we have the platinum group metals in the United States and Alaska, maybe in my State. We know there are some in Montana.

What we are saying here in this legislation, No. 1, is we are going to pass the industrial policy bill that will impose severe restrictions on the working men and women of America, on the captains of production of America, on the people who make America a great place to live. We are going to impose all of those regulations on them. Costs are going to be high. Some of them are going to lose their jobs. Some are going to end up working for lower wages. Some of the factories will simply leave because power rates will go up, and they will produce the electricity in Canada and ship it back to the United States, and we will let the Canadians have the pollution, or buy the goods from Taiwan or Tokyo and let those people have the pollution. We will have clean, pristine, living in the United States, and our people will live with lower wages.

This amendment will give the Administrator a little flexibility to try to work it out. He would be able to use other alternatives to reach the health standards that the Senator from Montana talks about.

But the point is that no one denies that this bill is going to force more dependence on South Africa by the United States of America. If that is what my colleagues want to do, I have no quarrel with that. But I do think we need to think and pay heed to the debate that we have had the last few days about jobs, the environment, the "no environmental free lunches."

We have had a great discussion here in the last several days by the distinguished President pro tempore of the Senate. I do not know how Senators feel about his amendment, and this Senator has not made up his mind yet how he is going to vote on it, but I think there is some rationale to say that if you are going to pass a national industrial policy, it is going to have some implications that are going to be negative on some people.

In this case, I simply say that CRS's only report says that we will be much more dependent on South Africa. I have the report here for any Senator who wishes to see it. I say to the distinguished Senator from Montana that I am ready to go ahead and vote. I ask for a vote on my amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. SIMPSON. Mr. President, I do very clearly hear my friend from Idaho, and he speaks eloquently on this issue, as he has in the committee and on the floor. It is something that we do hope we are listening to, because none of us have the desire to do that. I admire him and I appreciate him for expressing it as beautifully as he does.

Regretfully then, if he has concluded his portion of the debate, I move to table the amendment of the Senator from Idaho. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming [Mr. SIMPSON] to table the amendment of the Senator from Idaho [Mr. SYMMS].

The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada [Mr. BRYAN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. HUMPHREY] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 5, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—91

Adams	Bond	Burdick
Armstrong	Boren	Burns
Baucus	Boschwitz	Chafee
Bentsen	Bradley	Coats
Biden	Breaux	Cochran
Bingaman	Bumpers	Cohen
Conrad	Heinz	Nickles
Cranston	Helms	Nunn
D'Amato	Hollings	Packwood
Danforth	Jeffords	Pell
Daschle	Johnston	Pressler
DeConcini	Kassebaum	Pryor
Dixon	Kasten	Reid
Dodd	Kennedy	Riegle
Dole	Kerrey	Robb
Domenici	Kerry	Roth
Durenberger	Kohl	Rudman
Exon	Lautenberg	Sanford
Ford	Leahy	Sarbanes
Fowler	Levin	Sasser
Garn	Lieberman	Shelby
Glenn	Lott	Simon
Gore	Lugar	Simpson
Gorton	Mack	Specter
Graham	McCain	Stevens
Gramm	McConnell	Thurmond
Grassley	Metzenbaum	Warner
Harkin	Mikulski	Wilson
Hatch	Mitchell	Wirth
Hatfield	Moynihan	
Heflin	Murkowski	

NAYS—5

Byrd	Rockefeller	Wallop
McClure	Symms	

NOT VOTING—4

Bryan	Inouye
Humphrey	Matsunaga

So the motion to lay on the table amendment No. 1372 was agreed to.

Mr. MITCHELL. I move reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS. Mr. President, I say to my colleagues, even though it looked like a lopsided vote, I was really not dissatisfied with the outcome of that vote, because I believe that amendment is a win-win amendment. The Senate, by the vote they have taken, has overwhelmingly admitted that our current policy with regard to South Africa and the industrial policy in this bill are 180 degrees opposed to each other. There is a 180-degree opposite position.

When called upon the decide our priorities, the U.S. Senate has stated that it eagerly accepts the crippling of United States dependence on South Africa. I hope this vote will set a precedent for upcoming debates on the role we should play in helping that struggling nation. I think that role should be a constructive engagement.

I yield the floor.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, if I may have the attention of Senators. Momentarily, the respective cloakrooms will hotline to all Senators a proposed unanimous-consent agreement which, if agreed to, would call for a vote on final passage of the bill by a time certain next week and would limit debate on the remaining amendments to a time certain.

We have been on this bill for a long time. There are still several potential amendments. But I believe we have now reached the point where we can, fairly to all Senators, agree upon a date and time certain. I hope that we

can get this agreement. And, if we can, then there will be no further action on this bill this evening.

There will be one other matter taken up that will require a vote. That will be a joint leadership resolution on Lithuania. And there would be no votes tomorrow or Monday. So we return to session on Tuesday and would complete action by a time certain which I proposed to no later than midnight Wednesday, March 28. We would then have 2 full days in which to complete action on the legislation.

I hope Senators will agree to permit this unanimous-consent request to be granted. It means that we would accomplish two things. We would complete action on this legislation by a time certain. It would give everybody ample opportunity to come forward with their amendments on either Tuesday or Wednesday. We will be in session for a long time on Tuesday. It would permit us, after completion of the Lithuanian resolution vote tonight, to have Senators not having to be here, those who have other commitments, on tomorrow and Monday.

This will now be going out on the hotline from both Cloakrooms in a few moments, at approximately 9 o'clock. After every office has had a chance to receive it and consider it, I will then propound the request.

If anyone has a question, I will be pleased to respond or comment; I will be pleased to receive that. I hope very much Senators will agree.

Mr. SYMMS. Will the majority leader yield?

Mr. MITCHELL. Yes, certainly.

Mr. SYMMS. I might say to the majority leader, I do not know how many other Senators are in the shape I am in. We have several amendments we are trying to get passed. The leaders keep saying, well, we think we can accept that one, but they keep putting it off. If we accept this unanimous consent tonight, well, there are a number of amendments I would like to know about that are important to my region, the intermountain western region.

How are we going to get all that done tonight, I ask the leader?

Mr. MITCHELL. First off, the Senator would not be precluded from offering his amendment. What I propose is that each amendment offered between now and midnight Wednesday be limited to 1 hour equally divided.

If any Senators wishes that to be changed—the Senator would have time to offer his amendment at any time on Tuesday or Wednesday, and would be assured of 1 hour. If any Senator feels he or she has an amendment that actually would require more time than that, why, obviously we would be pleased to consider that and attempt to accommodate that request.

Mr. DOMENICI. Mr. Leader, I do not rise because I have any problem with the two or three Domenici amendments that are listed. They will be accommodated by what the leader suggests.

But I have a concern, and I would just like to share it. A great deal of time in the negotiating was spent on the allowance allocations, or the so-called clean State allowance, a kind of a separate allowance for those States that had the most serious problems with pollution and had to clean it up, and we gave them some special treatment all within the framework of—we will reduce acid rain by a given amount.

I am concerned that there may be amendments that would alter in some way that allowance when it has been delicately structured, and some of us who worked very hard for the clean States gave up an awful lot in order to help get this proposal to the floor. I do not speak only for the West. The clean State amendment, which was a combination of the leader's proposal and my proposal, gave the West, which has some very clean States with a lot of money spent on scrubbers, but we allocated pretty well between all the States that had a rather clean status.

Does the leader know whether amendments that are pending or negotiations on amendments that might alter that such that those States that now count on the allowances we agreed upon could end up with less when we finish the process that we have in front of us?

Mr. MITCHELL. I have no personal knowledge, but I believe the managers are more intimately involved than I have been in the details of the specific amendments. So I would defer to them. I think, obviously, the Senator from New Mexico must be cautious in the fact that, in this proposed list, there are many that are not specified. So it is conceivable, even if no such amendment has been offered or discussed, that one could be offered. If the Senator suggests we ought to have a longer time for amendments so that, if one came up, there would be full and ample opportunity to debate it, why, that is something I would be obviously prepared to consider and accommodate.

Mr. DOMENICI. It is not only a longer time for the amendments, Mr. President. I have not been one who objects to a time certain when we do not know what is going to happen between now and the time certain. That is the way we get things done. It is a much different situation to be defending against a reallocation.

I see the Senator from Louisiana. We worked out where Louisiana gets a certain allocation of allowances. I do not know if an hour or even a time agreement for Wednesday night is sufficient if somebody is going to come down here and take away some of the allowances that one part of the country got and put them somewhere else. One could figure out a number of States and have a pretty nice amendment. I do not know if I want to agree on a time certain if we are going to address the allowance system in any of these amendments. I am not yet saying I am going to object on that basis, but it does concern me.

Mr. MITCHELL. I will ask the managers if they are aware of any such amendment or proposed amendment. I am not aware of any such amendment.

Mr. CHAFEE. Here is the problem, I say to the majority leader. Senators are coming in and seeking allowances for this State or that State under very special conditions that apply to a certain plan. The Senator from New Mexico is quite right. We are operating under a cap. Any time you give a Senator for his little special situation a few tons, a few thousand tons, it comes out of the mass that is left.

So the Senator is right. One, we do know who is asking for what through the amendments. Second, we have held most of those back to try to work out some system that recognizes what is happening. Obviously, if the first fellow who gets through the gate gets a big share, it diminishes our enthusiasm to take the others. We try to hold those down, conscious of the Senator's problem.

Mr. DOMENICI. It is not only my problem.

Mr. CHAFEE. I know. I am not singling him out. I wish we could get the Senator to talk to some of these people talking to us seeking these substantial allowances.

Mr. DOMENICI. Let me suggest I am going to object, and we ought to ask the Senators, if they have amendments that are going to reallocate the allowances, to get them down here so we can understand them. I think you can ask them that, and then I will be ready to enter into a subsequent agreement, if we know what they are, how much people are asking for for their States—I am not opposing States. I did the whole West. I did not get just mine. In fact, my State did not come out terribly well. Nonetheless, we got something for the clean States.

So I am not interested in preserving something for my State alone. But I am not going to agree that we know what we are doing on a time agreement if there are going to be 8 or 10 States coming in where they have a new little powerplant with a special kind of technology, 30,000 tons. Where do they get it? Eventually, they take it out of the rest of us. I do not think we want to do that. If you want a subsequent agreement, but for those kinds of amendments, I am willing. If there are those kinds of amendments, they are not within the time limit unless we can find out what they are.

Mr. MITCHELL. I suggest the staffs immediately prepare a list of such amendments identifying the amounts—I do not think it would be a difficult, time-consuming task—and show it to the Senator. He can then make a judgment.

Mr. DOMENICI. I thank the majority leader. I think that is fair.

Mr. CHAFEE. I also want to say, the fact someone asks for an allowance does not mean they are going to get it.

Mr. MITCHELL. I understand that.

Mr. CHAFEE. We whittle away at these allowances.

Mr. MITCHELL. Let me say, after the experience of this bill and the manner in which we identified amendments, I am in favor of the maximum specificity possible, and I would be very amenable to including in this a specific list of remaining amendments with identification. Then the Senator's concern would be satisfied. The problem we have is that we have been unable to get Senators to agree to specify their amendments up to this very moment. Perhaps this would trigger it.

Mr. SYMMS. Will the leader yield for a question?

Mr. MITCHELL. Yes.

Mr. SYMMS. A second question occurred to this Senator, and I direct this question to the Republican leader also. It has been a little unclear to this Senator what will happen in the event that the Byrd amendment is part of this bill. If we agree to this time agreement, there may be some of us who wish to include pulp or paper workers or other workers in the bill. Would I be precluded? I have reserved two or three amendments, I believe, that are generic to the bill.

Mr. MITCHELL. No; the Senator would not be precluded.

Mr. SYMMS. I would not be denied that opportunity?

Mr. MITCHELL. No, providing the Senator has amendments on the list.

Mr. SYMMS. I do have amendments on the list. Provided the Byrd amendment is adopted, that is the question. What happens if the Byrd amendment is adopted; In other words, if the Byrd amendment is adopted, say, 10 minutes before final passage?

Mr. MITCHELL. I cannot predict what will happen, but it is my hope it will be resolved long before final passage. That is my hope and intention. I know that is the hope and intention of the distinguished chairman as well.

Mr. DOLE. We do have leadership amendments, so if it is adopted, we have each reserved three leadership amendments. We would be protected from that standpoint.

Mr. METZENBAUM. Will the leader yield for a question?

Mr. DOLE. Will the majority leader yield for an observation?

Mr. MITCHELL. Yes.

Mr. DOLE. Let me indicate we started about an hour ago just canvassing Members. I misunderstood the majority leader. I used Thursday instead of Wednesday at midnight. So far, we have 20 out of 45 saying OK. I think there have been some good questions raised about allowances and maybe some other things.

I just say to the majority leader, maybe by making it close of business on Thursday, or some other time, it would at least provide a little more time. We have a particular problem on this side of Tuesday evening, and that would also help accommodate that.

Mr. MITCHELL. Certainly; I would be pleased to accommodate the Republican leader in that regard. If he thinks it would be better and more appropriate and more fair to all Senators concerned, then I would be pleased to amend the request to make it Thursday so that Senators may have further time. If any individual Senator feels that 1 hour is insufficient in length, I will be pleased to make that 2 hours for any individual Members.

Mr. NICKLES. Will the leader yield?

Mr. MITCHELL. I am sorry, Senator Metzenbaum was next. I interrupted him for the Republican leader.

Mr. METZENBAUM. A very simple question. As I understand the unanimous-consent request, it would be that we would vote at a time certain, whatever the majority leader and the minority leader agree upon. Then the majority leader also indicated that there would be an hour for amendments. I do not have any problem with that.

My question is, the Senate arrives at that time and there are still 10, 20, 30 amendments outstanding. First, I assume those amendments are still in order prior to the actual vote and; second, I assume that they would then be precluded from any time at all.

Mr. MITCHELL. I believe they would be precluded from being offered, not still be in order. But I would ask the Chair for a ruling in that regard.

I just want to say that I hope we consider that question in this context, that this bill has been on the floor for weeks. I have been here pleading for people to come and offer amendments. This is not an effort to prevent anyone from offering an amendment. I have been trying desperately to get people to offer their amendments. At some point there has to be a terminal point.

Mr. METZENBAUM. I fully understand what the Senator is attempting to do and I support it. But I must say that even after cloture has been invoked and you come to the time, if there are amendments that are still pending, those amendments may be called up and put to a vote.

Mr. MITCHELL. Amendments pending.

Mr. METZENBAUM. Amendments that——

Mr. MITCHELL. But that is different from an amendment that has not yet been offered.

Mr. METZENBAUM. An amendment that has been offered. Because what we do postcloture is we file amendments at the desk. Sometimes you do not get a chance to call your amendment up because another amendment is pending.

And so I would just say to the leader, it seems to me that it is only fair that you make it possible that for such amendments as have not been called up but that members who are on the list and want to call them up, have a right to call them up, give them 5 minutes on a side or no time on a side, give them a vote.

Mr. MITCHELL. I have no objection at all to do that and I would be pleased to do that to accommodate any Senator.

Mr. BAUCUS. Will the Senator yield? In that situation though, in the cloture situation, the amendments are printed. We know what the amendments are. As manager of the bill, I would like to have some procedure where we have some advance notice of the text of amendments.

Mr. METZENBAUM. What you might very well do, might I suggest, perhaps you include in the unanimous-consent agreement that such amendments would have to be filed on or before Tuesday at 2 o'clock or something of the kind. That is up to those managing the floor.

I understand the Senator's point but I do not believe we should preclude any Senator from offering an amendment and calling it up for a vote.

Mr. MITCHELL. I have no objection to that, and I think it highly unlikely that we would ever get in that circumstance under this situation unless a Senator deliberately waited until the end.

Mr. METZENBAUM. He might. I do not know. I do not know that you would. I am not saying you would. I am just asking we see to it that the unanimous-consent agreement makes due allowance for that.

Mr. NICKLES. Will the leader yield?

Mr. MITCHELL. Yes.

Mr. NICKLES. I wish to ask the majority leader a question.

We have one rather significant amendment of which I know the majority leader is aware. It is basically a substitute for the existing sections 5 and 6 that are in the bill supported by Senator HEFLIN, myself and many others, at the administration's request. That is going to certainly take more than an hour. It is certainly not my desire to delay the bill in any way or even to object. Would the majority leader be willing to make it—we need 2 hours on this side. I do not know what

the other side needs, but we have at least five speakers and it is pretty complicated.

Mr. MITCHELL. As the Senator knows, I understand the managers have been wanting the Senator to bring that amendment up today. Would the Senator be willing to offer it tonight? He can have as much time as he wants on it.

Mr. NICKLES. This Senator has been willing to do that. Right now we are in discussions with all parties trying to see if we cannot work out some accommodation. I hope that that would happen. It may or may not be successful.

Mr. MITCHELL. I have no objection to making 4 hours for that amendment and a lesser time for any others.

Mr. NICKLES. I appreciate the consideration. I thank the Senator.

Mr. BYRD. Mr. President, if the leader will yield, I have two observations.

One, unless the agreement specifically precludes the offering of those amendments which are listed at the time a vote arrives, I think Senators always understood that they would be allowed to at least call up their amendment without debate and get a vote on it. I tell you why. It would be possible, if you do not have a time agreement on amendments, one Senator could get up and take all the time on his amendment and thus shut out all other Senators whose amendments were not immediately pending when that time for the vote arrives.

I have always understood that Senators would at least have the right to call up their amendment when the time is consumed if they are on that list. They do not have to call them up. But they have a right to call them up without any debate and get a vote on it.

Now, unless we do that, I think I would have to object. I have an amendment. I might get shut out. No more time for debate. I have laid my case before the people. But I offer that observation.

The other is, I want to join with Senator DOMENICI, I want to agree with him in preserving the existing allowance system and warding off any changes in the allocation of allowances.

Mr. MITCHELL. I thank the distinguished chairman. With respect to the first point he made, that is precisely the reason, of course, why I am proposing a time limit on amendments, so as to preclude exactly that from occurring.

In this case, the case of the distinguished Senator from Oklahoma, he suggested he needs more time. I am agreeable to that. If any other Senator feels his amendment needs more time, I am pleased to consider that. I guess it would be a forlorn hope to think that any Senator would suggest his amendment needed less time, but I want everyone to know we would be pleased to accommodate any such request as well.

Mr. BUMPERS. Mr. President, will the majority leader yield?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BUMPERS. I have no objection to the request, but my staff has been in repeated contact with the staff of the floor managers and we have been repeatedly assured that most of our concerns, a few of them, were major, would be taken care of in technical amendments. I would like to request that we have some assurance that those technical amendments will be available for us to view and to look at by, say, Tuesday sometime.

Mr. BAUCUS. Mr. President, will the Senator yield?

Mr. MITCHELL. I yield to the manager.

Mr. BAUCUS. In response to the Senator from Arkansas, it is a bit difficult for us to know until we see the text, frankly, of the amendments.

Mr. BUMPERS. The amendment that I have, the principal amendment that I have in mind is on the list, has been all this time. As a matter of fact, I would be willing to offer it. The Senator from Louisiana [Mr. BREAUX] would have been willing to offer it for the past 10 days. But we have been put off by the staff during that period of time saying, they were looking at it. We are sure it is OK, but the staff is just not prepared to take it yet.

I have a reservation for this amendment on the list of reserved amendments. That is not my main concern. But it points up one of the problems we have about some of these technical amendments that we have been assured are going to take care of our concerns.

Mr. MITCHELL. May I say to the Senator, however, that if this agreement were entered into, he would not be precluded from offering that amendment.

Mr. BUMPERS. I understand.

Mr. MITCHELL. If he were ultimately dissatisfied with the manner in which his amendment was handled by the staff——

Mr. BUMPERS. The amendment that I have made a reservation on is not my main concern. There are other concerns that are supposed to be taken care of with technical amendments.

Mr. BAUCUS. If the Senator will yield, the major amendment—my understanding is the major amendment that the Senator is concerned with has been drafted, and we do agree with the amendment. It has been cleared. It is the co-firing amendment.

Mr. BUMPERS. That is right.

Mr. BAUCUS. We have that. We have drafted it.

Mr. BUMPERS. I am not sure that is the only one. But that is certainly the principal one.

If I could have the assurance of the distinguished Senator from Montana that the Senate will do its best to have such technical amendments as are going to be offered ready for us to see sometime Tuesday, then that will solve my problem.

Mr. BAUCUS. I might again say to the Senator though we cannot do the package until we see the amendments that the Senator wants to offer in the first place.

I might say, Mr. President, if the majority leader will yield, I frankly believe that we would all be better served, and it might help accommodate some of the concerns of the Senator from New Mexico on the allocation amendments, if part of the consent agreement provided that no amendment be in order unless it is printed in the RECORD, say by Tuesday of next week so that we know what the amendments are. In that way the Senator from New Mexico is in a better position to know what the amendments are, assuming the managers of the bill would be in a better position, and I think it would also better serve all Senators.

Mr. MITCHELL. I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me make this very clear right now. I am not going to agree to a time limit on this bill—so we save a little bit of time—for final passage unless we have reached agreement, and I am going to be part of that agreement, as to any amendments that have to do with changing the allowances. So if we are going to ask for a time agreement on that we had better have everybody getting their amendments in on allowances because I am not going to agree to anything until I know what they are.

It is not just a question of having it printed. Everyone should know the reason I am concerned. There are resources and jobs in our States. If we take allowances away from Georgia, Georgia has to go buy them from somebody. If they have to buy them, their utility companies have to spend money for the privilege of adding electrical energy for growth. We all understand the bill, but we have to understand if we are going to change it. We do not even know if 30,000 allowances, I say to the Republican leader, are worth $2 million to his State, or $250 million.

This is a big gamble. We have never done it before, but we know there are going to be limits on future growth based on the allowances you own. Frankly, there are two things I do not want to happen.

I do not want any amendments accepted on this that we do not know

about. Second, it seems to me that we ought to know at some point before we agree on final passage what all of the amendments are that have to do with this so we are not at the end of this bill, there are three of them passed, somebody has only one left, and it is 100,000 tons of allowances. I will not want that to work up against the time limit. That may be a very serious amendment. Yet, some may say, well, I have it figured out nicely. I helped 26 States with this. They nicely add them up, and 26 times 2 is 52. People with 48 lose. That is how most of these regional allowances are worked out.

We did not work the bill out that way. As the majority leader knows, we gave the States that were most adversely effected by cleanup a lot more than we started with. We gave the very clean States less than they thought they were going to get because most of them are not big growth States. We gave the Southern States which had both growth and some degree of clean utilities a bonus. I do not want that set up against the time limit. It is just that simple.

You can probably get a time agreement from this Senator that says we will vote on everything except there will not be a time limit with reference to any amendments that have to do with changing the allowances—neither an hour time limit nor are they within the time agreement propounded for final passage. You can do it better than I have suggested, but if you cannot do that then my objection now stands that I object to a time limit on the bill.

Mr. BUMPERS. Will the Senator yield on that point?

Mr. DOMENICI. I yield the floor.

Mr. BUMPERS. Mr. President, I just want to make this point. It is late in the evening. I do not want to make a speech. But the class of 1985 problem in which 17 States were afflicted was solved by saying we will give those States so many allowances to make sure that they do not have to install scrubbers. There is a set amount of allowances that they are to receive.

But if you look at section, I believe it is 404(A) of the bill, you find language that is very troubling to me. The bill calls for cutting 10 million tons of SO_2 emissions by the year 2000. We are supposed to get these allowances that keep us from having to scrub our coal. But the language essentially says that we are not entitled to those allowances if the effect is to raise national emissions in the year 2000 to over 8,900,000 tons.

When you consider that industry is not covered by this bill, and that industry is emitting 5 million tons of SO_2 a year, you can see why I am nervous. Industry is not affected.

An industry can cut its emissions, get allowances, and sell them. But my point is this: we may be totally innocent in our State. But if the Nation is not down to 8.9 million tons in the year 2000, EPA can say we are not going to give you these allowances, and we are right back where we started.

We have been told by staff that my reading of 404(A) is not correct; but that there will be a technical correction. That is the reason I want to see these technical corrections. You are talking about 750 million bucks in my State.

(Mr. WIRTH assumed the chair.)

Mr. MITCHELL. Mr. President, I understand the concern of the Senator from New Mexico. I wonder if it might not be agreeable to suggest that with respect to any amendments that deal with allowance reallocation they be combined, considered, and with a longer time limit, whatever the Senator wants, and then there would be obviously an understanding of a full debate. There would be no other opportunity to offer them, that goes to the concern which the Senator expressed about the last minute. That would permit everyone to have their say, would alleviate what I think is the Senator's concern, would have enabled us to go forward with this agreement, and accommodate all of the Senators.

Mr. DOMENICI. Mr. President, let me say to the distinguished majority leader, nothing would please me more than to accommodate him this evening.

Mr. MITCHELL. It is not me. I am going to be here. I have a lot of Senators who tell me they are not going to be here in the next few days.

Mr. DOMENICI. Let me say to my fellow Senators, I do not want to tell you how long I have been a Senator, but I have never done this before. I have been part of it, and raised an issue long enough where maybe somebody else said, sorry, Mr. majority leader, we know how much you want to get the work done and fellow Senators need not be inconvenienced, but we cannot go on with it. I have never done that.

But frankly I cannot agree because this is just too complicated for me to understand the consequences of that. I could see putting them all together, and it makes more sense than one. I could see one at a time makes more sense in terms of people getting something than if they are combined.

I just want a fair opportunity to call to the attention of all the other Senators we have helped in this bill that something is happening that is not just quite right. So I would suggest if the Senators are interested in leaving that you do not need much time to get some kind of consent out of the Senate, that all of the allowance amendments are before us with numbers, and how they intend to get them, where they are going to take them from, and as soon as you have that, I am ready to talk about a time agreement.

Mr. MITCHELL. Well, the Senator needs no advice from me, but I really suggest to him that if his concern is on the aggregate impact of all the allowance proposals, that concern is best met if they are all before the Senate at a single time when the total impact can be measured and debated, which would be the case if an agreement were entered into, as opposed to individually at any random time not related and not in a single package, at which time the aggregate effect cannot be measured.

I suggest and make that observation in terms of what his own interests might be. I, myself, have an interest in maintaining the integrity of the bill and proceeding in that regard. I suggest to him that his concern might be better served by such an agreement that places them all in a single package, at least at the same time, and therefore the full effect could be measured at that time which would not be possible in any other circumstance.

I think, unless another Senator has a comment——

Mr. DOMENICI. Mr. President, let me just suggest, I would not disagree. That is a pretty good concept and probably would yield the best opportunity to see the total consequence and, probably, if the allowance was not fair, that would be the way it would get defeated most easily.

I do not want to agree to the final time for voting on this bill until I know more about that, because for many of us this is the real economic issue. Many talk about the other toxics, but for most of us, the only part that has economic significance is coal-burning, electric-generating plants. My State has no toxics in the air that we worked so hard to fix. We worked for other States, not mine. We have one nonattainment area.

I do not want to agree to a time limit until I know more about the allowances. I will stay here as long as you want, with whomever you want, to find out what they are. Then I think we are in a position to talk, and I do not see why that would take too long.

Mr. MITCHELL. I believe the staff has already prepared a list. I think the Senator's suggestion is a good one, and we should have that discussion.

I make one further point to the Senator, which he might consider from his standpoint. Getting them all into a package at a time certain, say, early in the week or well in advance of the deadline, requires the presentation of the text of the amendment by that time. In the absence of an agreement, that renders that unnecessary.

The Senator might be confronted with a situation not only when we face amendments of this type piecemeal,

unable to measure the full effect, but also not seeing the text until the moment they are offered. I think his suggestion of a discussion is a good one.

What I propose to the Senate is that the Senator will discuss this with the managers and staff and see if some agreement can be worked out which is acceptable to him, which I hope will take a short period of time. Thereafter, I will propound the request and see if we can get an agreement. I simply say to Senators that the alternative to an agreement is that we will continue in session this evening on the bill, and we will continue in session on the following days: Friday and Monday and next week until we finish the bill.

So I thank the Senator, and I think he raised a good point. I hope it can be worked out in a manner acceptable to him.

Mr. DOMENICI. Mr. President, might I say this to my fellow Senators, if there are Senators requesting allowances, the Senator from New Mexico is not interested in interferring in your business. That is not why I am doing this. Frankly, I do not intend to arbitrarily say this Senator will not negotiate. I am willing to. I just think this is one of those areas where those of us who worked very hard to get this in a fair mode cannot be piecemealed, nor can we meet unexpected pressures that have a lot to do with many other things beyond fairness. Each one has his own concept of fairness and what he really needs. I am willing to work on it. I will stay here to do that. I do not intend to keep anybody here too long. I think we can work it out.

Mr. MITCHELL. I appreciate that. I am confident that we will be able to do that.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. Does the majority leader yield the floor?

Mr. MITCHELL. Certainly, yes. I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, in just a moment I will offer a joint leadership resolution on Lithuania, and there will be a brief period for debate on that, and then a vote on that. During that time, it is my hope that we will be able to work out an agreement on the consent agreement I earlier proposed. If not, we should also know that by that time, and I will indicate that accordingly after the next vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RIGHT OF SELF-DETERMINATION OF THE LITHUANIAN PEOPLE

Mr. MITCHELL. Mr. President, I send a concurrent resolution to the desk on behalf of myself, Senators HELMS, SIMON, DOLE, RIEGLE, DIXON, and GORTON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 108) concerning the right of self-determination of the Lithuanian people.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. RIEGLE. Mr. President, although, last night, the Senate rejected an amendment to the Clean Air Act regarding independence in Lithuania, the Senate remains in strong support of the independence movements in Lithuania, as well as in the other Baltic Republics of Latvia and Estonia. Accordingly, the Senate should have the opportunity to demonstrate its support for the self-determination of the Lithuanian people as they courageously strive for independence.

Mr. President, I rise today as an original cosponsor of the resolution urging the Soviet Government to recognize and respect the aspirations of the Lithuanian people by entering into immediate, constructive negotiations with the new Lithuanian Government, and to refrain from acts of military, political, and economic intimidation that would impede the progress of negotiations with Lithuania or diminish Lithuania's long-term economic viability.

With each passing day the world watches the final chapter unfold in the Lithuanian people's 50-year struggle to regain their lost freedom. As the first of the Soviet Republics to formally declare its independence, Lithuania now faces the difficult task of implementing that decision.

The success of Lithuania's independence movement represents both a triumph and a dilemma for Gorbachev. It was Gorbachev's radical policy of glasnost that enabled Lithuanians, Latvians, and Estonians to freely express their long-suppressed grievances against Soviet rule, and to launch a courageous campaign to regain their lost independence. And while the Baltic peoples have continually pushed the limits of glasnost farther than Gorbachev may have wished, to his great credit, he has generally refrained from using force to stop them.

Unfortunately, Gorbachev's nonviolent responses to the crises in the Republics may be at an end. This weekend, military jets threateningly overflew the Lithuanian capital of Vilnius and today several armored personnel carriers and other military vehicles rolled through the city. Moreover, Gorbachev has used his heightened executive powers to set a 2-day limit for Lithuanian citizens to turn over personally owned firearms to the Government and for Lithuanians who have left the Soviet Army to return to their units. This is a serious development because the Soviet Government could conceivably use a search for army deserters to forcibly search Lithuanian citizens or their homes.

The main dilemma presented by Lithuania's success, however, is that it is now forcing Gorbachev to contemplate a partial fragmenting of the Soviet empire. Gorbachev has made it clear that this outcome is unacceptable, but how can he avert it without violating his policy of democratizing and his pledge not to use force?

In this historic standoff between a vast empire and a small but courageous nation, the only way to avoid chaos and bloodshed is, as the New York Times points out, for both parties "to get to the bargaining table quickly."

I would like to congratulate the administration for standing firmly behind the Lithuanians at this critical moment, declaring:

We call upon the Soviet Government to address (the Lithuanian people's) concerns and interests through immediate constructive negotiations with the Government of Lithuania. We hope that all parties will continue to avoid any initiation or encouragement of violence.

Additionally, the Wall Street Journal reports that the administration has "drawn up some contingency plans to deal with any Soviet crackdown on peaceful dissent."

In last weekend's parliamentary elections in Latvia and Estonia, proindependence forces also won definitive majorities, and their leaders reportedly intend to follow Lithuania's example in declaring independence. Thus, what transpires between Vilnius and Moscow will serve a test-case for Latvia and Estonia, and possibly for other republics as well. This makes it all the more critical that we do all we can to make this Lithuanian test an example of a peaceful settlement, not a violent conflict.

I urge all of my colleagues in the Senate to support this concurrent resolution and join in expressing our support for the Lithuanian people and

our hopes for a peaceful, negotiated solution of this standoff.

Mr. MITCHELL. I yield to the Republican leader.

Mr. DOLE. Mr. President, I ask unanimous consent Senator SIMPSON be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I am pleased to join with the distinguished majority leader, Senator MITCHELL, the distinguished Senator from North Carolina [Mr. HELMS], the distinguished Senator from Illinois [Mr. SIMON], the distinguished Senator from Michigan [Mr. RIEGLE], and others in offering this concurrent resolution.

Sometimes Senate votes can be misleading, or misunderstood. Usually, the worst that happens when there is that kind of misunderstanding is a little embarassment, or a small problem.

Sometimes, the potential consequences of a misunderstood vote can be much more serious.

A number of us worried that last night's vote on the Helms amendment on Lithuania might be subject to that kind of misunderstanding. We were particularly concerned that the Senate's views and intentions about Lithuania might be misunderstood in Moscow. If that happened, the results could be tragic, indeed.

So, we offer this resolution to send these clear messages to Mr. Gorbachev:

The U.S. Congress unequivolcally supports the right of the Lithuanian people to determine their own future.

We strongly support their right to achieve the goals of independence and democracy which they have freely embraced, through their recent elections.

We want Mr. Gorbachev and his Kremlin colleagues to be on clear notice: We regard their recent actions in attempting to intimidate the Lituanian people as reckless and irresponsible.

And we want the Soviet authorities to understand the bottom line: If they use force to deny the Lithuanian people the right to determine their own future, the consequences for United States-Soviet relations will be grave.

Under these terrible circumstances, the Soviets can kiss good-by to the kind of political and economic relationship that they so clearly want, and so badly need, with the United States. They can kiss good-by to U.S. technical assistance, vastly expanded investment and trade, and a fundamentally new kind of political relationship.

Lithuania is a small country—but the stakes for its people, for the Soviet Union, and for United States-Soviet relations could not be much higher.

Mr. Gorbachev: We are not threatening, but neither are we bluffing.

We have come a long way together.

Do not engage in reckless, unilateral actions which will preclude our going any further.

The PRESIDING OFFICER. Is there further discussion of the concurrent resolution? The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I rise in support of this concurrent resolution. Last night I differed with my colleague from North Carolina on his concurrent resolution. I recognize the good intent of that resolution, but it contained some inflexibility. Frankly, this resolution has some flexibility.

This resolution recognizes that we want a free and independent Lithuania and we want to take all practical diplomatic steps to move in that direction. It is in line with American policy. We have never recognized the occupancy of Lithuania. It is a sensitive matter over there; no question about it. What we want is freedom. But, if at all possible, we want to avoid bloodshed over there.

This concurrent resolution, I think, goes in the right direction. I am pleased that Senator HELMS and I are both cosponsoring this concurrent resolution. I think it sends a very clear, firm, strong message to the people of Lithuania, as well as to the Soviet Government that we want a free and independent Lithuania.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, here we are. Last night we marched way down the Hill, and then the telephone calls and telegrams began coming in, and up the Hill we march again tonight.

I want to pay my respects to the folks in the administration, two of whom took that wonderful journey to China, who called last night from the White House during a state dinner to persuade enough people here to vote against the amendment last night to cause its defeat.

I agree with a Senator who said to me, right after the vote last night, that the Senate overdosed on dumb pills. I agreed with the Senator, who said it was a disgrace what happened. But I am glad that we finally get to the point that we have a rational approach to the question of where America stands.

Last night the Senate failed to support the amendment on Lithuanian independence that would have clarified the Senate's position on the nonrecognition policy of Lithuania's incorporation into the Soviet Union. The Lithuanian people have asked the United States to stop sending mixed signals.

Mr. President, we heard a lot last night about the delicacy of the situation. We were told that the Lithuanians were worried about calls for recognition.

I say to that: Bah, humbug. Ask any Lithuanian-American how he feels.

Mr. President, the situation is more than delicate. The Associated Press reported just this afternoon, at 5 p.m., that 15 armored personnel carriers and 5 trucks drove through the center of the Lithuanian capital of Vilnius. In response, President Landsbergis issued an appeal for international support. He has done this over and over again.

In addition, Mr. Gorbachev himself told KGB border troops to reinforce the borders and told officials to reduce the number of visas issued to foreigners.

I hope it is not too late for the United States to give the Government of the Republic of Lithuania the support it so desperately needs and deserves. Last week the President of Lithuania pleaded with the nations of the free world to extend recognition to his country, not just relations or normalization, but official, formal recognition. And he called upon "the governments of the democratic nations to recognize the laws and legislative acts of March 11, 1990, and to recognize the new Government of Lithuania."

So, obviously, I am pleased that the Senate is now reconsidering its action of last night. The leaders of the Republic of Lithuania and the Lithuanian-American community are pleased to hear any expression of support that the Senate or the Government of the United States, or both, may give them. But what they need and deserve is formal recognition of the democratically elected government of Mr. Landsbergis.

Now, then, since last night I have received a deluge of telephone calls and FAXed letters and telegrams from frustrated and disillusioned Lithuanian-Americans who feel that the United States Senate last night betrayed the Lithuanian people after a half-century of declaring its protest against making those three countries captive nations. I imagine, Mr. President, that some other Senators received similar deluges of communications, and that is why we are tonight reversing field, doing something tonight that we should have done last night.

Specifically, among those I have heard from are:

First, the Legation of Lithuania;

Second, the Sajudis independence movement in Lithuania;

Third, the Lithuanian Information Center;

Fourth, the Supreme Committee for the Liberation of Lithuania;

Fifth, the Lithuanian newspaper of Chicago, Draugas;

Sixth, the Lithuanian American Community;

Seventh, the Lithuanian Youth Association;

Eighth, Baltic World Council; and

Ninth, the Lithuanian American Council.

Mr. HELMS. Mr. President, I ask unanimous consent that a few of the typical messages be printed at this point in the RECORD.

There being no objection, the messages were ordered to be printed in the RECORD, as follows:

LITHUANIAN-AMERICAN COMMUNITY OF THE U.S.A., INC.,
Chicago, IL, March 22, 1990.

Hon. JESSE HELMS,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HELMS: On behalf of the Lithuanian American Community of the United States, I would like to express my deepest thanks for your recent introduction of the resolution calling on the United States to recognize the government of Lithuania.

When we were in touch with members of Sajudis in Vilnius yesterday, we were told that recognition by the United States was the single most crucial thing needed at this important juncture, to ensure that the nonviolent approach succeeds.

As you know the State Department has always been hesitant to take any initiative with reference to effective diplomatic support, which makes congressional leadership on this issue an imperative.

If you choose to reintroduce this measure, we will do all that we can to support your leadership. I am only sorry that we did not have enough chance to mobilize our support to support your earlier effort.

Sincerely,

ANDREW EIVA.

SUPREME COMMITTEE FOR THE LIBERATION OF LITHUANIA,
Washington, DC, March 22, 1990.

Senator JESSE HELMS,
Dirksen Building, U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: We greatly appreciate your strong stand on behalf of Lithuania and its people on their uphill fight for independence.

We are disappointed that the Senate yesterday failed to adopt the resolution of Lithuania's recognition. We thank you and your colleagues who voted for the resolution.

We hope you will continue your just and noble fight on behalf of the oppressed people of Lithuania in their attempt to fulfill democratic aspirations and long deserved freedom.

God bless you.

Sincerely,

DR. C.K. BOBELIS,
President, Supreme Committee for the Liberation of Lithuania.

HILLSDALE, NJ,
March 22, 1990.

DEAR SENATOR HELMS: Thank you for introducing the resolution supporting the Independence of Lithuania. The Lithuanian Community sincerely appreciates your dedication to this bold freedom movement. It is a travesty that the resolution did not pass the Senate last night. The Soviets are flexing their military might and we must let them know that the United States stands behind the Lithuanian freedom fight. The time to act is now.

Please consider the reintroduction of your resolution to the Senate. We will do what we can to arouse the support of the other Senators, the Congress and the Administration for noble causes.

Sincerely,

DAVID DUTKUS.

Mr. HELMS. Mr. President, these Lithuanian-Americans are aware that the U.S. Senate failed to support, last night, the valiant Lithuanian people whose sovereign territory is presently under a state of siege. They cannot understand, and neither can I, how, on the one hand, the United States does not recognize the illegal occupation of Lithuania, yet on the other hand sits idly by, as the Senate tried to do last night, and watch the peaceful and unarmed Lithuanian nation stand up alone to the Soviet Union.

So, Mr. President, the question is obvious. Is America so afraid to anger the Soviet Union? Are we so intimidated by Mr. Gorbachev's P.R. blandisments that we hesitate to support the democratically elected government of the Republic of Lithuania? Despite the courage and the determination of the Lithuanian people, the first democratic government in 50 years may not survive, if very much continues to go on such as happened last night, and the United States does not formally recognize this land that was a captive nation for 50 years.

Mr. President, it is a tragedy that the Lithuanians have worked so bravely and so peacefully to be welcomed back into the free nations of the world, that there would even be any hesitation about standing up and standing with the independent Government of Lithuania.

We are watching a gallant country once again being raped by the Soviet Union through an inundation of more Soviet troops and military vehicles. We have seen the Soviet Red Army flex its military might and watched the President of the Republic of Lithuania refuse to bow down to the enormous pressure.

Today the newspapers report that Gorbachev has issued, under this new Presidential powers, a decree ordering the Lithuanians to surrender their arms. Mr. President, question is, what arms? The Lithuanian people have been peaceful despite the many reasons for them to be angry. For 50 years they have seen their nation militarily occupied, plundered, and environmentally destroyed. They are willing to negotiate, on a state-by-state basis, with the Soviet Union. President Landsbergis has responded to the latest threat with statesmanship, saying and I quote, "this order, like any other adopted by a foreign state that pretends to claim sovereignty over Lithuania, has no legal power. It could be enforced only by brutal military force."

Mr. President, the situation which exists today parallels the situation of 1940 when the Soviet Union invaded Lithuania under the pretext of searching for Soviet Army deserters, and to protect the borders of the Soviet Union form the "militant" Lithuanians. For 50 years the West has not accepted the Soviets' excuse for invading Lithuania.

Mr. President, the Lithuania people know what is best for themselves. Why not let them decide their own fate. A democratically-elected government pleads to be recognized by the United States and should be recognized by the United States, especially when the United States has, through 10 administrations of both parties, held a nonrecognition of Lithuania's illegal incorporation into to the Soviet Union. I strongly believe that the nonrecognition policy implies that when the Lithuanian people achieve legal control over Lithuanian Government and territory the new government should be recognized immediately.

Mr. President, the Republic of Lithuania is in effective legal control of the territory and government of independent Lithuania. The U.S. Government has maintained that unless the Lithuanian Government achieves full control of its territory it will not be recognized. The fact remains that unless the Lithuanian Government is recognized, it will not be able to rid itself of the Soviet occupation forces.

This concurrent resolution makes amends for the Senate's action last night. It is at least a partial remedy for the dismaying default of last night.

We proclaim that we are the land of the free and home of the brave. I hope we never again yield to timidity, in the vain hope that a Communist government anywhere might decide to be a bunch of nice guys if we will merely forfeit the principle of standing firm against tyranny.

Mr. ARMSTRONG. Will the Senatory yield for a question?

Mr. HELMS. Go right ahead.

Mr. ARMSTRONG. Mr. President, I listened intently to the thoughtful statement which the Senator from North Carolina has presented, just as I listened to his remarks last night and, indeed, as I read the resolution which he offered last night and was proud to cosponsor.

There are two questions I have. Could the Senator explain to me what the difference is between the resolution we are considering tonight and the one we considered last night?

Mr. HELMS. Scarcely any difference. Scarcely any.

Mr. ARMSTRONG. Mr. President, I have looked at the two resolutions. Really there is not very much difference. I do note that there is one item that is not included in the resolution from last night. There was a little declaration as follows, if I can just read it, in the resolution we had last night, that "the Senate therefore congratulates President Bush for responding to the declaration of independence by urging Moscow to begin negotiations with the Lithuanian leaders."

That is not in the concurrent resolution we have before us tonight. Is that the essence of the difference here? Are we to understand that those who may vote for tonight's resolution and did not vote for it last night really were hung up last night over the question of whether or not we would or would not congratulate Mr. Bush?

Mr. HELMS. I will say to the Senator that I had no hangup in that regard.

Mr. ARMSTRONG. I would not either. I am not going to move to amend, but if anybody wants to put that back in to make tonight's concurrent resolution more nearly conform to last night's, I would like that, but I am not willing to do it.

Mr. HELMS. I am perfectly willing to do it.

Mr. ARMSTRONG. I point out to the Senator from North Carolina, some of the material preceding the resolving clause in his resolution last night is not included in the concurrent resolution tonight. I do not think any of the facts that were included in the "whereas" clauses were in dispute. They simply set out the record back as far as 1918 with a history of what has happened in that region of the world. That since 1918 the people of Lithuania have been a sovereign nation; that nearly 50 years ago, as a result of the notorious Molotov-Ribbentrop Pact, a shameful disgraceful episode of history, that the people of Lithuania were annexed into the Soviet Union illegally. For some reason it is not included in tonight's concurrent resolution. I am not aware that it is disputed by any Senator or any historian.

It is interesting, it seems to me, that this matter comes back to us so quickly and with the probable outcome that this is going to be adopted unanimously. It is occasion at least for this Senator to wonder what has caused the remarkable change of heart overnight.

Mr. President, I have one additional question. The Senator mentioned that there were responses around the world to the action of the Senate last night. I do not know how other Senators viewed our action last night, but, frankly, it was one of those rare evenings when I went home pretty disgusted with the U.S. Senate. Whether I win or lose, I go home generally with a great degree of respect for this institution and with a feeling in the eye of history. This is a unique place, a place of honor, a place where men and women can be proud to serve. But I did not go home feeling that way last night. I went home thinking this was a place where an appeal for support and encouragement was heard and rejected by men and women who should know better.

Mr. President, the question I was leading up to is this. I wonder if the Senator was aware of a story which moved on the Associated Press wire today involving the president of an international organization of Lithuanians who criticized Washington for failing to recognize Lithuania's new government in its effort to break away from the Soviet Union. Mr. Bieliauskas, President of the Lithuanian world community, said he could not understand why the United States Senate voted Wednesday to reject Senator JESSE HELMS' proposal urging President Bush to grant immediate diplomatic recognition to the new Lithuanian Government.

I do not know if the Senator is familiar with that story. I hope he would permit me to ask unanimous consent it be printed in the RECORD, along with a story also from AP which begins as follows:

A column of Soviet armored personnel carriers and army trucks drove through the center of the Lithuanian capital today in the Kremlin's latest show of force in the breakaway republic.

I ask unanimous consent that both of these stories be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. ARMSTRONG. Finally, with the indulgence of the Senator, I want to offer one additional thought. I believe we are about to adopt this concurrent resolution unanimously or nearly unanimously tonight, as we should have done last night. I am glad we are going to do it. It is the right thing to do. Justice delayed is better than justice denied.

I say this to my colleagues who voted against the resolution last night: If the Russians had sent in tanks and a slaughter had begun in Lithuania today, they would have had a very heavy burden on their conscience as a result of their vote last night. I compliment the Senator for bringing this back to our attention tonight. I salute him. I would be honored if he would permit me to be a cosponsor of the concurrent resolution.

EXHIBIT 1

VILNIUS, U.S.S.R.—A column of Soviet armored personnel carriers and army trucks drove through the center of the Lithuanian capital today in the Kremlin's latest show of force in the breakway republic.

Lithuanian officials protested increased Soviet military activity and President Mikhail S. Gorbachev's decree Wednesday ordering citizens to turn in their guns, saying the republic's independence movement has been non-violent.

Gorbachev today also demanded that Lithuania stop signing up volunteer defense forces. The request came in a telegram to Lithuanian President Vytauts Landsbergis and was read on the evening TV news program "Vremya."

A convoy of 15 personnel carriers and five trucks, towing military equipment, rolled through Vilnius this afternoon.

The action came just hours after Lithuanian Prime Minister Kazimiera Prunskiene complained of the increasing activity of Soviet soldiers and demanded an explanation from the Kremlin.

During a break in today's Supreme Council session, she told reporters an estimated 30,000 Soviet troops were stationed in the republic, whose Parliament declared independence from Moscow on March 11 after the ruling Communists were removed from power in free elections.

"But, it changes daily," she said, explaining why she sent a telegram to Gorbachev on Wednesday night demanding to know the number of Soviet troops and amount of military equipment sent to Lithuania over the past few days.

Gorbachev has called Lithuania's declaration of independence illegal but has also said he would not use force to keep it from seceding from the Soviet Union, which annexed the republic after assuming control under terms of the Hitler-Stalin pact of 1940.

Ms. Prunskiene called Gorbachev's decree to turn in weapons within a week "an expression of mistrust in the whole population" of the Baltic state.

Lithuanian Interior Minister Marionis Myasyukonis told The Associated Press, "There are about 30,000 officially registered shotguns, mostly in the possession of hunters and collectors."

"There has not been one case of aggression, so why confiscate shotguns?" said Lithuanian legislator Algimontas Cekuolis. "The laws of Moscow are not valid in the sovereign state of Lithuania.

CINCINNATI.—The president of an international organization of Lithuanians on Thursday criticized Washington for failing to recognize Lithuania's new government in its effort to break away from the Soviet Union.

Vytautas Bieliauskas, president of the Lithuanian World Community, said he could not understand why the U.S. Senate voted Wednesday to reject Sen. Jesse Helms' proposal urging President Bush to grant immediate diplomatic recognition to the new Lithuanians government.

"It's incomprehensible," said Bieliauskas, 69, a native Lithuanian who came to the United States in 1949.

A newly elected Lithuanian parliament on March 11 declared the Baltic republic's freedom from the Soviet Union, but four days later, the Soviet parliament declared the action invalid. Bieliauskas and other Lithuanian activists say the new Lithuanian government is lawfully restoring the independence that ended when the Soviet Union illegally occupied the country in 1940.

Bieliauskas said his organization, which claims 1 million members in 19 Western nations, is lobbying some Western governments including Canada, Australia and the United States to recognize the new Lithuanian regime. The organization maintains contacts within Lithuania, including the Sajudis freedom movement.

"The United States, unfortunately, cannot get moving," Bieliauskas said. "If the United States does not do anything, it does not make sense, because the United States does not recognize the occupation and now it does not recognize the new government. It's puzzling."

He said Bush should consider sanctions against the Soviets, including denying them favored-nation trading status.

Soviet President Mikhail Gorbachev, flexing newly acquired executive powers, ordered Wednesday that Lithuanians surrender their weapons and that authorities tighten border checks and restrictions on foreign travelers in the republic of 3.7 million people.

Bush said Thursday he is concerned, but is taking the Soviets at their word that they will not use force against outmanned Lithuania. But Bieliauskas said he is not convinced.

"Mr. Gorbachev is beginning to show his teeth. He's beginning to show that he's not as nice a guy as everybody thought," said Bieliauskas, a retired Xavier University psychology professor who lives in Cincinnati. "He's not killing anybody, but he's using what I would call the process of strangulation. He says everything belongs to the Soviet Union: communications, factories, the borders, everything. And if Lithuania wants to have them, it will have to buy them."

Landsbergis said Gorbachev's decree shows "the ghost of Stalinism is walking in the Kremlin" and that it could be enforced "only by brutal military force."

Gennady Gerasimov, the Soviet Foreign Ministry spokesman, reiterated today that Moscow had no plans to use force but declined to say whether the Kremlin might order the arrest of Lithuanian leaders.

"We want to solve this problem as peacefully as possible and according to the laws of the country," he told reporters during a news briefing.

The Soviet general who commands Lithuania's volunteer civil defense agency said he has partially complied with orders to turn over to the Soviet military the weapons and 16,000 vehicles under his command.

Gen. Ginutis Taurinskas told the Lithuanian Parliament he was ordered "to give all small caliber weapons to military units so there won't be any eventual theft of arms for inappropriate use."

He said firearms remained scattered among 500 to 600 units of volunteers who carry out air raid drills and train young people for military service. He gave no figures.

Gorbachev, using the powers he gained when the Congress of People's Deputies elected him the Soviet Union's first executive president last week, said Lithuanians had a week to turn in their firearms.

If they fail to do so, he said the Soviet Interior Ministry should be prepared to confiscate them.

Gorbachev also told KGB border troops to tighten their watch over the republic and told officials to reduce the number of visas issued to foreigners seeking to visit the republic.

His decree was the latest in a series of increasingly tough moves taken by Moscow in an attempt to discourage secession by the republic of 3.8 million people.

It came less than 24 hours after a strong protest from Lithuania's government over stepped up maneuvers by the Soviet military in the state.

Lithuania was independent from 1918 until 1940, when it was forcibly annexed along with Latvia and Estonia. So far, no foreign country has officially recognized Lithuania as independent.

Lithuania had rushed to declare its independence before Gorbachev could gain broad powers that include authority to impose direct presidential rule on areas of the Soviet Union.

Asked late Wednesday whether Gorbachev was conducting psychological warfare on the small republic, Cekuolis said, "Yes, this is a war of nerves, but we are not nervous. We have the motivation, we have our country, and we know where we are going."

Most firearms are tightly controlled in the Soviet Union, so Gorbachev's directive primarily touched hunting weapons. Relatively few people own firearms, and they must be registered with authorities.

Also Wednesday, Moscow lawmakers gave initial approval to a draft law that would make secession from the Soviet Union illegal without a republic-wide referendum and a five-year transition period.

One of two chambers in the Supreme Soviet standing legislature gave the bill preliminary approval and sent it to the other chamber.

Deputies said its prompt passage was needed to dissuade other republics from copying Lithuania, as fellow Baltic republics Latvia and Estonia are expected to do.

A group of conservative deputies to the Congress appealed to Gorbachev to impose direct rule on Lithuania, charging that the republic was about to pass legislation making it illegal to speak out against the independence movement.

Senior Lithuanian legislators confirmed such legislation existed, but said it was unlikely to be approved by Lithuania's Parliament.

Mr. HELMS. I ask unanimous consent that Senator ARMSTRONG be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the concurrent resolution? The Senator from South Carolina.

Mr. HELMS. I yield to the Senator.

Mr. THURMOND. Mr. President, I rise to commend the able and distinguished Senator from North Carolina for his leadership in this matter. I think he took the right stand last night, and I think the Senate is going to take the right stand tonight. I ask to be associated with the remarks the able Senator made last night and tonight. I am confident the American people feel just as the able Senator has expressed last night and tonight.

The Senate last night, I am afraid, was too timid. There may have been some other reasons, but I think last night probably they hesitated to get into this matter. But there are times when we have to take bold action, and I think last night was a time to do it. We did not do it last night. I hope we will do it tonight.

Mr. HELMS. I thank the Senator from South Carolina and the Senator from Colorado. I ask unanimous consent the distinguished Senator from Oklahoma, Mr. NICKLES, the distinguished Senator from Texas, Mr. GRAMM, the distinguished Senator from South Carolina, Mr. THURMOND, and the distinguished Senator from Idaho, Mr. SYMMS, be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, let me conclude by saying this.

This resolution, first, puts the Senate on record in support of the people of Lithuania in their struggle to gain independence.

Second, like the amendment of last night, it reaffirms the longstanding commitment of the United States of America to the policy of refusing to recognize the forced incorporation of Lithuania, Latvia, and Estonia into the Soviet Union.

Third, like the amendment last night, it puts the Senate on record supporting recognition of the democratically elected Government of the Republic of Lithuania.

And fourth, it puts the Senate on record as calling for severe repercussions in the United States-Soviet relationship should the Soviets use force against the people of Lithuania.

Mr. President, with that, I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Is there further discussion on the concurrent resolution? The Senator from Illinois.

Mr. SIMON. Mr. President, I will take only 1 minute. I agree with the final four points of the Senator from North Carolina. I do not see my colleague from Colorado on the floor immediately. There is one distinct difference from the resolution last night, and that is it gives greater flexibility to the President and that is why the White House is in favor of this concurrent resolution and was in opposition to the one last night. I think if my colleague from Colorado will read both resolutions carefully, he will see that.

Mr. ARMSTRONG. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ARMSTRONG. Mr. President, the Senator from Illinois properly elaborated on my earlier remarks. I just want to point out that the resolution which the Senator from North Carolina and I and others offered last night gave the advice of the Senate. It did not require the President to do anything. The President retains certain constitutional prerogatives. I believe that there are at least several dozen Senators—I think there were 39 last night—who were bold enough to give our advice without first checking to see whether or not the White House wanted to hear our advice.

I will say to my colleagues, I suggest there are plenty of times we ought to give our advice and ought to give it without checking with the State Department, the White House, or anybody else. And we ought to stand up

and be counted for what we believe. Nobody was forcing the President's hand. We could not do that. The President is Commander in Chief. The President is the supreme architect of foreign policy. Our role is to advise and consent. Last night we sought to give our advice. It was the right advice last night. It is still the right advice. But I do not think we should kid ourselves that somehow we have to wait for a message or signal or Fed Ex or smoke signal from the White House before we tell the President and the whole world how we feel when people ask for our moral support in their fight for freedom.

Mr. DIXON. Mr. President, I rise to announce my original cosponsorship of Senate Concurrent Resolution 108 concerning Lithuanian sovereignty. Lithuanians the world over, and especially Lithuanians in Vilnius, the capital, need to hear their friends in the United States state in unequivocal terms their support and allegiance with the Lithuanian people at this fragile time.

Well, Mr. President, I stand with them. I always have stood for the principle of self-determination for the Baltic States, and the United States nonrecognition policy. The people of the Baltic States have suffered at the hands of the Soviet Union since the illegal annexation of the Baltic States by the Soviet Union.

However, as you know, Mr. President, I did not support the Helms resolution on Lithuanian independence offered last night. My vote has caused concern among a number of Lithuanians back in my State, which, incidentally, in the Chicago area, has the largest population of Lithuanians outside of Lithuania.

I listened intently to the discussion last night on the merits of the Helms amendment. My heart was with Senator HELMS, because I am a vigorous supporter of Lithuanian independence, but I was troubled by the call in the amendment for immediate diplomatic recognition of Lithuania by the United States.

Many of my colleagues on both sides of the aisle, whose views on foreign policy I hold in the highest regard, made a persuasive case that what is transpiring in Lithuania requires a delicate balance between supporting and aligning ourselves with the brave and courageous people of Lithuania, while not taking an action which would harden the Soviet resolve to take action against Lithuania that we all wish to avoid. I believe adoption of the Helms amendment would do just that.

The joint leadership resolution before us tonight strikes that delicate balance. It is supported by the administration, and will have the effect of showing in no uncertain terms our resolute support of Lithuania in a way which I believe will not result in actions against Lithuania.

Mr. President, I pray that the independence of Lithuania flowers fully. I pray it happens as well in Latvia and Estonia. Finally, I want to ensure that this Nation did all it could to help bring about that result. The leadership resolution is the best way to go.

Long live an independent Lithuania.

Mr. LAUTENBERG. Mr. President, I rise in support of this resolution, which expresses our solidarity with the Lithuanian people and their yearning for freedom.

Lithuanians have taken courageous and bold steps to restore their nation's independence. They voted overwhelmingly last month for candidates who supported independence. This month, the Lithuanian Parliament proclaimed its independence.

These are steps that deserve our praise and our support. Lithuania as an independent nation fell victim to the Stalin-Hitler pact of 1939 and then to Soviet aggression in 1940. But, for 50 years, the yearning for freedom among the Lithuanian people never died. I pay tribute to the long and noble struggle of the Lithuanian people.

Now, President Gorbachev, who has led his nation down a new path, who has made a series of momentous decisions that are making substantial changes in his society, is faced with another momentous decision. How shall he respond?

President Gorbachev responded with restraint and with understanding for the yearnings of the Polish people, and the people of Czechoslovakia, and the people of Romania, and the people of East Germany. They have been allowed to transform their societies to secure new freedoms. Mr. President, I call upon President Gorbachev to exercise the same restraint and good judgment as he faces the yearnings for Lithuanian independence. The yearnings for freedom of the Lithuanians are just as strong as those who are leading the transformation of other Eastern European nations. Their claims for independence and freedom are no less legitimate. I urge President Gorbachev to resist the use of force, intimidation, or coercion. I urge him to choose the path of reconciliation, and negotiation.

Mr. President, the United States has consistently refused to recognize the annexation of Lithuania, as well as the States of Latvia and Estonia. It is our obligation to do all that we can to encourage and give strength to the brave Lithuanian people who are standing courageously for their independence. And it is our obligation to take all effective steps to encourage the Soviet Government to right the wrongs of the past, and to let independence ring in Lithuania. I support this resolution.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the concurrent resolution. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from North Carolina [Mr. SANFORD] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. HEINZ], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Vermont [Mr. JEFFORDS], and the Senator from New Hampshire [Mr. RUDMAN] are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire [Mr. HUMPHREY] would vote "yea."

The PRESIDING OFFICER (Mr. WIRTH). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—93

Adams	Ford	McClure
Armstrong	Fowler	McConnell
Baucus	Garn	Metzenbaum
Bentsen	Glenn	Mikulski
Biden	Gore	Mitchell
Bond	Gorton	Moynihan
Boren	Graham	Murkowski
Boschwitz	Gramm	Nickles
Bradley	Grassley	Nunn
Breaux	Harkin	Packwood
Bryan	Hatch	Pell
Bumpers	Hatfield	Pressler
Burdick	Heflin	Pryor
Burns	Helms	Reid
Byrd	Hollings	Riegle
Chafee	Inouye	Robb
Coats	Johnston	Rockefeller
Cochran	Kassebaum	Roth
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	McCain	Wirth

NAYS—0

NOT VOTING—7

Bingaman	Jeffords	Sanford
Heinz	Matsunaga	
Humphrey	Rudman	

So the concurrent resolution (S. Con. Res. 108) was agreed to.

The preamble was agreed to.

The concurrent resolution and its preamble are as follows:

S. CON. RES. 108

Whereas:

(1) On February 24, 1990, the people of Lithuania held the first democratic election in Lithuania in more than half a century.

(2) In that election, the people of Lithuania elected a large majority of candidates who supported the independence of Lithua-

nia and the establishment of a democratic state.

(3) On March 11, 1990, the newly elected Lithuanian Parliament proclaimed Lithuania an independent state.

(4) The United States has never recognized the incorporation of Lithuania into the Soviet Union.

(5) The Soviet Government has not yet recognized the action of the Lithuanian Parliament in declaring Lithuania independent.

(6) The Soviet Government has undertaken action, including staging military maneuvers and ordering Soviet military units to assert more active and visible control over Lithuanian installations, in an apparent attempt to intimidate the Lithuanian Parliament and people.

(7) More recently, Soviet President Gorbachev has reportedly ordered citizens of Lithuania to hand over any weapons they hold to Soviet authorities within seven days and has ordered tighter controls on the ability of foreigners to visit Lithuania.

Resolved by the Senate (the House of Representatives concurring), That:

(1) The Lithuanian people should be commended for their courage and perseverance in holding free and fair elections, declaring an independent Republic of Lithuania, and in asserting their right to self-determination peacefully and through the democratic process.

(2) The Government and people of the United States strongly and unequivocally support the right of the people of Lithuania to independence and democracy.

(3) Recent actions of the Soviet Union apparently aimed at intimidating the Lithuanian Parliament and people have seriously exacerbated tensions and the possibility of violence in Lithuania.

(4) The Soviet Union should immediately cease all such efforts to intimidate the Lithuanian Parliament and people.

(5) The Soviet Union has no right to use force against Lithuanians peacefully exercising their democratic rights, and President Gorbachev and other Soviet leaders should clearly understand that the use of force against the Lithuanian people would have severe repercussions for United States-Soviet relations.

(6) The Soviet Union should immediately begin the process of good-faith discussions with Lithuanian authorities to satisfy peacefully the expressed desire of the Lithuanian people for independence.

(7) Supports the President's strong commitment to the doctrine of non-recognition of the forced incorporation of territory, such as occurred in the Baltic States in 1940, and urges the President to reaffirm his commitment to an independent and democratic Lithuania and to seek ways to actively demonstrate that commitment.

(8) Urges the President to consider the call of the elected Lithuanian Government for recognition.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DASCHLE). Without objection, it is so ordered.

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

WIRTH-ARMSTRONG AMENDMENT NO. 1344 TO AMENDMENT NO. 1293

Mr. BIDEN. Mr. President, Tuesday night, the Senate voted to table one of the most controversial amendments to the pending bill, Senator WIRTH's amendment addressing auto tailpipe standards, reformulated gasoline and alternative fuels.

The Wirth amendment was far reaching—both in its coverage and in its establishment of future transportation and energy policy for the Nation. It was the kind of aggressive goal-setting that often is necessary to get industry to address serious environmental problems. But its adoption was the wrong step to take.

My concerns about the Wirth amendment were twofold. First, I believe it was flawed in design. Specifically, I was concerned about the effective methanol mandate established in the Clean-Fueled Cars Program. Serious questions remain unanswered on the wisdom or practicality of making methanol the fuel of the future. The amendment was argued to be fuel neutral, but it simply did not read that way.

I was also unconvinced that the program of mandated sales of clean and ultraclean cars called for in the Wirth amendment was workable. One result of the original Clean Air Act was development of the catalytic converter, a leap in technology unforeseen when the law was passed. The Wirth amendment sought to force similar improvements in the development of alternatively fueled vehicles.

But there is a difference between establishing a program to push development of a technology and a program to push alternatively fueled cars into driveways. Consumer acceptance, the basis for the success of the program, is missing from the amendment.

I just did not see the alternative fuel program for private vehicles outlined in the Wirth amendment as workable. If the vote were on the general need to move toward powering our Nation's cars by alternative fuels, there would be no doubt that I would have supported it. But the amendment went beyond that, deciding that methanol was the fuel of the future, that methanol was safe, and that consumers would buy methanol cars in large quantities as soon as they are introduced.

My second concern was the effect the amendment would have on reform of the Clean Air Act. It has been 13 years since we last considered clean air legislation. Five or six years ago, conditions reached the point that reform was clearly needed. But no law was passed.

In the last year, a President finally occupied the White House who decided to support change. The House of Representatives has also started to act. But no one should be fooled by the appearance of concerted action on this issue that a bill is destined to reach the President's desk no matter what. The whole process could be sidetracked.

Should this bill fail, we will be set back at least 2 years, and probably more. In the meantime, the current inadequate law would continue to be in force. Is that really in the best interest of our Nation's environment?

In this body, we have a reform bill moving forward under the most tenuous of conditions. Each vote must be measured against what will be gained over the compromise, but also what could be lost.

The leadership compromise contains provisions that address many of the programs in the Wirth amendment. It was not an all or nothing situation on tailpipe standards, reformulated gasoline and alternative fuels. The changes called for by the amendment were not worth the clear risk of losing the whole bill.

My belief that the entire bill was at risk for only marginal gains was confirmed as I saw colleagues who were supporting the Wirth amendment. It is no news that there are about a dozen Senators who oppose passage of any clean air legislation. They have articulated their opposition, clearly explaining why they are fighting passage of the bill.

I disagree with their assessment of environmental conditions in our Nation and the absence of urgency to improve them. When they voted in favor of the Wirth amendment, a proposal the environmental community has called one of their top votes, it only confirmed my belief that adoption of the Wirth amendment was the death knell for Clean Air Act reform for 1990. Other explanations for their votes are possible, but to me it was a backdoor attempt to kill the bill by joining with those who sincerely want to improve it.

For 20 years, dating from my efforts as a county councilman to block construction of a Shell refinery in the wetlands along the Delaware River, I have supported strong environmental legislation. For 17 years as a Senator, including the years when environmental protection was under unprecedent-

ed attack by the Reagan administration, I have consistently backed the environmental position.

But the vote on the Wirth bill was on more than triggers for tighter tailpipe standards, standards for reformulated gasoline, and an alternative fuel program for cars. It was also a vote on whether we want dramatic improvement in our Nation's clean air law this year or think it is best to wait for a chance at legislation in future years that might or might not result in additional gains. With those as the stakes, I believe it was necessary and right to table the Wirth amendment.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, there has now been a period of consultation with several of the Senators interested in the further proceedings on this bill with specific concerns as indicated in prior discussion. The proposed agreement has been revised to reflect and accommodate those concerns.

I have discussed this with the distinguished Republican leader, with the managers on both sides of the aisle, and, as I indicated, with several Senators who had expressed an interest. Accordingly, Mr. President, I will now propound the request.

I ask unanimous consent that no later than 6 p.m. on Thursday, March 29, the Senate, without any intervening action or debate, dispose of all pending amendments and vote on final passage of S. 1630, the clean air bill; that all remaining amendments to the bill be relevant to the Mitchell-Dole amendment No. 1293; that there be 4 hours of debate equally divided in the usual form on the Nickles permitting amendment; that debate on all remaining amendments offered between now and 6 p.m. on Thursday be limited to 1 hour each equally divided in the usual form and that all other provisions of the previous unanimous-consent agreements relative to this bill remain in force and that no points of order be waived by this agreement; that the agreement not apply to any amendment on the subject of allowances as contained in title IV of amendment 1293; that all amendments be filed at the desk by the close of business on Wednesday, March 28, with the exception of the leaderhip amendments; that, if any Senator offers an amendment when all time has expired, the amendment be in order and disposed of without debate; that all allowance amendments must be filed at the desk by 12 noon on Monday, March 26; that Senator GRAMM, of Texas, be permitted to offer an allowance amendment, one of his listed amendments that need not be previously filed and that would be limited to and in order to the language of any allowance amendments that may have been adopted to amendment 1293 after today; that Senators be permitted to file their amendments on Friday between the hours of 10 a.m. and 4 p.m. whether or not the Senate is in session; and that no allowance amendment may be in order prior to 2:15 p.m. on Tuesday, March 27.

The PRESIDING OFFICER. Is there objection?

Mr. BOSCHWITZ. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I would ask the majority leader, what does he want to turn to on completion of this bill? Nobody is filibustering this bill. Nobody is seeking to delay this bill. So what is the majority leader going to turn to at the termination of this bill that causes him to want to move through it as quickly as he does, recognizing that this is now the second full week of debate?

Mr. MITCHELL. The bill was reported by the committee in November and brought to the Senate floor on January 23. The substitute amendment was printed and presented on March 5, I believe. Therefore, I believe that there has been more than ample time for consideration of this legislation and for Senators to prepare and offer amendments.

Second, last week I met with the President who reminded me of his deep interest in and concern for this bill. He urged me to see that it be promptly and expeditiously considered and passed. I must say, I share the President's view. I think it is important legislation. It has taken a very great amount of the Senate's time. My interest is in passing clean air legislation, having it enacted into law in a manner consistent with fair and thorough consideration by the Senate. I believe there has been more than ample opportunity for such fair and thorough consideration, and, under the circumstance, believe that attempting to set a deadline is appropriate.

Third, and finally, the Senate has much important business to consider. I made a commitment last year, after consultation with the distinguished Republican leader, to bring up crime and drug legislation. That is another matter in which the President has a very great interest and on which he has for many months urged congressional action. That will be considered after we complete action on this legislation.

Mr. BOSCHWITZ. That will be the next order of business?

Mr. MITCHELL. I have not made a decision on precisely what the order will be, but it certainly will be taken up, if not the next order of business, then very soon thereafter. I do not know precisely when this bill will be completed. I have every intention of bringing that bill up soon.

Mr. BOSCHWITZ. Does the majority leader contemplate that the Central American aid package will be considered in the week following this in the event that we conclude this bill prior to the Easter recess?

Mr. MITCHELL. I indicated to the President in our meeting last week that I would do all I could to expedite consideration of that bill. I do not know when the bill will be ready for action by the Senate. I also do not know when we will complete action on the crime bill. I do not know when we are going to take it up. So I will certainly give consideration to that at the earliest possible time.

Mr. BOSCHWITZ. Mr. President, I share the majority leader's deep interest and concern for this legislation and desire to pass this legislation. I do not find, as I stated earlier, that anyone is filibustering this legislation or unduly delaying this legislation despite the fact that it came before us on the 23d of January and then was resubmitted early in March; that is, for a second full week of debate we have been on a bill that, in my judgment, is as far-reaching in economic consequences as any bill in which I have participated in my 11 years in the Senate.

I know that there are many, many amendments. I find some of mine, perhaps, are just jockeying position. As the distinguished Senator from New Mexico noted earlier tonight, we are not quite sure what all the other amendments are going to be, and so we want to have some amendments available for ourselves to respond.

I might also say with all due respect, Mr. President, that I have come to share to some degree Senator SIMPSON's view on some of the staff, and the difficulty working with it and I would emphasize that to some. It has been difficult to progress amendments, at some point. And I have in mind the comments the distinguished majority leader made to me when I commented in that vein to him.

So that inasmuch as this is one of the most far-reaching pieces of legislation, it is only now the end of the second week of debate. I have no desire to impose upon my colleagues or keep them here Friday or Monday or other days. We want to be with our families or be with our constituency. Nevertheless, Mr. President, I must object and I do.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Under the rules of the Senate, each and every Senator has the right to object to a unanimous-consent agreement. The Senator from Minnesota is, of course, well within his rights to do so.

I accept his objection. I regret it very much. I had hoped to call the President tomorrow to advise him that the end of this legislation was now in

sight and that we would have a vote by a specific time, in response to his repeated desires, stated publicly and privately, for prompt action on the bill.

I obviously will now call him with different news. But I am certain he will understand and respect the Senator's objection, as I do.

Mr. BOSCHWITZ. If the Senator will yield, I would suggest the Senator make that call. I think the end of this legislation is in sight. Maybe not by this coming Thursday, but again I want to emphasize, I have what the Senator expressed, a deep interest and concern in the legislation. I do not want to hold it up. I do not think I have. And the President knows I think this legislation can pass in the near future.

Mr. SYMMS. Mr. President, I hope all Senators understand the Senator from Minnesota is not alone, and Senators who are very concerned but are not trying to have a filibuster. But there is one question. I would hope, and I would address this to the leadership, that before another unanimous consent comes in here that we have some understanding of who has control of the gate.

I know that may be difficult. But, with the parliamentary procedure we are working under, at the current time Senator BYRD has control of it. But if his amendment were disposed of, someone else may offer an amendment and we just simply cannot resolve this issue. I think we all do need to understand that before we try to enter into any time agreement.

I personally think, in reviewing what happened, this bill was rushed through the committee. Many of the amendments that this Senator tried to offer have now been accepted in part, some in total, which took an enormously long time on the part of the Senate to do it. And I think we could have done it sooner if we took more time in the committee. I believe probably if we just keep working on the bill, let these Senators bring their amendments in there, eventually they will get this worked out. But a time agreement just may not be possible at this point.

I know the leader wants to get it done. I do not envy the position he is in, or the minority leader, trying to do their duties. But it is a very complicated bill. It is clearly industrial policy. It clearly has implications to employment and the future of this country and our competitiveness. And I think Senators need plenty of time to work out these very complicated amendments because you have one industry against another.

I thank the majority leader.

Mr. KASTEN. Will the majority leader yield? I simply want to say there are a number of us who are concerned about this. I support the concerns of the Senator from Minnesota. I might say to the majority leader that one of the problems that we have in working with amendments that are about to be agreed to is we are told they are about to be agreed to, and then they are not quite agreed to.

I would point to three or four having to do with my State of Wisconsin, that Senator KOHL and I have now been trying to work through, for 5 or 6 days. We are told that 406(g) emission allowances are about to be agreed to, and then it's not completely cleared. We are told we are going to be having banking credits for sulfur dioxide and then the other side does not agree to it.

We have been going back and forth and back and forth. I do not know if it is going to take an hour. It should not take 10 minutes. But we have not been, in my view, adequately dealt with, with these issues.

Someone might be suggesting at this moment that a number of his issues have been agreed to and we have had them agreed to once or twice and then there is a sticking point.

I hope that as a result of several of us voicing our concerns that possibly the staff could work with us, both sides, and simply resolve these things which are not major issues but somehow have just been put off or bumped around or not been adequately addressed. It should not take an hour. All of the amendments that Senator KOHL and I have ought to be dealt with, I think, without even votes. And I am hopeful they can be.

Mr. MITCHELL. If I may comment, first, of course, no Senator has the right to insist that his amendment be accepted by the managers. No action by anyone has precluded any Senator from coming to the floor and offering his amendment. Indeed, there have been numerous occasions over the past several weeks when I have urged Senators to come to the floor and offer amendments.

It is simply not a reasonable position to expect that, because a Senator offers an amendment and asks that it be accepted, that it therefore be accepted. So, nothing with respect to this agreement or what has occurred now has prevented the Senator from Wisconsin from coming forward and offering his amendment.

Mr. KASTEN. If the majority leader will yield, my point is we are told at one point it is about to be agreed to. So we withhold coming to the floor to offer the amendment until it is cleared. Then later they are saying it may not be agreed to. But it might be agreed to later.

We are in a kind of a limbo. The point is, I agree completely, if the committee desires to not accept any of these amendments, then we should be told that.

Mr. MITCHELL. No one has said the committee would not accept any amendments.

Mr. KASTEN. We have been told, in the words of the staff, "We are very close on the banking amendment." "We almost are agreed to it"—with regard to something else. The problem is it gets that close and then it falls through. The result is we do not know whether to come here and spend the hour or if it can be expedited as an agreed provision.

Mr. MITCHELL. The Senate will be in session on Monday, and I urge the Senator to come to the Senate floor and offer his amendments.

Mr. BAUCUS. Will the Senator yield on that point? I might say to the Senator from Wisconsin, and I think I can speak for the Senator from Rhode Island, I encourage Senators to come personally and ask the managers about their amendments. If the Senator from Wisconsin would ask me, for example, or the Senator from Rhode Island about certain amendments, I would tell the Senator flat out where we are, whether we can accept it or not accept it. Sometimes I will not know immediately whether we can accept it because sometimes the Senators do not have the exact language of their amendments. We have to see the language.

I must also remind the Senator, the clearing process is a little complicated because we have not only both sides of the aisle but there is the administration that has to look at the exact language of the amendment, too. I understand the frustration, but I can tell the Senator if he were to come to me personally, the Senator from Rhode Island personally and ask, we will tell him. I will be here Monday.

Mr. MITCHELL. Mr. President, in light of the objection, I see no reason to prolong this discussion, unless some Senator wishes to comment.

Mr. DOMENICI. Mr. President, I will just take a minute. I want to suggest from the standpoint of the Senator from New Mexico, I think we have had a good working approach to the allowance amendments. That is not going to bind anybody now, and I understand.

I would like to state that I am not a Senator who likes to be the keeper of any watch around here. I have not been on the floor trying to find out what is in amendments, but I want to state tonight that if there are Senators who have allowance amendments, I would graciously ask the floor leaders that they not be accepted. I do not say the Senator from New Mexico has to be notified. If it is your wish, I will sit on the floor. I do not want to keep any from being adopted, but I think we ought to know what all the allowance amendments are. It is a reasonable request. If you work with us, we

have to take them from somewhere. To know what we are taking we have to know the total amount we are taking, whether it is 12,000, 60,000 or 130,000. That is the highest one I know is around.

Mr. WIRTH. Will the Senator yield?

Mr. DOMENICI. It will take a long time.

Mr. WIRTH. Maybe it is possible on the allowance question alone which is a unique package of issues. Might we go back to the unanimous-consent request and have unanimous-consent request allowance amendments be into the leader by a certain time and they be acted upon by a certain time? This is a discrete package. It is very complicated.

Perhaps there can be unanimous-consent agreement that no allowance amendments be accepted by themselves; that all be together by Tuesday at noon and maybe we can act on them first thing Wednesday morning, something along that line so everybody knows what the allowance issues are.

The Senator from New Mexico has a valid concern. It might be an easy way to dispose of this complicated package. It is just a suggestion from this Senator as being useful as a way of expediting the process.

Mr. DOMENICI. Mr. President, I believe we may be making it more complicated. Frankly, I think a good way to do it, if it is the Senator's wish, is that the language which says the time by which all amendments have to be filed would be good, it seems to this Senator, and the time in the unanimous-consent agreement must pass before you can start offering them would be helpful to everyone. I do not think we want to bind anybody to a pooled amendment. Those two parts would be very helpful to those who are trying to work something out that is reasonable for everyone.

Mr. MITCHELL. We will certainly consider that.

Mr. ARMSTRONG. If the leader will yield, I want to congratulate the two leaders and the two managers for the progress we are making on this bill. I cannot recall wen I have seen a piece of legislation that I thought was really more important to the destiny of my State and the country than this. We handle a lot of big bills around here: Tax legislation, budgets, war and peace, so on. But the truth of the matter is, when historians look back at the 1990 session of the Congress, they are going to say this was landmark legislation. A lot of people have poured a lot of time and effort into it.

Personally, I think we are making extremely good progress on this bill. I came to the floor when this bill was first called up expecting to vote for it. Nothing has happened so far that makes me think I will not vote for it.

There have been some amendments adopted at my request, some that Senator WIRTH and I have offered. We offered three or four amendments. A couple of them were adopted. One has been put off to another bill. There have been some amendments I was interested in that were defeated on very close votes. But the net result is that we are working our way through this in a very thoughtful way.

We are doing it in full consultation every step of the way with the administration and with our constituents at home. I cannot recall in my office when we have worked more closely with a broader, wider, and more diverse group of people in Colorado than we have on this bill. Frankly, Mr. President, for a complicated, highly technical piece of legislation, I cannot recall when we have had a bill on this floor where there have been more Senators involved in a more thoughtful, detailed, carefully worked out process than this.

Honestly, Mr. President, I think we owe a debt of gratitude to the Senator from Montana, the Senator from Rhode Island, and our two leaders for bringing us to this point. I think we are making good progress.

I agree with the Senator from Minnesota that it would not be wise to enter into an agreement to vote at a certain time without knowing what all the amendments are, without knowing of the disposition of some of the controversial amendments. But I just want to say to the leader that while I agree with those who have objected, I think we are making good progress, and I do not know of a single Member who is trying to filibuster this. Personally, I think with or without an agreement, we are going to finish it next week. I congratulate him for the progress we are making.

Mr. MITCHELL. I thank the Senator. I will do everything within my power to see we do finish it next week.

There have been very few votes on Mondays since I have been majority leader. There have been no all-night sessions since I have been majority leader, and there have been very, very few weekend sessions. Next week, there will be votes on Monday. There may be all-night sessions, and if we have not finished the bill by the weekend, there will be weekend sessions—Saturday, Sunday, whatever time is necessary. We are going to finish this bill.

Senators may object to the agreement for setting a time, as they have their right to do. The fact of the matter is, this bill has had more thorough scrutiny than virtually any other bill that has been in the Senate in the 10 years since I have been here. There was more notice given to Senators with respect to this bill than virtually any other bill since I have been in the Senate.

I took the occasion to review the record of the past 10 years with respect to comprehensive legislation and length of time between committee consideration, legislation being brought to the floor, and final enactment. I can say to my colleagues that rarely during this period has legislation had so much notice, so much time for consideration, and there have been numerous instances in the past where comprehensive, significant legislation has been brought to the Senate floor in a much shorter time frame and pushed to final passage in much less time.

Everyone has had a fair chance to consider this bill, to consider what amendments they want to offer. There can be no more excuses for holding back on amendments.

We will just stay with it until we finish the bill.

I thank my colleagues for their patience and courtesy.

Mr. President, I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the Senate will be in session on Monday considering this bill. There will be votes, and we will stay in session for such time as it takes to finish the bill. No request to consider other matters will be considered. No request by any Senator for time periods when not to vote will be considered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TENTH ANNIVERSARY OF SENATOR BYRD'S FIRST HISTORY ADDRESS

Mr. DOLE. Mr. President, during the 100th Congress, I delivered a series of "bicentennial minutes," which drew attention to some event of interest that had taken place on that day in the Senate's history. These minutes were recently compiled and published in a volume entitled "Historical Almanac of the United States Senate." If I were still delivering that series, this is what I would have said for today's minute:

Mr. President, 10 years ago, on March 21, 1980, Senate Majority Leader ROBERT C. BYRD launched the most ambitious effort ever undertaken by a Member of the Senate to record the history of this institution. He gave the first of what became more than 100 speeches that covered every aspect of the Senate's 200 years of evolution. He began this project completely by accident; but he stuck with it, mastering its every detail with the same tenacity and thoroughness that he has long brought to all of his Senate responsibilities.

Nothing much was happening on the Senate floor that Friday morning 10 years ago. Up in the gallery, however, was Senator BYRD'S granddaughter, Mary Anne Moore, and her fifth-grade classmates, there to see the Senate in action. Not wanting to disappoint them, the majority leader delivered an impromptu speech on the customs and traditions of the Senate. The next week, when another granddaughter, Mona Byrd Moore, sat in the galleries, he delivered a second speech on different aspects of Senate history. Other Senators complimented these informative talks, and encouraged him to continue.

Thus began the series that has produced his handsome and hefty book, "The Senate, 1789-1989." Today, I think it most appropriate to pay tribute to Senator ROBERT C. BYRD and to his granddaughters, now young women of college age, for their unique contributions to this historic achievement.

TRAGEDY IN KOSOVO

Mr. DOLE. Mr. President, throughout the day there have been news reports of an outbreak of a mysterious illness among hundreds of children in the town of Poduvoje in Kosovo, Yugoslavia.

The cause of this massive outbreak of illness has not yet been determined. Some news reports have suggested that the children could be suffering from some type of poisoning.

Mr. President, this situation is deeply disturbing. I have sent a telegram to the United States Ambassador to Yugoslavia expressing my deep concern and urging that the United States do everything it can—expend all the resources necessary—to determine the cause of this outbreak and to assist in the treatment of these poor children.

The people of Kosovo have suffered greatly over the past year. Now they are facing this disaster. I believe we must do everything in our power to help the people of Kosovo in this time of need.

THE ANNIVERSARY OF THE PRINCE WILLIAM SOUND OIL-SPILL

Mr. MITCHELL. Mr. President, this Saturday marks the anniversary of the largest oilspill in U.S. history. One year ago, the tanker *Exxon Valdez* ran aground on Bligh Reef in Prince William Sound, AL, and spilled 11 million gallons of crude oil.

The spill polluted the Sound's pristine waters, fouled thousands of miles of beaches and shorelines, and killed large numbers of fish, shellfish, and wildlife.

This ecological catastrophe occurred because the oil industry and Government did too little to prevent it and then responded in an unreasonably slow, confused and inadequate manner, which failed miserably in containing the spill and preventing damage.

President Bush was slow to comprehend the magnitude of this disaster.

Valuable time—the most valuable time—was lost. There should have been a swift and decisive response by the President in the hours and days immediately following the accident. Unfortunately, there was no such response.

The President chose instead not to use the power available to him under the Clean Water Act to take over the cleanup effort. That decision clearly was in error.

Much has been learned during the last year from the mistakes made in Prince William Sound. Much too has been learned from the year's other major spills in the waters of Rhode Island, Texas, California and the Delaware River.

Any oilspill, no matter how quickly we respond to it, or how well we contain it, is going to harm the environment. Preventing oilspills, therefore, is more important than containing and cleaning them up quickly.

Shipowners and others involved in the traffic of oil must be encouraged to exercise greater care by holding them liable for much higher amounts under Federal law and preserving even tougher State liability laws.

Newly built tankers and barges must be required to have at least double hulls and the existing single hull fleet must be phased out.

Much tougher penalties must be imposed on those who pollute our waters with oil.

For those spills that do occur, the Federal Government must ensure that there is a prompt and effective response to reduce the likelihood of serious environmental and economic harm.

In cases where a spill creates a substantial hazard to the public health and welfare, such as the spill in Prince William Sound, the President must automatically be placed in charge of directing the cleanup to avoid the chaos so evident in the *Exxon Valdez* response.

Ship and facility owners must be required to prepare contingency plans that meet tough standards and that legally bind them to have adequate and personnel to contain and clean up spills without delay.

To make sure that the President can respond promptly and properly in the future, the Federal capability must be enhanced by establishing well-equipped response teams aroung the country.

A new Federal commitment and development is needed to improve oilspill prevention and cleanup technology.

And finally, there is a pressing need for a new fund to compensate citizens more quickly for the damages the they sustain from oilspills and to pay for spills where the polluter cannot be found, is not able to pay, or where costs and damages exceed a polluter's liability limits.

With one exception, these needed improvements to Federal oilspill policy were recognized and included by the Senate when it passed comprehensive legislation last August.

Events since that time have convinced me and other Senate conferees not only that new vessels must have double hulls, but also that the Senate bill should be modified to require that existing single hull vessels be retired.

I expect that the conference committee will meet in the near future to resolve differences between the House and Senate oilspill bills.

I hope that when the conferees do convene there will be broad agreement that the lessons of the *Exxon Valdez* spill for Federal oilspill policy are those which I have outlined here today.

AN EFFECTIVE STRATEGY TO ACHIEVE A BALANCED BUDGET BY 1994

Mr. SYMMS. Mr. President, I have recently come across a very impressive study conducted by the Hudson Institute that confirms what many of us in the Senate have known for quite some time. First, that raising taxes will not reduce the deficit; and second, that the budget sequester process does work when it comes to reducing overall governmental spending.

This excellent study is entitled, "America's Fiscal Future; Controlling the Federal Deficit in the 1990's," by Dr. Jeffrey A. Eisenach, a budget expert formerly in the office of James C. Miller III, Director of the Office of Management and Budget. It was published in January.

The Hudson Institute found from an analysis of past data that for every dollar of new tax revenue raised, the Congress managed to spend $1.58 of it. Of course, the Federal Government

can't really spend more than the 100 cents contained in each new tax dollar. Even so, Congress always thinks it has more revenue that it actually does—so deficit spending, a phrase we are all quite familiar with, simply makes up for the 58-cent difference.

The process is straightforward, Mr. President. Federal revenues grow at the same general rate as nominal gross national product. That is another way of saying, the growth in revenues is the same as the average growth of everything else in our economy. But Federal Government programs grow at a faster rate than other things in our economy. Therefore, the baseline of the Federal budget is always on a steeper path than revenues. Deficits are a natural phenomenon—unless the Congress exercises self-control and good judgment. Congress has to make choices—and too often elected officials want to receive their pay raises without having to do any real heavy lifting.

Recently, there have been rumblings that some Members of Congress are in favor of some grand compromise of spending cuts coupled with tax increases. According the Hudson Institute study, this is a "grand illusion." I would go further and characterize it as "grand theft."

Mr. President, if I can make an analogy to every homeowner's backyard: The gross national product is like the grass in your backyard. It will grow at a certain rate, and if you water it, it will grow faster. But the weeds in the backyard, among the grass, will grow faster than the grass if you simply water them along with the grass. You have to take a hoe to the weeds, to keep them from sticking up above the grass.

Raising taxes to balance the budget is just like watering the weeds instead of using the hoe. Since Federal programs grow faster than the economy as a whole, they are like those weeds. And the Gramm-Rudman-Hollings sequester is like the hoe. I advocate using the hoe.

With the recent announcement of slower economic growth in our economy, now is certainly not the time for talk of a tax increase. If a significant tax increase made it by this Senate and the President, and I for one will never support a tax increase, such an extraction of capital from our presently weekened economy would surely cause a deep recession.

In turn, a recession would cause greater unemployment and actually leave fewer incomes for the Federal Government to tax than were available before the tax increase. This is exactly what happened to Herbert Hoover, who increased taxes in 1931 and 1932 to balance the budget.

Furthermore, once a recession gets into full swing those people who have been thrown out of work will be entitled to Federal unemployment and Medicaid and supplemental security income and AFDC and in some cases even disability benefits, meaning an even greater drain on the Federal Treasury. This always happens when we increase the Federal burden on people's ability to make their livings.

No, Mr. President, in the long run the tax element of the grand compromise would only add to our notoriously grand deficit. More importantly, I know that my constituents want to receive their income from their own hard day's work, not from Government benefits.

The Hudson Institute study is very interesting in its analysis of the long-run trends in Federal revenues and spending. With the sequester process, using Congressional Budget Office estimates for the Federal Government's growth in spending in fiscal 1991 and the estimates of the Office of Management and Budget for revenue growth in 1991, the Hudson Institute concluded that the budget can be balanced without a significant tax increase if Congress retains and uses the provisions of the Gramm-Rudman-Hollings Act.

Mr President, the Hudson Institute has analytically confirmed what we in the Senate have repeatedly experienced. The only reason there are battles over the levels of future governmental spending projections is because we the Congress do not assert our rightful authority to set those levels. We enact programs and then we stop exercising any judgment about how large we will allow those programs to become.

The President under the authority of the Gramm-Rudman-Hollings Act will do it for us. This is merely the bargain Congress bought into in 1974 when we adopted the Budget Act, in opposition to President Nixon's assertion of impoundment authority. Congress said, "No, we will do it." We do not.

The GRH process is doing what it was meant to do—cause Government spending to decrease by forcing Congress into an either/or situation. GRH has effectively been the closest thing we have to a balanced budget amendment, and perhaps it has even been more effective than a constitutional amendment would be.

There have been voices in Congress saying we need to repeal GRH because it causes too much dislocation of Federal budget priorities. But would spending go down if GRH were repealed? The American public knows the answer to that question and it is "No."

If anything the Congress ought to strengthen GRH by including certain expenditure items that it does not now include in the sequester process and exclude the revenue obtained from certain trust funds that are now included in the baseline calculations. If we included all of the programs, the size of any cuts overall would be very, very small and that would be the best way to deal with programs. The trust funds are intended to be already programs that are matched dollar for dollar, spending with revenues. I think trust funds should be excluded and treated separately because they have the design to be balanced independently. Indeed, I would propose that the entire Federal budget be transformed into dedicated trust funds.

The Gramm-Rudman-Hollings sequester process is the only forcing mechanism that keeps us honest with ourselves and our constituents. By no means should it be repealed or weakened. Mr President, I strongly recommend the Hudson Institute study, "America's Fiscal Future."

MEXICO AND THE BRADY PLAN

Mr. SYMMS. Mr. President, the Bush administration recently declared a victory in the struggle to solve the problems of heavily indebted countries by pressuring banks to sign a so-called "debt reduction" agreement with the Government of Mexico. Treasury Secretary Nicholas Brady, for whom the agreement is named, would have us believe that "lasting benefits" have thereby accrued to the people of Mexico. Yet as a recent article in the Journal of Commerce makes clear, nothing is farther from the truth.

"The Brady debt reduction plan is a political success, but a financial and economic failure," writes Christopher Whalen, a Washington financial analyst who has criticized the Brady process. "Sold as a panacea for all heavily indebted countries, it is really a financial assistance program for the one country in Latin America that Washington cannot completely ignore: Mexico."

Mr. President, the Brady Plan, has been attacked by some as providing too little in the way of relief for Mexico from its $100 billion in external, hard currency debt. Proponents of forgiving Mexico's foreign loans believe that by lessening the burden of foreign interest payments, our neighbor to the South will again grow and prosper. Yet they ignore the fact that the socialist policies and outright mismanagement which caused the indebtedness in the first instance still remain largely untouched.

Conservative commentators and most commercial banks, take the view that debt forgiveness is not the answer. Rather, they urge Mexico to abandon decades of centralized, socialist economic policies and reform its corrupt system of government. Dependence on foreign capital has destroyed Mexico's economy, they would argue, and only be cutting off foreign

capital flows will Mexico be forced to restructure its economy.

The fact of the matter is that the Treasury plan has neither reduced Mexico's debt nor helped the cause of economic restructuring. Mexico's economy remains largely socialized, inflation in January reached a 60-percent annual rate, foreign debt has actually increased, and the little noticed peso-denominated internal debt now totals well over $65 billion. Moreover, while commercial banks refuse to make new loans, the World Bank and International Monetary Fund have significantly increased their exposure to Mexico by providing billions of dollars in new loans before truly significant reforms have been put in place. As you may already know, both agencies desire increases in funding from the United States to support just such ill-advised lending programs.

"The Brady plan does not satisfy Mexico's immediate cash needs, yet sufficient new loans have been made to delay the reform process," writes Whalen. "While Mr. Salinas has begun the reform process, in terms of tangible economic savings for his country, the effects are minimal. Contrary to government claims, liquidation of inefficient State-owned entities, on a scale of ten, barely ranks one or two in terms of the value of assets sold."

Mr. President, in many ways the situation in Mexico is directly comparable to that existing in Poland and other crippled socialist economies of Eastern Europe. Our Government has taken a tough stance with the countries of Eastern Europe: political and economic reform must begin before new loans. Yet with Mexico, a country that is far more significant to the future of the United States, we are providing loans that are actually delaying the reform which is so badly needed.

Is it possible that none at the Treasury understand that such new loans, like those before them, will almost certainly never be repaid? As the author notes, an eventual Mexican default on its foreign loans will "endanger the World Bank's coveted AAA credit rating." In the event, the members of this chamber would surely be asked to appropriate more funds to support the World Bank.

How would our constituents feel, I wonder, about $5 billion or $10 billion in additional funds for the World Bank when we cannot find sufficient moneys to meet our domestic obligations?

I suggest to my colleagues that our Government is needlessly creating a bigger problem by propping-up the Government of Mexico with further loans, albeit loans from the World Bank rather than private lending institutions. Instead of throwing more money at this terrible problem, we should require, as with East Europe, that substantial reform come before any new World Bank or IMF credits are dispersed to Mexico in future.

I ask unanimous consent that the text of Mr. Whalen's provocative article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Journal of Commerce, Mar. 14, 1990]

EMPEROR BRADY HAS NO CLOTHES

(By Christopher Whalen)

During the signing of the "first" Brady plan debt reduction package, Mexican President Carlos Salinas de Gortari said that "the difficult process of renegotiating Mexico's foreign debt has ended." Of course Mr. Salinas knows that this isn't true, but he promised the Mexican people a deal and a deal is what they got.

Speaking for the United States, Treasury Secretary Nicholas Brady said, "The agreement with (Mexico's) commercial bank creditors . . . will provide lasting benefits for the people of Mexico," a statement that proves beyond doubt that the weak link in the Bush cabinet does not understand his own plan.

The Brady plan is a political success, but a financial and economic failure. Sold as a panacea for all heavily indebted countries, it is really a financial assistance program for the one country in Latin America that Washington cannot completely ignore: Mexico. It offers nothing to the region's other heavily indebted nations.

The tangible benefits, such as they are, are two: a face-saving arrangement to support an unpopular government in Mexico, and a political "bridge" whereby the Bush administration can claim success in dealing with a problem that has no good solution. To the extent that official Washington believes that a substantial benefit has accrued, Mexico is in considerably worse shape than it was in 1989.

The Brady plan does not satisfy Mexico's immediate cash needs, yet sufficient new loans have been made to delay economic restructuring. The roughly $700 million in interest rate reductions are more than offset by the cost of new debt incrurred to make the plan work. Indeed, by emphasizing "debt reduction" while in fact increasing the overall level of debt, the Brady plan effectively cuts Mexico off from the two most important sources of financing: direct investment and commercial banks.

Commercial banks generally won't book new sovereign Mexico risk because they know that the government has not attacked the real sources of the country's economic stagnation.

For example, while Mr. Salinas has begun the reform process, in terms of tangible economic savings for his country, the effects are minimal. Contrary to government claims, liquidation of inefficient state-owned companies, on a scale of 10, barely ranks one or two in terms of the value of assets sold.

Protectionist investment laws remain in place, taxes on the private sector have increased significantly and key export sectors are depressed. A startling report from Mexico's state oil company, Pemex, predicts that even with new investment in exploration and development, Mexico cannot remain a net exporter of petroleum through the year 2000. Yet, politically, there is little prospect of privatizing Mexico's uniquely inefficient oil industry.

As a result, foreign direct investors, who typically take advice from commercial bankers, are extra cautious about equity investments in Mexico. The idea that foreign investors will supply billions in capital needed to support Mexico's economy, not just the border assembly plants known as maquiladoras, is perhaps the Brady plan's greatest flaw.

Yet massive new cash inflows have occurred. In 1989, the World Bank approved $1.9 billion in new credits, and a further $3 billion is promised for 1990. The International Monetary Fund and Japan have also supplied billions of dollars of new financing, while the U.S. Treasury and the Federal Reserve System have made available substantial sort-term credit facilities.

Ironically, World Bank and IMF guarantees extended to commercial banks under the Brady plan ensure that multilateral loans will continue. Because Mexico cannot otherwise service its foreign loans, it inevitably will pressure the IMF and World Bank for new funds under threat of defaulting on guaranteed debt—an event that would endanger the World Bank's coveted AAA credit rating.

Foreign loans have enabled Mr. Salinas to support an overvalued peso and thereby import food and consumer goods necessary to satiate an aggrieved populace.

Yet fundamental problems remain: Rates on Mexican treasury bills are again near 50%, the high for 1989, while internal debt now exceeds $65 billion. Inflation in January alone was nearly 5%, one-third of officially projected inflation for all of 1990. Hard currency reserves are below $4 billion, and a currency devaluation of 30% to 40% is considered inevitable.

Instead of reducing debt and building confidence through proven methods such a debt-for-equity swaps, Mexico has lost a great opportunity.

By following the advice of senior U.S. Treasury officials, foreign debt has been emphasized instead of domestic reform. As a result, the reform process has slowed to a crawl, bank loans are unavailable and new investment, not surprisingly, has failed to meet expectations. If this is the benefit to which Mr. Brady refers, other indebted Latin nations should start running.

Mexico's government has blamed poor economic performance on external debt while refusing to attack real problems such as centralized economic management and the issuance of domestic debt. When Mr. Salinas' commitments with respect to currency stability and inflation are not kept, increased social and economic pressures will become the pretext for requesting new assistance from Washington.

(Christopher Whalen is senior vice president for trade finance for The Whalen Co. in Washington.)

CLEAN AIR ACT WOULD CRUSH U.S. ECONOMY

Mr. HELMS. Mr. President, when an assessment is made of Senators who qualify for recognition as a profile in courage, the citizens of Idaho should be proud of their Senator STEVE SYMMS. STEVE SYMMS has demonstrated wisdom, dedication, and courage throughout the Senate's consideration of S. 1630, the Clean Air Act.

Human Events, a fine publication summed up Senator SYMMS' dedication in its March 17 edition, and it is an article well worth reading.

Therefore, I ask unanimous consent that the Human Events article be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Human Events, March 17, 1990]

CLEAN AIR ACT WOULD CRUSH U.S. ECONOMY

(By Senator Steve Symms)

Congressional Democrats perhaps most notably House Majority Leader Rich Gephardt (Mo.), harp incessantly about the need for making American industry competitive against its counterparts in Japan, Germany, and the fast-growing Pacific rim nations. But harping and demagogic rhetoric is all that the Democrats seem willing to offer.

When it comes to actually doing something to bolster America's competitive position, such as the President's proposed capital gains tax reduction, they think of every excuse for obstructionism.

Meanwhile, bent on reversing the deregulatory trend of the Reagan years, the Democrat-controlled Congress has been pressing to impose a broad array of expensive new regulatory burdens on business, ranging from federally mandated but privately funded provision of employee health insurance to costly renovations and special requirements to meet the needs of the disabled.

But the harm posed by many of these regulatory schemes may be dwarfed by the unmitigated disaster that will hit the U.S. economy if the new Clean Air Act provisions now being considered by the Senate become law in anything like their present form.

Already, because of Clean Air legislation enacted in 1970 and 1977, American business is spending upwards of $31 billion every single year in pollution-abatement costs. One result is that U.S. air quality is far better than it was 10 years ago and far better than anywhere else in the industrialized world. That's the upside.

The downside, according to economics columnist Warren Brookes and others, is that the existing cost to American business is staggering—more than three times as costly as the standards anywhere else in the world. Yet these costs are small compared to those imposed by the measure now in the Senate.

The Bush Administration, which agreed to the "compromise" bill in negotiations with Senate Democrats, says it will cost business $21 billion a year to comply with its new requirements—only $2 billion more than the Administration's own bill. However, Brookes and others intimately involved in the Clean Air debate say that the Administration negotiators got fleeced. More realistic estimates of the current bill's cost range from $42 billion to as much as $104 billion a year. And that's on top of the $31 billion already being spent!

"There's nobody in Europe with standards like this," says Brookes. "Nobody. If you take standards that are already more costly than any others in the world by three to one, and then you add another order of magnitude to those costs, as this bill does, what is industry to do? What would you do? I'd take my money and run. I'd get out."

Sen. Steve Symms (R.-Idaho) made the same point on the Senate floor last week, warning his colleagues that the excessive regulatory power given to the Environmental Protection Agency under the so-called "compromise" bill will drive millions upon millions of American jobs to countries where the costs and conditions for doing business are more sensible.

Enactment of the Senate measure, foes such as Symms and Brookes agree, will do enormous damage to the U.S. economy. Many provisions are designed to force businesses to shut down. EPA will be given dictatorial powers to interfere in the lives of communities across the nation. Yet the benefits in cleaner air to be expected in exchange for all this pain are marginal at best, and some provisions will actually lead to more pollution.

As a prime example of environmentalist ideology run amok, Symms, in an interview with Human Events, pointed to the Senate bill's so-called "air toxics" standards, contained in Title III of the measure. The Business Round Table estimates that compliance with these provisions alone, when they become completely effective 10 years after enactment, will cost $62 billion a year.

Yet, said Symms, these standards are absurd. First, he noted, Title III contains what is called a "residual risk standard, residual because it is the risk left over after a firm has adopted the best available technology" to reduce emissions.

Almost by definition, said the Idaho Republican, who waged a lonely battle in the Senate March 6 to highlight the absurdity of the measure's "air toxics" standards, the residual risk standard "is a shut-down standard. . . . Because if you've already adopted the best technology, and they're telling you you've got to go further than that, and you can't, you shut down."

And what is this standard, which will lead to such obvious economic hardship? Quite simply, said Symms, the bill says that a plant will have to go out of business if, despite using the best technology, its toxic emissions will increase the risk of getting cancer during a lifetime by "one in 10,000."

"That's the incremental cancer risk to a hypothetical individual standing for 70 years, naked, on the fenceline of the plant, who never takes a bath. If the risk to him is one in 10,000 or greater, the plant will shut down." Even employers who meet the one-in-10,000 standard could still find themselves in trouble, Symms continued, because of another standard that could force them to close for economic reasons. "That could occur because a company is forced to continually upgrade its [emissions-abatement] equipment, regardless of how costly each upgrade is, to meet a standard of one in one million to that same hyothetical individual."

The one-in-one-million standard, Symms explained, is a "technology-chase standard. It doesn't automatically impose a shutdown, but it could easily force one anyway, with EPA saying, 'you've got to adopt this $3-million technology,' and the company says, 'look, it's just not worth it to keep that plant open if we've got to make a $3-million investment.' "

To show how ridiculous the one-in-one-million standard is, Symms told his colleagues: "If any senators ever go out and play golf, they have a lot bigger risk of being struck by lightning on a golf course, and yet we are going to pass a law that says if the risk is one in a million, we will have the power of the federal government to close down the plant."

This bill, said Symms, "could make it criminal to operate any business where a substance is used that might pose this kind of risk. . . . For some of these chemicals, we are talking about extremely minute amounts." He explained, for example, that a mere film of a chemical called 1-3 butadiene "on the water of a half-full paper cup is enough to trigger this hypothetical one-in-a-million risk level."

As other examples of how silly a one-in-a-million standard is, Symms noted that smoking just "two cigarettes in your entire life would give you a risk of cancer 50 per cent greater than one in a million. . . . One x-ray at the doctor's office increases the risk of cancer by eight in a million. Living in a house as compared to sleeping on a sidewalk grate raises your risk of dying in a fire to 50 in a million."

The bill's "air toxics" standards are not about health, said Symms, but, rather, about reducing risk to utterly unreasonable levels. Thus, he said, assuming an average life span of 70 years, "it would not be odds-on for an individual to get cancer" under the one-in-a-million standard unless he was constantly exposed to the toxic emissions in question for 70 million years! To be assured of getting cancer under the one-in-10,000 automatic shutdown standard, he'd have to be exposed for 700,000 years.

Clearly, a lot more people have to worry about losing their livelihoods if this bill passes than losing their lives to avoidable cancer if it doesn't.

The "air toxics" provisions are by no means the Senate bill's only controversial feature. Another heavy-handed provision authorizes the EPA administrator to set vehicle occupancy rates in any region designated as a "non-attainment area" for air quality. What that means, said Symms, is that, since Washington, D.C., is a non-attainment area, EPA could issue an edict requiring all employers in the city to order their workers to drive to work with at least three individuals in a car.

Nor, said Symms, should people be misled about the seriousness of a region's being a non-attainment area. He noted that a large city such as Los Angeles may have as many as 47 meters located throughout the region in areas considered most likely to have high concentrations of pollutants. A small city such as Pocatello, Idaho, may have one. All that is necessary for a city to be classified as "non-attainment," Symms explained, is that one of those meters registers an unacceptable level of emissions just once in a whole year.

According to current projections, Symms went on, there are only nine cities in the entire United States that will not come into attainment over the next five years for no other reason than that cars made before 1983, which account for the bulk of unhealthy motor vehicle emissions, will be replaced by new cars meeting current standards.

Symms says it would be more cost-effective to purchase new cars for people or to give them tax credits to encourage them to junk their pre-1983 cars than to enact some of the expensive tailpipe provisions and alternative fuels proposals contained in the Senate bill.

Some of the costly requirements for alternative fuels will actually be environmentally *counterproductive.* Thus, a provision requiring large cities to purchase buses using expensive alternate-fuels technology may encourage cities to keep using their old buses, which account for the highest level of harmful emissions.

A major part of the bill, which is designed to cut sulfur dioxide emissions in order to address the "problem" of acid rain, will not only cost businesses—and ultimately consumers—billions of dollars a year to comply but will condemn large sections of the country to economically stifling no-growth policies.

Ironically, Congress in 1980 authorized a massive study of the acid rain issue, known as the National Acid Precipitation Assessment Program (NAPAP). That study, which has cost the taxpayers half a billion dollars to conduct, has found that the acid rain problem is largely a myth, but EPA refuses to formally release its findings in time to influence the current Clean Air debate.

At a White House briefing for representatives of business last week, a participant heatedly challenged EPA Administrator William Reilly to release the NAPAP findings, citing the public's right to know. Reilly, according to any eyewitness, smugly refused, saying that its release wouldn't make any difference.

What is at stake in the current Clean Air debate, says columnist Brookes, is nothing less than U.S. survival as an economic power. He notes that the U.S. already took a big economic hit in the late 70's as a result of the Clean Air law passed in 1977.

"Now some of that was necessary," said Brookes, "and we have much cleaner air because of it. The point is, we took the hit. We took it in the '70s. We have slowly recovered from that."

But the bill now in the Senate is totally unnecessary. It is likely to increase environmental costs by at least 50 percent, probably much more and condemn this country to economic stagnation and decline. All of this for a negligible improvement in air quality of one to two percent.

"If this bill passes," said Brookes, "it's Armageddon for the Bush Administration. We can just kiss the U.S. good-bye. All the Reagan years—just down the drain. It's that serious."

Yet the President has got himself caught in a trap, allowing Administration negotiators to agree to a bill that is twice as costly as his own bill submitted last year. And many Republicans, either because they don't want to embarrass the White House or they fear the extreme environmentalists and their media allies, have been slow to react against this monstrous threat to the economic future of their own states and districts.

Under the circumstances, the only hope of rescue may lie with a Democrat, House Energy and Commerce Committee Chairman John Dingell, who has been critical of the Senate measure and is likely to push for a more reasonable bill in the House. Can Dingel' turn the tide? With Senate Democrats and the White house ranged against him, it won't be easy.

But the alternative, which is the economic strangulation of the United States on the altar of ideological environmental madness, is too dismal to contemplate.

THE ANNIVERSARY OF THE "EXXON VALDEZ" ACCIDENT IN PRINCE WILLIAM SOUND

Mr. CHAFEE. Mr. President, this weekend marks the anniversary of the largest oilspill in U.S. history. It was 1 year ago that the *Exxon Valedez* veered off course and became impaled on bligh reef in Prince William Sound. The resulting gash in the hull released over 11 million gallons of North Slope crude into Alaska's pristine waters.

What ensued in the days following the spill was a comedy of errors: Alyseka, the consoritum of companies which boasted equipment and manpower to quickly cleanup a spill proved incompetent and ill-equipped. Within days the slick covered over 900 square miles, and eventually covered an area in Alaska, which, had the spill been on the Eastern Shore, would have run from Maine to Washington, DC.

Since that time we have been inundated with headlines informing us of the latest major oilspill: The Delaware River, Narragansett Bay in my own State of Rhode Island, Galveston Bay, the Arthur Kill in New York, and most recently, Huntington Beach in California. This rash of spills has spurred a lively debate in both Houses of Congress on the risks associated with the marine transportation of oil, or, more accurately, the Government's ability to minimize these risks. The Committee on Environment and Public Works held two hearings to examine the shortcomings of existing Federal law which allowed these spills to occur.

Congress has recognized its responsibility to put into place a Federal regulatory scheme which will prevent intoxicated captains or unqualified third mates from taking the helm of an oil tanker. Last summer this body unanimously passed the Oil Pollution Liability and Compensation Act of 1989, a bill which will significantly improve the Government's ability to prevent and respond to oil spills. This legislation was the result of a lot of hard work on the part of our distinguished majority leader, Senator MITCHELL; the chairman of the Environmental Protection Subcommittee, Senator BAUCUS; Senator LIEBERMAN; Senator LAUTENBERG; and myself.

The legislation approved by the Senate authorizes $1 billion fund which can be used by the Federal Government to respond to oilspills, and to compensate victims who suffer economic losses from an oilspill. The fund will be financed by a 5-cent-per-barrel fee on all domestic or imported oil.

The legislation will also create several oilspill response teams, capable of marshalling equipment and personnel on a moment's notice to respond to a major oilspill.

I am pleased to report, Mr. President, that the House and Senate are currently engaged in the initial phases of negotiating a conference agreement on oilspill legislation. Both the House and Senate bills address the fundamental issues of oilspill prevention and response, enhanced contingency planning for facilities and vessels, and streamlining compensation for the victims of oilspills.

I am confident that in the near future we will be sending to the President a strong oilspill response bill for his signature. It is fitting that we take this opportunity, on the anniversary of the most catastrophic spill ever to befoul U.S. waters, to remind ourselves that we must make significant strides to assure that we reduce the number of spills which occur in the future, and significantly improve our ability to contain and clean up those spills that do occur. We owe it to the environment to approve strong oilspill legislation, and I am confident that we will.

CORRECTING THE SOCIAL SECURITY "NOTCH"

Mr. PELL. Mr. President, I plead the case of a group of dedicated senior citizens known as the "notch babies." These citizens have received lower benefits than other Social Security recipients as a result of a 1977 legislative correction of a 1973 formula error.

To address this problem, I joined with Senator TERRY SANFORD in introducing a bill to provide additional benefits to those affected by the "notch." S. 1212, the Social Security Notch Adjustment Act, would increase benefits to most retired workers and disability beneficiaries born after January 1, 1917 and before January 2, 1927, as well as most survivors of workers born during that period. This legislation would increase the average benefits of eligible beneficiaries who retire at age 65 by $550 per year, and of those who retire at age 62 by $144 per year. In addition, the bill would provide a one-time retroactive payment of not more than $1,000 per family.

As you may know, Mr. President, the Sanford bill has languished in the Senate Finance Committee since its introduction on June 21, 1989. I urge the Senate Finance Committee to take action on this bill. Unless the committee takes action, it is extremely unlikely that those of us who do support correcting the notch will have an opportunity to vote to make these corrections.

Mr. President, the Senate of my own State of Rhode Island has approved and sent to me a copy of a resolution urging Congress to enact legislation to amend the Social Security laws to correct the Social Security notch. I ask unanimous consent to have printed at the end of my remarks, a copy of this resolution, and note that I agree fully with the views expressed in that resolution.

There being no objection, the assembly resolution was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION

Whereas the Congress in 1977, in an effort to keep the Social Security System from going bankrupt, established a new formula for calculating social security benefits; and

Whereas rather than introduce this formula overnight, the Congress chose to cushion the blow over a five-year period, choosing as the transition group those born between 1917 and 1921; and

Whereas persons born in 1917, 1918, 1919, 1920 or 1921 are being unjustly penalized by receiving lower benefits than those born prior to and after the above mentioned years; and

Whereas social policies and political actions should assure that all retirees receive equal treatment under the Social Security Act;

Whereas those born in the "notch years" between 1917-1921 are being unjustly punished; now, therefore be it

Resolved, That this senate of the State of Rhode Island and Providence Plantations hereby memorializes Congress to enact legislation which would amend Social Security laws so that those persons born during the period from 1917-1921 will not receive standard payments; and be it further

Resolved, That the secretary of state be and she hereby is authorized and directed to transmit duly certified copies of this resolution to the members of the Rhode Island delegation in the Congress of the United States.

PUERTO RICO—51ST STATE?

Mr. HELMS. Mr. President, legislation is currently being considered by Congress to allow Puerto Rico to vote on whether it should become the 51st State. Before Congress approves such legislation, it is important that consideration be given to the ramifications of such a decision.

With his typical eloquence, Pat Buchanan has laid out some concerns about the proposal. I suggest that Senators carefully consider Mr. Buchanan's points, and I ask unanimous consent that the text of his column be printed in the RECORD at this point.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

PUERTO RICO AS OUR 51ST?

(By Patrick Buchanan)

From opposite directions on Pennsylvania Avenue, Oscar Collazo and Girsel Torresola made their way to the front door of Blair House. The plan: meet at the stairs, shoot their way inside and assassinate President Truman. They came close. Torresola was killed on the spot by dying police hero, Leslie Coffelt, Collazo wounded. But, to the tiny Puerto Rican party then seeking a break free of the United States, Torresola would become a martyr, Collazo a hero.

Four years later, Independistas smuggled weapons into the visitors' gallery of the House of Representatives and sprayed the floor, wounding five.

That was long, long ago. But, as last June's march of 80,000 through San Juan demonstrates, the desire for an independent Puerto Rico yet burns in the breasts of many on that island we seized as war booty from Spain in 1898. Though only a tiny fraction of the 10 percent who seek independence endorse violence, that fraction yet finds bloody expression in Los Macheteros.

To the point, not enough hard thought is being given by Mr. Bush to the potential consequences of making Puerto Rico our 51st state. We may be about to create a Northern Ireland in the Caribbean.

Legislation is quietly moving through Congress for a summer 1991 vote, which would permit Puerto Rico's 3.5 million to choose statehood, commonwealth status or independence. The 248 million in the 50 states would have no say in the matter. If the island chose statehood, the grant of statehood would be automatic.

Again, we had best wake up to what is going down.

Already, 40 percent of the people on the island get federal benefits. If statehood is adopted, the cap on welfare spending comes off, and perhaps 60 percent would be eligible for Aid to Families with Dependent Children, food stamps, Medicaid, etc. The present $6 billion in U.S. budget outlays would explode.

Can we afford this—and not only in welfare payments?

Considering what the Great Society did to Washington, with the nation's highest per capita income, do we really want to convert Puerto Rico (per capita income $4,500, not half that of Mississippi) into a Caribbean reservation mired in the same rage and resentment that those dependent on welfare exhibit everywhere else in America?

Why not leave well enough alone? Today, Puerto Rico is an enterprise zone. Under Section 936 of the Internal Revenue Code, U.S. factories there are exempt from corporate income taxes; islanders need not file 1040s on April 15. But if Puerto Rico votes statehood—and the proffered bribe of a cornucopia of federal goodies is tilting it that way—all tax privileges would have to go; and we would soon have a tax revolt from Puerto Rico's middle and upper classes.

Have we considered the fundamental change in the character of our union, if Puerto Rico becomes the 51st state?

An English-speaking people, we Americans would become a bilingual nation. For the English language could not be forced upon this island of Spanish heritage, where 60 percent do not even understand it.

According to the Senate bill, all that is needed for this historic change is for just half the island to vote "yes" on statehood. While Puerto Rico is entitled to decide its own future, is 50.1 percent enough of a plurality to effect the permanent transfer of sovereignty, to make Puerto Rico a permanent part of the American Union?

Thirteen decades ago, we fought a bloody Civil War to prevent the Confederate states from breaking free. Are we prepared to send troops, if the people of Puerto Rico should later change their minds? Are we prepared to fight a guerrilla war, like the British in Belfast, if the Macheteros emulate the Irish Republican Army? Before entering a marriage, "till death do us part," ought not both the island and the mainland reflect longer upon how nasty a divorce would be?

If it ain't broke, don't fix it.

There is no overwhelming clamor for statehood on the island; nothing is wrong with today's commonwealth status that cries out for repair. And, as in the 13 Colonies in 1775, there is a vocal minority for total independence whose views ought to be respected, if not heeded. The last thing America needs now is to clasp to her bosom, forever, 300,000 embittered Hispanics who yet dream of an independent country.

Before this island, with the size and population of a small nation, becomes a state, at least two-thirds of its people, better yet three-fourths, should request it. And, the 248 million who reside in the 50 states should be given time to reflect on their request to join the American family, forever.

From Serbia to Azerbaijan, from the West Bank to Soweto, from Scotland to Quebec, ethnic chauvinism is on the rise. Separatism is everywhere winning converts. People are demanding not what is in their economic interest but what they deem vital to preserving the race, the tribe, the religion, the culture. While we may bemoan the trend, we cannot deny it; nor are we Americans immune to it.

In such an environment, prudence dictates that we think twice, then think again, before annexing forever to the American Union an island people with a separate cultural nationality, who do not speak our language, and who are still deeply divided in their own desires.

TRIBUTE TO DR. MILTON SEWELL

Mr. HEFLIN. Mr. President, I rise today to pay tribute to my good friend, Dr. Milton Sewell, who has been named as the new president of Freed-Hardeman University. He will step down as president of Mars Hill Bible School and begin his term at Freed-Hardeman on June 1, 1990.

Dr. Sewell has served as the president of Mars Hill Bible School since 1983. He has done a tremendous job at Mars Hill and they will be hard pressed to find a replacement with his numerous talents and abilities.

For Dr. Sewell, this move to Freed-Hardeman will be a little like a homecoming. In 1962, Freed-Hardeman awarded Milton with an associate in arts degree from Freed-Hardeman College. He also served as the college's director of institutional advancement and planning from 1976 until 1979. At that point, Milton was named as the vice president for institutional advancement and planning from 1979 until 1983.

Dr. Sewell has seen Freed-Hardeman change drastically over the years. In fact, in his earlier positions, Dr. Sewell played a large role in the improvements the institution has made in the past 20 years. Freed-Hardeman has risen through the ranks of higher education from an accredited 2-year college to a fully accredited 4-year liberal arts university.

I am confident the Dr. Sewell will continue to build upon the success that Freed-Hardeman has seen in the past few years. In my judgment, he will do an excellent job and represent the school well.

Mr. President, I ask unanimous consent that an article announcing Dr. Sewell's selection be printed in the CONGRESSIONAL RECORD.

There being no objection, the article is ordered to be printed in the RECORD, as follows:

[From the Times Daily, Mar. 7, 1990]

SEWELL TO HEAD FREED-HARDEMAN UNIVERSITY

(By Lisa Parker)

FLORENCE.—Mars Hill Bible School President Dr. Milton Sewell will relinquish his administrative duties May 31 to take office as Freed-Hardeman University's president June 1.

Sewell, who has been Mars Hills president since 1983, will formally announce the transition at 10 a.m. today during a press conference at the Larimore House.

Freed-Hardeman University Public Information Director J. Algene Steele said Sewell was named president of the university by its board of trustees Saturday, Feb. 24, and will assume his post June 1.

"Sewell was selected from three finalists to succed Dr. E. Claude Gardner who has been the president since December 1969, and who will retire May 31," Steele said.

"I'm sad somewhat because there are so many exciting things going on at Mars Hill, but I'm excited about what's happening at Freed-Hardeman," Sewell said Tuesday about his move to Henderson, Tenn.

Sewell is not a stranger to the university. He received as associate in arts degree from Freed-Hardeman College in 1962, served as the college's director of institutional advancement and planning from 1976-79, and was the institution's vice president for institutional advancement and planning from 1979-83, before coming to Mars Hill.

Freed-Hardeman University, Steele said is a fully accredited liberal arts, Christian institution offering graduate studies with a related curriculum and a conservative philosophy.

The university has been transformed from an accredited two-year college in 1969 to a fully accredited four-year liberal arts university in 1990.

NATIONAL BAR ASSOCIATION HONORS MAYOR DAVID DINKINS AND ATTORNEY ALTHEA SIMMONS

Mr. HEFLIN. Mr. President, in conjunction with its 1990 midyear conference this weekend, the National Bar Association [NBA] will have its annual Gertrude E. Rush dinner on Saturday, March 24. Two of its five recipients will be the Honorable David N. Dinkins—the 106th mayor of the city of New York—and attorney Althea T.L. Simmons—director of the Washington bureau and chief lobbyist for the National Association for the Advancement of Colored People [NAACP].

Gertrude E. Rush was the only female cofounder of the NBA, which was formally organized in Des Moines, IA, August 1, 1925. Today, the NBA is the oldest and largest organization consisting primarily of African-American attorneys.

The criteria for the Gertrude E. Rush Award are that a recipient should manifest the pioneer spirit epitomized by Mrs. Rush: demonstrate leadership ability in the community within his/her profession; demonstrate concern for human and civil rights; and, be a model for excellence in legal education and perseverance in the law, public policy, or social activism.

Any person who meets the above minimum qualifications—whatever race, color, creed, sex, religion, or national origin, whether lawyer or nonlawyer—may qualify as a recipient of the Gertrude E. Rush Award.

The 1990 recipients of the Gertrude E. Rush Award are as follows: the Honorable David N. Dinkins, New York, NY; the Honorable Perlesta A. Hollingworth, Little Rock, AR; Faustine C. Jones-Wilson, Ph.D., Washington, DC; Althea T.L. Simmons, esquire, Washington, DC; Donald M. Temple, esquire, Washington, DC.

Mr. President, I would like to pay special tribute to the two outstanding recipients of the Gertrude E. Rush awards that I know personally—the Honorable David N. Dinkins and attorney Althea T.L. Simmons.

Mayor Dinkins' election in November 1989, marked the first time in New York City's 365-year history that an African-American was chosen to serve as the city's chief executive officer. He was inaugurated January 1, 1990, as the 106th mayor of the city of New York.

As mayor, Mr. Dinkins represents more than 7 million residents. He manages a budget that for 1990 exceeded $26 billion—one of the largest governmental budgets in the world.

Prior to assuming his official duties of mayor, Mr. Dinkins served a 4-year term as the Manhattan borough president. He was a great coalition builder and strong advocate of civil and human rights. He even formed an African-American group back in 1975 to support Israel. The Jewish vote was a critical factor in the equation for a Dinkins victory. With his tenacious pioneering and persevering determination, Mr. Dinkins was able to win the mayoral election in New York City.

Mr. President, I have known attorney Althea T.L. Simmons ever since she succeeded the late Clarence Mitchell as chief congressional lobbyist for the Washington, DC bureau of the NAACP. Although he was a very tough act to follow on Capitol Hill, Althea has met the challenge of becoming a good lobbyist by walking quietly in her own footsteps.

One of my colleagues and friends on the Senate Judiciary Committee, ORRIN HATCH, has said, of Althea, "She's one of the most effective, intelligent lobbyists on the hill today. * * * She knows the issues and pushes them with a great deal of aplomb. * * * She's had a great influence on me."

She has worked quietly behind the scenes with other civil rights groups to help win such legislative victories as the extension of the Voting Rights Act, the Martin Luther King, Jr., birthday national holiday bill, and a bill imposing sanctions against South Africa.

A seasoned NAACP'er, Ms. Simmons came to the bureau post from the position of associate director of branch and field services where she had the responsibility of supervising the NAACP's nationwide network or branches, field staff, and the membership and youth and college division.

She has held posts of national education director, national training director, special voter registration projects director, and director of the NAACP's 1964 national voter registration drive during the 28 years of her employment with the NAACP.

Mr. President, I regret very much to say that Althea will be unable to accept her Gertrude E. Rush Award in person on Saturday, March 24. It is my understanding that she has been an inpatient at the Howard University Hospital since around the first of November 1989. Her discharge date is still uncertain. Nevertheless, I still wish to congratulate her and wish for her a speedy return to her job and to Capitol Hill!

Before I close, Mr. President, I wish to congratulate attorney Ruby Burrows McZier, the chairperson of the NBA midyear conference and the Gertrude E. Rush dinner. It is my understanding that she does such a fantastic and successful job of it that she has been asked repeatedly to serve in this capacity. And, I understand that she has always accepted this responsibility with a challenging smile.

Finally, Mr. President, I would like to congratulate the incumbent NBA president, Mr. Thomas P. Duckenfield, for his dedicated service to and leadership of the NBA. I wish he and Mrs. McZier a very successful NBA midyear conference and Gertrude E. Rush Awards dinner this coming weekend.

TRIBUTE TO EARL MORGAN

Mr. HEFLIN. Mr. President, I rise today with great sadness to inform my colleagues of the recent death of Earl Morgan from Jefferson County, AL. He spent most of his 65 years serving the people of this country and his death left all who knew him with a sense of loss.

Before retiring in 1983, Earl Morgan had served for 17 years as the district attorney for Jefferson County, AL's most populous county. Throughout this his term, Earl was known as a tough prosecutor and a superior administrator. He had both the legal knowledge and the political acumen which allowed him to handle with ease the toughest and most volatile cases.

In addition to being an outstanding attorney, Earl Morgan was also a teacher of sorts—a mentor to numerous assistant district attorneys. He taught these people through advice, by example, and most importantly, by helping them learn from both success-

es and mistakes. These people have gone on to other things and one, David Barber, now holds Earl's old position of Jefferson County district attorney. I know he was extremely proud of all of his assistants.

Earl Morgan was an extremely patriotic American. He cared deeply about this country and spent his life fighting to protect the freedoms and rights which make America great. Most people from Birmingham knew him as the long-time Jefferson County district attorney, but some also knew him from his days as a devoted city attorney and judge in Tarrant, AL. Those who knew Earl best also knew that he was a soldier, a veteran of both World War II and the Korean War.

Earl Morgan was born in Cullman, AL, and was graduated from the University of Alabama Law School. He was appointed as the Jefferson County district attorney and soon won his first election in a landslide. He was so well respected as district attorney that he ran unopposed for each term except the first.

Mr. President, he was a fine Alabamian, an enormously talented man, and a trusted friend. He touched the life of all who knew him and will be missed greatly.

Mr. President, I ask unanimous consent that an article telling of Earl Morgan's accomplishments be included in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FORMER DA EARL MORGAN DIES AT 65

(By Susan Cullen)

Earl Morgan, Jefferson County district attorney for 17 years, was a behind the scenes administrator who rarely sought the spotlight.

Morgan, retired since 1983, died while on vacation in Ocala, Fla., Monday of an aneurysm. He was 65.

Rusty McDonald, his chief deputy for six years, remembers one case that Morgan chose to prosecute.

It was 1968 and Morgan had only been in office a few years. James Hammonds, chief deputy district attorney for the Bessemer cut-off, was accused of accepting bribes and conspiring to kill Bessemer Circuit Judge Gardner Goodwyn. Although Morgan was Hammonds' boss, Hammonds was an elected official and the case was a political hot potato, McDonald said.

Morgan, McDonald and Deputy District Attorney Louis Wilkinson went to Bessemer and relieved Hammonds of his duties, later winning a conviction of bribery. The conspiracy charge, plus seven other bribery charges, were dropped after Hammonds resigned his post and agreed to leave the state.

It all worked out in the end, but it was a gamble for Morgan, McDonald said. Prosecuting the case himself showed a lot of courage and fortitude.

"He could (have been) putting his own well-being on the line," McDonald said. "That was a political ball that if it had been fumbled, would have been costly to Earl."

Morgan's former colleagues remember him as an able administrator, a deft politician and a calming influence during the racial turbulence of the late 1960s.

Morgan, who was Gov. George Wallace's executive secretary before he was appointed district attorney in 1966, was able to placate both extremes on the racial issue, McDonald said. "Both sides of the community had faith in Earl that he'd look out for their interests," he said. "For the times, he was perfect in that position."

One of his former assistants, David Cromwell Johnson, said Morgan was "the finest politican I've ever known. He had the ability and the temperament to make people see that he was doing what was in their best interest."

Johnson said Morgan was an outstanding lobbyist who managed to get a pay raise for state district attorneys.

Morgan was "just a reasonable man with a good heart," Johnson said.

Another of Morgan's former assistants is current District Attorney David Barber, who said his appreciation of Morgan's talents has increased immensely now that he has his job.

Morgan hired Barber fresh out of law school in 1972 and kept a watchful eye on him and the other deputy district attorneys, Barber said. "He was always coming around, watching and listing to see how you were doing in court," he said.

Morgan was reserved, staying in the background, Barber said. But he never had any trouble getting elected. After J. Earl Langer in a landslide election shortly after he was appointed, no one ran against him again.

Morgan was a graduate of the University of Alabama Law School. A native of Cullman, he was a veteran of World War II and the Korean War. He once served as city attorney and judge in Tarrant.

The funeral will be at 11 a.m. Thursday at Jefferson Memorial, Trussville, with burial in Jefferson Memorial Gardens East.

Survivors include his wife, son Bryan Earl Morgan of Montgomery, daughter Mrs. Melany Wilbanks of Pensacola, and a sister Ms. Esther Jean Mangrum of Birmingham.

GREEK INDEPENDENCE DAY

Mr. KERRY. Mr. President, 2,500 years ago in 510 B.C., Hippias, the last tyrant of Athens, was driven out of the city. Out of the resulting chaos emerged a new political system—democracy—"the rule of the people"—the first of its kind in the history of the world. "To the ancient Greeks * * * we are all indebted for the light which led ourselves out of gothic darkness" to quote Thomas Jefferson. Our modern political system is only one of many things for which we are indebted to the Greek culture.

I rise today to support once again, the designation of March 25 as "Greek Independence Day: A national day of celebration of Greek and American democracy." Though the Greeks were responsible for forming the world's first democracy, they were ruled under the Ottoman Empire for almost 400 years—from the fall of Constantinople in 1453 until the Declaration of Independence in 1821. During this time the citizens were deprived of their civil rights, of the very democracy, government of, by and for the people, that their genius gave the world. This Sunday marks the 169th anniversary of the beginning of the revolution which freed the Greek people from this yoke of repression—one made more painful because it was borne by a people that taught the world how to live in freedom.

Modern Greek culture now flourishes in a healthy democracy and Greek-Americans continue to contribute to our society in the fields of politics, medicine, architecture and entertainment. My home State of Massachusetts boasts several noteworthy Greek-Americans who have contributed greatly to democracy in America—Governor Dukakis, Congressman NICK MAVROULES, and former Senator Paul Tsongas, to name a few. Greeks have also given their lives for our country—over 600,000 died fighting as our allies in World War II. After the war, many more gave their lives to defeat Communist rebels from seizing control of their country.

For these reasons, I am pleased to join in the celebration of an Independence Day for the people who have enriched our lives in so many ways.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbough, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

NATIONAL TREE TRUST ACT—MESSAGE FROM THE PRESIDENT—PM 105

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

Today I am pleased to transmit a legislative proposal entitled the "National Tree Trust Act of 1990." This proposal is a key part of my "America the Beautiful" initiative, and it would enhance the growing partnership between the public and private sectors to plant trees across America. Also transmitted is a section-by-section analysis.

President Theodore Roosevelt began this century by directing the Nation's

attention to the protection of valuable public lands—America's treasure trove of parks, wildlife refuges, forests, and rangelands. As the end of the century approaches, it is appropriate that this final decade be one in which conservation, enhancement, and protection of our irreplaceable national assets rise to the forefront of national concerns. With this as our goal, my FY 1991 Budget proposes a new initiative—"America the Beautiful." Our initiative reflects my support for appropriate expansion and proper maintenance of the Nation's parks, refuges, forests, and public lands. It is also based on my determination to involve all Americans in strengthening the Nation's natural resources heritage. Finally, this initiative expresses my firm commitment to providing responsible stewardship of the country's heritage for the benefit of generations to come.

My "America the Beautiful" initiative includes three components. *First,* we propose to expand Federal recreational land acquisition that involves activities of the Departments of the Interior and Agriculture. *Second,* the Department of the Interior is undertaking an effort—"Legacy 99"—to enhance resource protection and recreation. *Third,* we propose a national tree planting and forest improvement initiative to be administered by the Department of Agriculture. The first two components will be carried out under existing authorities. The enclosed draft legislation will permit full implementation of the third component.

Trees are one of our most valuable resources. They contribute to the environmental, economic, and social well-being of this country. They enhance biodiversity, wildlife, air and water quality, and recreational opportunities. Trees improve landscape aesthetics and property values, reduce soil erosion, and provide many valuable wood products. They also contribute to energy conservation through the shading and cooling of buildings and by serving as windbreaks.

The proposal I am transmitting to the Congress today authorizes Presidential designation of a private nonprofit Foundation to receive a one-time grant for the purpose of promoting community tree planting and cultivation projects. Second, it authorizes the Secretary of Agriculture to establish a rural tree planting and forest improvement program and a community tree planting and improvement program. Third, it authorizes appropriations to the Secretary of Agriculture for a grant to permit the Foundation to begin its important work.

The Foundation will promote public awareness and a spirit of volunteerism, solicit private sector contributions, and oversee the use of these contributions to encourage tree planting and cultivation projects throughout the United States.

The Foundation will help forge cooperation among individuals, businesses, governments, and community organizations and provide financial assistance to grassroots volunteers to plant trees. It will help draw national attention to the need for increased planting of trees in our communities where, on average, only one tree is now being planted for every four that die or are removed. It is a program that will reach every State, if not each and every community. All of our citizens will be encouraged to participate in this program.

Enactment of this proposal will permit us to harness the efforts of individuals and organizations to undertake the nationwide planting and cultivation of invaluable trees. The prompt passage of this proposal by the Congress will demonstrate our shared commitment to preserving one of our most valuable natural resources, our precious heritage of trees. Let us ensure that our descendants will be able to share our pride in referring to this land as "America the Beautiful."

GEORGE BUSH.

THE WHITE HOUSE, *March 22, 1990.*

MESSAGES FROM THE HOUSE

At 10:29 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2566. An act to disclaim any interests of the United States in certain lands on San Juan Island, Washington, and for other purposes;

H.R. 3182. An act to provide for the striking of medals in commemoration of the Centennial of Yosemite National Park; and

H.R. 3834. An act to amend the National Trails System Act to designate the route from Selma to Montgomery for study for potential addition to the national trails system.

At 12:14 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 237. Joint resolution providing for the commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 3:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1091. An act to provide for the striking of medals in commemoration of the U.S. Coast Guard;

S. 1521. An act to provide for an increase in the maximum rates of basic pay for the police force of the National Zoological Park;

H.R. 3311. An act to designate the Federal building located at 350 South Main Street in Salt Lake City, UT, as the "Frank E. Moss United States Courthouse";

S.J. Res. 190. Joint resolution designating April 9, 1990, as "National Former Prisoners of War Recognition Day"; and

S.J. Res. 237. Joint resolution providing for the commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.

At 5:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that pursuant to the Congressional Award Act (2 U.S.C. 803), the Speaker appoints the following individuals to the Congressional Award Board on the part of the House: From the U.S. House of Representatives, Mr. PAYNE of New Jersey; and from private life, Mr. Thomas Hale Boggs, Jr., of Washington, DC.

The message also announced that pursuant to the Congressional Award Act (2 U.S.C. 803), the minority leader appoints the following individuals to the Congressional Award Board on the part of the House: From the U.S. House of Representatives, Mr. LEWIS of Florida; and from private life, Ms. Candice Shy Hooper of Alexandria, VA, and Mr. Glen D. Gaddy of Baltimore, MD.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2566. An act to disclaim any interests of the United States in certain lands on San Juan Island, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3182. An act to provide for the striking of medals in commemoration of the Centennial of Yosemite National Park; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated;

EC-2641. A communication from the Secretary of Transporation, transmitting, pursuant to law, a report on a technical violation of the Antideficiency Act; to the Committee on Appropriations.

EC-2642. A communication from the Assistant Vice President, Government and Public Affairs, AMTRAK Corporation, transmitting, pursuant to law, the annual review of rail passenger service routes; to the Committee on Commerce, Science, and Transportation.

EC-2643. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a Governor's Certification for the Commonwealth of Puerto Rico, supplementary information to the Governor's Certification for the Commonwealth of Massachusetts, and a

submittal from the State of Vermont concerning the State's status for the 1990 milestone; to the Committee on Energy and Natural Resources.

EC-2644. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the Powerplant and Industrial Fuel Use Act; to the Committee on Energy and Natural Resources.

EC-2645. A communication from the President and CEO of the Overseas Private Investment Corporation, transmitting, pursuant to law, the annual report of the Corporation for the fiscal year 1989; to the Committee on Foreign Relations.

EC-2646. A communication from the Assistant Secretary, Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, notification that the President has authorized the use of additional funds from the Emergency Refugee and Migration Assistance Fund for Southeast Asia, Africa, and Central America; to the Committee on Foreign Relations.

EC-2647. A communication from the auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "analysis of Cash Flow Projections for Miscellaneous Disbursements"; to the Committee on Governmental Affairs.

EC-2648. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports issued or released in February 1990; to the Committee on Governmental Affairs.

EC-2649. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on a Federal agency which did not fully implement a recommendation made by the Office of the Comptroller General; to the Committee on Governmental Affairs.

EC-2650. A communication from the President and CEO of the Overseas Private Investment Corporation, transmitting, pursuant to law, the Corporation's first annual report in compliance with the Inspector General Act Amendments of 1988; to the Committee on Governmental Affairs.

EC-2651. A communication from the Secretary of Transportation, transmitting, pursuant to law, the 15th annual report of the Department under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2652. A communication from the Chairman of the Council on Environmental Quality, Executive Office of the President, the Council's report under the Freedom of Information Act for the calendar year 1989; to the Committee on the Judiciary.

EC-2653. A communication from the Chairman of the Farm Credit Administration, transmitting, pursuant to law, the annual report of the Administration under the Freedom of Information Act for the calendar year 1989; to the Committee on the Judiciary.

EC-2654. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, the Administration's annual report under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2655. A communication from the Director of Selective Service, transmitting, pursuant to law, the annual report of the Service under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2656. A communication from the Agency Freedom of Information Officer of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the annual report of the Agency under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2657. A communication from the Chairmen of the National Foundation on the Arts, the National Foundation on the Humanities, and the Institute of Museum Services, transmitting a draft of proposed legislation to reauthorize the National Endowment for the Arts, the National Endowment for the Humanities and the Institute for Museum Services for fiscal years 1991 through 1995; to the Committee on Labor and Human Resources.

EC-2658. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on alcoholism treatment; to the Committee on Labor and Human Resources.

EC-2659. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the reports on Department of Defense procurement from small and other business firms for the period October through December 1989 to the Committee on Small Business.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1594. A bill to extend nondiscriminatory treatment to the products of the People's Republic of Hungary for five years (Rept. No. 101-252).

Mr. BENTSEN. Mr. President, I ask unanimous consent that H.R. 1594, trade legislation reported by the Committee on Finance, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

H.R. 1594

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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PART 2—TEMPORARY CHANGES IN TARIFF TREATMENT

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TITLE I—TARIFF PROVISIONS

Subtitle A—Amendments to the Harmonized Tariff Schedule of the United States

SEC. 1001. REFERENCE.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section, chapter, subchapter, note, heading, subheading, or other provision, the reference shall be considered to be made to a section, chapter, subchapter, note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

PART 1—PERMANENT CHANGES IN TARIFF TREATMENT

SEC. 1101. GLOVES, MITTENS, AND MITTS.

(a) ICE AND FIELD HOCKEY GLOVES.—

(1) Chapter 61 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6116.10.10:

"	6116.10.05	Ice hockey gloves and field hockey gloves	Free		25%	".

(2) Chapter 61 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6116.92.10:

"	6116.92.05	Ice hockey gloves and field hockey gloves	Free		45%	".

(3) Chapter 61 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6116.93.10:

"	6116.93.05	Ice hockey gloves and field hockey gloves	Free		45%	".

(4) Chapter 61 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6116.99.30:

"	6116.99.20	Ice hockey gloves and field hockey gloves	Free		45%	".

(5) Chapter 62 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6216.00.10:

"	6216.00.05	Ice hockey gloves and field hockey gloves	Free		25%	".

(6) Chapter 62 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6216.00.34:

"	6216.00.33	Ice hockey gloves and field hockey gloves	Free		45%	".

(7) Chapter 62 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6216.00.44:

"	6216.00.43	Ice hockey gloves and field hockey gloves	Free		45%	".

(b) OTHER SPORTS GLOVES.—The article descriptions in subheadings 6116.10.10, 6116.92.10, 6116.93.10, 6116.99.30, 6216.00.10, 6216.00.34 and 6216.00.44 are each amended to read as follows: "Other gloves, mittens, and mitts, principally designed for sports use, including ski and snowmobile gloves, mittens, and mitts".

SEC. 1102. CERTAIN CHIPPER KNIFE STEEL PRODUCTS.

(a) IN GENERAL.—Subchapter IV of chapter 72 is amended by striking out subheadings 7226.91.10 and 7226.91.30 Harmonized Tariff Schedule of the United States and inserting in lieu thereof the following new subheadings, with the article description for subheading 7226.91.05 having the same degree of indentation as subheading 7226.91.50:

"	7226.91.05	Of chipper knife steel	Free		34%	
		Other:				
	7226.91.10	Of a width of 300 mm or more	9.6%	Free (E, IL) 7.6% (CA)	29%	
	7226.91.30	Of a width of less than 300 mm	11.6%	Free (E, IL) 9.2% (CA)	34%	".

(b) STAGED RATE REDUCTION.—Any staged rate reduction of a rate of duty set forth in subheadings 7226.91.10 and 7226.91.30 of the Harmonized Tariff Schedule of the United States that was proclaimed by the President before the date of enactment of this Act and is scheduled to take effect after the date of enactment of this Act shall take effect as provided in that proclamation.

SEC. 1103. BICYCLES HAVING 26-INCH WHEELS.

Heading 8712.00 is amended—

(1) by striking out "65 cm" each place it appears and inserting in lieu thereof "63.5 cm"; and

(2) by striking out "4 cm" in subheading 8712.00.20 and inserting in lieu thereof "4.13 cm".

SEC. 1104. EDIBLE MOLASSES CONTAINING NON-SUGAR SOLIDS.

Paragraphs (a)(i), (h)(i), and (ij) of Additional U.S. Note 3 to chapter 17 are each amended by striking out "1702.90.40,".

SEC. 1105. TOBACCO PROCESSED IN CARIBBEAN BASIN COUNTRY.

The Additional United States Notes for chapter 24 are amended by adding at the end thereof the following new note:

"5. For purposes of heading 2401, any tobacco grown in the United States, and any article of tobacco grown in the United States, that falls within any subheading of heading 2401 for which the rate of duty of 'Free' followed by the symbol 'E' appears in the special subcolumn of rate of duty column 1 and that—

"(a) has been processed, advanced in value, or improved in condition in a designated beneficiary country enumerated in general note 3(c)(v), and

"(b) is not processed, advanced in value, or improved in condition in any country other than such a designated beneficiary country or the United States,

shall, when imported directly from such a designated beneficiary country, be accorded duty-free entry as an eligible article for the purpose of the Caribbean Basin Economic Recovery Act.".

SEC. 1106. ARTICLES EXPORTED AND RETURNED.

The U.S. notes to subchapter II of chapter 98 are amended by adding at the end thereof the following new note:

"6. Notwithstanding the partial exemption from duties for the value of the metal product exported from the United States provided under subheading 9802.00.60, articles imported under subheading 9802.00.60 are subject to all other duties, and any other restrictions or limitations, imposed pursuant to title VII of the Tariff Act of 1930 (19 U.S.C. 1671, et seq.) or chapter 1 of title II, or chapter 1 of title III, of the Trade Act of 1974 (19 U.S.C. 2251, et seq., 19 U.S.C. 2411 et seq.).".

SEC. 1107. BROOMS.

Chapter 96 is amended—

(1) by inserting "wholly or in part" after "Whiskbrooms," in the superior article description for subheading 9603.10.10; and

(2) by inserting "wholly or in part" after "Other brooms," in the superior article description for subheading 9603.10.40.

SEC. 1108. FOLIAGE-TYPE ARTIFICIAL FLOWERS.

Subheading 6702.90.40 is amended by inserting "and foliage" after "Artificial flowers" in the article description.

PART 2—TEMPORARY CHANGES IN TARIFF TREATMENT

Subpart A—Existing Provisions

SEC. 1201. EXTENSION OF CERTAIN EXISTING PROVISIONS.

Each of the following headings is amended by striking out the date in the effective period column and inserting in lieu thereof "12/31/92":

(1) Heading 9902.08.07 (relating to fresh cantaloupes).

(2) Heading 9902.29.04 (relating to p-toluenesulfonyl chloride).

(3) Heading 9902.29.06 (relating to dicofol).

(4) Heading 9902.29.10 (relating to 6-hydroxy-2 naphthalenesulfonic acid and its sodium, potassium, and ammonium salts).

(5) Heading 9902.29.11 (relating to triethylene glycol dichloride).

(6) Heading 9902.29.13 (relating to 2,6-dichlorobenzaldehyde).

(7) Heading 9902.29.14 (relating to dinocap).

(8) Heading 9902.29.21 (relating to m-hydroxybenzoic acid).

(9) Heading 9902.29.22 (relating to d-6-methoxy-α-methyl-2-naphthaleneacetic acid and its sodium salt).

(10) Heading 9902.29.23 (relating to triphenyl phosphate).

(11) Heading 9902.29.24 (relating to 3-amino-3-methyl-1-butyne).

(12) Heading 9902.29.28 (relating to α,α,α,-trifluoro-o-toluidine).

(13) Heading 9902.29.30 (relating to 8-amino-1-naphthalenesulfonic acid and its salts).

(14) Heading 9902.29.31 (relating to 5-amino-2-(p-aminoanilino)benzenesulfonic acid).

(15) Heading 9902.29.33 (relating to 1-amino-8-hydroxy-3,6-naphthalenedisulfonic acid; and 4-amino-5-hydroxy-2,7-naphthalenedisulfonic acid, monosodium salt (H acid, monosodium salt)).

(16) Heading 9902.29.35 (relating to 6-amino-4-hydroxy-2-naphthalenesulfonic acid (gamma acid)).

(17) Heading 9902.29.38 (relating to 3,3'-dimethoxybenzidine (o-dianisidine) and its dihydrochloride).

(18) Heading 9902.29.40 (relating to 2-amino-5-nitrophenol).

(19) Heading 9902.29.43 (relating to 1-amino-2,4-dibromoanthraquinone).

(20) Heading 9902.29.44 (relating to 1-amino-4-bromo-2-anthraquinonesulfonic acid (bromamine acid) and its sodium salt).

(21) Heading 9902.29.47 (relating to 4-methoxyaniline-2-sulfonic acid).

(22) Heading 9902.29.49 (relating to benzethonium chloride).

(23) Heading 9902.29.51 (relating to N-(7-hydroxy-1-naphthyl)acetamide).

(24) Heading 9902.29.57 (relating to N,N-bis(2-cyanoethyl)aniline).

(25) Heading 9902.29.59 (relating to 2,2-bis(4-cyanatophenyl)propane).

(26) Heading 9902.29.60 (relating to triallate).

(27) Heading 9902.29.62 (relating to paraldehyde).

(28) Heading 9902.29.63 (relating to aminomethylphenylpyrazole).

(29) Heading 9902.29.64 (relating to amino-J-pyrazolone; methylphenylpyrazolone).

(30) Heading 9902.29.66 (relating to m-sulfamino-pyrazolone (m-sulfamidophenylmethylpyrazolone).

(31) Heading 9902.29.67 (relating to 3-methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-tolyl methyl pyrazolone)).

(32) Heading 9902.29.69 (relating to 3-methyl-5-pyrazolone).

(33) Heading 9902.29.71 (relating to barbituric acid).

(34) Heading 9902.29.74 (relating to terfenadone).

(35) Heading 9902.29.76 (relating to 2-n-octyl-4-isothiazolin-3-one and on mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants).

(36) Heading 9902.29.79 (relating to 2-amino-N-ethylbenzenesulfonanilide).

(37) Heading 9902.30.04 (relating to nicotine resin complex).

(38) Heading 9902.32.04 (relating to methylene blue).

(39) Heading 9902.36.06 (relating to metaldehyde).

(40) Heading 9902.38.06 (relating to mixtures of dinocap and application adjuvants).

(41) Heading 9902.38.07 (relating to mixtures of mancozeb and dinocap).

(42) Heading 9902.38.08 (relating to mixtures of maneb, zineb, mancozeb, and metiram).

(43) Heading 9902.38.10 (relating to mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, and stabilizers).

(44) Heading 9902.38.11 (relating to mixtures of dicofol and application adjuvants).

(45) Heading 9902.39.14 (relating to crosslinked polyvinylbenzyltrimethylammonium chloride).

(46) Heading 9902.40.11 (relating to bicycle tires, inner tubes, and rim strips).

(47) Heading 9902.51.01 (relating to certain wools).

(48) Heading 9902.61.00 (relating to certain knitwear fabricated in Guam).

(49) Heading 9902.70.13 (relating to certain kitchenware).

(50) Heading 9902.73.12 (relating to cable or inner wire for caliper brakes).

(51) Heading 9902.73.15 (relating to bicycle chains).

(52) Heading 9902.84.44 (relating to machines designed for heat-set, stretch texturing of continuous man-made fibers).

(53) Heading 9902.84.48 (relating to circular knitting machines and parts).

(54) Heading 9902.84.51 (relating to knitting needles).

(55) Heading 9902.85.12 (relating to generator lighting sets for bicycles).

(56) Heading 9902.87.14 (relating to caliper brakes).

SEC. 1202. CERTAIN HOSIERY KNITTING MACHINES.

Heading 9902.84.47 is amended—

(1) by striking out "12/31/90" and inserting in lieu thereof "12/31/92",

(2) by striking out "single cylinder fine gauge and all double cylinder" and inserting in lieu thereof "and parts thereof", and

(3) by striking out "or 8447.20.60" and inserting in lieu thereof ", 8447.20.60, or 8448.59.10".

SEC. 1203. PARTS AND ACCESSORIES OF COPYING MACHINES.

Heading 9902.90.90 is amended—

(1) by inserting "and accessories" after "Parts", and

(2) by striking out "12/31/90" and inserting in lieu thereof "12/31/92".

SEC. 1204. TOY JEWELRY, CERTAIN SMALL TOYS AND NOVELTY GOODS.

Heading 9902.71.13 is amended to read as follows:

"	9902.71.13	Toy jewelry provided for in subheading 7117.19.10, 7117.19.50, 7117.90.40 (except parts) or 7117.90.50 (except parts) valued not over 5¢ per piece; and articles (except parts) provided for in heading 9502, 9503, or 9504 or subheading 9505.90 (except balloons, marbles, dice, and diecast vehicles), valued not over 5¢ per unit	Free	No change	No change	On or before 12/31/92	".

SEC. 1205. JACQUARD CARDS.

(a) EXISTING SUSPENSION.—Heading 9902.48.23 is amended—

(1) by striking out "4823.90.85" in the article description and inserting in lieu thereof "3926.90.90, 4823.30.00, 4823.90.85,", and

(2) by striking "12/31/90" and inserting in lieu thereof "12/31/92".

(b) CARDS TO BE USED AS JACQUARD CARDS.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.27	Cards, not punched, suitable for use as, or in making, jacquard cards (provided for in subheading 3926.90.90, 4823.30.00, or 4823.90.85).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1206. C-AMINES.

Heading 9902.29.29 is repealed.

SEC. 1207. CORNED BEEF IN AIRTIGHT CONTAINERS.

Heading 9902.16.02 is amended—
(1) by striking out "3%" and inserting in lieu thereof "Free"; and
(2) by striking out "12/31/89" and inserting in lieu thereof "12/31/92".

SEC. 1208. MENTHOL FEEDSTOCKS.

Heading 9902.29.05 is amended—
(1) by striking out "20 percent" in the article description and inserting in lieu thereof "30 percent", and
(2) by striking out "12/31/90" and inserting in lieu thereof "12/31/92".

SEC. 1209. SURGICAL GOWNS AND DRAPES.

Heading 9902.62.10 is amended to read as follows:

"	9902.62.10	Spunlaced or bonded fiber fabric disposable gowns of manmade fibers for use in performing surgical procedures (provided for in subheading 6210.10.40) and spunlaced or bonded fiber fabric disposable surgical drapes of manmade fibers (provided for in subheading 6307.90.70).....	5.6%	No change (E*, IL) 3.3% (CA)	26.5%	On or before 12/31/92, except that in the case of goods originating in the territory of Canada, the effective period is on or before 12/31/98	".

Subpart B—New Provisions

SEC. 1301. CALCIUM ACETYLSALICYLATE (CALCIUM CARBASPIRIN).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.07	Calcium acetylsalicylate (provided for in subheading 2918.22.50).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1302. BENDIOCARB.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.08	2,2-Dimethyl-1,3-benzodioxol-4-yl methylcarbamate (Bendiocarb) (provided for in subheading 2932.90.10).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1303. CERTAIN GLASS BULBS.

Chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.70.11	Monochrome glass envelopes with both (1) gray, tinted skirted faceplates, and (2) either a video display diagonal of 14 inches and under or a transmission level of 37% or less (provided for in subheading 7011.20.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1304. OCTADECYL ISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence of the following new heading:

"	9902.30.09	Octadecyl isocyanate (provided for in subheading 2929.10.40)	Free	No change	No change	On or before 12/31/92	"

SEC. 1305. MOLTEN-SALT-COOLED ACRYLIC ACID REACTORS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.19	Molten-salt-cooled acrylic acid reactors and their associated parts, accessories, and equipment, imported as an entirety (provided for in subheading 8419.89.50, 8419.90.30, or 8419.90.90)	Free	No change	No change	On or before 12/31/92	".

SEC. 1306. DIMETHYLBENZYLIDENE SORBITOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.10	Dimethylbenzylidene sorbitol (provided for in subheading 2932.90.41)	Free	No change	No change	On or before 12/31/92	".

SEC. 1307. 4,4'-ISOPROPYLIDENEDICYCLOHEXANOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.11	4,4'-Isopropylidenedicyclohexanol (provided for in subheading 2906.19.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1308. SULFACHLOROPYRIDAZINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.12	Sulfachloropyridazine (provided for in subheading 2935.00.39)	Free	No change	No change	On or before 12/31/90	".

SEC. 1309. THIOTHIAMINE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.13	Thiothiamine hydrochloride (CAS No. 2443-50-7) (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1310. PARAMINE ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.14	1,4-Diaminobenzene-2-sulfonic acid (CAS No. 88-45-9) (provided for in subheading 2921.59.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1311. SUCRALFATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"	9902.30.57	Sucralfate (provided for in subheading 2940.00.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1312. ANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.16	Anthraquinone (provided for in subheading 2914.61.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1313. THEOBROMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.17	Theobromine (provided for in subheadings 2939.90.10 and 2939.90.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1314. CHLORHEXANONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.18	Chlorhexanone (provided for in subheading 2914.70.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1315. NAPHTHALIC ACID ANHYDRIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.19	Naphthalic acid anhydride (provided for in subheading 2917.39.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1316. K-ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.20	1-Amino-8-hydroxy-4, 6-naphthalene-disulfonic acid, monosodium salt (CAS No. 85294-32-2) (provided for in subheading 2922.21.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1317. BROENNER'S ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.21	2-Naphthylamine-6-sulfonic acid (CAS No. 93-00-5) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1318. D SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.22	2-Naphthylamine-1,5-disulfonic acid					

		and the monosodium salt (CAS Nos. 117-62-4 and 19532-03-07) (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1319. NEVILLE AND WINTER'S ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.23	1-Naphthol-4-sulfonic acid and the monosodium salt (CAS Nos. 84-87-7 and 6099-57-6) (provided for in subheading 2908.20.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1320. ANIS BASE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.24	3-Aminomethoxy-benzanilide (provided for in subheading 2924.29.25)	Free	No change	No change	On or before 12/31/92	".

SEC. 1321. NAPHTHOL AS TYPES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.25	3-Hydroxy-2-naphthanilide (CAS No. 92-77-3); 3-Hydroxy-2-naphtho-o-toluidide (CAS No. 135-61-5); 3-Hydroxy-2-naphtho-o-anisidide (CAS No. 135-62-6); 3-Hydroxy-2-naphtho-o-phenetidide (CAS No. 92-74-0); 3-Hydroxy-2-naphtho-4-chloro-2,5-dimethoxyanilide (CAS No. 4273-92-1); and N,N'-bis(acetoacetyl-o-toluidine) (CAS No. 91-96-3) (provided for in subheading 2924.29.14)	Free	No change	No change	On or before 12/31/92	".

SEC. 1322. CEFTAZIDIME TERTIARY BUTYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.60.10	(6R, 7R)-7-[(Z)-2-(2-Aminothiazol-4-yl)-2-[(2-tert-butoxycarbonyl)prop-2-oxyiminol acetamido]-3-(1-pyridinium-methyl)ceph-3-em-4-carboxylate (Ceftazidime tertiary butyl ester) (provided for in subheading 2934.90.25)	Free	No change	No change	On or before 6/30/92	".

SEC. 1323. CERTAIN PLASTIC WEB SHEETING.

Subchapter II of chapter 99 is amended—

(1) by adding at the end of the U.S. notes thereto the following new note:

"10. For purposes of heading 9902.56.03, the term 'nonwoven fiber sheet' means sheet comprising a highly uniform and random array of polyester fibers of 1.5 to 3.0 denier, thermally bonded and calendered into a smooth surface web having—

"(a) a thickness of 3.7 to 4.0 mils;

"(b) a basis weight of 2.5 oz. per sq. yd.;

"(c) a machine tensile strength of 30 lb. per sq. in. or greater;

"(d) a low cross-direction tensile (approximately ⅓ of MD tensile strength); and

"(e) a Frazier air permeability of 1.0 to 1.5 cfm per sq. ft."; and

(2) by inserting in numerical sequence the following new heading:

"	9902.56.03	Nonwoven fiber sheet (provided for in subheading 5603.00.90)	Free	No change	No change	On or before 12/31/92	".

SEC. 1324. MAGNETIC VIDEO TAPE RECORDINGS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.24	Video tape recordings of a width exceeding 6.5 mm but not exceeding 16 mm, in cassettes of United States origin as certified by the importers, and valued at not over $7.00 per pre-recorded cassette unit (provided for in subheading 8524.23.10)	Free	No change	No change	On or before 12/31/92	"

SEC. 1325. MIXED ORTHO/PARA TOLUENESULFONAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.26	Mixed ortho/para toluenesulfonamide (provided for in subheading 2935.00.47)	Free	No change	No change	On or before 12/31/92	"

SEC. 1326. 2,6-DICHLOROBENZONITRILE.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.27	2,6-Dichlorobenzonitrile (provided for in subheading 2926.90.10)	Free	No change	No change	On or before 12/31/92	"

(b) WITH INERTS.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.13	Mixtures of 2,6-dichlorobenzonitrile (90%) and inerts (up to 10%) (provided for in subheading 3808.30.10)	Free	No change	No change	On or before 12/31/92	"

SEC. 1327. 1-[1-((4-CHLORO-2-(TRIFLUOROMETHYL)PHENYL) IMINO)-2-PROPOXYETHYL]-1-H-IMIDAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.28	1-[1-((4-Chloro-2-(trifluoromethyl)phenyl)imino)-2-propoxyethyl]-1-H-imidazole (provided for in subheading 2933.29.30)	Free	No change	No change	On or before 12/31/92	"

SEC. 1328. CERTAIN CHRISTMAS ORNAMENTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.95.05	Christmas ornaments other than ornaments of glass or wood (provided for in subheading 9505.10.25)	Free	No change	No change	On or before 12/31/92	"

SEC. 1329. FROZEN CARROTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.07.10	Carrots, frozen (provided for in subheading 0710.80.70)	2.2¢/kg	No change	No change	On or before 12/31/92	"

SEC. 1330. IMPACT LINE PRINTERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.65	Impact line printers using band drive mechanisms and capable of printing speeds of not less than 1,300 lines per minute (provided for in subheading 8471.92.65)	No change	No change	3.75%	On or before 12/31/92	"

SEC. 1331. AMINO ACETANILIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.29	4-Amino acetanilide (CAS No. 122-80-5) (provided for in subheading 2924.29.45)	Free	No change	No change	On or before 12/31/92	"

SEC. 1332. 6 AMINO-2-NAPHTHENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.30	6-Amino-2-naphthalene sulfonic acid (CAS No. 93-00-5) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92	"

SEC. 1333. 8 AMINO-2 NAPHTHALENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.31	8-Amino-2-naphthalenesulfonic acid (CAS No. 119-28-8) (provided for in subheading 2921.45.20)	Free	No change	No change	On or before 12/31/92	"

SEC. 1334. 5 (AND 8) AMINO-2 NAPHTHALENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.32	Mixtures of 5- and 8-amino-2-naphthalenesulfonic acid (CAS No. 119-28-8) (provided for in subheading 2921.45.30)	Free	No change	No change	On or before 12/31/92	"

SEC. 1335. 5 AMINO-2 NAPHTHALENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.33	5-Amino-2-naphthalenesulfonic acid (CAS No. 119-79-9) (provided in subheading 2921.45.10)	Free	No change	No change	On or before 12/31/92	"

SEC. 1336. 1-NAPHTHYLAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.34	1-Naphthylamine (CAS No. 134-32-7) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92	"

SEC. 1337. 4 AMINO-1-NAPHTHALENE SULFONIC ACID, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.35	4-Amino-1-naphthalenesulfonic acid, sodium salt (CAS No. 130-13-2) (provided for in subheading 2921.45.20)	Free	No change	No change	On or before 12/31/92	"

SEC. 1338. 1,4 DIHYDROXYANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.36	1,4-Dihydroxyanthraquinone (CAS No. 81-64-1) (provided for in subheading 2914.69.50)	Free	No change	No change	On or before 12/31/92	"

SEC. 1339. 7 NITRO NAPHTH [1,2] OXADIAZOLE 5-SULFONIC.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.37	7-Nitronaphth-[1,2] oxadiazole-5-sulfonic acid (CAS No. 84-91-3) (provided for in subheading 2934.90.06)	Free	No change	No change	On or before 12/31/92	".

SEC. 1340. 4-CHLORO-α-α-α-TRIFLUORO-O-TOLUIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.38	4-Chloro-α,α,α-trifluoro-o-toluidine (CAS No. 445-03-4) (provided for in subheading 2921.43.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1341. 7-AMINO-1,3-NAPHTHALENESULFONIC ACID, MONOPOTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.39	7-Amino-1,3-naphthalenesulfonic acid, monopotassium salt (CAS No. 842-15-9) (provided for in subheading 2921.45.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1342. 2-AMINO-4-CHLOROPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.40	2-Amino-4-chlorophenol (CAS No. 95-85-2) (provided for in subheading 2922.29.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1343. 2,4-DIAMINO BENZENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.41	2,4-Diaminobenzene-sulfonic acid (CAS No. 88-63-1) (provided for in subheading 2921.50.51)	Free	No change	No change	On or before 12/31/92	".

SEC. 1344. 2,5 DICHLORO-4-(3-METHYL-5-OXO-2-PYRAZOLIN-1-YL) BENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.42	2,5-Dichloro-4-(3-methyl-5-oxo-2-pyrazolin-1-yl)-benzenesulfonic acid (CAS No. 84-57-1) (provided for in subheading 2933.19.424)	Free	No change	No change	On or before 12/31/92	".

SEC. 1345. 7-HYDROXY 1,3-NAPHTHALENE DISULFONIC ACID, DIPOTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.43	7-Hydroxy-1,3-naphthalene-disulfonic acid, dipotassium salt (CAS No. 842-18-2) (provided for in subheading 2908.20.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1346. O-ANISIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.44	o-Anisidine (CAS No. 90-04-0) (provided for in subheading 2922.22.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1347. 1-AMINO-2-BROMO-4-HYDROXYANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.45	1-Amino-2-bromo-4-hydroxy-anthraquinone (CAS No. 116-82-5) (provided for in subheading 2922.50.40)	Free	No change	No change	On or before 12/31/92	"

SEC. 1348. 2-CHLORO-4-NITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.46	2-Chloro-4-nitroaniline (CAS No. 121-87-9) (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/92	"

SEC. 1349. (1,3,3 TRIMETHYL-INDOLINE-2-YLIDENE) ACETALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.47	(1,3,3-Trimethyl-indoline-2-ylidene)-acetaldehyde (CAS No. 84-83-3) (provided for in subheading 2933.90.39)	Free	No change	No change	On or before 12/31/92	"

SEC. 1350. 2,3 DIHYDRO 1,3,3 TRIMETHYL-2-METHYLENE-1H-INDOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.48	2,3 Dihydro 1,3,3-Trimethyl-2-methylene-1H-indoline (CAS No. 118-12-7) (provided for in subheading 2933.90.39)	Free	No change	No change	On or before 12/31/92	"

SEC. 1351. 2[(4 AMINOPHENYL) SULFONYL] ETHANOL HYDROGEN SULFATE ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.49	2[(4-Aminophenyl)-sulfonyl]ethanol, hydrogen sulfate ester (CAS No. 2494-89-5) (provided for in subheading 2930.90.20)	Free	No change	No change	On or before 12/31/92	"

SEC. 1352. 7-ANILINO-4-HYDROXY-2 NAPHTHALENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.50	7-Anilino-4-hydroxy-2-naphthalenesulfonic acid (CAS No. 119-40-4) (provided for in subheading 2922.29.50)	Free	No change	No change	On or before 12/31/92	"

SEC. 1353. 1,4-DIAMINO-2,3 DIHYDROANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.51	1,4-Diamino-2,3-dihydro-anthraquinone (CAS No. 81-63-0) (provided for in subheading 2922.30.30)	Free	No change	No change	On or before 12/31/92	"

SEC. 1354. CASTOR OIL AND ITS FRACTIONS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.15.15	Castor oil and its fractions (provided for in subheading 1515.30.00)	Free	No change	No change	On or before 12/31/92	"

SEC. 1355. 0,0-DIMETHYL-S-[(4-OXO-1,2,3-BENZOTRIAZIN-3-(4H)-YL)METHYL] PHOSPHORODITHIOATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.52	0,0-Dimethyl-S-[(4-oxo-1,2,3-benzotriazin-3-(4H)-yl)methyl] phosphorodithioate (provided for in subheading 2933.90.18)	Free	No change	No change	On or before 12/31/92	".

SEC. 1356. SUSPENSION OF DUTY ON CERTAIN MACHINES FOR USE IN THE MANUFACTURE OF WHEELS FOR BICYCLES AND ON CERTAIN BICYCLE PARTS.

(a) MACHINES.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.79	Wheelbuilding, wheeltruing, rim punching, tire fitting and similar machines for use in the manufacture of wheels for bicycles (provided for in subheading 8479.89.90)	Free	No change	No change	On or before 12/31/92	".

(b) CERTAIN PARTS.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.87.15	Bicycle handlebar stems wholly of aluminum alloy, valued over $2.15 each (provided for in subheading 8714.99.90)	Free	No change	No change	On or before 12/31/92	
	9902.87.16	Bicycle handlebar stem rotor assemblies (provided for in subheading 8714.99.90)	Free	No change	No change	On or before 12/31/92	".

SEC. 1357. L-ALANYL - L-PROLINE, ALSO KNOWN AS ALA PRO.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.53	L-Alanyl-L-proline (provided for in subheading 2933.90.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1358. TFA LYS PRO IN FREE BASE AND TOSYL SALT FORMS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.54	Trifluoroacetyl-L-lysine-L-proline in free base and tosyl salt forms (provided for in subheadings 2922.49.50 and 2922.49.30, respectively)	Free	No change	No change	On or before 12/31/92	".

SEC. 1359. CERTAIN TIMING APPARATUS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.91.06	Apparatus for measuring, recording, or otherwise indicating intervals of time, with clock or watch movements, battery or AC powered and with opto-electronic display only (provided for in subheading 9106.90.80)	3.9% on the apparatus + 5.3% on the battery	No change	No change	On or before 12/31/92	".

SEC. 1360. CIPROFLOXACIN HYDROCHLORIDE, CIPROFLOXACIN, AND NIMODIPINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.30.55	Nimodipine (provided for in subheading 2933.39.35)	Free	No change	No change	On or before 12/31/92	
	9902.30.56	Ciprofloxacin and its hydrochloride salt (provided for in subheading 2933.59.27)	Free	No change	No change	On or before 12/31/92	".

SEC. 1361. CERTAIN FURNITURE AND SEATS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.94.01	Furniture, seats, and parts thereof, of cane, osier, bamboo or other similar materials, including rattan (provided for in subheadings 9401.50.00, 9401.90.25, 9403.80.30, or 9403.90.25)	Free	No change	No change	On or before 12/31/92	".

SEC. 1362. WICKER PRODUCTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.46.02	Wicker products (provided for in subheading 4602.10.11, 4602.10.13, 4602.10.19, 4602.10.40, or 4602.10.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1363. (6R-(6A,7B(Z)))-7-(((2-AMINO-4-THIAZOLYL)((CARBOXY-METHOXY) IMINO) ACETYL) AMINO)-3-ETHENYL-8-OXO-5-THIA-1-AZABICYCLO(4.2.0) OCT-2-ENE-2-CARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.58	(6R-(6A,7B(Z)))-7-(((2-Amino-4-thiazolyl)((carboxymethoxy)imino)acetyl)amino)-3-ethenyl-8-oxo-5-thia-1-azabicyclo(4.2.0)-oct-2-ene-2-carboxylic acid (provided for in subheading 2941.90.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1364. N-(4-(((2-AMINO-5-FORMYL-1,4,5,6,7,8-HEXAHYDRO-4-OXO-6-PTERIDINYL) METHYL)AMINO)BENZOYL)-L-GLUTAMIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.59	N-(4-(((2-Amino-5-formyl-1,4,5,6,7,8-hexahydro-4-oxo-6-pteridinyl)methyl)amino)benzoyl)-L-glutamic acid (provided for in subheading 2936.29.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 1365. (1)3-QUINOLINECARBOXYLIC ACID, 1-ETHYL-6-FLUORO-1,4-DIHYDRO-4-OXO-7-(1-PIPERAZINYL)-, ALSO KNOWN AS NORFLOXACIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.60	1-Ethyl-6-fluoro-1,4-dihydro-4-oxo-7-(1-piperazinyl)(1) 3-quinolinecarboxylicacid (Norfloxacin) (provided for in subheading 2933.59.27)	Free	No change	No change	On or before 12/31/92	".

SEC. 1366. 2,2-DIMETHYLCYCLOPROPYLCARBOXAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.61	2,2-Dimethylcyclopropyl-carboxamide (provided for in subheading 2924.29.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1367. N-AMIDINO-3,5-DIAMINO-6-CHLOROPYRAZINECARBOXAMIDE MONOHYDROCHLORIDE DIHYDRATE, ALSO KNOWN AS AMILORIDE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.62	N-Amidino-3,5-diamino-6-chloropyrazinecarboxamide, monohydrochloride dihydrate (Amiloride hydrochloride) (provided for in subheading 2933.90.36)	Free	No change	No change	On or before 12/31/92	".

SEC. 1368. CHEMICAL LIGHT ACTIVATOR BLEND.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.63	Mixtures of dimethyl phthalate, t-butanol, hydrogen peroxide, and sodium salicylate (provided for in subheading 3823.90.29)	Free	No change	No change	On or before 12/31/92	".

SEC. 1369. GRIPPING NARROW FABRICS.

Subchapter II of chapter 99 is amended by inserting in inserting in numerical sequence the following new heading:

"	9902.58.06	Fastener fabric tapes of man made fibers (provided for in subheading 5806.10.20)	7%	No change	No change	On or before 12/31/92	".

SEC. 1370. BPIP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.64	N,N'-Bis(2,2,6,6-tetramethyl-4-piperadinyl)-1,6-hexanediamine (CAS No. 612-55-7) (provided for in subheading 2933.39.47)	Free	No change	No change	On or before 12/31/92	".

SEC. 1371. MBEP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.65	Monobutyl-p-ethylphenol (provided for in subheading 2907.19.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1372. 2-ETHYLANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.66	2-Ethylanthraquinone (provided for in subheading 2914.69.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1373. RHODAMINE 2C BASE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.67	Rhodamine 2C base (CAS No. 41382-37-0) (provided for in subheading 2932.90.45)	Free	No change	No change	On or before 12/31/92	".

SEC. 1374. POLYMIN P AND POLYMIN P HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.11	Polymin P and Polymin P hydrochloride (provided for in subheading 3911.90.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1375. POLYMIN SNA 60.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.12	Polymin SNA 60 (CAS No. 28825-79-8) (provided for in subheading 3911.90.30)	Free	No change	No change	On or before 12/31/92	".

SEC. 1376. ORNITHINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.68	L-Ornithine, ethyl ester (L-2,5-Diamino-pentanoic acid) (CAS No. 84772-29-2) (provided for in subheading 2922.49.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1377. TEICOPLANIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.69	Teicoplanin (provided for in subheading 3003.20.00 or 3004.20.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1378. ACETOACET-PARA-TOLUIDIDE (AAPT).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.70	Acetoacet-para-toluidide (AAPT) (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/92	".

SEC. 1379. ACETOACETSULFANILIC ACID, POTASSIUM SALT (AA SULFANILIC ACID POTASSIUM SALT).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.71	Acetoacetsulfanilic acid, potassium salt (AA SULFANILIC ACID POTASSIUM SALT) (provided for in subheading 2924.29.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 1380. 6-METHYLURACIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.72	6-Methyluracil (provided for in subheading 2933.59.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1381. ETHYL 2-(2-AMINOTHIAZOLE-4-YL)-2-HYDROXYIMINO- ACETATE (ATHAET).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.73	Ethyl 2-(2-aminothiazole-4-yl)-2-hydroxyiminoacetate (ATMAET) (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1382. ETHYL 2-(2-AMINOTHIAZOLE-4-YL)-2-METHOXYIMINO- ACETATE (ATMAET).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.74	Ethyl 2-(2-aminothiazole-4-yl)-2-methoxyiminoacetate (ATMAET) (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1383. 4,4'-METHYLENE-BIS-(2,6-DIMETHYLPHENYLCYANATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.75	4,4'-Methylenebis-(2, 6-dimethylphenylcyanate) (provided for in subheading 2907.29.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1384. 2,2'-BIS(4-CYANATOPHENYL-1,1,1,3,3,3-HEXAFLUOROPROPANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.76	2,2'-Bis(4-cyanatophenyl)-1,1,1,3,3,3-hexafluoropropane (provided for in subheading 2929.90.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1385. 4,4'-THIODIPHENYL CYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.77	4,4'-Thiodiphenyl cyanate (provided for in subheading 2930.90.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 1386. 1,1-ETHYLIDENE-BIS-(PHENYL-4-CYANATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.78	1,1-Ethylidene-bis-(phenyl-4-cyanate) (provided for in subheading 2929.90.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1387. HYDROCARBON NOVOLAC CYANATE ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.79	Hydrocarbon novolac cyanate ester (provided for in subheading 3911.90.30)	Free	No change	No change	On or before 12/31/92	".

SEC. 1388. 4,4'-METHYLENE-BIS-(3-CHLORO-2,6-DIETHYL ANILINE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.80	4,4'-Methylene-bis-(3-chloro-2,6-diethylaniline) (provided for in subheading 2921.42.30)	Free	No change	No change	On or before 12/31/92	".

SEC. 1389. 4,4'-METHYLENE-BIS-(2,6-DIISOPROPYL ANILINE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.81	4,4'-Methylene-bis-(2,6-diisopropyl-aniline) (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1390. L-CARNITINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.82	L-Carnitine (provided for in subheading 2923.90.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1391. DIPHENOLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.83	4,4-Bis(4-hydroxyphenyl)pentanoic acid (CAS No. 126-00-1) (provided for in subheading 2918.29.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 1392. 2,6-HNA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.84	6-Hydroxy-2-naphthoic acid (provided for in subheading 2918.29.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1393. ADC-6.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.85	3-Amino-2-(1-hydroxyethyl)-pentanedioic acid, 5-methyl ester (provided for in subheading 2922.50.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1394. DIFLUNISAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.86	2',4'-Difluoro-4-hydroxy-3-biphenylcarboxylic acid (Diflunisal) (provided for in subheading 2918.29.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 1395. TRIFLUOROMETHYLANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.87	3-(Trifluoromethyl-aniline (CAS No. 98-16-8) (m-Aminobenzotrifluoride) (provided for in subheading 2921.43.50)	Free	No change	No change	On or before 12/31/90	".

SEC. 1396. TAMOXIFEN CITRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.88	Tamoxifen citrate (provided for in subheading 2922.19.10)	Free	No change	No change	On or before 12/31/92	"

SEC. 1397. FENOFIBRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.89	2-[4-(4-Chlorobenzoyl)phenoxy]-2-methylpropanoic acid, isopropyl ester (Fenofibrate) (provided for in subheading 3004.90.60)	Free	No change	No change	On or before 12/31/92	"

SEC. 1398. 6-T-BUTYL 2,4 XYLENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.90	6-t-Butyl-2,4-xylenol (provided for in subheading 2907.19.50)	Free	No change	No change	On or before 12/31/92	"

SEC. 1399. 2,4-DIAMINO-6-PHENYL-1,3,5-TRIAZINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.91	2,4-Diamino-6-phenyl-1,3,5-triazine (provided for in subheading 2933.69.00)	Free	No change	No change	On or before 12/31/92	"

SEC. 1400. IOPAMIDOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.92	Iopamidol (provided for in subheading 2924.29.40)	Free	No change	No change	On or before 9/30/91	"

SEC. 1401. IOHEXOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.93	N,N'-Bis(2,3-dihydroxypropyl)-5-[N-(2,3-dihydroxypropyl)-acetamido]-2,4,6-triiodoisophthalamide (Iohexol) (provided for in subheading 2924.29.40)	Free	No change	No change	On or before 9/30/91	"

SEC. 1402. p-HYDROXYBENZALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.94	p-Hydroxybenzaldehyde (provided for in subheading 2912.49.20)	Free	No change	No change	On or before 12/31/92	"

SEC. 1403. IOXAGLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.95	N-(2-Hydroxyethyl)-2,4,6-triiodo-5-[2-(2,4,6-triiodo-3-(N-methylacetamido)-5-(methylcarbamoyl)benzamido)acetamido]-isophthalamic acid (Ioxaglic acid) (provided for in subheading 2924.29.40)	Free	No change	No change	On or before 9/30/91	"

SEC. 1404. 7-ACETYL-1,1,3,4,4,6-HEXAMETHYLTETRAHYDRONAPHTHALENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.96	7-Acetyl-1,1,3,4,4,6-hexamethyltetrahydronaphthalene (provided for in subheading 2914.30.00)	Free	No change	No change	On or before 12/31/92	"

SEC. 1405. MODELING PASTES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.34.07	Modeling pastes (provided for in subheading 3407.00.00)	Free	No change	No change	On or before 12/31/92	"

SEC. 1406. MERCURIC OXIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.28.25	Mercuric oxide (provided for in subheading 2825.90.60)	Free	No change	No change	On or before 12/31/92	"

SEC. 1407. 2,3,6-TRIMETHYLPHENOL (TMP).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.97	2,3,6-Trimethylphenol (provided for in subheading 2907.29.30)	Free	No change	No change	On or before 12/31/92	"

SEC. 1408. PROTECTIVE SPORTS APPAREL.

Subchapter II of chapter 99 is amended—

(1) by adding at the end of the U.S. notes thereto the following:

"11. The general column 1 rate of duty for articles provided for under heading 9902.-62.01 is a rate equal to the column 1 rate of duty that would have applied to such articles under the Tariff Schedules of the United States on the day before the effective date of this schedule.", and

(2) by inserting in numerical sequence the following new heading:

"	9902.62.01	Ice hockey pants, field hockey pants, and articles provided for under subheading 6201.93 or 6203.43 which because of their design, fabric, construction and special features provide protection to athlete participants against the hazards of a sport such as injury from blows, falls, flying objects, road burns, or fire	The rates of duty prescribed in U.S. note 11 to the subchapter	No change	No change	On or before 12/31/92	".

SEC. 1409. 1,5 NAPHTHALENE DIISOCYANATE.

Subchapter II of Chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.98	1,5-Naphthalene diisocyanate (provided for in subheading 2929.90.10)	Free	No change	Free	On or before 12/31/92	".

SEC. 1410. SELF-FOLDING TELESCOPIC SHAFT, COLLAPSIBLE UMBRELLAS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.66.01	Self-folding telescopic shaft, collapsible umbrellas chiefly used for protection against rain (provided for in subheading 6601.91.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1411. 1,6-HEXAMETHYLENE DIISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.99	1,6-Hexamethylene diisocyanate (provided for in subheading 2929.10.50)	7.9%	No change (E,IL) Free (CA)	No change	On or before 12/31/92	".

SEC. 1412. CERTAIN IN-LINE ROLLER SKATE BOOTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.64.02	Skating boots (provided for in subheading 6402.19.10) actually used in the manufacture of in-line roller skates	Free	No change	No change	On or before 12/31/92	".

SEC. 1413. CERTAIN VENEER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.44.21	Manmade or recomposed wood veneer not exceeding 6 mm in thickness, sliced from a block composed of wood veneer sheets produced from logs and flitches (provided for in subheading 4421.90.90	Free	No change	No change	On or before 12/31/92	".

SEC. 1414. p-TOLUALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.00	p-Tolualdehyde (provided for in subheading 2912.29.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1415. DILTIAZEM HYDROCHLORIDE, AND SUSTAINED RELEASE DILTIAZEM HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.31.01	Diltiazem hydrochloride (provided for in subheading 2934.90.25, 3003.90.00, or 3004.90.60)	Free	No change	No change	On or before 12/31/92	".

SEC. 1416. CLENTIAZIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.04	(+)-cis-(2s, 3s)-3-(Acetoxy)-8-chloro-5-[2-(dimethylamino) ethyl]-2,3-dihydro-2-(4-methodoxyphenyl)-1,5-benzothiazepin-4(5H) one maleate (provided for in subheading 2934.90.25)	Free	No change	No change	On or before 12/31/92	".

SEC. 1417. PERSONAL EFFECTS AND EQUIPMENT OF PARTICIPANTS AND OFFICIALS INVOLVED IN THE 1990 GOODWILL GAMES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.98.00	Personal effects of aliens who are participants in or officials of the 1990 Goodwill Games, or who are accredited members of delegations thereto, or who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with such games, and other related articles as prescribed by the Secretary of the Treasury	Free		Free	On or before 9/30/90	".

SEC. 1418. COPPER ACETATE MONOHYDRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.05	Copper acetate monohydrate (provided for in subheading 2915.29.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1419. PARTS OF GENERATORS FOR USE ON AIRCRAFT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.03	Parts of generators suitable for use on aircraft (provided for in subheading 8504.40.00 or 8525.20.20)	Free	No change	No change	On or before 12/31/92	."

SEC. 1420. CERTAIN INFANT NURSERY MONITORS AND INTERCOMS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.85.25	Infant nursery intercommunication systems, each consisting in the same package of a pair of transceivers operating on frequencies from 49.82 to 49.90 mHz and an electrical adapter (provided for in subheading 8504.40.00 or 8525.20.20)	Free	No change	No change	On or before 12/31/92	
	9902.85.26	Infant nursery monitor systems, each consisting in the same package of a radio transmitter, an electrical adapter, and a radio receiver (provided for in subheading 8504.40.00, 8525.10.60, or 8527.39.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1421. CERTAIN GLASS FIBERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.70.19	Fiberglass rubber reinforcing cord or yarn made from electrically nonconductive continuous fiberglass filaments 9 microns in diameter or 10 microns in diameter and impregnated with resorcinol formaldehyde latex treatment for adhesion to polymeric compounds (provided for in subheading 7019.10.10, 7019.10.20, or 7019.10.60)	Free	No change	No change	On or before 12/31/92	
	9902.70.20	Fiberglass tire cord fabric woven from electrically nonconductive continuous fiberglass filaments 9 microns in diameter or 10 microns in diameter and impregnated with resorcinol formaldehyde latex treatment for adhesion to polymeric compounds (provided for in subheading 7019.20.10, 7019.20.20, or 7019.20.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1422. THREE-DIMENSIONAL CAMERAS.

Subchapter II of chapter 99 is amended by adding in numerical sequence the following new heading:

"	9902.90.06	Cameras incorporating 4 fixed lenses which together are capable of producing a 3-dimensional effect (provided for in subheading 9906.53.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1423. PERSONAL EFFECTS AND EQUIPMENT FOR WORLD UNIVERSITY GAMES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.98.03	Personal effects of aliens who are participants in, or officials of, the 1993 World University Games, or who are accredited members of delegations thereto, or who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with such games, and such other related articles as may be prescribed by the Secretary of the Treasury	Free	No change	Free	On or before 9/30/93	".

SEC. 1424. KARATE PANTS AND BELTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.62.04	Karate pants and karate belts (provided for in subheading 6203.42.40, 6203.43.40, 6204.62.40, 6204.63.35, or 6217.10.00)	8%	No change	No change	On or before 12/31/92	".

SEC. 1425. METALLURGICAL FLUOROSPAR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.25.29	Fluorospar containing by weight 97 percent or less of calcium fluoride (provided for in subheading 2529.21.00)	Free	No change	No change	On or before 12/31/92	"

SEC. 1426. CERTAIN PISTON ENGINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.07	Internal combustion piston-type engines, of a cylinder capacity exceeding 50 cc but not exceeding 1,000 cc (provided for in subheading 8407.32.20 or 8407.33.20), to be installed in vehicles specifically designed for traveling on snow, golf carts, non-amphibious all-terrain vehicles, and burden carriers, (provided for in subheading 8703.10.00, 8703.21.00, or 8704.31.00)	Free	No change	No change	On or before 12/31/92	"

SEC. 1427. QUIZALOFOP-ETHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.06	2-[4-[(6-Chloro-2-quinoxalinyl)oxy]-phenoxy]propionic acid, ethyl ester (Quizalofop-ethyl) (provided for in subheading 2933.90.20)	Free	No change	No change	On or before 12/31/92	"

SEC. 1428. INSULATED WINDING WIRE CABLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.44	Self-contained fluid filled submarine cable of 345 kilovolts (provided for in subheading 8544.60.40)	Free	No change	No change	On or before 12/31/91	"

SEC. 1429. DIPHENYLDICHLOROSILANE AND PHENYLTRICHLOROSILANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.07	Diphenyldichlorosilane and phenyltrichlorosilane (provided for in subheading 2931.00.40)	Free	No change	No change	On or before 12/31/92	"

SEC. 1430. THEATRICAL, BALLET, AND OPERATIC SCENERY, PROPERTIES, AND SETS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.44.22	Theatrical, ballet, and operatic scenery and properties, including sets (provided for in subheading 4421.90.90, 5907.00.10, 5907.00.90, 9701.10.00, 9706.00.00, or 9813.00.65)	Free	No change	No change	On or before 12/31/92	"

SEC. 1431. 4-FLUORO-3-PHENOXY BENZALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.08	4-Fluoro-3-phenoxy benzaldehyde (provided for in subheading 2913.00.10)	Free	No change	No change	On or before 12/31/92	".

PART 3—EFFECTIVE DATES

SEC. 1601. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1990, and before April 1, 1991, any entry—

(A) which was made after the applicable date and before October 1, 1990, and

(B) with respect to which there would have been no duty, or a lesser duty, if any amendment made by section 1102, 1103, 1108, 1201(53), 1203, 1207, 1305, 1324, 1325, 1329, 1330, 1359, 1369, 1411, 1412, 1419, 1426, or 1430 applied to such entry,

shall be liquidated or reliquidated as though such amendment applied to such entry.

(2) For purposes of this section—

(A) The term "applicable date" means—

(i) if the amendment described in paragraph (1)(B) is made by section 1412, April 30, 1986,

(ii) if such amendment is made by section 1324, December 31, 1987,

(iii) if such amendment is made by section 1330, October 1, 1988,

(iv) if such amendment is made by section 1102, 1103, 1108, 1203, 1325, 1329, 1359, 1369, 1411, 1419, or 1426, December 31, 1988,

(v) if such amendment is made by section 1305, July 1, 1989,

(vi) if such amendment is made by section 1201(53) or 1207, December 31, 1989, and

(vii) if such amendment is made by section 1430, January 31, 1990.

(B) The term "entry" includes any withdrawal from warehouse.

(c) BROOMS.—The amendments made by section 1107 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

Subtitle B—Miscellaneous Provisions

SEC. 1701. CERTAIN FORGINGS.

Notwithstanding sections 304 and 514 of the Tariff Act of 1930 or any other provision of law, the Secretary of the Treasury, within 180 days after the date of the enactment of this Act, shall, upon request filed with the appropriate customs officer, reliquidate entries numbered 85414397-7, 85414495-0, 85414647-9, 85414649-5, 85414983-2, 85414995-5, 85415031-3, 85415122-8, 85415244-7, 85415496-6, 85415619-7, 85415683-8, and 85415828-9, filed at the Port of Portland, Oregon, and, upon such reliquidation, shall refund the additional marking duties that were collected upon such entries pursuant to such section 304.

SEC. 1702. BI-LEVEL RAIL PASSENGER CARS.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Secretary of the Treasury shall admit free of duty each bi-level rail passenger car that was—

(1) entered after March 14, 1988, and before January 1, 1989, and classified under item 690.15 of the Tariff Schedules of the United States; and

(2) designed for, and is for the use of, the Department of Transportation of the State of Florida.

If the liquidation of the entry of any such rail car has become final before the date of the enactment of this Act, the entry shall, notwithstanding any other provision of law, be reliquidated in accordance with the provisions of this Act and any duties paid with respect to such entry shall be refunded.

SEC. 1703. CERTAIN EXTRACORPOREAL SHOCK WAVE LITHOTRIPTER.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon request filed with the appropriate customs officer within 180 days after the date of enactment of this Act, entry numbered 86-707943-6, dated November 10, 1985, shall be reliquidated as duty-free and any duties paid with respect to such entry shall be refunded.

SEC. 1704. FOREIGN TRADE ZONES.

Section 3(b) of the Act of June 18, 1934 (19 U.S.C. 81c(b)), is amended by striking out "before January 1, 1991" and inserting in lieu thereof "on or before December 31, 1992".

SEC. 1705. CERTAIN ENTRIES OF DIGITAL PROCESSING UNITS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, any entry of a processing unit that—

(1) was entered under item 676.15 or 676.54 of the Tariff Schedules of the United States;

(2) would not, if classified under item 675.15, have been subject to temporary duties under item 945.83 or 945.84 of the Appendix to such Schedules; and

(3) was made after January 16, 1986, and before July 2, 1987;

shall be liquidated or reliquidated as free of duty and the Secretary of the Treasury shall refund any duties paid with respect to such entry.

(b) PROCESSING UNIT.—For purposes of this section, the term "processing unit" means a digital processing unit for an automated data processing machine, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon.

SEC. 1706. NUCLEAR MAGNETIC SPECTROMETER.

The Secretary of the Treasury shall admit free of duty a Phillips Medical Systems 4 tesla nuclear magnetic resonance (NMR) spectrometer for the use of the University of Alabama at Birmingham. If the liquidation of the entry of the spectrometer becomes final before the date of the enactment of this Act, the Secretary of the Treasury, notwithstanding any other provisions of law, shall—

(1) within 15 days after such date, reliquidate the entry in accordance with the provisions of this Act, and

(2) at the time of such reliquidation, make the appropriate refund of any duty paid with respect to the entry.

SEC. 1707. FOREIGN REPAIR OF VESSELS.

(a) IN GENERAL.—Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by adding at the end thereof the following new subsection:

"(h) The duty imposed by subsection (a) of this section shall not apply to—

"(1) the cost of any equipment, or any part of equipment, purchased for, or the repair parts or materials to be used, or the expense of repairs made in a foreign country with respect to, LASH (Lighter Aboard Ship) barges documented under the laws of the United States and utilized as cargo containers, or

"(2) the cost of spare repair parts or materials (other than nets or nettings) which the owner or master of the vessel certifies are intended for use aboard a cargo vessel, documented under the laws of the United States and engaged in the foreign or coasting trade, for installation or use on such vessel, as needed, in the United States, at sea, or in a foreign country, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to—

(1) any entry made before the date of enactment of this Act that is not liquidated on the date of enactment of this Act, and

(2) any entry made—

(A) on or after the date of enactment of this Act, and

(B) on or before December 31, 1992.

SEC. 1708. CERTAIN METHANOL ENTRIES.

Notwithstanding section 514 or 520 of the Tariff Act of 1930 or any other provision of law, the Secretary of the Treasury shall—

(1) reliquidate as free of duty—

(A) Entry No. 85322102-3, dated June 21, 1985, and

(B) Entry No. 85603168-9, dated September 20, 1985,

made at New York, New York, that consists of methanol, and

(2) refund any duties paid with respect to such entries,

if the appropriate certification of actual use for such entries is submitted to the appropriate customs officer by no later than the date that is 180 days after the date of enactment of this Act.

SEC. 1709. CERTAIN FROZEN VEGETABLES.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon request filed with the appropriate customs officer within 180 days after the date of enactment of this Act, the Secretary of the Treasury shall—

(1) liquidate or reliquidate as free of duty any entry, or withdrawal from warehouse for consumption, made after December 31, 1989, and before May 1, 1990, of—

(A) cut and frozen green beans (provided for in subheading 0710.22.40 of the Harmonized Tariff Schedule of the United States), or

(B) frozen and off the cob whole kernel sweet corn (provided for in subheading 0710.40.00 of such Schedule),

that is the product of a foreign country to which nondiscriminatory (most-favored-nation) trade treatment applies, and

(2) refund any duties paid with respect to such entry or withdrawal.

SEC. 1710. CERTAIN FILMS AND RECORDINGS.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon request filed with the appropriate customs officer within 180 days of the date of enactment of this Act, any entry, or withdrawal from warehouse for consumption, of any article described in items 960.50 through 960.70 of the Appendix to the Tariff Schedules of the United States (as in effect on August 11, 1985) which was made after August 11, 1985, and before January 1, 1987, shall be liquidated or reliquidated as though such entry or withdrawal had been made on August 11, 1985 and the Secretary of the Treasury shall make the appropriate refund of any duties paid with respect to such entry or withdrawal.

SEC. 1711. CERTAIN DISTILLED SPIRITS IN FOREIGN TRADE ZONES.

Subsection (c) of section 3 of the Act of June 18, 1934 (48 Stat. 999, chapter 590; 19 U.S.C. 81c(c)) is amended—

(1) by striking out "domestic" before "denatured distilled spirits",

(2) by inserting "which have been withdrawn free of tax from a distilled spirits plant (within the meaning of section 5002(a)(1) of the Internal Revenue Code of 1986)" after "distilled spirits",

(3) by striking out "Notwithstanding" and inserting in lieu thereof "(1) Notwithstanding",

(4) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of the fifth proviso of subsection (a), distilled spirits which have been removed from a distilled spirits plant (as defined in section 5002(a)(1) of the Internal Revenue Code of 1986) upon payment or determination of tax may be used in the manufacture of production of medicines, medicinal preparation, food products, flavors, or flavoring extracts, which are unfit for beverage purposes, in a zone. Such products will be eligible for drawback under the internal revenue laws under the same conditions applicable to similar manufacturing or production operations occurring in customs territory.".

SEC. 1712. RELIQUIDATION OF CERTAIN ENTRIES AND REFUND OF ANTIDUMPING DUTIES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law—

(1) the entries listed in subsection (b) shall be reliquidated within 180 days after the date of enactment of this Act,

(2) the importer of record of the entries shall not be liable for antidumping duties, and

(3) if any antidumping duties have been paid on the entries, either through liquidation or compromise under section 617 of the Tariff Act of 1930 (19 U.S.C. 1617), the Secretary of the Treasury shall refund the antidumping duties within 180 days after the date of enactment of this Act.

(b) APPLICABLE ENTRIES.—The entries referred to in subsection (a) are the following entries made at the port of New Orleans, Louisiana:

Entry Number	Date of Entry
74-222089	May 7, 1974.
74-225275	June 17, 1974.
76-237223	July 9, 1976.
76-247178	October 1, 1976.
79-251251	September 11, 1979.
80-223851	October 9, 1979.
80-224447	November 27, 1979.
80-224448	November 27, 1979.
80-225842	April 29, 1980.
80-225843	April 29, 1980.
80-225844	April 29, 1980.
80-225845	April 29, 1980.
80-226742	August 13, 1980.
80-226743	August 13, 1980.

SEC. 1713. SUBSTITUTION OF CRUDE PETROLEUM OR PETROLEUM DERIVATIVES.

(a) IN GENERAL.—

(1) Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended by adding at the end thereof the following new subsection:

"(p)(1) When the articles manufactured or produced under subsection (a) or (b), or duty paid imported articles, are stored in common storage with other articles of the same kind and quality that were otherwise manufactured or produced, drawback shall be paid on the articles withdrawn for export from such common storage (regardless of the source or origination of the articles withdrawn) if—

"(A) inventory records on a monthly basis (not daily or transaction by transaction) demonstrate sufficient quantities of imported duty-paid articles, or articles manufactured or produced under subsection (a) or (b), in the common storage against which such withdrawal shall be designated;

"(B) the drawback paid does not exceed the amount of drawback that would be payable hereunder had all of the articles withdrawn from common storage been imported and duty-paid, or manufactured or produced under subsection (a) or (b); and

"(C) certificates of delivery, or certificates of manufacture and delivery, establishing the drawback eligibility of the imported duty-paid articles, or articles manufactured or produced under subsection (a) or (b), when required, are filed with the drawback entry.

"(2) For purposes of this section, the term 'common storage' includes all articles of the same kind and quality stored in an area regardless of the number of bins, tanks, or other containers utilized.".

(2) The amendment made by this subsection shall apply to all drawback entries which were liquidated, under protest or in litigation, in accordance with C.S.D. 88-1, or relevant predecessor decision letter versions thereof, and shall be reliquidated in accordance with such amendment.

(b) DRAWBACK ON SUPPLIES.—Subsection (b) of section 309 of the Tariff Act of 1930 (19 U.S.C. 1309) is amended by inserting "imported articles," after "foreign-trade zone,".

TITLE II—CARIBBEAN BASIN ECONOMIC RECOVERY

SEC. 2001. SHORT TITLE.

This title may be cited as the "Caribbean Basin Economic Recovery Expansion Act of 1990".

SEC. 2002. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) a stable political and economic climate in the Caribbean region is necessary for the development of the countries in that region and for the security and economic interests of the United States;

(2) the Caribbean Basin Economic Recovery Act was enacted in 1983 to assist in the achievement of such a climate by stimulating the development of the export potential of the region; and

(3) the commitment of the United States to the successful development of the region, as evidenced by the enactment of the Caribbean Basin Economic Recovery Act, should be reaffirmed, and further strengthened, by amending that Act to improve its operation.

SEC. 2003. REPEAL OF TERMINATION DATE ON DUTY-FREE TREATMENT UNDER THE ACT.

Section 218(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2706(b)) is repealed.

SEC. 2004. WORKER RIGHTS.

Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended—

(1) by striking out "and" after the semicolon at the end of subsection (b)(5);

(2) by striking out the period at the end of subsection (b)(6) and inserting "; and";

(3) by adding at the end of subsection (b) the following new paragraph:

"(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).";

(4) by amending the last sentence in subsection (b) by striking out "and (5)" and inserting "(5), and (7)"; and

(5) by amending subsection (c)(8) to read as follows:

"(8) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.".

SEC. 2005. REPORTS.

Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended by adding at the end thereof the following new subsection:

"(f) On or before October 1, 1993, and the close of each 3-year period thereafter, the President shall submit to the Congress a complete report regarding the operation of this title.".

SEC. 2006. INCREASE IN DUTY-FREE TOURIST ALLOWANCES.

(a) DUTY-FREE ALLOWANCE FOR RETURNING RESIDENTS.—Subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) by inserting the following new note at the end of the notes to such subchapter:

"4. As used in subheadings 9804.00.70 and 9804.00.72, the term 'beneficiary country' means a country listed in general note 3(c)(v)(A).";

(2) by striking out "subheading 9804.00.65 or 9804.00.70" and all that follows thereafter in the superior article description to subheadings 9804.00.65 and 9804.00.70 and inserting "subheadings 9804.00.65, 9804.00.70, and 9804.00.72 within 30 days preceding his arrival, and claims exemption under only one of such items on his arrival.";

(3) by striking out "$800" in subheading 9804.00.70 and inserting "$1,200";

(4) by inserting "or up to $600 of which have been acquired in one or more beneficiary countries" before the parenthetical matter in subheading 9804.00.70; and

(5) by inserting after subheading 9804.00.70 the following new subheading with the article description for the new subheading having the same degree of indentation as subheading 9804.00.70:

"	9804.00.72	Articles whether or not accompanying a person, not over $600 in aggregate fair market value in the country of acquisition, including— (a) but only in the case of an individual who has attained the age of 21, not more than 1 liter of alcoholic beverages or not more than 2 liters if at least one liter is the product of one or more beneficiary countries, and (b) not more than 200 cigarettes, and not more than 100 cigars, if such person arrives directly from a beneficiary country, not more than $400 of which shall have been acquired elsewhere than in beneficiary countries (but this item does not permit the entry of articles not accompanying a person which were acquired elsewhere than in beneficiary countries)	Free		Free	."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to residents of the United States who depart from the United States on or after the 15th day after the date of the enactment of this Act.

SEC. 2007. DUTY-FREE TREATMENT FOR ARTICLES ASSEMBLED IN BENEFICIARY COUNTRIES FROM COMPONENTS PRODUCED IN THE UNITED STATES.

(a) IN GENERAL.—U.S. Note 2 of subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking out "2. Any" and inserting "2. (a) Except as provided in paragraph (b), any"; and

(2) by adding at the end thereof the following new paragraph:

"(b) No article (except an article listed in section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) may be treated as a foreign article, or as subject to duty, if—

"(i) the article is—

"(A) assembled in whole of fabricated components that are a product of the United States, or

"(B) processed in whole of ingredients (other than water) that are a product of the United States,

in a beneficiary country; and

"(ii) neither the fabricated components or ingredients, after exportation from the United States, nor the article itself, before importation into the United States, enters the commerce of any foreign country other than a beneficiary country.

As used in this paragraph, the term 'beneficiary country' means a country listed in general note 3(c)(V)(A).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to goods assembled or processed abroad that are entered on or after October 1, 1990.

SEC. 2008. CONFORMING GSP AMENDMENT.

Section 503(b) of the Trade Act of 1974 (19 U.S.C. 2463(b)) is amended to read as follows:

"(b)(1) The duty free treatment provided under section 501 shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

"(A) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

"(B) the sum of—

"(i) the cost or value of the materials produced in the beneficiary developing country or any 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3), plus

"(ii) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States.

"(2) The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this subsection, including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary developing country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country; but no article or material of a beneficiary developing country shall be eligible for such treatment by virtue of having merely undergone—

"(A) simple combining or packaging operations, or

"(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.".

SEC. 2009. PILOT PRECLEARANCE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Subject to subsection (b), the Commissioner of Customs shall carry out, during fiscal years 1991 and 1992, preclearance operations at a facility of the United States Customs Service in a country within the Caribbean Basin which the Commissioner of Customs considers appropriate for testing the extent to which the availability of preclearance operations can assist in the development of tourism.

(b) RESTRICTIONS REGARDING PROGRAM.—

(1) The Commissioner of Customs may not consider a country within the Caribbean Basin to be appropriate for the testing referred to in subsection (a)—

(A) if preclearance operations are currently carried out by the United States Customs Service in that country; or

(B) unless immigration preinspection operations are currently carried out in that country with respect to individuals traveling to the United States.

(2) Preclearance operations may not be commenced in the country selected for testing under subsection (a) unless the Commissioner of Customs and the Commissioner of Immigration and Naturalization jointly certify that—

(A) there exists a bilateral agreement between the United States Government and the government of such country which protects the interests of the United States and affords diplomatic protection to United States employees working at the preclearance location;

(B) the facilities at the preclearance location conform to Federal Inspection Services standards and are suitable for the duties to be performed therein;

(C) there is adequate security around the structure used for the reception of international arrivals;

(D) the government of such country grants the United States Customs Service and the United States Immigration and Naturalization Service appropriate search, seizure, and arrest authority; and

(E) United States employees and their families will not be subject to fear of reprisal, acts of terrorism, and threats of intimidation.

(c) REPORT.—As soon as practicable after September 30, 1992, the Commissioner of Customs shall submit to the Congress a report regarding the preclearance operations program carried out under subsection (a). The report shall include—

(1) a summary of the preclearance operations, including the number of individuals processed, any administrative problems encountered, and cost of the operations;

(2) an evaluation of the extent to which the preclearance operations contributed to—

(A) the stimulation of the tourism industry of the country concerned, and

(B) expedited customs processing at United States ports of entry;

(3) the opinion of the Commissioner of Customs regarding the efficacy of extending preclearance operations to other countries within the Caribbean Basin that are developing tourism industries, and if the opinion is affirmative, the identity of those countries to which such operations should be extended and the estimated costs and results of such extensions; and

(4) such other matters that the Commissioner of Customs considers relevant.

SEC. 2010. APPLICATION OF ACT IN EASTERN CARIBBEAN AREA.

It is the sense of the Congress that there should be undertaken special efforts in order to improve the ability of the Organization of Eastern Caribbean States countries and Belize to benefit from the Caribbean Basin Economic Recovery Act.

SEC. 2011. CARIBBEAN-CENTRAL AMERICAN SCHOLARSHIP PARTNERSHIP.

(a) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—The Administrator of the Agency for International Development shall establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable students from eligible countries in the Caribbean and Central America to study in the United States.

(b) GRANTS TO STATES.—In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate degree programs and for training programs of one year or longer in study areas related to the critical development needs of the students' respective countries.

(c) CONSULTATION WITH STATES.—The Administrator shall consult with the participating States with regard to the educational

opportunities available within each State and on the assignment of scholarship recipients.

(d) FEDERAL SHARE.—The Federal share for each year for which a State receives payments under this section shall be not less than 50 percent.

(e) NON-FEDERAL SHARE.—The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(f) FORGIVENESS OF SCHOLARSHIP ASSISTANCE.—The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to his or her country of domicile for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(g) PRIVATE SECTOR PARTICIPATION.—To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(h) FUNDING.—Any funds used in carrying out this section shall be derived from funds allocated for Latin American and Caribbean regional programs under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(i) DEFINITIONS.—As used in this section—

(1) The term "eligible country" means any country—

(A) which is receiving assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund); and

(B) which is designated by the President as a beneficiary country pursuant to the Caribbean Basin Economic Recovery Act.

(2) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 2012. PROMOTION OF TOURISM.

(a) CONGRESSIONAL FINDING.—The Congress finds that the tourism industry must be recognized as a central element in the economic development and political stability of the Caribbean Basin region because of the potential that the industry has for increasing employment and foreign exchange earnings, establishing important linkages with other related sectors, and having a positive complementary effect on trade with the United States.

(b) FEDERAL AGENCY PRIORITY.—It is the sense of the Congress that increased tourism and related activities should be developed in the Caribbean Basin region as a central part of the Caribbean Basin Initiative program and, to that end, the appropriate agencies of the United States Government should assign a high priority to projects that promote the tourism industry in the Caribbean Basin.

(c) STUDY.—The Secretary of Commerce shall complete the study begun in 1986 regarding tourism development strategies for the Caribbean Basin region. The study shall include—

(1) information on the mutual benefits received by the United States and the Caribbean Basin economies as a result of tourist activity in the area; and

(2) proposals for developing increased linkages between the tourism industry and local industries in the region such as the agro-business.

SEC. 2013. AGRICULTURAL INFRASTRUCTURE SUPPORT.

It is the sense of Congress that in order to facilitate trade with, and the economic development of, the countries designated as beneficiary countries under the Caribbean Basin Economic Recovery Act, the Secretary of Agriculture should, in consultation with the Agribusiness Promotion Council, coordinate with the Agency for International Development the development of programs to encourage improvements in the transportation and cargo handling infrastructure in these countries for the purpose of improving agricultural trade between these countries and the United States. Such programs should focus on improving distribution of agricultural commodities and products in these countries, and the phytosanitary institutions, quarantine capabilities, and pesticide regulations of these countries regarding agricultural commodities and products.

TITLE III—AUTHORIZATION OF APPROPRIATIONS FOR TRADE AGENCIES

SEC. 3001. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) IN GENERAL.—

(1) Subparagraph (A) of section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)(A)) is amended to read as follows:

"(A) There are authorized to be appropriated for the purpose of carrying out the functions of the Office—

"(i) $21,200,000 for fiscal year 1991, and

"(ii) $19,027,000 for fiscal year 1992.".

(2) Subparagraph (B) of section 141(g)(1) of the Trade Act of 1974 is amended—

(A) by striking out "for fiscal year 1990" and inserting in lieu thereof "for each fiscal year", and

(B) by striking out "$89,000"in clause (i) and inserting in lieu thereof "$98,000".

(b) PANELS AND COMMITTEES UNDER CANADA FREE-TRADE AGREEMENT.—Paragraph (1) of section 406(b) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112, note) is amended to read as follows:

"(1) There are authorized to be appropriated to the Office of the United States Trade Representative—

"(A) $2,050,000 for fiscal year 1991, and

"(B) $2,050,000 for fiscal year 1992,

to pay during each of such fiscal years the United States share of the expenses of binational panels and extraordinary challenge committees convened pursuant to chapter 19 of the Agreement.".

SEC. 3002. UNITED STATES INTERNATIONAL TRADE COMMISSION.

Paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows:

"(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere)—

"(i) $42,430,000 for fiscal year 1991, and

"(ii) $46,673,000 for fiscal year 1992.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for each fiscal year, $2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses.

"(C) No part of any sum that is appropriated under the authority of subparagraph (A) may be used by the Commission for the making of any special study, investigation, or report that is requested by any agency of the executive branch, unless that agency reimburses the Commission for the cost thereof.".

SEC. 3003. UNITED STATES CUSTOMS SERVICE.

Subsection (b) of section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)) is amended—

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) There are authorized to be appropriated for the salaries and expenses of the United States Customs Service that are incurred in noncommercial operations (other than the air interdiction program)—

"(A) $521,882,000 for fiscal year 1991, and

"(B) $547,958,000 for fiscal year 1992.

"(2) There are authorized to be appropriated from the Customs User Fee Account for the salaries and expenses of the United States Customs Service that are incurred in commercial operations—

"(A) $671,645,000 for fiscal year 1991, and

"(B) $705,569,000 for fiscal year 1992.

"(3) There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air interdiction program of the United States Customs Service—

"(A) $143,047,000 for fiscal year 1991, and

"(B) $163,047,000 for fiscal year 1992.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 4001. TECHNICAL AMENDMENTS REGARDING NONDISCRIMINATORY TRADE TREATMENT.

(a) WAIVER AUTHORITY.—

(1) Paragraph (5) of section 402(d) of the Trade Act of 1974 (19 U.S.C. 2432(d)(5)) is amended—

(A) by striking out "the waiver authority granted by subsection (c) has been extended under paragraph (3) or (4) for any county for the 12-month period referred to in such paragraphs, and",

(B) by striking out "such authority will" in the first sentence thereof and inserting in lieu thereof "the waiver authority granted under subsection (c) will",

(C) by striking out "60-day period" each place it appears and inserting in lieu thereof "105-day period",

(D) by striking out ", either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of the Members present and voting in that House and under the procedures set forth in section 153, a resolution" and inserting in lieu thereof "a joint resolution described in section 153(a) is enacted into law,",

(E) by striking out "adoption by either House" each place it appears and inserting in lieu thereof "enactment", and

(F) by striking out "a resolution" each place it appears and inserting in lieu thereof "a joint resolution".

(2) Subsection (d) of section 402 the Trade Act of 1974 (19 U.S.C. 2432(d)), as amended by paragraph (1), is amended—

(A) by striking out paragraphs (1), (2), (3), and (4),

(B) by redesignating subparagraphs (A), (B), and (C) of paragraph (5) as paragraphs (1), (2), and (3), respectively, and

(C) by striking out "(5) If" and inserting in lieu thereof "If".

(3) Subsection (a) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193(a)) is amended to read as follows:

"(a) CONTENTS OF RESOLUTION.—For purposes of this section, the term 'resolution' means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on _____ with respect to _____.', with the first blank space being filled with the appropriate date, and the second blank space being filled with the names of those countries, if any, with respect to which such extension of authority is not approved, and with the clause beginning with 'with respect to' being omitted if the extension of the authority is not approved with respect to any country.".

(4) Subsection (b) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193(b)) is amended—

(A) by striking out ", and, in the case of a resolution related to section 402(d)(4), 20 calendar days shall be substituted for 30 days" in paragraph (2),

(B) by striking out "an except clause, in the case of a resolution described in subsection (a)(1), or" in paragraph (3),

(C) by striking out ", in the case of a resolution described in subsection (a)(2)" in paragraph (3),

(D) by striking out "an except clause, in the case of a resolution described in subsection (a)(1), or" in paragraph (4), and

(E) by striking out ", in the case of a resolution described in subsection (a)(2)" in paragraph (4).

(5) Subsection (c) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193) is amended by striking out "in subsection (a)(1)" and inserting in lieu thereof "in subsection (a)".

(b) BILATERAL COMMERCIAL AGREEMENTS.—

(1) Subsection (c) of section 405 of the Trade Act of 1974 (19 U.S.C. 2435(c)) is amended to read as follows:

"(c) An agreement referred to in subsection (a), and a proclamation referred to in section 404(a) implementing such agreement, shall take effect only if a joint resolution described in section 151(b)(3) that approves of the agreement referred to in subsection (a) is enacted into law.".

(2) Section 151 of the Trade Act of 1974 (19 U.S.C. 2191(b)) is amended—

(A) by inserting "or resolution" after "revenue bill" in subsection (b)(2),

(B) by inserting ", or approval resolution," in subsection (b)(2) after "implementing bill",

(C) by striking out "concurrent" in subsection (b)(3) and inserting in lieu thereof "joint",

(D) by striking out "revenue bill" each place it appears in subsection (e)(2) and inserting in lieu thereof "revenue bill or resolution", and

(E) by striking out "such bill" each place it appears in subsection (e)(2) and inserting in lieu thereof "such bill or resolution".

(3) Subsection (c) of section 407 of the Trade Act of 1974 (19 U.S.C. 2437(c)) is amended—

(A) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraph:

"(1) In the case of a document referred to in subsection (a), the proclamation set forth in the document may become effective and the agreement set forth in the document may enter into force and effect only if a joint resolution described in section 151(b)(3) that approves of the extension of nondiscriminatory treatment to the products of the country concerned is enacted into law.", and

(B) by redesignating paragraph (3) as paragraph (2).

(c) COMPLIANCE REPORTS.—

(1) Paragraph (2) of section 407(c) of the Trade Act of 1974 (19 U.S.C. 2437(c)(2)), as redesignated by subsection (b)(3)(B) of this section, is amended—

(A) by striking out "the 90-day period" and inserting in lieu thereof "the 135-day period",

(B) by striking out "either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval (under the procedures set forth in section 152)" and inserting in lieu thereof "a joint resolution described in section 152(a)(1)(B) is enacted into law that disapproves", and

(C) by striking out "the adoption" and inserting in lieu thereof "the enactment".

(2) Subparagraph (B) of section 152(a)(1) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)(B)) is amended to read as follows:

"(B) a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve _____ transmitted to the Congress on _____.', with the first blank space being filled in accordance with paragraph (2), and the second blank space being filled with the appropriate date.".

(3) Paragraph (2) of section 152(a) of the Trade Act of 1974 (19 U.S.C. 2192(a)(2)) is amended—

(A) by adding "and" at the end of subparagraph (A),

(B) by striking out "407(c)(3)" in subparagraph (C) and inserting in lieu thereof "407(c)(2)",

(C) by striking out subparagraph (B),

(D) by redesignating subparagraph (C) as subparagraph (B).

(4) Subsection (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(f)) is amended to read as follows:

"(f) FINAL PASSAGE IN THE SENATE.—A resolution that has passed the House of Representatives shall, when received in the Senate, be placed on the calendar. The procedures in the Senate with respect to a resolution introduced in the Senate that concerns the same matter as the resolution that passed the House of Representatives shall be the same as if no resolution had been received from the House of Representatives, but the vote on final passage in the Senate shall be on the resolution that passed the House of Representatives.".

(5) Subsection (b) of section 154 of the Trade Act of 1974 (194 U.S.C. 2194(b)) is amended—

(A) by striking out "407(c)(2) and 407(c)(3)" and inserting in lieu thereof "and 407(c)(2)",

(B) by striking out "such sections" and inserting in lieu thereof "section 203(c) and the 135-day period referred to in section 407(c)(2)."

SEC. 4002. CUSTOMS USER FEES.

(a) MERCHANDISE PROCESSING FEE.—

(1) Subsection (a) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is amended by striking out paragraphs (9) and (10) and inserting in lieu thereof the following:

"(9) For the processing of any merchandise that is informally entered—

"(A) $14 if the entry is manual, and

"(B) $11 if the entry is automated.

"(10) For the processing of any merchandise that is formally entered, or withdrawn from warehouse for consumption, during any fiscal year, a fee in an amount equal to 0.15 percent ad valorem.

(2) Paragraph (8) of section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)) is amended—

(A) by striking out "be based" in subparagraph (A)(ii) and inserting in lieu thereof "except as otherwise provided in this paragraph, be based",

(B) by striking out "and" at the end of subparagraph (A)(iii),

(C) by striking out the period at the end of subparagraph (A)(iv) and inserting in lieu thereof "; and",

(D) by inserting after clause (iv) of subparagraph (A) the following new clause:

"(v) in the case of agricultural products of the United States that are processed and packed in a foreign trade zone, be applied only to the value of material used to make the container for such merchandise, if such merchandise is subject to entry and the container is of a kind normally used for packing such merchandise.",

(E) by redesignating subparagraphs (A) and (B) as subparagraphs (D) and (E), and

(F) by inserting before subparagraph (D), as redesignated by this paragraph, the following new subparagraphs:

"(A) The fee charged under subsection (a)(10)—

"(i) shall not exceed—

"(I) $403 for each manual entry, or

"(II) $400 for each automated entry, and

"(ii) shall not be less than—

"(I) $23 for each manual entry, or

"(II) $20 for each automated entry.

"(B) No fee may be charged under paragraph (9) or (10) of subsection (a) for the processing of any article that is—

"(i) provided for under any item in chapter 98 of the Harmonized Tariff Schedule of the United States, except subheading 9802.00.60 or 9802.00.80,

"(ii) a product of an insular possession of the United States, or

"(iii) a product of any country listed in subdivision (c)(ii)(B) or (c)(v) of general note 3 to such Schedule.

"(C) For purposes of applying paragraphs (9) and (10) of subsection (a), expenses incurred in conducting commercial operations do not include costs incurred in—

"(i) air passenger processing,

"(ii) export control, or

"(iii) international affairs."

(3) Paragraph (10) of section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(10)) is amended—

(A) by striking out "under subsection (a)(10)" and inserting in lieu thereof "under paragraph (9) or (10) of subsection (a)", and

(B) by striking out the last sentence thereof.

(b) DISPOSITION OF FEES.—

(1) Subsection (f) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(A) by striking out "All Funds" in paragraph (2) and inserting in lieu thereof "Except as otherwise provided in this subsection, all funds",

(B) by redesignating paragraph (4) as paragraph (5), and

(C) by inserting after paragraph (3) the following new paragraph.

"(4) No funds may be expended from the Customs User Fee Account, and no reimbursement made under paragraph (3), for the costs incurred in providing any service which is exempt from the fee.".

(2) Paragraph (3) of section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended to read as follows:

"(3)(A) The Secretary of the Treasury, in accordance with section 524 of the Tariff Act of 1930 and without regard to apportionment or any other administrative practice or limitation, shall directly reimburse, from the fees collected under subsection (a) (other than paragraph (9) or (10) of subsection (a)), each appropriation for the amount paid out of that appropriation for the costs incurred by the Secretary—

"(i) in providing—

"(I) inspectional overtime services, and

"(II) all preclearance services,

for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and

"(ii) to the extent funds remain available to make reimbursements under clause (i), in providing such additional personnel and equipment (distributed on a basis proportionate to the fees collected under subsection (a), other than paragraph (9) or (10) of subsection (a)), and in paying such other necessary expenses, as may be necessary to provide service to those persons paying such fees.

"(B) Reimbursement under this paragraph shall be made at least quarterly. To the extent necessary, reimbursement of appropriations under this paragraph may be made on the basis of estimates made by the Secretary of the Treasury and adjustments shall be made in subsequent reimbursements to the extent that the estimates were in excess of, or less than, the amounts required to be reimbursed.

"(C) At the close of each fiscal year, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives summarizing the expenditures for which reimbursement has been provided under subparagraph (A)(ii).".

(c) EXTENSION OF FEES.—Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1990" and inserting in lieu thereof "1991".

(d) AGGREGATION OF MERCHANDISE PROCESSING FEES.—

(1) Notwithstanding any provision of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c), in the case of entries of merchandise made under the temporary monthly entry programs established by the Commissioner of Customs before July 1, 1989, for the purpose of testing entry processing improvements, the fee charged under section 13031(a)(10) of the Consolidated Omnibus Budget Reconciliation Act of 1985 for each day's importations at each port by the same importer from the same exporter shall be the lesser of—

(A) $400, or

(B) the amount determined by applying the ad valorem rate determined in such section 13031(a)(10) to the aggregate value of each day's importations at each port by the same importer from the same exporter.

(2) The fees described in paragraph (1) that are payable under the program described in paragraph (1) shall be paid with each monthly consumption entry. Interest shall accrue on the fees paid monthly in accordance with section 6621 of the Internal Revenue Code of 1986.

(e) EFFECTIVE DATE.—The amendments made by this section, and the provisions of this section, shall take effect on October 1, 1990.

SEC. 4003. DRUG PARAPHERNALIA.

(a) STATISTICAL ANNOTATIONS.—The Secretary of the Treasury, the Secretary of Commerce, and the United States International Trade Commission shall take actions under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)) to implement the recommendations of the Commission regarding additional statistical annotations that were made in the report of the Commission on Investigation 332-277, which was submitted to the Committee on Finance of the Senate in September 1989.

(b) ADMINISTRATION.—

(1) Section 1822 of the Mail Order Drug Paraphernalia Control Act (21 U.S.C. 857) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Commissioner of Customs shall prescribe guidelines for use in determining whether articles intended for importation or exportation are to be considered drug paraphernalia.

"(2) Prior to prescribing the final form of the guidelines under paragraph (1), the Commissioner of Customs shall hold a public hearing on the preliminary form of the guidelines.".

(2) The guidelines that the Commissioner of Customs is required to prescribe under section 1822(g) of the Mail Order Drug Paraphernalia Control Act, as amended by paragraph (1), shall be prescribed by no later than the date that is 6 months after the date of enactment of this Act.

(c) REPORT.—By no later than the date that is 1 year after the date of enactment of this Act, the Commissioner of Customs shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the operational response of the United States Customs Service to the recommendations contained in the report of the United States Trade Commission described in subsection (a). The report submitted by the Commissioner of Customs under this subsection shall address the effectiveness of the United States Customs Service in monitoring and seizing drug paraphernalia, including crack bags, vials, and pipes.

SEC. 4004. PROHIBITION ON THE IMPORTATION OF CERTAIN ARTICLES ORIGINATING IN BURMA.

(a) IN GENERAL.—After the date of enactment of this Act—

(1) teak, and any other tropical timber, that is cut in Burma,

(2) any product that contains teak, or any other tropical timber, cut in Burma,

(3) any fish or other aquatic animal taken from the territorial waters of Burma, and

(4) any product containing any fish or other aquatic animal taken from the territorial waters of Burma,

may not be imported into the United States or into any territory or possession of the United States.

(b) ENFORCEMENT.—

(1) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(2) The regulations prescribed under paragraph (1) shall—

(A) require any importer of teak, of any other tropical timber, or of any product containing teak or any other tropical timber, to submit to the Secretary of the Treasury at the time of the importation of such teak, timber, or product into the United States, or into any territory or possession of the United States, a statement certifying the origin of the teak or other tropical timber, and

(B) require any importer of—

(i) fish or other aquatic animals, or

(ii) any product containing any fish or other aquatic animal,

that is imported from, or has passed through, Burma (or any foreign country whose nationals are allowed to fish in the territorial waters of Burma by a treaty or agreement between Burma and the foreign country or such nationals) to submit to the Secretary of the Treasury at the time of the importation of such fish, aquatic animal, or product into the United States, or into any territory or possession of the United States, a statement certifying the territorial waters from which the fish or aquatic animal was taken.

(c) COMPLIANCE WITH GATT.—The provisions of this section shall not apply if the President submits to the Congress a written statement certifying that the provisions of this section violate the obligations of the United States under the General Agreement on Tariffs and Trade.

Amend the title so as to read: "An Act to make miscellaneous and technical changes to various trade laws.".

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 393. A bill entitled the "Camp W.G. Williams Land Exchange Act of 1989" (Rept. No. 101-255).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

S. 1230. A bill to authorize the acquisition of additional lands containing Indian burial grounds for inclusion in the Knife River Indian Villages National Historic Site, North Dakota, and to provide additional development funding for the historic site visitor center (Rept. No. 101-256).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 1859. A bill to restructure repayment terms and conditions for loans by the Secretary of the Interior to the Wolf Trap Foundation for the Performing Arts for the reconstruction of the Filene Center in Wolf Trap Farm Park in Fairfax County, VA, and for other purposes (Rept. No. 101-257).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 3341. A bill to amend the Sherman Act to increase the fines that may be imposed for a violation of such Act.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM:

S. 2318. A bill relating to the transportation of hazardous materials, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GARN:

S. 2319. A bill to amend the Federal Deposit Insurance Act and the Federal Credit

Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KASTEN (for himself, Mr. DOLE, Mr. NICKLES, and Mr. D'AMATO):

S. 2320. A bill to establish a special facility of the International Bank for Reconstruction and Development for loans to Eastern European Countries; to the Committee on Foreign Relations.

By Mr. CRANSTON:

S. 2321. A bill to create a Federal criminal offense for interferring with access to and egress from a medical facility; to the Committee on the Judiciary.

By Mr. CHAFEE:

S. 2322. A bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States, to establish a Commission to study the impact of the antitrust laws on the competitiveness of the United States industries, and for other purposes; to the Committee on the Judicary.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 2323. A bill to require the issuance of certain hazardous liquid pipeline facility regulations, and for other purposes; to the Committee on Commerce, Science, and Transportation..

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2324. A bill to amend the hazardous Liquid Pipeline Safety Act of 1979 to require the Secretary of Transportation to promulgate regulations to ensure the safety of underwater pipelines, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN:

S. 2325. A bill to provide additional assistance for certain Eastern European countries; to the Committee on Foreign Relations.

By Mr. DECONCINI (for himself, Mr. HOLLINGS, Mr. LAUTENBERG, Mr. CRANSTON, and Mr. KOHL):

S. 2326. A bill to amend title 35, United States Code, with respect to patents on certain processes; to the Committee on the Judiciary.

By Mr. KERRY (for himself, Mr. RIEGLE, Mr. METZENBAUM, Mr. GARN, Mr. BOND, Mr. BRYAN, and Mr. HATCH):

S. 2327. A bill to authorize Federal depository institution regulatory agencies to revoke charters, terminate deposit insurance, and remove or suspend officers and directors of depository institutions involved in money laundering or monetary transaction reporting offenses; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2328. A bill to prohibit the Secretary of the Interior from issuing oil and gas leases on certain portions of the Outer Continental Shelf off the State of Florida; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 2329. A bill to amend title 18, United States Code, relating to the protection of officers and employees of the United States; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 2330. A bill to require the Commodity Credit Corporation to reimburse producers for losses suffered as a result of the closing of Corporation licensed and approved grain warehouses or elevators, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE:

S. 2331. To amend the Internal Revenue Code of 1986 to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs; to the Committee on Finance.

By Mr. LIEBERMAN (for himself and Mr. DODD, Mr. MOYNIHAN, and Mr. D'AMATO):

S.J. Res. 276. A joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRASSLEY:

S. Con. Res. 107. Concurrent resolution concerning the status of Namibia under the Comprehensive Anti-Apartheid Act of 1986; to the Committee on Foreign Relations.

By Mr. MITCHELL (for himself, Mr. HELMS, Mr. SIMON, Mr. DOLE, Mr. RIEGLE, Mr. DIXON, Mr. GORTON, Mr. WALLOP, Mr. ROBB, Mr. LAUTENBERG, Mr. GRAHAM, Mr. THURMOND, Mr. ARMSTRONG, Mr. NICKLES, Mr. GRAMM, Mr. SYMMS, Mr. PELL, Mr. METZENBAUM, Mr. GLENN, Mr. D'AMATO, Mr. MURKOWSKI, and Mr. SIMPSON):

S. Con. Res. 108. Concurrent resolution concerning the right of self-determination of the Lithuanian people; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM:

S. 2318. A bill relating to the transportation of hazardous materials, and for other purposes; to the Committee on Commerce, Science, and Transportation.

HAZARDOUS MATERIALS SAFE TRANSPORTATION ACT

Mr. METZENBAUM. Mr. President, I am today introducing legislation that will go a long way toward protecting public health and safety from the dangers of transporting hazardous materials over our Nation's highways and railroads.

In recent years, chemical spills, fires and other life threatening accidents involving hazardous industrial materials have been occurring with increasing regularity. It has been happening in my State, and it has been happening in States throughout the country.

One of the worst accidents involving hazardous materials took place on July 8, 1986, when 14 cars of a CSX railroad train derailed in Miamisburg, OH, igniting a load of white phosphorous that burned for 4 days. Fifty thousand people had to be evacuated, the largest evacuation ever caused by an accident in the transportation of hazardous materials.

But the only unique aspect of the Miamisburg event was the size of the evacuation.

Two years later, two CSX tank cars carrying highly flammable butane derailed in downtown Akron, OH, necessitating the evacuation of 2,000 people from their homes. Local firefighters had no way of knowing what dangerous chemicals were being transported in the cars.

A year later, a derailed tanker car in Freeland, MI, burned for 5 days, while authorities attempted to determine what was in the car. Two thousand people in a 14-square-mile area were forced out of their homes.

These examples are endless. A few years ago, several firefighters in Kansas City were killed when a chemical fire they were fighting suddenly ignited a quantity of stored flammable materials and exploded.

I chaired a hearing in Columbus, where witness after witness talked about dangerous accidents involving hazardous materials near their homes and communities.

Firefighters told me about the difficulties of fighting a chemical blaze when the truck's contents aren't labeled. If one thing was clear from that hearing, it was that local emergency response workers needed to know what is being carried in those vehicles.

State and local officials need to have more say in where dangerous materials are being routed.

More money is needed to provide training for firefighters on how to handle toxics and chemical fires.

We need tough, uniform penalties that are punitive, and not simply a cost of doing business.

But far and away—we need a national approach toward solving these problems.

That is what this bill would do. More specifically, the bill has five components.

First, the bill requires persons who manufacture or ship hazardous materials to pay an annual registration fee, which will be returned to the States to assist in developing and carrying out emergency response training programs for firefighters and emergency response workers.

Second, the bill will permit States to enforce Federal hazardous materials rail transportation rules. Currently, because of a preemption provision in the Rail Safety Act, States may enforce Federal hazardous materials regulations for trucks, but not for railroads.

Only the Federal Railroad Administration [FRA] is permitted to oversee hazardous materials on the rails, and the FRA is not doing its job. According to a recent report by the General Accounting Office, the FRA is hobbled

by misdirected, poorly informed, and inadequate inspectors.

Safety violations have increased 600 percent in the past 5 years, but the number of annual inspections has declined. The agency has less than 50 inspectors to examine the safety practices of 85 railroads and 15,000 shippers. It makes no sense.

My own State of Ohio enacted legislation permitting the State to enforce Federal rail safety regulations. The State law was thrown out in court. In fact the State law was defeated by the very railroad company that brought us the Miamisburg and Akron train disasters.

Third, the bill will establish a central reporting system and data center to which all movements of hazardous materials will be reported. That information will then be accessible electronically to local firefighters and emergency response officials in the event of an accident.

Currently, no State or Federal agency has in place a system capable of tracking the number, types, quantities or routes of these shipments. I understand our modern telecommunications capability would make the establishment of such a nationwide tracking system easy. I intend to ask the Office of Technology Assessment to look into the cost and other aspects of the system. In the meantime, we should begin moving in that direction.

Fourth, the bill establishes meaningful penalties for those who choose to endanger public health and safety by violating the law. It increases the maximum fine for each violation from $10,000 to $50,000, and it sets a minimum fine of $5,000.

Under current law, transportation companies treat fines as just another cost of doing business. If we want to ensure that businesses comply with the law, we have to ensure that there are consequences associated with not doing so.

In addition, the bill directs the Secretary of Transportation to encourage more uniformity among the States in establishing penalties for violations of State hazardous materials transportation regulations. Under the current situation, with widely varying penalties from State to State, violators simply move their operations through low penalty States.

Finally, the bill establishes a system of cooperation between the Secretary of Transportation and the States in designating preferred highway routes for the movement of hazardous materials.

Just last month, a truck overturned on I-270 less than 20 miles from the Capitol Building. Firefighters in Montgomery County had no idea what was in the truck. Local neighborhoods had to be evacuated, and local and interstate traffic was brought to a standstill.

If this bill had been law, we would have known what was in that truck and how to handle it within minutes. So I believe this bill represents sensible solutions to a growing national problem.

I urge my colleagues to support the bill, and hope that the Commerce Committee sees fit to schedule hearings as soon as possible.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hazardous Materials Safe Transportation Act of 1990".

SEC. 2. AMENDMENTS TO HAZARDOUS MATERIALS TRANSPORTATION ACT.

(a) Section 106(b) of the Hazardous Materials Transportation Act (49 U.S.C. 1805(b)) is amended (1) by designating the existing text as paragraph (1); (2) by deleting "may be required" and inserting in lieu thereof "shall be required"; (3) by deleting "not more often than once every 2 years" and inserting in lieu thereof "not less than annually"; and (4) by adding at the end thereof, the following:

"(2) In carrying out the provisions of paragraph (1), the Secretary shall require each person referred to in the first sentence of paragraph (1) to pay an annual registration fee. Such fee shall be in an amount determined by the Secretary based on, among other things, the volume of hazardous material offered, transported, or otherwise involved. Moneys collected by the Secretary pursuant to this section shall be used by the Secretary for making grants to the several States to assist the States in developing and carrying out emergency response training programs. Grants under this section shall be made at such times, in such amounts, subject to such conditions, and in such manner as the Secretary, by regulation, shall prescribe. Nothing in this section shall be construed as prohibiting any State from imposing and collecting a fee or fees in connection with the registration requirements imposed by such State.".

(b) The Hazardous Materials Transportation Act (49 U.S.C. 1805) is amended by adding immediately after section 106 the following:

"SEC. 106A. The Secretary shall issue such regulations as may be necessary to enable each of the several States to perform flow surveys and in connection therewith, to request and receive specific routing information from carriers transporting hazardous materials in order to determine local transportation patterns and effectively target emergency response training allocations.".

SEC. 3. DESIGNATED ROUTES.

(a)(1) The Secretary of Transportation, within 180 days following the date of the enactment of this Act, shall—

(A) designate routes on the National System of Interstate and Defense Highways on which hazardous materials listed by the Secretary in accordance with subsection (c) may be transported, except that States are authorized to designate alternative preferred routes in the same manner and to the same extent as that provided for radioactive material under Part 177.825 of title 49 of the Code of Federal Regulations, and

(B) coordinate among the States the designations the States, and the political subdivisions of the States, are authorized to make under subsection (b).

(2) The Secretary, upon request, is authorized to arbitrate incompatible State designations under this section which occur in multi-State metropolitan areas.

(b) Notwithstanding any other provision of law, each State—

(1) may designate routes on the public highways located in the State (other than routes on the National System of Interstate and Defense Highways) on which hazardous materials listed pursuant to subsection (c) may be transported,

(2) may delegate to any political subdivision of the State the authority under subparagraph (A) of paragraph (1) of subsection (a) to make the designation described in subparagraph (A) with respect to any public highways located within the jurisdiction of that political subdivision,

(3) may prohibit the transportation of hazardous materials listed pursuant to subsection (c) on any public highway located in the State that is not designated in accordance with subparagraph (A) or (B) of paragraph (1) of subsection (a), and

(4) shall coordinate among the political subdivisions of the State the designations made under subparagraphs (A) and (B) of paragraph (1) of subsection (a).

(c) Prior to the expiration of the 180-day period following the date of the enactment of this Act, the Secretary shall compile a list of hazardous materials which he or she determines pose an immediate threat in the event of an accident. In establishing and keeping current such list, the Secretary shall identify subsets of hazardous materials which should be subject to the routing system set forth in this section. Such list, including revisions thereof, shall be published in the Federal Register.

(d) Each routing decision or designation of a State pursuant to this section shall be reported by such State, within 30 days thereafter, to the Secretary of Transportation. It shall be the function of the Secretary to compile such information and make it available to interested parties upon request.

SEC. 4. STATE ENFORCEMENT.

(a) Notwithstanding the provision of section 205 or any other provision of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 et seq.), or any other law, each State shall be entitled to enforce its laws, rules and regulations relating to the transportation of hazardous materials by railroads in the same manner and to the same extent as provided in connection with other carriers under section 112 of the Hazardous Materials Transportation Act (49 U.S.C. 1811).

(b) The Secretary is authorized to enter into agreements with the several States under which the States would cooperate with the Secretary in the enforcement of Federal and State rules, regulations, and laws relating to the transportation of hazardous materials by railroads. In entering into such agreements, the Secretary is authorized to make grants to the States to enable them to defray the costs involved in connection with such enforcement. Such grants shall be made at such times, in such amounts, subject to such conditions, and in such manner as the Secretary, by regulation shall prescribe.

SEC. 5. UNIFORMITY.

In the administration of the provisions of this Act, the Federal Railroad Safety Act of 1970, and the Hazardous Material Transportation Act, including the issuance of regulations, entering into agreements, and making grants, the Secretary shall take such action as may be necessary to encourage uniformity among the States in the establishment and enforcement, by such States, of penalties in connection with the enforcement of laws and regulations relating to the transportation of hazardous materials.

SEC. 6. REGULATIONS REQUIRING MANIFEST OF SHIPMENT OF HAZARDOUS MATERIALS.

Section 105 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1804) is amended by adding at the end the following new subsection:

"(d) MANIFEST.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue regulations requiring any generator of a shipment of hazardous materials to transmit a manifest for such shipment to the central reporting system and data center described in section 109(d)(1)(B). Such manifest shall contain vital statistics concerning the content of the shipment and the license plate or other identifying number of the carrier of the shipment.".

SEC. 7. ESTABLISHMENT OF CENTRAL REPORTING SYSTEM AND DATA CENTER.

Section 109 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1808) is amended—

(1) in subsection (d)(1)(B)—

(A) by striking out "establish and maintain" and inserting in lieu thereof "not later than 90 days after the date of the enactment of the Hazardous Materials Transportation Act Amendments of 1990, shall establish and maintain, or enter into a contract (pursuant to sealed competitive bids) with a private entity under which such entity shall establish and maintain,"; and

(B) by inserting "instantaneous" before "technical";

(2) by amending subsection (d)(2) to read as follows:

"(2) The central reporting system and data center referred to in paragraph (1)(B) shall satisfy the requirements contained in section 117(a).".

SEC. 8. CENTRAL REPORTING SYSTEM AND DATA CENTER.

The Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) is amended by adding at the end the following new section:

"SEC. 117. TERMS AND CONDITIONS OF CONTRACT WITH THE SECRETARY.

"In order to meet the requirements of this Act, the center referred to in section 109(d)(1)(B) shall comply with terms and conditions which—

"(1) require that the central reporting system and data center described in such subparagraph shall—

"(A) include a real-time computerized telecommunication system capable of handling at least 500,000 computer-based communication transactions per day, including transactions from any State or foreign nation that transports hazardous materials in any State or in any of the territorial waters of the United States;

"(B) be capable of receiving, storing, and retrieving data concerning shipments of hazardous materials;

"(C) be accessible by electronic and telephonic communications to persons referred to in section 109(d)(1)(B);

"(D) adequately protect proprietary data transmitted to such system and data center;

"(E) have an independent supply of internally generated power to ensure continuity of access to data for persons referred to in section 109(d)(1)(B);

"(F) include a redundant system which will operate in the event of failure of any one system;

"(G) be compatible with all recognized systems of electronic communication; and

"(H) be capable of fully interfacing electronically with any computer software program in use, at the date of the enactment of this section, in carrying out the provisions of title III of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 1101 et seq.);

"(2) require that such reporting system and data center be operational not later than 180 days after the date of the enactment of this section;

"(3) establish rates under which the center may charge a generator and a shipper of a shipment of hazardous materials for maintaining the manifest for such shipment;

"(4) require that the data center provide to persons referred to in section 109(d)(1)(B) below cost—

"(A) electronic access to the information reported to the data center for the purpose of obtaining information about shipments of hazardous materials;

"(B) instantaneous access at all times to data in the central reporting system and data center; and

"(C) technical and other information and advice for meeting emergencies related to the transportation of hazardous materials.

"(b) The Secretary shall establish and carry out a program to—

"(A) train, equip, and purchase telecommunications equipment and personal protective clothing and equipment for firefighters, police, and persons responding to hazardous materials incidents;

"(B) assist State governors in complying with the requirements of title III of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 1101 et seq.); and

"(C) establish national certification standards for firefighters and fire department hazardous material teams utilizing programs developed under the National Institutes for Environmental Health Science's grant program established under section 126(g) of the Superfund Amendments and Reauthorization.

"(c) LIMITATION ON CIVIL LIABILITY.—Notwithstanding any other provision of law, the United States, the center referred to in section 109(d)(1)(B), if any, shall not be civilly liable under any law of the United States or of any State (or political subdivision thereof) for damages resulting from the good faith reliance of the United States or such entity on information supplied to them by a generator of a shipment of hazardous waste.".

SEC. 9. DEFINITIONS.

Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1802) is amended—

(1) by striking out "and" at the end of paragraph (6); and

(2) by adding at the end the following new paragraphs:

"(8) 'real time' means the instantaneous telephonic or electronic communication of data from one source to another;

"(9) 'generator' means the party that is directly responsible for the manufacture or creation of hazardous materials and causes such materials to be transported or shipped;

"(10) 'incident' means a mishap in the transportation of a shipment of hazardous materials that may endanger life or property; and

"(11) 'manifest' means a bill of lading or other form that can be used for the purpose of describing the contents of and other information concerning a shipment of hazardous materials.".

SEC. 10. AUTHORIZATIONS.

For the purpose of making grants pursuant to this Act, there are authorized to be appropriated for the fiscal year ending September 30, 1991, and each of the next following 4 fiscal years, the sum of $40,000,000.

SEC. 11 PENALTIES.

Section 110 of the Hazardous Materials Transportation Act (49 U.S.C. 1809) is amended—

(1) in subsection (a), by striking out "$10,000" each place it appears and inserting in lieu thereof "$50,000 and not less than $5,000"; and

(2) in subsection (b)—

(A) by striking out "$25,000" and inserting in lieu thereof "$250,000"; and

(B) by striking out "5" and inserting in lieu thereof "10".

By Mr. GARN:

S. 2319. A bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the liability of depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes; to the Committee on Environment and Public Works.

PROTECTION OF FEDERAL DEPOSIT INSURANCE FUNDS

Mr. GARN. Mr. President, today I am introducing legislation to protect the Federal deposit insurance funds and to limit the liability of depository institutions and other mortgage lenders for environmental cleanup costs when they acquire property through foreclosure or similar means. The unexpected imposition of liability for environmental pollutants on innocent third parties has the potential to affect the health of every one of these lenders, as well as that of the Federal deposit insurance funds themselves.

This legislation would provide immunity for the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the other Federal banking agencies from liability that might be imposed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, also known as the Superfund Act. However, it would only provide immunity for these agencies for property they hold or acquire in exercising their supervisory or assistance authority. The bill would also exempt insured depository institutions and other mortgage lenders from Superfund liability that might be imposed when a lender forecloses or acts as fi-

duciary for property containing hazardous wastes. If the agency or lender caused the environmental problem, however, the exemption would not apply.

Last year the Congress passed landmark legislation intended to place the Federal deposit insurance funds on sound footing and to help ensure the soundness of our financial institutions going forward. Those important goals may be impeded if liability for environmental hazards is imposed on the Resolution Trust Corporation, the Federal deposit insurance fund, or the lenders themselves even though they have not caused or contributed to the release of hazardous substances on the property collateralizing a loan or for which they act in a fiduciary capacity. This can have a dramatic and unanticipated impact on the lender who could find itself liable under Superfund for the costs of cleaning the entire site as a result of a mortgage foreclosure, even though the lender did not operate or manage the site when the hazardous materials were released or otherwise contribute to the problem.

Mr. President, this legislation is supported by the FDIC, which stated that absent enactment of the legislation, "the ability of the FDIC and the RTC to resolve failed institutions expeditiously would be impaired if we must incur environmental study expenses before foreclosing upon properties which are potentially contaminated. FDIC and RTC funds are designed to protect depositors and provide stability to the Nation's financial institution system and it is preferable that such funds not be diverted to unintended uses such as environmental cleanup costs."

These looming liabilities are already affecting the RTC's ability to market failed institutions and their assets, and they are threatening to sidetrack funds earmarked to resolve the thrift crisis. An article in today's Wall Street Journal, that I would like to have included in the RECORD, stated that Superfund liability could cost the RTC hundreds of millions or even billions of dollars, and poses a threat to health savings and loans and other lenders.

I believe that this legislation would provide a significant complement and support for the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, without adversely affecting the important purposes of the Superfund law. First, the bill would not exempt lenders who cause or contribute to the release of hazardous substances into the environment. Moreover, the exemption would not extend to any actual benefits the lenders derive from another party's remedial actions. Second, the financial institutions would continue to have every incentive to scrutinize the intended or past uses of property pledged as collateral for potential environmental liability. Standards of safe and sound lending would dictate this inquiry, given the potential impact of an adverse judgment on a borrower's ability to repay as well as on the market value of the collateral. To further ensure that such prudential standards would be maintained, the bill would require each Federal banking agency to take steps to assure that banking institutions have procedures to evaluate potential environmental risks and liabilities. Examples of such steps might be supervisory guidelines, examinations procedures, or regulatory action. Given these safeguards, there should be no diminution of the lender's role in helping to avoid the hazardous waste sites of tomorrow.

Mr. President, this legislation is fair, and it is necessary. I hope that it will be considered expeditiously by this Congress.

Mr. President, I ask unanimous consent that the Wall Street Journal article mentioned earlier be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 22, 1990]

S&L BAILOUT FACES A COSTLY NEW COMPLICATION IN U.S. HAZARDOUS-WASTE CLEANUP REQUIREMENT

(By Amy Dockser Marcus)

Federal efforts to bail out the savings and loan industry face new trouble from an unexpected source: the environmental cleanup law known as Superfund.

The law's cleanup requirements for hazardous waste could cost the federal Resolution Trust Corp., which is responsible for selling insolvent thrifts and their assets, hundreds of millions or even billions of dollars.

Superfund looms as a thrat not only to the RTC but to healthy S&L's and other lenders as well. Already, some financial institutions, worried about potential liability, are tightening procedures for extending credit to companies with land holdings that might be contaminated.

The RTC estimates its real-estate portfolio will reach a value of about $180 billion. Some of that property is believed to contain hazardous waste. Potential acquirers, or even the RTC, may get stuck with a huge bill.

TIME BOMB

"It is a ticking time bomb," says Richard K. Kneipper of Jones Day Reavis & Pogue, who heads the firm's financial-institutions group. "The bailout plan doesn't include an estimate for Superfund liabilities. And it doesn't take more than one dump site to create big numbers."

Congressional analysts have predicted the RTC will need at least an additional $25 billion to $30 billion to resolve the savings and loan crisis. Part of that is expected to come from the RTC's sale of thrifts and their assets to other institutions. "If we can't sell property because it's contaminated, we can't recover any costs," said Stephen Katsanos, a spokesman for the RTC. "Or we may have to spend funds first to clean up the properties."

The failed thrifts hold huge real-estate portfolios because they had accepted real estate as collateral for loans that went bad. When the thrifts took title to the property, they became potentially liable for huge environmental costs. Under the Superfund law, those who own or operate contaminated sites are responsible for cleaning them up. The Environmental Protection Agency has estimated cleaning a single site can cost up to $100 million.

The problem for the RTC isn't just that it will have trouble finding buyers for such property. If the RTC itself takes title to any thrift assets through foreclosure on loans or other means, the agency might be required to foot the bill for the cleanup, lawyers for lenders say. The RTC might also be liable in its capacity as a conservator for assets that are transferred to new federally chartered thrifts before being sold. If the assets later turn out to be contaminated, the RTC's earlier control of them might make the agency liable under Superfund, these lawyers say.

BUYER BEWARE

While the potential liability of the RTC is uncertain, the perils for potential acquirers of the real estate seem much clearer. Because the RTC has refused to provide indemnities for any litigation that arises concerning environmental hazards, "You could be betting your own institution if you end up buying a Superfund liability," says John C. Murphy, Jr., an attorney who has represented acquirers.

Mr. Katsanos, the RTC spokesman, said the agency is scrambling to identify which of the tens of thousands of properties it has acquired have environmental problems. The RTC lawyers are also attempting to determine what situations might trigger the agency's liability under Superfund, he said. "We're aware of the problems, but the RTC has no choice in taking over savings and loans," Mr. Katsanos said. "if there are Superfund liabilities we'll have to deal with that and the costs we incur will be shared by the taxpayers."

The Superfund threat to lenders extends beyond concerns about failed S&Ls—although it's not clear how far. Congress thought it had allayed many worries of lenders when it included a "secured-lender exemption" in the environmental statute in 1980. Under it, those who appear to be owners because they have a security interest but don't participate in the management of a facility are shielded from liability.

But the exemption leaves room for argument as to when a lender who forecloses is deemed to be participating in management. And when a federal court in Maryland ruled in 1986 that a bank that had foreclosed on property and held title for four years could be liable for its cleanup, lenders realized they needed additional ways to protect themselves.

REFUSING CREDIT

Fears of liability have prompted some lenders to refuse credit to high-risk industries such as manufacturing and to small businesses whose only assets are real estate, says Jack Campbell, manager of environmental programs for General Electric Corp.'s G.E. Capital Corp.

At G.E. Capital Corp., environmental audits must be performed at the borrower's expense before a loan is extended. "We all agree there should be a cleanup," he says. "The question is how it can be done without affecting economic growth."

The most recent court ruling on the issue has alarmed already skittish lenders even

further. Twenty-eight Punxsutawney, Pa., residents sued the National Bank of the Commonwealth in Indiana, Pa., seeking funds to pay for personal injuries and the cleanup of toxic waste at two nearby electroplating plants. The residents alleged the bank was liable because it foreclosed on property owned by one of the plants and held title for eight months.

In September, federal Judge Barron P. McCune of Pittsburgh refused to dismiss the case, ruling that simply by taking title to the property—even for a short period of time—the bank no longer qualified for the exemption.

"This goes farther in holding a lender liable than any prior decision," says Bradley S. Tupi of Reed Smith Shaw & McClay, an attorney for the bank. "If the decision is followed by other courts, it will have a chilling effect on credit."

The case has also highlighted the growing threat of suits by private parties like the Punxsutawney residents. "Neighbors near a contaminated site are a potentially greater threat to lenders than the government. They can sue for cleanup costs as well as for their personal injuries," says Lawrence P. Schnapf of Lord Day & Lord, Barrett Smith, who has written about lender liability.

Lenders are facing Superfund lawsuits on other fronts. Last April, 200 companies that produced toxic waste State Street Bank of Boston, alleging the bank's efforts to recover a loan from the company that operated the waste site made it liable for the entire cleanup bill. The suit is pending; the bank has denied any liability.

And last month the Michigan attorney general's office notified Manufacturers National Bank of Detroit it could be liable for a $33 million cleanup under Superfund at sites owned by a company on whose board a bank representative sat. A bank spokeswoman said it couldn't respond to "unsubstantiated allegations."

"You're definitely going to see this happening in other states," says Stanley Pruss, an assistant Michigan attorney general. "Rather than have the public bear the burden of cleanup costs when the actors disappear, we have to look at other parties who had control. Banks can be one of them."

In the wake of these incidents, lenders have called for stronger congressional protection and guidelines. Lenders plan to testify at hearings this spring on a bill introduced by Rep. John J. LaFalce (D-NY) that would exclude them from liability if they foreclose on contaminated property to protect a security interest. Last month, U.S. Rep. Silvio O. Conte (R-Mass.) introduced a bill that would exempt federal agencies from Superfund liability if they take over contaminated sites through foreclosure, bankruptcy, tax delinquency or abandonment.

"There is no comfort in waiting for the case law to determine liability. This is an area where statutory clarification is needed rather than allowing the courts to interpret the law," says John Byrne, senior counsel of the American Banking Association, which is lobbying for the LaFalce bill.

Both EPA and the U.S. Justice Department concede that no uniform guidelines for lenders currently exist. But officials at both organizations say they are unlikely to support either bill. "We oppose piecemeal legislation," says Assistant Attorney General Richard B. Stewart.

One fear is that lenders will wait for the completion of government-funded cleanups before taking title to property, thereby reaping a windfall at the taxpayers' expense, says Glenn Unterberger, an associate enforcement counsel for waste at the EPA. "We're not ready to say we'll let lenders off the hook," says Mr. Unterberger. "We think it's appropriate to have lenders in the game as well."

By Mr. KASTEN (for himself, Mr. DOLE, Mr. NICKLES, and Mr. D'AMATO):

S. 2320. A bill to establish a special facility of the International Bank for Reconstruction and Development for loans to Eastern European countries; to the Committee on Foreign Relations.

EASTERN EUROPEAN ECONOMIC RECOVERY ACT

Mr. KASTEN. Mr. President, I am pleased to be joined by the distinguished Republican Leader Senator BOB DOLE in introducing legislation that would establish a special facility of the World Bank to provide loans, economic guidance and technical assistance to the emerging democracies of Eastern Europe. This legislation, entitled the "Eastern European Economic Recovery Act of 1990," is designed to ensure a smooth transition from Marxist-socialist to market-oriented economics.

This legislation is an alternative to the proposed creation of a new Eastern European Development Bank spearheaded by the French and other Western European Governments. Under the proposed charter of this bank, the U.S. has been asked to contribute one of the largest shares of the bank's capital, while the Europeans would retain control of its lending policies.

The negotiations over the proposed charter have moved very quickly; the French plan to wrap up a preliminary agreement by mid-April. As I outlined in a floor statement on March 7, this new multilateral lending institution raises many troubling questions.

First of all, under the proposed charter the Soviets would contribute to the bank's capital—and borrow from the bank. As I understand it, the United States and Japan initially rejected the idea of Soviet borrowing. In the face of Western European pressure, the administration is trying to limit the Soviet's right to borrow—asking that it not exceed their 6 percent contribution to the bank's capital stock—and limit as well the amount of time that the Soviets would be allowed to borrow. I don't think that's enough. I believe that the U.S. should boycott the Eastern European Bank altogether if the bank's charter allows any Soviet borrowing.

I don't think we—the United States and our European allies—should put the Soviets in a position to influence the bank's policies. More importantly, I don't think we should use Western funds to subsidize a failed Communist economic system. Let the Soviets pay for perestroika themselves—by reducing the Soviet military budget, which is now running between 15 and 20 percent of their GNP.

Mr. President, another major source of concern I have about this bank is that it will be dominated by European policymakers who are indifferent—if not hostile—to growth economics. Incredibly, some of these policymakers are still debating whether Eastern Europe should reject socialism or reform it along the lines of the Swedish economic model.

To those who are still puzzling over this question, I can only echo the words of President Kennedy: "Let them come to Berlin."

The people of East Germany know about socialism. And they made that opinion known last Sunday.

They know that the Western European socialist model—emphasizing public sector growth and central planning—is just not the solution to Eastern Europe's economic problems. With the possible exception of West Germany, the track record of Western Europe's high-tax, welfare-state model in promoting economic growth, job opportunities and rising living standards is clearly inferior to the low-tax, free-market economies in the United States, Japan, and the Pacific Rim countries.

In the 1960's, the public sector in Western European countries—measured in terms of government taxes and spending as a percentage of national income—averaged about 32 percent. By the early 1980's, the European public sector had grown to 50 percent of gross domestic product; up to 60 percent in some countries. State-run industries led to an inefficient use of economic resources; high taxes stifled productive incentives; and huge public-sector bureaucracies crowded out private-sector opportunities.

By the mid-1980's, the public-sector boom had resulted in economic stagnation in Europe. Real growth declined from a healthy 4.42 percent per year in the late 1960's to less than 1 percent in the early 1980's. Between 1960 and 1985, no net new private sector jobs were created in OECD Europe. By contrast, those countries with a relatively smaller public sector, like Japan and the United States, created millions of new jobs—20 million in the United States alone to date.

While it is true that Europe has rebounded in recent years, it is only because they have been forced to adopt a small dose of American-style growth economics by cutting tax rates. Many European countries, such as France, the United Kingdom, Sweden and West Germany, feared that significantly lower United States tax rates would result in a "brain drain" of their best and brightest workers and capital flight to the United States.

The Europeans have learned the words—but they still do not know how to play the music. Many European policymakers still believe that socialism can be reformed, that market incentives can work in a socialist-welfare state and that government action raises living standards. I am concerned that this is the kind of mindset that will shape the policies of this Eastern European Development Bank.

The Eastern Europeans have had firsthand experience with big bureaucracies; outrageous salaries and lifestyles; and numerous perquisities for government officials; and environmentally disastrous public works programs. They rejected this approach the minute they got the chance.

Eastern Europe is searching for something new—and they are looking to the United States for leadership. If the Western Europeans balk at our demands on the issues of Soviet borrowing and market-oriented lending policies, then we should provide our own leadership by creating a special facility under the auspices of the World Bank. We can provide leadership through the World Bank, because we contribute almost 20 percent of the Bank's capital—and thus have more influence in setting lending policies.

U.S. withdrawal from the Eastern European Development Bank would send a signal to people of Eastern Europe that this bank is a bad idea—and that it would end up working against their economic well-being.

The Kasten-Dole legislation would instruct the U.S. executive director to begin negotiations to create a special facility of the World Bank which would provide financial aid, economic guidance, and technical assistance to the emerging democracies of Eastern Europe: Poland, Czechoslovakia, Hungary, East Germany, Romania, and Bulgaria.

No loans would go to the Soviets.

The principal aim of this special facility would be to help finance the development of the private sector in Eastern Europe. The majority of the financial aid would therefore go to private sector activities, projects and organizations; the operation of this facility would be similar to the activities of the International Finance Corporation. There would be no aid to parastatal organizations except for infrastructure projects carefully limited to roads and bridges.

Public sector loans should be used primarily to cover the transition costs from socialism to a free-market economy. Such costs could include temporary higher unemployment, inflation and shortages of foreign currency to cover outstanding debts.

These public sector loans would be conditioned on the progress toward a free market, including goals like guaranteeing individual private property rights; setting of wages and prices by individuals in the market; legal commercial codes and an independent judicial system; privatization of state-owned industries; reduction in tax rates; deregulation of the economy; a stable economy; and free trade.

My legislation would not specify a specific dollar amount of capital required; the World Bank currently envisions a lending program for Eastern Europe of $5 billion over 3 years. The legislation would require that any money designated for Eastern Europe be distributed through this special facility. My bill would sunset the facility after 5 years. I think this is important because it sends a message to Eastern Europeans that their economic well-being will depend on market-oriented reforms—not an endlessly flowing fountain of foreign aid.

The Eastern European Economic Recovery Act is only a small component of a comprehensive agenda for U.S. leadership in rebuilding the economies of Eastern Europe. We also have to encourage Western private investment. One of the steps we can take is to reform and simplify U.S. foreign tax laws and regulations that burden U.S. companies and inhibit their investments abroad. We could issue bonds to private U.S. individuals of East European descent to finance small business startups.

We have to open up opportunities for U.S. exporters. That means we have to reform export control restrictions for Eastern Europe and overhaul our outdated licensing process. These are a truly unnecessary handicap to both U.S. exporters and the emerging democracies of Eastern Europe.

Exporting American-style capitalism also means providing technical advice on how to establish a market economy. We have the knowhow. Let's share it—by encouraging exchange programs for business and managerial training.

The revolution of 1989 must not be betrayed in 1990. America must lead by example—toward a future of economic freedom and prosperity, not a retreat toward socialism and stagnation. It is in America's direct economic interest to do so because economic prosperity in Eastern Europe creates new market opportunities for U.S. businesses and workers.

I ask unanimous consent that the text of the bill be printed in the RECORD:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Eastern European Economic Recovery Act of 1990".

SEC. 2. The Bretten Woods Agreement Act is amended by adding at the end the following:

"SEC. 54. EASTERN EUROPEAN FACILITY.

"(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Director of the Bank to propose and work for the development of a special facility to provide loans, economic assistance, and technical assistance to the emerging democracies of Eastern Europe, including Poland, Czechoslovakia, Hungary, East Germany, Romania, and Bulgaria.

"(b) PRINCIPLE AIM.—The principle aim of the special facility will be to help finance the development of the private sector in Eastern Europe.

"(c) PRIVATE SECTOR LOANS.—The majority of the lending by the special facility shall be for private sector activities, projects, and organizations. No credit shall be provided to parastatal organizations except for infrastructure projects limited to roads and bridges.

"(d) PUBLIC SECTOR LOANS.—Public sector loans by the facility shall be used primarily to cover the transition costs from socialism to a free market economy. Such costs may include temporarily higher unemployment, inflation, and shortages of foreign currency to cover outstanding debts. Public sector loans shall be conditioned on the progress toward guaranteeing individual private property rights, wages and prices set by individuals in the market, legal commercial codes and an independent judicial system, privatization of state-owned industries, deregulation of the economy, a stable currency, and free trade.

"(f) SUNSET.—The facility shall terminate upon the expiration of 5 years after the date of enactment of this section.".

Mr. DOLE. Mr. President, I am pleased to join as an original cosponsor of the Eastern European Economic Recovery Act of 1990—introduced by the distinguished Senator from Wisconsin, Senator KASTEN.

It's a superb initiative—the right idea, offered at precisely the right time.

The emerging democracies of Eastern Europe need our help, and deserve our help. It is in our interest—and the interest of all the nations of the democratic and industrialized West—to help them. It is a good investment—if it is an investment made wisely.

Senator KASTEN's proposal is simple and time-tested. That the U.S. representative at the World Bank work for the establishment of a special facility, to be used to support the development of free enterprise in Eastern Europe.

Such a facility would do exactly what the French-proposed European bank for reconstruction and development should do—but will do it better.

It will do it more efficiently and cheaply, since it would rely on the established mechanisms of the World Bank—and not require the creation of an entirely new, and untried, bureaucracy.

It will keep economic assistance focused on the private sector—which is where our help should be focused if it is to be effective.

As Senator KASTEN said in his statement:

If you have any doubt as to whether the Eastern Europeans want that focus—just take a look at the results of the East German elections. Or, if there is still any doubt, ask Polish Prime Minister Mazowiecki, with whom many of us met earlier today.

The emerging democracies are fed up with socialist, statist policies. They know where their future lies—with free enterprise. That's where our aid should focus.

I'm not sure that some of the European proponents of the French initiative understand, or believe, that. And I'm not sure the lending practices of their bank will reflect that.

Finally, the World Bank special facility would preclude lending to the Soviet Union, at least at this time.

Some people in Congress seem to believe we ought to get into the business of subsidizing Mr. Gorbachev. The French and others in Europe seem to think that is a good idea, too.

Well, I don't. Senator KASTEN doesn't. And I think the overwhelming majority of Americans don't think it's such a great idea, either.

And, in fact, I can cite a whole bunch of other people who probably wouldn't be too excited about United States hand-outs for Gorbachev.

The people of Lithuania might think it isn't the world's greatest idea right now. And the people of Latvia and Estonia would probably be a little skeptical, too.

The people of Afghanistan and Angola might suggest to Mr. Gorbachev that, if he needs some quick cash, he stop spending billions on sending arms into their countries.

The people of Central America—who have seen their region ravaged by the billions in military aid Gorbachev has dumped into Nicaragua, and still dumps into Cuba and to the rebels in El Salvador—they might have some reservations if we start writing Treasury checks to the Kremlin.

Mr. President, the United States should have no part of any bank that is subsidizing Soviet suppression in the Baltic states, aggression in Afghanistan and Angola, subversion in Central America—or any other of the still dangerous and disruptive policies of the Soviet state, at home and around the world.

As Senator KASTEN points out: The Soviet Union still spends a fifth of its budget on arms.

Mr. President, Senator KASTEN's bill is the way to go. I am pleased to cosponsor it, and I hope that it will receive quick committee action.

We want to help the emerging democracies of Eastern Europe, and we want to do it the right way.

The Kasten bill is the right way.

By Mr. CRANSTON:

S. 2321. A bill to create a Federal criminal offense for interfering with access to and egress from a medical facility; to the Committee on the Judiciary.

GUARANTEE OF FREE ACCESS TO MEDICAL FACILITIES ACT

Mr. CRANSTON. Mr. President, I am today introducing legislation, S. 2321, the Guarantee of Free Access to Medical Facilities Act of 1990, aimed at protecting the rights of women seeking medical assistance at health facilities which provide abortion services.

This legislation is patterned on a measure—the first in the Nation—enacted last year in Maryland which makes it a crime to interfere physically with an individual entering or exiting a medical facility. My legislation would provide that any person who intentionally prevents an individual from entering or exiting a medical facility by physically detaining the individual or obstructing, impeding, or hindering the individual's passage shall be guilty of a class E Federal felony, punishable by a sentence of up to 3 years and a fine of up to $250,000 in addition to restitution for any damages to property or bodily injury sustained by a victim. Medical facilities includes both public and private facilites as well as physician's offices. Under the new Federal sentencing guidelines, which I will discuss in a moment, the likelihood of a stiff sentence would be increased if aggravated circumstances are involved such as repeated conviction of the same offense or physical harm to a victim.

Mr. President, this is a tough bill because we are dealing with a very serious problem. Medical facilities throughout the Nation which provide safe, legal abortion procedures for women exercising their constitutionally guaranteed right to choice in this area have been under siege by highly organized groups like Operation Rescue. These organizations and groups are not engaged in peaceful, nonviolent protests; they have begun a concerted effort to force their will upon women and health providers by physically invading health facilities which provide abortion services, setting up blockades which prevent staff and patients from entering or leaving these facilities, and all too often engaging in direct physical assaults on individuals attempting to enter the buildings.

According to statistics compiled by the National Abortion Federation, in 1988 and 1989, there were some 379 incidents of clinic blockages throughout the country. Many of these involved violence or threats of violence against clinic staff, ranging from assaults and battery to death threats and vandalism. Medical equipment has been destroyed and confidential information stolen. In addition, there have been numerous incidents involving arson or attempted arson and bomb threats. Although the actual bombings have diminished since 1984 when 18 clinics were bombed, bomb threats continue to be used as means of harassment and interference with clinic activity.

Mr. President, my concern about this problem was generated from discussions I have had in the past several months with prochoice organizations and health providers in my own State of California about the growing problem of clinic violence. My constituents have reported an escalation of clinic violence and intimidation of women and staff members throughout my State. Health facility employees and volunteers are routinely cautioned against wearing jewelry that can be ripped from their bodies by clinic protesters who are reported to have been provided with training on how to poke and bruise clinic staff attempting to enter the facilities.

Last July, six patients and five staff members at a clinic in Monterey County, CA, were held prisoner in the facility for 6 hours by over 300 antichoice individuals. One patient seeking a scheduled cancer treatment was blocked from entering the facility. Of the 104 individuals who were eventually arrested, only 6 were local residents. The rest were outsiders, organized to shut down this local clinic.

In Daly City, CA, clinic blockaders refused to allow a pregnant patient who began suffering a miscarriage outside the clinic to enter. The clinic staff was able to find a car and transport the hysterical woman to another facility some 15 miles away.

Mr. President, it is important to understand that these women's health facilities often provide a broad range of health services for women, including cancer screening, pap tests, treatment of reproductive disorders, and family planning services. Patients who are unable to get into the facility may be forced to forgo essential treatment services. Moreover, clinic blockades could prevent or delay patients who may have a medical emergency requiring transfer to a hospital from being transported. Blockading health facilities is very dangerous activity and must be stopped.

Mr. President, the most effective way to bring a halt to this violence and interference with women exercising their constitutional right to freedom of choice is make sure that those who engage in this kind of conduct know that they will be subjected to tough punishment. This legislation is designed to send a very strong message that those who violate the rights of others will be subjected to the full force and weight of the law.

NEED FOR FEDERAL LEGISLATION

Mr. President, criminal sanctions have traditionally fallen within the responsibility of the State governments except in those instance where a Federal interest is involved which requires

Federal protection. Historically, Federal criminal sanctions have been imposed, in addition to any State criminal sanctions, for criminal conduct where important Federal rights are involved, where interstate criminal activity is involved or where there is a compelling need to establish uniform Federal sanctions. For example, Federal criminal sanctions for violation of civil rights were enacted during an era when certain regions of the Nation were unwilling to protect the rights of black citizens.

The circumstances warranting Federal remedies are clearly present in this situation.

First, the basic right involved—the right of individual women to obtain safe and legal abortion services—is a federally protected right, guaranteed by the Constitution of the United States. The Federal Government has a responsibility and obligation to help assure the protection of federally guaranteed rights.

Second, there is ample evidence to indicate that the assaults on these health clinics are being masterminded by organizations such as Operation Rescue which are interstate in nature and involve interstate conspiracies to interfere with the exercise of constitutionally guaranteed rights by individual women.

Third, although many State and local law enforcement officials have been very courageous and vigorous in their efforts to protect the women and staff of these health facilities, there have been other instances where local government officials have refused to enforce the law against those engaged in clinic violence. For example, in January of this year, the sheriff of Nueces County, TX, told the Corpus Christi Times that he "would not stop pro-life demonstrators from blocking abortion clinics" or "take any action that would assist people to get into a place where abortions were going to be performed." Unfortunately, in some instances, individuals who have been found guilty of violating State trespass statutes—generally misdemeanor statutes—have been given token sentences.

In the case in Monterey County, CA, which I described earlier, the individuals convicted by a jury of holding five patients and six clinic staff members hostage for 6 hours were given $200 fines and 40 hours of community service as punishment. These minimal penalties were imposed after a 3-month trial in the municipal court where the judge allowed the defendants to conduct extensive debate over whether a health facility providing abortion services was a lawful business activity and permitted the defendants to engage in extensive discovery to ascertain the home addresses of the health facility employees—information that could easily be used for further harassment and intimidation of these employees.

Last December, despite the Los Angeles city attorney's recommendation for a 30-day sentence, individuals convicted by a jury for trespassing at a family planning clinic were given their choice of 5 days in the county jail or 10 days of community service by a judge who reprimanded the prosecuting attorney for making public the recommendation for a tougher sentence. The district attorney's office subsequently expressed the justifiable concern that the 5-day sentence would not deter the protesters from illegally blockading clinics in the future.

In other States, $25 fines and suspended jail sentences have been reported.

This legislation would guarantee that punishment commensurate with the offense is actually imposed. Under the newly issued Federal sentencing guidelines, repeat offenders and those who use physical force to impose their views on others will be subjected to the full force of the law. For example, the guidelines released November 1, 1989, provide for increased penalties where a victim is physically restrained in the course of the offense, where the defendant was an organizer or leader for a criminal activity that involved five or more participants or where the defendant had a record of prior offenses. Thus, under the objective sentencing criteria outlined in the U.S. Sentencing Commission Guidelines Manual, the likelihood that these individuals will get minimal sentences is greatly diminished.

Additionally, establishing a specific offense related to interfering physically with access to a health facility avoids some problems that have arisen under state trespass statutes. In some States, basic trespass laws have not been totally effective in dealing with clinic blockades that occur in rented buildings or multitenant facilities where the actual blockade does not occur on the property of the clinic, but rather in common areas like lobbies and stairways.

Finally, Mr. President, with regard to the appropriateness of a Federal criminal statute in this area, I would note that last fall, the Senate unanimously passed legislation, S. 727, aimed at protecting animal research health facilities from animal rights advocates who engage in illegal activities against such facilities. That legislation would impose a Federal penalty of imprisonment of not more than 1 year or a fine of not more than $5,000 or both for committing certain acts against such facilities. Legislation has also been introduced, S. 1330, to impose similar Federal criminal penalties against individuals who commit illegal acts against farm animal facilities. If there is a basis for such Federal legislation involving violence by animal rights advocates, a far stronger case can obviously be made where the constitutionally guaranteed rights of women to have access to health facilities which provide safe and legal abortions are involved.

STRONG CRIMINAL SANCTIONS WORK

Mr. President, some may suggest that because of the emotional nature of the issues involved, imposing tough criminal penalties upon those who use physical force in clinic blockades will have little impact. The facts show exactly the opposite. In those jurisdictions where these individuals have been subjected to stiff sentences and heavy fines, the violence and unlawful conduct have diminished.

A few weeks ago, after spending a month behind bars, two Florida antichoice activists announced that they would comply with the terms of a probation order and do their protesting off the clinic property in the future. The local organizer for Operation Rescue also announced that the tough sentences had led other activists to curtail their activities. In New York, where a Federal court has levied heavy fines against individuals and organizations for violating outstanding injunctions against blocking women from entering abortion and family planning clinics, potential lawbreakers have been deterred by the possibility of personal financial liability.

CLINIC VIOLENCE NOT LEGITIMATE FORM OF PROTEST

Mr. President, one thing should be made absolutely clear: Those who oppose abortion and family planning have every right to make their views known. Freedom of speech is a deeply cherished right protected by the first amendment to our Constitution. Those who oppose abortion are free to engage in peaceful demonstrations, to picket, to pass out literature, and to engage in political activities to articulate their views.

Abortion is a deeply emotional and divisive issue, and the passions on both sides often run deep and strong.

But those who oppose freedom of choice in matters relating to abortion cross the line between legitimate protest and criminal conduct when they physically prevent others from exercising their constitutional rights in this area.

Some have suggested an analogy between the antichoice protesters and the civil rights protesters of the 1960's. Antichoice protesters who go beyond peaceful protest and engage in violence, physical intimidation, and assault have little in common with those who sought to assert and protect constitutional freedom during the turbulent civil rights struggles of the sixties. An analogy can, however, be drawn between these violent protesters and the segregationists who barred black citizens from entering school house doors

in a vicious and often violent effort to deny black Americans free exercise of their constitutional rights.

Mr. President, this legislation is carefully crafted to protect women and health providers from physical violence while recognizing the right of legitimate protest. It specifically excludes activities related to freedom of speech and peaceful protest. The legislation enacted last year in Maryland which this bill is patterned on enjoyed broad support from law enforcement officials, civil liberties organizations and the health community.

CONCLUSION

Mr. President, if we want the violence and physical intimidation to end, we need to send a very strong signal that it will not be tolerated. Those who engage in violence in seeking to deny women the right to exercise freedom of choice and seek to intimidate physically health providers who make safe and legal abortions available to those women need to know that they will be subject to the full force of the law if they undertake this kind of unlawful and violent activity. I hope that members of all perspectives on the issue of abortion will support this measure which is aimed solely at those individuals and organizations who step beyond the boundaries of peaceful protest and engage in physical violence and intimidation.

I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks along with a section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Guarantee of Free Access to Medical Facilities Act of 1990".

SEC. 2. OFFENSE.

Chapter 13 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 248. Interference with access to or egress from a medical facility

"(a) OFFENSE.—Any person who intentionally prevents an individual from entering or exiting a medical facility by physically—

"(1) detaining the individual; or

"(2) obstructing, impeding, or hindering the individual's passage,

shall be guilty of a class E felony.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'physically' does not enclude speech;

"(2) the term 'medical facility' means an agency, clinic, or office operated under the direction of a State or the local health officer or the regulatory authority of a State or local department of health and mental hygiene; and

"(3) the term 'person' does not include—

"(A) the Chief Executive Officer of the medical facility;

"(B) a designee of the Chief Executive Officer of the medical facility;

"(C) an agent of the medical facility; or

"(D) a law enforcement officer.".

SEC. 3. CHAPTER ANALYSIS.

The chapter analysis for chapter 13 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"248. Interference with access to or egress from a medical facility.".

SECTION-BY-SECTION ANALYSIS

Section 1 provides that the Act may be cited as the Guarantee of Free Access to Medical Facilities Act of 1990.

Section 2 amends title 18 of the United States Code by adding a new offense for interfering with access to or egress from a medical facility. The new provision provides that any person who intentionally prevents an individual from entering or exiting a medical facility by physically detaining the individual or obstructing, impeding or hindering the individual's passage shall be guilty of a class E felony.

Section 2 further provides that the term "physically" does not include speech and that "medical facility" includes both agencies, clinics and offices operated under the direction of a State or local health officer or pursuant to the regulatory authority of a state or local department of health and mental hygiene. Thus, any facility permitted under state or local law or licensing authority to provide health services, including a physican's office, would be covered under this statute.

Finally, the statute provides that the term person does not include the chief executive officer of the facility or a designee or agent of the facility or a law enforcement officer. In other words, it would not be a violation of the statute for such a person to prevent someone from entering or exiting the facility. A law enforcement officer would mean an individual acting in his or her official capacity.

Section 3 amends the chapter analysis for chapter 13 of title 18, United States Code, to include a reference to the new provision.

By Mr. CHAFEE:

S. 2322. A bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States, to establish a Commission to study the impact of the antitrust laws on the competitiveness of U.S. industries, and for other purposes; to the Committee on the Judiciary.

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION

● Mr. CHAFEE. Mr. President, America today finds itself at an important juncture of defining its role in the global marketplace. The ability of domestic companies to compete with European and Japanese rivals, especially in technically sophisticated industries, is a subject of the highest national importance. A cursory glance at the business section of virtually any newspaper starkly reveals the challenges we face in the international economic field.

For decades, our businesses were the world leaders in technology and innovation. In 1981, America's surplus in high technology exports over imports exceeded $26 billion. Alarmingly, that surplus had become a $2.5 million deficit by 1988. It is critical that we restore this balance and regain our leadership position in high technology and innovative products. Failure to act now carries the risk of America becoming a second-tier industrial power by the year 2000.

Japanese producers of semiconductors have solidified their dominant position in this vital international industry. The United States steady decline in the semiconductor market over the past 9 years now raises concern within our Government that this country's commercial and military manufacturers are becoming too dependent on overseas suppliers for key parts.

There is alarm over the failure of the United States to gain a foothold in the new technology for high definition television [HDTV]. Already, America lags far behind Japan and Europe in developing HDTV technology. In addition, vast economic opportunities await successful competitors in the emerging fields of high temperature superconductivity and robotics.

The future success of U.S. firms in these markets is questionable today. American companies often face barriers that companies in our competitor nations do not. Some countries, notably Japan, offer direct government financial support to private industry in markets targeted for international dominance. Almost uniformly, companies in other nations do not face the antitrust restraints which confront U.S. firms.

Developing and marketing a new product involves both research and production. The costs of researching, developing, producing, and marketing technically sophisticated products, such as HDTV, semiconductors, or high temperature superconductors, often exceed the resources of any single firm. Intense coordination among companies in both the strategic and operational phases is required.

Existing antitrust laws in both Europe and Japan recognize that cooperation through interfirm alliance is beneficial to industry as well as to the consumer. It is time for our antitrust policies to reflect the changing global markets. We must sanction joint production ventures in those instances where competition will be preserved. The cooperative industrial activity that gives a competitive edge to America's foreign rivals is, for the most part, effectively denied to our own companies.

Today I am introducing a bill to reform existing antitrust laws to permit U.S. companies to create joint ventures for production. I believe this proposal will help American business in its efforts to compete more effec-

tively against foreign companies in global markets.

Current antitrust laws needlessly inhibit joint production ventures. The legal standards for these alliances are not as clear or as friendly as they are for mergers. Under existing law, two American firms interested in the joint production of an expensive new product can not even discuss such a proposal without the looming threat of treble damage liability. In the case of a merger, however, current law provides far more friendly treatment, and certainty even if a merger between these two firms poses a risk of inhibiting competition.

Opponents of these proposals will argue, and it is true, that joint ventures for production are not illegal per se under U.S. antitrust laws. In fact, joint production ventures that are not anti-competitive may be formed under current law. But even in those instances where the partners in the venture are fairly certain that a joint venture does not violate the law, the risk of guessing wrongly is simply too great. The threat of treble damages and attorney's fees broadly inhibits the kinds of cooperative arrangements in the United States that flourish in Japan and Europe.

Congress recognized, in 1984, that the uncertainties of antitrust laws, and the potential for treble damage litigation were primary reasons for the failure of U.S. firms to enter into cooperative innovative research and development [R&D] arrangements. The resulting legislation, the National Cooperative Research Act of 1984, took significant steps in the direction of fostering joint R&D efforts domestically. However, this important legislation failed to offer protection to joint arrangements for production.

U.S. companies require assurance that a potential joint venture will not violate the antitrust laws. It is that assurance which my legislation provides.

This bill creates two alternative methods for receiving an exemption from the antitrust laws. The first alternative, a certification program, requires the parties in a prospective joint venture to file a detailed, written application with the Department of Justice and the Federal Trade Commission. These organizations in consultation with the Department of Commerce will review these applications to determine which ventures will be certified. The Department of Justice, the Federal Trade Commission, and the Department of Commerce must look at the position and potential market share of each venture in the global market to ensure it will not substantially limit competition.

Once sanctioned, the joint venture participants are relieved of all potential civil liability, save injunctive relief, for activities within the scope of the sanctioned proposal. Either the authorizing agency or a private plaintiff could thereafter seek review of the appropriateness of the joint venture, and if it is found to have outgrown its original charter and poses anticompetitive risks, a court could order its termination.

This alternative offers prospective joint ventures the protection they need from civil antitrust liability and offers the public protection from anticompetitive activities. This process is very similar to rules enacted in the Export Trading Company Act of 1982 to encourage American exports.

The second alternative offers joint production ventures a simple notification option. Under this approach, a joint venture would notify the Department of Justice and the Federal Trade Commission of the formation and purposes of the venture. This notification would prohibit a court from condemning the joint venture without first considering the competitive benefits that the venture might create. In addition, under this alternative, notification would protect the participants against the threat of treble damages. It would only allow recovery of actual damages and injunctive relief in the event of a successful suit.

This bill carefully preserves antitrust protections against any abuse of cooperative arrangements by providing protection—economic damages or injunctive relief—against anticompetitive conduct for consumers and business competitors. In addition, the notification or certification processes resolve the uncertainties in our antitrust laws which currently inhibit the information of joint ventures for production.

In short, this bill will help more American businesses enter important and lucrative new markets, and protect competition for consumers. By encouraging procompetitive joint ventures, this bill will open the door to U.S. participation in the manufacture of high technology products—the major staple of tomorrow's global market. Equally important, it will assist domestic industries now undergoing rapid techologicial changes.

In honor of the 100th anniversary of the Sherman Antitrust Act of 1890, this bill would also establish a commission to study the competitive aspects of our antitrust policies. This commission would be given the duty of examining our antitrust laws in light of the global economy. It would be required to develop proposals to revise these laws to eliminate the burdens they place on the competitiveness of U.S. companies.

The proposals in this legislation enjoy a broad range of support in business, legal, and academic circles. I invite my colleagues to join me in this effort to enhance America's role in the global economy.

Mr. President, I ask unanimous consent to have a one-page summary of the bill, a section-by-section analysis of the bill, and the bill itself printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL COOPERATIVE RESEARCH

SEC. 101. SHORT TITLE.

This title may be cited as the "National Cooperative Research Act Extension of 1990".

SEC. 102. JOINT MANUFACTURING VENTURES.

The National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.) is amended—

(1) in section 2(a)(6) by—

(A) inserting "or manufacturing" after "development" the first place it appears;

(B) redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(C) inserting the following new subparagraph between subparagraph (C) and subparagraph (E), as redesignated:

"(D) the manufacturing and processing of equipment and materials,";

(D) inserting "and manufacturing" after "research" in subparagraph (E); and

(E) inserting "(D), and (E)" after "(C)" in subparagraph (F), and inserting "and development or manufacturing," after "research," in the matter following subparagraph (F);

(2) in section 2(b) by—

(A) inserting "or manufacturing" after "development" the first place it appears;

(B) striking "conduct the research and development that is the" in paragraph (1) and inserting in lieu thereof "carry out the"; and

(C) inserting "or manufacturing" after "development" in subparagraph (3)(B);

(3) in section 3 by inserting "or manufacturing" after "development" the first place it appears, and by inserting "or product" the second place it appears;

(4) in section 4 by inserting "or manufacturing" after "development" each place it appears in subsections (a)(1), (b)(1), (c)(1), and (e);

(5) in section 5(a) by inserting "or manufacturing" after "development";

(6) in section 6 by inserting "OR MANUFACTURING" after "DEVELOPMENT" in the section heading;

(7) in section 6 by inserting "and any party to a joint manufacturing venture, acting on such venture's behalf, may, not later than 90 days after entering into a written agreement to form such venture or not later than 90 days after the date of enactment of the National Cooperative Research Act Extension of 1989, whichever is later," after "Act"; and

(8) in section 6 by inserting "or manufacturing" after "development" each place it appears in subsections (d)(2) and (e).

TITLE II—COOPERATIVE INNOVATION

SEC. 201. SHORT TITLE.

This title may be cited as the "National Cooperative Innovation and Commercialization Act of 1990".

SEC. 202. PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) technological innovation and its profitable commercialization are critical components of the United States ability to raise the living standards of Americans and to compete in world markets;

(2) cooperative arrangements among nonaffiliated firms in the private sector are often essential for successful technological innovation and commercialization;

(3) the antitrust laws tend to inhibit cooperative innovation arrangements because of uncertain legal standards and the threat of private treble damage litigation;

(4) cooperative innovation efforts present little or no threat to competition when cooperating firms lack substantial market power, or when cooperative activity takes place in industries experiencing rapid technological change;

(5) the uncertainty of substantive antitrust standards and the potential delays of antitrust litigation are especially troublesome in fast paced industries experiencing rapid technological change; and

(6) antitrust law should not treat mergers more favorably than more flexible, less permanent contractual and strategic relationships.

(b) PURPOSE.—It is the purpose of this title to promote innovation and profitable product commercialization, facilitate trade, and strengthen the competitiveness of United States based firms in world markets by clarifying the legal standards applicable to cooperative innovation arrangements and by establishing a procedure by which firms may seek approval for their cooperative innovation arrangements from an authorizing agency, in consultation with the Secretary of Commerce, and thereby obtain exemption from criminal antitrust actions or civil antitrust damage actions.

SEC. 203. DEFINITIONS.

(a) IN GENERAL.—For the purposes of this title:

(1) The term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)) except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(2) The term "Attorney General" means the Attorney General of the United States.

(3) The term "Commission" means the Federal Trade Commission.

(4) The term "Secretary" means the Secretary of Commerce.

(5) The term "person" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(6) The term "State" has the meaning given it in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

(7) The term "cooperative innovation arrangement" means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts;

(B) the development or testing of basic engineering or management techniques;

(C) the extension of investigative findings or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes;

(D) the collection, exchange, and analysis of research information;

(E) manufacturing, producing, marketing, distributing, or otherwise commercializing products, processes, or information developed jointly through activities described in subparagraphs (A) through (D), or by one or more of the persons in the arrangement; or

(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E);

and may include the integration of existing facilities or the establishment and operation of new facilities for the conducting of cooperative work, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture.

(8) The term "market share" means the percentage of total market sales represented by a single market participant in a relevant market.

(9) The term "market power" means the ability to restrict output or increase prices above competitive levels in a relevant market.

(10) The term "market share index" means the total of the squares of the market shares of all actual competitors in a relevant market.

(11) The term "authorizing agency" means, in the case of a cooperative innovation arrangement with respect to which an application is filed under section 5, the Attorney General or the Commission, as jointly agreed upon by the Attorney General and the Commission not later than 5 days after such application is filed.

(b) AUTHORITY OF AUTHORIZING AGENCY.—The authorizing agency, after consultation with the Secretary, may by rule further define any term defined in subsection (a).

SEC. 204. INAPPLICABILITY OF THE PER SE STANDARD.

No cooperative innovation arrangement approved under this title by the authorizing agency shall be deemed illegal per se under the antitrust laws or under any State law similar to the antitrust laws.

SEC. 205. APPROVAL OF COOPERATIVE INNOVATION ARRANGEMENTS.

(a) WRITTEN APPLICATIONS; FILING.—(1) Any party to a cooperative innovation arrangement, acting on such arrangement's behalf, may, not later than 90 days after entering into a written agreement forming such arrangement or not later than 90 days after the date of the enactment of this title, whichever is later, file simultaneously with the Attorney General, the Secretary, and the Commission a written application disclosing—

(A) the identities of the parties to the arrangement;

(B) the nature and objectives of the arrangement, including a description of procompetitive benefits and efficiencies to be achieved by the arrangement;

(C) the current market shares, in all relevant markets, of all parties to the arrangement;

(D) the estimated or predicted market share, in all relevant markets, of the arrangement, and the basis for the estimate or prediction (including an estimate of the effect of potential competitors on current or future market shares);

(E) the estimated concentration of all relevant markets, expressed in terms of the market share index; or, if market shares of the participants in a relevant market cannot be measured by reasonably obtainable data, then in terms of the number of firms (including the arrangement) currently participating in each relevant market that are capable, alone or cooperatively, of engaging in the type and scope of innovation and commercialization proposed by the applicant; and

(F) the estimated or anticipated duration of the arrangement.

(2) Within thirty days after an application submitted under paragraph (1) is received by the authorizing agency, the authorizing agency shall publish in the Federal Register a notice that announces that an application has been submitted, identifies each person submitting the application, and describes the cooperative innovation arrangement for which the application is submitted, subject to the limitations specified in subsection (g).

(3) Within thirty days after the date of publication of the application in the Federal Register by the authorizing agency, the Secretary shall review the application and make separate formal recommendations to the authorizing agency.

(b) APPROVAL OF APPLICATIONS; FILING.—(1) The authorizing agency shall approve an application filed under subsection (a) if such agency determines in consultation with the Secretary—

(A) that the arrangement will not possess substantial market power in any relevant market; and

(B) that the duration of the arrangement will not exceed limits reasonably required to accomplish the objective of the arrangement, and in any event will not exceed seventeen years.

(2) With respect to a cooperative innovation arrangement that does not include marketing, distributing, or otherwise commercializing any product, the authorizing agency may approve an application filed under subsection (a) if such agency determines, in consultation with the Secretary, that, notwithstanding a conclusion that the arrangement may possess substantial market power in a relevant market—

(A) the arrangement is reasonable, because the procompetitive benefits outweigh any anticompetitive harms, as determined under paragraph (5); and

(B) the scope and duration of the arrangement will not exceed limits reasonably required to accomplish the objective of the arrangement, and in any event will not exceed seventeen years.

(3) For the purposes of this section, a cooperative innovation arrangement shall not be held to possess substantial market power in a relevant market if—

(A) the market share index of the relevant market (including in that market, as a single firm, the cooperative innovation arrangement) neither is, nor imminently threatens to become, greater than 1800;

(B) the formation of the arrangement neither increases nor imminently threatens to increase, the market share index of such market by more than 50; or

(C)(i) the market shares of the firms in such market cannot be measured by reasonably obtainable data; and

(ii) there are at least five firms (including the cooperative innovation arrangement) currently participating in each relevant market that are capable, alone or cooperatively, of engaging in the type and scope of activity undertaken by the cooperative innovation arrangement in such market.

The fact of the failure of an applicant to qualify under subparagraphs (A), (B), or (C) shall not be evidence that the arrangement does possess market power, nor shall the fact of such a failure be admissible in any action concerning the legality of the cooper-

ative innovation arrangement other than a review of the agency action under subsection (i).

(4) For purposes of this section, the authorizing agency, in consultation with the Secretary, shall comply with all of the following requirements for purposes of defining relevant markets:

(A) Relevant markets shall be defined in a manner that reflects commercial realities and takes into consideration know-how markets and product markets.

(B) Relevant markets shall be defined in a manner that takes into account actual and potential competitors, both foreign and domestic, who, either alone or cooperatively, are capable of engaging in a timely manner in similar innovation and commercialization efforts.

(C) Relevant markets shall be drawn with sensitivity to product features and performance characteristics, in addition to price elasticities.

(D) Relevant markets involving innovation are presumed to be global, unless evidence demonstrates the appropriateness of a more narrow market.

(5) For the purposes of this section, the authorizing agency, in consultation with the Secretary, shall, in determining whether a cooperative innovation arrangement is reasonable, consider the following factors—

(A) the degree of market power possessed by the arrangement;

(B) whether the arrangement will harm competition and consumers by reducing output or increasing prices of products in a relevant market;

(C) whether the arrangement will produce procompetitive benefits and efficiencies, and whether there is a logical relationship between specific contractual provisions contained in the arrangement and the achievement of such benefits and efficiencies, evidence of which may include, but is not limited to, a demonstration—

(i) that the innovation sought by the arrangement will, if achieved, be inadequately protected under the patent, trade secret, or other intellectual property laws, and that specific contractual restraints are necessary in order to secure appropriability and prevent free-riding and opportunistic behavior;

(ii) that the innovation sought by the arrangement is of such a character or magnitude that the arrangement will help achieve the economies of scale and scope necessary to mount a successful research and commercialization effort;

(iii) that successful innovation sought by the arrangement will be aided by cooperative or integrated commercialization, including specific contractual restraints;

(iv) that the arrangement will compete in a market or markets that are characterized by rapid technological change; or

(v) that the innovation sought by the arrangement will compete with other technologies in an early stage of competition for particular products or processes;

(D) whether such procompetitive benefits and efficiencies could be achieved—

(i) by an existing firm or viable combination of firms with substantially less market power than that exercised by the arrangement in any relevant market; or

(ii) by the parties to the arrangement in a substantially less restrictive manner; and

(E) whether the existence of potential competitors in any relevant market in which the arrangement possesses substantial market power precludes potential anticompetitive effects that might otherwise be inferred from such market power.

(6) If the authorizing agency, in consultation with the Secretary, determines that approval is unwarranted under paragraphs (1) and (2), such agency may either deny approval or grant an approval conditioned on modification of the terms, scope, membership, or duration of the arrangement.

(7) The authorizing agency may, to assist in making any determination required by this subsection, hold, after publishing appropriate notice in the Federal Register, a hearing at which the applicant and other affected persons may present evidence pertinent to the determination in question.

(c) PUBLICATION; EFFECTIVE DATE OF APPROVAL.—(1) Except as provided in subsection (h), not later than 60 days after receiving an application filed under subsection (a) or (f), the authorizing agency shall publish in the Federal Register a statement of the approval, approval upon conditions, or denial of the application, and its reasons therefor. Prior to its publication, the contents of such notice shall be made available to the parties to the arrangement. If the application is approved under subsection (b)(2) or (b)(6), such notice shall also include a description of the terms of the approval and a description of the activities and conduct within the scope of the approval.

(2) The authorizing agency may, prior to the expiration of the 60-day period specified in paragraph (1), require the submission of additional information or documentary material relevant to consideration of the factors set forth in subsection (b). If such information or material is requested, the period after which such agency must publish notice of approval or denial of the application shall be extended to 30 days following the date of full submission of such material.

(3) Approval of applications filed under subsection (a) or (f) shall take effect 30 days after notice is published under paragraph (1) or (2), except as specified in paragraph (4).

(4) If subjected to acceptance of conditions imposed by the authorizing agency under subsection (b)(6) or judicial review under subsection (i), approval of applications filed under subsection (a) or (f) shall take effect on the date on which all parties to the cooperative innovation arrangement submit to the court or the authorizing agency, whichever is imposing the conditions, a statement of their acceptance of all modifications required by the authorizing agency or the court.

(d) EFFECT OF AUTHORIZING AGENCY'S APPROVAL.—Except as provided in section 6, no damages, interest on damages, costs, or attorney's fees may be recovered in any criminal or civil action based in whole or in part on conduct within the scope of a cooperative innovation arrangement approved by the authorizing agency (as upheld or modified by the court under subsection (i)) under the antitrust laws, or any State laws similar to the antitrust laws, if such approval was in effect at the time of the conduct. The remedy of injunctive relief available under section 16 of the Clayton Act (15 U.S.C. 26) shall be available in such criminal or civil action.

(e) REVOCATION.—(1) At any time during which an approval granted by the authorizing agency is in effect, the authorizing agency, on its own initiative or after receiving complaints from the public, may investigate and review whether the approved cooperative innovation arrangement or any part thereof remains within the scope of and standards for approval under subsection (b). The review performed by the authorizing agency need not be formal or include a hearing. If a hearing is held as part of such review, then such review shall be deemed to be required on the record by statute for purposes of subchapter II of chapter 5 of title 5 of the United States Code.

(2) The authorizing agency shall revoke an approval granted under subsection (b) only—

(A) after consultation with the Secretary; and

(B) if such agency determines that the cooperative innovation arrangement in question, or any part thereof, has become unreasonable, as determined under subsection (b)(5), and

(C) after notifying the parties to the cooperative innovation arrangement in question, providing such parties with a reasonable opportunity to present evidence relevant to the determinations made under subparagraph (B), and determining that such evidence fails to eliminate all grounds for revocation.

(3) If a revocation is ordered under paragraph (2), the authorizing agency shall publish notice in the Federal Register of the revocation, including a statement of reasons therefor. Prior to publication of any notice published under this subsection, the contents of such notice shall be made available to the parties to the cooperative innovation arrangement in question.

(4) Revocations granted under paragraph (2) shall take effect 30 days after notice is published, except as subjected to judicial review under subsection (i). If subjected to judicial review, revocation shall take effect on the date on which a final judgment upholding such revocation is announced.

(f) DURATION OF APPROVAL; APPLICATIONS FOR RENEWAL.—The approval of cooperative innovation arrangements under this section shall, unless revoked pursuant to subsection (e), remain in effect for seventeen years, or a lesser term specified by the authorizing agency or a reviewing court, at the conclusion of which any party to such arrangement may submit an application for renewal. The application shall provide the then current information required under subsection (a) and shall be approved or denied pursuant to the procedure set forth in subsections (b) and (c).

(g) EXEMPTION; DISCLOSURE; INFORMATION.—(1) Information submitted by any person in connection with applications for approval or petitions for revocation shall be exempt from disclosure under section 552 of title 5, United States Code.

(2) No officer or employee of the United States shall disclose financial, commercial, or technical information submitted in connection with applications for approval or petitions for revocation if the information is propriety or subject to privilege as provided in the Federal Rules of Evidence and if disclosure of the information would cause harm to the person who submitted the information.

(3) Paragraph (2) shall not apply with respect to information disclosed—

(A) upon a request made by the Congress or any committee of the Congress subject to appropriate protective orders;

(B) in a judicial or administrative proceeding, subject to appropriate protective orders;

(C) with the consent of the person who submitted the information;

(D) in accordance with any requirement imposed by any law of the United States, other than section 552 of title 5, United States Code; or

(E) in accordance with any rule promulgated under subsection (k) permitting the disclosure of the information to an agency of the United States on the condition that the agency will disclose the information only under the circumstances specified in subparagraphs (A) through (D).

(h) WITHDRAWAL OF APPLICATIONS.—Any person who files an application under this section may withdraw such application before notice of approval or denial of the application is published under subsection (c). Any application so withdrawn shall not confer the protections of subsection (d) on any person with respect to whom such application was filed.

(i) JUDICIAL REVIEW OF ACTION BY AUTHORIZING AGENCY.—(1) If the authorizing agency approves or denies any application filed under this section, or revokes or refuses to revoke a previously ordered approval, any person aggrieved by such action may, within 30 days of publication of notice announcing such action, obtain a review of the action in the court of appeals of the United States for the circuit wherein such person resides or has its principal place of business, by filing in such court a written petition asking that the action of the authorizing agency be modified or set aside.

(2) If, in any such suit, the court finds that the action of the authorizing agency is unsupported by substantial evidence on the record considered as a whole, the court shall modify such action to bring it into compliance with the requirements of this section, unless doing so would materially alter the scope or structure of the cooperative innovation arrangement in question. The record on review shall consist of all evidence considered by the agency, whether that evidence was introduced by any party or collected by the agency. The court shall issue protective orders with respect to such evidence as appropriate.

(3) Rules promulgated by the authorizing agency under subsection (k) shall be subject to the requirements set forth under chapters 5 and 7 of title 5, United States Code.

(4) Except as specified under paragraphs (1), (2), and (3), no action by the authorizing agency pursuant to this section shall be subject to judicial review.

(j) ADMISSIBILITY INTO EVIDENCE.—No action by the authorizing agency or the Secretary taken pursuant to this section shall be admissible into evidence in any judicial or administrative proceeding for the purpose of supporting or answering any claim under the antitrust laws or under any State law similar to the antitrust laws except for the purpose of establishing that a person is entitled to the protections of subsection (d).

(k) RULEMAKING.—The authorizing agency, in consultation with the Secretary, shall promulgate such rules as are necessary to implement the requirements of this section.

SEC. 206. ATTORNEY'S FEES.

Notwithstanding sections 4, 4C, and 16 of the Clayton Act, in any claim under the antitrust laws, or any State law similar to the antitrust laws, based on conduct that results from any approved cooperative innovation arrangement, the court shall, at the conclusion of the action, award to the substantially prevailing party the cost of litigation of such claim, including a reasonable attorney's fee. In the interest of justice, the award may be reduced or withheld and may be reduced by an award in favor of any other party for any of the costs of litigation of such claim, including a reasonable attorney's fee.

SEC. 207. EFFECT ON NATIONAL COOPERATIVE RESEARCH ACT OF 1984.

This title shall not be construed to repeal, supersede, or modify the National Cooperative Research Act of 1984.

TITLE III—CENTENNIAL COMMISSION ON THE SHERMAN ACT

SEC. 301. SHORT TITLE.

This title may be cited as the "Centennial Commission on the Sherman Antitrust Act of 1890".

SEC. 302. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) efforts to reverse the decline of United States industry has been hindered by—

(A) a serious erosion in the institutions and policies which foster United States competitiveness including a lack of high quality domestic and international economic and scientific data needed to—

(i) reveal sectoral strengths and weaknesses;

(ii) identify potential new markets and future technological and economic trends; and

(iii) provide necessary information regarding the competitive strategies of foreign competitors;

(B) the lack of a coherent and consistent government competitiveness policy, including policies with respect to—

(i) international trade, finance, and investment,

(ii) research, science, and technology,

(iii) education, labor retraining, and adjustment,

(iv) macroeconomic and budgetary issues,

(v) antitrust and regulation, and

(vi) government procurement;

(2) the United States economy benefits when business, labor, government, academia, and public interest groups work together cooperatively;

(3) the decline of United States economic competitiveness endangers the ability of the United States to maintain the defense industrial base which is necessary to the national security of the United States;

(4) the world is moving rapidly toward the creation of an integrated and interdependent economy, a world economy in which the policies of one nation have a major impact on other nations;

(5) integrated solutions to such issues as trade and investment research, science, and technology, education, and labor retraining and adjustments help the United States compete more effectively in the world economy; and

(6) government, business, labor, academia, and public interest groups shall cooperate to develop and coordinate long-range strategies to help assure the international competitiveness of the United States economy.

(b) PURPOSE.—It is the purpose of this title—

(1) to develop recommendations for long-range strategies for promoting the international competitiveness of the United States industries; and

(2) to establish the Centennial Commission on the Sherman Antitrust Act of 1890, which shall—

(A) analyze information regarding the effects of antitrust laws and regulations on the competitiveness of United States industries;

(B) create an institutional forum where national leaders with experience and background in business, and the antitrust laws shall—

(i) identify antitrust laws inhibiting the competitiveness of United States agriculture, business, and industry;

(ii) develop long-term strategies to address such problem; and

(C) make recommendations on issues crucial to the development of coordinated competitiveness strategies in the antitrust area.

SEC. 303. COMMISSION ESTABLISHED.

There is established the Centennial Commission on the Sherman Antitrust Act of 1890 (hereafter in this title referred to as the "Commission"), an advisory committee under the provisions of the Federal Advisory Committee Act.

SEC. 304. DUTIES OF THE COMMISSION.

The Commission shall—

(1) develop recommendations for specific proposals to enhance the productivity and international competitiveness of United States industry through the antitrust laws;

(2) through any existing comment procedure, and when appropriate, provide comments on—

(A) private sector requests for relief from the antitrust laws, specifically as to whether the applicant is likely, by receiving the relief, to become internationally competitive, and

(B) what actions should be taken by the applicant as a condition to receive such relief in order to ensure that the applicant is likely to become internationally competitive without creating an anticompetitive atmosphere within the United States;

(3) create a forum where national leaders with experience and background in business, labor, academia, and Government shall identify and develop recommendations to address problems in our antitrust laws affecting the competitiveness of United States industries;

(4) provide policy recommendations to the Congress, the President, and the Department of Justice regarding specific issues concerning antitrust and competitiveness; and

(5) publish and distribute the analysis and recommendations of the Commission in a report to the President and the Congress.

SEC. 305. MEMBERSHIP.

(a) COMPOSITION AND REPRESENTATION.—

(1) The Commission shall consist of 9 members, of whom—

(A) one member shall be appointed by the President;

(B) four members shall be appointed by the majority leader and the minority leader of the Senate, acting jointly, of whom—

(i) one shall be a national leader with experience or background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader with experience and background in the academic community; and

(iv) one shall be a representative of State or local government; and

(C) four members shall be appointed by the Speaker of the House of Representatives and the minority leader of the House of Representatives, acting jointly, of whom—

(i) one shall be a national leader with experience and background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader with experience and background in the academic community; and

(iv) one shall be a representative of State or local government.

(2) Federal officials may participate on an ex-officio basis as requested by the Commission.

(3) All members of the Commission shall be individuals who have a broad understanding of the United States economy and the United States competitive position internationally.

(4) Not more than 5 members of the Commission shall be members of the same political party.

(b) INITIAL APPOINTMENTS.—The initial members of the Commission shall be appointed not later than 60 days after the date of enactment of this title.

(c) VACANCIES.—

(1) A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy on the Commission occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(3) A member of the Commission may serve after the expiration of the term of such member until the successor of such member has taken office.

(d) REMOVAL.—Members of the Commission may be removed only for malfeasance in office.

(e) CONFLICT OF INTEREST.—

(1) A member of the Commission may not serve as an agent for a foreign principal.

(2) Members of the Commission shall be required to file a financial disclosure report under title II of the Ethics in Government Act of 1978 (Public Law 95-521), except that such reports shall be held confidential and exempt from any law otherwise requiring their public disclosure.

(3) Members of the Commission shall be deemed to be special Government employees, as defined in section 202 of title 18, United States Code, for purposes of sections 201, 202, 203, 205, and 208 of such title.

(f) COMPENSATION.—

(1) Each member of the Commission who is not employed by the Federal Government or any State or local government—

(A) shall be compensated at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule pursuant to section 5332 of title 5, United States Code, for each day such member is engaged in duties as a member of the Commission; and

(B) shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with section 5703 of such title 5.

(2) Each member of the Commission who is employed by the Federal Government or any State or local government shall serve on the Commission without additional compensation, but while engaged in duties as a member of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(g) QUORUM.—

(1) IN GENERAL.—Seven members of the Commission constitute a quorum, except that a lesser number may hold hearings if such action is approved by a two-thirds vote of the entire Commission.

(2) INITIAL ORGANIZATION.—The Commission shall not commence its duties until all the nongovernmental members have been appointed and have qualified.

(h) CHAIRPERSON.—The member appointed by the President pursuant to section 305 shall be the chairperson.

(i) MEETINGS.—The Commission shall meet at the call of the chairperson or a majority of the members.

(j) POLICY ACTIONS.—Except as provided in subsection (g), no action establishing policy shall be taken by the Commission unless approved by two-thirds of the entire membership of the Commission.

(k) ALTERNATE MEMBERS.—

(1) Each member of the Commission shall designate one alternate representative to attend any meeting that such member is unable to attend.

(2) In the course of attending any such meeting, an alternate representative shall be considered a member of the Commission for all purposes, except for voting.

(l) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay for GS-16 of the General Schedule.

(m) DETAILS.—Upon request of the Commission, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title.

SEC. 306. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) The principal administrative officer of the Commission shall be an Executive Director, who shall be appointed by the Commission and shall be paid at a rate not to exceed GS-18 of the General Schedule.

(2) The Executive Director shall serve on a full-time basis.

(b) STAFF.—(1) Within the limitations of appropriations to the Commission, the Executive Director may appoint a staff for the Commission in accordance with the Federal civil service and classification laws.

(2) The staff of the Commission shall be deemed to be special government employees as defined in section 202 of title 18, United States Code, for purposes of title II of the Ethics in Government Act of 1978 and sections 201, 202, 203, 205, 207, and 208 of title 18, United States Code.

SEC. 307. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out the provisions of this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) INFORMATION.—

(1)(A) Except as provided in subparagraph (B), the Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out the provisions of this title. Upon request of the chairman of the Commission, the head of such agency shall promptly furnish such information to the Commission.

(B) Subparagraph (A) does not apply to matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

(2) In any case in which the Commission receives any information from a Federal agency, the Commission shall not disclose such information to the public unless such agency is authorized to disclose such information pursuant to Federal law.

(d) CONSULTATION WITH THE PRESIDENT AND THE CONGRESS.—No later than 60 days after the initial members are appointed to the Commission, the Commission shall submit a report to the President, the Senate Governmental Affairs Committee, and the appropriate committees of the House of Representatives and of the Senate, that proposes the type and scope of activities the Commission shall undertake, including the extent to which the Commission will coordinate activities with other advisory committees relating to trade and competitiveness in order to maximize the effectiveness of the Commission.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) USE OF THE MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(g) ADMINISTRATIVE AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative and support services as the Commission may request.

(h) APPLICABILITY OF ADVISORY COMMITTEE ACT.—The provisions of subsections (e) and (f) of section 10, of the Federal Advisory Committee Act shall not apply to the Commission.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title, not to exceed $1,250,000 for fiscal year 1990, $3,750,000 for fiscal year 1991.

SEC. 309. DEFINITIONS.

For purposes of this title—

(1) the term "Commission" means the Centennial Commission on the Sherman Antitrust Act of 1890, established under section 303;

(2) the term "member" means a member of the Centennial Commission on the Sherman Antitrust Act of 1890;

(3) the term "United States" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States; and

(4) the term "agent of a foreign principal" is defined as such term is defined under subsection (d) of the first section of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611) subject to the provisions of section 3 of such Act (22 U.S.C. 613).

OUTLINE OF ANTITRUST PROPOSAL

I. EXPANSION OF THE NATIONAL COOPERATION RESEARCH ACT OF 1984

This Act would be expanded to make it clear that it was not an automatic antitrust violation if two or more companies combined for specified purposes in the areas of research and development, manufacturing, or marketing. These joint ventures would be subject to a rule of reasonableness standard, taking into account all relevant factors affecting competition. In addition, the Act exempts these joint ventures from treble ventures and only subject them to actual damages, if the joint venture had properly notified the Justice Department and the Federal Trade Commission of the formation and purposes of the venture.

II. ADOPT NEW CERTIFICATION AND EXEMPTION PROCESS

This proposal would adopt a new regulatory procedure for approving joint ventures in the areas of research and development, manufacturing, and marketing. A joint venture that is certified under this procedure by the Justice Department and the Federal Trade Commission would be exempt from the per se standard of automatic antitrust violations. In addition, this procedure would exempt the joint venture from all liability for damages under the antitrust statutes. A competitor of the joint venture could receive damages, if the venture is guilty of willful violation of the rule of reasonable standard or the purposes of the venture outlined in the certification process. All joint ventures would continue to be subject to civil action for injunctive relief from the exemption.

III. DEVELOP A COMMISSION TO STUDY COMPETITIVE ASPECTS OF ANTITRUST LAWS

To commemorate the 100th anniversary of the Sherman Antitrust Act of 1890, a nine member commission would be formed to study the competitive aspects of the antitrust laws. The President would appoint the Chairman of the Commission and the Speaker of the House, the Minority Leader of the House, the Majority Leader of the Senate, and the Minority Leader of the Senate, would each appoint two members of the Commission. the commission would prepare a report on how these laws could be revised to eliminate any burden on the competitiveness of U.S. companies. In addition, the study would examine the effects of the National Cooperation Research Act of 1984 and the changes made in this proposal on the competitiveness of American companies.

SECTION-BY-SECTION SUMMARY OF THE BILL ON ANTITRUST REFORM

TITLE I—NATIONAL COOPERATIVE RESEARCH

Section 101 gives the short title.

Section 102 expands the scope of the National Cooperative Research Act of 1984 by extending the application of the exceptions to joint manufacturing ventures.

TITLE II—COOPERATIVE INNOVATION

Section 201 gives the short title.

Section 202 provides the Congressional findings that technical innovation is important to the country and necessary cooperation among American companies is often hindered by the stringent antitrust laws. The relaxation of these laws would not pose a threat to competition, if confined to firms in swiftly innovating technological areas or cooperating firms that do not control substantial parts of their market. The purpose of the Act is to clarify legal standards relating to cooperative ventures and to establish a procedure to pre-approve cooperative ventures to exempt them from prosecution.

Section 203 defines the specific terms utilized in this title.

Section 204 exempts approved joint ventures from the application of the per se standard of the antitrust laws.

Section 205 provides the approval process for Cooperative Innovation Arrangements. Within 90 days after entering into an agreement, parties must file a written application detailing the arrangement and its proposed effects upon the market. By 30 days after the filing of the application the authorizing agency shall publish a notice in the Federal Register announcing the agreement, describing it and naming the parties involved. Within 30 days after the publication in the Federal Register, the Secretary shall review the application and make recommendations to the authorizing agency. The application shall be approved if the authorizing agency determines that the agreement will not possess substantial market power and if its duration is reasonable or does not exceed 17 years.

An agreement that does not include marketing, distributing or commercializing a product in any way, even if it does command substantial market power, may be approved if procompetitive benefits outweigh anticompetitive harms, and if the duration is reasonable. Procompetitiveness is established if the innovation would be adequately protected, if it is of a magnitude that would be able to achieve eventual commercialization, if the innovation would be followed by cooperative commercialization, if that arrangement would compete in a market of rapid change and if it would compete with other technologies.

The authorizing agency must consult the following standards in defining relevant markets: they should reflect commercial reality, they should take into account both actual and potential competitors (both foreign and domestic), they should be sensitive to product features and, unless shown otherwise, they should be global. In determining the reasonableness of the arrangement, the authorizing agency must consider the degree of market power, if the arrangement will hurt competition and if the arrangement will be procompetitive.

The agency shall also determine if procompetitive benefits could be achieved by an existing firm with less market share or by the parties of the arrangement and if the existence of potential competitors precludes potential anticompetitive efforts. If the agency decides against approval, it must deny it completely. The agency may change the rules if they notify through the Federal Register.

After granting approval, the authorizing agent may require additional information. The effect of the agency's approval is to remove potential recovery costs from federal or state antitrust laws. The agency retains the right to revoke any of the priveleges, but shall revoke approval only after consulting with the Secretary, determining that the arrangement is unreasonable and notifying the parties involved. Notice of a revocation will appear in the Federal Register.

Any information submitted to the agency by an individual is exempt from disclosure. No government employee can disclose information pertaining to an application unless it is requested by Congress, part of a judicial proceeding, with the consent of the parties, required by law, or required by government agency.

Applicants have the right to a review by the U.S. Court of Appeals of the decision within 30 days of the decision. The judicial body may modify the decision of the agency if it feels that it is unsound. No action by the Secretary or authorizing agency may be taken into account in this appeal process.

Section 206 provides that the cost of litigation shall be awarded to the prevailing party, including the attorney's fee.

Section 207 provides that this subtitle shall not be construed to repeal the National Cooperative Research Act of 1984.

TITLE III: CENTENNIAL COMMISSION ON THE SHERMAN ACT

Section 301 gives the short title.

Section 302 provides the Congressional findings and purpose for this title. The effort to reverse the decline of United States industry has been hindered by the erosion of its competitive institutions and the lack of a comprehensive competitiveness policy. A cooperative effort by business, labor, government, academia and interest groups is beneficial in establishing and implementing public policy finding integrated solutions to issues related to trade, investment research and technology. This commission shall analyze the effects of our antitrust laws on international trade, create a forum for exchanging ideas and opinions and make recommendations aimed at improving competitiveness.

Section 303 establishes the "Sherman" Commission as an advisory body.

Section 304 defines the duties of the Commission to develop recommendations to enhance productivity and competitiveness, to create a forum for national leaders to voice their opinions and to publish a report of their findings.

Section 305 provides that the commission shall have 9 members; one appointed by the President, four by the majority and minority leaders of the Senate and four by the Speaker and minority leader of the House. Those appointed by the Senate and House leadership are to be from the areas of business, labor, academia and state or local government. They are to be economic experts, not more than five of whom belong to the same political party. Initial members shall be appointed within 60 days of the date of enactment.

Seven members of the Commission constitute a quorum but a lesser number may hold hearings with the approval of two-thirds of the membership. The member appointed by the President is to be the Chairperson.

Section 306 establishes the position of Executive director and authorizes this director to appoint a staff.

Section 307 defines the powers of the Commission to allow it to hold hearings at its own discretion, administer oaths, and secure imformation from federal agencies. Within 60 days of appointment, the Commission must submit a report to the President and to Congress, outlining the type and scope of activities that the Commission plans to undertake.

Section 308 authorizes appropriations for the Commission not to exceed $1,250,000 for fiscal years 1990 and $3,750,000 for fiscal year 1991.

Section 309 defines the specific terms utilized in this title.●

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 2323. A bill to require the issuance of certain hazardous liquid pipeline facility regulations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

HAZARDOUS LIQUID PIPELINE FACILITY REGULATIONS

● Mr. LAUTENBERG. Mr. President, today my distinguished colleague from New Jersey, Senator BRADLEY, and I are introducing two bills to address the problem of pipeline safety.

In New Jersey, we've seen the consequences of inadequate oversight of hazardous liquid pipelines. The new year brought environmental devastation to a sensitive area along the Arthur Kill, which separates part of New Jersey and Staten Island.

On January 2, 567,000 gallons of oil poured from an Exxon pipeline into our coastal waters. This is an area that has, in the past, seen its share of pollution. But, for years, we've been working hard to clean it up. And there had been success. Wildlife nested and lived there. Water quality was improved. But, with the release of half a million gallons of oil, much of that progress was erased. As the oil spread, it buried the positive results of countless hours of work by dedicated citizens, whose goal was to clean up the Arthur Kill.

This pipeline traverses New Jersey and New York. Under Federal law, the States are prohibited from regulating the operations of such interstate pipelines. But, in this case, no one picked up the responsibility.

Several days after the leak, we found that the 6.7-mile-long pipeline, running under water from Linden, NJ, through Staten Island, NY, to Bayonne, NJ, was not regulated. Under Federal law, New Jersey and New York were prohibited from regulating its operations. But the Federal Government didn't step in.

This is because the Federal Government had chosen to not regulate a whole class of pipelines, a class in which this particular pipeline belongs. Based on a single criterion—the operating stress of the pipeline—a determination was made to exempt an unknown number of pipelines from Federal regulation.

Mr. President, there are a number of problems with this decision. We in New Jersey have had to suffer the consequences of that decision. This regulatory exemption focuses on one single factor—operating pressure—but ignores other important factors, such as: age; proximity to marine, aquatic, and other sensitive ecosystems; proximity to areas designated for protection by Federal, State, or local authorities; the volume of liquid being transported; and proximity of the pipeline to navigation channels.

There's another problem. Under existing Federal regulations, a pipeline operator makes a determination that a particular pipeline qualifies for the exemption. But then, there is no clear mechanism for the Federal Government to determine that the pipeline is indeed eligible for the exemption, or, with the passage of time, that the pipeline continues to be eligible for that exemption.

What we have here is regulation by the honor system. Essentially, the Federal Government tells pipeline operators: "You decide if your operation is required to be regulated. If it isn't, you go on, but be sure to tell us if anything changes to make your operations no longer qualify for an exemption. We'll put our faith in your understanding of the regulations, and your willingness to freely subject yourself to our oversight."

Well, Mr. President, as events of the last year have so clearly shown us, the oil industry is not one we can just put our blind faith in. It's not every oil company, or every pipeline operator. It's not the intent of this Senator to say that all members of those industries are equal, good or bad.

But the mistakes of the last year have shown us that the problems are too big, the stakes too high, to warrant our counting on their good faith.

Mr. President, my bill takes the realities of the situation into account. It says that the Federal Government has a greater responsibility to ensure the safe operation of hazardous liquid pipelines. Let me explain what the bill would do.

First, effective 270 days after enactment, it would repeal the regulatory exemption now provided to pipelines operating at 20 percent of specified minimum yield strength, or SMYS. The Department of Transportation, which is responsible for pipeline safety regulation, would be required to initiate a rulemaking to modify its existing regulations.

Under the modified regulations, exemptions from regulation would be allowed, but not based on any single criterion, and not on a blanket basis. To cover the costs of considering requests for exemptions, the Department of Transportation would be given authority to assess and collect user fees, above and beyond those now charged for other, distinct pipeline safety functions.

This bill would also get rid of the honor system now in place. It would require that operators of pipelines receiving an exemption certify to the DOT, on an annual basis, that the conditions under which the exemption was granted are unchanged. If the pipeline operator fails to make that certification, the exemption is revoked. If the pipeline operator provides false information in that annual certification, the operator would be subjected to civil fines and penalties.

Further, before an exemption is granted, relevant State and municipal officials would be provided the opportunity to comment on the request.

Let me point out for my colleagues that the idea of revoking the blanket exemption is not new, or far-fetched. In fact, it was proposed by the Reagan administration.

As chairman of the Transportation Appropriations Subcommittee, I oversee spending and activities within the Department of Transportation, including pipeline safety operations. In our hearings with DOT's Research and Special Programs Administration last year, we explored the issue of pipeline safety, and the exemption that the bill I am introducing today deals with.

As we found at that hearing, in the Department of Transportation's Safety Review Task Force report on the pipeline safety programs, then-Secretary Burnley recommended that the exemption be revoked.

This report, issued on January 12, 1989, made the following statement:

> The Task Force sees no reason to continue a blanket exemption for pipelines operating at less than 20 percent of SMYS from compliance with the Federal standards and recommends that RSPA analyze the current impact of the exemption and initiate rulemaking to revoke it in whole or in part.

For the benefit of my colleagues, I would again point out that RSPA is the Research and Special Programs Administration within the Department of Transportation. RSPA in turn oversees the Office of Pipeline Safety, which has direct regulatory responsibility for pipeline safety.

On February 10, 1989, M. Cynthia Douglass, then the Administrator of RSPA, responded formally to the Safety Review Task Force. In referring to the recommendation to revoke the exemption, she stated that "RSPA agrees with this recommendation * * * " and that RSPA would proceed toward that end.

Unfortunately, it's more than a year later, and things are no further along. We've already seen the disastrous impacts of this exemption. It's time to get on with the rulemaking to repeal this unwarranted exemption.

RSPA is a relatively small agency, without tremendous resources. But, my subcommittee has consistently worked to provide the agency with the resources it has requested. We've tried to work with RSPA to make sure its important mission is carried out. In my subcommittee's upcoming hearing on RSPA's fiscal year 1991 budget, we'll explore what needs to be done to get this rulemaking and other efforts on track.

Finally, the bill would require the Department of Transportation to establish regulations requiring that those operating pipelines, whether those pipelines are otherwise regulated or not, First, have a leak detection system in place and functioning; and second, have received appropriate training and have met all applicable certification standards.

This bill would achieve other important results, beyond what it strictly requires. The Department of Transportation is finalizing regulations dealing with what is known as third party damage. Under those regulations, pipeline operators would have to identify possible sources of damage to their pipelines from outside sources, and mitigate against those damages.

The Exxon pipeline spill in the Arthur Kill is an example of how such requirements can be important. That pipeline is in shallow water, in an area with heavy boat traffic. Shortly after

the spill, it was contended by the company that the rupture was due to a collision with the pipeline by a ship. While that view has not been verified, this is a contingency that would be considered and dealt with under the third party damage requirements. However, these requirements would only come into play if the pipeline in question is otherwise regulated.

Mr. President, I am pleased to have my good friend and colleague, Senator BRADLEY, as a cosponsor of this bill. I am pleased to join him in cosponsoring related legislation he is introducing today.

That bill deals more specifically with underwater pipelines. As we've seen in recent months, both in the Arthur Kill and in the Gulf of Mexico, leaks from underwater pipelines can be particularly devastating.

Senator BRADLEY is providing our colleagues with a detailed description of that legislation. Together, our two bills provide complementary means of dealing with the threats posed by leaks from hazardous liquid pipelines. I urge my colleagues to give these bills their serious consideration.

Mr. President, I ask unanimous consent that the full text of the bill be included in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. DEFINITIONS.

As used in this Act, the term—

(1) "hazardous liquid" means—

(A) petroleum or any petroleum product, and

(B) any substance or material which is in liquid state (excluding liquefied natural gas) when transported by pipeline facilities and which, as determined by the Secretary, may pose an unreasonable risk to life or property when transported by pipeline facilities;

(2) "transportation of hazardous liquids" means the movement of hazardous liquids by pipeline, or their storage incidental to such movement, in or affecting interstate or foreign commerce; except that it shall not include any such movement through gathering lines in rural locations or onshore production, refining, or manufacturing facilities or storage or inplant piping systems associated with any of such facilities;

(3) "pipeline facilities" includes, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of hazardous liquids but "rights-of-way" as used in this chapter does not authorize the Secretary to prescribe the location or the routing of any pipeline facility;

(4) "interstate pipeline facilities" means the pipeline facilities used in the transportation of hazardous liquids in interstate or foreign commerce;

(5) "intrastate pipeline facilities" means pipeline facilities which are not interstate pipeline facilities;

(6) "State" includes each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico;

(7) "municipality" means a city, county, or other political subdivision of a State; and

(8) "Secretary" means the Secretary of Transportation.

SEC. 2. FINDINGS.

The Congress finds that—

(1) leaks from hazardous liquid pipeline facilities present a unique and serious threat to the environment;

(2) through the Hazardous Liquid Pipeline Safety Act of 1972 (49 U.S.C. App. 2001 et seq.) and the Natural Gas Pipeline Safety Act (49 U.S.C. App. 1671 et seq.), the Congress expressed its interest in seeing the operation of intrastate pipeline facilities and interstate pipeline facilities regulated by the Federal Government.

(3) regulatory exemptions of pipeline facilities from regulation based on any single criterion are inappropriate; and

(4) an exemption based solely on operating pressure of a pipeline does not take into account several important factors, including age of the pipelines; proximity to aquatic, marine, and other sensitive ecosystems; and proximity to wildlife refuges or other areas protected by Federal, State, or local authorities.

SEC. 3. REPEAL OF REGULATORY EXEMPTION OF CERTAIN PIPELINES.

The Secretary shall, not later than 270 days after the date of enactment of this Act, repeal the blanket exemption from Federal regulation of pipeline facilities operating at 20 per centum or less of specified minimum yield strength, as provided in section 195.1(b)(3) of title 49 of the Code of Federal Regulations.

SEC. 4. RULEMAKING.

(a) The Secretary shall, not later than 60 days after the date of enactment of this Act, adopt an interim rule and propose a final rule to modify the regulations regarding the operation of hazardous liquid pipelines in effect on the date of enactment of this Act.

(b) In promulgating a final rule pursuant to the procedure in subsection (a), the Secretary shall not provide blanket exemptions from regulation.

(c) Under the final rule adopted pursuant to the procedure required in subsection (b), the Secretary may, based on an assessment of criteria outlined in this subsection, approve requests for exemption from regulation on a case-by-case basis. Criteria used in considering and approving such an exemption shall include, but not be limited to:

(1) age of the pipeline;

(2) proximity of the pipeline to marine, aquatic, or other fragile ecosystems;

(3) proximity to areas designated for protection by Federal, State, or local authorities;

(4) operating pressure of the pipeline;

(5) specified minimum yield strength of the pipeline;

(6) volume of hazardous liquid transported;

(7) proximity to designated navigation channels; and

(8) other factors, as determined by the Secretary.

(d) The rule adopted pursuant to the procedure required in subsection (b) of this section shall provide—

(1) for the written notification to, and opportunity for comment by, any relevant State or municipality of the request for an exemption;

(2) for the Secretary to require an annual certification, by the owner or operator of an exempted pipeline facility, that the conditions under which the exemption was granted are being complied with by such owner or operator;

(3) that failure to provide the certification described in paragraph (2) shall result in the loss of exemption from regulation of the pipeline facility under this section; and

(4) that falsification by the owner and operator of an exempted pipeline facility of any information provided in an annual certification shall subject the owner or operator to the fines and penalties that the Secretary may impose under section 208 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007).

(e) In order to carry out the provisions of subsection (d) of this section and notwithstanding any other provision of law, the Secretary shall have the authority to assess and collect such user fees as may be necessary to recover the costs associated with the consideration of requests for exemption from regulation pursuant to the provisions of this Act.

(f) The Secretary shall by regulation establish standards and procedures for the operation of all hazardous liquid pipeline facilities to ensure that—

(1) each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility has in place a reliable and effective system to detect and provide warning of leaks or accidental discharges from such pipeline facilities; and

(2) those charged with direct operational responsibility for an interstate or intrastate pipeline facility pipeline have received appropriate training and have met all applicable Federal, State, and local training and certification standards.●

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2324. A bill to amend the Hazardous Liquid Pipeline Safety Act of 1979 to require the Secretary of Transportation to promulgate regulations to ensure the safety of underwater pipelines, and for other purposes; to the Committee on Commerce, Science, and Transportation.

UNDERWATER PIPELINE LEAK PREVENTION ACT

● Mr. BRADLEY. Mr. President, on January 1 of this year, an Exxon pipeline in the Arthur Kill waterway between Linden, NJ, and Staten Island, NY, ruptured, spilling over half a million gallons of oil into the water. The spilled oil created an environmental disaster in a waterway slowly recovering from decades of environmental abuse. Wetland areas that at long last were able to support breeding populations of shore birds were seriously fouled. The small fish and crabs on which the birds depend to feed their young are dead. The oil will remain in those wetlands, trapped in the mud for decades.

I rise today to introduce legislation, the Underwater Pipeline Leak Prevention Act of 1990—for myself and Mr. LAUTENBERG—that will help minimize the chances of similar accidents in the future. The legislation, and the related legislation being introduced by Senator LAUTENBERG, would ensure that pipelines which could damage aquatic

environments receive the inspections, maintenance, and careful operation necessary to prevent accidents. This legislation will protect our shores, coasts, and rivers from the severe damage that can be caused by oil leaks.

As shocking as it may seem, no Federal agency has a comprehensive overview of the location, condition, or age of underwater pipelines. It took days for regulators just to recognize that the pipeline that fouled the Arthur Kill had fallen through the regulatory cracks, and had escaped DOT safety checks. Our waterways and shores are too important to not take every possible step to reduce the threat that underwater pipelines pose to our environment. Existing laws do not adequately protect aquatic environments, and this legislation will ensure that in the future, our laws will take into account the environmental risks posed by pipelines in or near water.

First, this legislation requires DOT to catalog both underwater pipelines and pipelines that are close enough to aquatic areas to pose a significant risk to them. States also must survey their underwater pipelines. Information on the location and condition of these pipes must be available to policy makers. It is astonishing to me that regulations have been drawn up and laws written with respect to pipeline safety, and yet no one has undertaken a survey of pipelines which are most likely to severely damage our rivers and shores.

Second, this legislation calls on DOT to develop regulations for all pipelines that could threaten aquatic environments. Those regulations will supplement existing rules, and must take into account the potential for significant environmental damage posed by these pipelines. Underwater pipelines that can be inspected with internal inspection devices must be regularly inspected, and pipelines that cannot be inspected must take other measures to ensure that a similar level of safety is maintained. Provisions are included to speed the process of equipping pipelines to allow inspection.

Third, the bill takes steps to reduce the chances of accidents between ships and pipelines. Underwater pipelines must be assessed annually to determine whether they present a hazard to navigation. Periodically, the depth of sediment cover over nearshore pipelines must be checked, and if the cover is inadequate to protect the pipe from damage, additional safety measures must be taken.

Pipelines are the safest method we have to transport oil and other hazardous liquids. By some estimates pipelines may be 10 times safer than transporting a similar amount of oil by barge, tanker, or truck. Yet as the recent accident in the Arthur Kill shows, they too can cause tragic, unnecessary environmental damage. This legislation will ensure that the pipelines most likely to lead to major environmental damage receive the special care needed to minimize accidents in the future.

Mr. President, I ask unanimous consent that the full text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Underwater Pipeline Leak Prevention Act of 1990".

SEC. 2. UNDERWATER PIPELINES.

The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.) is amended by adding at the end the following new sections:

"SEC. 320. UNDERWATER PIPELINES.

"(a) DEFINITIONS.—For the purposes of this section—

"(1) the term 'operator' means a person who owns or operates a pipeline;

"(2) the term 'pipeline' means all parts of a pipeline facility (as described in section 202(a)) through which a hazardous liquid moves in transportation, including line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations, fabricated assemblies in such metering and delivery stations, and breakout tanks;

"(3) the term 'release' means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a hazardous liquid from a pipeline facility into ground water, surface water, subsurface soils, or air;

"(4) the term 'sensitive aquatic environment' means an aquatic area designated by the Secretary, in accordance with guidelines that the Secretary shall establish by regulation (in consultation with the Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration), as an area where the release of a hazardous liquid would likely result in—

"(A) significant environmental damage at the site of the release or at an area where the hazardous liquid would likely be transported (including areas with significant wetlands, as determined by the Secretary); or

"(B) significant interference with shipping, fisheries, or other forms of maritime commerce, (including areas with major ports) as determined by the Secretary; and

"(5) the term 'underwater pipeline' means any section (as defined by the Secretary) of a pipeline that is greater than or equal to 8 inches in diameter or which the Secretary determines has the capability of releasing more than 25,000 gallons of a hazardous liquid in a one-hour period of time, and which—

"(A) is under water or adjacent to a body of water (as defined and determined by the Secretary) along the majority of the length of such pipeline;

"(B) has any underwater portion that is longer than one half mile in length; or

"(C) has any portion that crosses a port or harbor (as determined by the Secretary).

"(b) REPORTING REQUIREMENTS.—

(1) REGULATIONS RELATING TO UNDERWATER PIPELINES.—Not later than 18 months after the date of the enactment of this section, the Secretary, in consultation with the Commanding General, United States Army Corps of Engineers, shall promulgate regulations that require an operator of an underwater pipeline to submit to the Secretary, not later than 6 months after the effective date of such regulations, a report that includes the following information:

"(A) The location and condition of the underwater pipeline.

"(B) The size of the underwater pipeline.

"(C) All hazardous liquids carried by the underwater pipeline.

"(D) The age of the underwater pipeline.

"(E) An assessment indicating whether the underwater pipeline may be inspected with internal inspection devices.

"(F) Such other information as the Secretary determines to be appropriate.

"(2) REGULATIONS RELATING TO SENSITIVE AQUATIC ENVIRONMENTS.—Not later than 18 months after the date of the enactment of this section, the Secretary in consultation with the Commanding General of the United States Army Corps of Engineers, shall promulgate regulations that require an operator of a pipeline for which there is a substantial likelihood that an accidental release from the pipeline would cause environmental damage to a sensitive aquatic area (as determined by the Secretary) to submit, not later than 6 months after the effective date of such regulations, a report to the Secretary that includes—

"(A) the information described in subparagraphs (A) through (E) of paragraph (1); and

"(B) detailed information, as determined by the Secretary, concerning the identification of the sections of the pipeline most likely to cause environmental damage to a sensitive aquatic area.

"(3) ANNUAL UPDATING OF INFORMATION.—The regulations promulgated under paragraphs (1) and (2) shall require that each operator who is required to submit a report under paragraph (1) or (2), to report, for each subsequent calendar year, any changes in the items described in subparagraphs (A) through (E) of paragraph (1), and in subparagraphs (A) and (B) of paragraph (2), respectively. Such regulations shall require that if no such changes occurred during a calendar year, the operator shall notify the Administrator in writing that no such changes occurred.

"(4) REPORTS TO THE CONGRESS.—Not later than 18 months after receiving the information required to be submitted under paragraph (2) or (3) of this subsection, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes such information. Such report shall be in the form of regional and national summaries, and shall include schematic maps. The Secretary shall make available copies of such report for public inspection. The Secretary, in consultation with the Commanding General of the United States Army Corps of Engineers, shall submit such additional reports as the Secretary determines to be necessary to maintain a comprehensive national base of information concerning underwater pipelines.

"(c) MODEL MAPPING AND SURVEY REGULATIONS.—

"(1) IN GENERAL.— For the purpose of ensuring that updated maps and statistical information relating to pipelines that could potentially cause damage to sensitive aquatic environments, the Secretary shall, not later than 18 months after the date of the enactment of this section, develop model

mapping and survey laws (including regulations) for the mapping and survey of underwater pipelines and encourage States to adopt and implement such laws.

"(2) REQUIREMENT FOR GRANTS TO AID STATE ENFORCEMENT.—As a condition to receiving payments under the grant program described in section 205(d), a State shall enact legislation (and any resulting regulations and rules) to develop mapping and survey laws substantially similar to the laws described in paragraph (1). Except as provided in paragraph (3), a State that fails to enact such legislation shall be subject to withholding of payments, as described in paragraph (6) of section 205(d).

"(3) EXEMPTION.—If the Secretary determines, that on the date of the enactment of this section, a State has in effect mapping and survey laws (including regulations) for the mapping and survey of underwater pipelines that meet the requirements of paragraph (2), the Secretary shall exempt the State from any requirements in such paragraph relating to the enactment of legislation.

"(d) REQUIREMENTS FOR UNDERWATER PIPELINES AND OTHER PIPELINES OPERATING IN SENSITIVE AQUATIC ENVIRONMENTS.—

"(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this section, the Secretary shall promulgate regulations (to supplement any regulations relating to pipelines or pipeline facilities in effect immediately preceding the date of the enactment of this section) that shall ensure the safe operation of—

"(A) underwater pipelines; and

"(B) pipelines (including underwater pipelines) that operate in or adjacent to sensitive aquatic environments;

except that pipelines regulated under this paragraph shall not include storage or in-plant piping systems associated with manufacturing facilities (as described in section 202(3)).

"(2) CRITERIA FOR REGULATIONS.—In promulgating regulations under subsection (a), the Secretary shall consider the potential significant environmental damage that could be caused by releases into sensitive aquatic environments.

"(e) INSPECTION AND TESTING OF PIPELINES.—

"(1) IN GENERAL.— Not less than 18 months after the date of the enactment of this section, the Secretary shall promulgate regulations that require all underwater pipelines suitable for internal inspection be inspected with instrumented internal inspection devices (commonly referred to as a 'smart pigs', as described in subsection (k) of section 203). Notwithstanding any other provision of this Act, the Secretary may determine an underwater pipeline suitable for inspection, even if the equipment facilitating the passage through such underwater pipeline of any instrumented internal inspection device, including any launching and retrieval equipment, has not yet been installed in such underwater pipeline.

"(2) The inspections described in paragraph (1) shall be conducted on at least an annual basis, unless the Secretary determines that less frequent inspections do not diminish the value of such inspections in preventing accidental releases.

"(3) WAIVERS.—The Secretary may issue a waiver from the requirements of paragraph (1) for an underwater pipeline for which inspection with an instrumented internal inspection device is not practicable because of the design and structure of such underwater pipeline (as determined by the Secretary). As a condition for the issuance of a waiver under this paragraph, the operator of such underwater pipeline shall be subject to requirements relating to restrictions on operating pressures and safety equipment (including leak detection devices, hydrostatic testing, and other measures that the Secretary determines to be appropriate). Such conditions shall ensure that a degree of protection against accidental releases relating to corrosion and accidental damage that is equivalent to the degree of protection afforded by an internal inspection device under paragraph (1) shall be achieved through the adherence to such conditions. The Secretary shall promulgate regulations establishing guidelines for the issuance of such waivers, and for the conditions that may be attached to such waivers.

"(4) MODIFICATION.—Not less than 18 months after the date of the enactment of this section, the Secretary shall promulgate regulations that require that if an underwater pipeline described in paragraph (3) is suitable for modifications with equipment facilitating the passage through such underwater pipeline of any instrumented internal inspection device (commonly referred to as a "smart pig"), as described in subsection (k) of section 203, with equipment, including launching and retrieval equipment, to make regular internal inspections possible, the operator of such underwater pipeline shall be required to make such modifications.

"(5) RELATIONSHIP TO OTHER PROVISIONS.—Nothing in this subsection shall be interpreted or construed so as to exempt an operator from the requirements of subsection (k) of section 203.

"(f) MEASURES TO REDUCE SHIPPING ACCIDENTS.—The Secretary, acting through the Commandant of the Coast Guard (hereinafter referred to as the 'Commandant'), and the Director of Office of Pipeline Safety (hereinafter referred to as the 'Director'), shall promulgate regulations to prevent collisions between ships and pipelines that are located under water of a depth of less than or equal to 50 feet (including a pipeline that is under water of such depth, but is not included in the definition of 'underwater pipeline' under this section). Such regulations shall ensure that any such pipeline that is located in a navigable waterway shall be buried in such a manner as to ensure safety or shall be otherwise protected to ensure safety, as determined by the Secretary, in consultation with the Commandant and the Director. Such regulations shall—

"(1) require an annual assessment of any pipeline described in this section to determine—

"(A) any hazard that such pipeline may present to navigation;

"(B) an estimate of the probability of a maritime collision, on the basis of—

"(i) the condition of the waterway under which such pipeline is located;

"(ii) the adequacy of navigation markers on or along such waterway; and

"(iii) common transportation and recreational uses of such waterway;

"(2) require the periodic assessment of the depth of sediment cover overlying any such pipeline that is located in a geographic area where shipping traffic is substantial, as determined by the Secretary, in consultation with the Commandant and the Director; and

"(3) establish additional safety requirements for a pipeline that is not adequately protected by a sufficient depth of sediment cover, as determined by the Secretary, in consultation with the Commandant.

"(g) STUDY AND REPORT OF HYDROSTATIC TESTING OF PIPELINES.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Administrator of the Environmental Protection Agency (hereinafter referred to as the 'Administrator'), in consultation with the Secretary and the Director, shall study the effects of hydrostatic testing of pipelines. Such study shall—

"(A) examine both the chronic and acute environmental hazards posed by the return of water used in hydrostatic testing into the environment;

"(B) compare the effects of the chronic releases described in paragraph (1) on the environment with estimates of the effects of releases into the environment that could be avoided through the use of such hydrostatic testing; and

"(C) examine the availability of techniques for treating the water used in hydrostatic testing to minimize the effect of water returned after testing on aquatic environments.

"(2) REPORT.—Upon completion of the study described in paragraph (1), the Administrator shall issue a report to the appropriate committees of the Congress that summarizes the results of the study and makes recommendations that the Administrator, in consultation with the Secretary and the Director, determine to be appropriate.

"(h) EXEMPTIONS.—Notwithstanding any other provision of law, with respect to the promulgation of any regulation under this section, the following Acts shall not apply:

"(1) The Regulatory Flexibility Act.

"(2) The Paperwork Reduction Act of 1980.

"(3) The Paperwork Reduction Reauthorization Act of 1986.

"SEC. 321. REQUIREMENTS FOR PIPELINES THAT OPERATE AT A STRESS LEVEL OF 20 PERCENT OR LESS.

Not later than 18 months after the date of the enactment of this section, the Secretary shall promulgate regulations that establish standards for the operation, maintenance, and inspection of pipeline facilities used in the transportation of hazardous liquids that operate at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe. Such regulations shall include standards for accident response.".

SEC. 3. WITHHOLDING FUNDS FROM STATE AGENCY.

Section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 is amended by adding at the end the following new paragraph:

"(6) Except as provided under paragraph (3) of section 320(c), if, within 12 months after the first day of legislative session of the State immediately following the promulgation of regulations under paragraph (1) of section 320(c), a State fails to enact the legislation described in paragraph (2) of section 320(c), the Secretary shall withhold any payment to such State under paragraph (1) until the effective date of any such legislation that may be subsequently enacted.".●

By Mr. LIEBERMAN:

S. 2325. A bill to provide additional assistance for certain Eastern European countries; to the Committee on Foreign Relations.

EASTERN EUROPEAN ECONOMIC RECONSTRUCTION ACT

● Mr. LIEBERMAN. Mr. President, I am introducing today, the Eastern European Reconstruction Act. This bill is intended to be complementary to the legislation that is now being considered by the Foreign Relations Committee, the Support for East European Democracy [SEED] Act of SEED II bill.

That bill is a comprehensive approach to dealing with the problems of Eastern Europe. My bill attempts to add to the work that the committee has already done by putting even more of an emphasis on helping United States firms do business in Eastern Europe and the Soviet Union by structuring programs that will help business people and entrepreneurs in those nations. I have tried to take a cost-effective approach because I believe that the role of our Government should be not to bail out these nations but to help them reconstruct their economies. Direct aid is necessarily a part of this process, but creative programs can be just as useful.

Along with our NATO allies, we have spent over $1 trillion in the 1980's alone to defend Western Europeans from Eastern Europeans. There is now a historic opportunity to build a new Europe, in which we earn trillions from economic growth.

We have a chance to create permanently stable and thriving peace in Europe. We can do so by aggressively working to erect functioning economies in Eastern Europe and achieve political stability. Or we can do nothing and risk a morass of political uncertainty, destructive nationalist movements, border disputes, and a revived military build up. This is as great a challenge as we faced in the last half century.

We must actively aid the nations of Eastern Europe, and actively aid Americans business in its attempt to move productively in Eastern Europe. My bill attempts to achieve these goals by aiding our private sector, and the private sector of the nations of Eastern Europe by:

Establishing a public-private sector European Economic Strategic Planning Commission to develop a comprehensive strategy for developing U.S. business interests in the region, as well as to help these nations make the transition to market-based economies;

Establishing an Eastern European Foundation, modeled after the highly successful Inter-American Foundation, which will offer grants and technical training and assistance to small businesses and entrepreneurs in Eastern Europe;

Calling for the Secretary of State to negotiate with other member nations of the Organization for Economic Cooperation and Development [OECD] to set up an East-West Center for Economic Transition; which would offer technical and macroeconomic advice to the nations of Eastern Europe;

Increasing the number of commercial and economic officers in our embassies and consulates in Eastern Europe and the Soviet Union;

Using Soviet repayment of lend-lease debt—scheduled to resume after the signing of a United States-Soviet trade agreement—to fund a number of programs for Eastern Europe and the Soviet Union;

Establishing an intensive—6–12 month—managerial, business, finance training program for Eastern European businesspeople and entrepreneurs to be coordinated by the Departments of State and Commerce, as well as the National Science Foundation, and involving American business community and its leaders; and

Stating that it is the sense of Congress that we should increase funding for the U.S. Export-Import Bank in order to help American exporters capture a share of Eastern European markets.

The bill would also amend SEED I and permit the Enterprise Funds for Poland and Hungary to make loans to the governments of those nations if they are moving toward establishing a market based economy, so that they can make use of American economic, management, and technical advisers from our private sector in making the transition to a market based economy.

Winston Churchill spoke about an iron curtain descending across the Continent of Europe. We can continue to work to make certain that the curtain has permanently come down and is replaced by a bridge of economic opportunity and political freedom between East and West. In the recent elections in East Germany and in the political movements throughout Eastern Europe people voted and will be voting with their pocketbooks. They are tired of the poverty and hopelessness that their economic systems have created.

With this bill, I build on the fine work of Senators PELL, BIDEN and SIMON and others already completed in SEED I and soon to be completed in SEED II, helping to bring hope to Eastern and central Europe. If we do not actively involve ourselves with the reconstruction of Europe, then American businessmen will lose a valuable opportunity to be a part of the new Europe.

I ask unanimous consent that my bill and a summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

S. 2325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Greater European Economic Reconstruction Act".

SEC. 2. ESTABLISHMENT AND PURPOSES OF COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Eastern European Economic Strategic Planning Commission (hereafter in this Act referred to as the "Commission").

(b) PURPOSES.—The purposes of the Commission are—

(1) to develop a long-term strategy for the United States in aiding the nations of Eastern Europe in the development of democracy, a free market economy, and national institutions that will help in the building of both;

(2) to utilize both public and private sector expertise in the development of this strategy;

(3) to develop new government and private sector programs, as well as to consider new uses for existing programs, in the development of this strategy; and

(4) to coordinate with international public and private sector groups and institutions this strategy for aiding the nations of Eastern Europe.

SEC. 3. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—The Commission shall be composed of 14 members, appointed not later than 90 days after the enactment of this Act. The members shall be as follows:

(1) 2 citizens of the United States, appointed by the President.

(2) 1 Senator and 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader of the Senate.

(3) 1 Senator and 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate.

(4) 1 Member of the House of Representatives and 2 citizens of the United States, appointed by the Speaker of the House of Representatives.

(5) 1 Member of the House of Representatives and 1 citizen of the United States, appointed by the Minority Leader of the House of Representatives.

(6) 2 citizens of the United States, 1 of whom is a Democrat and 1 of whom is a Republican, appointed by the President-elect as established by the allocation of electoral college votes in the Presidential election of November 8, 1988.

(b) ADDITIONAL QUALIFICATIONS.—

(1) Individuals appointed under subsection (a)(1) may be officers or employees of the Executive Branch or may be private citizens.

(2) Individuals who are not Members of the Congress, and are appointed under paragraphs (2) through (6) of subsection (a) shall be individuals who—

(A) are leaders of business or labor, distinguished academics, State or local government officials, or other individuals with distinctive qualifications or experience; and

(B) are not officers or employees of the United States.

(c) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(f) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(g) PROHIBITION OF ADDITIONAL PAY.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

SEC. 4. FUNCTIONS OF THE COMMISSION.

(a) STRATEGY.—(1) The Commission shall prepare a strategy for the United States to aid the nations of Eastern Europe by helping them to develop market-based economies and private sectors.

(2) In developing this strategy, the Commission shall estimate the cost of aid programs for these nations on a case-by-case basis.

(3) The Commission shall make an inventory of existing Government programs that could be used to aid these nations, including an evaluation of possible new uses for these programs in aiding the nations of Eastern Europe.

(4) The Commission shall also examine what role international financial institutions and other international organizations such as the Organization for Economic Cooperation and Development (OECD) can play in aiding Eastern Europe.

(5) The Commission shall at all times take into consideration the most cost effective way to give aid to these nations.

(b) SPECIFIC RECOMMENDATIONS.—The Commission shall make specific recommendations regarding the following:

(1) The evaluation of the success of United States and other OECD nation aid programs to date, offering recommendations for modifications in these programs.

(2) The development of a comprehensive strategy for aiding the economic development of the nations of Eastern Europe, as described in subsection (a).

(c) FINAL REPORT.—

(1) The Commission shall submit to the President and to the Congress a final report 1 year after the Commission has been established with an interim report 6 months after the Commission has been established which shall contain a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action that the Commission considers advisable.

(2) Any recommendation may be made by the Commission to the President and to the Congress only if adopted by a majority vote of the members of the Commission who are present and voting.

(3) The President may issue an order extending the date for submission of the final report if necessary.

SEC. 5. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may for the purpose of carrying out its functions hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of carrying out its functions. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission on a nonreimbursable basis, to assist the Commission in carrying out its duties, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 6.

(c) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(d) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriations Act, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties, subject to the limitation on total expenses set forth in section 6.

(e) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 6) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(f) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 6. EXPENSES OF COMMISSION.

(a) IN GENERAL.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) LIMITATION.—The total expenses of the Commission shall not exceed $1,000,000.

(c) GAO AUDIT.—Prior to the termination of the Commission, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

SEC. 7. THE EASTERN EUROPEAN FOUNDATION ACT.

(a)(1) There is created as an agency of the United States of America a body corporate to be known as the Eastern European Foundation (hereafter in this section referred to as the "Foundation").

(2) The purpose of the Foundation is—

(A) to provide support for small and mid-sized businesses and entrepreneurs through grants and technical assistance,

(B) to help nonmarket economies of Eastern European nations to develop market-based economies, and

(C) to support self-help efforts of the people of Eastern Europe to develop businesses and the private sector.

(3) The Foundation is to focus solely on business and economic issues.

(4) The Foundation shall coordinate its activities with the OECD, the EC, the IMF, and the World Bank.

(b) The Foundation shall carry out the purposes primarily through and with private organizations, individuals, and international organizations by undertaking or sponsoring appropriate research and by planning, initiating, assisting, financing, administering, and executing programs and projects designed to promote the achievement of such purposes.

(c) The Foundation, as a corporation—

(1) shall have perpetual succession unless sooner dissolved by an Act of Congress;

(2) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) may make and perform contracts and other agreements with any individual, corporation, or other body of persons however designated whether within or without the United States of America, and with any government or governmental agency, domestic or foreign;

(4) shall determine and prescribe the manner in which its obligations shall be incurred and its expenses, including expenses for representation (not to exceed $10,000 in any fiscal year), allowed and paid;

(5) may, as necessary for the transaction of the business of the Foundation, employ, and fix the compensation of not to exceed one hundred persons at any one time;

(6) may acquire by purchase, devise, bequest, or gift, or otherwise lease, hold, and improve, such real and personal property as it finds to be necessary to its purposes, whether within or without the United States, and in any manner dispose of all such real and personal property held by it and use as general funds all receipts arising from the disposition of such property;

(7) shall be entitled to the use of the United States mails in the same manner and on the same conditions as the executive departments of the Government;

(8) may, with the consent of any board, corporation, commission, independent establishment, or executive department of the Government, including any field service thereof, avail itself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this section;

(9) may accept money, funds, property, and services of every kind by gift, devise, bequest, grant, or otherwise, and make advances, grants, and loans to any individual, corporation, or other body of persons, whether within or without the United States of America, or to any government or governmental agency, domestic or foreign, when deemed advisable by the Foundation in furtherance of its purposes;

(10) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction; and

(11) shall have such other powers as may be necessary and incident to carrying out its powers and duties under this section.

(d) Upon termination of the corporate life of the Foundation all of its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

(e) The management of the Foundation shall be vested in a board of directors (hereafter in this section referred to as the "Board") composed of nine members (not more than 5 from any political party) appointed by the President, by and with the advice and consent of the Senate, one of whom he shall designate to serve as Chairman of the Board and one of whom he shall designate to serve as Vice Chairman of the Board. All members of the Board shall be appointed from private life. Three members of the Board shall be appointed from among officers or employees of agencies of the United States concerned with Eastern European affairs. Members of the Board shall be appointed for terms of six years, except that of the members first appointed two shall be appointed for terms of two years and two shall be appointed for terms of four years, as designated by the President at the time of their appointment. A member of the Board appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term; but upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified. Members of the Board shall be eligible for reappointment.

(f) Members of the Board shall serve without additional compensation, but shall be reimbursed for travel expenses, including per diem, in lieu of subsistence, in accordance with section 5703 of title 5, United States Code, while engaged in their duties on behalf of the corporation.

(g) The Board shall direct the exercise of all the powers of the Foundation.

(h) The Board may prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which the business of the Foundation may be conducted and in which the powers granted to it by law may be exercised and enjoyed. A majority of the Board shall be required as a quorum.

(i) In furtherance and not in limitation of the powers conferred upon it, the Board may appoint such committees for the carrying out of the work of the Foundation as the Board finds to be for the best interests of the Foundation, each committee to consist of two or more members of the Board, which committees, together with officers and agents duly authorized by the Board and to the extent provided by the Board, shall have and may exercise the powers of the Board in the management of the business and affairs of the Foundation.

(j)(1) The chief executive officer of the Foundation shall be a President who shall be appointed by the Board of Directors on such terms as the Board may determine. The President shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) Experts and consultants, or organizations thereof, may be employed as authorized by section 3109 of title 5, United States Code.

(k) In order to further the purposes of the Foundation there shall be established a Council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable concerning Eastern Europe. The Board shall, from time to time, consult with the Council concerning the objectives of the Foundation. Members of the Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5, United States Code, for travel and other expenses incurred by them in the performance of their functions under this subsection.

(l) The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of its directors, officers, and employees and such revenue, earnings, or other income, or property shall be used for the carrying out of the corporate purposes set forth in this section. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his personal interests or the interest of any corporation, partnership, or organization in which he is directly or indirectly interested.

(m) When approved by the Foundation, in furtherance of its purpose, the officers and employees of the foundation may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries.

(n) The Secretary of State shall have authority to detail employees of any agency under his jurisdiction to the Foundation under such circumstances and upon such conditions as he may determine. Any such employee so detailed shall not lose any privileges, rights, or seniority as an employee of any such agency by virtue of such detail.

(o) The Foundation shall establish a principal office. The Foundation is authorized to establish agencies, branch offices, or other offices in any place or places within the United States or elsewhere in any of which locations the Foundation may carry on all or any of its operations and business.

(p) The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United Sates, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

(q) Notwithstanding any other provision of law, there is authorized to be appropriated a total of $15,000,000 for the fiscal years 1991 and 1992. Funds made available to carry out the purposes of this section under the preceding sentence are authorized to remain available until expended.

(r) The Foundation shall be subject to the provisions of the Government Corporation Control Act.

(s) When, with the permission of the Foundation, funds made available to a grantee under this section are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purposes for which the grant was made. This subsection applies with respect to both interest earned before and interest earned after the enactment of this subsection.

SEC. 8. OECD EAST-WEST CENTER.

(a) The Secretary of State, in consultation with the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve Board, is authorized to enter into negotiations with the other member nations of the Organization of Economic Cooperation and Development (OECD), in order to establish an East-West Center for Economic Transition (hereafter in this Act referred to as the "Center").

(b) The purposes of the Center are—

(1) to coordinate OECD activities involving Eastern Europe and, to the extent practicable, the Center shall draw on existing OECD resources;

(2) to interact with other international organizations that are involved with providing assistance to the nations of Eastern Europe;

(3) to provide technical and professional expertise to the governments of the nations of Eastern Europe in their efforts to develop market-based economies; and

(4) to aid these nations in their attempts to build institutions, private sector and governmental, that will help establish market economies.

(c) Not later than 6 months after the date of enactment of this Act, and annually thereafter, the Secretary shall submit a progress report on the negotiations and a report on the activities of the Center to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

(d) There are authorized to be appropriated to the Secretary of State $1,000,000, which amount shall be available only as a voluntary contribution to the Center for each of the fiscal years 1991 and 1992.

(e) For the purpose of this Act, the term "Eastern Europe" refers to Hungary, Poland, Czechoslovakia, Romania, Bulgaria, East Germany, and the Soviet Union.

SEC. 9. INCREASING THE NUMBER OF UNITED STATES COMMERCIAL AND ECONOMIC OFFICERS IN EASTERN EUROPE AND THE SOVIET UNION.

There are authorized to be appropriated to the Secretary of State $1,000,000 for each of the fiscal years 1991 and 1992 to increase the number of commercial and economic officers and attaches to United States embassies and consulates in Eastern Europe and the Soviet Union.

SEC. 10. ESTABLISHMENT OF EAST-WEST PROGRAMS USING SOVIET REPAYMENT OF LEND-LEASE DEBT.

(a) The purpose of this section is to provide for the use of Soviet repayment of lend-lease debt, which will be part of the United States-Soviet trade agreement, to help defray the costs of certain programs to assist the countries of Eastern Europe and the Soviet Union in building a free enterprise system and democracy.

(b) Notwithstanding any other provision of law, $1,000,000 of each payment to the United States Government from the Soviet Union as part of its repayment of lend-lease debt—

(1) shall be transferred to the Secretary of State for payment to the Center at the OECD; and

(2) shall be used to set up a scholarship fund for graduate and post-doctoral students from Eastern Europe and the Soviet Union for the study of democracy, democratic institutions, and the free enterprise system.

(c) Notwithstanding any other provision of law, of the amount of lend-lease debt repaid by the Soviet Union, there shall be transferred to the Secretary of State an amount which he shall determine, which amount shall be available for any of the following purposes:

(1) For the establishment of a fund, to be administered by the Secretary of Commerce, for United States firms to be used to make investments, and to establish joint ventures, in the Soviet Union.

(2) To support the work of the Eastern Europe Foundation.

(3) For the United States contribution to the European Reconstruction Bank.

(4) To pay for cultural and academic exchanges between the United States and the Soviet Union.

(5) To fund government-to-government technical assistance for the Soviets.

(6) To pay for an increase in the number of commercial and economic officers to United States embassies and consulates in Eastern Europe and the Soviet Union.

(d) The Secretary of State, in conjunction with the Secretary of Commerce, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, shall establish a program—

(1) to permit the repayment of lend-lease debt by the Soviet Union by shipments of petroleum, petroleum products, and natural gas;

(2) to provide for the sale, at cost or less, of the petroleum, petroleum products, and natural gas described in paragraph (1) to the countries of Eastern Europe to encourage them to undertake measures to protect and improve the environment; and

(3) to provide technical assistance, to the extent practicable issuing personnel and equipment of United States firms, to such countries in developing and undertaking such measures.

SEC. 11. ENTERPRISE FUNDS.

Section 201 of the Support for East European Democracy (SEED) Act of 1989 is amended by adding at the end thereof the following:

"(q) DEVELOPMENT OF PRIVATE SECTOR.—In keeping with the purposes of the Enterprise Funds, the Funds may provide loans and grants to the Governments of Poland and Hungary to enable them to contract with private sector economic, management, and technical advisors in making the transition to a market-based economy. Loans and grants under this subsection may include assistance to establish institutions that will protect and promote the private sector, assist the process of privatization of parastatal industries, and assist government-sponsored infrastructure projects identified as necessary to support private sector development.

"(r) INTENT OF CONGRESS.—It is the intent of Congress that the Enterprise Funds in all their programs should make a special effort to assist in the development of small- and mid-sized businesses and entrepreneurs in Poland and Hungary.".

SEC. 12. TRAINING PROGRAM.

(a) The Secretary of State, in conjunction with the Secretary of Commerce and the National Science Foundation, shall establish an intensive training program in the United States and abroad, ranging from 6 to 12 months in duration, for the training of Eastern European and Soviet managers and entrepreneurs in business, finance, and managerial skills.

(b) The training program under this section shall be used to build private sector expertise by making use of experts from the private sector in the United States, as well as public and private universities. Training under such program shall be made available in the United States, Eastern Europe, and the Soviet Union.

(c) There are authorized to be appropriated not to exceed $5,000,000 for fiscal year 1991 to carry out this section.

SEC. 13. POLICY ON INCREASED FUNDING FOR THE EXPORT-IMPORT BANK OF THE UNITED STATES.

(a) FINDINGS.—That Congress finds that—

(1) in order to help United States firms compete effectively against other nations for the market share in Eastern European nations, the United States Government should aggressively utilize existing Government programs to aid United States exporters;

(2) the Export-Import Bank of the United States (hereafter in this section referred to as the "Bank") is an effective tool of the United States Government for aiding United States exporters;

(3) the Bank does not have adequate resources to meet the increasing needs of United States exporters in Eastern Europe;

(4) the Japanese have offered a combined credit and aid package to the nations of Eastern Europe worth over $1,500,000,000; and

(5) the United States must support the Bank in order to help United States exporters compete against foreign firms in Eastern Europe.

(b) POLICY.—It is the sense of the Congress that—

(1) funding for the Bank's direct loan program for fiscal year 1991 should be increased by 50 percent over the President's budget request;

(2) funding for the Bank's interest Equalization Program for fiscal year 1991 should be no less than $25,000,000;

(3) there should be additional funding for the Bank's war chest to combat tied aid efforts of foreign firms and governments of at least $200,000,000 for fiscal year 1991; and

(4) funding for the administrative costs of the Bank for fiscal year 1991 should be increased by at least $5,000,000 over the President's budget request.

SUMMARY OF SENATOR LIEBERMAN'S BILL ON EASTERN EUROPE

Sections 2-6: Establishes an Eastern European Economic Strategic Planning Commission.—Establishes an Eastern European Economic Strategic Planning Commission. The structure of the Commission is patterned after the National Economic Commission. Its purpose is to develop a long term U.S. strategy for aiding the nations of Eastern Europe, relying on both government and private sector experts.

In preparing this strategy, the Commission shall, among other things, make an inventory of government programs that could be used to aid these nations, including an evaluation of possible new uses for these programs in aiding the nations of Eastern Europe. The Commission shall also evaluate existing U.S. aid programs to Eastern Europe, as well as the aid programs of other nations and multilateral institutions.

The Commission shall submit two reports to the President and Congress, an interim report after 6 months and a final report after one year.

Authorized to be appropriated $1 million.

Section 7: Establishes an Eastern European Foundation.—Establishes an Eastern European Foundation patterned after the Inter-American and African Foundations. The Foundation will provide grant money and technical assistance to small and mid-sized businesses and entrepreneurs. The Foundation will focus only on business and economic issues.

Authorized to be appropriated for FY 1991 and FY 1992, a total of $15,000,000.

Section 8: Calls for Negotiations on an OECD East-West Center.—The Secretary of State, in consultation with the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve Board, shall enter into negotiations with other member nations of the OECD to establish an East-West Center for Economic Transition. The Center shall draw on existing OECD expertise to offer technical advice and assistance to the nations of Eastern Europe and the Soviet Union as they attempt to build institutions, private sector and governmental, that will help establish market economies. The Secretary of State shall submit a report to Congress on the progress of the negotiations, and if applicable the activities of the Center, six months after the enactment of the legislation.

Authorized to be approprited for FY 1991 and FY 1992, a total of $2,000,000.

Section 9: Increase the number of Commercial and Economic Officers in Eastern Europe and the Soviet Union.—Authorize to be appropriated a total of $2,000,000 for FY 1991 and FY 1992 to increase the number of commercial and economic officers to our embassies and consulates in Eastern Europe and the Soviet Union.

Section 10: Use of repayment of lend-lease debt by the Soviets to fund certain East-West programs.—If, as part of the pending U.S.-Soviet trade agreement, the Soviets resume payment of their lend-lease debt, an amount now totaling some $674 million, those payments shall be used to fund certain programs established to assist the nations of Eastern Europe, as well as bilateral U.S.-Soviet programs.

Specifically, the payments shall be used to: fund the OECD East-West Center; establish a scholarship fund for graduate level and post-doctoral students for Soviet and East European students; establish a fund to help U.S. firms set up joint ventures with the Soviet Union to be administered by the Department of Commerce; to support the work of the Eastern Europe Foundation; to help pay for U.S. contributions to the European Reconstruction Bank; to pay for cultural and academic exchanges between the U.S. and the Soviet Union; to fund government to government technical assistance programs for the Soviets; and to help pay for the costs of increasing the number of commercial and economic officers to our embassies and consulates in the Soviet Union and Eastern Europe.

The Department of State in conjunction with the Departments of Commerce, Energy, and the Environmental Protection Agency shall establish a program whereby partial payment of the lend lease debt by the Soviets can be petroleum, petroleum products, and natural gas. These commodities shall then be given or sold at cost to the nations of Eastern Europe in exchange for their taking measures to clean up their environment. The EPA shall offer technical assistance in structuring these environmental clean up programs. If in the course of implementing these programs, the governments of the Eastern European nations need to purchase equipment as part of the clean up process, or are in need of technical advice in the implementation of these programs, they should, to the extent practical and possible, make use of American firms and advisers.

No additional funding required. Upon receipt of payment by the Soviet government of lend-lease debt by the U.S. Treasury, a like amount shall be transferred to the Secretary of State to fund the mentioned programs.

Section 11: Amend the Polish, Hungarian Aid Act (SEED).—The SEED Act shall be amended, adding two new provisions to Title II, Section 201 "Enterprise Funds for Poland and Hungary." The first provision states that in keeping with the purposes of the Enterprise Funds to promote the development of the private sector in Poland and Hungary, the Funds shall be permitted to make loans and offer grants to the governments of these nations in order for them to be able to contract with private sector economic, management, and technical advisers in making the transition to a market based economy. This shall include but not be limited to assisting with the establishment of institutions that will protect and promote the private sector, as well as with the process of privatizing parastatal industries. In addition, lending to the governments of both nations shall be permitted for use in government-sponsored infrastructure projects identified as necessary to support private sector development.

Another new provision states that it is the intent of Congress that the Enterprise Funds shall make a special effort to help in the development of small and midsized businesses and entrepreneurs in Poland and Hungary through all of its programs.

Section 12: Establish an intensive managerial, business, finance program for Eastern European businesspersons and entrepreneurs.—The Department of State in conjunction with the Department of Commerce and the National Science Foundation shall establish an intensive training program in the U.S. and abroad, ranging from six to twelve months in duration, for the training of Eastern European and Soviet managers and entrepreneurs in business, finance, and managerial skills. The purpose of this program shall be to help build the private sector expertise in these nations. To the extent possible and practical, this program shall also make use of experts from the U.S. private sector, as well as our public and private universities. This program shall be designed for implementation in the U.S. and the nations of Eastern Europe and the Soviet Union.

There is authorized to be appropriated $5 million for FY 1991 for the purpose of carrying out this program.

Section 13: Sense of Congress provision for increasing funding for the Export-Import Bank.—Sense of the Congress provision that supports increased funding for the Eximbank's direct loan program, tied aid fund, Interest Equalization Program, and administrative expenses.●

By Mr. DECONCINI (for himself, Mr. HOLLINGS, Mr. LAUTENBERG, Mr. CRANSTON, and Mr. KOHL):

S. 2326. A bill to amend title 35, United States Code, with respect to patents on certain processes; to the Committee on the Judiciary.

BIOTECHNOLOGY PATENT PROTECTION ACT

● Mr. DECONCINI. Mr. President, I rise today with my colleagues, Senator HOLLINGS, LAUTENBERG, CRANSTON, and KOHL to introduce the Biotechnology Patent Protection Act of 1990. The bill corrects the inadequacies in our patent code that limit the patentability of inventions in this emerging and important field. The bill will also provide protection from the ever increasing foreign infringement of American biotechnology ingenuity.

American scientists invented genetic engineering and America is currently the world leader in biotechnology research. However, because of the rapid advancements in this promising field, our patent and trade laws have failed to keep pace. Instead of providing incentives and the path to progress, the Patent Code and trade laws have become impediments to the commercialization of biotechnology research. We cannot sit idly by watching another American industry succumb to foreign competitors.

In its simplest terms, biotechnology is the study and application of genetic engineering techniques, sometimes referred to as recombinant DNA technology. Sections of DNA called genes contain chemical instructions that guide the cell's machinery in constructing proteins. Proteins give living things their unique characteristics. Through biotechnology drug research, scientists can discover beneficial substances that naturally occur in the body and duplicate these rare substances with gene-splicing techniques resulting in useful and commercial quantities. The end result is a whole new generation of life-saving products.

Let me provide an example of how biotechnology is revolutionizing health care. Factor VIIIc is a blood protein necessary for clotting. Hemophiliacs deficient in this protein often bleed to death from minor wounds, because their blood fails to clot. Factor VIIIc is present in small amounts in blood donated to banks and hospitals. These small amounts of the clotting factor can be extracted from donated blood and pooled to provide a sufficient quantity to treat hemophilia. Hemophiliacs must take regular injections of pooled factor VIIIc to stay alive.

In recent years, biotechnology researchers have been successful in placing human factor VIIIc genes into microorganisms. These microorganisms can be induced to secrete factor VIIIc in quantities sufficient to treat hemophiliacs. Because this genetically engineered factor VIIIc is not a blood product, it will not be contaminated with impurities such as the AIDS virus.

Despite the progress that biotechnology researchers have achieved, our patent code as interpreted by the courts has failed to provide the necessary protection to these recombinant processes. The first section of this measure addresses the problem that biotechnology inventors have had with the decision of In re Durden. Durden involved the asserted patentability of a process for producing a new and patentable compound from a new and patentable starting material using a known chemical reaction. The patent applicant in that case admitted that the nature and conduct of the chemical reaction as it related to the change made in the molecules was known for other, analogous, starting materials to make other corresponding products. The Federal circuit held in Durden that although the starting material and the resulting product were nonobvious and novel, the process to make the product could not be patented.

The Durden decision has been applied in an inconsistent manner by the Patent Office in denying process patents to various useful recombinant versions of naturally occurring proteins. The denials continue to occur although there are indeed patent cases supporting the proposition that a process to make a product will not be considered unpatentable if the starting material is novel. However, as long as Durden is controlling, there is no assurance that patent examiners will not continue to deny biotechnological process patent applications worthy of patent protection.

Section I of this bill will resolve the Durden dilemma and provide the proper criteria for recombinant processes. The section provides that a process to make a product will not be considered unpatentable if the starting material or resulting product is novel. This section will give guidance to the Patent Office for biotechnology-derived process applications and end the inconsistent application of Durden.

The Biotechnology Patent Protection Act also provides a solution to another deficiency in our law that has created an obstacle for the U.S. biotechnology industry. Before the 1988 Trade Act, a patent infringer could take a patented process offshore, make a product from the process, and then ship the product back into the United States. The owner of the patented process had no recourse from this form of infringement. The 1988 Trade Act amended the Patent Code and section 337 of the 1930 Tariff Act to prevent offshore process patent infringement. In that important piece of legislation, Congress adopted the principle that no one should be allowed to import a product manufactured offshore that would constitute patent infringement if it had been manufactured in the United States. Unfortunately, the language of the bill as interpreted did not mirror our intent.

Contrary to the intention of the 1988 amendments to section 337 and the Patent Code, the International Trade Commission has recently ruled that foreign manufacturers are still permitted to take patented biotechnological materials offshore to produce a product to ship back into the United States without legal recourse to the patentee. This practice has had a deleterious effect on the American biotechnology industry. If, after a long, costly, and uncertain period of discov-

ery of an innovative drug product, an American biotechnology company has to watch helplessly as infringing foreign imitators pilfer the remuneration to which it is entitled, then the economic incentive intended to encourage the efforts of these American companies will dry up.

Presently, the biotechnology industry produces billions of dollars annually for our Nation's economy. President Bush recognized the importance this field has on our economic growth by designating biotechnology research as a funding priority in his proposed budget. The budget proposal notes how the recent breakthroughs in the biotechnology field "offer unprecedented opportunities for improving the Nation's productivity, health, and well-being."

This legislation will increase the incentive to invest in biotechnology research and commercial development by correcting the inadequacies in our patent laws and ending the foreign infringement. All Americans will benefit from a prosperous biotechnology sector as the patenting of new drugs will dramatically improve the quality of all our lives.

A companion bill to this legislation has already been introduced in the House by Representative BOUCHER, differing only in the effective date of the legislation. This distinguishing factor in the bills evinces a need for negotiation between all parties concerned on how best to proceed with this legislation. As chairman of the Subcommittee on Patents, Copyrights and Trademarks, I plan to hold a hearing on this measure in the future so that we arrive at the best possible solution to the growing problems this bill addresses. As I have always done on legislation dealing with such complex areas of science and law, I encourage suggestions from industry and all interested parties.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PATENTABILITY OF CERTAIN PROCESSES.

Section 103 of title 35, United States Code, is amended by adding at the end the following new paragraph:

"A process of making a product shall not be considered obvious under this section if an essential material used in the process is novel under section 102 and otherwise nonobvious under section 103.".

SEC. 2. IMPORTATION PROHIBITION; INFRINGEMENT BY IMPORTATION, SALE, OR USE.

(a) AMENDMENT TO TARIFF ACT OF 1930.—Section 337(a)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1337(a)(1)(B)) is amended—

(1) in clause (i) by striking "or" after the semicolon;

(2) in clause (ii) by striking out the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(iii) are made, produced, or processed under, or by means of, the use of an essential biotechnological material (as defined under section 154(b) of title 35, United States Code) covered by a valid and enforceable United States patent.".

(b) AMENDMENTS TO TITLE 35, UNITED STATES CODE.—

(1) INFRINGEMENT.—Section 271 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(h) Whoever without authority imports into the United States or sells or uses within the United States a product which is made by using an essential biotechnological material (as defined under section 154(b)) which is patented in the United States shall be liable as an infringer if the importation, sale, or use of the product occurs during the term of such patent.".

(2) CONTENTS AND TERM OF PATENT.—Section 154 of title 35, United States Code, is amended—

(A) by inserting "(a)" before "Every";

(B) by inserting "(1)" after "in this title,";

(C) by striking "and, if the invention" and inserting "(2) if the invention";

(D) by inserting after "products made by that process," the following: "and (3) if the invention is an essential biotechnological material used in making a product, of the right to exclude others from using or selling throughout the United States, or importing into the United States, that product,"; and

(E) by adding at the end the following:

"(b) For purposes of this section, the term 'essential biotechnological material' means a biologically engineered organism that is essential for the production of a product. Such term includes any host cell, DNA sequence, or vector.".

SEC. 3. EFFECTIVE DATE.

(a) SECTION 1.—The amendment made by section 1 shall apply to all United States patents granted before, on, or after the date of the enactment of this Act and to all applications for United States patents pending on or filed after such date of enactment, including any application for the reissuance of a patent.

(b) SECTION 2.—(1) The amendment made by section 2(a) shall apply only to articles imported, or sold for importation, on or after the date of the enactment of this Act.

(2)(A) Subject to subparagraph (B), the amendments made by section 2(b) shall take effect on the date of the enactment of this Act.

(B) With respect to any article which is imported before the date of enactment of this Act, and which, but for the amendment made by section 2(b), could be sold or used within the United States, no person shall be liable for infringement under section 271(h) of title 35, United States Code, for such sale or use.●

By Mr. KERRY (for himself, Mr. RIEGLE, Mr. METZENBAUM, Mr. GARN, Mr. BOND, Mr. BRYAN and Mr. HATCH):

S. 2327. A bill to authorize Federal depository institutional regulatory agencies to revoke charters, terminate deposit insurance, and remove or suspend officers and directors of depository institutions involved in money laundering or monetary transaction reporting offenses; to the Committee on Banking, Housing, and Urban Affairs.

DEPOSITORY INSTITUTION MONEY LAUNDERING AMENDMENTS

● Mr. KERRY. Mr. President, last month the Foreign Relations Subcommittee on Narcotics and Terrorism released a report "Drug Money Laundering, Banks and Foreign Policy." In that report the subcommittee recommended that:

> Federal regulators should consider revocation of a bank's charter whenever there is evidence that the bank's senior officals or directors had knowledge of or participated in money laundering violations to the extent that the operational integrity and viability of the institution is compromised.

Today I am introducing the Depository Institution Money Laundering Amendments Act of 1990, which will give Federal regulators that power. I am pleased to be joined in this effort by the chairman of the Senate Banking Committee, Senator RIEGLE; the chairman of the Subcommittee on Antitrust, Monopolies and Business Rights, of the Judiciary Committee, Senator METZENBAUM; the ranking minority member of the Banking Committee, Senator GARN, as well as Senators BOND and BRYAN.

The laundering of illegal drug profits is estimated to be a $300 billion global problem, with a least a third of the illegal activity located in the United States alone. Money laundering is a central part of the drug trade, directly involving those at the top of the drug heirarchy. It is becoming increasingly clear that with the proper laws and enforcement, money laundering could prove to be the Achilles heel of the drug trade.

Although banks in this country are showing an increasing willingness to cooperate in the war on drugs, we still have some distance to travel. Bank money laundering continues to be a significant problem.

This legislation will give the appropriate Federal depository institution regulatory agencies the power to revoke charters, terminate deposit insurance, and remove or suspend officers and directors of depository institutions involved in money laundering or monetary transaction reporting offenses.

The Government already has the power to shut down a corrupt institution. Under 12 U.S.C. 1818(a), the FDIC can terminate an institution's insured status on the basis that the institution has violated the law or upon finding that unsafe and unsound practices or conditions are prevalent within an institution. We are adding another weapon for the regulators to punish illegal conduct.

Specifically, the appropriate bank regulator must order a pretermination hearing on the forfeiture of a franchise of a bank, provided, the institu-

tion itself was convicted of an offense under section 1956(a) or 1957 of title 18. These two sections are at the heart of the Money Laundering Control Act which was signed into law by President Reagan in 1986.

In general terms, section 1956 prohibits knowingly engaging in a broad range of transactions involving the proceeds of criminal activity either with the intent to promote the unlawful activity, or with the intent to conceal some aspect of the funds or to avoid the currency transaction reporting requirements.

Section 1957 prohibits knowingly engaging in virtually any typical banking transaction involving a financial institution which involves criminally derived property of a greater value than $10,000.

If the offense is a title 31, section 5322 offense then it is at the bank regulator's discretion whether or not to convene a pretermination hearing. Title 31 of the U.S. Code requires banks to maintain extensive records relating to large-scale transactions or transportations of monetary instruments. It was decided that a violation of this section should not automatically trigger a pretermination hearing because offenses under this title do not necessary involve criminally derived property.

Before a revocation order can be issued, the Federal regulatory authority must convene a pretermination hearing. At that hearing a series of four factors must be taken into account. These factors include: First, the degree to which senior management officials knew of or were involved in the solicitation of narcotics derived funds or the money laundering operation; second, whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise; third, whether the bank has fully cooperated with law enforcement authorities with respect to the conviction; and fourth, whether there will be significant losses to the Federal Deposit Insurance Fund.

Mr. President, this proposal is not intended to penalize a bank for the actions of low-level employees or officials acting beyond the scope of their employment.

Similarly, it is not intended to punish a community which relies on the bank for its source of loans and contributions to the economy.

We are concerned about severely corrupt institutions who belie their fiduciary responsibilities to their customers and actively transact business with individuals without any concern as to the derivation of their funds.

Finally, an important component of sections one through three is that no financial institution would be subject to these harsh penalties by virtue of the fact that it has acquired the violating bank, or had succeeded to the bank, without knowledge of the illegal activities of that bank.

Section 4 of the bill expands upon current law to permit Federal depository institution regulatory agencies to permanently or temporarily remove from office persons charged with or convicted of violating money laundering statutes. The amendment would also allow the agencies to suspend such person from office pending the final outcome of a proceeding to determine whether there is sufficient evidence to permanently or temporarily remove a person from office.

Under current law, an agency may suspend any institution-affiliated party from office or prohibit him or her from participating in any manner in the affairs of the depository institution if the agency determines that such action is necessary for the protection of the institution or in the best interest of the depositor. Removal can occur if the party engaged in any unsafe and unsound practices, breached his/her fiduciary duty or violated any written agreement with the institution. A conviction for money laundering clearly meets these criteria and should be made explicit in the law.

Section 4 also allows regulators to remove an officer or director of a depository institution if they knew that an institution affiliated party violated the money laundering statutes.

In making the determination of whether an officer or director of an insured depository institution or credit union had knowledge, that an institution affiliated party of the institution violated subchapter II of chapter 53 or title 31, United States Code, or section 1956 or 1957 of title 18, United States Code, it is intended that the appropriate Federal banking agency's or the Federal Credit Union Board's determination include a finding of whether there was a conscious purpose to avoid learning the truth. Thus, the "knowledge" standard adopted covers both "actual knowledge" of a violation as well as actions by officers and directors that evidence a conscious disregard or deliberate ignorance of known circumstances that should have reasonably alerted such officers or directors to the high probability of such violations.

Section 4, like the first three sections, gives the regulators a new and important weapon in the war on drugs. As the former assistant secretary for financial enforcement at the Treasury Department, Salvatore Martoche, testified before our committee: "We have discovered that money launderers have learned that they do not have to buy a bank. All they have to do is buy a banker." This legislation sends the message that bankers who engage in laundering illicit funds, or who turn a blind eye to money laundering, will be barred from banking.

The vast majority of bankers in this country are law-abiding citizens; and the vast majority of banks in this country are honest and working to cooperate with law enforcement in anti-money laundering efforts. This bill is not directed at those individuals or institutions and it accordingly places no additional administrative burdens on them. But this legislation will give law enforcement a new tool in the war on drugs, and will help to insure that in the future, banks controlled by corrupt officers and directors do not get off with a slap on the wrist.

Finally, Mr. President, I want to thank Senators RIEGLE, METZENBAUM, and GARN for their work on this legislation. I urge all of my colleagues to join us in sponsoring this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Depository Institution Money Laundering Amendments of 1990".

SEC. 2. REVOCATION OF CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

"(c) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A) If a national bank is convicted of any offense described in section 1956(a) or 1957 of title 18, United States Code, the Comptroller of the Currency shall issue a notice of his or her intention to terminate all rights, privileges, and franchises of such bank and schedule a pretermination hearing.

"(B) If a national bank is convicted of any offense described in section 5322 of title 31, United States Code, the Comptroller of the Currency may issue a notice of his or her intention to terminate all rights, privileges, and franchises of such bank and schedule a pretermination hearing.

"(2) FACTORS TO CONSIDER BEFORE A FORFEITURE IS ISSUED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of narcotics derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the bank has fully cooperated with law enforcement authorities with respect to the conviction; and

"(D) whether there will be significant losses to the Federal deposit insurance funds or the Resolution Trust Corporation.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a bank that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a national bank, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding stock of such bank or its holding company. If the institution is a Federal branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Comptroller shall by regulation specify which officials of a national bank shall be treated as senior management officials for the purpose of this subsection.".

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) FORFEITURE OF CHARTER FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A) If a Federal savings association is convicted of any offense described in section 1956(a) or 1957 of title 18, United States Code, the Director shall issue a notice of his or her intention to terminate all rights, privileges, and franchises of such savings association and schedule a pretermination hearing.

"(B) If a Federal savings association is convicted of any offense described in section 5322 of title 31, United States Code, the Director may issue a notice of his or her intention to terminate all rights, privileges, and franchises of such savings association and schedule a pretermination hearing.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Director shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of narcotics derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the institution has fully cooperated with law enforcement authorities with respect to the conviction; and

"(D) whether there will be significant losses to the Federal deposit insurance funds or the Resolution Trust Corporation.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a savings association, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding stock of such savings association or its holding company. If the savings association is a United States branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Director shall by regulation specify which officials of a savings association shall be treated as senior management officials for the purpose of this subsection.".

(c) FEDERAL CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 128. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—(1) If a credit union is convicted of any offense described in section 1956(a) or 1957 of title 18, United States Code, the Board shall issue a notice of its intention to terminate all rights, privileges, and franchises of such credit union and schedule a pretermination hearing.

"(2) If a credit union is convicted of any offense described in section 5322 of title 31, United States Code, the Board may issue a notice of its intention to terminate all rights, privileges, and franchises of such credit union and schedule a pretermination hearing.

"(b) FACTORS TO CONSIDER BEFORE A FORFEITURE IS ISSUED.—In determining whether a franchise shall be forfeited under subsection (a), the Board shall consider—

"(1) the degree to which senior management officials knew of, or were involved in, the solicitation of narcotics derived funds or the money laundering operation;

"(2) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(3) whether the institution has fully cooperated with law enforcement authorities with respect to the conviction; and

"(4) whether there will be significant losses to the credit union share insurance fund.

"(c) SUCCESSOR LIABILITY.—This section does not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section.

"(d) DEFINITION.—For purposes of this section, the term 'senior management officials' means those individuals who exercise major supervisory control within a credit union, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding stock of such credit union. If the credit union is a United States branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Board shall by regulation specify which officials of a credit union shall be treated as senior management officials for the purpose of this section.".

SEC. 3. TERMINATION OF INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) STATE BANKS AND SAVINGS ASSOCIATIONS.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A) If an insured State depository institution, including a State branch of a foreign institution, is convicted of any offense described in section 1956(a) or 1957 of title 18, United States Code, the Board of Directors shall issue a notice of its intention to terminate the insured status of the insured depository institution and schedule a pretermination hearing.

"(B) If an insured State depository institution, including a State branch of a foreign institution, is convicted of any offense described in section 5322 of title 31, United States Code, the Board of Directors may issue a notice of its intention to terminate the insured status of the insured depository institution and schedule a pretermination hearing.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of narcotics derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the institution has fully cooperated with law enforcement authorities with respect to the conviction; and

"(D) whether there will be significant losses to the Federal deposit insurance funds or the Resolution Trust Corporation.

"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.—The Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) 10 days prior to the termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with section 8(a)(7).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured depository institution, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding stock of such institution or its holding company. If the institution is a

State branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Board of Directors shall by regulation specify which officials of an insured State depository institution shall be treated as senior management officials for the purpose of this subsection.".

(b) STATE CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(c) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A) If a credit union is convicted of any offense described in section 1956(a) or 1957 of title 18, United States Code, the Board shall issue a notice of its intention to terminate the insured status of that credit union and schedule a pretermination hearing.

"(B) If a credit union is convicted of any offense described in section 5322 of title 31, United States Code, the Board may issue a notice of its intention to terminate the insured status of that credit union and schedule a pretermination hearing.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of narcotics derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the institution has fully cooperated with law enforcement authorities with respect to the conviction; and

"(D) whether there will be significant losses to the credit union share insurance fund.

"(3) NOTICE TO STATE CREDIT UNION SUPERVISOR AND PUBLIC.—The Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) 10 days prior to the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(7) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured credit union, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding stock of such credit union. If the credit union is a United States branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Board shall by regulation specify which officials of an insured State credit union shall be treated as senior management officials for the purpose of this subsection.".

SEC. 4. REMOVAL OF PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the appropriate Federal banking agency determines that—

"(A) an institution affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured depository institution knew that an institution affiliated party of the insured depository institution violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(C) an officer or director of an insured depository institution committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of its intention to remove him from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a violation of section 1956(a) or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution.

"(B) A copy of such notice shall also be served upon the depository institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(D) A copy of such order shall also be served upon such depository institution, whereupon such party (if a director or an officer) shall cease to be a director or officer of such depository institution. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency.".

(b) CREDIT UNIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the Board determines that—

"(A) an institution affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured credit union knew that an institution affiliated party of the insured credit union violated any such provision or any provision of law referred to in subsection (i)(1)(A)(ii); or

"(C) an officer or director of an insured credit union committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of its intention to remove him from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a violation of section 1956(a) or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confi-

dence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union.

"(B) A copy of such notice shall also be served upon the credit union. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board.

"(C)(i) In the event that a judgment or conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(D) A copy of such order shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.".●

● Mr. RIEGLE. Mr. President, last fall the Senate Banking Committee held hearings on the current state of money laundering enforcement of the U.S. Government. Witnesses recommended that we strengthen our efforts to stop money laundering. Therefore, I am particularly pleased to be joining Senators KERRY, METZENBAUM, GARN, BOND, and BRYAN today in introducing legislation which would strengthen the bank regulators' arsenal of weapons. The legislation would clearly grant to regulators of depository institutions the authority to revoke the charter of a depository institution that has been convicted of money laundering and to remove employees who have been convicted of money laundering from the institution. Federal regulators currently have such Authority in certain situations. However, some disagreement exists with respect to the authority of the regulators to use these enforcement measures in connection with money laundering and currency transaction reporting violations. The legislation we are introducing today would clarify that regulators may use these remedies with respect to violations of the money laundering statutes.

Money penalties often do not provide a significant deterrent to money laundering. Where the potential profits from laundering money are great, the payment of fines amounts to nothing more than a payment out of the proceeds derived from the illegal activity. Removal of bank employees and the revocation of a charter would provide additional encouragement to bank employees to prevent money laundering from occurring within their institutions.

REVOCATION OF CHARTER AND TERMINATION OF INSURANCE

As holders of vast amounts of U.S. citizens' money in the form of savings and transaction accounts, banks hold a special place in our society and in our economy. Therefore, prior to granting a charter or granting deposit insurance coverage, Government authorities carefully scrutinize the organizers and the proposed managers to determine whether or not they are deemed worthy of receiving federally insured deposits and savings from the public. The chartering and insuring authorities examine not only the experience of these individuals but also their character, including whether they have been previously convicted of any crimes. When a bank is convicted of engaging in money laundering, the public's trust has been violated. This bill would provide that, when a bank has been convicted of money laundering, the appropriate governmental authority could revoke the bank's charter or, in the case of a state-chartered bank, could terminate Federal deposit insurance. A hearing would be required prior to taking any such action. The regulator would be required to consider a number of factors, including: Whether the costs to the insurance fund would be excessive; whether the local community would be left with adequate depository and credit services; whether the depository institution cooperated with law enforcement authorities; and whether senior management officials knew, or were involved, in the solicitation of drug money.

REMOVAL OF EMPLOYEES BY THE REGULATOR

The revocation of a charter or the termination of deposit insurance are severe penalties, but they are proper penalties for institutions convicted of money laundering. The authority to remove bank employees who have engaged in money laundering, however, would allow the regulators to target the penalty to specific individuals responsible for the violations. Under current law, regulators have the authority to remove bank employees from a federally insured institution when the officer or director is convicted of a violation of any law or regulation involving dishonesty or a breach of trust. Violations of money laundering and currency transaction reporting statutes may not fall clearly within this current authority. This legislation clarifies that the regulators may use the authority to remove employees in money laundering cases. The regulator would be required to remove temporarily or permanently any bank employee actually convicted of violations of money laundering or the currency transaction reporting requirements. In addition, the legislation provides that the regulator may remove, when deemed appropriate, any officer or director who knew a bank employee violated the money laundering statutes or currency transaction reporting requirements.

Mr. President, I want to commend Senator KERRY for his continuing leadership in the fight against money laundering. I also want to commend Senators METZENBAUM and GARN for their efforts in stopping money laundering. I urge my colleagues to support this legislation. This bill, if enacted into law, would enhance the regulators' arsenal of weapons against money laundering and would serve as a deterrent to participation in money laundering schemes by bank employees. Because money laundering is a key component of the drug trafficking business, this legislation would contribute to this Nation's war on drugs. My cosponsors and I will make every effort to see that it is enacted into law as soon as possible.●

● Mr. METZENBAUM. Mr. President, I am pleased to join with Senators KERRY, RIEGLE, GARN, BOND, and BRYAN in introducing the "Depository Institution Money Laundering Amendments of 1990." This bill will give the Comptroller of the Currency, the Federal Reserve, the Federal Deposit Insurance Corporation, and other regulatory agencies new and tougher penalties that will help deter money laundering.

In recent years, money laundering, particularly as it relates to drug trafficking, has been the focus of much attention and debate—and for good reason. Money laundering is an essential component of the drug trade. It allows the leaders of the drug cartels to convert the proceeds from their illegal drug sales into hotels and real estate investments, seemingly legitimate ventures. If we can stop or deter money laundering, we can do a great deal towards stopping drug trafficking.

It is estimated that approximately $100 billion a year in drug money is laundered. These money laundering schemes generally, in some form or another, involve banks and other financial institutions. Current forfeiture statutes and other penalties against financial institutions convicted or

money laundering are not enough and do not sufficiently deter the employees and officers and directors of these institutions from engaging in highly profitable laundering schemes.

These statutes and penalties are failing because they do not adequately focus on the individuals who run the schemes or on those who manage financial institutions where the laundering occurs. After all, it is the individuals—not faceless corporations—who serve as agents to accomplish money laundering transactions.

Under the depository institution money laundering bill, individuals who are convicted of money laundering will be removed from office and prohibited from participating, in any manner, in the affairs of any financial institution in this country. In addition, if it is determined that a senior official had knowledge of money laundering activities in his institution, he may also be removed from office and barred from participation in the affairs of a financial institution. On top of that, the institution's charter can be revoked. These new penalties would apply even if the safety and soundness of the institution is not jeopardized.

These new penalties will send a clear and unmistakable message to those who run financial institutions that if you launder money or if you knowingly allow money laundering in your institution, you may never make another dollar in salary as an employee of any financial institution. Officers and directors will no longer be permitted to close their eyes or turn their backs on money laundering activities. The days of the so-called innocent bystander are over. It is time to bring the full force of the law to bear on the people who are culpable for the crime.

I urge all Senators to join us in sponsoring this bill.●

● Mr. GARN. Mr. President, I rise today as an original cosponsor of legislation authorizing Federal regulators to take action against banks, savings and loans, and credit unions convicted of money laundering offenses. Action that could be taken includes: charter revocation, termination of deposit insurance privileges, and removal or suspension of offices and directors.

The enhanced enforcement authority we gave to regulators in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 to crack down on financial crimes in our depository institutions is extended with this legislation to give the regulators increased authority and flexibility to address the crime of money laundering.

This bill can be used to shut down a bank or a branch of a foreign bank, a savings and loan, or a credit union that has been so involved in money laundering that it should not be allowed to remain open and benefit from our national financial structure.

This bill, however, does not require the regulator to close an institution or remove an officer. It instead provides the regulators with extraordinary tools for use when the regulator, after considering circumstances and relevant factors, determines such action is appropriate.

Officers, directors, and employees of financial institutions are an indispensable part of our Nation's fight against illicit drugs and have proven, time and again, to be valuable and trusted sources of informaiton leading to the apprehension of money launderers. While nearly all comprise a concerned and vigilant group, there have been a few who have sold out public interest for private gain. This bill is a tool to be used against those individuals.●

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2328. A bill to prohibit the Secretary of the Interior from issuing oil and gas leases on certain portions of the Outer Continental Shelf off the State of Florida; to the Committee on Energy and Natural Resources.

OFFSHORE OIL DRILLING IN THE FLORIDA KEYS

● Mr. MACK. Mr. President, I have always said that I believe drilling should not be allowed off the coast of southwest Florida in the absence of conclusive evidence that environmental damage will not occur. After reviewing the latest information on offshore oil drilling and making recent visits to the Everglades and Keys, I am even more convinced that there will always be an unacceptable risk that any oilspill off the coast of South Florida would be a major catastrophe. Therefore, I am introducing legislation that would permanently ban offshore oil drilling south of 26 degrees north latitude on the Gulf of Mexico. This legislation is identical to the legislation introduced by Congressman ANDY IRELAND and cosponsored by the entire Florida delegation in the House of Representatives.

The area off the southwest coast of Florida is one of the most environmentally sensitive coastal habitats in the continental United States. The only living coral reef in the continental United States lines the east coast of the Florida Keys. The reef supports more than 400 species of fish and marine organisms. Sizable coral reefs take hundreds of years to form and left undisturbed, can create new islands such as the Keys.

The southwest Florida shelf supports a major seafood industry as well as recreational fishing and boating activities. Florida's greatest single source of income is provided by the sales tax revenue generated by tourists who come to Florida for its beautiful beaches, many of which are located in southwest Florida. Some of our Nation's greatest national treasures are located in southwest Florida, including the Everglades National Park, Crocodile Lake, and Great White Heron and Key West National Wildlife Refuges. The Everglades are lined with mangroves, which provide shallow, sheltered, nutrient-rich water for marine life and their above-ground maze of roots would make cleanup on an oilspill impossible.

When the Federal Government offered these drilling leases to oil companies several years ago, it ignored one very important factor. It did not consider the potential costs, the risks of an oilspill to Floridians. Much more than anyone else, Floridians know the immense aesthetic value of our scenic coast. We also know how much our livelihoods are closely linked to the economic value of our shoreline and fisheries. Florida's coast belongs to Floridians. The Federal Government should not impose the huge risk of an oilspill on Florida's pristine coast against the will of Floridians.

The protection of Florida's coastline is a priority issue. If anyone should decide the fate of Florida's coastline, it's Floridians, and the Floridians I've talked to have said no to offshore oil drilling.●

By Mr. THURMOND:

S. 2329. A bill to amend title 18, United States Code, relating to the protection of officers and employees of the United States; to the Committee on the Judiciary.

PROTECTION OF PUBLIC DEFENDERS

● Mr. THURMOND. Mr. President, I rise today to introduce legislation which would amend Federal law to ensure the safety of our Nation's public defenders. Currently, section 1114 of title 18 makes it a Federal offense to attempt to kill a broad range of employees of the Federal Government. Among those protected under current law are Federal judges, prosecutors, law enforcement officers, and a number of other employees of the Federal criminal justice system. Unfortunately, Federal public defenders are not protected by the statute. This bill would amend current law to include Federal public defenders and assistant public defenders within those persons protected under current law. In addition, it would also make it a crime to threaten to kill or do serious bodily injury to those persons protected under the statute.

Recently, a man convicted in Federal court of threatening a Federal magistrate viciously threatened to kill his public defender in a letter which he hand delivered. The letter contained threats too cruel and heinous to repeat here. These threats were made against the lawyer who had worked tirelessly to protect his rights. Unfortunately, the Federal Government has no course of action against this individual making this serious threat.

The role public defenders serve in the criminal justice system is an important one. Threats against them should not be taken lightly. It is important that current law be amended to provide for their protection.

Mr. President, this legislation can only strengthen the integrity of our judicial system. I urge swift action on this bill and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

Section 1114 of title 18, United States Code, is amended—

(1) by deleting "Whoever kills or attempts to kill" and inserting in lieu thereof "Whoever kills or does serious bodily harm, attempts to kill or do serious bodily harm, or threatens to kill or do serious bodily harm"; and

(2) by inserting immediately after "Federal Bureau of Investigation of the Department of Justice," the following: "any Federal Public Defender or Assistant Federal Public Defender,".●

By Mr. PRESSLER:

S. 2330. A bill to require the Commodity Credit Corporation to reimburse producers for losses suffered as a result of the closing of Corporation licensed and approved grain warehouses or elevators, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

INVENTORY GRAIN PROTECTION ACT

Mr. PRESSLER. Mr. President, today I am introducing a bill to help farmers who suffer losses when a Commodity Credit Corporation [CCC] approved or licensed warehouse is closed before payment is made to those who deliver grain for sale. My bill requires the CCC to pay farmers who are caught in this situation, using the proceeds from the sale of confiscated inventory grain in a CCC-approved elevator or warehouse that has been forced to close. Anyone who is not paid for delivered grain when an elevator is forced to close would be paid from the sale of CCC-confiscated grain before any proceeds could go to the CCC.

Under current CCC regulations, when a CCC-approved elevator closes, the CCC confiscates the proceeds from the sale of its grain inventory, instead of paying off the individuals who delivered grain to the elevator but received no compensation for that grain. In my home State of South Dakota, the CCC forced an elevator to close. Approximately 1 million dollars' worth of confiscated inventory grain was sold by the CCC after the elevator closed. According to current CCC regulations, nearly all of the proceeds of this grain will go to the CCC, rather than to the farmers who did not receive payment for the grain they delivered in good faith to the elevator.

A farmer's grain crop is the result of a year's planning, hard work, and tremendous financial investment. With production costs as high as they are, the loss of just 1 year's crop income can financially ruin a farmer. Not only the farmer suffers. Bills at local businesses may go unpaid and banks and lending institutions may not receive payments due on loans. The whole rural economy suffers.

Although my legislation would be needed infrequently, those whose income it would protect could be saved from financial ruin. I urge the support of our distinguished colleagues for this much-needed legislation, and ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Inventory Grain Protection Act of 1990".

SEC. 2. DUTY OF COMMODITY CREDIT CORPORATION.

Notwithstanding any other provision of law, if a grain elevator or warehouse that is licensed or approved by the Commodity Credit Corporation is closed and the inventory grain of such elevator or warehouse is sold, the Commodity Credit Corporation shall use the proceeds from such sale to reimburse all farmers that have suffered losses as a result of the confiscation and sale of such grain by such Corporation prior to such Corporation retaining any such proceeds for use by the Corporation.

SEC. 3. RETROACTIVE EFFECTIVENESS.

Section 2 shall become effective as of July 1, 1988.

By Mr. DASCHLE:

S. 2331. A bill to amend the Internal Revenue Code of 1986 to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs; to the Committee on Finance.

TAX TREATMENT OF HEALTH INSURANCE COST FOR SELF-EMPLOYED INDIVIDUALS

Mr. DASCHLE. Mr. President, as a member of the Senate Finance Committee, I have become increasingly aware of inequities for small businesses contained in our Federal tax laws. This is particularly ironic, given the often-repeated claim that small business is the backbone of our country.

One of the many ways that our tax system discriminates against small businesses is in denying the self-employed a full deduction for their health insurance expenses. Corporations may deduct 100 percent of the costs of providing health insurance for their employees, but the self-employed, whether they operate as sole proprietorships or as partnerships, are only permitted to deduct 25 percent of the cost of health insurance for themselves and their families. What's more, the 25 percent deduction is scheduled to expire on September 30, 1990.

The importance of the deduction for health insurance costs has grown substantially in recent years due to tremendous increases in health costs generally. The annual double-digit increases in health costs have far outstripped the rate of inflation and led to similar increases in the cost of health insurance. Corporations, which frequently are in a better position to absorb cost increases, may fully deduct the greater insurance expenses, while the self-employed must pay the bulk of these costs with after-tax dollars. In some cases, this may mean forfeiting health insurance altogether.

I think it is time we put the self-employed on an equal footing with corporations. Therefore, I am introducing today legislation that would increase the self-employed deduction for health insurance costs from 25 to 100 percent. In addition, my bill would make the deduction permanent, as it is for corporations. If my bill is enacted, the self-employed will no longer have to worry each year that their deduction for health insurance costs may be completely eliminated.

This is just one of many bills I hope to sponsor or support in the future to help small businesses and to address the complex health problems we face.

By Mr. LIEBERMAN (for himself, Mr. DODD, Mr. MOYNIHAN, and Mr. D'AMATO):

S.J. Res. 276. Joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week"; to the Committee on the Judiciary.

LYME DISEASE AWARENESS WEEK

● Mr. LIEBERMAN. Mr. President, today I am introducing legislation to designate the week of July 22, 1990, as "Lyme Disease Awareness Week." Lyme disease was first discovered in Lyme, CT, in 1976. This tick-borne disease has now been reported in 43 States. More than 21,000 cases have been reported to the Centers for Disease Control since 1982, 7,042 in 1989 alone; however, few doctors and even fewer members of the general public recognize the symptoms of Lyme disease.

Left untreated, Lyme disease can cause severe arthritis, heart disease, and neurological complications. The damage caused by untreated Lyme disease can be irreversible. Lyme disease can be particularly dangerous for pregnant women since it can cause premature labor, fetal damage, miscarriages and stillbirths. Education, prevention, and research on this disease are critical because existing diagnostic tools are insufficient, and, at this time,

there is no vaccine against Lyme disease. People who contract the disease often go through years of tests and a variety of treatments before a proper diagnosis is made.

Two former Members of the House of Representatives, Ken Gray of Illinois and Berkeley Bedell of Iowa, were forced to retire from Congress because they contracted Lyme disease. Both have battled the disease for several years. Their suffering clearly illustrates the need for additional resources for public education and for medical research.

The three keys to warding off the worst effects of Lyme disease are prevention, early detection, and early treatment. Physicians and the general public must be taught what precautions to take to prevent the disease. They must learn how to recognize its early symptoms, so that those with Lyme disease receive immediate treatment with antibiotics to prevent permanent damage. I believe Lyme Disease Awareness Week can play an important role in teaching the American people about this devastating disease.

Mr. President, I ask that the full text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 276

Whereas Lyme disease is spread by the tick species Ixodes Dammini by means of the bacterium Borrelia Burgdorferi;

Whereas these ticks are no longer than the head of a pin;

Whereas these ticks can be carried by domestic animals such as cats, dogs, and horses;

Whereas these ticks can be transferred from domestic animals to humans;

Whereas Lyme disease was first diagnosed in southeastern Connecticut and has spread to 43 States;

Whereas the Centers for Disease Control has reported more than 21,000 cases of Lyme Disease since 1982;

Whereas Lyme disease is easily treated in its early stages by an oral vaccine administered by a physician (penicillin and erythromycin for young children and tetracycline for persons allergic to penicillin);

Whereas the early symptoms of Lyme disease may be a bull's eye rash, severe headaches, fever, and swollen glands;

Whereas Lyme disease often mocks rheumatoid arthritis and heart disease;

Whereas if left untreated, Lyme disease can cause severe damage to the heart, brain, and joints;

Whereas the best cure for Lyme disease is prevention;

Whereas prevention of Lyme disease depends upon public awareness; and

Whereas education is essential to making the general public and health care professionals more knowledgeable of Lyme disease and its debilitating side effects: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 22, 1990, is designated as "Lyme Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.●

● Mr. D'AMATO. Mr. President, I rise today to once again join my colleague, Senator LIEBERMAN, in cosponsoring legislation to highlight the growing problem of Lyme disease. While public awareness of this disease has increased in the past year, we must still do more to educate the public about its debilitating effects, and the importance of early diagnosis and treatment.

Lyme disease was first diagnosed 15 years ago in Lyme, CT. A tick-borne disease, Lyme disease has spread to nearly every State in the continental United States and has already reached epidemic proportions in some States.

Fifty-six percent of all documented cases have occurred in my home State of New York. In 1988 alone, 2,637 cases were reported to the New York State Department of Health. For 1989, the number of new cases is expected to climb past 2,900. Through 1988, more than 13,650 cases of Lyme disease had been reported to the Centers for Disease Control nationwide. Preliminary estimates from the CDC put the number of new cases for 1989 at 7,400 nationwide.

The symptoms of Lyme disease mimic a host of other ailments, making early diagnosis unusually difficult. The symptoms often include a rash at the site of the tick bite accompanied by a fever, headaches, stiff neck, and muscle aches. Too often, these symptoms are simply ignored or dismissed as insignificant. Unfortunately, when left untreated, Lyme disease can cause meningitis, heart disease, paralysis, encephalitis, and arthritis. In some cases, it causes irreversible joint and neurological damage. The real tragedy is that treated early, Lyme disease is easily cured.

Mr. President, I believe our best hope of fighting this disease is through an educated public. By helping inform the public about the means of preventing Lyme disease, and about the importance of early diagnosis and treatment, this resolution can do much to help stem its spread of this disorder. I am pleased to be an original cosponsor of this resolution, and I urge my colleagues to join me in supporting its quick passage.●

ADDITIONAL COSPONSORS

S. 101

At the request of Mr. SANFORD, the names of the Senator from Nebraska [Mr. EXON], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 101, a bill to mandate a balanced budget, to provide for the reduction of the national debt, to protect retirement funds, to require honest budgetary accounting, and for other purposes.

S. 176

At the request of Mr. HEINZ, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 176, a bill to amend the Foreign Agents Registration Act of 1938 to strengthen the registration and enforcement requirements of that act.

S. 435

At the request of Mr. REID, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules determining contributions in aid of construction.

S. 874

At the request of Mr. FORD, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 874, a bill to establish national voter registration procedures for Presidential and Congressional elections, and for other purposes.

S. 1273

At the request of Mr. BOREN, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1273, A bill to amend the Internal Revenue Code of 1986 with respect to treatment by cooperatives of gains or losses from sale of certain assets.

S. 1384

At the request of Mr. DASCHLE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1384, a bill to amend title XVIII of the Social Security Act to provide direct reimbursement under part B of Medicare for nurse practitioner or clinical nurse specialist services that are provided in rural areas.

S. 1511

At the request of Mr. PRYOR, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1553

At the request of Mr. COATS, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1553, a bill to grant the power to the President to reduce budget authority.

S. 1577

At the request of Mr. BOREN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1577, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 1664

At the request of Mr. HEINZ, the name of the Senator from West Vir-

ginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1664, a bill to establish a Congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941.

S. 1761

At the request of Ms. MIKULSKI, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1761, a bill to establish a national center for information and technical assistance relating to all types of family resource and support programs, and for other purposes.

S. 1815

At the request of Mr. BOSCHWITZ, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1815, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer Social Security taxes on cash tips.

S. 1853

At the request of Mr. CHAFEE, the names of the Senator from Pennsylvania [Mr. HEINZ], the Senator from Nebraska [Mr. EXON], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 1853, a bill to award a Congressional Gold Medal to Laurance Spelman Rockefeller.

S. 1911

At the request of Mr. DODD, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1911, a bill to provide assistance in the development of new or improved programs to help younger individuals through grants to the States for community planning, services, and training; to establish within the Department of Health and Human Services an operating agency to be designated as the Administration on Children, Youth, and Families; to provide for a White House Conference on Young Americans; and for other purposes.

S. 2021

At the request of Mr. DOLE, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2021, a bill to amend title 11, United States Code, to ensure that the bankruptcy laws are not used to prevent restitution to, or recovery of, failed financial institutions.

S. 2033

At the request of Ms. MIKULSKI, the name of the Senator from West Virgina [Mr. ROCKEFELLER] was added as a cosponsor of S. 2033, a bill to amend title XVIII of the Social Security Act to provide for coverage of annual screening mammography under part B of the Medicare Program.

S. 2048

At the request of Mr. SARBANES, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2048, a bill to provide for cost-of-living adjustments in 1991 under certain Government retirement programs.

S. 2056

At the request of Mr. HARKIN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 2056, a bill to amend title XIX of the Public Health Service Act to provide grants to States and implement State health objective plans, and for other purposes.

S. 2155

At the request of Mr. KERREY, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2155, a bill to amend the Federal Home Loan Bank Act to restructure the Resolution Trust Corporation Oversight Board and Board of Directors into a single governing entity.

S. 2158

At the request of Mr. PRYOR, the names of the Senator from Nebraska [Mr. Exon], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 2158, a bill to direct the Secretary of Health and Human Services to promulgate regulations to require that an individual telephoning the Social Security Administration has the option of accessing a Social Security Administration representative in a field office in the geographical area of such individual, and for other purposes.

S. 2159

At the request of Mr. BOSCHWITZ, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2159, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 2183

At the request of Mr. MOYNIHAN, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 2183, a bill to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes.

S. 2207

At the request of Mr. CRANSTON, the names of the Senator from Oregon [Mr. HATFIELD], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 2207, a bill to amend the Export Administration Act of 1979.

S. 2247

At the request of Mr. GRAHAM, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2247, a bill to establish the Florida Keys National Marine Sanctuary in the State of Florida, and for other purposes.

S. 2251

At the request of Mr. BOSCHWITZ, the names of the Senator from Nebraska [Mr. EXON], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Arkansas [Mr. PRYOR], the Senator from Arkansas [Mr. BUMPERS], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 2251, a bill to establish a price support program for the 1991 through 1997 crops of certain agricultural commodities that provides producers with planting flexibility, income support, and stability, and for other purposes.

S. 2256

At the request of Mr. HARKIN, the names of the Senator from Georgia [Mr. FOWLER], the Senator from Washington [Mr. ADAMS], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 2256, a bill to amend title XIX of the Public Health Service Act to clarify the provisions of the allotment formula relating to urban and rural areas, and for other purposes.

S. 2283

At the request of Ms. MIKULSKI, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Oregon [Mr. HATFIELD], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of S. 2283, a bill to amend the Public Health Service Act to establish a program of grants for the prevention and control of breast and cervical cancer, and for other purposes.

S. 2300

At the request of Mr. KENNEDY, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2300, a bill to provide financial assistance to the Simon Wiesenthal Center in Los Angeles, CA, for the education programs of the Museum of Tolerance.

S. 2307

At the request of Mr. RIEGLE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2307, a bill to require the Secretary of Health and Human Services to provide intensive outreach and other services and protections to homeless individuals.

S. 2312

At the request of Mr. SYMMS, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2312, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures.

S. 2316

At the request of Mr. BRADLEY, the names of the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 2316, a bill to amend the Agricultural Act of 1949 to establish an equitable sugar price support program, and to require the use of a tariff rate quota to make this program effective.

SENATE JOINT RESOLUTION 224

At the request of Mr. BYRD, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Idaho [Mr. MCCLURE], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 224, a joint resolution to designate the month of May 1990 as "National Trauma Awareness Month."

SENATE JOINT RESOLUTION 248

At the request of Mr. BOSCHWITZ, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Michigan [Mr. RIEGLE], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 248, a joint resolution to designate the month of September 1990 as "International Visitor's Month."

SENATE JOINT RESOLUTION 272

At the request of Mr. COCHRAN, the names of the Senator from Texas [Mr. GRAMM], the Senator from Georgia [Mr. NUNN], the Senator from Missouri [Mr. BOND], the Senator from Virginia [Mr. WARNER], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of Senate Joint Resolution 272, a joint resolution to designate March 30, 1990, as "National Doctor's Day."

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. SIMON, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution relating to the release of Nelson Mandela and other positive developments in South Africa.

SENATE CONCURRENT RESOLUTION 96

At the request of Mr. FORD, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Concurrent Resolution 96, a concurrent resolution to urge the administration in the strongest possible terms not to propose civil air transport services for inclusion under the General Agreement on Tariffs and Trade [GATT], or the proposed General Agreement on Trade in Services [GATS], and to actively oppose any proposal that would consider civil air transport services as a negotiation item.

SENATE CONCURRENT RESOLUTION 97

At the request of Mr. GORE, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Illinois [Mr. DIXON], the Senator from New York [Mr. MOYNIHAN], the Senator from Iowa [Mr. HARKIN], the Senator from California [Mr. CRANSTON], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Maryland [Mr. SARBANES], the Senator from New Jersey [Mr. BRADLEY], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. DODD], the Senator from Arizona [Mr. MCCAIN], the Senator from Maine [Mr. COHEN], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Concurrent Resolution 97, a concurrent resolution expressing the sense of the Congress with respect to popular antisemitism in the Soviet Union.

At the request of Mr. PRESSLER, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 97, supra.

SENATE CONCURRENT RESOLUTION 106

At the request of Mr. FOWLER, his name as added as a cosponsor of Senate Concurrent Resolution 106, a concurrent resolution expressing the sense of the Congress concerning Jerusalem and the peace process.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of Senate Concurrent Resolution 106, supra.

At the request of Mr. MOYNIHAN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Concurrent Resolution 106, supra.

SENATE RESOLUTION 231

At the request of Mr. BRADLEY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Resolution 231, a resolution urging the submission of the Convention on the Rights of the Child to the Senate for its advice and consent to ratification.

AMENDMENT NO. 1321

At the request of Mr. WILSON, his name was added as a cosponsor of amendment No. 1321 proposed to S. 1630, a bill to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

SENATE CONCURRENT RESOLUTION 107—RELATING TO NAMIBIA

Mr. GRASSLEY submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 107

Whereas a Tripartite Agreement was reached on December 22, 1988, to implement resolution 435/78 of the Security Council of the United Nations regarding Namibian independence;

Whereas internationally-observed, free and fair elections were held in Namibia November 7 through November 11, 1989;

Whereas all South African forces have withdrawn from Namibia as prescribed by the Tripartite Agreement;

Whereas on February 9, 1990, a constitution was approved by the Namibian Constituent Assembly to serve as the supreme law of a sovereign and democratic state of Namibia;

Whereas that constitution includes a declaration of fundamental rights which includes the rights to life, personal liberty, freedom of speech, freedom of movement, freedom of the press, freedom of association and assembly, due process and equality before the law, and freedom from arbitrary deprivation of private property;

Whereas on March 21, 1990, Namibia will inaugurate its first President and become independent of South African administration under a new government in accordance with the Namibian constitution; and

Whereas the Comprehensive Anti-Apartheid Act of 1986 includes in its definition of South Africa, "any territory under the administration, legal or illegal, of South Africa"; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that as of March 21, 1990, when Namibia becomes self-governing the definition of South Africa under the Comprehensive Anti-Apartheid Act of 1986 no longer will apply to Namibia.

Mr. GRASSLEY. Mr. President, at this time, I want to introduce a concurrent resolution in an effort to assist the newest member in our family of nations—the nation of Namibia. This week Namibia officially gained its independence from South Africa, after a very long process in which the United States played a very pivotal role.

Under the tripartite agreement reached in December 1988, internationally observed elections were held in Namibia in November 1989. After a very spirited multiparty contest, a Constituent Assembly was freely and fairly elected to draft and approve a constitution. The Constituent Assembly fulfilled this responsibility and subsequently elected Sam Nujomo, the leader of the South West African Peoples Organization [SWAPO] as Namibia's first President.

Mr. Nujomo's peaceful ascent to the Presidency of Namibia is the culmination of a decades-old bloody conflict that cost thousands of lives. Once it was determined that a military solution was impossible, both sides agreed to negotiate a settlement.

Once a peaceful settlement was agreed to, and the election process was determined, many of us still had reservations as to whether the process would be carried out in a fair and legal manner. The historical animosities that existed among various ethnic and tribal groups, as well as between these groups and their South African occupiers certainly had the potential of undermining the entire process. Indeed, a number of violent confrontations did take place before the election that threatened Namibian independence.

Even after the election, interparty rivalries and disagreements disrupted

the Constituent Assembly's deliberations on writing a constitution. I was particularly concerned with Nujomo's statements espousing SWAPO's old-line Marxist ideology, including the nationalization of industries, redistributing property, and one-party rule. To President Nujomo's credit, he has more recently reformed his rhetoric, moderated his party's positions, and set a conciliatory tone.

In addition, the Namibian Constitution includes necessary checks and balances such as an independent judiciary and a two-term limitation on the Presidency. Moreover, strong opposition parties exist to help ensure a vigorous multiparty system of government.

Mr. President, on this day of Namibian political independence, I am introducing this resolution to help Namibia on the road to economic independence, as well. According to the resolution, the Congress recognizes that once Namibia becomes independent, the economic sanctions under the Comprehensive Anti-Apartheid Act of 1986 will no longer apply to Namibia. In other words, because Namibia will no longer be "any territory under the administration, legal or illegal, of South Africa," as defined under the Sanctions Act, sanctions will no longer apply to Namibia. Sanctions will, of course, not be affected in regard to South Africa itself.

I would argue that, under the law, once Namibia has become independent, the law automatically would not apply to Namibia. However, it is still important, given the divisiveness of the sanctions issue, that Congress make its voice heard in regard to Namibia sanctions.

Mr. President, the United States has the responsibility to do everything we can to help Namibia become a fully mature, economically independent nation. Making Namibia a full economic partner is a necessary step in this process, and the lifting of Namibian sanctions is part of this step.

Congressmen TOBY ROTH and BILL GRAY have recognized the importance of assisting Namibia and have introduced the companion resolution in the House of Representatives. We all understand that the last colony in Africa, which has emerged as the only real pluralistic democracy on the continent, must succeed.

SENATE CONCURRENT RESOLUTION 108—RELATIVE TO LITHUANIAN SELF-DETERMINATION

Mr. MITCHELL (for himself, Mr. HELMS, Mr. DOLE, Mr. RIEGLE, Mr. DIXON, Mr. GORTON, Mr. WALLOP, Mr. ROBB, Mr. LAUTENBERG, Mr. GRAHAM, Mr. THURMOND, Mr. ARMSTRONG, Mr. NICKLES, Mr. GRAMM, Mr. SYMMS, Mr. PELL, Mr. METZENBAUM, Mr. GLENN, Mr. D'AMATO, Mr. MURKOWSKI, and Mr. SIMPSON) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 108

Whereas:

1. On February 24, 1990, the people of Lithuania held the first democratic election in Lithuania in more than half a century.

2. In that election, the people of Lithuania elected a large majority of candidates who supported the independence of Lithuania and the establishment of a democratic state.

3. On March 11, 1990, the newly elected Lithuanian Parliament proclaimed Lithuania an independent state.

4. The United States has never recognized the incorporation of Lithuania into the Soviet Union.

5. The Soviet Government has not yet recognized the action of the Lithuanian Parliament in declaring Lithuania independent.

6. The Soviet Government has undertaken action, including staging military maneuvers and ordering Soviet military units to assert more active and visible control over Lithuanian installations, in an apparent attempt to intimidate the Lithuanian Parliament and people.

7. More recently, Soviet President Gorbachev has reportedly ordered citizens of Lithuania to hand over any weapons they hold to Soviet authorities within seven days and has ordered tighter controls on the ability of foreigners to visit Lithuania.

Resolved by the Senate (the House of Representatives concurring) that:

1. The Lithuanian people should be commended for their courage and perseverance in holding free and fair elections, declaring an independent Republic of Lithuania, and in asserting their right to self-determination peacefully and through the democratic process.

2. The Government and people of the United States strongly and unequivocally support the right of the people of Lithuania to independence and democracy.

3. Recent actions of the Soviet Union apparently aimed at intimidating the Lithuanian Parliament and people have seriously exacerbated tensions and the possibility of violence in Lithuania.

4. The Soviet Union should immediately cease all such efforts to intimidate the Lithuanian Parliament and people.

5. The Soviet Union has no right to use force against Lithuanians peacefully exercising their democratic rights, and President Gorbachev and other Soviet leaders should clearly understand that the use of force against the Lithuanian people would have severe repercussions for U.S.-Soviet relations.

6. The Soviet Union should immediately begin the process of good-faith discussions with Lithuanian authorities to satisfy peacefully the expressed desire of the Lithuanian people for independence.

7. Supports the President's strong commitment to the doctrine of non-recognition of the forced incorporation of territory, such as occurred in the Baltic States in 1940, and urges the President to reaffirm his commitment to an independent and democratic Lithuania and to seek ways to actively demonstrate that commitment.

8. Urges the President to consider the call of the elected Lithuanian Government for recognition.

AMENDMENTS SUBMITTED

CLEAN AIR ACT AMENDMENTS

LOTT (AND OTHERS) AMENDMENT NO. 1356

Mr. CHAFEE (for Mr. LOTT, for himself, Mr. GARN, Mr. BURDICK, Mr. BOSCHWITZ, Mr. COATS, Mr. COCHRAN, Mr. HEFLIN, Mr. DIXON, Mr. MACK, Mr. MCCLURE, Mr. MCCONNELL, Mr. FORD, Mr. LUGAR, Mr. HELMS, and Mr. SHELBY) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards; and for other purposes, as follows:

On page 426 strike line 15 through page 428, line 16, and insert:

"SEC. 407. (a) APPLICABILITY.—On the date that a coal-fired utility unit becomes an affected unit pursuant to sections 404, 405, 409, or on the date a unit subject to the provisions of 404(d) or 409(b), must meet the SO_2 reduction requirements, each such unit shall become an affected unit for purposes of this section and shall be subject to the emission limitations for nitrogen oxides set forth herein.

"(b) EMISSION LIMITATIONS.—(1) Not later than eighteen months after enactment of the Clean Air Act amendments of 1989; the Administrator shall by regulation establish annual allowable emission limitations for nitrogen oxides for the types of utility boilers listed below, which limitations shall not exceed the rates listed below: *Provided*, That, the Administrator may set a rate higher than that listed for any type of utility boiler if the Administrator finds that the maximum listed rate for that boiler type cannot be achieved using low NO_x burner technology. The maximum allowable emission rates are as follows:

"(A) for tangentially fired boilers, 0.045 lb/mmBtu;

"(B) for dry bottom wall-fired boilers and for cell burners, 0.50 lb/mmBtu.

After January 1, 1995, it shall be unlawful for any unit that is an affected unit on that date and is of the type listed in this paragraph to emit nitrogen oxides in excess of the emission rates set by the Administrator pursuant to this paragraph.

"(2) Not later than January 1, 1997, the Administrator shall, by regulation, establish allowable emission limitations on a lb/mmBtu, annual average basis, for nitrogen oxides for the following types of utility boilers:

"(A) wet bottom wall-fired boilers;

"(B) cyclones;

"(C) all other types of utility boilers.

The Administrator shall base such rates on the degree of reduction achievable through the retrofit application of the best system of continuous emission reduction, taking into account the available technology, costs and energy and environmental impacts; and which is comparable to the costs of nitrogen oxides controls set pursuant to subsection (b)(1). Not later than January 1, 1997, the Administrator may revise the applicable emission limitations for tangentially fired

and dry bottom, wall-fired boilers (including cell burners) to be more stringent if the Administrator determines that more effective low NO_x burner technology is available: *Provided*, That, no unit that is an affected unit pursuant to section 404 and that is subject to the requirements of section (b)(1), shall be subject to the revised emission limitations, if any.

"(c) REVISED PERFORMANCE STANDARDS.—(1) Not later than January 1, 1993, the Administrator shall propose revised standards of performance to section 111 for nitrogen oxides emissions from fossil-fuel fired steam generating units, including both electric utility and nonutility units. Not later than January 1, 1994, the Administrator shall promulgate such revised standards of performance. Such revised standards of performance shall reflect improvements in methods for the reduction of emissions of oxides of nitrogen.

"(d) ALTERNATIVE EMISSION LIMITATIONS.—The permitting authority shall, upon request of an owner or operator of a unit subject to this section, authorize an emission limitation less stringent than the applicable limitation established under subsection (b)(1) or (b)(2) upon a determination that:

i. a unit subject to subsection (b)(1) cannot meet the applicable limitation using low NO_x burner technology; or

ii. a unit subject to subsection (b)(2) cannot meet the applicable rate using the technology on which the Administrator based the applicable emission limitation.

The permitting authority shall base such determination upon a showing satisfactory to the permitting authority, in accordance with regulations established by the Administrator not later than eighteen months after enactment of the Clean Air Act amendments of 1989, that the owner or operator:

(1) has properly installed appropriate control equipment designed to meet the applicable emission rate;

(2) has properly operated such equipment for a period of 15 months (or such other period of time as the Administrator determines through the regulations), and provides operating and monitoring data for such period demonstrating that the unit cannot meet the applicable emission rate; and

(3) has specified an emission rate that such unit can meet on an annual average basis.

The permitting authority shall issue an operating permit for the unit in question, in accordance with section 408 and part B of title III:

i. that permits the unit during the demonstration period referred to in subparagraph (2) above, to emit at a rate in excess of the applicable emission rate;

ii. at the conclusion of the demonstration period to revise the operating permit to reflect the alternative emission rate demonstrated in paragraphs (2) and (3) above.

Units subject to (b)(1) for which an alternative emission limitation is established shall not be required to install any additional control technology beyond low NO_x burners. Nothing in this section shall preclude an owner or operator from installing and operating an alternative NO_x control technology capable of achieving the applicable emission limitation.

"(e) EMISSIONS AVERAGING.—In lieu of complying with the applicable emission limitations under subsections (b)(1), (b)(2) or (d), the owner or operator of two or more units subject to one or more of the applicable emission limitations set pursuant to these sections, may petition the permitting authority for alternative contemporaneous annual emission limitations for such units that ensure that (1) the actual annual emission rate in pounds of nitrogen oxides per millllion Btu averaged over the units in question is a rate that is less than or equal to (2) the Btu-weighted average annual emission rate for the same units if they had been operated, during the same period of time, in compliance with limitations set in accordance with the applicable emission rates set pursuant to subsection (b)(1) and (b)(2).

If the permitting authority determines, in accordance with regulations issued by the Administrator not later than eighteen months after enactment of the Clean Air Act amendments of 1989; that the conditions in the paragraph above can be met, the permitting authority shall issue operating permits for such units, in accordance with section 408 and part B of title III, that allow alternative contemporaneous annual emission limitations. Such emission limitations shall only remain in effect while both units continue operation under the conditions specified in their respective operating permits.

EXON (AND OTHERS) AMENDMENT NO. 1357

Mr. EXON (for himself, Mr. KERREY, and Mr. HARKIN) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 213, line 20, strike "1991" and insert in lieu thereof "1992";

On page 213, line 24, strike "may" and insert in lieu thereof "shall";

On page 213, line 24, strike "1991" and insert in lieu thereof "1992";

On page 213, line 25, immediately following "deadline" insert "annually";

On page 213, line 25, strike "two" and insert in lieu thereof "three";

On page 214, line 2, immediately following "that", insert "adequate".

SIMON (AND BAUCUS) AMENDMENT NO. 1358

Mr. SIMON (for himself and Mr. BAUCUS) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1360, supra, as follows:

On page 216 of the amendment No. 1293, line 12, immediately after the period, add the following: "Not later than twelve months after the enactment of this subsection, the administrator shall submit to the Congress a report on the feasibility and effectiveness of requiring the provisions in this paragraph to be applied to all cities of 100,000 population or greater regardless of their attainment status.

CRANSTON AMENDMENT NO. 1359

Mr. BAUCUS (for Mr. CRANSTON) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 81 of the amendment No. 1293, between lines 17 and 18, insert the following:

"(3) The Administrator may approve provisions of an implementation plan for an extreme area which anticipate development or improvement of control technologies, and an attainment demonstration based on such provisions, if the State demonstrates to the satisfaction of the Administrator that:

"(A) such provisions are not necessary to achieve the periodic emission reductions required by paragraphs (2) and (3) of subsection (b) during the first ten years after enactment of this subsection; and

"(B) the State has submitted enforceable commitments to develop and adopt contingency measures to be implemented as set forth herein if the anticipated technologies do not achieve planned reductions. The contingency measures shall be submitted to the Administrator no later than three years prior to proposed implementation of the plan provisions. The contingency measures shall be adequate to produce emission reductions sufficient to, in conjunction with other approved plan provisions, achieve the periodic emission reductions required by paragraph (3) of subsection (b) and attainment by the applicable dates. If the Administrator determines that an extreme non-attainment area has failed to achieve an emissions reduction requirement set forth in paragraph (3) of subsection (b) or to attain by the applicable date, and that such failure is due in whole or in part to an inability to fully implement provisions approved pursuant to this subsection, the Administrator shall require the State to implement the contingency measures to the extent necessary to assure compliance with paragraph (3) of subsection (b) or to achieve attainment.

(C) the plan contains enforceable, adopted measures establishing an economic incentive program that the Administrator determines is adequate, when considered in conjunction with other enforceable plan measures, to induce the development or improvement of the anticipated technologies.

BENTSEN AMENDMENT NO. 1360

Mr. BAUCUS (for Mr. BENTSEN) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 42, beginning with line 4, strike out all through line 23 on page 43.

On page 43, line 24, strike "(e)" and insert "(d)".

On page 84, beginning with line 18, strike out all through line 15 on page 85.

On page 85, line 16, strike "(4)" and insert "(3)".

On page 89, line 20, strike out "limitations, or fees" and insert in lieu thereof "or limitations".

On page 90, beginning with line 1, strike out all through line 6.

On page 367, line 13, beginning with the comma, strike out all through "article" on line 14.

On page 440, line 12, strike out "FEE" and insert in lieu thereof "PENALTY".

On page 440, line 13, strike out "FEE" and insert in lieu thereof "PENALTY".

On page 440, line 22, strike out "fee" both places that it appears and insert in lieu thereof "penalty".

On page 440, line 26, strike out "fee" and insert in lieu thereof "penalty".

On page 441, line 19, strike out "FEE" and insert in lieu thereof "PENALTY".

On page 441, lines 4, 5, 8, 20, 24, and 25, strike out "fee" each place it appears and insert in lieu thereof "penalty".

On page 461, beginning with line 3, strike out all through line 4 on page 462.

BURDICK AMENDMENT NO. 1361

Mr. BAUCUS (for Mr. BURDICK) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 416, line 5, strike "After" and insert the following in lieu thereof: "Except as otherwise provided in paragraph (3), after".

On page 417, line 10, after "factor.", insert the following: "(3) After January 1, 2000, it shall be unlawful for any existing utility unit with an actual 1985 emissions rate equal to or greater than 1.20 lbs/mmBtu whose annual average fuel consumption during 1985, 1986 and 1987 on a Btu basis exceeded 90 per centum in the form of lignite coal which is located in a State in which, as of July 1, 1989, no county or portion of a county was designated non-attainment under section 107 of this Act for any pollutant subject to the requirements of section 109 of this Act to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions."

LEVIN AMENDMENT NO. 1362

Mr. LEVIN proposed an amendment to amendment No. 1293 proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 388, after line 22, insert the following:

(4) CORRECTION OF DATA.—The Administrator shall, upon application or on his own motion, by December 31, 1991, correct any factual errors in data from which affected Phase II units' baselines or actual 1985 emission rates have been calculated. Corrected data shall be used for purposes of issuing allowances under the title. Such corrections shall not be subject to judicial review, nor shall the failure of the administrator to correct an alleged factual error in such reports be subject to judicial review.

McCLURE (AND JOHNSTON) AMENDMENT NO. 1363

Mr. McCLURE (for himself and Mr. JOHNSTON) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

Amend amendment No. 1293 on page 42, line 1, by amending the sentence beginning with "Emissions" to read as follows:

"Emissions reductions otherwise required by this Act for a pollutant shall not be creditable as emissions reductions for purposes of any such offset requirement to the extent this Act requires the reduction of the pollutant."

DeCONCINI (AND OTHERS) AMENDMENT NO. 1364

Mr. DeCONCINI (for himself, Mr. BENTSEN, and Mr. BINGAMAN) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

At the end of the amendment insert the following:

SEC. . ESTABLISHMENT OF PROGRAM TO MONITOR AND IMPROVE AIR QUALITY IN REGIONS ALONG THE BORDER BETWEEN THE UNITED STATES AND THE UNITED STATES OF MEXICO.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") is authorized, after consultation with the Department of State and the affected States, to negotiate with representatives of the United States of Mexico to authorize a program to monitor and improve air quality in regions along the border between the United States and the United States of Mexico. The program authorized under this section shall not extend beyond July 1, 1995.

(b) MONITORING AND REMEDIATION.—

(1) MONITORING.—The monitoring component of programs conducted under this section shall identify and determine sources of pollutants for which National ambient air quality standards (hereinafter referred to as "NAAQS") and other air quality goals have been established in regions along the border between the United States and the United States of Mexico. Any such monitoring component of the program shall include, but not be limited to, the collection of meteorological data, the measurement of air quality, the compilation of an emissions inventory, and shall be sufficient to the extent necessary to successfully support the use of a state-of-the-art mathematical air modeling analysis. Any such monitoring component of the program shall collect and produce data projecting the level of emission reductions necessary in both the United States of Mexico and the United States to bring about attainment of both primary and secondary NAAQS, and other air quality goals, in regions along the border in the United States. Any such monitoring component of the program shall include to the extent possible, data from monitoring programs undertaken by other parties.

(2) REMEDIATION.—The Administrator is authorized to negotiate with appropriate representatives of the United States of Mexico to develop joint remediation measures to reduce the level of airborne pollutants to achieve and maintain primary and secondary NAAQS, and other air quality goals, in regions along the border between the United States and the United States of Mexico. Such joint remediation measures may include, but not be limited to measures included in the Environmental Protection Agency's Control Techniques and Control Technology documents. Any such remediation program shall also identify those control measures implementation of which in the United States of Mexico would be expedited by the use of material and financial assistance of the United States.

(c) ANNUAL REPORTS.—The Administrator shall, each year the program authorized in this section is in operation, report to Congress on the progress of the program in bringing nonattainment areas along the border of the United States into attainment with primary and secondary NAAQS. The report issued by the Administrator under this paragraph shall include recommendations on funding mechanisms to assist in implementation of monitoring and remediation efforts.

(d) FUNDING AND PERSONNEL.—The Administrator may, where appropriate, make available, subject to the appropriations, such funds, personnel, and equipment as may be necessary to implement the provisions of this section. In those cases where direct financial assistance of the United States is provided to implement monitoring and remediation programs in the United States of Mexico, the Administrator shall develop grant agreements with appropriate representatives of the United States of Mexico to assure the accuracy and completeness of monitoring data and the performance of remediation measures which are financed by the United States. With respect to any control measures within the United States of Mexico funded by the United States, the Administrator shall, to the maximum extent practicable, utilize resources of the United States of Mexico where such utilization would reduce costs to the United States. Such funding agreements shall include authorization for the Administrator to—

(1) review and agree to plans for monitoring and remediation;

(2) inspect premises, equipment and records to insure compliance with the agreements established under the purposes set forth in this Act; and

(3) where necessary, develop grant agreements with affected States to carry out the provisions of the Act.

BOND (AND DANFORTH) AMENDMENT NO. 1365

Mr. BOND (for himself and Mr. DANFORTH) proposed an amendment, which was subsequently modified, to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 417, line 13, after "(1)", strike "After" and insert in lieu thereof: "Except as provided in paragraph (3), after".

On page 418, after line 19, insert the following: "(3) After" December 31, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which became operational on or before December 31, 1965, which is owned by a utility operating company with a total fossil fuel steam-electric generating capacity greater than 250 MWe and less than 450 MWe that serves fewer than 78,000 electrical customers as of the date of enactment of the Clean Air Act Amendments of 1989 to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by its actual 1985 emission rate divided by 2,000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions. After

December 31, 2010, it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 1.20 lbs/mmBtu, divided by 2,000.

On page 418, line 20, strike "3" and insert "4" in lieu thereof.

McCLURE (AND JOHNSTON) AMENDMENT NO. 1366

Mr. McCLURE (for himself and Mr. JOHNSTON) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

Amend amendment No. 1293 on page 210, by amending from line 24, through page 211, line 16, to read as follows:

"(2) Regulations under this subsection shall include a standard for gasoline volatility which shall apply to all gasoline sold, offered for sale, or introduced into commerce for use in motor vehicles during the high ozone period of each year, as determined by the Administrator under paragraph (3). Effective with respect to gasoline sold in the second high ozone period which commences after the date of enactment of the Clean Air Act Amendments of 1989, the standard shall require that such gasoline sold, or offered for sale, or introduced into commerce for use in motor vehicles in class C areas (as defined by the American Society of Testing Materials as of said date of enactment) shall not exceed a Reid vapor pressure of nine pounds per square inch, except that the Administrator may establish a lower Reid vapor pressure as necessary and appropriate to achieve further overall reductions in motor vehicle emissions contributing to the formation of ozone, taking into account safety, enforceability, driveability, and public health. The Administrator shall establish standards for gasoline volatility for class B and class A areas that achieve comparable overall reductions in motor vehicle emissions to those achieved by the standard for class C areas, taking into account appropriate variables such as temperature and humidity.".

COATS AMENDMENT NOS. 1367 AND 1368

Mr. COATS proposed two amendments to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 32, line 17, after "(m)", insert the following: "and in newly designated subsection (l)(1)(A), after 'implementation plan' insert 'or of any requirement under section 411 (concerning excess emissions penalties or offsets) of Title IV of the Act'."

On page 440, line 22, after "emission fee", add "except where such emissions were authorized pursuant to section 110(l)."

On page 142, line 20, after "(8)" insert "(A)".

On page 143, between line 2 and table 2 insert the following new subparagraph:

"(B) Notwithstanding any other provision of law, upon the completion of the regulations promulgated under this paragraph to accomplish the emission standards specified in table 2, the Administrator shall not promulgate additional regulations establishing emission standards under this pargraph that would be effective prior to January 1, 2002.

WIRTH (AND OTHERS) AMENDMENT NO. 1369

Mr. WIRTH (for himself, Mr. LEVIN, and Mr. DOLE) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 400, after line 20, add the following new subsection:

"(h) Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a state in which such program is established."

On page 424, after line 21, insert the following:

"(4) Any unit that is a qualifying small power production facility or qualifying cogeneration facility within the meaning of section 3(17)(C) or 3(18)(B) of the Federal Power Act [16 U.S.C. (17)(c) or 796 (18)] that:

"(A) has commenced operation as of December 31, 1989, or

"(B) has entered into a power sales contract prior to December 31, 1989, shall not be subject to the emissions limitations pursuant to this section, or to any other provisions of this Title, except if the Administrator has approved a designation of such unit under section 410."

On page 440, line 3, after "shutdown" insert the following: ": *provided*, that: such allowances may be transferred or carried forward for use in subsequent years to the extent that the reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this section, with thermal energy generated by any other unit or units subject to the requirements of this title, and the designated unit's allowances are transferred or carried forward for use at such other replacement unit or units."

On page 452, line 22, after "sources", insert: ", including units subject to section 405(g)(4) of the Clean Air Act,".

On page 453, line 2, after "sources", insert: ", including units subject to section 405(g)(4) of the Clean Air Act,".

On page 453, line 8, after "emissions", insert: ", including units subject to section 405(g)(4) of the Clean Air Act,".

On page 453, line 9, after "sources", insert: ", including units subject to section 405(g)(4) of the Clean Air Act".

SIMPSON AMENDMENT NO. 1370

Mr. SIMPSON proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 135 after line 22 add the following new subsection.

(c) INCREMENT EXEMPTIONS.—Section 163(c)(1) of the Clean Air Act is amended by—

(1) replacing the comma and "and" at the end of subparagraph (C) with a period;

(2) replacing the period at the end of subparagraph (D) with a comma and "and"; and

(3) adding a new subparagraph (E), to read as follows:

"(E) except for purposes of determining compliance with the maximum allowable increases in ambient concentrations in any area designated as class I under this part, concentrations of particulate matter attributable to the increase in fugitive emissions resulting directly or indirectly from surface coal mines.".

DOMENICI AMENDMENT NO. 1371

Mr. DOMENICI proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

In the Mitchell substitute, on page 216, line 12, after "greater.", add the following new sentence—

"At the request of a State with respect to any area designated as nonattainment for carbon monoxide, the Administrator may reduce the period specified in the preceding sentence, if the State can demonstrate that because of meteorological conditions, a shorter period will assure that there will be no exceedances of the carbon monoxide standard outside of the time that such fuels are to be sold."

SYMMS AMENDMENT NO. 1372

Mr. SYMMS proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

At the appropriate place in title II of amendment No. 1293, insert the following new section:

"WAIVER FOR PROVISIONS REQUIRING DEPENDENCE ON THE REPUBLIC OF SOUTH AFRICA

"SEC. . WAIVER FOR CATALYTIC REDUCTIONS RESULTING IN INCREASED DEPENDENCE ON STRATEGIC MINERALS FROM SOUTH AFRICA.—Any provision of this title requiring catalytic reductions of emissions from motor vehicles shall be waived, in whole or in part at the Administrator's discretion, if such provision is determined to require importation of any strategic mineral from the Republic of South Africa (including platinum, palladium, and rhodium) in excess of 150 percent of 1990 levels. Such determination shall be made within one year of enactment of this Act by the Director of the Bureau of Mines, Department of the Interior, who shall consider all possible alternative sources for these minerals. This determination notwithstanding, the Administrator may elect not to waive such provisions upon demonstration, approved by the Secretary of Transportation, that alternative technologies to achieve the catalytic motor vehicle emissions reductions required by this title are reasonably available, considering costs and any non-air/quality health and environmental impacts and energy requirements, and do not require importation of strategic minerals from the Republic of South Africa in excess of 150 percent of 1990 levels.

NOTICES OF HEARINGS

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, I announce, for the information of Senators, that the Committee on Veterans' Affairs, which I am privileged to chair, is scheduled to hold a hearing on Wednesday, March 28, 1990, in SR-

418 at 9:30 a.m., to consider S. 1398, the administration-proposed Department of Veterans Affairs Health Care Quality Assistance and Cost Effectiveness Act of 1989, S. 1332 by Senator MURKOWSKI, and the Secretary's plan to establish administratively the Commission on the Future Structure of Veterans Health Care.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and National Resources.

The hearing will take place on April 25, 1990, beginning at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 370, a bill to amend the Land and Water Conservation Fund Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and outdoor recreational heritage, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be incuded in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, SD-364, Washington, DC 20510.

For further information regarding the hearing, please contact Beth Norcross of the subcommittee staff at (202) 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, March 22, at 2 p.m. to hold a hearing on democratic institution building in Eastern Europe.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized the meet during the session of the Senate on Thursday, March 22, 1990, at 2 p.m., to hold a hearing on the nomination of Norman H. Stahl, to be U.S. district judge for the District of New Hampshire, Daniel B. Sparr, to be U.S. district judge for the District of Colorado, John S. Martin, Jr., to be U.S. district judge for the Southern District of New York, and Alan D. Lourie, to be U.S. circuit judge for the Federal circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, March 22, 1990, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Readiness, Sustainability and Support of the Armed Services Committee be authorized to meet in open session on Thursday, March 22, 1990, to receive testimony on S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on March 22, 1990, beginning at 9:30 a.m., in 485 Russell Senate Office Building, on Indian health facilities.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, March 22, 1990, at 10 a.m. to hold hearings on reauthorization of the Defense Production Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, March 22, at 9:30 a.m., for a hearing on S. 2274, the Federal Pay Comparability Reform Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 22, 1990, at 10 a.m. to hold a hearing on proposals for spending cuts and proposed changes contained in the President's budget for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 22, 1990, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Research of the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, March 22, 1990, at 9:30 a.m. to hold a hearing on S. 2108.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, TRADE, OCEANS AND ENVIRONMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Trade, Oceans and Environment of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 22, at 10 a.m. to hold a hearing on the European Bank for Reconstruction and Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NAMIBIA—FINALLY FREE

● Mr. SIMON. Mr. President, a dream has come true for all of us. The Namibian people have finally gained their independence. Namibians can now take charge of their future as the newly independent Republic of Namibia joins the world of sovereign nations. My best wishes go out to Namibia's first President, Sam Nujoma, to his Cabinet, to the National Assembly, and to all the Namibian people. I will do all I can to help broaden and strengthen the friendship between our two nations.

I recommend to my colleagues the following independence address delivered March 21st by President Sam Nujoma.

I ask that the address be printed in the RECORD.

The address follows:

[As reported by the Foreign Broadcast Service, Mar. 21, 1990]

SPEECH BY PRESIDENT SAM NUJOMA DURING NAMIBIAN INDEPENDENCE CEREMONIES AT WINDHOEK STADIUM

Thank you very much, Honorable Master of Ceremonies, Your Excellencies, heads of state and government, distinguished guests, dear compatriots, ladies and gentlemen:

For the Namibian people and for myself, this day, 21 March 1990, is the most memorable and indeed the most emotional moment in the analysis of our history.

This solemn hour is the moment which our people had been waiting for for more than a century. This is the day for which tens of thousands of Namibian patriots lay

down their lives, shed their precious blood, suffered imprisonment, had a difficult life in exile. Today, our hearts are filled with the great joy and the jubilation because our deepest and longest (yearning) has been realized.

Honorable Master of Ceremonies, sir, for the past 43 years or so, this land of our forebears has been a bone of contention between the people of Namibia and the international community, on one hand, and South Africa, on the other.

The Namibian problem has been at the center of bitter international disputes over the last four decades. The United Nations and other international bodies produced huge volumes of resolutions in an attempt to resolve the intractable problems.

However, it pleases me to state that we are gathered here today, not to pass yet another resolution, but to celebrate the dawn of the new era in this land and to proclaim to the world that a new star has risen on the African Continent. Africa's last colony is, from this hour, liberated.

It is, therefore, profoundly momentous [word indistinct] rejoice for the Namibian people and myself, that the highest representatives of the international community, the secretary general of the United Nations, together with the state president of South Africa and the Namibian nation, which I am honored to lead, are able to announce here today to the world that a definitive and a final solution to the protracted Namibian problem has indeed been unanimously reached by these three parties. [applause]

For the Namibian people, the realization of our most cherished goal, namely the independence of our country and freedom of our people, is a fitting tribute to the heroism and tenacity with which our people fought for this long-awaited day. We have been sustained in our difficult struggle by the powerful force of conviction in the rightness and justness of our cause.

Today, history has absolved us. Our vision of a democratic state of Namibia has been translated into a reality. [applause]

With regard to the international community, the achievement of Namibia's independence today is, we believe, a welcome and laudable culmination of many years of consistent support with our cause.

The world's demand for our country to be allowed to exercise its inalienable right to self-determination and independence has been achieved. We express our most sincere gratitude to the international community for its [words indistinct] as for the Government of South Africa, it can be said that the decision to accept the implementation of Resolution 435 has been the first demonstration of political will to find a negotiated solution to the problems of our region. Further more, President de Klerk's proclamation here today, that South Africa has reached a final and irreversible decision to relinquish control over Namibia, is an act of statesmanship and realism. [applause]

This, we hope, will continue to unfold in South Africa itself. [applause]

Mr. Master of Ceremonies, Your Excellencies, distinguished guests, compatriots, ladies, and gentlemen:

I seize this opportunity to point out that the protracted process of negotiating an agreement on Resolution 435 and struggling for its implementation has been difficult and, at times, acrimonious. It was only the perseverance, forebearance, and commitment which helped us to see the process through to its logical conclusion, namely the birth of the Namibian nation we are here to witness.

Against this background, it is heartening for the Namibian people, and I to know that our independence has been achieved under conditions of national consensus and international unanimity. The impressive presence here today of so many world leaders and other dignitaries is a clear testimony to the fact that Namibia's achievement of independence is an event of great world importance. For us, this is yet another reason for celebration.

With respect to the important question of national consensus, I am glad to announce that, following the independence elections last November, the various Namibian political parties have been able to work together in the Constituent Assembly, where we formulated and adopted a constitution acceptable to the broad majority of our people. [applause]

Against this background, honorable Master of Ceremonies, distinguished guests, and their compatriots, I am indebted to the Namibian electorate for giving SWAPO an absolute majority, thereby enabling it to form the first government of the Republic of Namibia. [applause]

In the same vein, I am grateful to the members of Namibia's Constituent Assembly for the confidence they have placed in me in electing me as the first president of the Republic of Namibia. [applause]

I pledge to do my utmost to uphold the Constitution of the Republic and to honor the trust which the Namibian people have bestowed upon me to lead this new nation at this critical juncture.

To the Namibian people, I would like to say on this solemn and historic occasion that our nation blazed the trail for freedom. It has risen to its peak. As from today, we are the masters of this vast land of our ancestors. The destiny of this country is now fully in our own hands. We should, therefore, look forward to the future with confidence and hope.

Taking the destiny of this country in our own hands means, among other things, making a great effort to forge national identity and unity. Our collective security and prosperity depend on our unity of purpose and action. Unity is a precondition for peace and development. Without peace, it is not possible for the best and the talent and the citizens of our country to realize their potential. [sentence as heard]

Our achievement of independence imposes upon us a heavy responsibility, not only to defend our hard-won liberty, but also to set for ourselves higher standards of equality, justice, and opportunity for all, without regard to race, creed, or color. [applause]

These are the standards from which all we seek to emulate and shall draw inspiration.

Master of Ceremonies, sir, in accepting the sacred responsibility which the Namibian people have placed upon me as the first president of the Republic of Namibia, I would like to bow and pay homage to our fallen heroes and heroines, whose names Namibia's present and future generations will sing in songs of praise and whose martyrdom they will intone.

In conclusion, I move, in the name of our people, to declare that Namibia is forever free, sovereign, and independent.

I thank you. [applause]●

S. 2304—HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE

● Mr. MACK. Mr. President, on Tuesday, March 20, 1990, I became an original cosponsor of the Bush administration's housing proposal, Homeownership and Opportunity for People Everywhere [HOPE].

Below is my opening statement from the Banking Committee's hearing on HOPE. It highlights my strong support of the President's commitment to helping residents of assisted housing pull themselves out of perpetual poverty.

During the Banking Committee hearing, Secretary Jack Kemp testified on behalf of the administration at which time he pledged to respond to various budgetary items raised by Chairman RIEGLE and Senator SARBANES. Below is the text of his letter to the chairman of the committee addressing these budget issues. I would like to commend the Secretary for his forthrightness on these matters and his genuine desire to get our housing policy back into the business of serving the needy.

I ask that the material be printed in the RECORD.

The material follows:

SENATOR CONNIE MACK, OPENING STATEMENT, SENATE BANKING COMMITTEE HEARING ON THE BUSH ADMINISTRATION'S HOUSING PROPOSAL, MARCH 20, 1990

I am delighted to have the opportunity to welcome my good friend Secretary Jack Kemp to testify before the Banking Committee. I am especially encouraged by this administration's responsiveness to the housing issue beginning with President Bush's decision to invite Jack Kemp to be the Secretary of the United States, Department of Housing and Urban Development.

As a newly elected member of the Senate, I was asked to sit on the Subcommittee on Housing and Urban Affairs. Not long ago, I was appointed the ranking Republican member of a newly formed subcommittee to investigate why the intent of Federal housing policy was not being implemented at HUD.

During my tenure as a Congressman, my committee assignments did not require me to really focus on the issue of housing. But I set out to educate myself. During my visits to various housing sites and discussions with housing experts, I had many questions.

Are there waiting lists? How long and why? Are there drug problems? Is there overcrowding? What is the rate of rent collections? Are residents satisfied? Is there adequate housing for everyone that needs it? What is the condition of rural housing versus urban housing? Is rental assistance more effective than federal construction programs? Does current national housing policy perpetuate and concentrate poverty? What can be done to encourage people to become self-sufficient?

Although I still have many questions, my visits and discussions with housing experts have helped me get a general idea of the effectiveness of Federal housing policy.

If I had to point to one thing I learned from this process, it would be this: Federal housing policy must integrate a focus on human beings, rather than strictly on bricks and mortar. If we don't do something to help lift low income residents from their poor self-esteem and remove them from pockets of concentrated and perpetual pov-

erty, national housing policy will have failed.

Everyone knows our housing policy has many flaws and has a great deal of room for improvement. Some programs work, some need modification and maybe some should be eliminated.

Since the 1930's the Federal Government has responded to housing problems by adding to the supply through construction of public housing. The paternalistic posture the Federal Government has taken in this regard has suffocated the growth potential of public housing residents. When one sees generations of families in public housing, one has to conclude something is wrong.

Indeed, the Nation's public housing isolates and concentrates the poor, encourages drug use and perpetuates the cycle of poverty. Public housing has become a haven for drug pushers. During one of my visits to public housing in Florida, I actually witnessed a drug deal. Drug gangs terrorize residents and, in some cases, virtually run the projects. Our police haven't been able to control the crime resulting from drugs. How can we expect local public housing authorities to keep drugs out of public housing?

As a result thousands of the Nation's public housing units are vacant or abandoned. At the same time, paradoxically, thousands of families are on waiting lists throughout the country.

Real changes in our policy should include a focus on policies which empower the poor. The HOPE proposal offers an excellent framework for achieving this. I applaud the Secretary's initiatives on resident management and ownership, enterprise zones and housing zones.

I also think we should look into an expanded use of vouchers. I spoke with several public housing officials in Florida who said they could help more people if they had more vouchers. The freedom direct rental assistance affords helps residents move out of concentrations of poverty to areas with better job and education opportunities.

On the issue of affordability, I believe an excellent way to start to reduce the cost of housing is to reduce the amount of government regulation in housing.

Instead of creating minimum living standards for everyone, our housing regulations may actually be putting decent housing beyond the reach of ordinary homeowners. While I view high standards of safety and health as a necessity, I am concerned with studies that show how many of these regulations have driven up the cost of housing to the point of pushing potential homeowners out of the market.

The combined effect of these regulations, such as zoning laws, building codes, growth controls, impact fees and land use restrictions, may add as much as 35 percent to the cost of a new home. One expert, Anthony Downs of the Brookings Institute, said that "75 percent of the cost of housing is due to requirements in excess of the minimum needed for health and safety."

America's housing policy should be designed to help those who need it most. The HUD scandal is showing that billions of dollars intended for the poor have gone to everyone except the poor. This is outrageous. But it could be symptomatic of flawed policies that invite this sort of abuse.

Federal housing policy will never operate at its optimal level until we acknowledge its flaws. I believe it is the time we rethink our housing policies. The HOPE plan is a good initial step in this process.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Washington, DC, March 21, 1990.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: Thank you for the opportunity to appear before the Banking Committee yesterday to outline the Bush Administration's housing initiative for FY 1991, entitled Homeownership Opportunities for People Everywhere (HOPE). I believe our discussions were fruitful and will lay the groundwork for future cooperation in enacting a national housing policy that will meet our shared goals.

No one respects the Committee's right and responsibility to consider overall funding levels for programs within its jurisdiction more than I. However, I feel compelled to express my disappointment in the comparsion of the Administration's budget for the Department with the Committee's internal budget figures, which did not make it clear that those figures were calculated on different—and equally legitimate—baselines.

The fact is that the Adminsitration's FY 1991 budget for HUD represents a small, but nonetheless real increase of $78.258 million in budget authority over 1990. This figure represents the Department's discretionary budget authority increase from 1990 to 1991, an actual number (see attached table). This figure does not include the 7.7 billion needed to renew expiring Section 8 contracts "in kind" for five years, a commitment I made to the Committee last year, but which many members repeatedly, and publicly challenged.

The table you presented to me during the hearing shows a decrease in the Department's 1991 budget of $521 million based on a "current services" baseline, rather than actual 1990 data. The author of the table you presented to me confirms that this calculation is not based on the standard baseline used for presenting budget requests. In fact, the Senate Budget Committee staff member who devised the chart you used in the hearing agrees that HUD's budget shows an actual increase of $78.258 million.

Mr. Chairman, the use of budget numbers by Congress to advance goals is nothing new. But what is undeniably true is that President Bush's HOPE initiative represents $7.2 billion in resources for housing and economic development over three years, including $1.4 billion in federal resources for FY 1991 alone. It is also true that our FY 1991 budget will help 82,000 additional low-income families in need of housing—roughly 9,000 more than Congress approved assistance for in 1990. I believe Congress' unwillingness to let go of the failed construction programs of the past results in fewer low-income families getting the housing they need, not more.

As you know, 1990 was a year of reform for HUD. I am deeply grateful for the Committee's assistance in passing legislation that begins to give us the tools we need to return HUD, once and for all, to its historic mission of advancing housing and homeownership for those in need. I would be irresponsible if I had presented a budget that did not reduce resources for flawed programs that lead to waste, duplication and abuse, while increasing resources for programs that lead to self-sufficiency and opportunity for those in need. I'd be astonished if anyone wanted my first budget at HUD to freeze in place the failed programs we have spent the last year addressing.

I don't think you would want me to apologize for eliminating scandalous, developer-driven programs like Mod Rehab; and I find it difficult to justify building new public housing while 70,000 units remain vacant and uninhabitable. Eliminating funding for special, pork barrel projects reduces the dollar level for the GDBG account, but I don't think the Committee would want me to reinstate a program whose abuses have been so well documented. By leasing 3,500 units of housing under Section 202, we will help low-income elderly people more quickly—as step that seems prudent given the fact that I inherited a backlog of 40,000 Section 202 units that had been funded but have not yet been built. And, despite the fact that your table cited the UDAG program as being cut, as you know, Congress stopped funding the UDAG program before I even became Secretary.

Frankly we would have recommended these reforms had we never put forth a HOPE program. Yet HOPE also takes some of the programs your table listed as "cuts," and in fact reforms and expands them to serve people in a more cost-effective way. The Adminsitration's $44 million elderly independence initiative, which is part of HOPE, is an improvement and expansion of the $5 million Congregate Services program, which basically funds the same, few public housing authorities each year; the $250 million HOPE grant program in many ways builds upon the $20 million Nehemiah program, while targeting it to low income families, rather than the moderate income families currently served by Nehemiah.

The real crux of our debate, however, is not budget numbers, or even the number of incremental units. For while we may take political solace in championing one budget level over another, we will have failed ourselves and the people we want to serve with our programs if we don't help them move up and out of government assistance into self-sufficiency, job opportunity and housing or homeownership in the private sector.

To give you an extreme example, let's imagine that not one of the 4.5 million people currently being served by our housing programs moves off of government assistance and into self-sufficiency during the remainder of this century. By the year 2000, we will still be serving 4.5 million people (plus any incremental assistance appropriated in the coming years). But let's now imagine that through the kinds of empowerment and upward mobility programs envisioned by HOPE, one-quarter of those currently assisted move off of government assistance and into self-sufficiency each and every year. By the turn of the new century, we'd have served almost 16 million people—three quarters of whom would have moved to independence.

As I said in my testimony before the Committee, rather than focusing narrowly on jumpstarting the construction programs of the past, with their long legacy of failure, abuse and indignity to residents, I believe we should use our resources, whatever they may finally end up being, to empower those in need to move off of government assistance into self-sufficiency and opportunity in the private sector.

In addition, I must correct the allegation made by Senator Sarbanes at the hearing that the public housing homeownership program that is integral to the HOPE proposal would reduce the number of assisted housing units available for the poor. In fact, our proposal provides one for the replacement of any unit which would not perpet-

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ually remain available for low income people.

In the spirit of bipartisan cooperation, I came before your Committee yesterday to present the Bush Administration's HOPE initiative as a new housing and economic development policy for initiative as a new housing and economic development policy for the future. I had hoped to debate these ideas and let them stand or fall on their merits. I hope that is still posssible. If, however, the Committee would prefer to compare baseline analyses of budget numbers, then I, of course will comply. However, I must emphasize that such discussions will do nothing to advance the bipartisan cooperation that is crucial to the enactment of a new housing policy this year.

I look forward to working with you to advance our shared goals of housing and homeownership—and economic opportunity—for those in need.

Sincerely,

JACK KEMP,
Secretary.

ATTACHMENT A

ACTUAL INCREASE IN FUNDING—HUD BUDGET AUTHORITY—1991 VERSUS 1990

[In thousands of dollars]

	Estimate 1990	Estimate 1991	Change
Total HUD budget authority in the budget	18,367,699	23,699,594	+5,331,895
Minus:			
Contract renewals	−1,074,492	−7,734,985	−6,660,493
FHA Fund	−3,654,145	−2,447,039	+1,207,106
Public housing loan fund	−400,150	−200,000	+200,150
Manufactured housing	−7,320	−7,320	
Interstate land sales	−600	−1,000	−400
Adjusted budget authority—Real program	13,230,992	13,309,250	+78,258

YES, YOU ARE THE SUPERPOWER

● Mr. SIMON. Mr. President, the Economist, the British publication, had an editorial in its February 24, 1990, issue that provides some common sense and perspective that we need.

Their editorial points out that the United States is still the world's largest economic power, and we ought to use that power wisely to bring greater peace, stability, and opportunity to people around the world.

In the editorial, the Economist says:

America must swap its strategy of containing an enemy to one of encouraging allies. The new approach will require patience, just as the old one did. The prize, though less decisive, is no less appealing: a world in which America does not have to fight wars in order to defend its values and further its interests.

I urge my colleagues to read the editorial, and I ask to insert it into the RECORD at this point.

The editorial follows:

[From the Economist, Feb. 24, 1990]

YES, YOU ARE THE SUPERPOWER

With the cameras whirring in Europe and the surpluses piling up in Japan, Americans are feeling left out of things. Gone is the confidence of the Reagan days, the sense of knowing that whatever America did mattered hugely to the world. Now, particularly in Washington, many Americans seem to think that theirs is just a large country, stuck between dull old Canada and noisy Mexico. Like all *Angst*, this American variety is dangerous because it ignores facts and thus leaps to wrong conclusions.

The ignorance of facts is startling. In a recent poll 48% of Americans thought that Japan's economy is bigger than America's. Actually, it is barely half the size, $2.8 trillion compared with $5.2 trillion. Adjusted to reflect real purchasing power, Americans have an average income 7% higher than that of their nearest large rivals, who are not the Japanese but those dull Canadians. As for Japan's legendary productivity, it has indeed been growing faster than America's. But the average Japanese worker still takes one hour to produce what his American counterpart can rattle off in just 31 minutes.

So what, American pessimists reply: the fact is that America's share of gross world product has plummeted from 50% in the late 1940s to around 23% today. That is true, but misleading. In the late 1940s most of Asia's and Europe's industry was bombed-out rubble. The American share of the global economy is just five percentage points lower than 25 years ago, and 60 years ago. America's economy has weaknesses, no doubt; but it is a giant with a cold, not a pigmy with cancer.

In terms of geopolitics, the American position is even stronger. Militarily, Americans used to think of themselves as just a step or two ahead of the Russians. Now, though the Soviet military machine still has a vast stock of nuclear weapons, its might looks less impressive by the day. It could not beat the raggedy Afghans, and its next big challenge seems certain to be within its own borders, keeping intact the Soviet Disunion. That change of emphasis leaves American forces out on their own.

PRE-MILLENNIAL TENSION

A combination of economic size and military strength gives America a truly global reach. No other outsider could have taken the lead in keeping the oil tankers sailing through the Gulf, or acted as diplomatic midwife to the new Namibia. In Europe itself Americans have just shown that, by coming down on the German side, they can hasten the reunification of Germany whatever the reservations of its neighbours.

All this reflects a simple truth: America is still number one. Its dominance may be declining a little, because Japan's economy is catching up and several countries are not political powers in their region. But only the United States has the complete mixture of economic, military and diplomatic powers to qualify as a superpower. The more interesting, semi-philosophical question is this: what, in the closing years of the millennium, does a superpower do with its power?

The short answer has been true of every power in every era: that it will do only those things that serve its interests, albeit sometimes indirectly. But because a global power has a global presence—in investment and trade, and also through indefinable things like its political and cultural influence—American interests very much include stability and prosperity throughout the world.

From this comes part of a semi-philosophical answer, and at first it seems like motherhood: America's role is to help other countries do things that will make the world a safer, richer place. But that platitudinous goal becomes challenging when applied to specific countries and circumstances. For instance, Japan in the next few years: It has had no foreign policy worth the name until recently, but is now forging one with great speed. Only America can ensure that Japan is not tempted, because of western neglect and *hauteur*, to build an economic and perhaps military zone of its own in Asia (see next article). Or the Middle East: the United States may not be able to banish fear between Arab and Jew, but only it can make the two sides see the sense, indeed the inevitability, of a compromise. Its task is to nudge Israel into concessions on the occupied territories while insisting that, in return, Arab governments should discard the men with guns.

The most awkward challenge will be in Europe, because America's power there is bound to decline as some of its troops are withdrawn. Even if Russia subsides into introspection, the American task will still be demanding: to encourage German self-esteem while reassuring the French and the British—and the East Europeans—that a strong and united Germany is not a mobster stalking the continent. The best way to pull off that trick is to keep NATO alive, and a sizable number of American troops on European soil.

In short, in various parts of the world America must swap its strategy of containing an enemy to one of encouraging allies. The new approach will require patience, just as the old one did. The prize, though less decisive, is no less appealing: a world in which America does not have to fight wars in order to defend its values and further its interests.

Then there are the truly global issues, on which America is best placed to give a lead. The environment is one such issue. Nobody knows how green mankind must become to ensure its own future; but what is clear is that no government will take the nasty medicine of, eg, higher taxes on coal if it thinks that others will keep spewing out the gases that may warm the world in 39 years' time. America can use its power—and its example—to promote market-based measures that do not rely on draconian and unenforceable bans.

The same is true of foreign trade and investment. The whole postwar multilateral trading system depends on a shared belief that nobody is cheating and therefore nobody else needs to. America, as the world's largest exporter, has a massive interest in open markets; and American consumers every day show their keenness to buy what they want from wherever they choose. As for foreign investment, American firms have almost $350 billion invested abroad (and that is measured by book value; the market value is much more), giving the United States the largest stake in a liberal regime for foreign ownership. Whenever America itself starts weakening the system that its companies and consumers like, it gives others the pretext to do so.

For—and this is the last bit of semi-philosophy—a modern superpower must be a place that lesser fry admire, even envy. The past 12 months have seen the triumph of western ideals, of democracy and market capitalism. One of the main reasons for that triumph was that, in the postwar decades, America lived up to its ideals while Marxist beliefs turned to venal reality. America-at-home has to stay a land of opportunity and openness, the better to ensure that the rest of the world keeps going that way. Over to you, Superman.●

S. 2313—DRUG EMERGENCY AREAS ACT

● Mr. HEINZ. Mr. President, I am pleased to be an original cosponsor of the Drug Emergency Areas Act. This important legislation:

Provides $300 million in aid to drug emergency areas, with up to $50 million for any single area;

Requires that the funds provided to non-Federal units of government be used equally for drug supply reduction and drug demand reduction;

Provides aid directly to local governments, designated "drug emergency areas."

The issue of direct funding remains an important one. During the debate on the Anti-Drug Abuse Act of 1988, I, along with a number of my colleagues, sought to ensure that local governments would receive direct assistance, by passing as much of the bureaucracy as possible. Unfortunately, we were not successful.

Under existing law, the President may designate regions as "high-intensity drug trafficking areas," making them eligible for increased Federal aid. As the author of the amendment pertaining to this authority, I was pleased when such areas were designated earlier this year. Yet only five areas of the United States received the additional assistance. The criteria used in determining which would receive the added boost in funding precluded scores of regions facing critical drug-related crises from getting what they need.

One such region is southeastern Pennsylvania and, more specifically, Philadelphia. Reported drug crimes rose 74 percent in Philadelphia in 1988, while the city's murder rate exceeded one per day for the first time in 8 years. The number of reported drug crimes soared from 6,335 reported in 1987 to 11,004 1 year later. Philadelphia, with 14 percent of Pennsylvania's population, accounted for 42 percent of the State's reported drug crimes and 58 percent of all homicides.

It is for this reason that I am pleased to join my colleagues in introducing this important legislation. Our cities need our help. We cannot just depend on local solutions to national crises.●

GUNBOAT LAW

● Mr. SIMON. Mr. President, I am one who feels that the recent 6 to 3 Supreme Court decision that does not protect people charged in our courts by the constitutional provisions is a most unfortunate position.

I believe it violates our fundamental tradition of civil liberties, and it is politically and diplomatically a time-bomb.

I hope that the executive branch of government will not abuse this new power granted them by the Supreme Court, and I hope that in the future, Congress can write the law so that this court decision can be reversed through congressional action.

I ask to insert into the RECORD an editorial from the New York Times on this question that is right to the point. It is titled, "Gunboat Law."

I urge my colleagues to read this decision.

The editorial follows:

[From the New York Times]

GUNBOAT LAW

According to the Supreme Court's peculiar reasoning last week, the Fourth Amendment does not protect a foreigner from a warrantless search by Americans of his home in his native country, and the use of seized evidence at his trial in this country. This 6 to 3 decision is to jurisprudence what gunboats are to diplomacy.

The Court says that the "right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches" does not embrace an alien, who is brought to American justice for crimes against the United States. Chief Justice Rehnquist says America can use this extra power at a time of increased paramilitary ventures abroad. He would have served the nation better by promoting, instead of naked power, the rule of law.

Federal Drug Enforcement Administration agents obtained a U.S. arrest warrant for Rene Martin Verdugo Urquidez, a Mexican citizen and one of a band of violent drug smugglers. Mexican authorities picked him up in Mexico and brought him to the United States, where he has been convicted of the torture-murder of a D.E.A. agent. To prosecute separate drug charges, agents searched two residences in Mexico, with Mexican cooperation but no search warrant. Lower courts barred the evidence under familiar constitutional principles, but not the Supreme Court.

The Chief Justice, long known for his literal, narrow constitutional interpretations, said "the people" protected in the Fourth Amendment are different from the people whose rights are safeguarded elsewhere in the Constitution. This was such a flight of judicial imagination that the junior Justice, Anthony Kennedy, said "with respect" that he couldn't use it to support the result.

Justice William Brennan's dissent offers a worthier lesson to a world now studing the U.S. Constitution as a model. In his view, the people it protects, citizen or alien, include those accused in our courts of violating our laws.

Agents could have got a search warrant for this defendant's home or office as easily as the warrant for his arrest. In an emergency, agents behaving reasonably could have found innumerable court-allowed excuses for not obtaining a warrant. The power to skirt the Constitution altogether was unnecessary as well as illegitimate.

Any restrictions on searches and seizures that occur "incident to American action," Justice Rehnquist wrote, "must be imposed by the political branches through diplomatic understanding, treaty, or legislation." That's an invitation to politicians to study ways to maintain America's reputation for justice. It's unfortunate that the Judicial branch has made such a study necessary.●

NEW USE FOR RECYCLED PAPER

● Mr. KASTEN. Mr. President, many of us have read or seen stories about the "new revolution"—reports of a growing environmental awareness and activism among American consumers. Industry is answering this trend, in part, by developing products to meet consumers' proenvironmental demands. I am pleased to recognize one such contribution to the "greening" of our Nation's homes.

Fort Howard Corp., a leading paper company based in Green Bay, WI, is introducing a new line of paper towels and bathroom tissue made from 100 percent recycled paper. As stated in a recent story in the Wall Street Journal, Fort Howard hopes its "Green Forest" products will appeal to consumers who want to use their pocketbook to not only buy a product they need, but also protect the environment.

Fort Howard is investing in the notion that the rise in environmentalism is more than just a fad. They are betting that many Americans will follow the lead of consumers in Britain and elsewhere abroad, by accepting recycled paper products as part of their everyday lives. I hope they are right.

This country is facing a solid waste crisis, producing more than 160 million tons of trash every year. Our landfills are nearing capacity. While paper represents more than 40 percent of solid waste going to landfills, it offers the best opportunity for recycling. Today, 85 percent of everything that is recycled is paper. Clearly, an important part of the answer is recycling, and there are well over 1,000 municipal recycling programs already underway. But collecting and separating paper for recycling before it enters the waste stream is only half the battle; we do not accomplish anything until we close the loop by creating markets for the paper through the purpose of recycled paper products.

Fort Howard has been an industry leader in paper recycling for more than 50 years. Each year its operations in Wisconsin, Georgia, and Oklahoma recycle more than a million tons of wastepaper. If the paper Fort Howard recycles were to end up in landfills, it would be enough to fill a 100-acre landfill to the depth of 15 feet each year. They also work with State governments and private companies to set up their own recycling systems, and have won praise for local initiatives to collect old telephone books and for creating model recycling programs like the one with the State of Wisconsin.

The company has supplied quality 100 percent recycled products for offices, government and commercial buildings, and other nonresidential uses for many years. Through its Envison line, it was the first to design prod-

ucts specifically to meet EPA's content guidelines for paper products purchased with Federal funds.

More than ever before, the attention of this Nation and this Congress are turning to the challenges of protecting the Earth's fragile environment. Efforts such as those by Fort Howard will help remind Americans that, in a real sense, environmentalism begins at home.

Mr. President, I would ask that a copy of the Wall Street Journal article which appeared on Thursday, March 22, 1990, be included in the RECORD immediately following my remarks.

The article follows:

[From the Wall Street Journal, Mar. 2, 1990]

FORT HOWARD CORP. INTRODUCES 100 PERCENT RECYCLED TOILET TISSUE, PAPER TOWELS

(By Vindu P. Goel)

American consumers accept recycled aluminum soda cans, recycled glass bottles, recycled grocery bags. They even accept recycled greeting cards. But are they ready for 100% recycled toilet tissue?

Fort Howard Corp. thinks so. Convinced that Americans are becoming concerned about vanishing forests and overflowing landfills, the closely held Green Bay, Wis., paper-products maker last month began a limited launch of the first major line of bathroom tissue and paper towels made entirely of recycled paper fibers—and marketed that way.

Such competitors as James River Corp., and Kimberly-Clark Corp., both of whom use some recycled paper in their towels and bathroom tissue, doubt that the time has come for a marketing revolution. "The advantage has just not been in marketing products as recycled," says Jean Allen, a spokeswoman for Kimberly-Clark. "Consumers want softness, quality, and absorbency," none of which they associate with recycling, Ms. Allen says.

Fort Howard is undaunted. The company claims that its Green Forest recycled tissue is virtually indistinguishable in texture from low-cost brands currently on the market, such as Scott Paper Co.'s ScotTissue. Green Forest retails at a premium price—about $1.35 for a four-roll package. But Jeffrey P. Eves, a Fort Howard vice president, in charge of the promotional assault, contends that by purchasing a 100% recycled product, "consumers can use their pocketbook to not only buy a product they need, but also make a statement about the environment."

Scott and James River have long incorporated some recycled fibers into their products. And Fort Howard, which has based its entire business on recycled rather than virgin paper pulp, successfully introduced a 100% recycled bathroom tissue in the United Kingdom last year. Within five months, the new tissue, called Nouvelle, captured 3.2% of the market. Fort Howard's European plants are running at full capacity to meet demand.

But until now, no major paper manufacturer has dared court American consumers by boasting of the recycled content of its products. Tissue packages and advertisements for Scott's Cottenelle and James River's Northern line are silent on content, stressing instead softness and purity—not the fact that some of the paper might have had an earlier life as a computer printout. Packages for Green Forest, while not specifying exact content, are adorned with trees and a big "Made With 100% Recycled Fiber" on the front.

According to estimates for 1988, by Smith Barney, Harris Upham & Co., Fort Howard commands a mere 2% of the $2.3 billion U.S. bathroom tissue market and about 4.5% of the $1.5 billion paper towel market. The company is not expecting to seize the rest with Green Forest.

Fort Howard concedes that it won't be easy to overcome consumers' aversion to used paper, particularly for personal hygiene. But Fort Howard's market research suggests that there are enough environmentally concerned consumers out there to support a coup of extra percentage points of market share in each category, valued at about $78 million in sales.

"It's a niche opportunity," says Mr. Eves. "It is not our objective to win converts to the cause." However, if the cause grows bigger, as Fort Howard hopes, then the company won't have to play catch-up to consumer attitudes.

"Nobody is suggesting that, overnight, this thing will become a Hula-Hoop," says Mr. Eves. "On the other hand, there is a possibility that, over time, it will outlast the Hula-Hoop."

To induce wary tissue-buyers to try Green Forest, Fort Howard plans to offer 15-cent coupons, run in-store promotions, and sponsor special recycling events. Of course, it's possible that consumers may not love trees enough to make such a personal sacrifice. Fort Howard launched a similar recycled tissue the last time the environment was a big issue, in the 1970s, only to see it fall miserably. This time the company takes heart in the popularity of a private-label 100% recycled bathroom tissue sold by Loblaw Cos., Canada's largest grocery chain. Loblaw's tissue, introduced last summer as part of a special "green" line, is the most popular toilet paper the chain sells.

The Midwestern grocers who are receiving the first shipments of Green Forest towels and toilet paper are treating them like any other new products. "I am not convinced they're going to sell," says Bernard Schipper, a senior merchandising manager for Meijer Inc.'s 54-store chain in Michigan and Ohio. "But we want to at least offer them to the consumers and let them decide."●

UNDER THE VOLCANO

● Mr. SIMON. Mr. President, once a journalist, I guess you are always a journalist.

But serving in public office gives you a little different perspective on things, and so I have written, from time to time, about media coverage of elections and media coverage of Congress.

But in the publication, Extra!, which comments on news coverage, there is an item that strikes a resounding chord with me about our failure to provide adequate news coverage of Africa.

If there are news executives anywhere who read the CONGRESSIONAL RECORD, I would urge them to read this two-paragraph editorial under the heading, "Under the Volcano" in Extra!

There is much validity to its comment.

I ask to insert this in the RECORD at this point.

The editorial follows:

To much of the mass media, the plight of another hero, Nelson Mandela, embodies the struggle for human rights in South Africa. But where are the heros in the rest of sub-Saharan Africa? US press coverage of Africa is minimal, even though terrible human rights violations are rampant throughout the continent. An Amnesty International survey conducted by Anne Geyer showed that Africa is the most consistently under-reported region in the world. Only two news stories on Africa indexed under "human rights" and "political prisoners" ran in *Time* magazine between 1980 and 1986; CBS *Evening News* aired three stories on the subject during the same period. (Soviet human rights problems received the most coverage, according to Amnesty's survey.)

It barely entered public consciousness in the US when 400,000 Somalis fled their war-torn East African country last summer. Initially backed by Moscow in its conflict with Ethiopia, Somalia's principal military supplier is now the US. It has committed many atrocities against unarmed civilians. (Ironically, Libya also supplies weapons to Somalia). Similarly, the massacre in Burundi last year came and went with hardly any follow-up in the press. Such incidents in obscure places are ignored in large part because they have only minor impact on US economic interests or East/West relations. Racial bias is also a factor. As one media professional told Amnesty International: "Perhaps small, dark people being tortured is not considered as relevant as big, white people being tortured."●

STEPHEN GREEN ENDORSES CONGRESSIONAL TERM LIMITATION

● Mr. HUMPHREY. Mr. President, many political pundits argue that we do not need term limits, that we should let the voters decide. They blame voter lethargy on challengers who fail to inspire the public. Therefore those incumbents who get reelected—98.5 percent of all House incumbents in 1988—are the best possible candidates, better than any challengers. The filing deadline for the 1990 elections has already passed in Texas, and in 12 of the 27 districts for the U.S. House of Representatives in that State, incumbents will run unopposed. Are we to assume that 12 districts in Texas can produce only 12 qualified candidates for the U.S. House of Representatives? Most Texans would probably agree with me that this argument is insulting. The fact is that elections are so stacked in favor of incumbents that capable and qualified challengers are virtually required to wait until the seat is open before they can afford to run. The Senator from Arizona [Mr. DECONCINI] and I have introduced Senate Joint Resolution 235 to limit congressional terms to 12 years in both Houses, which would restore fairness in elections. I would like to share with my colleagues, an op-ed piece by

Stephen Green that appeared in the Washington Times on February 13, entitled "Congressional Careerism," and to urge Senators to join the 12 of us who have already signed on to this urgent reform. I ask that his editorial will appear in the RECORD immediately following my remarks.

The editorial follows:

[From the Washington Times, Feb. 13, 1990]

CONGRESSIONAL CAREERISM

(By Stephen Green)

It's not popular on Capitol Hill, where most members of Congress tenaciously cling to their jobs. But a campaign to limit congressional tenure to 12 years appears to be gaining national momentum.

A recent Gallup survey indicates it could become one of the hottest political issues of 1990. Seventy percent of the respondents agreed that it's time to put an end to congressional careerism.

It's an encouraging sign of American acumen when a solid majority endorses the concept of placing a limit on congressional service. It suggests that the citizenry has had the sagacity to have uncovered Capitol Hill's dirty little secret—too many members of Congress devote more time and energy to obtaining re-election than to pursuing the enactment of responsible legislation for the welfare of the nation.

Notwithstanding the fact that nearly all members of the House and Senate manage to win re-election, the incumbents' victories frequently bear little relation to the public's perception of the value of their work.

As noted by opinion polls, Congress is held in wide disrepute. The rate of re-election—98.5 percent of incumbents won in the last campaign—is due to the fact that Congress has transformed itself into an incumbency machine.

Congressional incumbents have vast political resources at their beck and call that challengers lack. Among the advantages that accrue to officeholders are free mailings, travel budgets, publicly financed staffs and an ability to attract media coverage.

Additionally, incumbents become the objects of ardent courting by special interests lobbyists eager to help members of Congress raise large sums of campaign money.

Limiting time served in Congress would have immediate, positive impact on Washington's political culture. For starters, it would provide a transfusion of fresh political blood and new ideas.

In all probability, the special interests would soon find their influence on the wane. Public officials, who know they soon will return to private life, would not be so anxious to ensure a continuing infusion of campaign funds and, therefore, would be less dependent on special interests.

Members of Congress with limited tenure would be citizen-legislators, instead of careerists. They would be more likely to work for the benefit of the people whom they represent than for the advancement of their own political fortunes.

Those who oppose a limit on congressional terms frequently argue that it would violate the intentions of the nation's founders who placed no restriction in the Constitution. But the earlier Articles of Confederation did limit congressional terms and the two-year term provided in the Constitution for House members was intended to ensure a high turnover in office—the opposite of what has transpired.

Predictably, the campaign to limit congressional terms has failed to draw much backing from present members of the House and Senate.

But the movement does have staunch support from many reputable former members—compelling evidence of the campaign's merit. Among them are such respected figures as former Reps. Donald Fraser of Minnesota, Paul McClosky of California, M. Caldwell Butler of Virginia and Donald Rumsfeld of Michigan.

Sen. Gordon Humphrey, New Hampshire Republican, who is retiring from Congress this year, has introduced a proposed constitutional amendment to limit congressional terms. Mr. Humphrey, who has an intimate acquaintance with the ways of Capitol Hill, says the proposed amendment would end the current system in which congressional seats have become "the equivalent of personal fiefdoms."

If Congress refuses to act, there are welcome indications that the states will move on their own to require their representatives to take an oath to limit their time in office. Arizona already has taken that step. Other states may soon follow.

The authors of the Constitution intended Congress to serve the people. When members of the House and Senate repeatedly demonstrate that they have more concern for their political longevity than their constituents' interests, it's time to restrict their tenure.●

CONCERNING DRUG AND ALCOHOL TESTING

● Mr. DANFORTH. Mr. President, over the past 4 years, Senator HOLLINGS and I have worked for the passage of legislation requiring mandatory drug and alcohol testing of transportation professionals—airline and train crews.

The evidence of drug and alcohol use among transportation professionals is overwhelming.

On February 5, 1990, the National Transportation Safety Board [NTSB] announced the results of a 1-year study of fatal truck crashes in eight sample States. The NTSB found that 33 percent of the truck drivers killed in those accidents were impaired by drugs or alcohol.

Since the January 1987 Conrail/Amtrak tragedy at Chase, MD, which killed 16 people and injured 170, there has been a railroad accident involving drugs or alcohol approximately every 10 days. During the first session of the 101st Congress, the Federal Railroad Administration reported that one or more railroad employees had tested positive for alcohol or drug use after 21 accidents.

The NTSB has ruled that one cause of the January 1988 crash of a commuter plane near Durango, CO, was the pilot's cocaine use. Nine people died in that crash. Since the Department of Transportation [DOT] started its own employee testing program in September 1987, 114 air traffic controllers have been removed from their safety-sensitive positions after testing positive for drug use.

In February 1987, the inspector general of DOT reported that the driver's licenses of 10,300 active pilots certified by the Federal Aviation Administration [FAA] had been suspended or revoked for driving while intoxicated. At least 500 were commercial air pilots.

The Senate has responded to this problem by passing legislation nine times that would require that transportation professionals be subject to preemployment, periodic, postaccident, probable cause, and randon testing. We have called upon the House to take comparable steps.

Mr. President, during the second week of March, the importance of drug and alcohol testing was brought into focus once again. On Wednesday, March 7, a Southeast Pennsylvania Transportation Authority [SEPTA] train crashed, killing 3 people and injuring 94. Transit authorities announced that one of the motormen on the subway train had tested positive for cocaine use.

Last year, the DOT issued a rule requiring random drug testing of mass transit employees in an effort to deter such workers from being drugged on the job. Unfortunately, on January 19, the U.S. Court of Appeals for the District of Columbia overturned the Department of Transportation's new rules requiring random drug testing of mass transit employees. The court ruled that, unlike the situation with truck and bus, railroad and aviation drug testing, the DOT lacks statutory authority to write rules on mass transit safety, and therefore cannot justify issuing a rule requiring drug testing for mass transit workers.

On Thursday, March 8, a Northwest Airlines crew was arrested for operating a jetliner with 91 passengers on board in violation of the Federal Aviation Administration prohibition against drinking alcohol within 8 hours of a flight. Fortunately, the plane landed without incident, but the results could have been tragic. According to the Associated Press, the crew was seen drinking in a Fargo, ND, bar before flying a 747 to Minneapolis. An FAA official in Fargo received an anonymous tip that the crew had been drinking, but allowed the crew to board the flight after observing them and deciding that they did not seem impaired.

However, the FAA's Minneapolis inspector, in conjunction with the Minneapolis Airport Police, obtained the consent of the crew to perform blood alcohol content [BAC] tests at a local hospital. The results of those tests are chilling. According to the FAA, the tests, which were performed several hours after the plane landed, show that all three crew members were above the .04 percent BAC limit FAA imposes on pilots. Press accounts indicate that the captain of the crew

tested at .12 percent, the first officer tested at .06 percent, and the second officer tested at .07 percent.

Mr. President, the FAA is beginning to implement drug testing of commercial pilots. It has no program for alcohol testing. Fortunately, in this instance local law enforcement became involved and the crew consented to be tested. We should not have to rely upon local law enforcement to deal with this problem. We should not have to rely upon anonymous tips to catch drinking or drugged pilots who are responsible for hundreds of lives.

We should have mandatory random drug and alcohol testing of all transportation professionals. Legislation requiring both random drug and alcohol testing of transportation workers in the railroad, aviation, and motor carrier industries has passed the Senate nine times since it was first introduced in 1987. In 1988, the Senate passed an omnibus antidrug abuse bill containing provisions requiring drug and alcohol testing of those three groups of employees, plus mass transit workers.

Several weeks ago, Congressman GINGRICH introduced a major anticrime bill in the House—a companion bill was introduced in the Senate by Senator GRAMM—which includes provisions requiring drug and alcohol testing of safety-sensitive railroad, aviation and mass transit workers, and truck and busdrivers. It is time for the House to act on this important legislation. Too many lives are at stake for further delays.●

EXECUTION OF BRITISH JOURNALIST IN IRAQ

● Ms. MIKULSKI. Mr. President, I am sure all Members of this body share my horror at Iraq's hanging of Farzad Bazoft, an accredited journalist of the London Observer, who, in the course of covering a story, was charged with spying.

Prime Minister Thatcher responded to the arrest and execution with emphatic and appropriate outrage, but as far as I know, President Bush has not condemned Iraq's action.

Bazoft's hanging violates accepted human rights standards and is particularly disturbing since it involved a foreign national and a member of the press.

I hope the President will find an occasion very soon to denounce the Iraqi Government's action in unequivocal terms.

I ask to insert at this point in the RECORD an article by William Safire from the March 19 New York Times.

The article follows:

A DANGEROUS THING

(By William Safire)

WASHINGTON.—Saddam Hussein, widely feared as "the Butcher of Baghdad," declared a school holiday last Saturday to swell the crowds ordered to demonstrate in front of the British Embassy.

The dictator took offense because Mrs. Thatcher's Government dared to protest—as "an act of barbarism deeply repugnant to all civilized people"—his hanging of a reporter for The London Observer.

"Mrs. Thatcher wanted him alive; we gave her the body," crowed the Iraqi propaganda minister, after the remains were turned over to the British Embassy in Baghdad.

The accredited journalist, Farzad Bazoft, had heard reports of an explosion at a plant to the southwest of Iraq's capital. Reporters were denied permission to investigate; suspecting trouble at one of Iraq's poison-gas or missile plants in that area, the reporter disguised himself and went anyway. He was caught, tried as a spy, and promptly hanged.

Not all the people of the civilized world found the lynching repugnant: "moderate" King Hussein of Jordan, no relation to Saddam, deplored "a concerted attack on Iraq for a long period of time without any reason to justify it."

Arab apologists are busily trying to besmear the victim: Mr. Bazoft had a prison record in his early 20's, was stateless, confessed to spying under the always-gentle Iraqi interrogation, etc. The P.L.O.'s Salah Khalef broadcast support of Iraq's gleeful leader.

Saddam sent no demonstrators to the U.S. Embassy for good reason: the Bush Administration's reaction was of such studied indifference as to border on condoning the assassination.

President Bush refused to join in the worldwide appeals for clemency. After the hanging, the President's spokesman. Marlin Fitzwater, said only that "we regret those [appeals] went unheeded. But we don't have a lot of details on the case itself."

At the State Department, our rip'n'-read spokeswoman, Margaret Tutwiler, read "We deplore Iraq's decision . . ." but when asked what our Government intended to do about it went into her usual flustered state: "I did not think to ask. . ."

A couple of questions we should all ask:

What terrible secret was the journalist trying to uncover? President Bush knows, from the same satellite observation that showed poison-gas production at Libya's Rabta plant, that Saddam is producing poison gas at 10 different locations. Some of that gas was used in the Iranian war, some in killing thousands of Iraqi Kurds. Three months ago, Iraq launched a three-stage, 48-ton rocket, demonstrating its missile capability. Was the damaged plant producing gas, rockets or nuclear weapons?

Why is Mr. Bush so eager to help the dictator of what has become the world's most dangerous nation? When the Congress identified Iraq as a terrorist nation to be denied U.S. favor, Mr. Bush invoked an exception enabling him to ignore this ruling "in the national interest."

That's why Iraq still gets loan guarantees from us on grain purchases. The Atlanta branch of Italy's Bank of Lavoro scandalously slipped $3 billion in financing to Iraq, in a deal being laconically prosecuted by our Justice Department. Even after the scandal broke, and our Agriculture Secretary promised a Senate committee no new loan guarantees would be issued without notification, Secretary Yeutter supplied an additional $500 million guarantee.

When these fishy dealings were outlined in this space, with wonderment at Mr. Bush's needless exposure of U.S. taxpayers, the Iraqi press counselor in Washington, Abdul Rahman Jamil, wrote to my editor to insist our aid was used for grain, not missiles, explaining: "It is not uncommon to expect delays of payments in financial arrangements." That tipped off future repayment problems.

"Mr. Safire ought to be reminded," Mr. Jamil added, "that a little knowledge is dangerous, and he is using this knowledge dangerously."

A colleague cheerily passed this along with "Hope you weren't planning a holiday in Baghdad." (I did not take Mr. Jamil's reminder to be intimidation, noting it only as a misquotation of Alexander Pope's "A little learning is a dangerous thing.')

So now they're hanging foreign journalists in Iraq and nobody in the Bush Administration gives a damn. Mr. Bush ignores this state murder, allows the U.S. to become dependent on Arab oil while Saddam urges OPEC to raise prices, and keeps guaranteeing loans to the country that spends billions on mustard gas and missiles.

In what national interest? What hold does the Butcher of Baghdad have on the President of the United States?●

THEY GROW 'EM GREAT OUT WEST!

● Mr. HATCH. Mr. President, as a Senator from Utah I have a tendency to take some pride about the things that happen in the great State of Utah. Some of my colleagues may think that sometimes my pride makes me stretch the truth a little bit. But consider what will happen at the Capital Center next Tuesday and my colleagues will understand "stretch" is 7-foot-6.

Next Tuesday, 7-foot, 6-inch Shawn Bradley will take the court as part of the McDonald's All-American basketball classic. Shawn is a high school all-American from Castle Dale, UT. He led Emery High School to back-to-back 2A and 3A championships and was selected most valuable player. Shawn is the biggest media attraction of all the country's high school players and at 7-6 will be the tallest player to ever compete in the Capital Classic. Shawn will be playing college ball at Brigham Young University.

Another great player out of Utah will be Kenneth Roberts, from South Jordan, UT, who took his Bingham High School to back-to-back 4A basketball championships and was selected as most valuable player. Kenneth, Ken, who, at 6-foot-8, plays power forward and is considered one of the great versatile big men in the country. We will have a lot of college scouts at Tuesday's game, as Kenneth hasn't decided which university he will attend.

Mr. President, not only will Utah be spotlighted because of these two fine athletes, but the coach of the all-stars is also from Utah.

Jim Yerkovich just completed his 24th year as head coach at Judge Memorial Catholic High School in Salt Lake City. His teams have participated in 21 State tournaments with a record

string of 16 straight tournament appearances. He coached the west team in the McDonald's 1981 all-star game which UCLA Coach John Wooden called the best team ever.

Earlier this month Coach Yerkovich brought his team to the prestigious Alhambra National Catholic Invitational at Cumberland, MD, where Judge Memorial placed second.

Last year Coach Yerkovich, Shawn, and Kenneth were also selected for the Utah AAU team to play the National Junior team from the Soviet Union. The Utah team defeated the Russians 104 to 85.

Mr. President, it is not only with pride that I say these things today, but with appreciation. These players and coach are an example of what the high schools of Utah represent.●

MOVEMENT TOWARD DEMOCRACY IN SOUTH AFRICA

● Mr. WIRTH. Mr. President, yesterday Secretary of State Baker met with Mr. Nelson Mandela in Namibia. As we all know, this meeting was made possible by Mr. Mandela's February 11 release from prison after serving more than 27 years in jail for his opposition to South Africa's racist system of apartheid. The effect of Mr. Mandela's release, coupled with other gestures recently made by South African President F.W. De Klerk, has transformed the political climate of South Africa. Where once there was only conflict, there is now conciliation. Where once there was only hardship, there is now hope.

Despite these changes, however, there is still much to do in South Africa. Apartheid permeates South African society and there are still many laws—such as the Group Areas Act and the Population Registration Act—which must be repealed. As Mr. Mandela stated upon his release from prison, there must be "a fundamental restructuring of our political and economic systems to ensure that the inequities of apartheid are addressed and our society is thoroughly democratized."

Mr. President, the system of apartheid is morally repugnant to the American people. In order to maintain this system, the white minority Government of South Africa denies blacks a voice in governmental decisions. In 1986, Congress imposed sanctions on South Africa designed to put pressure on the government in Pretoria to negotiate a peaceful end to apartheid by attacking the economic structure that supported apartheid. The sanctions included bans on the importation of South African coal, steel, and agricultural products; bans on the export to South Africa of oil, armaments, computers, and nuclear technology; and bans on new loans and new American business investments in South Africa.

I am pleased to say that the 1986 sanctions had their desired effect. A recent study cited in the January 14 Washington Post indicated that United States sanctions, along with those of other countries, cost the South African Government between $32 and $40 billion over the last 4 years. Mr. President, even by the standards of the U.S. Congress, $40 billion is real money and I am convinced that we are now seeing the fruits of the American policy of sanctions.

In addition to American actions, I also believe that President De Klerk deserves a great deal of credit for the current process of democratization in South Africa. Like President Gorbachev, President De Klerk inherited a system that he knew would not last and needed to be fundamentally altered. By loosening the state of emergency restrictions on freedom of the press and assembly, sharply curtailing the time an individual can be held without trial, lifting the longstanding ban on political opposition groups such as the African National Congress, and, finally, releasing Nelson Mandela, President De Klerk has taken on many of his own supporters and shown himself to be a man of political vision.

Mr. President, an excellent article by Robert K. Massie, Jr., dealing with the current situation in South Africa recently appeared in the New Republic. The article described very well the many divisions that still affect South Africa, and I will ask for its insertion into the RECORD at the conclusion of my remarks.

In his article, Mr. Massie describes how, for 42 years, apartheid has deformed South African society; the distribution of political and economic power, educational opportunities, and day-to-day living conditions were all warped by a narrow obsession with race. These distortions have caused a need for fundamental change in South Africa, and this need has spawned divisions in both the white and black communities over the ultimate form of this change. In the white community, President De Klerk will have to deal with both parliamentary opposition from the Conservative Party and possibly violent opposition from the nascent Afrikanner Resistance Movement. In the black community, disputes over how best to respond to apartheid's injustices have lead to a near civil war in the Province of Natal.

Nelson Mandela is perhaps the one man in all of South Africa who can bridge the divisions described in Mr. Massie's article. Mr. Mandela said at his trial in 1964 and again upon his release in February, that:

I have fought against white domination and I have fought against black domination. I have cherished the idea of a democratic and free society in which all persons live together in harmony and with equal opportunities.

This, I believe, is a formula for a successful resolution of the conflict in South Africa.

Mr. President, in his 1948 novel on South Africa, "Cry, the Beloved Country," Alan Paton wrote that his greatest fear was that one day when white South Africans turned to loving, they would find that black South Africans had turned to hating. I was pleased, therefore, to learn that Mr. Mandela, when recently asked whether he harbored any hate toward his white captors, replied that he only felt anger. Mr. Mandela said the difference in emotions was significant because anger passes, while hate invades the soul.

Mr. President, it is my hope that all South Africans will eventually share Mr. Mandela's feelings; that hate will not invade South African souls; that anger over the injustices of apartheid will pass; and that South Africa will become a democratic, free, and nonracial society.

Mr. President, I ask that Mr. Massie's article be inserted in the RECORD.

The article follows:

[From the New Republic, Feb. 26, 1990]

GREAT EXPECTATIONS

(By Robert K. Massie, Jr.)

Early in January the liberal Institute for a Democratic Alternative in South Africa (IDASA) played host to the first two Russian academics to visit South Africa in nearly 40 years. Professors Irena Filatova and Apollon Davidson of Moscow State University toured the country giving talks about Soviet foreign policy in Southern Africa and about the collapse of communism in Eastern Europe and the U.S.S.R. To their surprise their account met with indignant resistance. At one gathering in a Transvaal township more than 100 local leaders and citizens sharply questioned the Russians about this rejection of socialism, and criticized IDASA for bringing them to South Africa.

The reaction of the township activists to the Russians' visit give one indication of the complexity of the task facing State President E. W. de Klerk and the leaders of the African National Congress as they careen toward the opening of negotiations. During the five months since de Klerk formally took office he has systematically altered South Africa's political landscape with a carefully timed sequence of symbolic and substantive actions. He has released eight leaders of the ANC, most of whom had been jailed for more than a quarter century. He allowed one of them, ANC leader Walter Sisulu, to be interviewed for an hour and a half on South African television, even though technically it was still an act of treason to quote a member of the ANC. He has announced the release of Nelson Mandela so frequently that both the press and the right wing are now completely used to the idea. He has bowed to the Mass Democratic Movement's fall Defiance Campaign and officially desegregated the vast beautiful beaches of Cape Town, Durban, and Port Elizabeth just in time for the summer Christmas holidays. Then, in his opening speech to Parliament on February 2, he an-

nounced a wave of new reforms, including the unbanning of the ANC and several dozen other organizations, the limitation of detention without trial to six months, and the partial lifting of the government's restrictions on the media.

Most anti-apartheid activists in South Africa do not believe that de Klerk has reached the point of no return because "Pretoriastroika," as the papers are calling it, has not yet touched the central pillars of apartheid legislation. Citizens are still subject to the Population Registration Act, which requires every person in South Africa to obtain an official racial designation; to the Separate Amenities Act, which says that racially segregated facilities can be unequal in quality; and to the Group Areas Act, which continues to force residents of different racial groups into different territories. Similarly, the government has not shown any signs of dismantling the grossly inequitable homelands system or addressing the deepening crisis of black education, in which tens of thousands of African children are being denied education while white schools are closing because there are too few white students.

Despite the legitimate skepticism of those who watched de Klerk's predecessor, P.W. Botha, use cosmetic reforms to conceal his efforts to turn South Africa into a highly militarized national security state, there are important signs that South Africa is lurching toward a new dispensation. In some areas the transformation is already well under way. The repeated attempts by the South African government at the provincial and local level to install cooperative black leaders have generally failed. Most local citizens—following a call by the interlocking organizations of the United Democrat Front (UDF), the Congress of South African Trade Unions (COSATU), the Mass Democratic Movement (MDM), and the ANC—boycotted the elections that installed city councils in the huge, sprawling townships that ring South Africa's cities. The UDF/MDM leaders have set up alternative community organizations elected and administered through an intricate system of street committees. In some cases, as in the colossal township of Soweto outside Johannesburg, the elected civil authorities have agreed to work closely with the community organizations, and thus formed a more or less united front against white authorities. In others, such as the Crossroads camp outside Cape Town, continuing tension between the parallel political structures has led to repeated incidents of violence and retribution.

During the worst days of the states of emergency (the first in 1985 and the second from 1986 until now), the leaders of the UDF were detained for months and the structure was depleted. De Klerk has allowed a thaw, which in many townships has permitted UDF/MDM community organizations to consolidate their informal system into a de facto government. More significantly, important white political and economic organizations have been forced to recognize their legitimacy.

For example, the Soweto People's Delegation (SPD)—a community organization whose board includes Archbishop Desmond Tutu, South African Council of Churches President Frank Chikane, and Alberta Sisulu, wife of Walter Sisulu—has been negotiating directly with the management of ESCOM, the national electric utility that serves both Soweto and the white suburbs of Johannesburg. For more than two years the township has been putting pressure on the government and the utility by refusing to pay rents and electric bills—the cost to ESCOM alone has been more than seven million rand a month ($2.8 million), which the national government has quietly paid to keep the institution solvent. As part of the preliminary conditions for ending the boycotts, the SPD asked ESCOM to accept a unified electric network and user fee for all of greater Johannesburg, instead of the current artificial separation into white and black communities. The negotiators for ESCOM agreed, but the Johannesburg City Council so far has refused to accept this without a mandate from the white voters. On January 25 a similar meeting in Port Elizabeth on the eastern Cape included community organizations, ESCOM executives, and Nationalist Party members of Parliament. They concluded in principle that a unified electrical system made economic, technical, and political sense.

Such negotiations have demonstrated that South Africa's ruling institutions can resolve local conflicts only through direct negotiation with those recognized by the community. In some communities, such as Cape Town, there has even been a strange role reversal as eager white municipal authorities trying to break down the artificial boundaries created by apartheid have been spurned by community activists who have been committed for decades to non-collaboration until majority rule.

De Klerk's actions, whether voluntary or coerced, have raised expectations so high that discussions among government officials, union leaders, business executives, university faculty, ANC members, and local activists have shifted from whether there will be majority rule to what it will look like when it comes. Everyone agrees that the transition, even if peaceful, will not be easy. Since World War II South Africa's economy has been grossly distorted by the weird restrictions of apartheid, by excessive economic concentration, and by authoritarian government control. Trade and financial sanctions, though widely acknowledged as having had an important role in moving the white regime toward reform, have steadily whittled down the country's growth rate.

A new government, whether it comes in a year or in a decade, will have to make complex decisions about wealth distribution, nationalization, capital investment, and industrial and residential development. The external officials of the ANC, mindful of the events in Eastern Europe, have gone far out of their way to reassure Western governments and companies that what they seek is not a centralized state but a mixed economy. But local activists in the unions and in the townships—who still refer to each other as "comrade"—are deeply suspicious that the collapse of communism they see on state-controlled television is another Nationalist Party trick to weaken their resolve. In Port Elizabeth, for example, a local union organizer insisted that the people of Eastern Europe had not rejected socialism or state ownership of the means of production but had merely purged themselves of corrupt leaders.

Economic issues are not the only important features being debated. At a January conference organized by IDASA at the University of Cape Town on the slope of Table Mountain, participants from across racial and political lines discussed the new structures that would be necessary for "democratic accountability" in a new South Africa. All recognized that after 42 years certain basic institutions that had been warped by the Nationalist Party's obsession with race would have to be straightened out or scrapped and rebuilt. In sessions stretching over three days, business, government, union, and ANC-affiliated participants debated the merits and dimensions of a democracy. After many years in which judges have been subordinate to the legislature, legal scholars pondered what it would be like to have a truly independent judiciary. After more than two decades since the abolition of juries, advocates pondered what it would mean to have a trial by one's peers in South Africa. Journalists eagerly discussed the merits of a truly unfettered press, which for many included the possibility of some sort of economically determined state subsidy to prevent the affluent white minority from overwhelming the editorial mission of papers through the exigencies of advertising. Political activists debated the idea of a South African bill of rights and differed over whether it should follow a more libertarian model, as in the United States, or include social rights such as employment, health, and housing, as is popular in European countries controlled by social democrats.

The debate brought to light some serious disagreements. One prominent conservative journalist, Ken Owen of Business Day, stomped out of the room when a small committee proposed a resolution recommending that editors continue to test government restrictions by quoting banned individuals. White liberals peppered one representative of the United Democratic Front over his use of the term "collective leadership" until they were satisfied that he was not sneaking in Stalinism under the guise of democracy. Nonetheless, at the end of the conference a remarkable mood of consensus had developed that South Africans of all races would have an excellent chance of success in building a new polity.

This optimism could still easily be shattered. Mandela, whose stature has grown to mythic proportions while in prison, is not yet free. When released, he may not long have the power to draw the many different anti-apartheid movements together under the umbrella of the ANC. Though Mandela has sent conciliatory messages from prison to the leaders of the various homelands, he will have to negotiate a particularly tricky peace with Kwazulu Chief Minister Mangosuthu Gatsha Buthelezi. This is made harder every month as more and more ANC and Buthelezi supporters kill each other in what approaches civil war in Natal. On the government side, the reactionary Conservative Party is still searching for ways to block de Klerk's efforts, and the neo-Nazi AWB (Afrikaner Resistance Movement) may develop into a vicious South African Ku Klux Klan. Indeed, de Klerk's authority and integrity are being tested by compelling allegations that over the past decade many activists were gunned down by a government-approved death squad. So far de Klerk has smothered any new revelations by refusing to appoint a commission of inquiry and leaving the police to investigate themselves. But the high probability that more right-wing violence will explode as de Klerk edges toward negotiations means that both de Klerk and the ANC will have to exercise tremendous discipline in order to see the process through.

De Klerk bristled publicly when told that U.S. Assistant Secretary of State for African Affairs Herman Cohen and the Democratic leadership in Congress have reached an agreement to delay the consideration of new

economic sanctions until the end of South Africa's parliamentary session in June. The deadline, however, is real and is largely the result of de Klerk's own actions. On February 2, de Klerk told his country and the world that more significant reforms are forthcoming and that "the time for negotiation has arrived", he should not grumble if millions of his own citizens from all races take him at his word. Those citizens are already designing and building a new country from the bottom up, and they are looking for his support. If Parliament closes without major new developments, the anticipation that has arisen in the cities and the townships could explode, triggering more repression, more violence, more international sanctions, and more misery. But if de Klerk can navigate into serious negotiations with a freed Nelson Mandela at the head of a unified ANC, then South Africa's long detour through the ugly depths of legalized racism may at last come to an end.

(Robert K. Massie, Jr., teaches at Harvard Divinity School and is writing a book on the history of the South African divestment movement in the United States.)●

DRUG RESISTANCE EDUCATION

● Mr. LEVIN. Mr. President, I wanted to take this opportunity to draw attention to an article that appeared in the Washington Post while the Senate was in recess and most of my colleagues and I were back home.

The article reported that a comprehensive study of the drug-Prevention Program found a significant decrease in the use of marijuana and tobacco among eighth graders trained in resisting peer pressure from drug users. Mr. President, this is good news, and it confirms what I've been hearing across the State of Michigan—drug resistance education is working.

I spent a great deal of my time last week meeting with law enforcement officials across Michigan. But whether in rural or urban Michigan, law enforcement officers in the front lines of our battle against drugs had the same message. They said while they need tough laws and the resources to prosecute and put drug traffickers away, they cannot win this war alone. They told me that in our families and in our schools we need to teach our kids how to say no to drugs before they start using them.

In Michigan, over 50,000 fifth and sixth graders will take part in the DARE Program or other similar programs which teach kids about drugs and how to resist them. But we're still not reaching every fifth and sixth grader in Michigan and other States, and we must. I'm pleased that last month the Senate passed an amendment that will provide $10 million for DARE and similar drug education programs nationwide.

Americans can win this war on drugs, and we'll do it by keeping our children off drugs. This Washington Post article documents what we already know—that drug education is working. Mr. President, I ask that it be included in the RECORD.

The article follows:

[From the Washington Post, Mar. 16, 1990]

YOUNGSTERS RESIST PEER PRESSURE TO USE DRUGS

(By Jay Mathews)

Los Angeles, March 15.—California researchers, unveiling what they called the most rigorous survey of a drug-prevention program in American schools, today reported significant decreases in use of marijuana and tobacco among eighth graders trained in resisting peer pressure from drug users.

The Rand Corp. study of 4,000 12- to 14-years-olds in California and Oregon showed that Project ALERT, scheduled for national expansion, reduced the number of children trying marijuana by one-third and halved the number who moved from experimenting with cigarettes to regular tobacco use.

"Our findings undercut three common criticisms of prevention programs: that they work only for children who don't really need them, that they prevent only trivial levels of use and that they are only effective in white middle-class communities," said Phyllis L. Ellickson, a senior behavioral scientist at Rand.

A report on the $8.8 million study funded by the Conrad N. Hilton Foundation is to appear in Friday's editions of the journal Science. Foundation President Donald H. Hubbs said the foundation plans to make the Rand-developed curriculum "avaliable to school districts throughout the country."

The report said the program of eight lessons in seventh grade and three "booster" sessions the following year worked in affluent and disadvantaged schools but seemed to have sightly more impact in schools with a higher percentge of minorities.

Researchers checked results by examining students in 10 schools where teachers alone presented the Project ALERT (Adolescent Learning Experiences in Resistance Training) program, 10 schools where they were assisted by older teenagers and 10 schools left to pursue whatever drug-prevention programs were already in place.

Voluntary saliva tests and other methods were used to ensure accuracy, the report said.

Conducted between 1984 and 1986, the programs included lessons on effects of drugs, student discussion of external and internal pressures to use drugs and training in resisting drug use through practice conversations, skits, posters and written scenarios.

Contrary to researchers expectations, the report said, teachers were just as effective working alone as when assisted by older teens.

The report noted that the project was not an unalloyed success. Seventh graders already regular smokers maintained or increased tobacco use in what Rand said "appeared to be a rebellious reaction to the program's message."

Alcohol use declined after initial seventh-grade lessons but, despite the booster sessions, returned to normal graders reported drinking at least once a month.

"We think this erosion occurred because the widespread prevalence of alcohol use in society at large, as well as in the schools that participated in our experiment, undermined curriculum messages about resisting pressures to drink," the report said.

Continued acceptance of alcohol by adults and media, and efforts to legalize any other drugs, will weaken the program, the researchers said.

The researchers concluded that the booster sessions were essential to maintaining limits on marijuana use and resistance to smoking among non-regular users. Additional booster lessons, they said, may be needed to maintain those gains as the researchers follow the students into high school.

In an interview, Ellickson said the project did not focus on crack cocaine because of the age of the participants but might have to add crack resistance to the program as students encounter the drug in high school.●

NEW HAMPSHIRE SUNDAY NEWS

● Mr. HUMPHREY. Mr. President, last week the New Hampshire Sunday News, for the first time in its history, surpassed the circulation figure of 100,000 copies.

On October 6, 1946, after five unsuccessful attempts to launch a Sunday newspaper in New Hampshire, the New Hampshire Sunday News began as the realization of a dream and an idea of B.J. McQuaid. It was a hard-hitting journal that sought out the controversial, and, because it was a weekly, it was able to dig down to find the loose ends and unanswered questions.

The price of running even a weekly paper took its toll on the fledgling enterprise and, after a successful first year, McQuaid reached the conclusion that, if the paper were going to experience real growth, it would have to merge with the Union Leader under it's irrepressible publisher, William Loeb.

When the merger was completed the Sunday News took full advantage of the expertise of the Union Leader's business and advertising staffs as well as the wide network of Union Leader reporters and correspondents who supplemented the Sunday News' already outstanding staff.

The rest is history. Over the years, the investigative reporters have saved the taxpayers of the Granite State millions of dollars and won the admiration not only of the citizenry, but the State legislature as well.

As today's Sunday News leaves behind one record and sets out to achieve another, it is fitting to extend congratulations to the publisher, Nackey Loeb, to the editor-in-chief, Joe McQuaid, to Michael Rhodes and to the entire staff. May they long strive to keep the Granite State the national bedrock of sound conservative values.●

JERUSALEM AND THE PEACE PROCESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Concurrent Resolution 106 regarding Jerusalem and the peace proc-

ess, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 106) expressing the sense of the Congress concerning Jerusalem and the peace process.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

● Mr. MOYNIHAN. Mr. President, Senate Concurrent Resolution 106 is a measure which expresses the Senate's strong and unambiguous support for a united Jerusalem. By adopting the concurrent resolution the Senate also acknowledges that Jerusalem has been selected by the State of Israel as its eternal capital.

I am extremely pleased that this measure enjoys such broad and bipartisan sponsorship. Support for Israel and for peace in the Middle East is something which should unite rather than divide us. I believe that the swift and bipartisan adoption of the concurrent resolution represents a clear statement by the Senate that President Bush's statements on east Jerusalem were unwise and untimely. In the words of the resolution, such ambiguous statements about the status of Jerusalem raise the fears which "inhibit and complicate the search for a lasting peace" in the Middle East. I hope that this action by the Senate will help to put such fears to rest.

Mr. President, I ask that the following Senators be added as cosponsors to Senate Concurrent Resolution 106 concerning Jerusalem and the peace process: Mr. FORD, Mr. ROBB, Mr. ROCKEFELLER, Mr. INOUYE, Ms. MIKULSKI, Mr. REID, Mr. BREAUX, Mr. MATSUNAGA, Mr. BRADLEY, Mr. SASSER, Mr. BAUCUS, Mr. HOLLINGS, Mr. HEFLIN, Mr. BRYAN, Mr. PRYOR, Mr. BINGAMAN, Mr. FOWLER, Mr. DASHLE, Mr. BOREN, Mr. DANFORTH, Mr. MURKOWSKI, Mr. DOMENICI, Mr. GRAMM, Mr. HEINZ, Mr. HELMS, Mr. HUMPHREY, Mrs. KASSEBAUM, Mr. NICKLES, Mr. PRESSLER, Mr. THURMOND, Mr. WARNER, Mr. DOLE, Mr. GARN, Mr. ROTH, Mr. RUDMAN, Mr. SIMPSON, Mr. STEVENS, and Mr. COCHRAN.●

Mr. BOSCHWITZ. Mr. President, I am pleased to join with my colleague from New York, Mr. MOYNIHAN, in sponsoring this concurrent resolution setting out the view of the Congress on the subject of Jerusalem. That view, which is held overwhelmingly in this body, is that we acknowledge that Jerusalem is the capital of the State of Israel and that it must remain an undivided city in which the rights of every ethnic and religious group are protected.

The issue of Jerusalem has, I think needlessly, become a matter of contention in the current peace process in the Middle East. The issue has been raised by several parties, and, most importantly for Americans, was addressed by President Bush during a recent conference.

After reading President Bush's remarks, I wrote to him, together with several colleagues, asking that he clarify that the long-standing administration policy on Jerusalem had not been altered. In an eloquent letter, he responded that his administration's peace efforts were not designed to promote the redivision of Jerusalem, and that he would oppose any such effort. The President closed his letter by stating that "no peace that I can envision would deny Jews the right to live anywhere in this special city of Jerusalem."

It is not our intention to question or to override the administration's position or its prerogatives with regard to the making of foreign policy. We ought, however, to supplement the President's statement with one of our own: The issue has become one of such concern that our views should be quite clear. It is for that reason that I joined my friend from New York in this effort.

Here, we say that we are willing to acknowledge that Jerusalem is and should remain the capital of the State of Israel, even though that statement is not on all fours with the administration's policy.

It should be clear that what unites Americans on Middle East policy is far more important than what divides us. Most importantly, we all support a redoubling of the important efforts, led by the President and the Secretary of State, to advance the Middle East peace process. The resolution before us calls upon "all parties involved in the search for peace to maintain their strong efforts to bring about negotiations between Israel and Palestinian representatives".

The Hebrew words for "Jerusalem", "whole" and "peace" all derive from the same root, signifying "unity." It was therefore quite fitting for the President to quote, in his letter to me, from his message to Jerusalem's Mayor Kollek that "it is the pursuit of peace that ought to take priority, for only with peace can Jerusalem truly be open and whole."

Mr. President, I ask unanimous consent that the text of the letter I and several colleagues wrote to the President, together with the President's reply, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 14, 1990.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Jerusalem has a place in the hearts of the American people and of people throughout the world. Whether Christian, Jewish, or Moslem, they look to it as a symbol of peace and a source of spiritual inspiration.

Jerusalem is the spiritual center of the Jewish faith, and for Israelis, it is their capital. For over twenty-five hundred years, as Jewish people yearned to return to Zion, they recalled Jerusalem in their prayers. Thus, above all, Jerusalem has special meaning to the Jewish people. But their devotion to Jerusalem has not meant the exclusion of others. When Jerusalem was reunited in 1967, a tragic period in its history ended; now people of every faith enjoy free access to their holy places.

We agree with long-standing United States policy that Jerusalem should never again be divided and that its people should be free to live wherever they wish without regard to their faith. In our view, the status of Jerusalem need not be settled early in the current peace process, and it should not be linked to other issues.

We are deeply concerned, however, that recent statements on the subject of Jerusalem may raise doubts as to whether that policy has changed. In particular, these statements could raise doubts about our long-standing commitment to the right of Jews to live in Jerusalem.

Jerusalem is a city unique in the world, a mosaic of diverse ethnic and religious groups living together in peace. That peace reigns in Jerusalem, despite its diversity, gives us hope that peace may be achieved throughout the Middle East.

Mr. President, we support your determination to advance the peace process in the Middle East. We believe, however, that your clarification that our policy on Jerusalem has not changed is urgently needed now. Even though the constraints of time prevented us from asking more of our colleagues to join in this letter, we believe that most of them share our concerns.

Sincerely,

Benjamin A. Gilman, Pete Wilson, Alfonse M. D'Amato, Carl Levin, Connie Mack, Rudy Boschwitz, Joseph I. Lieberman, John McCain, Larry Pressler.

THE WHITE HOUSE,
Washington, DC, March 20, 1990.

Hon. RUDY BOSCHWITZ,
U.S. Senate,
Washington, DC.

DEAR RUDY: Thank you for your thoughtful letter of March 14. I have thought a great deal about the issues you raised, and I appreciate the opportunity to reaffirm how much in common are our views on the need to advance the peace process in the Middle East.

I am well aware of the historical attachment of the Jewish people to Jerusalem, that most wonderful of cities, unique in its character, beauty, and significance. Jerusalem is a city where Jews, Christians, and Muslims have lived together for centuries. It is my keen appreciation of Jerusalem's uniqueness that led me to write just days ago to its esteemed Mayor, Teddy Kollek:

". . . Jerusalem must never again be a divided city. We did not approve of the status quo before 1967; in no way do we advocate a return to it now. This was and is the policy

of the United States, and it is my policy. Our efforts in the peace process are in no way designed to promote the division of Jerusalem. We would oppose any such effort.

"It is also our view that the final status of this most special of cities should be decided by negotiation, and that this negotiation would be facilitated if we were well along the path toward peace. There is thus no intention on our part to focus now on the final status of Jerusalem. It is also our view, just as it has been the view of the United States since 1967, that all sides should be taking steps to get to negotiations and avoiding steps that could prejudice the prospects for these negotiations."

As I told Mayor Kollek, it "is the pursuit of peace that ought to take priority, for only with peace can Jerusalem truly be open and whole." Recent political developments in Israel have centered on the peace process, and made clear the importance of moving forward. It is time to get to an Israeli-Palestinian dialogue on elections leading to negotiations. And it is time to strive, together with our strategic friend and ally Israel, toward peace. No peace that I can envision would deny Jews the right to live anywhere in this special city of Jerusalem.

Sincerely,

GEORGE BUSH.

Mr. LAUTENBERG. Mr. President, I rise as an original cosponsor of Senate Concurrent Resolution 106 to express my objection to the President's recent statements on the issue of Jerusalem. I want to reaffirm my view, as expressed in this resolution, that Jerusalem must remain the undivided capital of Israel, our friend and closest ally in the Middle East. I believe that this is also the view of the Senate, since this concurrent resolution has been cosponsored by more than half of my colleagues.

I take issue with the President's recent remarks on so-called Israeli "settlements" in Jerusalem, remarks which have caused great concern here at home and in Israel. They have unnecessarily reopened an extremely sensitive issue at a delicate stage in the peace process, and have jeopardized Israel's view of the United States as a reliable partner for peace.

Since the birth of the state of Israel in 1948, Jerusalem has been its political capital. But for 3,000 years, Jerusalem has been the spiritual capital of world Jewry and the focus of Jewish national and religious yearning. Jerusalem holds unparalleled religious, historic and emotional significance for Jews throughout the world. Because of Jerusalem's unique importance, Jews the world over and both major parties in Israel agree it must remain the undivided capital of the Jewish State.

Jerusalem is not only of paramount importance to the Jewish religion, but is also holy to other major religions in the world. Yet it is only since Jerusalem was unified under Israeli control in 1967 that the sites sacred to Christianity, Islam, and Judaism have been protected and open to all.

During the 19-year Jordanian occupation of East Jerusalem, Jews of all nationalities and Israelis of all religions were denied access to their holy sites. Jewish gravestones were desecrated; they were used to build latrines and roads. King Hussein sought to systematically eliminate all traces of Jewish heritage from East Jerusalem. The pain of this shocking desecration has been permanently seared into Jewish memory, creating an unshakeable determination never to permit it to happen again. East Jerusalem must remain under Israeli sovereignty and control.

The President's statement on so-called Jewish "settlements" in east Jerusalem represents a change in long-standing U.S. policy and attitudes on this issue. The right of Jews to live throughout a united Jerusalem has never before been questioned by any American President. Since 1967, administrations of both parties have been sensitive to the special status of the city.

Jerusalem is not the same as the West Bank and Gaza, and a United States policy which equates Jewish settlements in the territories and Jewish housing in East Jerusalem represents a departure from well-established United States policy. Successive administrations have made it clear that the land for peace formula has never applied to Jerusalem.

I hope the President will reconsider your statements and remove any doubt that United States policy on Jerusalem remains unchanged. I believe such a clarification would be extremely helpful for advancing the peace process currently underway.

I urge my colleagues to quickly adopt this concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 106) was agreed to.

The preamble was agreed to.

The concurrent resolution and its preamble are as follows:

S. CON. RES. 106

Whereas the State of Israel has declared Jerusalem to be its capital;

Whereas from 1948 to 1967 Jerusalem was a divided city and Israeli citizens of all faiths were not permitted access to holy sites in the area controlled by Jordan;

Whereas since 1967, Jerusalem has been a united city administered by Israel and persons of all religious faiths have been guaranteed full access to holy sites within the city;

Whereas the President and the Secretary of State have demonstrated their strong desire to achieve a just and lasting peace in the Middle East and have worked diligently toward that end;

Whereas ambiguous statements by the Government of the United States concerning the right of Jews to live in all parts of Jerusalem raise concerns in Israel that Jerusalem might one day be redivided and access to religious sites in Jerusalem denied to Israel citizens; and

Whereas such concerns inhibit and complicate the search for a lasting peace in the region: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) acknowledges that Jerusalem is and should remain the capital of the State of Israel;

(2) strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic religious groups are protected; and

(3) calls upon all parties involved in the search for peace to maintain their strong efforts to bring about negotiations between Israel and Palestinian representatives.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF FOR NATIONAL FORESTS DAMAGED BY HURRICANE HUGO

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 483, S. 2306, a bill to provide relief for national forests damaged by Hurricane Hugo.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2306) to provide relief for national forests damaged by Hurricane Hugo, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

S. 2306—TO PROVIDE RELIEF FOR FORESTS DAMAGED BY HUGO

Mr. SANFORD. Mr. President, I rise today to support S. 2306 which is legislation to provide relief for national forests damaged by Hurricane Hugo.

As the Members of this body know, Hurricane Hugo left a path of destruction in its wake from Puerto Rico through parts of Virginia. The forces of Hugo literally wrenched trees from the ground and scattered them across the landscape. Especially problematic is the fact that if the debris is not cleared soon, it will dry, and will be a major source of forest fires.

The Carolinas were devastated by the worst hurricane to hit the eastern coast in two decades. While the South Carolina coast bore the initial blow from the storm, the coastline of North Carolina and the western part of the State also sustained terrible damage. Fifty-one North Carolina counties sustained wind and flood damage from

the hurricane, and 29 counties in the State have been declared national disaster areas.

To put this in perspective, Hurricane Hugo ravaged enough Carolinas pine trees to build 430,000 houses and print 1.6 billion National Geographic magazines. Storm damages for the State of North Carolina will exceed $400 million.

I have visited areas hit by Hurricane Hugo and have heard numerous stories of personal tragedies and heroic relief efforts, and I am pleased that the Federal Government will be instrumental in helping the determined people of North Carolina.

This bill requires the Secretary of Agriculture to reforest lands in the National Forest System, and this reforestation shall be completed within 10 years. Further, the Secretary shall expeditiously salvage timber, with an emphasis on protecting human safety and endangered species.

Further, the legislation requires the Secretary to restore fish and wildlife habitats and watersheds and he is required to remove or mitigate fire hazards and provide resources for detection and suppression of forest fires.

Finally, the bill requires the Secretary to manage wilderness areas, study forested ecosystems and renewable forest resources, and research means to rebuild threatened and endangered species.

These matters cannot be neglected further, and this important legislation merits serious consideration. I strongly support this legislation, and encourage my colleagues to reaffirm their commitment to the preservation and protection of our National Forest System.

Mr. THURMOND. Mr. President, today, I rise to support passage of S. 2306, a bill which will provide relief for national forests and vegetable farmers whose crops were damaged by Hurricane Hugo. I was pleased to join with Senator HOLLINGS in introducing this urgently needed legislation.

When Hurricane Hugo hit South Carolina, it caused damage unseen in modern history. Crops were flattened, cotton was pulled out of the boll, and trees were snapped like toothpicks.

This legislation will provide two main benefits to the areas affected by this disaster. Specifically, this bill will aid in restoring the Francis Marion National Forest and provide assistance to the vegetable growers whose crops were damaged.

The National Forest suffered extensive destruction. Nearly 70 percent of the sawtimber in the Francis Marion National Forest was blown down or broken off 10 to 25 feet above the ground. These trees were once the nesting grounds for the endangered red-cockaded woodpecker. The damaged sawtimber has filled streams with debris causing flooding and erosion problems.

This bill sets priorities to restoring the Francis Marion National Forest. Specifically, this legislation directs the Secretary of Agriculture to conduct the salvage timber sales in a manner which takes into account the impact of these sales on the regional market, protects and restores the habitats of threatened and endangered species, as well as clean up areas where damaged trees pose a threat to human safety.

The last component of this bill will amend the Disaster Assistance Act of 1989 to separate the spring and fall vegetable crops damaged by Hurricane Hugo when calculating yields. Currently, the disaster payments are calculated by combining the fall and spring crops. These crops require separate acreage for planting and should not be considered a single crop.

Mr. President, this legislation will help restore the areas devastated by this horrible disaster. I thank my colleagues for expeditiously passing this important legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL FORESTS

SEC. 101 DEFINITIONS.

As used in this subtitle:

(1) DISASTER.—The term "disaster" means Hurricane Hugo or the Loma Prieta Earthquake.

(2) FOREST MANAGEMENT PLAN.—The term "forest management plan" means a land and resource management plan prepared pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) for units of the National Forest System affected by the disasters.

(3) *Secretary.*—The term "Secretary" means the Secretary of Agriculture.

(4) VIRGIN ISLANDS.—The term "Virgin Islands" means the United States Virgin Islands.

SEC. 102. FOREST SERVICE.

(a) TIMBER SALVAGE.—(1) The Secretary shall expeditiously salvage timber to the extent practicable on National Forest System lands damaged by the disasters.

(2) In conducting timber salvage, the Secretary shall, to the extent practicable, assign priority to—

(A) areas where damaged trees pose a threat to human safety;

(B) protection and restoration of the habitats of threatened and endangered species; and

(C) offering salvaged timber in a manner which shall take into account the impact of such sales on the regional market value.

(b) REFORESTATION.—(1) The Secretary shall reforest forest lands in the National Forest System damaged by the disasters as the Secretary deems appropriate.

(2) To the extent practicable with appropriations made available for the purpose, reforestation described in paragraph (1) shall be completed not later than ten years after the date of enactment of this Act.

(3) In conducting reforestation, the Secretary shall, to the extent practicable, assign priority to—

(A) areas as appropriate in view of the land allocations made in forest management plans; and

(B) protection and restoration of threatened and endangered species habitat and historic plant communities.

(c) FISH AND WILDLIFE HABITAT RESTORATION.—(1) The Secretary shall, subject to the availability of funds, immediately implement fish and wildlife habitat restoration projects to mitigate impacts on National Forest System lands damaged by the disasters.

(2) In conducting fish and wildlife habitat restoration projects the Secretary shall assign priority to activities that restore the habitat of the red-cockaded woodpecker, the Puerto Rican parrot, and other threatened and endangered species.

(d) RESTORATION OF WATERSHEDS.—(1) The Secretary shall, subject to the availability of funds, immediately take actions necessary to restore watersheds on National Forest System lands damaged by the disasters.

(2) In conducting restoration of watersheds, the Secretary shall assign priority to actions necessary to restore community water sources and natural stream flows, wetland values, and hydrolic functions impaired as a result of other salvage effort.

(e) FIRE PREVENTION AND MANAGEMENT.—(1) The Secretary shall immediately make an assessment of the impacts of and risks associated with forest fuel accumulations on National Forest System lands as a result of timber damaged by the disasters.

(2) Based on the assessment required by paragraph (1), the Secretary shall—

(A) develop and implement plans for action to reduce or mitigate fire hazards to acceptable levels in accordance with forest management plan objectives; and

(B) provide resources for detection and suppression of forest fires and the positioning of fire suppression forces and equipment consistent with existing agency policy on fire management.

(f) INSECT AND DISEASE PREVENTION AND MANAGEMENT.—(1) The Secretary shall conduct a preliminary survey of National Forest System lands damaged by the disasters to determine the extent to which it may be necessary to—

(A) increase insect and disease detection and evaluation activities above normal levels; or

(B) conduct detailed aerial or ground surveys to assess current and potential impacts from insect population buildups.

(2) Based on biological environmental analyses developed in the survey required by paragraph (1), the Secretary shall take action to protect resource values from further damage by insects and disease consistent with applicable law.

(g) DAMAGED FACILITIES AND LANDS.—(1) The Secretary may repair, reconstruct, and replace Forest Service facilities and restore lands damaged by the disasters to their full productive potential consistent with applicable law.

(2) The Secretary shall, subject to the availability of funds, take immediate action to restore damaged recreational facilities to a condition that will permit public use,

giving priority to action that will ensure public health and safety.

(h) WILDERNESS AREAS.—Not later than six months after the date of enactment of this Act, the Secretary shall submit to Congress a report stating the Secretary's plans with respect to the management of areas damaged by the disasters that are areas designated as wilderness under the Wilderness Act (16 U.S.C. 1131 et seq.), in particular, fire, insect, and disease management.

(i) RESPONSE OF FORESTED ECOSYSTEMS RESEARCH.—(1) The Secretary shall immediately begin such studies as the Secretary deems necessary to characterize and quantify the swift changes underway in ecological processes immediately following the disasters that may affect near- and long-term forest productivity and biodiversity, and shall assess the prospective effects of such changes on local economies.

(2) The studies described in paragraph (1)—

(A) shall be within the scope of the research authorized by section 3 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642); and

(B) are not intended to supplant research programs planned for fiscal years 1990 through 1992.

(j) RENEWABLE RESOURCES SURVEYS AND ANALYSIS.—(1) The Secretary shall—

(A) conduct a comprehensive survey and analysis of the present and prospective conditions of and requirements for renewable forest resources in the areas of North Carolina, South Carolina, Virginia, Puerto Rico, and the Virgin Islands that were affected by Hurricane Hugo; and

(B) provide technical and financial assistance, as determined to be necessary by the Secretary, for renewable forest resource surveys of Guadeloupe, Saint Martin, Saint Kit, and Montserrat, if the President receives a formal request for such assistance from the governments of those islands.

(2) Assistance under paragraph (1)(B) may include—

(A) acquiring and interpreting satellite imagery and aerial photographs;

(B) organizing and conducting surveys; and

(C) collecting and analyzing data.

(k) THREATENED AND ENDANGERED SPECIES RESEARCH.—(1) The Secretary, in consultation with the Secretary of the Interior, shall conduct such research as the Secretary determines to be necessary and prudent to develop means to restore and improve habitats of the red-cockaded woodpecker in the Francis Marion National Forest, South Carolina, and of the Puerto Rican parrot in the Luquillo Experimental Forest of the Caribbean Forest, Puerto Rico, that were damaged by Hurricane Hugo.

(2) To help rebuild wild populations and replace birds killed by Hurricane Hugo, the Secretary may, pursuant to paragraph (1), create artificial nesting cavities and use nonchemical predator protection methods for nesting birds, coordinate the efforts of and cooperate with other agencies and organizations, and use other wildlife management methods deemed necessary by the Secretary.

(3) Not later than March 1, 1992, the Secretary shall, in consultation with the Secretary of the Interior, transmit to the President of the Senate and the Speaker of the House of Representatives a report describing—

(A) all action taken by the Secretary to assist the recovery of red-cockaded woodpecker, the Puerto Rican parrot, and other threatened and endangered species populations;

(B) the results of those actions; and

(C) the condition of the threatened and endangered species populations as of January 1, 1992.

TITLE II—AGRICULTURE

SEC. 201. AMENDMENTS TO DISASTER ASSISTANCE ACT OF 1989.

(a) DETERMINATION OF CROP YIELDS.—Section 104(a)(1) of the Disaster Assistance Act of 1989 (Public Law 101-82) is amended by adding at the end the following subparagraph:

"(C) CLASSIFICATION OF CROPS.—The Secretary, for purposes of making a disaster payment under this subsection for any 1989 nonprogram crop that is planted in an area declared by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of Hurricane Hugo occurring in September, 1989, shall consider each crop of the same commodity that is planted for harvest on a farm for a different normal harvest period to be a different crop so long as the subsequent crop of such commodity is not planted on the same acreage on the farm as a previous crop of such commodity.".

(b) ORCHARDS.—Section 121(a) of the Disaster Assistance Act of 1989 (Public Law 101-82) is amended by inserting after "freeze" the following: ", Hurricane Hugo that occurred in the southeastern United States, Puerto Rico, and the Virgin Islands in September, 1989."

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR MONDAY, MARCH 26, 1990

RECESS UNTIL 12 NOON; MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon on Monday, March 26, and that following the time for the two leaders, there be a period for morning business not to extend beyond 1 p.m. with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, the Senate will resume consideration of the clean air bill at 1 p.m. on Monday with rollcall votes to occur during that day on any amendments that are considered during that day.

RECESS UNTIL MONDAY, MARCH 26, 1990

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess under the previous order until 12 noon on Monday, March 26.

There being no objection, the Senate, at 11:29 p.m., recessed until Monday, March 26, 1990.

NOMINATIONS

Executive nominations received by the Senate March 22, 1990:

THE JUDICIARY

STANLEY F. BIRCH, JR., OF GEORGIA, TO BE U.S. CIRCUIT JUDGE FOR THE 11TH CIRCUIT, VICE JAMES C. HILL, RETIRED.

DEPARTMENT OF THE TREASURY

TIMOTHY RYAN, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION FOR A TERM OF 5 YEARS.

EXTENSIONS OF REMARKS

LET MY PEOPLE GO! THE BLACK/JEWISH ECUMENICAL DIALOG

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. STOKES. Mr. Speaker, Rabbi David Gelfand of the Fairmount Temple in Beachwood, OH, recently brought to my attention the following article, which appeared in the January, 1990 volume of Ecumenical Trends. Prof. J. Deotis Roberts of the Eastern Baptist Theological Seminary in Philadelphia, PA is the author of the timely study on the kindred theological development of Jews and blacks

Mr. Speaker, Professor Roberts' article delves deeply into the theological dialog that is a common heritage shared by Jews and blacks throughout the history of mankind. I am pleased to share this thought-provoking article with my colleagues and hope they will take a moment to consider Dr. Roberts' remarks.

LET MY PEOPLE GO! THE BLACK/JEWISH ECUMENICAL DIALOG

(By J. Deotis Roberts)

Two events gave rise to these reflections. First, there was an exploratory visit to the Jewish Community Council in Philadelphia. As president of the Foundation for Religious and Educational Exchange, I made an exploratory visit to this Jewish organization to indicate my interest in cooperation on common projects. As I entered the office, with no set agenda, I observed these words in bold letters: "Let My People Go!" Then I knew what our conversation should be about.

The second event was the National Workshop on Jewish-Christian Relations in Charleston, South Carolina in Spring 1989, where I joined a rabbi and a Roman Catholic priest in conducting a symposium on liberation theology. As a result of this encounter, I was again challenged to develop further my reflections on the theme of this essay.

And yet there is hindsight which has paved the way to this recent interest in Jewish-Black conversation. I recalled the long history of Black/Jewish cooperation in the civil rights struggle in the U.S.A. I have been concerned about the anti-Semitic attitudes and statements of some black leaders. It has not eased the situation to observe that some Jewish leaders have assumed that all African Americans have the same outlook.[1] At any rate, there has been much tension, misunderstanding and mistrust resulting from several statements and encounters, which all have over-exposed in the media. There is, as a result, a great need for multiple efforts at people-to-people understanding between Jews and Blacks.

This relation is further strained by the treatment of Ethiopian Jews in Israel, the Israeli policy toward Palestinians, the association of Israel with the Republic of South Africa (especially military assistance) and the general tension between Arab and Jew. African Americans are usually kindly disposed toward followers of Allah and Yahweh, Moslems as well as Jews.[2]

BLACK AND JEWISH HISTORY: THE USE OF HEBREW SCRIPTURES

In the Charleston conversation, I became aware of the affinity I had, as a black theologian, with the outlook of the Jewish rabbi. Liberation theology, for Roman Catholics, is the version of theology developed by theologians in Latin America. Liberation theology, as developed by such representative theologians as G. Gutierrez and L. Boff must take church dogma, papal teachings, etc., into account. The Exodus, though important, does not have the emphatic biblical meaning as it has for Protestants in general, and Black christians in particular. Among Protestant Latin American theologians, J.M. Bonino, J. Pixley and S. Escobar weigh the Hebrew Scriptures seriously as a part of the biblical corpus. This latter group comes closer to the use of the Exodus paradigm as viewed by both Jewish and African American religious thinkers.

In my *Black Theology in Dialogue,* I underscored the similar manner in which Blacks and Jews have interpreted their historical experience of oppression and suffering with providential meaning.[3] The Old Testament is a treasured section of the Bible for Blacks. Except for the Gospels, with their focus on the life and ministry of Jesus, the Old Testament is generally read with meaning more often by Black Christians than the Epistles of Paul. In the Old Testament, God works dramatically in creation and especially through historical events in the life of Israel. African Americans find it easy to relate to the experience of the Hebrew People. And, therefore, as they reflect upon God's purposeful and saving work among the Hebrews, African Americans appropriate the message to their own lived-experience as a people in both slavery and freedom.

The Hebrews had a sense of covenant relation to God. They were a chosen people, as they understood their mission in history. They were enslaved in Egypt. They were delivered by God from servitude. They were seasoned in the wilderness for a special destiny. A religious nation emerged under the kingships of Saul, David and Solomon. But their nation was a theocracy. Their relation with God was precarious because of sin, idolatry and disobedience. God, on the other hand, was always faithful, forgiving and just. God was viewed as providential, a purposeful, powerful and sustaining Presence. Under Persian rule they returned from exile in Babylon to rebuild the holy city and restore their religious tradition. They were always a covenant people. Their history was always conceived in terms of how they related to God. Their destiny was determined by faithfulness or unfaithfulness to servanthood to God. They lived in redemptive history. Only thus does the life of this People have meaning. Exodus and Covenant belong together.

African American history did not originate in slavery, but in Africa. However, the history of Blacks in the United States, as in most of the New World, is almost identical with slavery as its initial stage. Slavery was so disruptive of our African past, that it became a crucial turning point in our history.[4] In this context we were introduced to the Hebrew Scriptures by slave masters. But some aspects of the biblical message appealed to our sensibilities more than others. The character of Moses and the event of the Exodus had their immediate impact. Thus from an early introduction to the Bible during the slavery period, Blacks have been attracted to the Hebrew Scriptures.

Most African and Asian peoples present religious and moral truths through stories. Africans came from a strong oral tradition. It is not too difficult to understand why an enslaved people derived immediate hope from a biblical story of deliverance. Moses and the Exodus provided biblical grounds for hope for African American slaves. The Exodus message, in which God delivered His people from Egyptian bondage, was direct in its impact upon the psyche of the Black slaves. So great was its appeal that many slaves first learned to read by reading biblical stories with great appeal, like the Exodus.

Along with the Exodus, Blacks have also considered the importance of the Covenant. The promise which God made to His people is based upon a redemptive relationship with God. Black preachers have often reminded their people of God's faithfulness and their people's disobedience. Justice and Judgment in God are balanced by "tender mercy" and "loving-kindness." We are often reminded in the Black Church tradition of the perils as well as the promises of being a people with a sense of being chosen. It is, therefore, important for us to frequently examine the Hebrew Scriptures to be aware of the way in which Exodus and Covenant are linked in Black as well as Jewish history.

THE MESSAGE OF THE PROPHETS

In Hebrew Scriptures we find the message of the prophets of social justice. These eighth century prophets like Isaiah, Amos, Hosea and Micah are seriously studied by Black Christians. The message of the prophets of social justice has united Black and Jewish leaders around human rights in the United States.

My personal experience is supported by years of research and reflection, as I make the assertion that the prophets of social justice have a decisive influence upon the Black Church tradition. In traditional literature, song and sermon, and prayer, the Hebrew Prophets have been often interpreted in light of the black religious experience.

The Exile of the Hebrews and the prophetic message related to this experience has been noted. Compare the experience of the Hebrew people with that of displaced Africans in America and one readily understands why meaning flowed forth from the Old Testament into black history and black religion. So powerful is this message of Exile, that one is tempted to exalt it above

Footnotes at end of article.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the Exodus. Blacks no less than the Hebrews know the meaning and agony of "singing the Lord's song in a strange land."

The analogy breaks down, however, when we consider the Return or Restoration. There has never been a successful "back to Africa" movement, whether sponsored by blacks or whites and for whatever reason. This is one reason why Afro-American rather than African American may be more appropriate in our actual self-understanding. A visit to Africa has profound meaning for many blacks, especially those in search of roots as a basis for self-understanding. But for most blacks Africa can never be more than a symbolic home.

Thus the Exile experience of the Hebrews has meaning. The message of the prophets of Exile, like Ezekiel has great power. But the Return or Restoration aspect does not have equal force for the reasons just stated.

We turn now to the social justice content of the Hebrew prophets. Traditional teaching and preaching from the prophets has balanced justice and judgment with love and forgiveness in God and in human relations. This means that we view the prophetic message as being directed to the chosen people as well as to the oppressors of the people of God. This has great significance as we draw ethical and theological conclusions in view of racism in the United States or South Africa.

The prophets were very explicit in stating the social justice content of the biblical message in relation to oppressed and oppressor alike. Black theologies as well as liberation theologies, often err in a one-directional application of the social justice content of the biblical message in the prophets. Obedient faithfulness and self forgetting servanthood accompany the cry for justice and mercy. God's requirements are made plain by Micah (6:8). It is, nevertheless, true that there are few words of comfort for the exploiters of the poor and disinherited. The force of the message of judgment is decisively against any dehumanizing act of the rich against the poor, the strong against the weak.

Again we are becoming more aware of what it means to read the Bible through the eyes of the victims. This, I believe, is where the exegesis from a liberationist perspective enriches the interpretation of the Hebrew Scriptures for Jews and Christians. One finds that the message once limited to the eighth century prophets may be found elsewhere in the Hebrew Scriptures in the Psalms, Jonah or Daniel. Here the unschooled black preacher has anticipated much that scholars have only recently discovered, being informed by the liberation theologians.

Finally, under this topic of prophecy, we see a smooth transition in black Christian understanding into the message and ministry of Jesus. Black scholars, like Howard Thurman, saw clearly "the Jewness of Jesus." Jesus participated, they believed, fully in the prophetic tradition. It was the human Jesus and his ministry among the poor and disinherited that moved the black preachers and scholars. More than forty years ago, Howard Thurman wrote his famous, *Jesus and the Disinherited,*[5] which established this view. More recently Albert Cleage, in his own way, has connected the long Hebrew tradition with his understanding of the ministry of Jesus in the black religious tradition.[6]

More powerfully, Martin Luther King, Jr., in sermon and essay, moved directly from Amos to Jesus in his understanding of racial justice. He combined sound biblical and theological reflection for a message of social justice. In M.L. King one finds rigorous scholarship combined with the best in black religion and biblical faith. The message of the love ethic is anchored at once in Hebrew Scriptures and the Sermon on the Mount.

CONCLUSION

The purpose of this essay has been to provide a perspective of dialogue between Jews and Blacks on the Hebrew Scriptures. The Hebrew Scriptures are shared by Jews and Blacks who adhere to the biblical faith. We have attempted to reflect on the history and experience of these two peoples in such a way as to draw some conclusions regarding the impact of certain biblical themes in the appropriation of the biblical message in the faith journeys of Jews and Blacks. It is obvious that we have viewed the subject out of the black experience.

The quest for deliverance, freedom, liberation is a controlling category in the experience of Jews and Blacks. The cry of the Exodus, "Let My People Go!" strikes a responsive and collaborative chord between Jews and Blacks. Thus freedom, supported by the quest for social justice, is critical for the comparative study of religious experience between Jews and Blacks. This brief look at the Exodus, the Prophets and Jesus, has led to the conclusion that much thought, action and life is shared between Jews and Blacks.

FOOTNOTES

[1] I use African American, Black and Afro-American interchangeably. Each of these designations has an important history and meaning.

[2] Marc Ellis has provided a Jewish point of view on the similarity of Black and Jewish liberation theologies. His political insights are presented with some detail in his *Toward a Jewish Theology of Liberation* (Maryknoll, NY: Orbis, 1987), esp. 2-4, 67-70.

[3] J. Deotis Roberts, *Black Theology in Dialogue* (Philadelphia: Westminster, 1987), 110-113.

[4] Gayraud S. Wilmore, *Black Religion and Black Radicalism* (Maryknoll, NY: Orbis, 1983), 1-28.

[5] Howard Thurman, *Jesus and the Disinherited* (New York: Harper, 1949).

[6] Albert Cleage, *The Black Messiah* (New York: Sheed and Ward, 1969).

TRIBUTE TO TOM HARMON

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. BROOMFIELD. Mr. Speaker, last Thursday Tom Harmon, the only Michigan football player to ever win the Heisman Trophy, passed away. During the late thirties and early forties Tom's name was synonymous with football. Although the University of Michigan did not capture any championships during those years, Tom Harmon's outstanding performance on the gridiron won the awe and admiration of the Nation.

As a young man I can remember the exciting radio broadcasts which showcased Tom as a superb athlete, demonstrating his mastery of the entire game from blocking to receiving. He was an unstoppable player whose career total of 33 touchdowns set a record in the Big Ten. Tom rushed for 2,134 yards and passed for 1,304. By the coaches and players alike; Tom Harmon was held in the highest esteem. His career was so spectacular that a biographical 1940 movie "Harmon of Indiana" was made which inspired countless youngsters.

When World War II began Tom Harmon enlisted in the Army Air Corps. He served his country heroically as a pilot and was shot down behind enemy lines while flying over China. It took a hellish month to return to his base. He was awarded the Purple Heart and the Silver Star for his service.

After the war Tom joined the Los Angeles Rams and then began a career as a sports broadcaster which he left in 1988. As a fitting end Tom Harmon even won the last golf tournament he entered at Bel Aire Country Club. He was an all around winner. I want to share this editorial which appeared in the Detroit News last week.

TOM HARMON

When Tom Harmon died last Thursday, Michigan lost one of its true sports legends. Mr. Harmon was the University of Michigan's only Heisman Trophy winner. But "Old 98," as he was called in reference to his jersey number, was a winner both on and off the field.

Mr. Harmon's most glorious exploits were as a Wolverine running back. He was a triple threat: He could run, he could pass, he could kick. Consequently he led the nation in scoring in 1939 and 1940.

It was his running ability, however, that provided most of the scoring. The speedy Mr. Harmon rushed for 2,134 yards in his three-year collegiate career while throwing for about 1,400 yards.

But his collegiate career had its tests. "I picked up a low grade in one of my courses and would have been ineligible for the coming season had I not been a freshman," Mr. Harmon wrote in his book, *Pilots Also Pray.* "So at least I had another season to straighten that out." And he did, showing the wisdom of disallowing freshmen from playing varsity sports.

His collegiate football performance should have led to a great professional football career, but World War II intervened. Indeed, it almost ended his life when fighter planes he was piloting were shot down twice. The second time, in China, after he bailed out, two Japanese planes circled him. Japanese pilots often would shoot parachuting American pilots. But Mr. Harmon made it to the ground with only bullet holes in his parachute.

Mr. Harmon survived to play football again. Unfortunately, war injuries had taken their toll on his legs. He spent two years with the Los Angeles Rams, but never displayed the same dazzling running that marked his earlier days. Still, he became a successful sports broadcaster.

Tom Harmon's competitive streak showed to the end. He won a California golf tournament just before suffering a heart attack. His character and ability made Tom Harmon one of the best football players of all time.

BROKEN PROMISES—ANNIVERSARY OF *VALDEZ* OILSPILL—MARCH 24

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Ms. PELOSI. Mr. Speaker, 1 year ago, this Saturday, we witnessed America's most devastating environmental disaster—the worst ever to occur.

The *Valdez* oilspill has provided us with living evidence that a catastrophe of this magnitude takes generations to restore.

We will watch days, months, and years pass as the Alaska environment struggles to make itself whole again, if that is truly possible.

According to a recent study, 10,000 oilspills have occurred since the *Valdez* catastrophe. Pursuing oil exploration is an antiquated notion, imbedded in short-sightedness. We must now look toward energy efficiency and alternative energy sources for the future.

No amount of money can repair what is irreparable. The investment to make in our environment is before the fact, not as a half-hearted preparation after the fact, when it's destroyed.

Our investment, and our responsibility, toward the environment start now, not as a gesture, but as a life-long commitment to protect the health of the world's environment.

FLYING EAGLES CAPTURE WEST VIRGINIA AAA STATE BASKETBALL CHAMPIONSHIP

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. RAHALL. Mr. Speaker, I rise today in acknowledgment of my alma mater, Beckley Woodrow Wilson High School. This past weekend, the boy's basketball team, the Flying Eagles, captured the West Virginia AAA State basketball championship.

After watching the multitude of upsets that occurred in the NCAA basketball tournament this weekend, I can honestly say that Woodrow Wilson's victory was equally as impressive as anything on television. Rallying under the slogan "Won't Be Denied," the Flying Eagles upset not only the No. 1 team in the State, which also happened to be ranked 19th nationally, but in the championship round they defeated West Virginia's second-ranked team. Mr. Chairman, the last time Woodrow Wilson won the tournament was 1967 when I was a senior in that high school and the team manager.

The previously No. 1 team, Logan High School, is also from my congressional district. Logan, although losing to Woodrow Wilson, did prove that consistent hard work reaps successful results. While unranked and unrecognized by USA Today in its weekly national high school poll at the beginning of the season, Logan's impressive undefeated streak turned heads as the schedule wore on, and earned them a No. 19 ranking nationally.

To say that both of these feats were accomplished against all predictions is accurate, but the young men from Beckley and Logan showed what is possible when you truly believe in your abilities. This is a lesson from which we can all learn, and I for one am happy that the young people of Beckley Woodrow Wilson and Logan High Schools have shown that the youth of today does indeed possess the determination to reach for and achieve anything they wish.

TRIBUTE FOR PIONEER DISTRICT SPEBSQSA

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to the Pioneer District Society for the Preservation and Encouragement of Barber Shop Quartet Singing in America on the occasion of their 50th anniversary. The Pioneer District was formed on June 8, 1940, with the Detroit, Lansing, Flint, and Grand Rapids chapters and now encompasses more than 60 chapters. The society became an international organization when a chapter from Windsor, ON, joined in 1944.

Mr. Speaker, I would like to particularly note the Pioneer District SPEBSQSA Michigan chapters. The first chapter formed in the State was Detroit No. 1, being the first east of the Mississippi, on July 30, 1939. Other chapters soon followed in Lansing, Flint, and Grand Rapids. The Michigan district was formed on June 8, 1940, making it the first organized district in the society. Barbershopping grew fast in Michigan in the 1940's, with chapters forming in Muskegon, Saginaw, Jackson, Caro, Oakland County, Traverse City, Kalamazoo, Battle Creek, Midland, and Owosso. Oakland County became the first chapter with more than 300 members in 1943. Membership peaked in Michigan in 1947–48, with more than 3,000 members in 65 chapters. In 1968, the Michigan district was renamed the Pioneer District.

I feel privileged to represent part of the Pioneer District SPEBSQSA in my own congressional district, and I welcome this opportunity to pay tribute to them on the occasion of their 50th anniversary celebration.

CRITICIZING ADMINISTRATION REPORT ON PLO COMPLIANCE WITH ITS DECEMBER 1988, COMMITMENTS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. LEVINE of California. Mr. Speaker, the Bush administration recently submitted the first in a series of quarterly reports concerning PLO compliance with the commitments it made in December 1988. Those commitments—accepting U.N. Resolutions 242 and 338, recognizing Israel's right to exist, and renouncing terror—formed the basis of the decision to begin a dialog with the PLO.

Many of my colleagues and I were skeptical, but nonetheless supported the start of that dialog. We hoped that, indeed, the PLO had finally changed both its tune and its stripes as well; in other words, that its deeds would match its sweet-sounding words.

Regrettably, the record many months later is—to be charitable—decidedly mixed. And that is why the administration report is such a serious disappointment, leading some even to call it a "whitewash."

It seems clear that the administration selectively reviewed the evidence in order to support a preordained conclusion: That the PLO has lived up to its commitment to renounce terror. I and others arrive at a different outcome.

The report relies on what it perceives as Arafat's inability to control all elements within the PLO umbrella. Particularly as relates to attempted infiltration into Israel. Yet, the leaders of several groups responsible for these attempts occupy prominent positions in the PLO hierarchy; indeed, the head of the PLO delegation talking in Tunis ranks second in one of those groups.

Furthermore, the report disingenuously argues we do not know Israel is the destination for the infiltrators. But when so many of the teams are caught with grenades, rockets, wire cutters, and maps of kibbutzim, it is a fair assumption they are not out for a Sunday stroll in South Lebanon. Must innocent Israeli blood be shed before the administration admits what is obvious to everyone else?

In addition, Assistant Secretary for Near East Affairs, John Kelly, in recent testimony before the House Foreign Affairs Middle East Subcommittee, conceded that Fatah operatives were likely involved in a terrorist attack in the Negev in December. This seems an obvious repudiation of the PLO's commitment. Yet, Mr. Kelly's clear implication was that—as long as Arafat did not himself pull any trigger—it would have no bearing on U.S. policy toward the PLO. The administration practically invites terrorism by creating a loophole large enough to drive a bomb-laden truck through.

Who is responsible for attacks committed by Arafat's own troops if not Arafat himself? And what is the point of talking to him if he cannot control even those people loyal to him? Will this administration simply look the other way under any set of circumstances? The reports suggests that this is so, doesn't even discuss the Negev incident, refuses to consider credible Israeli claims of Fatah terror inside the territories, and ignores evidence of Arafat's endorsement of Palestinian fratricide, which has led to approximately 200 Palestinian deaths to date.

How does such an attitude help us to influence PLO policy if we are prepared to overlook such counterproductive behavior? Whatever happened to diplomatic leverage? The administration is certainly not shy about exercising it with Israel.

Not surprisingly, the PLO is taking advantage. Indeed, a recent Washington Post story indicates that the PLO leadership views administration statements and actions as a sign that the United States will "deliver talks," that

is, Israel. It seems as if the PLO believes it no longer has any obligation—or incentive—to fulfill its stated commitments of December 1988, particularly on terrorism. And why should it, when the administration is prepared to downplay or even ignore the obvious?

Finally, the PLO statements that the report reviews do help support its conclusion. But these statements were chosen selectively. The report ignores many more, for example, which show a continuing commitment to the "two-stage" solution. Indeed, I would argue that PLO statements about their willingness to live in peace with Israel and refrain from terrorist attacks remain ambiguous at best.

Mr. Speaker, what disturbs me most about this report and the policy underlying is its impact on the peace process.

By failing to condemn terror, by refusing to hold the PLO leadership—including Arafat—accountable, and by selectively choosing which evidence to consider, the administration has demonstrated its desire to continue the dialog at all costs. I suppose that is its prerogative, and I am not calling for an end to the dialog. But the administration must understand that the inevitable consequence of its policy is to encourage terror, and to make real peace that much harder to achieve.

Regarding the former, the PLO should no longer feel any constraints, as I have shown. And the administration essentially makes a mockery of U.S. antiterrorism policy. No country will take our efforts seriously when it seems we will go to any lengths to overlook terrorist activity that gets in the way of some other policy objective.

Indeed, this PLO report made it easier for Hungary to terminate its flights of Soviet Jews to Israel for fear of terrorist attack. Why should these countries stand up to terror if the United States refuses to do so?

Regarding the latter, the value of United States assurances to Israel further down the road to peace has been drastically diminished, since Israel believes the United States has already abandoned its commitment to hold the PLO accountable on terrorism. And this makes it less, not more, likely that Israel will feel comfortable taking the necessary risks for peace, and that Israelis—who rightly are skeptical of the PLO's true intentions—will believe the PLO has changed in any fundamental fashion.

Mr. Speaker, I ask unanimous consent to place in the RECORD at this point two items pertaining to this topic. The first, an op-ed from today's Los Angeles Times, is by Barry Rubin, a senior fellow at the Washington Institute for Near East Policy and a highly respected analyst of Middle East issues. Entitled "How Low Will We Stoop for Arafat?", the piece is a devastating critique of the administration's PLO report. Indeed, Mr. Rubin begins by calling it, "[T]he most intellectually devious government document since the Vietnam war era."

The second item is an excerpt from an article written by the PLO's Assad Abdel Rahman in the PLO monthly, Shu'un Falestiniya. Dated February 22, 1990, the article states that PLO moderation is merely a tactical shift in order to achieve its long-held goal: A two-stage process which will see the "disintegration of the Zionist-Jewish framework of the State of Israel," and the establishment of a Palestinian state on "part of the homeland" as prelude to establishing it "on all of the homeland." Such a candid statement hardly builds the confidence essential to peace in the region.

[From the Los Angeles Times, Mar. 22, 1990]

HOW LOW WILL WE STOOP FOR ARAFAT?

(By Barry Rubin)

Mideast policy: The State Department has turned apologist for the PLO, distorting facts and ignoring evidence of terrorism.

The State Department's new report on the PLO and terrorism may be the most intellectually devious government document since the Vietnam war era. Equally regrettable, this paper is more likely to undermine than to fortify, U.S. policy.

Obviously, the Bush Administration chose to trim the facts to suit its thesis that the Palestine Liberation Organization has no involvement with terrorism. The serious miscalculation on which this decision is based-incarnated in the congressionally mandated report released on Monday—may come back to haunt Secretary of State James A. Baker III.

The United States had long demanded that the PLO stop using terrorism before we would negotiate with it. Yasser Arafat made such a promise in December 1988 and a U.S. PLO dialogue began. Thereafter the government stance has been that it must, at least publicly, deny that the PLO is responsible for terrorism—in effect; becoming an apologist for Arafat—or it would have to end the dialogue and abandon the hopeful Israel Palestinians peace process.

This is a foolish premise. It would have been untenable for a U.S. government to whitewash Soviet human-rights violations or other misdeeds as a condition for bilinteral negotiations. Publicly criticizing such acts is basic diplomatic leverage.

The State Department is now in the situation of highlighting criticisms of Israel and rejecting any censure of the PLO. This refusal to be honest about PLO terrorism has seriously undermined Israel confidence in the United States and makes it harder for Israel to make the concessions required in the peace process.

The U.S. stance also makes the PLO believe that it can get away with continued "cross-border" attacks on Israel. If the United States does not acknowledge the depredations of the PLO now what would it do if a Palestinian state broke treaty commitments?

The State Department's report is full of misleading assertions and unfounded conclusions. To name just a few.

—The report stresses the absence of evidence that the PLO leadership or Arafat has officially approved any terrorist operation since December, 1988. In fact, the PLO as a body has never carried out terrorist acts; these have always been committed by the constituent groups' military organizations.

—The report suggests that three PLO member groups carrying out attacks are marginal, having little to do with the PLO command. In fact, they are the equal of Arafat's group, Fatah. The report does not mention that the leader of the PLO delegation in the dialogue is the No. 2 man in one of those groups.

—Although Fatah has greatly reduced its terrorism, the Bush Administration refused to examine Israeli evidence of specific attacks involving Fatah cadres. The report does not even acknowledge the existence of these claims.

—Particularly dangerous is the report's refusal to define attempted attacks across the Lebanon-Israel border as terrorist. The argument is that it is not clear what the targets were because Israel killed or captured the terrorists en route. The Administration willfully refused to examine captured evidence of intended targets or even public statements by the PLO member groups. Two Third World diplomats cynically told me that Israel should allow some PLO guerrillas to murder civilians in order to prove its claim.

—The State Department says that the PLO has lived up to the resolution of the September, 1988, Palestine National Council. In fact, the State Department rejected that document at the time as not having met minimum U.S. criteria for the PLO's recognizing Israel and rejecting terrorism. The real test is whether the PLO lives up to the more forthcoming promises made by Arafat in Geneva in December, 1988.

—The report does not tell members of Congress that the State Department's confidential talking points to the PLO demanded that it "publicly disassociate" itself "from terrorism by any Palestinian group operating anywhere." If any PLO group or its members committed terrorism, "We expect that you not only condemn this action publicly but also discipline those responsible for it, at least by expelling them from the PLO." Even Egypt's government has criticized Arafat's refusal to condemn such operations. To cite one example, Fatah's No. 2 man, Abu Iyad, defined an attack near the Israeli town of Dimona last year, in which three Israeli civilians were murdered, as a legitimate case of armed struggle.

The U.S.-PLO dialogue should continue. But the Israel-Palestinian peace process can only achieve an historic compromise—possibly including a national homeland for the Palestinians—if it is approached honestly. The U.S. government should not twist reality in order to defend the PLO's reputation.

PLO veteran Dr. Assad Abdel Rahman, member of the PLO Central Council, formerly a member of the "Kawmeun al-Arab" party, in an article about the character of a political change in direction of the PLO (The PLO monthly "Shu'un Falestriniya", published in Beirut, 22.2.90) writers:

"The main axiom of the new peace strategy is that the Arab-Palestinian political change of direction—the proposal of peace derived from the Arab belief that peace, if it will bring about the establishment of sovereign Palestinian state—only it will be able, if even gradually, to cause the disintegration of the Zionist-Jewish framework of the State of Israel. If this step is implemented, then this development will, more than any other external element, enable progress towards an era of expected Arab unrest—something which will ensure the destruction of the political framework of the Zionist enterprise and adjusting the Israelis to a stronger and wider developing oriential Arab society. Therefore the Arabs and the Palestinians holding this view see the events in the Palestinian arena since the convening of the PNC in November 1988, as strictly a wide-ranging tactical turnabout which will enable the PLO to advance to a strategic level by which it will transform itself from a national liberation movement into a national independence movement that both hopes and acts—principally against a background of pan-Arab or Islamic revolutionary devel-

opment of a liberational character—to return to the formula of a new national liberation movement. Then the objective of the new movement will become transforming the partial victory of establishing a Palestinian state on part of its lands to complete victory of the Palestinian dream, in such a way that this Palestinian state which is established on part of the homeland will be established on all of the homeland.

TOURISM POLICY AND EXPORT PROMOTION ACT OF 1990

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. THOMAS A. LUKEN. Mr. Speaker, tourism is vital to our economy. It is a significant provider of jobs and revenues. The tourism industry employs nearly 6 million Americans and is either the first, second, or third largest employer in 37 of our States.

Tourism is the No. 1 export of the United States. In 1989, foreign visitors spent $43 billion in the United States, while U.S. travelers spent $42.6 billion abroad. This marked the first time the United States recorded a tourism trade surplus.

The primary responsibility for promoting tourism must continue to rest with the private sector and State and local governments. But I believe that the Federal Government also has a vital role to play in encouraging foreigners to visit this country, and so today I am introducing the Tourism Policy and Export Promotion Act of 1990.

This bill has bipartisan support. it is cosponsored by BOB WHITTAKER, the ranking Republican on the subcommittee on Transportation and Hazardous Materials, which I chair, and by 88 other Members, including a majority of our subcommittee—Mr. SWIFT, Mr. RINALDO, Mr. BOUCHER, Mr. TAUKE, Mr. MANTON, Mr. MCMILLEN, Mr. TAUZIN, Mr. ECKART, and Mr. RICHARDSON.

The bill focuses on what the Federal Government can do both to increase the number of foreigners visiting our country and to help ensure that all parts of the Nation benefit from their presence. The bill creates a rural tourism foundation to promote private-public partnerships to entice foreign visitors beyond the "gateway" cities to the rural areas of our country. The bill directs the Secretary of Commerce to coordinate with other Federal agencies so as to increase the flow of tourists to this country, including taking steps to reduce the delays faced by foreign visitors at the U.S. border. This is a particularly acute problem for areas bordering on Canada, and I commend Mr. SWIFT for his leadership in bringing this matter to our attention and crafting a remedy. The bill focuses attention on barriers by other governments to having their citizens visit this country by requiring the U.S. Trade Representative to include these barriers in its annual National Trade Estimates Reports. Finally, the bill authorizes funding the U.S. Travel and Tourism Administration at levels consistent with the President's budget.

I urge my colleagues to support this legislation.

TOURISM POLICY AND EXPORT PROMOTION ACT OF 1990

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. SWIFT. Mr. Speaker, I rise today in support of Chairman LUKEN'S Travel and Tourism Exportation Act of 1989. I would also like to specifically discuss a provision which I and Chairman LUKEN have worked on together to add to the bill. This amendment will take steps to aid in the free flow of foreign tourists across the U.S. borders. I would like to offer my sincere gratitude and appreciation to Chairman LUKEN for his cooperation in including this proposal in this bill.

As many of you are aware, the delays that plague the majority of U.S. borders continue to worsen. Inserting a "border provision" into Chairman LUKEN'S bill will delegate to USTTA powers to help facilitate the free flow of tourists across our borders. This brings into balance the very real needs of Customs and Immigration to guard our boarders, and the importance of offering a friendly face to foreigners who wish to come to the United States and spend their holiday dollars.

There are major border delays at the five borders in my district. For example 2½ hour backups are unfortunately becoming the rule rather than the exception. These delays and inconveniences can be attributed to a combination of factors. Budget constraints within the services—Customs and Immigration—are partially at fault. In addition, because of the emphasis we have placed on the drug war, much of the resources have been concentrated along the southern borders. Without in any way downplaying the importance of the war on drugs, I feel it is essential that we not forget the importance of safe and efficient northern borders.

The existing congestion at our borders is not only a problem for tourists, but for Americans traveling to and from the United States. The opportunity for relief offered through this section of the bill should be true for all our borders: sea, air, and land.

In particular, when this section is combined with new opportunties to facilitate tourism through the Rural Tourism Foundation, the inducement for more tourists through the land borders will make it even more important that we improve the welcome we offered our foreign friends.

In closing, I would like to again express my appreciation to Chairman LUKEN for his help in incorporating this provisions into his bill. I would also like to add my support for the overall content of Chairman LUKEN'S bill. It is imperative that we not look past the massive opportunities which the tourism industry offers to our economy. I strongly encourage my colleagues to lend their support to this very constructive piece of legislation.

CASTRO GOVERNMENT CRITICIZED FOR POLITICAL REPRESSION

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. BROOMFIELD. Mr. Speaker, I am pleased to note the action taken recently by the U.N. Human Rights Commission which passed a resolution critical of human rights practices under the regime of Fidel Castro.

This resolution is a resounding affirmation of the fundamental human rights and freedoms enshrined in the universal declaration of human rights.

It is especially gratifying to note that two Eastern European nations, Hungary and Bulgaria, joined with Western delegations to pass the measure by a vote of 19 to 12. Further reflecting the isolation of the Castro regime, Poland and Czechoslovakia, attending as nonvoting observers, also cosponsored the text of the critical resolution.

The Commission's action rewards the efforts of the more than 1,000 Cubans who presented information to the Commission. The Government of Cuba will now face renewed international scrutiny and will have to account in some manner for any reprisals it has taken or will take against these brave individuals.

Four years ago, the United States requested the Human Rights Commission of the United Nations to include the human rights situation in Cuba on its agenda.

Two years ago, the chairman of the Committee on Foreign Affairs, DANTE FASCELL, and I traveled to Geneva to offer our support for a resolution which directed the Commission to undertake a review of Cuban human rights practices by sending in an investigative team.

We offered our strong support for that measure after the Commission heard assurances from the Cuban Government that any individual would be able to present testimony to the Commission's team without fear of reprisal. Many Cubans took those assurances seriously and presented information to the team. Today, dozens of these people are in jail or have otherwise suffered from reprisals taken by the Cuban authorities.

The resolution adopted by the Commission does three things:

First, it calls upon the Government of Cuba to honor its guarantees that it would not take reprisals against individuals who presented information to the UNHRC working group;

Second, it calls upon the Cuban Government to respond to unanswered questions put by the Commission's working group; and

Third, it welcomes the willingness of the Secretary General to put himself at the disposal of the Commission regarding his ongoing contacts with Cuban authorities, and decides to include the situation of human rights in Cuba on the Commission's agenda for next year, thereby ensuring continued attention to human rights abuses in Cuba.

I urge my colleagues to read the text of the resolution and the breakdown of the voting which I submit for the RECORD.

SITUATION OF HUMAN RIGHT IN CUBA

THE COMMISSION ON HUMAN RIGHTS

Recalling the report of the mission which took place in Cuba in accordance with Commission decision 1988/106. (E/CN 4/1989/46 and Corr. 1).

Aware that this report contains questions and issues which have not been fully addressed, as well as testimonies from hundreds of individuals concerning the question of human rights in Cuba.

Recalling also decision 1989/113 of 9 March 1989, in which it requested the Secretary-General to maintain contacts with the government of Cuba on the issues and questions contained in the report.

Noting the letter of the Secretary-General to the Commission dated 29 January 1990, in which the Secretary-General informed the Commission that he has been maintaining ongoing contacts, both written and oral, with the government of Cuba on this matter.

Expressing appreciation to the Secretary-General for his efforts in support of respect for human rights and fundamental freedoms.

Concerned by reports that witnesses who testified before the Commission's working group have since been subject to arrest, harassment, or other forms of reprisals by the government of Cuba.

Aware of its responsibility to defend and support those who have put their faith in this body and its representatives in promoting and protecting human rights and fundamental freedoms.

1. Calls upon the government of Cuba to honor its repeated guarantees to the representatives of the Commission who visited Cuba pursuant to decision 1988/106 that individuals who attempted to provide information to those representatives would not be subject to reprisals, detention, or negative consequences of any nature whatsoever.

2. Calls upon the government of Cuba to provide the Commission, at its forty-seventh session, with a response to the unanswered questions put to the Cuban authorities by representatives of this Commission (E/CN 4/1989/46, annex XVI) and to questions related to the documents listed in annex III of the report.

3. Welcomes the willingness of the Secretary-General to put himself at the disposal of the Commission regarding his ongoing contacts with the government of Cuba, as expressed in his letter to the Chairman of 29 January 1990, and requests that he provide under this agenda item, the results of these contacts to the forty-seventh session. (End text)

(Resolution sponsored by Belgium, Federal Republic of Germany, Japan, the United Kingdom, the United States, Poland, Czechoslovakia, Ireland, Norway, Panama, Denmark, Luxembourg, the Netherlands, and Portugal.)

COSPONSORS OF THE U.S. RESOLUTION

Belgium, Czechoslovakia, Denmark, Panama, Ireland, and Japan.

Luxembourg, Netherlands, Norway, Federal Republic of Germany, Poland and United Kingdom.

BREAKDOWN OF VOTE

Yeas.—Bangladesh, Belgium, Bulgaria, Canada, France, Gambia, Germany, Federal Republic, Hungary, Italy, Japan, Morocco, Panama, Philippines, Portugal, Senegal, Spain, Sweden, United Kingdom, and USA.

Nays.—China, Cuba, Cyprus, Ethiopia, Ghana, India, Iraq, Mexico, Sri Lanka, Ukrania, SSR, USSR, and Yugoslavia.

Abstentions.—Argentina, Botswana, Brazil, Colombia, Madagascar, Nigeria, Pakistan, Peru, Sao Tome and Principe, Somalia, Swaziland, and Venezuela.

ANNIVERSARY OF ESTONIAN INDEPENDENCE

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Ms. PELOSI. Mr. Speaker, the 24th of February was the 72d anniversary of Estonian Independence.

This independence of our democratic country was destroyed in 1940 when the Soviets forcibly invaded and illegally occupied Estonia for 50 years.

In 1918 after the victory of the Estonian independence war, a peace treaty was signed in 1920, whereby the Soviet Union conceded to the Estonian revolutionary forces and renounced "forever" all rights over Estonia. This legal document, signed by Lenin's government, should be valid today.

The 1940 Soviet invasion of the Baltic States occurred as a consequence of the secret protocol of the Molotov-Ribbentrop nonaggression pact. The illegality of that secret accord is finally acknowledged even by the Soviet Union.

Because of the unique status of the Baltic States, which de Jure are not an integral part of the U.S.S.R. and which had visible democracies, Estonia is not an internal affair of the Soviet empire.

Estonia's goal is to regain its independence exclusively by peaceful and legal means.

It is still greatly feared that during the peaceful independence movements in the Baltic States a Soviet crackdown can occur.

We must lend our support at this critical time to help the restoration of Estonian independence, which has been recognized by the United States even after the Soviet takeover in 1940.

SUPPORT FOR H.R. 3847, THE DEPARTMENT OF ENVIRONMENT ACT

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. RAHALL. Mr. Speaker, as a cosponsor of H.R. 3847, I rise in support of this important measure. As our Nation works to address a growing number of environmental problems including global warming, ozone depletion, acid rain, air and water quality, and solid and hazardous waste disposal, I believe it is vital that the Federal body charged with enforcing our environmental laws has the status and power commensurate with this tremendous task.

H.R. 3847 makes an important first step toward this goal by elevating the Environmental Protection Agency to Cabinet status. This will provide a closer relationship with the President, it will strengthen interrelations with other Federal departments and agencies, and it will provide greater influence with foreign environmental ministries in determining international environmental policy.

H.R. 3847 further strengthens the Federal commitment to the environment by establishing two new offices within the department. The bill would create an Office of International Environmental Affairs headed by an Assistant Secretary to provide greater ability to negotiate and administer international agreements. The bill would also create a Center for Environmental Statistics to improve upon the quality and breadth of environmental data.

The bill would also improve citizen awareness and participation in environmental protection efforts by enhancing the public's access to environmental information. The bill would mandate a study to determine how to utilize computer telecommunications for disseminating environmental information and require comprehensive guide to the department's environmental information services, products, and systems to be maintained.

Passage of H.R. 3847 is an important first step toward protecting our environment. It is my hope that by elevating the EPA to Cabinet status, we will engender the support needed to take the second step which is to provide the new department with the funds necessary to do its job. The new department should not only be provided the funds necessary to enforce our environmental laws, but it should also be given the necessary funds to assist States and communities to comply with these laws. Mr. Speaker, I urge my colleagues to support this important bill and to support the logical next step.

MARGUERITE LIVA: LONGEST SERVING KELLOGG EMPLOYEE

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. WOLPE. Mr. Speaker, it is not unusual for me and my colleagues to take this time to honor constituents who have served employers in our districts with years of dedicated service.

It is not unusual for us to thank them and wish them well.

It is not unusual for us to hope they enjoy their retirement years with family, friends, and good health.

However, this is not your usual statement. Today I rise to honor a person of exceptional achievement and accomplishment. A person who has touched the lives and hearts of her many fellow employees. A person whose cheerful countenance and friendly smile have greeted thousands of visitors who passed her work station.

Marguerite Liva will retire from Kellogg Co. of Battle Creek, MI, on March 26, 1990, after 55 years of continuous employment. This is the longest service record achieved by any Kellogg employee in the company's 84-year history. The Honorable Albert Bobrofsky, mayor of Battle Creek, has declared Monday,

March 26, 1990, Marguerite Liva Day in the city.

Marguerite Liva is a spirited lady who set this service goal shortly after she celebrated her 50th anniversary with Kellogg. Her determination has been an inspiration throughout the company. Her colleagues responded with support and affection to encourage her to achieve her ambition of a landmark service record.

Like so many achievers, Marguerite Liva is not without role models. Her mother, the last Elizabeth Sebo, retired from the Kellogg Co. in 1959 after 39 years of service. Her brother, Alex Sebo, retired after 44 years. But it's Marguerite who now holds the record.

Congratulations, Marguerite, you have set a remarkable example of loyalty, dedication, and service of which you, your family, your friends, and the Kellogg Co. can be proud. We wish you many more years of happiness.

THE MIDDLE EAST PEACE PROCESS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. LEVINE of California. Mr. Speaker, just when it seemed as if it were on the verge of success, a series of Bush administration blunders led the Mideast peace process to come to a crashing halt. I eventually hope it can be repaired. At a minimum it has been delayed. What was especially disburbing—and most damaging—was the President's regrettable remark on East Jerusalem. A Washington Post headline from last week says it best: "Bush's Remark Undercut Peace Plan."

As noted, there were other factors as well, including: Stated administration willingness to "shave" aid to Israel and others and what practically amounted to a whitewash of PLO involvement in terror.

Mr. Speaker, at this point I ask unanimous consent to place in the record several items relating to the administration's recent handling of Mideast diplomacy.

The first is the Washington Post story about the detrimental impact of the President's remark on the peace process.

The second is an op-ed by Tom Dine, executive director of the American Israel Public Affairs Committee, from the New York Times of March 15. The piece, entitled "Bush's Assault on Israel," spells out a range of recent errors by the administration relating to the peace process.

The third and final item is a column by A.M. Rosenthal of the New York Times from March 8, 1990, which strongly condemns the President for harming the peace process by his remark on Jerusalem.

[From the Washington Post, Mar. 15, 1990]

PRESIDENT BUSH'S REMARK UNDERCUT PEACE PLAN—DIVISIVE REFERENCE TO JERUSALEM SETTLEMENTS CAME AT CRITICAL TIME

(By David Hoffman and Al Kamen)

President Bush's recent comment opposing the settlement of Soviet Jews in East Jerusalem, which helped provoke a political crisis in Israel, has led Israel and American officials to question how a promising U.S. diplomatic effort to start peace talks in the Middle East came to be undermined by the president's own words.

The Bush administration had labored for months to get the talks between Israel and Palestinians off the ground. But at a critical juncture, when pressures were building on Israeli Prime Minister Yitzhak Shamir, Bush make the comment that contributed to the breakup of the Israeli governing coalition over the peace plan.

At a news conference March 3 in Palm Springs, Calif., Bush surprisingly included "East Jerusalem" among the areas where he said there should be no "new settlements." Although consistent with U.S. policy, the emphasis on East Jerusalem was a significant departure from the way the issue had been treated in the past, when the United States had objected to settlements in the West Bank and kept silent on Jerusalem.

According to several high-ranking U.S. officials and diplomats here and in Israel, Bush's reference to East Jerusalem reflected concerns over Israel's resettlement of Soviet Jews there. These officials said the topic had come up in recent White House discussions with Bush about the wisdom of giving Israel additional U.S. aid to help resettle the expected record number of Soviet immigrants.

At the same time, however, U.S. policymakers acknowledged in retrospect that Bush's remark was extraordinarily ill-timed. It came on the day before the Israeli cabinet was to consider the peace plan that Secretary of State James A. Baker III had carefully nurtured. For weeks, Baker and other U.S. officials had been cautioning the White House that the situation was "tense," as one official put it, and that they should avoid saying anything publicly that would give Shamir reason to reject the peace plan.

But that appears to be exactly what Bush did by mentioning East Jerusalem in his news conference. Officials now say Bush's comment was not totally accidental, because he had been thinking about the issue, but he was not deliberately trying to provoke Israel's leadership at a vital turning point for the peace plan.

"He was thinking it, he felt it, but he didn't mean to say it," said a senior U.S. official who has talked with the president.

On Tuesday, in a nationally televised news conference, Bush said he did not regret the comment about East Jerusalem but he thought it had been blown out of proportion. However, on the same day, he wrote a letter to Jerusalem Mayor Teddy Kollek trying to extinguish the anxiety in Israel caused by his remark.

"There is no intention on our part to focus now on the final status of Jerusalem," Bush said, reiterating what had been the long-standing U.S. approach. A copy of the letter was provided to The Washington Post yesterday.

Abraham Foxman, executive director of the Anti-Defamation League of B'nai B'rith, said yesterday, "The president put this issue on the front burner through his statement in California, and now with this letter, he is putting it on the back burner."

Although the collapse of the coalition government this week has clearly been a major setback for the peace plan, U.S. officials said they hope it will not be fatal. But the events have brought to the surface complaints in Israel that the Bush administration has been heavy-handed in its dealings with the Jewish state.

"We are going into one of the most fateful negotiations in the last 40 years, with on one side the Americans applying very open pressure and raising grave doubts about their role as an honest broker," said a senior Israeli foreign Ministry official in Jerusalem. "It means you can't negotiate. You lose before you start."

Referring to the Bush-Baker statements, the official said: "Certainly there is a misunderstanding about the limits of pressure. Otherwise they wouldn't raise the issues of immigration and Jerusalem. . . Either they don't have a feeling for it, or they don't care."

Officials gave the following account of how Bush came to make the comment that scuttled, at least temporarily, prospects for historic direct talks between Israel and the Palestinians.

Baker had worked for months to forge a plan that would lock Shamir into accepting an election proposal that Shamir himself originally offered, but which was unsettling to leading members of his conservative Likud party. Shamir "was looking for a way out," said the senior U.S. official. "Our strategy was not to say anything that would let him get out." Some U.S. officials said it remains unclear whether Shamir would have gone ahead with the peace plan if Bush had not made the comment about East Jerusalem.

Following a careful, behind-the-scenes approach, Baker and his top assistants had brought Shamir to the brink of accepting the peace plan. Israeli Foreign Minister Moshe Arens had returned from a trip to Washington late last month, leaving U.S. officials under the impression that agreement was near. Baker "was hungry" for a deal that would have been a significant diplomatic achievement for the administration, the official said.

However, there were storm clouds looming. Israel's deputy foreign minister, Binyamin Netanyahu, had returned to Jerusalem pessimistic after a round of meetings at the State Department and White House. According to Israeli officials, Netanyahu complained of sharp disagreements with U.S. officials over resettlement of the Soviet Jews and, in particular, East Jerusalem.

Already jittery Israeli officials took another jolt March 1 when Baker, in congressional testimony, said the administration would seek reassurances from Israel on the settlement issue before approving $400 million in additional housing loan guarantees. The next day, the State Department pulled back somewhat amid hopes the damage could be contained before the Israelis decided on the peace plan.

But on March 3, Bush was questioned at the Palm Springs news conference about Baker's testimony. An official who was there said Bush and Baker conferred before the news conference and expected the question. When Bush responded with his unexpected and unsolicited remark about East Jerusalem, he did so in a stern voice, saying "the foreign policy of the United States says we do not believe there should be new settlements in the West Bank or in East Jerusalem. That's our strongly held view."

Immediately after Bush spoke, Baker recognized that more needed to be said. He quickly consented to an interview with CNN, in which he insisted that he had "not intended to be tough" on Israel. "It's not our desire to suggest in anyway that we're going to pressure Israel."

Except for that interview, the White House made no effort to clarify Bush's views for nearly 48 hours. But his remark rapidly became news in Israel, prompting

Shamir to declare a crisis and to blame Bush for it.

[From the New York Times, Mar. 15, 1990]

BUSH'S ASSAULT ON ISRAEL

(By Thomas A. Dine)

WASHINGTON.—The mainstream of the pro-Israel community generally has supported the Bush Administration's Middle East diplomacy. But surprises in the past two weeks have undermined much of that confidence and raised fears that a new tilt is occurring on issues of fundamental importance. Shock waves hit Israel at the wrong time, dismaying the Likud and Labor parties and contributing to political upheaval.

The Bush Administration, elected on the most pro-Israel platform in the history of either party, has built on the peace initiative Israel launched last May. It has enhanced the U.S.-Israel strategic relationship, and faithfully supported Israel and opposed Palestine Liberation Organization maneuvers in the U.N. It has made a major contribution to opening the Soviet Union's gates so that record numbers of Jews could choose freedom.

But four recent developments have aroused considerable anxiety, while giving hope to those who would drive a wedge between the U.S. and its sole democratic ally in the region.

First was President Bush's unexpected statement opposing what he called "settlements in East Jerusalen." Jerusalem is not the West Bank, and no President has declared opposition to jews residing in any part of the city.

No serious body of opinion in the U.S. jewish community and Israel accepts this new implication that Jews' return to the Old City's Jewish quarter, from which they were barred during Jordan's rule, constitutes "settlement activity" and that the Western Wall is "occupied territory."

We hoped President Bush's words were inadvertent, that there would be a clarification. But he has expressed no regret.

Moreover, Administration officials have transmitted to Israel some very minor statements from low officials in past Administrations to try to show that the U.S. has had a sustained policy of opposing settlements in Jerusalem; such a policy never existed.

Second, two weeks ago, for the first time Administration officials told Congress that the Palestine Liberation Organization was fully living up to its commitments to peace and the renunciation of terror.

While there have been some positive P.L.O. developments, there have also been many statements and actions inconsistent with Yasir Arafat's Geneva peace pledges in 1988. He has said openly he personally authorized the death squads that have killed hundreds of Palestinians who have strayed from the P.L.O. line. Abu Iyad, his top deputy, publicly praised the still continuing stepped-up cross-border raids against Israel.

Third, the U.S.'s reluctance to criticize the P.L.O. contrasts sharply with a recent flood of statements publicly expressing differences with Israel. There seems to be a policy of sugarcoating words to the Arab side while publicly criticizing Israel, all in the name of evenhandedness.

Little is said about Jordon's vote to throw Israel out of the U.N., Saudi Arabian steps to enforce the Arab boycott and Arab League pressures on the Soviet Union to close the gates to Jews seeking sanctuary in Israel.

But Prime Minister Yitzhak Shamir is singled out for repeated pressure. And this at a time when he is under attack in his own party for moving toward concessions on peace talks with the Palestinians. This pressure has undercut his ability to move ahead at a key moment.

Fourth, the exodus of Soviet Jewry is the worldwide Jewish community's top priority. Unfortunately, the Administration has needlessly linked the housing of Soviet Jews with the issue of settlements in the territories. Israel has repeatedly given assurances that it will not use U.S. or Israeli resources to direct Soviet immigrants to the territories. Why should the Soviet Jews' place of residence be an issue? Only 1 percent of them choose to live in the West Bank.

It is not too late for the Administration to correct its course. In the search for peace, Israel needs to have confidence in its most reliable ally and friend. This confidence is precisely what has been eroded by the Administration's action.

[From the New York Times, Mar. 8, 1990]

THE PRESIDENT'S BOMB

(By A.M. Rosenthal)

President Bush planted a bomb right in the middle of maneuvers toward Israeli-Palestinian talks, lit it and stood back to see what would happen.

The President carried out his strange action in Los Angeles by saying that no new "settlements" of Jews should be built in the West Bank—or East Jerusalem, the ancient part of Israel's own capital.

The Israeli Embassy in Washington has quietly but officially told the Administration that what the President of the United States said about Jerusalem on Saturday night may have been "fatal" to the talks.

White House officials have issued "defusing" explanations that leave Mr. Bush's motives and intent even muddier. So the fuse is still burning.

Mr. Bush has said before that the U.S. opposed new Israeli settlements in the West Bank and Gaza. But neither he nor any other President has said that no more Jews have the right to move into East Jerusalem, which Israelis regard as part of their capital, whole and indivisible.

In 1947 the Arabs rejected the United Nations partition plan that would have made Jerusalem an international city. When Israel became an independent nation in 1948, Jordanian troops moved into and occupied East Jerusalem. For almost 20 years no Jews could go to East Jerusalem.

That ended in 1967, when Israeli forces drove out the Jordanians in the Six-Day War.

The passion for a unified Jerusalem where no Jew may be barred from walking or living anywhere unites Israel, dove with hawk, agnostic with rabbi.

The United States does not acknowledge Jerusalem as the Israeli capital even though most members of Congress are on record in favor of recognition—including Dan Quayle, when he was Senator from Indiana.

But Mr. Bush's decision to bring up the right of Jews to move into East Jerusalem startled, chilled and angered Israelis and those of their American supporters who could find the story in their newspapers.

There have been no Jewish "settlements" in Jerusalem, as Mayor Teddy Kollek noted. The very use of the word "settlement" to describe Jews moving into Jewish neighborhoods in Jerusalem is insulting.

Should Israelis declare a Jewish quota for the eastern part of their capital?

Should North African Jews be allowed to live there, say, but not Soviet Jews?

Ah! As Mr. Bush knows, Soviet Jews are the heart of the matter and whom he was talking about.

Some Soviet Jews have moved into East Jerusalem. In Washington top American officials told the Israelis that Mr. Bush was annoyed into making the Los Angeles statement. He felt Prime Minister Yitzhak Shamir was being "disingenuous" when he said only 1 percent of Soviet Jews stettled in the West bank—look at all those Soviet Jews in East Jerusalem!

Every day the future of Soviet Jews in Israel—how they live and their safety—becomes a more and more important issue in Israel, a mixture of hope and concern.

There has been no announcement, but the Soviet Union is planning to allow charter flights of Soviet Jews direct from Moscow to Israel, soon.

Hungary and Romania have told the Israelis they will continue to act as way stations as long as needed. But neither country is eager to attract terrorist attention by publicizing details.

Already the Israelis have received or monitored undisclosed terrorist warnings against Soviet Jews abroad, in transit or in Israel. That was the reason for the Israeli decision to censor stories on Soviet Jews, although Jerusalem never said so publicly.

Meanwhile, the Arab world's campaign against Soviet Jewish immigration, led by that American favorite, King Hussein of Jordan, intensifies daily.

So Mr. Bush's statement on East Jerusalem damaged Israelis who try to walk the political high wire toward talks about Palestinian elections in the West Bank and Gaza—including the Likud Prime Minister, Yitzhak Shamir, and his Labor Defense Minister, Yitzhak Rabin. It gave credibility to those Israeli leaders who say the whole process is a trap.

Whether talks go on or not, and whatever the Israeli Government in power, the impact of the Bush bomb will linger. Israelis know that in any peace process, the U.S. will be wielding pressure as it sees fit.

Any Israeli negotiator who does not remember that night when the American President said no more Jewish "settlements" should be permitted in East Jerusalem would be a naive, forgetful, trusting negotiator. The Israelis do not have many such.

THE TRAUMA IN TRAUMA CARE

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. DURBIN. Mr. Speaker, if any of us in this body were to encounter an emergency medical problem or injury, we would expect to be rushed to the nearest hospital emergency room and to receive the best medical care modern medicine knows how to give. Unfortunately, for a growing number of American citizens, that view of emergency medical treatment is based on faulty assumptions.

There is a crisis in emergency care in this country. In too many cities around the country, hospital emergency rooms are closing. They close temporarily when the demand for trauma care exceeds a hospital's capacity to

provide it. In these cases, patients are turned away and must be taken elsewhere for emergency treatment. Equally disturbing, many emergency rooms are closing permanently, as the cost of providing trauma care to patients without health insurance exceeds the ability of hospitals to absorb those unreimbursed costs.

In my own State, the city of Chicago is experiencing a trauma care crisis of epic proportions. Thirteen Chicago hospitals have shut down since 1985. Last year, Chicago hospitals racked up more than $275 million worth of uncompensated care, triple the amount in 1980. Since one of the primary sources of uncompensated care is emergency room services, more and more hospitals are closing their emergency rooms. As a result, of the original trauma-care network of 12 hospitals, only 6 trauma-care centers are still open. These centers are so overwhelmed that they frequently refuse to accept new patients due to lack of resources and beds.

I would like to commend to my colleagues a column written by George Will that recently appeared in Newsweek magazine. I ask that the column be printed in the CONGRESSIONAL RECORD. Will describes the trauma-care crisis we face and points out that when hospitals are forced to close their emergency rooms, some patients die instead of getting the care they need.

The President told us in his inaugural address that we have more will than wallet. George Will says the President has it backward. We live in one of the richest nations in the world. Our problem is not a lack of resources. Our problem is that we have more wallet than will. And until we get our fiscal priorities in order and straighten out our trauma-care crisis, we will continue to see some Americans dying unnecessarily in emergencies for lack of the care we think we can take for granted.

The article follows:

[From Newsweek, Mar. 12, 1990]

THE TRAUMA IN TRAUMA CARE

(By George Will)

From the crumpled cowboy hat, drooping mustache, big belt buckle and faded jeans, down to his scuffed boots, Dr. James H. (Red) Duke Jr. looks like one of those mournful cowpokes sung about by Willie Nelson, who is, in fact, Duke's buddy. Duke does his damnedest to seem like a bumpkin but he is a professor of surgery and a leading advocate for better trauma care. And he has been made melancholy by something alarming, the unraveling of the nation's trauma-care system.

Duke was present at a particularly notable attempt at trauma care. He was at Parkland Memorial Hospital in Dallas, on Nov. 22, 1963. There was nothing that could be done to save that patient. Today at Houston's Hermann Hospital there is too little for Duke and other trauma specialists to do. Hermann has had radically to reduce the number of trauma cases it will receive. This is because the cost of caring for uninsured patients has become crushing.

If misery loves company, Houston has that consolation, lots of it. Los Angeles's collapsing trauma network recently received another blow when a Pasadena hospital announced its withdrawal from the emergency-care system. Its trauma unit lost $3.7 million last year. The inadequate number of remaining trauma facilities will buckle beneath the burden of an intensified flood of cases. More than 25 percent of Angelinos do not have health insurance, and the uninsured often lead traumatic lives.

Trauma care is costly. The machines and multitalented personnel are expensive and have *to be there,* always. Hermann, a private not-for-profit hospital, lost $7 million on its trauma unit in a year. It exhausted the option of charging other patients more to make up for the losses. Hermann's woes are paradigmatic. They would not be nearly so acute if Houston did not have its share of the nation's 37 million people without medical insurance and of the millions more who are underinsured. Or if Medicaid covered more than 38 cents on the dollar. Or if there were not a drug epidemic. Or if Houstonians had fewer guns. (According to one estimate, one in three Houston cars has a gun in it. Says a doctor, "I don't use my horn since I moved to Houston.")

Trauma—serious injury—is America's costliest public health problem. It is the leading cause of death of people aged 1 to 44; it is the fourth most common cause of death generally. Trauma takes more than 4 million potential years of life annually, more than heart disease, cancer and stroke combined. Half the deaths of children up to the age of 15 are from accidents. Approximately 150,000 Americans die from trauma each year (about a third in motor vehicles).

Doctors speak of the "golden hour" when the seriously injured can be saved. Trauma treatment has been refined in war. In World War I the lag between injury and surgery was 12 to 18 hours; in World War II, 6 to 12 hours; in Korea, where trauma medicine took a quantum leap forward with MASH (mobile army surgical hospital) units, 2 to 4 hours; in Vietnam, 65 minutes. Mortality rates declined sharply as those delays did. But today two thirds of the country, geographically, is at least 50 miles from a trauma center or even an adequate emergency room. Because of inadequate technology and personnel, upwards of 25,000 injured Americans per year die *after they reach hospitals.*

As trauma units are downgraded to emergency rooms—many of which need not have a surgeon present—trauma victims are deposited at congested facilities that many poor people now use for all their health care. Today many emergency rooms are themselves emergencies—disasters to which disaster victims are taken. With patients on pallets in hallways, patients waiting 18 hours for treatment, some people are going to die in ambulances that are seeking hospitals that will receive them. It all makes Duke mad.

His voice creaks like a rusty cattle gate and what he says is often pungent, as in: Everyone who buys a motorcycle should have to sign an organ donation pledge. The most common American injuries, he explains, come from "blunt trauma"—the body hitting something hard. ("It ain't the falls that's so bad, it's the sudden stop that hurts.") But in the inner city ("the knife and gun club" in the parlance of emergency rooms) 75 percent of all traumas are "penetrating"—blades and bullets. Sensible living is causing heart disease and cancer to decrease but trauma is increasing more among people who, Duke says dryly, "can't settle their differences in a Christian way."

Three epidemics: health planners did not plan emergency facilities sufficient for two epidemics that were not visible just 10 years ago, crack cocaine and AIDS. As recently as 1985 AIDS patients accounted for only 2 percent of the time spent in emergency rooms of New York City's public hospitals. Just two years later they accounted for 44 percent. These two epidemics, crack and AIDS, coincided with another epidemic that burst upon the nation and has deepened the crisis of health care—the epidemic of taxophobia among taxpayers.

Life involves a lot of hard trade-offs, as doctors know who work on the fine line between life and death. But Duke, who understands the necessity for Hermann's restrictive new policy, nevertheless says that when it went into effect, "part of me died." Trauma medicine might seem to be a depressing specialty because so much trauma is the result of reckless, brutal, often intentional disregard for human life. But Duke thrives on it. Cowboys, according to his buddy, Willie, like smoky old pool rooms and clear country mornings. Duke likes the slam-bang medicine of trauma care because, he says laconically, "You can make a difference and you can make it in a hurry."

Today he and others at Hermann, in Houston's dazzling medical center, are not hurrying as often as they want to, through no fault of their own. America's hospitals are suffering institutional traumas. This is yet another of the multiplying examples of what happens when society flinches from facts, such as the cost of things, and refuses to pay its bills. What then happens is that life becomes more regressive: the debris from falling standards hits those at the bottom. An official of the Pasadena hospital says of its withdrawal from trauma care, "this means that there will be some [patients] who die. The question that the public has to answer is, are [those patients'] deaths worse than raising taxes?" The president says "we have more will than wallet." He has it backward.

TRIBUTE TO HARLEM YOUNG MEN'S CHRISTIAN ASSOCIATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. RANGEL. Mr. Speaker, I rise today to pay tribute to the Harlem Young Men's Christian Association's black achievers in industry awards project, which for 20 years has honored black men and women who have achieved a measure of success within Fortune 500 corporations, and thereby has provided thousands of young people in Harlem with positive role models.

I also wish to commend the black achievers committee for their dedicated service to this project for the past 19 years. Their efforts have not only benefited the Harlem YMCA and the 2,852 black men and women they have honored, but also the YMCA's around the nation that have replicated this program.

Therefore, I wish to have entered into the RECORD the following resolution.

RESOLUTION TO RECOGNIZE BLACK ACHIEVERS IN INDUSTRY AWARDS PROJECT ON THE OCCASION OF THEIR 20TH ANNIVERSARY

Whereas, the Harlem Young Men's Christian Association's Black Achievers In Industry Awards Project will celebrate its 20th Anniversary;

Whereas, the Black Achievers In Industry Awards Project will celebrate 20 years of

paying tribute to Black men and women who have achieved a measure of success within Fortune "500" corporations;

Whereas, the Black Achievers In Industry Awards Project will celebrate 20 years of providing young people with role models, and insights for access into major businesses as they explore and seek out career goals for themselves;

Whereas, during the past 19 years, the Black Achievers Committee has been an instrument of service to the Harlem YMCA through this Awards Project;

Whereas, the Black Achievers Committee, on behalf of the Harlem YMCA, has honored 2,852 Black men and women who have achieved managerial, supervisory or professional levels within major companies and Fortune "500" corporations over a 19 year period;

Whereas, these Black Achievers have come from all over the United States to receive this signal honor—thereby making "The Salute to Black Achievers, sponsored by the Harlem YMCA, national in scope;

Whereas, this project was begun by the Harlem YMCA in 1971 and at this date has been emulated in 22 other YMCA's through out this country;

Whereas, over 5,000 youth, from the Harlem community and the inner city have been exposed to this program, having Black Achievers to emulate and stimulate their desires to achieve in business and industry;

Whereas, it is the desire of the Black Achievers Committee that this project continue as long as there exists a partnership between corporate America and the Harlem YMCA;

Therefore; be it resolved that, to commemorate the 20th Anniversary of the Black Achievers In Industry Awards Project, this resolution and the date for the 20th Anniversary Black Achievers In Industry Awards Dinner which was held at the New York Hilton Hotel in New York City, New York, March 15, 1990, be entered into the CONGRESSIONAL RECORD.

UNITED STATES RECOGNITION OF LITHUANIA

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. COX. Mr. Speaker, the American failure to stand in solidarity with the free Republic of Lithuania has obviously emboldened Gorbachev.

Gorbachev's decree, utilizing his new and extraordinarily broad powers, is Orwellian. All citizens of Lithuania are given 7 days to hand in all hunting rifles and hunting weapons to the KGB.

Obviously, the Kremlin's effort to keep our congressional delegation out of Lithuania was no fluke. Just as the Chinese Communists moved to keep Westerners out of Tiananmen Square, Gorbachev has ordered Lithuania's borders sealed against foreigners.

Some argue that if the United States were to make meaningful its half-century-old policy by recognizing free Lithuania, it would provoke Gorbachev. I sincerely hope that those people—who are not only counseling doing nothing, but actually urging that the United States fail to keep its commitment to a free and independent Lithuania—will accept responsibility for the consequences of their policy.

Dr. Vytoutas Landsbergis, a professor of music, is a man of peace. The Lithuanian restatement of their independence, which never was legally surrendered, has followed an overwhelming vote of the people. Their action is peaceful and democratic.

Americans should not wish to see Dr. Landsbergis put in jail or sent to Siberia like his father. Americans should not tolerate Soviet control over Lithuania, any more we would tolerate Soviet control over Poland—both of which were occupied in fulfillment of the Hitler-Stalin pact.

The time is past for America's handwriting and hankytwisting over whether to recognize the Republic of Lithuania. We must stand shoulder to shoulder with the men and women of free Lithuania before it is too late. We must reassert what America stands for: Human rights, democracy, and leadership of the free world.

I include the following news release:

[Mar. 22, 1990]

CONGRESSMAN COX CALLS ON UNITED STATES TO RECOGNIZE LITHUANIA

Congressman Chris Cox (R-Calif.), an official Congressional observer to the recent Lithuanian elections, today called on the United States government to officially recognize the newly elected government of Lithuania and to "stand shoulder to shoulder with the men and women of free Lithuania before it is too late" for that nation's fledgling democratic process.

"The democratic independence movement in Lithuania—Sajudis—overwhelmingly won the February elections in Lithuania," stated Congressman Cox. "Now, just as the Chinese communists moved to keep Westerners out of Tiananmen Square, President Gorbachev, utilizing his new and extraordinarily broad powers, has ordered Lithuania's borders sealed against foreigners, cut international phone lines, and is upping the ante with recent troop movements in Lithuania.

"The U.S. failure to stand in solidarity with the free Republic of Lithuania has obviously emboldened Gorbachev," he said.

Congressman Cox was appointed by House Speaker Tom Foley to the official U.S. Congressional delegation to observe the Lithuanian elections. Initially denied visas by the Soviet Union—causing a diplomatic uproar at the highest levels of government—the delegation was able to enter Lithuania after a five day delay.

The United States has never recognized Lithuania's forcible annexation into the Soviet Union which occurred in 1940 under the secret Hitler-Stalin pact.

A copy of Congressman Cox's floor statement is attached. For more information or to arrange for an interview, contact Peter Slen at 202 225-5611.

STALLINGS-WISE AMENDMENT TO H.R. 3581

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. ESPY. Mr. Speaker, I rise in support of the Stallings-Wise amendment to the rural development bill before us today. I commend the gentlemen from Idaho and West Virginia for bringing before us a package that I believe considerably strengthens the measure that came from our Agriculture Committee.

The Stallings-Wise amendment will help us better meet the education needs of the children in our rural areas by encouraging the use of telecommunications technology to bring classes to schools that otherwise could not afford to offer their students this coursework.

Mr. Speaker, I am a strong supporter of the star schools concept. I have seen how successful this program is in my State. The three national star schools partnerships all operate in Mississippi, providing a variety of courses in advanced math, science, and foreign languages that otherwise simply would not be available to these students.

Today as I speak, students in rural schools in my district are learning Japanese, probability and statistics, and advanced economics by means of the star schools program. The star schools program is essential if all of our students, regardless of where they happen to live, are to have a chance to be competitive in tomorrow's international economy.

I am pleased that the Stallings-Wise amendment will allow us to expand the star schools program in the rural areas of this country. I am also glad that his amendment will allow the existing star schools partnerships to participate in this expanded program. They have an excellent record and I think many rural schools can benefit from their experience and programming.

Mr. Speaker, I commend the gentlemen from Idaho and West Virginia for the leadership they have shown in this area, and I urge the adoption of their amendment.

REPRESENTATIVE GEPHARDT'S EFFORT TO CRAFT A MORE VISIONARY FOREIGN POLICY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. LEVINE of California. Mr. Speaker, it has become somewhat fashionable for many in Congress to lament the decline in substantive public discourse in the age of sound bites, and 30-second TV commercials.

For this reason, it was particularly dismaying to me that the efforts of the distinguished majority leader to raise the level of public debate about the United States response to the momentous changes in Eastern Europe, were met with such hostility.

Indeed, Mr. GEPHARDT has shown great courage and leadership in raising these issues, and in attempting to promote a meaningful public discussion about U.S. foreign policy.

The majority leader's courage has only been underscored by the vituperative personal attacks made upon him for daring to engage the administration in a substantive debate about our Nation's policies in what history will surely regard as a critical watershed period in the course of human events.

Aside from the completely irresponsible personal attacks, the only response to Mr. GEP-

HARDT's thoughtful suggestions has been to point to the President's high approval rating in public opinion polls. These ratings, it is asserted, must mean that the nonpolicy of this administration toward Eastern Europe and the Soviet Union is beyond reproach.

In his testimony yesterday before the Subcommittee on International Economic Policy and Trade, and in his article in yesterday's Washington Post, Mr. GEPHARDT has tried to respond to the criticisms—many of which hardly warrant a response—and return to a substantive dialog on this issue.

I strongly urge my colleagues to reflect upon and consider the forward-thinking proposals made by Mr. GEPHARDT in his statements, and ask unanimous consent that his piece from yesterday's post, entitled "How Dare I Criticize the President?", be printed in the RECORD.

[From the Washington Post, Mar. 21, 1990]

HOW DARE I CRITICIZE THE PRESIDENT?

(By Richard Gephardt)

Why did I have the audacity to break the First Commandment of Washington politics: "Thou Shalt Not Speak Ill of a President With an 83 Percent Popularity Rating"?

There have been a variety of reasons offered, most publicly by Sen. Alan Simpson (Wyo.), the aptly-titled Republican Whip, and various White House staffers. Alan diagnosed me as deranged, saying: "Ol' Richard's going bananas." I think the condition he's referring to is *Musa Sapientum Syndrome.* This malady, named after the Latin for "banana," is not characterized by giving long, arcane speeches on foreign affairs but rather by giving short, savage speeches about Democrats.

Then Alan and the White House called me a "frustrated font of trivia," and "the Maxwell Smart of American politics." Of course if I were a font of trivia, I wouldn't have had to ask my staff who Maxwell Smart was.

Finally, the Whammy. I was accused of running for president. Whoever makes such an accusation obviously forgets that I exited the 1988 presidential contest so quickly that the few people who recognize me in airports and restaurants think I'm either Jack Kemp or Dan Quayle.

So if I'm not crazy, and I'm not running for president (and I assure you, I'm not), why did I give a speech criticizing the most popular president in the history of popularity polls?

The answer is: I criticized the president's foreign policy. I didn't try to get under his skin. I wanted to debate how best to advance democracy in Eastern Europe and the Soviet Union. This debate should be about policy, not personality.

But that's not the state of our discourse these days. Instead of refuting an idea on its merits, politicians too often do what works in campaigns—they shoot the messenger. Or better still, they have someone else shoot the messenger for them. (Which is why it's so hard to get people to work as messengers these days.)

We are living in a time when all the clichés have come true: We are at a crossroads of history, this is a turning point in the course of human events and the choices we make now will determine the peace and prosperity of generations to come. So we had better discuss debate those choices. If we conduct a serious debate about how to lead a world in which economic strength predominates over ideology, we can be the beneficiaries of change. But if we continue our ostrich approach, refusing even to debate important policies, we are doomed to be the victims of change.

In writing my speech, I thought of the rare courage of Lech Walesa and Vaclav Havel. I remembered the great sacrifices our parents' generation made for nearly a half century in order to get us to this place—and how little we must do to realize the goals our parents did so much to achieve. With 400 million people on democracy's doorstep, the least we can do is welcome them in.

But what inspired me most was an afternoon I spent with 3,700 Chrysler workers in my district who are facing layoffs—not because they didn't work hard enough on the assembly line, but because our government didn't work hard enough when their jobs were on the line. And it angered me that our foreign policy happily sacrifices American jobs on the altar of ideology—that we fail our workers by refusing to pry open markets in Japan or develop new markets in Eastern Europe or the Soviet Union.

Instead of triggering a debate, I enraged the White House. But why? I think the reason the administration reacted with such vituperation is because it does not want to debate its vision-less foreign policy.

My proposals: lifting unneeded trade restrictions that punish American workers and help our competitors, using food aid as an incentive for private agriculture and sending executives to build markets through a Free Enterprise Corps are ideas whose time have come. Perhaps the reason the administration fears a debate on my proposals to pull Eastern Europe and the Soviet Union away from Communism is because it cannot defend its policy of subsidizing the ruthlessly repressive Communist regime in the People's Republic of China. But that is precisely why we need such a debate.

But the fact that the president doesn't want to debate these issues doesn't mean we in Congress, especially we in the loyal opposition, can only sit back and wish we had presidential leadership. It is our job to raise important issues, to help spark the debate. We must ask questions: about how best to move the Soviet Union toward democracy, about the changing nature of European security and America's role in it and about the challenge of shifting communities and industries away from a military economy and toward a more competitive posture.

As our foreign policy becomes less based on military options placed before the commander in chief and more focused on issues of economics and other areas in which Congress is better equipped to participate, the role of Congress in the formulation of foreign policy is bound to expand. Part of the debate I hope to initiate would be to address the institutional changes inherent in the challenges of the future.

We ignore such questions at great peril. If we don't address these issues and make some changes, then we'll be left attacking each other over who allowed America to slip into the position of a debt-ridden, economic also-ran. And that would be bananas.

TO HONOR A GREAT STUDENT AND ATHLETE: MS. MEREDITH RAINEY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. OWENS of New York. Mr. Speaker, I am confident that the United States will be most honorably represented in the 1992 Olympics, recently one of my young constituents, Ms. Meredith Rainey of Brooklyn, NY, accomplished a tremendous feat. Ms. Rainey, who is a Harvard University senior, broke the American collegiate record in the 800 meters at the NCAA championships at Indianapolis, IN. Rainey's nearest competitor was nearly two seconds behind as she broke the tape in 2:02.77. Ms. Rainey's effort eclipsed American running great Mary Decker-Slaney's record, which had stood for 12 years.

Ms. Rainey's championship form is nothing new; she is the defending outdoor NCAA 800 meter champion. She attained this title last spring even though she had competed in only five previous races at this distance. Although she chose to focus all her energies on the 800 meter run at the NCAA's, Ms. Rainey has run the eighth fastest time in the country in the 400 meter dash. Clearly, Meredith has all the makings of a true winner: She has tremendous natural talent coupled with a work ethic that is unsurpassed.

Ms. Rainey has been a great asset to her team during her illustrious career at Harvard. Under the guidance of Coach Frank Haggerty, co-captain Rainey led her team to the heptagonal championship in February of this year by securing victories in four events. She captured individual titles in the 55, 400, and 800 meter events, and anchored the victorious 2-mile relay team. On the strength of her efforts and leadership, Harvard outdistanced the 10-team field consisting of the Ivy League schools as well as Army and Navy. The record books certainly reflect her track and field efforts; Meredith holds school records in the 55, 100, 200, 400, and 800 meters. Sometimes it seems as though the ink barely dries before she improves upon her times.

Clearly one of Harvard's finest athletes, Meredith is one of its finest students as well. A social studies major, she has been a dean's list student for her entire academic career. In fact, despite her athletic prowess, Meredith's focus has always been on the classroom; currently she is putting in the long hours necessary to complete her senior honors thesis on the history of settlement houses in America.

Ms. Rainey began her illustrious track career at the age of 8 when her mother entered her energetic little girl in the Third Annual Colgate Women's Games Track and Field Meet, which takes place in Brooklyn and is the largest women's indoor track meet in the world. Meredith won a bronze medal in the 55-meter dash in the finals at Madison Square Garden that first year. She was hooked. Fred Thompson, who has been director of the meet since its inception and coached the Women's Olympic Track Team for the 1988 Olympics, watched Meredith as

she competed in those races and within months, she was the newest member of his world renowned Atoms Track Club. Under Mr. Thompson's tutelage she went on to win many more medals and trophies until she reached junior high school. Feeling that she needed a change, she stopped running and took up basketball, volleyball, acting, and singing throughout her high school years.

As a freshman at Harvard, Ms. Rainey decided she was ready to reenter the world of track and field and joined the Harvard women's track team. Last year she entered the realm of international competition when she went to the World University games in Germany and attended other track meets in Europe. Feeling she has not yet peaked, she hopes to do so at the 1992 Olympic games.

Obviously a fine athlete and student, Meredith is also a fine person. After graduating with her honors degree in June, she will return to her native Brooklyn to serve her community by teaching at St. Ann's School, the school which she attended from kindergarten through high school. She plans to train with her coach Fred Thompson for the 1992 Olympic games in Barcelona, Spain and then enter law school in the fall of 1992.

Mr. Speaker, I am sure my colleagues join me today in honoring a young woman with a very bright future and wishing her the best of luck with all of her endeavors. I am sure we will be hearing great things of this young lady in the years to come.

THEY'RE OUT THERE CRYING FOR HELP

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. STARK. Mr. Speaker, the Los Angeles Times recently ran a series of editorials addressing the issue of illicit narcotics and proposals to reduce the use of all drugs. Senator JOSEPH BIDEN, chairman of the Senate Judiciary Committee, has long been an advocate of a more balanced approach by providing more demand-side resources. Currently our Federal antidrug efforts allocate 70 percent to supply-side programs like drug interdiction, drug eradication, and Federal law enforcement. The remaining 30 percent goes to demand-side programs like drug education awareness, drug prevention, and drug treatment programs.

I commend Senator BIDEN for his leaderhsip on improving our current Federal efforts. Further, I recommend his article for consideration:

THEY'RE OUT THERE CRYING FOR HELP

(By Joseph R. Biden Jr.)

How effective is drug-abuse treatment? Every program has its successes—and its failures. Better training and higher standards for drug counselors are desperately needed.

But the success rate of America's drug-treatment centers is impressive, even with all their problems. The largest and most comprehensive academic survey of private and public in- and outpatient centers ever done, the so-called TOPS study, showed that 80% of the treated addicts were still off hard drugs five years after completing such a program. The results, published late last year, also showed that the percentage of addicts holding jobs doubled and the percentage committing crimes dropped two-thirds.

Yes, some addicts do relapse. And some professionals conducting treatment are incompetent. But these anomalies provide no grounds for limiting the availability of treatment.

Today, there is an acute shortage of drug-abuse facilities. Many addicts seeking help are told they must wait weeks, even months. There is only enough space to treat one-quarter of addicted pregnant women and juveniles. Compassion, common sense and self-interest dictates that we provide help for these people.

The fact is that the returns on investing in drug treatment are considerable. A three-month outpatient program costs taxpayers about $600 per addict. But during that time, we save about $1,600 in reduced welfare and Medicaid costs and about $1,300 in law-enforcement expenses. An addict in treatment is more likely to hold down a job, require less medical attention and commit fewer crimes. All in all, $1 invested in drug treatment pays society back $5. Few other social programs can match that outcome.

But do we have a choice? Do we continue to stand by and watch a new generation of crack babies come into the world? Do we continue to let hard-core addicts run amok in the streets, robbing, mugging or worse to support their habits?

Or perhaps we should put all addicts behind bars? Even if we believed that prison was preferable to treatment, the price tag for such a policy would be staggering. The cost of putting an addict in jail is 10 times that of placing him in a treatment center. A national program to provide drug treatment for every hard-core addict hwo needs help would cost us $8 billion. Building jails to house them would cost more than $100 billion.

By sundown today, 56,000 hard-core addicts will have sought treatment and been turned away for lack of staff or space. Tonight, many of them, along with hundreds of thousands of other addicts, will be on the streets looking for the money it takes to support their habits.

For our sake, if not for theirs, we must expand our drug treatment system—now.

PARTNERS OF THE AMERICAS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. WALGREN. Mr. Speaker, the democratic reforms that are sweeping the Eastern bloc, the Soviet Union and, most recently, Central America, as evidenced by the Nicaraguan elections, are an inspiration to the world. These changes are rooted in the basic human instinct that leads every individual to seek greater freedom to guide their own lives rather than live under circumstances controlled by others. The United States has an unprecedented opportunity to promote broad participation in this kind of freedom through education, training and economic support in many regions of the world.

I would like to take a moment to commend an extremely valuable program dedicated to the exchange of ideas among nations. Partners in the Americas has been in existence just over 25 years. It is a private, nonpolitical, nonprofit organization whose purpose is to promote communication and understanding between the individuals in Latin America, the Caribbean and the United States.

Partners of the Americas pairs regions in the United States and Latin America to exchange ideas and contact. For example, the western Pennsylvania-Maranhao project supports a pediatric diagnostic eye clinic recently opened in Sao Luis, Brazil. This clinic is the result of efforts from the Sao Luis' public health community pairing with concerned individuals from western Pennsylvania who raised support for the donation of ophthalmologic equipment.

The work accomplished by the Partners is impressive. Those involved in making the Partners successful, a group of 20,000 volunteers in 45 U.S. States and 27 Latin American and Caribbean nations, are truly inspirational. Just one example of the kind of individual involved in this organization is Robert Barker, a former legal service attorney and now law professor at Duquesne University.

Mr. Barker was a founding member of the western Pennsylvania chapter of this organization. He drafted its bylaws and continued to work as legal counsel to the partnership while serving as vice president from 1985 to 1987. Mr. Barker was recently elected to the board of directors of the Partners. He represents the kind of personal commitment multiplied many times over that lies behind the good work being done by these partnerships.

Exchanges between countries—cultural, educational, and technical—go far in promoting international goodwill and play a significant role in U.S. foreign policy. It is important that the debate over foreign aid not undercut the significance international organizations have in promoting greater understanding between nations. Organizations such as the Partners of the Americas play an important role in furthering international understandings.

A GOLDEN ANNIVERSARY FOR THE TORRANCE AREA CHAMBER OF COMMERCE

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. LEVINE of California. Mr. Speaker, it is with distinct pleasure that I rise today to express my appreciation and respect for the Torrance Area Chamber of Commerce which is celebrating its 50th anniversary throughout the 1989-90 fiscal year. On March 28 of this year the chamber will officially celebrate its first half century with a mixer at the Torrance Holiday Inn.

Officially incorporated on April 29, 1939, the Torrance Area Chamber has provided community leadership during the 50 years that it has helped to build Torrance into a proud and balanced community. Among its many accomplishments, the chamber has contributed to the prosperity and civic, cultural, social, and educational growth of Torrance. The Torrance

Sister City Association, the Torrance Rose Float Association, and the Miss Torrance Pageant are among the numerous community groups which owe their very existence to the chamber and its dedicated members. Likewise, the Torrance Area Chamber of Commerce has helped found such community business groups as the Torrance Visitors Bureau, the South Bay Association of Chambers of Commerce, and the South Bay International Trade Association.

As sponsor or cosponsor of many valuable community events including the Armed Forces Day celebration, Airport Days, Medal of Valor Awards, the Downtown Torrance Friendship Festival, and the Energy Expo, the Torrance Area Chamber of Commerce has consistently provided outstanding leadership to the entire South Bay community. As we move nearer the 21st century, the Torrance Area Chamber of Commerce will undoubtedly continue its 50-year tradition of service through its current outstanding programs which represent the business community and serve the community at large.

Mr. Speaker, the Torrance Area Chamber of Commerce has remained fully accredited by the U.S. Chamber of Commerce for 15 years and is to be congratulated on the occasion of the 50th anniversary of its incorporation and commended for its many contributions to the people of the Torrance community. I strongly urge my colleagues in the U.S. House of Representatives to join me in honoring this meritorious organization for the many years it has tirelessly devoted to our community.

A TRIBUTE TO JOHN G. NOLEN

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. DINGELL. Mr. Speaker, on behalf of the Michigan delegation, I would like to honor Dr. John G. Nolen, of East Lansing, MI, who has announced that after serving for 21 years, he is retiring as executive director of the Michigan Dental Association.

Dr. Nolen has led an illustrious career which was recently augmented by his election as second vice president of the American Dental Association. This accomplishment is just one of many that have marked Dr. Nolen's strong commitment to dentistry and public service.

John Nolen graduated from the University of Michigan School of Dentistry in 1944, and then served 2 years as a dental officer in the U.S. Navy. After the war, he maintained a private practice for 23 years in Lansing, MI. Dentistry was not new to Dr. Nolen; his grandfather, great uncle, two uncles, a cousin, and his brother are dentists.

During his years as a general practitioner, John Nolen also was active in the ADA. He served as a delegate to the ADA House of Delegates from 1960–69 and as an alternate delegate since 1969. He also served on three of the association's reference committees. During those years, Dr. Nolen received several honors. In 1962, the Michigan State Pharmaceutical Association gave him the Award of Distinguished Service and in 1967, the Michigan Association of Professions named him Professional Man of the Year. John Nolen was a founder and member of the board of directors of this association, the first of its kind in the United States, from 1960–1973.

In 1969, Dr. Nolen closed his practice to become the executive director of the Michigan Dental Association. In his new job, his first responsibility was to initiate legislation which provided dental care to children of welfare recipients. This legislation authorized the creation of a nonprofit dental service corporation, which is today known as the Delta Dental Plan of Michigan.

In subsequent years, John Nolen began working on governmental issues to maintain the integrity of the dental profession. He worked on legislative concerns of great importance including public health matters, licensing board issues, and appropriations for education.

Those of us in Washington are well acquainted with Dr. Nolen because he also organized and promoted the first State dental delegation visit to Washington, DC, in behalf of national dental-related legislation. This was a new concept which delighted the ADA and stimulated subsequent visits from many other States. The Michigan dental delegation has been coming to Washington for 27 years.

In recognition of his outstanding efforts with the Michigan Dental Association, the MDA awarded him its Meritorious Award in 1985. When Dr. John W. Willoughby nominated John Nolen for this prestigious award he said, "Dr. Nolen conducted himself in a manner to bring pride, respect and honor to his chosen profession. He is an exemplary professional person whose many contributions and efforts on behalf of dentistry in Michigan deserve the highest recognition possible."

I congratulate John Nolen for being a role model for all of us.

VIOLENCE IN TRANSYLVANIA

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. RITTER. Mr. Speaker, we were all elated in December when the brutal Ceausescu regime in Romania was overthrown by the heroism of all the peoples of Romania: Romanians, Hungarians, Germans, and other nationalities. It was indeed a dissident Hungarian Reformed minister, the Reverend Laszlo Tokes whose arrest sparked the revolution.

Reports of ethnic tensions in Romania reached us early February but it was on March 19 that violence raised its ugly head in Tirgu Mures—Marosvasarhely—in Transylvania where most of the 2.5 million Hungarians in Romania live.

Mr. Speaker, I denounce these acts of violence and call upon our State Department to protest in strongest possible terms these terrible attacks. One cannot build democracy in Romania while ethnic or political opponents are beaten and clubbed to death. I would like the following article included in the RECORD outlining the grave situation facing ethnic Hungarians in Romania.

[From the Washington Times, Mar. 21, 1990]

ROMANIANS ATTACK ETHNIC HUNGARIAN PROTESTERS—2 KILLED

TIRGU MURES, ROMANIA.—About 2,000 Romanians armed with scythes and clubs attacked 5,000 ethnic Hungarians protesters yesterday in this Transylvanian town, killing two persons and injuring about 60, police said.

Eyewitnesses said the Romanians charged the Hungarians and drove them from the central square, where they had occupied the town hall.

They reported seeing Hungarians clubbed to the ground, and Arad Kovacs, and official of the Hungarian Democratic Union party, said, "I am afraid this is going to be a horrible night."

But as night fell, seven army tanks formed a barricade between the rival groups.

The Hungarians had gathered yesterday morning to protest a Romanian attack on the Hungarian Democratic Union headquarters in Tirgu Mures the previous night.

Four persons in the building were seriously injured while police tried to escort them to safety.

They included Andras Suto, an ethnic Hungarian who is one of Romania's best-known writers. He was flown to the Bucharest military hospital suffering from eye injuries, broken ribs and a broken arm.

President Ion Iliescu visited Mr. Suto before he was taken to Hungary for treatment in Budapest to save his sight.

Tensions have been growing between Romanians and the 2-million-strong Hungarian minority in Transylvania since the December revolution in which communist dictator Nicolae Ceausescu was ousted and executed.

Romanian nationalists fear Hungarian demands for greater autonomy could lead to the creation of a separatist movement in Romania's richest province.

The Hungarian government has protested to Romania against "grave atrocities" and said the Hungarian community had been subjected to "pogromlike" attacks.

Hungarian radio said Prime Minister Miklos Nemeth sent a letter yesterday to Romanian Premier Petre Roman protesting the attacks.

The Hungarian government is particularly aggrieved over the fact that while all this was going on the Romanian forces of order remained inactive," the letter said.

In Budapest, an estimated 70,000 Hungarians bearing torches and waving national flags rallied in the main square Tuesday protesting the attacks in Romania.

Gaspar Miklos Tamas, a leading Hungarian opposition politician who left Romania in 1978, urged Romania's leaders to act immediately against "fascist gangs" in Transylvania, which belonged to Hungary before World War I.

"We can promise one thing," Mr. Tamas told the crowd in Budapest. "We will never stand idly by and watch our Hungarian brothers being maltreated in Transylvania."

THE HIGHER EDUCATION SAVINGS PLAN ACT OF 1990

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. VANDER JAGT. Mr. Speaker, I am today introducing H.R. 4375, the Higher Education Savings Plan Act of 1990. This legislation is intended to make a modest step in the direction of assisting parents to save for the staggering costs of their children's higher education expenses.

The compelling need for this legislation is now more apparent than ever. The cost of sending a child to a private university for 4 years now averages more than $50,000, while the cost of a 4-year public university education averages $18,000. By the year 2007, the Department of Education estimates the total cost to attend a private university will increase to $200,000 and to $60,000 for a public university. These statistics spotlight a major financial problem facing parents.

Accumulating the funds necessary to cover these costs will be very difficult with after tax dollars for most, if not all, middle-income parents. With the stress on higher education by the Federal Government and the need for accumulating the funds to cover the escalating cost, middle-income taxpayers should receive some tax assistance to enable them to meet the future costs.

Under H.R. 4375, assistance would be made available by providing that when a taxpayer purchases a predesignated annuity for the child to cover qualified higher education costs, the withdrawal of funds from the annuity to pay such education costs would be exempt from the 10 percent penalty for premature distributions from annuity contracts under Internal Revenue Code section 72(q). Safeguards would be provided by requiring that the annuity be designated for education costs at time of purchase. Qualified higher education costs are defined to include only undergraduate expenses incurred at institutions of higher education. Finally, under the terms of the legislation, the annuity premium payments to cover the education costs would not count against the first tax annual exclusion.

Other Code sections provide direct benefits to taxpayers financing the cost of higher education. Section 135 allows income from U.S savings bonds to be excluded from income under certain circumstances if the income is used to pay educational costs. Section 2503 generally allows an unlimited gift tax annual exclusion for gifts which pay higher education tuition costs. H.R 4375 would provide a mechanism to directly address the needs of middle income taxpayers facing higher education costs of their children which will be financially overwhelming.

Since the proposal would only apply to predesignated annuities issued after enactment, it would not have a material effect on current Federal revenue. I strongly encourage my colleagues to cosponsor this important legislation and to work for its prompt enactment.

H.R. 4375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

To amend the Internal Revenue Code of 1986 to promote savings for qualified higher education expenses. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Savings Plan Act of 1990."

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. SAVINGS PLAN PROVISIONS.

(a) Paragraph (2) of section 72(q) would be amended to add the following new subparagraph:

"(K) from a Higher Education Expenses Annuity described in subsection (w)."

(b) Section 72 would be amended by redesignating subsection (w) as subsection (x) and by adding after subsection (v) the following new subsection:

"(c) Higher Education Expenses Annuity. For purposes of this section, the term "Higher Education Expenses Annuity" means—

(1) an annuity contract which is designated by the purchaser for qualifying higher education expenses at the time of purchase,

(2) distributions from which are paid to an eligible educational institution, as defined in section 135 (c)(3), for tuition and fees required for the enrollment or attendance at such institution of any dependant of the purchaser with respect to whom the purchaser is allowed a deduction under section 151."

(c) Paragraph 2 of section 2503 (e) would be amended by striking "or" after the word "individual" in subparagraph (A), inserting "or" at the end of subparagraph (B) and by adding the following new subparagraph:

"(C) as a premium to purchase a Higher Education Expenses Annuity as defined in section 72(w)."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply for all taxable years beginning after December 31, 1990, and to Higher Education Costs Annuities purchased after that date.

FEDERAL CROP INSURANCE REFORM ACT OF 1990

HON. GLENN ENGLISH

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. ENGLISH. Mr. Speaker, today I have introduced the Federal Crop Insurance Reform Act of 1990 designed to cure the ills which have befallen the program since it was last revised in 1980.

Practically everyone agrees that crop insurance is not working as it was designed by the 1980 act. Too few farmers avail themselves of the protection because the coverage is not adequate—the cost exceeds the benefit. With two few farmers being covered by insurance, weather disasters such as those experienced in 1988 and 1989 create a demand for ad hoc legislation to provide relief. The certainty that widespread weather disasters will bring relief has a depressing effect on the incentive for farmers to buy insurance—and down goes the spiral.

Since 1980, the Government has spent an average of $1.4 billion a year on crop insurance and ad hoc disaster programs. We must decide on one approach or the other—it costs too much to do both.

Last year, the Congress created a commission to study the program and recommend improvements. The Commission has made its report. In his 1991 budget message, President Bush proposed doing away with the program after this crop year. Secretary of Agriculture Clayton Yeutter has proposed a permanent disaster program in his recommendations for the 1990 farm bill. Other administration officials have suggested that the proposals by President Bush and Secretary Yeutter are not serious—they are only designed to catch the attention of the Congress.

Regardless of the maneuvering by the administration, I have espoused for the past year a new approach to curing the crop insurance problems—a combination of disaster protection and crop insurance with a partnership between the Government and farmers that will provide self-protection against the ordinary risks of farming with Government protection against catastrophic events.

In crafting the Federal Crop Insurance Reform Act of 1990 I have taken into account the recommendations of the Commission to improve the Federal Crop Insurance Program. I have incorporated suggestions from hundreds of farmers, independent insurance agents, insurance companies, and Federal officials that I have talked with during the past year.

In brief, under the bill the Government will provide disaster protection plans on three levels. Farmers who participate in the voluntary production adjustment programs operated by the Department of Agriculture will be covered against losses below 50 percent of normal production. Farmers who produce crops not covered by those voluntary production adjustment programs will be covered against losses below 40 percent of normal production. Farmers who grow the crops which are subject to the voluntary production adjustment programs but who choose not to participate will be covered against losses below 30 percent of normal production.

All farmers will be eligible to purchase addition crop insurance to cover production up to 75 percent of normal production. The Government will share in the premium for this additional insurance up to the 65-percent level. The premium for coverage between 65 and 75 percent will be paid entirely by the farmer.

The Federal Crop Insurance Reform Act of 1990 also addresses inadequacies in current practices of determining yields, selecting price levels for coverage, and removes the prohibition against insurance for livestock. The bill continues the cooperation between the Government and the private insurance sector with

the Government taking on an increased regulatory role.

TRAUMA CARE SERVICES

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. FASCELL. Mr. Speaker, I have introduced legislation to make available $20,000,000 from the assets forfeiture fund to support trauma care services provided by local nonprofit hospitals.

The Assets Forfeiture Program has successfully stripped drug dealers of millions of dollars in ill-gotten gains. It is both a powerful weapon against traffickers and a means of generating nontax revenues to carry on that war. Nonetheless, as currently administered, the program focuses almost entirety on law enforcement and has a marked Federal bias. States and localities are reimbursed from seized funds based on their law enforcement participation in the seizure with the balance going to the Department of Justice.

We all recognize that law enforcement is but one of several necessary responses to the drug crisis. We also know that the real drug war is not being fought in the halls of the Justice Department, but in the streets of our local neighborhoods. That is where the war is and that is where the casualties are.

Trauma is the leading cause of death for adults under 45 and children under 12. Drug and substance related violence and injury have swamped our local nonprofit hospitals. In these field hospitals of the drug war, trauma cases, frequently involving indigents, crowd out other patients and cases. Community coffers are depleted while community health deteriorates.

These multimillion dollar drug fortunes do not come from the Federal Government; they are sweated out of our neighborhoods $5 and $10 at a time. It is, therefore, entirely just and proper that a small portion of these funds go back to our embattled local hospitals. This legislation will accomplish that goal and I urge our colleagues to support this concept.

THE 169TH ANNIVERSARY OF GREEK-AMERICANS INDEPENDENCE

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mrs. MORELLA. Mr. Speaker, I am pleased today to offer my congratulations to Greeks and Greek-Americans as they celebrate the 169th anniversary of their homeland's Declaration of Independence from the Ottoman Empire March 25. The Greek Nation had been subjected to the rule of the Ottoman Empire for nearly 400 years—since the fall of Constantinople in 1453 until Greece proclaimed its independence in 1821. During that period, many Americans of various nationalities set off for Greece to help the Nation and its people win their independence.

Recalling the debt which Americans owe to Greece for the principles of democracy upon which our society is based, President Monroe told the 17th Congress in 1822 that "the mention of Greece fills the mind with the most exalted sentiments and arouses in our bosom the best feeling of which our nature is susceptable. * * * A strong hope is entertained that these people will recover their independence, and resume their equal station among the nations on earth."

And the Greek people also recognized in the United States the establishment of those democratic principles which they themselves had originally promulgated and espoused. As such, the American revolution became one of the ideals of the Greeks as they fought for their independence in the 1820's. Translating the American Declaration of Independence into Greek, they adopted it as their own declaration.

Finally, this year especially, as we celebrate Greek Independence Day, we should recognize that, as democracy and freedom sweep across the plains of Eastern Europe, we all owe a common debt, and share a common heritage, with Greece, the birthplace of democracy.

THE DESTRUCTION OF A CULTURE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. PORTER. Mr. Speaker, when we talk about extinction, it is as though we are referring to the age of dinosuars. Anyone who saw yesterday's Wall Street Journal article, "Amazon Tragedy: White Man's Malaria and Pollution Imperial Remote Tribe," will know it is a modern day reality.

As cochair of the Congressional Human Rights Caucus and a Member who has followed the plight of indigenous people around the world, I will not be an idle witness to the destruction of the Yanomami tribe in northern Brazil. Rather, I extend a hand to the New Brazilian President, Fernando Coller de Mello, inaugurated just this month, and urge him to take corrective action immediately.

I would like to submit the article for the RECORD and hope that my colleagues will take note, and join me in alerting the new President that we are deeply concerned about the plight of the Yanomani.

The article follows:

AMAZON TRAGEDY: WHITE MAN'S MALARIA AND POLLUTION IMPERIL REMOTE TRIBE IN BRAZIL

(By Thomas Kamm)

PAAPIU, BRAZIL.—Malaria snuffed out Maike, a four-year-old Yanomami Indian child. Then alcohol, another scourge brought by the white man, turned the child's wake into a violent skirmish.

Yanomami funerals are highlighted by mock battles in which warriors of neighboring villages pretend to kill and eat each other by imitating the twang of bows and devouring huge amounts of food. Making a farce out of war, they give evidence of their friendly ties and shared grief over death.

But little Maike's ceremony went awry. Instead of eating their traditional mashed bananas, the Indians gorged themselves on an alcoholic brew laced with disinfectant stolen from a nearby infirmary. Drunken men came to blows, and several youths tried to rape a pre-adolescent girl.

PERVERTED RITUALS

"The whole ritual framework has exploded and been perverted," laments Bruce Albert, a French anthropologist. He has spent more than a dozen years studying the Yanomami, or Yanomamo as they are sometimes called, a 9,000-member tribe that lives on both sides of Brazil's border with Venezuela. Yanomami ceremonies, says Mr. Albert, have become excuses to "express all their anguish and trauma" over the sudden intrusion of 45,000 prospectors into their once-unspoiled domain.

Considered the last major Stone Age tribe of the Amazon, the Indians were made famous 20 years ago by anthropologist Napoleon Chagnon's best-selling book, "Yanomamo: The Fierce People," which described their fighting skills and culture.

Because of their geographical isolation and their habit of greeting visitors with curare-tipped arrows, the Yanomami were able to escape the outside world's epidemics, alcoholism, and forced assimilation that decimated many other tribes.

But the conquest that began with Columbus's arrival in the America has finally overwhelmed them. Lured by huge deposits of gold, diamonds and other minerals in Yanomami lands, the prospectors, called garimpeiros, have invaded Indian reserves deep in the rain forest.

Today, the Yanomami are a sick and dying people, victims of disease and ecological damage brought by the garimpeiros.

"We have no hunting because the animals have left, and no fishing because the water is dirty," says Yadusse, a Yanomami in his 20s, sitting in a round, communal hut, called a maloca. The village of Paapiu, an hour's flight west by small plane from the city of Boa Vista, is close to a landing strip and an outpost of the Fundacao Nacional do Indio, or Funai, the state agency charged with protecting Indians. But signs of illness and malnutrition abound.

"The situation is catastrophic," says Patrick Aeberhard, who recently led a team from Medecins du Monde, a French medical group, on a tour of Yanomami territory. "Practically every Indian we examined has malaria, some also have tuberculosis, and one of every two children is undernourished. They look like African children: Their hair is turning blond, their stomachs are bloated, their arms and legs are spindly. If nothing is done in the coming month, they're all dead."

Attempts to investigate the full extent of the tragedy run into an unusual cultural barrier: The Yanomami wipe out every trace of their dead.

"A person who dies must be erased from memory," explains Mr. Albert. "Everything he owns is systematically destroyed. His crops are uprooted. They even go deep into the forests to find arrows he may have left behind. It's manic." This zeal extends to the deceased's remains. His body is strung to a tree until dry, then burned to ashes, and the remaining bones are crushed. After a period of mourning, the bone fragments are mixed with bananas and eaten by friends and relatives to preserve his spirit—the only act of cannibalism practiced by the Yanomami.

Another major obstacle to tallying their dead is that the Yanomami can't count. "Anything over two is 'many.'" says Marcos

Guimaraes, a Funai doctor in charge of the medical emergency team. If questioned further, a Yanomami holds his hands together with fingers parted, and says wahoro, meaning many, placing emphasis on the last syllable to indicate the number is great.

And then there is the Yanomami fear that they will become victims of sorcery if they pronounce the names of dead people from other families. To overcome their phobia, Mr. Albert, the anthropologist, has to take aside a few tribe members he knows well and gently interrogate them about fatalities in their villages.

"I whisper a name, and they whisper back what happened, all the while looking [over their shoulders] to make sure no one is observing them," he recounts. "We have to go through incredible circumlocutions to find out what happened."

But the information he gleans is devastating. In the four villages around Paapiu, 32 of the 233 inhabitants have died since August 1987—a mortality rate of 14%. "It's as if 21 million Brazilians had died," says Mr. Albert, extrapolating the figure to the nation's total population. Worse, only eight infants of less than a year old are left in those Yanomami communities. "That's characteristic of a group on the verge of extinction," says the anthropologist.

In most other villages visited by medical teams, the proportions are similar. About 15% of all Yanomami have died since the gold rush began three years ago. Most of the victims are old people, the custodians of the Yanomami's oral culture, and children, the guardians of the tribe's survival.

A NATURAL VULNERABILITY

The Indians have no natural antibodies for the strain of malaria brought by the garimpeiros, because it was unknown to the area before. "Malaria is like AIDS for them," says Ivone Menegola, a doctor who has just returned from Paapiu.

Influenza, dysentery, measles, chicken pox and gonorrhea—other diseases which the Yanomami are encountering for the first time—also wreak havoc, doctors say. With many men lying ill in hammocks, tribes suffer from food shortages. And even able-bodied Indians can no longer find enough fish or game because of the worsening pollution.

Mercury, used by the garimpeiros to amalgamate gold dust and separate it from other particles, seeps into the rivers and contaminates the fish.

The din of the dredging pumps and the noise of the airplanes that service the miners' camps have scared away the wild boars, monkeys, tapirs, armadillos and the birds that the Yanomami traditionally hunt. "I crossed the forest without encountering any animals." says Dr. Aeberhard of Medecins du Monde, in stark contrast to his sojourn among the Yanomami five years ago.

But the operation is meeting heavy resistance. When the then Justice Minister Saul Ramos traveled to Boa Vista to survey the withdrawal in February, he was greeted by over 1,000 angry prospectors bearing signs like "Who will feed our families?" and "The Amazon isn't only for the Indians." They occupied Boa Vista's central square—dominated by a monumental statue of a garimpeiro that attests to the city's dependence on gold miners—and refused to leave until assured they would be given another place to work.

"I can't send the garimpeiros to Copacabana Beach," Mr. Ramos said afterwards. "I have to put them where the gold is."

His solution was to close down existing clandestine mines, and move the prospectors to virgin sites. But when the new zones also turned out to be lands claimed by the Yanomami, a top Indian-rights official who was overseeing the operation resigned in protest. A deputy public prosecutor then began legal action against the government for "clear violation" of Yanomami rights.

Meanwhile, with the disappearance of their traditional foodstuffs, many undernourished Indians are trekking to garimpeiro camps where they beg for sardine tins and sacks of rice and flour. This allows the prospectors and their allies to claim that far from rejecting them as the cause of their troubles, the Yanomami view them as friends and benefactors.

Everaldo Martins, a pilot who ferries garimpeiros and their supplies, argues that the Yanomami are being barred from access to "modern civilization" by environmentalists, anthropologists and missionaries. "Indians have a right to evolution, and a lot of ecologists won't admit this," says Mr. Martins. "They want to turn Indians into animals in a game park."

THE NEW PROMETHEUS

Mr. Albert counters that he and other Yanomami defenders "have no intention of preserving them in a glass jar." He adds, "What we want is that they have the means to survive and to choose the changes in their lives."

But protectors of the Indians acknowledge that their task is complicated by the fascination the Yanomami show for the 20th-century trappings brought into the area by the garimpeiros. Wondrous objects like radios and digital watches have transformed the white man into a modern-day Prometheus for many Indians.

According to a new revisionism that has seeped into Yanomami mythology, "the white people are good and [the Indians] want to make contact with them and get things like flashlights, knives and axes," says Father Joao Saffirio, a Catholic missionary and anthropologist who has spent 22 years with the tribe.

"The young Yanomami who was guiding me looked like a mutant," he recalls. Instead of the traditional skimpy loincloth, "he was wearing shorts, flip-flop [sandals] and diver's goggles. And while in the old days the guide would indicate traces of animals and explain how he hunted, this one was just pointing out white men's objects: 'Here the garimpeiros used to hide their gasoline,' or, 'Look, a pair of sneakers.' "

BOWIE STATE—125 YEARS OF EDUCATIONAL LEADERSHIP

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. HOYER. Mr. Speaker, I rise today to commend the legacy of leadership in education provided by Bowie State University during its 125 years of educational service. Bowie State University has evolved over the years from a normal school to a full-fledged, comprehensive, multicultural university meeting the educational challenges of African Americans.

Bowie State University is an outgrowth of the first school opened in Baltimore on January 9, 1865, by the Baltimore Association for the Moral and Educational Improvement of Colored People, which was organized to engage in its self-appointed mission on a statewide basis.

On April 8, 1908, at the request of the Baltimore Normal School which desired permanent status and funding as an institution for the education of teachers, the State legislature authorized its board of education to assume control of the school. The same law redesignated the institution as Normal School No. 3. and subsequently the university was relocated on a 187-acre tract in Prince Georges County. By 1914, it was known as Maryland Normal & Industrial School at Bowie and by 1925 the 2-year professional curriculum in teacher education was expanded to a 3-year program. In 1935, with State authorization, a 4-year program for the training of elementary school teachers was begun and the school was renamed the Maryland State Teachers College at Bowie.

In 1963, a liberal arts program was started and the name was changed to Bowie State College. In succeeding years, it has established a graduate school, division of continuing education, a weekend program and a number of innovative programs specifically designed to prepare students to fulfill productive roles in our changing society and economy.

Bowie State offers a variety of learning experiences for its 3,500-plus students including an outstanding honors program for the academically talented, a very popular Army ROTC Program, an exciting athletic program that fields eight intercollegiate sports in the CIAA/NCAA, as well as a cooperative education program that has an excellent record in placing students after graduation. Building on an excellent foundation in teacher education, Bowie State has emerged as a highly acclaimed, fully accredited, 4-year liberal arts university with 28 academic programs. Today, the university offers graduate degrees in such challenging and contemporary fields as computer science, management information systems, human resources development, administrative management and organizational communications.

In July 1988, Bowie State received university status. At the same time it joined 10 other State universities and colleges to form the University of Maryland system of higher education. Bowie State, the "public university with a private college setting," has made a commitment to career-oriented programs with a liberal arts core and a strong foundation in the technology of the discipline.

I ask you, Mr. Speaker, and my colleagues to join me today in commending the Bowie State University for its commitment and contribution in preparing African American students to assume their place in the wider world and in being a strong institution of higher learning that holds the key to success for our generations to come.

CELEBRATING THE 100TH ANNIVERSARY OF THE JEWISH COMMUNITY CENTER

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. MAZZOLI. Mr. Speaker, I would like to take this opportunity to honor one of Louisville and Jefferson County's oldest and most important institutions, the Jewish Community Center.

Early this year, many people came together to celebrate the 100th anniversary of the center, making it the third oldest center in America in continuous operation.

The mission of the Jewish Community Center has always been to enhance Jewish identity and values through the family. But most Louisville natives involved with the center know it for its child-care program, health facilities, the Saturday night dances, and the many arts and crafts fairs it sponsors.

I believe the most laudable aspect of the Jewish Community Center has been, and continues to be, its "open door" policy toward membership for the non-Jewish community—which currently comprises one third of the total center memberhsip—as well as single parent families, and the poor.

The Jewish Community Center is an institution which displays compassion for its members, and I am confident it will have another flourishing 100 years in the community.

Mr. Speaker, Louisville and Jefferson County has its fair share of historic sights: Churchill Downs—the home of the Kentucky Derby—and Locust Grove—the home of explorer George Rogers Clark—just to name a couple.

But, I believe the Jewish Community Center is also an historic place for the people of Louisville and Jefferson County, and I wish it every success in the future.

IN MEMORY OF MR. ROBERT W. CAREY

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. MONTGOMERY. Mr. Speaker, I regret to inform you that veterans, service members, Federal employees, Pennsylvanians, and all Americans lost a good friend recently. On Sunday, March 4, 1990, at the young age of 44, Robert W. Carey died, as he lived, enjoying life. Bob, as he was known to Congressmen and first-day employees alike, was Director of the Veterans Affairs Regional Office and Insurance Center [VAROIC] in Philadelphia, PA. He died while on vacation in California.

The VAROIC in Philadelphia is the largest regional office in the VA system. It is also the headquarters for the nationwide GI life insurance program which insures over 7.2 million veterans, service members, and reservists.

Bob Carey was Director of the Center for 4½ years. Before that, he had served as personnel officer and then as Assistant Director for Insurance. Under Bob's leadership, the VAROIC Philadelphia consolidated and expanded its traditional position as the flagship station of the Veterans Benefits Administration [VBA].

Bob was unfailingly thoughtful and forward thinking when it came to the welfare of both his fellow employees and veterans and their families. For the employees, he was the driving force behind the first day-care center in VBA. Called the Academy for Early Learning, the day-care center cares for 35 children each day, including children from the surrounding neighborhood. Bob was also the driving force behind an employee fitness center.

As director of the DVA's national insurance headquarters, Bob led the insurance programs to many innovations designed to improve service and expand benefits. The many insurance benefits enhancements he initiated were all the more impressive for the fact that they were done generally without cost to taxpayers.

Some of Bob's other accomplishments include his unfailing support for the Philadelphia VAROIC's Employees Association; his personal involvement and support for the establishment of a Philadelphia Vietnam Veterans Memorial; and his successful efforts to have the office designated as the technological cutting-edge "Model Station" project headquarters.

Bob Carey was acknowledged by all who knew him as a special person, with an enormous range of interests and friends. He was dedicated to his work, and proud of it; who made the words "public servant" an honest description. He combined intelligence and skill with good humor and friendship.

Bob had a laugh that you had to hear only once to have it firmly implanted in your memory. He had a tremendous love of people, or as one of his coworkers put it, a "passion for people." He had so many, many friends for one simple reason—he was a friend to them. If Bob said he would help—you could bank on it.

He was a generous man. When he received a $1,000 cash award last year for his effort on behalf of equal employment opportunity, he donated the entire proceeds to the VAC Philadelphia Employees Association to use as an emergency assistance fund. In fact, the employees in Philadelphia have since renamed it the "Bob Carey Employee Assistance Fund" and are receiving donations in that name.

He loved all things Irish, and had a touch of the Irish politician in him. He had a way of making people feel immediately at ease, not unlike his hero, Bobby Kennedy. As his newspaper obituary read, "his twinkle had a twinkle." Perhaps that phrase best describes the kind of man Bob Carey was. We will all miss him greatly.

TROUBLED WATERS

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Ms. SLAUGHTER of New York. Mr. Speaker, 1 year ago this coming Saturday, the world began to hear about an oil tanker that had run aground in Alaska's Prince William Sound. In the following days, weeks, and months the words *Exxon Valdez* became synonymous with environmental tragedy, corporate carelessness, and executive disinterest in pollution of unheard of dimensions.

Twelve months and $2 billion later, what do we have? The skipper of the ship is standing trial. The company that owns the 10 million gallons of spilled crude oil is being sued by the Government. The Alaskan fishing industry is recovering from a lost fishing season. Countless marine animals have died, and the dirt beneath the beach surface is still oily.

This type of environmental tragedy must never again occur. I was pleased to vote for the strong oil spill prevention and clean up bill we passed in the House last year. I am pleased that Exxon has done an about face and promised to return to the Sound to continue cleaning the oil this spring.

What we need now is final legislation to require increased care on the part of oil transporters. We need oil companies to include an environmental ethic in their corporate handbook. And we need to ensure that all our policies include the true cost to the environment, not just the effects of the best case scenario. The *Exxon Valdez* has shown us what can happen in a worst case scenario.

REMEMBERING ROBIN GATWOOD

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. BALLENGER. Mr. Speaker, earlier this week I became a cosponsor of House Joint Resolution 467, a resolution that would authorize and request the President to proclaim September 21, 1990, as "National POW/MIA Recognition Day." While September is several months away, I want to use the opportunity of my cosponsorship of this legislation to relate a personal story.

I have a special interest in the continued search for missing servicemen in Southeast Asia because the son of a friend of mine is among the missing. During the Vietnam conflict, Robin Gatwood, a fighter pilot, was shot down and reported missing. Since that time his father, Dr. Robin Gatwood, has been a leader in the effort to locate our missing servicemen. Dr. Gatwood, like so many families, has not given up on his son. In fact, I am sure many of my colleagues have been touched personally by the Vietnam conflict. I can remember the young Robin from the days when he was my paper boy, and as I recall, he was even bitten once by my dog.

I can only imagine the frustration and pain that parents, spouses and friends continue to feel knowing that loved ones could still be alive and held captive in Southeast Asia. I know from talking with Dr. Gatwood that one of the sources of this frustration is the U.S. Government. The process of locating missing men has been, and continues to be, a long seemingly unending process. The very least we can do as a legislative body is to continue to call attention to this issue by proclaiming a day of recognition.

I support the efforts of our Government, individuals, and families in locating the some 2,305 Americans unaccounted for in Southeast Asia. We must continue to send the message to Hanoi that "we will not forget" our fellow citizens. This resolution will help achieve that goal.

THE CONSCIENCE VIGIL FOR SOVIET JEWRY

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. FROST. Mr. Speaker, this year as we continue the Conscience Vigil for Soviet Jewry, our task has become increasingly difficult. In 1940, American Jews felt powerless to help their fellow Jews in the face of Hitler. In 1990, reports of pogroms to be held in the Soviet Union hang over our heads. The militant, anti-Semitic group, Pamyat, has posted the notice—they have planned a Jewish bloodbath and kindly given us warning. American Jews cannot languish in the wake. And the rest of America cannot either.

The third largest Jewish population in the world is in the Soviet Union. They are desperately seeking their freedom and more than ever, they need our help. Lines begin at dawn at the Embassy, thousands of applications are returned every day, and the anxiety rises as everyone wonders who will be left to speak for the Jews on May 5. Is it a rumor or is it a very real and fatal threat to the persecuted Jewish community?

There are still 250 long-term refuseniks barred from emigrating—they have been repeatedly refused permission to leave for years, some applied to emigrate nearly 20 years ago. Most are denied emigration because they are allegedly privy to state secrets. They have long lost their jobs, they are followed and harassed, their phones are tapped, their homes are bugged, and no evidence of state secrets is found. As anti-Semitism continues to intensify within the public, hundreds of thousands more are trying to leave. They are tired of being victimized and they fear the deadly consequences if they are forced to remain in the country—will President Gorbachev protect them if they are still here on May 5? They don't want to risk finding out at their own expense. As Dmitri Simes noted in the Washington Post on Tuesday, March 20, 1990:

But the Soviet Government does not have a good record in protecting people from ethnically motivated violence. In almost all outbreaks of violence to date—from Azerbaijan to Transcaucasia to Uzbekistan in Central Asia—the forces of law and order acted only after numerous lives had been lost.

The Soviet Government does not take Pamyat seriously, and they do not believe the threats. It is ironic that finally, when the Soviet Union has cast off its official policy of anti-Semitism, it rages up in the people as ferocious as the days in Stalin's reign. The Soviet Union is experiencing tremendous economic hardships and the people need a scapegoat. As history recounts, the Jews have traditionally been the scapegoats in similar circumstances.

At this time, I'd like to mention a puzzling incident that happened almost a month ago. When Secretary of State Baker visited the Soviet Union in February, it was well-publicized that he sat before the Soviet Parliament and fielded questions. Yet, what went unmentioned was Secretary Baker's strange refusal to meet with any Jewish activists or any refuseniks during his trip. Not only did he decline to meet with any refuseniks, but Secretary Baker did not even raise the issue of anti-Semitism during any of his sessions with Soviet officials.

In tandem with other recent events, the actions of Secretary Baker in February marked a departure from traditional U.S. practice. The Secretary of State has always met with Jewish dissident leaders on every visit to the Soviet Union that I can recall.

The question remains—what can we do? So many thousands of Jews are determined to get through the exit gates. Speedy departure is hindered by a year's delay in obtaining airplane reservations. What can we do? We can continue to pressure President Gorbachev to implement the direct flights agreement between El Al and Aeroflot airlines that was signed in Moscow on December 6, 1989. And we can ask why a commercial settlement is being postponed due to a game of political hardball. Humanitarian aid for Soviet Jews should not be contingent on the development of the Arab-Israeli conflict. Let us offer the Soviet Jews airlifts not bureaucratic taxi rides.

We can ask Secretary Baker to explain his refusal to meet with Jewish leaders in the Soviet Union. We can continue to demand that the Bush administration make this issue a priority in all discussions with Soviet officials. And we can remember the Holocaust and promise ourselves that we'll never let it happen again.

THE 100TH ANNIVERSARY OF THE NEAL-O'BRIEN BUILDING AND MATERIALS CORP.

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. HORTON. Mr. Speaker, I rise today to pay tribute to the Neal-O'Brien Building and Materials Corp. as it celebrates its 100th year in operation. The company has locations in Oswego, Fulton, and Red Creek, NY; all of which are in my congressional district.

For the last 100 years, the Neal-O'Brien Building and Materials Corp. has been providing lumber to homebuilders throughout the region. From the beginning, the company has focused on building neighborhoods, not just houses in the same area. This commitment to community building has contributed to the company's longevity and helped it to survive some troubled times including a disastrous fire in 1945. Following the fire, company fire W.G. O'Brien was quoted in the Oswego Palladium Times as saying, "The most precious possession of the firm is the friendship and esteem of businessmen and customers which the fire could not destroy." Apparently the competition also held Mr. O'Brien's operation in high esteem for several other lumber companies furnished him with enough materials to continue working.

Over the years, the company has changed names. In approximately 1890, Moses Prose Neal bought out Lefaiver & Co. and named it Jessmore & Co. In 1909, W.G. O'Brien went to work for M.P. Neal as a clerk and bookkeeper. In 1916, the firm once again changed names when it became known as Burke and O'Brien Lumber Co., with Mr. Neal as the major partner. Mr. Burke and Mr. O'Brien were the active partners. When Mr. Burke left the company in the midtwenties, the firm changed its name to the Neal-O'Brien Lumber Co. Today, Neal-O'Brien is owned by Larry O'Brien and his sister Ellen O'Brien.

Throughout the years, the owners and employees of Neal-O'Brien have sought to serve the people of Oswego and Wayne Counties with integrity, honesty, and a sense of fairness. That commitment remains as strong as ever as the firm enters into its second century. I am proud to have such a reputable firm in my congressional district.

Throughout 1990, the folks at Neal-O'Brien Building and Material Corp. will be celebrating their century of commitment and service. It is firms like this that epitomize small business in America.

As the Congressman for Oswego and Wayne Counties, I want to extend my congratulations to the owners and workers at Neal-O'Brien for a century-long job well done. I look forward to their continued commitment to excellence.

TRIBUTE TO THE REV. MIGUEL ALCANTARA

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. SANGMEISTER. Mr. Speaker, it is with great pride that I rise today to salute the work of a well-respected clergyman and constituent in my home district, the Reverend Miguel B. Alcantara. Reverend Alcantara, who will celebrate 25 years in the priesthood March 25, 1990, has tended to the spiritual needs of the members of St. Andrew's Parish in Calumet City, where he has served as associate pastor since 1982.

Reverend Alcantara was born in the Atimonan, Quezon, Philippines in 1940. After graduating from high school in his native land, he pursued an education in theology, which culminated in his ordination March 19, 1965, in Rome, the Eternal City.

His calling has taken him to Mexico, the Philippines, Brazil, as well as the United States. His first assignment in his adopted land was as an associate pastor at St. John Berchman's Parish in Chicago from 1970 to 1974 while he studied at De Paul and Loyola Universities. Later, he served at St. Rocco's Parish in Pittston, PA, and St. Sebastian's Parish in Middletown, CT.

In 1984, he became a citizen of the United States, and was honored as 1 of 12 "Out-

standing New Citizens of the Year" by the Citizenship Council of Metropolitan Chicago.

During Reverend Alcantara's missionary work in Brazil from 1978 to 1981, he was named the "Outstanding Citizen of the City of Jandaia do Sula" and was made an honorary citizen of the Republic.

Although Reverend Alcantara is now a U.S. citizen, he still maintains close ties with his native land as coordinator of the Association of Filipino Clerics in Chicago, liaison priest for Filipinos with the Office of the Filipino Apostolate, and columnist for the VIA TIMES, a nationwide news magazine for Filipino-Americans.

Mr. Speaker, the parishioners of St. Andrew's Parish in Calumet City are fortunate to have Reverend Alcantara dedicated to their spiritual care. I congratulate Father Alcantara on this special milestone and hope he enjoys many more fruitful years in the priesthood.

A CONGRESSIONAL SALUTE TO THE TORRANCE, CA CHAMBER OF COMMERCE ON ITS 50TH ANNIVERSARY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. ANDERSON. Mr. Speaker, it is a pleasure to pay tribute to the Torrance, CA Chamber of Commerce. April 29, 1990, marks the 50th anniversary of this exemplary service organization.

The Torrance Chamber has served the area's business since the city was founded, providing half a century of community leadership. The chamber has contributed immesurably to the social, cultural, and educational growth of Torrance, founding and fostering such community groups as the Torrance Sister City Association, Torrance Rose Float Association, and Miss Torrance Pagenant. It sponsored or cosponsored such community events as the area Armed Forces Day Celebration, Airport Days, Ranchero Days Medal of Valor Awards, the Downtown Torrance Friendship Festival, Energy Expo, and the South Bay International Surf Festival.

The organization has labored tirelessly to promote the area's commercial potential. To this end it has founded or assisted in the founding of the Torrance Visitors Bureau, the South Bay Association of Chamber of Commerce, and the South Bay International Trade Association.

The Torrance Chamber has made a noteworthy contribution to the prosperity of the city's business, helping to build a proud and balanced community. It continues its 50-year tradition of civic service through outstanding current programs representing the community at large and has remained fully accredited by the U.S. Chamber of Commerce for the last 15 years.

The Torrance Chamber of Commerce is to be congratulated on the occasion of the 50th anniversary of its incorporation and commended for its many contributions to the wellfare of the Torrance community.

My wife, Lee, joins me in extending our heartfelt congratulations to this dedicated organization. We wish its hardworking members all the best and know that with the commitment they continue to show to our community, the next 50 years will be just as memorable as the first.

TRIBUTE TO GEN. JOHN L. PIOTROWSKI

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. DICKINSON. Mr. Speaker, at the end of this month Gen. John L. Piotrowski, commander in chief of the North American Aerospace Defense Command and the U.S. Space Command, will be retiring from the U.S. Air Force after a distinguished 37-year career. His inspired leadership has dramatically improved the national security posture of North America and that of all Western defense forces. Under his stewardship, the North American Aerospace Defense Command and U.S. Space Command have become models of jointness and unification within the national military command structures of the United States and Canada.

As the 12th commander in chief of the North American Aerospace Defense Command, General Piotrowski championed unique improvements in NORAD Fighter readiness and surveillance capabilities. While performing his day-to-day mission of directing missile warning operations, General Piotrowski spearheaded the development of numerous warning programs. His efforts to replace outdated computers at Cheyenne Mountain with modern processors and displays have enhanced NORAD's ability to provide tactical warning and attack assessment to the national command authorities.

The recent expansion of NORAD's surveillance missions, to include counternarcotics operations, has provided General Piotrowski with his most enduring legacy. His support and leadership has provided NORAD clear direction and has rejuvenated the entire command.

Selected as the second commander in chief of the U.S. Space Command, General Piotrowski directed U.S. efforts to satisfy antisatellite and ballistic missile defense requirements. Throughout this effort, he mandated that all command efforts should strive for a common goal: better support from space for all terrestrial warfighters. Without adversely impacting upon the command's missile warning and space surveillance missions, General Piotrowski successfully advocated U.S. Space Command's need for warfighting assets. He has also been a staunch supporter of tactical missions and commanders and insisted that wartime planning efforts incorporate maximum support for tactical warfighters in all theaters. As a result, U.S. warfighting capabilities have been enhanced.

Through scores of briefings to decisionmakers in the executive and legislative branches, and articles in both Department of Defense and civilian publications, General Piotrowski has established himself as a leading advocate of ballistic missile defense, antisatellite capabilities, space-based wide-area surveillance, tactical space surveillance, and a responsive launch capability. Due in large part to his tireless efforts, those programs are moving forward in the Department of Defense's acquisition process.

We in Congress owe General Piotrowski a great deal of thanks for his efforts on behalf of this country. He has laid the groundwork for U.S national security policy to remain tied to a strong deterrent capability into the next century. I personally want to thank General Piotrowski for his years of counsel and want him to know that we all wish him the best of luck in the future.

GLOBAL PATENT HARMONIZATION

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. SCHULZE. Mr. Speaker, today I am introducing legislation to enhance international trade by harmonizing the incredibly diverse patent systems found throughout the world.

In the United States, the patent consideration process takes an average of 19 months. It requires 5 to 7 years and longer in other countries. In fact, one United States firm just received a patent in Japan—but only after a 29-year wait.

Also, in some countries, opposition to a patent application can be lodged prior to the granting of the patent, while this process is kept confidential in others. Clearly, these inequities act as trade barriers to U.S. firms fighting to compete globally, and severely impair true global trade expansion.

My bill would make global patent harmonization a negotiating objective of the United States, and direct the U.S. Trade Representative to consider the extent to which trading partners may employ their patent systems as unfair barriers to U.S. exports. In the name of expanding global trade opportunities, I urge my colleagues to support this legislation.

TRIBUTE TO ROBERT W. JONES

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Attorney Robert W. Jones, who passed away on February 2. Robert Jones was a man who devoted his life to serving those less fortunate than himself. He was a brilliant criminal lawyer and a devoted family man. The community has truly suffered a great loss.

Robert Jones began practicing law in 1960. A graduate of Youngstown Law School, Robert has been described by close friends as "a classic lawyer for the underdog." Attorney Calvin Woodward best summed up the life of Robert Jones when he said, "He found the good—at least one good thing—in every person and that is difficult in our profession."

Robert was well known for his integrity and strong sense of fairness. He believed in justice for all, and was dedicated to ensuring that the less fortunate had their rights protected.

In addition to his work as an attorney, Robert Jones was also involved in many community organizations. He served as a special counsel to the State attorney general and as a trustee of the Ohio Academy of Trial Lawyers. Robert was a member of the Ohio State and Trumbell County Bar Associations, the National Association of Criminal Defense Lawyers, and the American Trial Lawyers Association. He was also a former trustee and general counsel of the First Methodist Church and a former president of the Warren Optimist Club. He was involved as well in the Trumbell County Council on Alcoholism, the Trumbell County Mental Health Center, and the Civil Service Commission.

Mr. Speaker, Robert Jones stands as a model of compassion and human service. His outstanding contributions to his community have made him a towering example of leadership and citizenship. We would all do well to follow the example of this generous man. Robert will always live in the memories and hearts of those who knew and loved him. We will long remember Robert Jones for his tremendous gifts to his fellow human beings.

THE 90TH ANNIVERSARY OF LOCAL UNION NO. 48

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. CARDIN. Mr. Speaker, on April 21, 1990, Plumbers and Gasfitters United Association Local Union No. 48 of Baltimore, MD, will celebrate its 90th anniversary.

Local 48 received its charter on April 14, 1990. The local union formulated a training program in cooperation with labor and management in 1946. In 1959 the Mechanical Contractors Association of Maryland and Local Union 48 established a declaration of trust agreement for the purpose of training apprentices and journeymen within the jurisdiction of the local. Local 48 has been instrumental in providing highly skilled craftsmen for the plumbing industry in the State of Maryland.

Contractors and local 48 members have not only campaigned to ensure a better life for their members and their families, but have contributed many hours of volunteer time to community service projects.

Local 48 projects include the annual Labor of Love Blood Drive, the Heat's on Project, the Ronald McDonald House and the construction of the new Waverly Family Center facility in Baltimore City.

Hundreds of local 48 members, contractors, international union officials, politicians, educators and friends will be in attendance at the 90th anniversary celebration combined with the apprentices' 19th Annual Awards Dance on April 21.

I want to offer my best wishes to Robert M. Diem, Sr., who has been business manager for the past 6 years and has spent over 26 years in service to Plumbers and Gasfitters Local Union 48. He has had the opportunity to serve a membership which has remained steadfast throughout the years.

I urge my colleagues to join me in honoring Plumbers and Gasfitters U.A. Local 48 on its 90th anniversary.

INTRODUCTION OF H.R. 4345

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. OBERSTAR. Mr. Speaker, recent studies of the management structure of the Federal Aviation Administration have indicated the need for reforms that permit the FAA to more effectively attract experienced air traffic controllers into the managerial and staff ranks of the agency.

Yesterday I, along with Congressman CLINGER and Congresswoman OAKAR, introduced H.R. 4345 which will assist the FAA in recruiting and retaining the highest quality of supervisors and managers into our Nation's air traffic control system.

Currently the FAA has difficulty in recruiting exceptionally qualified candidates into second-level supervisory and managerial positions in air traffic control-related operations. This situation is largely due to the disparity in retirement benefits between air traffic control positions and second-level supervisory, managerial, and staff positions for which air traffic control experience is a prerequisite.

Retirement benefits are currently available to air traffic controllers, first-level supervisors, and traffic management coordinators after 25 years of service regardless of age, or 20 years of service at age 50. However, under current law, prospective candidates for secondary positions in air traffic operations are discourged from seeking or accepting promotions into such positions because time spent in secondary air traffic positions does not qualify for credit for early retirement purposes under current civil service laws.

According to the FAA, approximately 2,900 managerial and staff positions in the air traffic work force are excluded from the early retirement coverage. These positions, for which air traffic control experience is a prerequisite, include management, staff, training specialist, and data systems specialist positions, whether performed in an FAA field facility, its regional offices, or its headquarters in Washington. This inclusion significantly discourages air traffic controllers from seeking or accepting assignments and promotions into the managerial and staff ranks at the FAA.

The legislation I have introduced would provide significant assistance to the FAA in relieving recruitment problems currently associated with management and administrative positions in its air traffic operations by providing credit for time spent in secondary positions toward the 20 or 25 years required for retirement benefits. The bill would assure that civil service laws governing retirement do not penalize air traffic controllers who are promoted in the career ladder into managerial and administrative positions.

In fact, it would bring the treatment of supervisors and managers in the air traffic control profession into line with other stressful occupations such as law enforcement and firefighting. In 1972, Congress recognized the need to provide incentives for promotion into the managerial ranks when it extended retirement credit to secondary positions held by law enforcement officers and firefighters. It is now time to recognize the need to extend these retirement benefits to air traffic control secondary positions and remove the disincentive for well qualified people to seek these positions.

Mr. Speaker, this measure will promote and advance the quality of our Nation's air traffic control system. When it is enacted, every air passenger and air carrier will benefit from the management improvements it provides toward assuring that our air traffic system remains the world's best.

I urge our colleagues to join me in cosponsoring this legislation. Members should have their staff call David Bleicken in my office at 225-6211 if they wish to be a cosponsor of H.R. 4345.

THE PITTSFIELD HIGH SCHOOL HOCKEY TEAM WINS STATE CHAMPIONSHIP

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. CONTE. Mr. Speaker, Mr. Speaker, I rise today to pay tribute to a group of young men who, dedicated to their cause, were able to achieve something only accomplished twice previously in the history of western Massachusetts.

The Pittsfield High School Hockey Team, under the leadership of Coach Jim Andersen, rallied to win the Division III State Championship. In an emotional game, after being several goals behind in the first period, the team was able to overcome and defeat its adversary: Bourne High School.

This resilience is exemplary of the Pittsfield team. After four losses at the State finals in 1974, 1975, 1976, and 1988, the strength and comraderie present in this incarnation of the team were able to defy historical evidence. Perseverance characterizes the Pittsfield team; regardless of odds and the remarkable skills of its opponents, the team was able to claim the State title.

I wish to express my elation at the success of the Pittsfield Hockey Team. I, myself grew up and attended school in Pittsfield and still hold that sense of pride and loyalty which developed during my years there.

It is wonderful when the hometown team brings back the glory of a State championship, and all the residents of Pittsfield, as well as those who ever held the city dear to them can share the joy and feel a part of a phenomenal local success. A person can say, "That's our team," and feel as though he or she had skated right alongside the members of the team.

I want to congratulate "our team" and extend my most sincere pride and happiness in an accomplishment of extreme merit.

THE NEED TO REVITALIZE OUR NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. BROWN of California. Mr. Speaker, today Mr. FAZIO, Mr. BOEHLERT, Mr. EMERSON, Mr. WALGREN, and I will introduce a bill to revitalize our National Earthquake Hazards Reduction Program, which has been continually eroding since its inception in 1977. This bill would increase funding for the Earthquake Program to $200 million over a period of 4 years. The investment is modest, but the payoff will be great—in dollars, and in lives.

Last October 18, I stood here and announced the preliminary casualty and damage estimates from the Loma Prieta earthquake. One week later, we appropriated $3.5 billion in aid for victims of that disaster. It is a sad commentary on our bookkeeping skills that we find it easier to spend billions on disaster response than the millions required for anticipation. And it is an indictment of our good sense.

Earthquakes are a national problem. More than three quarters of the population of this country live in areas that are at risk from moderate or major earthquakes. That's a lot of constituents. When the next great earthquake strikes a major urban center, damages will probably exceed $50 billion. That's a lot of money. But if we take responsible action now, loss of life and property—and consequent social and economic disruption—can be greatly reduced. Let's prepare for earthquakes, not pay for them after they occur.

INTRODUCTION OF THE JOINT RESOLUTION DESIGNATING THE YEAR 1990 AS THE YEAR OF THE VOTE

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. LEWIS of Georgia. Mr. Speaker, today I am introducing legislation to designate 1990 as the "Year of the Vote."

On August 6, 1965, the Voting Rights Act was signed into law by President Lyndon Johnson. Many barriers to voting, including poll taxes and literacy tests, were eliminated at that time. We have witnessed some great changes in the areas of civil rights and voting rights for blacks and other minorities because the Voting Rights Act made it possible for millions of citizens to exercise the franchise.

People of all races worked to bring an end to voting discrimination in our society. Now, 25 years later, we must battle a different foe in our crusade to bring the citizens of this country to the polls. We are fighting apathy among the voting age populations of this country. Apathy kept half of those eligible to vote from doing so in the last Presidential election.

By declaring 1990 as the "Year of the Vote," we will enhance awareness of the need for increased voter participation in the United States. It will demonstrate our commitment to increasing voter registration and turnout at the polls; and it will acknowledge that voting is crucial to the maintenance of a durable democracy.

OBERLIN SMITH SOCIETY CELEBRATES 150TH ANNIVERSARY OF INVENTOR'S BIRTH

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. HUGHES. Mr. Speaker, today I would like to pay tribute to Oberlin Smith who was recently recognized as the father of the magnetic recording of sound. This technology has lead to development of products such as: tape decks, floppy disks, and VCR's.

Oberlin Smith completed his basic education in Bridgeton, NJ and returned there in 1863 after college to establish his own business. He founded a tool company which later became the Ferracute Machine Co. With Smith as chief engineer, his company produced machine presses for cutting and forming metal. His machines went on to produce everything from pots and pans to parts for model T Fords and Kodak camera.

Even while running this business, Smith still found the time to be an inventor. He held 70 patents, most related to business, but also included ones for a malted milk mixer and an automatic egg boiler. He also served as president of the American Society of Mechanical Engineers as well as on various Bridgeton boards and commissions.

Smith became interested in recorded sound when he saw Thomas Edison's phonograph in 1877. Smith was not satisfied with the scratchiness of the sound and hoped to develop a machine that would eliminate background noise. A short time later Smith developed the magnetic recording and playback systems which he documented by filing papers with the Cumberland County clerk in September of 1878. He even filed a caveat with the U.S. Patent Office. However, his business demanded almost all of his attention and he was unable to continue his experiments. He published an article titled "Some Possible Forms of the Phonograph" in 1888 and encouraged others to further develop his ideas. In his article, he was confident that whomever made use of his ideas would give him his due credit.

Well, Oberlin Smith is finally receiving the credit that was due to him when magnetic recording was introduced to the world nearly a century ago. I am proud to be able to recognize Oberlin Smith, today, March 22, 1990, the 150th anniversary of his birth.

A TRIBUTE TO ARCHBISHOP OSCAR ROMERO

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. WEISS. Mr. Speaker, 10 years ago, a courageous and peace-loving man named Oscar Romero was assassinated in El Salvador. In some ways, this remarkable man was like no other figure in the tragic Salvadoran conflict—he was an undisputed voice of conscience for the Salvadoran people and he was a world-renowned leader of the Catholic Church.

Yet in many ways, Archbishop Romero was an ordinary man. His story is like that of tens of thousands of other nameless Salvadorans who raised their voice against violence and oppression—and were struck down by instruments of their own government. These courageous people—church workers, labor leaders, human rights monitors—have paid the ultimate price in their struggle for justice in El Salvador.

Archbishop Oscar Romero was a genuine prophet of peace. As we join today with people from around the world who pay tribute to his life we pray that the long suffering people of El Salvador will soon see their nation at peace.

IN FAVOR OF LIFTING BAN ON WOMEN'S APPAREL INDUSTRY

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. LIGHTFOOT. Mr. Speaker, I rise in support of the amendment of my colleague from Georgia to lift the remaining restrictions on those who work at home in the women's apparel industry. As you know, the Secretary of Labor banned homework in seven industries, including women's apparel. In 1981 and 1988, the Department of Labor lifted restrictions on six of the seven industries, with women's apparel the remaining industry in which those who wish to do so could not work at home. My colleague's amendment would remove this last and in my view, unnecessary, obstacle. Earlier in this Congress, I introduced legislation with the same intent.

I believe both my bill and this amendment provide American workers with the fuller range of employment opportunities and options they deserve. There are many individuals, such as single parents, those who care for elderly dependents and physicially challenged individuals who would benefit from the lifting of this restriction. For the U.S. Government to maintain a roadblock to the form of employment which best suits their needs and lifestyles is absurd. In many districts such as mine, which are largely rural, the spectrum of job opportunities may be narrow. This amendment helps to broaden the scope of employment opportunities for the citizens of my district and others across the country. For that reason, I support

this amendment and urge my colleagues to do the same.

CONGRATULATIONS TO ASTRONAUT CANDIDATE JANICE E. VOSS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. NEAL of Massachusetts. Mr. Speaker, I want to take this opportunity to recognize and congratulate a very special individual, Janice Elaine Voss, a constituent of mine who has had the honor of being selected as an astronaut candidate for the Space Shuttle Program by the National Aeronautics and Space Administration [NASA].

Janice Voss has had a most distinguished career. Born and raised in Wilbraham, MA, she graduated from Purdue University with a bachelor of science degree in engineering science. Following graduation, Janice brought her considerable intellectual talents back to New England where she earned both her masters and doctorate degrees from the Massachusetts Institute of Technology.

In addition to her academic achievements, which include several fellowships, Janice has served in a variety of professional capacities. Beginning in 1973, with a position at NASA's Johnson Space Center, and including research work at MIT and Rice University, her experience in the aeronautics field has been uncommon.

Janice Voss has spent the better part of her life mastering the complexities of aerospace engineering. Her dedication and commitment to scientific excellence is well known and respected. It is therefore fitting that she should be chosen to serve her country in a most significant capacity, that of an astronaut. I am confident that she will perform her duties as a mission specialist with distinction.

Mr. Speaker, the United States is truly fortunate to have Janice Voss serving in the Space Shuttle Program. I want to wish her all the best as she prepares for the exciting and challenging training program on which she will soon embark, and the exhilarating voyage into space which will follow.

TRIBUTE TO NORTHEAST HIGH SCHOOL

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Mr. BORSKI. Mr. Speaker, I rise today in recognition of the centennial of Northeast High School.

In 1890, Northeast Manual Training School first opened its doors to eager young men in Philadelphia. After considerable expansion during the turn of the century, the school changed its name to Northeast High School and became coeducational.

Over the years, Northeast High School has been nationally honored for its demonstrated commitment to excellence in education. For example, in 1951, the school was chosen "National School of the Year" and received the Francis Bellamy Flag Award for the citizenship of its students and the success of its graduates.

In addition, Northeast High School has received nationwide acclaim for initiating innovative demonstration projects. In 1963, the school established the space research center [SPARC] Program, which received official recognition by NASA. In 1966, this successful program was inaugurated as a magnet school concept.

Since opening in 1890, Northeast High School has awarded diplomas to over 58,000 graduates who have gone on to pursue careers in virtually every sector of society. In particular, the school has a long and distinguished history of graduating community leaders—many of whom are currently active in city and State government. This pattern of excellence is continued today by the present senior class, which has three national merit finalists and several national merit commended students.

Mr. Speaker, I join the citizens of Philadelphia in commending and thanking Northeast High School for a century of quality academic service to its community. I am sure the school will continue this time-honored tradition over the next 100 years.

RECOGNIZING THE WORK OF THE MIAMI MEDICAL TEAM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 22, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, the spirit of voluntarism in America has taken the cause of democracy abroad. I take this opportunity to recognize a unique nonprofit, humanitarian organization which has advanced the cause of liberty globally through medical care—the Miami medical team. Through their medical, surgical and dental teams they have brought the strategic asset of health to the Mujahideen of the interim Government of Afghanistan and the freedom fighters in Nicaragua, among many other groups.

In November 1989, the Miami Medical Team, led by Dr. Manuel A. Alzugaray, traveled to Peshawar, Pakistan, the headquarters of the interim Government of Afghanistan to deliver a fully equipped MASH hospital to the Mujahideens. The logistics of the task itself were made possible by donations from hospitals all over the United States. During their stay in the area, there was daily bombardment by high altitude planes of the Kabul forces and the team found the Mujahideens short on military and humanitarian supplies. The Miami medical team's medical relief filled an important role in the Mujahideen's resistance.

Later, in December 1989, the Miami medical team traveled to Honduras to inspect the construction of the Yamales Hospital on the Nicaraguan border. The new hospital is replacing the Aguacate Hospital, forcibly closed by the Sandinistas in 1988 to prevent it from serving the Contra forces. The construction of the new hospital was progressing well, however, its propinquity to the Nicaraguan border makes it vulnerable to Sandinista attack. In both 1983 and 1984 the Sandinistas destroyed a hospital located in Las Vegas. It is under these conditions that the medical team worked for the sustenance of the Contra's wounded and medical personnel.

It is appropriate that we offer the Miami medical team praise for their commitment to liberty and humanity. Through its independent medical missions, the team has brought a dose of healing and peace to troubled areas in our world.

HOUSE OF REPRESENTATIVES—*Monday, March 26, 1990*

The House met at 12 noon and was called to order by the Speaker pro tempore (Mr. BONIOR).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 26, 1990.

I hereby designate the Honorable DAVID E. BONIOR to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker, House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, for the gift of health—health of body or mind or spirit. We remember in this our prayer those who are burdened by the anxiety or pain of ill health or limited by the misfortunes of sickness of any sort. May the power of Your healing spirit, gracious God, grant to all well-being in body, mind, or spirit so that every person may enjoy the blessings of life and experience the beauty and opportunity of this new day. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Pledge of Allegiance will be led by the gentleman from Arizona [Mr. KYL].

Mr. KYL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 2306. An act to provide relief for national forests damaged by Hurricane Hugo, and for other purposes;

S. Con. Res. 106. Concurrent resolution expressing the sense of the Congress concerning Jerusalem and the peace process; and

S. Con. Res. 108. Concurrent resolution concerning the right of self-determination of the Lithuanian people.

LET US GET DOWN TO BUSINESS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, it may be spring fever, but I am getting "antsy." We have been in session 29 days and have very little to show for it. Not counting Mondays and Fridays, we have 61 days left to get our work done before adjournment on October 5. And think about what we have to do: child care, budget resolution, farm bill, clean air, supplemental appropriations, 13 appropriations bills, reconciliation, defense authorization, campaign reform, Americans with Disabilities Act, civil rights bill, housing bill, S&L's, budget reform, and debt ceiling extension, just to name a few.

Mr. Speaker, this is an election year. I do not want to defend a do-nothing Congress.

Next Sunday is April Fool's Day. If we do not get going, the joke is going to be on us.

THE CHILD CARE BILL

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, as a follow-on to my colleague, the gentleman from Massachusetts, we have now been waiting for over a week since we received notice that we are going to take up the child care bill. One of the problems with the child care bill apparently is this matter of religion. There is a suggestion by some that it is not necessary to provide vouchers for low-income families to send their children to facilities, day care facilities in religious institutions, and yet that is where over 30 percent of the care in this country is provided. In some areas it is much more than that.

You cannot finesse religion, Mr. Speaker, and I think it is important that we make it very clear in this child care bill that vouchers will be available, not only for day care in these religious facilities, but also for those who wish it for religious instruction. Without that, the ability of many of the parents who would like to send their children to these facilities is meaningless.

I think if we are going to give parents a choice to inculcate values into their children as they wish, they have the right to send them to the kind of facilities that they want, and that includes religious institutions.

THE FAIRDALE BULLDOGS KENTUCKY STATE BOYS HIGH SCHOOL BASKETBALL CHAMPIONS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, today I rise to celebrate and congratulate the Fairdale High School Bulldogs who, last Saturday night in Louisville's Freedom Hall, won the 1990 Kentucky State Boys' High School Basketball Championship.

This tournament is what we in Kentucky, Mr. Speaker, call the "Sweet Sixteen." And, how sweet it was and how sweet it is for Fairdale: for Fairdale the High School, and for Fairdale the community.

For those of us who live in Jefferson County and are natives of that area, we know how important to the Fairdale community the high school is. Every resident of Fairdale was in near-ecstasy last Saturday as the final second ticked off the game clock.

So after several years of being in the "Sweet Sixteen," but without being able to bring home the championship cup, last Saturday night the Fairdale Bulldogs did win. They won convincingly and they won with class.

I would like to take this opportunity again, Mr. Speaker, to celebrate Fairdale's victory, to salute the players, the coaches, the trainers, the athletic directors, the cheerleaders, the principal and the faculty and staff and everybody who was involved with this great victory. It brings pride to those of us who are residents of Jefferson County.

MAJOR STEP BACKWARD IN SOVIET JEWISH EMIGRATION POLICY

(Mr. SCHUMER asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, over the weekend in a hardly noticed announcement, the Soviet Union said that it would be terminating flights from Moscow, Leningrad, and Kiev that went through Budapest and then on to Israel.

This has been the major escape route for thousands of Soviet Jews over the last several months and a termination of these flights will leave them stuck in the Soviet Union. Already faced with a rising tide of anti-Semitism and emigration difficulties, this new blow puts an end, or a virtual end to the major escape route of Soviet Jews who wish to leave the Soviet Union and emigrate to Israel.

This is a major step backward, Mr. Speaker. At a time when the Soviet Union is struggling to make itself a more open society, it undermines its position by imposing these restrictions and a smiling face in the background to all this was Yasir Arafat, head of the PLO, who threatened these flights with terrorist operations.

Mr. Speaker, we cannot let this happen again. People in my district are haunted by the memory of what happened 50 years ago when thousands wished to escape Eastern Europe and Germany and were not let in anywhere else. Now it is happening again through the terrorism of Yasir Arafat and the compliance of the Soviet Union.

We are upset. We are concerned. The Soviet Union desires new trade relations with the United States. This Congress and the Bush administration should make it very clear that enhanced trade status is completely unachievable without a clear reversal of Soviet Jewish emigration policy. To make the law more liberal and then prohibit transportation that allows the very people to get out is not going to fool this Congress or this country.

ANNUNZIO VOWS SUPPORT FOR CREDIT UNIONS IN BATTLE WITH BANK LOBBY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, there is a war brewing in the United States between the Nation's bankers and its credit union operators. And that is sad. Banks are lobbying Congress to take away a tax break from credit unions that enables them to offer better loan rates. Credit unions accuse the bankers of planting scare stories around the country that compare their industry with the beleaguered savings and loans.

I have been for some time, and still am, a great believer in credit unions. One of the first things I did when I came to Congress was to head a congressional delegation that went to Europe and the Far East to look at the financial problems faced by American service men and women who were being victimized by legalized loan sharks. The answer to many of their problems was the establishment of credit unions at overseas military installations. Now, more than 20 years later, credit unions are once again helping to solve a financial problem in foreign countries. I am currently working with the Bush administration to have the State and Treasury Departments assist the emerging democracies in Eastern Europe, especially Poland, to bring credit union operations to their countries. Credit unions are an outstanding symbol of democracy, and it is fitting that credit unions should play an important role in building the new democracies in Eastern Europe.

Mr. Speaker, I raise these points because of a letter I received from Mr. Stan Kroll, who is personnel manager of the American Gasket & Rubber Co. which is located in my district. Mr. Kroll wrote me that his company had offered its employees a payroll savings plan with a local bank, but less than 10 percent of the work force participated in the program. He said those employees who did participate were often frustrated by this institution's regulations regarding minimum account balances to earn interest and quarterly maintenance fees.

About a year ago, he said, the company canceled the payroll savings program with the bank and offered the employees the opportunity to participate in a not-for-profit credit union. Since then, more than 52 percent of the company's employees have become active members. Among the reasons given by Mr. Kroll for the increase in participation: Interest paid on minimum balances of $25, no quarterly maintenance fees on low-balance savings accounts, higher rates of return on savings, lower interest rates on loans, easier access for credit—especially for someone with little credit history, no monthly checking fees, no annual credit card fees, and an annual rate on credit card balances of 15.5 percent.

Mr. Speaker, Mr. Kroll beseeched me to fight the banking industry lobby to make credit unions for-profit institutions and to merge the bank and credit union insurance funds. And I intend to do so. We need a credit union system in this country. We need a commercial bank system and we need a savings and loan system.

As far as the banking lobby's campaign to bring about the taxation of credit unions, I don't believe there is much support on Capitol Hill for such an action. I would suggest any taxation of credit unions is not really a taxation of credit unions, but rather, a taxation of credit union members. You don't tax the brick and mortar and make it pay. You tax the owners of the credit union which are the members. I have said this previously but it bears repeating: the first vote cast against taxing credit unions would be that of the gentleman from Illinois, FRANK ANNUNZIO.

AMERICAN GASKET & RUBBER CO.,
Schiller Park, IL, March 15, 1990.

Hon. FRANK ANNUNZIO,
U.S. House of Representatives,
Washington, DC.

DEAR SIR: For many years, we had offered our employees a payroll savings plan with a local bank. Less than 10 percent of our workforce participated in the program. Those employees who did participate were often frustrated by this institution's regulations regarding minimum account balances to earn interest and quarterly maintenance fees.

One year ago, we cancelled our payroll savings program with the bank and offered our employees the opportunity to participate in a not-for-profit credit union. Since then, over 52% of our employees have become active members. The reasons for this large participation are the advantages offered by a not-for-profit credit union over a for-profit financial institution.

(1) Interest paid on minimum balances of $25.00.

(2) No quarterly maintenance fees on low-balance savings accounts.

(3) Higher rates of return on savings.

(4) Lower interest rates on loans.

(5) Easier access for credit, especially for someone with little credit history.

(6) No monthly checking fees.

(7) No annual fee credit card.

(8) APR on credit card balances of 15.5%.

Now, it appears these advantages are being threatened. Recent magazine and newspaper articles have indicated the banking industry is lobbying to make credit unions for-profit institutions. In addition, the banking industry is suggesting merging the credit union insurance fund with the FDIC insurance fund.

Not-for-profit credit unions are serving a vital function for low to middle income savers. For many of our employees, their association with the credit union represents the only time they have had an established savings program.

Many of our employees used to cash checks at currency exchanges and get money orders to pay their bills. All of these transactions costs them part of their pay checks.

We urge you to carefully consider any issues to revoke the not-for-profit status of credit unions and to merge the FDIC and credit union insurance funds. If our employees are a reflective sample of your constituents, your constituents respectfully request you to vote against these two issues.

Sincerely,

STAN KROLL,
Personnel Manager.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KYL) to revise and extend their remarks and include extraneous material:

Mr. CHANDLER, for 60 minutes, today.

Mr. GINGRICH, for 60 minutes, on March 27, 28, and 29.

(The following Members (at the request of Mr. DE LUGO) to revise and extend their remarks and include extraneous material:

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ANTHONY, for 30 minutes, on March 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. KYL) and to include extraneous material:

Mr. GILMAN.

(The following Members (at the request of Mr. DE LUGO) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. NELSON of Florida.

Ms. SLAUGHTER of New York.

Mr. ALEXANDER.

Mr. CLAY.

Mr. ROE.

Mr. FEIGHAN.

SENATE BILL AND CONCURRENT RESOLUTIONS REFERRED

A bill and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2306. An act to provide relief for national forests damaged by Hurricane Hugo, and for other purposes; to the Committee on Agriculture.

S. Con. Res. 108. Concurrent resolution concerning the right of self-determination of the Lithuanian people; to the Committee on Foreign Affairs.

S. Con. Res. 106. Concurrent resolution expressing the sense of the Congress concerning Jerusalem and the peace process; to the Committee on Foreign Affairs.

ADJOURNMENT

Mr. DE LUGO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 11 minutes p.m.), under its previous order, the House adjourned, until Tuesday, March 27, 1990, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2819. A communication from the President of the United States, transmitting a proposed amendment to the fiscal year 1991 request for appropriations in the amount of $200,000,000 for the economic support fund, pursuant to 31 U.S.C. 1107 (H. Doc. 101-164); to the Committee on Appropriations and ordered to be printed.

2820. A letter from the Secretary of Transportation, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Urban Mass Transportation Administration's cumulative third quarter apportionment in the account titled "Washington Metro, Urban Mass Transportation Administration," pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

2821. A letter from the Principal Deputy for Production and Logistics, Department of Defense, transmitting a report on independent research and development and bid and proposal costs for fiscal year 1989, pursuant to 10 U.S.C. 2358 nt.; to the Committee on Armed Services.

2822. A letter from the Chairman, Council of the District of Columbia, transmitting, a copy of D.C. Act 8-180, Office of Employee Appeals Amendment Act of 1990, and report, pursuant to D.C. Code section 1-223(c)(1); to the Committee on the District of Columbia.

2823. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-179, Genetic Tests for the Establishment of Paternity Amendment Act of 1990, and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2824. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-176, Guardianship and Protective Proceedings Amendment Act of 1990, and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2825. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-177, Medicaid Coverage Expansion Act of 1990, and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2826. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-178, Closing of Public Alleys and Establishment of Easements in Square 347, S.O. 88-102, Act of 1990, and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2827. A letter from the Chairman Council of the District of Columbia, transmitting a copy of D.C. Act 8-181, Corrective Action Amendment Act of 1990, and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2828. A letter from the Secretary of Health and Human Services, transmitting a copy of a report entitled "Broadening the Base of Treatment for Alcohol Problems", prepared by the National Academy of Sciences, pursuant to 42 U.S.C. 29066 nt.; to the Committee on Energy and Commerce.

2829. A letter from the Secretary of Health and Human Services, transmitting a copy of the 1989 edition of "Health, United States", which presents data in four areas: costs and financing of health care, distribution of health care resources, and the health of the Nation's people; in addition it contains the fourth triennial "Prevention Profile", pursuant to 42 U.S.C. 242m(a)(2)(A), (B), (C), (D); and 242 U.S.C. 242p(a); to the Committee on Energy and Commerce.

2830. A letter from the Acting Assistant Secretary, Environment, Safety and Health, Department of Energy, transmitting the Department's annual report on progress in implementing requirements concerning hazardous substances for fiscal year 1989, pursuant to Public Law 99-499, section 120(e)(5) (100 Stat. 1669); to the Committee on Energy and Commerce.

2831. A letter from the Assistant Secretary for Legislaltive Affairs, Department of State, transmitting a copy of Presidential Determination No. 90-14, authorizing the furnishing of assistance from the emergency refugee and migration assistance fund to meet unexpected urgent needs in Southeast Asia, Africa, and Central America, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

2832. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO in February 1990, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

2833. A letter from the Chairman, Council on Environmental Quality transmitting a report on its activities under the Freedom of Information Act for calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2834. A letter from the Chairman, Farm Credit Administration, transmitting a report on its activities under the Freedom of Information Act for calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2835. A letter from the Chairperson, Navy Resale and Services Support Office Retirement Trust, transmitting the Navy Resale and Services Support Office retirement plan for the years ending December 31, 1987 and 1988, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

2836. A letter from the Assistant Secretary for Manpower and Reserve Affairs, Department of the Army, transmitting a draft of proposed legislation to increase the authority of the military departments to settle administrative tort claims under the Federal Tort Claims Act; to the Committee on the Judiciary.

2837. A letter from the Secretary of Commerce transmitting a draft of proposed legislation to reauthorize and amend the Coastal Zone Management Act of 1972, as amended, and for other purposes; to the Committee on Merchant Marine and Fisheries.

2838. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Passaic River Mainstem, New Jersey and New York, together with other pertinent reports and comments, pursuant to Public Law 94-587, section 101 (90 Stat. 2917) (H. Doc. No. 101-163); to the Committee on Public Works and Transportation and ordered to be printed.

2839. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting a report on the progress in implementing the Great Lakes Water Quality Agreement with Canada, pursuant to 33 U.S.C. 1251; to the Committee on Public Works and Transportation.

2840. A letter from the Associate Director, State and Local Programs Support, Federal Emergency Management Agency, transmitting a copy of a report entitled "Recommendations Concerning Improvement of Relationship Among Disaster Management Officials", pursuant to Public Law 100-707, section 110 (102 Stat. 4710); to the Committee on Public Works and Transportation.

2841. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to expand the Secretary's authority to make temporary appointments of certain health care personnel employed in the Veterans Health Services and Research Administration, to the Committee on Veterans' Affairs.

2842. A letter from the Secretary of Defense transmitting notification of the Department of the Air Force's intent to obligate $12 million for R&D for the ALQ-161A "core" program, pursuant to Public Law 101-165, section 9071; jointly, to the Committees on Appropriations and Armed Services.

2843. A letter from the Comptroller of the Currency, transmitting the annual report on consumer complaint processing activities for calendar year 1989, pursuant to 15 U.S.C. 57a(f)(6); jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

2844. A communication from the President of the United States, transmitting the annual report on international activities in science and technology [S&T] for fiscal year 1989, pursuant to 22 U.S.C. 2656c; jointly, to the Committees on Foreign Affairs and Science, Space, and Technology.

2845. A letter from the Counsel to the President, the White House, transmitting a draft of proposed legislation to make technical and conforming amendments to the Ethics Reform Act of 1989; jointly, to the Committees on the Judiciary, Ways, and Means, House Administration, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on Mar. 22, 1990, the following report was filed on Mar. 23, 1990]

Mr. DELLUMS: Committee on the District of Columbia. H.R. 1463. A bill to amend the National Capital Transportation Act of 1969 relating to the Washington Metrorail System; with an amendment (Rept. 101-430). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HAWKINS (for himself, Mr. CLAY, Mr. MILLER of California, Mr. MURPHY, Mr. MARTINEZ, Mr. OWENS of New York, Mr. HAYES of Illinois, Mr. PERKINS, Mr. SAWYER, Mr. PAYNE of New Jersey, Mrs. LOWEY of New York, Mr. POSHARD, Mrs. UNSOELD, Mr. RAHALL, Mr. FUSTER, and Mr. JONTZ):

H.R. 4379. A bill to improve education in the United States; to the Committee on Education and Labor.

By Mr. HAWKINS:

H.J. Res. 531. Joint resolution designating May 4, 1990, as Department of Education Day; to the Committee on Post Office and Civil Service.

By Mr. SMITH of New Jersey (for himself, Mr. YATRON, Mr. BEREUTER, Mr. OWENS of Utah, Mr. BURTON of Indiana, Mr. LANTOS, Mr. GALLEGLY, Ms. ROS-LEHTINEN, Mr. SOLOMON, and Mr. GOSS):

H. Res. 365. Resolution relating to human rights abuses by the Government of Cuba and reprisals by the Cuban Government against those Cuban citizens who testified before the Cuba Working Group of the United Nations Human Rights Commission; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

335. By the SPEAKER: Memorial of the Senate of the State of Ohio, relative to amending S. 1630; to the Committee on Energy and Commerce.

336. Also, memorial of the House of Representatives of the State of California, relative to the Bureau of the Census; to the Committee on Post Office and Civil Service.

ADDITIONAL COSPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 292: Mr. CROCKETT.
H.R. 563: Mrs. LLOYD.
H.R. 1360: Mr. BATES.
H.R. 2085: Mr. SHUMWAY.
H.R. 2648: Mr. AUCOIN.
H.R. 2669: Mr. IRELAND.
H.R. 2776: Mr. PETRI, Mr. MAZZOLI, Mr. HATCHER, Mr. HUTTO, and Mr. ROWLAND of Connecticut.
H.R. 3475: Mr. MAVROULES.
H.R. 3483: Mr. AUCOIN.
H.R. 3673: Mr. FALEOMAVAEGA, Mr. CONDIT, Mr. ROBERTS, Mr. KOLTER, Mr. PAXON, Mr. SOLOMON, Mr. HASTERT, Mr. PENNY, and Mr. INHOFE.
H.R. 3735: Mr. LEATH of Texas and Mr. NATCHER.
H.R. 3859: Mr. JONES of North Carolina.
H.R. 3869: Mr. ARMEY.
H.R. 3979: Mr. FOGLIETTA, Mr. MOAKLEY, and Mr. GORDON.
H.R. 4000: Mr. BENNETT, Mr. BOEHLERT, Mr. BOSCO, Mr. BROWN of California, Mr. COYNE, Mr. DEFAZIO, Mr. DOWNEY, Mr. DWYER of New Jersey, Mr. ECKART, Mr. FAZIO, Mr. FROST, Mr. GIBBONS, Mr. GLICKMAN, Mr. HALL of Texas, Mr. HAMILTON, Mr. HOCHBRUECKNER, Mr. JACOBS, Mr. JOHNSTON of Florida, Mr. JONES of North Carolina, Mr. JONTZ, Ms. KAPTUR, Mr. MCCLOSKEY, Mr. MCMILLEN of Maryland, Mr. MACHTLEY, Mr. MOAKLEY, Mr. PALLONE, Mr. PENNY, Mr. POSHARD, Mr. SANGMEISTER, Mr. SCHEUER, Mr. SWIFT, Mr. TRAXLER, Mr. VISCLOSKY, and Mr. WALGREN.
H.R. 4060: Mr. PENNY, Mr. MCMILLEN of Maryland, Mr. EMERSON, and Mr. RIDGE.
H.R. 4109: Mr. PORTER, Mr. POSHARD, and Mr. VALENTINE.
H.R. 4147: Mr. AUCOIN.
H.R. 4207: Mr. BUSTAMANTE.
H.R. 4278: Mr. HANSEN.
H.R. 4369: Mrs. BYRON.
H.J. Res. 54: Mr. TRAFICANT.
H.J. Res. 459: Mr. INHOFE.
H. Con. Res. 206: Mr. BILBRAY.
H. Con. Res. 265: Mr. ARMEY.
H. Con. Res. 290: Mr. BILIRAKIS, Mr. BUSTAMANTE, Mr. CLARKE, Mr. DE LUGO, Mr. DREIER of California, Mr. FEIGHAN, Mrs. LOWEY of New York, Mr. MCNULTY, Mr. JAMES, Mr. MACHTLEY, Mr. PALLONE, Mr. POSHARD, Mr. LAUGHLIN, Mr. JOHNSTON of Florida, Mr. SAWYER, Mr. RICHARDSON, Mr. HOAGLAND, Mr. WAXMAN, Mr. SISISKY, Mr. WISE, Mr. GLICKMAN, Mrs. BOXER, Ms. PELOSI, Mr. DEFAZIO, Mr. TORRICELLI, Mr. FROST, Mr. ACKERMAN, Mr. SARPALIUS, Mr. JONES of Georgia, and Mr. PARKER.

SENATE—*Monday, March 26, 1990*

(Legislative day of Tuesday, January 23, 1990)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable BOB GRAHAM, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

He hath shewed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?—Micah 6:8.

Eternal God, perfect in truth and justice and mercy, as the Senate begins its labors this week, make Thy presence be felt in every office and every room of this place. The destiny of nations and the welfare of millions rest with the decisions made in this Chamber. As Your servants exercise their power, may they do so aware of the profound implications of their judgments. Free them, personally and collectively, from every excess, motive, attitude, or fear that would hinder or defeat the high and noble purpose of the Senate. Keep them humble in their exercise of power and diligent in their labors.

In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 26, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB GRAHAM, a Senator from the State of Florida, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders, there will be a period for morning business not to extend beyond 1 p.m. with Senators permitted to speak therein.

At 1 p.m. today the Senate will resume consideration of the clean air bill, S. 1630. There will be no rollcall votes today.

Mr. President, as I indicated just prior to our recessing last week, it is my hope that we can now proceed, when we return to the clean air bill, to the consideration of a major amendment to be offered by Senators NICKLES and HEFLIN related to permits and enforcement.

I have discussed this with the distinguished Republican leader, and we have each discussed it with the respective Senators on our sides. Therefore, I will now propound a unanimous-consent agreement covering that matter and the Senate schedule through tomorrow afternoon.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the Clean Air Act at 1 p.m. this afternoon, the pending amendments be laid aside and Senator NICKLES be recognized to offer the Nickles-Heflin amendment relating to permits and enforcement and that there be 4 hours of debate on the amendment, equally divided and controlled in the usual form;

That when the Senate recesses at the close of business today, it stand in recess until 8:45 a.m. on Tuesday, March 27; that immediately following the prayer the Journal of proceedings be deemed approved; and that the Senate immediately resume consideration of S. 1630, that the time until 9:30 be equally divided in the usual form on the Nickles-Heflin amendment, and that a vote on, or in relation to the amendment occur at 9:30 a.m.; and

Following the conclusion of the vote with respect to the Nickles-Heflin amendment, I further ask unanimous consent that the Senate stand in recess subject to the call of the Chair in order to permit Members of the Senate to join with their House colleagues in a joint ceremony to honor the centennial of the birth of President Dwight D. Eisenhower; that when the Senate reconvenes, that there be time for the two leaders, and that immediately following the time for the leaders, the Senate resume consideration of S. 1630; and that the Senate stand in recess between the hours of 1 p.m. and 2:30 p.m. to accommodate the two party conferences.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues.

SCHEDULE

Mr. MITCHELL. I announce for the information of Senators that there will be no rollcall votes today. We will debate the Nickles-Heflin amendment for 4 hours today, and then tomorrow morning we will debate it further for 45 minutes between 8:45 and 9:30 a.m. There will be a vote on the amendment at 9:30 a.m. tomorrow unless, prior to that, an agreement is reached to dispose of the amendment.

Then the Senate will recess for the joint ceremony with the House honoring the centennial of President Eisenhower's birth. When we return following that, we will return to the clean air bill, following the time for the two leaders, and then we will recess for the party conferences between 1 and 2:30.

That time change is based upon the fact that there will be a ceremony at the White House tomorrow at about noon with respect to the Eisenhower centennial, and several Senators have been invited to participate in that as well.

So the party conferences will start a little bit later and conclude a little bit later tomorrow. That is between 1 and 2:30 p.m.

As I indicated at the close of business last week, I hope we can complete action soon on the clean air bill, and we will press forward to consider and dispose of whatever amendments remain as soon as possible this week.

Mr. President, I thank the distinguished Republican leader for his cooperation in working out this agree-

ment as well as Senators NICKLES, HEFLIN, BAUCUS, and CHAFEE. I now yield to the distinguished Republican leader.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The minority leader.

THE SENATE SCHEDULE

Mr. DOLE. Mr. President, I want to join the distinguished majority leader in indicating that we would like to complete action on the clean air bill this week because there are a number of other matters that ought to be disposed of before the so-called Easter recess. It is our hope that we might get an agreement on what will follow the Clean Air Act. There has been some concern expressed—what if we finish this and bring up some other terrible thing?

I think the bill, as the majority leader will lay out later on, will be fully understood to be very important and one in which I think there is a great deal of bipartisan interest and support.

So, hopefully, we can reach some agreement on what may follow the clean air bill.

Second, I just say, without getting involved in criticizing staff of the committee or EPA or whatever, but we are still getting some feedback from Members that they are having a lot of difficulty dealing with EPA staff, committee staff, and getting amendments accepted. As the majority leader said, nobody has a right to have an amendment accepted, but I hope the staff is being reasonable and helpful in trying to dispose of over 100-and-some amendments that are now pending.

I have urged my leadership staff to try to work with the committee staff, EPA, the White House staff, or anybody else, OMB staff—a lot of staff involved—and they have different views on what different amendments may or may not do.

But in my view, if it is not some egregious amendment, some big policy amendment, there ought to be some way to resolve a great number of the amendments on each side. They can be further modified, or whatever, between now and the time the bill is disposed of in conference.

Mr. MITCHELL. Mr. President, I join the distinguished Republican leader in that appeal. We have already disposed of a very large number of amendments either by a vote or by agreement. There are many more to go. But I think we have made very good progress, and I hope that the staffs will heed the concern expressed by the Republican leader and by myself so that we might complete action on this bill promptly.

As the distinguished Republican leader indicated, we have had discussions about what we would move to after the clean air bill, and I hope we can get an agreement on that and on final disposition of the clean air bill, which would make clear to Senators that we are going to finish this soon and what we will take up thereafter.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

JOINT MEETING ON MARCH 27, 1990

Mr. DOLE. Mr. President, I want to take a moment to remind my colleagues of an important event taking place tomorrow morning—a joint meeting of the Congress at 10 a.m. in honor of the 100th anniversary of the birth of our Nation's 34th President, Dwight David Eisenhower.

I want to personally encourage each of my colleagues to attend. I believe the program will be impressive and a worthy tribute to one of the most important leaders of this century. It includes tributes by John Eisenhower, Winston S. Churchill, Walter Cronkite, Arnold Palmer, and others, as well as colorful ceremonies featuring the U.S. Army Band, U.S. Military Academy Glee Club, and the 3d U.S. Infantry Fife and Drum Corps. It is going to be exciting, and will last 1 hour.

There will be no long speeches. It is a tribute to a leader that many of us had the opportunity of at least meeting and knowing to some extent, one of this century's greatest leaders.

Tomorrow morning's ceremony kicks off a wide array of centennial events around the country and the world. With the help of numerous public and private groups, Ike will be honored this year from his hometown of Abilene, KS, all the way to Moscow.

I am looking forward to tomorrow's special event to honor one of the towering figures in American history.

EMERGENCY AID FOR PANAMA AND NICARAGUA

Mr. DOLE. Mr. President, last Friday, President Bush renewed his call for speedy congressional action on emergency aid for Panama and Nicaragua. He is right. It is high time that we acted. For many years, our policies in Panama, and particularly in Nicaragua, were controversial and sparked heated partisan debates. Over the past year, I believe the record will show that we put most of those debates behind us, and united on an approach to Central America.

This year some of the key initial goals around which we united have already been achieved. Noriega is gone, and a government reflecting the will of the Panamanian people governs in Panama. In free balloting the Nicaraguan people have thrown out Ortega and the Sandinistas. If all goes well, a democratic government led by Violeta Chamorro will take office in 1 month.

We are halfway home. But the crucial days lie ahead. Both of these fledgling democracies in Panama and Nicaragua face enormous challenges. Years of pillaging by Noriega's thugs and months of sanctions imposed, rightly, I believe, by the United States, have devastated the Panamanian economy. A decade of Sandinista mismanagement, war, and sanctions have created even more economic havoc in Nicaragua.

The two dictators largely responsible for causing these problems are gone. Noriega is gone. Ortega is gone. Two democratic governments are left to pick up the pieces.

We have a clear responsibility to help. More important, it is in our own interest to help. We have expended enormous resources and some human life, because we rightly believed it was in our own interest to rid this hemisphere of tyranny, subversion and drug running. It only makes sense to pin down the advances we have made in Panama and Nicaragua by meeting our responsibility to help the new governments there.

This is not a partisan matter or at least it should not be.

For years, Senators on the other side of the aisle urged the Reagan administration to cut off aid to the Contras, and instead, offer the "prospect" of economic aid as an inducement for the Sandinistas to act more responsibly.

It is distressing, therefore, to hear one Democratic Senator term Panama and Nicaragua countries of "slight importance."

It is distressing to hear that some Senators from that side of the aisle are suggesting that we ought to basically "turn our backs" on the newly installed democratic government in Panama, and the one about to be sworn in in Nicaragua, by cutting their proposed aid package by more than 60 percent.

Mr. President, those countries are small in size, but I do not believe they are "slight" in importance.

I urge Senators to think carefully before we start falling into the trap of equating size with importance or suggesting that we allocate our foreign aid on a "per capita" basis.

If we start doing that, we will have to start looking at the fact that one country receives more than $700 per capita, one small country in the Mideast. A small number of others receive several scores of dollars per capita, and the rest of the world receives only a pittance. Black African nations, for example, currently receive, on an average, about $1 per person.

So if the distinguished chairman of the subcommittee, Senator LEAHY, wants to start allocating aid on a per capita basis, then I think we ought to review all the aid programs and look at whether per capita approach is the right way to go.

Nicaragua and Panama are important. I believe we have not looked south for too long a time. In my recent visit to South America, nearly every President we met in a newly democratic country said, "Do not forget us when you all start looking at Eastern Europe."

In addition to per capita, we ought to utilize several criteria in allocating our aid: Our strategic interests in the country; the nature of our bilateral relationship; human needs that exist there; and the responsibility we have undertaken because of our policies there.

Keep in mind that these countries, particularly Panama, is very important in the so-called overall drug strategy in this hemisphere. So it seems to me that they are important countries, and they deserve our support. Foreign aid is not popular anywhere in America. The President requested $800 million—$300 million for Nicaragua, $500 million for Panama. And we are told that 60 percent is going to be taken away and given to the Eastern European countries.

I am also disturbed that this raid on the Central American democracy is being hidden behind a pretense of wanting to help Eastern Europe's emerging democracies.

I remind the Senate that a couple of months ago I suggested a very modest 5-percent cut in earmarks—huge aid programs that eat up the great bulk of our aid budget. And those very Senators now proposing the Central American raid of more than 60 percent jumped all over my back. Just a few weeks ago, Eastern Europe was not worth a 5-percent cut. Now, suddenly, it is worth a 60-percent cut in aid to Panama and Nicaragua.

Mr. President, I hope that the people who have struggled for years for their own freedom, who have risked their lives, who, in the case of Mrs. Chamorro, has seen her husband murdered in the struggle against tyranny—I hope we will not "turn our backs" on them now. I hope we will not penalize them because of some nagging partisan resentments.

Last Friday, Washington Post columnist Stephen Rosenfeld had an excellent piece entitled "Pulling the Plug on Democracy." The Post is not exactly an in-house publication of the Republican Party, but his column "tells it like it is."

Mr. President, I ask unanimous consent to have printed the full text of the Rosenfeld column in the RECORD, and I urge all Senators to give it their careful attention.

I also ask unanimous consent to have printed in the RECORD the text of a New York Times editorial which is also right on the mark.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 23, 1990]

(By Stephen S. Rosenfeld)

PULLING THE PLUG ON DEMOCRACY

For the past year the major foreign policy thrust of the Democracts has been to top President Bush on the immensely popular and important issue of Eastern Europe. The president has not always been as forthcoming as he might on economic support and rhetorical commitment, so there has been some space in which the opposition party could usefully maneuver.

Now, however, the Democrats threaten to go off the deep end. In order to give more support to Eastern Europe, they propose to wring substantial funds out of the emergency aid President Bush has requested for Panama and Nicaragua. Sen. Patrick Leahy (Vt.), chairman of the key appropriations subcommittee and Sen. Robert Byrd (W. Va.), chairman of the full committee, would reduce this Latin account from $800 million to $300 million and earmark the difference for an East European "emerging democracies fund."

Such is the potency of Eastern Europe in current political legend that it has a good chance of prevailing in any such unhappy and unnecessary aid showdown with Central America. East Europe is hero country, scene of a historic vindication of the democratic idea and, not incidentally, emotional home of millions of voting Americans. Central America does not lack a democratic appeal, but its reach and staying power in American politics are untested. The one region is plainly in vogue, the other may already be reverting to the B list.

What is needed is, well, a bit of vision. This happens to be an occasion when President Bush has it, and his Democratic opponents are in default.

The administration sees in Central America a possibility of institutionalizing democracy and demilitarizing the region-stirring developments that few imagined a year ago and that many Democrats have not perceived to this day. The government of newly liberated Panama is pursuing Costa Rica's example of turning its army into a police force. Nicaragua's elected democratic leadership is pledged to cut the army in half (true, it helps that Managua is broke) and to end the draft. The Nicaraguan breakthrough has given fresh momentum to the possibility of finally diverting the war in El Salvador onto a political path.

The amount of money the administration was prepared to invest in this prospect was minimal. For Congress to lop off more than half the funds sought for the crucial first round is absurd.

There is an irony here that would be amusing if its fruits were not so bitter. For years Democrats, and especially the liberals among them, insisted that the great need in Central America was economic development. Stop the fighting, they said, heal the people, provide aid. Take the money from the Pentagon budget, they urged, help build democracy in Central America.

President Bush is now doing precisely what he was urged to do. In, granted, a preemptive heist from the elusive peace dividend, he is taking $800 million from the Pentagon budget to "jump start" democracy in Panama and to put Nicaragua on the long, hard road to democratic stability. And what do the Democrats do? They are pulling the plug on Central American democracy.

Sen. Leahy offers the opinion that the $800 million the administration seeks for Panama and Nicaragua is "simply too much money" for "two countries of slight economic, security and foreign policy importance to U.S. national interests." In these cold, isolationist tones speaks a ranking figure of the party that finds the president lacking in vision, democratic resolve and responsiveness to historical change.

And while we are at it: the United States is offering newly independent democratic Namibia in southern Africa half a million dollars in aid. It is not just that this makes the United States look cheap. It also makes the United States look indifferent to the fortunes of black people. The same damaging hint of racial favoritism is unfortunately conveyed by the suggestion to move half a billion dollars from Central America to Eastern Europe.

We all know, of course, the problem is the budget. The president has the obligation, which he has not met, to finance decently all vital American interests, including the new democracies. But the Democrats risk becoming the party of selective support for democracy. They are robbing some countries to help others, and robbing the most desperate countries; those for which the United States is most responsible. For a rich country our share of the bill is bearable, and we should pay it.

[From the New York Times, Mar. 26, 1990]

FIRST, AID FOR CENTRAL AMERICA

"They're wrong," President Bush says of Senate Democrats who want to take half of the $800 million he has just earmarked for emergency aid to Panama and Nicaragua and give it to Eastern Europe's new democracies. And he's right.

Senator Patrick Leahy of Vermont argues that $800 million is "simply too much money" for "two countries of slight economic, security and foreign policy importance to U.S. national interests," Senator Robert Byrd of West Virginia agrees. By pitting one good cause against another, the Democrats serve both poorly.

Granted, Republican Administrations have oversold the strategic significance of Central America. Ronald Reagan's obsession with ousting the Sandinistas, and George Bush's with arresting General Noriega, vastly distorted U.S. priorities.

But that record only reinforces the case for speeding emergency reconstruction aid to both Nicaragua and Panama. As Deputy Secretary of State Lawrence Eagleburger told a Senate subcommittee last week, the U.S. owes immediate help to both, and risks recurring crises if it fails to follow through. Too often in the past, apparent successes in the hemisphere turned sour because new governments couldn't establish their legitimacy through economic gains.

Even more important, both the new Panamanian Government of Guillermo Endara and the Nicaraguan Government-elect of Violeta Chamorro inherit substantial U.S.-inflicted damage. In Panama, two years of sanctions were followed by a U.S. military invasion that led to about $1 billion in losses from pillaging by looters. In Nicaragua, an even longer period of sanctions plus the massively destructive contra war compounded the cost of Sandinista economic mistakes.

Views still differ on the wisdom of past U.S. policies. But to walk away from today's moral debts would dishonor America.

Eastern Europe's democracies also need help, but in different ways. As economic reforms take shape, foreign support can usefully underwrite specific aspects, like currency stabilization. But most Eastern European countries are just now beginning reforms. Effective help can be more sensibly designed in the debates over next year's budget.

Western Europe and Japan are already addressing Eastern Europe's needs. These donors have less reason than Washington to put significant resources into Central America. And the Bush Administration believes, reasonably, that East European development is best helped through private investment rather than direct government aid.

Prime Minister Tadeusz Mazowiecki of Poland, now visiting the U.S., is not even asking for additional direct assistance at this point. He and President Bush last week signed a treaty to encourage U.S. business investment in Poland. And Mr. Mazowiecki also asks help in rescheduling Poland's $40 billion debt to Western banks and governments.

No other East European country is as far along the economic-reform road as Poland, nor as ready to receive aid. The others, too, surely can wait for reasonable consideration in the 1991 fiscal year, only about six months away. By then, Washington should produce additional help for them. Central America can't wait.

Mr. DOLE. I quote one particularly telling section of the editorial:

Views still differ on the wisdom of past U.S. policies. But to walk away from today's moral debts would dishonor America.

Mr. President, the tyranny in Panama is over. The war in Nicaragua is over. Most of us had thought that "partisan wrangling" over these two issues could also, at long last, be put to bed. It is not too late to do that and to take the sensible, morally right course to help those who so urgently need our help and support now.

Mr. President, I urge that we act quickly on the request from the President of the United States for aid to Panama and Nicaragua, without any allocation somewhere else, without any cuts, because if we start down that line, there will be amendments on this floor to make other changes, too.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, the minority leader has reserved the remainder of his time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 1 p.m. with Senators permitted to speak therein. The Senator from Ohio is recognized.

DEFENSE BUDGET FOR FISCAL 1991

Mr. GLENN. Mr. President, last week, chairman NUNN of the Senate Armed Services Committee delivered a very cogent, articulate description of where we stand with regard to the defense budget for fiscal year 1991. I think the chairman spoke correctly when he said there are big holes in the defense budget the administration sent over earlier this year.

Where there are no holes there are what we call disconnects, things just do not fit together. If we are to have the best and most combat-capable defense possible, these holes must be filled and the disconnects must be corrected or else we will in effect be shooting in the dark at moving targets in dealing with the defense budget for fiscal year 1991.

I am certainly well aware that the world situation has changed dramatically over just the last few months, even the last few weeks. I have no doubt that the conventional threat in Europe has indeed diminished. I also know that the fast pace of change toward a more peaceful world, as great and welcome as that change is, creates in itself uncertainty and instability in long held views about what we should be defending against. I think sometimes change outruns our ability to have a policy.

But in this time of fast-paced foreign policy and military changes, we need an even more complete definition of our defense needs, more definition of our required level of combat capability, and more definition of how we scale down instead of up with our defense budget.

So what should we expect from the administration to fill in the blanks and to correct the disconnects that the distinguished chairman talked about?

In last year's defense authorization bill we gave the Department of Defense an excellent framework to lay out a coordinated, systematic plan for the configuration of our military forces.

In the Defense Authorization Act for fiscal year 1990/1991, the Congress mandated the Secretary of Defense to conduct a total force study. What does that mean?

Let me give a word of background. There was general acceptance in the early 1970's of the premise that any future war would almost immediately involve not only the Regular Forces but also the Reserves, and by "Reserves" I mean to include the National Guard as part of the Reserves.

In a situation like that time would be of the essence. We had to be ready, or the war might well be over before we were prepared for sustained combat. Roles and missions were considered and assigned as to when each service and its Reserve components should be prepared to do what and where.

The total force policy was implemented in 1973. We built our forces, we built the manpower, we built the equipment to carry out that total force policy in assignment roles and missions. It was established in 1973, but except on an ad hoc basis it has had no very serious reconsideration since it was established.

I have been pushing for just such a reconsideration for several years because it has been apparent to me that the division of roles and missions between the military services and the allocations of roles and missions between the Active and Reserve components within the military services had eroded. Some mission assignments work very well, some work hardly at all. This was even before recent developments in the world that now literally scream out for such a study.

We need that study now for our guidance, and I wish that in the Manpower Subcommittee, where we originated the total force policy study requirement, that we had done so about 3 years ago so we would have it completed and available for our guidance now.

We need that study. Let me give you some examples of what I mean.

The Army has had a major problem in its allocation of missions between the Active and Reserve components. In retrospect, the Army went overboard in assigning combat support missions, such as engineer, signal, intelligence, and chemical activities, and combat service support missions such as medical, maintenance, supply, transportation and ammunition activities to the Reserves apparently in order to increase combat force structure in the Active Forces. On the surface, what the Army did sounds reasonable, but the Army did not follow up to ascertain whether or not the Reserves could and were effectively handling the combat support and combat service support missions.

The hard cold fact is that the Army ended up assigning over 70 percent of its combat support and combat service support missions to the Reserves, and ended up with 45 to 55 percent of its Reserve combat support and combat service support units in a not combat ready status. The sad fact is that the Army cannot sustain a conventional war for any length of time because the combat support and combat service support forces that must roll in as early as 10 to 30 days after a shooting war starts are not rated as combat ready. Would you throw them in any way? Probably, but that would not be fair to the people. It means you are not going to have the combat effectiveness that you should have. War games make this very point.

Another example that applies across the whole Department of Defense: The DOD relies on the Reserves to provide 80 percent of its wartime medical requirements. That sounds logical, yet the Reserves are, and have been for many years, short 7,100 doctors, or 70 percent short of wartime requirements, and are short 31,000 nurses, or 66 percent short of wartime requirements. In war games, the players have to assume host nation support. It means wherever you happen to be fighting, that host nation would support the need to take care of battle casualties. That is a tough assumption to swallow when the host nation is busy taking care of its own casualties on its own ground given that combat scenario.

These are just a couple of disconnects in the alignment of missions.

On the other hand, the air missions that have been assigned to the Reserve Forces have been sustained at high levels of combat readiness and there appears to be capacity in this area for the Reserves to do more.

Tankers transport aircraft are all flown by Reserves; fighter attack squadrons sometimes are outdoing the regulars, the regular military establishment, in competitive events.

I make these points to underscore how important it is that the Department of Defense use this knowledge, lessons learned as we have gone along, as it approaches the total force review that it has underway.

I strongly suggest to the Department of Defense that it aggressively push forward on the total force study and provide us with at least preliminary results that we can use as we markup the fiscal year 1991 defense authorization request.

We need that study now. I am only sorry, as I said before, we did not put in the requirement a couple years earlier.

As chairman of the Subcommittee on Manpower and Personnel of the Committee on Armed Services, I am concerned about the current lack of direction from the Department of Defense as to where future force structure decisions will lead in terms of manpower strength levels. For now, the matter of manpower strength levels seems to be driven by fiscal rather than force structure decisions.

We seem to be willing to just whack away and cut the number of people, without regard to the number of divisions or the number of air wings. We do not seem to be able to put force structure on the table at Vienna or Geneva. But we say we are going to whack people out now.

As a result, there are substantial disconnects between force structure manpower requirements and manpower inventories. For example, the fiscal 1991 defense manpower requirements report indicates that the Army will be manned at 87.4 percent of its overall programmed force structure, 85.7 percent in the strategic, 92.2 percent in tactical mobility, 79.2 percent in communications and intelligence, 73 percent in combat installations, 91 percent in force support training, 72.9 percent in medical support, 77.3 percent in joint activities, 78.9 percent in central logistics, 87.7 percent in management headquarters, 68.3 percent in R&D/geophysical activities, 81.5 percent in training and personnel, and 73.9 percent in support activities. Similar disconnects are indicated for the other services also.

What these disconnects can mean is that the administration is protecting force structure and procurement accounts, the hardware buying accounts, at the expense of our men and women in uniform.

I spoke on this floor recently about the fiasco we went through with regard to the reprogramming of money into the military manpower accounts because the Defense Department had not recommnded to the administration that the personnel accounts be exempted from the Gramm-Rudman sequester, as had been done on a regular basis in years before.

DOD did not even recommend it this year. In fact, it would appear that they just depended on us bailing them out. We have done so but not because we want to cave in to the way they dealt with us on the sequester, but because it was only fair for the people in the military out there in the field.

All these concerns have to be dealt with.

So where does that leave us? Well, quite frankly, we are left in the dark. None of the Defense officials who have testified before us thus far have been able to give us any definitive manpower strength figures beyond fiscal year 1991. All we know is that strength levels will go down unless the world situation changes radically—and that is unlikely.

Our men and women in uniform are also in the dark. Every day they hear dire predictions that leave them less and less secure about what the future has in store for them.

For example, the Department of Defense has requested a number of authorities to be enacted into law to allow the services to involuntarily terminate officers from active service. Some of these authorities would break actual and implied contracts.

At the same time, the Department of Defense has indicated that it will be submitting an involuntary separation pay plan that will include enlisted personnel so that it can terminate enlisted personnel from active service who have up to 18 years of service. If I were still serving, I would be terribly worried about this plan because it would make it so much easier for me to be involuntarily terminated well into my career and just short of retirement. The separation pay in the latter case would amount to peanuts compared to the retired pay I would lose.

So what we have are a lot of very disturbing proposals and ideas about what is needed to terminate the service of men and women in uniform with no definitive plan about where the services are going to actually end up as far as manpower strength levels are concerned.

Another major example of how the administration considers its men and women in uniform is contained in the fiscal year 1991 DOD budget request. In February, Secretary Cheney testified before the Armed Services Committee on the new budget, and stated that personnel programs continue to be the No. 1 priority. Yet, buried in that same budget was a proposal to freeze the cost-of-living adjustment [COLA] for military retirees in fiscal year 1991, and then cap future COLA adjustments at the CPI level minus 1 percentage point for all future years.

Mr. President, what kind of signal does this proposed COLA freeze and later cap send to both active duty and retired personnel? I can assure my colleagues that it sends a very loud and clear negative signal to all members of our volunteer active duty forces and their families, and also to retired officers and enlisted members and their families, who rightly see the action proposed by the administration as a breach of faith.

To me, the only way this situation can be corrected is for the Department of Defense to begin filling in the blanks in terms of a realistic definition of the threat; a coordinated, defined strategy to counter the threat; a well thought out mix of forces to carry out the strategy; a prudent distribution of these forces among the military services; and a balance of active and reserve forces within the services to carry out assigned missions. The manpower required will be defined by such a process and be connected to force structure requirements.

Mr. President, I know that such a task is difficult. But I think it must be done and done correctly by the Department of Defense before we can act responsibly on the fiscal year 1991 defense authorization request.

Certainly, our men and women in uniform deserve the benefit of such an effort. They should not be hung out to dry more than they already are.

And if the detailed studies finally show that large manpower strength reductions are inevitable, then it is doubly important that we know what the glide slope is so that we can do all we can to make sure the reductions are made in a prudent, compassionate manner. Unless we do this, we risk alienating the most important resource in the Defense equation and

that is our men and women in uniform.

Mr. President, I want to conclude by saying that our bottom line on both sides of the river has to be the combat effectiveness of our forces—not only the equipment, but more importantly the men and women we have in uniform. Our forces must be configured to fight if they have to and to win when they fight. So I urge the Department of Defense to help us by filling the blanks and correcting the disconnects so we can get on with the task at hand as expeditiously as possible.

I yield the floor.

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE

Mr. GORTON. Mr. President, I am an original cosponsor of HOPE—President Bush's program for homeownership and opportunity for people everywhere. I commend Secretary Kemp for his fervent and forthright advancement of a new national housing agenda and I commend it to my colleagues in the Senate.

Over the past year, I have met with citizens in Washington State who are directly involved in implementing our Nation's housing policies.

In the tri-cities, Spokane, and Everett, public-housing administrators helped me understand the system and their needs.

In Seattle and Vancouver, shelter providers for the homeless showed me what works and what does not across the tremendous diversity of their clients.

In Bellevue and Olympia, non-profit and for-profit developers described to me the added expense caused by overburdensome local and Federal regulations.

And in Tacoma and Yakima, mothers and their children testified to the day-to-day terror of living in a community fallen victim to drug dealers and their ruthless gangs.

Mr. President, these Washingtonians have different interests in housing, but all are united on one common theme. It is time for a change: a change toward policies which truly serve the poor and the homeless.

It is time that Federal policies reflect that our Nation's poor need not remain wards of the State indefinitely. There is a way up and out of poverty, up and out of public housing, into a life of self-respect and self-sufficiency. It is time our national housing policy not only reflects but compels those opportunities.

The HOPE package brought forth by President Bush and Secretary Kemp is a step toward a change in thought that this country needs. I congratulate them both for steering a new course in the effort to provide both homeownership opportunities for all Americans, as well as the shelter linked with care provisions needed by our most desperate citizens.

I look forward to working with my colleagues from both sides of the aisle on a bipartisan housing bill this year.

RELATIONS WITH TAIWAN

Mr. GORTON. Mr. President, the Senate has spent a great deal of time in the last 9 months discussing our China policy. Yet in all that time, almost no mention has been made of the genuine advances toward full democracy in China that have been accomplished. Why? Because we so easily forget that there are two Chinese governments.

I am here today to call the Senate's attention to a success story in the advancement of human rights and democracy in the Republic of China on Taiwan. For while the People's Republic of China was crushing human rights with tanks in Tiananmen Square, Taiwan was advancing the cause of democracy through public elections.

This Senator is convinced that we must take every practical measure to encourage human rights and democracy in the People's Republic of China. For example, though I did not welcome the task of opposing my President's veto of the Chinese student legislation, I did not hesitate to do so. I continue to believe, as I did then, that the President mortgaged the future to make a losing bet on the past by attempting to appease freightened tyrants in Beijing. At the same time, however, we must also insure that we protect and nourish the demonstrated progress toward liberty among the people on Taiwan.

We recognized the People's Republic of China in 1979. Many Americans believed that the People's Republic of China was on a path toward genuine reform. The People's Republic of China appeared to be heading in a direction that would permit the peaceful integration of Hong Kong into the People's Republic of China, when the British lease expires in 1997.

In turn, this led to optimism about the eventual peaceful reunification of the People's Republic of China and Taiwan. Given stability, peace, and continued reform, many believed the People's Republic of China and Taiwan would converge on the vital issues of human rights and economic policy.

Now, those hopes have been shattered; The People's Republic of China and Taiwan appear to be on distinctively different paths. In the wake of the tragedy at Tiananmen Square, the People's Republic of China is sinking back to a dark, repressive past. A growing apprehension and fear sweeps over Hong Kong as the day nears when the stifling policies of Beijing will be imposed on that bright success story of capitalism.

In striking contrast to the People's Republic of China, Taiwan's political and economic progress make it a model for other nations around the world also challenged by rising demands for democracy. In scenes reminiscent of those in the People's Republic of China only 1 year ago, large crowds of protesters gathered in Taipei to demand even more rapid democratic changes for Taiwan. They were met with restraint, not bullets. I hope that the result will be that we have seen the last indirect elections for President of the Republic of China.

Given its economic—and now political—accomplishments, Taiwan must no longer be treated as an international pariah. Given the bright promise of its political and economic future, Taiwan should no longer be considered as an inconvenient impediment to American foreign policy.

There is a growing realization by conservative and liberal Americans alike that our China policy will remain incomplete until it recognizes democratic and economic progress on Taiwan. The United States should accord the Republic of China the international respect it has earned, and should encourage its full participation in the process by which international agreements on trade and politics are made and enforced.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 2335 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EXTENSION OF MORNING BUSINESS

Mr. DIXON. Mr. President, in view of the fact that time is running short on the 1 o'clock limit, I have another brief statement, and a third I will refer to later. I understand my friend from Alaska wants to make a statement. I want to replace my colleague in the Chair so he can make one, also.

I ask unanimous consent for an extension of time for morning business from 1 o'clock to 1:15.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNITED STATES-JAPAN TRADE: WE NEED A RESULTS-ORIENTED POLICY

Mr. DIXON. Mr. President, in last Thursday's Washington Post, an article by Stuart Auerbach reported that Commerce Secretary Robert A. Mosbacher accused "Japan of systematically refusing to buy advanced American products until a Japanese company starts making them." The story goes on to quote Secretary Mosbacher as stating, "There's a sameness. It's a pattern * * * it looks strangely like when there is a new (American) process, a new industry, a new technology the Japanese find ways to keep American companies from selling in quantities until they have an opportunity to build a similar item or develop the technology themselves."

I agree with Secretary Mosbacher's assessment, Mr. President. I do not want to take anything away from Japanese businesses. I think there is a lot we can learn from them, and I think it is worth remembering that their success is at least partially due to the fact that they followed our advice better than we did ourselves.

The truth is, however, that our trade deficit with Japan is not the result of "superior" Japanese products. In agriculture, in communications, in aerospace, in computers, and many other areas, many American products and services are not only as good as their Japanese equivalents—they are better, and often much better.

Why, then, in so many cases, do our manufacturers fail to penetrate the Japanese market. The answer, unfortunately, is deliberate Japanese policy. In case after case, there are trade barriers, then regulatory barriers to set up offices or stores, then distribution barriers, then testing barriers, and so on, and so on, and so on.

American products are disadvantaged because the product has cultural implications, or because MITI has targeted that product area, or because the Japanese are protecting noncompetitive producers—they do have them in Japan, you know, especially in agriculture.

All too often in the past, American negotiators have played into Japan's hands. They have sought strictly legal remedies to what is much more than a legal problem. The Japanese grudgingly make the legal changes, to make us believe we are getting real concessions. However, the Japanese negotiators know, and we should know by now, that the legal concessions are often of no practical benefit to American businesses. After negotiations are concluded, the agreement signed, and the pictures taken, the discriminatory practices against imports continue.

I think that it is time for a change, Mr. President. Our negotiating strategy must abandon its fixation on legalisms and instead concentrate on results. Our negotiators should stop talking about competitive opportunities and instead focus on the bottom line—how much will Japan buy from the United States.

Some call this managed trade, and suggest that this approach means abandoning U.S. free trade principles. The truth, however, is that focusing on results does not mean abandoning our free trade principles at all. Instead, it simply means that we are smart enough to recognize that the Japanese society is different from our own, so that American-style negotiations are not appropriate.

Frankly, it seems to me that the real disservice both to Japan and our own citizens is to treat the Japanese society and culture as if it is nothing more than an outpost of American Society and culture—only farther from Washington.

Japan has a very old, very sophisticated, and very cohesive culture. What I want from the U.S. side is a negotiating strategy that takes that fact into account.

I hope Secretary Mosbacher's comments are a signal that we are going to change our negotiating style and that we are going to focus on results. The Secretary's analysis of the problem is the correct one. Now we have to act on it.

Mr. President, I yield the floor.

I thank my distinguished colleague from Alaska. I am happy to accomplish whatever purpose the Chair wants to accomplish by taking his place.

Mr. MURKOWSKI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

WORLD ENERGY OUTLOOK

Mr. MURKOWSKI. Mr. President, this morning the chairman of the Energy Committee, Chairman BENNETT JOHNSTON, hosted a hearing on the world energy outlook. While we had a number of distinguished statements given, I think the statement of Jim Schlesinger, former Secretary of Energy and Defense, was most revealing.

I would like to highlight just briefly some of the points that were made that I think will cause my colleagues to reflect on the merits of the dangerous path that we are on.

(Mr. DIXON assumed the chair.)

Mr. MURKOWSKI. Three years ago, OPEC appeared to be on the ropes, with its members struggling with one another for individual shares of substantially reduced OPEC production. Prices were precarious at that time, as low as $8 a barrel.

Essentially, the collapse of the domestic drilling activity in the United States has taken place. There was a question as to whether or not, indeed, the forecasts of higher prices for oil would ever become a reality.

There was a feeling that the ultimate growth of energy in the United States would be based on diversification and other alternatives, but as we are seeing by the evidence produced at the hearing this morning in the statement by Jim Schlesinger, that is not the case at all.

OPEC's fortunes have revived. The world has become more dependent on gulf oil, and the rapid growth in U.S. oil dependency, as well, adversely affects our energy security interests.

Today, we are told that OPEC has been producing in excess of 23 million barrels a day, and the market, Mr. President, has been absorbing this level of production. Almost all of OPEC's members have been producing all out. In the aggregate, OPEC has been producing very close to capacity levels.

So the point, Mr. President, as we have been observing our increase in imports, what we have not recognized is a realization that today OPEC is about at their maximum capacity, and one wonders what will happen next as we and other nations keep increasing imports of Mideast oil.

OPEC is now in the happy position of allocating growing shares in an expanded market. Of course, U.S. production continues to fall. We are seeing the decline in Prudhoe Bay, which 2 or 3 years ago was producing 2 million barrels a day, roughly 24 percent of the total domestic crude oil produced in the United States.

Growing demand continues to increase, and we have seen, along with declining production domestically, a rise in U.S. imports by 3.5 million barrels a day.

In recent months, our import dependency has exceeded 50 percent for the first time. It has run as high as 54 percent. It is estimated that by 1995, U.S. imports could reach 10 to 11 million barrels a day. The cost of oil imports will have more than tripled from the low point.

So the stage is being set for an increase in oil prices, Mr. President. OPEC has recently been operating in excess of 90 percent of sustained capacity. OPEC's sustainable capacity today is a little in excess of 25 million barrels a day. With a call on OPEC growing at over a million barrels per day each year, we are only a couple of years away from the point that demand will take care of the present capacity. And the question is, where do we go then?

It is interesting to note that the Soviet Union's production has fallen from 12.6 million barrels per day to 12 million barrels, and there are further difficulties in production anticipated.

According to present trends, Mr. President, by the middle 1990's we shall be roughly 65 percent dependent on foreign sources of supply. With regard to our strategic petroleum reserve, our chief surviving element of production against a cutoff will have shrunk in real terms from roughly 100 days to 60 days of import.

Mr. President, I think it is fair to note that the alternatives are relatively few. Obviously, we have domestic potential in the United States, but we also have growing environmental concerns as to whether to allow OCS drilling off our shores, whether to allow exploration in such areas as in Alaska and others.

But I point out, Mr. President, that we have potentially a very real threat. If we look at the increases in the price of oil and the increases in inflation, they follow a very dramatic pattern. Further trends in oil prices and interest rates follow. When oil prices go up, interest rates go up, unemployment goes up. It has been estimated that, as a consequence of our current trade deficit, which is somewhere in the area of $120 billion, about $50 billion of that trade deficit is with Japan, about $10 billion with other countries, and about $50 billion with oil alone. Prospects this morning, as evidenced by the statement by Dr. Schlesinger, indicate that by the year 2005 to 2010 our trade deficit will have doubled on oil only. That means, Mr. President, moving from $110 billion total, we are looking at a trade deficit on oil alone of $100 billion.

Mr. President, the Senator from Alaska intends, over an extended period of time, to speak on this danger that is moving at a very rapid rate. I will be proposing some alternatives to initiate exploration domestically so that we may have some independence, because as sure as I am standing here, one of these days in the not too distant future we are again going to be held hostage by the Mideast, and the public will come to the Halls of Congress and blame those of us who have not seen fit to make adequate allowances for the inevitable. Mr. President, the handwriting is, indeed, on the wall.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Florida [Mr. GRAHAM] is recognized.

Mr. GRAHAM. I thank the Chair.

HUMAN RIGHTS ABUSES IN CUBA

Mr. GRAHAM. Mr. President, within the last several weeks, Castro has begun a new and harsh crackdown on human rights advocates in Cuba. He has thrown 11 dissidents into jail, and he has set loose his thugs to harass and intimidate others. All because some of them had the temerity to send a letter congratulating the U.S. delegation to the United Nations Human Rights Commission. The Commission on March 6 approved a United States-sponsored resolution criticizing Cuba's human rights record and calling for a reexamination next year. At a time when Nelson Mandela has been set free in South Africa and when playwright Vaclav Havel is leading Czechoslovakia toward democracy, Castro remains a political dinosaur. People around the world are demanding democracy. Their leaders are listening and responding. But not Castro. He refuses to. He called the latest U.N. resolution disgusting.

What is disgusting is that Castro continues to abuse and intimidate the citizens of Cuba.

One of those citizens is Sebastian Arcos, a human rights leader who once fought alongside of Castro but was later imprisoned for "counterrevolutionary activities." In other words, he opposed Castro and communism. For that, he and his brother Gustavo, who also fought at Castro's side in the revolution, have been subjected to endless harassment by the Castro government.

As part of the latest crackdown, thugs recently surrounded Gustavo's home in Havana, presumably because human rights leaders were meeting to form a united front.

They painted Gustavo's house with slogans like "Death to the Worms" and "Socialism or Death." Castro calls Gustavo and Sebastian cockroaches and vows that the people will crush them.

But we know otherwise. Rather than be crushed, we know that the courage of Gustavo and Sebastian will one day crush Castro and his dictatorial regime.

I ask unanimous consent that a copy of a letter I intend to send to U.N. Secretary General Perez de Cuellar be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 26, 1990.

Hon. JAVIER PEREZ DE CUELLAR,
Secretary General, the United Nations, New York, NY.

DEAR MR. SECRETARY GENERAL: Fidel Castro within the last two weeks has renewed his harsh crackdown on human rights activists in Cuba, many of whom cooperated with the United Nations in its first-ever investigation of Cuban human rights in 1988.

We are writing to request that you move quickly on the latest resolution approved by the U.N. Human Rights Commission on March 6 calling on the Government of Cuba to honor its repeated guarantees not to subject these individuals to "reprisals, detention, or negative consequences of any nature whatsoever."

In the latest crackdown, Castro rounded up 11 activists in early morning raids on March 12. Mobs of youths also surrounded the houses of two of the most prominent human rights leaders in Cuba, Sebastian and Gustavo Arcos.

The latest arrests brings to 31 the number of people who have detained without trial or been charged with political crimes since U.N. investigators visited Cuba in September 1988.

The recently approved resolution also called on you to provide the texts and results of the oral and written contacts you have maintained with the Castro government on this question. We would appreciate meeting with you to discuss your findings.

In the meantime, we urge the U.N. to do everything in its power to gain the release of those who took such grave risks to advance the cause of human rights.

Sincerely,

Mr. GRAHAM. Mr. President, I welcome cosigners, I call on the Secretary General to act on most recently approved U.N. resolution calling on Castro to respect human rights. Many of those arrested in the recent crackdown cooperated with the United Nations. in its first-ever investigation of Cuban human rights in 1988. Despite guarantees to the contrary, Castro has been harassing these individuals ever since.

The United Nations has a special obligation to those who took grave risks and paid a steep price to bring before the world Castro's systematic abuses of human rights. These individuals deserve the United Nation's continuing involvement, commitment and protection. The Secretary General should act immediately to gain their release.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. Mr. President, I ask the Senator to put me on as a cosponsor. I will be glad to sign that letter.

Mr. GRAHAM. I appreciate it.

Mr. HATCH. I am glad to have been present to hear his remarks today.

Mr. GRAHAM. I express my appreciation to the Senator from Utah. I know of his deep interest in human rights and especially issues affecting the civil rights and human rights of the citizens of Cuba.

Mr. HATCH. I thank the distinguished Senator from Florida. I wish to associate myself with his remarks. I think Castro has done some awful things ever since he has been there and a lot of commentators in this country have allowed him to do so. That happened right up until the time Armando Valladares wrote his book "Against All Hope." Having served more than 20 years in Castro prisons and describing the hideous conditions that exist there, I think we are all indebted to people like Armando Valladares. I think we are indebted to the distinguished Senator from Florida for the work he is doing in this area.

CIVIL RIGHTS ACT OF 1990

Mr. HATCH. Mr. President, I believe the Civil Rights Act of 1990 is fundamentally flawed. We have held four hearings, Mr. President, in the Labor Committee on S. 2104, the so-called Civil Rights Act of 1990. The hearings have made it very, very clear that this bill goes far beyond merely overturning a few Supreme Court decisions from 1989. It overturns numerous decisions, both the Supreme Court and lower court deicisons, some stretching back to the 1970's. And its proponents do not even claim that it is aimed at merely overturning the Supreme Court decisions from last year, in any event.

As the Daily Labor Reporter, a nonpartisan newsletter, aptly said in its February 9, 1990, issue, the bill "goes far beyond addressing recent Supreme Court rulings and amounts to a virtual wish list for plaintiffs in employment discrimination litigation."

The bill will work fundamental shifts in title VII of the 1964 Civil Rights Act. it will transform title VII from a statute aimed at conciliation, administrative resolution, settlement, and placing a victim of discrimination in his or her rightful place in the work force into a statute in which conflict in the workplace will be exacerbated. Protracted, costly litigation will be the weapon of first resort. The bill will simply be a bonanza for lawyers.

Further, the bill will convert title VII from a statute guaranteeing equal opportunity for individuals, into a statute virtually compelling quota hiring by all public and private employers of 15 or more persons. Even the Washington Post acknowledged this concern in a March 16, 1990, editorial wherein the Post said:

> That issue—quotas—should be taken seriously. It is not just the false fear or red herring that civil rights groups too readily dismiss it as being.

In addition, this bill will severely restrict access to court for certain persons seeking to assert their most fundamental right to equal protection of the laws and the right to be free of the invidious discrimination in violation of Federal statutes. It will deny certain persons the opportunity for a full trial on the merits of such a claim with the full right of discovery and the right to appeal.

That is abominable. People have to start reading this bill and look at what it does.

I want to quote a few sentences of the testimony of James Henson, a Birmingham, AL, firefighter. Mr. Henson ranked sixth on a promotion list, but was passed over because of his race in favor of someone ranked 85th, in order to implement a consent decree in a case to which Mr. Henson had not been a party. In addition, Mr. Henson had done a number of things to educate and train himself and to get advanced understanding and experience that the other candidate had not done.

Mr. Henson said:

> I am a working-class man. I am not responsible for any past discrimination by the city of Birmingham. I did not cause any discrimination and should not have to pay the price for it. The city of Birmingham should pay the price for its own wrongs. I am not a lawyer, but I think I can tell when I have been treated unfairly.
>
> Mr. Chairman, all I am seeking is a day in court to show I am a victim of unlawful discrimination. I filed suit promptly after I was denied a promotion [on the basis of my race] * * * I am pleased that the Supreme Court has ruled that I am entitled to a day in court. I urge this committee not to take away my opportunity to show that I have been discriminated against.

Mr. Henson happened to be a white firefighter. He was denied this promotion solely because he was white. And the promotion went to a man who was 79 positions below him on the list for this job. He was sixth. The other man was 85th. Though black, that was the sole reason why he was chosen over Mr. Henson.

Mr. President, had Mr. Henson participated in discrimination, I would have no sympathy for him. But he absolutely had nothing to do with it, and his testimony showed that. Nobody can deny it.

Mr. President, I ask unanimous consent that Mr. Henson's testimony and the testimony of some of the other witnesses, along with my opening statements at the hearings be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPENING STATEMENT ON S. 2104, THE CIVIL RIGHTS ACT OF 1990, SENATOR ORRIN G. HATCH, FEBRUARY 23, 1990

Mr. Chairman, all of us agree that one of the most important functions of government is to guarantee equal opportunity under the law. Discrimination on the basis of race, ethnicity, religion, handicap, and gender is immoral and contrary to the most fundamental ideals of our country.

Over the past 25 years, a rich and broad mosaic of federal civil rights laws, ranging from employment, public accommodations, federally aided programs, to housing, institutionalized persons, and more, have been put in place. I have no doubt that more needs to be done to combat the evil of discrimination in our society and hope that we can work together to achieve this important goal.

The Civil Rights Act of 1990 is designed to overturn several recent Supreme Court cases. In fact, it overhauls two federal statutes, throws out years of Supreme Court and appellate court decisions, and conflicts directly with several core concepts of American justice.

Some areas of the legislation have merit. For example: I have concluded that Section 1981 should be amended to ban racial discrimination in the terms and conditions of contracts, as well in their formation and enforcement. Thus, the Patterson case, in my view, should be overturned. Moreoever, I believe that Title VII should be amended so that persons can challenge allegedly discriminatory seniority systems at the time a person is aggrieved by such a system. Thus, the Lorance decision should, in my view, be overturned. I have introduced legislation, prepared and supported by the Admininistration, which achieves these salutary objectives.

On the other hand, Mr. Chairman, I don't believe we have to overhaul the American legal system to ensure equality. We don't have to award some groups more legal rights than others to guarantee the civil rights of all Americans. We don't have to make quotas the only legal employment policy in order to provide equal opportunity.

The major problem areas in the bill are as follows:

1. This bill is a litigation bonanza for lawyers.

2. Sections III and IV so dramatically change Title VII that the only way to avoid being sued is to hire solely by numbers, to use quotas for hiring and promotion.

3. Under Sections III and IV of this bill, hiring the most qualified applicant may no longer be an acceptable defense to a charge of discrimination.

4. Sections III and IV of the bill conflict with the fundamental principle that one is innocent until proven guilty. The bill for the first time will shift the burden of proof from the plaintiff to the defendant in disparate impact cases.

5. Section VI conflicts with the fundamental principle that every American should have the same right to his or her day in court.

6. This bill would even overturn a Justice Brennan decision as to what constitutes intentional discrimination.

Mr. Chairman, I want to compliment you for holding four days of hearings on this bill. I look forward to working with you on the other days of hearings to ensure that we have the benefit of all available expertise. S. 2104 is an extremely complicated bill that will affect millions of Americans. We must not legislate by label but take all the steps necessary to understand the legal ramifications of what is being proposed.

ADDENDUM TO SENATOR HATCH'S OPENING STATEMENT

In the *Watson* v. *Fort Worth Bank and Trust* case, decided in 1988, Justice O'Connor warned us about the real risk of imposing quotas on the American people if the Title VII disparate impact theory is misused. In that case, the Supreme Court actually extended the application of the disparate impact theory to subjective employment practices, a great victory for civil rights plaintiffs. She then went on to say, basically, everything I said in my opening statement:

"We agree that the inevitable focus on statistics in disparate impact cases could put undue pressure on employers to adopt inappropriate prohphylactic measures. It is completely unrealistic to assume that unlawful discrimination is the sole cause of people failing to gravitate to jobs and employers in accord with the laws of chance. It would be equally unrealistic to suppose that employers can eliminate, or discover and explain, the myriad of innocent causes that may lead to statistical imbalances in the composition of their work forces. Congress has specifically provided that employers are not required to avoid 'disparate impact' as such;" citing a specific provision of Title VII (Section 703(j)) . . . "Preferential treatment and the use of quotas by public employers subject to

Title VII can violate the Constitution, and it has long been recognized that legal rules leaving any class of employers with 'little choice' but to adopt such measures would be 'far from the intent of Title VII,'" quoting Justice Blackmun. *Albemarle Paper Co.*, 422 U.S., at 449, 95 S.Ct., at 2390 (Blackmun, J., concurring in judgment).

Thus, Justice O'Connor acknowledged that: "extending disparate impact analysis to subjective employment practices has the potential to create a Hobson's choice for employers and thus to lead in practice to perverse results. If quotas and preferential treatment become the only cost-effective means of avoiding expensive litigation and potentially catastrophic liability, such measures will be widely adopted. The prudent employer will be careful to ensure that its programs are discussed in euphemistic terms, but will be equally careful to ensure that the quotas are met. Allowing the evolution of disparate impact analysis to lead to this result would be contrary to Congress' clearly expressed intent"—at least until legislation like S. 2104 becomes law, if it ever does—"and it should not be the effect of our decision today."

". . . We recognize, however, that today's extension of [the disparate impact] theory into the context of subjective selection practices could increase the risk that employers will be given incentives to adopt quotas or to engage in preferential treatment. Because Congress has so clearly and emphatically expressed its intent that Title VII not lead to this result, 42 U.S.C. Section 2000e-2(j), we think it imperative to explain in some detail why the evidentiary standards that apply in these cases should serve as adequate safeguards against the danger that Congress recognized."

And then Justice O'Connor, in her four member plurality opinion, laid out the standards for proving a disparate impact case. These are the very same standards adopted by a majority of the Court, with the addition of Justice Kennedy, in Wards Cove.

In Wards Cove, the Court held:

In order to use statistical evidence to establish a prima facie of disparate impact, you must make a comparison between the percentage of qualified minorities in the relevant labor pool and the percentage of minorities in the job in question. To compare the percentage of minorities in an employer's unskilled jobs to their percentage in skilled jobs, is "nonsensical," as Justice White said.

A plaintiff must then demonstrate that the disparity results form the employment practice(s) he or she is challenging, not merely assert that the employer's entire set of hiring practices results in an imbalance. This seems an obvious requirement for a prima facie case. As Justice White said, "To hold otherwise would result in employers being potentially liable for 'the myriad of innocent causes that may lead statistical imbalances in the composition of their work forces.'"

Once the plaintiff makes a prima facie case by showing a relevant disparity resulting from the employer's practice(s), the employer has the burden of producing evidence of a legitimate reason for the employment practices in question.

That is, the employer's burden is to produce evidence that its challenged practice(s) serves in a significant way legitimate employment goals; the employer need not produce evidence that the practice is necessary or essential to effective job performance. The latter is an impossible burden for employers to meet. It would cause an erosion of standards and force employers to adopt quotas in order to avoid liability.

The burden of persuasion in these cases remains with the plaintiff—an elementary part of how our civil justice system works. The plaintiff under Title VII must prove discrimination has occurred, the defendant is not required to prove his innocence, i.e. that he has not discriminated. Thus, once the employer produces evidence of the legitimacy of the practice in question, the plaintiff must show that the proffered business justification is a pretext or otherwise not legitimate. This is how the federal rules of evidence operate. Federal Rule of Evidence 301.

Even then, if the plaintiff cannot prevail on the business justification question, he or she may still prevail by coming forward with alternative employment criteria that reduce the disparate impact of existing employment practices. But these alternatives must be equally effective in serving the employer's legitimate employment goals.

There is nothing unusual about this. It has all been said by the Court before. E.g. *New York Transit Authority v. Beazer*, 440 U.S. 568, 587 n.31 (1979); *Albermarle Paper Co. v. Moody*, 422 U.S. 405, 413 and n.7,. 425 (1975); *Griggs v. Duke Power Co.*, 401 U.S. 424, 431, 432 (1971); See also *Watson v. Ft. Worth Bank and Trust*, 108 S.Ct. 2777, 2787–2791 (1988); *NAACP v. Medical Center*, 657 F.2d 1322, 1334–1336 (3rd Cir. 1981).

These standards reflect prior Supreme Court precedent in each particular, including *Griggs*, not a departure from precedent. They implement the disparate impact standard in a sensible way, they do not overturn it.

OPENING STATEMENT, SECOND HEARING ON CIVIL RIGHTS ACT OF 1990, SENATOR ORRIN G. HATCH, FEBRUARY 27, 1990

I join the Chairman of the Committee in extending appreciation and welcome to our witnesses this morning. We will be hearing from Mr. Donald Ayer, Deputy Attorney General of the United States, several former members of the Equal Employment Opportunity Commission, and others regarding this legislation.

None of us will argue that discrimination does not exist today. We have all seen its ugly head. We need strong and effective implementation of our civil rights laws. Where there is a need to improve civil rights enforcement, I will be a strong advocate for such improvement.

We agree, Mr. Chairman, that some change in these laws is desirable. I have introduced legislation prepared and supported by the Bush Administration to overturn the Supreme Court's decisions in the *Patterson* and *Lorance* cases. But, Mr. Chairman, I cannot support wholesale changes in our essential civil rights laws when such changes, in effect, overturn many time-honored principles—principles which are dear to every American.

This legislation would shift the burden of proof to defendants in disparate impact cases, meaning that one is guilty until proven innocent. This legislation would severely limit the right of certain workers affected by a consent decree, to challenge that decree in court when they claim to be harmed by it. This would deny Americans their equal right to their day in court. By introducing punitive and compensatory damages and jury trials to Title VII, the legislation provides a windfall for attorneys and creates an incentive to engage in lengthy litigation rather than to settle differences. I submit to my colleagues here in the Senate that this incentive moves our nation no further toward the kind of society we seek—one in which irrelevant factors such as race play no role in employment decisions.

Some of the aspects of this bill which will be covered today are of particular interest. With the exception of the *Patterson* case, which we both agree warrants redress, the significant changes contained in Sections 5 and 8 of this bill do not even purport to be a "restoration" of the law to where it was before the Supreme Court's 1989 term. They clearly represent a substantial departure from the Civil Rights Act of 1964.

Section 5 of this bill would overrule *Price Waterhouse v. Hopkins*, a plurality decision written by Justice Brennan which was a victory for civil rights plaintiffs. This section goes further than that opinion by reversing the general rule that, in employment cases, a plaintiff must show that the defendant's unlawful conduct caused the injury. The change here is significant. This bill would allow punitive and compensatory damages and attorneys fees even in cases where an employer has proven that it would have made the same decision for nondiscriminatory reasons.

Section 8 of this bill proposes, though not in response to any Supreme Court decision, to expand Title VII to make punitive and compensatory damages, including damages for pain and suffering, available in disparate treatment cases.

I am concerned that this would change Title VII from a statutory scheme aimed at conciliation and the administrative resolution of allegations into one in which litigation is the first, not last, resort. To change the Act in a way that would discourage rather than encourage the prompt and equitable resolution of employment disputes could, in the long run, heighten rather than lessen racial and other conflicts in the workplace. Indeed, one provision of the bill, section 9, makes it illegal to condition settlements on the waiver of attorneys fees, thus overturning yet another Supreme Court decision in *Evans v. Jeff D.* This will make it even more difficult to settle cases; this will delay, not foster, simple justice.

Mr. Chairman, I reiterate that we both seek equality of opportunity in the workplace. Unfortunately, there are certain principles of justice which would be turned on their heads if this legislation were enacted in its present form. I find it discouraging that we are asked to overturn these fundamental rights of citizens in order to prove our support for equal opportunity. This is strictly an unfair exchange for everyone.

OPENING STATEMENT OF SENATOR ORRIN G. HATCH, MARCH 1, 1990

Thank you, Mr. Chairman. Today we consider the *Wards Cove* v. *Atonio* decision. By overturning the *Wards Cove* v. *Atonio* decision, and "jimmying" the rules of proving a case of disparate impact discrimination, S. 2104 would work a radical transformation of Title VII. It would convert Title VII from a statute focusing on equal opportunity for individuals to one presumptively requiring, indeed virtually compelling, quota-type hiring and promotion for groups.

Under Sections 3 and 4 of S. 2104, all a plaintiff needs to do to win a Title VII lawsuit is to show that an employer has a

racial, ethnic, or gender imbalance in a job—without identifying any particular employment practice as having caused the imbalance. Period. For example, suppose that 20% percent of the accountants in a labor market are members of a particular racial or ethnic group. Suppose further that only 10% percent of the accountants in an accounting firm in that labor market are from that group. That business is going to be found guilty of racial discrimination unless the business cannot only prove its innocence, but do so under a virtually impossible standard. An employer could only avoid liability if he meets a burden of persuasion that all of his job criteria either did not contribute to the imbalance or are essential to effective job performance. This burden would be virtually impossible to meet, and one which finds no precedent in Supreme Court decisions.

In order to avoid liability under this extraordinary burden, employers would have to hire and promote on a quota basis to avoid these disparate impact lawsuits—to avoid, in short, what Justice O'Connor called "expensive litigation and potentially catastrophic liability." This precise concern was expressed by Justices White, O'Connor, and others in several cases, including *Wards Cove* v. *Atonio* and *Watson* v. *Fort Worth Bank and Trust.*

In short, rather than requiring nondiscrimination and equal opportunity, Title VII's touchstone would become proportional representation and equal results on the basis of race, ethnicity, and gender—in other words, quotas, however surreptitiously adopted or euphemistically described.

I believe the Administration is dedicated to preventing this terrible result, and I join them in that resolve. Attorney General Thornburgh said on February 7, 1990: "The Administration's firm commitment to eliminate employment discrimination also means that we continue to oppose racial quotas. Discrimination is wrong no matter at whom it is directed. The Administration, therefore, opposes any legislation aimed at overturning three * * * Supreme Court decisions," including *Wards Cove Packing Co.* v. *Atonio.* The Attorney General described this decision and two others, including *Martin* v. *Wilks,* as "decisions rooted in the Court's opposition to racial quotas, which we share. We urged the Court to reach the decisions it did in each of these cases, we agree with them, and will oppose any legislation that seeks to overturn them."

As Stuart Taylor, Jr., observed in a recent issue of Legal Times: "Under [this] bill * * * the beneficiaries of disparate-impact suits would not necessarily be victims of discrimination. And the defendants would not necessarily be guilty of anything but hiring and promoting the people they consider the best qualified."

No one should be fooled by irrelevant language in the bill intended to camouflage its import. Sections three and four are the operative provisions of the bill. Those sections overturn Wards Cove by stacking the rules of proving a disparate impact against employers in the manner I mentioned earlier. The concern in this bill is not about court-ordered remedies or conciliation agreements. It is the radical revision in the standard of disparate impact liability and misuse of statistics that create the severe quota threat of S. 2104. The bill's denial that it addresses "affirmative action," which is not defined in any event, is irrelevant. The operative language of sections three and four create the problem I described.

I might add that Wards Cove is fully consistent with the *Griggs* v. *Duke Power Company* decision, and Griggs remains good law today. Moreover, whether or not Griggs has led employers in the past to use quotas is totally irrelevant to this bill. This bill does not codify Griggs, it twists Griggs completely out of shape. It is S. 2104, and how it distorts Griggs, that is the source of my present concern.

I look forward to hearing the witnesses today.

STATEMENT OF SENATOR ORRIN G. HATCH, MARCH 7, 1990

Thank you, Mr. Chairman. One of the most cherished rights we enjoy as Americans is the right to our own day in court when we believe we have been actually harmed. S. 2104 is a harsh, illiberal effort to strip effectively certain innocent Americans of their opportunity to assert equal protection claims under the Constitution, and employment discrimination claims under federal statutes, in their own lawsuits. This could well be the first serious effort in recent years to restrict access to the courts for persons who wish to assert fundamental constitutional claims to equal protection of the laws and basic statutory rights to be free of invidious discrimination.

We will hear a great deal of lawyer talk about due process and what the Constitution does and does not require. And that, of course, is extremely important. But we must also keep in mind the impact of what we do on the lives of people asserting the most fundamental rights of all in our society. An individual who is not a party to an employment discrimination case, and who has not been joined under the Federal Rules of Civil Procedure, should not be bound by the result in that case. This is so, in my opinion, even if that individual has less formal notice of a proposed order or consent decree, or even of the underlying lawsuit prior to the proposal of an order or consent decree. Unless an individual is a party to a case or actually represented in the case, as in a class action, he or she should have the right to make his or her own claims of racial or gender discrimination and denial or equal protection of the laws in an independent lawsuit. Such an individual should have the right to do so within the appropriate statute of limitations from the time he or she claims to be actually harmed.

Indeed, this bill allows for just such a subsequent lawsuit for some persons, but not others. Suppose the EEOC or Department of Justice files a lawsuit against an employer on behalf of employees or job applicants who are women or members of a particular racial or ethnic minority group. The persons on whose behalf the government is suing are not parties, but assume that they have the notice S. 2104 describes. If the employer settles the case by consent decree, or judgment is entered against the employer, S. 2104 preserves current case law which permits those women or minority employees to bring a subsequent lawsuit against that very same employer seeking greater relief for themselves. And I think that is fine.

S. 2104, however, effectively slams the courthouse door in the face of innocent employees, not parties to the case, if they are later harmed by the very same consent decree or judgment. That is wrong. Let those innocent nonparty employees have a chance to bring their subsequent claim, too.

This transparent double standard is an unedifying example of the extent to which modern American liberalism has departed from the principle of equal justice under law.

Does Section 6, by overturning *Martin* v. *Wilks,* seek greater finality in employment discrimination cases? Yes and no. The greater finality is sought only against innocent third persons but not with respect to civil rights plaintiffs.

Charles Alan Wright, Arthur Miller, and A. E. Cooper, in their noted work, Federal Practice and Procedure (1981), wrote:

"The initial presumption that nonparties are not bound by a judgment has been stated in many cases. This presumption draws from the due process right to be heard * * * It is conceivable that some day this basic postulate may be eroded by courts that believe that one full and fair litigation of an issue is sufficient without regard to the identity of the parties. It is much better, however, to resist any such erosion. Our deep-rooted historic tradition that everyone should have his own day in court draws from clear experience with the general fallibility of litigation and with the specific distortions of judgments that arise from the very identity of the parties."

I intend to resist any such erosion.

There is some irony, Mr. Chairman, in Section 6. Other parts of S. 2104 overturn the Lorance decision. Thus, the bill permits persons like the women in Lorance to sue an employer at the time they are harmed in fact by a seniority provision adopted with a discriminatory intent. I agree with that, and the bill I have introduced, S. 2166, reverses that decision. But lets let every American have his or her right to a day in court at the time the individual is actually harmed.

Finally, Mr. Chairman, S. 2104 is not merely content effectively to slam the courthouse door in the face of innocent third parties in the future. By applying Section 6 retroactively, this bill would literally throw current litigants asserting constitutional equal protections claims and discrimination claims right out of court and into the street without opportunity for redress. And I suppose we will do that in the name of civil rights.

STATEMENT OF JAMES W. HENSON BEFORE THE SENATE LABOR AND HUMAN RESOURCES COMMITTEE, MARCH 7, 1990

Mr. Chairman, I am James Henson, an employee of the Birmingham Fire & Rescue service. I am a plaintiff in the case which was called *Martin* v. *Wilks* in the Supreme Court of the United States. I believe racial discrimination is wrong no matter who it is directed against. I sued the City of Birmingham because I was denied a promotion on the basis of my race. I am pleased that the Supreme Court has ruled that I am entitled to a day in court. I urge this committee not to take away my opportunity to show that I have been discriminated against.

I joined the Birmingham Fire Department in 1976. At that time, blacks had been in the department for several years. I am not responsible for any wrongs that may have occurred before or since that time.

I had previously been the chief of a small suburban fire department but wanted to join a large department where my opportunities would be greater. I worked hard and earned a 2 year college degree in Fire Science and became a qualified paramedic.

In 1983, I spent months studying for the promotional exam and out of over 100 people that took the test, placed No. 6 on the list. When the Chief interviewed me for a promotion he said that I would not be pro-

moted because I am white. The Chief said that he had no choice in the matter because 50% of the promotions had been set aside for blacks under the Consent Decree the City had entered into 2 years earlier.

Carl Cook, the black firefighter who got my promotion, as shown on this chart, was ranked No. 85 while I was No. 6 on the the list. Mr. Cook had been with the Department 9 years while I was only there 6, so he got more seniority points than I did. Mr. Cook was not qualified as a medic, had no Fire Science degree, had never worked as the leadworker or acting officer and had no prior firefighting experience. I had all of these qualifications. Despite my better qualifications and starkly higher test scores, the Fire Chief told me I would not be promoted because I am not black. Moreover, Mr. Cook was never identified as a victim of past discrimination, but received preferential treatment solely due to his race. Finally, several years later I received my promotion to Lieutenant and thereafter I was promoted to Captain. During those years, my career was on hold and I lost pay and seniority solely due to my race. Aside from these tangible losses, this has been a demoralizing experience for me and my family.

I am a working class man. I am not responsible for any past discrimination by the City of Birmingham. I did not cause any discrimination and should not have to pay the price for it. The City of Birmingham should pay the price for its own wrongs. I am not a lawyer, but I think I can tell when I have been treated unfairly.

Mr. Chairman, all I am seeking is a day in Court to show I am a victim of unlawful discrimination. I filed suit promptly after I was denied a promotion. I had no knowledge of the details of the litigation which resulted in the consent decree. If I get the trial and appeal and the Courts find that the City's conduct was legal, I can accept that and know that in America everyone is entitled to a day in Court. What I cannot accept is having the City's agreement shoved down my throat with no opportunity to a full and fair trial to show that this is wrong.

Thank you.

STATEMENT OF RAYMOND P. FITZPATRICK, JR., BEFORE THE SENATE LABOR AND HUMAN RESOURCES COMMITTEE, MARCH 7, 1990

Mr. Chairman, I am Raymond Fitzpatrick of Birmingham, Alabama. I represent the nonminority firefighters of the Birmingham Fire & Rescue Service in *Martin* v. *Wilks*. Thank you for the opportunity to appear before this Committee to comment on Section 6 of S. 2104.

Martin v. *Wilks* was a correct decision which Congress should leave undisturbed. The Supreme Court reaffirmed the fundamental principle of due process that all Americans are entitled to a day in Court when they believe they have been wronged. I wish to make it clear that *Martin* v. *Wilks* is a decision designed to further the due process guaranties embodied in the Constitution, and any legislative action in this area must meet due process scrutiny. Those who claim that the Supreme Court was merely interpreting the Rules of Civil Procedure are wrong. The Supreme Court quoted Justice Brandeis when it held: "it is a principle of general application in anglo-American jurisprudence that one is not bound by a judgment . . . in a litigation in which he is not designated as a party or to which he has not been made a party by service of process."

The Court recognized that this fundamental due process principle was incorporated into the Rules of Civil Procedure by the permissive language of Rule 24 governing intervention and the mandatory joinder provisions of Rule 24. It is a principle which, both as a matter of due process and fundamental fairness, Congress should not disturb.

The fairness of this principle is demonstrated by the facts of the Birmingham litigation where the nonminority firefighters filed both lawsuits challenging the quota plan and a motion to intervene in the consent degree litigation. In 1975, the United States filed suit against the City of Birmingham and the Personnel Board, a separate agency which screens applicants for City jobs. The Personnel Board's entry-level Police Officer and Firefighter examinations were found to violate Title VII, but not the Constitution, and the District Court ordered a hiring quota. The City of Birmingham was not found guilty of any discrimination. Nobody has ever challenged that entry level order. In 1979, the District Court held a second trial on the legality of other tests and screening devices used by the Personnel Board. There was no attack made on any Fire Department promotional examination. The City faced a potential backpay claim of $5 million. Rather than wait for ruling, in 1981, the City secretly negotiated a Consent Decree in which it agreed to 50% quotas for promotions to Fire Lieutenant, quotas for all other jobs with the City of Birmingham, and paid only $265,000 to the victims of past discrimination. Mayor Arrington has described this arrangement as the "best business deal" the City had ever made.[1] Indeed it was, for the City settled the case on the backs of innocent nonparties who themselves were not guilty of committing any discrimination.

The Birmingham Firefighters Association appeared at the District Court's Fairness Hearing to oppose the quotas and urge the Court to require participation by the nonminority employees in the settlement process. In addition, before approval of the decree,[2] the Firefighters Association and two of its members moved to intervene so they could contest the legality of the proposed decree. At the urging of the Lawyers Committee and the City of Birmingham, the District Court refused to allow intervention, claiming we were five years too late.

The Firefighters appealed. Again, the City and Lawyers Committee opposed intervention saying the firefighters were years too late, should have intervened when the suits were filed in 1975, and had no standing to contest the quotas because there had been no injury. In addition, the Lawyers Committee told the 11th Circuit that the Firefighters should not be allowed to intervene because they were free to file separate litigation to challenge the City's actions.[3] The Eleventh Circuit held that intervention was not necessary because individual firefighters who are denied promotion should file separate suits after they are in fact denied a promotion.[4] Following the 11th Circuit's decision, my clients pursued their suits under Title VII and the Fourteenth Amendment. The District Court summarily deemed its decree valid and bound the nonminority firefighters to the terms of the Consent Decree they had no part in making. The District Court required the employees to show that the City was not following the decree. We again appealed and the 11th Circuit[5] and the Supreme Court[6] held that it was wrong to bind my clients to a settlement they had no part in making. The Supreme Court remanded the case for a trial on the validity of the City's race-based affirmative action plan.

Despite nine years of litigation, my clients have only now been afforded an opportunity to demonstrate that the City's quota plan is outside the limits of permissible affirmative action. I urge the Committee to leave that decision intact and wish to make the following substantive comments regarding this bill.

Section 6 has a number of problems which I wish to outline for the Committee:

1. The provisions governing the hearing of objections in part (A) of section 6 are violative of due process. A Fairness Hearing does not provide adequate protection to nonparties. Nonparties lack the tools of discovery to prepare for a hearing, have no subpoena power or other rights of parties and, most important, have no right to appeal when the district court signs the consent decree. *An objector is not a party and does not have the rights of a party.*[7]

2. The notice provisions of parts B and C also do not meet due process requirements. The Court has upheld the termination of nonparty claims only in very limited statutory proceedings, such as bankruptcy or probate proceedings, where there is a clear framework of rules to require *actual* notice to affected individuals, with a full complement of due process guaranties. There are no guidelines regarding notice in this bill which even attempt to meet due process standards to ensure actual notice to affected individuals. The language of the bill which

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[1] 1985 trial, PX 403.

[2] Intervention was sought on August 4, 1981. The decree was entered on August 21, 1981.

[3] Brief of John W. Martin, et al., Appellees at 10, No. 81-7761 (11th Cir. 1982).

[4] *United States* v. *Jefferson County*, 720 F.2d 1511 (11th Cir. 1983).

[5] *In re Birmingham Reverse Discrimination Employment Litigation*, 833 F.2d 1492 (11th Cir. 1987).

[6] *Martin* v. *Wilks*, 490 U.S. —, 104 L.Ed.2d 835, 109 S.Ct. 2180 (1989).

[7] A fairness hearing does not provide nonparty objectors with an adequate opportunity to be heard. See, Comment, Collateral Attacks on Employment Discrimination consent decrees, 53 Chi.L. Rev. 147, 181 n.139 (1986) (use of a Fairness Hearing to dispose of nonminority claims is the most extreme view). The fairness hearing held in this case by the district court did not provide objecting parties with the benefits normally accorded to parties in litigation. Thus, the objectors were not able to engage in discovery, could not call witnesses or offer evidence, and, most importantly, could not appeal from the proceedings of the district court. Indeed, despite over nine years of continuous litigation, no appellate court has ever addressed the validity of Birmingham's plan, either on its face or as it applies to the firefighters.

The fairness hearing process, whereby nonparties are given the opportunity to voice their concerns through objections, does not rise to the level of the full hearing necessary to terminate the substantive rights of nonparties. Rather, a fairness hearing is much like the predeprivation conference in *Cleveland Bd. of Education* v. *Loudermill*, 470 U.S. 532 (1985) where the charged employee is given the right to appear before the decisionmaker to coax, object and respond to the proposed deprivation, but not call witnesses or cross-examine those of the employer. Indeed, Loudermill provided that after a deprivation of the employee is entitled to a full hearing. Employees who are denied a promotion on the basis of race are certainly entitled to no less. The firefighters' suits are akin to the full post deprivation hearing required by Loudermill.

cuts off claims without service of actual notice on known interested parties is contrary to the Supreme Court's recent due process decision of *Tulsa Professional Collection Services* v. *Pope*, 108 S. Ct. 134 (1988).[8]

I should note that even the kind of notice which may meet due process requirements in bankruptcy or probate proceedings may not pass muster when fundamental personal rights are at stake. In the bankruptcy and probate proceedings rights to a res—personal or real property—must be affixed. Title to property must be clear. In an employment discrimination case, the right to equal protection of the laws and the right to be free of invidious discrimination are at stake.

I wish to stress that even if mandatory intervention might be someday found constitutional in employment discrimination cases, it would not be the fairest or most efficient manner of adjudicating those rights for the reasons stated in *Martin* v. *Wilks*.

3. While terminating the right of nonparties to seek court review of their claims when harmed by the implementation of a decree, the bill makes it clear that the standards of intervention remain unchanged. In other words, intervention applications at the time of approval of a decree will be met with claims of untimeliness and lack of standing. As demonstrated by the facts of the Birmingham case, by the time a consent decree is announced, intervention is no option at all.

4. The inconsistency and unfairness of the bill is also demonstrated in part (2)(B) of section 6. While nonparties, who are usually nonminorities, are precluded from ever having a meaningful day in Court, the bill expressly preserves the rights of the beneficiaries of the decree, usually minorities or women, to seek further or additional relief in other proceedings against the employer that is a party to the decree.

5. This bill will not reduce litigation, rather it will cause a proliferation of unnecessary motions to intevene by persons who might never have a stake in the litigation at great cost to them. Under this bill, every time an employer is sued under Title VII, the employees of that employer, as well as the prospective employees of that employer, must intervene to preserve their right to contest a decree which might possibly affect their rights if they seek a promotion in the future.[9]

The Supreme Court in *Martin* v. *Wilks* recognized that the existing rules provide a framework to allow parties to negotiate consent decrees yet ensure finality:

1. The existing parties to litigation are in the best position to determine who may be potentially affected by the relief sought in the litigation. Federal Rule of Civil Procedure 19 places the burden on the existing parties and the court to join all interested parties in litigation.[10]

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[8] The practical effect of the doctrine of mandatory intervention is that parties to a consent decree may obtain a consent judgment from a court and make that judgment binding against all third parties. *Mullane* v. *Central Hanover Bank & Trust Co.*, 339 U.S. 306, 317 (1950) requires that in such a circumstance, interested parties are entitled to the "best notice practicable." If a person's identity and whereabouts are known, the party seeking to bind another must mail or personally serve specific notice of the action. *Mullane*, 317-318.

In *Mullane*, the Court struck down a state statute permitting notice by publication to known beneficiaries in a proceeding for judicial settlement of trust accounts despite the fact that the trustee knew their identities and addresses. It made no difference that Mullane received actual notice of the proceeding and represented the interests of known beneficiaries. The Court held, at a minimum, individual notice by mail was required to be given to known interested parties. *Mullane*, 318-320.

In *Tulsa Professional Collection Services* v. *Pope*, 108 S.Ct. 1340 (1988), the Court again upheld the duty to give adequate notice by mail to known interested parties. The *Tulsa* Court struck down an Oklahoma statute permitting notice by publication to known creditors in a state probate proceeding. The Oklahoma statute permitted notice by publication for 2 consecutive weeks in a local newspaper. The publication commenced after the state probate court opened the estate upon request of the executor or administrator of the estate. The Court found that when private parties trigger a state statute of limitations through commencement of judicial proceedings there is sufficient state action to implicate the Due Process Clause. In such circumstances, "due process is directly implicated and actual notice generally is required." 99 L.Ed.2d at 577. The party giving such actual notice bears the burden of "reasonably diligent efforts . . . to uncover the identities . . ." *Id.* at 578. The Court held that if the interested nonparties "identity was known or 'reasonably ascertainable,' then termination of appellant's claim without actual notice violated due process." *Id.* at 579.

The notice must be sufficient to apprise nonparties of the nature of the decree-approval proceedings, the effect of failure to seek intervention, and the time limit for motions to intervention. Comment, *Collateral Attacks on Employment Discrimination Consent Decree*, 53 Chi.L.Rev. 147, 160-161 (1986). Adequate notice must apprise the potentially affected nonparty of the procedure for resolving claims at a hearing so as to permit the objector to adequately prepare for the hearing. *Memphis Light, Water and Gas Division* v. *Craft*, 436 U.S. 1, 13-15 (1978).

[9] The questionable standing of nonminority individuals to participate and their uncertainty about whether they need to bear the expenses of litigating mean that third parties will often discover that their rights have been compromised but that it is already too late to move to intervene. The proponents of the bill claim a collateral attack bar saves judicial resources and litigation costs. On the contrary, such a rule will encourage protective and often unnecessary intervention applications which will unduly expand the breadth of discrimination litigation. In fact, under such a rule, every employee of every employer sued for race discrimination may be placed in the position of having to hire counsel to intervene to protect his or her position in the workforce. Such a burden has never been placed on strangers to litigation. See, *Chase National Bank* v. *Norwalk*, 291 U.S. 431, 441 (19330 ("law does not impose . . . the burden of voluntary intervention"). See also, *Cooper* v. *Federal Reserve Bank of Richmond*, 467 U.S. 867 (1984) (individual unlitigated claims of class members not precluded despite the fact that other class members intervened to assert individual claims).

In order to have standing, a party must have a recognizable interest which is traceable to the defendant's allegedly unlawful conduct. *Allen* v. Wright, 468 U.S. 737 (1984); *Gladstone Realtors* v. *Village of Bellwood*, 441 U.S. 91 (1979). The rules of Article III standing apply to intervenors as well as original parties to the litigation. *Diamond* v. *Charles*, 476 U.S. 54 (1986).

The City of Birmingham has some 3,000 employees. Over 600 are Birmingham Fire & Rescue Service ("BFRS") employees. It is wholly unrealistic to require each individual BFRS employee to take notice in 1975 through newspaper stories of the pendency of litigation, to learn that the litigation involves rights to promotional positions rather than hiring discrimination, to foresee that their employer will settle rather than litigate and that they will be the ones to bear the burden of that settlement through implementation of the quotas. Such an individual's interest in the litigation would certainly be speculative at best.

Similarly, in 1981, it was unreasonable to require hundreds of BFRS employees to seek to intervene in order to protect their right to a promotion which they might decide to seek in the future and which might be denied if they obtain a score high enough to be certified. Moreover, only a small portion of those passing the Fire Lieutenant's examination are ever certified.

The union also cannot act as the surrogate for the employees. It represents a broad spectrum of employees, black and white, officers and privates, those with seniority and those without, as well as those who intend to seek promotion and those who do not. See, *Wygant*, 476 U.S. 281 n.8.

Given the speculative nature in 1975 of the Firefighters' interest in the consent decree litigation, it is certainly unreasonable to place the burden on the individual nonminority employees of the City, not to mention persons who are not yet City employees, to intervene in the litigation. See *Safir* v. *Dole*, 718 F.2d 475 (D.C.Cir. 1983) (Scalia, J.) (Safir's possible future reentry into the shipping business deemed too speculative to confer standing). Moreover, protective intervention adds to the high cost of litigation of the existing parties as well as subjects the intervenor to the possible assessment of attorney's fees if the defendant is ultimately deemed liable. See *Diamond* v. *Charles*, 476 U.S. 54, 70 (1986); *Reeves* v. *Wilkes*, 754 F.2d 965 (11th Cir. 1985). Such costs and risks are simply too high to preserve the future rights of nonparties to object to a potentially illegal consent remedy.

Moreover, the claim that the firefighters should have intervened in the decree case contradicts the position which the City took in the appeal from the intervention proceedings that the Firefighters lacked a litigable interest which would support intervention. In 1983, the City told the Eleventh Circuit that the appellants lacked standing. See J.A. 549 ("with respect to the promotional goals the Firefighters fail to show a sufficient direct and personal injury to its members"). Similarly, the Lawyers Committee claimed the appellants lacked "standing to seek appellate review of the consent judgments." Brief of John W. Martin, 23, *United States* v. *Jefferson County*, No. 81-7761 (11th Cir.).

[10] Consent decree parties have an adequate remedy through joinder of nonparties under rule 19, F.R.Civ.P. Such a mechanism clearly provides the nonparty with a full complement of due process safeguards by notice, through a summons, a date certain after which default may be entered, the tools of discovery, the opportunity to be heard through a full evidentiary hearing, and, most important, the right to appeal any adverse decision. Just as the employer believes the nonparty should perceive its interest and intervene, so too may the employer perceive the interest of the nonparty and join the nonparty at the appropriate time. The employer has sophisticated counsel with knowledge of the proposed consent decree and the skills to perceive the potential interest of the nonparty while the nonparty has no counsel or intimate knowledge of the federal court proceedings. Had Birmingham wished to bind the Firefighters to its settlement, it could have joined them under Rule 19 or refrained from opposing intervention. The fact that joinder will involve some cost should be of no consequence. See, Laycock, *Consent Decrees Without Consent: The Rights of Nonconsenting Third Parties*, 1987 Univ. of Chicago Legal Forum 103, 144-153. Given its opposition to intervention, the city should not now be allowed to complain. Each time a complex claim of discrimination is brought before the courts involving diverse and competing interests, there are significant costs in terms of the litigation expenses and liability exposure of the parties as well as the allocation of scarce judicial resources. If the City desires to engage in a settlement the cost of which some third party is likely to bear, it should pay the price of either joining those parties in the litigation or facing the claims of those third parties in the future. Shifting the entire cost of settlement to innocent third parties should not be permitted. As Mayor Arrington has testified, the consent decree was "the best business deal [the City] had ever struck." J.A. 526. Congress should not countenance "business deals" at the expense of strangers to the litigation.

In ensuring the rights of the Firefighters to due process, the Supreme Court found that the Firefighters' claims against their employer are due to be heard in the context of independent suits. Such a rule is a reasonable procedural device which preserves the due process rights of nonminorities to have their claims heard. Firefighters believe their suits are the preferable means of resolving these types of claims, in view of the ability of the court not only to consider the facial validity of a decree-embodied plan, but also the conduct of the parties in implementing the plan. See, e.g., *Johnson* v. *Transportation Agency*, 480 U.S. ___, 107 S.Ct. 1442 (1987) (goal should be flexible based on the avail-

2. Large numbers of similarly situated persons may be joined into the litigation through the class action mechanisms of Rule 23. In such a case, the Court must ensure that the proper notice is given to class members and that the interests of class members are fully and adequately represented. Moreover, unlike objectors at a Fairness Hearing, a class which is approved by the Court has the right to appeal from the entry of a decree which affects its rights.

We believe that racial discrimination should be identified and eliminated and the victims should be given a full remedy, but not one that infringes on the rights of innocent third parties.

If the Birmingham decree is valid and the city has acted lawfully, then the Courts will rule against my clients and we must accept that ruling. If it is not, then my clients have been done an injustice, are entitled to be heard, and should receive fair compensation and an end to wrongful conduct.

This bill is not content with just prospective application. Under its transition rules, it seeks to throw any employment discrimination case involving a prior decree out of court on a retroactive basis. Given the efforts the Birmingham Firefighters made to intervene before entry of the decree, this would be extremely unfair. My opponents would succeed in immunizing their racial program from appellate scrutiny forever.

This Committee should understand that in our multiethnic society, a decree which gives preferential relief for one group may, at the same time, impact adversely upon other minorities or females. While we believe this bill is primarily aimed at white males, it will also cut off the rights of Hispanics, women and other minorities seeking to make progress in the workplace.

The Supreme Court recognized that allowing suits such as Mr. Henson's will not create chaos but preserve the fundamental right of all of a day in court. While we believe section 6 does not provide a constitutional framework for adjudication of the rights of nonparties and the principle of *Marting* v. *Wilks* is good public policy, the retroactive application of the act is shockingly wrong and unfair.

Thank you.

STATEMENT BEFORE THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES, FOR THE U.S. CHAMBER OF COMMERCE BY JAMES C. PARAS, ESQ., MARCH 1, 1990

Good morning. My name is James C. Paras. I am a Senior Partner in the San Francisco law firm of Morrison & Foerster and a member and past Chairman of the U.S. Chamber of Commerce's Labor Relations Committee. I am also a member of the governing Council of the Labor and Employment Law Section of the American Bar Association. Accompanying me today is Nancy Reed Fulco, Human Resources Attorney for the Chamber. Thank you for affording the Chamber this opportunity to discuss the impact of the proposed civil rights legislation on the business community.

Since the passage of Title VII of the Civil Rights Act of 1964, this country has made tremendous strides both in eradicating employment discrimination and in eliminating artificial barriers to employment while at the same time protecting an employer's right to make reasonable and nondiscriminatory employment decisions. However, proponents of S. 2104, the Civil Rights Act of 1990, claim that the Supreme Court has recently made "an abrupt and unfortunate departure from its historic vigilance in protecting civil rights." 136 Cong. Rec. S 1018 (Feb. 7, 1990). Based upon this assumption, S. 2104 is offered to overrule numerous Supreme Court decisions handed down over the past decade. With few exceptions, proponents contend that the bill would merely restore prior law and, therefore, presumably have little impact on employers who already have been striving to comply with existing employment discrimination laws.

From the perspective of the business community, nothing could be further from the truth. S. 2104 represents a multifaceted revision and expansion of the employment discrimination laws that have developed over the past 25 years. If enacted, it would dramatically alter the balance between the goal of eliminating discrimination in society and the goal of preserving a vital and efficient business environment capable of competing in an increasingly global economy. This is so because S. 2104 would substantially increase the burdens and risk of liability for *every* employer in this country, including the most exemplary.

The most troubling aspects of the proposed legislation include the bill's adoption of a virtually irrebuttable presumption in favor of a quota system; penalization even of those employers who successfully prevent impermissible factors from affecting the outcome of employment decisions; substantial and often open-ended expansion of the time for raising discrimination complaints by some employees, while ironically shortening the time for raising such complaints by other similarly situated employees; injection of unpredictable and perhaps uncontrollable elements of damages in employment discrimination cases; and reduction of incentives for discrimination claimants to settle their cases and restore work relationships. In the section-by-section analysis that follows, these problems with S. 2104 will be addressed.

I. ANALYSIS

A. Section 4: Adverse impact analysis

One of the principal thrusts of S. 2104 is to overturn the Supreme Court's decision in *Wards Cove Packing Co.* v. *Atonio*, 109 S. Ct. 2115 (1989), and in the process substantially to rewrite the adverse impact analysis utilized by the Supreme Court for the past two decades. Contrary to the impression created by its title, Section 4 of the bill would not "restore" any preexisting Supreme Court interpretation of Title VII. Instead, this Section would legislatively overrule not only the *Wards Cove* decision but also a number of other Supreme Court decisions, including the Court's seminal decision in *Griggs* v. *Duke Power Co*, 401 U.S. 424 (1971). By shifting the burden to the employer to prove, in the absence of quotas, that it did *not* discriminate and that the factors utilized in its employment process were not only reasonable but also indispensable, S. 2104 would leave employers with little choice but to adopt quota systems in order to protect themselves from substantial liability.

1. Title VII Currently Preserves an Employer's Right to Establish Selection Criteria with a Potentially Adverse Effect on Protected Groups Provided the Selection Criteria Are Job-Related:

At the outset it should be noted that Congress never intended Title VII to force employers to abandon reasonable predictors of job success that have been adopted without the taint of discriminatory intent. Instead, as the Supreme Court's development of the disparate treatment and adverse impact models of proof establishes, only practices that are intentionally discriminatory or that create obstacles to equal employment that are not reasonably related to job performance are prohibited by Title VII.

In *Griggs* itself, a unanimous Supreme Court observed that there had been substantial concern prior to the adoption of Title VII regarding whether the new law could be construed to require employers to select employees based upon their protected status, rather than their employment qualifications. To allay this fear, "Proponents of Title VII sought throughout the debate to assure the critics that the Act would have *no* effect on *job-related* tests." *Griggs*, 401 U.S. at 434 (emphasis added). Consistent with Congressional intent, Senator Case of New Jersey and Senator Clark of Pennsylvania, comanagers of the Senate bill, issued an influenial memorandum explaining that Title VII, as written, "expressly protects the employer's right to insist that any prospective applicant . . . must meet the applicable job qualifications." 110 *Cong. Rec.* S 7247. In a separate memorandum, these Senators further stated that "There is no requirement in Title VII that employers abandon bona fide qualification tests where, because of differences in background and education, members of some groups are able to perform better on these tests than members of other groups. *An employer may set his qualifications as high as he likes . . .*". *Id*, at S 7213 (emphasis added). From these statements, the *Griggs* court concluded that selection criteria are permissible despite their adverse impact on protected groups if they are "demonstrably a *reasonable* measure of job performance." *Griggs*, 401 U.S. at 430 (emphasis added).

As the Court's subsequent decision in *Furnco Construction Corp.* v. *Waters*, 438 U.S. 567 (1978), reflects, sound jurisprudential and societal reasons support Congress's original intent not to interfere with an employer's right to rely upon legitimate job-related selection criteria. In *Furnco*, plaintiffs challenged an employer's reliance upon personal and outside recommendations concerning applicants' job qualifications. The Court of Appeals ruled in favor of the plaintiffs and ordered the employer to implement a new hiring process based upon an evaluation of written employment applications. In reversing this decision, the Supreme Court noted "[t]he dangers of embarking on a course such as that chartered by the Court of Appeals here, where the court requires businesses to adopt what it perceives to be the 'best' hiring procedures. . . . Not only does the record not reveal that the court's suggested hiring procedure would work satisfactorily, but also there is nothing in the record to indicate that it would be any less 'haphazard, arbitrary, and subjective' than *Furnco's* method. . . . Courts are generally less competent than employers to restructure business practices, and unless mandated to do so by Congress they should not attempt it." *Id.* at 578.

2. Section 4 of the Bill, Rather than *Wards Cove*, Is Inconsistent with Prior Ad-

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ability of minorities in relevant labor pool at the time of the preferential promotion rather than fixed at the time the plan is adopted); *Fullilove* v. *Klutznik*, 448 U.S. 448, 480–481 (1980) (Court only approved facial validity of set-aside statute and did not foreclose future challenges on a case-by-case basis).

verse Impact Decisions of the Supreme Court:

Two principal theories of proof under Title VII are "disparate treatment" and "adverse impact." Under the disparate treatment theory, an employer is liable if it *intentionally* treated a member of a protected group less favorably than other persons because of the former's protected status. *Texas Department of Community Affairs* v. *Burdine*, 450 U.S. 248 (1981); *McDonnell Douglas Corp.* v. *Green*, 411 U.S. 792 (1973). Under the adverse impact theory, an employer need not have possessed any discriminatory intent. Instead, the employer is liable if it utilized "artificial, arbitrary, and unnecessary barriers to employment" that had a disproportionately adverse impact upon members of a protected group. *Griggs*, 401 U.S. at 431. In the words of the *Griggs*, court, such unreasonable employment criteria could not be allowed to become the "masters of reality." *Id.* at 433.

Prior to 1988, each Supreme Court case adverse impact decision had involved "standardized employment tests or criteria." *Watson* v. *Fort Worth Bank and Trust*, 108 S. Ct. 2777, 2785 (1988). In *Watson*, the Supreme Court broadly expanded the scope of adverse impact analysis to encompass not only standardized or objective employment factors but also nonstandardized or subjective factors as well. This means that very aspect of the employment decision making process, whether articulated or unarticulated, can now be examined under the adverse impact theory.

Wards Cove Packing Co. v. *Atonio*, 109 S. Ct. 2115 (1989), is the first Supreme Court case to examine the adverse impact analysis following the expansion of that analysis in *Watson*. In *Wards Cove*, the Court summarized the adverse impact analysis as follows: First, the plaintiff must identify the specific employment practices that the plaintiff contends are discriminatory and establish that, in fact, each challenged practice adversely impacts members of a protected group. *Id.* at 2124–25. Second, in the event that the plaintiff establishes that certain practices have such an adverse impact, the employer must produce evidence that each of the challenged practices "serves, in a significant way, the legitimate employment goals of the employer. [Citations omitted.] The touchstone of this inquiry is a reasoned review of the employer's justification for his use of the challenged practices. A mere insubstantial justification in this regard will not suffice. . . .". *Id.* at 2125–26. Finally, once the employer has introduced evidence of reasonable business justifications for the challenged practices, the plaintiff must come foward with evidence of alternative practices that could equally serve the employer's legitimate interests with a lesser adverse impact on protected employees. *Id.* at 2126–27. The burden for establishing that the employer is relying upon non-job-related practices remains on the plaintiff.

The tripartite analysis followed in *Wards Cove* is entirely consistent with prior Supreme Court precedent. With respect to the plaintiff's prima facie case, there is simply no dispute that plaintiffs have been required to identify and establish the adverse impact of specific employment practices in each Supreme Court adverse impact case preceding *Wards Cove*. *Se, e.g., Griggs*, 401 U.S. 424 (high school diploma and aptitude test requirements); *Albermarle Paper*, 422 U.S. 405 (aptitude tests); *Washington* v. *Davis*, 426 U.S. 229 (1976) (written tests); *Dothard* v. *Rawlinson*, 433 U.S. 321 (1977) (height and weight requirements); *New York City Transit Authority* v. *Beazer*, 440 U.S. 568 (1979 (drug use policy); *Connecticut* v. *Teal*, 457 U.S. 140 (written test); *Watson*, 108 S. Ct. 2777 (subjective promotion evaluations). Similarly, in *Teal*, the Supreme Court rejected "bottom line" analysis and required adverse impact analysis to be applied separately to each aspect of anemployment process. *Teal*, 457 U.S. 440.

With respect to a defendant's rebuttal obligation, the Supreme Court likewise has consistently held that an employer must show that its practices are, in fact, "job-related" or possess a "manifest relationship" to the employment in question. *Wards Cove*, 109 S. Ct. at 2130 n.14 (Stevens, J. dissenting) (quoting *Teal, Beazer, Dothard, Albermarle Paper*, and *Griggs.*) This is true even in cases such as *Griggs*, which used the alterative formulation "business necessity." In elaborating upon the meaning of business necessity in *Griggs*, the Court immediately explained that "If an employment practice which operates to exclude [a member of a protected group] cannot be shown to be *related to job performance*, the practice is prohibited." *Griggs*, 401 at 31. Nowhere in *Griggs* did the Supreme Court say that a challenged practice had to be essential, indispensable, or otherwise absolutely required in order for a business to function.

An issue not expressly resolved in *Griggs* and subsequent Supreme Court decisions is the precise degree of proof required by a defendant at the rebuttal stage. Although the Supreme Court had used words such as "demonstrating," "proving," or "showing" to describe the defendant's rebuttal obligation, it had never discussed whether this was a burden of production or persuasion. In *Wards Cove*, the Supreme Court concluded that the defendant carried a burden of producing evidence of its "job-relatedness" defense, but that the plaintiff retained the burden of proving that the defendant had, in fact, relied on arbitrary or unreasonable practices that adversely affected a protected group. This is entirely consistent with the Court's resolution of the same issue in the context of disparate treatment analysis. *Burdine*, 450 U.S. 248. Moreover, it would seem anomalous to impose a higher burden of proof upon defendants in cases involving alleged intentional discrimination.

Finally, if a defendant has identified legitimate job-related reasons for its employment practices, it has always been the plaintiff's burden to identify and establish that alternative practices could equally serve the defendant's interests with a lesser impact upon protected groups. *See, e.g, McDonnell Douglas*, 411 U.S. at 801; *Albermarle Paper*, 422 U.S. at 425.

Section 4, in combination with the definitions found in Section 3 of the bill, would substantially alter the adverse impact analysis developed by the Supreme Court since the early 1970s in several major respects.

First, it would relieve the plaintiff of the requirement of challenging specific employment practices. Instead, it would permit the plaintiff to rely exclusively on "bottom line" statistics indicating an overall imbalance in the work force. In the absence of any further evidence, the plaintiff may prevail based upon such bottom line statistics alone. This conflicts not only with the Supreme Court's *Teal* decision but also with Section 703(j) of Title VII, which expressly states that employers are not required to maintain numerical balances or grant preferential treatment to eliminate numerical imbalances.

Second, Section 4 would raise the standard of justification for challenged business practices from its current "reasonable measure of job performance" standard to one requiring evidence that the practices are not only reasonable but also "essential to effective job performance." This elevation of the degree of justification required from businesses squarely conflicts with prior Supreme Court decisions, which have held that manifestly job-related selection criteria do not have to be essential or absolutely required in order to be sustained. *Davis*, 426 U.S. at ——, *Beazer*, 440 U.S. at ——. In addition, it runs directly into the problem identified in *Furnco* of requiring courts to assume the difficult, indeed impossible, burden of ascertaining what hypothetical practices would be essential to a given business.

Third, by placing the burden of persuasion upon defendants to establish the necessity or indispensability of their business practices, Section 4 would relieve the plaintiff, indeed even the court, of determining whether there are any alternative practices that would have a lesser impact on minority groups. Instead, Section 4 would impose upon the defendant the burden of establishing that there is no possible alternative to the way its business is operated that might lessen the adverse impact upon protected groups.

In this regard, it is interesting that proponents of S. 2104 attempt to justify its shifting of the burden of proof to the employer by observing the virtual impossibility of proving a negative fact, i.e., the absence of any conceivable business justification for a challenged practice. As the foregoing indicates, *Wards Cove* never imposed such an obligation on a plaintiff. A plaintiff's only obligation under *Wards Cove* and its predecessors was to meet the specific job-relatedness justifications proffered by the defendant in its rebuttal. This is consistent with the purposes underlying both disparate treatment and adverse impact analysis, which is the orderly and focused presentation of evidence. *Cf. U.S. Postal Service Board of Governors* v. *Aikens*, 460 U.S. 711 (1983) (disparate treatment model "is merely a sensible, orderly way to evaluate the evidence in light of common experience as it bears on the critical question of discrimination"). *Id.* at 715 (quoting *Furnco*, 438 U.S. at 577). In contrast, under Section 4, a defendant could no longer satisfy its rebuttal obligation by establishing that the practices in question are, in fact, reasonably related to legitimate job expectations. Instead, the defendant will carry the much higher, and in many cases impossible, burden of having to establish that no conceivable alternative practices could be adopted that would be equally effective in accomplishing the defendant's business goals.

3. Section 4 Will Inevitably Lead to the Adoption of Quotas by Employers:

There is no question that Title VII, as currently written, does not require employers to adopt quota systems. Indeed, Section 703(j) of Title VII expressly states that employers are not required and logically cannot be penalized for failing to adopt quotas or preferences of members of protected groups. This has led the Supreme Court to avoid the adoption of legal rules "leaving any class of employers with 'little choice' but to adopt such measures." *Watson*, 108 S. Ct. at 2788 (quoting *Albermarle Paper*, 422 U.S. at 449 (Blackmun, J. concurring)).

Consistent with past Congressional intent, the sponsors of S. 2104 belie any interest in imposing quota systems through the language of Section 4. This denial, however, is unconvincing.

When the *Watson* Court expanded adverse impact analysis to every aspect of employment, not just discrete and objective selection criteria, it expressed an obvious and common sense concern that "the inevitable focus on statistics in disparate impact cases could put undue pressure on employers to adopt inappropriate prophylactic measures," such as quotas. *Watson*, 108 S. Ct. at 2787. The articulation of adverse impact analysis in *Wards Cove* was carefully designed to ensure that this concern did not come to fruition.

Section 4, on the other hand, places business planners in the dilemma of having to choose between quotas and the legal requirement of proving that each and every aspect of the employment process, in addition to the overall process itself, is not only reasonable and manifestly related to bona fide job requirements but is also essential or indispensable. The sponsors of S. 2104 give no explanation to how this latter standard can be met, much less any evidence that it can ever be met. Nor is there any legal precedent explaining how an employer can *prove* that common employment practices, e.g., relying on job recommendations, or supervisory evaluations, or the overall employment process itself, are essential. Thus, at a minimum, employers without an effective quota system in place would face unpredictable and extremely risky prospects of litigation.

Effective business planning requires reasonably accurate predictions about the legal effect of employment decisions. The legal uncertainties implicit in the defense burden imposed by Section 4 would deprive businesses of the ability to make such predictions concerning the likelihood of establishing a business necessity defense. Accordingly, the most reasonable alternative for many businesses would be the adoption of quotas. Even this, of course, would not provide absolute protection, because employees harmed by the quotas may also be able to prevail in a reverse discrimination lawsuit. Thus, Section 4 truly represents a "no win" proposition for employers.

B. Section 5: Mixed motivation

Section 5 of the bill nominally is offered to overturn the Supreme Court's decision in *Price Waterhouse* v. *Hopkins*, 109 S. Ct. 1775 (1989). In *Price Waterhouse*, the Supreme Court addressed the standards applicable to "mixed motive" cases, i.e., cases in which legal and illegal factors allegedly entered into an employment decision. The plaintiff had asserted that proof of an impermissible factor playing any part in the employment process resulted in a finding of liability against the employer, regardless of whether the impermissible factor affected the outcome of the employment decision in question. The defendant, on the other hand, claimed that the plaintiff must prove that the impermissible factor actually altered that decision.

The court selected a middle ground between the positions advocated by either party. First, the Court held that a plaintiff establishes a prima facie case by showing that an impermissible factor entered into the decision making process. *Id.* at 1785–86. Thereafter, a defendant can avoid liability only by proving that the impermissible factor did not alter the ultimate decision. This requires the defendant to prove by a preponderance of evidence that legitimate, nondiscriminatory reasons would have led to the same result in the absence of the prohibited factor. *Id.* at 1786–88.

Justice O'Connors concurring opinion explored more fully an issue left unanswered by Justice Brennan's plurality decision. This issue involved the importance that impermissible factors must have played in the decision process. *Id.* at 1790–91 and n.13. Justice O'Connor concluded that a plaintiff, at least, must etablish that the impermissible factor played a "susbstantial" role in the deliberative process before the employer is burdened with the requirement of proving that permissible factors dictated the same result. As Justice O'Connor noted, this requirement is supported by the consensus of circuit courts that have addressed this issue, which had uniformly required proof that discriminatory factors "played a significant or substantial role in the contested employment decision" before shifting the burden of proof to the defendant. *Id.* at 1804 (quoting the Court of Appeals; decision below in *Hopkins* v. *Price Waterhouse*, 825 F.2d 458, 470 (D.C. Cir. 1987)).

Section 5 of the bill differs from *Price Waterhouse* in two principal ways. First, its use of the term "motivating factor" appears to conflict with the requirement that the alleged impermissible factor must have been a substantial or significant factor in the employment process. Thus, a plaintiff can establish a prima facie case by showing that the impermissible factor played a role in the minds of any person involved in the decisional process, no matter how insignificant the role may be. There is simply no reason to shift the burfen of proof to the employer based on trivial or insubstantial evidence.

Second, Section 5 goes substantially beyond the position of Justice Brennan and his colleagues in *Price Waterhouse*. As noted above, Justice Brennan's plurality decision permitted the defendant to absolve itself of any laibility if it could carry the substantial burden of proving that the prohibited factor did not alter the ultimate decision. As written, Section 5 only allows the defendant to reduce its financial exposure with proof that the impermissible motive had no actual effect on the employment decision in question. The defendant would still be found liable for employment discrimination and required to pay the plaintiff's legal fees no matter how strong its evidence that the plaintiff was not denied any employment opportunity for a prohibited reason.

This latter result of Section 5 is a dramatic alteration of Title VII. As originally enacted, it was clear that Title VII only prohibited discriminatory *actions*, not *thoughts*. As Justice O'Connor observed, in response to claims that Title VII would become a "thought control bill," the influential Senator Case stated that "There must be some specific external act, more than a mental act. Only if he does the act because of the grounds stated in the bill would there be any legal consequences." 100 *Cong. Rec.* S 7254 (1964). Section 5 would impose a finding of liability and attorney's fees upon employers even in the absence of a finding that any employment decision was brought about by illegal motivation.

Finally, from a business perspective, businesses cannot control the thoughts of each and every employee involved in the decision making process. The best an employer can do is to establish an employment process that, through an effective system of checks and balances, prevents decisions from being made for illegal reasons. If an employer is successful in this endeavor, it should be rewarded, not penalized, by the law.

C. Section 7: Statute of Limitations

Although advertised as a response to *Lorance* v. *AT&T Technologies*, 109 S. Ct. 2261 (1989), Section 7 of the bill represents a major rewrite of Title VII by allowing a charge to be filed at any time within two years of the time an unlawful practice occurred "or has been applied to affect adversely the person aggrieved, whichever is later." Under current law, charges must be filed within 180 days after an employee receives notice of an unlawful employment practice. *Delaware State College* v. *Ricks*, 449 U.S. 250 (1980). Sections 7(a)(1) and (a)(2) of the bill would dramatically extend Title VII's statute of limitations, without any justification. Section 7(a)(1) would extend the time limits for filing a charge from 180 days to two years. Section 7(a)(2) would extend that time limit even further by starting the running of the limitations period at the time that the adverse action *impacts* the employee, rather than the time that the employee has *notice* of the adverse action. In essence, Section 7(a)(2) would overrule *Delaware State College* v. *Ricks*.

There is no basis for this dramatic extension of Title VII's time limits. A primary goal of Title VII is the *prompt* resolution of employment discrimination claims. This goal not only advances the potential for reconciliation and the reestablishment of a nondiscriminatory work relationship but also diminishes the chance of harm to innocent coemployees, whose career and other expectations are often built on prior employment decisions. Permitting an employee to wait for more than two years before filing a charge of discrimination is wholly inconsistent with the goal of prompt resolution of employment disputes. Moreover, it is simply unfair to permit an employee to wait to exercise a right while the memories of witnesses fade, documents are lost or misplaced, and back pay is accruing. An individual should not be permitted to "grow" potential back pay award while the employer goes without notice of any problem, in the workplace. If employers are given prompt notice of a problem by the early filing of a charge, they can correct it and provide reasonable compensation to any victims of discrimination. Without prompt notice, the problem may go uncorrected, and employer's back pay liability will be increased unjustifiably. Moreover, by unnecessarily expanding an employer's back pay liability, this extended limitations period may well impede another fundamental purpose of Title VII—conciliation and settlement of cases.

Title VII's 180-day limitations period has served both employers and employees well for over 25 years. The same 180-day rule applies under the National Labor Relations Act and has succeeded in protecting employee rights under that Act for more than 50 years. We are aware of no public outcry or need for a change in Title VII's statute of limitations and fail to see any benefit from this dramatic and unwise change.

D. Section 8: Remedies

Although the sponsors of this bill claim that it represents merely a "technical restoration" of the law and an attempt to fill "gaps" in the law, in fact Section 8 constitutes a wholesale revision of Title VII's enforcement provisions by providing for jury trials as well as awards of both compensatory and punitive damages. The rationale for this radical change is to "make the remedies

available for sex, religion and ethnic discrimination claims under Title VII the same as the remedies now available under Section 1981 for racial discrimination." This ill-conceived attempt to alter dramatically the Title VII landscape should be rejected.

There is no good reason why the remedies available under Title VII should mirror the remedies available under Section 1981. Indeed, the opposite is true—there are good reasons why the remedies should differ. Section 1981 is not coextensive in its coverage with Title VII. Section 1981 covers only racial discrimination and is applicable to all employers; while Title VII establishes a coordinated mechanism for remedying employment discrimination. Unlike Section 1981, Title VII offers victims of discrimination assistance in investigating their claims, competent counsel to represent them, and a waiver of court costs. This comprehensive scheme is designed to facilitate prompt resolution of employment disputes, with an emphasis on conciliation and settlement. Section 1981, on the other hand, merely provides a private right of action, without any administrative support mechanism. These differences underlie the distinctions between the remedies available. Indeed, it was on the basis of these differences that a unanimous Supreme Court first recognized the availability of compensatory and punitive damages in Section 1981 actions. *Johnson* v. *Railway Express*, 421 U.S. 460 (1975). As the court noted "the remedies available under Title VII and under Section 1981, although related, and although directed to most of the same ends, are separate, distinct, and independent." *Id.* at 454.

Rather than effectuating the purposes of Title VII, the availability of compensatory and punitive damages will undermine the Act's goals—by impeding the prompt resolution of employment disputes through conciliation and settlement. The availability of compensatory and punitive damages will provide an irresistible incentive to litigate. Employees are unlikely to accept reasonable pretrial settlement offers if they know that there is a possibility that they will be awarded a windfall in the form of punitive damages if they go to trial. This is particularly true under Title VII because the system contains no incentives for the employees to accept a reasonable settlement offer—the employee pays neither court costs nor attorneys' fees while the Equal Employment Opportunity Commission handles the charge. Claims are not likely to be settled where there is such a significant "upside" and no corresponding "downside" to litigating.

Recent experience in California has shown that the availability of compensatory and punitive damages turns employment litigation into a high-stakes lottery in which everyone—employees, employers, and the courts—loses. Once compensatory and punitive damages became available in California, wrongful discharge litigation went out of control. The courts were overwhelmed with cases, and juries seemed to lose touch with reality. Between 1980-1986, employees won more than 70 percent of the cases tried before juries, and the average award was more than $645,000.[1] Million-dollar verdicts to single plaintiffs were not uncommon, and one verdict in Santa Clara County exceeded $50 million. *Haun* v. *NEC*, Case No. ———— (1986). Punitive damages comprised a big part of these awards. The average punitive damage award was over $520,000. *Rand Study* at p. 25; see also *Stemming the Tide* at p. 406 (the average punitive damages award in 1982-1986 was $494,000). In recognition of the problems that these irrational verdicts created, the California Supreme Court recently determined that compensatory and punitive damages should not be recovered in most wrongful discharge cases. *Foley* v. *Interactive Data*, 47 Cal. 3d 654 (1988).

A major problem with punitive damages is the lack of any guidance to juries as to when and in what amounts punitive damages should be awarded. As Professor Gould noted, "juries in these cases often impose liability and large damage awards according to their own standards of fairness rather than the legal instructions provided by the judge." *Stemming the Tide* at p. 406. This creates not only greater uncertainties for business planners but also great inequities between successful plaintiffs who may receive widely varied awards based on similar conduct and harm. The standard articulated in the bill do little to resolve this concern. Although the bill's standard tracks the standard articulated by the Supreme Court in *Smith* v. *Wade*, 461 U.S. 30 (1983), it provides little guidance to courts or juries as to when punitive damages should be awarded. Indeed, because the bill adopts a "reckless disregard of the rights of others" standard, and because international discrimination necessarily involves a disregard of others' rights, punitive damages would seem to be available in virtually every case involving intentional discrimination. Surely, the sponsors of the bill did not intend this result.

Compensatory and punitive damages are simply a bad idea in Title VII litigation. By producing unreasonably large verdicts, they will increase the costs of goods and services, make the market less efficient, and reduce the availability of jobs. They will encourage employers to retain incompetent employees for fear of litigation, thereby making the work force as a whole less productive. These are real, weighty concerns. As the *Foley* court recently noted, "the expansion of tort remedies in the employment context has potentially enormous consequences for the stability of the business community." 47 Cal. 3d at 669.

Moreover, punitive damages are at odds with a fundamental premise of Title VII—that victims of discrimination be compensated for the injuries that they actually suffer. Punitive damages are a windfall to plaintiffs, who are entitled to receive full compensation for their injuries, but nothing more. Title VII currently provides victims of discrimination with adequate compensation for their injuries and, thus, punitive damages are not necessary to fill any "gap."

The proponents of compensatory and punitive damages argue that the availability of these remedies will have a desirable deterrent effect. However, given the skyrocketing costs of employment litigation, no further deterrent is necessary. Experience has shown that the average cost of defending a single plaintiff employment discrimination action through trial can be between $100,000 and $150,000, and often it is much more. Of course, the employer must also pay the employee's attorney's fees and costs if the employee prevails. Thus, an employer who discriminates is facing at least $200,000-$300,000 in litigation costs alone. This is more than ample deterrence for any employer.

Finally, we note that this issue has recently been debated by the Senate in the context of the Americans With Disabilites Act (ADA). For many of the reasons articulated above, Congress determined that compensatory and punitive damages were not appropriate in the employment discrimination context. Indeed, Senator Durenberger explained the elimination of the compensatory and punitive damages provision from ADA as follows:

"We also took great effort to address the concerns many had over the punitive nature of the remedies section. Instead of allowing punitive and compensatory damages as originally introduced, the bill before us today parallels current civil rights legislation under Title II and VII of the Civil Rights Act of 1964 . . . *This change will help avoid some of the excessive and unnecessary litigation the original bill would have caused.*" (Emphasis added).

Vol. 135 *Cong. Rec.* No. 112, S 10721 (Sept. 7, 1989) (Statement of Senator Durenberger). This approach was fully debated and rejected last fall, and there is no reason to reopen that issue here.

E. Section 9: Attorneys' fees

We have serious concerns about the bill's attorneys' fees provisions. First, Section 9 of the bill will have a dramatic effect on settlement offers under Rule 68 of the Federal Rules of Civil Procedure. Rule 68 provides that if a timely pretrial offer of settlement is not accepted and "the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer." The purpose of Rule 68 is to encourage voluntary settlements and relieve overcrowded court dockets by creating a disincentive to unreasonable rejections of fair settlement offers.

In *Marek* v. *Chesny*, 473 U.S. 1 (1984), the Supreme Court held that a party who rejects a Rule 68 settlement offer and thereafter is awarded less than the offered amount at trial cannot recover either fees or costs for any post offer work, where the statute authorizing recovery of attorneys' fees defines attorneys' fees as part of the "costs." Title VII currently defines attorneys fees as part of the costs. 42 U.S.C. 2000e-5(k). By striking out the phrase "as part of the" from Title VII's costs provisions, Section 9(3) makes recovery of attorneys' fees independent of the recovery of costs. This change apparently is intended to permit Title VII to circumvent the holding of *Marek* v. *Chesny*. Thus, if Section 9 is enacted, Title VII plaintiffs will be free to reject Rule 68 settlement offers without any fear of the loss of attorneys' fees should they not recover more than the offered amount at trial.

This attempt to reduce the risk of rejection of a reasonable settlement offer is both misguided and contrary to the purposes of Title VII. As previously noted, one of the fundamental goals of Title VII is the *prompt* resolution of employment disputes through conciliation and settlement. Section 9 undercuts this goal by making rejection of reasonable settlement offers risk-free to Title VII plaintiffs. It will also result in unnecessary, costly litigation. An individual should not be permitted to recover attorneys' fees and costs for work performed after rejection of a settlement offer where he does not recover more than the offered

[1] J. Dertouzos, "The Legal and Economic Consequences of Wrongful Termination," Rand Corporation Study R-3602-ICJ (1988) ("Rand Study"); Gould, Stemming the Wrongful Discharge Tide: A Case for Arbitration, 13 Emp. Rel. L.J. 404 (1988) ("Stemming the Tide").

amount at trial. Under these circumstances, the settlement offer would have fully compensated the individual for his losses and should have been accepted. Nor should defendants be required to pay attorneys' fees to plaintiffs on amounts expended to prosecute post-offer claims because such claims are, by definition, worthless. Thus, the changes proposed by Section 9 are unwise and unwarranted and should be rejected.

The Chamber also has serious concerns about Section 9(4). Section 9(4) of the bill would foreclose court approval of Title VII's settlements unless "a waiver of all or substantially all attorneys' fees was not compelled as a condition of settlement." The bill's sponsors argue that this section is intended to overrule *Evans* v. *Jeff D.*, 475 U.S. 717 (1986), and that it would simply bar "forced" waivers of attorneys' fees claims in consent decree settlements. But the language of Section 9(4) goes far beyond that modest objective and should, in any event, be rejected.

There is no good reason to overrule *Evans* v. *Jeff D.* Contrary to the impression created by the rhetoric supporting Section 9(4), *Evans* v. *Jeff D.* does not mandate "forced waivers" of attorneys' fees claims. In *Evans* v. *Jeff D.*, the Supreme Court merely held that a District Court has the power to approve a consent decree settlement that includes a waiver of attorneys' fees. Thus, *Evans* v. *Jeff D.*, does not stand for the proposition that parties to a Title VII *must* waive their attorneys' fees; rather, it holds only that they *may* waive those claims. Thus, plaintiffs and their counsel remain free to reject any settlement offer they deem unreasonable. In addition, they may address limitations on the waiver of fees or the ultimate allocation of settlement proceeds in the event of such a waiver in their retainer agreements.

This is a sound, reasonable result. There is no good reason for parties to Title VII litigation to be foreclosed from waiving attorneys' fees claims as part of the negotiated settlement. To the contrary, there are many good reasons for parties to be permitted to, and perhaps encouraged to, waive fees claims during settlement negotiations. For many Title VII actions, particularly those seeking injunctive relief, the attorneys' fees awards are the largest monetary exposure facing defendants. Obviously, to the extent that plaintiffs are permitted to waive all or part of those claims, Title VII actions will be more easily settled. Indeed, foreclosing any waiver of attorneys' fees would often pose an absolute barrier to settlement. In *Evans* v. *Jeff D.*, the court recognized these problems and reached the correct result. We have heard no public outcry against that decision and fail to see why it should be reversed. Indeed, we note that the Attorneys General in more than 42 states, three protectorates, and one major city filed amicus briefs *supporting* the result reached by the court in *Evans* v. *Jeff D.* That decision is correct and should be permitted to stand.

Moreover, although the bill's sponsors suggest that Section 9(4) is limited to court ordered consent decrees, the language of Section 9(4) is not narrowly drawn. Section 9(4) refers to a "consent order or judgment." As drafted, it could easily be read to apply to the settlement of any Title VII claim. For obvious reasons, this result would be folly. Experience has shown that attorneys' fees awards in single plaintiff Title VII actions often dwarf the amounts recovered by plaintiffs. H. Newburg, *Attorney Fee Awards*, ch. 11 (1986). Given this large exposure, few defendants would be willing to settle single plaintiff cases unless they could obtain a waiver of any attorneys' fees claims. Thus, by foreclosing settlement of fee issues as part of a package settlement, Section 9(4) would greatly impede settlement of single plaintiff Title VII cases. The bill's sponsors surely cannot intend this result.

II. CONCLUSION

The sponsors of S. 2104 avidly assert that their bill is intended to overturn a number of recent Supreme Court decisions and restore the law to its prior state. As the previous discussion demonstrates, however, this bill would go much further. Indeed, S. 2104 represents a blatant effort to inject concepts into the law that are directly in conflict with the principles upon which Title VII was founded, including, most importantly, the principle of basing employment decisions on merit and merit alone. This effort to alter the fundamental precepts of Title VII law, as articulated by Congress and the Supreme Court since 1964, threatens to make numerical quotas the very artificial "masters of reality" originally condemned in the *Griggs* decision.

The misguided notion that appears to underlie much of the bill is the conclusion that Title VII is not working well. However, there is no empirical basis for this assumption. Moreover, anyone with even rudimentary knowledge of the changes that Title VII has wrought in the American workplace knows that Title VII has been and continues to be a powerful vehicle for the eradication of employment discrimination. In light of this history of progress, it seems that the prime beneficiaries of the bill would be the lawyers who would reap potentially vast monetary rewards from the expanded incentives for litigation that the bill provides.

Most importantly, the changes to Title VII sought in this bill offend the basic premise of equality upon which our democratic and constitutional society is founded. Although the substitution of quotas for merit can never be justified, it is particularly inappropriate in this time of intense and growing international competition. The touchstone of any national legislation to be passed by this or any ensuing Congress should be the removal, not the creation, of artificial barriers to merit based on employment.

STATEMENT OF DONALD B. AYER, DEPUTY ATTORNEY GENERAL, BEFORE THE COMMITTEE ON LABOR AND HUMAN RESOURCES, FEBRUARY 27, 1990

Mr. Chairman, distinguished members of the Senate Committee on Labor and Human Resources:

It is an honor to appear before you today to testify regarding the U.S. Supreme Court's rulings last term involving civil rights issues, and S. 2104, entitled the Civil Rights Act of 1990. The Administration has a strong commitment to the civil rights of all people. We believe that there must be strong remedies to root out discrimination wherever it may exist. Unfortunately, racism and bigotry cannot be viewed as wholly problems of the past. As the President said in his State of the Union message: "Every one of us must confront and condemn racism, anti-semitism, bigotry, and hate. Not next week, not tomorrow, but right now. Every single one of us."

We congratulate the Senate for passing, with Administration backing, the Hate Crimes Statistics Act, which, once enacted, will help us to get a better picture of this problem and to focus our resources where they are most needed. In the first year of this Administration, the Department of Justice indicted some 89 defendants in 56 separate cases for criminal civil rights violations. We filed or participated in 34 cases under the new Fair Housing Act amendments, which only became effective as of March 12. And we filed a dozen employment discrimination cases. As our activities suggest, we are using vigorously the tools available to us and, for the most part, we find those tools effective.

The Supreme Court last Term issued some thirteen decisions that touched one aspect or another of civill rights law. In some of these cases, the government had urged the position adopted by the Court. In others, the Court disagreed with the government. Thereafter, the President and Attorney General both pledged last June that the Administration would carefully monitor the application of these decisions in the lower courts to determine their effect on meritorious civil rights claims and respond accordingly.

We have done exactly that. Based on our own studies and comments from groups, including the NAACP Legal Defense and Education Fund, we have concluded that of the five most significant decisions, two reach results that merit legislative action. Thus, we believe that Congress should amend the law to require a different result from that reached by the Supreme Court in *Patterson* v. *McLean Credit Union*, —— U.S. ——, 109 S. Ct. 2363 (1989), and *Lorance* v. *AT&T Technologies, Inc.*, —— U.S. ——, 109 S. Ct. 2261 (1989). Accordingly, the Administration supports legislation that has been introduced by Senators Thurmond, Dole, Hatch and Coats (S. 2166) to address the problems created by these cases. With regard to three other cases, based on our review of how these rules have been applied,[1] we see no need for corrective action.

In supporting legislative action in some areas and opposing it in others, we are guided by a fundamental principle that grows out of our history, and is now a part of the fabric of our law: that people should not be judged or dealt with according to the color of their skin or certain other irrelevant personal traits. We take this as a common value that all decent people can agree upon. I will begin by discussing those areas where we think this principle dictates the enactement of new legislation.

In *Patterson*, *supra*, an employee brought an action pursuant to 42 U.S.C. 1981, alleging that her employer has harassed her on the job, failed to promote her, and ultimately discharged her, all because of her race. The Court held that Section 1981 is limited by its terms to prohibiting discrimination in "mak[ing] and enforc[ing] contracts," and does not extend to "problems that may arise later from the conditions of continuing employment." *Patterson*, —— U.S. at ——, 109 S. Ct. 2372. Thus, the Court held, the statute prohibits discrimination, whether governmental or private, in the formation of a contract, and in the right of access to a legal process that will enforce established contract obligations without regard to race. According to the Court, however, the plain-

[1] These decisions are *Wards Cove Packing Co.* v. *Atonio*, —— U.S. ——, 109 S. Ct. 2115 (1989); *Martin* v. *Wilks*, —— U.S. ——, 109 S. Ct. 2180 (1989); and *Price Waterhouse* v. *Hopkins*, —— U.S. ——, 109 S. Ct. 1775 (1989). We also oppose any legislation aimed at *City of Richmond* v. *J.A. Croson Co.*, —— U.S. ——, 109 S. Ct. 706 (1989).

tiff's allegations of harassment on the job addressed only conditions of employment and were not actionable pursuant to Section 1981.

The *amicus* brief filed by the Department of Justice, on which my name appears, argued for a somewhat broader reading of Section 1981, which would have extended its coverage to claims of harassment that would constitute a violation of state contract law. Our review of the cases applying *Patterson* over the last eight months further leads us to the conclusion that the Court's reading leaves a gap in the fabric of our civil rights laws that must be filled. We therefore support corrective legislation to ensure that section 1981 will apply to the performance, breach, and termination of contracts to the same extent that it does to their making and enforcement. At the same time, we believe that it is appropriate to codify the holding of *Runyon* v. *McCrary*, 427 U.S. 160 (1976), that section 1981 prohibits private, as well as governmental discrimination.

In *Lorance, supra*, female employees challenged a seniority provision pursuant to Title VII, claiming that it was adopted with an intent to discriminate against women. Although the provision treated all similarly situated employees alike, it produced demotions for plaintiffs, who claimed that the employer had adopted it with the intent to discourage women from entering a particular line of employment.

The Supreme Court held that the claim was barred under Title VII's statute of limitations, because the time for plaintiffs to file their complaint began to run when the employer adopted the allegedly discriminatory seniroity system. The Court distinguished the situation where a seniority system discriminates on its face, acknowledging that in such a circumstance each application of the policy constitutes a new violation. However, where, as in the case before it, the provision is neutral on its face (although discriminatory both in purpose and effect), the Court concluded that only the initial enactment constitutes a violation.

The United States, and the EEOC, filed an *amicus* brief, on which my name appeared, supporting the plaintiffs. We argued that the plaintiffs' demotions were not merely the inevitable effects of the prior allegedly discriminatory adoption of the seniority system, but were instead direct, present applications of the seniority system, the effects of which had until then been only theoretical, and, as such, were "unlawful employment practices" that independently triggered Title VII's statute of limitations.

The rule adopted by the Court could have the result of shielding intentionally discriminatory seniority systems from attack by people who never have had an opportunity to challenge them. The discriminatory reasons for adoption of a seniority system may become apparent only when the system is finally applied to affect the employment status of the employees that it covers. Moreover, such an application surely focuses the controversy between an employer and an employee more sharply and permits more precise litigation. In addition, a rule that limits challenge to the period immediately following adoption of a seniority system will promote unnecessary and unfocused litigation. Employees will be forced to challenge the system before it has produced any concrete impact, or forever remain silent. Other employees, who are hired after the statute has run following adoption of a seniority system, will be barred from ever challenging the adverse consequences of that system, regardless how severe they may be. Such a rule fails to protect sufficiently the important interest in eliminating employment discrimination that is embodied in Title VII.

The Administration therefore supports an amendment to section 706(e) of Title VII of the Civil Rights Act of 1964 that would restart the period for filing a charge each time an employee was injured by the application of a seniority system that was alleged to have been adopted with disciminatory intent.

We urge Congress to move quickly to enact these two important changes. At the same time, we strongly believe that four other major changes proposed by S. 2104 should not be adopted. We are convinced that three of last Term's decisions, *Wards Cove Packing Co. v. Atonio*, — U.S. —, 109 S. Ct. 2115 (1989); *Martin v. Wilks*, — U.S. , 109 S. Ct. 2180 (1989); and *Price Waterhouse v. Hopkins*, — U.S. —, 109 S. Ct. 1775 (1989), should be left intact.

In *Wards Cove*, the Court addressed three important issues concerning the burdens of proof in a lawsuit alleging that an employer's hiring practices have had the effect of discriminating in violation of Title VII. After reaffirming that statistics may form the basis for a prima facie case of disparate impact, and that the statistics must compare the employer's workforce to the pool of qualified job candidates, the Court addressed the issue of causation. The Court held first that a plaintiff must identify the specific employment practices that have produced the challenged disparate impact. Thereafter, the Court addressed the burdens imposed on the parties once a plaintiff has established a prima facie case of discrimination. It held that the employer's burden is to produce evidence that the "challenged practice pursues, in a significant way, the legitimate employment goals of the employer." *Wards Cove*, — U.S. —, 109 S. Ct. at 2125-26. Finally, the Court held that the burden of persuasion always remains with the plaintiff, and that the plaintiff may defeat the employer's evidence by showing that reasonable alternatives would serve the employer's purpose equally well.

This seems to us to be a sensible and efficient allocation of litigation responsibilities. Asking the plaintiff to identify the specific practices that produce a disparate impact before employers are asked to justify them is consistent with traditional rules allocating burdens of proof. This allocation of responsibilities strikes us as more efficient than allowing plaintiffs simply to allege that a hiring system produces a disparate impact and forcing employers to demonstrate that each individual employment practice within that system does not have a disparate impact. In view of the liberal discovery rules and the record-keeping requirements of the Uniform Guidelines on Employee Selection Procedures, 29 C.F.R. § 1607.1 *et seq.* (1988), we do not think that this requirement of specificity should unduly burden plaintiffs.

Indeed, the Court's prior "disparate impact cases have always focused on the impact of *particular* hiring practices on employment opportunities for minorities," *Wards Cove*, — U.S. at —, 109 S. Ct. at 2124, and plaintiffs have always targeted those specific practices. *See Griggs v. Duke Power Co.*, 401 U.S. 424 (1971) (high school diploma requirement); *Dothard v. Rawlinson*, 433 U.S. 321 (1977) (height and weight requirements for prison guards); *Albemarle Paper Co. v. Moody*, 422 U.S. 405 (1977) (employment tests and seniority systems); *Connecticut v. Teal*, 457 U.S. 440 (1982) (written examination); *Watson v. Fort Worth Bank & Trust*, 487 U.S. 977 (1988) (subjective judgment of supervisor).

In our view, the Court also correctly held that its formulation of the applicable substantive standard is fully justified as an appropriate balancing of the interests of employers and employees. Courts have used varying terminology in defining that standard. The standard molded by the Court from those prior formulations has sufficient teeth to ensure that employers do not use practices of dubious business utility, while not pressuring employers to resort to hiring and promotion quotas, and respecting the needs of employers to preserve legitimate management prerogatives. We find it unlikely that this formulation of the standard for a business justification will preclude the assertion of meritorious claims, particularly since the plaintiff may still prevail by showing that other reasonable business practices would satisify the employer's need without producing a discriminatory effect.

Likewise, we think that the burden of persuasion remains with the plaintiff throughout a disparate impact case, just as it does in a case alleging intentional discrimination, *see Texas Department of Community Affairs* v. *Burdine*, 450 U.S. 248, 256-58 (1981), and just as it generally does when causation is an element of a violation. *See* Restatement (Second) of torts § 433B (1965). We think it would be unjustifiable to impose a greater burden on an employer who is alleged to have violated Title VII by employing a practice that produced a disparate impact than on one who is alleged to have engaged in purposeful discrimination.

We are convinced that the Court thoughtfully balanced the competing interests and produced a workable distillation of some eighteen years of precedents applying the disparate impact standard. Indeed, the Court in large part adopted the approach urged by a brief filed by the United States. We believe that plaintiffs will be able to pursue successfully meritorious claims, and employers will not be unduly burdened in defending claims of discrimination and will not be encouraged to resort to quotas to ward off the threat of lawsuits based on statisical imbalances.

At the same time, we believe strongly that the changes proposed in S. 2104 would have serious adverse consequences. By altering all three of the conclusions reached by the Supreme Court, and placing on the employer the ultimate burden of identifying his own practices leading to a statisical imbalance and proving them to be "essential" to the conduct of his business, the proposal puts an employer in a nearly impossible position. It would be difficult for an employer not to adopt a silent practice of quota hiring and promotion in an effort to protect himself from the real probability of litigation and liability wherever a statistical imbalance is shown.

Martin v. *Wilks, supra*, arose in the context of a civil rights action, but it turned on principles of fairness and access to court that apply in every area. The Court held that firefighters, who had not been parties to a consent decree that mandated racial preferences, could have their day in court to contend that the decree violated their civil rights. The Court rejected the so called collateral attack doctrine, pursuant to which some courts had held that once a decree was

entered, it could not be challenged, even by individuals who had not been parties to the original lawsuit.

The Court's decision turned on a straightforward application of the Federal Rules of Civil Procedure and underlying notions of due process. The Federal Rules establish procedures for joinder of all interested parties in a case. Under those procedures, anyone who is not joined in a lawsuit, and given an opportunity to appear in court to protect his or her rights, cannot be bound by the final judgment. The Court's decision is a reaffirmation of the fundamental notion that everyone, regardless of race or gender, is entitled to his or her day in court. The Department of Justice advocated the position adopted by the Court. I did not work on that brief, but I signed a similar brief arguing the same approach a year erlier in *Marino* v. *Ortiz*, 484 U.S. 301 (1988).

We think tht this decision should have a salutary effect. By requiring early joinder of all those who may be adversely affected by a lawsuit, the decision should enable courts to consider the full range of interests affected by a proposed decree. The decision should lead to fairer, more carefully considered, and unassailable remedies for discrimination. It will discourage defendants from settling discrimination cases by bargaining away third party rights, rather than making whole the actual victual victims of discrimination. In addition, the participation of all of the affected parties in formulation of a decree should aid in its implementation. Successful, voluntary compliance with Title VII may depend upon the cooperation of a broad range of individuals. Involving as many of those individuals as possible in formulating the decree will lead to smoother and more effective implementation of the remedy for discrimination.

The proposed legislation relating to *Wilks* would reverse, in the context of civil rights consent decrees, the usual practice under our system of civil litigation. Instead of requiring that outsiders by joined by the parties to litigation if they are to be bound, the legislation would put the burden on outsiders to inject themselves into a dispute between others. Persons with no current interest in issue must be on the lookout for ongoing litigation whose resolution may at some point impact upon them.

Neither the burden on these non-litigants to join or be bound, nor the burden on the judicial system of such expanded and unfocused lawsuits, is wise as a matter of policy. Nor do we believe that it is fair to bind, as the proposed bill does, anyone who has actual notice of the lawsuit, or who lacks actual notice but whose interests are adequately deemed protected by others, or, failing that, wherever "reasonable efforts" are made to give actual notice. Indeed, we believe that serious due process issues are presented.

In *Price Waterhouse* v. *Hopkins*, ____ U.S. ____, 109 S. Ct. 1775 (1989), the Court ruled in favor of a woman who alleged that she had been denied partnership by her accounting firm on account of her sex. In that case, the Court faced a so called mixed motive case in which plaintiff alleged that her sex had supplied part of the motivation for her rejection for partnership. The Court held that once she had established by direct and substantial evidence that sex played a part in the decision, the burden shifted to the employer to show that it would have reached the same direction had sex not been considered.

The proposed legislation takes the startling step of allowing a damage recovery based solely on the discriminatory thoughts of an agent of the employer, which have no consequence to the plaintiff. For, contrary to the Court's conclusion that Title VII is not violated where the employer proves that the adverse action would have resulted even in the absence of any discriminatory motive, the proposed legislation recognizes a violation and a damage remedy in that circumstance. I believe that this would be the first instance ever in American law where damages could be recovered solely for thinking bad thoughts.

We also need to be clear on one other point. As this Committee is aware, the President, and the Attorney General have strongly supported the Americans With Disabilities Act (ADA), and have worked closely with Congress, and the disability community to devise the version that passed the Senate with Administration support. I was not personally a party to that process. Accordingly, others are in a better position to answer detailed questions concerning it. However, I do think it is important to make the following point.

Title I of the ADA, as agreed to, dealing with employment, incorporates by reference remedies available under Title VII. It was very clear at the time of our discussions that the fact that these remedies were limited to injuctions, back pay, and other equitable relief that can be obtained without triggering the Constitution's civil jury requirement was critical to the Administration's agreement.

In light of the fact that legislation altering these remedies has now been introduced, our continuing support for the ADA hinges on the clarification that the remedies provisions of the ADA will not be affected by the proposed Kennedy-Hawkins amendment of the remedies available under Title VII. This will require amending the reference to Title VII in the Senate version of the ADA. We look forward to cooperating with this Committee and others to assure that the goal of bringing 43 million disabled Americans into the mainstream of American life through passage of the ADA, a goal that we all share, is not thwarted by disagreements about other areas of the law.

In summary, we believe that the Supreme Court acted prudently and correctly, and in reasonable interpretation of existing statutes and case law, in its decisions in the *Wards Cove, Wilks,* and *Price Waterhouse* decisions. These decisions should be allowed to stand.

At the same time, with regard to *Patterson* and *Lorance*, we urge Congress to act quickly to enact our proposals. It is apparent that the Administration and the sponsors of S. 2104 are in substantial agreement on these issues, and we propose that S. 2166, the Administration's Bill, therefore be acted upon expeditiously.

I would be pleased to respond to any questions.

TESTIMONY OF DAVID A. MADDUX, THE NATIONAL RETAIL FEDERATION, BEFORE THE COMMITTEE ON LABOR AND HUMAN RESOURCES, FEBRUARY 27, 1990

Mr. Chairman and Members of the Committee:

I am David A. Maddux, a Partner in the law firm of Sheppard, Mullin, Richter & Hampton. I have represented employers in labor and employment law matters for the past thirty years. I started practicing law in 1959, which was the year in which the State of California enacted its California Fair Employment Practices Act which prohibited discrimination in employment. A substantial portion of my practice at all times since has involved employment discrimination matters before both the California Fair Employment and Housing Commission, the Equal Employment Opportunity Commission, State Courts and United States District Courts.

I appear on behalf of the National Retail Federation. I am Chairman of its Subcommittee on Wage, Hour and Equal Employment Opportunity Law.

The National Retail Federation is the nation's largest trade group which speaks for the retail industry on matters of governmental and public policy. Created by a recent merger between the American Retail Federation and the National Retail Merchants Association, the organization represents the entire spectrum of retailing, including 27 national and 50 state retail associations. In addition, the Federation membership encompasses over one million U.S. retail establishments employing nearly 16 million people and accounts for more than one-quarter of the GNP.

I greatly appreciate this opportunity to appear before you and testify on the Civil Rights Act of 1990. The views I will express are based primarily upon my years of experience representing retailers, many of whom are members of the National Retail Federation, in employment discrimination matters.

The Bill has been publicized as a response to recent "conservative" attacks by the Supreme Court upon Civil Rights in employment. In fact, its scope goes far beyond the few recent decisions involving discrimination in employment decided at the end of the last term. In reality it undoes and implicitly overrules a decade of the Court's Title VII decisions. Much of the precedent which this proposed legislation will overturn was written and concurred in by the least conservative members of the Court.

COMMENTS CONCERNING SECTION 4 OF THE BILL

The practical effect of Section 4 will be to codify and drastically alter traditional disparate impact analysis. Under the Act as amended, a complaining party could establish a prima facie case simply by demonstrating that a "combination of employment practices or an overall employment process" had a disparate impact upon a protected group. The employer would then have the burden to produce evidence *and* prove by a preponderance of the evidence that the practice or process in question was "essential to [employees'] effective job performance." No other "business necessity" could be used to defend the practice or process.

At the same time, the plaintiff would have *no* burden to demonstrate which practice among a group of practices resulted in the disparate impact. Instead, the employer would have the burden of producing evidence *and* proving with a preponderance of the evidence that none of its practices or process had a disparate impact.

Section 4 of the Bill will also overrule *Wards Cove Packing Co.* v. *Atonio*, 109 S. Ct. 2115 (1989) on the premise that it was incorrectly decided. To the contrary, *Wards Cove*, as demonstrated herein, is entirely consistent with long-existing judicial authority interpreting Title VII.

In *Wards Cove*, the Supreme Court began its opinion by reaffirming that in order to make out a statistically-based prima facie disparate impact case, the plaintiffs must prove there is a disparity between the racial

composition of the qualified persons in the relevant labor market and the persons holding the jobs at issue.

The lower court in *Wards Cove* had erroneously permitted the employees to make out a prima facie disparate impact case by presenting statistics which compared the racial composition of the employer's cannery work force (composed primarily of nonwhites, Filipinos and Alaska Natives) with that of the employer's non-cannery work force (composed primarily of whites). The Supreme Court easily indentified the logical fallacy associated with the lower court's reasoning: "Most obviously, with respect to the skilled non-cannery jobs at issue here, the cannery work force in no way reflected 'the pool of *qualified* job applicants' or 'the *qualified* population in the labor force.'" 109 S. Ct. at 2122 (emphasis in original).

Its holding on this point is entirely consistent with *Hazelwood School Dist.* v. *United States*, 433 U.S. 299, 308 (1977)[1], in which the Supreme Court held that the "proper [statistical] comparison [in a disparate impact case is] between the racial composition of [the at-issue jobs] and the racial composition of the qualified . . . population in the relevant labor market." Similarly, in *New York City Transit Authority* v. *Beazer*, 440 U.S. 568, 585 (1979)[2], the Supreme Court held that in the absence of reliable labor market statistics, the courts may look to statistics that measure the racial composition of "otherwise-qualified applicants" for the at-issue jobs.

Secondly, *Wards Cove* perpetuated the long-standing principle that in a disparate impact case the plaintiff must demonstrate the specific employment practice which is claimed to have the disparate impact on protected class members. The Court said:

"Consequently, on remand, the courts below are instructed to require, as part of respondents' prima facie case, a demonstration that specific elements of the petitioners' hiring process have a significantly disparate impact on nonwhites." 109 S. Ct. at 2125.

Section 4 of the Bill would undo *Wards Cove* by allowing a complaining party to establish that an employment practice or "an overall employment process" (Section 3(o)) is "unlawful" when it results in a disparate impact upon a protected group. Since "overall employment process" is such a broad term, an employer could be found liable under the Act as amended based upon statistical disparity that was simply accidental.

Requiring employers to defend against claims that unidentified employment practices violate Title VII places them in an impossible position. In order to avoid liability, employers would have no option other than to adopt strict racial quotas at all levels of their organization. This result was by no means the original intent of Title VII. *Albemarle Paper Co.* v. *Moody*, 422 U.S. 405, 449 (1975). [3]

Wards Cove is also consistent with *Connecticut* v. *Teal*, 457 U.S. 440 (1982)[4], a case in which the Supreme Court held that an employer could not avoid liability in a disparate impact case simply by relying upon the "bottom line," racially balanced result of an allegedly discriminatory promotion practice. In *Teal*, one part of the promotion process involved a test which had a disparate impact on minorities. Analogously, in *Wards Cove*, the Supreme Court held that employees who *challenge* an employment practice should not be able to establish a disparate impact case simply by showing racial *imbalance* "at the bottom line."

The point is simple. If an employer cannot avoid liability by resting upon a favorable "bottom line" result, an adversely affected employee should not be able to prove liability solely by showing an unfavorable "bottom line" result. The real issue is whether a particular employment practice or selection device has a prohibited effect on the protected class. It will be impossible for the Courts to properly decide this issue if the plaintiffs can continue to hide it.

Furthermore, the *Wards Cove* Court's holding that the burden of proof remains with the disparate-impact plaintiff at all times is perfectly consistent with prior precedent. *See, e.g., Watson v. Fort Worth Bank & Trust*, 487 U.S. 977, 108 S. Ct. 2777, 2790 (1988) (O'Connor, J.); *Texas Dep't of Community Affairs v. Burdine*, 450 U.S. 248, 256-58 (1981);[5] *Croker v. Boeing Co.*, 662 F.2d 975, 991 (3d Cir. 1981). Section 4 of the Bill will overrule these cases. It is also contrary to Fed. Rule of Evid. 301, which clearly provides that a shift in the "burden of going forward with evidence" does *not* impose on a party "the burden of proof in the sense of the risk of non-persuasion, which remains throughout the trial upon the party on whom it was originally cast."

Curiously, the proposed amendment says nothing about a complaining party's option under existing law to challenge a business necessity defense that has been put forth by the responding party. This option is clearly reaffirmed in *Wards Cove*. In fact, it has been long established that the complaining party may attempt to prove that "other tests or selection devices, without a similarly undesirable racial effect, would also serve the employer's legitimate [business] interests. . . . Such a showing would be evidence that the employer was using its tests merely as a 'pretext' for discrimination." *Albemarle Paper Co. v. Moody*, 422 U.S. 405, 425 (1975). The Act as amended is silent regarding this element of traditional disparate-impact analysis.

In addition, proposed Section 703(k)(2) provides that "[a] demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection." The term "required by business necessity" is defined in proposed Section 701(o) (Section 3 of the Bill) as "essential to effective job performance." This definition severely limits the business necessity defense in disparate impact cases.

There are many instances in which employers have non-discriminatory business reasons for taking job action. It would be highly intrusive and simply bad public policy to inflict liability upon employers by restricting the "business necessity" defense to situations in which the employment practice is "essential to effective job performance." For example, if the Bill is passed in its present form, employers could be liable thereunder whenever they effect a reduction in force for economic reasons that results in a disparate impact upon protected employees. Thus, a race-neutral reduction in force could be cast pursuant to proposed Section 703(k)(1)(A) as an "employment practice" resulting in a disparate impact on the "basis of race, color, religion, sex, or national origin." This would be true even if, for example, the reduction in force arose from contracting out a function which resulted in a large savings for the employer.

In one recent case, *Spaulding* v. *University of Washington*, 740 F.2d 686, *cert. denied*, 469 U.S. 1036 (1984), certain past and present members of the University of Washington School of Nursing faculty challenged the University's compensation practices under 42 U.S.C. § 1983, the Equal Pay Act and Title VII of the Civil Rights Act of 1964. The plaintiffs alleged the University's compensation practices discriminated against them on the basis of sex.

The Court of Appeals affirmed the lower court's dismissal of plaintiffs' claims in part on the ground that the employer was constrained by market forces in setting its wages. The court opined:

"For Title VII purposes, simply labelling an employer's action 'policy or practice' is not sufficient. What matters is the substance of the employer's acts and whether those neutral acts are a non-job-related pretext to shield an invidious judgment. [¶] Every employer constrained by market forces must consider market values in setting his labor costs. Naturally, market prices are inherently job-related, although the market may embody social judgments as to the worth of some jobs. Employers relying on the market are, to that extent, 'price takers.' They deal with the market as a given, and do not meaningfully have a 'policy' about it in the relevant Title VII sense. Fringe policies, which are discretionary, are altogether another matter. Additionally, allowing plaintiffs to estabish reliance on the market as a facially neutral policy for Title VII purposes would subject employers to liability for pay disparities with respect to which they have not, in any meaningful sense, made an independent judgment." 740 F.2d at 708.

As the Ninth Circuit readily recognized in *Spaulding*, uncontrollable market forces can result in actions by an employer that have a disparate impact upon a protected class of employees. Under the amended Act, however, the University of Washington would probably be found liable, notwithstanding the fact that it engaged in no "act" with respect to the complaining parties. This result is even more certain given the vague and overly broad definition of "group of employment practices" as "an overall employment process." Proposed Section 701(n) (Section 3 of the Bill).

Another example arises from *Wambheim* v. *J.C. Penny Co., Inc.*, 705 F.2d 1492 (9th Cir. 1983) in which the Ninth Circuit considered whether or not Penny's "head-of-household" rule which allowed employees

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[1] Justice Stewart's opinion for the Court was joined in by Chief Justice Burger and Justices White, Marshall, Blackmun, Powell and Rehnquist, and concurred in by Justice Brennan. Justice Stevens dissented.

[2] Justice Steven's opinion for the Court was joined in by Chief Justice Burger and Justices Blackmun, Stewart and Rehnquist. Justice Powell concurred in part and dissented in part. Justices Brennan, White and Marshall dissented.

[3] Justice Stewart's opinion for the Court was joined in by Justices Douglas and Brennan and concurred in by Justices Marshall and Rehnquist. Justice Blackmun concurred in the judgment. Chief Justice Burger concurred in part and dissented in part. Justice Powell took no part in the consideration or decision of the case.

[4] Justice Brennan's opinion for the Court was joined in by Justices White, Marshall, Blackmun and Stevens. Chief Justice Burger and Justices Rehnquist and O'Connor joined Justice Powell's dissenting opinion.

[5] Justice Powell wrote the opinion for a unanimous Court composed of Chief Justice Burger, and Justices Brennan, Stewart, White, Marshall, Blackmun, Rehnquist and Stevens.

to obtain medical and dental insurance for a spouse if the employee earned more than half the couple's combined income violated Title VII.

Although the rule clearly had a disparate impact on female employees the court affirmed the trial court's decision that the major cost considerations involved established a legitimate business jurstification for the rule.

The Bill as proposed would compel a contrary holding and the result would ignore the economic realities of the situation.

As these examples demonstrate, there is a plethora of situations in which preservation of a broader business necessity defense is compelled by sound public policy. Congress cannot predict, as it sits here today, the many situations in which an employer may have legitimate nondiscriminatory business or public policy reasons for adopting employment practices that may have a disparate impact upon one group or another.

COMMENTS CONCERNING SECTION 5 OF THE BILL

The practical effect of Section 5 of the Bill is to provide that a violation of the Act is established when the complaining party demonstrates that a prohibited practice was a motivating factor of any employment decision even though the decision was motivating by other factors. The Section further provides that if the responding party, usually the employer, "establishes" that it would have taken the same action in the absence of any discrimination, then the complaining party would not be entited to such remedies as reinstatement and back pay.

On the other hand, even though the respondent establishes that it would have taken the same action in the absence of any discrimination, under Section 8 of the bill it will still be liable to the complaining party for general compensatory damages (including pain and suffering and damages for emotional distress) and punitive damages, all of which can be awarded by a jury.

This Section has been apparently proposed to reverse the effect of the United States Supreme Court dicision in *Price Waterhouse* v. *Hopkins,* 109 S. Ct. 1775 (1989). It would however, in reality, change the law of the land as it has existed in "mixed motive" employment discimination cases for many years, and would impose on defendant employers the burden of general compensatory and punitive damages in circumstances where *no liability at all* would have been imposed under longstanding legal precedent.

The so-called "mixed motive" doctrine arose in the context of Section 8(a)(3) of the Labor Management Relations Act which made it unlawful to discriminate against employees based on their union activities or sympathies. The National Labor Relations Board in *Wright Line, Inc.,* 251 NLRB 1083, 105 LRRM (BNA) 1169 (1980), *enforced,* 662 F.2d 899 (1st Cir. 1981), *cert. denied,* 455 U.S. 989 (1982), held that the General Counsel of the National Labor Relations Board had the burden of proving that the employee's protected conduct was a substantial or motivating factor in the employees discharge. The Board then held that if there was another legitimate reason for the discharge the employer could avoid a violation of the Act by proving that the discharge rested on the employee's *unprotected* conduct, and that the discharge would have occurred in any event.

The National Labor Relations Board's *Wright Line* principle was given express approval by the United States Supreme Court in *NLRB v. Transportation Management Corp.,* 462 U.S. 393 (1983). In *Transportation Management,* the Court held that even though the General Counsel of the Board met his burden by proving that the employee's protected conduct was a substantial or motivating factor in the discharge of the employee, the employer could avoid a *violation* of the *Act* by proving by a *preponderance of the evidence* that the discharge rested on the employee's unprotected conduct as well and that the discharge would have occurred in any event. The Court, relying on National Labor Relations Board precedent, characterized the doctrine as one where the employer could prevail by presenting an "affirmative defense", which under normal rules of burden of proof, placed upon the employer the burden to sustain its affirmative defense by a *preponderance of the evidence.* The burden of proving a fact by a preponderance of the evidence is met when the person having the burden persuades the trier of fact that it is more likely than not that the asserted fact is true.

Transportation Management was in accord with and relied upon in the United States Supreme Court's decision in *Mt. Healthy City Board of Education v. Doyle,* 429 U.S. 274 (1977), which dealt with the discharge of a teacher and the board of education's refusal to reinstate him for his exercising his constitutionally-protected right to free speech. The Supreme Court found that the trial court had erred by not determining whether the board had shown by a *preponderance of the evidence* that it would have refused reinstatement in the absence of the teacher's protected conduct.

Thus, *Price Waterhouse v. Hopkins,* in deciding that once a plaintiff in a Title VII case shows that his or her protected status played a motivating part in an employment decision, the defendant may avoid a *finding of liability* only by proving that it would have made the same decision even if it had not allowed the protected status to play such a role, was simply swimming in the mainstream of long-standing judicial authority on this issue.

Indeed, the *Hopkins* opinion was written by Justice Brennan and joined in by Justices Marshall, Blackmun and Stevens. Justices White and O'Connor concurred. Chief Justice Rehnquist and Justice Scalia joined Justice Kennedy's dissenting opinion. The *Hopkins* plurality joined unanimous courts in *Mt. Healthy,* an opinion participated in by Chief Justice Burger and Justice Brennan, Stewart, White, Marshall, Blackmun, Powell, Rehnquist and Stevens and *Transportation Management,* an opinion participated in by all of the above-named Justices except Justice Stewart who was succeeded by Justice O'Connor in the Court's October 1981 Term.

Thus, it is respectfully suggested that it would be the wrong result to impose the threat of serious monetary liability arising from general compensatory and punitive damages on employers who would have taken the same action but for the alleged discriminatory motive, in the face of holdings requiring a contrary result by all of the Justices who decided *Transportation Management, Mt. Healthy* and *Hopkins.*

In addition, there is a question concerning what burden The Bill proposes to place on the defendant by its use of the word "establishes" in describing the employer's burden in Section 5(b) of The BIll. In the definitions section the term "demonstrates" is defined. "Establishes" is not.

It is also respectfully suggested that it is an inappropriate allocation of judicial resources to process burdensome and time-consuming jury-trial litigation where the facts would clearly establish that the employer had a legitimate business reason for its employment decision which would have been made irrespective of the plaintiff's protected status.

One could conjure the simple example of two employees who conspired in a common scheme to steal from their employer. Once the employer found out about the scheme, he would probably terminate both employees. If a jury determined that the employer happened to harbor some wholly unrelated feelings of prejudice against one of the individuals, who happens to be a protected class member, the likley and somewhat nonsensical result would be that he or she would be entitled to recover general compensatory and punitive damages. Of course, the equally guilty non-protected employee would be entitled to nothing. Clearly such a result has no logical support.

COMMENTS CONCERNING SECTION 8 OF THE BILL

The practical effect of the proposed amendment to Section 706(g) of the Act (Section 8 of the Bill) will be to provide for jury trials and compensatory and punitive damages in cases of intentional discrimination. In this connection, it should be noted that essentially all individual disparate treatment cases involve intentional discrimination. The result of the proposed amendment will be to take federal discrimination cases out of the expert hands of the EEOC and place them in the private hands of litigants and their lawyers. Once such cases are settled with the payment of money, they will be dismissed and the facts surrounding the allegedly discriminatory behavior of the employer will be effectively buried. (It is standard practice in most cases for employers to insist upon confidentiality provisions in settlement agreements). Although the private litigant and his or her lawyer may be better off after the case has been settled, there is absolutely no guarantee that the employer will not continue discriminating against other employees who were *not* party to the litigation.

Punitive and compensatory, damages are also available for violations of California's primary antidiscrimination law, the Fair Employment and Housing Act ("FEHA"). *Commodore Home Sys., Inc.* v. *Superior Court,* 32 Cal. 3d 211, 649 P.2d 912 (1982). Unfortunately this has resulted in our standard practice under the FEHA for plaintiffs' attorneys to request a right-to-sue letter and commence a civil action long before the Department of Fair Employment and Housing has had a chance to investigate, conciliate and/or seek redress of claimed discrimination. Similarly, under the Act as amended, plaintiffs' attorneys, driven by a contingent-fee arrangement, will likely seek to by-pass the EEOC entirely and commence litigation in the federal courts. The focus will shift from the remedy of employment discrimination process, which Title VII was enacted to accomplish, to a process which creates higher litigation stakes fueled by large dollar contingent fee awards. An additional likely result will be a sharp increase in federal court jury trial litigation which will further burden the federal court system.

Further, the proposed amendment to Section 706(g) of the Act contains *no* definitions for a jury to look to in deciding whether to award punitive damages against an employer. The lack of a clear definition as well as the relatively low standard of proof (pre-

ponderance of the evidence as contrasted with "clear and convincing evidence" in California) will leave an employer without an understanding of the kind of conduct it should avoid in order not to be punished by an award of punitive damages.

Additional problems created by Section 8 of the Bill arise from the fact that it would impose compensatory damages and punitive damages on top of an existing remedial scheme which already grants to successful plaintiffs the right to recover lost wages, back pay and reinstatement or front pay.

Since the issues of Title VII violation and reinstatement or front pay (where reinstatement is not feasible) are issues for the court—not the jury—while compensatory and punitive damage claims are jury questions, a serious and complex issue involving judicial economy arises. The act provides absolutely no guidance as to how to avoid the possibility of inconsistent results as between judge and jury.[6]

COMMENTS CONCERNING SECTION 9 OF THE BILL

The practical effect of Section 9 of the Bill is to prohibit a "waiver" of attorney's fees as a condition of settlement of a Title VII action. As a result of proposed Section 706(k), it is likely that settlement of actions that have been commenced under the Act as amended will be significantly discouraged. It has long been the practice of parties in employment discrimination suits to combine a settlement of all claims, as well as any attorney's fees, into a lump-sum figure. Generally, the defendant provides the plaintiff and his or her attorney with a check and leaves it to the plaintiff and the attorney to divide the proceeds. The Act as amended prohibits the "waiver" of attorney's fees as a condition of the settlement. This provision will likely create tremendous uncertainty regarding appropriate attorney's fees at a stage in the proceeding when both parties are earnestly seeking to conclude litigation.

It is foreseeable that although the parties in a particular action may agree upon the amount of money the defendant should pay the plaintiff in settlement of his or her legal claims, the parties may be thousands of dollars apart with respect to the amount of attorney's fees the plaintiff's attorney should receive. Disagreements between the parties (and their lawyers) about this issue will inevitably end up before a federal judge who will have to decide, among other things, the reasonableness of the fees after reviewing in detail all the time the plaintiff's attorney has put into the case and his or her relative experience in the area. This provision will likely create rancor between the *attorneys*, just as the *parties* have come to an understanding as to the value of the case. There do not appear to be any overriding public policy reasons for encouraging attorneys to have more of a monetary stake in the outcome of these cases than they already have. No evil exists which this Section is needed to correct.

I appreciate the opportunity to testify before tne committee and I would be pleased to answer any questions you may have.

[6] This problem has been resolved by some of the circuits which have addressed it in the context of combined Title VII and Section 1981 actions. They generally hold that the jury's factual determinations on the Section 1981 claims control. *See, e.g., Sherman v. Burke Contracting Inc.*, 891 F.2d 1527 (11th Cir. 1990); *Wade v. Orange County*, 844 F.2d 951 (2d Cir. 1988).

TESTIMONY ON BEHALF OF NATIONAL ASSOCIATION OF MANUFACTURERS AND SOCIETY FOR HUMAN RESOURCE MANAGEMENT, BEFORE THE COMMITTEE ON LABOR AND HUMAN RESOURCES, FEBRUARY 27, 1990

Mr. Chairman, members of the Committee, my name is Lawrence Lorber. I am a partner in the law firm of Kelley Drye & Warren. I am submitting this testimony on behalf of the National Association of Manufacturers ("NAM") and the Society for Human Resource Management ("SHRM") (formerly the American Society for Personnel Administration).

The National Association of Manufacturers is a voluntary business association of more than 13,500 member companies and subsidiaries, large and small, located in every state. Members range in size from the very large to the more than 9,000 smaller manufacturing firms, each with fewer than 500 employees. NAM member companies employ 85 percent of all workers in manufacturing and produce more than 80 percent of the nation's manufactured goods. NAM is affiliated with an additional 158,000 businesses through its Associations Council and the National Industrial Council.

The Society for Human Resource Management is the world's largest association for human resource professionals with over 44,200 members representing employers who employ over 53 million individuals. As the leading professional association for human resource managers, SHRM has a vital interest in legislation impacting on almost every aspect of the human resource function.

Both SHRM and NAM have a long background in promoting fair employment practices. NAM's involvement in this area goes back to the 1960s when it was instrumental in promoting Plans for Progress, the forerunner of our affirmative action policies. And its efforts continued through the 1980s when NAM took the lead in establishing the consensus which preserved the policy of affirmative action as a viable component of our nation's employment structure. SHRM's efforts in this area are as equally longstanding. SHRM played a vital role in training the human resources profession to understand and implement the concepts of equal employment opportunity in the workplace when the laws were first passed. In the 1980s SHRM's activities included the preparation and filing of an Amicus Curiae brief before the Supreme Court in the landmark affirmative action case of *Johnson* v. *Santa Clara County, California*, arguing that affirmative action was a necessary part of our employment system. SHRM's brief, which I prepared, was cited by Justice Brennan as providing the professional justification for affirmative action. Thus, these two leading organizations bring a long and involved background to the current debate over our equal employment policies.

The Civil Rights Act of 1990 represents a massive restructuring and rewriting of our equal employment laws. Presented as a response to certain Supreme Court decisions of last term, the draft legislation in fact rejects the concept of conciliation and rapid settlement of complaints, which the Congress used as its guidepost in 1964 when Title VII was enacted, and assumes that the only resolution of discrimination complaints is in protracted litigation in a federal court system which is already overburdened. We find this thrust particularly ill-conceived at a time when there is almost universal recognition that the problem our economy faces in the 1990s is not too few jobs but too few trained or trainable employees. A congressional commitment of scarce federal resources to increased federal court litigation seems particularly ill-advised when our country faces such pressing employment problems. In the recent annual economic report issued by the President, the employment concerns of America were identified as the necessity to find skilled workers for the available jobs. The President's Report, which follows upon the Workforce 2000 study issued by the Department of Labor and the many private studies focusing on the employee shortage we are facing identifies the trained labor shortage as a grave problem of national proportions.

Our country has long since outgrown the pernicious "luxury" of discriminatory exclusion. In the increasingly tight labor markets of the 1990s, employers inclined to indulge in discriminatory hiring will pay a high price for it—they will be unable to meet their own need for workers. The protected groups—minorities and women—will comprise the overwhelming percentage of new entrants to the workforce. Employers who are unwilling to hire them for reasons of bias will find themselves increasingly unable to find qualified workers. Therefore, it is ironic that at a time when business necessity dictates open, nondiscriminatory employment practices, Congress is seeking to place greater rigidities on the labor market. We think this would be counterproductive to expanded workforce opportunities. This legislation, however, ignores these pressing problems and focuses single-mindedly on narrow and technical litigation concerns of interest primarily to lawyers.

The Civil Rights Act of 1990 does not profess to create jobs or provide skills. It does, however, promise to vastly increase contentious litigation. Beginning with the several new definitions to Title VII, the legislation places employers in a position where they have no reasonable opportunity to offer nondiscriminatory explanations to challenged employment practices. Put into this position, employers will have little choice other than to assure numerical balance in their workforce.

DEFINITIONS

Proposed new definition "n" includes the term "group of employment practices" within the scope of Title VII. This definition, as applied to both disparate treatment and adverse impact cases, would place the entire range of an employer's employment practices under question without providing an employer with any specificity as to which practice is questionable. The legal inquiry would be changed from an examination of a single suspect practice into an open-ended inquisition of an employer if its total workforce did not reflect some idealized numerical balance suggested by a plaintiff. This new definition rejects long accepted Title VII jurisprudence. In *Connecticut* v. *Teal*, Justice Brennan analyzed the various adverse impact cases since *Griggs* and made clear that Title VII never required the focus to be placed on the overall number of minority or female applicants hired or promoted.

In *Transit Authority* v. *Beazer*, the Supreme Court focused on a single identified employment practice. To permit a lawsuit to be based on a "group of employment practices"—perhaps all practices used by a particular employer and to have that lawsuit triggered because the "overall employment practice" results in a workforce that is numerically deficient—is a profound change in

the standard for reviewing personnel practices. It will put pressure on employers to assure that their overall employment practices result in a workforce measured by arbitrary numerical standards, and not productivity or ability.

Proposed new definition "o" would find "business necessity" justifying a selection criterion only if that criterion were proven to be "*essential* to effective job performance." This new definition is a drastic change from the definitions first set forth in *Griggs* v. *Duke Power Company* which has become well settled law during the succeeding nineteen years.

In *Griggs* the Supreme Court first enunciated the theory of adverse impact, and imposed on employers the requirement of showing that a challenged practice was justified by "business necessity". The Court said that the standard of business necessity meant "job relatedness", meaning a selection criterion "having a manifest relationship to the employment in question." The Court in *Griggs* reemphasized congressional intent to allow employers to set their employment standards as high as they wished as long as the business necessity test was met. The various Supreme Court and appellate court rulings subsequent to *Griggs* have made it clear that "business necessity" requires a showing that the challenged practice is predictive of job performance, correlates to important elements of work behavior, or more generally relates to the specific job functions in question. The proposed new definition of business necessity, would overturn these long-standing precedents and impose an impossible burden on employers.

Understanding that the legal review of employment practices does not even begin until there is proof of a numerical imbalance defined as adverse impact under the proposed legislation, employers would have to show that the suspect practice, or the "overall employment process" (see new definition "n") are not only necessary but are "essential". The judgment as to what is "essential" would not be made by the employer but by a judge or possibly a jury, and then in the context of a numerical deficiency rather than actual business needs. The promise of the Congress in 1964, as enunciated in *Griggs*, that employers could establish their own employment standards so long as the standards were consistent with the employer's own business requirements and equal employment principles will thus be consigned to a footnote describing discarded policy. Rather, the law would require employers to accept bare minimum qualifications or performance levels since they would be the only standards which could possibly meet the "essential" test.

SECTION 4

Proposed definition "n" discussed above, would abolish the requirement that a plaintiff identify the cause of a statistical disparity. Proposed subsection 703(k) would also overturn those parts of the Court's holdings in *Watson* and *Wards Cove* related to burdens of proof.

The Civil Rights Act of 1990 would permit a plaintiff's cause of action to be based solely on the statistical "bottom line". That is, a plaintiff need not identify one specific employment practice causing an adverse impact, but could complain generally about a group of practices or point to the overall "employment process" to establish the numerical threshold necessary for a showing of adverse impact. An employer would then have the burden of showing that some or all of its practices—depending upon the scope of the compliant—are *not* causally related to the numerical deficiency. The employer would then be obliged to prove that each of these practices is "essential" to its business. Thus, an employer using a variety of employment practices would have to first parse all of its practices, identify which caused the numerical "discrimination" and then prove that the suspect practice was "essential" to its business.

Proving that some objective selection criterion—such as a college degree—is "esssential" to success on a job is difficult enough. But in the context of subjective criteria the task becomes impossible. completely unrecognized in the bill or the accompanying congressional analysis is the fact that the *Watson* and *Wards Cove* cases dealt with non-standardized subjective practices not heretofore dealt with under the impact analysis. The proposed legislation is built on the faulty premise that every employment practice, including interviews, supervisory ratings and the like, can be reviewed with scientifc precision. Unlike the accepted methodology for establishing the job relatedness of objective "pass-fail" instruments or practices such as standardized tests or height-weight standards, where business necessity has never been converted into the legal *sine qua non* which this legislation would mandate, the prospect of proving that it is "esstential" to job performance for a candidate to appear "bright" or "motivated" during an interview would be completely unmanageable, as would be the burden when reviewing the multistage hiring process for management trainees, first line supervisors, public law enforcement positions or other such positions. The very complexity of the employer's burden when dealing with aggregated, subjective employment practices would require decisionmaking aimed at numerical balance, rather than business judgment, in order to avoid the crushing costs which would be required to even attempt to defend challenged criteria.

In *Watson* and *Wards Cove*, the Supreme Court attempted to craft a rational balance allowing long-accepted Title VII obligations, and heretofore unquestioned general litigation burdens to coexist with viable productive employment systems. Proposed subsection 703(k) and the new "definitions" would overturn this balance, while leaving employers essentially defenseless to challenges of subjective practices based on adverse impact analysis.

SECTION 5

Proposed Section 5 of the draft legislation would "deal" with the *Price Waterhouse* case by amending Title VII to find a violation whenever a discriminating factor was shown to have been *a* "motivating factor" in any personnel action *regardless* of the presence or importance of other factors supporting the action. Section 5 is here characterized as "dealing" with *Price Waterhouse* since at the time of the decision it was greeted as a major advance by civil rights advocates and was said to represent the first time the Supreme Court had recognized the well-established concept of mixed motives in the title VII context. The drafters of section 5 clearly intend to expand upon *Price Waterhouse* by finding liability where a discriminatory consideration is *a* motivating factor as opposed to the motivating factor or even a substantial motivating factor. Indeed the mere presence in the mind of the decisionmaker or in the employer's records of any questionable consideration or inartfully phrased concern about an individual would, by the terms of the proposed amendment, doom the employment decision. The legislation would preclude an employer's ability to rebut or refute the inference of discrimination by proving that the factor was irrelevant because of the predominant weight of legitimate factors.

Once obvious result of this section, were it to become law, would be to require legal review of personnel appraisals, supervisory ratings and similar personnel tools while in draft stage in order to scrub or delete any phrase or reference which could be pointed to as a "motivating factor" and which would thereby subject an employer to absolute liability. Employers would almost have to establish legal "thought police" to measure each consideration of a supervisor against the ever-changing legal standards of intentional discrimination in order to insulate the employment process.

The argument by the proponents of Section 5 that *Price Waterhouse* authorizes "a little bit of discrimination" is specious. The Supreme Court crafted an appropriate burden shift by requiring employers to do more than merely articulate an explanation for the "taint." Employers were given a difficult burden of proof to avoid liability. The draft legislation "cures" *Price Waterhouse* by abolishing any opportunity for defense. Strangely, the draft legislation seeks to amend § 706(g) by including the *Price Waterhouse* "defense" in that section. The intent of this placement is unclear. Clearer drafting would have new § 703(1) add at its end "except that a respondent will not commit an unlawful employment practice where it establishes that it would not have taken the same action notwithstanding the consideration of the prohibited factor."

SECTION 6

In *Martin* v. *Wilks*, a five justice majority of the Supreme Court held that where allegedly race conscious promotion decisions were being made as a result of the operation of a prior consent decree, white individuals who were not party to the proceedings which resulted in the entry of the decree could bring suit alleging that the denial of promotions to them was due to impermissible considerations of race. The four dissenters argued that obedience to the dictates of a lawfully entered consent decree should not expose an employer to collateral attack and potential liability. The Supreme Court was grappling with the competing and equally compelling concepts of affording every individual his or her own day in court with the need to bring finality to litigation.

Proposed section 6 would establish that a person could not challenge the operation of a decree if the person were a party to the proceeding, had notice that the proposed judgment might affect his interests and was given reasonable opportunity to object, or if a court determines that the objections being raised were raised by other persons during the pendency of the consideration of the decree.

Section 6 would leave the adequacy of notice to interested parties as the only grounds available to attack the lawful operation of a decree after it is entered. Apparently it would bring finality to issues even if the underlying decree incorporated race conscious features and was of substantial duration. While employers share the belief that judicial oversight of employment policies not be open-ended and intrusive, we believe that these concerns ought to be tempered somewhat in view of the appropriately strict standards for relief currently followed by the courts in reviewing or impos-

ing race conscious policies. The standards enunciated by the Supreme Court in *Johnson* v. *Santa Clara County* and *Local 28 Sheetmetal Workers* v. *EEOC* ought to allay concern that affirmative relief will unfairly hinder the expectations of nonparty individuals or that a court will usurp the employer's human resources function.

We do believe that rather than rushing to simply "repeal" *Martin* v. *Wilks*, the Congress ought to take sufficient time to study the issues and consider such possibilities as statutory time limits for an employment consent decree or specifying the scope of the fairness hearing so that adequate notice is in fact provided to all interested or potentially interested or impacted individuals.

SECTION 7

In *Lorance* v. *AT&T Technologies*, the Supreme Court held that a challenge to a seniority system allegedly adopted for a discriminatory purpose must be raised at the time the seniority system is adopted (within Title VII's limitation period) rather than at the time the system has its discriminatory impact. The Court reiterated its view that there was no viability to the "continuing violation" theory of discrimination in this context. The dissenters argued that Congress never intended absolute immunity for tainted seniority systems and that the decision would foster anticipatory litigation.

While the holding in *Lorance* is relatively straightforward and deserving of careful consideration, the legislative response incorporated in section 7 is wholly out of proportion to the holding in *Lorance* and affects significant expansion of Title VII.

Section 7(a)(1) expands the statute of limitations of Title VII from 180 days to two years. There was no "adverse" Supreme Court ruling which triggered this section. There seems to be no rationale for this fourfold expansion of the statute of limitations, nor does there appear to have been consideration of other, parallel changes sure to follow, such as the extension of EEOC's record retention rules to two years and other administrative changes. The legislation is also silent as to the impact of this change on cases filed with deferral agencies. The silence with respect to the status of deferral states apparently will allow simultaneous processing of charges and could create redundant legal actions in different forums. This result would be a direct contradiction of Title VII's fundamental purpose to foster conciliation and settlement of cases.

The drafters have apparently given no thought to the ramifications of this proposal on actual employment processes. It is difficult to imagine the benefit in allowing a grievance to fester for at least two years before triggering the investigative and adjudicative processes of title VII. In that long interim, personnel will have changed, managers shifted, perhaps even ownership changed, yet the employer will have to reconstruct dated events in order to respond. Productive employment will be subject to forgotten land mines of forgotten actions when a charge is filed two or more years after the triggering occurrence.

Section 7(a)(2) reinstates the continuing violation theory by starting the running of the statute of limitations only after a questioned practice has adversely affected the aggrieved party. Thus, the proposed legislation has the effect of overturning *United Airlines* v. *Evans* decided in 1977, not 1987. It is simply inappropriate policy to encourage potential plaintiffs to sit on their rights for an extended period. There seems to be no cogent reason for this other than to increase employer exposure.

SECTION 8

This section would amend Title VII to provide for compensatory and punitive damages where intentional discrimination is shown and, consistent with the principle that such damages fall under the definition of "legal" rather than equitable relief, a jury trial would be provided.

As much as any section of the proposed legislation, this section would change the entire structure of our equal employment laws. The issue of a jury trial and extraordinary relief for discrimination was considered by the drafters of the original Title VII and rejected for a number of sound policy reasons. Those reasons have not changed.

It was the considered view that discrimination issues should be settled quickly, that the employee achieve make whole relief promptly and that the process avoid interminable delay in crowded federal courts. Further, there was concern that juries might be loath to find for minority or female plaintiffs.

Since 1964, Title VII has been interpreted and enforced in a relatively efficient manner, enabling individuals to achieved relief. To the extent there has been criticism, it was that the EEOC was inefficient in conciliating cases and that backlogs were permitted to expand.

Section 8 would not respond to these concerns but would create new problems of vastly increased magnitude. Were this section enacted, any hope of conciliation and settlement through the EEOC would vanish. We would witness instead a national employment law lottery where attorneys would hold out to individuals the promise of six or seven figure judgments, with the accompanying six or seven figure legal fee. The purpose and function of the EEOC would be effectively terminated, and the courts would be inundated with new employment suits.

Nor is this a spectral parade of horrors raised by employers with untold hidden liability. Rather, it reflects the experience in those states with expanding doctrines of wrongful discharge and expanding liability judgments. Employers would be ill-advised to undertake thoughtful self-analysis and corrective action for fear of unleashing a torrent of two-year old "intentional discrimination" litigation with million dollar liability claims. Short of resurrecting the plaintiff's bar, no cogent explanation has been given for this section.

We would also note that the Senate debated this issue when it recently passed the Americans With Disabilities Act ("ADA"). Following long negotiations between the White house and Senate, during which organizations such as SHRM and NAM and the disability community provided input, the Senate rejected the inclusion of compensatory and punitive damages and jury trials for the disabled as inappropriate in the employment title of the ADA. The Senate and the Civil Rights community were correct then. We do not believe that those negotiations were undertaken in other than complete good faith, yet we see a policy reversal in a matter of months. Section 8 has no place in this legislation.

SECTION 11

This section would require all federal civil rights laws to be "broadly construed," effectively providing that the actual statute serve only as the starting point for judicial review rather than providing textual limits on such review. This seems to be a needless invitation to judicial activism and could readily cause confusion. If the "broad construction" were viewed by some to be limiting rather than expanding, we would inevitably have to respond to yet another round of congressional restoration. The Congress should not invite such activism and thereby subject the law to transient determinations of the meaning of "broad construction."

Section 11(b) appears to abolish, in the context of civil rights, the doctrine that subsequent legislation that is more specific or narrow in design operates to limit prior legislation that is more expansive. If this is the intent, section 11(b) ought to be thoroughly debated. We see absolutely no reason to legislatively fossilize every piece of civil rights legislation and simply add layer upon layer of additional statutory language. Civil rights and equal employment is not such a fragile concept so as to require this type of legislative shield. As the organizations I am representing today showed in the debate over affirmative action, exposure to such debate, whether in the executive branch or the legislative branch, or before the public, will not shrivel the reach of our equal employment policies. There is no place for Section 11 in the proposed legislation.

SECTION 12

Section 12 of the proposed legislation would overturn the *Patterson* decision. The Administration similarly has introduced legislation to accomplish this purpose. Rather than legislatively "correct" an admittedly strained judicial interpretation, the Congress ought to meet its responsibility by thoroughly examining the ramifications and underlying rationale of the Supreme Court's action.

The *Patterson* case involved alleged racial harassment. Title VII makes racial harassment illegal. The Supreme Court did not endorse racial harassment. It noted that the remedial provisions of Title VII could have been available to the plaintiff. Rather, the Court questioned, perhaps awkwardly, the efficacy of having multiple statutory forms available to remedy discriminatory activities and attempted by its decision to channel such matters through the congressionally-created scheme of Title VII. The underlying question which the Supreme Court attempted to resolve was whether it made sound policy to have such multiple forums. The Congress ought to take the time to examine whether it makes any sense to have such anomalous situations as litigations in which both Title VII and § 1981 are at issue and in which the same facts are tried partly before a judge and partly before a jury, either at the same time or on alternate days, in which different procedural rules and statutes of limitations would apply and different remedies would be available. We believe that the Congress ought to examine whether plaintiffs ought to be required to choose an exclusive forum, and whether equal employment litigation ought not be encumbered with parallel federal, state and common law counts. We would urge that considered legislative attention be devoted to examining and addressing and underlying causes of the Supreme Court's decision rather than rushing to "reverse" the attempt of the Supreme Court to bring reason to an unnecessarily confused and cumbersome situation.

CONCLUSION

Contrary to the representations of its cosponsors, the Civil Rights Act of 1990 far exceeds its professed aim of "simply' revers-

ing certain Supreme Court decisions. Rather, the draft legislation will effect a sea-change in the treatment of equal employment complaints, converting every charge into a federal court action; making the administrative process of mediation and conciliation an unused and forgotten option and building up a backlog of cases calling on scarce federal court resources.

The draft legislation also reverses the long-settled concept underlying Title VII when it was passed and incorporated in the *Griggs* decision, of letting an employer set its standards as high as it wishes. The legislation would present American industry with the choice of boiling its legitimate employment criteria down to the very few essential elements which would result in a minimally competent workforce or facing lengthy and expensive litigation leading to extraordinary relief in which the statutory deck is stacked overwhelmingly against it. The only other option left to employers is the distasteful one of insuring numerical balance.

Finally, the draft legislation ignores the current procedural and statutory impediments to rapid and equitable resolution of employment complaints. Rather than examining the continued viability of multiple forums and multiple statutory bases for employment litigation the legislation merely perpetuates the current unwieldy and inefficient system.

The issues raised by the Civil Rights Act of 1990 deserve careful and thoughtful analysis. The apparent rush to pass a bill with a minimum of debate and consideration is an unseemly and inappropriate way of treating civil rights. We urge that this committee reflect upon the issues raised in this testimony and join with America's employers in addressing the pressing issues we all face in the 1990s and beyond.

Mr. HATCH. Thank you, Mr. President.

I yield the floor.

ELECTIONS IN TAIWAN: A MOMENT OF TRIUMPH FOR THE TAIWANESE

Mr. PELL. Mr. President, Eastern Europe, Central and Latin America are not the only places in the world where democracy is emerging from the long, cold winter of dictatorship.

In Taiwan, thousands of protestors, mainly students, have gathered in a Taipei city park to declare their support for greater democracy just as Chinese students gathered last spring in Tiananmen Square. However, unlike in China, rather than being brutually suppressed, their voices have real hope of being heard.

We need to support the Taiwanese people in their courageous call for greater freedom and independence from the stultifying oppression of 40 years of Kuomintang rule.

We can take some encouragement from the actions taken by President Lee Teng-hui, a native Taiwanese, who has just been elected to a 6-year term, despite an effort by hardliners in the Nationalist Party to replace him.

Having already taken determined action in the past toward democracy, President Lee will surely heed the call for greater reform at a faster pace. In this spirit, I commend and congratulate him for this leadership.

Last December President Lee presided over the first officially contested elections since 1949. At that time elections were held for 101 seats in the national legislature, the Legislative Yuan, 16 county executive positions called magistrates, several city mayors, and seats on two city councils and the Taiwan Provincial Assembly. The results sent a clear signal that the Taiwanese people want change.

As noted the Deputy Secretary General of the opposition Democratic Progressive Party, Tsai Shih-yuan, "it was a big victory for the opposition!"

The Democratic Progressive Party [DPP] won 38 percent of the popular vote in city and county executive races winning 6 out of 21, including the biggest prize of all—the executive post in Taipei county. The KMT received just 53 percent of the vote rather than the projected 70 percent. In the Legislative Yuan, the DPP increased its membership from 11 to 21 seats, giving it enough members to introduce legislation.

These important victories were achieved despite tremendous odds—the DPP has only 20,000 members and the KMT's is estimated at 1 to 2.5 million out of an electorate of about 12 million—and large hurdles.

The National Democratic Institute for International Affairs [NDI] in an excellent pre-election report, entitled "A Moment In Political Transition: The December 1989 Elections In Taiwan," observed that the "KMT retains near total control of almost all political, social, economic and media institutions in Taiwan," ensuring "the KMT numerous institutional advantages in the current campaign, including: control of the television and radio, vast financial resources, a cooperative police and judiciary, as well as considerable informal influence over the most influential economic, social and cultural organizations."

Importantly, the issue of Taiwan's independence was also prominently raised in this election despite legal prohibitions against such discussion. This indicates both new flexibility on the part of the Government as well as the continued importance of this issue to the Taiwanese people. Twenty DPP candidates in favor of independence won election, seven of these to parliament.

However, the elections in December and March also illuminate continued problems in the Taiwanese political system. In the Legislative Yuan elections, for example, only 101 out of 292 were contested. The majority of 162 continue to be filled with holdovers from the mainland and 29 were appointed by the KMT to represent overseas Chinese. The president was elected by a 752 member National Assembly controlled by 668 KMT delegates, also holdovers from 1949. The voice of the Taiwanese people is still a minority voice in their homeland.

But the winds of change can be felt this spring. Following the December elections, President Lee promised more democratic reforms stating that the vote "indicate[d] the various reform measures undertaken by the Government in recent years had failed to meet the public's expectations."

President Lee has met with the demonstrators in Taipei's Chiang K'ai-shek Memorial Park—a clear indication of his desire to accommodate new political voices. He has also proposed a meeting with the DPP and other groups in a national convention to discuss Taiwan's problems.

This is clear evidence that change is occurring in Taiwan.

I hope it will lead to substantial reform in several areas, including an examination of possible constitutional changes that would further institutionalize and preserve democratic practices, guarantees for freedom of speech, elections for other members of the Legislative Yuan, loosening of visa restrictions on overseas Taiwanese or Taiwanese-Americans seeking to return to Taiwan, and a release of political prisoners.

In particular, I hope that Shih Ming-Teh will be released. This prisoner-of-conscience has been jailed for 25 years. He is Taiwan's Nelson Mandela. First arrested in 1962, he was jailed until 1977. He was arrested again in January 1980 for his role in the formation of an opposition magazine and demonstrations on behalf of democracy and independence. He has been in jail ever since. His American wife, Linda Arrigo, was deported by the Government. Amnesty for Shih Ming-Teh would send a clear signal of the Government's desire to bury the problems of the past, moving forward to a democratic future.

In an advertisement placed in American papers following December's elections, the Taiwanese Government saluted the result and promised that there would be "continued political and social stability on Taiwan." I believe that promise can only be achieved if the Government continues to recognize and respond to the Taiwanese people's call for democracy.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,836th day that Terry Anderson has been held in captivity in Beirut.

SASKATCHEWAN FERTILIZER PLANT

Mr. COCHRAN. Mr. President, the Canadian Province of Saskatchewan is making plans to subsidize the construction and operation of a world-scale nitrogen fertilizer plant. This is causing great concern in the fertilizer industry in the United States and should be a concern of the administration and the Congress.

On February 7 of this year, the Saskatchewan government announced its plans to invest $64 million of the province's funds and guarantee an additional $305 million in loans to finance the construction of a project known as "Saferco," which will produce nitrogen fertilizers, including anhydrous ammonia and urea. This project is being pursued ostensibly to promote the provincial economy.

I am concerned that the volume of fertilizer which is projected to be produced by this plant will seriously harm the market in the United States for these products by causing a price- depressing oversupply. I am certainly not opposed to competition, but I have been told there is evidence that this plant could not be competitive were it not for the Government subsidy. This seems to be in conflict with the recent United States-Canada Free Trade Agreement.

There are other concerns with this plant, including the fact that Saskatchewan has waived the requirement for an environmental impact statement. These concerns have been included in a letter addressed to U.S. Trade Representative Carla Hills and signed by eight Senators. I ask unanimous consent that a copy of this letter be placed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 8, 1990.

Hon. CARLA HILLS,
U.S. Trade Representative, Washington, DC.

DEAR AMBASSADOR HILLS: We are writing to request your assistance with regard to a matter of very grave concern to us. The Canadian province of Saskatchewan is committed to expanding its industrial base, but unfortunately has historically ignored commercial realities in attempting to accomplish this political goal. Its newest industrial expansion project, announced on February 7, 1990, is a world-scale nitrogen fertilizer plant. This project, like others before it, will be an ill-conceived, quasi-governmental enterprise that can survive only by reason of subsidies and preferential treatment.

The plant is a massive undertaking and will require a $64 million equity investment from the Province as well as a provincial loan guarantee for the $305 million in debt required for the project. A private company has agreed to make a $65 million investment in the plant in exchange for exclusive marketing rights. This project, known as "Saferco," is of very urgent concern to us for three reasons.

First, Saskatchewan has approved construction of this plant and has waived a requirement for a Provincial environmental review. By waiving such a review, the plant will be built without the benefit of objective scientific review or public hearings to consider critical environmental issues. We find this disregard for environmental concerns appalling. Congress is currently in the midst of considering new clean air legislation and, along with U.S. industry, we are grappling with very difficult issues presented by the effort to protect our global environment. These issues impact the nitrogen fertilizer sector as well as many other industries nationwide.

Given Canada's commitment to address environmental issues such as acid rain and ozone depletion, and the historic criticism by Canada of the U.S. on these issues, we are dismayed by Saskatchewan's decision to essentially ignore sensitive environmental concerns in its haste to construct this huge chemical plant. Its failure to assess the environmental impact of the plant raises concerns not only about this impact, but also about the competitive advantage that the Province appears to be intentionally creating for its venture by "exempting" it from an environmental impact statement.

Second, based on information available to us, we believe that the Saferco plant would not be built without the significant involvement of the Province. Current and projected market conditions render the addition of this capacity an obvious political move designed to achieve certain social and political goals of current Provincial leaders. Industry sources have supplied us with information that indicates that the plant would not be built by a commercially-motivated investor. Financing could only be possible for this very questionable venture by reason of the loan guarantee to be provided by the Province for all of the debt to be incurred. In light of the spirit of the CFTA and Canada's obligations thereunder, we are alarmed by this new Provincial subsidy.

Third, based on information made available to us, it appears quite certain that if the Saferco plant is completed and brought on-stream, it will have a serious and negative impact on U.S. producers of nitrogen fertilizers. The plant's enormous production will necessarily enter the U.S. market and/or displace into the U.S. other Canadian production which currently serves Saskatchewan. Industry experts predict that the large increase in supply will severely depress prices.

We have been assured that the U.S. industry will not hesitate to fully utilize all available legal remedies to address the effects of the unfair trade that are certain to result from this project. However, given the serious issues raised from an environmental as well as a fair trade standpoint, it would be most beneficial to all concerned if the matter could be addressed before the need arises for the pursuit of unfair trade litigation.

We would greatly appreciate your assistance in looking into this matter and providing to us, under the terms of 19 U.S.C. S 2418, with information concerning this plant and the involvement of the Province in the project. We have enclosed some information about the plant that may be of interest to you. Given the commitment of both the U.S. and Canada to a clean and healthy environment and to free and fair trade, the U.S. should not be silent as a major Canadian project is undertaken without concern for either.

We look forward to hearing from you shortly.

Sincerely,

Thomas A. Daschle, Thad Cochran, Alan J. Dixon, David Pryor, David L. Boren, James A. McClure, Trent Lott, Steve Symms.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CLEAN AIR ACT AMENDMENTS OF 1989

The PRESIDING OFFICER. The Senate will resume consideration of the pending business, S. 1630, which the clerk will now report.

The legislative clerk read as follows:

A bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

The Senate resumed consideration of the bill.

Pending: (1) Mitchell amendment No. 1293, in the nature of a substitute.

(2) Baucus amendment No. 1307 (to amendment No. 1293), to grant Administrator authority to authorize limited production of halons after the year 2000 if necessary for aviation safety purposes.

(3) Wirth/Armstrong amendment No. 1313 (to amendment No. 1293), to establish guidelines for alternative work schedules for Federal agencies within nonattainment areas.

(4) Byrd further modified amendment No. 1329 (to amendment No. 1293), to provide benefits for terminated coal mine workers.

Mr. BAUCUS. Mr. President, under a unanimous-consent agreement the Senate is now ready to receive the amendment to be offered by Senator NICKLES from Oklahoma. This will be a permit enforcement amendment. It will be an amendment which the managers of the bill will oppose. The degree of our opposition will depend in part on the provisions of the amendment. We have not yet seen the amendment. We however know the subject of the amendment. According to the latest version that we saw, we not only oppose the amendment but oppose it strenuously.

We are however at this point waiting until Senator NICKLES or Senator HEFLIN are ready to offer their amendment. Under the unanimous-consent agreement the Senate will be debating the amendment for 4 hours today. But pending the arrival of Senator NICKLES, who will then offer the permitting amendment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I am advised by the Senator from Oklahoma [Mr. NICKLES] who is about to come to the floor to offer his amendment, that he is agreeable to a time on the nickles amendment to begin running at 1:15 this afternoon. I am advised he is also agreeable that any time during a quorum call this afternoon pending the Nickles amendment be equally divided between the managers of the bill and Senator NICKLES.

Accordingly, Mr. President, I ask unanimous consent that the time on the Nickles amendment be deemed to have started running at 1:15 this afternoon and that any quorum calls which might be called this afternoon pending the Nickles amendment be such that the time be charged equally to both sides.

Mr. CHAFEE. Mr. President, let me just say this: I would prefer, if that was proposed, that the time be equally divided during the first hour of the quorum call; that is, the time be equally divided from 1:15 on to 2:15 p.m. Then I would like to take another look at it. Because we could get into a situation, Mr. President, where the proponents of the amendment, through problems and so forth, might not come to the floor until very late and therefore we would have little time to present our argument.

Mr. BAUCUS. Mr. President, that is fine with me, although, if the proponents of the amendment wait that long, they will have that much less time themselves to offer or describe their amendment. But that is fine with me.

Mr. President, I ask unanimous consent that the time of the Nickles amendment begin to run at 1:15 p.m. today, and the time of the quorum call be equally divided until the time of 2:15 p.m.

If the quorum call is still in progress at 2:15 p.m., I ask unanimous consent the time from 2:15 p.m. on be charged against the proponents of the amendment.

The PRESIDING OFFICER. The Chair is uncertain as to whether the last portion of the unanimous-consent agreement is still pending.

Mr. BAUCUS. Mr. President, I will revise my request. I ask unanimous consent that the time on the Nickles amendment be deemed to have commenced at 1:15 p.m., and that from the hour of 1:15 to 2:15 p.m., the time during the quorum call be equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CHAFEE. Then, Mr. President, it is understood at 2:15 p.m. we will revisit it and determine how the division will go thereafter.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1373 TO AMENDMENT NO. 1293

(Purpose: To insert a new title V and VI)

Mr. NICKLES. Mr. President, I will be discussing probably for 20, maybe 30 minutes, the so-called Nickles-Heflin-Dole, and others, amendment. I think we have about 15 cosponsors. I appreciate their support of this amendment. The amendment deals with permitting and enforcement. It is close to the same amendment that has been discussed in the quarters for a couple of weeks. It is basically a substitute for titles V and VI that is in the committee proposal before us. I say it is a substitute. It is at the administration's request. It was developed in close cooperation with the President and the Environmental Protection Agency and also the Department of Justice. It is at their request that I am bringing forth this amendment.

The reason we are bringing forth this amendment is because, if we do not change the permitting and enforcement sections under the present bill, we are going to have permitting that will not work in many cases, and we are going to have enforcement that will bog down the courts. We will be penalizing a lot of people and asking EPA attorneys to be defending themselves instead of really cleaning up the environment. It is important we make these changes.

These amendments that we are talking about are complicated. They are not easy. I apologize to my colleagues for the complicated nature of this section. This is not a section that was agreed to in the so-called leadership compromise. I was involved. I was fortunate, or unfortunate, whatever the case, to be one of the participants who negotiated in the long, late hours. I see the Senator from Montana. I compliment him and my colleague, Senator CHAFEE, from Rhode Island, because they spent unbelievably long hours in trying to hammer out a compromise. In many cases, I think they made significant improvements over S. 1630 as originally passed. They worked hard, and I compliment them for that. Very seldom have we seen pieces of legislation that are so difficult to hammer out a compromise. They worked, not only putting in long hours, but they are very committed and came up with the leadership package.

My comment is that the section dealing with permitting and enforcement is not part of the leadership package. It was never really negotiated. We did not get to it. We spent a lot of time on the other sections, on mobile sources, on stationary sources, and on areas of nonattainment. We never really got into permitting and enforcement. I raised the issue once or twice. I said, we have a problem with the permitting and enforcement titles, it needs to be addressed, and everyone agreed we would get to it, and we never did. So it was never part of the leadership agreement. As a matter of fact, this amendment I am offering is not only on behalf of myself and Senator HEFLIN but also on behalf of Senator DOLE and many others, who I think are supportive of the clean air bill before us, but they want to see a bill that will work.

Mr. President, if the permitting section of the bill does not work and if the enforcement section of the bill does not work, we have a problem. We have a bill that will make it very difficult for people to know what to do, how to comply, and what the penalties are if they do not comply. I really think our goal is to clean the environment. If that is the case, and I support that goal 100 percent, then we need to have a permitting and enforcement section that will work. That is really what our amendment does. I say "our" amendment. I am talking about the amendment I will soon be sending to the desk.

I also would like to ask Senator BAUCUS—I heard him say earlier he did not have a copy of the amendment. I am assuming he has copies of the amendment. My staff will get both Senators a copy of the amendment. I understood that they already had a copy. I was surprised to hear that statement. We will get the Senators a copy of the amendment.

I also want to compliment staffs. They worked hard this weekend. I thought a lot of significant changes were made. Senator CHAFEE brought up last week some concerns about the shield provision. I think significant changes were made in the shield provisions to accommodate the Senator's concerns. Changes were made trying to accommodate legitimate concerns raised by others, and we made other changes as well. Working with the committee staff, it was my hope or expectation that many of the concerns would be solved and maybe we would have a bipartisan leadership substitute, as far as permitting and enforcement. I heard Senator BAUCUS say that was not the case. If that is not the case, maybe once he finds out what is actually in our amendment today, he will change his mind. I hope that is the case.

Let me go through this very complicated, tedious, and detailed amendment. It is several pages. I apologize to my colleagues for the length of it, but I want to explain the amendment. It is also important for the record that we get the information down.

I also might mention to Senator BAUCUS and Senator CHAFEE, I would have been here at 1 o'clock; however, we wanted to incorporate the changes that were negotiated this week because I think they are improvements over the original Nickles-Heflin-Dole amendment, but they were suggestions that were made by committee staff. We are trying to come up with the best language that we can. There are also changes that the administration and others felt would make a better bill, to provide for greater environmental protection, and still be workable. Again, I use that word "workable," and I am going to use it many times today, but for a permitting section or an enforcement section, it is vital that is workable, not just have a stated goal, but actually have the ability to work, where people who are manufacturers, people who are regulators will know how the system is going to work. This is a more streamlined approach. In my opinion, it is certainly a much more efficient and much more effective approach. Again, these are changes that the administration is requesting.

The original permitting and enforcement sections we had in S. 1630 were the administration's with some changes by committee staff. Now the administration, both the Department of Justice and the Environmental Protection Agency, have had some time to review their initial recommendations. They have decided that some changes were called for. So it is at their request that we are coming forward with this amendment.

Our amendment does two things: One, it deals with permitting. It retains the goals and the basic structure of the permit program originally developed by EPA and modeled after the Clean Water Act. It streamlines the process for obtaining a permit and brings the overall program even closer to the procedural efficiencies learned through the administration of the Clean Water Act. It also significantly enhances the abilities to enforce the Clean Air Act.

Two, enforcement: It creates strong criminal penalties and opportunities for citizen suits. It incorporates Department of Justice revisions to ensure that the enforcement provisions are constitutional and provide the fullest possible degree of due process and fairness to all parties involved. It also provides the best possible administrative and judicial review, taking due account of EPA's administrative expertise and requirements for uniform law development, while providing the courts with the best possible record to review.

Our amendment provides safeguards for operational efficiencies, strong built-in environmental safeguards, regulatory flexibility, cooperative federalism and consistency with the Administrative Procedures Act. A vote for our amendment is a vote for strong environmental protection and good government.

The leadership package, and I have alluded to this to some extent, but there has been some confusion about whether permitting and enforcement are part of the leadership package. I would like to clear that up once and for all. The leadership package was negotiated over many weeks by more than 15 Senators as well as representatives from the White House and EPA. By specific agreement with the parties, the leadership package does not include anything on permitting and enforcement. Unfortunately, I heard other people incorrectly state that the amendment before us has been labeled as part of the leadership package. This is just not the case.

Amendment 1293, the so-called Baucus-Chafee amendment, includes changes to the leadership package which were never discussed or agreed to by the parties. It also includes new provisions on permitting and enforcement spread through several of the bill's titles that were neither discussed nor agreed to by the leadership group. Further, they were never discussed and voted on by the Committee on Environment and Public Works. All these changes were developed by committee staff. The floor managers of the leadership package are not and should not be bound to support anything in titles V and VI of amendment 1293.

In fact, there are serious administrative and constitutional problems with titles V and VI of amendment 1293.

PERMITTING

Baucus-Chafee would create an extremely complex, burdensome, and unworkable permit system. It would keep small and large businesses alike in a permanent state of permit application, never knowing from day to day whether their permit would be changed—not to correct a serious environmental problem—but to respond to some bureaucratic whim.

Every permit decision—no matter how straightforward—would be subject to second guessing by EPA. This is exactly what happened with the permit program developed by the original Clean Water Act. This is the program duplicated by Baucus-Chafee. In the case of Clean Air, there will be thousands more sources needing permits than were required under the Water Act.

In contrast, Nickles-Heflin-Dole incorporates the efficiencies that EPA and the States learned the hard way through implementing the Clean Water Act. In addition, we specifically incorporate strong environmental safeguards—literally fail-safe mechanisms—to ensure the Government's ability to enforce both while the permit application is pending as well as after the permit is issued. For example, one mechanism will allow any permit to be reopened if a material mistake in the permit is found, or if a change is needed to meet any new requirement protecting public health.

ENFORCEMENT

The enforcement program in the Nickles-Heflin-Dole amendment is fairer to ordinary working men and women, small businesses and the regulated community in general.

For example, under amendment 1293 a small business owner could go to jail if he omitted information he believes to be insignificant from this permit application. This, in the face of new and complex permit requirements, is unconscionable. In addition, 1293 would allow citizen suits to be abusively used to challenge expert EPA and State determinations which are well within their administrative discretion. Such citizen suits could be used by competitors to delay legitimate actions by other businesses. Nickles-Heflin-Dole corrects these abuses by bringing the enforcement and citizen suit provisions in line with the other major environmental statutes and the Administrative Procedures Act.

The bottom line question on Clean Air Permitting and Enforcement is whether this distinguished body wants to enact legislation that will actually work and actually result in clean air. A vote for Nickles-Heflin-Dole will do this.

Do we want a bill that is so complex in its permitting requirements that we will have to substantially increase the size of the EPA and every State environmental agency? Or do we want a bill that cleans the air but does not pollute the Federal and State budget with unnecessary and wasteful paper-shuffling?

Do we want a bill that confuses industry's ability to comply with requirements that carry heavy criminal penalties? Or do we want a bill that is clear in its requirements and is consistent with basic notions of fairness, the Constitution and our other environmental laws?

Do we want a bill that says to the States: You issue the permits according to EPA-approved plans, but if EPA does not like any permit you have issued—for any reason, no matter how trivial—EPA can veto it, putting that source in noncompliance, and sending its managers to jail? Or do we want a bill that gives EPA strong statutory authority to oversee each State's permitting program and intervene when material issues arise.

Do we want a bill that threatens penalties for orders without a full opportunity to challenge the orders? Or do we want a bill that provides for a swift but reasonable review of Administrative Orders?

I urge your support of the Nickles-Heflin-Dole amendment. If the Baucus-Chafee amendment is enacted into law, it would create an extremely complex, burdensome, and unworkable permit system—and an enforcement regime that is unfair to decent, hard-working business owners. Nickles-Heflin-Dole will enhance and streamline administration of Clean Air Act requirements, while maintaining strong environmental safeguards negotiated in the original Mitchell-Dole-administration package.

PERMITS

The permitting system proposed by amendment 1283 would keep owners and operators of small and large businesses alike in a permanent state of permit application; they would never know from day to day whether their permit would be reopened, and if their entire operation or compliance program would be subject to renegotiation and change. This kind of stop-and-start situation can only create chaos. It does not make sense for the environment, the economy, or the job stability of our citizens.

Nickles-Heflin-Dole is supported by the administration and will provide EPA with strong authority and tools to change a permit any time there is a serious risk of danger to public health. Importantly, this will be accomplished by providing certainty and predictability to the permit holder so they will know—once they have their permit in hand—what needs to be done and when. With the certainty brought about by this knowledge, sources will be able to make needed investments and raise the money for these changes in the most efficient way possible. This can only be accomplished if—once they embark on their compliance program—sources are able to continue without daily fear that their objectives and their procedures will be constantly changed.

COSTS OF PERMIT APPLICATIONS

This certainty and predictability is especially important for small- to medium-size businesses. Many small companies will not have access to sufficient capital to obtain emissions inventories and other data prior to start-up.

For example, based upon a Texas Air Control Board document, the National Association of Manufacturers' compiled cost estimates for administrative costs to facilities obtaining permits. For small sources emitting a single pollutant, simple mathematical modeling and no complications, a permit application would cost $2,000 to $5,000. For small to medium sources emitting multiple pollutants and facing technology issues and full modeling requirements, the cost is about $15,000. In addition, sampling and monitoring tests cost, for a simple stack with just one pollutant, $5,000. For a major stack with multiple pollutants, the cost per stack is $20,000. If there is a need for technical support for a public hearing, costs up to $20,000 could easily be added; if there are any complications in terms of technological requirements or ozone requirements, costs could go up to $50,000.

This means that the cost of a permit application for a small- to medium-sized business could range from $2,000 to $15,000, or from $30,000 to $85,000. No bank is going to lend that kind of money without some sense of the true extent and nature of the financial requirements involved. Simply put, small companies which use or manufacture chemicals aren't going to be able to get the money needed for environmental compliance unless they can tell a bank with certainty how much money they need to comply with the permit, and in what timeframe.

Suffice it to say, the cost of compliance for permits for small business is enormous, thousands and thousands of dollars. And there are going to be thousands and thousands of permits required under this legislation.

For crying out loud, let us streamline the system. Let us simplify the system. Let us make it workable. Let us make it efficient. Let us help clean up the air instead of helping attorneys file cases and, I am going to say extenuate and complicate the legal system and the legal problems. Let us do something besides generate legal fees. Let us help clean up the air.

Our businesses need to know what is required of them and when, once and for all, so they can make the necessary financial decisions and do what they need to do without constant fear of the permit being reopened to dot an "i" or cross a "t". Nickles-Heflin-Dole will provide this certainty, while still protecting, public health.

PERMIT PROCESSING PROBLEMS

The permitting process should proceed as smoothly and as quickly as possible. Permits, however, are complex, and it takes time to process them even when all the information required is included on the initial application. It is common for an applicant to spend 6 to 12 months just preparing an application. This is under current law for a State permit. For major sources, this can be up to 30 months.

A quick turn-around to issue the actual permit varies between 3 months for a simple, uncomplicated permit to several years for complex ones. Of course, if an application is incomplete or the reviewing authority needs clarifying information, then the review process will be further extended until all relevant information has been received.

States such as Louisiana are already encountering problems with the existing permit system for new sources because of factors such as:

The time required for EPA review and EPA changes in State decisions; and

Permitting changes reflecting new directives, as well as regulations from State and Federal officials.

The inadequate number of and high turnover for permit writers, due to poor salaries;

The applicant, in good faith, inadequately answering requests for additional technical information;

A delay in obtaining required data from the applicant because certain test and industrial processes must be scientifically evaluated; and

Long and frequently extended public comment periods.

In one State, in just 1 year, the air permits increased by 25 percent—from an existing total of about 350 operating permits to almost 500. This is just under the existing State program, and does not begin to reflect the thousands of permit applications and requests for modification which will be triggered in the new permit requirements contemplated by amendment No. 1293. In fact, these problems will only be exacerbated by the permitting program in 1293.

NICKLES-HEFLIN-DOLE PERMIT PROGRAM

Nickles-Heflin-Dole retains the goals and basic structure of the permit program as originally developed by EPA, and goes two big steps further:

First, Nickles-Heflin-Dole incorporates the efficiencies that EPA and the States learned the hard way through implementing the Clean Water Act; and

Second, we specifically incorporate strong environmental safeguards—literally fail-safe mechanisms—to ensure the Government's ability to enforce both while the permit application is pending as well as after the permit is issued.

It might be helpful to give you a rundown of the principles behind the Nickles-Heflin-Dole permitting title. In the first place, we believe that the Government has an affirmative responsibility to do its job right, particularly in light of the environmental impact of its decisions. Second, the Government has no excuse for not doing its job right, particularly in light of the new permit fee system which will fund its efforts. However, in the event that Government makes a material mistake or badly implements a requirement which will affect the environment, there should be an environmental fail-safe mechanism to see that any harm is minimized and addressed as soon as possible.

On the other hand, businesses have a right to know what is required of them, and in what period of time—and, they have an affirmative responsibility to submit a timely and complete permit application and to comply with the terms of their permit. The environment will only benefit if, once people know what is required of them, they are allowed to proceed to implement without unnecessary changes in the rules of the game.

Our permitting program will accomplish this by incorporating the efficiencies learned by EPA and the States in implementing the Clean Water Act permits. In addition, we have developed strong environmental fail-safe mechanisms to ensure that the need for good Government will never be out of balance with our demand for clean air.

Nickles-Heflin-Dole provides a system of procedures and environmental safeguards to ensure the Government's ability to take strong enforcement action both while the permit application is pending and after the permit is issued. At the same time, we provide a balance between safeguarding the policing roles of the permitting authority, citizen and environmental groups while allowing for stability and certainty in the permitting process for regulated sources.

Let me give you a thumbnail description as to how our permit system will work. There are two types of permits: modifying and codifying.

A codifying permit does not change any requirement of applicable implementation plans or Federal regulations or standards. It simply codifies such requirements or regulations.

A modifying permit is one that does change applicable requirements.

Under our amendment, the Government will have every opportunity—both time and resources—to do whatever is needed to be certain that the permit is in compliance with existing requirements of the act. There is no arbitrary time pressure on the state's authority to issue permits before they are ready. There will be no extraordinary economic pressures from sources on the permitting authority to prematurely issue a permit, because the source is still able to operate while a completed permit application is pending. The permit fees paid by industry will fund the State program.

ENVIRONMENTAL SAFEGUARDS

The regulated source needs certainty as to what is required and in what time frame in order to do what is needed to comply. However, this need for certainty must be balanced by the need to vigilantly protect our environment. Our amendment addresses this issue through a carefully designed system of checks and balances.

To give business some certainty, and to keep from shutting down our industry while hundreds of thousands of permits are pending, Nickles-Heflin-Dole provides that once an existing source has submitted a complete permit application, it may continue to operate. Also, our amendment provides that after the permit is issued, a source in compliance with its permit is considered in compliance with all Clean Air Act requirements addressed in the permit and existing at the time the permit was issued.

However, these certainties are held in check by built-in environmental safeguards which allow EPA and the States to take strong and aggressive enforcement action both while the permit application is pending and after the permit is issued; to allow the public to initiate citizen suits to keep EPA and the States on their toes; and to provide full public review—literally a fish bowl—of the pending permit application and the proposed permit.

Therefore, our amendment has built-in environmental safeguards to:

First, ensure that the State does its job well; and

Second, protect the environment by allowing for public scrutiny and enforcement.

While a complete permit application is pending, the so-called permit application "shield" in our amendment will not protect a source from action to enforce the existing SIP or any applicable Federal standards. Even when a permit is issued, the permit "shield" does not extend to any emergency situation. The States, EPA, and the public—through citizen suits—will have the full force of law to take aggressive action when any source violates the law.

In addition, Nickles-Heflin-Dole requires the permit application and the proposed permit to be published and available to all citizens, public interest groups, private entities, and environmental groups. There will be ample time and opportunity for them to raise any questions about requirements applicable to the source. Also, States which could be significantly impacted by emissions from major sources will also have an opportunity to review the permit and to make recommendations about existing requirements applicable to the source. The permitting authority would be required to either adopt these recommendations or to publicly address and defend why the recommendations were not adopted.

In the case of any permit which either codifies or modifies existing SIP requirements, Nickles-Heflin-Dole also provides fail-safe mechanisms to ensure that all existing important SIP requirements are incorporated into the permit and are enforceable against the source. In the case of any permit which modifies existing requirements, EPA will have full veto authority. Even in the case of a codifying permit, our amendment provides environmental safeguards. In the first place, EPA may determine whether a codifying permit is really making substantive changes and should be classified as a modifying permit instead. In such a case, EPA can veto the permit.

There are other environmental safeguards, too, regarding codifying permits. For example, if there are, say, 21 requirements which are in fact applicable to a source, and the state attempts to issue a permit which only applies 20 of them to the source, and the environmental groups, and the public interest groups, and states affected by the emissions, and EPA are all not doing their jobs and allow this permit to be issued unchallenged. Nickles-Heflin-Dole contains a fail-safe mechanism to be certain that any important requirement, as soon as it is discovered, is indeed incorporated into the permit.

The permit shield can be pierced if there is a material mistake in the permit. Furthermore, if EPA publishes regulations after the permit is issued that would protect against a serious risk to public health, as necessary, any permit can be changed to incorporate the new requirement.

A MODIFICATION TO A PERMIT CAUSED BY A MATERIAL INACCURACY IN THE PERMIT CAN BE CORRECTED WITHOUT LENGTHY DELAYS

Additionally, this amendment requires the permitting authority to "have and exercise authority to * * * terminate, modify or revoke and reissue a permit for a material inaccuracy in the permit that renders the permit inconsistent with the Act * * *."

There is no language necessitating a lengthy, complex, or bureaucratic process to correct the mistake.

Since a material mistake would most likely imply an error in calculating an emission limit contained in the State implementation plan [SIP], no procedural delays to correct the mistakes are envisioned since the SIP had itself been subjected to public notice and comment. Since the permit in this case merely makes SIP requirements and emission limits specific to the business source in question, the language of this amendment grants adequate authority to correct a mistake without undue delay.

Further, the Administrator has the authority to promulgate specific procedures to correct material mistakes in the permit, when he promulgates the minimum State permit requirements.

Through these mechanisms, Nickles-Heflin-Dole provides that both the permitting authority and the source take every measure to fulfill the responsibilities under the act, while providing full opportunity for the EPA, affected States, citizen and public interest groups, as well as environmental groups, to perform their traditional policing function; while allowing the EPA to enforce and initiate emergency

actions against the source; while allowing EPA to change any permit to correct for major mistakes or misapplication of the law by the State, and while allowing EPA to protect against serious risks to public health.

Nickles-Helfin-Dole would create a workable but environmentally strong permit program.

In concert with these environmental safeguards, our amendment provides some management efficiencies. I will give you just a few examples:

REVIEW OF PERMIT APPLICATION BY EPA

Because of the thousands and thousands of permit applications that will be required to be submitted by amendment 1293, it is critical that multiple permit reviews be minimized. Put another way, since 35 States have already demonstrated their ability to create and manage a permit program in the absence of any Federal requirement, these State officials should be allowed to continue the competent management of their program without unnecessary interference from EPA. This is the way that environmental laws that feature the principle of cooperative federalism are supposed to operate, with the State providing the first line of defense against pollutants, and EPA providing an appellate-type review of the State's decisions.

The Nickles-Heflin-Dole amendment would eliminate EPA review of permits that simply translate requirements of any regulation or standard to a particular source. Basically, this means that there will be EPA review for important substantive matters, but not for those which are straightforward in application. However, at any time, EPA can scrutinize a straightforward permit. If it determines that it does, in reality, make substantive changes, then EPA can treat it as a modifying permit and, if necessary, veto it.

All permit applications and all draft permits will be available for public scrutiny and comment—this means not only EPA, but other States, public interest groups, environmental groups, business competitors, and even Joe Q. Citizen. Under our amendment, all permitting decisions will be made in a fishbowl atmosphere. This will enhance the ability of environmental groups and others to monitor whether States are aggressively enforcing the act with respect to specific sources. Then, through the citizen suit provisions of our amendment, where necessary, the affected public can take aggressive action to correct any real problems.

COMPLETENESS DETERMINATION

It already takes from 6 to 30 months for sources to get a permit under the existing State programs. The Baucus-Chafee amendment 1293 will add an enormous number of new and important requirements. New to EPA, new to the States, and new to the businesses—both small and large—which will have to prepare the permit applications.

Because a permit is essential to lawful operation of business, it is critical that the permitting agency make an early determination as to whether a permit application is complete. It is especially important here, though, because only a source with a complete application will not be in violation of the law. A business which made a good faith permit application which turned out to be incomplete could be subject to penalties.

With such harsh consequences to the individual—as well as the fact that the business cannot operate without the permit—it is only reasonable that the permitting authority carry its responsibility to advise the applicant early on if there is some procedural problem with their permit. Nickles-Heflin-Dole will do this by requiring that a State permit program include a process for making an early determination of permit completeness.

PREFERENCE FOR MODERNIZATION

The Nickles-Heflin-Dole amendment provides that preconstruction permits needed for new sources and modifications to existing sources will receive preference over operating permits required for existing sources. Remember, once an existing source files a timely and complete permit application, it can continue to operate. There will be thousands and thousands of permit applications filed by existing sources. Meanwhile, no new industry can be built unless and until a preconstruction permit is issued.

Our economic growth and competitiveness cannot and must not be stifled because of extraordinary paperwork burdens and permit gridlock. Therefore, under our amendment, the permitting authority will be required to give preference to processing permit applications for new and modified sources. Remember, these sources cannot be built until they receive the preconstruction permits required by law. Also, under the new Clean Air Act requirements, many existing sources may require new construction in order to operate in compliance with the law. New sources which give American industry its competitive edge must not be endangered by this new operating permit program. Under amendment 1293, they will be endangered. Under Nickles-Heflin-Dole, they will not.

OPERATIONAL FLEXIBILITY FOR BUSINESS

Our amendment provides critical operational flexibility to small and large businesses to make routine operational changes in facilities, so long as State authorities are notified and actual emissions from the facility do not increase. The types of businesses which particularly need this operational flexibility include small specialty chemical, small manufacturing, electronics, pharmaceutical, and aerospace companies. These companies frequently change manufacturing materials, and are constantly responding to market pressures to make many different products on a quick turnaround business. A 30-day delay in getting a permit for a new batch process could literally result in lost business and could cause shutdown for small companies.

In providing this reasonable flexibility, our amendment, again, contains a built-in environmental safeguard. Sources must provide the State and EPA, at the time of permit application, with a list of all materials used in the plant and overall emissions cannot increase in order for a source to be able to use the streamlined notification procedures in the amendments. Companies need to have the continued flexibility they have today, with the added limitations provided in this amendment, to meet market demands without undue governmental intervention.

Under our amendment, overall Clean Air Act controls on the plant will not change as a result of changes in ingredients and products, since the plant permit will specify the types of materials that can be used by the company and the relevant environmental controls. Furthermore, no increases in actual emissions from the entire facility are allowed. Therefore, there will be no lawful opportunity for different, unanticipated, or unregulated health effects from increased emissions.

ENFORCEMENT

To protect our environment and to punish those who would act with reckless disregard for the environment, we do need to strengthen the enforcement provisions of the Clean Air Act. And our bill does that. The enforcement provisions in amendment 1293, however, go too far.

Nickles-Heflin-Dole would create strong punishments for environmental violations. Nickles-Heflin-Dole does this by making clear the circumstances which would trigger criminal liability, and by making provisions consistent with the Administrative Procedures Act and with the basic procedures and defenses of current environmental laws such as the Clean Water Act. We are doing this at the request of the Department of Justice.

A few examples will make my point.

RECORDKEEPING PENALTIES

Amendment No. 1293 would make criminal the failure to maintain or file documents, whether or not those documents are important. For example, a small business owner could go to jail for failure to maintain any permit application, any record, any notice, any report, any plan, or any other document required to be filed with EPA or used for purposes of compliance by EPA or the State, whether or not the document was material. This, in the

face of new, multiple, and complex requirements, creates an uncomfortable situation.

Our amendment corrects this unconscionable situation by providing for criminal penalties only where an omission or failure to maintain or file a document is material. In a case like this, under our amendment, aggressive enforcement can and should be taken.

It is not fair to put our business owners in jeopardy of going to jail when they are complying with applicable Clean Air Act mandates. It not only doesn't make good sense, it is lousy public policy.

The Nickles-Heflin-Dole amendment would address this fundamental unfairness by providing a defense for any source that was in compliance with relevant Federal standards under the Clean Air Act which are governing the source's emissions. In this way, EPA will be able to bring a criminal action for releases that are inconsistent with emissions it is already regulating by permit or rule or order.

CITIZEN SUITS

The citizen suit provisions in our amendment provide citizens with the same full and fair array of opportunities to challenge EPA's actions and to bring enforcement suits which are available under other environmental laws and the Administrative Procedures Act. The Baucus-Chafee amendment, however, contains extra provisions that would divert EPA from its mission to protect the environment by bogging down the agency and the courts with excessive litigation. These same provisions would also delay the administration of the program and the attainment of the goals of the act, through a proliferation of suits second guessing EPA's priorities in an effort to force EPA to take actions which are not, by law, mandatory.

Under Baucus-Chafee, anybody—a public interest group, a private citizen, or a competing industry—could force EPA at any time to defend against claims that it should be doing something other than what it is already done. EPA would be put in the position of spending its scarce time and resources defending its managerial decisions in court instead of protecting the environment. This is an unconscionable waste of the taxpayer's money and does nothing to clean our air. Moreover, the citizen suit provisions of the Baucus-Chafee amendment raise serious constitutional concerns by weakening the Government's ability to intervene in citizen suits for civil penalties and permitting suits for wholly past, nonrecurring violations.

To summarize, the Nickles-Heflin-Dole amendment does two things:

First, it retains the basic concept and structure of the permit program created by Baucus-Chafee, but streamlines the process for obtaining a permit, while creating strong environmental fail-safe mechanisms; and

Second, it retains the new crimes and strong civil, criminal, and administrative penalties of the enforcement scheme created by the original administration bill and Baucus-Chafee, but does it in a way that is fairer and more sensitive to the needs of small business and the regulated community in general.

Third, it retains and expands appropriate citizen suit authorities, but does so in a way that will preserve EPA's ability to set priorities and run its program, and without undermining longstanding principles of constitutional law.

The Nickles-Heflin-Dole amendment is supported by the Environmental Protection Agency, the Department of Justice, and the President. It is a sensible means of providing strong protection to the environment, while maintaining the basic tenets of fairness of our judicial system and some efficiency in our operations. A vote for Nickles-Heflin-Dole is a vote for strong environmental protection, a health economy, and good government. I urge your support of our amendment.

Mr. President, I ask unanimous consent that statements in support of the amendment from the EPA, U.S. Chamber of Commerce, and National Association of Manufacturers be printed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, March 15, 1990.

Note to: Environmental Legislative Assistant.

The Senate will consider next week the Nickles/Heflin/Dole Amendment to the Clean Air Bill. This Amendment which would make changes to the permitting and enforcement provisions of S. 1630 has the full support of the Administration and EPA. Attached for your review is a document which explains the rationale for these comparatively modest amendments. In addition, please feel free to contact the Members' offices mentioned above if you have any questions. Staff from EPA, the Department of Justice, and the White House are also available to brief you and your Senator at your convenience. I can also be reached at 382-5200 if you need further assistance.

Sincerely,

PATRICK H. QUINN,
Associate Administrator.

SUMMARY OF THE ADMINISTRATION'S OPERATING PERMITS PROGRAM

The Administration has proposed a program to require major sources of air pollution to obtain an operating permit that spells out their pollution control obligations. The following are the key features of this program:

PURPOSE

Improve enforceability by requiring all of a source's pollution control obligations to be contained in one, publicly available document.

Improve the way a source's pollution control obligations may be revised by replacing the cumbersome and time-consuming SIP revision process with an expedited permit revision process.

KEY PROVISIONS

Within 3 years after enactment, States must develop operating permit programs for submission to EPA for approval.

Permit program must cover major sources of pollutants, as well as sources covered by air toxics regulations, NSPS regulations, and acid deposition requirements.

After EPA approves the State program, sources must submit permit applications to the State. EPA and the State must develop a schedule for sources to submit these applications over a 30-month period, with 12-month extensions possible, in order to avoid backlogs.

The State must issue permits for a term of one to five years. Permits must include all Clean Air Act requirements applicable to the source, as well as applicable monitoring and reporting requirements.

Sources must pay permit fees to cover the costs of the permitting program.

Permits that simply codify the SIP or other applicable requirements ("codifying" permits) are not subject to EPA or federal judicial review. Permits that change the SIP ("modifying" permits) are subject to EPA review, and possibly to a veto.

Citizens groups may sue in Federal court if EPA fails to veto a "modifying" permit.

Once issued, the permit replaces the otherwise applicable requirements (the "shield"), but EPA can require that the permit be reopened if a material mistake was made, or if a new regulation is issued and reopening is necessary to protect against a serious risk to public health.

Provisions to allow sources with predictable fluctuations in operating practices to change production operations without having to get a revised permit.

U.S. CHAMBER OF COMMERCE,
Washington, DC, March 19, 1990.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: The U.S. Chamber of Commerce urges you to support the amendment to be offered by Senators Nickles, Heflin, and Dole to the permitting and enforcement titles of S. 1630, the Clean Air Act Amendments.

The bill, as reported by the Senate Committee on Environment and Public Works, establishes a new and extensive permitting program for all sources of air emissions in the country, including several thousand small businesses, and broadens enforcement authority for the Environmental Protection Agency (EPA).

This new, two-level permit program duplicates existing state permit programs and requires sequential approval by the state and the EPA of each permit application filed by every source covered under S. 1630. Potentially all small businesses—dry cleaners, service stations, bakeries—would have to obtain a permit. Their applications would have to contain emissions monitoring data and compliance plans. Providing such information would be virtually impossible for small businesses, which do not have the in-house personnel to prepare the material, and processing it would create a bureaucratic logjam.

The Nickles-Heflin-Dole amendment streamlines the permit process and ensures

compliance with all applicable requirements. The thousands of small businesses that would be regulated for the first time under S. 1630 still would have to demonstrate compliance with emissions standards and pay applicable fees but would not have to install continuous monitors, acquire in-house expertise, or hire engineering and planning consultants to prepare elaborate compliance plans.

The Chamber urges you to support the Nickles-Heflin-Dole amendment.

Sincerely,

DONALD J. KORES.

[From the National Association of Manufacturers, Washington, DC.]

SUPPORT THE NICKLES-HEFLIN-DOLE AMENDMENT TO TITLE V OF S. 1630, THE PERMITTING AMENDMENT TO THE CLEAN AIR ACT

S. 1630, as reported from the Environment and Public Works Committee, contains a permitting process which is complicated and confusing. Through a streamlined approach, the Nickles-Heflin-Dole amendment facilitates the process, which would actually increase compliance. This amendment provides for the gathering of fees and eases the collection of air emissions data by allowing for reasonable record-keeping requirements.

The Nickles-Heflin-Dole amendment would: streamline the permit approval/disapproval process; collect fees to pay for state agency inspection; monitoring costs, and enforcement; ensure compliance with all existing applicable requirements.

The Nickles-Heflin-Dole amendment also protects small manufacturers from having to spend between $50,000 and $250,000 to conduct sophisticated and continuous in-house computer monitoring.

The Nickles-Heflin-Dole amendment also allows companies to make modifications and to modernize their facilities expeditiously while in compliance with emerging regulations.

Of NAM's 13,500 member companies, 9,000 are small manufacturers which employ 500 or fewer employees. In the last decade, more than 80 percent of all new manufacturing jobs were created by small business.

Join your colleagues in supporting the Nickles-Heflin-Dole amendment and in keeping small business competitive in the 1990s.

The White House has pledged support for the Nickles-Heflin-Dole amendment as have over 100 business organizations and companies.

Mr. BAUCUS. Mr. President, I ask the Senator from Oklahoma when he is going to introduce his amendment. It would be very helpful to the managers of the bill if he will do so.

Mr. NICKLES. Mr. President, I send an amendment to the desk on behalf of myself, Senator HEFLIN, Senator DOLE, Senator NUNN, Senator MCCLURE, Senator MCCONNELL, Senator SIMPSON, Senator BOREN, Senator COCHRAN, Senator BOSCHWITZ, Senator SYMMS, Senator MURKOWSKI, Senator ARMSTRONG, Senator FORD, and Senator SHELBY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. HEFLIN, Mr. DOLE, Mr. NUNN, Mr. MCCLURE, Mr. MCCONNELL, Mr. SIMPSON, Mr. BOREN, Mr. COCHRAN, Mr. BOSCHWITZ, Mr. SYMMS, Mr. MURKOWSKI, Mr. ARMSTRONG, Mr. FORD, and Mr. SHELBY, proposes an amendment numbered 1373.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment, is printed in today's RECORD under "Amendments Submitted.")

Mr. BAUCUS. Mr. President, I thank the Senator for his amendment. We have the amendment now so the Senators will know the content. I see Senator HEFLIN on the floor, a primary sponsor of the amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise today as a cosponsor of the amendment which I think will improve the workability and the fairness of the permitting and the enforcement process for all parties concerned.

I became interested in this when I found out that after a decision had been made by the EPA, or a proposed decision was to be made that might call upon individuals of businesses to spend millions of dollars, in the hearing to determine the fairness and the correctness of this decision, that the individual would not be allowed the right of cross-examination.

I was amazed at the fact that the administrative hearing process did not comply with the Administrative Procedures Act, which, over the years, had been developed on the basis of fairness to the Government, fairness to all parties concerned, and that a hearing officer under the proposed Baucus-Chafee amendment, which is before us, could be held by a person who, the day before, might be prosecuting you. I think that administrative hearings ought to be uniform, and that basic fairness should prevail. That is the reason that the Administrative Procedures Act was carefully studied and developed over the years.

We have here an administrative hearing process that does not comply with the Administrative Procedures Act, but attempts to have an abbreviated right of hearing, and in my judgment, result in abbreviated fairness.

Many people over the years have felt so strongly about their goals or their cause that they have adopted the attitude that the end justifies any means. And I think that here we have a situation in which the emotion of those that believe in their cause would deprive American citizens of basic fairness. Therefore, I have joined Senator NICKLES and Senator DOLE in endeavoring to bring some basic fairness and uniformity to the administrative hearings and the enforcement proceedings, as is present in other environmental laws, and as is present in other activities in which Government regulates individuals or businesses.

I have looked at the history, and one could say how did this get there, the fact that they omitted the Administrative Procedures Act provisions, and I find that it originally started in the EPA, that there was some rather zealous lawyers that want to win, and want to win at any cost. So they are the ones that drafted this.

Not a lot of attention was given to it, and when it went to the committee again, very little attention was given to it. It is my understanding that in the markup only about 10 minutes was devoted to this. Then the Department of Justice began to look at it and see that it was a change from what is normally put into legislation, pertaining to compliance with the Administrative Procedures Act, that it ought to be changed.

Now the Department of Justice, the administration, and other people have looked at it and they feel that the administrative hearing process ought to comply with the normal Uniform Administrative Procedures Act.

As some of the Members may know, the sponsors of this amendment have endeavored over the weekend with Senators from the Environment Committee to reach an agreement on this issue. In my judgment, the amendment which we are offering today has been changed and now addresses virtually all of the concerns they raised about the first draft of the Nickles-Heflin-Dole amendment.

In my judgment, as a result of these compromise negotiations, the work of the Environmental Protection Agency, and the work of the Department of Justice in drafting the amendment that has been offered today, the Nickles-Heflin-Dole amendment, I believe that this is an extraordinarily sound document which will ensure prompt, continuing compliance with the act.

In the areas where we have not been able to reach an agreement in principle, I believe that the Nickles-Heflin-Dole amendment maintains consistency with other environmental law and is preferable to the committee amendment on this issue.

To illustrate some of the most significant ways in which I believe that the Baucus-Chafee amendment would result in such problems while the Nickles-Heflin-Dole amendment would solve them, I would ask the indulgence of my colleagues as I discuss two provisions in these amendments, those dealing with the administrative hearing procedures and citizen suits.

ADMINISTRATIVE HEARING PROCEDURES

The hearing procedures I am referring to are the hearings which apply when EPA issues an administrative order to a person for a violation of the act. Both the Nickles-Heflin-Dole

amendment and the Baucus-Chafee amendment, which is contained in the substitute amendment 1293, significantly expand EPA is power to issue various types of administrative orders. We are in agreement on the need to expand EPA's administrative order authority. Where we disagree is on the kind of administrative hearing a person is entitled to before one of these orders goes into effect. This is an important issue because compliance with these orders can be difficult and expensive, and there are stiff penalties for each day of noncompliance.

For example, you can review one of these orders, the compliance order, and compare the kind of administrative hearing that a person would get under our amendment and the kind of hearing they would get under amendment 1293.

To issue a compliance order, EPA must find that a person is in violation of a requirement of the act. The order can require the person to install pollution control equipment or take other measures to come into compliance. These measures can take up to 1 year to complete so they can be major undertakings and may require large capital expenditures.

Under both amendments, the ordered recipient is entitled to a hearing before the order goes into effect. But there is a major difference, yes, a major difference in the type of hearing that you would receive. Under our amendment, you are entitled to a formal administrative hearing under the Administrative Procedures Act. That means you get to present you case or defense by oral and/or documentary evidence. You are entitled to cross-examine Government's witnesses. And the case is heard by an administrative law judge. It is not a full trial as we know it in the courts, but it is a formal hearing and it is close to a full trial.

Under amendment 1293, you get only an informal administrative hearing, not subject to the Administrative Procedures Act. You get a "reasonable opportunity to be heard and present evidence." But this may be satisfied by presenting documentary, not oral, evidence. You are not entitled to cross-examine the Government's witnesses. And, perhaps most important of all, your case need not be heard by an administrative law judge. It can be heard by a hearing officer who the previous day may have been a prosecuting official of the EPA and not be a person who is established in the position of being an administrative law judge.

Mr. President, I do not believe that this sounds very fair. If EPA is going to have the authority to make findings of violation and issue these orders requiring people to undertake major compliance actions and spend large sums of money, and if the people who get these orders are going to be subject to penalties of up to $25,000 per day if they violate the order, should we not at least give the person who is getting the order an opportunity to have basic fairness in the hearing process before the order goes into effect?

I firmly believe that the administrative hearing procedures contained in the Nickles-Heflin-Dole amendment will enhance the fairness of the administrative enforcement of the new Clean Air Act and will improve the overall efficiency of the administrative enforcement and judical review process. It will enhance the credibility of the EPA's administrative enforcement process and ensure that the recipients of EPA orders are treated fairly.

CITIZEN SUITS

Another area which demonstrates the manner in which the Nickles-Heflin-Dole amendment improves the workability and the fairness of this bill is the provision dealing with citizen suits and judicial review, specifically, the provisions laying out when and for what reasons citizens can sue EPA.

The Nickles-Heflin-Dole amendment provides citizens with all of the same opportunities to challenge and seek review of agency actions as are provided under other important Federal environmental statutes and under longstanding rules of administrative law governing all Federal agencies.

In contrast, the Baucus-Chafee amendment would vastly expand the jurisdiction of the Federal district courts in Clean Air Act cases and greatly interfere with EPA's ability to implement the act by making three radical and unwarranted changes to existing law:

First, the Baucus-Chafee amendment would give plaintiffs an unprecedented new power to use litigation to compel EPA to take action, even where the act does not require EPA to take such action. Plaintiffs in these citizen suits would be exempted from the standard judicial review process that applies under other environmental laws. They would not have to present their request for discretionary action to the agency, EPA, first, and then seek judicial review in a court of appeals if they were dissatisfied with EPA's response. Instead, they could go straight to the district court, and the district court would have the power to order EPA to take actions that Congress has expressly entrusted to EPA's discretion. In other words, you will have really a court making decisions forcing the EPA to take actions where EPA is not required to take such actions.

Second, the Baucus-Chafee amendment would allow any district court in the Nation to compel EPA to take significant actions, such as the promulgation of costly regulations, even where there has been no public notice or comment on the preconditions that trigger the obligation for such action. This would fundamentally change the operation of several provisions of the act. As you know, in several places in the existing Clean Air Act and in this bill, EPA is required to take certain action if, and only if, the administrator finds in his expert judgment that certain statutorily prescribed preconditions are met. Under current law, the way a court determines whether EPA has found these preconditions is publication of the finding in the Federal Register. And the agency determination is the product of open, public notice-and-comment proceedings. The Baucus-Chafee amendment does away with that mechanism. A plaintiff could go straight to district court with flimsy evidence where that evidence could be used to find that the preconditions had been met and EPA could be ordered to initiate a complex new regulatory program, even though there had been no public notice, and no opportunity for public comment, and even though Congress had specified that only the EPA Administrator—not the district court—could make such a finding.

For example, if EPA is required to promulgate a regulation upon finding that a certain substance is harmful, it would be possible under the Baucus-Chafee amendment for a citizens group to require the court to decide whether or not this substance is harmful, based on internal memos and other such information. Mr. President, I see absolutely no reason why we should permit these types of decisions to be made by the courts when we ourselves have chosen not to make such decisions because we believe it is better handled by the experts at EPA.

When you go to court in regards to this, you do not always know who the experts are. They may have a prejudice. It seems to me, in making a determination of whether a substance is harmful, that the regular experts at EPA are much better advised and are better experts in this field than some that might be brought in who do not have an attitude of fairness but are basically very emotional about the issue, and that they themselves would be the ones who would be given the pertinent testimony.

Third, the Baucus-Chafee amendment provides that where EPA in a final decision says that it will defer a regulatory action until some time in the future, any interested person may sue EPA in district court, at any time, to force the Agency to take the action. The plaintiff would not have to seek timely court of appeals review of the Agency's decision to defer the regulatory action, as is required under the current Clean Air Act and all the other major environmental laws. EPA thus would not have an opportunity to

address the merits of the complaint and respond to any legitimate concerns at that time. Instead, the plaintiff could delay raising its claim for as long as it likes, keeping EPA and the public in the dark about the nature of the complaint until the plaintiff raises it in a district court lawsuit.

These three provisions would have a major impact on EPA's ability to implement the Act is intended by Congress. Instead of setting priorities and allocating resources according to congressional directives, orderly rulemaking procedures, and its own best judgment, the Agency will be at the mercy of individual litigants and district court judges all over the country, each with a different agenda. I would also like to remind my colleagues that these individual litigants can be anyone from an environmental group to a big polluter who is unhappy with tough regulations and wants another opportunity to challenger or delay the regulatory process to a business trying to force EPA to take some enforcement or regulatory action against its competitors, so it can gain an advantage in the market.

And that is something that ought to give us concern. I am sure that we think the people who are seeking these citizen suits are going to be people that are interested in the environment. But it may well be an industry's competitor, a competitor who wants to get to a person who is selling at a lower price and who is using safer clean air standards, and therefore to cause EPA to have to force them in some manner to take advantage of what they are doing, and therefore to give an advantage to competitors.

This opens up the gates for much litigation that we do not need.

In effect, the Baucus-Chafee amendment would open the door to all these lawsuits in a manner which is truly unique in Federal administrative law. These lawsuits will divert EPA resources and undercut the Agency's ability to set rational priorities and carry out the task that Congress assigns it. And as a member of the Judiciary Committee, I am also concerned about the kind of additional burden we are putting on the district courts, which are already laboring under enormous backlogs of drug cases and other pressing matters.

In contrast, our amendment—the Nickles-Heflin-Dole amendment—includes the standard array of citizen suit and judicial review provisions that appear in other environmental laws. It is consistent with the Administrative Procedure Act. It gives citizens a full opportunity to petition EPA and to challenge unreasonable agency action. But it does not open the door to the wholesale reordering of the Agency's priorities and resources by individual litigants and the courts.

Mr. President, as it is, EPA is going to be spread pretty thin carrying out all its different responsibilities under this act. It will never be able to carry out the tasks we are now assigning to it if we let every special interest group in the country tie the Agency up in litigation or undercut the credibility of EPA's administrative enforcement process.

These are just two areas of real difference and important between our two amendments and while I do not doubt that the intention of the sponsors of the Chafee-Baucus amendment is to provide for a workable and equitable permitting and enforcement program, I believe that their program would result in delays, unnecessary bureaucracy, outside interventions, and legal inconsistencies, and would also deprive people of basic fairness.

I, therefore, urge my colleagues to support the Nickles-Heflin-Dole amendment.

Mr. BAUCUS. Mr. President, I wonder if I could ask the sponsors of the amendment several questions about their amendment. I say that because there is some confusion as to what is actually in the amendment because this matter has been negotiated for some time.

I would like to first begin by turning to the permit shield matter. An earlier version of the Nickles-Heflin amendment essentially would have allowed a source to be shielded on matters not only covered by the permit, but on matters not covered by the permit so long as those matters are nevertheless covered under the Clean Air Act or covered by this legislation when it is enacted into law.

I understand that there have been various versions of the permit shield.

I would like to ask the sponsor of the amendment if he could tell us the degree to which he has modified the permit shield provision; that is, the degree to which matters not expressly covered by the permit wold nevertheless be shielded.

Mr. NICKLES. I would be happy to answer.

I might inquire of the Chair, I am hoping that my answers will be charged to the time of the Senator from Montana.

Mr. BAUCUS. Fine.

Mr. NICKLES. I appreciate that. I think we have a few additional speakers, and we have used quite a lot of time in our explanation, so I appreciate that.

If I understand the Senator's request, he wants to know how we have changed the shield.

Originally, the permit shield would apply for the duration of the permit unless a regulation was issued that was determined to pose a serious risk to public health, or if their was a material mistake. In both of those cases, the permit could be modified. That was under the original amendment.

We have modified it now at the request of Senator CHAFEE's staff. They have said, "Well, wait a minute. Your shield is too broad. What about if there is a new requirement, a new regulation that comes forth from the EPA?"

So a major change that we have made, I say to the Senator, on the shield deals with new requirements. If EPA comes up with a new regulation, then we say, "yes, if there has been public comment and hearing, then that new regulation would be incorporated in the existing permit."

In other words, that existing permit, would be changed to include whatever new requirements are imposed, as long as the requirement or regulation had been promulgated pursuant to EPA procedures requiring public notice and comment.

Mr. BAUCUS. Let me ask the question this way. As the Senator knows, the acid rain portions of the bill are self-executing; that is by the year 2000, give or take some changes, there can be no more than 8.9 million in allowances. As the Senator knows, that is self-executing; that is a statutory requirement would be in effect beginning in the year 2000.

My question is this: If a utility gets a permit prior to that date, will the utility be allowed to, in effect, break the cap because it will be shielded? That is, because the utility will have already received a permit prior to that date, prior to the year 2000, will the number of tons of emissions that utility will be allowed to emit the number of tons required under the act, as in the law, or will that utility be shielded, that is be able to emit more emissions because, in my hopothetical example, the permit does not expressly cover the number of tons that utility will be allowed to emit?

Mr. NICKLES. To answer the Senator's question, the law would apply and the permit would be so modified. Your question concerning title IV is specifically addressed in our amendment which says that permits issued to utilities must contain language making clear that at all times the source must comply with its allowances.

Mr. BAUCUS. I am sorry?

Mr. NICKLES. I say to the Senator, the law would apply, and the permit would be modified.

Mr. BAUCUS. The Senator stated earlier that the permit shield in his amendment was changed at the request of the committee staff. I say to the Senator, as we read the amendment, those changes are not incorporated.

Let me ask the question a bit differently. Will the Senator state to me any instance, any time, in which a

matter not covered by a permit would be shielded from compliance, enforcement, or other actions that might be taken? Are there any matters not covered by the express terms and conditions of the permit, under the amendment of the Senator, that might be shielded?

Mr. NICKLES. I think, to answer the Senator's question, you would only be talking about new matters that would be purely of a technical or bureaucratic nature.

They would not be shielded if it was an emergency order under section 303; they would not be shielded if it was determined that actual harm to the public health would occur; they would not be shielded if it was a new regulation which had been promulgated pursuant to public notice and comment requirements. So, under any of those circumstances the shield would not apply. With this language, I think that we have accomplished the Senator's objectives, and those of his staff—we have moved our shield efforts to accommodate concerns that he and his staff have raised to make a permit mean something: and to provide the permittee with some assurance that its permit would not be continually remodified on an outgoing basis.

Mr. BAUCUS. Let me follow up on that next point. Under the substitute amendment before the Senate, the permitting authority would have discretion to reopen, to change a permit due to a subsequent event. The permitting authority would have discretion "to reopen to protect public health, welfare, and the environment." That woud be the standard.

Under an earlier version of a Nickles amendment, that permitting authority must find a serious threat to the environment before that permit could be reopened.

Is that language still contained in the present Nickles amendment?

Mr. NICKLES. In the amendment that we have pending before the Senate we put in language that says "actual harm to public health." So we have gone, basically, I am going to say, with the Senator's staff's recommendation in that area.

Mr. BAUCUS. I must say to the Senator, there must be a deep misunderstanding here, because that is not the staff's recommendation, I can say, by any stretch of the imagination.

Mr. NICKLES. I am sorry the Senator is disappointed. Senator CHAFEE brought up this idea of the shield. He said, there was a problem. We negotiated it and it was my understanding we were very close to an agreement on the shield. I am disappointed that evidently that is not the case.

Mr. BAUCUS. I am actually addressing another related matter, and that is under what conditions the permitting authority can or must reopen the permit. Because, as I heard the Senator, he said only when there is an actual harm?

Mr. NICKLES. Let me go through the areas where a permit would be reopened, or where it would be modified.

One, if there is a material mistake. If there is an omission, maybe the permit was not broad enough, maybe it did not include something it should have included. Then it would be so modified and changed.

Two, if, for example, EPA makes a new regulation. There may be a 3-year permit on something, but EPA comes up with a new regulation. If they have had public comment, notice and hearings on that new regulation, then that existing permit would be so modified. It would be changed to include that new regulation.

And, three, EPA would have the authority to open up an existing permit if they determine that there was actual harm to the public health; then they could change that permit. All those things. Basically, what we are saying is the whole idea of the shield is to tell an employer: "Yes, you can operate your plant in this manner and these are the requirements that you must follow." We can change the permit if we determine a mistake was made or if it is determined that actual harm will occur, or if there is a new regulation that comes out from EPA. They could change the permit.

(Mr. KERREY assumed the chair.)

Mr. BAUCUS. I appreciate the Senator's answer. I have a couple of other questions I wish to ask the Senator briefly because I have a number of other Senators who wish to speak.

Under the substituting provision this, once the State's permitting program is approved—that might take 4 to 5 years before that would happen—then that permitting authority—in most cases that would be a State—would have 30 months in which to receive and approve applications. The substitute also provides that States may phase in receipt and issuance in several phases, maybe three phases. The easiest could come first, or the most difficult last, if they wish. Further, the substitute provides States may grant an additional 18 months delay. So theoretically, 30 to 48 months, add that to the 5 years, that could be up to 9 years before a permit would have to be issued and go into effect.

In an earlier version of the Nickles amendment, a State permitting authority, once it received the permitting authority plan, once that was approved by the EPA, could grant 1-year extensions indefinitely. I ask whether that provision, the indefinite 1-year extensions, is in the Nickles amendment.

Mr. NICKLES. I think the Senator would be pleased to note the staff was concerned about that, so under the amendment pending we limited it to 18 months.

Mr. BAUCUS. Could be renewed indefinitely?

Mr. NICKLES. No, we put in a one-time extension limited to 18 months.

Mr. BAUCUS. This is the same as the committee substitute? Eighteen months?

Mr. NICKLES. I am not sure my colleague has an 18-months extension.

Mr. BAUCUS. We have 18 months. Yes.

Mr. NICKLES. I am glad the Senator adopted our idea. The filing requirement needed some kind of flexibility.

Mr. BAUCUS. I appreciate it. Under the cost-benefit analysis under the committee compromise, the EPA may exempt certain sources, consistent with the purposes of the act. That would include agencies that look at various resources and cost, et cetera. The attempt would be to exclude sources like wood stoves or auto body shops, for example.

A earlier version of the Nickles amendment provided the EPA must exempt a class of sources or a source if the cost of issuance of the permit to the agency would outweigh the benefits of the issuance of the permit. Is that in the Nickles amendment?

Mr. NICKLES. The Senator again will be pleased. I think he is again looking at reasons he should support the amendment.

Mr. BAUCUS. Again, the Senator is on my time. My sole reason for asking the question is, as a factual matter, to find out what is in the amendment. That is my sole reason.

Mr. NICKLES. I think we will be pleased because we say EPA should consider cost but also consider effects on public health.

Mr. BAUCUS. So what is the standard now in the present Nickles version?

Mr. NICKLES. The EPA could offer the exemption and look at cost, but they would also consider the protection of the public health, welfare, and the environment.

Mr. BAUCUS. Would the cost be cost to the agency or to the industry?

Mr. NICKLES. To the regulated industry, the economy and yes, even the agency.

Mr. BAUCUS. So the earlier version that would require the agency to look at costs to the agency or to the permitting authority are no longer contained in the Nickles amendment; is that correct?

Mr. NICKLES. No, we include "cost" as well as other factors, including the protection of the environment, welfare, and public health.

Mr. BAUCUS. The question I am asking, are the costs to the agency——

Mr. NICKLES. I do not think we define the cost. The agency would

have to look at the cost to the agency as well as the cost to the sources. I think they include both. We mentioned cost. I do not think we said exclusively to the agency or to the source.

Mr. BAUCUS. I have other questions, but we do not have a lot of time.

Mr. President, I now yield 15 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Thank you, Mr. President. I thank the senior Senator from Montana for yielding the floor and also for his leadership on this bill generally, particularly in opposing this amendment.

Mr. President, I rise in opposition to this amendment on the permits and enforcement sections of S. 1630. In this debate on the Clean Air Act, we have so far, and at some length, I guess we would all agree, focused on the substantive policies that are needed to make the Clean Air Act more effective. It is to protect the health of the American people. But I can say from my experience as the Attorney General from the State of Connecticut, I became aware that having tough laws and regulations in place is really only half the battle. Ensuring that the laws are enforced is the second very critical part of any truly effective system of environmental protection law. That is what we are talking about, and that is why I strongly support the sections of the committee bill, as modified, which deal with permits and enforcement.

Mr. President, these provisions of the committee bill make several critical improvements in current law. First, title V of the bill, which is the permit section itself, imposes a Federal requirement that major sources of air pollution and certain other sources of air pollution, including those sources subject to the acid rain provisions, obtain operating permits. This section is modeled after the permitting provisions of the Clean Water Act.

I am convinced that it will substantially strengthen enforcement of the Clean Air Act. Not only that, but these provisions actually make it easier for those entities, particularly business entities, that have to comply with the law to do so.

Under the Clean Air Act, as it exists now, sources are not required to obtain operating permits. Instead, a source's obligations under the various requirements of the Clean Air Act are scattered throughout the so-called implementation plans and other regulations.

Unlike the Clean Water Act, therefore, there is no one document, no permit which Government regulators can look to in order to determine if this potential polluter is in compliance with the act or actually polluting.

By the same token, a source seeking to change its pollution control requirements cannot simply seek a change in the permit but must go through, under existing law, an enormously cumbersome process of changing a State implementation plan. That is why I think the committee's revisions will improve this system by setting the obligations of the potential pollution source out in one document, and those enforcing this act can then base their proof of violations on the evidence from the permit and the source can seek modifications to the permit to change its pollution obligations.

Second, title VI of the bill fine-tunes the existing Clean Air Act enforcement authorities by combining the strong, yet fair, enforcement and investigatory authorities of other environmental statutes—proven experience—and yet also eliminating the technical impediments to enforcement of the act.

We heard a lot of testimony before our committee on this section of the bill, and I agree with the testimony that came particularly from the State and local air pollution enforcers that the enforcement provisions of the committee bill "would strengthen and streamline the existing program."

Third, title VI of the committee bill contains important provisions which will clarify the rights of citizens to bring suits against EPA where EPA's actions have either been withheld or have been unreasonably delayed. I support this section of the committee bill with particular intensity based on my experience as attorney general of the State of Connecticut, because that experience taught me the critical role that the citizen's suit has in guaranteeing enforcement of our environmental laws and, if necessary, in holding EPA accountable for a failure to do its job.

Mr. President, in 1970, Congress wrote into the law the very important principle that citizens can hold the EPA responsible for its action. And why not? EPA, after all, is a trustee for all of us, a trustee to protect our natural environment. We, as the beneficiaries of that trust, have the right to go to court to force our trustee to carry out its fiduciary responsibilities, to carry out its responsibilities under law, to protect our environment.

I agree with the observation of the Federal Court of Appeals in Boston that "the public suit seems particularly instrumental to the statutory scheme when against the EPA itself, for only the public—certainly not the polluter—"the court said, "has the incentive to complain if the EPA falls short in one or another respect."

When I was attorney general of Connecticut, I joined with other attorneys general on many occasions to use this citizens suit authority to try to compel EPA to do its job. It is also true that while the environmental community often utilizes these provisions, citizens and businesses can and have used them as well. The committee amendments clearly provide that the courts will have the power to at least hear the merits of the citizens' claims and to determine whether EPA is violating the law.

The environment committee worked hard to address some of the concerns that were raised about the permit, enforcement and citizen suit provisions since S. 1630 was first introduced. I think it is important to say that the environment committee was not deaf to the cries of those who complained about these sections of the bill. It was not insensitive to the arguments of those who said we could make this bill more balanced and fair in this section.

For example, one criticism that I personally heard, and I know others on the committee heard, were from those who said that criminal sanctions under this bill could be imposed for a simple mistake in failing to file an unimportant document. In other words, somebody in a business just makes a mistake, carelessness, fails to file a document and the argument we heard was that person might go to jail under this bill.

That certainly was never the intention of the members of the committee. I think it is important to point out that the changes in the committee amendment before the Senate make clear that criminal liability only attaches to knowing omissions of material information required under this act.

In other words, you have to be conscious that you are failing to do something that is matertial, that is central to the purpose of this act which is to clean the air.

The committee amendments address legitimate issues raised I think since the bill was printed. However, this amendment offered by the Senator from Oklahoma, and the Senator from Alabama, would seriously weaken the important law-enforcement provisions of this bill. In that sense, it would make the promise that the bill holds out of cleaner air a false promise, because the law alone without the tools to enforce it will not achieve the result of cleaner air, the safer and healthier air that all of us want.

Particularly, in the area of enforcement, one significant difference between the committee proposal and the amendment of the Senator from Oklahoma concerns the review of administrative orders, which is important because the amendment before the Chamber now could dramatically undermine EPA's enforcement efforts.

One of the most effective law-enforcement tools that we have under our environmental laws is EPA's ability to issue administrative orders. The EPA can issue orders which would re-

quire a polluter to come into compliance with the law or to stop doing something which the polluter is doing to create an emergency to public health or the environment.

It is absolutely critical for the protection of the American people and our environment that EPA be able to enforce these orders as promptly as possible. Otherwise, the power to issue the orders becomes effectively meaningless. That is a principle that EPA and our Department of Justice have vigorously and successfully defended in the courts for at least 15 years under all environmental statutes. In fact, just last year, this administration submitted an oil spill bill to Congress allowing EPA to issue orders under the Clean Water Act and explicitly providing that these orders are not subject to judicial review except in an action to enforce the order, except at a time when there has to be an action in court to enforce that order.

The clean air bill which the President sent to Congress specifically provided that judicial review of these administrative orders may only be carried out at the time the Government or other person seeks to enforce such orders. The rationale provided by the administration to the committee was that otherwise enforcement for violations of the act could be delayed indefinitely pending judicial review in the courts. The administration argues that EPA must possess the ability to proceed expeditiously against violators. Allowing immediate review of an administrative order in the administrative and judicial process would clearly and significantly delay enforcement and could suspend correction of the underlying violation for years.

The administration also pointed out that the courts repeatedly have refused to allow preenforcement review of EPA decisions. I am speaking here of the Third Circuit, the Second Circuit, and the Eighth Circuit Court of Appeals.

After the committee adopted the President's proposal, we heard criticism, it is true, from some who argued that the accused polluter would not have an opportunity to present his arguments as to why he was not obeying the order.

The committee responded to those concerns—again the committee was not inflexible or deaf. With respect to two types of administrative orders, construction orders and compliance orders, the proposal requires that the administrator must provide for a public hearing upon request, at which the accused polluter can present evidence. That provision is modeled after the statutory language found in RCRA, the hazardous waste control law.

With respect to a third type of orders, emergency orders, the committee's proposal requires that the order will remain in effect for 60 days unless the EPA brings an action in court to enforce the order. Once EPA brings that action, the potential polluter, the accused polluter, will have a full opportunity to present evidence why it is not in violation of the law.

The committee's proposal in my opinion answers the legitimate concerns of industry that it be given an opportunity to be heard within a reasonable time period. At the same time, the proposal retains the original goal stated by the administration that enforcement for violations of the act not be delayed indefinitely.

The new administration proposal totally abandons that earlier goal. It allows sources repeated opportunities to litigate. In some cases, they are given up to four challenges before EPA can ever get to a point of enforcing the order. And while that happens, the environment will suffer and public health will suffer as well.

These are technical matters, Mr. President, but they go to the heart of whether this bill will really clean up America's air and protect our people.

Let me deal for a few moments, if I may, with the citizen suits. The committee's proposals differ significantly from the Nickles-Heflin amendment in the area of citizen suits. These suits have played a crucial role in forcing EPA to take action. Recently, however, a series of court decisions have limited the scope of citizen suits and created a situation that allows EPA, in my opinion, to escape judicial secrutiny. As a result of those decisions, the ability of State and citizen groups to compel EPA to comply with the clear mandates of the act are uncertain. In many of these cases, the courts never reach the question of whether or not the agency's inaction violated the law. Instead, the cases became mired in disputes that concerned the court's jurisdiction.

We cannot and should not guarantee that any particular citizen suit will be victorious in court. Obviously, that is impossible and should not happen. But Congress should guarantee that the courts will have the power to at least hear the merits of the claims of the citizens on whose behalf this bill is being adopted and to determine whether EPA is fulfilling its responsibility under the law to the American people. EPA is, again I say, the trustee of our environment, and the beneficiaries of that trust must be able to hold EPA to their fiduciary responsibility.

The committee's proposal clarifies where and when judicial review is available so that plaintiffs do not spend years simply litigating the issue of what court should hear the case.

Some have argued that the committee's proposal will bog the courts down. In fact, the opposite is true. The committee's proposal will relieve the courts of the endless litigation that EPA has pursued simply to keep the courts from reaching the issue of whether or not this agency, our protector of the environment, has been doing its job.

It is particularly disturbing that the administration through this amendment in opposing the committee's proposals argues that citizens, including States, should only have limited opportunities to question the basis of EPA's action through the administrative hearing process or perhaps through friend of the court briefs. Unfortunately, the basic problem in many of these cases has been that EPA has failed to act, so there is no administrative proceeding.

I find it particularly ironic that the administration is arguing through an amendment that the polluter should be granted several opportunities for judicial review before an order can be enforced but that the citizen or State trying to push EPA to do its job should be severely restricted in its opportunities to be heard.

There are several other critical differences between the committee proposal and the Nickles-administration amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LIEBERMAN. I ask unanimous consent that I may have 5 additional minutes.

Mr. BAUCUS. Mr. President, I ask unanimous consent the Senator from Connecticut be granted 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Senator from Montana.

I am especially aware of the changes that are needed in the so-called threshold requirements because they relate to an experience I had as Attorney General when we were attempting to enforce an earlier order of the administrator of EPA when he found that Canada was in fact harmed by acid rain from the United States, and that threshold question was a critical one to our suit.

The committee proposal provides that EPA's findings of harm need not be published in the Federal Register. In short, once the agency has determined that harm to the environment or public health exists, there is no need to wait for publication in the Federal Register before a citizen or a State can go to court to require EPA to take some action on its findings. Contrary to statements made here, the public would have input in this process. If a court orders EPA to proceed, notice and comment on the threshold finding would take place under the Administrative Procedure Act.

Mr. President, the committee amendments also seek to place arguments in these matters where these

cases should be brought—the district courts rather than the court of appeals. In my opinion, it is important to say that they belong in the district court where they would require the attention of only one judge as opposed to three, and where they will proceed more quickly to a judgment.

The cases we are talking about involve allegations that EPA has unreasonably delayed in taking action to protect the public health. We need to do everything possible to ensure that continued delay does not occur in the judicial branch. Putting enforcement authority into the district court, that is, giving the district court jurisdiction to hear these matters is critical to expeditious review.

The committee's proposals allow both EPA and citizens to sue for past violations. Under the Nickles amendment, only EPA can sue for wholly past violations. That would undermine the principle established by Congress in 1970—that the standards for which enforcement would be sought, either through administrative enforcement or citizen enforcement, are the same. Both EPA and citizens should have authority to sue for wholly past violations.

Mr. President, the attorney general of Connecticut, my dear and respected friend and successor, has written to me urging support of the citizen suit provisions. I think her words sum up the importance of the rights that we create herein.

The continued ability to force EPA to live up to its statutory responsibilities is essential to ensuring that the intent of Congress to improve the quality of our air is given operative effect and no mere lip service as has often been the case in the past.

Mr. President, in summary, the committee's proposals ensure that the new law which Congress has struggled with for more than a decade will have adequate enforcement and permit mechanisms for both the Federal Government and States and citizen groups.

Mr. President, we have heard the term "deal breaker" used a lot in this debate. This, I know, is not a deal breaker but in my opinion, it is effectively a lawbreaker because without the power to enforce the provisions of this law that have been so seriously and sincerely struggled over the provisions of the law will not fully be realized. And the health of the American people and the quality of their environment will not be fully protected.

This law, like any law, requires teeth to make it real. It requires enforcement. This law, like any law, is an attempt by us to express the best hopes and values of the American people for the quality of their lives. It is a way to intervene in the process and say to people that if we continue to act the way we are, our health will be jeopardized and our environment will not be what we wanted it to be for ourselves, our children, and their children. The only way to make those values real is to give the enforcers the teeth to carry them out. That is why I respectfully oppose this amendment. I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, before my colleague and friend from Connecticut leaves, I would like to address a few of the points he made so he at least will be aware of them. He made several comments one of which was that the emergency order provisions were incorrect in our amendment. They are basically the same as that now pending in the so-called Baucus-Chafee amendment. They are identical. I do not think there is any contention there.

The Senator mentioned we did not want to be sending people to jail for criminal violations unless there were knowing and willful omissions. I agree with that. That change has not been made yet in the Baucus-Chafee provisions. I understand, or at least it is my understanding, that change has not been made yet. I would like it clarified if it has not already been.

I appreciate the Senator's statement. I think he is exactly correct. But to my knowledge the proposals that we have before us, the so-called Baucus-Chafee amendment, has not changed their language to accurately reflect their intent. I understand there is a willingness to do so. I hope it is done. It should be done. I want to make an additional point. It is correct under our amendment.

The Senator mentioned the wholly past violations as far as the ability for citizens groups to be able to go in and sue if the problem has been totally taken care of. In other words, violations that occurred wholly in the past.

The language that we have in our amendment basically goes by present law as defined by the Supreme Court decision. I think what the Senator was saying was he would like to overturn that Supreme Court decision.

Then one other final comment, and that deals with citizens suits. If I understood the Senator correctly, he would like to have the opportunity for citizen suits to be filed against EPA on EPA discretionary action. My problem with that is that you are going to have a lot of EPA lawyers who are going to spend a lot of their time defending EPA discretionary actions.

But if I understood the Senator correctly, and the Baucus-Chafee proposal, you are going to have a lot of money, time and resources spent by EPA defending itself on discretionary actions instead of really, at least in my opinion, spending their time bringing enforcement actions against sources who are truly damaging the environment. I would like to see them spending more time trying to clean the environment instead of defending themselves in a lot of litigation over discretionary actions. I think that would be a mistake.

I wanted to point that out to my friend and colleague from Connecticut.

Mr. LIEBERMAN. Mr. President, if I may, in response to the Senator from Oklahoma, I appreciate the response. Very briefly, if I may, I understand that the Senator from Oklahoma offered his amendment with regard to the preenforcement review, so-called emergency orders, but not, in my understanding, with regard to compliance and construction orders. I think that remains a critical deficiency of the Senator's amendment and, conversely, in respect to the committee's bill.

Also the question of the criminal sanctions applying, it is my understanding that the committee bill as it stands now limits criminal liability to knowing violations of material fact. But I will yield on that point to the Senator from Montana for further clarification.

We are only interested finally in going to nondiscretionary actions and not discretionary actions of EPA. I believe that the committee's bill makes that clear. It certainly is my opinion that the points that I made would only be in regard to nondiscretionary actions of EPA.

I thank the Senator and I yield the floor.

Mr. CHAFEE addressed the Chair.

Mr. BAUCUS. Mr. President, I yield 15 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, this is the Clean Air Act; 567 pages. It talks about acid rain, it talks about toxic air emissions, it talks about tailpipe emissions, it talks about volatile organic compounds, smog, and ozone. But, Mr. President, absent the permit provisions which say what you can do and the enforcement provisions that permit the authorities to take the permit from a company or can say to a company "You are violating your permit," this 567 pages is only useful for fire paper starters. It is not worth much of anything.

Mr. President, the whole guts of the clean air legislation revolves around the permit and the enforcement provisions. If we want to do something about the better health of the citizens of our country, or to improve the environment, the land that we love, and pass it on in better shape to our children and grandchildren, then it is absolutely essential that there be strong permit provisions, and that there be strong enforcement provisions in this bill.

Let me start off by saying that I oppose the Nickles amendment. We have tried to work with them. We made accommodations. They made some accommodations. I would say we are 90 percent in agreement. But these 10-percent factors, in my judgment, make this amendment a bad one. This is not just me speaking. You can say, "Oh, you have a vested interest in this bill. You have been working on this bill for 8 years. You have been on the floor here for 60 days. So therefore you just want your way."

Well, that is not quite so. The position we take, I take, and the distinguished floor manager for the majority takes, is that this amendment is bad. And so are those who have to enforce it. Who am I talking about? The State and territorial air pollution program administrators, those people out on the firing line who have to administer it, and the association of Local Air Pollution Control Officials. You might say, "what is the date of the letter?" March 22. "We have changed it since then. They do not know these provisions have changed, and they are probably for the Nickles-Heflin amendment." The answer is no; we checked with them, and they are still opposed to these amendments. So, likewise, is the attorney general of the State of New York, who writes us a long letter analyzing the legislation. He has been checked with also. His letter is dated March 21, but he is au courant with the latest changes in the bill.

Why are we opposed to it? There has been a lot of talk about the word "shield." A permit shield. What does that mean? The word "shield" means, when you get a permit, you ought to be able to fend off changes in the law or changes in the circumstances that affect your permit. To comply with your permit and not be subject to enforcement. That is what a shield means. "Do not make us go to the trouble to get a permit that says we can do so and so, and then you come up to us 6 months later and say, oh, by the way, we have changed the groundrules, and what that permit says you can do, we will not let you do it anymore." That is what we call a shield.

We agree with a partial shield. We think a permit means something. When you get a permit, you ought to be able to do certain things. So we do not authorize frivolous changes in the permit. The shield we have is modeled after the Clean Water Act, which has been in effect since 1972.

But we also say this: When circumstances change or discoveries are made that require the permit to be reopened, it ought to be reopened. Just because the permit says you can do so and so, and suddenly it is discovered you are emitting noxious fumes or poisonous gases or damaging the health of the citizens nearby, or you are destroying the environment, that does not mean you should plunge along and do that because you have a little permit. That is ridiculous.

Where is the difference in our interpretation of what can be changed and what cannot be changed? The difference is as follows: We believe that revisions should be permitted where there is a threat of harm to the health of the people, where it is discovered there may be harm to the health of the people or the environment. In Senator NICKLES' piece of legislation it says revisions are permitted—I refer to the bottom of page 6—top of page 7, bottom of page 6—"changes are permitted"—I will read the language: "Where there is serious risk to public health."

Now, that is a hurdle that very, very few people can get over. There is no mention of harm to the environment. There is no mention of just harm to health. It says "a serious risk to health." Is that a standard that the Senate really wants to put up there, that if there is a risk to health, but you cannot prove it is a serious risk to health, you cannot change the permit? Or if you are polluting the environment, emitting mercury—mercury may not be a direct and serious risk to health. Mercury goes through a whole series of stages. It comes out, gets in the rivers, the fish eat it and, subsequently, pregnant women or others eat the fish, and the mercury harms them. But can you say when that is emitted, it is a serious risk to health? No, you cannot. Yet, under the amendment of the Senator from Oklahoma, that is not grounds to step in and do anything.

I might say that I think anybody in this Senate would agree, and anybody who is listening, that any affect to my health, I consider a serious affect on my health. I do not want people saying, "Well, this is not very serious, you can shake that off after awhile." Any harm to our health we think is serious.

Mr. President, I just do not understand the rationale that the proposers of the amendment have for submitting that hurdle that one jumps over. You have to prove a serious risk to health.

Mr. NICKLES. Will the Senator yield? I appreciate his reading the amendment. If he would look at page 16.

Mr. CHAFEE. I know. That is something different.

Mr. NICKLES. I wish to clarify it. If the Senator would look at page 16 on paragraph (B) at the bottom of the page, it says, "except as provided in paragraph (2), all requirements that are promulgated after the permit is issued, unless the Administrator finds that actual harm to public health would result during the period prior to the expiration of the permit" and so on. So if the Administrator finds that there is actual harm to public health, then the permit may be modified.

Mr. CHAFEE. Then, if the Senator would be good enough to explain to me what he is doing on pages 6 and 7, where he—I will read the language: "Modify or revoke and reissue a permit if EPA promulgates regulations after the permit is issued, and modification of the permit to implement such regulations is necessary in order to protect against serious risk to public health."

There it is, right there. There is nothing about just harmful to health. Why the Senator has something on pages 6 and 7 that seems to be completely contradictory is totally confusing and seems to me just grist for the courts.

Furthermore, I do not find anything here dealing with the environment. I do not see where he covers a situation such as mercury. I think he would acknowledge mercury may not be harmful directly to health, a serious risk to public health. Certainly, it is not in the short run, sure; in the long run it is. But mercury is dangerous to the environment.

Let us look and see what this legislation is all about. We look at the existing law. I am just going to read for the purposes of what this is all about. This is what we are dealing with here and the purposes of the Clean Air Act are as follows: "To protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of our population." This is a health law. Furthermore, it is an environmental law. For some peculiar reason, the Senator has slighted the environment, as I have previously pointed out.

I also want to point out, Mr. President, that the Nickles-Heflin amendment rolls back the current law. It is the States that are currently issuing permits. The States, to amend those permits, do not require that there be a "serious risk to public health" to reopen the permit. They do not have any language like that. The Senator, for some peculiar reason that I cannot understand, has raised the standards under which the permit can be amended.

Let us move to the enforcement provisions, title VI. Again, over 90 percent of what we have in the leadership amendment is in agreement with what the administration wanted. There are few differences, but the differences are serious ones. Let me give you two illustrations.

Under current law, when EPA cites a violator, let us say it is a company, a polluter; when EPA cites a company for a violation, the company has to comply. There is no intervention. There is no delay by appeals. This is a violation. EPA cites them and they

have to straighten up their act. That seemed a little tough.

The company might say, "Well, who are you, Mr. EPA? Give us a chance to explain the situation." All right. That makes sense. So we give the accused a chance to be heard by the Administrator. The Administrator may change the order, or he may decide not to change the order.

Let us take the example that he does not change it. Then it has to be complied with. I mean, this is not a great big game of delay. There is pollution occurring out there. It is either harmful to health or harmful to the environment; whatever it is, it is harmful. So says the Administrator of EPA not just in the original assessment, but after having a hearing and listening to the accused come forward with his defense.

What does the Nickles amendment do? The Nickles amendment inserts a whole series of layers in between, in between the time of accusation, the time to say, hey, clean up what you are doing over there. Stop polluting the river, stop emitting these noxious fumes. More than noxious, they are toxic.

This is what Senator NICKLES' amendment does. First of all, he provides for a formal trial-like hearing before an administrative law judge. Mind you, meanwhile, on goes the pollution; nothing happens.

Then if the company does not like that one, and that has taken 6 months or so, what can it do? What can the company do? It can appeal. There was some talk previously by the distinguished Senator from Alabama about cluttering up the courts with appeals. This amendment of the Senator from Oklahoma and the Senator from Alabama provides for appeal, provides for going to court.

The PRESIDING OFFICER. The time has expired.

Mr. CHAFEE. Could I have 5 minutes?

Mr. BAUCUS. I yield 5 minutes to the Senator.

Mr. CHAFEE. So they do not like the decision of the administrative law judge. They drag this out and they go to the U.S. district court. Everybody in this Chamber knows what going to the U.S. district court means. So there is a trial, a full trial.

Here we are trying to stop some polluting. Then they do not like the decision there. So what does the company do? It goes to the court of appeals. Is that any way to clean up the environment? Delay, delay, delay.

And I would like the proponents of this amendment to explain why on Earth there has to be these kind of delays when what is being effected is harm to the environment and harm to public health.

Let us go to the next one: citizen suits. Now, citizen suits are not anything new to this Chamber or to environmental law. We permit them in the Clean Water Act; we permit them in the Superfund; we permit them in RCRA. Citizen suits are a standard environmental law action.

Why? Because it seemed important to us in the Environment Committee, and it seemed important to the U.S. Senate and to the U.S. House of Representatives and the President of the United States, and indeed the one who signed Superfund, RCRA, and clean water—I will take back Clean Water, because the President did not agree. He did not disagree on this point, he disagreed on the total money cost of the Clean Water Act.

But there was no objection from any of those Presidents, and certainly no one will accuse our last President of being a wild-eyed liberal. He accepted every single one of those proposals involving citizen suits.

Who are citizens? They are citizens like you and me. We live downstream from some polluter and we want to do something about the pollution. But there are also other organizations that make the Nation hew to our environmental laws, and I am talking the Natural Resources Defense Council; I am talking the Environmental Defense Fund; I am talking the Wilderness Society. They come in and bring suit.

Now, what does this amendment provide for? This amendment says that when a citizen brings suit, that just as he reaches the great point of victory—how the Senator justifies this is beyond me—just as he reaches the great point of victory, the Government can step in and say, "Step side, citizen. We are taking over."

And the citizen is no longer in charge of the case. You might say, well, what difference does that make? The Government is stepping in; they are running the show. It makes a lot of difference.

Frequently, these organizations I mentioned, or even the individual who is involved, do not want the fine to go to the Federal Government as it would when the Government is involved. They do not want it to go into the Federal Treasury. They want those funds to be used for what we call environmental mitigation, to try and straighten out the mess that is made, a perfectly justifiable use of the funds.

That is not permitted, or that could well be not permitted under this peculiar provision that the Senator has in his amendment.

He says at any point the Government can step in, muscle aside the citizen, the citizen who has done all the work, brought the case right up to the end. And at the last minute, in comes Big Brother and takes over for the Federal Government. That is the first strange provision he has in here dealing with citizen suits.

The next one is as follows. Listen to this possibility. A citizen has a polluter upstream from him, polluting the air. The citizen is sick and tired of it, and he wants that pollution stopped.

Under the law, he has to go to that plant and give that plant 60 days' notice. He has to say, "I am going to sue you if you do not straighten up your act." So the polluter, who has been doing this for a year and a half, stops. So the citizen cannot bring the suit because under this amendment, he is not permitted to sue for past damages.

Five more minutes, if I may.

Mr. BAUCUS. I yield 5 minutes.

Mr. CHAFEE. Why the Senator has that provision, I do not know. His amendment says you cannot sue for past violations.

If you go into the court and persist in your suit, the court will throw you out under the provisions of this amendment.

Then what will happen? So the plant is stopped. So the plant starts up again. Now, it might be inadvertent. They did not realize it; a little casual. They start polluting again. What does the citizen do? Under the law, he has to go and give them 60 days' notice again.

So he goes back and says, "I told you once; I am telling you again. Stop that polluting."

And the factory says, "Yes, that is right. And we will stop it."

The citizen would like to say, "And I am going to nail you for what damage you have done, not only the second time, but the first time." But the plant says, "Aren't you aware of the Nickles amendment? You cannot do that."

That, again, is a very, very strange provision. And for those reasons, Mr. President, although there is much in this amendment that conforms with what we already have, these to me seem to be very, very substantial differences in the bill as presented before us; namely, the underlying leadership amendment, if you wish to call it that.

And, Mr. President, I would hope that the amendment would be rejected.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter of March 21, 1990, to Senator MOYNIHAN from the attorney general of the State of New York; a letter of March 22, 1990, and a letter of March 26, 1990, to me from the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF NEW YORK,
DEPARTMENT OF LAW,
New York, NY, March 21, 1990.

Re S. 1630; Clean Air Act Amendments.

Senator DANIEL PATRICK MOYNIHAN,
SR-464 Russell Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: I would like to thank you for your support on March 7 of the measure introduced by Senators Glenn and Heinz preserving U.S. Environmental Protection Agency (EPA) and state authority to regulate radioactive air emissions. I would also like to commend you for your cosponsorship of the Wirth-Wilson amendment requiring the use of clean vehicle fuels and Phase II tailpipe standards. We regret that it failed to pass last night. However, your continuing efforts to assure a clean and safe environment for all New Yorkers are greatly appreciated.

While the compromise bill negotiated between the Senate leadership and the administration contains many provisions which are more protective of the public health and welfare than those of the current Clean Air Act, there are sections which may, in fact, be less protective. For this reason, I urge you to support the following four amendments, and oppose one.

ATTAINMENT OF AIR QUALITY STANDARDS

I support the Kerry-Wilson-D'Amato amendment which will help to assure that all states will attain and maintain national ambient air quality standards (NAAQS). The amendment requires equitable pollution control efforts among the states to minimize the effects of interstate pollution. First, the amendment preserves the mandate under current law for EPA to promulgate a federal implementation plan to meet NAAQS in the event that a state does not develop an adequate plan on its own. Second, it restricts the provision allowing EPA to grant waivers of requirements for pollution controls which it does not consider to be "cost effective". Cost is only one factor which will be considered by the states in establishing their attainment strategies. The federal government should not have such an arbitrary "veto" power over a state's decision to weigh the protection of human health more heavily than cost in setting emissions standards. And finally, the amendment requires that small sources (under 100 tons per year) be regulated. These sources represent a major source of pollution which cannot be ignored. I urge you to support this amendment.

TOXIC AIR POLLUTION

I support the Gore-Lautenberg amendment which strikes provisions that allow a toxic air pollution source to use mitigation measures, such as buying property of people who live close to the source, rather than require reduction of emissions to protect the public health. To permit people to be forced out of their homes rather than to require pollution controls which would assure a safe environment in which to live seems to me to be against the basic principles of the Clean Air Act.

Even if this provision becomes effective, it is impossible to imagine how it would be implemented. The "zone of risk", which would be the subject of the buy-out, would be established by inexact modeling and risk assessment techniques. We will never be assured that the boundary was properly drawn. Moreover, the actual effects of long range transport of air toxics have yet to be determined as research continues. Therefore, we urge your support of the Gore-Lautenberg amendment.

VISIBILITY REGULATIONS

Finally, I support Senator Adams' amendment on visibility. The amendment requires EPA to issue regulations to guide states in reducing "regional haze" affecting national parks and wilderness areas. For 13 years, EPA has failed to carry out its responsibility to issue such regulations under the 1977 Clean Air Act. While these regulations will technically focus on areas outside New York, they will have a positive effect on the air quality and visibility in the entire Northeast and will alleviate similar problems at all of our state parks. Haze from acid rain pollutants is often so bad that it not only eclipses the beauty of Acadia National Park in Maine but also that of the Adirondack State Park. That is why we have supported Maine in the past in litigation against EPA on this issue and that is why we strongly support Senator Adams' amendment.

PERMITS AND ENFORCEMENT

The permits and enforcement sections of the bill currently before the Senate were not subjects of the compromise. Consequently, the Administration's position is being brought to the floor in the Nickles-Heflin amendment. This amendment weakens the ability of the federal and state government to ensure prompt, continuing compliance with provisions of the Clean Air Act. It does so in several ways:

1. The amendment would allow a source to shield itself from enforcement actions under the Act so long as it is in compliance with its operating permit, even if that permit is silent on the issue that is the subject of the enforcement action, and even if the source is in fact violating the Act.

2. The amendment would restrict the ability of the EPA to modify permits only in situations where there is a "serious" threat to human health. A threat to health that could be denominated less than serious will not be enough to allow permit revisions.

3. The amendment would require the EPA to employ an undefined "cost/benefit" analysis in determining whether certain sources should be exempt from the permit requirements. EPA could exempt entire classes of sources whenever it concludes that the benefits of requiring permits from those sources do not exceed the costs of those permits.

4. The amendment would allow sources that receive certain administrative orders to delay compliance with those orders while they pursue a full hearing on the record before EPA, followed by a review in the federal courts, thus creating an incentive for frivolous litigation and routine delays in compliance. As is the case under current law, compliance should be required during the legal process in order to fully protect the public health and welfare.

Strong requirements for the control of acid rain and air toxic emissions without accompanying strong enforcement authority may defeat the goal of Congress to achieve clean air. Therefore, we urge you to vote against the Nickles-Heflin proposal.

In sum, as the Senate heads into the final debates on the Clean Air Act Amendments, now is the time to ensure a strong and enforceable program for achieving the goal of clean air for many years to come. We thank you in advance for your efforts to reach this critical goal.

Sincerely,

ROBERT ABRAMS.

STATE AND TERRITORIAL AIR POLLUTION PROGRAM ADMINISTRATORS,
ASSOCIATION OF LOCAL AIR POLLUTION CONTROL OFFICERS,
Washington, DC, March 22, 1990.

Hon. JOHN H. CHAFEE,
U.S. Senate, Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR CHAFEE: The State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) continue to observe with great interest the ongoing Senate debate on clean air legislation. We understand that today, you and your colleagues will consider an amendment offered by Senators Don Nickles, Howell Heflin and Robert Dole to significantly weaken the permitting program proposed by you and other Senate Leaders. As the state and local air quality officials who will hold primary responsibility for implementing the permitting program, we are extremely concerned that the provisions of the Nickles-Heflin-Dole amendment will seriously undermine our efforts to regulate sources of air pollution.

The ability of state and local air quality agencies to effectively control sources of pollution is threatened by the Nickles-Heflin-Dole amendment in several major respects. First, the amendment shields sources from any regulations other than those that apply to the pollutant for which the source is permitted. Therefore, if a source obtains a permit to emit volatile organic compounds and subsequently violates an air toxics regulation, no enforcement action against that source can be taken.

Second, the amendment prohibits permitting agencies from revising the requirements of a permit during its five-year life unless it can be demonstrated that there is a "serious risk to public health." Consequently, a permitted source could escape regulatory requirements for almost five years, if such requirements are issued after a source has obtained its permit. Such a restriction of our authority to review and revise permits could not only impede the effectiveness of important new regulations, but also prevents us from modifying permits to reflect important new air polution information.

In spite of our sincere desire and continued effort to provide the citizens of this nation with healthy air, the ability of state and local air quality officials to regulate sources of air pollution is closely tied to the effectiveness of the permitting program that we are required to administer. Accordingly, STAPPA and ALAPCO oppose the Nickles-Heflin-Dole amendment, which establishes a weak permitting program containing inappropriate loopholes.

Sincerely,

BRADLEY J. BECKHAM,
STAPPA President.
JAMES M. LENTS,
ALAPCO President.

STATE AND TERRITORIAL AIR POLLUTION PROGRAM ADMINISTRATORS,
ASSOCIATION OF LOCAL AIR POLLUTION CONTROL OFFICIALS,
Washington, DC, March 26, 1990.

Hon. JOHN H. CHAFEE,
U.S. Senate, Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR CHAFEE: Last week, on behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO), we wrote to you expressing our concerns with an amend-

ment—authored by Senators Don Nickles, Howell Heflin and Robert Dole—that would significantly weaken the permitting program proposed by you and other Senate leaders. Since that time, the Nickles-Heflin-Dole amendment has been changed in several respects. However, notwithstanding these recent changes, STAPPA and ALAPCO still have some significant concerns.

Perhaps our greatest concern with the most recent version of the Nickles-Heflin-Dole amendment is that it prohibits permitting agencies from revising the requirements of a permit during its five-year life unless it can be demonstrated that there is "actual harm to public health." As we stated in our earlier letter, this provision could easily allow a permitted source to escape regulatory requirements for almost five years, if such requirements are issued after a source has obtained its permit.

This provision clearly represents not only a significant relaxation to our existing permitting program, but also a loophole that would impede state and local efforts to ensure the timely and effective control of sources of air pollution. STAPPA and ALAPCO urge you to oppose the Nickles-Heflin-Dole amendment.

Sincerely,

BRADLEY J. BECKHAM,
STAPPA President.
JAMES M. LENTS,
ALAPCO President.

Mr. NICKLES. Will the Senator yield for a quick question?

Mr. CHAFEE. I yield.

Mr. NICKLES. First, the Senator mentioned leadership amendment. Am I correct in saying permitting and enforcement was not part of the leadership amendment?

Mr. CHAFEE. The Senator is absolutely correct.

Mr. NICKLES. Another comment. When the Senator mentioned the fact of the citizen suits and where the money would go, does present law not maintain that the money will go to the U.S. Treasury?

Mr. CHAFEE. I am informed that when it is issued as a penalty, that is right. But many of the courts have done exactly what I said: Pursuant to the arguments of the citizen, and in this case, the citizens quite frequently are the environmental defense fund, the Natural Resources Defense Council, or the Wilderness Society, they have adopted the mitigation proposals that I mentioned earlier.

Mr. NICKLES. I believe I am correct—and maybe the Senator can correct me if I am wrong—I believe I am correct that any of the funds assessed from the penalty due to violation of the Clean Air Act would go to the Treasury.

Mr. CHAFEE. Yes. Under the penalty provision, as I mentioned. But the funds can go pursuant to a court order, just as I mentioned previously.

Mr. NICKLES. I wanted to touch on two other things, very quickly. I know I am on the Senator's time.

He mentioned what about mercury. Is mercury not considered to be hazardous to the public health?

To answer the Senator's question frankly, we said the permit could be reopened if new regulations were promulgated by EPA. The permit would have to be modified to include those new regulations.

So if EPA issued a regulation controlling mercury, or whatever substance was emitted, and there was notice and comment on that regulation, then a permit would have to be modified. So EPA would have determined it, not this Senator and not the Senator from Rhode Island.

I would make one other comment, too. The Senator was making light of the fact that there appeared to be two different standards on pages 6 and 7 and page 16. Pages 6 and 7, as I understand it, is basically where the States are told what they have to have in their permit program. The language on page 16 refers to how the Administrator could change the permit and the Administrator could change the permit if he found that there was actual harm to public health. So there is nothing inconsistent about those standards. Bascially, what we are saying is, whether you are State Senator or the EPA, if you need to modify the permit in order to protect the public, you can certainly do so.

I thank the Senator.

The PRESIDING OFFICER (Mr. ROBB). The Senator's time has expired. Who yields time?

Mr. SYMMS. Will the Senator from Oklahoma yield 7 minutes to me?

Mr. NICKLES. I am happy to yield 7 minutes to the Senator. Might I inquire how many minutes I have remaining?

The PRESIDING OFFICER. The Senator has 40 minutes and 28 seconds remaining.

The Senator from Idaho is recognized for 7 minutes.

Mr. SYMMS. I thank the Senator for yielding.

I would like to get one quick answer, if I could, from either the ranking member of the committee, Senator CHAFEE, or from the chairman. The question is this: Under the Clean Water Act, if you go through the permit process, then it specifically states you do not need an environmental impact statement. I just ask my colleagues, is the same true of this bill?

Mr. CHAFEE. That is the same in this bill.

Mr. SYMMS. So it is the same. In other words, the Senator is saying that, if you go through the permit process, there is no way you will be involved with an EIS?

Mr. CHAFEE. NEPA is not involved.

Mr. SYMMS. I thank the Senator.

Mr. CHAFEE. Could I make that clear? For the issues involved with that permit.

Mr. SYMMS. That is correct.

I thank the Senator.

Mr. President, the Nickles amendment is an attempt to clear away the paperwork and the redtape associated with compliance with this bill. Every change that is made in the permits and enforcement section is a change whose goal is to achieve greater compliance, not less. I compliment the Senator for this amendment.

Consequently, Mr. President, the debate over this amendment is not over whether or how to increase the quality of the Nation's air, nor is it over whether to have extremely tight air quality standards. These decisions are made elsewhere in the bill. The question before us now with the Nickles amendment is how burdensome do we want to make the achievement of these goals. How much do we want to harass and aggravate those who are making good faith efforts to control pollution? How deep, if you will, into the affairs of State and local air pollution agencies do we need to insert the disruptive arm of the Federal Government?

It would seem to me, Mr. President, that if the Nickles amendment is adopted, there will still be some of this, but, if it is not agreed to, that Senators should be prepared in the future to spend a great deal of their time trying to mediate between the Environmental Protection Agency and their own States when the disputes arise over whether or not permits should be issued and employment affected in their States.

It would also seem to me, Mr. President, that Members of the Senate should give a great deal of weight to the fact that the EPA itself, the very agency who would be asked to inject its judgment in these cases, supports the Nickles modifications. The agency obviously believes that the amendment would provide for an aggressive workable permit process, but one that prevents the EPA from unnecessarily expending energy and resources in areas which provide little or no benefits to air quality.

I believe, without the Nickles amendment, we are going to be burdened with unnecessary disputes between the EPA and the States in the implementaion of the plans plus the issuance of the permits.

The modifications to the permit program contained in the Nickles amendment embody an important principle: Allow permit decisions to be made at the level of government who can best make those decisions.

Mr. President, this, by the way, happens to be one of the original findings of the Clean Air Act which the bill before us amends; one of the original findings, and I quote: "That the prevention and control of air pollution at its source is the primary responsibility of States and local governments." I want to repeat that Mr. President.

"That the prevention and control of air pollution at its source is the primary responsibility of States and local governments."

In conformance with this principle, the Nickles amendment allows compliance schedules to be incorporated into permits only where such schedules are necessary.

As the bill stands, the EPA is forced to take a very adversarial role with the States responsible for implementing permit programs. If a State's permit program is deficient, rather than working with the State to improve it, the EPA must immediately apply one of the sanctions from title I, such as the denial of highway or airport funds. Then, if the State does not fix the problem within 2 years, or 5 years after enactment, whichever is later, the EPA is forced to create a Federal permit program of its own. So I think Senators need to be well aware of what they are getting into if the Nickles amendment is not passed.

The Nickles amendment very appropriately makes the use of sanctions and the issuance of Federal permit programs tools that are available to EPA, but does not force the EPA to use them by legislative fiat. As a result, EPA can take a more persuasive role with States, assisting them to create programs for themselves. In my opinion, this is a much, much more reasonable way to solve this problem; to have some cooperation rather than an adversarial role from the outset.

Another point, Mr. President. The pending amendment also allows EPA to keep the paperwork between States to a minimum. The bill before us would invoke the permit approval of two or more States any time a permit is granted for a source 50 miles or more from a State line. The Nickles amendment would allow EPA to look at this very arbitrary 50-mile number and to modify it if it appears too broad or too narrow.

I cannot help but think of Idaho and Wyoming, for example, where the Teton range divides the two States. If, in fact, a permit were filed in Jackson Hole, you would still require Wyoming and Idaho to review and approve the permit. Yet, on the Wyoming side of the border, with the Teton range between Idaho and Wyoming, there is no way the dirty air from Wyoming could get back over to Idaho. But, we would burden those people in Wyoming with going through two State processes instead of one.

So it is just an additional cost for the American people to bear to do this, when I believe it is totally unnecessary. It is not that it would be totally unworkable, but it is costly.

At the same time, we hear the same people advocating that we want to be more competitive with our foreign competitors. The Nickles amendment is a way to try to relieve some of that burden of regulation.

Finally, the amendment attempts to remove the burden of a dual regulatory process involving the simultaneous implementation of both a permitting program and the State's implementation plan [SIP]. It does this by placing codifying permits—permits whose sole purpose is to codify or carry out the provisions of the SIP—outside the purview of the courts. Only those permits which would actually modify provisions of the SIP may be litigated.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SYMMS. Could I have 30 more seconds?

Mr. NICKLES. I will be happy to yield the Senator 5 minutes.

Mr. SYMMS. One more minute.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. SYMMS. The EPA's decision that a permit is codifying and not modifying would also not be thrown into the courts. The net result is to give some real substance to the SIP process—making it more than just a futile exercise in emissions counting.

The standards in this bill are tough enough without requiring a enormous burden of paperwork and permitting. I urge my colleagues to support the amendment.

I beg them to study this issue very carefully. This is a very important amendment and I hope it will be passed, to make a very onerous bill, less onerous.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time? The Chair recognizes the Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, I ask unanimous consent that the quorum call which I am about to suggest be divided equally.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I object.

The PRESIDING OFFICER. There is no objection.

Mr. NICKLES. Just a respond to the Senator, we only have about 30 minutes time remaining. I understand Senators MCCLURE, SIMPSON, and DOLE wish to speak on our amendment.

We have 30 minutes left. I think the Senator has considerably more.

Mr. BAUCUS. Mr. President, how much time is there?

The PRESIDING OFFICER. The Senator from Montana has 34 minutes left. The Senator from Oklahoma has 31 minutes left.

The Chair recognizes the Senator from Oklahoma.

Mr. NICKLES. Mr. President, for those of my colleagues who wish to speak to this issue I hope they would come to the floor as time is running out.

Mr. President, I have a letter from the Attorney General I would like to read, and particulary use it to clarify some of the comments that were made by my good friend and colleague, Senator CHAFEE from Rhode Island, and also by Senator LIEBERMAN earlier, dealing with citizens suits. This letter is addressed to the distinguished Republican leader. I will have it printed in the RECORD. I think it is important to clarify where the administration is coming from.

When I talk about enforcement, many of the things I am trying to do on permitting are at the request of the administration. So I somewhat resent the implication that this amendment would be harmful to the environment, because that is not the case. Or, that this amendment would make it difficult for people who are trying to take suits against polluters and so on. That is not the case.

The Attorney General is concerned about making it work. He is concerned about enforcement. He is concerned about moving forward to a cleaner enviornment.

The same thing with EPA. They want the permitting system to work. So that is the reason why we have introduced this amendment at their request, because we are trying to fix some things that under the Baucus-Chafee amendment will not work.

Maybe this letter from the Attorney General will help clarify the administration position.

Mr. President, I ask unanimous consent a copy of the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, March 26, 1990.

Senator GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

Senator ROBERT DOLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR BOB: This is to advise you of my very serious concerns over language concerning citizen suits that is now being put forward for the enforcement title of the Clean Air Act amendment. This language would do two things. First, it would weaken the government's ability to intervene in citizen suits for civil penalties, and would permit such suits for nonrecurring past violations. Such changes would raise important questions under Article II and Article III of the Constitution and would go far beyond the existing framework of our environmental laws, as shown in the Supreme Court's recent decision in *Gwaltney of Smithfield* v. *Chesapeake Bay Foundation*, 108 S.Ct. 376 (1987). If adopted, they could seriously undermine consistent, evenhanded environmental law enforcement.

Second, this language would impair EPA's ability to implement the Act, and expand the Department of Justice's case load of de-

fense actions at the expense of our enforcement efforts. Whereas current law provides citizens with the ability to sue EPA for failure to take nondiscretionary actions, the proposed language would give plaintiffs (including polluters or competing businesses trying to gain an advantage in the market) an unprecedented new power to use litigation to compel EPA to take action which is discretionary. For example, if one regulated entity received a compliance order from EPA, it could petition the agency to issue a similar order to one of its competitors. Instead of setting priorities and allocating resources according to congressional directives, orderly rulemaking procedures, and sound enforcement discretion, EPA and DOJ priorities will be set by individual litigants and courts all over the country, without regard to national concerns.

As I understand it, significant progress has been made in resolving outstanding issues on Titles V and VI of the bill. It would be regrettable if this progress on such critically important legislation were impeded by attempts to write novel and unneeded features into its citizen suit provisions—features that would raise serious constitutional questions and divert this Department's litigation resources away from enforcing the Clean Air Act.

Accordingly, the Administration strongly urges adoption of the citizen suit provisions in the Nickles/Heflin/Dole amendment, which are fully consistent with the Constitution and will ensure vigorous, consistent enforcement of our environmental laws.

Sincerely,

DICK THORNBURGH,
Attorney General.

Mr. NICKLES. Mr. President, to repeat, if we do not make a change to the committee or the Baucus-Chafee approach, we are going to have EPA resources tied up defending themselves against citizen suits attacking their discretionary actions. In other words, the law gives them discretion to act on, how they want to implement various provisions.

If we do not pass the Nickles-Heflin amendment, what we are going to do is, we are going to say: "Citizens, you can sue EPA for making discretionary decisions—decisions the law says are within their discretion." Then, EPA, instead of going after the violators is going to have to spend time and resources to cover themselves; to defend themselves. So you will have a multitude of litigation over EPA's discretionary decision on whether a permit is a codifying permit or a modifying permit. For those who have not wrestled with this issue, 90 percent of the permits are going to be codifying permits. A permit gives a source the ability to continue to operate. And EPA is going to be harassed or hounded any time they make a discretionary decision concerning a codifying permit. EPA is going to be spending a lot of time and resources defending that decision, instead of going after strict enforcement of the Clean Air Act.

I think that would be a serious mistake. It is not just my opinion. It is the Attorney General's opinion. Again, this Senator is offering this amendment and this portion of the amendment at the Attorney General's request just as we are offering the permitting section at EPA's request. They want a permitting section that will work.

Finally the Baucus-Chafee amendment will not work. It will have an unlimited amount of notification to EPA. It will compound the paperwork process as well as compounding the work in the courts.

Let us not do that. Let us streamline the process. Let us make it work. That is why the administration has requested this amendment, why EPA has requested the amendment, why the Attorney General has requested the amendment, and we hope it will be agreed upon tomorrow when we vote at 9:30.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. BAUCUS. Mr. President, there are many reasons why I have a difficult time with this amendment. One of them is it is very ambiguous. I mean, this language either is very cleverly crafted to be ambiguous, or it is unintended in its ambiguity. I would like to determine, as best I can, which of the two it is, by asking the Senator from Oklahoma some more questions, if I might.

I would like to ask the Senator from Oklahoma, whether the language at page 17 of this amendment, the top of the page—it is paragraph 2—overrides and supersedes the language at the bottom of page 16, with respect to actual harm? That is, if a requirement is a subject of rulemaking and if the source is noticed, is that sufficient to shield a source? Or must there also be an additional requirement that actual harm to the public must first be found by the administrator to obviate or to pierce the shield?

The language now between the bottom of page 16, paragraph B compared with language at the top of page 17(2) seems to be contradictory. I ask the Senator if he can tell us whether, in fact, that language on page 16 supersedes the language on the bottom of page 17 in those instances where there is a rule and where a source is notified?

Mr. NICKLES. The permit would be notified in both of those instances. You would have the permit modification whenever, one, it was determined there was actual harm to public health and/or, two, whenever there was a promulgation of a regulation with public notification and comment.

Mr. BAUCUS. Is that to say there would be a shield even if the source is notified and even though there is a rulemaking proceeding but where the Administrator has not found actual harm to the public health?

Mr. NICKLES. To answer the Senator's question, the shield would not apply to any requirement that results from a notice and comment rulemaking, whether or not the Administrator has found actual harm

Mr. BAUCUS. A shield could exist in either case?

Mr. NICKLES. No. In either case, the shield would be amended. The permit would have to be amended, if the Administrator determined there was a danger to public health, and/or——

Mr. BAUCUS. The question really is this. Let me be more specific. Let me say a permit is issued to a source and several years later, the EPA promulgates the MACT rules that would apply to that source. Even though the permit did not cover the MACT provisions, would MACT be shielded or not shielded?

Mr. NICKLES. MACT would not be shielded if there was public comment on that regulation.

Mr. BAUCUS. What happens in the case where there are no public comments, and under the subsequent condition there does not happen to be a rulemaking procedure where public comment is provided for, then would those matters be shielded, as if the source did not comply with subsequent changes in the permit where there is no public proceeding?

Mr. NICKLES. If they had no public comment on the proposed regulation, the permit shield would apply unless the Administrator determined there was actual harm to public health and then that permit would be amended. It would be changed either way.

Mr. BAUCUS. So the Senator would oppose an additional requirement the Administrator find there be actual harm to the environment?

Mr. NICKLES. Actual harm to the public health or if he promulgated a regulation with public notice and comment, then it can be changed anyway. In other words, we have made the shield less of a shield if it is possible there is damage to public health or if we promulgated a new rule and said if the new rule is out there, you have to change the permit. We modified the shield so it is not as protective and moved, I guess, toward the committee's proposed shield to make ours more flexible to make sure that we protect public health and comply whatever regulations that the Administrator would propose that are important enough to require notice and comment proceedings.

The PRESIDING OFFICER. The 5 minutes the Senator yielded to himself has expired.

Mr. BAUCUS. Mr. President, I yield myself 1 more minute. If I might follow up with the Senator, do the

either/or provisions, that is, actual harm on the one hand, or rulemaking and notice, apply in the Senator's amendment to both enforcement actions and to permit modifications? That is, if either one applies, then is there a subsequent provision that would apply to a source shielded?

Mr. NICKLES. I did not totally follow.

Mr. BAUCUS. Either in enforcement proceedings or permit modification?

Mr. NICKLES. I still do not totally understand the Senator's question.

Mr. BAUCUS. I am trying to understand the Senator's amendment.

Mr. NICKLES. Let me explain, if I might, the portion of our amendment dealing with permits and the so-called shield. If and individual gets a permit, that permit has a duration of anywhere from 1 to, say, 5 years, a maximum of 5 years. That permit allows the source to continue operation under the terms of the permit. That source can rely on the permit: Yes, I can operate in this way. I may have to have expansion; I may have to buy scrubbers because part of that permit may say reduce your emissions by 10 percent over the next few years, whatever. He may have to make an investment to comply with the permit. The permit would have to be under agreement by the State issuing the permit, the so-called State Implementation Plan.

The source can rely on that permit and, in all likelihood, the permit would not be changed except for the following reasons: The permit would be changed if they found out there was a material mistake in the permit. Maybe for some reason they left something out, a mistake was made, it was omitted so they would have to change the permit if there is a material mistake in the permit. You have to change it under our amendment.

Two, if there is a new regulation and if there is actual harm to public health; in order words, the Administrator says we need to change it because Senator CHAFEE says, "Hey, it is polluting, they are sending out all kinds of toxics." If the Administrator says we have to change it because there is actual harm to public health, that permit would be changed.

Three, also if there is a new regulation, and there are going to be lots and lots of new regulations that will be issued over the next 10 or 15 years as a result of this bill, I am saying, yes, permit would have to be modified to accommodate that new regulation if there was a proper notice and comment on that regulation. Thus, the shield would eliminate a lot of the possibly more trivial regulations. So we would not be requiring businesses to reopen every single permit on a continual basis. What we are really saying is, yes, you would have to reopen a permit if there was actual harm to public health or, if there was a new regulation that was very important, you would have to change the permit.

The PRESIDING OFFICER. The chair reminds the Senator from Montana that the additional time has elapsed. Both sides have less than 25 minutes remaining.

Mr. BAUCUS. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, I ask unanimous consent that Senator THURMOND be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Does any Senator seek recognition? The Senator from Montana [Mr. BAUCUS].

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, might I ask how much time is remaining?

The PRESIDING OFFICER. The Senator has 23 minutes, 27 seconds.

Mr. BAUCUS. Might I ask how much time the Senator from Oklahoma has?

The PRESIDING OFFICER. The Senator from Oklahoma has 24 minutes, 37 seconds.

Mr. DURENBERGER. I might say to the manager. I could probably take all of that or I can take 20 minutes of it or I will beg his indulgence as to the amount of time.

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. DURENBERGER] is recognized for 10 minutes.

Mr. DURENBERGER. Mr. President, I thank the Senator from Montana for permitting this time to speak in opposition to the amendment offered by my colleagues, Senators NICKLES, HEFLIN, and DOLE.

Before commenting on the specifics of this amendment, I would like to review the sequence of events that brought us to this point.

The genesis of the permit and enforcement provisions in this bill was the clean air legislation which was submitted to the Congress by the administration last summer. The Environment Committee did not develop its own permit title and it did not propose a comprehensive rewrite of the enforcement provisions of the Clean Air Act. These provisions started with the administration.

The permit and enforcement provisions of the President's original bill were widely opposed in the regulated community. The National Association of Manufacturers and the Chemical Manufacturers Association have conducted an intense campaign to defeat the President's permit and enforcement program. I daresay that the outrage expressed by the industrial community with respect to the enforcement provisions topped all of its other criticism, including their concerns about toxics and stationary source requirements.

Notwithstanding this intense opposition, the Environment Committee adopted the President's permit and enforcement provisions and included them in S. 1630 which was reported last November. We believed that one, a consolidated permit program and a comprehensive update of the enforcement provisions were major contributions, along with two, the acid rain allowance program and three, alternative fuels, which the administration brought to this debate, and we were pleased to include these provisions in the bill.

However, subsequent to markup of S. 1630 and in response to the constant drumbeat of industry opposition on permits and enforcement, the administration has had a change of heart and has backed away from its own proposal. Backing away is perhaps too gentle a verb to describe the retreat which we have seen on these issues.

We now have the Nickles-Heflin-Dole amendment which is fully supported by the administration. Let us call it administration II and refer to the permit and enforcement provisions of the President's bill submitted last year as administration I. There are dramatic differences between I and II.

Let me just list some of the differences in the permits area, Mr. President. These are not all of the differences and I won't even touch on enforcement. But these items will give Senators some sense of the retreat which has occurred.

First, is the whole notion that sources would be able to escape their obligations under State implementation plans through a permit modification, rather than through a formal SIP revision. Not only does this amendment change the process for modifying implementation plans, it puts a cloud over citizen participation and judicial review with respect to those changes. Today, SIP revisions require notice and comment in the Federal Register. If this amendment is adopted, that protection for citizens will be dropped.

Administration I contained an antibacking provision. That meant the renewed permits could not allow more pollution for the same activity than the original permit. I was quite proud to see that provision in the President's bill, because I was the author of the comparable provison in the Clean Water Act. I recall what a struggle it was to get that adopted over industry opposition. Well, industry opposition has caused a retreat from that proposal. Administration II, the Nickles-

Heflin-Dole amendment, does not contain any anti-backsliding provision.

Administration I required EPA to apply sanctions against any State which did not develop and submit a permit program. Administration II makes the sanction discretionary. In doing so it puts the whole concept of operating air pollution permits in doubt. Under administration II, if the States and EPA decide they do not want to require permits to assure compliance with air pollution regulations—permits like those which are at the heart of the Clean Water Act—then there will not be any permit requirement.

Under administration I sources were required to submit permit applications within 6 months of the date on which EPA approved a State permit program. Under administration II, the minimum time for application is 30 months—30 months, not 6—and EPA can extend that requirement indefinitely if it chooses not to put resources into the permit program. It could very easily be the next century before a permit program for air pollution is implemented under administration II—the Nickles-Heflin-Dole amendment.

Mr. President, this amendment is a killer amendment. I cannot believe the administration endorses it. It gives the executive such control over implementation of the Clean Air Act that if it does not want to implement it, it does not have to.

Under administration I each State had to notify all contiguous States before it approved a permit for a major source, so that they would have a chance to review the application and determine the impact of that source on air quality. Ask our colleagues from Wisconsin and a lot of other States who have fought battles in the courts on this issue. Administration II limits notice to States within 50 miles of the source and authorizes the EPA to further restrict the notice requirement.

Finally, administration II appears to give EPA authority to exempt various sources of toxic air pollutants from permit requirements altogether. Administration I, the President's bill, contained no such notion.

I could note for the Senate many other differences between the President's bill and this amendment with respect to permits. And I have not even mentioned the changes that have been made on the enforcement side. But I think Senators get the point. This amendment reflects a major retreat from the President's bill which was proposed last summer. The President was justifiably praised for the tough permit and enforcement provisions in that bill. Now, those provisions have been abandoned in the face of industry opposition.

Mr. President, amendment No. 1293 which has been offered by the leadership and cosponsored by members of the Environment Committee, contains permit and enforcement provisions which are between those in administration I and administration II. As has been explained here already, the leadership package is neither administration I or II. It is in between.

Changes were made in the language of S. 1630 to respond to many of the concerns which were expressed about administration I. Significant changes. I would not support every change that was made, if the decision were entirely my own. I think they go too far in the direction of administration II. But the decision is not entirely my own. This is a compromise package and I support it as a package, and I support it as a compromise.

I hope this little review has given Senators an indication of what has happened here. The administration has been weaving down the road. First, they were over on the left shoulder; now they are over on the righthand shoulder. Some might even say in the ditch, with the language of Nickles-Heflin.

What to do? Should Senators follow this wandering back and forth between the environment and industry?

The committee has chosen not to. When it became clear that a retreat was underway, the committee turned to the permit and enforcement provisions of the Clean Water Act and used them for guidance to develop its own position. There has been a great deal of experience with permits for industrial sources of pollution under the Clean Water Act going back to the early 1970's. Thirty thousand sources have water permits. That program works. And we should use it as a model here.

And the enforcement provisions of the Clean Water Act are entirely reasonable. They were developed in concert with the Justice Department of the Reagan administration. They are not controversial. Many Members of this body voted to adopt them in the 1987 Water Quality Act. That is a sound foundation to build a new enforcement program for clean air. So that is the history. Now, to the specifics of this amendment.

Mr. President, the major issue raised by this amendment is the so-called shield. The basic concept is that sources will only be held to the provisions of their permit during its term; and that enforcement actions cannot be taken for violation of requirements not stated in the permit.

Now, that might sound reasonable on its face, Mr. President. But it is a very troubling concept when examined closely. Suppose the permit holder did not report all of its emissions when it applied for a permit. Let us say the source emits 22 air toxics, but only reported 20 on its permit application. The permit authority will issue a permit for 20. But does that permit shield the source from any enforcement action with respect to the other 2? Should the source be shielded?

And what of new requirements? Let us suppose that EPA or the State promulgates new standards for a potent cancer-causing chemical during the term of the permit. Should the source be exempt from those requirements until the permit expires? We have selected specific compliance dates for our Air Toxics Program which require sources to comply within 3 years. That is a reasonable period, Mr. President. Current law requires compliance with new toxics standards within 90 days. We have extended it to 3 years. It does not need further extension to 5 years for some sources under this shield provision.

We have raised some of these shield issues with the authors of this amendment. And they have apparently adjusted their original language to ease our concerns. But there are still problems.

For example, if a State promulgates a standard and wishes to impose it on sources before the expiration of a permit—even if it is a minor requirement which will facilitate implementation of the State program—the State might be precluded from imposing such a requirement—under its own law—under its own permit program—by this amendment.

Mr. President, we don't need to be shielding polluters from State requirements with this permit legislation. We don't need to preempt States in this way. We need—we want—States to play a larger role. But this amendment ties their hands. It prevents them from taking actions which are inconsistent with this title. It requires them to stand in line at EPA to have their rules read and approved before they can be imposed. That is not acceptable.

And this amendment establishes a whole new standard for action under the Clean Air Act.

New regulations by States—new guidelines by EPA—will be deferred under this amendment unless they prevent actual harm to public health. What is actual harm? What about the environment? What is actual harm in relation to the other health standards under the Act? These questions need to be answered by the authors of this amendment.

Mr. President, I also oppose this amendment because it undermines the program to control air toxics which is contained in title III of this bill. The Air Toxics Program is modeled on the Clean Water Act Program for toxic pollutants which has already been fully implemented.

The Clean Water Act requires EPA to promulgate the best available technology standards for various industrial categories of toxic pollution. Those

standards are implemented through a permit program. The N-P-D-E-S Program is established by EPA but can be delegated to the States and has been delegated in the case of 47 States. It works well, and so we used it as a model. Each major source of toxic pollutants must have a permit under our legislation.

But that is not true of this amendment. This amendment invites States to have a program. But if they do not, there is no sanction. And if they do not there is no requirement that EPA step in with a Federal program. So, there may not be permits to implement air toxics regulations. Permits are, in my view, essential to assure compliance with the complicated air toxics rules which this bill authorizes.

For instance, it would be impossible to implement the site-specific residual risk program for the so-called actual man, which the sponsors of this amendment wanted, without a permit program to enforce case-by-case alternative emissions limitations.

Mr. President, a further reason for opposing this amendment is the attitude which it reflects with respect to public review and scrutiny of Government actions which are taken to implement the Clean Air Act. The legislation the committee has reported and the act itself put an admittedly heavy procedural burden on the Government. At every turn the act invites citizen participation and offers opportunity for comment or review on Government decisions.

It is a wide open law and the committee had no thought to shut it down in the bill it reported. We have at no time in the many months of hearings on this legislation heard that citizen participation is hindering progress under the Clean Air Act.

Nevertheless, this amendment casts a cloud over the comment and review procedures. Perhaps the most troubling example is EPA review of the so-called codifying and modifying permits. These are permits which are issued to carry out State implementation plans. Codifying permits carry out a SIP as written modifying permits—as the label implies—change a SIP. That is not authorized under current law. The only way to change a SIP now is to go through a Federal Register notice. That is a cumbersome process and perhaps some relief is needed. I might even be willing to concede that permit modifications are a means to accomplish that purpose. But if so, there must be no cloud with respect to citizen review and comment. EPA should review every permit if asked. And any failure of EPA to weed out the modifying from the purely codifying must be subject to quick correction. There must be no cloud over citizen participation when it comes to State plans to implement the Clean Air Act.

Mr. President, another reason to oppose this amendment is that it is technically defective in certain respects. Perhaps these defects are just oversights on the part of the authors, but they are important oversights.

For instance, the amendment denies EPA authority to enforce the accident prevention provisions which are included in the new section 129 of the bill. Under the pending amendment No. 1293, enforcement provisions, including orders and penalties, are applied generally to all provisions of the act. But under the pending amendment specific subsections and paragraphs of the law are identified as enforcement relevant and the enforcement authorities are only applied to those subsections.

The authors have missed some important provisions on their list. I have said there is no enforcement authority in this amendment for the regulations which EPA will promulgate to prevent catastrophic chemical accidents. I know that the administration is not supportive of the Accident Prevention Program. But Members who do support that program need to know that it is a nullity if this amendment passes because it could not be enforced.

The amendment also excludes the area source program for air toxics, the permit requirement for air toxics, the municipal incinerator provisions, and I am sure other provisions of the act. Why selective reference—enforcing only some named provisions—and not all requirements which may be imposed under the act.

Mr. President, I will also oppose this amendment because of the position that it takes on citizen suits. Citizen suit provisions are included in almost all of our environmental statutes. Citizen resources are an important adjunct to governmental action to assure that these laws are adequately enforced. In a time of limited Government resources, enforcement through court action prompted by citizen suits is a valuable dimension of environmental law.

A recent Court decision has limited the effectiveness of citizen suits, however. In the Gwaltney case, the Court ruled that citizen suits could not be brought for violations which had previously occurred, but which are not ongoing. Citizens cannot enforce against past violations. Since the citizen suit provisions require a 60-day notice before suit is brought, the structure of the law allows polluters to avoid enforcement action by coming into compliance before the 60 days expire. There is no penalty for being caught, other than the requirement to comply with the law in the future.

The Gwaltney problem can be fixed. It is not a defect in every environmental statute. We can fix the Clean Air Act to remove the Gwaltney problem. The amendment No. 1293 which is pending does that. The Nickles-Heflin-Dole amendment deletes that correction and leaves the Clean Air Act citizen suit provision defective because of the Gwaltney case.

With that, Mr. President, I will conclude my statement on the amendment by Senators NICKLES and HEFLIN

In conclusion, Mr. President, Senators have heard that this amendment is fully supported by the administration. I guess that is true. But Senators need not worry that they are voting against the President when they vote against the amendment. The President has two permit and enforcement bills out there. I plan to support the President by supporting the committee package since it is as close as we will get to the President's original proposal. I urge my colleagues to vote against the Nickles-Heflin amendment.

The PRESIDING OFFICER. The Senator's 10 minutes has expired.

Mr. DURENBERGER. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have been intrigued at this important debate. I commend Senator NICKLES on his effort here. It was one of the areas that was tough for us to deal with in the meetings which were held off the majority leader's office.

The PRESIDING OFFICER. If the Senator will suspend for just a moment, to allow the Chair to inquire as to which side has yielded time.

Mr. SIMPSON. I ask time to be yielded from Senator NICKLES.

The PRESIDING OFFICER. The Senator is recognized for such time as he may require.

Mr. SIMPSON. Mr. President, this issue was a most complex one. I think there are two provisions in the amendment which I consider particularly important. The first is the extent to which an accused polluter can seek redress before the EPA and the courts prior to becoming liable for some pretty hefty per day civil penalties for noncompliance. Under the committee substitute, enforcement orders imposed by the EPA will be subject to an informal public hearing. The substitute is entirely silent as to judicial review. I do not think that is sufficient.

I think that Senator NICKLES and the so-called Nickles-Heflin-Dole amendment, I believe it has now been tabbed, has corrected an awful lot of items which are very important.

EPA could impose an enforcement order calling for substantial modifications in a particular plant. Those modifications might cost millions of dollars. Under those circumstances I

think due process requires the opportunity for a full record hearing under the terms of the Administrative Procedure Act and a review on the record in the district court. That indeed might slow compliance in some circumstances, but I do not believe the constitutional protections should be sacrificed in the name of some swift compliance proposal.

The second issue I would address is the extent to which the issuance of a permit protects the permittee from liability for violations of the Clean Air Act known as the permit shield. The committee report on the bill, as passed out of committee in November, noted that the permit's title required the permitting authority to describe in the permit all of the permittee's obligations under the act.

In the interest of fairness, if the permitting authority fails to describe all of the obligations under the act, after full disclosure from the industry, then the permitting authority should not be able to assess penalties or otherwise punish the industry permittee for violations of the act.

If the permittee neglects to provide all of the necessary information, then remedies are available to EPA to collect the information and to penalize the permittee for failing to be forthcoming.

Further, the permitting authority could, as necessary, amend the permit during its term or revise the permit when it comes up for renewal. Those are options.

The committee substitute, as it was presented, offered some protection. However, the permittee would have remained liable if the permitting authority neglected to describe all of the requirements of the permit. I believe that it is the permitting authority which should bear the burden of including all of the necessary obligations under the act in the permit, and I, thus, fully support this amendment which includes just such a permit shield.

I view this package of amendments as very positive. These amendments were crafted by the Department of Justice, and the EPA. They add a variety of due process protections which are lacking in the committee substitute. I think it is wrong to presume, as the committee bill seems to, that sources are guilty of violating the Clean Air Act until proven innocent. Sources are entitled to due process. Those protections must not be diminished for the sake of expediency.

The Nickles-Heflin-Dole amendment does not lessen environmental protection. The Nickles amendment simply makes environmental compliance more fair. We who support this amendment do not want to weaken the bill. That is not the purpose. I have spent a lot of time on the formation of the clean air legislation—not nearly the time that Senator BAUCUS and Senator CHAFEE have spent. Any attempts to change the bill were pretty well resolved during the negotiations. We certainly did a lot of hard work to come up with this proposal. People gave up things on both sides. All of us had things heavy on our heart that we would have liked to have included, but we knew we could not get a bill passed unless we all agreed to do something to avoid extremism on both sides. I do not want to weaken this bill. We want it to be fair and to be understood—I know that is an interesting concept—by those who will have to comply with it.

While the permits and enforcement titles have been billed as part of the leadership package, that is a bit of a misnomer. Rather, the language in the original package was a creation of staff, and it was never really discussed or voted on by the members of the Environment Committee and never discussed, in any detail in the leadership meetings.

In fact, we closed up the shop one day and we said, "How about permits, and so on?" The response was: "Well, we are going to work on that." Now here we are.

So the Nickles-Heflin-Dole amendment was worked out with the EPA and the Department of Justice, the two agencies which must implement and enforce this bill. I believe these agencies when they say they very much need these various fixes in order to make the bill fair and workable.

I observe that many of the staff who watch and listen to this debate on this arcane and dazzling subject are not aware at all of the technical nuances of this amendment. There are certain people who do know exactly what this section does. But we find ourselves in the situation where Senators will be advised about an amendment using the most simple of descriptions, such as—and this is always a dazzler—this is a "strengthening amendment," or this is a "weakening amendment," or this is an "environmental vote," or a "probusiness vote." I hope we will not fall for these lines.

There is no room for that kind of simplicity in this legislation. With regard to this amendment, none of those simplicities is applicable. This is a commonsense amendment. This is a good-government amendment. We are trying to modify the permit and enforcement provisions so that they will work in the real world, without creating mountains of needless paperwork, and even worse, needless lawsuits.

So I urge the various staff members and principals, as we are referred to sometimes, to try to actually read the amendment so that the intent and purposes of this amendment might be clearly understood.

I urge those listening to understand that this amendment will afford the same degree of environmental protection as other provisions, but it would do that in a more thoughtful manner, with more common sense. It deals with some very dry technical subject matter. Some find it overly technical or that it does not pertain to any specific project in their States. Their vote on this amendment may be viewed, then, to some, as just "throwaway" vote, and the long-range effects may be ignored.

This amendment could have some far-reaching and expensive effects on all our States. Even though we cannot point to a specific problem regarding a specific plan, it does not mean there will not be problems in the future if this amendment is ignored. This amendment is insurance against a large number of future lawsuits and overly high compliance and permitting costs.

I think it is very important to realize that this is not going to be something that is going to get you on the list of the "greeny" organizations as making you a candidate for being blown out of office the next time. It is very important that you stay off that list. They have quite a list out there. This is not an amendment where "we will come at you in your next election." They have a whole series of those. It is just too simplistic to call this a "strengthening amendment" or a "weakening amendment."

We would be remiss in our duties if we let any of those extreme environmental groups do a number on America one more time. It is a very simple process by which they have shot us out of the saddle 10 years in a row, and every bit of crumb of pollution in the atmosphere can be directly attributed to them, in my mind.

Thank you, Mr. President.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I need 3 minutes, if I might, Mr. President.

Mr. BAUCUS. I yield 3 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I quarrel somewhat with the characterization of the distinguished Senator from Wyoming that this is a commonsense amendment that does not weaken current law.

The current law regarding enforcement says that if there is a pollution occurring, that the Administrator of the EPA can come in and order a change. That is what the present law is.

We have changed that under the amendment of Senator BAUCUS and myself. We say, if there is a polluter out there that is spewing toxic chemicals into the air and the Administrator comes along and says, "Stop that," well, the polluter can come in and say, "I would like to talk this over." And

that is in the provision that the Senator from Montana and I have.

But this is what the amendment of the Senator from Oklahoma would do, the amendment that the Senator said does not weaken current law and is just a plain, commonsense amendment. Under that amendment, what happens? The Administrator says, "Stop it." And does the polluter then come in and have a little chat? No.

Under this bill, he is entitled to a formal hearing before an administrative law judge. Now, you can reckon how long that will take—5 months. Then he does not like the conclusion. So the spewing is going on, toxic air is coming out, and the polluter appeals. The administrative law judge does not come up with the decision he wants, so he appeals.

Who does he appeal to? The Federal district court. How long does that take? Well, the distinguished Senator from Wyoming has practiced a lot of law out there in Wyoming. What does he say; on a fast track; 2 years?

Then the polluter gets a decision against him. What does he do? He appeals. Who does he appeal to? The court of appeals. How long will you give that one? Three years. Let us say there is not much going on out there in the circuit court; a little slack period. You can get it all done in 3 years, maybe. How much time has gone by? Five years.

If that is what you want, that is what you get under this amendment. I do not think it is a very good deal for the public health or the environment.

The PRESIDING OFFICER. The Senator's 3 minutes have expired. Who yields time?

Mr. NICKLES. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator controls 13 minutes 15 seconds.

Mr. NICKLES. I yield to the Senator from Wyoming 2 minutes.

Mr. SIMPSON. I thank the Senator from Oklahoma.

There is no one I respect more than Senator JOHN CHAFEE of Rhode Island and Senator MAX BAUCUS, and what they are trying to do. But here is a classic example of everything we do at this place. It is called frustration.

When you get frustrated, you abolish due process. When you abolish due process, you diminish your country. That is highly dramatic, but that is what it is.

Do you remember that poor soul that let all the oil escape from his ship, the slob of the Earth; his name is Hazelwood. What happened to him? He got a fair trial, and was convicted of a misdemeanor, and all those other charges were dismissed. It is called due process. He would have been hung in Wyoming, I suppose, back in the old days of the vigilantes.

That is what, out of pure frustration of this bill, this section would do, take away due process from people who invest millions and millions of bucks into plants. That is what we are trying to correct. It is called fairness, and it is called due process, and it is called using the court systems to protect you from agencies and bureaucracies who are pressed by people out of frustration.

And that is all we are trying to do.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, I yield myself a couple of minutes.

I might respond to points made by the Senator from Wyoming this way.

When the President sent up his bill to the Congress with respect to permits and enforcements, his bill specifically provided that judicial review of these administrative orders, these compliance orders that we are talking about, may only be carried out at the time the Government or other persons seek to enforce such orders.

The rationale provided by the administration was that otherwise enforcement for violations of the act can be delayed indefinitely pending judicial review in the courts, and the administration argued that EPA must possess the ability to proceed expeditiously against violators, and allowing immediate review of administrative orders in the court of appeals would significantly delay enforcement and correction of underlying violations through the years.

This is the administration speaking.

The administration also pointed out that the court of appeals refused to allow EPA review of EPA decisions?

So this is not a kangaroo court matter we are talking about here. The fact is that the administration asked for the provision we have in our bill. That was what the administration asked for, and it asked for it for a specific reason, and the reason is those that the administration just gave and which I have just outlined and the fact that we in the committee, as the Senator knows, have gone even further. We allowed preenforcement reviews. I must say that we have not only the so-called judicial process, which is very important here to consider, we also have the public health and environment to consider, and this is not an easy solution. We have to find the right balance.

The administration's rationale for the provision that was even more expeditious than the committee's final version was in favor of action proceeded to get going because that is what we have in the Clean Water Act and also the provision in the oilspill legislation that the administration sent up to the Congress.

So there is no kangaroo court here. There is no violation of due process here by any stretch of the imagination, again, for the reasons that the administration itself argued when it sent its bill to the Congress.

Mr. CHAFEE. Could I have a minute?

Mr. BAUCUS. I yield to the Senator from Rhode Island 1 minute.

Mr. CHAFEE. I would like to make this point to the distinguished Senator from Wyoming. First of all, he is a supporter of the Superfund law. He voted for the Superfund law. And the Superfund law has these exact provisions. There is no preenforcement review under the Superfund law.

Second, under the law as it currently exists where there is no preenforcement review, the polluter goes into court and says this is denial of due process. And what the court said to him is, "Nonsense; that is no denial of due process. This does not violate the Constitution. It is a provision to protect the health and the environment of the Nation." So there is no problem. I do not think we ought to wrap the Constitution around this and talk about due process. That subject is not involved here, and the courts have said so.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. May I ask the Senator to yield 30 seconds?

Mr. NICKLES. I am happy to yield to my colleague 30 seconds.

Mr. SIMPSON. Superfund, and I was on the conference committee and fought like a dog for the preenforcement rule. This is no conflict in my position. Exactly where I am now is where I was then. The result will be better, I certainly hope.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. In direct answer to my good friend and colleague, Senator CHAFEE, from Rhode Island, I point out to him the Attorney General's letter, which states such changes would raise important questions under article II and article III of the Constitution and go far beyond the existing framework of our environment laws.

So I think that is important. I think it is also important to ask, "Who do you want to have make these decisions?" Under the Baucus-Chafee proposal, you are going to have an EPA bureaucrat make decisions that you are talking about fines that could be up to $25,000 per day. Certainly, if you are talking about fines with criminal liabilities, an individual should be able to have an administrative law judge with a formal proceeding. We are trying to expedite the process, but people are entitled to due process. I think when you are talking about legal remedies that can result in shutting down factories, unemploying thou-

sands of people, then we must act in compliance with the Administrative Procedure Act. That is something we are trying to do. The administration requested this because we had some experience under the Clean Air Act and the Clean Water Act. We want to learn from some of those mistakes. So we tried to coordinate this with other environmental laws and with the Administrative Procedures Act. The administration requested this. I am kind of amazed that people more or less imply that, "Well, the Attorney General and the Department of Justice, evidently do not know what they are doing," "this is administration I and administration II." They will be the first to tell you that the first administration proposal would not work very well. As a matter of fact, I brought that point up during our negotiations, that we better start talking about permitting and enforcement. We spent a lot of time on mobile sources and nonattainment areas and there was a lot of discussion—and I compliment again the Senators who worked so hard and long—but we did not spend any time on permitting and enforcement. So what did we do? We relied heavily on the administration under administration I where they came back after more thought and homework and said we need to make some changes to make it work. The administration wants to make it work. I think the sponsors of this legislation want to make it work. I know that is the purpose. If you have an enforcement provision and you have a permitting provision that do not work, I think all of us will be disappointed. And the real losers will be the environment and the taxpayers.

So again I hope that we will go through—and I see my friend and colleague, the Senator from Minnesota, is here. He made a few statements in regard to our amendment a moment ago that I felt were not totally accurate, at least as far as our representations, so I wanted to at least clarify those. He mentioned the case that if you have a source that is emitting 22, but the source only reports 20, so the permit is for 20. We clearly provide that if there is a material mistake in the permit, it can be so modified. If it was a willful mistake, then legal remedies can be taken against that source.

The Senator mentioned there was limitation on notification to downwind States. There is under the Baucus-Chafee proposal as well. The Senator mentioned the antiback sliding provision. That is not in our provision or in the Baucus-Chafee provision either. The Senator also mentioned, or implied, I think, that our amendment would preclude States from adopting more stringent limits. That is clearly not the case. States would have the right to issue permits, and they could be more restrictive than Federal requirements.

I would like to make a couple points, with a couple of comments. How much time do I have, Mr. President?

The PRESIDING OFFICER (Mr. CONRAD). The Senator controls 7 minutes and 30 seconds.

Mr. NICKLES. Is it Senator BAUCUS' intention that he is going to cut this off at 5:15? The Senator asked me a couple of questions pertaining to our amendment. I would like to ask him or Senator CHAFEE a question or two on the Baucus-Chafee amendment, which again did not pass through the Environment and Public Works Committee. It did not pass through the leadership group. But if you look on page 471, under the paragraph title (f), it says "No permit shall be issued to any source located in a nonattainment area unless (A) the permitting authority made the determinations required under section 173 of this Act * * *."

Will the Senator tell me if I am correct? I believe I have been told that that is a new source requirement for nonattainment areas that would basically mandate the lowest achievable emission rate, so-called LAER. I was involved in the negotiation with the leadership group and never ever was the so-called LAER, the most expensive stringent standards, applicable to any source other than new sources. That was never mentioned or discussed. How did it appear in the permitting section on page 471?

Mr. CHAFEE. That is not the intent of the provision. That is not the intention of that provision on page 471.

Mr. NICKLES. Am I correct in my recitation of what it would do?

Mr. CHAFEE. No. The Senator is not. That is not.

Mr. NICKLES. The Senator said it is not the intent. I understand when the Senator says it was not the intent, I think I am correct it would mandate the lowest achievable emission rate, which is the most expensive approach for the source.

Mr. CHAFEE. Let me read to the Senator the purpose of that provision.

Mr. NICKLES. Just a second. How much time do I have remaining?

The PRESIDING OFFICER. Five minutes, thirty seconds.

Mr. NICKLES. Would the Senator make it short since we are short on time? I wanted to point out an expensive provision that was not included in the leadership agreement. This LAER provision was never discussed, and yet it is in the Senator's permitting section. And, again, the Senator was very exact or trying to examine our proposal and the language of our proposal which he certainly has the right to do. My point is that there are several provisions in the permitting section under the so-called Baucus-Chafee amendment which are very expensive, which have never really been discussed.

Another one, if you want to know it, on page 468, mandates the Federal Government's taking over the permit program. We never talked about a Federal mandate of the Federal Government taking over the permit program. We never reached that point. There was a lot of objection to mandating the EPA to take over State implemention plans. Yet I find mandating EPA to step in, in the Baucus-Chafee proposal dealing with permits. Both of these provisions are quite intrusive.

So I point out to my colleagues, I think it is important that we have it taken care of whether it be the intention, or maybe they want to clarify it with an amendment should our amendment not pass. I do not know. But I think it is important that it be addressed. Because LAER was not agreed to in any administration or leadership agreement that I am aware of, and I spent a few hours on nonattainment as well.

I reserve the remainder of my time.

Mr. BAUCUS. Mr. President, I yield 3 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 3 minutes.

Mr. JEFFORDS. Mr. President, this amendment addresses one of the most important, yet least appreciated issues of the clean air debate. There is no strong emotional attachment to the permitting and enforcement titles of this bill.

I will acknowledge that these titles make for somewhat dry reading. But, fortunately, the pending amendment is more similar to the language contained in the compromise than it is different. For this reason, I encourage my colleagues to focus on these differences and reflect on how these differences will affect their State agencies who are largely responsible for implementing the clean air law.

I have been in contact with Vermont's Agency of Natural Resources, as well as with the attorney general's office, to get their views on the two proposals to structure the permitting and enforcement programs. Because we lay the burden of attaining air quality standards on the States, we should be careful to not restrict their freedoms in carrying out this responsibility.

My State is greatly concerned about their ability to reopen a permit before its scheduled term expires. Each permit issued by the State of Vermont contains a provision allowing it to be modified based on cause. Such cause could be an ambient air quality concern or a new regulation issued by the State or Federal Government.

The Nickles-Heflin amendment seems to allow my State to reopen or modify a permit only if EPA promul-

gates regulations after the permit is issued and such modification is necessary in order to protect against a serious risk to the public health.

Mr. President, I must admit that I am not clear as to the meaning of "serious risk to the public health." While this may sound innocuous enough, it seems that we recently spent a great deal of energy trying to explicitly define this term—and we could not reach a consensus.

My State is concerned about this provision, fearing that it may preempt the State's ability to reopen permits once they are issued. Because of this concern, and because I fear that the serious risk to the public health may be too high a hurdle to cross as a condition to modify a permit, I oppose this provision.

Another serious concern I have with the Nickles-Heflin amendment is the extent to which a permit becomes a shield against violations that are not covered by the permit. Under the amendment, compliance with the permit is deemed compliance for any other emission limitation in effect under the act.

The compromise package, by comparison, makes compliance with the permit a defense against allegations that the source is not in compliance with requirements specifically addressed by the permit.

While I understand the desires of industries not to be needlessly harassed by permitting authorities after issuance of a permit, I do not think we should allow sources to violate one provision of the Clean Air Act simply because it holds a permit covering some other requirement.

Mr. President, I also share the concerns expressed by Vermont officials related to compliance deadlines and the ability to enforce full compliance with the Clean Air Act.

I think that all Senators should be aware that the permits and enforcement titles of the so-called Mitchell-Dole substitute is sustantially different than those contained in the original S. 1630. As the debate continues, there may be a tendency to confuse provisions that have already been modified by the compromise package.

While it is true that the pending Nickles-Heflin amendment is outside of the compromise agreement, and that those of us involved in the compromise may have addressed this issue but for lack of time, it should be noted that much staff work was being conducted during the course of the negotiations in an attempt to resolve the differences that are represented by this amendment.

The Mitchell-Dole substitute reflects several improvements over the permit and enforcement titles as originally reported by the Environment Committee. We have not turned a deaf ear to those who argued that the original structure was too onerous. We have incorporated the legitimate concerns that had been expressed by those who regulate and those who are regulated. But the Nickles amendment represents a significant weakening of the ability of the States and the Environmental Protection Agency to enforce this new Clean Air Act.

Mr. President, if we are to attain clean air, it is imperative that we have a permit and enforcement system that carries out the purposes of this bill.

I urge my colleagues to defeat this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, how much time does the Senator need?

Mr. DURENBERGER. Can you yield to me for a unanimous-consent request, which is off the bill, not on your time?

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senator from Minnesota be allowed to proceed out of order for 1 minute.

Mr. DURENBERGER. No, I have a resolution that needs to be acted on.

Mr. BAUCUS. How much time does the Senator need?

Mr. DURENBERGER. About 5 minutes total.

Mr. BAUCUS. Might I ask the Senator to suspend for a minute? We are about at the end on this amendment.

Mr. DURENBERGER. Yes.

Mr. President, I withdraw my request for recognition.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield myself a couple of minutes here on this amendment.

Mr. President, I think anyone listening to this debate can understand why this amendment should be defeated. That is because it is ambiguous, so uncertain. Nobody knows what it means. I have asked several questions trying to better understand the provisions of this amendment. I am uncertain as to those answers because the answers were circular in nature. The provisions in this amendment are very, very ambiguous, very uncertain.

What I do understand, though, Mr. President, is this: No. 1, although the shield provisions are modified, the shield goes much too far. There are just too many instances where the permits shield a source for violations of the Clean Air Act for matters not covered by the specific requirements of the permits. There are too many instances, as I understand the explanation of this amendment, where a source would be shielded from enforcement action under the Clean Air Act for violation for matters that were not covered by a specific provision in the permit. That is troubling, to say the least.

In addition, the proposed amendment would make it more difficult for a permit to be modified. We are in a circular situation here. It is difficult to modify the permit. It is, therefore, easier for a source to be shielded. It is very circular.

In addition to that, Mr. President, the amendment contains provisions wherein a permit may not be modified if the costs to the agency outweigh the environmental benefits from issuance of the permit. We have not set that precedent in any other provisions of law that I am aware of. All the cost-benefit analyses, all the cost-benefit discussions that occurred generally with respect to actions the Government take, are with respect to cost to an individual, to a citizen, to a business, to a industry, not costs to the agency.

If we are here today to begin to add an additional layer that would prevent the issuance of an order, or issuance of a permit that would have the effect of providing public health and welfare and protecting the environment, I do not think we should do so by adding an additional requirement that a change or modification not go into effect if, for some reasons, the cost to the agency were excessive in the view of a person suing the agency, saying, "Well, you know this is costing your agency, too much, therefore you should not go through with an order or the permit modification." That, in itself, is a veritable lawyer's feast, it seems to me. There will be interminable delays.

Beyond that Mr. President, the present enforcement preview provisions contained in the amendment are another lawyer's feast.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAUCUS. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAUCUS. The point very simply is the amendments requirements add a full-blown administrative procedure provision, then allow the source to review that decision in district court. And, after that, allowing a review by the court of appeals, in effect, means that the lawyers are going to have a heyday here. In effect, it is also going to mean that the public health is not protected because it is clear, with that kind of a provision, that enforcement orders will not go into effect.

There are a whole host of reasons why I think this should be opposed but those are some that I think are most paramount.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the State and Territorial Air Pollution Program Administrators, who sent a letter to me and Senator CHAFEE in opposition to the most

recent modification of the Nickles amendment. Essentially, they believe that it will be a major loophole if enacted and would seriously injure public health.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE AND TERRITORIAL
AIR POLLUTION PROGRAM
ADMINISTRATORS,
Washington, DC, March 26, 1990.

Hon. JOHN H. CHAFEE,
U.S. Senate,
Washington, DC.

DEAR SENATOR CHAFEE: Last week, on behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO), we wrote to you expressing our concerns with an amendment—authored by Senators Don Nickles, Howell Heflin and Robert Dole—that would significantly weaken the permitting program proposed by you and other Senate leaders. Since that time, the Nickles-Heflin-Dole amendment has been changed in several respects. However, notwithstanding these recent changes, STAPPA and ALAPCO still have some significant concerns.

Perhaps our greatest concern with the most recent version of the Nickles-Heflin-Dole amendment is that it prohibits permitting agencies from revising the requirements of a permit during its five-year life unless it can be demonstrated that there is "actual harm to public health." As we stated in our earlier letter, this provision could easily allow a permitted source to escape regulatory requirements for almost five years, if such requirements are issued after a source has obtained its permit.

This provision clearly represents not only a significant relaxation to our existing permitting program, but also a loophole that would impede state and local efforts to ensure the timely and effective control of sources of air pollution. STAPPA and ALAPCO urge you to oppose the Nickles-Heflin-Dole amendment.

Sincerely,

BRADLEY J. BECKHAM,
STAPPA President.
JAMES M. LENTS,
ALAPCO President.

Mr. BAUCUS. Mr. President, as one of the managers of this compromise I must vigorously oppose this amendment. As much as any other aspect of the bill before us, permitting and enforcement issues go right to the heart of our commitment to provide clean and healthful air for the American people and to protect our natural resources.

The simple fact is that the success of this legislation, in meeting our public health and environmental objectives, we live or die with the program of source-by-source permits that we establish in this bill. Although in some cases, such as the acid rain title, emissions requirements will be imposed on individual sources even in the absence of permits or regulations, the legal instrument that will determine how much pollution a source can lawfully emit will be that source's permit. The permit program must operate correctly. Otherwise much of what we are trying to accomplish in this legislation may be for naught.

Mr. President, there is no small degree of irony that we are having this debate at all. Since this bill was originally reported, we have made substantial changes in it as a direct result of working closely with the administration and for the express purpose of reconciling the committee bill and the administration's concerns.

As reported, S. 1630 was a 95-percent verbatim repeat of the permitting and enforcement provisions of the President's own bill. After the Environment and Public Works Committee markup, however, it quickly became clear that the administration itself wanted substantial changes in the very provisions that had been introduced in the President's bill. In response, I must say we have been very accommodating. The committee has worked very closely with the administration.

The permitting and enforcement titles were not addressed during the negotiations that produced the Mitchell-Dole compromise. Instead, the parties agreed to disagree. Even so, as the compromise was put together we agreed to make even more changes that rendered the permit and enforcement titles even more moderate and even closer to the administration's new position as to how those provisions should be formulated.

In short, titles V and VI are much closer to the administration's position—and to the provisions of the Nickles-Heflin amendment—than they are to the original committee bill. Thus, even titles V and VI reflect the spirit of compromise and consensus contained in the substitute amendment now before the Senate.

That being said, the differences between titles V and VI of the Mitchell-Dole compromise and the amendment before us are critical and could threaten the integrity, and the effectiveness, of the legislation before us.

Let me point out the problems that the Nickles amendment would pose. I will start by addressing the issue of the permit shield, which has received so much attention in the past weeks and months.

Both sides agree that compliance by a source with its permit should shield the source from enforcement actions for noncompliance with any requirement of the Clean Air Act that is covered by the permit. Unfortunately, the amendment before us extends the permit shield to open up loopholes that the bill has attempted to close and to make the public bear the risk if mistakes or omissions in the permit are the fault of the permitting authority.

On the first point, the language of the Nickles-Heflin amendment could allow permits to defeat emissions limitation requirements that are incorporated in the law itself.

Let me use an example. Title IV of the compromise, the acid rain program, includes an innovative and potentially complex allowance system to implement the sulfur dioxide reduction requirements of the title. Conceivably, the EPA could get so bogged down in promulgating regulations to flesh out this system—a real possibility if the utility industry finds it in its interest to accomplish this result. To guard against regulatory gridlock—or, more to the point, litigation gridlock, the compromise has been carefully drafted to make it clear that as of January 1, 1995, for phase I and January 1, 2000, for phase II, each plant will be required by law to limit its sulfur dioxide emissions to a specified level regardless of whether regulations are ever promulgated or the allowance system is ever put in place.

This, however, is where the Nickles-Heflin amendment permit shield introduces confusion. If a permit covering certain pollutants has been issued to a utility prior to the effective date of phase I or phase II of the acid rain program, or—more specifically—to the issuance of regulations implementing the SO_2 requirements, recalcitrant utilities could use the Nickles-Heflin language to argue that the permit shield overrides the statutory emissions limitations specified in title IV and that the administrator must—and I am quoting from the amendment—"find that actual harm to public health would result during the period prior to the expiration of the permit" before the acid rain emissions limits can become effective as to the source.

The Nickles-Heflin permit shield raises the question of who bears the risk when the permitting authority is at fault for mistakes in the permit: Is it the polluter or is it the public who must bear the risk? Regrettably, the amendment concludes that it is public health and the environment that must bear the risk when the permit writer is at fault for mistakes in the permit.

Some would say that it is unfair to have it any other way, that the source must be able to rely on its permit. But it is even more unfair for the public and the environment to suffer because of the permitting authority's mistakes. After all, the resources of many companies subject to regulation far outweigh those of the State bureaucracies that must carry out this law. Through their attorneys, engineers and consultants these companies will themselves have a pretty fair idea of what they must do to comply even when the permitting authority makes a mistake.

In contrast, many state environmental agencies will find their resources stretched to the limit to make good on the requirements we enact here. We cannot rig the process in such a way that public health and the environment suffer just because mistakes in

the permit turn out to be the fault of the permitting authority.

As our debate here unfolds I will address other issues in more detail. But I want to close by emphasizing how important the stakes here are for the effectivness of this legislation in meeting its objectives. I remind my colleagues that with respect to the issues presented by this amendment every time we concern ourselves with fairness to pollution sources, we must be certain that we are not doing so at the expense of fairness to the public.

As we move through this debate we will discover that in the name of fairness, the Nickles-Heflin amendment restrict the ability of regulatory authorities to revise permits even if necessary to carrying out the longstanding purposes of the Clean Air Act. In addition, this amendment takes away an assurance that the compromise provides that there will be a time certain by which all requirements of this bill will be implemented on a source by source level. In addition, we will see that the amendment would allow recalcitrant polluters to hamstring enforcement and benefit from lengthy period of noncompliance.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma controls 3 minutes, 40 seconds.

Mr. NICKLES. Let me address a couple of statements that have been made, which are, in my opinion, quite misleading or inaccurate.

One, that this amendment is a lawyers' heyday. If there is ever a lawyers' heyday amendment it is the Baucus-Chafee approach. The Baucus-Chafee approach allows citizen groups to sue EPA for making discretionary decisions. And we are going to have EPA second guessed on every single decision they make on permits because there is some environmental group or other group that thinks that some permit should not be issued for whatever reason. They are going to sue EPA every single day.

We are talking about thousands of permits. EPA is going to have to spend their time and their resources. Their attorneys, instead of going out after the polluters are going to have to spend their time protecting themselves for decisions they made that were under the law, that were purely discretionary.

We allow citizens groups to go against EPA if they make nondiscretionary decisions, and there are appeals levels that can be made. We allow citizen involvement in State implementation plans. We allow citizen involvement throughout the process. But the Baucus-Chafee amendment allows citizen groups, and anybody—a competitor—to sue over a permit or sue over EPA's discretion on a permit. I think that is ridiculous.

It would be a lawyer's paradise, there is no question about it. But it would not help the environment. It would divert the EPA from making use of the resources to actually clean the environment.

Then, Mr. President, again I am amazed at the confusion over the so-called shield. We made some accommodations to make the shield work better to accommodate some of the environmental concerns that people have raised. Again, the shield would provide some certainty to business to enable them to better make investment divisions. But there are exceptions to the shield. One, if a person gets a permit, and if there is a material mistake mentioned in the permit—in other words he had 22 sources but only listed 20—that is a mistake, that is a material mistake, and that is an omission. That permit would be changed. It would be modified.

If there is actual harm to public health if a new regulation were not complied with, the Administrator can say so and that permit holder can be required to submit an application for a revised permit within 30 days. You do not have to wait. The permit would be changed quickly because we are interested in protecting public health. I think that is a significant change in our amendment.

If there is a new regulation, and if that new regulation had public comment and hearing then the permit holder must file an application for a revised permit based on the schedule set forth in the regulation. That is another significant, positive, change from our previous language.

Then there is also the emergency order. We do not do anything that would prohibit the Administrator from making emergency orders. In fact, we have identical language to that in the Baucus-Chafee amendment in this regard.

So, referring to our amendment, the so-called shield, I think I heard the Senator from Rhode Island, or some other Senator saying, "Well, it is too broad, it goes too far." This is flatly not the case. What we are trying to do is get a permitting system that will work. We are trying to get a permitting system that will operate. We are trying to get an enforcement system where EPA can spend their time and resources going after polluters instead of just litigating over codifying permits.

We are trying to give people due process of law so if somebody does sue them, the case at least would be before an administrative law judge and be in compliance with the Administrative Procedures Act.

Instead, do my colleagues really think we should have an EPA bureaucrat making a decision where somebody can be sued for $25,000 a day, maybe shut down his plant, put thousands of people out of work?

Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NICKLES. Mr. President, to conclude, the administration has requested this amendment. This amendment, cosponsored by myself and Senator HEFLIN, Senator DOLE, and 13 additional Senators, is at the administration's request. EPA said we need to make some changes. The committee amendment has been improved a little bit, but it still will not work in some areas.

The Department of Justice said, "Wait a minute, we have to make some changes. We are going to be clogged; the courts are going to be clogged. We do not want to spend the time." The Attorney General says part of it may be unconstitutional. We do not want to get involved in those arguments. Let us adopt a common sense, streamlined permitting approach where enforcement will actually be used against polluters and not against the EPA.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

RECOGNIZING AND CONGRATULATING THE 1990 INTERNATIONAL TRANS-ANTARCTICA EXPEDITION

Mr. DURENBERGER. Mr. President, I have a unanimous-consent request which has been cleared on both sides.

I ask unanimous consent that Senate Resolution 258 be discharged from the Committee on Foreign Relations and that the Senate turn to its immediate consideration.

I ask the clerk to read the text of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered. The resolution will be stated.

The legislation clerk read as follows:

A resolution (S. Res. 258) to recognize and congratulate the 1990 International Trans-Antarctica Expedition.

S. RES. 258

Whereas Antarctica is a vast land of snow and ice, that is as big as the United States and Mexico combined and contains 70 per centum of the world's fresh water and has the most extreme weather in the world with temperatures as low as minus 128 degrees Fahrenheit and two hundred miles per hour winds;

Whereas the six men and forty dogs of the 1990 International Trans-Antarctica Expedition are the first in history to traverse the four thousand mile wide Antarctic continent on foot using only dogs and skis and overcoming tremendous physical odds and unimaginable weather conditions including temperatures to minus 54 degrees Fahrenheit and winds to one hundred miles per hour;

Whereas the effort of the six men from six different countries—the United States, France, the Soviet Union, People's Republic of China, Great Britain, and Japan—show that people from diverse social, economic, and political backgrounds can cooperate to overcome even the most daunting obstacles;

Whereas the team has focused attention and educated millions of people around the world showing the magnificence of the continent, and has demonstrated that although the continent is hostile, forbidding, and barren, it is also a land of great beauty and vulnerable to man's intrusion, demanding careful consideration of its future by the Antarctic Treaty nations;

Whereas the team was led by author and adventurer Will Steger of Ely, Minnesota, who, working with coleader Jean-Louis Etienne of Paris, France overcame significant odds to make possible the dream they conceived in 1986 on the ice near the North Pole;

Whereas the team member from the Soviet Union, Victor Boyarsky, helped garner essential logistical support for the trek from his country and joined Qin Dahe of the People's Republic of China in collecting scientific data that has never been gathered before in Antarctica;

Whereas Geoff Somers of Great Britian provided essential navigation skills and worked with Keizo Funatsu of Japan in driving the sleds and handling the specially bred polar huskies, that pulled their suppliers and equipment;

Whereas the forty dogs including Sam, Yeager, Thule, and Gordy, not only pulled the sleds but provided the men with the spirit they needed to continue their trek, especially when times got tough; and

Whereas without the commitment of people like Cathy de Moll and Jennifer Gasperini, along with the expedition staff and volunteers and the corporate and individual supporters from around the world, this historic trek would not have happened: Now, therefore, be it

Resolved, That the United States Senate recognizes and congratulates the six members of the 1990 International Trans-Antarctica Expedition for completing their historic trek and focusing attention on and educating the world to the beauty and vulnerability of the forbidding bottom of the Earth: The Antarctic Continent.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURENBERGER. Mr. President, on Saturday, March 3, at 7:06 p.m. eastern standard time, the 1990 International Trans-Antarctica Expedition completed the first nonmechanized traverse of Antarctica, traveling the west-east axis. Honoring this important accomplishment, Senator BOSCHWITZ and I submitted Senate Resolution 258. Today, as this resolution is agreed to by the Senate, I want my colleagues to know that the team that all of us have been following for the last 7 months is watching our actions from the family gallery.

Since completing the 4,000-mile trek the six men have been on a whirl-wind tour of the world. From a seasick trip aboard a Soviet ship to New Zealand; to a meeting with France's President Mitterrand; to a warm welcome in St. Paul, MN, to arriving in Washington, DC, last night. I bet the men think the easy part was on Antarctica. Despite the travels, after 7 months on the continent, away from their friends and family, a warm sun, and the conveniences of modern living, the team is enjoying being back in the world.

There are many events scheduled for the team here in Washington. This noon, team leader Will Steger spoke at the National Press Club. Later this afternoon I am hosting a members—only reception in the LBJ Room in fact, as soon as we pass this resolution. Everyone is welcome to meet the team members and their families from 5:15 to 6 where Senators may meet the six men of the Trans-Antarctica International Expedition who are the first in history to make the 4,000-mile trek across Antarctica by dogsled. You can hear firsthand of the cold, harsh beauty of the barren continent with its 100-foot-deep crevasses and screaming winds. You can hear of their solitude and exertion.

Following the members—only reception, I hope Senators will join me and the Ambassadors of China, Britain, the Soviet Union, and France at a public reception honoring the men from 6 to 8 in room 385 of the Russell Senate Office Building.

And, finally, tomorrow, Tuesday, I will introduce the team to President Bush at the White House.

By accomplishing something that has never been done before, the men have lit the imagination of the world. They have illuminated a continent that is little understood and they have served as a beacon of hope for international cooperation. For this reason, my colleague Senator BOSCHWITZ and I submitted Senate Resolution 258. It recognizes the men, their achievement, and their service to the world.

More important, it represents the faith, the hope, and the charity with which this act was undertaken.

Although I have been coming to the Senate floor week after week for nearly 7 months to give my updates, it is still hard for me to grasp the difficulty of the trek and its significance. These people will go into history books that our great-grandchildren will read. And, they endured the dangers, the discomfort, and the isolation to make a dream come true—not for financial reward.

Their dream had three parts: to accomplish a feat that had never been done before; to show the world that six men from six different countries with differing economic, social, and political backgrounds can join together in harmony to accomplish a common good; and third, and most important, to educate the world to the magnificence of the continent and to demonstrate that although the continent is hostile, forbidding, and barren, it is also, as some of my colleagues who have been there have told me, a land of great beauty and vulnerable to man's intrusion, demanding careful consideration of its future by the Antarctic Treaty nations.

Mr. President, Will Steger from the United States, Jean-Louis Etienne, of France, Victor Boyarsky, of the Soviet Union, Qin Dahe, of China, Keizo Funatsu, of Japan, and Geoff Somers, of Great Britain accomplished all facets of their dream, and by doing so have done a great service to the world. Their colleague, Ibrahim Alam, a Saudi Arabian scientist who provided their technical support, will share in the credit for their services.

Senate Resolution 258 pays tribute to their accomplishment and service.

Mr. JEFFORDS. Will the Senator yield?

Mr. DURENBERGER. I am pleased to yield.

Mr. JEFFORDS. Mr. President, I want to recognize the tremendous feat of those who have had the opportunity to visit the Antarctica. The thought of passing across that great continent on foot with the dogs is unimaginable. It is just incredible. Certainly, all of us owe them a great debt of gratitude for their efforts because it is an important continent, especially as we examine the air and see the ozone problems, in addition to what it has taught us about the history of the world.

In addition to that, the exploration which has gone on and the great bravery shown may not match perhaps that of Amundsen, Shackleton, and Scott, but, on the other hand, it is an incredible feat and deserves what the Senator has done for them today.

Mr. CHAFEE. Mr. President, I want to join in the tribute to these indomitable explorers. I had the privilege, as others here, of going to the South Pole. I went the easy way, flying, but from that association and from prior studies of Shackleton, Scott, and Amundsen, I have always been a great admirer of those who braved the rigors of the Antarctic clime to make those journeys.

Of course, this journey surpasses those by going right across the entire continent. I guess it is the last great exploratory feat that can be done on the world surface. So those men have participated in something extremely unique.

We all join in tribute to them. It is certainly wonderful that in that land that we hope will be internationalized that the expedition did consist of men from seven different countries.

I just say that it seems to me it is appropriate that they be here at the time when we are dealing with the clean air bill because this actual legislation deals with chlorofluorocarbons, CFC's, and attempts to restrain them and eliminate them by the end of this

decade. So those men have been in that continent where we first observed the destruction of the ozone layer.

I hope that as time goes on, greater efforts will be made to preserve the environment of the Antarctica and that it be kept in its pristine condition and preserved for future generations to see, explore, and visit as those doughty explorers have done.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I am grateful to my colleagues from Vermont and Rhode Island for those comments. I also will say that Will Steger, coleader of the expedition, was introduced as an author. If you want to read immediately about Antarctica, you cannot get it in a book by him, but you can read the last issue of National Geographic. I do not know if he is going to write a book on their experiences or not. But in a couple of weeks he will be publishing a book which is on the subject of saving our Earth.

I just happened to page through the book a little while ago. It sort of reads what the Senator from Montana, the Senator from Rhode Island, the Senator from Vermont, myself and a lot of people have been trying to do since January 24, and that is to pass the Clean Air Act. That book is designed, I believe, to get all the people of the world interested in the environment, but it covers the air and all of the problems related with the air and also has a few handy ways on how to influence the process, which I am sure many of us would appreciate at this stage of the game, broadening the scope of that process.

Mr. President, I urge the adoption of the resolution.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the resolution.

The resolution (S. Res. 258) was agreed to.

The preamble was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I thank my colleagues.

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1377 TO AMENDMENT NO. 1293

Mr. CHAFEE. Mr. President, I send an amendment to the desk, on behalf of the junior Senator from Mississippi [Mr. LOTT] and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. LOTT, proposes an amendment numbered 1377.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 426, strike lines 15 through page 428, line 16, and insert:

SEC. 407. (a) APPLICABILITY.—On the date that a coal-fired utility unit becomes an affected unit pursuant to sections 404, 405, 409, or on the date a unit subject to the provisions of 404(d) or 409(b), must meet the SO_2 reduction requirements, each such unit shall become an affected unit for purposes of this section and shall be subject to the emission limitations for nitrogen oxides set forth herein.

"(b) EMISSION LIMITATIONS.—Not later than eighteen months after enactment of the Clean Air Act amendments of 1990 the Administrator shall by regulation establish annual allowable emission limitations for nitrogen oxides for the types of utility boilers listed below, which limitations shall not exceed the rates listed below: *Provided,* That the Administrator may set a rate higher than that listed for any type of utility boiler if the Administrator finds that the maximum listed rate for the boiler type cannot be achieved using low NO_x technology. The maximum allowable emission rates are as follows:

"(A) for tangentially-fired boilers, 0.45 lb/mmBtu;

"(B) for dry bottom wall-fired boilers and for cell burners, 0.50 lb/mmBtu.

After January 1, 1995, it shall be unlawful for any unit that is an affected unit on that date and is of the type listed in this paragraph to emit nitrogen oxides in excess of the emission rates set by the Administrator pursuant to this paragraph.

"(2) Not later than January 1, 1997, the Administrator shall, by regulation, establish allowable emission limitations on a lb/mmBtu, annual average basis, for nitrogen oxides for the following types of utility boilers:

"(A) wet bottom wall-fired boilers;

"(B) cyclones; and

"(C) all other types of utility boilers.

The Administrator shall base such rates on the degree of reduction achievable through the retrofit application of the best system of continuous emission reduction, taking into account the available technology, costs and energy and environmental impacts; and which is comparable to the costs of nitrogen oxides controls set pursuant to subsection (b)(1). Not later than January 1, 1997, the Administrator may revise the applicable emission limitations for tangentially fired and dry bottom, wall-fired boilers (including cell burners) to be more stringent if the Administrator determines that more effective low NO_x burner technology is available: *Provided,* That no unit that is an affected unit pursuant to section 404 and that is subject to the requirements of section (b)(1), shall be subject to the revised emission limitations, if any.

"(c) REVISED PERFORMANCE STANDARDS.—(1) Not later than January 1, 1993, the Administrator shall propose revised standards of performance to section 111 for nitrogen oxides emissions from fossil-fuel fired stream generating units, including both electric utility and nonutility units. Not later than January 1, 1994, the Administrator shall promulgate such revised standards of performance. Such revised standards of performance shall reflect improvements in methods for the reduction of emissions of oxides of nitrogen.

"(d) ALTERNATIVE EMISSION LIMITATIONS.—The permitting authority shall, upon request of an owner or operator of a unit subject to this section, authorize an emission limitation less stringent than the applicable limitation established under subsection (b)(1) or (b)(2) upon a determination that:

i. a unit subject to subsection (b)(1) cannot meet the applicable limitation using low NO_x burner technology; or

ii. a unit subject to subjection (b)(2) cannot meet the applicable rate using the technology on which the Administrator based the applicable emission limitation.

The permitting authority shall base such determination upon a showing satisfactory to the permitting authority, in accordance with regulations established by the Administrator not later than eighteen months after enactment of the Clean Air Act amendments of 1989, that the owner or operator:

(1) has properly installed appropriate control equipment designed to meet the applicable emission rate;

(2) has properly operated such equipment for a period of 15 months (or such other period of time as the Administrator determines through the regulations), and provides operating and monitoring data for such period demonstrating that the unit cannot meet the applicable emission rate; and

(3) has specified an emission rate that such unit can meet on an annual average basis.

The permitting authority shall issue an operating permit for the unit in question, in accordance with section 408 and part B of title III:

i. that permits the unit during the demonstration period referred to in subparagraph (2) above, to emit at a rate in excess of the applicable emission rate; and

ii. at the conclusion of the demonstration period to revise the operating permit to reflect the alternative emission rate demonstrated in paragraphs (2) and (3) above.

Units subject to (b)(1) for which an alternative emission limitation is established shall not be required to install any additional control technology beyond low NO_x burners. Nothing in this section shall preclude an owner or operator from installing and operating an alternative NO_x control technology capable of achieving the applicable emission limitation.

"(e) EMISSIONS AVERAGING.—In lieu of complying with the applicable emission limitations under subsections (b)(1), (b)(2) or (d), the owner or operator of two of more units subject to one or more of the applicable emission limitations set pursuant to these sections, may petition the permitting authority for alternative contemporaneous annual emission limitations for such units that ensure that (1) the actual annual emission rate in pounds of nitrogen oxides per million Btu averaged over the units in question is a rate that is less than or equal to (2) the Btu-weighted average annual emission rate for the same units if they had been operated, during the same period of time, in compliance with limitations set in accord-

ance with the applicable emission rates set pursuant to subsection (b)(1) and (b)(2).

If the permitting authority determines, in accordance with regulations issued by the Administrator not later than eighteen months afer enactment of the Clean Air Act amendments of 1989 that the conditions in the paragraph above can be met, the permitting authority shall issue operating permits for such units, in accordance with section 408 and part B of title III, that allow alternative contemporaneous annual emission limitations. Such emission limitations shall only remain in effect while both units continue operation under the conditions specified in their respective operating permits.

Mr. CHAFEE. Mr. President, this is a technical amendment to the amendment offered last week by Senator LOTT. That amendment was No. 1356. That amendment had a mistake in it where it referred to in section 407(b)(A) emission limitations as being at 0.045 pounds per million Btu. That was a mistake. It should not have been ".045" pound; it should have been "0.45" pound. That is what this amendment is about. In all other respects, it is similar to the prior amendment, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 1377) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(By previous order, amendments numbered 1375 and 1376 appear at this point in the RECORD.)

AMENDMENT NO. 1375 TO AMENDMENT NO. 1293

(Purpose: To make technical changes)

Mr. BAUCUS. Mr. President, on behalf of Senator KOHL, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. KOHL, for himself, Mr. KASTEN, Mr. LEVIN, and Mr. RIEGLE, proposes an amendment numbered 1375.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 423 of the amendment, lines 17 and 19, strike "1986" and insert "1985".

Mr. KOHL. Mr. President, I am pleased to offer this amendment which amends title IV of the bill by simply changing the applicable date for plants which are eligible for allowances pursuant to the preenactment provision of the title. As reported by the Environment and Public Works Committee, all generating units which commenced operation between January 1, 1985, and the date of enactment qualified under the preenactment provisions outlined in section 405(g) of title IV. The substitute bill which we are now considering, however, changed the qualifying date from January 1, 1985, to January 1, 1986. This amendment restores eligibility to plants which began operating in 1985.

This amendment is very important to two clean plants in Wisconsin which began operation in 1985: Pleasant Prairie 2 and Edgewater 5. These two state-of-the-art plants are currently operating at very low emission rates, and will continue to operate at or below those rates.

Without this amendment, those plants would have been denied thousands of allowances which they would have received under the original S. 1630, and to which they are entitled. That situation would have resulted in a situation where these new, clean plants would have been put in the unfair situation of having to purchase expensive pollution allowances in the future when business and industrial growth in Wisconsin require greater electricity output on the part of our utilities.

This amendment which I am offering today will prevent Wisconsin's utilities from having to purchase emission allowances from other utilities, thereby reducing their operational costs, and keeping rates lower for industrial, commercial, and residential customers. The amendment is good for Wisconsin's future, because it will help provide new business and job opportunities in the State. I am pleased that the managers of the bill have agreed to support the amendment and I commend my colleague, Senator KASTEN, for his work on this amendment.

Mr. KASTEN. Mr. President, in the development of the substitute package, not all of the SO_2 emissions were allocated. As drafted, in fact, there would be some severe, I believe unintended, consequences.

This is a very simple amendment. It simply returns to 1985 instead of 1986 as the basis for new units brought into operation.

This amendment will have no adverse environmental impacts. It returns fairness to the legislation that would be unintentionally restrained.

This amendment is almost technical in nature, but failure to adopt it would have very severe, unintended impacts on some of the utilities in my State.

Two new generators came online in Wisconsin in 1985.

Without this amendment, those two plants would be severely penalized. I do not believe that is anyone's intent.

I strongly support this amendment and ask that it be immediately adopted.

I believe the amendment has been cleared on all sides.

Mr. LEVIN. Mr. President, I would like to thank the managers of the bill for accepting this amendment offered by myself, and Senators KOHL, KASTEN, and RIEGLE.

The amendment is a simple one. It changes the starting date of the substitute's section 405(g) from 1986 back to 1985, which was in the original committee-passed version of S. 1630. The substitute's new version of this section would have treated utility units that began operation in 1985 in a different manner, in one that was never openly discussed by all the concerned parties. I appreciate the negotiators willingness to stick to the terms of the agreement in making this change.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1375.

The amendment (No. 1375) was agreed to.

AMENDMENT NO. 1376 TO AMENDMENT NO. 1293

(Purpose: To make technical changes)

Mr. BAUCUS. I send an amendment to the desk on behalf of Mr. KASTEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. KASTEN, for himself and Mr. KOHL, proposes an amendment numbered 1376 to amendment No. 1293.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 398 of the amendment, line 13, before the period insert the following: "including allowances issued to units subject to phase I requirements (as described in section 404) which are applied to emissions limitations requirements in phase II (as described in section 405)".

Mr. KASTEN. Mr. President, this amendment makes clear that allowances issued under the first phase of the SO_2 program are available to be applied during the operation of the second stage of controls.

This is known as the banking of emission credits.

This amendment will help reduce SO_2 emissions faster. This amendment makes clear there are incentives to reduce SO_2 as quickly as possible. By moving quickly to cut SO_2 emissions under the first phase of this program, utiltiies will gain some greater flexibility under the second stage.

There will be no net increase in SO_2 emissions because of this amendment. In fact, it is very good for the environment because it clarifies incentives to cut pollution quickly.

My amendment simply makes clear that allowances from phase I are available to phase II.

The dual benefits of early cleanup coupled with increased flexibility makes this a win win amendment for the utility ratepayers and all citizens of the Nation.

I believe the amendment has been cleared on all sides. I have worked closely with my colleague, Senator KOHL, to develop and clear this amendment.

I ask for its immediate adoption.

Mr. KOHL. Mr. President, I am pleased to offer this amendment today on behalf of myself and my distinguished colleague, Mr. KASTEN. This important amendment clarifies an important feature of the allowance and trading system which is created by title IV of this legislation.

This bill sets up an entirely new system of regulating emissions of sulfur dioxide and oxides of nitrogen, which combine in the atmosphere to form acid rain. Title IV establishes a two-phase program for reductions in sulfur dioxide emissions, creates a system of pollution credits and allowances which will be allotted to each coal-fired utility unit on an annual basis, and allows the utilities to trade allowances among themselves in order to meet the emissions reductions required by the bill in the most cost-effective manner.

The utilities in Wisconsin, however, will be well ahead of the reduction schedule imposed by this legislation because of the State's progressive acid rain law which was enacted in Wisconsin's law requires that all the State's utilities reduce their sulfur dioxide emissions by 40 percent from 1985 levels by 1993. In fact, Wisconsin's utilities will meet the very low emissions rate of 1.2 lb/mmBtu by 1993, 7 years before utilities nationwide will be required to meet that same rate under this legislation which we are now considering.

When the Senate began consideration of the Clean Air Act amendments now before us, I expressed my belief that Wisconsin's utilities should not be penalized under this legislation for the early emissions reductions they are making under Wisconsin's acid rain law. Instead, our utilities should receive credit for having controlled their acid rain emissions prior to any Federal requirement to do so.

For the period between 1985 and 1993, a period of 7 years, the Nation's forests and lakes will benefit from Wisconsin's farsighted and innovative acid rain law. During that time Wisconsin's utilities will not be releasing tons of emissions which they would have otherwise been able to emit under the new Federal acid rain law. It is only fair that this legislation recognize the early contribution that Wisconsin's utilities are making to healthier forests and lakes, and improved human health.

The amendment which I am offering today will help to insure that Wisconsin's utilities get the credit they deserve for their early reductions in acid rain emissions. Since our utilities will be far below the phase I emissions rate imposed by this legislation, due to Wisconsin's acid rain law, they will accumulate more credits than they need from 1995 to the year 2000. The amendment clarifies the ability of utilities to accumulate excess credits which they will receive during phase I of the acid rain control program, to be carried over for later use in phase II of the program. They will need the extra credits in phase II in order to accommodate the growth and expansion which they anticipate in the post-2000 years.

Mr. President, this amendment is very important to my State. It clarifies for utilities that "banking" is allowed under the Acid Rain Control Program established by this legislation. I appreciate the willingness shown by the bill's managers to accommodate my concerns on this legislation, and I am pleased that the Acid Rain Program will give Wisconsin utilities credit for their early emissions reductions.

Mr. BAUCUS. This amendment would have been adopted as a technical amendment by the managers in any event, and the managers also do not expect allowance allocations to at all be affected since this was part of S. 1630.

Mr. President, the second amendment offered by Senator KASTEN is an amendment to clarify that units that have to make reductions in phase I bank allowances that are allocated in phase I and carry them forward to be used in phase II.

Both of these amendments are very technical in nature and I urge their adoption.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the——

Mr. SYMMS. Mr. President, if I might ask the Senator one question.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. I am sure the answer is in the affirmative but I will ask anyway. The other night Senator DOMENICI expressed concern——

Mr. BAUCUS. That is correct. I might say to the Senator from Idaho it is my understanding that Senator DOMENICI has looked at and cleared both of these amendments.

Mr. SYMMS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 1376.

The amendment (No. 1376) was agreed to.

Mr. SYMMS. Mr. President, might I inquire of the managers of the bill, are we at a point now where we can take amendments that have been approved? I have an amendment that has been approved by both sides.

The PRESIDING OFFICER. The Chair advises the Senator the pending amendments would have to be set aside.

Mr. SYMMS. I ask the managers of the bill if they are prepared to do so. If so, I will ask unanimous consent. I have an amendment that has been approved by both sides. I wonder if now is an appropriate time to offer it.

Mr. BAUCUS. Might I ask the Senator what the amendment is.

Mr. SYMMS. It is the wood stove amendment. This has been approved. A wood stove modernization amendment.

Mr. BAUCUS. If the Senator will yield, is this the amendment that has $24 million?

Mr. SYMMS. No. We have changed it. It says "an appropriate amount."

Mr. BAUCUS. I thank the Senator.

AMENDMENT NO. 1378 TO AMENDMENT NO. 1293

(Purpose: To authorize use of State air grant moneys for assistance to low-income households in modernizing wood heaters and for other purposes)

Mr. SYMMS. Mr. President, I ask unanimous consent that the pending amendments be set aside. I have an amendment which I send to the desk.

The PRESIDING OFFICER. Is there objection? The pending amendments will be set aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for himself and Mr. JEFFORDS, proposes an amendment numbered 1378 to amendment No. 1293.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 125, line 22 of amendment No. 1293, insert the following new subsection:

(c) WOODSTOVE MODERNIZATION.—(1) Section 194 of the Clean Air Act is further amended by adding at the end thereof the following new subsection:

"(d) INCENTIVES FOR WOODSTOVE MODERNIZATION.—Not later than forty-eight months after the date of enactment of this subpart, the Administrator shall publish guidelines which may be used by states in implementing programs to encourage the modernization of wood-burning stoves. Such guidelines shall:

"(1) encourage the use to the maximum extent practicable of the exemption under subsection (b) from woodstove curtailment as a means of prompting woodstove owners to convert to wood heaters certified under the Environmental Protection Agency's Wood Heater Certification Program, and

"(2) describe how the state might implement either a low-interest guaranteed loan or grant program to assist low-income woodstove owners in modernizing to less-polluting heating sources, such as any EPA Phase II certified wood heater, solar heating

system, or other demonstrably less polluting heating source."

(2) It is the sense of the Senate that of the receipts received from any fees levied on emissions of substances regulated under this Act and dedicated for the use of the Environmental Protection Agency, an appropriate amount should be made available through section 105 of the Clean Air Act to assist states in wood heater modernization programs as described pursuant to section 194(d)(2).

Mr. SYMMS. Mr. President, I have sent the amendment to the desk on behalf of myself and Senator JEFFORDS.

Mr. President, we originally had it in this bill that if there were fees, part of those fees would be sent to help modernize low-income wood stoves with modern technologies that have developed where we could use stoves that burn clean, burn wooden pellets and other materials.

I must say to my colleagues that when I was in Ovid, ID, during the past break we were at a plant where they are taking wood waste and manufacturing wood pellets that are burned in these efficient wood-burning stoves. They had a flier there from the National Wood Stove Alliance in support of my original amendment.

Because of the fact that the original bill had fees in it that were deemed to be taxes, the chairman of the Finance Committee, Senator BENTSEN—correctly, I think—came in and offered an amendment which was accepted by the committee and accepted by the Senate to remove the fees from the bill, so there are no fees in the bill. So this amendment is just there to make a statement on behalf of the Senate.

The Senator from Montana earlier asked me about the number of $24 million. That is the amount I think would be appropriate. It is not in the amendment. It just says "an appropriate amount." It says that "receipts received from any fees levied on emissions of substances regulated under this act and dedicated for the use of the Environmental Protection Agency, an appropriate amount * * *."

I think the number $24 million came about from estimates of what would be the right amount for the Northern Tier States low-income housing to help modernize their wood heaters so that you would have heaters which could burn on nonattainment days in some areas and still be allowable for use. It would be an incentive to encourage other Americans to buy modern wood stoves.

So this does have the support of the Wood Burning Alliance for modernization of stoves and equipment.

I thank the distinguished Senator from Montana and the Senator from Rhode Island for accepting the amendment.

Mr. JEFFORDS. Will the Senator from Idaho yield?

Mr. SYMMS. I will be happy to yield to my colleague.

Mr. JEFFORDS. I thank the Senator for bringing forth this amendment. We have spent a lot of time worrying about huge corporations and big utilities and all, but there are some people who may well be affected by this amendment, if we cannot provide a way that they can receive relief by the use of modern technology.

I know at one point about 40 percent of the homes in our State of Vermont were using wood as their primary heat during the year. These are generally the lower-income and lower middle-income people. I happen to have been known to be in that category; I heat with wood myself. But it is important that we give consideration to ensuring that we continue to do things for the future which will make sure that they have the ability not to pollute but to be able to continue to burn.

I commend the Senator. I think the $24 million, as I understand from my manufacturers of wood stoves, is an appropriate amount to take care of the problem. I recognize that we cannot mention figures but have to talk about an appropriate amount.

I praise the Senator again and I thank him.

Mr. SYMMS. I thank my colleague for his support and for his willingness earlier to help us with the adoption of the amendment that the National Wood Stove Alliance was supporting.

I think the point which needs to be made—and the Senator makes it very well—is that if citizens happen to live in a nonattainment area and they do have air quality go below standards and there is issued a detainment order of no wood burning but they do not have the modern, clean-burning stoves, for which we have allowed with an earlier amendment this Senator offered in committee—that says if it is a modern, high-technology, clean-burning stove they do not have to comply with the nonburning days in nonattainment areas—some of these people could really be left literally without heat for their homes. So I think it is important that we establish the precedent that if in fact there are fees at a later time, we can make them available for low-income housing.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BAUCUS. Mr. President, I commend the Senator from Idaho on this amendment. As the Senator well knows, it is not only the State of Idaho but also particularly in western Montana we have the same problem, and there are other States with the same air conditions that also have the same problem with wood stoves.

The amendment essentially allows the use of State air grant money for assistance to low-income households in modernizing wood heaters. It is an effort that we very much need in my part of the country.

I must say to the Senator that the amount he suggests amounts to about one-quarter of the total dollars available in the State air grant moneys program. It might be difficult for that amount, that is, one-quarter of the total amount, to be utilized for the purposes suggested by the Senator. However, I do agree with the Senator that it is a very noble, worthwhile effort, and I know that an appropriate accommodation will be made not only for the west coast modernizing wood heaters and wood stoves provisions but also for other appropriate purposes under the State air grant program. I urge adoption of the amendment.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Is there further debate? The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I join in thanking the sponsor of the amendment for his thoughtfulness in submitting this amendment. I think it is a good amendment and urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1378) was agreed to.

Mr. SYMMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ABILITY OF STATES TO REGULATE FUELS AND FUEL ADDITIVES TO MEET AIR QUALITY STANDARDS

Mr. KASTEN. Mr. President, the State of Wisconsin is concerned that the compromise would impede the State's right to regulate the emission of volatile components of motor fuels. My State is particularly concerned that without the ability reregulate all motor fuels they could have difficulty complying with some of the attainment standards contained in this bill.

However, I understand that, in fact, the compromise retains the provisions in current law that allow a State to regulate any fuels as a component of the State implementation plan [SIP]. I ask the distinguished managers of the bill if that is correct?

Mr. CHAFEE. Mr. President, that is correct. Section 211(C)(4)(c) of the Clean Air Act allows States to control motor fuels to control emissions as part of the SIP. Therefore, the Senator's State of Wisconsin would continue to be able to control this type of emissions through the SIP.

Mr. KOHL. Mr. President, I want to be very clear. Current law allows a "State to proscribe and enforce * * * a control * * * respecting the use of a

fuel or fuel additive" for automobiles. If a State heeds to adopt a RVP standard that is more rigorous than the Federal requirement for fuel additives or fuels they have that authority under current law. That authority is maintained in the legislation we are now considering. Is my understanding correct?

Mr. BAUCUS. The Senators from Wisconsin are both correct. Wisconsin will be able to regulate fuels and fuel additives under their SIP. The Administrator of the Environmental Protection Agency shall allow this State action if he or she finds the State control is necessary to meet national primary of secondary air quality standards.

Mr. KASTEN. I thank the managers.

Mr. KOHL. I thank the managers for clarifying this issue of such importance to Wisconsin.

MOTORCYCLE AND CLEAN AIR BILL

Mr. KASTEN. Mr. President, I am concerned that this legislation could be misinterpreted to impose stringent new standards on motorcycles.

Section 201 defines "light duty vehicles" as "any motor vehicle with a loaded vehicle weight three thousand seven hundred and fifty pounds or less * * *." That language could be interpreted to include motorcycles.

Because of the physical configuration of motorcycles, it is impossible to place the kind of pollution control technologies, like catalytic converters, on motorcycles.

I know the managers of the bill are aware of the problem such as an interpretation would create for motorcycles. I believe it is not their intent that motorcycles be regulated as a "light duty vehicle."

Is it correct that the light duty vehicle requirements are not intended to include motorcycles?

Mr. CHAFEE. The senior Senator from Wisconsin is correct. This legislation does not require any new regulation of motorcycles.

I would point out, however, the Administrator of the Environmental Protection Agency has all the authority needed to regulate motorcycles under current law.

We recognize that motorcycles and light duty vehicles are two different classes of vehicles.

Let me emphasize, we do not require that motorcycles meet the same standards that are required of light duty vehicles in this legislation.

Mr. KOHL. Mr. President, I want to make sure we are quite clear, so that no one misinterprets this legislation; we are not requiring motorcycles to meet the light duty vehicle standards contained in this act. Motorcycles and light duty vehicles are two different items—with two different sets of emission standards.

I grant that the EPA Administrator could alter the standards for motorcycles under current law. But the Administrator would have to go through the regular rulemaking process to make those new standards.

Mr. BAUCUS. The junior Senator from Wisconsin is correct. We are talking about two different classes of vehicles—with two different sets of emission standards.

The EPA Administrator could issue new standards for motorcycles. We are not presuming that the Administrator will select to do that, but that authority exists in current law.

It is clear the legislation now before the Senate does not intend to impose new, and certainly not light duty vehicle, standards on motorcycles.

MORNING BUSINESS

Mr. BAUCUS. Mr. President, I now ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in excutive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The PRESIDENT pro tempore (Mr. BYRD) announced that on Friday, March 23, 1990, during the recess of the Senate, he had signed the following enrolled bills and joint resolutions; which had previously been signed by the Speaker of the House:

S. 1091. An act to provide for the striking of medals in commemoration of the bicentennial of the United States Coast Guard;

S. 1521. An act to provide for an increase in the maximum rates of basic pay for the police force of the National Zoological Park;

H.R. 3311. An act to designate the Federal building located at 350 South Maine Street in Salt Lake City, Utah, as the "Frank E. Moss United States Courthouse";

S.J. Res. 190. Joint resolution designating April 9, 1990, as "National Former Prisoners of War Recognition Day"; and

S.J. Res. 237. Joint resolution provide for the commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, March 26, 1990, he had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 1091. An act to provide for the striking of medals in commemoration of the bicentennial of the United States Coast Guard;

S. 1521. An act to provide for an increse in the maximum rates of basic pay for the police force of the National Zoological Park;

S.J. Res. 190. Joint resolution designating April 9, 1990, as "National Former Prisoners of War Recognition Day"; and

S.J. Res. 237. Joint resolution provide for the commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolution were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURDICK:

S. 2332. A bill to develop and promote agricultural practices that conserve soil, trees, and wetlands, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PELL (by request):

S. 2333. A bill to provide for further participation by the United States in the International Development Association and for the establishment of the legal status of the International Finance Corporation's Securities in the United States; to the Committee on Foreign Relations.

By Mr. LEAHY (for himself, Mr. DASCHLE, Mr. HARKIN, and Mr. KOHL):

S. 2334. A bill to expand the U.S. Department of Agriculture's low input sustainable agriculture research and education programs, and to provide biotechnology risk assessment research, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DIXON (for himself and Mr. SIMON):

S. 2335. A bill to provide for dual membership of one member each of the Commodities Futures Trading Commission and the Securities and Exchange Commission; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAUCUS (for himself, Mr. BURDICK, Mr. CONRAD, Mr. PRYOR, Mr. BOREN, Mr. FOWLER, Mr. HEFLIN, and Mr. BUMPERS):

S. 2336. A bill to amend the Agricultural Act of 1949 to provide for target price adjustments for the 1991 through 1995 program crops based on an index of production costs of farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAUCUS (for himself, Mr. HEINZ, and Mr. ROCKEFELLER):

S. 2337. A bill to amend the Trade Act of 1974 to provide for review by the Trade Representative of compliance by foreign countries with trade agreements; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. GRAHAM, Mr.

THURMOND, Mr. SPECTER, Mr. JEFFORDS, and Mr. BOREN):

S. 2338. A bill to extend temporarily the period during which certain veterans of the Vietnam era are eligible for veterans' readjustment appointments under section 2014 of title 38, United States Code; placed on the calender.

By Mr. LUGAR (for himself, Mr. RIEGLE, Mr. SARBANES, and Mr. INOUYE):

S.J. Res. 277. Joint resolution designating October 6, 1990, as "German-American Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DeCONCINI (for himself, Mr. DOMENICI, and Mr. D'AMATO):

S. Con. Res. 109. Concurrent resolution to provide for preparation of a volume entitled "Columbus in the Capitol," and for other purposes; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURDICK:

S. 2332. A bill to develop and promote agricultural practices that conserve soil, trees, and wetlands, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CONSERVATION AND WETLANDS ENHANCEMENT ACT

Mr. BURDICK. Mr. President, today I am introducing legislation entitled the Conservation and Wetlands Enhancement Act of 1990. The purpose of this bill is to refine and, in some cases, go beyond the conservation provisions of the Food Security Act of 1985. Through this bill I am seeking to encourage the further planting of trees, extend the Conservation Reserve Program, create a Wetlands Reserve and Restoration Program, and modify the swampbuster provisions of the 1985 bill.

As you know, the Conservation Reserve Program was created by Congress in the 1985 farm bill. This program has taken out of production 34 million acres of our most fragile and erodible lands by offering producers financial incentives to enroll these lands in the reserve for a period of 10 years. Authority exists currently to enroll up to 45 million acres by the end of the present crop year, with no provisions for extension of the reserve.

I propose in my bill to extend the reserve through the 1995 crop year and place a cap of 40 million acres on the reserve. Further, I propose to concentrate the remaining 6 million acres on improving water quality by enrolling aquifer recharge areas, filter strips, sinkholes, and well-head protection areas. I also intend to better focus our efforts to increase enrollment of windbreaks and shelterbelts.

In the nine CRP signups to date, farmers have enrolled 33.9 million acres, including 2.2 million acres of trees, 410,000 acres of cropped wetlands, 143,000 acres of land subject to scour erosion, and more than 5,000 miles of filter strips. My State of North Dakota is second only to Texas in the number of acres enrolled in the reserve. In fact, much of the wetland acreage in the CRP was enrolled by North Dakota farmers.

Most farmers want to see the Conservation Reserve Program continue after the expiration of the present contracts and I agree. I propose in this bill to provide discretion for the Secretary of Agriculture to create a process whereby farmers can rebid their current CRP acres into the reserve for not less than 5 years nor more than 10 years. Since I recognize that conditions may change over the next several years, I am allowing the Secretary to consider stock and usage levels deciding how much land to allow to remain in the CRP upon expiration of the contracts.

Although most would agree that the Conservation Reserve Program has been quite successful in achieving the goal of protecting millions of acres of highly erodible cropland, there have been some shortcomings. When the 1985 farm bill was passed, Congress' goal was to devote one-eighth of the CRP acres to trees. We have not come close to reaching this goal. When I talk to North Dakota farmers and conservationists about this failure, they all agree one of the major reasons is that the cost share provisions, 50 percent cost share, are not generous enough to encourage tree planting. To remedy this situation, I propose in this bill to provide up to 75 percent cost share for establishing trees.

In this act, I also propose how to treat CRP acres as they exit the reserve. Although the first contracts do not expire until 1996, I believe we should let farmers know now what will be expected of them. The next farm bill would be too late.

This bill provides that land that has been in the CRP can be farmed only after a conservation plan is implemented for that land. If no plan is established and the farmer breaks out the land subject to a CRP contract, the farmer is ineligible for program benefits. Other highly erodible land must be farmed according to such a plan, so it seems quite logical to require the same of CRP land. Further, this protects the investment the taxpayers have made in this land over the course of the CRP contract.

Some may believe that farmers need more time to implement a plan for their CRP acreage and I recognize that some farmers will have to construct terraces and fences, for instance, as part of their compliance plan. To accommodate such a situation, this bill would allow the Secretary to provide a reasonable period of time for these structures to be built. I consider a reasonable period to be not more than 1 year and have provided for such in this bill. In addition, to encourage farmers to plan ahead, this bill would give discretion to the Secretary to allow construction to take place during the last 2 years of the contract.

For those farmers who do not re-bid their land into the CRP upon extension of the contract, and would like to maintain a cover crop, this bill provides that they may do so without losing their program base. The time limit provided for extension of base is not less than 3 years, nor more than 7 years, with annual certification required to maintain the base.

I believe the most important feature of this bill is the creation of a 5-million acre wetland reserve program, or WRP, and a wetland restoration program. Such a program is necessary to protect our valuable wetlands to enhance water quality and wildlife habitat. For the crop years 1991 through 1995, certain wetlands would be eligible for enrollment in this reserve. Wetlands placed in the reserve would be enrolled through the granting of easements to the Secretary of Agriculture. Wetlands would be enrolled through a long-term easement, 15 to 25 years, or a permanent easement.

I have targeted for inclusion those wetlands that have a higher medium potential for conversion for agricultural use, wetlands that are restored through the wetlands restoration program, and cropped wetlands. Further, I have provided authority for the Secretary to transfer into the wetlands reserve program those wetlands enrolled currently in the CRP, but have prohibited alteration of the CRP contract terms.

This legislation also creates a wetlands restoration program, which focuses on restoration of converted or cropped wetlands. Wetlands restored through this program would be placed in the wetlands reserve. Also provided is a cost share provision of up to 50 percent of the cost, not to exceed $25,000, for costs incurred for restoration. If an owner of a wetland receives more than $15,000 in cost share payments, the owner would be required to grant a permanent easement of that wetland.

Turning to the swampbuster provisions, I propose three changes. The first would provide that land that was cropped for 6 years in the period from 1981 through 1990 would not be subject to swampbuster. I have chosen this period because, in many cases, records from years previous to that period are no longer available.

The second change is to alter the penalty system. Currently, a farmer

loses all program benefits for a violation, no matter how minor the violation. I propose to alter the penalty to allow the resumption of benefits after the wetlands has been restored to its former quality as a wetland. Payments would resume only after the Soil Conservation Service and the Fish and Wildlife Service concur that the quality of the restoration is sufficient.

Many groups have complained that enforcement of swampbuster is lax and that the system of allowing ASCS county committees to enforce swampbuster is not adequate. While not conceding that enforcement activity has been lacking, I believe it is difficult for anyone to deny all benefits for minor or inadvertent infractions. If there indeed is a problem with enforcement, a more just penalty would arguably allow for greater enforcement activity. I believe the change proposed in this legislation would provide a more workable system.

The final change I would make to swampbuster is to allow mitigation so that a farmer could drain a wetland and create one to replace that converted wetland, while still retaining farm program benefits. In order for a farmer to retain program benefits, the created or restored wetland would be required to be equal in quality with the converted wetland. The decision of whether or not the wetland is of sufficient quality would be made by the Soil Conservation Service and the Fish and Wildlife Service.

The issues and problems dealt with in the conservation provisions of the 1990 farm bill will be some of the most intractable and contentious. It is my hope that we will provide conservation provisions that protect our valuable resources without unnecessarily interfering with the production of food for our country. We must engage in balancing interests and I do not expect this task to be easy. I will look forward to working with my colleagues on this very important piece of legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2332

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Conservation and Wetlands Enhancement Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and Purposes.
Sec. 3. Definitions.
TITLE I—CONSERVATION RESERVE PROGRAM
Sec. 101. Eligibility of Lands.
Sec. 102. Extension and Enlargement of Reserve.
Sec. 103. Period of Contract.
Sec. 104. Cost Share Payments.
Sec. 105. Implementation of Plan and Treatment of Certain Acreage.
Sec. 106. Base History.
TITLE II—WETLANDS
Sec. 201. Wetlands Restoration and Protection.
TITLE III—MISCELLANEOUS PROVISIONS
Sec. 301. Wetland Conservation Exemptions.
Sec. 302. Mitigation.
Sec. 303. Restoration of Benefits.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) it is in the public interest to encourage the conservation of our agricultural land and to encourage the conservation, preservation, and restoration of our wetland areas;

(2) this nation has improved conservation of its highly erodible farmland through encouraging management practices that enhance conservation such as windbreaks, shelterbelts, and filter strips;

(3) there continues to be a net loss of soil, trees, and wetlands in many areas of the United States;

(4) further incentives are needed to protect our soil, trees, and wetlands;

(5) agricultural uses continue to account for much of the conversion of wetlands; and

(6) while elimination of direct and indirect incentives for wetland conversion to agricultural uses has reduced the rate of wetland conversion, such conversion is still occurring at a rate that should not be sustained.

(b) PURPOSES.—It is the purpose of this Act to—

(1) extend and modify the conservation reserve program to continue to provide protection for this nation's soil; and

(2) to establish wetland reserve and restoration programs to improve habitat for migratory waterfowl and other wildlife resources, as well as to provide protection for our valuable water resources.

SECTION 3. DEFINITIONS.

As used in this Act the term—

(1) "agricultural commodity" shall have the same meaning given such term under section 1201(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(1));

(2) "conservation districts" shall have the same meaning given such term under section 1201(a)(2) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(2));

(3) "cost sharing payment" shall have the same meaning given such term under section 1201(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(3));

(4) "converted wetland" shall have the same meaning given such term under section 1201(a)(4)(A) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(4)(A));

(5) "rental payment" shall have the same meaning given such term under section 1201(a)(11) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(11));

(6) "Department of the Interior" means the United States Department of the Interior, acting through the Director of the United States Fish and Wildlife Service;

(7) "Secretary" means the Secretary of Agriculture;

(8) "shelterbelt" shall have the same meaning given such term under section 1201(a)(13) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(13));

(9) "state" shall have the same meaning given such term under section 1201(a)(14) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(14)); and

(10) "wetland" shall have the same meaning given such term under section 1201(a)(16) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(16).

TITLE I—CONSERVATION RESERVE PROGRAM

SEC. 101. ELIGIBILITY OF LANDS.

Section 1201(a)(7)(A) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(7)) is amended—

(1) in paragraph (ii), by striking out the period and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(iii) with environmentally sensitive perimeters such as sinkholes, filter strips, windbreaks, shelterbelts, aquifer re-charge areas, well-head protection areas, and other areas that, as determined by the Secretary, are associated with groundwater protection.".

SEC. 102. EXTENSION AND ENLARGEMENT OF RESERVE.

(a) Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) in subsection (a), by striking out "1990" and inserting in lieu thereof "1995";

(2) in subsection (b), by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) during the 1986 through 1995 crop years, a total of not more than 40 million acres."; and

(3) in subsection (c)(1)(A), by striking out "1989" and inserting in lieu thereof "1995".

(b) Section 1232(c) of such Act (16 U.S.C. 3832(c)) is amended by striking "1990" and inserting "1995".

SEC. 103. PERIOD OF CONTRACT.

Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by adding at the end thereof the following new subsection:

(f) "Upon the expiration of such contracts the Secretary may establish a process to rebid eligible land into the reserve, at the request of an owner or operator, for a period of not less than 5 years nor more than 10 years. The Secretary may consider stocks and usage levels in determining the number of contracts that may be extended and the length of such extensions. At the time of extension of such contracts, the Secretary may renegotiate the rental rates to be paid during the period covered by the extension taking into consideration local rental rates and the amount sufficient to encourage extension of the contracts.".

SEC. 104. COST SHARE PAYMENTS.

Section 1234(b) of the Food Security Act of 1985 (16 U.S.C. 3834(b)) shall be amended by adding the following sentence at the end thereof:

"If the plan referred to in subsection (a)(1) requires the planting of trees the Secretary shall pay up to 75 percent of the cost of establishing those trees.".

SEC. 105. IMPLEMENTATION OF PLAN AND TREATMENT OF CERTAIN ACREAGE.

Subtitle D of Title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) shall be amended by adding the following new section:

"SEC. 1237. IMPLEMENTATION OF PLAN REQUIRED.

(a) Upon the expiration of a contract entered into in accordance with this subtitle, an owner or operator shall be ineligible for program benefits under section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) with respect to the production of an agricultural commodity upon lands that were sub-

ject to such contract unless such owner or operator is actively applying a conservation plan based on the local Soil Conservation Service technical guide and approved by the local soil conservation district, in consultation with the local committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) and the Secretary, or by the Secretary.

(b) Notwithstanding subsection (a), if a conservation plan established pursuant to subsection (a) requires structures to be constructed the Secretary may allow a reasonable period of time for such construction to be completed before applying subsection (b). The time allowed for such construction shall not exceed one year. To encourage immediate implementation of conservation plans upon expiration of the contract, the Secretary may allow such construction to occur during the period of the last two years remaining on such contract.".

SEC. 106. BASE HISTORY.

Section 1236 of the Food Security Act of 1985 (16 U.S.C. 3836) is amended by adding at the end thereof the following new subsection:

"(c) On the expiration of a contract entered into under this subtitle, if an owner or operator elects not to produce an agricultural commodity on acres that were subject to such contract and maintains the cover crop required under the contract on such acres, the provisions of this section concerning the preservation of the cropland base and allotment history applicable to such acres shall be extended for a period of not less than 3 years nor more than 7 years. To preserve the cropland base and allotment history, an owner or operator shall be required to certify each year the intention not to produce an agricultural commodity on those acres subject to such contract.".

TIITLE II—WETLANDS.

SEC. 201. WETLANDS RESTORATION AND PROTECTION.

(a) IN GENERAL.—Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended by adding at the end thereof the following new subtitle:

"Subtitle G—Wetlands Protection and Restoration

"CHAPTER 1—WETLANDS RESERVE PROGRAM

"SEC. 1261. PURPOSE AND POLICY.

"(a) PURPOSE.—It is the purpose of this chapter to encourage the conservation and protection of wetlands and the restoration of certain converted wetlands in order to protect soil and water quality and to maintain and enhance habitat for migratory birds and other wildlife.

"(b) POLICY.—It is the policy of the United States to encourage the retirement of certain lands from agricultural production and to restore wetlands that have been drained for agricultural commodity production.

"SEC. 1262. ESTABLISHMENT OF PROGRAM.

"During the 1991 through 1995 crop years, the Secretary shall establish and carry out a wetlands reserve program through the acquisition of easements, in accordance with this subtitle, by entering into contracts with owners of farms and ranches containing eligible wetlands as defined by section 1263 of this subtitle to preserve these wetlands and improve the water resources and wildlife habitat on such farms and ranches. The Secretary shall not place in this reserve from than 5 million acres of eligible land.

"SEC. 1263. ELIGIBLE LAND.

"(a) The Secretary, in consultation with the Department of the Interior, shall select easement bids for eligible wetland areas based on the value provided by such wetland areas for the protection of water quality and enhancement of habitat for migratory birds and other wildlife in relation to the cost involved in securing the easement.

"(b) Wetlands shall be eligible to be placed into the wetland reserve if such land is located in important migratory bird areas or in areas where preservation of wetlands is essential to protect water quality and—

"(1) is wetland identified by the Soil Conservation Service as having higher medium potential for conversion for agricultural use, including land that is functionally dependent on such wetland;

"(2) is a restored wetland as provided in chapter II of this title;

"(3) has been committed to the production of an annual crop for 2 out of the 5 years in the period from 1986 through 1990 and be capable at the time of enrollment of being planted to an annual crop; or

"(4) is subject to an existing contract entered into under section 1231(a) of the Food Security Act of 1985 (16 U.S.C. 3831(a)). The Secretary may not modify the terms and conditions of existing contracts entered into under section 1231(a) of such Act if the wetland which is subject to such contract is subsequently transferred into the wetland reserve program established by this Title.

"SEC. 1264. COMBINED COUNTY LIMITATION.

"Under the program established under this chapter and under Conservation Reserve Program established in Subtitle D of Title XII of the Food Security Act of 1985 (16 U.S.C. 3831), the Secretary shall not place under rental or easement contract a total of more than 25 percent of the cropland in any one county, except that the Secretary may exceed such limitation in a county to the extent that the Secretary determines that such action would not adversely affect the local economy of such county.

"SEC. 1265. TERMS OF CONTRACT.

"(a) To carry out this chapter, the Secretary shall enter into an agreement with an owner that shall provide that—

"(1) the owner shall grant a conveyable long-term easement to the Secretary of not less than 15 years nor more than 25 years or that the owner shall grant the Secretary a conveyable permanent easement; and

"(2) on the transfer of the right and interest of the owner of the land that is subject to the contract such owner agrees—

"(A) to forfeit all rights to rental payments or compensation and cost sharing payments under the contract;

"(B) to refund to the United States all rental payment or compensation and cost sharing payments received by the owner or accept such payment adjustments or such refunds as the Secretary considers appropriate and consistent with the objectives of this chapter;

unless the transferee of such land agrees with the Secretary to assume all obligations of the contract; and

"(C) to comply with such additional provisions as the Secretary determines are desirable and are included in the contract to carry out this chapter or to facilitate the practical administration thereof.

"(b) A contract for a long-term easement or a permanent easement entered into under this chapter shall require—

"(1) the eligible land that is subject to such contract is placed in the wetland reserve for the period of the agreement;

"(2) implementation of a wetland conservation plan established by the Soil Conservation Service, in consultation with the Department of the Interior, and approved by the local soil and water conservation districts, (or in an area not located within a conservation district, a plan approved by the Secretary), in consultation with the local committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)). Such plan shall be based upon the Soil Conservation Service technical guide;

"(3) that no practice is adopted that would tend to defeat the purposes of the contract or this subtitle, including the draining, burning, filling, or otherwise altering or destroying the wetland characteristic of such areas, or to use such land for agricultural purposes, except as permitted by the Secretary;

"(4) that the owner shall not conduct any commercial use of the wetland area nor adopt any practice that would tend to defeat the purposes of the contract or this subtitle, except that the Secretary may permit haying or grazing or other commercial use of the forage on land that is subject to the contract in response to a natural disaster; and

"(5) that the owner not alter wildlife habitat and other natural features of such land unless specifically provided for by the Secretary and the Department of the Interior for wildlife management purposes.

"(c) the Secretary may permit—

"(1) wetland management practices suggested by the United States Fish and Wildlife Service for maintaining wetlands and improving wildlife habitat, including but not limited to: the cutting or burning of cattails; the mowing or spraying of such land with chemicals, where mowing or spraying is necessary to comply with Federal or State noxious weed control laws; or for the emergency control of pests to protect public health;

"(2) repairs, improvements, and inspections necessary to maintain existing public drainage systems under the control of soil and water conservation districts; and

"(3) the land to be used for wildlife activities, including hunting and fishing, if such use is permitted by the owner.

"(d) The plan referred to in subsection (b)(2) shall set forth the conservation measures and practices to be carried out by the owner during the term of the contract and the commercial use, if any, to be permitted on the land during such term. This plan also may provide for the permanent retirement of any existing cropland base and allotment history for the land.

"SEC. 1266. DUTIES OF THE SECRETARY.

"(a) EASEMENT CONTRACT.—In return for a long-term or permanent easement contract entered into by an owner under this chapter, the Secretary shall compensate such owner in an amount determined in accordance with subsection (b) of this section.

"(b) AMOUNT.—The Secretary shall pay annual rental payments and compensation in accordance with subsection (a) in cash or in commodities in such amount and on such time schedule as is agreed to and specified in the contract taking into consideration the property value, or such amount may be determined through a bid process as established by the Secretary.

"(c) LIMITATIONS.—The amount received under such contracts for permanent easements may not exceed by one and one-half the present value of the land to be subject to such a contract. In determining the amount of annual rental payments to be paid to owners for long-term easements, the Secretary may consider, among other things, the amount necessary to encourage owners to place wetlands in the program established by the chapter. However, the amount received in total over the term of a long-term easement may not exceed the present value of the land to be subject to such a contract.

"(d) ENFORCEMENT.—On the violation of a term or condition of such an easement the Secretary shall—

"(1) seek to enforce the terms of the easement under subsection (a) by an action for specific performance, a mandatory injunction, or damages in an amount not to exceed the total amount received by the owner under subsection (b), together with interest thereon from the date of the default under such contract. The Secretary also shall seek to recover the cost of restoration, if any, including interest, from the date of default under such contract; or

"(2) if the Secretary determines that such violation does not warrant the measures provided for in (1), the Secretary may accept adjustments to the contract for the easement and cost sharing payments provided to the owner.

"SEC. 1267. PAYMENTS.

"(a) TIME FOR PAYMENT.—The Secretary shall provide payment for obligations incurred by the Secretary under a contract entered into under this chapter as soon as practicable after October 1 of each calendar year; or at the discretion of the Secretary, at any time prior to such date during the year that the obligation is incurred.

"(b) COMMODITY CREDIT CORPORATION.—If such payment is made with in-kind commodities, such payment shall be made by the Commodity Credit Corporation—

"(1) by delivery of the commodity involved to the owner or operator at a warehouse or other similar facility located in the county in which the land that is subject to the contract is located or at such other location as is agreed to by the Secretary and the owner;

"(2) by the transfer of negotiable warehouse receipts; or

"(3) by such other method, including the sale of the commodity in commercial markets, as is determined by the Secretary to be appropriate to enable the owner to receive efficient and expeditious possession of the commodity.

"(c) DEATH OR INCOMPETENCY.—If the owner or operator who is entitled to a payment under a contract entered into under this chapter dies, becomes incompetent, is otherwise unable to receive such payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make such payment, in accordance with regulations promulgated by the Secretary and without regard to any other provision of law, in such manner as the Secretary shall determine is fair and reasonable in light of all of the circumstances.

"(d) MAXIMUM AMOUNT.—The total amount of rental payments or compensation, including that made in the form of in-kind commodities, received by a person under this chapter for any fiscal year shall not exceed $50,000. For the purposes of this chapter, the definition of person is the same as defined by section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)) as amended by section 1303 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203).

"SEC. 1268. CONTRACTS.

"The provisions of section 1235(a) of the Food Security Act of 1985 (16 U.S.C. 3835(a)) shall apply to contracts entered into under this chapter. The Secretary may modify or terminate a contract entered into under this chapter if the owner agrees to such modification or termination and the Secretary determines that such modification or termination would be in the public interest.

"SEC. 1269. ADMINISTRATION.

"(a) USE OF OTHER AGENCIES.—In carrying out this chapter, the Secretary shall use the services of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), the Soil Conservation Service, the Fish and Wildlife Service, State fish and game agencies, land grant colleges, soil and water conservation districts, and other appropriate agencies.

"(b) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the facilities, services, authorities and funds of the Commodity Credit Corporation to carry out this chapter, except that the Secretary may not use funds of the Corporation for such purposes unless the Corporation has received funds to cover such expenditures from appropriations made to carry out this chapter.

"(c) REGULATIONS.—Not later than 180 days after the date of enactment of this chapter, the Secretary shall issue such regulations as are necessary to carry out this chapter. The Secretary shall consult with the Department of the Interior in the preparation of these regulations.

"SEC. 1270. CONFORMING AMENDMENTS.

Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by striking out "subtitles A through E" and inserting in lieu thereof "subtitles A through E and G"."

"SEC. 1271. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated without fiscal year limitations such sums as may be necessary to carry out this chapter.

"CHAPTER 2—WETLANDS RESTORATION PROGRAM.

"SEC. 201. RESTORATION OF CONVERTED WETLANDS.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to restore converted wetlands to their natural wetland state through the provision of cost sharing assistance and enrollment of such lands in the wetlands reserve program established in chapter I of this title. The Secretary, in consultation with the Department of the Interior, shall develop criteria by which to select those wetlands whose restoration would provide the greatest benefit for waterfowl and water quality in relation to the cost of the restoration.

"(b) CONTRACTS.—Owners may enter into contracts with the Secretary, under the program established under subsection (a), to enroll eligible lands in the wetland restoration program, as described in subsection (c). Owners shall place wetlands restored through the wetland restoration program in the wetlands reserve established under chapter 1 of this title.

"(c) ELIGIBLE LANDS.—Land shall be eligible to be the subject of a contract entered into under this section if such land—

"(1) is converted wetland that has been committed to the production of an annual crop for 2 out of the 5 years in the period from 1986 through 1990 and is capable at the time of enrollment of being planted to an annual crop; or

"(2) is upland buffer area that is enrolled along with a wetland that meets the requirements of paragraph (1) and restoration and enrollment of such buffer area is necessary to ensure the integrity of such wetland, as determined by the Secretary.

"(d) RESTRICTIONS.—A converted wetland is not eligible for restoration under this program if such wetland was converted after the date of enactment of this Act.

"(e) COST SHARE ASSISTANCE.—In carrying out the program established under this section the Secretary may enter into contracts with owners to pay costs not to exceed 50 percent of the cost incurred by the owner in restoring eligible lands that are the subject of the contract to their natural wetland state. The Secretary may not enter into contracts for cost share that provide an owner with more than $25,000 for costs incurred in restoring eligible lands. If such owner receives more than $15,000 in cost share payments, the owner shall agree to grant a permanent easement for such restored wetlands.

"SEC. 202. TREATMENT OF RESTORED WETLANDS.

"The Secretary shall require an owner participating in the wetland restoration program to enroll such restored wetland areas in the wetland reserve program established under chapter 1 of this title.

"SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as are necessary to carry out this chapter for each fiscal year.

"SEC. 204. REGULATIONS.

"Not later than 180 days after the date of enactment of this chapter, the Secretary shall issue regulations necessary to carry out this chapter.

TITLE 3—MISCELLANEOUS PROVISIONS.

SEC. 301. WETLAND CONSERVATION EXEMPTIONS.

(a) PRODUCTION OF COMMODITY.—Section 1222(a) of the Food Security Act of 1985 (16 U.S.C. 3822(a)) is amended—

(1) in paragraph (3), by striking out "or" at the end thereof;

(2) in paragraph (4), by striking out the period and inserting in lieu thereof "or"; and

(3) by adding at the end thereof the following new paragraph:

"(5) land on which an agricultural commodity was produced, or if such land was otherwise considered to be planted, for 6 years in the period from 1981 to 1990.".

SEC. 302. MITIGATION.

Section 1222 of such Act (16 U.S.C. 3822) is amended by adding at the end thereof the following new subsection:

"(d)(1) No person shall become ineligible under section 1221 for program loans, payments, and benefits as a result of the production of an agricultural commodity on converted wetland if such person complies with the mitigation requirements under paragraph (2) prior to the production of such commodity.

"(2) To be exempt under paragraph (1) from the requirements of section 1221, an owner, or operator with the written consent of the owner, shall implement a plan approved by the Secretary and the Department of Interior to restore previously converted wetlands equal in functional quality

and within the same area, as the wetland on which the owner or operator intends to produce agricultural commodities.".

SEC. 303. RESTORATION OF BENEFITS.

Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by adding at the end thereof the following new subsection—

"(d) an owner or operator who has converted a wetland may, after restoring such wetland to its former state as a wetland, resume those benefits that would otherwise be denied under section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821). Resumption of such benefits may occur only after the Secretary and the Department of the Interior have determined that the wetland is restored to its former quality as a wetland.".

By Mr. PELL (by request);

S. 2333. A bill to provide for further participation by the United States in the International Development Association and for the establishment of the legal status of the International Finance Corporation's securities in the United States; to the Committee on Foreign Relations.

INCREASED PARTICIPATION IN THE INTERNATIONAL DEVELOPMENT ASSOCIATION AND LEGAL STATUS OF INTERNATIONAL FINANCE CORPORATION SECURITIES

● Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to provide for further participation by the United States in the International Development Association and for the establishment of the legal status of the International Finance Corporation's securities in the United States.

This proposed legislation has been requested by the Department of the Treasury, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the General Counsel of the Department of the Treasury to the President of the Senate, which was received on March 21, 1990.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INTERNATIONAL DEVELOPMENT ASSOCIATION

SEC. 101. The International Development Association Act (74 Stat. 293, as amended, 22 U.S.C. 284) is amended by adding at the end thereof the following new section:

"SEC. 21. (a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association $3,180,000,000 to the ninth replenishment of the resources of the Association, except that any commitment to make such contributions shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $3,180,000,000 for payment by the Secretary of the Treasury.".

TITLE II—INTERNATIONAL FINANCE CORPORATION

SEC. 210. (a) The International Finance Corporation Act (69 Stat. 669, as amended, 22 U.S.C. 282) is amended by adding at the end thereof the following new sections:

"SEC. 13. (a) Any securities issued by the Corporation (including any guaranty by the Corporation, whether or not limited in scope) and any securities guaranteed by the Corporation as to both the principal and interest shall be deemed to be exempted securities within the meaning of paragraph (a)(2) of section 3 of the Act of May 27, 1933, as amended (15 U.S.C. 77c), and paragraph (a)(12) of section 3 of the Act of June 6, 1934, as amended (15 U.S.C. 78c). The Corporation shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Corporation and its operations and necessary in the public interest or for the protection of investors.

(b) The Securities and Exchange Commission, acting in consultation with the National Advisory Council on International Monetary and Financial Problems, is authorized to suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Corporation during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section and in connection therewith shall include any views submitted for such purpose by an association of dealers registered with the Commission.".

"SEC. 14. The seventh sentence of paragraph 7 of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by striking out "or" after "the African Development Bank" and inserting in lieu thereof a comma, and by inserting "or the International Finance Corporation" after the Inter-American Investment Corporation."."

DEPARTMENT OF THE TREASURY,
Washington, DC, March 9, 1990.

Hon. DAN QUAYLE,
President of the U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill, "To provide for further participation by the United States in the International Development Association and for the establishment of the legal status of the International Finance Corporation's securities in the United States."

The draft bill authorizes the Secretary of the Treasury to take the necessary actions for the United States to participate in the recently negotiated Ninth Replenishment of the Resources of the International Development Association (IDA) and would allow International Finance Corporation (IFC) borrowings in the United States to receive the same exemptions from U.S. securities laws as those currently enjoyed by the IBRD and the regional development banks, such as the Asian and African Development Banks.

IDA, an affiliate of the International Bank for Reconstruction and Development (IBRD), is the world's single largest source of multilateral development lending on concessional repayment terms to the world's poorest countries. IDA plays a pivotal role in alleviating poverty and enhancing development in the poorest nations. Only countries with per capita incomes of $580 (in 1987 dollars) or less are eligible for IDA credits. However, the majority of IDA lending goes to countries with per capita incomes of less than $400.

By the end of June 1990, IDA will have committed the resources made available to it during the Eighth Replenishment (IDA-8). The Ninth Replenishment (IDA-9) is intended to fund credits that will be committed during the period July 1, 1990, to June 30, 1993. The Ninth Replenishment will total SDR 11,679 million, approximately $15 billion at current exchange rates. A primary goal of the Ninth Replenishment is to maintain the size of IDA in real terms. This goal will be achieved with the assistance of the United States which agreed to maintain the amount of its IDA-8 contribution in real terms for IDA-9. Donor contributions combined with advance commitments from reflows will support an annual lending program of about $5.5 billion.

Throughout the IDA-9 negotiations which began in early 1989, the United States worked for measures to ensure that IDA's resources are used in the most effective and efficient manner. In this regard, the United States achieved its three major policy objectives. A borrowing country's economic performance, including efforts to alleviate poverty, will receive greater weight as criteria for allocation of resources. New measures to address environmental concerns will be factored into IDA lending. Efforts will be made to improve IBRD and IMF collaboration.

The inclusion of more stringent environmental measures in the IDA lending process is a major accomplishment. The IDA-9 Report which has been approved by the Executive Board of the World Bank and sent to the Governors includes provisions for:

Implementation of environmental impact assessment procedures;

An increase in public access to environmental information about projects and proposals;

An increase in public participation in project development;

Greater emphasis on energy efficiency and conservation;

More support for debt for nature swaps; and

The completion of environmental action plans for all IDA borrowers as soon as possible.

These plans identify priority environmental issues in borrowing countries and integrate these concerns into IDA's lending strategy for each borrower.

Fifty percent of the IDA-8 resources was allocated to Sub-Saharan Africa, with the condition that borrowing countries in the region continued to make progress on economic adjustment. Assuming that economic performance warrants continued lending, the level of support for Africa should be between 45 and 50 percent of IDA-9 resources. The draft bill authorizes the Secretary of the Treasury to agree on behalf of the United States to pay to IDA $3,180 million for the Ninth Replenishment and authorizes to be appropriated, without fiscal year

limitation $3,180 million for payment for the Secretary of the Treasury. The FY 1991 budget request contains $1,060 million for the first year's appropriation.

The IFC is an affiliate of the IBRD established in 1956 to further economic growth in its developing country members by promoting productive private sector investment. It does so by providing long-term loans and risk capital without government guarantees to private sector companies. IFC operations are funded by capital subscriptions (which are 100 percent paid-in), borrowings from the IBRD and others, and retained earnings. Until now it has not borrowed funds or issued securities in the United States.

In 1989, the IFC made its first public issue. This was an issue of U.S. dollar-denominated bonds in the Euromarkets. In view of the volume of the IFC's lending and prospects for continued growth, the IFC wants to tap the broadest possible spectrum of international capital markets. Rated public bond issues give the IFC additional market access beyond the private placement segment of the key markets. The IFC's first public bond issue in mid-1989 received a triple-A rating from the two main American rating agencies. The IFC plans to continue to borrow as appropriate from the IBRD in the future, but plans to rely chiefly on the markets for this borrowed funds. It has requested treatment in the United States equal to the IBRD and the regional development banks to facilitate the sale of its securities in the market of the United States.

The draft bill proposes an exemption from certain U.S. securities laws for the IFC's securities, which would give the IFC's securities the same status as that enjoyed by the IBRD's and the regional development banks' securities.

It would be appreciated if you would lay the proposed bill before the House. An identical proposal has been transmitted to the President of the Senate.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this proposed bill to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

EDITH E. HOLIDAY,
General Counsel.●

Mr. LEAHY (for himself, Mr. DASCHLE, Mr. HARKIN, and Mr. KOHL):

S. 2334. A bill to expand the U.S. Department of Agriculture's low input sustainable agricultural research and education programs, and to provide biotechology risk assessment research, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUSTAINABLE AGRICULTURE RESEACH AND EDUCATION ACT

● Mr. LEAHY. Mr. President, I have said that the 1990 farm bill will be the farm bill for sustainability and the committee is working to that end. Today, Mr. President, I am introducing legislation to promote research and extension of sustainable agriculture. It is my hope that this legislation will be included as part of the research title of the 1990 farm bill.

Farmers are seeking new systems of production that will allow them to reduce their chemical inputs, halt soil erosion, and protect our precious water supplies. In short, farmers are demanding that government do more to provide the answers they need to farm more ecologically.

The National Academy of Sciences, in their landmark study alternative agriculture, wrote: "The hallmark of an alternative farming approach is not the conventional practices it rejects but the innovative practices it includes."

Mr. President, the purpose of this legislation is to help provide farmers with the knowledge they need to be innovative land stewards. The bill have five titles.

TITLE I—LOW-INPUT SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION PROGRAM

Title I is proposed as substitute language for the "LISA" program originally authorized under the Agricultural Productivity Act, Subtitle C of the Food Security Act of 1985. This new language is needed to: First, better reflect the program as currently administered; second, increase farmer involvement; and third, explicitly include mixed-crop livestock and dairy research.

A new 50-50 State-Federal matching grant program is established to encourage and assist States in the creation or enhancement of State sustainable agriculture research, extension, and education projects.

The Secretary is required to develop technical guides to assist farmers and agriculture professionals in understanding the mechanisms of low-input sustainable agriculture systems. The guides are to be coordinated with ongoing efforts of the Soil Conservation Service and the Extension Service in order to provide comprehensive technical guides.

The sum of $40 million annually is authorized for this title. Of that amount, no less than $15 million or no less than two-thirds of any appropriation whichever is greater, shall be used to carry out the national LISA program. The remaining funds shall be allocated for the State-Federal matching program.

TITLE II—NATIONAL TRAINING PROGRAM IN SUSTAINABLE AGRICULTURE

Title II establishes a national training program in sustainable agriculture for Extension Service agents and other agricultural leaders who disseminate information on farming methods. A minimum of two national centers will be established at existing facilities to serve as central locations for intensive classroom and field instruction for specialists. A competitive grants program is established for regions to establish workshop training programs as well.

Extension Service agents are required to attend. No less than 50 percent of a State's extension specialists must attend the intensive study program and no less than 20 percent of the State's nonspecialists must attend the workshop training by September 30, 1995.

The sum of $10,000,000 annually is authorized to carry out title III.

TITLE III—EXTENSION SERVICE PESTICIDE APPLICATION ADVICE

Title III is designed to assist and encourage Extension Service agents to offer advice to farmers on reduced pesticide applications by allowing such agents to advise farmers to apply any pesticide at a dosage, concentration, or frequency that is less than that specified on the pesticide label. Extension publications that discuss pesticide applications may provide lowered rate advice if available in addition to label rates or include the statement "Information may be available from your Extension Service regarding the efficacy of using lower pesticide rates."

FIFRA is amended in order to conform with this title.

TITLE IV—BIOTECHNOLOGY RISK ASSESSMENT RESEARCH

Title IV establishes a biotechnology risk assessment research program at the USDA to help researchers make sound judgments about the overall impacts of genetically engineered organisms in order to minimize risks and to help regulators make scientifically sound and timely decisions. Such sums as are necessary are authorized to carry out this title.

TITLE V—HERBICIDE RESISTANCE RESEARCH

Title V reallocates USDA research dollars spent on the development of herbicide-resistant plants to research, including other biotechnology research, focused on alternative weed control systems which encourage reduced use of herbicides.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sustainable Agriculture Research and Education Act of 1990".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Short Title.
Sec. 2. Table of Contents.
TITLE I—LOW-INPUT SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION PROGRAM
Sec. 101. Findings and Purposes.
Sec. 102. Definitions.
Sec. 103. Research and Extension Projects.
Sec. 104. Program Administration.
Sec. 105. Federal-State Matching Grant Program.

Sec. 106. Technical Guides for Low-Input Agricultural Production Systems.
Sec. 107. Reports.
Sec. 108 Authorization of Appropriations.
TITLE II—NATIONAL TRAINING PROGRAM IN SUSTAINABLE AGRICULTURE
Sec. 201. Findings and Purposes.
Sec. 202. Definitions.
Sec. 203. Program Administration.
Sec. 204. National Training Centers.
Sec. 205. Competitive Grants.
Sec. 206. Training Program Participants.
Sec. 207. Authorization of Appropriations.
TITLE III—EXTENSION SERVICE PESTICIDE APPLICATION ADVICE
Sec. 301. Findings and Purposes.
Sec. 302. Definitions.
Sec. 303. Pesticide Use Recommendations.
Sec. 304. Conforming Amendment.
TITLE IV—BIOTECHNOLOGY RISK ASSESSMENT RESEARCH
Sec. 401. Findings and Purposes.
Sec. 402. Definitions.
Sec. 403. Grant Program.
Sec. 404. Authorization of Appropriations.
TITLE V—HERBICIDE RESISTANCE RESEARCH
Sec. 501. Findings and Purposes.
Sec. 502. Definitions.
Sec. 503. Prohibition of Assistance for Certain Research.
Sec. 504. Reallocation of Research Funding.
Sec. 505. Report.

TITLE I—LOW-INPUT SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION PROGRAM

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the United States must focus its research and education efforts on the development of sustainable methods of farming that are productive and profitable, conserve natural resources, and protect the environment and the health and safety of agricultural workers and consumers;

(2) different methods of agricultural production can contribute to the goal of achieving long-term sustainability including alternative, regenerative, biological, organic, ecological, and low-input sustainable agricultural production methods;

(3) many farmers and ranchers are highly dependent on nonrenewable production inputs and natural resources for agricultural production and are seeking information on sustainable production systems;

(4) farmers and ranchers have demonstrated interest in participating directly in research and extension efforts and that participation can improve farming methods and benefit research and extension programs; and

(5) expanded agricultural research and extension efforts are needed to assist farmers and ranchers to—

(A) improve agriculture productivity, profitability and competitiveness;

(B) prevent water pollution and soil erosion and degradation;

(C) protect the health and safety of farmers, farmworkers, and consumers;

(D) implement soil, water, and energy conservation practices;

(E) reduce the use of nonrenewable production inputs, to the maximum extent feasible and practicable, and optimize the use of on-farm resources;

(F) explore alternative livestock production systems that lead to low-input livestock production; and

(G) stabilize and improve farm income through crop and enterprise diversification.

(b) PURPOSES.—It is the purpose of this title to encourage research designed to increase our knowledge concerning agricultural production systems that—

(1) maintain and enhance the quality and productivity of the soil;

(2) conserve soil, water, energy, and natural resources, and improve fish and wildlife habitat conditions;

(3) prevent contamination of surface and ground water;

(4) protect the health and safety of farmers, farmworkers and consumers;

(5) promote the humane treatment of animals;

(6) increase the number of economically viable self-employment opportunities in agriculture.

SEC. 102. DEFINITIONS.

As used in this title:

(1) EXTENSION.—The term "extension" shall have the same meaning given to such term by section 1404(7) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(7)).

(2) NON-PROFIT ORGANIZATION.—The term "non-profit organization" means an organization, group, institute, or institution that—

(A) has a demonstrated capacity to conduct agricultural research or education programs;

(B) has experience in research, demonstration, education, or extension in sustainable agricultural practices and systems; and

(C) qualifies as a non-for-profit organization under section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)).

(3) SECRETARY.—The term "Secretary" means the Secretary of the United States Department of Agriculture.

(4) STATE.—The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(5) STATE AGRICULTURAL EXPERIMENT STATIONS.—The term "State agricultural experiment stations" shall have the same meaning given to such term by section 1404(13) of the National Agricultural Research, Extension, and Teaching Act of 1977 (7 U.S.C. 3103(13)).

SEC. 103. RESEARCH AND EXTENSION PROJECTS.

(a) IN GENERAL.—The Secretary shall conduct research and extension projects to obtain data, develop conclusions, demonstrate technologies, and conduct educational programs that promote the purposes of this title, including research and extension projects that—

(1) facilitate and increase scientific investigation and education in order to—

(A) reduce, to the maximum extent feasible and practicable, the use of toxic chemical pesticides and fertilizers in agricultural production;

(B) improve low-input farm management in order to enhance agricultural productivity, profitability, and competitiveness; and

(C) promote crop, livestock, and enterprise diversification; and

(2) facilitate the conduct of research and extension projects in order to—

(A) study, to the maximum extent practicable, agricultural production systems that are located in areas that possess various soil, climate, and physical characteristics;

(B) study farms that have been, and will continue to be, managed using farm production practices that rely on a low-input and other conservation practices;

(C) take advantage of the experience and expertise of farmers and ranchers through their direct participation and leadership in projects; and

(D) transfer practical, reliable and timely information to farmers and ranchers concerning sustainable farming practices and systems.

(b) AGREEMENTS.—The Secretary shall carry out this section through agreements entered into with land-grant colleges or universities, other universities, State agricultural experiment stations, the Cooperative State Extension Service, nonprofit organizations, or Federal or State governmental entities.

(c) SELECTION OF PROJECTS.—

(1) IN GENERAL.—The Secretary shall select research and extension projects under this section on the basis of—

(A) the recommendations of the National Sustainable Agriculture Advisory Council established in Section 104 of this title;

(B) the relevance of the project to the purposes of this title;

(C) the appropriateness of the design of the project;

(D) the likelihood of obtaining the objectives of the project; and

(E) the national or regional applicability of the findings and outcomes of the proposed project.

(2) PRIORITY.—The Secretary shall give priority to projects that—

(A) are recommended by the National Sustainable Agriculture Advisory Council;

(B) closely coordinate research and extension activities;

(C) indicate how the findings of the project will be made readily usable by farmers;

(D) maximize the involvement and cooperation of farmers, including projects involving on-farm research and demonstration;

(E) involve a multidisciplinary systems approach; and

(F) involve cooperation between farms, non-profit organizations, colleges and universities, and government agencies.

(d) DIVERSIFICATION OF RESEARCH.—The Secretary shall conduct projects and studies under this section in areas that are broadly representative of the diversity of United States agricultural production, including production on small farms, mixed-crop livestock farms and dairy operations.

(e) ON-FARM RESEARCH.—The Secretary may conduct projects and activities that involve on-farm research and demonstration in carrying out this section.

(f) IMPACT STUDIES.—The Secretary may approve study projects concerning the national and regional economic, social and environmental implications of the adoption of sustainable agricultural practices and systems.

(g) PROJECT DURATION.—

(1) IN GENERAL.—The Secretary may approve projects conducted under this title that have a duration of more than one fiscal year.

(2) SEQUENCE PLANTING.—In the case of a research project conducted under this section that involves the planting of a sequence of crops or crop rotations, the Secretary shall approve such project for a term that is appropriate to the sequence or rotation being studied.

(h) PUBLIC ACCESS.—The Secretary shall ensure that research projects are open for public observation at specified times.

(i) INDEMNIFICATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may indemnify the operator of a project conducted under this section for damage incurred or undue losses sustained as a result of a rigid requirement of research or demonstration under such project that is not experienced in normal farming operations.

(2) SUBJECT TO AGREEMENT.—An indemnity payment under paragraph (1) shall be subject to any agreement between a project grantee and operator entered into prior to the initiation of such project.

SEC. 104. PROGRAM ADMINISTRATION.

(a) DUTIES OF SECRETARY.—The Secretary shall—

(1) administer the programs and projects under sections 103 and 105 through the Cooperative State Research Service in close cooperation with the Extension Service and other appropriate agencies;

(2) establish a National Sustainable Advisory Council in accordance with paragraph (b);

(3) establish a minimum of four Regional Administrative Councils in accordance with paragraph (c); and

(4) in conjunction with such Regional Administrative Councils, identify regional host institutions required to carry out the provisions of such programs or projects.

(5) NATIONAL SUSTAINABLE AGRICULTURE ADVISORY COUNCIL.—

(1) MEMBERSHIP.—The membership of the National Sustainable Agriculture Advisory Council shall include representatives of—

(A) the Agricultural Research Service;

(B) the Cooperative State Research Service;

(C) the Soil Conservation Service;

(D) the Extension Service;

(E) State cooperative extension services;

(F) State agricultural experiment stations;

(G) the Economic Research Service;

(H) the National Agricultural Library;

(I) the Environmental Protection Agency;

(J) the Board of Agriculture of the National Academy of Sciences;

(K) private nonprofit organizations;

(L) farmers utilizing sustainable agriculture systems and practices;

(M) the Geological Survey;

(N) agribusiness; and

(O) other specialists in agricultural research and technology transfer.

(2) RESPONSIBILITIES.—The National Sustainable Agriculture Advisory Council shall—

(A) make recommendations to the Secretary concerning research and extension projects that should receive funding under sections 103 and 105;

(B) promote the programs established under this title at the national level;

(C) coordinate research and extension activities funded by such programs;

(D) establish general procedures for awarding and administering funds under this title;

(E) consider recommendations for improving such program;

(F) facilitate cooperation and integration between sustainable agriculture, national water quality, integrated pest management, food safety, and other related programs; and

(G) prepare and submit an annual report concerning its activities to the Secretary.

(c) REGIONAL ADMINISTRATIVE COUNCILS.—

(1) MEMBERSHIP.—The membership of the Regional Administrative Councils shall include representatives of—

(A) the Cooperative State Research Service;

(B) the Extension Service;

(C) State cooperative extension services;

(D) State agricultural experiment stations;

(E) the Soil Conservation Service;

(F) State departments engaged in promoting sustainable agriculture;

(G) nonprofit organizations;

(H) farmers utilizing sustainable agriculture systems and practices;

(I) the Geological Survey; and

(J) other persons knowledgeable about sustainable agriculture and its impact on the environment and rural communities.

(2) RESPONSIBILITIES.—The Regional Administrative Councils shall—

(A) make recommendations to the National Sustainable Agriculture Advisory Council concerning research and extension projects that should receive funding under sections 103 and 105;

(B) promote the programs established under this title at the regional level;

(C) establish goals and criteria for the selection of projects authorized under this title within the applicable region;

(D) appoint a technical committee to evaluate the proposals for projects to be considered under this title by such council;

(E) review and act on the recommendations of the technical committee, and coordinate its activities with the regional host institution; and

(F) prepare and make available an annual report concerning projects funded under sections 103 and 105, together with an evaluation of the project activity.

(d) CONFLICT OF INTEREST.—Members of the council and the committees shall recuse themselves from participation in discussions and recommendations of proposed projects if members have or have had a professional or business interest in, including the provision of consultancy services, the organization whose grant application is under review.

SEC. 105. FEDERAL-STATE MATCHING GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a Federal-State matching grant program to make grants to States to encourage and assist in the creation or enhancement of State sustainable agriculture research, extension, and education programs.

(b) ELIGIBLE PROGRAMS AND ACTIVITIES.—State programs eligible to receive a grant under this section may conduct a variety of activities designed to carry out the purposes of this title, including—

(1) activities that encourage the incorporation and integration of sustainable agriculture concerns in all State research, extension, and education projects;

(2) educational programs for farmers, educators, and the public;

(3) activities that encourage revisions to agricltural curricula to promote understanding of sustainable agriculture at all levels;

(4) the establishment of sustainable agriculture undergraduate and graduate degree programs;

(5) the development and funding of innovative sustainable agriculture research, extension, and education programs;

(6) the conduct of research and demonstration projects;

(7) the provision of technical assistance to farmers and ranchers;

(8) activities that encourage farmer-to-farmer information exchanges; and

(9) such other activities that are appropriate to the agricultural concerns of the State and are consistent with the purposes of this title.

(c) SUBMISSION OF PLAN.—

(1) IN GENERAL.—States that elect to apply for a grant under this section shall prepare and submit, to the appropriate Regional Administrative Council established under section 104, a State plan and schedule for approval by such Council and the Secretary.

(2) CONTENTS OF STATE PLAN.—State plans prepared under paragraph (1) shall provide details of the proposed program to be implemented using funds provided under this section for fiscal years 1991 through 1995, or any 5-year period thereafter, and shall identify the sources of matching State funds for the same fiscal years.

(3) PARTICIPATION.—To be eligible for approval, State plans submitted under this subsection shall demonstrate that there will be extensive and direct participation of farmers in the development, implementation, and evaluation of the program.

(d) GRANT AWARD.—

(1) AMOUNT OF GRANT.—Subject to paragraph (2), the Secretary shall provide grants to eligible States in an amount not to exceed 50 percent of the cost of the establishment or enhancement of a state sustainable agriculture program under a plan approved by the Secretary under subsection (c) for a period of not to exceed 5 years.

(2) STATE PARTICIPATION.—To be eligible to receive a grant under this section, a State shall agree to pay, from State appropriated funds, other State revenue, or from private contributions received by the State, not less than 50 percent of the cost of the establishment or enhancement of the sustainable agriculture program under an approved plan under subsection (c).

SEC. 106. TECHNICAL GUIDES FOR LOW-INPUT AGRICULTURAL PRODUCTION SYSTEMS.

(a) ESTABLISHMENT.—The Secretary shall, not later than 365 days after the date of enactment of this Act, with full public notice and comment, and in consultation with the National Sustainable Advisory Council established under section 104, develop technical guides describing farm production systems that foster low-input sustainable agricultural production systems, mitigate public health risks, protest environmental quality, conserve soil, water, and energy, and otherwise carry out the purposes of this title.

(b) COORDINATION OF EFFORT.—To the extent possible, the Secretary shall coordinate the ongoing technical guide work of the Soil Conservation Service and the Extension Service in order to avoid duplication of effort and to provide farmers and other agriculture professionals with a comprehensive technical guide that addresses a broad array of technical concerns.

(c) CONTENT OF TECHNICAL GUIDES.—

(1) IN GENERAL.—The technical guides developed under this section shall include detailed information on selection of crops and crop-plant varieties, rotation practices, tillage systems, nutrient management systems, soil building practices, pest, weed, and disease management, soil, water, and energy conservation, livestock management, and other practices useful in carrying out the purposes of this title.

(2) STANDARDS AND INSTRUCTIONS.—Such guides shall provide standards and practical instructions, based on existing scientific and technical knowledge, to ensure nondegradation of farmland soils, protection of water supplies from depletion and contamination, and reductions in the use of non-renewable resources and purchased production inputs to the lowest practical levels.

(3) INFORMATION COLLECTION.—To assist in the development of such guides, the Secretary shall—

(A) survey existing data bases containing information on sustainable agricultural systems, including those created by the Soil Conservation Service and the National Agricultural Library and the Appropriate Technology Transfer in Rural Areas program established under section 2(b)(7) of the Act entitled "An Act to facilitate the work of the Department of Agriculture, and for other purposes", approved August 4, 1965 (7 U.S.C. 450i(b)(7));

(B) inventory and classify by subject matter studies, reports, and other material developed by any person or governmental agency with the participation or financial assistance of the Secretary, that could be used to promote the purposes of this title;

(C) identify, assess, and classify existing information and research reports and projects that will further the purposes of this title, including information and research relating to—

(i) the development of environmentally sound cropping, livestock, tillage, nutrient management, pest management, water quality and conservation, and alternative energy systems;

(ii) the social, economic, and environmental effects of alternative production systems and technologies; and

(iii) the role of public policies and programs in fostering or hindering the purposes of this subtitle; and

(D) determine which of such reports and projects provide useful information and make such useful reports available to farmers and ranchers.

(e) GRANT PROGRAM.—The Secretary, in consultation with the National Sustainable Agriculture Advisory Council established in section 104, may establish a grant program to assist in the development and periodic revision of technical guides under this section.

(f) DISTRIBUTION OF GUIDES.—The Secretary shall ensure that the technical guides developed under this section are made available to the public.

SEC. 107. REPORTS.

The Secretary shall, not later than April 1, 1991, and each April 1 thereafter, prepare and submit, to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, Forestry of the Senate, and the National Sustainable Agriculture Advisory Council—

(1) a report describing the results of the programs carried out under sections 103 and 105; and

(2) a report describing the progress of projects conducted under this title, including—

(A) a summary and analysis of data collected under such projects;

(B) recommendations based on such data for new basic or applied research; and

(C) the number, length, and type of projects proposed, funded and carried out, by region.

SEC. 108. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated $40,000,000 for each fiscal year to carry out this title. Of any amount that is appropriated to carry out the programs established under this title, no less than $15,000,000, or no less than two thirds of any appropriation, whichever is greater, shall be used to carry out sections 103 and 104.

TITLE II—NATIONAL TRAINING PROGRAM IN SUSTAINABLE AGRICULTURE

SEC. 201. FINDINGS AND PURPOSES.

(a) The Congress finds that—

(1) there is a great need for research-based practical knowledge that will assist farmers and nonfarmers adopt sustainable agriculture technologies, practices, and systems on their farms, in their businesses and in their homes;

(2) farmers rely upon the Extension Service as a primary source for the dissemination of research-based practical knowledge concerning farming methods; and

(3) Extension Service as well as other agricultural leaders need training in new sustainable agriculture technologies and practices in order to provide the information farmers and nonfarmers demand.

(b) PURPOSE.—It is the purpose of this title to establish a training program in sustainable agriculture for Extension Service agents and other leaders in agricultural education in order to facilitate the extension of knowledge of sustainable agriculture.

SEC. 202. DEFINITIONS.

As used in this title:

(1) EXTENSION SERVICE.—The term "Extension Service" shall include employees of the federal Extension Service, and the state and county Cooperative Extension Service.

(2) SUSTAINABLE AGRICULTURE.—The term "sustainable agriculture" means a variety of farming systems, ranging from organic systems that use no synthetic chemical inputs to those involving the prudent use of pesticides or antibiotics, and which result in—

(A) thorough incorporation of natural processes such as nutrient cycles, nitrogen fixation, and pest-predator relationships into the agricultural production process;

(B) reduction in the use of off-farm inputs with potential to harm the environment or the health of farmer and consumers;

(C) greater productive use of the biological and genetic potential of plant and animal species;

(D) improvement of the match between cropping patterns and the productive potential and physical limitations of agricultural lands to ensure long-term sustainability of current production levels; and

(E) profitable and efficient agricultural production, with emphasis on improved farm management and conservation of soil, water, energy, and biological resources.

SEC. 203. PROGRAM ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall establish a National Training Program in Sustainable Agriculture to provide education and training for Extension Agents and other professionals involved in education and transfer of technical information concerning sustainable agriculture in order to develop understanding, competence, and ability to teach and communicate the concepts of sustainable agriculture to Extension Agents and to farmers and urban residents needing information on sustainable agriculture systems.

(b) ADMINISTRATION.—The training program shall be organized and administered jointly by the Centers established in Section 204 and the Extension Service and shall include on-site education at the Centers as well as education at other locations including land-grant universities, experiment stations, and demonstration farms.

SEC. 204. NATIONAL TRAINING CENTERS.

(a) IN GENERAL.—The Secretary shall designate not less than two national training centers to coordinate and administer education in sustainable agriculture as provided for in Section 203.

(b) TRAINING PROGRAM.—The Centers shall offer intensive instruction programs and involving classroom and field training work for extension specialists and other individuals who are required to transmit technical information.

(c) PROHIBITION ON CONSTRUCTION.—The Centers established in paragraph (a) shall be located at existing facilities. No funds appropriated under this title shall be used for facility construction.

(d) ADMINISTRATION.—Centers should be administered by organizations that—

(1) have a specific mandate relating to sustainable agriculture;

(2) have a base of programming that includes both research and education related to sustainable agriculture, with an emphasis on the application of an overall production systems approach which studies environmental interactions, farming methods, and resource efficiency; and

(3) have cooperative relationships with other agencies such as the Agricultural Research Service, the Cooperative Extension Service, land grant universities and nonprofit organizations.

(e) COORDINATION OF RESOURCES.—The Centers shall make use of information generated by the U.S. Department of Agriculture and the state agriculture experiment stations, and the practical experience of farmers, especially those cooperating in on-farm demonstrations and research projects.

(f) LOCATION.—The Secretary should consider utilizing existing organizations with expertise in sustainable agriculture to assist in the design and implementation of the training program.

SEC. 205. COMPETITIVE GRANTS.

(a) IN GENERAL.—The Secretary shall establish a competitive grants program to award grants to organizations, including land grant universities, in order to carry out sustainable training for county agents and other individuals needing basic information on sustainable agriculture practices.

(b) SHORT COURSES.—The purpose of the grants shall be to establish in the regions, training programs that consist of workshops and short courses designed to familiarize participants with the concepts and importance of sustainable agriculture.

SEC. 206. TRAINING PROGRAM PARTICIPANTS.

(a) IN GENERAL.—The Secretary should attempt to train all Extension Service personnel and other individuals who advise farmers in sustainable agricultural production methods.

(b) EXTENSION SERVICE.—The Secretary shall require that not less than twenty percent of Federal Extension Service staff participate in the intensive instruction at the Centers by September 30, 1995. In addition, the Secretary shall ensure that—

(1) each State Cooperative Extension Service designates not less than 50 percent of such state's specialists and agents to attend the intensive instruction program offered at the Centers by September 30, 1995; and

(2) each State Cooperative Extension Service designates not less than 20 percent of such state's nonspecialists to attend the short courses established through competitive grants by September 30, 1995.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

There are to be authorized to be appropriated $10,000,000 for each fiscal year to carry out the provisions of this title.

TITLE III—EXTENSION SERVICE PESTICIDE APPLICATION ADVICE

SEC. 301. FINDINGS AND PURPOSES.

(a) FINDING.—The Congress finds that, in many cases, Extension Service agents would like to provide information to farmers concerning lower, effective rates of pesticide application than that specified on the label of the pesticide, in order to guide farmers toward low-input sustainable agriculture systems.

(b) PURPOSE.—The purpose of this title is to authorize Extension Service agents to provide information to farmers on reduced pesticide application rates when and if such information is available.

SEC. 302. DEFINITIONS.

As used in this title:

(1) EXTENSION SERVICE.—The term "Extension Service" shall include employees of the federal Extension Service, and the state and county Cooperative Extension Services.

(2) PESTICIDE.—The term "pesticide" means any substance which alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

SEC. 303. PESTICIDE USE RECOMMENDATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, Extension Service agents may advise farmers to apply any pesticide at a dosage, concentration, or frequency that is less than that specified on the label for such pesticide if the Extension Service agent has reason to believe that use of the pesticide at the lower dosage, concentration, or frequency would be efficacious.

(b) PUBLICATIONS.—Extension Service agents may include advice to farmers concerning such lower usage of specific pesticides in publications issued by the Extension Service if—

(1) such publication also states the rates of application specified on the label of such pesticide; and

(2) such publication discusses the efficacy of the pesticide when applied at such lower rate.

(c) ADDITIONAL INFORMATION.—Any Extension Service publication that contains directions for the use of specific pesticides only at the dosage, concentration, or frequency specified on the label shall also include the statement "Information may be available from your Extension Service regarding the efficacy of using lower pesticide rates.".

SEC. 304. CONFORMING AMENDMENT.

Subsection (ee) of section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) is amended by striking "unless the labeling specifically prohibits deviation from the specified dosage, concentration or frequency".

TITLE IV—BIOTECHNOLOGY RISK ASSESSMENT RESEARCH

SEC. 401. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) rapid advances in the application of biotechnology to agriculture have and will continue to result in the development of products whose research, evaluation, and commercial use require introduction into the environment; and

(2) more scientific information about the effects of the introduction of genetically engineered organisms into the environment, and the development of methods to contain and monitor such introduction are needed to—

(A) help researchers make sound judgments about the overall environmental impacts of genetically engineered organisms they develop, and to design projects that minimize any risks associated with the introduction of such genetically engineered organisms; and

(B) help regulators make scientifically sound and timely decisions regarding the introduction of genetically engineered organisms.

(b) PURPOSES.—It is the purpose of this title to—

(1) authorize and support environmental assessment research to the extent necessary to help address general concerns about environmental effects of biotechnology; and

(2) authorize research to help regulators develop policies, as soon as is practicable, concerning the introduction into the environment of such technology.

SEC. 402. DEFINITIONS.

As used in this title:

(1) ENVIRONMENTAL ASSESSMENT RESEARCH.—The term "environmental assessment research" is research aimed at understanding the potential impacts on agricultural ecosystems, natural ecosystems, and human health of genetically engineered organisms introduced into the environment.

(2) GENETICALLY ENGINEERED ORGANISM.—The term "genetically engineered organism" is a living organism, including a virus, that is generically modified using techniques of modern biotechnology, including recombinant DNA, chemical and electrical poration, and microinjection.

SEC. 403. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a grant program within the Cooperative State Research Service and the Agricultural Research Service to provide the necessary funding for environmental assessment research concerning the introduction of genetically engineered organisms into the environment.

(b) AREAS OF RESEARCH.—Areas of research eligible for funding shall include—

(1) the development of methods to physically and biologically contain genetically engineered fish, plants, and microorganisms once they are introduced into the environment;

(2) the development of methods to monitor the dispersal of genetically engineered fish, plants, and microorganisms;

(3) research designed to further existing knowledge with respect to the rates and methods of gene transfer that may occur between genetically engineered organisms and related wild and agricultural organisms; and

(4) other areas of research designed to further the purposes of this title.

(c) REQUESTS FOR PROPOSALS.—The Secretary shall consult with the Administrator of the Animal and Plant Health Inspection Service, any existing Office of Agricultural Biotechnology, and any existing Agricultural Biotechnology Research Advisory Committee regarding any specific areas of research considered for funding under this section.

(d) PROGRAM COORDINATION.—The Secretary shall coordinate research authorized under this title with the Office of Research and Development of the Environmental Protection Agency and shall seek to avoid duplication of research activities.

(e) OPEN COMPETITION.—Grants shall be made on the basis of quality of the proposed research project and shall not be restricted to land grant colleges and colleges of agriculture.

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this title.

TITLE V—HERBICIDE RESISTANCE RESEARCH

SEC. 501. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) private and public sector researchers are currently engaged in considerable research to genetically modify plants to increase the herbicide resistance of such plants;

(2) the use of chemical herbicides may contribute to environmental pollution;

(3) our scarce public resources must, to the extent possible, be dedicated to research aimed at lessening the use of chemical pesticides; and

(4) the private sector will continue to develop herbicide resistant plants.

(b) PURPOSE.—It is the purpose of this title to transfer federal financial assistance now being used to assist individuals or entities in applied research designed to develop herbicide resistant plants to other weed management control options, including plant genome research.

SEC. 502. DEFINITIONS.

As used in this title:

(1) HERBICIDE RESISTANT PLANTS.—The term "herbicide resistant plants" means plants that are modified using recombinant methods or any other methods to improve the metabolic capabilities of plants to resist a particular synthetic chemical herbicide.

(2) PESTICIDE.—The term "pesticide" means any substance which alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(3) SECRETARY.—The term "Secretary" means the Secretary of the United States Department of Agriculture.

SEC. 503. PROHIBITION OF ASSISTANCE FOR CERTAIN RESEARCH.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall not allow any funds provided under the National Agriculture, Research, Extension, and Teaching Policy Act of 1977, the Food Security Act of 1985, or any other Act to be provided to any individual or entity for the purpose of conducting applied research designed to develop herbicide resistant plants.

(b) EXEMPTION.—Subsection (a) shall not apply to risk assessment and monitoring research authorized under title IV of this Act.

(c) PROJECT COMPLETION.—

(1) COMPLETION OF RESEARCH PROJECTS UNDERWAY.—Except as provided in paragraph (2), the Secretary may permit completion of applied research projects designed to develop herbicide resistant plants if such projects are significantly underway and are near completion at the time of enactment of this Act.

(2) TERMINATION OF FUNDING.—No funding for any projects under paragraph (1) shall be provided after September 30, 1992.

SEC. 504. REALLOCATION OF RESEARCH FUNDING.

To the extent practicable, the Secretary shall allocate federal funds equal to the amount of federal funds previously dedicated to research on the development of herbicide resistant plants prior to enactment of this Act for research on plant genomes that is directed at the development of plants adapted to week control management systems with reduced reliance on chemical herbicides, including row crop varieties better adapted to mechanical weed control, cover crops, and rotational crops which enhance weed control, and pest resistant plants.

SEC. 505. REPORT.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a survey of land-grant universities and colleges, 1890 institutions, and the Tuskegee Institute to determine the extent to which the private sector is supporting applied research at such institutions designed to develop herbicide resistant plants.

(b) REPORT.—Not later than September 30, 1991, the Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the findings of the survey conducted under subsection (a).●

By Mr. DIXON (for himself and Mr. SIMON):

S. 2335. A bill to provide for dual membership of one member each of the Commodities Futures Trading Commission and the Securities and Exchange Commission; to the Committee on Banking, Housing, and Urban Affairs.

DUAL MEMBERS OF THE COMMODITIES FUTURES TRADING COMMISSION AND THE SECURITIES AND EXCHANGE COMMISSION

Mr. DIXON. Mr. President, together with my distinguished colleague from Illinois, Senator SIMON, I am today introducing legislation to make one member of the Commodity Futures Trading Commission a full, voting member of the Securities and Exchange Commission and to make one member of the SEC a full, voting member of the CFTC.

This is a simple idea with a simple, straightforward purpose—to improve and institutionalize the coordination and cooperation between these two agencies.

Let there be no mistake. I believe that the CFTC and the SEC have worked well together since the 1987 market crash. I think they have both done an excellent job in addressing intermarket coordination issues through the working group established by the President.

This legislation is designed to build on the ad hoc efforts that have been taking place by putting a strong, statutory foundation in place to ensure that both the CFTC and the SEC fully consider the concerns of all of the markets they regulate.

This arrangement may seem to be unusual to some of my colleagues. However, there are precedents for this kind of crossmembership. In the banking area, for example, the Comptroller of the Currency is on the Board of the Federal Deposit Insurance Corporation.

There have been a lot of changes in our financial markets in recent years. Our stock markets are now dominated by institutional traders. Not very many years ago, financial futures did not exist at all.

Some argue that we need one overriding financial markets regulator to cope with these changes. I cannot agree with that argument. I do not want to take the time of the Senate to discuss this issue in detail now. I made a statement on Tuesday that goes into this issue in some detail. I would, however, like to cite an example—the banking area—that demonstrates that one regulator is not needed in order to make effective regulatory policy.

We have three Federal banking regulators. All of them are able to coordinate with one another to ensure that appropriate regulatory policies for all banks are implemented in an effective and reasonable manner. There is no reason that the SEC and the CFTC cannot also simply coordinate their policies.

Nonetheless, I am proposing legislation that goes somewhat farther than we have gone in the banking area. I think crossmembership is a good idea to give each agency a better appreciation of the issues the other has to face. In the banking area, the regulators are each regulating different aspects of one basic industry, and there is substantial overlap between many of their functions. In the futures markets-stock markets area, however, there are substantial differences in the industries being regulated and the functional overlap is much less.

Crossmembership will therefore help improve the SEC's understanding of futures markets and how they work, and improve the CFTC's understanding of the impact that some futures activities may have on the stock market. The result will be better regulation by both agencies.

It is worth noting that, under this proposal, two members of each Commission will have to have considerable expertise in both the futures markets and the stock markets. That kind of crossexpertise will be invaluable in dealing with future intermarket jurisdictional issues and other market coordination issues.

I urge my colleagues to consider this idea carefully. It is a modest approach. It does not call for fundamental restructuring of our regulatory structure. Fundamental restructuring, however, is not what is needed. Regulatory coordination is, and my proposal will ensure by statute that we have the kind of coordination we need.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DUAL MEMBERS OF THE CFTC AND SEC.

(a) CFTC.—Section 2(a)(2)(A) of the Commodity Exchange Act (7 U.S.C. 4a(a)(1)) is amended by inserting after the second sentence the following: "A commissioner of the Securities and Exchange Commission shall serve as a voting ex officio member of the Commodities Futures Trading Commission, but shall receive no additional compensation for such service.".

(b) SEC.—Section 4(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(a)) is amended by adding at the end the following: "A commissioner of the Commodities Futures Trading Commission shall serve as a voting ex officio member of the Securities and Exchange Commission, but shall receive no additional compensation for such service.".

SEC. 2. CONFORMING AMENDMENTS.

(a) CFTC.—Section 2(a)(2)(A) of the Commodity Exchange Act (7 U.S.C. 4a(a)(1)) is amended in the second sentence—

(1) by striking "five Commissioners, who" and inserting "5 Commissioners, 4 of whom";

(2) by inserting before the period the following: ", and one of whom shall be a commissioner of the Securities and Exchange Commission".

(b) SEC.—Section 4(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(a)) is amended in the first sentence—

(1) by striking "five commissioners to" and inserting "5 commissioners, 4 of whom shall";

(2) by inserting before the period the following: ", and one of whom shall be a commissioner of the Commodity Futures Trading Commission".

SEC. 2. TRANSITION RULE.

The amendments made by this Act shall take effect upon the date of enactment of this Act, and shall apply to the next two vacancies (other than the chair) in the membership of the Securities and Exchange Commission and to the next two vacancies (other than the chair) in the membership of the Commodity Futures Trading Commission. The first vacancy on either Commission that occurs after the date of enactment of this Act shall be filled by a commissioner who shall be designated also to serve ex officio to fill the first vacancy that occurs thereafter in the membership of the other commission. The vacancy in the membership of that other commission that occurs after a vacancy is filled ex officio under the preceding sentence shall be filled by a commissioner who shall be designated also to serve ex offico to fill the first vacancy that occurs thereafter in the membership of the first commission.

By Mr. BAUCUS (for himself, Mr. BURDICK, Mr. CONRAD, Mr. PRYOR, Mr. BOREN, Mr. FOWLER, Mr. HEFLIN, and Mr. BUMPERS):

S. 2336. A bill to amend the Agricultural Act of 1949 to provide for target price adjustments for the 1991 through 1995 program crops based on an index of production costs of farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

TARGET PRICE ADJUSTMENT ACT

Mr. BAUCUS. Mr. President, the Senate Agriculture Committee will soon begin marking up the 1990 farm bill.

To prepare for this markup, the committee has held several dozen hearings and heard testimony from every sector of the farm economy over the past year.

I personally have spent many hours talking to Montana farmers and ranchers about their concerns in the farm bill.

One message has come through loud and clear.

We must put an end to the steady decline of net farm income.

I know that Bush administration officials claim that farm income is high.

But the fact of the matter is that, in real terms, farm income during the 1980's was the lowest it has ever been since we started keeping records in 1910.

During the 1910's, net farm income was $51.2 billion; in the 1930's it was $31.1 billion; in the 1950's, farmers made $47.6 billion; in the 1970's they made $41.3 billion; and during the 1980's they made only $28.8 billion.

We in Congress have a responsibility to turn this situation around for farmers.

One of the reasons farm income has been on the decline is that target prices have been going down and farmers' costs have been going up.

If we continue this pattern, we will soon have a mass exodus of farmers from their land.

That is why I am introducing a bill today that will tie adjustments in target prices to an index of farm input costs.

This indexing would both rise and fall depending on the input costs of farmers. That way farmers will know that they will be working under the same relationship of return and cost as they will be when the 1990 farm bill passes.

According to statistics compiled by the Food and Agricultural Policy Research Institute at the University of Missouri, the cost of production on wheat rose from $56.48 per acre in 1986, to $64.70 in 1989. The cost of producing oats over the same period rose from $50.37 per acre to $60.46. And the cost of producing barley rose from $57.93 to $65.90.

FAPRI estimates that by the year 1999, the cost of producing wheat will increase by 63 percent; the cost of producing oats will increase by 62 percent; and the cost or producing barley will increase by 64 percent.

Clearly, farmers will not be able to withstand these cost increases.

That is why I am introducing this legislation today. It is critical to the survival of farmers as we know them.

I urge my colleagues to join me and support this legislation. With farm income the lowest it's been since 1910, and with the costs of production rising by over 60 percent over the next 10 years, there is no way a farmer will be able to continue to plant his crops and feed his family without a cost of production index.

I ask unanimous consent that the full text of my legislation be printed immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Target Price Adjustment Act of 1990".

SEC. 2. ADJUSTMENT OF TARGET PRICES TO REFLECT CHANGING COSTS OF PRODUCTION.

Effective only for the 1991 through 1995 crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice, section 425 of the Agricultural Act of 1949 (7 U.S.C. 1433d) is amended to read as follows:

"SEC. 425. ADJUSTMENT OF TARGET PRICES TO REFLECT CHANGING COSTS OF PRODUCTION.

"Notwithstanding any other provision of this Act, the Secretary shall provide for annual adjustments in the established prices used to calculate deficiency payments for each of the 1991 through 1995 crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice to reflect any change during the last calendar year ending before the beginning of each such crop year in the index of prices paid by producers for production items, interest, taxes, and wage rates in the calendar year, as determined by the Secretary.".

By Mr. BAUCUS (for himself, Mr. HEINZ, and Mr. ROCKEFELLER):

S. 2337. A bill to amend the Trade Act of 1974 to provide for review by the Trade Representative of compliance by foreign countries with trade agreements; to the Committee on Finance.

TRADE AGREEMENT COMPLIANCE ACT

Mr. BAUCUS. Mr. President, I rise today to introduce legislation to enforce U.S. rights under trade agreements.

There are many foreign trade barriers in the world. The National Trade Estimate devotes 208 pages to listing those barriers—over 1,000 are cited.

But not all foreign trade barriers are equally troubling.

In drafting the 1988 Trade Act, the Congress recognized that there was one type of trade barrier that was completely unjustifiable and deserved special attention: violations of trade agreements.

Certainly, many foreign governments have argued that some of the barriers listed are not barriers at all.

But no reasonable argument can be advanced to defend an outright breach of a trade agreement.

The major trade agreements to which the United States is a party—the General Agreement on Tariffs and Trade and the United States-Canada Free Trade Agreement—have built-in dispute settlement mechanisms.

In addition to these agreements, however, the United States has entered into dozens of trade agreements to address various bilateral trade problems.

For example, the United States has concluded trade agreements with Japan addressing issues ranging from construction to pharmaceuticals, with the EC on compensation, with Korea on investment, and with numerous other nations on protection of intellectual property—to name only a few.

Unfortunately, our trade partners have not always lived up to their commitments under these agreements.

The United States had a dispute with the EC over the EC's compliance with a trade compensation agreement reached to compensate the United States for the ascension of Spain and Portugal into the EC.

Recently, there has been concern over Japanese compliance with the 1988 Beef and Citrus Agreement. Some have questioned Korean compliance with a variety of bilateral agreements reached by the United States and Korea in 1989. Finally, there is a longstanding dispute over Japanese compliance with the 1986 semiconductor trade agreement between the United States and Japan.

In most cases, these agreements do not contain an adequate dispute settlement mechanism to address these problems.

As noted, in the 1988 Trade Act we paid special attention to trade agreement violations. These violations were classified as "unjustifiable" trade barriers subject to mandatory trade retaliation under section 301 of U.S. trade law.

Unfortunately, there were oversights in the 1988 Trade Act. No comprehensive procedure was established for reviewing compliance with the many agreements reached between the United States and its trading partners.

The Trade Agreements Compliance Act which I am today introducing with Senators HEINZ and ROCKEFELLER seeks to address this shortcoming in the 1988 Trade Act.

The Trade Agreements Compliance Act establishes a regular procedure under which an interested U.S. party can review our trading partners compliance with these trade agreements as often as annually. The U.S. Trade Representative may also self-initiate a review of any agreement.

If one of our trading partners is found to be in violation of a trade agreement, a comprehensive review of the trading relationship between that nation and the United States is triggered. This review will reveal—among other things—if there are other agreement compliance problems involving that trading partner.

If violations are found and the trading partner involved refuses to come into compliance, the U.S. Trade Representative is required to retaliate against exports from that nation to the United States.

This legislation does nothing more than ensure that other nations do not take advantage of the United States. It is not an attempt to define questionable foreign trade practices as unfair. No reasonable party could argue that violations of trade agreements are not unfair.

Yet, the United States has too often been unwilling to forcefully assert its rights under trade agreements.

This has encouraged our trading partners to play fast and loose with their commitments to the United States.

We must put our foot down. We must tell the world we will not stand for trade agreement violations. And we must leave no doubt in the minds of our trading partners that we will respond to trade agreement violations.

I believe this legislation is a critical element of U.S. trade policy.

I ask unanimous consent that the text of the legislation appear in the RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2337

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trade Agreement Compliance Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States has entered into numerous trade agreements with foreign country trading partners;

(2) foreign country performance with respect to certain agreements has been less than contemplated, and in some cases rises to the level of noncompliance; and

(3) there is a need to provide a mechanism whereby interested parties can obtain a periodic review of the performance of a foreign country under a trade agreement.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure that foreign countries which have made commitments through agreements with the United States fully abide by those commitments;

(2) to obtain foreign country compliance with agreements with the United States through negotiation or, in the alternative, through unilateral action;

(3) to achieve a more open world trading system which provides mutually advantageous market opportunities for trade between the United States and foreign countries;

(4) to facilitate the opening of foreign country markets to exports of the United States and third countries by eliminating trade barriers and increasing the access of industry of the United States and third countries to such markets; and

(5) to reduce diversion of third country exports to the United States because of restricted market access in foreign countries.

SEC. 3. REVIEW OF TRADE AGREEMENTS.

The Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by inserting after section 306, the following new section:

"SEC. 306A. REQUEST FOR REVIEW OF TRADE AGREEMENTS.

"(a) ANNUAL REVIEW OF TRADE AGREEMENTS.—

"(1)(A) At the written request of an interested person, the Trade Representative shall commence a review to determine whether a foreign country is in compliance with any trade agreement such country has with the United States.

"(B) An interested person may file a written request for review under paragraph (1) at any time after the date which is 30 days after the anniversary of the effective date of such agreement, but not later than 120 days before the date of expiration of such agreement.

"(C) A written request filed under this subsection shall—

"(i) identify the person filing the request and the interest of that person which is affected by the noncompliance of a foreign country with a trade agreement with the United States;

"(ii) describe the rights of the United States being denied under such trade agreement; and

"(iii) include information reasonably available to the person regarding the failure of the foreign country to comply with such trade agreement.

"(D) For purposes of this subsection, an 'interested person' is any person with a significant economic interest that is affected by the failure of a foreign country to comply with a trade agreement.

"(E) For the purposes of this subsection, the term 'trade agreement' means an agreement with the United States and is not intended to include broad multilateral trade agreements such as the General Agreement on Tariffs and Trade.

"(2) Not later than 90 days after receipt of a request for review under paragraph (1), the Trade Representative shall determine whether any act, policy, or practice of the foreign country that is the subject of the review—

"(A) is in material noncompliance with the terms of such agreement, or

"(B) otherwise denies, within the context of the terms of such agreement, to United States firms mutually advantageous market opportunities in the foreign country.

"(3) In conducting a review under this subsection, the Trade Representative may, as the Trade Representative determines appropriate, consult with the Secretary of Commerce or the Secretary of Agriculture.

"(b) FACTORS TO BE TAKEN INTO ACCOUNT.—In making a determination under subsection (a)(2), the Trade Representative shall take into account, among other relevant factors—

"(1) achievement of the objectives of the agreement,

"(2) adherence to commitments given, and

"(3) any evidence of actual patterns of trade that do not reflect patterns of trade which would reasonably be anticipated to flow from the concessions or commitments of such country based on the international competitive position and export potential of a United States industry or industries.

The Trade Representative may seek the advice of the United States International Trade Commission when considering these factors.

"(c) FURTHER ACTION.—

"(1) If, on the basis of the review carried out under subsection (a), the Trade Representative determines that a foreign country is in material noncompliance with an agreement within the meaning of subsection (a)(2)(A), the Trade Representative shall determine what further action to take under section 301(a).

"(2) If, on the basis of the review carried out under subsection (a), the Trade Representative considers that a foreign country is denying mutually advantageous market opportunities to United States firms within the meaning of subsection (a)(2)(B), the Trade Representative shall determine what further action to take under section 301(b).

"(3) For purposes of section 301, any determination made under subsection (a) shall be treated as a determination made under section 304.

"(4) In determining what further action to take under paragraph (1) or (2), the Trade Representative shall take into account the list of possible sanctions developed under subsection (e).

"(d) EVALUATION OF OVERALL TRADE PERFORMANCE.—

"(1) Not later than 30 days after the date that the Trade Representative has made an affirmative determination under subsection (a), the Trade Representative shall commence an evaluation of the overall trade performance of such foreign country. In conducting the evaluation, the Trade Representative shall use all relevant information such as the National Trade Estimates. The Trade Representative may seek the advice of the United States International Trade Commission and may consult with the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, or other government officials, as appropriate.

"(2) The evaluation provided for in paragraph (1) shall identify and describe, with respect to such foreign country—

"(A) the country's trade with the United States and third countries;

"(B) the impact of macroeconomic policies of the country, including exchange rate policies and the country's overall demand for United States or third country exports;

"(C) any structural policies (including tax incentives, production standards, distribution systems, and patterns of industrial ownership, or tolerance of anticompetitive practices) that may affect the country's demand for United States or third country exports;

"(D) tariff and nontariff barriers (including quotas, import licensing, and foreign exchange restrictions) that significantly restrict United States or third country exports to such country;

"(E) acts, policies, and practices that provide direct or indirect government support for exports from such country;

"(F) acts, policies, and practices that constitute significant barriers to foreign direct investment in such country by United States persons (as identified under section 181) or to foreign direct investment by third country persons; and

"(G) the extent to which the country's laws and enforcement of those laws afford adequate protection to United States and third country intellectual property, including patents, trademarks, copyrights, and maskworks.

"(3) The Trade Representative shall, as appropriate, provide notice and reasonable opportunity for public comment as part of the evaluation conducted under paragraph (1).

"(4) The Trade Representative shall, not later than 180 days after the date on which the Trade Representative makes an affirmative determination under subsection (a), submit to the President, the Chairman of the Committee on Ways and Means of the

House of Representatives, and the Chairman of the Committee on Finance of the Senate a report on the result of the evaluation conducted under this subsection.

"(5) The Trade Representative shall within 30 days of the submission of the report described in paragraph (4) take such action as the Trade Representative deems appropriate and feasible in accordance with the report's findings. In determining the actions to be taken, the Trade Representative shall take into consideration the possible sanctions identified under subsection (e).

"(e) POSSIBLE SANCTIONS; PUBLIC COMMENT.—

"(1) During the course of a review under subsection (a) or an evaluation under subsection (d), the Trade Representative, with the advice of the United States International Trade Commission, shall in a timely manner develop a list of possible sanctions which could be imposed in the event that the Trade Representative determines the country which is the subject of the review or evaluation—

"(A) is not in compliance with a trade agreement; or

"(B) denies United States firms mutually advantageous market opportunities.

"(2) In developing a list of possible sanctions, the Trade Representative shall seek to minimize any adverse impact on existing business relations or economic interests of United States persons, including consideration of taking action with respect to future products for which a significant volume of current trade does not exist.

"(3) The Trade Representative shall if he determines appropriate, provide notice and reasonable opportunity for public comment.

"(4) The Trade Representative shall keep appropriate committees of the Congress, including the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, currently informed with respect to the development of the list of possible sanctions.

"(5) The list of possible sanctions developed by the Trade Representative under paragraph (1) may include any action or combination of actions authorized by section 301, or any other action or combination of actions within the power of the President.".

SEC. 4. INTERNATIONAL OBLIGATIONS.

The amendments made by this Act shall not be construed to require actions inconsistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade.

Mr. HEINZ. Mr. President, I am pleased to join today with the Senator from Montana [Mr. BAUCUS] and the Senator from West Virginia [Mr. ROCKEFELLER], in introducing legislation that would establish a regular procedure for reviewing foreign compliance with trade agreements and a series of steps to be taken to enforce compliance. This is an important bill from the standpoint of general trade law enforcement and from the particular perspective of the semiconductor industry.

With respect to general enforcement, it is virtually axiomatic that oversight and compliance verification are not things that either the executive or legislative branch does well. It is human nature to focus tremendous resources and attention on the working of an agreement and then, having done that, to turn one's attention to the next crisis and the next potential agreement rather than undertake the more boring task of monitoring implementation of the old one. The emphasis in government is inevitably on the short-term future—the next problem—rather than on the long-term future or the assessment of past progress. Maintaining sufficient discipline to overcome that tendency has proven exceptionally difficult, both in government and in the private sector.

The result in the trade area has been a number of situations where implementation of an agreement has been less than we hoped. With respect to the European Community, for example, the pasta case and the canned fruit case both proved to be a series of negotiations followed by a failure to comply, followed by more negotiations. We may be heading into the same sequence of events in the soybean case as well.

In the case of Japan the record is even bleaker. We have a supercomputer super 301 case because our previous agreement has not been honored. We had several unpleasant rounds in the pager dispute. And, of course, the semiconductor agreement continues to be a serious problem.

In most of these cases, moreover, the monitoring of results and the impetus for remedial action came largely from the affected industry, not the Government. While they have the most at stake and are generally in the best position to observe the implementation process, these are, after all, Government-to-Government agreements. The Government has negotiated them, and the Government has an obligation to see that they are implemented in good faith. The domestic industry, which is often in difficult straits and has expended considerable resources in pursuing its complaint, should not also bear the responsibility of policeman while it is still the plaintiff.

A case in point, Mr. President, and the one that inspired this bill, is the semiconductor agreement. In that case, Japanese failure to honor the third market and have market access provisions led to substantial sanctions during the Reagan administration. With respect to access to the Japanese market, there has been little appreciable progress. U.S. market share is still hovering around 12 percent when the agreement's side letter calls for 20 percent next year.

Despite that lack of progress, the Government has been reluctant to take vigorous action. Despite the recommendation of numerous Members of Congress last year, this matter was not placed on the super 301 list, even through the imposition of sanctions demonstrated a prima facie case of a violation.

More recently, we have all been treated to unexpected statements by ambassador Hills to the effect that she did not negotiate the agreement, and implying that had she done so, she would have done it very differently. Those remarks, Mr. President, only tell the Japanese we are not serious about this agreement and do not intend to take any agressive action to enforce it. Intentionally or not, those comments have exacerbated the problems this bill addresses.

Thus this bill, while it is not sector specific and focuses on improving needed oversight in the Government, will also provide a mechanism for addressing the semiconductor case.

In that regard, there should be no question about the criticality of this sector. I have spoken on that subject numerous times in this Chamber, Mr. President, and I will not do it again today. Suffice it to say that I believe we have a consensus here on the need to maintain a viable domestic semiconductor industry for the sake of our national security and our industry infrastructure.

Preserving our industry requires regulating our trade relations with Japan in this sector by doing our best to stop their dumping in the United States and elsewhere permanently and opening their market to our product. A regular review procedure with real consequences for noncompliance such as is provided by this bill, will be an important step toward achieving that goal. I urge all Senators to support it.

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. THURMOND, Mr. SPECTER, Mr. JEFFORDS, and Mr. BOREN):

S. 2338. A bill to extend temporarily the period during which certain veterans of the Vietnam era are eligible for veterans' readjustment appointments under section 2014 of title 38, United States Code; placed on the calendar by unanimous consent.

VETERANS' READJUSTMENT APPOINTMENT AUTHORITY EXTENSION

Mr. CRANSTON. Mr. President, today I am introducing, along with Senators MURKOWSKI, MATSUNAGA, DECONCINI, MITCHELL, ROCKEFELLER, GRAHAM, THURMOND, SPECTER, and JEFFORDS, all but one of the members of the Veterans' Affairs Committee, and Senator BOREN, a bill to extend temporarily the period during which certain veterans of the Vietnam era are eligible for special readjustment appointments under section 2014 of title 38, United States Code.

Section 407 of the Veterans' Benefits Amendments of 1989 (Public Law 101-237), enacted on December 18, 1989, extended the Veterans' Readjustment

Appointment [VRA] authority for Vietnam-era veterans who are service-disabled or served in the Vietnam theater of operation or otherwise earned a campaign badge during the Vietnam era. However, that legislation, consistent with the Senate-passed legislation, S. 13, did not extend the VRA authority for other veterans of the Vietnam era, and that authority thus expired on December 31, 1989.

In the past few weeks, I have received reports of significant numbers of Vietnam-era veterans who had employment applications in process with various Federal agencies when the VRA authority expired with respect to them. For example, 17 had been employed in temporary positions for quite a while at the Defense Mapping Agency Aerospace Center in St. Louis, MO, as they awaited the completion of the security clearances they need in order to be given regular VRA appointments. The Office of Personnel Management [OPM] has advised me informally that there is no authority for executive branch action to grant the affected individuals VRA-equivalent appointments—despite the fact that the VRA authority was originally created by Executive order—and that legislation is necessary to provide relief. I have requested but not yet received a written legal opinion from OPM.

There clearly was no congressional intent to disappoint VRA applicants who were somewhere in the processing pipeline when their VRA eligibility expired. The failure to make any provision for them was simply an oversight which we believe ought to be corrected. Our measure would extend through September 30, 1990, the VRA eligibility of Vietnam-era veterans who lost eligibility as of January 1, 1990, and thus give Federal agencies an opportunity to complete their processing of those applications that were under consideration on December 31, 1989.

Mr. President, we hope to achieve swift enactment of this legislation and thus will be taking action to put the bill directly on the Senate calendar rather than have the bill referred to the Veterans' Affairs Committee where it already enjoys overwhelming support. Time is of the essence if the measure is to provide meaningful assistance to those Vietnam-era veterans who were seeking Federal employment prior to the cutoff date.

Mr. President, I ask unanimous consent that the text of our bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF ELIGIBILITY.

Notwithstanding section 2014 of title 38, United States Code, a veteran of the Vietnam era who was eligible for a veterans' readjustment appointment under that section on December 31, 1989, and lost that eligibility as a result of the amendments made by section 407 of the Veterans' Benefits Amendments of 1989 (Public Law 101-237; 103 Stat. 2082), shall remain eligible until September 30, 1990, for a veterans' readjustment appointment under section 2014 of that title as in effect on December 31, 1989.

SEC. 2. DEFINITIONS.

As used in this Act, the terms "veteran" and "Vietnam era" have the meanings given those terms in paragraphs (2) and (29), respectively, of section 101 of title 38, United States Code.

Mr. MURKOWSKI. I am pleased to join with the distinguished chairman of the Committee on Veterans' Affairs in introducing legislation which would extend for 6 months the period for which certain veterans of the Vietnam era are eligible for Veterans' Readjustment Act [VRA] appointments under the criteria in effect prior to January 1, 1990. This will provide a chance to be hired to those veterans who lost their eligibility for a VRA appointment because their applications were being processed when the criteria changed.

When Congress extended and modified existing VRA legislation in Public Law 101-237, I believe it was not our intent to close out those veterans who had applied under the original criteria and who, through no fault of their own, were caught by the December 31, 1989, deadline. If enacted, the legislation I am now introducing would correct this unintended situation. Although veterans have fared as well, and sometimes even better, than their nonveteran counterparts in employment over the years, I believe we as a grateful nation should make sure this trend continues and our veterans have every opportunity to compete in the marketplace and gain meaningful employment.

This legislation will ease the transition from the old eligibility rules, which were based only on the calendar period of military service, to the new criteria which targets those veterans for whom there is a documented need for employment assistance: the newly discharged, the disabled, and those who actually served in a combat campaign.

The focus on the newly discharged will, incidentally, be fortuitous if a reduction in the size of our Armed Forces throws a large number of new veterans into the labor force in the near future.

ADDITIONAL COSPONSORS

S. 416

At the request of Mr. DOMENICI, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost-of-living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 656

At the request of Mr. GRASSLEY, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 656, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans.

S. 1041

At the request of Mr. CONRAD, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1041, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers who realize capital gain on the transfer of farm property to satisfy an indebtedness, and for other purposes.

S. 1542

At the request of Mr. HATFIELD, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 1542, a bill to amend chapter 55 of title 5, United States Code, to include certain employees of the Department of Commerce as forest firefighters.

S. 1557

At the request of Mr. ROTH, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1557, a bill to amend title 17, United States Code, to permit the unlicensed viewing of videos under certain conditions.

S. 1680

At the request of Mr. BOREN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1680, a bill to amend the Magnuson Fishing Conservation and Management Act so as to enhance the enforcement of laws concerning American Lobster.

S. 1853

At the request of Mr. CHAFEE, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 1853, a bill to award a Congressional Gold Medal to Laurance Spelman Rockefeller.

S. 2003

At the request of Mr. HOLLINGS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2003, a bill to establish a commission to advise the President on proposals for national commemorative events.

S. 2043

At the request of Mr. HOLLINGS, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2043, a bill to establish a

reforestation program for timber lands suffering damages from natural disasters.

S. 2048

At the request of Mr. SARBANES, the names of the Senator from Washington [Mr. ADAMS], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 2048, a bill to provide for cost-of-living adjustments in 1991 under certain Government retirement programs.

S. 2108

At the request of Mr. LEAHY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 2108, a bill to promote the production of organically produced foods through the establishment of a national standard production for organically produced products and providing for the labeling of organically produced products, and for other purposes.

S. 2119

At the request of Mr. LEAHY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2119, a bill to amend the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, to increase the total amount of commitments which may be made to finance projects for housing and infrastructure in Israel for Soviet refugees, and for other purposes.

S. 2158

At the request of Mr. PRYOR, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2158, a bill to direct the Secretary of Health and Human Services to promulgate regulations to require that an individual telephoning the Social Security Administration has the option of accessing a Social Security Administration representative in a field office in the geographical area of such individual, and for other purposes.

S. 2159

At the request of Mr. BOSCHWITZ, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 2159, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 2186

At the request of Mr. MCCONNELL, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 2186, a bill to repeal the provisions of the Revenue Reconciliation Act of 1989 which require the withholding of income tax from wages paid for agricultural labor.

S. 2214

At the request of Mr. PACKWOOD, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Nebraska [Mr. EXON], the Senator from Montana [Mr. BURNS], and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 2214, a bill to provide incentives to health care providers serving rural areas, to eliminate the Medicare reimbursement differential between hospitals located in rural and urban areas, and for other purposes.

S. 2284

At the request of Mr. KASTEN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2284, a bill to amend the Federal Food, Drug, and Cosmetic Act to define the term light or reduced fat butter, and for other purposes.

S. 2313

At the request of Mr. BIDEN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2313, a bill to provide emergency Federal assistance to drug emergency areas.

S. 2315

At the request of Mr. MCCONNELL, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 2315, a bill to amend the Agricultural Act of 1949 to provide soybean producers with fair income and freedom of planting choice support, and to eliminate any indirect subsidization of foreign oilseed production.

SENATE JOINT RESOLUTION 240

At the request of Mr. SYMMS, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 240, a joint resolution designating the week of June 10, 1990, through June 16, 1990, as "Multiple-Use Sustained-Yield Week."

SENATE JOINT RESOLUTION 272

At the request of Mr. COCHRAN, the names of the Senator from Utah [Mr. GARN], the Senator from Alabama [Mr. HEFLIN], the Senator from Missouri [Mr. DANFORTH], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Joint Resolution 272, a joint resolution to designate March 30, 1990, as "National Doctor's Day."

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. HATFIELD, the name of the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of the Congress with respect to achieving common security in the world by reducing reliance on the military and redirecting resources toward overcoming hunger and poverty and meeting basic human needs.

SENATE CONCURRENT RESOLUTION 96

At the request of Mr. FORD, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of Senate Concurrent Resolution 96, a concurrent resolution to urge the administration in the strongest possible terms not to propose civil air transport services for inclusion under the General Agreement on Tariffs and Trade [GATT], or the proposed General Agreement on Trade in Services [GATS], and to actively oppose any proposal that would consider civil air transport services as a negotiation item.

SENATE RESOLUTION 239

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Resolution 239, a resolution expressing the sense of the Senate denouncing the military offensive in Angola and urging an immediate cease-fire.

SENATE CONCURRENT RESOLUTION 109—PROVIDING FOR A VOLUME ENTITLED "COLUMBUS IN THE CAPITOL"

Mr. DECONCINI (for himself, Mr. DOMENICI, and Mr. D'AMATO) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 109

Whereas Christopher Columbus was a great and courageous explorer whose voyages of discovery are well known;

Whereas 1992 marks the 500th anniversary of the discovery of America by Christopher Columbus in 1492; and

Whereas paintings, statues, and other works of art depicting the life and exploits of Christopher Columbus are displayed, permanently and in special exhibits, in the Capitol and at other locations within the Capitol grounds: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. ART VOLUME.

(a) PREPARATION.—As part of the observance of the 500th anniversary of the discovery of America, the Joint Committee on Printing shall prepare a volume describing works of art honoring Christopher Columbus that are displayed, both permanently and in special exhibits, in the Capitol and at other locations within the Capitol grounds. The Office of Architect of the Capitol and other Congressional entities shall provide such assistance as the Joint Committee may require.

(b) CONTENTS.—The volume shall—

(1) be entitled "Columbus in the Capitol"; and

(2) contain descriptions and illustrations of the works of art.

SEC. 2. ART EXHIBITS.

During 1992, the Architect of the Capitol shall carry out a program of special exhibits of works of art honoring Christopher Columbus.

● Mr. DECONCINI. Mr. President, in 1992 this country will celebrate the 500th anniversary of the discovery of America by Christopher Columbus. I have no doubt that it will be a year of memorable events showcasing the beginning of our history and the qualities and ideals that shaped our Nation.

We in Congress are not unfamiliar with the many ways Columbus' achievements have been memorialized in the past. There are numerous statues, paintings, and other works of art that surround us here in the Capitol and on the Capitol Grounds which honor this great man and his journey. Today I am submitting with my distinguished colleagues, Senator DOMENICI and Senator D'AMATO, a concurrent resolution to share these memorials more widely, by means of an official publication containing written and pictorial descriptions of these works of art. This publication, to be entitled "Columbus in the Capitol," would be one part of the many special events that are already being planned for this historic year. It would also be an appropriate contribution and meaningful tribute by the Congress to the yearlong celebration of Columbus.

This resolution has been introduced in the House by Congressman ANNUNZIO and 26 Members, and I urge my colleagues to cosponsor this companion measure.●

AMENDMENTS SUBMITTED

CLEAN AIR ACT AMENDMENTS

NICKLES (AND OTHERS) AMENDMENT NO. 1373

Mr. NICKLES (for himself, Mr. HEFLIN, Mr. DOLE, Mr. NUNN, Mr. MCCLURE, Mr. MCCONNELL, Mr. SIMPSON, Mr. BOREN, Mr. COCHRAN, Mr. BOSCHWITZ, Mr. SYMMS, Mr. MURKOWSKI, Mr. ARMSTRONG, Mr. FORD, Mr. SHELBY, and Mr. THURMOND) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient or quality standards, and for other purposes, as follows:

On page 455 of the amendment No. 1293, beginning with line 12, strike out all through line 25 on page 512 and insert in lieu thereof the following:

TITLE V—PERMITS

SEC. 501. The Clean Air Act is amended—

(1) by inserting after the heading "TITLE III—GENERAL" the subheading

"PART A—MISCELLANEOUS and

(2) by adding at the end of title III the following:

"PART B—BENEFITS

"DEFINITIONS

"SEC. 350. As used in this title—

"(1) The term 'major source' means any stationary source (or any group of stationary sources located within a contiguous area and under common control) that is a major stationary source or major emitting facility as defined in section 302(j).

"(2) For sources subject to standards issued under section 112 of this Act, the term 'area source' shall have the meaning given in that section.

"(3) The term 'schedule of compliance' means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an applicable implementation plan, emission standard, emission limitation or emission prohibition.

"(4) the term 'permitting authority' means the Administrator, or the air pollution control agency authorized by the Administrator to carry out a permit program under this title.

"PERMIT PROGRAMS

"SEC. 351. (a) After the effective date of any permit program approved or promulgated under this title, it shall be unlawful for any person to violate any requirement of a permit issued under this title, or to operate any source subject to title IV, a major source, any other source (including an area source) subject to standards or regulations under sections 111 or 112, or any other stationary source designated by regulations promulgated by the Administrator, except in compliance with a permit issued by a permitting authority under this title. Nothing in this subsection shall be construed to alter the requirements of sections 165, 172, and 173 regarding the requirement that a permit be obtained prior to construction. The Administrator may, in the Administrator's discretion, promulgate regulations to exempt one or more source categories from the requirements of this subsection if the Administrator finds that such an exemption is warranted, considering the costs and benefits of the permit requirement, and would be consistent with protection of the public health, welfare, and the environment.

"(b) Not later than twelve months after the date of enactment of this title, the Administrator shall promulgate regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. These elements shall include:

"(1) Requirements for permit applications, including a standard application form and criteria for determining in a timely fashion the completeness of the applications;

"(2) Monitoring and reporting requirements.

"(3) (A) A requirement under State or local law that the owner or operator of all sources subject to the requirement to obtain a permit under this title pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable costs of developing and administering the permit program, including, but not limited to, the reasonable cost of—

"(i) reviewing and acting upon any application for such a permit,

"(ii) if the owner or operator receives a permit for such source, whether before or after the date of enactment of this section, implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

"(iii) emissions and ambient monitoring,

"(iv) preparing generally applicable regulations or guidance,

"(v) modeling, analyses, and demonstrations, and

"(vi) preparing inventories and tracking emissions.

"(B) The total amount of fees collected by the permitting authority shall conform to the following requirements:

"(i) The Administrator shall not approve a program as meeting the requirements of this paragraph unless the air pollution control agency demonstrates that, except as otherwise provided in clauses (ii) through (iv) of this subparagraph, the program will result in the collection, in the aggregate, from all sources subject to subparagraph (A), of an amount not less than $25 per ton of each regulated pollutant, unless the Administrator determines that a lesser amount would meet the requirements of subparagraph (A).

"(ii) As used in this subparagraph, the term 'regulated pollutant' shall mean (I) a volatile organic compound; (II) each pollutant for which a national primary ambient air quality standard has been promulgated (except that carbon monoxide shall be excluded from this reference).

"(iii) In determining the amount under clause (i), the permitting authority is not required to include any amount of regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

"(iv) The fee calculated under clause (i), shall be increased (consistent with the need to cover reasonable costs) in each year beginning after the year of enactment of this section by the percentage, if any, by which the Producer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Producer Price Index for the calendar year 1989.

"(C) (i) If the Administrator determines, under section 351(c), that the fee provisions of the operating permit program do not meet the requirements of this paragraph, or if the Administrator makes a determination, under section 351(g), that the permitting authority is not adequately administering or enforcing an approved fee program, the Administrator may, in addition to taking any other action authorized under this title, collect reasonable fees (but only to collect or to provide for collecting such fees) from the sources identified under subparagraph (A) without regard to the requirements of subparagraph (B).

"(ii) Any source that fails to pay fees lawfully imposed by the Administrator under this subparagraph shall pay a penalty of 50 per centum of the fee amount, plus interest on the fee amount computed in accordance with section 6621(a)(2) of title 26, of the United States Code (relating to computation of interest on underpayment of Federal taxes).

"(iii) Any fees, penalties, and interest collected under this subparagraph shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available for appropriation, to remain available until expended, subject to appropriation, to carry out the Agency's activities for which the fees were collected.

"(iv) Any fee required to be collected by an air pollution control agency under this subsection shall be utilized solely to support the air pollution control permit program of such agency, as provided in this paragraph.

"(4) Requirements for adequate personnel and funding to administer the program.

"(5) A requirement that the permitting authority have and exercise adequate authority to—

"(A) issue permits that assure compliance by all sources required to have a permit under this title with each applicable standard, regulation or requirement under this Act;

"(B) issue permits for a fixed term, not less than one year and not greater than five years;

"(C) assure that upon issuance or renewal, permits include emission limitations and other conditions required by section 353(a);

"(D) (i) terminate, modify, or revoke and reissue a permit for a material inaccuracy in the permit that renders the permit inconsistent with the Act, or

"(ii) modify or revoke and reissue a permit if EPA promulgates regulations after the permit is issued, and modification of the permit to implement such regulations is necessary in order to protect against a serious risk to public health;

"(E) enforce permits, permit fee requirements, and the requirement to obtain a permit, including authority to recover civil penalties in a maximum amount of not less than $10,000 per day for each violation, and appropriate criminal penalties;

"(F) ensure that no permit will be issued if the Administrator timely objects to its issuance under section 354; and

"(G) extend a permit's term if a timely and complete application for renewal is made, until the permitting authority takes final action upon the renewal application.

"(6) Adequate, streamlined, and reasonable procedures for expeditiously determining when applications are complete, and for processing such applications for public notice, including offering an opportunity for public comment and a hearing, and for expeditious review of permit actions, including applications.

"(7) Authority and procedures to make available to the public any permit application, compliance plan, permit, and monitoring or compliance report under section 352(e), subject to the provisions of section 114 of this Act.

"(8) Adequate and expeditious procedures for permit modification, and procedures to assure that preference be accorded to the processing of applications for any permits required for new or modified major sources under sections 165, 172, or 173.

"(9) Procedures and other requirements to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits under this title.

"(10) Requirements that—

"(A) If a permit applicant identifies the composition of emissions under the reasonably anticipated operating conditions of the permitted facility, the permit shall set forth the emission limitations, standards, and other requirements that would apply under all such reasonably anticipated operating conditions, and

"(B) The emission limitations and other permit terms shall allow the owner or operator of a facility to make changes in the operation of the facility that might shift permitted emissions from one source to another within the same facility, as authorized by a codifying or modifying permit, without the necessity for a permit modification, provided that the owner or operator provides written notification specifying changed permit requirements to the permitting authority not less than seven calendar days prior to any such change, and that the permit includes such emission limitations and other requirements as are necessary to assure that the modified requirements will be enforceable and will not cause any net increase in the total actual emissions from the facility; and

(11) procedures and requirements that comply with subsection 112(j).

"(c) Not later than three years after the enactment of this title, the Governor of each State shall develop and submit to the Administrator a permit program under State or local law or under an interstate compact meeting the requirements of this title. In addition, the Governor shall submit a legal opinion from the attorney general (or the attorney for those State air pollution control agencies that have independent legal counsel), or from the chief legal officer of an interstate agency, that the laws of the State, locality, or the interstate compact provide adequate authority and obligation to carry out the program. Not later than one year after receiving a program, and after notice and opportunity for public comment, the Administrator shall approve or disapprove such program, in whole or in part. The Administrator shall approve a program to the extent that the program meets the requirements of this Act, including the regulations issued under subsection (b) of this section. If the program is disapproved, in whole or in part, the Administrator shall notify the Governor of any revisions or modifications necessary to obtain approval. The Governor shall revise and resubmit the program for review under this section within one hundred and eighty days after receiving notification. If the Governor fails within such period to resubmit an approvable program, the Administrator may in the Administrator's discretion take either or both of the following actions:

"(1) apply any of the sanctions specified in section 176(a) of this Act other than the sanction specified in section 176(a)(2); or

"(2) promulgate a program, or portion of a program, under this title.

"(d) The Administrator shall suspend the issuance of permits promptly upon publication of notice of approval of a permit program under this section, but may in such notice retain jurisdiction over permits that have been federally issued, but for which the administrative or judicial review process is not complete. The Administrator shall continue to administer and enforce federally issued permits under this title until they are replaced by a permit issued by a permitting program. Nothing in this provision should be construed to limit the Administrator's ability to enforce permits issued by a State.

"(e) INTERIM APPROVAL.—If a program submitted under this title substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval. In the notice of final rulemaking, the Administrator shall specify the changes that must be made before the program can receive full approval. An interim approval under this subsection shall expire on a date set by the Administrator not later than two years after such approval, and may not be renewed.

"(f) EFFECTIVE, DATE.—The effective date of a permit program, or interim program, approved under this title, shall be the effective date of approval by the Administrator.

"(g) Whenever the Administrator makes a preliminary determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this title, he shall notify the permitting authority of such determination and the reasons therefor. Such notice shall be made public. If the permitting authority fails to take action to assure adequate administration and enforcement, the administrator may in the Administrator's discretion, but not before ninety days after issuing such notice, take one or more of the following actions:

"(1) withdraw approval of the program or portion by rule;

"(2) propose to apply any of the sanctions specified in section 176(a) of this Act other than the sanction specified in section 176(a)(2); or

"(3) promulgate a program, or portion of a program, under this title.

"PERMIT APPLICATIONS

"SEC. 352. (a) Any source specified in section 351(a) shall become subject to a permit program, and required to have a permit, on the later of the following dates:

"(1) the effective date of a permit program or interim permit program applicable to the source; or

"(2) the date such source becomes subject to section 351(a).

"(b)(1) The regulations required by section 351(b)(1) shall include a requirement that there is submitted with the permit application a compliance plan describing how the source will comply with all applicable requirements under this Act. The compliance plan shall include a schedule of compliance, and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every six months.

"(2) The regulations shall further require the permittee to periodically certify that the facility is in compliance with any applicable requirements of the permit, and to promptly report, consistent with provisions of the United States Constitution regarding self-incrimination, any violations of such requirements to the permitting authority.

"(c) Any person required to have a permit shall, not later than thirty months after the date on which the source becomes subject to a permit program approved or promulgated under this title, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted. The Administrator, in consultation with the permitting authority, shall establish a schedule for submission of all or part of the application by sources or categories of sources (including any class, type, or size within such category) within the 30-month period in a manner that minimizes administrative burdens. The Administrator may base the schedule on the amount of emissions from the sources or categories of sources, air quality considerations, or such other factors as he may consider relevant. The Administrator, in consultation with the permitting authority, may extend the date for submission of permit applications by any source or category of sources for up to an additional 18 months if the Administrator determines in his discretion that insufficient resources are available to assure adequate review of such permit applications by the permitting authority or the administrator. No additional extensions may be granted.

"(d) Except for sources required to have a permit prior to construction under section 112, 165, 172, or 173, if an applicant has submitted a timely and complete application for a permit required by this title, but final action has not been taken on such application, the source's failure to have a permit shall not be a violation of this Act, unless the delay in final action was due to the failure of the applicant to timely submit information required or requested to process the application. No source required to have a permit under this title shall be in violation of section 351(a) before the date on which

the source is required to submit an application under subsection (c) of this section.

"(e) A copy of each permit application, compliance plan, emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. If an applicant or permittee is required to submit information entitled to protection from disclosure under section 114(c) of this Act, the applicant or permittee may submit such information separately. The requirements of section 114(c) shall apply to such information. The contents of a permit shall not be entitled to protection under section 114(c).

"(f)(1) Any permittee may submit an application for a modification of the permit at any time during the permit's term.

"(2) Whenever the permitting authority finds that a permit omitted a material requirement of the Act that should have been incorporated therein, or that a new requirement applicable to the permittee has been promulgated under procedures identified in section 353(f)(2), it shall provide effective notice to the permittee. The permittee shall apply for a permit modification within thirty days after receipt of such notification when the omission of an existing requirement is involved, and with regard to new requirements within such time as set forth in these new requirements. Such a modification shall be treated as a codifying permit for purposes of Section 354.

"(3) If a permittee has received notification of an omission of an existing requirement under paragraph (2) of this subsection, and has not submitted a complete application for modification within the required thirty day period, such source shall be deemed not to have a permit with respect to emissions subject to the requirements that were the subject of the notification."

"PERMIT REQUIREMENTS AND CONDITIONS

"SEC. 353. (a) Each permit issued under this title shall include emission limitations and standards, and such other measures, including schedules of compliance where appropriate, as are necessary to assure compliance with applicable requirements of this Act.

"(b) The Administrator may by rule prescribe procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated under this Act. The Administrator shall take into account the cost and feasibility of such requirements, and the extent to which they are needed to assure compliance.

"(c)(1) Each permit issued under this title shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to any applicable regulations under subsection (b) of this section. Any report required to be submitted by a permit issued to a corporation under this title shall be signed by a responsible corporate official, who shall certify its accuracy.

(2) A permit for a source that is an affected source under title IV shall prohibit a source from emitting sulfur dioxide in excess of allowances it holds. No permit modification shall be required for increases in emissions authorized by allowances acquired through trading or otherwise under title IV, provided that the increase complies with other requirements of the Act.

"(d) The permitting authority may, after notice and opportunity for public hearing, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to permits under this title. No source covered by a general permit shall thereby be relieved from the obligation to file an application under section 352.

"(e)(1) The permitting authority may issue a single permit to an owner or operator authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of this Act at all authorized locations, including, but not limited to, ambient standards and compliance with any applicable increment or visibility requirements under part C of title I. Any such permit shall in addition require the owner or operator to notify the permitting authority in advance of each change in location. The permitting authority may require a separate permit fee for operations at each location.

"(2) A single permit may be issued for a facility with multiple sources.

"(f)(1) Compliance with the terms and conditions of a permit issued in accordance with the requirements of this part shall be deemed compliance with:

"(A) all requirements of this Act in existence at the time the permit is issued that are explicitly addressed by such terms and conditions; and

"(B) except as provided in paragraph (2), all requirements that are promulgated after the permit is issued, unless the Administrator finds that actual harm to public health would result during the period prior to the expiration of the permit;

"(2) Notwithstanding paragraph (1) of this subsection, compliance with the terms and conditions of a permit shall not be deemed compliance, for purposes of any enforcement action commenced by the Administrator, with requirements that are promulgated or approved by the Administrator pursuant to the procedures for informal rulemaking in section 553 of title 5 of the United States Code, or in Section 307(d) of this Act, provided that the permittee shall have been notified of such requirements under Section 352(f) of this Act;

"(3) In any action to enforce a requirement omitted from a permit, the relevant circumstances of the omission, including whether the source in good faith provided information to the permitting authority, the materiality of any failure to provide such information, the materiality of the requirement omitted from the permit, and any mistakes of the permitting authority, shall be relevant to whether any penalty should be assessed and to the amount of such penalty. No enforcement action shall lie if the omission is the fault of the permitting authority and the source had provided the appropriate information in its permit application;

"(4) Notwithstanding the provisions of paragraph (1), compliance with a permit issued under this title shall not alter, modify or otherwise affect the authority of the Administrator under section 303 (emergency powers) or the requirement to comply with any order issued under section 303.

"NOTIFICATION TO ADMINISTRATOR AND OTHER STATES

"SEC. 354. (a)(1)(A) Each permitting authority shall transmit to the Administrator a copy of each draft permit released for public comment, and such other information as the Administrator may by rule require in order to carry out his duties under the Act. The permitting authority shall provide notice, in accordance with regulations promulgated by the Administrator, of each permit proposed to be issued by the authority, and, except as provided under subparagraph (B), transmit a copy of each such proposed permit to the Administrator for review under subsection (b).

"(B) A proposed permit shall not be required to be forwarded to the Administrator for review under subsection (b) whenever the permitting authority states in the public notice of the permit that it is a codifying permit—which is defined as a permit that implements, and does not change any material requirement of, any applicable implementation plan or other regulation or standard promulgated by the Administrator—unless—

"(i) the Administrator notifies the permitting authority, not later than the close of the public comment period that the permit is a modifying permit, which is defined as a permit that does not so implement such requirements; or

"(ii) the final permit modifies any provision in the permit submitted for public notice.

Any decision by the Administrator whether to issue a notification under clause (i) shall be committed to agency discretion and not subject to judicial review.

"(2) The permitting authority shall notify all States whose air quality may be significantly affected by a modifying permit for a major source of each draft permit released for public comment, and shall provide an opportunity for such States to submit written recommendations respecting the issuance of the permit and its terms and conditions. If any part of those recommendations are not accepted by the permitting authority, such authority shall notify the State submitting the recommendations and the Administrator in writing of its failure to accept those recommendations and the reasons therefor.

"(3) For purposes of paragraph (2), emissions from a permitted source may significantly affect air quality in any State within fifty miles from the source. The Administrator may enlarge or reduce this distance by rule.

"(4) The notice required under paragraph (1)(A) for a draft modifying permit shall include a concise description of the manner in which the draft modifying permit does not implement, or otherwise changes the requirements of, any applicable implementation plan or other regulation or standard promulgated by the Administrator.

"(b) No permit shall be issued if the Administrator (1) within ninety days after receipt of the proposed permit under subsection (a)(1)(A) of this section, or (2) within ninety days after receiving notification under subsection (a)(2), objects in writing to its issuance as not in compliance with the applicable implementation plan or other applicable emission limitations, standards, or other applicable requirements of this Act. The Administrator may object to a modifying permit only if it would result in emissions regulated under an applicable implementation plan that are greater than under such plan (unless such emissions are either offset by reductions from another permitted source or are accounted for under an applicable implementation plan approved by the Administrator), or would not comply with another applicable requirement of this Act. The Administrator shall provide with the objection a statement of the reasons for the objection. A copy of any objection and statement shall be provided to the applicant.

"(c) If the permitting authority fails within ninety days after the date of the objection, to submit a permit revised to meet the objection, the Administrator shall promptly issue or deny the permit in accordance with the requirements of this title. No objection shall be subject to judicial review until the Administrator takes final action to issue or deny a permit under this subsection. A failure of the Administrator to object to a modifying permit submitted for review under subsection (a)(1)(A) of this section shall be subject to judicial review under section 307(b).

"(d) The Administrator may, by regulation, require that specified modifications to requirements of the applicable implementation plan with respect to specified categories of sources (including any class, type, or size within such category) be made only through a revision to the applicable implementation plan.

"(e)(1) The Administrator may waive the requirements of subsections (a) and (b) of this section at the time of approval of a permit program under this title for any category (including any class, type, or size within such category) of sources covered by the program.

"(2) The Administrator may by regulation establish categories of sources (including any class, type, or size within such category) to which the requirements of subsection (a) and (b) of this section shall not apply.

"(3) The Administrator may exclude from any waiver under this subsection notification under paragraph (a)(2). Any waiver granted under this subsection may be revoked or modified by the Administrator by rule.

"(f) If the Administrator finds that cause exists under section 351(b)(5)(D) to terminate, modify, or revoke and reissue a State or local permit under this title, the Administrator shall notify the permitting authority of such finding. The permitting authority shall, within ninety days after receipt of such notification, forward to the Administrator under this section a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend such ninety day period for an additional ninety days if the Administrator finds that a new or revised permit application is necessary, or that the permitting authority must require the permittee to submit additional information. The Administrator may review such proposed determination under the provisions of subsections (a) and (b) of this section. If the permitting authority fails to submit the required proposed determination, or if the Administrator objects and the permitting authority fails to resolve the objection within the period prescribed in subsection (c) of this section, the Administrator may, after notice and in accordance with duly promulgated procedures, terminate, modify, or revoke and reissue the permit.

"RELATION TO OTHER AUTHORITY

"SEC. 355. (a) Nothing in this title shall prevent an air pollution control agency from establishing additional permitting requirements not inconsistent with this Act.

"(b) Nothing in this title shall be construed to authorize the Administrator, or a State, or other permitting authority, to modify or revoke any allowance granted under title IV, or to alter or amend any requirement of sections 111 or 112.

"(c) For the purpose of this Act, any permit properly issued or revised shall become part of and supersede any inconsistent portion of, the applicable implementation plan, and shall have the effect specified in section 353(f).

"(d) In promulgating any standard under section 111 or 112, the Administrator shall identify which sources or categories of sources (including any class, type, or size within such category) subject to such standard shall be subject to this title.

SEC. 502. Section 304(f)(1) is amended to read as follows:

"(1) an emission limitation, standard of performance, or an emission standard, or a schedule or timetable of compliance that is currently legally enforceable;"

COORDINATION OF PERMITS

SEC. 503. All permits issued under ths part shall, to the maximum extent practicable, be coordinated and consolidated with all other permits required under this Act.

CONFORMING AMENDMENTS

SEC. 504. (a) Title I—Attainment and Maintenance of Ambient Air Quality Standards.

(1) On page 38, line 13, following "respectively)", replace the period with "; and", and add a new subparagraph (C), as follows:

"(C) Notwithstanding any other provision of this Part, for any State, upon the approval or promulgation of all or part of a permit program under Part B of Title III of this Act, permits for the operation of major stationary sources shall be issued in accordance with the requirements of that program, in lieu of the requirements of this Part, but only to the extent that program applies to such sources."

(2) On page 64, line 25, strike "It" and insert in lieu thereof the following: "Except as provided under section 172(c)(6)(C), it".

(3) On page 104, line 8, strike "It" and insert in lieu thereof the following: "Except as provided under section 172(c)(6)(C), it".

(4) On page 117, line 23, strike "It" and insert in lieu thereof the following: "Except as provided under section 172(c)(6)(C), it".

(b) Title III—Air Toxics.

(1) On page 284, line 23, following "paragraph (2)", insert the following: "or paragraph (6)".

(2) On page 292, delete lines 4 through 6, and insert in lieu thereof the following:

"(6) Notwithstanding any other provision of this subsection, for any State, upon the approval or promulgation of all or part of a permit program under Part B of Title III of this Act, permits for sources subject to any emissions standard under this section shall be issued in accordance with the requirements of that program, in lieu of the requirements of this subsection, but only to the extent that program applies to such sources."

(3) Page 285, lines 3 to 5, delete from "the Administrator" through "subsection.", and insert in lieu thereof: "the State or the Administrator, but only to the extent that the State has an approved program consistent with this subsection or the Administrator has promulgated a program under Part B of Title III."

(c) Title IV—Acid Deposition.

On page 428, lines 18 through 20, delete all through "Act.", and insert in lieu thereof the following:

"SEC. 408. (a) PERMIT PROGRAM.—This title shall be implemented by permits issued in accordance with this section and Part B of Title III of this Act."

TITLE VI—ENFORCEMENT AND REAUTHORIZATION

SEC. 601. (a) The heading of section 113(a) of the Clean Air Act is amended by replacing the words "FINDING OF VIOLATION" with "NOTIFICATIONS AND COMPLIANCE ORDERS".

(b) Section 113(a)(1) of the Clean Air Act is amended as follows:

(1) In the first sentence, after "finds that any person", insert the words "has violated or"; and following the words "shall notify the person" replace "in violation of" with "who violated".

(2) In the sentence,

(A) strike the words "If such violation extends beyond the thirtieth day after the date of the Administrator's notification," and insert in lieu thereof the words "At any time after the expiration of thirty days following the date on which such notice of the violation is issued,"; and

(B) strike all after "of such plan" and insert in lieu thereof the following: ", may issue an administrative penalty order under subsection (d), or may bring a civil action under subsection (d), or may bring a civil action under subsection (b), without regard to the period of the violation (subject to section 2462 of title 28 of the United States Code). Nothing in this subsection shall preclude the United States from commencing a criminal action under section 113(c) without such notification for any such violation."

(c) Section 113(a)(2) of the Clean Air Act is amended as follows:

(1) Insert the words "or approved permit program" after "applicable implementation plan" in the first sentence.

(2) Insert the words "or permit program" after "in which the plan", "enforce the plan", "enforce such plan", and "requirement of such plan".

(3) Strike the "or" at the end of section 113(a)(2)(A), redesignate subparagraph "(B)" as "(C)", and insert the following new subparagraph (B):

"(B) by issuing an administrative penalty order under subsection (d) of this section, or".

(4) Insert the following new sentence at the end of section 113(a)(2): "Nothing in this subsection shall preclude the United States from commencing a criminal action under section 113(c) without such notification for any such violation.".

(d) Section 113(a)(3) of the Clean Air Act is amended as follows:

(1) Insert the words "has violated or" before the words "is in violation of" in the first sentence.

(2) Strike the words "section 111(e)" and all that follows down through "(relating to inspections, etc.), he" and insert in lieu thereof the following new language: "any requirement or prohibition of section 111(d)(2)(B), 111(e), or 111(j) of this title (relating to new source performance standards), section 112(i) of this title (relating to standards for hazardous emissions), section 114 of this title (relating to investigatory authority), section 126(d) of this title (relating to interstate pollution), section 157 of this title (relating to stratospheric ozone), section 176(a)(1) of this title (relating to sanctions), section 185(c) of this title (relating to consumer and commercial products), section 185(d) of this title (relating to hazardous waste facilities), section 327 of title III (relating to outer continental shelf requirements), sections 351(a) or 352(c) of title III (relating to permits), or any requirement or prohibition of title IV (relating to acid deposition control), including but not limited to, a requirement of any rule, order, waiver or permit promulgated, issued, or approved under those provisions or for the payment of any fee owed the United States under this Act, the Administrator:".

(3) Strike the words "or he" before the words "may bring a civil action" and insert in lieu thereof the following words: "may issue an administrative penalty order in accordance with subsection (d);".

(4) Insert after the words "may bring a civil action in accordance with subsection (b)" the words "or section 305, or the United States may commence a criminal action in accordance with subsection (c).".

(e) Section 113(a)(4) of the Clean Air Act is amended by deleting the first sentence and inserting at the end thereof: "An order issued under this subsection shall require the person to whom it was issued to comply with the requirement as expeditiously as practicable, but in no event longer than one year after the date the order was issued, and shall be nonrenewable. No order issued under this subsection shall prevent the State, the Administrator, or a court in an action brought under section 304, from assessing any penalties nor otherwise affect or limit enforcement under other provisions of this Act, nor affect any person's obligations to comply with any section of this Act, or a term or condition of any permit or applicable implementation plan promulgated or approved under this Act. The provisions of subsections (d)(2), (d)(4), and (d)(5) of this section shall apply to any order issued under this subsection.".

(f) Section 113(a)(5) of the Clean Air Act is amended to read as follows:

"(5) Whenever, on the basis of any available information, the Administrator finds that a State is not acting in compliance with any requirement of the Act relating to the construction of new sources or the modification of existing sources, the Administrator may—

"(A) issue an order prohibiting the construction, modification or operation of any major stationary source in any area to which such provisions apply;

"(B) issue an administrative penalty order in accordance with subsection (d); or

"(C) bring a civil action under subsection (b)(5).

Nothing in this subsection shall preclude the United States from commencing a criminal action under section 113(c) without such finding for any such violation.".

(g) Section 113(b) of the Clean Air Act is amended to read as follows:

"(b) CIVIL JUDICIAL ENFORCEMENT.—The Administrator shall, as appropriate, in the case of any person which is the owner or operator of any source subject to title IV, a major emitting facility, or a major stationary source, and may, in the case of any other person, commence a civil action for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $25,000 per day for each violation, or both, whenever such person—

"(1) has violated or is in violation of any requirement of an applicable implementation plan (such action shall be commenced (A) during any period of federally assumed enforcement, or (B) more than thirty days following the date of the Administrator's notification under subsection (a)(1) of a finding that such person is violating such requirement); or

"(2) has violated or is in violation of any requirement or prohibition of section 111(d)(2)(B), 111(e), or 111(j) of this title (relating to new source performance standards), section 112(i) of this title (relating to standards for hazardous emissions), section 114 of this title (relating to investigatory authority), section 126(d) of this title (relating to interstate pollution), section 157 of this title (relating to stratospheric ozone), section 176(a)(1) of this title (relating to sanctions), section 185(c) of this title (relating to consumer and commercial products), section 185(d) of this title (relating to hazardous waste facilities) section 327 of title III (relating to outer continental shelf requirements), sections 351(a) or 352(c) of title III (relating to permits), or any requirement or prohibition of title IV (relating to acid deposition control), or any order or notice issued pursuant to section 113(a) section 113(d), or section 167 of this title, or section 303 or section 307 of title III, including, but not limited to, a requirement of any rule, order, waiver or permit promulgated, issued, or approved under those provisions or for the payment of any fee owed the United States under this Act; or

"(3) attempts to construct, modify or operate a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made.

Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred, or in which the defendant resides, or where the defendant's principal place of business is located, and such court shall have jurisdication to restrain such violation, to require compliance, to assess such civil penalty, and to collect any fees owed the United States under the Act and any noncompliance assessment and nonpayment assessment owed under section 120 and to award any other appropriate relief. Notice of commencement of such action shall be given to the appropriate State air pollution control agency. In the case of any action brought by the Administrator under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any party or parties against whom such action was brought in any case where the court finds that such action was unreasonable.".

(h) Section 113(c) of the Clean Air Act is amendment to read as follows:

"(c) CRIMINAL ENFORCEMENT.—

"(1) Any person who knowingly fails to pay any fee owed the United States under this title, title III, or title, IV, shall, upon conviction, be punished by a fine pursuant to title 18 of the United State Code, per day for each violaltion, or by imprisionment for not more than one year, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(2) Any person who negligently releases into the air any hazardous air pollutant listed pursuant to section 112 of this Act or any extremely hazardous substance listed pursuant to section 11002(a)(2) of title 42 of the United States Code, which release such person knows could place another person in immediate danger of death or serious bodily injury and who thereby places another person in immediate danger of death or serious bodily injury shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violaltion, or by imprisonment for not more than one year, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment. For any hazardous air pollutant listed pursuant to section 112 for which the Administrator has set an emissions standard or limitation or for which a permit under Part B of title III is in effect, or for which any other relevent standard under this Act has been set, a release of such pollutant in accordance with such standard or permit shall not constitute a violation of this paragraph.

"(3) Any person who knowingly violates any requirement or prohibition of an applicable implementation plan, or of section 111(d)(2)(B), 111(e), or 111(j) of this title (relating to new source performance standards), section 112(i) of this title (relating to standards for hazardous emissions), section 114 of this title (relating to investigatory authority), section 126(d) of this title (relating to interstate pollution), section 157 of this title (relating to stratospheric ozone), section 176(a)(1) of this title (relating to sanctions), section 185(c) of this title (relating to consumer and commercial products), section 185(d) of this title (relating to hazardous waste facilities), section 327 of title III (relating to outer continental shelf requirements), sections 351(a) or 352(c) of title III (relating to permits), or any prohibition of title IV (relating to acid deposition control), or any final order or notice issued pursuant to section 113(a), section 113(d), or section 167 of this title, or section 303 or section 307 of title III, including, but not limited to, a requirement of any rule, order, waiver or permit promulgated, issued, or approved under those provisions shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violation, or by imprisonment for not more than five years, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(4) Any person who knowingly—

"(A) makes any false material statement, representation, or certification in, or omits material information from, or knowingly and materially alters, conceals or fails to maintain or file, any notice, application, record, report, plan, or other document required pursuant to this Act to be either filed or maintained (whether with respect to the requirements imposed by the Administrator or by a State); or

"(B) fails to notify or report as required under this Act; or

"(C) falsifies, tampers with, renders inaccurate, or fails to install any monitoring device or method required to be maintained or followed under this Act;

shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violation, or by imprisonment for not more than two years, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(5)(A) Any person who knowingly releases into the air any hazardous air pollutant listed pursuant to section 112 of this Act or any extremely hazardous substance listed pursuant to section 11002(a)(2) of title 42 of the United States Code, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violation, or by imprisonment for not more

than fifteen years, or by both. Any person committing such violation who is an organization shall, upon conviction under this paragraph, be subject to a fine of not more than $1,000,000 per day for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment. For any hazardous air pollutant listed pursuant to section 112 for which the Administrator has set an emissions standard or limitation or for which a permit under Part B of title III is in effect, or for which any other relevant standard under this Act has been set, a release of such pollutant in accordance with such standard or permit shall not constitute a violation of this paragraph.

"(B) In determining whether a defendant who is an individual knew that the violation placed another person imminent danger of death or serious bodily injury—

"(i) the defendant is responsible only for actual awareness or actual belief possessed; and

"(ii) knowledge possessed by a person other than the defendant, but not by the defendant, may not be attributed to the defendant;

except that in proving a defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to be shielded from relevant information.

"(C) The term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

"(D) The term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(6) For the purposes of this subsection, the term 'person' includes, in addition to the entities referred to in section 302(e), any responsible corporate officer.".

(i) Section 113(d) of the Clean Air Act is amended to read as follows:

"(d) ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND PROCEDURES GOVERNING ADMINISTRATIVE COMPLIANCE ORDERS.—

"(1) The Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to $25,000, per day for each violation, whenever, on the basis of any available information, the Administrator finds that such person—

"(A) has violated or is violating any requirement of an applicable implementation plan (such order shall be issued (i) during any period of federally assumed enforcement, or (ii) more than 30 days following the date of the Administrator's notification under subsection (a)(1) of this section of a finding that such person is violating such requirement); or

"(B) has violated or is violating any requirement of section 111(d)(2)(B), 111(e), or 111(j) of this title (relating to new source performance standards), section 112(i) of this title (relating to standards for hazardous emissions), section 114 of this title (relating to investigatory authority), section 126(d) of this title (relating to interstate pollution), section 157 of this title (relating to stratospheric ozone), section 176(a)(1) of this title (relating to sanctions), section 185(c) of this title (relating to consumer and commercial products), section 185(d) of this title (relating to hazardous waste facilities), section 327 of title III (relating to outer continental shelf requirements), sections 351(a) or 352(c) of title III (relating to permits), or any requirement or prohibition of title IV (relating to acid deposition control), or any order or notice issued pursuant to section 113(a), section 113(d), or section 167 of this title, or section 303 or section 307 of title III, including, but not limited to, a requirement of any rule, order, waiver or permit promulgated, issued, or approved under those provisions or for the payment of any fee owed the United States under this Act; or

"(C) attempts to construct, modify or operate a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made.

The Administrator's authority under this paragraph shall be limited to matters where the total penalty sought does not exceed $200,000 and the first alleged date of violation occurred no more than twelve months prior to the initiation of the administrative action.

"(2)(A) An administrative penalty order under paragraph (1) or an order under subsection (a) of this section shall be issued by the Administrator after opportunity for a hearing on the record in accordance with sections 554 and 556 of title 5 of the United States Code. The Administrator may issue rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the administrator shall give written notice to the person to whom the order is to be issued of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within thirty days of the date the notice is received by such person. An order issued under this subsection or subsection (a) shall become final if no hearing is requested within thirty days or upon issuance of the order following the hearing provided for in this paragraph.

"(B) The administrator may compromise, modify, or remit, with or without conditions, any administrative penalty which may be imposed under paragraph (d)(1).

"(3) The Administrator may implement through regulation, after consultation with the Attorney General, a field citation program for appropriate minor violations, which authorizes the issuance of field citations assessing civil penalties not to exceed $5,000 per inspection. During any six month period, the total penalty assessed under this paragraph for any single facility shall not exceed $25,000. Any person to whom a field citation is assessed may, within a reasonable time as prescribed by the Administrator through regulation, elect to pay the penalty assessment or to request a hearing on the field citation. If a request for a hearing is not made within the time specified in the regulation, the penalty assessment in the field citation shall be final. Such hearing shall not be subject to section 554 or 556 of Title 5 of the United States Code, but shall provide a reasonable opportunity to be heard and to present evidence. Payment of a civil penalty required by a field citation shall not be a defense to further enforcement by the United States or a State to correct a violation, or to assess the statutory maximum penalty pursuant to other authorities in the Act, if the violation continues.

"(4) Any person against whom a civil penalty is assessed under paragraph (3) of this subsection, or to whom an order is issued under subsection (a) of this section or under paragraph (1) of this subsection, may seek review of such assessment or order in the United States District Court for the District of Columbia, or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, by filing in such court within thirty days following the date the assessment or order becomes final, and by simultaneously sending a copy of the filing by certified mail to the Administrator and the Attorney General. The Administrator shall promptly file in such court a certified copy, or certified index, as appropriate, of the record on which the assessment or order was issued within 30 days. Such court shall not set aside or remand such assessment or order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the order or assessment constitutes an abuse of discretion. Such order or assessment shall not be subject to review by any court except as provided by this paragraph. In any such proceedings, the United States may seek to recover civil penalties assessed under this section.

"(5) If any person fails to pay an assessment of a civil penalty or fails to comply with an order—

"(A) after the order or assessment has become final, or

"(B) after a court in an action brought under paragraph (4) has entered a final judgment in favor of the Administrator,

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to enforce the order or to recover the amount assessed (plus interest at rates established pursuant to section 6621(a)(2) of title 26, United States Code, from the date of the final order or decision or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such order or assessment shall not be subject to review. Any person who fails to pay on a timely basis a civil penalty under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 per centum of the aggretate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of such quarter.".

(j) Current section 113(e) of the Clean Air Act is deleted in its entirety and replaced with the following new section 113(e) and 113(f):

"(e) PENALTY ASSESSMENT CRITERIA.—

"(1) In determining the amount of any penalty to be assessed under this section or section 304(a), the court shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence

other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation. The court shall not assess penalties for noncompliance with orders under section 303, administrative subpoenas under section 307(a), and actions under section 114 of this Act, where the violator had sufficient cause to violate or fail or refuse to comply with the order, subpoena, or action.

"(2) A penalty may be assessed for each day of each violation. For purposes of determining the number of days of violation for which a penalty may be assessed under subsection (b) or (d)(1) of this section, or section 304(a), or an assessment may be made under section 120, where the Administrator or an air pollution control agency has notified the source of the violation, and the plaintiff makes a prima facie showing that the conduct or events giving rise to the violation are likely to have continued or recurred past the date of notice, the days of violation shall be presumed to include the date of such notice and each and every day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator proves by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.".

"(f) MONETARY AWARDS.—The Administrator may pay an award, not to exceed $10,000, to any person who furnishes information or services which lead to a criminal conviction or a civil judicial or administrative judgment of liability for any violation of this Act enforced under this section. Any officer or employee of the United States or any State or local government who furnishes information or renders service in the performance of an official duty is ineligible for payment under this subsection. An authorized contractor acting as a representative of the Administrator shall be considered an employee of the United States for purposes of this subsection. The Administrator may, by regulation, prescribe additional criteria for eligibility for such an award.".

REVIEWABILITY OF ADMINISTRATIVE ORDERS

"SEC. 602. (a) Section 307(b)(2) of the Clean Air Act is amended by adding at the end thereof: "Notices issued under sections 113 or 120, orders under section 303, administrative subpoenas under section 307(a), and actions under sections 114, 206(c) and 208 of this Act are not considered final actions for purposes of this section. Such orders, subpoenas, and actions shall be subject to judicial review only in a proceeding commenced by the United States under sections 113, 120, 204 or 205, or in a citizen suit commenced under section 304, to enforce the subpoena or action. No such order, subpoena, or action may be challenged in any citizen suit under section 304 unless the Administrator and the Attorney General are notified in writing of such challenge.".

(b) Section 307(e) of the Clean Air Act is amended by inserting at the end thereof the following: "Subpoenas issued under section 307(a), orders under section 303, and actions under section 114, 206(c) and 208 of this Act may only be reviewed in a proceeding commenced by the United States under section 113, 120, 204, or 205, or in a citizen suit under section 304, to enforce the subpoena, order, or action.".

"(c) Section 307(b)(1) of the Clean Air Act is amended by striking "under section 113(d) of this title," immediately before "under section 119 of this title" in the second sentence.".

COMPLIANCE CERTIFICATION

SEC. 603. (a) Section 114(a)(1) of the Clean Air Act is amended by—

(1) inserting ", on a one-time, periodic or continuous basis" immediately before "to (A) establish and maintain";

(2) inserting "audit procedures" immediately before "or methods, (D)";

(3) inserting "procedures or" immediately before "methods, at such locations,";

(4) inserting "during such continuous periods" immediately before ", and in such manner as the Administrator";

(5) striking "and" immediately before subparagraph (E); and

(6) redesignating subparagraph (E) as (G) and inserting the following new subparagraphs: "(E) keep periodic or continuous records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical, (F) submit compliance certifications in accordance with section 114(a)(3); and".

(b) Section 114(a) is amended by adding the following new paragraph:

"(3) The Administrator shall in the case of any person which is the owner or operator of a major stationary source, and may, in the case of any other person, require enhanced monitoring and submission of compliance certifications. Compliance certifications shall include (i) identification of the applicable requirement that is the basis of the certification, (ii) the method used for determining the compliance status of the source, (iii) the compliance status, (iv) whether compliance is continuous or intermittent, (v) such other facts as the Administrator may require. Compliance certifications and monitoring data shall be public information. Submission of a compliance certification shall in no way limit the Administrator's authorities to investigate or otherwise implement the Act.".

(c) Section 307(b)(1) is amended by inserting "or revising regulations for enhanced monitoring and compliance certification programs under section 114(a)(3) of this Act," immediately before "or any other final action of the Administrator".

CONTRACTOR INSPECTIONS

SEC. 604. (a) Section 14(a)(2) of the Clean Air Act is amended by inserting "(including an authorized contractor acting as a representative of the Administrator)," immediately before "upon presentation of his credentials".

(b) Section 114(c) is amended by striking "except that such record," and all that follows in the subsection and inserting". Any authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator) shall be considered an employee of the United States for purposes of the provisions of section 1905 of title 18. Nothing in this subsection shall prohibit the Administrator or an authorized representative of the Administrator (including any authorized contractor acting as a representative of the Administrator) from disclosing records, reports or information to other officers, employees or authorized representatives of the United States (including any authorized contractor acting as a representative of the Administrator), or to any State concerned with carrying out this Act, or when relevant in any proceeding under this Act.".

ADMINISTRATIVE ENFORCEMENT SUBPOENAS

SEC. 605. Section 307 of the Clean Air Act is amended by redesignating subsection (a)(1) as subsection (a), and, in that newly designated subsection, striking "or" before "section 202(b)(5)" and inserting "any investigation, monitoring, reporting requirement, entry, compliance inspection, or administrative enforcement proceeding under section 113, section 114, section 120, section 205, section 206, section 208, section 303 or section 306 of the Act," immediately after "section 202(b)(4) or 211(c)(3)".

EMERGENCY ORDERS

SEC. 606. Section 303(a) of the Clean Air Act is amended by—

(1) striking "the health of persons, and that appropriate State or local authorities have not acted to abate such sources" and inserting "public health or welfare, or the environment";

(2) revising the second sentence to read "If it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect public health or welfare or the environment.";

(3) striking the last three sentences in their entirety; and

(4) inserting the following at the end of the subsection: "Prior to taking action under this section, the Administrator shall consult with appropriate State and local authorities and attempt to confirm the accuracy of the information on which the action proposed to be taken is based. Any order issued by the Administrator under this section shall be effective upon issuance and shall remain in effect for a period of not more than sixty days, unless the Administrator brings an action pursuant to the first sentence of this section before the expiration of that period. Whenever the Administrator brings such an action within the sixty-day period, such order shall remain in effect for an additional fourteen days or for such longer period as may be authorized by the court in which such action is brought".

CONTRACTOR LISTINGS

SEC. 607. Section 306(a) of the Clean Air Act is amended by—

(a) striking "(1)" after "section 113(c)"; and

(b) inserting at the end thereof "For convictions arising under section 113(c)(4), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(4). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.".

JUDICIAL REVIEW PENDING RECONSIDERATION OF REGULATION

SEC. 608. Section 307(b)(1) of the Clean Air Act is amended by adding at the end thereof the following: "A petition for reconsideration by the Administrator of any otherwise final agency action shall not render the action nonfinal for purposes of judicial review nor extend the time within which a petition for review may be filed, and shall not postpone the effectiveness of the agency action.".

CITIZEN SUITS AND PETITIONS

SEC. 609. (a) CIVIL PENALTIES.—

(1) Section 304(a) of the Clean Air Act is amended by inserting immediately before the period at the end thereof: ", and to

apply any appropriate civil penalties (except for action under paragraph (a)(2)), including those pursuant to a consent judgment, payable to the special fund as established in subsection (g), taking into account the factors listed in section 1113(e)".

(2) Section 304 of the Clean Air Act is amended by adding the following new subsection:

"(g) PENALTY FUND.—Penalties received under subsection (a) shall be deposited in a special fund in the United States Treasury for licensing and other services, which shall be available for appropriation, and remain available until expended for use by the Environmental Protection Agency to finance air compliance and enforcement activities.".

(3) Paragraph (2) of subsection 304(c) of the Clean Air Act is amended to read as follows:

"(2) In any action under this section, the Administrator, if not a party, may intervene as matter of right at any time in the proceeding. In such intervention, the Administrator may substitute himself as the plaintiff with regard to any claim for civil penalties. Upon such substitution, the citizen plaintiff's claims for civil penalties shall abate. A judgment in an action under this section to which the United States is not a party shall not, however, have any binding effect upon the United States.".

(b) NATURE OF VIOLATION.—Section 304(a) of the Clean Air Act, as amended by subsection (a), is further amended by—

(1) striking the word "or" at the end of paragraph (2) and inserting the following new paragraph (4) at the end of paragraph (3):

"(4) against any person who operates any source requiring a permit under section 315(a) without such a permit, except as provided in section 352(d) or who is alleged to be in violation of any condition of such permit or of a temporary operating permit issued under section 112."

(2) adding at the end thereof the following:

"Where a provision of the Act mandates that the Administrator shall take specified action when certain preconditions are met, and the Administrator has taken final action finding such preconditions, the court's power to compel the specified action under paragraph (2) shall not depend upon whether the Administrator has published notice of such final action in the Federal Register."

(c) NOTICE TO THE GOVERNMENT.—Section 304(c) is amended by adding the following new paragraph:

"(3) Whenever any action is brought under this section the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and on the Administrator. No consent judgment shall be entered in an action brought under this section in which the United States is not a party prior to forty-five days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator during which time the government may submit its comments on the proposed consent judgment to the court and parties or may intervene as a matter of right.".

(d) UNREASONABLE DELAY.—Section 307(d)(1) of the Clean Air Act is amended by inserting before the last sentence the following: "However, actions under this subsection shall be subject to the provisions of subsection 706(1) of title 5 of the United States Code.".

(e) PETITIONS.—Section 307 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(l) PETITIONS.—(1) Any interested person shall have the right to petition the Administrator to issue, amend, reconsider, or repeal any regulation issued under the authority of this Act, unless such right is expressly limited by any other provision of this Act.

"(2) To the maximum extent practicable, within six months after receiving a petition, the Administrator shall publish in the Federal Register a finding as to whether the petition presents substantial information indicating that the petition has merit. In the event the petition is found not to present such information, the Administrator shall deny it and publish notice of such denial with notice of the finding required by the preceding sentence.

"(3) In the event the Administrator finds that the petition presents substantial information indicating that it has merit, the Administrator shall immediately undertake a review of the regulation that is the subject of the petition, and shall either grant or deny such petition within twelve months of the date of the Federal Register finding, except that in the case of a petition for reconsideration under section 307(d)(7)(B), the Administrator shall grant or deny the petition not later than twelve months after receiving such petition. In any case in which the Administrator grants a petition, the Administrator shall take final action in response to any such petition within a reasonable time.".

ENHANCED IMPLEMENTATION AND ENFORCEMENT OF NEW SOURCE REVIEW REQUIREMENTS

SEC. 610. (a) Section 167 of the Clean Air Act is amended by striking "the construction of a major emitting facility" and inserting in lieu thereof "the operation, construction, or modification of a major emitting facility"; and

(b) inserting at the end thereof the following: "An order issued by the Administrator under this section shall become effective upon issuance. Any person to whom such an order is issued may request a hearing under section 307(h) of this title. If a hearing is requested but not commenced within the time provided by regulation, such order shall be automatically stayed, and no penalties for noncompliance shall accrue thereafter, until such hearing is commenced.".

(c) Section 307 of the Clean Air Act is amended by adding the following new subsection:

"(h)(1) The Administrator shall provide any person to whom an order is issued under section 167 of this title an opportunity for a hearing in accordance with sections 554 and 556 of title 5 of the United States Code. The Administrator shall issue rules for procedures for hearings under this subsection, including provisions for an expedited hearing. If a request for a hearing is not made within 30 days, the order shall be final and not subject to review by any court or agency.

"(2) Once a final decision in a hearing under paragraph (1) of this subsection has been issued, the person to whom the order was issued may seek review in the United States District Court for the District of Columbia, or for the district in which the violation or emergency is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, by filing in such court within thirty days following the date of the final decision. Within thirty days thereafter, the Administrator shall file in such court a certified copy, or certified index, as appropriate, of the record on which the final decision was issued. Such court shall not set aside or remand such order or final decision unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's decision constitutes an abuse of discretion. After the person to whom the order was issued has exercised its right to an administrative hearing and, where applicable, judicial review, or after the time for requesting such hearing or review has passed, the validity of the order shall not be subject to review by any court or agency.".

MOVABLE STATIONARY SOURCES

SEC. 611. Section 302 of the Clean Air Act is amended by adding the following subsection:

"(q) STATIONARY SOURCE.—The term "stationary source" means generally any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes.".

ENFORCEMENT OF NEW TITLES OF THE ACT

SEC. 612. Section 120(a)(2)(A)(ii) of the Clean Air Act is amended by striking "section 111 or 112" and inserting "sections 111, 112, 167, 303, 351(a) or 352(c), or with any requirement or prohibition of title IV,".

AUTHORIZATIONS

SEC. 613. Title III of the Clean Air Act is amended by adding at the end thereof the following new section:

"(c)(1) There are authorized to be appropriated $120,000,000 for each of the fiscal years ending September 30, 1991, 1992, 1993, 1994, and 1995 to make grants to the States pursuant to section 105. In addition there are authorized to be appropriated $50,000,000 for each of the fiscal years ending September 30, 1991, 1992, and 1993 to make grants to the States to prepare implementation plans as required by subpart 2, 3, or 4 of part D.

"(2) There are authorized to be appropriated $90,000,000 for each of the fiscal years ending September 30, 1991, 1992, 1993, 1994, and 1995 to carry out the research and development activities authorized by sections 103 and 104 and other sections of this Act.

"(3) In addition to the sums authorized by paragraphs (1) and (2) there are authorized to be appropriated $250,000,000 for each of the fiscal years ending September 30, 1991, 1992, 1993, 1994, and 1995 to carry out the activities authorized under this Act.".

ORGANIZED CRIME AND DRUG ENFORCEMENT ENHANCEMENT ACT

SPECTER AMENDMENT NO. 1374

(Ordered referred to the Committee on the Judiciary.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill (S. 1972) to enhance the ability of the Federal Government to enforce the criminal laws in drug cases, and for other purposes, as follows:

At the appropriate place in the bill, insert the following:

SEC. . APPOINTMENTS.

(a) IN GENERAL.—(1) Section 631(a) of title 28, United States Code, is amended to read as follows:

"(a) The President shall appoint United States magistrates in such numbers and to serve at such locations within the judicial district as the conference may determine under this chapter. In the case of a magistrate appointed by the President for the district court of the Virgin Islands, this chapter shall apply as though the court were a United States district court. Where the conference deems it desirable, a magistrate may be designated to serve in one or more districts adjoining the district for which he is appointed. Such a designation shall be made by the concurrence of a majority of the judges of each of the district courts involved and shall specify the duties to be performed by the magistrate in the adjoining district or districts.".

(2)(A) Section 631(b)(1) of title 28, United States Code, is amended by striking "appointing court or courts and the conference" and inserting "President".

(B) Section 631(b)(2) of title 28, United States Code, is amended by striking "appointing district court or courts" and inserting "President".

(C) Section 631(b)(4) of title 28, United States Code, is repealed.

(3) Section 631(d) of title 28, United States Code, is amended by striking "appointing court or courts" and inserting "court or courts in which such magistrate is serving".

(4) Section 631(f) of title 28, United States Code, is amended by striking ", by a majority vote of the judges of the appointing district court or courts and with the approval of the judicial council of the circuit,".

(5) Section 631(k) of title 28, United States Code, is amended by striking "a judge or judges of a district court" and inserting "the President to serve a court".

(6) Section 631(i) of title 28, United States Code, is repealed.

(7) Section 631(j)(1) of title 28, United States Code, is amended by striking "which appointed him" and inserting "in which he serves".

(8) Section 631(j)(2)(C) of title 28, United States Code, is amended by striking "appointing court or courts" and inserting "court or courts in which he served".

(9) Section 631(k) of title 28, United States Code, is amended by striking "such court or courts" and inserting "the President".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect upon the expiration of the 90-day period following the date of the enactment of this section.

CLEAN AIR ACT AMENDMENTS

KOHL (AND OTHERS) AMENDMENT NO. 1375

Mr. BAUCUS (for Mr. KOHL, for himself, Mr. KASTEN, Mr. LEVIN, and Mr. RIEGLE) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 423 of the amendment, lines 17 and 19, strike "1986" and insert "1985".

KASTEN (AND OTHERS) AMENDMENT NO. 1376

Mr. BAUCUS (for Mr. KASTEN, for himself and Mr. KOHL) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 398 of the amendment, line 13, before the period insert the following: "including allowances issued to units subject to Phase I requirements (as described in section 404) which are applied to emissions limitations requirements in Phase II (as described in section 405)".

LOTT AMENDMENT NO. 1377

Mr. CHAFEE (for Mr. LOTT) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 426 strike line 15 through page 428 line 16 and insert:

"SEC. 407. (a) Applicability.—On the date that a coal-fired utility unit becomes an affected unit pursuant to sections 404, 405, 409, or on the date a unit subject to the provisions of 404(d) or 409(b), must meet the SO_2 reduction requirements, each such unit shall become an affected unit for purposes of this section and shall be subject to the emission limitations for nitrogen oxides set forth herein.

"(b) Emission Limitations.—(1) Not later than eighteen months after enactment of the Clean Air Act amendments of 1990, the Administrator shall by regulation establish annual allowable emission limitations for nitrogen oxides for the types of utility boilers listed below, which limitations shall not exceed the rates listed below; *provided*, that, the Administrator may set a rate higher than that listed for any type of utility boiler if the Administrator finds that the maximum listed rate for that boiler type cannot be achieved using low NO_x burner technology. The maximum allowable emission rates are as follows:

"(A) for tangentially-fired boilers, 0.45 lb/mmBtu;

"(B) for dry bottom wall-fired boilers and for cell burners, 0.50 lb/mmBtu.

After January 1, 1995, it shall be unlawful for any unit that is an affected unit on that date and is of the type listed in this paragraph to emit nitrogen oxides in excess of the emission rates set by the Administrator pursuant to this paragraph.

"(2) Not later than January 1, 1997, the Administrator shall, by regulation, establish allowable emission limitations on a lb/mmBtu, annual average basis, for nitrogen oxides for the following types of utility boilers:

"(A) wet botton wall-fired boilers;

"(B) cyclones;

"(C) all other types of utility boilers.

The Administrator shall base such rates on the degree of reduction achievable through the retrofit application of the best system of continuous emission reduction, taking into account the available technology, costs and energy and environmental impacts; and which is comparable to the costs of nitrogen oxides controls set pursuant to subsection (b)(1). Not later than January 1, 1997, the Administrator may revise the applicable emission limitations for tangentially-fired and dry bottom, wall-fired boilers (including cell burners) to be more stringent if the Administrator determines that more effective low NO_x burner technology is available; *Provided* that, no unit that is an affected unit pursuant to section 404 and that is subject to the requirements of section (b)(1), shall be subject to the revised emission limitations, if any.

"(c) Revised Performance Standards.—(1) Not later than January 1, 1993, the Administrator shall propose revised standards of performance to section 111 for nitrogen oxides emissions from fossil-fuel fired steam generating units, including both electric utility and nonutility units. Not later than January 1, 1994, the Administrator shall promulgate such revised standards of performance. Such revised standards of performance shall reflect improvements in methods for the reduction of emissions of oxides of nitrogen.

"(d) Alternative Emission Limitations.—The permitting authority shall, upon request of an owner or operator of a unit subject to this section, authorize an emission limitation less stringent than the applicable limitation established under subsection (b)(1) or (b)(2) upon a determination that:

(i) a unit subject to subsection (b)(1) cannot meet the applicable limitation using low NO_x burner technology; or

(ii) a unit subject to subsection (b)(2) cannot meet the applicable rate using the technology on which the Administrator based the applicable emission limitation.

The permitting authority shall base such determination upon a showing satisfactory to the permitting authority, in accordance with regulations established by the Administrator not later than eighteen months after enactment of the Clean Air Act amendments of 1989, that the owner or operator:

(1) has properly installed appropriate control equipment designed to meet the applicable emission rate;

(2) has properly operated such equipment for a period of 15 months (or such other period of time as the Administrator determines through the regulations), and provides operating and monitoring data for such period demonstrating that the unit cannot meet the applicable emission rate; and

(3) has specified an emission rate that such unit can meet on an annual average basis.

The permitting authority shall issue an operating permit for the unit in question, in accordance with section 408 and Part B of Title III:

(i) that permits the unit during the demonstration period referred to in subparagraph (2) above, to emit at a rate in excess of the applicable emission rate;

(ii) at the conclusion of the demonstration period to revise the operating permit to reflect the alternative emission rate demonstrated in paragraphs (2) and (3) above.

Units subject to (b)(1) for which an alternative emission limitation is established shall not be required to install any additional control technology beyond low NO_x burners. Nothing in this section shall preclude an owner or operator from installing and operating an alternative NO_x control technology capable of achieving the applicable emission limitation.

"(e) Emmissions Averaging.—In lieu of complying with the applicable emission limitations under subsections (b)(1), (b)(2) or (d), the owner or operator of two or more units subject to one or more of the applicable emission limitations set pursuant to these sections, may petition the permitting authority for alternative contemporaneous annual emission limitations for such units that ensure that (1) the actual annual emission rate in pounds of nitrogen oxides per

million Btu averaged over the units in question is a rate that is less than or equal to (2) the Btu-weighted average annual emission rate for the same units if they had been operated, during the same period of time, in compliance with limitations set in accordance with the applicable emission rates set pursuant to subsection (b)(1) and (b)(2).

If the permitting authority determines, in accordance with regulations issued by the Administrator not later than eighteen months after enactment of the Clean Air Act amendments of 1989, that the conditions in the paragraph above can be met, the permiting authority shall issue operating permits for such units, in accordance with section 408 and part B of title III, that allow alternative contemporaneous annual emission limitations. Such emission limitations shall only remain in effect while both units continue operation under the conditions specified in their respective operating permits.

SYMMS (AND JEFFORDS) AMENDMENT NO. 1378

Mr. SYMMS (for himself and Mr. JEFFORDS) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 125, line 22 of amendment No. 1293, insert the following new subsection:

(c) WOODSTOVE MODERNIZATION.—(1) Section 194 of the Clean Air Act is further amended by adding at the end thereof the following new subsection:

"(d) INCENTIVES FOR WOODSTOVE MODERNIZATION.—Not later than forty-eight months after the date of enactment of this subpart, the Administrator shall publish guidelines which may be used by states in implementing programs to encourage the modernization of wood-burning stoves. Such guidelines shall:

"(1) encourage the use to the maximum extent practicable of the exemption under subsection (b) from woodstove curtailment as a means of prompting woodstove owners to convert to wood heaters certified under the Environmental Protection Agency's Wood Heater Certification Program, and

"(2) describe how the state might implement either a low-interest guaranteed loan or grant program to assist low-income woodstove owners in modernizing to less-polluting heating sources, such as any EPA Phase II certified wood heater, solar heating system, or other demonstrably less polluting heating source."

(2) It is the sense of the Senate that of the receipts received from any fees levied on emissions of substances regulated under this Act and dedicated for the use of the Environmental Protection Agency, an appropriate amount should be made available through section 105 of the Clean Air Act to assist states in wood heater modernization programs as described pursuant to section 194(d)(2).

AWARD OF CONGRESSIONAL GOLD MEDAL TO LAURANCE SPELMAN ROCKEFELLER

CHAFEE AMENDMENT NO. 1379

Mr. DOLE (for Mr. CHAFEE) proposed an amendment, which was subsequently modified, to the bill (S. 1853) to award a congressional gold medal to Laurance Spelman Rockefeller, as follows:

On page 5, line 2, strike "Park and Recreation" and insert in lieu thereof "Recreation and Park."

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that further hearings have been scheduled before the full Committee on Energy and Natural Resources to receive testimony on S. 324, the National Energy Policy Act of 1990, a joint staff amendment in the nature of a substitute. The hearing will consist of testimony from administration witnesses.

The hearing will take place Thursday, April 5, 1990, at 9:30 a.m., in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony, should send five copies to the full committee, SD-306, Washington, DC 20510-6150.

For further information, please contact Leslie Black of the committee majority staff at 202/224-9607 or Richard Grundy of the committee minority staff at 202/224-7847.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON GENERAL SERVICES, FEDERALISM, AND THE DISTRICT OF COLUMBIA

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on General Services, Federalism, and the District of Columbia, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Monday, March 26, 1990, at 1:30 p.m. to resume open hearings on prenatal care for the 1990's in Philadelphia, PA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Readiness, Sustainability and Support of the Armed Services Committee be authorized to meet in open/closed session on Monday, March 26, 1990, at 2 p.m. to receive testimony on ammunition programs in review of S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., March 26, 1990 to assess the outlook for the market in the 1990's and its implications for U.S. energy, economic, and security interests. Topics to be addressed include future price and production patterns, the effect of recent events in Eastern block nations, the role of OPEC, and implications of new environmental policies.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on Monday, March 26, 1990, at 10 a.m. to hold a hearing on the nomination of Robert Marshall White, of Minnesota, to be Under Secretary of Commerce for Technology.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO GEORGE SELDES

● Mr. LEAHY. Mr. President, I was pleased to read this article about my good friend George Seldes that appeared in one of our local newspapers. George is truly a man of this century, and his insight into what is happening in the world today is extremely valuable to all of us. I would like to share his comments with my colleagues and request this article be printed in its entirety in the RECORD.

The article follows:

[From the Rutland Daily Herald, Feb. 7, 1990]

SELDES WATCHES SECOND REVOLUTION

(By Dennis Jensen)

HARTLAND.—Even if he lives to be 100 years old, longtime newspaperman George Seldes says he'll have a hard time absorbing the "revolutionary" changes that are sweeping across the Soviet Union.

And the Hartland man will be 100 years old in September. It was nearly 70 years ago that he covered the events in Russia as a reporter for the Chicago Tribune.

Any citizen of the Soviet Union then or even five years ago who suggested that the Communist Party leadership should relinquish its monopoly on political power could expect to "be arrested and they would disappear," Seldes said.

Seldes, wearing an "Aged in Vermont" button on his sweater and looking fit, spoke in a wide-ranging interview Tuesday about events that are shaking the Soviet Union.

He said that despite his many years as a newspaperman, nothing could compare to

the developments in Mother Russia over the past couple of months, and particularly the past couple of days.

Seldes, a newspaperman, author and newspaper critic for 80 years, has seen governments come and go, has reported on world wars fought, won and lost and has written about a wide variety of world "isms" for the better part of a century.

But nothing, he said, could compare with what is taking place in the Soviet Union today.

"It's the most amazing thing," Seldes said. "Gorbachev is inviting a liberal movement in Russia."

Since its inception, Seldes said, the Russian Communist Party has been "an all-or-nothing party. It has been a totalitarian party, with no opposition." Suddenly, he said, Soviet leader Mikhail S. Gorbachev is telling the Communist Party leadership it should let go of its grip on political power.

Gorbachev, at a two-day meeting of the party's Central Committee Monday, urged the policy-making body to abolish its constitutionally guaranteed monopoly on political power.

Seldes said that, based on his firsthand observations of the Soviet Union, he never dreamed that this kind of political change of events was possible in his lifetime.

"I never expected it," he said. "You wouldn't either, if you were there and saw what they'd done to the people. I never saw such propaganda. I never saw such mind control."

It was in 1922 that Seldes, then the Berlin correspondent for the Chicago Tribune, first ventured to Moscow for the fifth anniversary of the Bolshevik Revolution. There, Vladimir Lenin addressed a gathering of several thousand delegates of the Comintern—the Communist International.

Seldes covered events in the communist country for nearly two years. The Soviet authorities expelled Seldes in 1923, he said, for "smuggling news out of the country."

Attempts at thought control and an Orwellian grip on information and the media by Soviet leaders brought fear to the people, Seldes said.

"People were afraid to talk about anything of a liberal nature or to discuss radical movements in another country," he said. "People were afraid. Everything was censored, everything was watched."

Seldes returned to the Soviet Union in 1964, traveling with a group of people with the Committee for a Sane Nuclear Policy. Politically, he said, little had changed since he left the country. If anything, the grip of totalitarianism was even tighter on the people.

"The government of the Soviet Union was established by force and continued by force," Seldes said. "But communism has been a failure on the right and a failure on the left—look at Italy and look at the Soviet Union."

At the same time, he said, "liberal and socialistic ideas are slowly gaining ground in the world. I think the left is winning the war of ideas."

That is not to say that Russia has not had its victories under communism. Seldes said. One of the greatest victories, he said, was how the government removed the majority of its people from the clutches of illiteracy.

"One of the first things they (the communists in Russia) decided was the people have to be educated," he said. "Of course, it was not like education in this country. It was education from the communist point of view.

"It's the most amazing thing," Seldes said. "This is a country whose leaders" perpetrated "the greatest attempt at mind control ever in the world."

Throughout the history of man, Seldes said, "ideas have conquered the world. Some of those ideas have been good, some bad."

But Seldes believes it is the idea coming from the West that will have the greatest influence on the world's future.

"I have no doubt the policies of the United States, Great Britain and France will continue to have a great influence," he said.

Seldes spoke admiringly of Lenin, whom he met in 1922. He described Lenin as a man of "ideas." Lenin said Trotsky, he said, "both wanted to conquer the world, but they wanted to do so with Marx's idea of communism, not with armies." The communism of the Soviet Union over the past seven decades, he said, was a system based on "force and violence," not the communism envisioned by Marx.

"The liberalization in Russia under Gorbachev is incredible," Seldes said. "The times are changing. The whole world is changing." What is taking place in the Soviet Union, he said, "is one of the most revolutionary changes of our times."●

TRIBUTE TO CHILD CARE PROVIDERS IN MINNESOTA

● Mr. BOSCHWITZ. Mr. President, I rise today to salute a group of my constituents who have been honored for their work as child care providers to the children of Minnesota.

We have spent a great many hours on the floor of the U.S. Senate discussing the merits of various child care legislation, Mr. President, and throughout all that discussion, I have always kept in mind that the greatest child care system in the world will be useless unless we have the high-quality people involved in caring for our children.

The people I am about to name are just such people. Each of them has made a decision to put their efforts into making certain that Minnesota's children receive high-quality care in a warm, loving environment.

Child care work is not glamorous, nor is it particularly rewarding financially, Mr. President. It is long, hard work that can only be done by someone who has a little extra room in their heart for a child, and who is willing to make an extra effort to provide the love and attention needed by a small child.

Mr. President, the following people have been honored by the Minnesota Licensed Family Child Care Association as their 1990 providers of the year, and I want to take a moment to salute them for their wonderful work, and thank them for the love and skills and warmth they bring to the children of our great State.

1990 HONOREES

Lois Anderson, Mower County;
Lois Anderson, Polk County;
LaValle Bembenek, Nicollet County;
Linda Benson, Redwood County;
Rita Boeckmann, Stearns County;
Darlene Carlen, Wright County;
Carlton County Licensed Caregivers, Carlton County;
Marcia L. Clennon, Hennepin County;
Cindy Cordes, Goodhue County;
Jan Dennis, Olmsted County;
Joan Dokken, Beltrami County;
Laurie Eccles, Blue Earth;
Marcy Eickholt, Hennepin County;
Linda Fortune, Washington County;
Arlene Grage, Ottertail County;
JoAnne Griebel, Brown County;
Lorette Gjovik, Kittson County;
Diane Haney, Kandiyohi County;
Mary Kay Hannan, Meeker County;
Nancy Helmers, Jackson County;
Renee Paula Hickman, Dakota County;
Carol Hoiby, Anoka County;
John and Sharon Kimman, Morrison County;
Chrissie Mahaffy, Hennepin County;
Sharon Martinson, Lyon County;
Linda Matson, Anoka County;
Judy McLaughlin, Ramsey County;
Karen Nelson, Mille Lacs County;
Carmen Nesheim, Hennepin County;
Jeanne Newell, Hennepin County;
Vicki Otto, Houston County;
Cathy Paulsen, Yellow Medicine County;
Linda Pick, Benton County;
Mary Lou Radil, Dodge County;
Carol L. Rajdl, Douglas County;
Pamela Ready, Wilkin County;
Christy Reisch, Rock County;
Gloria Rittenour, Sherburne County;
Carolann Schlechter, McLeod County;
Peggy Schuur, Nobles County;
Cathleen Smith, Blue Earth County;
Kristen S. Smith, Swift County;
Staples Area Child Care Association, Todd County;
Loretta Suttles, Hennepin County;
Jan Usgaard, Clay County;
Theresa Valentine, Ramsey County;
Karen Von Bank, Scott County;
Marie Wadell, Dakota County;
Lynette Waldenburger, Hennepin County;
Virginia Warren, Carver County;
Linda Weiner, Ramsey County;
Lorraine Weiss, Crow Wing;
Denise M. Williams, Hubbard County;
Rose Wold, Pennington County.●

THE 169TH ANNIVERSARY OF GREEK INDEPENDENCE

● Mr. DECONCINI. Mr. President, I rise today to recognize an event which was celebrated yesterday, March 25, 1990, "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." On this day which marks the 169th anniversary of the revolution which freed the Greek people from the Ottoman Empire, we recognize the Greek culture and people who have made uncounted contributions to the development of democracies around the world and to the welfare of the United States. Thomas Jefferson once said to the American colonists, "* * * to the ancient Greeks * * * we are all indebted for the light which led ourselves out of Gothic darkness."

The Greek people have a long and illustrious history. In World War II, over 600,000 Greeks died fighting on the Allies' side—9 percent of the Greek population. President Dwight

D. Eisenhower, commenting on Greek courage in 1953 said, "* * * Greece asked for no favor except the opportunity to stand for those rights in which it believed, and it gave to the world an example of battle * * * a battle that thrilled the hearts of all free men and women everywhere." The Greeks fought long and hard to achieve independence and democracy. I recognize and deeply respect their ongoing efforts to keep democracy healthy and vibrant.

Just as Greek contributions to the development of the democratic form of government influenced the founders of American democracy, so did the United States serve as a role model for the Greek Independence struggle in the 1820's. The American Revolution became a Greek ideal as they fought to free themselves from the Ottoman Empire. Our heritage and culture is closely linked and will continue to bind our peoples.

For these and many more reasons, Mr. President, we should recognize and appreciate this important occasion and express our respect, honor and gratitude to the Greek people and traditions.●

LITHUANIA

● Mr. SIMON. Mr. President, I was pleased the other day to join with my good friends and distinguished colleagues Senators GEORGE MITCHELL and BOB DOLE in submitting an important resolution concerning Lithuania's declaration of independence, Senate Concurrent Resolution 108. It sends the right message at this time to the Soviet Government.

In our resolution—and I should add here that Senator DONALD RIEGLE and I were working on a similar resolution earlier—we congratulate the people of Lithuania for taking the courageous step of declaring their independence from the Soviet Union, we urge the Soviets to recognize and respect the Landsbergis government and cease all forms of intimidation, and we urge the President to take steps to actively demonstrate our commitment to the new Lithuanian Government.

Let me just say briefly that I have been one who has spoken out consistently for freedom for Lithuania, as much if not more than any Member of this body. I may be the only Member of the United States Senate denied a visa to visit Lithuania some 5 years ago, when I tried to visit Vilnius and was prevented from doing so by the Soviet Government. And as one of the original cosponsors of what some are calling "SEED II"—the follow-on bill to last year's Support for East European Democracy Act—I am pleased to say that we have made the Baltic States eligible to receive United States assistance.

This is a tense time. President Gorbachev has said he will not use force to suppress Lithuanian independence, and it is clearly in his best interest not to do so. Nevertheless, because this is a tense time and Lithuania is the first republic to attempt to secede, it is appropriate for the United States Senate to go on record as we do in this resolution urging the U.S.S.R. to refrain from acts of military and other forms of coercion. Gorbachev ought to negotiate an immediate end to Soviet rule in Lithuania, and respect the sovereign wishes of the overwhelming majority of Lithuanian citizenry who desire nothing more nor less than a free and independent Lithuania.

Mr. President, this is a responsible approach. It is in everyone's interest to resolve this dispute quickly and peacefully. But let no one in Mr. Gorbachev's Politburo misread United States intentions: we want good relations with the Soviet Union, but we strongly desire a free Lithuania, a free Latvia and a free Estonia immediately. We have never recognized the Baltic republic's illegal and forcible incorporation into the U.S.S.R. It is time for the Soviet Union to let Mr. Landsbergis' people go, so the people of Lithuania can decide their own political and social system for themselves.●

SENATOR KENNEDY IN CHILE

● Mr. LUGAR. Mr. President, the inauguration of President Patricio Aylwin on March 11, 1990, marks a historic turning point for the people of Chile. During the long evolution to democratic government in Chile, Senator KENNEDY has been a strong voice for freedom and human rights in Chile and it was fitting that he was present at the inauguration of President Aylwin.

Over the past few years, in the spirit of bipartisan cooperation, Senator KENNEDY and I collaborated to make known our view that a political transition in that country could and should best proceed through free, fair, and nonviolent elections. We cochaired the U.S. Committee for Free and Fair Elections in Chile which was designed to encourage and support free and fair elections in the October 1988 plebiscite and in the Presidential election in December 1989. Former Presidents Gerald Ford and Jimmy Carter served as honorary cochairmen of that committee.

Earlier this month, Senator KENNEDY joined Vice President QUAYLE as a member of the official U.S. delegation to the inauguration of President Aylwin. While in Chile, he spoke of the positive accomplishments of the Chilean people, including those on all sides who waged the remarkably courageous and successful political struggle for freedom through openly contested elections. I am pleased to submit his remarks for the RECORD so that other Members will have the opportunity to read them.

The remarks follow:

REMARKS BY SENATOR EDWARD M. KENNEDY, CHILEAN COMMISSION FOR HUMAN RIGHTS DINNER, SANTIAGO, CHILE, MARCH 10, 1990

It is an honor and a privilege to return to Chile on this historic occasion of the restoration of democracy. The inauguration of President Aylwin, freely chosen by the people of Chile, is one of the great milestones in the difficult road we are traveling together for freedom, democracy and respect for human rights in all the nations of our hemisphere.

Many of you in this room have provided courageous leadership in that cause, and I salute you. This beautiful day for Chile could not have dawned without you.

I only wish that President Kennedy and Robert Kennedy, who cared so deeply about this country and its freedom, could have been here too.

Four years ago, I came to Chile when this land was still under the dark cloud of dictatorship. I felt first hand, at least to some degree, the tactics of intimidation practiced by those who have no respect for freedom or conscience.

The government declined to meet with me, or even to discuss our areas of disagreement. They actively sought to obstruct my visit. But the people of Chile gave me an extraordinary welcome anyway—one of the most moving receptions I have ever received, and I shall never forget it.

Now, the cloud of dictatorship is passing, and the sunshine of democracy is warming Chile and lighting all our hemisphere.

I could detect the change myself, as soon as I landed at Pudahuel. The government's reception was many degrees warmer than four years ago. Believe me, it's a lot nicer to be able to use the highway from the airport, instead of being forced to use a helicopter to escape all the flying eggs.

I want to say a special word of thanks to our host this evening, the Commission for Human Rights. Through all the bleak years, the Commission has stood as a beacon of hope to friends of freedom, not only in Chile but throughout the world.

I also commend my friend, Don Jaime Castillo, for his outstanding leadership of the Commission and the example he has set for defenders of human rights everywhere.

In addition, I want to acknowledge two leaders of the church and the organization whose unwavering commitment to human rights has done so much to make this historic transition possible, Cardinal Fresno, Cardinal Silva, and the Vicaria.

I pay tribute as well to a distinguished American diplomat, whose understanding of Chile and whose wise counsel from Santiago helped guide us to this day—Ambassador Harry Barnes.

As President Kennedy said, it is better to light a candle then to curse the darkness. And I honor each of you now for the candles you have lit—always with great courage and sometimes at great cost.

I am here to celebrate the spirit and determination of the Chilean people. Your struggle has been difficult; your vigil lonely; your sacrifice enormous. But you never faltered in your enduring faith that democracy would return to Chile.

I am here, most of all, to reaffirm the solidarity of the American people with your cause. I am honored to join Vice President

Quayle in the official delegation of the United States.

Too many times in the past seventeen years, this new dawn seemed a distant dream. The long and proud tradition of Chilean freedom was suddenly shattered in 1973. Many of us in the United States spoke out against that tragic violence, but it was you who paid the price.

You were denied basic freedoms; you suffered endless persecution; you endured the loss of loved ones. The tentacles of Chilean terrorism reached thousands of miles beyond your borders, staining even the streets of Washington, D.C. with the blood of the Chilean patriot, Orlando Letelier, and the American friend of Chile, Ronni Moffitt.

Too often in the years since then, because of flawed policies in the United States, the noble dream of the Alliance for Progress seemed to have become a nightmare—an alliance with repression.

And yet throughout those troubled times, your will for freedom never failed or faded. You did not bend to the tyrant's heavy hand. You never gave into the censor's intrusive pen. You refused to give up the struggle for liberty and human rights.

Four years ago, speaking to many of you here this evening, I asked the question posed by Pablo Neruda in his famous poem, "Cuando de Chile?"

"Oh when, patria, at election time
"Will I go from house to house
"Leading timid freedom by the hand
"To shout in the middle of the street?"

On my visit, I asked "When will the promise of Chile be redeemed? When will the universities be free again? When will the people be free to speak again, without fear of harassment or arrest?"

The people have now given their answer—not soon, not someday, but now. Ahora. In answer to Pablo Neruda's plea for freedom, you shouted Ahora in the middle of the streets of Santiago. Ahora in the streets of Valparaiso, Concepcion, and Serena.

Ahora—now is the time—now is always the time—for civil rights and human rights.

In the plebiscite two years ago, you joined together—against great odds and unfair rules—to surprise the dictator in a peaceful ballot that has become a landmark in the hemisphere's common struggle for freedom.

Citizens representing a broad spectrum of political opinion came together—and stayed together—in the National Accord, in the Democratic Alliance, in the Campaign for the NO and in the Concertacion.

In a simple, moving, brilliant demonstration of their power, the people of Chile said "Yes" to democracy—and "No" to dictatorship.

And in the healing months since then, many others, too, deserve our tribute for facilitating the peaceful transition to this day—for helping Chile to become Chile once again.

Because you kept the faith so well, the human rights movement in this country became an inspiration to peoples in many distant lands. Dictatorships of both left and right are in decline. Walls of oppression and division are crumbling across the globe.

Freedom, timid no longer, is shouted in the middle of the streets of Eastern Europe. Eight thousand miles from here, at the Berlin Wall, in Prague and Budapest and Bucharest, people newly free speak of Chile, and honor your struggle too.

The power of the idea of freedom is transforming even the Soviet Union itself. Namibia is free, and South Africa is closer to freedom. In our hemisphere, the freedom that flowered last month in Nicaragua had its roots in your own success in Chile.

No government on earth can long survive without respect for the basic human rights that are the birthright of all humanity. The measure of any nation's liberty resides in the rule of law—respect for due process and equal justice, subordination of raw power to just principle, and above all, the right of citizens to participate in making the laws by which they are governed.

Each of us has gained a deeper understanding of those principles because of your struggle to achieve them here. But although last December's free election opened the door, it does not guarantee a new Chile.

In the years to come, we must be vigilant in securing justice and guaranteeing human rights. But we must also come to terms with the past. Unless we know the facts, unless we speak the truth, unless we acknowledge the abuses of the past, unless we comprehend the true nature of the wrongs that have been done, we may be condemned to re-live them in the future.

We must never repeat that history. We must say with one voice "Never again—nunca mas."

The United States has stood with you in the past, and we stand ready to assist you in the future. Together, we can ensure that human rights are never again violated in Chile, that the rule of law is never again ignored, that civil and political freedoms are never again denied, and that democracy is never again abandoned. Nunca mas.

We in the United States look forward to working with you to build a new partnership for freedom's future. Let us do all we can to eradicate the evils of poverty, so that every child is assured a good education, every individual is assured adequate health care, and every family is assured a decent home.

We have all heard it said that each of us can make a difference. President Kennedy and Robert Kennedy lived by that ideal. So has the Chilean Commission for Human Rights, the Vicaria and every individual in this room. And because you cared enough to become involved, what a difference you have made for countless individuals in this country and throughout the world.

A story I came across makes that point in vivid terms. An old man walking along a beach at dawn saw a young man picking up starfish and throwing them out to sea. Why are you doing that, the old man inquired? The young man explained that the starfish had been stranded by the tide on the beach, and would soon die in the morning sun.

"But the beach goes on for miles," the old man said, "and there are so many starfish. How can your effort make any difference?"

The young man looked at the starfish in his hand, and then threw it to safety in the sea. "It makes a difference to this one," he said.

I commend each of you for the many differences you have made—for one another, for human rights, for democracy, and most of all for Chile. Let us continue to work closely together, so that we can make an even greater difference in the years to come for our democracies, our peoples, and our liberties.

Thank you very much.●

SOUTH JERSEY SOCCER HALL OF FAME

● Mr. LAUTENBERG. Mr. President, I rise today to congratulate Jay Phillips on his induction to the South Jersey Soccer Hall of Fame for his dedication to the sport of soccer and to the youth of Cinnaminson and southern New Jersey.

Born and raised in Camden, NJ, Phillips graduated from Woodrow Wilson High School where he participated in basketball and golf. He was introduced to the sport of soccer at Asbury College, in Wilmore, KY, where he played fullback and goalie.

As a young physical education teacher at Cinnaminson High School, Phillips started the high school soccer program in 1966 as a club team. In 1967, soccer at Cinnaminson became a varsity sport. In that same year, the original south Jersey high school soccer league started with eight teams. Phillips was one of the original founders and a charter member of the league.

Phillips coached for 22 years at Cinnaminson High School. He coached eight State championship teams. His teams finished in the "Top 10" from 1976 to 1984. Cinnaminson was the only south Jersey team to achieve this goal. In 22 seasons, Cinnaminson, under his leadership, had only two losing seasons; 1969 and 1975.

Phillips was the first south Jersey soccer coach to reach 200 career victories. He currently is the all-time south Jersey career high school victories leader with 269 wins. He retired from coaching in 1988 with an overall career record of 269 wins, 107 losses, and 40 ties. For all of his accomplishments, many call him the dean of south Jersey soccer.

Jay Phillips, through the years, has given his time, expertise and caring to the youth of Cinnaminson and south Jersey. In 1972, he started the Cinnaminson Soccer Alumni Association to give former players and their families the opportunity to socialize. Phillips is proud of his players and where life has taken them. He revels in their achievements as if they were his own. When asked what his best memory of 22 years of coaching was, he replied, "the interaction with the kids."

I am proud to extend my congratulations to Jay and his wife Karen, a faithful fan of south Jersey soccer, for this honor.●

SENIOR CIRCUIT JUDGE MARION T. BENNETT ENDORSES CONGRESSIONAL TERM LIMITATIONS

● Mr. HUMPHREY. Mr. President, I would like to share a letter I have recently received from Senior Circuit Judge Marion T. Bennett, supporting Senate Joint Resolution 235, a proposed constitutional amendment to limit congressional terms. Judge Bennett represented the Sixth District of Missouri from 1943 to 1949. Since the Senator from Arizona [Mr. DECON-

CINI] and I introduced Senate Joint Resolution 235, 10 other Senators have joined as cosponsors, more than in any previous term limitation effort. Mr. President, what we are seeking is a fundamental change in attitude. If Members entered Congress knowing that their tenure was limited, we would see the kind of intellectual honesty and political courage necessary to deal with our Nation's complex problems. Yes, there are many fine men and women in Congress, and there is something to be said about the value of experience in the legislature. But on balance, is that experience being put to the best use for our country? A $3 trillion national debt and vast oceans of wasteful spending say it is not. Mr. President, I ask that the letter from Judge Bennett be printed in the RECORD immediately following my remarks. We need a regular turnover in Congress, so that fresh ideas and especially fresh idealism will always fill Congress. The only certain way to achieve this is to limit terms.

The letter follows:

U.S. COURT OF APPEALS
FOR THE FEDERAL CIRCUIT,
Washington, DC, March 1, 1990.

Hon. GORDON J. HUMPHREY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HUMPHREY: Based upon my experience as a former three-term Member of Congress from Missouri, and in view of the low esteem in which Congress is held by the public, and because of its perceived increasing failure as an institution to reflect popular will instead of that of special interests which today largely finance Members' campaigns, I strongly support S.J. Res. 235 to limit the terms of Members of Congress, as proposed therein.

Your political courage in advancing this measure is much respected.

Sincerely,

MARION T. BENNETT,
Senior Circuit Judge.●

HONORING THE VICTIMS OF THE MARCH 25, 1949, BALTIC DEPORTATIONS

● Mr. RIEGLE. Mr. President, March 25 marks a day of sorrow for the people of the Baltic States of Latvia, Lithuania, and Estonia. During the night of March 24-25, 1949, tens of thousands of men, women, and children were taken from their homes, separated from their families, and deported to the Siberian north.

These deportations resulted in a tragic loss of over 600,000 lives, but they did not succeed in their intended aim—to break the spirit of the Baltic people and ensure their subservience to the Soviet occupation regime. Czech author Milan Kundera has written that "the struggle of man against power is the struggle of memory against forgetting." Latvians, Lithuanians, and Estonians have not forgotten their deported countrypeople, they have not forgotten their stolen independence, and because they have not forgotten, they have finally come to the brink of recovering that independence.

Mr. President, March 11, 1990, was a bright day for democracy. It was on this day that the Supreme Council of Lithuania declared the restoration of a free and independent Lithuania. This declaration was a powerful illustration of the triumph of memory over forgetting. However, March 11 was only the first step on the road to independence, and sadly, Soviet leaders are now attempting to block that road, showing that they have not yet abandoned the violent legacy of 1949. In spite of the leadership's pledges not to use force, with every passing day Moscow intensifies the threat of violence in Lithuania, conducting unscheduled military maneuvers, rolling tanks through the streets of Vilnius, and now sending in paratroopers to occupy Government buildings.

Mr. President, the people of the Baltic States today more than ever are depending on the support of the United States. Let us show them that we, too, have not forgotten the thousands of Baltic citizens deported to their deaths in 1949, and that we will do everything within our power to prevent the Soviet leadership from opening yet another chapter of violence and bloodshed in Baltic history.●

GREEK INDEPENDENCE

● Mr. MOYNIHAN. Mr. President, on Sunday, March 25, 1990, the Greek-American community celebrated the 169th anniversary of the beginning of their revolution for independence from under the yoke of the Ottoman Empire. I and 60 of my colleagues in the Senate joined together to commemorate this historic event by cosponsoring Senate Joint Resolution 243, a resolution designating March 25, 1990, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." I am happy to say that on Tuesday, March 20, 1990, President Bush signed this into law.

From their first settlement in the 1700's in St. Augustine, FL, to one of the largest Greek communities in America, Astoria, NY, the Greek people have been an influential segment of American society. Their history, culture, language, religion, and of course native culinary artistry, have enriched America. Greece has contributed great things in the areas of arts, medicine, and education, but no contribution was more precious than that of democracy.

Born in Athens, nurtured in the United States, the principles of democracy are now being practiced throughout Eastern Europe. This new wave of democracy, would never have come to fruition had it not been for Hellenistic political thought. We will always be indebted to Greece for giving us this most precious gift.●

THAI COMPLICITY IN BURMA'S TRAGEDY

● Mr. MOYNIHAN. Mr. President, last Wednesday I spoke about the growing tragedy in Burma. Steve Erlanger of the New York Times wrote about the Burmese Government's policy of forced relocations from the capital of Rangoon. These relocations resonate of Pol Pot's Cambodia. In Burma, Mr. Erlanger tells us, perhaps 500,000 people have already been victimized.

How often do we lament that the world should have spoken out more forcefully and earlier about the atrocities of Pol Pot? How many times have we reminded ourselves not to remain silent about the horrors of regimes that care nothing for their own citizens?

Certainly Burma is far away, and little known to most Americans. But that does not relieve us of the responsibility to speak out against atrocities there—and against the regime of Ne Win and Saw Maung. Condemnation is all that we should offer them. Indeed, that has been the record of the United States since September 1988 and of other nations as well. And finally, on February 14, the United Nations Human Rights Commission approved a resolution condeming the regime and asking for a special rapporteur. The Burmese junta is now held in contempt by the opinion of the world.

Still, the regime survives. How so?

The answer, I am sorry to report, is through the assistance of the Thai military. Why? Because the Thai military is profiting from the desperation of the Burmese regime.

The Burmese have sold valuable logging and fishing concessions, at very favorable terms, to companies owned and controlled by the Thai military. This situation is fully described in the February 22, 1990, cover story of the Far Eastern Economic Review, entitled "Blood and Timber: How Burma Bought Friends."

Not only are the Thais indiscriminantly logging Burma, which heretofore contained 80 percent of the world's remaining teak stands, they are assisting in the destruction of the minority Karen and Mon populations who inhabit the border region. It is no exaggeration to say, that every teak log from Burma is being extracted by the Thais at the cost of a human life.

Mr. President, the New York Times had it just right this Sunday when an editorial urged that Thailand "condition its commerce"—with Burma—"on elementary standards of civilized conduct." Indeed. The teak logging must stop, and Senator SYMMS and I have

included a provision in the Finance Committee's trade bill that will at least ensure that such teak does not find its way to the United States. Civilized conduct requires no less. And I hope that other nations will follow our decision.

I ask that articles from the Far Eastern Economic Review and the New York Times be included after my statement.

The articles follow:

[From the New York Times, Mar. 26, 1990]

SLORC CRIMES IN MYANMAR

Behind closed doors, Myanmar's military rulers are committing monstrous deeds. The latest is a mass forced relocation of the urban population reminiscent of Pol Pot's Cambodia. The outside world could bring effective pressure for change—but only if all concerned put humanity ahead of commercial advantage.

In 1988, when the country was still called Burma, student protests sparked a broad popular revolt. Over three decades, Gen. Ne Win's xenophobic "Burmese Way to Socialism" had turned a land rich in rice, teak and minerals into one of the world's poorest nations. After several weeks of democratic hope, troops moved in, mowed down thousands of unarmed protesters and installed the State Law and Order Restoration Council, or Slorc. It was the old regime by a new name.

The country is now known by a new name, too, and the Slorc promises free elections in May. Few have been fooled. Donor nations cut off aid after the massacre, pressing for an easing of repression and a start of real reform. By the end of 1988, the squeeze was starting to take hold and it looked as if the Slorc might be forced to bow to international outrage.

Then, abruptly, commercial relations with Thailand blossomed, replenishing the Sloc's financial reserves, and freeing its political hand. That brought new military offensives against ethnic rebels and students along the Thai border, the arrest and banning of all serious opposition candidates, and now the forced relocation of at least 500,000 urban residents to resettlement towns far from their livelihoods. An entire people is being violated to prolong the power of a murderous, discredited government.

Meanwhile, foreign reporters find it almost impossible to get into Myanmar, and even diplomats are barred from observing the relocation. At a minimum, the U.S. and others need to urge Thailand to condition its commerce on elementary standards of civilized conduct.

[From the Far Eastern Economic Review, Feb. 22, 1990]

BLOOD AND TIMBER: HOW BURMA BOUGHT FRIENDS

BURMA: THE GENERALS BUY TIME

(By Hamish McDonald)

The survival of the army-based regime in Burma is one of the surprises of current politics in southeast Asia. After the massive popular protests that swept the country from March to September 1988—only precariously quelled, it seemed, by a bloodbath that far exceeded last June's Peking massacre—hopes had risen that even Gen. Ne Win and his ostensible successors might bow out to an elected civilian government.

Some 18 months later, most of those hopes are dashed. Brutality has been augmented with cynicism: elections will be held on 26 May, but all those civilian leaders opposed to the Ne Win system, such as Aung San Suu Kyi and Tin Oo, who could gather popular support have been imprisoned or barred from standing, assuring a victory by default for the renamed Burma Socialist Programme Party that has been Ne Win's political vehicle since 1962 (REVIEW, 18 Jan.).

But suppression is easier to understand than Rangoon's ability to finance its own operations. Towards the end of 1988, Burma was reaching the end of the rope. Virtually all its foreign aid programmes had been suspended, and trade was down to a trickle. It had foreign debts of US$5.98 billion (at the end of 1987), requiring US$238 million a year to service. Its foreign reserves were down to US$12 million, of which half was in a credit note that the government was not sure it could cash. If foreign governments kept up the squeeze, it would be only a matter of months before the government ran out of bullets.

As it has turned out, Rangoon has not only survived but is extending its control more firmly over the country than perhaps any time since independence from Britain in 1948. In part, this has been due to the collapse from within of the insurgent Burma Communist Party in the north. But in addition to keeping an iron grip on the cities, the Burmese army is well on the way to achieving a goal beyond it for 40 years: the expulsion of ethnic minority forces from the key trading points on the border with Thailand.

Barter trade is extensive on all the land borders, and more recently foreign oil and hotel enterprises have responded to an opening to foreign investment. There is strong suspicion in Western narcotics control agencies that Rangoon has taken a more direct hand in the opium trade. And Ne Win himself may have dipped into the sizeable personal fortune he is believed to hold in West Germany, Austria, Switzerland and the United States.

But the answer to how Rangoon earned hard dollars at a critical moment in late 1988 lies largely in Thai politics. By tapping on the right door at a fortuitous time, the Burmese Government was able to make a range of fast-paying deals with no awkward questions or political strings. Indeed, the crash sell-off of immediately available resources—timber, gems and fish—yielded the side benefit of Thai cooperation in operations against the ethnic insurgents that Bangkok previously had quietly promoted as a buffer with its historic enemy.

The initiative, taken at the highest levels of the Thai military, could be seen as an extension of Prime Minister Chatichai Choonhavan's notion of turning Indochina from a battlefield into a marketplace, or the Suwannaphume (Golden Peninsula) dream among Thai economic nationalists of Thai prosperity radiating into surrounding countries. If so, it is an extraordinarily exploitative and shortsighted version of these doctrines. Should revolutionary changes come to Burma, the Thai role in plundering its resources at a weak moment will hardly be forgotten. Nor is it an encouraging lesson for the three Indochinese states Bangkok is attempting to court into economic partnership.

THAILAND'S TIMBER SHORTAGE GIVES RANGOON ITS OPENING: PARTNERS IN PLUNDER

(By Hamish McDonald)

BANGKOK.—Teak has long been a commodity immediately associated with Thailand. Much sought after around the world for furniture and boat-building, the hardwood is traditionally sought for carved beams and panels in Thai homes and public buildings, and the forests along the country's western and northern borders sent a seemingly endless stream of teak and other hardwood logs to the sawmills that fulfilled this demand.

But in November 1988, that supply effectively ended. Thailand's forest cover had been cut back from perhaps two-thirds of its total area to less than a third. Much of the remaining jungle was reserved for water conservation and wildlife protection, with forest rangers occasionally losing their lives in the vigil against illegal tree-fellers. Elsewhere, the clearing of the forest was near total, right up to the border. That month unusually heavy rains flowed off denuded hillsides in the south of Thailand, gathering in the valleys, sending water, soil and debris through low-lying villages. In just more than two weeks, 351 people were killed and about US$120 million in property was destroyed.

Touring the stricken area on 26 November 1988, Prime Minister Chatichai Choonhavan pledged to halt the deforestation of Thailand. Two days later, he stopped the issue of new logging concessions and asked his cabinet to revoke existing logging permits nationwide. The effect was applause from conservationists and newspapers—and consternation in the well-connected timber industry.

A none too concealed political wrangle followed, which was not resolved until 14 December 1988, when Thai army commander Gen. Chaovalit Yongchaiyut stepped aboard a C130 transport aircraft with a retinue of 80 staff and reporters and flew to Rangoon for lunch with Gen. Saw Maung, Burmese army chief and head of Slorc, the State Law and Order Restoration Council.

Chaovalit had visited Rangoon before and for him to take such a leading role in the Burma relationship was nothing extraordinary, given Burma's military leadership and the many border security questions between the two countries. What was controversial was the fact noted by Saw Maung in the exchange of cordial speeches about neighbourliness and non-interference: Chaovalit was "the first dignitary to visit us after the new situation has developed in Burma." Actually, it was only three months after Saw Maung's troops gunned down perhaps 3,000 demonstrators in Rangoon.

The visit's timing did draw a short-lived protest in student and liberal circles in Bangkok. And even in self-absorbed Thailand, caught up in a frenetic development boom and getting used to the new prime minister's economic opportunism, the concrete purpose of the Chaovalit-Saw Maung exchanges might have caused wider misgivings if publicised.

But hardly any of the Thai journalists who learned about the real purpose of the visit dared do more than allude to it. One who did, Chatcharin Chaiwat of the Bangkok weekly *Khao Pises* (Special News), was attacked and beaten with a spanner on 21 December 1988. The army secretary, Maj. Gen. Anussorn Krisanaseranee, gave assurances that the military was not involved. He said Chaovalit was "an optimist who is kind and merciful. He holds no grudges against

those who criticise him. A lot of soldiers love him. Perhaps it was the work of someone—who could be a military or civilian man—who was enraged on his behalf."

The Rangoon meeting clinched a deal between an interested buyer—Thailand, which had money and no trees—and a desperately interested seller, which was in the opposite situation. Chaovalit was ideally placed to resolve the main obstacle that had prevented a sale before: the fact that the forest areas most accessible to Thailand could only be brought under Rangoon's control with the Thai military's cooperation and assistance. Thailand could, of course, have kept on buying timber surreptitiously from Burma's insurgents, but on nothing like the scale required after the domestic logging ban.

The agreement nominated a number of border-crossing points for the transfer of logs into Thailand, and the Thais agreed to let Burma station its customs officers *on the Thai side* to assess and stamp the logs being brought out. At least until the Burmese army took control, the loggers would be left to their own devices to extract the timber and deal with local Kachin, Karen and Mon insurgents.

By early December 1988, a stampede of Thai logging concerns were entering deals with Rangoon. A briefing document written by the Burmese Government's Timber Corp. in February 1989 said that 20 concession areas had been contracted along the Thai-Burma border with total exports of 160,000 tonnes of teak logs and 500,000 tonnes of other hardwood logs authorised. The corporation estimated revenues of US$112 million a year from the logging, a bonanza by the scale of Burma's trade.

As the prospects of a total logging ban in Thailand itself hardened, the value of the Burmese concessions correspondingly increased. Sawmills all over the country were going out of business while the price of teak was escalating. But it was not just any Thai logging company which could apply to Rangoon for a logging area. As the Timber Corp. document noted: "In furtherance of the friendly and cordial relations existing between the two countries, Timber Corp. enters into contracts with Thai firms which are recommended by the Thai authorities concerned."

The holders of the 20 initial concessions (up to 20 more were granted later in 1989) include some companies with long experience in forestry—and some which had just been formed or had previous experience in other fields. What is notable is the high proportion of companies with major shareholders affiliated with politicians of the ruling Chart Thai party and its coalition partner, the Social Action Party (SAP), or in at least one case with senior military men.

For example, Boonsawat and Friends Co., which took the first concession (in Pungpahkyem), has as its biggest shareholder former MP Boonsawat Duangjaiekaraj, who has SAP connections. Suchart Tancharoen, younger brother of timber concessionaire Silar International Co.'s Pichet Tancharoen, is a Chart Thai MP.

Union Par Co., which was established on 28 November 1988 and has two concessions, is said in some reports to be a pricesetter for the whole industry. It is just under 50% owned by Preecha Navawongse, a businessman whose son married Chaovalit's daughter Orapin (who died in a road accident in 1984). Preecha's Suco Engineering Co., a sugarmill equipment maker, has also benefited from another of Chaovalit's foreign initiatives, the purchase of Chinese armoured vehicles for the Thai Army. Suco is joint-venture-partner of Chinese arms exporter Norinco in a plant to assemble, repair and possibly export Chinese armoured personnel carriers.

Bangkok press reports have alluded to numerous connections between logging companies and military men, causing armed forces deputy chief Gen. Pak Akanibutr to issue a denial in February 1989 that the military was part of the industry. The problem was, he said, that merchants were using the names of top army officers such as Chaovalit, deputy army commander Gen. Sunthorn Kongsompong and himself for the protection of their business. The armed forces spokesman could not be reached for further comment for this article.

The timber deals roughly coincided with a rush by Thai and other foreign fishing companies for rights to fish in Burma's economic zone. Three Thai companies, and 15 from elsewhere, were licensed, with annual fees for eight of the companies reported at one stage to total US$17.7 million.

Several Thai enterprises have bartered used machinery for Burmese gems and timber. The Bangkok Metropolitan Transit Authority has been trading old buses for teak. A previously little-known but well-placed Thai company, Thip Tharn Thong Co., has been bartering second-hand cars for gems, in addition to entering fishing and timber agreements, and contracting to renovate Rangoon's Strand Hotel. Union Par Co. is likewise planning to restore and operate the Inya Lake Hotel in Rangoon. Entrepreneurs with Chart Thai connections are planning the "Golden Triangle Casino" in the north of Burma close to Chiang Mai. Thai, Japanese, South Korean and Singaporean companies have announced department store ventures for Rangoon.

Later in 1989, the Saw Maung government signed Burma's first onshore oil exploration and long-term production-sharing contracts with nine foreign companies—Yukong of South Korea, Petro-Canada, Amoco and Unocal of the US, Idemitsu of Japan, Kirkland Resources and Croft Exploration of Britain, BHP of Australia, and Royal Dutch-Shell. Almost certainly these contracts involved sizable signature bonuses for the Burmese Government. Early this year, Rangoon awarded its first offshore tin-dredging concession, in the Mergui archipelago, to Thailand's Sea Exploration and Mining Co.

Aside from the question of support for a regime which had demonstrated both extreme brutality and near total economic incompetence, and which clearly intends to make no more than cosmetic changes to the political structure, the sell-off has raised serious concern that Burma's still bountiful resources will be subject to the same depredation as those of Thailand.

In the timber industry, Burmese authorities had previously stuck to the widely respected Burma Selection System of logging worked out over 130 years of experience. This recognises that a teak tree can take over 100 years to reach its mature diameter of 90 in. (2.25 m) at chest height. The system revolves around a 30-year cycle of selective logging in any one area. Witoon Charoen, a director of the Bangkok environmental group Project for Ecological Recovery, thinks any such rules will be disregarded by the Thai contractors, given the shortness of their contracts and lack of supervision. Loggers would rip out the most valuable trees, with no care about damaging smaller trees of saplings.

If in February last year, Burma's Timber Corp. was expressing impatience at holdups in opening border trade posts, the situation changed markedly within months. Recent visitors to border areas report new roads carved through the jungle, machinery and elephants massed, and a heavy stream of log-carrying trucks heading into Thailand. So much timber was coming across by last October that the Thai concessionaires were lobbying for permission to re-export logs and timber from Burma to ward off a fall in prices.

In July 1989, Rangoon stopped issuing logging licenses to Thai firms and stipulated that Thai timber companies would have to buy from local loggers. In December, it amended permits to existing operators to reduce the rate of teak timber extraction from 5,000 tonnes a month to 1,000 tonnes. Witoon said this was "public relations." In most cases, Burmese officials had never actually gone to the border checkpoints, essentially allowing the Thai companies to act on trust. A similar breakdown in confidence happened with fishing by May last year, when Rangoon realised it could not police what had become a free-for-all in the Martaban Gulf.

Thai environmentalists like Witoon fear that the result will be clear-felling all along the Burmese side of the border, which contains many important watershed areas and jungles contiguous with nature reserves on the Thai side. "This is a hard issue to campaign about in Thailand," he said. "After the logging ban, the concern among politicians was to supply the public demand and stop prices rising.

"Historically, the Thais have never liked the Burmese because of wars and occupation. We try to explain that the forest in Burma is part of the same system as in Thailand, so that if you destroy the forest there the effects will be felt here. But it's not strong enough to convince the Thai public, and the Thai press is more interested in the political aspects."

THAI ARMY AIDS CAMPAIGN AGAINST INSURGENTS: SELLING OUT OLD FRIENDS

(By Hamish McDonald)

The Thai rush for resources in Burma has been accompanied by the sellout of the Burmese ethnic minorities whose long struggle against the central government in Rangoon had been quietly supported by the Thai military as part of Bangkok's own national security policy.

Cooperation and possibly even supplies from the Thai military have enabled the Burmese army to clear insurgent armies of the Karen and Mon ethnic groups from their fortified bases along the Thai border, and for the first time in some 40 years sustain a presence in captured territory. The Karen and Mon have lost control of much of their forests and land, and of black-market border trading points.

The Burmese army had begun an offensive against the Karen and Mon in 1984, but were never able to hold territory at the end of tenuous supply lines from coastal towns through the June-October rainy season. The rebel armies—principally the Mon and the Karen in the central sector and the south, the Kachin in the north—were well trained and equipped, with strong fortified bases.

The Thai authorities had long turned a blind eye to their border smuggling and black-market arms purchases, and with a long history of warfare between the ethnic

Burmans (the major ethnic group in Burma) and the Thais, the Thai military promoted the minorities as a buffer against the old enemy. Until two years ago, according to military experts in Bangkok, the Thai army's Special Forces assigned advisers to the Karen National Union's army. The Mon have longstanding links, with the large Mon community settled in Thailand a recruiting pool foir the Thai monarch's forces for two centuries.

All this changed soon after Chaovalit's visit to Rangoon in December 1988, which coincided with the start of the last dry season. In the months that followed, Burmese forces attacked Karen areas with new tactics and unprecedented success. First, the intensity of heavy mortar, rocket and artillery fire showed that the cost of heavy ammunition was no longer a constraint. Secondly, Burmese forces no longer held back from crossing into Thai territory and attacking Karen bases from the rear.

Indeed, sources familiar with the Karen war said the Thai army would evacuate Thai villagers from the areas that Burmese troops were to use for their attack several hours ahead. A signal with smoke flares would indicate the end of the attack. The use of Thai territory had continued even after Burmese soldiers burned down a village thus evacuated, on 20 May last year. Another incursion by hundreds of Burmese troops occurred in July last year.

On 29 December, Burmese troops blasted their way into the Palhu camp of the Karen National Union, the last major Karen base near the Mae Sot-Myawaddy border crossing, and began a sweep south along the Moei River. About 6,000 Karen villagers crossed into Thailand around the end of January, swelling the number in Thai camps to 23,500. "What we are really seeing is the final stages of a 40-year campaign," said a source familiar with the Karen region. "The Karen have lost much of their territory and are now being finished off."

The same process began in January against the Mon, in the area of the Three Pagodas Pass controlling the trade route to Burma. Burmese units advanced along the road from Moulmein in strength, sending 2,000 Mon villagers across the Thai border into the Sanghklaburi district. After fighting for four days, the Burmese captured Three Pagodas Pass on 9 February. Further south, according to exiled Burmese students in Thailand, large units of Burmese soldiers have recently been landed at Mergui and Victoria Point, to begin assaults on Karen bases in the hinterland.

On the night of 9 February, Mon leaders talked to a gathering of their people at a Buddhist temple outside Sangkhlabun in place of the Mon national day celebrations that had been planned at Three Pagodas the following day. The president of the New Mon State Party, Nai Shwe Kyin, insisted that the Burmese had attacked "from Thai territory" and that some troops had been transported in trucks provided by a Sino-Thai businessman. "Without the connivance of the Thai authorities, I cannot see how these Burmese troops came through the pass," he said. "We were guarding all the routes [from Burma]."

Nai Shwe Kyin said the Mon had long relied on Thailand for medicine, food and arms. "All along these 40 years, only with the sympathy of the Thai people could we survive," he said. But last year, the official attitude changed. Thai military men coerced his party into writing a conciliatory letter to Burmese Government head Gen. Saw Maung last year, by threatening to close the border. About two months ago, Thai army personnel were withdrawn from the Three Pagodas Pass region. "It's because of this timber business," the Mon leader said. "Probably because they may have some share in it."

Thai paramilitary units had, meanwhile blocked the road about 10 km from the border, close to where several hundred Mons were encamped. On 10 February, a steady stream of trucks laden with logs came through the checkpoint from the direction of the pass.

It is not clear, however, whether the Thais have completely switched their policy on the Burmese minorities and given carte blanche to the Burmese army.

Military experts in Bangkok doubt that the Thais are given intelligence to the Burmese about the minority armies, though there is cooperation in monitoring the activities of about 2,300 dissident Burmese students living along the border. Supply of food and medicine to isolated Burmese units over the rainy season may be part of the deal. The Thai army also is helping the Burmese set up a new 400-bed military hospital in Rangoon.

Possibly the Thai army will not allow the Burmese to make a complete sweep, to keep the option of reactivating the minority challenge to Rangoon. The objectives seem rather to open trading routes—Chiang Rai to Tachilek, Mae Sot to Myawaddy, Three Pagodas Pass, and Ranong to Victoria Point—with a secure area around them. Even so, it amounts to the reversal of a longstanding national security policy. It could be argued that this policy was in appropriate to relations between modern states. However, a sudden sell-out of the minorities at a time of tightened repression in Burma hardly seems the way to adapt, and change has not been explained to the Thai public or even acknowledged by Thai military leaders.

By the end of the current dry season, the Burmese army will have a tighter grip on the country than at any time before. As well as the gains against the Karen and Mon, events in the north of Burma also may end by helping Rangoon. Since pulling out of the collapsing Burma Communist Party last March, the several thousand-strong army of the Wa minority has been a loose force, and in recent months was reported to be fighting against the notorious Shan drug overlord Khun Sa, whose opium-dealing empire extends across northern Thailand and Burma.

Conceivably, this could allow the Burmese army to take more of a direct role in the opium trade. Some Western governments already suspect that the army is collecting opium in a much more coordinated pattern than ever before. This alone is giving Rangoon new leverage in arguing that its diplomatic and economic isolation prevents it from cooperating with international drug-control efforts, and it is likely that the UN Fund for Drug Abuse Control will soon resume its programme in Burma.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in response to section 308(B) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $3.5 billion in budget authority, and over the budget resolution by $4 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(A) of the Budget Act is $114.6 billion, $14.6 billion above the maximum deficit amount for 1990 of $100 billion.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, March 26, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1990 and is current through March 22, 1990. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated March 5, 1990, there has been no action that affects the current level of spending or revenues.

Sincerely,

ROBERT D. REISCHAUER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 101ST CONG., 2D SESS., AS OF MAR. 22, 1990

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 106	Current level +/− resolution
Budget authority	1,325.9	1,329.4	−3.5
Outlays	1,169.2	1,165.2	4.0
Revenues	1,060.3	1,065.5	−5.2
Debt subject to limit	2,986.2	3,122.7	−136.5
Direct loan obligations	19.1	19.3	−.2
Guaranteed loan commitments	114.7	107.3	7.4
Deficit	114.6	[2] 100.0	[3] 14.6

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 268. In addition, estimates are included of the direct spending effects for all entitlements or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with Sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] Maximum deficit amount [MDA] in accordance with section 3(7)(E) of the Congressional Budget Act, as amended.

[3] Current level plus or minus MDA.

PARLIAMENTARIAN STATUS REPORT, 101ST CONG., 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990, AS OF CLOSE OF BUSINESS MAR. 22, 1990

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			1,068,600
Permanent appropriations and trust funds	954,917	791,226	
Other legislation	639,255	638,374	566
Offsetting receipts	−237,825	−233,738	
Total enacted in previous sessions	1,356,347	1,195,862	1,069,166
II. Enacted this session:			
III. Continuing resolution authority:			
IV. Conference agreements ratified by both Houses:			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution:			
Salaries of judges	−2	5	
Payment to judicial officers' retirement fund	−4	−4	
Judicial survivors' annuities fund	−3	−3	
Fees and expenses of witnesses	−2		
Justice assistance	−4		
Fisherman's guaranty fund	1	1	
Administration of territories	−1		
Firefighting adjustments	−624	−192	
Federal unemployment benefits (FUBA)	5		
Advances to unemployment trust fund	(48)	(48)	
Special benefits	−24		
Black Lung disability trust fund	52	32	
Vaccine improvement program trust fund	7	7	
Federal payment to railroad retirement	1	1	
Retirement pay and medical benefits	−4		
Supplemental security income	263	263	
Special benefits, disabled coal miners	21		
Grants to states for Medicaid	−907		
Payments to health care trust funds	(325)	(325)	
Family support payments to states	84	84	
Payments to states for AFDC work programs	15	15	
Payments to states for foster care	−83		
Health professions student loan insurance fund	−25	−7	
Guaranteed student loans	−175		
College housing and academic facilities loans	−3	−3	
Rehabilitation services	−79		
Payments to widows and heirs	(1)	(1)	
Reimbursement to the rural electrification fund	111	111	
Dairy indemnity program	(1)	(1)	
Conservation reserve program	720		
Special milk program	−2		
Food stamp program	−800		
Child nutrition programs	−74		
Federal crop insurance corporation fund	(1)		
Agriculture credit insurance fund	342		
Rural housing insurance fund	(1)		
Rural communication development fund	(1)		
Payments to the farm credit system financial assistance corporation	−2		
Coast Guard retired pay	−17		
Payment to civil service retirement	(84)	(84)	
Government payments for annuitants	−3	−2	
Readjustment benefits	−62		
Compensation	448	398	
Pensions	−62		
Burial benefits	−4		
Loan guaranty revolving fund	238	238	
Disaster relief	−1,100	−883	
Total entitlement authority	−1,757	62	
VI. Adjustment for economic and technical assumptions	−28,685	−26,763	−8,900
Total current level as of March 22, 1990	1,325,905	1,169,160	1,060,266
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		3,960	
Under budget resolution	3,495		5,234

[1] Less than $500,000.

Notes.—Numbers may not add due to rounding. Amounts shown in parenthesis are interfund transactions that do not add to totals.●

AWARD OF CONGRESSIONAL GOLD MEDAL TO LAURANCE SPELMAN ROCKEFELLER

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 484, S. 1853, a bill to award the Congressional Gold Medal to Laurance S. Rockefeller.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1853) to award a Congressional Gold Medal to Laurance Spelman Rockefeller.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1379

(Purpose to make a technical correction to S. 1853)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator CHAFEE, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE,] for Mr. CHAFEE, proposes an amendment numbered 1379.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 22, strike "Park and Recreation" and insert in lieu thereof "Recreation and Park".

Mr. DOLE. Mr. President, a parliamentary inquiry: It is my understanding that we need to redraft the amendment. I ask unanimous consent that we may make that change.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1379), as modified, is as follows:

On page 5, line 2, strike "Park and Recreation" and insert in lieu thereof "Recreation and Park".

Mr. CHAFEE. Mr. President, this amendment is a technical amendment which simply corrects a small error made in naming the National Recreation and Park Association.

I would like to take a moment to express my appreciation to the chairman of the Banking Committee for his assistance in bringing this legislation to the floor. I also thank the majority leader and my other colleagues for their support for this important bill.

S. 1853 bestows a fitting honor on Laurance Spelman Rockefeller, a man whose lifelong dedication toward protection of open spaces, historic landmarks, and the environment will benefit all Americans for generations to come. The fact that over 50 Senators have cosponsored this bill is testimony to Laurance Rockefeller's stature as one of the great conservationists of our time.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 1379) as modified, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1853

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) Laurance Spelman Rockefeller followed in the tradition of his father, John D. Rockefeller, Jr., by enlarging and enhancing the National Park System of the United States, including the donation of five thousand acres on the Island of St. John for the Virgin Islands National Park;

(2) Laurance Spelman Rockefeller was appointed by President Dwight D. Eisenhower as chairman of the Outdoor Recreation Resources Review Commission, and his work led to the establishment of the Bureau of Outdoor Recreation, the Land and Water Conservation Fund, the Wilderness Act, the National System of Scenic Rivers, and other landmark conservation programs;

(3) Laurance Spelman Rockefeller was appointed by President Lyndon B. Johnson as Chairman of the 1965 White House Conference on Natural Beauty, and his recommendations brought the concept of natural beauty to urban areas, led to the Highway Beautification Act, and increased State and local awareness of environmental issues;

(4) Laurance Spelman Rockefeller collaborated with Lady Bird Johnson in her quest to beautify the United States and the Capital, and assisted her in the creation of the Lyndon Baines Johnson Memorial Grove in Washington, District of Columbia;

(5) Laurance Spelman Rockefeller served President Richard M. Nixon and President Gerald R. Ford as chairman of Presidential advisory committees on environmental quality, and served on other Federal advisory groups, including the Public Land Law Review Commission and the National Park Foundation;

(6) Laurance Spelman Rockefeller served as a member of the New York State Council of Parks for thirty years and, as its chairman, expanded and modernized the State park system through an innovative bond program which was replicated across the Nation;

(7) Laurance Spelman Rockefeller served as a principal advisor on environmental matters to his brother, Governor Nelson A. Rockefeller of New York, and helped to develop the Adirondack Park Agency, the Hudson River Valley Commission, the first State water pollution bond issue, and the

first comprehensive State environmental and conservation agency;

(8) Laurance Spelman Rockefeller served as a member and President of the Palisades Interstate Park Commission for forty years and made may donations to expand the Palisades Interstate Park System;

(9) Laurance Spelman Rockefeller contributed to the environmental quality of New York City through his efforts on behalf of the New York Zoological Society and the Bronx Zoo, the New York Aquarium, Central Park, and other parks in the city;

(10) Laurance Spelman Rockefeller, as a partime resident of Woodstock, Vermont, has contributed to the environmental aesthetics of that community through promotion of the placement of power lines underground, the initiation of watershed planning, and the preservation and display of historic properties and objects;

(11) Laurance Spelman Rockefeller has been the long-time guiding force in three significant private conservation organizations: Jackson Hole Preserve, Incorporated, which has preserved park land in the grand Tetons of Wyoming, the Virgin Islands, and the Hudson Valley; the American Conservation Association, which has provided support and encouragement for innovative government and private conservation programs; and Historic Hudson Valley, Incorporated, which has preserved outstanding historic properties of the Hudson Valley for public use;

(12) Laurance Spelman Rockefeller has played an important role in creating or leading other private conservation organizations, including Resources for the Future, the National Recreation and Park Association and the Conservation Foundation; and

(13) Laurance Spelman Rockefeller, in addition to his extraordinary contributions to the environment in the United States, is one of the leaders in the fight against cancer with more than forty years of dedicated work and benefactions to the Memorial Sloan-Kettering Cancer Center.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to Laurance Spelman Rockefeller in recognition of his leadership on behalf of natural resource conservation and historic preservation.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

(c) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated not to exceed $25,000 to carry out this section.

SEC. 3. DUPLICATE MEDALS.

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, and overhead expenses and the cost of the gold medal.

(b) REIMBURSEMENT OF APPROPRIATION.—The appropriation used to carry out section 2 shall be reimbursed out of the proceeds of sales under subsection (a).

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act shall be considered national medals for purposes of chapter 51 of title 31, United States Code.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of H.R. 2692, regarding the Woodrow Wilson International Center for Scholars, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2692) to amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life shall be members of the Board of Trustees of the Woodrow Wilson International Center for Scholars.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2692) was ordered to a third reading, was read the third time, and passed.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING THE REPRINTING OF COMMITTEE PRINT 101-61

Mr. BAUCUS. Mr. President, I ask unanimous consent that 400 copies of "Reform and Innovation in Science and Agriculture: Planning for the 1990 Farm Bill," Committee Print 101-61, be reprinted.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—S. 2338

Mr. BAUCUS. Mr. President, on behalf of Senator CRANSTON, I ask unanimous consent that a bill introduced earlier today by Senators CRANSTON, MURKOWSKI, and others, S. 2338, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. BAUCUS. Mr. President, the majority leader asked me to briefly lay out the schedule for tomorrow as he outlined it earlier today.

On tomorrow, Tuesday, March 27, the Senate will convene at 8:45 a.m. Following the prayer, and upon resuming the clean air bill, the time until 9:30 a.m., will be equally divided in the usual form on the pending Nickles-Heflin amendment, with a vote on, or in relation to the amendment occurring at 9:30 a.m.

Once that vote has been completed, the Senate will recess subject to the call of the Chair. This recess will permit Members of the Senate to join with their House colleagues in a joint ceremony to honor the centennial of the birth of President Dwight D. Eisenhower. When the Senate reconvenes, there will be time for the two leaders. Following leader time, the Senate would resume consideration of the clean air bill until 1 p.m., when the Senate will recess until 2:30 p.m. for the respective party conferences.

Consideration of the clean air legislation will then resume at 2:30.

ORDER FOR RECESS UNTIL 8:45 A.M. TOMORROW

Mr. BAUCUS. Mr. President, I ask unanimous consent that, at the conclusion of four statements by the distinguished Republican leader, that the Senate stand in recess under the previous order until 8:45 a.m., March 27.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I thank the Senator from Montana and the Presiding Officer. I will take just a few moments.

TOO BIG TO FAIL OR TOO BIG TO SAVE

Mr. DOLE. Mr. President, when people talk about the "too big to fail" doctrine, they normally mean that the big money-center banks get preferential treatment under the Federal deposit insurance system.

But the too big to fail doctrine has a broader meaning. It means that the small banks of this country sometimes get a raw deal when it comes to the enforcement of our Federal banking regulations.

FIRST STATE BANK OF EDNA

Two weeks ago, I learned that the FDIC had imposed a $9,600 fine upon the First State Bank of Edna, which is located in a small town of 500 called Edna, KS. The fine was imposed because of Edna's 2-week delay in filing its quarterly call report with the FDIC. Edna readily admits its mistake, but insists that the filing delay was caused by simple human error.

A $9,600 fine may not mean much to a money-center bank. It may not mean much for the executives on Wall Street. But it is a very big deal for a small bank like Edna. Edna maintains only 800 direct deposit accounts, has total assets approximating $10.5 million, and had net annual earnings of approximately $80,000 in 1989.

A $9,600 fine, in other words, represents more than 12 percent of Edna's annual net earnings. More than 12 percent. To put this in perspective, the $9,600 fine imposed upon Edna would be comparable to a $120,000 fine imposed upon a bank whose annual net earnings were $1 million—all because of a filing violation that was inadvertent, easily corrected, and corrected immediately after it was discovered.

The size of Edna's fine seems even more disproportionate when an additional fact is considered—the fact that Edna had not once—not once—missed a single filing deadline during its 15-year history.

THE FDIC DESERVES CREDIT

To its credit, the FDIC recognizes that the fine imposed upon Edna was way out of line. Last week, I received a letter from the FDIC's Chairman, William Seidman, stating that the FDIC staff has been directed to reevaluate FDIC fine policies to ensure that the size and financial resources of an institution are first considered before a penalty is imposed. That makes a lot of common sense.

Mr. President, I commend the FDIC for having the institutional courage to recognize its blunder and for taking the steps to correct it. All too often Federal bureaucracies ignore common sense when wielding the regulatory ax, forgetting that a real-life business is usually on the other end of the regulatory ax-blade.

But in this instance, at least, the FDIC has proven that common sense does indeed have a place in Federal banking regulation.

Nevertheless, the simple fact that Edna has had to fight the fine tooth and nail—calling upon the Kansas Bankers Association, calling upon the Independent Bankers Association of America, and finally calling upon me—suggests that our Federal banking regulators are not always sensitive to the business realities of the small banks in this country. There are many small banks in my State and in the Presiding Officer's State, and we want them to stay there. We are having difficulty in our State in making ends meet. It suggests that a rethinking of the too big to fail doctrine is certainly in order.

Let us face it: Under any definition, "too big to fail" should not mean "too small to save."

Mr. President, I ask unanimous consent that the full text of this letter from L. William Seidman be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC, March 16, 1990.

Hon. ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: Thank you for your recent letter regarding the $9,600 civil Money Penalty to be imposed on the Edna State Bank, Edna, Kansas for the late filing of it's September 30, 1989 Call Report.

We appreciate your concern that fines of this nature should not have an unduly harsh impact on small rural banks with limited income and resources. The September Call Reports were the first reports due since the passage of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which substantially increased the penalties for late filing.

The staff has been directed to reevaluate our policies for imposing fines of this nature, particularly in regard to their impact on the financial resources of smaller banks. In revising our policy the staff will develop a means whereby the amount of the penalty assessed equitably takes into account the size and financial resources of the institution and will not have an undue impact on the financial position of a small bank.

You can be assured that the penalty on the Edna Bank will be reassessed in light of these new procedures and that every effort will be made to deal equitably with the Bank.

With best wishes.

Sincerely,

L. WILLIAM SEIDMAN,
Chairman.

INVESTIGATION OF INDIAN OIL PURCHASES

Mr. DOLE. Mr. President, when I was county attorney in Russell County, KS, I learned early on that it is important not to rush to judgment; that you need to have all the evidence, and all the facts, and all the disputes over the evidence resolved, before you reach your conclusions.

That time-tested lesson is deeply embedded in our system of law.

In the Congress, fact-finding is often carried out not by courts but by investigative committees. Those committees are not bound by all the procedures of courts, but they have the same essential mission: to get to the truth. In general they do a pretty good job.

There is also the same need to be fair and accurate. Committee's reports can have much the same impact on a person or a company and a reputation as the adverse judgment of a court—without the constitutional safeguards.

A few months back, the Senate Indian Affairs Committee's Special Investigative Subcommittee released a report stating that a Kansas company, Koch Industries, was engaged in systematic theft in its purchases of oil from the Osage Indians of Oklahoma. The published report, which received news coverage here and in Kansas and Oklahoma, was rather widespread.

Several Senators, including myself, Senator KASSEBAUM, Senator BOREN and Senator NICKLES, had very real concerns about some of the evidence on which the special committee was basing its findings, concerns we raised with the committee in successive letters before the report was issued.

It now looks like those concerns were well founded. Last week, the Bureau of Land Management—part of the Department of the Interior—reported that, contrary to the allegations made in the committee's report, it could find no evidence of any misconduct or fraud in Koch's dealings with the Osage Indians.

Even more tellingly, this followed only 2 days after the Osage Nation's own report reaching the same conclusion—stating, significantly, that the Osage Nation "looks forward to doing business with Koch in the future."

Mr. President, I ask unanimous consent to print in the RECORD articles from the Wichita Eagle, the Daily Oklahoman, the Tulsa World, and the Tulsa Tribune, all bearing on this development.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Tulsa Tribune, Mar. 21, 1990]

OSAGES DENY TRIBE SWINDLED IN OIL DEALS

WICHITA.—Osage tribal officials say Koch Industries Inc. didn't steal millions of dollars worth of oil from the Osage Indians as a Senate subcommittee alleged nearly a year ago.

In the Monday edition of the Osage Nation News, the Osage Tribal Council revealed it investigated Koch purchases in Osage County in Oklahoma for 1987, 1988 and the first five months of 1989.

"The Osage Tribal Council has found after a thorough examination and independent study that overpayments of royalties by Koch were made as well as underpayments," the article said.

Tribal investigators found the net amount owing when the overpayments and underpayments were reconciled was about $22,000 plus $7,057 in late penalties.

"The Osage Tribal Council did not find evidence to substantiate the accusations of the subcommittee of the sums of money alleged to have been unlawfully made in Osage County by Koch Industries Inc.," the tribal newspaper said.

Don Cordes, Koch executive vice president for corporate and legal affairs, said Tuesday about 85 percent of the oil Koch purchases from Indian nations is bought from the Osages in Oklahoma.

Koch had control of more than 10 million barrels of Osage oil during the period investigated and paid royalties of approximately $33 million for it.

"This report completely undermines the false allegations of the Senate subcommittee which asserted that Koch was taking millions of dollars of oil from the Indians without paying for it," Cordes said.

Cordes said Koch records indicate a net overpayment to the Osages. But the $22,000 discrepancy alleged by the tribe is less than one-tenth of 1 percent of the total royalties paid during the period, Cordes said.

"However, the differences between the Osage and Koch numbers are so tiny in relation to the total volume of business done that the Senate allegations are demonstrably false under either conclusion," Cordes said.

Both sets of figures demonstrate the inexactness and imprecision of measuring crude oil, Cordes said.

Koch officials maintained from the start of the controversy factors such as temperature, crude oil composition and holding tank conditions make precise measurement of crude impossible.

[From the Daily Oklahoman, Mar. 21, 1990]

OSAGE ROYALTIES PROBE CALLS OIL PAYMENTS FAIR

(By Bob Vandewater)

The Osage Tribal Council has found no evidence to support a U.S. Senate subcommittee's accusations last year that Koch Industries Inc. stole millions of dollars from Indian oil royalty owners in Oklahoma.

"This report completely undermines the false allegations of the Senate subcommittee which asserted that Koch was taking millions of dollars of oil from the Indians without paying for it," Donald Cordes, Koch executive vice president of legal and corporate affairs, said Tuesday.

Koch Industries is the largest buyer of Oklahoma crude oil.

Last spring a special Senate Indian Affairs subcommittee cited Koch, alleging underpayment of Indian oil royalties. But the Wichita, Kan. based Koch vehemently denied the charges.

Nevertheless, the Senate panel reiterated—in harsh language—the accusations as "the most dramatic example of an oil company stealing by deliberate mismeasurement and fraudulent reporting."

Last November, the federal Minerals Management Service (MMS), a royalty accounting arm of the U.S. Interior Department, reported that preliminary findings, "haven't found any indication of fraud or theft" by Koch.

Cordes said Tuesday that he expects the final federal report to find that the Senate subcommittee's accusations were without foundation.

The Osage Tribal Council investigation, triggered by the Senate subcommittee allegations, covered Koch's crude oil measurement practices in Osage County from 1987 through the first five months of 1989, the same period covered by the Senate probe.

The council found occasional differences favoring the Osage at times and Koch at other times, with the net balance favoring Koch by less than a tenth of 1 percent, or about $22,000.

In the period studied, Koch controlled purchases of more than 10 million barrels of oil in Osage County and royalty payments to the tribe of about $88 million, the tribal council reported.

Cordes said about 85 percent of the oil bought by Koch from Indian interests is from the Osage Tribe.

The council said it "did not find any evidence to substantiate the accusations of the subcommittee of the sums of money alleged to have been unlawfully made in Osage County by Koch."

Cordes said that although the Osage found Koch underpaid royalties by about $22,000, Koch's records "show that we actually overpaid Osage royalities" by about $16,000.

But the difference is so small in relation to the volume between Koch and the Osage that the Senate subcommittee allegations "are demonstrably false under either conclusion," Koch said.

"In fact, both numbers simply demonstrate the inevitable inexactness and imprecision in measuring crude oil," the company stated.

The Osage tribal council said. "We look forward to the continuation of business with Koch Industries Inc."

[From the Tulsa World, Mar. 2, 1990]

ALLEGATIONS FIRM CHEATED OSAGES FALSE, TRIBE SAYS

WICHITA. KS.—Koch Industries Inc. didn't steal millions of dollars worth of oil from the Osaga Indians as was alleged by a Senate subcommittee nearly a year ago, according to Osage officials.

In the Monday edition of the Osage Nation News, the Osage Tribal Council revealed that it investigated Koch purchases in Osage County, Okla., for 1987, 1988 and the first five months of 1989.

"The Osage Tribal Council has found after a thorough examination and independent study that overpayment of royalties by Koch were made as well as underpayments," the article said.

Tribal investigators found the net amount owed when the overpayments and underpayments were reconciled was about $22,000 plus $7,057 in late penalties.

"The Osage Tribal Council did not find evidence to substantiate the accusations of the subcommittee of the sums of money alleged to have been unlawfully made in Osage County by Koch Industries Inc.," the tribal newspaper said.

Don Cordes, Koch executive vice president for corporate and legal affairs, said Tuesday about 85 perecent of the oil Koch purchases from Indian nations is bought from the Osages in Oklahoma.

Koch had control of more than 10 million barrels of Osage oil during the period investigated and paid royalties of approximately $33 million for it.

"This report completely undermines the false allegations of the Senate subcommittee, which asserted that Koch was taking millions of dollars of oil from the Indians without paying for it," Cordes said.

[From the Wichita Eagle, Mar. 21, 1990]

INDIAN PROBE FINDS NO FRAUD BY KOCH OIL

(By Gary Boulton)

An investigation by the Osage tribal Council in Oklahoma has found no evidence that Koch Oil Co. systematically stole oil from wells on Indian lands.

The tribal council's investigation refutes the conclusions of a Senate investigation last year that Koch shortchanged the Osage tribe by consistently under-measuring the amount of oil it bought from wells on Indian lands.

A study done by the tribe found Koch underpaid the tribe $22,000 in royalties from January 1987 to May 1989, said Ralph Adkisson, a member of the Osage Tribal Council. During this period, Koch paid $33 million in royalty income to the tribe and bought 10 millions barrels of oil.

"The net result was a minor amount of money that was still owed to the tribe," Adkisson said.

A statement issued by the Osage Tribal Council on the investigation appeared in the Osage Nation News last week.

"We are just making a statement to clear the air. We know what Koch Oil owes us, we've added a late fee and that ends it as far as we are concerned," Adkisson said. "We are going to continue to do business with Koch Oil. We look forward to it."

Donald Cordes, associate vice president of legal and corporate affairs for Koch, said the company had not addressed the question of whether it would pay the $22,000 and $7,000 in late fees to the tribe. Koch's records indicated the company had overpaid the tribe by $16,000.

"They're a good customer; we want to keep them happy," Cordes said.

Osage lands produce 85 percent of the oil that Koch purchases from Indian interests. The tribe owns the mineral rights for all of Osage County in northeastern Oklahoma.

Koch Oil, a subsidiary of Koch Industries, welcomed the Osage tribe's study as additional proof that the Senate subcommittee's allegations were baseless.

"This report completely undermines the false allegations of the Senate subcommittee, which asserted that Koch was taking millions of dollars of oil from the Indians without paying for it," Cordes said in a news release.

In November, the Senate Select Committee on Indian Affairs released a report that alleged Koch "is the most dramatic example of an oil company stealing by deliberate mismeasurement and fraudulent reporting."

Staff members who served on the committee, which has been disbanded, could not be reached for comment.

The subcommittee report cited former Koch employees who allegedly told investigators that the company pressured them to mismeasure oil purchases in the company's favor.

The report also cited Koch records that showed Koch shortchanged producers by $30 million during the previous three years.

The subcommittee's use of that figure, without mentioning the overall volume of the oil company's annual purchases, particularly enraged Koch.

Koch buys more than $4 billion of oil a year, Cordes said Wednesday, and $30 million over a three-year period represents a fraction of a percent of the company's total volume.

The 474,281 barrels of oil, or $7.1 million, the company did not pay for in 1988, for instance, represented less than one-fourth of 1 percent of the company's total oil purchases, Cordes said.

Koch's measurements were off by four barrels for every 2,060 barrels of oil it purchased, he said, "so it really gets down to being a tiny percent."

The allegations were an outgrowth of the subcommittee's investigation of the Bureau of Indian Affairs. Indians receive between one-eighth and one-fifth of the revenues from oil and gas production on their lands. The balance belongs to the producer.

"This is a competitive business. There is no way you can cheat your customers and stay in business," Cordes said. "The producers are no dummies."

The committee's findings were referred to the Justice Department, and the U.S. attorney in Oklahoma City is conducting an investigation into the allegation.

Cordes said he could not comment on the investigation.

Arlene Joplin, chief of the criminal division for the U.S. attorney in Oklahoma City, also said she could not confirm or deny the existence of an investigation.

Mr. DOLE. These findings only underscore the misgivings that I and other Senators had about some of the

testimony and other information that was put before our colleagues on the special committee.

It is too bad that the committee did not have the Bureau's study, or the testimony of the Osage Nation officials themselves, before completing its report. In Kansas, Koch Industries, with 8,000 employees, has been a solid corporate citizen. As with every citizen, it is important that it be treated fairly and not judged until all the evidence is in.

PERMITTING AND ENFORCEMENT AUTHORITY UNDER THE CLEAN AIR ACT

Mr. DOLE. Mr. President, I want to just take a minute or two to support the effort of Senator NICKLES and Senator HEFLIN. I will make brief remarks again tomorrow morning.

But we have introduced, as they pointed out today, with the full support of the administration, language to improve the enforcement and permitting authority of the Clean Air Act.

The language retains the strong environmental and health goals of the bill. In fact, it enhances those goals by ensuring that there will be less disruption of the State programs and more sources will be controlled more quickly and that the huge number of plants affected by this legislation will have some degree of certainty in making their environmental commitments.

Mr. President, I want to make it very clear that the proposal offered by the distinguished Senators from Montana and Rhode Island is not part of the leadership package because no one is bound here. It is not part of the leadership package. There has been confusion on this point during the last week.

I know a number of Members and staff have been under the mistaken impression that the Chafee-Baucus language was part of what was agreed on in the negotiations. Let me assure other Members we did not discuss nor agree to any of this language during negotiations. Neither was it considered or reported during the committee deliberations.

The language in amendment No. 1293 reflects work done only by staff after the committee reported the bill.

Mr. President, the amendment that has been offered and discussed this afternoon will provide a solid base for enforcing the Clean Air Act by putting all legal requirements for a source in one easily accessible place, namely the permit.

That permit will also enable sources to make necessary and authorized changes without going through a long, bureaucratic regulatory process for each change.

America's manufacturers—an estimated 50,000 plants—are required under this bill to put on the tightest controls we know of—often with little or no regard to cost. Every industry will have to meet a complicated regime of control and reporting requirements. We are asking a lot of American business under this bill. What we want to be certain we do not do is increase that burden by asking them to do things that are not necessary to protect public health. We want to reduce delay, confusion, uncertainty, and complexity—all of which translate directly into dollars.

We have spent a great deal of time during the last few weeks talking about the enormous costs this bill imposed on American workers. We have argued about the equities of who will receive job relief because of this legislation. We know this bill is going to cost a lot. Whether it is $22 billion or $60 billion per year—or more—we are talking about a lot of money. Let me assure you that permitting and enforcement may sound vague and intangible, but we are discussing a measure that once again has a major impact on the economic health of our industries.

I especially want to be sure that small companies, which will also have to meet all these requirements, do not suffer more of a burden than they have to. Most of them, I might add, are in small States, many in my State. Most of them are not staffed to meet the paperwork and reporting demands of this complex measure. I know that most American businessmen and women do not want to violate the laws. They want to comply. But under the Baucus-Chafee language, they will be overwhelmed with needless requirements. I for one do not want to increase their legal jeopardy without actual benefits to the air.

So let us not make the problem worse. We have initiated a massive clean air program in this bill. This legislation draws more facilities and operations into the law than ever before. But we need to focus on the environment—not on creating more jobs for lawyers, environmental activists, and bureaucrats. Time is money, and the direct and indirect costs of trying to meet the requirements in this bill will be very high.

Most business people are going to be confronted with these complicated terms—MACT, BACT, RACT, LAER, NSPS, CTG, PSD, and so on. I just heard them for the first time during these long days and nights of discussion, and I cannot keep them straight. But, luckily, I am not the one who has to put on controls to meet these standards. And I do not want to be the one to tell the manufacturers of America that the rules will keep changing—or that they will have to make a change or add more controls each time a rule changes or each time some environmental group decides that it wants to challenge a rule or a permit.

We all talk about America's competitiveness or our concern that it may decline. America is competing in a world marketplace, and I for one do not want to put our companies at a tremendous disadvantage—not by requiring strict pollution control from them but by making them jump through unwarranted and unnecessary bureaucratic hoops. The Baucus-Chafee language does just that by introducing more delays, more layers of bureaucracy, legal inconsistencies and outside intervention. It also allows confidential business information to be made public. Our chemical industry survives because of trade secrets. But process and formula secrets would not be protected under the Baucus-Chafee language.

Mr. President, let me state again that the language offered by the Senators from Montana and Rhode Island is not part of the leadership package. It was not discussed nor agreed to during the negotiations. Neither was it considered or reported during the committee deliberations.

The committee adopted during its markup the package of enforcement and permitting titles submitted by the administration. That package was taken up in the last minutes of markup without discussion. In fact, it was offered by my friend, the distinguished Senator from Rhode Island, at the behest of the administration.

But that earlier administration proposal had some flaws. The administration went back and worked with the affected parties to address many of the concerns that had been raised earlier. This process has led to a much better package than before. That is the bill we offer today. The Baucus-Chafee proposal, however, added more requirements which make their package even more burdensome, unworkable, and unfair.

The Nickles-Heflin-Dole amendment is going to work. It is going to give some certainty to business while protecting the environment with strong safeguards. It will streamline the permit process and enable better controlled sources to operate more quickly. It will ensure vigorous and fair enforcement and ensure that basic constitutional rights of citizens are protected. I hope you will support it.

But I wanted to ask just for the record that when some of these proposals are reviewed, I wonder how many people in my State are going to know what MACT is, and what BACT is, and RACT is, and LAER is, and CTG is, and PSD.

MACT, M-A-C-T, is maximum achievable control technology; BACT is best available control technology; RACT is reasonably available control technology; LAER is lowest achievable emission rate; CTG is control tech-

niques guidance; and PSD is prevention of significant deterioration.

I assume that when all of these alphabet compliance provisions hit the average person, they are going to be somewhat confused. I would just suggest, before we make it too difficult, that we take a look, apply some common sense, and hopefully adopt the amendment that is pending to this bill offered by the distinguished Senator from Alabama, Senator HEFLIN, the Senator from Oklahoma, Senator NICKLES, myself, and about a dozen other cosponsors.

Mr. President, I yield the floor.

RECESS UNTIL TOMORROW AT 8:45 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 8:45 a.m., Tuesday, March 27, 1990.

Thereupon, the Senate, at 6:08 p.m., recessed until Tuesday, March 27, 1990, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate March 26, 1990:

RESOLUTION TRUST CORPORATION

PHILIP C. JACKSON, JR., OF ALABAMA, TO BE A MEMBER OF THE OVERSIGHT BOARD OF THE RESOLUTION TRUST CORPORATION FOR A TERM OF THREE YEARS. (NEW POSITION)

NAVAJO AND HOPI RELOCATION

CARL J. KUNASEK, OF ARIZONA, TO BE COMMISSIONER ON NAVAJO AND HOPI RELOCATION (NEW POSITION).

IN THE AIR FORCE

THE FOLLOWING-NAMED INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE (ANGUS) IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 593 AND 8351, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES AS INDICATED. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER.)

BIO-MEDICAL SCIENCE CORPS

To be lieutenant colonel

ROBERT A. GROSS, xxx-xx-xxxx 11/5/89

MEDICAL CORPS

RICHARD A. CURTIN, xxx-xx-xxxx 8/5/89
JAMES L. FITZGERALD, xxx-xx-xxxx 8/19/89
ROLAND G. LOWDEN, xxx-xx-xxxx 10/28/89
WILLIAM C. WOOD, xxx-xx-xxxx 8/7/89

NURSE CORPS

OLIVER K. WILLIAMS, xxx-xx-xxxx 9/6/89

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER.)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. JAMES M. BEAN, xxx-xx-xxxx 12/2/89
MAJ. WESLEY R. BELTER, xxx-xx-xxxx 12/2/89
MAJ. LARRY T. BERGERSON, xxx-xx-xxxx 12/2/89
MAJ. MICHAEL P. BLACK, xxx-xx-xxxx 12/9/89
MAJ. MICHAEL J. CAHILL, xxx-xx-xxxx 12/11/89
MAJ. RICHARD S. CAIN, xxx-xx-xxxx 11/27/89
MAJ. JOE A. CAMP JR., xxx-xx-xxxx 11/27/89
MAJ. BILLY J. COX, xxx-xx-xxxx 12/8/89
MAJ. MARY E. COX, xxx-xx-xxxx 12/2/89
MAJ. HANS K. CROSTHWAITE, xxx-xx-xxxx 12/14/89
MAJ. LARRY D. DILLON, xxx-xx-xxxx 1/2/90
MAJ. PHILIP A. HOFMANN JR., xxx-xx-xxxx 11/3/89
MAJ. THOMAS J. HUEBSCH, xxx-xx-xxxx 12/9/89
MAJ. EDWARD C. JONES, xxx-xx-xxxx 1/2/90
MAJ. RICHARD W. LARSON, xxx-xx-xxxx 12/13/89
MAJ. JOHN A. LEMOND JR., xxx-xx-xxxx 12/29/89
MAJ. LAURENCE D. MATLOCK, xxx-xx-xxxx 12/9/89
MAJ. JOHN E. MILLER, xxx-xx-xxxx 12/2/89
MAJ. ROBERT B. OLLIS, xxx-xx-xxxx 12/3/89
MAJ. GARY A. ROGALINER, xxx-xx-xxxx 12/2/89
MAJ. LEE SPRADLIN, xxx-xx-xxxx 12/2/89
MAJ. JAMES R. TAFT, xxx-xx-xxxx 12/2/89
MAJ. RALPH D. TELLEFSEN, xxx-xx-xxxx 12/3/89
MAJ. DANIEL S. UNGER, xxx-xx-xxxx 8/1/89
MAJ. TIMOTHY A. WEAVER, xxx-xx-xxxx 1/2/90

LEGAL CORPS

MAJ. THERESA Z. BLUMBERG, xxx-xx-xxxx 12/9/89
MAJ. GARY L. NAPIER, xxx-xx-xxxx 12/3/89

MEDICAL SERVICES CORPS

MAJ. HAROLD C. SIMS II, 252-68-9890, 12/2/89

IN THE NAVY

THE FOLLOWING-NAMED CANDIDATES IN THE NAVY ENLISTED COMMISSIONING PROGRAM TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ANTHONY J. ALLEMAN, II	BOBBY A. KING
TRACY M. CARR	BRYAN J. KLIR
DANIEL W. CROWE	JEFFREY S. MANNING
WILLIAM H. FREY, III	ANGUS P. REGIER
KENDALL GENNICK	GEORGE J.A. VANRIJN, IV
JAMES R. JUPENA	

THE FOLLOWING-NAMED U.S. NAVY OFFICER TO BE REAPPOINTED PERMAMENT ENSIGN IN THE CIVIL ENGINEER CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

DAVID W. STOLLBERG

THE FOLLOWING-NAMED U.S. NAVY OFFICER TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE CIVIL ENGINEER CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

ROBIN A. YOUNG

THE FOLLOWING-NAMED CHIEF WARRANT OFFICER, W-4, U.S. NAVY, RETIRED, TO BE REAPPOINTED A TEMPORARY CHIEF WARRANT OFFICER, W-4, IN THE U.S. NAVY FROM THE TEMPORARY DISABILITY RETIRED LIST, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 1211:

ROBERT J. FALLS

THE FOLLOWING-NAMED EX-U.S. NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

ROBER M. MILLS, JR.	EUGENE T. SAITER
ROGER D. REVILLE	GERALD L. WILKS

THE FOLLOWING-NAMED EX-U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

JAMES B. CONNER	LEONARD A. PARKER, JR.

THE FOLLOWING-NAMED MEDICAL COLLEGE GRADUATE TO BE APPOINTED IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

CLAUDE L. MCFARLANE

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT CAPTAIN IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

ARJANG K. MIRENADI	JOHN T. O'BRIEN

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

JAMES T. ALEXANDER	NILS S. ERIKSON
ROBERT G. BEDOUT	CHRISTOPER S. HOLLAND
RICHARD J. BRILLI	SEIJI KITAGAWA
ESTELIAT L. CARANDANG	JOHN O. MARTIN, JR.
RICHARD A.K. CHAFFOO	GUY J. NOWLAN
WILLIAM J. CUNNINGHAM	THEODORE D. RICHARDS
EDWARD A. DRUM	

EXTENSIONS OF REMARKS

FAMILIAR FACES

HON. MARCY KAPTUR
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Monday, March 26, 1990

Ms. KAPTUR. Mr. Speaker, as the author of H.R. 1409, the Foreign Agents Compulsory Ethics in Trade Act, I bring this article, "Familiar Faces" which appeared in the Wall Street Journal on February 23, 1990, to the attention of my colleagues. It is high time Congress closed the revolving door between Government service and foreign representation.

[From the Wall Street Journal, Feb. 23, 1990]

FAMILIAR FACES: IN TRADE TALKS, JAPAN KNOWS THE UNITED STATES TEAM—OFTEN ALL TOO WELL

(By Jill Abranson and Eduardo Lachica)

WASHINGTON.—This spring is showdown time for the U.S. and Japan. In a series of trade talks on everything from computers to construction, the U.S. trade representative's office will help define America's most important and delicate economic relationship for years to come.

But when these long and complex talks begin, many of the faces across the table will be familiar to the Japanese.

Sidney Linn Williams, the deputy trade representative who handles Japan matters, formerly worked as a corporate lawyer in Tokyo, where he represented six Japanese companies. Julius Katz, another deputy, formerly headed a consulting firm that represents Toyota Motor Corp. and the Hitachi Research Institute.

Then there is the U.S. trade representative herself—Carla Hills, who once briefly advised Matsushita Electric Industrial Co. in an anti-dumping complaint. Today, Mrs. Hills' daughter Laura, a lawyer and registered foreign agent, is part of the legal team defending a Japanese typewriter manufacturer in an anti-dumping investigation by the Commerce Department. Mrs. Hills' husband, Roderick, is a business partner of and practices law with the head of Nissan Motor Co.'s lobbying firm here. The Washington representative of Japan's leading trading organization is such a close Hills' family friend that he attended the weddings of their children.

If history is any guide, these and other top officials with the U.S. trade representative's office, or USTR, will have the chance to return to the payroll of Japanese interests. Indeed, since the early 1970s, fully one-third of the roughly 60 former top officials at the USTR have gone on to represent foreign clients or register as foreign agents, many for Japanese interests. A USTR official in the Ford Administration, for instance, now represents the Japanese electronics industry. The two top trade lawyers during the Carter years handle trade cases for Sony Corp. and Oki Electric Industry Co. And a trade official from the Reagan years now represent the Japanese embassy.

THE REVOLVING DOOR

"It's a national tragedy," says Sen. John Heinz, the Pennsylvania Republican. "So many people who once worked to further the national interest go to work for Japan. In Japan, anyone doing that would be ostracized for life:" In fact, it is rare to find any former Japanese trade official advising U.S. companies. Moreover, Japanese law actually prohibits the country's lawyers from working for foreign law firms.

The trade representative's office—like many other Washington agencies—has been a revolving door for years, hiring young lawyers, sometimes with little or no trade experience, and later seeing them leave to earn stunning sums of money from the other side. For the most part, this stream of departures has received scant attention; the USTR, after all, has been a rather obscure White House agency.

But now, with the stakes growing in the trade relationship between the U.S. and Japan, the trade office has been thrust to the forefront of the nation's battle for global economic security. The Omnibus Trade Act of 1988 strengthened the role of the trade representative as the nation's chief spokesperson on trade. As its importance has grown, the office is beginning to draw criticism for creating what are, at the very least, so many appearances of conflict of interest.

CLOSE ASSOCIATIONS

But, for her part, Mrs. Hills has little patience with questions about her links to Japan, dismissing them as something akin to McCarthyism. "I do have Japanese friends," she says. "I have French friends. I have black friends." She glares at a reporter. "And I don't want to have to be defensive about my friends who don't look like *you*."

At least one lawmaker, Sen. Lloyd Bentsen, intends to hold hearings this year on revolving-door conflicts in the trade area. The hearings come at a time when foreign influence on a broad range of U.S. policy making—from decisions made on Capitol Hill to position papers crafted in think tanks around the country—has become a white-hot topic in Washington.

Many lawmakers concede that knowledge about the other side can benefit U.S. negotiators, but, they ask, at what point does contact become too close? The debate goes to the heart of the Washington culture, to the age-old assumption that government officials are automatically entitled to turn their experience into megabuck careers as lawyers, lobbyists and consultants.

"Government officials are put in situations where they could pull their punches and it would be lucrative to do so," says Clyde Prestowitz, a former Commerce Department official in the Reagan Administration and a loud critic of the Japan lobby. "If you are a government trade negotiator, you know sooner or later you'll leave government. Clearly it's not advantageous to make enemies."

It's all perfectly legal. And although some of her decisions have been criticized as "soft on Japan," there's no evidence that Mrs. Hills, for one, has been influenced by any of her personal or previous professional relationships. Mrs. Hills in many cases has gone to great lengths—beyond what ethics laws require—to distance herself from potential conflicts of interest. Her husband resigned from the board of Anheuser-Busch Cos. because beer falls within Mrs. Hills's purview at the USTR. He has curtailed the overseas activities of his merchant banking firm. The couple sold almost all their stock, incurring a large and unplanned tax liability. She has set up an elaborate mechanism within USTR to screen her from any matters involving her previous law firm or her husband's current law firm.

Experienced trade lawyers say working for Japan is almost unavoidable, since Japan has such deep pockets and is involved in so many trade issues and disputes. "Most of the money is on the foreign side," observes Alan Wolff, a former high-ranking lawyer at the USTR and one of the few who now mainly represent American clients. Most trade disputes—dumping cases and the like—are filed by a single domestic entity against an array of foreign competitors, fueling the need for other countries to find Washington lawyers and lobbyists, he says.

INTERNSHIP IN JAPAN

Moreover, trade officials who have taken a turn through the revolving door and now work for the U.S. government have training and insights that can make them tough adversaries for the Japanese. "It's simplistic and unfair to view someone as an apologist just because they once represented Japanese clients," says Judith Bello, a former general counel at the USTR whose law practice represents South Korean sweater producers on a dumping case. Adds Mrs. Hills: "A foreign corporation ought to be able to come into our market and be able to buy services," such as legal counsel.

Even the most notorious "Japan bashers" haven't accused the USTR of being in the pockets of the Japanese. But they say cozy relationships involving USTR officials send the wrong message to Japan.

For instance, when Clayton Yuetter was the trade representative, his daughter Kim had an internship at Nissho Iwai Corp., one of Japan's mega-corporations. While her short stint at Nissho Iwai went unnoticed here, her arrival was big news in Tokyo, where the leading dailies published her impressions of her father's trade work and her views on Japan. "By taking part in the activities of a Japanese firm, I could learn the good aspects and bad aspects of Japan," she told the lending business daily, Nihon Keizai Shimbun.

The access that some Japanese lobbyists enjoy inside the government demoralizes some USTR officials, who complain that U.S. companies are now skittish about sharing information with the trade agency and that they sometimes learn of key trade developments not from their colleagues, but from lobbyists.

Mitsubishi Corp.'s Washington representative knew the results of interagency meetings on the controversial plan to have Japan build the FSX fighter almost immediately—and certainly before any details of those

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

meetings were publicly disclosed. The first hint that President Bush would name Mrs. Hills trade representative appeared not in any U.S. newspaper but in the Nihon Keizai Shimbun, Japan's business daily.

Mr. Wolff recalls that, when he was the agency's general counsel, he got a call about the results of a White House cabinet meeting from a Japanese trade official before Mr. Wolff's boss, Robert Strauss, had even completed the one-block walk from the White House with his summary of the session.

A number of lobbyists for Japanese interests, in fact, have continued to orbit in the social and business life of the Hills family. Consider, for instance, Takeshi Kondo, a close family friend who attended Mrs. Hills' swearing-in ceremonies as trade representative.

STAYING FRIENDS

Mr. Kondo is the Washington representative of C. Itoh & Co., one of Japan's largest trading companies. In the early 1980s, C. Itoh jointly developed new business with a Sears, Roebuck & Co. unit, where Mr. Hills was an executive. Mr. Kondo's soirees at his spawling Bethesda, Md., home attract a number of high-powered Washingtonians, including the Hillses. Mr. Kondo has been a guest at the weddings of Mr. and Mrs. Hills' children.

The close relationship between the Hillses and the lobbyist has created the perception in Japan that Mrs. Hills uses her friends at C. Itoh as a back-channel to communicate with Japan's business leadership. The company's former chairman, Ryuzo Sejima, is deputy chairman of the Tokyo Chamber of Commerce.

Mrs. Hills openly admits to talking with Japanese business officials—and says she considers it part of her job to do so. At each opportunity, she says, she encourages Japanese to open their markets. 'If someone is a friend, you do not lose your right to communicate," her husband adds.

In her post as trade representative, Mrs. Hills isn't scheduled to hear any matters directly involving C. Itoh, and she might well recuse herself if any came up. But as a Japanese trading bill, C. Itoh is vitally affected by nearly all trade controversies between U.S. and Japan. And in this respect, Mr. Hills on occasion has given the company a helping hand.

Two years ago, Mr. Hills lobbied to quash legislation proposed by Sen. Alan Dixon, the Democrat from Illinois, that would have placed sanctions on C. Itoh as the exporter-of-record for the illegal sale of Toshiba milling equipment to the Soviet Union. Mr. Hills bristles at being identified as part of the Toshiba lobby; he says his efforts on behalf of C. Itoh were a gesture of friendship, limited to a brief meeting with some of Sen. Dixon's staffers for which he received no compensation. But others recall a more wide-ranging effort in which Mr. Hills marshaled State Department support for C. Itoh's contention that it was an innocent dupe in the Toshiba affair.

EXPERIENCED LOBBYISTS

"Rod was able to trigger some help from the administration that made it clear that C. Itoh hadn't known what was going on," recalls Murray Zweban, an attorney who worked with Mr. Hills on the issue. Sen. Dixon's bill ultimately made no mention of C. Itoh. Mr. Hills doesn't represent C. Itoh on any matters now, although he has passed along some of the company's securities work to one of his law partners in New York.

Another acquaintance of Carla and Rod Hills is William Eberle, the head of a trade-lobbying firm who sat in the front row as Mrs. Hills was sworn in as a member of the Bush cabinet.

Mr. Eberle was the trade representative himself during the Nixon and Ford years. In more recent years he has headed Manchester Associates, a lobbying firm whose biggest client is Nissan, according to Justice Department records. Manchester Associates and Nissan participated in a 50-member lobbying coalition that helped defeat protectionist provisions of the 1988 trade bill. Mr. Eberle heads the U.S.-Japan Foundation, which provides millions of dollars for studies of U.S.-Japan trade relations.

There is nothing unusual about a former U.S. trade representative working the Japanese side of the street, of course. But Mr. Eberle is also managing partner of a merchant banking and consulting firm called Manchester Group, whose chairman is Mr. Hills. Mr. Eberle's firm also advises clients of Mr. Hills's law firm, Donovan, Leisure, Newton & Irvine, on international trade matters.

Mr. Eberle says he avoids making physical appearances at the USTR to lobby to be sure "not to embarrass Carla." Last year, he says he called on the office only once on behalf of a client. Mr. Hills emphasizes that Mr. Eberle doesn't lobby for any of Donovan Leisure's clients at USTR. Mr. Eberle says he believes the Japanese are "entitled to representation," and hastens to add, "There's nothing that I do that's in conflict with the American interest."

The sums paid to former USTR officials by Japanese interests can be substantial. William Walker, a former USTR official who led the U.S. side in multilateral trade negotiations during the Ford administration, now represents the Japanese electronics industry. Mr. Walker was instrumental in an intense and successful lobbying effort last spring to keep the Japanese semiconductor industry off the list of products targeted for potential sanctions under the so-called Super 301 provisions of the 1988 Trade Act.

Mr. Walker's access to top officials on the semiconductor issue was impressive: He personally lobbied Mrs. Hills; Roger Porter, the White House domestic issues coordinator; Michael Boskin, the president's chief economic advisor; Commerce Secretary Robert Mosbacher; and Stephen Farrar, another White House aide.

PROTECTING FREE TRADE

According to filings required of foreign agents by the Justice Department, Mr. Walker's law firm took in $181,692 from Japan's electronics industry association between March and August of 1989. Over one six-month period a few years ago, the firm received $4.2 million for representing Toshiba. Mr. Walker says he has simply argued for free trade, which is in the U.S. interest anyway.

Mr. Eberle's lobbying firm, by the same token, received $16,500 a month from Nissan between March and August, 1989. Even relatively young and inexperienced former USTR officials are hot properties once they leave the agency. After less than 18 months as an assistant to former trade representative William Brock, Steven Saunders, then 36, left his post in April 1982. By December Mr. Saunders was on retainer to the Japanese Embassy, one of four Japanese clients that now pay his small consulting firm between $25,000 and $100,000 a year, according to Justice Department records.

The ethics bill passed by Congress last year will place new restrictions—a one-year ban-on trade negotiators going to work for foreign interests. (Currently, a former official may not lobby his old agency for a year after leaving, but can immediately take on foreign clients.) Though the new law will tighten the rules, it is a far cry from the broad, lifetime prohibition that some lawmakers, such as Sen. Strom Thurmond, believe is needed. The new rules, which don't kick in until January 1991, are expected to quicken the pace of departures of trade specialists from the USTR and the Commerce and State departments as officials leave before the tighter restrictions take hold.

Some of the remaining top officials at the USTR have already had some experience representing Japanese concerns. Two years ago, Mrs. Hills, then the co-managing partner at $510,000 a year of the Washington law office of Weil, Gotshal & Manges, advised Matsushita on how it could get relief from anti-dumping duties on color TV sets. As a result, she bowed out of any involvement in the USTR's choice of Japanese products to be subject to retaliation in a telecommunications case, Matushita was one of the companies that faced potential retaliation. (Dumping cases are generally heard by the Commerce Department, not USTR.)

TRADE PRIORITIES

Exactly what are Mrs. Hill's policies toward Japan? With so much of the most important negotiations yet to occur, it is premature to judge the year she has spent in office. The USTR has been occupied with a host of trade issues that don't involve Japan alone. The current round of talks on the General Agreement on Tariffs and Trade, for instance, remains her highest priority. Renewing import restrictions on steel has been another.

In the Japanese arena, her office has, so far, formally designated the supercomputer, wood products and satellite industries as protected business in Japan—industries that unfairly block U.S. competitors. This was a tough-minded action that under U.S. law could subject those industries to trade retaliation by the U.S. A number of other market-opening initiatives have also begun.

She has yet to single out some controversial industries in Japan for special attention. Japanese construction firms sell roughly $2 billion a year in services in the U.S. while U.S. firms, by contrast, get only about $60 million worth of this business in Japan; Mrs. Hills has delayed taking action. Japanese semiconductor makers are killing off U.S. competitors in the U.S. without opening their own markets in return, but Mrs. Hills has waffled over the means of fighting back.

But even many of her critics admit that Mrs. Hills hasn't been soft on Japan. And she says she's proud of her record. "I swear to you that no one could look at what we've done this past year and think that we are pulling our punches with respect to the Japanese," she says. "If anything, people worry that we have maybe been too aggressive."

ROBINSON, A VOICE FOR AFRICA

HON. WILLIAM (BILL) CLAY
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES

Monday, March 26, 1990

Mr. CLAY. Mr. Speaker, on Sunday, February 11, antiapartheid activists around the world cheered the release of Mr. Nelson Mandela from his 27-year bondage in a South African prison. Mandela's release was one victory for these activists. However, apartheid is still being practiced, both covertly and overtly, and antiapartheid activists continue their fight. Mr. Randall Robinson, the executive director of TransAfrica, stands at the forefront of this fight. He lobbies for sanctions against South Africa. In the following article, he warns foreign policymakers that eliminating the sanctions against South Africa will nullify any progress we have made in our fight against apartheid. I would like to commend and strongly urge my colleagues to carefully consider the arguments Mr. Robinson presents.

ROBINSON, A VOICE FOR AFRICA—THE LOBBYIST AND HIS POWER OF PERSUASION

(By Donna Britt)

Among Randall Robinson's daunting arsenal of personal persuaders, perhaps none is more potent than his voice. Totally unlike Jesse's soaring vocal roller coaster, far from Martin's ringing clarion call, Robinson's voice laps over you like a warm wave, like the music that he says "cleanses me, lifts me"—the spoken equivalent of a Nat King Cole ballad.

It's a voice particularly suited to taking the edge off things, to making uncomfortable messages more palatable. Like yesterday's, perhaps.

Yesterday, Robinson, executive director of TransAfrica, the lobbying group for Africa and the Caribbean, used that voice to address Secretary of State James Baker III, wrapping it around several Africa-related issues, including apartheid. He led a high-profile cadre of African American leaders—including Jackson, National Council of Negro Women President Dorothy Height and TransAfrica board Chairman Richard G. Hatcher—in emphasizing how the glamour and emotional appeal of Nelson Mandela's release from prison a month ago doesn't alter several distressing facts:

That African National Congress leader Mandela is hardly "free" in a society whose laws prohibit him and other blacks from voting and living in unrestricted areas, and in which he could be summarily rearrested and held for six months without trial. That apartheid's granitelike underpinnings remain virtually unchanged. That the black leader's release and the unbanning of certain political groups may be proof not of a change of heart by South Africa's leadership, but proof only that U.S. economic sanctions—which President Bush has so far promised to uphold—are working. That to reduce such sanctions, as some lawmakers have urged, would seriously undermine whatever progress has been made.

"The task," says Robinson, 48, who is scheduled to appear on NBC's "Today" show this morning, "is to keep the pressure on, and the sanctions tight. I suspect we'll need tougher sanctions before negotiations produce a formula for democracy."

Such words, Robinson realizes constitute a faceful of cold water to anyone sufficiently warmed by the international exultation surrounding Mandela's release to believe it signals substantive change in South Africa.

Truth hurts.

"Remember, Rhodesia withstood global comprehensive sanctions tenaciously for 11 years before they gave way," Robinson says. "There's no reason in the world to expect the South African government, with a much stronger economy, a much stronger army, to negotiate away power absent stronger sanctions. [South African President Frederik] de Klerk—who must be encouraged by the gullibility of the American public and even Congress in this matter—will look for a way to look like he's sharing power without sharing power. He wants very badly to ease sanctions.

"If we remove them prematurely, reform stops there."

Robinson should know. He was there on the day when many say reform truly *started*—Nov. 21, 1984. That Thanksgiving eve, he, U.S. Civil Rights Commission member Mary Frances Berry and congressional Del. Walter E. Fauntroy entered the South African Embassy on Massachusetts Avenue, chatted amicably for 45 minutes with then-ambassador Bernardus Fourie, and then let it be known that they would not leave until Mandela was released and the apartheid system dismantled. Shortly afterward, they were arrested.

That night, Robinson shared a jail cell with Fauntroy in the D.C. downtown lockup and wondered where his first arrest for civil disobedience would lead. He couldn't have foreseen that after five years and 4,000 arrests—including those of Stevie Wonder, Gloria Steinem and former senator Lowell Weicker (R.-Conn.), the first U.S. senator ever arrested in an act of civil disobedience—Nelson Mandela would stride elegantly from jail and into the consciousness of an admiring international audience.

He had no way of knowing that in these early months of 1990, he'd be spending an embarrassing amount of time deflecting the congratulations of dozens of folks, famous and obscure, who insist on telling him he's the person most responsible for Mandela's eloquent walk.

"You don't anticipate success for what you do," he says now, lacing his long fingers. "You do it because you believe it's the right thing to do. . . . Only a fool would suggest what's going to happen—no one ever knows what's going to happen."

On that Thanksgiving morning, Robinson also couldn't have seen that in the next five years, Hazel Ross, then TransAfrica's assistant for legislative and economic affairs, would become his wife, best friend and mother of his infant daughter, born Jan. 1. That she would someday be both his most fervent cheerleader in his quest for black peoples' rights and his very best reason for wishing, passionately, that he would never, ever have to leave home to fight for them again.

CAREFULLY CULTIVATED HOME

Ask Randall Robinson what's the worst thing anybody could say about him that he simply could not deny, and he thinks long and deep. Then he almost smiles.

"I'm not a good public person," he says slowly. "I don't think it shows when I'm in public, but it shows in my disinclination to be there. . . . The substantive part of my work—the lectures, discussions with students across the country—I find rewarding. But there are things that you need to do that are essentially social for an operation that depends on funding. And I don't do them."

Undoubtedly, he adds, TransAfrica would be wealthier, stronger, if he could force himself to schmooze. "But I am what I am. I can't do that. For me, it's almost traumatic, winding up to do dinners, the big social things. . . . My whole social life for the last five and a half years has been Hazel."

He shrugs.

"The place I'd rather be than any other place in the world is home."

Home is a modest brick colonial in Shepherd Park, where Khalea Ross Robinson, now 10 weeks old, sleeps on her mother's cotton-shirted chest. The baby's black hair is thick; her curly mouth expectantly open. She is beautiful.

"It's a very good feeling," her mother, Hazel Ross-Robinson, is saying, in her Caribbean-accented voice, "when the emotions you share with someone very, very special—your spouse, buddy, lover and friend—are expanded in the shape of a new human being. . . . It makes what was already very tender even more so."

Even the house seems charged with affection. Every room contains some piece of furniture, some decorative touch that Randall Robinson crafted with his own hands; a brass-inlaid chest, flowered trapunto window lambrequins, a staircase banister whose carved African-inspired symbols translate into "I love you, Hazel." Strains of Rachmaninoff swell in the background. Robinson enters the room, scooping up the baby ("C'mon, sport," he whispers), who nestles on his chest—a tiny brown squirrel dwarfed by her father's oaklike, 6-foot-5 stature.

His wife, born 35 years ago on the tiny island of St. Kitts, has been Rep. William Gray's (D-Pa.) foreign policy aide since 1985, the year she discovered she was in love with her boss and left TransAfrica. Initially, she's volunteered her knowledge of Caribbean economic policies to Robinson's organization after moving to Washington from Montreal, where she's lived for 13 years. A friend who'd heard her complain that nobody was officially representing the political interests of African and Caribbean peoples told her about TransAfrica.

"Originally," says Ross-Robinson, "I volunteered for one month." Where she was hired full time, she decided to stay "one or two years at the most."

She laughs. "And look at me now."

Their three-year marriage is the second for them both—Hazel was wed briefly in Montreal; Robinson, for 18 years, to the mother of his daughter Anike, 18, a Spelman College freshman, and son, Jabari, 14, who attends Walt Whitman High School. He now shares custody of Jabari with his ex-wife.

Anybody who talks with him for 10 minutes can see that family means everything to Robinson. It always has. Which made the death in December 1988 of his big brother Max, the former ABC newscaster, all the more devastating. The fact that Max died of AIDS, says Robinson, "was not a factor at all" in his family's pain.

Discussing Max's death, the smoothly measured voice falters.

"It feels like . . . Robinson halts, tries again.

"Family," he says, "at the sibling level, is sort of an organic whole. And when you lose a sibling, it's like missing a part of yourself. . . . That space is never filled. It becomes less painful to live with, but never filled."

It has been a full life, nonetheless. Robinson was born and raised in Richmond, the son of the late Maxie Robinson Sr., a history teacher and athletics coach at Armstrong High School, and Doris, a former elementary school teacher. Their children—tall, good looking, smart—did well. Jewell Robinson Shepperd was a fund-raiser for the Urban League and now works as an actress in local theater. Max, who anchored ABC's "World News Tonight," for three years, was the nation's first black network television anchor. Jean Yancey is the public relations director at the Duke Ellington School of the Arts. Randall Robinson, who graduated from Harvard Law School in 1970, was a public interest lawyer in Boston before becoming a legislative assistant on Capitol Hill for Rep. William L. Clay (D.-Mo.) and then staff director for former Rep. Charles C. Diggs Jr. (D-Mich.).

(Maxie Robinson Sr. died in 1973; Doris, who speaks nationally on church themes, remarried and now lives in Norfork.)

"My heroes were my parents, the people who I think should be, in a healthy environment. They're the ones you know best, the ones that love you. . . . My father believed you're not to care what anybody in the world thinks of you—you decide what you think is right and you do it . . . . Mama gave us whatever brains we have. She is exceptionally bright, compassionate, has grace, savoir-faire."

It makes sense that Robinson raised in a loving and supportive home in the midst of segregated Richmond's legislated frustrations, would grow into a man obsessed with creating a home life of deep physical and emotional beauty, while fighting those who would deny the opportunity for such beauty to others.

"Some people's lives," he says, "seem free of anxiety, of stress and emotional torture. And others are forever burdened with it. And there's no explanation. I'm very fortunate. . . . and am never unaware of it."

Pause.

"But I never feel guilty about having what [some people might] say is a beautiful home," he continues. "This kind of beauty is not the beauty born of material accumulation, it's almost, it's creative beauty, if it's beauty at all. . . . it's the fruit of our taste, of my hands and her heart. Because they're things I labor over, hours on end. Just to see this beauty emerge. The commitment to loveliness, he says, spills over into his work as well.

"I don't see it as separate, because that's the kind of world you want to make. . . . In this back yard, I've got flower beds with 4-by-4s set out in geometric form that I spent weeks building. And when spring comes, I spend a lot of time in this garden, waiting for the tulips. Because life without beauty is a very drab existence. And repression offends me. People living below the poverty line in a society of plenty offends me.

"And when you feel that way, you have some responsibility to do something about it. . . . There shouldn't be a room in this country where important decisions are made in which the 12 percent of this population that is black is not represented—foreign policy, domestic policy, all policy. If that room is lily-white, something's wrong with that room."

THE POLITICS OF PRESSURE

The hardest part of "doing something about it," says Robinson, is explaining what he sees as obvious to those who seem stubbornly obtuse. To politicos whose behavior or personal agendas place them at odds with what he thinks is basic—the desire "not to violate certain important standards of human behavior." To men and women who do the right thing, he says, only when public pressure demands it.

"We shouldn't require public pressure to have a policy against dumping American toxic waste in Third World countries. . . . We shouldn't be, in a country like Mauritania, whose essentially Arab government is repressing its black citizens in a terribly brutal way, routinely providing them with about $7 million a year."

The quiet voice has an edge now, a staccato, percussive quality that contrasts with its previous seamlessness.

"We shouldn't require public pressure to avoid contributing to the incineration of people in Angola."

Nothing makes him angrier than what's happening in Angola, the black southern African country that has been at war for 28 years and that Robinson visited last September. The conflict is between the Marxist government and rebels led by Jonas Savimbi and his American- and South Africa-supported National Union for the Total Independence of Angola (UNITA). That war has cost the country more than 341,000 lives since 1975—94 percent of them civilian. Some 1.5 million affected by the war are in "desperate need of emergency assistance" and more than 650,000 have been displaced, according to an April 1989 report by Human Rights Watch, a non-profit, independent human rights monitoring organization.

Although both UNITA and Angolan government forces have engaged in "gross violations of the laws of war, causing death, injuries and great hardships to civilians," according to the report, the most egregious abuses are attributed to UNITA.

Rebel forces have "indiscriminately and systematically" planted land mines, often buried in footpaths to agricultural fields and sources of water in eastern Angola, says the report, resulting in Angola having the highest per-capita amputee rate in the world—an estimated 20,000 to 50,000 killed or disabled by mines. (Government forces too have planted land mines in northern Angola, largely as a response to UNITA attacks.) UNITA also has taken hundreds of foreigners hostage, captured thousands of civilians and conscripted many as unpaid soldiers and agricultural workers, says the watchdog organization. Savimbi himself has been accused of having civilians—including several children—burned at the stake as witches, accusations corroborated by British journalist Fred Bridgeland, a former Savimbi supporter who last year told British TV audiences that allegations that Savimbi murdered and tortured high-ranking political rivals over the years are "substantially true."

Robinson says he's outraged by conservative congressmen who are "laboring hard to generate more American arms for Savimbian Angola, allying us with South Africa.

"They would never support such policies anywhere in Eastern Europe, or in any white country in the world. . . . All the land mines these people have stepped on, Stinger missiles that have killed all of these people, for which we are responsible because of the work of the DeConcinis and the Jesse Helmses and the Bob Doles."

Such words don't endear Robinson to conservative politicians and groups, though political opponent Sen. Orrin Hatch (R-Utah), who says he disagrees with Robinson on "just about everything," also finds him "a very classy advocate. . . . He believes in what he's doing. I believe he does a lot of harm with those beliefs, but . . . you have to respect (his) intelligence."

Some of his enemies have questioned Robinson's patriotism and have implied that he is as Marxist as some of the governments with whose leaders he communicates. (Actually Robinson describes himself as nonpartisan.) Such people, he says, are "not quarreling in good faith. . . . I use a single standard for praise and condemnation. Wherever I see opposition to broad participation in the political system, I oppose it. I was arrested at [Marxist] Ethiopia's Embassy because of Ethiopia's deplorable human rights record. . . . It is clear that Angola has to democratize it's country; it must have national elections, though it's hard to do that in the middle of a civil war."

Staying calm in the face of all of this, he says turning inward, is "the roughest part of it. . . . It takes a toll that doesn't show." But again, when he starts dealing with his own frustrations, Robinson stops short, almost visibly pulling himself out of himself.

His own griefs are small compared with the real problems—the struggle for independence and human rights in South Africa, Angola, the Caribbean. Such struggles may have been Trans-Africa's most visible focus for the past several years, but they're hardly the group's only concerns.

Recently, the lobby joined forces with Spelman and Lincoln colleges in a program that encourages black students to consider careers in the foreign service. Since its inception in 1976, TransAfrica has grown from two fulltime staffers to 16; its operating budget has gone from $70,000 to about $700,000 today.

Currently, Robinson is negotiating with the D.C. School Board to lease a 20,000 square-foot building at Fifth and K streets NE, where TransAfrica's new offices will be located. The Reebok Corp. will announce its donation of $350,000 toward the new building's $2 million renovation costs later this month. On April 1, Bill Cosby will host a fund-raiser honoring longtime human rights advocate Harry Belafonte in Los Angeles.

Still, the primary focus will remain on abolishing apartheid until "the South African government has accepted the notion of a one-person, one-vote democracy," he says—a change that he feels in inevitable.

"The tiny changes we've seen so far are but a crack," he says, "but the crack will make the door." It is important, he says, that the world know this particular crack in this particular regime was made, by and large, by black Americans, "thousands of people who marched outside that embassy, some of whom stood out there every single day for a year." It is vital, he says, that African Americans understand the difference they have made.

"All of us take the baton from those who came before us—the Harriet Tubmans, the [W.E.B.] Du Boises, people like my own wonderful parents," he explains. "They hold up the mirror for us, show us how we can control, influence our own destinies."

The fledgling connection between black Africans and black Americans is the beginning of a larger unity, he says, the voice measured again.

"We're in some real important transition in this country. Those of us who participated in the civil rights movement . . . were fighting largely for public accommodations. Once that battle was essentially won, our struggle became a struggle for economic

empowerment, which gives meaning to political empowerment.

"This challenge," he continues, "is a great deal more complicated than the other one . . . African countries are trying to harness their great potential at the same time. In a real way, Africa's success will be ours, the Caribbean's will be ours as well. We can't be permanent supplicants, asking people to be fair to us. . . . We have to ensure against their failure to be so with a power base of our own."

There is, he admits, much to be done. Ask why he can't rest on his laurels, having already fought a good fight, and the voice rises again.

"When I see Africa getting so little, and Eastern Europe getting so much. . . . When I see Lech Walesa addressing a joint session of Congress, and President Bush falling over himself to meet with him, and Senator Paul Simon [chairman of the African Affairs Subcommittee] introducing a bill for $900 million in aid to Hungary and Poland and never introducing such a measure in similar amounts to all of Africa. . . . When I see [South African Archbishop] Desmond Tutu only gaining a 20-minute meeting with George Bush in May, with no joint sessions of Congress, I see a country in which race is still very much a determinant in the making of foreign policy."

This time, he makes no effort to conceal how very personal his mission is.

"When I see race as that major determinant, then it's not just the people of Angola or the people of South Africa, it's me, it's us and it's enraging. It's not just a question of their dignity, but of mine.

"And I will not, cannot, shall never tolerate it. Never."

A WARNING SHOT ACROSS THE SOVIET BOW

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 26, 1990

Mr. BROOMFIELD. Mr. Speaker, over the weekend, the Soviets have taken over some Lithuanian school buildings. "That's a cause for concern." At the same time, the rapid pace of events in Lithuania is slowing down, and that may be a good sign.

This could be a crucial period for Soviet decisionmaking on this issue, and I believe it is a good time to make it clear where America stands.

The Soviets know we are not going to send in the 82d Airborne. But they should also know that military intervention will not be cost-free.

Congress can send that message to Moscow. Last week I introduced a resolution with MICKEY EDWARDS. It tells Gorbachev: Use your military to suppress Lithuania and you'll soon find yourself without any United States assistance or trade enhancements.

That threat is no small amount of leverage. The loss of Lithuania and other republics would be a big problem for the Soviets. But a far bigger problem would be the total economic collapse of the Soviet Union.

America should remind the Kremlin that we not only have some leverage, but that we also plan to use it.

Passing this resolution would make that clear to the Soviets, and I urge my colleagues to support it.

THE SITUATION IN YUGOSLAVIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 26, 1990

Mr. HAMILTON. Mr. Speaker, in February 1990, Yugoslavia's Deputy Prime Minister Kazimir Zivko Pregl visited Washington and Capitol Hill. During his short visit, he spoke about the situation in Yugoslavia and the important problems confronting his nation. Given the interest and concerns of many Members about the difficult challenges facing Yugoslavia, I would like to draw my colleagues' attention to a summary of Dr. Pregl's remarks.

His February 21 statement follows:

ADDRESS OF DEPUTY PRIME MINISTER OF THE SFR OF YUGOSLAVIA KAZIMIR ZIVKO PREGL AT THE RESIDENCE OF THE AMBASSADOR OF YUGOSLAVIA ON FEBRUARY 21

Over the last ten years Yugoslavia had many anti-inflation programs which brought about hyper-inflation in 1989. Last year the inflation rate reached 2,500 percent. We must not go the same way. That is the reason why the government started with the changes in the economic system. That is the reason why the Government started changing economic beliefs, economic trends and figures in order to attack inflation at the right moment.

The changes we made in the economic system meant introducing about forty new laws and changing many old ones. The essential characteristic of new laws is that Yugoslavia today has an economic system which is totally market-oriented, which is very similar to the economic system of any of the West European market economies. We passed new laws on companies, banking system, labor, foreign trade, stocks and bonds exchange, and there are more but I stated some of the most important.

We tried to build in these laws some essential principles to reshape Yugoslav economic system. The first principle was the principle of pluralism of ownership. We introduced the same role, the same regulation for all types of ownership in Yugoslavia. So that socially-owned property, private and state property and foreign property are treated in our legislation on an equal footing. There are no differences, no quantitative limits, obstacles or privileges for any of the types of ownership stated. We understand that all these types of ownership should compete and should express their potential, technological and economic potential in market competition.

The second principle which is written in our new legislation is the principle of national status of foreigners. There is the same text in our legislation regulating domestic and foreign investments. So that if anybody from abroad wants to invest in Yugoslavia, or wants to set up a new company, or establish a bank, he does not need to face parallel economic systems, one for Yugoslav, investors, another for foreign investors. For both of them there is the same text in our legislation.

The third very important characteristic of the new economic system is that we succeeded in building in the principle of deregulation. What is important is that the contents of regulation makes firms, makes companies free and independent in their decision making process. The state must not interfere with economy any more.

The next very important principle is that when writing the new legislation, we sought to copy old solutions which gave results in efficient economies. So, when you want to establish a new company in Yugoslvavia, you can establish only that type of company which is known in market economies. Joint stock companies or any type of partnership companies. The same is the case with banks.

Maybe I should mention another principle which is that in our legislation we treat symmetrical labor and capital in a way that both of them should be combined freely by entrepreneurs to maximize profit. Capital and labor are sharing profit according to their contribution to the profit. Capital and labor have the same role, they are sharing their influence in companies' decision-making process.

Only 10% is under some restrictive import regime. That is the reason why the Government liberalized wages. We also introduced deregulation in current economic measures. Both changes in economic system and in economic policy contributed to very important changes in figures which are characteristic of economic life in Yugoslavia. We achieved a two-billion dollar current account surplus last year. Our foreign exchange reserves stand at around 7.3 billion dollars.

The first results after December 18 are encouraging and convincing. The monthly rate of inflation in Yugoslavia stood at 70 per cent in December. In January, following the launching of the anti-inflation program, it was 17 per cent. In February, we expect it to be a one-digit inflation. According to the reports we are receiving from Yugoslavia, in the first twenty days of February, monthly inflation dropped to four per cent. There are six days left and one can expect that this rate will grow slightly, but at least we can be sure that it is going to be one-digit inflation. Foreign exchange reserves also increased. I mentioned a figure of 7.3 billion dollars. Since December 18, they went up by about 2 billion dollars.

As regards the second dilemma of where to start first with economic or political reforms, I should say again that the choice was obviously correct. When changing the economic system in Yugoslavia, we followed the principles of competition, pluralism, openness, freedom and independence.

The results show that we have succeeded in choosing the right answer to all three dilemmas. We created the necessary requirements for bridling inflation. We did not hurry too much. We set the stage for political reforms. We succeeded in forging new unity in Yugoslavia which is based on the support of profound and essential reform process.

Democracy is in full swing in Yugoslavia in the true sense of the word. Many things which have for years been under the surface came in the open which is what makes the impression that everything is so confused in Yugoslavia, that everybody is in sudden conflict with the others. But what is happening now is that problems are coming out.

The debt of Yugoslavia at this moment is somewhere below 16 billion dollars. We managed to reduce debt in the last ten years by four billion dollars. We rescheduled our debt but in spite of that, Yugoslavia has over the last few years repaid 3-3.5 billion dollars annually both in interest rates and

in principle. It took us about 6-10 per cent of GNP which is quite respectable, particularly when you take into account that Yugoslavia is a developing country and we need capital formation to start new development, to solve problems or crisis more easily. We are about to sign new stand-by arrangement with IMF. We are also preparing to sign two structural adjustment loans, two arrangements with IBRD. We also believe that we are very close to key point with a number of structural adjustment loans by IBRD which would support a quicker development of Yugoslavia.

We think that commercial banks should be more courageous in coming back to Yugoslavia. The environment that we have built in Yugoslavia last year is attractive for them. At this moment foreigners can have 99 per cent of capital in mixed banks. The Government is proposing to change the Constitution to open up the possibility for 100 per cent of the capital to be owned in banks in Yugoslavia, to have foreign banks in Yugoslavia. As you can see, the environment is changing radically also as refers to banks.

The Government thinks that the problem of Kosovo should be solved within the whole concept of reforms protecting human rights, free market and so on, Kosovo must be part of that Special commission has been set up to investigate death cases of recent tragic events in Kosovo and the public will be kept informed of possible misuse of police forces. We understand that issues of human rights are no more internal issues of any state. It has been so since Helsinki conference. That is why we understand that states have the right to ask another state what has happened in their respective countries with regard to human rights. We shall, therefore inform Yugoslavia and world public about any violence of human rights or misuse of police forces.

There is not only the issue of human rights in Kosovo. The Government is promising to initiate dialogue with new alternative movements in Kosovo, with new parties which are being formed in Kosovo. We have set two conditions for that, namely, whoever wants to sit down at the negotiating table must accept the integrity of Yugoslavia and the integrity of Serbia, and accept the ideas of economic and political reforms. The dialogue would involve the Kosovo Government, the Serbian Government and the Federal Government. The League of Communists cannot be the only channel for political dialogue on Kosovo anymore. The League of Communists is only going to be one of the parties at the negotiating table. But many new alternative parties and movements should get together with us to solve the problem of Kosovo.

As for our relations with Europe, we are candidates for entering the European Community. We send a letter first to the European Council to get a membership. We are striving to enter EFTA and we understand that EEC will become a new home for European countries which will perform well. I want to call your attention on my words "perform well". That is the reason why we think that the basic task for entering the EEC is to change economic environment in Yugoslavia. To put it in another words, we do not think the place where we have to discuss entering the EEC is Brussels, but it is Belgrade, what we have to change in Yugoslavia. But our ambition is to get the membership of the European Community.

CONTINUED AID FOR MEDICAL RESEARCH

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 26, 1990

Mr. DELLUMS. Mr. Speaker, at this time when we are celebrating National Medical Research Day, I would like to express my deep concern about the recent proposals to slash aid for medical research. Medical research is directly responsible for saving many lives and improving the quality of health for millions of Americans. It would be a grave injustice to the American people to add medical research to the list of budget cutbacks to save money on a short-term basis for short-term gains are not prudent if serious long-term loses will result. Well, this is indeed a situation in which prudence will not come into play because all of the money that the budget cuts will save will not come close to equaling or rivaling what the medical research, that would have been done with that money, could have accomplished.

I would like to bring to the attention of my colleagues the many successes of medical research. Medical research has improved the health and well-being of Americans over the past 50 years. It has controlled or eradicated killer diseases and disorders, developed technologies and drug therapies. It has also discovered cancer controlling methods.

In an era of fiscal restraint and massive budget deficits, our investment in medical research continues to pay dividends in health and economics. Medical research annually contributes an estimated $40 billion to our economy in nonhealth fields. We receive a $13 return on every dollar we invest in medical research. Medical research can contribute significantly to reducing health costs, which came out to be 10.8 percent of our gross national product in 1985.

I must say that serious health problems that pose a threat to our economic well-being still remain and they could become a financial burden for our country. Therefore, medical research must continue if we are to successfully unravel the medical mysteries that threaten us and continue to defy solutions.

Medical research is a high-risk enterprise that demands a large-scale societal commitment that will be best led by our Federal Government. The Federal Government is the one source that is able to provide adequate human and financial resources to undertake this effort. We need a Federal funding plan that will pursue scientifically promising ideas that will disseminate research findings to practitioners and the public and one that will provide highly trained medical researchers with the necessary tools.

BUD JOHNSON, SPORTS ENTHUSIAST

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 26, 1990

Ms. SLAUGHTER of New York. Mr. Speaker, I join the community of Avon, NY, in mourning the recent loss of Bud Johnson, a local sports enthusiast who dedicated his life to helping young people discover baseball. As I pass a Little League game, watching the young players ready to give their all and their parents beaming with pride, I will be reminded of the significant contributions Bud Johnson made to the community of Avon as a coach, player, and spectator.

Bud instilled the virtures of sportsmanship, teamwork, and dedication into many a young athlete. Coaches, umpires, players, and friends who knew Bud through the years have all singled him out as a man who contributed significantly to the development of many responsible members of the community.

Bud worked for more than 40 years at A&A Equipment, never missing an early-morning delivery of machine parts to customers on his long route, but his lifelong career was being a second father and mentor to every child who aspired to play sports in Avon. They responded, too, by rewarding his generosity and compassion for several championship teams.

Mr. Speaker, someone once said that baseball's most significant message for our lives is that the players always return home to score. Bud Johnson stayed in his hometown and helped generations of young athletes start on a firm footing. He deserves acknowledgment for tirelessly giving of himself on behalf of Avon's youth.

PHARMACY IN MARKED TREE HAS BECOME A POINSETT INSTITUTION

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 26, 1990

Mr. ALEXANDER. Mr. Speaker, for 75 years the Brunner family has operated a family pharmacy in Marked Tree, AR, in my district.

While the media generally focuses on the business done on Wall Street or in corporate board rooms, the real business of America is done on Main Street. The Brunners and their family owned and operated business are outstanding examples of what has kept this country's economic engine running.

You can go to the Brunner's drug store for medicine, but you can also go there for conversations with friends, political discussions, and to hash over the latest sports event.

Through the years the Brunners have been an important part of their community. They have worked hard and shared their lives with others. They are a credit to their community and their country.

Mr. Speaker, I insert in the RECORD an article on this family business, its long history,

and many traditions which appeared in the March 18 edition of the Jonesboro Sun.

PHARMACY IN MARKED TREE HAS BECOME A POINSETT INSTITUTION

(By Hazel Ashcraft)

The town of Marked Tree was not very much older than John Brunner was when, as a young man from Pocahontas, he arrived there by train to work for Dr. J.R. Black, a druggist in N.J. Hazel's Crescent Drug Store on Frisco Street.

The year was 1910. The Great War—in which John's brother Frank would serve as a member of the Army Air Corps—had not yet begun. Marked Tree was a rough and rowdy town hacked out of the swamp and timberland of Poinsett County and perched precariously on the banks of the St. Francis River. It was an ideal spot for someone with foresight and a desire to carve out a future.

John Brunner had that foresight, and what he carved out, with the help of his brother Frank who joined him a few years later, was an institution.

It's an institution that's still going strong, with the drug store just one facet of what has become a company of many business and financial enterprises, including vending, entertainment (jukeboxes, pinball and video games) and banking. As a matter of fact when the local bank went under in the Depression, the Brunners functioned as a bank and lending agency until a new bank was established. John Brunner Jr. is currently president of the Marked Tree Bank.

On Saturday afternoon, some 75 years and seven days after the Crescent changed hands and became John-Frank, Live Druggists, a reception and open house was held for the public as a way of acknowledging thanks to all the people who have been friends and customers through the years.

At their old familiar stations in the store, greeting the people who poured through the doors as their fathers had before them, were the Brunner sons—John Brunner Jr., Frank Brunner Jr., and J. Robert Brunner, John Jr.'s brother.

The Brunner boys have been at the drugstore all their lives, barring their college and service time. When the store's license was renewed again this year, it still was the only pharmacy license in the state that has been issued continuously, and to the same family, since 1915.

"I don't know if that makes us the oldest" Frank says with a grin, "but I do know that we've been here longer on one license than anyone else."

Longevity seems to be a trademark with John-Frank. Richard Fleming has been with them since 1948. The late Mary Hanna was a bookkeeper for approximately 40 years, and Christine Comstock, Mrs. Hanna's successor, has been at the drugstore since 1978. Mary Sue Brean, a relative newcomer, has been working for 10 years or so, and Frank Jr.'s son Philip, who came after Mary Sue, is now on board. Bobby—J. Robert for those who don't know him—only recently retired, and plans to spend his time traveling with his wife Juanita and visiting various friends and family members.

"John-Frank, Live Druggists since 1915," is the slogan which has appeared for 75 years on all the store's prescriptions, correspondence and advertising.

They're not quite sure what the original Brunner brothers meant but Frank's theory is that it was a takeoff on a popular phrase of the era.

"You know," Frank says, "if someone was called a 'live wire,' it meant that he was really moving along. I guess that's what my father and Uncle John meant."

The senior Brunners were markedly different in their personalities.

"Uncle Frank was reserved and quiet," John says. "Dad was real outgoing. He was the promoter and the one who talked to all the customers. He'd 'hustle' business. Uncle Frank used to say that the customers didn't just accidentally come by—Dad would go out and look them up."

John Jr. remembers that his father always added a little something to every sale he made, and it usually resulted in the sale of additional items. As the years went by, more merchandise was added. John Sr. was enthusiastic about all of it.

"I remember my dad telling me, 'Work hard and save your money, and you'll amount to something someday.' Then he'd add, 'Maybe.'" John Jr. says.

Frank Sr., an affable but quieter personality, apparently was satisfied to let his older brother dispense the philosophy and plan the merchandising promotions, and from their location at the corner of Frisco and Elm Streets, the two men watched the world go by. And that world—the world of small town life and all that went with it—has been passing by or through the drugstore ever since.

"In the old days," Frank remembers, "the men would come in and sit and talk. There'd be Fred Stafford (Marked tree lawyer and Arkansas senator), and Mr. Yancey, and Mr. Hughes (the late Robert Hughes Sr., a local farmer), and Judge J.G. Waskom and Mr. Schonberger co-owner of Schonberger and Weir Department Store). A lot of women would come in, too, to catch up on the news."

John-Frank was a busy place, dispensing much more than medicine. In the old days there was a soda fountain and snack bar. When he was young John Jr. had his turn at making sandwiches while the "sweetwater chemists," as they were called, dispensed ice cream sodas and sundaes.

Frank Jr. had a penny peanut route, filling the peanut machines all over town. The peanuts would be purchased in five-gallon cans every two weeks from Toots Loeb's in Memphis.

John Jr. and the late Ed Perry shared another job—making gnat spray. It was mixed in a 55-gallon barrel and turned out into five-gallon jugs sporting the Johnson-Frank label.

All through the years the drugstore has been a gathering place for conversation, political discussions, sports talk and gossip. The present-day store is exactly where it was in 1910, when Dr. Black came to town. It's just bigger now, modern and up-to-date, after expanding to another section of the block a number of years ago. The old soda fountain and snack bar are gone, but the chairs are there, and folks still come in for conversation.

Still there also are the holes in the ceiling, put there by a man who barged into the drugstore, gun in hand and blazing away.

That's just one of the tales that come to mind, and many more forgotten. There'd be tale after tale to tell, if the walls could talk, and thousands of stories, some sad, some hilarious. Like the time a woman came in and sailed to the back of the store where Shane, a black macaw who had been trained to talk, had called out, "Are you sick?"

Hearing the bird, the woman began a lengthy recitation of her ailments. It went on and on until Shane, apparently bored, silenced her with a screeching "Aw, shut up!" The two phrases were part of a vocabulary that Shane would repeat over and over all day long.

They're still laughing about it at the drug store.

There was another time, back around 1917, when the flood waters were so high that three-foot sawhorses were put up to hold the merchandise, and the customers rowed through the doors in boats.

And the time Lum Sloan came into the store and asked for some Putnam dye for his wife.

"Dad asked him, 'What color?' John Jr. said, "and Lum said, 'It doesn't make any difference. My wife is going to have me bring it back three or four times anyway.'"

There was the time they put a couple of ferrets under the floor of the old store to do battle with some rats who were raising a ruckus. "It sounded like Cox's army," Frank says. "The ferrets were worse than the rats."

Another time Frank Sr. got a "rat dog" which was adept at catching mice and rats.

A more recent memory is of the fire that razed Schonberger's Department Store, next to the drugstore, approximately five years ago. There was smoke damage, but the fire wall protected the drugstore from serious harm.

It goes on and on.

Getting ready for the celebration last week, John and Frank Brunner went through some articles from earlier times, intending to use some of them in a display. Discovered on the shelves was a variety of antiquities, such as Dr. LeGeir's Blister for Livestock, Globe Sufa-Mastol, Kow-Kare, a vitamin and mineral supplement for cattle only; some Globe Rumen Tablets, some Ammonium Bromide Iodine, Oil of Ergot, Oil of Wormseed, Chologeslin Bile Extract, some horse medicine, some acid champhine crystals. And some quinine tablets, which were a staple of almost every household in that mosquito-infested area.

And of course, some Dr. Black's Ointment, and some John-Frank Chill Tonic.

There was much more. Souvenirs of another time.

The Brunner brothers had worked together all of their lives, and they died within three days of each other.

It was when Bobby retired that the rumors started. The word went out that John-Frank was up for sale. With the rumor came a lot of additional information, all of it erroneous.

"You know how small towns are," was the answer when someone asked them if they were selling out. "We're here. We're not for sale."

The fact is, John-Frank, Live Druggists Since 1915, seem to be here to stay.

John Jr. put it another way.

"We'll be doing business at the same old stop," he said.

RECOGNITION OF SCULPTURE CREATED BY KEN WYTEN, OF ERIE, PA

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 26, 1990

Mr. RIDGE. Mr. Speaker, today I would like to recognize the outstanding work of a friend and constituent, Ken Wyten, from Erie, PA. In

October 1989, Mr. Wyten completed the installation of a commissioned sculpture project at the Union Center Plaza. The sculpture project was commissioned by Greenbaum & Rose Development, of Washington, DC and included the design, fabrication and installation of a rather large scale steel sculpture as part of the overall design of the development.

Not only was the sculpture designed by an Erie artist, but the general fabrication was contracted to an Erie company, McShane Welding, along with fabrication subcontracting to Kartel Sheet Metal. The sandblasting and ultimate finish of the sculpture was completed by another Erie company, Allied Industries.

I would like to congratulate Mr. Wyten on this prestigious commission and to thank him for using Erie labor for completing this unique sculpture. The project showcases the talent of an Erie artist and also the talent of many Erie workers.

I would encourage my colleagues to take a moment and view this fine work when they pass through Union Center Plaza. It is located at 810 First Street NE., which is adjacent to Union Station, and it is a reminder of the talent and workmanship available in northwestern Pennsylvania.

TRIBUTE TO RON FEINSTEIN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 26, 1990

Mr. BERMAN. Mr. Speaker, I rise today to recognize a leading member of our community—Ron Feinstein. He is being honored by the Greater Van Nuys Chamber of Commerce on completion of an outstanding year as the chamber's president.

Ron was born in Cleveland, OH and came to California when he was 12. A graduate of Van Nuys High School and Valley College, Ron discovered his aptitude for business early on. While still at high school he worked nine paper routes and went into business with his father—to start All Valley Washery Service, which he still heads today.

Apart for his work for the Greater Van Nuys Chamber, Ron has taken leadership roles in a wide range of community organizations. He has been both president and vice-president of the Mid-Valley Police Council, president of the California Multi-Housing Laundry Association and president of the San Fernando Valley Apartment Association.

Ron and his wife of 28 years, Gayle, have three children—Cindy, Jim and Geneen. He is an avid skier, both on snow and water and makes a hobby of property development.

Mr. Speaker, it is with pleasure and pride that I ask my colleagues to join me in saluting Ron Feinstein—successful businessman, community leader, and role model for all.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 27, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 28

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on S. 2227, to revise the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (P.L. 80-104) governing exported pesticides.

SR-332

Appropriations

Labor, Health and Human Services, Education Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1991 for the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

9:30 a.m.

Armed Services

Defense Industry and Technology Subcommittee

To hold hearings on S. 2171, to authorize funds for fiscal year 1991 for military functions of the Department of Defense, and to prescribe military personnel levels for fiscal year 1991, focusing on defense technology strategy and the defense critical technology plan.

SR-222

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to review the President's proposed budget request for fiscal year 1991 for the National Aeronautics and Space Administration, focusing on the space station and space shuttle programs.

SR-253

Environment and Public Works

Toxic Substances, Environmental Oversight, Research and Development Subcommittee

To hold oversight hearings on the regulation of lawn chemicals.

SH-216

Foreign Relations

European Affairs Subcommittee

To hold hearings to examine the American business initiative in Eastern Europe.

SD-419

Governmental Affairs

To hold hearings on the nomination of Richard G. Austin, of Illinois, to be Administrator of the General Services Administration.

SD-342

Veterans' Affairs

To hold hearings on S. 1398 and S. 1332, to provide for the realignment or major mission change of certain medical facilities of the Department of Veterans Affairs.

SR-418

10:00 a.m.

Appropriations

Labor, Health and Human Services, Education Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1991 for medical research programs.

S-128, Capitol

Appropriations

Energy and Water Development Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.

SD-138

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1991 for the Bureau of Public Debt, and the Office of Personnel Management.

SD-116

Banking, Housing, and Urban Affairs

International Finance and Monetary Policy Subcommittee

To resume hearings on proposed legislation authorizing funds for the Export Administration Act.

SD-538

Finance

To hold hearings to examine investment trends in the United States and the President's proposal to lower the tax rate on capital gains income; to be followed by a hearing and consideration of the nomination of Jo Anne B. Barnhart, of Delaware, to be Assistant Secretary for Family Support, Department of Health and Human Services.

SD-215

2:00 p.m.

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Timothy Ryan, of Virginia, to be Director of the Office of Thrift Supervision, Department of the Treasury.

SD-538

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on miscellaneous public lands measures, including S. 456, H.R. 1109, S. 465, H.R. 1159, S. 1756, S. 1864, H.R. 76, S. 2059, S. 2208, and S. 1770.

SD-366

Select on Indian Affairs

To hold hearings on S. 381, to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama, S. 1413, to settle all claims of the Aroostook Band of Micmacs resulting from the Band's omission from the Maine Indian Claims Settlement Act of 1980, S. 1747, to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and S. 1918, to provide for Federal recognition of the Jena Band of Choctaws of Louisiana.

SR-485

2:15 p.m.
Small Business
Export Expansion Subcommittee
To hold hearings to examine the effects of the 1992 European community integration on U.S. small business.
SR-428A

2:30 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings to review the plans, progress, and experience of the Defense Nuclear Facilities Safety Board.
SR-222

Foreign Relations
African Affairs Subcommittee
To hold open and closed hearings to examine famine in the Horn of Africa.
SD-226

3:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on noxious weeds.
SR-332

4:00 p.m.
Foreign Relations
To hold hearings on supplemental assistance for Nicaragua and Panama.
SD-419

MARCH 29

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on research issues.
SR-332

Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-116

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on S. 2304, to ensure low-income and moderate-income Americans have greater opportunities for homeownership and management of their housing.
SD-562

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation to reauthorize the National Earthquake Hazards Reduction program.
SR-253

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on Army posture.
SD-192

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Science Foundation.
S-126, Capitol

Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SH-216

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Oceanic and Atmospheric Administration, and the National Institute for Standards and Technology.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Urban Mass Transportation Administration and the Washington Metropolitan Area Transit Authority.
SD-138

Banking, Housing, and Urban Affairs
Securities Subcommittee
To hold hearings to review the jurisdiction of the Securities Exchange Commission and the Commodity Futures Trading Commission.
SD-538

Finance
To hold hearings to examine possible causes for the decline of corporate income tax revenues, and to compare the U.S. corporate tax burden with that in other industrialized countries.
SD-215

Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

Judiciary
Technology and the Law Subcommittee
To hold oversight hearings on competitive issues facing the semiconductor industry.
SD-226

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on proposed legislation authorizing funds for the National Foundation on the Arts and Humanities, focusing on the National Endowment for the Arts.
SD-430

Joint Economic
To resume hearings on proposals to improve Federal economic statistics, focusing on data user's assessments of the current state of Federal statistics, the White House Working Group's proposals for improvement, and directions for future initiatives.
1334 Longworth Building

1:30 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SD-192

Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on the low-income home energy assistance program.
SD-430

2:00 p.m.
Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings on proposed legislation to strengthen and improve agricultural programs, focusing on conservation issues.
SR-332

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1880, to revise title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates.
SR-253

MARCH 30

9:00 a.m.
Banking, Housing, and Urban Affairs
HUD/Moderate Rehabilitation Subcommittee
To hold hearings on the Department of Housing and Urban Development's internal controls, focusing on self-evaluation.
SD-538

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 639, to establish a research and development program for the development of a domestic hydrogen fuel production capability.
SD-366

Labor and Human Resources
Disability Policy Subcommittee
To hold hearings on proposed legislation authorizing funds for the Developmental Disability Act.
SD-430

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Agriculture, focusing on the Farmers Home Administration, Federal Crop Insurance Corporation, and the Rural Electrification Administration.
SD-138

Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Library of Congress and the Office of Technology Assessment.
SD-116

Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings on S.J. Res. 246 (pending on Senate calendar), requesting the United Nations to repeal General Assembly Resolution 3379, which equates Zionism with racism.
SD-419

10:30 a.m.
Judiciary
To hold oversight hearings on immigration issues, focusing on the General Accounting Office's report on discrimination and employer sanctions.
SD-226

APRIL 2

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on deficiency payment problems associated with barley.
SR-332

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Bureau of Land Management, Department of the Interior.
S-128, Capitol

10:30 a.m.
Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for military construction programs, focusing on the Air Force.
SD-192

2:00 p.m.
Armed Services
Defense Industry and Technology Subcommittee
To resume hearings on S. 2171, to authorize funds for fiscal year 1991 for military functions of the Department of Defense, and to prescribe military personnel levels for fiscal year 1991, focusing on defense manufacturing technology and quality assurance programs.
SR-222

APRIL 3

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to review the U.S. global change research program and NASA's program, the Earth's Observing System.
SR-253

Energy and Natural Resources
To hold oversight hearings on the Department of Energy's Decision Plan relating to the opening of the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico, and on proposed legislation to withdraw the public lands surrounding the WIPP site.
SD-366

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on Air Force posture.
SD-192

2:00 p.m.
Commission on Security and Cooperation in Europe
To hold hearings on German unification and the Conference on Security and Cooperation in Europe.
SD-226

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. bilateral assistance.
SD-192

APRIL 4

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 1880, to revise title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates.
SR-253

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Agriculture, focusing on Agricultural Stabilization and Conservation Service, Foreign Agricultural Service, General Sales Manager, and Soil Conservation Service.
SD-138

Appropriations
Energy and Water Development Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SD-192

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SD-192

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 626, to revise the Lanham Trademark Act to prohibit the importation or sale of goods manufactured outside the U.S. and bearing an identical trademark of goods manufactured within the U.S.
SD-226

Small Business
To resume hearings on the President's proposed budget request for fiscal year 1991 for the Small Business Administration.
SR-428A

APRIL 5

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To resume hearings on S. 1400, to regulate interstate commerce by providing for a uniform product liability law.
SR-253

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on Navy and Marine posture.
SD-192

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Highway Traffic Safety Administration and the Research and Special Programs Administration.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the U.S. Postal Service, and the National Archives.
SD-116

Finance
To hold hearings to examine the security of retirement annuities provided by insurance companies.
SD-215

2:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Emergency Management Agency.
SD-192

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2117 and H.R. 2570, bills to designate certain lands as wilderness in the State of Arizona.
SD-366

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

APRIL 6

9:30 a.m.
Finance
Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee
To hold oversight hearings on the implementation of the Omnibus Taxpayer Bill of Rights (P.L. 100-647).
SD-215

Governmental Affairs
Government Information and Regulation Subcommittee
To resume hearings on the quality of U.S. health promotion statistics.
SD-342

APRIL 18

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETS, the Vietnam Veterans of America, the Veterans of World War I, and the Non-Commissioned Officers Association.
SH-216

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Housing and Urban Development
SD-138

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Park Service, Department of the Interior, and the National Gallery of Art.
S-128, Capitol

APRIL 19

9:30 a.m.
Select on Indian Affairs
To hold hearings on S. 1289, to improve the management of forests and woodlands and the production of forest resources on Indian lands.
SR-485

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Small Business Administration, and the Legal Services Corporation.
S-146, Capitol
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak).
SD-138
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of Management and Budget, and the Executive Office of the President.
SD-116

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on multilateral development banks.
SD-138

2:15 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for the Department of Energy, focusing on atomic energy defense programs.
SD-116

APRIL 23

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Forest Service of the Department of Agriculture.
SD-192
Select on Indian Affairs
To hold oversight hearings on the Indian Federal acknowledgement process, including S. 611 and S. 912, bills to establish administrative procedures to determine the status of certain Indian groups.
SR-485

APRIL 24

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on the National Guard and Reserves.
SD-192
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Transportation Safety Board and the Federal Highway Administration.
SD-138
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's superconducting super collider program.
SD-366

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on refugee programs.
SD-138

APRIL 25

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of the Attorney General.
S-146, Capitol
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the General Services Administration.
SD-116

2:00 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1981, to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment.
SR-253
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 370, to establish the American Heritage Trust to provide funding for the preservation of America's natural, historical, cultural, and outdoor recreational heritage.
SD-366

APRIL 26

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Aeronautics and Space Administration.
S-126, Capitol

10:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for defense intelligence programs.
S-407, Capitol
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of State.
S-146, Capitol
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the General Accounting Office.
SD-138

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume oversight hearings on the Department of Energy's Decision Plan relating to the opening of the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico, and on proposed legislation to withdraw the public lands surrounding the WIPP site.
SD-366
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 1957, to provide for the efficient and cost effective acquisition of nondevelopmental items for federal agencies.
SD-342

APRIL 30

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for fossil energy and clean coal technology programs of the Department of Energy.
S-128, Capitol
Select on Indian Affairs
To hold oversight hearings on provisions of S. 1203, to provide tax incentives for businesses on Indian reservations, and S. 1650, to allow an Indian employment opportunity credit for qualified employment expenses of eligible employers on Indian reservations; to be followed by a business meeting to mark-up S. 143, to establish the Indian Development Finance Corporation to provide development capital for Indian businesses.
SR-485

MAY 1

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's uranium enrichment program.
SD-366

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Supreme Court of the United States, the Judiciary, and the Federal Trade Commission.
S-146, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on eastern Europe.
SD-138

MAY 2

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.
S-146, Capitol

MAY 3

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on strategic programs.
S-407, Capitol

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Bureau of Mines, all of the Department of the Interior.
S-128, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the U.S. Coast Guard.
SD-138

10:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Council on Environmental Quality, the National Space Council, and the Office of Science and Technology Policy.
SD-116

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Corps of Engineers.
SD-192

MAY 4

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Resolution Trust Corporation.
SD-138

MAY 7

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Minerals Management Service and the Office of Surface Mining, Department of the Interior.
S-128, Capitol

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings to examine the Indian health service nurse shortage.
SR-485

MAY 8

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on tactical airpower.
SD-192

2:15 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1848, to implement and provide financial assistance for a research and demonstration program for natural gas and coal cofiring technologies.
SD-366

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. military assistance.
SD-138

MAY 9

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 1981, to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment.
SR-253

MAY 10

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on initiatives for Indian programs for the 1990s.
SR-485

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on land warfare.
SD-192

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Veterans Administration.
S-126, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Aviation Administration.
SD-138

MAY 14

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for activities of the Secretary of the Interior, the Secretary of Energy, and the Secretary of Agriculture.
S-128, Capitol

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on S. 1021, to provide for the protection of Indian graves and burial grounds, and S. 1980, to provide for the repatriation of Native American group or cultural patrimony.
SR-485

MAY 15

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on seapower.
SD-192

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on population policy and resources.
SD-138

MAY 16

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 17

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on space programs.
S-407, Capitol

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on semi-conductors and the future of the U.S. electronics industry.
SR-253

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 22

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for the Department of Defense, focusing on classified programs.
S-407, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign

assistance, focusing on the global environment.

SD-138

MAY 24

9:00 a.m.
Appropriations
Defense Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for defense programs.

SD-192

JUNE 5

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense.

SD-192

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.

SD-138

JUNE 7

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 2203, to settle certain claims of the Zuni Indian Tribe, S. 2075, to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality, and S. 1934, to revise the United States Housing Act of 1937 to provide for the payment of fees for certain services provided to Indian Housing assisted under such Act.

SR-485

JUNE 12

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on organization and accountability.

SD-138

JUNE 19

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.

Room to be announced

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.

Room to be announced

JULY 12

9:30 a.m.
Select on Indian Affairs
To hold hearings to examine protective services for Indian children, focusing on alcohol and substance abuse programs.

SR-485

CANCELLATIONS

MARCH 27

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on Central America.

SD-366

POSTPONEMENTS

MARCH 29

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1966, to implement a research, development, and demonstration program for the generation of commercial electric power from nuclear fission.

SD-366

APRIL 2

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on S. 1966, to implement a research, development, and demonstration program for the generation of commercial electric power from nuclear fission.

SD-366

SENATE—*Tuesday, March 27, 1990*

(Legislative day of Tuesday, January 23, 1990)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by the Honorable ALAN J. DIXON, a Senator from the State of Illinois.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Seek ye the Lord while he may be found, call ye upon him while he is near.—Isaiah 55:6.

Sovereign Lord, in our secular culture it is assumed that God, if there be a God, is irrelevant to the practical affairs of life. We thank Thee that our Founding Fathers did not believe this, as a result of which they gave us a political system that functions effectively after 200 years and has produced one of the greatest nations in history.

Thank Thee for Senators who take God seriously. Grant to all of us the awareness of Thy nearness and the relevance of seeking Thee in times of stress, when issues, conflicts, schedules, and an imminent election combine to slow progress in debate and make resolution evasive.

In the name of Him who is Light and Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 27, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ALAN J. DIXON, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. DIXON thereupon assumed the chair as Acting President pro tempore.

CLEAN AIR ACT AMENDMENTS OF 1989

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending business, S. 1630, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Mitchell amendment No. 1293, in the nature of a substitute.

(2) Baucus amendment No. 1307 (to amendment No. 1293), to grant Administrator authority to authorize limited production of halons after the year 2000 if necessary for aviation safety purposes.

(3) Wirth/Armstrong amendment No. 1313 (to amendment No. 1293), to establish guidelines for alternative work schedules for Federal agencies within nonattainment areas.

(4) Byrd further modified amendment No. 1329 (to amendment No. 1293), to provide benefits for terminated coal mine workers.

(5) Nickles amendment No. 1373 (to amendment No. 1293), to establish operating permits to facilitate enforcement and to provide a process for implementing new control requirements.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, the unanimous-consent agreement reached yesterday provides that now that the Senate has resumed consideration of the clean air bill, the time until 9:30 will be equally divided in the usual form on the pending Nickles-Heflin amendment with a vote occurring on or in relation to the amendment at 9:30 this morning.

Once that vote has been completed the Senate will recess subject to the call of the Chair. This recess will permit Members of the Senate to join with our House colleagues in a joint ceremony to honor the centennial of the birth of President Dwight D. Eisenhower. When the Senate reconvenes following that ceremony, there will be time for the two leaders.

Following leader time, the Senate will resume consideration of the clean air bill until 1 p.m., when the Senate will recess for 1½ hours, that is until 2:30 p.m., for the respective party conferences. Consideration of the clean air bill will resume at 2:30, and I expect that there will be votes on amendments throughout the day and well into the evening tonight.

I thank my colleagues for their consideration, Mr. President. I note the distinguished Senator from Oklahoma, the coauthor of the pending amendment, is present, as is the distinguished Senator from Montana, the manager of the bill. I believe they are prepared to resume debate on the measure and I therefore yield the floor.

The ACTING PRESIDENT pro tempore. Does the manager desire recognition? I would advise the manager and the distinguished Senator from Oklahoma that each controls 21 minutes.

Mr. BAUCUS. I thank the Chair.

The ACTING PRESIDENT pro tempore. The manager of the bill, the Senator from Montana, is recognized.

Mr. BAUCUS. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized for 5 minutes.

Mr. BAUCUS. Mr. President, I am very opposed to this amendment for several reasons. Let me indicate why. Very simply, we in this Senate have spent days, weeks, and months fashioning the substance of a solid clean air bill.

There have been intense negotiations. There has been much compromise. We reached the critical mass of an excellent clean air bill, one that dramatically improves upon current law.

We are now faced with an amendment dealing with permits and enforcement. This amendment guts what we have done in the preceding months. It renders useless, ineffective, only theoretical the main part of the act we have negotiated.

If this amendment is agreed to, essentially there will not be a strong enforcement program, there will not be a strong permitting program under which emissions will be monitored, under which States, sources, interested persons will be in a position to know whether or not the act is being followed. If this amendment is agreed to, we will have passed a Clean Air Act in theory, but not in substance. We will have enacted the Clean Air Act in theory, but not in the concrete. Whatever we have done in the last several months will essentially be eliminated if this amendment is agreed to.

This amendment shields way too much. In the colloquy with the Senator from Oklahoma yesterday, it was clear this amendment is so vague. At best, only certain actions are shielded. But because the amendment is so vague, it is clear that maybe much more is shielded.

Only on the point of vagueness I think this amendment should be defeated, but there is much more. In addition to the vagueness, there are

major actions that would be shielded if this amendment is agreed to.

In addition, Mr. President, this amendment adds cost to the agency as an additional reason why an action should not be taken. We have never done that. We have never added cost to the agency as additional criteria. Never have.

In addition to that, Mr. President, this amendment allows the EPA to substitute itself for a citizen who is suing, even after, under current law, 60 days has run. That is ridiculous. It seems to me if a citizen sues and the 60 days has run, a citizen ought not to be able to follow up on his suit.

Mr. President, the amendment that the Senator offers very dramatically undermines, undercuts the major actions we have taken to this date. This is a killer amendment. This is a gutting amendment. It is an amendment that should not be agreed to.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized for 5 minutes.

Mr. NICKLES. Mr. President, I take issue with my friend and colleague, the Senator from Montana, in several of his remarks, particularly his remark that says our amendment would gut the bill, would violate the intentions and the thrust of the bill. That is just totally false. That is not the case.

Maybe the Senator does not understand the amendment. We explained it. We discussed the amendment at length yesterday. We have not spent very much time discussing the so-called Baucus-Chafee permitting approach.

As a matter of fact, in all of the discussions and in the hours spent—and I complimented all those who have been involved in putting together the clean air package; they spent a lot of time, they spent months putting together the clean air package, but they spent very little time putting together the permitting section and the enforcement section. Very little time, indeed.

As a matter of fact, it was not negotiated. They put in most of the administration's package under S. 1630, the original package, but they added a few provisions like allowing citizens to sue EPA for discretionary activity. The administration has vigorously opposed that. They still do.

I have a letter from the Attorney General, which I printed in the RECORD yesterday, who said that will not work. If it does, it means EPA has to spend all their time defending themselves for actions they have taken on legitimate legal discretionary actions.

The Attorney General saying, "Do not do that." The head of the EPA is saying, "Do not do that. That is a serious mistake. We would like to spend our time in enforcement, actually cleaning up the environment, not spend all our time and resources defending ourselves," not to mention the fact that those citizen suits would be abused. You could actually have competitors suing EPA to make or to deny permits, or to make more restrictive permits on their competitors. Keep in mind, these permits are important. If you do not have a permit, you cannot operate. We are talking about jobs; we are talking about competitiveness; we are talking about being able to succeed or not succeed.

Permits are important, I agree. I think that the permitting section is important, but it has been basically ignored by almost everyone. This permitting section we have before us basically was written by staff. I compliment the staff. They have worked hard. They are tired. They have worked very hard.

But it just so happens that the people who would have to administer the permitting program and the enforcement program say we need some changes; we need some improvements; it will not work. The permitting system that we have before us, the so-called Baucus-Chafee permitting section, will not work. It needs to be streamlined.

So the Administrator of EPA has contacted myself and worked with the administration and with the Justice Department, and said, "We need some changes." They are the ones who have recommended these changes. They do not want to gut this bill. They are not interested in eliminating the clean air bill. They have worked as hard as anybody. They want to see it happen. They just also have to be in charge of making it happen.

We have some provisions in our amendment that would help expedite the permitting process; that would help eliminate some of the bureaucracy; that would give preference to some permits that require construction. Do we want to have all construction permits jammed in the same pipeline? We are going to have thousands of permit applications, but you cannot begin construction for a source if you do not have a permit.

They are going to have those same permit applications for new sources or new construction. They are going to be in the same pipeline. We put a preference in them. We try to streamline. We try to encourage those to be expedited because we want to make the system work. We want those jobs, plants, and factories with clean, good environmental standards to be built in the United States, not outside the United States, a direct result if you have a permitting system that will not work because you are going to have a lot of jobs leave the United States.

So we are talking about jobs. We are talking about competitiveness, and we are talking about an effective environmental system that we have under our amendment.

My friend from Montana said the so-called shield is too broad under my amendment. I disagree. The so-called shield, and for those who are familiar with this, this allows a permit—incidentally, the Baucus-Chafee amendment has a shield.

The ACTING PRESIDENT pro tempore. I regret to inform the Senator from Oklahoma that his time has expired.

Mr. NICKLES. I yield myself an additional 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized for 3 minutes.

Mr. NICKLES. Mr. President, we have a shield that would be a little broader. It needs to be a little broader because under the Baucus-Chafee amendment, the permitting system, the shield will not work. You will have a never-ending evolution of changes that will be added to a permit, most of which will be bureaucratic, most of which will be notices, most of which will do very little, if anything, to improve the environment.

Our shield would work. I explained it yesterday, and I will refer to it, if necessary, in a moment. But it is not, as characterized by the Senator from Montana, a gutting amendment.

Our enforcement provisions were written by the Department of Justice. They are interested in enforcement provisions that will work, enforcement provisions that will allow the Department of Justice to prosecute violators of the environment, not to spend all their time and resources to defend themselves or EPA from making legitimate legal discretionary actions.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma yields the floor. Who yields time?

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized for 4 minutes.

Mr. CHAFEE. Mr. President, I do not think we ought to get bogged down in the discussions here that the EPA favors the Nickles amendment.

The EPA wrote the original language. The EPA wrote the original text that dealt with enforcement and permits. The administration, not the EPA—I think everybody who has dealt with this bill knows that EPA has been subordinated in the discussions here. The decision is not being made by the EPA here.

Those in superior ranks within the White House decided that what the

EPA did in the first version was wrong and, indeed, if the Senator from Oklahoma were prepared to accept the EPA version, which namely was the first draft, the part of S. 1630 that is in this legislation, we would be perfectly prepared to accept it.

I must say, if you do not like the way something is done in this Chamber, you refer to it the bureaucrats. The bureaucrats wrote that section, apparently.

Now, I do not think it is really fair to demean those in the EPA, but, nonetheless, that version has been rejected by the administration. So they have come forward with a modifying amendment to correct what they disapproved of, the original EPA language in 1630.

I agree with the characterization that has been attached to the Nickles amendment by the Senator from Montana. This does substantially change the bill. Call it a gutting amendment. Look at some of the language that has been used. We went through this yesterday. But to revise you must indicate that the revisions are only to protect against a serious risk to public health. In other words, if the modification cannot be justified on the basis that a serious risk to public health is incurred prior to the modification being accepted, then you can see what a hurdle one has to get over to modify the permit. Who can prove a serious risk to public health is going to come from this pollution? That is a far higher standard than in existing law.

Furthermore, we pointed out yesterday, and I think it is so important, the ability of the polluter to stall and stall and stall. Under the procedures that the Senator from Oklahoma provides in his amendment, why, the polluter first can go and have his case heard before an administrative law judge—10 months. After that, he can appeal. Everybody knows how long it takes for an appeal to be reached in a Federal district court—maybe 2 years, maybe 1½ years. And after that he can appeal again to the court of appeals. Clearly, this process is going to take 4 to 5 years, and yet that is what is provided. On goes the polluter.

We do not permit that. That is not permitted under any of our environmental laws. It is not permitted under the Clean Water Act. It is not permitted under RCRA. It is not permitted under Superfund, and yet they permit it under this amendment. The whole basis of this act is to protect public health, public health and the environment. This is being substantially undermined by the Nickles amendment, so I hope that all Senators join in the efforts to defeat this amendment, which seriously undercuts the enforcement of this act. The whole act is dependent on permits and enforcement. Absent those, the act just becomes a heavy paper bound volume.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. NICKLES. Mr. President, I yield myself 4 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized for 4 minutes.

Mr. NICKLES. Mr. President, I wish to respond to my good friend and colleague, Senator CHAFEE, from Rhode Island. I think he is totally incorrect in his assessment when he says this is not supported by EPA and it is supported by the administration.

Yesterday, I inserted in the RECORD a letter from EPA strongly supporting these amendments. I tell my friend and colleague, I have worked with the EPA. EPA has been very much involved in drafting the permitting section which I submitted on behalf of myself, Senator HEFLIN, Senator DOLE, and others. They are the ones who are going to have to be involved. They are the ones who drafted the original 1630. But since then they have learned that some improvements needed to be made, some streamlining needed to be done. Industry and others have said, wait a minute, the permitting program that was originally drafted was not thought out enough. It could be and should be improved. That is what they suggested. That is what we are trying to do. To suggest that it guts the bill is totally false, totally false. It needs to be rejected. Again, I kind of resent that misstatement.

A couple of further comments. The Senator said, wait a minute, we go before an administrative law judge. Yes, we do if we are talking about compliance orders that would be issued by EPA or if you are talking about 167 orders which are basically telling people they have to stop construction. We are saying to those individuals, yes, they can go before the administrative law judge. Under the Baucus-Chafee amendment they would not even go before an administrative law judge. What they would do is go before EPA bureaucrats to take action. They could impose penalties that could go up to $25,000 a day. Judge Heflin has done most of the work on enforcement. Maybe I should let him explain it. But we are talking about fines up to $25,000 a day or causing people to be unemployed. We think we should have a day in court, not some unelected bureaucrat who has a bias because he is an employee of EPA making a decision. We believe it should be impartial. We believe it should be more in compliance with the Administrative Procedure Act. That is what the Department of Justice has said. I did not dream that up. I did not say that it should be done this way by the Department of Justice. The Department of Justice did because they want the system to work. They want it to be effective. They are not interested in bureaucracy. They are not interested in having to spend most of their time and resources defending themselves for taking discretionary action.

Probably the biggest difference between the two amendments is that under Baucus-Chafee you have citizen suits where citizens groups, and it might be the environmental lobby or it might be competitors, have the right and opportunity to be able to sue EPA for making and taking discretionary action. There is no limit to that. So you could have untold numbers of groups and/or competitors suing EPA for making a discretionary decision on permits. If you want to bog down the permitting system, you allow that to happen because you are going to have more suits, you will have more bureaucrats under the EPA defending themselves for making discretionary decisions. It will not work. The EPA right now is going to be building a $400 million building to house their new bureaucracy, their new efforts. I will tell you something. That building will not be big enough to take care of all the permitting problems and legal problems that we are going to have if we agree to Baucus-Chafee without this amendment.

We need this amendment. EPA needs this amendment. The environment needs this amendment. We need to pass this amendment if we are going to have an effective, workable clean air bill. I want that to happen. I want it to happen. I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator yields the floor. Who yields time?

Mr. BAUCUS. Mr. President, might I ask how much time is remaining on each side?

The ACTING PRESIDENT pro tempore. The Senator from Montana has 13 minutes and 47 seconds. The Senator from Oklahoma has 9 minutes and 46 seconds.

Mr. BAUCUS. Mr. President, I yield 1 minute to the Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the distinguished Senator from Oklahoma, who spent a lot of time on this—and I want to pay tribute to his interest—keeps saying that our legislation would allow citizens to sue EPA to make EPA take actions that are discretionary. I do not know why the Senator keeps saying that because on page 507 of the bill, at the bottom of the page, starting on line 16, he very clearly can find that the provision we have in the bill says that a citizen suit is allowed where there is an alleged failure to perform any act or duty under this act which is not discretionary. So that is it. I would appreciate it if the Senator from Oklahoma would pay close heed to that particular provision. We

are not dealing with discretionary matters. We are dealing with matters that are not discretionary with the administrator.

Mr. NICKLES. Will the Senator yield?

Mr. CHAFEE. Yes, I will.

Mr. NICKLES. On my time.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized on his time.

Mr. NICKLES. Mr. President, I would love to have clarification for the record. Is the Senator telling me that under the Baucus-Chafee approach EPA would not or could not be sued for discretionary actions on permits?

Mr. CHAFEE. Under this particular provision——

Mr. NICKLES. I am not talking under this particular provision. I am talking about under the permitting and enforcement sections is the Senator from Rhode Island saying that EPA cannot be sued for taking discretionary action?

Mr. CHAFEE. Under this act, if you read clearly what I said, the suits can be brought where under—let me read it again: "Against the administration where there is alleged failure to perform any action or duty under this act which is not discretionary with the administrator." So there it is. I think I am correct in saying that is the only reference with anything dealing with discretion in the act. Am I correct?

Mr. NICKLES. I want to make sure the Senator is on his time and not my time.

Mr. CHAFEE. I have no time here.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma's time is running.

Mr. NICKLES. I reserve the remainder of my time.

Mr. HEFLIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alabama is recognized. Who yields time to the Senator from Alabama? Will the Senator from Alabama withhold? Does the Senator from Oklahoma yield time to his colleague?

Mr. NICKLES. I am happy to yield to my colleague such time. How much time do I have remaining?

The ACTING PRESIDENT pro tempore. Eight minutes and twenty-three seconds.

Mr. NICKLES. I am happy to yield to the Senator from Alabama 2 minutes.

Mr. HEFLIN. Mr. President, I spoke yesterday relative to the Nickles-Heflin-Dole amendment. I would like to emphasize again that in regards to the administrative hearing where a person or company could be faced with the expenditure of millions and millions of dollars there is a great deal of difference between the Nickles-Heflin-Dole amendment and the Baucus-Chafee amendment.

I really have to refer to the Baucus-Chafee as an example of overzealousness that says the end justifies any means. And what we are going to take away from the basic fairness in the administrative hearing process, and the administrative hearing process is extremely important relative to proving any alleged violation and enforcing against it.

The Administrative Procedures Act, which has been developed over the years, allows for the right of cross-examination. That is not allowed in the Baucus-Chafee amendment. You have a right to an administrative law judge under the Nickles-Heflin-Dole amendment. You do not have that right under Baucus-Chafee. Under that amendment, you have a situation where any employee of EPA could be designated as a hearing officer. That hearing officer might be prosecuting you the day after or the day before.

It seems to me that basic fairness demands the adoption of the Nickles-Heflin-Dole amendment, and therefore because of that I feel like this is a very important matter. And overzealousness should not prevail. Thank you.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BAUCUS. Mr. President, I yield myself 4 minutes.

Mr. President, as we near the end of the debate on the Nickles amendment, I would like to reiterate my position to it as one of the managers of the bill.

First, the amendment is unnecessary. The permitting and enforcement titles before this Senate in the pending substitute amendment represents a highly moderated version of those titles as they first appeared in President Bush's clean air bill and later reported out by the committee.

Let me emphasize that these changes in the present substitute before the Senate were made after extensive consultation with industry and with the administration. And they addressed almost all the concerns raised by the administration. Titles V and VI of the pending substitute are the product of months of work. In contrast the final language of the pending amendment, the Nickles amendment, was not before us until yesterday afternoon. It has been before us for less than 24 hours. Yet the sponsors ask us to accept it and discard provisions that are the product of months long development beginning with the introduction of the original Bush bill.

Second, the amendment plays havoc with and weakens current law. The amendment creates a broad permit shield and imposes a stiff test that the EPA or permitting authority must pass before a permit can be reopened to include a new pollution control requirement.

Together, this is critical, Mr. President. Together, these two changes in the Nickles amendment give a polluter an unprecedented ability to avoid enforcement even when generating emissions in violation of requirements established under the Clean Air Act.

At the same time these provisions can prevent a standard guideline requirement promulgated under the act and reflecting the full consideration of the EPA permitting authority from being applied to any source holding a permit. In contrast, the permit shield included in the substitute before the Senate affords source certainty and predictability without undermining the State and Federal regulatory authority needed to implement the act.

The third area of concern is the undue burden the Nickles amendment would place on the Government's ability to order prompt compliance with existing requirements. Title VI of the substitute recognizes that sources should not have to face the Hobson's choice of complying with orders they find unjustified or risking costly enforcement actions.

For this reason, the substitute affords sources an opportunity for a public hearing on the order without introducing endless delays in the enforcement process once the hearing is held. This is the point made by the Senator from Alabama. The Senator from Alabama leaves the impression that the substitute amendment goes farther, and impedes upon and intrudes upon the rights of sources who may want to contest enforcement orders.

That impression left by the Senator from Alabama is totally incorrect and is totally inaccurate. On the contrast, the substitute improves upon the rights of a source who contests an enforcement order, improves upon the rights, improves upon current law; does not weaken current law but gives the sources additional rights that currently that source does not have in any other area of environmental law.

So the Senators should recognize that the substitute improves upon the rights of a source to contest an enforcement order. The Nickles amendment, in contrast, provides sources with endless funds to litigate. In some cases sources could use additional review provisions of the Nickles amendment to mount four separate and successive challenges to EPA enforcement, four levels; draining both private and public resources and efforts to avoid compliance rather than clean up pollution.

Finally the Nickles amendment would deny citizens acting as private attorneys, generally in place of the Government, the ability to bridge actions that would in turn make polluters pay for past misdeeds. There is no justification for allowing polluters to enjoy the unjust enrichment gained

by failing to comply in the past even if they comply in the present.

I hope my colleagues can see the Nickles amendment must be rejected to ensure that the permitting enforcement system so vital to turning the promise of clean air into reality can, in fact, be established.

The list of obstacles the Nickles amendment would impose to orderly functioning of the permit enforcement system is much longer than the list I have just enumerated. However, those are the main points, and for these reasons I strongly oppose the amendment, because I think the amendment would very much weaken the act.

It is the problem posed by the Nickles amendment——

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BAUCUS. I yield myself an additional 30 seconds.

It is the problems posed by the Nickles amendment that have prompted State air administrators, the people on the front lines of clean air implementation, to write us not once, but twice in the last week to express their support for the substitute provisions and their opposition to the Nickles amendment. I can only hope that the majority of this body pays heed to their expertise and defeats the Nickles amendment.

The ACTING PRESIDENT pro tempore. The Chair will announce the Senator from Oklahoma now has 6 minutes and 8 seconds. The manager has 6 minutes and 58 seconds.

Mr. McCLURE. Mr. President, will the Senator from Oklahoma yield 2 minutes?

Mr. NICKLES. I am happy to yield to my colleague.

Mr. McCLURE. Mr. President, I thank the Senator from Oklahoma not only for yielding the time but for his tremendous effort and leadership in bringing this matter to the floor of the Senate for discussion and, I hope, a positive resolution.

I rise as a cosponsor to the amendment being proposed by Senators NICKLES and HEFLIN and others. This amendment concerns two of the least discussed but very important aspects of the measure before us, namely, their permit and enforcement.

Although these matters are critical to the successful implementation of the environmental policies set forth elsewhere in the measure, they have received little attention in this debate until now, and were not discussed during the bipartisan negotiation. I want to stress that, because we have so often been confronted with the assertion that we should not tamper with this provision because it is part of the bipartisan compromise and, therefore, immune from any further discussion. These matters received no discussion during the bipartisan negotiations, at least in my hearing.

The amendment before us is perfecting in nature. It perfects the permit and enforcement provisions of S. 1630 to reflect extensive discussions and detailed analysis by the Justice Department and the Environmental Protection Agency, who have the ultimate responsibility for their implementation.

Before discussing the amendment further, I observe for the RECORD that the amendment has the support of the administration and was drafted in close cooperation with the Justice Department, the Environmental Protection Agency, and the White House. The question is, Who are the experts?

While the amendment is not supported by the Environment and Public Works Committee, the amendment does reflect the extensive negotiations that have occurred over the last month between representatives of the administration and Senate staff members from the Environment and Public Works Committee and individual member offices.

The amendment retains the tough regulatory tools in the President's permit proposal. The original proposal has been perfected to smooth out the permit system's procedures by eliminating unnecessary Federal intervention in the State's procedures for the issuance of permits.

PERMITS

All of the Clean Air Act proposals pending before the Congress establish similar Federal mandates for each State to expand or establish operating permit programs for the many sources of atmospheric air pollutants that will be regulated under the act. Although very important for the implementation of the Clean Air Act amendments, these permit provisions have, however, been one of the least discussed aspects of the Senate and House clean air bills—especially compared with the major programmatic issues of acid rain, air toxics, nonattainment, and mobile sources.

The President's original proposal was for establishment of State permit programs that would enable a major source of air pollution to obtain a single, publicly available operating permit that sets forth the source's aggregate obligations under the act. However, what was already a complicated generic permit program under title V was made even more complex by S. 1630 as reported. The reported measure adds separate permits and fees in the nonattainment provisions of title I. It establishes a Federal permit program for hazardous air pollutants in title III, and an acid rain permit program in title IV. Each of these permit programs has its own separate requirements.

The overall effect of the changes made by EPW staff do not advance any environmental goals but instead increase the costs to permittees and the public. Moreover, the changes will dampen technological innovation and eliminate the flexibility sources need for day-to-day operations.

The substitute before us attempts to resolve the inconsistencies between these individual permit programs, but it is not fully successful in this regard because it was prepared in the crunch just prior to the March 5 deadline when amendment No. 1293 was presented to the Senate.

By comparison, the amendment before us reflects 3 weeks of additional analysis and negotiation. Permits and fees are an appropriate procedural tool for addressing many of the persistent air pollution control problems in certain air quality regions of the country.

My concern, Mr. President, is that all too often the procedural aspects of environmental legislation are used to frustrate implementation of national policy by those who do not agree with it. Such obstructionism is contrary to the national interest, and often denies our fellow citizens the very environmental benefits that legislation such as the Clean Air Act is intended to provide the American people.

The permit and enforcement provisions of the pending amendment do a better job than the Mitchell-Baucus substitute in establishing a permit and enforcement program. The amendment will—

Protect the environment by requiring permits of individual sources;

Establish a fee structure to underwrite administration of the permit program so as to assure timely issuance of permits by State regulatory agencies;

Fully consolidate all Clean Air Act permit requirements by authorizing a single permit document; and

Provide more uniform, nationwide enforcement of the Clean Air Act.

By comparison the Baucus-Chafee substitute saddles the Clean Air Act with a permit and enforcement program that is full of delays, unnecessary bureaucracies, outside interventions, and legal inconsistencies. This will unnecessarily increase the costs to permittees and the public, stifle innovation, inhibit industrial growth and modernization, and eliminate the flexibility sources need for day-to-day operations, without any additional environmental benefits.

The amendment builds on the President's original proposal to eliminate unnecessary Federal intervention in State permit decisions and assure that close regulation of permittees does not stifle modernization of our industrial infrastructure which is essential to maintaining our economic position in world trade.

ENFORCEMENT

The enforcement provisions in the amendment enhance the Clean Air Act by:

Expanding criminal enforcement authorities;

Clarifying and revising civil judicial enforcement authorities; and

Expanding administrative enforcement authorities;

Many misdemeanor criminal penalties are upgraded to felonies. Civil and administrative enforcement mechanisms are strengthened to provide a much stronger, more effective civil and administrative scheme.

A citizen suit provision modeled after other environmental statutes provides all the standard opportunities for citizens to challenge agency action and to bring citizen enforcement action against violators.

The Nickles-Heflin amendment assures successful implementation of the Clean Air Act at the lowest possible cost to individual permittees. I urge its adoption.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma has 3 minutes, 49 seconds. The manager has 6 minutes, 55 seconds.

Who yields time? The time will be charged to both sides, unless a Senator wants to yield some time. The clerk will run the clock.

Mr. BAUCUS. Mr. President, the majority leader would like to speak. He was on the floor, but he was called off the floor. I am wondering if the Senator from Oklahoma might agree to defer temporarily so that the majority leader is able to come to the floor and speak on the amendment.

Mr. NICKLES. I have a few more comments, and I think he may have a few more, and I believe Senator DOLE also would like to speak. Why do we not agree to give both the majority leader and Republican leader a couple of moments.

Mr. BAUCUS. Mr. President, I make another suggestion. The majority leader is here. Let us just proceed. I might ask the Chair how much time remains?

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma has 3 minutes, 38 seconds. The manager has 6 minutes, 9 seconds.

Mr. BAUCUS. I have no more speakers on my side. I can reserve the remainder of the time for the majority leader.

The ACTING PRESIDENT pro tempore. If no one yields time, the time will be divided equally. The Senator from Oklahoma has 3 minutes, 38 seconds.

Mr. NICKLES. Mr. President, I wish to take a few minutes, and if the Republican leader comes in, I hope we will give him a couple moments. I wish to make a couple of statements.

The Senator from Rhode Island, who I have great respect for, stated that it was his belief that we were not, as under the Baucus-Chafee approach, giving citizens the right to sue EPA for discretionary items. That is not the case. I have a letter from the Attorney General that says that the proposed language would give plaintiffs, including polluters or competing businesses trying to gain an advantage in the market, and unprecedented new power to use litigation to compel EPA to take action which is discretionary.

That analysis came from the Attorney General. I see the Senator's staff is shaking their heads. It is on page 508 and page 509, under the citizen suit section. It talks about citizen suits and petitions, sections 307, 354, and also under deferred actions, that gives citizens the right to sue EPA for discretionary items.

I think people need to know that. That is probably the biggest difference between our approaches and that taken by Senators BAUCUS and CHAFEE. Do we really want to turn citizen suits loose on EPA to where they have to use their resources to defend themselves for taking discretionary actions?

We are talking about actions dealing with permits. There are going to be thousands of permits. Do we want citizen suits to say to EPA, "You decided to issue a permit, we think you went too far. You should not have issued that one. We think it should be more stringent." You have competitors doing it. You are going to tie down this permitting process in the courts with an unbelievable mass of litigation.

Also, the Senator says that the Nickles-Heflin amendment is going to cause more litigation, and that is totally wrong. The Department of Justice has agreed with me. The Attorney General agrees with me, as evidenced by the letter. This criticism happens to lie with the Baucus-Chafee bill. That is the reason we are trying to change it, why it needs to be changed, the reason it must be changed if we are going to come up with an effective, workable, affordable clean air bill. It will not work if you do not have a permitting system that can work. It will not work if you have a system that is an invitation for litigation from every group imaginable, including competitors.

So I think this is critical and needs to be changed. The only way is by passage of the Nickles-Heflin-Dole amendment. I urge my colleagues to support our amendment.

The ACTING PRESIDENT pro tempore. The time of the Senator from Oklahoma has expired. The Chair states that there is 5 minutes, 30 seconds left for the manager, and 3 minutes left until the appointed hour for the vote.

The majority leader.

Mr. MITCHELL. Mr. President, the permitting and enforcement provisions in the committee amendment No. 1293 to S. 1630 have been the subject of lengthy discussion. The Nickles-Heflin amendment is an effort by the administration that ironically contradicts the President's original proposal.

A review of the history of these provisions may be helpful. The permits and enforcement titles of S. 1630 as reported by the Environment and Public Works Committee are almost verbatim the language initially proposed by the President.

The original administration proposal, which was embodied in S. 1630 as reported, provided that compliance with permit terms was a defense to noncompliance with provisions of the act addressed by the permit.

Monitoring and reporting requirements were to assure compliance with the permit's terms and conditions.

The administration had a change of heart on these and other provisions and subsequently revised them. That revision process continued until yesterday morning, when we received a modified version of the Nickles-Heflin amendment.

The permits and enforcement titles were explicitly not part of the agreement with the administration. While staff was drafting the agreement itself, a long meeting was held to see if the differences among the bills could be narrowed.

The differences were narrowed considerably. The committee amendment 1293 leaves only a few issues in dispute.

But these are important issues. We have labored long and hard to assure that the revisions to the Clean Air Act are effective and protect the public health and the environment. Without an effective means of assuring compliance with and enforcement of the act, the act has little meaning.

The areas in disagreement are clear.

First, the text of the committee amendment 1293 provides that permits should be issued unless "an exemption is warranted and would be consistent with protection of the public health, welfare, and the environment." The added test of a full cost-benefit analysis under the Nickles-Heflin amendment is unwarranted and is designed to assure that sources are not subject to permit requirements.

As the history of the act has shown, without a full operating permit requirement, there is no compliance. No compliance with the act means that the public health and the environment are not adequately protected.

Permits will need to be modified. Errors, oversights, or subsequent requirements would in the normal course of events, trigger such modification. But, unlike the administration's earlier proposal, under the Nickles-Heflin amendment such modifica-

tions can occur only if EPA finds that there is a serious risk to public health.

This is an extraordinary standard that is found nowhere else in the act. It completely excludes the threat to the environment, which is a major focus of our actions over the last 10 years. A serious risk to public health establishes such a standard that modifications will not be available. Without modifications, the earlier permit still stands. Thus this provision in the permits title could have the effect of immunizing industry from the requirements of the act.

In contrast, under the committee amendment 1293, permits can be modified for cause. This is a known standard that has been frequently applied in other situations. This is also a standard that courts can apply. The serious risk to public health is a new standard on which case law would have to be developed, creating more uncertainty. It would weaken current law and should be rejected.

Similarly, the Nickles-Heflin amendment provides a shield to industry from enforcement actions in cases of new requirements unless EPA finds that there is actual harm to public health.

This is another new standard that the courts will have to interpret. It unfortunately suggests that EPA is unable to prospectively determine that there is actual harm. Do the proponents of the amendment mean to eliminate EPA's authority to prevent harm? Such a standard dilutes EPA's existing authority and should be rejected.

In addition, States are not given the opportunity to make such a finding. This ignores the fact that the Clean Air Act depends first upon State implementation of the act. It will be primarily the States that issue and review permit applications. The States may be in the best position to determine if there is a local harm to be avoided.

The actual harm standard is such that the shield will stay in force even if there are adverse effects. Again, I note that the standard only applies to public health and eliminates any environmental threats that may exist.

A third area of disagreement is the deadlines that apply to the entire permitting system. Without a date certain by which the permitting authority or EPA will make decisions, the entire system may not function.

The Nickles-Heflin amendment has no deadline by which the permitting authority must respond to application for renewal.

In contrast, the committee amendment 1293 provides that final action must be taken not later than 12 months after receipt of a complete application. Under the Nickles-Heflin amendment, the permits remain in effect until the permitting authority acts, but nothing requires the permitting authority to act. This is a prescription for the operating permit system not to function.

Both the Nickles amendment and the Environment Committee version of the permitting title require the permitting authority to make distinctions between permits that are codifying permits; that is, those permits that do not change the requirements of the act, and modifying permits. This distinction was created to avoid a backlog of permit applications. Codifying permits are given less scrutiny and are expected to be processed in less time.

But mistakes will undoubtedly happen. Under Nickles-Heflin, however, these mistakes are almost impossible to correct.

First, EPA is never officially notified of draft permits that codify. The burden is thus on the Administrator to find out about such permits and to comment within the comment period.

If EPA does find out about such permits and decides that they are modifying permits instead, this decision is not reviewable.

In contrast, the Environment Committee approach is simply to allow judicial review of the initial decision by the permitting authority that a permit is codifying or modifying.

There are practical effects of the hurdles imposed under the Nickles amendment.

If a permit is erroneously considered to be a codification and in fact modifies the requirements of the act, there is no EPA review of such a permit. It is unlikely that EPA will have the resources to review the over 10,000 permits we expect will be issued under this program.

If a citizen notices that the act's requirements are in fact modified and comments to this effect, that citizen has no ability to sue in Federal court on this Federal issue. Instead, the citizen can only sue in State court. I know of no other case where access to Federal courts on a Federal issue is denied.

Taken together, the permitting provisions in the Nickles-Heflin amendment amounts to maze of confusion that can only confound applicants and the courts that will interpret this language. The overall scheme creates a picture of industries, that have found a way to immunize themselves quietly from the requirements of the Clean Air Act.

Yesterday, Mr. President, there was discussion that the Environment Committee language modified section 304 of the act to provide, for the first time, for citizen suits to lie against the Administrator for failure to perform a discretionary act. This is simply not the case.

On page 507 of amendment 1293, at line 24, it is clear that section 304(a) continues to apply only in cases where there is a nondiscretionary duty.

The language is intended to provide for citizen suits in cases where the Administrator has unreasonably delayed taking such nondiscretionary action. Those who have watched EPA implement the act over the last 20 years are familiar with this problem.

For example, in September 1984, the U.S. District Court for the District of Columbia ruled in NRDC versus EPA on the question of heavy duty engine standards. The court stated:

> Despite Congress' determination to establish a specific, unqualified timetable for the promulgation of regulations governing NO_x emissions from heavy vehicles, the EPA has done virtually nothing to establish those standards. The same inaction characterizes EPA's treatment of the subject of particulate standards. In each of the foregoing cases, the EPA has repeatedly declared that it would shortly issue the required regulations, only in fact to fail to meet any of its own self-imposed timetables.

The court then states that: "The agency's position is devoid of justification for the agency's laggard performance of its mandate duties." The court found that it is "nothing short of astonishing that the agency seeks additional time to promulgate the required regulations when it offers not one shred of evidence as to why it has thus far failed to issue those standards."

This was a case of a mandatory, nondiscretionary duty to act. Only EPA did not act until forced to do so under court order.

The language in amendment 1293 merely states that suits will lie if the agency again delays unreasonably in its execution of a nondiscretionary duty.

It is not surprising that the administration would oppose such a change, for they are targets of such litigation. Unfortunately, without such litigation, key provisions of the act may remain unimplemented.

I also understand that questions have been raised about the constitutionality of reversing the Gwaltney decision on citizen suits. In Gwaltney, the Supreme Court held that citizen suits could not lie for wholly past violations of the Clean Water Act. That decision also cited the identical language in the Clean Air Act, which is what amendment 1293 addresses.

While the decision may have been correct in its interpretation of the statutory language, the outcome is inappropriate because it provides no penalty to sources that have violated the act in the past.

Sources can pollute for years, but if they stop sometime before the suit is filed, there is no penalty. In addition, citizens are required to provide notice to the Administrator so the Administrator can choose to take on the case instead. This also provides sources with notification so they can correct

the problems causing the violations. Under Gwaltney, there is no tool for eliminating the past economic benefit of violating the act.

We have had many discussions over the last few months about the economic costs of this legislation, but we spent very little time on the economic incentives to not comply with the act. Unless the decision in Gwaltney is corrected by amending the act, such incentives will continue.

In response to those who seem to think that Congress cannot change its past work, I note that Gwaltney was very clearly a case of statutory interpretation by the Supreme Court. Nothing in our system of government prevents the legislature from subsequently clarifying its intent.

As the Court noted in its opinion in Gwaltney, "It is well settled that 'the starting point for interpreting a statute is the language of the statute itself'" (citing Consumer Product Safety Commission versus GTE Sylvania, Inc.). This language makes it clear that the Court was embarking on a foray into statutory interpretation.

Later in the same paragraph, the court noted: "Congress could have phrased its requirements in language that looked to the past (to have violated), but it did not choose this readily available option." Mr. President, amendment 1293 merely uses the Court s suggestion and adds the words "to have violated" to the language of section 304(a)(1) of the act.

The enforcement provisions also weaken current law in some key areas. Under current law, when EPA issues an administrative order citing a source for noncompliance there is no delay. In order to address concerns that there was no opportunity to be heard, we added a new procedural hurdle of requiring an informal hearing within 30 days. Some argue that this already weakens current law because it triggers a 30-day delay that does not now exist.

But the Nickles-Heflin amendment goes further and permits judicial review of all administrative orders. This in effect vitiates the authority of the agency to effectively issue administrative orders. This is a significant retreat from current law.

Mr. President, after all the time and effort devoted to this legislation, it would be unfortunate if we were to weaken the underpinnings of the Clean Air Act by diluting further the permitting and enforcement provisions. I urge my colleagues to join me in opposing this amendment.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I move to table the Nickles amendment and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana to lay on the table the amendment of the Senator from Oklahoma. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD] and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

I further announce that the Senator from Massachusetts [Mr. KENNEDY] is absent on official business.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—47

Adams	Harkin	Mitchell
Biden	Hatfield	Moynihan
Bingaman	Heinz	Packwood
Bradley	Hollings	Pell
Bryan	Humphrey	Pressler
Bumpers	Inouye	Pryor
Burdick	Jeffords	Reid
Chafee	Kerrey	Riegle
Cohen	Kerry	Sanford
Cranston	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
Durenberger	Leahy	Simon
Exon	Levin	Specter
Fowler	Lieberman	Wilson
Gore	Metzenbaum	Wirth
Graham	Mikulski	

NAYS—50

Armstrong	Domenici	McClure
Baucus	Ford	McConnell
Bentsen	Garn	Murkowski
Bond	Glenn	Nickles
Boren	Gorton	Nunn
Boschwitz	Gramm	Robb
Breaux	Grassley	Rockefeller
Burns	Hatch	Roth
Byrd	Heflin	Rudman
Coats	Helms	Shelby
Cochran	Johnston	Simpson
Conrad	Kassebaum	Stevens
D'Amato	Kasten	Symms
Danforth	Lott	Thurmond
DeConcini	Lugar	Wallop
Dixon	Mack	Warner
Dole	McCain	

NOT VOTING—3

Dodd	Kennedy	Matsunaga

So the motion to lay on the table amendment No. 1373 was rejected.

MOTION FOR RECONSIDERATION

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, at this time I enter a motion to reconsider the vote by which the Nickles amendment was not tabled.

Mr. HEFLIN. I move to table.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask to speak on the motion.

Mr. HEFLIN. The motion to table is not debatable.

The ACTING PRESIDENT pro tempore. The motion is entered for future consideration. It is not now before the body.

Is there objection to the request of the Senator from Montana?

Mr. NICKLES. I object. The Senator from Alabama moves to table.

The ACTING PRESIDENT pro tempore. The motion to reconsider the vote is not now before the body. It is preserved for future consideration. It is not subject to being tabled at this time.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess subject to the order of the Chair.

Thereupon, at 9:54 a.m., the Senate recessed subject to the call of the Chair.

Whereupon, at 2:32 p.m., the Senate reassembled when called to order by the Presiding Officer [Mr. LEAHY].

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The distinguished Senator from Maine.

Mr. MITCHELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. At the expiration of the leaders' time, the pending business would be the Nickles amendment.

Mr. MITCHELL. Mr. President, I suggest that the Republican leader and I both reserve our time and that we proceed to vote on the amendment, and if agreeable, I will request the yeas and nays.

Mr. President, I reserve the remainder of my time and I yield to the Republican leader.

Mr. DOLE. I make the same request.

The PRESIDING OFFICER. Without objection, the remainder of the leaders' time is reserved to the respective leaders.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The regular order is the Nickles amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DECONCINI (when his name was called). Mr. President, on this vote, I have a pair with the distinguished senior Senator from Massachusetts [Mr. KENNEDY]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

I further announce that the Senator from Massachusetts [Mr. KENNEDY] is absent on official business.

On this vote, the Senator from Massachusetts [Mr. KENNEDY] is paired with the Senator from Arizona [Mr. DECONCINI]. If present and voting, the Senator from Massachusetts would vote "nay" and the Senator from Arizona would vote "yea."

The PRESIDING OFFICER (Mr. DASCHLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—47

Armstrong	Glenn	Murkowski
Bentsen	Gorton	Nickles
Bond	Gramm	Nunn
Boren	Grassley	Robb
Boschwitz	Hatch	Rockefeller
Burns	Heflin	Roth
Byrd	Heinz	Rudman
Coats	Helms	Shelby
Cochran	Kassebaum	Simpson
Conrad	Kasten	Specter
D'Amato	Lott	Stevens
Danforth	Lugar	Symms
Dixon	Mack	Thurmond
Domenici	McCain	Wallop
Ford	McClure	Warner
Garn	McConnell	

NAYS—50

Adams	Fowler	Metzenbaum
Baucus	Gore	Mikulski
Biden	Graham	Mitchell
Bingaman	Harkin	Moynihan
Bradley	Hatfield	Packwood
Breaux	Hollings	Pell
Bryan	Humphrey	Pressler
Bumpers	Inouye	Pryor
Burdick	Jeffords	Reid
Chafee	Johnston	Riegle
Cohen	Kerrey	Sanford
Cranston	Kerry	Sarbanes
Daschle	Kohl	Sasser
Dodd	Lautenberg	Simon
Dole	Leahy	Wilson
Durenberger	Levin	Wirth
Exon	Lieberman	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

DeConcini, for

NOT VOTING—2

Kennedy	Matsunaga

So the amendment (No. 1373) was rejected.

MOTION FOR RECONSIDERATION

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I enter a motion to reconsider the vote disagreeing to the amendment.

The PRESIDING OFFICER. The motion is entered for future consideration.

The majority leader.

Mr. MITCHELL. May I have the attention of the Senate?

The PRESIDING OFFICER (Mr. ROCKEFELLER). There will be order in the Senate.

Mr. MITCHELL. Mr. President, the distinguished Senator from Wyoming has requested 5 minutes to introduce other unrelated legislation and I would like to accommodate him. So, it is my intention momentarily to ask that he be recognized for 5 minutes for that purpose.

I do intend to propound, again, as soon as possible, a unanimous-consent agreement, trying to get a time for final passage of this bill this week.

I have discussed this previously with the distinguished Republican leader and with a number of other Senators. So any Senator who is interested in that should remain on the floor.

It is my hope I will be in a position to propound that in the very near future.

The Senator from Ohio, Senator GLENN, has been waiting for some time to offer his amendment, and has agreed to yield to Senator WALLOP. And he has also graciously agreed to yield to the Senator from Pennsylvania, who wishes to address the Senate briefly on the subject of the most recent amendment.

Accordingly, Mr. President, I will ask unanimous consent that the Senator from Wyoming be recognized to address the Senate on an unrelated matter for not to exceed 5 minutes.

Mr. WALLOP. Mr. President, I ask the leader, would it be more appropriate for the Senator to speak to the amendment just passed, while there are still Senators on the floor? I would be happy to yield for that purpose, subject to the leader.

Mr. MITCHELL. If the Senator wishes to do so, I will ask the Senator from Pennsylvania. Does the Senator from Pennsylvania indicate that 5 minutes would be sufficient for his purpose?

Mr. SPECTER. I thank the majority leader. I think 5 minutes should be, but it might take a moment or two longer. I do not want to be bound for precisely 5 minutes because what I would like to do is have a brief discussion with the distinguished Senator from Rhode Island.

Mr. MITCHELL. Mr. President, Senator MOYNIHAN merely wants to get unanimous consent to bring a staff member to the floor. I might ask if we do that first. That will take just a few seconds.

The PRESIDING OFFICER. The Senate will please be in order. The Senator from New York.

PRIVILEGE OF THE FLOOR

Mr. MOYNIHAN. Mr. President, I ask unanimous consent for Mr. Larry Cupitt, a regular employee of the Environmental Protection Agency, now on leave and working in my office, be accorded the privilege of the floor during the discussion of the amendment by the Senator from Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senator from Pennsylvania [Mr. SPECTER] be recognized to engage in a colloquy with the distinguished Senator from Rhode Island [Mr. CHAFEE] on the subject matter of the amendment just disposed of. And that following that colloquy the Senator from Wyoming be recognized to address the Senate on an unrelated matter for a period not to exceed 5 minutes. And that following that, the Senator from Ohio be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the distinguished majority leader, the distinguished Senator from Wyoming and the distinguished Senator from Ohio for yielding.

I seek to have a brief discussion with my colleague from Rhode Island concerning the amendment which has just been acted upon.

Mr. NICKLES. May we have order.

The PRESIDING OFFICER. The Senator from Oklahoma is correct. There are a number of discussions taking place that disrupt the order of this body. This is the third time in the last few minutes I have requested order in the Senate, and I will insist on it.

The Senator from Pennsylvania may proceed.

Mr. SPECTER. I thank the Chair. The issue which we just voted on and voted on earlier this morning is now subject to a motion for reconsideration. There is a very central point, which I think is subject to considerable confusion and want to discuss with the distinguished Senator from Rhode Island.

When I voted this morning to table the Nickles amendment, I did so after consulting with the distinguished Senator from Rhode Island on a critical factor, whether a citizen could go to court on a discretionary action by the Administrator of the Environmental Protection Agency.

The distinguished Senator from Rhode Island referred me to page 507 of S. 1630, which contains language that, in effect, States that a citizen may only appeal an action which is nondiscretionary with the Administrator.

Based upon the conclusion that S. 1630 allowed an appeal only of a nondiscretionary action, I voted to table the Nickles amendment.

Immediately after the vote, I then consulted further with Senator CHAFEE and with Senator NICKLES with respect to provisions which immediately follow those to which I just referred. These relate to section 307(d)(9), a provision which does not appear in the text of S. 1630.

Then I went to the title on chapter 42 dealing with air pollution prevention which picks up this section. Under the title 42, United States Code, section 307(d)(9) which is the same section referred to in S. 1630, it provides that a citizen may appeal in a variety of categories where the decision of the Administrator on an issue where is considered arbitrary, capricious, or an abuse of discretion, or otherwise not in accordance with the law.

So, although you have an initial reference to the citizen court action being limited to nondiscretionary action, a reference follows which makes the citizen court action applicable where there is a discretionary action involved under the doctrine of abuse of discretion.

I know that the representation made by the distinguished Senator from Rhode Island was inadvertent and subject to interpretation. But as I have studied this action, in the intervening several hours, and have conferred with lawyers from the Department of Justice, and again with Administrator Reilly, and again with Senator CHAFEE and Senator NICKLES, to me it appears conclusive that the provision of S. 1630 does permit a citizen reference to court action on something which is discretionary, which is very, very problemsome.

It is one thing to say you can go to court on a nondiscretionary act, which is arguably very limited, as opposed to going to court on a discretionary act.

There are a couple of other provisions which immediately follow the cited references which allow for citizen appeals on deferred actions. This raises, candidly, further complications as to whether the opportunity for a citizen to go to court on a deferred action is not, in reality, going to court on a discretionary decision by the EPA Administrator.

There is another provision for judicial review on petitions which includes not only regulations but orders as well. While there is some solid basis, arguably, for having a citizen reference to a judicial action on a regulation, if you go to an order, again, you are dealing with what might be considered a discretionary judgment.

It seems to me, Mr. President, where you have the provision of section 307(d)(9) allowing judicial action by a citizen on an abuse of discretion, that you have something which is highly unwise and which really contradicts the earlier language. I bring this to the attention of my colleagues because we are going to be considering this issue further on Senator DOLE's motion to reconsider.

I submit this for the record now to state my own thinking as to why I voted to table the Nickles amendment and why I later voted to support the Nickles amendment, because I think, if fairly read, it would be unwise to allow citizens to take to court discretionary actions by the EPA Administrator. I thank the Chair and invite a comment from my distinguished colleague from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, let us review the bidding, if we might. Section 307(d)(9) is existing law. There is no disagreement on that. That is the current Clean Air Act of 1971. What that does, it authorizes the court of appeals to reverse an administrative action that is found contrary in several examples—the Constitution, in excess of statutory authority, arbitrary failure to observe the procedures of the act and, the point the Senator from Pennsylvania makes, an arbitrary, capricious abuse of discretion.

We do not believe that particular provision overrides the explicit language in the new bill. In other words, that is from the 1971 law and it talks about appeals to the court of appeals, or authorizes the court of appeals to make these reversals.

In the current law, the bill before us, we have specific language which the distinguished Senator, who, I must say, is a very knowledgeable lawyer and spends a lot of time studying these matters, so anybody who gets up and discusses with him does it with a certain trepidation, since the Senator from Pennsylvania is a very thorough legal scholar, but I point out that it is our judgment that on page 507 of the new act, which the Senator referred to, beginning at line 22, the bill provides explicitly the conditions under which citizen suits are authorized. It says, "against the Administrator" of EPA "where there is alleged a failure to perform any act or duty under this act which is not discriminatory with the Administrator." Then it lists several examples of nondiscretionary duty.

Mr. BOSCHWITZ. Where is the Senator reading?

Mr. CHAFEE. That is on the big volume, which the Senator has. If you look on page 507, line 22.

Mr. BOSCHWITZ. I am sorry. I must not have the same copy.

Mr. CHAFEE. Just to make certain, so everybody can follow this, this is amendment No. 1293. I am sorry. I was incorrect. It is the amendment on page 507, line 22.

So there we are. The Department of Justice has, indeed, expressed concern that one of our examples refers to discretionary actions and that, in their view, our example has the effect of overriding the explicit language which we have in here.

They are troubled by the phrase at page 507, line 25, and the next page, line 1 where it says, "including failures to act that violate one or more of the standards set forth in section 307(d)(9)." We do not happen to agree with the Justice Department there. We do not intend that this reference to section 307 overrides the specific language I talked to before.

However, it is our intent, if that presents a problem, because this amendment 1293 deals, obviously, with a lot more than that simple provision, and, therefore, since we are perfectly prepared to straighten out a misunderstanding or varied reading of the language, we are prepared to strike those 14 words. We think we can do it with a simple amendment, if that would please the Senate, and if that would clear up the problem that is facing the Senator from Pennsylvania. Those 14 words would start right at the bottom of page 507, "that violate one or more of the standards set forth in section 307(d)(9) or", take that right out.

Mr. NICKLES. Will the Senator yield?

Mr. CHAFEE. Can I make one more statement? So that, therefore, as my colleague can see, ties right in with the abuse of discretion language that troubles the Senator. It seems to me that ought to straighten out the confusion.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Rhode Island for his comments, and I think if you delete that language, you have a very different provision. I sharply disagree with his initial contention, however, that the language, which does not describe discretionary actions takes precedence over the language in section 307(d)(9). On its face, the provisions say that "any person may commence a civil action on his own behalf against the Administrator where there is alleged a failure to perform any act or duty under this act which is nondiscretionary with the Administrator, including failures to act that violate one or more of the standards set forth in section 307(d)(9)."

So the basis for proceeding under section 307(d)(9), which includes an abuse of discretion, is really conjunctive with the standing of a person to commence a civil action against the Administrator of EPA.

I do not wish to press this if the managers of the bill are going to strike this section, but I do not think that any fair reading will lead one to conclude that as the bill currently stands, there is a limitation simply to nondiscretionary judgments.

But I would add this: that even with that language stricken, there are other provisions to which I alluded briefly, and I do not want to go into them in great detail because we are going to reargue this matter. A close reading of these sections however, raises very troublesome concerns about court action on discretionary judgments.

I personally, Mr. President, believe that there is value in allowing citizens to litigate issues and not rely solely on public officials like the Administrator of EPA or the Attorney General or district attorneys. But there has been a great precedence and great experience in our law, as you have for citizens actions, as for example under the antitrust laws. But when we fashion that remedy and that standing to litigate, it has to be tailored in a realistic way so as not to apply to discretionary judgments because there has to be some range where the EPA takes a stand. There are a number of provisions on a close reading where there are possibilities for attack on discretionary judgment.

So when I had sought the interpretation of the manager of the bill before the vote on the motion to table the Nickles amendment, I had relied upon this understanding, called to my attention by Senator CHAFEE, saying that the citizens action would be limited to nondiscretionary matters.

There is a very broad range of what may well be discretionary acts. I would say this, however, if the language is deleted, the understanding would be vastly different. This is something I would want to pursue in further study and in floor debate with the managers of this bill when Senator DOLE's motion to reconsider comes before the body.

Mr. NICKLES. Will the Senator yield for a brief comment?

Mr. SPECTER. Yes.

Mr. NICKLES. One, I wish to compliment the Senator for his examination of the issue and also for his conclusion, and I share the conclusion, that section 307(d)(9) does allow for discretionary authority by EPA. So does section 354(b) and so does the deferred actions provision on page 509 of the Baucus-Chafee amendment. So when my colleagues are trying to clear up this confusion, I think it is necessary to do it as the Senator from Pennsylvania so correctly observed.

There are several sections in the current Baucus-Chafee language that would allow citizens groups to sue EPA over discretionary activity other than just 307(d)(9), so I would encourage you, if you are trying to clean that up, to look at those other sections as well.

I thank the Senator from Pennsylvania because he is a brilliant scholar, and he has analyzed this problem very quickly. I wanted him to have more time to pursue this. I compliment him for his examination of a very important detail.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, clearly the objective of the Senator from Pennsylvania and the objective of the Senator from Montana and the Senator from Rhode Island is the same.

The Senator from Pennsylvania has pointed out that he believes there is merit in citizen suits. Now, some who are objecting to this provision do not like citizen suits. But the Senator from Pennsylvania has pointed out that certainly in nondiscretionary matters he favors citizen suits and the ability to appeal from the decision of the Administrator.

I hope that we could work it out within the next few hours, as soon as the Senator is prepared to come up with language, or deletion of language within this bill that would suit the Senator, because his support is important, important in many ways. This vote is perilously close. Furthermore, we would like the power of his position on our side.

Mr. SPECTER. Mr. President, I thank my colleagues from Oklahoma and Rhode Island for their kind comments and I am prepared to work on the bill to see if it can be resolved.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, as one of the managers of the bill, I think it is important for all Senators to know that I am prepared to accept an amendment to the substitute which would delete the language that we have been discussing. Frankly, in order to clarify where the Senate is on this issue, it might be appropriate to seek unanimous consent that such an amendment to delete the language to be offered, say, by the Senator from Rhode Island, would be in order and not count as one of the amendments the Senator from Rhode Island has listed in the underlying consent agreement.

As I hear the discussion, whereas there is not unanimity on the interpretation of the substitute with respect to this point, there is unanimity that the issue would be more clear if those words were deleted so as to make more clear that citizen suits were available only with respect to mandatory action, not taken by the Administrator.

So with that in mind, Mr. President, I ask unanimous consent that it be in order for the Senator from Rhode Island to offer an amendment regarding enforcement and that that amendment would essentially be that on page 507, line 25 strike—let me strike that, Mr. President.

Essentially, it would be to deal with this issue and strike the objectionable language that we have referred to in this debate.

Mr. NICKLES. Mr. President, reserving the right to object, and I probably will object, I want to work with the Senators and make sure that we touch the other sections as well. As I said to the Senator from Pennsylvania and he alluded in his comments, the issue is greater than just section 307(d)(9). It is also 354(b) and it is also deferred action. So I will be happy to work with the Senators from Montana and Rhode Island to see if we cannot come up with an amendment that would achieve our objectives, but for the time being I think I will object until we come to an agreement on the language.

The PRESIDING OFFICER. Objection is heard.

Mr. BAUCUS. Mr. President, I hear the Senator from Oklahoma, and I hope that very quickly the Senator from Oklahoma would not object so that we could make this clarification. This is the major issue certainly raised so far at least by the Senator from Pennsylvania.

Mr. NICKLES. If the Senator will yield, I have been raising this issue for 5 hours. If we can come up with the language to which we can all agree, I certainly would have no objection whatsoever.

Mr. BAUCUS. Mr. President, I thank the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. I thank the Chair.

(The remarks of Mr. WALLOP pertaining to the introduction of S. 2343 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WALLOP. I yield the remaining time to Senator SIMPSON.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. I thank the Chair.

(The remarks of Mr. SIMPSON pertaining to the introduction of S. 2343 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, there are rising environmental concerns all over the world. These include global warming, and ozone, common concerns we share with much of the rest of the world.

My interest in this area goes back many years, prior to my days in the Senate, I headed up what was called the environmental task force in Ohio.

The Governor asked me to do that. Our deliberations over several months actually led to the establishment of the Ohio Environmental Protection Agency.

We are faced here with a Clean Air Act that is very complex and not easy to deal with because the interrelatedness of some of these parts is not all that clear.

The committee, with Senator MITCHELL, prior to his becoming our majority leader, Senator BAUCUS, Senator CHAFEE—all have been very much involved in this, and on an intimate and long-time basis. They have made the proposal here to embark on a path for clean air that can set an example for much of the rest of the world.

In this act, we have basically three parts. One deals with toxics, one with auto emissions, and one with acid rain. Through all of the debate and the maneuvering that has gone on with regard to this legislation, compromises have been worked out with regard to the toxics.

We know that certain toxic emissions are so dangerous that it is worthwhile to accept some base economic impact, some dollar figure that it is going to cost us if we go ahead and clean these things up. It will be passed along, obviously, in the cost of the product, whatever that product is.

But we know the danger outweighs the expense. Some of these things are immediately dangerous. So we accept certain limits.

An automobile compromise has been worked out with the auto companies, and while they do not like it, nevertheless, they have said they can do the first phase, at least. They have a can-do attitude about these requirements.

We come then to the third part of this Clean Air Act. That deals with acid rain. Acid rain remains a problem that has not been compromised. It has not been dealt with adequately.

Senator BYRD, with Senator ROCKEFELLER, has been admirable in bringing out one aspect of this legislation. That is that nothing is for free. There is no free lunch.

There is an economic impact, and we must deal with it. We cannot say we are just going to a pristine environment such as we had back in colonial days, and no matter what it costs we are going to get there. We do not live in that kind of a country anymore.

We have a very complex, industrialized society. For every requirement we enact there is an economic impact, there is a job impact, an employment impact, a small business impact, and those tabs must be paid.

These impacts go across the board. They are not just for the miners in West Virginia. It goes across the whole length and breadth of our land.

I compliment my distinguished colleagues from West Virginia for forcing our attention to this. It was a rather dramatic moment on the Senate floor the other night when we really had a good debate on this subject as Senator BYRD pointed out the difficulties his miners have in West Virginia, and what the impact would be of this legislation. He wanted to know basically if this legislation is worth putting thousands of people out of work.

The question of the value with regard to acid rain, not with regard to toxics and auto emissions, is still to be determined. Acid rain does exist. No one denies that. No one denies for one moment that we are going to have to clean this up over a period of time. But is it a clear and present danger?

If we say no, there is not that kind of imminent danger right now, then we have to weigh the costs and the benefits. We have to weigh what we are doing against the losses in jobs, against business lost, against our lessened ability to keep our products competitive for international trade.

Part of the equation we have not considered on acid rain is the scientific basis.

What is the science? What is the cause and effect? What do we know about what acid rain does, how it is transported, and what do we not know? What is the cause and effect? What does a 10-million-ton reduction do at the far end of the line in acid deposition? And not only that, if there is acid deposition, what does that really do to plant life?

We need to know how much a 10-million-ton program reduces acid deposition at the far end of the line. Is there any damage if acid rain is going downwind 800 or 1,000 miles? Beyond that, what will the reduction cost in dollars? What will the reduction cost in jobs? How will businesses be affected in international trade? In other words, what will we accomplish, and is the expense worth the effort?

So today I want to address a few of these things briefly. We can call this the science of acid rain, separating fact from fiction, if you will. I know very well that to bring up something this fundamental late in the legislative process is very difficult. But I want everyone to understand how these numbers developed and the best estimates of the affect this bill will have.

The reason we are so late in coming up with these figures is because the figures have not been developed sooner. They were not available last year when the bill was put together. They were not available 2 years ago. SO_2, sulfur dioxide, is a gas about which we know not enough to make some of the assumptions that we have made in this bill. I repeat, is the basis for a 10-million-ton reduction?

When we had meetings on acid rain, I kept asking in meeting after meeting, what is the basis for a 10-million-ton reduction? Why did we not put 9, 8, 7, 6, or 15? What is the basis for 10 million tons? I did not get an answer. No one seemed to know why a 10-million-ton reduction was the order of the day.

Then, finally, I was told by one of the proponents of the bill that the 10-million-ton figure came from the National Academy of Science's study. So, I went back and looked at that National Academy of Science study, and what did I find? Well, I found that the study was done in 1981, and it was followed very early in 1983 by a second study that said, no, the first study had been misinterpreted. They said that the Washington Post and Science magazine had misinterpreted their findings.

In 1981 the National Research Council issued a report titled "Atmosphere, Biosphere Interactions: Toward a Better Understanding of the Consequences of Fossil Fuel Combustion." The summary of the report stated:

> It is desirable to have precipitation with pH acid values no lower than 4.6 to 4.7 throughout such areas, the value at which rates of degradation are detectable by current survey methods. In the most seriously affected areas with average precipitation pH of 4.1 to 4.2, this would mean a reduction of 50 percent in deposited hydrogen ions.

I further quote:

> However, a change in pH, which is measured on a logarithmic scale, from 4.1 to 4.6, corresponds to a threefold decreases in deposited hydrogen ions rather than a twofold decrease.

Further, the report stated:

> The conclusion was misinterpreted in the press and by others, for example, in Science magazine, October 2, 1981 and A26 of the Washington Post for October 16, 1981, as a recommendation for a 50-percent reduction in emissions of the pollutant gases, sulfur dioxide and the oxides of nitrogen, that are precursors to acid precipitation.

They further state that since the original findings were misinterpreted, a second study was done. By the time that study was completed, the idea that we were going to cut 10 million tons and we were going to cut back approximately half, from existing levels, had become ingrained. That had become the conventional wisdom, if you will.

To further provide some historical background, I would like to discuss the National Acid Precipitation Assessment Program that was established in 1980 under Senator MOYNIHAN's leadership. This was planned as a 10-year study. Over this decade, the costs of that program have risen to a little over one-half billion dollars. This group has looked into the acid precipitation problem in more and greater depth than any study group ever to assess this particular problem. They have done some original research. They have reviewed all of the literature they could get their hands on. In one of their review pieces they say they considered over 5,000 separate

studies and documents in trying to look into this very troublesome problem.

Where do we stand with their efforts? Although NAPAP was criticized at some points, over the last several years, I submit that they have been doing an excellent job; not only in reviewing literature, but in doing their own studies.

Where do we stand with their final report? The final report is due out later this year; however, a draft report was presented to an international conference, the Hilton Head conference, between February 11 and 16 of this year. That international conference had over 30 nations and some 700 scientists from all over the world, the best environmental scientists in the world, coming together to look at this report and review it.

The report is out and is divided into several different categories. Under each category, NAPAP reviews the state of science and the state of technology.

That review makes some reading. I do not know how many Senators have taken the time to go through this report. But it is the most broadly based analysis of current acidic effect and evaluation of future control approaches ever undertaken. There were approximately 300 authors and more than 100 peer reviewers involved in the creation of these reports. There are some 28 separate state of science and state of technology reports. I shall only address a couple of these at this point: The State of Science and Technology Report No. 16, Changes in Forest Health and Productivity in the United States; and the State of Science and Technology Report No. 18, Responses of Vegetation to Atmospheric Deposition and Air Pollution. Those are items that are of utmost importance to us today, because that is exactly what we are dealing with.

The findings under section 18 dealing with forests states:

There is no evidence of a general or unusual decline of forest in the United States and Canada due to acidic deposition or any other stress factor. Moreover, there is no case of forest decline in which acidic deposition is known to be a predominant cause.

This is a very conclusive and significant finding.

Let us go to section 18, the section titled, "Responses of Vegetation to Atmospheric Deposition and Air Pollution."

In that particular assessment, food crops are discussed. In section 5211, the report states that based on the crop effects research conducted by NAPAP and other research programs, acidic precipitation in the United States is not responsible for regional crop yield reduction. That is pretty definite.

That section further states:

Ambient sulfur dioxide concentrations by themselves are not responsible for regional scale crop yield reductions in the United States.

Let us go on to the section on forest ecosystems.

This section states:

There is no evidence of widespread forest damage from current ambient levels of acidic rain in the United States.

The findings continue, and I quote:

Ambient sulfur dioxide concentrations are not responsible for regional scale forest growth reductions in the United States.

Now, that would seem to me to be pretty definite.

Now we come to their conclusions. While this report is in draft form, in my meetings with the program director, we have talked to the people running the study and he indicated that there is little probability that any of these conclusions would be changed. I would be glad to quote from these conclusions:

The models discussed in this report reinforce the plausibility of these mechanisms, given current level of understanding. But they also underscore the magnitude of our ignorance of these processes. In many cases the ignorance is basic: We do not understand tree growth under normal conditions very well, let alone under the impact of acidic deposition or ozone.

Mr. President, we can go through this report all day, but these findings show the type of assessment NAPAP is making regarding acid precipitation. There is not a direct correlation, not the direct correlation that a lot of people would have us believe.

I have a summary of each section of the NAPAP report. I ask unanimous consent for that summary to be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

The following summary comments are keyed to the individual section numbers in the Detailed Comments section which follows:

1. SO_2 Emission Trends.—National SO_2 emissions decreased by approximately 25% from 1973–1983 and have remained relatively constant since that time. Without new controls, emissions may increase or decrease by as much as 20% between 1990 and 2010. Emissions are expected to decline from 2010 to about 2030 as pre-NSPS plants retire. New plant growth after 2010 could result in an increase in total emissions after 2030, when all pre-NSPS plants have been retired.

2. SO_2 Effects Categories.—Regional scale SO_2 effects are usually evaluated for surface waters, forests, crops, materials, human health and visibility (see items 3 through 8 below).

3. Surface Waters.—A percentage (0 to 6 percent of mid-Atlantic, northeastern and midwestern lakes and streams are acidic and a further percentage (0 to 18 percent additional) are highly sensitive to acidification (<50 μeg L acid neutralizing capacity [ANC]). Florida is a special case (see Table in Section 3.1). Biological impacts occur in some acidic and sensitive waters. In the Northeast, the time for biological recovery may be long, so that little near term benefit would be expected to result from rapid emission reduction. In the Mid-Appalachian Region, the time scale of acidification and/or recovery (chemical and biological) is an important unknown. It will be reported in the NAPAP 1990 Assessment. Preliminary findings suggest that in some mid-Atlantic subregions, significant acidification may occur within a few decades.

4. Forests.—Impacts from acidic cloudwater in combination with other stresses affect some high elevation spruce forests in the East. However, there is no evidence of widespread forest damage from acidic deposition. Long-term changes in the chemistry of some sensitive soils are expected, although it is uncertain whether this will affect forest health.

5. Crops.—SO_2 emissions do not reduce crop yields, except possibly on a local basis near very large sources. Crop plants are not sensitive to the wet deposition of acidic substances.

6. Visibility.—NAPAP has not conducted independent research on visibility effects or values. However, visibility benefits should be included in any assessment of SO_2 emissions reduction, and are being included in NAPAP's Integrated Assessment. Atmospheric sulfate particles derived from SO_2 emissions are a significant contributor to reduced visibility and emission reductions will lead to improved visibility.

7. Human Health.—NAPAP program has not conducted independent research on the "direct" effects associated with inhalation of SO_2 or its transformation products, which include acid sulfate aerosols. The health risks associated with acid aerosols are being evaluated by EPA for possible inclusion as a National Ambient Air Quality Standard. Reductions of SO_2 emissions would reduce risks associated with current loadings. NAPAP continues to evaluate the results of research conducted on the "indirect" health effects of acid deposition (e.g., related to mobilization of lead, mercury or other metals in acidic waters).

8. Materials.—Both wet and dry sulfur deposition accelerates the deterioration of carbonate stone, galvanized steel, paint, etc. Materials benefits would be greatest if deposition in urban areas is reduced, thus local sources need to be considered.

9. Nitrogen Oxide Emissions.—NO_x emission control will be beneficial in several regions. This favors the use of technologies that remove NO_x including low NO_x burners and clean coal technology (CCT) compared to the current generation of scrubbers in cases where controls may be required at existing plants.

10. Impact in Canada of U.S. SO_2 Emissions.—U.S. emissions reductions intended to benefit effects categories, e.g., surface waters, health and visibility, in the Adirondack area and New England will also benefit geographical areas in northeastern Canada. There is no supportable evidence, however, for widespread impacts on Canadian forests.

11. Economic Valuation of Benefits.—No comprehensive benefit evaluation is available, nor likely in the next year. Control strategy evaluations must necessarily involve both economic and physical measures.

12. Control Strategy Implications.—Enhanced energy conservation is the lowest cost means of emission reductions. Coal substitution and coal washing (where not already practiced) are low cost options for near term (e.g., by 1995) emission reductions. Clean Coal Technology (CCT) has many benefits (including reduced global cli-

mate impacts) compared to current scrubber technology, but will need a post-2000 deadline (e.g., 2003-2005) for full implementation.

For its Integrated Assessment, NAPAP is evaluating the timing, magnitude, location, and costs of various control options. The issues revolve around the use of currently available techniques such as, fuel switching, coal cleaning, LIMB, duct injection, and scrubbing versus the next generation of clean coal technologies. The Clean Coal Technology Program will be resolving technical and economic questions of emerging techniques so that their performance and penetration rate can be determined.

13. NAPAP Assessment Reports.—NAPAP's fully reviewed reports (to appear in late-1989 and 1990) and the NAPAP International Conference in February 1990 are intended to assure credibility for the technical information generated by the program for use by policymakers in the development of acid rain control legislation.

1. SO_2 Emission Trends-Past and Projected:

1.1 National SO_2 emission rates have declined by 25 percent (from 32 to 24 million tons per year) between 1973 and 1988. Much of this reduction occurred in the Ohio River Valley and midwestern states. Most of the reduction had been achieved by 1983, and national SO_2 emission levels have been approximately constant during the past five years.

1.2 The fraction of SO_2 emissions from tall stack sources increased during the 1973-1988 period. As a result, the reduction in long-range transport has been less than the 25 percent reduction in emissions.

1.3 If no new control legislation is adopted, various projections of national SO_2 emissions during the next 20 years range between ±20 percent or more, compared to current levels, depending upon assumptions about energy demand, fuel mix and new control technology penetration rate at existing power plants. Beyond 2010, there is general agreement that SO_2 emissions will decline, as a result of the retirement of older, higher emitting plants.

1.4 For this memorandum, a maximum emission reduction of 12 million tons per year (50 percent decrease) was considered, in order to comment on the expected benefits in the case of the largest reductions proposed in the current acid rain debates. Smaller total decreases (e.g., 6, 8 or 10 million tons per year) would result in smaller benefits; however, the relationship between emission reductions and benefits may not be linear. Two schedules for the 50 percent reduction case were considered:

2000 Target: 50 percent decline (from 24 to 12 million tons per year) by 2000, with constant emissions after 2000.

2005 Target: A 25 percent decline (24 to 18 million tons) by 2000, a further 25 percent decline (18 to 12 million tons) by 2005, with constant emissions after 2005.

2. Effects Categories for SO_2 Impacts:

2.1 The following effects categories are usually considered when evaluating the potential regional benefits of SO_2 emission reductions:

Surface Waters: Effects on lakes, streams, and coastal estuaries—both chemical and biological.

Forests: Effects on unmanaged and commercial forests.

Crops: Effects on agricultural crops.

Materials: Effects on exposed construction materials and cultural resources.

Health: Direct (inhalation) and indirect (other pathways) effects on human health.

Visibility: Effects on visual range through the atmosphere.

2.2 Important Note: Ozone (and other oxidants) and nitrogen oxides also can cause effects in the above categories, as noted in the following sections. Such ozone and nitrogen oxide effects will not be improved by SO_2 emission reductions alone.

The extent of changes in effects which may arise from ozone and nitrogen oxide would depend on the selection of control methods which included reductions in more than sulfur emissions alone.

3. Sulfur Deposition Effects on Surface Waters:

3.1 Current Status of Surface Waters: A percentage (0 to 6 percent) of eastern and midwestern lakes and streams are acidic, and a further percentage (0 to 18 percent additional) of these lakes and streams are highly sensitive to acidification. Regional distributions of lake and stream acidity are summarized in the following table. While this survey information cannot be used to establish the cause of a water body's status, it provides a description of the number of acidic and very sensitive surface waters for the population sampled. Biological impacts are expected in acidic waters and may occur in sensitive surface waters. Snowmelt and intense summer storms can increase surface water acidity and lead to many more acidic waters than reported, particularly during biologically sensitive times of the year.

Region [1]	Status (number of lakes or streams in percent)	
	Acid (ANC $<0 \mu eq\ L^{-1}$	Most sensitive (ANC $<50 \mu eq\ L^{-1}$
Lakes: [2]		
Northeast	5	19
Upper Midwest	2	15
Southern Blue Ridge	0	1
Florida [3]	22	35
Mountainous West	0	17
Streams:		
Interior Mid-Atlantic	3	11
Mid-Atlantic Coastal Plain	6	24
Interior Southeast	0	5
Florida [2]	12	61

[1] Regions reported are as defined in NAPAP and EPA documents. Values reported are regional averages. Proportions of acidic and most sensitive surface waters within defined subregions are considerably lower or higher than this average.

[2] Small lakes (less than ten acres) were not sampled by EPA but in some areas (e.g., New York's Adirondack Mountains) are more likely to be acidic than larger lakes.

[3] Compared to other regions, it is better established that surface water acidity in Florida is the result of other processes in addition to acidic deposition.

3.2 Future Projections:

Indications are that the steady-state hypothesis holds in the Northeast, i.e., taken as a region, surface waters are in equilibrium with sulfur inputs. In the Southern Blue Ridge Province systems are not in equilibrium and are still absorbing sulfur. Assuming these conditions to be true, the following results may be expected.

The relationship between acidity changes and sulfur additions is complex. In general, percentage changes in sulfur will be accompanied by smaller changes in acidity.

3.2.1 Constant SO_2 Deposition: In the Northeast, little change will occur: few acidic systems will recover and few additional systems will become acidic. In the Southern Blue Ridge Province, significant changes could occur after the protective capacity of watersheds is exhausted (especially sulfate absorption capacity). Biological impacts will generally follow changes in acidity.

The Mid-Appalachian Region (part of the Interior Mid-Atlantic Region) is presently a key unknown. Significant research for this region is being completed and will be included in the NAPAP 1990 Assessment. This research was undertaken when EPA's National Stream Survey showed that sensitive surface waters occurred in some of the mid-Atlantic regions and the additional analyses suggest that significant acidification may occur within a few decades.

3.2.2 2000 Target Emission Reductions: In the Northeast, a percentage of systems will eventually improve chemically. This response will not be immediate since the watersheds will "bleed" sulfur into surface waters and a limited number of systems may continue to acidify. Due to the SO_2 reduction, more systems improve (chemically) than become acidic. Changes in acid neutralizing capacity will not be as large as change in sulfate. Biological recovery (e.g., self-reproducing fish populations) may require additional time. In the Southern Blue Ridge Province, the rate at which acidification occurs is slowed. Although there are few acidic systems at present, it is possible that some systems may become acidic in the future.

3.2.3 2005 Target Emission Reductions: Surface waters in the Northeast will respond similarly to the 2000 target case, except that the responses will be displaced in time, by less than five years. Recovery (chemical and biological) will occur but the response will not be immediate. Systems in the Southern Blue Ridge Province will continue to receive net increases in sulfur for an additional period. More systems may become acidic over this decade, but the additional number of acidified systems would be small.

4. Sulfur Deposition Effects on Forests:

4.1 Current Status: Preliminary indications suggest there is no widespread forest damage from acidic deposition. High elevation spruce forests in the eastern United States are effected by acidic cloud impacts, in combination with other stresses. At high elevations (>3400 ft) in the Adirondack and Green Mountains, the growth of red spruce has declined and mortality has increased (>50 percent dead.) Mortality in the Southern Appalachian Mountains is within the natural range but growth has declined. These forests represent less than 0.01 percent of the total eastern forested area. Cumulative effects of acidic deposition on some soils in the East may affect soil fertility in about 50 years. Sulfur deposition has changed soil nutrient status in the Midwest but this does not appear to have affected forest health.

The finding of "no widespread sulfur damage to forests" is widely acknowledged among most forest scientists, but varies from the views commonly reported in the media. NAPAP's state-of-science critical reports, with extensive reviews by all interest groups, are intended to assure credible findings on forest status. It is generally agreed that ozone reduces forest health in southern California and possibly also in some areas of the eastern U.S.

4.2 Future forecasts

4.2.1 Constant Sulfur Deposition: Continued decline of red spruce may occur at high elevation, although the remaining trees may be genetically more resistant to ozone and acid stress. Effects would occur only in association with another stress, e.g., drought, extreme low temperatures.

Some forest soils in sensitive regions in the East will exhibit reduced fertility from

acidic deposition in about 50 years. This may affect forest growth.

4.2.2 2000 Target Emission Reduction: Current information suggests that only high elevation spruce growth would be improved if sulfur deposition were reduced. Although this represents less than 0.01 percent of the forests in the U.S., it is an important natural resource in our National Parklands. High elevation forests are also important in erosion protection. Possible changes in soil chemistry in sensitive regions in the East would be reduced and delayed if deposition were significantly reduced.

4.2.3 2000 and 2005 Target Emission Reductions: The reduction of stress on high elevation spruce growth would be delayed by a time of less than five years. Long-term (50-year) soil acidification improvement would be delayed slightly. Cumulative changes in the chemistry of sensitive soils would be reduced, but not as rapidly.

5. Sulfur Deposition Effects on Agricultural Crops:

5.1 Current Status: The yield per acre of most crops in North America has increased steadily over time for the past 60 years because of genetic improvements through crop breeding and improved management practices such as fertilization, irrigation and pesticide application. Year-to-year and site-to-site variations in crop yield are principally the results of natural environmental factors and management differences. Research indicates that crop yield is not impacted by acid rain. However, in many regions of the country, ambient levels of ozone reduce the yields of some crops by 1 to 15%.

5.2 Future Forecasts:

5.2.1 Constant Sulfur Deposition: No changes in crop yield are expected if current levels of SO_2 emissions continue.

5.2.2 2000 or 2005 Target Emission Reduction: No agricultural benefits are expected with any reductions in SO_2, except possibly on a local scale (within a few miles) near large smelters, refineries, or multiple point sources.

The benefits associated with the input of sulfur (a plant nutrient) to agricultural regions would be reduced if SO_2 emissions were reduced. This would result in higher sulfur fertilizer requirements to maintain optimal crop growth. Any control strategies that reduce ozone levels (e.g., NO_x reduction) would likely benefit agricultural production.

6. SO_2 Emission Effects on Visibility

6.1 Current Status:

Summertime visibility over much of the eastern U.S. has decreased to a current visual range of generally less than 20km for areas east of the Mississippi River, except for nothern New England, where it is 40 to 60km. Estimates of natural visibility in the East suggest background levels of visual range between 60 to 80km; substantially more than current levels in the East but still less than half of current western levels. Degradations in western visibility have not been as severe as in the East. Western visibility generally ranges from 100–200km.

In the rural East, reduced visibility results primarily from light scattering by fine particles, predominantly sulfate particles. In urban areas and in the rural West, light absorption and scattering by carbon particles is also important. The higher humidity in the East significantly increases the light scattering by sulfate particles compared to the West. Scenic vistas are affected by pollution at all 35 National Parks within the contiguous 48 states, and sulfate particles are the single most important factor in visibility impairment.

6.2 Future Forecasts:

6.2.1 Constant SO_2 Emission: Visual range would remain constant under current SO_2 emissions levels.

6.2.2 2000 or 2005 Target Emission Reduction: Visual range should improve immediately if SO_2 emissions are reduced, although quantification of the relationship is not yet possible. (Quantitative estimates are being prepared for the NAPAP assessment reports.)

7. SO_2 Emission Effects on Human Health

7.1 Current Status:

Both SO_2 and sulfate aerosols can result in bronchoconstriction in asthmatics and changes in mucociliary clearance. The SO_2 National Ambient Air Quality Standards (NAAQS) are met in most regions of the nation, and the remaining SO_2 nonattainment cases are subject to further regulatory control under existing Clean Air Act authorities. In 1985, the SO_2 NAAQS were exceeded in parts of 60 counties in 16 states.

Only a few direct measurements of ambient acidic sulfate aerosol concentrations have been made, and the highest measured levels are slightly lower than the concentrations which cause the effects mentioned above. However, some epidemiological studies suggest the possibility of long-term chronic effects resulting from exposure to high ambient levels of acid aerosol. EPA is currently considering the need for an acid aerosol ambient standard, and NAPAP is developing its analysis in close collaboration with the EPA regulatory decisionmaking.

Violations of the ozone NAAQS occur in many regions in the U.S. and it is likely that decrements in lung function occur in sensitive individuals in these areas.

Several indirect health impact mechanisms are being evaluated, including the possible mobilization of lead in low pH drinking water systems, and of mercury in lakes, with subsequent accumulation in fish used for food consumption. These studies are continuing; reported risk estimates will likely be low, but may not be negligible in all cases. (NAPAP's state-of-science reports to be released for public review in November 1989 will report on these risks.)

7.2 Future Forecasts:

7.2.1 Constant SO_2 Emissions: Chronic effects (if any) from acid aerosols would continue among sensitive individuals.

Indirect health risks (if any) would continue at approximately current levels.

7.2.2 2000 or 2005 Target Emission Reduction: Large-scale (50%) emission reductions would benefit individuals in those localities not currently attaining the SO_2 NAAQS. However, broad SO_2 emission reductions may not be a very inefficient means of achieving these benefits (i.e., if such emission reductions were not otherwise required).

Indirect health risks (if any) would be reduced. If significant indirect risks were confirmed, evaluation of specific emission reduction requirements in the affected regions would be necessary.

8. Sulfur Deposition Effects on Materials:

8.1 Current Status:

Acidic deposition increases the rate of deterioration of some building materials (e.g., galvanized steel and carbonate stone), some surface coatings (e.g., carbonate paint) and cultural resources (e.g., statutes). The relationships between acidic deposition rates and deterioration rates for various materials are not well quantified, and are currently being investigated. Because of the large overall external maintenance costs for structures in the nation, enhanced deterioration from acidic deposition could potentially be significant. This is problematic since no generally accepted estimates of maintenance costs resulting from all air pollution impacts (nor from acidic deposition specifically) are currently available. Also, no credible analysis of consumer maintenance practices has yet been done. Additional information on this issue is anticipated for the 1990 Assessment.

Since most of the nation's materials and cultural resources are in urban areas, the focus of control decisions is similar to health effects, i.e. local sources need to be considered. Emissions from a limited number of remote sources (e.g., power plants) may result in a less than proportional impact on urban structures.

8.2 Future Forecasts:

8.2.1 Constant Sulfur Deposition: Current levels of surface deterioration will continue. Local situations of corrosion and other air pollution impact have been described but larger regional patterns of damage (i.e., those which would benefit from large regional SO_2 emissions reduction) are not well-characterized and constitute a significant gap in our knowledge.

8.2.2 2000 or 2005 Target Emission Reduction: Emission reductions will, at a minimum, provide an additional margin of safety relative to possible regional scale materials impacts from acidic deposition. No estimates of specific benefits are currently available. (NAPAP will report on the materials benefits which may result from sulfur emission controls in its Integrated Assessment in 1990. Because of significant data and inventory limitations, specific projections are unlikely. However, bounding estimates will be reported.)

9. Importance of Nitrogen Oxide (NO_x) Emission Reductions:

NO_x emissions, which result from all combustion sources (i.e., both motor vehicles and stationary sources) can cause three types of effects on the regional scale:

Acidic deposition—typically 10 to 30 percent of that caused by sulfur oxides in the East. However, NO_x may be a major component of acidic deposition to the extent that it occurs in the West.

Ozone (O_3) is produced photochemically by NO_x and volatile organic compounds (VOC). The O_3 production or degradation rate depends on the local ratios and absolute amounts of NO_x and VOC. This is very important because of the widespread nonattainment of the O_3 standard.

Contribution to eutrophication of coastal waters—may be a significant contribution (10 to 20 percent) in some cases.

Nitrates, derived from NO_x may be important in some acute acidification episodes in surface waters.

In view of the possible effects, the question of NO_x controls should be addressed as part of any evaluation of SO_2 control strategy.

Current SO_2 scrubber technologies remove very little NO_x emissions. However, currently available low NO_x burners may achieve 30–50 percent reductions. Some of the Clean Coal Technologies now being demonstrated (fluidized bed combustors, advanced scrubbers) also remove 30 to 50 percent of NO_x emissions.

10. Impact of U.S. Emissions on Canada:

The principal impact of acidic deposition in southeastern Canada is the same as in the northeastern United States—acidification of a percentage of watersheds and lakes

in geologically sensitive regions. Because of the large number of Canadian lakes in sensitive regions, this is a particular concern. Acidic deposition in both Canada and the United States results from sources on both sides of the border. It is generally agreed that the net transboundary flux of sulfur oxides is from the United States to Canada.

Canadian government representatives frequently assert significant forest damage as a result of acidic deposition. (Indeed, some of the best documentation of severe forest damage from extremely high levels of sulfuric dioxide impact come from the Canadian experience near the nickel smelter in Sudbury, Ontario—the world's largest individual SO_2 source.) Most Canadian and U.S. scientists now agree that there is no scientific basis to relate widespread forest effects to current levels of deposition. Long-term cumulative impacts on the fertility of certain soils is being evaluated with respect to possible forest affects.

Canadian representatives have expressed specific concerns about acidic deposition impacts on its sugar maple industry. Current information indicates that insert infestation and management practices significantly contribute to the observed impacts. Note: Canadian production of maple syrup was at a record high level in 1988.

U.S. emission reductions intended to benefit effects categories (e.g., surface waters, health and visibilty) in the Adirondack area and New England will also benefit the principal areas of concern in Southeastern Canada.

II. Economic Valuation of Benefits:

NAPAP has avoided basing its assessments on explicit comparisons of the economic benefits and costs of controls, partly because only limited information is available on the economic values associated with some of the effects. NAPAP is currently conducting economic benefit evaluations in a limited number of situations, and will report on methodologies employed and specific results in its assessment reports.

Because of the impracticality of developing credible benefit estimates for all impacts by 1990, NAPAP is evaluating alternate emission reduction strategies on a comparative basis, in order to report on strategies which achieve largest benefits (as determined by either physical or economic measures, as appropriate) for similar control costs.

Because economic evaluation methodologies are not well agreed upon for all of the effects/benefits categories relevant to acidic deposition, NAPAP's comparative evaluation of control strategies recognizes three categories of benefits. Benefits in individual categories can be cross-compared for the various control strategies evaluated, but cannot be combined into a comprehensive dollar estimate of benefits. The categories are:

(1) Health related benefits—having special public policy importance;

(2) Economically evaluated benefits—including market estimates (e.g., productivity in commercial forests) and behavior base estimates (e.g., recreational use of lakes); and

(3) "Conservation benefits"—including preservation of remote lakes and mountaintop forests, for which economic evaluation methods are not well agreed upon.

12. Control Strategy Implications Resulting From the NAPAP's Effects and Technology Analyses:

The time scale for biological recovery of lakes and streams in the Northeast may be long in the Northeast so that little near term benefit would be expected to result from rapid emission reduction. The time scale and importance of other effects (lakes and streams in other eastern regions, possible health effects, materials impacts, forest response, visibility impacts) is still being evaluated. If the time scale of all significant effects is long, rapid imposition of controls will not result in significant near term benefits. This suggests that slower but less costly control strategies should be evaluated carefully. Specifically:

There is general agreement that moderate emission reductions (e.g., 3 to 5 million tons of SO_2) can be achieved within approximately five years by currently available technology. This includes coal substitution, coal cleaning, LIMB, duct injection, and enhancements to existing scrubber technology.

LIMB technology has been demonstrated for wall-fired boilers and is attractive from a cost-effectiveness standpoint for control of SO_2 and NO_2 emissions.

Scrubber technology is continuing to advance with a focus on increased removal efficiency and reliability and/or reduced costs. The current technology is ready for implementation with known cost, performance and environmental impacts.

Clean Coal Technologies, including repowering and advanced energy conversion techniques, are being demonstrated. These technologies are potentially lower emitting and more cost effective than current technologies. The demonstration program will help develop these technologies as well as clarify their ultimate performance, cost, and penetration rates.

The Clean Coal Technologies (CCT) currently being demonstrated have several significant advantages compared to the current generation of flue gas desulfurization (scrubber) technologies:

Improved energy efficiency through greater kilowatt output per ton of fuel consumed (less CO_2 emissions and global climate impact).

Significant NO_2 emission reduction (30-50 percent in some cases) not achieved by current scrubbers.

More manageable wastes, compared to scrubber sludge.

Potential future export markets (coal and combustion technology) for the United States.

Wide deployment of CCT instead of scrubbers would require an extension of the deadline to achieve the full planned emission reduction beyond 2000 (i.e., to 2003-2005) unless a "crash program" of technology demonstrations is pursued.

13. Future NAPAP Assessment Reports on Benefits and Strategy Evaluation:

NAPAP will complete a large series of State-of-Science and State-of-Technology reviews, and an Integrated Assessment reporting on comparative evaluations of control strategy options, during the next 16 months. All NAPAP documents will have extensive review by U.S. and foreign scientists, and interest groups concerned with acid rain issues. These NAPAP reports will provide the following:

Credibility.—This is the most important scientific product of NPAP's work. Reasonable national agreement on the major cause-effect relationships, and the effectiveness of the planned control strategy, is most important. NAPAP's extensive scientific and public review procedures address the need for credibility. The NAPAP International Conference on Acid Rain, scheduled for February 1990, will be the most visible part of the extensive review process.

Completion of scientific, technological and economic studies.—NAPAP will continue to provide decision-makers currently available information upon request, for analysis of legislative options, while its several key cause-effect analyses and other studies are being completed.

Comparative evaluation of strategies.—These analyses will aid decision-makers in the evaluation of legislative options until a law is adopted, and will guide regulatory management in the years ahead.

Mr. GLENN. I would like to quote again from the NAPAP summary:

The finding of "No widespread sulfur damage to forests" is widely acknowledged among most forest scientist but varies from the views commonly reported in the media. NAPAP's state of science critical reports with extensive reviews by all interest groups are intended to assure credible findings on forest status.

I would also like to quote from a Wall Street Journal article of March 6, 1990, by Fred Singer. Fred Singer is a professor of environmental sciences at the University of Virginia. The title of his article is "The Answers on Acid Rain Fall on Deaf Ears."

The benefits in terms of reduced damage are uncertain and at best quite small.

This appears to be the conclusion of the National Acid Precipitation Assessment Program (NAPAP), which is just completing a 10-year scientific study. This monumental federal program may be worth every penny of the half billion dollars spent—if only it substantiates that the ecological damage from acid rain would take decades, not years, to occur, if it occurs at all. There is time for measured responses that avoid the costly mistakes that come from panicky over-reaction.

Acid deposition, commonly referred to as acid rain, occurs when sulfur dioxide and nitrogen oxides, emitted from fuel-burning power plants, motor vehicles and other man-made and natural sources, are transformed into acid compounds. Carried by the winds, they either fall out in dry form or rain out in water droplets, often quite far from their sources of emission. The scientific debate has been about the precise relationship that the levels and locations of emissions have with the acidity and locations of the rain.

And so on. Then this part:

NAPAP brings some answers to these debates. First, America's best-kept secrets: From 1973 to 1988, sulfur dioxide emissions decreased 23%, to 24 million tons, despite a 45% increase in coal use; nitrogen oxides have declined 14% since a 1978 peak. Both decreases are the result of current clean-air laws.

And now the kicker, the outcome of this grand experiment in emissions reductions: "No apparent trend in the acidity of rainfall has been detected." "Because of complex atmospheric reactions, percentage reductions in emissions may not result in similar percentage reductions in depositions." he added. Thus the relationship is not at all proportional—as was claimed in a 1983 National Academy of Sciences report, widely used as the basis for proposals to cut sulfur dioxide emissions, including the Senate bill.

The article goes on:

NAPAP also counters the common wisdom that acid rain effects are caused only by

sulfur dioxide from industrial sources. The Adirondacks, Catskills and Poconos are all downwind from major sulfur dioxide sources in the Midwest, yet according to NAPAP; only 11% of the lakes in the Adirondacks and 2% of those in the Catskills/Poconos have enough acidification to damage fish. Mostly small lakes are affected, further suggesting that local geology and soil drainage may be a contributing factor in acidification.

Another surprise: Except for red spruce at high elevations acid rain hardly seems to bother trees, and may even contribute to fertilization. Similarly, agricultural crops are sensitive to ozone, but not to acid rain. Acid rain's effects on materials, buildings and statues are difficult to quantify. In spite of lurid claims by the American Lung Association, there is no solid evidence on health effects. Finally, acid droplets do cause some deterioration of visibility, but so do all participants, including sand and dust.

So what's all the fuss about? Asking this question about the emperor's clothes got a former NAPAP director into trouble. His successor, Mr. Mahoney, had to admit to Sen. Daniel Patrick Moynihan (D., N.Y.) at the October hearing that even heroic efforts to reduce emissions may not improve small lakes located in acidic drainage basins—certainly not very quickly. Treating these lakes with lime every few years would be far more cost-effective.

Acid rain has become a symbol of national sin—the sin of prosperity—calling, it seems, for national expiation. We offer in sacrifice jobs and economic growth. Scientific evidence no longer seems to matter; nor does an analysis of the cost of controls vs. the benefits that might be achieved. The odds are that the debate in Congress on the Clean Air bill continue to ignore the NAPAP results—the only scientific basis for determining benefits—since NAPAP doesn't produce the answer that regulators want to hear.

Why does the bill still call for a sulfur dioxide reduction of 10 million tons? Why not two million, or five million, or even all 24 million tons? It's hard to answer this when there is no cost-benefit analysis to guide policy. Yet everyone knows that as the degree of control is raised, costs escalate wildly while benefits increase only slightly.

The rest of the article goes on to make some suggestions.

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 6, 1990]

THE ANSWERS ON ACID RAIN FALL ON DEAF EARS

(By S. Fred Singer)

A billion-dollar solution for a million-dollar problem: This is perhaps a facile way to summarize the acid-rain issue, but it's not far from the truth. The proposal to control emissions that could spur acid rain—now being debated on the Senate floor as part of the Clean Air bill—could cost $5 billion to $10 billion a year; the benefits, in terms of reduced damage, are uncertain and, at best, quite small.

This appears to be the conclusion of the National Acid Precipitation Assessment Program (NAPAP), which is just completing a 10-year scientific study. This monumental federal program may be worth every penny of the half billion dollars spent—if only it substantiates that the ecological damage from acid rain would take decades, not years, to occur, if it occurs at all. There is time for measured responses that avoid the costly mistakes that come from panicky over-reaction.

Acid deposition, commonly referred to as acid rain, occurs when sulfur dioxide and nitrogen oxides, emitted from fuel-burning power plants, motor vehicles and other man-made and natural sources, are transformed into acid compounds. Carried by the winds, they either fall out in dry form or rain out in water droplets, often quite far from their sources of emission. The scientific debate has been about the precise relationship that the levels and locations of emissions have with the acidity and locations of the rain, and about the severity of the ecological effects. The policy debate has been about the degree and timing of emission control and about who—and what sectors and what regions—should pay the bills (read: billions) that ultimately are passed on to consumers.

NAPAP brings some answers to these debates. First, America's best-kept secrets: From 1973 to 1988, sulfur dioxide emissions decreased 23%, to 24 million tons, despite a 45% increase in coal use; nitrogen oxides have declined 14% since a 1978 peak. Both decreases are the result of current clean-air laws.

And now the kicker, the outcome of this grand experiment in emissions reduction: "No apparent trend in the acidity of rainfall has been detected," according to James Mahoney, director of NAPAP, in October testimony before Congress. "Because of complex atmospheric reactions, percentage reductions in emissions may not result in similar percentage reductions in depositions," he added. Thus the relationship is not at all proportional—as was claimed in a 1983 National Academy of Sciences report, widely used as the basis for proposals to cut sulfur dioxide emissions, including the Senate bill.

NAPAP also counters the common wisdom that acid rain effects are caused only by sulfur dioxide from industrial sources. The Adirondacks, Catskills and Poconos are all downwind from major sulfur dioxide sources in the Midwest, yet according to NAPAP, only 11% of the lakes in the Adirondacks and 2% of those in the Catskills/Poconos have enough acidification to damage fish. Mostly small lakes are affected, further suggesting that local geology and soil drainage may be a contributing factor in acidification.

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So what's all the fuss about? Asking this question about the emperor's clothes got a former NAPAP director into trouble. His successor, Mr. Mahoney, had to admit to Sen. Daniel Patrick Moynihan (D., N.Y.) at the October hearing that even heroic efforts to reduce emissions may not improve small lakes located in acidic drainage basins—certainly not very quickly. Treating these lakes with lime every few years would be far more cost-effective.

Acid rain has become a symbol of national sin—the sin of prosperity—calling, it seems, for national expiation. We offer in sacrifice jobs and economic growth. Scientific evidence no longer seems to matter; nor does an analysis of the cost of controls vs. the benefits that might be achieved. The odds are that the debate in Congress on the Clean Air bill will continue to ignore the NAPAP results—the only scientific basis for determining benefits—since NAPAP doesn't produce the answer that regulators want to hear.

Why does the bill still call for a sulfur dioxide reduction of 10 million tons? Why not two million, or five million, or even all 24 million tons? It's hard to answer this when there is no cost-benefit analysis to guide policy. Yet everyone knows that as the degree of control is raised, costs escalate wildly while benefits increase only slightly.

The proper course is not hard to find. With no impending catastrophe on the horizon, the current improvements due to existing clean-air laws should be speeded up by easing certain restrictions rather than by imposing new ones. For example:

Encourage policies that lead to a more rapid replacement of old power plants and of older, heavily polluting cars.

Allow a free choice of the technology or of any other measure to reduce emissions, coupled with an expanded system of flexible emissions trading.

Increase the utilization of existing nuclear plants.

Conserve more energy wherever it makes economic sense.

Only after this first stage of emission reductions has been exhausted, and any reduction in acid rain documented, should legislators even consider the more drastic control measures that threaten the economic well-being of Americans.

(Mr. KERREY assumed the chair.)

Mr. GLENN. Mr. President, there is another article I also ask unanimous consent for inclusion in the RECORD of articles from the New York Times and the Washington Times.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 20, 1990]

WORST FEARS ON ACID RAIN UNREALIZED

(By William K. Stevens)

HILTON HEAD, SC.—A 10-year, half-billion-dollar federally sponsored investigation is concluding that acid rain causes some significant environmental damage but far less than initially feared.

"The sky is not falling, but there is a problem that needs addressing," James R. Mahoney, the director of the National Acid Precipitation Program, said as about 700 scientists from more than 30 countries gathered here last week to digest, pick apart and argue about the results of hundreds of studies that will form the basis for the program's final report to Congress later this year.

"Acid rain does cause damage," Dr. Mahoney said, "but the amount of damage is less than we once thought, and it's much less than some of the characterizations we sometimes hear."

Some of the program's findings are riddled with uncertainty. Some scientists at the Hilton Head review, moreover, criticized

the assessment as prematurely concluding that acid rain is causing little harm to American forests. And Canadian scientists charged that the assessment understated the problem in their country, a problem to which, it is generally agreed, the United States greatly contributes.

But Dr. Mahoney said that while there is "a great deal of room, still, for debate and interpretation," the extremes of the debate—the view that acid rain represented an imminent environmental disaster, and the opposite view that it was not a problem—have now been eliminated.

The Federal research program, created by Congress in 1980 to provide the Government with a definitive study of acid rain, has engaged the efforts of hundreds of scientists. Last week's meeting was meant to be the last major critical scientific review of the findings, among them these major ones:

In the United States, fewer than 1,200 lakes have become fully acidified. Little can live in them, and acid rain is mostly responsible. This is about 4 percent of all lakes in areas where acidification might be expected. Earlier, it had been feared that thousands of lakes would be fully acidified by now. In the Northeast, where most of the concern has focused, those lakes that are going to become acidified have already done so. An additional 5 percent of American lakes on which acid is thought to fall, while not necessarily fully acidified, are acidic enough to threaten some species of aquatic life.

Except for red spruce at high elevations in the Eastern mountains, there is no evidence that acid rain has caused a general decline of American forests. But a sizable minority of scientists at Hilton Head argued that because this part of the research effort is relatively young, and because new, provocative but unevaluated data are still coming in, the door was being closed too soon. Furthermore, they argued, the report on forests had given short shrift to the possibility that over the long term, acid rain causes nutritional deficiences in trees by altering soil chemistry.

There is no evidence that acid rain in the United States harms crops.

Acid rain and dry acid particles in the atmosphere could pose a health risk to asthmatics, people with heart or lung disease, children and the elderly, either alone or in concert with other pollutants such as ozone. Symptoms include wheezing, shortness of breath and coughing. But, citing uncertainty surrounding the issue, the study report said the health risk was speculative at this time. The study found also that acidic deposition might cause the chemical release in the environment of enough lead to affect health. The level of risk, if any, is not yet determined.

In the Eastern United States, sulfates of the kind borne by acid rain are the dominant cause of haze and reduced visibility, accounting for half the degradation of light. Sulfur emissions have been the major contributor to Eastern haze since the late 1940's.

Acid rain damages such construction materials as marble and limestone and causes a number of metals and alloys to corrode more rapidly. At particular risk are an estimated 35,000 historic buildings and 10,000 monuments in the Northeast.

DEBATE IN CONGRESS

Congress is debating proposed amendments to the Clean Air Act. Acid rain is one target of legislation, introduced by the Bush Administration, to amend the law. Industries, electric utilities in particular, would be required to reduce emissions of sulfur dioxide and oxide of nitrogen by 10 million tons and 2 millon tons a year, respectively, by the year 2000, at a cost estimated by the Environmental Protection Agency at $22 billion over the next decade.

Sulfur dioxide and nitrogen oxides, produced by the burning of coal, oil and natural gas, are the precursors of acid rain. In the atmosphere, they react with water and other chemicals to form sulfate and nitrate compounds that can be carried hundreds of miles by air currents before they are deposited on the earth by rain, snow, sleet, mist, fog or clouds. Dry sulfur dioxide and nitrogen oxides also sometimes fall to earth nearer the point of origin.

In broad perspective, say Dr. Mahoney and some others associated with the Federal study, acid rain cannot be seen as ranking at, or even near, the top of a present-day priority list of environmental issues that also includes urban air pollution, destruction of tropical forests, depletion of the earth's protective ozone layer and the possibility of global climate change.

"I completely disagree with that," Deborah A. Sheiman of the Natural Resources Defense Council, an environmental advocacy group, said as the conference was ending. Not least, she and others said, this is because in one respect, there are more reasons, not fewer, to be concerned about acid rain today than there were 10 years ago. Then, the concern focused on damage to lakes and streams in the Northeast. Now it involves lakes and streams in other regions as well, along with forests, human health, atmospheric visibility and damage to materials.

Ten years ago, Dr. Mahoney recalled, some environmentalists predicted that within a decade, acid rain would increase by tenfold the acidity of thousands of lakes in the United States. In fact, the research shows the acidity actually increases by up to fivefold over 20 to 50 years, and far fewer lakes are involved. (Tenfold is equal to one point on the 14-point pH scale, which is the standard measure of acidity and alkalinity. A pH of zero is totally acid; of 14, totally alkaline. Seven is neutral.) Damage to aquatic life begins to take place below a pH of 6, according to findings presented at Hilton Head. The Federal study found that 9 percent of lakes in areas of the United States known to be targets for acid rain had acid levels below pH 6, and that 4 percent were totally acidified. These lakes, though a small fraction of the national total, were concentrated not only in the Northeast, as had long been suspected, but also in Appalachia, on the mid-Atlantic coastal plain, in northern Florida and in contiguous parts of northern Wisconsin and the Upper Peninsula of Michigan.

The survey also found that 2.7 percent of streams in areas where acid rain falls from the sky were acidic, and that many streams in the Appalachians were vulnerable to future acidification.

"I'm not saying there's no problem," said Dr. Mahoney. "But we don't have very rapid decay of large numbers of lakes." While many lakes will recover once no more acid falls into them, he said, the recovery will take some years.

QUESTIONS ABOUT CANADA

The Federal study incorporates data from Canada showing that 5 percent of a sample of 8,500 Canadian lakes were acidified. If that is an accurate sample of the whole, it would mean that perhaps 14,000 Canadian lakes are fully acid. And about a quarter of the Canadian lakes sampled had a pH of 6 or less. Canadian scientists say that perhaps 150,000 lakes could fall in this category.

By treating these findings separately, burying them in the body of the study, leaving them out of the summary and generally underplaying them, the scientists "greatly diminished" the extent of the Canadian problem, contended Tom Brydges, a lakes expert from Environment Canada, his country's environmental agency.

Lawrence Baker of the University of Minnesota Water Resources Center, who was the chief author of the lakes report, said that ideally, the Canadian data should be integrated with the overall study. But he said it was unclear whether the Canadian sample was a true random sampling of Canadian lakes. Further, he said, the two studies did not examine the same variables.

"I'm not exactly sure if it can be resolved, scientifically speaking," he said.

The Canadian objection is being taken seriously, said Patricia Irving, the associate director of the Federal study and its science coordinator.

A major purpose of the Hilton Head meeting, she said, was to uncover and ventilate just such concerns before the final report.

At the levels at which acid is now being deposited in North America, the study found that with the exception of Eastern red spruce at high elevations, there is "no evidence of widespread forest damage." Moreover, it found that acid rain "is not associated with crop damage." The real villain, it found, is ozone, which "is capable of regional-scale crop growth and yield reduction" and is "the pollutant of greatest concern" with respect to forests.

Beyond that, the reports on forests and vegetation generated considerable contention.

There is wide agreement that to the extent acid rain does harm forests, it is just one of many stresses, including natural ones such as drought and cold. Scientists say it is extremely difficult to sort out cause and effect. Moreover, critics at Hilton Head said that data collection on forests was still going on and not that much information was in hand.

The study was also criticized for drawing a sweeping conclusion that hardwoods like the sugar maple are not harmed by acid rain. Some studies in Canada suggest the opposite, and critics said that the door should not be closed just yet.

And in one of the biggest reservations on the forest issue, a number of scientists said that there was much evidence that acid rain changes the balance of nutrients in forest soils. Some scientists, in fact, are convinced that there is no doubt that acid in some soils not only robs the soil of nutrients but also interferes with the ability of trees to absorb them. Some members of the forestry study group said that this would have to be reevaluated, and that new information might have to be sought, before a final report is issued.

[From the Washington (DC) Times, Mar. 20, 1990]

BYRD'S KILLER AMENDMENT

(By Warren Brookes)

Today the Senate returns to debate the Clean Air compromise forged by Senate Majority Leader George Mitchell, Maine Democrat, and the White House. Its fate may well hang on the first amendment it will take up, whose author, Sen. Robert Byrd, West Vir-

ginia Democrat, has proved again he still is a master political strategist.

Mr. Byrd's amendment calls for paying about $130,000 in "impact" assistance to each of the 5,600 soft-coal miners expected to lose their jobs due to this bill—a total cost of $730 million.

With this single outrageously bold stroke, Mr. Byrd has forced Congress and the administration to consider for the first time the real economic consequences of their green flirtation and weigh them against the remarkably slender ecological benefits. That already produced one of the best debates this town has seen.

On Thursday, March 8, between 11:00 p.m. and 1:30 a.m., C-SPAN viewers and 80 senators on the floor were treated to high drama from two old protagonists that produced light instead of heat.

No sooner had Mr. Byrd spelled out his own revised proposal than Senate Minority Leader Robert Dole, Kansas Republican, rose to the point:

"If we are going to do this for coal miners, there are 14 other industries that are going to be impacted. What happens to them? How many thousands of workers are not going to get benefits?"

Mr. Dole said the administration is already terrified over the implications: "If this amendment is adopted what happens to this bill? They said, 'That is it. It is over.' I have been told flat-out that it would kill the [clean air] bill." That's a frank admission that the administration acknowledges massive real job losses.

Then, in the guise of attacking the Byrd proposal, Mr. Dole proceeded to administer what looked like Clean Air's coup de grace. He cited a remarkably conservative estimate made by two first-rate economists, Wilbur Steger and Robert Hahn of Carnegie Mellon University, for the industry Clean Air Working Group which shows the immediate job loss of the Clean Air Bill will be 220,000 to 1 million jobs, with 3 million jobs put at risk:

Said Mr. Dole: "Nobody disputes the impact it is going to have on the coal industry, but that is not the only industry. It is not only workers; it is employers. Some people will not be able to buy cars because they will not have a job. So it affects those employees, too. It has a ripple effect." How big is that ripple? On air toxics alone, "It has been estimated we are going to lose between 20,000 and 200,000 jobs. Those jobs are going to be lost in 15 industries." Mr. Dole then intoned them by name, coke ovens, petroleum refineries, pharmaceuticals, pulp-and-paper mills, steel foundries, etc. As the spoke, senators mentally began counting constituents.

"I do not care if it is $800 million or $8 billion. It is going to help 5,000 while ignoring up to 200,000. There is such a thing as basic fairness. In West Virginia, for example, there are 5,601 coal miners at risk but there are 7,332 chemical-industry jobs also at risk, and 9,373 primary metals jobs at risk.

"In my state of Kansas 7,500 transportation-equipment workers would be at risk, 2,900 electrical goods and sanitary-service jobs, 1,700 rubberworking and miscellaneous jobs and 1,200 petroleum refinery and related jobs."

In short, Mr. Dole said, "The administration says this is not going to cost $800 million. . . . It is going to cost billions and billions of dollars." True-confession time had finally arrived.

Mr. Dole then entered into the Senate record a state-by-state table showing air toxics alone put at risk some 2.4 million jobs; permitting costs for small business will risk 1.1 million more; acid rain directly risks some 232,000 (See Table.)

When Mr. Dole finally sat down, the fat was in the fire. Sen. Wendell Ford, Kentucky Democrat, a cosponsor of Mr. Byrd's amendment jumped up and said what was on the collective mid-American political mind:

"The distinguished Republican leader gave the most devastating speech against this bill anyone can give on the floor of the U.S. Senate. We talk about products coming into this country and costing jobs. Well, I will guarantee it is going to cost hundreds of thousands of jobs with this bill."

Mr. Ford then spoke movingly about the life of miners in his state and their sacrifices in war and peace, noting "all of a sudden we say to them, "We are going by public policy to put you out of work.' "

Sen. Edward Kennedy, Massachusetts Democrat, then got up and supported the Byrd amendment, citing the precedent of trade-impact assistance: Will this nation take care of its people, too, when we vote for clear air or for cuts in military spending?

Sensing the demise of his extremist environmental agenda, patrician greenie Sen. John Chafee, Rhode Island Republican, complained that coal miners had already been paid handsomely, concluding: "Does anybody think if they vote for this amendment that they can go around the country and say, 'Hey I am for clean air. It is just I happen to be for this amendment.' By voting for this amendment, we will kill this legislation."

But Sen. Phil Gramm, Texas Republican, picked up Mr. Dole's theme: "In my state, we are talking about the loss of 38,372 jobs in chemicals, 19,813 petroleum-refining jobs, 12,518 jobs in the electric and gas industry. If we make a decision to adopt this amendment, we should be prepared to . . . extend these benefits to every worker in America that loses his or her job as result of the adoption of this bill."

No wonder, in a desperate effort to head this off, the Environmental Defense Fund now is backing Idaho Republican Sen. Steve Symms' "Bright Light" proposal to let workers decide if they will live with more than one in 1 million risk, instead of shutting down.

Whereupon, Sen. Warren Rudman, New Hampshire Republican, the acid-rain drumbeater, having listened to "the chilling statistics," wondered if such loss decisions were even warranted:

"I must say in all frankness that I still have doubts in my own mind about some of the scientific evidence that exists. There are more reports coming out. It would be ironic if the reports come out and we find we solved the wrong problem."

Or, as the massive $600 million National Acid Precipitation Assessment Project report recently implied, no problem, or at least none that is worth $5 billion to $7 billion a year and 232,000 jobs. Indeed, all the lakes in Mr. Rudman's beloved Northeast could be limed for less than $1 million a year and achieve more real results. NAPAP called it "the most effective mitigation method."

Mr. Rudman then said it all: "If in fact we are going to lose between 250,000 and 400,000 jobs in the next two years, then quite frankly I think you all ought to be going back to the drawing board."

Good advice. No wonder the Bush administration is pushing so hard against Mr. Byrd's amendment. The administration's ill-designed boondoggle cannot stand the economic or ecological test of real jobs lost.

JOBS AT RISK FROM BUSH/MITCHELL BILL

Large States only	Air toxics (1x10.6) [1]	Permitting (Small bus.)	Acid rain	Total
Total	2,414,804	1,114,088	231,895	3,760,787
Alabama	56,412	9,438	4,890	70,740
California	132,991	210,243	.....	343,234
Florida	26,619	30,781	7,599	64,999
Georgia	51,433	22,019	6,329	79,791
Illinois	109,660	79,707	6,250	195,617
Indiana	155,798	16,788	28,558	201,064
Kentucky	37,506	11,334	9,000	57,840
Louisiana	38,894	7,757	.....	46,651
Maryland	27,169	29,526	10,502	67,197
Michigan	181,083	36,272	3,464	220,819
Missouri	87,336	25,914	21,442	134,692
New Jersey	43,817	90,458	69	134,344
New York	140,458	98,652	8,570	247,680
North Carolina	114,736	27,427	.....	142,163
Ohio	210,170	69,351	46,780	326,301
Pennsylvania	135,015	71,533	24,714	231,262
Tennessee	92,377	17,833	8,305	118,515
Texas	114,967	69,377	.....	184,344
Virginia	107,378	19,642	.....	127,020
Wisconsin	74,949	16,731	26,437	118,117

[1] Assumes maximum available control technology with shutdown for failure to achieve residual risk of less than 1 in 10,000, rising to 1 in 1,000,000. Standard was slightly modified in Mitchell White House compromise from "maximum exposed individual" to "maximum REAL exposed individual" as an option to plants willing to do costly demographic and exposure studies.

Source: Economists Robert Hahn & Wilbur Steger, Analysis of Clean Air Bill S. 1630 for Clean Air Working Group, February 1990.

Mr. President, in addition to these articles I would like to insert in the RECORD an excerpt from a letter from the NAPAP Director to Congressman JOHN DINGELL.

If emissions or deposition were to change by 7% to 13%, the regional patterns of the effects of concern (e.g., aquatic systems, high elevation red spruce, materials degradation, health risks and visibility degradation) would likely change, but such changes would not likely be measurable. It is unlikely that differential environmental effects over large regions could be measured between cases where the national emission levels would differ by one or two million tons.

In other words, whether we set the level at 8 million tons or 10 million tons or 12 million tons it is inconsequential to damage to the ecological systems. But, we know that the costs go straight up in the air. The costs of going from an 8- to a 10-million-ton programs increase by 50 percent. Yet, at the far end of the line, you cannot even tell the difference.

Mr. President, there are other factors that influence the impact of acid rain on ecosystems. There factors include national variability such as various weather patterns for example we find in Adirondacks, 14 percent of the lakes are acidic. But in Florida, where they are not downwind of any sulfur dioxide sources, 22 percent of the lakes are acidic.

Mr. President, I would like to briefly discuss some other elements of acid rain consideration. First, the issue of fairness. I find it difficult to accept legislation that leaves out about one-third of the emitters in the country. In addition, managers of the bill have talked about the allowance system in the Acid Rain Program. They say the

West needs allowances to grow. Mr. President, the Midwest needs allowances to survive. We have people who are going to be tossed out of work.

Originally, I tried to address the equity issue by including a cost-sharing program based on a fee or electric generation plan. That did not get very far. Last year I tried the appropriations process and did not get very much support there. Senator METZENBAUM still has pending an amendment for a tax credit. I am cosponsoring that amendment. We in the Midwest have worked hard to achieve equity under the Acid Rain Control Program.

Mr. President, I am very concerned about enacting acid rain control legislation before we have the NAPAP report. I am not against new requirements for cleanup. I want to see us have as clean an environment as anyone else, but I want to see that the requirements are realistic.

I want to see us base our actions on facts and not on long-held misconceptions.

I wish it were possible, and maybe it is still possible, for us to set up a meeting with Senators who might wish to meet with Mr. Mahoney and talk with him, as I did the other day for about 2½ hours.

But, we still have some options that can be discussed. One, can we lengthen the time for final compliance? Does that really hurt us much? What would happen if we went out to 2005 for the final compliance date so that communities, businesses, and employers can adapt to this on a less precipitous schedule?

Second, is there time to reduce to 8 million tons that 10-million-ton requirement that is in the bill now? Although I know this would be difficult, I hope Senators will review this option in light of the NAPAP report.

Third, another option is to pass the toxics and auto emissions and hold the acid rain until NAPAP issues its final report.

Mr. President, I find it difficult to support this part of the clean air bill. I am very concerned that we deal fairly not only with the toxics, as I think we have, not only with auto emissions, as I think we have, but I want to see us deal with facts and not fiction where the sulfur dioxide emissions are concerned.

I hope the distinguished floor manager of the bill comes back shortly because there are a series of questions I would like to address to him before we move on to other things.

I know the distinguished Senator from New York, who started the NAPAP study a decade ago, has some observations on this. I yield to him for whatever comments he might wish to make. Then I will have some remarks later.

I hope the distinguished floor manager comes back shortly. There are some questions I would like to address to him.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to thank the distinguished senior Senator from Ohio, a man who is as close to a scientist as anyone we have in the Senate today; a man who history will recall for his role in the Space Program of the 1960's, and who is the first Member of this body who has tried to respond to the data from NAPAP regarding acid rain and has done so with a characteristic control of the fact. Perhaps he would allow me to state just a few facts and lend a certain perspective from someone who is now in his 12th year on this subject.

The first thing is to say, as I said in an opening statement 6 weeks ago on this bill, that the ethic of environmentalism is nothing if it is not an ethic of responsibility. Our first responsibility has to be to facts, and we have to understand that facts are not threatening. To the contrary, it is their absence that can put the cause of environmental protection in jeopardy.

Perhaps I can give the Senate a brief history of how this program came about. It began innocently enough as a trout fisherman's measure. There had been noticed a pattern of the depopulation of high mountain lakes in New York's Adirondacks of fish species.

Dr. Carl Schofield at Cornell had figured out the pattern. What was happening is that acidic rains—more than normally acidic rains that is; normal rain is acidic—was releasing inorganic aluminum from the granite bedrock in the area, and this was interfering with the ability of fish to breathe.

The Canadians shared this concern. In 1979, I put in the bill that became the following year the Acid Precipitation Act of 1980. If I can say, I did this in the spirit that one would hope to see environmental legislation proceed, which is, through a longitudinal, careful, quantified, and refereed experiment.

This is not always glamourous work. It is invariably protracted, prolonged work. The history of science in our age has been a wonderfully romantic one. Such as Leo Szilard waiting for a traffic light to change in London in 1934 and thinking of fission or two of the great Nobel physicists of the early 20th century—Paul Dirac and Weiner Heisenberg—being taken to Stockholm by their mothers.

Nobody working on acid rain, winning a prize in Stockholm or elsewhere, will be taken there by their mothers. More likely, they will be accompanied by their grandchildren. Such is the nature of the work. Knowledge is not gained through sudden inspiration. Rather, it is won through years of what can be very tedious work.

The second thing I want to say is that the news about acid rain is good news. I had no sense in 1979 what the answer would be. Basically, what we have been faced with is the question of whether this process was linear; whether there is a fairly direct relationship between the amount of acid precipitation and the amount of acidic damage, if you will.

I think it may be said that we find this not to be the case. We find, roughly speaking, a situation where there are certain geographic areas of vulnerability, and the amount of damage that could happen has pretty much happened. How much more will happen is a matter of conjecture, but in no sense do the current data seem to suggest that, at least for the Northeast, that things are likely to get too much worse.

I would like to point out that this data was available to the committee as we drafted the final bill. It came in late, but on October 5, we held a hearing, and by then the work, which is still being reviewed, had been gone over a first time by the NAPAP Oversight Review Board.

Let me take this occasion to express appreciation to Dr. Mahoney and to Mr. Reilly for the work they have done to establish this Board.

This Review Board, established in August 1989, at the behest of Mr. Reilly and Mr. Mahoney, is of world class. The names begin with Kenneth Arrow, who is a Nobel Laureate and professor of economics at Stanford.

You have, importantly, Dr. Simon Levin, who is the director of the Center for Environmental Research, and Charles A. Alexander professor of biology at Cornell University.

I was very happy to see that we were able to get Dr. John Gordon, who is dean of the school of forestry and environmental studies at Yale; Dr. John Tukey, professor of statistics emeritus at Princeton and former associate executive director of research at Bell Laboratories.

The Canadians were involved: Dr. John Bailar, who is on the faculty of the department of epidemiology and biostatistics at McGill University, and who has been a science adviser to the Department of Health and Human Services. He is the statistical consultant for the New England Journal of Medicine, one of the great science publications of the world today. a more prestigious group you could not find.

In effect, they reviewed the data, and they said the data is of the quality adequate to this purpose.

On that occasion of October 5, I spoke with Dr. Milton Russell, who was Chairman of the Oversight

Review Board, and has a joint appointment at Oak Ridge National Laboratory and the University of Tennessee. I spoke with him to investigate the idea of continuing NAPAP's work beyond enactment of this clean air bill. Since that time I have incorporated an amendment to this bill—section 408—which would carry NAPAP forward indefinitely. Also I have included an amendment to maintain a national registry of acidified lakes to see if the number of acidified lakes goes up or goes down, and if so, by how much.

I asked Dr. Russell about the state of knowledge, and Dr. Russell said this:

Acid precipitation research is in the process of unfolding answers. It is a gradual refinement of hypotheses and some of these may prove to be wrong.

What I am suggesting is that there will be a continuing need for further work to refine what we think we know, to test these hypotheses against a natural world that doesn't respond to a policy-driven calendar, and to monitor the changes that we see in emissions, in depositions, and in effects.

The bill before us provides for that. Mr. President, I ask unanimous consent that the names and the affiliation of the members of that Board be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Dr. Kenneth Arrow, Nobel Laureate and Professor of Economics at Stanford University;

Dr. John Bailar, member of the faculty of Epidemiology and Biostatistics at McGill University; Science Advisor to the U.S. Office of Disease Prevention and Health Promotion, Department of Health and Human Services; statistical consultant for the New England Journal of Medicine;

Dr. John Gordon, Dean of the School of Forestry and Environmental Studies at Yale University;

Dr. Glenn Hilst, consultant in atmospheric sciences;

Dr. Simon Levin, Director of the Center for Environmental Research and Charles A. Alexander Professor of Biology in the Section of Ecology and Systematics at Cornell University;

Dr. Thomas Malone, Professor Emeritus at St. Joseph's College, Connecticut, and former president, Sigma Xi;

Dr. William Nierenberg, Director Emeritus at the Scripps Institute of Oceanography in La Jolla, California;

Dr. Milton Russell, Professor of Economics and Senior Fellow of the Energy, Environment and Resources Center, University of Tennessee, Knoxville; and Collaborating Scientist, Oak Ridge National Laboratory;

Dr. Chauncey Starr, President Emeritus of the Electric Power Research Institute;

Dr. John Tukey, Donner Professor of Science Emeritus and Professor of Statistics Emeritus at Princeton University; and former Associate Executive Director, Research, Bell Laboratories.

Mr. MOYNIHAN. In looking to get some broader scientific perspective on the acid rain program in the bill before us, I corresponded with a highly distinguished American scientist with some expertise in these matters, and said, "tell us what you think" and he wrote back. I thought this was a marvelous statement. He said:

Reducing acid precipitation precursors clearly would provide benefits of many sorts. This is not a case where the program has zero benefits. The question is whether the benefits are enough to justify the social costs.

If we were starting de novo with what we know now, this issue would not occupy the prominence on the national environmental priority list that it has achieved.

Acid rain has become a symbol of Government that is either uncaring or ineffective. The entire environmental enterprise in this country has been sullied in the public by the apparent inability to do something.

Mr. President, if the people now protesting enactment of acid rain legislation had, in 1982, accepted the early evidence that there was a problem here, we would be enacting a bill today at a level very different from what is going to happen. Let them ponder that. Let them think about it. The opponents of any acid rain controls had their way in the 1980's and they have done nothing. Now they will have what we have in this bill.

For what it is worth, the first bill to actually propose a reduction in sulfur dioxide emissions I introduced on October 6, 1981. It came in right at that 8-million-ton per year reduction, which lies at the point in the cost curve where costs begin to escalate very sharply.

I make two further points. First is that earlier in this debate I introduced, and the managers accepted, a measure that will establish a benefit-cost analysis program for the entire Clean Air Act not just for the bill as we see it here.

This promises to be the largest exercise of its kind in the history of environmental research, possibly in the history of benefit-cost research. And finally, to get some metric for this is a real challenge—learning to evaluate costs, and dealing with that very sensitive issue of what is a life worth. When you decide to build a bridge, you decide to kill some people, but we build bridges anyway. So it goes. When you decide to go to the Moon, you decide some people are going to die. You go to the Moon anyway.

The point I want to make is that we have in Mr. William Reilly a most distinguished public servant who understands this; who understands that environmental legislation has to be science driven. It cannot simply reflect the enthusiasms of persons who in the end could not quantify what they are saying, and could not demonstrate what they mean at the level of a reputable language which is international and scientific.

We are going to consider at some point in this Congress legislation to establish a Department of the Environment. I believe that will go through the Committee on Governmental Affairs, of which the Senator from Ohio is chairman.

In the present plans being drawn up in the executive branch, this new department will have a bureau of environmental statistics. I would like to think it will resemble in its purpose the Bureau of Labor Statistics which was established in the aftermath of the Civil War, which predates the Department of Labor by generations, and which over the years has created first the statistical techniques for measurement of wages, hours, industrial accidents, unemployment, income, and things like that, which have been indispensable to the social legislation that came a generation or two generations after the problems began to be measured.

But, Mr. President, a point. You never do anything effective about an issue in public life until you learn to measure it. We have not just learned to measure very much in the natural environment. That is exactly why we created NAPAP in the first place. If the measurements do not come out the way some people anticipate it, so be it. That is all right.

Mr. Reilly has assured me that the NAPAP enterprise will go forward, the registry of lakes will go forward—assuming they are in the statute, and the bill goes to the President—and that the benefit-cost analyses will be located in this bureau of environmental statistics.

That is a very good thing. A generation from now, other men and women on this floor talking about these issues will have much more solid data from which to proceed.

I do not disguise the fact that I wish that our committee had paid more attention to the information which took 9 years to develop. I do not disguise the fact that for a decade I have sought to have a science adviser attached to our committee staff without success. But there you are.

It is not the case that we are ignoring this data. I would plead with the Senator from Ohio to note that if I could not get any real attention to the data itself, I had no difficulty in requesting that the research continue. I do not think the people who care about this legislation paid enough attention to the jeopardy in which they put the enterprise by not paying enough attention to the data. They are fortunate in having the Senator from Ohio raising this issue in the modulated, thoughtful, and factual basis way he has done. They are indeed fortunate. It could be much worse.

In the meantime, sir, may I say that we will have the final report of the NAPAP first round, first decade, in September. By midsummer we will have the draft documents for the one last round of review and refereeing.

We will know a very great deal more than we knew 10 years ago. The world will be learning with us.

It is quite correct that a great many scientists, particularly our neighbors in Canada, attended with extraordinary interest the proceedings of the NAPAP International Conference at Hilton Head in February. It may be that we have learned something of true consequence, and that the directions of some of our efforts in the future will be different. It may be that they will be far more economical, if I could use that term in the global sense, of cost and in the efficiency with which you go about bringing the results you desire.

I, for one, would hope that somebody, just somebody somewhere would pay attention to the information NAPAP has produced; that if you want to get rid of, to reverse acidified lakes, there is no substitute for dumping lime in them. Just a little lime and the fish can come back.

The present process of reducing acidity by reducing emissions might take a half century. Why not get the fishermen back in those lakes earlier on? I think I would almost make a proposition that we owe it, the executive branch owes it to the environment to reverse those acidifications in the most direct mode available.

In any event, Mr. President, I thank the Senator from Ohio for having taken official notice, you might say, of the research that has been performed. It was very carefully done. It is a credit to American science. I think it is a credit to the Senate that the effort was originated here; and, the proceedings, the decision, to go forward was also made here, and will be made on this floor.

Mr. President, I thank you for your kind attention, and I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I have no desire to prolong this unduly, but I will appreciate it if the distinguished manager of the bill could address some of the questions that I have spoken about for a good part of the last hour. There are a number of questions that I raised. The first, is, would be, what is the scientific basis for the 10-million ton reduction?

Mr. BAUCUS. Mr. President, I ask the Senator a question. First of all, there are many, many studies,. by many organizations attempting to determine damage caused by acid rain, as well as benefits that accrue by acid rain reduction. The most often cited report is that of the National Academy of Sciences, a 1981 study. In that study, they concluded that a 50-percent reduction of SO_2 emissions was necessary in order to essentially bring the rivers, lakes, and streams of this country back into the natural state, that is, before they were damaged by acid precipitation. I must say to the Senator that the National Academy of Sciences therefore recommended a 12-million-ton reduction, 12 million tons.

Mr. GLENN. What report was that?

Mr. BAUCUS. The bill before the Senate is not a 12-million-ton reduction. The bill before the Senate, as the Senator knows, is a 10-million-ton reduction. We did not go as far as the National Academy of Sciences. A 10-million-ton reduction would not be a 50-percent reduction in acid rain, as recommended by the National Academy of Sciences, to allow our rivers, lakes, and streams to begin to restore themselves, but rather a 40-percent reduction in SO_2 emissions.

There are many other studies, I might say, such as the Schindler studies, a Canadian series of studies; the NAPAP study also contracted out many different private research organizations, different aspects of this. But as the Senator also knows, we have been on this subject for about 10 years, and there have been a lot of studies over 10 years. The National Academy of Sciences is a major study. In addition, the committee report references many additional studies, as well, and much of the scientific data is contained in that report.

I might also say to the Senator that the committee this year and last year, heard testimony essentially stating that the leading epidemiological evidence is that air pollution, primarily in the form of sulfates, increased the rate of mortality and morbidity in this country by 2 to 5 percent per year. That is tens of thousands of excess, avoidable deaths per year linked to sulfates. That testimony has been before our committee in both this Congress as well as the last Congress.

Mr. GLENN. I believe the report the distinguished Senator refers to is the 1981 National Research Council which issued a report, "Atmosphere, Biosphere Interactions: Toward a Better Understanding of the Consequences of Fossil Fuel Combustion." Is that the report?

Mr. BAUCUS. Yes, that is correct.

Mr. GLENN. Is the Senator aware they came back with another report in 1983 that in effect said they did not really stand behind that first report? They said the conclusion out of that first report, "was misinterpreted in the press and by others." And they give examples, in Science magazine, October 2, 1981; page A26 of the Washington Post, October 16, 1981, and said it was misinterpreted as a recommendation for a 50 percent reduction in emission of pollutant gases, sulfur dioxide, and the oxides of nitrogen, that are precursors to acid precipitation." It goes on to say that it did not indicate how much additional control of emissions would be required to meet the goal.

Mr. BAUCUS. I must say, the 1983 study the Senator refers to essentially reaffirmed the National Academy of Science's earlier conclusion of the principle all emissions and deposition; that is, that whatever comes up, comes down. That was a major conclusion of that second report.

Mr. GLENN. Let us follow up on that, if we can. Assuming what goes up comes down, what is the effect of current emission levels?

Mr. BAUCUS. I repeat to the Senator, consistent testimony was before the committee has been that air pollution, including sulfates, results in 2 to 5 percent additional mortality and morbidity in this country. Tens of thousands of deaths in this country, additionally, could have been avoided, were it not for the sulfates that are in the air, caused principally by coal-fired generating plants.

Mr. GLENN. I will come back to that in a minute. Is there a direct connection, as far as the Senator knows, between sulfur dioxide emissions and plant growth?

Mr. BAUCUS. Mr. President, if I can reply to the Senator's question, it is a bit difficult to separate out only SO_2. However, again recalling testimony before the committee, the admixture of sulfur dioxide, VOC's, nitrogen oxides and the mix of gases that are emitted, not only because of but largely from, coal-fired utility generation, but also regional ozone as well, that there is in fact damage to plant growth with the mix of pollutants, including the toxic pollutants, additionally, which are covered by this bill.

If you add in the toxics, air toxics, plus the VOC's, and nitrogen oxides, as well as sulfur dioxides that are covered by this bill, the evidence is that there is damage to plants and crops in this country. I might add that the NAPAP study also adds that there is a 30- to 70-percent decline in red spruce. I do not know if that is specifically sulfur dioxide alone or in combination with air pollution generally, but I am quite confident, and my gut tells me, as does the science, that sulfur dioxide has to be part of the cause of the decline.

Mr. GLENN. The NAPAP report states, "There is no evidence of widespread forest damage from current ambient levels of acidic"——

Mr. BAUCUS. Senator, I had a hard time hearing.

Mr. GLENN. I am quoting from the NAPAP report "There is no evidence of widespread forest damage from current ambient levels of acidic rain in the United States. Ambient sulfur dioxide concentrations are not responsible for regional scale forest growth reductions in the United States."

At the beginning of that particular section it is stated that NAPAP reviewed more than 5,000 scientific

papers that have been published over the last 25 years. So I drew that to a very reliable conclusion.

Mr. BAUCUS. I say to the Senator, the Senator's point raises precisely some of the problems I have with those who say we have to follow the science. Follow the science. There is the assumption behind that statement that all scientists agree. That is the assumption behind that statement.

Let me cite another section from the NAPAP study which contradicts the portion of the same study that the Senator just cited. For example, on page 273 of the committee report, and I quote——

Mr. GLENN. What page again?

Mr. BAUCUS. Page 273.

Mr. GLENN. OK.

Mr. BAUCUS. That second paragraph from the bottom.

According to NAPAP, studies by Siccama et al. (1982) and Scott et al. (1984) show that the decline is the most severe at areas of high elevation; on Camel's Hump and Whiteface Mountain in the northeast, there has been a 30 percent to 70 percent decrease in live spruce since the mid-1960's.

It goes on:

Declining spruce trees typically die back from the top of the tree downwards and from the outside of the tree inwards.

It goes on, I might say continuing on the end of that same page, "As a general matter," turning to the next page:

* * * researchers express concern that chronic, mutually aggravating stresses from ozone and acid deposition may be responsible for the reduction. Such a situation would have extraordinary economic implications for this major wood producing region of the country.

Continuing on skipping a paragraph:

Although air pollution and acidic deposition are not yet fully confirmed as the primary causal agents responsible for most forest decline observed in this country, studies conducted in the laboratory have shown acute and chronic injury in deciduous and coniferous seedlings and saplings when exposed to simulated "acid rain" solutions of pH less than 3.0. Chappelka and Chevone (1986) found that root growth in white ash seedlings was 12 percent less for seedlings exposed to simulated acid rain of pH 3.0 than for seedlings exposed to rain at a pH of 5.6. Raynal et al. (1982) observed that germination was inhibited for red maple and yellow birch seeds upon exposure to soil of pH 3.0. Exposure to SO_2 has been found to predispose plants to disease. Sulfur dioxide is readily absorbed by plants in both dry and wet forms and is dissolved inside the plant leaf to create sulfuric and nitric acids. These acids alter cellular biochemistry causing acute injury and death.

That is some of the scientific basis. There is more. I might add to the Senator that this 10-million-ton reduction is firmly, strongly, aggressively supported by the President. The President has relied on the EPA and other expert agencies as well as a variety of scientific studies and the President of the United States believes that a 10-million-ton reduction is in the Nation's best interest.

Mr. GLENN. I can only say it will not be the first time in history the President of the United States made a wrong interpretation of scientific information.

Let me respond to the distinguished Senator's comment about the red spruce. I quote again out of NAPAP:

The vast majority of forests in the United States and Canada are not affected by decline.

There is no evidence of a general or unusual decline of forests in the United States and Canada due to acidic deposition or any other stress factor; moreover, there is no case of forest decline in which acidic deposition is known to be a predominant cause.

The red spruce that the Senator talks about are susceptible sometimes to hard winters. Acid rain may indeed add to that. I certainly would not propose any additional damage to this species, but I must point out that this tree population is one-one hundredth of 1 percent of forest population.

Mr. CHAFEE. Mr. President, will the Senator yield for a question?

Mr. GLENN. I yield for a question without losing my right to the floor.

Mr. CHAFEE. I am not quite sure what the point is. Is the contention of the Senator from Ohio that there is no problem with acid rain deposition?

Mr. GLENN. Am I what? I am sorry.

Mr. CHAFEE. Is it the contention of the Senator there is no problem with acid rain deposition?

Mr. GLENN. Not at all. As I said—I started out, I am very concerned about acid rain. I want to see it cleaned up. But I am concerned that we are embarking on something that has very little scientific background behind it. NAPAP has done a decade-long study of this and they come up with some very, very startling conclusions, I tell my distinguished colleague. Let me just mention them once again here.

Mr. CHAFEE. Could I ask one question? What is the Senator quoting from?

Mr. GLENN. I am quoting from the summary that was used at Hilton Head.

Mr. CHAFEE. As I understand, these are drafts and the final NAPAP study has not been delivered; am I correct?

Mr. GLENN. That is a point I was making earlier. Here we have a decade-long study. We spend over $500 million on the most definitive study of acid precipitation that has ever been done in the history of the world and then we do not want to listen to what they say. We go ahead and set 10 million tons as the reduction.

Even the National Academy of Science has backed off that figure in their second report that was released in 1983. I would like to reiterate the point made earlier. When we go from an 8- to 10-million-ton reduction, we add 40 to 50 percent to the cost of cleanup.

But, although we know about the costs and economic impact of this reduction, we do not know the results on forests, plant growth and the eco system.

Mr. CHAFEE. Does the Senator believe that?

Mr. GLENN. Let me read to the Senator.

Mr. CHAFEE. I am not asking what the Senator is reading. I am curious. Like most of us, the Senator has been around the world. He has been, like I have, to West Germany, been to the Black Forest, been to Sweden, and know what is taking place there. The Senator knows what is occurring in Eastern Europe with high sulfur fumes as has been reported as creating a wasteland. Regardless of what NAPAP says or does not say, does the Senator believe it?

Mr. GLENN. The Senator is bringing in other factors here that we are not debating on the floor of the Senate. I do not know what is going on in the Black Forest, in regard to acid rain. I do know that we put some of the finest environmental scientists in the world together over a 10-year period, spent $500 million and are going ahead with a 10-million-ton reduction program.

Again, I quote,

There is no evidence of widespread forest damage from current ambient levels of acidic rain in the United States, and Ambient sulfur dioxide concentrations are not responsible for regional scale forest growth reductions in the United States.

That is what the experts say.

Now, I do not know what goes on in the Black Forest and other places in Europe. What I am talking about and what this report addressed over a 10-year study was acid precipitation and what efffects it has in our country.

That is what I am addressing. That is the reason I was questioning whether we are right in insisting on a 10-million-ton reduction, as opposed to an 8-million-ton reduction, or to some other level of reductions

Mr. BAUCUS. If the Senator will yield, let me just on that very point repeat: there are studies and there are studies and there are studies and there are studies. One has to trust one's gut and make a policy judgment after reading all the studies.

Let me cite some contrary studies. For example, this was taken from—prepared by the Ambient Standards Branch, Office of Air Quality Standards Research, dated September 15, last year.

I am just quoting from this report:

In the early 1980's, experts began to see unexplained growth reductions, foliar damage, and "dieback" in U.S. forests. The damage in some unique ecosystems, such as Mount Mitchell in North Carolina, can be devastating. The causes of the observed damage appear to be more complicated than

in lakes and streams, with many air pollutants, acting in concert—

The point I made earlier, they, the mix of pollutants, acted in concert—

In some cases exacerbating the effects of natural stresses such as cold and drought. Acid rain appears to play a role in the observed damage. It is clearly instrumental in mobilizing the soil aluminum which causes root damage, and in leaching plant nutrients from foliage (see Schindler, 1988). Polluted fogs and mists also expose plants to concentrations of acid much higher than in rain, causing direct foliar damage in some cases.

Mr. GLENN. Could I respond to the Senator?

Mr. BAUCUS. In just a minute.

Nothing is clear here. Nothing is black and white here. It is not black and white. But I think there are countless studies which point to—and these are legitimate scientific studies—the correlation between acid deposition and damage to plant and animal life.

Mr. GLENN. Let me reply to that. I think it is very important. You put your finger on something that is very important. There are studies that show absolute devastation; there are studies that show no effect whatsoever.

The reason we had NAPAP, a National Acid Precipitation Assessment Program, was because we did not know what study to believe. The purpose of this decade-long study was to give us the most definitive answer on the effects of acid rain.

Mr. BAUCUS. If I may respond to the Senator. NAPAP does not look at health effects. The NAPAP study only attempted to look at the environmental effects, not health. As the Senator knows, there is a major distinction between health and environmental effects, health effects on human beings and effects on health of individuals; environmental effects on animal life and plant life and other esthetic values.

Let us talk a little bit about the health effects of acid rain, which is not covered by the NAPAP study.

Again in the committee report, turning to page 280:

In 1989 dollars, this range is $102 million to $2.06 billion. The researchers note that the infant mortality rate is approximately equal to the mortality rate of 55 to 64 year olds.

Published results of the highly regarded "Harvard Six-City Study found that exposure to acid rain pollution, particularly to fine particles associated with airborne sulfates, produces respiratory symptoms in children. In this study, public health researchers from Harvard University studied the relationship between ill health and air pollution in six cities representing a spectrum in severity of air pollution. Their results show a direct linear relationship between acid aerosol concentrations in these six cities and incidence of bronchitis in children. This effect is seen in both children with a prior history of wheezing, as well as in children without such history. The effect is greater, however, among children who wheeze. Researchers are currently expanding this study to 24 cities.

So that is just on the health effects.

In addition, I must say that another study—this is from the EPA—stated:

A growing body of evidence from epidemiological studies together with laboratory studies of humans and animals suggests that current levels of acid sulfate aerosols may be responsible for a variety of health effects. For example, researchers at Harvard, Brookhaven, Carnegie Mellon, and elsewhere have found a persistent statistical relationship between sulfates and excess mortality. The results suggest that up to 4 to 9 percent of the annual U.S. mortality may be associated with sulfate exposures.

I could go on, but that is some of the health effects.

Mr. GLENN. What is the Senator reading from?

Mr. BAUCUS. I am reading from—this is from the EPA, dated September 26, 1989—responses to questions from the Senator from Idaho [Mr. SYMMS]. This is the prepared response by the EPA in answer to questions of Senator SYMMS. This is the hearing, one of the hearings before the Environmental and Public Works Committee.

Before the Subcommittee on Environmental Protection, public health leaders acknowledged the continuing health threat posed by air pollution. The American Lung Association, the American Public Health Association, and the American Academy of Pediatrics all testified that we are facing a public health crisis due to air pollution. Reduction of emissions of sulfur dioxide and oxides of nitrogen are warranted based on health considerations alone.

Mr. GLENN. I would respond to the Senator by saying that the NAPAP review did include health. One of their papers is "Direct Health Effects Associated with Acidic Precursor Emissions." I read from part of that report:

RISK ESTIMATES

For SO_2, a substantial amount of health and exposure information has been scrutinized through the years in the NAAQS review process and has been discussed in the SOS/T paper.

Today, SO_2 air quality is good with respect to the standards, with only a small fraction (2%) of the Nation's counties designated as nonattainment areas. Moreover, in most cases, the nonattainment designations apply only to limited geographical areas in the immediate vicinity of certain major point sources.

The bases for the 24-h and annual SO_2 NAAQS were discussed above. EPA recently proposed to retain the current standards. In doing so, additional factors were also considered in assessing the health risk associated with alternative standard levels.

In view of the available information, EPA found that the current standards provide an adequate margin of safety against effects observed in more quantitative epidemiological studies, while qualitative information suggests that health risks would be small at concentrations at or below the current standard.

Mr. BAUCUS. May I respond to the Senator?

Mr. GLENN. Certainly.

Mr. BAUCUS. NAPAP did no independent health analysis. NAPAP used secondary analyses. That is, they used health analyses, primarily EPA's, so the primary source is not NAPAP on health effects; the primary source would be EPA.

NAPAP did no end research, so NAPAP is only issuing conclusions based upon others' research with respect to health effects. It is primarily the Environmental Protective Agency.

I read earlier EPA statements, probably more current than what the Senator has. At least it is the testimony of the EPA before the committee of jurisdiction on this bill.

There is other material, too. Let me just read——

Mr. GLENN. Would the Senator yield for a comment on that before he goes on?

Mr. BAUCUS. Yes.

Mr. GLENN. That is the reason NAPAP was established.

The PRESIDING OFFICER (Mr. HARKIN). The Chair would remind Senators, the Senator from Ohio has the floor.

Mr. GLENN. I thank the Chair.

That is the reason NAPAP was established. We can find a study, and I am sure the distinguished Senator from Montana can draw out studies, and I could go back to the office and draw out studies, that prove almost anything we want to prove. We can get organizations and groups that are so bent on getting their way that they will get a study that shows things going their way, and that comes to be gospel for those who wish to assume that position.

Why was NAPAP established? NAPAP was setup because we had studies all over the lot 10 years ago. We could not prove anything. So we set up, deliberately, a group of experts, spent $500 million over a 10-year period, and now we say we should not believe that they have sifted through these things and given us their best scientific opinion. We are saying, no, we should drag out a file, an old biased report from somebody that proves their point of view, when what we tried to do with NAPAP was get away from that and say, "Look, let us let the experts really review all these studies, give us their opinion of what the true status is without worrying about things on either fringe."

That is exactly what we did and NAPAP did. I just read the effects here on health that they had in their study, after having done exactly that over a 10-year period.

And we are saying we spent $500 million, but they do not agree with my

position so they say, "That cannot be any good, I will drag out another study that agrees with my position."

Mr. BAUCUS. The Senator is pretty accurate in his last statement. This discussion here reminds me of discussions that occur not only in this body but around the country and around the world. People have a tendency to cite the study that favors their point of view, their predilection. Senators are no different from other people because we are just as much subject to human nature as everybody else.

The Senator is citing a study, a basic study that tends to support the Senator's point of view.

Mr. GLENN. No, I do not. I deny that. I deny it strongly because of this. NAPAP was to review all the literature, and give us their opinion. Theirs is a summary, a compendium of what best scientific thought is, after having reviewed everything. So I am not bringing up a report to support my views. I am discussing the program we established 10 years ago to do the most definitive study ever done on these matters and spent over half a billion dollars of taxpayers' money to perform. And now we say after they have gone through all this, we do not want to listen to them.

Mr. BAUCUS. I just want to follow up on the Senator's earlier statement, "let the experts decide." Let me cite another study. The expert is Dr. Ellis B. Cowling, associate for research at North Carolina State University's College of Forest Resources. Essentially, he says that the tone of the report is that we do not have a problem. I am quoting now from Dr. Cowling.

The tone is that we don't have a problem except in southern California, and with red spruce at high altitudes. That is not a fair statement of the state of scientific knowledge. Perhaps the authors were a bit too hasty in reaching conclusions.

This is another expert who has a contrary point of view.

Mr. GLENN. Does he say why he disagrees with them? What is his reason for disagreeing?

Mr. BAUCUS. I do not know. We will have to get him here and ask him. Just as NAPAP is conclusionary, Dr. Cowling is conclusionary and his conclusion is that the NAPAP conclusion is too hasty.

Mr. GLENN. That is one man.

Mr. BAUCUS. If I might use his exact words, "* * * not a fair statement of the state of scientific knowledge." Scientific knowledge.

Mr. GLENN. Let me go back to NAPAP for a moment. They have over 300 authors, they have 100 peer reviewers. They have done the most complete analysis of all different viewpoints, which is exactly what we set them up to do.

We have provided them through the years with one-half billion dollars to do this, and they now have given all these different studies their best considered judgment and put it down for our use.

I am sure there will be people who still disagree, as obviously there would be. I do not know the gentleman from North Carolina you referred to.

But NAPAP has given us the most broad-based analysis of current acidic deposition effects in a comparative evaluation of future control approaches ever undertaken. We can find people who disagree with their study, I am sure.

Let me continue with some questions.

Can the distinguished floor managers of the bill tell me what the difference would be in acid deposition with a 8-million-ton bill as opposed to a 10-million-ton bill?

Mr. BAUCUS. Again, I go back to the National Academy of Sciences' conclusion that a 12-million-ton reduction, a 50-percent reduction in SO_2 emissions is needed to curb acid rain. The National Academy of Sciences has recommended the 50-percent reduction in order to clean up the Nation's rivers, lakes, and streams and to address the adverse health effects caused by acid rain. This bill, as the Senator knows, is not a 50-percent reduction; it is a 40-percent reduction bill.

Mr. GLENN. Well, is there a connection between improvements in lakes and streams and in sticking with a 10-million-ton reduction as opposed to 8-million-ton reduction?

Mr. BAUCUS. The answer to the question is definitely yes, because the 1983 National Academy of Sciences affirmed the direct linearity principle that the less SO_2 that goes up, the less the damage. The less that goes up, the less that comes down. That 1983 study reaffirmed a direct linearity.

Mr. GLENN. I do not think that is quite the way the National Academy of Sciences study has stated it. They said they could not prove nonlinearity. They also stated in that same report in 1983 that the state of ignorance in this area was enormous.

Mr. BAUCUS. Then the conclusion is, if this is true, there is no evidence of nonlinearity, but subsequent science has increased the evidence of linearity.

Mr. GLENN. How do we discount NAPAP's study? This is more modern than that. This is not a 1983 study. The first parts of the final report will be given to us in April and the final report before the end of this year. That is a more current study in which they have taken into account not only the National Academy of Sciences, but literally hundreds and hundreds of other studies also.

Mr. BAUCUS. I only ask the Senator again, the NAPAP study essentially did not address health effects, in fact, was not authorized to address health effects. That was not part of the authorization of NAPAP. The authorization of NAPAP was to address environmental consequences. There are 50,000 premature deaths in the country due to acidic deposition.

Mr. GLENN. That is not what NAPAP finds.

Mr. BAUCUS. That is correct because they were not charged to address that.

Mr. GLENN. They talk about the health effects of direct pollutants with acidic precursory emissions.

Mr. BAUCUS. They may have a chapter in there, but that was not the authorization. The principal charge to NAPAP was the environmental consequences, not the health consequences. They may have on their own done that, but because they were not authorized to do health, I suspect they did not spend a lot of time on it.

Mr. GLENN. They did look into health, and why would we ignore their findings because it was not in their original charter?

Mr. BAUCUS. I say again to the Senator, they were not charged with examining the health effects.

Mr. GLENN. So we ignore their findings then?

Mr. BAUCUS. I suspect they did not spend much effort or much of their time looking at the health effects and they did not refute the epidemiology.

Mr. GLENN. I would not assume that unless I knew that to be true.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio still has the floor.

Mr. GLENN. I yield for a question without losing my right to the floor.

Mr. CHAFEE. Mr. President, I ask the Senator from Ohio if he would be good enough to look at page 265 of the committee report. It is rather interesting there. The stress there is on the environmental effects of acid rain to the aquatic ecosystems. The Senator has been directing his attention to the effects on forests and trees. I call his attention to the effects on aquatic ecosystems.

The information that is provided there is rather interesting. I think it would be helpful to the discussion to point out that when the so-called pH levels drop below a certain figure, below 5 actually, the effect on fish and other aquatic life is really fairly dramatic.

I think in much of this, the Senator is right. He is trying to put his finger on exactly where the damage is or exactly where you draw the line between where the cutoff should be. Should it be a 12-million-ton reduction or an 8-million-ton reduction? We came up with 10 million. I think the Senator could probably make an argument that that is not the right figure; that is should be something different.

We have settled on 10 million. The studies we had showed that the 12-mil-

lion-ton reduction was a very substantial extra expense to achieve. I suppose the same argument can be made with the difference between 8 and 10, and then you can carry it down to 6 and 8. Where do you draw the line?

As the distinguished Senator has pointed out, the scientific discussion of these subjects are all over the lot. There has been this recent study of the national precipitation group, the so-called NAPAP. They have concluded on the forest damage that they do not see much there. I have a little trouble with that, going back again to the experience I had not only in Europe but with the testimony we have had before us in the committee.

The Senator can say that is all wet, but I am reminded of the old story. They asked the preacher, "Do you believe in infant baptism?" And he said, "Believe in it, I've seen it." And so it is, we have seen it.

I know the distinguished Senator from New York was speaking previously on this subject. He was the originator of the NAPAP study. He originally put in the legislation 10 years ago. I recall that because, obviously, he is a member of the Environment Committee. He, himself, has come forward with fact after fact about the increasing acidification of the Adirondack lakes. What is it due to? We believe that it is due to the increased amounts of SO_2 that are in the atmosphere and that have come from high-sulfur plants.

So at some point, we have to make a decision. We can put this off and wait for the NAPAP study. I do not even know when it is finally going to come in. They had interim report after interim report. I am not sure what the Senator is reading from.

Mr. GLENN. Let me clarify that. I am reading from the report released in February at the international conference.

Mr. CHAFEE. But I am not sure that is the final report.

Mr. GLENN. It is a draft report; however, in my discussion with Dr. Mahoney, the Director of NAPAP, he stated that the findings in the final report would not be substantially different from those in the draft.

Mr. CHAFEE. I refer the Senator to page 268. According to the 1987 National Acid Precipitation Assessment Program, NAPAP, interim assessments, based on the national surface water survey conducted by EPA, 5 percent of the lakes in southern New England had pH levels less than 5.0, and an additional 5 percent at levels between 5.0 and 5.5. On and on it goes.

The results for the Adirondacks show even more damage.

Then they quote studies from Ontario.

It just seems pretty clear from this evidence that aquatic population survival is clearly dependent upon acidity. The vulnerability of lake regions to acidification is used to assess and predict damage to aquatic populations. It goes on and tells us what has happened to the black duck population and tells what has happened to fish and other aquatic species—salamanders, frogs, just as an example—from the spring snow melt. So something is going on out there.

We have quotes from, if you will see on page 271, "Future Effects of Long-Term Sulfur Deposition on Surface Water Chemistry in the Northeast and Southern Blue Ridge Province."

There it is. We can put this off. We can wait and see. We can always wait and see. But here we have the administration, on its own, coming up with a 10-million-ton reduction. That was not us. That was them. We concurred with them. We, perhaps, could have gone with 12 or 8, but we went with 10 to have the horses in harness together.

It makes sense to me. And one can argue with red spruce, how much that constitutes, but if you continue on page 272 and 273, it tells what is happening in this country. The longer we wait, the greater the damage that is done. So I think it is time for some action.

I have not even touched on the human health factors, and they go on on page 279.

Mr. GLENN. What I keep reminding everyone is that all these different studies, including some of the ones that are quoted here, are ones that NAPAP was commissioned to review. That is what they were supposed to do, to see which ones they considered valid. In regard to lakes, for example, NAPAP concluded that 14 percent were acidic. They also found that those were mainly smaller lakes, that the smaller the lake, the more likely it would be acidic. Why is that? It would seem to indicate they were more dependent on runoff and things like that that did not have a lot to do with acid rain.

They also concluded in our discussions that by far the best way to take care of those situations is to lime the lake or the stream.

Here is the crux of it. We do not know what the effects will be, yet we are putting something into effect that is going to cost enormously in the States of the major emitters. It is estimated Ohio will have to spend somewhere between $1.3 and $1.5 billion per year over the next 10 years. Further, the State of Ohio is expected to have annual average rate increases of 12.6 percent after implementation of the program in the year 2000.

Do I want to reduce the acidic rain? Of course. But, I am simply asking that we look at the scientific basis for these reductions.

I would like to review the options I mentioned earlier. We could lengthen the compliance deadline to allow emerging clean coal technology to become commercially available.

We have another option. We could reduce the overall tonnage from 10 to 8 million tons.

We could pass the clean air bill without the acid rain title until we find out what the findings of NAPAP would be.

Another option could be to enact a first phase of the acid rain program and to delay action on the second phase until more results are available and benefits of the first phase reduction could be measured.

I do not know at this point whether other people in their offices or their staffs would be willing to support any of those options I mentioned. But I would appreciate contact from anyone who is interested in any of those options, either lengthening the deadline, reducing the overall tonnage, or passing the clean air bill with the acid rain title until we get the final findings of NAPAP which are scheduled for this year.

Let me ask a question on option one, if I might.

The President's proposal for final compliance was a year later than we have in the bill. Why was that reduced?

Mr. BAUCUS. I apologize.

Mr. GLENN. I said that in the President's proposal the date for final compliance was a year less than we have in the final bill. Why was that cut back?

Mr. BAUCUS. There is a basic reason for that. That is to enable States like Ohio to get an extra allowance under the Byrd-Bond agreement. That is to assure that we have extra allowances for States around the country including the State of Ohio. That is, by banking and redistributing reductions achieved on the earlier date, utilities will be getting extra allowances that could be distributed under both phase I and phase II.

Mr. GLENN. We generate 12 percent of those allowances. We only get 5 percent of them back, as I understand it. That is no bargain for Ohio.

Mr. BAUCUS. If the Midwest causes 70 percent of total SO_2 emissions but only accounts for 50 percent of the cleanup, that is a pretty good deal, it seems to me.

Mr. GLENN. We generate a lot more than we get back on allowances. The Western States want allowances for growth. We want allowances for survival, just to keep people working that are now working.

Mr. BAUCUS. Let me answer that question. Under this bill the State of Ohio will be able to sell 178,000 excess allowances. The best estimate is $800 per allowance. That means Ohio will be receiving $142 million from ratepayers outside of the State of Ohio.

Mr. GLENN. When does that occur?

Mr. BAUCUS. By the year 2000.

Mr. GLENN. Companies in Ohio have to spend a large amount of capital to make large reductions now.

Mr. BAUCUS. No, no, no, that is not how it works. Those allowances are determined in advance. They do not have to wait until the year 2000. By the year 2000 this thing kicks in finally, but in the meantime utilities in Ohio, or any other State, can take advantage of the allowances that are distributed earlier.

Mr. GLENN. How do you take advantage of it?

Mr. BAUCUS. By private contract. You just sell them——

Mr. GLENN. Who is going to buy them?

Mr. BAUCUS. Basically, it is going to be growth States, utilities that want to grow to meet their utility generation capacity.

Mr. GLENN. Basically, we are providing allowances for growth States, and yet we do not get the allowances in Ohio. I would have the right——

Mr. BAUCUS. No.

Mr. GLENN. We provide some.

Mr. BAUCUS. You sell allowances.

Mr. GLENN. There is no market out there. A utility that wants to comply with this law has to go out and borrow money. A State like Ohio has to put their money up front to comply with the act. Their allowances probably will not occur until well into the future. Meanwhile, they have few options. They have to go to the Public Utility Commission of Ohio and they have to put in for an increase in rates to pay for their debts.

Mr. BAUCUS. The day this bill is enacted, maybe sometime by the August recess, Christmas, the utility will know how many allowances it has.

Mr. GLENN. That is fine. They know how many they have but they cannot sell them because there is no market for them yet until somebody needs them.

Mr. BAUCUS. I can just tell the Senator, I come from a growth State. They are going to want to buy those allowances. And the State of Ohio has many allowances to sell. I will say again, the best estimate is Ohio will be able to sell 178,000 allowances. That comes to $143 million from outside of Ohio.

Mr. GLENN. I don't think the Senator can guarantee that their allowance can be sold up front to help pay for scrubbers and new clean coal technologies.

Mr. BAUCUS. I must say a utility in my State of Montana is very worried about the opposite point, that Ohio will not sell, Ohio will want to hoard, Ohio will want to keep all these allowances, that Ohio will just be in such fine shape it will not sell any. That is the big concern of utilities from the State of Montana and other Western utilities. Consequently, that concern is so great, I might say to the Senator, there is a provision in the bill that EPA will keep a small percent, it is 2 or 3 percent, so there will be some allowances that can be sold to growth States like the State of Montana. But I must say that the best evidence that Ohio will have allowances to sell is that there are States like Montana that are very worried, in looking for allowances, that they will not be able to buy them.

I can tell the Senator, Montana and other States, too, want to buy allowances. There will be a ready market for the State of Ohio.

Mr. GLENN. But when is this ready market to occur? I hate to beat this to death, but when does this sale occur?

Mr. BAUCUS. It will occur the day the Senator votes for final passage of this bill. I will be more precise. It will be the day the President signs the bill the Senator votes for on final passage.

Mr. GLENN. Ohio has then 178,000 permits for sale. During what time period will these allowances be sold?

Mr. BAUCUS. It depends on how you bid up the action.

Mr. GLENN. Right, which might go out over a decade.

Mr. BAUCUS. To get the highest possible price.

Mr. GLENN. The point is that action take a decade or more. Meanwhile, other States like Ohio cannot wait. They have to get going to comply with this. And so what do they do? They have to go out and borrow money and increase rates. Maybe the utilities at sometime will have these sales and maybe all these things will work out just of the way the Senator from Montana says, but meanwhile you have rate increases for consumers and business. You do not have any choice.

I hope it all works out, but that does not help the ratepayer at the beginning of the program.

Mr. BAUCUS. Again, any Ohio utility could contract to sell anytime.

Mr. GLENN. But I repeat, if there is no market, there is no sale.

Mr. BAUCUS. There will be a market.

Mr. GLENN. The Senator means on the date the bill is signed by the President the market will be there. There may be a few sales but the bulk of the sales will not occur at that time.

Mr. BAUCUS. I can tell the Senator, there are utilities in the West that are panicked that utilities in the State of Ohio will not want to sell the big hoard of allowances they have.

Mr. GLENN. I can tell the Senator there are utilities in the East that are panicked also over what is going to happen to them under this legislation.

Mr. BAUCUS. If we have a potential buyer's panic and a potential seller's panic, it sounds like we have a market.

Mr. GLENN. For different reasons.

Mr. BAUCUS. But we have a market.

Mr. GLENN. It may occur some time in the future. I hope so.

Mr. BAUCUS. If the Senator wants to, I can put the executives of the Montana Power Co. in touch with the Senator so he can understand how anxious we are in the West to be able to buy these allowances that the State of Ohio will have.

Mr. GLENN. Maybe we ought to put some of our people in touch with them.

Mr. President, I wanted to close with a summary estimate of where I see us in this acid rain situation.

There is no question the Clean Air Act before us today is one of the most comprehensive and complex pieces of legislation that will come before the Senate this year. Its provisions will affect virtually every industry and every business in this Nation. This is the first overhaul of the Clean Air Act since 1977. New areas of concern such as protection of the ozone layer are included. That is good. Issues such as regulation of airborne toxics are revised.

I wish to state from the outset of this summary statement that I have a very strong commitment to the overall objectives of the Clean Air Act. Mr. President, we all want the cleanest possible air for our children, for ourselves, for our communities.

We want the United States of America to be a leader around the world in the concern for the environment. Legislation with that end must be fair in dealing with what is required of States like Ohio and other industrialized States that have provided a major portion of the products of this Nation.

Over the last 2 years I have attended many meetings and spent hundreds of hours researching various titles in this bill and titles that address problems with the environment. I believe that the American people should expect their Government to set standards that provide an adequate level of health and safety from the many chemicals and compounds that are byproducts of a highly industrialized society.

Mr. President, as much as I and the people of my State support the objective of improving air quality, we must recognize that these goals do not come without costs. Senator BYRD pointed that out and pointed it out very forcefully on the floor, the costs to industry, costs to small business, costs to workers, to homeowners, to international trade. It is nice to say we are going to clean it up and have a pristine environment, but how do we get there? There are costs. We have to make tradeoffs.

In my State of Ohio, for example, 1 of every 12 jobs depends upon the export market. Increases in electric rates will impact industry within my State. In Ohio, industrial customers

account for 47 percent of the electricity sales, compared to 34 percent nationally. I had already pointed out, Mr. President, the fact that in Ohio we are the 15th most expensive State on electric power for residential users. Fifteenth. Costs for electricity in the West are far, far less than we pay in the East.

Let me give some examples of that. The cost of electricity for the average homeowner, for 500 kilowatt hours in Ohio, is $43.06. Wyoming pay $31.08. The State of Washington is first in the ranking of States, and they pay $20; Tennessee, 46th in the ranking of States, $29.78; Montana, for interest's sake here, is 45th for 500 kilowatt hours, and they pay $30.53. We pay 40 percent more for our electricity right now than do most of the States in the West.

Mr. President, the distinguished President pro tempore, Senator BYRD, has eloquently discussed the ramifications of this bill for the coal industry and individual coal miners in his State. The stakes are high also for Ohio coal miners under this bill. Some control scenarios could result in the loss of 10,000 mining and related jobs.

Once coal markets move out of a geographic area, it would be difficult to find alternative employment for those losing their jobs in economically depressed areas.

In addition, both the Federal Government and Ohio devoted a considerable amount of money, time, and research on ways to use our Nation's most abundant and secure energy resource in a more environmentally acceptable manner. For example, the Federal Government has committed $2.5 billion in clean coal technology, and Ohio has obligated $100 million in State funds on its own to this program, and to, in effect, bar the burning of high-sulfur coal would be a waste of this major investment, as well as a waste of a major energy resource for the country.

Mr. President, we all want cleaner air, but cleaning it up will be expensive. This is a fact that cannot be ignored in this debate. I am pleased that this fact came up on the floor before. Mr. President, in debate over the past few weeks, we have discussed environmental considerations. We have discussed economic considerations. We have discussed employment considerations, and each of these issues has a significant place in the clean air debate. However, there is one consideration that has not been discussed here, which should underlie all that we are doing here, and that consideration is a scientific basis for the legislation that we are enacting.

Mr. President, in the case of acid rain, we are embarking on a multiyear, multibillion dollar program. It is a program that will have very wide-ranging effects on consumers, business, and utilities. Yet, we are ignoring the findings of the National Acid Precipitation Assessment Program [NAPAP], which is the most extensive and expensive research program in the history of environmental legislation. Congress instituted this project in 1980 to establish a 10-year record of data to serve as the scientific foundation for future legislation.

Within this past decade, about $100 million, which I add is about 10 times the original funding, will have been spent for NAPAP research. Yet, Mr. President—I find this both unconscionable and irrational—we are about to enact legislation not only without waiting for the NAPAP findings.

Mr. President, even after nearly 10 years of study and the expenditure of millions of dollars, we still do not know the relationship between a specific reduction requirement, such as 2.5 pounds per million Btu's or 1.1 pounds per million Btu's and the reduction of acid rain in the Northeast. We cannot show the relationship. We still do not know with any certainty at all the relationship between an overall reduction of 10 million tons in sulfur emissions and the reduction of acid deposition in the Northeast. All of the scientific study of the last 10 years has not shown that relation.

During the negotiations that preceded action on this bill, I sought to find answers to these questions. These answers are not just esoteric or theoretical consideration. It is known with certainty what happens to costs under an 8 million-ton reduction program, a 10-million-ton reduction program, or a 12-million-ton reduction program. The costs go up about 50 percent, for example, when the reduction requirements is increased from 8 to 10 million tons.

Mr. President, these costs graphically illustrate how critical it is to have the very best scientific data possible on which to make our decision. During the negotiation, I was told the 10-million-ton reduction figure was based on a 1981 report by the National Academy of Sciences. Subsequently, I read this report and found that the conclusions were far from being cut and dry, and NAS came back in 1983 with a report that essentially discounted the findings of the 1981 report.

Mr. President, the NAPAP research effort focuses on several categories to determine the impact of acid rain deposition. These categories are surface water, forests, crops, visibility, human health, and materials. Let me take a moment to summarize the NAPAP findings in each of these areas. Forest decline is often cited as a major result of acid deposition. According to the December 1989 NAPAP summary, the vast "majority of forests in the United States and Canada are not affected by decline."

(Mr. KOHL assumed the chair).

Mr. GLENN. Mr. President, we find similar conclusions in the other areas examined by NAPAP. In the area of crops, the report states:

Based on the crop effects research conducted by NAPAP and other research programs, acidic precipitation at ambient levels in the United Satess is not responsible for regional crop yield reduction.

In the area of surface water, another impacted system often cited by proponents of the 10-million-ton reduction programs NAPAP again finds that adverse effect overstated.

According to that paper, reduction in sulfur emissions would result in about 40 to 50 percent of acidified lakes in the Adirondacks recovering after 50 years. Even more startling NAPAP reports "Calcium carbonate or limestone is the most effective overall neutralizing material for acidic surface water."

Mr. President, on February 11 through 16 of this year over 700 scientists, 700 mainly environmental scientists from 30 countries gathered to discuss the topic, acid deposition, state of science and technology. The next draft by NAPAP incorporating the outcome of this meeting is due next month, in just a few weeks. The final NAPAP report is due in September of this year.

Mr. President, the purpose of reviewing this chronology of planned scientific reports is to emphasize the level of activity in the research area that is taking place.

What I find inconceivable is that despite this research and despite the expenditures on this research and despite the costs of the various control programs, we are are basically ignoring this scientific fact.

Mr. President, we are at a crossroads between those who favor no legislation—I do not find myself in that number—and those who favor a bill so extreme and stringent that it will bankrupt the economy of certain regions of our Nation. I do not find myself in that group either. Neither road will lead us to the goal that the American people want and deserve, cleaner air for ourselves, our children, and future generations. What we have been seeking is a balance that achieves this goal while preserving economic growth.

Mr. President, I repeat once again that those, whoever at this late hour, want to exercise one of the options that I outlined, I would be glad to hear from them.

I am not trying to block passage. I am just looking to options that might mitigate the economic impact on my State and the other industrialized States of the country. And I think there are some options that we could consider. For those who are in their offices, or staffers who are listening, if there is any interest by other Senators

or other staffs in discussing these options further, I would be most happy if they would get in touch with me or with my office.

The first option is to lengthen the compliance deadline. Extending the compliance deadline will allow clean coal technologies to become commercially available. I add under option one, the administration originally put forward a bill that had a 1-year longer period for final attainment than is in the bill now.

I think the clean coal technology is an important factor because there are a number of emerging technologies that look good, but they are not all commercially available right now.

A second option is to reduce the overall tonnage reduction requirement from 10 million to 8 million tons. According to CRS costs increase by 50 percent when we go from an 8-million-ton basis to a 10-million-ton program.

What do we get for that additional 50-percent cost? According to the NAPAP study we get little or nothing. They cannot even define the difference at the far end of the line in acid deposition by their best estimates. So what are we buying? We are buying more expense basically. We are making our trade less competitive by higher electricity rates that were not necessary because they do not do that much for us.

So, we are still locked into a 10-million-ton reduction that started a long time ago, has been refuted, and which, NAPAP after review of all the literature, tell the difference of what would happen between an 8- or 10-million-ton reduction program.

A third option is to pass the clean air bill without the acid rain title and await the final findings of NAPAP which are scheduled for September of 1990.

The fourth option would be to enact the first phase of the acid rain program and delay action on the second phase when more results are available on the benefits of the first phase reductions.

There is one other option here, obviously, and that is if we do nothing and the bill passes, we are letting the House address this problem instead of addressing it on this side.

I do not know whether the distinguished floor manager of the bill wishes to comment, or have any final remarks, or if any Senators in offices are interested in any of the options I outlined.

Obviously with the majority leader having stated that he is going to press for a time certain of final vote or try to get unanimous consent for that, any action that we take would obviously have to be taken very soon. So if there can be any contacts, should be made this evening.

But, Mr. President, I hope if there are those interested in pursuing some of those options, that they will get in touch tonight. And I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, I listened to the options outlined by the Senator from Ohio with great interest. I must say, though, there are several reactions. No. 1, the NAPAP study has been around some time. This is not something that has just sprung up lately.

For example, the Environment and Public Works Committee had a hearing on the NAPAP study last year. Even with the NAPAP study and all the other studies, but frankly because of the testimony that the committee received from many witnesses across the board, including those from NAPAP, the committee voted out this bill including the acid rain title unanimously, but for one Senator. Only one Senator in the committee did not vote to proceed to passage of an acid rain bill because—and I think I can speak for the Senators—because they were persuaded, convinced persuasively by the sum total of all the evidence, that a 10-million-ton SO_2 reduction bill was necessary. So this is not a new report. This report has been around for a long, long time. Again, Senators, by a very large margin in the relevant committee—in fact every Senator but one—voted to report out the bill favorably including the acid rain title.

In addition, Mr. President, if I listened to the suggestions by the Senator from Ohio, I must say that not only did the committee report out this bill by such a large margin even with the earlier knowledge of the NAPAP study—which by the way is inconclusive—but the President also is very much in favor of a 10-million-ton reduction. He said so continually. Over and over the President of the United States said he wants to reduce SO_2 emissions by 10 million tons by the year 2000. We have heard that consistently from the President of the United States. He has consulted his agencies, the Environmental Protection Agency, and all the other agencies, as well as all the other information at the disposal of the President of the United States.

I must also say to the Senator from Ohio that when this bill first came to the floor of the Senate, when we then went into the negotiations and discussions to try to reach a compromise, this title was very extensively debated among the leadership, among the managers of the bill, the leadership on the Republican side of the aisle and the leadership on the Democratic side of the aisle, as well as with representatives of the executive branch. The President of the United States sent his representatives to these compromise negotiation discussions and we very, very extensively talked over and worked through all of the provisions dealing with the acid rain title of the bill.

In addition to that, that room was open; that is, any Senator who wished to come could meet and give his points of view to try to reach an agreement. And the Senator from Ohio—in fact both Senators from Ohio came to those meetings. They came to those discussions. Those two Senators, as well as a majority of the Members of the U.S. Senate, more than half of the Members of the U.S. Senate, were in on those discussions and negotiations. Again, Mr. President, every Senator was invited, every Senator was given more than ample opportunity. No Senator was shut out. No Senator was excluded from these negotiations. When the negotiations finally concluded, we reached an agreement on the compromise that is now before the Senate.

The Senator from Ohio suggests perhaps that the compliance deadlines could be extended 1 year. I again say to the Senator, moving up the deadlines in the bill helps give additional allowances to the State of Ohio, helps the people of Ohio pay for the cleanup.

So I frankly think that this could be very difficult for the leadership package to be changed because that in effect is a deal breaker. The whole negotiations were based upon an agreement upon the compliance deadlines in the compromise.

He also suggests that the 10-million-ton reduction be reduced perhaps to an 8-million-ton reduction. That flatly contradicts the strong proposal urged by the President. It also flatly contradicts the agreement and again it is highly unlikely that could be changed.

He further suggests deleting title IV from the bill. Mr. President, I must stress that title IV is a main, integral part of the bill, again an integral part of the compromise. He suggested enacting phase one but delaying phase two. That again was very much the subject of negotiations to which all Senators were invited and most Senators at one time or another participated in.

The final suggestion is to do nothing. I am not quite sure what the Senator means by doing nothing. Maybe he means not pass this bill. But again, the compromise before the Senate is the recommendation to pass the compromise, pass the components that are in the compromise. Those were items that were very, very, very extensively discussed and debated. All sides gave up a lot in order to reach the compromise. So in effect all of the suggestions of the Senator in one form or another were debated during these compromise negotiations.

On the other hand, those who were in on the discussions now propose the substitute that is before us which does

recommend a 10-million-ton reduction by the year 2000. It also provides for additional allowances, a substantial number of additional allowances to help individual States in the Midwest, in the South, and the far West met some of their particular concerns.

So I hear the Senator, but I frankly say that we will go that extra mile. We will try to find some way to accommodate the Senator's concerns. It is going to be difficult, however, to pursue any of the five options that he outlined, but with diligence maybe he and I can look for an additional option that might meet the concerns of not only the Senator from Ohio but also of the group that is presenting this substitute that was very heavily negotiated out to the floor.

Mr. GLENN. Mr. President, I realize what the distinguished Senator from Montana said about the studies not being new, but everytime one of these partial reports came out from NAPAP we were cautioned not to use the material because it had not yet been through peer review. However, we now have a more recent report from February of this year that has been peer reviewed. I am not trying to hold up the legislation, but I am concerned that we take a look at the information that is now available. I do not want us to take extra expense unless there is a sound scientific reason for doing this. We have commissioned the finest study that has ever been commissioned on acid rain. We have spent over $500 million on that study. We have put together the finest group of environmental scientists and yet we still do not know the basis of the 10-million-ton reduction program.

The distinguished floor manager has stated that this was part of the compromise negotiations. I submit that there were no compromises made in regard to the 10-million-ton reduction program.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. I thank the gentleman from Ohio for this discussion. I say to the Senator in this part of the negotiations we did in fact compromise. We compromised quite significantly in several respects. No. 1, the additional allowances. There are additional allowances now to go to Ohio that were not in the earlier version, and to go to other Midwestern States, a part of the country that is very much concerned about the points raised by the Senator.

In addition, this is not only a 10-million-ton reduction bill by the year 2000. Rather, because of the compromises given all the way around on air toxics, on mobile source emissions, the compromise in the acid rain portion, the estimates are that it is going to be not a 10-million-ton reduction by the year 2000 but between the years 2000 and 2010 it is going to be between a 9.1- to 9.5-million-ton reduction. And the estimates are that after the year 2010 the costs are going to begin to go down. The middle ground between 8 and 10 is 9. This is not an absolute flat 9 but it is 9.1, somewhere between 9.1 and 9.5. If we add that to the additional allowances the Midwestern States get, I frankly think it is certainly more than a good faith effort in order to find a compromise.

I do not want to extend this thing forever. There is a tendency for one of us to want to have the last word. I am graciously going to say that the Senator from Ohio can have the last word.

Mr. GLENN. Maybe I will give the Senator the last word because I have one last question. It is my understanding that after the year 2010 the costs are less.

Mr. BAUCUS. I am sorry, could the Senator speak up.

Mr. GLENN. I am quoting from the NAPAP report. "Beyond 2010 there is general agreement that SO_2 emissions will decline as a result of the retirement of older, higher emitting plants."

We are going to enormous expense to make reductions between now and the year 2000.

Mr. BAUCUS. I say to the Senator that it is based upon the assumptions that we set in this bill which make this happen, make those retirements after the year 2010 go into effect.

Mr. GLENN. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. BINGAMAN].

Mr. BINGAMAN. Mr. President, I ask unanimous consent the pending amendment be set aside so I may offer my amendment to amendment No. 1293 proposed by Senator MITCHELL.

The PRESIDING OFFICER. Is there objection?

Without objection the pending amendment is laid aside.

AMENDMENT NO. 1380 TO AMENDMENT NO. 1293

(Purpose: To make technical changes with respect to transportation controls)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. GRAHAM, proposes an amendment numbered 1380 to amendment No. 1293.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 51 of the amendment, after line 5, strike all through page 54, line 20, and insert the following:

"(iv) Whether or not the conditions under paragraph (1) calling for application of a sanction are satisfied, the Governor of a state containing a nonattainment area for ozone or carbon monoxide may elect to use in such area (or areas) all or part of the funds available to the State for such area (or areas) under title 23, United States Code, for projects specified in clause (ii).

"(C) a prohibition of any public water system regulated under title XIV of the Public Health Service Act from providing drinking water service in the nonattainment area (or portion thereof, where the State failure relates exclusively to such portion) to any structure to which such service was not provided before the Administrator's choice of this sanction. The Administrator may not prohibit any public water system from providing water service to any customer requiring such service to correct an existing public health hazard;

"(D) the withholding by the Administrator of all or part of the grants for support of air pollution planning and control programs that the Administrator is authorized to award under section 105.".

"(3) Not later than twelve months after the Administrator makes a determination under paragraph (1) that a State is making reasonable efforts to cure the relevant failure, the Administrator shall make a final determination, which shall be published in the Federal Register, of whether the State has cured such failure. If the Administrator determines that the State has not cured such failure, the Administrator shall immediately apply, with respect to the relevant area within such State, at least one of the sanctions specified in paragraph (2).

"(4) The Administrator may, in the Administrator's discretion, apply any sanction or sanctions listed in paragraph (2) to address any of the failures specified in subsection (1) relating to any plan required under this title.

"(5)(A) Within six months following the applicable attainment date for any nonattainment area, the Administrator shall determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date.

"(B) Upon making the determination under clause (A), the Administrator shall publish a notice in the Federal Register identifying each area that the Administrator has determined to have failed to attain. The Administrator may revise or supplement such determination at any time based on more complete information or analysis concerning the area's air quality as of the attainment date.

"(6) No major stationary source of any pollutant shall be constructed or modified in a nonattainment area for such pollutant after the date forty-two months from the date of enactment of the Clean Air Act Amendments of 1990 or the date forty-two months from the date such area was designated nonattainment for such pollutant, whichever is later, unless, as of the later of such dates, the Administrator has approved a plan submission for the area meeting the requirements of section 172(c)(6) with respect to such pollutant as those requirements relate to the construction and operation of new or modified major stationary sources. Before the later of the dates set forth in this subsection, no State shall issue a permit for construction or modification of a major stationary source unless such permit meets the requirements of section 173.

"(7) Whenever—

"(A) an ozone nonattainment area fails to achieve the emissions reductions required under section 183(b)(2) or (3),

"(B) a carbon monoxide nonattainment area fails to achieve the emissions reductions of a mile-stone required under section 188(g)(3), or

"(C) a PM-10 nonattainment area fails to achieve the emission reduction of a milestone required under section 192(e)(2), but no later than twelve months after passage of the date for achieving such reductions, the Administrator shall notify the State containing such nonattainment area of such failure. No later than nine months after such notification, the State shall submit to the Administrator a revision to the applicable implementation plan adequate to achieve the emissions reductions that the area failed to achieve before such plan revision was due. Such revision shall provide that such emissions reductions shall be achieved by the end of the next complete three-year period (described in section 183(b)) or milestone period (described in section 188(g) or section 192(e)), as the case may be. Notwithstanding any other provision of this Act, the Administrator shall act on such revision under section 110(d)(3) no later than six months after the date on which the State submits such revision.".

(gg) TRANSPORTATION SYSTEM IMPACTS ON CLEAN AIR.—Section 108(f) of the Clean Air Act is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary of Transportation and the Administrator shall submit to Congress by January 1, 1992 and every three years thereafter a report that:

"(A) reviews and analyzes existing State and local air quality-related transportation programs including specifically any analyses of whether adequate funding is available to complete transportation projects identified in State implementation plans in the time required by applicable State implementation plans and any federal efforts to promote those programs;

"(B) evaluates the extent to which the Department of Transportation's existing air quality-related transportation programs and such Department's proposed budget will achieve the goals of and compliance with the Clean Air Act; and

"(C) recommends what, if any, changes to such existing programs and proposed budget as well as any statutory authority relating to air quality-related transportation programs that would improve the achievement of the goals of and compliance with the Clean Air Act.

"(4) Within 120 calendar days of submitting each report, the Secretary of Transportation in cooperation with the Administrator shall undertake all appropriate steps within existing authority and available resources to implement the recommended changes to the existing programs and proposed budget specified in subparagraph (3)(C).".

Mr. BINGAMAN. Mr. President, the amendment I offer on behalf of myself and Senator GRAHAM is one which will give additional flexibility to the States with regard to sanctions and will also require an analysis of the effectiveness of air quality related transportation programs.

S. 1630, as reported by the committee eliminated the use of highway funding as a penalty against the States, and substituted a transportation investment strategy. The bill repeals the EPA Administrator's authority to cut off highway funding. Instead, it provides that when the State fails to adopt or implement its plan, the Administrator and the Secretary of Transportation are directed to shift Federal transportation funding from projects that will promote increased auto use—highway—to alternative projects that will have the effect of reducing auto use such as transit, high occupancy vehicle lanes, and shared ride services.

The policy underlying the committee's action is to use Federal transportation funding as a pollution control strategy rather than as punishment for the States. The intention is to ensure that when the States have not adopted air quality strategies to achieve public health standards that Federal transportation spending in those States should contribute to improving air quality by helping to reduce vehicle use rather than building projects that will cause increased emissions by promoting increased vehicle use.

However, the compromise removes the obligation on the Administrator to apply this fund shifting policy when a State plan is inadequate or not being implemented. The use of Federal transportation investment as pollution control strategy is substantially undermined if EPA has the discretion not to require the shift in funding to projects that will benefit air quality.

The amendment I offer today on behalf of Senator GRAHAM from Florida and myself allows the State, through the Governor, to select this important fund shifting option, even when the Administrator decides not to apply this fund shifting policy. Most important, it gives States flexibility to tailor Federal transportation funding to implement the air quality related transportation programs adopted as part of the State's air pollution control strategy. States should not be forced to violate the air act in order to have this option.

Additionally, our amendment would also authorize the Secretary of Transportation and the EPA Administrator to review and analyze state and local air quality related transportation programs which are an important part of the investment strategy I have just discussed. Additionally, they would evaluate whether these programs are adequately funded and meeting the objectives for which they were created. Transportation control measures are an essential part of meeting our clean air goals and this amendment would help us achieve those goals.

I recommend the adoption of this amendment. I understand the amendment has been cleared on both sides.

I want to thank the managers and their staffs for working with us in the perfecting of this amendment. I, of course, want to thank my colleague, the Senator from Florida [Mr. GRAHAM], for his efforts and leadership in the preparation of this amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, the managers of the bill on this side have had an opportunity to examine the amendment by the Senator from New Mexico. It adds additional flexibility which will have the effect of helping to protect public health. It goes to the Governor's authority to use funds for mass transit, and we think it is a good amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island [Mr. CHAFEE].

Mr. CHAFEE. Mr. President, likewise on this side. We have reviewed the amendment and approve of it. It is a fine amendment.

Mr. BINGAMAN. Mr. President, I understand the Senator from Florida [Mr. GRAHAM] will be coming to the floor shortly to make a statement in support of the amendment. I see no reason we could not go ahead and vote on it at this time if the managers so desire.

Mr. GRAHAM. Mr. President, I rise in support of Senator BINGAMAN's amendment to the Clean Air Act which provides for enhanced flexibility to States in attaining air quality and for a report and recommendations by the Secretary of Transportation and the Administrator of the Environmental Protection Agency which reflect the relationship between these air quality standards and air quality related transportation programs.

As we deliberate improvements to the Clean Air Act, we must keep in mind this important relationship. On March 19, I had an opportunity to hear what impact the administration's national transportation policy will have on Florida's ability to meet the stiffer air quality standards we are considering today. We heard from a diverse group of people: Federal, State, and local officials, representatives of the private sector, academics, environmentalists, and users of the transportation system.

The witnesses' comments confirmed the need for incorporating into policy statements, budget proposals, and program requirements the connection between improving air quality and supporting States' transportation control efforts.

Mr. BINGAMAN's amendment addresses this need.

The amendment requires the Secretary of Transportation and the Administrator of the Environmental Protection Agency to submit to Congress by January 1, 1992, and every 3 years thereafter, a report that accomplishes several things:

First, reviews and analyzes existing State and local air quality related transportation programs and Federal efforts to promote those programs;

Second, evaluates the extent to which the Department of Transportation's existing air quality related transportation programs and its proposed budget will achieve compliance with the Clean Air Act; and

Third, recommends any changes to existing programs and proposed budget as well as any existing statutory authority relating to air quality related transportation programs that would improve compliance with the Clean Air Act.

The amendment also requires action. That is, within 120 days of submitting the report the Secretary of Transportation in cooperation with the Administrator must undertake all appropriate steps within existing authority and available resources to implement the changes to his program and budget recommended in the report.

The second provision in the amendment enhances our State's ability to attain and maintain air quality standards, by empowering the Governors to opt into the air quality related transportation provisions of the act. If the Governor finds it is necessary to implement these transportation programs to achieve ambient air quality standards, then he may shift Federal highway funds from traditional projects to any of the air quality related transportation programs listed in the act. This would give the State the flexibility to tailor the use of Federal transportation funding to its needs for alternative projects such as bus and rail transit, high occupancy vehicle lanes, and ride sharing services.

Mr. President, I am concerned that the bill as drafted creates the wrong kind of incentive. Under current law, the Administrator of the EPA has an obligation to cut off highway funding when States are recalcitrant in the development of adequate plans to achieve the national health standards. This concept of penalizing the States for inaction has not often been used.

As a substitute, the committee has eliminated the use of withheld highway funding to penalize the States, and provides instead that if a State is out of compliance, then highway funds must be transferred to transportation projects in the State that are designed to reduce pollution. This revision of the law is a notable improvement.

Still, I am concerned that we are creating a system here whereby the States which are not in compliance with the act can transfer Federal dollars to transportation projects that help reduce air pollution. But for States that fully comply, but are still not achieving attainment, no increased funding for high occupancy systems will be available even if they need help to carry out nonpolluting transportation projects called for in their implementation plan.

My colleague Mr. BINGAMAN'S amendment is intended to provide States the needed flexibility to meet air quality standards and requires the Secretary of Transportation to acknowledge in its policy statements and budget proposals the relationship between clean air standards and air quality related transportation programs.

Mr. President, I want to thank Mr. BINGAMAN for offering this amendment and the managers and their staff for their assistance.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 1380) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, as I indicated earlier, I will now seek to obtain a unanimous-consent agreement for disposition of the bill itself and all pending amendments thereto. There have been extensive consultations with the distinguished Republican leader, with the distinguished President pro tempore, with the managers and all other Senators, and I will now propound the agreement.

Mr. President, I ask unanimous consent that no later than 8 p.m. on Tuesday, April 3, the Senate, without any intervening action or debate, dispose of all pending amendments and vote on final passage of S. 1630, the clean air bill, as amended; that all remaining amendments not yet offered to the bill be relevant to the Mitchell-Dole amendment No. 1293; that debate on all amendments offered between now and 8 p.m., Tuesday, be limited to 1 hour equally divided in the usual form; that all other provisions of the previous unanimous-consent agreement relative to this bill remain in force and that no points of order be waived by this agreement; that if any Senator offers a listed amendment when all time prior to third reading has expired, that the amendment be in order and disposed of with 10 minutes of debate equally divided; that all allowance amendments must be filed at the desk by the close of business today, Tuesday, March 27; that Senator GRAMM be permitted to offer an allowance amendment, one of his listed amendments, that need not be filed, and that would be limited to and in order to the language of any allowance amendments that may be adopted to amendment No. 1293 after this point; that no allowance amendment be in order prior to 4 p.m. on Thursday, March 29; that Senator BYRD's amendment, No. 1329, be laid aside until 10 a.m. on Thursday, March 29; that there then be 5 hours of debate equally divided on the Byrd amendment, and that the vote on or in relation to the Byrd amendment occur at 3 p.m. on Thursday, March 29; that the agreement be in the usual form with respect to division of time.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, and I do not intend to object. I want to thank the majority leader for, hopefully, finally working this time agreement out. As I understand, as to the Byrd amendment, if all the time is not used on this side, would the vote come at the time we yield back that time or would it come at 3 o'clock in any event?

Mr. MITCHELL. If is my intention that it would come at 3 o'clock unless all parties agree, including Senator BYRD, to move it to an earlier time.

Mr. DOLE. If we have time we do not use, we could take up other amendments?

Mr. MITCHELL. We certainly could make that request at that time.

Mr. DOLE. Second, the distinguished Senator from Pennsylvania [Mr. SPECTER] would like to offer an amendment, I think tax credits for scrubbers; I think that is the amendment. Would it be in order, without trying to provide a list, that he might be recognized next to offer that amendment?

Mr. MITCHELL. I certainly have no objection to that. I assume the managers do not, pending completion of the discussion of the Senator from Ohio who has been engaged in a lengthy colloquy. I think we have been trying to get amendments over here.

Mr. DOLE. Does the Senator from Tennessee have an amendment?

Mr. GORE. No.

Mr. GLENN. Reserving the right to object, and I will not object. I wonder if the distinguished majority leader can tell us what our plans are. We have a huge number of amendments still out there. I wonder if he is plan-

ning to be in on Saturday, so on, if we need to in order to accommodate people who want to bring amendments to the floor, including myself. I would not like to find out Friday, Saturday, and Monday and vote Tuesday night.

Mr. MITCHELL. That is certainly not my intention. I say to the distinguished Senator that our problem has been just the opposite. We have been trying to get people over to offer amendments. We will be here this evening, tomorrow, Thursday. I will attempt to accommodate as many Senators as possible consistent with giving every Senator the fullest possible opportunity to offer his or her amendment. I will try to do that in the most fair and reasonable way possible.

Mr. GLENN. Will we be in on Friday, as far as the majority leader knows?

Mr. MITCHELL. Yes, that is my intention now. If we go for 3 days with no Senator offering an amendment, then I will obviously have to consider what the course of action should be then. I hope Senators will offer the amendments this evening. The Senator from Pennsylvania is prepared to offer his amendment.

Mr. GLENN. The only reason I am concerned, I have indicated there are several options we still have available. I did not propose an amendment, but I want to see what response I get. If I get a little response at this late date, then I will not bring it up. If I do get support for this, I want to make sure we have adequate time. If there is a 1-hour limit, then that is fine. I have to accept the 1-hour limit. I also would not want to get shunted aside because of short sessions. So it will take a little time for something like this to generate.

Mr. MITCHELL. Yes; right.

Mr. CONRAD. Reserving the right to object, and I will not object. I want to raise a question with the majority leader. I have an amendment that has been pending for days—I have not been able to get a response on it—that involves clean coal technology projects. I have had several variations of it. One was rejected, and we have proposed others, but have not gotten an answer. I do not want to find myself in the position that we get delayed, delayed, and get to the end game and told too bad, there is no time for consideration of this. What will happen with amendments like mine that have not yet been disposed of?

Mr. MITCHELL. I may first say to the Senator, he may bring the amendment up tonight.

Mr. CONRAD. Wait a minute. I have brought it through the process. I played according to the rules set out here. Supposedly, you come and submit amendments to a group that is supposed to give you a reaction, and I have done it in good faith. So it is not a matter of being invited to come and offer an amendment on the floor, and I have held off. I have gone through the process and not had an answer.

Mr. MITCHELL. Then may I say to the Senator, I will undertake to discuss it with the managers and the administration and have a response to the Senator not later than 10 o'clock tomorrow morning so that the Senator then, if the answer is yes, will be accepted; if it is no, then the Senator would have a full week within which to offer his amendment. Is that agreeable?

Mr. CONRAD. That is fair.

Mr. GRASSLEY. Reserving the right to object. This is a very good time to come in because I have exactly the same problem with an amendment that the Senator from North Dakota just suggested that I have been waiting to get an answer on, including going way back to when these negotiations were going on.

I had said of a subject I was interested in that I wanted an opportunity to present it, and I was told by the staff of Senator DOLE that I would have my opportunity to do that. I was never called in there to present that. There was no point in my being in there for any other reason and taking up people's time. I was told after the agreement was taken care of that it would be taken care of in the technical provisions. I have never seen that. I have seen another Member stand up and offer something in the general area that I am interested in.

That was taken down at the request of the Republican side. I had Governor Sununu say to me, "Have we worked out your problem yet?" So evidently somebody down at the White House knows something about it.

I had the floor manager talk to me on the phone this afternoon: where was I on my amendment? Was I ready to offer it? I have been told by the Republican leader to hold off. So I would like to have my subject resolved. I have been waiting 6 weeks to even get my point of view across.

Mr. MITCHELL. I am not familiar with the——

Mr. GRASSLEY. It is not a whole lot different from what the Senator from North Dakota was saying.

Mr. MITCHELL. I will not deal with the specific amendment, but I will undertake to discuss it with the managers, the administration, and to urge them to provide a response to the Senator as soon as possible one way or the other, so if the Senator's amendment is not accepted, he will then have ample opportunity to offer the amendment on the Senate floor.

Mr. GRASSLEY. Will we have time to offer it and be able to present our point of view, as opposed to this idea that was floating around that at a later date we will put up our amendment without debate but have a vote on it?

Mr. MITCHELL. No. Absolutely. The Senator will have a full week within which to offer the amendment. I hope he will do it as soon as possible, if it is not accepted.

Mr. GRASSLEY. I thank the majority leader for his help.

Mr. MITCHELL. I thank the Senator.

Mr. McCLURE. Mr. President, will the Senator yield for a question?

Mr. MITCHELL. Sure.

Mr. McCLURE. I notice one part of the agreement deals with allowance amendments must be filed at the desk by the close of business today. I noted that there was a hotline on the Republican side of the aisle with respect to that earlier today.

I am informed that there was not any such notice on the Senator's side of the aisle until late this afternoon, that as late as 5 p.m. it had not been done.

The only reason I ask that is I think every one of us wants to know exactly what those are, and I know what the Senator from New Mexico had said with respect to his own responses. I just wonder if, as we are talking, it is fair to say to everybody now you have to have all your allowance amendments filed.

Mr. MITCHELL. Mr. President, I have relied upon our staff, and I must say that although I have had plenty of complaints by my Democratic colleagues since I have been majority leader, nobody has every complained to me that they have not had notice of what I have been going to do. If anything, I have erred on the side of caution in that regard.

I can only say the staff is here and they have assured me that Democratic Senators have been notified, and I am prepared to accept this. This merely requires that the amendments be filed by the close of business today.

Mr. McCLURE. When is the close of business going to be today?

Mr. MITCHELL. I do not know that. I hope it is going to be late, because I hope we are going to get some amendments offered.

Mr. McCLURE. If there are a number of hours that intervene between now and then, I think we can make certain this was correct. But I was a little startled by it. That was the reason I mentioned it.

Mr. DOLE. Can we just say midnight?

Mr. MITCHELL. I am prepared to suggest that the Senators have until midnight to file their amendments.

Mr. McCLURE. That is fine.

Mr. GORE. Reserving the right to object, and I will not object, I want to defend the committee leadership and the majority leader and Republican leader, and the staff, against the com-

plaints that I have heard lodged. I understand how they come about. I, too, have been in continuing discussions with the committee about amendments which I am prepared to offer and debate but which might be accepted.

The rather extraordinary procedure which resulted in the agreed text we are in the process of amending is now being replicated for each of hundreds of proposed amendments in an effort to get a similar widespread agreement on as many of the amendments as possible. The process is very understandable. Staff has been working overtime, long hours, early hours, late hours. The leadership of the Senate and the committee has really done an unusually thorough job. I am speaking as one who has one controversial amendment that I am waiting to offer. I hope it will be accepted. But it may not be. I am prepared to live with this. I think the committee and staff have done a great job, and I will not object.

Mr. MITCHELL. I thank my colleague. I ask unanimous consent that the unanimous-consent agreement be modified with respect to that provision dealing with filing of allowance amendments, that instead of saying "at the close of business today," it say "by midnight today."

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. The amendment which this Senator has listed on the investment tax credit is one which I have disussed with the majority and minority leaders, and I had discussed it a few moments ago with Senators CHAFEE and stated my willingness to proceed first thing in the morning. But that will need more than 1 hour. I would like to have 2 hours.

There are quite a number of Senators who have submissions on that amendment.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the agreement be modified to provide for 2 hours for the Specter amendment on investment tax credit.

Mr. SPECTER. I am sorry, I did not hear. I was talking to Senator CHAFEE. Did the Senator ask for 2 hours?

Mr. DOLE. Yes.

Mr. SPECTER. I thank the distinguished majority leader.

There is no other issue I discussed with Senator CHAFEE, and that is the matter relating to allowances. There is a dispute as to drafting, as to whether an allowance provision was taken care of on a matter of interest to this Senator, and Senator CHAFEE has said when we discussed it late last week, there might be a leadership amendment which would be available to accommodate that concern.

Mr. CHAFEE. The Senator rightfully describes the situation. It was his belief that his provision was included in the report, and it was not. I have forgotten exactly what the circumstances were. Therefore, he did not file an amendment for that situation. I was going to try to work it out with him. I believe I have one amendment remaining.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Certainly, Yes.

Mr. DOLE. If there was a misunderstanding, as there appears to be, I think we indicated informally, whichever side it was, that we might by consent permit them to offer that amendment. That might be the easiest way.

I am not going to offer all my amendments, but I would rather not use my leadership amendments. My leadership amendments would be to address concerns we discussed in the negotiations. I might not use any of them, but if there is no objection, maybe we could have consent to put that amendment on the list.

Mr. MITCHELL. I have no knowledge of the subject.

Mr. DOLE. It is an allowance.

Mr. MITCHELL. The manager on this side has no knowledge of it. May I suggest this. If we could have a discussion of it, I feel quite confident we could accommodate the Senator's concerns. If there was a genuine mistake and misunderstanding, I think there would be no problem with doing that.

I do not know anything about the subject mater or the circumstances which the Senator describes.

Mr. SPECTER. If the majority leader will yield, it relates to allowances. It was the understanding of my staffer that the allowance would be included in the bill, and it was a dispute over drafting. We had a protracted discussion about it late Thursday night.

I think there is a genuine dispute, and I think the balance of the evidence is that the understanding of my staffer was that the allowance would be included in the draft.

But rather than get involved in precisely what happened there, it is my suggestion that it be accommodated when all of the allowance issues are worked out.

Mr. MITCHELL. Right. I have no objection to that. There is no problem. I understand, though, the Senator has to file the amendment by midnight today if it is an allowance amendment, under the terms of this agreement.

Mr. SPECTER. I think that already has been done, but I will be sure it has been done.

Mr. MITCHELL. That is fine. Then I have no objection.

Mr. BYRD. Mr. President, reserving the right to object, and I do not believe I object, the distinguished majority leader discussed this request with me earlier. I am sure in connection with the aspects of it that we discussed, it is in accordance with those agreements.

But the original agreement provides that no motion to recommit be in order. Is there anything in this agreement that has now been propounded that would supersede the original agreement or that portion of it?

Mr. MITCHELL. The answer is, no. In this request, I specifically asked that "all other provisions of the previous unanimous-consent agreement relevant to this bill remain in force and that no points of order be waived by this agreement."

Mr. BYRD. Fine. I came into the Chamber a little late. So that is still a part of the agreement. The only other question I have is with respect to the amendment that I have now pending. Is it agreed, or can it be understood, that there will be no other amendment of the nature of the Byrd, et al., amendment voted on prior to the vote on or in relation to the Byrd amendment at 3 o'clock?

Mr. MITCHELL. As the chairman knows, this is the first time he has raised that subject with me.

Mr. BYRD. I just now thought of it.

Mr. MITCHELL. Yes. As the chairman also knows, we are in the process of discussions which we hope will obviate the need for this vote at that time, that we would be able to reach some agreement. I would have to discuss with the Republican leader and others the question which the chairman has just raised because that is something that did not come up in our earlier discussions.

Mr. BYRD. That is true. It did not. I did not think of it. I know that both leaders have leader amendments, and they have a right to offer amendments in accordance with the listing thereof. But I just am wondering if it would be possible to agree that, as far as the subject matter of the amendment which I have offered, there would be no other amendment offered prior to the vote on the pending Byrd amendment, or in relation to that amendment. There could be a tabling motion prior to that vote. All bets are off as far as what happens after that. I understand that. I was just wondering if we could agree on that.

What I am saying is I would like to have a vote on the Byrd amendment up or down or a tabling motion if we could not agree on any compromise prior to that time. I hope we would not have an amendment voted on prior to the vote or in relation to my amendment that is of the nature of the amendment.

Mr. MITCHELL. As the request suggests, that option is available at this time. I would like the opportunity to discuss it with the distinguished Republican leader before responding. This is, as we have agreed, a new subject matter raised which has not previ-

ously been raised. I would like at least a few moments to discuss it to get the views of others who have been involved in this matter.

Mr. BYRD. Could we postpone the action on the request then until we discuss it?

Mr. MITCHELL. Indeed, since the request asks unanimous consent.

Mr. BYRD. Yes.

Mr. DOLE. I wonder if I might raise with the majority leader—and I think we do need to discuss this because one strategy, if we cannot get an agreement, is to offer an amendment that covers the subject matter covered by Senator BYRD's amendment to make it a generic amendment that protects the workers who lose their jobs everywhere in America and in every industry. So I would be happy to discuss that.

I also share the view expressed by Senator GLENN that we need people offering amendments. I hope we can generate some on this side. If we can get the agreement, I think they are going to start coming because then they know that at a certain time it is over. I do not know what the majority leader plans. I know he plans tonight, tomorrow, and Thursday. Does he have any idea what we might expect on Friday or Monday? I specifically refer to Monday on whether or not we could do business on Monday but have the votes occur on Tuesday morning.

Mr. MITCHELL. That certainly is my present intention. We previously announced that there would not be votes on Mondays prior to Easter. I would like to maintain that to accommodate Senators. It will obviously depend upon what happens between now and then, but I hope Senators will avail themselves of the time that now exists and not wait until the end. I think it is very much in their own interest to do so—that it will not be necessary to have votes on Monday; that we do business, if necessary; have debate; but permit the votes to be stacked on Tuesday.

Mr. DOLE. If the majority leader will yield further, if the agreement is obtained, then it would be my intent on this side to try to line up some amendments. If that could happen on the other side, then we could sort of rotate. The Senator from Pennsylvania indicated he would be ready to start at 9 in the morning or any time the majority leader wants to start on the bill.

So we will try to determine how many amendments are going to be offered and mainly make certain that they understand, if they are not offered, they are going to be up against the time limit—if we get the agreement—on Tuesday evening.

Mr. MITCHELL. I thank my colleague.

Mr. President, I suggest the absence of a quorum. Mr. President, I withdraw the request.

Mr. GORE. I have an amendment which I think has been worked out with the committee. I have been waiting to offer it.

Mr. MITCHELL. If the Senator will withhold until we reach an understanding, it will just take a couple of moments. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask that the provision of the proposed agreement relating to the Byrd amendment be modified to include the following language: That no amendment relating to the subject matter of amendment No. 1329 be in order prior to the vote on or in relation to the Byrd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

Mr. MITCHELL. Mr. President, do I understand that that is so ordered, that the unanimous-consent agreement has been agreed to as proposed?

The PRESIDING OFFICER. My understanding is the agreement is on the modification.

Is there agreement now to the unanimous consent proposed, as modified.

The Chair recognizes the Republican leader.

Mr. DOLE. Mr. President, reserving the right to object, I will put in a short quorum call while I check with Senator DOMENICI on what appears to be happening with reference to allowances. If we agreed to have a party vote on one request I am not certain that Senator DOMENICI wants to consent to this agreement. So I need to talk with him. I see developing a party vote on the Johnston amendment and there are several other people who have allowance amendments, too.

Mr. MITCHELL. There has been no agreement on a party vote.

Mr. GORE. Mr. President, will the Republican leader withhold briefly?

The PRESIDING OFFICER. Does the Republican leader withhold?

Mr. DOLE. Yes.

Mr. GORE. Reserving the right to object, I have a noncontroversial amendment that has been accepted by all sides and I would like to propose it and pass it and have it done with, and that will be 1 hour less taken away from the debate on these other amendments. I wonder if I might ask unanimous consent to deal with this amendment now while the leadership is awaiting resolution of this matter? I anticipate it will take about 30 seconds.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Republican leader is recognized.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, just to make the record clear, I have discussed the agreement with Senator DOMENICI, who raised the question initially. I cannot remember what evening it was here. I do not understand all the allowances. This amendment is worth about $60 million a year that has to come from other States. But he has no objection as long as it is treated as the other allowance amendments are concerned. This is substantial in his words. I am not an expert on what that means. But $60 million a year coming from other States would not seem to pose some problems with the rest of us. So he had no objection.

Mr. CHAFEE. As I understand by "no objection" I understand that that means it is not considered now, that we do not——

Mr. DOLE. It goes into the pot.

Mr. CHAFEE. It goes into the pot, which of course is the privilege he has anyway, that the Senator from Louisiana had.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. The question now occurs on the unanimous-consent agreement posed by the majority leader.

Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That no later than 8 p.m., Tuesday, April 3, 1990, the Senate, without any intervening action or debate, dispose of all pending amendments and vote on final passage of S. 1630, the clean air bill, as amended.

Ordered further, That all remaining amendments to the bill be relevant to the Mitchell-Dole amendment, No. 1293.

Ordered further, That debate on all amendments, offered between now and 8 p.m. on Tuesday, April 3, 1990, be limited to 1 hour each, equally divided in the usual form; that all other provisions of the previous unanimous-consent agreement relative to this bill remain in force; and that no points of order be waived by this agreement.

Ordered further, That if any Senator offers a listed amendment when all time prior to third reading has expired, that

amendment be in order and disposed of with 10 minutes of debate, equally divided.

Ordered further, That all allowance amendments must be filed at the desk by 10 a.m., Wednesday, March 28, 1990: *Provided,* That Senator GRAMM be permitted to offer an allowance amendment, one of his listed amendments, that need not be filed and that would be limited to, and in order to, the language of any allowance amendment that may be adopted to amendment No. 1293 after this point.

Ordered further, That Senator BYRD's amendment, No. 1329, be laid aside until 10 a.m., Thursday, March 29, 1990, and that there be 5 hours debate, equally divided, on the Byrd amendment, and that the vote on, or in relation to, the Byrd amendment occur at 3 p.m., Thursday, March 29, 1990: *Provided,* That no amendment relating to the subject matter of amendment No. 1329 be in order prior to the vote on, or in relation to, the Byrd amendment.

Ordered further, That no allowance be in order prior to 4 p.m. on Thursday, March 29, 1990.

Ordered further, That there be 2 hours debate on a Specter amendment, relative to investment tax credit.

Ordered further, That the agreement be in the usual form.

(Subsequently the following occurred:)

Mr. BAUCUS. Mr. President, I ask unanimous consent that the provision agreed to previous with respect to filing of allowance amendments be modified to permit the filing of these amendments until 10 a.m., Wednesday, March 28.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues for their courtesy and patience, and I am about to yield the floor to the managers. I understand they are prepared to accept amendments. I do not know if any are pending at this time. I thank the distinguished Republican leader for his cooperation in that matter.

Before I yield the floor, Mr. President, could I just perhaps describe the schedule briefly for the remainder of the week.

Under this agreement, amendments relating to allowances must be filed at the desk by midnight tonight. So any Senator who has an amendment relating to allowances who wishes that amendment to be considered must file it by midnight tonight. Those amendments, that is those relating to allowances, will not be in order to be considered prior to 4 p.m. on Thursday. It is my intention and my hope that at that time we can turn to the allowance amendments and consider them at that time. That is with respect to allowance amendments.

With respect to Senator BYRD's amendment, as I indicated earlier, we are still involved in discussions in an effort to resolve that through a compromise alternative. I presented, in my behalf and that of Senator DOLE's, a proposal to Senator BYRD last Thursday evening. He is in the process of consulting with other of his colleagues who are supporters of his amendment and we hope and expect to have a response from that tonight. We will, then, after receiving that response, consider what further action we will take. It remains my hope that we can reach agreement on a compromise alternative prior to Thursday.

In the event that no agreement is reached prior to Thursday, then that amendment will be debated from 10 a.m. until 3 p.m., with a vote on or in relation to the amendment at 3 o'clock. There will be no amendment relating to that subject matter prior to the vote on or relation to the Byrd amendment, but of course subsequent to it, in the event no agreement is reached and a vote occurs, there could be other such amendments.

Finally, the vote on final passage of the bill will now occur not later than 8 p.m. on next Tuesday, April 3. I hope that Senators will come over and offer their amendments tonight, tomorrow, Thursday, and Friday so that we do not get into the situation of having a lot of amendments jammed up at the end.

If at all possible, it is my intention, as suggested by the distinguished Republican leader earlier, if we are still considering this matter on Monday, as I expect that we will be, that we could be in session, do business, consider amendments, but put the votes over until Tuesday and then complete final action on Thursday as scheduled.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOLE. Now that we have an agreement, I congratulate the distinguished majority leader. I will instruct the staff on our side to start going down the list of everyone who has an amendment or amendments listed, see if they intend to offer those amendments, and see if they are now willing to be in some rotation plan where we could go from one side to the next. And we will start, if not tonight, tomorrow morning with the Senator from Pennsylvania, Senator SPECTER's amendment.

So by 11 o'clock tomorrow I hope to give the majority leader and the managers of the bill maybe four or five amendments that we will lock in if we can, if it is all right with the majority leader.

Mr. MITCHELL. Yes.

Mr. DOLE. Otherwise, what could happen is it will be Tuesday, at 6 o'clock, everybody will have an amendment and complain because they do not have any time to accommodate it. So we will try to accommodate the majority leader in any way that we can. I hope very much that will occur. I must say I conceive of no possible advantage for Senators to wait until the last minute to offer an amendment when there is ample time to do so before then.

Mr. CHAFEE. Mr. President, I just want to express my personal heartfelt thanks to the majority leader for obtaining this agreement. We have been here a long time now. The end is in sight. It may not be the end, but it is the beginning of the end, anyway.

So I echo the plea that the majority leader and the distinguished Republican leader have made for people to get over here with their amendments. I do not know how long we want to stay open for business tonight, but we are here. At best, we can take and debate the amendments and vote. At worst we can take them and debate them and maybe vote tomorrow if anybody will show any sign of action.

But the time is running now and people are not going to have time to debate their amendment if they do not get them over. So I am very grateful to the majority leader and the distinguished Republican leader.

Mr. MITCHELL. Mr. President, I thank my colleague.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the pending amendments will be set aside.

AMENDMENT NO. 1384 TO AMENDMENT NO. 1293

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1384 to amendment No. 1293.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend amendment No. 1293 on pages 196 through 197, delete Paragraph 11 and insert in lieu thereof the following:

"(11) CONVENTIONAL GASOLINE.—Not later than July 1, 1992, the Administrator shall promulgate regulations ensuring that, beginning on January 1, 1994, gasoline sold on a nationwide basis does not result in *per gallon* emissions of volatile organic compounds, oxides of nitrogen, carbon monoxide, and carcinogenic air pollutants in excess of *per gallon* emissions of such pollutants attributable to gasoline sold in calendar year 1989.

Mr. JOHNSTON. Mr. President, I understand this amendment has been cleared on both sides. The original language was susceptible of the interpretation that there was a cap put on total gasoline emissions. The intent

was to put a cap on miles-per-gallon emissions, and this simply conforms the language to that understanding.

Mr. BAUCUS. Mr. President, I think the Senator is correct. I ask the Senator, is the word "average" inserted in his amendment before the words "per gallon"?

Mr. JOHNSTON. On what line?

Mr. BAUCUS. Like, say, line 4?

Mr. JOHNSTON. No, it is just "per gallon."

Mr. BAUCUS. Would the Senator mind if the word "average" were inserted?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the word "average" be inserted immediately before "per gallon," as it first appears in the amendment—as it appears twice in the amendment. In other words, put in "average" in front of "per gallon" as it appears twice.

The PRESIDING OFFICER. Is there objection?

The Senator from Rhode Island.

Mr. CHAFEE. Yes, there is objection.

Mr. PRESIDING OFFICER. Objection is heard.

Mr. BAUCUS. Mr. President, to clear this up so we can get an amendment adopted here, might I suggest to the Senator to withhold his requested modification and we just leave the words, do not insert the word "average" and leave the amendment?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that my last unanimous-consent request be withdrawn and vitiated.

The PRESIDING OFFICER. The Senator has that right and it is so ordered.

Mr. BAUCUS. Mr. President, based on all that useless discourse, I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, likewise on this side. I am glad we made a little progress today.

The PRESIDING OFFICER. The question then is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1384) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

The Republican leader is recognized.

Without objection, the pending amendments will be set aside.

AMENDMENT NO. 1385 TO AMENDMENT NO. 1293

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1385 to amendment No. 1293.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 238, after line 8, add the following:

"(6) No later than twelve months after the date of enactment of the Clean Air Act Amendments of 1990 or within six months of adding any substance to the list established by paragraph (1), the Administrator shall establish significant emission levels for any listed substance for purposes of the preconstruction requirements of section 165.".

Mr. DOLE. Mr. President, we have created an enormous toxics program under this bill. It is intended to use technology to clean up quickly sources of about 190 hazardous air pollutants and then assess the remaining risk for possible further control.

However, we have also created—inadvertently—a source of major delays, unnecessary paperwork, and increased costs in areas where air quality standards are already met.

Major sources of pollution must undergo what is called preconstruction review. We already know that they will have to install MACT, a very strict level of technology. We want the permits for these plants to be processed as quickly as possible.

Unintentionally the bill has created a major snag in the permit process. EPA requires all regulated pollutants to be assessed as part of the PSD review—for those areas where air quality standards are met—unless emissions are determined to be inconsequential. Under this bill, all 191 pollutants on the list of toxic chemicals would require a PSD determination. That means a lot of unnecessary work and expense. In fact, it would have the perverse effect of delaying many projects even if they result in decreases in emissions.

The amendment I am proposing calls upon EPA to set significance levels for the list of hazardous air pollutants. If any new pollutants are added to the list, EPA will set a similar level within 6 months.

This amendment is intended to make the Clean Air Act produce its intended health benefits more efficiently—without causing pending permits to come to a dead stop because a facility emits one molecule of one of the scores of substances we have now added to the list of regulated pollutants.

The PRESIDING OFFICER. Is there further debate?

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, we have reviewed the amendment on this side and accept the amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Likewise on this side. It is a good amendment. We urge its adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 1385) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I am advised by the managers that no other Senators——

Mr. JOHNSTON. Mr. President, I think we have an amendment that has been cleared.

Mr. MITCHELL. Mr. President, I am advised by the managers that no other Senator has come forward with an amendment that will be contested. I understand the Senator from Louisiana has another one that has been cleared for acceptance. If that is the case, then there will be no further rollcall votes this evening.

I renew my caution to Senators who have amendments, that there is now a fixed time at which final passage will occur. Senators who have amendments have the opportunity to come over and offer them. If they do not do so, then their amendments will be considered at the very end, under less than favorable circumstances. The managers are here and are prepared to remain as long as necessary this evening to receive, debate, and vote on such amendments. I urge Senators to take the opportunity tomorrow.

On Thursday, if there is no agreement reached with respect to the Byrd amendment, there will be 5 hours on that. And then the allowance amendments will be taken up Thursday.

So there will be not as much time on Thursday as there was tonight and will be tomorrow for Senators to offer other contested amendments.

In their own interest, I encourage all Senators to come forward. We now do have an ending time. We clearly are now going to finish this bill by a specific time, and if a Senator wishes to have his or her amendment considered, I encourage them to come forward.

Senator SPECTER indicated he would be ready to go first thing in the morning, and that it would take about 2 hours. I anticipate coming in at 9 o'clock and being on the bill at 9:30. That means a vote on the Specter

amendment at or sometime prior to 11:30, and then the managers will be trying to line up amendments on both sides during the day tomorrow.

Mr. DOLE. If the majority leader will yield, I understand what the majority leader has stated. The pressure is now on Members to come to the floor. We are going to have a vote on Tuesday whether their amendments are offered or not. My colleagues, I think, understand that.

I thank them for letting us reach an agreement, and I commend my colleagues for permitting us to go forward with an agreement. There is a reality now that time is going to run out.

I certainly urge my colleagues on this side, and we will pursue it vigorously in the morning, to see if we can line up—maybe there are not that many amendments; maybe there is a handful.

We intend to have some report to let the majority leader know maybe by 11:30 or noon tomorrow.

AMENDMENT NO. 1388 TO AMENDMENT NO. 1293

(Purpose: To improve operation of allowance reserves, sales, and auctions)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1388 to amendment No. 1293.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 393 beginning at line 7 strike everything through page 397, line 21 and insert the following in lieu thereof:

"(2)(A) FIXED PRICE SALE OF ALLOWANCES.—In accordance with the provisions of this paragraph, the Administrator, pursuant to regulations promulgated not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1989, shall offer and sell allowances, at a price of $1,500 per ton (adjusted for inflation based on the Consumer Price Index beginning on the date of enactment of the Clean Air Act Amendments of 1989 and annually thereafter) in accordance with regulations for the use of allowances pursuant to subsection (b). The number of allowances offered and sold under this paragraph that can become useable in any given calendar year shall not exceed 100,000. The Administrator shall offer to sell the maximum number of allowances permitted under this subparagraph and shall complete such sales as provided further under this paragraph. No allowance offered and sold under this paragraph shall become useable (i) prior to the year 2000, and (ii) until two calendar years after the calendar year in which it has been offered.

"(B) Beginning ninety days after the promulgation of regulations and anytime thereafter, an applicant under this paragraph may submit an application or applications for the purchase of allowances. An applicant shall demonstrate that (i) the applicant is, or will be, an owner or operator of a unit subject to subsection (e), and (ii) the applicant has entered into binding agreements to construct the unit for which the allowances are being sought or that the public service commission with jurisdiction over the unit has given its approval for the construction and operation of the unit. No applications may be: (i) for the purchase of more than the number of allowances needed to operate the unit, for which allowances are being sought, for a period of 20 years, or (ii) for the purchase of allowances that become useable in a given calendar year in an amount greater than the number of allowances needed to operate the unit, for which allowances are being sought, for a period of one year.

"(C) The Administrator shall approve or disapprove applications no later than ninety days after submission by the applicant. Notwithstanding the fact that the approval of applications may exhaust the supply of allowances available to subsequent applicants in a given year, the Administrator shall consider applications in order of submission and, subject to the restrictions of subparagraph (A), approve such applications if the requirements of subparagraph (B) are met. If an application that would otherwise be approved would exhaust the supply of allowances in a given year, the Administrator shall offer to sell only those allowances in the application that are still available to be offered. The Administrator shall calculate an estimated purchase price to the applicant according to subparagraph (A) and rules promulgated under this paragraph. Such estimated purchase price shall reflect the discounted present value of the payments that the applicant would otherwise make if it were to pay for the allowances applied for on a year-to-year basis, and shall provide for the use of a discount rate equal to an interest rate on short-term borrowing by the Department of Treasury. Each applicant shall be required to pay earnest money equal to one half per centum of the estimated purchase price within six months of approval of the application. Upon the receipt of such payment the Administration shall issue to the applicant a letter certifying that the applicant is eligible to purchase allowances as specified in the approved application and stating that such eligibility shall expire one year and one day prior to the calendar year in which any of the allowances becomes useable. Within 90 days of receipt of such payment, the Administrator shall distribute such payment pro-rata to the owners or operators of affected units from whose allocations allowances may be deducted under subparagraph (D).

"(D) The Administrator shall promulgate regulations not later than thirty-six months after the date of enactment of the Clean Air Act Amendments of 1989 specifying: (i) one or more payment options (accounting for the earnest money paid for under subparagraph (C)) for purchase of allowances applied for under this paragraph, and (ii) methods by which an applicant can decrease, without penalty, the number of allowances purchased relative to the number of allowances applied for. Not later than one year and one day prior to the calendar year in which any of the allowances that have been reserved in accordance with an approved application become useable, the applicant who wishes to purchase such reserved allowances shall make a payment to the Administrator as specified in regulations promulgated under this subparagraph. If the applicant does not make such payment, the earnest money paid under subparagraph (C) shall be forfeited and the applicant's eligibility to purchase the allowances applied for shall expire. Following each payment specified in the regulations, the Administrator shall issue the allowances paid for to the approved applicant and on a pro-rata basis deduct, from the allowances allocated pursuant to subsections (b)(1) and (3); (c)(1), (2), and (3); (e); (f); (g)(1), (2) and (4); (h)(1) and (3) and the equivalent of the emissions limitations requirements of subparagraphs (4) and (5) of subsection (d), of section 405 for the calendar year for which the purchased allowances are issued, allowances in an amount equal to the number of purchased allowances issued. The Administrator shall record the transfers of allowances as a result of each sale in accordance with the requirements of subsection (b). Within ninety days of the issuance of allowances, all funds collected as a result of the sale of such allowances under this paragraph shall be disbursed on a pro-rata basis to the owners or operators of the affected units from whose allocations the allowances are deducted. No funds transferred from a purchaser to the owners or operators of the affected units from whose allocations the allowances are deducted shall be treated for any purpose as revenue of the United States. Any allowances that are available for sale under this paragraph, and that remain unsold as of one year prior to the calendar year in which they become useable, shall be added to the allowances available for sale at auction under paragraph (3).

"(3)(A) ALLOWANCE AUCTION.—In accordance with the provisions of this paragraph, the Administrator shall conduct auctions of allowances no less than twice in each calendar year beginning in calendar year 1995 and in each year thereafter. In conducting such auctions the Administrator, in accordance with the requirements for the use of allowances pursuant to subsection (b), may sell both allowances which are useable in the calendar year in which an auction is held and allowances which are not useable until a specified calendar year following the auction; Provided, that:

"(i) no allowance sold in an auction under this paragraph shall be useable prior to the year 2000;

"(ii) except for allowances contributed under subparagraph (D) of this paragraph and allowances added under subparagraph (D) of paragraph (2), the total number of allowances sold in auctions under this paragraph that can become useable in any given calendar year shall not exceed 100,000; and

"(iii) in each calendar year beginning with the year 2000, the number of allowances that have been previously sold at auction and that become useable in such year together with the number of allowances that are offered for sale at auction in such year and become useable in such year shall not be less than 100,000.

In each auction the Administrator shall offer to sell long-term streams of allowances consisting of allowances that are not useable until specified calendar years following the auction. Such long-term streams shall be sufficient to permit the operation of units that in the aggregate would use no less than 7,500 allowances per year for a period beginning no earlier than the calendar year following such auction and not less

than fifteen years thereafter. Allowances not sold in long-term streams shall be offered no later than two years from the calendar year in which they become useable. Not later than thirty-six months after the enactment of the Clean Air Act Amendments of 1989, the Administrator, after consultation with the Secretary of the Treasury, shall promulgate regulations setting forth the method by which each auction shall be conducted. The regulations shall assure that the auction is open to any person who may hold allowances pursuant to this section and shall not require that a minimum price be met for the purchase of allowances. Allowances awarded at auction may be used for any purpose subject to the provisions of this title. Persons awarded allowances pursuant to each auction shall be required to pay a specified per centum of the total purchase price within a specified period of time subsequent to the date of award, as set forth in the regulations promulgated under this paragraph, except as otherwise provided in subparagraph (B). Upon the receipt of such payment the Administrator shall issue to the person a letter certifying that the person is eligible to purchase allowances as specified according to the bid and award and stating that such eligibility shall expire one year prior to the calendar year in which any of the allowances becomes useable. Within 90 days of receipt of such payment, the Administrator shall distribute such payment pro-rata to the owners or operators of affected units from whose allocations allowances may be deducted under subparagraph (B).

"(B) Not later than one year prior to the calendar year in which any of the allowances awarded to a person becomes useable, such person who wishes to purchase such awarded allowances shall pay to the Administrator the balance of the purchase price. In the case of an award of allowances in which one or more allowances are useable in the year of award, the person who wishes to purchase such allowances shall pay the full purchase price within a specified period of time less than a year after the award, as set forth in the regulations promulgated under this paragraph. If the person does not consummate a purchase, any amount previously paid shall be forfeited and the person's eligibility to purchase such allowances shall expire. The Administrator shall issue the auctioned allowances as purchased to the person and on a pro rata basis deduct, from the allowances allocated pursuant to subsections (b) (1) and (3); (c) (1), (2), and (3); (e); (f); (g) (1) (2), and (4); (h) (1) and (3) and the equivalent of the emissions limitation requirements of subparagraphs (4) and (5), of section 405 for the calendar year for which the purchased allowances are issued, allowances in an amount equal to the number of purchased allowances issued.

"(C) Within ninety days of the issuance of allowances, all funds collected as a result of the sale of allowances under this paragraph shall be disbursed to the owners or operators of the affected units from whose allocations the allowances are deducted. Such disbursement shall be on a pro-rata basis except with respect to proceeds from the sale of contributed allowances under subparagraph (D). No funds transferred from a purchaser to the owners or operators of the affected units from whose allocations the allowances are deducted shall be treated for any purpose as revenue of the United States. The Administrator shall make information publicly available concerning the nature, price, and results of each auction including the prices of successful bids and shall record the transfers of allowances as a result of each auction and purchase in accordance with the requirements of subsection (b).

"(D) Any holder of allowances may contribute to any auction allowances and shall receive the proceeds from the auction of such allowances. Allowances contributed for auction under this subparagraph may be useable in the calendar year in which an auction is held or may not be useable until a specified calendar year following the auction in accordance with the requirements for allowance use specified in subsection (b). Allowances that are contributed and sold shall be deducted from the allowances allocated to the owner or operator making the contribution. The holder of such allowances may specify a minimum sale price and time of payment provided that the Administrator finds that doing so would not interefere with the purposes and functioning of the auction.

"(4) The regulations promulgated under paragraphs (2) and (3) and the discretion exercised by the Administrator in conducting sales and auctions shall be consistent with the competitive functioning of a national market for allowances and preservation of competition in the electric power industry. Pursuant to rulemaking after public notice and comment the Administrator may at any time after the year 2002 decrease the number of allowances sold in, and modify other terms of, the sales and auctions provided under paragraphs (2) and (3) if the Administrator finds that such changes would be consistent with the competitive functioning of a national market for allowances and the preservation of competition in the electric power industry. Pursuant to the regulations the Administrator may by delegation or contract provide for the conduct of sales or auctions under the Administrator's supervision by other departments or agencies of the U.S. government or by nongovernmental agencies, groups, or organizations.".

Mr. JOHNSTON. Mr. President, I understand this amendment has been cleared on both sides. It does not affect the allocation of allowances, but it provides for the mechanics by which they are signed so as to conform with the long-term needs of utilities.

Under the present bill, some 2 percent of the allowances are set aside to be sold annually. Of course, the planning horizons of utilities is considerably longer than that, 20 years, and so forth.

What this amendment does is allow those long-term contracts for sales to take place so as to conform to those planning horizons of the utilities.

Mr. President, this amendment is intended to improve the operation of allowance reserves for purposes of ensuring that new units and utilities with few opportunities for emission reductions have adequate access to allowances. The amendment does not change the allocation of allowances among utilities. It simply provides an improved way of selling allowances from reserves and it helps the overall market for allowances work better.

The proposed amendment would redesign the fixed price sales and the auction system in the current Senate bill. The key change is that EPA would sell long-term streams of allowances; for example, 10 tons per year for a period of 20 years. In contrast, the Senate bill would only sell allowances to be issued for a single year. The amendment would keep the total number of allowances in reserves at 200,000.

One can make a strong case for a greater number of allowances in the reserves, and the early drafts of this amendment had reserves of 300,000 allowances. I have agreed to reduce the number to 200,000 because I want to be certain this amendment passes. It is crucial to design the sales and auctions to provide for long-term streams. The ultimate size of the reserves is an issue that should be addressed again in conference.

PROBLEMS WITH CURRENT RESERVES AND AUCTION

The current bill provides two reserves: 100,000 allowances to be sold at a fixed price conducted 7 years ahead of time, and 100,000 allowances to be sold in an auction conducted 5 years ahead of time. There are several problems in relying on this approach to help serve the demand for allowances from new units:

First, it forces a new unit to buy and bank allowances. This will inflate demand and prices in the early years. A feeding frenzy will occur in the auctions as new units try to buy 20 years of allowances out of a pool to be issued in the year 2000, 2001, and so forth.

Second, the auction would not produce good price signals to stimulate the private market for long-term streams. Twenty tons in the year 2000 is not the same product as 1 ton per year for 20 years beginning in the year 2000. The former is more flexible, more valuable, and will be higher priced. New units don't need 20 tons in a single year.

Third, the need to buy and bank leads to reduced emissions in the early years; control costs move forward in time; the present value of compliance costs increases.

PROPOSED AMENDMENT

The guiding principle of this amendment is to focus the fixed price sale and auction on that part of the market most likely to fail; that is, to offer long-term stream of allowances in the crucial early years of the market. Private sellers are unlikely to offer such streams until the market settles down and stabilizes somewhat.

This amendment maintains the basic structure in the current bill. Revenues are rebated pro rata to the original allowance holders as in the current bill.

FIXED PRICE RESERVE

The fixed price reserve has 100,000 tons to be sold at $1,500 a ton. Beginning 12 months after enactment, a planned new unit with a PUC certifi-

cate of need or a power sales agreement can reserve a stream of allowances beginning in the year 2000—or later—for a period up to 20 years in a quantity up to its annual emissions. Buyers reserve allowances on a first-come, first-serve basis. A small amount of earnest money is deposited at the time of reservation.

A reservation gives one the option of buying the stream at the fixed price. The buyer can exercise this option anytime up to 1 year before the first year of the stream. In the meantime, the buyer is free to seek a better private deal or buy from the auction reserve described below. If the buyer cancels the option, the allowances roll over to the auction reserve. Any fixed price allowance not reserved 1 year prior to its issuance also rolls over to the auction reserve.

The fixed price reserve guarantees that new units have some access to allowances. However, it does not lock a new unit into a high $1,500 a ton price, the reason being the buyer can cancel its reservation.

AUCTION RESERVE

The auction reserve has 100,000 tons to be sold in long-term and short-term auctions. Additional allowances roll over from the fixed price reserve; that is, those allowances that are never reserved or are canceled allowance reservations, and allowances may be contributed by allowance holders. Auctions begin in 1995, and are open to all owners and potential owners of units, existing and new. The first long-term auction is held in 1995. The short-term auctions could start as early as 1995 but no later than 1999.

The long-term auction sells a minimum of 7,500 tons per year in streams of at least 15 years duration. The streams begin in the year 2000 or later. A stream of 15 years or more is what new units will need. The short-term auction generally sells allowances on a year-by-year basis, selling those allowances not sold in the long-term auction.

EPA would have some discretion on timing and quantity in the long-term auction. EPA also would have substantial discretion in the short-term auction. It simply must meet the minimum long-term sales requirement and sell the rest in the short-term auction. Some pattern of long-term and short-term streams must be sold in a way that auctions off the available reserve allowances—100,000 tons per year plus any rollovers and contributions. All allowances remain completely tradeable and bankable, thus maintaining maximum flexibility for the buyer.

As a general principle, the amendment directs EPA to exercise its discretion in a way that is consistent with the competition in the allowance market and the preservation of competition in the electric industry. After 2001, EPA can sell the available reserve allowances in whatever pattern it finds to be consistent with this principle or it can decrease the allowances offered for sale and auction.

ADVANTAGES

First, new units can ensure access to fixed price allowances within 18 months of enactment for periods up to 20 years.

Second, more allowances are put in play than in the current bill because the auction and the fixed price reserve reach 15 years or more forward in time, thus selling large blocks of future allowances. New units don't have to buy and bank. The feeding frenzy on allowances to be issued in the first several years is mitigated.

Third, a utility that doesn't need allowances will find it difficult to buy and hoard allowances in the auction. PUC's will give substantial scrutiny to a decision to bid on, and commit to the purchase of, a long-term stream allowances—compared with bidding on a year-to-year basis for short-term allowances.

Fourth, good price signals are created to stimulate the market for private long-term deals.

Fifth, control costs are not moved forward in time due to banking.

I strongly urge my colleagues to support this amendment.

Mr. President, I commend Karl Hausker of my staff for his hard work in bringing this amendment to fruition.

The negotiations that went into this provision were very technical and painstaking. This was Karl's first effort on a major bill, and he has done an outstanding job.

I also extend my thanks to the staff of the Committee on Environment and Public Works, particularly to Joe Goffman, associate counsel to the committee.

Mr. BAUCUS. Mr. President, this is a particularly helpful and welcomed amendment. I particularly thank Senator JOHNSTON, the Senator from Louisiana, for his contribution. The Energy Committee and the Environment and Public Works Committee have worked closely together to develop this amendment. Senator JOHNSTON has played a very key role in making important contributions to the compromise.

Originally, the compromise itself contained an innovation, and still contains it, authorizing the EPA to auction 100,000 allowances per year. We intended that the auction would provide insurance against the breakdown of the allowance market to assure that units, particularly in clean States, in growing States, could acquire the allowances they might need from a public source at a market price.

Senator JOHNSTON's amendment expands this idea; it perfects it, introducing a number of features to better assure it actually works in the way it is intended to, ensuring the allowance markets is, in fact, operable so there is in fact a market.

It is an amendment that does help assure that will happen. We are not sure it definitely will happen, but certainly this amendment helps raise the probability it will happen.

I commend the Senator for offering this amendment, and urge its adoption.

Mr. CHAFEE. Mr. President, this is a complicated amendment, but it addresses, as has been pointed out, a difficult subject. It is well drawn, and it is well worth considering.

We urge its adoption on this side.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1388) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1389 TO AMENDMENT NO. 1293

(Purpose: To preserve consumer freedom of choice in servicing onboard emission diagnostic systems, and for other purposes)

Mr. GORE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendments are set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. GORE] proposes an amendment numbered 1389 to amendment No. 1293.

Mr. GORE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 153, line 4, strike the word "may" and insert the word "shall."

On page 153, after line 12 insert the following:

"Such regulation shall not be inconsistent with the provisions for warranties promulgated under Section 207(a) and (b)."

On page 153, after line 12 insert the following new paragraph:

"(4) In promulgating the regulations under this subsection, the Administrator shall require:

"(a) that any connectors through which the emission control diagnostics system is accessed for inspection, diagnosis, service, or repair shall be standard and uniform on all motor vehicles and motor vehicle engines;

"(b) that access to the emission control diagnostics system through such connectors shall be unrestricted and shall not require any access code or any device which is only available from a vehicle manufacturer; and

"(c) that the output of the data from the emission control diagnostics system through such connectors shall be usable without the need for any decoding information or device."

On page 153, after line 12 insert the following new paragraph:

"(5) INFORMATION AVAILABILITY.—The Administrator, by regulation, shall require manufacturers to provide promptly any person engaged in the business of diagnosing, or selling parts, or of reparing or servicing motor vehicles or motor vehicle engines, and EPA for the use by any such persons, with any and all information needed to make use of the emission control diagnostics systems prescribed under this subsection and such other information including instructions for making emission related diagnosis and repairs.

Mr. GORE. Mr. President, this is an amendment to preserve consumer freedom of choice in servicing onboard diagnostic emissions systems mandated by this bill.

I will include some explanatory language, part of which represents some discussions that I have had with the staff of the committee and with the staff of the Republican leader; some points of clarification, really.

But I think the amendment is very well understood by the committee leadership on both sides. I think it is pretty well acceptable to everyone. It is an important change, let me say, for consumers and for small business people who will be engaged in the task of servicing these onboard emissions diagnostic systems.

Mr. President, section 205 of the bill mandates a new and unique motor vehicle onboard emission diagnostic system. This system is intended to help identify emission related systems deterioration or malfunctions which may cause a vehicle to fail to meet emission standards set under the Clean Air Act.

The new diagnostic system is essential to assuring that vehicles not in compliance are repaired properly and promptly. In order to do that, and in an effort to make certain that we do not inadvertently curtail a vehicle owner's right to choose where he or she pays to have their car or truck repaired, nor thwart competition in the repair industry, I am today offering an amendment that would require EPA to adopt rules prior to the introduction of these systems that ensure access and ease of use for all those engaged in vehicle service, diagnostics, and repair.

If we are going to mandate a new onboard diagnostic system, we must give consumers the freedom to choose where they will go to have these systems maintained and repaired. If we fail to do so, we will only encourage the failure of this new program. If consumers are forced to return to the manufacturer or franchise dealer for service and repairs, we will be creating an incentive not to maintain these important new systems.

In essence, the current language allows the creation of a service monopoly for the manufacturers and their dealerships, leading to unnecessary waiting periods and increased repair costs for the consumer. The bill in its present form would place the interests of manufacturers and their dealers ahead of consumers.

A market already exists for independent vehicle repair facilities due to consumers preferences, basing their choice on quality, convenience, and price. My amendment would allow vehicle owners to continue acting upon their preferences, by ensuring independent vehicle repair facilities access to the new diagnostic systems.

Assured access and ease of use is also needed in order to allow inspection stations to inspect the system, as provided by the bill. There must be a standard universal plug with a standard universal format and language coming across it. There must be timely access to backup data needed for diagnostics and repair. My amendment instructs the EPA Administrator to ensure that independent automotive service providers receive this information simultaneously with the dealer franchises.

Mr. President, there has been a lot of discussion of the effect this legislation could have on jobs. There is no reason that environmental cleanup can't mean more jobs. This amendment is a case in point. By ensuring that manufacturers and their dealers do not have a monopoly over the servicing and repair of the new onboard emission diagnostic systems, we will provide every independent service station with a new business opportunity. New business will mean new jobs.

Mr. President, the broad vehicle pollution cleanup strategy envisioned in this bill suggests that independent service providers be part of the diagnostic and repair team. Given the anticipated tighter standards, more inspections nationwide, and higher failure rates, consumers must have the freedom to choose where they will have their cars and trucks serviced. This amendment is designed to assure those things. To do less would short-circuit competition, interfere with consumer's freedom of choice, drive up prices, and threaten the cleanup potential of this bill.

I urge support for this amendment.

Mr. BAUCUS. Mr. President, I commend the Senator from Tennessee for this amendment. Essentially, it is to help make the diagnostic equipment couplers more generally available, so not only the drivers and owners of automobiles, but also the people who operate the inspection maintenance systems are better assured as to how well the automobile itself is operating: It is efficient; is it inefficient.

This amendment offered by the Senator from Tennessee will help make sure there is more universality, so we are better assured the automobiles in our country are operating more efficiently and, therefore, emitting fewer pollutants.

It is an excellent amendment, and I urge its adoption.

Mr. CHAFEE. We agree this is a good amendment. The purpose of the amendment is to make sure that diagnostic equipment, the manuals, the techniques, are available to, in effect, the local gas stations so that they will be more convenient for the automobile owner, that the automobile owner will not have to trek off to some dealer 30 miles away in order to be able to correct problems that have arisen with his automobile. I hope that the distinguished offeror of the amendment, in his statements now, would clarify some of the points that we previously went over so that this would be clear in the RECORD. If he chooses to do that now, it would be very helpful.

Mr. GORE. I will be glad to.

The language of the amendment includes a reference in section 4(a) to connectors through which the emission control diagnostics system is accessed for inspection, diagnosis, service, and repairs and says they ought to be standard or uniform on all motor vehicles and motor vehicle engines.

A point of clarification might be helpful. The uniformity referred to is the kind that will enable small business repair operators to establish their connection to service it simply and not have to have a lot of different kinds of equipment for every different kind of car; that they will be able to do it fairly simply. This is in the interest of the consumer also.

Second, in the very next subsection, 4(b), the language says that access to the emission control diagnostics system through such connectors shall be unrestricted and shall not require any access code or any device which is only available from a vehicle manufacturer.

We understand there will be some devices that are patented, and we are not insisting in this amendment that patented material be given free but that there be given reasonable access, and that there not be an entry barrier established so that small business operators are not allowed to get into the business of repairing these devices.

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The word "unrestricted" is intended to be read in that way. We do not want to end up with some special, expensive device required that only the large manufacturers will be able to purchase for their dealers. We do not want that kind of restriction, but we do not want to mandate exactly where the device is placed relative to the hood. We are not attempting to do anything like that.

Finally, the other clarification which might be helpful is in section 5 where the language refers to the "administrator by regulation shall require manufacturers to promptly provide any person engaged in the business of diagnosing, or selling parts, or of repairing or servicing motor vehicles or motor vehicles engines * * * all information needed to make use of the emission control diagnostics systems prescribed under this subsection."

There again, when we require them to promptly provide information needed, we recognize that we do not want to require somebody to provide a lot of expensive manuals absolutely for free, but we do not want the kind of charges that make this a profit center. We want them to provide the information which will allow competition in the after market and allow small business operators to get in the repair business. Otherwise, you force vehicle owners to go only to the major automobile manufacturers' places of business. Consumers get frustrated; they have long waits; they have to pay high prices.

Everybody agrees with the thrust of the amendment. These clarifications are the ones that were sought by the committee staff and the Republican leaders's staff. I think they are appropriate. I am pleased to offer them.

Mr. BAUCUS. Mr. President, might I ask the Senator if he could clarify his amendment. Is it the intent of the Senator that nothing in this amendment requires the release of proprietary information that one company might have?

Mr. GORE. That is not its intent. It is intended to prevent the construction of unreasonable barriers to the market. That is the purpose of the amendment.

Mr. BAUCUS. Is it the intention of the Senator that this amendment would not require the divulgence of proprietary information?

Mr. GORE. It is not my intention that it would require it because it is my understanding that the connectors involved are already standard, and therefore I would not expect that it would require the release of proprietary information. I do not intend to so require.

Mr. BAUCUS. All right. With that understanding, Mr. President, if this does not require the divulgence of proprietary information, we are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. CHAFEE. Mr. President, I think the objective of the amendment is a good one. It grieves me that in section 5 there is a split infinitive, "to promptly provide," which I am sure grieves the occupant of the chair, having had a distinguished education in New Haven, of which the author of the amendment unfortunately was deprived.

Mr. GORE. Will the Senator yield?

Mr. CHAFEE. Yes, I will.

Mr. GORE. The occupant of the chair and the Senator attended that institution in New Haven, but this Senator would inquire where the second 2 years of the Senator's education was received?

Mr. CHAFEE. Of this Senator? Oh, the Senator's entire undergraduate education was at that font of learning in New Haven.

Mr. GORE. It is a 4-year institution?

Mr. CHAFEE. That shot will go unnoticed.

The PRESIDING OFFICER. Not by the occupant of the Chair.

Mr. CHAFEE. I think the objective is good. I think as the explanation is given clarifying some of the points it is a very worthwhile amendment. I think it will do two things. First, it will make the service more convenient and available to the consumer, and second, it will help achieve the objectives of this act in that the owner of the vehicle will thus seek to have his automobile repaired and at maximum efficiency and thus achieve the goals of the act, which is the reduction of pollution.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1389) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

PORTRAIT OF A MAN

Mr. PELL. Mr. President, as we watch the unfolding of events surrounding Lithuanian independence, we sometimes, in our discussions of history and political theory, forget the fact that these kinds of events involve the talents and imaginations of very special and unique human beings who are striving to do right for their people.

It would seem that such an individual is Vytautas Lansbergis, who at this moment presides over the Lithuanian struggle.

The New York Times this morning carried a very touching portrait of this man they described as the "stooped, introspective music professor" who "sometimes appears even to members of his own team to be miscast as the adversary of the polished master of Soviet politics, President Mikhail S. Gorbachev."

I ask unanimous consent that this New York Times article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. PELL. Mr. President, our hopes and prayers are with the leaders who are attempting to resolve peaceably the highly volatile situation which continues to exist. I continue to recall the assurances of Soviet Foreign Minister Shevardnadze about 2 months ago. Senators GORE, WIRTH, and I met privately with him, Senator GORE asked him directly whether force would be used to maintain any of the Baltic Republics within the Soviet Empire. In response, he assured us that force would not be used. We all hope that that assurance will be fulfilled. I make this point to correct the RECORD, and that thought, and said I had asked him, and that was not correct.

But I would add, in conclusion, that we all pray that the leaders in the Soviet Union and in Lithuania adopt as low key and peaceful an approach as they can because the situation pursued too vigorously could explode into a very disastrous situation.

I yield the floor.

EXHIBIT No. 1

LITHUANIAN TO THE CORE: VYTAUTAS LANDSBERGIS

(By Esther B. Fein)

VILNIUS, LITHUANIA, March 25.—Vytautas Landsbergis, who presides over Lithuania in its battle for sovereignty, seems an unlikely man to be thrust into a confrontation with a superpower.

A stooped, introspective music professor given to rumpled suits and sensible shoes, the 57-year-old Mr. Landsbergis sometimes appears even to members of his own team to be miscast as the adversary of the polished master of Soviet politics, President Mikhail S. Gorbachev.

"He is not Ronald Reagan," conceded Romualdas Ozolas, a longtime comrade of Mr. Landsbergis in the leadership of the pro-independence movement, Sajudis, and now a Deputy Prime Minister in the new Lithuanian government.

"He is not handsome," Mr. Ozolas said. "He is not smooth. He is not especially articulate. But he is principled and firm in his convictions and morality. And right now we

do not have the luxury to chose a president who can both put forth ideas and have a pretty face."

REPRESENTING A CLEAN BREAK

The Lithuanian Parliament named Mr. Landsbergis to lead the republic in its defiant assertion of independence in part because as a child of the old Lithuanian intellectual aristocracy and a lifelong non-Communist he representated a clean break with 50 years of Communist rule.

But as Moscow puts pressure on Lithuania, staging displays of military strength and issuing demands of fealty, some people here are beginning to wonder whether Mr. Landsbergis has the political skill to deal with Mr. Gorbachev or the personal charisma to reassure his own people.

When Mr. Gorbachev visited Lithuania in January, two months before the proclamation of independence, Mr. Landsbergis greeted him as "the leader of a friendly neighboring country," an undiplomatic gesture that noticeably angered the Soviet leader.

Mr. Landsbergis cooly ignored Moscow's appeals and pressed for independence on March 11, embarrassing Mr. Gorbachev on the eve of an important congress in Moscow.

Publicly, members of Sajudis and legislators put great stock in Mr. Landsbergis's thoughtfulness and his history as a conciliator in the leadership of the independence movement since its formation in the summer of 1988. As the chairman of Sajudis, he earned the nickname "gudri lape," Lithuanian for the clever fox.

LACK OF EXPERIENCE SEEN

But privately, some of them acknowledge that he lacks the experience at negotation and compromise that characterized his chief rival for the job, Algirdas Brazauskas, the popular and pragmatic head of the independent Communist Party of Lithuania. Mr. Brazauskas led the local party in a break from Moscow.

"I think our new leader does not quite understand that we are really in a very dangerous situation," said Justas J. Paleckas, ideology chief of the breakaway Communist Party and a member of Parliament.

"We must understand that in this period, good relations with Moscow should be the No. 1 priority for us," he said. "It is not practical to be only idealistic and principled, and I am not sure Mr. Landsbergis knows how to navigate between the two."

Among the republic's Russian and Polish minorities, he is also viewed with some misgiving, although he is fluent in Russian and Polish—he speaks passable English, too—and often addresses rallies in three languages as a gesture of good will.

But Mr. Landsbergis has the affection and support of many Lithuanians less for his recent political leadership than for his personal history.

He was born Oct. 18, 1932, in Kaunas, which was then the capital of Lithuania during its short-lived independence between the world wars. Vilnius, the current capital, was then part of Poland.

He is a Protestant who began the day of independence by praying in the Vilnius cathedral.

His spacious apartment here where he lives with his second wife, Grazina, is crammed with vases, crystal and antiques that his family hid during the nationalization of property after Moscow took power here in 1940.

His paternal grandfather was a journalist and playwright, who fought Czarist rule in the late 19th century by writing for an underground newspaper in the outlawed Lithuanian language. He was imprisoned and deported for his nationalism.

Mr. Landsbergis's father was an architect who fought in the underground against the Nazis in World War II, and Vytautas was 11 when his teen-age brother was arrested by the Nazis for organizing pro-Lithuanian demonstrations.

Mr. Landsbergis is an accomplished pianist and musical theoretician, who has recorded two albums and written nine books, in addition to teaching at the Lithuanian conservatory.

"Landsbergis is too much a Lithuanian to ever betray us or compromise," said Maria Stankaviciene, a Lithuanian schoolteacher.

TRIBUTE TO JOHN SCOTT, DISTINGUISHED IOWAN

Mr. GRASSLEY. Mr. President, I rise to say a few words about a great Iowa vocational agriculture teacher who is retiring after almost 40 years. Mr. John Scott has taught at Sumner High School for 33 years. He has been very active in vocational agriculture serving as president of the Iowa Vocational Association and as president of the Iowa Vocational Agriculture Teachers. He also has both an Iowa and American honorary FFA degree. Mr. President, in addition to all his activities, he and his wife Anna, have raised eight daughters: Carol, Karen, Dianne, Joyce, Sharon, Lynn, Ann, and Alice. Also, John has three grandchildren with another expected in July. I would like to extend to John and Anne, who have been married almost 43 years, my best wishes in their "freedom" years.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today makes the 1,837th day that Terry Anderson has been held in captivity in Beirut.

THE KOREAN FIGHTER PROGRAM

Mr. McCAIN. Mr. President, on behalf of the Senator from Missouri [Mr. BOND] and myself, we would like to address the merits of the Korean Fighter Program. Recently, the Republic of Korea announced its selection of the McDonnell Douglas F/A-18 for the Korean Fighter Program [KFP]. The Republic of Korea selected the F/A-18 to counter North Korean MIG-29 aircraft and the numerically superior North Korean ground forces which are concentrated near the demilitarized zone.

As representatives of States with a large concentration of aerospace employees, we are concerned about the possible impact of this program not only on aerospace employment in our States, but that of the United States as well. We are also concerned about the impact of this program on the U.S. medium and small aerospace subcontractors which are integral to the U.S. industrial base.

After reviewing the details of the Korean Fighter Program, however, we believe this program will be of great benefit to the United States aerospace industry as well as to United States and South Korean security. I ask unanimous consent that a detailed set of questions we have asked the Department of Defense and the reply we received from the Defense Security Assistance Agency be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCAIN. In brief, Mr. President, the KFP will improve the ability of the Republic of Korea to defend itself and support its own defense systems. It will also improve the United States-Korean balance of payments by $3 to $6 billion or more over an 8- to 10-year period and finally, it will bring more than 23 million manhours of employment to the United States defense industry at a time when domestic defense production programs are being reduced.

The Korean Fighter Program is a procurement of 120 F/A-18 Hornet Fighter Aircraft. Unlike the Japanese FSX, the F/A-18 is a fully developed fighter. No development or design work will be transferred to the Republic of Korea. High-technology items excluded from coproduction include the radar, electronic countermeasures, classified equipment and other avionics items. The aircraft will be manufactured jointly in the United States and Korea as a part of a 3-year program. The first phase involves the delivery of 12 United States built aircraft to Korea through a United States Government FMS sale. In the second phase, the United States Government will deliver 36 complete aircraft kits to Korea for assembly by Korean industry. In phase three, United States industry will supply technical assistance, training and most of the aircraft parts while Korean industry fabricates a limited number of parts and assembly under license.

Despite some assertions to the contrary, Korea currently has extensive experience in aerospace. Ongoing aerospace activities include depot maintenance of the F-15 and F-4 fighters and the C-130 transport. Coproduction of parts for both commercial and military aircraft includes F-16, F/A-18, Boeing 747, 767, European Airbus and the McDonnell Douglas MD-82 and MD-11. Previously, Korea coassembled the F-5 fighter.

In other coproduction arrangement in which the United States has participated, foreign companies have insisted that as a condition of sale, a certain

percentage of coproduced components be purchased by the United States. This is commonly referred to as "directed buybacks." Under the KFP agreement, however, there are no directed buybacks. This means that there will be no additional exports of F/A-18 components from Korea to the United States as a result of the Korean Fighter Program. This compares favorably with the F-16 European Production Group Program which guaranteed 10-15 percent of the worldwide F-16 production workshare to European industry and also the F/A-18 coproduction programs in Canada and Australia which mandate buyback requirements. The United States and Korean Governments have also agreed that the requirement for indirect offsets will be limited to 30 percent. Specific projects will be identified and negotiated on a case-by-case basis by the contractor over a 10-year period, and will be subject to United States Government licensing and export regulations.

The Korean Fighter Program strengthens a key ally, generates significant export earning for United States industry, and positions United States companies for substantial additional sales in the Pacific region. The Defense Department will benefit from improved unit costs and from the recoupment of nonrecurring research and development costs.

The potential impacts of offshore production and offsets have been minimized through joint Commerce and Defense Department efforts to restrict the export of sensitive United States technologies, and to limit Korean industry participation to work on Korean aircraft. The resulting workshare is extremely favorable to the United States. It will improve the United States-Korean balance of payments and will bring more than 23 million manhours of employment to the United States defense industry. Mr. President, the KFP is a good deal for Korea and even a better deal for the United States. We encourage our colleagues to examine the recent letter we sent out on this subject and strongly urge them to support the Korean Fighter Program.

EXHIBIT 1

KOREAN FIGHTER PROGRAM

Q. 1. When was the KFP program first established?

A. 1. The Korean government requested pricing and availability information about the F/A-18 in 1986. Since then, MDC has worked with a number of military and government agencies to carry out one of the most extensive evaluations of the F/A-18 to date.

Q. 2. What is the primary thrust of the KFP?

A. 2. The KFP enhances the capabilities of the Korean Air Force. The F/A-18 will provide significantly improved beyond visual-range air defense, close air support and sea lane and coastal defense capabilities.

Q. 3. What are the terms of the "offset" program as agreed to by the U.S. and Korean governments?

A. 3. In other co-production arrangements in which the United States has participated, foreign companies have insisted that as a condition of sale, a certain percentage of coproduced components flow back to the U.S. This is commonly referred to as "directed buybacks." Under the KFP agreement, however, there are no directed buybacks. This means that there will be no additional exports of F/A-18 components from Korea to the U.S. as a result of the Korean Fighter Program. This compares favorably with the F-16 European Production group program which guaranteed 10-15% of the worldwide F-16 production workshare to European industry and also the F/A-18 co-production programs in Canada and Australia which mandate buyback requirements. The U.S. and Korean governments have also agreed that the requirement for other kinds of non-buyback offset will be limited to 30 percent. Specific projects will be identified and negotiated with the Koreans on a case-by-case basis by the contractor over a 10 year period, and will be subject to U.S. government licensing and export control regulations.

Q. 4. How does the Korean Fighter Program differ from the Japanese FSX project?

A. 4. The primary difference is between "co-development" and "co-production." In the Japanese FSX program, the objective is to co-develop a new fighter with new technology being developed by the Japanese and the U.S. The Korean Fighter Program, on the other hand, is a co-production program, utilizing current technology.

Q. 5. Some have called the KFP the "son of FSX" and there is quite a bit of controvery over the program in the Congress. Can you comment on this? Do you expect strong opposition from the U.S. Congress to block this program?

A. 5. The primary difference is between "co-development" and "co-production." In the Japanese FSX program, the objective is to co-develop a new fighter with new technology being developed by the Japanese and the U.S. The Korean Fighter Program, on the other hand, is a co-production program, utilizing current technology. The U.S. Congress reviews all foreign military sales, and the KFP will be no exception. We are confident that the KFP will be no exception. We are confident that the KFP is in the best interests of both the U.S. and Korea.

Q. 6. Technology transfer has been raised on both the FSX and KFP programs. What is actually being transferred in the KFP?

A. 6. The U.S. government carefully reviews any technology transfers before they occur, and continues to monitor the use of these technologies by foreign countries as long as necessary. The Korean Fighter Program will continue to be carefully scrutinized and managed by the USG to make sure that sensitive technologies are protected.

Q. 7. What impact, if any, will the KFP have on the current trade imbalance between the U.S. and Korea?

A. 7. The KFP will result in U.S. exports to Korea valued at $3 billion or more. This sale will generate more than 20 million manhours in U.S. manufacturing jobs in more than 1500 companies in 38 states.

Q. 8. What other U.S. companies will be major contractors on this program?

A. 8. There are more than 1500 contractors involved in the F/A-18 program. Among the largest are Northrop, General Electric, and Hughes.

Q. 9. How much influence did Samsung have on the government's final decision in this program?

A. 9. As Korean prime contractor and systems integrator, Samsung is responsible for leading the manufacturing program. Selection of the aircraft was a ROKAF and MND decision.

Q. 10. How is the KFP related to Korea's stated objective to develop its own aerospace industry?

A. 10. Korea already has a significant aerospace industry capability and McDonnell Douglas partnerships with Korean aerospace companies go back 20 years. The KFP will strengthen and expand these partnerships.

Q. 11. There are some in Congress who charge that by sharing sensitive U.S. technology, you are in fact helping an industrial competitor gain entry into one of the few areas in which the U.S. still enjoys a global competitive advantage. How do you respond to this? Do you think Korea could be a strong aerospace competitor to MDC in the next 10 years?

A. 11. Korean industry already plays an important part in the world aerospace market. We believe that strengthening our partnerships with Korean companies will make MDC more competitive in the world market.

Q. 12. Were the reduction in offset requirements the result of pressure from the U.S. government?

A. 12. The Korean government, the Commerce Department and the DoD have been discussing the offset provisions of this program for many months. The comparatively low Korean offset requirement of 30 percent is the result of these negotiations.

Q. 13. Why do you think the Korean government ultimately decided on the F/A-18? What were the major factors impacting the decision?

A. 13. According the a statement made by the Korean Defense Minister when the F/A-18 decision was announced, the F/A-18 offered superior capability against the Soviet built MIG-29, twin-engine safety, and better capability for Korean coastal and sea lane defense. The Defense Minister said that in spite of its slightly higher program cost, the F/A-18 offered a better overall, long-term solution for the KFP.

Q. 14. What is the cost difference between the two aircraft?

A. 14. We have no insight into competitor pricing. According to an official statement issued by the Swiss government after they selected the F/A-18, the F/A-18 program price was about 15 percent higher than the F-16 for that program.

Q. 15. How will the F/A-18 purchased by the Korean government differ from those used by the U.S. Navy?

A. 15. The ROKAF will receive substantially the same aircraft configuration as the U.S. Navy and Marine Corps. A limited number of systems which are mostly related to aircraft carrier operations will be deleted, which is typical for all international users of the F/A-18.

Q. 16. When do you expect the first F/A-18s to be delivered to Korea?

A. 16. First deliveries are expected in 1993.

Q. 17. What is the percentage of F/A-18 work already being done in Korea that will be a part of those planes produced in the U.S. for the KFP?

A. 17. The number and value of parts manufactured by each of the more than 1500 worldwide F/A-18 suppliers changes constantly. In 1990 McDonnell Douglas ex-

pects to buy about $500,000 worth of airframe parts from Korea, which is less than one-half of one percent of the value of an F/A-18.

Q. 18. How many F/A-18 sole source subcontractors will be replaced by Korean KFP subcontractors?

A. 18. None, since the KFP does not involve any buyback of Korean KFP production for U.S. aircraft. The suppliers will continue to supply parts and assemblies for the U.S. Navy and other customers.

Q. 19. What protections will be provided in the KFP for U.S. intellectual property rights?

A. 19. The U.S. Departments of Commerce, State, and Defense, the Office of the U.S. Trade Representatives, and other appropriate U.S. Government agencies will continue to address this issue with the Korean government. For the KFP, the Defense Department will maintain a continuous presence in Korea to monitor the handling of sensitive U.S. technology.

Q. 20. What is MDC's view of the recently released Korean government's plan for the development of a Korean aerospace industry? Why should the U.S. government and U.S. industry help the Koreans to develop a competitive aerospace industry?

A. 20. Korean industry already plays an important role in the world aerospace market. We believe that strengthening our partnerships with Korean companies will make the F/A-18 Hornet team more competitive in the world market. Without such partnerships, Korean industry is likely to turn to Japan and Europe, and the U.S. could lose the Korean market.

Q. 21. MDC maintains that 84 percent of the work and 88 percent of the dollar value comes back to the U.S. compared to an off-the-shelf buy. What percentage comes back to MDC?

A. 21. From 75 to 80 percent of the value of each F/A-18 produced flows through MDC.

Q. 22. Why should the U.S. agree to a technology give-away program like KFP?

A. 22. The KFP gives nothing away, including U.S. technology. Technology which is licensed to Korea for the KFP will be subject to U.S. government controls, and U.S. companies will be compensated in the form of license and royalty payments. Usually, these payments reflect an extremely favorable risk/return ratio for the U.S. company.

Q. 23. The KFP will export U.S. jobs and erode the U.S. defense industry base.

A. 23. The Korean program, with more than 80 percent U.S. workshare, will result in the net expansion of U.S. aerospace employment and growth of the U.S. defense industry base. The alternative is coproduction with Europe, not an off-the-shelf buy from the U.S.

Q. 24. What happens to KFP if peace "breaks out" in Korea?

A. 24. North Korea shows no signs of reducing its military force structure, which significantly outnumbers the South Korean force. If the KFP procurement will bring the South Korean Air Force marginally closer to its goal of a force structure two-thirds the size of the North Korean Air Force.

Q. 25. When would the first South Korean KFP aircraft have been delivered if this were an off-the-shelf buy?

A. 25. Since the first 12 aircraft will be sold off-the-shelf under the current program arrangement, the delivery date would not change.

CONGRESSIONAL PERSPECTIVE KEY TO DEFENSE EFFORTS

Mr. NUNN. Mr. President, the distinguished chairman of the Defense Industry and Technology Subcommittee of the Senate Armed Services Committee recently wrote an important article that appeared in the February 1990 issue of Signal magazine, the official publication of the Armed Forces Communications and Electronics Association. In his article Senator BINGAMAN outlines our need, as a nation, to re-examine the entire national security strategy as a result of the recent dramatic changes in Eastern Europe, the Soviet Union, and the Asian Pacific Rim.

In the article, Senator BINGAMAN makes the compelling case that the United States should develop a coherent strategy to guide our research and technology investments. The United States still retains its preeminence in most areas of purely military technology, but our dependence on our allies and other foreign nations for the technologies that support the lower tiers of the defense sector is increasing. The Japanese have achieved the status of a technological superpower. Their strength, and the strength in Europe that will come about as a result of EC 92, will challenge our Nation as never before to develop new ways to compete better using new and innovative ways in science and technology.

Senator BINGAMAN's article goes on to make many other important points that I believe the Members will find to be both interesting and provocative. I heartily recommend it to them. I ask unanimous consent that this article be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Signal Magazine, February 1990]

CONGRESSIONAL PERSPECTIVE KEY TO DEFENSE EFFORTS

(By Senator Jeff Bingaman)

Defense technology strategy adjustments for the 1990s will be one of the major challenges faced by the second session of the 101st Congress.

The whole U.S. national security strategy requires reexamination as the short-term threat in Eastern Europe and in the Soviet Union rapidly recedes and as sharp cuts in the defense budgets of the United States and its allies follow. The 1990s promise to be a time of great uncertainty about long-term threats, and the need exists to design a national security strategy to cope with that uncertainty. Near-term operational readiness will be less important than the need to continue ensuring maximum U.S. long-range defense potential in the event that the world situation takes a turn for the worse.

REEXAMINING STRATEGIES

Robust investments in critical long-term technologies must remain an important element of U.S. national security strategy for purely defense reasons. Otherwise, the nation risks being caught by surprise, especially as East-West technology diffusion, already large on a covert basis, likely will accelerate on a more open basis.

Moreover, as the United States (and even more so the soviets) have come to realize over the past decade, national security means far more than merely military deterrence. A nation's security ultimately rests on its technological and industrial strength and its economic vitality. A recent Defense Science Board study on defense industrial cooperation with Pacific Rim allies, written before the Berlin Wall fissured, pointed out that technology has become the new measure of international power and declared that "it is of the utmost importance to U.S. competitiveness and security interests that the United States develop a national technology vision."

For most of the past 45 years, the United States has taken its technological preeminence for granted. The nation was so far ahead of everyone else, particularly in the breadth and depth of its scientific and technological infrastructure, that even when Americans were surprised by the new technologies of other countries, as in the case of Sputnik, they were quickly able to reestablish their lead.

WANING PREEMINENCE

The days of U.S. technological leadership are not over. A glance at the first Department of Defense (DOD) Critical Technologies Plan submitted to Congress in March 1989 makes clear that the United States is challenged as never before for technological preeminence. This is true especially for more than half of the 22 technologies that have both military and civilian applications.

Japan, in particular, stands as the main rival to the United States for world leadership in technology. While the Japanese government's defense research budget, $650 million in Fiscal Year 1989, is but two percent of the U.S. budget, government civilian research is funded at $12 billion and private sector research, the most rapidly growing component, is approaching $60 billion.

These figures are comparable to the overall U.S. non-defense research effort and thus, in many of the most critical long-term, dual-use technologies such as semiconductor manufacturing, gallium arsenide and other compound semiconductors, optoelectronics, robotics and high temperature superconductivity, the overall Japanese effort is comparable to or exceeds that of the United States.

In its September 1988 white paper on industrial technology, the Japanese Ministry of International Trade and Industry identified three key areas in looking to the 21st century: advanced materials, electronics and biotechnology. The Japanese are eager for their nation to become a world-class player in aerospace technology. The FSX, Boeing 7J7 and supersonic transport projects are examples in which the Japanese are collaborating with U.S. firms.

Similarly, the nations of Western Europe, in their various cooperative programs, EUREKA, ESPRIT, JESSI and EUCLID, are placing emphasis on information and electronics, telecommunications, advanced materials and biotechnology. Again, aerospace applications loom large in European thinking. They are hoping to close the gap with both the United States and Japan in these critical fields and already have significant areas of excellence.

U.S. MILITARY STRENGTH

On purely military technologies, U.S. preeminence is more secure, as it should be

when the federal government invests almost $40 billion annually in DOD and Department of Energy (DOE) defense research, development and testing. This is almost three times as much as all of the allies combined. But because any weapon system requires the contribution of several critical technologies, including dual-use information, materials and manufacturing technologies, the nation's relative weakness on the dual-use side of the equation is of growing concern.

Of course, problems with competitiveness in dual-use technologies have become powerfully evident in the U.S. economy over the past decade. Increasingly, Americans look abroad for innovation in consumer and business electronics, automobiles, machine tools and many other high technology products. Less evident, but just as striking, has been the growing foreign dependence in the defense sector at lower tiers. While the Defense Department cites figures showing a healthy, but diminishing U.S. defense trade surplus, inclusion of lower tier trade certainly would decrease the surplus, and possibly even change its sign.

Aside from deterioration in the overall U.S. technological position, other trends exist in designing a defense technology strategy for the next decade. Barriers to technology diffusion are diminishing rapidly, and this is true not only from West to East but also from North to South. The U.S. armed forces likely will face more more capable participants in third world hotspots around the globe, and their national security strategies increasingly will focus on these areas.

The globalization of both the defense and high technology, dual-use industrial sectors is well underway and will not be reversed. Some multinational corporations, such as Digital Equipment Corporation (DEC), now have their scientists and engineers linked in global networks. Work on research projects is ongoing. As one scientist signs off to go home, another is logging on at work somewhere else.

But this globalization must be managed with national interests in mind, just as U.S. allies already do. The nation cannot afford to cede the most critical technologies or the most critical industries to other nations, whether friend or foe. Even Adam Smith acknowledged that nations could not afford to leave such questions entirely to the invisible hand of the marketplace.

As differences between military and civilian technologies are increasingly blurred and as innovation occurs more rapidly in the civilian sector, outstepping the pace in the defense sector, the United States will be challenged to develop new mechanisms for competing for technological leadership in critical areas.

THE TIME FOR STRATEGY

First and foremost, a coherent strategy or vision must be developed to achieve the maximum return on investments in technology. Neither an adequate strategy nor a clear investment plan has existed in the past.

Over the past two years, a process has been devised whereby the executive branch, the Congress and industry can coalesce around a national technology vision. The first DOD critical technologies plan grew out of concern that DOD was not adequately managing its long-term research and development (R&D) investment. Repeatedly, witnesses before the defense industry and technology subcommittee stated that certain R&D programs, such as those designed to deal with the lack of productivity in producing software, were critical and, at the same time, seriously underfunded. Here was a mechanism whereby the Armed Services Committees could at least ensure adequate attention to the 20 long-term technologies DOD and DOE considered most important to the nation's security.

A plan was envisioned that would outline clear future goals to which the Defense Department could be held accountable, as well as an investment strategy, reflected in the budget, to achieve those goals. Legislation also called for including in the plan detailed international comparisons in the 20 critical technologies to better track both the nature of U.S. competition and the possibilities for mutually advantageous cooperation with allies.

REFLECTION

The initial plan was an excellent first effort, given the stringent time constraints under which it was developed. But it also had clear shortcomings. Because the plan followed the budget submission, the correlation between the plan and the budget was weak. Moreover, it was not clear which was the lead organization for each identified technology and whether that organization had played the leading role in laying out a roadmap for the technology. Input from industry had not been possible, and many questioned whether process technologies, long neglected in DOD and in industry, had been given enough emphasis compared to product technologies. Finally, the international comparisons, while more detailed than any previously submitted by DOD and the intelligence community, still had major gaps.

Strengthening and broadening this technology planning process is a goal in the Fiscal Year 1990 defense authorization bill. The bill addresses the shortfalls in the annual DOD critical technologies plan. In addition, it mandates a national critical technologies report, focusing on the 30 most important technologies, from both military and civilian perspectives, to be submitted on a biannual basis by the President's science and technology adviser. The panel chosen to write this report will consist of members from government, industry and academia. The first such report will be due to Congress in November 1990. By the year 2000, six such reports will have been written.

The tremendous interest in industry regarding critical technologies planning is encouraging. The Aerospace Industries Association (AIA) has identified 10 critical technologies most important to its members; has set up a national center for advanced technologies to coordinate a government-industry planning process in these technologies; and already has formulated detailed roadmaps for several of these technologies. AIA also is reaching out to other industry associations in an effort to broaden efforts and to bring in additional industry perspectives, especially from lower tiers, on critical technologies planning.

FUTURE CHALLENGES

In a sense, a technology planning process is being invented that fits the U.S. governmental and industrial structure, but that will match up well with Japanese and European Community approaches. And only in this way will the best use be made of limited resources in both government and industry. Only in this way can the United States ensure that it will continue to compete for leadership in the technologies most important to future national security and economic vitality in this rapidly changing world.

The defense industry and technology subcommittee has concentrated on the process whereby critical technologies are selected and funded, rather than on the technologies themselves. This was done because the lack of long-term planning for future U.S. technology needs seems to be one of this nation's greatest shortfalls.

In the 1990s, increased emphasis must be placed on dual-use technologies, from optoelectronics and semiconductors to advanced structural materials. Higher priority must be given to process technologies and to find ways to bring approaches that are common in the civilian sector, such as concurrent engineering, to the defense acquisition system.

The United States must address the problem of software producibility. Software problems seem to arise on every weapon system (and in most civilian applications as well). The software either is late, over budget or well short of requirements (or all three). If current trends in the defense and civilian sectors are extrapolated, soon most Americans will need to begin writing software. That obviously will not happen, so solutions must be developed to more efficiently and effectively meet software needs.

A DEC engineer recently pointed out that the United States has faced such problems before, for example with telephone switchboards in the 1930s, when predictions arose that everyone in the United States would have to become a switchboard operator. Technology overcame that problem, and it likely will do so again, but only if the software tools are invented to make each software engineer more productive.

DEFENSE APPLICATIONS

The opportunities to apply technology to the nation's defense needs are much more likely to occur at the subsystem level in the 1990s. Product improvement and technology insertion will be much more common than new weapons platforms as defense budgets decrease and the force structure contracts.

Most important, the United States will seek to use defense technology as it uses civilian technology—to drive down the unit costs of weapon systems. This will force the nation to seek ways for greater civilian/military integration in its economy. The United States will not be able to afford artificial barriers and duplicative efforts.

The challenges of the new decade can be met if the will exists to do so. But it will not be easy, and the result is uncertain. The United States will be pressed as never before in its history. Continuing the pattern of the last decade, when lack of a coherent strategy deprived the nation of the full benefit of national technology investment, should not be tolerable either to government or industry. Together, this nation can do better in the 1990s. And it must.

NATIONAL FOUNDATION FOR CANCER RESEARCH'S LABORATORY WITHOUT WALLS

Mr. PELL. Mr. President, last November I had the privilege of participating in a luncheon meeting with a distinguished group of executives from the National Foundation of Cancer Research and representatives from 11 Western European countries on the exciting topic of expanded scientific research and increased international cooperation in that research in the one New Europe. This event was all

the more exciting because it occurred literally just as crossing points in the Berlin Wall were being opened.

As long ago as 1945, Sir Winston Churchill envisaged what he termed a "United States of Europe." Since the 1957 Treaty of Rome creating the European Economic Community, its member states have been moving slowly in this direction. It has now been almost 3 years since EC heads of government endorsed the goal of constructing a single market by 1992 through the elimination of all existing physical, fiscal and technical barriers. The Community's 1985-87 decisions clearly represent a landmark in postwar history.

Europe 1992 is the most dramatic manifestation of the root cause for change in the next decade, and indeed the next century—globalization. We are seeing it on the environmental front; we're seeing it in increasing international cooperation to eliminate the scourge of illicit narcotics; we are seeing it in increased international cooperation to deal effectively with diseases such as AIDS and cancer.

I would like to bring to the attention of my colleagues the November 11 luncheon address by Mr. Franklin C. Salisbury, president of the National Foundation for Cancer Research. Mr. Salisbury offers an interesting comparison between our own history and European unity, and describes in detail the existing framework of cooperative basic science research on which we can build to achieve our mutual goal of finding a cure for cancer. I ask that an article from "The Uptown Citizen" which contains the text of Mr. Salisbury's speech be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Uptown Citizen, Jan. 11, 1990]

LABORATORY WITHOUT WALLS

(By Franklin C. Salisbury)

In a November 1989 week when "the walls came tumbling down" in Europe, the National Foundation for Cancer Research celebrated its "laboratory without walls" at a luncheon in the Hart Senate Office Building.

Host E. Brooke Lee, Jr., recently returned from Brussels, and his wife Debbie, who is with the House Armed Services Committee, explained that the luncheon had been planned to explore the expanded opportunities for cancer research in the light of the Single European Act—but current events made it even more exciting.

Senator Claiborne Pell, Eugene McAllister, Assistant Secretary of State for Economic and Business Affairs, and Franklin C. Salisbury, President of the National Foundation for Cancer Research were the speakers for the event. Representatives of 11 Embassys participated in the discussion period which followed.

Mr. Salisbury's luncheon address follows:

"Today I will briefly discuss the European Community, how it will function, how it advances scientific research, and the opportunities it presents to the National Foundation for Cancer Research for cooperation in the battle against cancer. I will also compare the European Community's history to that of our own Constitution. But first of all I will congratulate all concerned on a decisive step towards European unity. This new European Community is founded on certain treaties establishing the European Coal and Steel Community, which was not unlike the programs set forth in our National Recovery Act (the New Deal), the European Economic Community, which was not unlike a trade association, and the European Atomic Energy Community, which was not unlike our Manhattan Project. The Single European Act, while it is obviously not a final step, is a giant step for mankind in tying all these treaties together to establish a Single European Community.

"The pertinence of this to our luncheon meeting today is that the health of Europe and the world is being advanced by these so-called "Communities." The Single European Act, which is the latest overall treaty, provides for a single Community to strengthen the scientific and technological basis of European industry, and to provide for a multiannual "framework" program in the various fields of science and technology, including cancer science and therapy.

"We at the National Foundation for Cancer Research, a nongovernmental organization engaged in basic science cancer research worldwide, are encouraged by this "framework" program. As a small non-profit multi-national enterprise, the NFCR, has in a way not unlike the European Community itself, set out to encourage cancer research throughout the world. Our team is made up of the NFCR in the United States, the Association for International Cancer Research in the UK, the Krebsforschung International in Germany, and a Mexican Foundation. Together we are involved in actual basic science research, which will contribute to a cure or control of cancer—the very same goals the European Community have enthusiastically undertaken.

"Our KFI, the Krebsforschung International, which is registered in West Germany, and initiated by NFCR, is in the best position of our several foundations to be a part of this new spirit of cancer cooperation in Europe. It was with this organization that Henry von Moltke assisted in its earlier years. Henry is now Deputy Director for DG3 of the European Community. He was an early helper in our efforts to establish the KFI in Europe. He is now a key man in the science and technology efforts of the European Community. The Current Chairman of the KFI, Dr. Helmut Sies, was awarded the prestigious Ernst Jung Prize for Medicine last year. More recently Dr. Manfred Rajewsky, a Board member of KFI, became active in the Senate of the Deutche Forschungsgemeinschaft and its Committee for Cancer Research. Professor H. Greim is in contact with the International Institute on Cancer at Lyons, France, and Dr. Helmut Sies is in contact with the Cancer Institute at Epalinges, Switzerland.

"At present, the European Community, as is to be expected from an organization which comes together from many pieces, must be very complicated and hard to understand for Americans. The Single European Act, sets up a European Community which really begins January 1, 1993. Its leadership groups rests with four institutions: the European Parliament, the "Council," the "Commission" and the Court of Justice, with the support of the Court of Auditors. Now there is no correspondence between the institutions of the European Community and those of the United States. The "Council" is made up of the representatives of the governments of the 12 member states. The engine of the Community is the Commission. It consists of 17 members appointed by agreement among the member governments. The Court of Justice, which is what its name denotes, is composed of 13 judges, and the Court of Auditors has 12 members and functions like an internal auditing committee. The "Council" and the "Commission" are assisted by an Economic and Social Committee, made up of representatives of various sectors of European economic and social life. Both plays a consulting role.

"The most recent addition is the Parliament, the members of which are elected in each of the 12 member countries. so far their involvement in the Community legislative process is more cooperation than as a principal. It is the Commission which serves as the executive arm.

"The Commission obviously has to rely on Committees. One of these is a Committee for Scientific and Technical Research, which plays a large role in the self-appointed task of making an impact on cancer within the European Community. On May 10, 1989 the Commission adopted an action plan called the Europe Against Cancer Program. All those active in the fight against cancer—organizations like the NFCR, its sister foundations AICR (UK) and the KFI (Germany), associations for the prevention of smoking, groups of family doctors, health and education ministers, and other European institutions have joined forces in the program. The program covers four areas; cancer prevention, cancer training, cancer information and health education and most important to us, cancer research.

"NFCR is excited by these European developments. Our slogan has always been *A laboratory without walls.* We hope to be joined now by a Europe without walls."

A TRIBUTE TO GEN. JAMES A. GAVIN

Mr. THURMOND. Mr. President, it was with great sadness and a deep sense of loss that I learned of the death of Gen. James A. Gavin, one of the great military heroes that our country has ever produced. General Gavin was a brave soldier, dedicated public servant, loyal American and true patriot. We will miss him sincerely for years to come. In our memories, we will always pay tribute to his staunch character and to the service he rendered to all Americans for the sake of freedom and democracy.

During World War II, General Gavin served as the commander of the 82d Airborne Division. I landed with General Gavin on D-Day and am proud to have had the opportunity to serve with him. He was a brave and courageous leader who provided inspiration and guidance to his men at every turn. Decorated by 11 nations for his service in World War II, he was awarded the Purple Heart, the Silver Star, three Legions of Merit and the Distinguished Service Cross.

President John F. Kennedy nominated General Gavin to serve as Ambassador to France. From 1961 to 1963, he represented our country with distinction and honor. His strong commitment to public service never waned throughout his fine career.

Whether leading troops into battle or skillfully developing foreign relations, General Gavin fulfilled well the responsibilities assigned to him. At the age of 37 he achieved the rank of a two star major general—one of the youngest men to ever hold that rank. Our country has lost a great soldier in his passing.

My wife Nancy joins me in extending our heartfelt condolences to General Gavin's lovely wife, Jean Emert Gain Gavin; his five daughters, Aileen Lewis, Patricia Gavin, Chloe Beatty, Caroline Gavin, and Barbara Fauntleroy; his nine grandchildren and his great-grandson.

Mr. President, I ask that the following article regarding General Gavin be printed in the RECORD at the close of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 25, 1990]

LT. GEN. JAMES M. GAVIN, WORLD WAR II HERO, DIES AT 82

Retired Army Lt. Gen. James M. Gavin, 82, a former ambassador to France and an architect of the Peace Corps who was one of the greatest American combat leaders of World War II, died Feb. 23 at a Baltimore nursing home. He had Parkinson's disease.

During World War II, he served in and then led the legendary 82nd Airborne (All-American) Division. He made four combat jumps with the unit—into Sicily, onto the beach of Salerno, behind enemy lines in Normanday on D-Day and into the Netherlands—that are among the most dangerous and famous in airborne annals.

Along the way Gen. Gavin was twice awarded the Distinguished Service Cross, the Army's highest award for valor after the Medal of Honor, two Silver Stars, the Bronze Star and the Purple Heart.

Orphaned before the age of 2, he enlisted in the Army Coast Artillery at the age of 17, with only a grade school education. He then began a remarkable career. Entering the U.S. Military Academy at West Point by examination in 1925, he graduated four years later. In 1940, he was only a captain, but he became an apostle of the new airborne doctrine. By September 1943, he was a brigadier general, and the next year he became the Army's youngest division commander in the war.

After World War II, he held staff and command assignments in this country and Europe. He was promoted to lieutenant general in 1955 and named Army deputy chief of staff and chief of research and development. In those posts, he became a critic of the Eisenhower administration's defense policies.

He was critical of the Army's failure to pursue advanced missile technology and of over-reliance on advanced hardware, especially nuclear weapons, at the expense of conventional forces. He also said that inept Pentagon policies enabled the Soviets to launch the world's first orbiting satellite.

His disenchantment with the Army was such that he reportedly turned down a guarantee of a fourth star within 14 months, and a choice of interim assignments, to retire from active duty in 1958.

He then joined Arthur D. Little Inc., a worldwide Cambridge Mass.-based industrial research and management consulting organization, as a vice president. He rose to executive vice president, board member, president, chief executive officer and, finally, board chairman. He retired in 1977.

Before 1960, he and then-Sen. Hubert H. Humphrey proposed the creation of what became the Peace Corps. In 1961, Gen. Gavin led the inaugural parade of his friend, President John F. Kennedy, then served a short time as ambassador to France. He returned to the public eye in the mid-1960s as a persuasive and brilliant critic of the Johnson administration's Vietnam policies, based on his extensive World War II combat record.

In 1940, Gen. Gavin was assigned to West Point as a tactics instructor. While teaching that discipline, he also studied the new German panzer tactics. Combining armor, mechanized infantry and air support, the Germans had unleashed a seemingly unbeatable weapon that was in the process of overrunning much of Europe with little opposition. Gen. Gavin let it be known that airborne troops might be part of an answer.

After graduating from the Army Parachute School and the Army Command and General Staff School at Fort Leavenworth, he took command of the 82nd Airborne Division's 505th Parachute Infantry Regiment. His regiment spearheaded the invasion of Sicily when it jumped into the hills behind the beaches on July 9, 1943. Two days later, Gen. Gavin won his first Distinguished Service Cross, which cited him for his display of "cool, courageous leadership" and "inspiring his men by his heroic example." He personally led a small part of the regiment against a much superior German force of infantry and armor.

On Sept. 14, 1943, with the Allied invasion of Salerno, the first assault on mainland Europe was hanging by a thread. "Operation Avalanche," the invasion to secure the great port of Naples, had taken place on Sept. 9, and Allied troops were stalled on the beaches. An anxious Allied commander, Gen. Mark Clark, called for reinforcements. British battleships from Malta trundled up to give fire support from 15-inch guns, but Clark wanted infantry, and on the beaches fast.

A measure of Allied desperation was the attempt that airborne units, including Gen. Gavin and his regiment, made to turn the tide. Flying from bases in Sicily and North Africa, airborne troops flew over the Allied armada and parachuted directly onto the embattled beach, then advanced into the fight. Nothing of the kind had been tried before.

On Sept. 22, Gen. Gavin got his first star and was named assistant division commander. D-Day found him commanding the division's three parachute regiments as they dropped well behind the beaches to prevent German reinforcements and supplies from reaching Omaha and Utah beaches. Dependent upon air resupply, the 82nd fought, completely surrounded, until relieved by advancing Allied units.

Gen. Gavin received his second Distinguished Service Cross when, during a fight on June 9, he took command of a shattered battalion, reorganized its command, and then personally led it in a counterattack. The citation for this award, noting his command from an exposed position, cited his "courage, personal bravery and outstanding leadership."

On Aug. 15, 1944, he was named commander of the 82nd Airborne. The next month, the division participated in the huge, if ill-planned drop near Nijmegen in the Netherlands. The division fought in the Battle of the Bulge and in central Germany before becoming an early occupation force in Berlin.

During the war, the 82nd Airborne was recognized as one of this country's elite divisions. It had fought in what were probably America's greatest battles of the European war. And its last commander, Gen. Gavin, became something of a legend of his own.

Known variously as "Jumpin' Jim" or "Slim Jim," he was remembered as a general who commanded from the front with a carbine in hand and as an officer renowned for his calmness in battle.

After leaving the Army, he became a very successful businessman in a highly technical game. The fighting general also was recognized as a thinking general. He was active in the Council on Foreign Relations and the U.S. Chamber of Commerce, and was a life trustee of Tufts University and a fellow of Harvard University's Center of International Affairs. He wrote such books as "Airborne Warfare," "War and Peace in the Space Age" and his 1978 memoirs, "On to Berlin."

As ambassador to France, a post he held from 1961 to 1963, he was not a notable success. Most critics pointed out that President Kennedy had managed to find an ambassador who could not speak French well and had appointed a former general. The French president, Charles deGaulle, was known to dislike non-Francophones and "military" ambassadors. And, as Gen. Gavin noted in retiring after a year, the ambassador to France had to be independently wealthy, and he was not.

Gen. Gavin was a leading architect of the successful helicopter-borne units and Army airborne tactics used in Vietnam, but he was an early critic of the conflict. He attacked the administration for fighting an unwinnable war, saying that the best military strategy to follow would be to withdraw American forces to "enclaves" in towns and along the coast that could be easily defended.

He toured Vietnam for 10 days in 1967 and returned to tell a group that "we are in a tragedy." He called for seeking negotiations "by every means available" and argued that the struggle in Southeast Asia could allow the Soviets to steal a march on us in the Middle East.

His first marriage, to Irma Gavin, ended in divorce.

Survivors include his wife Jean Emert Gavin, of the homes in Winter Park, Fla., and Wianno, Mass.; their four daughters, Caroline Gavin of Weston, Conn., Patricia Gavin of Towson, Md., Aileen Lewis of Baltimore and Chloe Beatty of Riverside, Conn.; a daughter by his first marriage, Barbara Fauntleroy of New Canaan, Conn.; nine grand children; and a great-grandchild.

RHODE ISLAND RESOLUTION ON THE CONVENTION ON THE RIGHTS OF THE CHILD

Mr. PELL. Mr. President, today the Rhode Island General Assembly is considering a resolution supporting signature and ratification by the

United States of the Convention on the Rights of the Child. As a cosponsor of Senate Resolution 213, urging the President to sign the Convention and transmit it to the Senate for consideration, I strongly sympathize with the spirit of this resolution.

We are a nation which understands that children need special treatment. We were active participants in the negotiation of the Convention. Against this background, it makes no sense for the administration not to sign this Convention and send it to the Senate. Our signature and ultimate ratification of the Convention will play an important role in encouraging other countries to accept the Convention and the principles embodied in it.

Mr. President, I ask unanimous consent that the text of the Rhode Island resolution be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION

Whereas, the world's children are its most precious resource and international law, the law of the United States of America, and of the state of Rhode Island recognizes the special needs and vulnerability of children; and

Whereas, each day, throughout the world, 38,000 children die from hunger, exposure, or lack of health care; more than 100 million children work under hazardous and life-threatening conditions; more than 80 million homeless children must live in the world's streets; war has made more than 10 million children refugees; and, in many countries, children are subjected to torture; and

Whereas, the United Nations Convention on the Rights of the Child would recognize the fundamental rights of the world's children and raise them to the level of international law. The convention on the child guarantees children's right to survival through the provision of adequate food, shelter, clean water, and primary health care; children's right to protection from abuse, neglect, and exploitation in times of war and peace; children's right to healthy development through a safe environment and constructive play; and children's right to the opportunity to participate in the social, economic, civil, and religious life of their country, free from discrimination; and

Whereas, on November 20, 1989, the United States of America joined other members of the United Nations General Assembly in the unanimous adoption of the convention on the Rights of the Child: Now, therefore, be it

Resolved, That this House of Representatives of the State of Rhode Island and Providence Plantations hereby memorializes the President of the United States to sign the convention on the Rights of the Child and to transmit it to the United States Senate; and further memorializes the Senate to ratify the convention at the earliest possible date; and be it further

Resolved, That the secretary of state be and she hereby is authorized and directed to transmit a duly certified copy of this resolution to the President of the United States and to the Rhode Island delegation in the Senate of the United States.

MEMBERS OF THE U.S. SENATE WHO SERVED UNDER PRESIDENT DWIGHT D. EISENHOWER IN THE ARMED FORCES

Mr. THURMOND. Mr. President, this morning the Chambers of the U.S. Congress met in a special joint session to commemorate the centennial of President Dwight D. Eisenhower. It was one of the finest tributes I have witnessed during my 35 years in the U.S. Senate. I would like to take this opportunity to briefly recognize the current Members of Congress who enjoyed the privilege of serving with President Eisenhower in our Nation's Armed Forces.

Mr. President, I ask unanimous consent that their names be printed in the RECORD at this point.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

Armstrong (R-CO), 3 Jan. 79, Army NG, 1957-63; 1stLT.

Bentsen (D-TX), 3 Jan. 71, USAAC, WWII.

Bumpers (D-AR), 3 Jan. 75, USMC, 1943-46, StaffSgt.

Burdick (D-ND), 8 Aug. 60, NatGuard, 1924-26.

Chafee (R-RI), 29 Dec. 76, USMC, 1942-46/1950-52.

Cranston (D-CA), 3 Jan. 69, USA, 1944-46.

Dole (R-KS), 3 Jan. 69, USA, 1943-48, Capt.

Exon (D-NE), 3 Jan. 79, USA, 1942-45; Res, 45-59.

Ford (D-KY), 28 Dec. 74, USA, 44-46; KY NG, 49-62.

Glenn (D-OH), 24 Dec. 74, USMC, 1941-65.

Hatfield (R-OR), 10 Jan. 67, USN, WWII.

Heflin (D-AL), 3 Jan. 79, USMC, 42-46; Maj.

Helms (R-NC), 3 Jan. 73, USN, WWII.

Hollings (D-SC), 9 Nov. 66, USA, WWII.

Inouye (D-HI), 3 Jan. 63, USA, Enl. 1943, Capt(Ret).

Kennedy (D-MA), 7 Nov. 62, USA, 1951-53, Pvt.

Lautenberg (D-NJ), 27 Dec. 82, USA, 1942-46.

McClure (R-ID), 3 Jan. 73, USN, 1942-46.

Matsunaga (D-HI), 3 Jan. 77, USA; Comm 1941; Ret LTC Jag.

Moynihan (D-NY), 3 Jan. 77, USNR, 1944-47.

Pell (D-RI), 3 Jan. 61, WWII.

Roth (R-DE), 1 Jan. 71, USA, 1943; Enl as Pvt.

Rudman (R-NH), 29 Dec. 80, USA, 1952-54; Infantry, Capt.

Sanford (R-NC), 5 Nov. 86, USA(PI), 42-46; NC NG 48-60.

Specter (R-PA), 3 Jan. 81, USAF, 1951-53, 1stLT.

Stevens (R-AK), 24 Dec. 68, USAF, 1943-46, 1stLT.

Thurmond (R-SC), 7 Nov. 56, USA, WWII, MG, USAR.

Warner (R-VA), 2 Jan. 79, USN/USMC, 1944-46/1950-52.

Akaka, D-2-HI, 3 Jan. 77, USA; 1945-47.

Anderson, D-32-CA, 3 Jan. 69, USA; WWII.

Archer, R-7-TX, 3 Jan. 71, USAF; Korea; Capt, USAFR.

Badham, R-40-CA, 3 Jan. 77, USN; 1951-54.

Barnard, D-10-GA, 3 Jan. 77, USA; 1943-46.

Barton, R-6-TX, 3 Jan. 85, USAF; 1951-53.

Bateman, R-1-VA, 3 Jan. 83, USAF; 1stLT, 1951-53.

Bennett, D-3-FL, 3 Jan. 49, USA; 1942-47; Capt.

Bevill, D-4-AL, 3 Jan. 67, USA; 1943-46, Capt.

Bilirakis, R-9-FL, 3 Jan. 83, USAF; 1941-55.

Blaz, R-Guam-Delegate, 3 Jan. 85, USMC; 1951-80 BG(Ret).

Bliley, R-3-VA, 3 Jan. 81, USN; 1952-55.

Brooks, D-9-TX, 3 Jan. 53, USMC; WWII.

Broomfield, R-18-MI 3 Jan. 57, USAAC: 1943.

Brown G.E., D-35-CA 3 Jan. 73, USA; WWII.

Callahan, R-1-AL 3 Jan. 85, USN; 1952-54

Campbell, D-3-CA 3 Jan. 87, USAF; Korea 1952-54.

Clinger, R-23-PA 3 Jan. 79, USN; 1951-56.

Coble, R-6-NC 3 Jan. 85, USCG; 1952-56; USCGR, 60-81.

Conte, R-1-MA 3 Jan. 59, USN; WWII; Seabees/Pacific.

Conyers, D-1-MI 3 Jan. 65, USA; Korea 1950-54.

Coughlin, R-13-PA 3 Jan. 69, USMCR; 48-58; ActDut 51-52.

Daniel D-5-VA 3 Jan. 69, USN; 1944.

Dannemeyer, R-39-CA 3 Jan. 79, USA; 1952-54

de la Garza, D-15-TX 3 Jan. 65, USN, WWII; USA, 1950-52.

de Lugo, D-Vir Is-DEL 3 Jan. 81, USA; 1948-50.

Dickinson, R-2-AL, 3 Jan. 65, USN; 1943-46; USAF Reserve.

Dingell, D-16-MI, 13 Dec. 55, USA; 1944-46.

Duncan, R-2-TN 3 Jan. 65, USA, 1942-45.

Dwyer, D-6-NJ 3 Jan. 81, USN, 1940-45.

Edwards, D. D-10-CA, 3 Jan. 63, USN, 1942-45.

Fascell, D-19-FL, 3 Jan. 55, FL NG, 1941; USA, 1942-46.

Fish, R-21-NY, 3 Jan. 69. USNR, 1944-46.

Ford, W. D., D-15-MI, 3 Jan. 65, USN, 44-46; USAFR, 50-58.

Frenzel, R-3-MN, 3 Jan. 71, USNR, 1941-54; Korea, Lt.

Garcia, D-18-NY, 14 Feb. 78, USA, 1950-53.

Gaydos, D-20-PA, 5 Nov. 68, USNR, 1944-46.

Gilman, R-22-NY. 3 Jan. 73, USAAC, WWII.

Goodling, R-19-PA, 3 Jan. 75, USA, 1946-48.

Gray, K., D-22-IL, 3 Jan. 85. USA & USAF, 1943-46.

Guarini, D-14-NJ, 3 Jan. 79, USN, 1944-46.

Hall, R. M., D-4-TX, 3 Jan. 81, USN, 1942-45, Lt.

Hammerschmidt, R-3-AR, 3 Jan. 67, USAAC, 1942-45; AF Reserves.

Horton, R-29-NY, 3 Jan. 63, USA, 1941-45; Maj.

Howard, D-3-NJ 3 Jan. 65, USN, 1944-46.

Hutto, D-1-FL, 3 Jan. 79, USN, 1944-46.

Hyde, R-6-IL, 3 Jan. 75, USN, 1944-46; USNR (Ret).

Jacobs, D-10-IN, 3 Jan. 75, USMC, 1950-52.

Kastenmeier, D-2-WI, 3 Jan. 59, USA, 1943-46.

Kolter, D-4-PA, 3 Jan. 83, USAF, 1945-46.

Lagomarsino, R-19-CA, 5 Mar. 74, USN, 1944-46.

Lewis, T. R-12-FL, 3 Jan. 83, USAF, 1943-54.
Luken, D-1-OH, 3 Jan. 77, USMC, 1943-45.
McCandless, R-37-CA, 3 Jan. 83, USMC, 1945-46; 1950-52.
McKinney, R-4-CT, 3 Jan. 71, USAF, 1951-56.
MacKay D-6-FL, 3 Jan. 83, USAF, 1945-58.
Manton, D-9-NY, 3 Jan. 85, USMC, 1951-53.
Martinez, D-30-CA, 13 Jul. 82, USMC, 1947-50.
Michel, R-18-IL, 3 Jan. 57, USA, 1942-46; Infantry.
Mineta, D-13-CA, 3 Jan. 75, USA, 1953-56.
Moakley, D-9-MA, 3 Jan. 73, USN, 1943-46.
Molinari, R-14-NY, 3 Jan. 81, USMC, 1951-53.
Moorhead, R-22-CA, 3 Jan. 73, USAR, 1942; LTC, JAG.
Murphy, D-22-PA, 3 Jan. 77, USMC, 44-46; USMCR, 48-50.
Myers, J. R-7-IN, 3 Jan. 67, USA, 1945-46.
Natcher, D-2-KY, 1 Aug. 53, USN, 1942-45.
Nichols, D-3-AL, 3 Jan. 67, USA, 1942-47.
Nielson, R-3-UT, 3 Jan. 83, USAF, 1943-46.
Olin, D-6-VA, 3 Jan. 83, USA, 1943-46.
Parris, R-8-VA, 3 Jan. 81, USAF, Korean war.
Pickle, D-10-TX, 21 Dec. 63, USN, WWII (3½ yrs).
Quillen, R-1-TN, 3 Jan. 63, USN, WWII.
Rangel, D-16-NY, 3 Jan. 71, USA, 1948-52.
Ravenel, R-1-SC, 6 Jan. 87, USMC, WWII.
Ray, D-3-GA, 3 Jan. 83, USN, 1944-45.
Regula, R-16-OH, 3 Jan. 73, USN, 1944-46.
Rodino, D-10-NJ, 3 Jan. 49, USA, WWII.
Roe, D-8-NJ, 4 Nov. 69, USA, WWII.
Rostenkowski, D-8-IL, 3 Jan. 59, USA (Korea, 2 yrs).
Rowland, J. D-1-GA, 3 Jan. 83, USA, 1944-46.
Roybal, D-25-CA, 3 Jan. 63, USA 1944-45.
St Germain, D-1-RI, 3 Jan. 61, USA, 1949-52
Savage, D-2-IL, 3 Jan. 81, USA, 1943-46.
Scheuer, D-8-NY, 3 Jan. 75, USA, 1943-45.
Schulze, R-5-PA, 3 Jan. 75, USA, 1951-53.
Sisisky, D-4-VA, 3 Jan. 83, USN, 1945-46.
Skeen, R-2-NM, 3 Jan. 81, USN, 1945-46; USAFR, 49-52.
Slaughter, R-7-VA, 3 Jan. 85, USA, 1943-47.
Smith, N. D-4-IA, 3 Jan. 59, USAAC, 1942-45.
Solomon, R-24-NY, 3 Jan. 79, USMC, 1951-52.
Stokes, D-21-OH, 3 Jan. 69, USA, 1943-46.
Stratton, D-23-NY, 3 Jan. 59, USN, 1942-46; 1951-53.
Stump, R-3-AZ, 3 Jan. 77, USN, 1943-46.
Sunia, D-DEL-AmSam, 3 Jan. 81, 1948-50 (Component not shown).
Taylor, R-7-MO 3 Jan. 73, NG, 1948-49.
Torres, D-34-CA 3 Jan. 83, USA, 1949-53
Udall, D-2-AZ, 2 May 61, USAAC, 1942-46.
Weiss, D-17-NY, 3 Jan. 77, USA, 1946-47.
Wortley, R-27-NY, 3 Jan. 81, USN 1945-46.
Wright, D-12-TX, 3 Jan. 55, USAASC, 1941-45.
Wylie, R-15-OH 3 Jan. 67, USA, 43-45; USAR, 45-53.[1]

[1] NatGuard, 1958-78.

EXECUTIVE SESSION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations.

Calendar No. 6762, John J. Adair to be inspector general Resolution Trust Corporation. I further ask unanimous consent that the nominee be confirmed, any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

RESOLUTION TRUST CORPORATION

John J. Adair, of Virginia, to be Inspector General, Resolution Trust Corporation. (New position.)

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2660. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, a report outlining the Foundation's actions and plans for fiscal year 1990 and 1991 regarding metric conversion; to the Committee on Commerce, Science, and Transportation.

EC-2661. A communication from the Deputy Director of the Department of the Interior, transmitting, pursuant to law, notice of non-competitive sale of public lands in Clark County, NV; to the Committee on Energy and Natural Resources.

EC-2662. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation entitled "The Airport and Airway Expansion Act of 1990"; to the Committee on Finance.

EC-2663. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, a draft of proposed legislation to authorization appropriations consistent with the President's supplemental appropriations requests of $870,000,000; to the Committee on Foreign Relations.

EC-2664. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-176 adopted by the Council on February 27, 1990; to the Committee on Governmental Affairs.

EC-2665. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-177 adopted by the Council on February 27, 1990; to the Committee on Governmental Affairs.

EC-2666. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-178 adopted by the Council on February 27, 1990; to the Committee on Governmental Affairs.

EC-2667. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-179 adopted by the Council on February 27, 1990; to the Committee on Governmental Affairs.

EC-2668. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-180 adopted by the Council on February 27, 1990; to the Committee on Governmental Affairs.

EC-2669. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-181 adopted by the Council on February 27, 1990; to the Committee on Governmental Affairs.

EC-2670. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the annual report of the U.S. General Accounting Office for the fiscal year ending September 30, 1989; to the Committee on Governmental Affairs.

EC-2671. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report on actions taken during calendar year 1989 involving actual or potential cost to the United States in excess of $50,000; to the Committee on the Judiciary.

EC-2672. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the effect of a United States patenting process on domestic industries; to the Committee on the Judiciary.

EC-2673. A communication from the Attorney General of the United States, transmitting, pursuant to law, the annual report for fiscal year 1989 on the Department of Justice Assets Forfeiture Fund; to the Committee on the Judiciary.

EC-2674. A communication from the Acting Assistant Attorney General of the U.S. Department of Justice, (Office of Legislative Affairs), transmitting, pursuant to law, the annual report of the Community Relations Service for fiscal year 1989; to the Committee on the Judiciary.

EC-2675. A communication from the Executive Vice President of the National Music Council, transmitting, pursuant to law, the Council's audited financial report; to the Committee on the Judiciary.

EC-2676. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Health, United States, 1989 and Prevention Profile"; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-437. A resolution adopted by the Senate of the Commonwealth of Pennsylvania; to the Committee on Appropriations:

"SENATE RESOLUTION

"Whereas Congress has authorized an expenditure level of $3.383 billion for the fiscal year 1989 for the Low-Income Home Energy Assistance Program (LIHEAP); and

"Whereas Congress is currently asking decisions on funding levels for previously authorized programs such as LIHEAP; and

"Whereas the United States budget proposal for fiscal year 1990 is $1.1 billion, or a 20 percent cut in the level of funding previously authorized for LIHEAP; and

"Whereas the proposed reduction would mean a $19 million loss of LIHEAP funds for the Commonwealth of Pennsylvania; and

"Whereas energy costs are continuously rising and there is now a greater need for energy assistance than at any other time; and

"Whereas low-income citizens pay, on the average, 16 percent of their income for energy, contrasted with 5 percent paid by the average American family; and

"Whereas the heating costs for low-income households in Pennsylvania's climate range run substantially more than all low-income households in the nation as a whole; and

"Whereas it is important to address the needs of the indigent in our Commonwealth: Therefore be it

"Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize the Congress of the United States to appropriate funds for Low-Income Energy Assistance Block Grants for the fiscal year 1990 at the $1.567 billion level; and be it further

"Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

POM-438. A resolution adopted by the Senate of the Commonwealth of Pennsylvania; to the Committee on Armed Services:

"SENATE RESOLUTION

"Whereas, the United States Department of Defense is considering closing a number of military facilities throughout the country; and

"Whereas, the Philadelphia Naval Shipyard has been mentioned as one of the facilities which might be phased out; and

"Whereas, the Philadelphia Naval Shipyard employs approximately 8,600 persons who are highly skilled in their various areas of expertise; and

"Whereas, these dedicated employees, coupled with the strategic location of the shipyard, constitute a key defense facility for our nation; therefore be it

"Resolved, That the Senate of Pennsylvania inform the United States Department of Defense that is is adamantly opposed to the closing or phasing out of the Philadelphia Naval Shipyard, and urge the Secretary of Defense to refrain from any action which might jeopardize the Philadelphia Naval Shipyard as it presently exists; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States, George Bush, United States Secretary of Defense, Dick Cheney, the two Senators from Pennsylvania, John Heinz and Arlen Specter and to all other members of the Pennsylvania Congressional Delegation."

POM-439. A resolution adopted by the House of Representatives of the State of Alabama; to the Committee on Armed Services:

"HOUSE JOINT RESOLUTION 175

"Whereas Secretary of Defense Richard Cheney has submitted to Congress a list of proposed military base closures which includes Ft. McClellan in Anniston, Alabama; and

"Whereas the inclusion of Ft. McClellan as a base targeted for elimination is a matter of grave proportions as the closing of said facility would be detrimental, not only to Anniston, Calhoun County and the State of Alabama, but to the entire United States; and

"Whereas during this past decade alone, a sum totaling more than $70 million has been spent by the military on new construction and on upgrading the Ft. McClellan facility, and these expenditures are well as real property and all other assets would be lost to the American taxpayers; and

"Whereas a recent study by the General Accounting Office ranks Ft. McClellan as the top training base in the country, and thereby is a vital link in our nation's chain of defense; this assessment, in itself, is a justification for the removal of Ft. McClellan from consideration to be closed; and

"Whereas to further support our consensus that the Ft. McClellan facility must remain intact is the installation's close proximity to the Anniston Army Depot which adds to the cost-effectiveness of maintaining Ft. McClellan at its current level of operation; and

"Whereas our nation's strength undeniably lies first and foremost in maximum home defense and, before closing military installations as vital to our defense as is Ft. McClellan, the United States should first eliminate unnecessary installations in Europe and elsewhere abroad; now therefore be it

"Resolved by the legislature of Alabama, both Houses thereof concurring, That we hereby call upon Secretary of Defense Cheney, President Bush and the Congress to remove Ft. McClellan, in Anniston, Alabama, from consideration as a military installation to be closed or its level of operation curtailed; and be it further

"Resolved, That copies of this resolution be dispatched forthwith to Secretary Cheney, President Bush, the presiding officers of the U.S. Senate and House of Representatives, and to the members of Alabama's Congressional Delegation."

POM-440. A resolution adopted by the Senate of the State of Michigan; to the Committee on Environment and Public Works:

"SENATE RESOLUTION No. 266

"Whereas for several years, federal, state, and local authorities have been directing great attention to the health hazards presented by asbestos. In an effort to protect public health, the federal Asbestos Hazardous Emergency Response Act, the Environmental Protection Agency, and state laws have mandated inspection, identification, and removal of asbestos; and

"Whereas dealing with asbestos removal represents an enormous commitment of energy and money. Compliance with requirements of the Environmental Protection Agency in more than 700,000 public and commercial buildings results in a total cost of billions of dollars. Much of the attention in asbestos removal efforts is directed to public and private schools. The costs of removal or sealing off the asbestos may add unnecessary costs to school districts already in dire financial straits; and

"Whereas recent reports from the scientific community, however, indicate that the health hazards presented by asbestos in public buildings and schools in the United States should be subject to reexamination in view of new scientific data. A recent publication in the journal Science concludes that available data does not support the concept that low-level exposure to asbestos is a health hazard in buildings and schools. Apparently, 95 percent of the asbestos in public schools and buildings in this country is of a variety (white asbestos) that poses far less risk than other types. The results of this study, which have been supported elsewhere in the scientific community, indicate that asbestos removal efforts and standards as they now are may be far more stringent than necessary. Authors of the Science report indicate far lower risks in terms of deaths per million in the lives of students exposed to asbestos in the schools than the death rates for whooping cough vaccinations, high school football, drownings, motor vehicle accidents, or long-term smoking; and

"Whereas while it is imperative to promote the public's health, especially as regards to our children, it is also advisable to act prudently. This is especially true in light of the fact that the process of removing asbestos can lead to increases in risk far greater than the risk of leaving the material in place: Now, therefore, be it

"Resolved by the Senate (the House of Representatives concurring), That the members of this legislative body hereby memorailize the Congress of the United States to review federal law pertaining to asbestos and asbestos removal to make the requirements consistent with emerging scientific data: And be it further

"Resolved, That copies of this resolution be transmitted to the President of the United Sttes Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-441. A resolution adopted by the Senate of the Commonwealth of Kentucky; to the Committee on Finance:

"Whereas, Kentucky hospitals lose nearly seven hundred million dollars ($700,000,000) each year in charity care, bad debts and Medicaid/Medicare underpayments; and

"Whereas, Medicaid reimburses hospitals generally at a rate of sixty-five cents (65¢) on the dollar; and

"Whereas, this underpayment has forced many hospitals to limit the admissions of Medicaid patients and has placed many other hospitals at the brink of insolvency; and

"Whereas, a partial solution to this problem would be to assess hospitals for funds which could be used to obtain federal matching funds at a rate of seventy-two costs (72¢) for each twenty-eight cents (28¢) contributed by hospitals; and

"Whereas, on February 9, 1990, the Health Care Financing Administration published a proposed rule forbidding the use of hospital contributions as a basis for obtaining federal matching funds; and

"Whereas, the implementation of this proposed rule could result in a loss of sixty-six million dollars ($66,000,000) for Kentucky hospitals; Now, Therefore, be it

"Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

"SECTION 1. That the Commonwealth of Kentucky urges Congress to prohibit the Health Care Financing Administration from promulgating the proposed rule forbidding the use of provider assessments to obtain federal Medicaid matching funds; and

"SECTION 2. That a copy of this resolution be sent to each member of the Kentucky delegation to Congress, to the presiding officers of each House of Congress, and the President of the United States."

POM-442. A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION

"Whereas, the members of the General Assembly of South Carolina have regretfully learned that the year 1989 was a record year for textile and apparel imports with a thirteen percent increase in textile and apparel imports over those in 1988; and

"Whereas, the textile and apparel trade deficit also grew eight percent to $26.4 billion dollars which now comprises twenty-four percent of the total U.S. trade deficit. Also, while textile and apparel imports increased thirteen percent, the domestic market for these products increased only four percent which resulted in increased pressure on domestic manufacturers; and

"Whereas, another adverse effect of the tremendous increase in textile imports is the fact that employment in the textile industry dropped three percent last year which continues the unfortunate pattern of decreased employment in the American textile industry; and

"Whereas, these problems with growing imports will continue well into the 1990's unless the federal government deals effectively with this serious threat to our national economy; and

"Whereas, the textile industry is vital to our nation's economy and the members of the General Assembly believe that it is critical that the federal government promote and insure a healthy future for this industry and its workers through appropriate legislation restricting the amount of textile imports which can be brought into the United States. Now, therefore, be it

Resolved by the House of Representatives, the Senate concurring: That the members of the General Assembly of South Carolina memorialize the Congress to enact without delay appropriate legislation which would limit the amount of textile and apparel imports into the United States; and be it further

Resolved, That a copy of this resolution be forwarded to the President of the United States, to the United States Senate and House of Representative, and to each member of the United States Senate and House of Representatives from South Carolina."

POM-443. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Finance:

"SENATE JOINT MEMORIAL NO. 8023

"Whereas, there are over 17,700,000 acres of commercial forest land in Washington state; and

"Whereas, nearly fifty-one percent or more than 8.8 million acres of this publicly owned with 5.2 million acres owned by the federal government; and

"Whereas, 2,337,000 acres of this commercial forest land base managed by agencies of the United States Government, has been withdrawn from timber management activities as follows:

"Commercial forest land

	Acres
"Olympic National Park	800,000
North Cascades National Park	274,000
Mt. Rainier National Park	106,000
Ross Lake National Recreational Area	70,000
Lake Chelan National Recreational Area	40,000
Glacier Peak Wilderness (1964, 1968, 1984)	165,500
Pasayten Wilderness (1968, 1984)	262,200
Alpine Lakes Wilderness (1976)	66,400
Goat Rocks Wilderness (1976, 1984)	62,100
Mount St. Helens National Volcanic Monument (1982)	57,000

"Whereas, the additional following areas of commercial forest land were withdrawn for the first time by the Washington Wilderness Act of 1984;

Commercial forest land

	Acres
"Boulder River Wilderness	25,600
"Clearwater Wilderness	10,300
"Henry M. Jackson Wilderness	41,600
"Mt. Baker Wilderness	34,400
"Noisy—Diobsud Wilderness	8,300
"Norse Peak Wilderness	29,200
"Lake Chelan—Sawtooth Wilderness	46,400
"William O. Douglas Wilderness	128,200
"Glacier View Wilderness	2,700
"Tatoosh Wilderness	9,000
"Mt. Adams Wilderness	17,400
"Indian Heaven Wilderness	12,900
"Trapper Creek Wilderness	4,900
"Buckhorn Wilderness	12,000
"Colonel Bob Wilderness	9,200
"Mt. Skokomish Wilderness	6,400
"The Brothers Wilderness	8,700
"Wonder Mountain Wilderness	1,700
"Salmo Priest Wilderness	25,000

"Whereas, the Forest Service has demonstrated throughout the National Forest Management Act planning process that the national forests in Washington have the capability of providing, on a sustained yield, multiple-use basis, a benchmark volume of 1.5 billion board feet of timber annually while meeting all obligations and requirements of law, including stringent measures to protect water, wildlife, fish, air, and soil; and

"Whereas, the Forest Service planning process has treated timber production and the communities dependent upon that production as only a residual value of the federal forest lands in Washington; and

"Whereas, the historical average timber sale volume from Washington national forests for the past five years prior to 1989 is 1.2 billion board feet, or 300 million board feet less than the benchmark volume; and

"Whereas, National Forest Management Act plans now being finalized for Washington national forests propose a further thirty-three percent reduction in harvest levels from the remaining national forest lands; and

"Whereas, proposals to or before the Congress call for withdrawal of up to an additional forty percent of federal harvestable lands; and

"Whereas, these withdrawals, some of which come from the Grays Harbor Federal Sustained Yield Unit, are consistent with fifty-year old promises made to communities who based their livelihoods upon such promises; and

"Whereas, the reduction of available timber cannot be made up from the sale of additional timber above sustained yield levels from private lands and state trust lands; and

"Whereas, approximately 180,000 Washington citizens are directly or indirectly dependent on the forest products industry for their livelihoods, it being the state's second largest employer; and

"Whereas, the office of the governor of the State of Washington has estimated that a forty-three percent decline in the Forest Service harvest level could result in a worst-case, one-time, job loss impact of over 18,000 jobs; and

"Whereas, the social and economic infrastructures of many rural counties and communities in Washington state are highly dependent on the forest products industry; and

"Whereas, timber from federal forest lands has historically contributed more than twenty percent of the raw material for the state's forest products industry and, in many communities, federal forests supply the majority of the raw material; and

"Whereas, the reduction in federal timber harvest will significantly reduce revenues to the state of Washington from virtually all of its major revenue sources: Sales taxes, business and occupation taxes, and timber harvest excise taxes, and will reduce revenues that support schools and county government from their share of federal stumpage receipts and reduces the property tax base; and

"Whereas, Federal, not state, decisions have and will drastically affect the timber industry and all those jobs associated with it; and

"Whereas, the United States Forest Service has been unable to ensure stability in timber supply or stable, long-term management of our nation's forest; Now, therefore, your Memorialists respectfully pray that:

"(1) Congress recognize its historic commitment to the timber processing communities of the state of Washington to maintain a harvestable national forest acreage base that will sustain traditional, predictable, and historical average annual sales levels;

"(2) Congress directs its attention to providing funds and direction to the United States Forest Service to achieve silviculturally sound management of those lands left for timber production to fully utilize those lands to produce the wood for our nation's many wood product uses;

"(3) Congress recognize the investment that communities have made based on the belief the Forest Service lands will produce a relatively stable timber sales level and that deviations from historical sales levels can cause a community economic and social distress;

"(4) Congress appropriate funds to assist local communities affected by the reduction in historic timber sales level to be used for economic diversification, modernizing mills, and encouragement of additional manufacturing in Washington;

"(5) Congress include in its commitment to protecting some lands from timber harvesting a commitment to practice innovative forest management on lands not suited to traditional timber harvesting and to use timber management practices on the remaining forest land base which will produce the highest possible timber yields consistent with prudent land management;

"(6) Congress amend the National Forest Management Act planning process to recognize the economic needs of people, communities, and consumers and grant them equal status and consideration with the needs of environmental protection; and

"(7) Congress enact capital gains and other tax legislation specifically related to the timber industry which will encourage rather than discourage investment in timber production on private lands; and be it

"*Resolved,* That copies of this Memorial be immediately transmitted to the Honorable George Bush, President of the United States, the President of the United States

Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-444. A resolution adopted by the House of Representatives of the State of California; to the Committee on Governmental Affairs:

"HOUSE RESOLUTION No. 36

"Whereas, The Decennial Census will be conducted in less than six weeks; and

"Whereas, It is the responsibility of the Bureau of the Census, in the United States Department of Commerce, to ensure that all segnments of society are completely and accurately represented by the census; and

"Whereas, The Bureau of the Census itself has admitted that the 1980 census failed to count 1.4 percent of the total U.S. population, 4.5 percent of the urban population, 6.2 percent of all Blacks, 12 percent of all urban Latinos, and 18 percent of urban Black males; and

"Whereas, estimates on the undercount of the Asian and Pacific-Islander population in the United States have run as high as 6 percent; and

"Whereas, The Bureau of the Census itself has admitted that the 1980 undercount in California was twice as severe as that suffered by the rest of the nation; and

"Whereas, The Bureau of the Census decided that a statistical adjustment of the 1990 undercount will be unnecesary because they intended to conduct the most ambitious and comprehensive outreach program ever; and

"Whereas, The Bureau of the Census plans to conduct a count of homeless persons on the night of March 20, 1990; and

"Whereas, The outreach program initiated by the Bureau of the Census has fallen far short of its stated goals; and

"Whereas, The most recent and egregious failure of the Bureau's outreach program, despite repeated promises of delivery, has been the long delayed availability and dissemination of vital English-language and multilingual census materials to public and private community outreach organizations; and

"Whereas, These dalays have already had a grave and irreversible effect on the ability of the Bureau of the Census and community organizations alike to ensure maximum census participation; and

"Whereas, further delays will only serve to exacerbate this crisis and seriously threaten the Bureau's ability to attain an accurate count; now, therefore, be it

"Resolved by the Assembly of the State of California, That the Assembly memorializes the President of the United States, the Secretary of Commerce, and the Director of the Bureau of the Census to take whatever steps necessary in order to ensure that all census outreach materials produced by the Bureau of the Census are made immediately available to all public and private community outreach organizations; and be it further

"Resolved, That the Assembly urges the Governor of California to direct the appropriate state agencies to reproduce all available census outreach materials in order to supplement the inadequate efforts of the Bureau of the Census; and be it further

"Resolved, That the Assembly urges the Governor to seek reimbursement from the Bureau of the Census for the cost of reproducing census outreach materials; and be it further

"Resolved, That the Assembly urges the Governor to direct all National Guard Armories to be opened on the night of March 20, 1990, for the purpose of sheltering the homeless and facilitating the census count; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives to each Senator and Representative from California in the Congress of the Untied States, to the Secretary of the United States Department of Commerce, to the Director of the Bureau of the Census, and to the Governor."

POM-445. A resolution adopted by the Senate of the State of Ohio; ordered to lie on the table:

"SENATE RESOLUTION

"Whereas, the members of the Senate of the 118th General Assembly of Ohio wish to memorialize the United States Congress to amend S. 1630 in order to set responsible clean air criteria while establishing reasonable efficiency standards for automobiles; and

"Whereas, current new car models eliminate ninety-six percent of the hydrocarbons, ninety-six percent of the carbon monoxide, and seventy-six percent of the nitrogen emissions as compared to uncontrolled cars. Continued replacement of older cars with today's fuel efficient models will produce the desired effects of reduced automobile emissions without the economic ramifications of S. 1630; and

"Whereas, with clean air a vital issue for all our country's citizens, we support responsible congressional action to improve air quality, including legislation to strengthen automobile tailpipe standards. However, attempts to implement S. 1630, which includes controls on carbon dioxide emissions, would produce a minimal improvement in air quality while requiring the equivalent of 40-miles-per-gallon fuel economy standards, necessitating sharp reductions in vehicle size and function and severely restricting consumer choice; and

"Whereas, carbon dioxide emission is not a health-related issue, but is rather a matter of energy conservation and economic growth and should not be included as part of the Clean Air Act. In addition, enactment of S. 1630, in its current form, could needlessly raise the price of automobiles for consumers and eliminate hundreds of thousands of jobs nationwide due to reduced new car sales; therefore be it

"Resolved, That we, the members of the Senate of the 118th General Assembly of Ohio, in adopting this Resolution, memorialize the United States Congress to amend S. 1630 to establish responsible yet reasonable standards for automobile emissions; and be it further

"Resolved, That the Clerk of the Senate transmit duly authenticated copies of this Resolution to the Speaker of the United States House of Representatives, to the President of the United States Senate, and to the members of the Ohio Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary with amendments:

S. 185. A bill to amend title 18 of the United States Code to punish as a Federal criminal offense the crimes of international parental child abduction.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NUNN (for himself and Mr. WARNER) (by request):

S. 2339. A bill to authorize appropriations for fiscal year 1991 to implement the Federal Civil Defense Act of 1950; to the Committee on Armed Services.

By Mr. MCCAIN (for himself, Mr. CONRAD, Mr. BURDICK, Mr. MURKOWSKI, and Mr. INOUYE):

S. 2340. A bill to develop and improve child protective service programs on Indian reservations and to strengthen Indian families; to the Select Committee on Indian Affairs.

By Mr. WILSON (for himself, Mr. BURDICK, Mr. GORTON, Mr. CRANSTON, Mr. COHEN, Mr. COATS, Mr. BURNS, Mr. SYMMS, Mr. MURKOWSKI, and Mr. DOMENICI):

S. 2341. A bill to amend the Food Security Act of 1985 to authorize the targeted export assistance program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATCH (for himself, Mr. GARN, Mr. INOUYE, Mr. COCHRAN, Mr. THURMOND, Mr. MATSUNAGA, Mr. WARNER, Mr. HELMS, Mr. HOLLINGS, and Mr. KENNEDY):

S. 2342. A bill to amend the Public Health Service Act to authorize additional grants for home health care demonstration projects, to require that applications be submitted to the chief executive officer of the State concerned in connection with such grants, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WALLOP (for himself and Mr. SIMPSON):

S. 2343. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Clarks Fork River in the State of Wyoming as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS:

S. 2344. A bill to require the conveyance of the Cheraw Fish Hatchery to the State of South Carolina; to the Committee on Environment and Public Works.

By Mr. COATS:

S. 2345. A bill to provide for family impact statements; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days of continuous session to report or be discharged.

By Mr. REID:

S. 2346. A bill to prohibit certain practices in the raising of calves, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. BURDICK, Mr. ADAMS, Mr. PRYOR, Mr. MATSUNAGA, Mr. LEVIN, Mr. SIMON, Mr. BOSCHWITZ, Mr. CONRAD, Mr. DURENBERGER, Mr. BRYAN, Mr. MURKOWSKI, and Mr. GORE):

S. 2347. A bill to provide essential air service to small communities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS:

S. 2348. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of enterprise zones, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAUCUS (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 266. Resolution to authorize production of records by the Senate Permanent Subcommittee on Investigations; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NUNN (for himself and Mr. WARNER) (by request):

S. 2339. A bill to authorize appropriations for fiscal year 1991 to implement the Federal Civil Defense Act of 1950; to the Committee on Armed Services.

AUTHORIZING APPROPRIATIONS TO IMPLEMENT THE FEDERAL CIVIL DEFENSE ACT OF 1950

● Mr. NUNN. Mr. President, by request, for myself and the senior Senator from Virginia [Mr. WARNER], I introduce, for appropriate reference, a bill to authorize appropriations for fiscal year 1991 to implement the Federal Civil Defense Act of 1950.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the RECORD immediately following the listing of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2339

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated $154,117,000 for fiscal year ending September 30, 1991, for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 *et seq.*).

FEDERAL EMERGENCY MANAGEMENT AGENCY,
Washington, DC, February 27, 1990.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is draft legislation to authorize appropriations of $154,117,000 for fiscal year 1991 to implement the Federal Civil Defense Act of 1950, 50 U.S.C. App. 2251 *et seq.*

This amount is in support of the President's 1991 budget request. The funds are needed to ensure a basic emergency response infrastructure to mitigate, prepare for, respond to, and recover from emergencies caused by natural, technological, and attack-related disasters.

The Office of Management and Budget advises that there is no objection to the submission of this proposal for the consideration of the Congress and that its enactment would be in accord with the President's program.

Sincerely,

GEORGE W. WATSON,
Acting General Counsel.

Enclosures.

ANALYSIS

Section 3401 of P.L. 101-189 authorized appropriations of $151,535,000 for fiscal year 1990 to implement the Federal Civil Defense Act of 1950. There is presently no authorization for appropriations for fiscal year 1991 to carry out the civil defense program. This bill would authorize appropriations of $154,117,000 to implement the Federal Civil Defense Act of 1950 during fiscal year 1991.●

By Mr. McCAIN (for himself, Mr. CONRAD, Mr. BURDICK, Mr. MURKOWSKI, and Mr. INOUYE):

S. 2340. A bill to develop and improve child protective service programs on Indian reservations and to strengthen Indian families; to the Select Committee on Indian Affairs.

INDIAN CHILD PROTECTIVE SERVICES AND FAMILY VIOLENCE PREVENTION ACT

● Mr. McCAIN. Mr. President, I rise today to introduce the Indian Child Protective Services and Family Violence Prevention Act. This legislation will provide badly needed resources to Indian tribes for their efforts to provide effective child protection and to help alleviate the problems associated with family violence in Indian communities.

Our committee has heard stories from across the country—from Arizona to North Carolina—of parents whose children have been abused in Bureau of Indian Affairs' schools. As part of our consideration of the issue of child abuse and neglect in Indian country, we heard from frustrated tribal officials and overextended socialworkers who described individual caseloads exceeding 100 cases. We heard from Indian parents who sought treatment for their children only to be denied funding or services by an inattentive Indian Health Service. The anguish felt by these parents while their children suffered without adequate treatment or counseling is compounded by the fact that in many cases the children remained in the very same setting where the abuse occurred. In each of these tragic cases Indian children who were the victims of sexual abuse were in turn victimized by the failure of the Federal Government to respond to their needs. Each year thousands of Indian children are victims of physical abuse and neglect. Little assistance has been provided by either the Bureau of Indian Affairs or the Indian Health Service to improve efforts of Indian tribes to provide adequate child protection services on the reservations.

Our committee has also heard the alarming statistics regarding the growing problems of family violence in Indian country and the tragic situations confronting Indian tribes where spousal or elder abuse continues without intervention or treatment options. This cycle of violence within the family destroys not only the family but because of the extensive tribal kinship system it affects the entire community. Because of our failure to address this issue, tremendous pain and suffering has been inflicted on Indian children and their families.

During the first session of the 101st Congress, I introduced S. 1783, the Indian Child Abuse Prevention and Treatment Act to address the problem of child sexual abuse. The Senate passed S. 1783 on November 17, 1989. I want to thank my colleagues for their support of S. 1783. I am now introducing the Indian Child Protective Services and Family Violence Prevention Act. This legislation will provide the tools necessary for Indian tribes to establish or improve existing child protection and family services. It will provide badly needed resources to tribal programs for direct services and training needs, as well as providing flexibility for Indian tribes to develop programs specifically tailored to the particular needs of their community.

The Indian Child Protective Services and Family Violence Prevention Act will establish and Indian Child Resource Center in each area office of the Bureau of Indian Affairs. Each Indian Child Resource Center will be staffed by a multidisciplinary team of professionals with experience and expertise in the prevention, indentification, investigation, and treatment of child abuse and neglect. It will establish within the Bureau of Indian Affairs the Child Protection Grant Program. This grant program will provide funds to any Indian tribe, tribal organization, or intertribal consortium for the development or enhancement of a child protective services program. These funds may be used to employ staff to investigate cases of child abuse and neglect, to offer training to child protective services personnel, or for community education in the area of child abuse and neglect.

Finally, the act establishes an Indian Family Violence Prevention and Treatment Grant Program within the Indian Health Service. This program would provide grants to any Indian tribe, tribal organization, or intertribal consortium to plan, develop, and implement programs for the treatment and prevention of incidents of family violence and to provide immediate shelter and related assistance for the victims of family violence and their dependents. This legislation will provide to Indian communities the tools necessary to address the growing social problems related to child abuse and family violence in a manner that is tailored to and best suited for each Indian community. In the near future, the Select Committee on Indian Af-

fairs will hold hearings on issues related to the problems of child protection in Indian country and tribal efforts to protect Indian children and strengthen Indian families.

I am pleased that Senators CONRAD, BURDICK, MURKOWSKI, and INOUYE, have joined me in this effort as original cosponsors. Mr. President, I ask unanimous consent that a copy of the bill and the section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Child Protective Services and Family Violence Prevention Act".

PURPOSES

SEC. 2. The purposes of this Act are to—

(1) provide for technical assistance and training related to the investigation and treatment of cases of child abuse and neglect;

(2) establish Indian child resource centers in each area office of the Bureau of Indian Affairs which will consist of multidisciplinary teams of personnel with experience and training in the prevention, identification, investigation, and treatment of child abuse and neglect;

(3) provide for the treatment and prevention of incidents of family violence; and

(4) authorize other actions as necessary to ensure effective child protection on Indian reservations.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "child abuse and neglect" means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by a person who is responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby.

(2) Persons who are responsible for a child's welfare include—

(A) any employee of a children's residential facility, and

(B) any person providing out-of-home care, education, or services to children.

(3) The term "family violence" means any act, or threatened act, of violence, including any forceful detention of an individual, which—

(A) results, or threatens to result, in physical injury, and

(B) is committed by an individual against another individual—

(i) to whom such person is, or was, related by blood or marriage or otherwise legally related, or

(ii) with whom such person is, or was, lawfully residing.

(4) The term "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization on an Indian reservation, and

(B) one or more Indian tribes or tribal organizations of other Indian tribes.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601, et seqq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(6) The term "tribal organization" means—

(A) the recognized governing body of any Indian tribe, or

(B) any legally established organization of Indians which—

(i) is controlled, sanctioned, or chartered by such governing body, or which

(ii) is democratically elected by the adult members of the Indian community to be served by such organization, and

(iii) includes the maximum participation of Indians in all phases of its activities.

(7) The term "shelter" means the provision of temporary refuge and related assistance in compliance with applicable Federal and tribal laws and regulations governing the provision, on a regular basis, of shelter, safe homes, meals, and related assistance to victims of family violence or their dependents.

(8) The term "related assistance"—

(A) includes counseling and self-help services to abusers, victims, and dependents in family violence situations (which shall include counselling of all family members to the extent feasible) and referrals for appropriate health-care services (including alcohol and drug abuse treatment), and

(B) may include food, clothing, child care, transportation, and emergency services (but not reimbursement for any health-care services) for victims of family violence and their dependents.

(9) The terms "child" and "juvenile" mean any individual who is under the age of 18 years.

(10) The term "Indian" means any individual who is a member of an Indian tribe.

(11) The term "Indian country" has the meaning given to such term by section 1151 of title 18, United States Code.

(12) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(13) The term "Service" means the Indian Health Service of the Department of Health and Human Services.

INDIAN CHILD RESOURCE CENTERS

SEC. 4. (a) The Secretary of the Interior shall establish within each area office of the Bureau of Indian Affairs an Indian child resource center.

(b) Each Indian child resource center established under subsection (a) shall be staffed by multidisciplinary teams of personnel with experience and training in the prevention, identification, and treatment of child abuse and neglect.

(c) Each Indian child resource center established under subsection (a) shall—

(1) provide advice and consultation to Indian tribes, Indian organizations, and inter-tribal consortia, upon request;

(2) provide training to Indian tribes, Indian organizations, personnel of the Bureau, and personnel of the Service on the identification and investigation of cases of child abuse and neglect; and

(3) develop training materials on the prevention, identification, investigation and treatment of child abuse and neglect for distribution to Indian tribes and Indian organizations.

(d) Indian child resource centers established under subsection (a) shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act. If an Indian child resource center is located in an area office of the Bureau which serves more than one Indian tribe, any application submitted under such Act must have the consent of each of the Indian tribes served by the area office.

(e) There are authorized to be appropriated to carry out the provisions of this section, $3,000,000 for each of the fiscal years 1991, 1992, 1993 and 1994.

INDIAN CHILD PROTECTION GRANT PROGRAM

SEC. 5. (a) The Secretary of the Interior shall establish an Indian Child Protection Grant Program that provides grants to any Indian tribe, tribal organization, or inter-tribal consortium, for the development or enhancement of a child protective services program.

(b) A grant provided under subsection (a) may be used for—

(1) the establishment of a child protective services program which is responsible for the investigation of reported cases of child abuse and neglect, including—

(A) the employment of staff to investigate cases of child abuse and neglect;

(B) the training of child protective services personnel, law enforcement personnel, and court personnel in the investigation of cases of child abuse and neglect; or

(C) the purchase of equipment to assist in the investigation of cases of child abuse and neglect;

(2) training programs for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, investigation, and treatment of Indian child abuse and neglect;

(3) training programs to provide instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of Indian children, including parents of, and persons who work with, Indian children;

(4) other community education efforts for tribal members (including school children) regarding issues of child abuse and neglect;

(5) programs which provide educational, identification, prevention, and treatment services in cooperation with preschool, elementary, or secondary schools or tribally controlled community colleges (within the meaning of section 2 of the Tribally Controlled Community College Act of 1978 (25 U.S.C. 1801)); or

(6) such other innovative and culturally relevant programs and projects as the Secretary of the Interior may approve, including programs and projects for—

(A) parental self-help,

(B) prevention and treatment of alcohol and drug-related child abuse and neglect, or

(C) home visitation programs,

that show promise of successfully preventing and treating cases of child abuse and neglect.

(c) Services provided under grants made under subsection (a) shall supplement, not supplant, services from any other funds available for the same general purposes, including—

(1) individual counseling;

(2) group counseling;

(3) family counseling;

(4) case management; or

(5) training available to Indian tribes, tribal agencies and Indian organizations regarding the identification, investigation, prevention and treatment of child abuse and neglect.

(d)(1) Any Indian tribe, tribal organization, or inter-tribal consortium may submit to the Secretary of the Interior an application for a grant under subsection (a).

(2) Any application submitted under paragraph (1) shall—

(A) be in such form as the Secretary of the Interior may prescribe,

(B) be submitted to the Secretary on or before the date designated by the Secretary, and

(C) specify—

(i) the nature of the program proposed by the applicant,

(ii) the data and information on which the program is based, and

(iii) the extent to which the program plans to use or incorporate existing services available on the Indian reservation.

(e)(1) Any grant awarded under subsection (a) shall not exceed $250,000.

(2) The term of any grant awarded under subsection (a) shall be 3 years.

(f) Each recipient of a grant awarded under subsection (a) shall—

(1) furnish the Secretary of the Interior with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made, and

(B) ensure that the grant funds are expended for the purposes for which the grant was made, and

(2) submit to the Secretary at the close of the term of the grant a final report which shall include such information as the Secretary may require.

(g) There are authorized to be appropriated to carry out the provisions of this section, $10,000,000 for each of the fiscal years 1991, 1992, 1993 and 1994.

INDIAN FAMILY VIOLENCE PREVENTION AND TREATMENT GRANT PROGRAM

SEC. 6. (a) The Secretary of Health and Human Services, through the Indian Health Service, shall establish an Indian Family Violence Prevention and Treatment Grant Program that provides grants to any Indian tribe, tribal organization, or inter-tribal consortium, to pay 75 percent of the costs of planning, developing, and implementing programs for—

(1) the treatment and prevention of incidents of family violence, and

(2) the provision of immediate shelter and related assistance for victims of family violence and their dependents.

(b)(1) Any grant awarded under subsection (a) shall not exceed $500,000 for each fiscal year.

(2) The term of any grant awarded under subsection (a) shall be three years.

(3) The 25 percent of the costs of planning, developing, and implementing a program for which a grant is awarded under subsection (a) that are not to be paid from such grant may be paid by the grant recipient in cash from any other source (including other Federal funds) or through the provision of property or services.

(4) The treatment services delivered under any program that is funded by a grant awarded under subsection (a) may include alcohol and drug abuse treatment.

(c)(1) Any Indian tribe, tribal organization, or inter-tribal consortium may submit to the area office of the Service an application for a grant under subsection (a).

(2) Any application submitted under paragraph (1)—

(A) shall be in such form as the Secretary of Health and Human Services may prescribe,

(B) shall be submitted to the area office of the Service before a date designated by the Secretary,

(C) shall specify—

(i) the nature of the program proposed by the applicant,

(ii) the data and information on which the program is based,

(iii) the extent to which the program plans to use or incorporate existing service delivery activities,

(iv) the specific treatment concepts to be used under the program,

(v) the extent of the planned use under the program of the traditional clinical model,

(vi) the extent to which the program would effectively incorporate the particular customs or culturally based methods of Indian tribes in treating members of the Indian tribe, and

(vii) a schedule (of not more than 3 years) for the program, and

(D) shall be accompanied by a statement from various Indian populations and Indian-related service delivery systems in the vicinity of the applicant that would be affected by the program.

(3) The area office of the Service to which an application is submitted under paragraph (1) shall attach to the application the comments of the area office regarding the application and shall forward the application to the Secretary of Health and Human Services.

(d) The Secretary of Health and Human Services shall award grants under subsection (a) in accordance with such regulations as the Secretary shall prescribe. Such regulations shall ensure that the Secretary takes into account, among other considerations—

(1) any comments from the area office of the Service with respect to the application,

(2) any comments of the Indian communities that would be affected by the program for which the application is submitted,

(3) the existing services currently available to the Indians the program proposes to serve,

(4) the need for services among the Indians the program proposes to serve, as described by the Indian tribe itself and the appropriate area office, and

(5) the extent to which the program would effectively incorporate the particular customs or culturally based methods of Indian tribes in treating members of the Indian tribe.

(e)(1) Each recipient of a grant awarded under subsection (a) shall—

(A) furnish the Secretary of Health and Human Services with such information as the Secretary may require to—

(i) evaluate the program for which the grant is made, and

(ii) ensure that the grant funds are expended for the purposes for which the grant was made, and

(B) submit to the Secretary at the close of the term of the grant a final report which, in addition to such other information as the Secretary may require, includes—

(i) an assessment of the extent of the needs of the Indians served by the program,

(ii) the details of the program,

(iii) the problems encountered in establishing the program,

(iv) the extent to which the program was effective or ineffective in meeting the needs of the Indian community, and

(v) any recommendations of the grant recipient.

(2) By no later than the date that is 3 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Congress a report which shall—

(A) assess the functioning and status of the grants made under subsection (a),

(B) evaluate the progress made toward achieving the purposes of the grants, and

(C) include any recommendations the Secretary may deem appropriate with respect to the grants.

In preparing the preliminary report, the Secretary shall solicit and include the comments and recommendations of private and public entities with an interest in the delivery of services in cases of Indian family violence.

(f) There are authorized to be appropriated to carry out the provisions of this section, $10,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994.

SECTION-BY-SECTION SUMMARY ANALYSIS OF THE INDIAN CHILD PROTECTIVE SERVICES AND FAMILY VIOLENCE PREVENTION ACT

SECTION 1

Section 1 cites the title of the Act as the "Indian Child Protective Services and Family Violence Prevention Act."

SECTION 2

Section 2 sets out the purposes of the Act, which include providing for technical assistance and training related to the investigation and treatment of cases of child abuse and neglect, to improve and enhance child protective services and to provide for the treatment and prevention of incidents of family violence.

SECTION 3

Section 3 sets out the definitions of this Act.

SECTION 4

Section 4 of the Act establishes Indian Child Resource Centers in each area office of the Bureau of Indian Affairs. Each Indian Child Resource Center will be staffed by multidisciplinary teams of personnel with experience and training in the prevention, identification, and treatment of child abuse and neglect.

Paragraph (c) of section 4 provides that Indian Child Resource Centers shall provide advice and consultation to Indian tribes, Indian organizations and inter-tribal consortia, provide training to Indian tribes, Indian organizations, personnel of the Bureau of Indian Affairs, and personnel of the Indian Health Service on the identification and investigation of cases of child abuse and neglect, and develop training materials on the prevention, identification, investigation and treatment of child abuse and neglect.

Paragraph (d) provides that Indian Child Resource Centers shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act.

Paragraph (e) authorizes $3,000,000 to be appropriated for each of the fiscal years 1991, 1992, 1993 and 1994 to carry out the provisions of this section.

SECTION 5

Section 5 establishes within the Department of the Interior the Indian Child Protection Grant Program to provide grants to any Indian tribe, tribal organization or inter-tribal consortium for the development or enhancement of a child protective services program.

Paragraph (b) of section 5 provides that Indian Child Protection Grants may be used for the establishment of a child protective services program responsible for the investi-

gation of reported cases of child abuse and neglect, to employ staff to investigate cases of child abuse and neglect, to train child protective services personnel, law enforcement personnel, and court personnel in the investigation of cases of child abuse and neglect, to develop training or community education programs on issues of child abuse and neglect, to establish programs which provide educational, identification, prevention, and treatment services in reservation schools or to establish such other innovative and culturally relevant programs and projects as the Secretary may approve.

Paragraph (c) of this section states that the funds awarded under this section shall supplement, not supplant, services from any other funds available for the same general purposes.

Paragraph (d) provides that any Indian tribe, tribal organization or inter-tribal consortium may apply for an Indian Child Protection Grant.

Paragraph (e) provides that an Indian Child Protection Grant Award shall not exceed $250,000 and that the term of the grant shall be three years.

Paragraph (f) sets out the reporting requirements for Indian Child Protection Grant recipients.

Paragraph (g) authorizes $10,000,000 to be appropriated for each of the fiscal years 1991, 1992, 1993, and 1994 to carry out the provisions of this section.

SECTION 6

Section 6 establishes, in the Indian Health Service, the Indian Family Violence Prevention and Treatment Grant Program to provide grants to any Indian tribe, tribal organization or inter-tribal consortium to pay 75% of the costs of planning, developing and implementing programs for the treatment and prevention of incidents of family violence and for the provision of immediate shelter and related assistance for victims of family violence and their dependents.

Paragraph (b) of this section provides that an Indian Family Violence Prevention and Treatment Grant Award shall not exceed $500,000 and that the term of the grant shall be three years. It further provides that the 25 percent tribal match required under this Act can be paid from any other source, including other federal funds, or through the provision of property or services. Finally, this paragraph states that treatment services delivered under any program funded under this section may include an alcohol and drug abuse treatment component.

Paragraph (c) of this section provides that any Indian tribe, tribal organization of tribal consortium shall submit to the area office of the Indian Health Service a grant application. This paragraph also describes the form and content of the application for an Indian Family Violence Prevention and Treatment Grant.

Paragraph (d) of this section describes the criteria the Secretary of the Department of Health and Human Services shall consider in making grant awards under this section.

Paragraph (e) of this section sets out the reporting requirements for Indian Family Violence Prevention and Treatment grant recipients. This paragraph also requires the Secretary of Health and Human Services to submit to the Congress no later than 3 years after the date of enactment a report on the Indian Family Violence Prevention and Treatment Grant Program.

Paragraph (f) of this section authorizes $10,000,000 to be appropriated for each of the fiscal years 1991, 1992, 1993, and 1994 to carry out the provisions of this section.●

● Mr. CONRAD. Mr. President, I am pleased today to join my colleague from Arizona, Senator MCCAIN, in introducing this important child protection legislation.

The Indian Child Protective Services and Family Violence Prevention Act will help combat a problem which tears at the social fabric of the Indian reservations—child abuse.

The Special Committee on Investigations has highlighted the prevalence of child abuse-related occurrences on many reservations. The Senate has already passed legislation to boost reporting of child molestation. This bill will build on those efforts to provide essential resources to strengthen enforcement.

The inability of many Indian tribes and the Bureau of Indian Affairs to stop child abuse is often resource-related. Reservations caseworkers are almost always overloaded. As a result, no one is available who can go into the field to indentify, investigate and treat child abuse and neglect.

My hometown paper recently ran a series of articles about a little girl who in 1987 was horribly abused on a North Dakota Indian reservation. In the words of one news article, that little girl, now 5 years old, "cowers in the dark in her grandparents' home, reciting jingles from TV commercials."

That little girl, and many others like her, is a victim. She is a victim of a system where one caseworker has a caseload of 200. She is a victim of a budget for Indian-related programs that in real terms has decreased by $48.8 million per year since 1975 at the same time that Federal nondefense spending increased by $9.6 billion each year.

The time has come to reverse this unacceptable trend.

This bill makes grants available to tribes, tribal organizations or intertribal consortia to either improve existing child protection programs or to implement new ones. It also establishes grants to implement or improve family violence treatment and prevention programs.

This is not a perfect bill. But it is an important one. And I look forward to discussing its strengths and weaknesses, and to making improvements.

I commend my colleague from Arizona for his hard work in formulating this proposal, and will work with him to ensure the best possible final product.●

By Mr. WILSON (for himself, Mr. BURDICK, Mr. GORTON, Mr. CRANSTON, Mr. COHEN, Mr. COATS, Mr. BURNS, Mr. SYMMS, Mr. MURKOWSKI, and Mr. DOMENICI):

S. 2341. A bill to amend the Food Security Act of 1985 to reauthorize the Targeted Export Assistance Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

TARGETED EXPORT ASSISTANCE PROGRAM

● Mr. WILSON. Mr. President, I am pleased to be joined by Senators BURDICK, GORTON, CRANSTON, COHEN, COATS, BURNS, SYMMS, and MURKOWSKI in introducing legislation to reauthorize the Targeted Export Assistance Program [TEA]. As the original author of this program, I take great pride in its designation as the "star of the 1985 farm bill."

I developed the TEA Program to provide market development assistance—through Commodity Credit Corporation funds or commodities—to agricultural organizations that have suffered a loss in exports due to unfair foreign competition, either through price subsidies or unfair marketing arrangements. The assistance is available to both brand and nonbrand commodities and has been highly successful in increasing the market visibility and purchase of U.S. agricultural products in foreign countries.

Our legislation will reauthorize the Targeted Export Assistance Program at a rate of $325 million for each fiscal year from 1991 through 1995. The objective of the original legislation, to provide funds to offset trade damage caused by unfair foreign practices, will be maintained, with priority assistance being provided to products affected by a favorable decision under section 301 of the Trade Act of 1974.

Additionally, the legislation will enhance the oversight provisions of the program by requiring the Secretary of Agriculture to monitor the expenditure of funds received by each TEA Program recipient. An evaluation of the expenditures, to be conducted no later than 15 months after the initial provision of funds, must be submitted in writing to the chairmen of the Senate and House Agriculture Committees. These provisions will improve the overall effectiveness of the program.

Since inception of the TEA Program, the number of nonprofit agricultural trade associations and U.S. private firms participating in joint industry-government market development programs has grown to a total of 75, of which 30 participants are new to market promotion activities. An additional 150 U.S. private firms are also expected to participate in the TEA Program during fiscal year 1990 through 4 regional State organizations as part of a high value export incentive program that promotes processed brand identified products.

During the 5 years of the program—1986-90, $730 million has been allocated to over 75 organizations to partially reimburse the costs of conducting over 5,000 activities worldwide.

This year TEA funds will be used to promote the export of peaches, raisins,

soybeans, kiwifruit, cherries, pistachios, almonds, chocolate, wool, prunes, seafood, strawberries, grapes, plums, nectarines, pears, walnuts, cotton, oranges, grapefruit, hops, wood products, honey, lemons, peanuts, potatoes, sunflowers, apples, rice, poultry, corn, sorghum, barley, meat, wheat, and wine. The program is clearly nationwide in its scope and appeal.

TEA promotional efforts have been highly successful in expanding sales in target markets. In the first years of the program 25 agricultural commodities have exhibited sales increases averaging more than 48 percent and several increased more than 100 percent. Examples of this success include:

A tripling of raisin sales to the United Kingdom since 1986;

A quintupling in the value of Sunkist-brand navel orange and orange juice concentrate to Korea from 3.6 million in 1987 to 20 million in 1989;

A 145 percent or $50.4 million increase in the value of wine exports since 1986;

An increase in pistachio exports to Japan of 88 percent between October 1988 and July 1989; and

An increase in almond exports to Kuwait of 105 percent in marketing year 1987.

These gains are impressive, but American agricultural exports still face unjustified trade restriction. Even as the Uruguay round of GATT negotiations proceeds, American farmers continue to be victimized by unfair competition. The TEA Program places our trading partners on notice that the U.S. Government is prepared to defend the worldwide markets of our Nation's farmers. The TEA Program gives agricultural producers the means to fight back to regain lost markets and establish new sales.

I urge my colleagues to support the bill, and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATION.

Section 1124(a) of the Food Security Act of 1985 (7 U.S.C. 1736s(a)) is amended beginning in the matter preceding paragraph (1) by striking out "activities—" and all that follows through the end thereof and inserting in lieu thereof "activities, for each of the fiscal years ending September 30, 1991, through September 30, 1995, the Secretary shall use under this section not less than $325,000,000 of funds of, or commodities owned by, the Corporation.".

SEC. 2. PRIORITY BASIS OF ASSISTANCE AND PARTICIPANT ELIGIBILITY.

Subsection (c) of section 1124 of the Food Security Act of 1985 (7 U.S.C. 1736s(c)) is amended to read as follows:

"(c)(1) The Secretary or the Commodity Credit Corporation (as applicable) shall provide export assistance under this section on a priority basis in the case of—

"(A) agricultural commodities and the products thereof with respect to which there has been a favorable decision under section 301 of the Trade Act of 1974; or

"(B) agricultural commodities and the products thereof for which exports have been adversely affected, as defined by the Secretary, by retaliatory actions related to a favorable decision under section 301 of the Trade Act of 1974.

"(2) The Secretary shall conduct an evaluation with respect to the expenditure of funds received under this section by each recipient of such funds. Such evaluation shall be conducted not later than 15 months after the initial provision of such funds to the participant and shall include—

"(A) an evaluation of the effectiveness of the program established using funds made available under this section in developing or maintaining markets for United States agricultural products;

"(B) an evaluation of whether assistance provided under this section is necessary to maintain such market; and

"(C) a thorough accounting of the expenditure by the participant of funds provided under this seciton.

"(3) The Secretary shall provide the Committee on Agriculture of the Senate and the Committee on Agriculture, Nutrition, and Forestry of the House of Representatives with written reports concerning the evaluations conducted under paragraph (2).".●

● Mr. DOMENICI. Mr. President, I rise today in support of an important component of our next farm bill, a bill to reauthorize the Target Export Assistance Program.

This program is designed to provide assistance in market development to agricultural organizations which can demonstrate a loss in exports due to unfair foreign competition. Such competition includes price subsidies and unfair marketing arrangements.

The Target Export Assistance or TEA Program is available to partially reimburse the costs of conducting overseas market development for high value, branded and nonbranded agricultural products. This program is administered by the Foreign Agriculture Service of the U.S. Department of Agriculture.

The TEA Program has been very successful in increasing market visibility and purchase of value-added agricultural products from this country in world markets.

Testimony given at the January 1990 Senate Budget Committee field hearing indicated that each participating company has seen an increase in exports of 47 percent over the last 3 years.

The TEA Program is particularly important for my home State of New Mexico. Our participation in the TEA Program is coordinated by the New Mexico Department of Agriculture [NMDA] and the Western U.S. Agricultural Trade Association.

At that Budget Committee field hearing, a representative of NMDA testified that New Mexico receives from $500,000 to $600,000 for the TEA and the value-added product promotion [VAPP] programs.

These moneys enable New Mexico producers and processors to participate in market development activities, primarily in Asia and Europe. New Mexico pecans, wine, chile products and blue corn products have received TEA/VAPP moneys.

The bill which we are introducing today would authorize the TEA Program at $325 million for each fiscal year from 1991 through 1995. To enhance oversight provisions of the program, this bill would require the Secretary of Agriculture to monitor the expenditure of funds received by each TEA Program recipient. A written evaluation of expenditures would be submitted to the chairman of the Senate and House Agriculture Committees.

I am happy to join my distinguished colleague, Senator WILSON, and others here in the Senate in cosponsoring this bill. I look forward to seeing this important legislation enacted into law.●

By Mr. HATCH (for himself, Mr. KENNEDY, Mr. GARN, Mr. INOUYE, Mr. COCHRAN, Mr. THURMOND, Mr. MATSUNAGA, Mr. WARNER, Mr. HELMS, and Mr. HOLLINGS):

S. 2342. A bill to amend the Public Health Service Act to authorize additional grants for home health care demonstration projects, to require that applications be submitted to the chief executive officer of the State concerned in connection with such grants, and for other purposes; to the Committee on Labor and Human Resources.

GRANTS FOR HOME HEALTH CARE DEMONSTRATION PROJECTS

Mr. HATCH. Mr. President, I rise today to introduce legislation which would expand the health care services in the Home Demonstration Program to all 50 States. This program has been in existence for 2 years and is currently providing health care services in the home by grantees in five States. It has already shown how the availability of communitywide home health care services can be expanded and coordinated.

The health care services in the Home Program helps thousands of disabled and chronically ill low-income Americans who are in need of in-home health services and have no other funding sources to remain in the confort and familiarity of their homes and out of institutions.

The five States which have been awarded grants for this program are targeting their services specifically to low-income, highly vulnerable individuals who can avoid institutionalization through home health care. A central feature of this program requires that

the services be provided on a case management basis by a team of trained health care professionals.

The core of this team consists of a nurse, physician, and social worker who may draw upon the expertise of other caregivers. This team is responsible for the development, management, and outcome of a care plan that provides for comprehensive and continuous skilled health care and long-term services.

Among those who are using these services are infants and children born with complications due to prematurity. Because of this program, they will be able to leave the hosptial much earlier and receive health care at home, which is less costly than institutionalization. In Utah, for example, this program is serving a ventilator-dependent 3-year-old child named Crystal. Crystal spent the first 2 years of her life in a pediatric intensive care unit at a cost of $2 million. Her parents were overwhelmed with her health problems and decided not to take her home when she was ready for discharge.

One of the pediatric nurses who had been caring for her became certified as a foster parent and, along with her husband, is caring for Crystal at home. Without the support of this program, the only alternative for this child is institutional placement. Although Crystal has a profound hearing loss and visual impairment, she is learning to sign under the patient guidance of her foster mother and a speech therapist. Placement in an institution would reverse many of the gains that she has made and take her away from the nurturing environment of her home. Crystal's long-term prognosis is good, and it is predicted that she will only require this skilled care for an additional year.

Others who are benefiting from this program are older persons with chronic illnesses. Often, if these individuals have an unstable condition, they may be in and out of hospitals or nursing homes. This program allows them to remain in their homes, when appropriate, to receive the health care that they need. One individual being served by this program in Mississippi is a 59-year-old woman who has diabetes, hypertension, and is a double amputee. This womam lived with her only child until the child's death nearly 2 years ago.

After the child's death, the woman, having no support system, entered a nursing home where she remained for approximately 17 months. Her desire to live her life outside of an institution was so great that she checked herself out of the nursing home and moved in with cousins who made a small addition to their home so that she could have a place to live. This woman does not have Medicare or Medicaid at this time. In order to prevent her future reinstitutionalization, the project is providing her with the health care services that she needs to remain at home.

According to a national poll conducted by Louis Harris & Associates, fully 78 percent of those polled said they preferred to receive care in their homes over care in a nursing home. The Health Care Services in the Home Demonstration Act provides a viable alternative to institutionalized care. However, many technical questions remain unanswered in regard to home health care, such as what type of services are needed, who will deliver them, what are the costs, and how can these services best be coordinated among community health care providers. This program will help answer these questions and stimulate the development of more health care programs in the community.

At this time when our Nation is struggling with the questions surrounding long-term care, I see home health care as the primary part of the solution. I fully support the concept of health care in the home as an alternative to institutionalized care. I fervently advocate this program that gives freedom to families to choose this long-term option. I urge my colleagues to consider this option and to support the expansion of this program to all States.

By Mr. WALLOP (for himself and Mr. SIMPSON):

S. 2343. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Clarks Fork River in the State of Wyoming as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

CLARKS FORK WILD AND SCENIC RIVER DESIGNATION ACT

Mr. WALLOP. Mr. President, I am proud to introduce the Clarks Fork Wild and Scenic River Designation Act.

The Clarks Fork of the Yellowstone River is truly a spectacular example of the unique and rugged beauty of the West. For thousands of years its cold, clear waters have roared and cut their way through a remote canyon in northwest Wyoming where, at times, the granite walls tower 1,200 feet straight-up from the water's edge. Its waterfalls, rapids, cascades, and boulder floodplains are outstandingly remarkable for both their scenic and their recreational values. The river is one of the few remaining pure habitats for the famous Yellowstone cutthroat trout and the canyon boasts such species as Rocky Mountain goats, elk, grizzly bear and the peregrine falcon.

The river even has an important historical event of national interest. In 1877, Chief Joseph led his Nez Perce Indians through a narrow chasm in the canyon which was thought to be impassable. By using this escape route through Dead Indian Gulch, the Nez Perce eluded the U.S. Calvary after a 1,300-mile-long chase from Oregon to Montana.

Because of its ummatched beauty, the people of Wyoming asked that we give the Clarks Fork River special recognition. This bill does that. As a condition to any Federal designation, however, Governor Mike Sullivan called for certain protections with regard to the State's ability to develop its allocation under the Yellowstone River Compact. He desired to preserve maximum State flexibility. This bill does that, also. Most importantly, it does so without compromising the basic concept that the highest and best use of this 20.5-mile stretch of river is to leave it undeveloped and unpolluted, to manage it in such a way that its wild and primitive character remains for the use and enjoyment of future generations.

The State has long debated best use of these waters. When the Forest Service first gave notice in 1978 that a study was to begin, Wyoming began weighing protection of the river against development of waters which would otherwise flow unused into Montana. The final environmental statement completed in 1979 recommended a 21.5-mile segment for wild and scenic designation and in 1982, legislation was introduced in Congress formally nominating it. By law, Congress had 3 years to act but did not do so. The nomination was put on hold until a clear decision could be made about proposed water projects affecting this stretch of water.

In August 1988, after years of study and much debate, Governor Mike Sullivan announced he would support a Federal wild and scenic river designation only if certain conditions were met. First, the Governor wanted no prohibition on a possible dam downstream from the canyon. So, in addition to shortening the segment a small distance to avoid backing water into it, this bill specifically states that Congress finds that downstream water development is not incompatible with designating Clarks Fork a wild and scenic river.

The Governor also wanted to limit the amount of natural water flow required for the designation to assure the greatest compatibility between the designation and Wyoming's allocation under the Yellowstone River Compact. Under that compact, Wyoming is entitled to 60 percent, or roughly 430,000 acre feet of the flows in the Clarks Fork Basin. Though she has the right to the lion's share of the water, Wyoming actually only uses a very small portion, the rest goes to benefit Montana. Governor Sullivan wanted to preserve for the State the greatest

flexibility to deal with this compact allocation.

This is not to suggest, Mr. President, that conserving this river is of no benefit to our State. Clarks Fork can play a significant economic role in terms of recreation and tourism, however, limiting any natural resource to a single dominant must be done carefully. It would be irresponsible for a State to unnecessarily constrain for future generations the potential of its most important resource.

The Governor asked that the flow reservation necessary to protect the Clarks Fork be jointly determined by the State and the Forest Service. He wanted the flow quantification to occur in an objective and cooperative manner, utilizing the expertise and knowledge of several State agencies and the Forest Service in combination with site-specific information gathered through necessary field studies.

This bill takes care of the Governor's concerns while at the same time ensuring that those values which make this stretch of river so remarkable, can be preserved. The Secretary of Agriculture and the State of Wyoming will have 3 years to conclude an agreement on the amount of water needed to protect the scenic, recreational and historical values. Experts from the Forest Service and the State assure me that is an adequate amount of time within which to do the necessary work. The agreement on flow quantification must then be submitted to the appropriate congressional committees. Just as Congress decides specific land boundaries, so can it decide the water boundaries.

State participation in establishment of the flow quantification will guarantee that Congress hears from those who have the most knowledge of and greatest interest in protecting the river for future generations. The State, which owns the water now and will ultimately have to live with any quantification, made the commitment to include this river within the Federal wild and scenic system based on certain conditions. To argue that the State should now have no voice in the matter ignores the unique circumstances in this case and is clearly contrary to the best interests of Wyoming.

What if the State and Forest Service cannot come to agreement on a specified flow? Today that appears unlikely, but we cannot guess the future. Federal judges have not hesitated, in recent years, to infer congressional intent where Congress has remained silent even though the silence may have been in deference to the primacy of State law rather than the inability to make a decision.

Unelected Federal court officials should not be invited to decide Wyoming's water future. That is why this bill specifies a flow quantification which will apply until the joint State-Forest Service flow quantification agreement is acted on by Congress. This will circumvent any judicial finding of an implied reservation.

This interim reservation of 50 percent of the monthly natural flow is subject to valid existing rights and future ordinary and usual domestic and stock watering uses. Does this mean only 50 percent of the flows will remain in the river? Absolutely not. Experts in the Forest Service as well as the State say that such upstream uses could never approach that amount but would be more in the range of 10 percent at maximum use.

As a practical matter, there are three magnets which will serve to pull flows through the canyon even in the absence of this designation. They include the State instream flow permit for fishery purposes along a 5.85-mile stretch, the water rights granted to the Forest Service when they settled out of the general stream adjudication on the Big Horn basin and downstream demand by other water users.

There is a final point I would like to make along other lines, Mr. President. Within the proposed designation there is a 136-acre ranch which is now being used for agricultural purposes. The ranch is an integral piece of the river corridor and part of the reason why the river was found to be eligible for wild and scenic status. There is included in this bill the amount of $500,000 for the possible purchase of private land interests. It is our express intent that such purchase be done only on a willing-buyer-willing-seller basis.

The owners do not oppose a scenic easement on their property to insure that it continue to be used for ranching, but they would suffer greatly if the Government were to condemn the land or condemn a river access easement. It is not our intent to violate these individual's privacy or to infringe on their property rights.

In 1890, Wyoming became the 44th State to be admitted to the Union. As the State approaches its 100th birthday, I can think of no finer legacy to those men and women who built and settled our State than to insure that the Clarks Fork of the Yellowstone River will remain one of America's most outstanding and irreplaceable treasures.

Mr. SIMPSON. Mr. President, I thank my colleague. It has been a great pleasure to work with MALCOLM WALLOP on this legislation.

We introduce this bill today which would designate the Clarks Fork River in Wyoming as a wild and scenic river. I think the occupant of the chair has seen some of that remarkable country.

We have worked very hard toward this legislation for so many years. In 1982, the Reagan administration first recommended a portion of this river for inclusion into the Nation's Wild and Scenic Rivers System. This delegation, Dick Cheney before us, former Gov. Ed Herschler—recently deceased former Governor of Wyoming—and the present Governor, Mike Sullivan, worked closely with the people of Wyoming and deliberated at great length over the appropriate language to meet all of our needs, and it is a great compromise piece of legislation, and one that I am very proud to support.

I have personally hiked, fished, and backpacked in that area all of my life. That is home ground to me. There are places there that are simply stunning. Hiking in that area is overpowering. I do not want to see that diminished.

However, the State of Wyoming ought to reserve our own right to establish the appropriate flow reservation, and this legislation does exactly that. I feel very, very strongly about the need to preserve that very fragile and beautiful network of cliffs, canyons, and old Indian trails. None of us want to see that overwhelmed with development.

We very much want to get this designation accomplished in this year, which is Wyoming's centennial year, and we are all celebrating that across our fine State in a variety of creative, deserving, and inspirational ways. This designation in our State's centennial year would make that all the more special.

I thank the Chair for his courtesy.

The PRESIDING OFFICER. Without objection, the bill will be received and appropriately referred.

By Mr. HOLLINGS:

S. 2344. A bill to require the conveyance of the Cheraw Fish Hatchery to the State of South Carolina; to the Committee on Environment and Public Works.

CONVEYANCE OF CHERAW FISH HATCHERY

Mr. HOLLINGS. Mr. President, I rise today to introduce legislation to transfer the Cheraw National Fish Hatchery to the State of South Carolina. The State, which currently leases the facility, intends to expand the hatchery by constructing six new ponds. In order to justify the large expenditure for this expansion, the State desires title to all of the hatchery property.

The fish hatchery is located less than 2 miles southwest of Cheraw, SC, and it has been in operation since 1933. During the past administration, fish hatcheries across the Nation were closed as the U.S. Fish and Wildlife Service [USFWS] experienced budget cuts. This facility remained open, however, and was operated by the South Carolina Wildlife and Marine Resources Department [SCWMRD]. In 1983, through a memorandum of agreement, the USFWS loaned the hatchery to the State for a period of 25 years.

The SCWMRD uses the facility to supply fish for stocking of farm ponds, public lakes, and rivers across the State. Game fish such as catfish, largemouth bass, bream, bluegill, and redear sunfish are provided free of charge to areas statewide. Some of the best recreational fishing in South Carolina is generated from the fish reared by this facility. It serves our best interest to keep the facility operational, and now, expand its capabilities. It is a means by which the State furthers its commitments to the citizenry and to the protection and management of its natural resources.

With the closure of some Federal hatcheries in the early 1980's, other States have obtained title from USFWS through congressional action. USFWS supported those transfers because the hatcheries were being operated to benefit State fishery programs and would continue to contribute to the Nation's fishery resources. Additionally, each transfer provided for the reversion of the title to the United States if the facilities or property are used for any other purpose. For the Cheraw hatchery, which is being operated to benefit State fishery programs, and contributes to the Nation's fishery resources, I am introducing legislation which is similar to that passed for hatcheries in other States. It simply conveys title, without reimbursement, to the State of South Carolina, with a similar reversion provision.

I ask all my colleagues to join me in supporting this legislation. We in government must foster the ideal that the protection and management of our natural resources is a preeminent consideration in all our actions. Our ideals should dictate our actions. I believe the proper action in this case is to permit this transfer of title as proposed.

By Mr. COATS:

S. 2345. A bill to provide for family impact statements; to the Committee on Governmental Affairs and the Committee on the Budget, jointly, pursuant to the order of August 4, 1977.

PROVIDING FOR FAMILY IMPACT STATEMENTS

Mr. COATS. Mr. President, for the past few decades, the American family has been crippled by the destructive backfire of our best intentions. Programs designed and implemented by the Federal Government, patterned after the very latest in trendy social theory, have left our families far worse than they found them. And in the face of every failure the cry has arisen, "put more money into the hands of the Federal bureaucrats." But more money will not correct the mistakes of a poorly designed program. Our challenge is to determine what actually works to help the family and what does not.

Mr. President, we need sound information on the impact of particular programs on the stability of the American family. This evaluation needs to be carried out beforehand—prior to implementation—not simply after the damage has been done. Too often, we have left careful assessment to the very end. While there is no way to predict perfectly the outcome of each and every twist and turn a program may take, we can at least demand a reasonable estimation of what could result.

This is the motivation for this legislation. It seeks to measure and evaluate the potential direct or indirect impact of Federal programs on the family.

Mr. President, based on our lengthy history of trial and error in the field of public policy—from WIC, to AFDC, to education, to child care—we are in a better position to identify Government practices which are destructive to family life. Based on experience, we can also indentify those practices that contribute to family strengths. We owe that to the people we are trying to help.

A family impact statement would draw upon that experience to issue a family impact analysis on all bills reported from committee. An additional provision of the legislation would require executive branch agencies to develop procedures to ensure that appropriate consideration be given to the effect of administrative decisions on families.

I urge my colleagues to thoughtfully consider this legislation and set a new course for Government programming—a course that will no longer ignore the family, only to discover much later that it has destroyed it.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FAMILY IMPACT STATEMENTS.

(a) COMMITTEE CONSIDERATION OF FAMILY IMPACTS.—

(1) STATEMENT REQUIRED.—Whenever a committee of the House of Representatives or of the Senate reports a bill or joint resolution of a public character that would directly or indirectly affect families in the United States, if enacted, the report accompanying such bill or joint resolution shall contain a statement—

(A) prepared after consultation with the Director of the Congressional Budget Office; and

(B) detailing the favorable and adverse effects on families in the United States that will directly or indirectly result if such bill or joint resolution is enacted.

(2) POINT OF ORDER.—It shall not be in order in either the House of Representatives or the Senate to consider a bill or joint resolution of a public character reported by a committee if the report accompanying such bill or joint resolution does not contain the statement required by paragraph (1).

(b) CONGRESSIONAL BUDGET ACT OF 1974.—Section 202 of the Congressional Budget Act of 1974 (2 U.S.C. 602) is amended—

(1) by redesignating subsections (d), (e), (f), (g), and (h) as subsections (e), (f), (g), (h), and (i), respectively; and

(2) by inserting after subsection (c) the following:

"(d) ASSISTANCE IN THE PREPARATION OF FAMILY IMPACT STATEMENTS.—At the request of a committee of the House of Representatives or of the Senate, the Office shall assist such committee to prepare a statement required by section 2(a) of the Family Impact Statement Act of 1989.".

(c) EXERCISE OF RULEMAKING POWERS.—Subsections (a) and (b) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and such sections shall—

(A) be considered as part of the rules of each House of the Congress; and

(B) supersede other rules of such House only to the extent that such other rules are inconsistent with such sections; and

(2) with full recognition of the constitutional right of either House to change the rules established by such sections (so far as relating to such House) at any time, and in the same manner and to the same extent as in the case of any other rule of such House.

(d) AGENCY CONSIDERATION OF FAMILY IMPACTS.—

(1) IN GENERAL.—To the fullest extent practicable, each executive agency shall—

(A) utilize a systematic, interdisciplinary approach that ensures the integrated use of the economic and social sciences in planning and in decisionmaking that may affect families in the United States;

(B) identify and develop methods and procedures that will ensure that such agency gives appropriate consideration to any potential effect of proposed actions, decisions, and activities of such agency on families in the United States; and

(C) include in every recommendation or report on a proposal for legislation or other major Federal action significantly affecting families in the United States, a family impact statement—

(i) prepared by the Federal official responsible for preparing such recommendations or report; and

(ii) specifying the impact of the proposed action on such families, including—

(I) whether the proposed action encourages and reinforces family, parental, or marital commitment and stability;

(II) if the proposed action includes the provision of services or assistance to a member of a family, how the family is involved in the planning, provision, and evaluation of such services;

(III) whether the proposed action would reduce earned household income, and if so, how the benefits of such action outweigh and justify such reduction; and

(IV) whether reasonable alternatives to the proposed action exist, especially, alternatives that would less adversely affect families in the United States.

(2) PREPARATION OF FAMILY IMPACT STATEMENT.—Before preparing any family impact statement required by paragraph (1)(C), the Federal official responsible for preparing such statement shall consult with, and obtain the comments of, executive agencies that have special expertise, or jurisdiction

by law, with respect to the family impact involved.

(3) AVAILABILITY OF A FAMILY IMPACT STATEMENT AND OTHER MATERIALS.—Copies of a family impact statement prepared in accordance with paragraph (1)(C), any comments received under paragraph (2), and any views of appropriate Federal, State, and local agencies received by the Federal official responsible for preparing such statement shall—

(A) be made available by such official to the President, the Office of Family Policy, and the public in the manner provided by section 552 of title 5, United States Code; and

(B) accompany the proposal for legislation or other major Federal action through the agency review process.

(e) REVIEW OF EXISTING AUTHORITIES, RULES, AND POLICIES AND PROCEDURES; REPORT.—

(1) REVIEW.—Each executive agency shall review its statutory authorities, administrative rules, policies, and procedures to determine how such authorities, rules, policies, or procedures affect families in the United States.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, each executive agency shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report—

(A) specifying the results of the review required by paragraph (1); and

(B) containing such recommendations as such agency considers necessary and appropriate—

(i) to maintain and strengthen under the authorities, rules, policies, and procedures reviewed, family life in the United States; and

(ii) to improve, with regard to such agency, the preparation and content of family impact statements required by subsection (d)(1)(C).

(f) DEFINITIONS.—For purposes of this Act—

(1) the term "executive agency" has the meaning given to such term in section 105 of title 5, United States Code, except that such term includes the United States Postal Service; and

(2) the term "family" means—

(A) a group of individuals related by blood, marriage, or adoption who live together as a single household; and

(B) any individual who is not a member of such group, but who is related by blood, marriage, or adoption to a member of such group and over half of whose support in a calendar year is received from such group.

By Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. BURDICK, Mr. ADAMS, Mr. PRYOR, Mr. MATSUNAGA, Mr. LEVIN, Mr. SIMON, Mr. BOSCHWITZ, Mr. CONRAD, Mr. DURENBERGER, Mr. BRYAN, Mr. MURKOWSKI, and Mr. GORE):

S. 2347. A bill to provide essential air service to small communities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RURAL AIR SERVICE PRESERVATION ACT

Mr. BAUCUS. Mr. President, stable, high quality air service is one of the most important tools available to communities to attract business investment. Without it, many communities have a difficult time convincing businesses to set up shop and create new jobs.

That is why, when Congress deregulated the airlines in 1978, we adopted the Essential Air Service Program. This program was intended to ensure that smaller communities would not lose their air service in a deregulated environment.

Since that time, the Senate has fought an almost constant battle with the administration and the House of Representatives to provide enough funding to maintain the program. Early last session, the House insisted on cutting service to six rural communities across the country by imposing a $300 per passenger subsidy cap on communities eligible for EAS. Then, later in the session, the House insisted on cutting service to 24 additional communities by imposing a $200 subsidy cap and mileage limitations.

Now, the administration has added insult to injury by proposing that EAS be phased out gradually over the next 5 years.

We must not sit idly by and allow the administration and the House to whittle away at this program until there is nothing left.

Prior to fiscal year 1988, the EAS Program was scored as an entitlement. It was scored that way because it was believed that air service to rural communities was critical to their future prosperity.

But in 1988, the Budget Committee decided to make EAS a discretionary program and subject it to the yearly appropriations process. This decision has devastated the program. Rural communities are no longer able to plan for their economic futures because they no longer know from one year to the next whether or not they will have air service.

We have a responsibility to help turn this situation around for rural areas.

That is why I am introducing this legislation today to return EAS to its prior status as an entitlement program. Only as an entitlement will rural areas be able to count on having air service.

I ask unanimous consent that the full text of the Rural Air Service Preservation Act of 1990 be printed immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Air Service Preservation Act of 1990".

SEC. 2 AGREEMENTS.

In the administration of section 419 of the Federal Aviation Act of 1958 (49 U.S.C. 1301-1551), the Secretary of Transportation is authorized to enter into contracts and agreements for the purpose of providing essential air service and other services under such section for any period or periods prior to September 30, 1998.

SEC. 3. APPROPRIATIONS.

For the purpose of carrying out the provisions of section 2, there are appropriated from amounts in the Treasury not otherwise appropriated such sums as may be necessary.

Mr. SIMON. Mr. President, it is an honor to join my friend and colleague, Senator BAUCUS, the senior Senator from Montana, in introducing this bill. We need to return the Essential Air Service [EAS] Program to its intended purpose to keep scheduled air carrier service to smaller communities in rural America intact.

I know that most of us come from States where many rural communities are facing up to the challenge of converting from agriculture to mixed economies. In my State of Illinois I have convened dozens of local "brainstorming" sessions to stimulate and organize solid economic development ideas by tapping all available local resources. In many of these places, it is clear that scheduled air service is the major force in retaining and attracting new jobs. In fact one survey of the 500 largest American corporations showed that 80 percent would not consider locating where there was no available scheduled air service.

Congress recognized this fact of economic life when we chartered the EAS Program in 1978, in tandem with airline deregulation. EAS has been a bargain, not a budget buster. We need to add up the benefits to the communities served: businesses retained and started, citizens who stay in those communities rather than moving to a handful of crowded urban regions, local access to world markets, and a much wider choice in destinations here in the United States for all airline users.

We could have held in current services this year in 110 communities nationwide with an appropriation of $35.5 million. Instead the program was cut back to $30.7 in anticipation of eliminating subsidies to 20 communities. On top of this, another problem is emerging that Congress did not anticipate. The change in EAS eligibility mandated in the 1990 Transportation appropriation bill is now hurting unsubsidized communities as well as those losing subsidized service. In Illinois a wholly owned commuter airline of one major carrier has proposed ending once profitable service to several Illinois communities because the airline does not feel it is required to provide that service any longer.

This may be good business practice in the short term, to take the valuable O'Hare landing rights and use them to compete in more heavily served and

competitive markets, but it is another example of the unintended effects of transportation deregulation. By concentrating on fewer customers in more prosperous markets which already have a choice of service, fewer and fewer Americans will ultimately receive the benefits of a reliable air carrier transportation system. At the same time billions of taxpayers dollars are spent by passengers and general taxpayers alike on the national airport and airways system each year.

Illinois had 15 EAS communities in 1988. Up to now, only two, Mount Vernon and Sterling/Rock Falls receive subsidies, but the turnaround in their local economies was dramatic. Mt. Vernon not only retained businesses like the PNC Co. but attracted new plants such as General Tire Co. and Everbrite. Unemployment in Sterling/Rock Falls turned around thanks to plants like Northwestern Steel and Wire, Illinois Forge, and Borg Warner Corp.

Mr. President, the EAS Program was a promise made to rural America at the time of airline deregulation. This legislation will help us honor that promise. How many of the younger generation in rural America will have to move away to crowded urban regions to find jobs and services before we grasp what is happening and build a strong future for all of our citizens no matter where they live? We will help answer that question in favor of rural America if we act favorably on this legislation.

By Mr. BAUCUS:

S. 2348. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of enterprise zones, and for other purposes; to the Committee on Finance.

RURAL BUSINESS REVITALIZATION ACT

Mr. BAUCUS. Mr. President, today I am introducing the Rural Business Revitalization Act of 1990. This bill will authorize the establishment of Federal enterprise zones in rural communities throughout the country, giving a much-needed boost to State and local development efforts. My bill will provide tax incentives to businesses which will locate or expand in rural areas.

For the Nation's rural areas, the 1980's has been a period of severe economic stress. During this period, industries which have been the backbone of the rural economy—agriculture, timber, mining and routine manufacturing—have deteriorated.

Rural unemployment has soared, rural incomes have fallen. By every major standard, rural economies have fallen sharply behind urban economies.

This represents a dramatic reversal of trends established in the seventies, when the differences between rural and urban economies was narrowing.

The impact of all this can be seen in population statistics. Rural America is losing its most valuable asset—its people. Young, educated entrepreneurs are moving out.

Prior to 1982, rural America had a healthy net inmigration. Since then, however, we have experienced a net outmigration that has multiplied every year. In 1987, the net outmigration from rural America was over 1 million people.

The facts are clear. Rural America is not doing very well. Unless the Federal, State and local governments take action to reverse this trend, the future of rural areas is in jeopardy.

In order to create jobs and compete in today's global economy, rural America must diversify.

Congress can help eliminate some of the barriers to diversification. It can divise new policies and help provide the tools necessary to shift the rural employment base away from natural resource-based industries to manufacturing and service industries.

Last session, I introduced four bills to provide tools necessary for diversification and to help equalize some of the disparities between rural and urban America.

One brings state-of-the-art telecommunications services to rural areas so that they can join in the "Information Age" of the future.

A second sets up a public/private partnership mechanism to bring more high risk capital to rural areas for business investment.

A third will better enable rural communities to establish business incubators for the purpose of lowering overhead costs.

And a fourth will restore fairness to Medicare's treatment of critical access sole community hospitals and protect them from financial losses which have forced so many to close their doors.

The first three of these bills passed the Senate in modified form as part of S. 1036, the Rural Partnerships Act of 1989. And the fourth was incorporated into last year's budget reconciliation bill.

The acquisition of these tools for business development will go a long way toward helping rural areas recover from the depression of the 1980's.

Today, I am introducing legislation that will provide the next essential tool to help foster business development in rural America. That tool is a package of tax incentives to encourage businesses to locate or expand in rural areas.

My bill is modeled after enterprise zone programs which have been initiated in 37 States. Nationally, the State enterprise zone initiatives are credited with creating over 133,000 new jobs and preseving more than 67,000 existing ones while simultaneously attracting nearly $9 billion in new investment in depressed areas.

The bill will also provide a 10-percent investment tax credit for investment in new construction property and new equipment. This credit will be used as an incentive for businesses in rural enterprise zones to build new buildings for their business of expand on existing buildings. It will also provide an incentive for rural businesses to purchase new equipment.

Finally, the bill will increase the tax credit on research and development conducted in rural areas by 10 percent.

I believe that my legislation which passed the Senate providing tools necessary for rural development, combined with this new package of tax incentives for businesses which invest in rural areas will go a long way toward giving community leaders the tools they need to attract and keep jobs.

Most importantly, they will help make more opportunities available to young entrepreneurs so that they will be encouraged to remain and develop jobs in rural areas instead of being forced to move to urban centers for employment.

I ask unanimous consent that the full text of my bill be printed in the RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Rural Business Revitalization Act of 1990".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—DESIGNATION OF RURAL ENTERPRISE ZONES

SEC. 101. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Rural Enterprise Zones

"Sec. 7881. Designation.

"SEC. 7881. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITIONS.—For purposes of this title, the term 'rural enterprise zone' means any area—

"(A) which is nominated by 1 or more local governments and the State or States in which it is located for designation as a rural enterprise zone (hereafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Treasury, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and Housing and Urban De-

velopment, and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior, designates as a rural enterprise zone.

"(2) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as a rural enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area under paragraph (1)(A),

"(ii) the parameters relating to the size and population characteristics of a rural enterprise zone, and

"(iii) the manner in which nominated areas will be compared based on the criteria specified in subsection (d) and the other factors specified in subsection (f).

"(B) TIME LIMITATIONS.—The Secretary shall designate nominated areas as rural enterprise zones only during the 36-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) January 1, 1991.

"(C) PROCEDURAL RULES.—The Secretary shall not make any designation of an area as a rural enterprise zone under paragraph (1) unless—

"(i) the local government and the State in which the nominated area is located have the authority—

"(I) to nominate such area for designation as a rural enterprise zone,

"(II) to make the State and local commitments under subsection (d), and

"(III) to provide assurances satisfactory to the Secretary that such commitments will be fulfilled,

"(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary shall by regulation prescribe,

"(iii) the Secretary determines that any information furnished is reasonably accurate, and

"(iv) the State and local governments certify that no portion of such area is already included in a rural enterprise zone or in an area otherwise nominated to be a rural enterprise zone.

"(3) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a rural enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 15th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided in the nomination submitted under subsection (a)(2)(C)(ii), or

"(C) the date the Secretary revokes such designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—The Secretary, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary determines that the local government or the State in which it is located is not complying substantially with the State and local commitments under subsection (d).

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is—

"(i) a county or a political subdivision the aggregate population of which is 50,000 or less, or

"(ii) a county or a political subdivision the aggregate population of which exceeds 50,000, which is determined by the Secretary to be a rural area, and

"(B) the boundary is continuous.

"(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that there exists general economic distress in the area. For general economic distress to be present, at least one of the following criteria must be met:

"(A) The area is one where there is evidence of high rates of poverty or unemployment, reduced incomes, or the number of jobs in the area has dropped from year-to-year.

"(B) The area is located within the jurisdiction of a local government that the Secretary finds is experiencing a high number of farm or small business bankruptcies, loss of private investment in the business sector, or other factors determined to be relevant in assessing the comparative degree of economic deterioration in the rural area.

"(C) During the period after 1974 and before the calendar year in which the area is nominated, there are 5 years during which the population in the area (as determined from the most recent estimates of population by the Department of Commerce) decreased by at least 2 percent from the prior year.

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as a rural enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is a rural enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any Federal program, and may include, but is not limited to—

"(A) a reduction of tax rates or fees applying within the rural enterprise zone,

"(B) an increase in the level or efficiency of local services within the rural enterprise zone,

"(C) actions to reduce, remove, simplify, or streamline governmental requirements which apply within the rural enterprise zone,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area, and

"(E) mechanisms to increase the equity ownership of residents and employees within the rural enterprise zone.

"(3) SUBSEQUENT MODIFICATION OF COURSE OF ACTION.—The Secretary may by regulation prescribe procedures for modifying a course of action within a rural enterprise zone under paragraph (1) following designation of such zone.

"(e) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary shall give special preference to the areas with respect to which the strongest and highest quality contributions described in subsection (d)(2) have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief. The Secretary shall also give preference to—

"(1) the nominated areas with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action under subsection (d) will actually be carried out during the period of the rural enterprise zone designation,

"(2) the nominated areas with high levels of poverty, unemployment, and general distress, particularly the areas—

"(A) which are near areas with concentrations of disadvantaged workers or long-term unemployed individuals, and

"(B) with respect to which there is a strong likelihood that residents of the area described in subparagraph (A) will receive jobs if the area is designated as a rural enterprise zone,

"(3) the nominated areas the size and location of which—

"(A) will primarily stimulate new economic activity, and

"(B) minimize unnecessary tax losses to the Federal Government,

"(4) the nominated areas with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(5) the nominated areas which best exhibit such other factors determined by the Secretary as are—

"(A) consistent with the intent of the rural enterprise zone program, and

"(B) important to minimizing the unnecessary loss of tax revenues to the Federal Government.

"(f) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than 1 government seeks to nominate an area as a rural enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau; and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Designation of rural enterprise zones.".

SEC. 102. EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the third calendar year after the calendar year in which the Secretary of the Treasury first designates areas as rural enterprise zones under section 7881 of the Internal Revenue Code of 1986, and at the close of each third calendar year thereafter, the Secretary of the Treasury shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this Act.

SEC. 103. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) TAX REDUCTIONS.—Any reduction of taxes under any required program of State and local commitment under section 7881(d) of the Internal Revenue Code of 1986 shall be disregarded in determining the eligibility of a State or local government for, or the amount or extent of, any assistance or benefits under any law of the United States.

(b) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of a rural enterprise zone under section 7881 of the Internal Revenue Code of 1986 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.)), or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(c) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of a rural enterprise zone under section 7881 of the Internal Revenue Code of 1986 shall not constitute a Federal action for purposes of applying the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or other provisions of Federal law relating to the protection of the environment.

TITLE II—FEDERAL INCOME TAX INCENTIVES

SEC. 201. CREDIT FOR RURAL ENTERPRISE ZONE EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 43. CREDIT FOR RURAL ENTERPRISE ZONE EMPLOYMENT.

"(a) IN GENERAL.—For purposes of section 38, the amount of the rural enterprise zone credit determined under this section for any taxable year shall be an amount equal to—

"(1) 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year, and

"(2) 10 percent of the wages paid employees during the training and retraining of such employees for the taxable year.

"(b) COMPUTATION OF CREDIT.—Wages paid during training or retraining under subsection (a)(2) shall not be taken into account for purposes of determining qualified increased employment expenditures under subsection (a)(1).

"(c) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the employer during the taxable year to qualified employees with respect to all rural enterprise zones, over

"(B) the base period wages of the employer with respect to all such zones.

"(2) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means, with respect to any rural enterprise zone, the amount of wages paid to employees during the 12-month period preceding the date on which the rural enterprise zone was designated as such under section 7881, or the date on which the rural enterprise zone is designated under State law, enacted after January 1, 1981, if earlier, which would have been qualified wages paid to qualified employees if such designation had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A), subsection (e)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears.

"(C) ADJUSTMENTS FOR INFLATION.—

"(i) IN GENERAL.—In the case of any 12-month period beginning on the date which is 12 months (or any multiple of 12 months) after a period described in subparagraph (A) with respect to a rural enterprise zone, the base period wages for such zone shall be increased by an amount equal to—

"(I) such base period wages, multiplied by

"(II) the living standard adjustment for the calendar year in which such 12-month period begins.

"(ii) LIVING STANDARD ADJUSTMENT.—For purposes of clause (i), the living standard adjustment for any calendar year is the percentage (if any) by which—

"(I) the living standard for the preceding calendar year, exceeds

"(II) the living standard for the calendar year in which the period described in subparagraph (A) begins.

"(iii) LIVING STANDARD FOR ANY CALENDAR YEAR.—For purposes of clause (ii), the living standard for any calendar year is the lower living standard for a family of 4 as determined by the Bureau of Labor Statistics for such calendar year.

"(d) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) REDUCTION FOR CERTAIN FEDERALLY FUNDED PAYMENTS.—For purposes of this section the wages paid or incurred by an employer for any period shall not include the amount of any federally funded payments the employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(e) QUALIFIED EMPLOYEE DEFINED.—For purposes of this section, the term 'qualified employee' means an individual—

"(1) at least 90 percent of whose services for the employer during the taxable year are directly related to the conduct of the employer's trade or business located in a rural enterprise zone, and

"(2) who performs at least 50 percent of his services for the employer during the taxable year in a rural enterprise zone.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) PERIODS OF LESS THAN A YEAR.—If designation of an area as a rural enterprise zone under section 7881 occurs, expires, or is revoked on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year—

"(A) the base period wages determined under subsection (c)(3), shall be adjusted on a pro rata basis (based upon the number of days), and

"(B) the reduction specified in subsection (d)(2) and the 90 percent and 50 percent tests set forth in subsection (e)(1) shall be determined by reference to the portion of the taxable year during which the designation of the area as a rural enterprise zone is in effect.

"(2) REVOCATION OF DESIGNATION.—If the designation of an area as a rural enterprise zone is revoked under section 7881(b)(2), such area shall continue to be treated as a rural enterprise zone for the period of 3 taxable years beginning on the date which is after the date of such revocation.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the abuse of such purposes by denying the credit allowable under this section to employers which relocate their businesses in a rural enterprise zone while displacing former employees or which otherwise conduct their businesses so as to take advantage of the credit allowable by this section without furthering such purposes.".

(b) NO DEDUCTION ALLOWED.—Section 280C (relating to disallowance of deductions for certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

"(d) RULE FOR SECTION 43 CREDITS.—No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable under section 43 (relating to credit for rural enterprise zone employment). This subsection shall be applied under rules similar to the rules under the last sentence of subsection (a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 42 the following new item:

"Sec. 43. Credit for rural enterprise zone employment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 202. INVESTMENT TAX CREDIT FOR RURAL ENTERPRISE ZONE PROPERTY.

(a) SECTION 38 PROPERTY.—Paragraph (1) of section 48(a) (defining section 38 property) is amended by striking "or" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting "; or", and by adding after subparagraph (G) the following new subparagraph:

"(H) rural enterprise zone property (within the meaning of subsection (t)) which is not otherwise section 38 property.".

(b) TERMINATION OF REGULAR PERCENTAGE NOT TO APPLY.—Section 49 (relating to ter-

mination of regular percentage) is amended by adding at the end the following new subsection:

"(f) SPECIAL RULE FOR RURAL ENTERPRISE ZONE PROPERTY.—Subsections (a), (c)(1), and (e)(2) shall not apply to any rural enterprise zone property.".

(c) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 46 (relating to amount of investment tax credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) in the case of qualified rural enterprise zone property, the rural enterprise zone percentage.".

(2) RURAL ENTERPRISE ZONE PERCENTAGE DEFINED.—Subsection (b) of section 46 is amended by adding at the end the following new paragraph:

"(5) RURAL ENTERPRISE ZONE PERCENTAGE.—For purposes of this subsection—

"In the case of qualified rural enterprise zone expenditures with respect to:	The rural enterprise zone percent-age is:
Zone personal property (within the meaning of section 48(t)(2)	10
New zone construction property (within the meaning of section 48(t)(3))	10.".

(3) CONFORMING AMENDMENT.—Section 48(o) (defining certain credits) is amended by adding at the end the following new paragraph:

"(4) RURAL ENTERPRISE ZONE CREDIT.—The term 'rural enterprise zone credit' means that portion of the credit allowed by section 38 which is attributable to the rural enterprise zone percentage.".

(d) DEFINITIONS AND TRANSITIONAL RULES.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (t) as subsection (u) and by inserting after subsection (s) the following new subsection:

"(t) RURAL ENTERPRISE ZONE PROPERTY.—

"(1) IN GENERAL.—The term 'rural enterprise zone property' means property—

"(A) which is—

"(i) zone personal property, or

"(ii) new zone construction property,

"(B) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (determined as of the time the property is acquired by the taxpayer), and

"(C) acquired and first placed in service by the taxpayer in a rural enterprise zone during the period the designation as a zone is in effect under section 7881.

"(2) ZONE PERSONAL PROPERTY DEFINED.—The term 'zone personal property' means property which is—

"(A) 3-year property;

"(B) 5-year property;

"(C) 7-year property;

"(D) 10-year property;

"(E) 15-year property; and

"(F) 20-year property;

which is used by the taxpayer predominantly in the active conduct of a trade or business within a rural enterprise zone. Property shall not be treated as 'zone personal property' if it is used or located outside the rural enterprise zone on any regular basis.

"(3) NEW ZONE CONSTRUCTION PROPERTY DEFINED.—The term 'new zone construction property' means any residential rental property or nonresidential real property which is—

"(A) located in a rural enterprise zone,

"(B) used by the taxpayer predominantly in the active conduct of a trade or business within a rural enterprise zone, and

"(C) either—

"(i) the construction, reconstruction, rehabilitation, renovation, expansion, or erection of which is completed by the taxpayer during the period the designation as a zone is in effect under section 7881, or

"(ii) acquired during such period if the original use of such property commences with the taxpayer and commences during such period.

In applying section 46(c)(1)(A) in the case of property described in clause (i), there shall be taken into account only that portion of the basis which is properly attributable to construction or erection during such period.

"(4) REAL ESTATE RENTAL.—For purposes of this section, ownership of residential, commercial, or industrial real property within a rural enterprise zone for rental shall be treated as the active conduct of a trade or business in a rural enterprise zone.

"(5) DEFINITIONS.—

"(A) 3-YEAR PROPERTY.—For purposes of this subsection, the terms '3-year property', '5-year property', '7-year property', '10-year property', 'residential rental property', 'nonresidential real property', '15-year property', and '20-year property' have the meanings given such terms by section 168(e).

"(B) RELATED PERSON.—For purposes of paragraph (1), a person (hereafter in this subparagraph referred to as the 'related person') is related to any other person if—

"(i) the related person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or

"(ii) the related person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of clause (i), '10 percent' shall be substituted for '50 percent' in applying sections 267(b)(1) and 707(b)(1). In the case of the acquisition of any property by any partnership which results from the termination of another partnership under section 708(b)(1)(B), the determination of whether the acquiring partnership is related to the other partnership shall be made immediately before the event resulting in such termination.".

(e) LODGING TO QUALIFY.—Paragraph (3) of section 48(a) (relating to property used for lodging) is amended—

(1) by striking "and" at the end of subparagraph (C),

(2) by striking the period at the end of subparagraph (D) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(E) new zone construction property.".

(f) RECAPTURE.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end the following new paragraph:

"(10) SPECIAL RULES FOR RURAL ENTERPRISE ZONE PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed a rural enterprise zone credit—

"(i) is disposed of, or

"(ii) in the case of zone personal property—

"(I) otherwise ceases to be section 38 property with respect to the taxpayer, or

"(II) is removed from the rural enterprise zone, converted, or otherwise ceases to be rural enterprise zone property (other than by the expiration or revocation of the designation as a rural enterprise zone),

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 46(a)(4) for all prior taxable years which would have resulted solely from reducing the expenditures taken into account with respect to the property by an amount which bears the same ratio to such expenditures as the number of taxable years that the property was held by the taxpayer bears to the applicable recovery period for earnings and profits under section 312(k).".

(g) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended to read as follows:

"(3) SPECIAL RULE FOR QUALIFIED RURAL ENTERPRISE ZONE EXPENDITURES.—In the case of any credit determined under section 46(a) for—

"(A) any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, or

"(B) any expenditure in connection with new zone construction property (within the meaning of section 48(t)(3)),

paragraphs (1) and (2) of this subsection and paragraph (5) of subsection (d) shall be applied without regard to the phrase '50 percent of'.".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1990.

SEC. 203. INCREASE IN RESEARCH CREDIT FOR RESEARCH CONDUCTED IN RURAL ENTERPRISE ZONES.

(a) IN GENERAL.—Section 41 (relating to credit for increasing research activities) is amended by adding at the end the following new subsection:

"(i) INCREASE IN CREDIT FOR RESEARCH CONDUCTED IN RURAL ENTERPRISE ZONE.—Subsection (a)(1) shall be applied by substituting '40 percent' for '20 percent' with respect to the lesser of—

"(1) the excess described in subsection (a)(1), or

"(2) the excess which would be described in subsection (a) if only research conducted in rural enterprise zones were taken into account.

For purposes of paragraph (2), an area shall be treated as a rural enterprise zone for a base period with respect to a taxable year if such area is designated as a rural enterprise zone for such taxable year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990, and to base periods with respect to such taxable years.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. CRANSTON, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 15, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 16

At the request of Mr. CRANSTON, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 16, a bill to require the executive branch to gather and disseminate information regarding, and to promote techniques to eliminate, discriminatory wage setting practices and discriminatory wage disparities which are based on sex, race, or national origin.

S. 700

At the request of Mr. DOMENICI, the names of the Senator from Idaho [Mr. SYMMS] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 700, a bill to amend the Internal Revenue Code of 1986 to meet the growing challenge of America's infrastructure needs.

S. 814

At the request of Mr. DOMENICI, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 814, a bill to provide for the minting and circulation of one dollar coins, and for other purposes.

S. 1056

At the request of Mr. COATS the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1056, a bill to establish programs to strengthen America's families, and for other purposes.

S. 1349

At the request of Mr. PRYOR, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1349, a bill to amend the Internal Revenue Code of 1986 to exclude small transactions and to make certain clarifications relating to broker reporting requirements.

S. 1400

At the request of Mr. KASTEN, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Colorado [Mr. ARMSTRONG], and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 1400, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 1511

At the request of Mr. PRYOR, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1515

At the request of Mr. MITCHELL, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1515, a bill to amend the Internal Revenue Code of 1986 to permit private foundations and community foundations to establish tax exempt cooperative service organizations.

S. 1690

At the request of Mr. DODD, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 1690, a bill to establish programs to improve foreign language instruction, and for other purposes.

S. 1791

At the request of Mr. ROCKEFELLER, the names of the Senator from Maine [Mr. COHEN] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1791, a bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes.

S. 1808

At the request of Mr. BREAUX, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1808, a bill to amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants.

S. 2039

At the request of Mr. COCHRAN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2039, a bill to improve the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms.

S. 2048

At the request of Mr. SARBANES, the names of the Senator from Nevada [Mr. REID] and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 2048, a bill to provide for cost-of-living adjustments in 1991 under certain Government retirement programs.

S. 2050

At the request of Mr. KOHL, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2050, a bill to amend title XVIII of the Social Security Act to provide toll-free hotlines for individuals receiving benefits under such title and to provide increased protection against fraud and abuse with respect to the marketing and selling of Medicare supplemental policies to such individuals, and for other purposes.

S. 2071

At the request of Mr. PACKWOOD, the names of the Senator from Missouri [Mr. BOND] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2071, a bill to amend the Internal Revenue Code of 1986 to provide incentives for savings and investments in order to stimulate economic growth.

S. 2077

At the request of Mr. GRASSLEY, the names of the Senator from Alaska [Mr. STEVENS] the Senator from Idaho [Mr. MCCLURE], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 2077, a bill to amend the Federal Aviation Act of 1958 to limit the age restrictions imposed upon aircraft pilots.

S. 2097

At the request of Mr. PELL, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2097, a bill to promote and encourage alternative nondefense uses of defense facilities, to provide assistance for the retraining of unemployed defense workers whose employment is terminated, and to provide adjustment assistance to communities adversely affected by the termination or curtailment of defense contracts or the closure or realignment of military installations.

S. 2147

At the request of Mr. COCHRAN, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2147, a bill to provide for certain agricultural trade programs and for other purposes.

S. 2158

At the request of Mr. PRYOR, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 2158, a bill to direct the Secretary of Health and Human Services to promulgate regulations to require that an individual telephoning the Social Security Administration has the option of accessing a Social Security Administration representative in a field office in the geographical area of such individual, and for other purposes.

S. 2177

At the request of Mr. LIEBERMAN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2177, a bill to improve the collection and dissemination of information relating to the supply of winter heating fuels, and for other purposes.

S. 2178

At the request of Mr. LIEBERMAN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2178, a bill to amend title 18, United States Code, to establish a Federal criminal offense for illegal creation of a fuel shortage.

S. 2216

At the request of Mr. COATS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2216, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize grants to States for boot camp projects to demonstrate innovative alternatives to the imprisonment of persons for nonviolent offenses and nonviolent drug-related offenses

S. 2250

At the request of Mr. DECONCINI, the names of the Senator from Mary-

land [Ms. MIKULSKI] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2250, a bill to amend title 5, United States Code, with respect to setting rates of basic pay for law enforcement officers, and for other purposes.

S. 2266

At the request of Mr. GRASSLEY, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2266, a bill to promote the development of new and expanded markets for the export of U.S. agricultural commodities and products, and for other purposes.

S. 2299

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2299, a bill to require the construction of a demonstration highway project between St. Louis, MO, and Minneapolis/St. Paul, MN.

SENATE JOINT RESOLUTION 224

At the request of Mr. BYRD, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Alaska [Mr. STEVENS], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 224, a joint resolution to designate the month of May 1990 as "National Trauma Awareness Month."

SENATE JOINT RESOLUTION 240

At the request of Mr. SYMMS, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Joint Resolution 240, a joint resolution designating the week of June 10, 1990, through June 16, 1990, as "Multiple-Use Sustained-Yield Week."

SENATE JOINT RESOLUTION 242

At the request of Mr. THURMOND, the names of the Senator from Georgia [Mr. NUNN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. HATCH], the Senator from Tennessee [Mr. GORE], the Senator from Kentucky [Mr. FORD], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Indiana [Mr. LUGAR], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Joint Resolution 242, a joint resolution designating the week of April 22 through April 28, 1990, as "National Crime Victims' Rights Week."

SENATE JOINT RESOLUTION 274

At the request of Mr. LAUTENBERG, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Virginia [Mr. WARNER], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 274, a joint resolution to designate the week beginning June 10, 1990, as "National Scleroderma Awareness Week."

SENATE CONCURRENT RESOLUTION 101

At the request of Mr. CRANSTON, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Concurrent Resolution 101, a concurrent resolution expressing the sense of the Senate concerning negotiations for a peace settlement in Cambodia.

SENATE CONCURRENT RESOLUTION 106

At the request of Mr. MOYNIHAN, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Concurrent Resolution 106, a concurrent resolution expressing the sense of the Congress concerning Jerusalem and the peace process.

SENATE RESOLUTION 80

At the request of Mr. KASTEN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Resolution 80, a resolution relating to legislation which would require interstate mail-order companies to impose State taxes on items mailed across State borders.

SENATE RESOLUTION 266—AUTHORIZING PRODUCTION OF RECORDS BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BAUCUS (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to

S. RES. 266

Whereas the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has been conducting an investigation into allegations of fraud and other wrongdoing in federal student loan programs;

Whereas the Inspector General of the Department of Education has requested access to records of the Subcommittee's investigation for use in a current related inquiry which he will be coordinating with the Department of Justice;

Whereas by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas when it appears that documents, papers, and records under the control or in the possession of the Senate are needful for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations, acting jointly, are authorized to provide to the Inspector General of the Department of Education and to the Department of Justice records of the Subcommittee's investigation of allegations of fraud and other wrongdoing in federal student loan programs.

AMENDMENTS SUBMITTED

CLEAN AIR ACT AMENDMENTS

BINGAMAN (AND GRAHAM) AMENDMENT NO. 1380

Mr. BINGAMAN (for himself and Mr. GRAHAM) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes, as follows:

On page 51 of the amendment, after line 5, strike all through page 54, line 20, and insert the following:

"(iv) Whether or not the conditions under paragraph (1) calling for application of a sanction are satisfied, the Governor of a state containing a nonattainment area for ozone or carbon monoxide may elect to use in such area (or areas) all or part of the funds available to the State for such area (or areas) under title 23, United States Code, for projects specified in clause (ii).

"(C) a prohibition of any public water system regulated under title XIV of the Public Health Service Act from providing drinking water service in the nonattainment area (or portion thereof, where the State failure relates exclusively to such portion) to any structure to which such service was not provided before the Administrator's choice of this sanction. The Administrator may not prohibit any public water system from providing water service to any customer requiring such service to correct an existing public health hazard;

"(D) the withholding by the Administrator of all or part of the grants for support of air pollution planning and control programs that the Administrator is authorized to award under section 105.".

"(3) Not later than twelve months after the Administrator makes a determination under paragraph (1) that a State is making reasonable efforts to cure the relevant failure, the Administrator shall make a final determination, which shall be published in the Federal Register, of whether the State has cured such failure. If the Administrator determines that the State has not cured such failure, the Administrator shall immediately apply, with respect to the relevant area within such State, at least one of the sanctions specified in paragraph (2).

"(4) The Administrator may, in the Administrator's discretion, apply any sanction or sanctions listed in paragraph (2) to address any of the failures specified in subsection (1) relating to any plan required under this title.

"(5)(A) Within six months following the applicable attainment date for any nonattainment area, the Administrator shall determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date.

"(B) Upon making the determination under clause (A), the Administrator shall publish a notice in the Federal Register identifying each area that the Administrator has determined to have failed to attain. The Administrator may revise or supplement such determination at any time based on more complete information or analysis

concerning the area's air quality as of the attainment date.

"(6) No major stationary source of any pollutant shall be constructed or modified in a nonattainment area for such pollutant after the date forty-two months from the date of enactment of the Clean Air Act Amendments of 1990 or the date forty-two months from the date such area was designated nonattainment for such pollutant, whichever is later, unless, as of the later of such dates, the Administrator has approved a plan submission for the area meeting the requirements of section 172(c)(6) with respect to such pollutant as those requirements relate to the construction and operation of new or modified major stationary sources. Before the later of the dates set forth in this subsection, no State shall issue a permit for construction or modification of a major stationary source unless such permit meets the requirements of section 173.

"(7) Whenever—

"(A) an ozone nonattainment area fails to achieve the emissions reductions required under section 183(b)(2) or (3),

"(B) a carbon monoxide nonattainment area fails to achieve the emissions reductions of a milestone required under section 188(g)(3), or

"(C) a PM-10 nonattainment area fails to achieve the emission reduction of a milestone required under section 192(e)(2), but no later than twelve months after passage of the date for achieving such reductions, the Administrator shall notify the State containing such nonattainment area of such failure. No later than nine months after such notification, the State shall submit to the Administrator a revision to the applicable implementation plan adequate to achieve the emissions reductions that the area failed to achieve before such plan revision was due. Such revision shall provide that such emissions reductions shall be achieved by the end of the next complete three-year period (described in section 183(b)) or milestone period (described in section 188(g) or section 192(e)), as the case may be. Notwithstanding any other provision of this Act, the Administrator shall act on such revision under section 110(d)(3) no later than six months after the date on which the State submits such revision.".

(gg) TRANSPORTATION SYSTEM IMPACTS ON CLEAN AIR.—Section 108(f) of the Clean Air Act is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary of Transportation and the Administrator shall submit to Congress by January 1, 1992 and every three years thereafter a report that:

"(A) reviews and analyzes existing State and local air quality-related transportation programs including specifically any analyses of whether adequate funding is available to complete transportation projects identified in State implementation plans in the time required by applicable State implementation plans and any federal efforts to promote those programs;

"(B) evaluates the extent to which the Department of Transportation's existing air quality-related transportation programs and such Department's proposed budget will achieve the goals of and compliance with the Clean Air Act; and

"(C) recommends what, if any, changes to such existing programs and proposed budget as well as any statutory authority relating to air quality-related transportation programs that would improve the achievement of the goals of and compliance with the Clean Air Act.

"(4) Within 120 calendar days of submitting each report, the Secretary of Transportation in cooperation with the Administrator shall undertake all appropriate steps within existing authority and available resources to implement the recommended changes to the existing programs and proposed budget specified in subparagraph (3)(C).".

METZENBAUM (AND GLENN) AMENDMENT NO. 1381

(Ordered to lie on the table.)

Mr. METZENBAUM (for himself and Mr. GLENN) submitted an amendment intended to be proposed by them to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 424 of the amendment, line 6, strike "December 31, 1992" and insert "June 30, 1991 and uses a system of continuous emission reduction which achieves at least a 70 percent reduction in sulfur dioxide emission,".

On page 424 of the amendment, line 9, strike "0.30" and insert "0.60".

On page 424 of the amendment, line 11, insert after "2000." the following new sentence:

"After January 1, 2000, the Administrator shall issue to the owner or operator of any utility unit that commences commercial operation, or has commenced commercial operation, on or after October 1, 1990, but not later than December 31, 1992 and which does not use a system of continuous reduction (as described in the previous sentence) allowances in an amount equal to the product of the units annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the federally enforceable emission limitation converted to pounds per mmBtu, divided by 2,000.".

WIRTH (AND OTHERS) AMENDMENT NO. 1382

(Ordered to lie on the table.)

Mr. WIRTH (for himself, Mr. DOLE, Mrs. KASSEBAUM; and Mr. ARMSTRONG) submitted an amendment intended to be proposed by him to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

At the end of section 405, insert the following new subsections:

"(i) Municipally-Owned Oil and Gas-fired Units Less than 40 MWe.

"(1) After January 1, 2000, it shall be unlawful for an existing muncipally-owned oil and gas-fired utility unit with nameplate capacity equal to or less than 40 MWe, with an actual 1985 sulfur dioxide emission rate of less than 1.2 lbs/mmBtu, to exceed an annual emission rate of 1.2 lbs-mmBtu, unless the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions.

"(2) Beginning January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the the emissions limitation requirements of paragraph (1) allowances, including allowances from the reserve created pursuant to subsection (a)(2), in a tonnage amount equal to the lesser of the product of the unit's allowable 1985 emission rate or its actual 1985 emission rate multiplied by the unit's fuel consumption on a Btu basis at a 60 per centum capacity factor, divided by 2000.

"(j) Municipally-Owned Coal Units Below 25 MWe.

(1) After January 1, 2000, it shall be unlawful for an existing municipally-owned coal-fired utility unit with a nameplate capacity of less than 25 MWe and an annual 1985 emission rate equal to less than 1.2 lbs/mmBtu, to exceed an annual emission rate of 1.2 lbs/mmBtu, unless the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions.

"(2) Beginning January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances, including allowances from the reserve create pursuant to subsection (a)(2), in a tonnage amount equal to the lesser of the product of the unit's allowable 1985 emission rate or its actual 1985 emission rate multiplied unit's fuel consumption on a Btu basis at a 60 per centum capacity factor, divided by 2000."

● Mr. WIRTH. Mr. President, the attached amendment is intended to provide allowances to small, clean power plants operated by municipal utilities. These plants provide back-up power for municipal utilities whose primary source of power is the wholesale power market, but who need their own generation capacity to meet peak loads or to provide backup for times when power is not available on the wholesale market.

Without allowances, these plants would not be able to be used beyond the year 2000. While small dirty powerplants receive allowances under the bill, these small, clean powerplants do not.

These plants operate intermittently and generally have little existing emissions data. Yet they need to be able to operate at high capacity in order to serve their function in these utility systems.

The amendment proposes to direct the Administrator to provide allowances to units owned by municipalities which are smaller than 40 MWe—(for oil and gas fired units)—or smaller than 25 MWe—for coal fired units. This only applies to units emitting less than 1.2 lbs/mmBtu of sulfur dioxide.

Each of the qualifying units would receive allowances equal to the lesser of (a) its actual 1985 emissions rate times the fuel consumption of the unit at a 60-percent capacity factor, or (b) its allowable—SIP imposed—emissions rate times its fuel consumption at a 60-percent capacity factor.

The American Public Power Association has estimated the impact at less than 20,000 tons. The initial estimate of the impact of this amendment by EPA is 11,000 tons.●

JOHNSTON (AND OTHERS) AMENDMENT NO. 1383

(Ordered to lie on the table.)

Mr. JOHNSTON (for himself, Mr. BREAUX, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 425, after line 12 add the following:

"(3) Beginning January 1, 2010, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2000.

JOHNSTON AMENDMENT NO. 1384

Mr. JOHNSTON proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

Amend amendment No. 1293 on pages 196 through 197, dalete paragraph 11 and insert in lieu thereof the following:

"(11) CONVENTIONAL GASOLINE.—Not later than July 1, 1992, the Administrator shall promulgate regulations ensuring that, beginning on January 1, 1993, gasoline sold on a nationwide basis does not result in per gallon emissions of volatile organic compounds, oxides of nitrogen, carbon monoxide, and carcinogenic air pollutants in excess of per gallon emissions of such pollutants attibutable to gasoline sold in calendar year 1989.

DOLE AMENDMENT NO. 1385

Mr. DOLE proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 238, after line 8, add the following:

"(6) Not later than twelve months after the date of enactment of the Clean Air Act Amendments of 1990 or within six months of adding any substance to the list established by paragraph (1), the Admnistrator shall establish significant emission levels for any listed substance for purposes of the preconstruction requirements of section 165.".

KOHL AMENDMENT NOS. 1386 AND 1387

(Ordered to lie on the table.)

Mr. KOHL submitted two amendments intended to be proposed by him to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

AMENDMENT No. 1386

On page 413 of the amendment, in the item relating to La Crosse/Genoa, Wisconsin in Table A, strike "19,090" and "9,160" and insert "21,543" and "10,337", respectively.

AMENDMENT No. 1387

On page 443 of the amendment, line 21, strike lines 21 through 25 and insert the following:

"SEC. 413. (a) GENERAL COMPLIANCE.—Except as expressly provided, compliance with the requirements of this title shall not exempt or exclude the owner or operator of any source subject to this title from compliance with any other applicable requirements of this Act.

"(b) EXCEPTION.—(1) An affected source that includes one or more affected steam-electric existing units located in a State in which the owner or operator of the source is required by a State law enacted prior to the date of enactment of the Clean Air Act Amendments of 1989 to reduce sulfur dioxide emissions by 40 percent or more prior to January 1, 2000, shall not be required to comply with section 123 of this Act.

"(2) Paragraph (1) shall take effect on the effective date of the Clean Air Act Amendments of 1989.

JOHNSTON AMENDMENT NO. 1388

Mr. JOHNSTON proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 393 beginning at line 7 strike everything through page 397, line 21 and insert the following in lieu thereof:

"(2)(A) FIXED PRICE SALE OF ALLOWANCES.—In accordance with the provisions of this paragraph, the Administrator, pursuant to regulations promulgated not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1989, shall offer and sell allowances, at a price of $1,500 per ton (adjusted for inflation based on the Consumer Price Index beginning on the date of enactment of the Clean Air Act Amendments of 1989 and annually thereafter) in accordance with regulations for the use of allowances pursuant to subsection (b). The number of allowances offered and sold under this paragraph that can become useable in any given calendar year shall not exceed 100,000. The Administrator shall offer to sell the maximum number of allowances permitted under this subparagraph and shall complete such sales as provided further under this paragraph. No allowance offered and sold under this paragraph shall become useable (i) prior to the year 2000, and (ii) until two calendar years after the calendar year in which it has been offered.

"(B) Beginning ninety days after the promulgation of regulations and anytime thereafter, an applicant under this paragraph may submit an application or applications for the purchase of allowances. An applicant shall demonstrate that (i) the applicant is, or will be, an owner or operator of a unit subject to subsection (e), and (ii) the applicant has entered into binding agreements to construct the unit for which the allowances are being sought or that the public service commission with jurisdiction over the unit has given its approval for the construction and operation of the unit. No applications may be: (i) for the purchase of more than the number of allowances needed to operate the unit, for which allowances are being sought, for a period of 20 years, or (ii) for the purchase of allowances that become useable in a given calendar year in an amount greater than the number of allowances needed to operate the unit, for which allowances are being sought, for a period of one year.

"(C) The Administrator shall approve or disapprove applications no later than ninety days after submission by the applicant. Notwithstanding the fact that the approval of applications may exhaust the supply of allowances available to subsequent applicants in a given year, the Administrator shall consider applications in order of submission and, subject to the restrictions of subparagraph (A), approve such applications if the requirements of subparagraph (B) are met. If an application that would otherwise be approved would exhaust the supply of allowances in a given year, the Administrator shall offer to sell only those allowances in the application that are still available to be offered. The Administrator shall calculate an estimated purchase price to the applicant according to subparagraph (A) and rules promulgated under this paragraph. Such estimated purchase price shall reflect the discounted present value of the payments that the applicant would otherwise make if it were to pay for the allowances applied for on a year-to-year basis, and shall provide for the use of a discount rate equal to an interest rate on short-term borrowing by the Department of Treasury. Each applicant shall be required to pay earnest money equal to one half per centum of the estimated purchase price within six months of approval of the application. Upon the receipt of such payment the Administration shall issue to the applicant a letter certifying that the applicant is eligible to purchase allowances as specified in the approved application and stating that such eligibility shall expire one year and one day prior to the calendar year in which any of the allowances becomes useable. Within 90 days of receipt of such payment, the Administrator shall distribute such payment pro-rata to the owners or operators of affected units from whose allocations allowances may be deducted under subparagraph (D).

"(D) The Administrator shall promulgate regulations not later than thirty-six months after the date of enactment of the Clean Air Act Amendments of 1989 specifying: (i) one or more payment options (accounting for the earnest money paid for under subparagraph (C)) for purchase of allowances applied for under this paragraph, and (ii) methods by which an applicant can decrease, without penalty, the number of allowances purchased relative to the number of allowances applied for. Not later than one year and one day prior to the calendar year in which any of the allowances that have been reserved in accordance with an approved application become useable, the applicant who wishes to purchase such reserved allowances shall make a payment to the Administrator as specified in regulations promulgated under this subparagraph. If the applicant does not make such payment, the earnest money paid under subparagraph (C) shall be forfeited and the applicant's eligibility to purchase the allowances applied for shall expire. Following each payment specified in the regulations, the Administrator shall issue the allowances paid for to the approved applicant and on a pro-rata basis deduct, from the allowances allocated pursuant to subsections (b)(1) and (3); (c)(1), (2), and (3); (e); (f); (g) (1), (2), and (4); (h) (1) and (3) and the equivalent of the emissions limitations requirements of subparagraphs (4) and (5) of subsection (d), of section 405 for the calendar year for which the purchased allowances are issued, allowances in an amount equal to the number of purchased allowances issued. The Administrator shall record the transfers of allowances as a result of each sale in accordance with the requirements of subsection

(b). Within ninety days of the issuance of allowances, all funds collected as a result of the sale of such allowances under this paragraph shall be disbursed on a pro-rata basis to the owners or operators of the affected units from whose allocations the allowances are deducted. No funds transferred from a purchaser to the owners or operators of the affected units from whose allocations the allowances are deducted shall be treated for any purpose as revenue of the United States. Any allowances that are available for sale under this paragraph, and that remain unsold as of one year prior to the calendar year in which they become useable, shall be added to the allowances available for sale at auction under paragraph (3).

"(3)(A) ALLOWANCE AUCTION.—In accordance with the provisions of this paragraph, the Administrator shall conduct auctions of allowances no less than twice in each calendar year beginning in calendar year 1995 and in each year thereafter. In conducting such auctions the Administrator, in accordance with the requirements for the use of allowances pursuant to subsection (b), may sell both allowances which are useable in the calendar year in which an auction is held and allowances which are not useable until a specified calendar year following the auction; Provided, that:

"(i) no allowance sold in an auction under this paragraph shall be useable prior to the year 2000;

"(ii) except for allowances contributed under subparagraph (D) of this paragraph and allowances added under subparagraph (D) of paragraph (2), the total number of allowances sold in auctions under this paragraph that can become useable in any given calendar year shall not exceed 100,000; and

"(iii) in each calendar year beginning with the year 2000, the number of allowances that have been previously sold at auction and that become useable in such year together with the number of allowances that are offered for sale at auction in such year and become useable in such year shall not be less than 100,000.

In each auction the Administrator shall offer to sell long-term streams of allowances consisting of allowances that are not useable until specified calendar years following the auction. Such long-term streams shall be sufficient to permit the operation of units that in the aggregate would use no less than 7,500 allowances per year for a period beginning no earlier than the calendar year following such auction and not less than fifteen years thereafter. Allowances not sold in long-term streams shall be offered no later than two years from the calendar year in which they become useable. Not later than thirty-six months after the enactment of the Clean Air Act Amendments of 1989, the Administrator, after consultation with the Secretary of the Treasury, shall promulgate regulations setting forth the method by which each auction shall be conducted. The regulations shall assure that the auction is open to any person who may hold allowances pursuant to this section and shall not require that a minimum price be met for the purchase of allowances. Allowances awarded at auction may be used for any purpose subject to the provisions of this title. Persons awarded allowances pursuant to each auction shall be required to pay a specified per centum of the total purchase price within a specified period of time subsequent to the date of award, as set forth in the regulations promulgated under this paragraph, except as otherwise provided in subparagraph (B). Upon the receipt of such payment the Administrator shall issue to the person a letter certifying that the person is eligible to purchase allowances as specified according to the bid and award and stating that such eligibility shall expire one year prior to the calendar year in which any of the allowances becomes useable. Within 90 days of receipt of such payment, the Administrator shall distribute such payment pro-rata to the owners or operators of affected units from whose allocations allowances may be deducted under subparagraph (B).

"(B) Not later than one year prior to the calendar year in which any of the allowances awarded to a person becomes useable, such person who wishes to purchase such awarded allowances shall pay to the Administrator the balance of the purchase price. In the case of an award of allowances in which one or more allowances are useable in the year of award, the person who wishes to purchase such allowances shall pay the full purchase price within a specified period of time less than a year after the award, as set forth in the regulations promulgated under this paragraph. If the person does not consummate a purchase, any amount previously paid shall be forfeited and the person's eligibility to purchase such allowances shall expire. The Administrator shall issue the auctioned allowances as purchased to the person and on a pro rata basis deduct, from the allowances allocated pursuant to subsections (b) (1) and (3); (c) (1), (2), and (3); (e); (f); (g) (1), (2), and (4); (h) (1) and (3) and the equivalent of the emissions limitation requirements of subparagraphs (4) and (5), of section 405 for the calendar year for which the purchased allowances are issued, allowances in an amount equal to the number of purchased allowances issued.

"(C) Within ninety days of the issuance of allowances, all funds collected as a result of the sale of allowances under this paragraph shall be disbursed to the owners or operators of the affected units from whose allocations the allowances are deducted. Such disbursement shall be on a pro-rata basis except with respect to proceeds from the sale of contributed allowances under subparagraph (D). No funds transferred from a purchaser to the owners or operators of the affected units from whose allocations the allowances are deducted shall be treated for any purpose as revenue of the United States. The Administrator shall make information publicly available concerning the nature, price, and results of each auction including the prices of successful bids and shall record the transfers of allowances as a result of each auction and purchase in accordance with the requirements of subsection (b).

"(D) Any holder of allowances may contribute to any auction allowances and shall receive the proceeds from the auction of such allowances. Allowances contributed for auction under this subparagraph may be useable in the calendar year in which an auction is held or may not be useable until a specified calendar year following the auction in accordance with the requirements for allowance use specified in subsection (b). Allowances that are contributed and sold shall be deducted from the allowances allocated to the owner or operator making the contribution. The holder of such allowances may specify a minimum sale price and time of payment provided that the Administrator finds that doing so would not interefere with the purposes and functioning of the auction.

"(4) The regulations promulgated under paragraphs (2) and (3) and the discretion exercised by the Administrator in conducting sales and auctions shall be consistent with the competitive functioning of a national market for allowances and preservation of competition in the electric power industry. Pursuant to rulemaking after public notice and comment the Administrator may at any time after the year 2002 decrease the number of allowances sold in, and modify other terms of, the sales and auctions provided under paragraphs (2) and (3) if the Administrator finds that such changes would be consistent with the competitive functioning of a national market for allowances and the preservation of competition in the electric power industry. Pursuant to the regulations the Administrator may by delegation or contract provide for the conduct of sales or auctions under the Administrator's supervision by other departments or agencies of the U.S. government or by nongovernmental agencies, groups, or organizations.".

GORE AMENDMENT NO. 1389

Mr. GORE proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 153, line 4, strike the word "may" and insert the word "shall."

On page 153, after line 12 insert the following:

"Such regulation shall not be inconsistent with the provisions for warranties promulgated under section 207 (a) and (b).

On page 153, after line 12 insert the following new paragraph:

"(4) In promulgating the regulations under this subsection, the Administrator shall require:

(a) that any connectors through which the emission control diagnostics system is accessed for inspection, diagnosis, service, or repair shall be standard and uniform on all motor vehicles and motor vehicle engines;

(b) that access to the emission control diagnostics system through such connectors shall be unrestricted and shall not require any access code or any device which is only available from a vehicle manufacturer; and

(c) that the output of the data from the emission control diagnostics system through such connectors shall be usable without the need for any decoding information or device."

On page 153, after line 12 insert the following new paragraph:

"(5) INFORMATION AVAILABILITY.—The Administrator, by regulation, shall require manufacturers to provide promptly any person engaged in the business of diagnosing, or selling parts, or of repairing or servicing motor vehicles or motor vehicle engines, and EPA for the use by any such persons, with any and all information needed to make use of the emission control diagnostics systems prescribed under this subsection and such other information including instructions for making emission related diagnosis and repairs.

On page 202, line 21, after "converter" insert", on board emission control diagnostic device, including any device installed for the purpose of storing or processing emissions related diagnostic information, but not including any parts or other systems which it monitors except specified major emissions control components,".

On page 202, line 21, after "converter" insert ", on board emission control diagno-

sitc device, including any device installed for the purpose of storing or processing emissions related diagnostic information, but not including any parts or other systems which it monitors except specified major emissions control components,".

GRAHAM AMENDMENTS NOS. 1390 THROUGH 1392

(Ordered to lie on the table.)

Mr. GRAHAM submitted three amendments intended to be proposed by him to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

AMENDMENT No. 1390

Amend committee substitute, title IV, section 405, page 416, by adding on line 11 after the word "1.20 lbs/mmBtu": "and units included in section 405(b)(3)."

Amend committee substitute, title IV, section 405, page 417, by adding on line 10 after the word "factor." the new section:

(3)(A) Prohibition Units Under the Power Plant and Industrial Fuel Use Act of 1978 (FUA)—After January 1, 2000, it shall be unlawful for any unit which was issued a prohibition order or a proposed prohibition order (from burning oil) and subsequently converted to coal between January 1, 1980 and December 31, 1985, to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's annual fuel consumption, on a BTU basis, at 65 per centum capacity factor and its actual emission rate during the first full calendar year after conversion, divided by 2,000 unless the owner or operator of such unit has obtained allowances equal to the emissions in excess of those permitted under this section. In no case shall this subsection allow a utility system containing one or more of these units to exceed an annual average sulfur dioxide emission rate of 1.2 lbs./mmBtu after December 31, 2000.

(B) The administrator is authorized to issue no more than 20,000 allowances more than would have been alloted to the affected units under section 405(b)(3)(A). If the number of additional allowances generated by section 405(b)(3)(A) is greater than 20,000 tons the administrator will distribute the additional allowances on a prorated basis to the utilities affected by 405(b)(3)(A) based on a ratio of the affected unit's baseline to the total baseline of all the affected units.

AMENDMENT No. 1391

On page 423, line 5 before "After" insert the following:

"(1) Except as provided in paragraph (2),"; strike "After" and insert in lieu thereof "after."

On page 423, after line 15, insert the following:

"(2) After January 1, 2000, it shall be unlawful for any oil and gas-fired utility unit with an actual or allowable 1985 emission rate of less than 0.40 lbs/mmBtu whose average annual fuel consumption during 1985, 1986, and 1987 on a Btu basis was 90 per centum or less in the form of natural gas and which is located in a State experiencing growth in population greater than 25 per centum between 1980 and the date of enactment of the Clean Air Act Amendments of 1989 to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of 0.80 lbs/mmBtu or the unit's allowable 1985 emissions rate and a numerical factor of 120 per centum, divided by 2000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions."

AMENDMENT No. 1392

On page 390, line 19, after "Energy.", insert the following: "For the purpose of this title, the term 'repowering' shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy."

JOHNSTON (AND OTHERS) AMENDMENT NO. 1393

(Ordered to lie on the table.)

Mr. JOHNSTON (for himself, Mr. BREAUX, and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 425, line 13, add the following:

"(3) Beginning January 1, 2010, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances in an amount equal to the limit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2000.

SYMMS (AND OTHERS) AMENDMENT NO. 1394

(Ordered to lie on the table.)

Mr. SYMMS (for himself, Mr. SIMPSON, Mr. BOREN, Mr. GARN, Mr. HATCH, Mr. BURNS, and Mr. MCCLURE) submitted an amendment intended to be proposed by them to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 438 of amendment No. 1293, at line 12 insert the following new subsection:

"(h) SMALL DIESEL REFINERIES.—The Administrator shall issue allowances to owners or operators of small diesel refineries who produce diesel fuel after October 1, 1993 meeting the requirements of subsection 211(i) of this Act.

"(A) ALLOWANCE PERIOD.—Allowances may be issued under this subsection only for the period from October 1, 1993 through December 31, 1999.

"(B) ALLOWANCE DETERMINATION.—The number of allowances issued pursuant to this paragraph shall equal the annual number of pounds of sulfur dioxide reduction attributable to desulfurization by a small refinery divided by 2000. For the purposes of this calculation, the concentration of sulfur removed from diesel fuel shall be the difference between 0.274 per centum (by weight) and 0.050 per centum (by weight).

"(C) REFINERY ELIGIBILITY.—As used in this subsection, the term "small refinery" shall mean a refinery or portion of a refinery—

"(i) which has bona fide crude oil throughput of less than 18,250,000 barrels per year, as reported to the Department of Energy, and

"(ii) which is owned or controlled by a refiner with a total combined bona fide crude oil throughput of less than 50,187,500 barrels per year, as reported to the Department of Energy.

"(D) LIMITATION PER REFINERY.—The maximum number of allowances that can be annually issued to a small refinery pursuant to this subsection is 1500.

"(E) LIMITATION ON TOTAL.—In any given year, the total number of allowances issued pursuant to this subsection shall not exceed 35,000.".

SPECTER AMENDMENT NO. 1395

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 440, strike lines 1 through 7 and insert in lieu thereof:

"(f) LIMITATION.—(1) Except as provided in paragraph (2), any unit designated under this section as an affected unit shall not transfer or bank allowances produced as a result of reduced utilization or shutdown. In no case may the Administrator permit a source to receive allowances in an amount greater than the emissions resulting from operation of the source in full compliance with the requirements of this Act in effect prior to enactment of this title.

"(2) The restrictions of paragraph (1) shall not apply to units identified in section 405(c) that are removed from operation before January 1, 2000, in accordance with a public service commission order dated on or before July 31, 1989. The annual tonnage of allowances which may be transferred or banked pursuant to this paragraph shall not exceed the amount calculated in accordance with section 405(c).".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Mineral Resources Development and Production Subcommittee of the Committee on Energy and Natural Resources.

The hearing is scheduled to take place on Wednesday, April 11, 1990, at 9 a.m. at the Performing Arts Center, Eastern New Mexico University, Roswell Campus, Roswell, NM.

The purpose of the hearing is to receive testimony concerning the infrastructure of the domestic oil and gas industry.

Those wishing to submit written statements for the hearing record should deliver them to the Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Room 364, Washington, DC 20510. For further information, please contact Don Santa of the subcommittee staff at (202) 224-4820.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce a change in the time of the Small Business Committee's export expansion subcommit-

tee hearing on Wednesday, March 28, 1990. This hearing was originally scheduled for 2 p.m. on that day but has been changed to 2:15 p.m. The subcommittee plans to examine the effects of the 1992 European Community integration on United States small business. The hearing will be held in room 428A of the Russell Senate Office Building. For further information please call Annie Lesher of Senator MIKULSKI's staff at 224-8873.

ADDITIONAL STATEMENTS

RECOGNIZING THE HEARING IMPAIRED

● Mr. SIMON. Mr. President, during the recent celebration of "Deaf Awareness Week" a number of events and public statements made it clear that we are maturing as a nation in our attitude toward individuals who are deaf. I am delighted by the progress, and I am encouraged about the future for deaf Americans.

Lou Ann Walker, the hearing child of deaf parents, writes in her inspiring book, "A Loss for Words: The Story of Deafness in a Family":

> The best that can be said for deafness is that it's an invisible handicap. The worst, that it puts adults at the mercy of their hearing children, at the mercy of parents, at almost everyone's mercy. It is one of the cruelest and most deceptive of afflictions. It can emasculate men and devastate women. It is an impairment of communication. But it's not just the disfigurement of words and it's not just broken ears. It's most often a barrier between person and person.
>
> To the hearing world the deaf community must seem like a secret society. Indeed, deafness is a culture every bit as distinctive as any an anthropologist might study. First, there is the language, completely separate from English, with its own syntax, structure, and rigid grammatical rules. Second, although deaf people comprise a minority group that reflects the larger society, they have devised their own codes of behavior. * * * Because deafness is a disability that cuts across all races and social backgrounds, the deaf world is incredibly heterogeneous. * * *

On March 10, CBS aired a segment on "60 Minutes" featuring Dr. I. King Jordan, the first deaf president of Gallaudet University, the only fully accredited liberal arts university for the deaf in the world. This was also a fitting tribute to Dr. Jordan's inauguration as president 2 years ago and to the designation of Deaf Awareness Week. He eloquently articulated his vision for the future of the university and for the deaf community and its contribution to our Nation.

One year ago this month, I hired a deaf person on my Senate staff, Marci Wolfangle. I am very proud of her. I am also very proud of my staff who have taken the time and effort to learn sign language to communicate easily and freely with her. This has been a positive learning experience and has heightened our awareness of deaf people and deaf culture.

We have been fortunate to be the first Senate office to have the new IBM phone communicator for Marci's use. This is a personal computer with software on loan that allows telephone communication between deaf and hearing people and also functions as a regular telecommunications device for the deaf [TDD]. I am now able to talk with her via telephone with her use of this new equipment. She is now able to talk with anyone in the office—both here in Washington and Illinois.

On this point, it is important to give credit where credit is due. We need to encourage and congratulate companies like IBM and others who have utilized their great achievements in technologies for the benefit of assisting people with disabilities. This has been a major breakthrough in communications technology.

And I am glad we are finally moving on providing long overdue interpreting services in the U.S. Senate. Now that the funds have been appropriated, my colleagues and I want to see the in-house Senate staff interpreter hired as soon as possible. I am proud that my office has taken the lead in demonstrating the need for these vital services for our deaf and hearing-impaired staff and constituents.

Deaf Awareness Week serves to remind all of us of Dr. Jordan's accurate, but to often ignored, description of the deaf when he said, "I can do anything you can do—except hear."●

SAMUEL SLATER

● Mr. CHAFEE. Mr. President, I wish to bring to the attention of the Senate the recent 200th anniversary of a most significant event in the history of our great Nation—the arrival of Samuel Slater in Pawtucket, RI, on January 18, 1790.

Slater's arrival set in motion a series of events culminating in the construction and successful operation in 1793 of North America's first water-powered cotton factory along the banks of the Blackstone River.

Old Slater Mill still stands on its original site in Pawtucket and has been designated a national historic landmark—a fitting tribute. The factory processes that were developed in Slater's mill shaped the course of American history, making Pawtucket the birthplace of the industrial revolution.

Slater's mill was a model for the cotton textile industry. Its success spurred the development of mill villages along the Blackstone and its tributaries in Rhode Island and Massachusetts. The need for a transportation system to serve this area led to the development of the Blackstone Canal and the Providence and Worcester Railroad. This transportation network, combined with the power of the Blackstone, led to the region's rapid growth. This is where we launched the economic battle that changed the world.

Many Blackstone Valley residents envision a revitalization of this area, one that highlights the cultural and historical resources of the region. I share this dream, and to help turn it into reality, authored successful legislation to establish the Blackstone River Valley National Heritage Corridor, an urban park without borders along the banks of the river. In addition, I am pleased that the U.S. Postal Service will be featuring Old Slater Mill on a stamp commemorating the bicentennial of Rhode Island statehood later this year.

Samuel Slater was truly a remarkable individual. His story represents the spirit of American entrepreneurship, a story whose lessons are just as relevant today as we face the challenge of defining our role in a rapidly changing global economy as they were 200 years ago.

I would like to recommend to my colleagues an excellent article on Slater's arrival in Rhode Island. Marcia Green's story was published in the Pawtucket Times on the 200th anniversary of the occasion, and I ask that it be entered into the RECORD at this point.

The article follows:

[From the Pawtucket (RI) Evening Times, Jan. 18, 1990]

200 YEARS AGO TODAY, SAMUEL SLATER CREATED THE FUTURE IN PAWTUCKET

(By Marica Green)

PAWTUCKET.—Samuel Slater, the man who whispered Great Britain's textile secrets to Pawtucket, arrived in town exactly 200 years ago today.

Confident and ambitious, the 21-year old would waste little time before changing forever the lives and landscape of Pawtucket and much of New England.

But this day, Jan. 18, 1790, the tall, plain-speaking Slater was just getting started.

In fact, by most accounts, this was a disappointing day. Slater had come, by arrangement with Providence's Moses Brown, hoping to create in America the established textile industry he'd learned, then abandoned in England.

Americans, still organizing a new country, had yet to successfully copy Great Britain's 20-year-old textile trade.

Brown was doing this best to cash in and had collected crude efforts from several local inventors. They were stashed in Ezekiel Carpenter's clothier shop at the edge of the Blackstone River, not far from today's law firm Blais Cunningham & Crowe Chester.

Slater was as eager to see them as Brown was to show them off.

The two had met just hours earlier on the docks in Providence where Slater arrived by sailing vessel from New York City. They'd traveled quickly to Pawtucket.

Imagine farms up and down the river's edge and miles of woodlands. Paths and cart roads are beginning to outline the future city's major streets.

On the west side of the river, the village of Pawtucket is part of North Providence; on the east side, part of Rehoboth, Mass. Rhode Island is the single state among newly independent 13 that has yet to sign the U.S. Constitution.

Slater, historians tell us, rejected the equipment almost immediately. The machinery Brown had thought could be made to work by someone as skilled as Slater was instead not worth the bother, the Englishman told him. Better to start from scratch, Slater said.

Now whether the equipment was better than Slater let on, or worse than Brown was conceding, is uncertain. Each was a businessman, of course, jockeying for the upper hand in a new partnership.

(Slater would reluctantly agree to attempt to salvage them, but 10 weeks later strike a deal to start with his own designs.)

Happy or not this January day, Slater made a commitment to the Almy & Brown Company, the firm Brown represented. The man who knew more about Great Britain's lucrative textile industry than anyone else in America moved quietly into Pawtucket.

Within 10 months, Slater created his version of the spinning machine he'd so often repaired in England, along with related machines. Within three years, he'd built the first mill.

If you stand on the Apex Store side of the Main Street Bridge and look down at the river, you'll see a rock that generally marks the spot where Slater made good on his promise to his partners.

Erase in your mind, if you can, the manmade walls along the river and the modern buildings at the river's edge. Picture instead the wooden building that was Carpenter's shop at the end of the long lost Quaker Lane, a side street off what would become East Avenue.

The water that falls across rocks beneath the Main Street bridge first powered Slater's inventions.

Slater, who had arrived in New York City in Novembner of 1789, might easily have found a partner in another city, but learned of Moses Brown first from a ship captain who sailed between New York City and Providence.

What if Slater had never come to Pawtucket? Was the area bound for textile glory one way or another?

State historian Albert Klyberg says not necessarily.

Moses Brown was only one of many businessmen eager to crack Great Britain's secrets. Alexander Hamilton was attempting the same thing in Paterson, N.J.

"There was absolutely nothing here to make it happen," he said this week, pointing out the region was importing both cotton and wool raw materials and the metals needed for the related machine-making industry.

"Everything depended on bringing raw materials in."

Even the Blackstone River, while the original source of power, was supplanted by 1820 with the steam engine.

"What we had here," says Klyberg, "was strong business leadership and hard work and spirit. That should be Pawtucket's celebration—the leadership and ingenuity of 200 years ago." ●

A DEEP ABIDING FRIENDSHIP

● Mr. SIMON. Mr. President, my good friend and colleague from Illinois, Senator ALAN DIXON, gave an excellent speech the other night to the Jewish National Fund on the subject of Israel. Senator DIXON has been a leader in this body to preserve and strengthen Israel's security, and I am pleased to associate myself with his remarks.

Mr. President, I ask that Senator DIXON's speech be printed in the RECORD.

The speech follows:

REMARKS OF SENATOR ALAN DIXON TO THE JEWISH NATIONAL FUND

When they really want to wish a person bad luck, the Chinese say: "May you live in interesting times." Well these are certainly "interesting times" for Israel, given the fall of the unity government there and the statement earlier this month by President Bush about settlements in east Jerusalem. Headlines such as "Bush's Big Blunder," or "Israel Must Face the Core Issue," don't suggest smooth sailing in the U.S.-Israel relationship.

What I'd like to do this evening is talk a bit about some of the issues that make these such interesting times—where we have been, and where Israel and the United States should go together.

As you all know, the United States support for the State of Israel has been crucial since Israel declared her independence in 1948. That support is grounded both in fundamental U.S. interests, and in fundamental U.S. values.

Israel has been and continues to be our most important and reliable strategic ally in the Middle East. As the only working democracy in the region, Israel is our natural partner. There is no question that Israel has lived up to its end of the partnership.

Israel has helped protect American national security and foreign policy interests. Israel is a friend we can always count on, when we really need a friend, in that very turbulent area.

The United States has properly fulfilled a decades old commitment to insure that Israel can withstand any combination of external threats from her Arab enemies. That pledge has never been formalized in a treaty, but it is one that has to be restated regularly.

Israel has helped advance U.S. goals and objectives in many ways. Israel, for example, votes more consistently with the United States in the United Nations than any other nation. Israel is more supportive of the U.S. than Britain, or West Germany, or Canada. All of them are great friends and allies, but when the United States is looking for support of its positions in the U.N., Israel is always there. Ladies and gentlemen, I believe you shouldn't forget who your friends are!

It is also worth noting that Israel and the U.S. have deep, abiding emotional and moral ties. We both are bound by a commitment to democratic values and humanitarian traditions. We also share the common history of Jewish people the world over. We are both enriched and challenged by it.

I believe our commitment to Israeli security is vital to our own interests, and I do not believe that raising doubts as to that commitment will help improve the prospects for a genuine peace.

Because I believe that maintaining Israel's security is so important to the United States, I have opposed major military sales of sophisticated equipment to Arab countries still hostile to Israel. Because of this I have opposed the AWACS sales to Saudi Arabia in 1981, fighter planes and missiles to Jordan in 1985, and the sale of Stinger missiles to Saudi Arabia in 1986, and later sales of aircraft and missiles to Saudi Arabia in 1987.

I have also supported every request for economic and military assistance funds to Israel. I believe the U.S. investment in Israel is money well spent. Therefore, I am opposed to a reduction in aid to Israel.

The threat of a major confrontation in Europe is lessening. Unfortunately, this relaxation of tension has not taken hold among Israel's adversaries as the Soviet Union continues to sell its latest weapons to Iraq and Syria. The external threat to Israel still exists, and a reduction of U.S. aid in this situation does not make sense. For that reason, I cannot understand the cross-the-board foreign assistance cuts that Senator DOLE, the Senate Republican leader, has proposed. I cannot see how it makes sense to reduce our aid to Israel by some flat percentage without regard to the realities of the dangers Israel still faces.

I am pleased to be able to report that I am not alone in that view. Seventy-three of my Senate colleagues and I recently sent a letter to the President opposing any across-the-board cut for Israel.

Making sure Israel can meet its crucial security needs, however, is not our only obligation. As a co-chairman of the "union of Councils for Soviet Jews Congressional Call to Conscience," I have been a leader in the Senate in the fight for the right of Soviet Jews to emigrate to the United States and to Israel.

Despite the record numbers of Soviet Jews who have emigrated this past year, the job is not done. Anti-semitism, fears of pogroms, and the continuing plight of long-term refuseniks, demand our increased vigilance. I pledge my continued commitment to their cause and their liberation.

International terrorism is also still with us—and unfortunately, the U.N. is not doing enough about it. I have sent letters to the President supporting the denial of visas to P.L.O. Chairman Yassir Arafat. I have called on the United Nations to renounce U.N. resolution 3379, which calls zionism a form of racism.

I also believe in moving the peace process forward.

We have had the notable success of a peace treaty between Israel and Egypt. The Camp David accords set a framework for future discussions on the territories, and it was Camp David that called for the first elected self-governing authority in the territories.

This process, unfortunately, did not go forward. Former President Reagan tried to get the peace process moving forward in 1982, although the Israeli Government believed the Reagan plan contradicted the spirit of the Camp David Accords.

The most significant U.S. attempts at restarting the peace process began with Prime Minister Shamir's call for elections in the territories. This was followed by the Baker Plan to get talks started between Palestinian representatives and Israel. As we all know, Baker's proposals ran into problems and stalled. Ultimately, U.S. impatience with Israel, and its public statements pressuring the Shamir government to act, contributed significantly to the downfall of that government—and has further hampered the peace process.

In particular, President Bush's statement earlier this month equating settlements in the West Bank with the Jewish neighborhoods in east Jerusalem left me, as I imag-

ine it did you, with concern about the direction of administration policy toward Israel.

U.S. policy statements have been deliberately unclear on Jerusalem. According Arthur Goldberg, one of the drafters of U.N. Security Council resolution 242, which outlined principles for peace, the resolution, "In no way refers to Jerusalem, and this omission was deliberate * * * Jerusalem was a discrete matter, not linked to the West Bank."

It has been U.S. policy that the final states of Jerusalem would be subject to negotiations—and everyone conceded this question could only be resolved at the end of negotiations.

I have no doubt the President is aware of the history of U.S. policy toward Jerusalem, but his linkage of the two areas, for whatever reason, set off alarm bells in Jerusalem, and around the world. The statement was a misstep, in my opinion, especially in light of what U.S. policy has been. It was all the more confusing, to some, since the 1988 Republican platform was considered by some to be the most pro-Israel platform in history. Further confusion was added when the President made phone calls to American Jewish leaders seeking to reassure them of his administration's commitment to Israel, but still claiming "no regrets" on his Jerusalem statement. To date, no official corrections were issued from the White House. These comments did not further the cause of peace, and should not, and I believe will not, be a basis for future discussions in diplomatic efforts to get talks going.

Peace will continue to elude the region unless all the leaders of the region are reconciled to the existence of a sovereign Jewish state in their midst. All the Arab world, not only the Palestinians, must be ready to talk to Israel. I don't have a peace plan up my sleeve. However, I do believe that we could be on the threshold of a new beginning.

I would like to offer this suggestion on how to get the process back on track:

As you will all recall, shuttle diplomacy produced tangible benefits in the cause of peace in the Middle East. In the number of years since Camp David, very little progress has been made toward a goal we all share: A lasting, secure peace which upholds Israel's security and stability.

If I were President (and let me assure you, I am not a candidate), I would seek out a person internationally respected for his or her abilities to act as a special ambassador to the region for the purpose of working to facilitate the process, the parameters and the details of a peace process. I do not have a plan myself, but I believe peace is a goal toward which we must always work. One person who comes to my mind as someone who could fill such an assignment is former Secretary of State George Schultz. I haven't talked to him about it. I do not know Secretary Schultz well—but I believe he is someone who is well respected, knowledgeable, and could do great good in the region. There are many others who could fill such shoes as well.

The bottom line is that the extra attention, the single-minded focus, a special ambassador could provide may result in transforming momentum lost into momentum gained.

It is in everyone's interest to effect such a transformation. For Israel, the intifada, and the commitment of valuable resources and personnel to keeping peace in the territories, weighs down the Israeli economy. For the Arab nations, it may lift the burdens of an arms race and lead to the beginnings of democratic movements. However, a peace process which fails to ensure the long-term stability and security of Israel will never bring a lasting peace.

Ladies and gentlemen, I will continue to support actions which are in the best interests of Israel, because they are in the best interests of the United States. I will never support a divided Jerusalem! This is in the interest of all faiths and all mankind.

Israel must never have to look over her shoulder to make sure her friend, the United States, is still behind her. She must also not believe she is being led against her will by us as well. Walking together, coordinated in our efforts, committed to our goals, we can bring Israel closer to the lasting peace we all wish for.

We must make that commitment. We must not abandon our commitment. History must show that in Israel's time of need, this Nation stood firmly behind her.

I pledge to you my unwavering commitment. Thank you.●

NATIONAL MEDICAL RESEARCH DAY

● Mr. HATFIELD. Mr. President, as many of my collegues know, we have designated this day as "National Medical Research Day." Our enthusiasm for designating virtually every day in the year national this-or-that day has gained us a great many critics recently. To a large extent, their criticism is valid. But some issues are so vitally important that I believe they deserve this sort of recognition.

Mr. President, medical research is one of those issues. And I rise today to share with my colleagues the grim realities of our budgetary priorities. The simple truth is this: Our budgetary priorities which attach a greater importance to chemical weapons research than to medical research, a higher priority to disease causing research than to disease curing research.

Consider this: The last 24 months of defense related research and development spending is roughly equivalent to total research and development spending at the National Institutes of Health in the last 100 years. For the price of one underground nuclear test, we could more than triple the amount now spent on research into sudden infant death syndrome. For the price of one Stealth bomber, we could almost double the amount being spent at the National Institute of Diabetes, and Digestive and Kidney Diseases.

When we consider the drastic cuts suffered by other nondefense, domestic discretionary programs, health research spending has fared relatively well in recent years. Thirteen percent of all Federal research and development money is spent on medical research today—a figure which has remained constant since the beginning of this decade. But it has done well only at the expense of other worthy programs. And even within the medical research budget itself, worthy programs are forced to compete against each other: AIDS versus cancer, strokes versus heart disease.

The bottom line, Mr. President, is that we must reorder our Federal budget priorities. Public opinion is already on our side. A survey recently conducted by the American Federation for Clinical Research suggests that 53 percent of our constituents would make increased funding for medical research the top budget priority. Only 3 percent would make increased funding for weapons the top priority.

The facts are also on our side. One dollar spent on medical research today produces $13 in savings tomorrow. A $235,000, 17-year study that led to the identification of a vaccine against hepatitis B, for example, is saving between $50 and $100 million each year. A $680,000, 4-year study that led to a preventative treatment of kidney stones will result in a savings of between $300 and $600 million a year.

As we debate the Federal budget every year, we are given the choice between supporting life enhancing endeavors and life destroying ones. When we hammer out budget agreements and focus our attention on complicated calculations and endless reams of paper, perhaps we feel isolated and insulated from the very real choices we are making. But those who are suffering from cancer and AIDS and hundreds of other diseases understand the implications of our choices all too well.

I rise to mark National Medical Research Day by pledging to redouble my efforts—within the Senate Appropriations Committee and within this body as a whole—to reorient our Federal budget priorities. We are given a choice, Mr. President, and I choose life. I urge my colleagues to do the same.●

BIELARUSIAN INDEPENDENCE DAY

● Mr. SIMON. Mr. President, March 25 marked the 72d anniversary of the Declaration of Independence of the Bielarusian State. This is an important day for Americans of Bielarusian descent, who have supported the Bielarusian people in their quest for freedom. I would like to invite all Americans to join me in honoring this special occasion.

Bielarus is in the western part of the Soviet Union, bordering Poland in the west, Ukraine in the south, Russia in the east and north, and the Baltic States in the northwest. Bielarus signed its Declaration of Independence on March 25, 1918, after the collapse of the Tsarist Russian Empire, but this freedom was crushed 3 years later when defeat in an armed clash led Bielarus to be partitioned between Poland and the Soviet Union. Since then, the

Bielarusian people have clung to their dreams of liberty and independence.

Bielarusian Americans have been committed to helping the Bielarusian people achieve their dreams. Among their objectives, they have urged the acceptance of "Bielarus" as a legitimate name for diplomatic usage and they have urged the Voice of America to broadcast programs in Bielarusian. As dramatic changes continue to sweep the Soviet Union, we ought to keep the goals of the Bielarusian Americans in mind.

I would also like to draw attention to the quincentenary of the birth of Dr. Francisak Skaryna, Bielarusian translator of the Holy Scriptures in the Bielarusian language in 1517. Dr. Skaryna was a humanist, a writer, a poet, a scholar, and a doctor of medicine. His achievements and contributions to the well-being of his own people and the world have earned him gratitude and recognition from many corners—UNESCO has dedicated all of 1990 to his memory. I think it is only fitting that we pay tribute to this man today as we honor the Declaration of Independence of his country.●

NEED FOR COHESIVE NATIONAL TRANSPORTATION POLICY EVIDENT

● Mr. SASSER. Mr. President, the need for a cohesive national transportation policy is clear. Throughout this Nation, the evidence of a decaying and outmoded infrastructure is mounting. Bridge collapses, flight delays, and urban rail congestion have become all too commonplace. Americans have a right to expect better. America can and should do better. As we look ahead to the next century, we must now begin to put our national priorities in place. The long overdue revitalization of this Nation's transportation arteries can no longer be put on hold.

We must begin the arduous but necessary task of taking stock of our Nation's infrastructural inventory. Every road, bridge, rail, air, mass transit, and water system must be examined with an eye toward the future. Priorities must be established. Technical, financial, and human resources must be shared at every level.

Mr. President, the revitalization of this Nation's sagging infrastructure requires the collective vision and commitment of every level of government. Critical to the renewed investment in our deteriorating transportation resources is an ongoing Federal, State, and local partnership. An effective and innovative national transportation policy must transcend State and local boundaries. The future growth and productivity of this Nation, our health, security, and quality of life depend on the development of a unified, efficient framework which embraces the needs and resources of every segment of our population.

Mr. President, the U.S. Department of Transportation's recently announced strategy for improving this Nation's infrastructure is a disappointing retreat from a fundamentally sound transportation partnership. Under this proposed plan, the primary responsibility for improving this Nation's intricate transportation network would shift to the States. The plan, in essence, reduces the Federal role in the development of a national transportation policy.

This Nation's economic future demands major infrastructural innovations. Now is not the time, Mr. President, to dilute the traditional Federal, State, and local transportation partnership. On the contrary, we must reaffirm the transportation commitment at every level. Shared problems require shared solutions. The Federal Government can ill afford to be a silent partner in the establishment of a national transportation policy.

Mr. President, we are at a crossroad. Deteriorating bridges in Tennessee, congested railways in Pennsylvania, and isolated rural roads in Iowa are not simply local transportation problems. They represent failed links in an already crumbling, overburdened national transportation network. We can ill afford the continued disinvestment in our Nation's infrastructure. It is high time we moved forward, together, Mr. President, toward the development of a truly national transportation system.●

LISTING BY COUNTRY OF ALL CLAIMS ACTIVE IN 1989

● Mr. LEAHY. Mr. President, in the report accompanying the fiscal year 1990 Foreign Operations appropriation bill, the Foreign Operations Subcommittee directed the Department of State to submit a report on the status of all investment disputes and expropriation claims of U.S. citizens and business enterprises against foreign governments.

Over the last several years, the committee has become acquainted with a number of expropriation cases which have gone unresolved. Frustrated or dissatisfied, American citizens with unresolved claims have increasingly been turning to the committee for assistance, asking that the foreign aid program be used for leverage over the foreign government in question.

The primary responsibility for protecting the interests of American citizens abroad resides with the State Department. In our fiscal year 1990 Report, the committee expressed dismay at the failure of the State Department to move expeditiously to resolve alleged expropriation questions using authorities granted by Congress. The committee recommended that the appropriate authorizing committees and the executive branch review the Hickenlooper amendment, the primary legislation on U.S. actions in expropriation cases, and consider ways for the U.S. Government to deal more effectively and expeditiously with these situations.

Mr. President, this report contains information on several investment disputes and expropriation claims that will be of interest to many Members. I ask that the report be printed in the RECORD in full.

The report follows:

DEPARTMENT OF STATE,
Washington, DC, March 21, 1990.

Hon. PATRICK J. LEAHY,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: In response to the Committee's request contained in the September 13, 1989 Report of the Senate Committee on Appropriations on the Foreign Assistance and Related Programs Appropriations Bill, 1989 (H.R. 2939), I am submitting the attached report on the status of investment disputes and potential expropriation cases. The report was prepared by the Department of State, in conjunction with the Interagency Staff Coordinating Group on Expropriations.

A listing by country of all claims on which we are reporting is provided in Tab A. The claims chosen for inclusion are those which claimants have actively sought to settle and on which they have sought U.S. Government advice or assistance. Claims settled in 1989 or on which no further U.S. Government action is required are included in Tab B; claims still pending are included in Tab C. Tab C also includes a separate report on U.S. Government efforts to resolve active U.S. claims in Costa Rica. Tab D comments on the reasons some investment disputes are not resolved promptly and indicates the steps that U.S. investors should follow in order to minimize the delay in resolution of their disputes.

We would be pleased to meet with you or members of your staff to discuss the report further if you wish.

Sincerely,

JANET G. MULLINS,
Assistant Secretary, Legislative Affairs.

ALL CLAIMS ACTIVE IN 1989

COSTA RICA—GLENN BANDELIN

Background

As with Messrs. Bailey and Fyock, Mr. Bandelin owned timber land on which he planned to engage in commercial logging operations. The land was taken by the Costa Rican Government to create an Indian reserve.

Recent developments

The Costa Rican Government's Special Commission on Expropriation Cases and Mr. Bandelin reached an agreement in principle on a settlement offer for 165 million colones on March 6, 1989. This agreement was ratified by a contract signed between Mr. Bandelin and the Government of Costa Rica on May 5, 1989. The contract specified that payments to Mr. Bandelin would be made as follows: an initial payment of 4,002,500 colones (about US$ 50,000) on May 27, 1989, a second payment of 20 million colones (about US$ 245,000) no later than July

31, and payment of the remainder no later than December 31, 1989.

The Costa Rican government received authorization from the legislative assembly in July to issue bonds with a face value of 40 million colones (about US$ 486,000) to use as partial payment for Bandelin's claim. During August and September, the Costa Ricans undertook the process to issue the bonds. By mid-October, this process was complete and the Attorney General's office was instructed to deliver the bonds to Bandelin.

On November 9, Mr. Bandelin received 45 million colones (roughly US$ 555,000) in colone-denominated bonds as a first installment and in February 1990, he received the balance of the agreement (120 million colones). The payments to Mr. Bandelin mark the first payment to a U.S. claimant under the aegis of the Costa Rican Government's Special Commission on Expropriation which was established almost two years ago. Mr. Bandelin is still due 10 million colones to compensate him for money that was discounted from the face value of the bonds he redeemed in November.

COSTA RICA—J. ROYAL PARKER ASSOCIATES

Background

J. Royal Parker Associates (JRPA), a U.S. corporation doing business in Costa Rica claimed damages against the Government of Costa Rica arising out of a joint venture—between JRPA and JAPDEVA, the Commission for Port Administration and Development of the Atlantic Zone—to create an industrial free port. JRPA's claim was for lost profits, damages to professional reputation and out-of-pocket expenses.

Negotiations between the parties failed to produce a settlement and JRPA did not fully pursue its legal remedies in Costa Rican Courts.

Recent developments

Section 593 of the FY-89 Foreign Operations Appropriations bill required the State Department to hire a factfinder to prepare and deliver a report on the Parker case.

The factfinder's report was issued on July 14, 1989. The factfinder concluded that there had been no expropriation or nullification under either international or Costa Rican law; and that since the U.S. citizen had withdrawn his lawsuit in Costa Rica against the advice of counsel, he had renounced his right (and obligation) to pursue local remedies.

HONDURAS—KNIGHT

Background

During 1989, Manuel L. Knight, son of Aminta R. Knight, sought Department of State guidance with regard to what he described as the illegal occupation, by squatters, of land in Honduras owned jointly by his mother and her two sisters, all three of whom he described as U.S. citizens.

Recent developments

Our Embassy in Tegucigalpa reports that money has been provided to the local Honduran authorities by the Government of Honduras with which to purchase the property in question as well as other properties affected and that during the last week of November 1989 the municipal government of San Pedro Sula signed a binding legal agreement to purchase the property for an agreed price.

JAMAICA—ROSE HALL LTD.

Background

In the 1970's Mr. John Rollins through Rose Hall Ltd. invested in land and tourist facilities in Jamaica and obtained a mortgage on some of the lands from Chase Jamaica Ltd., on which Chase subsequently foreclosed. Later the Urban Development Corporation (UDC), a Jamaican government agency, bought from Chase the mortgaged lands and buildings. The dispute centered on the boundaries of the lands which were mortgaged and which UDC obtained from Chase, the amount of compensation Mr. Rollins was due for other land on which squatters have settled, and the exchange of properties containing roadbeds. In addition, Mr. Rollins asserted that the UDC received an unfair windfall in its purchases of his former properties from Chase Jamaica.

Settlement

A settlement of the claim was reached in July 1989; it provides Mr. Rollins with almost 3,000 acres of prime property on Jamaica's north coast and is predicated on Rose Hall's commitment to develop the land. One section of the agreement provides that, if Rose Hall has not caused at least USD 100 million to be invested in the development plan within 10 years, Rose Hall is to pay USD 2 million for breach of this condition. Rose Hall is exempted from noncompletion of the agreement in cases of force majeure, riot, strikes, or act of God. The amicable settlement included the exchange of previously disputed properties, the Government of Jamaica leasing privileges to Mr. Rollins, and Mr. Rollins' commitment to develop projects on previously disputed lands including construction of middle income housing, luxury homes, a theme park and gold course improvements.

KENYA-ALICO

Background

A new insurance law was passed in 1985 in Kenya which required foreign insurers to incorporate locally with at least one-third Kenyan ownership. ALICO subsequently began the process of negotiating a sales agreement with the Trans-National Group, a company controlled by senior Kenyan officials and their associates. There were a number of disagreements during these negotiations. An agreement was finally reached in July 1987 and sent to the Insurance Commissioner for approval. A purchase price of US $6 million was agreed upon, but the contract was contingent upon the Kenyan Government's approval for ALICO to remit roughly US $10 million of retained earnings, capital surplus and pending home office expenses prior to the sale.

On June 26, 1989 the Commissioner informed ALICO they could repatriate a sum equivalent to the sales price, but not the percentage of profits which had been worked out with the Trans-National Group.

The U.S. Embassy and the State Department met repeatedly with ALICO and Kenyan Government officials in Washington and Nairobi to seek a resolution. In August 1989, the U.S. Embassy approached Kenyan government officials to inform them that ALICO was considering filing a Section 301 Petition relating to its problems in conducting business in Kenya. The Embassy strongly emphasized the need to resolve the matter promptly. During this meeting, the Kenyan Finance Minister agreed to issue a Certificate of Approved Enterprise which would pave the way for the funds remittance and resolve related problems experienced by ALICO.

Settlement

In October 1989, ALICO and Kenyan officials agreed that ALICO would be able to transfer one-half of its profits as soon as an agreement was finalized and the balance after one year. A final settlement was concluded in November 1989.

SRI LANKA-CHARLANKA

Background

In 1981, the American-owned Enterprise Development Inc. (EDI) sought to create a joint venture with the Sri Lankan State Timber Corporation (STC) to produce charcoal. As a preliminary step while awaiting government approval for the investment, EDI formed Charlanka Ltd.

EDI asserts that an oral contract between it and STC required Charlanka to be transformed into a public company, with shares owned 44 percent by EDI, 36 percent by STC, and 20 percent by the general public, with the "public" shares to be sold in a public offering. However, in 1982 STC decided that Charlanka should be a private company. STC continued to recognize EDI's 44 percent interest, and to limit its own interest to 36 percent, but it insisted that the remaining 20 percent of Charlanka's shares should be reserved for STC employees. EDI refused, and as a result of this dispute, Charlanka shares were never issued. The parties attempted over a long period to negotiate a resolution, and during this time Charlanka continued its operations. However, the parties remained stalemated, and in 1983 EDI withdrew, asserting that STC's breach of the alleged oral contract constituted a taking of EDI's investment. Intermittent negotiations continued after that time, with the Government of Sri Lanka ("GSL") making a number of settlement offers that would have involved EDI's continued participation in Charlanka. However, EDI maintained its position that it would only accept compensation for the alleged taking, and the negotiations remained at an impasse.

Recent developments

At an informal meeting in March 1988, a group of officers whose agencies are members of the interagency Expropriation Group indicated to EDI that supplementation of the record would be needed concerning four broad questions: 1) Was there a contract? 2) What did the GSL take from EDI? 3) Did EDI exhaust its local remedies? 4) How does EDI calculate its damages resulting from the alleged expropriation?

On April 11, 1989 EDI submitted a memorandum and documents addressing the four questions. The collection of documents included many that were already in the record, as well as a number of new documents.

In September 1989, the Expropriation Group determined that EDI had not demonstrated that an expropriation had occurred. Moreover, to the extent EDI had a legal claim against the Government of Sri Lanka, EDI had failed to exhaust its local remedies or to show that to do so would be futile. The Expropriation Group's conclusions are briefly summarized below.

The Expropriation Group found that it was highly uncertain whether the understanding between EDI and STC constituted a binding agreement. However, even if there were a contract, the breach by a foreign state enterprise of a contract with a U.S. national does not by itself constitute an expropriation. The Expropriation Group was unable to agree with the reasoning put forward by EDI in arguing that the alleged breach in this case was tantamount to an expropriation. EDI contended that the share distribution envisaged by the alleged

contract would have ensured the "private sector" character of Charlanka and would have assured EDI of either control of predominant influence over Charlanka, and that STC's alleged breach deprived EDI of its fundamental rights as a shareholder. However, the Expropriation Group was of the view that the original understanding as described by EDI would not have guaranteed EDI either control or predominant influence; that the original understanding would have permitted STC to accomplish legitimately what EDI contends it attempted to do illegitimately, and that, in view of the GSL's continued recognition of EDI's 44 percent interest in Charlanka, the alleged breach did not deprive EDI of its fundamental rights.

Moreover, the Expropriation Group concluded that EDI did nothing to pursue its local remedies and had not substantiated its claims that to do so would have been futile. EDI asserted that a contract action in Sri Lankan courts would take six to seven years. The Expropriation Group was unaware of any precedent suggesting that such a period would constitute a denial of justice sufficient to justify failure to resort to local remedies. EDI also alleged that Sri Lankan courts are prejudiced against foreigners. The U.S. Embassy in Colombo, however, when asked to advise on this subject, stated that a U.S. litigant could get a fair hearing in the Sri Lankan court system.

Because of the determination that no expropriation occurred, and that EDI failed to exhaust its local remedies, the issue of calculation of damages was not addressed by the Expropriation Group.

VENEZUELA-OCCIDENTAL PETROLEUM (OXY)

Background

In 1976, Venezuela nationalized its petroleum industry, affecting the interests of 22 U.S. oil companies. Twenty-one companies obtained settlements; Oxy's contract fell within a different Venezuelan law. In 1977, Oxy sued the Government of Venezuela (GOV) before the Venezuelan Supreme Court for compensation based in part on the GOV's failure to follow its administrative procedures for compensating in a prompt manner. The Venezuelan Supreme Court ruled in principle in March 1989 that Oxy is entitled to compensation.

Recent developments

On December 12, 1989, the Venezuelan Supreme Court admitted into the record the findings of a group of experts on the value of the Oxy claim; the award is for $42,080,175.02 in U.S. currency. Oxy informed the Department that a settlement agreement was signed on December 14, 1989. On January 31, 1990, Oxy withdrew its petition entitled Request for a Review of Venezuela's Status as a Beneficiary Country Under the Generalized System of Preferences. This followed receipt by Oxy of full payment by Venezuela of compensation in the agreed amount.

COSTA RICAN EXPROPRIATION CASES: U.S. GOVERNMENT EFFORTS

Because of the large number of unresolved expropriation cases in Costa Rica, the U.S. Government has undertaken specific collective action to facilitate a resolution to the claims. As a result of U.S. Government encouragement, the Costa Rican government set up in 1988 a Special Commission to review all pending U.S. expropriation cases in Costa Rica. The Government of Costa Rica also agreed to sign a March 1988 side letter to Costa Rica's 1989 Economic Support Fund (ESF) Agreement, which required the Costa Rican Government to file a quarterly report, demonstrating its efforts to resolve the pending expropriation cases. The side letter committed Costa Rica to resolve or make progress in the disputes by December 31, 1989. While the quarterly reports submitted by Costa Rica indicate some progress, resolution of the claims continue to experience bureaucratic delays. As a result of a relative lack of progress, the U.S. Embassy decided to withhold the disbursement of the final tranche ($20 million) of the FY 1989 ESF.

It should be noted that the U.S. Embassy maintains a very active presence in facilitating a resolution to these cases. U.S. Embassy officials have met with Costa Rican government officials on the average of twice a month on these matters. In addition, during official visits, key U.S. Government officials (up to the highest levels of government) have availed themselves of every opportunity to impress upon the Costa Ricans the need to resolve these cases quickly.

COSTA RICA—WILLIAM BONNER BAILEY

Background

CAC, a corporation owned by William Bonner Bailey, purchased land in Costa Rica in the early 1970's to develop tropical hardwood timber. Beginning in 1976, the Government of Costa Rica gradually transferred ownership of 3,740 hectares of this land to Indian reserves, primarily the Talamanca Indian Reservation pursuant to an expropriation decree. The decree was later voided by the Government of Costa Rica.

CAC, authorized by the Ministry of Agriculture, had begun forestry operations, but the Attorney General halted the authorized timbering at the request of the Indian community. Mr. Bailey asserts that, as a result, he was unable to fulfill contracts with U.S. firms and was forced to pay them damages.

Recent developments

On July 17, 1989, Costa Rica Officials informed the U.S. Embassy that the Special Commission on Expropriation Cases had persuaded the Agrarian Development Institute (IDA) to reassess its evaluation of the landholdings in the case of Mr. Bailey. This reevaluation resulted in a significantly higher figure than the 18.4 million colones (USD 228,000) offered to Mr. Bailey on May 18, 1989. The new offer (USD 715,682) was communicated to Bailey by the U.S. Embassy on July 18. (The Government of Costa Rica states that the initial cost of the land was USD 95,670 when purchased in 1973.)

Mr. Bailey responded to the Costa Ricans via a July 25 letter, indicating that he would consider accepting the offer if the Costa Rican Government agreed to enter into domestic arbitration and/or legal proceedings in the Costa Rican courts to establish the amount of additional compensation Bailey would receive for the value of the timber on his land and for interest payments since the date of the taking. The Government of Costa Rica sent a letter to Mr. Bailey on December 14, rejecting his counteroffer, but confirming that their original offer still stood.

In July of 1989, the GSP Subcommittee (an interagency Committee tasked with monitoring GSP matters) accepted for formal review an expropriation petition filed by Mr. Bailey. In his petition, Mr. Bailey has requested that the President suspend GSP eligibility because of the alleged violation of Section 502(b)(4) of the Trade Act of 1974.

The GSP Subcommittee asked the Expropriation Group to make a determination regarding the technical and legal aspects of whether or not an expropriation had occurred within the context of Section 502(b)(4) (A) (B) or (C) of the Tariff and Trade Act of 1984. In addition, the Group was asked to determine whether Costa Rica has made or is making good faith efforts to provide prompt, adequate and effective compensation to the petitioner or is otherwise taking steps to discharge its international obligations under Section 502(b)(4)(D). The Expropriation Group's determination will be submitted to the GSP Subcommittee in mid February 1990.

The GSP Subcommittee held a public hearing on September 25-28, 1989, but both Mr. Bailey and the Costa Rican government chose not to submit briefs or testify. The Costa Rican government submitted a post-hearing brief on October 18, 1989 and Mr. Bailey submitted a rebuttal to that brief on November 13, 1989. The Department's Legal Adviser's Office is currently analyzing the contents of those briefs.

The GSP Subcommittee will draw upon the Expropriation Group's findings in making its recommendation to the Trade Policy Senior Committee (TPSC) regarding the suspension of Costa Rica's GSP eligibility. The President is scheduled to announce the administration's decision on April 1, 1990.

The Department (through the U.S. Embassy in Costa Rica) has continued to urge the Government of Costa Rica to conclude a mutually satisfactory settlement with Mr. Bailey.

COSTA RICA—RICHARD BELL

Background

Mr. Bell owned a ranch in Costa Rica which was seized as a result of a 1973 decree which ceded all public land in a large area surrounding his ranch (Toro Rojo Ranch) to the Institute for Lands and Colonization (ITCO was an independent Costa Rican agency which was subsequently renamed the Institute for Agrarian Development—IDA). While the decree specified that privately-held land in the designated area was not to be affected. Mr. Bell said that ITCO claimed title to the Toro Rojo Ranch anyway and transferred the title to ITCO's name. Subsequently, at least part of the property was given by ITCO to squatters in the area. (The transfer of land to squatters was one of ITCO's main functions.)

Mr. Bell later filed a claim against ITCO and its sucessor agency, IDA, which resulted in a court-appointed evaluation of the land. That evaluation placed Mr. Bell's losses at 15 million colones (US$ 186,000) per year for lost revenue from the sale of crops. The evaluation placed the value of the land itself at 85 million colones (US$ 1.1 million). Mr. Bell has said he would forego compensation for the lost annual revenue of 15 million colones and would accept a settlement offer of 85 million colones for the land.

Recent developments

The Government of Costa Rica Special Commission held an initial meeting with Mr. Bell on July 17, 1989. No concrete offer was made. The Commission directed the Assessment Section of the Finance Ministry to do a new evaluation of Bell's land and noted that an offer would be made on the basis of the evaluation.

In January 1990, the Special Commission reported in its quarterly report to the U.S. Government that the evaluation of Mr. Bell's land has been completed and that the

Commission is currently reviewing the results.

COSTA RICA—THOMAS FYOCK

Background

Thomas Fyock purchased land in Costa Rica in the early 1970's to develop tropical hardwood timber. Beginning in 1976, the GOCR gradually transferred ownership of 5,682 hectares of Mr. Fyock's property to Indian reserves, primarily the Talamanca Indian Reservation.

Recent developments

Mr. Fyock reached an agreement in principle with the Costa Rican Government on March 20, 1989, but no formal settlement was signed. The Government of Costa Rica subsequently informed Mr. Fyock that it would be unable to honor the offer made to him because the Agricultural Development Institute (IDA) had refused to validate the evaluation of Mr. Fyock's land which had been negotiated during the meeting. A series of demarches by the U.S. Ambassador and Deputy Chief of Mission on key ministers involved with the Costa Rican Special Commission eventually produced the Government's agreement to honor its initial settlement offer. The U.S. Embassy informed Mr. Fyock of this by telephone on July 17, 1989.

Shortly thereafter, Mr. Fyock began preparations to sign a settlement contract, including taking the legal steps to renew his status as president of the company (his legal status as president had expired) as well as working with the national registry to obtain a map proving the exact size of his land holdings. At a November 15, 1989 meeting between Mr. Fyock and Costa Rican officials (a U.S. Embassy representative attended as an observer), Mr. Fyock stated that the map was nearly complete and that his legal status as president would be restored effective November 17, 1989.

During this same meeting, Vice Minister Cordero stated that the Government of Costa Rica would proceed in completing the necessary documentation and submit the package to the Costa Rican Attorney General for final approval. Vice Minister Cordero promised to make every effort to expedite the process so that Mr. Fyock would be paid before the end of the year, as promised in the March 20 agreement. Vice Minister Cordero noted that the Costa Rican Government had made no budgetary provisions for funds to compensate Mr. Fyock, but that off-budget funds were being set aside.

In December 1989, Mr. Fyock submitted the cadastral map which demonstrated that the boundaries of his expropriated property was 485 hectares larger than the figure on which the Costa Rica Government's previous valuation was based. As a result, the Costa Rica Government has requested an updated valuation of the land from the Agrarian Development Institute; it will then present the valuation to the Attorney General's Office and request a prompt approval of the settlement. The U.S. Embassy reported in January 1990 that this process was expected to take about two weeks and that the Government of Costa Rica hoped to pay Mr. Fyock by the end of February.

COSTA RICA—RANCHO GESLING

Background

The Government of Costa Rica issued an expropriation decree affecting part of the Gesling property. However, the government never seized the land due to its inability to compensate the Geslings for it. The Gesling concluded an arrangement whereby they would transfer ownership of the affected land to a Costa Rican citizen in exchange for reduction of outstanding debts. The arrangement also called for the expropriation decree to be dropped.

Recent developments

Mr. Gesling contacted the U.S. Embassy in late September 1989 to indicate that problems with this arrangement had arisen. While he had tranasferred a portion of his land to a Costa Rican citizen in exchange for cancellation of debts owed to the Banco de Costa Rica, the Government of Costa Rica had failed to lift the expropriation decree which affects his land. The U.S. Embassy has brought this problem to the attention of the Costa Rican Special Commission and the Commission is studying the matter.

COSTA RICA—GOULET FAMILY

Background

The Goulet family purchased in June of 1973 293 hectares of land for coconut and crop production in Siquirres in the Limon Province of Costa Rica. The land was seized by squatters in May of 1978. In 1988, the family estimated the value of the property to be one billion colones (USD 11.76 million). The Costa Rican Special Commission is studying the case and has committed itself to negotiating a settlement with legal representatives of the Goulet family as soon as possible.

COSTA RICA—JOSEPH HAMILTON

Background

Mr. Hamilton and his American partners owned farmland in Costa Rica's northwestern province of Gunacaste. The property was expropriated by the Government of Costa Rica via a decree issued May 5, 1978, indicating that the land would be incorporated into the Santa Rosa National Park. At the time the decree was issued, the government placed the value of the expropriated land at 16,450,000 colones (USD 1.9 million at the 1978 exchange rate), a figure which was disputed by Mr. Hamilton and his partners. The expropriation decree takes note of the claimant's objection to the land valuation.

Even though the amount offered for the land was too low according to Mr. Hamilton, the Government of Costa Rica has never executed the expropriation decree because it has not had sufficient funds to pay Mr. Hamilton or his partners. Since 1978, Mr. Hamilton has retained actual possession of the land and has been able to use it for cattle grazing. However, the outstanding expropriation decree has prevented Mr. Hamilton from using the land as collateral for obtaining financing, from developing the land and/or from selling the property. Mr. Hamilton retained a local attorney, who obtained a ruling from the local courts which has prevented the Government of Costa Rica from formally seizing the land until it provides compensation.

Recent developments

This case is not being handled by the Costa Rican Special Commission on Expropriation. Mr. Hamilton and his attorneys have agreed to enter into negotations with the privately-funded national parks association, which has agreed to purchase Mr. Hamilton's land for incorporation into the Guancaste (Santa Rosa) national park. Initial meetings between Hamilton's lawyers and the national park foundation representatives have been held. No firm offer has been made, but Mr. Hamilton's attorney told the U.S. Embassy on October 19, 1989 that he was satisfied with the tenor and pace of negotiations.

COSTA RICA—QUALLS FAMILY

Background

The Qualls family purchased 1,439 hectares of agricultural property in the Puntarenas region of Costa Rica in 1960 which was taken over by squatters in 1967. In 1988, the Qualls family provided an estimate of the property's value at 60,000 colones per hectare which totals approximately USD one million.

Recent developments

The Costa Rican Special Commission on Expropriations Government of Costa Rica is currently studying the case and has committed itself to negotiating a settlement with legal representatives of the Qualls family as soon as possible.

COSTA RICA—ROBERT STONE

Background

Mr. Stone's claim relates to the Costa Rican Government's expropriation of land near the Panamanian border that Mr. Stone had planned to develop as a resort complex. His property was comprised of five contiguous lots. Two lots were sold by Stone; the remaining three lots were taken by the Costa Rican Government in 1978 to expand an adjacent Indian reservation.

Recent developments

On May 22, 1989, Costa Rican officials met with Mr. Stone to present a settlement offer for two of the three lots. The value of these two lots was placed at 5.16 million colones (USD 64,300), representing approximately USD 200 per hectare. Costa Rican officials acknowledged its responsibility to compensate Stone for the third lot and had requested the IDA to expand its evaluation to include this property. Assuming that the third lot would be valued at roughly the same price per hectare as the adjoining lots which had already been appraised, the Government of Costa Rica estimated that its total offer for the three lots of land would be roughly 13 million colones (USD 160,000). Costa Rican officials, noted however, that they could not compensate Mr. Stone directly for his expenditures or improvements to the land and related business outlays.

During July and August 1989, Costa Rican officials met informally with Mr. Stone and his lawyer to determine whether Mr. Stone could provide sufficient documentation (e.g. receipts for cancelled checks) to support Mr. Stone's claim for reimbursement for business expenses above and beyond the amount he was offered for his land. The Costa Rican Government indicated in January 1990 that the Attorney General now has all of Mr. Stone's documentation and needs to determine which expenses are eligible for reimbursement. Mr. Stone has indicated that a Costa Rican offer to settle even a small portion of these expenses plus the standing Costa Rican offer for the land (roughly USD 160,000) would constitute an acceptable offer.

ECUADOR—EMELEC

Background

EMELEC is a U.S. citizen-owned power company in Guayaquil, Ecuador. The previous Ecuadorian government negotiated a price for the purchase of the company from the U.S. owner, Mr. John Scopetta. The current government did not accept the results of the prior government's negotiations and, in addition to reopening the issue, seized the

plant on July 21, 1989. The Government of Ecuador promised prompt, adequate and effective compensation to Mr. Scopetta and hired Price Waterhouse to do an audit as a basis for negotation.

Recent developments

Price Waterhouse has completed its audit which Mr. Scopetta believes is incomplete. Ecuador has suggested the next steps towards reaching a settlement, to which Mr. Scopetta is objecting.

Since the dispute arose, the Department of State has been assisting the U.S. citizen with high level demarches to the Ecuadorean Government stressing the need for prompt, adequate and effective compensation. The Department of State will continue to assist Mr. Scopetta in his efforts to negotiate a prompt and fair resolution with the Government of Ecuador.

EL SALVADOR—CAESS

Background

CAESS, a private electrical distribution company whose single largest shareholder is Leucadia National Corp., a U.S. firm, obtained a 50-year congressional contract from the GOES in 1936. When the contract expired in 1986, the GOES invoked a 1983 constitutional provision requiring that all properties subject to concessional contracts revert to the state without compensation at the end of the contract period. CAESS filed a Petition for Protection with the Supreme Court of El Salvador, arguing that its contract predated the constitutional provision and that the action violates its concession agreement. In 1987, the Supreme Court held that the 1983 constitutional provision could not be applied retroactively and required compensation. The ruling was affirmed by the Court in 1988 after the government appealed.

Recent developments

On August 24, the GOES issued an executive decree naming the GOES negotiating team to review this claim, headed by the Minister of Economy. The members of the commission began negotiations with CAESS representatives in September. CAESS presented an analysis of the value of its assets to the Salvadoran Ambassador on October 19 in Washington for transmittal to the Minister of Economy.

In a December 1 letter from the Minister of the Economy to the CAESS legal representative, the GOES made an official offer of 172 million colones (approximately $27.5 million) for the purchase of CAESS shares. It appears that CAESS has responded with a demand for U.S. $45 million.

HONDURAS—TEMISTOCLES RAMIREZ

Background

In late 1987, pursuant to P.L. 100-71, a second factfinding was conducted to correct and expand, as appropriate, the first factfinding conducted in the dispute between the Government of Honduras and Honduran companies owned by U.S. citizen Mr. Temistocles Ramirez. In December of 1987, the Government of Honduras accepted the factfinding and offered to settle for the amount specified by the factfinders. Mr. Ramirez rejected the factfinding and the offer.

In March of 1988, in response to a request for clarification, the factfinders specified that the total amount owed by the Government of Honduras for property, maintenance, severance pay, security expenses, professional and personal expenses and interest was $7,189,806. In April of 1988, the Government of Honduras offered to settle for this amount but in June of 1988 Mr. Ramirez rejected the offer. The parties met in January of 1989 to discuss settlement but no agreement was reached.

Recent developments

In September of 1989, Mr. Ramirez asked the Department of State to transmit to the Government of Honduras a proposal to settle for $8,300,400—described as the factfinding amount plus interest from December 1987 through September 1989. The Department of State transmitted the proposal. Although the outgoing government did not respond to Mr. Ramirez' proposal, the new Honduran Government has assured the Department of its intention to resolve this dispute promptly.

HONDURAS—OPTUR

Background

OPTUR is a foreign-owned company, incorporated in Honduras, which operates the casino in the Maya Hotel in Tegucigalpa. Over 50 percent of OPTUR is Dutch owned but some 47 percent of its shares are owned by Mr. John Donohue, an American citizen. In 1988, the Honduran Finance Ministry filed a tax claim of approximately $3 million U.S. dollars against OPTUR based on an alleged under-reporting of the casino's gross income (including from chips purchased) from 1984-1987. It is Mr. Donohue's position that the Finance Ministry is using an unjustified interpretation of the law and that the Government of Honduras is thereby attempting to force OPTUR to close the casino.

Since May of 1988 the U.S. Embassy has sought to facilitate a resolution of Mr. Donohue's dispute with the Government of Honduras. Senior Embassy officials and other Embassy officers have made demands on OPTUR's behalf on GOH officials such as the Minister of Finance and several deputies in the Honduran Congress. In September 1988 the Embassy sent a diplomatic note listing Mr. Donohue's allegations and our desire that he be treated fairly and consistently with the obligations of Honduras under international law. A reply was received in March 1989 stating that OPTUR was being treated in accordance with Honduras' legal obligations.

This is essentially a tax dispute in which a U.S. citizen who owns less than 50 percent of a company incorporated in Honduras is seeking to have the Finance Ministry's interpretation of a tax law applicable to the years 1984-1987 changed.

Recent developments

The U.S. Embassy in Tegucigalpa is in weekly contact with Mr. Donohue and has assisted him with his approaches to the Honduran Congress and most recently with approaches to the new Honduran Government which was sworn in at the end of January 1990. The new Government has declared itself to be in favor of investment and of the rule of law and Mr. Donohue is hopeful that this case will be satisfactorily resolved in the early days of the new Honduran Government.

PERU—AIG/BELCO

Background

Belco Petroleum Corporation ("Belco"), a subsidiary of Enron Corporation ("Enron"), began offshore oil exploration and production in Peru in 1959. To protect these operations, Belco purchased political risk insurance coverage from a syndicate of eight insurers in 1983. American International Group, Inc. ("AIG"), together with several other United States' companies, provided the vast majority of Belco's coverage; AIG is authorized to act on behalf of the others.

In 1985, the GOP rescinded the operating contracts of three U.S. petroleum companies in Peru, charging they had improperly benefited from investment tax credits. The other two companies negotiated new contracts with the national oil company within the time period stipulated by the GOP, but Belco was unable to reach agreement with PetroPeru. Belco's assets were seized and its bank accounts frozen on December 27, 1985, pursuant to a decree issued by the President of Peru. In December 1988, AIG became subrogated to Enron's claim after paying off Enron's policy. The State Department has made many high-level demarches to the GOP raising this claim.

Recent developments

AIG's counsel requested on November 29 the termination of USTR's review of its petition to revoke Peru's GSP benefits. The request was based on expectations that the ongoing negotiations with Peru would culminate in a settlement, which could possibly entail investments by Belco in Peru. However, negotiations have recently broken off. AIG will continue to pursue its claim in Peru after the April elections.

SIERRA LEONE—ATLANTIC MARINE AGENCIES, INC.

Background

The claim of Atlantic Marine Agencies, Inc. ("AMA"), a U.S. corporation, arises out of a 1983 contract for the carriage of grain from the United States to Freetown. Although AMA performed the delivery, the Government of Sierra Leone has failed to pay the balance of freight, detention, stevedoring charges and demurrage.

As provided in the contract, AMA referred the dispute to an arbitral panel in 1983. The Government of Sierra Leone engaged attorneys and fulfilled its contractural duty to appoint one arbitrator. In July 1985, the Government of Sierra Leone declined further participation in the arbitral process. Proceeding under the contract, the arbitration panel reviewed the merits of the claim and, on June 30, 1986, rendered an award in favor of AMA for $171,561 plus interest at 10% from the date of the award to the date of the payment.

The arbitral award was reduced to a judgment of the United States District Court for the Southern District of New York in the amount of $199,392.35, plus interest at the statutorily allowed rate from March 9, 1988, to the date of payment. The United States District Court for the Southern District by an order dated December 9, 1988, has authorized AMA to proceed to attach assets of the Government of Sierra Leone in satisfaction of the judgment.

Recent developments

A GOSL official informed the U.S. Embassy in Freetown that payment will be made in the near future.

SIERRA LEONE—S.O. JENNINGS CONSTRUCTION CORP.

Background

S.O. Jennings Construction Corp. ("Jennings"), a U.S. corporation, leased to a private party in Sierra Leone a tractor, a Caterpillar D8K Bull Dozer, which was seized by the Government of Sierra Leone (GOSL) to satisfy allegedly unpaid taxes of the lessee. Jennings states that it offered to pay the taxes, and was informed by the GOSL that taxes "did not present a problem", but that there were outstanding storage charges

imposed by the Ministry of Works of Sierra Leone. Subsequently, Jennings was informed that the tractor disappeared while in the custody of the Government of Sierra Leone. Although the tractor's value declared for customs purposes at the time of shipping was $150,000.00, Jennings is only seeking $125,000.00.

Recent developments

The U.S. Embassy in Freetown has brought this claim to the attention of the GOSL, which is now attempting to clarify the status of the claim.

SIERRA LEONE—INTERNATIONAL MINERAL SERVICES

Background

International Mineral Services (IMS"), a U.S. company, entered into an agreement with the Bin Rafaah Mining Company, wherein IMS would manage and plan the exploration and production of mines in Sierra Leone. IMS alleges the following:

Pursuant to the agreement, IMS shipped equipment it owned, including a suction dredge, to Sierra Leone. The Bin Rafaah Mining Company was scheduled to purchase the equipment, and title to the equipment was to be transferred only upon completion of all payments. Bin Rafaah Mining Company did not make any payments; therefore, IMS retained ownership of the equipment.

IMS alleges that in the middle of June 1984, its crew and its West German associates were called into Sierra Leone President Stevens' office and informed that no foreigner would be allowed to remove any of the equipment that IMS had brought into the country. It is alleged that members of the Sierra Leone army were placed around the equipment storage area to prevent the removal of the equipment. IMS alleges that an attempt was recently made by Government of Sierra Leone to sell the dredge to another U.S. company. When IMS informed the potential purchaser of its claim to title, the purchaser declined to go forward with the purchase. IMS asserts the dredge is worth at $1.5 million.

Recent developments

The U.S. Embassy in Freetown has raised this claim on previous occasions with GOSL officials and will raise the matter again with appropriate GOSL officials.

SIERRA LEONE—PHILIPP BROTHERS, INC. (PHILBRO)

Background

Philbro, a U.S. corporation, delivered US $10 million worth of rice to the Government of Sierra Leone (GOSL) pursuant to an agreement signed on July 13, 1988. In a separate transaction, Philbro provided a US $5 million cash advance to assist the government in purchasing crude oil. The GOSL has thus far repaid only approximately US $3 million of the US $15 million in the form of cash and cocoa deliveries.

Recent developments

Philbro obtained an injunction on the transfer of GOSL assets in London. We have been informed that the two parties entered into negotiations and agreed to a settlement amount and delivery schedule, with the release of the assets upon the start of repayments. However, we understand that the two parties are negotiating additional terms and that a final settlement has not been concluded.

THAILAND—SIAMTEC

An American citizen, Richard Frankel, owns a Thai incorporated company, SIAMTEC, which entered into a contract to install wastewater treatment facilities for the Thai Surathip Group for twelve new distilleries it was constructing for, according to Frankel, the Thai Ministry of Finance (MOF). The MOF issues the permits of alcohol production and distribution.

Frankel alleges that the Thai government discriminated against SIAMTEC by promoting the financial reorganization of Surathip, excluding SIAMTEC from the reorganization (i.e., as as creditor). Frankel claims to have substantially completed the work required by the contract but is precluded from performing the final test required for payment under the contract because the waste from the distilleries is not up to contract specifications. He claims he could make modifications to make the treatment facilities function according to specifications.

When he did not receive $1 million allegedly due him, he brought suit in Thai court to have Surathip declared bankrupt. Surathip then sued Frankel in civil courts in some twelve jurisdictions in Thailand for failure to perform the contract, and Frankel was charged criminally for check kiting, a practice which he alleges is common in Thailand and would not have happened had he been paid. Frankel has succeeded in getting one criminal case dismissed. (Frankel's criminal cases appeared to be before two different courts.) The Bankruptcy court held that the evidence would not support a holding that the defendants should be declared bankrupt; however, the translation of the decision could be read as indicating that the court was of the view that Frankel legally deserved to be paid. (The court apparently did not have the authority to order that SIAMTEC be paid on the basis of the contract.)

So far as the Department has ascertained, Surathip is a private corporation and the distillery construction was a private undertaking, not an undertaking of the MOF. While the distilleries were constructed after Surathip received a liquor concession from the MOF, we view the MOF's action as a licensing act. Accordingly, we view the dispute as a contract dispute between the parties and not an act of expropriation.

The Embassy is currently requesting the Ministry of Finance to exert its good offices to resolve the dispute, based on the decision of the Bankruptcy court. A settlement would relieve SIAMTEC from having to initiate a civil suit in Thailand, an action which SIAMTEC states would be expensive and time-consuming.

URUAGUAY—SAYOUS

Background

Mr. Sayous alleges that in 1965 the GOU began a calculated harassment of his businesses (beef slaughterhouse and canning facilities), which caused his business to decline to the point of bankruptcy. In 1967, the businesses sought judicial action in order to prevent auctioning of some of the properties to satisfy judgments of creditors. The moratorium was granted; however, Mr. Sayous was unable to obtain sufficient financing to pay his debts and was unable to reach an agreement with his creditors which would have allowed him to reopen his businesses. In November 1968, the Sayous plants were taken by the GOU pursuant to legislation. Mr. Sayous says he has been in litigation in Uruguayan courts since 1967. Uruguay disagrees that Sayous' valuation of his businesses and argues that Sayous is estopped by laches.

Recent developments

In July of 1989, the GSP Subcommittee accepted for formal review an expropriation petition filed by Mr. Sayous. Mr. Sayous requests that the President suspend GSP eligibility because of the alleged violation of Section 502(b)(4) of the Trade Act of 1974.

The GSP Subcommittee requested that the Expro Group make a determination regarding the technical and legal aspects of whether or not an expropriation had occurred within the context of Section 502(b)(4) (A), (B) or (C) of the Tariff and Trade Act of 1984. In addition, the Group was asked to determine whether Uruguay has made or is making good faith efforts to provide prompt, adequate and effective compensation to the petitioner or is otherwise taking steps to discharge its international obligations under Section 502(b)(4)(D). The Expro Group's determination will be submitted to the GSP Subcommittee in February 1990.

THE PROCESS BY WHICH U.S. INVESTMENT DISPUTES ARE RESOLVED

In the September 13, 1989 Report of the Senate Committee on Appropriations on the Foreign Assistance and Related Programs Appropriations Bill, 1989 (H.R. 2939) the Subcommittee on Foreign Operations expressed concern that disputes between U.S. investors and foreign governments take too long to resolve. The report raises the question whether the U.S. Department of State should be more active in assisting a speedy resolution of such disputes and whether additional legislation would be helpful. This paper outlines the process by which U.S. investment disputes may be resolved.

In many cases, investment disputes are resolved promptly and amicably through negotiation between the parties. In other cases, one or both of the parties take positions that preclude a prompt resolution. In such cases, international law generally requires that local remedies must be exhausted by the injured investor. This allows the host government to provide redress for the injury through its own legal system and reduces the number of international disputes between governments. Exhaustion of local remedies also helps to refine the issues of fact and law, as the two sides have to explain and document their positions. This gives the U.S. Government improved information on the dispute to use in its efforts to assist the U.S. investor.

While local remedies are being pursued, the Department of State actively seeks methods to facilitate an expeditious resolution of the dispute, for example by bringing the dispute to the attention of the appropriate ministry, or by identifying the individual within the host government the U.S. investor should contact to discuss the dispute, or by reminding the host government of its obligations under international law and treaties.

The Interagency Staff Coordinating Group on Expropriations (the "Expropriation Group"), chaired by the Department of State, meets regularly to review the developments in active investment disputes, recommending steps that might lead to a resolution. These steps include direct negotiations between the parties, facilitating actions by the U.S. government, exhaustion of local remedies, and international arbitration or other dispute settlement procedures upon which the parties might be able to agree.

When direct negotiations and local remedies fail to lead to a resolution, the Expropriation Group analyzes the dispute to determine what further action the Department of State should take. Using the infor-

mation provided by the parties—which should include their positions and evidence developed during the course of their negotiations and efforts to resolve the issue in the host country—the Expropriation Group analyzes, *inter alia*, whether an expropriation (without adequate compensation) or other violation of international law has occurred. Where there has been such an expropriation or violation, the U.S. Department of State makes a formal demarche to the host government seeking prompt, adequate and effective compensation for the U.S. investor. The Expropriation Group also considers whether the Hickenlooper Amendment, the Gonzalez Amendments, the GSP provision of the Trade Act of 1974, and other relevant statutes are applicable and recommends to the appropriate authority (USTR, Secretary of State or Secretary of Treasury) whether statutory sanctions should be applied.

Unfortunately, there are cases where U.S. investors seek to bypass the initial stages of dispute settlement and to go directly to application of sanctions found in U.S. domestic legislation or seek special U.S. legislation to force the host government to settle the dispute on the U.S. investor's terms. The U.S. Government cannot properly relieve U.S. investors of the burden of exhausting available local remedies. This is required by international law and we would require it of foreign investors investing in the United States.

In summary, a U.S. investor's dispute with a foreign government will be most quickly resolved where the U.S. investor enters direct negotiations with the host government, seeks facilitative good offices from the U.S. Department of State, and exhausts all local remedies. If these steps do not yield results, the investor should discuss international arbitration or other dispute settlement procedures with the host government. If local remedies and voluntary dispute resolution mechanisms fail, the investor should provide thorough documentation of the U.S. investor's position to the Expropriation Group and request that the Group take action pursuant to applicable U.S. statutes.

EVENTS IN TRANSYLVANIA

● Mr. DECONCINI. Mr. President, as Chairman of the Helsinki Commission, I was very disturbed by developments last week in the Transylvania region of Romania, an area inhabited by both ethnic Romanians and ethnic Hungarians. At least 300 people were injured and at least 3 people were killed in a skirmish during which scythes and pitchforks were turned against human beings. At a time when many countries are contemplating turning swords into plowshares, an ugly mob turned plowshares into swords.

Romania's provisional Government has now declared a state of emergency in the area and has sent in tanks to restore order. This is a welcome albeit belated act. If the provisional Government is to maintain its credibility, it must quickly and effectively act to protect its citizens from all forms of violence. But it will take more than the strength of Government troops to quell the tensions that were unleashed last week. History has shown that force is no substitute for dialog.

For 40 years, totalitarianism prevented an open discussion between Romanians and Hungarians regarding the issues that divide them. Their differences were repressed, but they did not go away. For the first time in decades, these groups can confront the difficult questions which are at the heart of last week's events. The process of resolving these issues will not be easy, and it may be long. But it must happen: All parties involved—governments and private groups, Romanians and Hungarians—must immediately begin a dialog to resolve their differences. Interethnic violence, long the scourge of central Europe, must not be permitted to undermine the democratic reform movements taking hold today.●

NATIONAL ENDOWMENT FOR THE ARTS

● Mr. KERREY. Mr. President, I rise today to discuss the National Endowment for the Arts and their proposal to have their appropriations unrestricted by the language this body attached last year in the midst of the Mapplethorpe-Serrano debates.

I believe the proposal by the National Endowment for the Arts is reasonable and necessary. I believe we should accept the revisions they have made in their review process as sufficient to protect the sensibilities of most.

I also believe that President Bush was correct and deserves a round of applause for supporting this recommendation. He is likely to receive some criticism from certain elements of his own political party. He deserves the recognition and congratulations from Americans who want their tax dollars well spent but who also prefer that art be created independent of political censorship.

Georgia O'Keefe is an artist whose creations have offended very few. I have never heard anyone—even those who do not like her art—describe her paintings as obscene. She would never have gained the additional publicity of being debated on the Senate floor.

However, the freedom to create according to her own thoughts and imagination was just as important to Georgia O'Keefe as it is to every creative person. She, of course, did not have to take advantage of that freedom. It took enormous effort and energy for her to do so. The discipline required of her and other gifted artists taken in an atmosphere of freedom is what enables creation and discovery to occur.

There is a wonderful couple of paragraphs by Georgia O'Keefe which illustrates the importance of our accepting the recommendation of the National Endowment for the Arts:

It was in the fall of 1915 that I first had the idea that what I had been taught was of little value to me except for the use of my materials as a language—charcoal, pencil, pen and ink, watercolor, pastel, and oil. I had become fluent with them when I was so young that they were simply another language that I handled easily. But what to say with them? I had been taught to work like others and after careful thinking I decided that I wasn't going to spend the rest of my life doing what had already been done.

I hung on the wall the work that I had been doing for several months. Then I sat down and looked at it. I could see how each painting or drawing had been done according to one teacher or another, and I said to myself: "I have things in my head that are not like what anyone has taught me—shapes and ideas so near to me—so natural to my way of being and thinking that it hasn't occurred to me to put them down." I decided to start anew—to strip away what I had been taught—to accept my own true thinking. This was one of the best times of my life.

There was no one around to look at what I was doing—no one interested—no one to say anything about it one way or another. I was alone and singularly free, working on my own—unknown—no one to satisfy but myself. I began with charcoal and paper and decided not to use any color until it was impossible to do what I wanted to do in black and white. I believe it was June before I needed blue.

Mr. President, there is more than good advice for us concerning the National Endowment for the Arts in these good words. There is advice for good living and good politics. But that's the way it is with artists. They are apt to inspire us to do things we did not believe we could do.●

REMEMBRANCE OF AMERICAN HOSTAGES BEING HELD IN LEBANON

● Mr. CHAFEE. Mr. President, today I join the students, faculty, and administration of Burrillville High School in recognizing March 16, 1990, as the anniversary of the kidnaping of Associated Press Bureau Chief, Terry Anderson.

With him are seven other Americans being held by pro-Iranian extremists. I would like to read the names of those individuals in hope that Americans across this Nation will continue to remember them:

Thomas Sutherland of the American University of Beirut;

Frank Herbert Reed of the Lebanon International School;

Joseph James Cicippio of the American University of Beirut;

Edward Austin Tracy, author;

Jesse Turner of Beirut University College;

Alann Steen of Beirut University College; and

Robert Polhill of Beirut University College.

Furthermore, I would also like to take this moment to honor Lt. Col. William Higgins who was executed by his captors last summer.

In addition to our fellow Americans, we must also remember all of the

Western hostages who have passed hundreds of days and nights in the custody of hostile captors. Mr. President, it is my hope that a resolution to the hostage crisis in Lebanon will be found so our fellow Americans and friends will again be free.●

ABNER W. SIBAL ENDORSES CONGRESSIONAL TERM LIMITATION

● Mr. HUMPHREY. Mr. President, Members who disagree that congressional term limitation is a concept whose time has come may have lost touch with the folks back home. One need only look to the States and our constituents to affirm the desire this year showed 70 percent of the American public in favor of term limitation. Last year, the State of South Dakota passed a resolution petitioning Congress to adopt, and send to the States to ratify, a constitutional amendment to limit terms. This year, similar resolutions have been introduced in almost 20 states. In February, the legislatures in the State of Utah passed a resolution, and in March, the legislature of my own State, New Hampshire, passed one. I would like to share with my colleagues today, a letter from Mr. Abner W. Sibal, who represented the Sixth District of Connecticut from 1961 to 1965. Mr. President, I ask that Mr. Sibal's letter appear in the RECORD immediately following my remarks, and I again urge my colleagues to consider this important reform.

The letter is as follows:

HARTFORD, CT,
February 27, 1990.

Hon. GORDON J. HUMPHREY,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HUMPHREY: In response to your letter of February 20 you may certainly cite me as supporting Senate Joint Resolution 235, and I congratulate you and Senator De Concini for sponsoring it.

The changes which have led to abuse in fund-raising practices over the relatively recent past, coupled with abuse of the frank have almost eliminated issues, ability and integrity as the important factors in congressional elections. It's regretable that steps such as yours must be taken since many members with longer service than 12 years have served with distinction, but Congress must regain the confidence and respect it once enjoyed as a coequal branch of government and it appears that Senate Joint Resolutionis 235 is a way to move toward that goal.

Sincerely,

ABNER W. SIBAL,
Attorney at Law.●

HUMAN RIGHTS IN CUBA

● Mr. MACK. Mr. President, I would like to submit for the attention of the Senate a resolution passed by the Governor and cabinet of the State of Florida on the human rights situation in Cuba. The resolution calls for the release of three long-term political prisoners: Mario Chanes de Armas, Ernesto Diaz Rodriguez, and Alfredo Mustelier Neuvo. All three have suffered over 20 years in Cuban prisons. Mario Chanes has been held in prison longer than any other known political prisoner in the world today—28 years.

In a letter to the United Nations Secretary General Javier Perez de Cuellar, Florida Governor Bob Martinez said the resolution "celebrates the spirit of freedom that burns in the hearts" of Cubans who have worked to attain freedom and democracy for the people of Cuba.

As we celebrate the wave of freedom that has swept Eastern Europe, Panama, and now Nicaragua, we must not forget the people of Cuba. As Fidel Castro becomes increasingly isolated, he has aiso become more desperate. Now is the time for all free peoples to stand with the people of Cuba, and let them know we will not forget them.

I commend Governor Martinez for this resolution and, as a cochairman of the Senate Cuba Freedom Caucus, ask that the State of Florida resolution of March 5, 1990, be included at this point in the RECORD.

The resolution is as follows:

RESOLUTION

Whereas, January 28, 1990, marked the 137th anniversary of the birth of Jose Marti, the Apostle of Cuba's independence from Spain; and

Whereas, Jose Marti denounced the oppressive Spanish regime, proclaimed freedom and preached the revolution for independence initially by giving lectures, writing articles, delivering speeches, uniting his countrymen and attracting support and resources throughout the United States and especially in Tampa and Key West; and

Whereas, February 24, 1990, marked the 95th anniversary of the outbreak of the Revolution for Independence from Spain which Jose Marti proclaimed and preached and for which he ultimately gave his life on the battlefield on behalf of the freedom of his beloved country, Cuba; and

Whereas, recent events in Eastern Europe have brought international attention to the popular wave of uprisings, peaceful or otherwise, that have been sweeping from Poland and Hungary to Czechoslovakia, Germany, Bulgaria and Romania; and

Whereas, freedom-loving people through the civilized world are becoming increasingly aware of the perverse, oppressive nature of the Communist regimes that have been ruling through repression, terror and bloodshed not only in Eastern Europe but also in some Latin American countries of the Western Hemisphere; and

Whereas, homes have been destroyed by the repressive regime and families have been separated because many thousands of Cubans have been forced to flee their homeland because of the tyrannical reign of Fidel Castro; and

Whereas, many brave men who stood up to Castro's regime of terror and bloodshed have been thrown into dark dungeons and forgotten for decades; and

Whereas, Mario Chanes de Armas, whose family now lives in south Florida was sentenced to 30 years in Castro's prisons and has been incarcerated for nearly 29 years; and

Whereas, Ernesto Diaz Rodriguez, whose family now lives in south Florida was sentenced to 40 years in Castro's prisons and has been incarcerated for nearly 29 years; and

Whereas, Alfredo Mustelier Nuevo, whose family now lives in south Florida, was sentenced to 25 years in Castro's prisons and has been incarcerated for more than 20 years; and

Whereas, these three "plantado" prisoners who have suffered cruel mistreatment and unjust captivity have given up the most precious years of their lives to the cause of democracy and freedom in Cuba and to the opposition of a communistic regime; and

Whereas, their only crime has been a love of their country and a commitment to restore it to freedom, democracy, justice and social well-being.

Now, therefore, be it resolved, that the Governor and Cabinet of the State of Florida do hereby recognize the 137th anniversary of the birth of Cuba's Apostle for Independence, Jose Marti, and the 95th anniversary of the outbreak of the Revolution for Independence, under the leadership of Jose Marti, and take the opportunity to support whatever efforts and sacrifices the people of Cuba undertake in their struggle to overthrow tyranny, oppression and servitude in their country.

Be it further resolved that the Governor and Cabinet join with many other voices from around the world in calling for an immediate cessation to the prolonged, unjust and cruel confinement of the Cuban "plantado" political prisoners; Mario Chanes de Armas, Ernesto Diaz Rodriguez and Alfredo Mustelier Nuevo.

In testimony whereof, the Governor and Cabinet of the State of Florida have hereunto subscribed their names and have caused the Official Seal of the State of Florida to be hereunto affixed in the City of Tallahassee on this 5th day of March 1990.●

AUTHORITY FOR PRODUCTION OF RECORDS

Mr. BAUCUS. Mr. President, on behalf of the majority leader and the minority leader, I send to the desk a resolution to authorize production of Senate records, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 266) to authorize production of records by the Senate Permanent Subcommittee on Investigations.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has been conducting an investigation into allegations of fraud and other wrongdoing in Federal student loan programs. The inspector general of the Department of Education currently is conducting a related investigation and, in aid of his office's

inquiries, has asked the subcommittee for access to records of its investigation. The inspector general will be coordinating his investigation with the Department of Justice.

Senators NUNN and ROTH, the chairman and ranking minority member of the subcommittee, would like to be able to respond to authorized requests for pertinent subcommittee records. This resolution would authorize the chairman and ranking minority member, acting jointly, to provide access to, and release of, records of the subcommittee's investigation as well as to determine the mode of any disclosure.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 266) was agreed to.

The preamble was agreed to.

The resolution and its preamble are as follows:

S. RES. 266

Whereas the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has been conducting an investigation into allegations of fraud and other wrongdoing in federal student loan programs;

Whereas the Inspector General of the Department of Education has requested access to records of the subcommittee's investigation for use in a current related inquiry which he will be coordinating with the Department of Justice;

Whereas by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas when it appears that documents, papers, and records under the control or in the possession of the Senate are needful for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the chairman and ranking minority member of the Permanent Subcommittee on Investigations, acting jointly, are authorized to provide to the Inspector General of the Department of Education and to the Department of Justice records of the subcommittee's investigation of allegations of fraud and other wrongdoing in federal student loan programs.

ORDERS FOR TOMORROW

RECESS UNTIL 9 A.M.; MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 a.m. Wednesday, March 28; that following the time for the two leaders there be a period for morning business not to extend beyond 9:30 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAUCUS. Mr. President, on tomorrow, Wednesday, the Senate will resume consideration of the clean air bill at 9:30 a.m. Mr. President, on tomorrow, for the information of Senators, I fully anticipate that rollcall votes will occur throughout the day and into the evening.

Mr. CHAFEE. Mr. President, I would like to add that we will be taking up the Specter amendment tomorrow at 9:30, that there is a 2-hour time agreement on that. That will take us to 11:30. We seek other amendments to take up after that debate to debate.

Starting at 9:30 we will be dealing with the Specter amendment.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BAUCUS. Mr. President, if the distinguished acting Republican leader has no further business, and if no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 9 a.m. Wednesday, March 28.

There being no objection, the Senate, at 8:14 p.m. recessed until Wednesday, March 28, 1990, at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate March 27, 1990:

RESOLUTION TRUST CORPORATION

JOHN J. ADAIR, OF VIRGINIA, TO BE INSPECTOR GENERAL, RESOLUTION TRUST CORPORATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, March 27, 1990*

The House met at 9 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O loving God, not only to do what can be done for good in our lives and in our world, but also to do what needs to be accomplished for justice and right living. May Your spirit so strengthen our spirits that we will not be content with the easier road of expediency, but truly speak the truth and do the works of justice and peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from California [Mr. EDWARDS] will please come forward and lead the House in the Pledge of Allegiance.

Mr. EDWARDS of California led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, March 22, 1990, the House will stand in recess subject to the call of the Chair.

The House is now in recess.

Accordingly (at 9 o'clock and 1 minute a.m.), the House stood in recess subject to the call of the Chair.

JOINT MEETING OF THE 101ST CONGRESS IN COMMEMORATION OF THE 100TH ANNIVERSARY OF THE BIRTH OF DWIGHT DAVID EISENHOWER

During the recess the following proceedings took place in honor of the 100th anniversary of the birth of Dwight David Eisenhower, the Speaker of the House of Representatives presiding.

The Doorkeeper, the Honorable James T. Molloy, announced the Members of the U.S. Senate, preceded by the President pro tempore (Mr. PRYOR), who entered the Hall of the House of Representatives, taking the seats reserved for them.

The SPEAKER. In accordance with the provisions of Senate Joint Resolution 237, the joint meeting to commemorate the 100th anniversary of the birth of Dwight D. Eisenhower will come to order.

The Doorkeeper announced the Joint Armed Forces Color Guard.

The historical colors were carried into the Chamber; the flag was carried into the Chamber by the color bearer, and a guard from each of the branches of the Armed Forces.

The national anthem was presented by the U.S. Army Band.

The color guard saluted the Speaker, faced about, and saluted the House.

The flag was posted, and the Members and guests were seated.

The Chaplain of the U.S. House of Representatives, Rev. James David Ford, D.D., delivered the following invocation:

We are grateful for this day, O God, and for all the gifts of life, for family and friends, for the gifts of understanding and tolerance, for words of grace and deeds of peace, for the gifts of faith and hope and love.

On this day we remember all those people who have served You by serving others, and we especially recall him whom we honor this day. May the story of his life, both his great acts of leadership done for the multitudes of people and his gracious spirit which showed respect to each person remind us of Your call to be ambassadors of good will and stewards of every gift of life.

May the duty and honor of serving You and our country ever enable us to take pride in our calling and make us faithful in Your service.

O gracious God, may we so live our lives that we will be the people You would have us be and do those things that honor You and serve all people about us so that justice will roll down as waters and righteousness like an ever flowing stream. Amen.

The SPEAKER. The Chair recognizes the Honorable BOB DOLE of Kansas, Republican leader of the Senate and Chairman of the Dwight David Eisenhower Centennial Commission.

Senator DOLE. Good morning. On behalf of the National Eisenhower Centennial Commission, it is my privilege to welcome you to ceremonies honoring a great American hero—who just happens to be the favorite son of Kansans everywhere. Throughout this centennial year, Dwight Eisenhower is being recalled as a historical giant—the architect of Operations Overlord and the statesman behind Atoms for Peace. But for millions the world over who "still like Ike," he remains a reassuring symbol of the extraordinary qualities that lie within seemingly ordinary people.

He once wrote: "I believe fanatically in the American form of democracy, a system that recognizes and protects the right of the individual, and that ascribes to the individual a dignity accruing to him because of his creation in the image of a supreme being."

Such values do not just happen.

Ike's Kansas upbringing taught, even as it tested. "I have found out in later years we were very poor," he said when he went back to Abilene in 1947 to lay the cornerstone of a museum bearing his family's name; "but the glory of America is that we didn't know it then. All that we knew was that our parents—of great courage—could say to us: 'Opportunity is all about you. Reach out and take it.' "

Opportunity is what Eisenhower had in mind when he stood in London's ancient Guildhall in the spring of 1945 and declared: "I come from the very heart of America." Opportunity was a fitting epitaph for the five-star general of the Army who made his final homecoming in an $80 regulation casket, to lie in a plain stone chapel on the edge of the Kansas prairie. Opportunity is Ike's legacy—the demand echoing from a 1,000 street corners—in Prague, Panama City, Managua, Moscow, and Bucharest.

A century after his birth, we recognize the man from Abilene as a symbol of democratic opportunity in a world where old oppressions are crumbling like the wall that once artificially divided East from West. For no man did more to rid our planet of the Nazi scourge. No one gave more in the cold war against human enslavement. And no one deserves more gratitude from a world waking up to its own potential.

It is easier to win a war than to make peace; Dwight Eisenhower did both. Along the way, the boy whose values took root in the rich black earth of Dickinson County, KS, grew to embody the American dream. Thanks to him, the dream lives in every land. Nearly half a century after he liberated Fortress Europe, Dwight Eisenhower is still releasing humanity from bondage. To those still in darkness, he represents the bright light of freedom. And by that light, we can all find our way home. Thank you.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The SPEAKER. We are honored to have today members of the Eisenhower family, the general's son, John Eisenhower, his grandson, David Eisenhower, and his granddaughters, Barbara Ann Eisenhower, Susan Eisenhower, and Mary Jane Atwater, together with numerous great-grandchildren.

Will they please rise and be acknowledged?

[Applause.]

We are also honored to have with us today many members of the Eisenhower administration and associates of the late President. Will they kindly rise and be recognized.

[Applause.]

The names of the honored guests and their association with the Eisenhower administration are as follows:

Ned Beach, naval aide to the former President;

Herb Brownell, former Attorney General;

Warren Burger, former Assistant Attorney General, who was appointed to the U.S. court of appeals by the former President;

Gen. Andrew Goodpaster, staff secretary to the former President;

Karl Harr, special assistant to the former President and Vice Chairman of the Operations Coordinating Board;

Roemer McPhee, associate counsel to the former President;

Doug Price, executive assistant to the former President;

Ambassador Maxwell Rabb, Presidential Assistant to the Secretary of the Cabinet;

William Rogers, former Attorney General;

Eugene Rossides, assistant to the Undersecretary of the Treasury;

Raymond Saulnier, Chairman of the Council of Economic Advisors;

Maurice Stans, Director of the Bureau of the Budget;

And Abbott Washburn, Deputy Director of the U.S. Information Agency.

We are also honored to have the former Speaker of the House, the gentleman from Massachusetts, Thomas P. O'Neill, Jr.

[Applause.]

We are honored to have present the Ambassadors to the United States of Great Britain, France, Italy, and the Union of Soviet Socialist Republics, along with other guests. We would like to honor them at this time.

[Applause.]

The Chair wishes to acknowledge the invaluable assistance of the delegations of Kansas and Pennsylvania who contributed to the organization of this centennial recognition.

Will the members of those delegations please stand and be recognized?

[Applause.]

The U.S. Army Band and the U.S. Military Academy Glee Club will now present the Battle Hymn of the Republic.

The U.S. Army Band and the U.S. Military Academy Glee Club presented the Battle Hymn of the Republic.

The Chair now recognizes Mr. Walter Cronkite, distinguished television journalist, who conducted numerous interviews with the late President Eisenhower.

Mr. CRONKITE. Mr. President pro tem, Mr. Speaker, ladies and gentlemen of the Congress and distinguished guests, each of us who is old enough and lucky enough to have known President Eisenhower personally, of course will carry our memories of him with us forever. And our impressions of him will be our own, our assessment of the man shared in a greater or lesser degree by others who knew him.

When he was President I was inclined to concur in the general press corps wisdom that, with the military staff system and delegation of authority he had brought to the White House, he did not have intimate touch with many of the decisions of his administration.

After he left the Presidency and we were doing his memoirs at Gettysburg, I found out how wrong I was. We taped every morning for a week—a total of more than 13 hours. Each day I had a lapful of detailed notes. He had none. And yet I found he had excellent recall of even the arcane details of all the important debates within, and the actions taken, by his White House.

And so it is that I do not subscribe to the allegations of some detractors who, perhaps disturbed that some of his views conflicted with their own political positions, set forth the proposition that he read the speeches prepared by his writers without full knowledge, or even necessarily agreement, with the words he spoke.

To the contrary, the evidence in his public pronouncements of changing positions on important issues, was evidence also of almost certainly the most important ingredient of political leadership—courage.

It is a paradox that for a nation that professes its love of peace, the heroes among its leaders should be those who presided at war. George Washington, Abraham Lincoln, Ulysses S. Grant, yes and Jefferson Davis and Robert E. Lee, and Woodrow Wilson, John J. Pershing, Franklin Roosevelt, and Dwight David Eisenhower.

And it is a frightening fact that as we inscribe each name following another on our national roll of honor, the wars over which they presided, we note, are the greater—the destruction greater, the toll in human life the larger.

Of these, our heroes, only one led great armies of men not pledged to him by reason of a common citizenship and he was called to this position not alone because he represented the most powerful of the allied nations.

He was chosen at least in part, and in part most fortuitously, because he possessed the magic magnetism that could draw together in common cause those of differing opinions and clashing egos. In short, he was a leader.

It was the greatest war in history, Dwight Eisenhower's war. He led the British, the French, the Belgians, the Dutch, the Danes, the Norwegians—he led the greatest allied army ever assembled, and he led them to victory.

Dwight David Eisenhower was the greatest hero of the greatest war in history.

As a military leader, he spoke the language of his profession.

Here are some of the things Gen. Dwight David Eisenhower said of war:

Upon accepting Russia's Order of Victory in 1945:

We are going to have peace even if we have to fight for it.

In a speech on World Peace to Columbia University in 1950:

Until war is eliminated from international relations, unpreparedness for it well might be as criminal as war itself.

Far better risk a war of possible annihilation than grasp a peace which would be certain extinction of free man's ideas and ideals.

In his inaugural address in 1953 he said:

We like to repeat "there never was a good war or a bad peace." But war has often provided the setting for comradeship and understanding and greatness of spirit—among nations, as well as men—beyond anything in quiet days, while peace may be marked by, or may even be the product of chicanery, treachery, and the temporary triumph of expediency over all spiritual values.

But, once sitting in that Oval Office on Pennsylvania Avenue, carrying now on his shoulders the burden of America's power and the world's aspirations, while surely his views on preparedness did not change, his perspective broadened. Then we heard from Dwight David Eisenhower, the man of peace, and these are some of the things he said—these are some of the things President Dwight David Eisenhower said:

I like to believe that people in the long run, are going to do more to promote peace than our governments. Indeed, I think that people want peace so much that one of these days, government had better get out of their way and let them have it.

And President Eisenhower, the leader, said this:

Throughout history, the idea of peace has been pursued by great minds of many nations * * * Yet in efforts to achieve and preserve it, passion, greed, and arrogance have persistently defeated wisdom, tolerance, and humanity.

And Dwight David Eisenhower said:

Arms alone can give the world no permanent peace, no confident security. Arms are * * * only a costly insurance. They cannot add to human progress.

And he said:

Disarmament, with mutual honor and confidence, is a continuing imperative. Together we must learn how to compose differences, not with arms, but with intellect and decent purpose.

Dwight David Eisenhower, successful leader of the greatest military force ever assembled in the most terrible war ever fought, said this as President of the United States:

Every gun made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed. This world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, the hopes of its children.

The cost of one modern heavy bomber is this: a modern brick school in more than thirty cities. It is two electric power plants, each serving a town of 60,000 population. It is two fine, fully equipped hospitals. It is some fifty miles of concrete highway.

This is not a way of life at all, in any true sense. Under the cloud of threatening war, it is humanity hanging from a cross of iron.

That is what Dwight David Eisenhower, a leader of men and nations, said of war and peace.

In honoring his memory, we all might do well by honoring his words.

[Applause.]

The SPEAKER. Among those who served in the Eisenhower administration who are present today, the Chair would like to recognize the presence of the former Chief Justice of the United States, Warren Burger, the former Attorney General of the United States, Herbert Brownell, and the former Secretary of State, Secretary Rogers.

[Applause.]

The Chair recognizes Mr. Winston S. Churchill, Member of Parliament, and grandson of the late Sir Winston Churchill, former Prime Minister of Great Britain.

Mr. CHURCHILL. Mr. President, Mr. Speaker, Senator PRYOR, Members of the Senate and the House of Representatives.

As an Englishman, I regard it as a high honor to be invited to pay tribute to a great American. As a Member of the House of Commons, I count it a signal privilege to address this august legislature, with whose ideals, principles, and procedures our own Parliament has so much in common. As a Churchill, I am conscious that my grandfather, whose name I have the honor to bear, addressed this great Congress on no less than three occasions. Like him, I can proudly lay claim to an American mother, albeit not by birth but by her marriage to a distinguished American, Averell Harriman.

On behalf of the Speaker of the House of Commons and our Prime Minister, Margaret Thatcher, I bring you the greetings of the British Parliament on this historic occasion.

If it is as 34th President of the United States that Dwight Eisenhower is most remembered in America, it is as Commander-in-Chief of the Allied Armies in World War II that he is recalled in Europe. It was under his command that hundreds of thousands of British and Commonwealth troops participated in the momentous D-Day landings on the Normandy beaches in June 1944 and marched with him to victory over the Nazi tyranny. The survivors of that great army of 3 million Americans and 2 million British recall him with enduring affection simply as "Ike."

This is a year of historic anniversaries. On May 10, 50 years ago, Winston Churchill became Prime Minister of Great Britain, as the rest of Europe was collapsing before the shock of Hitler's "Blitzkrieg." It is also the 50th anniversary of the Battle of Britain, in which a few hundred British pilots—young men in their teens or early 20's—together with volunteers from the United States—the glorious Eagle Squadron—and others from Poland, Czechoslovakia, and France, broke the onslaught of the German Luftwaffe and frustrated Hitler's designs for the invasion and occupation of Britain.

While Churchill had a deep conviction and resolve that the British nation, with the support of our Commonwealth and Empire overseas, would never be defeated in our island, he knew that it would only be with the full hearted participation of the United States that Europe could ultimately be liberated. Thus, for 18 months, Britain soldiered on alone, embattled and blitzed, until the United States was brought into the fray.

Without the United States there would have been no liberation. Without Britain there would have been no springboard to make that liberation possible. It was a noble and glorious undertaking in which our two nations were joined. It is no exaggeration to say that, but for the exertions and sacrifices of the British and American peoples, the Nazi swastika would, to this day, be flying over the capitals of Europe and there would have been no end to the tyranny of occupation, the terror of the Gestapo or the monstrous torture, degradation, and slaughter of civilians in the concentration camps.

It was under the command of General Eisenhower that Europe—or at last half of it—was liberated. How thrilled he and Churchill would be today, to see the peoples of Eastern Europe at last emerging as free nations from a nightmare of 50 years' occupation, first under the Nazis, then the Soviet Red Army.

Forty-five years on from that great victory, purchased with the sacrifice of over 450,000 British and 300,000 American lives, and 100 years on from his birth, we in Britain, join with you in the United States, in saluting the name and the memory of Dwight D. Eisenhower.

A farmboy from Abilene, KS, he led the armies of 20 nations to victory in the greatest war of history. A son of America, he liberated Europe.

He will forever be revered among those nations who, like my own, were his comrades-in-arms and remembered with abiding gratitude by those nations which were liberated, under his command, from the most monstrous and vile tyranny that has ever defiled this Earth. Thus will Eisenhower be remembered.

[Applause.]

The SPEAKER. The U.S. Army Band will now present the musical tribute "Soldier of Democracy."

The U.S. Army Band presented the musical tribute, "Soldier of Democracy," an original arrangement by Sgt. Maj. James Kessler and Mark Murray, Sgt. Maj. Bill Fox narrating, with the accompanying text, as follows:

West of Topeka, the trees gradually disappear, and one can see only the rolling plains of Kansas. Grain elevators, those cathedrals of the Middle West, mark the village of Abilene. Abilene, an oasis on the plain and northern terminus of the Old Chisholm Trail, was the place that Dwight David Eisenhower began his journey to his "rendezvous with destiny."

This road would lead to West Point, North Africa, and Italy, to Normandy and to the Elbe, and to the White House. As a boy he absorbed the standards of conduct of the Old West. He learned that a man was honest and aboveboard. He was physically tough, and always prepared to defend himself. He met his enemy in a standup fight. He took a stranger at face value and expected his attitude to be reciprocated. And he was chivalrous toward women. He later reflected upon these values, "I was raised as a boy to prize that code." His love of country and desire to serve led to his admission to West Point. His class, the class of 1915, was to be known as the class the stars fell on. One-third of the class became generals.

During the years between the wars he polished his talents and mastered his profession. Perhaps he was most influenced by Maj. Gen. Fox Conner, under whom he served in Panama. It was Conner who said to Ike: "Take your job seriously, never yourself." Later, matured, he came to the attention of Gen. George C. Marshall. This was a major milestone on his journey. Marshall's confidence and trust in him propelled him to lead the greatest crusade of men under arms in the history of the world. At 0415 hours on the morning of the 5th of June, 1944, he issued a simple three-word order: "OK, we'll go." These simple words triggered a war machine unlike any in history; to land on the Normandy shore

and liberate the continent of Europe from Nazi domination. He now joined the ranks of the great military leaders of the world. Eisenhower's personality, style, and deep sense of human understanding gained the confidence of the allies. He had framed an alliance as effective as any fighting coalition in history. Speaking at Guild Hall in London after the war, Eisenhower said:

I am not a native of this land. I come from the heart of America. To preserve his freedom of worship, his equality before law, his liberty to speak and act as he sees fit, a Londoner will fight, and so will a citizen of Abilene. When we consider these things, the valley of the Thames draws closer to the farms of Kansas and the plains of Texas. No petty difference in world trade, traditions, or national pride should ever blind us to our identities in priceless values.

The war now over, his country again called him to duty. He became our 34th President. The American people completely trusted him to lead the entire Nation through the cold war era of the 1950's. After nearly a half century in the service of his country and to the world, he left for his farm in Gettysburg. He was active to the end. His advice and counsel to the Nation's leaders kept alive his values and ideals. His journey ended on the plains of Kansas where it had begun: he was returned to the land he loved in an $80 soldier's steel casket. The soldier of democracy was now at rest. As the final salute was sounded, the Nation sorrowfully savored his last words: "I've always loved my wife, I've always loved my children, I've always loved my grandchildren, and I have always loved my country."

[Applause.]

The SPEAKER. The Chair recognizes the Honorable Clark M. Clifford, former Secretary of Defense, Special Counsel to the late President, Harry S. Truman, and Presidential adviser.

Mr. CLIFFORD. This is a solemn occasion, but it is also a joyous one, joyous because we recognize a life of almost incredible accomplishment and almost unbelievable success; joyous also because we honor a man who led the forces of democracy in destroying the legions of tyranny.

It is splendid to have Arnold Palmer here today. Ike enjoyed golf. It was important to him, gave him the relaxation and fellowship that a President needed. He loved golf, and he also loved a golf story.

I had an instance occur one time, and I told him about it. He liked it, so I will tell you.

Senator Symington called me one morning and said Bob Hope was in town, and wanted a golf game, and would I join him, and I said, "Of course." We had an awfully good match. When we reached the 17th green, the match was all even, and the bets had doubled and redoubled. I had about a 12-foot putt I wanted very much to sink. I'm a little slow on the golf course, I might add. I was even slower this time. I looked at it from this angle, and the other angle, and then this side and that side, and then I got back over, and, just as I was about to putt, Bob Hope said, "While Clifford is putting, your clothes go out of style."

When the Second World War was over, General Eisenhower returned to this country and became Chief of Staff of the Army. I was serving as White House Counsel in the Truman administration, and, during the years he held that position, 1945 to 1948, we worked very closely together, sometimes at weekly intervals, sometimes daily.

Because of the time limitations, I'm going to address myself to but one conversation that I had with the General on a particular occasion. We had finished the meeting with the President in the cabinet room. We sat there talking because he had a later meeting with the President that was not to take place for another hour, and, as he talked, he began to reminisce about the concluding days of World War II. As Supreme Commander, he came from the west, and the Soviets were coming from the east and ultimately took Berlin as the Third Reich was destroyed. He said that he had an instance he wanted to tell me about because it had always stayed in his memory.

He had a visit with Marshal Zhukov, the Soviet Supreme Commander, at a meeting they had together in Berlin, and, as professional soldiers, they went back over the campaigns and recalled incidences. He said he told Zhukov about one occassion as they were following the Germans very closely and pressing them very hard; they came to a valley over the Ardennes, and the Germans had mined it with thousands of antipersonnel mines, and he told Marshal Zhukov, "It took us 2 days to clear that field so we could get our troops through there." As he said that to Zhukov, he noticed that bitter, cynical smile on Zhukov's face. Zhukov said, "General, we encountered the identical problem as we came from the east. It took you 2 days to clear the field? I cleared ours in less than an hour."

And General Eisenhower said, "Why that's unbelievable, Marshal. I can't believe that. How did you do it?"

And Zukov said, "I sent a division through there."

The Russian division at the time consisted of 8,000 men. General Eisenhower said that was a shocking disclosure. He said that it so dramatically represented the fundamental difference between their attitude and ours, that in our country the importance of the individual was primary. The Government was established for the individual. The individuals controlled the country through the ballot box. In the Soviet Union, the individual was but an instrument of state.

How right he was, because our forefathers recognized that. Remember the brave language, that each individual has the right to life, liberty, and the pursuit of happiness, and those glorious words of our forefathers when they finished that declaration in which they said, "And we support these principles and herewith dedicate our lives, our fortunes and our sacred honor."

I believe we would do well as we approach the opportunities of this period to give attention to those words of General Eisenhower's because the gulf between our two nations remains so wide. We must accomplish all that we can, and we hope that we will get the concord that the world needs. But let us do it conscious of this basic difference in our systems.

On one other occasion, General Eisenhower and I were together for quite a while, and he talked some about his boyhood. I recognized it because my generation perhaps came just at the latter part of General Eisenhower's generation. He told me about how different his boyhood was. There were no radios, no televisions, no automobiles, no electric light, and he said, "I guess young people today won't know what we did." He said, "I know what we did. We read."

The word that we received, the information received, then came from the printed word, and he mentioned, interestingly enough, a poem that had a great impact on him as a young boy and as a young man, and I listened with great interest because I had gone through the same experience with this poem. And later on, as his responsibilities increased, and particularly when eyes of the world watched the agony of decision as we were facing the exact correct time to start the invasion of France, I wondered how he stood that strain. I wondered whether the stress has effected him, but it did not, and I thought possibly that poem that he told me about that had impressed him as a young man might have had some impact upon him. I think it probably did.

The fact is, as you look at his life and accomplishments, the poet, Mr. Henley, and the title of the poem, "Invictus," Dwight Eisenhower could well have been the personification of what that poet, Mr. Henley, was writing about at the time.

It is a short poem. I will read it to you.

INVICTUS

Out of the night that covers me,
Black as the pit from pole to pole,
I thank whatever Gods may be
For my unconquerable soul.
In the fell clutch of circumstance
I have not winced nor cried aloud.

Under the bludgeonings of chance
My head is bloody, but unbowed.
Beyond this place of wrath and tears
Looms but the horror of the shade,
And yet the menace of the years
Finds and shall find me unafraid.
It matters not how strait the gate,
How charged with punishments the scroll,
I am the master of my fate:
I am the captain of my soul.

[Applause.]

The SPEAKER. The Chair recognizes Mr. James D. Robinson III, Chairman of the Eisenhower Centennial Foundation and Vice Chairman of the Dwight David Eisenhower Centennial Commission.

Mr. ROBINSON. Mr. Speaker, good morning. As a citizen and a businessman, it's a great honor to be part of this special tribute to Dwight Eisenhower.

This centennial year of celebration is indeed a time to reflect on the achievements of the Eisenhower years. A time to reflect on his vision of an interdependent world. When the world looked to the United States for leadership, Dwight Eisenhower provided it.

His Presidency brought prosperity to America—and to economies around the world.

He balanced the budget, stopped inflation, ended the fighting in Korea.

He preserved the peace in some of the most difficult years of the Cold War.

His vision was global: It recognized the benefits of expanding and opening world markets, of widening membership in the world economic community, of building an international framework for open trade.

Eisenhower's blueprint served well through the 1950's and sixties, the seventies and eighties. Now, it's ideally suited to the 1990's.

Eisenhower knew that real strength lies not in power amassed, but in power shared.

In that spirit, he promoted a unified Europe even before the 1957 Treaty of Rome created the European Common Market.

In that spirit, he sought Japan's participation in the world economy.

He was an architect of the postwar trading system—instrumental in broadening the mandate of the General Agreement on Trade and Tariffs.

He said:

For our own security, we require that our allies become economically strong. Trade is the only solution.

Eisenhower knew that poverty and underdevelopment hurt not just poor nations themselves but the international economy as a whole.

He played an important role in nurturing the World Bank and International Monetary Fund—bodies that today help less developed countries cope with the crippling burden of foreign debt.

He created the International Finance Corporation to help attract private capital to the developing world.

Eisenhower saw the need to lay the foundation for a time when the Communist bloc nations and the West could begin a new era of peace and trade.

He said:

Take courage, from the sure knowledge that the current of world history flows toward freedom.

In the long run, dictatorship and despotism must give way.

He was right. He was often right. How pleased he would be with world events today.

Behind his plain-spoken demeanor was an intelligence wise in the ways of men and the tide of history.

Decency radiated from Eisenhower, and defined him. It shaped his thinking, shaped his firm and open spirit.

Millions of Americans—and many millions of people all over the world—have reaped the benefits.

Looking toward the next century, we see a need for leadership with a vision similar to Eisenhower's, a vision of an interdependent, prosperous and peaceful world.

The United States can and must provide that leadership—leadership made even sounder by drawing upon the best of our political, business, civic, religious, and labor resources—together in partnership.

What a fitting tribute to Dwight David Eisenhower that would be.

Thank you.

[Applause.]

The SPEAKER. The Chair recognizes Mr. Arnold Palmer, professional golf champion and friend and former golf companion of President Eisenhower's.

Mr. PALMER. Thank you very much.

Mr. Speaker, Members of Congress, ladies and gentlemen, I am pleased to be here. I feel a lot better over that 3-foot putt for Nicklaus, and Trevino and Player than I feel right here now, but I am extremely proud to be here.

My experiences with General Eisenhower, President Eisenhower, are ones that all America should have the opportunity to know about and to know the person.

I met President Eisenhower in Augusta in 1958. I was given a clue before the final round of the Masters Golf Tournament, which he dearly loved, that there was a good chance that, if I won, I might have the opportunity to play golf with the President of the United States. I don't know how many of you in this room understand how much pressure is on to win the Masters Golf Tournament, but, if you couple that pressure with the thought that you might play golf with the President of the United States the next day, you can imagine what I went through for the final 18 holes on that Sunday in April 1958.

I won that golf tournament, and I told my wife, Winnie, that we were going to play golf with the President the next day, and in the same sentence I said, "Winnie, I want you to write Iron Man," who was my caddie, "a check," and it was normal to do a sizable check for the caddie who was working for you when you won the Masters, and I said, "Make it"—I had won $14,000 in that tournament. In 1958 that was a lot of money. I said, "Make it for $1,400."

Later that evening Winnie wasn't very excited about my playing golf with the President of the United States the next day. She wrote the check for $14,000.

That was the beginning of something that, I guess, I can't give you in words. It started a relationship with a general, a President, a private citizen, a man who to Americans stood for just about everything we live for. He was a sportsman, he was a leader, a military leader, he was a President, and probably, just as importantly to all of us Americans, he was a private citizen, and he conducted himself in that way.

Another story about President Eisenhower:

A number of years ago, on my 37th birthday, my wife decided that there wasn't a great deal that she could do for my birthday. So, she decided that she would do something different. She called Mrs. Eisenhower. She said, "How would you like to surprise Arnie and be his birthday present?"

Much to her happiness and surprise, Mrs. Eisenhower said, "Winnie, we would love to surprise Arnie."

It wasn't just that simple. The President wanted to fly. Mrs. Eisenhower wanted to drive. As it turned out, my wife sent an airplane, my own plane, to pick up the President, and Mrs. Eisenhower chose to drive in her car. I must say that it's not many people in America who have this opportunity, but it sort of tells you about America, and it tells you about a President and a man.

We spent a weekend together. We had an opportunity to watch a football game. The ladies went and watched a musical, and we went back in the back bedroom and watched a football game on television and did men's talk.

I don't have to tell you that a birthday like that you remember forever, but I remember the things that he's talked about and the things that were important to him, his personal warmth, his interest in America, his interest in history, his interest in people all over the world. That was one of the things that caught my attention and something that I will never, never forget. It was something, that made a general who all of us lived

in awe of, a President who none of us could have imagined, sit down to the breakfast table in our pajamas and a robe, talking about his life and his doings for so many years and feeling like he wanted you to know what it was all about.

I suppose one of the greatest things that I remember about Ike—and I say "Ike" with great reverence, because I asked him the morning he arrived for my birthday what I should call him. Mr. President? General?

He said, "Arnie," he said, "when we're alone, you call me whatever you want." He said, "I like 'Ike,'" and he said, "When we're in company, if you want to be more formal, that's perfectly all right with me."

That was another privilege of someone, Arnold Palmer, born and raised in Latrobe, PA, and son of a golf pro who raised chickens and pigs to eat, that you would never believe.

President Eisenhower had probably more integrity than most people you would ever want to meet. He really liked a good joke, a clean joke. He was not great on profanity, unless he missed a short putt. He was really a no-nonsense man, and I guess I can't translate to you, the people of America, how important he was to all of us private citizens, to sports throughout the world.

My last visit with President Eisenhower was a call that I had that he was at the Walter Reed Army Hospital not doing very well, and he expressed an interest in having a visit from Winnie and myself, one that we were just extremely flattered to get and one that made us feel we could not do anything but appear. We did, and, as usual, President Eisenhower gave us that same warm reception that we had always received. We walked into his hospital room, and it's very difficult to imagine. He was very ill, and his first words were, "By gosh, it's great to see you kids."

Think about it. It's something that today makes chills run up and down my back and makes me think what a great friend I had.

I will close by saluting President Eisenhower on behalf of all the private citizens in America and the world and on behalf of all the athletes who, I think, I have some right to represent here, for what he has done to the world, to America, and given us in his lifetime. I am thanking him for his tenure in America. Thank you.

[Applause.]

The SPEAKER. The U.S. Military Academy Glee Club will now present "The Corps" and "Army Blue."

The U.S. Military Academy Glee Club presented "The Corps" and "Army Blue."

[Applause.]

The SPEAKER. The Chair recognizes Hon. John S.D. Eisenhower, son of the late President Eisenhower and former Ambassador of the United States to Belgium.

Mr. EISENHOWER. Mr. Speaker, Mr. President pro tempore, distinguished Members of Congress, friends, it is a great pleasure for me to be here today to participate in this tribute to my father, Dwight D. Eisenhower.

Our previous speakers have given us vivid glimpses of Dwight Eisenhower from several different viewpoints: From those of politics, the television media, business, and sports. I would like to speak a little more personally, however, and venture an opinion as to how General Eisenhower himself would like to be remembered. I believe he would like to be thought of simply as the Good Soldier.

Ike Eisenhower was a complex man, full of contradictions. Beneath the well-known grin, he was a serious, purposeful executive. He made no pretense at intellectual brilliance, but he was contemplative and literate. He walked with kings but never forgot his home in Abilene, KS. He was the vaunted warrior who hated war. He was the five-star general who warned of the dangers of an unbridled military-industrial complex.

But despite those complexities, my father was consistent in following the code of the Good Soldier. But the term "soldier" must be viewed in a broad context, more than an infantryman, more than a general, more even than a supreme commander. Ike thought of himself primarily as a dedicated public servant, one who placed his country above himself. And serving his country in an ever-shrinking world meant serving the whole of mankind as well.

Both as a general and as a President, Ike viewed the high positions he held as fiduciary responsibilities. He did not crave fame, for his personal self-esteem was too strong for that. But responsibility was something else. Throughout his career he prepared himself for the day when he might carry heavy responsibilities, and when that time came, he was ready. His preparations made him confident, and he did his job with zest. But he was never reckless; he was ever conscious that the lives and well-being of others depended on his good judgment.

On occasion I was a witness to my father's ability to concentrate on the problem at hand. In Normandy, during mid-June 1944, I was struck by the way in which he shrugged off the historic role he was playing on the world stage. He had launched the vast D-Day armada under harrowing weather conditions only a week before, but the anguish of that decision was already forgotten. Ike's eyes were always on the task at hand, not on himself.

Ike's record as President is a matter of history. He accomplished much. And in guiding the Western World through the most unstable and frightening period of the cold war, he was, I believe, nearly indispensable. The people of the United States were lucky during the 1950's to have Good Soldier Ike in control of our nuclear arsenal.

When his time was up in January 1961, President Eisenhower turned over the reins of office with good will. As a new private citizen, Ike now supported Presidents Kennedy and Johnson as he had earlier served other Presidents. As a Republican, he could never approve all that his Democratic successors did, but Good Soldier Ike was ever conscious that they, not he, were now carrying the responsibility for governing. He once said to me, "I'm not going to make it tougher for the fellow who's trying to run the country."

Ike is now part of history, gone from us for 21 years tomorrow. But one sentimental line of the West Point alma mater meant a lot to him. The words read, "And when our work is done, Our course on earth is run, May it be said, 'Well done; be thou at peace.'"

That is the way that Dwight Eisenhower would like to be remembered by those he has left behind.

Thank you.

[Applause, the Members rising.]

The SPEAKER. The Chair recognizes the gentlewoman from the Sixth District of Maryland, Hon. Beverly Byron, a member of the Dwight David Eisenhower Centennial Commission.

Mrs. BYRON. Mr. Speaker, President pro tempore, let me talk from a personal view and as a Member of this body, and as a mother and a grandmother.

Born in the last century of humble beginnings in Texas, raised in Kansas, a football hero, educated and graduated from the Military Academy in 1915, not at the top of his class but 60 of 164. After 1 year in the Army, he married Mamie Doud from Denver, CO, on July 1. As Europe erupted in 1940, he was called to lead his Nation's efforts. Leaving from Bolling Field by Stratoliner for England on June 23, 1942. How well we all remember June 6, 1944, D-Day. John remembers it in a different way. It was the day he followed his father's footsteps and graduated from West Point and raised his hand and was sworn in as a second lieutenant. I remember it well as the 11-year-old riding in the car with him from the graduation. With the "Stars and Stripes" headline "Adieu to a Great G.I." sending him on his way. General Ike returned to his Nation's Capitol on Truman's C-54, "The Sacred Cow." Arriving Monday, June 14, 1945, after a 2-day trip. The ride in from the airport was a parade down Pennsylvania Avenue, ending in an address to a joint session of Congress, at this very spot. It was a few days short of 3 years from the time he flew off from Bolling that he returned, as he

had left with my father and Sgt. Mickey McKeogh both still by his side. The same Mickey McKeogh is here with us today in the gallery. As the war wound down and the five-star general retired, he entered the academic world at Columbia University. The Torch Light Parade on July 7, 1948, up Morningside Heights was held to ask him to be the candidate for President; by 5,000 admirers—Democrats. Then in 1952, he was called by his country again under the Republican banner to serve as chief of his beloved military and the President of his grateful Nation. A time history reveals as one of stability and calm. He went on to retirement again not as an educator but as an elder statesman. Reaching back to his early Kansas beginnings as a man of the soil, he retired with Mamie, to his first real home, a farm in Gettysburg to paint and fish and write. I stepped quietly in a pew at the National Cathedral to join the rest of the Nation on March 31, 1969, as we said a final goodbye and well done to a man representing the American dream. And so on the day before the 21st anniversary of his death and the centennial years of his birth, we gather here to honor this great American. A kind, gentle, tough soldier for whom we are all eternally grateful.

Every mother and father could ask no more than this American dream for their child.

The SPEAKER. The Chair recognizes the gentleman from the 19th District of Pennsylvania, the Honorable WILLIAM F. GOODLING, in whose district is the site of the Eisenhower farm, the late President's retirement home, and now a historic landmark.

Mr. GOODLING. "First in war, first in peace, first in the hearts of his countrymen," is a phrase most often used when describing our first President of this great Nation, but it certainly applies to this soldier, statesman, and citizen of the United States we honor today.

My late father George served as Ike's Congressman from the 19th District in Pennsylvania. In succeeding my father I was privileged to serve Mamie as her Congressman. In many respects, the house bordering the battlefield in Gettysburg was the only home they had they could call their own.

Last year the Congress approved legislation to rename the Math and Science Education Program the Dwight David Eisenhower Math and Science Program. Henceforth, schools and teachers all over the country will receive Dwight David Eisenhower grants, a followup to the National Defense Education Act Ike initiated, some 30 years ago.

More recently, at the urging of the Eisenhower Society of Gettysburg, I was pleased to sponsor legislation to create a silver coin to commemorate Ike's centennial. It includes a unique dual likeness of Ike as a military leader and statesman on one side and the Gettysburg Eisenhower home on the other. It was recently unveiled at the Eisenhower Gettysburg home, next to the famous putting green, by U.S. Mint Director Donna Pope and the Treasurer of the United States, Catalina Villapando. It is a keepsake momento I am sure many Eisenhower fans will treasure.

This fall, Gettysburg College will play host to a major commemorative program in Ike's honor.

These efforts, together with the many celebrations which are planned throughout the year, will pay tribute to a humble man who did nothing less than give and do his best for his country. The motto in the 1950's was "I Like Ike," and those words still ring clear and true today. I speak collectively for all the residents of the 19th Congressional District when I say "I Like Ike."

[Applause.]

The SPEAKER. The Chair recognizes the gentleman from the First District of Kansas, the Honorable PAT ROBERTS, in whose district is Abilene, the childhood home of the late President Eisenhower and site of the Dwight David Eisenhower Center.

Mr. ROBERTS. Mr. Speaker, Senator DOLE, distinguished guests all:

We in Kansas are understandably proud of Dwight David Eisenhower, our most famous native son. In visiting with Susan Eisenhower (Sagdeer) in one of her many trips to Capitol Hill, I told her we Kansans all have Ike recollections and stories to the extent we think we have at least written some footnotes to that time in history and personally own a piece of the monument that is Ike.

That is true in my own case. The year was 1952. The place Chicago. The event the Republican National Convention. A small town Kansas boy of 15 was in the corner of the Eisenhower headquarters in the Conrad Hilton Hotel listening to the likes of Herb Brownell, Tom Dewey, Art Summerfield, Henry Cabot Lodge, when another member of the Eisenhower campaign team softly said, "I think we can win this thing on the first ballot." That man was my father, Wes Roberts—and win it they did.

And so, it is a personal honor and privilege to join with you in paying tribute to the life and work of the man from Abilene, Dwight David Eisenhower, who led our Nation and the world through war and who sustained the peace.

Throughout this year, people across the Nation and around the world will have the opportunity to deepen their knowledge and increase their understanding of Dwight Eisenhower. But, just as important, the events of this centennial year can also spark a new beginning, a new appreciation of the role of leadership, the price of freedom, and our responsibilities as citizens in free societies.

My colleagues, Ike touched the lives of many but nowhere was it more special and more meaningful than in Abilene. I have the honor of representing Ike's hometown, the location of the Eisenhower Center, the family home, library museum, and stone chapel, the final resting place of Ike, Mamie, and their infant son, Doud Dwight.

You cannot visit the Eisenhower home without coming to a better understanding of what this man and our heritage is all about. From the porch of the modest, white clapboard house where David and Ida Eisenhower raised their six sons, you can see the world as young Ike saw it. I encourage everyone to come to Abilene during this centennial year.

And yes, it is Kansas. Step off that porch and you see the magnificent dome of blue sky that ends only when it meets the fertile soil on the distant horizon. That panorama of rolling prairie—where Ike used to hunt and fish—is a backdrop for the commercial buildings of Abilene, the tallest of which is, of course, the grain elevator still holding the repository of Earth's bounteous gifts and the endless labor of their faithful stewards. It is literally small town USA and what we are all about.

Ike knew it and lived it. Standing beside Prime Minister Winston Churchill at Guildhall in London, he said:

> I come from the very heart of America. In the superficial aspects by which we ordinarily recognize family relationships, the town where I was born and the one where I was reared are far separated from this great city.
>
> Yet, to preserve his freedom of worship, his equality before the law, his liberty to speak and act as he sees fit * * * a Londoner will fight. So will a citizen of Abilene. When we consider these things, then the valley of the Thames draws closer to the farms of Kansas.

Not so well known is his homecoming speech of June 22, 1945, when thousands of Kansans welcomed General Ike back to Abilene. Six Dickinson County towns united to portray his life in a special pageant. No less than 18 4-H clubs created floats and band after band after band marched on and on for the better part of 4 miles. Dickinson County said thank you to this great soldier that they had raised from a pup.

As a finale, Ike was driven to the city park—still there—where he climbed the homemade stairs of a platform swathed in red, white, and blue banners; all four sides draped with "Welcome Home Ike" signs. And he said:

> No man is really a man who has lost out of himself all of the boy. I want to speak of

the dreams of a barefoot boy. Frequently they are to be a conductor, or policeman, or an engineer, but always in his dreams is that day when he finally comes home, comes home to a welcome from his home town. Today, that dream of 45 years has been realized beyond the wildest stretches of my own imagination. I come here first to thank you and to say the proudest thing I can claim is that I am from Abilene.

In this world, it has been my fortune or misfortune, to wander at considerable distance but never has this town been outside my heart and memory. Here are my oldest and dearest friends, the men that helped me start my own career and helped my son start his. Here are people that are lifelong friends of my mother and father who made sure that each of us had an upbringing at home and an education that equipped us to gain a respectable place in our own profession. We are the products of the loving care, labor and work of my father and mother—just another average Abilene family.

There was more, of course. Ike said, typically, that his position, his accomplishments were merely symbols, that the outpouring of gratitude and thanks were really for the soldiers who served so well in Europe. And there would be return trips to Abilene to announce for President, to dedicate the Ike Center, personal visits. But he always concluded his remarks with a special love for his heritage.

My colleagues, that heritage lives on within us all. As author Richard Norton Smith of the Eisenhower Center said:

The centennial will reach a climax on October 14, Dwight D. Eisenhower Day. But, of course, it will not really be over even then. Not as long as people in darkness yearn for the light, for qualities synonymous with the name of Eisenhower: freedom, dignity, decency and faith.

Call it timing, fate, or part of God's plan, but the Eisenhower Centennial comes at a time when old oppressions are crumbling and new freedoms are struggling for acceptance. These too, are part of the Eisenhower celebration. The friends of freedom, therefore, are not defined by place, status, occupation or time. Rather, they are determined by dedication to ideals and devotion to duty.

My colleagues, the Kansas State motto is "Ad Astra per Aspera"—To the Stars Through Difficulty. Dwight David Eisenhower enabled his generation to reach those stars. Let this centennial year of his birth enable us to begin a new century in which our stars become a beacon and a reality.

Thank you. [Applause.]

The SPEAKER. The benediction will be given by the Reverend Edward L.R. Elson, former Chaplain of the U.S. Senate.

The former Chaplain of the Senate, the Reverend Edward L.R. Elson, offered the following benediction:

Now go in peace. Remember the poor. Be kindly disposed, one to another, and may the love of God go with you and remain in you forever. Amen.

The SPEAKER. Members and guests will remain standing for the retirement of colors.

The colors were retired from the Chamber.

The SPEAKER. Members and guests, please remain standing and join in singing "God Bless America."

The U.S. Army Band and the U.S. Military Academy Glee Club rendered "God Bless America."

The SPEAKER. At this time the Members of the Senate will retire.

The Members of the Senate retired from the Chamber.

The SPEAKER. The purposes for the joint meeting having been fulfilled, the joint meeting is dissolved, and the House will remain in recess until 1 p.m.

The honored guests retired from the Chamber.

At 11 o'clock and 43 minutes a.m., the proceedings in commemoration of the centennial of President Dwight D. Eisenhower were concluded.

□ 1304

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. MURTHA] at 1 o'clock and 4 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2692. An act to amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life shall be members of the Board of Trustees of the Woodrow Wilson International Center for Scholars.

A message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1853. An act to award a congressional gold medal to Laurance Spelman Rockefeller.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. TORRICELLI. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MY SALUTE TO THE GENERAL ON THE OCCASION OF THE EISENHOWER CENTENNIAL CELEBRATION

(Mr. MICHEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MICHEL. Mr. Speaker, I have four distinct memories about President Eisenhower. The first is when he was my commanding general in the battle for Europe in World War II. I was an ordinary GI and I never saw him personally during the war. We had a perfect division of labor: He gave the orders for Allied victory and, far down the line, I carried them out. He was our leader, the one on whom everything depended. We took it for granted that Ike would know what to do.

But looking back, knowing a bit more about the burdens of leadership, I marvel at his extraordinary gifts. He held together a wartime alliance, always a difficult undertaking. He was ultimately responsible for the success of the largest and the most difficult invasion from the sea in history. And, through the leaders he chose, and the armed force he created, he totally defeated a major part of one of the greatest armies in world history.

Any one of those achievements would have earned a great place in history for him. But he did all three, simultaneously. I do not know of a single parallel accomplishment in the annals of military fame.

The next incident I'd like to recall is the time in 1949, when I wrote the General while he was President of Columbia University. At that time there were those who were touting Dwight Eisenhower as a Presidential candidate—in both parties, for that matter. In our party we had the traditional schism between the more liberal New Englanders and the bastion of conservatism in the Midwest. As a matter of fact, my mentor, the late Senator Everett McKinley Dirksen, was touting his colleague, Senator Bob Taft for President.

I took it upon myself to write the General, expressing the hope that he would not be taken in by the New Englanders and that he would not forget his Midwest heritage, if he were serious about securing the Republican nomination for President. Unfortunately, I did not preserve a copy of the letter I wrote to him, for quite frankly, I wasn't sure I would get a response to my letter. President Eisenhower did respond in a letter November 16, 1949, which I will have included as a part of my remarks, so that all might know what he had to say at that time.

This is the first time I have publicized the letter, and it's quite a historic one:

COLUMBIA UNIVERSITY,
New York, NY, Nov. 16, 1949.

Hon. ROBERT H. MICHEL,
Representative in Congress, Peoria, IL.

DEAR MR. MICHEL: It is always nice to hear from an old soldier, particularly one who served in the Infantry, my old arm. Additionally, of course, I must thank you for the very great compliments paid me in your letter of the 12th.

While it is obviously necessary that, so long as I am connected with Columbia University, I be officially classed as an "Easterner", it is equally true that the roots of my family and my life are buried too deep in the West for me to ever think of myself as anything but a mid-Westerner.

I assure you, though, that these facts have no implications of any kind in the political world—at least so far as any personal politics may be concerned. I have earnestly and honestly tried to make my own position clear about these matters, and I assure you

I have not changed my mind in the slightest degree.

With best wishes to a former comrade of ETO.

Sincerely,

DWIGHT D. EISENHOWER,
Office of the President.

Little did I dream that within 7 years, I'd be meeting him face to face when he was President and I was a candidate for Congress.

After my election, I was elected president of my freshman class. I had the honor of being invited to the White House—upstairs—for a little refreshment with the President, Speaker Joe Martin of Massachusetts, leader Charlie Halleck of Indiana, whip Les Arends of Illinois, and Leo Allen of Illinois. If you think this former GI wasn't impressed by that august company, in the part of the White House, you're dead wrong.

But there is something else I find memorable about Dwight David Eisenhower. It doesn't concern victory. It concerns a defeat that did not happen—the possible defeat of our invasion in 1944.

Ike knew there was a chance that the invasion could fail. And so he himself composed a brief message in case it did fail. This is what the message said:

Our landings have failed and I have withdrawn the troop. My decision to attack at this time and place was based upon the best information available. The troops, the air, and the navy, did all that bravery and devotion could do. If any blame or fault attaches to the attempt, it is mine alone.

"It is mine alone . . ." How strange, how wonderful those words sound in our own time when making excuses and alibis for failure has become a major industry. We are thankful he never had to release that message. But we are equally thankful he was solider enough to compose it in the first place.

And so, today, on the occasion of our commemoration of his 100th birthday, this former GI wants to offer a salute and say: What a memorable day, General.

CONTRIBUTING TO ALLEVIATING OUR NATION'S SOLID WASTE PROBLEM

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, it is 26 days until we celebrate the 20th anniversary of the first Earth Day. In recognition of our need to focus upon the environment, I will take this opportunity to call attention to this Nation's burgeoning solid waste disposal problem. While State and municipal initiatives have begun to be implemented throughout the country, I would like to stress that every individual has both the obligation and the ability to do his or her part in reducing the amount of solid waste going into landfills, which in many regions are close to capacity.

Approximately 20 percent of the Nation's trash is yard waste, second only to paper products by weight. Composting America's fertile mounds of leaves and grass clippings could eliminate one-fifth of the Nation's waste. The mulch resulting from a compost pile is rich in nitrogen and other essential elements and minerals for plant growth. In addition, it does not contain the chemicals contained in nonorganic fertilizers and lawn treatments.

As an avid, although not excellent, gardener, I have found that the best fertilizer comes from a compost pile I have in my backyard. It is a hodgepodge of degrading vegetation collected from my lawn and kitchen. The results of my efforts, from asparagus to zinnias, are improving. Actually, my office wrote the word "spectacular," the pictures from the order form are what are spectacular.

This small contribution toward alleviating our Nation's solid waste problem, in terms of the 46 million cubic yards of trash and municipal refuse which were discarded in my State of Illinois, is alone insignificant. Those efforts, however, combined with the recycling initiatives of others will be one way that we as a nation will triumph over the increasingly ubiquitous mountains of trash threatening both the health of our environment and the Nation's scenic beauty.

HOW ABOUT THOSE GEORGIA TECH YELLOW JACKETS?

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, as a University of Georgia alumnus, I am unaccustomed to lauding the accomplishments of my school's archrival—Georgia Tech. But the performance of Georgia Tech's basketball team in the NCAA Tournament has been so impressive that even a Georgia Bulldog must acknowledge Tech's mastery on the court. Led by coach Bobby Cremins and "Lethal weapon 3"—Tech's star trio of Dennis Scott, Kenny Anderson, and my constituent from Smyrna, GA, Brian Oliver, Georgia Tech has pulled off some amazing victories and is headed to Denver for the final four and a showdown with the University of Nevada-Las Vegas. Though I certainly do not support gambling, I have predicted—with a school sweatshirt as the prize—with my colleague from Las Vegas that Georgia Tech will prevail. Regardless of the game's outcome this week, Georgia Tech has made the State proud. All Georgians, even Bulldogs, can say with pride, "How' about those Yellow Jackets."

WILL THE REAL MR. GORBACHEV PLEASE STAND UP?

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute.)

Mr. BROOMFIELD. Mr. Speaker, in recent weeks, Americans have been reliving a 1950's quiz show, "To tell the truth". They must be asked themselves more and more: Who is the real Mr. Gorbachev?

The Gorbachev Americans see is the one who talks about peace and glasnost and perestroika and democracy.

The Gorbachev Lithuanians see is the one who seizes their schools, storms their hospitals, and intimidates their Parliament with tanks.

For weeks, the Soviets have been telling us that they won't use force—period. Now Gorbachev tells us he will not use force—unless lives are threatened. His answer really is: Maybe he will, maybe he will not.

America is about to shape a long-term foreign policy based on a peaceful Mr. Gorbachev. That could be a mistake.

It's time for Americans to find out who the real Mr. Gorbachev is. Will the real Mr. Gorbachev please stand up.

THE ERA OF THE "AMERICAN SUNSET"

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, there are those who say that America has reached her peak, that we are now witnessing the era of the "American Sunset," that we are waning into a continuous, even precipitous slide into decline.

But, if you examine what we have in ways of economic and military strength, the cutting edge of science and technology, the third largest country, and our often imitated culture, in each of these areas only America is strong.

While Japan may be an economic giant, it is militarily very small and extremely vulnerable in its natural resources. The Soviet Empire is weakening before our eyes and cannot even produce basic consumer products. China is locked into an unprogressive style of technology and ruled by such a repressive Government that it stifles any thought of progress. Europe still looks to America for leadership and guidance. American culture permeates every nook and cranny of the world, and there is not another language that approaches the acceptance of American English.

America, and what she stands for, is still the land of hope and opportunity that draws hundreds of thousands to our shores, that has caused scores of countries to throw off the chains and shackles of tyranny, and embrace the freedom and the truth we hold so dear.

ELEVATE THE EPA TO A CABINET-LEVEL POSITION

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the President proclaims himself to be the "environmental" President. I am glad he feels strongly about the environment. That's good for America.

But, Mr. Speaker, President Bush is not consistent. He has threatened to veto H.R. 3847, a measure to elevate the Environmental Protection Agency to Cabinet level status.

Mr. Speaker, I hope the President will reconsider his threatened veto. In order for him to become the environmental President, he needs a strong EPA which can help develop his environmental plans for America and the world and then—most importantly—has the clout around the Cabinet table to implement his environmental plans.

Parenthetically, Mr. Speaker, I hope the President's comprehensive environmental plan will include a White House conference on solid waste management to deal with the problems of waste disposal and reduction which are confronting communities across the Nation. I have introduced legislation calling for just such a conference, House Concurrent Resolution 269.

Mr. Speaker, the 20th anniversary of Earth Day will take place April 22, less than a month away. Not only, Mr. Speaker, do I hope the President will not veto H.R. 3847—to give EPA Cabinet status—but I hope he will sign it into law on Earth Day.

What better way, Mr. Speaker, could the President demonstrate himself to be our environmental President.

KEEP THIS HOUSE NOBLE

(Mr. BLAZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLAZ. Mr. Speaker, the whole world is caught in the spirit of self-determination, and so is this Nation.

In that spirit 174 Members of this House, evenly divided between the Democrats and the Republicans, have cosponsored a bill for a commonwealth for Guam.

Because Guam passed an antiabortion law last week that was controversial, some Members of the house are asking their colleagues to withdraw their support for the commonwealth bill. We have taken action in Guam on the antiabortion law. It is now before the courts, properly, in due process, expeditiously.

I ask my colleagues not to take this dramatic action; not to withdraw support of our commonwealth bill. If you were to do so, you will snuff out the only candlelight we have ever had on Guam in 100 years. You will set us back. You will spank us and send us to our room to languish another 25 years.

I am saying to you please, do not do that. We have been there for the past 100 years and it is dark in there.

This is a noble House. I am proud to have fought in three wars in behalf of this House.

I urge you to keep it noble, keep it noble, keep it noble.

SOMETHING IS WRONG IN AMERICA WHEN CITIZENS HAVE TO TAKE OVER THE DUTIES OF THE LAW

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, yesterday in New York City Julio Gonzalez, a Cuban who was boatlifted to this country by Castro in 1980, torched a night club, killing 87 people, the second biggest mass murder in history.

Gonzalez said he wanted to hurt his girlfriend; there were 87 innocent bystanders who died.

Gonzalez now says, "The devil made me do it."

Ladies and gentlemen, there is no death penalty in New York. Citizens in New York are so fed up they are demanding that authorities turn Gonzalez over to them.

Now I say here today something is wrong in America when citizens have to take over the duties of the law.

My bill, H.R. 2102, would deal with mass murderers, cop killers, judge killers, mob hits, murderers who use and perpetrate the crime with the use of machineguns.

I say, ladies and gentlemen, it is a sad day when body bags of murder victims are starting to pile up higher than the Statue of Liberty and American citizens want to take the law into their own hands.

That is Congress' job. And these bleeding-heart politicians all over this country continue to stand up for the rights of killers. Why does not Congress stand up for the rights of victims and their families? That is what we are elected to do here.

Mr. Speaker, H.R. 2102 would do it. It is time for Gonzalez to meet the maker, the Devil, that is true. But when he asks him, "How come you came so early?" he should say, "Congress made me do it."

Think about it.

DESIGNATING CLARKS FORK RIVER IN WYOMING AS WILD AND SCENIC

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, this is a special day for Wyoming and for me.

Today I am proposing legislation to designate the Clarks Fork River near the outer boundaries of Yellowstone National Park a wild and scenic river. This legislation is the first of its kind for Wyoming.

And this year, as Wyoming celebrates our centennial, it is appropriate that another first of this environmental scope be added to a distinguished list of firsts.

It is also appropriate as we near Earth Day to distinguish the Clarks Fork and preserve its beauty with this wild and scenic designation. The legislation is fully supported by the State of Wyoming.

The beauty of the Clarks Fork River, above Cody, truly is remarkable. As a boy, growing up on a ranch nearby I deeply appreciate the value of this river. I want many others to be able to experience its beauty for years to come.

Sportsmen, kayakers, area residents, and scores of visitors to the State can continue to relish in the stunning beauty of the Clarks Fork with this designation.

It truly is a national gem and I am proud to introduce this legislation today. I ask for your support as this legislation comes before the House.

ELEVATING EPA TO CABINET-LEVEL STATUS

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, I am pleased that the President supports the elevation of the EPA to Cabinet level status. Unfortunately, the President has now threatened to veto the bill if certain changes are not made in the proposed legislation.

What are those changes?

Well, among other things, the President objects to the limitation on the number of political appointees. He also objects to the provision that would delegate all data collection, analysis, and dissemination to the proposed Bureau of Environmental Statistics.

I am confused. Does the President consider the new Cabinet level department an opportunity to really focus in on the environment, or is it a place to employ those political supporters whom he could not find ambassadorships for?

Will the Department's information be the result of nonpartisan fact gathering and analysis? Or is it to be the result of what the administration's pollster thinks is best?

The President wants the title of "the environment President" and claims to

be for clean air and pure water. Why risk using tainted numbers?

All we want, Mr. President, is the facts, just the facts.

I urge my colleagues to reject any weakening amendments.

□ 1320

BROCCOLI, GOOD FOR THE WHITE HOUSE AND YOUR HOUSE TOO

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute.)

Mr. LAGOMARSINO. Mr. Speaker, it is not often you find something good to eat that is also good for you. But that was the case yesterday—literally—as case after case of fresh green broccoli packed in ice arrived in Washington, DC, to show that even the President can be wrong about some things—especially vegetables.

So on behalf of the broccoli growers of my district, and at the risk of violating decorum in the House, I am proud to show my true colors as a life-long broccoli booster. For the benefit of those in the back rows, my shirt shows a parade of broccoli stalks marching across the U.S.A. from their sprouting grounds in Guadalupe, CA, to the dinner plates of our Nation's Capital.

The slogan reads: "Broccoli, good for the White House and your house too." I'm proud to note that these are bipartisan stalks of broccoli, coming in just one color, green. Covers Irishmen as well as Italians. So with thanks to Count Broccoli—who invented the same—to our President and First Lady, who split their ticket on this issue, and to the Capital Area Food Bank, which will distribute the stalks to local charities and shelters, I invite you all to try a stalk of broccoli today. It's good—and good for you.

THE ENVIRONMENTAL PROTECTION AGENCY

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, when Jacques Cousteau visited the EPA last year, he stated that the Agency once represented the world's greatest hope for environmental preservation. He also said that the EPA now represented one of its greatest disappointments.

Along with Mr. Cousteau, I believe that the EPA has long since compromised the values that led to its creation.

We have a chance to restore these lost values today. Rather than merely creating a new department to continue failed practices, I support amendments to H.R. 3847 that will: First, control the influence of contractors over the decisionmaking process of the EPA; second, require Federal agencies to comply with the environmental laws passed by Congress; and, third, permit the EPA to supply the Nation with sound environmental data unaltered by the budget analysts at the OMB.

Unbelievably, the President has threatened to veto this bill. This veto would be consistent with his "bait and switch" approach to environmental protection—baiting us with kind words and promises, but switching positions when confronted with a real chance to protect the environment.

CAUTIOUS APPROACH IN EASTERN EUROPE

(Mr. GEKAS asked permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the events that are unfolding in Lithuania give Members reason to watch very carefully. I think that the Secretary of Defense and the President of the United States, and the Vice President have been absolutely correct in the cautious approach that they have been taking ever since all of the events that have been occurring in Eastern Europe, that it is premature to consider unilateral disarmament. It is premature to cast our lot with any one leader of a Soviet Union or any other country or any other elements and any other foreign country until such time, as with negotiation and talks across-the-board on every conceivable subject on international tensions, that we can make progress in the peace and prosperity for which everyone yearns.

So, as the tensions mount in Lithuania, the President correctly is warning, is talking about the need for negotiation and not the use of force. We must be ever watchful and not fall into the trap of unilateral disarmament.

AMERICA IS OPEN TO ALL TO DEVELOP TALENTS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise to commend a young actor, and a small, brave film company for daring to make a film about ability, about adaptability, and courage.

Daniel Day-Lewis, who stars in "My Left Foot," produced by Miramax Films, was awarded an Oscar last night for best actor for his portrayal of Irish writer and painter Christy Brown.

Mr. Speaker, as a young boy, Christy Brown, who had cerebral palsy, was not expected to learn, was not expected to talk, to write, and certainly, Mr. Speaker, not to become an acclaimed painter.

Yet Christy, as Daniel Day-Lewis so masterfully showed viewers in the film, took his ability to use his left foot and adapt it. By focusing on his ability and not on his disability, Christy showed the world just what he could do. Christy demonstrated by concentrating on ability and adaptability, it would be his talents that dictated and defined the course of his life, not his disability.

Mr. Speaker, in a few short weeks this House will have the opportunity to say to all the disabled in all of America, that America will be accessible, that employment will be accessible, that transportation will be accessible, that communications will be accessible. Indeed, we will say to the disabled of America—some 43 million fellow citizens—that America is open to all to develop their talents and to contribute their work and their effort to making America a better place, a more open place, a more accessible place, a more just place, for all Americans.

CONGRATULATIONS TO SUSAN MOLINARI

(Mr. ROWLAND of Connecticut asked permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Connecticut. Mr. Speaker, today I have the greatest pleasure to relinquish a distinction that I have carried in the House for the last 5 years. Today, SUSAN MOLINARI will be sworn in as the newest Member of Congress, and also the youngest Member of the U.S. Congress.

SUSAN is filling the seat vacated by her dad, Guy Molinari, who represented the Staten Island position so very well for so many years. Susan was the Republican leader at the New York City Council.

Mr. Speaker, I join with my colleagues in welcoming SUSAN to our body. I am sure she will conduct her duties as the youngest Member of Congress with great dignity, with great pride, and with the great distinction that this honor holds.

IN RECOGNITION OF THE GEORGIA TECH YELLOW JACKETS

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Georgia. Mr. Speaker, I want to extend my congratulations to Georgia Tech President John Patrick Crecine, Coach Bobby Cremins and the players on the Yellow Jackets' basketball team. Among those Georgia Tech players deserving special mention are Brian Oliver, Kenny Anderson, and Dennis Scott, known as the Lethal Weapon 3.

By defeating the University of Minnesota's Golden Gophers on Sunday,

the Yellow Jackets qualified for the Final Four for the first time in its history. On the way to Denver, the powerful sting of the Yellow Jackets has proven deadly to sunken Buccaneers, sleepy Tigers, battle-weary Spartans, and buried Gophers.

Mr. Speaker, I must warn my colleagues from the city of Las Vegas to be wary of Yellow Jackets from Atlanta. They like to sting, and they are looking to sting the Running Rebels in a few days.

KEEP THE CHECKBOOK CLOSED

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, with the advent of spring, the Soviet bear has come out of hibernation.

Notwithstanding Gorbachev's promises not to use force except to protect lives, Soviet troops have charged into Lithuanian hospitals—ostensively looking for deserters, and beaten up some of those they found.

But Gorbachev has made his point to Lithuanians: It was the use of force for the sake of showing force. I hope Americans are taking note.

At this juncture in time, the Soviets are desperately seeking our technological and financial assistance. Their Marxist-Leninist economic system has deteriorated to the point of no return.

The possibility for widespread violence within the Soviet sphere of influence is still a harsh reality. Until we have a better handle on the situation, it is imperative that we refrain from making draconian promises to this country that has been touting glasnost. And it also is imperative that we refrain from making draconian reductions to our own defensive structure.

Let us keep an eye on Lithuania and let us also keep our checkbook tightly shut and defense forces in place until we are firmly convinced that the "man with the iron smile" is not eyeing our jugular vein.

□ 1330

CONGRATULATIONS TO POLAND FOR ITS ACTS OF HUMANITARIANISM

(Mrs. LOWEY of New York, asked and was given permission to address the House for 1 minute.)

Mrs. LOWEY of New York. Mr. Speaker, I rise today to congratulate Poland and its Prime Minister for an act of courage and of principle. The Prime Minister's statement that Lot, the Polish national airline, would fly Soviet Jewish emigres from Poland to Israel shows that the new government of Poland will not be intimidated by threats of terrorism. It also confirms that nation's commitment to humanitarian assistance to those fleeing persecution.

I applaud the announcement of the Polish Government and encourage other nations to follow their lead.

THE BUSH RECORD AS THE ENVIRONMENTAL PRESIDENT

(Mr. SMITH of Florida, asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, George Bush's pledge to be an environmental President has turned out to be nothing but hot, smog-filled air and now the American people are choking on it.

Last year, the President promised to preserve all existing wetlands. Then he stopped an agreement between EPA and the Army Corps of Engineers which would have done so.

He promised to convene a global conference on the environment in his first year in office. Then he held no conference.

The President admitted that oil drilling off the shores of California and my State of Florida would not bolster our energy resources. Then he named an Interior Secretary who refuses to even consider a permanent ban of such drilling.

He decried in 1988 the Boston Harbor and said he would clean it up. Now he has cut out all funds in his budget for the cleanup of Boston Harbor.

Now the President is attempting to water down the EPA cabinet status bill. He wants the facts, the verifiable data collected by the Bureau of Environmental Statistics, to be subject to approval by his appointed environment secretary. We are not talking about policy here. The President wants to be able to pick and choose the facts that the American people get about their environment.

Mr. Speaker, given George Bush's unclean record on the environment, I guess I can see why he might want to hide the facts. But the American people deserve to see them.

A TRIBUTE TO ARNOLD PALMER—AND TO THE JOHNSTOWN, PA, FLOOD MUSEUM

(Mr. MURTHA asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MURTHA. Mr. Speaker, I wish to rise today to compliment my most distinguished constituent, one of the students of DANNY ROSTENKOWSKI, Arnold Palmer. He spoke so eloquently today about former President Eisenhower. All of us were so touched by his comments, and we are all proud of Arnold Palmer, a great American. I just wanted to compliment him on his comments.

Let me also say that 3 years ago President Reagan complained about a road to a flood museum in Johnstown, PA. He said that this is one of the examples of a boondoggle, and he said it on national TV. That particular flood museum had 350,000 visitors in 2 months last year, and last night it won an Oscar for the Guggenheim presentation of the flood in that flood museum. So let me extend my congratulations to Mr. Guggenheim and to the Johnstown Flood Museum.

A NEW VERSION OF CHILD CARE LEGISLATION

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, as I understand it, the Democratic leadership has a staff member somewhere in the Ways and Means Committee writing a new version of child care. The bill will have no hearings and no markup. There will be no Members' fingerprints on it except at the leadership level. It will have no legislative history, no one will have examined any of the details, and I understand that this afternoon at 2:30 the Rules Committee is going to hold a hearing on a bill which no Member will have seen, none of the Rules Committee membership will have read, and which no Member of the House has seen. And we wonder how we get a catastrophic health insurance or how we get a section 89?

It seems to me very bad form to invite Lech Walesa and Vaclav Havel and talk about openness and then try to ram through a bill which no Member of this House has seen yet and which has been written by one or at the most two staffers and which, frankly, will run tremendous risks of having major weaknesses unless Members have time to see it.

Mr. Speaker, I hope that the Members' right for a 1-day layover on any rule and a 3-day layover on any bill will be preserved and we will not try to ram through a Democratic leadership bill which no Member of this body will have read.

HAZARDOUS MATERIALS SHIPMENTS ENDANGER COMMUNITIES

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, 500,000 shipments of dangerous, hazardous materials are traveling the highways, the byways, the airways, and the waterways of our country each and every day. That is 500,000 shipments through our communities,

endangering our lives and the properties of the people that we represent. These are dangerous materials that will explode, that will gasify, materials that are usually toxic and that can cause Bhopal situation in any community in the United States. And they can permeate the ground, the waters, and the water that we drink.

Something has got to be done. Yet we do not have any real protection for those first responders, the emergency firemen and the police who rush in to try to protect our lives and our property.

Mr. Speaker, I am cosponsoring H.R. 2584. This is an opportunity for us to act, not to react, to a potential and serious problem that exists, and I ask the Members to call and cosponsor this simple piece of legislation. It is backed by the International Firefighters, the police, and others who have to rush in and try to help defend our property and our lives.

TIME TO STAND UP FOR LITHUANIAN INDEPENDENCE

(Mr. COX asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, a fortnight ago four Members of Congress, two Democrats and two Republicans, were appointed by the Speaker of the House to observe the elections in Lithuania. I was privileged to be a member of that delegation.

When we arrived, we were met by the President-to-be of Lithuania, Dr. Landsbergis who now leads free Lithuania. He makes Vaclav Havel look like a career politician. He is a musicologist, a professor of the piano. He has made the point repeatedly in recent days that Lithuania is a threat to no one, least of all to the Soviet Union, and yet the actions of the Soviet Union of recent days have been extraordinarily aggressive.

The Lithuanian people do not ask for American troops, they do not ask for our tax dollars; they ask only for our moral support. Because the United States for 50 years has refused to recognize the forceful incorporation of Lithuania into the Soviet Union, it ought to come naturally for us now to recognize its independence.

When Vaclav Havel addressed this body in a joint meeting of Congress just a few weeks ago, he said, "The only backbone of our actions, if they are to be moral, is responsibility."

Mr. Speaker, now is the time for the American people and the American Government to show that we do understand what backbone is and to stand shoulder to shoulder with our friends in Lithuania and recognize the independent government of the Republic of Lithuania.

□ 1340

LITHUANIA IS LISTENING

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, at this moment Lithuania is listening. As the armored vehicles from the Kremlin roll through the streets of the capital in Vilnius, Lithuania is listening. As the young Lithuanian men are dragged and brutally beaten from the hospital rooms that they are sitting in by Soviet soldiers, Lithuania is listening. As American diplomats are expelled from Lithuania, as foreign journalists are being censored, Lithuania is listening, and what they are listening for is word from the United States, word that the United States will stand by a 50-year commitment to the independence of Lithuania.

Lithuania is listening in this critical hour as to whether we will keep our word as Americans that we stand behind the indpendence of Lithuania.

Mr. President, those of us in America of Lithuanian extraction, those of us who stand for Lithuania, are listening, too, for word from the White House and the State Department, will we abandon Lithuania in this crucial hour? I pray that we will not. I pray that we will formally recognize Lithuania before it is too late.

CALL OF THE HOUSE

Mr. RHODES. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 41]

Ackerman	Buechner	de la Garza
Akaka	Bunning	DeFazio
Alexander	Burton	DeLay
Anderson	Bustamante	Dellums
Andrews	Byron	DeWine
Annunzio	Callahan	Dicks
Anthony	Campbell (CA)	Dingell
Applegate	Campbell (CO)	Dixon
Armey	Cardin	Donnelly
Atkins	Carper	Dorgan (ND)
AuCoin	Carr	Douglas
Baker	Chandler	Downey
Ballenger	Chapman	Dreier
Bartlett	Clarke	Duncan
Barton	Clay	Durbin
Bateman	Clement	Dwyer
Bellenson	Clinger	Dymally
Bennett	Coble	Dyson
Bentley	Coleman (MO)	Early
Bereuter	Coleman (TX)	Eckart
Berman	Collins	Edwards (CA)
Bevill	Combest	Edwards (OK)
Bilbray	Condit	Emerson
Bliley	Conte	Engel
Boehlert	Conyers	English
Boggs	Cooper	Erdreich
Borski	Costello	Espy
Boucher	Coughlin	Evans
Boxer	Courter	Fascell
Brennan	Cox	Fawell
Brooks	Coyne	Fazio
Broomfield	Craig	Feighan
Browder	Crane	Fields
Brown (CA)	Crockett	Flake
Brown (CO)	Dannemeyer	Flippo
Bruce	Darden	Foglietta
Bryant	Davis	Ford (MI)
Frenzel	Machtley	Rowland (GA)
Frost	Madigan	Roybal
Gallegly	Manton	Russo
Gallo	Markey	Saiki
Gaydos	Marlenee	Sangmeister
Gejdenson	Martin (IL)	Sarpalius
Gekas	Martin (NY)	Sawyer
Gephardt	Martinez	Saxton
Geren	Matsui	Schaefer
Gibbons	Mazzoli	Scheuer
Gillmor	McCandless	Schiff
Gilman	McCloskey	Schneider
Gingrich	McCollum	Schroeder
Glickman	McCrery	Schuette
Gonzalez	McCurdy	Schulze
Gordon	McDade	Sensenbrenner
Goss	McDermott	Sharp
Gradison	McEwen	Shaw
Grandy	McGrath	Shays
Grant	McHugh	Shumway
Gray	McMillan (NC)	Sikorski
Green	McMillen (MD)	Sisisky
Guarini	McNulty	Skaggs
Gunderson	Meyers	Skeen
Hall (TX)	Mfume	Skelton
Hamilton	Michel	Slattery
Hammerschmidt	Miller (CA)	Slaughter (NY)
Hancock	Miller (OH)	Slaughter (VA)
Hansen	Miller (WA)	Smith (FL)
Harris	Mineta	Smith (IA)
Hastert	Moakley	Smith (NE)
Hatcher	Mollohan	Smith (NJ)
Hawkins	Montgomery	Smith (TX)
Hayes (IL)	Moody	Smith (VT)
Hayes (LA)	Moorhead	Smith, Robert (NH)
Hefley	Morella	
Hefner	Morrison (CT)	Smith, Robert (OR)
Henry	Morrison (WA)	
Herger	Mrazek	Snowe
Hertel	Murphy	Solarz
Hiler	Murtha	Solomon
Hoagland	Myers	Spence
Hochbrueckner	Natcher	Spratt
Holloway	Neal (MA)	Staggers
Hopkins	Neal (NC)	Stallings
Horton	Nelson	Stangeland
Houghton	Nielson	Stearns
Hoyer	Nowak	Stenholm
Hubbard	Oakar	Stokes
Huckaby	Oberstar	Studds
Hughes	Obey	Sundquist
Hunter	Olin	Swift
Hutto	Ortiz	Synar
Hyde	Owens (NY)	Tallon
Inhofe	Owens (UT)	Tanner
Ireland	Oxley	Tauke
Jacobs	Packard	Tauzin
James	Pallone	Taylor
Jenkins	Panetta	Thomas (CA)
Johnson (CT)	Parker	Thomas (WY)
Johnson (SD)	Parris	Torres
Johnston	Pashayan	Torricelli
Jones (GA)	Patterson	Towns
Jones (NC)	Paxon	Traficant
Jontz	Payne (NJ)	Traxler
Kanjorski	Payne (VA)	Unsoeld
Kaptur	Pease	Upton
Kasich	Pelosi	Valentine
Kastenmeier	Penny	Vander Jagt
Kennedy	Perkins	Vento
Kennelly	Petri	Visclosky
Kildee	Pickett	Volkmer
Kleczka	Pickle	Vucanovich
Kolbe	Porter	Walgren
Kolter	Poshard	Walker
Kostmayer	Pursell	Walsh
Kyl	Quillen	Washington
LaFalce	Rahall	Watkins
Lagomarsino	Rangel	Waxman
Lancaster	Ravenel	Weber
Lantos	Ray	Weiss
Laughlin	Regula	Weldon
Leach (IA)	Rhodes	Wheat
Lehman (FL)	Richardson	Whittaker
Lent	Ridge	Whitten
Levin (MI)	Rinaldo	Wilson
Levine (CA)	Ritter	Wise
Lewis (CA)	Robinson	Wolf
Lewis (FL)	Roe	Wolpe
Lewis (GA)	Rogers	Wyden
Lightfoot	Rohrabacher	Wylie
Lipinski	Ros-Lehtinen	Yates
Livingston	Rose	Yatron
Long	Rostenkowski	Young (AK)
Lowery (CA)	Roth	Young (FL)
Lowey (NY)	Roukema	
Lukens, Donald	Rowland (CT)	

□ 1409

The SPEAKER. On this rollcall, 398 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
March 27, 1990.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a letter from Mr. Thomas W. Wallace, Executive Director, State Board of Elections, State of New York stating that according to the unofficial returns of the Special Elections held on March 20, 1990 the Honorable Susan Molinari was elected to the Office of United States Representative in Congress from the Fourteenth Congressional district of New York; and the Honorable José E. Serrano was elected to the Office of United States Representative in Congress from the Eighteenth Congressional District of New York.

With great respect, I am

Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

STATE OF NEW YORK,
STATE BOARD OF ELECTIONS,
Albany, NY, March 22, 1990.

DONNALD K. ANDERSON,
Clerk, House of Representatives, Washington, DC.

DEAR MR. ANDERSON: Based on unofficial returns the following individuals were elected to the Office of Representative in Congress at Special Elections held on March 20, 1990.

14TH CONGRESSIONAL DISTRICT

Republican, Susan Molinari, 102 Woodvale Avenue, Staten Island, NY 10309.

18TH CONGRESSIONAL DISTRICT

Democrat, José E. Serrano, 910 Grand Concourse (Apt. 5F) Bronx, NY 10451.

Very truly yours,
THOMAS W. WALLACE,
Executive Director.

SWEARING IN OF THE HONORABLE SUSAN MOLINARI OF NEW YORK AS A MEMBER OF THE HOUSE

Mr. MICHEL. Mr. Speaker, I ask unanimous consent that the gentlewoman from New York [Ms. MOLINARI] be permitted to take the oath of office today, on her birthday. Her certificate of election has not arrived, but there is no contest and no question has been raised with regard to her election.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. Will the gentlewoman from New York [Ms. MOLINARI] the Member-elect, come forward.

Ms. MOLINARI appeared at the bar of the House and took the oath of office.

The SPEAKER. You are now a Member of the Congress of the United States.

INTRODUCTION OF THE HONORABLE SUSAN MOLINARI

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORTON. Mr. Speaker, I would ask my colleagues from the great State of New York to join me here in the well as I welcome our new Member. Would the Members from the New York delegation come up with me.

Mr. Speaker, as the dean of the New York congressional delegation, it is with a great deal of pleasure and pride that I introduce SUSAN MOLINARI who was elected on March 20 to be the Representative from the 14th Congressional District of New York which covers Staten Island and part of Brooklyn.

SUSAN MOLINARI comes to this body after serving on the New York City Council from 1985 until 1990. As the minority leader of that body, she served as an ex-officio member on all committees and voted on the most influential ones. During her tenure in city government, she developed the acumen and the skill needed to meet the challenges that face her as a Member of the House.

I might point out that she was the only Republican on the city council in the city of New York and as such she rated a limousine and all the other perquisites that go with the job.

During her years in city hall she has established herself as a strong, independent voice for the American family and good government. Her tough-on-crime and antidrug stances have enabled many of her constituents to identify with her on these very pressing issues. I am confident she will have much to add as she joins our debates on these problems.

SUSAN MOLINARI has also taken a strong interest in protecting the environment. Living on Staten Island and through her experience in city government, she knows firsthand many of the environmental issues which confront our Nation at the local level. Her background and her convictions will make her a valuable asset as the Congress works to address the many environmental problems facing our Nation.

In light of her environmental activism, it is very fitting that she is sworn in on the same day which the House will consider legislation from the Government Operations Committee, on which I serve as ranking member, which will elevate the Environmental Protection Agency to Cabinet level by creating the new Department of the Environment.

It is also more fitting that she is sworn in today since it is her birthday. I do not plan to divulge her age, partially out of deference to her, but more importantly in deference to the rest of the House since she is younger than all of us.

Despite her youth, SUSAN MOLINARI's political life predates her service on the New York City Council. We all know her father Guy who is a former colleague who left the House at the beginning of the year to become the Borough president of Staten Island. Guy first came to the House in 1980 after serving in the State Assembly in Albany for 6 years. Her grandfather Robert Molinari also had served in the assembly back in the 1940's.

SUSAN herself spent some time in our State's capital in Albany as a student and on the staff of the State Senate. I was glad to learn that she has spent some time in Upstate New York. The 34 Members and 2 Senators of our delegation work hard to function as a cohesive unit; her 6 years in Albany will certify her to join and work with us as we move forward in the Congress.

On behalf of my colleagues in the delegation, including my good friend JIM SCHEUER who is dean of the Democrats as well as dean of the New York City delegation, I want to welcome SUSAN and her husband John Luchessi to Washington. SUSAN, all Members of the House are looking forward to working with you. Best of luck on a long and successful career here in the House of Representatives.

Ladies and gentleman, our new Member, SUSAN MOLINARI.

SO FAR SO GOOD

(Ms. MOLINARI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MOLINARI. Mr. Speaker, so far so good.

Mr. Speaker, thank you for administering the oath of office, which truly is the honor of a lifetime. I also thank the dean of our New York delegation, Mr. HORTON, for his kind introduction.

My friends and new colleagues, there truly is an overwhelming sense of history and profound obligation that strikes a person at this time.

I am humbly reminded of those men and women who have preceded me and will succeed me in this noble legislative body.

I am grateful for the opportunity to work with the many distinguished na-

tional leaders who are now Members of this House.

Many of you have been great inspirations to those of us who have watched policy become law from our homes—for me personally none more inspiring than my direct predecessor, my father Guy Molinari.

He and my mother instilled in me a great sense of personal obligation to our country and a belief that one person can and oftentimes does make a difference.

It is a commitment to this philosophy that brings me before you today and hopefully adherance to these thoughts that will carry me forward—with the guidance of all of you, of course.

I am anxious to join in the work of this very distinguished Congress. In closing I have another reason to thank the Speaker and the minority leader. Only they could help me mark my 32d birthday in such an extraordinary fashion.

Thank you all very much for the honor you give me by your attention and presence today.

□ 1420

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

TRADE AGENCY AUTHORIZATION ACT

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4328) to authorize appropriations for fiscal years 1991 and 1992 for the customs and trade agencies, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4328

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CUSTOMS AND TRADE AGENCY AUTHORIZATIONS.

(a) UNITED STATES INTERNATIONAL TRADE COMMISSION.—Section 330(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows:

"(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) not to exceed the following:

"(i) $41,170,000 for fiscal year 1991.

"(ii) $44,052,000 for fiscal year 1992.

"(B) Not to exceed $2,500 of the amount authorized to be appropriated for any fiscal year under subparagraph (A) may be used, subject to the approval of the Chairman of the Commission, for reception and entertainment expenses.

"(C) No part of any sum that is appropriated under the authority of subparagraph (A) may be used by the Commission in the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.".

(b) UNITED STATES CUSTOMS SERVICE.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

"(A) $510,551,000 for fiscal year 1991.

"(B) $536,079,000 for fiscal year 1992.

"(2) FOR COMMERCIAL OPERATIONS.—There are authorized to be appropriated from the Customs User Fee Account for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

"(A) $672,397,000 for fiscal year 1991.

"(B) $706,017,000 for fiscal year 1992.

"(3) FOR AIR INTERDICTION.—There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air interdiction program of the Customs Service not to exceed the following:

"(A) $143,047,000 for fiscal year 1991.

"(B) $150,199,000 for fiscal year 1992.".

(c) OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.—Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended to read as follows:

"(g)(1)(A) There are authorized to be appropriated to the Office for the purposes of carrying out its functions not to exceed the following:

"(i) $23,250,000 for fiscal year 1991.

"(ii) $21,077,000 for fiscal year 1992.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for any fiscal year—

"(i) not to exceed $98,000 may be used for entertainment and representation expenses of the Office; and

"(ii) not to exceed $1,000,000 shall remain available until expended.".

SEC. 2. CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended as follows:

(1) Subsection (a)(1) is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries under the authority of section 616(c) of this Act or section 981 of title 18, United States Code.".

(2) Subsection (a)(2) is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end thereof the following:

"(B) Any payment made under subparagraph (F) of paragraph (1) with respect to a seizure or forfeiture of property shall not exceed the value of the property at the time of disposition.".

(3) Subsection (c) is amended by inserting "forfeited currency and" before "proceeds".

(4) Subsection (e)(1) is amended—

(A) by striking out "and" after the semicolon at the end of subparagraph (A);

(B) by amending subparagraph (B)—

(i) by striking out clause (ii),

(ii) by redesignating clauses (iii) through (vi) as clauses (ii) through (v), respectively,

(iii) by striking out "and" after the semicolon in clause (iv) (as so redesignated); and

(iv) by striking out the period at the end thereof and inserting "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) a report containing, for the previous fiscal year—

"(i) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Comptroller General, and

"(ii) an analysis of income and expenses for cases closed showing the revenue received or lost—

"(I) by property category (general property, vehicles, vessels, aircraft, cash, and real property) and

"(II) by type of disposition (sales, remissions, cancellations, placed into official use, sharing with State and local agencies, and destructions).".

(5) Subsection (f) is amended to read as follows:

"(f)(1) Subject to paragraph (2), there are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for such fiscal year.

"(2) Of the amount authorized to be appropriated under paragraph (1), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

"(A) $14,855,000 for fiscal year 1991.

"(B) $15,598,000 for fiscal year 1992.".

SEC. 3. INCREASE IN VALUE SUBJECT TO ADMINISTRATIVE FORFEITURE; PROCESSING OF MONEY SEIZED UNDER THE CUSTOMS LAWS.

Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended—

(1) by striking out "$100,000" in subsection (a)(1) and inserting "$500,000";

(2) by striking out "or" at the end of subsection (a)(2);

(3) by inserting "or" after the semicolon at the end of subsection (a)(3);

(4) by inserting after paragraph (3) of subsection (a) the following new paragraph:

"(4) such seized merchandise is any monetary instrument within the meaning of section 5312(a)(3) of title 31 of the United States Code;";

(5) by adding at the end thereof the following new subsection:

"(c) The Commissioner of Customs shall submit to the Congress, by no later than February 1 of each fiscal year, a report on the total dollar value of uncontested seizures of monetary instruments having a value of over $100,000 which, or the proceeds of which, have not been deposited into the Customs Forfeiture Fund under section 613A within 120 days of seizure, as of the end of the previous fiscal year."; and

(6) by striking out "$100,000" in the section heading and inserting "$500,000".

SEC. 4. ANNUAL NATIONAL TRADE AND CUSTOMS LAW VIOLATION ESTIMATES AND ENFORCEMENT STRATEGY.

(a) VIOLATION ESTIMATES.—Not later than 30 days before the beginning of each fiscal year after fiscal year 1991, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (hereafter in this section referred to as the "Committees") a report that contains estimates of—

(1) the number and extent of violations of the trade, customs, and illegal drug control laws listed under subsection (b) that will likely occur during the fiscal year; and

(2) the relative incidence of the violations estimated under paragraph (1) among the various ports of entry and customs regions within the customs territory.

(b) APPLICABLE STATUTORY PROVISIONS.—The Commissioner of Customs, after consultation with the Committees—

(1) shall, within 60 days after the date of the enactment of this Act, prepare a list of those provisions of the trade, customs, and illegal drug control laws of the United States for which the United States Customs Service has enforcement responsibility and to which the reports required under subsection (a) will apply; and

(2) may from time-to-time amend the listing developed under paragraph (1).

(c) ENFORCEMENT STRATEGY.—Within 90 days after submitting a report under subsection (a) for any fiscal year, the Commissioner of Customs shall—

(1) develop a nationally uniform enforcement strategy for dealing during that year with the violations estimated in the report; and

(2) submit to the Committees a report setting forth the details of the strategy.

(d) CONFIDENTIALITY.—The contents of any report submitted to the Committees under subsection (a) or (c)(2) are confidential and disclosure of all or part of the contents is restricted to—

(1) officers and employees of the United States designated by the Commissioner of Customs;

(2) the chairman of each of the Committees; and

(3) those members of each of the Committees and staff persons of each of the Committees who are authorized by the chairman thereof to have access to the contents.

SEC. 5. REPORTS REGARDING EXPANSION OF CUSTOMS PRECLEARANCE OPERATIONS AND RECOVERY FOR DAMAGE RESULTING FROM CUSTOMS EXAMINATIONS.

(a) CUSTOMS PRECLEARANCE.—The Secretary of the Treasury, in consultation with the Secretary of State, shall assess the advisability of expanding the use of preclearance operations by the United States Customs Service at foreign airports. The Secretary of Treasury shall submit a report on the assessment to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (hereafter in this section referred to as the "Committees") no later than February 1, 1991.

(b) RECOVERY FOR CUSTOMS DAMAGE.—

(1) The Secretary of the Treasury, in consultation with the Attorney General, shall determine and evaluate various means by which persons whose merchandise is damaged during customs examinations may seek compensation from, or take other recourse against, the United States Customs Service regarding the damage.

(2) No later than February 1, 1991, the Secretary of the Treasury shall submit to the Committees a report on the evaluation required under paragraph (1), together with any legislative recommendation that the Secretary considers appropriate.

(c) MERCHANDISE DAMAGE STATISTICS.—The Commissioner of Customs shall keep accurate statistics on the incidence, nature, and extent of damage to merchandise resulting from customs examinations and shall provide an annual summary of these statistics to the Committees.

SEC. 6. ELIGIBILITY OF CZECHOSLOVAKIA AND EAST GERMANY UNDER THE GENERALIZED SYSTEM OF PREFERENCES.

The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking out "Czechoslovakia" and "Germany (East)".

SEC. 7. EXTENSION OF TIME FOR PREPARATION OF REPORT ON SUPPLEMENTAL WAGE ALLOWANCE DEMONSTRATION PROJECTS UNDER THE WORKER ADJUSTMENT ASSISTANCE PROGRAM.

Section 246(d) of the Trade Act of 1974 (19 U.S.C. 2318(d)) is amended by striking out "3 years" and inserting "6 years".

SEC. 8. TECHNICAL AMENDMENTS REGARDING NONDISCRIMINATORY TRADE TREATMENT.

(a) WAIVER AUTHORITY.—

(1) Subsection (d) of section 402 of the Trade Act of 1974 (19 U.S.C. 2432(d)) is amended to read as follows:

"(d) If the President determines that the further extension of the waiver authority granted under subsection (c) will substantially promote the objectives of this section, he may recommend further extensions of such authority for successive 12-month periods. Any such recommendation shall—

"(1) be made not later than 30 days before the expiration of such authority;

"(2) be made in a document transmitted to the House of Representatives and the Senate setting forth his reasons for recommending the extension of such authority; and

"(3) include, for each country with respect to which a waiver granted under subsection (c) of this section is in effect, a determination that continuation of the waiver applicable to that country will substantially promote the objectives of this section, and a statement setting forth his reasons for such determination.

If the President recommends the further extension of such authority, such authority shall continue in effect until the end of the 12-month period following the end of the previous 12-month extension with respect to any country (except for any country with respect to which such authority has not been extended under this subsection), unless before the end of the 60-day period following such previous 12-month extension a joint resolution described in section 153(a) is enacted into law disapproving the extension of such authority generally or with respect to such country specifically. Such authority shall cease to be effective with respect to all countries on the date of the enactment before the end of such 60-day period of a joint resolution disapproving the extension of such authority, and shall cease to be effective with respect to any country on the date of the enactment before the end of such 60-day period of a joint resolution disapproving the extension of such authority with respect to such country.".

(2) Subsection (a) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193(a)) is amended to read as follows:

"(a) CONTENTS OF RESOLUTION.—For purposes of this section, the term 'resolution' means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on with respect to .', with the first blank space being filled with the appropriate date, and the second blank space being filled with the names of those countries, if any, with respect to which such extension of authority is not approved, and with the clause beginning with 'with respect to' being omitted if the extension of the authority is not approved with respect to any country.".

(3) Subsection (b) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193(b)) is amended—

(A) by striking out ", and, in the case of a resolution related to section 402(d)(4), 20 calendar days shall be substituted for 30 days" in paragraph (2),

(B) by striking out "an except clause, in the case of a resolution described in subsection (a)(1), or" in paragraph (3),

(C) by striking out ", in the case of a resolution described in subsection (a)(2)" in paragraph (3),

(D) by striking out "an except clause, in the case of a resolution described in subsection (a)(1), or" in paragraph (4), and

(E) by striking out ", in the case of a resolution described in subsection (a)(2)" in paragraph (4).

(4) Subsection (c) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193) is amended by striking out "in subsection (a)(1)" and inserting "in subsection (a)".

(b) BILATERAL COMMERCIAL AGREEMENTS.—

(1) Subsection (c) of section 405 of the Trade Act of 1974 (19 U.S.C. 2435(c)) is amended to read as follows:

"(c) An agreement referred to in subsection (a), and a proclamation referred to in section 404(a) implementing such agreement, shall take effect only if a joint resolution described in section 151(b)(3) that approves of the agreement referred to in subsection (a) is enacted into law.".

(2) Section 151 of the Trade Act of 1974 (19 U.S.C. 2191(b)) is amended—

(A) by amending paragraph (2) of subsection (b) to read as follows:

"(2) The term 'implementing revenue bill or resolution' means an implementing bill or approval resolution which contains one or more revenue measures by reason of which it must originate in the House of Representatives.",

(B) by striking out "concurrent" in subsection (b)(3) and inserting "joint",

(C) by striking out "revenue bill" each place it appears in subsection (e)(2) and inserting "revenue bill or resolution", and

(D) by striking out "such bill" each place it appears in subsection (e)(2) and inserting "such bill or resolution".

(3) Subsection (c) of section 407 of the Trade Act of 1974 (19 U.S.C. 2437(c)) is amended—

(A) by striking out paragraphs (1) and (2) and inserting the following new paragraph:

"(1) In the case of a document referred to in subsection (a), the proclamation set forth in the document may become effective and the agreement set forth in the document may enter into force and effect only if a joint resolution described in section 151(b)(3) that approves of the extension of nondiscriminatory treatment to the prod-

ucts of the country concerned is enacted into law.", and

(B) by redesignating paragraph (3) as paragraph (2).

(c) COMPLIANCE REPORTS.—

(1) Paragraph (2) of section 407(c) of the Trade Act of 1974 (19 U.S.C. 2437(c)(2)), as redesignated by subsection (b)(3)(B) of this section, is amended—

(A) by striking out "either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval (under the procedures set forth in section 152)" and inserting "a joint resolution described in section 152(a)(1)(B) is enacted into law that disapproves", and

(B) by striking out "the adoption" and inserting "the enactment".

(2) Subparagraph (B) of section 152(a)(1) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)(B)) is amended to read as follows:

"(B) a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve transmitted to the Congress on .', with the first blank space being filled in accordance with paragraph (2), and the second blank space being filled with the appropriate date.".

(3) Paragraph (2) of section 152(a) of the Trade Act of 1974 (19 U.S.C. 2192(a)(2)) is amended—

(A) by adding "and" at the end of subparagraph (A),

(B) by striking out "407(c)(3)" in subparagraph (C) and inserting "407(c)(2)",

(C) by striking out subparagraph (B),

(D) by redesignating subparagraph (C) as subparagraph (B).

(4) Subsection (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(f)) is amended to read as follows:

"(f) FINAL PASSAGE IN THE SENATE.—A resolution that has passed the House of Representatives shall, when received in the Senate, be placed on the calendar. The procedures in the Senate with respect to a resolution introduced in the Senate that concerns the same matter as the resolution that passed the House of Representatives shall be the same as if no resolution had been received from the House of Representatives, but the vote on final passage in the Senate shall be on the resolution that passed the House of Representatives.".

(5) Subsection (b) of section 154 of the Trade Act of 1974 (194 U.S.C. 2194(b)) is amended by striking out ", 407(c)(2), and 407(c)(3)" and inserting "and 407(c)(2)".

The SPEAKER pro tempore (Mr. MAZZOLI). Is a second demanded?

Mr. ARCHER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 4238, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4328, a bill combining authorizations of appropriations for the U.S. International Trade Commission [ITC], the U.S. Customs Service, and the Office of the U.S. Trade Representative [USTR] for fiscal years 1991 and 1992. The bill also contains miscellaneous customs and trade law provisions.

This bill was reported unanimously by the Committee on Ways and Means on March 22. It was put together on a bipartisan basis with close cooperation from Mr. CRANE, the ranking member of the Trade Subcommittee and Mr. ARCHER, the ranking full committee member. I believe this bill is necessary to provide adequate resources for the global responsibilities of these major trade agencies.

For the U.S. International Trade Commission, the bill authorizes appropriations of $41.2 million for fiscal year 1991. This amount represents a 7-percent increase over the fiscal year 1990 Gramm-Rudman-Hollings sequestration level. For fiscal year 1992, the bill authorizes a budget of $42.1 million, which is 7 percent over the previous year's authorization level. These authorization levels are lower than that requested by the ITC, due to the tight fiscal situation of the Federal Government and to the generally lower workload of the Commission, particularly in the area of public investigations. However, it is the judgment of the Committee on Ways and Means that a 7-percent growth rate in the ITC budget will be sufficient to maintain operations at their current levels, with an authorized staff level of 502 positions.

For the Customs Service, the bill authorizes a total budget of $1.34 billion and 17,357 full-time equivalent positions in fiscal year 1991. Although this represents only a 2-percent increase over the fiscal year 1990 appropriated level, the bill authorizes significant increases in funding for salaries and expenses in both enforcement and commercial operations. This is intended to restore the base resources which Congress has authorized and appropriated, but which have been depleted—particularly in commercial operations.

The administration's request would have reduced Customs staffing by 314 positions. However, the committee rejected that and authorized an increase of nearly 700 positions over the current appropriated level to deal with the ever-increasing Customs workload. The authorization also provides for program increases requested by Customs in areas such as improvements in internal controls and money laundering enforcement, as well as increased inspectors along the Southwest border.

Specifically, the bill authorizes a maximum of $515.5 million for fiscal year 1991 for salaries and expenses incurred in noncommercial or enforcement operations. For commercial operations, the bill authorizes an appropriation from the Customs user fee account in an amount not less than $672.4 million. For the operations and maintenance of Customs Air Interdiction Program, the bill authorizes $143 million for fiscal year 1991, the amount requested by the administration.

For fiscal year 1992, the bill would authorize a total budget of $1.4 billion, a 5-percent across-the-board increase over the fiscal year 1991 level. This is intended to maintain current levels of service.

By establishing a statutory funding floor for Customs commercial operations, the bill ensures that a proper balance is maintained between the twin responsibilities of law enforcement and trade operations.

With respect to the Customs forfeiture fund, the bill authorizes appropriations of about $15 million for fiscal year 1991 and fiscal year 1992, the amount requested by the administration. In addition, the bill tightens forfeiture fund reporting and accounting requirements, mandates that all seized cash be deposited into the fund prior to asset sharing and clarifies sharing of fund proceeds with State and local governments.

Mr. Speaker, it is important to note that this bill enhances Customs ability to fight the war on drugs. Section 3 provides for a quicker disposition of asset forfeiture cases, thereby allowing the Government to retain a higher value of seized assets.

The bill raises to $500,000 the value of seized property subject to administrative forfeiture and removes the $100,000 limit on seized cash forfeitures. This eliminates the need for lengthy judicial proceedings in uncontested cases. However, these provisions would not change the right of a party to file a claim and contest the seizure in a judicial proceeding.

Sections 4 and 5 of the bill address three recommendations of the Subcommittee on Oversight report on the operations of the Customs Service. Section 4 would require Customs to estimate the likelihood of possible violations of trade, narcotics, and other laws, and require a national enforcement strategy with a report to Congress. Section 5 would direct the Treasury and State Departments to

conduct a feasibility study for expanding Customs foreign preclearance operations. The section also would require the administration to evaluate and report to Congress on proposals for providing recourse to importers for merchandise damaged during Customs inspection.

For the office of the U.S. trade representative, the bill authorizes total appropriations of $23.3 million for fiscal year 1991 and $21.1 million for fiscal year 1992. These levels represent USTR estimates of anticipated increased activity and resource needs, including eight additional staff and one-time equipment costs in fiscal year 1991, rather than the President's budget request, which does not even cover the costs of current services. The committee believes it essential that the USTR have sufficient resources to fulfill its statutory mandate as the lead agency for U.S. trade policy and negotiations, and to implement its increased responsibilities under the 1988 Omnibus Trade Act.

Section 6 of the bill meets an administration request, as part of an additional economic aid package for Eastern Europe, to remove Czechoslovakia and East Germany from the statutory list of countries excluded from eligibility for the generalized system of preferences program. These countries will not actually be designated to receive duty-free treatment on their products unless they meet the statutory qualifying criteria.

Section 7 of the bill extends the deadline for 3 years, until August 1994, for a report by the Secretary of Labor to the Congress on supplemental wage projects under the Worker Trade Adjustment Assistance Program.

Section 8 of H.R. 4328 makes technical amendments to title 4 of the Trade Act of 1974, including the so-called Jackson-Vanik amendment. The bill amends various sections of title 4 to congressional procedures affecting the most-favored-nation [MFN] treatment of nonmarket economy countries. The bill provides for the use of a joint resolution for the approval of trade agreements and disapproval of presidential waivers or reports with respect to the Jackson-Vanik freedom of emigration requirements. Title 4 currently provides for the use of a concurrent resolution or a one-House resolution in those circumstances. Section 8 also removes from title 4 certain statutory provisions which have expired and make conforming amendments to other provisions of the Trade Act relating to congressional consideration of resolutions. None of these amendments change the procedures or timing for consideration of resolutions under present rules of the House.

These changes to title 4 were made in order to conform the statute to the 1983 Supreme Court Chadha versus INS ruling that legislative vehicles intended to have the force of law must be acted upon by both Chambers of Congress and must be presented to the President for signature or veto. According to constitutional experts, a one-House resolution fails both of these tests, and a concurrent resolution fails the test of presentment to the President. A joint resolution meets both of these tests.

The Committee on Ways and Means believes it is imperative for the Congress to adopt the changes provided for in section 8, in order to preserve Congress' role in trade agreement approval and in review of Presidential actions extending MFN treatment to nonmarket economy countries. The administration is expected to conclude a trade agreement with the Soviet Union in June, and other agreements may follow. In addition, the President is likely to notify Congress of his intention to extend his waiver authority under title 4 by June 3. The changes to title 4 contained in section 8 would assure that Congress retains the power, under constitutionally consistent procedures, to approve trade agreements and to disapprove presidential determinations regarding freedom of emigration requirements as intended by the original statute.

The committee amendments to the bill are strictly technical and non substantive in nature, to correct a few drafting errors discovered by legislative counsel when comparing the bill text to present law.

Mr. Speaker, I urge my colleagues' strong support for H.R. 4328.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 4328, a 2-year budget authorization bill covering the International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative.

I am particularly pleased that the bill takes a longer term approach to budget planning by providing 2-year spending authority for fiscal years 1991 and 1992. Such an approach will give these three agencies the ability to organize their budgets with greater consistency and efficiency—and will help ensure that the funding priorities of the Congress are met.

The importance of these three trade agencies cannot be underestimated. That's especially true over the next 2 years, when the Uruguay round of multilateral trade negotiations is completed and implemented and when various United States practices—such as customs user fees and other customs procedures—are closely reviewed both domestically and abroad.

I have confidence that the budgets we are authorizing today will ensure that these agencies can meet their demanding workload over the next 2 years, can successfully protect our country's trade policy objectives, and can effectively enforce the trade and customs laws of the United States.

Section 1 of H.R. 4328 provides for prudent funding increases for the three trade agencies, beginning with the ITC, where a 7-percent increase is provided in each of fiscal years 1991 and 1992. Although below the request by the ITC in the President's budget, the committee deemed the increase adequate for the expected workload over the next 2 years and consistent with past budget increases for that agency.

With respect to the Customs Service, the bill authorizes a 2-percent overall increase for the agency in fiscal year 1991. However, by rearranging some priorities, the committee was able to raise spending for salaries and expenses by 11 percent, thereby providing for 694 additional positions.

In addition to the new employees, the bill also includes for the first time a $672 million funding floor to protect critical commercial operations. For fiscal year 1992, the bill authorizes an across-the-board increase of 5 percent for all Customs programs.

Finally, the bill authorizes $23 million for USTR in fiscal year 1991—a 31-percent increase—and $21 million in funding for fiscal year 1992. The unusually large increase for the next fiscal year is due primarily to the demands of concluding the Uruguay round. It also reflects one-time expenses for updated computers, costs associated with binational panel reviews under the United States-Canada Free-Trade Agreement, and additional responsibilities required by the 1988 trade bill.

In addition to the budget authorization levels, H.R. 4328 also makes several important changes in customs laws. Sections 2 and 3 improve operations of the forfeiture fund, an important tool in the war on drugs. Sections 4 and 5 form the initial steps in implementing the Oversight Subcommittee's recommendations to enhance Customs commercial operations.

I am particularly pleased with the provisions for a national threat assessment of trade and narcotics violations and a new, uniform Customs enforcement strategy. The committee intends that this requirement will partially alleviate the problem of "port shopping." I also support the provisions to study compensation of importers for goods damaged by Customs.

Sections 6 and 8 update the trade laws in response to the recent developments in Eastern Europe. Section 6 eliminates the prohibition against GSP eligibility for Czechoslovakia and East Germany, although other general criteria must be met before actual GSP benefits are extended to these two countries. Section 8 repairs the constitutionally defective legislative veto provisions in the so-called Jack-

son-Vanik amendment to the Trade Act of 1974 by replacing it with a joint resolution that meets the constitutional test.

Mr. Speaker, I urge my colleagues to vote "aye" on H.R. 4328.

□ 1430

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GIBBONS], the chairman of the subcommittee.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman very much for yielding time to me.

Mr. Speaker, let me explain a little of the background of this bill and the reason why it is here as it is. This is a good bill. It is a bipartisan bill, and it meets the needs as best we can for the trade situation as we see it.

The International Trade Commission has had a dropoff on its caseload, mainly because of the macroeconomic impact. The devaluation of the dollar, the sliding of the dollar over other major currencies over the last few years, has taken some of the tension off of those particular trade-related matters. But that will not always be the case, and we expect the business of the International Trade Commission to pick up again. So we have not cut the International Trade Commission back; we have just prevented its expansion.

On the USTR office, the USTR office is leading the negotiations for the Uruguay round, the largest most comprehensive trade negotiations ever undertaken on this globe. And it is a lean organization. It is a lean Cabinet position, a lean super Cabinet position, with only 157 people assigned to that job. We are boosting their appropriation in order to take care of that situation this year, and then in the following fiscal year we will cut them back some.

On the Customs Department, they collected about $20 billion last year. They spend about $1.2 or $1.3 billion in collecting that much money. They have an important law enforcement function that is increasing all the time. The prohibition of the importation of contraband in the form of drugs and other illicit and illegal products is very difficult. It is a tough job. We have asked that they pay particular attention to the preclearance of airplanes originating in foreign countries because we want to have less hassle on this end of the receiving of foreign passengers and American citizens as they come from foreign countries and because we want safer airplanes. The threat of inspecting that luggage before it goes into the plane will make the plane a lot safer. It will also cut down on the duplication and the hassle that goes on in international airports around the world. It is a little more difficult to carry out preinspection clearance of an airplane, but we think it is worthwhile for that to be done.

So for all the reasons that have been mentioned, Mr. Speaker, plus the removal of the legal barriers to foreign trade with Eastern European countries, that is about all we can do at this stage of the game. The rest of it is up to negotiations by the administration. I think they are doing a credible job, and I urge the support of this piece of legislation.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I rise in support of this bill, the authorization bill for three important trade-related agencies of the U.S. Government.

The one which is funded at the lowest level is the office of the USTR, which has only about 150 people. It is charged with completing our multinational trade negotiations in the Uruguay round under GATT. It is conducting Super 301 negotiations with Japan, India, and Brazil; it is conducting structural impediment initiative discussions with Japan; it is engaged in regular 301 operations; it is negotiating a trade agreement with the U.S.S.R., which hopefully will lead to important developments in June; it is trying to keep an eye on the integration of European markets, something we call Europe 92; and it is negotiating agreements with certain Centeral European countries, which, of course, have changed direction in the last couple of years.

This is an enormous agenda, even for a large agency. Because it is a small agency, it has been given a large increase, nearly 30 percent for fiscal year 1990. It needs the resources and it will use them well.

On the other hand, we have given the ITC, the International Trade Commission, slightly less money than was requested this year. Its caseload is down by about 50 percent since the middle of this decade. It does valuable work, but it can do with less.

With respect to Customs, the committee has wisely tried to devote new resources to the normal Customs activities which we believe have gotten somewhat less attention than the more exciting pursuits of chasing drugs and chasing import restrictions, quota enforcement, et cetera.

Altogether, this is a good bill. The Senate normally does not pass it. We have every hope, however, that this year that pattern will change, and that we will not be simply firing a blank at the Senate.

Finally, I want to make one comment about Chairman ROSTENKOWSKI's amendment to the bill which seeks to make the bill compatible with the so-called Chadha court case and gives us a little different way of dealing with the President's opportunities to declare MFN.

His amendment changes the statute by requiring a joint resolution rather than a concurrent resolution. This is an important change. Following that amendment later, depending on what the Senate does and what we can agree to, there may be some other changes in this subject area, but those developments will have to wait.

In short, Mr. Speaker, this is a worthwhile bill. It should be voted affirmatively by all Members.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I rise in support of H.R. 4328, introduced by the gentleman from Illinois [Mr. ROSTENKOWSKI]. This bill would implement several of the recommendations included in the Committee on Ways and Means Subcommittee on Oversight report on U.S. Customs Service commercial operations issued on February 8, 1990.

Mr. Speaker, the subcommittee's report is the result of a much overdue thorough 2-year investigation. It had been more than 10 years since Congress had conducted such a review of Customs commercial operations. The Subcommittee on Oversight's report contains nearly 100 recommendations for improvements in U.S. Customs Service commercial operations, most of which are administrative recommendations directed to Customs for immediate implementation. However, the report does contain 13 legislative recommendations, 6 of which are addressed in H.R. 4328.

Mr. Speaker, for example, the Subcommittee on Oversight's report recommends establishing a funding floor for Customs commercial operations. The subcommittee determined that this is needed to address day-to-day pressures on Customs to divert funds from commercial to noncommercial programs. H.R. 4328 establishes the fiscal year 1991 floor at $672 million of the $1.3 billion total authorized for Customs.

The bill also implements the Subcommittee on Oversight's recommendation to require Customs to develop a nationwide threat assessment and to establish a uniform enforcement strategy to meet that threat. The subcommittee included this recommendation in its report because it determined that Customs' current decentralized, nonuniform enforcement strategy encourages importers to forum shop by picking one port of entry, where the likelihood of examination might be low, over another, where the likelihood might be higher. Under the bill, Customs would be required to report the results of its threat assessment and analysis to the Committee on Ways and Means on an annual basis.

The bill also requires a study and report on: First, airline passenger pre-

clearance programs, and second, the need for compensation to importers for merchandise damaged by Customs during examinations.

H.R. 4328 also implements the Subcommittee on Oversight's recommendation to establish increased accounting and reporting requirements for the Customs Forfeiture Fund.

Mr. Speaker, I believe that H.R. 4328 is a good first step toward implementation of the Subcommittee on Oversight's report recommendations. I urge its passage by the House.

□ 1440

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, I rise in support of this measure. The U.S. Customs Service is an important arm in enforcing U.S. trade and narcotics laws at our borders. H.R. 4328 authorizes a 2-percent increase in Customs' budget in fiscal year 1991 and 5 percent in fiscal year 1992. Such an increase would allow Customs to hire additional staff which is badly needed throughout the country.

The problem areas of particular concern to me are the westernmost border crossings between Canada and Washington State. Delays at the Blaine and Sumas ports of entry average 45 minutes during peak periods, sometimes reaching 4 hours. A report by Customs indicates that traffic volume has increased over 50 percent in the past 5 years. Customs staffing, however, has remained static.

The tremendous growth rates experienced by Washington State and Canada's west coast are a major part of the problem. The towns south and west of Vancouver are rapidly expanding into bedroom communities. Canadians are crossing the border to buy groceries, gas, and liquor at, in many cases, half the cost of Canadian goods.

The increased volume of commercial traffic brought on by the United States-Canadian Free-Trade Agreement is also a factor.

I am pleased that the report accompanying this measure strongly urges customs to hire additional permanent staff at the Blaine and Sumas ports of entry. The report also encourages Customs to make every effort to utilize part-time personnel at these crossings in the interim.

This bill will initiate action to correct several problems uncovered by the Ways and Means Oversight Subcommittee in its investigation of the U.S. Customs Service commercial operations.

Most importantly, the measure requires Customs to assess the likelihood of violations of trade, narcotics, and other laws in selecting cargo for inspection. A uniform, nationwide enforcement strategy will then be developed, using this data. I am very concerned that such a strategy is not yet in place at our borders. I commend Trade Subcommittee chairman SAM GIBBONS for acting so expeditiously to correct this deficiency.

The subcommittee found that in Seattle 12 percent of cargo is selected for inspection. Only 8 percent of cargo is selected in Los Angeles. There is legitimate concern that one port of entry could be more attractive to shippers because a customs inspection is less likely. We must not allow customs activity to disadvantage one port against another. Furthermore, there is little relationship between ports as to what cargo is selected and why. These discrepancies leave our country more vulnerable to the entry of drugs and other illegal cargo at ports with less stringent inspection procedures.

Another problem addressed by H.R. 4328 is one that is oftentimes faced by importers. If the goods in a shipment are damaged during the course of customs' inspection, an importer does not have any recourse to recover his loss.

An antique dealer in Redmond, WA, recently sent me photographs of the damage to a shipment of imported antiques which occurred during an inspection conducted by customs. His business suffered a $3,000 loss in damages alone. It is an outrage that my constituent has no available remedy to seek reimbursement.

I urge my colleagues to support this measure.

Mr. ARCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 4328, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2209) to enable producers of soybeans to develop, finance, and carry out a nationally coordinated program for soybean promotion, research, and consumer information, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Soybean Promotion, Research, and Consumer Information Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings and declaration of policy.
Sec. 3. Definitions.
Sec. 4. Issuance and amendments of orders.
Sec. 5. Required terms in orders.
Sec. 6. Referenda.
Sec. 7. Petition and review.
Sec. 8. Enforcement.
Sec. 9. Investigations; power to subpoena; aid of courts.
Sec. 10. Administrative provisions.
Sec. 11. Regulations.
Sec. 12. Authorization.

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) soybeans are an important source of nutritious foods that are a valuable part of the human diet and are an important feedstuff for the livestock industry;

(2) the production of soybeans plays a significant role in the economy of the United States in that soybeans are produced by thousands of soybean producers, processed by numerous processing entities, and soybeans and soybean products produced in the United States are consumed by people and livestock throughout the United States and foreign countries;

(3) soybeans and soybean products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of soybean products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for soybeans and soybean products are vital to the welfare of soybean producers and processors and those concerned with marketing soybeans and soybean products, as well as to the general economy of the United States, and are necessary to ensure the ready availability of efficient marketing of soybeans and soybean products;

(5) there exist established State and national organizations conducting soybean promotion, research, and consumer education programs that are valuable to the efforts of promoting the consumption of soybeans and soybean products;

(6) the cooperative development, financing, and implementation of a coordinated national program of soybean promotion, research, consumer information, and industry information are necessary to maintain and expand existing markets and develop new markets for soybeans and soybean products; and

(7) soybeans and soybean products move in interstate and foreign commerce, and soybeans and soybean products that do not move in such channels of commerce directly burden or affect interstate commerce in soybeans and soybean products.

(b) POLICY.—Congress declares that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this Act, for an orderly procedure for developing, financing through assessments on domestically-produced soybeans, and implementing a program of promotion, research, consumer information, and industry information designed to

strengthen the soybean industry's position in the marketplace, to maintain and expand existing domestic and foreign markets and uses for soybeans and soybean products, and to develop new markets and uses for soybeans and soybean products.

(c) CONSTRUCTION.—Nothing in this Act may be construed to provide for the control of production or otherwise limit the right of individual producers to produce soybeans.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "Board" means the United Soybean Board established under section 5(b) of this Act.

(2) The term "commerce" includes interstate, foreign, and intrastate commerce.

(3) The term "consumer information" means information that will assist consumers and other persons in making evaluations and descisions regarding the purchase, preparation, and use of soybeans or soybean products.

(4) The term "Department" means the Department of Agriculture.

(5) The term "first purchaser" means—

(A) except as provided in subparagraph (B), any person buying or otherwise acquiring from a producer soybeans produced by such producer, or

(B) the Commodity Credit Corporation, in any case in which soybeans are pledged as collateral for a loan issued under any price support loan program administered by the Commodity Credit Corporation.

(6) The term "industry information" means information and programs that will lead to the development of new markets, new marketing strategies, or increased efficiency for the soybean industry, and activities to enhance the image of the soybean industry.

(7) The term "marketing" means the sale or other disposition of soybeans or soybean products in any channel of commerce.

(8) The term "net market price" means—

(A) except as provided in subparagraph (B), the sales price or other value received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors, as determined by the Secretary, or

(B) for soybeans pledged as collateral for a loan issued under any price support loan program administered by the Commodity Credit Corporation, the principal amount of the loan.

(9) The term "order" means an order issued under section 4.

(10) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) The term "producer" means any person engaged in the growing of soybeans in the United States who owns, or who shares the ownership and risk of loss of, such soybeans.

(12) The term "promotion" means any action, including paid advertising, technical assistance, and trade servicing activities, to enhance the image or desirability of soybeans or soybean products in domestic and foreign markets, and any activity designed to communicate to consumers, importers, processors, wholesalers, retailers, government officials, or others information relating to the positive attributes of soybeans or soybean products or the benefits of importation, use, or distribution of soybeans and soybean products.

(13) The term "qualified State soybean board" means a State soybean promotion entity that is authorized by State law. If no such entity exists in a State, the term "qualified State soybean board" means a soybean producer-governed entity—

(A) that is organized and operating within a State,

(B) that receives voluntary contributions and conducts soybean promotion, research, consumer information, or industry information programs, and

(C) that meets criteria established by the Board relating to the qualifications of such entity to perform duties under the order, as determined by the Board, and is recognized by the Board as the soybean promotion and research entity within the State.

(14) The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of soybeans or soybean products, including any research activity designed to identify and analyze barriers to export sales of soybeans and soybean products.

(15) The term "Secretary" means the Secretary of Agriculture.

(16) The term "soybean products" means products produced in whole or in part from soybeans or soybean by-products.

(17) The term "soybeans" means all varieties of Glycine max or Glycine soya.

(18) The term "State" and "United States" consist of the fifty States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 4. ISSUANCE AND AMENDMENT OF ORDERS.

(a) IN GENERAL.—To effectuate the declared policy of section 2(b) of this Act, the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this Act applicable to producers and first purchasers of soybeans. Any such order shall be national in scope, and not more than one order shall be in effect under this Act at any one time.

(b) PROCEDURE.—(1) The Secretary may propose the issuance of an order under this Act, or an association of soybean producers or any other person that would be affected by an order issued pursuant to this Act may request the issuance of, and submit a proposal for, such an order.

(2) Not later than 30 days after the receipt of a request and proposal for an order pursuant to paragraph (1), or whenever the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comment received and including in the order provisions necessary to ensure that the order is in conformity with the requirements under this Act. Such order shall be issued and become effective not later than 180 days following publication of the proposed order.

(c) AMENDMENTS.—The Secretary, from time to time, may amend any order issued under this section. Except as otherwise provided in sections 5(b)(2)(F) and 5(d)(1), no amendment to an order shall be effective until approved by a referendum of soybean producers and the provisions of this Act applicable to orders shall be applicable to amendments to orders.

SEC. 5. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Any order issued under this Act shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF THE UNITED SOYBEAN BOARD.—(1) The order shall provide the the establishment of, and appointment of members to, a United Soybean Board to administer the order. Members of the Board shall be soybean producers appointed by the Secretary, on a geographic basis, from State or combined units, as provided in this subsection. The cumulative number of seats on the Board shall be the total number of seats to which all the units are entitled.

(2) The Secretary shall establish State units and combined units and seats on the Board for such units, as follows:

(A) Except as provided in subparagraph (B), each State shall be considered as a unit.

(B) A State in which average annual soybean production is less than 3 million bushels shall be grouped with other States into a combined unit. To the extent practicable, each State with average annual soybean production of less than 3 million bushels shall be grouped with other States with average annual soybean production of less than 3 million bushels into a combined unit, in a manner prescribed in the order, and each combined unit shall consist of geographically contiguous States. Each combined unit shall have an average annual production of soybeans of at least 3 million bushels.

(C) Subject to subparagraph (F), each unit, as established under subparagraph (A) or (B)—

(i) if its average annual soybean production is less than 15 million bushels, shall be entitled to one seat on the Board;

(ii) if its average annual soybean production is 15 million bushels or more but less than 70 million bushels, shall be entitled to 2 seats on the Board;

(iii) if its average annual soybean production is 70 million bushels or more but less than 200 million bushels, shall be entitled to 3 seats on the Board; and

(iv) if its average annual soybean production is 200 million bushels or more, shall be entitled to 4 seats on the Board.

(D) At the end of each 3 year period beginning with the 3 year period starting on the effective date of the order, the Secretary, if necessary, shall adjust any unit to conform with subparagraphs (A) and (B) and any modifications pursuant to paragraph (F). If the Secretary makes such an adjustment, the Secretary shall re-establish the seats on the board to conform with subparagraph (C) and any modifications pursuant to paragraph (F).

(E) For purposes of subparagraphs (A), (B), (C), and (D), the Secretary shall determine average annual soybean production applicable to a crop year by using the average of the 5 previous crops of soybeans, excluding the crop in which production was the highest and the crop in which production was the lowest.

(F) At the end of each 3 year period beginning with the 3 year period starting on the effective date of the order, the Board may recommend to the Secretary, to the extent it determines appropriate, changes in the levels of production used in subparagraphs (A), (B), and (C) to determine per-unit representation on the Board. The Secretary may amend the order to make such changes in levels of production used to determine per-unit representation. Any such amendment to the order shall not be subject to a referendum of producers. A unit may not, as a result of any modification under this subparagraph, lose Board seats to which it is entitled at the time the order is initially issued unless its average annual production, as determined under subparagraph (E), de-

clines below the levels required for representation, as specified in subparagraphs (A), (B), and (C).

(3)(A) The Secretary shall appoint soybean producers to seats established under paragraph (2) from nominations submitted by each unit. Each unit shall submit to the Secretary at least 2 nominations for each appointment to which such unit is entitled.

(B)(i) The Secretary shall solicit nominations for each seat on the initially-established Board to which a State unit is entitled from the State soybean board in the State that submits satisfactory evidence to the Secretary that such board meets the criteria of section 3(13), other than section 3(13)(C), of this act. If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(ii) The Secretary shall solicit nominations for each seat on the initially-established Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any State soybean board operating in the unit that submits satisfactory evidence to the Secretary that such board meets the criteria of section 3(13), other than section 3(13)(C), of this Act.

(C)(i) The Secretary shall solicit nominations for each subsequent appointment to a seat on the Board to which a State unit is entitled from the qualified State soybean board in the unit. If no such organization exists in the unit, the Secretary shall solicit nominations for such appointment in such manner as the Secretary determines appropriate.

(ii) The Secretary shall solicit nominations for each subsequent appointment to a seat on the Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any qualified State soybean board operating in the unit.

(4) The Secretary may reject any nomination submitted by a unit. If there are insufficient nominations from which to appoint members to the Board as a result of the Secretary rejecting the nominations submitted by a unit, the unit shall submit additional nominations, as provided in paragraph (3).

(5) The Secretary shall ensure, to the extent practicable, that at least 5 of the members appointed to the board are members in good standing, and were members for at least 3 years prior to appointment to the Board, of a national general farm organization. Each of the 5 members shall be a member of a different national general farm organization.

(6) Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially-established Board shall be proportionately for 1 year, 2 year, and 3 year terms. No person may serve more than 3 three-year terms. Board members shall serve without compensation, but shall be reimbursed by the Board for their reasonable expenses incurred in performing their duties as members of the Board.

(7)(A) Notwithstanding the foregoing provisions of this subsection, the Secretary, under procedures established by the Secretary, may appoint to the initially-established Board up to 3 temporary members to serve in addition to the members appointed as otherwise provided in this subsection, as the Secretary determines appropriate for transition purposes under the criteria set out in subparagraph (B). Each such temporary member shall be appointed for a single term not to exceed 3 years.

(B) The Secretary, in making any temporary appointments to the initially-established Board, shall ensure, to the extent practicable, that each State with a State soybean board that, prior to the enactment of this Act, was contributing State soybean promotion and research assessment funds to national soybean promotion and research efforts has representation on the initially-established Board that reflects the relative contributions of such State to the national soybean promotion and research effort.

(8) The order shall provide for at least one meeting of the Board annually and specify the circumstances in which additional special meetings of the Board may be held.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board and shall include the following powers or duties:

(1) to administer the order in accordance with its terms and provisions;

(2) to make regulations to effectuate the terms and provisions of the order;

(3) to elect members of the Board to serve on committees;

(4) to submit budgets to the Secretary for the Secretary's approval or disapproval;

(5) to contract with appropriate persons to implement plans or projects;

(6) to contract with qualified State soybean boards to implement programs in their States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order;

(8) to provide the Secretary with prior notice of meetings of the board to allow the Secretary, or a designated representative, to attend such meetings;

(9) to recommend to the Secretary amendments to the order;

(10) to provide at lest annually a report to producers accounting for funds and describing programs implemented and make such report available to the public upon request; and

(11) to ensure, in carrying out the order, that the development of the budget and activities conducted under the order do not cause a duplication of efforts of, or ineffective use of resources under, any other soybean promotion, research, consumer information, or industry information program on the State or national level.

(d) BOARD VOTING PROCEDURES.—(1) The order shall establish procedures for the conduct of voting by the Board, as specified in this subsection. At the end of the 3 year period beginning on the effective date of the order, the Board may recommend to the Secretary changes in such procedures for the conduct of voting by the Board, and the Secretary may amend the order to make such recommended changes in voting procedures. Such amendment to the order shall not be subject to a referendum of producers.

(2) Each member of the Board shall be entitled, in any vote conducted by the Board, to cast the number of votes determined under the following rules:

(A) Each member shall be entitled to cast one vote unless a roll call vote is conducted. On a roll call vote, each member shall be entitled to cast such additional votes as are assigned to the member under subparagraph (B).

(B) The additional votes that each member is assigned for roll call votes shall be computed as follows:

(i) Except as provided in clause (ii), each unit shall be allotted one vote for each percent, or portion of a percent, of the total amount of assessments remitted to the Board that was remitted from the unit, net of any refunds made under subsection (j)(2), on the average, during each of the 3 previous fiscal years of the Board.

(ii)(I) During the first fiscal year of the Board, each unit shall be allotted one vote for each percent, or portion of a percent, of the total production of soybeans in the United States that was produced in the unit, on the average, during each of the immediately preceding crop years.

(II) The order shall provide appropriate adjustments of the procedure for the allotment of votes under clause (i) to apply to allotments of votes during the second and third fiscal years of the Board.

(iii) A unit's total votes under clause (i) or (ii) shall be divided equally among all the members representing that unit. The procedures established by the order shall provide for the equitable disposition of fractional votes assigned to a member under such division of a unit's votes.

(3)(A) Except as provided in subparagraph (B), a motion shall carry if approved by a simple majority of members of the Board casting votes.

(B) Any member of the Board may call for a roll call vote on any motion. Except as otherwise provided in the bylaws adopted by the Board, whenever a roll call vote is conducted, the motion shall carry only if approved by a simple majority of all votes cast and a simple majority of all units voting, with the vote of each unit determined by a simple majority of all votes cast by members in that unit.

(4) In any vote conducted by a committee of the Board, each member of the committee shall have one vote.

(5) A member may not cast votes by proxy.

(e) BUDGETS.—The order shall provide that the Board shall develop budgets on a fiscal year basis of anticipated expenses and disbursements under the order, including probable costs of administration and promotion, research, consumer information, and industry information projects. The Board shall submit such budgets or any substantial modification thereof to the Secretary for the Secretary's approval. In approving or disapproving such budget or modification, the Secretary shall, among other considerations, ensure that the activities conducted under the order do not cause a duplication of efforts of, or ineffective use of resources under, any other soybean promotion, research, consumer information, or industry information program on the State or national level. Each such budget or modification shall be approved or disapproved by the Secretary within 45 days after the Secretary receives the budget or modification. No expenditure is authorized under a budget or modification approved by the Secretary.

(f) PLANS AND PROJECTS.—The order shall provide that the Board shall review or, on its own initiative, develop plans or projects of promotion, research, consumer information, and industry information, to be paid for with funds received by the Board.

(g) ADMINISTRATION.—(1) The order shall provide that the Board shall be responsible for all expenses of the Board.

(2)(A) The order shall provide that the Board may establish an administrative staff or facilities of its own or contract for the use of the staff and facilities of national, nonprofit, producer-governed organizations that represent producers of soybeans.

(B) If the Board establishes an administrative staff of its own, the Board is authorized to expend for administrative staff salaries and benefits an amount not to exceed one percent of the projected level of assessments to be collected by the Board, net of any refunds to be made under subsection (j)(2), for that fiscal year.

(C) If the staff of national, nonprofit, producer-governed organizations that represent producers of soybeans are used by the Board, the staff of such organizations shall not receive compensation directly from the Board, but such organizations shall be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of, and authorized by, the Board.

(3) The order shall provide that costs incurred by the Board in administering the order (including the cost of staff but not including administrative costs incurred by the Secretary) during any fiscal year shall not exceed 5 percent of the projected level of assessments to be collected by the Board, net of any refunds to be made under subsection (j)(2), for that fiscal year.

(h) CONTRACTS AND AGREEMENTS.—(1) To ensure coordination and efficient use of funds, the order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of the activities authorized by this Act with national, nonprofit, producer-governed organizations that represent producers of soybeans, and for the payment thereof with funds received by the Board under the order.

(2) To enhance coordination, the Board, when entering into contracts or agreements for the implementation and carrying out of activities authorized by this Act, shall ensure that all plans or projects implemented for consumer information, industry information, promotion, or research are implemented by a single entity. There shall not be in force, at any one time, more than one contract or agreement for implementation of plans or projects for consumer information, for industry information, for promotion, or for research, except that, upon approval of the Secretary, the Board may contract with qualified State soybean boards to implement plans or projects within their respective States.

(3) Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall not become effective unless it has been approved by the Secretary, and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, including staff time, salaries, and expenses expended on behalf of Board activities, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(i) BOOKS AND RECORDS OF THE BOARD.—The order shall require the Board to—

(1) maintain such books and records, which shall be available to the Secretary for inspection and audit, as the Secretary may prescribe,

(2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe, and

(3) account for the receipt and disbursement of all funds entrusted to the Board. The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year and a report of such audit to be submitted to the Secretary. The Secretary shall make such report available to the public upon request.

(j) ASSESSMENTS.—(1)(A)(i) The order shall provide that each first purchaser of soybeans from a producer shall collect, in the manner prescribed by the order, an assessment from the producer and remit the assessment to the Board. If a qualified State soybean board is operating in the State, the Board shall permit such State board to collect such assessments on behalf of the Board from first purchasers in the State in which such board is operating.

(ii) The rate of assessment prescribed by the order shall be one-half of 1 percent of the net market price of soybeans bought or otherwise acquired by the first purchaser from the producer.

(iii) No more than one assessment shall be made with respect to any particular soybeans.

(iv) The order shall provide that no person may engage in any scheme or device regarding the net market price of soybeans for purposes of affecting the assessment under the order.

(B) The order shall provide that any person processing soybeans of that person's own production and marketing such soybeans or soybean products made from such soybeans shall remit to the Board or the qualified State soybean board, in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for in subparagraph (A)(ii).

(2)(A) The order shall provide that, during the period prior to the approval of the continuation of the order in the referendum provided for in section 6(a), as determined by the Secretary, each producer shall have the right to demand and receive from the Board a refund of any assessment collected from such producer if—

(i) such producer is responsible for paying the assessment; and

(ii) such producer does not support the programs, projects, or activities implemented under the order.

(B) Subject to the provisions of subparagraph (C)(i), any demand by a producer for a refund of an assessment under this paragraph shall be made in accordance with regulations, on a form, and within the time period, not to exceed 90 days from the date of collection, prescribed by the Board.

(C)(i) In each State in which a qualified State soybean board collects assessments, as provided in paragraph (1)(A)(i), producers shall submit demands for refunds of assessments to the qualified State soybean board. Such board shall process such submissions under procedures established under State statute applicable to refunds of assessments on soybeans, except that if no refunds are allowed under State statute, such submissions shall be processed under procedures established under this paragraph.

(ii) In each State not specified in clause (i), producers shall submit demands for refunds of assessments directly to the Board.

(D) Subject to the provisions of subparagraph (C)(i), each refund to a producer of an assessment under this paragraph shall be made as soon as practicable, but in no case more than 60 days, after submission of proof satisfactory to the qualified State soybean board or the Board that the producer paid the assessment for which refund is demanded.

(3) The assessments shall be used for payment of the expenses incurred in implementation and administration of the order, the establishment of a reasonable reserve, and reimbursement to the Secretary of administrative costs incurred by the Secretary after the order has been proposed.

(4) A producer who can establish that such producer is contributing to a qualified State soybean board shall receive credit, in determining the assessment due to the Board from such producer, for contributions to the qualified State soybean board of up to one-quarter of 1 percent of the net market price of soybeans or the equivalent thereof. A producer may receive a credit under this paragraph only if the contribution is to the qualified State soybean board in the State in which the soybeans are produced, except that the Board, with the approval of the Secretary, may authorize exceptions to such State-of-origin rule as appropriate to ensure effective coordination of collection procedures among States.

(5) The producers in the order for the collection of assessments shall ensure, to the extent practicable, that such soybeans are subject to a single process of assessment under the order.

(k) CREDIT FOR CERTAIN COSTS TO STATES.—The order shall provide that the Board may provide a credit against the amount of collected assessments due from each qualified State soybean board of an amount not to exceed one-half of any fees paid to State governmental agencies or first purchasers for collection of the assessments if the payment of such fees by the qualified State soybean board is required by State statute enacted prior to the date of enactment of this Act. Any credit provided to any qualified State soybean board under this subsection may not exceed 2.5 percent of the amount of assessments collected and remitted to the Board under subsection (j).

(l) MINIMUM LEVEL OF ASSESSMENTS TO STATES.—(1) The order shall contain provisions to ensure that, during the period prior to conduct of the referendum provided for in section 6(a), each qualified State soybean board retains annually an amount of money equal to the average amount that the State board collected from assessments during each of the State board's fiscal years 1984 through 1988, excluding the year in which such collections were the highest and the year in which such collections were the lowest, as determined by the Secretary and subject to paragraph (3).

(2) The order shall provide, effective after the conduct of the referendum provided for in section 6(a), subject to paragraph (3), that the Board annually shall provide a credit to each qualified State soybean board of an amount by which—

(A) the amount equal to one cent times the average number of bushels of soybeans produced in the State during each of the preceding 5 years, excluding the year in which the production is the highest and the year in which the production is the lowest, exceeds

(B) the total amount collected by the qualified State soybean board from assessments on producers under this Act and State law minus the amount of assessments remitted to the Board during such year under subsection (j).

(3) The total amount of assessment funds retained by a qualified State soybean board under paragraph (1) or (2) and subsection (j)(4) for a year may not exceed the total amount of assessments collected in the State under subsection (j), net of any refunds made under subsection (j)(2), for that year.

(m) INVESTMENT OF FUNDS.—The order shall provide that the Board, with the approval of the Secretary, may invest funds received by the Board under the order, pending their disbursement, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. Income from any such investment may be used only for such purposes as the invested funds may be used.

(n) PROHIBITION.—(1) Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing any action or policy of the United States Government, any foreign, State, or United States territory or possession government, or any political subdivision thereof.

(2) The prohibition in paragraph (1) shall not apply to—

(A) the development and recommendation of amendments to the order;

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, and industry information under the order; or

(C) any action designed to market soybeans or soybean products directly to a foreign government or political subdivision thereof.

(o) BOOKS AND RECORDS OF FIRST PURCHASERS AND CERTAIN PRODUCERS.—(1) The order shall require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection by the Board or the Secretary such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order. The order shall exempt small producers processing soybeans of their own production from such recordkeeping and reporting requirements if they are not required to pay assessments under the order.

(2)(A) Information maintained under paragraph (1) shall be made available to the Secretary as is appropriate for the administration or enforcement of this Act, or any order or regulation issued under this Act.

(B) The Secretary shall authorize the use under this Act of information regarding first purchasers that is accumulated under a law or regulation other than this Act or regulations under this Act.

(3)(A) Commercial or financial information obtained under paragraphs (1) and (2) and that is privileged or confidential shall be kept confidential by all officers and employees of the Department, the Board, and agents of the Board, subject to the provisions of subparagraph (B).

(B) Information obtained under the authority of this Act shall be made available to any agency or officer of the Federal Government for—

(i) the implementation of this Act;

(ii) any investigatory or enforcement action necessary for the implementation of this Act; or

(iii) any civil or criminal law enforcement activity if the activity is authorized by law.

(4) Any person who intentionally or knowingly violates the provisions of this subsection, upon conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and if an agent of the Board or an officer or employee of the Department, shall be removed from office.

(p) INCIDENTAL TERMS AND CONDITIONS.—The order shall provide terms and conditions, not inconsistent with the provisions of this Act, as necessary to effectuate the provisions of the order, including provisions for the assessment of a penalty for each late payment of assessments under subsection (j).

SEC. 6. REFERENDA.

(a) INITIAL REFERENDUM.—Not earlier than 18 months nor later than 36 months following the issuance of an order under section 4 of this Act, the Secretary shall conduct a referendum for the purpose of ascertaining whether the order then in effect shall be continued. Such referendum shall be conducted among producers who, during a representative period as determined by the Secretary, have been engaged in the production of soybeans. Such order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum. If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate the collection of assessments under the order within 6 months after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) ADDITIONAL REFERENDA.—(1)(A) After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who during a representative period have been engaged in the production of soybeans, of which group of requesting producers not in excess of one-fifth are producers in any one State, as determined by the Secretary.

(C) Each additional referendum shall be conducted among all producers who, during a representative period, as determined by the Secretary, have been engaged in the production of soybeans to determine whether such producers favor the termination of the order.

(2) If the Secretary determines, in any referendum conducted under paragraph (1), that termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall terminate, as appropriate, collection of assessments under the order within 6 months after such determination and shall terminate the order, as appropriate, in an orderly manner as soon as practicable after such determination.

(3)(A) To facilitate the periodic determination as to whether producers favor the conduct of an additional referendum under this subsection, the Secretary, 5 years after the conduct of a referendum under this section and every 5 years thereafter for as long as an order is in effect, shall provide soybean producers an opportunity to request an additional referendum, as provided in this paragraph.

(B)(i) To implement the requirements of subparagraph (A), the Secretary shall establish a procedure under which producers may request a reconfirmation referendum in person at county extension offices during a period established by the Secretary, or as provided in clause (ii).

(ii) In lieu of making such requests in person, producers may make requests by mail. Mail-in requests must be postmarked no later than the end of the period established under clause (i) for in-person requests. To facilitate such submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) The Sescretary shall publish a notice in the FEDERAL REGISTER, and the Board shall provide written notification to producers, not later than 60 days prior to the end of the period established under subparagraph (B)(i) for in-person requests, of the producers' opportunity to request the additional referendum. Such notification shall explain the producers' rights to, and the procedures specified in this subsection for, the conduct of an additional referendum, the purpose of the referendum, and the date and method by which producers can act to request the additional referendum under this paragraph. The Secretary shall take such other actions as the Secretary determines necessary to ensure that producers are made aware of the opportunity to request an additional referendum on the order.

(D) As soon as practicable following the submission of requests for a reconsideration referendum, the Secretary shall determine whether a sufficient number of producers have requested an additional referendum, and take other steps to conduct an additional referendum, as required under paragraph (1).

(E) Any additional referendum requested under the procedures provided in this paragraph shall be conducted not later than one year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of such referendum.

(c) PROCEDURES.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any activity required under this section, except for the salaries of Government employees.

(2) Each referendum shall be be conducted for a reasonable period (not to exceed 3 days) established by the Secretary, under a procedure whereby producers intending to vote in the referendum shall certify that they were engaged in the production of soybeans during the representative period and, at the same time shall be provided an opportunity to vote in the referendum.

(3) Referenda shall be conducted at county extension offices and provision shall be made for absentee mail ballots to be provided upon request.

SEC. 7. PETITION AND REVIEW.

(a) PETITION.—Any person subject to an order issued under this Act may file with the Secretary a petition stating that such order, any provision of such order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or an exemption from the order. The petitioner shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling on the petition.

(b) REVIEW.—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within twenty days after the date of the entry of a ruling by

the Secretary under subsection (a). Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure. If the court determines that such ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further action as, in the opinion of the court, the law requires.

SEC. 8. ENFORCEMENT.

(a) IN GENERAL.—(1) Each district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued by the secretary under this Act.

(2) A civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation if the Secretary believes that the administration and enforcement of this Act would be adequately served by providing a suitable written notice or warning to the person who committed such violation or by administrative action under subsection (b).

(b) ADMINISTRATIVE REMEDIES.—(1)(A) A person who willfully violates an order or regulation issued by the Secretary under this Act may be assessed by the Secretary—

(i) a civil penalty of not more than $1,000 for each such violation; and

(ii) in the case of a willful failure to pay, collect, or remit an assessment as required by the order, an additional penalty equal to the amount of such assessment.

(B) Each such violation shall be a separate offense.

(C) In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from violating such order or regulation.

(D) No order assessing a penalty or cease and desist order may be issued by the Secretary under this paragraph unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record with respect to such violation.

(E) An order assessing a penalty or cease and desist order issued under this paragraph by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from such order with the appropriate district court of the United States, as provided in paragraph (2), not later than 30 days after the date of such order.

(2)(A) A person against whom an order is issued under paragraph (1) may obtain review of such order in the district court of the United States for the district in which such person resides or does business, or in the United States district court for the District of Columbia, by—

(i) filing a notice of appeal in such court not later than 30 days after the date of such order; and

(ii) simultaneously sending a copy of such notice by certified mail to the Secretary.

(B) The Secretary shall file promptly in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

(C) A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(3)(A) A person who fails to obey a valid cease and desist order issued under paragraph (1) by the Secretary, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not more than $500 for each offense.

(B) Each day during which such failure continues shall be considered a separate violation of such order.

(4)(A) If a person fails to pay a valid civil penalty imposed under this subsection by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States in any district in which the person resides or conducts business.

(B) In such action, the validity and appropriateness of the order imposing such civil penalty shall not be subject to review.

(c) OTHER REMEDIES UNAFFECTED.—The remedies provided in subsections (a) and (b) shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 9. INVESTIGATIONS; POWER TO SUBPOENA; AID OF COURTS.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary deems necessary—

(1) for the effective administration of this Act, or

(2) to determine whether any person subject to the provisions of this Act has engaged or is about to engage in any act that constitutes or will constitute a violation of any provision of this Act, or of any order or regulation issued under this Act.

(b) POWER TO SUBPOENA.—For the purpose of any such investigation, the Secretary may require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

SEC. 10. ADMINISTRATIVE PROVISIONS.

(a) CONSTRUCTION.—Except as provided in subsection (b), nothing in this Act may be construed to—

(1) preempt or supersede any other program relating to soybean promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State; or

(2) authorize the withholding of any information from Congress.

(b) STATE LAWS.—(1) In order to ensure the proper administration of this Act, any provision of State law automatically requiring a State referendum relating to the continuation or termination of a qualified State soybean board shall, to the extent it automatically requires such a referendum, be suspended for the period beginning on the date an order is issued under section 4 and ending 18 months after the referendum on such order is conducted under section 6(a). Such suspension shall not be construed to apply to any State referendum regarding a State soybean promotion program that is originated by soybean producers.

(2) In order to ensure adequate funding of the operations of qualified State soybean boards under this Act, whenever an order is in effect under this Act, no State law or regulation that limits the rate of assessment that the qualified State soybean board in the State may collect from producers on soybeans produced in such State, or that has the effect of limiting such rate, may be applied to prohibit such State board from collecting, and expending for authorized purposes, assessments from producers of up to the full amount of the credit authorized for producer contributions to qualified State soybean boards under section 5(j)(4).

SEC. 11. REGULATIONS.

The Secretary may make such regulations as may be necessary to carry out the provisions of the Act.

SEC. 12. AUTHORIZATION.

There are hereby authorized to be appropriated annually such funds as are necessary to carry out the provisions of this Act. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MARLENEE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Montana [Mr. MARLENEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 2209, the Soybean Promotion, Research, and Consumer Information Act.

The soybean is one of the most versatile and economically important plants grown in the world today. It is the world's major source of vegetable protein and oil in the human diet and an important feedstuff for the livestock industry.

Not only is the soybean used for food, it has many other nonfood uses. We now have soy-based inks which are being used by a growing number of newspapers around the country. This is just one of the many promising new uses of this plant that are being brought to commercial reality.

There are approximately 450,000 farmers growing soybeans in the United States each year. Half of what our farmers produce is destined for the world market. Although the United States remains the world's largest producer and exporter of soybeans, we've seen our market share dropping since the early 1980's.

If current trends continue, low-cost competitors in South America could replace us as the leading producers and exporters of soybeans in the

coming decade. Even the European Community, one of our biggest soybean markets, is gradually increasing its production. This competition is affecting our sales of the other major markets—the Soviet Union, Japan, South Korea, and so forth.

Mr. Speaker, at hearings we have held on this bill and in connection with the 1990 farm bill, our soybean farmers tell us they want to maintain and expand market share. They want to see a greater investment in research to improve our efficiency and find new uses for soybeans and soybean products. Our soybean farmers want to promote their fabulous product.

The purpose of H.R. 2209 is to allow soybean farmers to establish their own national farmer financed, farmer directed research, promotion, and information program. This program is structured in a way that does not affect the jurisdiction of the Committee on Ways and Means. The assessment under H.R. 2209, like those for other commodities, is not a tax, nor does it yield revenue for the Federal Government. These are producer funds raised by producers for the benefit of producers. In general, H.R. 2209 follows the model we have established for a number of other, quite successful commodity research and promotion programs. These include the national programs for beef, cotton, and dairy to name just a few.

H.R. 2209 will enable soybean farmers to fund and operate their own national program to develop and expand U.S. export markets. This legislation will provide our soybean farmers with the ability to educate both the foreign and domestic markets of the health, environmental, and industrial benefits of using soybeans and its byproducts. This bill will also allow our soybean farmers to fund much needed research to develop and refine new uses for soybeans and soybean byproducts and to better understand consumer trends.

Mr. Speaker, I want to commend the gentleman from Kansas [Mr. GLICKMAN] the principal author of this legislation who also serves as the distinguished chairman of the House Agriculture Subcommittee on Wheat, Soybeans, and Feed Grains.

Congressman GLICKMAN as well as other members of the subcommittee and the full House Agriculture Committee worked long and hard to ensure that this bill was the best possible legislation we could bring forward. Early on in the legislative process there were some concerns expressed about the proposed structure of the national soybean board and how this board would interact with existing organizations.

With the able leadership of the gentleman from Kansas, the committee has addressed these concerns in a forthright and unbiased manner. The legislation we have brought to the House floor today provides for a diversity of views on the national board. It establishes checks and balances to ensure that the operations of the board are carried out according to the intent of the legislation. And it ensures accountability of the board to the U.S. Department of Agriculture and, most of all, to the Nation's soybean producers.

Mr. Speaker, the future profitability and competitiveness of U.S. agriculture will depend greatly upon our ability to become least-cost producers of high-quality agricultural commodities and derived products.

With passage of H.R. 2209, we can give our Nation's soybean farmers an opportunity to fund and implement activities to improve the competitiveness of the U.S. soybean industry, as well as expand and increase demand for soybeans in the domestic market. I urge my colleagues to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN], our distinguished colleague and chairman of the subcommittee that handled this legislation.

Mr. GLICKMAN Mr. Speaker, I rise in support of H.R. 2209, the Soybean Promotion, Research and Consumer Information Act, which my colleague from Montana, Mr. MARLENEE, and I introduced last May with 62 other cosponsors. This bill has generated considerable support over the last 6 months with a total of 102 consponsors, 29 of which are on the Agriculture Committee. This support comes as no surprise, the Agriculture Committee and the agricultural community have always been very supportive of farmer financed, farmer directed commodity promotion programs over the years.

Before I begin my explanation of H.R. 2209, I would like to say, Mr. Speaker, that Chairman DE LA GARZA and Mr. MADIGAN and their respective staffs have all been very supportive of this bill and the changes that we have made to it. If it were not for all of their support and hard work through the committee process, this bill would not be on the floor today for consideration. I would also like to thank Mr. MARLENEE's support over the past 10 months with regard to H.R. 2209 and appreciate his work to make sure this bill made it to the House floor.

Mr. Speaker, this legislation would permit the Secretary of Agriculture to establish and oversee a national research and promotion program fund research into new varieties of soybeans and new uses of soy products. The program would also fund promotion efforts to expand the consumption of U.S. soybeans and soy products in this country and abroad. If enacted, this program will help U.S. soybeans compete with the ever-increasing foreign competition which has stolen over one-third of our soybean exports over the last 10 years.

The research and promotion activities which would be coordinated under this legislation would be funded by an assessment of approximately one-half of 1 percent on each bushel of soybeans sold in the United States. We have estimated that nearly $60 million would be generated yearly to carry out these programs to enhance U.S. soybean demand here in the United States and abroad. Of this amount, States will retain approximately one-half of the assessments or $30 million to ensure heightened research and promotion on the State level for each State's particular needs.

Mr. Speaker, let me assure you and everyone in this body that I have had, since I introduced this legislation, tremendous support from soybean farmers nationwide. Results of a nationwide poll taken last summer of soybean producers indicates that more than 75 percent is in support of this program. This is not surprising since soybean farmers have seen how successful other promotion programs have been for other commodities and have watched those farmers profit from their small investments made to these various programs.

For instance, in response to the explosion of synthetic and imported materials nearly 20 years ago, cotton farmers, in retaliation, asked Congress to enact legislation that would assess every bale of cotton produced for promotion and research funding. Well, the program was enacted and its success for farmers and the cotton industry was and still is indisputable. The "cotton label" is everywhere, and who has not seen a cotton commercial in the last few months? These promotion efforts reminded the public of cotton's attributes. Also, research into cotton will keep our farmers competitive and teach us many new uses for this commodity.

Cotton is not the only commodity with its own promotion and research program. Other commodities, such as beef, dairy, eggs, honey, pork, potatoes, watermelons, wool, lamb, mohair all have research and promotion programs. These programs alone generate nearly $200 million annually for promotion and research activities that have been successful for investing producers. In many States, voluntary checkoff programs for wheat, feed grains, and soybeans have been established over the years, as well.

Currently, soybean farmers in 26 States contribute to State soybean promotion programs which fund a variety of research and market development projects. In addition, there exists a national nonprofit organization which implements research and foreign market development activities in cooperation with the Department of

Agriculture. However, its activities are conducted for the primary benefit of its members and are not always operated on a national coordinated scale.

This program would do exactly that—coordinate existing and new money to fund projects across the country that do not duplicate but complement each other. Over the past few years, uses for soybeans have multiplied, but coordinated research is needed to develop these uses so that they are available and affordable to every consumer.

Increased research into soybean oil has led to the discovery of its low saturated fat content and, just recently, a genetic breakthrough has produced a soybean variety with the lowest saturated fat content compared to other vegetable oils. These and future discoveries are important to American consumers, especially since diet and health are major public concerns.

For industrial uses, research has found soy oil to be an alternative to petroleum based ink. Last year only seven or eight newspapers across the country used soy ink in their printing presses. Now 1,000 newspapers are using it and even Members of Congress are using it for their mailings. If soy ink were to capture the newspaper and magazine markets, it would utilize around 100 million bushels of soybeans, which amounts to $600 million more dollars into the economy and farmers' pockets. Further research into this use will bring down the cost of using soy ink and will create more uses for soybean byproducts.

Since soy oil is biodegradable, the environment benefits from the development of new soy oil uses to replace petroleum or other chemically based products. Research has already begun developing ways to replace petroleum based fertilizers with soy oil based fertilizers. This development could have positive effects on environmental and groundwater improvement. However, further research is needed—research that is called for and funded in this bill.

Also, I want to bring to your attention, Mr. Speaker, that research in competing countries has improved upon their soybean varieties which has enabled foreign farmers to produce more soybeans at less of a cost. In other words, these farmers can charge less for their soybeans on the world market than our farmers and this has led to a loss of one-third of U.S. market share to these competing countries. Loss of market share means that our economy, our farmers are losing billions of dollars on an annual basis. For every percentage point lost in market share to our competitors equals $180 million lost in potential farm income. In 1979, U.S. market share was 330 million bushels greater than it is today. At $6 a bushel, the loss in market share over 10 years has cost this economy and American soybean producers approximately $2 billion.

Mr. Speaker, soybean producers need this program to reclaim their market share and their profits. At a time when world demand for soybeans and soybean byproducts is climbing nearly 5 percent a year, U.S. exports of not only raw soybeans, but soy meal and oil are dropping dramatically. The United States, once the leading exporter of soy meal, is now holding the No. 3 spot behind Argentina and Brazil. Also, with regard to soy oil exports, both South American countries and the European Community have displaced the United States from the No. 1 spot to the No. 4 spot. Normally, soybeans is one of the largest revenue earners for the U.S. economy, but it is slipping every year due to the increase in competition capturing our existing and new markets.

In retaliation, the soybean producers of this country are asking Congress to enact legislation to assess them on every bushel they produce to ward off the foreign invasion of their market share. However, in creating this legislation, I wanted to place a solid administrative infrastructure with proper checks and balances to protect the investments of soybean producers so that the money is spent fairly and constructively.

In doing so, a certain degree of assessment refunds and farmer referenda are included in the bill. With regard to referenda, the first one would be conducted 18 to 36 months after the implementation of the program so that farmers are given ample opportunity to judge the program's accomplishments. During this time prior to the initial referenda, the program allows for reimbursements of assessments to farmers upon their request.

For the initial referenda and each proceeding one, up to 3 days will be allotted for the referenda, and mail ballots will be provided to producers upon request. The Secretary of Agriculture will notify soybean producers in a timely manner of the time and dates of each referenda. If farmers approve of the program in the initial referenda, assessments would no longer be refundable and the program would continue unless 10 percent of eligible soybean producers petition the Secretary to conduct another referenda. In any event, every 5 years after the initial referenda, the Secretary must poll soybean farmers and if 10 percent are in favor of a referenda, then he must conduct one in a timely manner.

As you can see, this bill includes quite a few checks and balances with regard to program approval and assessments. After a long discussion, the consensus on the Agriculture Committee was that if every soybean farmer would benefit under this promotion and research program, then everyone should have to contribute to it. It would not be an equitable program if those who were not contributing were still enjoying the program's success in creating more demand for soybeans, therefore, making more of a profit.

With regard to another important component—farmer representation—this program would maintain and support strong farmer control on a national and State level. A national checkoff board, named the United Soybean Board, would be comprised of soybean farmers appointed by the Secretary from nominations submitted by each State's qualified soybean board. The number of seats on the board each State would be entitled to depends on the State's level of yearly soybean production. In this way, farmers in every State producing soybeans will not be left out of the decisionmaking process on the United Soybean Board.

The United Soybean Board would be responsible for a number of activities to increase the image and demand of U.S. soybeans and soybean byproducts. Such activities would include advertising to increase consumer and commercial awareness of the uses and benefits of soybean products; research on the nutritional components and attributes of soybean products; research into production systems to enable growers of soybeans and producers of soybean products to reduce costs and increase profit margins; foreign market development programs to maintain, develop, and expand markets for U.S. soybeans; organizing committees within the board to oversee these various projects; and, finally, the board would be responsible for coordinating its programs with other entities interested in enhancing U.S. soybeans to avoid duplication of efforts.

H.R. 2209 includes several provisions to ensure accountability in the operation of the program. It not only requires the United Soybean Board to keep records and accounts of all its financial dealings, but requires the Secretary of Agriculture to conduct annually an independent audit to be made available to the public. The board is also required under H.R. 2209 to make available to the public an annual report of its finances. In addition, before the Board can conduct any activities and expend any funds, the Secretary must grant approval.

Mr. Speaker, at a hearing the Subcommittee on Wheat, Soybeans, and Feed Grains held on H.R. 2209 on June 6, 1989, Members received testimony from the Department of Agriculture, the American Farm Bureau Federation, the National Farmers' Union, the National Farmers' Organization, the American Agricultural Movement, and the American Soybean Association. The subcommittee also received written comments on the specif-

ics of the legislation from the Department of Agriculture, the Office of the U.S. Trade Representative, and the Justice Department. I would like to say, that in large part, this bill addresses the vast majority of the concerns the administration raised about the bill as introduced and that it does comport with the administration's comments on major items.

H.R. 2209 is a melding together of divergent views. Some people would like to see it go farther in changing the base bill, some believe that it went too far. In my opinion, this bill is a good compromise.

My overall objective in creating H.R. 2209 was to ensure that enough checks and balances would be in place to manage a $60 million program in an honest way. To do this, I had to ensure that there be more than an arms length distance between the United Soybean Board and private, soybean membership organizations, who have, as one of their primary purposes, the advocacy of political views. Although I support the organization of such groups, I do not believe that Congress should act to favor one group over another or that Congress should be enacting programs which will result in the collection of funds from all farmers for the benefit of lobbying groups which may represent the view of just a fraction of our farmers.

With this in mind, H.R. 2209 would create a level playing field for all soybean farmers with a diversity of views and interests. Mr. Speaker, I would like to highlight the provisions of the bill that would ensure a level playing field: First, the Secretary would be required to appoint to the United Soybean Board representatives of national farm organizations, which would ensure a diversity of views on the board; second, the bill would not lock the United Soybean Board into contracting with one specific organization for administrative or programmatic services, in fact, the board would have the authority to contract with whomever, but the program would limit the board's administrative funds to a fixed percent; third, the bill would eliminate the proposed coordinating committee, which was a part of the base bill, whose membership would have been heavily tilted in favor of one specific organization and would have been filled with members not selected through the same open nominating process required elsewhere in the bill.

I am pleased that the commodity group most interested in this program and who has advocated enactment of this legislation has negotiated these changes in the base bill with me. In closing, H.R. 2209, a compromise between all interested parties, creates an independent entity which will tremendously benefit soybean farmers and the American economy. I strongly urge my colleagues to support this bill.

□ 1540

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to commend the chairman of the full committee, the gentleman from Texas [Mr. DE LA GARZA], and I also wish to commend the chairman of the subcommittee, the gentleman from Kansas [Mr. GLICKMAN] for helping bring this legislation to the floor today. I also wish to recognize the other Members for the many constructive suggestions that they made in the bill when it was being considered in the Agriculture Committee. All those members, including the chairman and the subcommittee chairman, have made a valuable contribution to agriculture today and have helped improve the final product which we have before us.

This bill is about foreign governments robbing us of our markets. This bill is about self help—self help by the producers themselves. H.R. 2209 will simply allow U.S. soybean producers an opportunity to engage in a self-help program designed to finance additional research into new and improved soybean products, and to provide funding for market development activities. This bill will allow growers, through a referendum, to determine whether or not the programs will be initiated and maintained in the future. Unfortunately, the need for such a mechanism is created due to the fact that we have greatly reduced funding for these kinds of research and market development activities as part of the overall budget reductions—budget reductions which have hit harder in the agricultural area than almost any other area of the economy.

It is, therefore, encouraging to see a vast majority of U.S. soybean producers who are apparently willing to make the increased financial sacrifices necessary to take up where governmental programs leave off. We bring this legislation to our colleagues at the request of these growers who are not content to sit idly by and watch further research come to a screeching halt, and who are not going to allow foreign governments to continue to rob us of world markets through unfair, predatory trade and subsidy practices. The biggest supporters of this legislation are U.S. farmers who have confidence in their own ability to help find new uses for soybeans and soybean-derived products. They know the value of being able to promote the advantages of their products in order to stimulate sales, and they are willing to bear the largest portion of the costs of such promotion and market development activities.

I again commend the gentleman from Kansas [Mr. GLICKMAN], our colleagues on the House Agriculture Committee, and—above all—the American soybean producers who are attempting to preserve their industry through this self-help measure. I urge your speedy approval of H.R. 2209.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Maryland [Mr. DYSON].

Mr. DYSON. Mr. Speaker, the first thing that I would like to do is thank the chairman for the wonderful job he has done in promoting this bill. It is very important that our Nation's soybean farmers have the opportunity to promote their crops so they may be more competitive with foreign producers. The chairman has recognized this and acted on that belief and I am very appreciative for his efforts. Also, the chairman of our Wheat, Soybeans and Feed Grains Subcommittee, the gentleman from Kansas [Mr. GLICKMAN] and the gentleman from Montana [Mr. MARLENEE] for their efforts in promoting H.R. 2209.

Mr. Speaker, the prosperity of the soybean industry is vitally important to the farmers in the First District of Maryland, as well as the entire State and country. In 1989, Maryland's 3,600 soybean farmers produced over 16.5 million bushels of soybeans, at a value of $91 million. In 1988, soybeans, for the first time in State history, surpassed corn as the leading cash crop in Maryland.

However, Mr. Speaker, that could be short-lived if America's soybeans exports continue to decline. Since 1979, U.S. soybean exports have declined from 66 percent of the world market to barely over 50 percent. During the same time period, the world soybean export market increased 15 percent.

Unfortunately, our soybean farmers are being out-marketed by foreign competitors. Industry experts indicate that these foreign sales have cost the U.S. economy $1.9 billion in soybean sales, costing each Southeastern soybean farm more than $16,000. This translates into a loss of $63.5 million in revenue for Maryland's soybean farmers. I believe this legislation will assist our soybean farmers to stop this dangerous and downward spiral.

Mr. Speaker, the soybean farmers in my district, as well as throughout the country, realize they cannot afford to lose an agriculture trade war. If we do, there will be many farmers without any visible means of support. These farmers realize that, and they want to do something about it. That is why they are strongly in favor of a soybean checkoff.

Soybean farmers realize that Congress is facing tough budget cuts, and does not have the funds available to do the necessary promotion, research, and marketing needed to preserve our foreign soybean market. Therefore, they are voluntarily willing to foot the bill themselves. All they want us to do is give them the authority to set up a

national program and collect assessments. H.R. 2209 will give them this authority. This is not out of the ordinary, since Congress has approved similar programs in the past for the cattlemen, dairymen, hog producers, and other sectors of our farm economy.

Mr. Speaker, I strongly believe that H.R. 2209, the Soybean Promotion, Research, and Consumer Information Act, will go a long way toward meeting the needs of our farmers. By creating a self-assessment mechanism, we are giving our U.S. soybean farmers a fighting chance to regain a larger share of the world soybean market. But only by passing an assessment system will they be able to pay for the vital promotion, research, and marketing needed to strengthen and preserve our domestic soybean industry.

□ 1500

Mr. MARLENEE. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in support of the bill. I wish to associate myself with the remarks of the gentleman from Montana [Mr. MARLENEE].

Mr. Speaker, I rise today in support of H.R. 2209, the Soybean Promotion, Research, and Consumer Information Act. In view of our present Federal budget restrictions, self-help efforts such as this are critical in allowing farmers to sustain and develop new markets and opportunities for soybeans and soybean products.

U.S. soybean producers face strong competitors, at home and abroad. Not ready to stand aside, American soybean farmers have sought to aggressively promote U.S. soybeans and soybean products to consumers. Additionally, soybean producers also know the importance of extensive research to become more competitive and profitable.

Foreign competitors, such as South American soybeans, Malaysian palm oil, and coconut oil from the Philippines are capturing new markets and making gains in traditional United States markets. These foreign efforts have resulted in billions of dollars of losses for American soybean producers; however, this program would give farmers a war chest of their own to address the advance of overseas producers.

I urge the rest of my colleagues to allow American soybean farmers to help themselves by giving favorable approval to H.R. 2209.

Mr. SYNAR. Mr. Speaker, today's soybean farmers are facing stiff competition from soybean growers abroad. They are trying to meet these challenges by encouraging the development of new uses for soybeans. In addition to being a nutritious source of protein, soybeans can be used to make ink. This kind of research and product development takes money. Promotion and research programs have a proven record of helping increase sales of many agricultural products as well as providing a source of funds to conduct research and educational programs. The legislation we are considering today, permits soybean growers to set up the same type of self-help promotional and research board, financed by farmers themselves, that has proven so successful for other commodities. H.R. 2209, the Soybean Promotion, Research, and Consumer Information Act will give farmers the opportunity to compete in today's global marketplace.

H.R. 2209 addresses the criticisms levied against previous checkoff programs by assuring that assessment funds will be used only for appropriate research and promotion activities. The legislation gives authority to administer the program to the independent United Soybean Board, made up of soybean farmers elected by other soybean farmers. This board will be subject to oversight by the USDA. I am confident the legislation will ensure accountability in the program and prohibit unauthorized uses of the checkoff funds.

In these tough fiscal times, it makes sense to establish this commodity checkoff program so an alternative source of funding is available to develop, finance, and carry out a nationally coordinated program for soybean promotion, research and consumer information. I urge my colleagues to support this legislation.

Mr. BEREUTER. Mr. Speaker, I rise in strong support of H.R. 2209. I want to commend the leadership and the members of the House Committee on Agriculture from both sides of the aisle for their work on this legislation. I particularly commend the committee chairman, the gentleman from Texas [Mr. DE LA GARZA] and the ranking minority member of the committee, the gentleman from Illinois [Mr. MADIGAN] for their efforts to bring this measure to the House floor. As an early cosponsor of this bill, I urge the support of my colleagues for H.R. 2209. The bill is an important piece of legislation and its passage will be very helpful to soybean producers, to consumers, and our export sector.

H.R. 2209 directs the USDA to administer a referendum by soybean producers on creating a national organization to conduct soybean promotion, research and consumer information activities. If two-thirds of the producers approve of the referendum, the United Soybean Board would be established to administer a nationwide program to expand soybean promotion and research. It would provide consumers with information about the healthy and beneficial uses of soybean products. The program is designed to expand soybean exports, enhance competitiveness, develop new or improved uses for soy products, and use trade promotion to provide market access for U.S. soybeans and soybean products.

The board and its activities would be financed by assessing soybean producers one-half of 1 percent of the net soybean market price. All soybean producers would be required to participate. However, up to 50 percent of the funds are permitted to be kept at the State level to continue the funding of existing State soybean promotion programs. Furthermore, H.R. 2209 does not preclude a State from establishing a State program in the future. As such, the bill is supported by both the American Soybean Association and the Nebraska Soybean Association.

U.S. soybean producers face strong competition at home and abroad. World demand for oilseeds is growing at 4 to 5 percent a year. Foreign competitiors, notably soybeans from South America, palm oil from Malaysia and coconut oil from the Philippines, ar making inroads in traditional United States markets. Furthermore, these foreign competitors are capturing new market growth around the world.

Aggressive research is needed to find new ways to use soybeans and achieve full commercial potential of presently known products, such as soy ink for the newspaper and magazine markets. Research is needed to reduce production costs, increase yield and develop soybean varieties which meet consumer demand. Furthermore, this program could support increased market promotion of healthful soybean products, such as soybean oil, in light of today's public interest in health and diet.

Again, I rise in strong support of H.R. 2209, and urge approval by my colleagues, so that the referendum to create a central national promotion and research program for soybeans may proceed.

Mr. ESPY. I rise in support of the Soybean Promotion, Research, and Consumer Information Act before us today. I am pleased that we have finally been given the opportunity to vote on this legislation.

In 1979, soybeans contributed 30.8 percent toward total Mississippi agricultural products. In 1988, soybeans contributed 13.0 percent toward total Mississippi agricultural products. Soybeans are a primary cash crop to farmers in my district. As the figures very clearly show, this crop has declined 27.8 percent in the past 10 years and is still declining. This decline is largely due to our inability to access foreign markets.

The SPARC bill will help us to identify and eliminate the barriers that keep us from accessing foreign markets. It will also provide the much needed funds to improve and expand our research on soybeans with the hope of developing a wider range of soybean products and uses. This would help to establish new marketing opportunities.

American soybean farmers cannot afford to continue producing under the current market situation and the American people must not be placed in a position of reliance on foreign soybean suppliers.

Mr. Speaker, I strongly support this legislation and I urge my colleagues to support is adoption.

Mr. MARLENEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 2209, as amended.

The question was taken.

Mrs. MARTIN of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2209, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

RURAL PARTNERSHIPS ACT OF 1989

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to call up the Senate bill (S. 1036) to improve the economic, community, and educational well-being of rural America, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Partnerships Act of 1989".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Table of Contents.
Sec. 3. Findings and purpose.

TITLE I—RURAL BUSINESS AND JOB CREATION

Subtitle A—Rural Partnerships Investment Board

Sec. 101. Definitions.
Sec. 102. Rural Partnerships Investment Board.
Sec. 103. Establishment of Investment Fund.
Sec. 104. Local revolving funds.
Sec. 105. Compliance and enforcement.

Subtitle B—Rural Capital Access Program

Sec. 110. Purpose.
Sec. 111. Definitions.
Sec. 112. Rural capital access.
Sec. 113. Authorization of appropriations.
Sec. 114. Allocation.
Sec. 115. Administration of the program.
Sec. 116. Operation of the program.
Sec. 117. Inactive lending institutions.
Sec. 118. Initial program incentives.

Subtitle C—Rural Economic Development Administered by the Secretary and the Rural Electrification Administration

Sec. 120. Assistant Administrator for Economic Development.
Sec. 121. Deferment of payment on economic development loans.
Sec. 122. Water and waste facility financing.
Sec. 123. Rural economic development.
Sec. 124. Promoting rural development by REA telephone borrowers.
Sec. 125. Review of programs for business incubator.

TITLE II—ENHANCING HUMAN RESOURCES

Sec. 201. Purpose.
Sec. 202. Goals.
Sec. 203. Definitions.
Sec. 204. Provisions relevant to all three telecommunications programs.
Sec. 205. Rural Star Schools Educational Opportunities Program.
Sec. 206. Rural Medical Link Telecommunications Program.
Sec. 207. Rural Business Link Telecommunications Program.

TITLE III—FOCUS ON RURAL AMERICA BY THE DEPARTMENT OF AGRICULTURE

Sec. 301. Extension Service.
Sec. 302. Rural development assistance information and availability.
Sec. 303. Report on coordination of rural development activities.
Sec. 304. Report on data processing feasibility in rural areas.

TITLE IV—RURAL BUSINESS AND EMERGENCY ASSISTANCE

Sec. 401. Local technical assistance grants.
Sec. 402. Rural emergency assistance loans.

TITLE V—NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE

Sec. 501. National rural information center clearinghouse.

TITLE VI—WATER AND SEWER ASSISTANCE

Sec. 601. Water and waste facility grants.
Sec. 602. Emergency community water assistance grant program.
Sec. 603. Sewer and water lending by banks for cooperatives.
Sec. 604. Rural wastewater treatment circuit rider grant program.
Sec. 605. Technical assistance for certain solid waste management.

TITLE VII—MISCELLANEOUS

Sec. 701. Monitoring the economic progress of rural America.
Sec. 702. Historic preservation requirements.
Sec. 703. Loan rates applicable to health care and related facilities.
Sec. 704. Assistance to communities dependent on natural resources.
Sec. 705. Assisting distressed rural hospitals and health care facilities.
Sec. 706. Rural development research assistance.
Sec. 707. Business and industrial loan program applications.
Sec. 708. Priority for rural areas in certain construction projects.
Sec. 709. Rural set-asides in Federal formula funding.
Sec. 710. Analysis by Office of Technology Assessment.
Sec. 711. Sense of the Congress concerning toll rate averaging.
Sec. 712. National Endowment for Rural Development.
Sec. 713. National Rural Development Center.
Sec. 714. Grants to broadcasting systems.
Sec. 715. Rural bus services.
Sec. 716. Economic impact statements.
Sec. 717. Information concerning Federal funding.
Sec. 718. National rural development and finance corporations.

TITLE VIII—MICROBUSINESS LOAN FUND AND MICROBUSINESS TECHNICAL ASSISTANCE FUND

Sec. 801. Short title.
Sec. 802. Findings.
Sec. 803. Purpose.
Sec. 804. Definitions.
Sec. 805. Establishment of microbusiness loan fund.
Sec. 806. Loans from the microbusiness loan fund and technical assistance grants.
Sec. 807. Disbursement of loan fund by microbusiness loan fund loan recipients.
Sec. 808. Authorization.

TITLE IX—SMALL BUSINESS RURAL REVITALIZATION

Sec. 901. Short title.

SUBTITLE A—CAPITAL FORMATION

Sec. 911. Definition of designated rural area.
Sec. 912. Capital requirements for small business investment companies operating in designated rural areas.
Sec. 913. State development companies.

SUBTITLE B—REGULATORY SIMPLIFICATION; MISCELLANEOUS AMENDMENTS

Sec. 921. Definition of small business in designated rural areas for purposes of analysis of regulatory functions.
Sec. 922. Interagency review and recommendations.

TITLE X—EFFECTIVE DATE AND IMPLEMENTATION

Sec. 1001. Effective date and implementation.

SEC. 3. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the economic well-being of rural America is vital to overall national growth and prosperity;

(2) many rural areas suffer from a lack of industrial and business diversity;

(3) rural poverty and unemployment rates are significantly higher than metropolitan rates, and rural per capita income is substantially lower than metropolitan per capita income;

(4) the lack of access to advanced telecommunications in rural areas impedes economic growth; and

(5) a more robust rural economy will make the United States more competitive in world markets.

(b) PURPOSE.—It is the purpose of this Act to promote a national rural development strategy, through procedures flexible enough to allow for regional and local differences, to promote the growth and economic diversification of rural America, to improve rural telecommunications, and to increase business, educational, and employment opportunities in rural America.

TITLE I—RURAL BUSINESS AND JOB CREATION

Subtitle A—Rural Partnerships Investment Board

SEC. 101. DEFINITIONS.

As used in this subtitle:

(1) APPROVED LOCAL BUSINESS.—The term "approved local business" means a local business that is approved to receive assistance from the revolving fund of an eligible entity as provided under the provisions of this subtitle.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A)(i) a nonprofit private corporation or a public entity that is—

(I) the governing body of each public regional organization (such as the governing body of an economic development district) that is chartered or otherwise organized under State law for the purpose of promoting economic development;

(II) the agency of each State that is primarily responsible for rural economic development programs within the State;

(III) the governing body of a county or other political subdivision of a State;

(IV) the governing body of a town or township within a State; or

(V) an incorporated public organization or a nonprofit private community development corporation, or similar nonprofit private organization, that is chartered or otherwise organized under State law for the purpose of promoting economic development; or

(ii) an Indian tribe (as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), any Indian organization or entity chartered under the Act of June 18, 1934 (25 U.S.C. 1001 et seq.), commonly known as the "Indian Reorganization Act", or any tribal organization (as defined in the section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)); and

(B) an entity described in subparagraph (A) that—

(i) possesses the powers reasonably necessary to perform the functions and activities described in this subtitle;

(ii) has a professional staff and management ability (including adequate accounting, legal, and business servicing abilities or experience); and

(iii) meets any other requirements established by the Board to carry out this subtitle.

(3) INVESTMENT BOARD.—The term "Investment Board" or "Board" means the Rural Partnerships Investment Board established in section 102(a).

(4) LOCAL BUSINESS.—The term "local business" means—

(A) a business concern, located in a rural area, that—

(i) is incorporated or otherwise organized under State law so that financial records and accounts are maintained regarding the business concern separate and apart from records and accounts not related to that business concern; and

(ii) is independently or cooperatively (not including borrowers under the Rural Electrification Act of 1936) owned and operated as defined by the Board; or

(B) an individual who plans to organize and operate an entity of the type described in subparagraph (A); and

that meets any additional requirements that are established by the Board to carry out the intent of this Act.

(5) RURAL AREA.—The term "rural area" means all territory of a State that is not within the outer boundary of any city or town, having a population of 20,000 or more based on the latest decennial census of the United States, and any neighboring urbanized area as defined by the Board.

(6) RURAL FUND.—The term "Rural Fund" or "Fund" means the Rural Business Investment Fund established under section 103(a).

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, unless otherwise specified in this Act.

(8) STATE.—The term "State" means each of the 50 States of the United States.

SEC. 102. RURAL PARTNERSHIPS INVESTMENT BOARD.

(a) ESTABLISHMENT.—There is established a "Rural Partnerships Investment Board" to provide lines of credit to eligible entities to enable such entities to establish, maintain, or expand revolving funds that are used to make or guarantee loans, or to make capital investments in new or expanding local businesses in conjunction with loans or investments made by banks (as defined in section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c))), insured savings and loan institutions (as defined in title IV of the National Housing Act, as amended (12 U.S.C. 1724 et seq.)), State owned banks whose deposits are backed by the full faith and credit of the State, or community development credit unions chartered by the National Credit Union Administration under the authority of the Federal Credit Union Act (12 U.S.C. 1751 et seq.).

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The Board of Directors of the Investment Board shall consist of—

(A) the Administrator of the Rural Electrification Administration;

(B) the Administrator of the Farmers Home Administration;

(C) the Administrator of the Extension Service of the Department of Agriculture; and

(D) two members who shall be experienced in rural development and related matters to be appointed by the President with the advice and consent of the Senate, of which each member shall be from a separate political party.

(2) CHAIRPERSON.—The Chairperson of the Board shall be elected by the members of the Board from among the Board members who are Administrators under subparagraphs (A) through (C) of paragraph (1), and shall serve for a 2-year period. Such Chairperson may serve consecutive terms.

(3) VACANCIES.—Vacancies on the Board shall be filled in the same manner as the vacant position was previously filled.

(4) CHIEF EXECUTIVE OFFICER.—A chief executive officer shall be selected by the Board and shall serve at the pleasure of the Board.

(5) QUORUM.—A quorum shall consist of three members of the Board. All decisions made by the Board shall require an affirmative vote of a majority of the members.

(6) COMPENSATION.—Members of the Board—

(A) specified under subparagraphs (A), (B), and (C) of paragraph (1) shall receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Investment Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States; and

(B) appointed under subparagraph (D) of paragraph (1) shall receive compensation for the time devoted to meetings and other activities at a daily rate not to exceed the daily rate of compensation prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Investment Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States.

(7) RULES AND RECORDS.—The Board shall adopt such rules and procedures as it may consider appropriate for the transaction of the business of the Investment Board, and shall keep permanent and accurate records and minutes of its acts and proceedings.

(c) POWERS OF THE INVESTMENT BOARD.—The Investment Board shall be a body corporate that shall have the power to—

(1) operate under the direction of its Board;

(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) provide for one or more officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

(4) hire, promote, compensate, and discharge officers and employees of the Investment Board, without regard to title 5, United States Code, except that no such officer or employee shall receive an annual rate of basic pay in excess of the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code;

(5) prescribe by its Board its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

(A) its officers, employees, and agents are selected;

(B) its property is acquired, held, and transferred;

(C) its general operations are to be conducted; and

(D) the privileges granted by law are exercised and enjoyed;

(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this subtitle;

(7) enter into contracts and make advance, progress, or other payments with respect to such contracts;

(8) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

(9) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its operations;

(10) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subtitle;

(11) make such rules and regulations as the Board determines necessary and appropriate to carry out the authority vested in the Board under this Act;

(12) procure the temporary (not in excess of 2 years) or intermittent services of experts or consultants or organizations thereof, without regard to the civil service and classification laws and without regard to section 5 of title 41, at rates not to exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, including traveltime, and while such individual is away from the home or regular place of business of such individual, travel expenses as authorized under section 5703 of title 5, United States Code; and

(13) exercise other powers as set forth in this subtitle, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this subtitle.

SEC. 103. ESTABLISHMENT OF INVESTMENT FUND.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund for the use of the Board in carrying out the provisions of this subtitle that shall be known as the "Rural Business Investment Fund".

(2) AVAILABILITY.—The Fund established under paragraph (1) shall be available to the Board to provide lines of credit for revolving funds to be operated by approved eligible entities to serve local businesses in rural areas.

(b) USE.—

(1) LINES OF CREDIT.—Amounts contained in the fund established under subsection (a) shall be used by the Board to provide lines of credit in amounts determined appropriate by the Board, but in no event shall any such line of credit exceed $750,000 annually (up to a total amount of $2,250,000) to an approved eligible entity. Each line of credit shall be made available over a period of time established by the Board for each such entity, but in no event shall any such period of time extend beyond the date on which the Investment Board is terminated under section 104(n).

(2) EXCEPTION.—Notwithstanding paragraph (1), if the approved eligible entity is the agency of any State that is primarily responsible for the rural economic development programs within such State, the Board may provide a line of credit to such agency in an amount that shall not exceed $1,250,000 annually (up to a total amount of $3,750,000) in the manner described in paragraph (1).

(3) AMOUNTS DRAWN FROM LINE.—Amounts drawn from each line of credit by each approved eligible entity shall be used solely as provided under this subtitle and shall be drawn only as needed to provide loans, investments, or to carry out a guarantee.

(c) APPLICATIONS OF ELIGIBLE ENTITIES FOR LINES OF CREDIT.—

(1) FEDERAL REGISTER NOTICES.—The Board shall publish notices of solicitations for applications for lines of credit in the Federal Register and such notices shall contain—

(A) the application procedures established by the Board;

(B) the application requirements of paragraph (3);

(C) the deadlines for submission of applications (which in no event shall be less than 150 days after the publication of the applicable notice);

(D) a copy of all available response forms;

(E) a summary of the functions of the Board regarding applications; and

(F) other information determined appropriate by the Board.

(2) SUBMISSION AND CONSIDERATION.—An eligible entity that desires to receive a line of credit under this subtitle shall submit an application to the Board at such time, in such form, and containing such information and documentation, including a description of the areas to be served, as the Board shall prescribe under paragraph (1), and the Board shall consider each such application based on the requirements of this subtitle.

(3) ELIGIBLE ENTITY.—

(A) MATCHING FUNDS OR LETTERS OF INTENT.—In order for an application to be considered for approval by the Board for a line of credit, each eligible entity that submits an application shall—

(i) certify in writing that it shall use such funds as part of a revolving fund to invest in, and make or guarantee loans to, local businesses in accordance with this subtitle; and

(ii)(I) agree to provide matching funds (Federal funds shall not be used to satisfy such matching requirement) in amounts that are at least equal to the amount of the line of credit to be provided by the Board, that shall be in the form of—

(aa) cash or cash equivalents; or

(bb) letters of credit in favor of the eligible entity issued or submitted by banks, savings and loan associations, insurance companies, similar Federally regulated financial institutions, State owned banks, local or State government or private philanthrophic foundations, as determined appropriate and acceptable by the Board; or

(II) demonstrate, through procedures determined appropriate and acceptable by the Board, that banks, savings and loan associations, or community development credit unions, as defined in section 102(a), are prepared to participate with the eligible entity in a lending, guarantee, or investment program for the benefit of local businesses, and that the total financial commitment demonstrated by the letters of intent or other documents is at least equal to the value of the line of credit for which the eligible entity is applying.

(B) EXCEPTION FOR CERTAIN ELIGIBLE ENTITIES.—

(i) LOW PER CAPITA INCOME AREAS.—If the average per capita income level of the identified rural areas served by an eligible entity is less than 70 percent of the national average per capita income for the most recent year for which such information is available, each such eligible entity shall only be required to match 50 percent of the funds provided by the Board in the same manner as described in paragraph (3)(A)(ii) (I) or (II). A list of the average per capita income and population of each county in the United States that contains rural areas, and the national average per capita income for such year, shall be published in the Federal Register and otherwise made available by the Board to the public.

(ii) INDIAN TRIBAL COUNCIL PARTICIPATION.—

(I) IN GENERAL.—Community or tribal development corporations operated by Federally recognized tribal councils that desire to administer a local revolving fund may participate in the program established under this subtitle if such corporations meet the rules and procedures established under this subtitle, that are determined by the Board to be pertinent.

(II) ESTABLISHMENT OF SPECIAL RULES AND PROCEDURES.—

(aa) IN GENERAL.—Not later than 220 days after the date of enactment of this Act, the Board shall establish rules and procedures to enable such community or tribal development corporations serving rural areas located on Federally recognized reservations (including former reservations in Oklahoma) to participate in the program established under this subtitle through the operation of revolving funds used for investing in, and making or guaranteeing loans to, new or expanding local businesses.

(bb) CONTENTS.—Rules and procedures established under item (aa) shall be established to ensure that development corporations that receive Federal lines of credit under this subtitle serve needy reservation areas, including areas that have low per capita income, high unemployment, high poverty rates, depressed or lagging local economies, and other factors determined appropriate by the Board.

(III) MATCHING REQUIREMENTS.—The requirements of subsection (c)(3) and section 104(d) concerning the provision of matching funds and the requirement of partnerships for loans, and any related matching requirements, shall not apply to the development corporations receiving assistance under this clause.

(4) REAPPLICATION FOR LINES OF CREDIT.—

(A) IN GENERAL.—An eligible entity that has received a line of credit under this section may reapply in subsequent years for additional lines of credit if the Board makes a determination that—

(i) the applicant has demonstrated that the funds previously allocated under such line of credit have been substantially obligated and that additional demand for lending, investment, or guaranteed funding exists in the service area of the applicant;

(ii) the applicant will meet the matching requirements under subsection (c)(3); and

(iii) the applicant has administered the revolving fund consistent with this subtitle and has the capacity to administer additional funds in the same manner.

(B) PRIORITY.—Eligible entities qualified to receive an initial line of credit or that will serve a service area not served by another entity shall receive priority over any applicant seeking a second or subsequent line of credit.

(5) MONITORING COMPLIANCE.—The Board shall establish procedures to monitor the compliance of each eligible entity participating in the program authorized by this subtitle with the requirements of this subtitle.

(6) ELIGIBLE ENTITY REVOLVING FUND REQUIREMENT.—To be eligible to receive a line of credit from the Rural Fund, the applicant eligible entity shall—

(A) demonstrate its ability or potential capacity to make sound business, lending, and investment decisions and to provide business counseling and technical assistance;

(B) demonstrate its ability to operate consistent with the requirements of this subtitle and to increase the availability of credit in rural areas to promote the creation or expansion of viable businesses in rural areas;

(C) identify the proposed service area and define a strategy for serving that area that should describe such characteristics as similar industrial, labor, or other markets, similar geographic or socioeconomic conditions, or other related considerations, and, to the extent that such area includes any towns or townships, such towns or townships shall be served in their entirety;

(D) provide an assurance that its service area will consist of—

(i) any or all rural areas within a county where the median household income of each such county is less than the Statewide nonmetropolitan median household income; or

(ii) identified rural areas within a county, in which the median household income of each such county is equal to or greater than the Statewide nonmetropolitan median household income, if the median household income of each rural city, town or township to be served, and each separate contiguous rural area to be served, is less than the Statewide nonmetropolitan median household income or identified rural areas within a State in which the average per capita income is less than 70 percent of the nationwide per capita income; or

(iii) any county where the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce; and

(E) provide a notification that an application has been filed with the Board to each county or other local unit of government having jurisdiction over some or all of the proposed service area under procedures developed by the Board.

(7) FACTORS IN APPROVAL OF APPLICATIONS.—In determining which applications to approve, and the maximum amount of funds to be offered in each line of credit, the Board shall grant a preference to eligible entities—

(A) that have experience in serving local credit or equity needs and in making sound business and investment decisions, or that have the ability to serve such needs and make such decisions;

(B) whose boards of directors, or governing bodies if no such board exists, are composed of a cross-section of individuals (such as individuals with business, community development or regional development backgrounds, or individuals who are State, local or county government officials, or individuals involved in banking, financial, or other investment activities);

(C) that are likely to stimulate significant job creation or retention and new business creation or business expansion per dollar of funds provided under this section;

(D) that submit applications that demonstrate the ability and willingness to provide continuing technical and management assistance, training, financial and business guidance, and planning, to local businesses;

(E) that demonstrate that the activities of the eligible entity are consistent with State, county or local goals, whichever is applicable, regarding long-term economic growth and community development;

(F) that submit applications containing a comprehensive investment strategy, developed in consultation with the applicable State, regional council or government, and county or other general purpose unit of local government; and

(G) that propose to serve a service area—

(i) whose unemployment or poverty rates exceed the Statewide nonmetropolitan average;

(ii) with special needs arising from actual or threatened severe unemployment arising from economic dislocation; or

(iii) that includes any county in which the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce.

(8) GEOGRAPHIC SPREAD.—

(A) IN GENERAL.—In awarding lines of credit under this section the Board shall attempt, as much as reasonably practicable and consistent with sound financial judgment, to assure that all rural regions of the United States benefit from such awards.

(B) MINIMUM AMOUNT OF FUNDS.—After considering the availability of qualified applications, and if consistent with good investment practices and the other requirements of this subtitle, the Board shall approve the application of at least one eligible entity in each of at least 45 States. The Board shall, to the maximum extent practicable and appropriate, ensure that eligible entities that are approved by the Board in any given State receive at least $750,000 (per State) out of the funds provided under subsection (d). In addition, to the maximum extent practicable the Board shall approve the applications of at least two eligible entities in each State containing an approved eligible entity.

(C) MAXIMUM AMOUNT OF FUNDS.—The total amount of funds provided under this subtitle to eligible entities in any State shall not exceed $10,000,000.

(D) SPECIAL PROGRAM.—

(i) IN GENERAL.—The Board shall issue regulations to establish a program that targets the benefits of the Federal lines of credit provided under this section to those rural areas and residents with special needs.

(ii) LIMITS.—If consistent with sound investment practices, not less than 5 percent, nor more than 15 percent, of the funds appropriated under subsection (d) shall be issued to eligible entities that will serve—

(I) local businesses located in very distressed rural areas, as defined by the Board, that may include areas with special needs arising from actual or threatened severe unemployment which results from economic dislocation; and

(II) local businesses that provide beneficial services to rural residents such as improved medical, hospital, or health care, licensed day care facilities or centers, improved services for the handicapped, the disabled, the elderly or other needy individuals, improved educational opportunities, improved public transportation services for needy individuals, or other related services as determined appropriate by the Board.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 in fiscal year 1990, $86,000,000 in fiscal year 1991, $67,000,000 in fiscal year 1992, and $47,000,000 in fiscal year 1993 to be made available to the Rural Fund and the Board for the purpose of carrying out this subtitle. Amounts appropriated under this subsection shall remain available until expended or until the Board is terminated.

(e) RELOCATION AND REFINANCING.—The Board shall establish rules and procedures to prohibit eligible entities from using the assistance received under this subtitle for loans and investments, or for issuing guarantees, that would—

(1) facilitate the relocation of a local business from one community to another;

(2) refinance the existing debt of a local business, except that such refinancing may be undertaken with such assistance if it is undertaken in conjunction with a substantial expansion effort by the local business; or

(3) significantly reduce the viability of an existing business engaged in substantially the same business activities in the same community.

SEC. 104. LOCAL REVOLVING FUNDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Each eligible entity approved by the Board to participate in the program established under this subtitle shall establish a local revolving fund account in which to deposit—

(A)(i) amounts received from the Fund under this subtitle;

(ii) any local matching funds described under section 103(c)(3)(A); and

(iii) any profits or income, repayments of loans, proceeds from the sale of equity investments, or other gains or returns on investments or loans, derived from the activities of the revolving fund established under this subsection; less

(B) reasonable operating expenses or losses incurred in administering such fund.

(2) PLACE OF ESTABLISHMENT.—Each local revolving fund established under this subsection may be established in one or more member banks of the Federal Reserve System, any Federally insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), or any State owned bank whose deposits are backed by the full faith and credit of the State, and the funds, except as used as authorized in subsection (b), shall be held in cash and receive interest or be invested in direct obligations of the United States or in obligations guaranteed by the United States or an agency thereof.

(b) USE OF FUND.—Amounts in a local revolving fund may be used—

(1) to provide loans or equity capital, or loan guarantees, to approved local businesses as authorized in this subtitle, under procedures established by the Board;

(2) to cover the costs of providing training, business or financial planning, or management or technical assistance to approved local businesses in amounts that do not exceed amounts or levels described in standards established by the Board;

(3) if financial investments are made in the eligible entity in accordance with section 103(c)(3)(A)(ii)(I) (aa) or (bb), to provide for a return of capital to non-Federal investors in the revolving fund, except that if such revolving fund experiences capital or other losses the share of returned capital under this paragraph shall be proportionately, or otherwise appropriately reduced to reflect such losses, under procedures established by the Board; or

(4) to cover reasonable operating or capital expenses, losses, or for other charges as prescribed in rules or standards established by the Board.

(c) DECISIONS CONCERNING FUNDING.—Eligible entities that receive a line of credit under section 103 shall make case-by-case determinations concerning applications submitted by each local business for loans, equity capital or loan guarantees, under general procedures and requirements established by the Board.

(d) REQUIREMENT OF PARTNERSHIPS FOR LOANS OR INVESTMENTS.—Funds in each local revolving fund shall be loaned, invested, or used to provide a guarantee, only if one or more banks, savings and loan institutions, or community development credit unions, under procedures established by the Board, match each investment or loan made by each such revolving fund to each such local business, on at least a dollar-for-dollar basis, or provide the funds for the loans that are guaranteed by such local revolving fund.

(e) INVESTMENT SIZE LIMITS.—

(1) IN GENERAL.—

(A) AMOUNT PER LOCAL BUSINESS.—The amount of Federal funds provided from any revolving fund for use in making loans or investments, or available regarding each guarantee, shall not exceed $250,000 in any given calendar year, to any single approved local business or to other local businesses that are financially connected or otherwise related to such local business as defined by the Board.

(B) OTHER SOURCES.—The provisions of this subtitle shall not limit the total amount of loans, investments, or guarantees from sources other than eligible entities that each local business may receive.

(C) PROCEDURES.—In implementing this paragraph the Board shall develop procedures to establish, impute, or determine the amount of Federal funds that shall be considered available in the revolving funds created by approved eligible entities.

(2) INELIGIBILITY.—Any local business that employs 100 or more employees shall not be eligible to receive assistance from a local revolving fund that receives assistance under this subtitle.

(f) SUBORDINATED INTEREST OF LOCAL REVOLVING FUND.—If a bank, savings and loan

association, or a community development credit union has made an investment or loan in a local business in conjunction with an investment or loan made out of the revolving fund of an approved eligible entity, the amount invested or loaned by such revolving fund in such local business may be subordinated, to any degree, and in any manner.

(g) OTHER INVESTORS.—A bank, savings and loan association, community development credit union, similar Federally regulated financial institution, State owned bank, local or State government, private philanthrophic foundation, or other entity that contributes capital to an eligible entity that receives Federal assistance under this subtitle may establish contractual arrangements with such eligible entity concerning the return of such investments in the local revolving fund consistent with subsection (b)(3).

(h) ADDITIONAL CAPITAL.—The Board shall promulgate regulations that provide each participating eligible entity with a sufficient amount of time to obtain additional capital, lines of credit, or letters of intent, if any investor, pursuant to the contract with the eligible entity under subsection (g), withdraw some or all of its investment.

(i) CONTINUATION OF LINE OF CREDIT.—A line of credit provided to an approved eligible entity under section 103 for use in a local revolving fund shall continue to be available to be drawn upon until the Investment Board is terminated or until the line of credit is canceled, revoked, or suspended by the Board or the Secretary as described in section 105 or subsection (l).

(j) CONTINUATION OF BUSINESS PROMOTION ACTIVITIES.—The Federal assistance provided to each eligible entity under this subtitle shall become the property of each such entity on the termination of the Investment Board if—

(1) the eligible entity that administers the local revolving fund has operated the fund in a manner that is consistent with this subtitle as determined by the Board; and

(2) the eligible entity contracts with the Secretary to continue to provide lending, investment, and guarantee assistance consistent with this subtitle.

(k) DEVELOPMENT OF MONITORING PROCEDURES.—On the date on which the Investment Board is terminated, the Secretary shall act in place of the Board and shall monitor the operations of eligible entities that receive Federal assistance under this subtitle which continue to exist on the date the Board is terminated.

(l) REFUND OF FUNDS.—Notwithstanding subsection (j), and in addition to any actions taken under section 105, if the Secretary finds that the purpose of any eligible entity is no longer to promote business development in a manner consistent with this subtitle, the Secretary shall revoke the approval of the eligible entity, obtain a refund in an amount equal to the amount of funds drawn out of the Federal line of credit issued to the eligible entity together with an appropriate amount of interest on such amount, as determined by the Secretary, and succeed to, or acquire the rights, privileges, assets, investment and payments due from such eligible entity as described in section 105(h).

(m) ANNUAL REPORTS TO THE BOARD.—

(1) IN GENERAL.—Each eligible entity that receives assistance under this subtitle shall annually prepare and submit to the Board, at such time, and in such form as the Board may require, a report describing the financial condition of the eligible entity, and the investments, cash revenues, income from investments, loans made, equity positions taken, guarantees issued, losses sustained or taken, any training, business, or technical assistance, or financial planning provided, operating expenses, loss rates, and such other matters as the Board determines appropriate concerning the eligible entity.

(2) POST TERMINATION.—After the Board terminates under subsection (n), the reports required under paragraph (1) shall be submitted to the Secretary who shall stand in the same position as the Board.

(n) TERMINATION OF BOARD.—The Investment Board established by section 102(a) shall terminate on the last day of the 5th calendar year following the date of enactment of this subtitle and the Secretary shall act in place of such Board.

SEC. 105. COMPLIANCE AND ENFORCEMENT.

(a) REVOCATION OR CANCELLATION OF LINE OF CREDIT AND REFUND.—

(1) GROUNDS FOR REVOCATION.—A line of credit shall be revoked or suspended by the Board, and a full or partial refund of the Federal investment, together with an appropriate amount of interest, shall be requested by the Board—

(A) for false statements knowingly made in any written statement required under this subtitle, or under any regulation or Federal Register notice issued under this subtitle;

(B) if any written statement required under this subtitle, or under any regulation or Federal Register notice issued under this subtitle, fails to state a material fact necessary in order to make the statement not misleading in the light of the circumstances under which the statement was made;

(C) for willful or repeated violation of, or willful or repeated failure to observe, any provision of this subtitle;

(D) for willful or repeated violation of, or willful or repeated failure to observe, any rule or regulation authorized under this subtitle; or

(E) for violation of, or failure to observe, any cease and desist order issued by the Board under this subsection.

(2) CANCELLATION OF LINE OF CREDIT.—Notwithstanding any actions taken under paragraph (1), the Board may cancel any prospective payments to be made from any approved line of credit under this subtitle if the Board determines that the eligible entity participating in the program established under this subtitle made investments or acted in a manner that was inconsistent with the provision of this subtitle.

(3) CEASE AND DESIST ORDERS.—Where an eligible entity has not complied with any provision of this subtitle, or of any regulation issued pursuant thereto, or is engaging or is about to engage in any acts or practices that constitute or will constitute a violation of such subtitle or regulation, the Board may order such entity to cease and desist from such action or failure to act. The Board may further order such entity to take such action or to refrain from such action as the Board determines necessary to ensure compliance with this subtitle and the regulations issued thereunder.

(4) ORDER TO SHOW CAUSE, CONTENTS, AND HEARING.—

(A) ORDER.—Prior to revoking or suspending a line of credit under paragraph (1) or (2), or issuing a cease and desist order under paragraph (3), the Board shall serve on the eligible entity an order to show cause why an order revoking or suspending the line of credit or a cease and desist order should not be issued.

(B) CONTENTS.—An order to show cause under subparagraph (A) shall contain a statement of the matters of fact and law asserted by the Board and the legal authority and jurisdiction under which a hearing is to be held, and shall state that a hearing will be held before the Board at a time and place stated in the order.

(C) HEARING.—If after a hearing under subparagraph (B), or a waiver thereof, the Board determines on the record that an order revoking or suspending the line of credit, or a cease and desist order should be issued, or an order requiring a refund of the Federal investment in addition to reasonable interest thereon should issue, the Board shall promptly issue such order, which shall include a statement of the findings of the Administration and the reasons for such findings and specify the effective date of the order, and shall cause the order to be served on the entity.

(5) SUBPOENA OF PERSONS, BOOKS, PAPERS, AND DOCUMENTS; FEES AND MILEAGE; ENFORCEMENT.—

(A) SUBPOENA.—The Board may require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to the hearing from any place in the United States.

(B) FEES AND MILEAGE.—Witnesses summoned before the Board shall be paid by the party at whose instance such witnesses were called the same fees and mileage that are paid witnesses in the courts of the United States.

(C) ENFORCEMENT.—In the case of disobedience to a subpoena under this paragraph, the Board, or any party to a proceeding before the Board, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents.

(6) PETITION TO MODIFY OR SET ASIDE ORDER; FILING, TIME AND PLACE, ADMINISTRATION TO SUBMIT RECORD; ACTION OF COURT; REVIEW.—

(A) IN GENERAL.—An order issued by the Board under this subsection shall be final and conclusive unless not later than 30 days after the service thereof the eligible entity appeals to the United States court of appeals for the circuit in which such corporation has its principal place of business by filing with the clerk of such court a petition praying that the order of the Board be set aside or modified in the manner stated in the petition.

(B) FILING.—

(i) LEAVE OF COURT.—After the expiration of the 30-day period referred to in subparagraph (A), a petition may be filed only by leave of court on a showing of reasonable grounds for failure to file the petition prior to the expiration of such period.

(ii) CERTIFICATION.—The clerk of the court shall, on filing, cause a copy of the petition to be delivered to the Board and the Board shall certify and file in the court a transcript of the record on which the order was entered. If prior to the filing of such record the Board amends or sets aside its order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, after providing notice to the Board.

(C) STAY OR SUSPENSION OF ORDER.—The filing of a petition for review under this paragraph shall not of itself stay or suspend the operation of the order of the Board, but the court of appeals in its discretion may re-

strain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition.

(D) ACTION BY COURT.—The court may affirm, modify, or set aside the order of the Board.

(E) ADDITIONAL EVIDENCE.—

(i) DETERMINATION.—If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the Board to reopen the hearing for the taking of such evidence, in such manner and on such terms and conditions as the court may consider appropriate.

(ii) FINDINGS.—The Board may modify its findings as to the facts, or make new findings, by reason of the additional evidence taken under this subparagraph, and it shall file its modified or new findings and the amendments, if any, of its order, with the records of such additional evidence.

(F) CONSIDERATION OF OBJECTIONS.—No objection to an order of the Board shall be considered by the court unless the objection was argued before the Board or, if it was not so argued, unless there were reasonable grounds for failure to do so.

(G) REVIEW.—The judgment and decree of the court affirming, modifying, or setting aside any such order of the Board shall be subject only to review by the Supreme Court of the United States on certification or certiorari as provided in section 1254 of title 28.

(7) ENFORCEMENT OF ORDER.—If the entity against which or against whom an order is issued under this subsection fails to obey the order, the Board may apply to the United States Court of appeals, within the circuit where the entity has its principal place of business, for the enforcement of the order, and shall file a transcript of the record on which the order complained of was entered. On the filing of the application the court shall cause notice thereof to be served on the entity. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as is provided in paragraph (6) for applications to set aside or modify orders.

(b) INVESTIGATIONS AND EXAMINATIONS.—

(1) AUTHORITY.—

(A) IN GENERAL.—The Board may conduct such investigations as the Board considers necessary to determine whether an eligible entity has engaged in any acts or practices that constitute or will constitute a violation of any provision of this subtitle, or of any regulation issued under this subtitle, or of any order issued under this section.

(B) FILING OF STATEMENTS.—The Board shall permit any individual to file a statement with the Board that is in writing, under oath or otherwise as the Board shall determine, as to all the facts and circumstances concerning the matter to be investigated.

(C) SUBPOENA.—For the purpose of any investigation under this subsection, the Board may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(D) REFUSAL TO OBEY.—In case of contumacy by, or refusal to obey a subpoena issued to, any individual, including an entity or corporation, the Board may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such individual resides or carries on business activity, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents, and such court may issue an order requiring such individual to appear before the Board, to produce records, if so ordered, or to give testimony touching the matter under investigation.

(E) CONTEMPT.—A failure to obey an order of the court under this subsection shall be punishable by such court as a contempt thereof. All process in any such case may be served in the judicial district where such individual is an inhabitant or wherever such individual may be found.

(2) EXAMINATIONS AND REPORTS.—

(A) EXAMINATIONS.—An eligible entity under this subtitle shall be subject to examinations made by the Board through examiners selected or approved by the Board, and the cost of such examinations, including the compensation of the examiners, may in the discretion of the Board be assessed against the entity examined and when so assessed shall be paid by such entity.

(B) REPORTS.—Such entities shall prepare and submit reports to the Board at such times and in such form as the Board may require.

(3) EXAMINATIONS.—Each eligible entity shall be examined and audited at least once every 2 years, under procedures established by the Board, to determine whether or not such entity has been operated in a manner consistent with this subtitle and in an otherwise lawful manner, except that the Board may waive the examination requirement for up to 1 additional year if, in its discretion, the Board determines that such a delay would be appropriate based on the prior operating experience of the entity, the contents and results of the last examination and the management expertise of the entity.

(c) INJUNCTIONS OR OTHER ORDERS.—

(1) GROUNDS AND JURISDICTION OF COURT.—Whenever, in the judgment of the Board an eligible entity has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of any provision of this subtitle, or of any regulation under this subtitle, or of any order issued under this section, the Board may apply to the proper district court of the United States or a United States court located in any jurisdiction subject to the laws of the United States, for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, rule, regulation, or order. Such court shall have jurisdiction over such actions and, on a showing by the Board that such entity has engaged in or is about to engage in such acts or practices, may issue a permanent or temporary injunction, restraining order, or other order without bond.

(2) EQUITY JURISDICTION OF CORPORATION AND ASSETS.—In any proceeding under this section the court as a court of equity may, to such extent as it considers necessary, declare that such court has exclusive jurisdiction over the entity and the assets thereof, wherever located. Such court shall have jurisdiction in any such proceeding to appoint a trustee or receiver to hold or administer under the direction of the court the assets so possessed.

(3) TRUSTEESHIP OR RECEIVERSHIP.—The Board shall have authority to act as trustee or receiver of an entity under this section. On request by the Board, the court may appoint the Board to act in such capacity unless the court determines such appointment to be inequitable or otherwise inappropriate because of the special circumstances involved.

(d) UNLAWFUL ACTS AND OMISSIONS BY OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS.—

(1) VIOLATION OF SUBTITLE.—Wherever an eligible entity violates any provision of this subtitle or regulation issued under such subtitle by reason of the failure of such entity to comply with the terms thereof, or by reason of such entity engaging in any act or practice that constitutes or will constitute a violation thereof, such violation shall be considered to be a violation and an unlawful act on the part of any individual who, directly or indirectly, authorizes, orders, participates in, or causes, brings about, counsels, aids, or abets in the commission of any acts, practices, or transactions that constitute or will constitute, in whole or in part, such violation.

(2) BREACH OF FIDUCIARY DUTY.—It shall be unlawful for any officer, director, employee, agent, or other participant in the management or conduct of the affairs of an eligible entity to engage in any act or practice, or to omit any act, in breach the fiduciary duty of such individual or such officer, director, employee, agent, or participant, if, as a result thereof, the entity has suffered or is in imminent danger of suffering financial loss or other damage.

(3) DISQUALIFICATION OF OFFICERS AND EMPLOYEES.—Except on the written consent of the Board, it shall be unlawful—

(A) for any individual to take office as an officer, director, or employee of an eligible entity, or to become an agent or participate in the conduct of the affairs or management of an eligible entity, if—

(i) such individual has been convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

(ii) such individual has been found civilly liable in damages, or has been permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust; or

(B) for any individual to continue to serve in any of the above-described capacities, if—

(i) such individual is convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

(ii) such individual is found civilly liable in damages, or is permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust.

(e) PENALTIES AND FORFEITURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), an eligible entity that violates any regulation or written directive issued by the Board requiring the filing of any regular or special report under this subtitle, shall forfeit and pay to the United States a civil penalty of not more than $100 for each and every day of the continuance of the corporation's failure to file such report, unless the entity demonstrates that such failure is due to reasonable cause and not due to willful neglect. The civil penalties provided for in this subsection shall accrue to the United States and may be recovered in a civil action brought by the Board.

(2) EXEMPTION.—The Board may through rules and regulations, or on application of an interested party, at any time previous to a failure under paragraph (1), by order, after notice and opportunity for hearing, exempt in whole or in part, any entity from the provisions of paragraph (1), on such

terms and conditions and for such period of time as the Board determines necessary and appropriate, if the Board finds that such action is not inconsistent with the public interest or the protection of the Board. The Board may for purposes of this subsection make any alternative requirements appropriate to the situation.

(f) JURISDICTION AND SERVICE OF PROCESS.—Any suit or action brought under this section by the Board to enforce any liability or duty created by, or to enjoin any violation of, this subtitle, or any rule, regulation, or order promulgated thereunder, shall be brought in the district wherein the eligible entity maintains its principal office, and process in such cases may be served in any district in which the defendant maintains its principal office or transacts business, or wherever the defendant may be found.

(g) SUBSTITUTION OF SECRETARY.—On the termination of the Board, the Secretary shall stand in place of the Board and shall possess all the powers, privileges and rights regarding compliance and enforcement described in this section and in section 104.

(h) REVOCATION, SUSPENSION, OR TERMINATION.—If the approval of an of any eligible entity to participate in this program is revoked, suspended, or terminated, or if the activities of the eligible entity otherwise end, the Board, or the Secretary, upon the termination of the Board, shall—

(1) possess all the rights and privileges of such eligible entity;

(2) succeed to the assets of such eligible entity to the extent necessary to obtain a refund of any amounts due to the Board, or the Secretary;

(3) be entitled to receive any payments due to such eligible entity from any local businesses on any outstanding loans; and

(4) take over any equity investment held by such eligible entity.

Subtitle B—Rural Capital Access Program

SEC. 110. PURPOSE.

It is the purpose of this subtitle to create a Rural Capital Access Program within the Department of Agriculture to encourage lending institutions to provide loans to certain businesses in rural areas.

SEC. 111. DEFINITIONS.

As used in this subtitle:

(1) FUND.—The term "Fund" means the Rural Capital Access Fund established under section 112(b).

(2) PROGRAM.—The term "Program" means the Rural Capital Access Program established under section 112(a).

(3) RURAL AREA.—The term "rural area" means all territory of a State that is not within the outer boundary of any city or town, or neighboring urbanized area as defined by the Board, having a population of 20,000 or more based on the latest decennial census of the United States.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(5) STATE.—The term "State" means each of the 50 States of the United States.

SEC. 112. RURAL CAPITAL ACCESS.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to be known as the "Rural Capital Access Program" through which the Secretary shall provide incentives to lending institutions to encourage such institutions to provide new loans to certain businesses in rural areas.

(b) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—The Secretary shall establish and maintain a fund to be known as the "Rural Capital Access Fund" that shall serve as a reserve account to protect lending institutions that participate in the Program from losses associated with certain loans.

(2) AMOUNTS IN FUND.—The Fund established under paragraph (1) shall contain amounts received under this Act from the Federal Government, participating lending institutions, and eligible borrowers. The amounts obligated to the Fund shall remain in the Fund until expended.

SEC. 113. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this subtitle there are authorized to be appropriated $15,000,000 in fiscal year 1990, $20,000,000 in fiscal year 1991, $30,000,000 in fiscal year 1992, $40,000,000 in fiscal year 1993, and $60,000,000 in fiscal year 1994.

(b) AMOUNTS NOT TO REMAIN AVAILABLE.—The amounts appropriated during each fiscal year pursuant to paragraph (1), that are not obligated to the Fund during such fiscal year, shall not remain available for use under the Program after the fiscal year for which such sums are appropriated.

(c) ADMINISTRATIVE EXPENSES.—No funds appropriated under this subtitle shall be used for the administrative expenses of State agencies or institutions participating in the Program.

SEC. 114. ALLOCATION.

(a) IN GENERAL.—Of the amounts appropriated under section 113, the Secretary shall allocate to each State at the beginning of each fiscal year an amount for use under the Program equal to an amount that bears the same ratio to the total amount of such appropriation as the number of individuals residing in rural areas in such State bears to the number of individuals residing in rural areas in all States.

(b) REALLOCATION.—Any portion of the allocation under subsection (a) for use within a State during a fiscal year that the Secretary determines is not obligated to the Fund by June 1 of such fiscal year shall be released by the Secretary for obligation under the Program in connection with loans made in any other State.

SEC. 115. ADMINISTRATION OF THE PROGRAM.

(a) NOTIFICATION AND APPLICATION.—

(1) IN GENERAL.—A State that desires to participate in the Program shall notify the Secretary in writing of its intent to participate, and shall provide such information as the Secretary shall require, including a designation of the State agency or private institution that shall administer the Program within the State.

(2) PRIVATE INSTITUTION.—If a State fails to—

(A) submit a notification to the Secretary within 6 months after the date of enactment of this Act; or

(B) designate a State agency or private institution to administer the Program;

a private institution within such State may apply to the Secretary to participate in the Program on behalf of such State. Within a reasonable period of time following the receipt of such application, the Secretary shall approve such institution for participation in the Program unless good cause exists to reject such application. If more than one such application is received from institutions within the State, the Secretary shall select from among the applicants one institution to participate in the Program.

(3) DUTIES.—The participating State agency or private institution shall—

(A) promote the Program within the State;

(B) recruit lending institutions within the State to participate in the Program;

(C) enter into agreements with participating lending institutions that outline the rights and obligations of such institutions;

(D) encourage participating lending institutions to use the Program to expand the funding activity of such institutions in rural areas and avoid displacing commercial loans that could otherwise be made without the incentives provided under the Program; and

(E) maintain such books and records of its activities under the Program, as specified by the Secretary and grant the Secretary reasonable access to such books and records.

(b) ELIGIBLE LENDING INSTITUTIONS, BORROWERS, AND LOANS.—

(1) ELIGIBLE LENDING INSTITUTIONS.—To be eligible to participate in the Program, a lending institution must be legally able to make loans within rural areas in the State.

(2) ELIGIBLE BORROWERS.—An eligible borrower must be a corporation, partnership, joint venture, sole proprietorship, retail business, cooperative, individual, or any other entity, whether profit or nonprofit, that conducts or is planning to conduct business in a rural area of a State.

(3) ELIGIBLE LOAN.—To be eligible for protection under this subtitle a loan made by an eligible lending institution shall—

(A) be made to an eligible borrower;

(B) be used by the borrower for economic activity that is located in a rural area;

(C) not be used for the construction or purchase of residential property;

(D) not be used to finance any real estate purchase primarily for investment purposes, without developing or improving such real estate, or without intending to use such real estate in connection with the business of the borrower;

(E) not be an existing loan of the lending institution (or an affiliate of such institution) that is not in the Program unless the institution increases the outstanding balance of such loan and places the refinanced loan into the Program only to the extent that the principal of such loan is increased;

(F) not be made to a director, officer, or principal shareholder of the lender or a member of the immediate family of a director, officer, or principal shareholder of the lender; and

(G) not exceed $3,000,000.

SEC. 116. OPERATION OF THE PROGRAM.

(a) LOAN PROCESS.—A lending institution that enters into an agreement with the administering agency or institution may make loans to eligible borrowers and such loans shall be protected by the subaccounts contained in the Fund.

(b) CREATION OF SUBACCOUNTS.—

(1) IN GENERAL.—A subaccount shall be created in the Fund for each lending institution that enters into an agreement with the administering agency or institution that shall contain amounts derived from contributions made by the lending institution, the borrower, and the Federal Government.

(2) CONTRIBUTIONS.—

(A) MINIMUM.—The minimum contributions in connection with any eligible loan to the subaccount of a lending institution under this subsection shall be—

(i) an amount equal to not less than 1.5 percent of the amount of the loan to be paid by the borrower;

(ii) an amount equal to the amount contributed under clause (i) to be paid by the lending institution; and

(iii) an amount equal to the amounts paid under clauses (i) and (ii) to be paid by the Secretary.

(B) MAXIMUM.—The maximum contributions in connection with any eligible loan to the subaccount of a lending institution under this subsection shall be—

(i) an amount equal to not greater than 3.5 percent of the amount of the loan to be paid by the borrower;

(ii) an amount equal to the amount contributed under clause (i) to be paid by the lending institution; and

(iii) an amount equal to the amounts paid under clauses (i) and (ii) to be paid by the Secretary.

(C) DETERMINATION.—The amount of the contribution to be made by a borrower in connection with any eligible loan made under the Program shall be established through an agreement between the lender and the borrower.

(3) INTEREST.—The subaccount of each lending institution shall earn interest at a rate equal to the current average market yield on outstanding marketable obligations of the United States.

(4) WITHDRAWAL.—A lending institution shall only be permitted to withdraw funds from the subaccount of such institution to reimburse such institution for losses suffered on eligible loans made under the Program.

(c) PROCEDURE.—

(1) NOTIFICATION.—After entering into an agreement with the administering agency or institution to participate in the Program, a lending institution shall notify such agency or institution before concluding a loan agreement to provide an eligible loan to any eligible borrower to ensure that the Secretary has sufficient funds available for use in such State to pay the contribution required of the Secretary under subsection (b)(2).

(2) TIME FOR PAYMENTS OF CONTRIBUTIONS.—

(A) LENDING INSTITUTION AND BORROWER.—The lending institution shall pay the required contribution, and collect and pay the required contribution of the borrower, to the administering agency or institution not later than 10 working days after the applicable loan agreement is entered into.

(B) TRANSFER TO SECRETARY.—Not later than 5 working days after the receipt of funds under subparagraph (A), the administering agency or institution shall transfer such funds to the Secretary.

(C) SECRETARY.—As soon as practicable after the administering agency or institution transmits the contributions required under subsection (b)(2) to the Secretary, such contributions and the matching funds required to be provided by the Secretary, shall be deposited by the Secretary into the subaccount of the institution created within the Fund in accordance with subsection (b)(1).

(d) CLAIMS AGAINST THE FUND.—

(1) DETERMINATION OF CHARGE OFFS.—A lending institution shall determine when and how much to charge off on a loan eligible for protection under this subtitle in a manner that is consistent with the normal methods used by such institution for making such determinations concerning its commercial business loans not covered under the Program.

(2) FILING OF CLAIMS.—A lending institution shall file a claim for assistance under this subtitle with the administering agency or institution at the time that such lending institution charges off all or part of an eligible loan.

(3) AMOUNT OF CLAIM.—

(A) IN GENERAL.—A claim filed by a lending institution under this subsection may include the full amount of the principal of the loan that is charged off, any interest accrued on the loan, and any out-of-pocket expenses incurred by such institution in connection with the loan.

(B) LIMITATION.—If the amount of a loan that is protected under this Program is less than the total amount of the loan principal charged off by the lender, the amount of principal and accrued interest that may be included in a claim shall not exceed the principal amount of such loan that is protected under the Program in addition to any accrued interest attributable to such principal.

(4) REVIEW OF CLAIMS.—

(A) IN GENERAL.—A claim submitted under this section shall be promptly delivered by the administering agency or institution to the Secretary who shall, not later than 20 days after the receipt of such claim, review the claim and make a payment to the lending institution from the subaccount of such institution in the amount of the claim.

(B) LIMITATION.—Except as provided in section 118(c), the amount of payment made to a lender on any claim under this Program shall not exceed the total amount that such lending institution has in its subaccount in the Fund.

(C) GROUNDS FOR DENIAL OF CLAIM.—The Secretary shall only deny a claim submitted under this subsection, or a portion thereof, if the Secretary determines that the lending institution that submitted the claim has knowingly—

(i) violated a provision of this subtitle;

(ii) violated a provision of the agreement of the institution with the administering agency or institution;

(iii) allowed interest to accrue on the loan for an unreasonable period of time after the loan became delinquent without taking prudent action to collect the principal; or

(iv) submitted a false claim.

(e) REVIEW BY THE SECRETARY.—The Secretary may review the operations of any lending institution that participates in the Program under this subtitle.

SEC. 117. INACTIVE LENDING INSTITUTIONS.

If, for a period of at least 24 consecutive months, the amount in the subaccount of a lending institution exceeds the outstanding balance of all loans of such institution protected under this Program, the Secretary may withdraw any such excess amounts so that the amount of funds remaining in the subaccount are equal to 100 percent of the outstanding balance of such loans. Such excess shall be transferred to a general account within the Fund to be utilized by the Secretary for other contributions under section 116(b)(2).

SEC. 118. INITIAL PROGRAM INCENTIVES.

(a) PURPOSES.—To encourage lending institutions to participate in the Program and to make eligible loans during the early stages of the implementation of the Program, the Secretary shall provide two special incentives as provided in subsections (b) and (c).

(b) ADDITIONAL CONTRIBUTION.—The Secretary shall contribute an amount, under section 116(b)(2), equal to 150 percent of the amount of the contributions made by the lending institution and the borrower, in connection with any loan protected under the Program, with respect to the first $2,000,000 of principal on loans made by such institution that are protected under the Program.

(c) PAYMENT OF CLAIMS WITH FUTURE CONTRIBUTIONS.—

(1) AVAILABILITY.—The provisions of this subsection shall only apply to the first $5,000,000 of principal on loans made by a lending institution that are protected under the Program.

(2) INCENTIVE.—If a claim is filed under section 116(d) on a loan that meets the requirement of paragraph (1), and at the time that such claim is made there is not a sufficient amount of funds in the claiming lending institution's subaccount to pay the full amount of such claim, the lending institution may withdraw all of the funds in such subaccount and, to the extent such institution continues to make eligible loans under this subtitle that result in additional contributions to such subaccount, such institution may withdraw such additional funds from the subaccount at the time such funds are deposited as may be necessary to exhaust the full amount of any such claim.

(3) LIMITATION.—The Secretary shall limit withdrawals from the subaccount of any lender under this subsection so that the amount withdrawn by the lending institution to reimburse such institution for a prior claim, shall not exceed 75 percent of the amount in such subaccount immediately prior to such subsequent withdrawal.

Subtitle C—Rural Economic Development Administered by the Secretary and the Rural Electrification Administration

SEC. 120. ASSISTANT ADMINISTRATOR FOR ECONOMIC DEVELOPMENT.

The Rural Electrification Act of 1936 is amended by adding after section 11 (7 U.S.C. 911) the following new section:

"SEC. 11A. ASSISTANT ADMINISTRATOR FOR ECONOMIC DEVELOPMENT.

"(a) APPOINTMENT.—The Administrator shall appoint an Assistant Administrator for Economic Development (hereinafter referred to in this Act as the 'Assistant Administrator') to carry out the programs of the Rural Electrification Administration concerning the involvement of rural electric and telephone systems in community and economic development.

"(b) APPOINTMENT FACTORS.—In appointing an Assistant Administrator, the Administrator shall consider the degree to which candidates possess—

"(1) knowledge of and experience in community and economic development programs and strategies;

"(2) the ability to develop and manage the specific programs and responsibilities of this office, as described in this Act;

"(3) the ability to work effectively with officials of Federal, State, and local governments, private, and other officials of development programs, as well as with borrowers of the Rural Electrification Administration and their associations; and

"(4) other factors as determined by the Administrator to be important in the successful execution of the responsibilities of the office of Assistant Administrator.

"(c) RESPONSIBILITIES AND STANDING.—The Assistant Administrator shall be—

"(1) responsible, unless otherwise provided by law, for the administration of the programs of the Rural Electrification Administration not directly related to the providing of electric or telephone service; and

"(2) compensated at a salary level that is not less than that of the Assistant Administrator for Electric and the Assistant Administrator for Telephone of the Rural Electrification Administration.

"(d) FUNDING.—Not less than 10 percent nor more than 20 percent of the salaries and expenses provided to the Administration during any fiscal year shall be used by the Assistant Administrator in carrying out the responsibilities of the Assistant Administra-

tor as described in subsection (c), and such amounts shall remain available until expended.

"(e) TECHNICAL ASSISTANCE UNIT.—The Administrator shall establish a technical assistance unit to provide advice and guidance to borrowers concerning community and economic development activities permitted under this Act. From the amounts made available to the Assistant Administrator under subsection (d), not less than 1 percent of the salaries and expenses of the Rural Electrification Administration shall be made available to such technical assistance unit established in this section.".

SEC. 121. DEFERMENT OF PAYMENT ON ECONOMIC DEVELOPMENT LOANS.

Section 12 of the Rural Electrification Act of 1936 (7 U.S.C. 912) is amended—

(1) by inserting "(a)" before "The Administrator"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Administrator shall permit any borrower to defer the payment of principal and interest on any insured or direct loan made under this Act under circumstances described in this subsection, notwithstanding any limitation contained in section 12(a), except that such deferment shall not be permitted based on the determination by the Administrator of the financial hardship of the borrower.

"(2)(A) In the case of deferments made to enable the borrower to provide financing to local businesses, the deferment shall be repaid in equal installments, without the accrual of interest, over the 60-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred; and

"(B) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, or similar community, business, or economic development assistance, the deferment shall be repaid in equal installments, without the accrual of interest, over the 120-month period beginning on the date of the deferment, and the total of amount of such payments shall be equal to the amount of the payment deferred; and

"(3)(A) A borrower may defer its debt service payments only in an amount equal to an investment made by such borrower in community or economic development projects.

"(B) The amount of the deferment shall not exceed 50 percent of the cost of a community or economic development project financed under paragraph (2).

"(C) The total amount of deferments under this subsection during each of the fiscal years 1990 through 1993 shall not exceed 3 percent of the total payments received during such fiscal year from all borrowers on direct and insured loans made under this Act and shall not exceed 5 percent of such total payments in each subsequent fiscal year.

"(D) At the time of a deferment, the borrower shall make a cushion of credit payment in an amount equal to the amount of the payment deferred. Such payment shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the interest differential calculation provided by section 313 of this Act.

"(4) The Administrator shall undertake all reasonable efforts to permit the full amount of deferments authorized by this subsection during each fiscal year.".

SEC. 122. WATER AND WASTE FACILITY FINANCING.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by adding after section 306, the following new section:

"SEC. 306A. ADDITIONAL WATER AND WASTE FACILITIES PROGRAM.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make loans to individuals or entities who are borrowers under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.), (hereinafter referred to in this section as the 'borrower') to enable such borrowers to provide water and waste facility services in areas served by such borrowers.

"(2) PROGRAMS.—The loan program established by the Secretary under this section shall be in addition to any programs administered under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) and section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926).

"(b) LIMITATION.—Loans made under subsection (a) shall not, unless otherwise specified by law, exceed an amount equal to 10 percent of the total amount of insured loans under the Rural Electrification Act of 1936 authorized during the fiscal year in which such loan is made for rural electrification and telephone purposes, or $40,000,000, whichever is less. Such limitations shall be in addition to the total amount of insured loans authorized for electrification and telephone purposes.

"(c) PRIORITY.—In reviewing applications for loans under this section the Secretary shall consider—

"(1) whether the loan is necessary to enable the communities to be served to comply with applicable Federal or State environmental laws;

"(2) whether the individuals residing in the area for which service is proposed, and any local government entities, are in favor of the borrower providing such services in the area;

"(3) the income, unemployment, and other characteristics of the area to be served;

"(4) the degree of deprivation faced by residents of the area to be served as a result of the lack of safe drinking water, adequate water supplies, sewage treatment and other waste disposal facilities;

"(5) the impact that the availability of safe water supplies, waste disposal and similar services would be likely to have on enhancing the prospects for economic growth within the area to be served;

"(6) the degree to which a loan that may be provided under this subsection is necessary to ensure that water and waste disposal services are available in the area to be served by such loan at costs that do not exceed those charged in other nearby areas;

"(7) the impact of the proposed loan on the retention of the property and service territory of the borrower, or in protecting the security given on outstanding loans provided to the borrower; and

"(8) whether the water and waste facility projects described in the application will duplicate any existing facilities, and whether the borrower will coordinate its water and waste facility operations with similar operations in the area, including efforts to achieve economies of scale through joint billing, collection, or other operations with nearby systems in order to reduce the costs, improve the operations, or otherwise assist such systems.

"(d) COORDINATION.—

"(1) OTHER PROGRAMS AND REQUIREMENTS.—

"(A) OTHER PROGRAMS.—The Secretary shall ensure that the program established under this section is coordinated with the programs authorized and established under section 306, and will attempt to coordinate the lending activities under this section with similar activities conducted by other entities.

"(B) REQUIREMENTS.—Loans made under this section shall be subject, in the same manner as loans made under section 306, to the provisions of section 306(a)(9) and 306(a)(10) (which require approvals by State water pollution control agencies), sections 306(a)(19) (A) and (B), (which include certain requirements in connection with the technical design and choice of materials for water and waste systems), and section 306(b) (which concerns the curtailment or limitation of service).

"(2) ASSIGNMENT OF DUTIES.—The Secretary shall determine whether the Rural Electrification Administration possesses greater expertise, as compared with the Farmers Home Administration, in the areas of utility accounting, utility management and financial analysis, advice and assistance, and other aspects of utility operations and engineering. If the Secretary determines that the Rural Electrification Administration possesses greater expertise in such areas, the Secretary shall require the Rural Electrification Administration to provide technical assistance, and assist in the processing of applications under this section.

"(3) PROHIBITION ON LIMITING ACCESS.—The Secretary shall establish rules and procedures that prohibit borrowers from conditioning or limiting access to, or the use of, any water and waste facility services that are financed under this section. Such rules and procedures shall be based on whether individuals or entities in the area for which such facility is proposed receive, or will accept, electric service from such borrower.

"(e) TERMS.—

"(1) IN GENERAL.—Loans made under this section shall be for the same repayment period as insured loans made by the Administrator of the Rural Electrification Administration to such borrowers under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) and interest rates on loans made under this section shall not exceed the 5 percent interest rate on such insured loans as described in section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935).

"(2) INTEREST RATE.—The Secretary shall determine the interest rate to be charged on loans made under this section on the basis of—

"(A) ensuring that the cost to consumers for water and waste disposal services financed with loans provided under this section does not, to the extent possible, exceed rates charged in areas that are near the area served by the borrower;

"(B) the income and other characteristics of the individuals to be served through the provision of such loans; and

"(C) encouraging borrowers to obtain private sector capital, as provided for in subsection (f), to supplement loans made under this section.

"(f) PRIVATE SECTOR CAPITAL.—The Secretary shall require borrowers under this section to obtain private sector capital to supplement assistance made available under this section if—

"(1) the Secretary determines that—

"(A) it is appropriate to require use of such private capital, taking into account subparagraphs (A) and (B) of subsection (e)(2); and

"(B) the borrower is able to obtain revenues from the facilities to be financed to recover its cost, including the cost of such private capital; and

"(2) the borrower is able to obtain such private sector capital.

In order to facilitate the obtaining of such private capital, the Secretary may, on a case-by-case basis, reduce the interest rate on loans provided under this section when such reduction is appropriate and will enable the borrower to obtain such private capital.

"(g) APPROPRIATIONS.—The Secretary is authorized to make loans to the extent amounts are appropriated as provided under this section, except that during any fiscal year the amount of such loans, unless otherwise provided by law, shall not exceed 10 percent of the amount authorized for all insured loans under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.), or $40,000,000, whichever amount is less. Funds appropriated under this section shall remain available until expended.

"(h) REPAYMENT.—Appropriations made for purposes of this section shall be placed in a separate account. Advances on loans made under this section shall be made from such account, and payments on such loans shall be returned to the account for use by the account in making advances on future loans.

"(i) FULL USE.—The Secretary shall undertake all reasonable efforts to make full use, during each fiscal year, of any funds held by the account established under subsection (h), subject to limitations that loans for the purpose of this section shall not exceed 10 percent of the amount of loans made under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) during any fiscal year, or $40,000,000, whichever amount is less, and subject to any other limitations that may be imposed by law, except that any repayments made during each fiscal year shall not be considered in computing such 10 percent or $40,000,000 limit.

"(j) REPLENISHMENT OF WATER AND WASTE FACILITY FUND.—

"(1) CALCULATION OF TOTAL AMOUNT OF LOANS.—At the end of each fiscal year the Secretary shall calculate—

"(A) the total amount of loans extended under this section during such fiscal year; and

"(B) the amount of water or waste facility loans extended to borrowers (as referred to in subsection (a)(1)) under section 306 of this Act.

"(2) TRANSFER OF AMOUNTS.—Notwithstanding the provisions of subsections (g) and (i), if any amounts appropriated under this section remain available at the end of any fiscal year, the Secretary shall transfer such available amounts to the fund used to make water or waste facility loans under section 306, to the extent of the amount of any loans made to borrowers under the Rural Electrification Act of 1936, under such section 306, and any such loan to such borrower made under section 306 shall be subject to the terms, conditions and other requirements of section 306A, and any such section 306 loan shall be repaid to the account established by subsection (h).".

SEC. 123. RURAL ECONOMIC DEVELOPMENT.

The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—RURAL ECONOMIC DEVELOPMENT

"SEC. 501. ADDITIONAL POWERS AND DUTIES OF REA ADMINISTRATOR.

"The Administrator shall—

"(1) provide advice and guidance to electric borrowers under this Act concerning the effective and prudent use by such borrowers of the investment authority under section 312 to promote rural development;

"(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under this Act;

"(3) establish and administer various pilot projects through electric and telephone borrowers that the Administrator determines are useful or necessary, and recommend specific rural development projects for rural areas;

"(4) act as an information clearinghouse and conduit to provide information to electric and telephone borrowers under this Act concerning useful and effective rural development efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

"(5) provide information to electric and telephone borrowers under this Act concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts;

"(6) promote local partnerships and other coordination between borrowers under this Act and community organizations, States, counties, or other entities, to improve rural development;

"(7) review the advice and recommendations of the Rural Educational Opportunities Board as established under section 601(f); and

"(8) administer a Rural Business Incubator Fund (as established under section 502) that shall provide technical assistance, advice, loans, or capital to business incubator programs or for the creation or operation of small business incubators in rural areas.

"SEC. 502. RURAL BUSINESS INCUBATOR FUND.

"(a) ESTABLISHMENT AND USE.—

"(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the Rural Business Incubator Fund (hereinafter referred to in this title as the 'Incubator Fund') to be administered by the Administrator.

"(2) USE.—The Incubator Fund shall be used to make grants and reduced interest loans to electric and telephone borrowers under this Act or to other non-profit entities that meet the requirements of this section, to promote business incubator programs or for the creation or operation of business incubators in rural areas as defined in this Act, and the rate of such loans shall not exceed the 5 percent rate as provided in section 305.

"(3) BUSINESS INCUBATOR.—Any business incubator that receives assistance under this title shall be a facility in which small businesses can share premises, support staff, computers, software or hardware, telecommunications terminal equipment, machinery, janitorial services, utilities, or other overhead expenses, and where such businesses can receive technical assistance, financial advice, business planning services or other support. Business incubator programs that provide assistance of the type described in this paragraph shall be eligible for assistance under this title even when such programs do not involve the sharing of premises.

"(b) APPLICATION FOR ASSISTANCE.—

"(1) ELIGIBILITY TO SUBMIT.—Borrowers under this Act that operate existing business incubators or that desire to operate such incubators or business incubator programs, and that meet the requirements established by the Administrator for obtaining grants or reduced interest loans under this section, may submit applications at such time, in such form, and containing such information as the Administrator shall require, for such grants or loans. Nonprofit entities that are not borrowers under title III shall be considered eligible borrowers for the purpose of this section if such entities are located in a State in which one or fewer electric borrowers are headquartered in such State.

"(2) REQUIREMENTS.—Applications submitted under paragraph (1) shall, at a minimum—

"(A) contain an assurance that any incubator established or operated pursuant to this section will be operated on a not-for-profit basis; and

"(B) contain an assurance that it will be the policy of such incubator to encourage and assist businesses in graduating from the incubator and becoming viable business entities in the community and to inform participating businesses of this policy;

"(3) REVIEW.—In reviewing applications for assistance, the Administrator shall consider—

"(A) how effectively the incubator project will assist in the formation, growth, or improved efficiency of small businesses that will help diversify and develop the local economy; and

"(B) the amount of local support likely to exist for the incubator and the businesses to be assisted by such incubator, taking into account local contributions of business, financial, technical, technological or managerial expertise, and contributions of equipment or materials, local financial assistance, and other factors as determined appropriate by the Administrator.

"(c) FUNDING OF LOCAL INCUBATORS.—

"(1) BY BORROWER ESTABLISHING INCUBATOR.—

"(A) IN GENERAL.—A borrower that establishes or assists a business incubator under this section shall purchase Capital Term Certificates issued by the Incubator Fund in amounts equal to 10 percent of the amount of the grant, or 5 percent of the amount of the reduced interest loan, provided by the Administrator under this section.

"(B) REDEMPTION OF CERTIFICATES.—Each calendar year for the 10-year period beginning on the date that a grant or reduced interest loan is provided under this section, the Administrator shall redeem an amount equal to 10 percent of the Capital Term Certificates purchased by the borrower under subparagraph (A), without any payment of interest.

"(2) BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall, subject to the limitations contained in annual appropriations Acts, provide funds for the capitalization of the Incubator Fund, and there are authorized to be appropriated amounts not to exceed $10,000,000 annually for such capitalization until the total of such capitalization shall equal $60,000,000. Such amounts shall remain available until ex-

pended by the Incubator Fund for the purposes of this section.

"(d) REPAYMENTS TO INCUBATION FUND.—All payments made on loans under this section, and all amounts provided under subsection (c), shall be placed in the Incubator Fund established by subsection (a) and shall be available to carry out the purposes of this section.

"(e) FULL USE.—The Administrator shall undertake all reasonable efforts to make full use, during each fiscal year, of any funds contained in the Incubator Fund established under subsection (a), consistent with the requirement that the Incubator Fund redeem Capital Term Certificates as provided by subsection (c). During each fiscal year, 10 percent of the amount contained in the Incubator Fund shall be made available to nonprofit entities, as provided under subsection (b), that are not borrowers under title III, except that if qualified applications from such entities are not received in an amount or at such times sufficient to utilize such 10 percent amount during each such fiscal year, the Administrator shall make the remainder of such amount available to other eligible borrowers during such fiscal year.".

SEC. 124. PROMOTING RURAL DEVELOPMENT BY REA TELEPHONE BORROWERS.

To promote additional rural development by Rural Electrification Administration telephone borrowers, amounts invested by any such borrower for improved rural telecommunications facilities under programs established pursuant to section 205, 206, or 207, or other additional rural development efforts made under subtitle C, shall not be considered dividends or distributions of capital by the Rural Electrification Administration.

SEC. 125. REVIEW OF PROGRAMS FOR BUSINESS INCUBATOR.

(a) POLICY OF THE UNITED STATES.—It is the policy of the United States that the Federal Government should encourage and support the development and operation of business incubator centers as a tool of economic and community development.

(b) ACTION BY SECRETARIES.—The Secretaries of Housing and Urban Development, Health and Human Services, Energy, Defense, Commerce, and Agriculture, and the Administrator of the Small Business Administration shall review existing regulations promulgated by their respective departments and agencies governing grants and loans for purposes of community development, business promotion, research and development, and export promotion and shall take such action as may be necessary to ensure that business incubator centers are eligible for such grants or loans.

(c) REPORT.—Not later than March 1, 1990, the head of each agency or department described in subsection (b) shall prepare and submit, to the appropriate Committees of the House of Representatives and to the Governmental Affairs Committee and other appropriate committees of the Senate, a report containing the findings of its review including—

(1) a description of existing Federal grant or loan programs the purpose of which is community development, business promotion, research and development, or export promotion for which business incubator centers are currently eligible;

(2) recommendations as to changes in existing law needed to make business incubator centers eligible for current Federal grant or loan programs for purposes of community development, business promotion, research and development, or export promotion; and

(3) recommendations for any additional legislation that may be required to foster and support business incubator centers.

(d) CONSULTATION.—In conducting the reviews under subsections (b) and (c), the heads of the agencies and departments shall regularly consult with representatives of incubator operators, officials of State and local government, and others involved in small business promotion and economic development.

(e) AVAILABILITY OF REPORTS.—The Administrator of the Small Business Administration shall ensure that any reports developed as the result of such reviews are made available to interested parties and to the general public.

TITLE II—ENHANCING HUMAN RESOURCES

SEC. 201. PURPOSE.

It is the purpose of this title to provide incentives for local telephone exchange carriers, and for rural schools and universities, hospitals, physicians or primary care centers, or business telecommunications centers, to improve the quality of phone service, to provide access to advanced telecommunications services and computer networks, and to improve rural educational opportunities, health care, job opportunities, and the rural business environment.

SEC. 202. GOALS.

It is a goal of the Federal government to make affordable advanced telecommunications available to rural residents, including services such as reliable facsimile document and data transmission, multifrequency tone signaling services, 911 emergency service with automatic number identification, interactive audio and visual transmissions, voicemail services designed to record, store, and retrieve voice messages, and other advanced telecommunications services.

SEC. 203. DEFINITIONS.

As used in this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Electrification Administration.

(2) COMMUNICATION SATELLITE GROUND STATION COMPLEX.—The term "communication satellite ground station complex" includes transmitters, receivers, and communications antennas at the Earth station site together with the interconnecting terrestrial transmission facilities (cables, line or microwave facilities) and modulating and demodulating equipment necessary for processing traffic received from the terrestrial distribution system prior to transmission via satellite and the traffic received from the satellite prior to transfer to terrestrial distribution systems.

(3) COMPREHENSIVE RURAL TELECOMMUNICATIONS PLAN.—The term "comprehensive rural telecommunications plan" means a plan submitted by an applicant for a grant under this title. Each such plan shall include—

(A) a detailed explanation of the proposed rural telecommunications system, how such system is to be funded, and a description of the intended uses for grants received from the Administrator under this title;

(B) an explanation of the manner in which such plan complies with any requirements imposed by the Administrator under this title or otherwise imposed under sections 204 through 207;

(C) a listing of the proposed purchases or leases of telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, interactive video equipment, computer hardware and software systems, and components that process data for transmission via telecommunications, computer network components, communication satellite ground station equipment, or any other elements of the telecommunications system designed to further the purposes of title II, that the applicant intends to build or fund using the grant funds;

(D) an explanation of the special financial or other needs of the affected rural communities and of the applicants for such grant assistance;

(E) an analysis of the relative cost-benefit of proposals for leasing or purchasing of facilities, equipment, components, hardware and software, or other items; and

(F) a description of the consultations with the appropriate local telephone exchange carrier or carriers and the anticipated role of such carrier in the proposed telecommunications system.

(4) COMPUTER NETWORKS.—The term "computer networks" refers to computer hardware and software, terminals, signal conversion equipment including both modulators and demodulators, or related devices, used to communicate with other computers to process and exchange data through a telecommunication network in which signals are generated, modified or prepared for transmission, or received, via telecommunications terminal equipment and telecommunications transmission facilities.

(5) DATA TERMINAL EQUIPMENT.—The term "data terminal equipment" refers to equipment that converts user information into data signals for transmission, or reconverts the received data signals into user information, and is normally found on the terminal of a circuit and on the premises of the end user.

(6) END USER.—The term "end user" means—

(A) teachers, other instructors, or students in rural elementary or secondary schools, or such individuals participating in rural adult educational or vocational educational programs or other entities or individuals described in section 205(c)(1)(B) that participate in the rural distance learning telecommunications program established under section 205;

(B) rural hospitals, physicians, primary care centers or facilities, and staff, that participate in the medical link telecommunications program established under section 206; or

(C) business partnerships and individuals using the equipment found in businesses telecommunication or computer centers established under section 207 if such equipment is connected to a telecommunication system.

(7) FIBER-OPTIC CABLE.—The term "fiber-optic cable" means a bundle of optical transmission elements or waveguides usually consisting of a fiber core and fiber cladding that can guide a lightwave and that are incorporated into an assembly of materials that provide tensile strength and external protection.

(8) INTERACTIVE VIDEO EQUIPMENT.—The term "interactive video equipment" refers to equipment used to produce and prepare for transmission audio and visual signals from at least two distant locations such that individuals at such locations can verbally and visually communicate with each other, and such equipment includes monitors, other display devices, cameras or other recording devices, audio pickup devices, and other related equipment.

(9) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(10) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term "telecommunications transmission facilities" refers to those facilities that transmit, receive, or carry data between the telecommunications terminal equipment at each end of a telecommunications circuit or path. Such facilities include microwave antenna, relay stations and towers, other telecommunications antenna, fiber-optic cables and repeaters, coaxial cables, communication satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmissions, and similar items as defined by the Administrator.

(11) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term "telecommunications terminal equipment" refers to the assembly of telecommunications equipment at the end of a circuit, normally located on the premises of the end user, that interfaces with telecommunications transmission facilities, and that is used to modify, convert, encode or otherwise prepare signals to be transmitted via such telecommunications facilities or that is used to modify, reconvert or carry signals received from such facilities, the purpose of which is to accomplish the mission for which the circuit was established.

SEC. 204. PROVISIONS RELEVANT TO ALL THREE TELECOMMUNICATIONS PROGRAMS.

(a) ADMINISTRATION.—The Administrator shall carry out sections 205 and 206 and the Secretary shall carry out section 207. References to the Administrator in this section shall be considered to mean the Secretary with respect to the program established under section 207.

(b) RULEMAKING.—Not later than 160 days after the date of enactment of this Act, the Administrator shall promulgate final regulations, under the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, that establish the telecommunications programs authorized in this title.

(c) PRIORITY.—The Administrator shall establish procedures to target the benefits of this title to the rural areas and grant applicants that demonstrate the need for such assistance, taking into consideration the relative needs of all applicants, the needs of the affected rural communities, and the financial ability of the applicants to otherwise secure or create the telecommunications systems.

(d) WAIVERS.—If the Administrator determines that a compelling need is present, the Administrator may modify any of the definitions described in section 203.

(e) EXPEDITING COORDINATED TELEPHONE LOANS.—The Administrator shall establish and implement procedures to assure that applications for loans and advances of funds submitted by local exchange carriers under this title—

(1) to enable such exchange carriers to provide advanced telecommunications services in rural areas; and

(2) that contain elements of any telecommunications project approved by the Administrator under this title that will be completed by such local telephone exchange carriers but that is not covered by the grants issued under this title;

shall receive expedited consideration and determination.

(f) GRANT APPROVAL PROCESS.—

(1) MODIFICATIONS.—The Administrator shall have the authority to request modifications or changes in any proposal described in a grant application submitted under this title.

(2) LEVELS OF FUNDING.—

(A) IN GENERAL.—The Administrator may offer to fund grant applications under this title at any levels that the Administrator considers appropriate but not exceeding any percentage levels described in section 205, 206, or 207.

(B) CONSIDERATIONS.—The Administrator shall provide grant funding in amounts based on—

(i) the worthiness of the application;

(ii) the financial needs of the applicant for the grant assistance;

(iii) the need of the affected rural communities for the proposed projects; and

(iv) other factors determined appropriate by the Administrator;

after taking into consideration the nationwide demands for grant assistance and the cost-benefit of any proposed purchases or leases of telecommunications transmission facilities, telecommunications terminal equipment, computer network components, and other equipment or facilities.

(g) JOINT USE OF TELECOMMUNICATIONS TRANSMISSIONS FACILITIES.—In issuing regulations implementing this title, and in requesting changes in, or approving applications for grants, the Administrator shall give a priority to the extent reasonable and appropriate to provide funding for such facilities that can be jointly shared regarding projects established under sections 205 through 207.

(h) EXPEDITED LOANS FOR TELEPHONE TRANSMISSION FACILITIES.—

(1) IN GENERAL.—Grants to cover the costs of installing telecommunication transmission facilities shall not be provided to—

(A) approved educational institutions described in section 205;

(B) approved rural hospitals, primary care centers or physicians under section 206; or

(C) approved partnerships of rural businesses under section 207;

if the local telephone exchange carrier providing telephone service, as defined in section 203(a) of the Rural Electrification Act of 1936 (7 U.S.C. 924), will install such facilities through the use of expedited telephone loans as described in subsection (e) under the conditions and deadlines described in this section or through other financing procedures.

(2) NOTIFICATION OF LOCAL EXCHANGE CARRIER.—Applicants for grants for a rural telecommunications program established under this title shall notify the appropriate local telephone exchange carrier regarding the application filed with the Administrator for assistance under this title and shall attempt to work with such carrier in developing the rural telecommunications project.

(3) DEADLINE IMPOSED ON THE ADMINISTRATOR.—The Administrator shall, not later than 45 days after the receipt of the completed application, respond to such completed application for an expedited telephone loan. The Administrator shall notify the applicant in writing of its decision regarding each such expedited loan application.

SEC. 205. RURAL STAR SCHOOLS EDUCATIONAL OPPORTUNITIES PROGRAM.

(a) PURPOSE.—

(1) IN GENERAL.—It is the purpose of the program established under this section to encourage and improve the use of telecommunications, computer networks, and related advanced technologies, to provide telecommunications access by students and faculty at grade schools, high schools (including vocational education schools, and adult education centers) in rural areas in order to improve educational instruction in the areas of mathematics, literacy, the sciences, computer technology, foreign languages, health sciences, and other areas of study.

(2) GRANTS.—The program established under this section shall make grants available to educational institutions described in subsection (c)(1) to fund up to 100 percent of each comprehensive rural telecommunications plan as approved by the Administrator.

(b) GRANTS.—

(1) GENERAL AUTHORIZATION.—The Administrator is authorized to make grants to accomplish the purposes of the program established under this section in amounts that shall not exceed the levels set forth in paragraph (3).

(2) DISBURSEMENT.—In order to facilitate appropriate planning for, and continuity of the program established under this section, funds appropriated by Congress during a particular year may be committed by the Administrator for disbursement in a subsequent year or years, and funds appropriated and committed during a year may exceed the limitations described in paragraph (1). Funds appropriated pursuant to this section shall remain available until expended.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this title, $10,000,000 in fiscal year 1990, $20,000,000 in each of the fiscal years 1991 and 1992, and $30,000,000 in each of the fiscal years 1993 and 1994. Amounts appropriated under this subsection shall remain available until expended.

(4) USE OF FUNDS.—Grants under this section shall be made available to educational institutions described in subsection (c)(1) to be used by such educational institutions for facilities, equipment, activities, and other uses as described in the approved rural telecommunications plan to achieve the purpose of this section, including—

(A) the development and acquisition of instructional programming;

(B) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual equipment, telecommunications terminal equipment, telecommunications transmission facilities, or interactive video equipment, and other facilities that would further the purposes of the programs authorized by this section;

(C) providing technical assistance and instruction for the development or use of such programming, equipment, or facilities; or

(D) other uses that are consistent with achieving the purposes of this section as approved by the Administrator.

(5) LIMITATIONS.—

(A) INSTRUCTIONAL PROGRAMMING.—Not less than 25 percent of the funds appropriated under this section in any fiscal year shall be used to fund instructional curriculum development under approved rural telecommunication plans, including programming or software systems development to assist students, instructors or teachers at elementary and secondary schools, and at adult and vocational education and training centers. Partnerships shall review offers to supply such instructional programming from entities that provide such programming, including the National Rural Telecommunications Cooperative.

(B) FEDERAL SHARE.—Any applicant desiring to obtain a grant under this section should work with borrowers under the Rural Electrification Act of 1936 (7 U.S.C.

901 et seq.), other telecommunications entities and the local community in seeking donations of equipment or other hardware to local schools.

(c) RURAL EDUCATIONAL OPPORTUNITIES APPLICANTS.—Grants made under this section shall be available to one or more educational institutions, agencies, or organizations with substantial academic and teaching capabilities, such as local education agencies, State education agencies, land grant and other universities, community colleges, and other institutions of higher education.

(d) APPLICATION FOR GRANTS.—An application for a grant under this section shall be made to the Administrator and shall provide, in addition to the requirements for each comprehensive rural telecommunications plan, the following documentation:

(1) Evidence that the application is submitted by an applicant that meets the requirements under subsection (c).

(2) A statement of the Federal and non-Federal shares of funding for the proposed rural distance learning project, and evidence that the educational institution has worked with or will work with, borrowers under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), or other telecommunication entities, in seeking the assistance of such borrowers or entities in donating telecommunications equipment or other hardware.

(3) A description of the rural elementary or secondary schools, or adult educational or vocational educational programs that will participate in the rural distance learning project, including a description of—

(A) the numbers of students that likely would benefit from each project;

(B) the need for the project taking into consideration other alternatives;

(C) the number of teachers and other instructors to be involved, and the subject matters covered by the project; and

(D) the relative educational need in such area for the program.

(4) A description of the proposed technical facilities to be used, and the facilities for which the educational institution is applying, including an analysis and cost comparison regarding alternative or existing technical facilities that can be used for such purpose.

(5) A description of the types of instructional and other programming that will be developed or acquired as part of the rural distance learning program, and the rationale for developing or acquiring this programming.

(6) A description, based on a survey and analysis of the area to be served, of how the project will substantially increase the educational programs provided by participating schools and the availability of instructional assistance regarding courses of instruction in mathematics, literacy, the sciences, foreign languages, computer sciences, vocational and adult training and education, health sciences and other areas of study.

(7) A description of the teacher training policies that will be implemented to achieve the effective use of the telecommunications facilities or equipment, terminal equipment, computers, hardware and software, audio and visual equipment and monitors, interactive video equipment, and other facilities and programming for which assistance is sought.

(8) A description of the manner in which needy or traditionally underserved students will participate in the benefits of the grants made under this section.

(9) Assurances that the educational institution will encourage participation and involvement by elementary and secondary schools, and, if applicable, other educational institutions, such as institutions of higher education, county extension services, vocational and adult training and education centers, teacher training centers, research institutes, and private industry, in order to ensure that the facilities, equipment, technical assistance, and programming for which assistance is sought will be made available to the broadest extent practical.

(10) Assurances that the facilities, equipment, technical assistance, and instructional programming for which assistance is sought will be made available to the broadest extent practical.

(11) Assurances that, to the extent practical, instructional programming developed or acquired by the applicant with funds provided under this section, will be made available to as many rural communities throughout the United States as practical.

(12) Such additional assurances and reporting requirements as the Administrator may reasonably require.

(e) INFORMATIONAL EFFORTS.—The Administrator shall establish and implement procedures to carry out informational efforts to advise elementary, secondary, and post-secondary schools, and other eligible applicants located in rural areas of each State about the program authorized by this section.

(f) PROGRAM EVALUATION.—

(1) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this title, and each year thereafter, the Administrator, in consultation with the Secretary of Education, shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the program established under this section.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a full description of the projects that have received funds under this section;

(B) a description of the number of schools, students, and others who have participated in such projects;

(C) the specific instructional programming that has been developed under the program established under this section;

(D) an evaluation of the achievements and failures of the program; and

(E) the long range plans to further develop the program.

SEC. 206. RURAL MEDICAL LINK TELECOMMUNICATIONS PROGRAM.

(a) PURPOSE.—It is the purpose of this section to establish a program to improve the use of telecommunications, computer networks and related advanced technologies, between and among rural hospitals, physicians, teaching hospitals, rural primary care centers or facilities, and major medical hospitals through grants and expedited Rural Electrification Administration telephone loans.

(b) ESTABLISHMENT OF PROGRAM.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall establish a program, to be administered by the Administrator to make grants available to rural hospitals, primary care centers or physicians, to the extent approved by the Administrator to enable such grant recipients to participate in the program established under this section.

(B) PURPOSE.—The Administrator is authorized to make grants under this section to cover up to 100 percent of the costs of acquiring or leasing telecommunications transmission facilities, subject to the limitations of section 204(h), computer network equipment, telecommunications terminal equipment and other necessary data terminal equipment, that will provide such rural hospitals, centers and physicians with the ability to communicate with teaching hospitals or medical centers to improve health care in rural areas.

(C) LOCAL EXCHANGE CARRIERS.—Under the conditions described in section 204(i), expedited loans may also be provided, to carry out any medical link project, to local exchange carriers providing telephone service, as defined in section 203(a) of the Rural Electrification Act of 1936 (7 U.S.C. 924(a)), to cover the costs of telecommunications transmission facilities.

(2) USE.—Telecommunications terminal equipment, telecommunications transmission facilities, or computer network components acquired under a grant awarded under paragraph (1) shall be used as prescribed in the comprehensive rural telecommunications plan approved by the Administrator to improve the transmission of medical data, diagnostic information, radiographic, x ray, ultrasonic or computerized tomographic images, representations of the results of any other medical scanning or diagnostic testing such as echocardiograms, cineangiograms, real-time scanning, electrocardiograms, electroencephalographs, or to facilitate communications among entities described in subsection (a), in order to improve the diagnosis or treatment of any diseases, disorders, abnormalities, or medical conditions.

(3) LIMITS ON GRANTS.—Grants awarded under this section for an end user shall not be used for the salaries or expenses of an end user and shall not be used for purchasing or leasing standard medical or hospital equipment, data terminal equipment, or computer network components unless such equipment is used exclusively for the medical link program established under this section, or any other equipment that provides input into data terminal equipment unless such equipment has been specifically modified or altered so as to be used to provide input into an approval medical link network.

(b) REGULATIONS.—Not later than 160 days after the date of enactment of this Act, the Administrator shall, in addition to promulgating the regulations described in section 204(b), establish a priority system for awarding grants to hospitals, primary care centers, and physicians located in rural areas that are most in need of enhanced communications to carry out the purposes of this section.

(c) INFORMATIONAL EFFORTS.—The Administrator shall establish and implement procedures to carry out informational efforts to advise hospitals, primary care centers, and physicians located in rural areas of each State, concerning the program authorized by this section, and of the application procedures and deadlines.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 in fiscal year 1990, and $20,000,000 in each of the fiscal years 1991 through 1994. Amounts appropriated under this section shall remain available until expended.

SEC. 207. RURAL BUSINESS LINK TELECOMMUNICATIONS PROGRAM.

(a) PURPOSE.—It is the purpose of this section to establish a program to improve the transmission of marketing, product ordering, inventory management, or other related business data through the use of telecom-

munications, computer networks, and related advanced technologies between, and among businesses located in rural areas and other businesses or institutions of higher education.

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a program to make grants available to cover up to 50 percent of the approved costs, as determined appropriate and approved by the Secretary, to assist partnerships of rural businesses through the establishment of shared business telecommunications or computer network centers that will serve small businesses or individuals who are starting a small business by making available to such businesses advanced telecommunications transmission facilities (subject to the limitations in section 204(h)), telecommunications terminal equipment, computer network access, and computer services or related equipment. The Secretary shall issue rules to determine how the Federal match shall be allocated regarding telecommunication projects established under section 205 or 206 in conjunction with a rural business link telecommunications program.

(2) FACILITIES AND EQUIPMENT.—Partnerships referred to in paragraph (1) shall make available the facilities and equipment under such paragraph to other small businesses or individuals starting small businesses at reasonable charges.

(3) NONPROFIT.—Partnerships established for telecommunications purposes under paragraph (1) shall be nonprofit.

(c) LIMITS ON GRANTS.—Grants awarded under this section for each business partnership approved to participate in the rural business link program under this section shall not be used for the salaries or expenses of any such partnership and shall not be used for purchasing or leasing any standard business equipment, except for telecommunications terminal equipment, telecommunications transmission equipment (unless such is provided by the local exchange carrier under section 204(h)), data terminal equipment, computer network components, or related equipment, used exclusively for the purposes of this section.

(d) INFORMATIONAL EFFORTS.—The Secretary shall establish and implement procedures to carry out informational efforts to advise businesses located in rural areas concerning the program authorized by this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 in fiscal year 1990, and $10,000,000 in each of the fiscal years 1991 through 1994. Amounts appropriated under this section shall remain available until expanded.

TITLE III—FOCUS ON RURAL AMERICA BY THE DEPARTMENT OF AGRICULTURE

SEC. 301. EXTENSION SERVICE.

Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by adding at the end thereof the following new subsection:

"(g) RURAL ECONOMIC AND BUSINESS DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary shall establish an Extension Service rural economic and business development program to enable States or counties to employ specialists as Cooperative Extension Service staff of the State or county to assist individuals in creating new businesses, including cooperatives, or to assist existing businesses, and to assist such businesses regarding advanced telecommunications, computer technologies, technical or management assistance, business and financial planning, and other related matters, and to assist community leaders in community economic analysis and strategic planning.

"(2) FUNCTION OF SPECIALISTS.—Specialists employed under paragraph (1) shall provide economic development information and assistance concerning new business creation, business planning and advice, advanced telecommunications, business management, computer operations, and other technical assistance to community leaders and private sector entrepreneurs and cooperatives operating in the State or county that employs such specialists.

"(3) PROCEDURES AND LIMITATIONS.—The Secretary shall establish policies, procedures and limitations that shall apply to States and counties that desire to participate in the program established under this subsection. States and counties shall determine the types of rural economic and business development specialists that are needed by such States and counties. In States with land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.), and the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, such eligible institutions shall mutually determine the types of rural economic and business development specialists needed.

"(4) PAYMENT OF SALARY.—The Secretary shall make grants to States and counties that participate in the program established under this section in an amount equal to 60 percent of the total amount of the salary paid to any specialists employed under such program, and the State or county shall provide funds for the remaining 40 percent of such salary. Land-grant colleges and universities eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, shall be exempt from the 40 percent salary matching requirement.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 in fiscal year 1990, $10,000,000 in fiscal year 1991, $15,000,000 in fiscal year 1992, and $20,000,000 in fiscal year 1993 and each subsequent fiscal year, to carry out this section. Amounts appropriated under this section shall remain available until expended.

"(6) COORDINATION.—The Secretary shall ensure that the activities of the Extension Service rural economic and business development program established under section 502(g) of the Rural Development Act of 1972 (7 U.S.C. 2662(g)) are coordinated with the Small Business Administration to ensure that there is no duplication of activities in any local area, county or region.".

SEC. 302. RURAL DEVELOPMENT ASSISTANCE INFORMATION AND AVAILABILITY.

The Rural Development Act of 1972 (7 U.S.C. 2651 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 509. NEED AND AVAILABILITY OF RURAL DEVELOPMENT ASSISTANCE.

"(a) ESTABLISHMENT OF PROGRAM.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish a program to study economically distressed counties in a variety of States that have high concentrations of nonmetropolitan counties with low per capita income or nonmetropolitan counties experiencing high rates of outmigration.

"(b) EVALUATION.—When conducting a study of counties under subsection (a), the Secretary shall evaluate the need of such counties for rural development assistance, the nature of the assistance needed, and the availability of such assistance.

"(c) REPORT.—Not later than September 30, of each of the fiscal years 1990 through 1993, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that contains the results of the studies and evaluations conducted under this section and on any action taken by the Secretary to improve economic conditions in rural counties.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

"SEC. 510. RURAL DEVELOPMENT ASSISTANCE INFORMATION.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program, to be operated in conjunction with the National Rural Information Center Clearinghouse established within the National Agricultural Library, to provide information to local rural communities, nonmetropolitan counties, and rural areas concerning rural development matters and the availability of Federal rural development assistance.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 303. REPORT ON COORDINATION OF RURAL DEVELOPMENT ACTIVITIES.

Not later than September 1, 1989, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that contains the recommendations of the Secretary concerning better coordination of the rural development activities of the Farmers Home Administration, the Forest Service, the Soil Conservation Service, the Agricultural Research Service, the Agricultural Stabilization and Conservation Service, the Agricultural Cooperative Service, the Rural Electrification Administration, the Extension Service, and the Office of Transportation.

SEC. 304. REPORT ON DATA PROCESSING FEASIBILITY IN RURAL AREAS.

(a) STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary shall conduct a study that—

(1) assesses the data processing functions administered by the Secretary;

(2) analyzes whether or not the current data processing functions of the Department of Agriculture, and the future processing functions, may be conducted in rural areas at similar or reduced costs; and

(3) assesses any other information that the Secretary determines appropriate to analyze the potential for locating current and expanded data processing jobs in rural areas.

(b) REPORT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that contains the results of the study conducted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $250,000.

TITLE IV—RURAL BUSINESS AND EMERGENCY ASSISTANCE

SEC. 401. LOCAL TECHNICAL ASSISTANCE GRANTS.

Section 306(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)) is amended to read as follows:

"(11)(A)(i) The Secretary may make grants, not to exceed $15,000,000 annually, to public bodies, private nonprofit community development corporations or entities, or such other agencies as the Secretary may select to enable such recipients—

"(I) to identify and analyze business opportunities, including opportunities in export markets, that will use local rural economic and human resources;

"(II) to identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

"(III) to establish business support centers and otherwise assist in the creation of new rural businesses, the development of methods of financing local businesses, and enhancing the capacity of local individuals and entities to engage in sound economic activities; and

"(IV) to conduct regional, community, and local economic development planning and coordination, and leadership development.

"(ii) In awarding such grants, the Secretary shall consider, among other criteria to be established by the Secretary—

"(I) the extent to which the applicant provides development services in its rural service area; and

"(II) the capability of the applicant to carry out the purposes of this section.

"(iii) There are authorized to be appropriated to make grants under this subparagraph, $7,500,000 in each fiscal year.".

SEC. 402. RURAL EMERGENCY ASSISTANCE LOANS.

Section 306(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)) (as amended by section 401), is further amended by adding at the end thereof the following new subparagraph:

"(B)(i) The Secretary shall establish and implement a program to make loans for the benefit of any town or city that—

"(I) has a population of less than 20,000 individuals within its outer boundaries; and

"(II) is financially unable to obtain funds as quickly as needed to correct emergency conditions or situations needing urgent attention.

"(ii) The Secretary shall promulgate regulations—

"(I) targeting the program established under this subparagraph toward needy communities in rural areas;

"(II) setting forth a definition of 'emergency conditions or situations needing urgent attention'; and

"(III) requiring that the Secretary approve or reject applications within 30 days of their receipt.

"(iii) The Secretary shall limit the amount of loans provided to the same borrower under this subparagraph to $50,000, and the term of such loans shall not exceed 2 years.

"(iv) The Secretary may respond to the credit needs of rural towns or cities eligible to participate in the program authorized under this subparagraph by making loans that are eligible for refinancing after the expiration of the 2-year period described in clause (iii), and payments under such loans may be set at a level that is at a sufficiently low level during such 2-year period so that the financially troubled town or city can participate in the program established under this subparagraph. The Secretary shall assist such borrowers in obtaining financing through existing Farmers Home Administration programs so that such borrowers are able to pay the balance due on each loan at the end of such 2-year period.

"(v) There are authorized to be appropriated $2,500,000 for fiscal year 1990, and $5,000,000 for fiscal year 1991 and for each subsequent fiscal year, to carry out the emergency lending program authorized by the program established under this subparagraph.".

TITLE V—NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE

SEC. 501. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.

(a) ESTABLISHMENT.—The Secretary shall establish, within the National Agricultural Library, in coordination with the Extension Service, a National Rural Information Center Clearinghouse (hereinafter referred to in this title as the "Clearinghouse") to perform the functions specified in subsection (b).

(b) FUNCTIONS.—The Clearinghouse shall provide and distribute information and data to any industry, organization, or Federal, State, or local government entity, on request, about programs and services provided by Federal, State, and local agencies and private nonprofit organizations and institutions under which individuals residing in, or organizations and State and local government entities operating in, a rural area may be eligible for any kind of assistance, including job training, education, health care, and economic development assistance, and emotional and financial counseling.

(c) FEDERAL AGENCIES.—On request of the Secretary, the head of a Federal agency shall provide to the Clearinghouse such information as the Secretary may request to carry out the functions specified in subsection (b).

(d) STATE AND LOCAL AGENCIES AND NONPROFIT ORGANIZATIONS.—The Secretary shall request State and local governments and private nonprofit organizations and institutions to provide to the Clearinghouse such information as such agencies and organizations may have about any program or service of such agencies, organizations, and institutions under which individuals residing in a rural area may be eligible for any kind of assistance, including job training, educational, health care, and economic development assistance, and emotional and financial counseling.

(e) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $500,000 for each of the fiscal years 1990 through 1994.

TITLE VI—WATER AND SEWER ASSISTANCE

SEC. 601. WATER AND WASTE FACILITY GRANTS.

Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)) is amended by striking out "$154,900,000 in any fiscal year" and inserting in lieu thereof "$194,900,000 in each of fiscal years 1990 and 1991, and $204,900,000 in each of the succeeding fiscal years.".

SEC. 602. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Subtitle A of the Consolidated Farm and Rural Development Act is amended by inserting after section 306A (as added by section 122 of this Act) the following new section:

"SEC. 306B. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

"(a) IN GENERAL.—The Secretary shall provide grants in accordance with this section to assist the residents of rural areas and small communities to secure adequate quantities of safe water—

"(1) after a significant decline in the quantity or quality of water available from the water supplies of such rural areas and small communities; or

"(2) when repairs, partial replacement, or significant maintenance efforts on established water systems would remedy an acute shortage of quality water or would remedy a significant decline in the quantity or quality of water that is available.

"(b) PRIORITY.—In carrying out subsection (a), the Secretary shall give priority to projects described in subsection (a)(1), and provide at least 70 percent of all such grants to such projects.

"(c) ELIGIBILITY.—To be eligible to obtain a grant under this section, an applicant shall—

"(1) be a public or private nonprofit entity; and

"(2) in the case of a grant made under subsection (a)(1), demonstrate to the Secretary that the decline referred to in such subsection occurred within 2 years of the date the application was filed for such grant.

"(d) USES.—

"(1) IN GENERAL.—Grants made under this section may be used for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, hook and tap fees, and any other appropriate purpose associated with developing sources of, or treating, storing, or distributing water, and to assist communities in complying with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

"(2) JOINT PROPOSALS.—Nothing in this section shall preclude rural communities from submitting joint proposals for emergency water assistance, subject to the restrictions contained in subsection (e). Such restrictions should be considered in the aggregate, depending on the number of communities involved.

"(e) RESTRICTIONS.—No grant provided under this section shall be used to assist any rural area or community that—

"(1) includes any area in any city or town with a population in excess of 5,000 inhabitants according to the most recent decennial census of the United States; or

"(2) has a median household income in excess of the State nonmetropolitan median household income according to the most recent decennial census of the United States.

Not less than 75 percent of the funds allocated under this section shall be allocated to rural communities with populations that do not exceed 3,000 inhabitants.

"(f) MAXIMUM GRANTS.—Grants made under this section may not exceed—

"(1) in the case of each grant made under subsection (a)(1), $500,000; and

"(2) in the case of each grant made under subsection (a)(2), $75,000.

"(g) FULL FUNDING.—Subject to subsection (e), grants under this section shall be made in an amount equal to 100 percent of the costs of the projects conducted under this section.

"(h) APPLICATION.—The Secretary shall develop a nationally competitive application process to award grants under this section. Such process shall include criteria for evaluating applications, including population, median household income, and the severity of the decline in quantity or quality of water. The Secretary shall make every

effort to review and act on applications within 60 days of the date that such applications are submitted.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $25,000,000 for fiscal year 1990, and $10,000,000 for fiscal year 1991, such sums to remain authorized until fully appropriated.".

(b) IMPLEMENTATION.—

(1) REGULATIONS.—The Secretary shall publish—

(A) interim final regulations to carry out section 306B of the Consolidated Farm and Rural Development Act not later than 45 days after the date of enactment of this Act; and

(B) final regulations to carry out section 306B of such Act not later than 90 days after the date of enactment of this Act.

(2) FUNDS.—

(A) OBLIGATION.—The Secretary shall designate 70 percent of the funds made available for the first fiscal year for which appropriations are made under section 306B(h) of the Consolidated Farm and Rural Development Act not later than 5 months after the date such funds are appropriated.

(B) RELEASE.—The Secretary may release funds prior to the issuance of final regulations under paragraph (1)(B) for grants under section 306B(a)(1) of Consolidated Farm and Rural Development Act.

SEC. 603. SEWER AND WATER LENDING BY BANKS FOR COOPERATIVES.

The banks of the Farm Credit System that are authorized to extend credit under title III of the Farm Credit Act of 1971 (12 U.S.C. 2121, et seq.) are authorized to make and participate in loans and commitments, and to extend other technical and financial assistance for the purpose of the installation, expansion, or improvement of waste disposal facilities or drinking water facilities or systems, to any entity that has received or is eligible to receive a loan made or insured by the Secretary of Agriculture under section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)).

SEC. 604. RURAL WASTEWATER TREATMENT CIRCUIT RIDER GRANT PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Farmers Home Administration shall establish a national rural wastewater circuit rider grant program that shall be modeled after the existing National Rural Water Association Rural Water Circuit Rider Program that receives funding from the Farmers Home Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $4,000,000 each fiscal year to carry out the program established under subsection (a).

SEC. 605. TECHNICAL ASSISTANCE FOR CERTAIN SOLID WASTE MANAGEMENT.

Section 310B(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(b)) is amended—

(1) by inserting "(1)" before "The Secretary"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary may make grants to non-profit organizations for the provision of regional technical assistance to local and regional governments and related agencies for the purpose of reducing or eliminating pollution of water resources and improving the planning and management of solid waste disposal facilities. Grants made under this paragraph for technical assistance shall be made for 100 percent of the cost of such assistance.".

TITLE VII—MISCELLANEOUS

SEC. 701. MONITORING THE ECONOMIC PROGRESS OF RURAL AMERICA.

(a) BUREAU OF THE CENSUS.—The Director of the Bureau of the Census shall expand the data collection efforts of the Bureau to enable the Bureau to collect statistically significant data concerning the changing economic condition of rural counties and communities in the United States, including data on rural employment, poverty and income, and other information concerning the rural labor force.

(b) EMPLOYMENT REQUIREMENTS.—The Bureau of the Census shall, to the maximum extent practicable, employ residents of nonmetropolitan counties for the expanded rural data collection operations conducted in fiscal year 1990.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each fiscal year to carry out subsection (a).

SEC. 702. HISTORIC PRESERVATION REQUIREMENTS.

With respect to applications for assistance under this Act, the Secretary of the Interior, in consultation with the Under Secretary of Agriculture for Small Community and Rural Development and the National Trust for Historic Preservation in recognition of its charter duties, shall prescribe and implement regulations concerning projects funded under this Act and their relationship with the provisions of Acts entitled—

(1) "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470 et seq.); and

(2) "An Act to provide for the preservation of historical and archaeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam", approved June 27, 1960 (16 U.S.C. 469 et seq.).

SEC. 703. LOAN RATES APPLICABLE TO HEALTH CARE AND RELATED FACILITIES.

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended by adding at the end thereof the following new subparagraph:

"(C) Notwithstanding the provisions of subparagraph (A), the Secretary shall establish loan rates for health care and related facilities that shall be based solely on the income of the area to be served, and such rates shall be otherwise consistent with the provisions of such subparagraph.".

SEC. 704. ASSISTANCE TO COMMUNITIES DEPENDENT ON NATURAL RESOURCES.

(a) ADDITIONAL FUNDS FOR THE REFORESTATION TRUST FUND.—Section 303(b)(2) of Public Law 96-451, relating to the Reforestation Trust Fund (16 U.S.C. 1606a(b)(2)) is amended by striking "$30,000,000" and inserting "$40,000,000 (of which, $10,000,000, shall be subject to subsection (e))".

(b) ADDITIONAL PURPOSES FOR WHICH FUND AVAILABLE.—Section 303(d) of such Act (16 U.S.C. 1606a(d)) is amended—

(1) in paragraph (1) by striking out "and" at the end thereof;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) economic diversification assistance to communities which are dependent to a significant degree upon Forest Service resource management decisions for their local economic activity; and".

(c) ASSISTANCE TO COMMUNITIES DEPENDENT ON NATURAL RESOURCES.—Section 303 of such Act (16 U.S.C. 1606a) is amended by adding at the end thereof the following new subsection:

"(e) In each fiscal year $10,000,000 of the amounts transferred to the Trust Fund by the Secretary under subsection (b)(2) shall be expended for purposes described in subsection (d)(2) and any such amount shall be available only as provided for in annual appropriations Acts.".

SEC. 705. ASSISTING DISTRESSED RURAL HOSPITALS AND HEALTH CARE FACILITIES.

The Secretary shall establish and implement a program that is similar to the program established under section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001), except that the debt restructuring and loan servicing procedures shall apply to delinquent community facility program loans (rather than delinquent farmer program loans) made by the Farmers Home Administration to a hospital or health care facility under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 306(a)). Not later than 120 days after the date of enactment of this Act, the Secretary shall promulgate regulations, as modeled after those promulgated under such section 353, that implement the program established under this section.

SEC. 706. RURAL DEVELOPMENT RESEARCH ASSISTANCE.

Section 502 of the Rural Development Act of 1973 (7 U.S.C. 2662) (as amended by section 301) is further amended by adding at the end thereof the following new subsection:

"(h) RESEARCH GRANTS.—

"(1) IN GENERAL.—In addition to the programs already conducted under this section, the Secretary shall also establish and carry out a program to award competitive research grants to land-grant colleges and universities, research foundations, and centers established by land-grant universities, State agricultural experiment stations, nonprofit organizations specializing in applied research, and to all colleges and universities having demonstrable capability in rural development research, as determined by the Secretary, to carry out research to improve economic competitiveness and diversification, support strategic planning for economic investments, improve human resources, and improve the data base for rural development decisionmaking in rural areas.

"(2) RURAL TECHNOLOGY TRANSFER AND INNOVATION.—The Secretary shall establish and implement a program to award matching grants to promote technology transfer, innovation, and new product development. Grantees shall include institutions described in paragraph (1) and other nonprofit organizations that have demonstrable capability in technology transfer, applied research, innovation, and new product development that will lead to economic growth and job creation in rural areas. Applicants for grants under this paragraph shall demonstrate the ability to provide, at a minimum, a one-to-one financial match.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 in each fiscal year to carry out this subsection. Amounts appropriated under this subsection shall remain available until expended.".

SEC. 707. BUSINESS AND INDUSTRIAL LOAN PROGRAM APPLICATIONS.

Section 333A(a) of the Consolidated Farm and Rural Development Act (7 U.S.C.

1983a(a)) is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding paragraph (1), each application for a loan or loan guarantee under section 310B(a) that is to be disapproved by the Secretary solely because the Secretary lacks the necessary amount of funds to make such loan or guarantee shall not be disapproved but shall be placed in pending status. The Secretary shall retain such pending application and reconsider such application beginning on the date that sufficient funds become available. Not later than 60 days after funds become available regarding each pending application, the Secretary shall notify the applicant of the approval or disapproval of funding for the application.".

SEC. 708. PRIORITY FOR RURAL AREAS IN CERTAIN CONSTRUCTION PROJECTS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 25. PRIORITY FOR RURAL AREAS IN CERTAIN CONSTRUCTION PROJECTS.

"(a) IN GENERAL.—Under regulations prescribed by the Administrator, the head of each executive agency shall, each fiscal year, in determining the location of new Federal buildings and related construction activities, give equal consideration to rural areas.

"(b) APPLICATION.—Subsection (a) shall apply without regard to any other provision of law.

"(c) DEFINITION.—As used in this section, the term 'rural area' means an area described and approved under section 101(6) of the Rural Partnerships Act of 1989.".

SEC. 709. RURAL SET-ASIDES IN FEDERAL FORMULA FUNDING.

In the case of Federal procurement programs and programs under which funds are allocated by an executive agency to States or political subdivisions of States, or both, under a formula established by Federal law or regulation, the head of the agency shall—

(1) require the agency to work with the Secretary of Agriculture to develop methods for assisting rural areas in participating in, and benefiting from, Federal procurement (civilian and defensive oriented), research projects, and Federally funded construction projects; and

(2) provide flexibility to States or political subdivisions of States, or both, in the administration of the program to provide the greatest possible benefits and assistance in rural areas.

SEC. 710. ANALYSIS BY OFFICE OF TECHNOLOGY ASSESSMENT.

(a) IN GENERAL.—The Office of Technology Assessment shall include, in a study of the effects of information age technology on rural America, an analysis of the feasibility of ensuring that rural citizens in their homes and schools have the ability to acquire, by computer, information in a national library.

(b) CONTENTS.—In conducting the analysis under subsection (a), the Office of Technology Assessment shall—

(1) evaluate, in consultation with the Librarian of Congress, the costs and benefits of establishing a national library whose volumes, periodicals, instructional materials, sound and video resources, and other data are accessible by individuals through their personal computers;

(2) assess the technological, regulatory or other impediments to the establishment of the library and information retrieval system described in paragraph (1), and the length of time required to establish such a library and retrieval system;

(3) describe the potential for the library and information described in paragraph (1) to provide rural citizens the opportunity to study and explore foreign languages, geography, math, science, history or other interests, as well as to exchange scholarly information and ideas with other users, and otherwise to engage in interactive study; and

(4) recommend to the Congress the measures that should be taken to establish the library and retrieval system described in paragraph (1).

SEC. 711. SENSE OF THE CONGRESS CONCERNING TOLL RATE AVERAGING.

(a) FINDINGS.—Congress finds that—

(1) new technologies make it possible for previously isolated rural areas to compete for regional, national, and international business opportunities;

(2) such new business opportunities are made possible by modern communications, telecommunication, and satellite, and radio networks;

(3) the use of uniform averaged rates for toll calls of equal distance, duration, and class of service prevents price discrimination for telephone service to rural areas;

(4) the policy of toll rate averaging has long been recognized by Congress, the Federal Communications Commission, and the telecommunications industry as beneficial to the public interest;

(5) deaveraging may result in extreme price disparities between rural and urban areas due to the high cost of serving sparsely populated areas;

(6) higher rural toll rates could result in rural subscribers leaving the switched network; and

(7) the important relationship between toll rate averaging and universal service needs to be clarified.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that toll rate averaging shall be defined as the cornerstone of universal service and that such policy, being in the public interest, shall be maintained.

SEC. 712. NATIONAL ENDOWMENT FOR RURAL DEVELOPMENT.

(a) It is the sense of the Congress that a National Endowment for Rural Development should be established with the effective use of both public and private funds to maximize business development in rural communities in every feasible way.

(b)(1) The Executive Office of the President shall undertake a review of a National Endowment for Rural America, for the purposes of determining the desirability of such an Endowment for rural development.

(2) That review shall be completed by January 1, 1990 and shall make recommendations to the Congress on appropriate legislation to implement such an Endowment.

(3) Those recommendations should focus on, but not be limited to—

(A) the purposes and goals,

(B) the organizational structure with private and public participation,

(C) funding sources for the Endowment,

(D) eligible awardees of endowment.

SEC. 713. NATIONAL RURAL DEVELOPMENT CENTER.

(a) ESTABLISHMENT.—The Tennessee Valley Authority, established under the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.), shall establish a center to be known as the "National Rural Development Center" to carry out subsection (b) and carry out studies, experiments, and demonstrations of the kind authorized in section 22 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831u).

(b) FUNCTIONS.—

(1) DEMONSTRATIONS.—The National Rural Development Center shall conduct, support, or replicate experimental and innovative demonstrations, including enterprise development, manufacturing development, leadership and community organization development, minority economic development, service sector development, basic skills enhancement, literacy training, waste management, agricultural development, export trade expansion, and telecommunications as a means for rural distant learning, training, dropout prevention, and economic development.

(2) CONDUCT OF DEMONSTRATIONS WITH OTHER ENTITIES.—Demonstrations under paragraph (1) may be conducted alone or in partnership with other Federal entities, such as the Rural Electrification Administration, the Department of Agriculture, the Cooperative Extension Service, the Appalachian Regional Commission, the Economic Development Administration, the Lower Mississippi Delta Commission, States, counties, economic development districts, towns, other public bodies, economic development corporations, and private sector entities.

(3) DISSEMINATION OF RESULTS.—Results of the demonstrations conducted under paragraph (1), and other work conducted by the National Rural Development Center, shall be disseminated widely to rural areas throughout the United States through the National Rural Information Center Clearinghouse established under title V, and through other appropriate means, to any industry, organization, or Federal, State, or local government entity engaged in rural development activities.

(c) FEDERAL AGENCIES.—The heads of other Federal agencies engaged in rural development activities shall cooperate with and may use the services of the National Rural Development Center.

(d) AUTHORIZATION OF APPROPRIATIONS.—All appropriations necessary to carry out the activities described in subsection (b) shall be authorized as provided for in section 27 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831z).

SEC. 714. GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may make grants to Statewide private non-profit public television systems, whose coverage area is predominately rural, for the purpose of demonstrating the effectiveness of such systems in providing information on agriculture and other issues of importance to farmers and other rural residents. Funds available under this paragraph may be used for capital equipment expenditures, start-up and program costs, and other costs necessary to the operation of such demonstrations.".

SEC. 715. RURAL BUS SERVICES.

(a) SHORT TITLE.—This section may be cited as the "Rural Bus Services Act".

(b) INTERCITY BUS SERVICE.—The Urban Mass Transportation Act of 1964 (49 APP. U.S.C. 1601 et seq.) is amended by adding at the end the following new section:

"INTERCITY BUS SERVICE

"SEC. 26. (a) The Secretary is authorized to make grants for the initiation, improvement, or continuation of intercity bus service, and for the establishment and maintenance of rural feeder services, for residents

of rural areas and residents of urban places designated by the Bureau of the Census as having populations of 5,000 or more which are not within an urbanized area.

"(b) Grants for the initiation, improvement, or continuation of intercity bus service under subsection (a) of this section shall be made only to States and local public bodies and agencies thereof, only for payment of operating expenses incurred in furnishing such intercity bus service, and shall not exceed 30 percent of the net cost of such an operating expenses project. The remainder of such cost shall be provided in cash from sources other than Federal funds. Such grants shall be subject to such other terms, conditions, and requirements as the Secretary may consider necessary to promote the initiation, improvement, or continuation of intercity bus service. When assistance is distributed by the Secretary for privately owned intercity bus companies, such assistance shall, to the maximum extent feasible, subsidize deficit operations considering the profitability of the route as a whole. The determination of profitability shall include all income generated by the route and only direct costs of the operation of the route. In making any such grant with respect to service in a particular general area, the Secretary shall give preference to applications involving a bus operator which lawfully has provided intercity bus service within that area during the 1-year period preceding the date of application for such a grant, as compared to applications involving proposals for such service by any other operator.

"(c) Grants for the establishment and maintenance of rural feeder services under subsection (a) of this section shall be made only to States and local public bodies thereof in order to provide financial and other incentives for such establishment and maintenance. Such incentives may include—

"(1) supplemental operating assistance to permit daily service;

"(2) extension of authorized operating hours to facilitate connections with bus and railroad services that operate in nationwide interstate commerce;

"(3) subsidization of fares; and

"(4) establishment of a special fund to pay for the marketing of rural connections and rural feeder services.

"(d) As used in this section, the term—

"(1) 'intercity bus service' means transportation provided to the public by a bus operator authorized to transport passengers in interstate commerce by the Interstate Commerce Commission or in intrastate commerce by a State regulatory commission or comparable State agency (A) between one urban place as designated in accordance with subsection (a) and another such urban place, (B) between such an urban place and an urbanized area, or (C) between one urbanized area and another urbanized area, through rural areas or such urban places, or both, except that the term does not include local service; and

"(2) 'rural feeder services' means transportation provided to the public which is designed to facilitate connections between a rural area and bus and railroad services that operate in nationwide interstate commerce.".

(c) EXPRESS PICKUP AND DELIVERY OF SMALL PACKAGES.—

(1) PILOT PROJECTS.—

(A) ESTABLISHMENT.—The Secretary of Transportation (hereafter in this section referred to as the "Secretary") is authorized to establish pilot projects for the purpose of providing incentives for rural feeder services (as defined under section 26 of the Urban Mass Transportation Act of 1964) to combine express pickup and delivery of small packages with passenger transportation.

(B) GRANTS FOR PROJECTS.—Grants made by the Secretary for any project established under subparagraph (A) shall not exceed 18 months in duration. The grants shall be made only to States and local public bodies and agencies thereof and shall not exceed 20 percent of the net cost of providing such pickup and delivery. The remainder of such cost shall be provided from sources other than Federal funds.

(C) PREFERRED APPLICANTS.—In making grants under this subsection, the Secretary shall, in consultation with the Interstate Commerce Commission, give preference to applicants which—

(i) demonstrate a serious community need for such pickup and delivery, in light of such circumstances as availability and proximity of existing pickup and delivery services; and

(ii) propose services by private bus operators with proven expertise in intercity bus services (as defined under section 26 of the Urban Mass Transportation Act of 1964) which possess a reasonable likelihood of continuing such pickup and delivery after grant assistance under this subsection has terminated.

(D) AMENDMENT TO URBAN MASS TRANSPORTATION ACT.—Section 4(i) of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1603(i)) is amended by inserting, immediately before the period at the end of the first sentence, the following: ", including projects referred to in subsection (c)(1)(A) of the Rural Bus Services Act".

(2) STUDY.—The Secretary shall conduct a study to evaluate the extent to which such pickup and delivery is dependent upon Federal preemption of State regulation. The Secretary shall, not later than 12 months after the date of enactment of this section, report to Congress on the results of such study.

SEC. 716. ECONOMIC IMPACT STATEMENTS.

When promulgating regulations concerning rural development activities after the date of enactment of this Act, the Federal agency or department promulgating such regulations shall issue an economic impact assessment concerning the effect of such regulations on rural communities and businesses.

SEC. 717. INFORMATION CONCERNING FEDERAL FUNDING.

In the case of each program under which funds are allocated by an executive agency to States or political subdivisions of States, or both, under a formula established by Federal law or regulation, the head of the agency shall—

(1) in each fiscal year, identify the goods and services to be procured by such executive agency during such fiscal year that may be procured from one or more commercial sources located primarily in a rural area; and

(2) in each fiscal year, identify the amount of Federal funds and grants that are to be expended on or awarded to colleges, universities, or research firms, for research and development activities during that fiscal year to determine what portion of such funds could be directed to similar institutions in rural areas.

SEC. 718. NATIONAL RURAL DEVELOPMENT AND FINANCE CORPORATIONS.

Section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note) is amended—

(1) by striking out "to September 30, 1988," wherever it appears therein and inserting in lieu thereof "to September 30, 1991,";

(2) in subsection (a)(4), by striking out "fiscal year ending September 30, 1987," and inserting in lieu thereof "fiscal years ending September 30, 1989, September 30, 1990, and September 30, 1991,";

(3) by adding at the end of subsection (a) the following new paragraphs:

"(6) Notwithstanding any other provision of law, lenders that have provided loans that are guaranteed under this subsection shall have limited reporting responsibilities, as determined by the Secretary, concerning such loans, and the National Rural Development and Finance Corporation shall be primarily responsible for the issuance of final reports concerning such loans.

"(7) Notwithstanding any other provision of law, loan guarantees provided under this subsection shall be for a period not to exceed 15 years."; and

(4) in subsection (b)(1)—

(A) by striking out "from funds transferred under paragraph (2)";

(B) by inserting the words "or expanding" after the word "establishing"; and

(C) by adding the following new sentence at the end thereof: "Such grants may also be made directly to affiliated statewide programs if the Corporation certifies to the Secretary that they are able to establish effective, ongoing State programs or rural development and revolving finance."; and

(5) by adding at the end thereof the following new subsection:

"(c) Nonprofit national rural development and finance corporations and affiliated Statewide programs that receive grants under subsections (a) or (b) may use not to exceed 10 percent of the amount of such grants over a 2-year period for program operation and administration costs.".

TITLE VIII—MICROBUSINESS LOAN FUND AND MICROBUSINESS TECHNICAL ASSISTANCE FUND

SEC. 801. SHORT TITLE.

This title may be cited as the "Rural Microbusiness Loan Availability Act of 1989".

SEC. 802. FINDINGS.

The Congress finds that—

(1) in almost every major economic respect, in this decade, rural areas have fallen behind urban areas;

(2) each year, in this Nation, more than 500,000 individuals are leaving rural areas;

(3) the unemployment rate in rural areas, which has historically been lower than the unemployment rate in urban areas, is now higher than such rate in urban areas;

(4) the per capita income level in rural areas is 35 percent lower than such income level for urban areas;

(5) the poverty rate, in terms of the percentage of individuals which have an income level below the poverty line (established by the Office of Management and Budget), for rural areas is 16.9 percent, as compared to a poverty rate of 12.5 percent in metropolitan areas;

(6) rural communities are in danger of being increasingly isolated from the economic mainstream of the United States as a result of deregulation of banking, communications, and transportation industries, and concomitant reductions in the services provided by such industries to rural areas;

(7) the fact that rural employment is disproportionately concentrated in industries such as agriculture, resource extraction, and low-skill manufacturing also jeopardizes the

economic strength of such areas, since such industries have experienced setbacks in this decade and are not likely to experience increases in employment and assets in the foreseeable future;

(8) access to capital is critical to rural areas to enable such areas to develop a diversified economic base, create jobs, and reenter the economic mainstream of this Nation;

(9) managerial and technical assistance should be provided whenever capital is made available to rural businesses with the help of the Federal Government; and

(10) rural communities should become actively involved in economic development at the local level through partnerships between the Federal Government and the private sector, including nonprofit entities located in or near such rural communities.

SEC. 803. PURPOSE.

The purposes of this title are—

(1) to make small scale loans available to microbusinesses through eligible entities which operate in rural communities, and

(2) to make managerial and technical assistance grants available to microbusinesses which operate in rural communities.

SEC. 804. DEFINITIONS.

For purposes of this title—

(1) ADMINISTRATION.—The term "Administration" means the Small Business Administration.

(2) ELIGIBLE APPLICANT.—The term "eligible applicant" means an eligible entity or a Small Business Development Center, as defined in section 21(a)(1) of the Small Business Act (15 U.S.C. 648).

(3) ELIGIBLE ENTITY.—The term "eligible entity" has the same meaning as in section 801(2) of this Act.

(4) ELIGIBLE MICROBUSINESS.—The term "eligible microbusiness" means a microbusiness—

(A) which is otherwise unable (using reasonable efforts) to secure credit of the scale made available under this title,

(B) which meets the requirements of the economic development workplan submitted by the eligible entity or eligible applicant, and

(C) which is located in the rural community in which the eligible entity conducts loan-related activities or the eligible applicant conducts grant-related activities.

(5) MICROBUSINESS.—The term "microbusiness" means a business which employs no more than 10 full-time (or the equivalent of 10 full-time) employees.

(6) RURAL COMMUNITY.—The term "rural community" means a county or other comparable subdivision of a State which has been designated by the Administration as a rural community, and is—

(A) a county or other comparable political subdivision of a State with a population of not more than 50,000, or

(B) a county or other comparable political subdivision of a State with a population greater than 50,000 which is recommended for designation as a rural community by the District Director of the Administration for the district in which such county or subdivision is located, and with respect to which such designation is approved by the Administration.

SEC. 805. ESTABLISHMENT OF MICROBUSINESS LOAN FUND.

There is established in the Treasury a revolving fund to be known as the "Microbusiness Loan Fund". The capital of the Microbusiness Loan Fund shall remain available until expended. Any profits or income derived from the activities of the Fund less operating expenses incurred in administering such Fund shall be placed in such Fund. The Fund shall be credited with amounts appropriated pursuant to section 20(i)(1) of the Small Business Act. Amounts in the Microbusiness Loan Fund may be used to fund loans to eligible entities selected as loan recipients under section 806 of this title.

SEC. 806. LOANS FROM THE MICROBUSINESS LOAN FUND AND TECHNICAL ASSISTANCE GRANTS.

(a) LOANS FROM THE MICROBUSINESS LOAN FUND.—The Administration shall make loans from the Microbusiness Loan Fund to eligible entities selected as loan recipients and such loans may be used—

(1) to provide loans or loan guarantees to eligible microbusinesses, and

(2) to pay administrative costs in connection with loans and loan guarantees under paragraph (1).

(b) MICROBUSINESS MANAGERIAL AND TECHNICAL ASSISTANCE GRANTS.—The Administration shall make Microbusiness Managerial and Technical Assistance Grants to eligible applicants which have existing programs (or programs scheduled for concurrent funding) which provide managerial and technical assistance (including preparation of business plans, financial analysis, loan servicing, management counseling, marketing analysis, engineering services, and any other assistance necessary for the general operation of a small business enterprise) and program administration. Such grants may be used—

(1) to provide such managerial and technical assistance,

(2) to provide funds to subgrantees who may provide such managerial and technical assistance on behalf of a recipient of a grant awarded under this subsection, and

(3) to provide administrative costs to carry out the purpose in paragraph (1).

(c) LOAN AND GRANT LIMITS.—Not more than $500,000 per loan per fiscal year may be provided by the Administration to fund a loan to an eligible entity from the Microbusiness Loan Fund, and not more than $200,000 per grant per fiscal year may be used to fund a Microbusiness Managerial and Technical Assistance Grant to an eligible applicant.

(d) LOAN REPAYMENT AND INTEREST.—A loan to an eligible entity from the Microbusiness Loan Fund shall be repayable in not more than 15 years after the date that such loan is awarded. The maximum rate of interest for any such loan shall be 5 percent.

(e) LOAN AND GRANT COMPETITION.—(1) The Administration shall conduct a nationwide competition through an application process. In order to be considered for a loan or grant under this section, an economic development workplan shall be submitted to the Administration as part of the application process. The Administration shall select for loans or grants those applicants which best meet the criteria established by the regulations under paragraph (5).

(2) With respect to a loan application for a loan from the Microbusiness Loan Fund, the economic development workplan required under paragraph (1) shall include—

(A) description of the number and types of microbusiness in the rural community from which the eligible entity expects to receive applications for loans or loan guarantees,

(B) the type of support to be provided, including loans or loan guarantees,

(C) an estimate of the number of jobs to be created or retained,

(D) a description of the economic condition of the rural community in which the eligible entity plans to provide loans or loan guarantees, and

(E) a description of the managerial and technical assistance which such eligible entity plans to provide to eligible microbusinesses.

(3) With respect to an application for a Microbusiness Managerial and Technical Assistance Grant, an eligible applicant shall provide—

(A) a description of the existing program (or program schedules for a concurrent program) which the eligible applicant intends to provide,

(B) the type of managerial and technical assistance to be provided (including preparation of business plans, financial analysis, loan servicing, management counseling, marketing analysis, engineering services, and any other assistance necessary for the general operation of a small business enterprise),

(C) sufficient evidence and a certification that such managerial and technical assistance shall be provided,

(D) an estimate of the number of jobs to be created or retained, and

(E) a list of subgrantees and the type of managerial and technical assistance to be provided by such subgrantees.

(4) The Administration shall use its best efforts to ensure that at least one eligible entity from each State that the Administration determines to have a significant rural population receives a loan from the Microbusiness Loan Fund and that at least one eligible applicant from each such State receives a Microbusiness Managerial and Technical Assistance grant.

(5) Not later than 90 days after the date of enactment of this Act, the Administration shall issue regulations establishing criteria for the competition for loans and grants under this section. Such criteria shall take into consideration the quality of the economic development workplans submitted.

(f) APPROVAL OF LOANS AND GRANTS.—(1) LOANS.—If the Administration approves the economic development workplan of an eligible entity selected under subsection (e)(1), then the Administration shall approve a loan for such eligible entity and shall execute a contract stating the terms of such loan with the recipient, including conditions for repayment of such loan.

(2) GRANTS.—If the Administration approves the economic development workplan of an eligible applicant selected under subsection (e)(1), then the Administration shall approve a grant for such eligible applicant and shall execute a contract stating the terms of such grant with the recipient.

(g) MONITORING BY THE ADMINISTRATION.—(1) The Administration shall conduct an annual audit to ensure that any loan or grant awarded under this section is administered in accordance with this section and any other applicable law.

(2) If the Administration determines, upon review of the results of an audit described under paragraph (1), that a recipient is in violation of the terms of a loan or grant awarded under this section, the Administration may recall such loan or grant and require the recipient to repay any funds from such loan or grant.

SEC. 807. DISBURSEMENT OF LOAN FUND BY MICROBUSINESS LOAN FUND LOAN RECIPIENTS.

(a) LOCAL REVOLVING FUNDS.—All funds received by a loan recipient for a loan from the Microbusiness Loan Fund shall be placed into a revolving fund to be adminis-

tered by the loan recipient, in accordance with procedures established by the Administration, and any profits or income derived from the activities of the revolving fund less operating expenses incurred in administering such funds shall be placed in such fund.

(b) LOAN OR LOAN GUARANTEE SIZE LIMITS.—The amount to be provided to an eligible microbusiness from a loan revolving fund described in subsection (a) shall not exceed the lesser of—

(1) 75 percent of the amount of total financing for the investment with respect to which such loan or loan guarantee relates, or

(2) $25,000.

(c) INTEREST.—The maximum rate of interest on any loan made by an eligible entity to a microbusiness shall be legal and reasonable but shall not exceed a rate prescribed and published quarterly by the Administration. The rate of interest prescribed by the Administration shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent per year.

SEC. 808. AUTHORIZATION.

Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(i) MICROBUSINESS LOAN FUND LOANS AND MICROBUSINESS MANAGERIAL AND TECHNICAL ASSISTANCE GRANTS.—(1) There are authorized to be appropriated to the Administration for fiscal years 1990 and 1991—

"(A) $25,000,000 for the Microbusiness Loan Fund, and

"(B) $10,000,000 for Microbusiness Managerial and Technical Assistance Grants under section 806 of the Rural Access to Capital Act of 1989.

"(2) Notwithstanding any other provision of law, of the amounts made available to carry out section (7)(i) for fiscal years 1990 and 1991, the Administration shall make available such amounts for each fiscal year to carry out the programs described in paragraph (1).".

TITLE IX—SMALL BUSINESS RURAL REVITALIZATION

SEC. 901. SHORT TITLE.

This title may be cited as the "Small Business Rural Revitalization Act of 1989".

Subtitle A—Capital Formation

SEC. 911. DEFINITION OF DESIGNATED RURAL AREA.

Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended—

(1) in subsection (a), by striking out the last sentence,

(2) in subsection (a), by striking out "needs of rural areas" and inserting "needs of designated rural areas", and

(3) by adding at the end thereof the following new subsection:

"(d) DESIGNATED RURAL AREA.—The term 'designated rural area' means a county or other comparable political subdivision of a State that has been designated by the Administrator of the Small Business Administration as a designated rural area that is—

"(1) a nonmetropolitan county, as periodically defined and classified by the United States Department of Agriculture's Economic Research Service (such counties are the 2,384 of the United States' 3,096 counties (or equivalents), that each have an aggregate urban population of 50,000 individuals or less); or

"(2) a political subdivision of a metropolitan county (or its equivalent) that has an aggregate urban population of 20,000 individuals or less, that has been recommended for such designation by the District Director of the Small Business Administration for the district in which such county is located, and whose recommendation for such designation has been approved by the Administrator of the Small Business Administration, except that such District Director shall make such a recommendation only if—

"(A) through official action, the highest governing authority of such metropolitan county has specifically requested that an identifiable political subdivision of such county be a designated rural area for the purposes of this Act; and

"(B) through official action, the request referred to in subparagraph (A) has been evaluated and concurred in by the department or agency of the State that is primarily responsible for rural economic development programs within the State, and which shall make such designation request to the appropriate District Director of the Small Business Administration.".

SEC. 912. CAPITAL REQUIREMENTS FOR SMALL BUSINESS INVESTMENT COMPANIES OPERATING IN DESIGNATED RURAL AREAS.

Section 302(a) of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended—

(1) by inserting "(1)" after "(a)", and

(2) by inserting after "$500,000" the following: "; and *Provided further*, That the combined private paid-in capital and paid-in surplus of any company licensed on or after October of 1989 pursuant to subsections (c) and (d) of section 301 shall not be less than $1,000,000"; and

(3) by adding at the end thereof the following new paragraphs:

"(2) In the case of any company licensed pursuant to subsections (c) or (d) of section 301, to assist small business concerns located in designated rural areas (as defined in section 501), such private capital may include contributions by—

"(A) State and local governments if such contributions are not directly or indirectly derived from Federal funds; and

"(B) not-for-profit institutions, if such contributions are not directly or indirectly derived from Federal funds, if—

"(i) in the case of a corporation—

"(I) such contributions do not exceed 49 percent of the corporation's combined paid-in capital and paid-in surplus;

"(II) the aggregate amount of voting stock held by such contributors does not exceed 49 percent of the total issued and outstanding voting stock of such corporation; and

"(III) not less than 60 percent of the members of the board of directors of such corporation are from the private sector; and

"(ii) in the case of a partnership—

"(I) such contributions do not exceed 49 percent of the partnership capital; and

"(II) the partnership interest of such contributors is that of a limited partner.".

SEC. 913. STATE DEVELOPMENT COMPANIES.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 507. RURAL AREA DEVELOPMENT COMPANIES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, a qualified certified development company may issue a debenture that shall be guaranteed by the Federal Government pursuant to section 503(a) of this title in an amount that shall not exceed the lesser of—

"(1) $1,000,000; or

"(2) an amount equal to the amount of any matching funds provided by private sector entities.

"(b) DEFINITION.—As used in subsection (a), the term 'qualified certified development company' means a certified development company that—

"(1) is located and operated in a designated rural area (as defined under section 501);

"(2) has been in operation for at least 3 years;

"(3) is in good standing with, and has management abilities approved by, the Administration; and

"(4) has a minimum portfolio of 5 loans approved and disbursed under section 504, of which at least 80 percent are current.

"(c) REVOLVING FUND.—Funds obtained under this section shall be used to establish a revolving fund to make loans to small businesses operating in rural areas in an amount not to exceed $100,000.

"(d) CRITERIA ESTABLISHED BY ADMINISTRATION.—A development company issuing a debenture guaranteed under this section shall comply with any criteria established by the Administration and not less than 50 percent of the funds of the company shall be from private investors.

"(e) JOBS OBJECTIVES.—For purposes of this section, or other sections of title V to which the requirements of section 108.503(b)(1) of title 13, Code of Federal Regulations, apply, the requirements of section 108.503(b)(1) of title 13, Code of Federal Regulations, shall be modified by substituting '$30,000' for '$15,000'.

"(f) DEBENTURES GUARANTEED.—The aggregate amount of debentures guaranteed under this section shall not exceed $25,000,000 annually. Amounts necessary to guarantee such debentures shall be derived from amounts appropriated under section 504.".

(b) CONFORMING AMENDMENT.—The table of sections for title V of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 506 the following new item:

"Sec. 507. Rural Area Development Companies.".

Subtitle B—Regulatory Simplification; Miscellaneous Amendments

SEC. 921. DEFINITION OF SMALL BUSINESS IN DESIGNATED RURAL AREAS FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) the term 'qualified designated rural area business' means any small business, as defined by the regulations issued by the Small Business Administration, that is engaged in the active conduct of a trade or business within a designated rural area (within the meaning of section 501 of the Small Business Investment Act of 1958).".

SEC. 922. INTERAGENCY REVIEW AND RECOMMENDATIONS.

(a) INTERAGENCY REVIEW.—The Administrator of the Small Business Administration shall conduct a review of all Federal economic development programs, and all Federal laws the purposes of which are to promote rural area economic and community development, rural area business promotion, or enhancement of employment opportunities in rural communities.

(b) CONSULTATION WITH FEDERAL OFFICIALS.—The Administrator in conducting the review under subsection (a) shall consult with—

(1) the Secretary of Housing and Urban Development,

(2) the Secretary of Health and Human Services,

(3) the Secretary of Energy,

(4) the Secretary of Defense,

(5) the Secretary of Commerce,

(6) the Secretary of Agriculture,

(7) the Secretary of Labor, and

(8) any other Federal officials, including the General Accounting Office, that the Administrator may consider appropriate.

(c) REPORT.—The Administrator shall, not later than 1 year after the date of enactment of this Act, submit a report to the appropriate committees of the House of Representatives and the Senate containing the findings of the review, including—

(1) a description of existing Federal grant and loan programs, which involve community development, business promotion, and research and development, for which small businesses located in rural areas are currently eligible;

(2) recommendations regarding changes to existing law which may be needed to make small businesses which are located in rural areas eligible for current Federal grant and loan programs; and

(3) recommendations for any additional legislation that may be required to foster and support small businesses in rural areas.

TITLE X—EFFECTIVE DATE AND IMPLEMENTATION

SEC. 1001. EFFECTIVE DATE AND IMPLEMENTATION.

(a) IN GENERAL.—Unless otherwise provided in this Act, this Act shall become effective on October 1, 1989.

(b) REGULATIONS.—

(1) RURAL PARTNERSHIPS INVESTMENT BOARD.—Final regulations implementing subtitle A of title I shall be issued by the Rural Partnership Investment Board not later than March 30, 1990.

(2) WATER AND WASTE FACILITY FINANCING.—Final regulations, issued after notice and comment, implementing the water and sewer program established under the amendment made by section 122 shall be promulgated not later than 160 days after the date of enactment of this Act.

MOTION OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DE LA GARZA moves to strike all after the enacting clause of S. 1036, and to insert in lieu thereof the text of H.R. 3581, as passed by the House, as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rural Economic Development Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.

TITLE I—REORGANIZATION OF THE DEPARTMENT OF AGRICULTURE

Sec. 101. Rural Development Administration.

Sec. 102. Conforming amendments.

TITLE II—LOCAL PRIORITIZATION OF PROJECT FUNDING

Sec. 201. Delivery of certain rural development programs.

Sec. 202. Loan and loan guarantee allocation and transfer.

TITLE III—ENHANCEMENT OF EXISTING RURAL DEVELOPMENT PROGRAMS

Sec. 301. REA technical assistance unit.

Sec. 302. Deferment of payment on economic development loans.

Sec. 303. Water and waste lending by banks for cooperatives.

Sec. 304. Amendments to the business and industry loan program.

Sec. 305. Water or waste disposal loans to benefit rural businesses.

Sec. 306. Rural wastewater treatment circuit rider program.

Sec. 307. Increase on limitation of authorization for water and waste grants.

Sec. 308. Limitation on conditions for water and sewer grants and loans.

TITLE IV—RURAL DEVELOPMENT INFORMATION SHARING AND TECHNOLOGY TRANSFERS

Sec. 401. Rural development information sharing.

Sec. 402. Rural technology grants.

TITLE V—RURAL BUSINESS AND LEADERSHIP TRAINING

Sec. 501. Extension Service Rural Business and Leadership Training Program.

TITLE VI—RURAL ECONOMIC DEVELOPMENT RESEARCH

Sec. 601. Research on nontraditional uses of agricultural commodities.

Sec. 602. Authorization of rural development research competitive grants.

Sec. 603. Demonstration projects.

Sec. 604. Rural development research assistance.

TITLE VII—RURAL ELECTRIFICATION PROVISIONS

Sec. 701. Short title; amendment of Rural Electrification Act of 1936.

Sec. 702. Findings; statement of policy.

Subtitle A—Amendment to Title I of the Rural Electrification Act of 1936

Sec. 711. General prohibitions.

Subtitle B—Amendments Relating to Title II of the 1936 Act

Sec. 721. Nonduplication of telephone facilities.

Sec. 722. Updated definition of telephone service.

Sec. 723. Loan feasibility.

Sec. 724. Encouragement of investment by telephone borrowers in rural development projects.

Sec. 725. Improvements in telephone program.

Sec. 726. Prompt processing of telephone loans.

Subtitle C—Amendments Relating to Title III of the 1936 Act

Sec. 731. Creation of separate electric and telephone accounts within rural electric and telephone revolving fund.

Sec. 732. Borrowers to determine amortization period for insured telephone loans.

Sec. 733. Tier requirement for insured telephone loans.

Sec. 734. Clarification of telephone loan guarantee authority.

Subtitle D—Amendments Relating to Title IV of the 1936 Act

Sec. 741. Modification of Rural Telephone Bank Board.

Sec. 742. Rural telephone bank capitalization.

Sec. 743. Pro rata purchase of rural telephone bank stock by rural telephone bank borrowers.

Sec. 744. Clarification of authority to set rural telephone bank loan levels.

Sec. 745. Borrowers to determine amortization period for rural telephone bank loans.

Sec. 746. Full use of rural telephone bank loan authority.

Sec. 747. Technical amendments relating to the rural telephone bank provisions of the Omnibus Budget Reconciliation Act of 1987.

Subtitle E—Effective Date

Sec. 751. Effective date.

TITLE VIII—MISCELLANEOUS

Sec. 801. Regulations.

Sec. 802. Encouragement of private contracting.

Sec. 803. Loan rates applicable to certain loans under the Consolidated Farm and Rural Development Act.

Sec. 804. Assistance for certain distressed community facility program borrowers.

Sec. 805. Water and waste facility loans and grants to alleviate health risks.

Sec. 806. Preservation of eligibility.

Sec. 807. Buy-American requirement.

Sec. 808. State programs not affected.

Sec. 809. Technical corrections.

TITLE IX—NATIONAL FOREST-DEPENDENT RURAL COMMUNITIES

Sec. 901. Short title.

Sec. 902. Findings and purposes.

Sec. 903. Definitions.

Sec. 904. Rural forestry and economic diversification action teams.

Sec. 905. Action plan implementation.

Sec. 906. Training and education.

Sec. 907. Loans to economically disadvantaged rural communities.

Sec. 908. Authorization of appropriations and spending authority.

TITLE X—ENHANCING HUMAN RESOURCES

Sec. 1001. Short title.

Subtitle A—Rural Business Development

Sec. 1011. Purposes.

Sec. 1012. Loans for business telecommunications partnerships.

Subtitle B—Rural Telecommunications Provisions

Sec. 1021. Rural telecommunications zones.

Sec. 1022. Grants for emergency public safety telephone answering systems.

Sec. 1023. Study on use of telecommunications infrastructure by businesses in rural areas.

TITLE I—REORGANIZATION OF THE DEPARTMENT OF AGRICULTURE

SEC. 101. RURAL DEVELOPMENT ADMINISTRATION.

(a) AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended—

(1) by adding at the end the following:

"SEC. 359. RURAL DEVELOPMENT ADMINISTRATION.

"(a) ESTABLISHMENT.—There is established in the Department of Agriculture the Rural Development Administration, which shall be headed by an Administrator appointed by the Secretary.

"(b) ADMINISTRATION.—Except as provided in subsection (c), or as otherwise provided in this section, the Secretary shall carry out this Act through the Farmers Home Administration.

"(c) EXCEPTIONS.—The Secretary shall carry out section 303 (in the case of loans made for purposes specified in paragraphs (2) and (3) of section 303(a)), section 304(b), section 306(a), section 306B, section 310A, section 310B, section 312(a) (in the case of loans made for the purposes specified in paragraphs (5) and (6)), section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note), title VI of the Rural Development Act of 1972, and such other rural development programs as the Secretary determines appropriate through the Rural Development Administration.

"(d) REFERENCES.—Any reference in any law, regulation, or order in effect immediately before the date of the enactment of the Rural Economic Development Act of 1990 to the Farmers Home Administration or to the Administrator of the Farmers Home Administration or of the Farmers Home Administration relating to any function, power, or duty that is, on or after such date, a function, power, or duty of the Rural Development Administration or the Administrator of the Rural Development Administration, shall be deemed to be a reference to the Rural Development Administration or to the Administrator of the Rural Development Administration, as the case may be.

"(e) EFFECT ON PENDING PROCEEDINGS AND PARTIES TO SUCH PROCEEDINGS.—

(1) NONABATEMENT OF ACTIONS.—This Act does not abate any proceeding commenced—

"(A) by or against any entity any function of which is transferred by this Act; or

"(B) by or against any officer of any entity referred to in subparagraph (A) in the official capacity of such individual as such an officer.

"(2) EFFECT ON PARTIES.—If an officer of the Farmers Home Administration, in the official capacity of such officer, is a party to a proceeding pending on the date of the enactment of this Act, and under this Act the officer or any function of the officer is transferred to the Rural Development Administration, Department of Agriculture, then such action shall be continued with the Secretary or the Administrator, Rural Development Administration, or other appropriate officer of the Department substituted or added as a party.

"(3) TRANSFER OF CERTAIN RIGHTS OF FARMERS HOME ADMINISTRATION TO RURAL DEVELOPMENT ADMINISTRATION.—The rights, interests, obligations, and duties of the Farmers Home Administration arising before the date of the enactment of the Rural Economic Development Act of 1990 from any loan made, insured, or guaranteed, or any grant or contract made, by the Farmers Home Administration in the exercise of its functions shall—

"(A) with respect to any function to be exercised on or after such date by the Farmers Home Administration under subsection (b), continue to be vested in the Farmers Home Administration; and

"(B) with respect to any function to be exercised on or after such date by the Rural Development Administration under subsection (c), be vested in the Rural Development Administration.

"(f) COMPENSATION OF ADMINISTRATOR.—The Administrator of the Rural Development Administration shall be compensated in accordance with subchapter VIII of chapter 53 of title 5, United States Code."; and

(2) in section 309(e) by—

(A) inserting "and the Rural Development Administration, in proportion to such charges collected in connection with the insurance of loans by such agency" after "Farmers Home Administration"; and

(B) striking "expenses." and inserting "expenses for such agency.".

(b) FACILITATION OF TRANSFER OF FUNCTIONS.—(1) Notwithstanding the provisions of section 331 of the Consolidated Farm and Rural Development Act, as soon as practicable, but in no case later than one hundred and eighty days after the date of enactment of this section, the Secretary shall transfer to the Rural Development Administration the powers, duties, and assets of the agencies, offices, and other entities in the Department of Agriculture, or elements thereof, related to the performance of rural development functions, including, but not limited to, the agencies, offices, and other entities in the Department of Agriculture, or elements thereof, that administer sections 303 (in the case of loans made for purposes specified in paragraphs (2) and (3) of subsection (a)), 304(b), 306(a), 306B, 310A, 310B, and section 312(a) (in the case of loans made for the purposes specified in paragraphs (5) and (6)) of the Consolidated Farm and Rural Development Act, section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note), title VI of the Rural Development Act of 1972, and such other rural development programs as the Secretary determines appropriate.

(2) INCIDENTAL TRANSFERS.—The Secretary shall make such determinations, and shall transfer such personnel from the Farmers Home Administration, as may be necessary or appropriate with regard to the functions transferred under this section to the Rural Development Administration. The Secretary shall also make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available, or to be made available in connection with the functions transferred by this section, as the Secretary may deem necessary to accomplish the purposes of this section.

(3) EFFECTIVE AND EFFICIENT TRANSFER OF AUTHORITY.—The Administrator of the Farmers Home Administration and the Secretary shall take whatever steps are necessary to assure the effective and efficient transfer of authority as provided for in this section.

SEC. 102. CONFORMING AMENDMENTS.

(a) Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended—

(1) in the first sentence—

(A) by striking "For the purposes of this title and" and inserting "In accordance with section 359, for purposes of this title, and"; and

(B) by inserting before the period ", or may assign and transfer such powers, duties, and assets to the Rural Development Administration as provided by law for that office";

(2) in subsection (d), by striking "under any of its programs" and inserting "or the Rural Development Administration under any of their programs"; and

(3) in subsections (h) and (i), by inserting "Rural Development Administration under this title or by the" before "Farmers Home Administration" each place it appears.

(b) Section 331A of such Act (7 U.S.C. 1981a) is amended by inserting "or by the Rural Development Administration" immediately after "Farmers Home Administration".

(c) Section 335 of such Act (7 U.S.C. 1985) is amended—

(1) in subsection (a), by inserting "or the Rural Development Administration" after "Farmers Home Administration"; and

(2) in subsection (c)(1) by inserting "or the Rural Development Administration" after "Farmers Home Administration".

(d) Section 338(a) of such Act (7 U.S.C. 1988(a)) is amended by inserting "or the Rural Development Administration" after "Farmers Home Administration".

(e) Sections 657, 658, 1006, and 1014 of title 18, United States Code, are each amended by striking "Farmers' Home Administration" and inserting "Farmers Home Administration, the Rural Development Administration".

(f)(1) Section 623(c)(2) of the Community Economic Development Act of 1981 (42 U.S.C. 9812(c)(2)) is amended by inserting ", or the Rural Development Administration" after "Farmers Home Administration".

(2) Section 628 of such Act (42 U.S.C. 9817) is amended—

(A) by amending the heading to read as follows:

"DEPARTMENT OF AGRICULTURE; RURAL DEVELOPMENT ADMINISTRATION PROGRAMS"; and

(B) by inserting ", or of the Rural Development Administration" after "of the Farmers Home Administration".

TITLE II—LOCAL PRIORITIZATION OF PROJECT FUNDING

SEC. 201. DELIVERY OF CERTAIN RURAL DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—Effective October 1, 1991, the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"SEC. 360. SYSTEM FOR DELIVERY OF CERTAIN RURAL DEVELOPMENT PROGRAMS.

"(a) IN GENERAL.—(1) ASSISTANCE IN ELIGIBLE STATES.—Assistance under each designated rural development program shall be provided in eligible States to qualified projects in accordance with this section.

"(2) NO ASSISTANCE IN OTHER STATES.—The Secretary shall not provide assistance under any designated rural development program in any State that is not an eligible State.

"(b) DEFINITIONS.—As used in this section and section 361—

"(1) AREA PLAN.—The term 'area plan' means, with respect to a local or regional area in a State, the long range rural development plan developed for the area. Each area plan shall identify the geographical boundaries of the area and include—

"(A) an overall development plan for the area with goals, including business development and infrastructure development goals, and time lines based on a realistic assessment of the area, including, but not limited to—

"(i) the number and types of businesses in the area that are growing or declining, and a list of the types of businesses that the area could potentially support;

"(ii) the outstanding need for water and waste and other public services or facilities in the area;

"(iii) the realistic possibilities for industrial recruitment in the area;

"(iv) the potential for the development of tourism in the area;

"(v) the potential for the generation of employment in the area through the creation of small businesses and the expansion of existing businesses; and

"(vi) the potential for the production of value-added agricultural products in the area;

"(B) an inventory and assessment of the human resources of the area, including, but not limited to—

"(i) a current list of organizations in the area and their special interests;

"(ii) the current level of participation of area residents in rural development activities and the level of participation required for successful implementation of the plan;

"(iii) the availability of general and specialized job training in the area and the extent to which the needs of the area for such training are not being met;

"(iv) a list of area residents with special skills which could be useful in developing and implementing the plan; and

"(v) an analysis of the human needs of the area, the resources in the area available to meet those needs, and the manner in which the plan, if implemented, would increase the resources available to meet those needs;

"(C) the current degree of intergovernmental cooperation in the area and the degree of such cooperation needed for the successful implementation of the plan;

"(D) the ability and willingness of governments and citizens in the area to become involved in developing and implementing the plan;

"(E) a description of how the governments in the area will apply budget and fiscal control processes to the plan; and

"(F) the extent to which public services and facilities need to be improved to achieve the economic development and quality of life goals of the plan, taking into consideration, at a minimum—

"(i) law enforcement;

"(ii) fire protection;

"(iii) water and solid waste management;

"(iv) education;

"(v) health care;

"(vi) transportation;

"(vii) housing;

"(viii) communications; and

"(ix) the availability of, and capability to generate, electric power.

"(2) DESIGNATED RURAL DEVELOPMENT PROGRAM.—The term 'designated rural development program' means a program carried out under section 304(b), 306(a), or subsection (a) through (f) and (h) of section 310B of this Act, or under section 1323 of the Food Security Act of 1985, for which funds are available at any time during the fiscal year under such section.

"(3) ELIGIBLE STATE.—(A) REQUIREMENTS.—The term 'eligible State' means, with respect to a fiscal year, a State with respect to which all of the following apply not later than the first day of the fiscal year:

"(i) ESTABLISHED RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.—The State has established an advisory rural economic development review panel meeting the requirements of section 361;

"(ii) APPOINTED STATE COORDINATOR.—The Governor of the State has appointed an officer or employee of the State government to—

"(I) manage, operate, and carry out the instructions of, the panel described in clause (i);

"(II) serve as a liaison between the panel and the Federal and State agencies involved in rural development, including transmitting to the Secretary any list transmitted to the State coordinator pursuant to section 361(b)(6);

"(III) ensure that all rural residents in the State are informed about the manner in which assistance under designated rural development programs is to be provided to the State pursuant to this section and section 361;

"(IV) provide information to State residents, on request, about the manner in which assistance under designated rural development programs is to be provided to the State pursuant to this section and section 361; and

"(V) coordinate the efforts of interested rural residents with the State rural economic development review panel.

"(iii) DESIGNATED AGENCY TO PROVIDE ADMINISTRATIVE SUPPORT TO PANEL.—The State has designated an agency to provide the panel and the State coordinator with support for the daily operation of the panel described in clause (i).

"(B) GOOD FAITH EXCEPTION.—Notwithstanding the requirements of subparagraph (A), the Secretary of Agriculture may determine, no later than the first day of the fiscal year, a State to be an eligible State under this paragraph for the fiscal year if the Secretary determines that the State has made a good faith effort to meet, and has substantially met, such requirements.

"(4) QUALIFIED PROJECT.—The term 'qualified project' means any project—

"(A) for which the agency described in paragraph (3)(C) of the State has identified—

(i) the alternative Federal, State, local, or private sources of assistance, and

"(ii) the related activities in the State; and

"(B) to which the Secretary is required by subsection (c)(4) to provide assistance.

"(5) STATE COORDINATOR.—The term 'State coordinator' means the individual appointed by the Governor of the State to carry out the activities described in paragraph (3)(B).

"(6) STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.—The term 'State rural economic development review panel' or 'panel' means an advisory panel specified in section 361.

"(c) DUTIES OF THE SECRETARY.—The Secretary shall, with respect to each eligible State—

"(1) review the list, if any, transmitted pursuant to subsection 361(b)(6) by any State coordinator;

"(2) determine whether each project described in an application in the list meets the requirements of the rural development program under which the application seeks assistance;

"(3) remove from the list any application for a project that does not meet the requirements;

"(4) provide assistance, subject to available funds, to the projects in the applications remaining in the list after the list has (if necessary) been modified pursuant to paragraph (3), giving consideration to the order in which the applications for such projects are ranked by the respective State panel, and, if assistance is provided to any project without providing assistance to all projects ranked higher in priority by the panel than such project, report to the panel, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate within ten days of determining to fund such lower ranked project on the reasons for that determination;

"(5) within thirty days after the date of the enactment of any Act providing appropriations for any designated rural development program for any fiscal year, notify each State of the amounts to be made available to such State under such program for such fiscal year, and the aggregate for such fiscal year of such amounts under all the designated rural development programs;

"(6) pay per diem or otherwise reimburse each full-time officer or employee of the United States who is a member of a State rural economic development review panel for expenses incurred each day (including travel time) during which the officer or employee is engaged in the actual performance of a duty of the panel;

"(7) from amounts appropriated for grants under any provision of section 306(a), make grants not to exceed $100,000 annually to each eligible State for the administrative costs associated with the State rural economic development review panel meeting the requirements of section 361; and

"(8) appoint a member to the State rural economic development review panel as provided under section 361(c)(1)(P).

"(d) OFFICIAL INFORMATION.—The Secretary may appoint as nonvoting members, temporarily and for specific purposes, personnel from any department or agency of the United States, with the consent of the head of such department or agency, with expertise not available among the members of any State rural economic development review panel as may be necessary to enable the panel to perform a duty described in section 361(b).

"(e) ALLOCATION OF APPROPRIATED FUNDS.—(1) INITIAL ALLOCATION.—The Secretary shall allocate the sums appropriated for direct loans, loan guarantees, or grants for any designated rural development program made available to the State under such program for any fiscal year to the projects specified in subsection (c)(4) giving great weight to the order in which the applications for such projects are ranked on the list specified in subsection (c)(1).

"(2) EQUITABLE REALLOCATION OF UNOBLIGATED FUNDS.—Notwithstanding paragraph (1), the Secretary shall, on July 15 of each year, and from time to time thereafter during the fiscal year as the Secretary determines appropriate, pool from among the States any unobligated funds appropriated for direct loans, loan guarantees, or grants for each designated rural development program and reallocate such funds to the States according to need, as determined by the Secretary.

"(f) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to any State rural economic development review panel.

"(g) NO LIABILITY OF MEMBERS OF STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANELS.—The members of a State rural economic development review panel shall not be liable to any person with respect to any determination made by the panel.

"(h) ELIGIBILITY FOR WATER AND WASTE FACILITY LOANS.—(1) RURAL ELECTRIFICATION PROGRAM BORROWERS.—Notwithstanding any other provision of law, a borrower under title III of the Rural Electrification

Act of 1936 shall be eligible to receive loans and grants under section 306 on an equal basis with any other applicant for such assistance, and the terms and conditions, rules, criteria and other provisions of section 306 shall apply to such a borrower. In the case of applications from such a borrower, the Administrator of the Rural Electrification Administration shall provide technical assistance with respect to such water and waste facilities and loans and grants for such facilities.

"(2) PROHIBITION ON RESTRICTING WATER AND WASTE FACILITY SERVICES TO ELECTRIC CUSTOMERS.—The Secretary shall establish rules and procedures that prohibit borrowers under title III of the Rural Electrification Act of 1936 from conditioning or limiting access to, or the use of, water and waste facility services financed under the Consolidated Farm and Rural Development Act if such conditioning or limiting is based on whether individuals or entities in the area served or proposed to be served by such facility receive, or will accept, electric service from such borrower.

"SEC. 361. STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.

"(a) IN GENERAL.—Each State rural economic development review panel specified in section 360(b)(3)(A) shall meet all of the requirements of this section.

"(b) DUTIES.—The panel shall advise the Secretary on the desirability of funding applications for funding from designated rural development programs, and, in developing such advice, shall have the following duties:

"(1) REVIEW RURAL DEVELOPMENT PLANS OF LOCAL AREAS.—To review each area plan submitted by a local or regional area.

"(2) EVALUATE AREA PLANS AND APPLICATIONS FOR ASSISTANCE.—(A) AREA PLANS.—To evaluate, pursuant to a written policy and criteria, each area plan submitted by a local or regional area and either—

"(i) accept any area plan that is technically and economically adequate, feasible, and likely to succeed in meeting the stated goals of the plan, unless the plan is incompatible with any other area plan for that area that has been accepted by the panel; or

"(ii) return any plan that is technically or economically inadequate, infeasible, unlikely to be successful, or incompatible with any other area plan for that area that has been accepted by the panel, with an explanation of the reasons for the return with suggested alternative proposals.

In evaluating area plans under this subparagraph, the panel shall give great weight to the area plans or other comments submitted by intergovernmental development councils, or similar organizations made up of local elected officials, charged with the responsibility for rural or regional development.

"(B) APPLICATIONS FOR ASSISTANCE.—To evaluate each application for assistance to determine whether the project to be carried out in any area is compatible with the area plan for the area in which the project described in the application is proposed, and either—

"(i) accept any application that the panel determines to be compatible with such area plan; or

"(ii) return to the Rural Development Administration any application that the panel determines to be incompatible with such area plan.

"(3) REVIEW AND RANK APPLICATIONS FOR ASSISTANCE UNDER DESIGNATED RURAL DEVELOPMENT PROGRAMS FROM AREAS WITH ACCEPTED AREA PLANS.—To review applications for assistance, that have been accepted pursuant to paragraph (2)(B), for projects to be carried out in any area the area plan for which has been accepted pursuant to paragraph (2)(A), taking into account the sources of assistance and related activities identified pursuant to section 360(b)(4)(A), and to rank such applications, subject to paragraphs (4) and (5), pursuant to a written policy and criteria, in an order that takes into account—

"(A) in the case of business projects described in the application—

"(i) the extent to which a project would—

"(I) stimulate rural development by creating new jobs of a permanent nature or retaining existing jobs by enabling new small businesses to be started, or existing businesses to be expanded by local or regional area residents who own and operate the businesses,

"(II) contribute to the enhancement and the diversification of the local or regional area economy,

"(III) generate or retain jobs for local or regional area residents,

"(IV) be carried out by persons with sufficient managerial capability,

"(V) be likely to become financially viable, and

"(VI) assist a local or regional area in overcoming severe economic distress;

"(ii) the distribution of assistance to projects in as many areas as possible in the State, with sensitivity to geographical distribution;

"(iii) the technical aspect of the projects;

"(iv) the market potential and marketing arrangements for the projects; and

"(v) the potential of such project to promote the growth of a rural community by improving the ability of the community to increase the number of persons residing therein and by improving the quality of life of such persons; and

"(B) in the case of infrastructure and community facility projects described in the applications the extent to which a project would—

"(i) have the potential to promote the growth of a rural community by improving the quality of life for local or regional area residents;

"(ii) affect the health and safety of local or regional area residents;

"(iii) affect business productivity and efficiency;

"(iv) enhance commercial business activity;

"(v) have the potential to promote long-term growth, including by increasing the number of persons residing in a rural community;

"(vi) address a severe loss or lack of water quality or quantity;

"(vii) bring a community into compliance with Federal or State water or waste water standards; and

"(viii) consolidate water and waste systems and utilize management efficiencies in new systems.

"(4) PRIORITY RANKING FOR PROJECTS ADDRESSING HEALTH EMERGENCIES.—To give priority in reviewing and ranking, notwithstanding the criteria established in paragraph (3), to applications for projects designed to address a health emergency declared to be such by the appropriate Federal or State government agency.

"(5) PRIORITY BASED ON NEED.—If in ranking applications pursuant to paragraphs (3) and (4), 2 or more applications are determined to have comparable strengths in their feasibility and potential for growth, to give priority to the applications for projects for which there is the greatest need.

"(6) TRANSMIT LIST OF RANKED APPLICATIONS.—To transmit to the State coordinator a list of all applications received and indicate on the list—

"(A) for all applications accepted, the rank of such applications in accordance with paragraphs (3), (4) and (5); and

"(B) for all applications returned, the fact that the application was returned pursuant to paragraph (2) and instruct the State coordinator to transmit the list to the Secretary.

"(7) AVAILABILITY OF LIST OF RANKED APPLICATIONS.—To make available to the public the list of ranked applications submitted under paragraph (6) and to provide a brief explanation and justification of why the project applications received their prioritization.

"(8) ESTABLISHMENT AND REVIEW OF WRITTEN POLICY AND CRITERIA FOR EVALUATING AND RANKING APPLICATIONS.—To establish and annually review the written policy and criteria used by the panel in evaluating and ranking applications in accordance with this subsection to ensure that the policy and criteria are consistent with current rural developmental needs, and to provide for public input during the development of the initial policy and criteria.

"(c) MEMBERSHIP.—(1) VOTING MEMBERS.—The panel shall be composed of not more than sixteen voting members who are representatives of rural areas—

"(A) one of whom is the Governor of the State or the person designated by the Governor to serve on the panel on behalf of the Governor for that year;

"(B) one of whom is the director of the State agency responsible for economic and community development or the person designated by the director to serve on the panel on behalf of the director for that year;

"(C) one of whom is appointed by a statewide association of banking organizations;

"(D) one of whom is appointed by a statewide association of investor-owned utilities;

"(E) one of whom is appointed by a statewide association of rural telephone cooperatives;

"(F) one of whom is appointed by a statewide association of noncooperative telephone companies;

"(G) one of whom is appointed by a statewide association of rural electric cooperatives;

"(H) one of whom is appointed by a statewide association of health care organizations;

"(I) one of whom is appointed by a statewide association of existing local government-based planning and development organizations;

"(J) one of whom is appointed by the Governor of the State from either a statewide rural development organization or a statewide association of publicly-owned electric utilities, neither of which is described in any of subparagraphs (C) through (I);

"(K) one of whom is appointed by a statewide association of counties;

"(L) one of whom is appointed by a statewide association of towns and townships, or by a statewide association of municipal leagues, as determined by the Governor;

"(M) one of whom is appointed by a statewide association of rural water districts;

"(N) the State director of the Federal small business development center (or, if there is no small business development center in place with respect to the State, the director of the State office of the Small Business Administration);

"(O) the representative for that State of the Economic Development Administration of the Department of Commerce; and

"(P) one of whom is appointed by the Secretary from among the officers and employees of the Federal Government.

"(2) NONVOTING MEMBERS.—The panel shall have not more than four nonvoting members who shall serve in an advisory capacity and are representatives of rural areas—

"(A) one of whom is appointed by the Governor, from names submitted by the dean, or the equivalent official, of each school or college of business of the colleges and universities in the State;

"(B) one whom is appointed by the Governor, from names submitted by the dean, or the equivalent official, of each school or college of engineering of the colleges and universities in the State;

"(C) one of whom is appointed by the Governor, from names submitted by the dean, or the equivalent official, of each school or college of agriculture of the colleges or universities in the State; and

"(D) the director of the State agency responsible for extension services for the State.

"(3) APPOINTMENT OF REPRESENTATIVES OF STATEWIDE ORGANIZATIONS BY THE GOVERNOR IN CERTAIN CASES.—(A) If there is no statewide association or organization described in subparagraph (C), (D), (E), (F), (G), (H), (I), (K), (L), or (M) of paragraph (1) of the entities described in such subparagraph, the Governor of the State will appoint an individual to fill the position or positions, as the case may be, described in the applicable subparagraph from among nominations submitted by local groups of such entities.

"(B) If there is more than one of the statewide associations or organizations described in subparagraph (C), (D), (E), (F), (G), (H), (I), (K), (L), or (M) of paragraph (1) of the entities described in such subparagraph, the Governor shall select which organization shall name a member. The Governor shall rotate such selection among such associations or organizations such that a representative of the selected association or organization shall serve no more than two years before another such association or organization is selected by the Governor.

"(4) FAILURE TO APPOINT PANEL MEMBERS.—The failure of the Governor, the Secretary of Agriculture, or an association or organization described in subparagraph (C), (D), (E), (F), (G), (H), (I), (K), (L), or (M) of paragraph (1) to appoint a member to the panel as required under this subsection shall not prevent a State from being determined to be an eligible State as defined under section 360(b)(3).

"(d) NOTIFICATION.—Each statewide organization that selects an individual to represent the organization on the panel shall have notified the Governor of the State of the selection.

"(e) QUALIFICATIONS OF PANEL MEMBERS APPOINTED BY THE GOVERNOR.—Each individual appointed to the panel by the Governor of the State will be specially qualified to serve on the panel by virtue of the individual's technical expertise in business and community development.

"(f) VACANCIES.—A vacancy on the panel shall be filled in the manner in which the original appointment was made.

"(g) CHAIRPERSON AND VICE CHAIRPERSON.—The panel shall have selected two members of the panel who are not officers or employees of the United States to serve as the chairperson and vice chairperson of the panel for a term of one year.

"(h) NO COMPENSATION FOR FEDERAL MEMBERS.—Except as provided in section 360(c)(6), each member of the panel who is an officer or employee of the Federal Government may not receive any compensation or benefits, in addition to that which such officer or employee receives for performance of such officer or employee's regular employment, by reason of service on the panel.

"(i) RULES GOVERNING PANEL MEETINGS.—

"(1) QUORUM.—A majority of the members of the panel shall constitute a quorum for the purpose of conducting business of the panel.

"(2) FREQUENCY OF MEETINGS.—The panel shall meet not less frequently than quarterly.

"(3) FIRST MEETING.—The State coordinator shall schedule the first panel meeting.

"(4) RECORDS OF MEETINGS.—The panel shall keep records of the minutes of the meetings, deliberations, and evaluations of the panel, in sufficient detail to enable the panel to provide to interested persons the reasons for its actions.".

(b) CONFORMING AMENDMENT.—Section 306(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(3)) is amended by striking "and not inconsistent" and all that follows through "undertaken for the area".

SEC. 202. LOAN AND LOAN GUARANTEE ALLOCATION AND TRANSFER.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), as amended by section 201 of this Act, is amended by adding at the end the following:

"SEC. 362. LIMITED TRANSFER AUTHORITY OF LOAN AMOUNTS.

"(a) TRANSFER OF FUNDS.—If the sums appropriated for direct loans for the water and waste or community facility program authorized under section 306(a) and made available to the State under such program for the fiscal year are insufficient to enable the Secretary to provide the full amount of the assistance requested for a project specified in section 360(c)(4), the Secretary may transfer, subject to subsection (b), to one program from the other such program part or all of the sums appropriated for loans made available to the State for such other program.

"(b) LIMITATION ON LOAN AMOUNTS TRANSFERRED.—(1) AMOUNTS TRANSFERRED WITHIN A STATE.—With regard to each State, the amount of direct loan funds transferred from a program under this section shall not exceed the amount for such program left unobligated after obligating to each project in an application ranked higher in priority on the list described in section 361(b)(6) the full amount of assistance requested for each such project.

"(2) AMOUNTS TRANSFERRED ON A NATIONAL BASIS.—On a national basis, the amount of direct loan funds transferred in a fiscal year from a program under this section (after accounting for any offsetting transfers into such program) shall not exceed $90,000,000.

"SEC. 363. ALLOCATION AND TRANSFER OF LOAN GUARANTEE AUTHORITY.

"(a) ALLOCATION OF LOAN GUARANTEE AUTHORITY.—The Secretary shall allocate among the States the loan guarantee authority appropriated under the water and waste or community facility program authorized under section 306(a), and the business and industry loan program authorized under section 310B, in a manner similar to that used for the allocation of direct loan and grant funds appropriated for such programs, and that the Secretary determines to be fair, reasonable, and appropriate.

"(b) TRANSFER OF LOAN GUARANTEE AUTHORITY.—(1) IN GENERAL.—If the sums appropriated for loan guarantees and made available to the State under a program specified in subsection (a) for the fiscal year are insufficient to enable the Secretary to provide the full amount of the assistance requested for a project specified in section 360(c)(4), the Secretary may transfer to the program from the other such programs part or all of the sums appropriated for loan guarantees made available to the State for such other program for such fiscal year.

"(2) LIMITATION ON GUARANTEE AMOUNTS TRANSFERRED.—With regard to each State, the amount of loan guarantees transferred from a program under this section shall not exceed the amount for such program left unobligated after obligating to each project in an application ranked higher in priority on the list described in section 361(b)(6) the full amount of assistance requested for each such project.".

TITLE III—ENHANCEMENT OF EXISTING RURAL DEVELOPMENT PROGRAMS

SEC. 301. REA TECHNICAL ASSISTANCE UNIT.

Title I of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end the following:

"SEC. 17. TECHNICAL ASSISTANCE UNIT.

"(a) ESTABLISHMENT.—The Administrator shall establish a technical assistance unit to perform the duties described in subsection (b).

"(b) DUTIES.—The technical assistance unit established under subsection (a) shall—

"(1) provide advice and guidance to electric and telephone borrowers under this Act concerning the effective and prudent use by such borrowers of the investment authority under section 312 to promote rural development;

"(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under this Act;

"(3) establish and administer various pilot projects through electric and telephone borrowers that the Administrator determines are useful or necessary, and recommend specific rural development projects for rural areas;

"(4) act as an information clearinghouse (using, to the extent practicable, the resources of the National Agricultural Library) and conduit to provide information to electric and telephone borrowers under this Act concerning useful and effective rural development efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

"(5) provide information to electric and telephone borrowers under this Act concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts; and

"(6) promote local partnerships and other coordination between borrowers under this Act and community organizations, States, counties, or other entities, to improve rural development.

"(c) FUNDING.—Not less than 3 per centum of the salaries and expenses of the Rural Electrification Administration shall be made available during each fiscal year to the technical assistance unit established in this section.".

SEC. 302. DEFERMENT OF PAYMENT ON ECONOMIC DEVELOPMENT LOANS.

Section 12 of the Rural Electrification Act of 1936 (7 U.S.C. 912) is amended by—

(1) inserting "(a)" before "The Administrator"; and

(2) adding at the end the following new subsection:

"(b)(1) The Administrator shall permit any borrower to defer the payment of principal and interest on any insured or direct loan made under this Act under circumstances described in this subsection, notwithstanding any limitation contained in subsection (a), except that such deferment shall not be permitted based on the determination of the Administrator of the financial hardship of the borrower.

"(2)(A) In the case of deferments made to enable the borrower to provide financing to local businesses, the deferment shall be repaid in equal installments, without the accrual of interest, over the sixty-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

"(B) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, or similar community, business, or economic development assistance, the deferment shall be repaid in equal installments, without the accrual of interest, over the one hundred and twenty-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

"(3)(A) A borrower may defer its debt service payments only in an amount equal to an investment made by such borrower as described in paragraph (2).

"(B) The amount of the deferment shall not exceed 50 per centum of the cost of financing or assistance provided under paragraph (2).

"(C) The total amount of deferments under this subsection during each of the fiscal years 1990 through 1993 shall not exceed 3 per centum of the total payments due during such fiscal year from all borrowers on direct and insured loans made under this Act and shall not exceed 5 per centum of such total payments due in each subsequent fiscal year.

"(D) At the time of a deferment, the borrower shall make a payment to a cushion of credit account established and maintained pursuant to section 313 in an amount equal to the amount of the payment deferred. The balance of such account shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the interest differential calculation under section 313(b)(2)(A).

"(4) The Administrator shall undertake all reasonable efforts to permit the full amount of deferments authorized by this subsection during each fiscal year.".

SEC. 303. WATER AND WASTE LENDING BY BANKS FOR COOPERATIVES.

(a) AUTHORIZATION.—Section 3.7 of the Farm Credit Act of 1971 (12 U.S.C. 2128) is amended by adding at the end the following:

"(f) The banks for cooperatives are authorized, for the purpose of the installation, expansion, or improvement of water facilities or systems or waste disposal facilities, to make and participate in loans and commitments and to extend other technical and financial assistance to—

"(1) cooperatives formed specifically for the purpose of establishing or operating such systems; and

"(2) rural municipalities having populations not in excess of twenty thousand inhabitants, if the proceeds from such loans are used to expand existing water or waste facilities in such municipalities, to enhance the economic development of such municipalities, or to address health-related problems of the inhabitants of such municipalities.".

(b) CONFORMING CHANGE.—Section 3.8(b)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2129(b)(1)) is amended by adding at the end the following:

"(D) Any cooperative or municipality described in section 3.7(f).".

SEC. 304. AMENDMENTS TO THE BUSINESS AND INDUSTRY LOAN PROGRAM.

Section 310B(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)) is amended by—

(1) inserting before the first sentence the following: "The Secretary may also make and insure loans to small and very small rural businesses to assist in the startup and expansion of such businesses that have presented an application for a business project meeting the criteria established under section 361(b)(3)(A) to the applicable State rural economic development review panel defined in section 360(b)(7).";

(2) striking "$25,000,000" and inserting "$5,000,000"; and

(3) adding at the end the following: "The primary purpose of the program established under this subsection shall be to assist small and very small rural businesses, as provided in the first sentence of this subsection. For the purposes of this section, the term 'very small business' means a business having fewer than 30 employees; and the term 'small business' shall not be defined in such a manner as to be inconsistent with the definition of such term established by the Small Business Administration pursuant to section 112(b) of Public Law 94-305 (15 U.S.C. 632).".

SEC. 305. WATER OR WASTE DISPOSAL LOANS TO BENEFIT RURAL BUSINESSES.

Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting "rural businesses," after "farm laborers,".

SEC. 306. RURAL WASTEWATER TREATMENT CIRCUIT RIDER PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a national rural wastewater circuit rider grant program that shall be modeled after the existing National Rural Water Association Rural Water Circuit Rider Program that receives funding from the Farmers Home Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $4,000,000 each fiscal year to carry out the program established under subsection (a).

SEC. 307. INCREASE ON LIMITATION OF AUTHORIZATION FOR WATER AND WASTE GRANTS.

Section 306(a)(2) of the Consolidated Farm and Rural Development Act is amended by striking ": Provided, That for fiscal years commencing after September 30, 1981, such grants may not exceed $154,900,000 in any fiscal year".

SEC. 308. LIMITATION ON CONDITIONS FOR WATER AND SEWER GRANTS AND LOANS.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by adding the following new paragraph:

"(20) In making or insuring loans or making grants under this subsection, the Secretary may not condition approval of such loans or grants upon any requirement, condition or certification other than those specified under this Act.".

TITLE IV—RURAL DEVELOPMENT INFORMATION SHARING AND TECHNOLOGY TRANSFERS

SEC. 401. RURAL DEVELOPMENT INFORMATION SHARING.

Section 306(a)(12)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(12)(A)) is amended by inserting ", that shall be located in the National Agricultural Library," after "establish a system".

SEC. 402. RURAL TECHNOLOGY GRANTS.

(a) AUTHORIZATION.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by striking subsection (f) and inserting the following:

"(f)(1) The Secretary shall make grants under this subsection to nonprofit institutions for the purpose of enabling such institutions to establish and operate centers for rural technology or cooperative development.

"(2) Any nonprofit institution seeking a grant under paragraph (1) shall submit to the Secretary an application containing a plan for the establishment and operation by such institution of a center for rural technology or cooperative development. The Secretary may approve such application if such plan contains the following:

"(A) A provision that substantiates that such center will effectively serve rural areas in the United States.

"(B) A provision that the primary objective of such center will be to improve the economic condition of rural areas by promoting the development (through technological innovation or cooperative development and the adaptation of existing technology) and commercialization of—

"(i) new services and products that can be produced or provided in rural areas;

"(ii) new processes that can be utilized in the production of products in rural areas; and

"(iii) new enterprises that can add value to on-farm production through processing or marketing.

"(C) A description of the activities that such center will carry out to accomplish such objective. Such activities may include the following:

"(i) Programs for technology research, investigations, and basic feasibility studies in any field and discipline for the purpose of generating principles, facts, technical knowledge, new technology, or other information that may be useful to rural industries, cooperatives, agribusinesses, and other persons or entities in rural areas served by such centers in the development and commercialization of new products, processes, or services.

"(ii) Programs for the collection, interpretation, and dissemination of existing principles, facts, technical knowledge, new technology, or other information that may be useful to rural industries, cooperatives, agribusinesses, and other persons in rural areas served by the center in the development and commercialization of new products, processes, or services.

"(iii) Programs providing training and instruction for individuals residing in rural areas served by the center with respect to the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of new products, processes, or services.

"(iv) Programs providing loans and grants to individuals, small businesses, and

cooperatives in rural areas served by the center for purposes of generating, evaluating, developing, and commercializing new products, processes, or services.

"(v) Programs providing technical assistance and advisory services to individuals, small businesses, cooperatives, and industries in rural areas served by the center for purposes of developing and commercializing new products, processes, or services.

"(vi) Programs providing research and support to individuals, small businesses, cooperatives, and industries in rural areas served by the center for purposes of developing new agricultural enterprises to add value to on-farm production through processing or marketing.

"(D) A description of the contributions that such activities are likely to make to the improvement of the economic conditions of the rural areas for which such center will provide services.

"(E) Provisions that such center, in carrying out such activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

"(F) Provisions that such center—

"(i) will consult with any college or university administering any program under title V of the Rural Development Act of 1972 in the State in which such center is located; and

"(ii) will cooperate with such college or university in the coordination of such activities and such program.

"(G) Provisions that such center will take all practicable steps to develop continuing sources of financial support for such center, particularly from sources in the private sector.

"(H) Provisions for—

"(i) monitoring and evaluating such activities by the institution operating such center; and

"(ii) accounting for money received by such institution under this section.

"(I) Provisions that such center will provide for the optimal application of such technology and cooperative development in rural areas, especially those areas adversely affected by adverse agricultural economic conditions, through the establishment of demonstration projects and subcenters for—

"(i) rural technology development where the technology can be implemented by communities, community colleges, businesses, cooperatives, and other institutions; or

"(ii) cooperative development where such development can be implemented by cooperatives

to improve local economic conditions.

"(3) Grants made under paragraph (1) shall be made on a competitive basis. In making grants under paragraph (1), the Secretary shall give preference to grant applications providing for the establishment of centers for rural technology or cooperative development that—

"(A) can demonstrate the capability to transfer for practical application in rural areas the technology generated at such centers and the ability to commercialize products, processes, services, and enterprises in such rural areas;

"(B) will effectively serve in rural areas that have—

"(i) few rural industries and agribusinesses;

"(ii) high levels of unemployment or underemployment;

"(iii) high rates of out migration of people, businesses, and industries; and

"(iv) low levels of per capita income; and

"(C) will contribute the most to the improvement of economic conditions of rural areas.

"(4) As used in this subsection—

"(A) The term 'nonprofit institution' means any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(B) The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the other territories and possessions of the United States.

"(g) In carrying out subsection (f), the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment or underemployment of persons residing in economically distressed rural areas that the Secretary determines have a substantial need for such assistance. Such assistance shall include planning and feasibility studies, management and operational assistance, and studies evaluating the needs for development potential of projects that increase employment and improve economic growth in such areas.

"(h) The Secretary may make grants to defray not to exceed 75 per centum of the administrative costs incurred by organizations and public bodies to carry out projects for which grants or loans are made under subsection (f). For purposes of determining the non-Federal share of such costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including but not limited to premises, equipment, and services.".

(b) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To carry out section 310B (f) and (h) of the Consolidated Farm and Rural Development Act, there are authorized to be appropriated to the Secretary not to exceed $50,000,000 for each of the fiscal years 1991, 1992, and 1993.

TITLE V—RURAL BUSINESS AND LEADERSHIP TRAINING

SEC. 501. EXTENSION SERVICE RURAL BUSINESS AND LEADERSHIP TRAINING PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 1 of chapter 79 of the Act of May 8, 1914 (7 U.S.C. 341) is amended by—

(1) inserting "(a) AGRICULTURE, ENERGY AND HOME ECONOMICS EXTENSION WORK.—" before "In order to aid"; and

(2) adding at the end the following:

"(b) RURAL DEVELOPMENT EXTENSION WORK.—(1) NATIONAL PROGRAM.—The Secretary of Agriculture shall establish a national program, to be administered by the Extension Service, to provide rural citizens with training in, technical and management assistance regarding, and educational opportunities to enhance their knowledge of—

"(A) beginning new businesses through entrepreneurship;

"(B) the procedures necessary to establish new businesses in rural areas;

"(C) self-employment opportunities in rural areas;

"(D) the uses of modern telecommunications and computer technologies;

"(E) business and financial planning; and

"(F) such other training, assistance, and educational opportunities as the Secretary determines are necessary to carry out the program established under this subsection.

"(2) LEADERSHIP ABILITIES.—The program established pursuant to this subsection shall provide assistance designed to increase the leadership abilities of residents in rural areas. Such assistance shall include—

"(A) information relative to the development of community goals;

"(B) instruction regarding the methods by which State or Federal funding for rural development projects might be obtained;

"(C) instruction regarding the successful writing of applications for loan or grant funds from government and private sources;

"(D) an updated listing of State, Federal, and other economic development programs available to rural areas; and

"(E) such other training, information, and assistance as the Secretary determines necessary to increase the leadership abilities of residents in rural areas.

"(3) CATALOG OF PROGRAMS.—In order to facilitate the program established under this subsection, the extension service in each State should develop, maintain, and provide to each community, and make accessible to any other interested party, a catalog of available State, Federal, or private programs that provide leadership training or other information or services similar or complementary to the training or services required by this subsection. Such catalog should include, at a minimum, the following entities within the State that provide such training or services:

"(A) any rural electric cooperative;

"(B) any nonprofit company development corporation;

"(C) any economic development district that serves a rural community;

"(D) any nonprofit subsidiary of any private entity;

"(E) any nonprofit organization whose principal purpose is to promote economic development in rural areas;

"(F) any investor or publicly owned electric utility;

"(G) any small business development center or small business investment company;

"(H) any regional development organization;

"(I) any vocational or technical school;

"(J) any Federal, State or local government agency or department; and

"(K) any other entity that the Secretary deems appropriate.

The extension service in each State should include in the catalog information relative to the specific training or services provided by each entity in the catalog.

"(4) EMPLOYEE TRAINING.—The Secretary shall provide training for State extension service employees to ensure that such employees understand the availability of rural development programs in their respective States and the availability of Extension Service staff qualified to provide to rural citizens and to State extension staff training and materials for technical, management, and educational assistance required by this subsection.".

(b) COORDINATION OF ASSISTANCE.—The Secretary shall ensure, to the extent practicable, that assistance provided under subsection (a) is coordinated with and delivered in cooperation with similar services or assistance provided by other Federal agencies or programs for rural residents.

TITLE VI—RURAL ECONOMIC DEVELOPMENT RESEARCH

SEC. 601. RESEARCH ON NONTRADITIONAL USES OF AGRICULTURAL COMMODITIES.

The Secretary shall establish a program of competitive grants, to be administered in conjunction with the activities required under subtitle C of title XIV of the Food Se-

curity Act of 1985 (7 U.S.C. 4701 et seq.), for the purpose of conducting research on nonfood, nonfeed uses of agricultural commodities. The Secretary shall give priority in the awarding of grants under this section to research projects that the Secretary determines have the potential for developing new products from or processes for agricultural commodities that may be commercially implemented by small businesses.

SEC. 602. AUTHORIZATION OF RURAL DEVELOPMENT RESEARCH COMPETITIVE GRANTS.

The Secretary shall establish a program of competitive grants for the purpose of encouraging research and analysis of the social, economic, and other factors influencing the economic vitality of rural areas. Priority in the award of such grants to projects designed to research methods by which the social and economic vitality of rural areas can be enhanced.

SEC. 603. DEMONSTRATION PROJECTS.

The Secretary shall establish a program of competitive grants to rural areas to serve as demonstration areas for rural economic development and as models of such development for other areas. In awarding such grants the Secretary shall favorably consider a request for funds from a rural area that the Secretary determines—

(1) demonstrates the ability to supplement the grant funds provided under this section with other funds from State, local, or private sources;

(2) demonstrates the ability to use the grant funds to increase employment in the area; and

(3) can successfully serve as a demonstration area to share the results of the project to the benefit of other rural areas in the region.

SEC. 604. RURAL DEVELOPMENT RESEARCH ASSISTANCE.

Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by adding at the end the following:

"(g) RESEARCH GRANTS.—

"(1) IN GENERAL.—In addition to the programs already conducted under this section, the Secretary shall also establish and carry out a program to award competitive research grants to land-grant colleges and universities, research foundations, and centers established by land-grant universities, State agricultural experiment stations, and to all colleges and universities having demonstrable capability in rural development research, as determined by the Secretary, to carry out research to evaluate the impact of Federal and State economic development policies and programs designed to improve economic competitiveness and diversification, support strategic planning for economic investments, improve human resources, and improve the data base for rural development decisionmaking in rural areas.

"(2) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated to the Secretary not to exceed $3,000,000 in each fiscal year. Amounts appropriated under this subsection shall remain available until expended.".

TITLE VII—RURAL ELECTRIFICATION PROVISIONS

SEC. 701. SHORT TITLE; AMENDMENT OF RURAL ELECTRIFICATION ACT OF 1936.

(a) SHORT TITLE.—This title may be cited as the "Rural Telecommunications Improvements Act of 1990".

(b) AMENDMENT OF RURAL ELECTRIFICATION ACT OF 1936.—Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Rural Electrification Act of 1936.

SEC. 702. FINDINGS; STATEMENT OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) making modern telecommunications technology and services available in rural areas in the United States promotes economic development and improves the quality of life in rural areas; and

(2) the efficient operation of the Rural Telephone Bank and the Rural Electrification Administration telephone loan programs is essential to the continued development of the telecommunications infrastructure in rural areas in the United States.

(b) STATEMENT OF POLICY.—It is the policy of the Congress that the Rural Telephone Bank and the Rural Electrification Administration make loans that facilitate the development and enhancement of the rural telecommunications infrastructure in order to make modern telecommunications technology and services available at reasonable rates to the greatest practicable number of people in rural areas in the United States.

Subtitle A—Amendment to Title I of the Rural Electrification Act of 1936

SEC. 711. GENERAL PROHIBITIONS.

Title I (7 U.S.C. 901 et seq.) is amended by adding at the end the following:

"SEC. 18. GENERAL PROHIBITIONS.

"The Administrator and the Governor of the telephone bank shall not—

"(1) deny or reduce any loan or loan advance under this Act based on a borrower's level of general funds; or

"(2) make any loan or grant, or provide any guarantee, under this Act to any borrower of a telephone loan (or any subsidiary or affiliate of such a borrower) for electric service to others, or to any borrower of an electric loan (or any subsidiary or affiliate of such a borrower) for telephone service to others (except that this prohibition shall not apply to loans, grants, or guarantees for telephone service between the borrower and others) unless—

"(A) the borrower has obtained a certificate of convenience and necessity from, or otherwise obtained the consent of, the State regulatory authority with jurisdication over the provision of such service; and

"(B) the Administrator or the Governor, as the case may be, has determined (and set forth the reasons therefor in writing) that such loan or grant will not be used to duplicate any lines, facilities, or systems.".

Subtitle B—Amendments Relating to Title II of the 1936 Act

SEC. 721. NONDUPLICATION OF TELEPHONE FACILITIES.

(a) IN GENERAL.—Section 201 (7 U.S.C. 922) is amended by striking the last sentence and inserting "The Administrator and the Governor of the telephone bank shall not make or guarantee a loan, or make a grant, for telephone purposes under this Act if the loan, guarantee, or grant would result in the duplication of lines, facilities, or systems that provide reasonably adequate service. For purposes of this Act, the term 'duplication' does not include upgrading.".

(b) CONFORMING AMENDMENT.—Section 408(b)(5) (7 U.S.C. 948(b)(5)) is amended by striking the 2nd sentence.

SEC. 722. UPDATED DEFINITION OF TELEPHONE SERVICE.

Section 203(a) (7 U.S.C. 924(a)) is amended—

(1) by inserting "or reception" after "transmission";

(2) by inserting "data," after "voice,"; and

(3) by striking "through the use of electricity between the transmitting and receiving apparatus" and inserting "by wire, fiber, radio, light, or other visual or electromagnetic means".

SEC. 723. LOAN FEASIBILITY.

Title II (7 U.S.C. 922 et seq.) is amended by adding at the end the following:

"SEC. 204. LOAN FEASIBILITY.

"The Administrator and the Governor of the telephone bank may not, as a condition of making a telephone loan to an applicant therefor, require the applicant to—

"(1) increase the rates charged to the applicant's customers or subscribers; or

"(2) increase the applicant's ratio of—

"(A) net income or margins before interest; to

"(B) the interest requirements on all of the applicant's outstanding and proposed loans.".

SEC. 724. ENCOURAGEMENT OF INVESTMENT BY TELEPHONE BORROWERS IN RURAL DEVELOPMENT PROJECTS.

Title II (7 U.S.C. 922 et seq.) is amended by adding after the section added by section 723 of this title the following:

"SEC. 205. CERTAIN RURAL DEVELOPMENT INVESTMENTS BY QUALIFIED TELEPHONE BORROWERS NOT TREATED AS DIVIDENDS OR DISTRIBUTIONS.

"(a) IN GENERAL.—The Administrator and the Governor of the telephone bank shall not—

"(1) treat any amount invested by any qualified telephone borrower for any purpose described in section 607(c)(2) of the Rural Development Act of 1972 (including any investment in, or extension of credit, guarantee, or advance made to, an affiliated company of the borrower, that is used by such company for such a purpose) as a dividend or distribution of capital to the extent that, immediately after such investment, the aggregate of such investments does not exceed ⅓ of the net worth of the borrower; or

"(2) require a qualified telephone borrower to obtain the approval of the Administrator or the Governor of the telephone bank in order to make an investment described in paragraph (1).

"(b) QUALIFIED TELEPHONE BORROWER DEFINED.—As used in subsection (a), the term 'qualified telephone borrower' means a person—

"(1) to whom a telephone loan has been made or guaranteed under this Act; and

"(2) whose net worth is at least 20 percent of the total assets of such person.".

SEC. 725. IMPROVEMENTS IN TELEPHONE PROGRAM.

Title II (7 U.S.C. 922 et seq.) is amended by adding after the sections added by sections 723 and 724 of this title the following:

"SEC. 206. GENERAL DUTIES AND PROHIBITIONS.

"(a) DUTIES.—The Administrator and the Governor of the telephone bank shall—

"(1) notwithstanding section 553(a)(2) of title 5, United States Code, cause to be published in the Federal Register, in accordance with subsections (b) through (e) of section 553 of such title, all rules, regulations, bulletins, and other written policy standards governing the operations of the telephone loan and loan guarantee programs administered under this Act;

"(2) in evaluating the feasibility of a telephone loan to be made to a borrower for telephone services, use—

"(A) with respect to items for which the regulatory authority with jurisdiction over

the provision of such services has approved the depreciation rates used by the borrower, such approved rates; and

"(B) with respect to other items, the average of the depreciation rates used by borrowers of telephone loans made under this Act;

"(3) annually determine and publish the average described in paragraph (2)(B); and

"(4) make loans for all purposes for which telephone loans are authorized under section 201 or 408, to the extent of qualifying applications therefor.

"(b) PROHIBITIONS.—The Administrator and the Governor of the telephone bank shall not—

"(1) rescind an insured telephone loan, or a Rural Telephone Bank loan, made under this Act without the consent of the borrower, unless all of the purposes for which telephone loans have been made to the borrower under this Act have been accomplished with funds provided under this Act;

"(2) regulate the order or sequence of advances of funds under telephone loans made under this Act to any borrower who has received any combination of telephone loans from the Rural Electrification Administration, the Rural Telephone Bank, or the Federal Financing Bank; or

"(3) deny a loan or advance to, or take any other adverse action against, an applicant for, or a borrower of, a telephone loan under this Act for any reason that is not based on a rule, regulation, bulletin, or other written policy standard that has not been published pursuant to section 553 of title 5, United States Code.".

SEC. 726. PROMPT PROCESSING OF TELEPHONE LOANS.

Title II (7 U.S.C. 922 et seq.) is amended by adding after the sections added by sections 723, 724, and 725 of this title the following:

"SEC. 207. PROMPT PROCESSING OF TELEPHONE LOANS.

"Within ten days after the end of the second and fourth calendar quarters of each year, the Administrator shall submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, a report—

"(1) identifying each completed application for a telephone loan under section 305, a guarantee of a telephone loan under section 306, or a loan under section 408, that has not been finally acted upon within ninety days after the date the completed application is submitted; and

"(2) stating the reasons for the failure to finally act upon the completed applications within such ninety-day period.".

Subtitle C—Amendments Relating to Title III of the 1936 Act

SEC. 731. CREATION OF SEPARATE ELECTRIC AND TELEPHONE ACCOUNTS WITHIN RURAL ELECTRIC AND TELEPHONE REVOLVING FUND.

Section 302 (7 U.S.C. 932) is amended by adding at the end the following:

"(c)(1) The Administrator shall maintain two separate accounts within the fund, which shall be known as the electric account and the telephone account, respectively.

"(2)(A) The Administrator shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to electrification loan operations in the electric account.

"(B) The Administrator shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to telephone loan operations in the telephone account.

"(3)(A) The assets accounted for in the electric account shall be available solely for electrification loan operations under this Act.

"(B) The assets accounted for in the telephone account shall be available solely for telephone loan operations under this Act (other than under title IV).".

SEC. 732. BORROWERS TO DETERMINE AMORTIZATION PERIOD FOR INSURED TELEPHONE LOANS.

Section 309 (7 U.S.C. 940) is amended by—

(1) designating the current section as subsection (a); and

(2) adding at the end the following:

"(b) The term of any telephone loan made under this title shall be determined by the borrower at the time the loan application is submitted.".

SEC. 733. TIER REQUIREMENT FOR INSURED TELEPHONE LOANS.

Section 305 (7 U.S.C. 935) is amended by adding at the end the following:

"(d) The Administrator shall make a telephone loan under this title to an applicant therefor who is otherwise qualified to receive such a loan at the highest interest rate (but not less than the lowest interest rate, nor higher than the highest interest rate, specified in subsection (b)) at which the borrower would be capable of producing net income or margins before interest payments of at least 100 per centum (but not more than 150 per centum) of the interest requirements on all of the applicant's outstanding and proposed loans.".

SEC. 734. CLARIFICATION OF TELEPHONE LOAN GUARANTEE AUTHORITY.

Section 306 (7 U.S.C. 936) is amended by inserting after the first sentence the following new sentence: "The Administrator shall not provide such assistance to any borrower of a telephone loan under this Act unless the borrower specifically applies for such assistance.".

Subtitle D—Amendments Relating to Title IV of the 1936 Act

SEC. 741. MODIFICATION OF RURAL TELEPHONE BANK BOARD.

(a) IN GENERAL.—Section 405 (7 U.S.C. 945) is amended by striking all that precedes subsection (g) and inserting the following:

"SEC. 405. BOARD OF DIRECTORS.

"(a) IN GENERAL.—The management of the telephone bank, within the limitations prescribed by law, shall be vested in a board of directors (in this title referred to as the Telephone Bank Board).

"(b) MEMBERSHIP.—The Telephone Bank Board shall consist of thirteen individuals, as follows:

"(1) PRESIDENTIAL APPOINTEES.—The President shall appoint seven individuals to serve on the Telephone Bank Board who shall serve at the pleasure of the President—

"(A) five of whom shall be officers or employees of the Department of Agriculture and not officers or employees of the Rural Electrification Administration; and

"(B) two of whom shall be from the general public and not officers or employees of the Federal Government.

"(2) COOPERATIVE MEMBERS.—The cooperative-type entities, and organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

"(3) COMMERCIAL MEMBERS.—The commercial-type entities, and the organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

"(c) ELECTIONS.—(1) VALIDITY.—An election under paragraph (2) or (3) of subsection (b) shall not be considered valid unless a majority of the stockholders eligible to vote in the election have voted in the election.

"(2) BALLOTING.—Balloting in an election under paragraph (2) or (3) of subsection (b) shall be conducted by mail pursuant to the procedures authorized in the bylaws of the telephone bank.

"(3) NO CUMULATIVE VOTING.—Cumulative voting shall not be permitted in any election under paragraph (2) or (3) of subsection (b).

"(d) COMPENSATION.—(1) IN GENERAL.—Except as provided in paragraph (2), each member of the Telephone Bank Board shall receive $100 per day for each day or part thereof, not to exceed fifty days per year, spent in the performance of their official duties, and shall be reimbursed for travel and other expenses in such manner and subject to such limitations as the Telephone Bank Board may prescribe.

"(2) EXCEPTIONS.—The five members of the Telephone Bank Board appointed under subsection (b)(1)(A) shall not receive compensation by reason of their service on the Telephone Bank Board.

"(e) SUCCESSION.—A member of the Telephone Bank Board may serve after the expiration of the term of office of such member until the successor for such member has taken office.

"(f) CHAIRPERSON.—The members of the Telephone Bank Board shall elect one of such members to be the Chairperson of the Board, in accordance with the bylaws of the telephone bank. The Chairperson shall preside at all meetings of the Board and may vote on a matter before the Board unless the vote would result in a tie vote on the matter.".

(b) CONFORMING AMENDMENTS.—Section 405 (7 U.S.C. 945) is amended—

(1) in subsection (g) by striking "(g) The" and inserting "(g) BYLAWS.—The";

(2) in subsection (h) by striking "(h) The" and inserting "(h) MEETINGS.—The"; and

(3) in subsection (i) by striking "(i) The" and inserting "(i) ANNUAL REPORT.—The".

(c) APPLICABILITY OF SUNSHINE ACT.—Section 405 (7 U.S.C. 945) is amended by adding at the end the following:

"(j) OPEN MEETINGS.—For purposes of section 552b of title 5, United States Code, the Telephone Bank Board shall be treated as an agency within the meaning of subsection (a)(1) of such section.".

SEC. 742. RURAL TELEPHONE BANK CAPITALIZATION.

Section 406(a) (7 U.S.C. 946(a)) is amended in the second sentence by striking "but not later than fiscal year 1991".

SEC. 743. PRO RATA PURCHASE OF RURAL TELEPHONE BANK STOCK BY RURAL TELEPHONE BANK BORROWERS.

The second sentence of section 406(d) (7 U.S.C. 946(d)) is amended by inserting ", by paying an amount equal to 5 per centum of the amount of each loan advance, at the time of such advance" before the period.

SEC. 744. CLARIFICATION OF AUTHORITY TO SET RURAL TELEPHONE BANK LOAN LEVELS.

Section 408(a) (7 U.S.C. 948(a)) is amended by striking "is authorized on behalf of the telephone bank to make loans," and inserting "shall make loans on behalf of the telephone bank, to the extent that there are qualifying applications therefor, subject

only to limitations as to amounts authorized for loans and advances as may be imposed by law enacted by the Congress of the United States for loans to be made in any one year, and".

SEC. 745. BORROWERS TO DETERMINE AMORTIZATION PERIOD FOR RURAL TELEPHONE BANK LOANS.

Section 408 (7 U.S.C. 948) is amended by adding at the end the following:

"(d)(1) Except as provided in paragraph (2), the term of any loan made under this title shall be determined by the borrower at the time the loan is made.

"(2) The term of any loan made under this title shall not exceed the maximum term for which a loan may be made under section 4.".

SEC. 746. FULL USE OF RURAL TELEPHONE BANK LOAN AUTHORITY.

Section 412 (7 U.S.C. 950b) is amended to read as follows:

"SEC. 412. FULL USE OF TELEPHONE BANK LOAN AUTHORITY.

"(a) FULL USE.—(1) IN GENERAL.—If an appropriations Act authorizes the telephone bank to make loans in a fiscal year and such Act requires that, within available resources and available authority, gross obligations for the principal amount of such loans be not less than a specified amount and not more than a different specified amount, the Governor of the telephone bank shall obligate for such loans for such fiscal year, to the extent of qualifying applications therefor and without regard to nonstatutory quotas or other restrictions that may be sought to be imposed by or within the executive branch of the Federal Government, all unobligated funds available to the Governor to the extent such unobligated funds do not exceed the greater of such specified amounts.

"(2) SPECIAL RULE.—Notwithstanding paragraph (1), until all unobligated funds available to the Governor of the telephone bank for any fiscal year before fiscal year 1990 have been expended, the Governor shall obligate for loans under this title, to the extent of qualifying applications therefor and without regard to nonstatutory quotas or other restrictions that may be sought to be imposed by or within the executive branch of the Federal Government, all unobligated funds available to the Governor.

"(b) RELATION TO OTHER LAW.—No subsequent statute may be held to supersede or modify this section, except to the extent that it does so expressly.".

SEC. 747. TECHNICAL AMENDMENTS RELATING TO THE RURAL TELEPHONE BANK PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) SECTION 406(h) AMENDMENTS.—Section 406(h) (7 U.S.C. 946(h)) is amended—

(1) by inserting after the second sentence "All amounts so transferred shall not be transferred, directly or indirectly, to the reserve for contingencies."; and

(2) by striking "Rural Telephone Bank Borrowers Fairness" and inserting "Omnibus Budget Reconciliation".

(b) SECTION 408(b)(3) AMENDMENTS.—Section 408(b)(3) (7 U.S.C. 948(b)(3)) is amended—

(1) in subparagraph (B), by striking "paragraph" and inserting "subparagraph";

(2) in subparagraph (D)(ii), by adding at the end the following: "For purposes of the calculation under this subparagraph, such rate shall be zero."; and

(3) in subparagraph (E), by striking "subparagraph" the second place such term appears and inserting "paragraph".

Subtitle E—Effective Date

SEC. 751. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this title.

(b) TECHNICAL AMENDMENTS.—The amendments made by section 747 of this title shall take effect as if such amendments had been included in chapter 2 of subtitle D of title I of the Omnibus Budget Reconciliation Act of 1987 on the date of the enactment of such chapter.

TITLE VIII—MISCELLANEOUS

SEC. 801. REGULATIONS.

Except as otherwise provided in this Act, no later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate such regulations as may be necessary to carry out this Act and the amendments made by this Act.

SEC. 802. ENCOURAGEMENT OF PRIVATE CONTRACTING.

(a) For the purpose of promoting local job creation and private sector investment in rural communities, the Secretary of Agriculture is encouraged, where appropriate and feasible, to use private enterprise concerns located in rural areas, rather than government employees or government enterprises, to provide commercial activities or products to carry out the purposes of this Act.

(b) The Secretary shall develop and implement a plan that will result in increasing the use of contracts awarded to private firms by the Department of Agriculture, and maximizing the use of grant, loan or other financial assistance made for the purpose of rural development to provide the goods and services purchased to carry out the purposes of this Act.

SEC. 803. LOAN RATES APPLICABLE TO CERTAIN LOANS UNDER THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended by—

(1) in subparagraph (A) striking "guranteed" and inserting "guaranteed"; and

(2) adding at the end thereof the following new subparagraph:

"(C) Notwithstanding the provisions of subparagraph (A), the Secretary shall establish loan rates for health care and related facilities that shall be based solely on the income of the area to be served, and such rates shall be otherwise consistent with the provisions of such subparagraph.".

SEC. 804. ASSISTANCE FOR CERTAIN DISTRESSED COMMUNITY FACILITY PROGRAM BORROWERS.

(a) AMENDMENT.—The Consolidated Farm and Rural Development Act is amended by inserting after section 353 (7 U.S.C. 2001) the following new section:

"SEC. 353A. DEBT RESTRUCTURING AND LOAN SERVICING FOR COMMUNITY FACILITY LOANS.

"The Secretary shall establish and implement a program that is similar to the program established under section 353, except that the debt restructuring and loan servicing procedures shall apply to delinquent community facility program loans (rather than delinquent farmer program loans) made by the Farmers Home Administration to a hospital or health care facility under section 306(a).".

(b) REGULATIONS.—Not later than one hundred and twenty days after the date of enactment of this Act, the Secretary shall promulgate regulations, as modeled after those promulgated under such section 353, that implement the program established under this section.

SEC. 805. WATER AND WASTE FACILITY LOANS AND GRANTS TO ALLEVIATE HEALTH RISKS.

Subtitle A of the Consolidated Farm and Rural Development Act is amended by adding after section 306A (7 U.S.C. 1926a) the following new section:

"SEC. 306B. WATER AND WASTE FACILITY LOANS AND GRANTS TO ALLEVIATE HEALTH RISKS.

"(a) WATER AND WASTE FACILITY LOANS AND GRANTS TO ALLEVIATE HEALTH RISKS.—(1) The Secretary shall make or insure loans and make grants to rural water supply corporations, cooperatives, or similar entities, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public agencies, to provide for the conservation, development, use, and control of water (including the extension or improvement of existing water supply systems), and the installation or improvement of drainage or waste disposal facilities and essential community facilities including necessary related equipment. Such loans and grants shall be available only to provide such water and waste facilities and services to communities whose residents face significant health risks, as determined by the Secretary, due to the fact that a significant proportion of the community's residents do not have access to, or are not served by, adequate affordable—

"(A) water supply systems; or

"(B) waste disposal facilities.

"(2) Loans made or insured or grants made under this section to rural water supply corporations, cooperatives, or similar entities, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, or public agencies shall be made only if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a county in which—

"(A) the per capita income of the residents of such county is less than or equal to 70 per centum of the national average per capita income, as determined by the Department of Commerce; and

"(B) the unemployment rate of the residents of such county is greater than or equal to 125 per centum of the national average unemployment rate, as determined by the Bureau of Labor Statistics.

"(b) LOANS TO INDIVIDUALS.—(1) The Secretary shall make or insure loans and make grants to individuals who reside in a community described in subsection (a)(1) for the purpose of extending water supply and waste disposal systems or connecting such systems to the residences of such individuals. Such loans shall be at a rate of interest no greater than the Federal Financing Bank rate on loans of a similar term at the time such loans are made. The repayment of such loans shall be amortized over the expected life of the water supply or waste disposal system to which the residence of the borrower will be connected.

"(2) The loans and grants to individuals authorized under paragraph (1) shall be made—

"(A) directly to such individuals by the Secretary; or

"(B) to such individuals through the rural water supply corporation, cooperative, or similar entity, or public agency, providing such water supply or waste disposal services, pursuant to regulations issued by the Secretary.

"(c) PREFERENCE.—The Secretary shall give preference in the awarding of loans and grants to—

"(1) rural water supply corporations, cooperatives, or similar entities, or public agencies, as provided under subsection (a), proposing to provide water supply or waste disposal services to the residents of those rural subdivisions commonly referred to as colonias, that are characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities; and

"(2) individuals, as provided under subsection (b), who reside in a rural subdivision commonly referred to as a colonia, that is characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities.

"(d) DEFINITION.—For the purposes of this section the term 'cooperative' means a cooperative formed specifically for the purpose of the installation, expansion, improvement, or operation of water supply or waste disposal facilities or systems.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated funds to carry out the purposes of this section as follows:

"(1) for grants as provided by this section, $30,000,000 per fiscal year; and

"(2) for loans as provided by this section, $30,000,000 per fiscal year.".

SEC. 806. PRESERVATION OF ELIGIBILITY.

Notwithstanding any other provision of law, nothing in this Act shall be construed to adversely affect the eligibility, as it existed on the date of enactment of this Act, of cooperatives and other entities for any other credit assistance under Federal law.

SEC. 807. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY THE ADMINISTRATOR.—If the Administrator, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so requires, the Administrator may award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Administrator shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are authorized by this Act (including the amendments made by this Act) to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Administrator shall report to the Congress on—

(1) contracts covered under this section and entered into with foreign entities in fiscal years ending after the date of the enactment of this Act;

(2) the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party; and

(3) the number of contracts that (but for this section) would have been awarded to foreign firms under this Act and the amendments made by this Act.

(e) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—The Secretary of Commerce shall declare any person ineligible to bid for a Federal contract for a period of 3 to 5 years who intentionally affixes a label bearing a "Made in America" inscription to any product sold or shipped to the United States that is not made in America and may bring action against such person to enforce this section in any United States district court.

(f) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Development Administration.

(2) DOMESTIC FIRM.—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

(4) PERSON.—The term "person" means a person or individual, corporation, partnership, limited partnership, joint venture and all and any business entity engaged in a business transaction with the United States Federal Government.

SEC. 808. STATE PROGRAMS NOT AFFECTED.

Nothing in this Act shall be interpreted to preclude States from creating and maintaining other rural development programs.

SEC. 809. TECHNICAL CORRECTIONS.

(a) SECTION 308 AMENDMENTS.—Section 308 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1928) is amended—

(1) in paragraph (a), by striking "prescribe,;" and inserting "prescribe;"; and

(2) by redesignating paragraphs (a) and (b), as paragraphs (1) and (2), respectively.

(b) SECTION 310B(d) AMENDMENTS.—Section 310B(d) of such Act (7 U.S.C. 1932(d)) is amended—

(1) by moving paragraphs (4), (5), and (6) two ems to the left so that the left margin of such paragraphs is aligned with the left margin of paragraph (3);

(2) in paragraph (3), by striking "paragraph (1) and (2)" and inserting "paragraphs (2) and (3)";

(3) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and

(4) by inserting "(1)" after "(d)".

(c) AMENDMENTS RELATING TO SECTION 331.—

(1) Section 331 Amendments.—Section 331 of such Act (7 U.S.C. 1981) is amended—

(A) in the second undesignated subsection—

(i) by moving paragraphs (f), (g), (h), and (i) two ems to the right so that the left margin of each of such paragraphs is aligned with the left margin of paragraph (e);

(ii) in paragraph (f), by striking "Release" and inserting "release";

(iii) in paragraph (g), by striking "Obtain" and inserting "obtain";

(iv) in paragraph (h), by striking "Not" and inserting "not";

(v) in paragraph (i)—

(I) by striking "Consent" and inserting "consent"; and

(II) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(vi) in paragraph (d), by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(vii) by redesignating paragraphs (a) through (j) as paragraphs (1) through (10), respectively; and

(B) by redesignating the first and second undesignated subsections as subsection (a) and (b), respectively.

(2) CONFORMING AMENDMENTS.—Section 357(b) of such Act (7 U.S.C. 2005(b)) is amended by striking "331(d)" each place such term appears and inserting "331(b)(4)".

(d) SECTION 333A(c) AMENDMENT.—Section 333A(c) of such Act (7 U.S.C. 1983a(c)) is amended by striking "In" and inserting "If".

(e) SECTION 335(c)(2)(D) AMENDMENT.—Section 335(c)(2)(D) of such Act (7 U.S.C. 1985(c)(2)(D)) is amended by striking "caused" and inserting "cause".

(f) SECTION 343(a) AMENDMENTS.—Section 343(a) of such Act (7 U.S.C. 1991(a)) is amended—

(1) in paragraph (1), by striking "and";

(2) in paragraph (3), by striking "and" the third place such term appears; and

(3) in paragraph (5), by striking "contract of insurance" and inserting "'contract of insurance'".

(g) SECTION 346(b) AMENDMENTS.—Section 346(b) of such Act (7 U.S.C. 1994(b)) is amended—

(1) in paragraph (1)(B), by striking "subparagraph (C)" and inserting "paragraph (3)";

(2) in paragraph (1)(C), by striking "subparagraph (A)" and inserting "paragraph (1)";

(3) by redesignating paragraphs (1) (A), (B), (C), (D)(i), and (E) as paragraphs (1), (2), (3), (4), and (5), respectively;

(4) in paragraph (2) (as so redesignated by paragraph (3) of this subsection), by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively;

(5) in each of the subparagraphs redesignated as such by paragraph (4) of this subsection, by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(6) in paragraph (5) (as so redesignated by paragraph (3) of this subsection), by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively.

(h) SECTION 349(a) AMENDMENT.—Section 349(a) of such Act (7 U.S.C. 1997(a)) is amended by redesignating paragraph (5) as paragraph (4).

TITLE IX—NATIONAL FOREST-DEPENDENT RURAL COMMUNITIES

SEC. 901. SHORT TITLE.

This title may be cited as the "National Forest-Dependent Rural Communities Economic Diversification Act of 1990".

SEC. 902. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the economic well-being of rural America is vital to our national growth and prosperity;

(2) the economic well-being of many rural communities depends upon the goods and services that are derived from national forests;

(3) the economies of many of these communities suffer from a lack of industrial and business diversity;

(4) this lack of diversity is particularly serious in communities whose economies are predominantly dependent on timber and recreation resources and where management decisions made on the national forests may disrupt the supply of those resources;

(5) the Forest Service has expertise and resources that could be directed to promote modernization and economic diversification of existing industries and services based on forest resources;

(6) the Forest Service has the technical expertise to provide leadership, in cooperation with other governmental agencies and the private sector, to assist rural communities dependent upon national forest resources to upgrade existing industries and diversify by developing new economic activity in non-forest-related industries; and

(7) technical assistance, training, education, and other assistance provided by the Department of Agriculture can be targeted to provide immediate help to those rural communities in greatest need.

(b) PURPOSES.—The purposes of this title are—

(1) to provide assistance to rural communities that are located in or near national forests and that are economically dependent upon forest resources or are likely to be economically disadvantaged by Federal land management practices;

(2) to aid in diversifying such communities' economic bases; and

(3) to improve the economic, social, and environmental well-being of rural America.

SEC. 903. DEFINITIONS.

As used in this title—

(1) the term "action team" means a rural forestry and economic diversification action team established by the Secretary pursuant to section 904(b);

(2) the term "economically disadvantaged" means economic hardship due to the loss of jobs or income (labor or proprietor) derived from forestry, the wood products industry, or related commercial enterprises such as recreation and tourism in the national forest;

(3) the term "rural community" means—

(A) any town, township, municipality, or other similar unit of general purpose local government having a population of not more than ten thousand (according to the latest decennial census) that is located in a county where at least 15 per centum of the total labor and proprietor income is derived from forestry, wood products, and forest-related industries such as recreation and tourism; or

(B) any county or similar unit of general purpose local government having a population of not more than twenty-two thousand five hundred and fifty (according to the latest decennial census) in which at least 15 per centum of the total labor and proprietor income is derived from forestry, wood products, and forest-related industries such as recreation and tourism

that is located within the boundary, or within one hundred miles of the boundary, of a national forest; and

(4) the term "Secretary" means the Secretary of Agriculture.

SEC. 904. RURAL FORESTRY AND ECONOMIC DIVERSIFICATION ACTION TEAMS.

(a) REQUESTS FOR ASSISTANCE.—Economically disadvantaged rural communities may request assistance from the Secretary in identifying opportunities that will promote economic improvement and diversification.

(b) ESTABLISHMENT.—Upon request, the Secretary is authorized to establish rural forestry and economic diversification action teams to prepare an action plan to provide technical assistance to economically disadvantaged communities. The action plan shall identify opportunities to promote economic diversification and enhance local economies now dependent upon national forest resources. The action team may also identify opportunities to utilize value-added products and services derived from national forest resources.

(c) ORGANIZATION.—The Secretary shall design and organize any action team established pursuant to subsection (b) to meet the unique needs of the requesting rural community. Each action team shall be directed by an employee of the Forest Service and may include personnel from other agencies within the Department of Agriculture, from other Federal and State departments and agencies, and from the private sector.

(d) COOPERATION.—In preparing action plans, the Secretary is authorized to cooperate with State and local governments, universities, private companies, individuals, and nonprofit organizations for procurement of services determined necessary or desirable.

(e) ELIGIBILITY.—The Secretary shall ensure that no substantially similar geographical or defined local area in a State receives both a grant for technical assistance to an economically disadvantaged community under this title and a grant for assistance under a designated rural development program, as defined in section 360(b)(2) of the Consolidated Farm and Rural Development Act, during any continuous five-year period.

(f) APPROVAL.—After reviewing requests under this section for financial and economic feasibility and viability, the Secretary shall approve and implement in accordance with section 905 those action plans that will achieve the purposes of this title.

SEC. 905. ACTION PLAN IMPLEMENTATION.

(a) IN GENERAL.—Action plans shall be implemented, insofar as practicable, to upgrade existing industries to use forest resources more efficiently and to expand the economic base of rural communities so as to alleviate or reduce their dependence on national forest resources.

(b) ASSISTANCE.—To implement action plans, the Secretary is authorized to make grants and enter into cooperative agreements and contracts to provide necessary technical and related assistance. Such grants, cooperative agreements, and contracts may be with the affected rural community, State and local governments, universities, corporations and other persons.

(c) LIMITATION.—The Federal contribution to the overall implementation of an action plan shall not exceed 80 per centum of the total cost, including administrative and other costs. The Secretary shall attribute the fair market value of equipment, personnel, and services provided in calculating the Federal contribution.

(d) AVAILABLE AUTHORITY.—The Secretary may utilize the Secretary's existing authorities under the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) and other authorities in implementing action plans.

SEC. 906. TRAINING AND EDUCATION.

(a) PROGRAMS.—In furtherance of an action plan, the Secretary is authorized to utilize the Extension Service of the Department of Agriculture to develop and conduct education programs that assist businesses, elected or appointed officials, and individuals in rural communities to deal with the effects of a transition from being economically disadvantaged to economic diversification. These programs may include—

(1) community economic analysis and strategic planning;

(2) methods for improving and retooling existing enterprises now dependent on national forest resources;

(3) methods for expanding existing enterprises and creating new economic opportunities by emphasizing economic opportunities in other industries or services not dependent on national forest resources; and

(4) assistance in the evaluation, counseling, and enhancement of vocational skills, training in basic and remedial literacy skills, assistance in job seeking skills, and training in starting or operating a business enterprise.

(b) EXISTING EDUCATIONAL AND TRAINING PROGRAMS.—Insofar as practicable, the Secretary shall utilize existing Federal, State, and private education resources in carrying out these programs.

SEC. 907. LOANS TO ECONOMICALLY DISADVANTAGED RURAL COMMUNITIES.

(a) IN GENERAL.—The Secretary, under such terms and conditions as the Secretary shall establish, may make loans to economically disadvantaged rural communities for the purposes of securing technical assistance and services to aid in the development and implementation of action plans, including planning for—

(1) improving existing facilities in the community that may generate employment or revenue;

(2) expanding existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies now dependent on national forest resources; and

(3) supporting the development of new industries or commercial ventures unrelated to national forest resources.

(b) INTEREST AND OTHER CHARGES.—The interest rates on a loan made pursuant to this section shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loan, plus not to exceed 1 per centum, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.

SEC. 908. AUTHORIZATION OF APPROPRIATIONS AND SPENDING AUTHORITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Except as provided in subsection (b), there is authorized to be appropriated—

(1) an amount not to exceed an amount that is equal to 5 per centum of the sums received by the Secretary from sales of timber and other products of the forests, and of user fees paid in connection with the use of forest lands; and

(2) such additional sums as may be necessary to carry out the purposes of this title.

(b) LIMITATION ON AUTHORIZATION.—Subsection (a) shall not in any way affect payments to the States pursuant to chapter 192 of the Act of May 23, 1908 (16 U.S.C. 500).

(c) SPENDING AUTHORITY.—Any spending authority (as defined in section 401 of the Congressional Budget Act of 1974) provided in this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

TITLE X—ENHANCING HUMAN RESOURCES

SEC. 1001. SHORT TITLE.

This title may be cited as the "Rural Business Development and Telecommunications Act of 1990".

Subtitle A—Rural Business Development

SEC. 1011. PURPOSES.

The purposes of this subtitle are to—

(1) provide funds to improve telecommunications service in rural areas; and

(2) provide access to advanced telecommunications services and computer networks to improve job opportunities and the business environment in rural areas.

SEC. 1012. LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding after the subsections added by section 402(a) of this Act the following:

"(i) LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.—

"(1) IN GENERAL.—The Administrator may make loans under this subsection at low interest rates and at market rates to 1 or more businesses, local governments, or public agencies in rural areas to fund facilities in which the recipients of such loans share telecommunications terminal equipment, computers, computer software, and computer hardware.

"(2) GENERAL REQUIREMENTS.—

"(A) APPLICATION PROCESS.—

"(i) SUBMISSION OF APPLICATION.—Any entity desiring a loan under this subsection shall submit an application therefor to the Administrator.

"(ii) CONTENTS OF APPLICATION.—Each application for a loan under this subsection shall include—

"(I) a detailed explanation of the proposed rural telecommunications system, including the general telecommunications transmission services and facilities required, and a list of the specific equipment that the applicant proposes to purchase or lease, to implement the system;

"(II) a description of the manner in which the proposed project is to be funded;

"(III) a copy of a binding commitment entered into between the applicant and each entity which is legally permitted to provide, and from which the applicant is to obtain, the telecommunications services and facilities required for the project, which stipulates that if the applicant receives the loan requested in the application the entity will provide such telecommunications services and facilities in the area served by the entity within a reasonable time and at a charge which is in accordance with State law;

"(IV) a description of the manner in which the applicant intends to use the loan requested in the application;

"(V) a description of how the proposed project will be evaluated; and

"(VI) such other information as the Administrator may reasonably require.

"(B) CONSIDERATION OF APPLICATIONS.—

"(i) REVIEW BY ADMINISTRATOR.—The Administrator shall—

"(I) review each application submitted pursuant to subparagraph (A)(i);

"(II) determine whether or not the application meets the requirements of subparagraph (A)(ii);

"(III) approve each application which meets such requirements;

"(IV) disapprove each application which fails to meet such requirements; and

"(V) transmit each approved application to the review panel of the State in which the entity which submitted the application intends to implement the project described in the application.

"(ii) REVIEW BY STATE REVIEW PANELS.—

"(I) IN GENERAL.—The review panel of a State shall examine each application transmitted to the review panel pursuant to clause (i)(V) to determine the technical and economic adequacy and feasibility of the project described in the application and the likelihood that the project will succeed.

"(II) AUTHORITY TO OBTAIN INFORMATION FROM APPLICANTS.—Each entity which submits an application for a loan under this subsection shall provide the review panel of the State in which the partnership intends to implement the project described in the application such information as the review panel may reasonably request to assist in reviewing the application.

"(III) AUTHORITY TO REQUEST APPLICANTS TO MODIFY PROJECTS.—The review panel may, before final consideration of an application of an entity for a loan under this subsection, request the entity to modify the project described in the application.

"(iii) RANKING OF APPLICATIONS.—

"(I) IN GENERAL.—The review panel of each State shall rank, pursuant to a written policy and criteria, the applications that the review panel receives during any fiscal year for a loan under this subsection, in an order which takes into account—

"(aa) the results of the review conducted under clause (i);

"(bb) the extent to which the projects described in the applications would promote any area plan (as defined in section 360(b)(1)) developed for the areas in which the projects are to be implemented; and

"(cc) in the case of a project which would duplicate existing services, the reasons therefor.

"(II) GROUPING OF APPLICATIONS.—The review panel shall separate into 2 groups the applications for a loan under this subsection received by the review panel during a fiscal year. The 1st group shall consist of the applications received during the 1st 6 months of the fiscal year. The 2nd group shall consist of the applications received during the 2nd 6 months of the fiscal year.

"(III) COMPETITION AMONG APPLICATIONS.—The review panel shall consider each application in a group to be competing only with the other applications in the group.

"(IV) WRITTEN POLICY AND CRITERIA.—

"(aa) IN GENERAL.—Subject to subdivision (bb), the review panel shall develop the written policy and criteria to be used to rank applications, in the same manner as the review panel develops the written policy and criteria used for purposes of section 361(b)(3).

"(bb) PROHIBITION AGAINST DEVELOPMENT OR ACQUISITION OF TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The policy and criteria developed under subdivision (aa) shall require that the project described in an application not include the development or acquisition of telecommunications transmission facilities.

"(iv) TRANSMITTAL OF RANKED APPLICATIONS.—A review panel in a State shall transmit to the State coordinator appointed pursuant to section 360(b)(3)(A)(ii) each list of applications ranked pursuant to clause (ii) of this subsection, in the same manner in which lists of applications ranked pursuant to section 361(b) are transmitted to the State coordinator pursuant to section 361. The State coordinator shall transmit to the Administrator each such list received by the State coordinator.

"(C) PRIORITY.—The Administrator shall establish procedures to target loans under this subsection to the rural areas and applicants that demonstrate the need for such loans, taking into consideration—

"(i) the relative needs of all applicants;

"(ii) the needs of the affected rural areas;

"(iii) the financial ability of the applicants, without such loans, to use telecommunications for the business purposes for which such loans may be made; and

"(iv) the recommendations of the review panels for the States in which such areas are located.

"(D) REPORT REQUIRED IF ADMINISTRATOR INTENDS TO FUND PROJECTS OTHER THAN AS RECOMMENDED BY REVIEW PANEL.—If the Administrator determines to provide loans under this subsection to projects in a State other than in the manner recommended by the review panel of the State, the Administrator—

"(i) within 10 days after making such determination, shall submit to the review panel, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the reasons for providing loans to projects other than in the manner so recommended; and

"(ii) shall not provide such loans before the end of the 7-day period beginning on the date the review panel and such committees have received such report.

"(E) MONITORING OF USE OF LOANS.—The Administrator shall take such steps as may be necessary to ensure that loans provided under this subsection are used in accordance with the approved application therefor.

"(3) RELATIONSHIP TO STATE LAW.—This subsection shall not be construed to affect in any manner the applicability of the Communications Act of 1934, the regulations and orders prescribed thereunder, or any State or local law relating to the regulation or provision of telecommunications facilities or services.

"(4) REGULATIONS.—Not later than 120 days after the date of the enactment of this subsection, the Administrator shall prescribe final regulations governing the loan program established under this subsection, in accordance with the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, notwithstanding subsection (a)(2) of such section 553.

"(5) DEFINITIONS.—As used in this subsection:

"(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Rural Development Administration.

"(B) REVIEW PANEL.—The term 'review panel' means, with respect to a State, the rural economic development review panel of the State, as established pursuant to section 361.

"(C) RURAL AREA.—The term 'rural area' has the meaning given such term in section 306(a)(7) for purposes of loans for essential community facilities under section 306(a)(1).

"(D) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term 'telecommunications terminal equipment' means telecommunications equipment (excluding telecommunications transmission facilities) that—

"(i) interconnects with telecommunications transmission facilities; and

"(ii) modifies, converts, encodes, or otherwise prepares signals to be transmitted

through, or modifies, reconverts, or carries signals received from, the facilities.

"(E) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term 'telecommunications transmission facilities' means facilities (other than telecommunications terminal equipment) that transmit, receive, or carry signals between the telecommunications terminal equipment at each end of a telecommunications circuit or path.

"(6) TREATMENT OF LOAN PROGRAM AS DESIGNATED RURAL DEVELOPMENT PROGRAM.—For purposes of this title, the loan program established under this subsection shall be treated as a designated rural development program (within the meaning of section 360(b)(2)).

"(7) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—For loans under this subsection, there are authorized to be appropriated to the Administrator $15,000,000 for each of fiscal years 1990, 1991, 1992, 1993, and 1994.

"(B) AVAILABILITY.—Amounts appropriated pursuant to subparagraph (A) shall remain available until expended.".

Subtitle B—Rural Telecommunications Provisions

SEC. 1021. RURAL TELECOMMUNICATIONS ZONES.

(a) LISTS OF STATE RURAL TELECOMMUNICATIONS ZONES.—

(1) PREPARATION OF LIST.—Not later than July 1 of each calendar year, the Administrator shall, in accordance with regulations prescribed pursuant to subsection (e), prepare a report, for the Federal fiscal year beginning on October 1 of the calendar year, which—

(A) contains a list compiled in accordance with paragraph (2) of the rural areas in each State that will have advanced telecommunications capability in place not later than the end of the 2-year period beginning on October 1 of the calendar year;

(B) contains the reasons why the Administrator has determined that such rural areas will be as described in subparagraph (A);

(C) ranks such rural areas in the order in which the Administrator desires data processing (or other telecommunications intensive) firms to locate in such areas during the Federal fiscal year beginning in the calendar year, based on projections of—

(i) the facilities in place in the area which provide advanced telecommunications capabilities;

(ii) the economic infrastructure needs of the area;

(iii) the employment needs of the area;

(iv) the availability of persons with telecommunications skills in the area; and

(v) the cost of labor in the area; and

(D) for each rural area on the list, provides a summary of the characteristics of the area which are set forth in subparagraph (C).

(2) NUMBER OF RURAL AREAS PER STATE IN LIST.—The number of rural areas in a State that the Administrator shall include on the list prepared pursuant to paragraph (1) shall be the greater of—

(A) the product of—

(i) the number of individuals who reside in rural areas in the State rounded down to the greatest multiple of 1,000,000 which is less than such number of individuals; and

(ii) 3/1,000,000; and

(B) 3.

(b) PROVISION OF REPORT TO FEDERAL AGENCIES CONSIDERING RELOCATING DATA PROCESSING OPERATIONS.—The Administrator shall provide to each Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year a copy of the report prepared pursuant to subsection (a) for the fiscal year.

(c) AGENCIES REQUIRED TO ANALYZE COSTS AND BENEFITS OF CERTAIN RELOCATION OPTIONS.—Any Federal agency that is considering relocating a data processing (or other telecommunications intensive) operation to a new street address during a Federal fiscal year shall—

(1) obtain from the Administrator a copy of the report prepared for the fiscal year pursuant to subsection (a);

(2) select from the list contained in the report at least 1 or more areas which the agency regards as best meeting the requirements of the agency's data processing (or other telecommunications intensive) operation; and

(3) perform a comparative analysis of the costs and benefits of—

(A) not relocating the operation;

(B) relocating the operation to any of the areas selected from the list; and

(C) relocating the operation to any other area to which the agency is considering relocating.

(d) REPORT REQUIRED IF AGENCY DOES NOT RELOCATE DATA PROCESSING OPERATION TO AREA SELECTED FROM LIST.—If a Federal agency is not prohibited by law from relocating a data processing operation to any area selected by the agency pursuant to subsection (c)(2), and the agency determines that the operation is to be relocated to an area other than any such selected area, the agency shall submit a report detailing the reasons for the determination to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Administrator, the Administrator of the Rural Electrification Administration, and the Administrator of the General Services Administration.

(e) REGULATIONS.—The Administrator shall, in consultation with the Administrator of the Rural Electrification Administration, prescribe such regulations as may be necessary to carry out this section.

(f) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Development Administration.

(2) RURAL AREA.—The term "rural area" has the meaning given such term in section 306(a)(7) of the Consolidated Farm and Rural Development Act for purposes of loans for essential community facilities under section 306(a)(1) of such Act.

SEC. 1022. GRANTS FOR EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEMS.

(a) IN GENERAL.—The Under Secretary shall make grants to eligible governments for the development and installation of emergency public safety telephone answering systems, including the construction and installation of such street signs, the assignment of street numbers to such locations, and the preparation of such maps as may be required for such systems to operate effectively.

(b) MAXIMUM GRANT PER LOCAL GOVERNMENT.—The Under Secretary shall not make a grant exceeding $30,000 under subsection (a) to any local government.

(c) MAXIMUM AMOUNT OF GRANTS PER YEAR.—The Under Secretary shall not make grants aggregating more than $3,000,000 under subsection (a) in any fiscal year.

(d) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under subsection (a), there are authorized to be appropriated to the Under Secretary not to exceed $3,000,000 for each of fiscal years 1990, 1991, 1992, 1993, and 1994.

(e) DEFINITIONS.—As used in this section:

(1) ELIGIBLE GOVERNMENT.—The term "eligible government" means a political subdivision of a State—

(A) which is in a rural area; and

(B) which the Under Secretary determines would, within 2 years after the date of the enactment of this section, have an emergency public safety telephone answering system were it not for a lack of street signs, street numbers for locations, or maps required for such a system to operate effectively.

(2) EMERGENCY PUBLIC SAFETY TELEPHONE ANSWERING SYSTEM.—The term "emergency public safety telephone answering system" means a telecommunications system operated by public safety authorities that—

(A) enables persons to report police, fire, medical, and other emergencies to such authorities by use of a telephone; and

(B) automatically identifies the telephone number and location of the telephone which is the source of such a report.

(3) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Agriculture for Small Community and Rural Development.

SEC. 1023. STUDY ON USE OF TELECOMMUNICATIONS INFRASTRUCTURE BY BUSINESSES IN RURAL AREAS.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study and evaluate—

(1) the availability, and effective use, of the telecommunications infrastructure by small and large businesses in rural areas; and

(2) the achievements and shortcomings of the programs established under this title and the amendment made by this title.

(b) COORDINATION.—The Secretary may coordinate the study required by subsection (a) with other Federal agencies with telecommunications expertise.

(c) RECOMMENDATIONS.—The Secretary may recommend to the Committee on Agriculture and the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation of the Senate, such legislation as will promote rural economic development through advanced telecommunications technology, as the Secretary considers appropriate.

(d) RURAL AREA DEFINED.—As used in this section, the term "rural area" has the meaning given such term in section 306(a)(7) of the Consolidated Farm and Rural Development Act for purposes of loans for essential community facilities under section 306(a)(1) of such Act.

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Senate bill is ordered to be read a third time.

Mr. WALKER. Mr. Speaker, reserving the right to object, could someone explain to us what we are doing here? This is not something that was on the calendar, and we are not familiar with it on this side. Could the chairman give me an explanation?

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, first, let me state this has been cleared with the minority, and all of us are in agreement, but an explanation to my distinguished colleague and my other colleagues in the House is that we passed the rural development legislation last week. What we are doing here is taking the Senate bill and inserting in lieu thereof the House-passed version and sending it back to the Senate.

Mr. WALKER. And this is not a filing to go to the conference? This is taking our bill and sending it to the Senate?

Mr. DE LA GARZA. If the gentleman will yield further, yes, and it will then be up to the Senate whether to decide to have a conference.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

Mr. MARLENEE. Mr. Speaker, reserving the right to object, if the chairman would answer a question for understanding of the procedure, our bill would go over to the Senate, and the Senate would have the discretion on whether they want to accept that bill, and at that point we would have the decision of whether to have a conference or not?

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I am happy to yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, as I explained the procedure, the Senate earlier passed a rural development bill. We then passed our version here in the House, H.R. 3581. What we are doing here today is striking all after the enacting clause in the Senate bill, inserting in lieu thereof the text of H.R. 3581. It now goes to the Senate. The Senate may accept it as we have forwarded it to them, or they have the option of asking for a conference.

Mr. MARLENEE. Mr. Speaker, I thank the chairman, and I withdraw my reservation of objection.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: A bill entitled "Rural Economic Development Act of 1989."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3581) was laid on the table.

FEDERAL ENERGY REGULATORY COMMISSION MEMBER TERM ACT OF 1990

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 908) to provide for five-year, staggered terms for members of the Federal Energy Regulatory Commission, and for other purposes, as amended.

The Clerk read as follows:

H.R. 908

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Energy Regulatory Commission Member Term Act of 1990".

SEC. 2. FIVE-YEAR TERMS FOR MEMBERS OF THE FEDERAL ENERGY REGULATORY COMMISSION.

(a) IN GENERAL.—Section 401(b) of the Department of Energy Organization Act is amended by striking "four years" in the third sentence and inserting "5 years".

(b) STAGGERED TERMS.—Section 401(b) of such Act is amended by—

(1) inserting "(1)" after "(b)";

(2) striking the fourth sentence;

(3) amending the seventh sentence to read, "A Commissioner may continue to serve after the expiration of his term until his successor is appointed and has been confirmed and taken the oath of Office, except that such Commission shall not serve beyond the end of the session of the Congress in which such term expires."; and

(4) adding at the end thereof the following:

"(2) Notwithstanding the third sentence of paragraph (1), the terms of members first taking office after the date of enactment of the Federal Energy Regulatory Commission Member Term Act of 1990 shall expire as follows:

"(A) In the case of members appointed to succeed members whose terms expire in 1991, one such member's term shall expire on June 30, 1994, and one such member's term shall expire on June 30, 1995, as designate by the President at the time of appointment.

"(B) In the case of members appointed to succeed members whose terms expire in 1992, one such member's term shall expire on June 30, 1996, and one such member's term shall expire on June 30, 1997, as designated by the President at the time of appointment.

"(C) In the case of the member appointed to succeed the member whose term expires in 1993, such member's term shall expire on June 30, 1998.".

(c) APPLICABILITY.—The amendments made by this section apply only to persons appointed or reappointed as members of the Federal Energy Regulatory Commission after the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 908, a bill to provide for fully staggered, 5-year terms for the five Commissioners of the Federal Energy Regulatory Commission [FERC].

This legislation is a simple and intelligent price of good government. It amends existing law by creating fully staggered, 5-year terms for each of the five FERC Commissioners.

Under current laws, FERC Commissioners serve 4-year terms that are not fully staggered. The bill's purpose is to make the appiontment process more routine and predictable, and to avoid the possibility that FERC could lose a quorum because of delays in the appointments process, which has almost happened a few times.

The committee amendment offered today is in keeping with the bill reported out of committee last year, and has been cleared with minority and the agency.

I commend by colleague Mr. RICHARDSON, the sponsor of the bill, for his leadership on this issue, and Mr. MOORHEAD for his contribution and collegiality.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 908, a bill to provide for 5-year staggered terms for Commisioners of the Federal Energy Regulatory Commission. Under current law, FERC Commissioners serve 4-year terms, with a carry over of up to 1 year. Also, under current law, these terms are not fully staggered. Thus, two of the current Commissioners' terms expire in 1991 and two expire in 1992. In recent years, this lack of full staggering of Commissioner terms has caused FERC to come close to losing a quorum on more than one occasion.

H.R. 908 rectifies this problem by establishing 5-year staggered terms for FERC Commissioners. Thus, H.R. 908 should make it more likely that vacancies will be filled in an orderly fashion and that a quorum will be available in most circumstances. As such, H.R. 908 is a good Government measure, well deserving of our support, and I urge my colleagues to vote for it.

I, too, commend my colleagues, Chairman SHARP and Mr. RICHARDSON, for their diligent work on this bill.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the original sponsor of the bill, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I thank the chairman for his support and my good friend from California of the minority for bringing this bill to prompt action in committee and bringing this legislation to the floor.

As the chairman said, this is a good Government bill. This is an efficient piece of legislation which will prevent a lot of the overload that has existed at FERC over the years whether by absence or staggered terms. This bill takes care of this issue to ensure that timely decisions are made in the most effective and efficient manner.

Therefore, this bill also affects the oil and gas industry and many other industry people and energy-related people who have had a lot of problems getting decisions from FERC.

H.R. 908 is designed to stagger terms of the five FERC Commissioners to ensure that a quorum is available at all times. The bill proposes the terms of the Commissioners be restructured so that as an existing term ends, the new or reappointed Commissioners serve five 5-year fully staggered terms, that the initial appointments to FERC after the bill is enacted will be for 3-, 4-, or 5-year terms ending in 1993, 1994, 1995, 1996, and 1997. Thereafter, all terms will be 5-year staggered terms.

I understand that an agreement has been reached with the Senate that has bipartisan support dealing with the Senate agreeing to drop provisions involving pay raises for the Commissioners and provisions concerning the executive and administrative operation of the Commission.

In exchange, the House has agreed to allow for a 6-month carryover period by incorporating the Senate's June 30 expiration date for the FERC's Commissioners' terms.

I want to commend the chairman, the gentleman from Indiana [Mr. SHARP] for his foresight and industriousness in getting this bill passed. I expect that this will be signed into law. It is a good measure, and it has been under his leadership and that of the staff and my good friend from California and my colleagues in the Senate, especially the two from New Mexico.

Mr. Speaker, I thank the chairman for his support and prompt action in committee and for bringing this legislation to the floor for final passage.

The Federal Energy Regulatory Commission [FERC] is responsible for making extremely important regulatory rulings affecting energy producers and consumers. I introduced H.R. 908 to ensure that these decisions are made in the most effective, timely manner.

Under the Department of Energy Organization Act, the five FERC Commissioners currently serve 4-year terms that are not fully staggered. The law also allows Commissioners to serve for 1 year following the expiration of their term if a replacement has not yet been confirmed. In the past, a combination of vacancies, resignations and grace period terminations put the Commission on the verge of not having a quorum available.

H.R. 908 is designed to stagger the terms of the five FERC Commissioners to ensure a quorum is available at all times. The bill proposes that terms of the Commissioners be restructured so that as an existing term ends, the new or reappointed Commissioners serve 5-year fully staggered terms.

The transition to fully staggered 5-year terms is set up so that the initial appointments to FERC after the bill is enacted will be for 3-, 4-, or 5-year terms ending in 1993, 1994, 1995, 1996, and 1997. Thereafter, all terms will be 5-year staggered terms.

An agreement has been reached with the Senate that has bipartisan support. Specifically, the Senate has agreed to drop provisions involving pay raises for the Commissioners and provisions concerning the executive and administrative operation of the Commission. In exchange, the House has agreed to allow for a 6-month carry-over period by incorporating the Senate's June 30 expiration date for the FERC Commissioners' terms. I urge my colleagues to support this legislation.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 908, as amended.

The question was taken.

Mrs. MARTIN of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1510

SANITARY TRANSPORTATION OF FOOD ACT OF 1990

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3386) to prohibit the use of refrigerated motor vehicles for the transportation of solid waste, to prohibit the use of cargo tanks in providing motor vehicle transportation of food and hazardous materials, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sanitary Transportation of Food Act of 1990".

SEC. 2. FINDINGS.

Congress finds that—

(1) Americans are entitled to receive food and other consumer products that are not made unsafe as a result of certain transportation practices;

(2) the American public is threatened by the transportation of products potentially harmful to consumers in motor vehicles and rail vehicles which are used to transport food and other consumer products, and

(3) the risks posed to consumers by such transportation practices are unnecessary, and such practices must be terminated.

SEC. 3. REGULATIONS.

(a) IN GENERAL.—

(1) In accordance with this Act, the Secretary, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall issue regulations with respect to the transportation of food, food additives, drugs, devices and cosmetics in motor vehicles and rail vehicles which are used to transport nonfood products which pose an unreasonable danger to the health of humans or animals.

(2) If a drug, device, or cosmetic is transported in a motor or rail vehicle at the same time or before a food or food additive is transported in such vehicle, the Secretary shall treat such drug, device, or cosmetic as a nonfood product if such transportation poses an unreasonable danger to the health of humans or animals.

(b) SPECIAL REQUIREMENTS.—In issuing regulations under subsection (a)(1), the Secretary, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall establish standards, requirements, and other provisions relating to—

(1) appropriate recordkeeping, identification, marking, and other means required to promote compliance with the requirements of sections 4, 5, and 6,

(2) appropriate decontamination, removal, disposal, and isolation standards with respect to regulations implementing sections 4 and 5, and

(3) appropriate materials for construction of tank trucks, cargo tanks, and accessory equipment to comply with regulations implementing section 5.

(c) CONSIDERATIONS.—In issuing the regulations required under subsection (a)(1), the Secretary, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall consider each of the following and may establish standards, requirements, or other provisions relating to any or all of the following:

(1) The extent to which packaging or similar means of protecting and isolating commodities are adequate to ameliorate or eliminate the potential risks of transporting food, food additives, drugs, devices or cosmetics in motor vehicles or rail vehicles used to transport nonfood products. If packaging standards are found to be adequate by the Secretary, regulations under subsection (a)(1) shall not apply to food, food additives, drugs, devices, or cosmetics or nonfood products which are packaged in packages which meet such standards.

(2) In the case of transportation not described in section 4, 5, or 6, appropriate recordkeeping, identification, marking, and other means which are desirable to assure compliance with this Act.

(3) In the case of transportation not described in section 4 or 5, appropriate decontamination, removal, disposal, and isolation standards for motor vehicles and rail vehicles covered by this Act.

(A) Appropriate certification or other written requirements by any person, with respect to any standard, requirement, or other provision of the regulations issued under subsection (a).

(5) Appropriate compliance and enforcement measures for carrying out this Act.

(6) Appropriate minimum insurance or other liability requirements for any person covered by this Act.

(7) Appropriate standards, requirements or other provisions for any motor vehicle or rail vehicle used to transport food, food additives, drugs, devices, or cosmetics and nonfood products which pose an unreasonable danger to the health of humans or animals.

(d) PROCEDURES.—

(1) Not later than 30 days after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall initiate a rulemaking proceeding to issue regulations under subsection (a)(1).

(2) Not later than 240 days after the date rulemaking proceedings are initiated under paragraph (1), the Secretary, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall issue the regulations required by subsection (a)(1).

SEC. 4. REFRIGERATED VEHICLES.

(a) PROHIBITION.—At a minimum, the regulations issued under section 3 shall prohibit any person from using, offering for use, or arranging for the use of, a refrigerated motor vehicle or a refrigerated rail vehicle to provide transportation of food, food additives, drugs, devices, or cosmetics, if such vehicle is used to transport a nonfood product included on a list published under subsection (b).

(b) LIST OF UNACCEPTABLE NONFOOD PRODUCTS.—

(1) PUBLICATION.—The Secretary, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of nonfood products which the Secretary has determined make food, food additives, drugs, devices, or cosmetics unreasonably dangerous to the health of humans or animals as a result of transportation in a refrigerated vehicle which is used to transport food, food additives, drugs, devices, or cosmetics. The Secretary may periodically amend the list by publication in the Federal Register.

(2) CARDBOARD, PALLETS, BEVERAGE CONTAINERS, AND OTHER FOOD PACKAGING.—The list under paragraph (1) shall not include cardboard, pallets, beverage containers, and other food packaging except to the extent the Secretary determines that the transportation of cardboard, pallets, beverge containers, or other food packaging in a refrigerated vehicle which is used to transport food, food additives, drugs, devices, or cosmetics would make the food, food additives, drugs, devices, or cosmetics unreasonably dangerous to the health of humans or animals.

SEC. 5. TANK TRUCKS, RAIL TANK CARS, AND CARGO TANKS.

(a) PROHIBITION.—At a minimum, the regulations issued under section 3 shall prohibit any person from using, offering for use, or arranging for the use of, a tank truck, rail tank car, or cargo tank used in motor vehicle transportation or rail transportation of food, food additives, drugs, devices, or cosmetics, if such tank trucks, rail tank car, or cargo tank is used to transport a nonfood product (other than any nonfood product which is included on a list published under subsection (b)).

(b) LIST OF ACCEPTABLE NONFOOD PRODUCTS.—The Secretary, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of nonfood products which the Secretary has determined do not make food, food additives, drugs, devices, or cosmetics unreasonably dangerous to the health of humans or animals as a result of transportation in a tank truck, rail tank car, or cargo tank which is used to transport food, food additives, drugs, devices, or cosmetics. The Secretary may periodically amend such list by publication in the Federal Register.

(c) IDENTIFICATION.—The regulations under section 3(a)(1) shall, at a minimum, provide that—

(1) no person shall use, offer for use, or arrange for the use of, a tank truck or a cargo tank to provide motor vehicle transportation of only food, food additives, drugs, devices, or cosmetics or nonfood products which are included on the list published under subsection (b) unless such tank truck or cargo tank is identified, by a permanent marking on such tank truck or cargo tank, as transporting such food, food additives, drugs, devices, or cosmetics or nonfood products,

(2) no person shall use, offer for use, or arrange for the use of, a tank truck or a cargo tank to provide motor vehicle transportation of a nonfood product which is not included on a list published under subsection (b) if such tank truck or cargo tank is identified pursuant to paragraph (1) as a tank truck or cargo tank transporting only food, food additives, drugs, devices, or cosmetics, and nonfood products included on such a list, and

(3) no person shall receive, except for lawful disposal purposes any food, food additive, drug, device, or cosmetic or nonfood product which has been transported in a tank truck or cargo tank in violation of paragraph (1) or (2).

(d) DISCLOSURE.—The regulations issued under section 3(a)(1) shall provide that any person who arranges for the use of a tank truck or a cargo tank used in motor vehicle transportation for the transportation of a food, food additive, drug device, or cosmetic or nonfood product shall, in making such arrangement, disclose to the motor carrier or other appropriate person if the food, food additive, drug, device or cosmetic or nonfood product being transported is to be used—

(1) as, or in the preparation of, a food or food additive, or

(2) as a nonfood product which is included in the list published under subsection (b).

SEC. 6. DEDICATED VEHICLES.

At a minimum, the regulations issued under section 3(a)(1) shall prohibit any person from using, offering for use, or arranging for the use of, a motor vehicle or rail vehicle to provide transportation of asbestos or products which present an extreme danger to human or animal health, despite any decontamination, removal, disposal, packaging, or other isolation procedures, unless such motor vehicle or rail vehicle is used only to provide transportation of such asbestos or products, or both. The Secretary, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of the products covered by this section. The Secretary may periodically amend such list by publication in the Federal Register.

SEC. 7. WAIVER AUTHORITY.

The Secretary, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, may waive, in whole or in part, application of any provision of this Act or any regulation issued under this Act with respect to any class of persons, class of motor vehicles, class of rail vehicles, class of food, food additives, drugs, devices, or cosmetics, or class of nonfood products, if the Secretary determines that such waiver does not pose an unreasonable danger to human or animal health and otherwise is not contrary to the public interest and this Act. Any waiver under this section shall be published in the Federal Register, together with the reasons for such waiver.

SEC. 8. POWERS AND DUTIES OF THE SECRETARY.

The Secretary shall have the same powers, duties, and authorities under this Act with respect to transportation regulated under this Act as the Secretary has under section 109 (other than subsections (c)(1), (d), and (e) of such section) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801, et seq.) with respect to transportation regulated under such Act.

SEC. 9. PENALTIES AND SPECIFIC RELIEF.

The Secretary shall impose civil or criminal penalties, or both, for violations of section 4, 5, or 6, regulations issued under section 3, or an order issued under section 8 of this Act, in the same manner and to the same extent that penalties may be imposed under section 110 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1809) and shall request equitable relief and take action to eliminate or ameliorate an imminent hazard with respect to any violation of section 4, 5, or 6, regulations issued under section 3, or an order issued under section 8, in the same manner and to the same extent that the Secretary is authorized under section 111 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1810) to take such action.

SEC. 10. RELATIONSHIP TO OTHER LAWS.

The provisions of the Hazardous Materials Transportation Act relating to the relationship of that Act to a law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or of an Indian tribe shall apply with respect to the relationship of this Act to a law, regulation, order, ruling provision, or other requirement of a State or political subdivision thereof or of an Indian tribe which concerns a subject covered under this Act.

SEC. 11. COORDINATION PROCEDURES.

Not later than 1 year after the date of the enactment of this Act, the Secretary, after consultation with appropriate State officials, shall establish procedures to promote more effective coordination between the agencies of the United States and agencies of the States with regulatory authority over motor carrier and rail safety with respect to implementation and enforcement of this Act.

SEC. 12. DEFINITIONS.

As used in this Act—

(1) FOOD, FOOD ADDITIVES, DRUGS, DEVICES, OR COSMETICS.—The terms "food", "food additives", "drugs", "devices", and "cosmetics" have the meanings given to them by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(2) NONFOOD PRODUCT.—The term "nonfood product" means any material, substance, or product (including solid waste, as such term is defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)) which (except as provided under section 3(a)(2)) is not a food, food additive, drug, device, or cosmetic.

(3) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(4) STATE.—The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam.

(5) TRANSPORTS OR TRANSPORTATION.—The term "transports" or "transportation" means movement of property in commerce (including intrastate commerce) by motor vehicle or rail vehicle.

(6) UNITED STATES.—The term "United States" means all of the States.

SEC. 13. APPLICABILITY.

This Act shall take effect on the date of the enactment of this Act, except that sections 9 and 10 shall only apply to transportation occurring on or after the date that regulations under section 3(a)(1) take effect.

The SPEAKER pro tempore (Mr. MAZZOLI). Is a second demanded?

Mr. CLINGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield 10 minutes to the gentleman from Ohio [Mr. THOMAS A. LUKEN], and I ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3386 has been considered and favorably reported by the Committee on Public Works and Transportation and the Committee on Energy and Commerce. I wish to thank the members of the Energy and Commerce Committee for their cooperation on this important legislation.

Last summer, our committee became aware of alarming activities carried out by some Members of the transportation industry. Those activities consisted of moving waste materials and nonfood products in vehicles and tankers that were also used to transport food. Although there were no documented cases of food contamination resulting from these activities that caused any harm to the public, there was clearly the threat of such harm.

The overriding goal of H.R. 3386 is to maintain conditions in this country that prevent contamination of food in the distribution process. Thus far, the record is good. This bill is designed to keep it that way by controlling emerging practices that might threaten that record. The citizens of this country deserve and should have regulatory safeguards to assure the sanitary transportation of food. H.R. 3386 does that.

I want to thank the distinguished chairman of our Subcommittee on Surface Transportation, NORM MINETA, for his hard work on H.R. 3386. I also want to thank my Republican colleagues—Congressman JOHN PAUL HAMMERSCHMIDT and Congressman BUD SHUSTER. Finally, my congratulations to the original sponsors, Congressmen BORSKI and CLINGER, for working so long and hard on this bill. They are to be commended by us all for their very diligent, persistent and effective efforts. I urge all Members to support this legislation.

Mr. CLINGER. Mr. Speaker, I yield 1 minute to the ranking member of the full committee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I am pleased to join my colleagues in support of H.R. 3386, the Sanitary Transportation of Food Act of 1990.

In this day and age we expect certain guarantees of quality and purity in our food and beverages. Food processors go to great lengths to ensure that meats and poultry are free from contamination. We go to our neighborhood markets and find that most food, drug, and cosmetic containers are sealed, taped, glued or otherwise protected from tampering.

But last fall Americans were shocked to learn that some trucks used to haul unprocessed meats, vegetables, and other foods to the marketplace were turning around and hauling raw municipal garbage to landfills on their return trips.

Discovery of this practice prompted truck drivers to come forward and open our eyes to another dangerous practice—hauling edible liquids in cargo tanks back-to-back with harmful chemicals such as acetone, plastic resins, and formaldehyde.

In hearings, the Public Works and Transportation Committee found that food shippers are often completely unaware of the products and chemicals previously hauled in tanks that pull up to their facilities. Testimony before our committee also raised substantial doubt about the thoroughness and consistency of cleaning procedures between loads.

Despite the threat to health inherent in these practices, there are no Federal laws to prevent them. The Food and Drug Administration, the Department of Agriculture, and the Environmental Protecion Agency all have regulations that touch on food safety, but nothing is in place to prohibit hauling garbage or chemicals back-to-back with food.

I want to commend my colleague from Pennsylvania, Mr. CLINGER, for his diligence in investigating these unsavory backhaul practices. He acted quickly to introduce H.R. 3386, the legislation before us, to ensure that food products are transported in a safe and responsible manner. Mr. CLINGER, along with Mr. BORSKI, pressed for its expeditious handling in the Public Works and Energy and Commerce Committees, and for its consideration today.

I also want to thank Mr. WHITTAKER and Mr. LUKEN for their cooperation in sheparding H.R. 3386 quickly through the Energy and Commerce Committee.

This is a strong and comprehensive measure, and I urge my colleagues to support this important bill.

Mr. CLINGER. Mr. Speaker, for purposes of debate only, I yield 10 minutes to the gentleman from Kansas [Mr. WHITTAKER] and I ask unanimous consent that he be permitted to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, man does not live by bread alone. There is the meat and potatoes, there is the chicken and fish, and for some elite peope, even broccoli is consumed. We eat all of these items and a while lot more. Mr. Speaker, what we do not eat we dispose of, and it is called solid waste, although most of us call it garbage, and that is what this bill is all about. It is about how we transport what we eat and how we dispose of what we do not eat, as well as other trash like medical waste and so forth.

The fact is that we generate a lot of garbage in this country, about 3 pounds per person per day. As long as we could dispose of it close to home, there was no real big problem with that. But now there is a big problem, because many landfills are filled to capacity, particularly in the northeastern part of the United States, and it is going to get worse.

EPA tells us there are currently 6,000 landfills, but that that number will decrease to 3,000 in the next 5 years. And this has given rise to the practices that we can put a stop to today by passing this bill.

Mr. Speaker, almost a year ago I took a phone call from a reporter in my district, Barbara Bruggebors, asking what I thought of this practice she had come across where refrigerated trucks, so-called reefers, were hauling foodstuffs like produce and meat from the Midwest to eastern cities like New York and Philadelphia, and then, to avoid going home empty, were filling their trucks with raw and rotting garbage to haul back to landfills in my State and States like Ohio and Indiana.

Frankly, I did not believe it at first, but it is absolutely true. Hauling garbage in trucks that also carry food is disgusting and dangerous, but also, unfortunately, it is legal in many States.

That was proven to me about 3 days after the phone call, because this truck in this picture turned over in my

district. It was a reefer truck that had hauled a load of avocados to the eastern markets and was on its way back with, as you can tell, a very large load of raw garbage. That coming out of the back is not, I would hasten to point out, smoke. That is methane gas coming out of the back of that truck. It almost knocked the people over that opened the back of that truck.

At a hearing we had in the Committee on Public Works and Transportation, I asked one trucker why he would do this. He said:

> Because it is a dream load. Eastern towns and cities will pay a bundle to get rid of their garbage, and you cannot hurt it, so there is no liability.

Well, maybe you cannot hurt the garbage, but you can sure hurt a lot of people by exposing them to contaminated food. We do not eat food out of garbage cans, and we should not be expected to eat food that comes to us in garbage trucks. Botulism kills enough people on its own. It does not need our help.

That is why I introduced H.R. 3386 last October. Since then both the Committee on Public Works and Transportation and the Committee on Energy and Commerce have given the issue close attention and made many constructive additions and improvements.

I want to especially acknowledge the contribution of my colleague on the Committee on Public Works and Transportation, the gentleman from Pennsylvania [Mr. BORSKI], and the unflagging support and encouragement of the gentleman from California [Mr. ANDERSON], the chairman of the Committee on Public Works and Transportation, and the gentleman from California [Mr. MINETA], the chairman of the Subcommittee on Surface Transportation, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking member of the Committee on Public Works and Transportation, and the gentleman from Pennsylvania [Mr. SHUSTER], the ranking member of the Subcommittee on Surface Transportation. The gentleman from New Jersey [Mr. SMITH] also contributed to the effort on this bill.

Also I want to thank the gentleman from Kansas [Mr. WHITTAKER] and the gentleman from Ohio [Mr. LUKEN] for their very excellent work on this bill and the contributions they have made in bringing us an outstanding bill.

This measure before us today will give the Department of Transportation the authority to develop a comprehensive regulatory program to prevent dangerous backhauling practices, both in trucks and on rail, and to impose stiff penalties for violations.

H.R. 3386 requires the Secretary of Transportation to issue regulations prohibiting the transportation of food, food additives, drugs, devices, or cosmetics in refrigerated vehicles that have been used to transport products that pose an unreasonable risk to animal and human health.

□ 1520

The regulations also must prevent the transportation of food and other types of consumable products in cargo tanks if they are used to transport dangerous nonfood products.

Asbestos, one of the most dangerous substances, we found being hauled in trucks that were also used to haul food, could only be transported in dedicated vehicles with the passage of this bill.

H.R. 3386 further requires the Secretary to establish appropriate standards for refrigerated vehicles and cargo tanks in the areas of recordkeeping, marking, and decontamination, as well as other means to promote compliance.

The bill also gives the Secretary authority to regulate transportation of food and other consumables in dry vans or any other motor or rail vehicle used to transport products that pose a danger to food.

But what about the economic implications of this bill? Some say that it is going to drastically increase both the cost of food and also the cost of hauling garbage. To the first charge I say hogwash, and to the second I say right on. If truckers cannot backhaul garbage in food trucks, they will backhaul something else. They were backhauling something else before garbage became the hot cargo that it has become, and they will do it again. It may take a little more work, and it may be a little more difficult to backhaul, but they are going to, they will not be going home empty, and the cost of food should not be affected. But if garbage trucks cannot haul anything but garbage, the cost of hauling garbage will probably go up, and I say amen. It may discourage municipalities in New Jersey and New York from shipping their wastes to western Pennsylvania and to points west, and get them to consider ways to dispose of their waste at home.

So Mr. Speaker, I urge my colleagues to give serious consideration to this bill. It will proscribe practices that should have been made illegal a long long time ago. We have the opportunity to do that today.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on October 25, 1989, many Members of this body joined me and Mr. WHITTAKER in introducing comprehensive legislation which will revamp, reform, and revitalize the outdated Hazardous Materials Transportation Act.

One of the provisions of our hazardous materials bill would outlaw the practice of hauling food and other consumer products in trucks and railroad cars which have been used to carry poisonous chemicals, garbage, and other dangerous commodities. The need for this provision was starkly confirmed to us at our subcommittee's hearings last November. We heard shocking testimony from witnesses who have personally investigated numerous instances where trucks and trains have carried food after they have transported deadly chemicals, toxic waste and other dangerous contaminants.

Mr. Alden Fitch, an inspector with the Washington State Department of Agriculture, testified he has witnessed these atrocious practices repeatedly during his 29-year tenure. For example, he personally investigated a case where feed grain was transported in a rail car after it had hauled an arsenic compound; $1 million worth of cattle died after eating the contaminated grain. Milk from other cattle was poisoned and had to be dumped for over 4 weeks until it tested clean. We can only conjecture what would have happened if the poisoned grain had been used for human consumption.

Mrs. Terri Moore also testified at our hearing. She heads a citizen watchdog group which monitors a landfill in Centerpoint, IN. Mrs. Moore brought photographs and videotapes depicting graphic scenes of products which were contaminated, including pictures of maggots swimming in disinfectant in a truck trailer. Mrs. Moore's group has documented case after case where food, soft drinks, and packaged foods have been backhauled in garbage trucks, refrigerated trucks, and other motor vehicles which have previously carried hazardous waste, chemicals, and other dangerous commodities.

The administration has not seen fit to correct these hideous practices which endanger our food supply. Evidently, the Department of Transportation thinks its a problem for the Food and Drug Administration. The FDA thinks its a transportation problem. And EPA, who has jurisdiction over solid waste, doesn't know what to think. The bottom line is that Congress is going to have to direct these agencies to work together to stop these life-threatening practices.

Because of the severity and prevalence of these unconscionable practices, I felt it was necessary for our subcommittee to act as quickly as possible to correct this insidious situation. On November 9, 1989, the members of our subcommittee joined together to cosponsor H.R. 3634, the Sanitary Transportation of Food Act. On November 14, the subcommittee marked up and favorably reported the bill.

During the same time, our distinguished colleagues from the Committee on Public Works and Transportation were also examining these dangerous practices. They held hearings which focused on the backhauling of food in trucks which are also used to carry garbage and dangerous chemicals. After our subcommittee's action on our bill, the full Public Works Committee marked up and favorably reported H.R. 3386.

Our staffs have been meeting during the past few weeks to reconcile the differences in the two bills. I am very pleased to announce that the two committees have successfully resolved any differences between the two bills. The bill which we are now considering represents the joint product of the Energy and Commerce Committee and the Public Works Committee.

This bill will shut down those unscrupulous transporters who don't care whether they are hauling trash or tomatoes. The bill covers both trucks and railroads. It focuses on refrigerated vehicles, which are often used to transport perishable food products, and cargo tank vehicles, which are often used to transport chemicals. The bill also requires dedicated vehicles for transporting asbestos and other extremely dangerous products. The bill requires the Secretary of Transportation, along with HHS and EPA, to aggressively enforce regulations governing safe transportation practices. The bill also directs the Secretary to consider and address a number of subjects in issuing the regulations. These subjects include: The extent to which packaging is adequate to eliminate any risks involved; appropriate recordkeeping, marking, and identification requirements; appropriate cleaning standards; and appropriate compliance and enforcement measures.

I wish to express my appreciation to Chairman DINGELL, Mr. LENT, Mr. WHITTAKER, Mr. RINALDO, and all the members of our subcommittee who have helped to craft this important legislation. I also commend Chairman ANDERSON, Chairman MINETA, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. BORSKI, Mr. CLINGER, and other members of the Public Works Committee who have worked hand in hand with us to produce a bill that we all support. Finally, I wish to commend the efforts of the gentleman from New Jersey [Mr. CHRIS SMITH] who has worked diligently to stop these dangerous transportation practices.

I urge my colleagues to support the bill and reserve the balance of my time.

Mr. WHITTAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bipartisan legislation addresses the alarming practice of using the same motor vehicles and rail cars for food on the one hand, and for dangerous or toxic commodities—including garbage—on the other hand. Its most graphic form is the back-to-back use of the same truck, documented in our subcommittee hearings, for hauling garbage, and for produce intended for human consumption, with no meaningful cleaning in between.

I want to commend all of the legislators of both parties who worked long and hard to see this measure through. In particular, the chairmen of both the Energy and Commerce Committee and the Public Works Committee and their ranking members are to be commended for fostering a cooperative environment in which the best of each committee's ideas were incorporated into this final version of the legislation. I also want to thank my colleague and Transportation Subcommittee Chairman, TOM LUKEN, for his diligent work, including authorship of one of the predecessor bills. Others who made major contributions to this legislation were the gentleman from New Jersey [Mr. RINALDO] of our subcommittee, and another member from the same State [Mr. CHRIS SMITH] whose early work on a predecessor bill helped lay the foundation for the measure we are considering today.

H.R. 3386 in its present form represents a carefully considered and highly targeted approach to assuring the sanitary transportation of food. It adopts a categorical prohibition only in key areas such as tank trucks and refrigerated vehicles, and for substances such as asbestos. In all other areas, the Secretary of Transportation will have broad discretionary authority to tailor the rules to the actual threat presented. For example, he may require certain identifying markings or may require specific decontamination measures.

The legislation makes the best use of the resources at hand. It requires a joint, consultative approach to all the rulemakings to be conducted by DOT. Under the bill: The Department of Health and Human Services and the Environmental Protection Agency are to be an integral part of that process. In this way, we will gain the benefit of the specialized expertise of all three agencies, while working within the framework of existing agency organizations.

Mr. ANDERSON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Pennsylvania [Mr. BORSKI], who has worked so hard on this bill.

Mr. BORSKI. Mr. Speaker, I thank the distinguished chairman of the Public Works and Transportation Committee for yielding me this time.

Mr. Speaker, as I rise in strong support of H.R. 3386, I want to thank my distinguished colleague from the State of Pennsylvania, Congressman BILL CLINGER, for bringing to the attention of the Public Works Committee the problem of backhauling, and for his strong leadership in helping to craft the legislation which is before us today.

We should acknowledge the very fine investigative reporting of James Wallace of the Seattle Post Intelligencer. Mr. Wallace documented many backhauling practices and his series of newspaper articles provided an invaluable resource for congressional investigation and drafting of today's legislation.

I believe that all Americans owe a great debt of gratitude to four courageous individuals from the State of Washington who risked their jobs and well-being to blow the whistle on danagerous backhauling practices. Without the help of truckers Jim and Rickey Pomerenke, David Helzer and Sharon Sonner, dangerous backhauling practices would remain hidden, and a threat to every American.

I also want to commend Scott Imus, staff director of the Public Works Subcommittee on Investigations and Oversight, and subcommittee staff members Liz Perwin, Cheri Rowe and Alan Slomowitz, for their hard work and persistence in conducting the original congressional backhauling investigation, and for preparing an excellent set of hearings before the subcommittee which revealed the dangers to the public.

Mr. Speaker, today we take a giant step in protecting the public from unnecessary hazards resulting from the transportation of food and other consumer items. The speed in which this bill has reached the floor indicates the deep concern about the manner in which certain food and consumer items are being transported.

Nearly everyone agrees with the need to take the necessary steps to ensure that the American people can be confident that food and consumer goods are safe.

Last summer following a report from my colleague from Pennsylvania, Mr. CLINGER, the Public Works Subcommittee on Investigations and Oversight, where I serve as ranking member, undertook a comprehensive investigation into various backhauling practices.

As a result of this investigation, our full committee met to consider legislation to prohibit dangerous backhauling practices. During the markup, I offered a substitute bill which specifically addressed the problems uncovered during the subcommittee's investigation.

Few would believe trucks hauling food to our family table also serve as garbage trucks carrying solid waste to landfills. But such a practice has turned into a reality.

Trucking companies who are attempting to survive in a highly com-

petitive, deregulated market, need a return load from the east coast.

Meanwhile, Eastern municipalties, facing a critical lack of landfill space, must dispose of their solid waste at distant landfills.

As one trucker told us, garbage was a "dream commodity"—hauling it pays well and you can't destroy it, which means there is low insurance. Another trucker said that "any load is better than driving back empty."

We found that garbage hauled in refrigerated trucks pose the greatest threat to human health since these trucks carry unprocessed foods—meats, vegetables and fruits. One refrigerated truck, still containing hooks where meat had previously been hung, pulled up to an Ohio landfill with a load of garbage.

A food science professor told us it would be extremely difficult to properly clean out a truck which had previously hauled garbage. In addition, he stated it was possible for bacteria to grow in the truck's refrigeration unit.

As a result of that hearing and the publicity it generated, four courageous truck drivers from the State of Washington, came forward and revealed a more disturbing form of backhauling—cargo tanks which one way carry hazardous liquid chemicals, such as formaldehyde or plastic resins, and then turn around and haul liquid food products, such as fruit juices or cooking oils.

In sworn testimony, the truckers told how backhauling food and chemicals is common in the industry. They recounted how they were instructed to use a deodorizer to cover up any chemical smell that remained after the truck was washed out. They also told us that they were to lie to food shippers about their previous load if it had been a chemical.

Finally, our subcommittee received reports of removed asbestos being hauled in trucks which carried consumer items—children's toys and vegetables. This practice is perhaps the most insidious. Unlike garbage, and to some extent chemicals in cargo tanks, there is no way to determine if the asbestos has been removed. Asbestos fibers are nearly invisible, can stay airborne for a long period of time, and exposure may not be apparent until years later.

Who could imagine serving their family dinner from a garbage can? Or who could imagine the horrifying thought of serving orange juice to their family from a bottle which once contained formaldehyde? Or who could imagine giving their child a toy which has been contaminated with invisible asbestos fibers?

Yet, without this legislation these are real possibilities. Today. We will enact tough measures to stop dangerous backhauling practices.

This bill will prohibit hauling solid waste in refrigerated trucks.

This bill will prohibit the hauling of chemicals in cargo tanks which carry food or consumer items.

This bill requires that asbestos and other dangerous substances be hauled only in dedicated vehicles.

This legislation contains two items which are extremely important in ensuring compliance and enforcement.

One is that cargo tanks must be permanently marked for food use. The other makes all parties—the shipper, the broker, the transporter and the receiver—responsible for violations and subject to civil or criminal penalties.

Under this bill, a cargo tank marked "food use" could not haul formaldehyde. If this occurred, then the shipper, broker, transporter and receiver would be held in violation, conversely, if a non-food use tanker carried orange juice, all parties would again be responsible. It is doubtful that there would be a willingness.

By all of these different parties to engage in this type of criminal conspiracy.

Mr. Speaker, I urge my colleagues to support this much-needed legislation. We must move promptly to ensure that food and consumer items are protected from avoidable contamination.

□ 1530

Mr. WHITTAKER. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN of North Carolina. Mr. Speaker, I would like to engage in a brief colloquy with the gentleman from Ohio, the chairman of our subcommittee, Mr. LUKEN, to clarify a point about this bill. Mr. Speaker, as someone who has been directly involved in the food industry, I applaud the objectives of this important bill. It is my understanding that the intent of the bill is to protect food and other consumer products when they are transported in vehicles which also carry dangerous commodities, such as hazardous materials and garbage. Because food retailers and wholesalers frequently and safely transport food with nonfood products, I would like him to clarify the coverage and intent of the legislation.

Mr. THOMAS A. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. MCMILLAN of North Carolina. I yield to the gentleman from Ohio.

Mr. THOMAS A. LUKEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the gentleman from North Carolina has raised an important issue. Both the bill itself and our committee's report indicate that the bill is only directed at transportation practices which pose an unreasonable danger to human and animal health. I would like to read a couple of brief excerpts from the committee report on the bill which makes this point clear:

The committee does not intend to disrupt safe and reasonable transportation practices. The committee believes that in the vast majority of cases, the regulations will relate to the bulk transportation of products covered under the bill. The committee recognizes that there are a variety of current transportation practices * * * that present minimal risks because the products involved are packaged adequately or otherwise are isolated sufficiently to minimize or prevent adulteration. For example, grocery and beverage operations frequently haul food products from distribution points to wholesale or retail locations.

Packaged nonfood products may also be transported at the same time, but pose no significant threat if packaging standards are adequate or other isolation procedures are employed. Such vehicles frequently are used to backhaul reusable beverage containers, food packaging, out-of-date products, slightly damaged products, and other products falling within the definition of nonfood products under the bill. To the degree that such transportation practices, if properly implemented, pose no unreasonable health risk, the committee intends to exempt them from coverage under the bill.

I trust that this explanation provides an adequate explanation to the gentleman's inquiry.

Mr. MCMILLAN of North Carolina. It clearly does. I urge my colleagues to support this legislation.

Mr. ANDERSON. Mr. Speaker, I yield, for purposes of general debate only, 3 minutes to the gentleman from California, [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise in strong support of the Sanitary Transportation Act of 1990, and I want to thank very much our very fine colleagues, the gentleman from Ohio [Mr. LUKEN] and the gentleman from Kansas [Mr. WHITTAKER] in terms of the work that they did on the Committee on Energy and Commerce because, Mr. Speaker, this bill is really the cooperative result of two committees working together and also the hard work of our own chairman, the gentleman from California [Mr. ANDERSON], the gentleman from Arkansas [Mr. HAMMERSCHMIDT], ranking Republican on the Committee on Public Works and Transportation, and the gentleman from Pennsylvania [Mr. SHUSTER], ranking Republican on our Subcommittee on Surface Transportation, and our fine colleagues, the gentlemen from Pennsylvania [Mr. CLINGER and Mr. BORSKI].

Mr. Speaker, H.R. 3386 is an important step to assuring that consumers receive safe and untainted food products. Its goal is to assure that happens.

H.R. 3386 is designed to maintain food products in sanitary condition during the transportation process. In order to achieve that goal, certain prohibitions and limitations pertaining to the use of certain types of trucks and rail cars will be imposed upon carriers and shippers.

In the future, use of refrigerated vehicles and tank vehicles for the transportation of food and related products will be limited to transporting those products and other products listed or not banned by the Secretary.

In addition, asbestos and products that pose an extreme danger to human health will have to be transported in dedicated vehicles.

H.R. 3386 mandates the Secretary to issue regulations dealing with contamination procedures and vehicle marking. These regulations must be issued with respect to refrigerated vehicles and tank vehicles, and may be required with respect to other vehicles that may be subjected to regulation by the Secretary. The Secretary is given discretionary regulatory authority with respect to a number of other matters that are aimed at improving compliance with the act.

The Secretary's discretionary authority to regulate extends to all vehicles that are used to transport food and related products; however, the bill only mandates regulatory procedures in the three areas where the committees found detailed problems.

The bill specifically provides for consideration of packaging standards, and where these standards are adequate to protect food and related products, new regulations need not be applied unless the prohibitions of sections 4, 5, and 6 apply.

I would like to point out that the industries affected by H.R. 3386 have volunteered much assistance in the development of this legislation. Their assistance and support is greatly appreciated.

I want to thank my colleagues on both committees and on both sides of the aisle for the cooperation and help.

I would like to make one final comment. The regulatory authority conferred upon the Secretary in this bill is new and additional specific authority to address a problem in the transportation of food. It in no way diminishes or changes any existing regulatory law dealing with motor vehicle or economic regulation.

□ 1540

Mr. WHITTAKER. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Speaker, I want to join with my colleagues in commending the chairman of our subcommittee, the gentleman from Ohio, and the ranking member, the gentleman from Kansas, for their excellent leadership on this issue, and I join in commending also the members of the other committee that has handled this legislation for their outstanding work.

I think that this is an issue which has affected the consumers of this Nation. They have been concerned about the safety and quality of the food supply, and whenever that concern arises, it is essential that we take appropriate actions to assure consumers that the food they are eating is safe.

We have had some incidents brought to our attention that are not pleasant, and yes, they are relatively isolated instances, but we may have to be certain that they do not occur again. I think this legislation moves Members in that direction.

Therefore, because it improves the safety of the food supply, because it will enhance consumer confidence in the food they eat, I believe this legislation should be approved.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Ohio [Mr. THOMAS A. LUKEN] has 5 minutes remaining.

Mr. THOMAS A. LUKEN. Mr. Speaker, the gentleman from Washington [Mr. SWIFT] has contributed significantly to this legislation in working toward its present posture here, which is on the verge of enactment.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. CLINGER] has 2½ minutes remaining.

Mr. CLINGER. Mr. Speaker, I yield myself 1 minute.

I think this has been a very full debate, and I think all Members understand what we are trying to accomplish here, and clearly this will pass overwhelmingly.

I just want to stress a couple of things. One is that the practice possibly has been curtailed because of the publicity it has received over the past few months, but it has not been stopped. We had an incident just very recently where we received a call in my office from an individual who was working at an incinerator in Ohio and he reported that a truck had arrived there carrying very hazardous medical wastes, and that same truck has been hauling produce the day before. So we have not eliminated this practice by publicity, which makes it terribly important that we do pass this bill and make it illegal to do this.

The other two points I would stress are, one, the gentleman from California [Mr. MINETA] spoke about the fact that we do not have and we worked very closely with the industry work groups. They have been cooperative in recognizing this is a practice that has to be stopped. I would point out that it has been a very small minority of the trucking industry that has been engaging in these practices. The majority, I think, have engaged in very admirable practices.

Finally, the bill does provide, I think, the kind of flexibility that we need to the Secretary, to make the kind of waivers that may be necessary to avoid imposing an unreasonable hardship on any segment.

Mr. LENT. Mr. Speaker, this legislation addresses a problem that has come to light in recent months as a blot on the integrity of this Nation's transportation system—the unsanitary practice of using the same trailers and railcars for garbage or other dangerous or toxic materials on one trip, and for food or food-related items on the next trip. All too often, this is done with little or no decontamination between trips.

The legislation targets the most difficult to detect and dangerous forms of these unsanitary practices, and prohibits interchangeable use of refrigerated trucks and tank trucks. As to other forms of vehicles and railcars, the Secretary of Transportation is granted broad authority to address the problem of sanitary practices and to require segregated use or proper decontamination of the transportation equipment, as the situation may require.

I want to commend the leadership of both the Energy and Commerce Committee and the Public Works and Transportation Committee for their cooperative bipartisan effort to fashion this bill from legislation that originated in each of the two committees. Specifically, I want to commend Chairman ANDERSON and Ranking Member HAMMERSCHMIDT of the Public Works Committee, and Mr. CLINGER, who authorized the original bill that underlies this legislation. On our own committee, our Transportation Subcommittee chairman, Mr. LUKEN, his ranking member, Mr. WHITTAKER, and the gentleman from New Jersey, [Mr. RINALDO] all played a major role in crafting the legislation. Finally, I want to express my special thanks to Chairman DINGELL, who not only oversaw the preparation of this legislation in the Energy and Commerce Committee, but who played a pivotal role in getting the two committees together to negotiate a bipartisan, combined product that reflects the best thinking of both committees.

I strongly support this legislation, and I urge its prompt approval.

Mr. SWIFT. Mr. Speaker, I'm pleased the House is exercising initiative today by acting to curtail an unsavory practice referred to as "backhauling." This is an activity in which commercial transporters have filled their vehicles with trash, chemicals, or waste products for a trip in one direction, unloaded it upon arrival, and refilled with food for the return trip—all without cleaning the containers.

Few times since I've been in Congress have I encountered an issue that makes such a mockery of the public interest; if there was ever a case in which the phrase "There oughta be a law!" applies, this is it.

The Subcommittee on Transportation and Hazardous Materials held a hearing on this issue last fall. We heard testimony from several witnesses, including Mr. Alden Fitch, an inspector from the Washington State Department of Agriculture, who offered detailed reports of how backhauling transpires. Among the incidents which brought this practice to light was a case in Washington State. It seems that someone unloaded a train full of arsenic, refilled the cars with feed grain, and then transported it to dairy farms in my district; soon thereafter, over $1 million worth of livestock was destroyed.

Soon after our hearing, Chairman TOM LUKEN introduced a bill to ban backhauling. Similar legislation was introduced and referred to the Public Works Committee. After a series of fruitful, bipartisan negotiations with our colleagues from Public Works, the legislation before us today was reported.

Who could argue with the public policy merits of H.R. 3386? No one I can think of is going to stand up and defend this abhorrent process. But then again, who would think to backhaul food in garbage containers in the first place? It seems to me that each time my industry friends ask when I'm going to get Government off their backs, they turn around and hand us a gold-plated invitation for more regulation. It's indeed unfortunate that what is quite possibly the practice of a few surly characters has to ruin the concept of self-policing for so many.

But the fact is, backhauling happens. It happens in the East, in the Midwest, and out West, in my part of the country. Today, we can make it clear that the policy of this Nation is to ensure the safe and sanitary transportation of food from the source to the shelf. Mr. Speaker, I commend H.R. 3386, the Sanitary Food Transportation Act, to my colleagues on both sides of the aisle. I think it makes for the type of strong leadership that individual States are seeking from Congress in putting a stop to abuses in the transportation of hazardous materials.

Mr. SMITH of New Jersey. Mr. Speaker, as the first Member of Congress to introduce legislation calling for an end to garbage backhauling, I rise today in support of H.R. 3386, as amended. As my colleagues know, I have been fighting for almost a year to enact legislation ending this disgusting practice. Since last May, I have presented testimony on this subject before two committees of the House and submitted testimony to the Senate. I have also introduced two bills, H.R. 2681—with 37 cosponsors—and H.R. 3430—with 61 cosponsors—in addition to cosponsoring a third—H.R. 3634.

Mr. Speaker, the legislation being considered today, H.R. 3386, is the result of a compromise between the Public Works and Transportation Committee, the Energy and Commerce Committee, as well as many other interested parties, including myself. I am pleased that the legislation reported by the Energy and Commerce Committee contains several provisions similar to my legislation, H.R. 3430, the Food Contamination Prevention Act.

In particular, H.R. 3386, as reported, provides the Secretary of Transportation with broad regulatory authority to place any restrictions on trucks and railcars engaged in garbage backhauling. It also specifically requires the Secretary to prohibit the transportation of garbage and other dangerous substances in refrigerated trucks and railcars and in tank trucks and railcars, except for items which the Secretary determines do not pose a threat to public health. H.R. 3386 also requires that asbestos and medical waste be transported in vehicles dedicated for only that purpose.

Mr. Speaker, while H.R. 3386, as reported, provides broad regulatory authority to the Secretary on matters pertaining to garbage backhauling, I am concerned that it does not contain enough specific safeguards for nondedicated vehicles hauling solid waste. Because of the urgency and seriousness of this problem, I will support H.R. 3386, however, I would like to highlight a few provisions of my legislation which are not a part of this compromise legislation.

First, my legislation, H.R. 3430, the Food Contamination Prevention Act, called for mandatory marking of all vehicles which transport solid waste. It is essential for the Congress to mandate that all vehicles—whether refrigerated or nonrefrigerated; regardless of whether they have undergone cleaning procedures—must bear clear markings to inform all future shippers that the vehicle that they are about to use has previously hauled solid waste. This requirement provides a simple yet effective safeguard against unscrupulous transporters willing to violate bans on garbage backhauling outlined previously.

In addition, my legislation—H.R. 3430—required solid waste management facilities to establish cleaning procedures for all nondedicated vehicles based upon reasonably available current technology. It also required nondedicated waste-hauling vehicles to take reasonably available precautions to protect nondedicated vehicles from contaminants. Cleaning vehicles immediately after unloading is the most effective way to insure compliance by all transporters. In addition, safeguards such as lining the vehicles before loading garbage or wrapping bales of garbage with plastic would provide added protection for all future loads hauled by these vehicles. Such procedures are already used by many transporters of solid waste.

Mr. Speaker, the provisions that I have outlined above would provide additional protection against contamination at a reasonable cost. Under H.R. 3386, these protections would not be required, merely suggested and considered.

Mr. Speaker, I remain committed to supporting this legislation, and will continue to work toward its enactment. However, I will also continue to work toward passage of the additional protective measures that I have just discussed.

Mr. GALLO. Mr. Speaker, I am very pleased that the House is considering today H.R. 3386, the Safe Transportation of Food Act.

As a cosponsor of H.R. 3386, I believe we must put an end to the unsanitary practice of hauling nonfood items in vehicles that carry our food products. Consumers place their trust in Government to provide for the safe transportation of their food. We cannot afford to stand by and let these practices continue.

This bill would grant the necessary authority to the Department of Transportation to issue regulations that would prohibit our food from being transported in vehicles that previously carried hazardous substances or garbage. H.R. 3386 forms a needed coalition between the Secretary of Transportation, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency to combat this crisis.

We owe it to the American people to provide this basic safety measure. If we do not act now these practices will continue to pose a serious danger to human health in our Nation. The time has come to mandate these regulations and I am happy to offer my support to this legislation.

Mr. CLINGER. Mr. Speaker, I yield back the balance of my time.

Mr. WHITTAKER. Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 3386, as amended.

The question was taken.

Mr. CLINGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3386, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMITTING A PUBLIC EVENT ON THE CAPITOL GROUNDS IN RECOGNITION OF "EARTH DAY"

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and agree to the Senate concurrent resolution (S. Con. Res. 98) resolved that Earth Day 1990 shall be permitted to sponsor a public event with musical entertainment on the U.S. Capitol Grounds on April 22, 1990.

The Clerk read as follows:

S. CON. RES. 98

Whereas Congress has adopted Public Law 101-186 designating April 22, 1990, as "Earth Day" to promote the preservation of the environment;

Whereas the President has proclaimed his support for Earth Day 1990 and called on the people of the United States to observe the day with appropriate programs, ceremonies, and activities designed to promote greater understanding of ecological issues; and

Whereas Earth Day 1990 has expressed an interest in organizing a public event with musical entertainment to promote environmental awareness and environmentally responsible behavior: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Earth Day 1990 shall be permitted to sponsor a public event with musical entertainment on the United States Capitol Grounds on April 22, 1990. This event shall be free to the public and arranged not to interfere with the

needs of Congress, under conditions to be provided by the Architect of the Capitol and the Capitol Police Board. For the purposes of this resolution, the promoters of Earth Day 1990 are authorized to erect upon the United States Capitol Grounds, subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, and other related structures and equipment, as may be required for the event and are authorized to make any arrangements that may be required to carry out the event.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume

Mr. Speaker, I rise today in strong support of Senate Concurrent Resolution 98, a concurrent resolution authorizing a public event with music for Earth Day 1990 on the U.S. Capitol Grounds.

On November 16, 1989, the House passed Senate Joint Resolution 159, to designate April 22, 1990 as Earth Day and to set aside that day for public activities promoting preservation of the global environment. I, along with 220 of our colleagues, joined in cosponsorship of the House version, House Joint Resolution 338.

Earth Day 1990 was designated by Congress because of the need to increase the public awareness of the international environmental crisis we face and to recognize the fact that we must confront environmental problems of increasing severity, including—climate change; loss of forests, wetlands, and other wildlife habitats, acid rain, air pollution; ocean pollution; and hazardous and solid waste buildup.

On Sunday, April 22, 1990, Earth Day rallies and educational programs will be taking place all over the United States. It is fitting and appropriate for an Earth Day rally to also take place on the Grounds of our Nation's Capitol. The passage of this resolution will allow a temporary stage and associated equipment to be erected on the Capitol Grounds for this event.

Mr. Speaker, I urge all of my colleagues to join me in support of Senate Concurrent Resolution 98 in order to help focus our Nation's attention on our global environmental problems.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Concurrent Resolution 98 would authorize a public event on the Capitol Grounds to be held on April 22, 1990, in observance of Earth Day. Last year, Congress designated this day as Earth Day in order to instill a greater awareness of our environment and the need for environmentally responsible behavior on the part of each American.

It is estimated that 20 million Americans participated in Earth Day 1970. Twenty years later, there is still cause for concern—issues such as ozone depletion, acid rain, efforts to save the rain forest, the disposal of hazardous wastes and many others are in the forefront of world attention. Hopefully, lessons learned as a result of Earth Day 1990 will help each of us recognize the problems we face and what we can do to help preserve our fragile environment.

Senate Concurrent Resolution 98, which was passed by the Senate on February 28 provides that the organization known as Earth Day 1990, which includes many Members of Congress on its board, shall be permitted to sponsor a free event of speakers and music on the Capitol Grounds. Costs for the stage and other related expenses will be paid for by Earth Day 1990.

Mr. Speaker, I urge passage of Senate Concurrent Resolution 98 by the House today.

□ 1550

Mr. Speaker, I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 98.

The question was taken; and (two-thirds having voted in favor thereof) the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Concurrent Resolution 98, the Senate concurrent resolution just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MAKING TECHNICAL CHANGES AND CORRECTING ENROLLMENT ERRORS IN DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990, AND IN FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991

Mr. SMITH of Iowa. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 471), to make technical changes and correct enrollment errors in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, and to make technical changes in the Foreign Relations Authorization Act, fiscal years 1990 and 1991.

The Clerk read as follows:

H.J. RES. 471

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The following provisions of law are repealed:

(a) Section 614 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162).

(b) Section 302 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.

SEC. 2. (a) If the date that is specified in the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, as the date by which a report is to be submitted to the Congress is a date before the date of enactment of that Act, then the final date for submission of that report shall be deemed to be the date that is sixty days after the date of enactment of that Act.

(b) Notwithstanding the date specified in section 153(b)(2) of that Act, the Secretary of State shall implement the plan provided for in section 153(b)(1) of that Act not later than January 1, 1991.

(c) Notwithstanding the date specified in the second sentence of section 161(a) of that Act, the designation of model foreign language competence posts pursuant to that section shall be made not later than sixty days after the date of enactment of that Act.

SEC. 3. (a) Section 212 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162) is repealed.

(b) The appropriations language under the heading "Educational and Cultural Exchange Programs" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162) is amended by striking "$160,300,000" and inserting in lieu thereof "$156,506,000".

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Iowa [Mr. SMITH] will be recognized for 20 minutes, and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to point out that this is not a supplemental. What this does is to lift a ceiling that was imposed upon a bill that passed last fall.

We stayed within our subcommittee's 302(b) allocation, but due to an old Vietnam-era rule which only applies to the State Department and the USIA, they are forbidden from obligating their appropriations until an authorization is enacted into law. An authorization had not been passed at that time so the committee waived the provision of permanent law, but limited the funding to the fiscal year 1989 level. This resolution releases the $363 million in budget authority and the $258 million in outlays that the State Department and USIA have not been permitted to spend due to that provision.

We reserved this amount of money so we would still be within our overall 302(b) allocation. But when the earthquake happened in California, and that emergency funding bill came up on the floor, points of order were not made at that time to waive the Budget Act. So the emergencies absorbed the remaining amount of money, which is really the allocation set aside for the State Department and the USIA. Since no points of order were raised on the earthquake funding, the Office of Management and Budget agrees that it would be unfair to raise any on this resolution because we stayed within our 302(b). We were one of the few subcommittees that did stay within our 302(b) allocation

It would be unfair to the State Department and the USIA to continue to impose the restriction at this time. This resolution only fulfills the level that was promised them in the fiscal year 1990 appropriation bill at the time it came out of conference and was passed by the House and Senate last fall. Since that time, as we all know, there have been a lot of changes in Eastern Europe, in Central America, and even in South Africa, so they need the money, at least at the level provided in the bill last fall. As the use of bullets winds down, the need for diplomacy increases, so it may not be unreasonable to say that they need even more money. But we are not asking for more money—only the amount that was provided to the State Department and USIA at the time the appropriation bill was passed last fall. They had every right to expect this amount of money. We are bringing this bill to the floor today to waive the ceiling that was imposed until the authorization was enacted. The authorization was enacted in February, so we are asking the House to repeal the ceiling and permit them to obligate the full amount of money included in the bill.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I am a little confused. How did the earthquake bill get in the middle of the State Department authorization?

Mr. SMITH of Iowa. Because when we passed the appropriation on October 19, we left room in our subcommittees' 302(b) allocation and in the total allocation for this amount of money. But the earthquake bill came along after that, and that bill caused us to exceed the total amount that was available for budget authority and outlays in the budget for the entire Government.

Mr. WALKER The earthquake bill was under the jurisdiction of the gentleman's committee?

Mr. SMITH of Iowa. No. No, it was not.

Mr. WALKER. How did the earthquake money get into the gentleman's 302(b)?

Mr. SMITH of Iowa. Well, the Small Business Administration disaster loan funding was under our jurisdiction, and a supplemental appropriation of $500 million was in the disaster bill. Also we have a ceiling on the total amount for the whole Government.

Mr. WALKER. I understand, but let me understand this——

Mr. SMITH of Iowa. Then we have a waiver of the Budget Act. We are supposed to have a waiver to spend any more money after that.

Mr. WALKER. Yes, I understand that, but if I understood the gentleman correctly a couple of minutes ago, he said our problems stemmed from the fact that no one objected or made points of order against the earthquake bill when the earthquake bill came to the floor?

Mr. SMITH of Iowa. That is true.

Mr. WALKER. And then, when the earthquake bill did come to the floor, without anybody raising points of order, all of a sudden the State Department did not have any money?

Mr. SMITH of Iowa. Yes, that follows. There is a total ceiling, contained in the budget resolution, on the total amount of outlays and budget authority for the whole government.

Mr. WALKER. I understand that.

Mr. SMITH of Iowa. We left room in that for this bill, then the disaster funding bill came along and absorbed it, so there was not any room then in the total amount for the year.

Mr. WALKER. So this has nothing to do with the gentleman's 302; it has only to do with the upward cap on the Federal Government?

Mr. SMITH of Iowa. Right.

Mr. WALKER. So what we would be doing is lifting the cap on the whole Federal Government in order to give the State Department its money?

Mr. SMITH of Iowa. Well, yes, that is so. This means, like in the disaster funding bill, that the deficit would be greater than it was anticipated to be under the budget resolution.

Mr. WALKER. So I understand it, the bill we have before us is not dealing with the gentleman's subcommittee or with its 302; we are actually lifting the cap on the entire Federal Government?

Mr. SMITH of Iowa. No.

Mr. WALKER. We are doing that in order to give the State Department more money?

Mr. SMITH of Iowa. This is not the first one. But the total amount of the deficit will be more because those disasters occurred and we did not waive the Budget Act at that time as it applied to those disasters.

Mr. WALKER. But we are not paying for any disasters here; we are giving money to the State Department, are we not?

Mr. SMITH of Iowa. Yes, we are giving them money that was promised, provided an authorization was enacted, before the disasters occurred.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that the time previously assigned to me be yielded to the distinguished gentleman from Kentucky [Mr. ROGERS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. ROGERS. Mr. Speaker, I thank my distinguished colleague, the distinguished gentleman from Minnesota [Mr. FRENZEL], for reserving the time in my absence until I made it to the floor, and I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the joint resolution before us.

First, let me state that the Office of Management and Budget is for this legislation. The administration supports passage of this legislation, and I would hope that every Member of this body would do the same.

This joint resolution addresses a very unique situation arising out of the Appropriation Committee's decision last fall to await enactment of an authorization bill, which everyone here, I think, wants, for the Department of State and the U.S. Information Agency.

At the time of our conference with the Senate on the bill providing funds to both of those agencies, a fiscal year 1990 authorization bill had not yet cleared through the Congress. In fact, it was seriously encumbered by a number of provisions opposed by the administration—issues that invited rejection by the President, so the Appro-

priations Committee or the subcommittee decided to defer to the authorization committee.

As the subcommittee chairman has pointed out, under current permanent law, a holdover from the Vietnam era, these agencies, the State Department and USIA, may not expend funds without an enacted authorization bill. The authorization was not imminent, and it was felt that the best way to proceed was to keep these agencies at their 1989 levels and move the conference report, which, I should add, provided funds for the important work of the Commerce Department, the Justice Department, the Judiciary, and some 22 other independent agencies and commissions.

□ 1600

Mr. Speaker, in fairness to those other agencies we recommended moving ahead on the conference bill minus the State and USIA, and we did so. So, while the other agencies in our bill, and in all the other appropriation bills, have their regular appropriations for this year, the State Department and the USIA are frozen at the 1989 levels, levels which, if continued, will cause disruptions in their operations.

Recognizing the disruptive impact, it was our intention to repeal the restriction once the authorization was signed by the President. Last month that occurred. The President signed the authorization, and the resolution before us removes the fence on those funds which everyone understood would be done at the time the fence was put around it.

As Members will be advised, repealing this bill causes our subcommittee to breach the 302(b) ceiling. We recognize that. The chairman has said that, and we are concerned about it, and it is not an easy pitch to make here, but the problem is, due to that portion of emergency disaster assistance that came from our subcommittee last fall to deal with the dire impact of the earthquake in California and Hurricane Hugo, it was a need we could never have foreseen.

Absent those emergencies, there would be no budget problem today because we had reserved enough 302(b) allocation in our subcommittee to cover what we are asking today. But we waited, deferring action to the authorization committee, and in the meantime these disasters occurred and took away the authorization that we otherwise would have had today for the purpose of State and USIA.

At the time of our conference, we were under our budget ceiling, even without restricting State and USIA to their 1989 levels, but now we are in a unique situation, one recognized by the administration and OMB who both support passage of this resolution.

Mr. Speaker, let me make two final points.

First, the effects on these agencies of operating at 1989 or CR levels must be considered. The funds in our bill for State principally support the costs of carrying out American business abroad, diplomatic and commercial, in safe and secure working conditions. If America is to continue in its leadership role in this rapidly changing world, we cannot shortchange our outreach agencies, State and USIA. Lech Walesa, Vaclav Havel, other leaders of the East European revolution, have said that America's continuous contact by way of the Voice of America, USIA, was one of the chief reasons they were successful. However, if our communications were important before our friends gained power, are they not vitally more important as our friends attempt to rebuild democracy in those countries after 50 years of communism? USIA is more important now than it was then, and we must understand that and fund these agencies as they need to be. If we do not repeal section 614, every aspect, from international broadcasting to exchanges, will be harmed, and furloughs in this agency could be expected.

Second and finally, there is no dispute over the increased level of funding for these agencies. No one is arguing that for fiscal year 1990. There never was an argument about the finding level. We all agreed on it, but we never deferred to the authorization process, which is now complete, and now we desperately need to remove this shackle.

OMB and the department support this bill. The administration supports it. And I believe the Congress should follow suit.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, when a unanimous consent was raised last week to bring this bill up, I indicated my opposition and voiced an objection to the unanimous-consent request. Members who were present or listening at the time will recall that I indicated that there is a serious Committee on the Budget problem with this bill. The Committee on Appropriations has breached it committee allocation provided in the fiscal year 1990 concurrent budget resolution by $1.7 in budget authority and $2.6 billion in outlays. The repeal of section 614 would add an additional $363 million in budget authority and $258 million in outlays. That is a quarter of a billion to the State Department budget.

Mr. Speaker, I suspect that there are not a lot of Members of Congress who, having to choose between the highest priorities for this country, would choose to give some more money across the board to that State Department budget, however necessary the administration may say those funds are going to be. A quarter of a billion dollars is quite a lot of money, and it is something that we normally do not let loose of.

Mr. Speaker, it was stated here on the floor that this is not a supplemental appropriation. I suppose technically it is not a supplemental appropriation. However, Mr. Speaker, it quacks like a duck. It is providing, after sequester, an extra quarter of a billion dollars for an agency we thought we had funded when we passed our appropriation bills last year, and by simply repealing one section we are going to give that extra $250 billion, despite the fact that we had to be careful with some other priorities.

Mr. Speaker, even a supplemental might not be a bad idea, if the administration really needs the money, as it says it does in this case, if we were not restoring a sequester. I think the practical fact is that this is a supplemental. It was not offset, and, in fact, we are restoring sequestered money which the State Department would rather spend. I do not blame them. So would all the other departments of Government.

Mr. Speaker, the statements made by the distinguished chairman of the subcommittee and its distinguished vice chairman are in my opinion accurate. From what I understand, the subcommittee reserved money under its 302(b) allocation to provide these funds. The problem was the committee, the full committee, did not do so, and in fact, not only did it spend these funds, it spent additionally so that we have a situation of being $1.7 billion over in outlays even before these expenditures are going to be made.

So, Mr. Speaker, we have effectively a supplemental. We have a supplemental that is not offset by any savings.

Finally, we have effectively a restoration of the sequester for one agency of the Government, and all the other agencies of Government are looking around for ways to relieve their distress and not finding it.

Mr. Speaker, I think it would be a real mistake to set the precedent of what I would call a backhanded, underground supplemental, which is being made under a procedure of suspension of the rules, which will not even let us amend or debate properly the problem, and under that particular arrangement we are being asked to liberate an extra $250 million.

My colleagues have heard some of the reasons that this is to be used for: embassy security and USIA, and some of those items many of us think are important, but may not be as important as medical care, and hunger programs and some others that would also like restoration of their funds.

For the reason of trying to hold together a responsible budget process, of

trying to make good what we said we were going to do when we passed the budget resolution last year and to make this kind of extra funding at least comparable to others; that is, with a tradeoff or not at all, I believe that we should defeat this particular proposal.

Mr. ROGERS. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, listening to the arguments of the previous speaker, I think that there are some misunderstandings about the way this process has worked, and those that have been involved in this with the subcommittee I think do understand what happened last year, why we are in a position that no other subcommittee, no other agency, finds itself in.

So, Mr. Speaker, I do rise in support of this measure, one that has been sponsored by my chairman of the Subcommittee on Commerce, Justice, State, and Judiciary of the Committee on Appropriations.

□ 1610

Last year we were all very eager to get out of here and adjourn before the Thanksgiving holiday. On the last day of the session, we were informed that President Bush intended to veto the State Department authorization—not appropriation, but authorization bill. The Department of State is under a unique restriction in the authorization/appropriation process. Law, which goes back to the 1960's, specifically prohibits providing an appropriation for the State Department or U.S. Information Agency unless there is a signed authorization. In past years we have inserted language in the appropriation bills to allow obligation of the funds, even when there was no signed authorization; however, due to a unique situation at the end of last year, we were unable to get agreement to do this for the fiscal year 1990 bill.

In negotiations with the Senate we were able to agree on a compromise to ensure that the other Federal departments funded by this subcommittee, that is, Commerce, and Judiciary, were not held hostage by the problems we had with the authorization for the State Department. Section 614 was added to the bill to basically place the State Department under continuing resolution restrictions. Although we had no continuing resolution last year, State Department is being treated as if we did. Now, I know it is fashionable to bash the State Department. They really do not have much of a constituency in Congress—hardly anyone ever goes to bat for State. But, I think a distinction needs to be made between foreign aid which is not funded by this bill and the administration of the State Department which is. Salaries, security for our personnel overseas, and maintenance of our buildings abroad are all funded by the State Department appropriation. It is not fair for us to hold their budget hostage to the fact that the political climate in Washington last November did not allow for a more equitable solution that everybody on the Appropriations Committee thought we were going to have.

The Director of the Office of Management and Budget has expressed the administration's support for this resolution even though its passage does violate technically the Budget Act. This unfortunate turn of events occurred because our appropriations bill was tapped for some of the funds necessary to respond to two enormous national disasters—Hurricane Hugo and the San Francisco earthquake. Again, I do not believe the administration of the State Department should be held hostage to these unforeseen tragedies, and the fact that the authorizing committee and the Appropriations Committee between the House and the Senate have this problem.

So I echo my chairman in asking for your support for this resolution.

Mr. ROGERS. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BROOMFIELD], the ranking Republican on the Foreign Affairs Committee.

Mr. BROOMFIELD. Mr. Speaker, I am happy to join the subcommittee chairman, the gentleman from Iowa [Mr. SMITH] and also the gentleman from Kentucky [Mr. ROGERS] in support of this resolution.

I support this resolution and hope that it will bring the lengthy process of the State Department authorization to a close.

House Joint Resolution 471 repeals two specific provisions in the Commerce, Justice, State Appropriation Act and the State Department Authorization Act. This is being done as part of a compromise between the Senate Foreign Relations and Appropriations Committees, which was made in order to gain Senate approval of H.R. 3792, the State Department authorization bill.

The first part of this legislation, the repeal of section 614 of the Departments of Commerce, Justice, State, and Related Agencies Appropriations Act of 1990, is necessary to release funds for the State Department and USIA at fiscal year 1990 levels.

The second part of this legislation, the repeal of section 302 of the Foreign Relations Authorization Act for 1990 and 1991, will remove the requirement that funds for the Board for International Broadcasting be authorized prior to being spent. This was an expansion of current law which requires State Department funds to be authorized before being spent.

I support this compromise as essential to completion of the State Department budget process. Let me make it clear, however, that I will continue to insist that BIB funds receive authorization from this committee before being spent.

I want to thank the chairman of our committee, Mr. FASCELL, for his efforts on the State Department authorization bill. His leadership and persistence have protected the committee's role as an authorizer in the budget process. Both Republican and Democrat members of the committee have benefited from your efforts.

Finally, Mr. Speaker, I want to indicate the strong support of the administration in behalf of this legislation.

Mr. ROGERS. Mr. Speaker, I yield one minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, one of the previous speakers indicated there was some misunderstanding. I have not seen any fact presented here that is as yet misunderstood.

I have agreed that the subcommittee has done its job. It met its section 302 allocations. It has followed up as it felt its obligations required it to do so with this request for repeal.

I have not indicated that the administration does not want this bill. It does. I think everybody understands those things.

What the important point is whether we should spend—well, let us start at the beginning. The first is whether we should pass what is in effect, a supplemental, which is not offset by reduced spending elsewhere, whether we should make up for what are the evil effects of a sequester on one agency where we do not do it anyplace else, and whether we should handle a quarter-of-a-billion dollar expenditure from the Treasury under the suspension process.

I think if we are trying to preserve the precedents of the House and trying to preserve some kind of discipline from our budget resolution of last year. The answer to all those questions is "No," we do not want to do that, and I hope the Members will vote against the bill.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. GINGRICH], the Republican whip.

Mr. GINGRICH. Mr. Speaker, I rise with the greatest reluctance to disagree with my good friend, the gentleman from Minnesota, who I think is doing the Lord's work on trying to bring fiscal responsibility to this House, but I have to make the point to my colleagues that to some extent the State Department is caught up here in a congressional problem, that at a time when the President of the United States is dealing with dramatic changes in Eastern Europe, when he is trying to be helpful in Nicaragua, when there are a range of things

which virtually every Republican would say we must be helpful with, is not the time for us to be involved in crippling the ability of the State Department, particularly with the U.S. Information Agency and with aid to Eastern Europe.

So I would encourage every one of my colleagues who wants to strengthen George Bush's hand in dealing with Eastern Europe and who wants to help the United States in developing freedom across the planet, that in this particular case it would be inappropriate to punish the State Department for what is in essence an internal congressional hang-up.

Mr. Speaker, I would urge a yes vote on this particular suspension.

Mr. SMITH of Iowa. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, this joint resolution, introduced by the distinguished chairman of the Appropriations Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies, was jointly referred to the Committees on Appropriations and on Foreign Affairs. The resolution would lift the spending ceiling imposed on the Department of State and the U.S. Information Agency by section 614 of the Departments of Commerce, Justice, State, the Judiciary and Related Agencies Appropriations, 1990. The joint resolution would also repeal a provision in the State authorization for fiscal years 1990 and 1991 regarding the requirement for authorization for the Board for International Broadcasting.

As Members will recall, the original State Department authorization conference report was vetoed late last session by the President because of the so-called Moynihan amendment. A clean bill without Moynihan was introduced and passed in the House, but was held up in the Senate on the final day of the session.

Because of the delay in the authorization process, the Appropriation Committees decided to hold the obligational authority of State and USIA at fiscal year 1989 levels. This joint resolution would free up approximately $174 million for the State Department and $52 million for USIA in obligational authority. Failure to approve this technical measure will lead to the inability of the United States to meet its treaty commitments and may force the Department of State to rob other important programs to attempt to meet these commitments. In addition, it will deny $42 million in desperately needed operating funds to maintain U.S. missions abroad, including our effort to increase the U.S. presence in Eastern Europe and may lead to denial of services to other U.S. Government agencies, such as the Agency for International Development and USIA. It may also deny the Inspector General of the Department of State the ability to carry out the full program of audits and investigations of the Department planned for this year.

I would urge the Members to support this resolution.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would hope that the Members would vote aye on this measure. It is important to restore these funds to the State Department and the USIA so that we can communicate America's message across the world. I urge an aye vote.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will conclude by merely quoting from a letter from Director Darman to me dated March 13. I think one of the two sentences can summarize it. He says:

> Given that the Congress did not raise the points of order against the second continuing resolution in October—
>
> That is the earthquake resolution—and that that is what caused the current problem, I now conclude that it is unfair to insist on the points of order that could be raised against your resolution (H. J. Res. 471) to repeal section 614.

It is a just a matter the State Department and USIA are caught in an unfair situation because of Hurricane Hugo and the earthquake emergencies which took money out of the total amount of funding allocated for the year after the appropriations bill for the State Department and USIA had passed.

I am asking for an aye vote.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Iowa [Mr. SMITH] that the House suspend the rules and pass the joint resolution, House Joint Resolution 471.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 471, the joint resolution just considered, and that I be permitted to include tables, charts, and other extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 4328, by the yeas and nays;
H.R. 2209, by the yeas and nays;
H.R. 908, by the yeas and nays;
H.R. 3386, by the yeas and nays; and
House Joint Resolution 471, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

TRADE AGENCY AUTHORIZATION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill H.R. 4328, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 4328, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 424, nays 0 not voting 8, as follows:

[Roll No. 42]

YEAS—424

Ackerman	Boxer	Conte
Akaka	Brennan	Conyers
Alexander	Brooks	Cooper
Anderson	Broomfield	Costello
Andrews	Browder	Coughlin
Annunzio	Brown (CA)	Courter
Anthony	Brown (CO)	Cox
Applegate	Bruce	Coyne
Archer	Bryant	Craig
Armey	Buechner	Crane
Aspin	Bunning	Crockett
Atkins	Burton	Dannemeyer
AuCoin	Bustamante	Darden
Baker	Byron	Davis
Ballenger	Callahan	de la Garza
Bartlett	Campbell (CA)	DeFazio
Barton	Campbell (CO)	DeLay
Bateman	Cardin	Dellums
Beilenson	Carper	Derrick
Bennett	Carr	DeWine
Bentley	Chandler	Dickinson
Bereuter	Chapman	Dicks
Berman	Clarke	Dingell
Bevill	Clay	Dixon
Bilbray	Clement	Donnelly
Bliley	Clinger	Dorgan (ND)
Boehlert	Coble	Dornan (CA)
Boggs	Coleman (MO)	Douglas
Bonior	Coleman (TX)	Downey
Borski	Collins	Dreier
Bosco	Combest	Duncan
Boucher	Condit	Durbin

Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—8

Barnard
Bates
Bilirakis
Ford (TN)
Hoagland
McCollum
Smith, Denny (OR)
Stump

□ 1645

Mr. OBEY changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2209, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 2209, as amended, on which the yeas and nays are ordered.

The Chair would remind Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 9, not voting 7, as follows:

[Roll No. 43]

YEAS—416

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bellenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage

Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—9

Armey
Cox
Crane
Dannemeyer
Hefley
Holloway
Jontz
Rohrabacher
Smith, Robert (NH)

NOT VOTING—7

Barnard
Bates
Bilirakis
Ford (TN)
Hoagland
Smith, Denny (OR)
Stump

□ 1654

Mr. DANNEMEYER changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HOAGLAND. Mr. Speaker, during rollcall votes 42 and 43 on H.R. 4328 and 2209, I was absent due to a technical problem with my Motorola beeper. I did not know these votes were taking place. Had I been present, I would have voted "yea" on both rollcalls. Both bills were not controversial, H.R. 4328 passed 424 to 0 and H.R. 2209 passed 416 to 9. I ask that my statement appear in the RECORD immediately following rollcall vote 43.

FEDERAL ENERGY REGULATORY COMMISSION MEMBER TERM ACT OF 1990

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and passing the bill, H.R. 908, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 908, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 6, as follows:

[Roll No. 44]

YEAS—426

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bellenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Billey
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—6

Barnard
Bates
Bilirakis
Ford (TN)
Smith, Denny (OR)
Stump

□ 1702

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SANITARY TRANSPORTATION OF FOOD ACT OF 1990

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and passing the bill, H.R. 3386, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 3386,

as amended, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 410, nays 15, not voting 7, as follows:

[Roll No. 45]

YEAS—410

Ackerman	Duncan	Johnston
Akaka	Durbin	Jones (GA)
Alexander	Dwyer	Jones (NC)
Anderson	Dymally	Jontz
Andrews	Dyson	Kanjorski
Annunzio	Early	Kaptur
Anthony	Eckart	Kasich
Applegate	Edwards (CA)	Kastenmeier
Aspin	Edwards (OK)	Kennedy
Atkins	Emerson	Kennelly
AuCoin	Engel	Kildee
Baker	English	Kleczka
Ballenger	Erdreich	Kolbe
Bartlett	Espy	Kolter
Barton	Evans	Kostmayer
Bateman	Fascell	Kyl
Beilenson	Fawell	LaFalce
Bennett	Fazio	Lagomarsino
Bentley	Feighan	Lancaster
Bereuter	Fish	Lantos
Berman	Flake	Laughlin
Bevill	Flippo	Leath (TX)
Bilbray	Foglietta	Lehman (CA)
Bliley	Ford (MI)	Lehman (FL)
Boehlert	Frank	Lent
Boggs	Frost	Levin (MI)
Bonior	Gallegly	Levine (CA)
Borski	Gallo	Lewis (CA)
Bosco	Gaydos	Lewis (FL)
Boucher	Gejdenson	Lewis (GA)
Boxer	Gekas	Lightfoot
Brennan	Gephardt	Lipinski
Brooks	Geren	Livingston
Broomfield	Gibbons	Lloyd
Browder	Gillmor	Long
Brown (CA)	Gilman	Lowery (CA)
Brown (CO)	Gingrich	Lowey (NY)
Bruce	Glickman	Luken, Thomas
Bryant	Gonzalez	Lukens, Donald
Buechner	Goodling	Machtley
Bunning	Gordon	Manton
Bustamante	Goss	Markey
Byron	Gradison	Martin (IL)
Callahan	Grandy	Martin (NY)
Campbell (CA)	Grant	Martinez
Campbell (CO)	Gray	Matsui
Cardin	Green	Mavroules
Carper	Guarini	Mazzoli
Carr	Gunderson	McCandless
Chandler	Hall (OH)	McCloskey
Chapman	Hall (TX)	McCollum
Clarke	Hamilton	McCrery
Clay	Hammerschmidt	McCurdy
Clement	Hancock	McDade
Clinger	Harris	McDermott
Coble	Hastert	McEwen
Coleman (MO)	Hatcher	McGrath
Coleman (TX)	Hawkins	McHugh
Collins	Hayes (IL)	McMillan (NC)
Condit	Hayes (LA)	McMillen (MD)
Conte	Hefley	McNulty
Conyers	Hefner	Meyers
Cooper	Henry	Mfume
Costello	Herger	Michel
Coughlin	Hertel	Miller (CA)
Courter	Hiler	Miller (OH)
Cox	Hoagland	Miller (WA)
Coyne	Hochbrueckner	Mineta
Craig	Holloway	Moakley
Crockett	Hopkins	Molinari
Darden	Horton	Mollohan
Davis	Houghton	Montgomery
de la Garza	Hoyer	Moody
DeFazio	Hubbard	Moorhead
Dellums	Huckaby	Morella
Derrick	Hughes	Morrison (CT)
DeWine	Hunter	Morrison (WA)
Dickinson	Hutto	Mrazek
Dicks	Hyde	Murphy
Dingell	Inhofe	Murtha
Dixon	Ireland	Myers
Donnelly	Jacobs	Nagle
Dorgan (ND)	James	Natcher
Douglas	Jenkins	Neal (MA)
Downey	Johnson (CT)	Neal (NC)
Dreier	Johnson (SD)	Nelson
Nowak	Rowland (GA)	Stokes
Oakar	Roybal	Studds
Oberstar	Russo	Sundquist
Obey	Sabo	Swift
Olin	Saiki	Synar
Ortiz	Sangmeister	Tallon
Owens (NY)	Sarpalius	Tanner
Owens (UT)	Savage	Tauke
Oxley	Sawyer	Tauzin
Packard	Saxton	Taylor
Pallone	Schaefer	Thomas (CA)
Panetta	Scheuer	Thomas (GA)
Parker	Schiff	Thomas (WY)
Parris	Schneider	Torres
Pashayan	Schroeder	Torricelli
Patterson	Schuette	Towns
Paxon	Schulze	Traficant
Payne (NJ)	Schumer	Traxler
Payne (VA)	Sensenbrenner	Udall
Pease	Sharp	Unsoeld
Pelosi	Shaw	Upton
Penny	Shays	Valentine
Perkins	Shuster	Vander Jagt
Petri	Sikorski	Vento
Pickett	Sisisky	Visclosky
Pickle	Skaggs	Volkmer
Porter	Skeen	Vucanovich
Poshard	Skelton	Walgren
Price	Slattery	Walker
Pursell	Slaughter (NY)	Walsh
Quillen	Slaughter (VA)	Washington
Rahall	Smith (FL)	Watkins
Rangel	Smith (IA)	Waxman
Ravenel	Smith (NE)	Weber
Ray	Smith (NJ)	Weiss
Regula	Smith (TX)	Weldon
Rhodes	Smith (VT)	Wheat
Richardson	Smith, Robert (NH)	Whittaker
Ridge		Whitten
Rinaldo	Smith, Robert (OR)	Williams
Ritter		Wilson
Roberts	Snowe	Wise
Robinson	Solarz	Wolf
Roe	Solomon	Wolpe
Rogers	Spence	Wyden
Rohrabacher	Spratt	Wylie
Ros-Lehtinen	Staggers	Yates
Rose	Stallings	Yatron
Rostenkowski	Stangeland	Young (AK)
Roth	Stark	Young (FL)
Roukema	Stearns	
Rowland (CT)	Stenholm	

NAYS—15

Archer	Dannemeyer	Hansen
Armey	DeLay	Madigan
Burton	Dornan (CA)	Marlenee
Combest	Fields	Nielson
Crane	Frenzel	Shumway

NOT VOTING—7

Barnard	Ford (TN)	Stump
Bates	Leach (IA)	
Bilirakis	Smith, Denny (OR)	

□ 1710

The Clerk announced the following pair:

On this vote:

Mr. Barnard and Mr. Bilirakis for, with Mr. Stump against.

Mr. COMBEST changed his vote from "yea" to "nay."

Mr. STAGGERS changed his vote from "nay" to "yea."

So (two-thirds have voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to prohibit the use of refrigerated motor vehicles for the transportation of solid waste, to prohibit the use of cargo tanks in providing motor vehicle transportation of food and nonfood products, and for other purposes.".

A motion to reconsider was laid on the table.

MAKING TECHNICAL CHANGES AND CORRECTING ENROLLMENT ERRORS IN DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990, AND IN FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution, House Joint Resolution 471.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH] that the House suspend the rules and pass the joint resolution, House Joint Resolution 471, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 276, nays 149, not voting 7, as follows:

[Roll No. 46]

YEAS—276

Ackerman	de la Garza	Hochbrueckner
Akaka	DeFazio	Horton
Alexander	Derrick	Houghton
Anderson	DeWine	Hoyer
Andrews	Dickinson	Hughes
Annunzio	Dicks	Hutto
Anthony	Dingell	Hyde
Applegate	Dixon	Ireland
Archer	Durbin	Johnson (CT)
Aspin	Dwyer	Johnston
Atkins	Dymally	Jones (GA)
AuCoin	Dyson	Jones (NC)
Ballenger	Early	Jontz
Bateman	Eckart	Kaptur
Beilenson	Edwards (CA)	Kennedy
Bereuter	Edwards (OK)	Kennelly
Berman	Engel	Kildee
Bilbray	Espy	Kleczka
Boehlert	Evans	Kolbe
Boggs	Fascell	Kostmayer
Bonior	Fazio	LaFalce
Borski	Feighan	Lagomarsino
Bosco	Fish	Lancaster
Boucher	Flake	Lantos
Brennan	Foglietta	Laughlin
Brooks	Ford (MI)	Leach (IA)
Broomfield	Frank	Lehman (CA)
Brown (CA)	Frost	Lehman (FL)
Bruce	Gallegly	Lent
Bustamante	Gallo	Levin (MI)
Campbell (CO)	Gejdenson	Levine (CA)
Cardin	Gephardt	Lewis (CA)
Carr	Geren	Lewis (GA)
Chandler	Gibbons	Lightfoot
Chapman	Gillmor	Lipinski
Clarke	Gilman	Livingston
Clay	Gingrich	Long
Clinger	Gonzalez	Lowery (CA)
Coleman (MO)	Gordon	Lowey (NY)
Coleman (TX)	Gradison	Luken, Thomas
Condit	Grant	Lukens, Donald
Conte	Gray	Machtley
Conyers	Green	Madigan
Cooper	Guarini	Manton
Coughlin	Hall (OH)	Markey
Courter	Hamilton	Martin (NY)
Coyne	Hatcher	Martinez
Crockett	Hawkins	Matsui
Darden	Hefner	Mavroules
Davis	Hertel	Mazzoli

McCloskey	Pease	Smith (NJ)
McCollum	Pelosi	Smith (TX)
McCrery	Perkins	Smith (VT)
McDade	Petri	Snowe
McDermott	Pickle	Solarz
McGrath	Porter	Spratt
McHugh	Price	Stangeland
McMillen (MD)	Pursell	Stokes
McNulty	Quillen	Studds
Meyers	Rangel	Swift
Mfume	Regula	Synar
Michel	Rhodes	Tauke
Miller (WA)	Richardson	Torres
Mineta	Rinaldo	Torricelli
Moakley	Robinson	Towns
Molinari	Roe	Traficant
Mollohan	Rogers	Traxler
Montgomery	Ros-Lehtinen	Udall
Moody	Rose	Unsoeld
Morella	Rostenkowski	Valentine
Morrison (CT)	Roth	Vander Jagt
Morrison (WA)	Roukema	Vento
Mrazek	Rowland (GA)	Visclosky
Murtha	Roybal	Volkmer
Myers	Sabo	Vucanovich
Nagle	Saiki	Walgren
Natcher	Sangmeister	Walsh
Neal (MA)	Sawyer	Washington
Nelson	Saxton	Waxman
Nowak	Scheuer	Weiss
Oakar	Schiff	Wheat
Oberstar	Schneider	Whittaker
Obey	Schumer	Whitten
Olin	Shaw	Williams
Ortiz	Sikorski	Wilson
Owens (NY)	Skaggs	Wise
Owens (UT)	Skeen	Wolf
Oxley	Slattery	Wolpe
Pallone	Slaughter (NY)	Wyden
Parker	Smith (FL)	Wylie
Parris	Smith (IA)	Yatron
Payne (NJ)	Smith (NE)	Young (FL)

NAYS—149

Armey	Hall (TX)	Rahall
Baker	Hammerschmidt	Ravenel
Bartlett	Hancock	Ray
Barton	Hansen	Ridge
Bennett	Harris	Ritter
Bentley	Hastert	Roberts
Bevill	Hayes (IL)	Rohrabacher
Bliley	Hayes (LA)	Rowland (CT)
Boxer	Hefley	Russo
Browder	Henry	Sarpalius
Brown (CO)	Herger	Savage
Bryant	Hoagland	Schaefer
Buechner	Holloway	Schroeder
Bunning	Hopkins	Schuette
Burton	Hubbard	Schulze
Byron	Huckaby	Sensenbrenner
Callahan	Hunter	Sharp
Campbell (CA)	Inhofe	Shays
Carper	Jacobs	Shumway
Clement	James	Shuster
Coble	Jenkins	Sisisky
Collins	Johnson (SD)	Skelton
Combest	Kanjorski	Slaughter (VA)
Costello	Kasich	Smith, Robert (NH)
Cox	Kastenmeier	Smith, Robert (OR)
Craig	Kolter	Solomon
Crane	Kyl	Spence
Dannemeyer	Leath (TX)	Staggers
DeLay	Lewis (FL)	Stallings
Dellums	Lloyd	Stark
Donnelly	Marlenee	Stearns
Dorgan (ND)	Martin (IL)	Stenholm
Dornan (CA)	McCandless	Sundquist
Douglas	McCurdy	Tallon
Downey	McEwen	Tanner
Dreier	McMillan (NC)	Tauzin
Duncan	Miller (CA)	Taylor
Emerson	Miller (OH)	Thomas (CA)
English	Moorhead	Thomas (GA)
Erdreich	Murphy	Thomas (WY)
Fawell	Neal (NC)	Upton
Fields	Nielson	Walker
Flippo	Packard	Watkins
Frenzel	Panetta	Weber
Gaydos	Pashayan	Weldon
Gekas	Patterson	Yates
Glickman	Paxon	Young (AK)
Goodling	Payne (VA)	
Goss	Penny	
Grandy	Pickett	
Gunderson	Poshard	

NOT VOTING—7

Barnard	Ford (TN)	Stump
Bates	Hiler	
Bilirakis	Smith, Denny (OR)	

□ 1721

Messrs. GRANDY, BUECHNER, JOHNSON of South Dakota, ENGLISH, and SAVAGE, Mrs. COLLINS, Messrs. HAYES of Illinois, BAKER, and HOAGLAND, Mrs. BOXER, Messrs. RAY, and BRYANT, Mrs. SCHROEDER, and Messrs. BROWDER, DELLUMS, and DOWNEY changed their vote from "yea" to "nay."

Messrs. HERTEL, WYDEN, and LAUGHLIN changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

□ 1720

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, 1990

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes.

Mr. CONTE reserved all points of order on the bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FEDERAL ENERGY REGULATORY COMMISSION MEMBER TERM ACT OF 1989

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 388) to provide for 5-year, staggered terms for members of the Federal Energy Regulatory Commission, and for other purposes, and ask for its immediate consideration

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. GINGRICH. Mr. Speaker, reserving the right to object, I do so for two reasons, the first of which is to yield to the gentleman from California [Mr. MOORHEAD] to explain what the request is.

Mr. MOORHEAD. Mr. Speaker, I thank the gentleman from Georgia for yielding, and I would say that we are by this motion amending the Senate bill by substituting the House bill just passed and sending it back to the Senate.

Mr. GINGRICH. Mr. Speaker, further reserving the right to object, I want to further reserve my right to object in order to make a point to the House, and the Chair may want to educate us on this.

Mr. Speaker, it is my understanding that the Committee on Rules is going into session at the present time to hear testimony on the child care bill.

The SPEAKER pro tempore. Does the reservation of objection of the gentleman from Georgia [Mr. GINGRICH] have to do with the unanimous-consent request from the gentleman from Indiana [Mr. SHARP].

Mr. GINGRICH. No, Mr. Speaker.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Energy Regulatory Commission Member Term Act of 1989".

SEC. 2. FIVE-YEAR TERMS FOR MEMBERS OF THE FEDERAL ENERGY REGULATORY COMMISSION.

(a) IN GENERAL.—Section 401(b) of the Department of Energy Organization Act is amended by striking "four years" in the third sentence and inserting "five years".

(b) STAGGERED TERMS.—Section 401(b) of such Act is amended by—

(1) inserting "(1)" after "(b)";

(2) striking the fourth and sixth sentences;

(3) amend the seventh sentence to read, "A Commissioner may continue to serve after the expiration of his term until his successor is appointed and has been confirmed and taken the oath of Office, except that such Commissioner shall not continue to serve beyond the end of the session of the Congress in which such term expires."; and

(4) adding at the end thereof the following:

"(2) Notwithstanding the provisions of paragraph (1), the terms of members first taking office after the date of enactment of the Federal Energy Regulatory Commission Member Term Act of 1989 shall expire as follows:

"(A) In the case of the member appointed to succeed the member whose term expires in 1989, such member's term shall expire on June 30 of the fourth year after the expiration of the predecessor's term.

"(B) In the case of members appointed to succeed members whose terms expire in

1991, one such member's term shall expire on June 30 of the third year after the expiration of the predecessor's term, and one such member's term shall expire on June 30 of the fourth year after the expiration of the predecessor's term, as designated by the President at the time of appointment.

"(C) In the case of members appointed to succeed members whose terms expire in 1992, one such member's term shall expire on June 30 of the fourth year after the expiration of the predecessor's term and one such member's term shall expire on June 30 of the fifth year after the expiration of the predecessors term.

"(D) Any member appointed to fill a vacancy occurring prior to the expiration for the term for which his predecessor was appointed shall be appointed only for the remainder of such term.".

(c) APPLICABILITY.—The amendments made by this section apply only to persons appointed or reappointed as members of the Federal Energy Regulatory Commission after the date of enactment of this Act.

SEC. 3. COMPENSATION OF THE CHAIRMAN AND MEMBERS.

Section 204 of the Department of Energy Organization Act is amended by striking the second and third sentences and inserting in lieu thereof the following: "The Chairman shall be compensated at the rate provided for level II of the Executive Schedule under section 5313 of title 5. The other members of the Commission shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5.".

MOTION OFFERED BY MR. SHARP

Mr. SHARP. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SHARP moves to strike out all after the enacting clause of S. 388 and to insert in lieu thereof the provisions of H.R. 908, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 908) was laid on the table.

PARLIAMENTARY INQUIRIES

Mr. GINGRICH. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GINGRICH. Mr. Speaker, my inquiry of the Chair is that no one on this side of the aisle has yet seen a copy of the bill which is going to the Committee on Rules and which the Committee on Rules is apparently meeting on now.

My inquiry of the Chair is:

Is it possible for the Democratic leadership to produce for the Republican side of the aisle a bill which we are now apparently having Committee on Rules hearings on?

The SPEAKER pro tempore. The Chair would suggest to the gentleman from Georgia [Mr. GINGRICH] that this is not a parliamentary inquiry.

Mr. GINGRICH. I have a further parliamentary inquiry, then.

Mr. Speaker, I would ask of the Chair: What are the rights of Members, and would the Chair elucidate for a minute on what are the rights of Members to see a document before it is brought to the floor?

□ 1730

There is, for exmple, as I understand it, a 3-day rule if it is a bill coming out of committee.

The SPEAKER pro tempore. The Chair can assure the gentleman from Georgia the rights of all Members will be preserved. Amendments being brought to the floor will be available at the time they are considered, commensurate with the notice, if any, that is required under the rules.

Mr. GINGRICH. Mr. Chairman, a further parliamentary inquiry.

Can the Chair direct, and I do not mean to put the gentleman from Kentucky in a difficult position, could the Chair direct any Member on this side as to where we might go in order to get a copy of the bill?

The SPEAKER pro tempore. That is really not a direct parliamentary inquiry, so with the gentleman's indulgence we will move on to other business, but the Chair will assure the gentleman he will be protected.

The Chair recognizes the gentleman from Michigan [Mr. BONIOR].

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I do this to respond to my friend, the gentleman from Georgia, on the other side of the aisle.

The gentleman is correct. The Rules Committee is meeting at this very minute, I suspect, on the child care bill and is hearing testimony.

I also assume that the major vehicles, the one being offfered by the Democratic leadership and the Stenholm-Shaw bill, are also available to any Member who wishes to see them up in the committee at this particular time.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I do have a copy of the Stenholm-Shaw bill which the gentleman from Texas [Mr. STENHOLM] introduced on March 15. It has been printed. It is H.R. 4294.

A number of us have been involved in child care for some time and wish to consider it in an orderly consideration, but have been unable to find a copy of the bill that we will be considering on the House floor this week.

Mr. BONIOR. I assume it is being presented probably at this very minute. I assume it is available upstairs.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield further?

Mr. BONIOR. I yield to the gentleman from Georgia.

Mr. GINGRICH. The reason I rose, and I appreciate the gentleman taking this time to speak on this matter, because it is an important dialog.

These are not just press releases. This is real legislation. This is how we get into a section 89 problem.

It is my understanding, and I just checked with staff and I have asked members of the Rules Committee, that as of this minute to the best of our knowledge no Republican Member and no Republican Member of the leadership and no Republican member of the Ways and Means Committee or the Education and Labor Committee has seen a copy of a bill, which as we understand it has been written by staff on two committees, has not had any markup, has not had any public appearance and has now been sort of thrown together and is going to the Rules Committee.

I am not trying to pull the gentleman's leg, but as of 5:30, to the best of our knowledge, no Republican has seen a copy of what will be a very major piece of legislation for which the Rules Committee is now meeting.

Mr. BONIOR. Well, as I indicated to my colleague, the text is ready now. It is available up there for any Member to see. I can assure my friend, the gentleman from Georgia, that there has been ample input by members of the various committees of this body into at least the vehicle we are presenting and, of course, as the gentleman knows, this issue has not been here for 30 days or 3 months. It has been here for over a year. It is available upstairs, so for those who are interested, I ask them to go up and look at it.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield further?

Mr. BONIOR. My time is about ready to expire.

The SPEAKER pro tempore. The time of the gentleman from Michigan [Mr. BONIOR] has expired.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1463, NATIONAL CAPITAL TRANSPORTATION AMENDMENTS OF 1989

Mr. BONIOR, from the Committee on Rules, submitted a privileged report (Rept. No. 101-433) on the resolution (H. Res. 366) providing for the consideration of the bill (H.R. 1463) to amend the National Capital Transportation Act of 1969 relating to the Washington Metrorail System, which was referred to the House Calendar and ordered to be printed.

DEPARTMENT OF ENVIRONMENTAL PROTECTION ACT

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 364 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 364

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3847) to establish a Department of Environmental Protection, and for other purposes, and the first reading of the bill shall be dispensed with. All points or order against consideration of the bill for failure to comply with the provisions of section 401(b)(1) of the Congressional Budget Act of 1974 as amended (Public Law 93-344, as amended by Public Law 99-177) are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of sections 302(c), 302(f), 311(a), and 401(b)(1) of the Congressional Budget Act and with clause 7 of rule XVI are hereby waived. No amendment to said substitute shall be in order except pro forma amendments for the purpose of debate and those amendments printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report, may only be offered by the Member specified in the report or his designee, and shall not be subject to amendment except pro forma amendments for the purpose of debate. All points of order against amendments numbered 9, 11, and 12 for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. The amendments numbered 1 may be considered en bloc and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. It shall be in order to consider amendment numbered 4, any rule of the House to the contrary notwithstanding. All points or order against consideration of amendment numbered 13 for failure to comply with the provisions of sections 302(c), 302(f), 311(a), and 401(b)(1) of the Congressional Budget Act are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, on April 22, our Nation will celebrate the 20th anniversary of Earth Day. This year also marks the 20th anniversary of the creation of the Environmental Protection Agency [EPA].

It is appropriate that today we consider H.R. 3847, legislation to elevate EPA to the Cabinet level.

This move to protect our environment has broad bipartisan support.

Congress has been pressing for such action for more than a year. It is long overdue.

In response to the growing environmental concern, President Bush finally endorsed the idea of giving EPA Cabinet status during his state of the Union address.

This year we begin the environmental decade. 1990 will be a turning point in efforts to ensure a healthy and safe environment for future generations.

In Michigan, concern for the environment could not be greater. We are surrounded by the beauty of the Great Lakes. Water is our way of life.

Yet in my district alone, we are threatened by a nuclear waste dump, overflowing landfills, and toxics in our rivers and lakes.

In Michigan, we need to know that protecting the water, wildlife, and land around us is a top priority for policymakers in Washington.

When national decisions are being made at the President's Cabinet table, the environment cannot be left out.

EPA deals with issues that touch the life of every American.

Yet, currently, the EPA must appeal for action from other agencies to address our Nation's most pressing environmental concerns.

EPA was set up to coordinate governmental action on the environment.

Yet twice in one week last month, the EPA Administrator was overruled by the White House Chief of Staff on global warming and wetlands policy.

EPA deserves a seat at the President's table, not an appointment on the Chief of Staff's calendar.

Elevating EPA to the Cabinet will ensure increased status, a closer relationship to the President, and more balance with other Federal agencies.

We, in this body, have been leading the fight to save our environment. Last year, we adopted the most comprehensive oilspill bill in our Nation's history. And this year, we will overhaul the Clean Air Act.

But we also need Presidential leadership, a bold strategy, and international cooperation to preserve our planet.

Each of us, at the national level, in our local communities, and as individuals must take responsibility for a cleaner, safer environment.

Elevating EPA to Cabinet status will help strengthen this Nation's environmental resolve.

Mr. Speaker, House Resolution 364 provides for consideration of H.R. 3847, a bill to establish a Department of Environmental Protection.

House Resolution 364 is a modified open rule providing for 1 hour of general debate.

Section 401(b)(1) of the Congressional Budget Act is waived against consideration of the bill. And section 302(c), 302(f), 311(a), and 401(b)(1) of the Budget Act are waived against the Government Operations Committee amendment to be considered in the nature of a substitute. Clause 7 of rule XVI, pertaining to germaneness, is also waived against the substitute.

No amendment to the substitute is in order except for amendments printed in the Rules Committee report. The amendments are to be considered in the order and manner specified and are to be offered only by the Member or by his designee. The amendments are not subject to amendment.

Clause 7 of rule XVI, again pertaining to germaneness, is waived against the amendments offered by Congresswoman LOWEY, Mr. JONES of North Carolina, and Mr. ECKART. The technical amendments to be offered by Chairman CONYERS may be considered en bloc, and are not subject to division in the House or the Committee of the Whole.

All points of order are waived against the amendment to be offered by Mr. SOLOMON. Section 302(c), 302(f), 311(a), and 401(b)(1) of the Budget Act are waived against the Hastert amendment.

The rule provides one motion to recommit.

I commend the President for proposing the elevation of EPA to Cabinet status. And I commend the gentleman from Michigan. [Mr. CONYERS] for being a leader on this issue.

The Rules Committee would have preferred granting an open rule on H.R. 3847, but at the urging of some in the minority, has restricted the bill to major amendments only. I urge the adoption of House Resolution 364.

□ 1740

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill to raise the Environmental Protection Agency to Cabinet-level status does not, and I repeat, does not extend the Federal bureaucracy, and that is why I do not

hesitate to rise in support of the rule. I would urge its adoption.

As a matter of fact, it is very similar to the bill which passed this House last year which created the Department of Veterans Affairs. That bill was written similarly to this, and it did not expand the bureaucracy.

It is not very often that I would stand up here and urge support for a modified closed rule, so I will take this opportunity to explain why I believe this resolution is an appropriate rule under the present circumstances.

First, after consultation, the Democrat and Republican leadership agreed to a modified closed rule, because this rule was developed in consultation with a broad array of interested parties including the administration. It was a difficult process, and the chairman, the gentleman from Massachusetts [Mr. MOAKLEY], I am convinced, did everything in his power to write an open and fair rule.

I do not know of a single interested party who was actively involved in these negotiations on this rule who now opposes it. I think everybody is in favor of the rule.

Second, I would point out that nobody, and I mean nobody, no Member of this Congress, is being gagged, and this is the issue that is always important, certainly to Members on this side of the aisle. As a matter of fact, every Member from either side of the aisle who took the initiative of appearing before the Committee on Rules or who otherwise provided an amendment to the committee has been accommodated fully under this rule, both sides of the aisle. That is quite an accomplishment, and I would thank the chairman, the gentleman from Massachusetts [Mr. MOAKLEY], again, and the gentleman from Michigan [Mr. BONIOR] for their cooperation in this matter.

Mr. Speaker, the gentleman from Michigan provided the House with a detailed summary of the rule, and I need not repeat that summary. But I would like to emphasize one thing. We will have an opportunity at the close of debate to clean up this piece of legislation should that be necessary.

I am a cosponsor of H.R. 3847, and I strongly support its passage. That does not mean, however, that I or other Members are entirely satisfied with each and every provision in this bill.

A number of amendments will be offered today which, depending on one's point of view, will either improve the bill or make it worse. In any event, if this process gets out of hand, the rule provides for a corrective period.

The last amendment to be considered will be offered by our colleague, the gentleman from Illinois [Mr. HASTERT]. His final amendment is a straightforward elevation of the Environmental Protection Agency as presently constituted to Cabinet-level status. So if the amendment process gets too convoluted, we can undo our hand work by voting for the final amendment offered by the gentleman from Illinois [Mr. HASTERT]. Either way, the Environmental Protection Agency will become the Department of Environmental Protection.

Mr. Speaker, I will close by commenting on the bill itself. As I noted a moment ago, I strongly support the bill, and I hope it will be on the President's desk by April 22.

As of right now, the United States is the only important industrialized democracy in the world that does not have a Cabinet-level department or ministry concerned with environmental protection, and that is a shame. We all appreciate the standard of living that our modern industrialized economy is able to provide for all of us, but we must pay more attention to the side effects of this progress that we have.

My district in upstate New York spans a very beautiful area, from the Catskill Mountains in the south all the way to the Adirondack Mountains in the north on the Canadian border, but even the most remote sections in my district, areas which a generation ago, just 20 years ago, were pristine mountain forests, are being devasted today by acid rain.

Every congressional district in the country, I am sure, has its own tragedy. Every congressional district around this country, as I look at the people here in this room, has a problem, and I would say the problems are being multiplied throughout the world.

It has to stop if we are to hand down any kind of a livable world to our children and our grandchildren. Merely elevating the EPA will not do the job by itself, but the establishment of this new department will being environmental issues much closer to the central position on the American agenda where they belong.

I would urge support of the rule setting debate on the issue of raising the EPA to Cabinet-level status.

Mr. Speaker, I yield such time as he may consume to the ranking Republican on the Committee on Government Operations, the gentleman from New York [Mr. HORTON], for his comments.

Mr. HORTON. Mr. Speaker, I rise in support of the rule. This rule makes in order 13 amendments to H.R. 3847. It was Chairman CONYERS intention to support inclusion in the rule any amendment brought to our Committee on Government Operations' attention prior to our Rules Committee scheduling. He accepted inclusion of minority amendments willingly, and I appreciate his willingness and consideration of requests by all Members.

Chairman MOAKLEY, Mr. QUILLEN, Mr. BONIOR, and Mr. SOLOMON and other members of the Rules Committee also are to be commended. Ultimately, it was they who made the decision to grant this rule and allow in order all requested amendments. I consider the rule to be fair. In fact, I would have preferred to a more limiting rule, as I would have preferred a more limited bill. With respect to the latter, I will make my views known on particular concerns as we consider H.R. 3847.

Mr. Speaker, I support the rule and urge my colleagues to do the same.

Mr. BONIOR. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I intend to support this rule. I think it is fair. But I would like to take a few minutes to talk about this legislation under consideration today. As someone who prides himself on having a good environmental voting record, it is difficult for me to oppose the creation of a Cabinet level Department of Environmental Protection. But during the past decade or so, we have added four new chairs to the Cabinet room and as Yogi Berra said, "It's like deja vu all over again."

There are two reasons I have problems with this bill.

First, if we are going to create a Department of Environmental Protection, why not combine all of the environmentally related offices of our Government: for example, the National Park Service; the Army Corps of Engineers; the Bureau of Reclamation; the Fish and Wildlife Service; and other Federal agencies. Better yet, why not create an environmental superagency, composed of the environmental responsibilities of the current Departments of Energy and Interior, and combine those functions with the EPA into a new Department of Environment and Natural Resources. If we are going to do this, why not do it right and give some increased responsibility and clout to this new Department?

Second, if we do not give this agency some new capabilities, all we do is further remove the EPA from congressional accountability. As a Cabinet level department, it loses its independent status and becomes a vehicle for the administration's policy. Without expanding its powers, we risk reducing its responsiveness to Congress' mandate to clean up the environment. It is too bad the EPA has not been particularly effective in the past, but why take away its potential effectiveness just to make a point that the environment is so important it needs a Cabinet level chair. A seat at the Cabinet table is no substitute for a commitment to clean up our air and water.

Eleven years ago, I opposed legislation which created a Cabinet level Department of Education. That was not an easy vote, given the fact I was a

school board member prior to my election to Congress. But I warned that just because education was a critically important issue didn't mean that it was ipso facto necessary to give it Cabinet status. Unfortunately, the Department of Education has not improved proficiency in our students, it has not improved this country's education system, and it certainly has not produced any additional Federal funding for education.

Ironically, the Bush administration opposes this legislation and the strengthening amendments which have been offered on the floor today. In fact, the only provision the administration supports is the Hastert amendment which entirely guts the bill, stripping it down to a simple gesture of elevating the EPA to Cabinet level status. It is too bad that President Bush confuses form over substance. The creation of yet another Department is an expensive proposal—new stationary offices, probably more staffing. If we want to be serious about the environment, let us give this agency some authority, resources, and a real commitment, not just a resolution on paper.

Regardless of how you vote on the bill itself, it is my hope that you will support the Synar, Lowey, Studds, and Eckart amendments which significantly strengthen the bill and you will oppose the Hastert, Solomon and Gunderson amendments, which will all seriously weaken the independent enforcement of our environmental laws.

□ 1750

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS], chairman of the Committee on Government Operations.

Mr. CONYERS. Mr. Speaker, I rise to commend the distinguished Committee on Rules, which has reported a modified open rule on H.R. 3847, which is in essence an open rule. How can that be? Well, that is because everybody that had a germane amendment is permitted to offer it under the modified open rule. There is not one Member in the House on any of the seven committees of jurisdiction who has not had a chance to weigh in at the subcommittee level, at the full committee level, or at the Committee on Rules. This is a bipartisan piece of legislation, as much as I have seen around here in many a year, and I commend the ranking minority member of the Committee on Government Operations, the gentleman from New York [Mr. HORTON], and all of the members on my committee, for joining in to help effect this rule.

Mr. Speaker, I also want to compliment the gentleman from Michigan [Mr. BONIOR] who brings to us a rule that I think, without regard to how you feel about the substantive legislation, is a rule that we can all live with. I commend the gentleman and the committee.

Mr. BONIOR. Mr. Speaker, I thank my colleague for his comments.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DE LA GARZA] chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of the rule for H.R. 3847. As a chairman of a committee that shares jurisdiction over portions of the bill, I had originally planned to offer amendments to the bill regarding issues over which I had concerns. Because of some confusion, they are not included in the rule today. However, after consulting with Chairman CONYERS I have decided that these concerns can be addressed later in the legislative process. I would also like to include in the RECORD a letter which we received from the Committee on Government Operations. I appreciate the Committee on Government Operations willingness to address these issues and look forward to working with the committee in the future on matters of mutual concern.

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, March 19, 1990.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture, 1301 Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On Tuesday, March 13, the Committee on Government Operations ordered reported H.R. 3847, the "Department of Environmental Protection Act." I believe the enclosed reported version of the bill (together with additional amendments) reflects the concerns that you and other committee chairmen with jurisdiction over environmental statutes and programs have raised.

The Committee on Government Operations acknowledges your right to a sequential referral on selected parts of the bill, in particular Titles III and IV. The leadership has tentatively scheduled the bill for floor action next week. In the interest of time, I would be most grateful if your Committee would waive the right to a sequential referral so that this matter could be brought before the House as expeditiously as possible.

Sincerely,

JOHN CONYERS, Jr.,
Chairman.

Mr. FRENZEL. Mr. Speaker, I am pleased to rise in favor of the rule and of the bill, H.R. 3847, which will create a Department of Environmental Protection to replace the Environmental Protection Agency.

With the environment now among our foremost national concerns, it is important that environmental issues be given an equal seat at the policy table. There is no question that protecting the environment ranks with education, housing, health care and drugs as a national priority.

It is thus entirely appropriate that our Nation's top environmental officer should have a voice equal to that of any other Cabinet Secretary. In a fiscal atmosphere where national priorities must compete for scarce resources, competing entities should at least be given equal pulpits from which to make their case. Giving the EPA Cabinet status will ensure that environmental concerns are not shortchanged in future budget or policy debates.

The rule for H.R. 3182 does contain Budget Act waivers to accommodate salary increases for the Secretary and Deputy Secretary of the new Department. For purposes of this bill, these expenses have been scored as entitlement authority even though they will be paid out of an appropriated account. As these added expenses are of a diminimus amount, I do not object to a waiver of the Budget Act, and suggest that the Budget Act is not a good excuse to vote against this bill.

H.R. 3182 calls for authorizations of less than $1 million to add an Assistant Secretary position at the new Department. The bill further authorizes funds to create a new Bureau of Environmental Statistics and a Commission on Improving Environmental Protection. All told the bill calls for $7 million in increased fiscal year 1991 funding subject to appropriations. In addition, more than a dozen amendments will be offered on the floor. Because all of the amendments may unnecessarily complicate the bill, it is my inclination to vote for the Hastert amendment which will strip nearly all of the amendments. Its passage will leave the Cabinet Department status in a pure form.

In any case, I shall vote for the bill.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 364 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3847.

□ 1756

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3847) to establish a Department of Environmental Protection, and for other purposes, with Mr. HARRIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

I am pleased to join with the ranking member of the Committee on Government Operations, the gentleman from New York [Mr. HORTON], to bring what I consider to be so far in this term the most important legislation that has been reported by the Committee on Government Operations thus far this year.

I am delighted to report that on January 23 I was invited to the White House to, with other leaders of the House and Senate on this legislation, meet with the President. The President advised the Members of Congress present that because of the importance of this subject matter, he had reconsidered his position of opposition to yet another Cabinet post and that he was in support now of raising the Environmental Protection Agency to that of a Department of Environmental Protection.

We were all delighted. We had a photo opportunity. Everything was wonderful. We went back to our committees prepared for work.

The subcommittee met. The full committee met. Almost everybody supported the work product of the Committee on Government Operations. Seven committees which could have had sequential referrals all worked their differences with the committee in a very cooperative manner. The product then went to the Committee on Rules, to receive a rule that was equally widely supported.

The Committee on Rules, in another burst of bipartisanship, joined with us to allow the amendment of every member that was germane to be accepted to this modified open rule that we have here and have passed unanimously just a few moments ago.

Mr. Chairman, I come here pleased at this work product that we now bring for the thorough consideration and deliberation of the entire House of Representatives.

There are two ways one can create a Cabinet post. One is to offer up one sentence in which you say this agency shall now be a Cabinet post. You take the director of the agency and, assuming he is in the good graces of the executive branch, he becomes the Secretary of that agency. At least one person in this Chamber has thought that that would be a good idea.

□ 1800

But if we examine the subject matter that is brought together under the Environmental Protection Agency, we realize that nothing could do this Nation and the cause of a safe and strong environment a greater disservice than to move in that direction. Obviously there is something more that must be done.

But there is much we did not do which should be considered at a future time. We tried to deal with the structure within the jurisdiction of this new to-be Department of Environmental Protection to make it more effective, and to remedy what are clear problems in the existing agency. In other words, our committee was caught between whether we should merely elevate an agency to a Cabinet and leave it at that, which would have brought the new Secretary to the Congress the very next day with all of the recommendations that we have now put in the bill as he obviously has to have assistant secretaries, and some bureaus. But he also had to put flesh on this skeleton. We had to fill these bare bones with a reasonable evaluation of what the work projects were that were involved in the years ahead for the Environmental Protection Department, if it were to become one. We had to make it eminently clear in the bill and accompanying report how we envisioned the Department operating. So this is what our committee has done. But we have avoided trying to deal with the incredibly complex and divisive environmental statutes over which EPA has jurisdiction. So we did several things that I should bring to the Members' attention.

The first is we created a Bureau of Environmental Statistics to compile the facts and the statistics around these subjects of environmental conditions and trends, statistics that will be reliable, independent and that we could depend upon no matter what one's position is on the subject of the environment.

Then we created the Office of International Environmental Affairs because of the increasingly international scope of environmental problems. We also created the Office of Enforcement to make sure that we get the job done, that environmental laws and regulations are vigorously enforced. Then we created the Office of Pollution Prevention and Recycling to begin developing policies to reduce the enormous and unnecessary amount of pollution we generate daily. This would give new impetus to the Department in these three new vital and critical areas of environmental protection.

The next thing that we did, and commend to your attention, is that we analyzed the long history of conflicts of interest that have existed in the EPA and what we have done, after a great deal of examination and debate in the Government Operations Committee, and after extensive discussions with the other six major committees that have jurisdiction over environmental affair, is created a new set of requirements for disclosing conflicts of interest by members of the advisory bodies, and ensure further that the advisory bodies be balanced with all points of view.

Is this a departure from the exisiting provisions within the agencies? Yes, it is. We now will not have only the representatives from the regulated agencies participating on the advisory boards, but that there are also a number of other people in public interest groups, in the private sector, many at the State and local levels, and others major contributions to make and should be able to do so. Many academics from our universities and scientists have worthwhile contributions to make.

Then we examined another difficult question closely related to disclosing conflicts of interest, and that was with reference to the hiring of private contractors to do the Department's work. The question here involved, ladies and gentleman, is who shall do the government's work and who shall do the private sector's work. So we decided that the private contractors will not perform inherently governmental work such as writing congressional testimony and I am sure nobody would want that to happen formulating government policy; or enforcing environmental laws. In the exceptional case where someone with a conflict of interest must be hired, even this committee has agreed that that person would not be automatically prohibited. What our bill provides is that his or her conflict be disclosed, nothing more than that, and so that we would know where that particular private contractor is coming from.

With reference to the deputy assistant secretaries and regional administrators, and incidentially we have added one RA, and the Senior Executive Service positions at the Department, they are to be filled primarily by people with proven environmental experience. The gentleman from Oklahoma [Mr. SYNAR] will further speak to this subject.

The legislation also creates a Commission on Improving Environmental Protection, to study ways to improve the overall coordination and effectiveness of the government's environmental protection effort. If only the gentleman from Kansas [Mr. GLICKMAN] were on the floor now, he would understand why this bill is so important in addition to its cabinet elevation provisions. We did not go in, open up, and invade all of the programs and agencies with environmental responsibilities that six other standing House Committees have jurisdiction over. If we did, we would not be here today, and we probably would not be here either during his tenure in Congress or mine. Most people recognize the difficulty, if not impossibility of that kind of assignment.

What we can do, and did, is to create a commission to study the problem of the statistics of the federal government's environmental program which is now spread out over many agencies. That is what title III in this bill purports to do. It is done with the President, with the executive branch, with

Republican Members as well as Democratic Members all contributing to the membership of a 9-member, commission, which would last for 18 months, and would have the task of accomplishing what my dear friend and colleague from Kansas suggested for consideration.

Finally, then we require the National Academy of Sciences to study the effects of environmental pollution on low income and minority populations, because the two studies that exist have pointed to a disproportionate effect on the poor and miniorities from environmental pollution. It is time for a comprehensive, government-sponsored analysis of this problem.

I conclude this opening discussion by saying that while this is all we have done, it is a great deal that we have done. I am proud of the work of the Government Operations Committee, and I think it signals a very appropriate beginning of a new environmental movement and emphasis in America. With a little luck, we will arrive in time for Earth Day next month when the President might on that day sign this bill into law if it is the will of the House of Representatives and the other body.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] has consumed 12 minutes.

Mr. HORTON. Mr. Chairman, I yield myself 13 minutes.

Mr. Chairman, I rise in qualified support of this legislation. At the outset I want to commend the gentleman from Michigan [Mr. CONYERS], my chairman, for his initiative in this legislation. As he indicated, he and I did back in February introduce bipartisan legislation which has been endorsed by many Members on both sides of the aisle, and as a result of that he and I did attend, along with the chairman and ranking member of the Government Affairs Committee of the Senate, a meeting with the President at which time the President indicated his full support for creating such a department.

I certainly want to agree with what the chairman has said with regard to the hard work that we have put into this bill. I do recognize at any time we bring any legislation up such as this which does involve the environment that it does and could include many of the other committees. There are several committees that have jurisdiction.

□ 1810

I want to commend the chairman on his work with the other chairmen because we are able to bring a fairly clean bill here which could have been much more complicated. It could have been referred sequentially to other committees and we could be here for the rest of this Congress before we got to consider it.

So, much has been done, much has been accomplished. This is not the ideal vehicle I would construct to elevate the agency to Cabinet-level status. It does contain a few provisions that give me some concern, provisions that were not part of the bipartisan agreement we had when we introduced the bill in February, provisions that were, in fact, added during full committee markup earlier this month.

The above notwithstanding, I am optimistic that H.R. 3847 is a vehicle from which we can work in conference to produce a proposal that satisfies the administration and the Republicans and Democrats in the House and Senate. It is not a perfect bill. It needs work. It has too many provisions of a policy nature. That is the nature of the beast, especially when you are working with a subject such as the environment. It is far from my often-stated objective of a simple elevation to a new department, as we did with the Veterans' Administration. But it is not so bad that I would oppose it and kill the initiative altogether. I feel a little bit like Tevia in the play "Fiddler on the Roof," which I saw last weekend.

At one point the daughter speaks to Tevia and he says, "On the one hand," and then he says, "On the other hand." And then he says, "On the one hand," and then, "On the other hand."

In the end, like him I am not very comfortable with whatever decision I have been forced to make.

H.R. 3847 does provide for an elevation to Cabinet status of the Environmental Protection Agency. It provides the structure of the new department, the Secretary, the assistant secretaries, the offices. It creates a Bureau of Environmental Statistics, mandates a study of the impact of environmental standards on minorities, and these are all good things. The bill then moves beyond the scope of a simple elevation, an elevation that can raise the status of environmental concerns to the highest levels of Government, an elevation to department status that would have a substantial majority of us agreeing is in order at this point. But by going beyond this important yet fairly simple scope, we do risk the original objective.

The bill creates a controversial commission to study our Government's organization of environmental responsibilities to determine if responsibilities now existing outside the EPA might be moved inside the new department.

I agree with this. I understand it is controversial.

The chairman and I have agreed. That was in our original bill, because I think we ought to look at that, we ought to consider that in this bill. There ought to be a commission to study that and come back and make recommendations because since I have been in the Congress in the last 28 years we have passed 18 pieces of legislation that deal with the environment. That is certainly no reason to put those pieces of legislation outside this legislation. But it ought to be done in an orderly fashion.

So I feel that that commission is an important step.

The bill does set standards for advisory committee members so strict that attracting anyone to serve will be extraordinary difficult. Now I opposed that amendment in the full committee. These are advisory members. I can understand the sponsors offering those amendments, I understand where they are coming from. They are concerned about conflict.

But on the other hand, on the other hand, when we deal with this subject, when we require people who are on advisory committees to report all the information that is required, we are going to find a lot of people saying, "No thanks; I appreciate the honor, but I am not going to be willing to get involved."

So we may be restricting advisory committee members. These new standards I think do go beyond the scope of the current regulations that affect all other agencies which are included in the Federal Advisory Committee Act.

The bill puts in statute contracting restrictions that have nothing to do with elevating an agency to Cabinet status. I wish we did not have to get into that, but we did, and here it is. We will probably have some discussion on that as we get into the amending process.

I can understand the administration having some problems with the bill which they have. We have a statement from them indicating the concerns that they have, many of which I think we can work out when we get to conference.

But with the 13 amendments that have to be considered later in the handling of this bill, it is difficult to say what the final product will be. So I have to have support which is somewhat qualified.

I would also like to compliment the chairman for his willingness to recognize the legitimate concerns raised by the administration with respect to the Bureau of Environmental Statistics.

Now I agree there ought to be such a bureau.

This bureau which is established by H.R. 3847 originally had as its head a director elected by no one and answerable to no one elected. That is what the bill now provides. I hope we can work that out. We are in the process of trying to do that now.

He or she literally would have carte blanche to collect, analyze, and distribute any data or technical material,

even policy analysis, without review by anyone and to whomever, whatever he or she chose.

That is of great concern to me if we cannot correct that before we get through handling this bill.

There is no other such animal in the Federal Government. There was some concern—I spoke with the Administrator of the U.S. Environmental Protection Agency, William Reilly, this morning. He has written a letter which I would like to read at this point just so we have it on the record.

I think this went to Mr. MICHEL and to the Speaker.

He said:

I understand a "Dear Colleague" letter of March 26, 1990 is circulating among Members. Unfortunately, it does not accurately characterize my views on the independence of the Bureau of Environmental Statistics. Contrary to the letter's assertions, I continue to support a Bureau as an independent source of objective, high quality data and information on environmental conditions and trends. My comments of February 7, 1990, quoted in the letter address the Bureau contemplated by H.R. 3847 as originally introduced on January 23rd, by Mr. Conyers and Mr. Horton.

The current version of H.R. 3847 would require delegation of all of the Department's data gathering, analyzing and disseminating functions to the Bureau. This delegation would co-mingle the Bureau's information functions with the Department's important regulatory, enforcement and compliance monitoring functions. Such a step significantly compromises the Department's ability to implement environmental protection statutes by making it dependent on the Bureau for information it will need to fulfill its mission. Accordingly, while I support an independent Bureau, I cannot support the wholesale delegation of the Department's data gathering authorities to the Bureau.

I hope this clarifies my support for a Bureau that is "an independent, nonpartisan, trustworthy source of data about environmental conditions and trends." I look forward to working with you to ensure the establishment of such a Bureau by resolving the Administration's serious concerns as outlined in the Statement of Administration Policy.

Thus ends the letter from Mr. Reilly.

Quite simply, this is contrary to the principle of government which guided our Nation for more than 200 years.

Mr. CONYERS and I have sought a compromise that would satisfy all of us involved with this effort. We worked until we came to the floor a few minutes ago and I am sure we will continue, and I hope we will be able to work something out. I do appreciate the chairman's efforts with regard to this complicated problem.

As we go through the amendment process, I would urge my colleagues to support only those amendments that address the purpose of this effort, elevation of the EPA to Cabinet status. Amendments that streamline the elevation, that remove some of the baggage now in the bill are ones I will support.

In particular I would like to urge Members look at Mr. Hastert's amendment to simply elevate the EPA to a department status which would be minus all of the extraneous provisions that now exist and that might be added as we go through this 13-amendment process.

Finally, Mr. Speaker, I would again like to commend my chairman for his willingness to move this legislation and for his tireless efforts to resolve problems expressed to him by a number of different committees with jurisdiction over the EPA. And also to work with the administration trying to get a product that we can take to a conference and that can be sent down to the President for his signature.

□ 1820

As a matter of fact, it was the gentleman from Michigan [Mr. CONYERS] who suggested at the White House that we provide this bill so it could be available for signing on Earth Day which is April 22. That is the 20th anniversary of Earth Day, and the 20th anniversary which I think would be well celebrated by the signature of the President on the bill that we work out as we move forward today and tomorrow and then through the conference.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I want to commend the gentleman on his statement and commend the chairman and the gentleman for the work that has been done as well. I support the President's proposal to elevate the Environmental Protection Agency to Cabinet status, but because of some of the other provisions that are contained in this bill which I find objectionable, which the gentleman from New York has outlined very well in his speech, I am going to support the amendment of the gentleman from Illinois [Mr. HASTERT], to give the Secretary more discretion in delegating functions to the bureau.

I would also urge support for the gentleman's proposed amendment in the nature of a substitute which would elevate the EPA to Cabinet status without some of the baggage added by the Committee on Government Operations.

Mr. Chairman, I support the President's proposal to elevate the Environmental Protection Agency to Cabinet status. This matter is of particular interest to me given the fact that EPA administers a number of statutes within the jurisdiction of the Committee on Energy and Commerce, including the Clean Air Act, the Resource Conservation and Recovery Act, and the Superfund law.

Unfortunately, the bill, H.R. 3847, as reported by the Committee on Government Operations, unnecessarily intrudes on the prerogatives of the President as Chief Executive of the United States. The principal example of this meddling is the matter of the Bureau of Environmental Statistics.

It is inappropriate to compare the Bureau of Environmental Statistics proposed in section 111 of H.R. 3847 with the existing authority of the Energy Information Administration under the Department of Energy Organization Act. Since the committee of which I am the ranking Republican member oversees the Energy Information Administration, I want to expand on the differences between EIA and the proposed Bureau of Environmental Statistics.

First, the duties of the proposed Bureau are much broader than the responsibilities assigned to EIA. EIA's functions are carefully circumscribed to "data and information, and related economic statistical information" on energy matters. In short, EIA is to do important number crunching and related analyses. By contrast, the proposed Bureau is given the sweeping mandate to gather, analyze, and disseminate "environmental quality and related public health information." Thus, the matters within the purview of the proposed Bureau go far beyond what is even arguably statistical and instead could go to major policy matters which by definition should be subject to review and input by the President, as the elected Chief Executive, and his appointed delegate, the Secretary.

Second, section 111 as reported from the Committee on Government Operations states that the Director of the Bureau need not obtain the prior approval of other executive branch officials with respect to the substance of "any report." In sharp contrast, the analogous provision applicable to the Energy Information Administration does not preclude review or prior approval for any report, but is limited to "the substance of any statistical or forecasting technical reports."

Third, the Director of the proposed Bureau apparently has his or her own discretion to determine the extent to which he or she cooperates with other Federal agencies. Again, by contrast, the Administrator of the Energy Information Administration is required by law to, upon request, "promptly provide any information or analysis in his possession" to other agencies and executive branch officials when the requested information relates to the functions of the entity or person requesting it.

Fourth, the Director of the proposed Bureau is given sweeping powers to collect information from Government and private sector sources, and the Director has the discretion to determine whether and to what extent, if any, the information is kept confidential.

Again, by contrast, the Energy Information Administration is subject to detailed provisions on the scope of its information-gathering authority, and more importantly, on the need to keep certain specific information confidential, while allowing its use in an aggregate form.

Fifth, and finally, the proposed Bureau would be staffed only by career reserve positions. Again, this is inappropriate given the broad scope of the Bureau's jurisdiction, its sweeping power to gather information, and its power to disseminate that information without review by policy-making officials in the executive branch.

Accordingly, Mr. Chairman, I support the amendment of the gentleman from Illinois [Mr. HASTERT] to give the Secretary more discretion in delegating functions to the Bureau. I also urge support for the gentleman's proposed amendment in the nature of a substitute, which would elevate the Environmental Protection Agency to Cabinet status without the baggage added by the Committee on Government Operations. Thank you, Mr. Chairman.

Mr. HORTON. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. ANDERSON], chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Chairman, I rise in support of H.R. 3847, a bill which would raise the Environmental Protection Agency to a department. Elevating the Agency will increase the effectiveness of our Federal Government's environmental programs in many areas. It will signal to the world our Nation's seriousness about participating in national and global efforts to address environmental problems. At home, Cabinet level status will give our Government new resolve to address environmental problems.

In the interest of time, along with other committee chairmen with jurisdictional interests in this legislation, I agreed to waive our rights to a sequential referral. In crafting this legislation my good friend, the chairman of the Government Operations Committee, has been sensitive to concerns we have expressed. In addition, I have received a letter from the chairman recognizing the Public Works and Transportation Committee's jurisdictional standing with respect to this legislation. While we agreed not to request a referral, I want to note for the record that we expect to be fully involved in the conference on this bill. We did not request a sequential referral so that the bill might move more expeditiously, knowing that this will have no bearing on our standing as conferees on the matter.

Mr. Chairman, I think this legislation is valuable and urge my colleagues to join me in supporting the passage of H.R. 3847.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. SYNAR], chairman of the Subcommittee on Environment, Energy, and Natural Resources.

Mr. SYNAR. Mr. Chairman, let me first of all thank the chairman and also extend my congratulations and thanks to the gentleman from New York [Mr. HORTON] for the excellent job they have done in bringing this important legislation to the floor tonight and tomorrow.

I obviously rise in support of this legislation because I think it is long overdue. While this legislation will not solve all the problems that are facing the EPA, our environment and our country's role in that environment in this world, I think the elevation of this Agency to Cabinet level position is important for two reasons.

First, it will create a balance in the interrelationship between itself and the other Federal agencies which it will be equal to. As we all know and as we learned in the 1980's, the Federal agencies in this Government are some of the major polluters, not only in this country, but around the world. That will allow the Environmental Department to enforce the laws equally against these Federal agencies so that business people, individuals, and citizens, and cities and towns which have EPA enforcing the law against them, will feel like they are equally doing that in Federal agencies.

Second, it will give our Secretary the stature he needs or she needs in negotiating with countries around the world on the environmental issues of the 1990's and the next century.

I hope, as we begin this debate, it can be very active. I hope we will learn about the importance of this Agency and the importance it will play in all of our lives. I look forward to supporting it on final passage.

Mr. Chairman, I rise in support of H.R. 3847, legislation to elevate the Environmental Protection Agency to a Cabinet level Department of Environmental Protection.

While this legislation will not resolve many problems facing EPA, nor is it designed to, it will accomplish a number of important goals.

First, it will elevate EPA to its rightful stature within the President's Cabinet to more properly balance its interrelationships with other Federal agencies and departments. And, given the global nature of many of our pressing environmental problems, the bill will put the Secretary of the new Department on equal footing with his counterparts abroad and underscore the U.S. commitment to addressing these international issues.

The bill also emphasizes Congress' interest in seeing enforcement and pollution prevention, as well as international affairs, receive appropriate attention within the Department by specifying Assistant Secretaries for these areas. The bill also contains provisions to address several problem areas which have arisen at EPA such as conflicts of interests, and attempts to wrestle with the problem of Agency contractors performing "inherently governmental functions."

The legislation would establish a much-needed Bureau of Environmental Statistics within the Department to collect environmental data and provide independent analysis of statistical and other information. Because the independence of this Bureau is essential to providing Congress, the President, and the public with unbiased information, it was modeled after the Energy Information Administration, an independent body within the Department of Energy.

Finally, the bill contains provisions establishing a Commission on Environmental Protection, a feature I strongly encouraged and supported throughout development of the bill. During the years I have chaired the Subcommittee on Environmental, Energy, and Natural Resources, I have seen example after example of areas where EPA's structure, management, and priorities needed serious review and possible adjustment. But we have tended to think about these problems in an isolated way, rather than by a comprehensive assessment of the evolution of our environmental problems and whether these changes warrant adjustment in the Agency's organization and structure and its priorities. The Commission on Environmental Protection is designed to review these issues and give the President and the Congress an objective assessment of where we have gone off course and how best to correct any weakness. Mr. Chairman, to me this sort of midcourse correction represents nothing more than good Government. The Agency clearly needs improvement in many, many areas, and the sooner we take an objective look at the problems, the sooner we'll be able to make some adjustments to improve its efficiency and effectiveness.

I hope my colleagues will join me in support of H.R. 3847.

Mr. HORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Chairman, I rise in opposition to the bill. I have had some experience with reorganization in my own State of Utah where we reorganized all the State departments. It worked very well. I opposed the Department of Veterans Affairs for two reasons at that time, because I thought they were already an

independent agency, already achieving the legislative results needed, and did not feel a Cabinet status was necessary. I feel the same with EPA.

The EPA has had a congressional mandate to clean up the atmosphere—the Superfunds, RCRA and other bills. We have given them all the money they have asked for, all the staff they have asked for, and paid attention to their demands as far as timetables and so forth. We have given good support throughout. We have had nothing but trouble with EPA. We have had some good directors, including a good director right now.

There is nothing personal in this, particularly. I do not believe we should reward an agency which over the years has been inefficient and not met the targets they put together, and I do not believe we should reward by promoting to Cabinet status. Furthermore, I believe when we put the Department of Education in in 1978—I was not here at that time—and the remarks of the gentleman from Kansas [Mr. GLICKMAN] at the time were very important. Education felt they were squeezed. HEW—the "E" felt they were squeezed by the "H" and "W," Health and Welfare, and did not have an active voice. For that reason, they were put in as a separate agency, a separate department.

As the gentleman from Kansas pointed out, that has not improved our educational status, and has not helped at all in the interim. I believe that first we should clean up our act in EPA, literally, before we make it a Cabinet.

Second, I think we should consider the possibility of combining the environment and energy together. There are many places of overlap between the two departments. I like the idea the gentleman from Kansas had of combining like affairs, like ideas. I have to commend the President for the idea of elevating it. It does emphasize the environment. I would like to see a Department of Environment, but not separately, and not a Department of Environmental Protection as stated.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 3847, a bill to create the Department of Environmental Protection; an idea whose time has come and I commend the distinguished chairman of the Government Operations Committee, the gentleman from Michigan [Mr. CONYERS] and the ranking minority members, the gentleman from New York, [Mr. HORTON] for bringing these significant measures to the floor.

Almost 20 years ago, in response to the growing concern over serious environmental problems, the Environmental Protection Agency was created.

However, it has now become increasingly apparent that today's environmental problems are no longer limited to our Nation's borders, but have become worldwide and affect many nations.

In particular, the global nature of acid rain, air quality, water resources, and global warming necessitate an environmental agency with the access and authority to deal directly with both the other departments of our Nation and the equivalent agencies of other governments.

Our Nation needs a Department of Environmental Protection which is on an equal footing with its counterparts in other nations. Without this effectiveness and ability to directly negotiate with the environmental leaders of fellow nations, we cannot hope to address some of the major problems facing us today.

Furthermore, we need a Department of Environmental Protection to work effectively with the highest levels in the State Department regarding international environmental agreements and concerns.

Accordingly, Mr. Chairman, I urge my colleagues to support H.R. 3847, and elevate the Environmental Protection Agency to Cabinet level.

□ 1830

Mr. CONYERS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS], fresh from a primary victory of 82 percent, who chairs the Subcommittee on Government Activities and Transportation.

Mrs. COLLINS. Mr. Chairman, I rise in support of H.R. 3847, the Environmental Protection Department Act. I am pleased to recognize the broad bipartisan support that exists for raising the EPA to Cabinet status. Certainly, the liveability of our land as part of a livable planet represents the most important and the most urgent of our citizen responsibilities.

I am proud that the Committee on Government Operations has crafted a strong and versatile legislative vehicle to carry the new Department along the road to the 21st century, which will present not just to our Nation, but to the world the supreme test of survivability. I congratulate our Chairman, the gentleman from Michigan, and our ranking minority leader, the gentleman from New York, for their vision, wisdom, and industry and compliment their staffs for diligent professionalism.

It distresses me, however, that the Administration has lately come forward with serious objections to the bill because it provides authority to the Director of the Department's new Bureau of Environmental Statistics at odds with a concept of a unitary executive. According to a "Statement of Administrative Policy" from OMB, Congress should not mandate the Secretary's delegation of information functions to the Bureau's Director; Congress should not prevent the Secretary, or the OMB, from vetoing actions to collect, analyze, or disseminate information; Congress should not restrict the Secretary's power to remove the director solely on the grounds of malfeasance, maladministration, or neglect of duty.

The administration threatens, a veto, saying these provisions raise serious constitutional concerns and severely restrict executive branch oversight of the new Bureau. However, OMB cites no authorities in support of these constitutional concerns. Actually, the Supreme Court in the Morrison decision concerning the independent counsel has upheld vesting power to appoint an executive official, subject to removal only for cause. Moreover, mandatory delegation of a specialized function has precedent. We need only look at the recent base closure and realignment statute—Public Law 100-526—section 204(b) requires the Administrator of General Services to delegate to the Secretary of Defense functions with respect to excess and surplus real property utilization and disposal.

In the Department of Transportation Act—Public Law 89-670—the Congress took an analogus action by vesting functions in the Secretary and then providing that certain functions pertaining to aviation safety were transferred to the Administrator of the Federal Aviation Administration.

The administration's statement, complaining about the independence the bill gives to the Director of the Bureau of Environmental Statistics, would have us believe that we are dealing with something other than the most important and urgent informational needs we have: What is really happening to the organic part of our environment and what we need to do about it. I cannot think of any area of information where it is more critical to have full, impartial, forthright, timely, and open activity. I cannot think of any area of information that should be more insulated from political or partisan influences. All we need do, Mr. Speaker, is look out at our land or up into the sky. Standing there, or hanging there, is this awful reminder; "Don't guess wrong!"

I urge my colleagues to join in supporting this epochmaking legislation.

Mr. HORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. GINGRICH].

(By unanimous consent, Mr. GINGRICH was allowed to speak out of order.)

ANNOUNCEMENT OF EXTENDED SESSION OF RULES COMMITTEE ON CHILD CARE LEGISLATION

Mr. GINGRICH. Mr. Chairman, I just want to say, first of all, that I think this bill is being handled exactly correctly. Everyone has plenty of time to read it, everyone has had a chance to offer amendments to it, and in fact we are going to go through a procedure tomorrow which is very positive and in which every Member's rights are protected.

I simply want to rise at this late time today to tell all the Members of the House that it is possible to get a copy of the 112-page Democratic leadership bill on child care, and that the Rules Committee will have one more session tomorrow at 11:30 to listen to Members who ask for further amendments.

I want to draw the contract between a bill which is being brought to the floor in the regular way where everyone has had a chance to be heard and everyone has had a chance to ask for their amendments. More than enough amendments have been made in order here, and I think this is a good procedure, protecting the rights of individual Members. I am very disturbed that the child care bill is not coming up under that procedure, but as I said, Members do have until 11:30 tomorrow morning, when there will be one more Rules Committee meeting, to offer any amendment they want on this 112-page bill, and I believe they can now get copies of that bill.

Mr. Chairman, I thank the gentleman from New York for yielding.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BUSTAMANTE], an invaluable member of the Committee on Government Operations.

Mr. BUSTAMANTE. Mr. Chairman, I rise in support of the measure before us today to elevate the Environmental Protection Agency to Cabinet level status.

The idea is not a new one. Indeed, Congress Considered similar legislation 20 years ago in response to the rapidly deteriorating condition of our Nation's natural resources.

In the intervening years America has grown more environmentally aware and more conservation minded.

Also, we have come to the realization that the environmental damage caused by our past neglect is larger than we first imagined in 1970.

Pollution is not a problem confined to our borders.

In recognition of the worldwide concern that is being given to protecting and conserving the quality of our air, land, and water resources and to preserving the fragile balance of nature, it is now time to elevate EPA to a full-fledged, Cabinet-level department.

I urge my colleagues to join in supporting H.R. 3847.

Mr. HORTON. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Chairman, since environmental protection should be of paramount importance in any administration, I believe the agency entrusted with that mission should be on an equal footing with the other departments of Government. Furthermore, I am mindful that President Bush feels EPA belongs in his Cabinet. I support Cabinet status for EPA and am a cosponsor of H.R. 3847 which would achieve that end.

While I support the bill's basic objectives, I feel the reported bill goes somewhat beyond what is needed, but those matters can be spoken to in the amending process or in the conference.

Provisions in the bill establishing a semi-autonomous Bureau of Environmental Statistics and an Office of Pollution Prevention are well-intentioned but clearly represent another example of the Congress interfering with the prerogatives of the executive branch. Another example is the restrictions in the bill on EPA's ability to employ contractors for certain "inherently governmental functions."

Like others, I am concerned about EPA's continued reliance on outside consultants to conduct many day-to-day activities that should probably be performed by Government employees. However, I also know that EPA has been given very ambitious assignments in many of the programs it administers.

Given budgetary realities, EPA has had to rely on outside experts to a large extent in order to accomplish these tasks in a professional and expeditious manner. By imposing limitations on the Agency's ability to contract out, we may be helping to build better agency expertise but at the cost of more missed deadlines or having state-of-the-art work done by already overworked Government employees.

EPA is often accused of being slow and timid in addressing pressing environmental problems. I would submit that if this is true, the Congress is largely to blame. Rather than giving the Agency a broad mission and the authority and discretion to act, we are constantly micromanaging and second-guessing what they do. This bill contains examples of this basically flawed approach.

As the ranking Republican member on one of the committees with substantive jurisdiction over the EPA's programs, I have had both jurisdictional and substantive misgivings about the bill as ordered reported. While I recognize the authority of the Government Operations Committee on issues related to governmental structure and organization or access to governmental information, I was concerned that the bill might go further than it needed to—that it might deal with what EPA is asked to do and not just how they are to do it.

I believe that my jurisdictional concerns may have been adequately addressed by Chairman CONYERS in a letter to Chairman ANDERSON of the Committee on Public Works and Transportation dated March 19, 1990, in which he states that, with respect to the provisions in title I of the bill, there is no intent "to change existing law regarding any program under the jurisdiction of the Committee on Public Works and Transportation."

Mr. Chairman, while this may alleviate some of my jurisdictional concerns, I still have a few misgivings about the way this bill accomplishes its objectives. These concerns do not stand in the way of my strong endorsement of Cabinet status for EPA. However, there will be an opportunity today to consider amendments to address objectionable provisions and limit the bill to a simple elevation of EPA to Cabinet status.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. TORRES], an important member of the Committee on Government Operations.

Mr. TORRES. Mr. Chairman, I rise to speak about the important issue of pollution prevention as a way of solving the environmental problems facing the world today.

First of all, I would like to thank and applaud the esteemed chairman of the Government Operations Committee, my friend and colleague, Mr. CONYERS, for including language in his bill that would establish the Office of Pollution Prevention within the new Department of Environmental Protection.

I can only implore our colleagues in the other body to include the creation of this Office in the bill moving through that august body.

Mr. Chairman, the era of short-term, piecemeal solutions to long-term environmental problems is over. We can no longer manage the discharge of pollution; we have to aggressively seek ways of preventing pollution from being generated. We can no longer focus our environmental protection efforts on disposal and treatment of waste or control of air and water emissions.

We have to make a fundamental shift to a policy that truly reflects the goal of protecting the planet for the long term. We must institute a policy which involves reducing all sources of pollution and then encourages the reuse or recycling of as much of our resources as possible.

In this way, we will have much less waste to manage. And we are much less likely to create Superfund sites in the future.

President Bush has stated:

> We must start preventing pollution as the primary means of meeting our environmental objectives.

And, Mr. Reilly recently stated:

> We will make pollution prevention a hallmark of our environmental efforts. . . . Recycling, reuse, reduction at the source—these will be our watchwords.

Pollution prevention is not just another trendy bureaucratic title. It means exactly what it says. Pollution prevention is essentially use reduction and source reduction. That means we can eliminate or reduce pollution, at the source, by using less toxic or environmentally degrading materials in the production of products or services.

We can also make those processes or practices more energy efficient and material efficient. Pollution prevention also means that we must do everything we can to recycle all those wastes which we cannot eliminate.

Establishing the Office of Pollution Prevention is essential if the new Department of Environmental protection is to make the dream of preventing pollution a reality. Pollution prevention is not just another program office. The Assistant Secretary for Pollution Prevention is expected to advise the Secretary to assure that a multimedia approach to solving environmental problems permeates through every layer of the Department. In this way, the single-media offices, like air and solid waste, will begin to look at the effects of their program decisions on all other media.

We are not solving our pollution problems when we transfer pollution from one media to another. We must begin to educate all sectors of society that pollution is not the necessary price of doing business. It is documented that it generally costs companies less to prevent pollution than to apply expensive end-of-the-pipeline controls.

The Office of Pollution Prevention will educate society about the true cost of pollution.

The role of the new Assistant Secretary for Pollution Prevention will be to articulate and develop a strategy of preventing pollution in all Departmental actions.

In 1988 EPA created an Office of Pollution Prevention within the Agency. However, the structure and organizational placement, as it currently exists, is insufficient to carry out the activities necessary to integrate pollution prevention into every function of the Department.

The current Assistant Administrator for Policy, Planning and Evaluation wears too many hats to adequately focus the Agency's attention on the issues and techniques of pollution prevention. Creating an Office of Pollution Prevention with a singularly focused Assistant Secretary will enable the new Department to truly carry out the vision of pollution prevention and eliminate the environmental shell game that has frustrated us in our attempts to achieve a clean environment.

Mr. Chairman, as a strong supporter of the establishment of the Office of Pollution Prevention, I would like to request a point of clarification from my friend and esteemed colleague, Mr. CONYERS. Mr. CONYERS, in subsection c of section 110, the Secretary of the Department of Environmental Protection is given flexibility to assign some additional functions to the Office of Pollution Prevention. My question to you Sir, is, is it the intention of the Committee on Government Affairs that while other functions may be assigned by the Secretary to the Office of Pollution Prevention, that no other functions assigned to that Office will be permitted to interfere with the pollution prevention function? And, further, is it not the strongest desire of the committee that this office should simply be called the Office of Pollution Prevention and Recycling without the addition of any extraneous titles that would confuse the functioning of this office?

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Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. TORRES. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, first of all I appreciate this clarification that the gentleman from California [Mr. TORRES] seeks because I think it is important that we answer him in the affirmative with respect to both issues he raises. It is important that the committee impress the membership that this Office should be called the Office of Pollution Prevention and Recycling and that we do not need to engage in renaming, new titles, or any modification in the intent and emphasis of the functions of the Office because it might lead to the misconception of assigning new responsibilities to this particular Office. Its essential function is to be pollution prevention.

So, Mr. Chairman, I hope that that will be of some benefit to the gentleman from California [Mr. TORRES] in terms of his position on this matter.

Mr. TORRES. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS] for this very distinct clarification.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. TORRES. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I would like to join with the gentleman from Michigan [Mr. CONYERS]. I think that the concept, the idea, of pollution control is a very important one, and the establishment of this Office was very important.

If my colleagues will recall, at the meeting of the full committee we also added the word "recycling" which I think is very important. Recycling is one of those ways of solving pollution control also.

So, I would certainly agree with the gentleman from Michigan [Mr. CONYERS] in his reply to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I thank the gentleman from New York [Mr. HORTON] for his clarification.

Mr. Chairman, I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield the time remaining on our side to the gentleman from New Jersey [Mr. PAYNE], a member of the Committee on Government Operations.

The CHAIRMAN. The gentleman from New Jersey [Mr. PAYNE] is recognized for 4 minutes.

Mr. PAYNE of New Jersey. Mr. Chairman, I stand before my colleagues today to voice my support for H.R. 3847, a bill to elevate the Environmental Protection Agency to Cabinet-level status. The 1990's have been called by some as the "Decade of the Environment." I think it is very appropriate at the outset of this decade to upgrade EPA's status by establishing a full-fledged Department of Environmental Protection.

My home State of New Jersey has long been a leader in protecting the environment. In 1954, New Jersey became the first State in the Nation to enact an Air Pollution Control Act.

Twenty years ago, in 1970, New Jersey saw the merit of establishing a Department of Environmental Protection at the State level. I am glad to see the Federal Government finally placing the importance on the environment which New Jersey has long recognized. As domestic and global environmental concerns increase in significance on the national agenda, I think the least we can do is to establish a strong Department of Environmental Protection which the public can trust.

I would like to commend the chairman of the Government Operations Committee, the Honorable JOHN CONYERS, for the hard work done by him and his committee to produce a good bill.

H.R. 3847 is both a symbolic and substantive bill. The elevation of EPA to Cabinet status sends a signal throughout our Nation and to the world that we in the United States are serious about protecting the environment. In addition to this symbolic change, this legislation contains substantive language that will strengthen the new Department's environmental protection efforts.

H.R. 3847 creates three new offices within the Department—the Office of International Environmental Affairs, the Office of Enforcement, and the Office of Pollution Prevention and Recycling.

The bill also creates an independent Bureau of Environmental Statistics to improve the collection of environmental data. Each of these new offices is an important addition to help the Department carry out its duties.

H.R. 3847 also calls for a comprehensive study to determine if minority and low-income populations in the United States are disproportionately affected by environmental pollution, and if so, to make recommendations as to how best to correct the problem.

Mr. Chairman, I see this legislation as an opportunity for us in Congress to show how seriously committed we are to resolving our environmental problems. I strongly urge my col-

leagues from both parties to support this valuable, bipartisan legislation.

Ms. SLAUGHTER of New York. Mr. Chairman, today we are debating whether to add an Environmental Department to the President's Cabinet. I say a wholehearted yes.

When the *Exxon Valdez* ruptured 1 year ago, covering Alaska's Prince William Sound with crude oil, the President did not go to view the damage. Instead, he sent a number of his advisers, none of whom had direct responsibility to ensure that the oil was cleaned up and that a similar spill could not happen again. A Secretary of the Department of Environmental Protection would have this authority.

Under the previous administration, the Environmental Protection Agency was consistently underfunded and often ignored. This was possible because its Administrator does not have the President's ear. As a Cabinet Secretary, the Administrator would take part in the meetings setting the President's political agenda. He or she would be privy to the economic forces driving domestic policies, and would be positioned to voice support on behalf of a strong environmental agenda.

This Secretary must also have the authority and autonomy needed to ensure that protecting the environment becomes an integral part of our domestic, international, and economic programs. Consider the damage one oilspill can do. We need to have a person in the President's Cabinet who can insist that our policies take into account the environmental consequences of all our actions.

In his campaign, the President promised to be "the Environmental President," but now he has threatened to veto the bill. One of his objections is that it creates a nonpartisan Bureau of Environmental Statistics to collect and disseminate information on the state of our environment. The President does not want this Bureau to have the independence to publish these statistics. This objection is troubling—we need Government experts to be free to inform the public honestly.

The environment is our future. Twenty years ago we had the foresight to create the Environmental Protection Agency. Two decades later, it's time to realize that environmental protection must have a higher priority.

We need a Cabinet-level official to advise the President, negotiate with foreign countries, and work with Congress to truly ensure that our policies include our environmental priorities. Vote to create a Department of Environmental Protection.

Mr. McCANDLESS. Mr. Chairman, during the 1970's, Americans experienced a decade of growing environmental awareness and concern. It was in 1970 that a fledgling office known as the Environmental Protection Agency was established to address our environmental concerns.

In the 1980's Americans translated these concerns into ideas and initiatives. More importantly, this country began to look long and hard at the Nation's environmental problems.

Now, as we enter the 1990's, we are embarking upon an era dedicated to positive environmental action. Now is the time to influence our environmental future and now is the time to communicate our concerns to the world and to cooperate with other nations. We cannot protect the world's environment alone.

To accomplish this goal, the EPA must have the stature and the kind of recognition we give other vital issues. As the Federal cutting edge on environmental matters, the EPA should be a coequal part of our governmental system with a voice in the President's Cabinet. Therefore, I support the creation of a Department of Environmental Protection.

Elevation of the Environmental Protection Agency to Cabinet-level status is both necessary and fitting in this decade of positive environmental action. Little that we do in the areas of defense, health, or education will matter if our air is fouled, our water undrinkable, and our Earth contaminated. It is my hope that the decade of the 1990's will be remembered as the time in which we came to grips with the environmental concerns that face us. A Department of Environmental Protection will help in that effort.

Mr. KLECZKA. Mr. Chairman, I rise today in support of H.R. 3847, the Department of Environmental Protection Act.

As a member of the Government Operations Committee and its Legislation Subcommittee, I believe it to be worthy of my colleagues' support.

The timing of our consideration of this bill is appropriate as the 20th anniversary of Earth Day is fast approaching.

This year, Congress has designated April 22 as Earth Day and I can think of no better way for us to celebrate this event than to elevate the Environmental Protection Agency to the Department of Environmental Protection.

As a Member from Wisconsin, I am proud that Earth Day was originated by former Wisconsin Senator Gaylord Nelson in 1970.

Twenty years later, Senator Nelson still cares deeply about pollution and ecology. Yesterday, he stated that depletion of natural resources, not nuclear war, will be the most serious threat confronting Americans in the 21st century.

Facing this alarming danger, Senator Nelson has called for a global Earth Day demonstration by several hundred million people.

I endorse this call to action and pledge my full support.

We must raise the EPA to Cabinet level so that it will have the domestic and international clout needed to fulfill its critical mission of preserving and improving our environment.

I urge my colleagues to support the creation of a Department of Environmental Protection.

As you know, the primary purpose of H.R. 3847 is to elevate the EPA to a Cabinet-level Department. Making EPA a Department would increase action on urgent environmental problems by raising EPA's status, giving it a closer relationship to the President, and putting it on a more equal footing with other Federal agencies in the growing national debate on ecology and pollution.

This legislation would create an Office of International Environmental Affairs, headed by an Assistant Secretary, so that the new Department will be able to work with foreign environmental ministries in tackling increasingly serious global environmental problems. The Secretary would be given enhanced authority to negotiate and administer international agreements and to participate in the work of international organizations.

H.R. 3847 also would set up a Center for Environmental Statistics and a Commission on Environmental Administration. The Center would consolidate the collection of environmental data and the Commission primarily would be charged with suggesting improvements in the Department of Environmental Protection and overall coordination of Federal environmental protection efforts.

As a strong supporter of the Freedom of Information Act and the sponsor of the Freedom of Information Public Improvement Act, I am pleased that this measure would expand public access to environmental information thus promoting citizen involvement in the new Department's work. Under H.R. 3847, a comprehensive guide to the Department's environmental information services, products, and systems would be maintained, and other methods for improving public access to this data would be explored.

Mr. Chairman, for all these reasons, creating a Department of Environmental Protection is a step in the right direction if we are to succeed in saving our environment from further destruction. I again urge my colleagues to support the Department of Environmental Protection Act.

Mr. STANGELAND. Mr. Chairman, I rise to address provisions in H.R. 3847, the Department of Environmental Protection Act. Although I support elevating EPA to Cabinet-level status, I do have concerns about some of the bill's substantive and jurisdictional aspects.

The most important feature of this bill is that it elevates the Environmental Protection Agency, currently an independent agency, to Cabinet level. I support this. I also commend President Bush and relevant congressional committees and Members for their leadership in making this important change. It certainly has the potential to give environmental protection a higher priority on the domestic agenda both in terms of authorizations and appropriations.

I do have concerns, however, about several other aspects of H.R. 3847 which establish new offices, a Bureau of Environmental Statistics, a nine-member Commission, and direct a multitude of studies and reports. The farther we get from the central purpose—establishing Cabinet-level status—the less attractive this bill becomes.

In particular, I have substantive concerns about the new Office of Pollution Prevention and Recycling, the Bureau of Environmental Statistics, and the restrictions on using contractors and outside consultants. All of these proposals sound good and, no doubt, are based on well-intentioned efforts to improve the Agency. However, they represent a disturbing level of micromanagement which could have counterproductive and costly impacts on the agency's ability to do its real job: protecting public health and the environment.

I would hope before this legislation is enacted we can work with the other body to modify these provisions or at least be sure they will not weaken EPA's efforts to protect our land, air, water, wildlife, and other natural resources. I also believe if the bill becomes so

bogged down with amendments attempting to solve all of the Agency's perceived problems, we may want to move forward with a bill that simply elevates the Agency to Cabinet-level status.

Finally, Mr. Chairman, let me address some jurisdictional concerns. As ranking minority member of the Public Works and Transportation Committee's Water Resources Subcommittee, I work with EPA on a day-to-day basis. Our committee's jurisdiction includes, among other things, EPA's programs on clean water, wetlands, Superfund, ground water, ocean dumping, and coastal protection. Like several other committees, we have a vital interest in this bill. We would certainly like to analyze H.R. 3847 in depth, given its potentially far-reaching impacts.

However, in an effort to be accommodating, we are willing to forgo a lengthy sequential referral in return for a basic understanding with the Government Operations Committee's leadership. Part of this agreement, embodied in a letter from Chairman CONYERS in response to a letter from Chairman ANDERSON, is that the bill does not give the Government Operations Committee new jurisdiction over programmatic aspects of EPA or its successor, the Department of Environmental Protection. These areas, which include land, air, water, waste, chemical regulation, as well as pollution prevention and recyling, international affairs, enforcement, and collection and dissemination of information, are reserved to the authorizing committees.

Obviously, the Government Operations Committee has a vital role in the organization and functioning of EPA and the new Cabinet-level Department of Environmental Protection. However, it is not their intent as I now understand it, to get involved in the substantive aspects of the Department's programs.

With this understanding, I want to commend the Government Operations Committee for its cooperation and urge my colleagues to support efforts to elevate EPA to Cabinet-level status.

Mr. OWENS of New York. Mr. Chairman, I rise in support of H.R. 3847, the bill which would establish the Department of Environmental Protection. This is a measure which my environmentally conscious constitutents in Brooklyn have been supporting for several years. They feel that an issue which has become so vital on both the national and the international fronts must be represented in the executive branch by a Cabinet-level position in order to command the necessary attention from the administration, the public, and from other nations.

This bill was a very bipartisan bill. It was reported out of committee by a nearly unanimous vote. Both sides worked very hard to ensure that this bill would survive. The administration has turned tail and made this a partisan issue. The "Environmental President" has once again chosen to support the polluters and sell out the public's concern for the environment.

This bill changes the name of the Environmental Protection Agency to the Department of Environmental Protection. It gives Administrator Reilly a new title and a permanent seat at the Cabinet table. It does not change the directives of the Agency.

Here is an opportunity for the administration to match rhetoric with action. Here is something the administration could point to as a demonstration of their commitment to the environment—one of the main tenets of their 1988 campaign.

Instead, the dreaded veto pen has once again reared its ugly head and threatened to show that the administration has only a "fair weather friend" commitment to the environment.

When nations gather to discuss environmental issues and the coordination of all our efforts to combat pollution on a world-wide scale, the United States is one of the few nations, if not the only one, which does not have a Cabinet-level environmental office.

If we are going to be leaders on this issue, we must show that we have a commitment that goes farther than words. We must show that we are willing to commit the strength and resources to this issue on a par with other nations. We must show that we have made bettering our environment one of the administrative priorities of our Nation.

Mr. Chairman, I urge my colleagues to support H.R. 3847, for it does all of these things. It shows our level of commitment, it shows our standards, it shows our priorities. It shows that we really do care about what happens to our environment.

Mr. FRENZEL. Mr. Chairman, I am pleased to rise in favor of H.R. 3847, a bill to create a Department of Environmental Protection to replace the Environmental Protection Agency.

With the environment now among our foremost national concerns, it is important that environmental concerns be given an equal seat at the table. There is no question that the protecting the environment ranks with education, housing, health care, and drugs as a national priority. It is thus entirely appropriate that our Nation's top environmental officer should have a voice equal to that of any other Cabinet Secretary.

In a fiscal atmosphere where national priorities must compete for scarce resources, competing entities should at least be given equal pulpits from which to make their case. Giving the EPA Cabinet status will ensure that environmental concerns are not short-changed in future budget or policy debates.

H.R. 3847 calls for authorizations of less than $1 million to add an Assistant Secretary position at the new department and to increase certain salaries. The bill also authorizes funds to, among other things, create a new Bureau of Environmental Statistics and a Commission on Improving Environmental Protection. All told the bill calls for $7 million in increased fiscal year 1991 funding all of which is subject to appropriations. The committee is to be commended for responsibly addressing some deficiencies in our current environmental protection system without making unreasonable demands on the Federal budget or excessively expanding the Federal bureaucracy.

Mr. HORTON. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, I, too, have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. TORRES] having assumed the chair, Mr. HARRIS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3847) to establish a Department of Environmental Protection, and for other purposes, had come to no resolution thereon.

HAIL TO THE REDSKINS OF MERCER COUNTY, OH

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, hail to the Redskins. The St. Henry Redskins of Mercer County OH, won the Ohio boys high school division III basketball championship Saturday night with a 71-60 upset victory over previously top ranked Youngstown Liberty. St. Henry became the third school from my district and from Mercer County to become State champions this season.

Pat Droesch scored 25 points while Scott Brunswick added 18 more, snagged 10 rebounds, dished out 7 assists and was perfect from the charity stripe as the Skins won their first championship since 1979.

A crowd in Columbus of nearly 13,000 were in awe of their quickness, passing ability and court sense. The game, a 32-minute highlight film of basketball perfection was one the Redskin players, coaches, and citizens of St. Henry and Mercer County should be very proud of, and I salute them.

ST. HENRY HIGH SCHOOL REDSKINS

Head Coach: Fran Guilbault, Asst. Coach: Al Sommers, Asst. Coach: Jamie Niekamp.

Players: Pat Droesch, Danny Lefelb, Terry Niekamp, Rob Beyke, Scott Brunswick, Steve Gelf, Jeff Hartints, Scott Heitkamp, Bob Koying, Josh Link, Kevin Niekamp, and Tony Glass.

[From the Daily Advocate, Mar. 26, 1990]

ST. HENRY CLAIMS OHIO DIVISION III TITLE

(By Rusty Miller)

COLUMBUS.—Youngstown Liberty coach Bob Patton Sr. was hardly an unbiased observer.

But after St. Henry had upset his Leopards 71-60 for the Division III boys state basketball championship Saturday Patton had glowing praise for the Redskins.

"I've seen a lot of games here," he said, "and they could play with anybody here—Division I, Division II, Division III or Division IV."

St. Henry put together a 32 minute highlight film to unseat the top-ranked Leopards.

The Redskins used their superior height to outrebound the Leopards 37-25 and repeatedly limited Liberty to one shot while they scored from inside the lane.

"We're a strong rebounding team," said 29-year St. Henry coach Fran Gilbault. "That's obvious. We're really strong at the post position and (our wings) really crash the boards."

Pat Droesch scored 25 points to lead the Redskins, who began their 1989-90 season with a 61-54 victory over Division I Greenville with a lineup stocked with underclassmen but almost consumed by expectations.

"There's no selfish kids out there," said Guilbault. "They have a lot of talent. And there's a lot of pressure on them. People have them (making it to the state) before they've even played a game. That's a lot of pressure for 16 year olds."

After the game, Liberty coach Patton said he was resigning as a high school coach and would concentrate on his position as the head coach of the Youngstown Pride of the World Basketball League.

St. Henry (25-1) won its second state title in as many trips to the final four. The Redskins also won the state crown in 1979.

St. Henry was ranked No. 4 in the final AP poll, while Liberty (27-1) was ranked No. 1 from start to finish. St. Henry's only loss came to Van Wert, a final four team in Division II.

Scott Brunswick added 18 points, 10 rebounds and seven assists, and Boy Hoying had 10 points for St. Henry, which in the semifinals had scored more points and won by a larger margin than any Division III team ever.

Mr. Basketball Bobby Patton scored 20 points and had four rebounds and six assists. He hit 5 of 6 3-point attempts in the first half and scored 17 points to keep Liberty within 40-37.

But Patton hit just 1 of 11 shots from the field in the second half to finish 6 of 21 from the field and 5 of 11 from 3-point range.

Mark Majick scored 16 points and Bob Richardson 15 for Liberty, which has won 61 straight regular-season games.

GUAM SEEKS FORBEARANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam [Mr. BLAZ] is recognized for 5 minutes.

Mr. BLAZ. Mr. Speaker, the enactment of strong antiabortion legislation on Guam has brought this U.S. territory to the forefront of the news in recent days. I'm sure there are those of you who no longer wonder where Guam is but rather now wonder what Guam has done. Indeed, a distinguished Member of the House, expressing shock at Guam's officials for enacting this law, sent a letter to fellow Members, announcing the withdrawal of his support for H.R. 98, the Guam commonwealth bill. Surprisingly, the letter also exhorted our colleagues to withdraw their support in protest to and retaliation for Guam's law.

We all respect the privilege of Members of Congress to communicate with each other on matters which concern the body politic. It is disconcerting, however, to witness the advent of the use of our national legislative process as a tool to influence local decisions. Even more so, it is tragic that Guam's commonwealth hopes and dreams must bear the brunt of the attack.

As the numerous media stories have reported, the passage of the bill and its subsequent enactment into law was not without controversy and its viability is still unsettled. The Governor of Guam and his attorney general have called for its revision and have sought a speedy resolution of its constitutionality in the local court system. Local attorneys have separately brought suit in the territorial and the Federal district courts in Guam challenging the law's constitutionality. A Federal judge has already temporarily restrained enforcement of the law and has scheduled a trial to begin in about 6 weeks.

Obviously, the system of checks and balances upon which this Nation was founded is working. When local officials seem to act beyond their authority under our Constitution, members of the community can turn to the judiciary for relief. It is in the court system where the many battles of the 1960's were fought and won for civil rights. It is the court system that has given substance to the notion that we are a nation of laws, not of men and women. It is the courts which have, since the 1800's, told us what is and is not the law.

Our role as members of a Federal legislative body must be different with respect to the courts and local officials. We are not in the position to act as a judiciary because we act as a body and thus lack the speed and efficiency of Federal judges already in place throughout the country. We lack the information needed to decide whether actions taken in these unique factual circumstances are in accord with the history of law in our Nation.

We must also be cautious in choosing to act in the stead of elected local officials. Our Constitution charges us with the responsibility of ensuring the health and welfare of our Nation. In seeking to impose our beliefs upon particular communities on an ad hoc basis, we risk acting without the sensitivity and insight of local conditions found in the duly elected representatives of that community. Implicitly, we are also rejecting the tradition of checks and balances which has kept this Nation together for so many years.

Beyond the question of congressional response, we should also be mindful of Guam's quest for an ever closer relationship with the United States. Now embodied in H.R. 98, this quest began almost 100 years ago when Guam first became part of this Nation. Over these many years, generations from Guam have worked with generations from Congress to come to this point. The jourrney has been long and difficult, and it is still not finished.

Our journey is not finished because, although part of this Nation, Guam still is not part of the Union. Our fellow citizens live in a suspended state of political existence, not quite part of the Federal Government and yet not quite a part of the Nation with a separate political identity. It is an existence of contradictions, where its citizens are sometimes treated as citizens of a State and sometimes as citizens of foreign countries. It is an existence of confusion, where Federal laws may or may not apply to Guam because of Guam's status as an unincorporated territory. It is an existence of frustration and hope, where this journey has started and stopped many times throughout the years but always begins again with renewed patriotic fervor.

The cyclones of change that have recently swept the world have centered on the inalienable right of man to political self-determination. Inspiring these movements and leading the cheers is none other than the renowned champion of freedom—the United States of America. And this is as it should be—because political self-determination is a fundamental right, a civil right, and a human right and it is our country's forte.

As we encourage others to seek their destiny, we are not unmindful of our own obligations at home. In the Atlantic, Puerto Rico is seeking a new and enhanced relationship with the United States; in the Pacific, Guam is seeking to move closer to the American family through its commonwealth bill, which is supported by 174 Members of Congress, evenly divided between Republicans and Democrats—a resounding indication of true bipartisan support.

In summary, the Guam commonwealth bill is the result of a 100-year effort of a people to define their political destiny. It is totally different from the Guam antiabortion law which was specifically enacted to address a particular albeit wrenching issue.

The Congress then is faced with a serious ethical issue. Members are being asked to hold hostage a piece of national legislation to an issue which is best addressed and indeed is already being addressed through the courts at the local level. While the question of abortion in general and various formulations of legislation have inflamed the passions of partisans on both sides, it is inappropriate to wage the battle over it on the political front of a people's aspirations for self-determination.

The gut-wrenching legal and moral questions raised by abortion will be settled eventually. That day will not be speeded by withdrawing support from the Guam Commonwealth bill, but will only come when men and women of goodwill rationally confront the issue and settle their differences.

We must not allow the winds of passion currently attached to that issue to extinguish the flickering candle of a people's hope to take control of their political destiny. To withdraw support of H.R. 98 is tantamount to snuffing out that narrow beacon that is guiding the people of Guam to a time when they can truly say, "At long last, we are part of the family."

It would be tantamount to spanking us and telling us to go to our room and languish through another quarter of a century of benign neglect. In behalf of my people, the forgotten patriots of America, I plead with you not to relegate us to darkness. We have been in our "room" for almost 100 years already. Treat us, your fellow Americans, at least as well as you treat foreigners seeking a share of a fair life.

I dare say that all things considered, given the events unfolding worldwide and the Nation's sentiment regarding self-determination, I make the case that it is a lot easier to explain why you are supporting a bill like ours rather than not. At the risk of being chided by my colleagues, I ask you all to join me and those who are already cosponsors, in supporting the Guam Commonwealth bill [H.R. 98].

NATIONAL MEDICAL RESEARCH DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FAZIO] is recognized for 5 minutes.

Mr. FAZIO. Mr. Speaker, what if there had been no research on polio or diphtheria? What would life be like now? Medical research is the foundation of our understanding of disease and gives us the capability to learn to treat and/or cure these diseases and explore new fields and opportunities in research. However, there are many diseases for which there still is no cure. If we are to find new treatments and cures for such diseases as asthma, multiple sclerosis, and other diseases, greater emphasis must be placed on the importance of the continuing process of medical research.

In observance of the fourth annual National Medical Research Day, I would like to stress the need for commitment to the cause of medical research and to urge my colleagues to dedicate adequate funding for this worthwhile, humanitarian endeavor. The Federal Government must expand its responsibility in the coming years if we are to keep up with the demand for new treatments and cures for diseases.

Because there was research done on polio and diphtheria, these diseases no longer pose the threat they once did. The successes of medical research occur because of a continuing commitment in both the Federal and private sectors to facilities such as the National Institutes of Health [NIH] and the Centers for Disease Control [CDC]. Thirty-eight NIH-funded scientists have gone on to win the Nobel Prize in physiology and medicine—more than any other single institution. Some of the accomplishments at NIH have been the identification of the cause of AIDS, discovering the genetic marker for Huntington's disease and the development of influenza vaccines. But none of this could have been possible without help from the Federal Government in the form of appropriations for medical research.

In the 1980's, a steady decline in support of research projects by Federal funding developed. It is time to make the 1990's a period of renewed interest in the opportunities of medical research. The 36 voluntary health agency members of the National Health Council are again concentrating efforts to make adequate funding for medical research a major priority. I sincerely hope that Medical Research Day brings our aspirations to the spotlight.

In closing, I would like to recognize the efforts of the National Asthma and Allergy Foundation of America in its efforts as well as several individuals who have come from California in support of National Medical Research Day. They are:

Ms. Mary Adams, director of public issues for the American Cancer Society in Sacramento, CA;

Ms. Lorrie Norby, program services associate for the National Multiple Sclerosis Society in Oakland, CA;

Ms. Flora Maiki, program services director of National Multiple Sclerosis Society in Oakland, CA;

Dr. Michael Bush, of the American Diabetes Association in Los Angeles, CA;

Mr. Terry Molano, of the National Sudden Infant Death Syndrome Fundation in Los Angeles, CA; and,

Ms. Audrey Goldman, the chapter services director of the National Multiple Sclerosis Society in Glendale, CA.

CORPORATE-OWNED LIFE INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Mrs. KENNELLY] is recognized for 5 minutes.

Mrs. KENNELLY. Mr. Speaker, today I am introducing a bill to curtail certain practices in the development of corporate-owned life insurance which may be deemed to be excessive in terms of traditional COLI products.

The first newly developed product makes use of artificially high interest rates and low cash payments to create a heavily tax advantaged product designed to deal with post-retirement medical benefits. The second product is so-called janitor insurance, where a company allegedly insures all or most of its employees, including the janitor, in order to generate tax-free funds with which to pay retirement income to the company's senior officers. While I firmly believe in the appropriateness of corporate owned life insurance, it seems to me that these policies have taken advantage of normal rules governing COLI in order to create unduly tax-advantaged products.

The first problem results from the ability of a company to charge one percentage point more on policy loans than they credit on borrowed amounts of cash value, thereby allowing loan rates greatly in excess of the current cost of money on the open market. Since the spread is 1 percent regardless of the interest rate, it does not matter to the insurance company nor to the policyholder at what level the interest rates are set. However, the taxpayers because of the inflated interest deduction, are financing the cost of the policyholder's insurance protection which is normally nondeductible. To correct this problem, this legislation sets a limit on deductible policy loan interest so that only interest that reflects the competitive cost of money on the open market may be deducted. This is accomplished by establishing a standard already used by the insurance industry, and eliminating the ability to make a distinction between borrowed and unborrowed funds. This, in effect, limits the deductible interest to an amount that is about the same as the market cost of money.

The second problem is related to the first, it is the use of this inflated internally generated money to meet the requirements of the 4-out-of-7 rule, which should be met from policyholder money rather than tax-deferred money generated within the policy. To address this problem, the legislation limits the amount of the four premiums that can be paid with any kind of policy-generated funds.

Third, to address the problem of "janitor insurance", employees who are going to be insured must, under this legislation, be notified by their employers of this fact, and given the opportunity to refuse. Also, if the business is going to be the beneficiary of the life insurance policy but purchases the insurance pursuent to a funded or unfunded plan of employee compensation or benefits, then the employee who is insured must also participate at the appropriate time in the employee benefit plan that the life insurance is helping to make possible. While some argue that this type of insurance is not actually sold, this provision will make sure that when a business uses life insurance to legitimately provide for its employees, then each and every employee that is covered by a life insurance policy must be eligible to receive those benefits when, usually at retirement, the time arrives. However, this participation requirement is not intended to apply to insurance arrangements which are not being used to fund any plan of employee compensation or benefits, such as key-man policies or buy-sell arrangements.

Finally, there seems to be some confusion in the industry over whether a tax on the gain in a policy is triggered when a life insurance policyholder exercises a "substitution of insured clause" in a contract. This legislation confirms that the exercise of a substitution of insured clause, which is an attempt to continue the underlying policy without having to pay acquisition costs again, is a taxable event. It makes the fact that the policyholder must pay tax on the gain at that time clear and enforceable by requiring the insurance company to issue a form 1099 which will report to both the Internal Revenue Service and to the policyholder, that they must pay tax on the gain—if any—that existed at the time the clause was triggered.

The effective date of this legislation is for contracts pruchased on or after today, March 27, 1990.

I hope these narrow changes will eliminate the excesses that have occurred in this market, and hope these issues can be dealt with this year.

BUSH ADMINISTRATION TAXES CHILDREN BY SELLING BONDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, when Ronald Reagan assumed to Presidency in 1981, the Federal Government's debt amounted to $909 billion. In some 200 years of American history which included a civil war, two world wars, depressions and economic panics, the United States had a total of $909 billion worth of debt. Unbelievably, in just 9 years of "peacetime prosperity", the Reagan/Bush administrations managed to triple the debt.

The Federal deficit was $2.8 trillion at the end of 1989; 2.8 trillion $1 bills could pave a road from New York to San Francisco 4 miles wide, or erect a wall of stacked $1 bills from New York to San Francisco 38 feet high. At its current rate of production, the Bureau of Engraving and Printing would need 424 years to reproduce the deficit in $1 bills. I shudder to think what the deficit would have been like in hard times under Reagan and Bush.

Even worse, the Republicans have mesmerized the American people into

accepting the sale of bonds—or borrowing—to finance this deficit. President Bush has said many times "Read my lips, no new taxes," but this statement is simply untrue. It is true that President Bush has not raised income taxes, but he is financing this enormous deficit by increasing Treasury bond sales.

This substitute of bond sales for tax increases is nice, neat, and even ruthlessly clever, but let me enlighten the Bush administration with one essential detail: Selling bonds and raising taxes are basically the same thing. Because future generations will have to repay these bonds upon maturity, the difference is that bond sales increase taxes on our children and not on ourselves.

Simply stated, the Bush administration is committing extortion against our children. Because most of our children are not old enough to vote, they have no political voice with which to accuse the Bush administration of this extortion. Therefore, I am doing it for them.

Today the United States is borrowing from future generations to finance its programs. By selling long-term securities such as 40-year REFCORP bonds, the Federal Government is mortgaging the future. Since Treasury bonds are generally long term, the payback is far off in the future. Tomorrow's taxpayer—our children—will have to foot the bill for this borrowing.

It is incredible that the Bush administration is trying to issue new 40-year bonds under the recently created REFCORP to finance the S&L bailout. Long-term Treasury bonds were created in part so people could enjoy a steady stream of income over an extended period. With 40-year bonds, however, few people will be able to buy a new bond and live to see its maturity. President Bush is trying to further postpone ultimate taxpayer costs. Committing extortion against our children appears not to be enough, he is now trying to commit extortion against our children's children.

Today's Federal budget deficit is over $64 billion, but the key messages are not in the numbers. One message is in America's apparent prosperity despite an unprecedented string of big deficits. But, the other important message is in the shift in attitude of the American people. America is now a veteran of big deficits and there is no reason for Americans to expect anything else. Americans have become used to deficits, and the administration is not heeding the warnings of impending disaster. The fact that there has been no economic catastrophe yet increases the likelihood of repeated large deficits. These repeated large deficits may not be the road to quick ruin, but if unchanged, they will certainly lead to catastrophe at some point; and this catastrophe will prove far worse than anything President Reagan would have expected.

President Bush's recent State of the Union Address before Congress is the latest example of this frightening shift in attitude. President Bush has used so many tricks to fiddle with the deficit that the public has grown confused and complacent. The Bush administration has attempted to mask our real problems with accounting gimmickry, such as the recent Bush capital-gains proposal, which will cost $21 billion over the next decade; and the $30 billion of the S&L bailout which was removed from deficit calculations when it was taken off budget. To the average American taxpayer, Federal budget deficit quotes have become as frequent and arbitrary as lottery numbers, but less meaningful or stimulating.

President Bush's budget even contains new tax breaks benefiting upper income individuals and large corporations. So who will pay for today's budgetary tricks, borrowing, and tax breaks for the wealthy?

With the budgetary actions of Mr. Reagan and President Bush, our childrens' future has been put up on the auction block and sold to foreign investors.

Like serfdom in the medieval era, people born in the mid 1960's or later are fast becoming economic servants to the reigning generation. Never in our history has one generation made such ruthless and reckless economic decisions that would so enormously burden future generations. President Bush's financing of the budget deficit with Social Security surpluses, for example, can only mean one of three things when it comes time to provide for the baby-boomer retirees: First, dramatically slashing benefits; second, defaulting on a stack of IOU's; or third, sharply increasing taxes on tomorrow's workers.

Tomorrow's America will have to pay the price for today's prosperity largely because of the lack of economic foresight of the Reagan/Bush administrations. When the bill comes due, it will tighten on tomorrow's middle and lower classes like a vise. America will likely become a second-rate industrial strength with second-rate living standards.

The irony in all this is the fact that such political actions are unnecessary. All across the country, State and local leaders are governing on platforms that emphasize investment over consumption, and a sound economic future over immediate economic reward. The first 39 Presidents were successful on similar platforms, so why have the last 2 Presidents abandoned our children?

Additionally, extortion is a serious crime in this country. The administration has no right to tax tomorrow's children for today's benefits. I have always believed that part of my duty is to try to pass an improved world to my children. I have always hoped that our children would have better living conditions and more opportunities than we have had. Our children are our future, and I think the Bush administration should step back and recall this fact.

EASTERN EUROPEAN OFFICIAL DEBT REDUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. LEACH] is recognized for 60 minutes.

Mr. LEACH of Iowa. Mr. Speaker, over the last 12 months the United States and its NATO partners have witnessed, in an astounding, inexorable cataract of events, the triumphant culmination of 40 years of steadfast alliance diplomacy. Communism is in retreat pell-mell. This is particularly true in Eastern Europe where monuments of and to a fraudulent Stalinist polity have collapsed, perhaps irreversibly.

At the root of the changes taking place in the world—from Eastern Europe to the Baltic States; from Afghanistan to Tiananmen Square; from Nicaragua to South Africa—is a stark recognition that it is Jeffersonian democracy—the premise that governments derive their powers from the consent of the governed, from individuals endowed by a Creator with inalienable rights—that provide the most revolutionary, adventursome, and humane model for political and economic organization in recorded history. I stress, for a moment, that Jeffersonian democracy is a more revolutionary model than that provided by Marxist dogma because established democracies tend to be complacent and, too often, status quo oriented. The fact is that status quo constitutionalism is seldom challenged because the capacity to adapt rapidly to public concerns is one of the profoundest hallmarks of democratic institutions. Ideas, not people, are locked in by democratic governments because the right to revolt, implicit in documents like the Declaration of Independence and the Rights of Man, provides a doctrine of empowerment to the people rather than to elitist leaders claiming to ride and interpret a crest of historical forces. The revolutions currently sweeping the world thus vindicate rather than jeopardize our societal values; they make possible visions of creative splendor, rather than destructive apocalypse.

As we celebrate the triumph of Western values and resolve, we cannot forget that vast issues of great complexity confront the newly emancipated nations of Eastern Europe and it is

key that the United States responds to changing circumstances in a responsible way.

Tomorrow I will therefore introduce legislation that has modest historical precedent, but which will also mark a new departure in U.S. policy, one that would utilize official debt reduction as a component of American strategy toward consolidating democracy in Eastern Europe.

As everyone in Congress understands, President Bush is confronted by a vexing political catch-22 as he navigates our country through the unpredictable tides and currents shaping contemporary world affairs.

In Eastern Europe, for example, the societal strains and economic dislocation created by unprecedented transition from command to market economies seem increasingly formidable, even as bilateral U.S. aid dollars to propel growth appear to be—relative to the total scope of the problem—increasingly limited. Within our own hemisphere, Panama and Nicaragua have put forward morally compelling and economically claimant claims for American aid and succor. Notwithstanding broad congressional support for $900 million to Poland and Hungary last year, there appears to be little stomach on Capitol Hill for providing massive new money commitments for Eastern Europe.

Neither political party in Congress is contemplating either foreign aid increases or granting to the executive branch anything like the flexibility it needs to prudently manage our existing foreign aid today. While geostrategists within the leadership of the majority party have propounded the stunning thesis that the United States should profer direct aid to an economically unreconstructed Soviet Union, my sense is that the driving priority ought to be for the United States to emphasize above all the need to preserve the gains of freedom in Eastern Europe. In this context we have little choice but to place an emphasis on reducing old debt rather than raising false expectations that new money commitments in the nature of a Marshall plan from the U.S. Government are in the offing.

Believing that the United States is uniquely positioned to take the lead among creditor nations in reducing old debt, I would stress that the legislation I will be introducing tomorrow will call on the Bush administration to expand the innovative Brady approach on Third World debt to the most dangerously overleveraged countries of Eastern Europe, provided they have taken substantive steps toward political and economic reform and have in place a structural adjustment program with an international financial institution.

This Democratic Defense Initiative authorizes in a multilateral context the President to write down public sector debt. The President is called upon to negotiate and coordinate government-to-government debt reduction with the Paris Club and other creditor nations. The amount of debt reduction would be formulated on a case-by-case basis and would take into consideration the country's ability to pay. Negotiation and actual write down or conversion of official debt would be exclusive, however, of debt owed to the international financial institutions.

Like the Brady approach to commercial debt relief, official debt reduction in Eastern Europe quintessentially reflects President Bush's "will without wallet" lament. It is not only the maximum that can be expected under the circumstances, but a statesmanlike philosophical accommodation that should help bring American power and commitments more into balance.

As this Congress well knows, a year ago Treasury Secretary Nicholas Brady announced an impressive new U.S. strategy for grappling with the financial and social woes of the most heavily burdened debtor countries in the developing world. Profoundly reflective of changing economic and political currents, the Brady initiative proposed that as part of its approach to dealing with Third World debt the United States would act in concert with creditor and debtor nations, multilateral financial institutions, and commercial banks to officially sponsor—on a voluntary, case-by-case basis—reductions in the outstanding claims of private foreign lenders.

The Brady initiative has enjoyed substantial initial success. In the first instance, it must be stressed again and again that the Brady plan, like its predecessor, is rightly and solidly premised upon the implementation of public policies in debtor countries which promote sustainable economic growth. By and large, these policy reforms reflect free market principles and are designed to reduce bloated public sectors, encourage domestic savings, liberalize rules governing foreign trade and investment, and attract both foreign and flight capital. Under the Brady plan the multilateral financial institutions, as before, retain the primary and vital responsibility for promoting these structural adjustments in debtor countries.

Thus in Mexico, commercial lenders agreed to reduce a portion of the country's private debt by 35 percent, recognizing that Mexico had boldly undertaken an economically ambitious and politically perilous reform program designed to radically overhaul its stultifying tax, fiscal, and trade policies. In the Philippines, commercial banks agreed to support a Philippine bond issue in the international credit market; in turn, the government in Manila is pursuing structural adjustment and proposing to use borrowings from international financial institutions to buy back in the secondary market some of the country's private commercial debt. In both instances, as in the recent debt reduction agreement for Costa Rica, the Brady initiative has demonstrated significant flexibility in application. More importantly, the Brady initiative has complemented U.S. foreign policy and clearly contributed to advancing America's vital national interest in strengthening the social and economic foundations of nascent democracies around the world.

I raise the precedent of the Brady plan and U.S. strategy for dealing with Third World debt because I think this is an extremely propitious time for a Bush initiative to write off public sector indebtedness to Eastern Europe. I would stress the appropriateness of this approach in a number of ways.

In the first place, Eastern Europe has a limited capacity to absorb new resources of a foreign aid dimension.

Second, the debt overhang is so extraordinary—particularly in Poland, Hungary, and Bulgaria—that whatever system of democratic and free market transition takes place may be jeopardized by loss of international confidence in the capacity of those societies to deal with their mountain of debt.

As the most recent financial market trends analysis of the Organization of Economic Cooperation and Development observes, in 1989 domestic economic performance in Eastern Europe weakened. The OECD report states that,

> The current account balance of the region weakened appreciably while debt, which has been rising steadily since 1985 rose at an accelerated pace and debt indicators look considerably worse than a year ago. In view of current trends, further weakening seems inevitable before changes in economic structure can produce any tangible improvement.

This predictive analysis is being borne out by the facts in Poland, where that country's economic program of shock therapy has corralled hyperinflation but also induced a severe recession. As the Washington Post reported on Saturday, March 17, 1990, in Poland industrial production fell last month by nearly 30 percent compared to a year ago, and real incomes since January have plunged 37 percent. Unemployment rolls are growing by tens of thousands a month as the Polish Government sticks to the letter of the most aggressive free-market adjustment program in Eastern Europe.

Third, I would note that even though the Paris Club agreed to a 1-year moratorium for Poland on payments due on its $27 billion official debt, as well as a 14-year restructuring agreement covering $10 billion, these laudable actions have the principle effect of rolling over the debt and

simply postponing the economic pain of repayment. Moreover, the continued rollover of a perilously large debt overhang—with ever-accumulating interest—constitutes at the very least a cautionary signal for private foreign investors, and constitutes at the worst a disastrous impediment to new foreign investment.

My view is that a reduction of public indebtedness in the neighborhood of 50 percent, for those heavily indebted East European countries committed to political and economic reform and which are cooperating with multilateral financial institutions, would give those countries a much greater opportunity to achieve sustainable economic growth than any other kind of foreign aid initiative that the U.S. Congress or the executive branch is likely to develop in the next several years.

In addition, the initiative I am contemplating would involve not only the United States but the members of the Paris Club and other creditor governments, and would place a much greater burden on the West Europeans—particularly the Germans—who, most of us believe, have the capacity and the ability to be more generous in terms of assistance to their newly democratic neighbors.

In terms of history, there are several precedents for this kind of approach. From a U.S. perspective, the most recent precedent for official debt reduction was July 1989, when President Bush launched an American initiative to excuse African countries from repaying U.S. development assistance loans, provided they institute economic reforms. Second, there is the precedent of the London Accord of 1953, in which the United States and its Western allies magnanimously, as well as prudentially, wrote off approximately one-half of all of West Germany's debt—commercial and official—in order to help strengthen democratic governance in Bonn. In that spirit it is time that we call upon all of the Western European countries to reduce their public sector debt exposure based upon an expanded version of the Brady initiative to Eastern Europe.

To some extent, a policy of public debt forgiveness does imply loss of revenues to the U.S. Treasury, but it should not be forgotten that most of this debt—a total of $3,632.8 billion—is not now being paid nor under even optimistic projections could it be paid fully. For budgetary purposes, the new policy should explicitly recognize the present practice of not being able to collect on bad credits.

Slightly digressing, let me note that one of the decisions that the Bush administration is going to be making in the next several weeks relates to our possible participation in a European Bank for Reconstruction and Development. Of potentially great significance is the proposition that American participation in this bank would position the United States with the leadership of the countries of the continental nations of Western and Southern Europe, particularly France and Italy, in contrast to our more customary Northern European orientation.

Second, U.S. participation would help protect our international trade and financial interests.

Third, it is substantial significance that the United States is being asked to put up only 8.5 percent of the capital in contrast to double that in the other two principal international financial institutions. In other words, our participatory obligations in an EBRD are less onerous than in the IMF and World Bank.

But let me make clear that, from a congressional perspective, American participation in a EBRD ought to be conditional upon serious consideration of European creditor governments in a Brady-type approach toward official debt reduction in Eastern Europe. Otherwise the United States, and the American taxpayer, would face the unhappy prospect of seeing U.S. resources recycled to Western European trade competitors.

It is one thing for the United States to give direct assistance to the newly democratic countries of Eastern Europe for economic and infrastructure development purposes. It is quite another for the United States to provide assistance and have American dollar resources indirectly recycled to Western European countries as debt repayments.

To conclude, Mr. Speaker, even as the dust settles from the sudden and massive implosion of communism in Eastern Europe, no one can conclude anything from this prodigious political tremor but that we have experienced one of the great turning points in history. The results of three-quarters of a century of blasphemous social experimentation with state-sponsored coercion are clear. Communism has no political legitimacy because it is not rooted in the consent of the people. Communism also has no claim to economic efficacy. In the Eastern European laboratory, where ideologically, rigid governments treated citizens as repressed of guinea pigs, the passage of time has shown that state-managed, nonincentive systems fail to raise the standard of living of people as effectively and fairly as free market economies.

What is happening in Eastern Europe is rooted above all in the courage of the people of the region, but it has been premised as well in the firmness of the West, especially our commitment to NATO. To the extent the United States and its allies now face new and substantial foreign policy challenges in Eastern Europe, they are problems most emphatically born of success, not the offspring of failure.

In this regard, as everyone in Washington knows, there has been a major news item in recent days regarding the claim by a leading Democrat that the President has been too attentive to public opinion polls on Eastern Europe. By way of response, I would like to make the modest observation that in contrast to the calls of some for greater cheerleading from the executive branch, it is striking instead how the President has not demagoged good news—which would have been the response to public opinion polls—and has instead put in place a firm, principled foreign policy in a thoughtful, low-key manner, recognizing that high-charged opinion-of-the-moment rhetoric could prove counterproductive for the people of the region.

Indeed, it is a foreign policy approach which has won the respect and admiration of Europeans—no mean task. As the distinguished British historian Michael Howard astutely observes in the latest issue of Foreign Affairs,

> George Bush reassured the allies that American troops would remain in Europe for as long as they were wanted. He reassured President Gorbachev that the United States would not exploit the situation to the Soviet disadvantage. Given the extraordinary concatenation of events, Europe was as fortunate to have Bush in the White House as they were to have Gorbachev in the Kremlin.

The past stands as a benchmark for the future. American involvement in Eastern Europe extends back not only to the frightful dawn of a tense cold war, but to our commitment in two costly and traumatic world wars to preserve a Europe whole and free. Now is the time to ensure steps are taken to make Eastern Europe a shining example of the individual aspiration to be free, by raising living standards for a courageous population which has outfaced the twin terrors of fascism and communism, and which, as a consequence, has been disproportionately depressed in this century.

We are in the process of winning World War III without firing a shot. Let's not lose the last battle by slackening commitment when it is most needed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BILIRAKIS (at the request of Mr. MICHEL), for today, on account of illness in the family.

Mr. STUMP (at the request of Mr. MICHEL), for today and the balance of the week, on account of illness in the family.

Mr. DENNY SMITH of Oregon (at the request of Mr. MICHEL), for today and the balance of the week, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEACH of Iowa) to revise and extend their remarks and include extraneous material:)

Mr. MCEWEN, for 60 minutes, today.

Mr. LEACH of Iowa, for 60 minutes, today.

Mr. WALKER, for 60 minutes, each day on March 27, 28, and 29.

Mr. BLAZ, for 5 minutes, today.

(The following Members (at the request of Mr. PAYNE of New Jersey) to revise and extend their remarks and include extraneous material:)

Mr. FAZIO, for 5 minutes, today.

Mr. POSHARD, for 5 minutes, today.

Mrs. KENNELLY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SARPALIUS, for 60 minutes, on March 28.

Mr. SAVAGE, for 60 minutes, on March 28.

Mr. MICHEL, following proceedings in joint meeting in the House, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LEACH of Iowa) and to include extraneous matter:)

Mr. BROOMFIELD.

Mr. GALLO.

Mr. LENT.

Mr. DELAY.

Mr. HUNTER.

Mr. BILIRAKIS.

Mr. THOMAS of California.

Mr. GALLEGLY.

Mr. MCCANDLESS.

Ms. ROS-LEHTINEN in three instances.

Mr. RITTER in two instances.

Mr. BAKER.

Mr. SOLOMON.

Mr. GILMAN.

Mr. HAMMERSCHMIDT.

Mr. CRANE in two instances.

Mr. MCEWEN.

Ms. SCHNEIDER.

Mr. IRELAND.

(The following Members (at the request of Mr. PAYNE of New Jersey) and to include extraneous matter:)

Mr. LEATH of Texas.

Mr. KLECZKA.

Mr. PENNY in four instances.

Mr. DORGAN of North Dakota.

Mr. DELLUMS.

Mr. STARK.

Mr. HAMILTON.

Mr. SMITH of Florida.

Mr. LEHMAN of Florida.

Mr. DICKS.

Mr. TORRES.

Mr. PEASE.

Mr. TRAFICANT.

Mr. LIPINSKI in two instances.

Mr. WILLIAMS.

Mr. MCDERMOTT.

Mr. SLATTERY.

Mr. MURTHA.

Mr. SPRATT.

Mr. RICHARDSON.

Mr. YATRON in two instances.

Mr. DURBIN.

Mr. OWENS of New York.

Mr. ACKERMAN.

Mr. ESPY.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1853. An act to award a congressional gold medal to Laurance Spelman Rockefeller; to the Committee on Banking and Finance.

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that the committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On March 26, 1990:

H.R. 3311. An act to designate the Federal building located at 350 South Main Street in Salt Lake City, UT, as the "Frank E. Moss United States Courthouse."

ADJOURNMENT

MR. LEACH of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 10 minutes p.m.), under its previous order the House adjourned until tomorrow, Wednesday, March 28, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2846. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed lease of defense articles to Indonesia (Transmittal No. 4-90), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

2847. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report containing an analysis and description of services performed by full-time USG employees as of September 30, 1989, for which reimbursement is provided under section 21(a) or section 43(b) of the Arms Export Control Act, pursuant to 22 U.S.C. 2765(a)(6); to the Committee on Foreign Affairs.

2848. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed lease of defense articles to Australia (Transmittal No. 5-90), pursuant to 22 U.S.C. 2796(a)(6); to the Committee on Foreign Affairs.

2849. A letter from the Executive Director, State Justice Institute, transmitting the State Justice Institute's financial statements and schedules as of September 30, 1989 and 1988; to the Committee on Government Operations.

2850. A letter from the Chairman, U.S. Securities and Exchange Commission, transmitting a report of the Commission's activities under the Freedom of Information Act for calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2851. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of the Walker River Paiute Tribe of Indians, Nevada judgment funds in Docket 87-A before the U.S. Claims Court, pursuant to 25 U.S.C. 1402(a), 1404; to the Committee on Interior and Insular Affairs.

2852. A letter from the Chairman, U.S. Nuclear Waste Technical Review Board, transmitting the Board's findings, conclusions, recommendations relating to high-level radio active waste or spent nuclear fuel, pursuant to 42 U.S.C. 10268; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2209. A bill to enable producers of soybeans to develop, finance, and carry out a nationally coordinated program for soybean promotion, research, and consumer information, and for other purposes; with an amendment (Rept. 101-431). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1813. An act to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters (Rept. 101-432, Pt. 1). Ordered to be printed.

Mr. WHEAT: Committee on Rules. House Resolution 366. Resolution providing for the consideration of H.R. 1463, a bill to amend the National Capital Transportation Act of 1969 relating to the Washington Metrorail System (Rept. 101-433). Referred to the House Calendar.

Mr. WHITTEN: Committee on Appropriations. H.R. 4404. A bill making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes (Rept. 101-434). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolu-

tions were introduced and severally referred as follows:

By Mr. ROE (for himself, Mr. BROWN of California, Mr. SCHEUER, Mrs. LLOYD, Mr. VOLKMER, Mr. MORRISON of Washington, Mr. NELSON of Florida, Mr. HALL of Texas, Mr. FAWELL, Mr. SMITH of Texas, Mr. VALENTINE, Mr. TORRICELLI, Mrs. MORELLA, Mr. BOUCHER, Mr. BRUCE, Mr. STALLINGS, Mr. SCHIFF, Mr. TRAFICANT, Mr. NOWAK, Mr. PERKINS, Mr. MCMILLEN of Maryland, Mr. NAGLE, Mr. HAYES of Louisiana, Mr. COSTELLO, Mr. TANNER, Mr. BROWDER, and Mr. MINETA):

H.R. 4380. A bill to authorize appropriations for the Superconducting Super Collider, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. MOAKLEY:

H.R. 4381. A bill to authorize appropriations to expand Head Start programs and programs carried out under the Elementary and Secondary Education Act of 1965 to include child care services, and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. COUGHLIN:

H.R. 4382. A bill to make effective the Department of Transportation antidrug program rule for recipients of Federal mass transit assistance; jointly, to the Committees on the Judiciary and Public Works and Transportation.

By Mr. DICKS (for himself, Mr. SPRATT, Mr. SKELTON, and Mr. DAVIS):

H.R. 4383. A bill to establish a National Commission on Defense and National Security to provide to the President and Congress independent analysis of the national security strategy and policies of the United States; jointly, to the Committees on Foreign Affairs and Armed Services.

By Mr. FRANK:

H.R. 4384. A bill to extend until September 30, 1992, those provisions of section 3718 of title 31, United States Code, relating to contracts for collection services; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.R. 4385. A bill to modify the provisions of the Internal Revenue Code of 1986 which relate to the taxation of foreign risk active business income of certain U.S.-controlled foreign corporations qualifying as insurance companies and which are inhibiting the competitiveness of U.S.-owned insurers with their foreign-owned counterparts; to the Committee on Ways and Means.

By Mr. HOAGLAND:

H.R. 4386. A bill to amend the Federal Home Loan Bank Act to restructure the Resolution Trust Corporation Oversight Board and Board of Directors into a single governing entity; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HUBBARD:

H.R. 4387. A bill to amend the National Trails System Act to require the establishment of interpretive sites for the Trail of Tears National Historic Trail; to the Committee on Interior and Insular Affairs.

By Mr. HUCKABY (for himself, Mr. STANGELAND, Mr. TALLON, Mr. EMERSON, Mr. ESPY, Mr. LEWIS of Florida, Mr. STENHOLM, Mr. COMBEST, Mr. STALLINGS, Mr. HERGER, Mr. SARPALIUS, Mr. HOLLOWAY, Mr. JONES of North Carolina, Mr. HATCHER, and Mr. CONDIT):

H.R. 4388. A bill to establish price support programs for the 1991 through 1995 crops of cotton, rice, and sugar; to the Committee on Agriculture.

By Mrs. KENNELLY:

H.R. 4389. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of interest paid in connection with certain life insurance contracts; to the Committee on Ways and Means.

By Mr. LEATH of Texas (for himself, Mr. MONTGOMERY, Mr. LEHMAN of Florida, and Mrs. PATTERSON):

H.R. 4390. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make grants (in conjunction with the Secretary of Defense) for the establishment of research centers at qualifying medical schools to carry out medical research in areas of interest to the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. OLIN:

H.R. 4391. A bill to amend the Head Start Act to establish the average minimum amount per capita that must be expended annually to provide services to children who participate in Head Start programs; to the Committee on Education and Labor.

By Mr. PEASE (for himself, Mr. BARNARD, Ms. KAPTUR, and Mr. LEVIN of Michigan):

H.R. 4392. A bill to improve the foreign trade zone program; to the Committee on Ways and Means.

By Mr. PENNY (for himself, Mr. FRANK, Mr. WALSH, and Mr. FROST):

H.R. 4393. A bill to amend the Higher Education Act of 1965 to improve the eligibility of less-than-half-time students for Federal student assistance programs, and for other purposes; to the Committee on Education and Labor.

By Mr. ROBERTS (for himself, Mr. JONTZ, Mr. DURBIN, Mr. STALLINGS, and Mr. MARLENEE):

H.R. 4394. A bill to increase the exports of U.S.-processed, value-added agricultural products; jointly, to the Committees on Agriculture, Ways and Means, and Foreign Affairs.

By Ms. SCHNEIDER (for herself and Mr. MACHTLEY):

H.R. 4395. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide financial assistance for the operation and maintenance of State veterans' cemeteries, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SPRATT:

H.R. 4396. A bill to extend until January 1, 1994, the existing temporary suspension of duty on tetraamino biphenyl; to the Committee on Ways and Means.

By Mr. THOMAS of California (for himself, Mr. PASHAYAN, Mr. LOWERY of California, Mr. HERGER, Mr. EMERSON, Mr. DYMALLY, Mr. SHUMWAY, Mr. HATCHER, and Mr. BOSCO):

H.R. 4397. A bill to amend the Food Security Act of 1985 to reauthorize the targeted export assistance program, and for other purposes; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. THOMAS of Wyoming:

H.R. 4398. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Clarks Fork River in the State of Wyoming as a component of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. WALKER (for himself and Mr. GEKAS):

H.R. 4399. A bill to provide that the U.S. District Court for the Eastern District of Pennsylvania shall also sit in Lancaster, PA; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 4400. A bill to provide for a stay of deportation and work authorization for spouses, children, and dependent parents of legalized aliens; to the Committee on the Judiciary.

By Mr. WELDON:

H.R. 4401. A bill to amend title 10, United States Code, to impose additional prohibitions on convicted individuals and debarred or suspended contractors, and to require the Secretary of Defense to withdraw approval of any defense contractor's system for awarding subcontracts if the contractor enters into a subcontract with a contractor who has been suspended or debarred by the Federal Government; to the Committee on Armed Services.

By Mr. SOLARZ (for himself and Mr. MCHUGH):

H. Con. Res. 293. Concurrent resolution expressing the sense of the Congress concerning the future of Taiwan; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. UPTON:

H.R. 4402. A bill for the relief of Peter Short; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 4403. A bill to clear certain impediments to the licensing of M/V *Pumpkin* for employment in the coastwise trade and fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 173: Mr. MACHTLEY.

H.R. 594: Ms. LONG.

H.R. 711: Mr. APPLEGATE.

H.R. 761: Mr. RICHARDSON.

H.R. 855: Mr. CONDIT, Mr. MCCURDY, and Mr. GILMAN.

H.R. 985: Mr. COSTELLO.

H.R. 1154: Mr. FORD of Tennessee.

H.R. 1180: Mr. ENGEL.

H.R. 1249: Mr. SOLARZ.

H.R. 1287: Mr. DE LA GARZA.

H.R. 1400: Mr. HALL of Texas, Mr. JOHNSTON of Florida, Mr. DREIER of California, Ms. ROS-LEHTINEN, Mr. DONNELLY, Mr. WILSON, Ms. KAPTUR, Mr. BRUCE, Mr. LEVINE of California, Mr. SUNDQUIST, Mr. GILLMOR, Mr. LEHMAN of Florida, Mr. GUNDERSON, Mr. GEREN, Mr. SHAW, and Mr. LEWIS of Florida.

H.R. 1561: Mr. BROWN of California and Mr. CHAPMAN.

H.R. 2269: Mr. PAXON.

H.R. 2336: Mr. DE LA GARZA, Mr. THOMAS of Georgia, Mr. PAXON, and Mr. CAMPBELL of Colorado.

H.R. 2437: Mr. COX, Mr. SHUSTER, Mr. THOMAS A. LUKEN, Mr. MOODY, and Mr. SKEEN.

H.R. 2608: Mr. LEVIN of Michigan, Mr. SIKORSKI, and Mr. CLARKE.

H.R. 2674: Mr. MCMILLEN of Maryland.

H.R. 2700: Mr. LIGHTFOOT.

H.R. 2885: Mr. BEVILL.

H.R. 3158: Mr. PORTER, Mr. BOUCHER, Mr. HALL of Texas, Mr. HENRY, Mr. SHAYS, Mr. HORTON, and Mr. ROWLAND of Connecticut.

H.R. 3243: Mr. HASTERT, Mr. FLIPPO, Mr. ERDREICH, and Mr. WILSON.

H.R. 3267: Mr. MARKEY and Mr. BONIOR.

H.R. 3347: Mr. JOHNSTON of Florida.

H.R. 3546: Mr. DOWNEY and Mr. WEISS.

H.R. 3643: Mrs. MEYERS of Kansas, Mr. COBLE, Mr. HUGHES, Mr. HYDE, and Mr. SHUMWAY.

H.R. 3699: Mr. BORSKI, Mr. ECKART, Mr. GALLEGLY, Mr. GILMAN, Mr. HENRY, Mr. HERGER, Mr. HOLLOWAY, Mr. LEWIS of Florida, Mr. DONALD E. LUKENS, Mr. MARTINEZ, Mr. MCDADE, Mr. MOODY, Mr. NEAL of Massachusetts, Mr. OWENS of Utah, Mr. RINALDO, Mr. SHUSTER, Mr. TALLON, and Mr. LOWERY of California.

H.R. 3732: Mr. AUCOIN, Mr. YOUNG of Alaska, Mr. PARKER, Mr. DEWINE, Mr. KASICH, Mr. BOEHLERT, Mr. HUTTO, Mr. INHOFE, Mr. TAUZIN, Mr. ROWLAND of Connecticut, Mr. PICKLE, Mr. HALL of Ohio, and Mrs. LLOYD.

H.R. 3756: Mr. QUILLEN.

H.R. 3766: Mr. FAUNTROY, Mr. ENGLISH, Mr. TOWNS, Mr. FEIGHAN, Mr. CONYERS, and Mr. BONIOR.

H.R. 3859: Mr. OWENS of Utah and Mr. DYMALLY.

H.R. 3868: Mr. BRYANT, Mr. MARTINEZ, and Mrs. BENTLEY.

H.R. 3880: Mr. SOLOMON.

H.R. 3899: Mr. HARRIS, Mr. MAVROULES, Mr. EVANS, Mr. MORRISON of Connecticut, Mr. CROCKETT, Mr. SKELTON, Mr. KOLTER, Mr. THOMAS A. LUKEN, Mr. HUTTO, Mr. WILLIAMS, Mr. YATRON, and Mr. ROBERTS.

H.R. 3958: Mr. GEREN.

H.R. 3961: Mr. LEWIS of Georgia, Mr. LANCASTER, and Mr. ATKINS.

H.R. 3971: Mr. MACHTLEY.

H.R. 3978: Mr. ROTH, Mr. SENSENBRENNER, Mr. HAYES of Louisiana, Mr. CARPER, Mr. WASHINGTON, Mr. LEWIS of Georgia, Mr. MOAKLEY, Mr. KOLTER, Mr. SOLARZ, Mr. WHITTAKER, Mr. UDALL, Mr. APPLEGATE, and Mr. OXLEY.

H.R. 3979: Mr. FAUNTROY, Mr. FORD of Tennessee, Mr. TOWNS, Mr. RANGEL, Mr. DELLUMS, and Mr. BEVILL.

H.R. 3994: Ms. SCHNEIDER.

H.R. 4026: Mr. GRANT, Mr. DORGAN of North Dakota, Mr. HOLLOWAY, Mr. ECKART, and Mr. MACHTLEY.

H.R. 4060: Mr. GAYDOS, Mr. AKAKA, and Mrs. MARTIN of Illinois.

H.R. 4064: Mr. POSHARD and Mr. SABO.

H.R. 4111: Mr. EMERSON.

H.R. 4120: Mr. SABO, Mr. MCDERMOTT, Mr. MRAZEK, Mrs. COLLINS, Mrs. LOWEY of New York, Mr. WHEAT, Mr. PANETTA, and Mr. AUCOIN.

H.R. 4157: Mr. WHEAT, Mr. FROST, Mr. GOSS, and Mr. BORSKI.

H.R. 4160: Mr. MOLLOHAN, Mr. MCNULTY, Mr. YATRON, Mr. RANGEL, Mr. BOUCHER, Mr. FAUNTROY, Mr. PERKINS, Mr. POSHARD, Mr. KOLTER, Mrs. BOXER, and Mr. HYDE.

H.R. 4201: Mr. ATKINS.

H.R. 4231: Mr. ACKERMAN, Mr. AUCOIN, Mr. CONYERS, Mr. GEREN, Mr. LEWIS of Georgia, Mrs. LOWEY of New York, Mr. MCNULTY, Mrs. SAIKI, and Mr. WATKINS.

H.R. 4262: Mr. COYNE.

H.R. 4265: Mr. DEWINE.

H.R. 4268: Mr. BEREUTER and Mr. KANJORSKI.

H.R. 4329: Mr. RHODES, Mr. MORRISON of Washington, Mr. SMITH of Texas, and Mr. SHAYS.

H.J. Res. 431: Mr. LIVINGSTON, Mr. GIBBONS, Mr. GALLEGLY, Mr. ROE, Mr. LEWIS of Florida, Mr. MCCURDY, Mr. TOWNS, Mr. DEWINE, Mr. HAYES of Illinois, and Mr. BEILENSON.

H.J. Res. 455: Ms. KAPTUR and Mr. DWYER of New Jersey.

H.J. Res. 456: Mr. WEBER and Mr. SIKORSKI.

H.J. Res. 460: Mr. SMITH of Florida, Mr. HAMMERSCHMIDT, Mr. LENT, Mr. SKEEN, Mr. GALLO, Mr. BUECHNER, Mr. CLEMENT, Mr. TALLON, Mr. PURSELL, Mr. SLATTERY, Mr. RHODES, Mr. BUNNING, Mr. MINETA, Mr. PRICE, Mrs. SAIKI, Mr. RAHALL, and Mr. RICHARDSON.

H.J. Res. 462: Mr. VENTO.

H.J. Res. 467: Mr. OBEY, Mr. WOLF, Mr. SAXTON, Mr. KOSTMAYER, Mrs. UNSOELD, Ms. SLAUGHTER of New York, Mr. NEAL of North Carolina, Mrs. ROUKEMA, Mr. BURTON of Indiana, Mr. ATKINS, Mr. ROWLAND of Connecticut, and Mr. BENNETT.

H.J. Res. 469: Mr. HALL of Ohio, Mr. KLECZKA, Mr. LANTOS, Mr. MCEWEN, Mr. RIDGE, Mr. SCHUETTE, Mr. VANDER JAGT, Mr. VENTO, and Mr. WELDON.

H.J. Res. 495: Mr. CONTE, Mr. LEHMAN of Florida, Mr. NAGLE, Mr. COUGHLIN, and Mr. WHITTAKER.

H.J. Res. 501: Mr. FLIPPO, Mr. RINALDO, Mr. DWYER of New Jersey, Mr. MACHTLEY, Mr. LANTOS, Mr. DEWINE, Mr. MAZZOLI, Mr. STOKES, Mr. FAUNTROY, Mr. CARR, Mr. TORRICELLI, Mr. WOLF, Mr. LENT, Ms. KAPTUR, Mr. ANNUNZIO, Mr. TOWNS, Mr. FAZIO, Mr. GEKAS, Mr. MCNULTY, Mr. BILBRAY, Mr. BILIRAKIS, Mr. GREEN, Ms. PELOSI, Ms. ROS-LEHTINEN, Mr. WALSH, Mr. MANTON, Mr. WOLPE, Mr. BEILENSON, Mr. BATES, Mr. MATSUI, Mr. BROWN of California, Mr. MCGRATH, Mr. FOGLIETTA, Mr. PALLONE, Mr. OLIN, Mr. COUGHLIN, Mr. HANSEN, Mr. HORTON, Mr. HOCHBRUECKNER, Mr. LAGOMARSINO, Mr. MRAZEK, Mr. ENGEL, Mr. SAXTON, Mr. DEFAZIO, Mr. BROWN of Colorado, Mr. SCHUMER, Mr. DYSON, Mrs. BOXER, Mr. POSHARD, Mr. TRAXLER, and Mr. ROE.

H.J. Res. 519: Mr. ORTIZ.

H.J. Res. 524: Mr. FAUNTROY, Mr. WOLPE, Mr. LAUGHLIN, Mr. WALSH, Mr. BEVILL, Mr. JONTZ, Mr. VALENTINE, Mr. BROWN of Colorado, Mr. FAZIO, Mr. MILLER of Washington, and Mr. WEBER.

H. Con. Res. 21: Mr. PANETTA.

H. Con. Res. 23: Mr. PARRIS, Mr. HAWKINS, Mr. GONZALEZ, Mr. LEHMAN of California, Mr. BUECHNER, Mr. BATEMAN, Mr. MATSUI, Mr. MADIGAN, Mr. BILIRAKIS, Mr. CRAIG, Mr. DINGELL, Mr. VENTO, Mr. HUCKABY, Mr. SMITH of New Jersey, Mrs. SAIKI, Mr. PASHAYAN, Mr. SHAW, and Mr. ATKINS.

H. Con. Res. 69: Mr. BONIOR.

H. Con. Res. 203: Mr. BORSKI.

H. Con. Res. 268: Mr. ATKINS and Mr. MAVROULES.

H. Con. Res. 269: Mr. TORRES, Mr. HOCHBRUECKNER, Mr. LANCASTER, Mr. FISH, Mr. BATEMAN, and Mr. BONIOR.

H. Con. Res. 280: Mrs. LLOYD, Mr. MANTON, Mr. FAUNTROY, Mr. CLEMENT, Mr. ROE, Mr. DWYER of New Jersey, Mr. LEWIS of Florida, Mr. KOLTER, Mr. PACKARD, Mr. BOEHLERT, Mr. HENRY, Mr. BILBRAY, Mr. WOLF, Mr. DENNY SMITH, Mr. LIGHTFOOT, Mr. FORD of Michigan, Mr. SABO, Mr. INHOFE, Mr. LIPINSKI, Mr. PETRI, Mr. GEREN, Mr. BOSCO, Mr. COSTELLO, Mr. PERKINS, Mr. STAGGERS, Mr. SIKORSKI, Mr. STANGELAND, Mr. GALLO, Mr. QUILLEN, Mrs. BYRON, Mr. ECKART, Mr. UPTON, Mr. DE LUGO, Mr. HUGHES, and Mr. VALENTINE.

H. Con. Res. 287: Mr. JAMES, Mr. DENNY SMITH, Mr. AKAKA, Mr. ROE, Mr. BOSCO, Mr. DORNAN of California, Mr. ROWLAND of Connecticut, Mr. RANGEL, Mr. MANTON, Mr. BORSKI, Mr. SOLOMON, Mr. DEFAZIO, Mr. NEAL of North Carolina, Mr. ATKINS, Ms. KAPTUR, Mr. LEHMAN of Florida, and Mr. RAY.

H. Con. Res. 289: Mr. FEIGHAN, Mr. RITTER, Mr. PORTER, Mr. MRAZEK, Mr. FRANK, Mr. BORSKI, Mr. THOMAS A. LUKEN, Mr. LAGOMARSINO, Mr. GRANT, Mr. MCNULTY, Mr. HUGHES, Mr. KOSTMAYER, Mr. JONTZ, Mr. ECKART, Mrs. JOHNSON of Connecticut, Mr. DONNELLY, Mr. SMITH of Vermont, Ms. SLAUGHTER of New York, Mr. RINALDO, Mr. MOAKLEY, Mr. COSTELLO, Mr. SISISKY, Mr. ARMEY, Mr. SANGMEISTER, Mr. COUGHLIN, Mr. ROWLAND of Connecticut, Mr. LEVINE of California, Mr. CARR, Mr. PURSELL, Mr. WISE, Mrs. BOXER, Mr. DWYER of New Jersey, Mr. STENHOLM, Mrs. MORELLA, Mr. FAWELL, Mr. HORTON, and Mr. WELDON.

H. Con. Res. 290: Mr. ANNUNZIO, Mr. CLEMENT, Mr. GILMAN, Mrs. KENNELLY, Mr. LEVINE of California, Mr. NEAL of North Carolina, Mr. NELSON of Florida, Mr. RANGEL, Mr. ROWLAND of Connecticut, and Mr. SCHUMER.

H. Con. Res. 291: Mr. COBLE, Mr. HYDE, Mrs. ROUKEMA, Mr. BURTON of Indiana, Mr. DONALD E. LUKENS, Mr. MICHEL, Mr. WALSH, and Mr. HUGHES.

H. Res. 297: Mr. ARMEY.

H. Res. 312: Mr. KOSTMAYER, Mr. HOCHBRUECKNER, Mr. ROWLAND of Connecticut, Mr. FOGLIETTA, Mr. SOLOMON, Mr. ATKINS, and Mrs. MEYERS of Kansas.

H. Res. 349: Mrs. MORELLA.

H. Res. 351: Mr. JAMES, Mr. FROST, Mr. MARLENEE, Mr. GRADISON, Mr. ROBINSON, Mr. GEKAS, and Mr. SENSENBRENNER.

EXTENSIONS OF REMARKS

THE TRUE FACE OF GLASNOST SHOWS ITSELF IN LITHUANIA

HON. GERALD B.H. SOLOMON
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. SOLOMON. Mr. Speaker, the true face of glasnost and perestroika is starting to reveal itself in the tiny Baltic nation of Lithuania.

I am submitting for the RECORD two articles from today's Washington Times. They are headlined "Troops Capture Deserters" and "White House Decries 'Intimidation'." Let those who think the cold war is over, who think we should reduce our national defenses to a few rifles, who think the smiles of Mikhail Gorbachev reflects the new Soviet Union, let them read these two articles and sober up.

Mr. Speaker, the usual apologists for the Soviet Union are advancing the argument that we have no moral leverage to criticize the Soviet clampdown on Lithuania because of our Panama operation. To them I say: an obvious distinction needs to be made. In Panama we supported the will of a people whose election results the previous spring were thwarted by a brutal dictator. In Lithuania, the Soviets are suppressing the desire of a people to be free for the first time since Josef Stalin gobbled up the Baltic States in his cynical deal with Hitler more than 50 years ago.

Today we read that Soviet paratroopers are rounding up Lithuanians who "deserted" from the Soviet Army. Military service is only one of the infringements on freedom suffered by the Lithuanians. I remind you that we went to war with Great Britain in 1812 partly because they were impressing our sailors. Evidently, Lithuania's big mistake was to take glasnost seriously, to dare to participate in the movement of freedom sweeping both hemispheres.

Mr. Gorbachev's smile is getting a little thin these days. He knows that if the spirit of freedom establishes itself in the Baltic States, Georgia and the Ukraine could be next, and that would be the death knell of the Soviet Empire.

Should this intimidation continue, our response should be immediate and unambiguous: no summit, no arms talks, no cultural exchanges, no increase in trade.

But above all, the events in Lithuania send us a strong message: it would behoove us to keep our powder dry.

The articles follow:

[From the Washington Times, Mar. 27, 1990]

WHITE HOUSE DECRIES SOVIET "INTIMIDATION"

(By Paul Bedard)

The White House yesterday charged Moscow with conducting a "pattern of intimidation" to quell Lithuania's independence drive and warned that superpower relations could be chilled unless Soviet forces are withdrawn.

Soviet takeover of two schools in Lithuania is a "significant event," White House spokesman Marlin Fitzwater said. Moscow's action "will not lead to lessening of tensions and could have adverse international repercussions and could be counterproductive to U.S.-Soviet relations," he added.

The statement was the sharpest attack to date on Soviet President Mikhail Gorbachev's efforts to overturn Lithuania's declaration of independence.

Moscow's problem with Lithuania comes just months before Mr. Gorbachev is to meet Mr. Bush in Washington. The White House has been unable to nail down a date for the summit, leading to speculation that Mr. Gorbachev may have to delay the meeting—tentatively set for June—until the Lithuanian situation is settled.

But Mr. Fitzwater yesterday tried to downplay that possibility. "We're prepared to have the summit at this time. We're still hopeful this can all be resolved."

Mr. Fitzwater cited reports that Soviet soldiers have been stationed in two Communist Party schools in Lithuania and said Moscow's intimidation "seems to have escalated."

While noting that Soviet troop movements have not threatened civilian lives, he added: "Certainly it is a kind of force. We would be opposed to any kind of use of force. . . . It's all under the general framework of the pattern of intimidation that we have objected to in the past."

The White House said any Soviet use of coercion or intimidation against the rebel Baltic government was "bound to backfire."

State Department spokeswoman Margaret Tutwiler made a similar statement yesterday as the administration continued to keep the heat on Mr. Gorbachev.

Mr. Fitzwater said the administration has received assurances as recently as last weekend that Soviet force would not be used. "We are heartened by their repeated assurances that they do not intend to use force. Whether [the Kremlin is] responding to us or other factors, that's impossible to say," he said.

The administration has repeatedly called on the Soviets to enter into negotiations with Lithuania, and President Bush has voiced optimism that Mr. Gorbachev will keep his pledge not to use force.

"It is incumbent that both sides maintain open communication and not take any actions that can be misinterpreted," Mr. Fitzwater said.

After a meeting with Mr. Gorbachev yesterday, Sen. Edward M. Kennedy, Massachusetts Democrat, said the Kremlin leader promised that force wouldn't be used unless "lives were threatened."

A White House official responded that the administration continues to believe that Mr. Gorbachev will not order troops to shoot.

In a direct plea to Moscow last week, Mr. Bush said: "Please continue to exercise that kind of restraint. And remember—no use of force."

Armed force is "the one thing that Gorbachev will really shy away from," said a senior administration official who requested anonymity. "I think he thinks it would really do violence to the principles that he's established."

While Mr. Bush and Mr. Gorbachev haven't discussed the issue recently, senior administration officials are acting as middlemen between the two leaders, an official said.

"They know our position," said the official.

Mr. Fitzwater said that, despite ongoing negotiations, Lithuania's new leadership and Soviet officials remain "far from resolving the total situation."

Lithuanian lawmakers voted to declare independence on March 11.

[From the Washington Times, Mar. 27, 1990]

TROOPS CAPTURE DESERTERS

(By Ann Imse)

VILNIUS, U.S.S.R.—Soviet paratroopers stormed a psychiatric hospital before dawn today and captured about two dozen Lithuanians who had sought refuge there after deserting the Red Army upon Lithuania's declaration of independence.

Some of the young men were beaten bloody, witnesses said, and a trail of blood led down the steps and out the front door of the hospital.

It was the first report of violence in the confrontation between Lithuania and the Kremlin that began March 11 with Lithuania's attempt to secede from the union.

A nurse said 10 to 15 of the approximately 38 men who had been staying at the hosptial escaped.

"They beat them with their fists," a duty nurse said of the Soviet soldiers who broke into the hospital about 3 a.m. She refused to give her name. "I was afraid they would shoot me too."

The middle-aged woman grew increasingly hysterical as she recounted the story for reporters at the hospital about two hours after the incident.

She said two large truckloads of soldiers drove up to the hospital compound and rushed up the stairs to the second-floor ward where the young men had been staying, often surrounded in daytime by Soviet and foreign journalists.

Soviet military authorities had warned Lithuania they would use force to capture the men they considered deserters if they did not return voluntarily by last Saturday.

The Lithuanian government contends the youths were illegally drafted into an army of occupation. Lithuania was annexed to the Soviet Union in 1940 in a move the republic's government contends was illegal and against the people's will.

In the psychiatric ward where the youths had been staying, iron bedsteads were broken and overturned, and mattresses were scattered on the floor. Some of the iron-barred windows were broken. On one cot lay a soldier's wool winter hat with the Soviet army insignia torn off.

Two feet away, a half-eaten loaf of black bread remained on a white sheet.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Yesterday, Soviet troops occupied another Communist Party building in Lithuania and an army helicopter dropped leaflets in the republic's capital calling for an anti-secession demonstration in Vilnius today.

Lithuanian leaders meanwhile began talks with the Soviet army about their standoff with Moscow since declaring independence two weeks ago.

Sen. Edward Kennedy said in Moscow that President Mikhail Gorbachev reiterated his pledge not to use force except to save lives in the breakaway Baltic republic.

Lithuanian Deputy Premier Romualdas Ozolas, one of two officials who met two Soviet military officers yesterday, told reporters: "After coming out of this meeting, I can say the mood has changed."

"It is evident the conflict will not be escalated," he said.

But Lithuanian President Vytautas Landsbergis was more skeptical. He said he had not received clear assurances that no more buildings would be occupied and that the talks would mainly function "to avoid conflict between the military and citizens."

Moreover, in a separate interview with U.S. National Public Radio, Mr. Landsbergis said the situation had become "very dangerous" in the light of Mr. Gorbachev's reported remarks to Sen. Kennedy.

"Before he always said that he would not use force in Lithuania, but now we have a situation where he's qualifying that statement and setting a condition under which he could use force."

Soviet television said yesterday that Soviet helicopters have been patrolling Lithuania's borders daily because of reports that "territorial guard forces," set up by the popular independence movement Sajudis, have been erecting border signs.

Paratroopers appeared in Vilnius on Sunday at the Higher Party School and the Institute of Marxism-Leninism. Lithuanian officials said there also were soldiers at the Vilnius Communist Party headquarters.

Mr. Ozolas said that during the talks, the army said it occupied the buildings at the request of Lithuanian Communists who remain loyal to Moscow. The majority of the party split with Moscow in December to found an independent Communist Party.

Reports in Vilnius last night said paratroopers had occupied another building, the Communist Party local headquarters in the port of Klaipeda, 200 miles northwest of Vilnius.

Lithuanian journalist and activist Vilus Kavalauskas told reporters the paratroopers had arrived in response to a request by Klaipeda's assistant party chief. Mr. Kavalauskas did not say when the building was seized.

Mr. Landsbergis said yesterday he also heard reports that soldiers appeared at a former Communist Party building in the Lithuanian city of Kaunas, 60 miles west of Vilnius, but did not remain to occupy it. He did not elaborate.

A helicopter dropped leaflets on Vilnius urging people to attend an anti-independent rally this afternoon in front of the parliament building. One set of leaflets was unsigned, while another was signed by "U.S.S.R. citizens in Lithuania." The republic of 3.8 million has a large Russian minority.

"They are pushing the Lithuanian people into an abyss of independence," the leaflets warned. "Think! Will we be free in this 'free state' where the right to own property is given again into alien hands?"

Soviet TV reported last night that members of a faction of the Lithuanian Communist Party still loyal to their Moscow-based parent party convened and accused the current Lithuanian leadership of "anti-socialist and, in essence, anti-Soviet policies."

The Soviet Union annexed the Baltic republics of Lithuania, Latvia and Estonia after taking control under terms of the 1940 Hitler-Stalin pact. Independence movements have also sprung up in Latvia, Estonia and other Soviet republics.

Mr. Gorbachev, meeting with Mr. Kennedy in Moscow, said he was committed to solving the dispute with Lithuania peacefully and would use troops only if lives were in danger.

A SALUTE TO HANDS IN ACTION/MANOS EN ACCIÓN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, Gov. Bob Martinez, of Florida, has proclaimed the week of April 1–7, 1990, as Green Ribbon Week. This week will bring to the public's attention the plight of abused and neglected children in our State and all over the Nation. At the forefront of this wonderful project is "Hands in Action/Manos en Acción", a nonprofit organization whose main objective is to help the abandoned, abused, and neglected children in our community, without regard to race, color, creed, gender, or national origin. "Hands in Action/Manos en Acción" was founded by individuals whose only compensation is the satisfaction of knowing that they have done their part to help the future leaders of our community.

"Hands in Action/Manos en Acción's" members "Dare to Care" about the victims of child abuse in Dade County. There are 1,200 reported cases per month, of which 300 cases are tried in the courts monthly. Sixty percent of the cases involve drug abuse—40 percent are cocaine babies and 20 percent involved drug usage at home. There is a demand for shelter beds which exceeds those which are available, therefore putting a strain on already overcrowded foster homes. The primary goal of "Hands in Action/Manos en Acción" is to build a center/home to house 96 abandoned, abused, and neglected children. Through the generosity of Metropolitan Dade County, "Hands in Action/Manos en Acción" has been able to secure a 50-year lease on 8.5 acres of land at a nominal fee of $1 per year. Ground breaking should be on May 1990, and the facility should be inaugurated in the beginning of 1991.

The Hands in Action Children's Center will consist of a main building to house staff, counselors, a kitchen, and a combination cafeteria/auditorium. In addition, the building will have four pavilions housing 24 children each. Outdoor recreational areas are also planned for. Upon completion, the children's center will be donated to the Children's Home Society and Hands in Action will retain a supervisory role.

Green Ribbon Week will be observed by the wearing of a green ribbon, symbolizing hope for a better future in an abuse-free society. Its goal is to create awareness to the current crisis of child abuse facing our Nation and a commitment to prevention and education. It is being celebrated during the month of April because April is Child Abuse Prevention Month. Several events have been planned during Green Ribbon Week: a kickoff luncheon on March 30, a radio marathon on March 31, and a rally on April 3.

Mr. Speaker, I would like to commend "Hands in Action/Manos en Acción's" governing board for this labor of love they have so successfully undertaken: president, Carmen Portela; executive vice-president, Josey M. Velázquez; vice-president, Gary De León; treasurer, Alina Cepero; secretary, Maria Victoria González, vice-secretary, Elena Rosado; executive director, Gloria Fernández-Justiniani; and, the chairman of the fundraising committee, Rosa Guerra Pérez. They have selflessly involved themselves in this project which has made, and will continue making a lasting and dramatic difference in the lives of all the children it touches.

Mr. Speaker, my congratulations and best wishes to all who have become involved in this most worthy project. They have become a voice for those who cannot speak out for themselves. Thank you.

EAGLE SCOUT HONORED

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues, an outstanding young individual from the Fifth Congressional District of Illinois who has completed a major goal in his scouting career. On Sunday, April 22, 1990, at the Evangelical Lutheran Church of the Cross located in Chicago, IL, Brian J. Hansen will be honored at an Eagle Scout Court of Honor.

It is important to note that less than 1 percent of all young men in America attain the rank of Eagle Scout. This high honor can only be earned by those scouts demonstrating extraordinary leadership abilities. This young individual has clearly demonstrated such abilities through his dedicated community service and deserves special recognition.

In light of the commendable leadership and courageous activities performed by such a fine young man, I ask you, my fellow colleagues, to join me in honoring Brian Hansen for attaining the highest honor in scouting—the Eagle Scout. With God's blessings, let us wish him the very best in all of his endeavors.

THE PARADOX OF PERESTROIKA FOR SOVIET JEWS, SCIENCE, AND SOCIETY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. RITTER. Mr. Speaker, I rise today to call attention to a disturbing trend in the Soviet Union. As events are unfolding in the

U.S.S.R., there has been some encouraging news for the Soviet Jewish community. Jewish culture, stifled by past regimes, is rising from the ashes. Soviet Jews are emigrating to the West in greater numbers, and conditions are improving for those who remain

Yet an article in the March 1990 issue of Physics Today chronicles a shocking increase in the activities of extremist groups such as the group Pamyat, directed at Soviet Jews. These extremists preach a gospel of hate with similarities to that of Nazi Germany. Their acts of anti-semitic violence are increasing.

Pamyat holds regular public meetings calling for pogroms against Jews, and requires its new recruits to turn in the names of at least five Jewish households . . . "no doubt to locate them for the pogroms to come," says Vitalii J. Goldanskii, the Director of the Semenov Institute of Chemical Physics of the Soviet Academy of Sciences, and the author of a companion piece on how this budding anti-semitism is causing a brain drain from the scientific community in the U.S.S.R.

This holds chilling prospects for the Jewish community in the U.S.S.R., and for society as a whole. I recommend the article to the attention of my colleagues, and to all who are concerned about human rights around the world.

THE PARADOX OF PERESTROIKA: ETHNIC TURMOIL AND ANTI-SEMITISM

(By Irwin Goodwin)

A specter is haunting Soviet society. The specter is the economic, cultural and political turmoil that a writer in the government newspaper *Izvestiia* likens to "a fever . . . that weakens *perestroika* . . . and deafens the leadership to the voices that cry out in alarm to prevent disorder and anarchy." As democracy and diversity sweep through much of Eastern Europe, the Soviet behemoth is mired in ethnic upheavals and nationalist upsurges. Such is the nature of the troubles in this era of *glasnost* that extremists groups with names like Fidelity, Renewal, Fatherland and Memory, all xenophobic and ostensibly devoting themselves to the preservation of historic buildings, churches and monuments, combating drunkenness or reviving Russian folksinging, are waging a rearguard action, deploring Western-style freedoms and advocating anti-Semitism. The actions of these groups cause Soviet Jews to think about a modern exodus.

Though worries about anti-Jewish outbursts have been increasing for nearly two years, anxieties were inflamed by recent events—notably the disruption of a meeting of "April," the liberal writers' society, at the Central House of Writers in Moscow on the evening of 18 January. A gang of about 30 bullyboys, members of a paramilitary group called *Pamyat*, broke into the hall, shouting, "Yids, get out to your Israel" and "Today we are here with loudspeakers; tomorrow we will come with guns."

Anti-Jewish episodes are becoming bolder. Jewish cemeteries have been desecrated. Since late January, posters have appeared on Moscow's Arbat Street with the text "If you are Russian, kill the Jewish." *Pamyat* has gone so far as issuing a blacklist on which appear the names of prominent Jewish physicists such as Arkady Migdal. In addition, leaflets are being distributed warning that pogroms will take place in May.

To many Soviet Jews the organized hatred is a paradox. Conditions for Jews have improved considerably under Mikhail S. Gorbachev's policies. Synagogues have been allowed to reopen. Jewish books and newspapers, though still few in number, are being published again. Jewish cultural societies have sprung up in Moscow, Leningrad, Kiev and many provincial cities, especially in the Baltic republics. Jews are being admitted to more universities and taking command of the news media. Many more Jews are being allowed to emigrate, and more visas have been issued for Jews to travel.

Yet memories of tsarist oppression and Stalinist violence run deep. The mood of Soviet Jews hovers between pessimism and panic.

Soviet leaders have been curiously silent. Last year, a Lithuanian Jewish writer, Grigory Kanovich, joined by two members of the Soviet Academy of Sciences, physicist Vitaly Ginzburg and biophysicist Oleg Gazenko, submitted a petition to Gorbachev, signed by more than 200 of their fellow members of the Congress of People's Deputies, calling on him to condemn anti-Semitism and to create a special committee to investigate the problem. The petition was buried. A few weeks later, ten prominent scientists and writers sent a letter on the subject to Gorbachev. No formal answer was received—though one of Gorbachev's associates informed them that their message was discussed with Politburo members.

Then, on 21 February, Soviet prosecutors indicated they had begun a criminal investigation of *Pamyat*, the most aggressive faction of the anti-Jewish extremists. The Interior Ministry announced the same day that "rumors of pogroms against Jews . . . have no grounds whatsoever." The statements did not allay fears. As one Jewish physicist told an American colleague, "Whenever a stranger comes to my door I think I am about to be shot dead."

Jewish scientists have long been prey to open and furtive discrimination. But after the end of the Stalin era their condition improved—though they could still be sent to prison or gulags for acts considered hostile to Soviet policies, such as participating in human rights demonstrations. Refuseniks were fired from their jobs for no other reason than that they applied for an exit visa.

Today's enemy of Soviet Jews seems to be, ironically, *glasnost* and *perestroika*, which have unleashed forces that appear out of control. Gennadi I. Gerasimov, spokesman for the Soviet Foreign Ministry, told an interviewer recently that "we have no history of democratic experience. Freedom to some means anarchy."

When the Soviet public contemplates the harsh realities of food shortages, urban crime and ethnic strife, along with the deterioration of authority, they may wonder whether their leaders, Gorbachev included, aren't just fiddling while the USSR burns.

In his column in *The New York Times* on 12 February, William Safire wrote that "with their inborn barometers of bigotry, Soviet Jews sense a coming disintegration of authority and know they will be scapegoats in any return to ethnic passions." While Soviet authorities are unsure of the exact number of Jews in the country, US groups estimate that about 1.5 million consider themselves Jews. Increasing numbers seek to emigrate.

Indeed, Soviet scientists are coming to the US as immigrants and visitors in record numbers. "It would be easy for any one of my colleagues to get a tenured professorship here," says a visiting Soviet physicist. "But I don't know any who want to emigrate. Still, the Jewish ones are frightened about the political instability and the anti-Semitic insanity."

In the past year or two, "Little Russians" have emerged at such universities as MIT, Princeton and the University of Minnesota. Yuri Cherniak, a planetary physicist at MIT who once ran the refusenik science seminar in Moscow, insists that Soviet authorities aren't likely to improve conditions for Jews—and that negligence, he says, will impel more scientists to "join the brain drain" from the USSR.

One who understands the current situation is Vitalii I. Goldanskii, director of the Semenov Institute of Chemical Physics and a member of the Soviet parliament. Goldanskii recently wrote a pointed and poignant essay.—IRWIN GOODWIN

THE 275TH ANNIVERSARY AT TOLLAND, CT

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. GEJDENSON. Mr. Speaker, I rise today to congratulate the citizens of Tolland, CT, on the town's 275th anniversary.

The township of Tolland was settled by a daring and independent group of adventurers who left Windsor, for the wide space and fertile hills of scenic northeastern Connecticut.

Known for their patriotism, the citizens of Tolland vigorously supported the Revolutionary War by contributing to the relief of those who suffered for advocating the principles that led to our national independence.

Tolland's deep history and tradition can be seen throughout the town in such historical monuments as the Old Blacksmith Shop, the Tolland State Jail, the town's many churches, the Hicks Memorial School, the Mansion House of the Tolland Green, the Tolland Green Court House, the Old Cider Mill, the Underwood Belting Co., and the Old Settlers' Rock, to name just a few.

As the Congressman representing Tolland, I wish to extend my personal congratulations and best wishes to its citizens as they celebrate this historic anniversary.

CZECHOSLOVAKIA: A NEW MARKET FOR LONG ISLAND BUSINESS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. LENT. Mr. Speaker, recently, the Honorable Peter King, comptroller of Nassau County, NY, visited Czechoslovakia to assess trade opportunities for Long Island companies as they seek to expand export business in the newly opened markets of Eastern Europe.

He has kindly provided me with a full report of his findings on this trip. Mr. King's report offers insights that will benefit Long Island businesses and their counterparts across the country. Therefore, I would like to share this information with my colleagues and respectful-

ly insert this report into the CONGRESSIONAL RECORD as part of today's proceedings.

CZECHOSLOVAKIA: A NEW MARKET FOR LONG ISLAND BUSINESS?

(By Peter T. King)

Recently I visited Prague, Czechoslovakia to assess the opportunities for Long Island-based companies to export their products to Czechoslovakia.

During my stay I attended a series of meetings with (a) American government officials, including U.S. Commerce Secretary Robert Mosbacher and Ambassador Shirley Temple Black; (b) Czechoslovak officials, including Foreign Trade Minister Andrej Barcak; (c) members of the U.S.-Czechoslovak Economic Council; and (d) representatives of American companies interested in the Czechoslovak market. I also met privately with Dr. Tomas Pstross who heads the international Department of Civic Forum, President Havel's pro-democracy organization which took power from the Communists in December 1989.

The underlying theme of all these meetings was that the new government is pledged to dismantling its state-run economy and replacing it with a free-market economy. The full opening of the Czechoslovak economy to the outside world is an integral part of this reform.

Needless to say, reversing four decades of central state planning will be no easy task.

Czechoslovakia's 1989 per capita gross national product was only 60% of the European Community average and just 47% of the U.S. level. Inflation-adjusted wages fell 2.4% in 1989 and normal economic growth slowed from 2.8% to 1.7%. It is estimated that it will take almost $30 billion to clean up the Czechoslovak environment—an environment whose sulfur emission levels per square mile are almost seven times as high as in the United States. More than $2.5 billion will be required to upgrade Czechoslovakia's outdated communications system and billions more will be required to renovate housing in Prague alone.

There are, however, a number of positive indicators. Czechoslovakia's inflation rate is less than 3.5% and its foreign debt of $7.9 billion is the second lowest in Eastern Europe. Czechoslovakia has a solid credit rating and its imports from non-socialist countries have increased for the past five years.

Bilateral trade between the United States and Czechoslovakia totalled $142.7 million in 1988, $55.1 million of which were U.S. exports and $87.6 were imports. Czechoslovakia ranks 113th among the importers of U.S. products. Secretary Mosbacher made it clear that an increase in U.S.-Czechoslovak trade is a high priority of American policy. While in Prague he announced the reopening of the U.S. Foreign and Commercial Service Office. This office will serve as the vehicle for U.S. businesses to work with the Czechoslovak government and private sector to assess opportunities for participation in the emerging free-market economy. The Secretary also announced a Commerce Department country study on Czechoslovakia to identify which sectors of the economy offer the best opportunities for trade and investment by American companies. Secretary Mosbacher urged the Czechoslovaks to establish a government office that will serve as a "one-stop shop" to facilitate the processing of foreign dealings in Czechoslovakia. The Secretary further stated that if the Czechoslovaks implement the necessary safeguards, the United States will ease its export controls on high-technology goods. Czechoslovakia will receive "most favored nation" status when trade agreement negotiations are completed in the next several months.

The bottom line though is that the Czechoslovaks must effect fundamental reforms if there is to be any chance of substantial trade with the United States. And some changes have been made including legislation allowing the establishment of private businesses with no limit on the number of employees. Quite frankly, however, the Czechoslovakian government—the Trade Ministry in particular—seems reluctant to take meaningful action.

During a roundtable discussion at Zbraskau Palace presided over by Secretary Mosbacher, Trade Minister Barcak stated that while the new government is committed to creating a market economy, they have no experience whatever in free market economics. They are also very wary of being exploited by unscrupulous firms that would make a quick killing and then pull out, taking their profits with them. Barcak is convinced that the new government in Hungary allowed itself to be victimized by a number of such deals.

This caution has caused delays in enacting a number of reforms which were expected to be in place by now. For instance, there is no legislation yet dealing with the issue of converting profits into hard currency for repatriation—i.e., the right to convert profits from crowns to dollars and then take those dollars out of the country. Nor has any decision been made on the issue of "retention"—i.e., the percentage of profit which must be reinvested. Similarly, no action has been taken on a new commercial code, a bankruptcy law, joint ventures or tax reform. Obviously, there will be no significant increase in foreign investment in Czechoslovakia until these basic issues are resolved.

It was apparent that there is a clear split in the government between those such as Barcak who are extremely cautious, if not obstructionist, and others who believe that risks must be taken if any progress is to be made. In fact, during the meeting at Zbraskau Palace, one of Barcak's deputies openly disagreed with him on the retention issue. Also, Civic Forum is becoming increasingly impatient with the slow pace of change. They fear that the strong public support which now exists for the government will dissipate if there is no evidence of economic reform and progress.

It should be noted that the new government includes a number of holdovers from the Communist regime. Barcak is one of them. There is a real question whether these socialist holdovers are committed to effecting the free market policies of the Havel government. Nationwide elections will be held on June 8th and it is very likely that, following those elections, many of the holdovers will be gone from office.

I came away from Prague, however, convinced that the current delays are only temporary. Civic Forum is clearly the dominant political force in Czechoslovakia. Marxism is discredited and the move toward a free market economy is irreversible. The tide of history is clear. The barriers to trade and investment will be effectively removed by the time of the June elections.

Removal of these barriers will provide opportunities for Long Island firms. Significant needs exist in Czechoslovakia for many of the products and services produced on Long Island such as high-tech computers, software equipment, electronic items, pharmaceuticals, machine tools and anti-pollution equipment.

Though I would not advise Long Island companies to enter into binding commitments until the Czechoslovakian government adopts a comprehensive package of economic reform and the June elections have been held, there is no reason why these firms should not begin the process and make preliminary inquiries to the U.S. Commerce Department and the Czechoslovak Chamber of Commerce and Industry. In making such inquiries, Long Island companies should consider acting in concert—perhaps through the formation of a sub-committee of the LIA. This would prevent duplicative effort and provide a central source of information. The County's Department of Commerce and Industry could also play a significant role in this process. Long Island companies should also give thought to sending a trade mission to Czechoslovakia and participating in Czechoslovakia's primary trade fair, the International Engineering Fair in Brno in September.

The defeat of communism in Czechoslovakia and throughout Eastern Europe is an event of historic magnitude. It is in America's moral and diplomatic interests to assist these countries in their transition to market economies. Czechoslovakia is seeking trade and investment, not economic aid. Moreover, the Czechoslovaks particularly want expanded trade with the United States. Minister Barcak made it clear that whatever trade reforms are ultimately enacted will favor the United States over Germany because Czechoslovakia wants to avoid becoming economically dependent on a united Germany.

By expanding their markets to Czechoslovakia and other Eastern European countries, Long Island companies would be advancing their own financial position, strengthening our regional economy and furthering our national interest.

CONGRATULATIONS TO THE PAUL QUINN COLLEGE MEN'S BASKETBALL TEAM

HON. MARVIN LEATH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. LEATH of Texas. Mr. Speaker, I want to take this opportunity to recognize and congratulate some very special individuals: Michael Christian, Derrell Cunegin, Yaiwan Gatewood, Fred Glespie, Gregory Hartwell, Alvin Jefferson, Chris Johnson, Gerald Love, Keith McKinnon, Kenneth McKinnon, Reggie Miller, Clarence Webb, Andre Williams, Roland Williams, and Myron Wilson.

Who are these young men? They are the Paul Quinn College men's basketball team and through the leadership and coaching skills of James "Zip" Summers and Ira Rutherford, they captured the National Small College Athletic Association Basketball Championship in Flint, MI, at the NSCAA tournament held March 5 to 9. The NSCAA competition was among the nonscholarship schools with maximum enrollment of 500.

Paul Quinn College is the oldest historically black college west of the Mississippi River. It is a nonscholarship school with approximately 500 students; 80 percent of the students re-

ceive some type of financial aid. As a nonscholarship school, you can tell that the kids play for the pure love of the sport. To become the national champions while striving to attain a quality education attests to their skill and determination.

It's important to me and to all Texans that we let everyone know that the Lone Star State is home of the national small college basketball champions. The Tigers ended the season with a 30 and 7 record and were second in the Nation in scoring at 105.3 points a game. Mr. Speaker, I join the citizens of Waco, TX, in commending the Tigers for their outstanding season.

NORTH BEACH ELEMENTARY SCHOOL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it is with great pride that I rise today to share with my colleagues the great achievements of North Beach Elementary School, in Miami Beach, FL. North Beach Elementary has been selected by the U.S. Department of Education to receive a site visit under the 1989-90 Elementary School Recognition Program. North Beach Elementary is the only national finalist school—public or private—from Dade County and one of five finalists from Florida. The school is 1 of 243 schools receiving site visits this year.

Mr. Speaker, during my first 6 months in Congress, I have had the pleasure of visiting over 30 schools in my district. I had the pleasure of visiting with North Beach Elementary's wonderful students and faculty and witnessed the excellence for which they are now being recognized.

I would like to convey my congratulations and pride for a job well done to the students, faculty, staff, Dr. Michael Kesselman, North Beach Elementary's principal, as well as to Mr. Dan Snowberger, PTA president at North Beach Elementary. The outstanding work being done by everyone at North Beach Elementary deserves this recognition.

Mr. Speaker, on April 3, 1990, the final, in-depth meeting with the site visitor from the Department of Education will take place at North Beach Elementary. I know the school will receive the highest marks. No matter what the outcome may be, North Beach Elementary is a winner and an example for all to emulate.

EAGLE SCOUT HONORED

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues, an outstanding young individual from the Fifth Congressional District of Illinois who has completed a major goal in his scouting career. On Sunday, April 29, 1990, at the school hall of St. Leonard Parish located in Berwyn, IL, Carlo Capalbo will be honored at an Eagle Scout Court of Honor.

It is important to note that less than 1 percent of all young men in America attain the rank of Eagle Scout. This high honor can only be earned by those scouts demonstrating extraordinary leadership abilities. This young individual has clearly demonstrated such abilities through his dedicated community service and deserves special recognition.

In light of the commendable leadership and courageous activities performed by such a fine young man, I ask you, my fellow colleagues, to join me in honoring Carlo Capalbo for attaining the highest honor in Scouting—the Eagle Scout. With God's blessings, let us wish him the very best in all of his endeavors.

FAMILY FAIRNESS LEGISLATION

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. ROYBAL. Mr. Speaker, I rise today to introduce legislation that will guarantee that people legalized under the Immigration Reform and Control Act of 1986 [IRCA] will be separated from their undocumented immediate family members that are currently residing in the United States.

This bill would maintain the family unit by granting undocumented immediate relatives of legalized persons work authorization and a stay of deportation until a visa is available for them under the second preference. This legislation would cover legalized persons' undocumented spouses, children, and dependent parents whom are living with the legalized persons as of the date of the enactment of the bill.

Under the current policy, the so called family fairness policy promulgated by the Immigration Naturalization Service [INS], spouses and children of legalized persons are granted work authorization and extended voluntary departure if they have been residing with the legalized person in the United States since November 6, 1986. While the INS policy was designed to keep families together during the legalization process, this policy does not go far enough to preserve the sanctity of the family unit and prevent the deportation of the relatives of legalized persons.

First, the INS family fairness policy still manages to exclude some immediate family members. Spouses of legalized persons who married after November 6, 1986, or entered the country after the cutoff date are precluded from benefiting from the INS policy. Furthermore, dependent parents that rely on the support of legalized persons are excluded. In a situation where the dependent parent has no one of care for them in the country of origin it is cruel to deport them and leave without anyone to care for them. The relatives excluded by the INS policy would have to wait in their country of origin. With the current backlog of the second preference, family members may be separated for up to 10 years. This situation is intolerable.

Second, as an administrative action, family fairness policy may be rescinded at any time by the INS after the ineligible relative has revealed herself/himself as undocumented and, therefore, subject to deportation. The policy grants 1 year voluntary departure to a legalized person's spouse and children, which essentially means that the relative is immediately deportable but deportation is suspended for 1 year. At the end of the year, the INS reevaluatee the applicant's eligibility and at that time may be deemed deportable. Presumably, this annual renewal process will continue until a visa becomes available, however, this is no guarantee. However, the INS could decide to stop the program and deport the immediate family members who have exposed themselves to the INS.

While the IRCA provided a legalization program for certain undocumented residents, it focused on the individual, not the family. Unfortunately, the legalization program under IRCA and the INS administrative actions have failed to maintain the family unity of legalized persons' immediate family. The bill I am introducing today will prevent further deportation of legalized persons' family members and guarantee family unification.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STAY OF DEPORTATION AND WORK AUTHORIZATION FOR SPOUSES, CHILDREN, AND DEPENDENT PARENTS OF LEGALIZED ALIENS.

(a) IN GENERAL.—The Attorney General shall provide that in the case of an alien who is an eligible immigrant (as defined in subsection (b)(1)) and who is in the United States as of the date of the enactment of this Act, the alien—

(1) may not be deported or otherwise required to depart from the United States on a ground specified in paragraphs (1), (2), (5), (9), or (12) of section 241(a) of the Immigration and Nationality Act (other than so much of section 241(a)(1) of such Act as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (29), or (33) of section 212(a) of such Act, and

(2) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(b) ELIGIBLE IMMIGRANT AND LEGALIZED ALIEN DEFINED.—In this section:

(1) The term "eligible immigrant" means a qualified immigrant who is the spouse, child, or dependent parent of a legalized alien.

(2) The term "legalized alien" means an alien lawfully admitted for temporary or permanent residence who was provided temporary or permanent residence status under section 210 or 245A of the Immigration and Nationality Act.

(3) The terms "child" and "parent" have the meaning given such terms in section 101(b) of the Immigration and Nationality Act.

SALVADORAN ANTITERRORIST LAW CURBS POLITICAL EXPRESSION

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. McDERMOTT. Mr. Speaker, the events of the past 5 months in El Salvador have refocused our attention on that war-ridden country. The renewed offensive by the guerrillas which began last November 11, the senseless murder of six Jesuit priests on November 16, and the Government bombing of a village in Chalatenango on February 11 have caused many of us in this body to question our policy of sending military aid to El Salvador. As the debate ensues over aid in the coming weeks, we will all be discussing ways to curb the widespread abuse of human rights in El Salvador.

One recent but less-publicized abuse of basic human rights has been the November passage of legislation designed to curb previously lawful political activity. This proposal, known as the antiterrorist law by some and the bill for the protection of democracy by others, was opposed by all political parties in El Salvador except ARENA. It restricts traditional Salvadoran forms of peaceful political expression, such as occupations of workplaces or churches and other acts which seek to "subvert the public order."

Last August, a group of United States attorneys went to El Salvador with a delegation organized by the Central American Refugee Center [CARECEN] to investigate the impact of these proposed reforms. This delegation met with officials from the executive and judicial branches of the Salvadoran Government, with legislators and representatives of all major Salvadoran political parties, with leading Salvadoran attorneys, and with other representatives of social, political, labor, and human rights organizations. It is no small irony that three of the people interviewed by this delegation—Dr. Ignacio Martin Baro, Dr. Segundo Montes, and Hector Ocqueli—are now dead.

Upon its return to the United States, the CARECEN delegation issued a report of their findings entitled, "Legalizing Repression: ARENA's Reform of the Salvadoran Penal and Criminal Procedure Codes." I would like to share a summary of their findings with my colleagues:

SUMMARY OF FINDINGS

The reforms to the Penal and Criminal Procedure Codes represent a significant restriction of fundamental rights and liberties, and appear to be primarily directed at expressions of opposition political opinion, rather than at those engaged in acts of violence, for which strong criminal penalties already exist. The reforms outlaw forms of peaceful protest such as demonstrations that block traffic and peaceful occupations of workplaces or churches, a traditional form of protest in El Salvador. The reforms are likely to have a tremendous "chilling effect" on the expression of political opinions critical of the present Salvadoran government, as anyone engaged in such activity must fear not only being accused of seeking "to subvert the public order" (a phrase used repeatedly but never defined or limited in the text of the reforms), but also attempting, abetting or apologizing for "terrorist" acts.

Freedom of the press is already being curtailed by passage of the reforms, because any objective reporting of expression of opposition to the government runs the risk of prosecution. A concrete example of the potential impact of the reforms, Channel 12—the only television station which has regularly covered demonstrations and other events critical of the government—announced the temporary suspension of its news programs following the National Assembly's vote approving the reforms.

Those arrested under the reforms will face great difficulties in defending themselves. Salvadoran attorneys are concerned that the mere act of defending those accused of terrorism may allow the attorneys themselves to be prosecuted for "apologizing for terrorists." The broad range of conduct or actions defined as "acts of terrorism" are considered common crimes, rather than political crimes, such that extrajudicial confessions may be used as evidence against them. In El Salvador, extrajudicial confessions are practically synonymous with confessions obtained through the use of torture. For those accused of "terrorist acts," the requisite intent "to provoke or maintain a state of terror" is presumed. In addition, the grounds for conducting searches without a warrant are substantially expanded.

Finally, the reforms directly impede the task of documenting and monitoring human rights abuses in El Salvador. Those engaged in this vital work have long been denounced by the right-wing in El Salvador, and now they could be subject to legal persecution, simply for obtaining photographs and testimonies of human rights violations alleged to have been committed by Salvadoran government or military officials. The reforms violate international accords and standards by which El Salvador is bound, and are fundamentally inconsistent with the establishment of a democratic system.

Passage of the reforms at this time represents a substantial deterioration in the state of basic human rights and freedoms in El Salvador. During the week that discussion of the reforms were held in the National Assembly, numerous detentions of religious and human rights workers were taking place, the University of Central America remained closed with its leadership assassinated, and direct threats as well as an atmosphere of terror and intimidation have compelled many vocal critics of the government (including members of unions and religious organizations) to go into hiding or flee the country. Unlike the recently re-instituted state of siege, which must be renewed every thirty days, these reforms are permanent changes to the Salvadoran legal system. They are clearly intended to quell peaceful protest and criticism, and they portend a dramatic worsening in the human rights situation which is already apparent.

PLEA FOR JARED AUSNEHMER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. TRAFICANT. Mr. Speaker, I rise to make a plea for Jared Ausnehmer who was born on March 9 of this year with a heart defect.

Jared presently is at Children's Hospital in Pittsburgh, PA, and is waiting for a heart donor. A heart must be found within 4 to 6 weeks if Jared is to live. There is also the possibility that he may have to go through a series of operations to keep him alive. The Baby Jared Fund has been established at Dollar Bank to help with expenses.

It is important that Jared Ausnehmer receive help as soon as possible. If you can help little Jared in any way please do not hesitate because time is running out. A young life is at stake.

IRA CORLISS, VICE MAYOR AND CITY COMMISSIONER, RETIRES

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. SMITH of Florida. Mr. Speaker, one of Pembroke Pines' most dedicated public leaders, Ira Corliss, is retiring.

Ira Corliss has served the community of Pembroke Pines for 8 years as vice mayor and city commissioner. He will be leaving elected office but will continue to work for the environmental concerns of the south Broward area as it relates to the wetlands, the water supply and controlled growth management.

In the past, he was instrumental in establishing legislation for gun control and day care facilities in Pembroke Pines. The day care centers helped to secure a place for parents, as well as the children. Through his efforts, legislation was passed to have fluoride added to the municipal water system, which benefits the entire community.

Ira was a cofounder and a director of the Juvenile Diversionary Program of Pembroke Pines, which assists youths and provides free counseling to them and their families and remains committed to the young people of Broward County.

Ira Corliss has worked tirelessly for the good of the community and we all want to wish him good luck. Residents of Pembroke Pines are proud to have had a fine elected official and I am sure he will be missed.

DANTE FASCELL'S "SNAPSHOT" OBSERVATIONS OF A CHANGING WORLD

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. LEHMAN of Florida. Mr. Speaker, many astonishing political, economic, and social changes are sweeping the world. Because it is getting increasingly difficult to keep track of all these changes, and even harder to make sense of them, I thought my colleagues might find useful the approach to this problem taken by one of our Government's true experts in foreign affairs, the distinguished chairman of

the Foreign Affairs Committee, DANTE FASCELL.

I would like to share with my colleagues the following brief informative article from last Sunday's Miami Herald.

[From the Miami Herald, Mar. 25, 1990]

A FASCELL-LED TOUR OF "A WORLD IN FLUX"

(By Paul Anderson)

WASHINGTON.—House Foreign Affairs Chairman Dante Fascell's staffers have given up trying to write speeches for him. They've got two reasons:

He is uncomfortable reading from a script and tends to give a wooden performance.

Things are changing so rapidly around the world, anything written today could be out-of-date tomorrow.

So aides simply announce that his topic will be "A World in Flux." And Fascell—the 73-year-old South Dade Democrat who's been in Congress since 1954—gets up and wings it.

His rambling remarks these days are a mixture of amazement and analysis, with references to high-level meetings and tidbits of inside dope dropped along the way.

But his conclusion is simple: The example of democracy that America provides has proven to be our most important weapon.

"Who would have thought 'ordinary people' would have the ability to govern themselves so well?" he asked the American League of Lobbyists at lunch on Thursday, a smile pulling up the jowls of his hang-dog face.

"The pen *is* mightier than the sword," Fascell added. "Ideas do climb walls—and they go under walls, over walls and through walls."

Here, drawn from several recent appearances, is a Fascell-led tour of "A World in Flux":

Soviet Union: He calls President Mikhail Gorbachev "a man of great courage" and says his ability to survive Kremlin politics "is astounding to me."

He hopes Gorbachev's reforms succeed, especially economic restructuring, so that he can turn his full attention to ethnic strife, including renewed pogroms against Soviet Jews.

"We have to watch it every day, but I think chances are he can make it."

Cuba: With Fidel Castro losing support from the Soviet Union, Nicaragua and Panama, "we ought to tighten the noose and get rid of that guy."

But he doesn't propose military intervention. Instead, he calls for tightening economic embargoes—especially cutting off business between Cuba and subsidiaries of American companies that are based abroad.

That will tell Castro, "Look, if you want to be the odd man out, you can do it, but not with our money—directly or indirectly."

Middle East: He hopes Shimon Peres can form a coalition government in Israel quickly and move toward a peaceful resolution of conflicts with Palestinians and Arabs.

He calls President Bush's controversial recent comments on Jerusalem "an unfortunate remark, gratuitous and unnecessary," and adds: "I'm not about to tell Israel what it should or shouldn't do."

But a peace must be reached: "The one thing that's clear is that the status quo is not acceptable to anybody—to Israelis, to Arabs, anybody."

Eastern Europe: Though he calls it "heresy right now," he proposes to allow the "new full-fledged democracies" to join a re-named NATO, at least on probationary status.

"I'm a strong supporter of NATO, but what are we going to do with NATO when the Warsaw Pact doesn't exist?"

As for the two Germanys, "reunification is here, period. . . . There are concerns that a lot of people have that need to be addressed, but reunification's on track, and it's going to happen no matter what."

Africa: "Who would have thought that at midnight the other night, the last colony in Africa would no longer exist?" he asked, referring to the newly independent nation of Namibia.

"While I won't say the United States deserves all the credit" for movement toward freedom in Africa, he attributed part of the success to the fact that U.S. policy "has remained basically consistent over 40 years—which is, we must give the people of Africa a chance for self-determination."

Many other nations considered that "an unbelievably naive policy, but here we are, 40 years later, and it's happening."

Here at home: Long a consensus-builder, Fascell agrees with only part of the oft-heard criticism that President Bush is fumbling America's response to the rush of events.

"I think basically the administration is on top of the issues. Events have broken so fast that it's very hard to keep up with them," he said.

"I think the criticism, if any, is probably style as much as anything else, or rhetoric. The President needs to be more forceful in explaining to the American people and the world the vision of what this is all about, where we're going with emerging democracies, the place that the United States has in it. . . .

"There's only one leader; nobody else can speak for him."

Long term, American policy must become more creative because budget constraints will limit U.S. ability to buy influence with foreign aid. Realistically, the Pentagon budget cannot be cut quickly enough to finance bold new initiatives overseas.

"There is no pot of gold. It will take a long time to see a shift in defense from conflict and confrontation to peace."

It's time for bold moves.

"We have to really step out there," Fascell said. "We're taking timid steps right now, but I'm convinced we'll get there."

VOICE OF DEMOCRACY

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. GALLO. Mr. Speaker, recently, I was honored to receive word that the 1989–90 New Jersey winner of the Voice of Democracy writing contest sponsored by the Veterans of Foreign Wars and its ladies, auxiliary is one of my constituents, Dave Alan Weitzner of West Orange.

I would like to take this opportunity to congratulate Dave on this significant accomplishment and to share with you his winning entry:

WHY I AM PROUD OF AMERICA

I am seventeen years old, and for years my dream has been to run for President of the United States in the year 2016. I am continuously encouraged by parents, teachers, community leaders, and friends to fulfill my hopes and desires, and to try to make my goal a reality. Nobody asks what the color of my skin is, what my religious beliefs are, or whether I live in a mansion or an apartment in the ghetto. The simple truth that my dream, which I am sure is shared by others, can become a reality stands as a testimonial to the priceless spirit of equality which is the cornerstone of our society.

From the perspective of a high school student just beginning to appreciate the shaping of Western thought, it is easy to marvel over our nation's spectacular and lasting achievements. The America I know and love does not, however, simply bask in the sunlight of past triumphs. We are constantly asserting our time-tested values in the present and preparing for an even brighter future. Schoolchildren of tender ages are naturally told of the glorious events in our history, the foundations of American society, and most importantly, the fundamental values of democracy which we have embodied in everlasting scriptures. But our heritage and glorious past transcend the classroom as they have become a springboard from which we have taken the initiative to leap into world leadership.

We are that rare breed of nation that has combined deep-seeded roots of democracy and freedom with the concept that the sanctity of one single human life is crucial. When a two-year-old girl's life was threatened in a small Texas town called Midland, our great nation came to an emotional standstill, for a human life which had barely begun faced tragic extinction. The heart and soul of our populace went out to this child whose personal tragedy seemed to touch us all. And after endless days of watching, listening, and praying, this child who nobody knew was finally saved and our nation breathed a huge sigh of relief. At least in this instance our overriding principle that a single human life is meaningful and worth saving was mercifully fulfilled. And witness how hostage takings capture the spotlight and move this entire country from president to pedestrian into action. During the Iran hostage crisis, yellow ribbons could be seen draped across front lawns from the shores of Nantucket to the cornfields of Nebraska to the deserts of Nevada, as a nation of over two hundred million people collectively prayed for one hundred human lives. And not one person asked what color they were, what religious sect they belonged to, or how much money they had. Rather, each of their lives embodied the soul and the spirit of all America.

And our commitment to humanitarianism is not limited to our fellow Americans. Our great hand will reach out across mighty oceans to assist those courageous and determined souls who would throw off the shackles of tyranny to march in the ranks of freedom. Think of our former foes in Eastern Europe; as they strive for freedom not only do we send our leaders for moral support, but in times of economic austerity at home we reach deep into our pockets to provide hard financial aid for these freedom seeking people.

Our fundamental values, derived from our heritage and fortified by our experience, lead us to the conclusion that the cause of America is the cause of all mankind. When an earthquake struck our foremost adversary, the Soviet Union, this nation sprang into action. We didn't ask questions about the Korean and Vietnam wars, the Berlin Wall, or why Afghanistan was invaded and occupied. We established no rules, and set no preconditions. All we knew was that there were human beings in desperate need,

and that was enough for us. And from the son of the president to the son of a factory worker in Michigan, we sent to Soviet Armenia laden with goods and goodwill to help people besieged by a natural calamity. But after all, America's destiny for most of the twentied century has been to be a beacon lighting the path for the anguished people of the world.

America, a place where any teenager can aspire to become president, where the heart of an entire nation goes out to a baby in a small Texas town as well as citizens taken hostage in a foreign land, and where former foes are treated like brothers when they strive for freedom or are just in need of caring humanity. These diverse but interwoven realities are only possible in a land covered with the cloak of America's unique blend of freedom and democracy.

For the fabric of our country is a weave consisting of reverence for our heritage and institutions, aspirations for our children, and enormous pride in who and what we Americans are today. I am an integral fiber in this fabric, and I am indeed proud to be an American.

CHILD-CARE LEGISLATION

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. WILLIAMS. Mr. Speaker, the following letters are expressions of concern regarding the critical issue of the separation of church and state as affected by the child-care legislation:

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.,
Washington, DC, March 22, 1990.

DEAR REPRESENTATIVE: On behalf of the religious organizations we represent, we are writing to you concerning the Rules Committee's deliberations on child care. We urge you to support the provisions approved by the Education and Labor Committee regarding the separation of church and state. Their language explicitly bars the use of federal funds for sectarian activities and prohibits discrimination on the basis of religion.

It is crucial that religious institutions be able to participate in federally-funded child care programs; but they must be able to do so in a way that is constitutionally sound. Therefore, we support specific language guaranteeing the separation of church and state, thus assuring that churches can continue to provide federally-assisted nonsectarian child care free from constitutional challenge.

We rejoice that, for the first time in over 15 years, Congress is close to approving comprehensive child care legislation, permitting many thousands of low- and moderate-income families to secure affordable, quality care for their youngsters. Nearly every day there are reports around the country of children left unattended who fall victims to tragic injuries and even death while their parents are at work. Currently, there simply are not enough caregivers or child care programs available to help working poor families assure that their children are safe during the day.

The religious community is the largest provider of center-based child care in the country and its continued involvement in these programs is critical to the expansion of child care services. Religious facilities provide at least one-third of all center-based child care, and perhaps much more. Such child care is often heavily subsidized by the host church, thus allowing programs to offer services to low-income children. In many communities across the country churches and synagogues are the only source of center-based care, so the service they offer is essential. In seeking to assure the separation of church and state, we are attempting to protect the providers of this invaluable service from the risk of lawsuits or charges of sectarian use of federal funds in the future.

We or our staff members would be glad to discuss this matter with you as you work toward final passage of this landmark legislation.

Thank you for your consideration of our views.

Sincerely yours,

John O. Humbert, General Minister and President, Christian Church (Disciples of Christ) in the United States and Canada; Claire Randall, President, Church Women United; Bishop Melvin G. Talbert, Secretary, Council of Bishops, The United Methodist Church; The Rev. James E. Andrews, Stated Clerk of the General Assembly, Presbyterian Church (U.S.A.); Dr. Fred C. Lofton, President, Progressive National Baptist Convention, Inc.; Richard Scobie, Executive Director, Unitarian Universalist Service Committee; Kay S. Dowhower, Director, Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America.

James A. Hamilton, General Secretary, National Council of Churches; Paul H. Sherry, President, United Church of Christ; Dr. Daniel E. Weiss, General Secretary, American Baptist Churches; Dr. Donald E. Miller, General Secretary, Church of the Brethren; Mr. Samuel D. Caldwell, General Secretary, Philadelphia Yearly Meeting, Religious Society of Friends; Jerry Folk, Executive Director, Commission for Church in Society, Evangelical Lutheran Church in America; Ressie Mae Bass, Vice President, Women's Division, Board of Global Ministries, The United Methodist Church.

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.,
Washington, DC, March 26, 1990.

DEAR REPRESENTATIVE: On behalf of the religious organizations we represent, we urge you to support the House Leadership's compromise child care bill and the amendment we understand Rep. Don Edwards will propose to it.

The enclosed letter signed by fourteen religious leaders and sent last week to the Rules Committee and Leadership, explains our position on this matter. Thousands of our member churches run child care programs that do not include worship or instruction, but which are operated as a service to the communities where they are located. We encourage and support them in that effort and feel it is both appropriate for the churches and essential for the families they serve.

The Edwards amendment would set bounds within which churches could participate fully in a federally-funded child care program without risking violation of the church-state separation principle that is a central tenet of many of our member bodies.

When Congress adopted the Family Support Act a few years ago, it mandated parents of young children to work, participate in job training or attend school in order to receive welfare benefits, Now many states are finding it difficult to implement the Act because there is such a shortage of affordable child care for low-income families. The Leadership bill would go a long way towards solving that problem but its ability to do so would be seriously compromised if churches were to be eliminated as providers. We believe that the Edwards amendment would assure that they are not eliminated.

Thank you for your consideration of our views. We would be happy to discuss them with you if you have any questions.

Sincerely yours,

PATRICK CONOVER,
Policy Advocate, Office for Church in Society, United Church of Christ.

MARY ANDERSON COOPER,
Director, Washington Office, National Council of Churches.

LET'S NOT GET ALL WORKED UP AGAIN OVER SAVINGS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. PEASE. Mr. Speaker, while all of us are concerned about promoting savings and investment in the United States, we need to stop and think about just what we mean when we throw around those terms. The fact is that there is more than one way to save and invest for our future.

The need for some variety in perspective when evaluating our economy's needs in these vital areas is the thesis of a thought-provoking essay by Robert Kuttner in the April 2, 1990, issue of Business Week. I commend Mr. Kuttner's observations to my colleagues.

LET'S NOT GET ALL WORKED UP AGAIN OVER SAVINGS

(By Robert Kuttner)

The debate about America's savings rate is heating up again. On one side, orthodox economists blame low investment and low productivity growth on low private savings and high public deficits. To restore growth, we must tighten our belts and begin saving more. This camp cuts across party lines and includes liberals such as Harvard economist Benjamin Friedman, author of "Day of Reckoning: The Consequences of American Economic Policy in the 1980's" ("Society pays for eating its seed corn.") as well as for conservatives such as investment banker Peter G. Peterson, whose new book "On Borrowed Time" attributes America's woes to a consumption and entitlement binge.

Yet there is a minority view, and it invites attention. University of Pennsylvania professor Fred Block, for one, challenges the way savings rates are calculated. In a new monograph, Block finds that a major source of savings—private contributions to pensions and social insurance funds—are arbitrarily counted in the National Income & Product Accounts as personal income rather than as additions to savings. Using Federal Reserve flow-of-funds data, which track actual money flowing from households into investment instruments, Block calculates an alternative measure of total private savings:

In 1987, it equalled $290 billion rather than the official savings statistics of just $104 billion.

A PARADOX

Economist Robert Blecker of American University, for another, finds that low rates of measured net private savings in the 1980s were caused mainly by higher rates of economic depreciation of the nation's capital stock, not by depressed thrift in the household sector. In a soon-to-be-released study for the Economic Policy Institute, Blecker also calculates that the greater concentration of income and wealth in America's households paradoxially, depressed rather than increased the total supply of savings. That's because the increments in paper net worth—inflated real estate and stock portfolios—enabled wealthy households to "spend more out of current income while still increasing their assets." This, in turn, depressed their net new savings.

Alicia Munnell, Chief economist of the Boston Federal Reserve Bank, writing in the New England Economic Review and building on recent work by Chicago economist David Aschauer, adds the insight that private savings is only one among many influences on productivity and growth. Public capital (infrastructure) and social capital (education and training) are as important to growth as private investment. The orthodox measures of savings and investment leave out public and social capital and miss much of the phenomenon.

In 1987, Munnell reports, the public capital stock equaled $2.3 trillion, compared with $4 trillion in the private sector. The investments of public capital, which Aschauer found correlated highly with productivity growth, have been in grave decline. According to Munnell, the growth in nonmilitary public capital was 5% in most of the 1960s, 3.3% from 1979 to 1973, 1.8% from 1973 to 1979, and just 0.9% in the 1980s.

THE TONTO FACTOR

The unconventional wisdom on the savings question highlights an issue that gets obscured, perhaps intentionally, in these debates: Who benefits, and who pays? People who worry about savings rates have an uncanny knack for obscuring the distribution aspect. In their writing, America becomes one undifferentiated "we." According to Friedman, "We have enjoyed what appears to be a higher and more stable standard of living by selling our [own] and our children's birthright." Here, it is appropriate to quote Tonto's immortal words to the Lone Ranger: "What do you mean, 'we,' paleface?" Friedman's assertion is nonsensical. For as Blecker reports (and most economists concede), the actual consumption of 80% of the population declined during the 1980s. Perhaps Friedman was one of the lucky 20% who went on a binge at the expense of his children, but most Americans have already experienced a decade of substantial belt-tightening. Given what has happened to most people's actual standard of living, the moralistic note that creeps into the austerity side of the debate is singularly churlish and inappropriate.

The new view also has implications about remedy. If the real problem is distributional concentration (Blecker) or starved social capital (Munnell), then President Bush's proposal to cut capital gains taxes and further rein in public spending is doubly counterproductive. The debate has a final and deliciously contrarian twist. Thanks to the triumph of laissez-faire in the 1980's, we have finally reached the nirvana of free global capital flows, in which money can flow from Tokyo or Frankfurt to New York or vice versa. In this Magic Kingdom, money even flows uphill, from the world's poorest countries to Wall Street. But this reality of one financial world, long sought by men such as Peterson, means that it really doesn't matter what America saves as long as world savings are adequate to finance world growth and America attracts investment. To that end, better roads, rails, and trained workers would help, and we won't get those by cutting the capital gains tax.

UNIQUE CHILD DEVELOPMENT CENTER

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. ERDREICH. Mr. Speaker, I would like to share with my colleagues a remarkable and innovative child care program provided by B.E.&K. Inc. of Birmingham, AL. B.E.&K. is an industrial construction firm which has launched a novel program of on-site mobile day-care facilities, currently staffed by former teachers, to provide child care for its employees on construction jobs.

B.E.&K. met the challenge of supplying child care with the unique needs of the construction industry in mind. Few day-care centers or private sitters are flexible enough to accommodate, a construction worker's schedule. The BEKare program is normally in operation 12 hours a day, 4 days a week—the normal work week for construction workers—and is flexible enough to cover children of employees required to work a second shift or overtime. Likewise, when conditions dictate that no workers will be present on the site, the center remains closed.

The initial BEKare Child Development Center, regarded as a first in the construction industry, opened in December in Port Wentworth, GA, just 1 mile from the $450 million construction project underway for Stone Savannah River Pulp & Paper Corp. This modular facility, which can be moved to the next job upon completion of the project, is the prototype for construction site day care centers.

The BEKare facility shows that a company can creatively solve its problems and those of its workers with families. As the construction industry has become more competitive, the shortage of skilled workers has grown critical. New technologies have made physical strength less important for many construction tasks and, as a consequence of these advances, more women are entering this industry, becoming carpenters, electricians, welders and pipefitters. The introduction of the BEKare program gives the company an edge in recruiting both male and female workers with young children as the center provides on-site day care at rates competitive with the local market.

B.E.&K. recognized additional benefits such as day care are necessary to compete for the best construction craft workers. B.E.&K. has successfully met this challenge in the form of the BEKare Child Development Center.

I would like to salute the innovators at B.E.&K., especially board chairman Ted Kennedy, for creating the model BEKare facility. As we in Congress continue to debate the issue of child care, we should applaud the efforts of those in the private sector who have acted to fill this critical need for their own work force.

SOMETHING MUST BE DONE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. STARK. Mr. Speaker, we need major changes in the Nation's health insurance system.

Enclosed is a letter I've just received from northern California describing, once again, the utter failure of our current private health insurance market:

MARCH 4, 1990.

Congressman FORTNEY STARK,
22300 Foothill Blvd.,
Hayward, CA.

DEAR MR. STARK: The reason for my letter is to express my concern over health insurance. I would like to have health insurance and cannot get coverage. I am a divorced woman 50 years old and had to drop my insurance last year when I had returned to school for 6 months and could not afford to keep up my payments. I was covered by Blue Shield for many years and was paying $200 a month with a $750 deductible. This was *only* major medical so many medical expenses were paid by me. I have a condition called diverticulosis and when I reapplied to Blue Shield they would not cover me because of this pre-existing condition. I have since applied to many other companies including Kaiser and Blue Cross and was denied because of this same condition.

Because I am self-employed I cannot get coverage through an employer.

I feel that Blue Shield had an obligation to reinstate my insurance. I was only without coverage for one quarter before I tried to re-apply and was refused.

I had a serious infection (diverticular abscess—3rd occurrence) in October and my physician recommended surgery but because I had no insurance I could not have the necessary surgery. Every day I wonder when the next infection might occur and was told that the bowel could burst. I would probably end up in the county hospital. I am really frightened and upset by my situation.

Something must be done to reform this system and make insurance affordable to people like myself who are falling through the proverbial "cracks." I don't believe that insurance companies are fulfilling their responsibility. I don't know what the solution is but something must be done now.

THE 250TH ANNIVERSARY CELEBRATION OF THE BOROUGH OF BIRDSBORO

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. YATRON. Mr. Speaker, on May 19, 1990, the Borough of Birdsboro in Berks

County, PA, will commence with a celebration of the 250th anniversary of its founding. The opening day ceremonies will include an appearance by Governor Casey, a street fair, and a community picnic. A variety of other activities have been planned by borough officials for the duration of 1990 to commemorate this worthy occasion.

The long existence of the Borough of Birdsboro, older then the Nation itself, is truly significant. Birdsboro is home to many places of interest and importance in early American history. These places are so important to the residents of Birdsboro that they have carefully preserved many national treasures for the benefit and enjoyment of future generations. Such pride and dedication is a tribute to the sense of community that has been established by Birdsboro's residents and a testament to the ties that bring all of us together as friends and neighbors.

Mr. Speaker, it is indeed a pleasure for me to recognize this historic anniversary before you and the other Members of the House of Representatives, as well as the rest of the Nation. I congratulate the residents, officials, and friends of the Borough of Birdsboro for their long tradition of community spirit and wish them continued success and good fortune for the future.

THE NON-TRADITIONAL STUDENTS ASSISTANCE ACT OF 1990

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. PENNY. Mr. Speaker, along with our colleagues BARNEY FRANK, JAMES WALSH, and MARTIN FROST, I today have introduced legislation, the Non-Traditional Students Assistance Act of 1990, to make all students eligible for Federal student aid based on need and satisfactory performance in school. Level of attendance would no longer be a consideration for the purposes of determining aid.

The traditional image of an undergraduate is a 20-year-old full-time student who lives in a dorm for 4 years and then graduates. However, that represents only about 20 percent of college students today. A more accurate picture is a 25-year-old female who lives off campus, works almost full time, and commutes to a community college. She postpones having children until she earns a degree, or she juggles family and school. Of the approximately 13 million college students, 55 percent are female; 45 percent are at least 24 years old; 40 percent attend school part time; and nearly 30 percent are married. The number of part-time students is expected to grow to 60 precent by 1995. And not all part-time students are older: 20 percent of students under age 24 attend school on a part-time basis.

Despite the trend toward attending school on a less-than-half time basis, only 6 percent of these needy students received Pell Grants last school year. Last year, in his report to the Congress on less-than-half-time students, Secretary of Education Lauro Cavazos concluded that "such students deserve our encouragement and support and should not be denied access to training that may better their job skills or employment opportunities solely because they are unable to enroll for more than one or two classes at a time."

At the same time, these nontraditional students are not eligible for federally insured student loans. Truly, Mr. Speaker, many of these students have no access to any form of student aid. This legislation is aimed at helping these students.

The Non-Traditional Students Assistance Act corrects another inequity in the current law by defining for the purposes of determining Federal assistance any student who is 22 years old as independent of their parents. Under current law, with a few exceptions, a student must be at least 24 years old before she or he is considered independent. In many cases, students who have lived away from their parents for several years are considered dependent on their parents for financial assistance. By lowering the age to 22, this inequity is addressed, and many more nontraditional students will qualify for additional student aid.

Mr. Speaker, as we begin the process of reauthorizing the Higher Education Act, let us be mindful of the need that is not being met; of the changes that are happening on our college campuses; and of the need to adequately train all people to meet the challenges that confront this country. I urge my colleagues to join me in supporting this legislation.

I ask that a copy of the legislation follow:

H.R.—

A bill to amend the Higher Education Act of 1965 to improve the eligibility of less-than-half-time students for Federal student assistance programs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nontraditional Students Assistance Act of 1990".

SEC. 2. ELIGIBILITY OF INDEPENDENT STUDENTS.

(a) IN GENERAL.—Section 480(d)(1)(A) of the Higher Education Act of 1965 is amended by striking "24 years" and inserting "22 years".

(b) PELL GRANTS.—Section 411F(12)(A)(i) of such Act is amended by striking "24 years" and inserting "22 years".

SEC. 3. ELIGIBILITY OF LESS-THAN-HALF-TIME STUDENTS FOR PROGRAMS.

(a) GSL LOANS.—

(1) AMENDMENT.—Section 428(b)(1)(A) of the Higher Education Act of 1965 is amended by striking "any student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined by the institution)" and inserting "any eligible student (as defined in section 435(m))".

(2) DEFINITION.—Section 435 of such Act is amended by adding at the end thereof the following new subsection:

"(m) ELIGIBLE STUDENT.—The term 'eligible student' means an individual who—

"(1) meets the requirements of section 484; and

"(2) is either—

"(A) carrying at least one-half the normal full-time academic workload at an eligible institution (as determined by such institution); or

"(B) carrying less than one-half such normal full-time workload but (i) has successfully completed the first academic year of a program of undergraduate education, and (ii) is enrolled in a degree or certificate program of such institution and making satisfactory progress in such program (as determined by such institution in accordance with section 484(c)).".

(b) ELIGIBILITY FOR PELL GRANTS.—

(1) AMENDMENT.—Section 411(b) of the Higher Education Act of 1965 is amended—

(A) in paragraph (6), by striking subparagraph (C) and inserting the following:

"(C) from funds appropriated for any succeeding fiscal year unless the student is an eligible student (as defined in subsection (j)).".

(B) by striking paragraph (7).

(2) DEFINITION.—Section 411 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) ELIGIBLE STUDENT.—The term 'eligible student' means an individual who—

"(1) meets the requirements of section 484; and

"(2) is either—

"(A) carrying at least one-half the normal full-time academic workload at an eligible institution (as determined by such institution); or

"(B) carrying less than one-half such normal full-time workload but is enrolled in a degree or certificate program of such institution and making satisfactory progress in such program (as determined by such institution in accordance with section 484(c)).".

SEC. 4. GRACE PERIODS AND DEFERRAL FOR LESS-THAN-HALF-TIME STUDENTS.

(a) GSL LOANS.—

(1) GRACE PERIOD.—Section 428(b)(1)(E) of the Higher Education Act of 1965 is amended by striking "to carry at least one-half the normal full-time academic workload as determined by the institution" and inserting "to be an eligible student (as defined in section 435(m))".

(2) DEFERRAL.—Section 428(b)(1)(M)(i) of such Act is amended by striking "(I) is pursuing" and all that follows through "or (III)" and inserting "(I) is an eligible student (as defined in section 435(m)), or (II)".

(b) NDSL LOANS.—

(1) GRACE PERIOD.—Section 464(c)(1)(A) of the Higher Education Act of 1965 is amended—

(A) by striking "ceases to carry" and inserting "ceases to be an eligible student (as defined in section 435(m))"; and

(B) by striking "at least one-half the normal full-time academic workload,".

(2) DEFERRAL.—Section 464(c)(2)(A)(i) of such Act is amended by striking "is carrying at least one-half the normal full-time academic workload" and inserting "is an eligible student (as defined in section 435(m))".

ELLIOTT ABRAMS ASSESSES NICARAGUAN ELECTIONS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. CRANE. Mr. Speaker, recently I had an opportunity to meet with Elliot Abrams, who as you know was President Reagan's Assistant Secretary of State for Inter-American Affairs from 1985 to 1988. During our discussion, Mr. Abrams shared his views with respect to the recent elections in Nicaragua, the events leading up to the election, and how he foresees

Nicaragua's future. Because he played such a key role in what was one of the most hotly debated governmental policies of the 1980's, he has a keen understanding of the history of the conflict.

The following interview, which appeared in the March 10 edition of Human Events, recaptures the essence of our conversation. I believe Mr. Abrams views are right on target, and hope that you will take the time to read this insightful article.

[From Human Events, Mar. 10, 1990]

ELLIOTT ABRAMS ASSESSES NICARAGUAN ELECTIONS

(Elliott Abrams, President Reagan's assistant secretay of state for inter-American affairs from 1985 to 1988, gave the following interview to Human Events shortly after Violeta Chamorro won the election in Nicaragua. The interview was conducted by Capitol Hill Editor Allan H. Ryskind.)

Q. You were assistant secretary of state for inter-American affairs for four years during the Reagan Administration, and were known as a strong supporter of the Contras. Did they play a role in persuading the Sandinistas to hold a relatively fair election?

A. In the Kennedy-Khrushchev agreement, the United States gave up Cuba, and accepted the fact that Cuba would remain a Communist country in the Soviet orbit. The Reagan Administration never made that mistake with Nicaragua, never gave up, never accepted the idea that Nicaragua had to remain Communist. And it was that struggle which was carried on by the Contras that kept hope alive, kept the door open.

Daniel Ortega did not start negotiating because [Costa Rican President] Oscar Arias pleaded with him to do so; he started negotiating because he was scared of the growing insurrection in Nicaragua. I think it inconceivable that we would be at this juncture today without the sacrifices that the Contras made to prevent the consolidation of communism in Nicaragua. And if the U.S. Congress had united behind the Contras, freedom and free elections would have come to Nicaragua far sooner.

Q. Even though we began to shut down our support for the Contras in 1989, don't you think the fact that the Contras were still in high spirits in their Honduran base camps, and even operating in northern Nicaragua, rattled Ortega, who feared they might be revved up again if he didn't at least go through the motions of implementing a "free and fair" election?

A. No question. It was always amazing to me that American liberals were dismissing the Contras at exactly the same time that the major objective of Nicaragua's foreign policy, the major objective for the last nine years, has been to stop the Contras. The Sandinistas clearly understood that the Contras were a great danger to their survival, even if too many Americans didn't.

Q. In line with what you are saying, the Sandinistas formally broke the ceasefire last fall because they were still fearful of the Contras. And many observers believe that Ortega not only feared the Contras would be rearmed by the U.S. if he blatantly stole the election, but that he was eager to diminish their power before the election so that anti-Sandinista voters would feel less safe in backing Violeta Chamorro.

A. I don't think there is any doubt that the Contras bolstered the confidence of anti-Sandinista voters. In order for people to have the guts to oppose a Communist government, they have to have some sense of security before the election, because the Communists are always intimidating them and threatening reprisals.

The Bush Administration almost made a critical mistake. In the early fall, it was trying to compel the Contras to accept compromises which would have lessened their presence inside Nicaragua. And the Contras correctly argued that the more Contras inside Nicaragua, the better chance this election had, because their presence gave people the sense of confidence to go out and vote against the government. And the Contras resisted the pressure.

Q. Do you think Ortega is really backed by nearly 40 percent of the voters, as the popular vote count would suggest?

A. No, I don't. Desite what has been said by much of the media and so many liberals, this definitely was not a "free and fair" election. It was shocking that the Sandinistas went uncriticized in so many quarters, despite all of their abuses during the campaign.

You can be sure that a key target of the liberals—Chile's Augusto Pinochet—would never have been allowed to get away with what the Sandinistas got away with. And he didn't. In Chile, there was a free and fair election, and a clean campaign as well. U.S. liberals scrutinized every aspect of that campaign, and weighed in heavily when they thought things were not quite right. But not so with the Sandinistas.

Q. Some of us were angry at the way the Establishment covered for Ortega & Co., suggesting they were really trying to implement a fair contest. But the Sandinistas were violating the election rules in hugely significant ways, including intimidation.

Hence, if Ortega had won in a close vote, the Establishment—I mean the media, Jimmy Carter, Elliot Richardson, et al.—would have ratified the outcome as perfectly valid, despite the violations. They refused to put pressure on the Sandinistas, where it belonged.

A. You're right. It was a shocking double standard. The Sandinistas engaged in physical intimidation which forced dozens of opposition candidates to resign their candidacies. They broke up opposition rallies. They blocked the opposition from getting funds it was legally entitled to, and used the state treasury and the resources of the army to assist their own campaign.

Chamorro's access to television was severly limited, and the Sandinistas engaged in a very fishy registration process under which it looks as if large numbers of fraudulent votes were cast. It was truly stunning that Chamorro and UNO did as well as they did, considering all the handicaps they were under.

Q. What's your impression of the way Jimmy Carter and Elliot Richardson, both international observers, handled their jobs?

A. Shortly after the Masatepe incident where the Sandinistas with machetes attacked UNO demonstrators, President Carter went to Nicaragua and his comment was that the Contras were the great threat to the election!

I think that President Carter and Elliot Richardson, in everything they said from the first day, made it clear that they were going to approve the elections unless there was a Panama-style outbreak of brutality on election day.

It was crystal clear that they were giving the Sandinistas a green light. They did not insist on a fair compaign. They interested themselves only in procedures on election day, and I take great exception to that because, in part, I remember the way the liberals were screaming bloody murder about the plebiscite in Chile and demanding not only that election day be fair, but that the campaign be fair. Well, why the double standard for Nicaragua?

Q. What happens now?

A. I'm afraid that one thing that may unfortunately happen is that over the next two months, before Mrs. Chamorro is inaugurated, the Sandinistas will probably dump a five-year weapons supply into El Salvador. I'm sure they will try that, and that, of course, would be a tragedy. And I think they will try to retain control, under some facade minister, of the Ministry of Interior, and the army, I'm less worried about the army because it's a conscript army, and it can be sent home. I'm quite worried about the Ministry of Interior, the secret police, which has been headed by Tomas Borge, just as I am about the secret police in Eastern Europe. That's the hard core. And, amazingly, Carter is now defending Sandinista efforts to keep control of the army and he is still attacking the Contras.

Q. Is there any way of getting rid of Borge's unit?

A. I don't think there are any shortcuts. I think one thing the Chamorro government ought to do is consult with the people who've got a few months head start on them, the people in Hungary, Poland, Czechoslovakia, etc., and ask them how they are doing. But I don't think there are any shortcuts. I think it's a matter of getting your own loyal people and slowly weeding the others out.

Q. Do you think Nicaragua can recover economically?

A. With some foreign aid from us, with our help in securing money from the International Monetary Fund, the World Bank and the Inter-American Development Bank, and with their adoption of sound economic policies—which they outlined at the close of the campaign—I think there should be some quick economic recovery.

Q. When does Fidel fall?

A. I don't understand how Fidel can last more than a couple of years. I think you'll see a steady contraction of the Cuban economy. First, the East Europeans are starting to cut all their aid—that's this year. I think Soviet assistance will probably fall as well, and there are already breadlines in Havana. So Cuba looks more and more to me like Romania.

A SALUTE TO "CAMERA"

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, the media plays a critical role in informing our Nation to news and information. In serving its public, CAMERA [the Committee for Accuracy in Middle East Reporting in America], concentrates on exposing the misreporting on the Middle East. For the past 7 years, CAMERA has built a solid body of evidence illustrating that reporting from this region is often one-sided and frequently incomplete or incorrect.

Several themes, such as human rights, self-determination and democratic goals serve as

a framework for news stories from Israel. These themes repeatedly recur in the coverage of Israel, but are rarely seen in the coverage of the Arab world.

One way that CAMERA gains a realistic perspective on the Middle East is by examining the framework themes to see how they are used and by analyzing whether they are applied equally to all players. By launching their publication "Facts in Focus," CAMERA hopes to help readers achieve the necessary insights and information to make sound judgments about these issues and the larger realities of today's Middle East.

Mr. Speaker, on March 28, 1990, CAMERA is holding a premiere viewing of its film, "The Media, the Message and the Middle East" at the Embassy of Israel. The film will highlight speakers from CAMERA's national conference, including Alan Dershowitz, Alan Keyes, Professor Ruth Wisse and Professor David Wyman. The film will present an examination both of coverage of Israel and of CAMERA's role in countering misinformation and bias.

I commend and compliment CAMERA for contributing to the accuracy of Middle East reporting. Every encouragement is extended to CAMERA to continue their exemplary service and to continue providing precise communication, for the population's benefit.

WORLDWIDE U.S. ARMS SALES IN FISCAL YEAR 1989

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. HAMILTON. Mr. Speaker, under section 36(a) of the Arms Export Control Act the Committee on Foreign Affairs receives a quarterly report which includes information on U.S. sales of defense articles and services. The committee has received information on total U.S. worldwide arms sales during fiscal year 1989.

During fiscal year 1989 the United States sold $10.864 billion of defense articles and services under the Foreign Military Sales Program. This compares with $12.219 billion in fiscal year 1988 and $6.939 in fiscal year 1987.

During fiscal year 1989 the United States issued licenses/approvals for commercially sold defense articles and services totaling $22.382 billion. This compares with $19.395 billion in fiscal year 1988 and $14.804 billion in fiscal year 1987.

Tables on country-by-country FMS and commercial sales during fiscal year 1989 follow:

Total value of defense articles and services sold to each country/purchaser as of Sept. 30, 1989 under foreign military sales

[Dollars in millions]

Algeria	1.0
Antigua-Barbuda	.2
Argentina	18.1
Australia	188.8
Austria	7.8
Bahrain	99.7
Bangladesh	1.1
Barbados	[a] .7

Total value of defense articles and services sold to each country/purchaser as of Sept. 30, 1989 under foreign military sales— Continued

Belgium	12.2
Belize	.2
Bolivia	.1
Botswana	.3
Brazil	81.9
Cameroon	.3
Canada	218.9
Chad	.2
Chile	.1
China	.4
Colombia	90.8
Costa Rica	.3
Denmark	[b] 27.8
Djibouti	.4
Dominica	.2
Dominican Republic	1.3
Ecuador	9.2
Egypt	[c] 3,042.2
El Salvador	[d] 81.6
Equatorial Guinea	[1]
Finland	1.1
France	56.2
Gambia	[1]
Germany (Bonn)	[e] 427.1
Greece	158.6
Grenada	[1]
Guatemala	[f] 12.2
Guinea-Bissau	.1
Honduras	[g] 22.9
India	.1
Indonesia	17.6
Ireland	[1]
Israel	371.3
Italy	47.1
Jamaica	2.1
Japan	277.0
Jordan	11.8
Kenya	16.3
Korea	391.3
Kuwait	93.5
Lebanon	5.0
Liberia	1.5
Luxembourg	.3
Madagascar	.5
Malawi	.4
Malaysia	2.0
Mali	.1
Mauritania	.2
Mexico	12.5
Morocco	19.1
Nepal	.4
Netherlands	265.6
New Zealand	11.2
Niger	[h] 1.0
Nigeria	[1]
Norway	27.2
Oman	1.0
Pakistan	1,879.6
Peru	2.8
Philippines	130.1
Portugal	31.7
Sao Tome & Principe	.2
Saudi Arabia	1,191.5
Senegal	2.2
Sierra Leone	[1]
Singapore	48.8
Somalia	[i] 8.4
Spain	103.0
St Christopher-Nevis	.1
St Lucia	.2
St Vincent & Grenadines	[j] .1
Sudan	4.7
Sweden	4.5
Switzerland	17.1
Taiwan	526.3
Thailand	77.1
Tunisia	29.8
Turkey	339.0
United Arab Emirates	52.5

Total value of defense articles and services sold to each country/purchaser as of Sept. 30, 1989 under foreign military sales— Continued

United Kingdom	[k] 164.3
Uruguay	2.0
Venezuela	6.0
Yemen (Sanaa)	8.2
Zaire	8.4
International Orgs	85.6
Total	10,864.3

[1] Less than $50,000.

Notes.—Details may not add due to rounding. Construction values are excluded as follows: [a] $286,000, [b] $370,000, [c] $44.3 million, [d] $3.9 million, [e] $100,000, [f] $2.7 million, [g] $2.0 million, [h] $601,000, [i] $1.7 million, [j] $146,000, [k] $131,000.

Licenses/approvals for the export of commercially sold defense articles/services—Sept. 30, 1989

[Dollars in thousands]

Country	Cumulative
Algeria	3,577
Andorra	6
Argentina	131,779
Australia	987,836
Austria	17,241
Bahamas	3,765
Bahrain	7,848
Bangladesh	2,408
Barbados	179
Belgium	195,647
Belize	20
Bermuda	917
Bhutan	[1]
Bolivia	2,591
Botswana	14,587
Brazil	76,268
Brunei	6,639
Burma	273
Burundi	123
Cameroon	2,250
Canada	156,312
Cayman Islands	39
Chad	25,841
Chile	16,896
China	53,516
Colombia	23,017
Costa Rica	3,219
Cyprus	423
Denmark	110,372
Djibouti	4
Dominican Republic	5,140
Ecuador	8,395
Egypt	965,637
El Salvador	3,995
Fiji	180
Finland	30,824
France	403,389
French Guiana	1,031,616
French Polynesia	43
Gabon	419
Gambia	3
Germany	3,116,452
Ghana	1
Greece	149,807
Grenada	2
Guadeloupe	5
Guatemala	3,291
Guinea	303
Guyana	77
Haiti	1
Honduras	14,263
Hong Kong	163,269
Iceland	1,626
India	102,797
Indonesia	106,132
Iraq	1,093
Ireland	1,718
Israel	2,517,049
Italy	643,272
Ivory Coast	61

Country	Cumulative
Jamaica	603
Japan	2,368,173
Jordan	62,955
Kenya	1,180
Korea	1,151,460
Kuwait	121,435
Lebanon	168
Liechtenstein	1,092
Luxembourg	34,715
Macau	9
Malaysia	141,955
Malta	2
Malvides	21
Martinique	7
Mauritania	455
Mauritius	171
Mexico	312,384
Monaco	44
Morocco	20,154
Mozambique	92
Nambia	1,591
Nepal	12
Netherlands	323,050
Netherlands Antilles	70
New Zealand	63,266
Nicaragua	11
Niger	217
Nigeria	44,993
Norway	217,060
Oman	6,320
Pakistan	235,785
Panama	6,884
Papua-New Guinea	25
Paraguay	1,064
Peru	10,581
Philippines	86,865
Portugal	47,841
Qatar	301
Reunion	151
Saudi Arabia	429,003
Senegal	55
Sierra Leone	3
Singapore	391,529
Spain	158,056
Sri Lanka	1,142
St Lucia	6
St Vincent	1
Sudan	196
Surinam	6
Sweden	101,791
Switzerland	482,726
Taiwan	643,064
Tanzania	19
Thailand	207,695
Togo	244
Tonga	4
Trinidad & Tobago	1,042
Tunisia	733
Turkey	308,046
Turks and Caicos	1
Uganda	24,082
USSR	418
United Arab Emirates	449,224
United Kingdom	2,328,491
Upper Volta	84
Uruguay	2,250
Venezuela	95,745
Yemen (Sanaa)	1,221
Yugoslavia	22,342
Zaire	65
Zambia	1,034
Zimbabwe	559
International Orgs	353,646
Worldwide total	22,382,140

[1] Less than $500.

Note.—Details may not add due to rounding.

HONORING JACK M. FIELDS, SR.—BUSINESS LEADER, CIVIC ACTIVIST

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. DELAY. Mr. Speaker, it is with great sadness that I wish to bring to the attention of the House the passing of Jack M. Fields, Sr. of Humble, TX. Jack was the father of my Houston-area colleague, Jack M. Fields, Jr.

While Jack Fields, Sr. was enormously proud of both his sons, and while he reveled in their successes, Jack was a remarkable man in his own right—a man whose civic activism and sense of public service made him notable, and a man who will be sorely missed in Humble, TX.

Jack suffered a heart attack and died suddenly at his home on Wednesday evening, March 15. He was 65 years old. Jack founded Rosewood Memorial Park Cemetery and Rosewood Funeral Home and was a longtime civic activist in the Humble area.

He served for 22 years as a member of the Humble School Board, and at various times during that period he served as the board's president, vice president, and secretary. Jack's commitment to education was well-known. Indeed, last year, Texas Gov. Bill Clements appointed Jack to a 6-year term on the educational excellence committee.

A native of Dayton, TX, Jack graduated from Humble High School before entering the Air Force, where he served with distinction as a bombardier aboard a B-24 and earned the rank of first lieutenant. Following his military service, he earned a bachelor of science degree in chemistry from the University of Houston before opening his family's cemetery and funeral home business in 1948.

More than most Americans, perhaps, Jack Fields, Sr., knew the importance of getting involved in one's community—giving of one's time and efforts to make one's community a better place. And no one in Humble gave more of his time to a multitude of civic organizations than Jack Fields, Sr.

Jack was a longtime member of the Humble Rotary Club, of which he was a founder, serving as its president and vice president at various times. In 1986 and 1988, he was named Rotarian of the Year.

As a member of the Humble Area Chamber of Commerce, Jack served on the board for more than 20 years, including terms as president and secretary of the organization. The chamber has honored him as its Citizen of the Year.

Jack also was active in the Humble Wildcats Club, of which he was a member for more than 15 years. He had served as chairman of the FFA fair and rodeo auction committee.

Mr. Speaker, the list goes on. Jack served as chairman of the United Fund drive in the Humble area, was a member of the board of directors of the Northeast Medical Center in Humble and initiated the formation of the Octavia Fields Memorial Library, which was named after his mother. He served for 9 years as president of the Youth Athletic Association, and was instrumental in forming the Little League park in Humble. He was also chairman of the Little League horse show for 4 years.

And despite the time required to serve his community in these organizations—time which he gave freely to just about anyone who asked for his help—Jack found time to serve as a director of the First City Bank of Humble. Also, he was an active member of the First Baptist Church of Humble.

Last year, a group of Humble citizens joined together to start the Jack M. Fields, Sr. Endowment Scholarship Fund. The fund raises money for disadvantaged students in the Humble area who want to seek a higher education.

It is this fund which will serve as a permanent monument to the efforts of Jack M. Fields, Sr. Even though he is no longer with us, his good work will continue, and young men and women from the Humble area who might not have the financial means to attend college will do so—thanks to Jack Fields, Sr.

Mr. Speaker, I know that you join with me in extending our sincere condolences to Jack's loving wife—and business partner—of 44 years, Jessie Faye; his two sons, U.S. Congressman Jack Fields, Jr. and Jess Fields; and his three grandchildren, Jess Fields, Jr., Jordan Noelle Fields, and Josh Hughes.

We wish each of them well in the weeks and months ahead. Like the men and women of Humble, TX—especially the 1,000 friends who gathered to bid farewell to this remarkable and much-loved man—we consider ourselves lucky to have been blessed by the good works of Jack M. Fields, Sr.

COMMUNISM IS FAILING

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. HUNTER. Mr. Speaker, with the stunning demise of Marxist-Leninism in Eastern Europe and the recent Nicaraguan elections, communism is failing. As for totalitarianism, well, it has not yet succumbed to the worldwide move toward democratization. However, in Latin America, recent positive developments do offer hope for the future.

After U.S. troops put an end to the regime of General Noriega, Panama is on the road to democracy, albeit a long and hard one. Just weeks ago, the Nicaraguan people spoke boldly when they soundly refused to give Daniel Ortega and his Sandinista party what they had for so long tried to attain by use of force—legitimate power. In a generally open and fair election, the people were finally able to voice their opinions, something they hadn't done for many years. Now, if only they had the chance, it is also safe to assume that the Cuban people would vote to oust Fidel Castro and his old-fashioned Marxist-Leninist politicies that have brought economic, social, and political ruination to the nation.These changes in Latin America are mentioned here because of the bearing on events taking place in the Dominican Republic.

The Dominican Republic has had—like many Latin American countries—a history of military-led governments as well as popularly-elected governments. What is so ironic, indeed incredible, about the current Dominican presidential election campaign is the proclaimed Marxist claims to have U.S. support. Candidate Juan Bosch, who was overthrown by a civil military movement 7 months after reaching power in 1963, is again aiming for the Dominican presidency. The irony? Bosch is an avowed Marxist. He even said so on national television last fall.

The September 5, 1989, edition of the Dominican newspaper Ultima Hora contained a summary of Bosch's television appearance the day before. Declaring that "I am a Marxist, but not a Leninist," Bosch launched into a diatribe against the United States and blamed it for the strength and influence of narcotraffic in the Dominican Republic. He also stated that he looked at everything in the world through a Marxist glass: "I was and am a Marxist in everything that refers to the study of society. The person who does not study society from the point of view of Karl Marx cannot understand society." Strong words indeed. But strange in a world that has proven the folly of Marxism.

What is important in this election, however, is that there are other candidates promoting such policies as free markets, reduced taxes, closer United States/Dominican Republic relations and less government. Among those candidates is Jacobo Majluta of the Independent Revolutionary Party [PRI].

In a recent Gallup poll, Bosch led with 34 percent. The United States has not officially supported any candidate and has stressed that it is up to the people of the Dominican Republic to choose.

It is clear that there are choices in this election. On one hand you have Majluta, a politician who shares much of the policies of the Reagan-Bush administrations, and on the other you have Bosch, a diehard Marxist. There cannot be a more clearcut and important choice. After all, the Dominican Republic is a key United States ally in the Caribbean Basin. It is strategically located between Communist Cuba and Puerto Rico, and it shares the island of Hispaniola with Haiti. The Dominican Republic lies adjacent to critical shipping lanes and air routes.

It is for this very reason that Fidel Castro—always looking for more Caribbean nations to undermine—is anxiously awaiting for a fellow Marxist to gain power. With the downfall of Ortega and the ouster of General Noriega, Castro is becoming increasingly isolated, both economically and politically. He is, therefore, understandably interested in Bosch. And Bosch, it seems, is also interested in going outside of the Dominican Republic for support. Indeed, it was recently announced in Dominican newspapers that Bosch already has established contacts in Panama and Venezuela. His party sent representatives to Panama to pick up 52 trucks and vans for his campaign drive. It appears even former Panamanian strongman General Noriega was a big supporter of Bosch, and there were allegedly contacts with Castro and Ortega. Even if there were not, it is logical that Castro would welcome another Marxist in the Caribbean.

For now, however, it appears the geopolitical interests of the United States will be lost if Bosch is victorious at the polls.

TRIBUTE TO CORINA DAVIS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. YATRON. Mr. Speaker, today I rise to pay tribute to a bright and talented young woman from Reading, PA. I am speaking of Corina Davis, who is currently a senior at Antietam Junior/Senior High School in Reading. Upon graduation from high school this spring, Corina is planning to further her interest in the arts and humanities in college.

On May 13, 1990, a special ceremony will be held to recognize Corina's successful completion of all requirements for the Girl Scout's Gold Award. Corina's hard work and tenacious efforts to serve her community and fellow Girl Scouts makes her a most worthy recipient of the Gold Award, which is the highest honor a Girl Scout can receive.

Mr. Speaker, Corina has been active in scouting for most of her life. Naturally, she entered the Girl Scouts as a Brownie, but Corina has proven her abilities and climbed the ranks through Junior, Cadette and Senior Girl Scout Programs. In addition to Scouting, Corina has participated in many extracurricular activities both in and beyond high school, and she has taken several art classes over the years.

Mr. Speaker, it is indeed a pleasure for me to recognize Corina's achievements before you and the other Members of the House of Representatives, as well as the rest of the Nation. Moreover, I am certain that the Gold Award will be the first of many more honors for Corina. Let me take this moment before the House to commend Corina for her accomplishments and to wish her the best of luck and success in all of her future endeavors.

A TRIBUTE TO LAKE CITY HIGH SCHOOL

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. PENNY. Mr. Speaker, the First Congressional District in southeastern Minnesota is once again the seat of basketball in the land of 10,000 lakes as—for the second straight year—teams from the district have won both the class A and class AA high school boys basketball championships. In fact, 3 of the 4 teams who played for the championship in those 2 classes came from southeastern Minnesota.

Lake City and Mankato Loyola were two of those teams. In a game that went down to the final buzzer, Lake City beat Loyola 52-51. It was an exhausting contest that could have easily gone either way—the score was tied four times in the fourth quarter alone—but on that night the Lake City Tigers outlasted the Crusaders of Loyola.

Lake City arrived at their State tournament championship in easier fashion by beating Staples-Motley in the quarter finals, 60-47, and Minneapolis de la Salle, 46-36 in the semifinals.

This marks the third State championship for the Tigers, as they won back-to-back championships in 1978 and 1979. Those years they were led by Randy Breuer, who went on to lead the University of Minnesota to their last Big Ten championship and who now plays for the Minnesota Timberwolves in the NBA.

It would be difficult to predict what the future holds in store for the members of this 1990 championship team, but if current success is any indication, the sky is the limit for what they can achieve. We offer our most sincere congratulations to the players, coaches, parents, and fans of Lake City High School.

NICARAGUAN ELECTION OBSERVATIONS

HON. PHILIP M. CRANE

OF ILLINIOS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. CRANE. Mr. Speaker, although I was skeptical whether free and fair elections could be held in Nicaragua, I never doubted for an instant that if the elections were indeed free, that Violeta Chamorro would be the victor. However, if my only preelection information source was the U.S. news media, I am sure I would have been convinced otherwise.

The following article highlights individual news accounts, and in some instances the names of those journalists behind the stories, who displayed the most blatant pro-Ortega bias before, during, and after the elections. I believe this is must reading for those of my colleagues who rely on these sources for objective news coverage. To me, there is no clearer proof that many news agencies throughout the country have their own hidden agendas.

I hope my colleagues whose job it is to remain well informed will take the time to read this revealing article.

[From Human Events, Mar. 10, 1990]

NICARAGUAN ELECTION OBSERVATIONS

Virtually all the media were caught flatfooted by Violeta Chamorro's landslide victory over Daniel Ortega and the Sandinistas, but our reporter on the scene—Peter LaBarbera—had it right along. In our February 24 issue, LaBarbera wrote a story saying that Chamorro should win in a free election.

In his story the following week, which LaBarbera wrote from Managua just three days before the election, he was prophetic. "Support for UNO," he allowed, "is much stronger than most foreign journalists are reporting. Many Nicaraguans who didn't wish to talk much about it—including those who play it safe and attend the FSLN rallies—are voting for UNO. Hence the confidence of the opposition . . ."

LaBarbera said that Chamorro caught the "Big Mo" in late January, and indicated she should win—in an entirely free election—with as much as 60 percent of the vote. (She actually won 55 percent of the ballots.) Up until the very end of the campaign, said La

Barbera, Ortega was playing hardball, harassing and intimidating UNO supporters. But Chamorro should win handily if the election wasn't stolen, he contended, and "only FSLN supporters believe those polls."

The U.S. media displayed an amazing pro-Ortega bias before, during and after the elections. Daniel Ortega's concession speech even began, "Friends of the national and international press . . .," while the Associated Press reported that some of the foreign journalists who had gathered to hear Ortega give his concession speech were sobbing "large tears." NBC's Brian Gumbel, ABC's Peter Jennings and the front-page of the Washington Post frequently appeared to be reporting as if they were Ortega partisans.

While in Managua, Peter LaBarbera told us that many of those covering the election appeared sympathetic to the Sandinistas or easily deceived. Had the reporters looked behind the slick campaign events and talked to the Nicaraguan people, he said, "they would have realized that UNO's support was wide and deep."

No one seemed more pro-Ortega than Jennings, who touted the ABC/Washington Post poll which had Ortega winning by a landslide. (The Post also carried the poll's results prominently on its front page.)

ABC's new anchor was almost jubilant in announcing its findings. "We designed the questions," he said. "The poll was conducted by the Washington pollsters Belden & Russonello who have a lot of experience in Latin America. It wasn't a phone call. All the respondents wrote down their own answers in secret and apparently with great enthusiasm."

Jennings apologized later, sort of, but this wasn't the only time his bias appeared to be showing. It is an estimated fact—admitted to by the CIA, the Sandinistas and the FMLN guerrillas in EL Salvador—that the Sandinistas have been aiding the FMLN. Indeed, FMLN headquarters are in Managua.

But Jennings, as the Washington Times' Don Kowet trenchantly observed in his March 1 report, acted as if the charge were only an unproven accusation. He said that the Sandinistas had been "accused" of fueling civil war in El Salvador by "funneling arms to the Salvadoran rebels," and then wondered whether, "[t]rue or not," this would have an important impact on the Salvadoran conflict.

How, wondered a very perplexed Kowet, could Jennings let the words "true or not" escape his lips? "For months," said Kowet, "the FMLN has been admitting it gets arms from Nicaragua. In fact, and FMLN leader said so two days ago in the Post. Daniel Ortega admitted his support for the FMLN when he said that if he won the election he would stop supplying arms to the Salvadoran guerrillas.

"Where is Mr. Jennings getting his outdated line in El Salvador? Perhaps he's been watching recent episodes of Fox Broadcasting's bizarre leftwing cop show '21 Jump Street' * * *.

"Was Mr. Jennings watching * * * when a saintly FMLN martyr assured the cops that his guerrillas didn't get any weapons from the Cubans or Sandinistas since they could buy all they wanted from the U.S.-supplied Nicaraguan Contras? Maybe that might explain his performance the other night."

It sure was sad walking around the Olof Palme Convention Center the day after UNO's victory over the Sandinistas Front, LaBarbera informs us. "Leftists who had flown or hitchhiked into Managua to celebrate what they thought would be a certain FMLN victory could be seen with heads hung low, or commiserating with one another about the U.S. "intervention," which they said sealed the government's election defeat.

"It's just going to be awful going back to Washington now, to see the right-wing getting all involved again in Nicaragua's internal affairs," said one "Sandalista" who came to Nicaragua at the invitation of Robert White's Center for International Development Policy.

A mood of dejection hovered over the center, Nicaragua's most modern building, which was donated by Sweden. Many leftwingers tried to console their Nicaraguan Sandinistas friends by assuring them that six years from now they will defeat UNO.

Before the election, Ed Asner, the pro-Marxist TV actor, was confident of a Sandinistas victory. Afterwards, he told David Hirschmann of the Council for Inter-American Security that Central American solidarity activists must now concentrate all their energy on El Salvador.

For his part, liberal Sen. Christopher Dodd, Connecticut Democrat—a consistent supporter in Congress of Sandinistas positions—tried to take away from the UNO triumph: "I wouldn't call it a great victory for the UNO party, but a desire of the Nicaraguan great victory for the UNO party, but a desire of the Nicaraguan people for change," he said.

Violetta Chamorro's landslide victory drove some supporters to denunciations that were, well, overwrought. Larry Birns, of the Council on Hemispheric Affairs, for example, said, "I am filled with an inner rage that the corner bully won over the little guy." Miffed at the overwhelming voter rejection of his fellow leftists, he lamented, "The Sandinistas had the right to win, to rule a country that was not being visited by an extraordinary array of negative factors."

Former President Jimmy Carter, who gave us the Sandinistas back in 1979, and was still covering up for their election abuses in the 1990 campaign, gave credit for Violeta Chamorro's victory to * * * Daniel Ortega. We should, he said on CBS's "This Morning" TV show, "acknowledge the achievement that has been offered to Nicaragua by Daniel Ortega and the Sandinistas."

INTRODUCTION OF THE FOREIGN TRADE ZONE IMPROVEMENT ACT

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. PEASE. Mr. Speaker, on behalf of my colleagues Ms. KAPTUR, Mr. BARNARD, and Mr. LEVIN, I am introducing today the Foreign Trade Zone [FTZ] Improvement Act, a bill designed to give the FTZ Program a much needed tune up.

Recent growth in FTZ's, sites within this country that are considered outside U.S. customs territory, has been phenomenal. Between fiscal years 1975–87, general purpose zones, located in ports of entry and used primarily for warehousing and distribution, increased from 17 to 138. Subzones, which contain single manufacturing plants—largely auto—increased from 2 to 101.

While the proliferation of general purpose zones does not overly concern us, the rapid growth in subzones, and its effect on our balance of trade, certainly does. Much of subzone growth is a direct result of inverted tariffs on automotive and other products, whereby parts carry a higher import duty than finished products. By permitting duty-free entry of parts and components, subzones allow manufacturers to get around inverted tariffs. This has resulted in large savings for automakers and, by contrast, cries of unfair trade by U.S. auto parts producers, who argue that the zones encourage automakers to import parts rather than buy domestically.

In spite of the FTZ Program's growth, Congress has remained surprisingly disinterested in reevaluating the FTZ Act of 1934. In fact, 40 years have passed since Congress last provided the Commerce Department, which administers this program, with any statutory guidance on FTZ's. Within the past year, both the General Accounting Office [GAO] and the House Government Operations Committee have recommended that Congress amend the FTZ Act, requiring the FTZ Board to follow specific trade and employment criteria in reviewing zone applications. In line with these recommendations, the Foreign Trade Zones Improvement Act would:

Establish public economic interest criteria for the Board's use;

Place the burden of proof on the FTZ applicant;

Set up specific time deadlines for the Board to follow in reviewing applications; and

Require that new FTZ's—those approved after the passage of this act—be reviewed every 7 years or when "good cause" is demonstrated.

Our intent is not to derail the FTZ Program. We recognize that many companies and employees have reaped impressive benefits from the existence of FTZ's. Nevertheless, we also believe that this program needs an overhaul. The reforms that we propose are well-balanced, reasonable, and noncontroversial. In fact, the program's supporters and critics alike share the view that future zones should meet a public interest standard, and that applications should be reviewed more quickly and thoroughly.

I urge my colleagues to give this bill serious consideration.

The bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Trade Zones Improvement Act".

SEC. 2. COMPOSITION OF BOARD.

Section 1(b) of the Act of June 18, 1934 (commonly known as the "Foreign Trade Zones Act" and hereinafter referred to as the "Act") (19 U.S.C. 81a(b)) is amended by striking out "and the Secretary of the Army;" and inserting "the Secretary of Labor, and the United States Trade Representative;".

SEC. 3. PURPOSE AND CRITERIA FOR APPROVING ZONES.

Section 2(b) of the Act (19 U.S.C. 81b(b)) is amended—

(1) by striking out "(b) NUMBER OF ZONES PER PORT OF ENTRY.—" and inserting "(3)"; and

(2) by inserting before paragraph (3) (as so redesignated under paragraph (1) of this section) the following:

"(b) PURPOSE AND NUMBER OF ZONES; PUBLIC ECONOMIC INTEREST CRITERIA APPLICABLE TO ZONES.—(1) The purpose of foreign trade zones is to foster free and fair trade through increased export and transshipment activity.

"(2) The Board may not grant an application to establish a zone under this Act unless the Board finds that the proposed zone will meet each of the following public economic interest criteria:

"(A) The proposed zone will result in higher domestic employment than would be the case if the zone were not approved.

"(B) The activities that will be carried out in the proposed zone will not have a detrimental effect on companies supplying goods to the industry that will operate ion the zone.

"(C) The activities that will be carried out in the proposed zone will have a positive effect on the United States balance of trade.

"(D) The activities that will be carried out in the proposed zone will be consistent with national trade policy goals.

"(E) The operation of the proposed zone will not significantly harm competitors in the domestic economy that produce similar goods, particularly in import sensitive industries.".

SEC. 4. APPLICATION FOR ESTABLISHMENT OF ZONES.

Section 6 of the Act (19 U.S.C. 81f) is amended—

(1) by redesignating paragraph (5) of subsection (a) as paragraph (7);

(2) by inserting after paragraph (4) of subsection (a) the following new paragraphs:

"(5) the ability of the applicant to maintain operations in the zone;

"(6) The customs and tax benefits that will accrue to the applicant as a result of the operation of the zone;";

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following new subsection:

"(b) PUBLIC ECONOMY INTEREST CRITERIA.—The applicant has the burden of proving by substantial evidence that the proposed zone and the operations therein will meet the public economic interest criteria set forth in section 2(b)(2).".

SEC. 5. ACTION ON APPLICATIONS.

Section 7 of the Act (19 U.S.C. 81g) is amended to read as follows:

"SEC. 7. GRANTING OF APPLICATIONS, MANDATORY REVIEW.

"(a) NOTICE OF, AND COMMENT ON, APPLICATIONS.—(1) After receiving an application under section 6, the Board shall promptly—

"(A) cause to be published in the Federal Register a notice—

"(i) containing the text of the application,

"(ii) inviting, during the 30-day period following the date of publication of the notice, written comment by interested persons on the application, and

"(iii) informing the public that opportunity for a public hearing on the application is available under paragraph (2); and

"(B) if the application proposes a zone in which articles will be manufactured, request the United States International Trade Commission to prepare an opinion on the application under subsection (b).

"(2) If, by the 30th day after the date of publication of notice of an application under paragraph (1), 2 or more interested persons have requested a public hearing on the application, the Board shall, after appropriate notice, hold such a hearing no later than the close of the 15-day period following such 30th day.

"(b) ITC OPINION.—If the United States International Trade Commission receives a request from the Board under subsection (a)(1)(B) regarding an application, the Commission shall prepare, and submit to the Board within 40 days, an opinion regarding whether the proposed zone and the operations therein will meet the public economic interest criteria set forth in section 2(b)(2).

"(c) ENVIRONMENTAL IMPACT.—It is the sense of Congress that the Board should consider the environmental impact of a proposed zone when reviewing the application. If appropriate, any such consideration should include consultation with the Corps of Engineers.

"(d) BOARD ACTION.—(1) The Board shall grant an application to establish a zone if the Board finds that—

"(A) the proposed plans and location are suitable for the accomplishment of the purpose of a zone;

"(B) the facilities and appurtenances proposed to be provided for the zone are sufficient; and

"(C) the proposed zone will meet all of the public economic interest criteria set forth in section 2(b)(2).

"(2) Before making a decision with respect to an application, the Board shall take into account—

"(A) all written and oral public comment submitted in regard to the application; and

"(B) if applicable, the opinion of the United States International Trade Commission submitted under subsection (b).

"(3)(A) If the circumstances described in subparagraph (B) do not apply to an application, the Board shall make a decision with respect to the application on or before the 45th day after the date on which notice of the application is published under subsection (a)(1)(A).

"(B) If a public hearing is held on an application under subsection (a)(2) or if the United States International Trade Commission is required to submit an opinion on the application under subsection (b), the Board shall make a decision with respect to the application on or before the 15th day after—

"(i) the last day of such hearing;

"(ii) the day on which such opinion is submitted; or

"(iii) if both such a hearing is held and an opinion submitted, the later of such last day or day of submission.

"(e) REVIEW OF GRANTS.—(1) The Board shall, with respect to each zone that was applied for on or after the date of the enactment of the Foreign Trade Zones Improvement Act, review the operation of the zone for the purpose of determining whether the zone is meeting the public economic interest criteria set forth in section 2(b)(2).

"(2) The Board shall conduct the review required under paragraph (1) regarding each zone no less frequently than by the close of each 7-year period following the granting of the application, but shall conduct such a review at any time an interested party shows good cause for review.".

SEC. 6. REPORT TO CONGRESS.

Section 16(c) of the Act (19 U.S.C. 81p) is amended by adding at the end thereof the following new sentence: "The report shall include a statement prepared by the Commissioner of Customs summarizing the administration of the customs laws with respect to the zones during the period covered by the report.".

SEC. 7. REVOCATION OF GRANTS.

The first sentence of section 18(a) of the Act (19 U.S.C. 81r(a)) is amended to read as follows: "In the event—

"(1) of repeated willful violations of any of the provisions of this Act by the grantee; or

"(2) that the Board, after review under section 7(e), considers that zone is not meeting one or more of the public economic interest criteria set forth in section 2(b)(2);

the Board may revoke the grant after 4 months' notice to the grantee and affording it an opportunity to be heard.".

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act take effect on the date of the enactment of this Act; but the amendments made by sections 3, 4, and 5, and the amendment made by section 7 with respect to grant revocation for failure to meet public economic interest criteria, only apply with respect to foreign trade zones for which application is made on or after such date.

OAKLAND PRIVATE INDUSTRY COUNCIL

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. DELLUMS. Mr. Speaker, Irving Berlin once said the toughest thing about being a success is that you've got to keep on being a success. And that is exactly what the Oakland Private Industry Council has done. This marks the third year the Oakland PIC's JTPA Employment and Training Program, PIC Experience has sponsored a local contest in celebration of National Employ the Older Worker Week. The contest is designed to find Oakland's oldest paid worker and one over 65 making an especially unique or noteworthy contribution to an employer. These two winners are selected from 12 weekly winners; ail are honored at a festive awards luncheon paid through donations from PIC board members and local businesses.

The contest and awards luncheon has proven over the years to be a highly successful way of drawing the public's attention to the positive side of aging and the vital role older workers play in today's workplace. The publicity than surrounds the contest serves to dispel some of the negative myths that, unfortunately, are still sometimes associated with the aging process.

Dr. Joyce T. Berry, U.S. Commissioner on Aging, will serve as keynote speaker at the March 26 luncheon. Dr. Berry's comments related to Americans living longer and healthier lives will underscore the theme that older workers can and do continue to be highly productive motivated, and loyal employees.

The high spot of the awards luncheon is the presentation of awards to the contest winners; each honoree is a success story. Each is an impressive example that age in itself does not

have to be a barrier to successful and meaningful employment.

Elizabeth Werschkull heads the list of honorees. At 94 Ms. Werschkull continues to work 5 hours a day at a local cleaners, handling incoming and outgoing garments, tagging clothing, assisting customers and taking care of the banking. She is living proof that an older worker can still do the job, and still do it well.

The Oakland Private Industry Council is not only proud of the success the contest has achieved in focusing public attention on the benefit of hiring older workers, but also of its work of expanding the employment opportunities for over 600 older job seekers since 1986. Many of these job seekers have experienced the adverse effects of unemployment, such as diminished self-esteem, isolation, and economic pressures. Some of them must enter the work force for the first time, at the same age others are retiring. Some need to upgrade their skills to be competitive; others find themselves unemployed late in their careers. It's through PIC experience that these job seekers get the training they need to become successfully employed.

The Oakland PIC's continuing success can best be summed up by one of its clients, Harold Mitchell:

The Oakland Private Industry Council really helped me out. I needed a job. It had been a long time since I had to look for work and I didn't know how to go about it. I found myself getting depressed because I knew I had a lot to offer, but I just didn't know how to find an employer who would hire me. Then I got together with the PIC job counselors and together we decided I should go to security guard school. The idea of going back to school made me a little nervous at first, but I caught on fast. Right after I graduated I got a good job. It's a job that has made me real happy, and I know my employer is pleased with my work. So I'd say the PIC really changed my life.

TARGETED EXPORT ASSISTANCE PROGRAM

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. THOMAS of California. Mr. Speaker, today I am joining with Senator PETE WILSON and several of our House colleagues to introduce legislation reauthorizing the Targeted Export Assistance [TEA] Program at a level of $325 million per year. I hope others in the House will join us in supporting reauthorization of this critical export promotion program.

The bill continues the current law focus of TEA export promotion funding: That of assisting industries victimized by unfair foreign trade practices to overcome the effects of unfair competition. The bill also provides for improved congressional oversight of the program by requiring the Department of Agriculture to report to Congress on the use of TEA funds within 15 months after funds are received by applicants.

The TEA program is one of the success stories of the 1985 farm bill. Funds made available by TEA have been matched by U.S. commodity groups. In fact, specialty crop producers all over the Nation, farmers who do not get Federal subsidies for their crops, have benefited from TEA export promotions. A list of the commodities that have been helped to expand their export opportunities under the TEA program includes peaches, raisins, barley, sorghum, soybeans, kiwifruit, cherries, pistachios, almonds, wool, prunes, seafood, strawberries, grapes, plums, nectarines, pears, walnuts, cotton, oranges, grapefruit, hops, wood products, honey, lemons, peanuts, potatoes, sunflowers, apples, rice, poultry, corn, red meats, wheat, and wine. This is an important program for all kinds of specialty crop exporters.

When Senator WILSON and I first discussed this concept, I thought it was a great idea. I still do. During my service in Congress, I have met with trade officials from nations such as Japan and the European Community nearly every year. I can tell you without fear of contradiction that those people used to think the United States was not serious about farm exports. They were especially convinced that specialty crops were low on our list of trade priorities. After the 1985 farm bill, that is no longer true.

The Foreign Agriculture Service has taken a multitude of steps to improve the administration of this program since 1985. The Service has tried to be certain that Federal funds spent under the TEA program are used in the most effective manner possible—including the use of matching funds from U.S. industries applying for TEA support. Industry has spent nearly $200 million of its own funds under the TEA program, and expenditure of another $60 million is expected this year. The bill builds on this record by requiring the Department to report on each TEA grant's use by applicants within 15 months of the time funds are made available. This improved oversight should answer any criticism of this program.

The program's successes show just how much progress has been made and how important this program has been made. Today, California raisins hold 85 percent of the United Kingdom consumer pack raisin market because of a TEA project. United States citrus sales in Japan and other parts of the Pacific Rim have been expanded under the program. TEA funds helped U.S. wine exports grow 14 percent during the last 3 years through promotional and education projects in 19 countries. Avocado, walnut, almond, and pistachio nut exports have achieved equally impressive gains through market promotion efforts founded in part on TEA funds.

Under no circumstances should the Targeted Export Assistance Program be left out of the 1990 farm bill. It would send the wrong signal to the Europeans, to Japan and to other countries engaged in unfair trade in fruits, vegetables, meats, and other specialty crops. It is especially important that we preserve this vital trade tool while we are waiting for the outcome of the Uruguay Round trade negotiations. The TEA Program has been successful in helping U.S. commodity groups open foreign markets and we should keep this important tool in place until other nations agree to eliminate the trade distorting practices that led to the Targeted Export Assistance proposal Senator WILSON and I introduced 5 years ago.

TRIBUTE TO PORTSMOUTH HIGH SCHOOL BASKETBALL TEAM

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. McEWEN. Mr. Speaker, I would like to draw the attention of my colleagues to the achievements of the Portsmouth High School Trojan's boys basketball team in the 1990 Division II Ohio State Championship Tournament held in St. John Arena at Ohio State University in Columbus, OH.

The Trojans advanced to the finals of the State tournament against a strong team from Colonel White High School in Dayton, OH. History records they played very well. Officially, the 1990 Trojans will be listed as State runner-up's, but they have returned to Portsmouth as champions, proud of their great 24–3 season.

The team, coaches, manager, and cheerleaders will be honored as champions this Friday night at a banquet. They are champions because they brought honor to themselves, their families and their community by their efforts. I wish to applaud them all.

First, the players on the 1990 Portsmouth High School Trojans boy's basketball team: David Austin; Emanuel (Lou) Barnes, Scott Barnes, Mike Estep, Brian Kelly, Dwight Lewis, Darryl Lisath, D'Amond Mannon, Eric Miller, Roger (Todd) Skaggs, Jay White and Phillip (Phil) Whitehead, Jr.

The players were ably assisted by their student manager, Philip Berger. The team could not have succeeded on their own. The Trojans were trained and coached through their especially successful season by Joe Susboticki, Rick Ferrell, Jim Rhea, Kirk McMahon, and Jim Stanley.

A team and coaches cannot do this well without the support of the community, dedicated faculty, loving parents, and faithful fans.

Fans acting on their own have an impact of course. But this year, the value of having a great cheerleading squad lead the fans was never more apparent. So I also thank the 1990 Trojan boy's basketball cheerleaders: Kelly Birkhimer, Jessica Conley, Marsha Gannon, Luann Griffith, Andrea (Andi) Hermann, Tracy McCoy, Jennifer McGraw, Kristy McGraw, Jodi Rawlins, and Amy Wise.

A basketball season lasts only a few months, but the memories of the Trojan's achievements this year will live on. Everyone will carry memories of hard work, dedication, determination, and team work from this special season. I join with the entire Portsmouth community in saluting their achievements and I commend their efforts to you today.

FREEDOM AND INDEPENDENCE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. RITTER. Mr. President, Mr. Gorbachev and his associates continue to assure us that Soviet authorities will not use force to stop the Lithuanians on their road to freedom and independence.

But Mr. President, how does Mr. Gorbachev define the menacing passage of an armored column past the Lithuanian Parliament at 3 a.m.? How does Mr. Gorbachev define the deployment of Soviet troops to take over five Lithuanian Government buildings? How does Mr. Gorbachev define the use of armed Soviet soldiers to storm two hospitals and drag out—in a bloody trail—23 young men of Lithuania who refuse to serve in the ranks of an illegally occupying army?

When does the application of all these measures of control and intimidation amount to force? Does force mean the jailing and killing of innocent Lithuanians or does it also mean the bloody beating of courageous young Lithuanians and the military occupation of Lithuania, something we are presently witnessing.

Mr. President, it is important that we speak out now, that we let the Soviets know that we stand with the Lithuanian people in their time of need.

It is important that we speak out, and say again, that we do not recognize the forcible incorporation of the Baltic nations into the U.S.S.R. in 1939 as a result of the Hitler-Stalin pact, that grave harm will come to the growing relationship between the United States and the U.S.S.R. if blood shed occurs or if they persist in their military subjugation of Lithuania.

Mr. President, I call on you to recognize the independent nation of Lithuania—and establish full diplomatic, economic and cultural ties.

Many of us in Congress urgently request that you take this bold step of recognition—which is fully in line with the past and present United States policy of not accepting their incorporation into the Soviet Union. In a few short hours, last week, 100 Members of Congress signed on to such a request.

If the United States has maintained that Lithuania is not a part of the Soviet Union—why should the United States be so hesitant to recognize Lithuania as a fully independent and sovereign nation, which it was before the Soviet invasion?

America's lack of recognition of Lithuania, and the lack of recognition by other Western nations, encourages Soviet hard-liners to act violently because they underestimate the impact of their actions. America must take the lead. The courageous people of Lithuania are crying out for recognition and the moral, economic, and political support that goes with such recognition.

President Bush, we call on you to act—and recognize Lithuania's independence.

A TRIBUTE TO OWATONNA HIGH SCHOOL

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. PENNY. Mr. Speaker, I am proud to announce that for the second straight year, Minnesota's First Congressional District in the southeastern corner of the State is home to both the class A and double A high school basketball champions. In fact, three of the four teams playing for the championship in those two classes hail form the First District.

We are especially proud that for the second straight year, Owatonna has captured the class double A basketball championship. It is always nice to see a school from a rural community compete with a school from a large metropolitan area. But Owatonna did more than just compete—they dominated Minneapolis North, walking away with a 72 to 26 victory. It was one point away from being the most lopsided championship score in Minnesota high school basketball history.

This was not a perfect season for the Indians, however. They were forced to bounce back from an early season string of losses which made their quest for back-to-back State championships seem highly unlikely. But hard work, determination, and the unquestionable loyalty of their fans pulled them through. I had the pleasure of attending the pep rally at Owatonna High School following the championship and can personally attest to the outstanding support the people of this community show for their team. They took one of the largest and loudest contingent of fans to the tournament and it obviously helped.

To the community, the school, the coaches, and the players of Owatonna High School, I give my heartiest congratulations.

THE NEW YORK IRISH CARMELITES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to draw the attention of my colleagues to the New York Irish Carmelites, and their proud and rich history.

In particular, I had the pleasure to march in New York City's St. Patrick's Day parade, which was dedicated to the New York Irish Carmelites. As you may know, the Carmelite order originated on Mount Carmel in the Holy Land. After being driven from that land by the Muslims, the Carmelites settled in Ireland in 1271. Centuries later, missions were established in New York and Australia to minister to the sick and the poor.

Mr. Speaker, I am particularly proud to note that the Carmelite Province of Saint Elias, the Carmelite mission to the United States, is headquartered in my home town of Middletown, NY. Further, the largest Carmelite parish outside of New York City, is located in Tarrytown, NY, which is also within my congressional district.

Mr. Speaker, I insert at this point in the CONGRESSIONAL RECORD the full text of the New York St. Patrick's Day dedication to the Carmelites and Billy Carr's excellent article on the history of the Irish Carmelites in the United States:

DEDICATION: THE NEW YORK IRISH CARMELITES AND TO PEACE WITH JUSTICE AND HONOR FOR ALL IRELAND

(By Francis P. Beirne, Chairman)

For the past century, the Irish Carmelites have ministered to the people of New York generally, and to the Irish population in particular. The names of the predecessors of the present New York Irish Carmelites must surely be a litany of Saints of the Church Triumphant. Each generation has been served by truly outstanding priests of the Order of the Holy Scapular of Mount Carmel. When the Parade Committee was approached by the Carmelites with the request to dedicate the Saint Patrick's Day Parade which would fall within their centennial year to the Carmelite Order, the reaction of the Chairman was an instant affirmative. Intuitively, I knew it was the right thing to do. Perhaps more meaningful than any other influence on my life since my arrival in America has been my relationship with and memory of the late Very Reverend Donal M. O'Callaghan, O'Carm. I also know that I am not alone in being influenced by this great, religious man.

Father O'Callaghan was born in New York on the 3rd of March 1916 and ordained onto the Carmelite Order on the 29th of May 1943. I have said that he was a religious man, and he was, but, like Father Sean Reid and most other Irish Carmelites he was also nationally minded. At a Sean Oglaigh na hEireann Easter Communion Breakfast some years back, Father O'Callaghan, in answer to a comment that some clergy had collaborated with the English occupation government stated that there were no Carmelites in that number, in fact, he said, "Throughout their long history, the Irish Carmelites have preached nothing but Faith and Sedition!" He had a way with words and could evoke strong emotions with his ready recitations of Irish poerty and inspiring quotations.

In addition to being Deputy National Chaplain of the Ancient Order of Hibernians in America and Chaplain to his father's Corkmen and many other Irish organizations in New York, Father O'Callaghan also ministered to many in Ireland. Eamon deValera was among that number as was Daithi O Conaill when the "Tall Fellow" was a political prisoner. He also sought out the graves of no fewer than nine Republicans (that I am personally aware of) in Ireland who were not buried in consecrated ground and performed the necessary rites to consecrate the last resting places of these authentic Irish heroes. An invaluable advisor to the Parade Committee and a most memorable Grand Marshal, Father O'Callaghan was also a personal friend and counsellor to so many of us, particularly to young Irish immigrants, whose cause he championed.

Father O'Challaghan presided over my marriage and baptised all but the youngest of my children; I know that I am not alone in such a memory. He was a frequent visitor to our house, having dinner with my family just one week before his untimely death on the 9th of May 1973. His memory is so green that it hardly seems seventeen years since

he left us, and while we are poorer without him, we are also the richer for having known him. Michael Flannery of Tipperary, our 1983 Grand Marshal, was another of Father O'Callaghan's close friends. Mike also recalls the long history of Irish Carmelite support for the Cause of Irish Freedom. Faithful to the Irish Republic Proclaimed on Easter Monday, 1916, the New York Irish Carmelites were the most enthusiastic advocates of the Friends of Irish Freedom during the "Black and Tan" War; they continued to support the Republic during and after the Civil War. There are recurrent themes in history as well as a very real spiritual succession in separatist Irish nationalism. Mike Flannery, a Director of Cumann na Saoirse and Trustee of today's Friends of Irish Freedom, will be the Reviewing Stand as the New York Irish Carmelites pass by. Father O'Callaghan would appreciate the significance of that scene and of the place of honor for County Tipperary and the Irish Brigade Honor Guard, honoring Michael Doheny, 1848 revolutionary, Irish immigrant, Colonel of the 69th and Fenian organizer. He would also approve of the reappearance of a Republican oriented Friends of Irish Freedom marching in proximity to Cumann na Saoirse and Sean Oglaigh na hEireann.

We are indebted to Bill Carr for his scholarly summary of the history of the New York Irish Carmelites which appears in this program. In 1990 we are also commemorating the 125th anniversary of the re-unification of the United States, accomplished in no small measure through the sacrifices of Irish immigrants as the names in the Medal of Honor Grove in Valley Forge, Pennsylvania and the battle honors of the 69th, the Irish Brigade, the Irish Legion and many another "Irish" unit testify. America still needs Irish immigrants today, and they are comming; unfortunately, for the past quarter-century, the immigration laws and regulations have ignored this fact as well as the contribution of the Irish over the centuries. We have friends in the Ad Hoc Congerssional Committee for Irish Affairs trying to right this wrong, but they need our support for their efforts and for the immigration reform program of the AOH.

In dedicating this 1990 New York Saint Patrick's Day Parade to the Irish Carmelites and to, in the words of John Cardinal O'Connor, "Peace with Justice and Honor" for All Ireland, let us also remember that Honor also demands Justice for our Irish immigrants. Justice in immigration reform was a cause served so faithfully by Father Donal O'Callaghan; what better tribute to him and to the Irish Carmelites than to follow his example and re-double our own efforts for Peace, Justice and Honor both here and at home.

THE CRADLE OF IRISH INDEPENDENCE IN AMERICA

(By William J. Carr, M.A. and Rev. Alfred Isacsson, O. Carm.)

The Carmelite parish on East 28th Street has been the focal point of Irish Catholic activity in New York City since its foundation in 1889. During this centennial year, the New York Saint Patrick's Day Parade is dedicated to the Irish Carmelites in New York, now also known as the Carmelite Province of Saint Elias (headquartered at Middletown, New York), they still maintain the "Mission," the parish of Our Lady of the Scapular of Mount Carmel, 339 East 28th Street.

The Carmelite Order originated on Mount Carmel in the Holy Land. The original Carmelites were holy men on Mount Carmel, who were later joined by European Crusaders. In 1209, Albert, Patriarch of Jerusalem, approved the rule of life for these original Carmelites. Persecution by Turkish Moslems forced them to emigrate to Europe. Just before 1271 the Carmelites made their way to Ireland where they became an integral part of Irish life and have survived dissolution, persecution and famine at the hands of the English occupation government.

In the latter half of the nineteenth century, the Irish Carmelites sent out missionaries to establish additional provinces for the Order. They became established in Australia in 1881 and came to New York in 1889 where they began their ministry to the sick and poor, including serving as Chaplains to Bellevue Hospital.

New York in 1889 was anything but tranquil, especially in ecclesiastical matters as they related to the large Irish population on the East Side. The introduction of the Irish Carmelites, who had had no part in earlier controversies not only restored a measure of ecclesiastical harmony, it also introduced the Whitefriars who were particularly supportive of the Irish.

The role of the Irish Carmelites in New York was always more than ecclesiastical. In addition to a very real social consciousness, they have been exceptionally supportive of the legitimate aspirations of the Irish people to see Ireland take her place among the nations of the earth as a sovereign, independent Irish Republic, free from the center to the sea. Their position on Irish affairs was the more nationalistic. Of particular historical note is the special relationship between the New York Irish Carmelites and Eamon deValera.

After the 1916 Easter Rising Father Robert Metcalfe, the "Republican priest" of Easter Week, who had ministered to the Irish Volunteers in Jacob's Biscuit Factory, was transferred from the Whitefriars Priory in Dublin to 28th Street in New York. He spoke most eloquently of the Rebels' faith in battle and of the experience of Easter Week making him feel a "better Irishman and better Catholic." The Carmelites were most enthusiastic in their support of the Friends of Irish Freedom, which was formed to mobilize American opinion in support of Irish Independence; the second National President of the Friends of Irish Freedom was Father Peter Magennis. The Carmelite Chapter at 28th Street was the most active and militant in the country. Their school hall was always available to Irish groups. Irish history, music and dance were taught in their school. The 29th Street priory (now relocated to 28th Street) was a clearing house for communications as well as a safe house for Irish leaders like Eamon deValera, Harry Boland, Liam Mellows and others. In 1919, the children of the Carmelite school purchased the first bond for the Irish Republic. The Carmelites were indefatigable in their promotion of the bond drive. They were later instrumental in the establishment of the American Association for the Recognition of the Irish Republic.

In addition, to being called the "Carmelite Mission," "28th Street," and the "Irish Church," the Church of Our Lady of the Scapular of Mount Carmel has also earned the title of the "Cradle of Irish Independence in America," Patrick McCartan, in With DeValera in America, writes this praise of the Carmelites: "Their ramshackle priory . . . was a home for every Irish exile . . . (DeValera, Boland, McCartan and others); all shared the hospitality of these good Carmelites. (They) were the true representatives of the Church Militant for the Faith and the Irish Republic. But the virtual leader in New York during these stormy days was their Assistant General, Father Peter E. Magennis. . . . In spite of the press campaign against him and of the disapproval of the ecclesiastical head of his diocese, he championed Ireland, and befriended all who were opposed in her cause. When we were homeless he housed us; sick, he cared for us, and in all our trials he was our inspiration and our help."

The Carmelite church over the past hundred years has been the spiritual center for New York City's Irish-American community, especially among the more nationally minded. Many Irish organizations, including the 69th Regiment of New York, have held annual and special religious services there.

The Carmelites, especially Father Sean Reid, O. Carm., supported Irish neutrality in World War II and continue to support the re-unification of Ireland. Perhaps the most unforgettable personality of the New York Irish Carmelites in this century was a former Provincial of the Order, the Very Reverend Donal M. O'Callaghan, O. Carm. Father O'Callaghan was a first generation New Yorker who became a member of the Corkmen's Association while attending Xavier High School and later returned to the Corkmen as their Chaplain. He was active in the Ancient Order of Hibernians at all levels, serving for many years as Deputy National Chaplain. Like Father Sean Reid, he was also active with the United Irish Counties and numerous other Irish organizations, often serving as Chaplain or moderator. A member of the New York Saint Patrick's Day Parade Committee, his advice was frequently sought in the matter of the selection of the Grand Marshal. In 1951, however, he was informed that he was to be Grand Marshal himself. Father Sean Reid also served as Grand Marshal in 1964. The Carmelites generally, and Father Reid and Father O'Callaghan of particular recent memory, were well known for helping many an Irish person in need, particularly young immigrants from home.

Immediately upon notice of the change in the immigration laws in the 1960's, Father O'Callaghan, seeing that the Irish would be adversely affected, spearheaded the drive to re-gain equity for the Irish in US immigration policy. The work which he so nobly began continues today.

There was another dimension to Father O'Callaghan's involvement in Irish affairs in that he continued the close personal relationship and correspondence between the New York Irish Carmelites and Eamon deValera. As New York Catholics lit candles on the 22nd and 23rd of November 1963, especially in the Irish Church, Father O'Callaghan received a personal telephone call from President deValera to meet him the next day in Washington and to serve the following day as his official chaplain at the funeral services of President John Fitzgerald Kennedy. There would be a New York Irish Carmelite, as there usually was, at deValera's side on this special day of tears in Irish and in American history. At President deValera's request to Father O'Callaghan in 1972, the religious habit of the calced Order of Our Lady of Mount Carmel would clothe the body of Eamon deValera as he was laid to rest in Dublin's Glasnevin Cemetery in 1975.

Father O'Callaghan once hosted a dinner in honor of his friend, President Sean T. O'Kelly in the old Carmelite Hall. On that occasion Sean T. said that the New York Irish Carmelite Church of Our Lady of the Scapular of Mount Carmel on 28th Street was "the cradle of Irish Independence in America."

On the first of April 1989, John Cardinal O'Connor, Archbishop of New York, celebrated the opening Mass of the Carmelite centennial at an overflowing Carmelite Church on 28th Street. Under the leadership of their Provincial, the Very Reverend Matthias DesLauriers, the New York Irish Carmelites look forward in Hope to another century of service to our people and our city.

THE FOREIGN TRADE ZONES IMPROVEMENTS ACT OF 1990

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. LEVIN of Michigan. Mr. Speaker, today I join my colleagues Representatives PEASE, KAPTUR, and BARNARD in introducing the Foreign Trade Zones Improvement Act of 1990. This legislation makes much-needed changes in the U.S. foreign trade zones program, which was originally designed to promote U.S. exports but which in many cases now encourages the use of imported products.

Foreign trade zones have proliferated over the past 15 years, especially so-called manufacturing subzones. Because foreign trade zones are considered outside the U.S. Customs territory, manufacturers operating in these facilities may incorporate imported parts into their final products while paying customs duties only at the rate applied to the finished product. When the duty rate on the finished product exceeds the duty rate for parts, manufacturers can avoid what is known as the inverted tariff on parts by moving their assembly operations to foreign trade zones.

This trend is especially troubling in the automotive sector. Auto companies have been locating in foreign trade zones in part to avoid paying the full tariff on imported auto parts. This produces a twisted result in a program that was originally designed to promote the reexport of U.S.-made goods that contain some foreign parts. It also hides an estimated 5 billion dollars' worth of Japanese auto parts imports coming into the country each year. This minimizes our auto parts trade imbalance with Japan, which even without foreign trade zones stands at more than $5 billion a year. It also encourages Japanese transplant auto plants to continue doing business with Japanese parts companies instead of opening the bidding process to United States firms. Japanese transplants, which use a disproportionate amount of foreign parts, thus also benefit disproportionately from foreign trade zones.

Our bill gives the foreign trade zone program a much needed tune up by establishing strict public interest criteria for the establishment of zones. Public interest now will mean the national trade and employment interest of the United States. It is about time U.S. trade policy on every level reflected serious study of the impact particular programs have on our trade deficit and our domestic economy. Our bill injects that policy into the foreign trade zones program.

MONICA CLARK—ARKANSAS VOICE OF DEMOCRACY WINNER

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. HAMMERSCHMIDT. Mr. Speaker, the 1990 Voice of Democracy winner for Arkansas is Monica Michelle Clark, a 17-year-old senior at Southside High School in Fort Smith.

Monica was among the 137,000 students nationwide participating in this 43-year-old scholarship contest, sponsored and financed for the past 29 years by the Veterans of Foreign Wars.

Monica participated in the program under the direction of Southside teacher Ray Baker. Her parents are Alan and Phyllis Clark, and she has one brother, Brian. Monica plans to attend college, to pursue her interests and talents in dramatics and public speaking.

It is a pleasure to share with my colleagues, Monica's patriotic, award-winning composition, "Why I Am Proud of America."

WHY I AM PROUD OF AMERICA

Why I am proud of America. Back in the old days, when I was in elementary school, my teacher would assign little stories and poems about being an American or why I am proud of America.

But, I really never understood what America meant, until now. I recently became a registered voter. And as I stood in the polling line waiting to cast my first vote as a citizen of the United States of America; a small lump began to grow in my throat. I don't really know how to explain it, except that most people would probably call it pride. I could hear the voices of the millions of people before me in polling stations all over the nation, when some of the greatest decisions in America were made. I could feel the footsteps of the first women voters and I understood how proud they were, that their voices were being heard.

And then, I realized, that I was part of that voice. I walked out of the polling station that day with a deeper understanding of my country and my heritage. But, we don't always have to look back to the past to be proud of our country. We here in the present have recently witnessed a sign of the spirit of America. On both sides of the nation we experienced a horrible disaster. In the forms of Hurricane Hugo and the earthquake in California.

Houses were destroyed. People died. But then, the call went out all over the country that somewhere there were people without a home, without food; somewhere people were hurting. And then, from every town and city in the nation there came a dollar here and a dollar there, and thus, people were fed and shelters were built.

Once again, it was the people of America that conquered adversity. Oh yes, the people, the colorful and wonderfully varied people of America. The tired huddled masses that became our lawyers, doctors, businessmen, mothers, yes, even our Presidents. Some Hungarian, others French, and still others Spanish. But all Americans.

I remember a story that explains what an American is. It's about a common, ordinary little workhorse. He lived in the green mountain country of Vermont, in the days when our country was growing up. In fact, he helped it grow up. Today, his decedents, known as Morgan horses are famous throughout the world, yet nobody knows whether the first Morgans parents were British or French or Dutch. And nobody really cares. As Joel Gosh said, "Come to think of it, he's like us". He's American. "That's what he is". American . . . one of the privileges of being an American is the choices that we have.

I can't imagine, not being able to choose my vocation or my God. It's something my ancestors have worked for for hundreds of years. Freedom. Freedom to go anywhere, say anything and to be who ever we want to be. For us freedom is a way of living, and yet for some it is a way of dying; just as it was for our forefathers.

And then those times, when democracy is threatened, the people and the government of America are there. Ready to defend their ideals.

I am proud of my country, because now that we have our freedom, we have become the defenders of democracy for the entire world. And yet, while we are all proud of the freedom and the spirit of America, we must ask, "How did she get to be so great and beautiful"? What is it about America that enables her to endure the hardest times? Both questions can be answered with one simply powerful word . . . People. The men and women of the revolution and the Civil War; the brave fighters of all our wars right up to the Vietnam War. The immigrants, our grandparents, and parents; yes even you and me. We are the voice and the pride of America.

And sometimes at night when its very quiet, you can actually hear America, in every house, every town; in every state . . . the mothers, the fathers, the children . . . past, present and future.

Their hearts have beat fast and strong with pride at each new star added to our flag. Yes, I am proud of my country. I am an American.

CONGRATULATIONS TO ROC'S PRESIDENT TENG HUI

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. DYMALLY. Mr. Speaker, on March 21, Taiwan elected President Lee Teng-hui as its eighth President. This is good news not only for Taiwan, but also for the United States.

A native Taiwanese, Lee Teng-hui succeeded President Chiang Ching-kuo as President on January 13, 1988. In the last 2 years President Lee has demonstrated inspiring leadership in continuing Chiang's policies of economic and political liberalization.

Taiwan's economic liberalization policy has made that tiny island country of 20 million our fifth largest trading partner, with a foreign reserve in excess of $80 billion, the largest in the world. Being the 13th largest economic entity in the world, Taiwan enjoys a per capita income of $7,300.00, equivalent to Japan's a decade ago.

Alongside its economic miracle, Taiwan has embarked upon a course of democratization, including political pluralism, rejuvenation of parliament, press liberalization, island-wide elections, and commitment to such quality of life issues as environmental protection and pollution control.

Taiwan's move toward political liberalization has been very impressive. In its latest annual survey, New York-based Freedom House gave Taiwan high ratings in both political rights and civil liberties categories.

Economic success and political liberalization at home have led the Republic of China to re-examine its international policies. In 1989, Taiwan established its first foreign aid fund of $1.2 billion and full diplomatic relations with Grenada, Belize, and Liberia. Taiwan hopes to play an international role equal to its economic status as it currently seeks membership in the General Agreement on Tariffs and Trade [GATT] and in the Organization of Economic Cooperation and Development [OECD].

There is little doubt that the Taiwan electorate's faith and confidence in President Lee Teng-hui is well placed.

President Lee's election as the eighth President is definitely good news for the United States. Under Lee's leadership, Taiwan has steadily reduced its trade surplus with us through such measures as the sharp appreciation of its currency. The new Taiwan dollar has appreciated 50 percent against the United States dollar since 1985. In addition, the ROC Government has stepped up its "Buy American Products" program, and it is Taiwan's official policy to buy American products whenever possible.

Cornell University-educated President Lee is totally committed to maintaining a strong relationship with the United States. At a time when the United States economy is weak in many sectors, American businessmen should seriously consider Taiwan as a place of business opportunities. Taiwan welcomes American products and services, and President Lee has said as long as he is in office, his pro-American stance will not change.

Mr. Speaker, I along with my fellow colleagues, RON DE LUGO, JIM BATES, WALTER E. FAUNTROY, EDOLPHUS TOWNS, BEN GARRIDO BLAZ, ENI F.H. FALEOMAVAEGA, and GLENN M. ANDERSON, extend our congratulations to President Lee Teng-hui, and wish him and his people the very best of luck during his next term of office.

LEGISLATION TO EXPAND THE STATE VETERANS' CEMETERY GRANT PROGRAM

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Ms. SCHNEIDER. Mr. Speaker, State veterans' cemeteries play a vital role in serving the needs of veterans who wish to be buried with their comrades-in-arms. Unfortunately, many State veterans' cemeteries have been badly neglected. To help address this problem, I am introducing legislation to expand the State Veterans' Cemetery Grant Program. This legislation would allow State veterans' cemeteries to receive Federal funds to help defray the costs of operation, maintenance, and initial equipment purchases. Under present law, States may only receive funds to establish, expand, or improve State-owned cemeteries for veterans.

Because the Federal Government cannot realistically assume the full burden of providing veterans' cemetaries for all veterans, there are 12 States, including Rhode Island, that do not have a national veterans' cemetery. In addition, there are more States whose national cemeteries are closed to new internments or are too far away from the homes of many veterans and their families to best serve them. For this reason, State veterans' cemeteries play a critical role in serving our veterans.

My bill does not call for the expenditure of any additional funds, but for the utilization of unspent funds from the present State Cemetery Grant Program. I believe this leftover money should be applied to help State cemeteries pay for their operation and maintenance.

The Rhode Island State Veterans' Cemetery in Exeter needs our assistance. An integral part to ensuring that veterans are remembered is to provide proper cemeteries where we can honor these brave Americans who have given so much. Mr. Speaker, I urge all Members to join in supporting this important legislation.

A TRIBUTE TO SHEILA ALLRED

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. PRICE. Mr. Speaker, I rise today to honor Sheila Allred as North Carolina's first national commander of the Disabled American Veterans' Women's Auxiliary. This prestigious honor speaks highly of her commitment and devoted service to our Nation's veterans.

Since her election as national commander last year, Sheila has brought tremendous energy and enthusiasm to her post. This energy and enthusiasm is not newfound, but has been in evidence since the age of 9, when she first got involved in the auxiliary's junior program. Sheila has been especially active in serving disabled veterans in the Raleigh area, organizing "rap group" therapy sessions for the families of Vietnam veterans suffering from PTSD. As one who has assisted in the establishment of a veterans' center satellite office in Raleigh, I understand the importance of this resource for veterans. I heartily commend Sheila for her hard work.

Sheila's proven record should be an inspiration to all. Although North Carolina is fortunate to have one of its own as national commander of the DAV Women's Auxiliary, our country's veterans are even more fortunate to have a person of Sheila Allred's caliber on their side.

THE SPIRIT OF JOHNSTOWN

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. MURTHA. Mr. Speaker, I am thrilled "The Johnstown Flood" produced and directed by Charles Guggenheim won the distinguished Academy Award for Documentary—Short Subject during last night's 62d annual awards show.

The extremely talented and humble Charles Guggenheim in his acceptance speech shortly before midnight last evening indicated with great emotion his thanks to the "wonderful people of Johnstown." I too would like to take this opportunity to commend the wonderful people of Johnstown who have suffered through great tragedy, natural disasters, and economic dislocations, yet always manage to bounce back with great pride and enthusiasm.

The 26-minute film which is shown at the Johnstown Flood Museum hourly has already been viewed by more than 100,000 people. The focus of the film is on the city's rebirth—the people of Johnstown—and their courage and tenacity. The energy of Johnstown's people in reestablishing themselves was remarkable.

The terrible tragedy which occurred on May 31, 1889, overwhelms the imagination. Twenty million tons of water roaring down the valley was responsible for killing 2,209 men, women, and children, nearly three times the toll of the great 1906 San Francisco earthquake. Another flood in 1936 hit and more recently, the 1977 flood in Johnstown, PA, claimed 88 more lives.

Not too long ago the unemployment rate in Johnstown was 26 percent, the highest in the entire country. Now it is down under 10 percent. The former thriving coal and steel town continues to successfully fight adverse situations with grace and dignity.

I want to invite you to visit our community, see our award winning documentary, and meet the wonderful people of Johnstown. This Labor Day weekend we will be hosting the National Folk Festival in Johnstown and I welcome you to this event. I know you will be pleasantly surprised.

PRESIDENT HAVEL COMMITS CZECHOSLOVAKIA TO ANTI-TERRORISM FIGHT

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. BROOMFIELD. Mr. Speaker, President Havel of Czechoslovakia recently committed his new government to the war against international terrorism. He banned the export of the deadly explosive Semtex from his country. I commend him for standing shoulder to shoulder with other democracies in the free world's struggle against the terrorist threat.

Semtex is a Czech-made explosive that was responsible for the tragic destruction of Pan

Am 103. It is widely used as a lethal terrorist weapon.

President Havel further promised to support a U.S.-backed initiative to add chemical markers to explosives in order to make them readily identifiable.

He also noted that the previous Communist government exported 1,000 tons of Semtex to Libya, a notorious terrorist-supporting nation. The new Prague government will cooperate in tracking down shipments of the explosive.

I strongly encourage the Havel government to increase its cooperation with the United States in counterterrorism programs.

TETRA AMINO BIPHENYL

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. SPRATT. Mr. Speaker, I am introducing a bill today to extend the tariff suspension for the chemical compound, tetra amino biphenyl or TAB. The suspension now expires at the end of 1990 and my bill would extend the suspension to the end of 1993. A similar bill proposing to extend the tariff suspension on TAB is being introduced into the Senate by Senator THURMOND.

This bill should not be controversial. Since my election to Congress several years ago, I have offered two virtually identical bills both of which have easily passed the Congress and been enacted into law. There is no domestic source of TAB which means it must be imported from West Germany. Because it is not made in the United States, an extension of the duty suspension will not cause injury to any American businesses or workers. Despite the fact that it is not controversial, passage of the bill is critical in keeping open a factory in my district which depends on a regular supply of TAB at a moderate price. TAB is a specialty chemical used solely for the production of a high performance fiber called PBI. PBI has proven to be one of the most effective products on the market in protecting people against dangerous exposure to fire, heat and toxic chemicals. Commercial applications for PBI include protective gear for firefighters, flight suits and crash rescue gear.

Passage of this bill is essential to protect American jobs by ensuring continued production of PBI, a fiber which would be discontinued if the duty is reimposed. The only commercial factory in the world manufacturing PBI is located in Rock Hill, SC, in the heart of my district. From the time it began producing PBI and until last year, the company which owns the Rock Hill plant had been losing money on PBI. Just last year, the company for the first time turned a small profit on the product. The profit margin is still very narrow, however, and if the duty on TAB is reinstated, the cost of production would undoubtedly force the company to discontinue making PBI. The extra cost would simply make TAB commercially unfeasible. A shutdown in production would force the layoff of several hundred workers in my district and the loss of approximately $20 million in salary and revenue which now come into South Carolina. It would also mean the end of an important fire resistant product which has proved very helpful in saving lives and reducing injuries to thousands of people in hazardous occupations.

Given the importance of this bill in saving U.S. jobs and given the fact that it will not harm any domestic business or workers, I urge my colleagues to give this bill their support.

COMMEMORATING BATON ROUGE ZOO'S 20TH ANNIVERSARY

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. BAKER. Mr. Speaker, I would like to take this opportunity to recognize the celebration of the 20th anniversary of the Baton Rouge Zoo on March 31, 1990. The zoo is a beloved symbol of the people of Baton Rouge because of the hard work of children and parents. Twenty years ago children gave their hard earned pennies to acquire the first animals.

Although there was a small zoo in Baton Rouge during the 1930's and 1940's, it was closed for lack of funds. The current Baton Rouge Zoo opened on Easter Sunday in 1970. To help with early funding, local television personality Buckskin Bill led a drive to have the children of Baton Rouge donate their pennies to help buy Penny the Elephant who quickly became a favorite of the entire city. Since then, the Baton Rouge Zoo has grown but still keeps the hometown flavor, and is a special place for children of all ages.

During its two decades of service to the community, the zoo has developed an exemplary reputation for helping to preserve the world's valuable wildlife resources. The zoo's spacious enclosures allow the animals greater freedom and the ability to live in a more natural state that has helped the zoo's reputation grow along with its size. Among the more than 900 animals, reptiles, and birds is a collection of hoofstock, considered one of the best in the country, that includes exotic African species.

The Baton Rouge Zoo also participates in the American Association of Zoos Species Survival Plan, an effort to keep 40 endangered species genetically clean by keeping at least 500 of each breed in zoos across the country. Thirteen of the 40 species can be found at the Baton Rouge Zoo, including the white rhinoceros, snow leopard, Grevy's zebra, black palm cockatoo, and Siberian tiger. In addition, the zoo houses many other endangered species that are not yet under the auspices of the species survival plan. To accommodate these special animals, the zoo has set aside 20 exhibit areas away from public view to encourage the animals to breed and care for their young.

A primary focus of the Baton Rouge Zoo is to educate the community about the natural habitat and environment of wildlife. Tours, presentations, and live animal demonstrations are part of an outreach program that takes programs, animal artifacts and live animals to groups throughout Baton Rouge and southeast Louisiana. Clearly, by creating greater public awareness, we can best ensure the protection of this important resource.

The success of the Baton Rouge Zoo is due in part to the support of many local citizens. The city's children have grown up feeling like they have helped build the Baton Rouge Zoo and take pride in it's success. In fact, members of my congressional staff have fond memories of donating their hard earned pennies for "Penny." My family and I have enjoyed the Baton Rouge Zoo for years. I am proud of the Baton Rouge Zoo's growth and numerous contributions to our community. I look forward to the next two decades of leisurely walks and excited children seeing lions and tigers and bears for the first time.

NATIONAL COMMISSION ON DEFENSE AND NATIONAL SECURITY

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. DICKS. Mr. Speaker, today I am introducing, along with the gentleman from South Carolina [Mr. SPRATT], the gentleman from Missouri [Mr. SKELTON], and the gentleman from Michigan [Mr. DAVIS], legislation to establish a National Commission on Defense and National Security.

The administration is being criticized by many, both inside and outside Congress, for its lack of strategic vision. To some extent these criticisms are valid. The President has not enunciated any grand design for American security policy into the next century. His just-released "National Security Strategy of the United States" does provide some tentative hints on changes that must be made to deal with the rapidly changing world environment. But it does not go as far as it might in defining our future world role. In particular, it avoids the difficult priority choices and how we will pay for the tasks that are included. This means-to-ends mismatch is especially critical in an age of ever-present Gramm-Rudman-Hollings budget restrictions.

On the other hand, I disagree with those who expect the administration to pull out of thin air a coherent, well-defined security policy for the future with a wave of a magic wand. Contrary to popular myth, the post World War II policy of deterrence and containment did not materialize overnight or through some single article in a world political journal. It took nearly 5 years and many fits and starts before the bipartisan consensus that endured from 40 years was achieved.

While we may debate the reversibility of recent events in Europe, there is also considerable uncertainty in the direction of the world. The events unfolding in Lithuania are but one example. How well the developing world responds to nurturing democracy, by managing

economic development and population, growth will be at least as important as how Eastern Europe fares. In other words, it is highly unlikely that we are witnessing the end of history. The potential for conflict will remain high as prejudice, nationalism, and competition for resources continue to raise their ugly heads.

Developing a new national security policy to deal with the 21st century will not be an easy task. But I am convinced that the process will be improved if we can call on the full range of human resources we possess, both inside and outside government, to meet the challenge. It will also be important to establish a bipartisan dialog if such a policy is to take permanent root. The ad hoc individual strategy posturing we are beginning to witness will only hinder the process unless there is a mechanism to integrate varied points of view.

For these reasons I am convinced that a National Commission on Defense and National Security can play a constructive role in achieving a consensus for the future. I recognize the reluctance to appear to be abdicating difficult issues to an outside commission. But the task of the Commission will not be to make final policy decisions. That must remain the responsibility of the executive and legislative branches of the Federal Government. The Commission could provide an impetus for debate and a mechanism by which the issues could be presented away from the everyday considerations of politics.

In recognition that recent revolutionary world events require a fundamental reassessment of the defense and national security policies of the United States, the Commission is tasked to analyze and make recommendations to the President and Congress both for the short term and the long term.

The Commission would be composed of 10 members, none of whom are currently holding office in the Federal Government. Four members would be appointed by the President, including the Chairman. Two each would be appointed by the Speaker and Senate majority leader. One each would be appointed by the House and Senate minority leaders. The Commission would issue an initial report within 6 months after its creation, and would submit annual reports for a period of 5 years. While efforts to reach consensus would be made, minority and dissenting views would be permitted to assure that all viewpoints are presented.

The Commission would work closely with appropriate Federal agencies, would be empowered to hold hearings and would be expected to consult with allies and other praticipants in the world theater.

I look forward to working with the leadership in this body on national security issues on this measure and hope that it can serve to focus our attention away from the temptation to seek immediate easy answers to an extremely complex problem, and instead focus our attention on the difficult choices that await this Nation if we are to continue as a world leader in the coming century.

A TRIBUTE TO MRS. HELEN NUNN

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. POSHARD. Mr. Speaker, on April 3, Mrs. Helen Nunn will turn 90 years old. I think that's an accomplishment worth noting. But it's significant not simply for her longevity, but for what she has accomplished and contributed during those years.

Mrs. Nunn moved to Herrin, IL, one of the fine communities in my district, when she was only 6 months old. And we are thankful she decided to stay.

She and her husband, Joe, who is now deceased, helped build the Bryan Street Baptist Church. She remains active in keeping that most important of community resource, the church, alive and working for the improvement of her community.

Mrs. Nunn is also active in the Royal Neighbor Lodge, where she has served in almost every capacity available. In her spare time she continues to bake cakes and cookies for her friends. That's a loving gesture that shows how kind and caring she is.

In between all of this other activity Mrs. Nunn is busy keeping track of her two daughters, 6 grandchildren, 16 great grandchildren, and two great-great-grandchildren. One of her grandchildren is a close friend of mine, Mr. Rick McNeill, a man who continues Mrs. Nunn's example of service to her community and church.

My colleagues, we should take a great deal of strength and encouragement from this birthday. It's special because it marks another milestone in Helen Nunn's life. And it's special because it affirms our belief in values like family, faith, and service.

Happy birthday Helen. Thank you for letting us share in your health and happiness.

AMGEN, INC.—10 YEARS OF PIONEERING

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. GALLEGLY. Mr. Speaker, on April 8 a pioneering company headquartered in my district will celebrate its 10th anniversary. And what a decade it's been.

In an era when leadership in so many fields has been assumed by other nations, we can all be especially pleased to be reminded that in many industries, America is still No. 1. Such is the case with biotechnology. And by any token, one of the leaders of this exciting new field is Amgen, Inc. In just 10 years, by taking on the risks and challenges associated with becoming a pacesetter in this new and promising dicipline, Amgen has succeeded in becoming a world leader, and the future looks just as bright.

Through its painstaking research and investments in the field of genetic engineering, Amgen is developing breakthrough treatments for widespread human health problems such as kidney disease, cancer, and injuries or wounds to bone and skin tissues.

One of its biggest success stories so far is the development of Epogen, a drug that alleviates debilitating anemia in the more than 100,000 Americans who suffer from kidney disease. By stimulating the body's production of red blood cells, Epogen greatly enhances the quality of life for kidney dialysis patients. The drug gives kidney patients the energy to resume their normal lifestyles and eliminates the need for—and grave risks of—frequent blood transfusions.

Epogen is such a breakthrough that it was honored as one of Fortune magazine's 1989 products of the year.

In another affirmation of Amgen's scientific leadership, the company received the first U.S. patent relating to granulocyte colony stimulating factor [G-CSF], a treatment that in clinical trials has greatly improved the immune systems of cancer patients undergoing chemotherapy. Neupogen, Amgen's trade name for the product, is currently being reviewed for market approval by the U.S. Food and Drug Administration.

In addition, the company is building significant expertise in the area of tissue growth factors. Its research may one day yield products that accelerate the healing of burns, surgical wounds, and bone fractures.

But besides its invaluable research, Amgen is a good corporate citizen. It is a strong supporter of the overall welfare of Thousand Oaks and Ventura County, CA, by participating in local school science programs and underwriting public presentations by business management experts. It is also a significant economic force, employing some 700 people in Thousand Oaks and Boulder, CO, and contributing an annual payroll of $30 million to these communities.

Mr. Speaker, I know I speak for my colleagues in extending my warmest congratulations to Amgen as the company completes its first decade of service and research, and in wishing it the best as the company builds on that solid base of accomplishment.

HONORING FRED D. BURKHARDT, WEST COVINA CHAMBER OF COMMERCE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. TORRES. Mr. Speaker, I rise today to recognize a special individual, Mr. Fred D. Burkhardt, executive vice president of the West Covina Chamber of Commerce. Fred has assumed a position in the State of Oregon and is resigning from the chamber. He will be honored at a special dinner on Friday, March 30, 1990.

Fred Burkhardt has served the business community of West Covina for the past 10 years as executive vice president of the chamber of commerce of West Covina and executive vice president of the San Gabriel Valley Council of Business and Industry [COBI].

Fred was born in Springfield, OH. He moved to California in 1962 to attend California State University at San Diego where he received his bachelor of arts degree. He earned his masters of business administration from the University of Southern California. He served as an officer in the U.S. Air Force during the Vietnam war. Fred is married to the former Linda Fiore; he has three children and one grandchild.

During his tenure as executive vice president, Fred Burkhardt has had the opportunity to shape many new programs within the West Covina Chamber and the field of chamber management in general. Under his management, chamber membership increased by 250 percent. He was responsible for the design and development of the chamber's office automation systems and membership database. His strength has been in the field of economic development. He was the architect of the regional office marketing plan [ROMP], a joint chamber/city marketing plan which was instrumental in reducing West Covina's office space vacancy rate.

Fred is also responsible for the highly successful Leadership West Covina, a program designed to identify and train residents and business people for leadership posts within the community. Another successful project that he initiated is the West Covina Summer Concert Series, which has become a favorite community activity attended by about 10,000 West Covina and valley residents each summer.

A resident of West Covina, Fred has actively participated in community activities. He has been a member of the board of directors of the men's club of both Queen of the Valley and Inter-Community Hospitals, founding board member and past treasurer of Queen of the Valley's 2100 Club, and a member and current second vice president of West Covina Lions Club. He has maintained 15 years of perfect attendance at Lions and received the master key for recruiting 25 new members. Fred has served on the board of directors of the West Covina Federal Credit Union and is affiliated with many professional organizations for chamber of commerce executives. He has lectured on organizational management for chamber of commerce executives and on small business financing at various industry institutes and at Pasadena City College.

He was appointed by President Reagan to serve as a member of the California Civilian Review Board of No. 739 and is currently serving as chairman of that board. He also holds a lifetime general elementary teaching certificate from the State of California.

Mr. Speaker, on March 30, 1990, the citizens of West Covina will say farewell to a dynamic individual. A man with the ability not only to shape new ideas, but a leader who was able to make those ideas a reality. I ask my colleagues to join with me in a salute to a fine individual and friend, Fred D. Burkhardt, for his outstanding record of service to the community of West Covina. And, to wish both he, and his wife, Linda, best wishes for a successful future in their new home.

HONORING CHAI LIFELINE/ CAMP SIMCHA

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. ACKERMAN. Mr. Speaker, I rise today to honor one of the most distinguished nonprofit social service organizations in the Jewish community: Chai Lifeline/Camp Simcha. On Sunday, April 1, the group will hold its second annual benefit dinner at the Grand Hyatt Hotel in New York City, the proceeds going to support the work of the group in serving seriously ill children in New York, Florida, and Israel.

Chai Lifeline has been in existence since 1986 and in that time it has performed a tremendous service to many Jewish children afflicted with serious illnesses. Through the work of volunteers and support groups, the organization has lent a helping hand to the families and become a friend to hundreds of Jewish children. In addition to its volunteer work and support groups, another way Chai Lifeline helps these children and their families deal with their problems is to sponsor the world's only kosher summer camp program for children with cancer, Camp Simcha. During the 4 years this unique program has been in existence, the number of children attending the camp has grown steadily from 7 to close to 100 last year. And with this year's camp, they expect to exceed that figure.

The success of Chai Lifeline/Camp Simcha in the past 4 years is due to the contributions of many caring and generous individuals, some of whom will be honored at the benefit dinner on Sunday. Among those who have made outstanding contributions are: the guest of honor, David B. Newman, a prominent investment banker, the recipients of the Medical Achievement Award, Drs. Peter and Laurel Steinherz, specialists in pediatric oncology and cardiology at Memorial Sloan-Kettering Hospital; woman of valor, Barbara Billauer, a prominent Manhattan attorney; Sy Sheldon, an active civic and political leader in Queens County and recipient of the Community Service Award, and Rabbi Simcha Scholar, the national executive director of Chai Lifeline.

Mr. Speaker, in a time when there is a great need for groups and people who can go that extra mile to help those who need help, it gives me great pleasure to pay tribute to a group of people who have indeed answered that call. I ask my colleagues to join me in honoring the contributions made by Chai Lifeline/Camp Simcha to its community and to wish it continued success in the future.

KEEPING OUR EYES ON THE REAL PRIZE: THE CHILD CARE BILL

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. OWENS of New York. Mr. Speaker, as we finally approach the debate of the long overdue legislation to increase and improve child care services in our Nation, I think it is appropriate that I take this opportunity to express two important personal concerns.

My first concern is the desire to pass a child care bill which is the product of a democratic process. The so-called ABC bill represents—or since it has been dismembered I should say it once represented—the results of the best implementation of the democratic process. Under the auspices of the Education and Labor Committee many hearings were held, numerous group meetings took place and there was a considerable amount of negotiations.

Mr. Speaker, while numerous legislators have done their duty to guarantee maximum discussion and negotiation of the proposals to increase and improve child care services, I would like to highlight the fact that the democratic process was greatly enhanced by the numerous hard-working advocates and laypersons who are concerned about child care. In particular I would like to salute the work of the Children's Defense Fund and Marian Wright Edelman.

Without the continuing work of people like Marian Wright Edelman the legislation for child care would decay into irrelevant posturing and partisan sloganeering. We should be grateful that the Children's Defense Fund has helped us to keep our eyes on the real prize.

Mr. Speaker, a second concern of mine is the education of the school age children of America. I am particularly concerned about education in high schools and junior high schools where we begin to lose such a large number of our children. Several years ago my concern with education led me to set up a Martin Luther King Commission in my district which was primarily concerned with the improvement of education. Each year we sponsor essay, poetry, and art contests.

Last Sunday this Central Brooklyn Martin Luther King Commission voted to initiate a Positive Rap Project designed to explore ways to use Rap, a teenage craze which often employs rhythm and rhyme in ways that are quite creative. There is considerable controversy about the substance of what is often being said; however, the format, the medium, is an exciting one. Our commission voted to seek ways to promote positive substance in the Rap style.

Although I am not a musician, the purely poetic component of the Raps has aroused my interest since I sometimes write poetry as an outlet for my political frustrations. Very few pieces of legislation have been as frustrating as the child care legislation which has been "in process of becoming" for nearly 3 years.

Last week my two concerns came together. As a way to illustrate some understanding of the young Rap artists I decided to write a few Rap style poems. My first attempt focused on my frustration with the Congress and its child care deliberations. I would like to close with this Rap poem which I have entitled "Let the Mothers Lead the Fight." The poem is dedicated to Marian Wright Edelman and the Children's Defense Fund:

LET THE MOTHERS LEAD THE FIGHT

(Dedicated to Marian Wright Edelman and The Children's Defense Fund)

Let the mothers lead the fight—
Sisters snatch the future from the night
Dangerous dumb males have made a mess on the right
Macho mad egos on the left swollen out of sight
Let the mothers lead the fight!
Drop the linen—throw away the lace
Stop the murder—sweep out the arms race
Let the mothers lead the fight:
Use your broom
Sweep out the doom
Don't fear the mouse
Break out of the house—
Rats are ruining the world!
Let the mothers lead the fight!
Fat cats want to buy your soul
Saving the children is the mother's role:
Cook up some cool calculations
Look up some new recipes
Lock the generals tight down in the deep freeze.
Let the mothers lead the fight!
Human history is a long ugly tale
Tragedy guided by the frail monster male:
Babies bashed with blind bayonets
Daughters trapped in slimy lust nets,
Across time hear our loud terrified wail—
Holocaust happens when the silly males fail.
Let the mothers lead the fight!
Snatch the future back from the night
Storm the conference rooms with our rage
Focus X-rays on the Washington stage.
The world is being ruined by rats!
Rescue is in the hands of the cats:
Scratch out their lies
Put pins in smug rat eyes
Hate the fakes
Burn rhetoric at the stakes
Enough of this endless bloody night
Let the mothers lead the fight!
Holocaust happens when the silly males fail!
March now to end this long ugly tale
Let the mothers lead the fight!
Stand up now to the frail monster male!
Let the mothers lead the fight!
Snatch the future back from the night!
Let the mothers lead the fight!

A SALUTE TO GUNTHER GEBEL-WILLIAMS

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. IRELAND. Mr. Speaker, I rise to pay special tribute to one of our Nation's most illustrious and beloved personalities.

Certainly no circus performer in history has touched the lives of more American families than Gunther Gebel-Williams, the "greatest wild animal trainer of all time." Entire generations of children, parents, and grandparents have been thrilled and captivated by his courage and charisma in the ring.

More than 20 years ago, in a remarkable acknowledgment of his talent, Ringling Bros. and Barnum & Bailey Circus purchased the entire Williams Bros. Circus in Germany to acquire this young performer. Since coming to this country, the legendary star of the Greatest Show on Earth has entertained more than 100 million "children of all ages" in more than 11,300 live performances in cities and towns throughout the United States. No other performer, living or dead, has played to more people in live audiences than this renowned "Lord of the Rings."

He is widely credited with changing forever the training of exotic animals by building personal relationships which enable him to direct snarling tigers through the sheer strength of his own personality and command a herd of elephants solely through the sound of his voice.

Gunther Gebel-Williams has set a new standard of exemplary care of animals and his greatest legacy is his example of the harmony that can be attained between man and beast.

He has become so much a part of our national heritage that his accomplishments have merited a display in Washington's own Smithsonian Institution among other building blocks of American history.

We owe a debt of gratitude to Gunther Gebel-Williams and to Kenneth Feld, producer of Ringling Bros. and Barnum & Bailey Circus, for this outstanding performer's rich contribution to wholesome family entertainment and the culture of our country.

This year, Gunther Gebel-Williams is performing in the Nation's Capital for the last time as part of his historic Farewell Tour. During the tour, he has been accorded well-deserved recognition in numerous States through legislative resolutions and executive proclamations documenting his special role in our national life.

We honor and salute him for his unique place in the featured ring of American circus history and the lasting place he has earned in the hearts of all of us.

A TEENAGER'S VIEWS ON ABORTION

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. HUBBARD. Mr. Speaker, I have been receiving letters and telephone calls from constituents and others who are expressing their views on pro-choice issues.

At this time I would like to share with my colleagues a February 25 letter to me from Laura Alvey of Henderson, KY. Laura is 14 years old and a student at South Junior High School in Henderson. She has taken the time to share her comments with me about her view that abortion should be an option for all women, writing that "A woman's body is her own."

I urge my colleagues to take a moment to read this excellent letter from Laura Alvey. The letter in its entirety follows:

FEBRUARY 25, 1990.

U.S. Representative CARROLL HUBBARD,
2267 Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN HUBBARD: I would like to address an issue that is on the minds of many teens today. That issue is abortion. Abortion should be an option for all women who get pregnant. A woman's body is her own, and she should be able to make decisions about it by herself.

Some people say that abortion should not be legal because so many people want to adopt children. Why should their opinions be more important than the mother's? Others say that abortion should only be legal if one has been raped. Just because someone gets pregnant on her own free will doesn't mean she should be punished. Everyone makes mistakes in his or her life, and just because one gets pregnant on her own doesn't mean she is a bad person. I also disagree with a girl under 18 having to get her parents' permission for an abortion. In one case, in Indiana a young girl who got pregnant went to a back-alley abortionist and died. No one can imagine how ashamed and afraid a girl is when she gets pregnant so young. My purpose is not to promote abortion. I just want every woman to have the choice.

I hope that abortion will stay legal forever, and I hope that something can be done about laws requiring parents' permission for an abortion if one is under 18.

Sincerely,

LAURA ALVEY,
Henderson, KY.

PUT SOME MONEY WHERE OUR MOUTH IS—SUPPORT THE LOWEY AMENDMENT TO H.R. 3847

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. SLATTERY. Mr. Speaker, I am pleased to rise in support of the amendment to H.R. 3847 offered today by Representative NITA LOWEY of New York.

As we are only weeks away from the 20th anniversary of Earth Day, it is fitting that Congress should now promote the Environmental Protection Agency to a cabinet position as the Department of Environmental Protection.

The amendment offered today by Representative LOWEY urges Congress to recognize that this promotion to a cabinet position must be accompanied by an increased commitment of resources. Over the past 8 years, the EPA budget has been gradually whittled away. In fact, the EPA operating budget is lower this year in constant dollars than it was 13 years ago.

If we are to make the Department of Environmental Protection a powerful and effective agency for the American people, and our environment, we must provide adequate funding. The Lowey amendment recognizes that we cannot continue the hollow promises of the past decade. Instead, we must make a commitment to funding the Department of Environmental Protection at a level that will ensure enforcement of our environmental legislation.

This year Congress will enact legislation to reauthorize the Clean Air Act. If our efforts to clean our atmosphere and to reduce harmful emissions are to be successful, the new Department of Environmental Protection must receive the authority and financial backing to enforce our expansions to the Clean Air Act.

I urge my colleagues to support the Lowey amendment and to recognize that the American public wants action to clean our air, land, and water. Environmental protection cannot

be accomplished, however, unless we provide the money to make it possible.

TRIBUTE TO ELIAS KARMON

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Mr. SCHEUER. Mr. Speaker, I rise to pay tribute to a constituent of mine who is a living embodiment of the spirit of volunteerism that President Bush so often talks about.

For 50 years, Elias Karmon, 80, has devoted much of his time, effort, and financial resources toward the betterment of life in the Bronx. Through his active involvement in a wide array of business, civic, health, humanitarian, and service organizations, Mr. Karmon truly has made a difference.

A founder of the Albert Einstein College of Medicine, Mr. Karmon has chaired its Bronx Council and its annual dinners and helped raise considerable funds for this renowned center of medical research and teaching.

Mr. Karmon's demonstrated interest in health concerns has not been limited to his involvement with Albert Einstein College of Medicine. He also served for 16 years as a member of the lay advisory board of the old Lincoln Hospital, and 9 years as its chairman. He currently serves on the boards of the South Bronx Mental Health Council and the Beth Abraham Hospital Foundation, and formerly chaired Vocations and Community Services for the Blind.

Mr. Karmon has done much for the youth of the Bronx. Throughout most of the 1960's, he organized annual Christmas parties which attracted thousands of youngsters from local schools, churches, the Police Athlete League [PAL], Scout troops, and settlement houses to a now defunct RKO theater. He chaired the executive committee of the Bronx Boys and Girls Club, and a swimming pool at its Hoe Avenue building now bears his name. He serves on the boards of the Bronx Community College Foundation and Bronx Special Olympics, among others.

Like me, Eli Karmon also has been a devoted Jew and dedicated supporter of the State of Israel. A former vice president of the American Jewish Congress, Mr. Karmon currently serves on the boards of Bronx House, Bronx Jewish Community Council, and the Pelham Parkway Jewish Center.

Committed as he is to fostering racial harmony, Mr. Karmon is a life member of the NAACP and a charter member and founder of the Bronx office of the New York Urban League.

In addition to these and other community and philanthropic involvements, Mr. Karmon has been active in many phases of real estate—as a builder, developer, and member of the Bronx Board of Realtors. A founder of the Ponce de Leon Federal Savings Bank, he currently serves as its treasurer.

Over the years, Eli Karmon has garnered many accolades and awards for his efforts. I am delighted to join in recognizing him now, on the occasion of his 80th birthday, for a lifetime of distinguished efforts as a civic activist, businessman, and philanthropist. The Bronx is a much richer place as a result of his continued presence and activism. All communities could benefit by having in their midst dedicated, community-minded citizens like Eli Karmon.

INTRODUCTION OF FOREIGN TRADE ZONES IMPROVEMENT ACT

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1990

Ms. KAPTUR. Mr. Speaker, I am pleased to be an original cosponsor of the Foreign Trade Zones [FTZ] Improvement Act. As cochair of the Congressional Auto Parts Task Force, I have continuously fought to open Japan's automotive market to United States auto parts exports. While the growth in the auto parts trade deficit is largely attributable to Japan's closed market, the FTZ Program in the United States exacerbates the deficit by providing an incentive to import parts. The legislation introduced today will improve the operation of the FTZ Program to make it consistent with national trade policy and the national economic interest.

The FTZ Act of 1934 created zones that are considered outside of U.S. Customs territory to promote U.S. participation in export and transshipment activity. No duties are collected on goods as they enter FTZ's. If the finished goods are exported, the tariffs are never collected. If the finished goods enter U.S. Customs territory, the duty is assessed on the finished goods. Manufacturers in industries with inverted tariffs, where the duty on the parts is higher than the duty on the finished product, reduce duties on imports by operating in subzones. The automotive industry has been the prime beneficiary of the FTZ Program and the inverted tariff structure. Auto assembly subzones account for 24 of the 101 subzones and 85 percent of all goods received in zones. Imports into auto subzones increased from $200 million in 1978 to approximately $7.5 billion in 1988. The majority of these imports came from Japan and flowed into Japanese auto subzones. The auto subzones, however, exported only 9 percent of production in 1988. It is very ironic that a program originally intended to promote U.S. exports has been transformed into one that gives greater rewards to firms which import more parts.

Neither the auto nor the auto parts industry can afford to give away any competitive advantage in their home markets when they continue to fight a losing battle in selling their products to Japan. Autos and auto parts account for over half of the $50 billion trade imbalance with Japan. Including FTZ imports, the United States imported over $11 billion in parts from Japan in 1989. Exports to Japan totaled only $300 million. The tariff on auto parts should create a small incentive for United States subsidiaries of Japanese auto plants to source domestically. Instead, the FTZ Program encourages the transplants to imitate the exclusionary trade practices of their Japanese parents and import parts from traditional suppliers in Japan.

The FTZ Board has approved every subzone application filed by a Japanese auto transplant. The Board operates with draft regulations that have never been officially adopted and bases decisions on precedent, rather than considering the national economic impact of a proposed zone. For example, the Board looks at local benefits that will accrue to an area, ignoring the question of job displacement on the national level. A 1988 International Trade Commission study found, however, that the domestic parts industry lost 14,600 jobs because of FTZ's while the auto assembly industry gained 4,400.

Further, the Board's decisions do not take into account overall trade policy initiatives. The Market Oriented Sector Specific [MOSS] talks with Japan on auto parts have been underway for several years to break down barriers in Japan's market. Little progress has been made to end the structural, nontariff barriers such as keiretsu which keep U.S. parts exports stalled at only $300 million. It is inconsistent with trade policy efforts to on the one hand grant a unilateral trade concession to Japan in the form of reduced duties on auto parts while on the other hand negotiating for trade reciprocity in that same sector.

The legislation we are introducing today reaffirms that the purpose of the FTZ Program is to promote "free and fair trade through increased export and transshipment activity." The legislation establishes public economic interest criteria that must be met in order for the Board to grant an application. The criteria take into account a zone's impact on national employment, supplier industries, the trade balance, and trade policy. The legislation explicitly states it is encumbent upon the applicant to prove that the public interest criteria will be met.

The legislation also establishes a timeline for processing applications so that firms will not have to wait for a year or more for a decision after filing an application. Currently, the FTZ Program is understaffed and overburdened by growing numbers of applications. Accordingly, the legislation calls upon the International Trade Commission to conduct an analysis of the economic impact of a zone when the application is for a manufacturing subzone. It also establishes a mechanism to petition for a public hearing about a subzone application.

I believe that the changes contained in this legislation will result in a fairer and more efficient process for judging FTZ applications. Congress has not amended the FTZ Program in over 40 years even though the fundamental makeup of the program has shifted from one that enhances exports to one that provides an incentive to import. The General Accounting Office and the Government Operations Committee have recommended that Congress amend the FTZ Act, requiring the FTZ Board to follow specific trade and employment criteria in reviewing zone applications. This legislation incorporates their recommendations while

recognizing the many instances when FTZ's are useful and even necessary for firms to compete in the international marketplace. I urge my colleagues to examine the hearing records and reports from the Government Operations Committee and the Ways and Means Committee for a further discussion of FTZ's and to act quickly to pass the Foreign Trade Zones Improvement Act.

SENATE—*Wednesday, March 28, 1990*

(Legislative day of Tuesday, January 23, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

He that hath an ear, let him hear * * *.—Revelation 2:7.

Eternal God, Lord of history, yesterday we honored a great American. We were reminded that one way to honor him was to hear his words. May we realize that if we expect to be heard when we speak, we should hear others as they speak. Help us to heed the prophetic words of President Eisenhower in his farewell address:

"As we peer into society's future, we—you and I, and our Government—must avoid the impulse to live only for today, plundering, for our own ease and convenience, the precious resources of tomorrow. We cannot mortgage the material assets of our grandchildren without risking the loss also of their political and spiritual heritage. We want democracy to survive for all generations to come, not to become the insolvent phantom of tomorrow." (Washington, DC, January 17, 1961, Farewell Address.)

Give us ears to hear, Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 28, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 9:30 a.m., with Senators permitted to speak therein.

At 9:30, the Senate will resume consideration of the clean air bill. Senator SPECTER is expected to offer his tax credit amendment at 9:30. That amendment will have a 2-hour time limitation, with the time equally divided between the two sides. A vote relative to that amendment could therefore occur at or prior to 11:30 this morning. Other votes are anticipated throughout the day.

Yesterday, a unanimous-consent agreement was reached which provides for final passage of the clean air bill not later than 8 p.m. on next Tuesday.

I am grateful to the distinguished Republican leader for the cooperation he provided in enabling us to obtain that agreement. I had, of course, hoped that it could be done this week, but a definite time is the important thing, and I am grateful that we are now going to act finally on this comprehensive legislation by next Tuesday evening. Under the agreement, after the Specter amendment, any other amendment offered will be under a time limitation of 1 hour.

On tomorrow, Thursday, the Byrd amendment will be debated beginning at 10 a.m. with a vote on or in relation to that amendment at 3 p.m. Also beginning at 4 p.m. tomorrow the consideration of so-called allowance amendments will begin, no sooner than that. It may begin at that time or thereafter.

So, Mr. President, I encourage Senators to come to the floor and offer those amendments that they wish to offer. In any event, I am pleased and gratified that we are now at a point where we will complete action on this legislation not later than next Tuesday evening. I especially want to thank the distinguished managers of the bill, Senator BAUCUS and Senator CHAFEE, who have been outstanding in their perseverance and presentation and consideration of this legislation.

Mr. President, I reserve the remainder of my time, and I reserve all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. EXON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes Senator EXON.

THE DAWN OF A NEW ERA

Mr. EXON. Mr. President, the political changes around the world are cause for great American satisfaction and indeed joy. At this time last year one could not have imagined the dramatic events which are taking place on a daily basis. I wish to associate myself with the remarks made on March 22 by my good freind and close colleague, the Senator from Georgia.

At that time, indeed, Senator NUNN spelled out some problems that we are facing, and he addressed with great eloquence the lack of direction by the administration in several important areas, including some realistic guidance as far as national defense reductions are concerned. I think it is time for reality, and I think it is time for those of us who have some experience with not only the national defense budget, but the budget itself, to begin to speak up.

First, let me say that if, as we all pray, the quest for democracy, liberty, and freedom continues, and it succeeds, we will look back, I suggest, at this time as the dawn of a new era.

The events of the last several months have brought clear victory for the values which Americans hold so dear. Like a house of cards, the structures of tyranny and oppression were undermined by the self-evident truth "that all men are created equal and endowed by their Creator with certain inalienable rights." We can further hope that freedom's blessings will soon come to China, South Africa, Cuba, and fully to Central America.

The democratic revolution in Eastern Europe and the glimmer of freedom's hope in the eyes of South Africans illustrates a human spirit and desire to be free. It is stronger than any government, braver than any oppressor, and more powerful than any military. The increasing likely acceptance of the democratic values and human rights throughout Europe and the Soviet Union lessens the threat of military aggression against United States interests.

Global realignment is not just possible, it is probable. There is a previously unimaginable hope and friendly competition among former rivals and new partnership of common interests. While the games of democratic values are young and somewhat fragile, it is not too soon to begin to image and plan for America's role in tomorrow's world.

In the most obvious way, America may soon have a lessened military burden. If change is sustained, reinforced by trust and guaranteed by treaty there will be a considerable "peace dividend." The hopes of some anticipate the payment of that dividend will come in the short term. More probably much of it will come in the longer term.

As a senior member of the Armed Services Committee, I am most concerned that rhetoric has, at times, overshadowed clear thinking regarding America's future defense strategy in this era of change. There is a mistaken impression that great savings can be made by simply canceling, for example, the strategic weapons program. In planning America's defense for the 1990's and into the next century, it is important to recognize and realize that strategic systems only make up less than 15 percent of the present defense budget. Mr. President, we can and we will reduce spending in strategic programs. We must also keep everything in perspective, I suggest.

Certainly savings must be made in military hardware where there remains an unacceptable level of waste. However, it must be understood that in spite of dramatic changes in Soviet military and political policy, there is no evidence that the Soviet Union has scaled back its Strategic Modernization Program. To the contrary, it appears from current developments that they may be on a course of deliberate policy to dramatically reduce conventional forces and increasingly emphasize strategic forces.

The Soviets may be doing this to meet their overall need for their national security by the less costly strategic programs coupled with a strategy of deterrence, as opposed to more costly and massive conventional forces. Until there is clear evidence of a changed Soviet strategic policy and a fully verifiable agreement between the United States and Soviet Union, it would be unwise for the United States to significantly lessen its vigilance in this area.

A good part of the peace dividend will come in the form of reductions of manpower and in the closing of unnecessary bases at home and abroad, and here is where personnel cuts are not only possible but must be made.

In large part this is true because new democracies in Europe are demanding that Soviet forces leave. West European democracies, given the developing conditions, may also be in a similar position of asking us to leave in greater numbers than currently anticipated.

While personnel costs are among the most expensive components of the defense budget, almost 50 percent, that peace dividend will not be realized immediately, because it actually costs money up front to demobilize in this area.

As traditional communism draws its final breath, military and economic assets can now be even better deployed. One priority must be America's war on drugs. Illegal drugs are a most dangerous, I suggest the most dangerous foreign invader assaulting our great Nation.

The effective deployment of military assets in the war on drugs can play an important role in a fully coordinated effort which prevents drugs from reaching our borders, and certainly imprisoning of the drug dealers and their efforts and the crimes that they bring about, those merchants of death, as I call them, must not escape attention and must be under continuous pressure from those of us, 98 percent of Americans who realize and are ready to do something about this peril. Certainly we must also recognize that Americans fully understand that this is not a one-way street, this effort to eliminate illegal drugs from our society. It is going to take some training. It is going to take some education. In other words, it is going to take more than simply building more prisons.

In planning America's future defense budgets, it is also in the Nation's long-term interest to continue to support those defense programs which are technology-based, while at the same time work to dramatically improve civilian technology. Today, the heart of the Nation's defense arsenal is no longer the bullet but rather the microchip. It is essential that the future vision of America's military preparedness include the maintenance and perpetuation of an advanced industrial and technological base.

Without that domestic base, the United States will find itself in peril at some time in the future. In this regard, the Department of Defense, along with the Department of Commerce, must significantly increase their efforts to help American industry stay on the cutting edge of technology and manufacturing.

The Exon-Florio law, which gives the President the power to stop a foreign takeover of an American company when such a transaction threatens national security, well help keep key industrial assets and technologies under American control and will certainly become increasingly important in the coming years.

The President has already used the Exon-Florio law to prevent a Communist Chinese agency from acquiring an American company which could have been used as a key to unlock a wealth of American aircraft technology.

In the new era, military competition will be increasingly displaced by economic competition. World power will become more defined in terms of Economic power, not just military policy.

It is in this dramatic change that the United States faces some of its most serious challenges.

Since World War II, we have become the free world's resident policeman and our extensive military machine has been financed at the sacrifice of much of our necessary economic infrastructure. This I suggest is especially true in education where we have begun to fall down.

While we have been astoundingly successful as world cop, given the dramatic recent developments, our accomplishments have been achieved not without some concurrent economic costs. I need cite only that in the past 5 years alone, America has changed from the world's greatest creditor, to the world's champion debtor nation. That should tell us something.

As the Nation enters this new era, it is incumbent on the Congress and the President to seize the opportunity to invest a large share of the peace dividend in deficit reduction. America's debt burden hovers over every congressional decision and consumes increasing amounts of the Nation's wealth. Within the next 2 years, the Nation's gross interest expense will likely be the single largest expenditure of the Federal Government, eclipsing even defense spending.

Therein lies the proof that the fiscal policies of the last 10 years have been ruinous to a sound economic base for America's economic security.

Prudent steps now, while requiring sacrifice can reduce America's long-term debt burden and assure that future resources are available to devote to much needed improvements in education, health care and certainly the Nation's infrastructure.

Faced with unparalleled economic competition, the United States cannot afford to sacrifice the talents of even one citizen. In this new global environment, a strong nation will need strong schools and healthy citizens.

No time can be wasted in the effort to improve education for all Ameri-

cans and to rid the Nation of the evil of drugs.

America must also give serious consideration to its rapidly aging population. Fewer workers will be supporting more retired citizens. The irresponsible use of the Social Security and other trust funds to run the day-to-day operations of the Government must stop. All trust funds should be taken out of the deficit calculations to reveal to the American people the immense size of our Nation's debt burden that has engulfed this Nation in the decade of the eighties.

I support the Moynihan bill to reduce Social Security premiums because it is better to leave these trust fund premiums in the pockets of working Americans than to spend them today as a political device to hide the true size of America's debt and deficit problems. The longer the current charade continues, the more likely it is that America will be unable to both pay back the money borrowed from the funds and meet the future obligations of the funds.

The Congress must take action now to assure that retirement benefits are available now and into the future. We hear much about the Social Security trust fund to be $60 billion in surplus. That is a terribly erroneous figure of speech. That so-called surplus and talk about the $60 billion surplus has been accumulated by the additional $1 billion a week pouring into it the so-called trust fund from increased Social Security taxes, is actually a deficit as far as the trust fund is concerned. The money is gone. It has been spent.

In the coming years the Nation must also carefully examine its health care system to assure that quality health care is available to all Americans at reasonable prices. Americans will be living longer and requiring increased medical care. In America, one bout with serious illness should not drive the average family into poverty.

Mr. President, the new era holds unprecedented promise and challenges both here and abroad. There has even been speculation that there may be joint NATO/Warsaw Pact maneuvers, not based on confrontation, but based on environmental cleanup. What a health concept that is. The United States and the Soviet Union may again explore space together and new markets will open to American goods and services.

In the coming era, as in the closing era, America must remain the beacon for democracy. American values must never be sacrificed for political expedience. Our foreign policy should clearly state that America stands with the democratic movements around the globe and not the despots whose only desire is to maintain power and crush the will of the people.

The promises of peace and democracy give world powers a chance to join in cooperation to fight the eternal enemies of humanity; namely hunger, poverty, ignorance, and environmental destruction.

If the changes of the last several months continue, a better world is indeed closer. Our excitement for the moment should not spur recklessness, but should spur hope. With this hopeful moral victory will come new challenges and new opportunities.

As economic power moves to the forefront of global leadership, America must turn its attention toward its economic as well as military security. America's diversity, free exchange of ideas and creativity make our great Nation capable of adjusting to a rapidly changing world.

America's future in the new era is bright indeed. Yes, there will be challenges. America must make short-term sacrifices to reap long-term rewards. At the dawn of this new era, I am confident that the American people are up to the task, if they are told the truth.

SUPPORT FOR DEMOCRACIES

Mr. GORTON. Mr. President, each of us receives in our offices hundreds, if not thousands of constituent phone calls every week.

Recently a woman called my Seattle office and spoke with a member of my staff. This caller was opposed to any further aid to El Salvador. She wanted us and our money out.

My staff member pointed out my own firmly held belief that cessation of aid would only result in negative consequences for El Salvador. There is in fact a very real potential for a massive increase in the killing under such circumstances—not unlike the genocide that occurred in Cambodia as a result of our withdrawal from Southeast Asia.

My constituent's response was chilling. "Well," she said, "maybe this will lead to increased killing, but at least it won't be on America's conscience."

Although I share this constituent's agony at the violence in El Salvador, I find appalling her ostrich theory, the idea that if we take ourselves out of the fray, we should not be held responsible for the results of that decision. This type of thinking fails to recognize that choosing not to act can produce deadly, tangible consequences. In the case of El Salvador, this would be far more devastating than our support of that fragile democracy has ever been.

Those who doubt the moral hypocrisy of choosing passivity in this imperfect world would do well to read the recent comments made by Vaclav Havel, President of the Czechoslovak Republic, to a joint session of the United States Congress. I quote him in part:

* * * for many years, Czechoslovakia—as someone's meaningless satellite has refused to face up honestly to its coresponsibility for the world. It has a lot to make up for. If I dwell on this * * * it is only because I feel—along with my fellow citizens—a sense of culpability for our former reprehensible passivity.

Those who would have us withdraw our support of nascent democracies decline to accept this concept of "co-responsibility for the world." Their definition of responsibility extends only as far as finding fault with other's actions, and not to assigning guilt for their own inaction. If this is self-indulgent on a personal level, it is unthinkable as a basis for national policy: America cannot stick her head in the sand and claim moral immunity from the fallout. The world is too complicated for such naivete; we must rise above the temptation to pretend otherwise.

Recently, the Seattle Times carried two op-ed articles that eloquently illustrated this tenet. Dr. Toan Truong gives us a Vietnamese view of what our withdrawal caused in Southeast Asia, and Georgie Ann Geyer updates the theme by looking at the wishes of the people of Panama.

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Seattle Times, Feb. 15, 1990]

U.S. INTERVENTION: THE VIETNAMESE KNEW IT WAS NECESSARY * * *

(By Toan Truong, M.D.)

I grew up in Vietnam during the war and came to the United States in 1975 among the first wave of refugees. It is always with mixed emotions that I watch American movies about the war, such as "The Deer Hunter," Apocalypse Now," "Full Metal Jacket," "Platoon," and now, "Born on the Fourth of July." They highlight the difference in our perception of the war.

Americans tend to remember the war through images depicting the massacre of innocent civilians by U.S. troops such as the one in which our hero, Ron Kovick, was involved, and the casual execution of a Vietcong officer by General Loan on a Saigon street.

What remains chiseled in my mind, however, is footage of Vietnamese wailing over the bodies of loved ones who were buried alive in huge mass graves by the Vietcong during Tet 1968, and accounts of their killing thousands of civilians fleeing toward the Hue on Highway 1 in 1975.

The late '60s is seen by most Americans today as a time in which the forces of truth and righteousness triumphed over the lies and hypocrisies of the government and the military-industrial complex. But I remember the concern my parents felt that the antiwar demonstrations in America would have an unfavorable effect on the U.S. government's support for the war, at a time when Soviet and Chinese support for North Vietnam was stronger than ever.

I cannot begin to describe the feeling of abandonment my country felt at the start of the North Vietnamese offensive in 1975,

when our soldiers were restricted to firing a few rounds a day because the bullets had run out and none was forthcoming.

Vietnamese feel misunderstood by Americans about this chapter in our shared history. In the movie, Kovick says that the United States was interfering in the Vietnamese people's struggle for independence.

Invoking the "Vietnamese people" is a favorite device of American so-called Vietnam experts. The "Vietnamese people" are always being quoted as supporting the North, as rejecting American Imperialism in essays about the legitimacy of the U.S. involvement.

Yet I know of no public-opinion poll conducted by anyone on what the majority of the Vietnamese people really wanted.

I believe that the Vietnamese people wanted only to be left alone to farm that ancient piece of land and enjoy the fruit of their labor, and not to have to go north or south to shoot at each other, or to go west to shoot at Cambodians. The Vietnamese people would prefer not to be so oppressed that they feel obliged to seek freedom elsewhere, as they have done since 1975.

President Kennedy's words about defending freedom anywhere in the world seem starry-eyed in retrospect. We have become very cynical about what the American forces were doing in Vietnam. We tend to forget that after the American pullout, the free people of South Vietnam did succumb to totalitarianism and that Hanoi did gain control of Laos and Cambodia.

The question then becomes: "Is defending freedom elsewhere in the world a worthy goal for the United States?"

What I hear from other Americans in response is that yes, communism is a terrible thing for Southeast Asia, but America still had no business interfering in what should have remained a private conflict.

Whose business is it, anyway? Americans do not question their involvement in Europe during World War II, so what is the difference? I think it lies mainly in the fact that Europeans are easier to identify with, whereas the Vietnamese are just a bunch of "gooks" and what are we doing there, risking the lives and limbs of good Americans kids?

As casualty figures came in on the evening news, suddenly the idea of fighting for democracy in Vietnam became only a vague concept related to some Asians 13,000 miles away.

The military has learned this lesson well. After the Vietnam War, it has used overwhelming force whenever possible to minimize casualities and to shorten the actual fighting (witness Grenada and Panama).

Vietnamese do not question the necessity of American involvement in Vietnam. What we are not so sure about is how America should have supported us.

But let's face it. The average American has never cared about the Vietnamese people and still doesn't. Vietnam has become an abstract symbol for units to debate about ideology and politics. Movies such as "Platoon" and "Born on the Fourth of July," although powerful and moving works of art, are in a sense vehicles for men like Ron Kovick and Oliver Stone to atone for their past misdeeds.

I felt Kovick's pain and admire his courage. I even cried when he made his triumphant entrance at the end, but I wonder if he has any idea about the kind of pains the Hanoi government is still inflicting on the Vietnamese people. For all of us, the suffering continues.

I visited the Vietnam War Memorial in Washington, D.C. The same monument for Vietnamese soldiers would stretch 50 times longer. I walked beside that black slab, scanning all the names.

It was painful for me to realize that although these men gave their lives for my country. I did not know anything about them. I wrote in that book at the end what I will write now, and I will dedicate these words not only to those who fell but also to all Vietnam veterans out there still alive:

Thank you all for having fought for my people. We will never forget your sacrifice.

• • • And in Panama, Listen to Poor People, Not the Intellectuals

(By Georgie Anne Geyer)

Panama City.—When Vice President Dan Quayle visited Panama recently, the ultranationalist priest at the official Catholic mass urged that U.S. troops should leave Panama as soon as possible. At these words, the church erupted. "No, no, no!" the Panamanians shouted.

All over Latin America, righteous leaders and intellectuals still criticize the "Invasion." Here, the approval for the "Liberation," as Panamanians call the December intervention, stands at an amazing 92 percent, while 72 percent want a U.S. military presence even after the canal goes to Panama in the year 2000.

The critics shift that this only shows the "political immaturity' of the Panamanian people. But President Guillermo Endara says, rather, that it is a "love affair with the American GI," and the editorial pages of the newspapers are jammed with columns and letters by Panamanians berating the other Latins.

As Luis Martinz, assistant to the president, recalls: "After Dec. 2, the BBC called and told me we had been "Invaded.' I said no. They insisted. I said, no, the Americans got Noriega, and we got our freedom."

Post-liberation Panama illustrates once again that old complex in politics' clothing: "anti-Americanism" and its multiple and mysterious manifestations here in Latin America.

Actually, Panama today shows that real anti-Americanism is almost exclusively the haven of the intellectuals. For while they scoff at the poor people's "political Immaturity," it seems to me that poor Panamanians are displaying a stark political realism.

In reality, there is no fear at all that the additional American GIs brought in here for the invasion are going to stay. They will be gone by the end of February, perhaps too soon. The most profound fear around here is a return by some future Manuel Noreiga to the old militaristic horrors. And this carries us to the contradictions of anti-Americanism in Latin America today.

To the hard-working poor in Latin America, dignity and nationalism are palpable things—having a decent country, a reasonably responsible government, and some hope in life.

To the super-nationalist and often utopian intellectuals, nationalism means standing up grandly and without reservation to the United States. To the little, strutting Manuel Noriegas, nationalism means cynically using its lowest forms as a screen behind which they systematically rape the country.

The poor are not dumb—they understand what is good for them and their countries and what is not. The Latin poor know what the Eastern Europeans know—that the United States, for all its historical failures and many idiocies down here, is still the universal model of development that will help them in the world.

The poor want tangible changes, not the eternal posturing against the United States of the Manuel Noriegas, the Fidel Castros and the Daniel Ortegas.

Ironically, the Panamanian poor are not only up against these Latin leaders in seeking a decent life, but also probably up against most U.S. intellectuals, who believe that ever since Vietnam, the United States should not act in the world.

By this argument, it is better to leave the deserving and hard-working Panamanian people to the savage depredations of a Noriega. "Just do nothing," is the call. It isn't very grand, and it isn't very humane, but then it's only the Panamanians who are being tortured and killed, isn't it?

The funny thing is how the "intervention/invasion/liberation" issue has turned around over the past 25 years. It used to be the liberals, both in Latin America and the United States, who wanted the dictators overthrown. Then the United States tended to support the dictators. Now liberals don't seem to care how much people suffer under unspeakable dictators, just so long as we don't have to dirty our hands overthrowing them—or dirty our minds making such unpleasant decisions.

Panama today may well stand as a sentinel of a new era, an era when both Latin and North Americans will be called upon to make the more practical decisions that the Latin poor and middle classes demand.

Is it really enough to shout "anti-Americanism" and leave decent people to the torturers?

Is it really enough for Peruvian President Alan Garcia cynically to use the Panama invasion as a way of calling attention away from his own abundant and accumulating failures?

Is it really enough for the Organization of American States to come down here last summer, to do absolutely nothing to help the Panamanian people, and then so self-righteously to refuse to seat this elected government, one of the best in Latin America?

Panama's remarkable Vice President Ricardo Arius Calderon said after the invasion, "The night is over; it is dawn." Must one believe that so many Latin leaders would prefer for the Panamanian people only an endless night?

ESTONIA

Mr. GORTON. Mr. President, on another but related subject, I spoke 2 or 3 weeks ago on Friday of the invitation I had received from the Congress of the people of Estonia asking me to join them and to speak on behalf of their attempt to free themselves from the Soviet Union. Because the Soviet Union refused me a visa, I was unable to join in that celebration of liberty, but the speech which I gave here was in fact sent to Estonia, translated in the language of those people, and read to that Congress.

I have received, as a result of that appearance, a letter from the individual who was elected chairman of the Congress of Estonia thanking me for my efforts and speaking of the hope which those people have and the ex-

ample which the United States has set.

I ask unanimous consent that the letter from Tunne Kelam, the chairman of the Council of Estonia, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EESTI KOMITEE,
COUNCIL OF ESTONIA,
Tallinn, Estonia, March 21, 1990.

Hon. SLADE GORTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR GORTON: On behalf of the Congress of Estonia and the Estonian people, I would like to send you warmest greetings and to express our sincere regrets that Soviet authorities prevented your traveling to Estonia to attend the Congress. Although we were in constant contact with the Estonian "Foreign Ministry" and the U.S. Consulate in Leningrad regarding this matter, unfortunately, your visa was never issued.

We thank you for delivering the speech you intended to give at the Congress of Estonia in the Congress of the United States. Your remarks were translated into Estonian and read on the first day at the opening ceremonies, receiving an ovation from the delegates and guests.

The fact that you did not receive permission to travel to Estonia was a frequent topic of conversation and was covered by the Estonian media. I personally raised this question on Estonian television. Two Estonian Americans, Mr. Maido Karl and Mrs. Mari-Ann Rikken, who appeared on our most popular political program, "Viewpoint", also discussed the situation.

We hope that you will be able to visit Estonia in the very near future. As we begin to reconstruct a democratic government, albeit currently still under conditions of Soviet occupation, your advice and expertise are sorely needed. Perhaps we can discuss the details of such a trip when I come to Washington in early April. Thank you for your interest and support!

Sincerely,

TUNNE KELAM,
Chairman.

Mr. GORTON. Mr. President, I extend my admiration and thanks to the authors. They remind us that concepts over which Americans have the luxury of being armchair intellectuals often mean the rock solid reality of life, death or grinding poverty for millions of people worldwide. These people depend on our courage to act, rather than to stand by in feigned innocence.

GRANTS TO THE STATE OF WASHINGTON TO COMBAT CRIME AND DRUGS AND ON DRUG EMERGENCY FUNDS

Mr. GORTON. Mr. President, once again I am happy to announce that the administration has responded to the cry of communities in the State of Washington plagued by crime and drugs. I was pleased to have announced yesterday that the Office of Juvenile Justice and Delinquency Prevention awarded $834,000 for juvenile delinquency programs in my State. This assistance will help develop, maintain, and expand juvenile delinquency prevention services in Washington State.

Earlier this year under the President's National Drug Control Strategy, funds were also provided to assist our local law enforcement in Washington to deal with its rampant drug and crime problem. These grants are important but they just begin to deal with the magnitude of the problems we are facing. Clearly, additional resources are needed in my State and across the country to deal effectively with the crisis in local communities related to the scourge of illegal drugs.

While I applaud the responsiveness of the administration to the crisis in the State of Washington, the current level of support is insufficient to truly protect local communities against illegal drugs and violent crime. That is why I have cosponsored the Drug Emergency Areas Act of 1990 to provide an additional $300 million in direct grants to local communities. This will further assist communities in their effort to carry out the President's National Drug Control Strategy.

In my view, this legislation complements the designation of five "high intensity" drug areas by providing resources for distribution to other States which are also in dire need of assistance. Like the Yakima and Wenatchee valleys in Washington, many localities across the Nation lack the resources to deal with the magnitude of the illegal drug crisis facing them.

I ask unanimous consent to have printed in the RECORD at this point a letter I sent to the Office of National Drug Control Strategy on the situation in the Yakima Valley.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 26, 1990.

Hon. WILLIAM J. BENNETT,
Director, Office of National Drug Control Policy, Executive Office of the President, Washington, DC.

DEAR MR. BENNETT: The citizens of Washington State appreciate the high priority that the Bush administration has given the national drug crisis. Your recent visit to Washington State demonstrates your commitment, Mr. Bennett, to understanding the crisis on the front lines of our local communities.

You know firsthand that the Yakima Valley of Washington serves as a major distribution point on the west coast for drugs coming across the Southwest border. Yakima, located in a rural, agricultural area, has a long connection with migrant labor from south of the border. Unfortunately, this same route facilitates the flow of illegal drugs to the west coast.

As such, the illegal activity there has regional, and even national, implications. Yakima, whose per capita income is one of the lowest in America, has inadequate resources to even begin to deal with the national drug problem. A recent statistic places the per capita arrest for drug violations in the Yakima, Pasco and Seattle regions as exceeding the drug arrests of the State of New York. The system of law and justice in Yakima is on the brink of collapse.

You, too, saw the serious problem in Yakima during your recent visit there. That this problem is not limited to this community, but part of a larger system of the distribution of illegal drugs in our country, leads us to believe that you will agree that it is imperative to act now. Therefore, we urgently request that you expand the Southwest border high intensity drug trafficking designation to include the Yakima Valley.

Expansion of the areas now proposed for designation to include Yakima, would be similar to the expansion of the Houston designation to include the entire Southwest border in recognition of the drug "pipeline" across that border. It is therefore, logical to include in your high intensity drug trafficking designation the other major distribution points from the Southwest border, especially Yakima.

Accordingly, we request that a portion of the resources earmarked for the Southwest border go to Yakima. Assignment of law enforcement personnel, as well as financial support for facilities, courts, drug treatment, and education are greatly needed in these communities and, as the National Drug Policy outlines, would represent the most efficient possible distribution of limited resources.

Again, we thank you for your support, and know that you will give this request every consideration as the most effective means of using limited resources to win the war against drugs in America.

Sincerely yours,

SLADE GORTON,
U.S. Senator.
BROCK ADAMS,
U.S. Senator.
SID MORRISON,
U.S. Representative.

Mr. GORTON. This bill also addresses a frequent complaint of local officials in my State. Too often, when Federal money is awarded it takes too long to reach those most in need of the resources. And once it arrives, too little is available. Through direct grants, this legislation puts money in the hands of those on the front lines.

Mr. President, there is a desperate need for direct assistance to localities fighting the drug war. I am glad to support this important legislation and hope all my colleagues will join me in providing the President with these additional resources.

TRIBUTE TO J. WILLARD HURST

Mr. KOHL. Mr. President, I have heard reports in recent years that law school enrollments are increasing on account of a television show known as "L.A. Law." Though I cannot claim to be a fan of "L.A. Law," I know that it tends to glamorize the practice of law and to emphasize the financial rewards associated with working at the big metropolitan firms.

If young people really are flocking to law schools just to make big bucks,

that is a rather sad development. For law has been, and should remain, more than a business; it must always be a profession dedicated to serving individuals and the society as a whole. And law schools best fulfill their mission when they teach students about law's calling and not its cash.

If television ever came up with a show on the higher purposes of law, it might well be called "Wisconsin Law." That's largely because of the work of J. Willard Hurst, professor emeritus at the University of Wisconsin Law School. Professor Hurst has long been a leader in the study of law and society. The New York Times recently ran a fine article about him, and I would like to make it part of the RECORD.

Therefore, Mr. President, I ask unanimous consent that the article about Professor Hurst be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MAN WHO HELPED LIBERATE LEGAL HISTORY, BRINGING IT OUT OF THE IVORY TOWER DOWN TO EARTH

(By David Margolick)

MADISON, WI.—When J. Willard Hurst attended Harvard Law School in the 1930's, the study of legal history was nonexistent. Oh, yes, some professors had studied obscure legal doctrines and there was one superannuated scholar studying history, but it was Roman history, and he stalked Langdell Hall like a ghost.

Why this dearth, given the inherent overlap between law and history? The explanation came a century ago from Christopher Columbus Langdell, Harvard Law School's intellectual architect: The law was a self-contained science and the law library its laboratory. One need not study how law actually affected people or how legal institutions evolved; all wisdom could be gleaned from appellate decisions. This approach not only gave law professors a shot at omniscience but also spared them from having to learn other disciplines, set foot in a courtroom or state legislature, or even step outside.

From the moment he arrived here at the University of Wisconsin Law School 53 years ago, and was mandated to bridge the gap between law and society by studying how laws were enacted and applied, Professor Hurst changed all that. By his intellect and example, he is universally credited with legitimizing legal history. Even in retirement he remains one of the few legal scholars whose work can be measured in shelf feet—and shelf feet of bona fide research rather than of cut-and-pasted cases and comments. In an era when academia, like sports, has been watered down through expansion, he is an old-fashioned towering figure.

In some ways, he is also an anachronism. He is the one of the last disciples of Louis D. Brandeis (whom he once served as law clerk), having inherited Brandeis' interest in grassroots democracy. He is a disciple of the LaFollettes, who charged Wisconsin's academics to view the state as their campus and their laboratory. He is the last of the Legal Realists, the Depression-era scholars who tried to place law in a larger social context.

Mr. Hurst is one of those rare figures in academia who is as well-known for his modesty as for his scholarship. And even as he approaches 80, he still casts his long shadow over the field. "You're either a Hurstian or a reviser of Hurst," said Lawrence M. Friedman of Stanford Law School, one of a generation of legal historians either taught or influenced by Professor Hurst.

Mr. Hurst had the academic pedigree to do whatever he wished. He graduated at the top of his class at Harvard, edited its Law Review, served as research assistant to Felix Frankfurter before clerking for Brandeis in 1936.

It was Brandeis who urged Mr. Hurst to head for Wisconsin and study its democratic institutions. While there Lloyd Garrison, then the school's dean, urged him to create a program in "law and society," investigating how the state's legal system and economy cross-pollinated.

The spectacle of law professors doing social research was rare and at times ridiculous, like the Yale scholar who once charted parking-meter use in New Haven. Mr. Hurst focused on the lumber industry in Wisconsin, all to determine how industry both used and molded the laws of contracts, property and other areas. Mr. Hurst discovered Chippewa Falls long before Woody Allen found Annie Hall there; the work of the courts there was, to him, more interesting, less abstract and certainly less pawed over than that of the United States Supreme Court.

Mr. Hurst's was a largely uncharted route to respectability. Once, when he told a leading law dean he was working on "legal economic history," the dean harrumphed: "You'd never get away with it at my place!" But rather than feel excluded from the mainstream, Mr. Hurst simply created his own.

"For me personally, he was an incredible inspiration," Morton Horwitz of Harvard said. Robert Gordon of Stanford added: "Every scholar needs heroes, and Willard is one of the few authentic heroes of our field."

As his studies continued and broadened, recognition came. Three times he turned down the deanship of Yale Law School, as well as a chair at Harvard. "I guess I was just too pleasure-loving," he recalled. "I was having too good a time in Wisconsin."

Mr. Hurst is one of those people who, beneath a deceptively elderly exterior, retain all the fire, impatience and curiosity of youth.

He still goes into his office, still sifts through piles of manuscripts, still grumbles over all the issues—political action committees, Ralph Nader, antitrust laws—younger legal historians are still neglecting.

He takes great pride in his students—which all younger legal historians necessarily are—even when they criticize him. "Part of your function as a teacher is to send out people who've done more than you," he said.

That may be the only scholarly endeavor in which Willard Hurst has fallen short.

A SISTER'S UNFLAGGING EFFORTS TO WIN RELEASE OF TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,838th day that Terry Anderson has been held in captivity in Beirut.

Mr. President, last week the Buffalo News carried a wonderful story detailing the noble and unflagging efforts of Peggy Say during the last 5 years. I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Buffalo News, Mar. 21, 1990]

THE PROPHET OF CONSCIENCE: HOSTAGE'S SISTER RELENTLESS IN GOADING PUBLIC TO OUTRAGE

(By Elizabeth Kastor)

WASHINGTON.—Peggy Say does not fantasize about visiting Europe or having adventures or meeting famous people. Her dream is far more mundane: Buy a motor home, toss the grandkids in the back and go someplace decidedly unexotic, someplace like the Grand Canyon. It is a dream straight from the heart of an energetic 49-year-old woman who loves to fish, who keeps her auburn hair trim and practical and her needlepoint close at hand. It is the dream of the housewife she is—or at least was before the struggle began.

For the past five years, her stolidly grieving face has stared from countless newspapers and television screens. She has propelled herself onto the national stage as a latter-day, middle-class prophet—an enraged visitor demanding immediate moral action from every person she meets, whether politician or citizen. Daily she condemns the ethical failure of a country that would let her brother Terry Anderson remain a hostage in Lebanon since he was seized on a Beirut street on March 16, 1985. Daily she asks the country to bleed with her.

The problem is, who can bear to listen to someone scream with pain for five years? To be with Peggy Say is to feel constantly guilty, to wonder constantly why it's your fault, and then to feel guilty again for wishing her scream would stop.

Over the years Mrs. Say has learned that although she does not falter, the audience for a prophet's cry is not as constant. She is no stranger to hate mail. When the Iran-contra scandal broke, she says, she was seen bearing partial responsibility for the Reagan administration's contortions on behalf of the hostages. Tainted by her earlier connection with Oliver North (White House liaison for the hostage families), she was shunned by the politicians who once helped her.

In her own hometown of Batavia, the atmosphere grew so hostile she felt compelled two years ago to move far away to Kentucky.

"I know people don't like to see me coming," she says. "I think I represent failure to a lot of people, and they just wish I would go away.

Mrs. Say also knows by now that even people she would otherwise consider good and caring resist her message, that they wonder at times why she holds them individually responsible for what she calls "this massive injustice."

But Mrs. Say cannot stop. And now, with elusive but encouraging signals out of the Middle East suggesting that her brother and the other hostages could soon be released, she is making what she hopes will be her final round. As she has learned to do, she is visiting the ambassadors, giving the interviews, taping the television profiles, appealing to the media to keep her brother's story alive as she simultaneously condemns the media for failing to do more for Anderson, a journalist himself.

In an office near the White House, a birthday card waits. The illustration was drawn by Garry Trudeau, Anderson's favorite cartoonist, and the large card has been signed by hundreds of journalists, from the famous to the obscure. She grows hard when she talks about it. Even that card reminds her that the tragedy her family is living is not everyone's tragedy.

"Although 95 percent of those people probably did nothing more for Terry than sign their names to that card, Terry doesn't need to know that," she says in a flat tone suggesting that although he will never know, she remembers.

"What's important to me and David is that when Terry gets off that plane, there are only going to be a handful of us who can look him straight in the face and not flinch," she says. "I may have erred politically. I may have erred strategically. I've never erred morally. This was the thing—there was no choice."

When Peggy Say took up her crusade, it was in the form of a rebellion. For the first months of Anderson's captivity, she had faith in the Reagan administration's promises that if the hostage families would just wait patiently, their relatives would be freed. "I waved my little flag and they stroked me because I was such a good girl," she says with bitterness. Then, when the passengers of the hijacked TWA Flight 847 were released in summer 1985 and her brother was not with them as some had hoped, Mrs Say exploded out of silence. Since then, she has insisted repeatedly that the United States has abandoned the Lebanese hostages, asserting that if there were more Americans in foreign hands, the government would find a way to free them.

"I believe the extent the American government has heeded the hostages is a direct result of the work of Peggy Say," says Charles Lewis, AP Washington bureau chief when Anderson was captured and now Washington bureau chief for the Hearst papers.

But some have suggested that all the public attention has made the hostages more valuable to their captors and may even have lengthened their captivity. It is an argument for which she has little use. "I think it's an out for those who have not participated," she says, and points out that French hostages in Lebanon, whose captivity became a well-publicized political issue in France, were released.

And whatever arguments are made against her. Peggy Say has received the one blessing she needs.

"When the French hostage Marcel Fontaine, who was Terry's cellmate, was released, I asked him, 'Does Terry know what I'm doing?' He said, yes, Terry told him, 'My sister is my only hope for freedom.' "

In the end, that is what matters, that she is his hope, that she has not failed him, that at some airport, someday, she can look in Terry Anderson's eyes and not flinch.

SITUATION FACING SOVIET JEWS

Mr. DIXON. Mr. President, Monday's Washington Post contained an article entitled, "Poland Offers Soviet Jews Free Transit." Polish Prime Minister Mazowiecki, speaking before the American Jewish Congress in New York last weekend, stated that Poland will not restrict the flow of Soviet Jewish emigres through its territory and will allow new charter flights to carry them to Israel.

I congratulate the Polish Prime Minister for his bold step in the face of Arab intimidation and coercion, which has resulted in the closing of one of the gateway cities for Soviet Jews leaving the Soviet Union on their way to Israel.

Malev, the Hungarian airline, announced on March 22, that it would terminate its flights through Budapest and cancel tickets that had already been bought. The Hungarian Embassy announced the next day that it would refuse to stamp transit visas for emigrating Soviet Jews. These two actions have effectively shut off one of the main routes for Soviet Jews who wish to emigrate to Israel.

Mr. President, the situation facing Soviet Jews is growing increasingly more precarious. The Soviet have refused to consummate the Aeroflot-El Al direct flight agreement; they have terminated special charter flights to Israel; and the Soviet emigration offices in Moscow and Moldavia, which is an area bordering Romania, have posted notices that emigration applications will not be accepted.

The window is closing on the Soviet Jews, Mr. President, and we must ensure that the window remains open.

Please remember that once a Soviet Jew is granted permission to emigrate, he loses his job, his apartment—literally everything. There are growing number of Soviet Jews who are now in limbo. Their Government has said they can emigrate, but their Government has actively worked to shut off all means of egress.

Thousands of Soviet Jews have been given permission to emigrate from the Soviet Union, yet are trapped in a country they desperately want to leave, because the Soviets will not permit flights. Mr. President, the Soviet Jews need our help, and the help of the world.

They need other nations in Western Europe to take the same steps the Poles have taken by allowing cities in their countries to serve as transit stops for Soviet Jews. We must encourage our friends overseas to help in this crisis. No one can stand silent in the face of this crisis.

Finally, the Soviets must know that the continued denial of flights, and the refusal to accept emigration applications, will have serious consequences for United States-Soviet relations.

Mr. President, what does perestroika mean anymore? What does glasnost represent? The United States must work to ensure that the warm words of glasnost are matched by just and human acts.

I ask unanimous consent that the text of the Washington Post article from March 26, 1990, be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POLAND OFFERS SOVIET JEWS FREE TRANSIT

(By Ethan Schwartz)

NEW YORK, March 25.—Poland will not restrict the flow of Soviet Jewish emigres through its territory and will allow new charter flights to carry them to Israel despite Arab complaints and terrorist threats of retaliation, senior Polish officials said today.

The move comes five days after Hungary's decision to curb travel by Soviet Jews, and was announced by aides traveling with visiting Polish Prime Minister Tadeusz Mazowiecki. As the first Polish leader ever to meet with an American Jewish organization, Mazowiecki told a dinner of the American Jewish Congress (AJC) that Poland acknowledged past "excesses and pogroms" against the Jews.

Henry Simpson, AJC executive director, said the charter flight decision had "great moral and political significance" and would strongly improve Polish-Jewish relations.

Mazowiecki's government has moved rapidly in recent months to end decades of Polish-Jewish tensions, restoring diplomatic relations with Israel last month and pledging to remove a convent of Carmelite nuns from the site of the Auschwitz concentration camp, where many victims were Jewish. Polish and Jewish officials described the prime minister's speech tonight as an attempt to cap that trend.

Mazowiecki received a standing ovation when he acknowledged past Polish antisemitism and condemned a U.N. resolution equating Zionism with racism as "an attempt to foster hatred of Jews." The AJC gave Mazowiecki its Freedom Award and Jewish leaders lauded him as one of the first Polish thinkers to speak openly about past Polish antisemitism.

"We must say in our pain that immediately after the [Second World] war, Poland saw excesses and pogroms, and that instances of antisemitism occurred," Mazowiecki said. "Antisemitic pogroms were invoked once again in 1968 as a function of the Communist Party, with a campaign against Zionism. . . .

"No one can say he or she did all they could to help our Jewish brothers," he said.

Mazowiecki appealed to Jewish groups to set aside past differences with Poland and remember "1,000 years" during which Jews in Poland "became an important part of our history, tradition and culture."

Robert K. Lifton, AJC president, said the speech went "a long way" to ending Polish-Jewish differences, adding that Mazowiecki said "everything we would have hoped he would say."

GREEK INDEPENDENCE DAY, 1990

Mr. PRESSLER. Mr. President, on March 25, 1821, Germanos, bishop of Old Patrai, officially proclaimed a revolution that had begun as a series of popular uprisings in the Peloponnesus earlier that spring. This act placed the symbolic might of the church behind the fledgling revolution. The people of Greece consider Bishop Germanos' proclamation to be their declaration of independence from the Ottoman Empire. It is interesting to note, Mr.

President, the parallels between the events in Greece 169 years ago and what has transpired recently in Eastern Europe, the Soviet Union, and Nicaragua. In Poland, for example, the Roman Catholic church played a major role in sustaining the Solidarity movement. In East Germany, the Lutheran church provided considerable support for those who kept the hope for freedom alive in the midst of oppression. Churches and clergy have also inspired and sustained the desire for freedom in the Baltic States and in the Ukraine. In Nicaragua, too, the Roman Catholic church played a very important role in the transformation from dictatorship to democracy. Religious faith was also important in the establisment of democracy here in the United States.

This past Sunday marked a celebration of democracy in Greece and Greek independence after almost 1,500 years of external rule but it was also an occasion to celebrate democracy in America. Many of the ideas and ideals that inspired and were adopted by our Founding Fathers were adopted by the democratic revolutionaries in Greece as the basis for their interim government and the very reason for their existence.

An exchange of people followed the exchange of ideas and ideals. Greek immigrants, many of whom came to America during the Diaspora which followed the revolution, have contributed a great deal to our Nation and have distinguished themselves in many areas. Greek immigrants have become respected medical researchers, performers and statemen among other important professions. Many have also taken what they have learned and returned to Greece, which has strengthened the bond between our two nations.

In any exchange of ideas, those able to accept change prosper and become more than they were. Those able to adapt grow from the addition of the experience and thought of others. Such exchange and ability to adapt underlie all that was celebrated this past Sunday.

Mr. President, I encourage all Americans to reflect upon the ideals celebrated on Greek Independence Day, 1990. The entire world is in debt to the historic contributions of this great nation.

CHARLESTON'S PRIDE, AMERICA'S BEST MAYOR

Mr. HOLLINGS. Mr. President, I rise to include in the RECORD a profile of Charleston Mayor Joseph Patrick Riley, Jr., which appeared in the March 17 edition of the Charleston News and Courier. Joe Riley is the pride of Charleston—mayor of the city since 1975, the man who has tranformed Charleston into a tourist and cultural showcase. He was instrumental in establishing Charleston Place, the Spoleto Festival, Piccolo Spoleto, and the MOJA Arts Festival.

Yet, despite his exceptional achievements in office, prior to last fall Joe Riley remained one of South Carolina's best kept secrets. Then Hurricane Hugo crashed into Charleston, leaving a path of destruction and chaos unmatched since the Civil War. In Hugo's wake, Joe Riley became his own whirlwind of activism and can-do leadership. He rallied the city with his determined, round-the-clock command of the relief and recovery effort, and he became a national symbol of Charleston's determination to fight back and rebuild the city better than ever. I am pleased to report that he is well on the way to achieving that objective. Through it all, Mayor Joe Riley has set a standard for leadership that will be recognized and admired for decades to come.

There being no objection, the profile was ordered to be printed in the RECORD, as follows:

[From the Charleston (SC) News and Courier, Mar. 17, 1990]

JOSEPH PATRICK RILEY, JR.: MAYOR CONSIDERS CHARLESTON MORE THAN A PROJECT

(By David W. MacDougall)

Sitting behind his cluttered desk, Charleston Mayor Joseph Patrick Riley Jr. toys with a pair of yellow No. 2 pencils.

He uses one pencil to push the other. He makes the letter "I" out of the pencils. Then the letter "L."

Piles of paper work are scattered around the office, on chairs, on the desk, the window ledge, anywhere there's a flat surface.

A large table holds a model of the Concord Walk development, more piles of paper work and a five-gallon fish tank occupied by four goldfish. "A Christmas present from my staff," Riley says, his face breaking into a boyish grin. "They knew I wanted an aquarium."

Riley is a shirt-sleeves mayor. He's in the office by 8 a.m. and rarely leaves before 6 p.m. His days are filled with meetings, conferences, planning sessions, phone calls, public appearances and interviews.

Like the lawyer he was trained to be, Riley speaks in long sentences filled with qualifiers and modifiers. He takes pains to avoid sexism when he speaks, always saying "his or her".

When he's on a comfortable subject, words come easily. But he thinks carefully before answering many questions, especially personal ones, as if playing out all the implications of an answer in his mind.

With his glasses off (he's ordered bifocals and has to take his glasses off to read), Riley looks younger than his 47 years. He has penetrating blue eyes and an engaging smile.

He wears a Citadel class ring on his right hand and a simple wedding band on his left. He keeps track of the time with a black digital watch.

He apologizes for the disarray. "This office usually isn't this bad. This is Hugo. What Hugo has done for us is that you had your normal platter of duties and projects, none of which could really be ignored, then you just had a whole new group of problems."

Along with bringing a host of problems, Hurricane Hugo brought Riley nationwide recognition and praise for his handling of preparations for the storm and its aftermath.

Since the storm, he's been named South Carolinian of the Year by WIS-TV in Columbia, commended by the state Senate, awarded the Distinguished Citizen Award by the National Association of Realtors, named Man of the Year by the Association of Citadel Men and honored with the Trident Community Foundation's Malcolm D. Haven Award for Community Service.

And television talk-show host Oprah Winfrey, in Charleston for a special Hugo broadcast, told 20 million viewers she's never heard such positive comments about a mayor.

With characteristic modesty, Riley deflects the adulation. "I was just doing my job. In Hugo, I hope I was as good as the people. The people were so good. They were courageous and generous and brave. A leader should always try to be as good as his people, or her people."

With Riley's statewide recognition factor so high, many Democrats pressed him to run against Gov. Carroll A. Campbell Jr., a Republican who is up for re-election.

Riley, many political observers say, may have been the only Democrat who had a chance of unseating the popular incumbent.

"I gave a lot of thought to running for governor and I'm not going to do it. I received lots of encouragement and pressure, but I'm glad that I decided not to. Whether I could have won or not wasn't a part of my decision."

Mainly, he didn't want to disrupt his family. Married since 1966 to the former Charlotte Douglas deLoach of Camden, Riley has two sons: Joseph P. III, 20, a junior at the University of South Carolina; and Bratton, 16, a sophomore at Porter-Gaud School.

The idea of moving his youngest son from a school he's attended since kindergarten did not appeal to Riley. "It's not like I was being transferred. When you have some control over these things I think you should do what's best for your children."

But even if his family's feelings toward moving to Columbia had been positive, Riley likes to think he would have decided to stay in Charleston.

"I have a lot to do for the city, particularly after Hugo. It's not a figure-head job and there isn't a city manager, so if I'm in Pickens County campaigning, rather than thinking about how to make sure the Concord Walk development gets approved . . . I mean, you know, you have only so much time to think, and I think it would have been the wrong thing for the city."

Charleston is more than a project for Riley, more than a stepping stone to another political office. Charleston is home, in every good sense of the word.

The only son of Joseph P. Riley and the former Helen Schachte, Riley was born in 1943 at St. Francis Xavier Hospital. His earliest recollection of home was a duplex on Gibbes Street. When he was 12, his parents moved to Murray Boulevard.

"I've never moved very far, I know every nook and cranny of that area." For more than two decades, Riley and his wife have lived in another house on Gibbes Street, about a block from his boyhood home.

Riley's father, despite being a prominent real estate broker who was active in civic af-

fairs and the Democratic Party, always made time for Riley and his three sisters.

"It was a wonderful household in which to grow up. I've always hoped that we would be able to give to our children as good as a home life as we had. I guess that's one of the reasons I feel so strongly that my priorities begin at home as a husband and a parent and then, whatever else, my duties as mayor, come after that."

Riley attended Cathedral Grammar School, Bishop England High School and The Citadel.

Describing himself as a typical teenager, Riley says he kept out of trouble by being active in sports.

"We were always, always, playing sports. I was not a skilled athlete at all, but participation in sports was kind of a unifying thing among my friends."

At Bishop England he ran track and played on the varsity football team.

"Back then, I think football was even more important as a sport. And it was something you wanted to do. You know, your friends played and you wanted to do it.

"So I went out for the team and I wasn't quick enough to be a back. That leaves the line. The guard is traditionally the least large of your linemen. So I was a guard. I learned a lot from that because, you know, I was small. But I learned to use whatever advantages I could."

Riley has been interested in politics all of his life. "I don't remember not being interested in government. And I don't remember anybody more interested than I was."

In high school, he was active in civics clubs and student council. When he entered The Citadel, where he was captain of the sailing team and a member of the Summerall Guards, Riley majored in political science and took electives in history and English.

Before going to college, being a lawyer had never been one of his goals. "I was always interested in government, but going to law school was something I decided to do toward the end of my time in college."

If he'd had his way, Riley would have gone right into the Army after college and the entire course of his life, as well as the face of Charleston, might have been different.

But a chronic hearing impairment he's had since childhood kept him out of the Army. His doctors don't know if his hearing loss is congenital or if it was an effect of a childhood bout with sacrlet fever, but he remembers having to sit in front of class so he could hear.

Riley wears two hearing aids, "It's just one of those things of life. He's never learned to read lips, but he has found that he tends to know what people's mouths look like.

"Charlotte will say a person's eyes are so blue or that they look like his mother's. I would have never seen that because I've always felt like I had to be watching the mouth. It helps in picking up things."

Riley pulled every string he could think of to get in the Army. Gen. Mark Clark tried. Then-former Gov. Ernest F. Hollings also tried. But even the late Rep. L. Mendel Rivers, one of the most powerful men in Congress, couldn't get Riley in.

"It wasn't like I wouldn't have otherwise been qualified. My feeling was that it was stupid. Maybe I wouldn't be the guy that you would want out as the forward observer in the dark to hear the guerillas walking on the leaves, but holy mackerel, I could have done a lot of things."

But if, upon his graduation in 1964, he'd been accepted in the Army, he might not have gone to law school. It was while he was in law school that he met his wife.

"I can't imagine my life if I hadn't met my wife and we didn't have our sons." During his first year as a student at the University of South Carolina School of Law, Riley returned to The Citadel to watch a friend graudate.

"After the graduation, just milling around, I saw these girls from Charleston and they introduced me to one of their roommates, who was Charlotte. She was working in Charleston.

"The first thing I noticed was that she was very attractive. Then things go from there. After that I found out that she was not only attractive, but a very wonderful person. And one of the first things I learned was that she had a good sense of humor, that she could easily laugh."

Riley says he tends to like people who are serious-minded about things, but able to laugh at the sillier aspects of life. He says it's something he looks for when he sizes people up.

"You know, I meet prominent people by virtue of my job—presidents, political people, business leaders or whatever. A good sense of humor is, to me, an important measurement. I think people have to be able to recognize the unserious things in life."

In 1966, the couple got married. They remained in Columbia while he finished law school. They returned to Charleston in 1967 and he set up a law practice with his friend, Capers G. Barr III, whom he'd met at The Citadel. His wife worked as his secretary.

Riley's interest in politics had continued. In 1966, he was chairman of Young South Carolinians for Hollings. After Hollings won his seat in the Senate, he told Riley, "Joe, you ought to run for something. You just have so many friends around."

In 1968, Riley won a seat in the state House of Representatives. He was 25 when he was elected, the youngest house member.

"I really didn't go there with the preconceived notion of being an agent for legislative reform. In fact, I went there kind of expecting to be comfortable in the family of the legislature."

Comfortable, he wasn't.

He was quickly branded as a troublemaker, Veteran legislators called Riley and a handful of other newcomers the Young Turks.

The first bill he introduced called for allowing absentee voting in the state. "For which I was criticized by an editorial in The News and Courier. I took that so personally back then. I mean, it was such a great idea."

Then he tackled the issue of legislators leaving Columbia too soon in the work week.

"On Thursday, you'd have a hard time getting a quorum. Well, I had a family. Our first son was born my first year there and I had my wife and I had my law practice. I mean I wanted to be back in Charleston Wednesday night too. I like being home."

Riley and the other Young Turks called for a roll call. "Well that was unheard of. That was the worst thing in the world. I remember one elderly guy from upstate told me I ought to go back to kindergarten, that's where you had to take roll."

They pressed for other reforms—freedom of information, open meetings, ethics legislation. "None of it passed. We got clobbered. So we made an issue out of it. We went back home and started talking about it and the press covered it."

The next term, more people were elected who were talking about legislative reform and eventually all the reforms became law, he says.

Riley spent six years as a legislator and continued practicing law. At the beginning of his third term, he called for the removal of Speaker Sol Blatt.

"He was a wonderful man, but he had a control over the house that was so strong we felt our reform efforts would never make it. It was a very powerful office."

Riley wanted to be chairman of the Judiciary Committee. He thinks Blatt may have engineered his defeat.

"It probably worked out for the best. If I'd been elected chairman, maybe it would have been harder for me to leave and it was good that I left. It was time for me to be with my family then. It was time to come home and I'm glad I did. Also, if I hadn't then I probably wouldn't have run for mayor."

Being mayor isn't necessarily easier than being a legislator, he says. But at least he can spend more time with his family.

"And I think being mayor is the finest public service opportunity that I could have had. I mean, if the reason for running for public office is to contribute something to society, I feel like these 14 years have been years of great change and movement in Charleston's history."

Charleston has undergone dramatic change under Riley's stewardship. Through annexation, it's more than doubled in size. Its business climate has improved and it's become a major tourist destination. He helped bring about Charleston Place, the Spoleto Festival, Piccolo Spoleto and the MOJA Arts Festival.

But none of it could have happened if it weren't for improved race relations, Riley insists. When he took office in December 1975, there were few blacks in city government.

"My major reason for running was to bring the white and the black community together and to give the black community, for the first time in this marvelous city's history, a full and complete opportunity to be a part of the city."

He says he knew Charleston couldn't achieve its full potential unless the racial issues were settled.

After I was elected, I did what I said I was going to do and went to work hard for the black community, because it was in everybody's interest. It was in the white community's best interest, as it was in the black community's best interest, that qualified black people be put in positions of responsibility on boards, commissions and key positions in city hall. And that we do work in the black neighborhoods that I felt had been neglected, from the parks to the housing.

"So when people, behind my back, called me LBJ or Little Black Joe, that was fine. That was what I'd set out to do. I never lost a minute's sleep over it. I was proud of it, because I knew, from a historical standpoint, that I was doing the right thing."

City council member Robert Ford, who describes Riley as a hardworking, determined administrator, says the mayor has done a great deal to help black people, but that blacks have not enjoyed full participation in the city's economic and business boom.

Riley agrees there is room for improvement. He wants to establish a chapter of the Urban League in Charleston.

"We need to build more bridges in the professional community, where young black

professionals and business people will work with the white professional and business community.

"We still have plenty to go, but at least we've crossed that big hurdle. We've put all of that ugly part of our history behind us. That was the necessary foundation on which all other achievements are built."

Asked to list the accomplishments he's proudest of, in order, Riley says bringing blacks and whites together is first, Waterfront Park is second, the Spoleto Festival is third, improved city housing and redevelopment is fourth and Charleston Place is fifth.

But if you ask what matters to him most, he is sure to say his family. Unlike many in public life, Riley has fiercely guarded his family's privacy. You won't see his family pictured on campaign literature and his wife rarely appears at his side when he's on the job.

And Riley isn't a hot number on the social circuit either. Never has been.

"What the taxpayers of the city of Charleston want with me is, first of all, that I work very hard for them. They want me to have a vision for the city. They want me to have a healthy intellect and to have a clear head and to be smart for them and make the right decision and all of that.

"So that's what my job is. And it isn't to be a robot or mechanical thing or feel like you've got to be at every party or every function.

"One of the things I've sought through this, is to be a good politician, there's nothing wrong with that word, it's a wonderful word, you can be a good politician and at the same time be a good husband and a good parent and your children can have a natural home life and you and your wife can have a natural, fine relationship and you can grow as a human being and you can read books and relax."

Reaching into his desk, he pulls out a steno pad. "I keep a list of books here, just to see how I'm doing."

The pad is filled with titles. Checkmarks are next to the ones he's read. Riley tries to read all the best-sellers, alternating between fiction and non-fiction.

"I read every night at home. I read before I go to sleep. Even if I come in at midnight, I will still read. It becomes your little security blanket or ritual, but I love to read.

"It's more important to the citizens of the city of Charleston, I feel, that I read and that I hopefully try to be a natural, growing and developing human being than it is that I'm a glad-hander and a back-slapper and a party-goer and all that."

Asked what his biggest weaknesses are, Riley looks puzzled, says nothing for 10 seconds and then clears his throat as if to speak. But he remains silent for a full 30 seconds before his ruminating is interrupted by the shrill chirping of his telephone.

"That's my private-private line," he says as he picks up the receiver and takes a call from his son.

Paper work and the telephone, Riley says, are the worst parts of his job. He walks into his secretary's office and picks up a list of about 40 phone calls. "These have come in since 8 o'clock this morning. I was here at 10 minutes to 8 and I haven't been able to return one call."

Pondering the question of weaknesses again, Riley admits to a weakness for doughnuts. "I had one this morning, but I won't have one tomorrow morning. You know, you have to watch those things."

He says he has an Irish temper. When he's mad, he can deliver a severe tongue lashing. "And I feel bad afterward, usually. And probably my language isn't quite as nice as I would want to see in the newspaper. Yes, I have an Irish temper."

His greatest strength? "I don't know what my strengths and weaknesses are, I guess, I mean maybe my greatest strength is, and this might sound like bragging, is that I don't think about quitting, I mean, I don't quit, but I don't even think about quitting."

Tenacity is the first word that comes to mind when Capers G. Barr III, Riley's closest personal friend, is asked to describe the mayor.

"There's an unusual combination of tenacity and sincerity," Barr says. "He's the only public official I've ever known or had dealings with or been exposed to whose motives are absolutely oriented to the public good."

Barr says his relationship with the mayor has always been more social than professional. Barr's wife Ellen, and Mrs. Riley are close friends. The two couples have enjoyed many relaxing days together.

"I don't know of a stronger marriage," Barr says of the Rileys.

Ever since Riley entered public life, rumors that the Riley marriage was in trouble have surfaced on a regular basis.

Riley doesn't know how the rumors began. "I can assure you we've never had such problems. There's nothing we can do about the rumors, except go on and live our lives."

Mrs. Riley, who has been selling real estate for the past three years and is expected to take over her father-in-law's firm, says that when her husband was in the legislature, there were times she felt like a political widow.

"But not since he's been mayor," she says. "He will never have to look back and regret that he didn't spend enough time with his children. He's made a great effort to be a good father and a good husband.

"I have a great deal of respect for him. We generally see eye to eye on basic issues. He has a great sense of humor. He's probably one of the most thoughtful people I've ever known."

With a chuckle, the mayor acknowledges that, if he ever becomes governor, his wife will probably not be a typical First Lady.

"I don't know that I would like to be, if she was governor, the First Man," he says. Because independent careers are common in many marriages, Riley says, the public's expectation from a governor's spouse are changing.

Mrs. Riley says she's never wanted to be in the public eye, like so many political spouses are. "It's not my personality," she says.

When he goes home, the mayor will jog around the neighborhood, if there's time. "We would always try to eat together," he says. "That's an important time to chat."

When his children were younger, the family would watch television together. The mayor loves baseball and gets to as many Charleston Rainbows games as he can.

A devout Roman Catholic, Riley attends St. Mary's on Hasell Street. His wife, an Episcopalian, attends St. Michael's.

Riley says the church, his home and his family are his center of gravity. He uses that center of gravity to deal with stress and to keep his priorities straight.

During the warmer months, the Rileys spend a lot of time at the Isle of Palms, where they have a summer home.

His home on Palm Boulevard sustained heavy damage from Hugo. "It's still there," he says. "But it's receiving a lot of work."

The garage at his house on Gibbes Street was demolished and all the appliances were destroyed by water. "We did pretty well. The main thing is, the roof stayed on."

Despite the damage done by Hugo, Riley says Charleston is more beautiful than it has been in its 319-year history. "Right now. Prettiest right now. Right this minute. And it's continuing to be more beautiful."

Will he seek an unprecedented fifth term as mayor in 1991?

"Don't know."

MEMORIAL FOR CHAPMAN BINFORD, M.D.

Mr. WARNER. Mr. President, I am privileged to have the opportunity to honor the memory of a distinguished Virginian, Dr. Chapman H. Binford, who died February 9, 1990, at the age of 89. His renowned career and service to his country extended over 60 years.

Dr. Binford's career began in 1930 when, as a 1929 graduate of the Medical College of Virginia, he joined the Public Health Service and began his studies in preventive medicine and medical research at Harvard. In 1933 he was assigned to Hawaii, where he began his eminent work in the study of leprosy. These studies resulted in further training in histopathology at the National Institute of Health, and for 14 years he served as pathologist in several Public Health Service hospitals.

Dr. Binford's distinguished medical and scientific accomplishments resulted in his assignment in 1951 to the Armed Forces Institute of Pathology in Washington, DC, where he continued his world renowned leprosy research as the chief of the infectious disease branch (1951–60), as well as serving as registrar of the leprosy registry (1951–76). In 1960, he established the geographic pathology division at the AFIP, and at the same time served as medical director for the internationally recognized Leonard Wood Memorial—American Leprosy Foundation. From 1963 to 1976, Dr. Binford was chief of the special mycobacterial disease branch at the AFIP. His approach to international medicine and in particular to geographic pathology resulted in numerous contacts and highly productive diplomatic interaction with the Third World. This resulted in broad-based cooperative medical research programs in Uganda, South Africa, the Philippines and Thailand, and many mission hospitals throughout the developing countries of the world. His accomplishments alleviated and prevented immeasurable human suffering, and significantly enhanced the prestige and leadership of the United States in these highly important international programs.

Dr. Binford's contributions to the AFIP and the American Registry of Pathology were crucial for the continued operation of these very important military and civilian clinical research activities. He worked tirelessly as a pri-

vate citizen, serving as liaison between the AFIP professional staff and representatives of the Senate Health Subcommittee in preserving the traditional military and civilian patient-oriented missions of the AFIP and the ARP. As a direct consequence, the American Registry of Pathology received a Congressional Charter in 1976—Public Law 94-361, 94th Congress, H.R. 12438, July 14, 1976—which formalized the vital liaison between AFIP and the civilian medical community, and greatly enhanced both organizations' ability to support military health programs. In 1977 Dr. Binford became the ARP's executive officer and served 1980. As a direct result of his selflessness and deep devotion to duty, the cooperative efforts between AFIP and the ARP led to remarkable advances in existing and developing consultation, education and research programs, continuing today, have substantially contributed to major advances in the study and treatment of leprosy, and also to the control of current medical challenges such as AIDS, substance abuse, and environmentally induced health problems.

Dr. Binford's expertise and unique humanity permitted him to make major contributions in other medically relevant fields as well. He coauthored the classic text "Medical Mycology," which was a leading source of medical information for the diagnosis and treatment of fungal diseases for over a decade. Dr. Binford also was co-editor of a two-volume atlas of pathology called "The Pathology of Tropical and Extraordinary Diseases," which became a definite work in its field.

Born in Darlington Heights, Prince Edward County, VA, in 1900, Dr. Binford graduated from Hampden-Sydney College, Phi Beta Kappa, in 1923. After graduation from the Medical College of Virginia in 1929, he married Thelma Beauchamp, of Lottsburg, VA. A daughter, Lynette Binford, lives in Arlington, VA, and a son, Dr. Charles Binford, is a pathologist in Louisiana. Dr. and Mrs. Binford have been residents of Arlington, VA since 1951. Hampden-Sydney College and Virginia Commonwealth University both granted Dr. Binford honorary doctors of science degrees in 1952 and 1979, respectively.

Dr. Binford's long and distinguished career as an Armed Forces Institute of Pathology consultant, U.S. Public Health Service officer, researcher, educator, administrator, adviser, and colleague, will continue to be a source of inspiration for all who had the good fortune to know him and to work with him. Among his many admirers and associates was Dr. William M. Narva, the former chief of dermatology at the Naval Medical Center in Bethesda, and now the attending physician to Congress.

The Armed Forces Institute of Pathology and the American Registry of Pathology will commemorate his memory and dedication by passing on his devotion to future generations of military and civilian health professionals, of both American and international origin. It will be said of Chapman Binford that he was a man of great humanity, vision, and perseverance, never tiring, always hopeful; he made the right things happen.

REPORT FROM THE DRUG WAR FRONT

Mr. HOLLINGS. Mr. President, last month, in the course of 3 days of field hearings in South Carolina, I received a blunt and bracing education in the realities of America's drug war. The hearings were held under the aegis of the Appropriations Subcommittee on Commerce, Justice, State, and Judiciary, which I chair. Let me say that I very much appreciate Senator RUDMAN's support and participation in the hearings.

We heard a wealth of testimony from Federal, State, and local officials on the front line in the war on illegal narcotics. I came away convinced that we must reexamine our comfortable assumptions about America's drug dilemma.

For starters, Mr. President, we must be aware that no State is a noncombatant in the drug war. South Carolina itself is in the thick of this national crisis. Bear in mind that the narcotics war is being waged not just in inner-city Washington, but in inner-city Greenville. Not just in Miami, but in the port of Charleston. Not just in rural Texas, but in rural South Carolina.

The harsh fact is that my State is all too representative of America's drug crisis in all its ugly facets and dimensions. Consider that:

An estimated 80 percent of crimes committed in South Carolina are related to illegal drugs.

Some 10 percent of babies born in my State's major urban hospitals leave their mothers' wombs under the influence of drugs—stunted infants born to addicts.

The economic costs resulting from alcohol and drug abuse in South Carolina total nearly $3.2 billion annually—nearly equal to the total insured losses in our State as a result of Hurricane Hugo.

Mr. President, we must also realize that illegal narcotics have not been quarantined in low-income, inner-city neighborhoods. This sickness transcends class and color. I was surprised to learn that South Carolina's hottest growth market for illegal drugs is in our rural counties.

Fourteenth Circuit Solicitor Randolph Murdaugh testified that rural South Carolina, with its vast square-mileage and woefully understaffed police departments, has become "prime pickings for the people selling crack cocaine." Indeed, crack—cheap and superaddictive—is a far greater problem in rural areas than in our cities. State Law Enforcement Division Chief Robert Stewart told us about a bustling crack house in rural Williamsburg County where "people were driving through. It was just like a McDonald's."

However, crack is not the only problem in our countryside. Chief Stewart shocked us by testifying that marijuana has now surpassed tobacco as South Carolina's No. 1 cash crop.

A second widespread misconception is that the enemy is some shadowy army of street hustlers and desperation-driven junkies. On the contrary, we have met the enemy and he is us. He is in our white-collar work place, in our schools, and in many of our families. Take away these countless millions of casual users nationwide, the very people who insist that their drug use "doesn't hurt anybody," and the murderous marketplace of producers and suppliers would shrivel to a fraction of its present size.

Mr. President, a third misconception—encouraged by no less than William Bennett, the national drug czar—is that we have turned the corner in the drug war. Nonsense. The truth is that the light at the end of the tunnel is actually a locomotive heading straight for us. Crack arrests in South Carolina were up 1,700 percent in 1988. "In many ways, narcotics have become a domestic Vietnam," testified Dorchester County Sheriff J.C. Woodberry, adding: "County dope dealers operate like guerrilla insurgents and make a tremendously difficult target for my deputies." U.S. Attorney Bart Daniel put it more succinctly: "We have been outmanner, outspent, and outgunned."

The fact is that, for all our fine speeches about drugs being public enemy No. 1, we have utterly failed to match our rhetoric with resources. Yes, the Federal Government will spend some $10 billion this year to fight drugs; some $4 billion of it will be allocated by the Appropriations Subcommittee on Commerce, Justice, State and Judiciary. And, yes, during the hearings I announced that seven new assistant U.S. attorneys will be assigned to South Carolina. All this sounds impressive, but let me tell you it is not. At current funding levels, we are waging a holding action, not a war.

Which brings me to a fourth false assumption: the notion that the law enforcement community is a bunch of revved-up Rambos itching for combat in the drug war. The officials I heard from are a lot more sophisticated than that. On the one hand, they echo State Attorney General Travis Med-

lock's conviction that "strong law enforcement is the linchpin of a sound drug strategy."

On the other hand, they frankly own up to the limitations of this approach. Said Sheriff Woodberry: "I will not be a proponent of those well-publicized drug raids that solve nothing. They will never work as a solution. Many of the individuals will make bail, and are back on the street within 24 hours."

In 3 days of drug hearings in Greenville, Columbia, and Charleston, what struck me most was the unanimous insistence by our law enforcement people that education is the key to stopping the drug onslaught. Frankly, I had expected a more hard line, lock-'em'up approach from police officials; and, I must say, such an approach appeals to my own sense of outrage and frustration.

But the sheriffs and prosecutors are the ultimate realists. They know that drug arrests have skyrocketed, the drug supply and demand have not skipped a beat. They know that for every drug dealer the police arrest, there is always another one to take his place, lured by the fantastic profits to be made. So, how many prisons can we build? And how many junkies can we warehouse in our prisons for life at a cost per prisoner of $17,000 per year.

Clearly, the solution must be on the demand side: Education, education, education, beginning with children in the earliest grades of elementary school. Indeed, such efforts—the "Just Say No" campaign, and hundreds of others like it—already are having an impact. Peer pressure among teens is now acting to discourage, not encourage, drug use. Polls show a sharp reduction in cocaine and marijuana use by secondary-school students over the last several years.

Currently, Federal funding in the drug war is allocated according to a rough 70-to-30 formula; 70 percent goes to law enforcement and 30 percent to education and demand-reduction efforts. I intend to do everything I can to shift Federal priorities toward a more balanced, 50–50 approach.

One final misconception needs to be debunked. The greatest drug menace facing our country is not crack, or heroin, or PCP, or any of the illegal narcotics so prominent in the newspaper headlines. The greatest danger to our society continues to be posed by a legal, socially acceptable drug called alcohol. Indeed, alcohol is the most pervasively abused drug in South Carolina, and it is the biggest problem in our schools.

Seventy-four percent of admissions to our State's treatment system are for alcohol addiction—six times the rate of admissions for cocaine. In 1987 alone, 3,252 South Carolinians died from alcohol-related accidents and illnesses—four times as many South Carolinians as died in the entire 18 years of the war in Vietnam—while 75 died from drugs other than alcohol. These ought to be sobering statistics.

Mr. President, after 3 days of field hearings, I am convinced that, though we can never finally win the drug war, it is nonetheless a war we are obliged to wage as doggedly and aggressively as possible. Moreover, what we can and must win is the hearts and minds of American youth.

As parents and loved ones, we must teach our kids the truth, which is that drug use is dangerous and morally wrong. As employers and colleagues, we must adopt a posture of militant intolerance toward illegal drug use by those around us. As citizens and taxpayers, we must be willing to support more aggressive, more costly law-enforcement and educational initiatives.

Mr. President, thus far in the drug war, America has only just begun to fight.

JAMIE HUMES: ELOQUENCE AFORETHOUGHT

Mr. HOLLINGS. Mr. President, throughout our Nation's history, Senators and Presidents have relied on speech writers as a kind of artificial intelligence. These wordsmiths are supposed to stay out of the limelight, to cultivate—as Sherman Adams put it—"a passion for anonymity." But some speech writers just refuse to be history's footnotes. George Washington made quite a career of delivering Alexander Hamilton's speeches. George Bush was elected in no small measure on the strength of his recital of Peggy Noonan's speech at the Republican National Convention. Indeed, one pundit has suggested that we simply appoint Peggy Noonan President and cut out the middleman.

One of the very best speech writers—and speech givers—in the business is James C. Humes. A lawyer by training, Jamie has served in the White House, in the State Department, as a member of the Pennsylvania House, and as a part-time speech writer for every President from Eisenhower through Bush. I have had the pleasure of Jamie's friendship and counsel for decades now, and I'm pleased to read in the New York Times of his success in teaching the art of speech making to corporate America.

This superb writer and irrepressible talker is a good friend to many of my colleagues in both Houses of Congress. Accordingly, I ask that the March 11 New York Times article on Jamie Humes be printed in the RECORD for all to enjoy.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 11, 1990]

TEACHING THE "SIR WINSTON" METHOD

(By N. R. Kleinfield)

In the stark Manhattan meeting room, under fluorescent glare, the studious, well-fed man in the three-piece suit chomped on a cigar. He put a derby on, took it off. He bellowed: "We shall fight on the beaches, we shall fight on the landing grounds, we shall fight in the field and in the streets, we shall fight in the hills. We shall never surrender."

Gulping a breath, he stared at his audience with a powerful and direct gaze. The small cluster of mid-level executives from the big insurance company, Johnson & Higgins, looked a little befuddled but they sopped it up. They had never heard Winston Churchill before.

Winston Churchill? Talking to insurance people?

Sort of.

It was, in fact, James Humes.

Any businessman who hasn't yet made the acquaintance of Mr. Humes, just wait. He'll probably show up soon. He performs one of the most popular and incontestably most bizarre acts playing the corporate stage. He teaches executives better ways to speak and to motivate those lackluster sneaker- or lawn-equipment salesmen by impersonating Winston Churchill.

He was born for the role. Other than having too much hair, James Humes looks, acts and talks like Mr. Churchill, so much so that one wonders if sometimes he becomes confused about who he actually is. (Not really, and he can do credible Richard Nixon and Benjamin Franklin impersonations, too.)

Why invoke a deceased British prime minister in the offices of insurance people and shampoo makers? Mr. Humes is of the mind that the lusty, jowly former British prime minister was the all-time greatest orator, and thus he feels a businessman could do worse than to mimic Churchill. No, he doesn't urge John Reed of Citicorp or John Akers of I.B.M. to put on a lot of weight and begin talking in a deep-throated British accent. But he does think everyone can profit from an examination of Churchill's facility with words.

These are good days for the puckish, 55-year-old Mr. Humes. He is riding a boom in interest in speech coaches, as an increasing number of businesses spend money to sharpen the talking abilities of their executives. Nearly half of all medium and large corporations, speech instructors estimate, furnish public-speaking training for employees. The Churchill angle is what clearly sets Mr. Humes apart. But he differs from most others in that he also discusses the actual crafting of a speech.

"There are a lot of people out there teaching how to read a speech, how to face a TV camera," he said. "But very few teach about the contents of speeches. You can teach someone how to read the telephone directory like it's never been read before, but, let's face it, after it's all over, it's still the telephone directory."

Mr. Humes began giving his "The Language of Leadership" presentation in the early 1980's. It has attracted an ardent following—he has been hired by G.T.E., I.B.M., Bristol-Myers, Upjohn, Coors, Security Pacific, the U.S. Customs Office and the Securities and Exchange Commission. Agents from the C.I.A. and the F.B.I. have chosen to sit through it.

He delivers the roughly one-hour presentation an average of three times every two weeks. His fee is about $3,500. The concept actually sprang from a promotional gimmick. He wrote a biography about Churchill that was published in 1980. To promote it, he hopscotched across the country giving a lecture on Churchill in which he very convincingly impersonated him. It struck him he might profitably mold that into a seminar to teach speaking to businessmen.

He accords current speechmaking the lowest possible status. "How often do you hear a good company speech?" he said. "Rarely. In Britain, it's much better. They don't automatically use the chief executive to give a speech, but pick the best speaker in the organization. Here, it's always the C.E.O., and everyone will say afterward, 'Hey, great speech, J.R., just tremendous.' And of course it would have put a plant to sleep."

Customers have made versatile use of Mr. Humes. John Goodchild, the president of the Weightman Group, a Philadelphia advertising agency, has hired him to tutor younger staff members and to coach clients. "He always has everyone enthralled," Mr. Goodchild said. "Several people have told me they tried some of the tips and people actually started listening to them."

During the Johnson & Higgins address, Mr. Humes, his mouth curling at the corners in amusement, filled in the audience on Churchill's unpromising background. That alone, he feels, gives hope to businessmen having trouble with their mouths. As a youth, Churchill had a lisp and a stutter and was unequipped with a university education. One of the first times he faced an audience, cleared his throat and began a speech, he flat-out fainted—a technique Mr. Humes frowns upon.

Roving back and forth across the front of the room, Mr. Humes spat out some tips, slipping in and out of his Churchill voice, ranging from indomitable calm to animated fury. Talk in pictures: "Iron Curtain was something Churchill coined to get a point across." Avoid jargon: "Churchill didn't say, 'Hostilities will be engaged on the coastal perimeter.' He said, 'We shall fight them on the beaches.'"

He related some non-instructional Churchill anecdotes. Churchill, having had much to drink, encountered Bessie Braddock, a Laborite. "Sir Winston," she said. "You are drunk, and what's more, you are disgustingly drunk."

Churchill replied: "And might I say, Mrs. Braddock, you are ugly and, what's more, disgustingly ugly."

"But tomorrow," he added, "I shall be sober and you shall still be ugly."

Winston Churchill has essentially bracketed James Humes' entire life. As a child, instead of playing records from the Hit Parade, Mr. Humes listened to recordings of Edward R. Murrow and of historical figures like Theodore Roosevelt. "I'm not proud of this," he said. "In fact, I'm a little embarrassed at this, but I wrote my own inaugural address when I was 12. I would turn on march music and deliver it from behind the couch.

When he was 18 and in England on an English-Speaking Union Scholarship, he actually met Churchill at a reception. Churchill told him: "Study history, study history. In history lie all the secrets of statecraft."

Mr. Humes was already studying history, so what he immediately did was sprint home and tear down his poster of Ted Williams and replace it with a picture of Winston Churchill.

In 1962, at the age of 28, he was elected to the Pennsylvania House. He also indulged in free-lance speech-writing, including putting words into the mouths of every President from Dwight Eisenhower to George Bush. He wrote one speech for Ronald Reagan that attracted unanticipated attention; it mentioned "third world" several times, yet when Mr. Reagan gave it, he kept saying, "third world war."

Mr. Humes practiced law for a while, did lobbying, then commenced his coaching course. He lives in Philadelphia, writes books, teaches and crafts speeches for corporate executives.

The Johnson & Higgins presentation concluded to vigorous applause and some knowing glances.

"Fabulous," said John Park, a manager in the international department. "I'm going to use some of the things he mentioned in a speech I'm giving to international managers in 20 minutes. Let's hope they work."

"When I get up to make a speech, I feel like I'm standing there naked," confided Alice Miller, an assistant vice president in corporate communications. "But his whole gestalt is so energizing. I also felt I was learning history as he spoke."

Of course, there were some doubters. "Churchill is not someone I'm really familiar with," said Ann Webre, who edits an employee-benefits newsletter. "For a younger audience, I think he may have to change it."

Another listener chimed in: "He might have to switch to Sting or someone like that. Though, frankly, I can't be sure businessmen really relate well to Sting."

WORK THAT AUDIENCE UP

In tutoring executives as public speakers, James Humes compresses his counsel into five simple points:

1. Begin strongly. He characterizes the opening moments of a speech as "prime time." "Everyone's listening and thinks you have something interesting to say," he said, "and so you should not dissipate that psychological advantage. Never waste it by saying the expected. Complimenting and thanking your audience at the beginning of a speech is not the best use of prime time."

2. Use one theme. "Keep it simple and single," he said. "And make sure there's a theme. Churchill once sent back a pudding because he said it had no theme."

3. Use simple language. Don't make listeners plow through jargon. As he put it, Those who comprehend it won't be impressed, and those who don't will start reading a book.

4. Talk in pictures. "Give case examples that tell a story to illustrate cost benefit or delivery of service," he said. "When I teach, I have my students work on their 'I.R.A.'s'—incident recorded accounts. I make them come up with 15 incidents—being fired, going to camp—and I show them how to use them to illustrate points."

5. Use an emotional ending. He stressed that the emotions that stir people in their private lives—pride, love, hope—are the same themes that motivate wallboard executives and vacuum cleaner salesmen. "C.E.O.'s tell me, 'Listen, Jim, I'm not trying to save England, I'm just trying to get a message across to the company.' Well, you still want to ask the employees to join you in something. End on an emotional pitch. Work that audience up."

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The period for morning business is now closed.

Does the Senator have additional business?

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CLEAN AIR ACT AMENDMENTS OF 1989

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1630, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Mitchell amendment No. 1293, in the nature of a substitute.

(2) Baucus amendment No. 1307 (to Amendment No. 1293), to grant Administrator authority to authorize limited production of halons after the year 2000 if necessary for aviation safety purposes.

(3) Wirth/Armstrong amendment No. 1313 (to amendment No. 1293), to establish guidelines for alternative work schedules for Federal agencies within nonattainment areas.

(4) Byrd further modified amendment No. 1329 (to amendment No. 1293), to provide benefits for terminated coal mine workers.

Mr. SPECTER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. SPECTER].

AMENDMENT NO. 1330, AS MODIFIED, TO AMENDMENT NO. 1293

(Purpose: To provide a tax credit for equipment necessary to meet acid rain reduction standards)

Mr. SPECTER. Mr. President, I send a modification of the amendment which has been filed to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself, Mr. LUGAR, Mr. METZENBAUM, Mr. BYRD, Mr. SIMON, Mr. DIXON, Mr. BOND, Mr. COATS, Mr. GLENN, and Mr. ROCKEFELLER, proposes an amendment numbered 1330, as modified.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE —TAX CREDIT FOR ACID RAIN REDUCTION EQUIPMENT

SEC. . TAX CREDIT FOR EQUIPMENT TO MEET ACID RAIN REDUCTION STANDARDS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end thereof the following new section:

"SEC. 30. ACID RAIN CONTROL EQUIPMENT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—If qualified acid rain control property is placed in service during any taxable year, there shall be allowed as a credit for each taxable year in the credit period an amount equal to 6⅔ percent of the taxpayer's qualified investment in such property.

"(2) CREDIT PERIOD.—For purposes of paragraph (1), the term 'credit period' means, with respect to any qualified acid rain control property, the 3-taxable year period beginning January 1, 1995.

"(b) QUALIFIED ACID RAIN CONTROL PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified acid rain control property' means tangible property—

"(A) which—

"(i) is required to be installed by reason of the phase I sulfur dioxide emission limitations under title IV of the Clean Air Act (as in effect after the Clean Air Act Amendments of 1990), and

"(ii) reduces sulfur dioxide emissions by 65 percent or more at the source (or sources) in connection with which such property is installed, or

"(B) which is installed on or in connection with property described in subparagraph (A).

"(2) ONLY DEPRECIABLE PROPERTY ELIGIBLE.—The term 'qualified acid rain control property' includes only—

"(A) property to which section 168 applies (without regard to any useful life), or

"(B) any other property—

"(i) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

"(ii) which has a useful life (determined at the time the property is placed in service) of 3 years or more.

"(3) PROPERTY MUST BE NEW.—

"(A) IN GENERAL.—The term 'qualified acid rain property' includes only property the original use of which commences with the taxpayer.

"(B) RECONSTRUCTION.—For purposes of subparagraph (A), a rule similar to the rule of the last sentence of section 48(b)(1) shall apply.

"(4) CERTAIN OTHER REQUIREMENTS.—In determining whether property is qualified acid rain control property, rules similar to the rules of the following provisions of section 48(a) shall apply:

"(A) Paragraph (2) (relating to property must be used predominately in the United States).

"(B) Paragraphs (4) and (5) (relating to exclusion of property of certain tax-exempt organizations, governmental units, and foreign persons and entities).

"(C) Paragraph (7) (relating to property completed abroad or predominately of foreign origin).

"(5) TERMINATION.—The term 'qualified acid rain control property' shall not include property placed in service after December 31, 1996.

"(c) QUALIFIED INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified investment' means, with respect to any qualified acid rain control property, the basis of such property as of the time such property is placed in service.

"(2) LIMITATIONS WTIH RESPECT TO CERTAIN PERSONS.—In determining qualified investment, rules similar to the rule of section 46(e) shall apply.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) LIABILITY FOR TAX.—The credit allowable under subsection (a) for any taxable year shall not exceed—

"(A) the sum of—

"(i) the taxpayer's minimum tax liability under section 55(a) for such taxable year, plus

"(ii) the taxpayer's regular tax liability for such taxable year (as defined in section 26(b)), over

"(B) the sum of the credits allowable against the taxpayer's regular tax liability under subparts A and D of this part and sections 27, 28, and 29.

"(2) CARRYBACK AND CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit allowed under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an acid rain control credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) an acid rain control credit carryforward to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit under subsection (a) for such years. If any portion of such excess is a carryback to a taxable year beginning on or before the date of the enactment of this section, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit shall be carried to the earliest of the 18 taxable years to which such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in paragraph (1), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATIONS.—The amount of the unused credit which may be taken into account under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(e) RECAPTURE UPON DISPOSITION.—

"(1) IN GENERAL.—If, during any taxable year, qualified acid rain control property is disposed of (or otherwise ceases to be such property with respect to the taxpayer) before the close of the 5-year period beginning on the date such property was placed in service, the tax under this chapter for such taxable year shall be increased by the recapture percentage of the aggregate decrease in the credits allowed under this section for all taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.

"(2) RECAPTURE PERCENTAGE.—For purposes of paragraph (1), the term 'recapture percentage' has the meaning given such term by section 47(a)(5)(B).

"(3) OTHER RULES.—Rules similar to the rules of section 47(a)(5)(D) and (a)(6) shall apply for purposes of this subsection.

"(f) OTHER LIMITATIONS.—For purposes of this section—

"(1) LIMITATION IN CASE OF CERTAIN REGULATED COMPANIES.—No credit shall be allowed under this section with respect to any property which is public utility property (as defined in section 46(f)(5)) with respect to which a credit would not be allowed under section 38 if section 46(f)(2) (relating to cost of service and base rate reductions) applied to such property, except that subparagraph (B) of section 46(f)(2) shall be applied by inserting 'not' before 'reduced'.

"(2) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is determined under subsection (a) with respect to qualified acid rain control property, the basis of such property shall be reduced by the amount of such credit (determined as if the entire credit with respect to such property was allowable in the taxable year such property was placed in service)."

(b) CONFORMING AMENDMENTS.—

(1) Section 196 of the Internal Revenue Code of 1986 (relating to deduction for certain unused business credits) is amended by adding at the end thereof the following new subsection:

"(e) ACID RAIN CONTROL CREDIT.—The provisions of subsections (a) and (b) shall apply in the same manner to the credit allowed under section 30(a)."

(2) Section 383(a)(2) of such Code (defining excess credit) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting a comma and "and", and by adding at the end thereof the following new subparagraph:

"(C) any unused acid rain control credit of the corporation under section 30(d)."

(3)(A) Section 6411(a) of such Code (relating to tentative carryback and refund adjustments) is amended by inserting "by an acid rain control credit carryback provided in section 30(d)," after "section 172(b),".

(B) Section 6411(a) of such Code is amended—

(i) by inserting "unused acid rain control credit," after "net capital loss," and

(ii) by inserting "or an acid rain control credit carryback" after "business credit carryback".

(C) Sections 6411(b) and 6411(c) of such Code are each amended by inserting "unused acid rain control credit," after "net capital loss," each place it appears.

(4) Subparagraph (C) of section 6511(d)(4) of such Code is amended by inserting "or any acid rain control credit carryback under section 30(d)" after "section 39".

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting at the end thereof the following new item:

"Sec. 30. Acid rain control equipment."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1990, in taxable years ending after such date.

Mr. SPECTER. The modification has been submitted, Mr. President, because the effective dates are changed, but that only. While my distinguished colleague from Ohio is on the floor, if I may have the attention of Senator METZENBAUM, I thank my distinguished colleague from Ohio for his leadership on this issue, and as I had indicated to him earlier, I had intended to state in my prepared remarks that the idea of the tax break originally came from the distinguished Senator from Ohio [Mr. METZENBAUM] and, along with some refinements, has been adopted in its present form. It is the amendment which has been submitted on behalf of Senators BYRD, LUGAR, METZENBAUM, BOND, GLENN, DIXON, ROCKEFELLER, SIMON, COATS, and myself.

Mr. METZENBAUM. I thank the Senator from Pennsylvania for his comments, and I am happy to be working with him in this respect.

Mr. SPECTER. I thank the Senator.

The Senator from Illinois is on the floor and has a very brief statement, Mr. President. So before I start on a detailed explanation of the amendment, I am willing to yield the floor to Senator DIXON for 5 minutes.

Mr. DIXON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Illinois [Mr. DIXON].

Mr. DIXON. Mr. President, I am an original cosponsor of the amendment before us, which will provide necessary rate relief for customers of utilities which will need to employ costly acid rain control equipment as a result of the pending bill.

As my colleagues probably know well by now, I am not pleased with the way this bill before us has allocated the costs among States for cleaning up our national acid rain problem. This bill seeks to get 90 percent of acid rain reductions in the first phase from just nine States. I suppose that would be fair if these nine States were responsible for all of that pollution, but that is not the case. In fact, these nine States contribute only 51 percent of the total sulfur dioxide emissions.

This tax credit amendment provides an opportunity to restore a little bit of equity to the acid rain reduction plan the bill lays out. I know the opponents of this amendment will say that we should not be paying dirty States to clean up their problem. Let me say that Illinois is not a dirty State. The State of Texas, which is the third biggest sulfur emitter in the country, and which emits more sulfur than my State of Illinois, is considered a clean State under the terms of this bill. How did my State come to be called a dirty State?

Mr. President, I am not picking on my friends from Texas or Arizona, Louisiana, or New Mexico, who also happen to represent States that emit large amounts of sulfur, yet who will have to do little or nothing to clean up under the terms of this bill. Mr. President, I am just trying to point out that if we are going to call some States dirty because their sulfur emissions happen to come from utilities and other States clean because their emissions come from industrial sources, we are going to have a fairness problem here.

One way to help remedy this problem is to provide some tax relief for those who are being forced to disproportionately shoulder the costs of this national problem. The amendment of my friend from Pennsylvania, that I am honored to cosponsor, simply provides utilities with a tax credit for 5 years for the costs of design, construction, and installation of coal-based technologies.

Mr. President, this is a modest request to restore a little bit of fairness to this bill. Other States that are now considered clean received tax credits, accelerated amortizations, and tax-exempt pollution-control financing when they cleaned up their utilities. We are just asking the same for us. Some might say that Illinois utilities should have cleaned up earlier when tax credits were available. The fact is that Illinois utilities have spent over $1 billion cleaning up pollution. That is nearly twice as much as what utilities in any clean State have spent to clean up their emissions.

Mr. President, I would like to say more, but the time agreement does not permit it. In conclusion, let me just add that we in the Midwest and Appalachia know we are getting a raw deal. This bill is not fair. If we stop it and make it fair, we would, but we cannot, because we know we do not have the votes.

Let us stop pretending that we are doing something fair here and adopt this amendment to mitigate the rate hikes and coal miner job losses that States like mine will experience as a result of the acid rain title of this bill.

Mr. President, I am honored to cosponsor with my friend from Pennsylvania, and I urge my colleagues to act in fairness toward the States that are penalized under this bill and to vote for the Specter amendment.

Mr. GLENN. Mr. President, I rise today as an original cosponsor of this measure to provide an investment tax credit for the installation of equipment to reduce sulfur dioxide emissions.

The sulfur dioxide emission standards anticipated in this legislation fall directly on public utilities, many of which are located in Ohio. Those utilities will be required to incur costs, particularly for emission control equipment. These costs will in turn fall disproportionately on the utility ratepayers of Ohio and the other affected Midwestern States.

It is frustrating for me to hear repeatedly that Ohio and other Midwestern States can easily afford these costs because cheap, high sulfur coal provides low electricity rates. Mr. President, this is simply not true. In fact, Ohio's utility rates are higher than those in many other States.

Some of the lowest electric rates in the country are found in those States that have benefited from various Federal subsidies, which were paid in part by Ohio taxpayers. The States of Washington, Oregon, Idaho, Montana, Wyoming, and Tennessee, for example, benefit from federally funded hydroelectric projects that have resulted in average rates much lower than those paid by Ohio consumers. Many of these same States would be totally exempted from making any emission reductions under this bill.

Not only do these States enjoy lower electric rates partially at the expense of the Midwest, but their industrial emissions—a substantial part of overall sulfur emissions—are totally unregulated under this bill. In fact, emissions in some States will actually be allowed to increase at the same time utilities in my State will be spending millions to clean up their emissions. Mr. President, this is simply not fair.

I believe, and the people of my State share my view, that clean air is our goal. The people of Ohio have demonstrated a strong commitment to environmental protection and have backed up their commitment by spending more than any other State in the Nation on pollution control. According to the U.S. Department of Energy [USDOE], Ohio utilities spent more than $2.1 billion on air pollution control through 1987. All other States combined spent just over $19 billion.

More that just my State, Mr. President, clean air is a national goal. Yet, the burden of reaching that goal for acid rain is to be shouldered by one region. The people of Ohio, who have already shown their willingness to improve sulfur dioxide emissions, will now be required to bear an unfair burden.

It is easy to support clean air when someone else is going to pay the price. The amendment currently before the Senate is a measure of national support for a national priority. A 20-percent investment tax credit would partially relieve the burden of pollution control on the Midwestern States. Public utilities that install technological controls would be eligible for the tax credit for the capital costs of the installation. In order to be eligible, the installed equipment must reduce SO_2 emissions by at least 65 percent and must be in place by the end of 1996.

The estimated cost of this credit would be $1 billion over 5 years.

In order to protect ratepayers the tax credit will be included in calculations to determine a utility's rate base and will be amortized over the depreciable life of the asset.

Mr. President, I am arguing for fairness—not delay, not lower standards, not dirty air. I am arguing that the American people share the cost of solving a national concern.

Mr. SPECTER. I thank my distinguished colleague, the Senator from Illinois [Mr. DIXON], for his remarks. I ask the Chair how much time remains on my allocation.

The PRESIDING OFFICER (Mr. BRYAN). The Senator has 45 minutes, 45 seconds.

Mr. SPECTER. I thank the Chair.

Mr. President, at the outset, I want to make it plain that this Senator is in agreement with the objective of this legislation, removing 10 million tons annually of sulfur dioxide from the air to deal with the acid rain issue.

I compliment the managers of the bill and the drafters of the bill in moving ahead in this decisive way to provide for a strong clean air bill on this issue with sulfur dioxide removal and emphasize that this amendment is designed to deal with who will pay for that cleanup as opposed to any controversy on the necessity for the cleanup itself.

Mr. President, this amendment will provide for a 20-percent tax investment credit for the capital costs of technological controls installed by a public utility in order to comply with the first phase reductions of sulfur dioxides under Senate bill 1630. The goal of this proposal is to provide a financial incentive for the cost of capital of installing scrubbers in the first phase and this would accomplish three purposes.

First, limit the impact of the bill on States whose economies are dependent upon high sulfur coal. Second, to provide needed rate relief for those who have to pay high utility costs. And third, to ensure a more equitable allocation of acid rain control costs.

The acid rain control equipment is to be defined as equipment required to be installed by reason of phase I of the sulfur dioxide emission limitations. Such equipment shall reduce sulfur dioxide by 65 percent or more at the unit in which it is installed and it maintains the incentive for these technological controls.

At the outset there should be notation that the current legislation does not equitably carry out the principle of having the polluters pay, because consumers of utilities located in nine States must make 90 percent of the reductions in the first phase of the bill and 70 percent in the second phase even though those sources of sulfur dioxide in those nine States account for only 51 percent of the emissions. Senate bill 1630 does not adhere to the polluter pays principle in that it does not mandate reductions of sulfur dioxide from nonutility sources of sulfur dioxide in proportion to their contributions to nationwide sulfur dioxide emissions.

The distinguished Senator from Illinois has made a reference to Texas which is responsible industrially for 13 percent of such emissions but has no cost to share under this particular line.

This amendment, simply stated, would allow those utilities which install pollution control devices, scrubbers, the same kind of a tax break enjoyed by others who undertook those controls at an earlier time when there was an investment tax credit and also tax exempt municipal bond issues.

The cost of this proposal will not be borne until the year 1995, and I urge my colleagues, the few who are on the floor, the more who are listening on their television sets or radio, to focus on this point. This is a very important consideration because there will be no cost impact and it does not affect the budget until the year 1995 at which time the cost will be $300 million.

And I ask unanimous consent that a letter to me dated March 8, 1990, from the Joint Committee on Taxation be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, the evolution of this amendment has had a long course and it is worthwhile to summarize briefly for my colleagues. The Senators from seven States had extensive discussions under the leadership of Senator BYRD to try to find a way to have some equitable cost sharing for ther seven States involved, Pennsylvania, West Virginia, Ohio, Illinois, Kentucky, and Missouri.

We were unsuccessful in the negotiations candidly, Mr. President, because we did not have the votes to enable us to get this kind of relief.

We had a long series of meetings and one of the meetings occurred with the distinguished manager of the bill, Senator BAUCUS from Montana, together with the distinguished majority leader, and it occurred on November 20, Tuesday before our Thanksgiving recess. It was a long meeting. It began at 4 o'clock in the afternoon and went until about 5:25. Fourteen Senators from seven States sat along with Senator MITCHELL and Senator BAUCUS going over the details of considerations of our seven States.

At the conclusion of the meeting Senator BAUCUS said, if I might have his attention—he can verify the comment—"I have never seen so many Senators sit so still for so long; this must be an important consideration."

We were dealing with a great many issues at that time. Instead of 107 plants, we wanted to deal with less plants. We had a good many other proposals and they were by and large rejected. What we have come to as this bill has evolved are two amendments which are now pending.

One is the amendment offered by the distinguished Senator from West Virginia [Mr. BYRD] which would provide payments for unemployed coal miners, and this amendment which is an investment tax credit.

I had withheld offering this amendment until there had been a vote on the Byrd amendment because I did not want to move in the way of the distinguished Senator from West Virginia because he had been the chairman of the seven-State coalition and because his amendment had been offered and it was pending. In my discussions yesterday afternoon with Senator BYRD we talked about my moving ahead and he said that it was acceptable to him if this amendment were offered at this time and, as already noted, Senator BYRD is a principal cosponsor of this amendment.

If this amendment is adopted, it is my submission that it may well accomplish not only the intent of the Byrd amendment but even go beyond the Byrd amendment. I had suggested that to my colleague, Senator BYRD, yesterday, that this would be a preferable amendment to deal with the problems that his amendment and this amendment are directed toward.

I suggest that it is a preferable course because it keeps coal resources alive, and one of the really important objectives of the national energy policy should be to keep as much coal available for use as is possible. And this amendment would provide incentives for burning high sulfur coal, but in a way which would not be destructive of the environment because it would be scrubbed and it would be cleaned. And we know, Mr. President, there are substantial problems with OPEC oil and substantial problems with the nuclear industry and there is very strong reason for our national energy policy to maintain as much use of coal as is possible.

It would also be preferable for the coal miners to be at work as opposed to being unemployed and being paid under the provisions of any collateral suggestion.

It would further have a very desirable impact on those who would have indirect losses; for example storekeepers in coal mining towns who would not receive payments under the amendment offered by the distinguished Senator from West Virginia but who certainly would be hurt indirectly by a shutdown in the coal fields.

And it would keep the towns, cities, boroughs, and municipalities alive

where those municipalities, towns, boroughs, and cities are dependent upon the coal industry.

There is good reason to believe that the United Mine Workers, the coal miners, those directly involved in the coal industries, of course including the coal companies which need to maintain the production of coal in western Pennsylvania, West Virginia, Kentucky and other similar States would be immeasurably aided by this amendment that would otherwise not be reached at all. And it is so much better from an economic point of view to structure a provision which will keep coal production alive and men and women working and companies in production, contrasted with an arrangement where the coalfields are idle, miners are idle, and there is payment which is really akin to unemployment compensation.

So I think, Mr. President, that if this amendment is offered, the objectives of the Byrd amendment will not only be reached but perhaps surpassed. And in saying this I state explicitly that I intend to maintain my support as a cosponsor of Senator BYRD's amendment. But there has been a lot of concern expressed on the floor of this body by Senator MITCHELL, Senator DOLE, and others about the costs involved in the Byrd amendment. I believe those costs are justified. But it may be that some Senators who have an inclination to support the Byrd amendment would see the Specter amendment or the pending amendment as a preferable way to reach those objectives.

Mr. President, I have consulted on this bill with the Chief of Staff, John Sununu, and Roger Porter at the White House, and Boyden Gray, and while there is reluctance to have anything that would add cost, so far we have had only a preliminary indication that they are not happy with any item which would add costs but they have not given a definitive "no." The matter is still under study at the White House.

My representation of their position has drawn a smile perhaps even a guffaw or laugh from my distinguished senior colleague from Rhode Island. But the issue has not been turned down flatly, and I suggest to those at the White House who may be listening on C-SPAN II, that there is great merit in this amendment to direct a cost factor, a minor cost factor, $300 million in 1995. And I have not added any beyond, although I think they would be minimal because the Committee on Joint Taxation is unable to provide such a cost estimate, that this is much less expensive than the alternative of the amendment by the distinguished Senator from West Virginia and is much more productive.

Mr. President, there is an issue on this amendment which relates to a tax provision. I have consulted with the distinguished chairman of the Finance Committee, Senator BENTSEN, on this point, and he has advised me that he would oppose the amendment out of concern for a possible blue-slipping from the House, and out of concern on the jurisdiction of the Finance Committee.

Mr. President, I have consulted with the Parliamentarian and with the history of similar measures and there is a procedure to avoid that, analogous for example to the child care legislation where the Senate acted first and there was a tax provision. The way to deal with it is to have the Senate bill held in the Senate at the desk knowing that the House will take up the clean air legislation and that there will not be a constitutional confrontation.

The same was done with the black lung legislation, the same was done with the savings and loan. So that when there has been an inclination to deal with the substance of a tax issue, that objection has not been interposed by the Finance Committee on jurisdictional grounds.

I think that it is a fair representation to make that the chairman of the House Ways and Means Committee, the distinguished Representative from Illinois, Congressman ROSTENKOWSKI, is well aware of this issue. My colleague, Senator DIXON, Congressman ROSTENKOWSKI's colleague from Illinois, has taken up this matter.

I believe that there have been hearings in the House on this issue. So that we are not starting something here which is not known to the House. This issue can be accommodated.

I would suggest further, Mr. President, that under the relevant Supreme Court decisions there is no constitutional impediment in any event to our considering this matter because it falls under the category of incidental considerations. With the limited time, I do not want to expand upon that legal consideration at this time, that matter of legal interpretation.

Mr. HEINZ. Will the Senator yield?

Mr. SPECTER. I am delighted to yield to my distinguished colleague from Pennsylvania.

Mr. HEINZ. Mr. President, I rise very briefly to commend the Senator from Pennsylvania for having persevered on a very carefully thought-out amendment, one I strongly support, and one for which I am cosponsor. If he would permit, I would like to take no more than 2 minutes to say why I think it is an important amendment.

Mr. SPECTER. I am delighted to yield to my distinguished colleague.

Mr. HEINZ. Mr. President, this is an important amendment but it is also a very modest and a very reasonable amendment. It is modest because, in providing the 20-percent tax credit for technolgy, all it does is to restore to the affected utilities the same kind of tax breaks; namely, the investment tax credit and the equivalent of access to tax exempt financing, that was available prior to the enactment of the 1986 tax reform bill for all other utilities that make these kinds of investments. So all it does in that respect, and the reason I say it is modest, is that it simply restores these tax incentives to the status quo that existed prior to 1986.

It is also very reasonable because the Midwestern States, even with this amendment, will continue to bear a disproportionate share of the cost of compliance and the amount of compliance. In sum and substance, in the first phase of the Clean Air Act for acid rain, phase I as we call it, the utilities in our nine States must make nearly 90 percent of the sulfur dioxide reduction that the bill imposes, whereas some 51 percent is what we account for in nationwide SO_2 emissions.

We are not asking for relief from our environmental protection responsibilities. But we are asking for assistance in reducing the costs to our region's electrical consumers in meeting our national clean air goals.

The reason we worry about our consumers should be apparent. Achieving the stringent goals set by this legislation will require many utilities in our region to install expensive technology.

A state-of-the-art, flue-gas scrubber can cost $100 million to put in place. It has annual operating costs of $10 million a year. Money doesn't grow on trees. It has to come from somewhere. The funds for the additional technology will come, one way or another, from the ratepayers.

Electrical rates for consumers in some States could increase by 13 to 20 percent. For a homeowner, the annual utility bill could increase by $120 to $200. That is no trifling sum for a senior citizen receiving the minimum Social Security benefit of $184.20 each month, or for a minimum wage earner bringing home $558.33 each month. A sudden jump in utility bills is not going to make the daily struggle to get by and get ahead any easier.

Our amendment is structured to ease the costs that will fall directly on our ratepayers. It provides a 20-percent investment tax credit, to be taken over a 3-year period beginning January 1, 1995, or the first year in which the pollution control device becomes operable. To protect ratepayers, the cost of the equipment that may enter into the rate base must be reduced by the new tax credit.

This tax credit is not a novel scheme. It has been tried and it worked to help utilities, many in the Western part of this country, to meet the requirements of previous clean air legislation. And it also worked to reduce costs to ratepayers of those utilities.

Our amendment merely restores tax credits offered to industry in the late 1970's and early 1980's for installing pollution control equipment. The tax credits covered approximately 20 percent of the capital costs of equipment. Those credits were eliminated in the 1986 tax reform legislation. Our amendment would merely restore this incentive to industry and therefore allow some relief to utilities targeted for regulation in phase I of the acid rain provisions of the pending clear air legislation.

Mr. President, our region stands ready to achieve the acid rain goals set out in this legislation. But we are requesting a measure of equity to help our ratepayers who will pay the price to reduce sulfur dioxide emissions.

I commend the Senator from Pennsylvania for the excellent research that he has done on the opportunities to move ahead with this tax credit legislation, notwithstanding the fact that the Constitution would not permit us to originate and send to the House tax legislation. He is quite correct when he points to the child care legislation as an appropriate and valid precedent.

I just want to say that without this amendment, we would experience some very, very high utility rate increases.

I urge the Senate to support this amendment.

Mr. SPECTER. I thank my distinguished colleague, Senator HEINZ, for those remarks and acknowledge his leadership as chairman of the coal caucus, and his very extensive efforts to try to bring parity for Pennsylvania and the other States which have been unfairly impacted by the bill in its present form.

Mr. President, I inquire as to the remaining time allocated to this side.

The PRESIDING OFFICER. The Senator has 26 minutes and 41 seconds remaining.

Mr. SPECTER. In light of the limitation of time, I ask unanimous consent at this point that a memorandum from Congressional Research to this Senator, dated March 9, 1990, be printed in the RECORD.

There being no objection, the memorandum was ordered to printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, March 9, 1990.

To: Honorable Arlen Specter. Attn: Morrie Ruffin.
From: Donald W. Kiefer, Senior Specialist in Economic Policy.
Subject: Effect of a 20 percent tax credit on use of acid rain control technology under the Clean Air Act amendments.

In response to your inquiry whether there was anyone who could estimate the number of utilities that would use scrubbers rather than fuel switching if a 20 percent investment tax credit were provided, I contacted the Edison Electric Institute. They put me in touch with a consultant they have used on the issue, T.J. Glauthier at Temple, Barker, & Sloane, Inc. He did some estimates and produced the attached memorandum on the issue. I, of course, cannot vouch for the accuracy of the estimates, but I do not know of any other source for such information.

You also asked whether it is possible to break out air pollution investment from the total volume of pollution control bonds listed in the material provided by Stanley Garnett. Unfortunately, none of the sources we have available break down the totals.

TEMPLE, BARKER & SLOANE, INC.,
March 9, 1990.

MEMORANDUM

To: Bob Beck, Ron Clements.
Copy: Don Keiffer, Congressional Research Service.
From: T.J. Glauthier.
Date: March 9, 1990.
Re: Effects of a Potential 20 percent Tax Credit for Scrubbers in S. 1630.

This documents a quick-turnaround analysis we completed yesterday on the potential effects that a 20 percent tax credit on the investment cost of scrubbers would have, if included in the Senate's acid rain control programs, S. 1630. These results were conveyed by telephone to Mr. Keiffer yesterday, and are being transmitted more formally today.

The analysis of such a tax credit is based on a detailed financial analysis of potential tax incentives for pollution control investments conducted by EEI's Tax Analysis & Research Subcommittee (TARS) over the past three months. The results of that analysis have been shared with the staff of the Joint Committee on Taxation and others who are examining the potential role that tax incentives could play in reducing the cost burden of acid rain compliance costs to electric utility customers. Mr. Edward F. Mitchell, President and Chief Executive Officer of Potomac Electric Power Company presented the key results of that analysis in testimony to the House Ways and Means Committee earlier this week, on March 7th.

The analysis performed by the TARS group included a 20 percent tax credit for investment costs as one of the options it examined. The conclusions of their analysis were that such a tax credit would reduce customer costs on a present-value, or levelized, basis by 8 percent with full normalization, or 26 percent with flow-through of benefits to the cost-of-service and rate base for customer costs.

In this analysis, we used the 26 percent cost reduction figure as a measure of the overall attractiveness of an investment tax credit in reducing the effective cost of a capital investment for environmental control. Whether the benefits flow through to the customer or are shared by the utility company, the 26 percent rate is indicative of the overall effect that such a tax credit would have on utility borrowing and capital-related costs. Such a savings would clearly make capital-intensive controls such as scrubbers more cost competitive.

To evaluate the effect that such a cost savings would have on utility compliance strategies under an acid rain control bill, we needed to include operations and maintenance expenses as well. Typically, capital-related expenses account for about 50 percent to 60 percent of the total annualized costs of a scrubber. Accordingly, we converted the 26 percent savings in capital costs into a cost savings of 15 percent in total annualized costs.

We used our database and Policy-Testing model (PTm II) of electric utilities to examine the effect that a 15 percent savings in annual costs would have on compliance with a program such as the Senate Clean Air Act S. 1630. The results are shown in the attached table and summarized here below:

In Phase I, by 1997 at the latest, some 48 generating units and 18,300 new of coal-fired capacity would be projected to comply through the use of scrubbers if a 20 percent tax credit were added to the basic program in S. 1630. About 5,000 mw of that total would be expected to change compliance modes from coal switching over to a scrubber as a direct result of the tax credit.

Those units burn 44 million tons of coal annually. They also would provide compliance with Phase I requirements for units that burn approximately another 30 to 40 million tons of coal.

The tax credit would amount to about $900 million in Phase I, and a total of about $3.3 billion throughout Phases I and II, extending just past the year 2000.

The annual savings from the tax credit would be about $126 million from Phase I scrubbing, on an annualized basis, over twenty to thirty years.

During Phase II, the tax credit would have even greater effects, became more scrubbing is expected in that timeframe. Another 122 units, accounting for 29,900 mw of full scrubbing and 18,300 of partial scrubbing would qualify for the tax credit. Those units burn 113 million tons of coal per year now. Annual cost savings would be $329 million more, for a total of $455 million per year.

EFFECT OF A 20-PERCENT TAX CREDIT IN S. 1630 WITH COMPROMISE AMENDMENTS

[Dollar amounts in millions]

Projected compliance strategy	Units	Capacity (megawatts)	Annual coal use (million tons)	Tax credit	Annual savings
Phase I scrubbing	17	8,200	18	$412	$56
Additional Phase I (scrubbing, due to incentive allowances and extension)	9	5,100	15	222	33
Low Sulfur Coal that would use FGD instead	22	5,000	11	274	37
Total, Phase I	48	18,300	44	908	126
Phase II:					
Full scrubbers	76	29,900	68	1,498	204
Partial scrubbers	46	18,300	45	906	125
Total, Phase II	122	48,200	113	2,404	329
Grand Total	170	66,500	157	3,312	455

Mr. SPECTER. Mr. President, this memorandum shows the extensive addition of scrubbers and utility of Pennsylvania, West Virginia, et cetera, coal if this investment tax credit were to be added, which shows the effectiveness of this particular measure at a very low cost, as indicated $300 million, not to be realized until 1995.

I further ask unanimous consent that a table be printed in the RECORD showing the additions of scrubbers in other States, with substantial scrubbers being added in Montana in the year 1986 and in Utah in the year 1987, which shows the advantages taken by Western States of the scrubbers, and the fact that this is recent technological utilization to deal with

the issue raised by some that the scrubbers are really a thing of the past.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ALMANAC OF AMERICAN POLITICS, 1988

[FGD systems in selected States]

State and company	Unit	Capacity	Unit in-service date
Arizona:			
Alamito Co	Springerville 1	425	1985
AZ Elec Pwr Coop	Apache 2	194	1979
AZ Elec Pwr Coop	Apache 3	194	1979
AZ Public Service Co	Cholla 1	116	1962
AZ Public Service Co	Cholla 2	235	1978
AZ Public Service Co	Cholla 4	350	1981
Salt River Project	Coronado 1	411	1979
Salt River Project	Coronado 2	411	1980
New Mexico:			
AZ Public Service Co	Four Corners 1	190	1963
Do	Four Corners 2	191	1963
Do	Four Corners 3	253	1964
Do	Four Corners 4	818	1969
Do	Four Corners 5	818	1970
Plains Elec G&T Coop	Plains Escalante 1	233	1984
Public Service NM	San Juan 1	347	1976
Do	San Juan 2	329	1973
Do	San Juan 3	517	1979
Do	San Juan 4	515	1982
Montana:			
Montana Power Co	Colstrip 1	358	1975
Do	Colstrip 2	358	1976
Do	Colstrip 3	378	1984
Do	Colstrip 4	378	1986
Wyoming:			
Basin Elec Power Coop	Laramie River 1	570	1980
Do	Laramie River 2	570	1981
Do	Laramie River 3	570	1982
Pacific Power & Light Co.	Jim Bridger 1	510	1974
Do	Jim Bridger 2	510	1975
Do	Jim Bridger 3	510	1976
Do	Jim Bridger 4	510	1979
Utah Power & Light	Naughton 3	326	1971
Pennsylvania:			
Duquesne Light Co	Elrama 1	510	1952
Do	Elrama 2	510	1952
Do	Elrama 3	510	1952
Do	Elrama 4	510	1952
Do	Phillips 1	411	1960
Do	Phillips 2	411	1960
Do	Phillips 3	411	1960
Do	Phillips 4	411	1960
Pennsylvania Power Co	Bruce Mansfield 1	835	1976
Do	Bruce Mansfield 2	835	1977
Do	Bruce Mansfield 3	835	1980
Philadelphia Electric Co	Cromby 1	188	1954
Do	Eddystone 1	354	1960
Do	Eddystone 2	354	1960
West Pen Power Co	Mitchell 33	299	1963
West Virginia:			
Monongahela Power Co	Pleasants 1	684	1979
Do	Pleasants 2	684	1980

Note.—Investment for scrubbers on all units listed above was eligible for investment tax credits ranging from 3 to 10 percent until January 1, 1986.

Investment for pollution control devices on all units which were in commercial operation prior to January 1, 1976, was eligible for rapid (five-year) amortization.

Untis in commercial operation prior to January 1, 1971, were eligible for either rapid amortization or the investment tax credit, but not both.

Since January 1, 1971, pollution control facilities are eligible for both investment tax credit (until January 1, 1986) and amortization (if in commercial operation prior to January 1, 1976).

Mr. SPECTER. Mr. President, I reserve the remainder of my time. I think it might be best utilized in responding to any contentions which may be raised by the managers of the bill.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 10 minutes to be charged to the time allocated to the Senator from Pennsylvania.

Mr. METZENBAUM. I thank the Chair.

Mr. President, I join my colleagues in offering this 20 percent tax credit amendment.

First, let me say that I support the goals of the clean air legislation, and I commend those who have been on the floor for so many weeks attempting to bring about passage of this legislation.

Although I have some concerns about its impact upon my own State; I recognize that the goals are appropriate and ones that this country needs.

I therefore support the goals of that legislation, because frankly, the health of our children, their children, and their children's children will be better protected with the enactment of a new clean air bill.

The proponents of this legislation should be congratulated for moving this critical issue forward. And it has been a Herculean task.

But let me also say that in the push to get this legislation to the floor, the concerns of my State of Ohio and the rest of the Midwest, I believe, were shortchanged. We are still being asked to bear an unfair share of the cleanup burden.

I do not want to minimize the outcome of the negotiating sessions. My Midwest colleagues and I worked long and hard to be heard. With the stewardship of Senators BYRD and BOND, we succeeded in obtaining some modest improvements. The compromise that was reached will soften the legislation's impact on Midwest utilities, ratepayers, and coal miners.

The new agreement includes incentives for installing scrubbers. The use of this type of technology is crucial to the continued use of Appalachian coal.

The provisions also provide utilities with bonus allowances for controlling sulfur dioxide emissions. These allowances can be sold to help defray some of the enormous compliance costs associated with this bill. Those amendments, those changes, go in the right direction.

But the truth is they do not go far enough. This agreement is not an adequate replacement for a true cost sharing. It is a fact that under this legislation, thousands of Midwestern coal miners will still lose their jobs. Electricity rates in Ohio and the rest of the Midwest will still shoot up.

And the fact is we are hopeful that the Byrd amendment, of which I am a cosponsor, will be enacted or added to this legislation, which would somewhat ameliorate the impact. But the fact is that the miners will wind up losing their jobs, and there is nothing to keep that from happening. Even though we give them some compensation, hopefully, under the Byrd amendment, that is not going to solve the long-range problems of those communities and of the miners.

Mr. President, we still have a chance to make this bill a fair one. We can do it by passing this tax credit amendment. That is the right thing to do. When I originally proposed the tax credit amendment, it was at a 90-percent, level, and would provide that its impact would not come into play until several years down the road. So it would not have any present budgetary impact.

This amendment will help limit the disastrous impact of the bill on coal mining communities in the Midwest. Although it does not go as far as the original amendment that I have proposed, it is a major, major step in the right direction. I am happy to work with the sponsor of the legislation in helping to bring it about.

The amendment would help provide more relief to electricity ratepayers. And that is a critical issue for States such as mine.

It is not some new or undeserved special tax benefit. As the proponent of an even larger tax proposal originally, I am frank to say that I think the 20-percent tax credit is extremely modest.

There are other business-related tax credits available today which are close to that value. There is the investment tax credit for reforestation; there is the research experimentation credit, which is a 20-percent tax credit allowed for qualified research expenditures incurred by taxpayers in carrying on a trade or business.

The investment tax credit for reforestation is a 10-percent investment tax credit for expenses incurred in planting trees.

There is the targeted jobs tax credit, which is available on an elective basis, for hiring individuals from the targeted groups. There is the business energy tax credit for solar, geothermal, and ocean thermal property. There is the low-income housing tax credit. There is the orphan drug tax credit. There is the tax credit for corporations receiving income from doing business in the U.S. possessions. There is the alternative fuels production credit. There is the alcohol fuel credit. There is the rehabilitation of structures credit. There is the foreign tax credit. There is the credit for child and dependent care expenses. There is the tax credit for the elderly and the disabled. There is the earned income credit.

Mr. President, I will expand in the RECORD with respect to the details of each of these tax credits as follows.

BUSINESS-RELATED TAX CREDITS

Investment tax credit for reforestatin. A 10-percent investment tax credit for expenses incurred in planting trees.

Research and experimentation credit. A 20-percent tax credit is allowed for qualified research expenditures incurred by a taxpayer in carrying on a trade or business. Expenditures eligible for this credit include: First, wages and supplies used in research; second, certain costs for computer use; and third, 65 percent of

amount paid for contract research conducted on the taxpayer's behalf.

Targeted jobs tax credit. The targeted jobs tax credit is available on an elective basis for hiring individuals from nine targeted groups; that is; economically disadvantaged youths and veterans, AFDC recipients, et cetera the credit is equal to 40 percent of the first $6,000 of wages—generally $2,400 per individual. For summer youths, the credit is equal to 40 percent of up to $3,000 of wages for a maximum credit of $1,200.

Business energy tax credits for solar, geothermal, and ocean thermal property. A nonrefundable energy tax credit is allowed for certain investments in solar, geothermal and ocean thermal property. For solar and geothermal properties, the rate of the credit is 10 percent; for ocean thermal property it is 15 percent.

Low-income housing tax credit. A credit is allowed in annual installments over 10 years for qualifying low-income rental housing, which may be newly constructed, substantially rehabilitated, or new newly acquired existing residential rental property. For qualified projects without other Federal subsidies, the credit is structured to have a present value of 70 percent of construction or rehabilitation costs incurred. For federally subsidized projects and those involving unrehabilitated existing low-income housing, the credit is structured to have a present value of 30 percent.

Orphan drug tax credit. Fifty percent of testing expenditures for qualified drugs; that is, drugs used to treat rare diseases and conditions.

Tax credit for corporations receiving income from doing business in U.S. possessions. Tax exemption for businesses operating in Puerto Rico and other U.S. possessions.

Alternative fuels production credit. Tax credit for production of fuel from nonconventional sources; that is, synthetic fuels. Credit is equal to a portion of the fuels that are produced. Three dollars per 5.8 million Btu's which is equivalent to 1 barrel of oil.

Alcohol fuel credit. A tax credit of 60 cents per gallon for the production of alcohol used as fuel.

Rehabilitation of structures. An investment tax credit is available for the rehabilitation of buildings that are used for business or productive activities and that were erected before 1936 for other than residential purposes. The credit is 10 percent of rehabilitation expenditures. There is 20 percent rehabilitation tax credit for historical rehabilitation.

OTHER TAX CREDITS

Foreign tax credit. When a U.S. taxpayer pays a foreign income tax on foreign source income, the United States allows the taxpayer a foreign tax credit to offset his U.S. income taxes. In effect the United States forgives the tax that would otherwise be due to the United States; the foreign source country is given preference.

Credit for child and dependent care expenses. A credit may be claimed by married couples for child and dependent care expenses incurred when one spouse works full time and the other works at least part time or goes to school. The credit is equal to 30 percent of qualified expenditures for taxpayers with income of $10,000 or less. The credit is reduced to a minimum of 20 percent by one percentage point for each $2,000 of income between $10,000 and $28,000.

Tax credit for the elderly and disabled. Taxpayers who are blind or 65 years of age or older may take an additional $750 standard deduction, if single, or $600, if married. In addition, individuals who are 65 years of age or older, or who are permanently disabled, can take a tax credit equal to 15 percent of the sum of their earned and retirement income.

Earned income credit. This credit may be claimed by low-income workers with minor dependents. For 1989, the credit is 14 percent of the first $6,500 of earnings up to a maximum credit of $910. The credit is reduced by 10 percent of income over $10,240, so that no credit is available at income over $19,340.

Mr. President, what we have here is what I consider to be an extremely unfair situation. The 10-percent investment tax credit and the tax-exempt municipal bond financing which utility owners in the past could use to reduce costs associated with pollution control requirements are no longer available. They are not in the law any further.

But there were many States that took advantage of that. Now, we are just saying that States in the Midwest and other States that are going to have to put in scrubbers should be entitled to have these credits at the present time.

According to the Allegheny Power System, the availability of such tax benefits helped reduce pollution control expenditures for utilities during the 1980's by as much as 20 percent.

Many utilities, including many in the West and Southwest, used those tax benefits during the past decade. Yet today, our Midwest utilities are being called upon to make a disproportionate share of the Nation's sulfur dioxide reductions without the same Federal assistance.

How can anyone be against this amendment? I understand that the chairman of the Finance Committee will come to the Senate and say it should not be enacted into law. I understand the proponents of the legislation may very well oppose the amendment.

But whether that is the case or not, it is not right for us in the Senate to deny the Midwest the benefits that we have given to the West and the South over a period of many years. They were taken advantage of, and nobody objected.

I think this is only a fair kind of amendment. As a matter of fact, the Wyoming utility that made a capital expenditure to control pollution in 1980 got a tax credit. Why should we not do the same for Ohio and other Midwestern States today? If we vote against this amendment, whom are we trying to punish, utility executives? Believe me, they will not suffer.

Ratepayers and coal miners will ultimately suffer. Although we are not attempting to restore tax exempt municipal bond financing, we are seeking to restore comparable tax relief to our utility by way of a 20-percent tax credit. That is what this amendment is all about. It is the least that we can do in the interest of equity. I urge its adoption.

Mr. President, I now wish to address myself to the question of the various tax subsidies that we have in this country that so much benefit the West and the South and the Northwest. We have them in the area of water projects. We have them in the area of powerplants. We have them in the area of timber. It is only fair that the West, Northwest, and the South recognize that they have had the benefit of this burden sharing across the country for a number of years. Now we are asking them to help us in this connection. I hope they will see fit to do so.

Mr. President, I express my appreciation to the managers of the bill and to the author of this amendment and proponents of this amendment in permitting me to go forward at this time.

Mr. President, the administration and many of my colleagues have argued in this debate that there should be no help for the States that are harmed financially by this bill.

I do not believe that is fair. We have always had a tradition in this country of one region helping another in need.

Taxpayers in my own State of Ohio have subsidized Western development for the better part of this century. They still do.

I talked about this on the floor last month. For the benefit of my colleagues, I would like to talk about it in some more detail today.

Between 1981 and 1988, taxpayers in the five Great Lakes States paid $221 billion more in Federal taxes than they received back in Government spending—78 cents for every dollar sent to Washington. In 1988, the Great Lakes States ranked dead last in terms of receiving Federal dollars.

Michigan was No. 50.
Indiana was No. 49.
Wisconsin was No. 48.
Illinois was No. 46.

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Taxpayers in Ohio are sick and tired of having to put out so much to take care of the other States of this Nation—and getting nothing in return.

When the savings and loan industry went down, Ohioans paid. Most of those banks are in Texas and California. Ohio taxpayers are still footing the bill to pay for golf courses and hotels thousands of miles away.

The savings and loan bailout is going to cost every American family at least $3,800 of their hard earned money.

That is only one instance where the taxpayers of one part of the country are subsidizing another part of the country.

There are more. Again, I spoke about subsidy programs at considerable length last month. I intend to speak about them again. It is a matter of fairness and equity.

One expression I have heard over and over again with respect to this clean air bill is "The polluter should pay."

Why should corporate farmers who receive subsidized water from the U.S. Bureau of Reclamation not pay? Why should consumers who obtain subsidized electricity from the Power Marketing Administration not pay? Why should ranchers who graze their cattle on public land for almost nothing not pay? Why should Western States that make money taxing coal and oil owned by all Americans not share the proceeds with the rest of us?

All of these groups should pay. There is no conceivable reason why Ohio factory workers should subsidize water used by California agribusinesses.

Who is this polluter that we are going to force into paying? Is it the electric utility managers—is it the utility stockholders?

No. It is the average Joe and his family—the electricity consumer—he is the one who is going to pay.

Since 1902, farmers out West have received subsidized water supplied by Government built dams and irrigation systems. The projects have been financed by interest free Government loans. No interest.

In many cases the crops that are irrigated are subsidized again through Federal price supports paid for by all the taxpayers of the country. Double subsidies.

The cumulative value since 1902 of the interest subsidy, according to the Congressional Budget Office, exceeds $33 billion and may be as high as $70 billion. Billions of dollars. We go along with it year after year.

I will quote from a letter written by the Interior Department's Chief of the Water Reclamation Program to the chairman of the House Water and Power Subcommittee.

He said:

The irrigation subsidy * * * is responsible for much of the current character of the Western United States. * * * These projects have provided clean power to spark industrial development of the West. They have added greatly to the recreational opportunities available in the West.

It would not be unfair to say that they supported and continued to support the development of a majority of major metropolitan areas in the West.

An incredible statement.

An admission that for 80-plus years, the taxpayers of the Northeast and Midwest regions of this country have subsidized development—of western agriculture and western cities—at their own expense.

Last year, the Federal budget deficit was $152 billion—we had no money to pay for education, homeless housing, health care, or AIDS research.

Yet, the Government spent $900 million subsidizing electric bills for people living throughout the South and West. How can such a thing happen?

The five regional power marketing administrations—set up in the 1930's to market wholesale electric power from 127 federally built dams—continued to rip off the taxpayers—just as they have for the past 50 years.

By law, the PMA's are required to recover all of their operating and capital costs.

In reality, the PMA's have not come anywhere near paying back the taxpayers' investment.

Seventy-five percent of the $16 billion Federal investment in the PMA's electric generating and transmission facilities has not been paid back.

In addition, the interest rates on that debt are well below market rates—they average about 3 percent.

Even the President realizes the PMA program is a rip-off. His budget complains that MPA's enjoy unquestioned access to the Federal Treasury.

Who benefits? Utilities that buy wholesale power from PMA dams charge their customers much lower electric rates than utilities that obtain power from private sources.

Ratepayers in Ohio and other Eastern States get hit twice. First they pay higher electric rates—then they pay taxes to keep rates down for PMA customers everywhere else. It is outrageous.

The PMA's should repay their debt just like other businesses repay their debts.

According to the Congressional Budget Office, if the PMA's simply adopted straight line amortization for the unpaid principal, and paid market interest rates on the unpaid debt—we would save $3.9 billion over the next 5 years—there is another area of subsidization that I talked about on the floor last month—an area in which there is general agreement—ranging from the administration to the Congressional Budget Office—that the taxpayers are being taken to the cleaners. Below cost timber sales.

Last year, 65 of our 122 national forests—more than half—lost money on timber sales.

The CBO estimates that eliminating below-cost sales of timber would save the taxpayers of this country $255 million over the next 5 years.

The Bush budget recommends a phaseout of below-cost sales. These timber sales only benefit local timber communities, and they do so at the expense of the taxpayers throughout the country, and they waste valuable timber resources.

Then there is the question about the proceeds from the timber sales—25 percent of the receipts are returned to the States in which the timber was cut.

Why should the proceeds from the sale of timber that belongs to all of the people of this country be given to just a few States?

In 1988, $285 million was distributed to the States under this program; 87 percent of that money went to 10 Western States: Arizona, Colorado, California, Idaho, Montana, New Mexico, Oregon, Texas, Washington, and Wyoming.

In 1988, an additional $108 million went to 18 Oregon counties under a separate Bureau of Land Management timber program—75 percent of the total proceeds from the sale of timber in these highly productive Oregon forests went back to 18 counties.

It is time we stopped selling publicly owned timber at a loss.

Let us look at another area. Take the issue of onshore oil, gas, and coal receipts paid to the States. Fifty percent of the oil, gas, and coal receipts collected by the Government are returned to the States in which the mining or drilling activity occurred.

In 1988, $398 million was distributed to the States. Six Western States received 93 percent of the money: Wyoming, New Mexico, Colorado, Utah, Montana, and California.

The Federal Government manages the land; the Federal Government determines whether there are valuable deposits of oil and other minerals; the Federal Government prepares and administers leases; and ensures that the land is returned to its natural State after the mining or drilling is finished.

The States do not incur any of these management costs. Yet, they receive 50 percent of the gross royalty payments made to the Government—right off the top—before any costs are calculated. Why? It is outrageous. It is time to cut this egregious taxpayer subsidy.

In 1987, we eliminated general revenue sharing for most of the communities in this country. It was a tough loss for Ohio. Communities in my State lost $214 million in annual payments from the Federal Government.

But revenue sharing is alive and well out West. It is called the Payment-in-Lieu-of-Taxes Program [PILT].

This is how it works. If our Western States are not able to collect sufficient timber, oil, gas and coal royalties in any given year, they receive an additional payment. The payment is based on the amount of public lands in the States—basically, they get 75 cents per acre.

Appropriations for PILT in fiscal 1989 totaled $103.8 million, 72 percent of the money—$74.8 million—went to 11 Western States—California, New Mexico, Utah, Arizona, Montana, Wyoming, Idaho, Colorado, Nevada, Alaska, and Oregon.

The other 39 States, plus Puerto Rico, Virgin Islands, and Guam received $29 million.

Ohio received $146,000.

Western States argue that because significant portions of their lands are under Federal ownership, they cannot be taxed at the local level, leaving local communities and schools without a source of funds.

Baloney! These States can afford to support themselves. Alaska, Nevada, Washington, and Wyoming have no State income tax.

Oregon received over $230 million in Federal timber royalties last year. Wyoming received $163 million in Federal oil, gas, and mining royalties in 1988. They have subsidies piled on top of subsidies.

Here is another program—grazing subsidies. When one thinks of Western cattlemen, one thinks of the great American cowboy—the rugged individualist, making a solitary living out on the dusty range. Nothing could be further from the truth.

Today's rancher has subsidized electricity, subsidized water, subsidized grazing land, crop price supports.

The fees he pays to graze his animals on public lands are so low they do not even cover the cost of maintaining the range in decent condition.

According to a report from the Secretaries of Agriculture and Interior, grazing fees are only one-third the true market value to the grazing rights. As if that were not bad enough, grazing fees dropped another nickel on March 1, 1990.

The Congressional Budget Office says that raising grazing fees to their true market value would save $150 million over the next 5 years.

Let us go to a different subject—that of disasters. Last year, in the space of a month, we passed two special appropriations bills totaling $3.95 billion—almost all of it went to South Carolina and California.

In connection with those bills, certain special exceptions were made in eliminating State cost-sharing requirements and permitting the expenditure of funds on items that typically would not have been eligible for Federal funding, like the San Francisco-Oakland toll bridge.

How did we know California and South Carolina needed $3.95 billion? Where did that number come from? We pulled it out of a hat.

Let us talk about another inequity which relates not only to the Western States, but to some of the New England States—the Federal Aid Highway Program.

Since 1957, the States have contributed $190 billion to the highway trust fund. All of that money, plus $30 billion more in interest, has been given back to the States for highway projects.

But 10 States—Ohio, California, Florida, Indiana, Michigan, North Carolina, Oklahoma, South Carolina, Texas, and Wisconsin—received back $8.6 billion less than they put in—only 88.7 percent of their contribution.

And the other States, how did they do? The other States averaged a 134-percent return on their contributions.

Ohio received back $698 million less than it paid.

The combined six New England States—Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island—received back $3.6 billion more than they paid.

So we have case after case—program after program—in which the beleaguered taxpayers of Ohio are called upon to support the rest of the country.

Yet, with respect to OUR problem—cleaning up the air—we can expect no help.

It is not fair. It is not the American way.

Mr. BAUCUS. Mr. President, I think Senators should be aware that the amendment offered by the Senator from Pennsylvania has many faults. In fact, there are so many faults that are fatal I cannot think of another amendment that has been before this body on this act that is as fatally flawed as this amendment.

First of all, it is a killer amendment. It is a killer amendment because it is unconstitutional. It is an amendment which affects revenue. Under the Constitution, all revenue bills must originate in the House. The chairman of the Finance Committee has a letter sent to him by the chairman of the House Ways and Means Committee expressing his very deep concern about this provision and others that affected revenue. Those others have been disposed of. They are the not in this bill. The only remaining revenue item in this bill would be the amendment offered by the Senator from Pennsylvania, if it were adopted.

The Senator from Pennsylvania has suggested some creative ways to deal with the problem, but the fact is that if this bill passes the Senate, we cannot send this bill to the House because it raises revenue. It would be unconstitutional. So first it is a killer amendment.

Second, it is deal breaker. The subject covered by the amendment was very exhaustively dealt with during our negotiations. It is true that the specific question of the tax credit for certain kinds of pollution control equipment was not specifically covered by the negotiators—the members from the Republican side of the aisle, Members from the Democratic side of the aisle and the representatives from the administration.

But it is also true that the general question of regional cost allocation around the country with respect to acid rain legislation, was debated and discussed. I might add, very exhaustively debated and discussed.

As a consequence of those negotiations, the negotiators, after much give and take, agreed to not only the provisions of S. 1630, but to add on other provisions to help alleviate the potential cost burden that might accrue to Midwestern States.

First of all, under the original bill, before additional compromises, the State of Ohio, for example, received more allowances than any other State. The State of Pennsylvania received the next greatest number of allowances. That is, before the Byrd-Bond compromise and before the Mitchell-Domenici compromise. And I will get to those in a few minutes. But before those compromises, the State of Ohio would be in a position to sell 180,000 allowances per year. The State of Pennsylvania would be selling 160,000 allowances per year. The State of Illinois would be selling 122,000 allowances per year. Those are sales of allowances.

The negotiators felt that maybe there might be some potential cost impact in the Midwest, so negotiators—and I was part of that negotiation, Mr. President—under the Byrd-Bond compromise, and under the Mitchell-Domenici compromise, an additional 25,000 allowances, approximately, go to Ohio; an additional 40,000 allowances, approximately, go to Pennsylvania; an additional 77,000 allowances, approximately, will be allocated to the State of Illinois.

That means that, at about $800 per allowance, each of those States on a per-year basis would be able to sell approximately $160 million worth of allowances to help their utilities modernize, get up to date, and begin to control acid rain emissions, sulfur dioxide emissions.

So I must say to the Senator that this second reason for opposing his amendment is that it is a deal breaker. We dealt with this general subject.

We knew that in the wings there might potentially be a tax credit amendment but we did not debate that because it was not specifically offered

in negotiations. But we all knew by inference, because we dealt with the general question of cost reallocation, that the subject was dealt with; any other amendments which deal with cost allocation among various parts of the country with respect to acid rain had already been covered. So, No. 2, it is a deal breaker.

No. 3, it is patently unfair. It is patently unfair to other parts of the country that would not be subsidized by this amendment. The general intent of this amendment is to subsidize one part of the country only at the expense of other parts of the country.

In 1977 when the Clean Air Act was passed, there was an amendment in that act called percentage reduction. It had the effect of dramatically discriminating against Western States for the benefit of Midwestern States. If we add in percentage reduction to the 1977 act and add in other provisions, in that Clean Air Act, Western States as a consequence had to install scrubbers to get their emissions down to the levels required in the act. Midwestern States did not have to do so. They could emit much more because of the amendment they got enacted into law in 1977, which discriminated in favor of Midwestern high-sulfur coal-producing States at the expense of Western, low-sulfur producing States.

Of all the audacity, the Midwestern Senators now come in and say, we discriminated against you in 1977. We want to doubly discriminate against you again here in 1990. That is the effect of this amendment. So, the third reason, it is patently unfair, it patently discriminates against competitive low-sulfur producing States for the benefit and to subsidize Midwest, high-sulfur coal-producing States. So that is another reason why it is unfair.

Senators may argue, back in those days there was a tax provision called industrial revenue bonds. Because of industrial revenue bonds, Midwestern States were able to take advantage of a certain provision of the law to modernize, to install those scrubbers. I must say to the Senators from the Midwest who make that point, IDB's were also available to Midwestern States. That is a nationwide program, available to all States. And not only that, IDB's were available for not only acid rain pollution control, IDB's were available generally. Other plants, other companies, other private organizations took advantage of IDB's including the States of Ohio, Pennsylvania, Illinois.

Now they did not use IDB's, although they were available, to install scrubbers, because under the 1977 act they did not have to do so, because the act included, as I mentioned earlier, percentage reductions which required all coal—clean coal from Western States, dirty coal from Eastern States—to be cleaned, again, by a certain percent. That provision discriminated against the West for the benefit of Midwestern States. Again, another reason for opposing this amendment, not only is it a killer amendment and a deal breaker, but third, it is patently unfair, doubly unfair, to competitive parts of this country who are not asking for this subsidy.

No. 4, Mr. President, it is bad tax policy. This is tax policy which says that if you, a utility, control your SO_2 emissions under a 65-percent control strategy, that is, if you have a scrubber, you get the advantage of this tax credit—what about other parts of the country? What about other pollution control equipment that has nothing to do with scrubbers and SO_2 technology? That is not included, as I read the amendment. So it is bad tax policy. It discriminates. It is a rifle shot for only one part of the country. It is a rifleshot tax policy. That is unfair, too.

So, for a whole host of reasons, Mr. President, I strongly urge Members to resoundingly defeat this amendment. It is a killer amendment. It is a deal breaker. It is patently unfair to competitive parts of the country. And it is bad tax policy.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I yield myself 3 minutes for a very brief reply to the distinguished Senator from Montana.

When the Senator from Montana rose and said there were so many faults, I expected him to have a large number of substantive objections. Instead, he has advanced four contentions, and two of them are overlapping. When he talks about this amendment as a deal breaker, Mr. President, I submit there is a certain amount of arrogance in that contention. When he talks about "we decided this and we decided that," et cetera, who is the "we"? Who are the "we"? A closed room arrangement?

Mr. BAUCUS. Will the Senator yield to a question?

Mr. SPECTER. No, but I will be glad to yield after I make a few comments.

Who may arrogate unto himself, or what group may arrogate under to themselves, to make a deal and then to take the floor of the U.S. Senate and to say that an amendment offered by a Senator is a deal breaker?

We do not deal with deals; we deal in legislation which is out in the open on the floor of the U.S. Senate and which is subject to amendment so that when the distinguished Senator from Montana talks about a deal breaker, I do not know what deal he is talking about.

This Senator is not party to a deal. Pennsylvania is not party to a deal. The seven States which have been unfairly excluded from any reasonable consideration here are not party to a deal.

There is nothing locked up so that there is any validity at all to a representation that a deal has been broken.

When the Senator from Montana talks about a killer amendment, and then talks about bad tax law, dividing it into two minor points, I suggest that he reread or read the amendment because it applies to any pollution device to clean the air, as this Senator explained in my opening comments. When he talks about it being a killer amendment, he does not deal with the practical fact of life that similar tax issues have been attached on Senate measures under the precise formula described by this Senator and held at the desk, and there has not been any intrusion on constitutional principle.

When the Senator from Montana talks about the matter being patently unfair, Mr. President, there is a lot that can be said on that. Let me bring one statistic to bear, and that is, the national share of pollution devices by Montana, 2.37 percent, contrasted with Pennsylvania at 5.07 percent; about half as much as Montana, in a State that has less than one-twelfth the population; on an approximate calculation, they have had over six times the benefit in the State of the manager on the Democratic side as in the State of Pennsylvania.

The Senator from Montana referred to the letter from Chairman ROSTENKOWSKI. I wonder if he would be willing to share that letter? I would like to examine it to see if Congressman ROSTENKOWSKI has included the investment tax credit, which is the subject of this debate.

The PRESIDING OFFICER. The Chair informs the Senator from Pennsylvania, who controls the time, the 3 minutes he yielded to himself has expired.

Mr. SPECTER. I thank the Chair, and I have concluded.

Mr. BAUCUS. Mr. President, will the Senator from Pennsylvania yield for a question?

Mr. SPECTER. Even before he answers my question about the Rostenkowski letter.

Mr. BAUCUS. Mr. President, this goes to the question of the compromise agreement that was agreed to. As the Senator well knows, those negotiations were open to all Senators. Overall, more than one-half of the Members of the Senate sat down and participated in the negotiations. All Senators were invited. The invitation was expressly made to all Senators because, obviously, any agreement that is worth anything has to be an agreement that is participated in by all Senators.

As the Senator knows, he was more than invited. In fact, I know the Sena-

tor participated. The Senator participated not for all the many days and weeks those negotiations continued, but the Senator did participate in part of the negotiations.

So the Senator knows an agreement was reached. There was an agreement reached with the extraordinary effort on the part of the negotiators to try to cover all the bases, accommodate at the Senators' conditions. But, as the Senator also knows, we are not totally a uniform country; different Senators from different parts of the country have different points of view. I ask the Senator, does the Senator feel he was excluded from these negotiations?

Mr. SPECTER. No. But this Senator did not agree to anything, and an agreement is an express statement that people have agreed to something. Does the Senator from Montana represent that the Senator from Pennsylvania agreed to anything?

Mr. BAUCUS. Not at all.

Mr. SPECTER. Of course, the Senator did not agree to anything. That is why I violently disagree with the characterization of the Senator from Montana of an agreement. There is no agreement. There is a joinder by the relatively few Senators who sat in that room. There is no agreement which is worth talking about.

Mr. BAUCUS. Mr. President, if I might answer the Senator's question, that is right. There are Senators who agreed to the agreement. The agreement came together because the White House asked to meet with the leadership of the Senate, Republican and Democratic leadership, to see if an agreement could be put together. The agreement is among the administration, through its representatives, as well as the leadership, that is the Republican leadership and the Republican manager of the bill and the Democratic leadership, Democratic majority leader and Democratic leaders of the bill, and other Senators, some of whom were on the relevant committee and some of whom are not on the relevant committee; that is, those who wanted to and did take extraordinary time and effort, sat down many hours, many weeks, to hammer out an agreement representing a critical mass.

As the Senator well knows, the point of all this was to try to find a clean air bill consensus that would pass. That was the whole effort. I might say to the Senator that I think the effort was extraordinarily successful. That is, many hours were spent, many points debated, and each Senator there gave in dramatically in order to reach an agreement for the good of the whole so the bill would pass. I must say to the Senator that without that agreement, there is a good chance that we would not be standing here today and there would be no clean air bill on the floor of the Senate.

Mr. SPECTER. Mr. President, when the Senator from Montana uses the word "consensus," that might be a more appropriate word since it suggests that there was some general understanding, but an agreement is something which people agree to. To take this floor and to criticize the pending amendment as a deal breaker because it breaks an agreement I think is an inappropriate characterization.

This Senator did not agree to anything. Fourteen Senators unfairly affected from seven States unfairly affected playing into a stacked deck did not agree to anything. So any suggestion that such an amendment flies in the face of an agreement I think is simply incorrect. There was no such agreement.

I ask the Senator from Montana if I might see the letter from Chairman ROSTENKOWSKI?

Mr. BAUCUS. Yes. Would the Senator like a copy?

Mr. SPECTER. I would.

Mr. President, I yield 5 minutes to the distinguished Senator from Illinois [Mr. SIMON].

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I am pleased to join my colleague from Pennsylvania in support of the amendment. Let me just comment first on this deal-breaking comment the distinguished Senator from Montana has talked about. First, one of the arguments that we always use against the merits of a particular amendment is if the merits are not strong, then we say it violates an agreement. Second, this is not the final form of the bill. We are going to go over to the House; we are going to have conference. If there are major problems with an amendment, we can work them out.

There are really nine States that provide about 51 percent of the sulfur dioxide emissions, and those nine States are asked, in the first phase of this bill, to account for 90 percent—not 51 percent—90 percent of the reduction in the sulfur dioxide emissions. What we are asking for is fairness.

I note that the Presiding Officer is the junior Senator from Nevada. I am pleased to indicate to my colleague from Nevada that I support the high-speed train project that he has to send the high-speed train from Los Angeles to Las Vegas. One of the things that makes this body and makes us a United States is that we recognize the problems of other areas, and we are not too provincial. So we have helped hydroelectric projects in the West; and when South Carolina has a hurricane, we help South Carolina. Now the Midwest, which has not asked for much in the way of help, needs help.

In my State, for example, we already have the second highest utility rates of any State in the Nation, and this bill will impose higher rates on us.

As far as what has happened, let us take a look at those municipal issues that were offered over the decade 1980 to 1990 where there were Federal subsidies: Illinois issued 1.1 billion dollars' worth; Montana, which has less than 10 percent of the population of Illinois, issued 1.2 billion dollars' worth. I could go into other States that obviously benefited a great deal more than the State of Illinois.

I am not complaining. Ultimately, what helps Montana helps Illinois. What helps Nevada helps Illinois. What helps Rhode Island and Texas helps Illinois. But, I say to my friends, the Midwest needs some consideration. I think we ought to be receiving that consideration.

If this amendment is adopted, I would add for those of you who are concerned about the Byrd amendment, it will substantially reduce the costs of the Byrd amendment, because we will not have to replace a great many mine workers who are going to be put out of work. This softens the impact of that amendment and saves money in that regard.

Now, I have not seen the letter that my colleague from Pennsylvania has just asked for from Congressman ROSTENKOWSKI, but I have heard Congressman ROSTENKOWSKI acknowledge that the Midwest needs help, and some form of tax relief may be the way to go. This seems to me to be in perfect compliance with what he has said.

Finally, I ask, Mr. President, what is the aim of all this? It is to reduce energy consumption and to improve air quality. What happens if this amendment is not adopted?

I will tell you one of the things that happens. First of all, even according to the EPA, which has the lowest estimates I know, 3,000 to 5,000 coal miners are going to be put out of work in the Midwest. But beyond that, what happens?

Well, we are going to use coal from the West instead of coal from the Midwest to operate our utilities, and that means we are going to use a lot of energy for trains to see that that coal gets to the Midwest. Those trains are going to pollute the air.

The PRESIDING OFFICER. The Chair informs the Senator that the time yielded to him has expired.

Mr. SIMON. I will conclude simply by saying what we are asking for in the Midwest is fairness. We have been generous to other regions. We are proud of that. But here, my friends, give us some fairness. That is what this amendment does.

Mr. SPECTER. Mr. President, I have secured a copy of this letter, and I will not make any representations about it until the distinguished Sena-

tor from Montana is back on the floor. So I shall withhold comment at this moment.

I ask the Chair how much time remains on this side.

The PRESIDING OFFICER. The Chair informs the Senator that 14 minutes and 24 seconds remain of the time allotted to him.

Mr. SPECTER. I allocate 5 minutes to the distinguished Senator from Indiana [Mr. LUGAR].

The PRESIDING OFFICER. The Senator from Indiana [Mr. LUGAR] is recognized.

Mr. LUGAR. I thank the distinguished Senator from Pennsylvania. I join with him in this amendment. It is an important amendment, and the rationale for it is equally important.

Mr. President, a technological solution to a part of the problem we have been discussing in the Byrd amendment I think is imperative, and this amendment offers that opportunity, as the distinguished Senator from Illinois pointed out.

In short, by giving an investment tax credit for the capital costs of installing acid rain control equipment required to be installed in phase I, we have an across-the-board national solution, not a regional one.

Clearly, I believe there would be more regional fairness involved. I have associated myself with those from the coal-producing States in attempting to arrive at that fairness.

But there is good reason, of course, to target the situation, as we have in this amendment, to recognize that the industrial sources of pollution in this bill are not being reduced in the same way utilities are.

There may be good reasons why sponsors of the bill skewed the situtation in that way, but roughly seven-tenths of the pollution control comes with regard to utilities, about three-tenths from other industrial pollution.

We heard testimony from Dr. Kenneth Rahn, of the University of Rhode Island, in 1987, before the Senate Foreign Relations Committee, and he suggested that half of the acidic aerosols in the Northeast can be traced to oil-based Northeastern rather than coal-based Midwestern sources. This is no doubt because the distance of the source from the affected ecosystem, depending on the amount of the emission, is a factor in the amount of SO_2 in the affected environment.

But I make the point, Mr. President, that we are in the process right now of perfecting a bill. I believe that this amendment offers a perfection to that process and encourages investment. It attempts to encourage that investment in ways that keep people employed in this country, specifically coal miners in the State from which I come, and other States that adjoin us.

It would be far better to approach this situation in terms of a positive incentive for investment in scrubbers or other equipment that is required, as opposed to attempting to compensate those who are unemployed because we failed to offer the incentives that clearly would have made a difference.

I appreciate the arguments that have been offered by the distinguished Senator from Montana with regard to tax questions. I have visited with the distinguished chairman of the Finance Committee. He has made those points in earlier conversations off the floor. It is an important point.

But I simply say, Mr. President, we are still in the early innings of consideration of refinements to this entire clean air situation in our country, and I think this amendment is a good one. It is one that has been bandied about. It has been floated in conversation.

The administration has been opposed to it, clearly for technical reasons of House origination. The managers of the bill are opposed to it today. But it is a good idea, Mr. President. It is a way at least of providing incentives for American investment as opposed to unemployment, bringing about some equity among regions, and offering incentives to all regions to help clean up their situations.

If the balance of the act is to be skewed toward the utility controls as opposed to the industrial, it offers some fairness in a national way. In my own judgment, it is not a deal breaker nor is it patently unfair. In fact, it is offered toward bringing about a greater sense of equity.

For these reasons, Mr. President, I am hopeful at this point that we will try to perfect a piece of work with a solution which is more equitable. I acknowledge the good work done by the managers of the bill to bring about more equity for my home State of Indiana. Clearly, the cost in utilities increases we now estimate dipping below a 10-percent cost rise, and that is important for us. Earlier estimates were certainly much more horrendous.

But let us look at this situation, Mr. President, in a sense of fairness and wisdom, as we proceed at least to bring about reasons why people will make the investments they should to help clean up this country, and specifically the SO_2 problem in utilities in America.

I thank the Chair.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas [Mr. BENTSEN] is recognized.

Mr. BENTSEN. Mr. President, if this amendment is in the bill, you can count on this bill being blue-slipped. Reference is made in Chairman ROSTENKOWSKI's letter. He did not specifically address the amendment, because this amendment had not been proposed at that time. But the principle is exactly the same.

We just refer back, as we have time and time again, to article I, section 7, of the Constitution, that specifies all bills for raising revenue shall originate in the House of Representatives.

Now, I know some Senators may say, "Well, is that not too much of a privilege for the Senate. Why should we defer to them on a matter of such importance?"

But I remind Senators that the Constitution also provides this body with some unique prerogatives: the sole power to try impeachments, responsibility to give advice and consent to treaties and appointments of Ambassadors, Supreme Court Justices, and other offices of the United States.

I am certain that my distinguished colleagues would think it inappropriate for the House to try to infringe on our responsibilities in those particular areas. I would bet Chairman ROSTENKOWSKI does not like the fact that the treaties, judges, and political appointees, under the Constitution, are the sole prerogative of the Senate. I have been frustrated myself at times serving in this body, as chairman of the Finance Committee, that we could not originate an "S. numbered" bill and send it on over there. But the bottom line is that it is not our choice to observe the Constitution's limitations in this case. It is not a question of whether we like the origination clause. The House in the past has insisted on its prerogatives, and you can bet that Chairman ROSTENKOWSKI and the House will insist on them again.

All this amendment would do is kill this bill. There is no question that this amendment is within the jurisdiction of the Finance Committee. Therefore, it ought to be subject to the scrutiny of this committee and follow the ordinary course of tax legislation. This amendment was never referred to the Finance Committee. The committee has not had the opportunity to analyze it. We should not consider this amendment without committee scrutiny of it. There are so many areas that I would like to legislate on the Senate floor without moving through the committees, but that is not the way the committee system works.

The purpose of having committees is to allow those with expertise in the particular areas to be responsible in the first instance for evaluating legislation in those areas.

The committee should be given an opportunity to examine the proposal carefully because it has the expertise and the responsibility for tax legislation. At some point this year the committee is going to be marking up a tax bill. If there is enough support on the committee, we will seriously consider

various ways to help out these businesses.

I must say I know that there are some members of the committee who are strongly for this provision. But it ought to be done at the appropriate time and approved by the appropriate committee.

I am willing to work with any Senator to discuss their concerns concerning this one. I understand the concerns of the sponsors of the amendment about the impact this legislation would have on midwestern communities. Nobody in this body wants to put an unreasonable burden on business or create unemployment.

However, the sponsors of this amendment must let the Finance Committee do its job. Our committee has jurisdiction, and has the expertise to craft an appropriate legislative response.

Moreover it is by no means imperative that the Senate act on this matter immediately. The effective date of this amendment is 1995, 5 years from now. We have time to carefully analyze the problem and draft a legislative response if one is necessary. One of the things that we ought to be sure to understand is that these companies would be eligible for some tax relief even if this amendment does not pass.

I heard the distinguished Senator from Indiana talking about concessions and consideration that the Environmental Committee has given. That is quite true. He is quite fair in making that point.

Let me say, in so far as this debate, nobody has mentioned the fact that the current law—will provide some relief to companies required to install pollution-control equipment.

Section 169 of the Internal Revenue Code provides that a taxpayer may amortize over a 5-year period the cost of pollution-control facilities. Look back at the House bill of 1986. They would have repealed that deduction, but this postion was rejected in the conference, and section 169 remains on the books today. If this provision did not exist, expenditures for pollution would be recovered in accordance with the normal depreciation rules, and in this instance that period would be as long as 28 years, not 5 years. So 5 years versus more than 20 is a very significant difference. The faster recovery gives a much lower capital cost.

That proposal goes even further. It would force the Government to pay for 20 percent of all capital costs. I note that the old investment tax credit only paid for 10 percent of the cost. In addition, the credit in this amendment is more generous than the old credit because it allows taxpayers to zero out their regular and alternative minimum tax liability.

The 1986 act almost solved the problem of large companies avoiding tax liability. Let us think twice before we reinstitute that problem. Think back at what they used to be able to do. They were able to zero out their taxes. Many companies were making $600 or $700 million a year and paying no taxes. That is what we were seeking to correct under the 1986 tax law.

The bill already grants major concessions to proponents of this amendment. During phase I of the bill, which begins in 1995, companies are required to reduce their carbon dioxide consumption by 10 million tons each year. After the year 2000, the amount of the emissions would be capped.

The managers of the bill made significant changes to the clean air bill to address the concerns of Western and Midwestern States. The compromise package extends the deadline for complying with emission standards for coal-burning plants by 2 years, from 1995 to 1997. That will provide power plants that burn high-sulfur coal additional time to install scrubbers and other costly pollution control equipment which they can sell to other powerplants that are not meeting the emission standards. Those kinds of changes would significantly reduce the cost of complying with the acid rain provisions of this bill.

I am not saying that these provisions address the concerns raised by the sponsors of the amendment, but they sure are major. They are significant, and they are the kinds of considerations that the Finance Committee needs to weigh in making a judgment about whether further relief through a tax system is needed and, if so, what kind of relief. That is why the committee should be given the opportunity to consider these issues. That is why the proper procedures ought to be followed and not have it threatened.

Let us get to another point. That is the question of cost. The Joint Tax Committee says this bill would cost $300 million in the year it goes into effect, 1995. It also points out that the majority of the revenue loss associated with this proposal would occur outside the 5-year budget period. I understand that the cost would be nearly $1 billion over 3 years after it begins to take effect, and there is no revenue offset on this amendment.

I really get worried when these types of amendments are offered. When they decide they cannot get something from the Appropriations Committee to take care of a problem, they decide to go over to the tax side and take a credit there, and then refuse to tell us how they are going to make up for the lost revenue.

Where is that money going to come from? I understand that the proposal does not begin to lose revenue until you get out 5 or 6 years down the road. If they want to focus on the short run and close their eyes to the future, they are free to do so. But I certainly cannot support that kind of an approach. The problem is not when it loses revenue. The problem is that this amendment is not paid for, it is not fiscally responsible, and it is not responsible government. That fact alone is enough for me to oppose the amendment. When you layer this problem on top of constitutional concerns and jurisdictional issues, then I certainly have serious problems with this amendment.

Keep in mind that before 1986 companies could take advantage of the investment tax credit.

The PRESIDING OFFICER (Mr. KERREY). The Senator's time has expired.

Mr. BENTSEN. Will the Senator yield me 2 additional minutes?

Mr. BAUCUS. Yes.

Mr. BENTSEN. Should we feel sorry for those companies that did not take advantage of the investment tax credit? Should we now try to bring back the ITC? Should the Government pick up 20 percent of the tab? That is one of the things we ought to determine in the Finance Committee.

I will say, however, that prior to the 1986 Tax Act, the investment tax credit and tax-exempt bonds helped businesses pay for a wide range of business assets. I am not saying those days are history and we should not provide tax incentives to reduce capital costs. But I must stress that because of our budget deficit problems, we have to carefully scrutinize all revenue-losing provisions—particularly those that are targeted to a particular industry.

The investment tax credit was repealed in 1986, because it created economic inefficiencies. Instead, we provided lower corporate tax rates which provide benefits to all businesses. So let us take a close look at what the proponents of this amendment are asking for.

The Joint Tax Committee informs me that this credit is likely to benefit less than 50 companies, and the sponsors of this amendment want all taxpayers to pay a small number of utilities to burn high-sulfur coal.

I know it is important that they try to burn coal that is produced in their backyard and nobody wants workers to lose their jobs. I know it is difficult to place a monetary value on human suffering from lost jobs. I represent a State that has been hit particularly hard by an economic downturn over the last several years. In the last few years there have been more bankruptcies in my State, than any time since the Great Depression. In addition, a lot of people have left the State to find jobs in other places. So I understand the unemployment problem. I have some real horror stories I can tell, but this is neither the time nor place to amend the Tax Code.

I am afraid that this proposal may set a dangerous precedent. For example, if we were to impose restrictions on the production of certain types of hazardous wastes—does this mean that we would be obligated to allow an income tax credit to help these companies pay for pollution control equipment? This is a slippery slope—we simple do not have the revenue to pay for every modification businesses must make in order to comply with sound public policy.

For all these reasons I oppose this amendment, and I urge my colleagues to vote against it.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask the distinguished Senator from Texas if he would remain on the floor for a moment or two because I wish to make a comment or two and direct a question to the Senator.

On the issue of whether this provision is appropriate, I cite the authority of the Supreme Court of the United States decision in Tendill versus Wellsley, a 1896 Supreme Court opinion, which has been followed up to the present time. This opinion involves the imposition of a tax on the circulation of the bank's associations organized under a statute. The Supreme Court in this case said that such a tax was "clearly not a revenue bill which the Constitution declares must originate in the House of Representatives." It then refers as on authority to the Justice Story commentary that bills are not required to originate in the House when they may "incidentally create revenue."

The issue which was raised by the distinguished Senator from Montana on the letter from Chairman ROSTENKOWSKI has, I think, really been nullified with the production of the letter by the chairman. I ask that the letter from the Chairman ROSTENKOWSKI, dated February 6, 1990, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. SPECTER. I asked the distinguished Senator from Montana for a copy of the letter to see if the investment tax credit was included here. It is not.

I do not make a representation that this is conclusive, but the investment tax credit had been widely discussed and I believe it had been called to the attention of Chairman ROSTENKOWSKI by Senator DIXON prior to the chairman's letter.

The point is that when the Senator from Montana makes a representation that Chairman ROSTENKOWSKI is going to oppose this legislation because of the investment tax credit, referring to the chairman's letter, there is no factual basis for that kind of representation.

Mr. BAUCUS. Will the Senator yield?

Mr. SPECTER. I will, on the Senator's time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAUCUS. I say to the Senator from Pennsylvania, the Senator is correct, the letter referred to does not specifically mention the investment tax credit amendment offered by the Senator from Pennsylvania.

I must say to the Senator that I have recently checked with general counsel of the chairman, and general counsel of Chairman ROSTENKOWSKI said that he would object even more strenuously to the amendment offered by the Senator from Pennsylvania on constitutional grounds than he even objects to the other provisions in the bill.

I must also say to the Senator from Pennsylvania that there are no provisions referred to in Chairman ROSTENKOWSKI's letter to the chairman of the Finance Committee that are still in the bill. They have all been deleted, with the exception of one which has been modified, so there are no longer any constitutional objections.

I say to the Senator, again, although the letter itself does not specifically refer to the Senator's amendment, it is not because the letter only refers to sections of the bill, as of February 6; nevertheless, I have representations from general counsel of the chairman of the Ways and Means Committee saying that he, the chairman, would object even more strenuously on constitutional grounds than he previously objected to the provisions that were earlier in the bill and now deleted.

Mr. SPECTER. I thank the Senator. This confirms my representation that this letter says nothing about this amendment. If the chairman is going to object more strenuously than he has in the letter, it would be hard for me to fashion any language that would be a more strenuous objection.

Mr. BENTSEN. Will the Senator yield on my time?

Mr. SPECTER. Yes.

The PRESIDING OFFICER. Is there objection? It is so ordered.

Mr. BENTSEN. I have been informed that Chairman ROSTENKOWSKI would vigorously object to this amendment. I have dealt with Chairman ROSTENKOWSKI and the House for a long time and I can attest to his strong feelings about the origination of tax provisions. I have no question in my mind about what he would do.

Mr. SPECTER. I thank the Senator for his comment about that. What I wanted to do was clear the record on the representation of the letter, which I think has now been accomplished. As previously requested, I ask unanimous consent that the letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, February 6, 1990.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington,

DEAR MR. CHAIRMAN: I am writing to advise you of my concern that a number of the "fee" provisions included in S. 1630, the Clean Air Act Amendments of 1989, may represent an infringement of the privileges of the House of Representatives established by the U.S. Constitution. As you know, Article I, Section 7, Clause 1 of the Constitution provides that "[a]ll Bills for raising Revenue shall originate in the House of Representatives."

I am concerned that the following sections of S. 1630, as reported by the Senate Environment and Public Works Committee, raise revenues and therefore appear to violate the Origination Clause:

New section 173(d) of the Clean Air Act, to impose a $15 per ton fee on stationary sources, as provided for by section 106 of the bill;

New section 182(d) of the Act, to impose a $2 auto registration fee, as provided for by section 107 of the bill;

New section 182(e) of the Act, to impose a $75 per ton fee on stationary sources, as provided for by section 107 of the bill;

New section 185(c)(2)(B) of the Act, to impose fees on ozone precursors, as provided for by section 107 of the bill;

New section 188(d) of the Act, to impose a $2 auto registration fee, as provided for by section 108 of the bill;

New section 192(c) of the Act, to impose a $75 per ton fee on stationary sources, as provided for by section 109 of the bill; and

New section 351(b)(3)(B)(i) of the Act, to impose a $25 per ton fee on regulated pollutants, as provided for by section 501 of the bill.

Several of these "fees" would be imposed directly by the Environmental Protection Agency (EPA) to fund its operations. The EPA would also be empowered to collect any fees that are not imposed by the States to fund its operations.

The Ways and Means Committee is continuing to review S. 1630, as reported, as well as proposed amendments that may be offered on the Senate floor. I will advise you if other provisions of the reported bill or any Senate floor amendments are, in the opinion of the Ways and Means Committee, inconsistent with the Origination Clause.

I encourage you to consider making appropriate modifications to S. 1630 prior to final Senate passage so that the bill will not be subject to constitutional challenges when it is received by the House of Representatives.

I appreciate your attention to this matter.

Sincerely yours,

DAN ROSTENKOWSKI,
Chairman.

Mr. SPECTER. I come to the question which I wanted to ask the distinguished Senator from Texas. I invite his comment on the Supreme Court decision that I referred to.

Mr. BAUCUS. Mr. President, is the Senator asking the question on his own time?

The PRESIDING OFFICER. The Senator from Pennsylvania is on his own time.

Mr. CRANSTON. Will the Senator yield for a unanimous-consent request in relationship to the Veterans Committee? It will just take a moment.

Mr. SPECTER. I yield.

Mr. CRANSTON. There has been an objection to committees meeting 2 hours after we came into session. The Veterans Committee, which I chair, is presently having a hearing on a very important matter; an administration proposal that may lead to better use of resources for veterans medical care. We have witnesses from all over the country, one all the way from California.

I ask unanimous consent that the Veterans Committee be permitted to continue to meet today.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. We would have to withhold on that to check that, if we might.

Mr. CRANSTON. I will withhold.

Mr. SPECTER. I would like to see the committee continue so that I would have an opportunity to join the committee in those hearings.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. 5 minutes 43 seconds.

Mr. SPECTER. Mr. President, the question which I have to ask of Senator BENTSEN, and I invite his comment, but would not press him, on the Supreme Court opinion, because I had not discussed it with him. I invite his comment, if he cares to make it. I ask this direct question: When we deal with the procedures, is there any difficulty in following the precise procedure of having the bill held at the desk, as we had the child care bill, where there was a tax provision, with the savings and loan bill, where there was a tax provision, or with the black lung bill, knowing that the House is going to take up the issue of clean air. We would follow the same analogy as with child care and not run into any conceivable problem.

Mr. BENTSEN. I think that would violate the jurisdiction of the committee that has the background and expertise in trying to evaluate this type of proposal. I frankly think that would be a serious mistake. So I urge that that not be done.

Mr. SPECTER. I thank the chairman for his comment. That does establish that this is the appropriate procedure to avoid the problem raised by Chairman ROSTENKOWSKI.

When the distinguished Senator from Texas raises the issue about depriving the Finance Committee of jurisdiction, I can appreciate that concern and that jurisdictional matter but I would say this: When the distinguished Senator from Texas says that this matter can be taken up at a later time, I would respectfully disagree because we are going to be called on to vote on the clean air bill and it is a matter of enormous concern to many Senators as to whether there will be an appropriate sharing of costs and that has to be determined during the course of this legislation.

Mr. BENTSEN. Will the Senator yield for a comment on his question?

Mr. SPECTER. On his time.

Mr. BENTSEN. Yes, I would be delighted.

The problem we have on the child care bill is the same sort of thing that we would have on this one. We would have to hold it at the desk. With respect to the child care bill, we are going to have to get unanimous consent to proceed on it. And that may be extremely difficult to do. One Senator can object to the procedure and then that obviously complicates trying to get something done in a reasonable period of time. So it is not a practical solution to the problem at all and I would strongly urge we not do it.

Mr. SPECTER. Mr. President, when the distinguished Senator from Texas talks about practicality in dealing with child care I suggest that we have employed that procedure on other measures, such as the savings and loan bill and the black lung bill.

The point this Senator raises, No. 1, is that I do not think we have a constitutional issue in view of the Supreme Court authority which I cited, but second there is a way, albeit with a requirement of unanimous consent, to eliminate, obviate that problem with the House of Representatives and that is the contention which this Senator raises.

When you come down to the merits, the Senator from Texas had not been on the floor earlier when I cited them, and he made reference to his State of Texas and the problems of his State, and I am very sympathetic to the problems which the State of Texas has had, but when you take a look at SO_2 emissions and you find that industrial emissions largely from the State of Texas amount to 13.9 percent of the emissions in the country and the earlier statistics show that the nine States which are being asked to bear 90 percent of the first phase and 70 percent of second phase account for only 51 percent of the emission, as a matter of fairness there ought to be allocation under this investment tax credit to do justice and fairness to those nine States.

I believe that the bottom line, the long and short of it, after we have discussion among the various Senators on this issue is that there is no constitutional impediment. If there is one, there are procedures where we can work it out, and there has been no written protest lodged by the chairman of the Ways and Means Committee of the House of Representatives.

I inquire of the Chair as to my remaining time.

The PRESIDING OFFICER. A minute and 45 seconds.

Mr. SPECTER. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I ask for 8 minutes.

Mr. BAUCUS. Mr. President, I yield 8 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, at the start of this debate and throughout it there has run this theme of fairness. The suggestion is that somehow the Midwestern States are being treated unfairly, and therefore the principal argument they use is that in the past all the utilities in the Nation had available to them an investment tax credit. But that investment tax credit has since disappeared. It disappeared in the 1986 Tax Reform Act, and regrettably the Midwestern utilities did not use it. It was available but they did not use it. They say now that it has disappeared they would like to bring it back. They would like to bring it back because other States used it, other utilities used it, and why should they not have the same privilege.

What they do not say is that with the 1986 tax reform bill came lower rates. That was the switch that was made. The ITC, the investment tax credit, was abolished and in return came the lower tax rates. So when the ITC was taken out it not only lowered rates but it did something else for the utilities. It provided for an accelerated depreciation of the type of equipment that is being discussed here today.

What the proponents want, they do not want it both ways they want it four ways, and this is what they argue. They want the lower rates that were included in the 1986 tax reform bill. They want the accelerated depreciation that was included in 1986 tax reform bill. They want the ITC, the investment tax credit, that existed before 1986. They want that reinstated. And on top of it they want not what the ITC used to be, the investment tax credit of 10 percent but they want it 20 percent. This is what we call chutzpah. This is what we call real brass. They ask for four things, and they see no problem in that, and if denied all four things they cry foul, lack of fairness.

Furthermore, there is another provision they ask for: under the old tax code, pre-1986, when one used the investment tax credit it could not be used to reduce the minimum tax. This amendment, and it challenges one's imagination, and for straight brass I think this tops them all, this amendment permits the use of the ITC to reduce the minimum tax. If there is

one thing that we sought in 1986 it was to get rid of people or to make sure that taxpayers paid some tax, and thus we put on the minimum tax. This would do away with that provision we had that everybody had to pay some tax if they had some earnings.

Second, in addition to all those arguments which certainly fatally flaw the proposal of the proponents of this amendment, this amendment favors only one method of reducing emissions. One of the things we sought in this clean air bill was to be fuel neutral. We said you, Mr. Utility, proceed the way you think is best at the lowest cost to you. We are not going to go in there and tilt it one way or another. What this amendment does is it favors the use of scrubbers. That is what it is about. It is the investment tax credit applied to use of scrubbers in effect and, therefore, no longer becomes fuel neutral, no longer does it encourage the lowest-cost method to reduce the sulfur dioxide emissions. Instead it is a tremendous slant toward the use of high sulfur coal, thus undermining the objectives of the bill.

There is a suggestion that somehow the Midwest has been persecuted here. I point out to the proponents of the measure that the Midwest has come up with $3.5 million special allowances under the Bond-Byrd proposal, $3.5 million. They have come up with $1.5 million special allowances under the Domenici proposal. So they come out with a total of $5 million allowances. That is a lot of money. Furthermore, the Midwest was given a special extra time to comply if they use clean coal technology. That was a special favor toward the Midwest and the high sulfur States.

The 2-to-1 credit for scrubbing technology was provided in this measure. So this suggestion that somehow the Midwest has been kicked around and has not received any benefits is sheer nonsense.

Finally, might I say this, and I harken back to the point that the distinguished chairman of the Finance Committee made, there is no rush for this. This does not even go into effect until 1995. Clearly the Finance Committee will meet before then and there will be tax measures.

But what I find as the final fatal flaw to this measure is the fact there is no way to pay for it. Now you can say oh, it is only $300 million. Very clearly it is not necessarily $300 million. It could well be more than that. I might say I have never seen any of these estimates come in on the low side.

But the fact is there is no way to pay for it. When we are running these tremendous deficits in this Nation if somebody wants a special advantage, something that is going to cost the Federal Treasury money, then they ought to come up with a way to pay for it.

So for these reasons, Mr. President, I believe the amendment is an unfortunate one. It is not a good amendment and I would hope it would be defeated.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. Mr. President, we are coming to a close in this debate. There is not a lot of time remaining.

Let me just make a couple points here. No. 1 is the single-shot nature of the amendment that I think many Senators in various parts of the country find particularly objectionable. This amendment offered by the Senator from Pennsylvania essentially allows the tax credit to be available essentially only for utilities that scrub to meet the SO_2 standards contained in the bill.

What about a utility that wants to change its operation from coal fired to natural gas? The tax credit would not be available.

What about a utility that wants to renovate in order to use low-sulfur coal? The tax credit would not be available.

What about other plants around the country—chemical plants, refineries—that need to modernize to meet the air toxics provisions of this bill? The tax credit would be unavailable.

What about large stationary sources that modernize to meet the volatile organic compound provisions of this act? The tax credit would be unavailable.

This is a very narrowly crafted, single-shot tax credit aimed to benefit a very small part of the country only. As the Senator from Rhode Island said, this is the chutzpah amendment. I underline that. This is the chutzpah amendment. This is the brass amendment. This is an amendment very narrowly targeted to help a very small number of utilities, utilities that want to be subsidized to help their part of the country at the expense of all of the rest of the country. Because, after all, the rest of the taxpayers of this country would be footing the bill for this single-shot, narrowly crafted amendment. I think Senators should understand that point very specifically, that is, the narrow nature of this amendment.

Point No. 2 is this: There has been some discussion as to whether or not this is a killer amendment because it violates the Constitution of the United States.

I have again been informed that the chairman of the Ways and Means Committee would specifically object to this amendment on constitutional grounds. Now he has not had an opportunity to send a letter over in the last 15 minutes, but there are other ways to communicate. There are telephones. I have not personally talked with the chairman, but I am advised by staff that people who represent the chairman of the Ways and Means Committee say that he would specifically object to this amendment on constitutional grounds.

The Senator from Rhode Island has mentioned other objections, but let me just reiterate that this is a killer amendment. The chairman of the Finance Committee has so stated. The chairman of the Finance Committee also objects on jurisdictional grounds that the amendment has never been debated. There were no hearings on this amendment before the Finance Committee.

In addition, this is a deal breaker. This breaks the deal agreed to by the administration, by the leadership on the Republican side, by the leadership on the Democratic side. It is also very, very unfair in that it very specifically and to a large degree benefits a certain, small section of the country at the expense of the rest of the country.

It is also very poor tax policy. It is bad tax policy because it is so narrowly crafted and also because it loses so much revenue without making up the revenue some other way.

For all these reasons, Mr. President, I again strongly urge Members to understand the narrow nature of this amendment and also to understand that, if this amendment were to pass, it would be a deal breaker, it would be a killer amendment, and it would very seriously jeopardize the Clean Air Act, which is so important to this Nation, which we have worked on for so many weeks and months. I think at this late date we would not want to jeopardize the passage of the Clean Air Act by the U.S. Senate.

Mr. SPECTER. Mr. President, when the distinguished Senator from Montana called this the chutzpah amendment, by reference to what Senator CHAFEE said, that it was real brass, I would disagree. Real brass does not mean chutzpah. There are substantial differences in the use of that term.

But in many senses, calling it a chutzpah amendment is a high compliment—it is a high compliment compared to chutzpah attaching to the nine States which are being unfairly treated by this specific provision of the bill.

But I want to come back to the real brass characterization by Senator CHAFEE because I think that goes, as opposed to an ethnic characterization, to an issue of merit here, but it cuts the other way. Because when you talk about real brass, you are talking about a nonutility and an industrial emission. Because when you make real brass, you create part of the problem that we are dealing with in the bill which illustrates the unfairness of the bill because, Mr. President, the utility pollution which is the subject of this

amendment counts for only 51 percent of the sulfur dioxide emissions and yet these nine States are being called upon to pay, first, 90 percent, phase I; and, second, 70 percent of the clean up in phase II.

And when you look around the country—again referring to the State of Texas which has 13.9 percent of the SO_2 emissions from industrial, or the brass characterization, which shows the unfairness to the nine States involved and speaks very loudly and emphatically for the adoption of the pending amendment.

The PRESIDING OFFICER. The Senator's time has expired.

There are 18 minutes and 12 seconds now remaining to the Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I point out to those who are interested in this type of procedure—in other words, about improving the emission control equipment on the utility—that tax-exempt financing is still available through the States for pollution control equipment. Sometimes that is lost sight of. So that is available pursuant to State laws. Most States have those laws. Certainly my State has it.

I do not know what the situation is in Pennsylvania or the Midwest States, but it is possible for tax-exempt financing to be available for pollution control equipment, which obviously means that the utility can install that at a greatly reduced rate.

Mr. SPECTER. Mr. President, I would like to add a modification to the amendment which has been requested by the distinguished Senator from Tennessee [Mr. SASSER] which I think does not affect any of the debate so far.

I have been advised by the Parliamentarian that, because we are subject to a unanimous-consent agreement, unlike other modifications asked before the yeas and nays have been ordered, it requires unanimous consent, which I now request.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object, as I read the requested modification it precisely makes my point about the very narrow nature of the Senator's amendment. As I read the proposed modification, it is attempting to broaden the narrow benefit to not only Midwestern States but, as I read the modification, to TVA States. That is, not to the rest of the country. I must be constrained, Mr. President, regrettably, to object because I, frankly, think this is a last-minute attempt to try to meet a fatal flaw and that does not begin to meet that flaw because it is so narrowly directed.

The PRESIDING OFFICER. Ojection is heard.

Mr. BAUCUS. In addition, I would say there are no cost estimates. There would be additional costs involved here. So I must object.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the time on this amendment is about to expire. The Senator from Texas [Mr. BENTSEN] informs me at the appropriate time he would like to move to table the amendment. I understand, however, there are Senators who are unable to come to the floor to vote at about 11:52, when the time would expire. I am looking for a way to set a vote at a later time.

It is my understanding we cannot now, at this moment, clear a definite later time. I would like to set the vote at 12:30, if I could. I am unable to get that clearance at this moment.

I am wondering if we could set a time so Senators would be available and Senators would know when the vote might occur? Might I ask the Senator from Rhode Island or ——

Mr. SPECTER. The time of 12:30 is agreeable to this Senator.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I know the cosponsor of the amendment, Senator METZENBAUM, was seeking a time about that. But apparently we have difficulties over here, trying to get it cleared.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, the quorum call is rescinded. There are 3 minutes of controlled time left and the Senator will need time yielded to him.

Mr. BAUCUS. How much time does the Senator from Montana request?

Mr. BURNS. Probably no more than 30 seconds, just to offer some comments.

Mr. BAUCUS. I yield with pleasure to my colleague from Montana.

Mr. BURNS. I thank with pleasure my colleague from Montana.

As the debate runs on this clean air, we know there have been some agreements made, and final passage of this bill is very troubling to some of us who thought maybe we had reached an agreement on how we were going to approach the cleanup of air in this country. All at once we have another amendment here that sort of has taken something away from the West that we thought we had protected, and would offer some solutions to acid rain. This, Mr. President, would not do any more than to add more impetus to that. It is basically a scrubber amendment. That is what it is. Let us call it what it is.

We think we have a product, low-sulfur coal, with which we can clean up that problem. So I offer my objection to this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on or in relation to the Specter amendment No. 1330, as modified, occur at 12:15 p.m. today and that the time between now and 12:15 p.m. be equally divided in the usual form between the two sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MITCHELL. Mr. President, Senators should be aware that a vote will occur at 12:15 on or in relation to the pending Specter amendment, and those offices of Senators who are not now in the Capitol should notify Senators of this fact.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, there will be 10 minutes, am I correct?

The PRESIDING OFFICER. There will be approximately 11 minutes equally divided.

Mr. CHAFEE. On behalf of Senator BAUCUS, I yield Senator SIMPSON 3 minutes.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I do oppose the amendment offered by my friend, the Senator from Pennsylvania. When these negotiations were concluded and the Byrd-Bond proposal was incorporated into the agreement, it was the belief of this Senator and many others who participated in that—Senator MITCHELL, Senator CHAFEE, Senator BAUCUS—that the allowances we so carefully crafted would be made available to the Midwest for growth, and, more importantly, they would offset increases in utility rates. But here I think we have found the

United Mine Workers turned up the heat on Senators from high-sulfur coal-producing States. And then, of course, we have the Byrd amendment yet to deal with, the amendment to protect these high-sulfur coal miners.

But this amendment offered by my friend from Pennsylvania is strongly supported by those persons because they know what it will do. It will cause the use of more scrubbers in the future, and this will benefit the United Mine Workers. Of course, scrubbers do not benefit the ratepayers at all because they are one of the more costly ways of reducing SO_2 emissions. So a mechanism is needed to further subsidize the high-sulfur coal industry, and that is a tax credit.

I point out that scrubbers are not even necessarily good for the environment because they increase greenhouse gases, and I trust that my colleagues with true environmental concerns will catch that one. But a new tax credit for scrubbers or technology is nothing more than cost sharing about which, by a sense-of-the Senate resolution, we disagreed. We said, no. We did agree that there would be none. Cost sharing is something we have not endorsed in the Senate. It goes beyond the real subsidy we already have here provided under the allowance system, and it may be a return to former days of market and regional gimmickry.

But, more importantly, I believe this measure is a deal-buster because it would effect the agreement that we negotiated.

There is another aspect of the amendment that causes me concern, as it did Senator BENTSEN, the fact that is is a revenue loser. The Treasury Department has estimated that we would lose almost $1 billion in revenue if this amendment is agreed to. For 5 years, assuming a $4 billion investment, there would be a $338 million revenue loss; assuming a $5 billion investment, a $750 million revenue loss.

Mr. President, the reason we are here with this amendment at this time is because, again, these are the most heavily impacted utility areas in the United States and they knew what was coming. Those were the utilities in those States that chose to burn cheap, locally available high-sulfur coal without installing pollution equipment. So what we have is a situation where Midwestern utilities are seeking subsidies and, in effect, are asking the rest of the United States to help the high SO_2-emitting utilities retain the advantage of low electricity rates.

The proposed tax credit is an enhanced and expensive version of the pre-1986 investment tax credit. Unfortunately, it would be more than the old investment tax credit. It would equal 6⅔ percent of the qualified investment per year for 3 years, or 20-percent total over 3 years, with corporate tax rates at 34 percent. The old investment tax credit, on the other hand, equalled 10 percent of the investment of 1 year only with corporate tax rates at 46 percent.

It would permit a utility to reduce or completely avoid minimum tax liability. It has more generous limitations for offset rules than available under prior law. Under the old investment tax credit, regular tax liability could be reduced by up to 75 percent and minimum tax liability up to 25 percent. Under this amendment, both regular tax and minimum tax liability could be reduced up to 100 percent.

This amendment could potentially result in tax refunds even when, in fact, the tax payer has no tax liability for a current year. This is due to the combined effect of a carry back provision and tax liability limitations in the amendment.

All of these provisions provide a subsidy for scrubbers and high sulfur coal. So we would have all of these tax benefits added to the list of other scrubber incentives that were provided in the negotiated agreement. The scrubber incentives included bonus allowances, and deadline extensions.

It is the stark reality that the high sulfur coal producers in the Senate are a minority. Yet, they have been eminently successful in securing high sulfur coal production provisions. Now they are coming back for "one more little incentive," but this incentive would be the straw that broke the camel's back. This incentive could upset the whole apple cart. It might make sense to provide some incentive such as this if the allowances were not in place. But if we combine this with the allowance system and the scrubber incentives included in the negotiated agreement we would eliminate the concepts of flexibility, freedom of choice, and cost effectiveness that a majority of the Senate has embraced.

This amendment should not be confused with an attempt to protect ratepayers. It may do that—but in reality it is an attempt to protect the high sulfur coal miners and, more specifically, the United Mine Workers Union. The Byrd amendment and the tax credit amendment are the two things that the United Mine Workers are really pushing these days.

I might be sympathetic to the argument that Midwestern States need significant help with their electric rates if their customers already had high utility rates. However, in years past, the reality has been that the customers of the highest SO_2 emitting utilities in the Midwest generally have enjoyed the lowest electric utility rates in the country. This is because these utilities have chosen to burn cheap, locally available, high sulfur coal without installing pollution equipment. So, what we have is a situation where Midwestern utilities are seeking subsidies and, in effect, are asking the rest of the country to help high SO_2 emitting utilities retain the advantage of low electric utility rates. The inequities in that argument are plain to see.

What this all boils down to is that a relatively small group of utilities would rececive the greatest portion of financial relief under this proposal. There are 24 privately owned utilities which have emitted more that 50,000 tons of SO_2 in recent years. And these 24 utilities are going to be responsible for a large portion of the required SO_2 reductions in phase I and phase II in the Senate bill. They are located in the lower Midwest with a vast majority in Ohio, six; Indiana, five; Pennsylvania, three; and Missouri, three. These utilities produce less than one quarter of the country's electricity but emitted more than 7.5 million tons of SO_2 in 1987. That is about half of the sulfur dioxide emitted by the entire U.S. utility industry. This is one of the most important statistics to keep in mind during this debate.

It might be more important to note than three quarters of the utilities—18—had average electric rates in 1987 below the national average. Additionally, almost 60 percent of these utilities—14—had average electric rates at least 10 percent below the national average, and nine of them had average electric rates at least 20 percent below the national average.

After reviewing these facts, I think you will find that the Specter amendment is unnecessary and should be rejected. Even worse—if we pass this amendment we will be abandoning the polluter pays concept a majority of the Senate embraces.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired.

Mr. SIMPSON. I thank the Chair. I thank Senator CHAFEE.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be deducted equally between the two sides.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I now suggest the absence of a quorum and ask unanimous consent that the time be equally divided between both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I would like to add a few words to the debate on the amendment of the Senator from Pennsylvania [Mr. SPECTER] which is cosponsored by Senators METZENBAUM and LUGAR, as well as myself.

I believe this is a reasonable amendment. It gives the same technology incentives to Midwestern utilities who must comply with the acid rain portion of the bill as were available during the 1970's and 1980's. This amendment would provide a 20 percent tax credit for utility pollution control equipment for 5 years. The tax credit would only be available for utilities who have compliance responsibilities under phase I of title IV of the bill.

Adoption of this amendment would be a major step toward more equitable treatment of utilities affected by the acid rain requirements in S. 1630. I believe it will provide needed rate relief and help preserve the 5,000–7,000 high sulfur coal jobs which will be lost if the bill is enacted as currently written.

Mr. President, I supported the Byrd-Bond compromise as the only alternative which was acceptable to the Senate leadership as well as midwestern Senators. But clearly the technology incentives which are the heart of Byrd-Bond will only begin to mitigate the impact of acid rain legislation on Indiana.

For instance, despite the Byrd-Bond incentives for early use of technology which have been incorporated into the Mitchell-Dole substitute amendment, S. 1630 will most likely result in the loss of over 1,000 coal miners' jobs in southern Ireland. While I support the amendment offered by my colleague, the senior Senator from West Virginia, to provide a safety net for those coal miners who do, in fact, lose their jobs, I also support efforts to encourage a more equitable distribution of the reductions, which I believe will result in fewer jobs lost overall.

The Indiana Department of Environmental Management estimates that, under the Byrd-Bond proposal, Indiana utilities will construct 4-6 scrubbers during phase I. IDEM believes that a 20-percent tax credit could result in the construction of two additional scrubbers, which would obviously encourage the continued use of Indiana coal.

Finally, I would like to add that the impact of compliance with all titles of S. 1630 will be immense. Indiana is affected by every title of this bill, and while I support efforts to protect the air quality in Indiana and around the country, I believe that tax credits would be an excellent way to make the bill less onerous for the Midwest.

Mr. MITCHELL. I ask unanimous consent that the Senator from Texas be recognized for 1 minute to make a motion to table the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas is recognized for 1 minute.

Mr. BENTSEN. Mr. President, I think it is obvious that I have strong objections to this amendment. The Finance Committee has proper jurisdiction over this matter. We must properly consider it and the impact it would have on businesses across the country. I am convinced that the bill would be blue slipped on the House side. And all the work that has been done on this very important piece of clean air legislation would, in effect, be negated.

So, Mr. President, with that in mind, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Pennsylvania. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

I further announce that the Senator from Massachusetts [Mr. KENNEDY] is absent on official business.

I further announce that, if present and voting, the Senator from Oklahoma [Mr. BOREN], would vote "yea."

The PRESIDING OFFICER (Mr. SIMON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 71, nays 26, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—71

Adams	Fowler	Mikulski
Baucus	Gore	Mitchell
Bentsen	Gorton	Moynihan
Biden	Graham	Nickles
Bingaman	Gramm	Nunn
Boschwitz	Grassley	Packwood
Bradley	Harkin	Pell
Breaux	Hatfield	Pressler
Bryan	Hollings	Pryor
Bumpers	Humphrey	Reid
Burdick	Inouye	Riegle
Burns	Jeffords	Robb
Chafee	Johnston	Roth
Cochran	Kassebaum	Rudman
Cohen	Kasten	Sanford
Conrad	Kerrey	Sarbanes
Cranston	Kerry	Sasser
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Stevens
Dodd	Leahy	Wallop
Dole	Levin	Warner
Domenici	Lieberman	Wilson
Durenberger	Mack	Wirth
Exon	McCain	

NAYS—26

Armstrong	Glenn	Metzenbaum
Bond	Hatch	Murkowski
Byrd	Heflin	Rockefeller
Coats	Heinz	Shelby
D'Amato	Helms	Simon
Danforth	Lott	Specter
Dixon	Lugar	Symms
Ford	McClure	Thurmond
Garn	McConnell	

NOT VOTING—3

Boren	Kennedy	Matsunaga

So the motion to lay on the table the amendment was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the motion to table was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, with respect to the immediate schedule, it is my understanding that there will be a couple of amendments, I believe the first one by the Senator from Delaware that will be accepted, and then thereafter, about 1:30 or shortly thereafter, Senator HELMS will be prepared to offer an amendment.

Mr. DOLE. In the interim, too, I think the Senator from Pennsylvania wanted to make a statement on the bill. We will not be losing any time.

Mr. MITCHELL. That is right.

So I do not think there will be a vote until about an hour after Senator HELMS offers his amendment. I expect him to offer it sometime around 1:30, quarter to 2, in that range. The vote would presumably be about an hour after that, in terms of Senators looking to their schedule for the next couple hours.

If I might have the attention of the Senate, with the distinguished Republican leader here, I have discussed with him just prior to now, privately, a situation which has arisen with respect to meetings of Senate committees.

There were scheduled today 17 meetings of 12 committees, including both markups and hearings. At approximately 10:45, we were notified that there was a blanket Republican objection to any meetings of any committees. And so those meetings have, necessarily under the rules of the Senate, had to be discontinued.

I had indicated to the Republican leader that I would attempt to gain his assistance in having that objection removed so that we can proceed on these various hearings and meetings. With respect to the hearings, of course, as my colleagues know, these are planned some time in advance; witnesses have come, some of them, long distances to be here.

With respect to the markups, included in the markups is, of course, the action by the Foreign Relations Com-

mittee with respect to the Panama-Nicaragua legislation. I know that the Secretary of State and the President are very anxious in that regard; indeed, the Secretary called me last night, and I believe he also called the distinguished Republican leader, urging action on it. We want to do the best we can to move forward to that legislation. But of course the inability of the committee to mark it up will make that more difficult.

So I would inquire of my colleague, the distinguished Republican leader, as to whether we might get some assistance in getting that objection removed.

Mr. DOLE. As I understand the objection, we know who made the objection and we are trying to contact that colleague now because, as was indicated, there were a number of witnesses who came from out of town and were scheduled to be heard. Now they have to be postponed until tomorrow. But we are making an effort to, first of all, find out why the blanket objection. If there was an objection to one committee, why the blanket objection?

One case was there was so many meetings going on it was hard to focus on the clean air bill. But we are trying to accommodate the majority leader, those witnesses who came long distances, the committee chairmen and the ranking members, and the administration in a couple of cases where the administration has matters pending that they want to have dealt with. So as soon as I can make a personal phone call, we may have a report back.

Mr. DODD. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DODD. Mr. President, I just want to make that point as well. I know particularly on this aid package for Nicaragua and Panama—something that I very strongly support, by the way—I think it is a very important piece of legislation. I know the importance of moving that process along. We have really done a lot of work, I would say, Mr. President, to the majority leader in trying to help that process. It is going to be very disruptive if we cannot get that markup.

Our intention today was not only to have the hearing but the markup so that we could help try and move that package along. It is going to be tough as it is to meet some of the deadlines.

But my hope would be that the Republican objection to that markup would be lifted. Otherwise we are going to find ourselves easily into next week, I would have to say to the majority leader, possibly ending up next week. It would be a shame and pity, in a sense, that these countries that need this help very, very much might end up not being able to get that assistance because the committee process was slowed down or objected to, particularly on that side. And I think the administration is anxious to get the package as well.

I commend that minority leader for trying to help us get that lifted.

Mr. REID. Mr. President, I would indicate to the majority leader and minority leader that my subcommittee is meeting, trying to. We have 20 witnesses. They are from all over the country. The meeting has been scheduled for months. It is a tremendous inconvenience and very expensive both to the Government and the private witnesses that this happen.

I would have to say that it is a spiteful thing to do. It is expensive to the Government. It is very expensive and inconvenience to witnesses who literally have come from all over the country to testify on a very important issue; namely, the dangers of lawn chemicals. I think that it really would be to the best interest of the country, the Senate, and the American public if we could get this hearing on.

Mr. WARNER. If the distinguished Senator would yield so I might join in a colloquy with the chairman of the subcommittee of which I am the ranking member?

We did experience, without any notice to us, the abrupt termination of our hearing. I, for one, and all of us here recognize a Senator may utilize the rules of the Senate, and that was done fairly. But the consequence in this particular hearing was that on a controversial issue; namely, the use of various chemicals and pesticides occasioned by the spraying to beautify the lawns and so forth across America, only one side was presented, and the hearing was abruptly terminated and the other side of the issue was not able to present its viewpoints, therefore leaving the impression—and the hearing was heavily attended by media—that only one side of the issue is going to be out for the purposes of the stories today. That presents an imbalance and it is unfair to the participants in the hearing.

I know the leadership of the Senate tries as diligently as it can to avoid these situations, but this is what occasionally happens.

Mr. CRANSTON. Will the majority leader yield to me?

Mr. MITCHELL. Yes.

Mr. CRANSTON. Mr. President, I would like to add that I sought to get unanimous consent for the Veterans Committee to meet. That was denied under the blanket order. This is wasting a lot of time and money. All the top people in the VA are sitting around waiting to see if they can testify. We have people from all over the country, including people who came from California, for the hearing. It is not a markup. It is a hearing. And it is on an administration proposal which could redirect resources so that they are used better and perhaps save quite a bit of money. We would like to be able to proceed. It is ridiculous not to be able to.

Mr. DOLE. Mr. President, if the majority leader would yield further, I recall when we were in the majority and an objection came from that side, we went ahead and had the hearings informally. As long as you do not report anything out, as I understand, there is no point of order that would lie. There is some question whether you could pay the reporter for the stenographic work. But you do disrupt a lot of schedules, not just of Senators—that is secondary—but also the poeple who come here to testify, who probably have to be somewhere else tomorrow.

But, in any event, I will contact my colleague and see if there is some way we can resolve this.

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader for his courtesy and effort. I want to say to him again how grateful I am for the assistance he provided in gaining the unaimous-consent agreement on the clean air bill. It is obvious to me, and I think clear to all, that but for his efforts we would not have been able to gain the unanimous-consent agreement. And that is a very, very significant action.

It will present us, as the Republican leader and I have previously discussed, with a very difficult decision next week on what we proceed to after the clean air bill, because we have had a longstanding commitment to go to the crime bill which I am extremely reluctant to delay further. That is an important initiative of the President. It is one that Senators are ready to go to. And yet we also have this Panama-Nicaragua request that the administration and many of our colleagues on both sides of the aisle are very anxious to proceed to.

So we will have to discuss that, and we will do that as we always have in determining how best to proceed. And it is my hope that we can move forward.

The Republican leader is of course quite correct. This is not new; this is not the first time such an objection has been made. It has frequently been done in the past, and I hope with good faith and perseverance, we can get it taken care of.

I thank my colleagues, Mr. President. I am now prepared to yield to the manager. I assume this is the presentation of the amendment of the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Without objection, the pending amendment will be set side.

AMENDMENT NO. 1406 TO AMENDMENT NO. 1293

(Purpose: To encourage a program for the removal from use and the marketplace of certain pre-1980 model year vehicles)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] for himself, Mr. KASTEN and Mr. SYMMS, proposes an amendment numbered 1406 to amendment No. 1293.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 24, strike out "and".

On page 17, line 3, strike out the quotation marks and the last period and insert in lieu thereof a semicolon and the word "and".

On page 17, between lines 3 and 4, insert the following:

"(xv) program to encourage the voluntary removal from use and the marketplace of pre-1980 model year light duty vehicles and pre-1980 model year light duty trucks.".

Mr. ROTH. Mr. President, one issue our legislation does not address is the issue of older cars. It was not until the 1980 model year we finally began to control the emissions from our automobiles.

Many of my colleagues may remember this was accomplished through fuel efficiency and catalytic converters, and has been so effective that today, one 1979 model can emit as many hydrocarbons as eight 1990 models.

As a matter of fact, one 1970 model emits as many hydrocarbons as 20 1990 models. It has been estimated that cars older than 1980 models create something like 15 to 30 percent of the pollution caused by hydrocarbons.

Mr. President, this amendent is cosponsored by Senator KASTEN and Senator SYMMS.

In any event, despite the tremendous ongoing progress in producing cleaner, more fuel-efficient cars, 22 million pre-1980 models are still on the road. I think we should encourage the owners of these vehicles to voluntarily replace these cars with post-1980 automobiles.

Recently, I introduced legislation, the so-called clinker bill, that proposes on a voluntary basis to do just this.

The amendment I propose today adds to the transportation control measures already in title I of the bill. It would likewise direct the EPA and the Department of Transportation to publish and make available a program that encourages the voluntary removal of pre-1980 cars and light-duty trucks from use in the marketplace.

It gives the EPA, State, and local officials another alternative to consider how best to plan air quality and transportation measures.

Mr. President, it is my understanding that this amendment is not controversial, and I urge its adoption.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the Senator from Delaware makes a very valuable contribution to this bill. He is absolutely correct; the older cars are the biggest polluters. And the more quickly we can get the older cars, particularly the pre-1980 cars, off the road, the greater advance and greater improvement we will make toward cleaning up the air, particularly reducing hydrocarbon emissions.

It is important, however, to provide for a voluntary removal program, and the amendment of the Senator from Delaware does just that. It is to provide transportation control measures that would be appropriate in the nonattainment areas, the ozone nonattainment areas, and would also look toward possible implementation of voluntary, pre-1980 car removal programs.

If nonattainment areas move in that direction, Mr. President, and they are more likely to because of the amendment offered by the Senator from Delaware, then those areas that are the dirtiest areas of the country will move more quickly toward reaching attainment, and therefore clean up their air.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to compliment the distinguished senior Senator from Delaware for his amendment. It goes right to the heart of one of our big problems, which is the older cars that remain on the road. They are the principal emitters.

The statistics the Senator gave are certainly startling, that a pre-1980 car emits as much as eight post-1980 automobiles. I commend him for coming forward with this. I hope it will work out.

I am not sure just what the States can do, but this will encourage them to try to adopt some voluntary incentives to get the pre-1980 automobiles off the road, and I think it is a good idea.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. I want to join in commending the senior Senator from Delaware. As often is the case, he once again has pointed out sometimes it is the simplest things that can get the most done for the least amount of money. It has been brought to my attention that 10 percent of the automobiles on the road produce 50 percent of the emissions.

The Senator is right on target. I am happy to be a cosponsor of his amendment, and I thank him for bringing it to the Senate today.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 1406) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1407 TO AMENDMENT NO. 1293

(Purpose: To require the Administrator to investigate the feasibility of using ethanol and high erucic acid oils as a substitute for diesel fuel)

Mr. SYMMS. Mr. President, I have an amendment which has been approved. I send it to the desk and ask for its immediate consideration.

This amendment, I say to the distinguished Senator from Montana and the distinguished Senator from Rhode Island, would take one of the two germane amendments that I have reserved a slot for, so that would leave me down to only one last amendment that is not already in the agreement.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 1407.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In amendment No. 1293, at the end of title II insert the following new section:

"SEC. . ETHANOL SUBSTITUTE FOR DIESEL.—Within one year after the enactment of this Act, the Administrator shall contract with a laboratory which has done research on alcohol esters of rapeseed oil to evaluate the feasibility, engine performance, emissions, and production capability associated with an alternative to diesel fuel composed of ethanol and high erucic acid rapeseed oil. The Administrator shall submit a report on the results of this research to Congress within three years of the issuance of such contract.

Mr. SYMMS. Mr. President, high erucic acid oil crops, such as rapeseed and crambe, have been shown to be potentially renewable source of a substitute for diesel fuel. This fuel can be extracted and processed into a fuel grade product using very simple technology and relatively inexpensive equipment. Winter rapeseed in the Pacific Northwest has had the best energy budget—4.2 megajoules of harvested liquid fuel for each megajoule

invested in production and processing—and the best engine performance of any oilseed crop evaluated. A simple and efficient method has been developed for converting the basic compounds of rapeseed oil into an alcohol ester and glycerol. Initial engine tests indicate that the alcohol ester of high erucic acid rapeseed oil [AERO] could be directly substituted for diesel fuel in unmodified engines without significantly reducing performance or expected engine life. More importantly for the purposes of this act, however, the expected fuel would also significantly reduce emissions of diesel engines.

Preliminary data on AERO fuel indicates that it could significantly reduce particulate emissions of diesel engines by 70 percent or more. AERO fuel contains only 0.001 percent sulfur by weight, has essentially no aromatics, and has a very high Cetane rating while producing excellent engine performance and durability. The use of AERO fuels as a diesel fuel blend or as a primary diesel fuel substitute in areas with marginal air quality could provide an effective and economical means of achieving our air pollution control goals.

My amendment merely requires the Administrator to conduct some research on the feasibility of AERO fuels to determine whether it might play a role in our Nation's energy and environmental policies in the future.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I have one question I might ask the Senator. I am curious. As I look at the amendment, it says 1 year after enactment, the Administrator shall contract with a laboratory which has done research on the subject. Does the Senator have a particular laboratory in mind?

Mr. SYMMS. There are two laboratories working on this project, and they are running diesel engines now. One is the North Dakota State University, and the other is the University of Idaho. They are already doing it. I think that is a fair question: How much would this cost? I do not think I know specifically how much it would cost. Knowing the way North Dakota State University and the University of Idaho operate, I think that it can be done for a very reasonable amount. The EPA Administrator certainly will not have to spend any more than they think is necessary to achieve the information available. There are some very exciting things that have happened already with this. I think it is something we would be remiss to leave untouched by this bill.

Mr. BAUCUS. If I might further ask the Senator, will this then require a separate appropriation?

Mr. SYMMS. It will only be within the EPA's budget. I will not add extra money for it. They will have to do it within the framework of the Environmental Protection Agency budget.

Mr. BAUCUS. Mr. President, based upon the statements of the Senator from Idaho, I am prepared to accept the amendment. I think it will help solve our air pollution problems in the country if we can find substitutes that make sense, substitutes that do reduce emissions and have reduced emissions consequences. Certainly, the study of grapeseed and similar related oils as a potential substitute for diesel fuel would be a worthwhile effort. I support the amendment.

Mr. SYMMS. I thank the Senator.

Mr. CHAFEE. Mr. President, I think the Senator from Idaho has come up with a good suggestion. It is just the kind of activity we ought to encourage. There may be substitutes out there. Now is the time to try to ascertain whether these substitutes have a real potential, not only as a substitute but also at the same time reducing the sulfur emissions. I commend the Senator from Idaho for a good job and join in the support of this amendment.

Mr. BAUCUS. Might I ask the Senator from Idaho if this is one of the amendments on his list listed as a clean air relevant amendment?

Mr. SYMMS. Yes, it is. So now there is only one left.

The PRESIDING OFFICER (Mr. ADAMS). The question is on agreeing to the amendment.

The amendment (No. 1407) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. HELMS. Will the Senator yield for one moment?

Mr. SIMON. I will be pleased to yield to my colleague from North Carolina.

CHANGE OF VOTE

Mr. HELMS. Mr. President, there was a misunderstanding on the last vote. I believed it to be an up-or-down vote. I am recorded, I believe, in the affirmative; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. I thank the Chair. Since it will not affect the outcome, I ask unanimous consent that my vote be reflected as I would have cast it had I not been misinformed about the fact that it was a tabling motion. So I would vote "no."

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object, I have just been informed by the majority floor staff that they want to consult something or check something out. I do not know any objection at all to the request of the Senator. I feel restrained to ask the Senator if he would withhold his request at this time pending the outcome of the inquiry that is now being undertaken.

Mr. HELMS. Of course, I have no choice but to accede to it, and I will come back.

Mr. BAUCUS. I apologize for the inconvenience to the Senator to have to return again to the floor. I feel constrained at this point.

Mr. HELMS. Let me pose this to the Chair and see if the distinguished manager of the bill is agreeable to it. I ask unanimous consent that unless Senator BAUCUS, representing the majority, registers an objection, that the RECORD will show that I voted in the negative.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, I am informed that inquiries have proved successful, and there will be no objection on this side if the Senator wishes to make his earlier request.

Mr. HELMS. I thank the Senator very much. I thank the Senator from Illinois.

The PRESIDING OFFICER. Without objection, the request of the Senator from North Carolina is agreed to.

(The foregoing tally has been changed to reflect the above order.)

Mr. CHAFEE. Mr. President, while the Senator from North Carolina is on the floor, I wonder if I might ask him one quick question. The Senator has an amendment coming up. At what time will he be presenting that amendment?

Mr. HELMS. Would it be convenient to the managers of the bill, inasmuch as I have two delegations of constituents from North Carolina at 2 o'clock, simultaneously, to say 2:15? Would that work into their plans?

Mr. BAUCUS. To bring up his amendment at 2:15?

Mr. HELMS. Yes.

Mr. CHAFEE. Can I ask a further question? Is this the amendment that deals with CFC's?

Mr. HELMS. Mr. President, let me suggest the absence of a quorum.

Mr. CHAFEE. Mr. President, I do not want to hold up the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. CHAFEE. The Senator from Illinois will only take a very short time, and then I can discuss this privately, if the Senator will be good enough to wait 2 minutes.

Mr. HELMS. I certainly will.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I am pleased the Senator from North Carolina is voting with those of us who

voted in the minority in tabling that previous amendment. I thank him for it.

AMENDMENT NO. 1408 TO AMENDMENT NO. 1293

(Purpose: To require a study for the purpose of issuing certain regulations)

Mr. SIMON. Mr. President, I have an amendment on behalf of myself and Senator DIXON. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. DIXON, proposes an amendment numbered 1408 to amendment No. 1293.

Mr. SIMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 88, line 6, strike out "two" and insert in lieu thereof "three".

On page 88, line 11, after "emissions." insert the following: "The Administrator shall commence such study not later than 60 days after the date of the enactment of this subpart.".

On page 89, line 11, strike out "three" and insert in lieu thereof "two".

Mr. SIMON. Mr. President, the immediate amendment at hand deals with volatile organic compounds, better known as VOC's. The bill says there will be a 2-year study, and over a 7-year period there has to be a 1-percent reduction in VOC's from consumer and commercial products. The head of the EPA has said a 2-year study is very difficult to achieve when you are talking about, some estimates are, 700,000 products.

This amendment simply extends that study to 3 years, both for the industry and for EPA so we can get an adequate study. It does not extend the time period in which there has to be a 1-percent reduction. I believe it is agreed to by both sides. I think it is a good amendment that the Senate should agree to quickly.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the managers on this side examined the amendment and are prepared to accept it. It essentially reduces the study period from 4 to 3 years and changes the year, after which the regulations are promulgated to go into effect from 1 year to 2 years. It is a very important study because it addresses the volatile organic compounds in consumer solvents, a major uncontrolled source.

Frankly, Mr. President, if this country is to, in fact, reach attainment in all the areas around the country not yet in attainment, volatile organic emissions must not only be controlled from large stationary sources and from automobiles, but also from small sources and probably including consumer solvents. It is a very difficult matter to control VOC emissions from consumer solvents. A study will help us find a good solution to that problem because it is a major source that must be dealt with.

Mr. CHAFEE. Mr. President, likewise, on this side, we think it is a good amendment and urge its adoption.

The PRESIDING OFFICER. Is there any further debate? If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1408) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, we are ready now to take other amendments. I see the Senator from Pennsylvania on the floor. I might inquire whether the Senator wishes to proceed with his amendment.

The PRESIDING OFFICER. The Senator from Montana has propounded an inquiry to the Senator from Pennsylvania.

Mr. BAUCUS. Mr. President, I yield the floor.

AMENDMENT NO. 1409 TO AMENDMENT NO. 1293

Mr. SPECTER. Mr. President, I call up amendment No. 1409, which relates to trade secrets and intellectual property rights, an amendment which has been filed, which I have discussed with the managers of the bill and which, as I understand it, is subject to agreement.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposed an amendment numbered 1409.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 242, line 16, strike the period and insert in lieu thereof a comma.

On page 242, before line 17, insert the following: "*Provided, however,* That none of the measures described in subparagraphs (A) through (D) shall compromise any patent or trademark or require the release of any trade secret or other intellectual property right.".

Mr. SPECTER. Mr. President, this amendment states:

Provided, however, That none of the measures described in subparagraphs (A) through (D) shall compromise any patent or trademark or require the release of any trade secret or other intellectual property right.

This is, as can be readily observed, a direct amendment which seeks to ensure that intellectual property rights are protected. This, of course, in no way militates against any of the enforcement provisions in the bill and is entirely consistent with the thrust of the bill to clean the air in a wide variety of forms.

But there is a risk that absent such an amendment there could be a disclosure of trade secrets or intellectual property rights, and the inclusion of this specific amendment would go as far as bill language can to preclude that undesirable consequence.

It is my understanding, as I noted before, that the managers of the bill have examined this amendment and think it is acceptable. So I yield to my distinguished colleague from Montana.

Mr. BAUCUS. Mr. President, this is a very helpful amendment that essentially protects the proprietary interests of companies that would be conforming to the air toxics provisions of the bill as they apply maximum achievable control technology.

I think the amendment will help facilitate the process that major plants and other sources will go through in order to achieve the objectives of the act because under the Senator's amendment, if it is enacted, those sources' proprietary interests would be protected. I would think if sources' proprietary interests are protected, they are more likely to go ahead, working with the permitting authority, whether it is the State or the EPA, to achieve the objectives called for in this act. I compliment the Senator for this refinement. I think it is an improvement, and I urge adoption of the amendment.

Mr. CHAFEE. Mr. President, the Senator from Pennsylvania has come up with a good amendment. Furthermore, it addresses not just the treatment of pollutants but it addresses their reduction. Indeed, it might be termed a pollution prevention measure because these companies could well come up with proprietary developments that could reduce emissions. So I think the Senator has done a fine job. It is a good amendment. I urge its adoption.

Mr. SPECTER. Mr. President, if I may, my distinguished colleague from Pennsylvania, Senator HEINZ, may have filed an intention to offer a similar amendment, so that I would ask that he be listed as an original cosponsor with me.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 1409) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, is there an amendment pending?

The PRESIDING OFFICER. There is an amendment pending.

Mr. HELMS. Would the Chair advise the Senator from North Carolina what it is?

The PRESIDING OFFICER. Amendment No. 1313, the amendment offered by the Senator from Colorado. The Chair has been asking and granting unanimous consent to set aside the pending amendment so that others may be offered.

Mr. HELMS. I thank the Chair. Mr. President, I ask unanimous consent that the pending amendment, if it is satisfactory to the managers of the bill, be set aside temporarily so I might offer an amendment.

The PRESIDING OFFICER. Without objection, the pending amendment will be temporarily set aside so the amendment of the Senator from North Carolina may be offered.

Mr. HELMS. I thank the Chair.

AMENDMENT NO. 1410 TO AMENDMENT NO. 1293

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows.

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1410 to amendment No. 1293.

On page 559, strike lines 3 through 15.

Mr. HELMS. Mr. President, for the information of the Senators who may be listening to the proceedings in their offices, let me read the portion on page 559 that I propose to strike. Beginning with line 3—

(b) The Administrator, in consultation with the Secretary of State, is authorized to support global participation in the Montreal Protocol on Substances that Deplete the Ozone Layer by contributing funds to developing countries that are parties to the Protocol and are operating under Article 5 of such Protocol. Such funding shall be contributed either directly to the recipient country or through appropriate channels established under the Protocol and the use of such funding shall be limited to the support of efforts to comply with the terms of the Protocol.

(c) There are authorized to be appropriated to the Environmental Protection Agency $75,000,000 annually to carry out subsection (b).

Mr. President, when I read that, I got a chronic case of heartburn for several reasons. In the first place; Mr. President, the Founding Fathers carefully designed this Nation to be a principled nation with the clear intent, indeed a mandate, that America would always strive for integrity and honesty. We try to lead the world by example. We do not always succeed, but we try. This provision in title VII of the substitute amendment to the clean air bill appears to contradict those principles.

This provision is in section 521 of the substitute. It authorizes $75 million per year of the American taxpayers' money to be given away to foreign countries in order to entice them to comply with the Montreal protocol.

There is no other way to put it. This has all of the ingredients of an attempted bribery. A word of explanation. The Montreal protocol is an international treaty calling for the phaseout of chemicals, such as CFC's, which deplete the ozone. Fifty-two countries thus far have ratified this treaty.

Now the question is how to help the developing countries comply with the protocol. This bill's answer to that question is to allow EPA to give to these countries $75 million a year, with no guidelines, as to how the money is to be spent. There are no specifications as to what types of projects can be funded. This is, for all intents and purposes, a blank check. To tell you the truth, it sounds like another foreign aid boondoggle. That is the reason I am standing here on the floor of the Senate.

Mr. President, for what will these millions of dollars of the American taxpayers' money be used? Will United States tax funds be used to finance a research project in China that will seek substitutes for CFC's? Will we give them new refrigerators? Will we sock it to the American taxpayers to pay the Chinese to build new plants? Why should we subsidize the industries of foreign countries while we do nothing for our own?

The only limitation on the allocation of the funds is that it must help the developing country comply with the protocol. How vague can you get? EPA can give China $10 million and say, "Here is $10 million, fellas. We do not care what you do with the money, as long as it is somehow related to reducing the use of CFC's."

Mr. President, this $75 million provision is practically a blank check from the United States that clearly smacks of bribery.

As a matter of fact, is it not inappropriate to force U.S. taxpayers to foot the bill to clean up the rest of the world? If assistance is to be offered at all, should it not be done through a tightly controlled program with the entire international community sharing the burden?

I understand that the parties to the Montreal protocol are discussing a plan to set up a United Nation's trust fund to provide technical assistance to the developing countries. Under the plan, all nations that are signatories to the treaty would contribute to the fund. But so far, this is only an idea. The fund does not even exist yet.

So not only is this provision ill-conceived, but it is also premature. We should wait to see how the concept of an international fund develops.

Some may argue that we need to help the developing countries because we would all benefit from a reduction in their use of CFC's. And, no question about it, it is indeed environmentally beneficial to convince other countries to comply with the Montreal protocol.

But the question is: What methods should properly be used to persuade these countries to comply? I am convinced that issuing blank checks that take money out of the American taxpayers' pockets is not an appropriate method.

Mr. President, this authorization of $75 million a year was not in the original clean air bill. I examined the bill and I did not find it. If it was there, it was perhaps tucked away in some other section.

No, Mr. President, I believe this provision was slipped into the Mitchell substitute, by whom I do not know. I doubt that more than five or six Senators know that the Senate is being asked to authorize the spending of $75 million U.S. tax money a year to induce—bribe—developing countries to abide by the Montreal protocol.

All of this causes one to wonder what else is in this substitute that we do not know about.

Mr. President, my amendment is very simple. It deletes the provision that authorizes the giveaway of $75 million U.S. tax money.

In conclusion, I would point out that this amendment is not a deal-buster. Title VII, dealing with ozone depleting substances, was specifically excluded from the compromise embodied in the Mitchell substitute.

Therefore, no Senator is bound by the so-called deal and all Senators can vote their conscience on this one.

I urge adoption of the pending amendment.

Mr. President, I am going to yield the floor now.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 24 minutes remaining.

Mr. HELMS. I thank the Chair.

Mr. DOLE. Mr. President, I rise in strong support for the amendment of the senior Senator from North Carolina.

The amendment strikes an authorization in the amount of $75 million per year for a new foreign aid program related to CFC's.

Mr. President, as my colleagues are aware, some controversy was generated when this Senator proposed that we attempt to find some mechanism to give the President more flexibility in dispensing foreign aid assistance.

Just this year, for example, the Secretary of State has been trying to find just $5 million for Jamaica—a country which has dramatically altered its domestic and foreign policies to conform with requests from the United States. Secretary Baker is also trying to find just $10 million for Bolivia—major source country for coca paste, which is further refined into cocaine and shipped to the United States. Bolivia and Jamaica are trying to help the United States, but we cannot seem to find just $15 million to help them.

In all, the requests for foreign aid for 31 countries have been cut—13 countries have had their requests cut to zero. These countries represent nearly every black African and South American country.

With these facts in mind, we somehow find a new foreign aid program in the clean air bill—a $75 million program. I will not comment on the merit of the proposed program—I think the Foreign Relations Committee should hold a hearing on the matter before we vote on it.

So that my colleagues will be clear on the so-called leadership package and deal breaker amendments, let me briefly review the history of this provision.

This $75 million program was not voted on in committee; it was not considered at any funding level. This $75 million program was not discussed in the leadership negotiations, because it was not in the bill at that point. It turns out that this program was somehow put into the bill after an agreement had been reached—an agreement that did not include this provision—and the time the substitute was filed at the desk.

As the chief sponsor of the substitute with the distinguished majority leader, I was not consulted or advised of this addition to the substitute. Quite frankly, I am at a loss to explain to my colleagues just how this provision became included in the substitute.

I do however know this is no way to do business in the Senate. A lot of Members try to get their $5 million amendment, $10 million amendment, this is $75 million, but we have an agreement. I understand the Senator from North Carolina has been satisfied and the Senator from Rhode Island and the Senator from Montana have agreed to in effect take the amendment, with maybe some modification.

So I commend the managers but it seems to me that there ought to be a unanimous vote for this amendment. It sort of brings integrity back into the process. If the program has merit, let the committee of jurisdiction, the Committee on Foreign Relations, so determine and report it to the Senate. As far as I can determine, it had absolutely no business in the bill before us. So I am pleased to join the Senator from North Carolina in supporting his amendment.

The PRESIDING OFFICER. Who yields time?

Under the unanimous-consent agreement, there is a 1-hour time limit on each amendment, and one-half hour is allocated to the proponents of the amendment, and one-half hour to either of the two managers who indicate they are in opposition of the amendment.

Mr. CHAFEE. Mr. President, I will put in a quorum call now, and ask that the time be equally divided. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. First of all, Mr. President, three Senators have already asked to be identified as cosponsors of this amendment: the distinguished Senator from Mississippi, Mr. LOTT; the distinguished Senators from Idaho, Mr. SYMMS and Mr. MCCLURE. I ask unanimous consent they be made original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Perhaps we can work out some modification on this, Mr. President.

I suggest the absence of a quorum with time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate as if in morning business for 5 minutes.

Mr. HELMS. Mr. President, before the Senator does that, if he will yield to me just a moment, the pending amendment is my amendment on which the time is running. Mr. President, I ask unanimous consent that the time on both sides of the amendment cease to run at this point in view of the fact that I believe we will reach a compromise, and this has been cleared on the other side.

The PRESIDING OFFICER. Is there objection to that arrangement?

Is the Senator inquiring for just the 5 minutes requested by the Senator from Arizona or is he requesting that the time not run any further?

Mr. HELMS. The time not run any further until the managers of the bill and the Senator from North Carolina is on the floor to resume the debate.

The PRESIDING OFFICER. The Chair is prepared to recognize the Senator from Arizona pursuant to his request and when the managers return the Senator will renew his request and the Chair will rule on it.

Mr. HELMS. I believe the Chair misunderstood. This is cleared on both side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina that the time on the quorum call no longer run against both sides?

Hearing no objection, it is so ordered that it will not run.

Mr. HELMS. I thank the Chair and I thank the Senator from Arizona.

The PRESIDING OFFICER. Without objection, the Senator from Arizona is recognized for 5 minutes to proceed as if in morning business.

Mr. McCAIN. Mr. President, may I revise that request to address the Senate for 8 minutes as if in morning business?

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for 8 minutes.

NUCLEAR PROLIFERATION IN IRAQ

Mr. McCAIN. Mr. President, today we have had another grim warning that the process of proliferation is now outpacing our faltering efforts at arms control. We have heard reports that United States and British officials have intercepted a shipment of nuclear detonators to Iraq.

We have heard reports that they have found yet further proof that behind the supposed shield provided by the Nuclear Proliferation Treaty, the treaties and conventions affecting chemical and biological weapons, and the missile technology control regime, lurks the reality of a new global arms race.

The details of these reports have yet to be confirmed, but we cannot say we have not been warned. In fact, we cannot say we have not had warning for years.

Iraq used its first long-range Frog rockets against Iran in 1980—almost a decade ago. Israel was forced to launch its air raid against the Iraqi

nuclear complex in Osirak on June 7, 1981.

Iraq began the large scale use of chemical weapons against Iran no later than 1984. Iraq began a "war of the cities" against Iran in 1986 that escalated to major air and missile strikes in 1987 and 1988. Iraq conducted massive chemical attacks against Iranian troops in 1988. It seems to have conducted chemical attacks against its own Kurdish citizens in 1989.

Since that time, Iraq has developed improved missiles with ranges up to 1,500 miles and missile boosters with ranges approaching those of ICBM's. It has embarked in the massive production of chemical weapons. It has developed advanced biological agents and may have deployed them. It has also clearly embarked on a nuclear weapons program.

Iraq, however, is only 1 of 10 to 20 nations moving toward the acquisition and/or deployment of weapons of mass destruction. As Judge Webster, the Director of the CIA, has repeatedly testified to both Houses of Congress, Iraq is not the problem. The problem is that our present methods of arms control simply are not adequate to the task.

As just one example, let me mention North Korea. North Korea now seems virtually certain to have a nuclear weapon at some point in the 1990's. India, and Pakistan may already be significant nuclear powers. Iran has chemical weapons and long-range missiles of its own, and still has some elements of the nuclear weapons program begun under the Shah. Argentina and Brazil have at least low-level nuclear weapons programs and are working on long-range missiles.

I cannot provide a full list of nations working on chemical and biological weapons, missiles, and refuelable long-range strike aircraft for security reasons. It is painfully clear, however, that this list includes radical nations like Libya, as well as more prudent states like Syria. Many of the states are not great friends of the United States, and even if they are, how can we call any nation a friend if it moves toward the use of such weapons.

Mr. President, I feel the message is clear. We have strong bills pending to deal with chemical proliferation and the proliferation of long-range missiles. However, these bills are effectively hung up in jurisdictional battles and arguments over whether we should take strong measures. They are blocked by Red Herrings about trade barriers and extraterritoriality.

The net impact is that we have celebrated the anniversary of the massacre at Halabjah by doing nothing. Further, we have not begun to take serious legislative action to deal with the fact that the Nuclear Proliferation Treaty is beginning to leak badly at the seams, and biological warfare is becoming a major threat to peace.

Mr. President, I leave it to the conscience of my colleagues. Do we need more massacres? Do we need to see such weapons used against our friends or our troops? Do we need to wait until our usual debates over millions of dollars are disturbed by debates over megadeaths, which may occur in the most horrible fashion?

I suggest we need to establish a clear deadline in our own minds: We need strong action on chemical weapons and missiles—with or without the support of the administration—no later than this fall. We need hearings and draft legislation on nuclear and biological proliferation no later than this fall. Above all, we need to understand that sanctions and public exposure may well save millions and millions of lives, and that compromise and inaction will not.

Mr. President, events just revealed this morning are of the most profound and serious consequences. We must act—hopefully with the support of the administration—but we must act. If we do not, we may see the specter of the most horrible deaths inflicted on mankind since 1945 become a grim reality.

I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. The Senator has yielded the floor.

Who yields time?

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

Mr. DOLE. Mr. President, I just left the majority leader. Also, when I returned—I understand the hold posed earlier on committee hearings has been removed, so all committees are free to meet.

The PRESIDING OFFICER. The Chair is not aware of that.

Mr. DOLE. I am just informing the Chair at this very moment. We have informed the Democratic side. I know the majority leader was very concerned that we get word to him.

Mr. President, was leaders' time reserved this morning?

The PRESIDING OFFICER. Leaders' time was reserved.

JAMES ATHERTON—DISTINGUISHED CAREER IN PHOTOJOURNALISM

Mr. DOLE. Mr. President, one of the true professionals of the Capitol Hill press corps is heading for a well-deserved retirement, and I would like to salute him as he calls it a career.

I am talking about Jim Atherton, long-time Washington photographer, who spent 20 years with United Press and then another 20 with the Washington Post.

Jim has seen it all—and he has photographed it all, too: From space shots to gun shots, from committee hearings to demonstrations, from House Speaker to Senate majority leader, every President from Truman to Bush.

Jim is well-known and respected; no doubt about it, the hallways will not be the same without him. In retirement, we may not recognize him without all those cameras hanging around his neck, but we will instantly recognize the years of excellent photographs he has left for all of us to see.

It is a tough beat up here, with schedules and news events changing almost minute to minute. But Jim always knew where the news was, and he was always there to snap it.

I know my colleagues join me in wishing Jim well in his retirement.

HONORING FLETCHER REYNOLDS

Mr. DOLE. Mr. President, Fletcher Reynolds, a young man of 21 who lives in Paola, KS, has captured my admiration and respect, and I want to take this opportunity to recognize the battles he has fought in reaching his personal goals.

When Fletch was born, the doctors told his mother, Tina Murphy, that he was severely retarded and had to be institutionalized. But Tina refused and sought out alternative programs for him—she was determined to defy the prediction of a gloomy future.

Early on, he entered a program for speech therapy. Shortly, it was discovered that he had congenital cataracts and was completely blind in one eye. Then he began to have seizures.

LAKEMARY CENTER

At the age of 3½, Fletch entered Lakemary Center in Paola where he remained through the fifth grade. I recall dedicating the Lakemary Center in 1970, a complex that today includes an administration building, a school, residences for children, job training and placement, and scattered homes for adults in the Paola and Olathe communities.

Under the guidance of Dr. Patrice Schmitz, president, the Ursuline Sisters, have developed a highly respected program to improve the quality of life for disabled individuals, making them productive members of society who aim to live independently, perform community employment, and pay for their own needs.

HIGH SCHOOL GRADUATE

Fletch made remarkable progress and, from fifth grade on, continued his

education in a special program in the Paola public schools. Again, he was fortunate to have good teachers, good programs, good friends, and a caring family. He was ultimately mainstreamed in some classes and graduated from Gardner-Edgerton High School.

WHIZ KID OF TASTY FROZEN

Under the job training and placement program at Lakemary headed by Sister Carleen Richards, Fletch thrived, according to his mother. He developed job skills and learned to take care of his personal needs. In his first job at the Tasty Frozen Plant in Lenexa, KS, he was known as the whiz kid of Tasty Frozen, setting a record for the number of bread rolls twisted per minute.

Subsequently, Fletch was hired and trained by the Dillon stores where he now works as a grocery sacker 30 hours per week.

FROM 1 TO 1 MILLION

Fletch thrives on challenges, as he graphically demonstrated recently, when he completed a 2½-year project which involved writing each number from 1 to 1 million in sequential order. In a contest instigated by his 19-year-old brother, Chris, he filled 18 notebooks with this list of numbers. Fletch has once more shown his determination to set goals and meet them.

GOALS ARE THE KEY

Again and again, we see examples of goals being set and successes achieved. Fletch is determined to be a productive worker and live independently. His mother was determined to find programs which would challenge and encourage every bit of her son's potential. The Ursuline Sisters were determined to establish a center for the disabled. Many caring teachers were determined to give Fletch all that they could.

And, now, citizens from throughout the Nation—as demonstrated during a recent gathering on the steps of the U.S. Capitol—are determined to see the Americans With Disabilities Act passed and signed into law.

FLETCH LEADS THE WAY

Fletch has set an example for all of us. Reaching 1 million represents a true achievement and reminds us that disabled Americans are leaders in spelling out the steps to success.

I salute Fletcher Reynolds and add my personal best wishes for continued progress and good luck in reaching new goals. He has my applause and encouragement.

We are now trying to see if we cannot get the "Guinness Book of Records" to recognize this as some world record and recognize what this man has done.

Mr. President, I reserve the remainder of my time.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. CHAFEE. Mr. President, here is the situation. We are waiting now for the senior Senator from North Carolina to come forward with an amendment which is actually before us. He will modify that amendment. That amendment will then be acceptable to the managers of the bill. That all ought to be completed by 2:30, or close thereto. We are then open for business. We are open for amendments that can be accepted; we are open for amendments that require votes. We are here to do business.

I know there is a whole list of amendments that have not been considered yet, either accepted or voted upon. Here is an excellent chance for anybody who has an amendment to come forward. The clock is running, and the managers are ready to do business.

Mr. President, I urge those who are listening to come on over and let us consider their amendments. We have no votes scheduled. We have nothing before us except the Helms amendment which, as I indicated before, has been agreed to and will be disposed of around 2:30 or perhaps 2:35. I want to thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the pending business is the Helms amendment?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 18 minutes 40 seconds.

AMENDMENT NO. 1410, AS MODIFIED

Mr. HELMS. Mr. President, we have achieved remarkable unanimity on this question.

I have agreed not to request a rollcall vote on my amendment because the modification that we have worked out is exceedingly satisfactory. I send that modification to the desk and for the purposes of the RECORD I ask the clerk to state it.

The PRESIDING OFFICER. The clerk will read the modification.

The assistant legislative clerk read as follows:

On page 559, line 6, strike "by contributing funds to" and insert in lieu thereof "and to assist";

On page 559, line 8, strike "Such funding" and the text following through line 15.

Mr. HELMS. Mr. President, I ask the clerk and the Chair to follow me and advise if my understanding of the provision as modified will read as follows:

Line 3, page 559, "(b) The Administrator, in consultation with the Secretary of State, is authorized to support global participation in the Montreal Protocol on Substances That Deplete the Ozone Layer and to assist developing countries that are parties to the protocol and are operating under article 5 of such protocol."

And beginning on line 8, strike "Such funding" and all the rest of the text down through and including line 15. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

I have no objection to the modification. As a matter of fact, I welcome it. I thank the managers of the bill.

Mr. BAUCUS. Mr. President, we have discussed this amendment offered by the Senator from North Carolina, as well as the modification. Essentially, as a result of the amendment and the modification, the substitute bill still will provide that the President undertake to enter into international agreements to foster cooperative research and also that the Administrator of the EPA in consultation with the Secretary of State is authorized to support global participation in the Montreal Protocol dealing essentially with CFC's, and to also work with and to assist developing countries party to the protocol. But the committee substitute would no longer contain the references to the $75 million to be authorized, that otherwise were to be authorized, and with deletion of the funding but yet with the continued participation of the U.S. Government in working with other countries to support global cooperative agreements, I accept the amendment offered by the Senator from North Carolina.

Mr. CHAFEE. Mr. President, I thank the Senator from North Carolina for his cooperation. I think it is a good result and certainly this side supports the amendment as modified by the Senator and urges its adoption.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HELMS. Mr. President, I have just been advised the administration would like its position printed in the RECORD.

I ask unanimous consent that a letter dated March 28, 1990, from Roger B. Porter, Presidential assistant for economic and domestic policy, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, March 28, 1990.

Hon. ROBERT DOLE,
Republican Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: Page 558 and 559 of the Substitute Amendment to S. 1630, the Clean Air Act Amendments of 1990, contains an authorization of $75 million per year for contributions to be made by the Administrator of the Environmental Protection Agency of funds to developing countries who are parties to the Montreal Protocol.

The Administration did not request this authorization, nor does it support its inclusion in the Clean Air Act legislation.

Warmest regards,

ROGER B. PORTER,
Assistant to the President, for Economic and Domestic Policy.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the amendment, as modified.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BAUCUS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified.

The amendment (No. 1410), as modified, was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

AMENDMENT NO. 1313 TO AMENDMENT NO. 1293

Mr. BAUCUS. Mr. President, I call for regular order on amendment No. 1313.

The PRESIDING OFFICER. It is not required. It is presently pending.

Mr. BAUCUS. I thank the Chair.

Mr. President, the Chair advises the Senate that amendment No. 1313, an amendment by the Senators from Colorado [Mr. WIRTH and Mr. ARMSTRONG] is the pending business. That amendment essentially asks each Federal agency in consultation with local health and air pollution control authorities that lie within a nonattainment area to determine whether the implementation of an alternative work schedule plan—that is, a flex plan—would help reduce air pollution within that nonattainment area.

This amendment has been cleared, Mr. President, by the Governmental Affairs Committee which otherwise would have jurisdiction over this. I think that the purpose of the amendment is a good one; that is, to encourage flexible work schedules for agencies in order to reduce spikes in compounds, carbon dioxide, or other pollutants that we are trying to control. I urge adoption of the amendment.

The Senators from Colorado [Mr. WIRTH and Mr. ARMSTRONG] advise the managers that they would like this amendment called up and agreed to.

Mr. CHAFEE. Mr. President, I ask if the amendment we are on reads, in the first line, "The head of each Federal agency may in consultation with the local health * * * ." Am I correct that the word "may" is substituted for "shall"?

The PRESIDING OFFICER. That change has not been made.

Mr. BAUCUS. Mr. President, it is my understanding that that change is the change that all parties agree should be made.

Mr. President, I ask that the amendment be so modified so that the word "shall" be stricken, and in place of that word "may" be written in the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1313), as modified, is as follows:

On page 46, add a new subsection 174(d), after line 5, as follows:

"(1) The head of each Federal agency may, in consultation with local health or air pollution control authorities within a nonattainment area, determine whether the implementation of an alternative work schedule plan for such agency in accordance with the provisions of paragraph (2) will reduce air pollution within such nonattainment area.

(2) If there is a determination under paragraph (1) that an alternative work schedule plan would reduce air pollution within a nonattainment area without jeopardizing the mission of the agency or hindering its service to the public, such head of the agency shall—

(1) implement an alternative work schedule plan in accordance with the provisions of subchapter II of Chapter 61 of title 5, United States Code, for employees of such agency within such area; and

(2) to the greatest degree practicable, include employees within such area performing services pursuant to a contract with such agency in a similar alternative work schedule to coordinate and maximize the reduction of such air pollution."

Mr. CHAFEE. Mr. President, if I am correct, it now reads "The head of each Federal agency may in consultation with the local * * *"? Am I correct?

The PRESIDING OFFICER. That is correct.

Mr. BAUCUS. Mr. President, I think there is one other modification that we must make; that is, on the line preceding the line just read by the Senator from Rhode Island, the line should read, "On page 46, add a new subsection 174(d), after line five, as follows."

The PRESIDING OFFICER. That change has previously been made.

Mr. BAUCUS. I thank the Chair.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 1313) as modified, was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment as modified, was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent to be able to proceed as if in morning business for a period not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SAVINGS AND LOAN CRISIS

Mr. KERREY. Mr. President, I rise again to call my colleagues' attention to what I consider a growing problem for the Nation, and that is the deterioration of the Nation's savings and loans and the costs to the people of the United States.

I have introduced, along with a number of other of my colleagues, a bill that would attempt to make a change in the FIRREA legislation to give us more accountability, as well as to enable us to dispose of the assets and to minimize the costs to the taxpayers.

An argument that has been made that says there was so much political influence that now we have to depoliticize this whole process. I believe we have followed that argument too much. We have permitted that argument to dominate this debate too much.

As a consequence, we have created an organization that has almost no accountability at all. As a consequence of that lack of accountability, they are struggling to make decisions.

I would make the case that political influence did not cause the problems we had at the savings and loans, or if they did, it was principally at the margin. The No. 1 problem was the

regulators themselves were unable to make the decisions, were unable to indicate to the public officials the severity of the problem—at least not able to indicate it with enough urgency that the Congress and the executive branch were confused enough that they waited and delayed so long that the action when it was taken was extremely expensive.

What we have done with the creation of the new entity, I think, is we have created not only confusing overlapping lines of authority but we have also made it exceedingly difficult to make decisions and as a consequence, we are ending up with additional costs to the taxpayers. Mr. President, we are struggling to dispose of this problem and get it behind us.

Let me just review how this thing is organized so my colleagues can get a sense of the difficulty these organizations are going to have. First of all we have created a board that has oversight, the Resolution Trust Corporation Oversight Board. Remember that we have placed a lot of responsibility in this Board's hands. Not only does it currently have to operate approximately 400 seized savings institutions, but it also has to consider that there may be as many as 1,000 and more institutions, a large portion of all the savings and loan assets in this Nation, to be taken over by the RTC. The potential result being that it may become the world's largest financial institution.

This board, though it is not making day-to-day policy decisions, has the principal responsibility and authority for oversight. On this board we have the Secretary of the Treasury, the very able and competent Secretary Brady. We have the head of the Department of Housing and Urban Development, as well as, the Chairman of the Federal Reserve. And we have an appointee, Bill Taylor, as acting President, and currently, unfortunately, we still have two private sector seats that are vacant.

Essentially we have Secretary Brady as Chair, Secretary of Housing and Urban Development, Secretary Kemp, and Alan Greenspan being the three individuals appointed to have the responsibility for overall oversight.

I just argue that they already have enough on their plate without having the responsibility for what will likely be the world's largest corporation in terms of assets.

Then we have the Office of Thrift Supervision. This organization has the responsibility for determining when and if, and under what circumstances, to seize an insolvent savings and loan. To date, some 400 have been seized. They have a substantial number on their target list.

I point out to my colleagues, if they doubt that this is of concern to the taxpayers, that of these 485 institutions that have been taken over or are targets, they had $3.9 billion of nonoperating losses and $2.6 billion of operating losses just in the fourth quarter of 1989.

Mr. President, you have been working and trying to draw our attention to the need to do something about the deficit and the need to bring the rising borrowing of this Nation under control. The taxpayers went on the line in the fourth quarter for $2.6 billion of operating losses and another $3.9 billion of non-operating losses. That was taxpayers' money that is paying for those operating losses for the 485 institutions that have currently been taken over.

Ominous news was presented to the House Banking Committee this past week that indicates that another 581 institutions on top of the already targeted 485 are in trouble and have not been taken over yet, but there was $1.3 billion in losses in those 585 institutions in the fourth quarter of last year.

It is a growing problem, Mr. President, and I just suggest that we have organized this thing in a fashion that makes it awfully difficult for us to make decisions that will benefit the taxpayers.

I, in fact, believe that we need more accountability in the RTC. We should give the President the authority to appoint a single Board, with a strong chair, with the responsibility for making decisions, with the responsibility for coming to the Congress and saying, here are the policy changes that have to be made, so the policy changes can be made quickly—all done in an atmosphere of trust.

Of all things that President Bush has done since he has been elected, he has been criticized by many people for doing lots of things wrong. The one thing I have heard very few criticize the President for, for which I believe he has received a considerable amount of praise, is his extraordinary capacity, given the time required and responsibilities of it, to bring good people into Government. We need somebody with the credibility of an Admiral Watkins, with the established trust that a Bill Reilly has, in order for us to be able to work this thing out.

We have seen, in the last couple of days, the appointment of Timothy Ryan as a consequence of a lawsuit that I think will stir controversy again. It will also raise questions as to whether or not this organization is going to work.

Mr. President, I ask unanimous consent to have two articles printed in the RECORD at this point, one dealing with a mistake we have apparently made in Congress, as to whether or not to require a confirmation of the appointment of the individual to head the TS, and another article indicating a considerable amount of difficulty that I believe we are going to have, Mr. President, in getting an appointee to head that organization.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 28, 1990]

THRIFT NOMINEE STIRS STRONG OPINIONS ON HILL

(By Frank Swoboda)

It's hard to find anyone who's neutral about Timothy Ryan, the man picked by President Bush to lead the nation out of the $164 billion savings and loan morass.

To his fans, the 44-year-old Washington lawyer is a tough, hard-nosed regulator who proved himself as solicitor of labor during the early years of the Reagan administration, a man who helped clean up corruption in the Teamster pension funds and defended affirmative action in government contracting against the on-slaught of the Justice Department.

A different picture emerges from Ryan's critics, who include several of his political peers. To them, Ryan is a man too willing to use his government and Republican connections for his own personal gain.

As Ryan goes before the Senate Banking Committee today for hearings on his nomination as director of the Office of Thrift Supervision—the nation's chief savings and loan regulator—the only real agreement over his qualifications seems to be his reputation as a "team player."

But even that role troubles some of Ryan's critics. "When he's playing for the team, he's also playing for himself," said a former Republican political appointee who asked not to be identified. He said he knew of nothing illegal that Ryan had ever done but was concerned about several incidents that he said at least raised the appearance of conflict.

As an example, he questioned Ryan's role as an outside counsel for the Pension Benefit Guarantee Corp, after he left the Labor Department. After a partner from Ryan's law firm, Reed, Smith, Shaw and McClay, was hired as general counsel of the PBGC, the source said, Reed Smith was hired by the pension agency to handle the pension aspects of the International Harvester bankruptcy case. The partner, Ed Mackiewicz, later left the government and returned to Reed Smith. Mackiewicz has since left the firm again to serve on the pension fund of the Masters, Mates and Pilots union.

In another case, after serving as a chief regulator in a successful effort to clean up corruption in the $10 billion Central States Pension Fund of the Teamsters, Ryan left government and became directly involved in the regulatory process he had helped set up.

Shortly after former U.S. senator William Saxbe (R-Ohio) was picked by the Reagan administration to serve as special counsel to oversee the Teamster cleanup, he resigned from his law firm and joined Reed Smith, where Ryan became counsel to Saxbe.

Legal fees from the two governmental pension cases earned Ryan's law firm hundreds of thousands of dollars, according to sources familiar with the cases. The firm will not disclose its fee.

Until he appears before the banking committee, Ryan will not comment on the two pension cases. But sources close to him defend his actions.

In the case of the PBGC, they said, Mackiewicz did not become general counsel of the

agency until after the work had been awarded to Reed Smith.

They also said that Saxbe's decision to join Ryan's law firm after getting the Teamster assignment was coincidental. Sources said Saxbe told Ryan's law partners he was not getting along with the people in his old firm and wanted to make a change. They said Ryan barely knew Saxbe at the time.

Former Labor Department officials tell of another incident that they see as a sign of Ryan's insensitivity to the conflict of interest question. In the mid-1980's, Ryan agreed to serve as a member of the Employee Retirement Income Security Act Advisory Council within the department. The group advises the secretary of labor on pension issues involving federal pension law.

While serving as a member of a council task force on employee stock option plans (ESOPs), Ryan also served as counsel to the ESOP Association in Washington. When the Labor Department discovered this, officials told him to either leave the advisory group or give up his job with the association. He left the advisory group under protest.

Former Labor Department officials said they offered Ryan the choice after learning of his association role from an insurance industry publication.

Sources close to Ryan tell a different story. They said Ryan had received an earlier ruling from the ethics officer of the solicitor's office saying that in the event of a conflict he would simply have to recuse himself from whatever issue the council was involved in. At the time he raised the question he did not hold the job with the association, they said.

His reputation as a team player also appears to have won Ryan few friends among civil servants during his days as a solicitor of labor, where he was part of the inner circle of then-labor secretary Raymond Donovan.

"As part of that group," said a former Reagan appointee at the department, Ryan's job was to "reduce the size of the department and shake things up." He said that while critics attack Ryan for not enforcing departmental laws and regulations, "that whole period of the Reagan era didn't take enforcement seriously."

Ryan's supporters cite his work in cleaning up the Teamster pension fund as ideal preparation for handling the savings and loan crisis.

Former Treasury undersecretary George Gould, who also serves as a consultant with Ryan on the Central States fund, describes Ryan as a leader who quickly grasps complicated issues.

But Gould said the White House selection of Ryan, who has no experience in banking, is "an interesting choice, off the beaten track."

Ryan also wins high praise for his work in the Central States case from Marty Steinberg, the former chief counsel of the Senate subcommittee on permanent Investigations. Steinberg, who is now in private law practice, describes Ryan as "decisive, practical and tough-minded."

In a letter to Sen. Sam Nunn (D-Ga.), his former boss on the committee, Steinberg said Ryan had the "strong leadership and extraordinary judgment and wisdom" needed for the S&L job.

[From the Wall Street Journal, Mar. 28, 1990]

CONGRESS LEARNS THAT EVEN THRIFTS HAVE CONSTITUTIONAL RIGHTS

(By L. Gordon Crovitz)

About 200 years ago a lawyer complained that boneheaded financial laws meant "creditors had been ruined, or in a very extensive degree much injured, confidence in pecuniary transactions had been destroyed, and the springs of modern industry had been proportionately relaxed." That lawyer, Alexander Hamilton, helped write a Constitution that would protect private property rights as one of the most effective ways of limiting the mischief politicians could do to markets.

The Constitution couldn't prevent the savings-and-loan crisis, but constitutional litigation will keep thrift lawyers occupied for years. One thrift already stunned Washington by winning a judicial delcaration that there has never been a lawful director of the Office of Thrift Supervision—the agency Congress created to take over hundreds of thrifts at a cost of billions of bailout dollars. The infamous five senators who befriended thrift operator Charles Keating feared any nomination hearings for Danny Wall. He knew too much. They ignored the constitutional requirement that the president nominate and the Senate advise and consent by slipping Mr. Wall into the job without Senate confirmation. The agency still has no clearly lawful head, which is causing delay and confusion.

It's Thrifts 1, Congress 0 so far, but expect a rout. Congress' next shock could come from lawsuits filed by several thrifts that have a good case that they were the bamboozled and not the bamboozlers.

These thrifts say that Congress did them wrong by forcing federal regulators to renege on negotiated deals. These deals were agreements aimed at saving thrifts without requiring any taxpayer bailout. The thrifts make the good argument that by breaking federal contracts, Congress violated their property rights. No one loves a thrift these days, but try this quiz: What's worse than taxpayers having to bail out a failed thrift? Having to bail out a salvageable thrift and then paying again to compensate thrift owners for the expropriation of their property.

Consider the experience of David Nierenberg, a venture capitalist with Trinity Ventures of San Mateo, Calif. He invested in a Portland thrift, Far West Federal, in exchange for a government pledge to give managers time to turn the thrift around. Now Mr. Nierenberg coudl lose his investment because he made a serious mistake. He trusted the government.

By the mid-1980s, Far West had losses of more than $30 million and books full of dubious holdings such as Arizona real estate and a foreclosed 300-acre resort. By 1987, bailing out the thrift would have cost taxpayers some $300 million. So the Federal Home Loan Bank of Seattle urged the thrift to find private investors. Enter Mr. Nierenberg and his partners, who agreed to invest $27 million in Far West if regulators agreed to a 10-year recovery plan.

The Federal Home Loan Bank Board was delighted. In 1987, it modified capital requirements, offered credit for an arbitrage system and agreed to an accounting arrangement that would threat the credit as an intangible asset for regulatory accounting purposes. Far West promised to keep capital reserves at the level fixed by federal regulators, who pledged that the agreement would set the amount of capital the thrift must hold "notwithstanding any subsequent changes in the definition of regulatory capital." Far West liquidated bad assets and earned small profits.

Then last year Congress passed the thrift-bailout bill, called the Financial Institutions Reform, Recovery and Enforcement Act. One effect of this complex legislation was that it canceled all forbearance agreements of the kind regulators had signed with Far West. The thrift now faces possible seizure, with the investors possibly losing all of their investment.

"Nobody objects to the right of a party to a contract to modify or even break a contract," Mr. Nierenberg says. "What I do find objectionable is that the government has been acting as if we made a $27 million contribution to the federal deficit, that it can violate a contract with impunity in a manner that you or I never could as citizens."

The Bank Board also solicited deals it's now been forced by the thrift bill to tear up with Long Island Savings Bank and Northeast Savings of Hartford. Northeast agreed to a "supervisory merger" with three indebted thrifts in 1982. In exchange, the government allowed it to record as capital for regulatory purposes the intangible asset of good will—"supervisory good will." This covered the amount of the three bad thrifts' negative worth of $290 million.

Northeast clearly wouldn't have agreed to the mergers without relying on these now-prohibited forbearances from regulators. Northeast dismisses the government's argument against its claims as saying, "They are not liable to Northeast because they are the government and Northeast is the governed. *L'etat, c'est moi.*"

In additional to classic contract breach, the thrifts cite violations of the Takings and Due Process Clauses of the Fifth Amendment. They can certainly point to property they lost because of the thrift bill. They can also invoke the Contracts Clause, which says that states may not impair the "obligation of contracts" (courts have held that similar considerations apply to the federal government). Interestingly, this clause was originally inserted in the Constitution partly because the states had passed "stay laws," which interfered with debts by simply announcing that debtors had to pay only a fraction of the face value. Bankers have never been popular with politicians.

The Supreme Court gives Congress some room to pass laws that do violate property rights. Under the current Supreme Court view, for example, thrifts probably can't sue Congress despite the law forcing them to dump their junk bonds. It's different, however, when the government has bound itself by contract, as it seems to have done with these thrifts. "It is very well to say that those who deal with the government should turn square corners," Supreme Court Justice Robert Jackson wrote in a 1947 case. "But there is no reason why the square corners should constitute a one-way street.

It usually doesn't matter much that the government is a lousy contract partner. But the thrift bailout has now delivered massive real-estate and junk-bond portfolios into the government's hands. Delays already show that denationalizing thse assets is going to require changes in the way government does business, starting with some realization that even the government is obliged to stick to its agreements. Until then, as Mr. Nierenberg says, it's no wonder that "the govern-

ment is giving an auction and nobody's coming."

Mr. KERREY. I close by suggesting that if this problem dissolves, we have not shifted the responsibility or the authority away from us as a Congress simply by passing the legislation. Not for long are we going to be able to point and say that that is a mistake somebody in a bureaucracy over there made. Not for long are we going to be able to put off the rising tide of complaints we are receiving at home from people that have knowledge of whether or not this thing is working. We are not going to be able to put those individuals off and say, gee, if we just give it a few more months, maybe it will work out.

We passed this legislation, Mr. President. It is our responsibility. And there is growing evidence that it is not working. I hope my colleagues will give consideration either to the bill I put in or to another piece of legislation that will enable us to improve, one, the accountability, and second, the speed with which decisions were made.

With that, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I wish to reflect with you today upon a statement made by a major foreign leader in late 1988 at the United Nations. This widely heralded statesman said, "Freedom of choice is a universal principle which allows no exceptions."

The man who made this laudable declaration was Mikhail Gorbachev. I wish to take a few minutes to reflect on the implications this statement carries for the current crisis in Lithuania. Stalin's violation of the principle of freedom of choice led to the incorporation of Lithuania into the Soviet Union in 1940. Mr. Gorbachev's violation of that same principle is causing the crisis today. While his Government has denounced the pact between Hitler and Stalin back in 1939 that placed the Baltic Republics within the Soviet sphere of influence, Mr. Gorbachev continues to claim that these countries freely chose to join the Soviet Union.

The facts contradict his claims. On September 26, 1939, the Soviets insisted under a threat of force that Lithuania negotiate a "mutual assistance pact" which when concluded, allowed the Soviet Union to station military units within Lithuania.

On June 14, 1940, after knowingly propagating false accusations about the kidnaping of several Soviet soldiers stationed in Lithuania, the Soviets presented an ultimatum: "Permit free entry of a major Soviet military contingent or face a forcible intervention." Under threat of invasion, the Lithuanian parliament chose occupation over annihilation.

On June 17, 1940, after Soviet forces flooded into the country, the Soviets imposed a puppet People's Government on that country. It then called for new election but permitted on the ballot only candidates selected by the Lithuanian Communist Party.

On July 2, 1940, Soviet Foreign Minister Molotov summoned his Lithuanian counterpart and told him, "Lithuania, along with the other Baltic States, will have to join the glorious family of the Soviet Union."

On July 21, 1940, the new fraudulently elected Lithuanian parliament convened and took only 1 hour and 3 minutes to adopt a resolution imposing a Soviet-style government on the country. The next resolution—the passage of which was slightly delayed because the text from Moscow had to be translated from Russian into Lithuanian—petitioned the Kremlin to allow Lithuania to join the Soviet Union.

That was not freedom of choice. It was a choice imposed upon—and resisted by—the Lithuanian people. After World War II, Lithuanians waged a fierce war of resistance for 7 years. More than 30,000 Lithuanian freedom fighters were killed. In addition, the NKVD deported 350,000 Lithuanians, suspected of participating in or supporting the resistance, to isolated regions in Siberia. I might add there many of them perished.

I am certain that Mr. Gorbachev knows this history. He knows that when the new freely elected Lithuanian Government declared its independence its leaders were simply vindicating their national right of self-determination. He also knows that they did so in accordance with the Soviet Constitution, which permits the secession of individual republics. Yet in his actions he seeks yet again to deprive the Lithuanians of their freedom of choice. He appears to endorse freedom of choice only when he approves of the outcome in advance.

In our response to the crisis, we must seek to hold Mr. Gorbachev to the true meaning of his words at the United Nations. I do not want to diminish what Mr. Gorbachev has done in the Soviet Union. Glasnost has eased the restrictions on freedom of expression, and his political reforms have given for the first time a measure of political power to the people, though his reforms fall well short of establishing a genuine democracy. But we must make it clear that if he wants to join the community of nations, he must base his Government on consent, not coercion. In a multinational state like the Soviet Union, that requires the devolution of power to the Republics, which in some cases will inevitably foster movements for independence.

As Mr. Gorbachev once said, freedom of choice is a universal principle. And as his statement implied, an exception should not be allowed in the case of Lithuania.

Mr. President, the Lithuanian people are courageous people. They are courageous for what they have done in standing up to the Soviet Union and some of its leaders. I am hoping that Mr. Gorbachev will recognize that and will not permit what might happen over there, discord to occur between the 15 percent of the Lithuanian populace who are Soviet people who have colonized within Lithuania, in conflict with the rest of the Lithuanians because there are conflicts there. I hope he will prevent that rising into a serious disturbance which then will have to be quelled by what they call peaceable means. That could happen.

If a major demonstration is generated against independence, that could happen. The ethnic Russian minority in Lithuania which as I said comprises about 15 percent of the population and which is organized into an organization called Unity, they strongly oppose independence. Ethnic Russian minorities exist in all the non-Russian Republics of the Soviet Union. They have often been used by the Russian-dominated central authorities as an instrument to keep the non-Russians in line.

If someone provoked nationalist unrest of even violence between the Lithuanians and the ethnic Russians, hostilities between these two generally run deep. Lithuanians view the Russians, most of whom settled in the area after the Soviet takeover, as colonists. Russians view the Lithuanians unruly imperial subjects who need to be put in their place. It will not take much of a spark to make rival demonstrations flare up into violence. Moreover the KGB could easily continue a provocation to achieve that purpose. I hope that is not the case. If that is so then you can see the call to intervene with Soviet force under the guise of peacekeeping. Russian and Soviet imperial rule has often used this tactic.

Most recently the Soviets have used this in Baku, where they determined that the Soviet forces intervened to separate warring Armenians and Azerbaijanis. In Lithuania the Soviets might declare a state of emergency and use some of their new powers for the people to rule Lithuania from Moscow.

I am concerned about this, and I hope that Mr. Gorbachev will not allow that to happen.

I hope that he will grant the Lithuanians that which they deserve most, freedom to choose how they are going to be governed, with whom they are going to associate, and what they are going to do with their lives.

He will earn what seems to me to be the accolades of everybody in the world. I hope that is so.

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 1411 TO AMENDMENT NO. 1293

(Purpose: To provide solar and renewable energy regulatory incentives)

Mr. McCAIN. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to laying aside the Baucus amendment?

Mr. BAUCUS. I ask the Senator what amendment this is.

Mr. McCAIN. This is an amendment that I believe both sides had been informed that I was prepared to offer on renewable energy.

Mr. BAUCUS. I am sorry; I did not hear the Senator.

Mr. McCAIN. It is on renewable energy.

Mr. BAUCUS. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I would be more than glad to enter into some kind of time agreement with the Senator from Montana at any time. I do not think it will take too much time.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1411 to amendment No. 1293.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 567, after line 20, add the following:

TITLE VIII—SOLAR AND RENEWABLE ENERGY

INCENTIVES

SEC. 801. (a) DEFINITION.—For purposes of this section, solar and renewable energy means photovoltaic, solar thermal, wind, geothermal and biomass technologies, or any other energy production technology, other than hydroelectric, recognized as "renewable energy" by the Department of Energy.

(b) FEDERAL RATE INCENTIVES.—(1) Within 24 months after enactment of this section, the Federal Energy Regulatory Commission shall complete a rulemaking to establish a demonstration program for regulatory incentives to promote and encourage solar and renewable energy. The regulatory incentives shall include—

(A) establishment of an incentive rate of return for solar and renewable energy development and distribution that recognizes their inherent risk; and

(B) allowance of a ten-to-twenty-year amortization period to recover the capital costs of solar and renewable energy technologies.

(2) The initial Federal Energy Regulatory Commission demonstration program shall be in effect for 5 years.

(3) At the end of the initial 5-year demonstration program, the Federal Energy Regulatory Commission shall review the merits of the program and determine whether to extend such program, including the establishment of a permanent program.

(c) FERC PREAPPROVAL OF PRUDENCE FOR SOLAR AND RENEWABLE ENERGY TECHNOLOGY COSTS.—The Federal Energy Regulatory Commission shall establish a process for negotiating with potential developers of solar and renewable energy technologies to agree upon costs caps for future projects and preapproval of the prudence of expenses for those projects if the expenses fall within the agreed-upon cap.

(d) ENCOURAGEMENT OF STATE INCENTIVE PROGRAMS.—Because the use of solar and renewable energy is in the national interest, States, including their agencies and political subdivisions which regulate public utility rates and charges, are encouraged to provide additional incentives for their implementation. Those incentives may include, but are not limited to—

(1) preapproval of recovery of capital costs and other expenses, within reasonable bounds agreed upon before project construction; and

(2) rapid amortization of solar and renewable energy expenditures.

Mr. BAUCUS. Will the Senator yield briefly?

Mr. McCAIN. I yield.

Mr. BAUCUS. Mr. President, I appreciate the Senator coming forth and offering the amendment.

I must say, Mr. President, the Energy Committee lodged objection to this amendment. That does not prevent the Senator from proceeding.

I inform the Senator that the Energy Committee does have objection to this amendment. We are now informing the Energy Committee that the Senator's amendment is now the pending amendment, so that the Energy Committee can come to the floor and take whatever action it chooses.

I wish only to inform the Senator that that is a matter that must be dealt with concerning the amendment.

The PRESIDING OFFICER. Under the agreement, 1 hour is allotted to the debate, equally divided.

Mr. McCAIN. Mr. President, I thank my friend from Montana.

I hope that since we have numerous amendments pending, the amendment will not require that length of time. And I fully understand that there is an objection on the part of the Energy Committee. I would probably be seeking the yeas and nays on this amendment.

Mr. BAUCUS. I am sorry; I could not hear the Senator.

Mr. McCAIN. I said I hope it would not take the full hour of debate. I was aware of the objection by the Energy Committee. I will probably be seeking the yeas and nays on this amendment.

Mr. BAUCUS. The Senator will seek or will not seek the yeas and nays?

Mr. McCAIN. Will seek.

Mr. BAUCUS. I thank the Senator.

Mr. McCAIN. Mr. President, I ask unanimous consent that Senators ADAMS, DECONCINI, HATCH, and MACK be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, as we all know, energy-related pollution is the primary cause of our Nation's air quality problems. My amendment, which has been endorsed by the National Clean Air Coalition and the Sierra Club, will help us achieve our clean air goals by promoting the most abundant pollution-free source of energy known to man—solar power.

Although solar, and other renewable energies, such as wind and geothermal, offer many environmental and economic benefits, these technologies continue to play only a minor role in our energy mix. Our failure to employ them more fully is depriving the American people of cleaner air, energy independence, and a place of leadership in one of the emerging industries of the future.

My amendment seeks to rectify this problem by boosting solar and other renewable energy technologies into America's commercial mainstream. It will do so through a number of simple, straightforward and vital financial incentives.

These inducements, which require no government subsidies or outlays, would be provided through the Federal Energy Regulatory Commission or FERC. The Commission, as Senators know, regulates the price of wholesale electricity distributed across State lines. My legislation calls on the agency to use its ratemaking authority to encourage investment and increase development of solar, wind, and geothermal electric generation.

The program will be conducted on a 5-year demonstration basis and contains four basic components:

First, FERC will be required to establish rules allowing a special incentive rate of return to those who commercialize renewable energy. Providing risktakers and entrepreneurs with greater earnings potential is the most powerful motivation I can think of to stimulate investment and development in the industry.

Mr. President, this does not mean that just because a utility generates electricity using solar power that it can take unfair advantage with Uncle Sam's blessing. By no means. These technologies must still compete in the marketplace with coal, oil, and nuclear power. The consumer benefits of basic price competition are preserved. The program merely encourages energy developers to go solar by rewarding them with a higher return on their investment for doing so.

Second, my amendment directs FERC to permit a 10- to 20-year amortization period for capital equipment. When setting electric rates the Commission normally spreads out equipment costs over 30 years. By shortening the timetable, producers of renewable power will be able recover their costs more quickly through the prices they charge their customers. This incentive will help attract the necessary venture capital to commercialize today's technology. I want to emphasize this incentive is not a rate incentive and not a tax incentive.

Third, FERC will establish a process to negotiate cost caps on future solar and renewable energy developments, and to preapprove expenses for such projects if the costs fall within the agreed upon cap. By law, if the Commission finds certain utility expenses excessive or imprudent, it can prohibit those costs from being passed on to customers through electricity rates. Negotiation and preapproval procedures will provide entrepreneurs with more certainty about the ability to recapture their costs before making large investments. Injecting an element of predictability into government regulation will prove extremely effective.

Finally, the amendment directs FERC to encourage State and local public utility commissions to extend similar rate policy incentives. Most electricity is generated and distributed within State boundaries, so it is imperative that local authorities be encouraged to promote clean energies in their jurisdictions.

Mr. President, adoption of this amendment is one of the most important steps the Senate can take to meet the goals of the Clean Air Act. I want to make sure my colleagues heard that. Passage of this amendment is one of the most important steps this body can take to meet the long-term environmental goals of the landmark legislation pending before the Senate.

Why is that the case? As I stated earlier, energy-related pollution is at the root of our country's air quality problems. We are mired in what one of my hometown newspapers, the Arizona Republic, termed the "folly of fossil fuels."

What is the nature of this folly? Burning gasoline to run our cars produces countless tons of carbon monoxide and ozone pollution choking our Nation's cities. Twenty years after Congress passed the Clean Air Act, promising healthy air for all Americans, over 150 million Americans live in areas that still do not meet EPA health standards—primarily because of our dependance on petroleum.

Burning coal to generate electricity produces the acid rain which threatens the health of our forests, lakes and streams. More folly. And scientists inform us that excessive carbon dioxide emissions from fossil fuel combustion, mostly oil and coal, are altering the chemistry of the atmosphere. We have come to know this problem as the "greenhouse effect"—a phenomenon which increases the potential for global climate change and its untold consequences. Perhaps folly isn't quite a strong enough word.

As vice chairman of the Energy and Environmental Study Conference, it has become abundantly clear to me that we cannot afford to perpetuate our dependance on fossil fuels. Unless Congress is prepared to return time and time again to update the Clean Air Act in a perpetual and perhaps futile race to stay ahead of the pollution curve, we must make fundamental changes in the way we power our Nation. Now is the time for clean energy. Promoting our cleanest power source—solar and renewable energy—is what my amendment is all about.

My colleagues are familiar with the well-known environmental benefits of renewable energies. By harnessing the limitless power of nature we can use its enregy to serve the needs of man without creating harmful or polluting byproducts. Perfectly safe! Perfectly clean!

Some might ask how solar can help reduce mobile source pollution, as well as toxics, acid rain precursors and greenhouse gases. Well one of the primary options for meeting future tailpipe standards is alternatively fueled vehicles, including electric cars. As a matter of fact, the Southern California Air Quality Control District has drafted a plan that calls for large-scale utilization of electric vehicles in the Los Angeles area sometime in the next century. Where will we get the power? Will we trade auto pollution and urban smog for pollution of another kind? Solar and renewable energy will help see that no such tradeoffs are necessary.

If we are ever going to fulfill the noble promise of clean air for all Americans, solar and renewables must play an integral role in this Nation's energy policy. My amendment will help us accomplish that goal.

While the environmental benefits alone are compelling, the issue of our Nation's energy security is another important factor favoring renewable energies.

Energy drives America, Mr. President. There is not one aspect of modern life that does not depend on it. Imagine life without the ability to light our homes, schools and churches; to refrigerate and cook our food; to power our factories; and to drive our transportation. The oil shock of the 1970's gave us a distasteful dose of what such a life would be like.

Despite the harsh lessons of that unhappy chapter in our America's history, we have done little to promote national energy independence.

Today we will pay $100 million to import 5.8 million barrels of crude oil—just today. And we will do the same thing tomorrow and the day after that, and the day after that. This enormous drain on our national resources grows wider, and our trade deficit grows deeper. America remains addicted to foreign oil supplies, captive to overseas suppliers and vulnerable to political caprice in the most volatile region in the world. As long as this trend continues, and it continues upward as we speak, our economy and energy security are at risk.

The good news is that we have a choice, Mr. President. Our dependence upon fossil fuels need not continue. Not if we take proper advantage of what nature has so bountifully provided. In less than 40 minutes, the Earth receives as much energy in the form of sunlight as we receive from all the fossil fuels we burn in a year. Our ability to harness that energy efficiently and cost-effectively improves every day. But only by commercializing our solar technologies can we become more energy independent and economically secure. My amendment will help us accomplish that goal.

These benefits are not just important for this generation, Mr. President, but for the future. Fossil fuel is, after all, a limited commodity. The world will always need coal and oil, and lots of it. What gives this generation the right to consume our limited natural resources at an unbridled pace without regard to the needs of tomorrow's world? As stewards, should not we work to save something for future generations? I think most thoughtful Americans believe we should. The limitless potential of solar and renewable energy will help us meet our responsibilities to the children of tomorrow and those who follow.

When renewable energies offer so much to our environment, our economy and our energy security, the question logically follows: Why are these technologies not playing a larger role in our energy mix?

Until now solar, wind and geothermal power, have been unable to compete economically with other forms of production. But that is changing. Dramatic gains are being made. Luz International in California, for example, is producing solar thermal electricity at a cost of under 10 cents per kilowatt hour—an extremely competitive price! The time for large scale commercialization has arrived.

Once again, however, our competitors recognize the opportunity better than we do, and they are prepared to seize it. If the solar ship is about to come in, by all indications, it appears that foreign interests will be at the port before us. According to a recent Congressional Research Service report the annual world market for wind and

solar power systems will reach $2 billion by the end of next year, double that of 2 years ago. Where once we dominated these markets, we now account for less than one-third. Today, America is a net importer of wind and solar systems.

The European Consortium Phoebus plans to build a 30-megawatt solar facility in Jordan using state-of-the-art technology. Such a venture may establish European industry as the major force in the development and commercialization of solar technology. No doubt, their commercial application will spawn new developments and innovations making the technology more efficient and cost-effective. Unless America begins to commercialize renewable energy here at home, our leadership in a dynamic industry of critical importance to the world will be irretrievably lost.

My amendment will help invigorate the domestic industry and increase the market penetration of these technologies by making them a more attractive and productive investment.

Now I know some will cry out that my amendment is preferential treatment. A subsidy. You are skewing the market, they will say. Preferential treatment? Absolutely. No doubt about it. But, I believe the vast majority of the American people would prefer to invest in an energy future that is environmentally sound and nationally secure.

Is my amendment a subsidy? No, Mr. President. Again, this amendment will not cost the Federal Government a penny. Allowing innovators and risk takers to earn a higher return and to recover their investments in a more timely manner is not a subsidy. After all, as I stated earlier, solar and renewable energies will still have to compete in the marketplace. If their prices cannot compete, then in the great American tradition, the market, as it always does, will wean itself of those who cannot meet the public need at the right price.

Moreover, my amendment is not going to tilt the playing field, Mr. President, my amendment is going to level the playing field. After all, in a sense we subsidize fossil fuels.

The American Lung Association reports air pollution-related health care costs America $40 billion per year. The Environmental Protection Agency estimates that damage to buildings and agriculture caused by acid rain costs us over $5 billion per year. And if what some scientists are saying is correct, how do we even fathom the cost of global climate change?

These costs, which are directly attributable to fossil-fueled energy production, are not figured into consumer power rates, but society still pays, you can be sure of that. As I said, we might rightfully call that a subsidy.

To make up for it, some have suggested that perhaps there should be a polluter's tax to bring power prices into line with actual costs. That would certainly cast a new light on the competitive position and economic viability of renewables. But, I think a more positive approach would be to lend our support and assistance to clean technologies that do not incur hidden costs, neither in dollars nor human suffering, in the manner suggested by my amendment.

Finally, there will be the argument that this initiative has not been fully examined nor have hearings been held. Mr. President, I must tell my colleagues that these incentives are not new. The very same inducements were proposed by President Bush in the clean air bill he submitted to Congress last year.

After much study, analysis, and reflection the administration determined that FERC regulatory incentives were indeed appropriate to promote the national interest in clean air and energy independence. The President's goal was the same as mine—clean energy. Rather than direct these incentives to less polluting fuel technologies as the President intended, however, my amendment rightly focuses attention on our cleanest sources of power.

Incorporating solar and renewable technologies more fully into our Nation's energy mix is essential to meeting the underlying goals of the Clean Air Act and the long-term environmental, energy security, and economic needs of our Nation. My amendment provides the impetus necessary to help bring these vital clean air technologies into the marketplace, and I urge my colleagues to support this legislation today, so that Congress is not back at the table every 5 years still groping to achieve what the American people so richly deserve—energy to run our country, clean air, and a healthy environment.

Again, my amendment has been endorsed by the National Clean Air Coalition, the Sierra Club, the Solar Energy Industries Association, the U.S. Export Council for Renewable Energy, the American Wind Energy Association, among others. I ask unanimous consent that letters from these organizations be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCAIN. Passage of this legislation is vital to the future of our Nation. While the term may be overused, there is no way to say it better—the future begins today. And I hope, for the sake of the future, our first step will be to approve this amendment.

EXHIBIT 1

UNITED STATES EXPORT COUNCIL
FOR RENEWABLE ENERGY,
Arlington, VA, November 21, 1989.

Senator JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: The U.S. Export Council for Renewable Energy (US/ECRE) believes that efforts to promote renewable energy applications in the domestic markets will greatly increase our industries competitiveness overseas.

US/ECRE was formed by the nine national renewable energy trade associations promoting the exports of alcohol fuels, geothermal, hydropower, passive solar, photovoltaics, solar thermal, wind and wood technologies and services.

All of our international competitor nations have increased their programs promoting renewable energy development as a way to capture the potential multibillion dollar world markets. The United States which leads technologically in most of the renewable energy technologies has been losing market-share because we have been unable to scale-up our manufacturing facilities to lower our costs and increase our overall profitability.

Any initiatives, such as yours, to fashion low cost financing, are important to achieve success in the world markets. If you have further questions please contact US/ECRE's Executive Director Scott Sklar. Thank you for this important legislative amendment.

Sincerely,

ROGER LITTLE,
Chairman.

AMERICAN WIND ENERGY ASSOCIATION,
Arlington, VA, November 21, 1989.

Senator JOHN MCCAIN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: I am writing to let you know of my appreciation for your efforts to speed commercialization of renewable energy technologies. Your proposal to apply certain clean coal technology incentives to renewable energy makes sound policy sense. On behalf of the American Wind Energy Association (AWEA), the national trade association representing windpower manufacturers and suppliers, I strongly salute your effort as one that should help renewable energy realize its market potential more quickly.

Wind energy now has over 1200 megawatts of installed capacity in this country, providing 1% of the electricity to the states of California and Hawaii. That power is sufficient to meet the residential needs of a city the size of San Francisco and is being provided at costs that average 7-9 cents per kilowatt-hour. Although renewable "fuel" like windpower is free, the up-front capital costs are more expensive today than for conventional technology. Your proposal could help wind energy realize some of its immense potential, which the National Academy of Sciences and other experts have conservatively estimated to be over a trillion kilowatt-hours annually, or about 40% of this country's annual electric demand.

We appreciate this initiative on behalf of a sound national energy strategy. Please let me know if AWEA can be of assistance on this or any other matter in the future.

Sincerely,

RANDALL SWISHER,
Executive Director.

NATIONAL WOOD ENERGY ASSOCIATION,
Arlington, VA, November 21, 1989.
Hon. JOHN MCCAIN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The National Wood Energy Association (NWEA), is the national trade organization of the commercial wood energy equipment manufacturers, project developers, and woodlot owners. We applaud and support your efforts to make provisions for commercialization programs for biomass and other renewable energy technologies based on the clean coal commercialization programs.

Wood-fired power plants currently provide almost 4,000 MW of electricity to our nation's utilities and have the potential to provide at least ten times that much by the year 2000 with the proper incentives. The co-combustion of wood and coal is one way this increase could occur, offering an environmentally sensible way to utilize our coal resources.

Initiatives such as yours which would provide low-cost, long-term financing for renewable energy applications will greatly enhance the progress of our technologies into the marketplace.

NWEA firmly believes that initiatives such as yours are an important step in developing a level playing field for all energy generation technologies. Please contact me if I can be of further assistance.

Sincerely,

DAVID C. RINEBOLT,
Director of Research.

SOLAR ENERGY INDUSTRIES ASSOCIATION,
Arlington, VA, November 20, 1989.
Senator JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: I am aware of your efforts to support renewable energy on the basis of commercialization efforts for clean coal technology. On behalf of the Solar Energy Industries Association (SEIA), the national trade organization for the photovoltaic and solar thermal manufacturers and component suppliers, I strongly support your efforts as the basis of sound national policy.

While renewable energy technologies today are cost-effective in many applications, because these technologies have higher front-end costs, we have experienced difficulty entering the market. Policies which provide lower-cost capital over longer periods will have a very positive effect by making it easier for utilities and other end users to amoritize these higher up-front costs which will be more acceptable to our potential customers.

Solar thermal power has over 200 megawatts of electricity interconnected to the utility grid which has all been privately financed. While only 20 megawatts of photovoltaic power is now on the utility grid, with proposals such as yours to promote solar and renewable energy, our industries could expect over 4,500 megawatts of solar thermal and 1,000 megawatts of photovoltaics by the year 2000.

Thank you for pursuing these efforts and please feel free to contact me if we can be of any assistance.

Sincerely,

SCOTT SKLAR,
Executive Director.

Mr. MCCAIN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona has 13½ minutes remaining.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Louisiana.

The PRESIDING OFFICER (Mr. GORE). The senior Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, with apologies to my friend from Arizona, I rise to oppose this in the strongest possible way.

First, Mr. President, this is squarely within the jurisdiction of the Energy Committee. Solar energy, renewable energy, is a very complicated subject. We have been dealing with it and legislating on it for years, Mr. President. Indeed, the very technologies which here are sought to be subsidized are already subsidized under PURPA legislation, the Public Utilities Regulatory and Policies Act. PURPA, we call it. They are already taken care of under that act, Mr. President.

But this seeks to provide some additional, as yet unstated, subsidies.

Mr. President, energy is energy, and we need to look at specific technologies to determine the extent to which they need subsidy. But, Mr. President, we have wasted hundreds of millions of dollars in the last 15 years on things that turned out not to be very good ideas.

I remember, Mr. President, in my own State, we had a $26 million ethanol plant where the taxpayers ended up picking up the tab because it was under one of those supersubsidized programs where the taxpayers had almost all the risk, and where it was not well enough thought out.

I think that program was one of these amendments engrafted on legislation, without having gone through the committee. We have done a lot of that, tax incentives, regulatory incentives for programs that do not have to bring their witnesses up and have their technologies examined.

This covers a very wide field, Mr. President. Biomass, for example, is the biggest form of solar energy. The biggest form of biomass is burning wood chips in woodmills. They are entitled to some kind of special subsidy here. It is the biggest form of solar energy there is.

I guess we ought to encourage it. Certainly we ought not discourage it. Because wood chips, after all, while they do produce a lot of NO_x, they produce virtually no SO_2. Nevertheless, it is hardly an emerging technology as to which the playing field is not level; as to which we should mandate an additional subsidy from FERC.

If these things are worthwhile to do, let them be done in the full light of day before the Energy Committee. Do not mandate without examining the technologies, without examining the size of what ends up being a subsidy—and a regulatory incentive is a subsidy. Do not do that without letting it go through the discipline of the committee process.

If the case could be made that the Energy Committee has been less than forthcoming on these matters, if the Energy Committee failed to report bills in the area of conservation or renewables, then, perhaps, the case could be made that we have to come in piggyback on some other legislation. But, Mr. President, that is not the case. We have reported more bills on conservation than, I believe, the House has. We have led the fight on both conservation and renewables.

To come in here at the last minute with nobody hearing about this amendment, not examining it, Mr. President, I think is wrong.

I would mention one other thing.

There are a whole raft of bills out here in the jurisdiction of the Energy Committee. People see this train, it sounds good, you know: Renewable energy, solar energy—it sounds good. We are all for it. It is energy with a good moral content. And energy does seem to have that moral content these days.

But we ought to have an energy policy. We have an Energy Committee to consider that energy policy. We should not just take the first thing that comes along, if it has the name solar and incentive on it, and pass it unless it passes muster.

In the strongest way, I urge my colleagues to not get in this business of nongermane amendments—at least it is nongermane to the jurisdiction of the bill here—and deal with matters that should not be dealt with without a committee hearing.

I hope and trust that the Environmental and Public Works Committee will support us in this. This may turn out to be a good bill, if we consider it in committee. It may turn out to be redundant, as I suspect it is, because PURPA, the Public Utilities Regulatory and Policy Act, already deals with it. And it may turn out to be another one of those boondoggles that we have undertaken in these past 15 years.

So, Mr. President, I urge my colleagues to defeat this amendment.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I request the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Mr. President, as I say, I know how many amendments and how much business lies before us between now and next Tuesday, so I will try and be brief.

First of all, I would like to express my appreciation to my colleague from Louisiana. He has labored long and hard on these issues, on all aspects of this Nation's energy needs. I do not know of anyone who is more knowledgeable on these issues.

I only wish that all of our energy needs could be satisfied by the great productions that we have received from his State in the form of gas and oil. Unfortunately, that is not the case. We are more and more in debt everyday. Today, $100 million will be spent for imported oil. We continue to pollute our environment, and even with tougher tailpipe emission standards required by the Clean Air Act amendments automobiles will still continue to pollute.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. McCAIN. I will be glad to yield.

Mr. JOHNSTON. Is the Senator familiar with the regulatory incentives provided in PURPA and, if so, can he tell me wherein those incentives are not sufficient to deal with the subject of incentives for renewables?

Mr. McCAIN. May I say to my friend from Louisiana, I do not believe that the PURPA incentives are entirely of the nature of these. I also remind him that the administration proposed these same kinds of incentives for the development of clean coal technology. That proposal is incorporated in the House bill. If I may finish answering my friend, I, like the administration, would not be asking for these incentives as they did for the development of clean coal technology if they were sufficiently addressed in PURPA.

Let me also point out the National Clean Air Coalition and the Sierra Club are of the opinion that PURPA does not supply sufficient incentives. Otherwise, they would not be supportive of this amendment.

Mr. JOHNSTON. If the Senator will yield, the Sierra Club may be of that opinion. they have not communicated that to the Energy Committee, to either me or our staff. It may be true that similar incentives are in the clean coal technology legislation, but that does not answer the question of wherein PURPA does deal with these technologies. We are not dealing with clean coal. We are dealing with renewables.

Mr. McCAIN. To answer the Senator, let me then quote from a letter I received from the Solar Industries Energy Association:

> While renewable energy technologies today are cost effective in many applications, because these technologies have higher front-end costs, we have experienced difficulty entering the market. Policies which provide lower cost capital over longer periods will have great positive effect by making it easier for the utilities and other end users to amortize these higher up-front costs which will be more acceptable to our potential customers.

I say to my colleague that the Solar Industries Energy Association, the National Wood Energy Association, the American Wood Energy Association, the United States Export Council for Renewable Energy all believe, as I do, that this amendment is called for in that there are not sufficient incentives presently in place. I will be glad to examine the items that the distinguished chairman brings to my attention.

Mr. JOHNSTON. If the Senator will further yield, those organizations are worthy organizations, to be sure, but they are all trade groups. Sure a trade group wants to make more profits for its members. That does not mean that the taxpayer ought to pay for them. The taxpayer ought to have to pay for incentives only if they can pass muster and are shown worthy. That is what we thought we were doing in PURPA. Surely, it is not sufficient a case, I say to my colleague, because the Solar Industries Energy Association wants something to say they ought to have it if it is already included in PURPA and the author of the amendment cannot tell me wherein it is not sufficient.

Mr. McCAIN. Let me respond by first saying I do not think the National Clean Air Coalition and Sierra Club are called trade groups. These other organizations are businesses that have banded together as businesses in oil and gas in the State of the Senator to pursue certain agendas they believe will not only help themselves but, obviously, the American people. To call the Clean Air Coalition and the Sierra Club a trade group I do not think is accurate.

Second of all, I think it is important to point out that I know of nowhere, if the distinguished chairman has examined this amendment, where the taxpayer will be paying. Perhaps he can give me an example of that in the amendment I have proposed where the taxpayer would be paying.

The intent of this amendment is to provide certain incentives in the form of amortization and other areas for these fledgling, and they still are fledgling, I might say to the distinguished chairman, industries to get off the ground.

Again, I repeat that the Administration holds my view that PURPA is not sufficient to promote clean energies. Otherwise, they would not have proposed these same incentives for clean coal technology—a proposal which is still under serious consideration in the House of Representatives.

I say to my colleague that I will be glad to examine each aspect of PURPA, as he has described it. Clearly, however, in the view of the Clean Air Coalition, the Sierra Club, and this Member current law is not sufficient. If they are already covered and redundant in nature, I suggest then the distinguished chairman would have no objection to this amendment.

Mr. JOHNSTON. Mr. President, parliamentary inquiry. Is it appropriate at this point to offer a second-degree amendent?

The PRESIDING OFFICER. Such an amendment would not be in order at this point under the prevailing unanimous-consent agreement.

Mr. JOHNSTON. Will the Senator yield me 2 minutes?

Mr. BAUCUS. Mr. President, I yield an additional 2 minutes to the Senator from Louisiana.

MR. JOHNSTON. I thank the Senator. Mr. President, I wonder if my friend from Arizona would be content to offer this legislation if I guarantee him hearings in the Energy Committee. It simply is not so that we are not sympathetic to solar energy. Just weeks ago, we passed S. 488, which has already become public law, led by Senator FOWLER to encourage solar and renewable energy resources.

A moment ago, I did not mean to suggest the Sierra Club was a trade group. The Senator read three letters from trade groups, and there is nothing wrong with trade groups. It is just that their interests maybe are not in all points coincident with that of the taxpayers. We have not received a communication from the Sierra Club. We welcome them to testify. That is the way we ought to do this.

We can deal with legislation with dispatch in our committee. If the Senator will give us a chance to hear the case, if it is a worthwhile case, we can report legislation and deal with it and receive, I think, a sympathetic hearing here on the floor of the Senate. I wonder if the Senator will be willing to do that if I assure him we will give him hearings on that matter?

Mr. McCAIN. I say to the distinguished chairman, in all due and deep respect, I think this issue is of such utmost importance that I think it needs to be part of this legislation.

I appreciate his kind and generous offer. I look forward to working with his committee on these issues. But at this time, I would prefer to vote on this amendment. That is my response to the distinguished chairman.

The PRESIDING OFFICER. The time yielded to the Senator from Louisiana has expired.

Mr. BAUCUS. Mr. President, parliamentary inquiry. How much time remains for both sides?

The PRESIDING OFFICER. The Senator from Montana has 21 minutes 45 seconds remaining. The Senator from Arizona has 6 minutes remaining.

Mr. BAUCUS. I thank the Chair.

I yield myself 3 minutes.

Mr. President, it is clear that this amendment is within the jurisdiction of the Energy Committee. We are not on the floor of the Senate passing an energy bill. We are passing a clean air

bill. This is a massive bill. I note, for example, a front page story in today's Wall Street Journal about the impact of this bill, of both the environmental benefits and the economic costs this bill will have on the Nation. It is a very significant bill.

I frankly believe the Senator from Louisiana, the chairman of the Energy Committee, had a good idea when he suggested that the appropriate forum for this legislation would be in the Energy Committee. That way the various varieties and forms of alternative energy proposals can be put together, they can be debated and discussed side by side as that committee works to form an energy policy.

As the manager of this bill, frankly, I would prefer that this amendment not be in this bill. I think that the subject has merit. I do not think anyone is denying that the subject is one genuinely which this Congress should pursue. But I think it is also clear that no one can deny by far the more appropriate forum for solar energy incentives and other renewable energy incentives would be before the Energy Committee so that there can be hearings and flush out and improve upon, refine and perfect various renewable energy alternatives.

So with that, Mr. President, I oppose the amendment. I think the amendment should not be on this bill. The appropriate location should be in an Energy Committee bill, and I urge the Senator from Arizona to reconsider the request made by the Senator from Louisiana to try to find a more appropriate vehicle, a more appropriate way in which to advance this legislation. I do not believe that the amendment should be on this bill.

I reserve the remainder of my time.

Mr. JOHNSTON. Will the Senator yield me 2 minutes?

Mr. BAUCUS. I yield 2 minutes to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I have been here throughout the energy crisis. If the energy crisis started with the first oil embargo in 1973, at least I have been here the full time. I have seen us do a lot of legislation and a lot of it which was very, very unwise.

I recall, Mr. President, when we dealt with the entitlements program back in the first oil embargo, there was an amendment called the small refiner bias, and the purpose of that amendment was to protect the small refiners from these huge giants that would gobble them up and do away with the little mom-and-pop refiners.

It sounded good. It had that great ring to it. It is just like this; solar energy, everybody likes that, and we are helping the mom-and-pop small refiners.

Mr. President, nobody ever realized in, if I recall it correctly, a floor amendment—it did not go through committee if I remember correctly—nobody ever could see the billions of dollars of wasted assets by way of a small refiner bias.

Mr. President, there were people who got into the small refinery business. They called them teakettles. They were fairly easy to put together. There were some 5,000 barrels a day, some 10,000 barrels a day, and people got absolutely rich—I mean really rich. I do not mean millionaire. I mean multi, multi, multimillionaire—on small refiner bias.

Now, what is there in this innocent sounding case on solar energy? Mr. President, I am not sure except I know there is a double subsidy. We already have a subsidy and here is another subsidy on top of that. I know it apparently cannot stand light of day because no bill has been introduced. We have been legislating on solar energy matters in our committee regularly. We are sympathetic to it; we want to do it. We want to more than level the playing field. We want to subsidize the playing field and bring on line these subsidies. But, Mr. President, I urge my colleagues, without knowing about some bill, do not put another double subsidy on it. To what does it pertain? Does anyone know? I do not. I doubt if there is anybody in this Chamber who knows what is really involved. Is it wood chips at wood mills for these tiny little giants of the timber industry, like International Paper? Who knows?

So, Mr. President, this again is not the place to legislate still another double subsidy as to technologies we know not of, not described. For example, I wonder if my friend from Arizona can answer this question for me. There are some subsidies in purpose A for technologies that include the burning of natural gas to the extent of 25 percent. Is that allowed in these subsidies in this bill?

Mr. McCAIN. In my view of the amendment, as the amendment is intended, since that is not a renewable energy, the answer is no, I would say to the chairman.

Mr. JOHNSTON. So that the Senator would have no objection to an amendment that would exclude the use of natural gas in any kind of cofiring situation involving these solar energy technologies?

Mr. McCAIN. I would have to examine the implications or the Senator's suggestion more thoroughly before I could definitively answer that question. I don't believe, however, cogeneration should necessarily be excluded from the incentive program. This issue and any question of double or duplicative incentive in certain cases is something I certain would like to work on with the Senator and FERC perhaps in the rule making process to ensure that no undue benefits are extended.

Mr. JOHNSTON. I do not mean to try to embarrass the Senator. That is not my purpose. It is my purpose to show that under purpose A, you can use 25-percent natural gas. I do not know whether this definition encompasses that or not. If it does, do we want to allow a double subsidy for burning natural gas? It is hardly a frontier-type energy as to which we are just discovering an unbalanced playing field.

Mr. President, there are so many questions involved in this amendment that ought to be looked at. Surely, it is worth a day of hearings in the Energy Committee before we commit this Nation to massive double subsidies as to technologies that we cannot even describe at this point.

The PRESIDING OFFICER. The Senator from Montana has 14 minutes remaining; the Senator from Arizona has 6 minutes remaining.

Who yields time?

Mr. JOHNSTON. Parliamentary inquiry, Mr. President. At the appropriate time when the second-degree amendment is introduced, will it be allowed? Will there be time for debate?

The PRESIDING OFFICER. The second-degree amendment is not in order. The McCain amendment is a second-degree amendment. An amendment to the McCain amendment is not in order under the unanimous-consent agreement.

Mr. JOHNSTON. Will the Senator yield me another minute?

Mr. BAUCUS. I yield a minute to the Senator.

Mr. JOHNSTON. Mr. President, I had an amendment prepared which very simply would say that the regulatory incentives provided for by section 801 of this amendment shall not apply to any qualifying facility as defined by the Public Utility Regulatory Policies Act.

In other words, it would do away with the double subsidy. Now we find there is not even time to put in that corrective amendment. So we cannot deal with the question of double subsidy. We cannot deal with the question of burning natural gas. Are we going to be out there subsidizing natural gas and wood chips with a double subsidy?

Does the Senate want to do that in the name of clean air? Surely, Mr. President, there are better ways to spend the taxpayers' dollars than to come in with an amendment that cannot even be described as to its effect, where there has not been the first word of testimony before a committee. Surely, the Senate does not want to do that, Mr. President.

Mr. President, I think I have made my case. I hope the Senator from Montana opposing the amendment is going to move to table.

The PRESIDING OFFICER. The time yielded to the Senator from Louisiana has expired. The Senator from Montana has 11½ minutes remaining.

The Senator from Arizona has 6 minutes remaining. Who yields time?

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I am prepared to yield the remainder of our time. I understand the Senator from Arizona likewise is so prepared.

Mr. McCAIN. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. Both sides yield the remaining time.

Mr. BAUCUS. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded, and the question is on the motion of the Senator from Montana to lay on the table the amendment of the Senator from Arizona. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

I further announce that the Senator from Massachusetts [Mr. KENNEDY] is absent on official business.

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 40, nays 57, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—40

Baucus	Durenberger	Murkowski
Bentsen	Exon	Nickles
Bingaman	Ford	Pryor
Breaux	Gore	Riegle
Bryan	Gramm	Robb
Burdick	Hollings	Rockefeller
Burns	Inouye	Sanford
Byrd	Johnston	Sasser
Cochran	Kerrey	Shelby
Conrad	Lautenberg	Simon
Cranston	McClure	Wallop
Dixon	McConnell	Wirth
Dodd	Mitchell	
Domenici	Moynihan	

NAYS—57

Adams	Danforth	Hatch
Armstrong	Daschle	Hatfield
Biden	DeConcini	Heflin
Bond	Dole	Heinz
Boschwitz	Fowler	Helms
Bradley	Garn	Humphrey
Bumpers	Glenn	Jeffords
Chafee	Gorton	Kassebaum
Coats	Graham	Kasten
Cohen	Grassley	Kerry
D'Amato	Harkin	Kohl
Leahy	Mikulski	Sarbanes
Levin	Nunn	Simpson
Lieberman	Packwood	Specter
Lott	Pell	Stevens
Lugar	Pressler	Symms
Mack	Reid	Thurmond
McCain	Roth	Warner
Metzenbaum	Rudman	Wilson

NOT VOTING—3

Boren	Kennedy	Matsunaga

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

Mr. BAUCUS. Mr. President, I wonder, since the last vote was fairly decisive, whether the Senator from Arizona would be willing to seek to vitiate the yeas and nays.

Mr. McCAIN. Mr. President, I ask unanimous consent to vitiate the yeas and nays on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 1411) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Montana.

Mr. BAUCUS. Mr. President, we are now open for amendments. I advise Senators that we have an open period now. I am unaware of any Senator who wishes to bring up an amendment before the Senate. This, therefore, is an opportune time for Senators to offer their amendments. Some amendments will be accepted by the committee, some amendments will not be accepted by the committee. Senators should bring their amendment now. Even if their amendments are not accepted, if they want to bring up their amendment, this is an ideal time to argue their amendments. The amendment may be adopted. For example, the McCain amendment was just adopted by the Senate.

I strongly urge Senators to take advantage of this time. It is 4:15 in the afternoon and it is still daylight. I think it is better that we work on amendments during the daytime than during the nighttime. So I urge Senators to take advantage of this opportunity.

I also remind Senators that we now do have a unanimous-consent agreement which provides that the final vote will be at 8 p.m. Tuesday. I do not know how many hours the Senate will be in session on Friday or Monday. It could very well be late sessions, I do not know. But I do know from experience that opportunities like the one that now presents itself—that is now, this afternoon—are the best times to bring up amendments. Because when we get close to final passage on Tuesday afternoon and Tuesday evening, if there are many amendments left, it will be very difficult for Senators to make their case—particularly if it is after 8 o'clock Tuesday evening—to make their case during the minutes that will be allotted to them. Their chances for adoption and their chances of persuading Senators to adopt their points of view are much better prior to Tuesday evening. I again urge Senators to come to the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Is an amendment in order?

The PRESIDING OFFICER. There is an amendment pending.

Mr. DOMENICI. Mr. President, I think the managers of the bill are aware of my amendment on rural fugitive dust. I assume they are going to support it based on what I know. That is what I intend to offer.

With that, I ask unanimous consent that the pending amendment be set aside so that I might offer the amendment which I just described.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1412 TO AMENDMENT NO. 1293

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 1412 to amendment No. 1293.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 123, line 15, at the end of section 193(b), add new subsection (c):

"(c) Within three years after enactment, the Administrator shall review pertinent information and report to the Congress on the need to modify subsection (b) to take into account infeasible requirements that might be placed on certain rural areas of the country where a substantial percentage of ambient PM-10 concentration in the area is caused by the suspension of natural soils

in the ambient air due to non-industrial, anthropogenic activities. Included in this review shall be a recommendation on whether exemptions from the 5 per centum annual reduction requirement should be granted to certain areas. In making such recommendations, the Administrator shall consider the presence and concentration of potentially toxic substances in the mix of particulate emissions in the area, and the technological and economic feasibility of various control measures."

Mr. DOMENICI. Mr. President, I rise to offer an amendment which I understand has been cleared by the committee.

This amendment mandates that the Environmental Protection Agency undertake a study of rural areas in the country that are not meeting the particulate ambient standard due to the suspension of natural soils in the air and report to the Congress on whether those areas should be required to meet the 5 percent annual emissions reductions that are included in the bill.

Perhaps the best way for me to explain this amendment is to tell you about Anthony, NM. Anthony is a small agricultural town located on the Texas-New Mexico border. The primary source of particulate matter in the area is wind erosion of grazing areas, and to a somewhat lesser extent, unpaved roads.

The Environmental Improvement Division of the State of New Mexico has written to me to express their concerns that there is no reasonable control strategy that is going to bring about much change in the situation in Anthony. Furthermore, it would be questionable whether to impose requirements, such as road paving, on this area, which possesses limited resources.

The situation in Anthony is similar to other western areas in the country. That is why, EPA has had a Rural Fugitive Dust Policy since 1977.

The bill before us contains provisions to bring particulate nonattainment areas into compliance. While I certainly support moving toward compliance, I think it is extremely important that EPA evaluate the special needs of rural areas, such as Anthony, and to provide us with recommendations on how these areas should be handled.

I thank the committee for working with my staff to come to agreement to this amendment.

Mr. President, under this bill, there are certain parts of rural America and rural New Mexico that, in the next 10 years as part of the life of this bill, will be contributing to the particulate problem because of roads that are not paved that emit dust and because certain agriculture activities might indeed contribute particulates—our sophisticated word for dust—to the air and ultimately they may have to be under some kind of an order to control that at the rate of 5 percent a year.

Some of us think that we really do not intend that but we do not know enough about the overall situation and what it really means.

So what I am doing in this amendment is, since we have a long enough period of time, this amendment will mandate a 3-year national study by EPA of these kinds of areas that I just described and these kinds of problems which I just described and will report back to Congress on the nature of the problem, the contribution to the ambient air quality or lack of air quality, with recommendations on how we might achieve what we seek to achieve in this bill without what some of us think would be an arbitrary imposition of 5-percent annual reductions of this kind of dust and particulate that we really do not necessarily intend to control but have no other way of knowing quite how to do this.

We have a small community, for instance, in southern New Mexico, named Anthony, NM. It is pretty clear they have one of these kinds of problems. It would be absolutely impossible, if we started our 10-year, 5-percent mandated restriction, because they would have no way of fixing their rural roads or the agricultural activity that is taking place there. Consequently, this having come to my attention, it seemed to me we ought to try to solve it before it becomes an unbearable and rather arbitrary imposition on parts of rural America.

This will do nothing more than get in our hands, in 3 years, a study that is detailed, scientific, and makes appropriate recommendations regarding this situation. That is what the amendment is about.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, I compliment the Senator from New Mexico. This is an amendment which will help perfect the bill. Essentially as the Senator described, there are many rural areas in America that are concerned about the fugitive dust requirements, where a portion of the fugitive dust is caused by nonindustrial sources, roads, dirt roads, and so on and so forth. It is a very major problem. I know it is a problem in the State of New Mexico but it is also a problem in my home State of Montana.

It is important to know the degree to which the requirements in the bill are feasible or not feasible, given the theoretical environmental and health effects of those requirements. So I think the 3-year study is very good so we are more certain that rural areas are not unfairly burdened with the requirements of this legislation. I accept the amendment.

The PRESIDING OFFICER. The Chair recognizes Senator CHAFEE.

Mr. CHAFEE. Mr. President, it is a good amendment, by the distinguished Senator from New Mexico. I had the privilege of being out in his State with him a couple of weeks ago and saw at closehand some of the problems that they have in that very, very large State, particularly in connection with the matter pertaining to this amendment. So it certainly is acceptable on this side. We thank the Senator for bringing it to our attention.

Mr. DOMENICI. Mr. President, might I just say again, sometimes when we recommend these mandated studies with recommendations, they are a means of getting out from under a problem. But in this case I think this will help to solve the problem, because we will not begin to force the reductions of 5 percent a year in these kinds of areas, under the basic bill, for a while.

This will give us an opportunity to get before us recommendations from experts who have in mind our air problems, but also because of this amendment, the practicality of this situation that cries out for something that will solve it. So we will know whether we ought to keep these small communities and these situations under the annual 5 percent mandate in time to do some good.

So I think this one, while I wanted an exemption, the Senator could not quite find the words to phrase it right without opening more than we wanted to, to exemptions. So this has been agreed upon, and I thank the managers, and I yield the floor.

Mr. DOLE. Mr. President, I rise to support the amendment of the distinguished Senator from New Mexico. The amendment from the distinguished Senator will provide important information that should assist the American farmer with regard to this legislation.

I applaud the 3-year study this amendment requires. It is important to make sure that farmers are not going to be hampered at planting time or harvest time with burdensome dust regulations.

In Kansas we do not have any PM-10 nonattainment areas at the present time. According to the Kansas Department of Health and Environment, farmers simply do not find their fields out of compliance with dust regulations.

Taking into account infeasible requirements that might be placed on rural areas because of ambient PM-10 concentrations is right on target. I intend to monitor this study very carefully over the next 3 years and certainly want to work with EPA and Senator DOMENICI to make sure adequate information is made available and consideration is given regarding farmers and their concerns during this period.

The PRESIDING OFFICER. Is there further debate?

Without objection, all time is yielded back.

If there be no further debate, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 1412) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. DOMENICI] is recognized.

Mr. DOMENICI. Mr. President, it slipped my mind we were under an hour time agreement on each amendment. I should have yielded back the remainder of my time. That was a mistake on the part of this Senator.

The PRESIDING OFFICER. The Chair recognizes Senator BAUCUS.

Mr. BAUCUS. Mr. President, at the appropriate time before final passage of this bill the managers will offer a package of proposed technical amendments. I would like to announce that there are presently available copies of the proposed technical amendments to the acid rain title. Those copies are available for distribution to Senators and to their staffs in room 415 of the Hart Building. I urge Senators, or more likely their staffs, to go to room 415 to get copies of those proposed technical amendments, so we can, at the appropriate time, offer that package to the bill.

Mr. President, I see no Senator seeking recognition to offer amendments. I again encourage Senators to come to the floor. We are moving, making progress here. I hope we continue to make progress.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, parliamentary inquiry; what is the pending business?

The PRESIDING OFFICER. There is an amendment of Senator BAUCUS pending.

Mr. HEINZ. Mr. President, I ask unanimous consent that I may speak as in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPLANATION OF VOTE

Mr. HEINZ. Mr. President, yesterday the Senate voted twice in relation to the Nickles-Heflin-Dole amendment. The first vote on that amendment took place early in the morning, around 9:30 or quarter to 10, and then there was a subsequent vote in the afternoon, around 2:30 or 3 o'clock.

On the first rollcall vote, I voted in favor of tabling the amendment. Later in the day, I voted for the Nickles-Heflin amendment. Those two votes appear to be in conflict. I would like to take a moment to explain exactly why I voted the way I did and what I will do should the issue come before us again, as it well might, on a reconsideration vote or on a motion to table a reconsideration vote.

I had four concerns about the Nickles-Heflin amendment. Three of the concerns were related to the shield provisions. Another was related to the citizen suit provisions. When my staff received the amendment on Monday afternoon, the day before yesterday, we immediately sought to get certain clarifications as to what the language of this amendment, which is quite substantial and lengthy, meant and how it related to other elements of the bill.

My staff was unable to get satisfactory clarifications prior to 9:30 a.m. on Tuesday on the following issues—and I think it is worth going into this because since then we have received clarifications and they have been extremely helpful—one of which involves section 352(d). Section 352(d) in the amendment provided that if an applicant had properly submitted a complete application, but final action had not been taken by the permitting authority, then the applicant's failure to have a permit shall not be a violation of the act. That is the sum and substance of what this provision said. Obviously, if that had been all there was to the provision, then the failure to issue would be, in effect, a permit to pollute, and nobody should want to have a very large loophole that would permit that kind of pollution to take place.

So we went to the Environmental Protection Agency to find out what it was that the provision really meant. They came back to us and verbally said—they did not get back to us, I might add until after the first vote—that this does not mean that an applicant is not required to be in compliance with existing regulation but only that the failure to have been issued a permit is not in and of itself a violation. A very limited construction, therefore, of section 352(d).

A second concern was section 353(f)(1)(B) which provided that once a permit is issued, the source is deemed to be in compliance with all requirements promulgated after issuance unless EPA finds that actual harm to public health would result as a result of such noncompliance. The problem I had with that and another reason I voted, as in the first instance, against the Nickles amendment was that if there has been some kind of an omission such that the source is, nonetheless, deemed to be in compliance with all requirements after that permit has been issued, you would have to have a finding of actual harm.

I do not know what that means. There is no precedent for it. It is a term from tort law. If it means anything, it means that people actually have to have physical injuries, deaths, various kinds of actual harm as opposed to a risk to health being present.

That seemed to me on its face to be a loophole so large that again an enormous truck could have been driven through it. Therefore, I did not want to be party to an amendment which at least on its face appeared to subject the public, because of more or less technical issues, to that kind of a standard that would not be sufficiently protective of the environment or of them.

The Environmental Protection Agency came back and noted, I think appropriately, that section 353(f)(2) already provides that new regulations via rulemakings must be incorporated into issued permits.

Now, that is very good because it means that if something comes along under a rulemaking and renders the permit that had been issued, in a sense, obsolete, that rule must be incorporated, and that if you are in violation of the requirements of a rulemaking, even if you hold a validly issued permit, you still have to come into compliance with whatever new burdens are put upon you if you are polluting pursuant to the rulemaking.

That addressed very directly the issue. It was also made clear that the provision I cited first, section 353(f)(1)(B) only applies, at the Federal level, to what is referred to as new guidance, kind of the way you go about complying, the specific way they would like to see you build or rebuild or install equipment on a facility which.

Furthermore, it was stipulated that this section 353(f)(1)(B) would give the Environmental Protection Agency the authority to require that even such requirements as might be found in guidance documents, as opposed to the rules pursuant to rulemaking, must be incorporated into an issued permit if EPA finds that the public health is likely to be harmed as a result of such guidance not being made a permit condition—a second lock on the door.

Let us assume that the first guidance was for some reason really not adequate to the task. If EPA found in effect that they had issued what you might call flawed guidance, if there

was a finding the public health was likely—this is different from actual harm—to be harmed as a result of such guidance not being followed, they could require that the permit be modified or that the source be directed to make the necessary changes.

I might add that it was also pointed out that section 116 of current law remains in effect, and what that says is that nothing in the act may prevent a State from adopting and enforcing requirements which are more stringent than the Federal requirements.

To make that as simple as possible, EPA said that section 353(f)(1)(B) does not override section 116 of the bill, and from the standpoint of my colleagues and I what that really means is that if the State wants to have something stricter than what is provided for by EPA via rulemaking or any other way, the States may continue to do so.

My third problem was that section 353(f)(3) provides that in any action to enforce a requirement which has been omitted from the permit, the 'who', 'why' and 'how', shall be relevant in assessing penalties. Furthermore, it provides that "no enforcement action shall lie if the omission is the fault of the permitting authority."

Now, what that again reads like on its face is another potentially big loophole, which is that you cannot take any enforcement action against a polluter if there has been an omission in the permit, no matter how serious, if the omission is the fault of the permitting authority.

EPA has clarified that and pointed out that the way to interpret the other provisions is that section 352(f)(1), (2) and (3) provides EPA with full authority to force compliance in the event there is a material omission, for whatever reason, in the permit. And, of course, as mentioned before, section 116 of current law remains in effect.

Finally, there was the issue of citizen suits and under what circumstances and against whom they might be permitted or not permitted. There was a question in my mind whether the Nickles amendment prohibited citizen suits for the purpose of the enforcement of new requirements.

There was some question as to whether that was permitted. My concern also involved the issue of whether the citizen suits would be permitted for discretionary and/or nondiscretionary decisions. The answer is, according to clarification again received, that this does allow a citizen to bring suit against the permitting authority—that can be either the EPA or the State—for issuing improper permits or permits not reflecting the requirements of the law, which seems to me to be an appropriate safeguard. In fact, this amendment explicitly provides for citizens suits when sources violate conditions of new requirements and when sources operate without a required permit.

These clarifications or assurances, call them what you will, were received late in the morning of yesterday, Tuesday, and at that time I asked for the Environmental Protection Agency to put those clarifications in writing. I have received those clarifications in writing. They are the same as those, in sum and substance, that I have just described verbally, and they constitute the reason why yesterday afternoon I voted in favor of the Nickles amendment.

There is a lesson, however, to this episode that I would like to share with my colleagues.

Mr. President, I ask unanimous consent that the letter from the Environmental Protection Agency which I received, dated March 27, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, March 27, 1990.

Hon. JOHN HEINZ,
U.S. Senate,
Washington, DC.

DEAR SENATOR HEINZ: This letter responds to the request for clarification relayed through Gerry Dorian of your staff regarding the effect of certain language in the March 26, 1990 version of the Nickles-Heflin-Dole amendment to the permits title of the proposed Clean Air Act Amendments. As you know, my staff has been involved in providing technical assistance in the drafting of this language.

1. Effect of Completed Application.—Section 352(d) states that if a "timely and complete application" for a permit has been submitted, but final action has not yet been taken on the application, "the source's failure to have a permit shall not be a violation of the Act," subject to certain limitations. The effect of the underscored language is only to protect the source from the requirement to have a permit, *i.e.* under section 352(a). Compliance with all other requirements under the Act (such as emission limitations imposed by the SIP and EPA rules) continue in effect without change unless and until a permit is actually issued. This is made clear in section 355(c) which states that when "properly issued or revised," a permit supersedes the requirements of the SIP and has the effect specified in section 353(f) (the so-called "shield").

2. Effect of Permits on New EPA and State Regulations.—Section 353(f)(1)(A) provides that compliance with the terms of a permit shall be deemed compliance with "all requirements of this Act . . . that are explicitly addressed" in the permit. Rules and regulations that are issued thereafter following notice-and-comment procedures apply automatically according to their terms upon notice to permittees under section 353(f)(2). With regard to guidance documents or other regulatory actions which are not rules as such, EPA can make them immediately applicable in whole or in part to permittees by finding that actual harm to public health would result from delay. States are free to impose additional requirements without regard to these requirements, however, pursuant to the terms of section 116 of the existing Act, which provides that "nothing in this Act shall preclude or deny the right of any State . . . to adopt or enforce" more stringent requirements.

3. Enforcement of Requirements Improperly Omitted from Codifying Permit.—If a requirement of existing law is improperly omitted from a codifying permit, then the permit is not "properly issued" for purposes of 355(c) and an enforcement action may be brought against the source for failing to comply with the omitted requirements. However, under section 353(f)(3), in "any action to enforce a requirement omitted from a permit," the circumstances of the omission may be taken into account by EPA and the courts and if the omission is solely the fault of the permitting authority, no "enforcement action" can be brought against the source. However, the source is not excused from compliance once the omission is discovered. Under section 353(f)(2), EPA and the state must notify the source when they learn that a material requirement under the Act has been omitted from a permit, and within 30 days the source must apply for a revised permit incorporating the omitted requirement. For the reasons explained in Paragraph 1 above, the application process does not protect the source from complying with the underlying requirement.

4. Citizen Suits.—The Amendment would not restrict the existing rights of citizens to bring actions to enforce permit requirements under section 304(a)(3), and, in fact, explicitly provides for citizen suits when sources violate conditions of these new operating requirements and when sources operate without a required permit.

Very truly yours,

E. DONALD ELLIOTT,
Assistant Administrator and General Counsel.

Mr. HEINZ. Mr. President, I do not think any of us like legislating under these kinds of uncertainties with their attendant possibilities for confusion. The reason we are at this point is that we are dealing time after time with legislative moving targets. We started debating the Nickles amendment not this week but last week, but because of the complexity of the amendment and because the authors sought to improve the amendment sufficiently go garner enough support to carry the amendment, the amendment, in spite of the fact that it has been debated on Thursday—was not laid down until Monday afternoon when most of us were not here, and the vote was set for 9:30 a.m. Tuesday morning.

Now, an amendment of this importance should be subject to people's scrutiny for at least 24 hours, and this Senator is going to be strongly inclined in the future to object to major controversial amendments that are not available for our scrutiny ahead of time. So that if we want to take a look at the details of it, if we want to make the research and analysis, if we need clarifications, if we need to understand the intentions of the people who are going to endorse the amendment and its provisions, then we have time to do so. Between 2 or 3 in the afternoon and 9:30 a.m. the following day, if you do not happen to be in town until 8

o'clock on Monday, there is not a lot of time to get that kind of work done. There is not even much time for one's staff that is here.

So it is my hope that people will offer complex amendments in a more timely fashion; and that people who do differ complex amendments pursuant to a time agreement, make sure that the amendments available at least 24 hours, working hours, before the vote. I hate to have someone lay it down, make it available to me at midnight, between Saturday and Sunday, and we vote on it the first thing Monday morning.

I hope there will be a real 24 hours for us to focus on these amendments. We could avoid this kind of scurrying around.

I know this is complex legislation. I know everybody wants their provision to prevail and their point of view to win. But it is terribly important that we have the opportunity to know and understand the major issues on which we are compelled, and quite properly so, to vote.

So I hope my colleagues will pay attention to that lesson. It is one that I felt somewhat uncomfortable having to deal with. I do not think that is the kind of discomfort that should be inflicted on this body.

Mr. President, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I wonder if the distinguished senior Senator from Pennsylvania would just remain for a couple of moments more, because I first want to pay tribute to the thought that he has given to this matter, although I regret that this thought has brought him down on what would appear to me to be the wrong side of the issue.

Since he has given it a lot of thought, maybe he would be available for a little more thought. At least that would be my hope.

Here are the problems I call to his attention about the present amendment, the Nickles amendment. First of all, there is the delay that is incorporated into the Nickles amendment as regards enforcement.

What are we talking about? The whole Clean Air Act is based upon permits and enforcement. And the trouble with the Nickles amendment is that it changes the law as it now exists, as it exists for RCRA, as it exists for clean air, as it exists for clean water, as it exists for Superfund, and sets up a whole series of appeals.

What I fear is that under the Nickles amendment, we are not going to be able to get any enforcement provisions. I just do not know the answer to that. I am not saying this necessarily to the Senator from Pennsylvania, but others who are supporting this. How do we get over this problem?

What is the problem? You have your polluter out there. Under the present law, you go out and the EPA can tell that polluter to stop. Well, that is pretty tough.

So we have provided in this statute, in what you might call a leadership amendment, whatever it might be; call it the Baucus-Chafee provision—in there, we have provided that EPA goes to the polluter and says, "Stop."

The polluter says, "Hey, wait a minute. Let us sit down and talk this thing over." That is provided.

In other words, that is a step that is not included in the present law. The Nickles amendment says you not only come in and talk it over, but you are entitled to an administrative law judge. All right. Nobody can complain too much about that. The administrative law judge may take 6 to 8 months to decide the case, but he has some experience and authority.

Frankly, I suspect when you come in to talk it over under our provisions, there would be an administrative law judge who handled it, anyway. But here is the problem.

You do not like the decision of the administrative law judge. You go to a Federal district court. You appeal it. You appeal the decision of the administrative law judge. In fact, you start over. You start the whole case over.

Then you do not like that decision. It may take 2 years to get to the Federal district court. You are entitled to an appeal to the circuit court of appeals. Everybody knows that takes at least 2 years.

The thing that really most decidedly bothers me about the position of those proponents of the Nickles amendment is this: You cannot have enforcement of the act with all of these appeals. That is the first big problem. To me, it is the most serious problem with the Nickles amendment.

The answer usually given is due process. Now, it is one of the inherent rights of Americans to have due process. If you do not let them appeal to the district court, the circuit court, you are denying them due process. That is what has occurred under the present law.

The Federal district courts have said, "Nonsense. That is no denial of due process." You are not entitled to this by any inherent right. If the statute does not allow you to do it, that is fine. You are not losing out.

This whole due process is washed away. Under the Clean Water Act and under those other acts I have mentioned, the system has worked without objection. I am on the oversight committee. Surely, we would have all kinds of massive complaints if the public were being abused under this. But it has not occurred.

That is my first question. I was wondering if the Senator from Pennsylvania has given that particular matter any thought.

Mr. HEINZ. Let me respond, Mr. President, if I may, to the distinguished Senator from Rhode Island in a general way.

First, I want to compliment him and the Senator from Montana for having the patience of not one, but two jobs. They have been meticulous. They have tried to be as helpful as they can.

I do not envy them their job of steering this very complicated bill through the Senate between shoals and storms, narrow passages, and all kinds of unexpected events.

They have done a marvelous job, and I congratulate them and hope that we come to the end of this voyage with a successful conclusion; namely, a bill that they feel confident does the job, along with this Senator from Pennsylvania.

I would just say that it has been my impression that the managers of the bill, as well as the authors of the Nickles amendment, have been attempting to resolve the differences in point of view in good faith.

It is my view that both the Senators from Rhode Island and Montana and the Senator from Oklahoma and his cosponsors all want a bill that will do the job, that will not subject the goal of protecting the environment to uncertainties and delays, and will not subject the business community to the same kinds of uncertainties and delays.

Delays and uncertainty for either the environment or the way we put the bread and potatoes and meat on the table are no good for either side. So all I say, in response to my friend, the Senator from Rhode Island, is that I am confident, and I am hopeful as well as somewhat confident, that the kinds of issues that he has raised can be resolved; and, indeed, I had hoped that my seeking clarification, recorded clarification might be helpful to resolution. Because clearly, at least to this Senator, the Baucus-Chafee provisions and the, I will say, revised amendment from the Senator from Oklahoma, are in much closer agreement than the amendment originally drafted by the Senator from Oklahoma. So I am hopeful that the motion to reconsider might serve as a mechanism that will lead to concensus on these provisions. I thank the Senator.

Mr. CHAFEE. Mr. President, I appreciate the observations of the Senator from Pennsylvania. As we all know, we deal with legislation, and we get emotionally involved with it, and if we see something not going our way, we think the world is going to turn upside down, all the objectives you have been seeking go down the tubes and you do not end up with much.

So we sat through many amendments and votes here, but of all the

ones we have dealt with, I think I feel strongest about this one. The problem with the position of the Senator from Pennsylvania in saying we will straighten it out later on is this——

Mr. HEINZ. That is not what the Senator is saying.

Mr. CHAFEE. I think the Senator is saying he hopes we could arrive at a conclusion, and the concerns I have do not exist or, if they do, hopefully, we can work it out.

Mr. HEINZ. Let me be clear to the Senator from Rhode Island. I think the concerns that the Senator from Rhode Island expresses are very real to the Senator from Rhode Island. I am sure Senator NICKLES and his cosponsors feel the same way, and I think both sides take the attitude that their particular approach to the problem is right.

It has been my experience in this body that both sides are partially right and partially wrong in any debate and that the purpose of debate and reflection is to resolve those differences. Sometimes, I have to admit, it comes down to a black or white decision, but on such technical issues such as permits, we are not talking about morality, we are not talking about absolute values. These are technical issues, and technical issues should not be so fraught with emotion that they cannot be resolved.

So if the Senator were talking about the issue of air toxics and whether they are good or bad for one, and if the Senator were talking about urban smog, if the Senator were talking about acid rain, if the Senator were talking about the health effects of certain pollution, we could have, I am sure, or he could have—and maybe I would be with him or maybe I would be in opposition to him—a debate about values.

Here the values are, I think, shared by both sides. The means of achieving those particular values, not how far to go in one direction or how far to go in another, is at issue. Qualitatively, there may be a difference. Still, I say to my friend from Rhode Island that I do hope we can handle this amendment by continued discussion and final conscensus.

If we voted to reconsider, it would only be, as I understand the way the votes came, if people who voted with the Senator from Rhode Island on the last vote changed and voted to reconsider. They would only do so, I assume, for a very good reason, and such reason would be if the Nickles amendment were changed in ways that the Senator from Rhode Island wanted it to be changed. Otherwise, if that does not happen, it seems to me the point of view of the Senator from Rhode Island is going to prevail. He was on the prevailing side, as I recollect, in the last vote. He is the captain of this ship at this point, it seems to me, if I am right in my suppositions that there are additional changes that the Senator from Rhode Island feels should be made. I hope the Senator from Rhode Island does not take any exception to my remarks. I thank him for yielding. I must leave the floor for another appointment.

Mr. CHAFEE. I know the Senator has to leave, Mr. President. No one was attaching any morality to this. I am not bold enough to say my position is a moral one and the other position is less moral or indeed immoral. There was no suggestion of that.

The real question is, How do we make this massive act that is 575 pages long enforceable? It is a nice act, but if you do not have permits and you do not have enforcement, it is not worth much. It might be useful as a paperweight or to start a fire with, but not much else. We could have lovely provisions dealing with tailpipe emissions and cutting them down or the use of alternative fuels or the need for MACT, maximum achievable control technology, and toxic emissions, all of these wonderful things, you can have it in a bill, but if you do not have a way to enforce it, it is a nullity. That is the problem. It seems to me that is what is happening under this amendment.

It has nothing to do with morality or with who has a halo around their head in connection with all this. It is how are we going to get clean air, and how are we going to make those who are befouling the air clean it up. You cannot do it unless you have enforcement provisions. And the way you have enforcement provisions is you have permits and say this is what you can do and what you cannot do. If you do not obey it, we will take away your permit and you cannot function—like a driver's license.

People say I am captain of the ship. Well, I am not sure I am captain. We have a lot of co-captains, but I am not sure that we have all our members or all the crew sturdily in their places. I hope those who voted with us yesterday on both the amendments—we won them both—will stick with us. Let me take the first one. I was incorrect. We lost the motion to table. The motion to reconsider we won on the merits. Now there is a motion to reconsider that. It is a little shaky, and we only won 49 to 48. So obviously, everybody counts.

I want to use this slack period here today to stress how important this vote is, how important it is that we stick by the position that the majority voted for yesterday on the enforcement provisions, particularly dealing with the appeals. If a polluter can go on polluting for 5 years while he goes through an appeals process, administrative law judge, U.S. Federal district court, U.S. court of appeals, the atmosphere is going to be pretty well polluted by the time it finally comes to a decision by the court of appeals.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MIKULSKI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1413 TO AMENDMENT NO. 1293

Mr. MURKOWSKI. Madam President, I sent an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending Baucus amendment will be set aside and the amendment of the Senator from Alaska will be considered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for himself and Mr. STEVENS, proposes an amendment numbered 1413 to amendment No. 1293.

Mr. MURKOWSKI. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 188(c), on page 103, line 22, add a new paragraph (3):

"(3) Nothing in this Act shall prohibit a State containing an area classified nonattainment pursuant to section 187(a) from revising its implementation plan to substitute an alternative control measure for an existing control measure if the State demonstrates that:

(A) the alternative control measure—

(i) is not already included in the implementation plan:

(ii) is not otherwise required by this Act:

(iii) will provide an equal or greater degree of carbon monoxide emissions control as full implementation of the existing control measure would provide; and,

(iv) will be implemented not later than 18 months after the date of enactment of this Act; and,

(B) the existing control measure is not otherwise required under this Act or under guidelines or regulations issued by the Administrator.

When the State makes such a demonstration, the Administrator shall approve a revision to the implementation plan which incorporates the alternative control measure.

Mr. MURKOWSKI. Madam President, I understand that the intent of section 188(c) of this bill is to attempt to get all of our nonattainment areas into compliance.

However, if our goal is to get our cities into attainment for air quality standards, then let me point out that the effect of this section would be counterproductive for some of our cities.

For example, Anchorage submitted an implementation plan which would substantially increase our mass transit program. Unfortunately, in the last few years, Anchorage has experienced a significant loss in population, a significant decrease in State revenues, and a much lower than predicted bus ridership.

If Anchorage is forced to implement this program it will result in a large expenditure of funds for an ineffective control strategy.

If our goal is cleaner air, cities like Anchorage would be better off using other control strategies that could produce greater emission reductions.

My amendment would allow cities that flexibility.

It would allow alternative control strategies to be substituted if demonstrated that they would produce greater or equal emission reductions and could be implemented in the same timeframe as section 188(c).

Madam President, it is my understanding that this amendment has been cleared with the bill managers. I urge its adoption

I thank the Chair.

Mr. BAUCUS. Madam President, the majority manager has examined the amendment because it helps the State of Alaska meet certain unique situations that occur in Alaska. We urge its adoption.

Madam President, I can also speak on behalf of Senator CHAFEE, that the minority manager also agrees with the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, all time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 1413) was agreed to.

Mr. MURKOWSKI. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Madam President, I have another amendment which I believe has been cleared.

AMENDMENT NO. 1414 TO AMENDMENT NO. 1293

Mr. MURKOWSKI. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 1414 to amendment No. 1293.

Mr. MURKOWSKI. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 402(p), on page 391, line 8, insert between "unit" and "that" the words "in any State".

Mr. MURKOWSKI. Madam President, the definitions section and purposes section of the acid rain title of this bill make it clear that this title applies only to the 48 contiguous States and the District of Columbia.

However, a literal reading of the operative section of the title, sections 403 and 405, would seem to include units in Alaska and Hawaii within the purview of those sections.

The bill defines "State" as one of the 48 contiguous States and the District of Columbia. My amendment incorporates this definition into the definition of "utility unit."

It therefore makes clear that units in Alaska and Hawaii are not subject to these provisions.

I understand that this amendment is acceptable to the bill managers, and, so, I would urge its immediate adoption.

Mr. BAUCUS. Madam President, the Senator is correct. It was never the intent to cover the States of Alaska or Hawaii in the acid rain portions of the bill. This amendment makes that intention more clear. We accept the amendment.

I also make that same representation on behalf of the minority manager.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, all time is yielded back.

The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 1414) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Madam President, I thank my colleague and I thank my staff.

Mr. BAUCUS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1415 TO AMENDMENT NO. 1293

(Purpose: To amend the Clean Air Act relating to air pollutant research and monitoring)

Mr. REID. Madam President, I am joined by Senator SIMPSON in sponsoring this amendment. However, before sending it to the desk, I would like to add that senior Senator from Louisiana has expressed an objection to this amendment on jurisdictional grounds, similar to the last amendment that was adopted by this body.

Having gained clearance from both sides, I still withheld offering the amendment out of deference to my colleague, the senior Senator from Louisiana, so that I might understand, personally, his specific reservations in an effort to accommodate his concerns, if at all possible. I did this under the framework and in the spirit of compromise established on this clean air bill by the majority leader and the minority leader.

Inasmuch as the primary point of contention deals with utilization of a DOE facility by EPA, there already exists a memorandum of understanding between these organizations, between the Environmental Protection Agency and the Department of Energy, for access to the specific facility in question, and no alternative language appears to be acceptable, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. SIMPSON, proposes an amendment No. 1415 to amendnent No. 1293.

Mr. REID. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, insert the following:

SEC. . RESEARCH, INVESTIGATION, TRAINING, AND OTHER ACTIVITIES.

Section 103 of the Clean Air Act is amended—

(1) by amending subsection (c) to read as follows:

"(c) In carrying out subsection (a), the Administrator shall conduct a program of research, testing, and development of methods for sampling, measurement, monitoring, analysis, and modeling of air pollutants. Such program shall include the following elements:

"(1) Consideration of individual, as well as complex mixtures of air pollutants and their chemical transformations in the atmosphere.

"(2) Development of improved monitoring and modeling techniques to increase understanding of the sources of ozone precursors, ozone formation, ozone transport, regional ozone trends, and physicochemical interactions of ozone with other pollutants. Emphasis shall be placed on those techniques which—

"(A) improve the ability to inventory emissions of volatile organic compounds contributing to urban air pollution, including anthropogenic and natural sources; and

"(B) improve the ability to identify and evaluate region-specific prevention and control options for ozone pollution.

"(3) Efforts to ensure the comparability of air quality data collected in different States and in different nations.

"(4) Periodic reports to the Congress which evaluate and assess the effectiveness of air pollution control regulations and programs using monitoring data collected pursuant to this subsection.";

(2) by amending subsection (d) to read as follows:

"(d)(1) The Administrator shall conduct a research program on the short- and long-term effects of air pollutants, including wood smoke, on human health. In conducting such research program the Administrator—

"(A) shall conduct studies, including epidemiological, clinical, and laboratory studies, as necessary to identify and evaluate effects of air pollutants on human health:

"(B) may utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers; and

"(C) shall consult with other appropriate Federal agencies to ensure that similar research being conducted in other agencies is coordinated and is not duplicative.

"(2) In conducting the research program under this subsection, the Administrator shall develop methods and techniques necessary to identify and assess the risks to human health from both routine and accidental exposures to individual air pollutants and combinations thereof.";

(3) by amending subsection (f) to read as follows:

"(f) In carrying out the provisions of subsection (a), the Administrator shall conduct a research program to improve the understanding of the causes, effects, and trends of natural resource damage from air pollutants. Such program shall include—

"(1) identification of regionally representative and critical ecosystems for research;

"(2) evaluation of risks to natural resources exposed to air pollutants, including characterization of the causes and effects of chronic and episodic exposures to air pollutants and determination of the reversibility of such effects;

"(3) development of improved atmospheric dispersion models and monitoring systems and networks for evaluating and quantifying exposure to and effects of multiple environmental stresses associated with air pollution;

"(4) evaluation of the effects of air pollution on water quality, including assessments of the short- and long-term ecological effects of acid rain and other atmospherically derived pollutants on surface water (including wetlands and estuaries) and ground water;

"(5) evaluation of the effects of air pollution, including acid rain, on forests, biological diversity, soils, materials, crops, and other terrestrial systems exposed to air pollutants; and

"(6) estimation of the ecological damages and their associated costs which have occurred as a result of exposure to air pollutants."; and

(4) by inserting at the end thereof the following new subsections:

"(g) Not later than 120 days after the date of the enactment of this subsection, the Secretary of Energy shall report to Congress on plans and procedures for entering into contracts and cooperative agreements with other Federal agencies, and private, public, and academic research organizations for use of the Liquefied Gaseous Fuels Spill Test Facility.

"(h)(1)(A) Not later than 180 days after the date of enactment of this subsection the Secretary of Energy shall establish and operate an air toxics emissions program to conduct research, development and technology demonstration activities in cooperation with the Liquefied Gaseous Fuels, Spill Test Facility in accordance with the provisions of this subsection.

"(B) Not later than 120 days after the date of enactment of this subsection the Secretary of Energy shall prepare and submit a report to the Congress on plans and deadlines to be implemented in carrying out the program described in paragraph (1)(A).

"(2) The research, development, and technology demonstration activities described in paragraph (1)(A) shall include—

"(A) developing and implementing improved procedures to predict behavior of dense gases including the transport and fate of such emissions;

"(B) developing new and improved analytical monitoring methods;

"(C) investigating and evaluating response methods to control toxic air emissions-related emergencies;

"(D) researching and evaluating monitoring techniques to improve knowledge of threats to human health and the environment with emphasis on cross-media effects of such emissions;

"(E) testing, development and demonstration of alternative or innovative technologies which may be utilized to control, abate, or minimize air toxic emissions.

"(3) In carrying out the provisions of this subsection, the Secretary of Energy, in consultation with the Administrator of Environmental Protection Agency, shall select at least two chemicals listed in section 112(b) of the Clean Air Act for research, development and technology demonstration activities pursuant to this subsection. The Secretary of Energy shall select two such chemicals annually for such activities. In selecting such chemicals, priority shall be placed on chemicals the Secretary of Energy determines pose the greatest threat to human health and the environment.

"(4) The Secretary of Energy shall make available to interested persons (including other Federal agencies and businesses) the use of the Liquefied Gaseous Fuels Spill Test Facility to conduct research and other activities in connection with the activities described in paragraph (2).

"(5)(A) In carrying out the provisions of this subsection, the Secretary of Energy is authorized to enter into contracts and cooperative agreements with, and make grants to, nonprofit entities affiliated with the University of Nevada and the University of Wyoming.

"(B) The agreement described in subparagraph (A) shall provide that such nonprofit entities—

"(i) may provide basic technical and management personnel; and

"(ii) shall provide permanent research institutes.

"(6) The research institutes described in paragraph (5) shall be authorized to make grants, accept contributions and enter into agreements with other entities to carry out the provisions of this subsection.

"(7) There are authorized to be appropriated to the Department of Energy $3,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year thereafter to carry out the provisions of paragraph (5). Such amounts shall remain available until expended.".

On page 512, line 17, strike "$90,000,000" and insert "$120,000,000".

Mr. REID. Madam President, as I stated earlier, this amendment has been cleared both by the minority and the majority. The amendment that I offer closes the loop in our efforts to ensure timely compliance with the provisions of the bill before us.

Madam President, I think it is important to recognize that there are a multitude of reasons for ensuring that appropriate research activities are undertaken, not just superficial research, but in depth research. I just completed a daylong hearing dealing with lawn chemicals; one issue that was pursued was whether or not EPA has the authority to take action with regard to the false advertising of such chemicals.

Significant testimony was offered by nearly 20 witnesses today; some raised concerns about how Congress had not done its job; that is, the Environmental Protection Agency is without authority to take action even if it wanted to do so.

All too often, as I have found in the Environment and Public Works' Subcommittee I chair, Congress requires that regulations be promulgated, but fails to provide for acquiring the necessary information and insight to act effectively. This amendment deals with research, testing and development activities which improve the state of the science of methods for sampling, measurement, monitoring, and modeling of air pollutants.

In addition, this amendment will ensure that probabilistic risk assessment methodologies are developed to assist in our understanding of potential consequences to human health, natural resources and ecosystems. Those activities of particular emphasis include efforts associated with the control of toxic air emissions.

Madam President, whether in Texas, North Carolina, Louisiana, Nevada or Wyoming, toxic air emissions are released in great quantities and are the result of activities at numerous and varied sources. The health threats posed by routine, controlled emissions or sudden, uncontrolled, accidental releases must be assessed and understood.

Each of us has heard about the problems and consequences of toxic air emissions. In the State of Nevada, a severe fire and catastrophic explosion occurred at an industrial complex near Henderson in 1988. We all saw pictures of this violent explosion on national television and newspaper reports for several days thereafter.

This catastrophe caused tens of millions of dollars of damage to public and private property. Two people were killed and numerous people injured.

The toxic material released into the atmosphere from the fire and explosion threatened the lives and, certainly, the livelihoods of thousands of residents of southern Nevada.

The toxic chemical cloud which could be seen floating over southern Nevada remained consolidated for several hours and, because of its trajectory and speed, dispersed without any significant damage. But that was because of the uniqueness of the meteorological conditions that day. But alarm had been created for areas surrounding southern Nevada which included the metropolitan Las Vegas area.

This accident contained all of the elements of a manmade disaster of enormous proportions. We can still recall pictures of people running across the desert, stumbling and falling as explosions took place.

Madam President, upon reflection, we Nevadans consider ourselves fortunate. We consider ourselves fortunate that the loss of life was limited to only two individuals, because the potential was there to kill hundreds. The consequences of this event could have been much worse. And in other places they were much worse.

Just a few years before that, a devastating chemical plant accident resulted in over 3,500 deaths within hours. The latent effects of that catastrophe continue to remind us of the accident, as hundreds die annually from lingering accident-related illnesses.

Bhopal will be etched in our memories for life, and the explosion of the plant in Henderson, for those of us from Nevada, will remain etched in our minds for our lifetimes.

Madam President, incidents such as these two are not as rare as they should be and can be. According to the Environmental Protection Agency, thousands of spills that pose air toxic threats to the public and their communities have occurred over the past several years.

As a nation, we rely on the convenience of chemicals and are not in a position to abandon the contributions that the industry has made to improve our quality of life, in most instances.

We need to be more sensitive to the use of chemicals in our everyday experiences. We may take too much for granted. Because of the jurisdictional subcommittee that I chair, I am concerned that we may overplay the contributions of these chemicals. Perhaps we should be more concerned about chemicals.

Testifying before the committee today was an 11-year-old boy who has been poisoned by lawn chemicals; he cannot lead a normal life. He is a brilliant young man from Illinois who, in the summer months, has to leave his home and some of his family to avoid those areas where lawn chemicals are sprayed.

We listened to a nurse today, who has been poisoned by chemicals; her life has been disrupted.

We listened to the brother of a young man who died as a result of exposure to chemicals. The very, very painful death his brother could hardly be described in words.

So, while we accentuate the positive contributions of chemicals in our lives, we need greater assurances regarding the safe use of chemical products. There must be more attention given to chemicals in the workplace, chemicals around our houses, and chemicals around the schools our children attend. This convenience comes with a price. Mishaps in the use of these chemicals can turn a convenience into a nightmare.

We know from Superfund inventories that this approximately 2.5 billion tons of toxics are released each year; this means that 1,000 pounds of toxic materials are released for every man, woman and child in the Nation on an annual basis.

We need to do more than just report on the situation. We must be able to develop better monitoring and control capabilities. This can only happen through research and innovation on the part of industry, and aggressive research by the Federal Government that utilizes our existing research facilities, effectively.

The amendment that I propose recognizes the existence of the facility expressly designed and especially suited for ambient environmental research on dense, nonambient gases. The liquified gaseous fuels spill test facility offers researchers the opportunity to develop important data and technologies to ensure timely and proper control of toxic air emissions.

The spill test facility is the premier laboratory environment to conduct research on dense gases. There already exists a memorandum of understanding for its use by the Environmental Protection Agency and the Department of Transportation in cooperation with its operator, the Department of Energy.

Madam President, I ask unanimous consent that a copy of this memorandum of understanding between the Environmental Protection Agency and Department of Energy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM OF UNDERSTANDING AMONG THE U.S. DEPARTMENT OF ENERGY (DOE), THE U.S. DEPARTMENT OF TRANSPORTATION (DOT), AND THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)

A. PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to provide a basis for establishing a long-range plan for collaborative research at the Liquefied Gaseous Fuels Spill Test Facility (LGFSTF) located at the Nevada Test Site which assures coordination by the Department of Energy with the Department of Transportation and the Environmental Protection Agency.

B. BACKGROUND

Section 118(n) of Public Law 99-499, headed "Spill Control Technology," directs the Secretary of Energy (1) to establish a test program at the LGFSTF to evaluate technologies responsive to spill releases of hazardous materials; (2) to conduct a technology transfer program; and (3) to arrange for the use of the LGFSTF in carrying out the provisions of the subsection. In the House Energy and Water Development Report which accompanies the FY 1987 Continuing Appropriations Act, the Committee directs the DOE to develop an MOU with the DOT and the EPA establishing a long-range plan for collaborative research at the LGFSTF. For purposes of this MOU, spills refer to the sudden unexpected release of chemical substances or mixtures in a gaseous, liquid, solid or mixed phase state.

C. SCOPE OF WORK

The work to be performed under this MOU will allow the DOE/DOT/EPA in coordination with the private sector and other agencies to develop, structure and prioritize the establishment of a generic, national research and development (R&D) program germane to heavier than air gas dispersion, hazardous substance releases and related mitigating technoloies.

D. FORMS OF COLLABORATION

Collaboration in accordance with this MOU may include, but is not limited to the following:

Planning, coordinating, and conducting research and development programs and test protocols leading to testing and evaluation of technologies at the LGFSTF, technology transfer, monitoring, complex terrain phenomena and atmospheric transformation, generic mitigation and action plans and such other forms of cooperation as may be agreed in writing by the parties.

E. AGENCY CONSULTATION AND COORDINATION

DOE will consult with DOE and EPA in planning for research at the LGFSTF. Such consultation shall occur at least on a semiannual basis.

DOE will coordinate with DOE and EPA on projects to be conducted at the LGFSTF which, based on consultations under paragraph (1), are of mutual interest to the agencies.

DOT and EPA, in carrying out their responsibilities regarding liquefied gaseous fuels and other hazardous substances under controlling statutes, will coordinate their research specifically related to the LGFSTF with DOE to assure the most efficient and productive use of available resources.

DOE, DOT and EPA will coordinate with the private sector and other Federal agencies, as appropriate, in fulfilling each agency's responsibilities under this MOU.

F. JOINT PROJECT AGREEMENTS

Specific efforts will be defined by joint project agreements, which will describe the schedule, the responsibilities of each party, and information and report dissemination.

G. FUNDING

The details of the levels of support of particular projects wil be developed by the individual agencies and if there is a transfer of funds between agencies this will be carried out through specific interagency agreements.

H. PUBLIC INFORMATION COORDINATION

Subject to the Freedom of Information Act (5 U.S.C. 552), decisions on disclosure of information to the public regarding projects and programs implemented under this MOU will be made following consultation between DOE, DOT, and EPA representatives.

I. PATENTS, TECHNICAL DATA, AND FINANCIAL POLICY

It is the policy of DOE, DOT and EPA to make the results of the research and development work contemplated by this MOU available to the public consistent with applicable security and other regulations. Because DOE has a specific statutory patent policy directing how this should be accomplished, DOE patent policy normally shall apply to interagency agreements executed between DOE, DOT and the EPA. DOE's technical data policy normally will be followed in view of its close relationship to DOE's patent policy, unless otherwise specified in interagency agreements for specific projects. DOE's financial policy normally will be followed in view of differences in financial restrictions placed on agencies, such as those between civilian and military agencies, unless otherwise specified in interagency agreements for specific projects.

J. TERMS OF AGREEMENT

This MOU will take effect upon signing by authorized officials of the DOE, DOT, and EPA, and shall remain in effect, subject to biennial sunset review, unless terminated by any agency providing 30 days advance written notice. Proposals for an amendment may be made by the DOE, DOT or EPA at any time.

K. PROJECT OFFICERS

Dr. Albert G. Dietz, Manager, Liquefied Gaseous Fuels Spill Program, U.S. Department of Energy, Office of Fossil Energy, FE-10, Washington, DC 20545.

Mr. Donald J. Ehreth, Deputy Assistant Administrator for Research and Development, Environmental Protection Agency, Washington, DC 20460.

Dr. Douglas Chisholm, Research Unit Head, U.S. Department of Transportation, Office of Pipeline Safety, 400 Seventh Street, SW., Washington, DC 20590.

L. AUTHORITY

The Superfund Amendments and Reauthorization Act of 1986, Title I, Section 118 (Pub. Law 99-499); the Energy Reorganization Act of 1974, Section 103 (Pub. Law 93-438, as amended); and the Department of Energy Organization Act, Section 301 (Pub. Law 95-91), as amended).

Approved by:

For the EPA—Dr. Vaun Newill, Assistant Administrator for Research and Development, June 30, 1987.

For the DOE—J. Allen Wampler, Assistant Secretary, Fossil Energy, June 30, 1987.

For the DOT—M. Cynthia Douglass, The Administrator, Research and Special Programs Administration, June 22, 1987.

Mr. REID. As an aside, Madam President, I know of the heavy responsibility that the subcommittee, which the Senator from Maryland chairs, has in dealing with the Environmental Protection Agency. The subcommittee controls the purse strings of the Environmental Protection Agency.

That Agency has much to do and has very little resources with which to do it. I certainly commend and applaud the Senator from Maryland for the work the Senator has done in trying to ferret out those activities which are "most" essential because there are so many things on the list of essentials.

The Senator has a difficult job because she is dealing with, literally, the lives of the people in the country. The EPA deals in the regulation of the most hazardous substances that we have in the world. I again extend my gratitude to the Senator from Maryland for the diligence she and her staff have shown in this most difficult task.

Madam President, the research that I am contemplating with this amendment will provide a data inventory to better assess cross-media stresses to ecological systems, the environment, and human health. Also, the comparability of information gathered by a variety of organizations, State, Federal, and foreign, would be addressed.

Last, this amendment recognizes the importance of developing, testing and demonstrating innovative and alternative technologies in the process and at the plant itself.

Ultimately, Madam President, we must improve the opportunity for pollution prevention at the front end of the process. For now, we deal with control at the back end of the process; too often we require that regulations be promulgated, but fail to provide the necessary insight to industry or our own Government agencies to ensure that they can comply with the proposed emissions control objectives. Forcing technology is meaningful when innovations are within reach and control strategies can be proven to be effective.

Madam President, we must finally make headway in ensuring the public has healthful air to breathe. This amendment that we are talking about today is being considered in similar form on the other side of the Capitol. Congressman SCHEUER has spent a great deal of time crafting a similar research and development proposal on the House side. This is one element to ensure we make headway in the process to provide the public with healthful air to breathe. That is what this whole clean air bill is about. With regard to air toxics, the Environmental Protection Agency will promulgate regulations for nearly 200 hazardous chemicals listed under title III of this legislation. Increasing from the list of seven today, this represents a significant amount of work that EPA needs to undertake.

The PRESIDING OFFICER. Will the Senator withhold? the Presiding Officer wishes to advise the Senator we are under a time agreement. The Senator might not be aware of that. The Senator has used approximately 16 minutes. Maybe the Senator would like to pace himself in a way as to be able to finish.

Mr. REID. Madam President, I very much appreciate the admonition of the Chair. I am about to wrap this up; I will do so much more quickly.

With regard to air toxics, EPA will increase from 7 to 200 those hazardous chemicals they will undertake to examine. We need to ensure appropriate focus is given to deal with the research, testing and development activities which improve the state of the science of methods for sampling, measurement, monitoring and modeling of air pollutants and their impact on human health, the environment, and ecosystems. This amendment will do just that.

Madam President, I yield the floor. Unless the Senator from Montana has a statement, I suggest the absence of a quorum.

Mr. BAUCUS. Madam President, I request the Senator withhold that request.

Mr. REID. The Senator withholds.

Mr. BAUCUS. Madam President, the amendment before us is an amendment offered by a very talented and able member of the committee. I am advised, however, as the Senator from Nevada has represented, that the Energy Committee has lodged an objection to this amendment on jurisdictional grounds. I am duty bound to inform the Energy Committee of this amendment. We have done so. I am now awaiting the arrival of the chairman of the Energy Committee to come speak on the amendment, if he so chooses.

I do not know whether the chairman of the Energy Committee, in fact, will oppose the amendment. That is a judgment that the chairman of that committee must make for himself.

I see no one who wishes to speak in opposition to the amendment, although the chairman of the committee may come to speak in opposition as the chairman of the Energy Committee. Because he is not yet here, I suggest the absence of a quorum.

Madam President, I withhold my request and yield to the Senator from North Carolina.

Mr. SANFORD. Madam President, I call up an amendment——

Mr. BAUCUS. I ask the Senator to withhold. We are now in the middle of another amendment. I inform the Senator we are now debating the amendment offered by the Senator from Nevada.

Mr. SANFORD. I thought the Senator had set that aside.

Mr BAUCUS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. Who yields the Senator time?

Mr. BAUCUS. Madam President, I will yield 4 minutes to the Senator from Wyoming.

Mr. SIMPSON. I thank my friend from Montana.

I am very pleased to cosponsor and support this amendment. This amendment allows for air toxics research to be conducted at a very unique testing facility at Frenchman's Flat, NV by the Western Research Institute. That DOE facility is currently underutilized. It offers EPA the chance to work with other agencies to ensure a timely issuance of rules affecting our industrial base that will work for us under real life settings. An important aspect of this amendment, I think, too, is the return on the taxpayers' investment.

For several years we have provided millions of dollars to develop this laboratory to allow research on the environmental hazards associated with liquid or gaseous or chemical spills. This facility currently remains unused despite an array of diagnostic sensors, anemometer stations, extensive video monitoring and infrastructure to simulate fireballs, vapor cloud explosions, and routine toxic air emissions.

We are all aware of the need for this type of research. We remember the tragedy of Bhopal in India, the cyanide spill that claimed 3,500 lives—tank car explosions of chemicals and liquefied natural gas and, now, the knowledge that millions of pounds of toxic air emissions are released into the environment every year.

For the past several months we have heard about the hardships the air toxics legislation will impose on our industrial base. At the same time, we have heard testimony on the need to control toxic air emissions.

In response to the need for information on the toxic air emissions and the potential threat to human health and the environment, we will direct EPA to issue standards to control these emissions. We also provide authority to allow voluntary reductions to be considered as a means to substitute for costly maximum available control technology requirements. However, if we are going to ensure that such reductions do in fact take place, we will have to provide scientifically valid guidelines for monitoring activities.

This amendment provides for this by allowing an underutilized facility that is capable of full-scale demonstration of methods to conduct sampling and related monitoring research. This amendment also recognizes our responsibility to support development of innovative and alternative air toxics control technologies so that we remain internationally competitive. This amendment directs the use of an existing research facility for a new environmental activity. It will mean the timely entry into the marketplace——

Mr. JOHNSTON. Madam President, will the Senator yield?

Mr. SIMPSON. Yes.

Mr. JOHNSTON. I apologize for breaking in on his speech because he had a full head of steam.

Mr. SIMPSON. I have about 30 seconds left. That is why I was quite ahead.

Mr. JOHNSTON. I came in from a political event which, of course, I wanted to get back to if I did not have to participate in this debate. But do I understand that this amendment is now an authorization and does not require any grants or contracts?

Mr. REID. It is just an authorization.

Mr. JOHNSTON. I thank the Senator. I appreciate his letting me break in.

Mr. SIMPSON. Madam President, I have approximately 30 seconds left. That is why I was gathering that head of steam.

This is an allowance of an underutilized facility capable of full-scale demonstration, as we say. It is going to mean the timely entry into the marketplace of promising technologies to support compliance.

More important, this amendment will provide a vivid and realistic proving ground for innovative technologies, and it will help to remove concerns about their effectiveness.

So I would urge adoption of the amendment at this time. I commend the Senator from Nevada. It will provide a commitment to industry that we will do our part, and will do its part to provide the mechanisms that will ensure scientifically valid regulations are developed which industry can comply with in a very cost-effective manner.

I thank the Senator from Montana for yielding me sufficient time.

The PRESIDING OFFICER (Mr. DASCHLE). Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have a brief question for the Senator from Nevada. Specifically, I would like to clarify some issues related to the Senator's amendment requiring research into the transport and fate of air toxics. As I understand this amendment, it requires the Department of Energy to establish a program within 120 days, including plans and deadlines, to conduct research at the liquefied gaseous fuels spill test facility at Frenchman Flats, is that correct?

Mr. REID. That is correct. Indeed, this amendment requires the plan to be submitted to Congress. We took this action because of grave concerns that the facility to date has been underutilized. It is our intention that the plan will avoid unnecessary delays in moving an important research program forward.

Mr. SIMPSON. As the Senator is aware, when Congress amended Superfund we included language directing the Department of Energy in consultation with the Department of Transportation and the Environmental Protection Agency to implement a research and development program to evaluate response technologies related to hazardous substance spills. This program was to be conducted at the Frenchman Flat site. We took this action because the site has the unique capability of providing a laboratory for full-scale experiments that mimic real-life situations.

Since passage of the Superfund Amendments and Reauthorization Act, environmental priorities have grown in number. Most specifically, we are moving to regulate toxic air emissions. Would the Senator clarify whether this amendment would affect the current mission of the Department's research related to hazardous substance research?

Mr. REID. The intent of this amendment is to build on the existing program the Department has at the site. We felt this necessary because of the uniqueness of this facility and its availability to conduct real-life research without affecting surrounding communities. For example, response methods to combat toxic emergencies are to be evaluated. This amendment would require the Department to develop and implement improved procedures to predict the behavior of toxic emissions. This includes developing necessary monitoring and related protocols to support rulemaking. The amendment also requires the Department to test, develop and demonstrate alternative and innovative technologies which may control, abate, or minimize air toxic emissions.

Mr. SIMPSON. Currently, the facility's hazardous waste research is supported by the fine talent of the University of Wyoming's Western Research Institute. I note that the amendment directs program management to be supported by nonprofit entities that would provide permanent research institutes. Would the Senator explain if it is his intent that this organization would meet the requirements of the amendment and should be included by DOE and EPA in any research activities.

Mr. REID. Without question this would be one of the research organizations that would be expected to provide necessary program management support. I would also add that the Desert Research Institute is another example of a research organization expected to support the Department's activities under this amendment.

Mr. SIMPSON. I thank the Senator for his clarifications.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Thank you, Mr. President.

Mr. President, a short while back, my good friend and colleague from Rhode Island was somewhat critical of the so-called Nickles-Heflin-Dole amendment due to the timetable and the amount of time it would take for enforcement.

The PRESIDING OFFICER. If the Senator will withhold, I apologize. The Senator from Montana is controlling the time. Does the Senator yield to the Senator from Oklahoma?

Mr. BAUCUS. Mr. President, I might inform the Senator from Oklahoma there is an amendment pending. It is the amendment offered by the Senator from Nevada. There is not a lot of time left on the amendment. It may be more orderly if we could dispose of this amendment in an appropriate fashion before proceeding to other subjects.

Mr. REID. If the Senator from Montana will yield, could I make inquiry as to the amount of time I have on this amendment?

The PRESIDING OFFICER. The Senator from Nevada has 15 minutes. The Senator from Montana has 9 minutes.

Mr. REID. I only had 14 minutes left 45 minutes ago. That is interesting.

Mr. BAUCUS. Mr. President, I frankly do not know why we cannot just vote on this amendment at this time. I do not know if there is any opposition to the amendment.

Mr. REID. I was waiting, as was the Senator from Montana, for the Senator from Louisiana. He has been on the floor and left. So I ask that the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment (No. 1415) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, a few moments ago, my good friend and colleague from Rhode Island was somewhat critical of the Nickles-Heflin-Dole amendment dealing with the timetable for enforcement. There were some statements made that I believe were factually incorrect, and I want to correct the record and also explain to my colleagues from Rhode Island and Montana how the enforcement timetable would work because, as I stated on the floor yesterday and the day before yesterday, our process was streamlined. It would be quicker than the Baucus-Chafee approach. I still believe that. The Justice Department believes it as well. I will not take a lot of time, but I want to explain it to my colleagues briefly, so maybe they will have a better understanding.

Mr. MITCHELL. Will the Senator yield?

Mr. NICKLES. Yes, I yield to the majority leader.

Mr. MITCHELL. I wish to make an announcement with respect to the schedule for the rest of the evening. I understand the Senator from Oklahoma wishes to engage in a colloquy with the Senator from Rhode Island on the subject matter of his amendment?

Mr. NICKLES. That is correct.

Mr. MITCHELL. Accordingly, Mr. President, I have checked with the managers on both sides, and I am advised that the only two matters that are before them or can be before them, or that have indicated will be before them this evening, are the colloquy with the Senator from Oklahoma, which will be merely a colloquy, not requiring any action, and an amendment by the Senator from North Carolina [Mr. SANFORD] which will be acceptable to the managers. No amendments, according to the managers, are ready to be offered that will require a vote. And, if that is the case—Mr. President, I withhold for a moment, because the distinguished manager may have additional information.

I am advised that there may be other amendments which are accepted that are being considered. But, as I understand it from the managers, there will not be an amendment that will require a rollcall vote.

I am trying to give Senators the benefit of the status that we are in. Mr. President, I am now advised that there may be contrary information. So I suggest the absence of a quorum, and I will have an announcement in just a few moments.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL addressed the Chair.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. NICKLES. Mr. President, as I stated a moment ago, I think there has been some confusion or misunderstanding on what would happen and what the procedure would be under the so-called Nickles-Heflin-Dole amendment concerning enforcement. As a matter of fact, I believe I heard my good friend from Rhode Island mention that enforcement would be delayed and postponed indefinitely. That is totally not the case.

Mr. President, I heard our amendment was criticized and it was said that our administrative enforcement provisions provide multiple opportunities for delay, including de novo review of administrative decisions in district court. This is incorrect. Review of administrative orders under the Nickles amendment is on the record not de novo.

There is no requirement for the court to hear testimony or to take evidence. See my amendment on page 16 and 17.

Thus, under the Nickles amendment, the district court will use the same standard of review, and the same review procedure, that the court of appeals would use under the so-called Baucus-Chafee amendment.

Moreover, the use of the district court instead of the court of appeals to review these cases should result in faster resolutions of these cases and not delay for two reasons:

First, the district court decisions are made by just one judge, not three. The district courts are better equipped to deal with matters on an expedited basis. In contrast, it may take 1 or 2 years to dispose of some cases in the court of appeals.

Second, the district court unlike the court of appeals, is in a position to grant immediate injunctive relief and to enforce its orders if it upholds the EPA order. The court of appeals, in contrast, must remand the matter to EPA which must then bring a second action to enforce the order if the source does not comply.

Senator CHAFEE is wrong, in my opinion, in saying that the judicial review process provided for in my amendment would mean that a polluter will go for years without having to comply with the order, as the challenges work their way through the district court and the court of appeals.

Once the administrative law judge finds that the section 113(a) compliance order was valid, that order goes into effect. Section 167 orders, which deal with stopping construction, would go into effect immediately.

Once the agency's decision is final the order is then in effect unless the polluter persuades the court to issue a stay. The standards by which the courts would grant a stay are indentical under our bill and under the so-called Baucus-Chafee approach.

Finally we believe that if the source gets a fair, formal hearing at the agency level, plus the district court record review, they will be unlikely to seek additional review in the court of appeals.

So again, Mr. President, let me try and get my colleague's attention and make sure that he understands this process.

If there is a disagreement between the source and EPA on the compliance order, or maybe it is on a 167 stop construction order, if there is a disagreement, say EPA regional office told the source you have a compliance order, and it means that you have to do such and such within 90 days, and that source may say wait a minute that is impossible, that is too expensive, that it is not realistic, then they have a disagreement. Under our procedure they would go before an administrative law judge. Under the Baucus-Chafee procedure they would go before an EPA staffer, in all likelihood an attorney working at some level in the EPA bureaucracy. Under either case, under the Baucus-Chafee or under Nickles-Heflin, regardless of whether it is an administrative law judge or whether it is before an EPA staffer, the order would be stayed through the hearing process.

If you are talking about a compliance order that order would be stayed during the compliance process. But once, and let me get my colleague's attention, that decision is made, let us say if we are talking about a section 113, if we are talking about a compliance order, once that decision is made, and again I want to repeat, once the decision is made on the record, it is not reviewed in the district court de novo under our bill. Before a source could get a final agency order overturned, that order goes into effect unless the court stays the order. In other words, that source would have to got to the court and say I disagree.

There are two different types of order. One is a compliance order. I will talk about compliance for the time being. If it is a compliance order, and the administrative law judge says, "I agree, you are polluting and you need to stop," that order goes into effect unless the district court stays the order. In other words, the burden is on the source to go to the district court and say wait a minute, EPA made a mistake, they are going to put me out of business, stay the order. If the district court does not agree, that order goes into effect under the Nickles amendment and under the Baucus-Chafee amendment. However, we have two different views on which court the source should appeal to. In Baucus-Chafee you are going to the appellate level. We are going to the district court level. At the district court level you argue before one judge. At the appellate court level you have to argue before three judges. The Justice Department said this would work better, this would be a more expedited approach.

Then let me give the Senator a little more information. If on the appellate side, if you go under the Baucus-Chafee approach and it is argued before the circuit court, and the circuit court wants to agree with EPA, you know they cannot issue that injunctive relief. They have to send it back to the district court.

The circuit court has no injunctive authority. It cannot command those sources to comply, so it would have to be remanded to the district court which does have injunctive authority. So again, this amendment by Senator HEFLIN and myself, and I compliment Senator HEFLIN, he has worked with us and the Justice Department at length on these sections, we have worked extensively with Justice Department trying to get something that would work. Our approach would streamline the process, that is what we have been saying.

The process under Baucus-Chafee is longer. There is nothing in our amendment that would allow the characterization that is made by my good friend from Rhode Island that a source would be able to go before the ALJ, and if he disagrees with the administrative law judge's decision, he could continue polluting the atmosphere for years and years while the appeal winds its way through the courts.

That is not the case. When the administrative law judge agrees with the EPA on a compliance order, then the source has to stop unless he can get the district court to agree with him, or unless he can get, under your approach, the circuit court to agree with him. Then the source has to stop, under the Baucus-Chafee approach or under the Nickles-Heflin approach and so the characterization that our approach will result in lengthy delays is totally wrong. In the district court you only have to argue it before one judge plus the fact that the district court has the authority to make the source comply with the order which the circuit court does not.

So, again, I just wanted to clarify the record because I think there were some mistakes, or maybe friends and colleagues did not understand this section of the Nickles-Heflin-Dole amendment. We did not discuss this very much during our debate over the last few days and I am happy to amplify it. I will be happy to amplify it further by submissions from the Justice Department or any other source.

But I want friends to have an understanding of how this process would work, particularly in light of the fact that I heard my good friend from Rhode Island saying this is probably his major objection to the Nickles amendment. Maybe after he has a clarification of what the Nickles amendment would do, I think he would agree with me that this is a better process. This is a process that will work better, both in the courts, and it will stop polluters if someone is polluting. If the administrative law judge agrees for the EPA staffer under the so-called Baucus-Chafee, they have to comply unless they can get a court to overturn that decision.

We even have language that says that decision would not be overturned unless there was not substantial evidence in the record, taken as a whole, to support finding of a violation.

So, again I think our language was well thought out. I think it is preferable to the Baucus-Chafee amendment, and I hope my colleagues, after they thoroughly review it and understand it, will agree.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I appreciate the description that the distinguished Senator from Oklahoma gave of his legislation. I would just like to make the following points: First, let us start with what the law is now. The law now is that if the EPA says a polluter is in violation the polluter has a right to go to the EPA and discuss it. And that ends it. The Administrator says I am not going to grant a stay, that is it. The polluter then better stop his actions, or if he proceeds he proceeds at his own risk. That is the way the law is now.

I am incorrect in that. Now he is not even entitled to the meeting with the EPA, the Administrator. Let me correct that if I might. Let me correct that. In the present situation, the Administrator says stop. The polluter has to stop. That ends it. I mean he cannot even ask for a hearing, a meeting with the Administrator. That is the existing law which we are operating under now.

Now we said that seems pretty rough. So our approach says the Administrator says stop, and before that order becomes final the polluter can come to an administrator and has a right to a public hearing prior to the order becoming final. Everybody agreed on that.

Mr. NICKLES. Will the Senator yield for a minute?

Mr. CHAFEE. I yield.

Mr. NICKLES. When the Senator says the Administrator, we get the implication we are talking about the Administrator of EPA. I think the Senator will acknowledge that under his amendment, the informal discussion he is talking about, it would not be before the Administrator of EPA, but before an EPA staffer. I use the characterization, bureaucrat.

Mr. CHAFEE. I try to avoid the use of the word bureaucrat.

Mr. NICKLES. I use the characterization, bureaucrat. The EPA staffer, EPA attorney in all likelihood.

Mr. CHAFEE. I think more likely before the regional administrator.

Mr. NICKLES. That is not called for in the Senator's amendment.

Mr. CHAFEE. All right. So therefore he comes in and has a hearing. Most likely I agree that would be before

similar to an administrative law judge. After that the order becomes final. And there is no preferential review after that. There is some suggestion that you then go to the court of appeals. No; not under our provision. That ends it. You might say, wow, that is pretty tough. But that is not as tough as existing law. Furthermore, what is the objective? The objective is to end the pollution.

Mr. NICKLES. Will the Senator yield?

Mr. CHAFEE. If I could just finish the steps, under the Senator's proposal he allows an opportunity to seek a stay at three levels: the polluter is polluting, and the Administrator says stop. EPA says stop. And you say, no, I seek a stay of that order. So you then go in and you have the hearing before the administrative law judge. Yes; then you do not like that and you go to the Federal district court. You are absolutely right that it is not de novo there.

That it is not de novo there and I was wrong when I said it was. I stand corrected. And so then you go to the Federal district courts.

Now, somehow the impression is given that you just go to the Federal district courts. I do not know about the Federal district courts in Oklahoma. But the Federal district courts in probably every district in the United States are so jammed with drug cases and everything else. Indeed, as you know, Federal district judges—and you have read this, undoubtedly—have complained that they want these drug cases handled in some other fashion. They just cannot handle them. They are so crowded.

Mr. NICKLES. Will the Senator yield, because this is really critical? I would like to discuss with you as far as who is making the decision, whether it is administrative law judge or regional administrator. But the real key issue is that the compliance order goes into effect by the administrative law judge. If the administrative law judge agrees with EPA, it goes into effect unless the district court stays the order. So if it takes 2 or 3 years for the source to appeal to the district court then the administrative law judge's order is still in effect.

If the administrative law judge says you are not in compliance, we mandate you be in compliance, no matter what the source says, it must come into compliance unless he can get the court to stay the order.

So if there is a court backlog, it would be, to this Senator's view point, a detriment rather than an advantage to the source.

Incidentally, that is the same under the Senator's proposal as my proposal, the exception is you are talking about an appeal to the circuit courts and I am talking about an appeal to the district courts. A source has the right to appeal under the Senator's amendment—you mentioned administrator, but if the staffer, bureaucrat, administrator, whoever made that decision, said you are not in compliance and we mandate compliance by such and such and the source says, "Wait a minute, that is untenable, that is too costly," he can appeal it to the circuit court.

But the order goes into effect. The order goes into effect unless that circuit court stays the order. Under our bill, it is exactly the same. The order goes into effect by the administrative law judge unless the district court stays the order.

Mr. CHAFEE. I wonder if the Senator could point out where, under our language, it talks about going to the circuit court.

Mr. NICKLES. I will be happy to. I think it would be wise if we spent a lot more time reviewing your language.

Mr. CHAFEE. I am not trying to cause any difficulty here, but somehow the circuit court worked its way into this discussion. If you could point out to me on which line it talks about going to the circuit court, that would be helpful.

Mr. NICKLES. My staff will research that.

But let me just comment in this connection. Under the Baucus-Chafee approach, I think I heard you mention a minute ago, a source does not have the right for an appeal to the circuit court. We believe it does and we will see if we cannot find it.

I believe in your language that it does allow a source to appeal an order from the decision made by the EPA staffer, bureaucrat, administrator, whatever, to go directly to the circuit court. Under ours, they would go to the district court.

But the real critical point was that earlier my friend and colleague implied that, well, the polluter would continue polluting until he had his case in court and if he did not like that one, he could go to the appellate level, and he would continue polluting for all these years. That is not the case.

The facts are very simple; the order by the administrative law judge would be in effect unless the court stayed the order. And so that polluter would have to stop. If the administrative law judge said, "I think EPA was right," the order that was made by EPA which mandated compliance goes into effect unless the court, district court or the circuit court——

Mr. CHAFEE. Or the law judge?

Mr. NICKLES. No. I said if the administrative law judge said, "We agreed with EPA, this order, this compliance order, has to take effect by such and such a date," then it takes effect, unless that order is stayed by the circuit court under the Senator's amendment, or under my amendment by the district court. And we will try and find where you reference the circuit court of appeals.

Mr. CHAFEE. The Senator from North Carolina has an amendment.

Mr. NICKLES. With my colleague's indulgence, I am basically finished with my presentation. I would like to work with the Senator. Obviously, there is a significant amount of confusion on the process that we developed with enforcement. I think there was an inaccurate analysis of our approach on enforcement when statements on the floor were made that a polluter could be in disagreement with an EPA order and could appeal it forever and would continue polluting. That is not the case.

The case under the Nickles-Heflin amendment, as with the Baucus-Chafee amendment, once that decision is made by the staffer or the bureaucrat under Baucus-Chafee, or administrative law judge under Nickles-Heflin, once that order is made, it is in effect. It is in effect unless it is stayed by the district court or under Baucus-Chafee, it is in in effect unless it is stayed by the circuit court.

Mr. CHAFEE. While the Senator is working on that, would he also do some research on his provision dealing with citizen suits? Two points: One, under his provision, where the citizen has carried the suit all the way, he provides the Federal Government can come in at the last moment and elbow aside the citizen and take over the case. That is the first point.

The second point is on the citizen suit, the citizen cannot collect for past damages. In other words, the citizen has to give notice, under the law—and we all agree with this—has to give notice to the polluter that he is giving suit and that gives the polluter 60 days to straighten out the situation.

Under my colleague's proposal he cannot go back and collect anything for past damage. He can only collect for future damage. I do not understand the rationale for that provision. What the polluter does, he says: "Oh, that is right. I will straighten it out." So he straightens it out. And since the citizen cannot collect for any past damages and the polluters stop, then there is no ground for a suit. He stops within the 60 days.

Then what happens? The polluter starts polluting again, let us say somebody upstream, upwind. Then again the citizen has to go through this rigamarole, 60 days' notice; within the 60 days give notice. And the polluter says: "Oh, dear, I am sorry." We go through this charade possibly for several times.

I just do not understand the rationale behind that, either of those two points.

Mr. NICKLES. I will be happy to explain that to my friend and colleague. I can ask him to explain a few of the

provisions which he mentioned in the last couple of days which were not intended, on his approach. One, would be his provision that would require LAER, the lowest achievable emission rate, be applied to any source in a nonattainment area which is much more expensive than that agreed to by the leadership agreement, and so on.

Let me make a couple of comments on the Attorney General being able to substitute himself in for the citizen suits because the citizen suit provisions are basically where the citizen is standing in for the Government. The law, as the Senator I am sure is well aware, is that all the damages or all the financial penalty from these suits—the money all goes to the Federal Treasury. That is part of the law right now. It is not going to individual groups. It goes to the U.S. Treasury. So the Attorney General does have the right to step in. It is his job to carry out enforcement.

Citizen groups would have the right under our provision as well as the Senator's provision to initiate suits. But under our provision, yes, the Attorney General would have the authority to step in and substitute himself for the citizen. He would not necessarily exercise it, but he would have the authority to step in because the citizens are basically standing in for the Federal Government in the suit. I think that is logical.

My colleague says wait a minute, the citizens are standing in. Maybe the Attorney General would like to take it over. Maybe he would like to have the case pursued in a particular way. Maybe he wants to settle and another group does not. There are a lot of different ramifications. But the citizen in these cases is actually standing in for the Federal Government. It is logical that the Federal Government may say, "Wait a minute, you are doing our work. We want to do it, we want to make these decisions from this point on. Maybe we want to settle. Maybe we want to be more aggressive. Maybe the followup will be better."

It may be the Attorney General will say, "Wait a minute. There have been violations. We did not catch it. We did not have the time or maybe our enforcement people were not doing a good enough job." They were busy defending themselves because under Baucus-Chafee citizens are allowed to sue EPA for discretionary actions so they did not have time to be aggressive on enforcement. So maybe a citizen suit was there to stop a polluter.

He says, "Oh, there is a legitimate case here," and he says, "We will take over that case because the citizen is standing in for the Government." I think that is logical, it does make sense. And again keep in mind the money from these suits does not go to the individual bringing the suit; it goes to the Federal Treasury.

Mr. CHAFEE. It seems to be a very dirty trick to let someone carry the ball all the way through, whether it is a citizen or the National Resource Defense Fund, Wilderness Society, whatever it is—they pick up the ball, carry it all the way down the field, and then at the 5-yard line the Federal Government comes in and shrugs its massive shouders and says "I am taking over here."

You say all the penalties go to the Federal Government. Yes; that is true. Except it is quite possible for the judge to enter a consent decree in chambers, worked out with the polluter, in which he says to the polluter in accordance with the guidance, if you would, or background information obtained from the citizen group that says we want mitigation here, under the consent decree the polluter agrees to the mitigation. We are going to fix up this shambles we have created; we are going to fix up this area that has been so badly polluted and X hundred thousand dollars will go toward that.

If the Senator has the Federal Government in the driver's seat as the Senator's proposal permits, the citizen is squeezed out. He is no longer in the driver's seat. To me that seems an unfairness.

You have a Federal judge there. The Federal judge can turn down the citizens' request for some kind of consent decree providing for mitigation. But under the Senator's proposals the chances of that are greatly reduced, and I find it very difficult to understand.

Mr. NICKLES. Again, I did not come to the floor to debate the whole bill. I will be more than happy to do so. As a matter of fact, I would like to review again further provisions that are under the Baucus-Chafee approach.

My real purpose in coming to the floor was to correct some mistakes that were made earlier dealing with the idea that sources could continue to pollute even after the administrative law judge says you have to stop and come into compliance.

I wanted to make sure the Senator from Rhode Island—he said that was his major objection to Nickles-Heflin—I want to make sure he understood that if the administrative law judge said you have to be in compliance, that that goes into effect unless the district court stays that order. If that is the Senator's major objection, I wanted to clarify my amendments provisions.

I know my staff and I have tried. We made some accommodations with the Senator, trying to get him to agree to the amendment. I heard my good friend and colleague from Pennsylvania say he was disturbed because there are changes made between the amendment that was pending for weeks and the amendment that we introduced on Monday. The reason why we made those changes was not to confuse anybody. It was not even to get more votes. The reason we made the changes was to try to get the leadership to agree to the amendment, because I have known all along that permitting and enforcement is too complicated for most Senators to have the time to study the issue, to totally understand the issue.

This is an issue that should be worked out, frankly, by staff. We have not had the cooperation from the staff to make that happen. We have tried to clarify some of the factual misinterpretations of our amendment. That is the reason why I came to the floor on enforcement.

Our bill is a good enforcement vehicle. It is one that is strongly supported by EPA, one strongly supported by the Department of Justice. They are not interested in allowing polluters to continue polluting and allow somebody to say, "Well, I am going to go to the administrative law judge and if I do not win there I am going to the district court and if I do not win this I will keep on polluting, and then go to circuit court; I will go to the Supreme Court."

That is not the case. That is just not the case and I wanted to make sure my colleagues understood that because this is a good amendment and it needs to be understood. Maybe, once it is totally understood, we can come to an agreement and the managers will adopt the amendment and we will not have to have another contested vote. If not, we will continue working, trying to educate Members. I think, again, once Members are educated they will be supportive.

I doubt that people are really interested in seeing American jobs going to Mexico and Canada and offshore because we have a permit system and a enforcement system that do not work.

I do not want that to happen and I venture to say the Senator from Montana and the Senator from Rhode Island do not want that to happen, either.

So, again, this is a streamlined process, a well-thought-out process. I think there is no question it is more streamlined, and enforcement is just as quick, if not quicker, under our proposal as it is under the so-called Baucus-Chafee.

The enforcement is real. If the administrative law judge says a source needs to be in compliance, they have to be in compliance unless they can get a district court to stay that order. If it takes 2 years for the district court, well, they have to be in compliance for those 2 years until they get their case heard in district court.

So we have a good proposal and one I think certainly makes giant steps toward protecting the environment. I heard it characterized in an incorrect fashion and that is the reason why I

came. I will be happy to debate the entire amendment again if the Senator desires. That was not my intention coming to the floor. I just wanted to correct some of the inaccurate statements that were made earlier. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. Mr. President, I ask unanimous consent that the pending amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1416 TO AMENDMENT NO. 1293

(Purpose: To protect the interest of minority owners of affected units under title IV with respect to allowances)

Mr. SANFORD. Mr. President, I call up my amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] for himself, Mr. DURENBERGER, Mr. ADAMS, Mr. GORTON, Mr. KOHL, Mr. BUMPERS, Mr. PRYOR, Mr. LIEBERMAN, Mr. DODD, Mr. ROTH, Mr. HEFLIN, and Mr. BOREN, proposes an amendment numbered 1416 to amendment No. 1293.

Mr. SANFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispended with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 392, line 4, add the following new definition: "(s) The term 'designated representative' means a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of an compliance with permits, permit applications, and compliance plans for the unit."

On page 392, line 4, add the following new definition: "(t) The term "life-of-the-unit, firm power contractual arrangement" means a contractual arrangement under which a utility receives a specified amount or percentage of capacity and associated energy generated by a specified generating unit (or units) and pays its proportional amount of such unit's total costs, for the life of the unit."

On page 392, line 9, strike the words "to the owner or operator of the affected units at an affected source" and substitute" for the unit, to be held or distributed by the designated representative of the owner or operator of each affected unit at an affected source in accordance with this title,".

On page 393, line 22, insert the words "a designated representative of" before the words "an owner or operator".

On page 394, line 14, insert the words "a designated representative of" before the words "the owner or operator".

On page 394, line 23, strike the words "the applicant" and insert the words "in accordance with the approved application".

On page 396, line 20, insert the words "designated representatives of the" before the words "owners or operators".

On page 397, line 23, insert the words "designated representatives of" before the words "the owners or operators".

On page 399, line 21, insert the words "designated representative of" before the words "owner or operator".

On page 399, line 22, strike the words "equal to" and insert the words "for no less than".

On page 400, line 6, insert the words "designated representative of the" before the words "owner or operator".

On page 429, line 5, delete the heading and insert the following before the words "Each permit":

"(b) PERMIT APPLICATIONS AND COMPLIANCE PLANS GENERALLY—

Permit applicants required by this section shall be submitted by the designated representative of the owner or operator of the unit, shall identify each person on whose behalf allowances will be received, and shall specify the nature and extent of the interest of each person."

On page 429, line 6, insert the words "submitted by the designated representative of the owner or operator and shall be" before the words "accompanied by".

On page 430, line 5, insert the words "the designated representative of" before the words "the owner or operator".

On page 430, line 14, insert the words "the designated representatives of" before the words "the owners or operators".

On page 430, line 16, strike the words "they notify" and insert after "the Administrator" on line 17 the words "is given prior notification".

On page 432, line 14, insert the words "designated representative of the" before the words "owner or operator".

On page 433, line 9, insert the words "designated representative of the" before the words "owner or operator".

On page 433, line 18, insert the words "designated representative of the" before the words "owner or" and substitute the word "operator" for the word "operators".

On page 434, line 6, insert the words "designated representative of the" before the words "owner or operator".

On page 434, line 19, insert the words "and its designated representative" before the words "(1) to fail to submit".

On page 435, between lines 2 and 3, add the following:

(h) MULTIPLE OWNERS.—No permit under this section shall be issued to an affected unit until the designated representative of the owner or operator has filed a certification concerning the holding and distribution of allowances. Where there are multiple holders of a legal or equitable title to or a leasehold interest in such a unit, or where a utility purchases power from an affected until under life-of-the-unit, firm power contractual arrangements, the certification shall (1) state that allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual share or, (2) if such multiple holders have expressly provided for a different distribution of allowances by contract, state that allowances will be deemed to be held or distributed in accordance with the contract. A passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected unit shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purpose of holding or distributing allowances as provided in this subsection, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in an affected unit is held by a single person, the certification shall state that all allowances received by the unit are deemed to be held for that person."

Mr. SANFORD. Mr. President, this amendment is offered by myself, Senators DURENBERGER, ADAMS, GORTON, KOHL, BUMPERS, PRYOR, LIEBERMAN, DODD, ROTH, HEFLIN, and BOREN to clarify certain matters relative to multiple ownership.

In effect, it clarifies the bill that is before us. It addresses the question of sulfur oxide allowances in a straightforward, commonsense manner in a situation where multiple parties have legal interests in a unit, including multiple ownership and leaseback agreements. It has to do with allowances as such, but only in relation to those allowances at a given unit.

The amendment does not affect the number of allowances that EPA will allocate to any specific unit or specific State.

As my colleagues know, title IV contains very strong provisions to reduce the emissions of the sulfur and nitrogen oxides that are causing acid rain. The title also provides for the issuance of sulfur oxide allowances, which will be transferable between units. Since no unit will be allowed to emit sulfur oxide without holding the proper number of allowances, the allowance system will ensure that emission reductions occur as required, and that emissions do not increase once such reductions have been achieved.

The allowance system will also serve to greatly reduce compliance costs, since it will encourage those units who can reduce at the lowest costs to do so, and then profit by selling excess allowances to those for whom emission reductions would be more expensive. The allowance system proposal, I believe, has great merit, and may have applications with respect to future environmental legislation. This concept was included in the President's acid rain proposal, and those who developed and have worked hard to refine the concept deserve great praise. I would like to note that the Environmental Defense Fund deserves credit for bringing this concept to the acid rain debate and working to promote it. The allowance system clearly is an important component of the bill, and has helped us in moving clean air legislation forward.

However, there is one aspect of the allowance system which needs clarification. Put simply, what happens in a situation where an affected unit has more than one owner or has several parties with some type of legal interest? Joint ownership arrangements are common, as are more complicated arrangements including leaseback agreements and life-of-the-unit contracts.

Mr. President, the substitute before us does not provide a clear answer to

the question just posed. Our amendment addresses this question in a straightforward, commonsense manner that will ensure that the existing relationship between the various parties with legal interests in an affected unit are preserved.

Mr. President, it is our contention that when allowances are issued to a unit with multiple owners, the various parties should each have a claim to control of a percentage of such allowances that is proportional to their respective share of ownership. This is a straightforward proposition that may seem obvious, but is nonetheless very important to those with minority interests in affected units.

Let me give a brief example of the type of situation which we want to make sure does not happen after passage of this bill. Let us assume that we have a plant with two owners, one with a 70-percent share and one with a 30-percent share. Let us further assume that the minority owner is a competitor with the majority owner in some area, and that the minority owner is in great need of additional allowances for use elsewhere.

As long as allowances issued to the plant in question are fully utilized by that plant, we do not have any problem. However, should there ever be excess allowances associated with that plant, we want to make sure that the majority owner could not gain a competitive advantage by deliberately holding the excess allowances or selling them elsewhere—knowing full well that allowances were desperately needed by the minority owner. Under the terms of our amendment, the minority owner in our example would at least have a claim to 30 percent of the excess allowances and would be able to use them elsewhere in their system.

So, Mr. President, the amendment is simply designed to protect the rights of minority owners or holders of other legal interests in a unit, without impinging on the rights of majority owners. It is intended to eliminate the potential, however remote, for allowances to be used against a minority owner or interest holder in an anticompetitive manner.

The amendment is not intended to put any additional burden on the Environmental Protection Agency. In fact, the amendment clarifies that allowances are to be associated directly with affected units, rather than with owners or operators of such units, and provides that EPA should issue the proper number of allowances to a designated representative of each affected unit. EPA does not want to have to go through a lengthy process of allocating allowances to a variety of owners or interest holders with respect to each unit, and that is proper. Our amendment would simply require EPA to issue allowances for a unit to a single designated representative, without worrying about how to treat additional interest holders.

However, once allowances are issued to that designated representative—who is also responsible for the submission of a permit application and compliance plan for the unit—our amendment establishes an affirmative responsibility for the designated representative to hold and distribute the allowances on behalf of interest holders in proportion to each holder's legal, equitable, or contractual share of the unit, unless the parties agree otherwise by contract. The designated representative must certify to the Administrator that allowances will be held for or distributed to interest holders in the appropriate manner as a condition of receiving an operating permit for the unit.

We do not expect EPA to be burdened with the responsibility of using scarce resources to rigorously examine the relationship between the various parties whenever there are multiple interest holders in a unit. Therefore, should there be a disagreement among the parties as to the proper holding and distribution of allowances, such a dispute would have to be resolved by the parties in accordance with the requirements of the amendment or the unit's operating permit would be in legal jeopardy.

The reference in the amendment to the holding and use of allowances by the designated representative in proportion to contractual share is intended only to apply to units operating under life-of-the-unit, firm power contractual arrangements with one or more utilities. This provision is intended to address a situation which I understand is presently unique to the State of Connecticut; the provision has been contributed by Senators LIEBERMAN and DODD.

The amendment further provides that, in a leaseback situation, a passive lessor whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected unit is not deemed to be a holder of a legal, equitable, or contractual interest in the unit for the purposes of the holding of distribution of allowances by the designated representative, unless expressly provided otherwise in the leasehold agreement. This provision was contributed by Senators BUMPERS and PRYOR.

Finally, I would like to make clear that this amendment will not affect EPA's enforcement authority established under this act or any other provision of law against the owner or operator of any affected unit.

Mr. President, the amendment is supported by the National Rural Electric Cooperative Association; the American Public Power Association; the North Carolina Rural Electric Cooperative Association; and Electricities of North Carolina. I have letters of support from these organizations and I ask unanimous consent that these be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, DC, March 22, 1990.

Hon. TERRY SANFORD,
U.S. Senate, Washington, DC.

DEAR SENATOR SANFORD: The American Public Power Association is very concerned that the rights of minority owners of affected units to receive their fair share of emission allowances be fully and adequately protected.

Under title IV of the pending amendment in the nature of a substitute to S. 1630, emission allowances for each affected unit would be allocated to the owner or operator of that unit. There is no problem when the affected unit is owned by a single entity. However, a substantial number of public power systems across the country hold minority ownership interests in affected units or participate in the financing, construction and operation of such units under life-of-unit contracts. While these units are operated by a single entity, the allocation of emission allowances only to the project operator ignores the rights of these minority owners and is clearly inequitable. And yet this result clearly could occur under the measure as it is currently drafted.

The amendment you have proposed addresses this problem. It would ensure that where there are multiple owners or life-of-unit contractual arrangements, the rights of those parties to their proportionate share of emission allowances will be protected. APPA strongly supports this amendment.

APPA thanks you for your leadership on this amendment.

Sincerely yours,

ALAN H. RICHARDSON,
Assistant Executive Director.

NORTH CAROLINA ASSOCIATION OF ELECTRIC COOPERATIVES, INC.,
Raleigh, NC, March 22, 1990.

Senator TERRY SANFORD,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR SANFORD: We support and need desperately language in the Clean Air Bill that addresses our concerns on the treatment of minority and passive owners of electric generating plants. Our association represents over 585,000 North Carolina rural electric consumers that by virtue of being co-op members actually own a portion of a generating facility jointly with municipals and an investor owned utility.

Thank you for your efforts.

Sincerely,

JAMES LEE BURNEY,
Director of Government Relations.

ELECTRICITIES OF NORTH CAROLINA, INC.,
Raleigh, NC, March 22, 1990.

To: Hon. Terry Sanford, United States Senate.
From: James T. Bobo, General Manager.
Subject: Minority Owners Amendment to S. 1630.

On behalf of North Carolina's public power communities, I urge your support of the proposed amendment to Section 408 of

S. 1630 protecting the interests of minority owners in power plants.

Inclusion of this amendment is vital to the continued well-being of more than 50 cities and towns in our state who, through their participation in joint municipal power agencies, depend on minority ownership interests in several generating units for their power supply program. The absence of protection for minority owners could seriously threaten these programs which provide a supply of electricity to more than 600,000 North Carolina citizens.

Again, Sen. Sanford, we will be very grateful for any help you can give to assure this amendment is included in legislation approved by the Senate.

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION,
Washington, DC, March 22, 1990.

Hon. TERRY SANFORD,
U.S. Senate, Washington, DC.

DEAR SENATOR SANFORD: The Administration's clean air legislation (S. 1630) did not address the questions of allowance ownership where the affected unit has at least one owner who is a non-operator and; where the unit is subject to a sale-leaseback transaction and the utility does not hold legal title to the unit. There are many rural electric cooperatives that fall into these categories. Your amendment ensures that the direct burdens and benefits of the acid deposition reduction program equitably fall upon entities that are the active participants in the generation of electricity.

We wholeheartedly support your amendment.

Sincerely,

BOB BERGLAND,
Executive Vice President.

Mr. SANFORD. Mr. President, I thank my colleagues who have cosponsored this amendment for their assistance in addressing this issue. I also thank the distinguished floor managers for their willingness to work with us on this matter. I urge support for this amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the amendment offered by the Senator from North Carolina is a helpful, clarifying amendment. The amendment has no impact on allowance allocations.

I also wish to emphasize that the amendment has no legal effect on the compliance reliability aspects of the acid rain program. It, on the other hand, is a clarifying amendment which helps define the ways in which the allowance system would mesh with private-commercial relationships among multiple owners of powerplants.

Again, it does not affect the allowance allocations. It rather clarifies the private-commercial relationships among multiple owners of powerplants. I think it is helpful that we make that clarification.

I accept the amendment.

Mr. CHAFEE. Mr. President, likewise on this side, it is a system of making certain that all the owners of a utility, particularly those who are in some sort of a joint venture, will receive their proportionate share of the allowances.

We accept the amendment.

Mr. BUMPERS. Mr. President, I want to lend my strong support to the Sanford amendment, and am pleased that he has included language at my request to clarify that purely passive lessors of units are not entitled to allowances.

By way of background, Mr. President, several rural electric cooperatives across the country including Arkansas Electric Cooperative Corp., have engaged in sale and lease back transactions with respect to their units. Arkansas Electric Cooperative has engaged in such a transaction for its 35-percent share of the Independence No. 2 unit. Technically, AECC's share of the unit is owned by the finance company lessor, and AECC is the lessee.

The problem the bill creates is that, by issuing allowances to the owner or operator of units, there is reason to expect that these valuable allowances could in fact be issued to the finance company who is the passive owner of AECC's interest in the unit. This would be a rather absurd result, but the bill makes it possible. All of us have been laboring under the assumption that these valuable allowances will be available for use by utilities, and legislative language that might allow them into the hands of a purely passive finance company must be changed.

That's exactly what the Sanford amendment does, among other things. It provides that the permit applicant for the unit must certify, in cases of multiple ownership, that the allowances will be held, used or distributed among the coowners either in proportion to their legal, equitable or leasehold interest, or according to a contract among them that specifically allocates allowances. However, a purely passive lessor, whose rental payments are not based either directly or indirectly upon the revenues or income from the affected unit shall not be deemed to have a legal, equitable, leasehold or contractual interest in the unit for purposes of holding, using or distributing the unit's allowances.

Mr. President, although I believe this language is clear, as one of the drafters I wanted to state my understanding of it. A passive lessor would have no legal, equitable, leasehold or contractual interest in the unit for the purposes of holding, distributing or using allowances unless the leasehold agreement expressly—meaning by explicit reference to the holding distributing or using of allowances—provides that the lessor has such an interest. In other words, Mr. President, it should be clear from the language that no agreement language would be construed to grant such an interest unless it deals explicitly and by its terms with allowances holding, distributing or use.

Mr. President, these sale and leaseback transactions are carried out in a fairly standard way. The passive lessor's right to payments under the lease is virtually absolute. The lessor's right to receive rents is in no way related to revenues or income from the unit. In other words, the finance companies are passive in every sense of the word; in fact, they get their rentals even if the unit shuts down entirely.

The basis standard of the amendment—independence of rental payments from unit revenues and income—is the same standard used by the SEC to exempt financing lessors from utility status under the Public Utility Holding Company Act [PUHCA]. All outstanding financing leases of units should already meet this standard since the avoidance of PUHCA regulation is a high priority for the financial institutions that act as lessors or owner trustees. Both FERC and the Nuclear Regulatory Commission have also exempted such financing lessors from utility ownership. So the standard of our amendment is a tried and true one.

Most of these leases were negotiated years ago before anyone even thought of allowances, this new and valuable thing created by this bill. Allowances will be critical to utility operation and to the utility's ratepayers. It would be a travesty if because of some ambiguity in this legislation a passive finance company lessor owner could get its hands on the allowances and rob the ratepayers of their value.

As an example, Mr. President, let us assume that the bill is enacted without clarification. All of a sudden the finance company owner of 35 percent of the Independence No. 2 unit would have a claim to millions of dollars worth of allowances, a complete and utter windfall. Not only that, but AECC's ratepayers would be robbed. AECC would have to pay the finance company to get the allowances back.

Mr. President, many of us from clean States were willing to give the Mitchell-Dole compromise our support because it gave our units more operational flexibility and reduced their costs substantially. But we assumed that ratepayers would get the benefit of the allowances. Thirty-five percent of the Independence No. 2 allowances, at $1,500 a ton, will be worth a minimum of $7 million each and every year. Robbing Arkansas ratepayers of this $7 million would be a travesty.

The Sanford amendment can remedy this problem and ensure that the Mitchell-Dole compromise serves its intended purpose. For this reason, Mr. President, I urge the adoption of the Sanford amendment.

Mr. ROTH. Mr. President, I rise today in support of the amendment of-

fered by my distinguished colleague, Senator SANFORD. He has worked hard to protect minority ownership provisions in powerplants that are affected by the acid rain title. In addition, I wish to thank my other colleagues, Senator DURENBERGER in particular, who have worked on this amendment, and the distinguished floor managers of this bill, Senators BAUCUS and CHAFEE, for their assistance, leadership, and guidance in this matter.

Mr. President, this amendment protects the interests of minority owners of powerplants that are affected by the acid rain title of the bill currently before us.

The legislation creates a complex system of marketable pollution control allowances that utilities could buy and sell. Those utilities that reduce their emissions more than required at their plants could sell their extra allowances to other utilities, or they could keep their allowances to meet requirements in a future year. This is a commendable goal and many people support it, because it allows utilities to pursue strategies which provide the greatest reductions at the lowest cost.

However, the bill does not prescribe who holds the emission reduction credits obtained when the unit subject to the reductions is owned by other power companies, including out of state utilities.

For example in my State, Delmarva Power & Light [DP&L] owns parts of two Pennsylvania powerplants, the Keystone and Conemaugh plants. These two are subject to the strict emission reductions requirements as prescribed by the bill. Other power companies also own part of these plants and like Delmarva, pay all expenses associated with the operation of these units in accordance with its respective ownership percentages.

Because the trading of allowances is a novel idea, and because we know there are going to be limits on future growth based on the allowances a utility owns, we must make sure that the allowances are distributed equitably, fairly, and properly. This amendment clarifies the status of the allowances that the minority owners of a plant hold. It allows for a plant to operate when the distribution of the allowances have been agreed upon by the owners prior to the issuance of a permit by the administrator. It is an equitable solution. It makes available valuable allowances for future growth in Delaware at a reasonable cost.

Mr. President, I ask the distinguished floor managers for a clarification at this time.

The bill assumes that the allowances will be freely traded because potentially they may have a great worth. Yet some people are still not convinced that once a utility creates enough of these allowances a market will be supported. It may be that State utility commissions, or the State itself may direct the utilities to retain such allowances to accommodate future growth. In light of the previous discussion does the Senator from Minnesota foresee any problems where a State or State's public utility commission would direct the utility to retain such allowances?

Mr. DURENBERGER. Mr. President, if I may, this issue was addressed during the environment committee's hearings on the bill by Mr. William Badger on behalf of the National Association of Regulatory Commissioners. He indicated in his testimony that such a scenario could present itself. The Senator's concerns are correct and I share them with my friend from Delaware. There is nothing in the bill that will prevent a State from doing that. Naturally we hope that States will not interfere in this process, and we do not believe that will happen. The intentions of this legislation are for the utility to buy and sell the allowances for long term energy and environmental benefits. The reason is the public utility commissions will want to minimize costs to ratepayers. If a utility can lower its compliance costs by relying on transferring or leasing allowances, a public utility commission will want to allow that in order to benefit ratepayers.

Mr. LIEBERMAN. Mr. President, I am pleased to rise in support of this excellent amendment sponsored by my esteemed colleague, Mr. SANFORD has provided energetic and effective leadership in addressing the concerns raised by multiple owners of utility units covered by the bill and has helped a dozen or more Senators whose constitutents will be protected by these provisions.

The aspect of the amendment that is of direct relevance to my constitutents defines those who have entered into "life-of-the-unit" contracts as among those who will share in the use and distribution of allowances under the legislation. The Connecticut Municipal Electric Energy Cooperative [CMEEC] is a participant in such contracts covering 33 powerplants owned by the Connecticut Light and Power Co. [CL&P].

These wholesale contracts impose on CMEEC the full responsibilites of joint owners, although they do not give CMEEC that name. The contracts provide CMEEC with capacity and energy for a term spanning the life of the 33 existing electric generating units. They are take-or-pay contracts, which means that CMEEC pays CL&P its pro rata share of all the costs associated with each unit, whether or not the unit runs. In short, the contracts are basically unit participation contracts, with a life term.

Because these contracts impose the full financial responsibilities of ownership on CEEC, it should also be entitled to one of the more important, new economic benefits to derive from its participation: the creation of allowances under this legislation. CMEEC, unlike a traditional wholesale customer, cannot opt to terminate its purchase. CMEEC pays its full share of all the measures needed to generate allowances, including operational and capital improvement costs for pollution control, as well as actual retirement and decommissioning costs.

The proposed revisions to the Clean Air Act were not contemplated when the life-of-unit service contracts were negotiated in 1981. These contracts are extremely expensive and difficult to modify. Therefore, this issue is best addressed legislatively at this time.

The amendment offered by my esteemed colleague from North Carolina would define life-of-unit contract holders in the same manner as multiple owners for the purpose of holding and distributing allowances and would require that the designated representative of such multiple owners hold and distribute allowances in proportion to their ownership share. This amendment will both protect the rights of my constitutents and ensure that the allowance system functions in an equitable and efficient fashion.

Mr. PRYOR. Mr. President, I am pleased that the Sanford amendment includes the language drafted by Senator BUMPERS and me to clarify that purely passive lessors of units are not entitled to allowances.

Mr. President, Arkansas Electric Cooperative Corp. is one of several rural electric cooperatives across the country that have engaged in sale and leaseback transactions with respect to their units. Technically, AECC's share of the Independence No. 2 unit is owned by the finance company lessor, and AECC is the lessee.

Because the bill says that allowances are to be issued to the owner or operator of the unit, these valuable allowances could in fact be issued to the finance company who is the passive owner of AECC's interest in the unit. That would come as a shock to many of us. All of us have been laboring under the assumption that these valuable allowances will be available for use by utilities for the benefit of their ratepayers.

The Sanford amendment corrects this problem, among other things. It provides that the designated representative of the allowances will be held, used or, distributed among the co-owners either in proportion to their legal, equitable, or leasehold interest, or according to a contract among them that specifically allocates allowances. However, a purely passive lessor, whose rental payments are not based either directly or indirectly upon the revenues or income from the affected unit shall not be deemed to have a

legal, equitable, leasehold, or contractual interest in the unit for purposes of holding, using, or distributing the unit's allowances unless expressly provided for in the leasehold agreement.

Mr. President, although I believe this language is clear, as one of the drafters I wanted to state my understanding of it. A passive lessor would have legal, equitable, leasehold, or contractual interest in the unit for the purposes of holding, distributing, or using allowances unless the leasehold agreement expressly—meaning by explicit reference to the holding, distributing, or using of allowances—provides that the lessor has such an interest. In other words, Mr. President, it should be clear from the language that no agreement language would be construed to grant such an interest unless it deals explicitly and by its terms with allowances holding, distribution, or use.

Mr. President, I want to thank the Senator from North Carolina for helping us deal with this important issue. I urge the adoption of the Sanford amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 1416) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UNIVERSITY OF CONNECTICUT MEN'S BASKETBALL TEAM

Mr. DODD. Mr. President, it is with a lingering sense of exhilaration that I rise today to speak of a team's climb from mediocrity to excellence in the space of a single season. I rise today to speak of challenges accepted and met, and of accomplishments earned through relentless hard work. I rise today to speak of amazing length-of-court passes completed and miracle turnaround jump shots made in the eternity of a single second, and of heartbreak as victory is snatched away in the blink of an eye and replaced with defeat. As a fan of the University of Connecticut's men's basketball team, and as one who has spent countless hours over the past several months in arenas in Hartford and Landover and New York City and East Rutherford following the team, I rise today to speak of the University of Connecticut's dream season.

No one would have predicted 6 months ago that UConn would climb to the heights it has this year. The University of Connecticut Huskies, after winning the National Invitation Tournament in 1988, had not done as well as expected the following season. Moreover, the team's star, Cliff Robinson, had graduated in the offseason. So, Mr. President, most of us who follow basketball were prepared to pay heed to a preseason coaches' poll prediction that the University of Connecticut would finish no higher than eighth in the nine-team Big East this year.

But this was a team that was willing to work hard to confound all the pundits and prognosticators. Last spring, summer, and fall, UConn players labored overtime in the gym, honing their technique, and holding meetings to develop the cohesiveness that is so important in any sport. When the season began, they pressed their opponents relentlessly on defense, hustling, trapping, and forcing turnovers. On offense, they took their time, working patiently for good shots. They played hard each game, from opening tip to final buzzer.

Mr. President, the hard work paid off. The University of Connecticut Huskies rose to meet each new challenge they faced, and they grew steadily in confidence as they discovered that they could play with the best of the Big East and win. Coach Jim Calhoun's squad made believers of people around the State and the country with a 10-game winning streak in January and February. By the time the University of Connecticut finished its regular season with a record of 25-5, it had captured a share of the Big East conference championship, and the imagination of an entire State.

Mr. President, people in Connecticut are not used to having a contender that we can truly call our own. We are a small State. Aside from our Hartford Whalers, we are used to exporting our allegiances to Boston or New York, to the Celtics, the Red Sox, the Patriots, the Mets, the Yankees, the Jets, the Giants, or the Knicks. But here at last was a group of gentlemen from our midst that was making good in a sport on a national level. Like a young person discovering a new love, we were dazzled, swept off our feet, into a dreamlike trance filled with a tingling sense of limitless possibility.

Mr. President, the more we watched, the more those possibilities were realized. As our University of Connecticut team journeyed to Madison Square Garden for the Big East tournament, we glued ourselves to our television screens or paid any price for tickets so that we could be there in person. We were not to be disappointed, as we witnessed our smaller UConn team win against Georgetown and its twin towers of Mourning and Motumbo. We were proud as we saw the Huskies claw their way back into the game against Derrick Coleman and an experienced Syracuse squad, after falling behind early. As the buzzer sounded in the Syracuse game, and anointed the University of Connecticut as tournament champions, we realized we were not dreaming; we were living a dream.

As UConn went to the NCAA tournament for the first time in 11 years, we expressed our faith in the Huskies in a variety of ways. School kids painted their faces blue and white, and as they shot baskets in their schoolyards, they pretended to be Tate George or Nadav Hennefeld or Chris Smith. UConn alums donned school sweats that they had not worn in years. And people all over Connecticut schemed to get tickets to the opening round games in Hartford. If they could not, they cleared their schedules so as not to miss a minute of the play-by-play.

On Thursday, after the miracle, after Tate George had caught a court-length fastball from major league pitching prospect Scott Burrell, and had spun and shot to put UConn into the NCAA East Region final, we reveled in the thrill of our team's victory. We gave each other high-fives, we called each other to share our giddy exultation. "Tate George for Governor" posters appeared up all over Hartford, and workaholic bankers and lawyers and insurance executives throughout Connecticut put aside their labors for most of Friday, to savor the sweet taste of victory.

Even last Saturday's heartbreaking loss to Duke could not extinguish the excitement that we still feel over UConn's season. It diminished neither the pride we feel in the Huskies' accomplishments these past several months, nor the great affection we feel for the team.

Mr. President, I am proud to stand here today, to salute Connecticut's own UConn Huskies. Head coach Jim Calhoun, his assistants—Howie Dickenman, Dave Leitao, Glen Miller, and Scott Wissel, and of course, the UConn players—Scott Burrell, Dan Cyrulik, Lyman DePriest, Tate George, John Gwynn, Nadav Hennefeld, Oliver Macklin, Steve Pikiell, Tim Pikiell, Rod Sellers, Chris Smith, Marte Smith, Marc Suhr, Toraino Walker, and Murray Williams—these gentlemen did Connecticut proud, and gave all of us in the Nutmeg State a real boost.

Mr. President, I am pleased to be joined on the floor by my distinguished colleague from Connecticut, who I know has remarks he would like to make on a similar subject.

I am proud to be associated with his comments about the University of Connecticut, as well.

The PRESIDING OFFICER. The junior Senator from Connecticut.

(Mr. DODD assumed the chair.)

THE UNIVERSITY OF CONNECTICUT HUSKIES

Mr. LIEBERMAN. I thank my senior colleague. I am proud to, shall I say, join in this issue with him and enter into this colloquy on a substantial matter, at least to the people of the State of Connecticut.

It is difficult to follow my senior colleague on this occasion, listening to him deliver his remarks as he did just now. After his career in the Senate, many, many years hence, is over, some would say, what will CHRIS DODD do? Now I know. He will be one of America's great sports commentators. I look forward to that day. Part Howard Cosell, part Red Barber, the eloquence of George Will. There is no end to what we can expect there. I had the pleasure of going through the season with many in Connecticut, and in particular with my senior colleague now in the Chair. He and I were together on the night of the University of Connecticut-Clemson game, and that great pass that he so eloquently described from Burrell to George with one-tenth of a second left, throwing the ball through the hoop.

I just want to say for the edification of my colleagues that there was such exuberance expressed by my senior colleague that I think it was greater even than he will express on the day when child care legislation passes the Senate. That is the measure of his happiness.

Mr. President, I would like to take a moment to honor some of Connecticut's finest athletes, who also happen to be among the finest athletes in the Nation: the University of Connecticut Husky basketball team.

Anyone who loves to cheer for an underdog has to have been heartened by the fabulous season that the Huskies enjoyed this year. On Sunday, March 10, the Huskies did what many believed impossible just a few months ago. With victories over Seton Hall, Georgetown and Syracuse—three of the most respected teams in the country—the University of Connecticut won its first Big East Basketball championship.

While that may have surprised a lot of basketball fans around the country, it was not a shock in Connecticut, where fans have known that the team was something special. As testimony to the level of fan support for the Huskies, 4,000 people came to watch a practice session as the team prepared for the NCAA playoffs. I can think of no time in recent Connecticut history when the citizens of our State pulled together and rooted for one team like they have for the Huskies. The UConn basketball team dominated virtually all conversation in the State; people gathered in living rooms, dormitories, bars and in front of TV displays in department stores to root the Huskies on, game after game.

I had the pleasure of watching the UConn game against Seton Hall last week with my colleague, Senator CHRIS DODD, whose office organized a special viewing of the game in a Dirksen hearing room for our staffs. You would have to have been there to witness the joy and pride Senator DODD and I felt at the dramatic conclusion of that game, when Scott Burrell tossed the ball in with pinpoint accuracy to Tate George, who, with one-tenth of one second left, made the shot that won the game.

Mr. President, the UConn Husky basketball team demonstrated the fact that underdogs can and do win. They showed guts, determination and a deep belief in their own abilities to get the job done. They didn't listen to polls or pundits; they didn't let the odds or the experts dissuade them from the task. They just played hard and won games.

It gives me great pleasure to be able to thank the team for a great season. They've given us a renewed sense of pride in our State, and they've helped make us feel young again. It's my pleasure to read their names into the RECORD of the U.S. Congress: Scott Burrell, Dan Cyrulik, Lyman DePriest, Tate George, John Gwynn, Nadav Henefeld, Oliver Macklin, Steve Pikiell, Tim Pikiell, Rod Sellers, Clint Simmons, Chris Smith, Marte Smith, Marc Suhr, Toraino Walker, and Murray Williams. And special congratulations goes out to Jim Calhoun, Big East Coach of the Year, and to his fabulous staff.

And, Mr. President, if anyone thought this year was a good year for UConn basketball, just wait.

I would add to the eloquence of my senior colleague from Connecticut the fact that sports in America, perhaps many places elsewhere in the world but certainly in America, is a great form of entertainment and recreation, identification, in some cases downright therapy. That is what happened in Connecticut this year with this basketball team. We did not, after all, make it to the final four. Some may say, why all the excitement? For us, those young men are and were and always will be champions. They, through their own effort, through their teamwork, through their excellence, proved to the many doubters, people who had predicted they would come in seventh or eighth in the Big East this year, that without a big man really they put it together, worked hard, drew the most from themselves and made themselves winners.

It was undoubtedly a thrill, as extraordinary a test, as severe, as any they will face in their lifetimes.

The senior Senator and I and all the people of Connecticut are grateful to them for having allowed us to share this extraordinary journey from a team that was supposed to be an also-ran to a team that really ran at the head of the pack and will forever be remembered as genuine champions. They worked so well together. They were extremely selfless. They genuinely melded as a team, and they did so under the extraordinary leadership of their coach, Jim Calhoun. My senior colleague mentioned that there were "Tate George for Governor" signs springing up around the State. He and I are happy there were not "Jim Calhoun for Senate" signs springing up because we have no doubt the outcome of such a race. Jim Calhoun is a great man, a great family man, a great competitor, and a great teacher. He took this disparate group and combined them into a very proud functioning unit. They got to a point where they were so deeply involved in themselves they did not care what the pundits said. They did not look, if I may use an analogy, at the polls. They had a job to do and they went out and did it.

In that they taught all of us a great lesson. I am proud to stand on the floor and salute the team and its coach and express our thanks to them for a season that we will never forget.

CLEAN AIR ACT AMENDMENT OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 1417 TO AMENDMENT NO. 1293

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. BREAUX, and Mr. BINGAMAN, proposes an amendment numbered 1417.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 447, line 17, strike the word "that" and insert the following: "notwithstanding the provisions of paragraph (1), any other utility unit pollution control project, including, but not limited to, alterations that allow the use of natural gas as a fuel, where such project constitutes a retrofit pollution control project and where such project".

Mr. BUMPERS. Mr. President, let me say, first of all, that the comments by the two Senators from Connecticut were most eloquent. All of us have watched the University of Connecticut

team this year with a great deal of interest and pride. I know the people of Connecticut have experienced a euphoria during this tournament that is rare in that State. But we all share with the Senators the tremendous pride that you obviously have taken with the magnificent exploits of the University of Connecticut team this year. But bear in mind that it is the Arkansas Razorbacks that are in the semifinals. So I would expect, win, lose, or draw in the semifinals or if we win it all, the same kind of charity from the Senators from Connecticut when I stand here on the floor next week and deliver my plaudits.

I might also say to my colleagues that the clean air bill is very important but it is running a very slow second in Arkansas right now to the rhapsodic feelings, we have about and the pride we take in, the Razorbacks. This is only the second time that we have ever gone to the final four. We did it in 1978. I will save the remainder of my remarks until next Tuesday.

Mr. President, I have talked to the distinguished floor manager of the bill a number of times regarding this amendment. It is a very simple amendment which actually in my opinion greatly enhances the bill. It will encourage utilities to use natural gas cofiring technology to reduce emissions of sulfur dioxide because it will ensure that the modification will not be subject to a new source performance standards and PSD review. Cofiring is designed to decrease the emissions of utility plants that use cofiring, a combination of natural gas and coal. That is essentially the amendment. I think it is a very good one. The distinguished floor manager has agreed to accept it as I understand it.

Mr. BREAUX. Mr. President, the amendment before us will help to ensure that important opportunities to encourage the use of clean burning natural gas technologies for utility boilers are not discouraged through the operation of other features of the Clean Air Act. The amendment extends to utility unit pollution control retrofit projects, including alterations that allow the use of natural gas as a fuel, the same treatment accorded permanent clean coal demonstration projects with respect to the circumstances under which such projects constitute a major modification. This is an important amendment that will facilitate the use of cofiring and other uses of clean burning natural gas in reducing sulfur dioxide emissions from utility units.

As we have amended section 415(d)(3)(B), a pollution control project is exempt from new source permitting and review provisions of the Clean Air Act, provided that there is no significant net increase in actual emissions of any pollutant regulated under this act. In making that determination, EPA is to presume that the project will not result in an increase in the capacity utilization of the unit. This is an important presumption, and one not lightly to be rebutted. To overcome the presumption, the Agency must have clear and convincing evidence that the investment in the pollution control device or the utilization of natural gas in and of itself provides the owner or operator with economic incentive to increase hours of operation or the power production rate. Incremental load growth, increased demand for power or economic dispatch of power causing increased hours of production or power production rates would not overcome the presumption. It is important to note that the provisions of this amendment apply, as specified in section 415(d)(1), to the cessation or removal of a project, such as natural gas cofiring, as well as to the project's installation and operation.

Mr. President, a number of my colleagues, including my good friends, Senator BUMPERS and Senator BINGAMAN, have shared my interest in this amendment. I certainly appreciate the strong support they have exhibited on this issue. Additionally, our distinguished subcommittee chairman, Senator BAUCUS, and the distinguished ranking member, Senator CHAFEE, have been most helpful in the development of this amendment, and most supportive of efforts to encourage the use of cleaner burning fuels that will provide public health and environmental benefits. I thank them for their assistance, and urge my colleagues to support this important amendment.

Mr. BAUCUS. Mr. President, there has been a lot of discussion throughout the Clean Air Act concerning the so-called WEPCO fix. It is a court decision affecting certain plants.

I would like to state here that in the WEPCO decision the EPA did exactly what it was supposed to do under the modification provisions in both section 111; that is, the new source performance standards, and under the PSD provisions, the prevention of significant deterioration provisions. The WEPCO plant was an old, relatively high-emitting powerplant that undertook a major refurbishment project. It was not a clean coal project. It did not include any pollution control equipment. It required what simply was a major modification to make an old facility like new. The Congress has been very clear in the past, however, that new source performance standards and the prevention of significant deterioration program for attainment areas and the new source review provisions that apply in nonattainment areas are meant to apply to both new sources as well as existing sources that undergo physical and operational changes when such changes increase emissions.

The issue is whether old facilities that are substantially renovated and refurbished should continue to be allowed to emit at much higher rates or to emit more pollution, and with little or no pollution control equipment, compared to new sources.

The obvious answer is that they should not, as long as the commonsense exceptions to the rules continue to apply, which I am sure they will.

Congress is about to pass sweeping revisions to the Clean Air Act that when all is said and done, are meant to bring about improvement in the quality of the air we breathe and in our environment.

But all the laws in the land, and all the State plans and Federal plans are meaningless unless the regulations and policies to implement those laws guide the responsible officials to make case-by-case decisions that result in less air pollution.

The WEPCO fix that would reverse the case would tie the EPA's hands and completely halt, or seriously deter, what little use the Agency has made of the modification provisions of the existing act.

The amendment before us is an amendment which the managers have seen and which the manager on this side accepts because it offers retrofit projects that are specifically pollution control projects the same regulatory incentives that the bill before us affords clean coal technology repowering demonstration projects and I thank the distinguished Senator from Arkansas for his constructive efforts in tailoring his amendment so carefully, in a way that confirms the WEPCO holding.

While this amendment grants pollution control projects that benefit certain presumptions it does not alter current law as to the ultimate application of parts C and D of title I of the Clean Air Act. I want to make it clear that this amendment is not intended to disturb the WEPCO case.

I urge adoption of the amendment.

Mr. DURENBERGER. Mr. President, I endorse the comments of the majority manager of the bill and the comments made by the Senator from Arkansas. The amendment is a very appropriate amendment to the act. It encourages retrofitting in the most appropriate situations, and as the Senator from Montana indicated, also it does not alter the application of current law.

So we too on this side encourge adoption of the amendment.

Mr. BUMPERS. I thank the distinguished floor managers. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not the question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (No. 1417) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might proceed as though in morning business for 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SITUATION IN LITHUANIA

Mr. DURENBERGER. Mr. President, in the past several weeks and days, the free world has watched with growing concern the increasing tension of Lithuania. As the Soviet military continues its moves against official Lithuanian institutions and former members of the Soviet Red army, we in this country and free people everywhere must speak out in support of the legitimate aspirations of Lithuanians.

Since 1940, when the Red army forcefully annexed the independent Baltic Republics, there has been an unnatural and coerced relationship between Lithuania and the Soviet Union. Now, 50 years later, the people of Lithuania seek to negotiate the peaceful terms of the release. It is ironic that President Gorbachev, whose policies of openness and restructuring have captured the world's attention, has acted in this case in a seemingly closed and reactionary manner.

The bold and courageous Lithuanians deserve our full and unequivocal support in their peaceful quest for independence from the Soviet Union. Despite Gorbachev's turning up the heat on Lithuania in recent days, most forcefully earlier this week as paratroopers stormed hospital sanctuaries, the Lithuanian people have remained remarkably calm and restrained.

As Lithuanian President Landsbergis stated in a telegram to Soviet President Gorbachev earlier this week, "Lithuania is an unarmed, peaceful state and the only way it can resist the aggressor is by moral strength and by not using armed resistance to violence." Negotiations, not violence, must be employed to resolve the situation in Lithuania.

Let there be no doubt about it: this Senator, the U.S. Congress, and the American people stand firmly along side the people of Lithuania. We fully support their peaceful pursuit for independence and self-determination.

Last week, on March 22, 1990, the United States Senate unanimously adopted Senate Concurrent Resolution 108 on the right to self-determination for Lithuania. In addition to calling on the Soviet Union to cease all efforts to intimidate the Lithuanian people, this concurrent resolution commends the Lithuanian people for their courage and perseverance in holding elections and peacefully asserting their right to self-determination.

Mr. President, this concurrent resolution further states that the Government and people of the United States "strongly and unequivocally support the right of the people of Lithuania to independence and democracy." This unanimous statement by the U.S. Senate, the body on which the Constitution confers special responsibility for foreign affairs, is an important indication of U.S. policy.

I ask unanimous consent to at this point to have printed in the RECORD the entire text of Senate Concurrent Resolution 108.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. CON. RES. 108

Whereas:

(1) On February 24, 1990, the people of Lithuania held the first democratic election in Lithuania in more than half a century.

(2) In that election, the people of Lithuania elected a large majority of candidates who supported the independence of Lithuania and the establishment of a democratic state.

(3) On March 11, 1990, the newly elected Lithuanian Parliament proclaimed Lithuania an independent state.

(4) The United States has never recognized the incorporation of Lithuania into the Soviet Union.

(5) The Soviet Government has not yet recognized the action of the Lithuanian Parliament in declaring Lithuania independent.

(6) The Soviet Government has undertaken action, including staging military maneuvers and ordering Soviet military units to assert more active and visible control over Lithuanian installations, in an apparent attempt to intimidate the Lithuanian Parliament and people.

(7) More recently, Soviet President Gorbachev has reportedly ordered citizens of Lithuania to hand over any weapons they hold to Soviet authorities within seven days and has ordered tighter controls on the ability of foreigners to visit Lithuania.

Resolved by the Senate (the House of Representatives concurring), That

(1) The Lithuanian people should be commended for their courage and perseverance in holding free and fair elections, declaring an independent Republic of Lithuania, and in asserting their right to self-determination peacefully and through the democratic process.

(2) The Government and people of the United States strongly and unequivocally support the right of the people of Lithuania to independence and democracy.

(3) Recent actions of the Soviet Union apparently aimed at intimidating the Lithuanian Parliament and people have seriously exacerbated tensions and the possibility of violence in Lithuania.

(4) The Soviet Union should immediately cease all such efforts to intimidate the Lithuanian Parliament and people.

(5) The Soviet Union has no right to use force against Lithuanians peacefully exercising their democratic rights, and President Gorbachev and other Soviet leaders should clearly understand that the use of force against the Lithuanian people would have severe repercussions for United States-Soviet relations.

(6) The Soviet Union should immediately begin the process of good-faith discussions with Lithuanian authorities to satisfy peacefully the expressed desire of the Lithuanian people for independence.

(7) Supports the President's strong commitment to the doctrine of non-recognition of the forced incorporation of territory, such as occurred in the Baltic States in 1940, and urges the President to reaffirm his commitment to an independent and democratic Lithuania and to seek ways to actively demonstrate that commitment.

(8) Urges the President to consider the call of the elected Lithuanian Government for recognition.

Mr. DURENBERGER. Mr. President, resorting to greater violence will have unfortunate consequences for United States-Soviet relations and for Soviet relations with the rest of the free world. Further resort to force carries the potential for slowing the encouragingly brisk pace of improving United States-Soviet relations. There are implications for trade relations, economic cooperation, arms control, and other important areas of our relationship. This would be most unfortunate, and unnecessary.

Lithuania will one day be completely free; about that there can be little doubt. Let us work to bring that day about through negotiations and not bloodshed. We need to speak with one voice as Americans. I urge the President to make absolutely clear to the Soviet leadership and the Lithuanian people our historic commitment to Lithuania and our advocacy of immediate negotiations.

The people of Lithuania have thus far heeded the calls of their newly elected leaders to resist being drawn into violent confrontation with the Red army. Now, it is essential that the Soviet authorities heed the call of the Lithuanian leaders and the leaders of the free world, to settle the confrontation by peaceful negotiations, not by brutal force. There is a path for the peaceful resolution of this issue. If the Soviet authorities will join the leaders of Lithuania in their commitment to peaceful negotiation, this situation can be resolved.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. McCLURE. Mr. President, in an effort to clean up our environment, are we overlooking our responsibilities to harbor the people of this country against unwarranted damages?

I do not think the clean air legislation accurately balances the cost-to-benefit ratio. What benefit is there to a clean environment if, in the process, we close down vital industries and place thousands of people out of work? With steeply rising costs and rapidly diminishing benefits, when do we recognize that the small additional benefits are not worth the swollen costs?

An editorial in the March 28, 1990, Wall Street Journal points out that "public goods such as clean air are not free," and perhaps we should "strive to balance environmental benefits against economic costs." In the end, I hope we are not guilty of overlooking the costs associated with this legislation.

Mr. President, I ask unanimous consent that the March 28, 1990, Wall Street Journal editorial titled, "Double Indemnity" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 28, 1990]

DOUBLE INDEMNITY

The U.S. Senate is on the verge of one of the great legislative insights in political history.

The conceptual breakthrough arrived in the form of an amendment proposed by Senator Robert Byrd of West Virginia to the Clean Air bill. Mr. Byrd is asking taxpayers to compensate his coal-mining constituents if the new legislation throws them out of work. Obviously that is exactly what he expects this grandiose bill will do. In effect, he wants taxpayers to indemnify Americans against bad law, to provide insurance against stupid public policy. This is a precedent worth noting.

At the very least, Senator Byrd deserves credit for candor. He's the first prominent Washingtonian to point out that the Clean Air bill has real costs. The environmental lobby has repudiated the idea of cost-benefit analysis and the politicians wink at it, but now Mr. Byrd is presenting part of the tab, and in public no less.

The Clean Air bill would cost real people their jobs, though they aren't the sort who live in Washington or belong to the Sierra Club. Mr. Byrd figures the bill's acid-rain provisions will throw some 3,000 to 5,000 miners of high-sulfur coal out of work, even though a huge federally sponsored study of the science of acid rain reported that the problem is nowhere near as huge as the alarmists have suggested.

The Byrd amendment would pay these miners for as long as three years after they lose their jobs. They'd receive 70% of their total compensation the first year, 60% the second and 50% the third. Altogether, the government could pay these miners between $300 million and $500 million. The Bush administration and Senate leadership oppose the Byrd amendment because of its added costs, a position that would be more defensible if they'd considered the cost-benefit trade-off of this legislation in the first place. But today everyone wants to take political credit for being an "environmentalist."

Still, the weakness in Mr. Byrd's amendment is its modesty. After all, it isn't only coal miners who will lose their jobs because of the Clean Air juggernaut. Democrat Alan Dixon of Illinois has pointed out on the Senate floor that economists Robert Hahn and Wilbur Steger estimate that 3.7 million jobs in 20 states are at risk from the bill. How about them? Mr. Byrd's amendment has been altered to include non-coal miners, but only for the modest benefits under the federal trade-readjustment program.

But why limit this extraordinary new idea merely to Clean Air? The idea of stupid-policy insurance has potential whenever Congress considers legislation. How about a consumers rebate for the high prices caused by textile quotas? What about paying S&L owners for assets whipsawed by constantly changing regulation? Or why not compensation to the apple eaters who were denied their favorite fruit because of the Alar-scare hearings? The possibilities are probably endless.

Of course, there is an alternative. Politicians could take more care passing legislation, could make clear that public goods such as clean air aren't free, could even strive to balance environmental benefits against economic costs. Until that idyllic day descends on Washington, Senator Byrd is saying that Americans will be paying double for clean-air indemnity.

Mr. McCLURE. I ask unanimous consent to proceed for not to exceed 10 minutes on another subject, as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOYCOTT OF IDAHO POTATOES

Mr. McCLURE. Mr. President, I rise today to discuss an issue that may have seemed amusing to some at first, but which has since become in many respects bitter and mean-spirited.

It is the discussion we have heard from a number of different groups in the past few days about calling for a boycott of Idaho potatoes and other Idaho products, in response to action that the State legislature took last week on the issue of abortion.

Not surprisingly, some groups that oppose what the legislature has done have threatened a boycott of products that are either grown or made in Idaho. And not surprisingly, those who support what the legislature has done have vowed to counter any boycott by buying even more Idaho products.

At first, I would suspect that a lot of people across the country who saw or read about this story thought it a little bit humorous. Don't like what the legislature did? Boycott potatoes.

But whatever degree of humor there may have been about those threats has vanished in recent days, as the threats have escalated and the rhetoric has gone from silly to strident. Those who are screaming the loudest—those who have the best sound bite or photo opportunity—are carrying the day.

What is being lost in all of this noise and heat that's being generated are a couple of fundamental points about economics, fairness, and the political process.

Since I announced that I would not seek another term in the Senate, I've sat down with a number of reporters who are analyzing the state of American politics today. And on more than one occasion, I've made the observation that we've seen a continual decline in the depth and breadth of political debate. Where once we had reasoned reflection and a careful analysis of the issues as the standards for political debate, today the yardsticks are the best photo opportunity, or the catchiest sound bite.

That is exactly what has happened in this debate over the measure that was passed by the Idaho legislature. Special interest groups on both sides of the issue and from all over the country are competing in a mad sprint to out-threaten, out-shout and out-hype each other. Camera crews and reporters have descended upon Boise to chronicle which group is going to outdo the other. Who is going to dump a truckload of potatoes on the Statehouse steps. Who is going to lead a chanting group of partisans through the Governor's office. Who is going to make so much noise that they're assured a five-second bite on the evening news.

That, ladies and gentlemen, is what is passing for political debate on an issue that is as complex, as emotional, and as personal as the question of abortion. What a sad commentary.

But there is something more important than this that these groups, in their blind rush for publicity, have either ignored or failed to comprehend. It is the fact that they are using real people in Idaho as pawns in their political game.

There are men and women in Idaho who grow potatoes, for example, who would describe themselves to you as being devoutly pro-life. And there are men and women in Idaho who grow potatoes who would tell you if you asked them that they are adamantly pro-choice. The same is true for the men and women who work in the forest products industry, or the tourism industry, or the mining industry, or the high-tech industry, or any other industry in Idaho you can name.

But what in the world does that have to do with the way that these people are trying to make a living? Like anybody else, they're trying to make ends meet and support their families. They're trying to save up some money for their children's educa-

tion. They're trying to be good, productive members of their communities. The same kind of things that people in communities across the country try to do every day.

And yet some interest groups outside of our State, who feel absolutely compelled to make some kind of a moral statement, have absolutely no problem lumping everyone in the State of Idaho into some monolithic bloc of people who think and act alike, and then threaten to force them to bear the brunt of an economic punishment that is the result of a decision that they themselves did not make.

What an insult to the people of Idaho. And what a sad statement about the people whose field of vision is no broader than the blinders of their single political issue.

In Lewiston, ID, there is a man by the name of Bill Hall. He is an editorial writer for the Lewiston Morning Tribune. It is a newspaper that is decidedly liberal in its editorial views, and it is an extremely rare occasion indeed when I find myself in agreement with anything that appears on the Tribune's editorial page.

But I have to say that portions of an editorial that Bill wrote in the March 28 issue on the matter of boycotts are right on target, Bill calling these moves "an unintelligent and lazy tactic."

Bill wrote:

The people of Idaho are individuals. They are not some regiment in lockstep. They come in all sizes and shapes and harbor all variety of opinion. They have a right to be judged as individuals on their own merits and not according to their race or their sex or their age or the State in which they live.

That's what many of these groups cannot or will not comprehend. And that diversity of the people of Idaho underscores just how shallow the arguments are of those who advocate economic retaliation on our State.

If people in Idaho are upset one way or another with what the legislature has done, then they have the recourse of the ballot box come this November. That is their right and their obligation, just as it is in every other State legislature. Threats, boycotts, and bullying tactics by outside interest groups are no substitute for the political process.

This year, we in Idaho are marking our centennial celebration. And as we've spent the past year reflecting on our State's history, one of the traits that has been a constant over the years is the diversity and independent-mindedness of our people. We come from varied heritage and different backgrounds. We have a diverse political history that has confounded many outside Idaho who have tried to explain it. That history is part of what has made Idaho such a unique and blessed place.

Before some of these groups try to make good on their threats to exact some economic pain from our State, they would do well to take another look at our people and our history. If they would, then perhaps their blinders might come off and they would better understand the consequences of their threats.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1418 TO AMENDMENT NO. 1293

(Purpose: To amend Senate amendment 1293 (an amendment in the nature of a substitute)

Mr. EXON. Mr. President, I have an amendment at the desk that was submitted 3 days ago. I would like to add Senator MATSUNAGA as a cosponsor of the amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself, Mr. KERREY, Mr. HARKIN, and Mr. MATSUNAGA, proposes an amendment numbered 1418 to amendment No. 1293,

On page 213, line 20, strike "1991" and insert in lieu thereof "1992";

On page 213, line 24, strike "may" and insert in lieu thereof "shall";

On page 213, line 24, strike "1991" and insert in lieu thereof "1992";

On page 213, line 25, immediately following "deadline" insert "annually";

On page 213, line 25, strike "two" and insert in lieu thereof "three";

On page 213, line 25, after "determines", insert "in consultation with the Secretary of Agriculture";

On page 214, line 2, immediately following "that", insert "adequate".

Mr. EXON. Mr. President, I addressed this matter the other day. In essence, this is a compromise proposal to allow the Secretary, in consultation with the Secretary of Agriculture, to extend the leaded gasoline for up to 5 years if they determine that it would adversely affect fuel supplies for farm vehicles.

The amendment I propose is a simple one. Under the committee bill and the substitute, leaded gasoline is prohibited for highway use beginning January 1, 1991. Discretionary flexibility is provided for a 2-year delay if the EPA determines that this prohibition would result in the unavailability of leaded gasoline for farm vehicles and that substitutes are not available.

By way of background, let me just say that many farm vehicles require small amounts of lead or other lubricants to avoid valve recession. I appreciate the risks of lead in urban areas, but want to be sure that flexibility is maintained for farmers.

I think this amendment accomplishes that without "upsetting the apple cart," so to speak. The amendment postpones the prohibition for 1 year and says the EPA shall, rather than, may delay the prohibition on an annual basis for up to 3 years. In a nutshell, this makes the review of availability an annual thing rather than a one-shot deal.

This amendment provides flexibility for farmers while maintaining the overall momentum for reducing lead emissions in areas where that is a problem. I urge the adoption of the amendment.

I understand the amendment has now been discussed. I think there is general agreement on both sides on the amendment.

I do not intend to insist on the yeas and nays if we can pass this by voice vote.

The PRESIDING OFFICER. Who yields time? There is 1 hour of debate.

The Senator from Montana.

Mr. BAUCUS. Mr. President, who controls time on this? As manager of the bill, I am in favor of the amendment. I do not know who the manager would be in opposition to the amendment.

The PRESIDING OFFICER. In light of that, the Senator from Kansas would control the time of the opposition.

Mr. DOLE. I yield 5, 10 minutes? I may not be opposed to the amendment. I will be happy to yield.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 10 minutes.

Mr. BRADLEY. Mr. President, I rise in opposition to the Exon amendment, and I would like to state my opposition clearly. The fact of the matter is that lead is a dangerous substance. Lead in the environment is a threat to our children. A hearing held in the Senate Environment and Public Works Committee, the Toxic Subcommittee, on March 9, was about lead and children's health. At that hearing, witnesses from Federal, State, and local government agencies, along with distinguished physicians and researchers testified to the significance of low-level lead poisoning and its current epidemic nature in this country.

Mr. President, we have a phenomenon where the Center for Disease Control consistently lowers the amount of lead in blood that it considers dangerous.

Lead enters the environment in a lot of ways: Leaded paints in homes used to be one way. Those were outlawed in

the 1970's. Lead solders in pipes for drinking water were outlawed in 1986. We still have some lead paint in industrial applications. And there is, surprisingly, some lead also used in food cans.

Since lead was first introduced into gasoline, some 4 million tons of lead, through leaded gasoline, have been deposited in our soils, where they remain today.

Mr. President, let us be absolutely clear that leaded gasoline is a threat to the health of our children.

The committee bill would ban leaded gasoline in 1991, but it would give the Administrator of EPA, if he felt that it was adversely affecting the farm economy, a right to extend for 2 more years the use of leaded gasoline.

Mr. President, what would a quick phaseout of leaded gasoline mean? I will quote from the committee report. It says:

A complete ban would result in 6,000 fewer children exceeding the toxicity level of 25 micrograms per deciliter in 1991. In addition, 18,000 fewer children would exceed the 20 micrograms per deciliter and 58,000 fewer would exceed the 15,000 micrograms per deciliter.

The Center for Disease Control and the EPA is about to issue a warning to parents and doctors in this country that if you exceed 10 micrograms per deciliter, you are in a threatening health circumstance. So an immediate ban would be of enormous benefit to 58,000 children.

In addition to the adult population, if the ban took place in 1991, there would be 91,403 fewer cases of hypertension, 298 fewer heart attacks and 266 fewer deaths. In addition, emissions criteria pollutants would be reduced by 451,000 tons of carbon monoxide, 64,000 tons of hydrocarbons and 29,000 tons of nitrogen oxides.

So, Mr. President, the bill that is before the Senate is a good bill. It bans leaded gasoline in 1991, and it provides some flexibility for the Administrator of EPA to give the farm community some leeway.

I think that the Senator's amendment—while I can imagine worse amendments that would strike what is in the bill completely—does extend the opportunity for the head of EPA to allow the use of leaded gasoline for up to 5 years, which is an additional 2 years from what we have now in the bill.

Mr. President, I know that the rationale for this is that the Senator from Nebraska would like to help farmers. The language of the report states:

The legislation bans the sale of leaded gasoline for use in motor vehicles which are defined in the act to include vehicles which are designed to carry persons or property on the street or highway. The definition would exclude combines and tractors and other off-road vehicles. Leaded gasoline could still be sold for use in these vehicles.

Mr. President, it is very clear that there is in the bill a ban for leaded gasoline with a 2-year leeway. It is a ban that includes the use for on-road vehicles but excludes the use for tractors and for combines.

Mr. President, I hope that we reject this amendment. The fact of the matter is, in the year ahead, 2 years ahead, childhood lead poisoning is going to burst upon our national consciousness in a way that we have yet to understand. We have to recognize that one of the chief pollutants is leaded gasoline. To argue that what you really want to do is help farmers is to ignore some very clear statistics. That is, roughly 10 percent of the gasoline sold in the United States in 1989 was leaded—10 percent. Yet the total demand for gasoline in farm vehicles is about 1.4 percent, and some of that is nonleaded.

Mr. President, in an attempt to help farm vehicles, some of which can use leaded and unleaded gasoline and some vehicles which are totally excluded from this ban, we are endangering the lives of countless thousands of kids by continuing the use of leaded gasoline for an additional 3 years.

I hope, therefore, that we reject this amendment and that we can stay with the committee bill, which is a strong bill and which does clearly ban leaded gasoline.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Nebraska.

Mr. EXON. Mr. President, I listened with careful interest to my friend and colleague from New Jersey. I have talked to him about this amendment. I know he feels sincerely about it. I did misinform the Senator from New Jersey. I said 3 years. As it works out, it is a 2-year extension, and that is my fault and not his.

What this amendment really does is it gives 1 more year from 1991 to 1992, January 1, 1992, and gives the option of the Secretary, in consultation with the Secretary of Agriculture, an additional 3 years. Mathematically, those two changes work out to an additional 2 years instead of an additional 3 years. I just wanted to correct that for the record.

I think we are all concerned about leaded gasoline and leaded particulate. It just so happens by coincidence today I had three family physicians that were very much interested in the Clean Air Act, very much concerned primarily about lead. I asked them what they thought leaded gasoline was causing in the youngsters. They said they did not know for certain, but they felt that the main cause for the loss of health of our youngsters, primarily, and probably people in general, was lead in paint. That is the main problem healthwise that we have with lead. They said, "We would estimate 90 percent of the problems healthwise is with regard to leaded paint that had been put on walls that peels off, gets into children's mouths" from a whole series of means which is a very, very serious problem.

I do not believe that leaded gasoline, per se, would cause very many of the problems that the Senator from New Jersey correctly alludes to. There is a problem with farm vehicles.

It might well be that the Secretary, in consultation with the Secretary of Agriculture, would not extend the deadline, but I think that option should remain.

I want to thank Senator GRASSLEY from Iowa for the help he has been to the Senator from Nebraska in this regard. Senator GRASSLEY, myself, and the cosponsors of this amendment are very much concerned about the adverse effect it will have on our agricultural community if, for example, by January 1, 1992, the Secretary, in consultation with the Secretary of Agriculture, should make the determination that there is a simple additive of gasoline of some type that the farmers could buy lead-free gasoline and economically and conveniently add in, through a tube or a pellet, some type of a fuel that would burn in engines that require leaded gasoline, then they do not have to make an automatic extension.

What we are primarily concerned about is, of course, whether or not there will be enough leaded gasoline made until and if and when we have that kind of a simple additive that the farmers could use that have older and some not so old vehicles that use leaded gasoline.

I think it is a reasonable compromise. I certainly understand the dangers of lead. It is just one more of those problems that we have to look at realistically. We have worked very hard to try to come up with an amendment that is a reasonable compromise that I do not think will result in any significant ill effects on children or the population at large.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I yield 5 minutes to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I am ambivalent about this amendment. I say that, and then I say that I will support its adoption. I feel very strongly as the Senator from New Jersey, everything he said about the work we have been doing for the last 5 or 6 years on the lead ban, and you can argue whether or not more kids die from paint than die from lead in pipes or die from lead in the air because of misfiring or misfueling of automobiles. The reality is that lead is a toxic and that lead in a variety of forms including in gasoline is killing kids in this country.

The reason that I am inclined to support the amendment of the Senator from Nebraska is that he is postponing, in effect, the day by 2 years that there will be a ban and there is a modification on the terms that relate to agriculture fuels.

Lead is added to gasoline to increase octane which prevents engine knock. However, lead is also an extremely damaging human toxicant and it impairs the operation of emissions control systems on automobiles.

Unleaded gasoline has been required for use in some automobiles since model year 1975 and in all vehicles produced beginning in model year 1980. Lead in the fuel poisons the catalytic converter which is installed in the tailpipe of cars and trucks. The catalyst oxidizes the carbon monoxide, hydrocarbons and oxides of nitrogen. Lead ruins the catalytic converter so it can't do its job.

Misfueling is the use of leaded gasoline in cars designed for unleaded. A significant amount of misfueling has occurred because leaded gasoline has been marketed at prices substantially lower than unleaded blends. Misfueling rates up to 16 percent were common in the early 1980's and especially in areas which did not have inspection and maintenance programs.

Even occasional misfueling—a few tankfulls of leaded gasoline—can significantly damage the performance of emission control systems. Emissions increases of 475 percent for hydrocarbons and 425 percent for carbon monoxide may occur as the result of misfueling a vehicle designed for unleaded gasoline. A 1988 EPA survey indicated that misfueling continues to be a significant problem—although the use of leaded gasoline has declined dramatically in recent years.

In addition to the misfueling problem, evidence available to the Agency beginning in the early 1980's indicated that lead is much more harmful as a human toxicant than previously understood. High blood levels cause symptoms of acute toxicity, but even at low levels, lead decreases cognitive development in children—literally stealing the cognitive potential of our children—measured as a loss of 3 to 4 IQ points on average for the 2 percent of children with blood lead levels above 30 micrograms per deciliter. Lead also contributes to high blood pressure, strokes and heart disease in the adult population. And lead is classified as a probable human carcinogen.

At the same time that EPA reduced lead to 0.1 grams per gallon in 1986, it proposed a complete ban on the sale of leaded gasoline for use in highway vehicles. The preamble accompanying that proposal rule contained estimates of the health and environmental benefits of banning lead in 1990 as an alternative to continuing the current standard.

The benefit of the ban in terms of the health of children was quantified as a reduction in the number of children expected to experience elevated blood lead levels. The Centers for Disease Control has established a blood lead toxicity level at 25 micrograms per deciliter. A complete ban would result in 6,000 fewer children exceeding the toxicity level in 1991. In addition 18,000 fewer would exceed 20 micrograms/deciliter and 58,000 fewer would exceed 15 micrograms/deciliter. Although symptoms of acute toxicity are not seen at these lower levels, losses in cognitive development have been positively associated with these levels in large surveys.

The benefits to the adult population from a lead ban would include 91,403 fewer cases of high blood pressure, 298 fewer heart attacks, and 266 fewer deaths. In addition emissions of criteria pollutants would be reduced by 451,000 tons of carbon monoxide, 64,000 tons of hydrocarbons and 29,000 tons of nitrogen oxides from the misfueling events that would be avoided.

The concerns that have been expressed about the impact of the complete ban on leaded gasoline with respect to wear on engines and farm vehicles and other off-road engines are real, and I say that as a Member who represents a farm State. I have been hearing that concern expressed for the 5 or 6 years that I have been a proponent of the ban, but I must also say that, on the other hand, dealing with the realities of the marketplace has taught me over this period of time that this bill will not prohibit the use of leaded gasoline in combines, in tractors and other off-road vehicles. There will be fuel available. Leaded gasoline can be sold for use in these vehicles. Most farms that we know of have on-farm storage tanks and their fuel is delivered to them. Combines and tractors are not driven into towns to the gas stations. They are filled from on-farm storage. Under this bill, gasoline delivered to the farm can and will continue to contain lead. It is not prohibited by the underlying bill.

In addition, fuels with additives other than lead or even leaded additives packaged in small containers to be mixed with unleaded fuels can be used in areas where leaded gasoline is not available.

The third option available to the farmer is to replace the valve seats in the engine so that excessive wear will not occur. That cost about $80. EPA's cost-benefit study indicates that farmers might actually save money by taking that step because, although it costs about $80 to replace the valve seats, using unleaded gasoline can prevent wear to other parts of the engine and postpone the day when a $500 or $1,000 engine overhaul will be necessary.

Mr. President, I have an EPA memo which makes the point clearly about the money that can be saved by using unleaded gasoline. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC.

Subject: Lead in Gasoline and Engine Maintenance Costs.

From: Joel Schwartz, Economic Analysis Division.

Thru: Rob Wolcott.

To: Richard Morgenstern, Director, Office of Policy Analysis.

This memorandum describes what we know about the effect of unleaded gasoline upon engine durability and maintenance expenses.

SUMMARY—COSTS

To owners of light duty vehicles and trucks the move to unleaded gasoline will generate significant net cost savings. Net expenditures to owners of farm equipment from a change to unleaded gasoline will also be clearly negative. Owners of Ford, International Harvester, and other vehicles with hard valve seats will experience reduced costs associated with valve and ring maintenance without any excess risk of valve seat wear. Based on extensive tests conducted by the U.S. Army and other operators of large vehicle fleets such as utilities, owners of most of the equipment without hard valve seats will also have no valve seat wear problems. Cumulatively, this fleet data represents several hundred million vehicle miles of experience on unleaded gasoline in vehicles designed for leaded. For farm equipment using engines that are also used in trucks and construction equipment, the fact that they are usually governed at 2,400 rpm or less, while the engine is designed to operate in trucks at higher speeds gives an added margin of safety. These owners of engines without hard valve seats will also experience a decrease in valve and ring maintenance.

Owners of some John Deere equipment and possibly some other equipment with unhardened valve seats will incur expenses of as little as $80 per engine as a result of moving to unleaded gasoline. However, this move will significantly reduce the expenses associated with valve and ring maintenance on those engines. A doubling of remaining ring life will save considerably more than $80 per engine, because a ring job costs $500-1,000 per engine and a 40% reduction in valve jobs among the engines should also more than offset the $80 cost.

The 1978 census of agricultural equipment indicated that about 1 million vehicles of over 50 hp were gasoline powered. Presumably there are considerably fewer today. For 80% of the engines above 50 hp we were able to locate data on the use of valve seat inserts, and 70% of the equipment had hardened valve seats, and therefore are at no increased risk of valve seat recession. If 10% of those vehicles started to have valve seat recession and needed to install inserts, the total one time cost would be $2.4 million if the farmers removed the heads themselves. Even if all of them needed inserts, the cost would only be $24 million. Again, this is a one-time cost. By contrast, the reduction in valve jobs found by the Post Office using unleaded gasoline was 1% of the engines per

year. If the 3 million (2 million under 50 hp, whose use is too light duty to increase risks of valve seat recession) gasoline powered agricultural engines saved valve jobs in 1% of the engines per year, that would be 30,000 fewer valve jobs each year, or about $3 million per year assuming $100 per valve job. Even if only 10% of all engines need ring jobs each year, a doubling of the expected life of the rings in these engines would save $75 million per year in ring repairs. Thus, net costs for major engine repair will be reduced if the farm engines are switched to unleaded gasoline.

BENEFITS

The preliminary RIA for the proposed ban on leaded gasoline in 1988 showed that, relative to the 0.10 gplg rule, the ban would result in 7,000 fewer children with lead toxicity; 123,000 cases of hypertension; and 387 fewer deaths—all in that year. The reduction in deaths exceeds the reduction in annual deaths from all of EPA's hazardous air pollution regulations combined. This information is in the docket for the rulemaking.

The final regulatory flexibility analysis estimated the health benefits associated with incremental changes in rural lead use. Applying those calculations to the increased lead use associated with allowing farmers to use 0.50 gplg in the 2 billion gallons of farm gasoline use gives estimates of 3,330 additional cases of lead toxicity, 48,000 additional cases of hypertension, and 150 additional deaths per year of that higher lead use.

Mr. DURENBERGER. Finally, Mr. President, the legislation also allows the EPA to delay the effective date of the ban, if there would be a widespread negative impact on availability of leaded gasoline for farm uses or if alternative valve lubricants are not available. The ban is to be put in place as scheduled, unless the Administrator finds that alternative lubricants are not available.

Mr. President, this is a health issue, a very important health issue. To make that point I would conclude my comments by reading to the Senate a portion of a letter which the Committee received from the chairman of the Committee on Environmental Hazards of the American Academy of Pediatrics. He said:

Although children's blood lead levels in the United States have decreased since 1976 in parallel with the reduction in the consumption of leaded gasoline, the problem of childhood lead absorption is by no means resolved. Data from the second National Health and Nutrition Examination Survey indicate that almost 700,000 young children have elevated blood lead levels. * * * Every effort must be made to reduce the exposure of children to lead. There is no legitimate justification by which lead can be allowed to remain in gasoline in this country. Lead is not necessary in gasoline. The toxic effects which are produced in children by the absorption of lead from leaded gasoline are unconscionable, incalcuable and irreversible. Intelligence lost as the result of exposure to lead can never be regained. * * * The American Academy of Pediatrics urges the rapid and complete removal of all lead from gasoline. The lead phasedown must be completed on schedule. For the sake of the health of our children, no waivers and no exceptions can be allowed.

Mr. DOLE. Mr. President, I yield 5 minutes to the Senator from Nevada [Mr. REID].

Mr. REID. Mr. President, there is good news and bad news. The good news is that there is not going to be an amendment offered right now, I understand, to repeal the provision relating to the lead phasedown, so the good news is Senator EXON's amendment is not nearly as bad.

Mr. President, 3 weeks ago I chaired a hearing on the health effects of lead poisoning. The testimony presented was sobering to say the least. A recent report issued by one group states that lead exposure may be causing brain damage and behavioral problems in as many as 4 million American children. Severe exposure to lead of course can cause convulsions, comas, and even death in adults and children. Lead is a well-known toxic substance to humans. It can cause the impairments that I have indicated. In addition, a recent study found that prenatal and early childhood exposure to lead can cause permanent learning and behavioral impairment. This study prepared by Dr. Needleman, who has devoted much of his career to lead poisoning, found that children who had elevated lead levels in their teeth, when tested again in young adulthood continued to have developmental problems.

In fact, Dr. Needleman said that the most serious environmental health problem facing American children today is lead poisoning. There is certainly strong evidence and testimony to indicate that the high school dropout rate in the United States today correlates to excessive lead exposure.

I have only the greatest respect in the world for the senior Senator from Nebraska, who has offered this amendment. I understand how well-intentioned he is in offering this amendment. However, lead poisoning is not caused by paint only. Gasoline is still a source of lead in the environment. Though lead in gasoline and paint has been phased down, it hasn't been eliminated. So it is I think constructive, Mr. President, to understand that it is children who are at greatest risk, and children who receive the greatest exposure.

In addition I think that we have to recognize that the EPA has estimated that the reduction to 0.1 grams per gallon of lead in gasoline in 1986 would result in a decrease of 5,160 deaths per year.

So we are talking about problems relating to lead poisoning caused from gasoline. The simple fact that we stop using gasoline that has lead in it does not mean we are going to get rid of the problem that leaded gasoline has caused immediately because there is soil contamination all over this country that has been caused in part by leaded gasoline.

There are lead contaminated areas that might be compared to Superfund sites, being contaminated.

I understand that the amendment that is offered is intended to apply only to farm vehicles. I think the Senator from New Jersey has outlined clearly that this may not be the case.

I hope the Senate in considering this amendment recognizes the importance of our doing away with lead in all areas. In the State of Nevada, as an example, we are not only concerned about the lead in gasoline, and the lead in paint, but in Reno, NV, during the past 3 months they found over 20 schools where the water is contaminated with lead. They basically have shut off the water fountains in those schools. It is a serious problem. We have to understand it is a serious problem, and really by extending the time allowing leaded gasoline to be sold we are impairing the lives of America's children.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, if I might take a minute, I know a number of my colleagues have other plans. I say for the Record that I determine there is a great deal of opposition to any—well, quite a bit of opposition to this amendment. I assume, as the Senator from New Jersey pointed out, had there been a more stringent amendment offered to strike the section, we would be involved in a heavy debate.

I have been attempting, I must confess, to try to work that out for the past several weeks without success because one of my colleagues on this side feels strongly that it should be stricken because of the hundreds of thousands of farm engines that would be damaged by using unleaded fuel.

I know the Senator from Minnesota pointed out you can buy an attachment for $80. But I think the amendment by the Senator from Nebraska [Mr. EXON] at least gives some relief.

I think the fact that there has been consultation with the Secretary of Agriculture will be helpful. Certainly farmers understand the dangers of lead, as pointed out by the Senator from Nevada. But I think what they are concerned about is, if you have demand and still permit, as the Senator from New Jersey said for leaded gasoline to be sold to off-highway vehicles, there will not be enough demand. You will not be able to buy it. So the farmers have a special problem.

I understand that nothing in this section demands or precludes a farmer from buying the additive himself and mixing it on the farm with gasoline. That can still be done. Nothing in this bill, as I understand it, will prevent that. I assume that will be available as long as there is a market.

But for the reasons suggested, maybe the Senator from Iowa [Mr. GRASSLEY] will offer his amendment for which I would join in to strike the section. But I believe this is an improvement.

I know of nobody on this side requesting a rollcall vote. I am prepared to yield the floor.

The PRESIDING OFFICER. Does the Senator from Nebraska yield his time? He controls 24 minutes. The Senator from Kansas controls 20 minutes.

Mr. EXON. I believe the manager of the bill controls on this side. I am willing to yield back the time.

Mr. BRADLEY. Mr. President, may I ask the status of the committee amendment?

Mr. BAUCUS. We are prepared to accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. We yield our time.

The PRESIDING OFFICER. Without objection, all time is yielded back. The question occurs on agreeing to the amendment of the Senator from Nebraska.

The amendment (No. 1418) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

ORDER OF PROCEDURE

Mr. BAUCUS. Mr. President, on behalf of the majority leader, there will be no more rollcall votes tonight.

MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FIRST POST-COLD WAR CRISIS: LAW OR ORDERS?

Mr. MOYNIHAN. Mr. President, the crisis in Lithuania is fast becoming the first crisis of this post-cold war era. We must take great care in deciding just what we are to do. I spoke to this subject today at the National Press Club, and I offer my remarks to my colleagues as one approach to this difficult situation. It is an approach which suggests that there are issues of law at the core of this problem and suggests that we might well use the machinery of international law and the International Court of Justice—which we labored mightily to create—to resolve this situation peacefully. I ask unanimous consent that the text of my remarks be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE FIRST POST-COLD WAR CRISIS: LAW OR ORDERS?

(By Daniel Patrick Moynihan)

The morning papers confirm that we are now in the midst of what might fairly be called the first crisis of the post cold war era. The lead stories in all the major journals concern the newly declared independent republic of Lithuania and the response to that declaration by three distinct parties. First, the Soviet Union. Second, the United States and other western nations. Third (and this is the photograph in the front page of the *Times*) ethnic minorities within Lithuania itself, ethnic groups within the Soviet Union (in this instance, the military), ethnic influences within the United States.

Thus, the *Washington Post:*

"Lithuanians Protest Soviet Use of Force, White House Tones Down Its Comments."

The *New York Times:*

"Lithuania Anxious and Angry at U.S. After Soviet Raids, A Plea for Recognition," "U.S. Softens Tone on Lithuania Issue, White House is Not Prepared to Side With the Republic."

In the main the parties involved seem to be concerned more with stability than instability, each, however, having a different perspective as to just what constitutes stability. The possibility of some awful mistake is obviously on everyone's mind. What we do not seem to be thinking about are the uses of international law and international institutions to produce an equilibrium of sorts, and most especially, to avoid the disasters that could follow from mere hourly calculation of political advantage.

Since coming to the Senate I have more than once spoken of the centrality of law in the maintenance of world order. Granted, without much impact. But this may have reflected the times. Earlier ideas of international law had been lost in the fog of the cold war. Now, however, it seems to me that this argument might find a more attentive hearing. The cold war is behind us; more importantly, the Soviet Union in the very pronouncements in which they recognized their changed situation, also asserted an altogether new commitment to resolving international conflict through the application of international law. Finally, there could not be a more striking opportunity to test this commitment, for the situation in Lithuania is perhaps the most striking example of contractual illegality in the history of international relations.

I refer in the first instance to the remarkable address Mr. Gorbachev delivered to the United Nations General Assembly on December 7, 1988.

First this.

"We intend to expand the Soviet Union's participation in the controlling mechanisms of human rights under the aegis of the U.N., and within the framework of the European process. We think that the jurisdiction of the International Court in the Hague with regard to the interpretation and application of agreements on human rights must be binding on all states."

Then:

"While championing demilitarization of international relations, we would like political and legal methods to reign supreme in all attempts to solve the arising problems.

"Our ideal is a world community of states with political systems and foreign policies based on law.

"This could be achieved with the help of an accord within the framework of the U.N. on a uniform understanding of the principles and norms of international law; their codification with new conditions taken into consideration; and the elaboration of legislation for new areas of cooperation.

"In the nuclear era, the effectiveness of international law must be based on norms reflecting a balance of interests of states, rather than on coercion.

"As the awareness of our common fate grows, every state would be genuinely interested in confining itself within the limits of international law."

In the process, the then-General Secretary reminded the General Assembly of "the political, juridical and moral importance of the ancient Roman maxim: *Pacta sunt servanda!*—agreements must be honoured!"

Obviously, there is a corollary here. If the first rule of international law is that agreements must be kept, then the second must be that *illegal* agreements have no force and may not be upheld.

Pacta illegalia non servanda sunt.

And this is exactly what we have in the case of the Soviet presence in Lithuania. Yesterday, Lithuanian President Vytautas Landsbergis asked of the West, "Are they willing once again to sell Lithuania to the Soviet Union?" This is as much as the *Times* reports this morning. The suggestion is made that the question was addressed to the Bush administration. This seems to me unfair and unfortunate. For the United States did not sell Lithuania to the Soviet Union.

Hitler did.

I had thought to raise this matter in a Senate speech several weeks ago, but then on reflection it seemed better to send a short letter to the press, which I did two weeks ago and which the *Times* duly printed.

"To the Editor:

"I read with great interest the March 14 Op-Ed article by Prof. Lawrence Summers, "Gorbachev Should Pay Lithuania." Indeed. May I offer a further observation? On Aug. 23, 1939, in a secret protocol to the Molotov-Ribbentrop Nonaggression Pact, the Soviet Union and Nazi Germany carved out spheres of influence in the Baltic region. Lithuania fell within the German sphere. However, in supplementary protocols, it was sold to the Soviet Union for 7.5 million gold dollars.

"Washington, March 14, 1990."

The United States has known of this sale from the time in 1945 that the Nazi archives fell into British hands in Thuringia. However, it was not until last May that the texts were published in the Soviet Union, specifically in Moscow.

In brief, in the summer of 1939 the Soviet Union and Nazi Germany entered into an agreement which might well be described as a contract to begin World War II, that is the Molotov-Ribbentrop Pact of August 23, 1939. There can be no question that the Pact violated international law, leastwise there can be no question on the part of the Soviet Union which has recently acknowledged that:

"In the process of making and implementing [the Molotov-Ribbentrop Pact] the Soviet Government committed serious violations of international legal norms." (*Pravda*, May 25, 1989.) The Pact originally placed two of the three independent Baltic nations within the "sphere of influence" of the Soviet Union; Lithuania fell to the Nazis. A month later, September 25, in his further written agreement, Lithuania was transferred to the Soviets as well, as if this independent nation could be bartered about like so much chattel goods.

Excepted was a slice of Lithuanian territory known as the "Memel Triangle" which included Lithuania's only port city, Memel (now known as Klaipeda). In a further supplemental protocol dated January 10, 1941, the Nazis *sold* the Memel Triangle to the Soviets for $7.5 million gold dollars. Hitler already planning "Operation Barbarossa"—the invasion of the Soviet Union—engaged in a marketplace transaction with Stalin over the spoils of war.

This is how Lithuania came to be part of the Soviet Union, and yet we cannot seem to grasp that at its core this is an issue which involves violations of *law*.

Surely, given this extraordinary record, it is possible to approach the present crisis as one to be resolved through legal process. The most obvious course is for the General Assembly to request an advisory opinion of the International Court of Justice. There are other possibilities. But the point is to do *something. Now!*

I would plead with the United States government to raise this subject. Only by holding Mr. Gorbachev to his own professions about international law can we provide him a way out of the situation he finds himself in. The Soviet Union has no claim on Lithuania. It is stolen goods. Hitler did not own the nation he sold. Title of stolen property does not pass, no matter how many foreign ministry seals were on the document.

I sense what you may be thinking; I know what they will be thinking in the State Department. That again! International law. We tried it. It doesn't work.

To which I would reply, no we haven't. Not of late. Of late we have settled into the idea that international law is a system of negative restraint which simply tells you what you cannot do in consequence of which the others—the Communists, of course—get away with everything. I would plead that this need not be the case. Especially now that there are not in the older sense any Communists any more, but also that this notion that adherence to law is a confession of weakness is so wrong as to be contemptible.

Thus, in November 1979, Iranian "students" seized the American embassy in Teheran and took the embassy staff hostage. The Iranian government did nothing to protect or to restore American rights. The most elemental rule of international law, the immunity of envoys, was thus challenged. The response of the United States was wholly tactical. Embassaries were sent, intermediaries sought out. There was no lack of energy in the face of an extraordinary international event which immediately became a domestic crisis, but the State Department turned every which way save toward law.

On November 20, some sixteen days after the embassy had been sized, this Senator went to the floor to ask why we had not gone to the Court:

"I suppose there will be those who ask, what can the International Court of Justice do? I can answer that with, I think, some precisions. The International Court of Justice can say what is law and which party has violated it. The U.S. Government has put too much of its hopes and efforts into the rule of law to ignore the institution of the Court at this moment."

Almost as an afterthought we thereupon did so. Within the executive branch there was no confidence in the Court. Surely a Soviet bloc judge would assert that we had provoked the students; a South American judge would require more submissions; and African judge would wish to conduct a paralled inquiry into human rights violations in South Africa. The Iranians wouldn't respond. Etc. Yet, two weeks later, December 15, 1979, a unanimous court handed down its provisionals order, which clearly established that the rights of the United States were being violated, that the government of Iran was obliged to restore the embassy to United States control and release the hostages. In the manner of such rulings, it was further ordered that neither party take any action to exacerbate the situation, pending a final judgment.

On April 24, 1980, one month before the Court issued its final judgment, the United States launched a rescue operation that failed.

This was in fact a weak policy. A strong policy would have awaited the decisions of the Court, hurrying it a bit if necessary. Inevitably, unquestionably, the decision would be handed down in our favor. The obvious course for the United States was to wait another three to four weeks and the decision in hand, go to the Security Council and demand that "Measures be taken to give effect to the judgment." Making clear that either the council would take them or we would take them. The Seventh Fleet was already steaming for the Gulf. It is entirely likely that the council would have agreed. No nation favors the seizure of embassies. In the first instance the council would most likely have called for embargoes and the freezing of assets. Possibly the closing of all embassies in Teheran that were still open. This might have worked. Probably not, though. Whereupon the United States could have offered its services to the council to enforce the decision. Whereupon, with or without the Security Council's blessing—there would have been no legal difference—the United States would have commenced the high-level bombing of Kharg Island. Or whatever measures we thought necessary. Quite possibly some or all of the hostages would have died. Vastly greater numbers died to put in place the principles we would now be defending. But the Vienna Convention of 1961 on diplomatic relations was to be upheld at whatever the cost. If need be, fire and sword to the gates of Teheran. What was the matter with that? "The firm foundation of government," Woodrow Wilson often said, "is not pity but justice." On the wall of the 1837 Chenango County Courthouse in Cortlan, New York, there is inscribed in large Roman letters the plain proposition: Fiat Justitia Ruat Caelum. Let justice be done though the heavens fall.

Can I offer a thought? Had his advisors kept to the path of law—and the terrible swift sword which the law carries—Jimmy Carter might well have been reelected President.

Another instance. On April 6, 1984, Barry Goldwater and I, respectively Chairman and Vice Chairman of the Senate Select Committee on Intelligence, learned from the Wall Street Journal that the United States was directly involved in mining harbors in Nicaragua. I do not wish to revisit the controversy of when exactly we learned. Our point was that we were not informed in advance, as required by statute. Mr. Bud McFarlane has since testified under oath that we were not and ought not to have been. That, however, is beside my point. My point is to be found in the text of Senator Goldwater's letter to then-Director of Central Intelligence, Mr. William Casey.

"But mine the harbors in Nicaragua? This is an act violating international law. It is an act of war. For the life of me, I don't see how we are going to explain it."

Now, so far as I have been able to learn, there was no official in the White House who thought this way, or if any did, none who cared one way or the other. International law? What's that? Well, for one thing where it is treaty law, as it was in the case of Nicaraguan harbors, it is under Article VI of the Constitution, "the supreme Law of the Land".

Had there been more attention paid, there might have been fewer trials in the U.S. District Court here in Washington. Indeed, Mr. Reagan might have left his Presidency in an unsullied triumph. Instead, he spends his time giving depositions about alleged criminal acts by his subordinates.

I make the simple case that law seeks to avoid the use of force, but does not preclude it. I fear that in Washington at this time you have to get by that point before anyone will entertain the possibility that law might bring peace.

The difficult thing about international law, but also its greatest strength, is that it requires states to eschew their short-term interests in favor of larger principles. States which yield to the temptation to ignore international law do so at their peril. They sometimes find to their sorrow that they have won a battle—sometimes but a skirmish—only to lose the war against the lawless behavior of others. When India occupied the Portuguese enclave of Goa in 1961 it argued vociferously that *colonial* boundaries do not carry with them the weight of international law. The next year Indian diplomats heard their own speeches cited by the Chinese as Chinese troops crashed across the "imperialist, colonial" border established by the British in the Himalayas between India and China.

The same thing now appears to be happening to the Bush Administration on the subject of kidnapping. It began last fall when the press reported that the Justice Department had advised the President that the United States could lawfully kidnap persons abroad and bring them to the United States for trial. Our able Assistant Attorney General William P. Barr defended this view November 8, 1989 when he testified that, even if such acts violated international law, the United States was entitled to kidnap persons abroad. Shortly thereafter—does this surprise anyone?—the Iranian Parliament adopted a law authorizing its officials to kidnap Americans anywhere in the world.

Now, Vice President Quayle, as I read in the press, finds himself in the unfamiliar—"awkward" is the term used by Ann Devroy—of being "embraced by the Soviets

for statements he made Saturday that suggested the Soviet army's roundup of Lithuanian deserters was acceptable to the United States." The *Post* headline. "Soviets Cite Quayle Remark as Justification."

But there you have it. It is helpful to keep in mind that rights we assert for ourselves can be claimed by others. I cannot imagine the Vice President meant any harm and would wish to leave the matter there. However, I do ask why no one in the administration seems the least interested in pursuing a legal approach to a settlement of the Lithuanian issue. This need not be our only approach; but surely it should be one.

I began these remarks speaking of the first crisis of the post cold war era. If we handle it well, it could be just that. If we don't, we could very well find ourselves back in that frozen antagonism of the past. Less ideological, to be sure. But not necessarily less dangerous.

RESCUE

Mr. SYMMS. Mr. President, on Monday, March 26, an 11-year-old boy performed a heroic deed which saved the life of a friend. Matthew Haney, a schoolboy from Twin Falls and his brother Ben were playing with 7-year-old Stevie Fisher when Stevie fell over the edge of a high canyon wall, 30 feet high. Without the quick thinking of Matthew, Stevie might not be alive today.

The boys were on a play Army expedition in a canyon when the accident occurred, and Matthew used techniques he said he learned from watching "Emergency 911" television. According to Brenda Fisher, Stevie's mother, "He did something that I wouldn't think that anyone could ever do that was his size."

Mr. President, here is a young boy who acted quickly and responsibly to save another's life. He deserves special recognition and thanks for acting the way he did. I ask unanimous consent that the story of the rescue from the Times-News of March 28, 1990, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Twin Falls Times-News, Mar. 28, 1990]

TWIN FALLS LAD, 11, HAULS SMALLER PLAYMATE OUT OF CANYON AFTER FALL

(By Kirk Mitchell)

TWIN FALLS.—A Rock Creek Canyon play-Army expedition turned into a rescue mission for two Twin Falls boys when a third boy plummeted 30 feet face-first into a pile of lava boulders.

"They basically saved my son's life," said Brenda Fisher, mother of 7-year-old Stevie Fisher.

Stevie was in stable condition Tuesday afternoon at Magic Valley Regional Medical Center after four hours of surgery on Monday.

Stevie and his friends, Ben and Matthew Haney, ages 7 and 11, were exploring some cliffs about 300 yards from the Haneys' home at noon Monday when the accident happened.

Matthew said Stevie was lunging for a lizard when he slipped over the edge of a 30-foot-high canyon wall, hitting ledges twice before landing face-first on a rock.

Matthew, standing on a ledge about 15 feet below, said he tried to catch Stevie as he fell by. He screamed at his brother to go for help and climbed down the ledge to Stevie.

The impact has cut a wedge in Stevie's face at the nose, crushing bones and slicing into the right eye. Matthew pushed the protruding eye back into its socket.

Matthew, a carrot-haired 95-pounder, said he had lifted Stevie and was helping him walk when Stevie fell and said, "Just leave me alone and let me die."

"I kept yelling at him and told him to get up," Matthew said.

He led Stevie 60 feet up a rocky slope, 300 yards across two grassy fields, and through two barbed-wire fences.

"How he got him out of that canyon is amazing," Brenda Fisher said. "He did something that I wouldn't think anyone could ever do that was his size."

As they walked, Stevie gasped for air and started to faint about a dozen times as blood clogged his throat. Each time, Matthew patted Stevie on the back until he coughed the blood out.

"I learned that from watching 'Emergency 911,'" he said. "I watch it all the time."

Stevie's father, Steve Fisher, said his son is completely coherent, will not lose sight in his right eye and won't have scars from the stitches.

Stevie's room was filled with balloons, flowers and stuffed animals Tuesday. He will likely take at least two weeks to recuperate, Brenda Fisher said.

"He's a rambunctious, fun-loving child," said Irene Haney, Matthew and Ben's mother.

Asked whether the canyon is off-limits, Ben said, "It now is."

WISCONSIN COMMUNITY OPTIONS PROGRAM

Mr. KOHL. Mr. President, I would like to call the attention of my colleagues to an article in today's New York Times about the excellent and cost-effective home and community-based long-term care program established by the State of Wisconsin. As Senators may note, the Wisconsin Community Options Program does not simply provide chronically disabled senior citizens with affordable and compassionate long-term care. This innovative program allows its clients to live in dignity in their own homes, at a lower cost to the State than comparable institutional care. Wisconsin has long been a leader in implementing ground-breaking social policy initiatives, and I urge my colleagues to consider the strengths of the Community Options Program as we debate the long-term care recommendations of the Pepper Commission. I ask unanimous consent that the text of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 28, 1990]

WISCONSIN AS A MODEL: SAVINGS AND DIGNITY

(By Tamar Lewin)

Wisconsin's home care program is one of the most ambitious in the nation.

"Our underlying philosophy is that anyone can be served at home," said Lorraine Barniskis, an expert in long-term care in the state's Division of Community Services.

"The question is what the person wants, what the family can handle and the point at which it becomes ludicriously expensive. If someone needs the cows milked to be able to stay at home, we'll do it. Our only limit is that each county program cannot spend more, on the average, than the state would spend on nursing home care for those clients."

A SUCCESS STORY

Leita Twining Clayton of Gays Mills is one of the Wisconsin program's success stories: she is a 92-year-old retired schoolteacher who lost a leg and is confined to a wheelchair, but still manages to live alone, cooking for herself and receiving visitors in the farmhouse where she was born.

"I will be in this house as long as I live," she said. "I'm active in the D.A.R. and Republican politics, while my friends in nursing homes have lost contact with their friends and clubs and interests, and it gets so they just sleep a lot. Everything in my house has meaning to me. When I look at my antiques, things that have been passed down through my family, I can live my life over, and I enjoy it. I have a much better life than I would in a nursing home."

Mrs. Clayton's only son lives in California, so the Community Options Program has stepped in to keep her life running smoothly with what Mrs. Clayton calls her "support group." That group consists of a morning visitor who helps her get up and dress; a licensed practical nurse who comes at night to prepare her for bed; the man from a mile down the road who takes her to church, stokes her wood stove and sells her extra wood, and several others who drive her to clinic visits or on shopping trips.

"IT'S A MUCH NICER LIFE"

"This is a rural county, so we have to be creative in finding services," said Alice Mirk, director of the program for Crawford County, which serves Mrs. Clayton. "But even with all those different people helping, it costs about $650 a month, and nursing home care here is about $67 a day, so it's still cheaper, and in human terms, it's a much nicer life."

A team consisting of a social worker and a nurse will provide a free assessment and care plan to anyone with a chronic disability, or anyone considering moving to a nursing home. Other services of the Wisconsin program are free to those who are eligible for Medicaid, and available on a sliding scale for others, with the affluent paying full fee.

LITHUANIAN DECLARATION OF INDEPENDENCE

Mr. DODD. Mr. President, last week the Senate considered and voted on two resolutions on the independence of Lithuania. The first was defeated overwhelmingly, the second passed unanimously a day later. I was one of the many Senators who opposed the

first resolution and supported the second one and I would like to use this opportunity to give my reasons for both.

Since I was first sworn in as a Member of Congress 15 years ago, I have seen few international issues that enjoy such unanimous support among Members of Congress as the freedom and independence of the Baltic states. I know I have had a consistent record of support for these small nations whom history dealt such a cruel fate in this century.

Now that as a result of the changes rocking the Soviet empire there is a real possibility that these nations can regain the independence that was for so long denied to them, we are all watching with bated breath the cat-and-mouse game being played out in the Baltic area.

One would think, that given the universal support that the Baltic nations enjoy from the American people and its Congress, this could be a time when we could all unite behind their cause. This was, however, not what some Senators had in mind last week. They managed instead to create dissension where there was none, and put the Senate on record with a negative vote which deeply upset many Americans of Baltic extraction.

It was obvious from the beginning that most Senators will not go along with a resolution that tries to dictate to the President how to manage this delicate and dangerous situation. It was particularly silly to try to call on him to send an American Ambassador to Lithuania at this point. How?—I beg the Senators to tell me. By putting him on the beach with a marine amphibious unit? By dropping him with a parachute? The only other way to send him would be through Moscow where he would promptly be put on the next return flight. The net result would be that we would load this already loaded situation with a direct American-Soviet confrontation, making it even more difficult for the Soviets to back off. This inane idea itself assured the defeat of the resolution and its sponsors knew it. I am afraid, however, that they could not resist trying to extract political capital from this critical situation.

Most of my colleagues probably suspect that I did not vote for this President at the last election. Nonetheless, he is my President now, and I want to support him unless and until the extent of our disagreement prevents me from doing so.

I do not know whether the President is too cautious, too tough, or just about right in this situation. Maybe I would do some things differently. For the time being, however, I see much more value in a national unity in support of the Baltic nations than in creating domestic divisions on this issue. Unless I am convinced that the President is pursuing the wrong course, I am not willing to upset the consensus supporting the cause of the Baltic nations and push my own demands on the President. I may, of course, revise my position depending on what happens in Lithuania.

Lithuanian-Americans from around the Nation are visiting their representatives in Washington these days and I welcome with particular pleasure my many constituents among them. My message to them is the following:

Do not listen to those who want to divide us, who try to persuade you that there is even one Senator here who is not dedicated to the freedom and independence of our brethren in Lithuania. The American people and its Government is behind you. We have to show a national unity and a sense of purpose to the Soviets at the time of this crisis for the Baltic peoples. If we let ourselves be divided, then the Moscow hard-liners will get the idea that maybe they can also divide us on this issue. Maybe, if they crack down, if they suffocate the springing buds of Baltic independence, it will be business as usual soon again. I say never. This is as good a test as any on the genuineness of the Soviet declarations on wanting to join the common house of Europe.

Real Europeans, Mr. Gorbachev, do not send troops into each other's houses to intimidate. Real Europeans do not attack hospitals to beat up and drag away young men whose only sin is refusal to serve in an occupying army. If the Soviet President ever dreams of entering that common house he has to act as civilized Europeans do, with respect to each other's security, integrity, self-determination.

I strongly believe that this National and this Congress are united in their determination not to make deals over the bodies of Baltic victims, over the trampled ruins of these spring flowers of independence. If the Soviet leader expects significant trade with us, assistance to his perestroika, beneficial deals, the first deal he will have to make is with the Baltic nations, with one possible result: full self-determination for these people with no violence and no intimidation.

Mr. President, when last Thursday the Senate was called upon to stand by Lithuania in a manner that united us instead of dividing us it did so unanimously. In fact, the latter resolution confirmed our dedication to the freedom and independence of the Lithuanian people much more forcefully than did the first one. That is the way we ought to proceed, not by political mischief.

I hope all the Lithuanian-Americans returning to their communities will tell their families and friends that the American people and its Congress is with them. There will be no deals at the price of Baltic freedom, as long as this Senator will have anything to say about it. You are not alone Lithuania, and not only our prayers and our hopes are with you but also our political determination to see you succeed.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:52 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 98. A concurrent resolution authorizing a public event with music for Earth Day 1990 on the United States Capitol Grounds.

At 3:01 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2151. A bill to permit the transfer of the obsolete submarine U.S.S. Requin to the Carnegie Institute in Pittsburgh, Pennsylvania, before the expiration of the 60-day waiting period that would otherwise be applicable to the transfer.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 388. An act to provide for 5-year, staggered terms for members of the Federal Energy Regulatory Commission, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3386. An act to prohibit the use of refrigerated motor vehicles for the transportation of solid waste, to prohibit the use of cargo tanks in providing motor vehicle transportation of food and nonfood products, and for other purposes; and

H.R. 4328. An act to authorize appropriations for fiscal years 1991 and 1992 for the customs and trade agencies, and for other purposes.

The message also announced that pursuant to the provisions of section 3(a) of Public Law 86-380, the Speaker appoints Mr. ARMEY on the part of the House to the Advisory Commission on Intergovernmental Relations.

ENROLLED BILL SIGNED

At 3:12 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the followng enrolled bill:

H.R. 2692. An act to amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life shall be members of the Board of Trustees of the Woodrow Wilson International Center for Scholars.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3386. An act to prohibit the use of refrigerated motor vehicles for the transportation of solid waste, to prohibit the use of cargo tanks in providing motor vehicle transportation of food and nonfood products, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4328. An act to authorize appropriations for fiscal years 1991 and 1992 for the customs and trade agencies, and for other purposes; to the Committee on Finance.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3834. An act to amend the National Trails System Act to designate the route from Selma to Montgomery for study for potential addition to the national trails system; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1243. A bill to require the Secretary of Energy to establish three Centers for Metal Casting Competitiveness Research (Rept. No. 101-258).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Herman Jay Cohen, an Assistant Secretary of State, to be a Member of the Board of Directors of African Development Foundation for the remainder of the term expiring September 22, 1991;

Edward Morgan Rowell, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor; to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Luxembourg.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Edward M. Rowell.

Post: U.S. Ambassador to Luxembourg.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, Edward O. and Christopher D., none; Karen (daughter) Schuler and husband Timothy D. Schuler, none.

4. Parents, Edward J. Rowell, deceased 1974; Mary M. Rowell, deceased 1972.

5. Grandparents, Frederick and Mary Mohler, deceased 1947 and 1950 respectively; Edward F. and Anne C. Rowell, deceased 1937 and 1950 respectively.

6. Brothers and spouses names, Frederic C. (brother) and wife Barbara E. Rowell, none.

7. Sisters and spouses, no sisters.

Robert Gregory Joseph, of Virginia, for the rank of Ambassador during his tenure of service as United States Commissioner on the U.S.-USSR Standing Consultative Commission.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Robert Gregory Joseph.

Post: Commissioner, Standing Consultative Commission.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Susan Gibbs Joseph, none.

3. Children and spouses names, Nicholas Joseph, none; Mikaela Joseph, none.

4. Parents, Robert F. Joseph, none; Betty J. Joseph, none.

5. Grandparents, deceased, none.

6. Brothers and spouses names, William F. Joseph, none.

7. Sisters and spouses names, Mary C. Joseph, none.

John J. Maresca, of Connecticut, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Head of the United States Delegation to the Conference on Confidence and Security Building Measures (CSBM).

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John J. Maresca.

Post: Rank of Ambassador, Chairman, U.S. Delegation to the Negotiations on Confidence and Security Building Measures.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, none.

4. Parents, none.

5. Grandparents, none.

6. Brothers and spouses, none.

7. Sisters and spouses, none.

Everett Ellis Briggs, of New Hampshire, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Portugal.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Everett Ellis Briggs.

Post: Ambassador to Portugal.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses: Everett Barnard Briggs (son), Unable to reach. Traveling. To my knowledge has never made a political contribution; Catherine Sheppard Briggs Townsend (daughter), reports no contribution; Collis Ormsby Townsend (son-in-law), reports no contribution; Allen Townsend Briggs (son), reports no contribution; Michele Beauregard Briggs (daughter-in-law), reports no contribution; Lucy Hill Briggs Bassert (daughter), reports no contribution; George Beatty Bassert (son-in-law), reports no contribution; Church Ellis Briggs (son), reports no contribution; Mildred Thorp Soast (mother-in-law), reports no contribution.

4. Parents, Lucy Barnard Briggs (mother), undisclosed, 1988, Republican Party.

5. Grandparents, deceased.

6. Brothers and spouses, none.

7. Sisters and spouses, Lucy Therina Briggs, none.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated.

By Mr. BINGAMAN:

S. 2349. A bill to establish in the Department of Commerce an Office of International Technology Monitoring; to the Committee on Commerce, Science, and Transportation.

By Mr. BURNS:

S. 2350. A bill to authorize the Secretary of the Interior to provide funds for the repair and enlargement of the Tongue River Dam for the purposes of settlement for water right claims of the Northern Cheyenne Tribe, for fish and wildlife enhancement, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON:

S. 2351. A bill to remove certain prohibitions to the licensing of a vessel for employment in the coastwise trade of the United States for the vessels Ben Milam and William B. Travis; to the Committee on Commerce, Science, and Transportation.

By Mr. COHEN:

S. 2352. A bill to amend title 10, United States Code, to provide separation pay for regular enlisted members of the Armed Forces who are involuntarily discharged or released from active duty or are denied reenlistment; to the Committee on Armed Services.

By Mr. HEFLIN:

S. 2353. A bill to direct the Secretary of Agriculture to provide for national mobilization of rural firefighting forces to deal with the mounting danger of wildfires in the urban-rural interface areas of the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. BURDICK, Mr. CONRAD, Mr. MURKOWSKI, Mr. GORTON, and Mr. DECONCINI):

S. 2354. A bill to amend the Housing and Community Development Act of 1974 to make technical corrections for grants to Indian tribes, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. BAUCUS:

S. 2355. A bill to strengthen the provisions of section 310 of the Trade Act of 1974 to open up foreign markets; to the Committee on Finance.

By Mr. SYMMS (for himself, Mr. RIEGLE, and Mr. PRYOR):

S. 2356. A bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees; to the Committee on Finance.

By Mr. INOUYE:

S. 2357. A bill to amend the Communications Act of 1934 to ensure (1) that cable subscribers are protected from excessive cable rate, and (2) that cable systems electing to retransmit local broadcast signals provide fair compensation to local stations and networks for the commercial exploitation of their signals and carry such signals on a basis that is consistent with the public interest; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI:

S. 2358. A bill entitled the "Digital Audio Tape Recorder Act of 1990"; to the Committee on Commerce, Science, and Transportation.

By Mr. HEINZ:

S. 2359. A bill to extend through December 31, 1992, the suspension of import duties on synthetic rutile; to the Committee on Finance.

S. 2360. A bill to extend through December 31, 1992, the suspension of import duties on needlecraft display models; to the Committee on Finance.

By Mr. ROCKEFELLER:

S.J. Res. 278. Joint resolution designating July 19, 1990 as "Flight Attendant Safety Professionals' Day;" to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 2349. A bill to establish in the Department of Commerce and Office of International Technology Monitoring; to the Committee on Commerce, Science, and Transportation.

OFFICE OF INTERNATIONAL TECHNOLOGY MONITORING

● Mr. BINGAMAN. Mr. President, I rise to introduce legislation to strengthen our ability to monitor and utilize foreign technological and scientific achievements.

We are all aware that we live in a interdependent world economy. Economic activity in Europe and Asia, for example, has a direct effect on our day to day lives. Products and services, as well as investments, increasingly flow across international boundaries.

The same is true for scientific and technolgoical information. The world is vastly different from what it was a few decades ago. The United States is no longer the world's only technological superstar. Other nations, both allies and potential adversaries, have technological capabilties that match and, in some cases, exceed our own.

Just last week, we received additional confirmation of this trend when the Department of Defense released its Critical Technology Plan for 1990. In this report, DOD states that Japan is significantly ahead of the United States in 5 of the 20 technologies listed and is essentially on par with us in 3 others. The technologies in which Japan rivals us are all dual-use technologies with wide civilian amd military applications—semiconductors, photonics, composite materials, and biotechnology. Our NATO allies are on par in seven areas. The Soviet Union is ahead in one area, pulsed power, and on par in three others—although they generally lag behind in almost everything else, especially the technologies with extensive commercial applications.

Clearly, there is much we can learn, both scientifically and technologically, from the rest of the world. But, if we are to take advantage of what the rest of the world is doing, we need to have accurate information about their activities and be able to evaluate its usefulness to our own activities.

Also for strategic reasons, both economically and militarily, it is vital that we have good information about what other nations are doing in the area of science and technology. Our own technology policy and management, both military and civilian, demands such information.

No company today would think of not keeping an eye on what other companies are doing around the globe. Such an attitude would be a sure recipe for disaster. Yet, this is exactly what our Government does.

The recent debate over the FS-X advanced fighter codevelopment project with Japan illustrates the problem. The GAO, in their report on the issue, stated that it was unclear whether the United States would benefit from access to Japanese technology in the areas of phased array radar and composite materials for aircraft wings.

The DOD response to this finding was as follows:

Even though the GAO concluded that the value of the FS-X radar is questionable and the value of the FS-X composite wing is modest, one would have to assume that a technically advanced country like Japan has something to offer the United States in these areas.

Let me repeat that, Mr. President.

One would have to assume that a technically advanced country like Japan has something to offer the United States in these areas.

One would have to assume? Does that mean that we do not know?

Mr. President, that is an unacceptable statement.

My recent trip to Japan has only reinforced my belief that we need to improve our ability to monitor foreign technology. Because of my concern over our ability to monitor foreign technology, I asked the General Accounting Office to review the Government's activities in this area. Today, I am pleased to release the GAO's report, "Foreign Technology: U.S. Monitoring and Dissemination of the Results of International Research."

According to the GAO, 62 civilian and military agencies, offices, and divisions monitor foreign technology with both military and civilian applications. These activities are conducted primarily under six departments, including Commerce, Defense, Energy, State, NASA, and the National Science Foundation. The CIA apparently engages in related activities but refused to cooperate with the study.

The report points out that while much information is collected, its usefulness is limited by the absence of a mechanism for disseminating it among government agencies and to the private sector. That was also what I heard in Japan. According to GAO there are a number of problems. One problem is that a large portion of the information is in foreign languages and not translated into English.

Another problem is that only some of the agencies maintain computerized databases which index and abstract reports. In those instances where such a database exists, agencies use different computer hardware and software combinations so that simultaneous access to the databases is not possible. In other cases, information is kept in the informal and personal files of the researchers and is not available to others except through personal contacts.

The practice of combining classified and unclassified information in some of the databases also restricts access to the information.

In terms of coordination, the GAO report points out that the limited efforts at coordination have not been successful. GAO could find no central list or source identifying all the Government monitoring activities.

Mr. President, the present uncoordinated Federal activities in monitoring foreign technology developments are simply not good enough. It is distressing to learn that the Federal Government lacks such focus in the conduct of what ought to be a high priority and well-coordinated task.

The legislation I am introducing today attempts to deal with the lack of coordination of agency and department activities. This bill establishes an Office of International Technology Monitoring in the Commerce Department's Technology Administration. The Office would be headed by a Director appointed by the Secretary of Commerce.

The Office would coordinate and disseminate information obtained by the

Federal Government regarding developments in science, research, and technology throughout the world and would collate and disseminate unclassified analysis of worldwide science and technology. The Office would also establish and maintain a database on worldwide science, research, and technology to aid those dissemination tasks.

As the GAO report points out, there are different levels activity concerning information about foreign science and technology. There is an especially important difference between technical information, such as research reports and scientific papers. Decisionmakers, in both the public and private sector, need access to analysis of that information, not necessarily the information itself.

The Office of International Technology Monitoring is intended to be the central coordinator for dissemination of both types of information. The Office is also intended to be an active participant in the analysis process. It would work with other Federal agencies to identify and track emerging areas of technology throughout the world. The purpose here is not to duplicate existing analysis capabilities of the Federal Government, but to insure a coordinated effort.

In order to make sure that the information collected is actually of use to both the Government and the private sector, the Office would be charged with identifying the requirements of the public and private sector for information concerning scientific and technological information and disseminating these requirements to all Federal agencies. This activity would be carried out based on regular reviews by relevant industry-sector advisory committees and experts at Federal laboratories.

It is the intent of this bill that this Office of International Technology Monitoring be the focal point for all such activities in the Federal Government. For this reason, the bill requires that all Federal agencies shall cooperate with the Office in coordinating the activities of such agencies with respect to the collection of information regarding technological and scientific development worldwide.

This bill addresses only part of the problems, however. We need to improve the ability of the agencies and departments to collect and utilize information on foreign technology, with particular emphasis on Japanese technology where language and other impediments, have led to underemphasis on this technological superpower. For example, the Defense Department needs to do a much better job of getting information about Japanese technology and technology policy to those in DOD labs, industry, and government policymaking positions. One way to this is to send technology assessment teams more frequently to Japan.

I also see a substantial role for the Energy Department's national laboratories and for the Commerce Department's National Institute of Standards and Technology. These institutions are at the forefront of Federal Government support for advanced technologies, civilian and military. Congress is increasingly demanding that the labs forge better links with industry to help our firms compete in the global marketplace. To do that, the labs need to improve their ability to follow international technological developments, again with special emphasis on Japan.

The DOE labs and NIST could be especially helpful to smaller American firms who can not afford to send their scientists and engineers to Japan for extended stays because of the cost of living there. The labs could provide a window into Japanese industry for such firms.

To do this job right, the DOE labs and NIST will need to create incentives for members of their staffs to learn the Japanese language. Over the past 40 year several of the DOE labs have done a masterful job of following technology developments in the Soviet Union to protect our national security. Now to ensure our continued technological and economic strength, we need to match that performance by assigning commensurate resources to monitoring Japanese technology. But unlike the Soviet case, the opportunities to go beyond monitoring and to be fully engaged in mutually beneficial cooperation with Japan at the forefronts of technology appear endless. I hope that that vision will permeate the culture and be reflected in the mission of each of the DOE labs and NIST.

Mr. President, the legislation I am introducing today is an attempt to make sense of the uncoordinated patchwork of Federal activities in monitoring foreign science and technology. As the GAO report points out, the current system creates the potential for duplication of monitoring efforts and for gaps in monitoring coverage. It also makes it more difficult for policymakers to find and utilize the information.

This bill moves us toward a more rational mechanism for collecting and disseminating information on foreign science and technology. I hope my colleagues will give it their support.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15. U.S.C. 3704) is amended by redesignating subsection (e) as subsection (f) and by adding immediately after subsection (d) the following new subsection:

"(e)(1) There is established, within the Technology Administration at the Department of Commerce, the Office of International Technology Monitoring (hereafter in this subsection referred to at the "Office").

"(2) The Office shall be headed by the Director of the Office of International Technology Monitoring, who shall be appointed by the Secretary.

"(3) The Secretary, through the Undersecretary and through the Director of the Office, shall—

"(A) establish a clearinghouse to—

"(i) coordinate and disseminate information obtained by the Federal Government regarding developments in science, research, and technology throughout the world; and

"(ii) collate and disseminate unclassified analysis by the Federal government of world-wide science and technology;

"(B) establish and maintain a data base on world-wide science, research, and technology;

"(C) work with other Federal agencies to identify and track emerging areas of technology throughout the world;

"(D) identify the requirements of the public and private sector for information concerning scientific and technological information and disseminate such requirements to all Federal agencies; and

"(E) assure regular reviews by relevant industry sector advisory committees and experts at Federal laboratories.

"(4) All Federal agencies shall cooperate with the Office in coordination the activities of such agencies with respect to the collection of information regarding technological and scientific developments worldwide.".●

By Mr. COHEN:

S. 2352. A bill to amend title 10, United States Code, to provide separation pay for regular enlisted members of the Armed Forces who are involuntarily discharged or released from active duty or denied reenlistment; to the Committee on Armed Services.

SEPARATION PAY FOR ENLISTED MEMBERS OF THE ARMED FORCES

● Mr. COHEN. Mr. President, I am introducing legislation today to correct a longtime inequity in military compensation. My bill would for the first time provide separation pay benefits for enlisted personnel who are involuntarily separated from the service.

The need for this legislation is clear. Officers in our military services have long had the separation pay benefit, but it has been denied to those in the enlisted ranks. The courageous men and women serving the enlisted ranks deserve this benefit no less than their commissioned counterparts.

This is especially so at a time when there is discussion of significant reductions in military personnel strength as a means of cutting defense expenditures. A good case for these personnel cuts can be made as tensions are being reduced throughout the world and as

democratic forces assert themselves both in Eastern Europe and in this hemisphere as well. But as we talk aobut the so-called peace dividend, it is critical that it not be taken from the pockets of the men and women who have volunteered to make sacrifices and risk their lives in the armed services to assure that peace.

If there are substantial reductions in force over the next few years, it is imperative that separation pay be extended to the enlisted force. As it stands now, commissioned and warrant officers with 5 or more consecutive years of active service who are involuntarily separated would receive severance pay. This pay can reach as high as $30,000. But for enlisted service personnel, even with 19 years, 11 months and 29 days of honorable active service, there is nothing, not one dime of tribute in recognition of their loyalty, dedication and service to other nations.

Over the years, there have been repeated recommendations that this imbalance be corrected. In the 1967-69 "Frist Quadrennial Review of Military Compensation," the following statement appeared:

> Existing laws make no provision for separation pay to enlisted personnel except those separated for disability (and those reservists involuntarily released after five years or more of continuous active duty, although in practice only very few enlisted members qualify). The concept of separation pay should be extended to the enlisted grades on the same basis as now applies for officers to assure the just and reasonable treatment of these people and to give force managers a credible method for tailoring the enlisted force to best meet operational requirements.

Since that report, the Defense Department has repeatedly proposed readjustment or separation payments for enlisted personnel. In addition, separation, severance or readjustment pay for enlisted personnel has been recommended by the following: Interagency Committee, 1971; DOD Retirement Study Group, 1972; Defense Manpower Commission, 1976; President's Committee on Military Compensation, 1976; and General Accountign Office, 1972 and 1978.

The case for this legislation is all the more compelling today. Reductions in force are a virtual certainty. And enlisted men and women will certainly be affected. Those who made a commitment to their Nation through their decision to volunteer to serve should expect no less a commitment from use as they are told their service is no longer needed.

I should say parenthetically as a member of the Armed Services Committee and former member of its Manpower Subcommittee that we have done much on behalf of the men and women in our Armed Forces over the past decade. We gave them better pay, enhancements in quality-of-life, and the best technology available for their use in training, maintenance, and operational activities. We also restored GI bill educational benefits. But in some areas they continue to be shortchanged.

These dedicated career service members serve at their own financial risk. They are provided no vested retirement program. They are not allowed to participate in tax-free contributions to individual retirement accounts. There is no 401(k) plan for the military.

Service personnel are required to move frequently, but are reimbursed for only part of their expenses. And they are not guaranteed the ability to complete a qualifying period of service for retirement benefits. Yet, when force cuts occur, they may be denied reenlistment or simply selected for discharge on the basis of whatever arbitrary criteria suit the needs of their service.

The day they are discharged, they must move from military housing. They are stripped of all eligibility for medical care for themselves and their families. Literally, they must begin a new life.

As they do so, they are denied unemployment compensation for the first 5 weeks after discharge. Then, under the Unemployment Compensation for Ex-Servicemembers [UCS] Program, they are allowed only 13 weeks of benefits if they remain unemployed. That is about half the level of benefits available to Federal civilians, who can receive up to 26 weeks of benefits immediately after losing their job.

The legislation I'm introducing today, separation pay for enlisted military personnel involuntarily separated from the Armed Forces, accomplishes two things. First, it provides a recognition of the sacrifices these brave men and women have made during their 5 years or more of service to their Nation, and second, it provides them with a much-needed transition benefit so that they and their families do not face a bleak period as they seek civilian employment.

We must not forget that most of these individuals will be going back home after years away in the service of their country, finding housing for their families, enrolling their children in schools, and dealing with the wide range of problems that go along with moving. As they face these challenges, it is only fair and equitable our enlisted military personnel be treated in the same way we do our commissioned officers, Federal civilian employees, quasi-governmental workers, and foreign hires.

This measure is similar to legislation introduced in the House by Representative JIM SLATTERY. It is endorsed by the Non Commissioned Officers Association, which deserves great credit for the leadership role it has taken on this question. I have had the pleasure over the years of working with Mack McKinney, Dick Johnson, Chuck Jackson and others in NCOA on behalf of enlisted men and women. Their efforts have been critical in successful initiatives to raise military pay, restore GI bill benefits, and make other improvements of service personnel and their families.

I am pleased to work with the NCOA on behalf of this important legislation to bring equity for those who have volunteered to serve their nation and whose successful efforts on behalf of the cause of freedom have enabled our Government to look for these reductions which will have the ironic effect of forcing their involuntary departure from the military. My hope is that this bill will receive positive consideration.

In closing, I should add that I know the Defense Department is considering separation pay legislation of its own. I'm pleased it is taking this step and will give the approach it puts forward consideration when it comes before the Armed Service Committee. Meanwhile, I am hopeful that the bill I'm introducing today will help to stimulate debate on this needed benefit for enlisted personnel.●

By Mr. HEFLIN:

S. 2353. A bill to direct the Secretary of Agriculture to provide for national mobilization of rural firefighting forces to deal with the mounting danger of wildfires in the urban-rural interface areas of the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL FIRE FORCES MOBILIZATION ACT

● Mr. HEFLIN. Mr. President, today it is with great pleasure I rise to introduce the National Fire Forces Mobilization Act of 1990. This bill authorizes $100 million in Federal matching funds for each fiscal year to be used for rural fire protection. A total of $50 million will be made available to State forestry agencies to enhance their fire fighting capabilities and conduct mobilization activities. This bill also provides for $50 million to aid rural volunteer fire departments.

Every year our Nation loses hundreds of lives, thousands of homes, and hundreds of thousands of acres of valuable forest land and wildlife habitat because of inadequate resources for rural fire protection. In fact, the recent fire season in the Yellowstone National Forest points again to the need for national legislation to address the Nation's wildlife problem.

The lack of fire suppression forces to handle peak periods of fire activity has been and will continue to be a severe problem for rural America. Our Federal forest fire protection agencies do not have adequate manpower to ef-

fectively deal with peak periods of wildlife activity.

Fire protection is a basic service that most Americans expect from their Government. And yet, most of our rural citizen fire departments receive little if any support from the Government. Fortunately, rural America has developed a network of volunteer fire departments that answer the call for fire protection. In Alabama, 94 percent of our 900 fire departments are staffed by volunteers. These volunteers work without compensation and usually use only second-hand equipment.

This bill gives our rural volunteer fire departments the tools they need to meet the task of forest fire protection. It provides matching Federal funds to the men and women who risk their lives to protect our Nation's forests and rural communities.●

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. BURDICK, Mr. CONRAD, Mr. MURKOWSKI, Mr. GORTON, and Mr. DECONCINI):

S. 2354. A bill to amend the Housing and Community Development Act of 1974 to make technical corrections for grants to Indian tribes, and for other purposes; to the Select Committee on Indian Affairs.

HOUSING AND COMMUNITY DEVELOPMENT ACT AMENDMENTS

● Mr. McCAIN. Mr. President, I rise to introduce a bill to amend the Housing and Community Development Act of 1974 and the Department of Housing and Urban Development Reform Act of 1989 to make technical corrections for grants to Indian tribes.

I am pleased to be joined in the sponsorship of this bill by the chairman of the Select Committee on Indian Affairs, Senator INOUYE, and other members of the committee, Senators BURDICK, CONRAD, and MURKOWSKI, and I am looking forward to working with them as we move forward with this legislation.

Once enacted, these amendments will simply restore to the Department of Housing and Urban Development its authority to make community development block grants to Indian tribes, an authorty that was inadvertently terminated by the adoption of the HUD Reform Act of 1989.

Mr. President, owing to this oversight by the Congress, we have an appropriation of $27 million for a grant program that is very important to tribes, but no grants may be made to them until the authorization is restored.

Perhaps I should add that no technical problem exists for the larger Community Development Block Grant Program of grants to cities and counties that totals about $1.9 billion.

For Indian tribes, this program is one of the most important resources for community development projects. It has enabled tribes to rehabilitate housing, build community facilities, provide public infrastructure, and stimulate economic development projects, and I have seen its benefits on many Indian reservations.

Mr. President, applications are being received now by the Department of Housing and Urban Development for this year's round of grants, and for some at least, prompt action on the applications is critical. I intend to make every effort to see these technical amendments moved ahead as promptly as possible.

Mr. President, I ask that a copy of the bill and the section-by-section analysis be printed in the CONGRESSIONAL RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2354

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. AMENDMENTS TO HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.

(a)(1) Subsection (c) of section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)) is amended by inserting immediately after "Federal assistance provided" the following: "to States and units of general local government".

(2) Subsection (a) of section 106 of such Act (42 U.S.C. 5306(a)) is amended to read as follows:

"(a)(1) For each fiscal year, of the amount approved in an appropriation Act under section 103 for grants in any year, the Secretary shall reserve for grants to Indian tribes not less than one percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific critera for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment. Notwithstanding any other provision of this Act, such grants to Indian tribes shall not be subject to the requirements of section 104, except subsections (f), (g), and (k) of such section.

"(2) After reserving such amounts for Indian tribes, the Secretary shall allocate amounts provided for use in accordance with section 107.

"(3) Of the amount remaining after allocations pursuant to paragraphs (1) and (2), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).".

(3) Paragraphs (1) and (2) of subsection (b) of section 106 of such Act (42 U.S.C. 5306(b)) are each amended by deleting "after taking into account the set-aside for Indian tribes under paragraph (7), the" and inserting in lieu thereof "The".

(4) Paragraph (7) of subsection (b) of section 106 of such Act (42 U.S.C. 5306(b)) is repealed.

(5) Paragraph (1) of subsection (d) of section 106 of such Act (42 U.S.C. 5306(d)) is amended by deleting "section 107 and section 119" and inserting in lieu thereof "paragraphs (1) and (2) of subsection (a) of section 106".

(6) Paragraph (2) of subsection (e) of section 107 of such Act (42 U.S.C. 5307(e)) is amended by inserting immediately after "this section" a comma and the following: "section 106(a)(1),".

SEC. 2. AMENDMENTS TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT.

(a) Subsection (c) of section 702 of the Department of Housing and Urban Development Reform Act of 1989 is repealed.

(b) Subsection (e) section 702 of such Act is amended by deleting "1991" and inserting in lieu thereof "1990".

SECTION-BY-SECTION SUMMARY ANALYSIS OF AMENDMENTS TO THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

SECTION 1

Section 1 sets out amendments to the Housing and Community Development Act of 1974. This section provides technical corrections to sections 109, 106, and 107 of the Housing and Community Development Act of 1974 to provide that the one percent allocation of assistance is set aside prior to the entitlement to metropolitan cities and urban counties.

Subsection (b)(2) of this section amends section 106 of the Housing and Community Development Act of 1974. It provides that one percent of an appropriation under section 103 shall be reserved for grants to Indian tribes based on competitive application. It also provides that after reserving such amounts for Indian tribes the Secretary shall allocate amounts pursuant to section 107 of the Act. It further provides that 70 percent of the remaining amounts shall be allocated to metropolitan cities and urban counties pursuant to the authority contained in section 106 of the Act.

SECTION 2

Section 2 repeals subsection (c) of section 702 of the Department of Housing and Urban Development Reform Act and replaces 1991 with 1990 in subsection (e) of section 702 of the Act.

● Mr. INOUYE. Mr. President, I am pleased to join my distinguished colleague, Senator JOHN MCCAIN, vice-chairman of the Senate Select Committee on Indian Affairs, in introducing a bill to make certain corrections to the 1989 HUD Reform Act.

In that act, a new funding mechanism was enacted in the Community Development Block Grant Program for Indian tribes and tribal organizations. Unfortunately, the new authority is not effective until fiscal year 1992, and the authority for Indian programs was inadvertently omitted for fiscal year 1990, for which purpose $27 million has been appropriated by Congress. Thus, the amendment is necessary so that Indian tribes and tribal organizations may continue eligibility in fiscal year 1990 for Community Development Block Grant Programs.

It is critical that these amendments contained in the measure being introduced today be enacted as quickly as possible and I urge the support of my colleagues in this effort.●

By Mr. BAUCUS:

S. 2355. A bill to strengthen the provisions of section 310 of the Trade Act of 1974 to open up foreign markets; to the Committee on Finance.

MARKET OPENING ACT

● Mr. BAUCUS. Mr. President, today I am introducing sanctions legislation designed to strengthen the hands of United States trade negotiators and improve the chances for a successful resolution of current trade disputes with Japan.

I take this step reluctantly. Trade retaliation is a no-win business. In fact, we only resort to retaliation if trade negotiations have failed.

Unfortunately, there is very little altruism in the world.

The threat of sanctions is often the only way to move foreign governments to eliminate their trade barriers.

I am particularly concerned about the deadlocked Super 301 negotiations with the Government of Japan. The objective of these talks is to open the Japanese market to United States exports of processed forest products, supercomputers, and satellites.

The forest product talks alone have the potential to expand United States exports to Japan by $1 to $2 billion, create 10,000 to 20,000 United States jobs, and allow Japanese consumers access to high quality United States forest products.

But Japan has stonewalled the United States, and the June 17 deadline for concluding the talks is rapidly approaching.

In light of these developments, the United States has no choice but to seriously consider retaliation.

The legislation I am proposing has two main provisions.

First, it makes retaliation mandatory—under the terms of the 1988 Trade Act—for all Super 301 cases if they are not concluded on schedule. In some cases, the issues being negotiated under Super 301—though they are the United States most important trade policy priorities—are not subject to mandatory retaliation. This legislation corrects that oversight.

Second, the legislation directs the U.S. Trade Representative to prepare an action plan if the current Super 301 issues are not concluded by June 17, the statutory deadline for the Super 301 negotiations. Under the terms of the 1988 Trade Act, it is possible for USTR to suspend retaliation under Super 301 until January 17, 1991, if progress is still being made in the talks.

The Action Plan would have two parts. First, it would require USTR to determine exactly how significant the foreign trade barriers under negotiation are in terms of lost U.S. exports. This figure would be the basis for deciding upon the size of U.S. retaliation if it proves necessary.

Second, USTR would be required to suggest other trade policy actions that should be taken to improve chances for resolution of the trade dispute.

For example, in the case of the forest products talks, the Japanese forest products industry appears to be holding up progress toward an eventual agreement.

Yet, a Japanese-owned forest products company in Alaska—Alaska Lumber & Pulp Co.—is cutting valuable timber from Federal land and shipping it back to Japan. This timber provides a large percentage of the raw material needed by the Japanese forest products industry.

In effect, the United States Government is allowing a valuable resource from Federal land to be shipped to Japan to support the industry that is robbing the United States of exports and jobs.

This makes absolutely no sense.

Certainly, we would not want to take steps to threaten the legitimate business interests of U.S. industry or the maintenance of a timber supply from Federal and State forests.

But there do appear to be steps that could be considered—such as terminating the arrangement between the Federal Government and the Japanese-owned company—that would improve chances for a successful conclusion of the negotiations without endangering those interests. We should not be subsidizing our competitors.

Other examples of possible Action Plan initiatives might include revising U.S. procurement standards affecting supercomputers or satellites consistent with our international obligations.

An Action Plan would provide a blueprint for protecting and promoting U.S. trade policy interests in a responsible manner.

This legislation will strengthen the hands of U.S. negotiators and improve prospects for opening foreign markets.

At a time when the United States is striving to expand exports, this legislation is essential.

I originally planned to offer this legislation as an amendment to the trade legislation that the Senate Finance Committee recently reported.

Before the markup, however, I consulted with the U.S. Trade Representative, Ambassador Carla Hills, on this legislation.

She first of all assured me that she was prepared to use her existing authority to retaliate if the Super 301 negotiations with Japan were not successful.

She also asked that I not pursue this legislation at this time, though she understood that I would pursue it if the negotiations were not successful by June 17.

I have great confidence in Ambassador Hills, Ambassador Williams, and their capable staff. On the strength of Ambassador Hills' assurances, I will not pursue this legislation until June 17.

But I am today introducing the legislation so that all interested parties can easily examine it. And, if necessary, I intend to vigorously pursue this legislation.

Mr. President, I ask that the text of a letter from Ambassador Hills to myself on this subject and the text of the legislation appear in the RECORD immediately following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2355

Be is enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Market Opening Act of 1990".

SEC. 2. ACTIONS REQUIRED FOR AFFIRMATIVE DETERMINATIONS IN INVESTIGATIONS UNDER SECTION 310 OF THE TRADE ACT OF 1974.

Section 310 of the Trade Act of 1974 (19 U.S.C. 2420) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) MANDATORY ACTION REQUIRED.—In the case of an investigation initiated under subsection (b), if the Trade Representative makes an affirmative determination under section 304(a) that an act, policy, or practice described in section 301(b)(1) exists, such determination shall be treated for purposes of this chapter as a determination made under section 301(a) and the Trade Representative shall take such action authorized under section 301(a).".

(b) CURRENT SUPER 301 NEGOTIATIONS.—If negotiations currently being conducted under section 310 of the Trade Act of 1974 are not successfully concluded by June 17, 1990, the United States Trade Representative shall, in consultation with the President, the Congress, and other appropriate persons (including persons representing affected United States industries and employees), prepare an action plan and transmit such plan to Congress not later than July 2, 1990.

(c) ACTION PLAN.—The action plan shall include—

(1) an estimate of the impact the trade barriers identified under section 310 of the Trade Act of 1974 have on United States exports; and

(2) recommendations for legislative and administrative action that should be taken to improve the chances for successful negotiations under section 310 or should be taken because negotiations under section 310 have proved unsuccessful.

THE UNITED STATES TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,

Washington, DC.

Hon. MAX BAUCUS,
U.S. Senate, Washington, DC.

DEAR MAX: I share your commitment to concluding a comprehensive agreement with the Government of Japan to open the Japanese forest products market. In our view, such a comprehensive agreement should eliminate or substantially reduce as many Japanese forest product trade barriers as possible and provide U.S. forest product ex-

porters with the opportunity to substantially increase exports to Japan.

As you know, under the 1988 Trade Act, we have statutory authority to retaliate should the negotiations not conclude satisfactorily and on schedule. We are prepared to use this authority, if necessary.

We understand that you intend vigorously to pursue retaliatory legislation, if the negotiations fail. In the unfortunate event that we are unable to conclude a satisfactory agreement, we will be prepared to comment at that time on the merits of your proposed legislation. At this point, however, considering that negotiations on this matter are going into their final stage, we respectfully request that you refrain from pursuing legislation.

We appreciate your support and look forward to working with you toward a successful conclusion to these negotiations.

Sincerely,

CARLA A. HILLS.●

By Mr. SYMMS:

S. 2356. A bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees; to the Committee on Finance.

TAX-EXEMPT ORGANIZATIONS ELIGIBLE FOR 401(K) PLANS

● Mr. SYMMS. Mr. President, today I am introducing a bill to amend the Internal Revenue Code of 1986 [Code] to permit tax-exempt organizations to once again establish new cash or deferred arrangements, which are also called 401(k) plans. This bill would reinstate such plans for nonprofit groups, such as trade associations, labor unions, local chambers of commerce and professional societies.

In today's competitive global environment, we need to do everything we can to encourage savings by all citizens. One proven way of doing this is through tax-deductible retirement savings plans such as 401(k) plans.

We must also recognize that conventional wisdom has it that retirement income is derived from three sources: Social Security benefit payments, employer-sponsored retirement plan benefits and individual savings. The 401(k) plans allow employees to save for retirement on a tax-favored basis and frequently include employer matching contributions. Thus, 401(k) plans provide a means for accumulating funds to enhance retirement income derived from two of these sources.

The 401(k) plans are very popular with a recent survey indicating that approximately 36 percent of employers nationwide have established a 401(k) plan for their employees. And, it has been shown that some 57 percent of employees that are eligible to participate in their employee's 401(k) plan will make a contribution.

Not all employers are permitted under current law to establish a 401(k) plan. However, most employers that are precluded from establishing a 401(k) plan are permitted to establish a comparable form of salary reduction retirement savings plan. For example, state and local governments can establish an eligible deferred compensation plan under section 457 of the code that covers all of their employees. Employees of the Federal Government have available to them the Federal Thrift Savings Plan which permits savings on a salary reduction basis. And, organizations exempt under section 501(c)(3) of the code and certain educational organizations can offer to their employees salary reduction tax-sheltered annuities under section 403(b) of the code.

In fact, the only employees who do not have the opportunity to save for their retirement on a salary reduction basis are employees of tax-exempt organizations other than charitable organizations. In the Tax Reform Act of 1986, Congress precluded tax-exempt employers who did not have a 401(k) plan in effect before July 2, 1986 from establishing such a plan. It was mistakenly thought at the time that all tax-exempt employers could offer to their employees salary reduction tax-sheltered annuities under section 403(b) of the code. This was not the case then nor is it the case now. It was also assumed, again mistakenly, that by extending the coverage of section 457 of the code which pertains to a certain type of deferred compensation plan to tax-exempt organizations that this would offer an alternative means for employees to save on a salary reduction basis. The fact is that 457 plans are required under the Code to be unfunded and the Employee Retirement Income Security Act prohibits an employer—with the exception of a State or local government—from offering an unfunded plan to workers other than a select group of management and highly compensated employees.

As a result, studies have shown that only 16 percent of tax-exempt employers offer their employees a 401(k) plan. It is my intention in introducing this bill to remedy this inequitable treatment of employees of tax-exempt employers by granting them the same opportunity to save on a tax-favored basis as employees who work in the private sector or for Federal, State or local governments.●

By Mr. INOUYE:

S. 2357. A bill to amend the Communications Act of 1934 to ensure: First, that cable subscribers are protected from excessive cable rates, and second, that cable systems electing to retransmit local broadcast signals provide fair compensation to local stations and networks for the commercial exploitation of their signals and carry such signals on a basis that is consistent with the public interest; to the Committee on Commerce, Science, and Transportation.

CABLE SUBSCRIBER PROTECTION AND BROADCAST RETRANSMISSION ACT

● Mr. INOUYE. Mr. President, at the request of the broadcaster community, I am introducing the Cable Subscriber Protection and Broadcast Retransmission Act of 1990. My introduction of this bill should not be seen as an endorsement. Rather, this proposal represents an agreement among a significant part of the communications community—the broadcasters—and is thus deserving of our serious consideration. We will begin an exploration of this proposal at this Thursday's hearing of the Communications Subcommittee.

This legislation amends the Cable Act to require that broadcasters receive compensation for carriage of their signals by cable systems. It does not mandate that cable systems carry any broadcast signals, however, should a cable system choose to carry any stations, it would be required to carry all of the stations that are qualified under this bill and compensate those stations pursuant to a formula set out in the bill.

I hereby request that the legislation, the section-by-section analysis and the following letter from Edward O. Fritts, president of that National Association of Broadcasters, concerning this legislation be included in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cable Subscriber Protection and Broadcast Retransmission Act of 1990."

SEC. 2. CABLE RATE REGULATION AND LOCAL BROADCAST RETRANSMISSION.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding after title VII the following new title:

TITLE VIII—CABLE SUBSCRIBER PROTECTION AND BROADCAST RETRANSMISSION

PART I—GENERAL PROVISIONS

SEC. 801. PURPOSES.

The purposes of this title are to—

(1) promote the availability to the public of a diversity of views and information through cable television and other video distribution media;

(2) where cable television services are not subject to effective competition, ensure that consumers have access to those services at reasonable rates;

(3) correct the existing policy imbalance which gives cable systems an unrestricted right to retransmit the signals of local television broadcast stations without paying any compensation to the broadcast stations and networks that originate the transmission of such signals or to the copyright owners of programs included in such signals; and

(4) assure that those cable systems that elect to retransmit the signals of local television broadcast stations perform this func-

tion in a manner that is consistent with the public interest in preserving a vigorous system of free over-the-air television broadcasting.

SEC. 802. FINDINGS.

The Congress finds and declares the following:

(1) Pursuant to the Cable Communications Policy Act of 1984, rates for cable television services have been deregulated in approximately 97 percent of all franchises since December 29, 1986. Since rate deregulation, monthly rates for the lowest priced basic cable service have increased by 40 percent or more for 28 percent of cable television subscribers. Although the average number of basic channels has increased from about 24 to 30, average monthly rates have increased by 29 percent during the same time period. The average monthly cable rate has increased almost three times as much as the Consumer Price Index since rate deregulation.

(2) For a variety of reasons, including local franchising requirements and the extraordinary expense of constructing more than one cable television system to serve a particular geographic area, most cable television subscribers have no opportunity to select between competing cable systems, and existing cable operators therefore are able to charge subscribers rates in excess of the rate levels that would prevail in a competitive marketplace.

(3) Cable systems derive substantial economic benefit from the retransmission of the signals of local television broadcast stations and the marketing of these signals to consumers as an integral part of their basic cable subscription services.

(4) The absolute right of cable systems, under existing law, to engage in such retransmission without compensating the originating stations and networks forces these entities to subsidize involuntarily the cable industry.

(5) This forced subsidy is inconsistent with the principles of law that are generally applicable where one entity seeks to retransmit and commercially exploit the programming signals originated by another.

(6) The subsidy also undermines the ability of free over-the-air television broadcasting to compete in the marketplace and erodes its ability to provide a diverse, high-quality programming service to the broadcast viewing public.

(7) While cable's right to carry broadcast signals without compensation may have been warranted during the infancy of the cable industry, it is not justifiable in the modern video marketplace where cable is prosperous and thriving.

(8) There is substantial governmental and First Amendment interest in promoting a diversity of views provided through multiple technological media.

(9) A primary objective and benefit of our nation's system of regulation of television broadcasting is the local origination of programming. There is a substantial governmental interest in ensuring its continuation.

(10) Broadcast television news continues to be a source of local news and public affairs programming that is critical to an informed electorate.

(11) Broadcast television programming is supported by revenues generated from advertisements broadcast over stations. Such programming is otherwise free to those who own television receiving sets and who do not require cable to receive broadcast signals. There is a substantial governmental interest in promoting the continued availability of such free television programming, especially for viewers who are unable to afford other means of receiving programming.

(12) There has been an explosive growth in the penetration of cable television systems over the past decade, with cable television services now available to approximately 80 percent of the nation's households. More than 55 percent of American households subscribe to at least one tier of cable service, and this percentage will likely continue to increase.

(13) Cable television systems are often the single most efficient distribution system for television programming. A government mandate for a substantial societal investment in alternative distribution systems for cable subscribers, such as the A/B switch antenna system, is not an enduring or feasible method of distribution and is not in the public interest.

(14) Broadcasters' competitive position in the marketplace is jeopardized by the fact that cable operators, who increasingly compete with local stations for programming, viewers and advertising, have sufficient market power and incentives to manipulate the position and carriage of local broadcast signals to the detriment of the broadcasters and to the cable operators' own commercial advantage. This is particularly true when the cable system is owned by a multiple system operator that has an investment in a cable programming service that competes with broadcast services.

(15) The absence of a requirement that cable television systems carry local broadcast signals has resulted in some systems deleting such signals from their systems, refusing to carry new signals, or repositioning such signals to a disadvantageous channel position. There is a substantial likelihood that absent reimposition of such a requirement, additional local broadcast signals will be deleted, not carried or repositioned.

(16) As a result of the economic incentive that cable systems have, in certain circumstances, to delete, not carry or reposition local broadcast signals, coupled with the absence of a requirement that such systems carry local broadcast signals, the economic viability of free local broadcast television and its ability to originate quality local programming will be seriously jeopardized.

(17) The public interest would be served by legislation that eliminates the mandated subsidy of cable by the various elements of the television broadcasting industry, requires cable systems to provide fair compensation for the retransmission rights that they use, and assures that those cable systems engaging in local broadcast signal retransmission do so in a manner that is consistent with maintaining a broadcasting service that will continue to be responsive to the needs and interests of the American television viewing public.

(18) The owners of the copyrighted programming carried on local broadcast stations should receive a portion of any statutory retransmission fee in recognition of the fact that, in a free cable marketplace, such owners would otherwise receive some compensation for the retransmission of their programming on local broadcast signals.

SEC. 803. DEFINITIONS.

For purposes of this title—

(1) CABLE SYSTEM.—The term "cable system" means an individual or organization that operates a facility which distributes video programming by wires, cables, or similar technology (including optical fiber) to multiple subscribers within a community, but such term does not include an individual or organization that operates (A) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility uses any public right-of-way, (B) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act, as amended, or (C) any facilities of any electric utility used solely for operating its electric utility systems.

(2) RETRANSMIT.—A cable system shall be deemed to "retransmit" the signal or programming of a local broadcast station if such signal or programming is provided to viewers, in whole or in part, through or with the assistance of the cable system or any equipment, including switches or control devices, provided by the cable system, regardless of whether such equipment is connected to the cable system, except that nothing in this title shall prevent an individual cable subscriber, or any individual or entity unaffiliated with the cable system, from taking any lawful action, without the involvement of the cable system or any equipment provided by the cable system, to receive any signal or programming transmitted by a local broadcast station.

(3) BASIC CABLE SERVICE.—The term "basic cable service" means any service tier providing advertiser-supported programming service or providing public, educational, or government access channels or the retransmission of local television broadcast signals.

(4) MARKET.—The term "market" means the area of dominant influence utilized in national television ratings, or any other similar definition that the Commission may from time to time prescribe.

(5) LOCAL BROADCAST STATION.—The term "local broadcast station" means, with respect to any particular cable system, any United States commercial television broadcast station that would be entitled to insist upon its signal being retransmitted by that cable system pursuant to the rules, regulations, and authorizations of the Commission in effect on April 15, 1976.

(6) BROADCAST NETWORK—Not later than 180 days after the enactment of this title, the Commission shall prescribe by rule a definition of "broadcast network" for the purposes of and consistent with the intent of this title.

(7) AFFILIATED STATION.—The term "affiliated station" means a commercial television broadcast station that is owned or operated by or affiliated with, one or more broadcast networks, and that transmits a substantial part of the programming supplies by such networks for a substantial part of that station's typical broadcast day.

(8) INDEPENDENT STATION.—The term "independent station" means a commercial television broadcast station other than an affiliated station.

(9) PUBLIC TELEVISION STATION.—The term "public television station" means a television station that is a noncommercial educational broadcast station as defined in section 397 of title 47.

(10) COMMERCIAL TELEVISION STATION.—The term "commercial television station" means a television station other than a public television station.

(11) COMMISSION.—The term "Commission" means the Federal Communications Commission.

PART II—REGULATION OF CABLE RATES

SEC. 811. CABLE RATE REGULATION.

(a) IN GENERAL.—No Federal agency, State or local franchising authority may regulate the rates for the provisions of cable service, or for the installation or rental of equipment necessary for the receipt of cable service, except to the extent provided under this section and section 612 of the Communications Act of 1934 (47 U.S.C. 532).

(b) FCC REGULATION.—(1) Subject to the provisions of this subsection, the Commission shall have the authority to regulate the rates for any basic cable service, or for the installation or rental of equipment necessary for the receipt of cable service, or a cable system not subject to effective competition.

(2) Not later than 180 days after the date of enactment of the Cable Subscriber Protection and Broadcast Retransmission Act of 1990, the Commission shall prescribe by rule such procedures, standards, requirements, and guidelines as the Commission considers appropriate for carrying out its authority under this subsection to review and determine the reasonableness of rates.

(3) In determining the reasonableness of a rate, the Commission shall, among other public interest objectives—

(A) ensure that rates charged to the subscriber are affordable and do not reflect the inclusion of any monopoly profits earned by the cable operator;

(B) ensure that programmers can create new programs and services and can recover the cost of creating such new product;

(C) ensure that cable operators can reasonably expand the capability and the technological capabilities of their cable system; and

(D) not consider the costs associated with the acquisition and sale of one or more cable systems within a three-year period.

(4)(A) Upon written request by a franchising authority or by a State on behalf of a franchising authority, the Commission shall review the State and local laws and regulations governing the regulation of the rates of cable systems under the jurisdiction of such franchising authority. The Commission shall authorize such franchising authority to carry out such regulation in lieu of the Commission if the Commission finds that—

(i) such State and local laws and regulations conform to the procedures, standards, requirements, and guidelines prescribed under paragraph (2) and any interpretative rulings, decisions, and orders of the Commission that relate to rate regulation under this subsection; and

(ii) such franchising authority will provide an overall level of protection of consumers that is at least as great as the protection provided by the Commission and that carries out the national policy established in this title and the Communications Act of 1934.

(B) Upon petition by a cable operator or other interested party, the Commission shall review such regulation of cable system rates by a franchising authority authorized under this paragraph and shall revoke such authorization if the Commission, after the franchising authority has had a reasonable opportunity to comment, determines that the findings of the Commission under subparagraph (A) (i) or (ii) are no longer applicable.

(c) EFFECTIVE COMPETITION.—Under this section, a cable system shall be presumed to be subject to effective competition if—

(1) fewer than 30 percent of the households in the cable community subscribe to the cable service of such cable system; or

(2) the cable community is served by more than one multichannel video programming distributor.

For purposes of paragraph (2), a cable community shall be considered as served by more than one multichannel video programming distributor if (A) comparable video programming is available at comparable rates to at least 67 percent of the households in the cable community from a competing cable operator, multichannel multipoint distribution service, direct broadcast satellite program distributor, television receive-only satellite program distributor, or other competing multichannel video programming, and (B) the number of households subscribing to programming services offered by such competing multichannel video programming distributor, or by a combination of such distributors, is in the aggregate at least 30 percent of the households in the cable community.

(d) MISCELLANEOUS.—Nothing in this title shall be construed as forbidding any Federal agency, State, or franchising authority from—

(1) prohibiting discrimination among customers of basic cable service; or

(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing-impaired individuals.

SEC. 812. TECHNICAL AMENDMENT.

Section 624 of the Communications Act of 1934 (47 U.S.C. 543) is hereby repealed.

PART III—OPTIONAL RETRANSMISSION

SEC. 821. OPTIONAL RETRANSMISSION OF LOCAL BROADCAST SIGNALS.

To the extent permitted by this title and by the provisions of title 17 of the United States Code, a cable system shall have the option of deciding whether to retransmit the signals or programming of local commercial broadcast stations as part of its offering to cable subscribers. Notwithstanding the foregoing, no cable system shall retransmit the signal or programming of any local commercial broadcast station, in whole or in part, unless the cable system complies with the requirements of parts IV and V of this title.

PART IV—PAYMENT AND DISTRIBUTION OF RETRANSMISSION FEES

SEC. 831. FILING WITH THE COMMISSION.

A cable system that retransmits the signals or programming of local commercial broadcast stations in whole or in part must, at least one month before the commencement of such retransmission or within one hundred and eighty days after the enactment of this title, whichever is later, and thereafter within thirty days after each occasion on which the ownership or control of the cable system changes, submit to the Commission a notice including a statement of the identity and address of the person who owns or operates the cable system or has power to exercise primary control over it, together with the identity and location of the local broadcast stations whose signals are carried by the cable system, and such further information as the Commission shall from time to time prescribe to carry out the purposes of this title.

SEC. 832. SUBMISSION OF STATEMENT OF ACCOUNT AND RETRANSMISSION FEE.

A cable system that retransmits the signals or programming of local commercial broadcast stations in whole or in part must, on an annual basis, deposit with the Commission, in accordance with requirements that the Commission shall prescribe by regulations—

(a) a statement of account, covering the 12 months next preceding, specifying the identity and location of local broadcast stations whose signals were retransmitted, the dates of such retransmissions, the total number of subscribers to the cable system, the gross amounts paid to the cable system for basic cable service, and such other data as the Commission shall from time to the time prescribe by regulation; and

(b) a fee in such amount as the Commission shall determine fairly reflects the value that retransmission of local broadcast signals contributes to the cable system's gross revenues.

SEC. 833. DEPOSITS OF FUNDS WITH TREASURY.

The Commission shall receive all retransmission fees deposited by cable systems pursuant to section 832 of this title and, after deducting the reasonable costs incurred by the Commission under this title, shall deposit the balance in the Treasury of the United States. All funds so deposited shall be held by the Secretary of the Treasury and invested in interest-bearing United States securities for later distribution with interest by the Commission as provided by this title.

SEC. 834. ANNUAL DISTRIBUTION OF FEES.

The retransmission fees deposited with the Commission under this part shall be distributed on an annual basis by the Commission in accordance with the provisions of this part and such other rules, regulations and procedures as the Commission shall establish.

SEC. 835. ALLOCATION OF FUNDS.

(a) IN GENERAL.—The Commission shall divide the funds deposited with the Treasury of the United States pursuant to section 832 of this title, together with accumulated interest thereon, into separate "market fee pools" for each market. Each market fee pool shall include the funds deposited for the relevant annual period by the cable system or systems located in such market. The funds apportioned to each market fee pool shall be distributed by the Commission in accordance with provisions of subsections (b) and (c) of this section.

(b) ALLOCATION TO COPYRIGHT OWNERS.—(1) The Commission shall distribute 20 per centum of each market fee pool to the copyright owners of the programs of local broadcast stations whose signals were retransmitted by cable systems in the market during the relevant annual period. Such fees shall be allocated to copyright owners on a basis that reflects the value of their copyrighted works, for the determination of which the Commission, as appropriate, may use as a guide the percentage of the total market audience for local broadcast programming in cable households that each copyright owner's programming received during the relevant annual period.

(2) Notwithstanding any provisions of the antitrust laws, for the purposes of this title, any copyright owners may agree among themselves as to the proportionate division of retransmission fees among them, may lump their claims together and submit a joint or single allocation request to the Commission, or may designate a common agent to receive payment on their behalf.

(c) ALLOCATIONS TO BROADCASTERS.—The Commission shall distribute 80 per centum of each market fee pool to the broadcast networks and stations whose signals were retransmitted, in whole or in part, by cable

systems during the relevant annual period as follows:

(1) Public television stations whose signals were retransmitted by one or more cable systems in the market shall receive an amount of such funds equal to the percentage of the total market audience for local broadcast programming in cable households that each station received during the relevant annual period, multiplied by two.

(2) The portion of each market fee pool remaining after the required payments to copyright owners and public television stations have been made shall be allocated to the commercial stations and broadcast networks whose programming was included in the signals of one or more local broadcast stations carried by one or more cable systems in the market as follows:

(i) Independent stations shall receive a portion of such funds equal to the percentage of the total market audience for local commercial broadcast television programming in cable households that each station received during the relevant annual period.

(ii) Affiliated stations shall receive a portion of such funds equal to the percentage of the total market audience for local commercial broadcast television programming in cable households that each station's nonnetwork programming received during the relevant annual period, plus an amount equal to one-third of the percentage of the total market audience for local commercial broadcast television programming that each station's network programming received during the relevant annual period.

(iii) Broadcast networks shall receive a portion of such funds equal to two-thirds of the percentage of the total market audience for local commercial broadcast television programming in cable households that each network's programming received during the relevant annual period.

(3) Notwithstanding any provisions of the antitrust laws, for the purposes of this title, any broadcast networks or local broadcast stations may agree among themselves as to the proportionate division of retransmission fees among them, may lump their claims together and submit a joint or single allocation request to the Commission, or may designate a common agent to receive payment on their behalf.

SEC. 836. AUDIENCE DATA.

In allocating retransmission fees in accordance with the provisions of this part, the Commission may rely on audience data submitted by copyright owners, broadcast networks, local broadcast stations, their trade associations, or such other sources as it may deem to be appropriate. The Commission shall further establish procedures for resolving complaints or disputes concerning the accuracy or reliability of the audience data relied on by the Commission to distribute retransmission fees.

PART V—LOCAL SIGNAL RETRANSMISSION

SEC. 841. RETRANSMISSION REQUIREMENTS.

(a) IN GENERAL.—A cable system shall not retransmit, in whole or in part, the signals or programming of local commercial broadcast signals unless it retransmits the signals of qualified local broadcast stations in accordance with the provisions of this section.

(b) NUMBER OF CHANNELS.—A cable system shall retransmit the signals of all qualified local broadcast stations except that:

(1) A cable system with twelve or fewer usable activated channels shall not be required to retransmit the signals of more than three qualified local broadcast stations.

(2) A cable system with more than twelve and fewer than one hundred twenty-five usable activated channels shall not be required to retransmit more than the number of qualified local broadcast signals as follows:

Number of cable channels:	Number of television signals
13 to 20	4
21 to 29	7
30 to 33	10
34 to 37	11
38 to 41	13
42 to 25	14
46 to 49	15
50 to 53	17
54 to 57	18
58 to 61	19
62 to 65	21
66 to 69	22
70 to 73	23
74 to 77	25
78 to 81	26
82 to 85	27
86 to 89	29
90 to 93	30
94 to 97	31
98 to 101	33
102 to 105	34
106 to 109	35
110 to 113	37
114 to 117	38
118 to 121	39
122 to 125	41

(3) A cable system with more than one hundred twenty-five usable activated channels shall not be required to retransmit a number of qualified local broadcast signals greater than one-third of the aggregate number of usable activated channels of such system.

(c)(1) CABLE SYSTEM DISCRETION.—Whenever the number of qualified local broadcast stations exceeds the number of signals of such stations that a cable system is required to retransmit under this section, the cable system shall have discretion in selecting which signals shall be retransmitted in order to meet the retransmission requirements of this section; except that if the cable system elects to retransmit an affiliated station, such system shall retransmit the affiliated station whose city of license reference point, as defined in section 76.53 of title 47 Code of Federal Regulations, or any successor regulations thereto, is closest to the principal headend of the cable system. The retransmission of each signal of a qualified local broadcast station shall be included in determining whether a cable system has complied with the requirements of this section, even if the signal of one such station substantially duplicates that of another station.

(2) CHANNEL POSITION.—Each signal retransmitted in fulfillment of the retransmission obligations of a cable system under this section shall be retransmitted on the cable system channel number on which the qualified local broadcast station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the broadcaster, or on such other channel number as may be mutually agreed upon by the broadcaster and the cable system.

(3) SIGNAL INTEGRITY.—

(A) A cable system shall retransmit in its entirety the primary video and accompanying audio transmission of each qualified local broadcast station the system selects to retransmit in accordance with this section, and shall not willfully alter, through changes, delections, or additions, the content of any particular program included in the signal of such station, or any commercial advertising or station announcements transmitted by the station during, or immediately before or after, the transmission of such program. Retransmission of material in the vertical blanking interval or other enhancements of the primary video and audio signal (including multichannel sound, teletext, and materials carried on subcarriers) shall be within the discretion of the cable system. (B) Except as provided in section 76.161 of title 47, Code of Federal Regulations, or any successor regulation thereto, no cable may retransmit less than the entire program schedule of any broadcast station: *Provided*, That, a cable system may delete from that signal any program for which carriage is barred by sections 76.151 *et seq.* of title 47, Code of Federal Regulations, or any successor regulations thereto.

(4) SIGNAL QUALITY.—The signals of qualified local broadcast stations that are retransmitted on a cable system shall be retransmitted without material degradation.

(5) SIGNAL DUPLICATION.—A cable system shall not be required to retransmit the signal of any qualified local broadcast station that substantially duplicates the signal of another qualified local broadcast station that is retransmitted by the system.

(6) SIGNAL RECEPTION.—Signals retransmitted in fulfillment of the retransmission obligations of a cable system under this section shall be available on the lowest priced tier of service separately available to each cable subscriber to which subscription is required for access to all other tiers of service. Such signals shall be viewable via cable on all television receivers of a subscriber connected to the cable system.

(7) INPUT SELECTOR SWITCHES.—Sections 76.66 (a) and (c) of the Commission's Rules and Regulations concerning the obligations of cable systems to provide subscribers with, and educate them about, input obligations switches are hereby repealed with respect to cable systems retransmitting the signals or programming of local broadcast stations pursuant to this part.

(8) SIGNAL IDENTIFICATION.—A cable system shall identify, upon request by any person, those signals carried in fulfillment of the signal retransmission obligations of the system under this section.

(9) SIGNAL DELETION OR REPOSITIONING.—A cable system shall provide written notice to a qualified local broadcast station, the franchising authority of such cable system, and subscribers of such cable system at least thirty days prior to either deleting from carriage or repositioning the signal of a qualified local broadcast station. No such deletion or repositioning shall occur during a sweeps period in which major television ratings services measure the size of audience of qualified local broadcast stations.

(10) PROHIBITION AGAINST PAYMENTS.—A cable system shall not accept monetary payment or other valuable consideration in exchange for retransmission of the signal of any qualified local broadcast station retransmitted in fulfillment of the signal retransmission obligations of the system under this section, except that any such station may be required to bear any cost associated with delivering to the headend of the cable system a signal of the quality defined in section 602(24) of the Communications Act of 1934 (47 U.S.C. 602(24)). Except as otherwise provided in this title, a local broadcast station shall not seek or accept any direct or indirect consideration from

any cable system in exchange for the retransmission of its signal.

(d) COMPLAINT PROCESS.—(1) Whenever a qualified local broadcast station believes that a cable system has failed to comply with the signal retransmission requirements of this section, the station may file a complaint with the Commission. Such complaint shall allege the manner in which such system has failed to comply with such requirements and state the basis for such allegations.

(2) The Commission shall afford such cable system an opportunity to present data, views, and arguments to establish that the system has complied with the signal retransmission requirements of this section.

(3) Within one hundred-twenty days after the date a complaint is filed under this subsection, the Commission shall determine whether the cable system has complied with the requirements of this section. If the Commission determines that the cable system has failed to comply with such requirements, the Commission shall state with particularity the basis for such findings and order the operator to take such remedial action as is necessary to meet such requirements. If the Commission determines that the cable system has fully complied with such requirements, the Commission shall dismiss the complaint.

SEC. 842. DEFINITIONS.

For purposes of this part—

(1) ACTIVATED CHANNELS.—The term "activated channels" means those channels engineered at the headend of a cable system for the provision of services generally available to residential subscribers of the cable system, regardless of whether such services actually are provided, including any channel designated for public, educational, or governmental use.

(2) HEADEND.—The term "headend" means the location of any equipment of a cable system used to process the signals of television broadcast stations for redistribution to subscribers.

(3) PRINCIPAL HEADEND.—The term "principal headend" means—

(A) the headend, in the case of a cable system with a single headend, or

(B) in the case of a cable system with more than one headend, the headend designated by the operator as the principal headend, except that such designation shall not undermine or evade the requirements of section 614 of the Communications Act of 1934.

(4) QUALIFIED LOCAL BROADCAST STATION.—The term "qualified local broadcast station" means any commercial television station licensed and operating on a channel regularly assigned to its community by the Commission (except where such station would be considered a distant signal under section 111 of title 17, United States Code) that, with respect to a particular cable system—

(A) is licensed to a community whose reference point, as defined in section 76.53 of title 47, Code of Federal Regulations, or any successor regulations thereto, is within fifty miles of the principal headend of the cable system, and which delivers to the cable system principal headend either a signal level of −45dBm for UHF signals and −49dBm for VHF signals at the imput terminal of the signal processing equipment, or a baseband video signal; and

(B) is not a low-power television station, television translator station, or other passive repeater which operates pursuant to part 74 of title 47, Code of Federal Regulations, or any successor regulations thereto.

(5) USABLE ACTIVATED CHANNELS.—The term "usable activated channels" means activated channels of a cable system, except those channels whose use for the distribution of broadcast signals would conflict with technical and safety regulations as determined by the Commission.

PART VI—MISCELLANEOUS

SEC. 851. CABLE COMPULSORY LICENSE.

Nothing in this title shall modify or otherwise change the terms of the cable compulsory licensing system for broadcast programming established by section 111 of title 17, United States Code.

SEC. 852. FCC RULEMAKING.

Within 180 days after the date of the enactment of this title, the Commission shall prescribe and make effective rules and regulations which prohibit cable systems from retransmitting the signals of local commercial broadcast stations except in compliance with the provisions of this title and which are otherwise necessary to implement the provisions of this title.

SEC. 853. SEVERABILITY.

If any provision of this title, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this title shall not be affected thereby and shall remain in full force and effect.

PART VII—REMEDIES AND PENALTIES

SEC. 861. GENERAL PENALTY.

Any person who willfully or knowingly does or causes or suffers to be done any act, matter, or thing in this title prohibited or declared to be unlawful, or who willfully and knowingly omits or fails to do any act, matter, or thing in this title required to be done, or who willfully and knowingly causes or suffers such omission or failure, shall, upon conviction thereof, be punished for such offense by a fine of not more than $10,000 or by imprisonment for a term not exceeding one year, or both; except that any person, having been once convicted of an offense punishable under this section, who is subsequently convicted of violating any provision of this title punishable under this section, shall be punished by a fine of not more than $10,000 or by imprisonment for a term not exceeding two years, or both.

SEC. 862. VIOLATION OF RULES AND REGULATIONS.

Any person who willfully and knowingly violates any rule, regulation, restriction, or condition made or imposed by the Commission under authority of this title shall, in addition to any other penalty provided by law, forfeit to the United States the sum of not more than $1,000 for each and every day during which such offense occurs.

SEC. 863. INJUNCTIVE RELIEF.

Any person adversely affected by the failure of any local broadcast station, or any cable system, to comply with the provisions of this title shall have the right to bring an action for injunctive relief to compel compliance in a court of competent jurisdiction.

SECTION-BY-SECTION ANALYSIS OF PROPOSED LEGISLATION

Sec. 1. Short Title.—This section provides that the act shall be known as the "Cable Subscriber Protection and Broadcast Retransmission Act of 1990."

Sec. 2. Cable Rate Regulation and Local Broadcast Retransmission.—This section states that the act shall become a new Title VIII to the Communications Act.

PART I—GENERAL PROVISIONS

Sec. 801. Purposes.—In general terms, the act's purposes are to promote diversity of views and information through video programming, to ensure that consumers have access to cable at reasonable rates, to compensate local broadcast stations for cable's retransmission and commercial exploitation of their signals, and to preserve a vigorous system of free over-the-air television broadcasting.

Sec. 802. Findings.—This section details the findings of Congress that rates for cable television service have increased considerably since passage of the Cable Communications Policy Act of 1984; that, since most cable systems are not subject to effective competition, subscribers are generally required to pay rates in excess of those that would prevail in a competitive marketplace; that cable systems derive substantial economic benefit from the retransmission of the signals of local broadcast stations; that cable systems increasingly compete with local over-the-air television stations for programming, viewers, and advertising; that there is a substantial governmental interest in promoting the continued availability of free television broadcasting; and that the public interest would be served by requiring cable systems to provide fair compensation for retransmission rights. Under existing law, cable systems have an absolute right to retransmit local television signals without compensating the originating stations and networks. While this subsidy may have been warranted during the infancy of the cable industry, the Committee believes it is not justifiable in the modern video marketplace. In addition, because some cable systems have improperly shifted the channel positions on which some broadcast signals are carried, it is believed that cable systems electing to retransmit local broadcast signals should be subject to carriage and channel positioning requirements that are consistent with the public's interest in a healthy over-the-air broadcasting service and with the First Amendment interest in promoting the availability of a diversity of views.

Sec. 803. Definitions.

(1) Cable system. This is based on the definition used in the 1984 Cable Act.

(2) Retransmit. In addition to conventional cable "retransmission," this definition includes cable system activities related to the supply of such items as A/B switches and associated remote control units. Nothing in the legislation would prevent subscribers, or others unaffiliated with the cable system, from providing such equipment.

(3) Basic cable service. This term includes any advertiser-supported programming service, public, educational or government access channels, and the retransmission of local television signals.

(4) Market. The Commission is encouraged to use the area of dominant influence ("ADI") market definition.

(5) Local broadcast station. This definition simply employs the Commission's 1976 must carry eligibility standard.

(6) Broadcast network. The Commission is directed to adopt a definition consistent with the purposes of this title.

(7) Affiliated station. This term includes both the affiliates of any entity determined under the above definition to be a "network," and the stations owned or operated by a "network."

(8) Independent station. A non-affiliated station.

(9) Public television station. A noncommercial educational broadcast station.

(10) Commercial television station. A television station other than a public television station.

(11) Commission. This term refers to the Federal Communications Commission.

PART II—REGULATION OF CABLE RATES

Secs. 811 to 812. Cable rate regulation.—This provision of the legislation gives the Commission the authority to regulate the rates of basic cable service, or the installation or leasing of reception equipment, of cable systems not subject to effective competition. In exercising its authority, the Commission is to ensure that rates are fair and do not include monopoly profits; afford programmers the opportunity to create new programs and services; ensure expansion capability; and do not include acquisition costs within a three year period. The Commission may review state and local rate regulation provisions and authorize their application in lieu of the Commission's regulations provided that the state or local regulation conforms to the Commission's standards and provides the same level of protection to consumers.

For purposes of this section, a cable system will be deemed to be subject to effective competition if the cable system has less than 30 percent penetration in the community served, or it the relevant community is served by more than one multichannel video distributor. In determining whether a community is served by more than one multichannel distributor, at least 67 percent of the households must be able to receive comparable programming at comparable rates from such alternate distributor or distributors and at least 30 percent of the households must subscribe to such alternate service or services.

PART III—OPTIONAL RETRANSMISSION

Sec. 821. Optional retransmission of local broadcast signals.—Cable systems are given the option of not carrying any local commercial TV signals but, if they elect to engage in such carriage, they must comply with Part IV of the legislation (fee payments) and Part V (must carry).

PART IV—PAYMENT AND DISTRIBUTION OF RETRANSMISSION FEES

Sec. 831. Filing with the Commission.—The language of this section is borrowed from the Copyright Act, and simply requires cable systems to file with the Commission on a periodic basis certain information about their ownership and the local broadcast television signals carried.

Sec. 832. Submission of statement of account and retransmission fee.—This section provides more necessary administrative reporting as well as the requirement that systems submit a retransmission fee to the Commission for their carriage of local broadcast signals. The Commission is instructed to set the fee so that it fairly reflects the value that local signal retransmission confers on cable operators.

Sec. 833. Deposit of funds with Treasury.—After deducting expenses relating to its administration of the fee program, the Commission will deposit the balance of all funds received from cable systems with the U.S. Treasury.

Sec. 834. Annual distribution of fees.—The distribution of fees by the Commission to broadcasters, networks and copyright holders will occur on an annual basis.

Sec. 835. Allocation of funds.—This section deals with the distribution of retransmission fees to copyright owners and broadcast interests. Each year, the Commission would divide the funds into separate "market fee pools" for each market, and would then allocate 20% of the fund to copyright owners and 80% to broadcasters in the applicable market. Each copyright owner would recieve a share of the "copyright fund" that is generally related to the percentage of the total market audience for local broadcast programming in cable households that the owner's programming received. The "broadcast fund" for each market would be distributed to public TV stations, who would receive a portion of the fund equal to twice their audience shares and to commercial stations and networks who would receive the remainder. In particular, the remaining portion of the pool would be distributed as follows: independents would receive a portion equal to their audience shares; networks would receive a portion equal to two-thirds of the audience shares for network programming; and network affiliates would receive a portion equal to the sum of their audience shares for nonnetwork programming plus one-third of the audience shares for the network programming they carry. Both copyright owners and broadcast interests would be permitted to lump their claims together and present a single claim to the Commission if they so desired.

Sec. 836. Audience data.—This section permits the Commission to rely on audience data submitted by copyright owners, broadcast stations, networks, and others to determine relevant audience shares for distribution of the funds. The Commission is also to establish a dispute resolution procedure.

PART V—LOCAL SIGNAL RETRANSMISSION

Secs. 841 to 842.—These sections generally incorporate the "must carry" provisions of the Staff draft cable bill, with a few minor edits. The most significant differences are that noncommercial stations are not mentioned in the carriage requirements and that cable systems are affirmatively prohibited from deleting the commercials on a retransmitted broadcast signal and from, in most situations, carrying only a portion of a broadcaster's program schedule. In addition, the existing requirement that cable systems provide subscribers with input selector systems is repealed for those systems retransmitting local stations.

PART VI—MISCELLANEOUS

Secs. 851 to 853.—These sections provide that the terms of the compulsory licensing scheme are not modified by the act, that the Commission must adopt implementing regulations within 180 days after enactment of the statute, and that the provisions of the act can be severed from one another in the event one or more are found to be unlawful.

PART VII—REMEDIES AND PENALTIES

Secs. 861 to 863.—These sections set forth some general penalties for persons who violate any provision of the title. They also enable anyone who is injured by a cable system's (or broadcaster's) failure to comply with those provisions to bring a suit for injunctive relief. The penalty provisions were modeled closely after those contained in the Communications Act.

NATIONAL ASSOCIATION OF BROADCASTERS,
Washington, DC, March 27, 1990.

Hon. DANIEL INOUYE,
Chairman, Subcommittee on Telecommunications, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: For over forty years, free, over-the-air television has served all the American people, regardless of where they live, or how much they earn. Unless several outdated government policies are changed, however, there can be little confidence that over-the-air television will be serving all of the people ten years from now, much less another forty.

This is why NAB strongly supports the proposal that you have agreed to introduce as legislation. We welcome the opportunity to foster debate in Congress on this much-needed change in our communications laws.

Congress created the free, over-the-air system of television broadcasting to serve the public interest and to serve all the American people. Broadcasting from hundreds of communities throughout the land, commercial television is best known for its vast menu of pogramming, ranging from local news and public affairs, through coverage of live sports events around the world, to an almost limitless supply of original entertainment programs. In times of crisis, broadcast television is trusted for its immediate and accurate reporting of events. The American people turn to broadcast television during difficult times, and television unfailingly responds by bringing the nation closer together with essential news and information. And it brings messages direct from the nation's leaders about the events unfolding around them. Unlike its competitors, free, over-the-air television does these things without any direct financial support from the government or from its audience.

As the new decade begins, free over-the-air television is fast approaching a critical juncture in its existence. While the essential fabric of local stations serving local communities remains intact, commercial television is facing a growing array of competitors for audience, for programming and, increasingly, for advertising dollars. Broadcast television is not seeking to avoid the discipline and rigors of competition. To be beneficial to the public, however, this competition must be fair. Commercial broadcasters' signals are free to everyone, while their present and future competitors concentrate on marketing their many channels to those who have the inclination and ability to pay, and who have access to them. The ultimate irony is that commercial television faces serious problems for the precise reason that its only product—its signal—also is free to its principal competitors.

The legislation that you are introducing today is designed to redress the serious competitive imbalance that governmental action has engendered between local television broadcasters and their principal competitors, cable television systems. Over the years, cable has been exempted from two important government policies. First, cable does not need to obtain the permission of local television stations before it retransmits the signals of those stations to its subscribers for a fee. Second, cable has a unique exemption from the regular operation of the copyright laws which would normally make such unauthorized use of broadcast programs a copyright infringement. These two exemptions allow cable systems to take the signals of television stations and retransmit them to subscribers for profit—*without* the permission of local broadcasters and *without* paying local broadcasters for the privilege of using their signals.

These two exemptions have created a subsidy that runs from the broadcast industry to the cable industry—a subsidy that has tipped the competitive scales in favor of cable. The most popular programming on cable has always been local broadcast programming. Today, it is still viewed over 60%

of the time in cable households. A recent study estimated that over half of the net revenue of the typical cable system was attributable to local over-the-air television channels. Indeed, common sense suggests that if cable did not have access to broadcast signals, either subscription levels would drop or rates would have to be lowered—or both.

In the early days of cable's development, when systems were merely large-scale antennas, this governmental largess may have made sense. But today, cable is a growing prosperous industry whose overall worth is estimated at over twice that of the broadcasting industry. Even more significantly, cable competes vigorously with broadcasters for audience, programming, and advertising revenues. Given this new competitive relationship, it is not fair that exemptions from government policies continue to force television broadcasters to subsidize their foremost competitors. Nor is it fair to allow cable to use free access to local broadcast signals to erode the audience and advertising base of local broadcasters. Thus, the aim of this legislation is to strike a proper balance between local broadcasters on the one hand and the monopoly cable service provider on the other.

"The Cable Subscriber Protection and Broadcast Retransmission Act of 1990" would add a new section to the Communications Act to accomplish the following:

1. Cable systems would *not* be required to carry local broadcast signals. Cable would be free to choose to operate as a stand-alone business and offer only cable programming to its subscribers. This lack of a "must carry" requirement should eliminate the legal problems that such a requirement has encountered in the past.

2. If, however, a cable system chooses to carry local broadcast signals, it would pay a statutory fee for this privilege. To preclude cable's use of monopoly power to distort the Congressionally-mandated, federal licensing plan of local stations serving local commercials, a cable system shall carry a full complement of local signals within the limits of the carriage plan set forth in the legislation. The legislation also addresses the long-standing problem of cable's monopoly power to affect competition in the local market by the manipulaton of carriage and the channel positions of local stations.

3. The Federal Communications Commission would be authorized to set the retransmission fee at a realistic level to ensure that cable has access to broadcast programming and that broadcasters are compensated fairly for cable's use of that programming. Importantly, since cable systems choosing to carry local signals would be required to carry a full complement of local signals, the fee would not vary according to the number of signals carried.

4. Cable operators would be required to deposit the statutory retransmission fee with the FCC. To avoid any costs to the government, the FCC would deduct its administrative costs before distributing the proceeds on an annual basis. Under the distribution formula set forth in the legislation, 80 percent of the retransmission fees would go to local commercial stations, public television stations and broadcast networks—the backbone of the free broadcasting system—in varying amounts according to their ratings in local markets. However, in view of the special role played by public television, the share for public stations would be based on twice their actual ratings.

5. The remaining 20 percent of the retransmission fees would be paid to owners of the copyrights in local broadcast programming. This payment is to recognize that, in a free market negotiation, copyright owners may have a claim for additional compensation based on the subscription value of their properties on cable systems.

6. For cable systems not subject to "effective competition" as defined in the legislation, the FCC would be given the authority to regulate subscriber rates for basic cable service or establish guidelines for local authorities to regulate rates. This provision is designed to ensure that cable subscribers have access to cable service at reasonable rates and that these rates will not be affected adversely by the fees that cable systems rightly should pay for local broadcast signals pursuant to this legislation.

It is important to note that the retransmission fee outlined above for cable carriage of *local* broadcast stations would not affect the existing compulsory license under Title 17 for the retransmission of *distant* broadcast signals. In addition, by establishing a statutory retransmission fee, this legislation seeks to avoid individual marketplace negotiations between cable operators and local stations. This should result in transactional efficiencies along the same lines as those created by the cable copyright compulsory license.

This legislation addresses the competitive problems that have developed between local broadcasters and cable systems in a comprehensive manner. It would eliminate the unfair broadcast subsidy to cable and repair what has become a serious competitive imbalance in the local marketplace. It recognizes that local broadcasters—like all other program services that a cable system chooses to carry—have rights in their signals which must be honored and for which they should be compensated by the same cable systems that derive benefits from their carriage. It provides a statutory mechanism through which the fair value of broadcaster retransmission rights can be established by the FCC. It also takes into account cable's market power over the distribution of local broadcast signals while, at the same time, it avoids substantial transaction costs to broadcasters and cable systems alike.

Most importantly, this legislation is squarely in the best interests of the consuming public-cable users as well as those who do not have access to or cannot afford cable. For cable subscribers, this legislation will grant to the FCC power to arrest steadily rising subscriber rates. For everyone who enjoys broadcast television, over-the-air or through cable, this legislation addresses an emerging public policy issue. By eliminating the subsidy flowing from the "free media" to the "pay media," this legislation will ensure that local broadcast stations will continue to have the ability to provide every American home with the full range of programming to which the viewing public has become accustomed. Specifically, broadcast stations and networks will have the resources to fund attractive entertainment programming, to compete for rights to national and international sports events, and to maintain their commitment to thorough coverage of news events, whether they occur locally or in some far corner of the world.

Mr. Chairman, rarely is legislation more necessary, more appropriate or more timely. Congress is presented with the opportunity to balance properly the competitive relationship between two essential industries in a manner that has great benefits for *all* the American people. It should not let this opportunity escape.

On behalf of NAB, thank you for introducing this bill. We look forward to addressing these issues in your upcoming hearings.

Sincerely,

Edward O. Fritts.●

By Mr. DECONCINI:

S. 2358. A bill entitled the "Digital Audio Tape Recorder Act of 1990"; to the Committee on Commerce, Science, and Transportation.

DIGITAL AUDIO TAPE RECORDER ACT

● Mr. DECONCINI. Mr. President, I rise today to introduce the Digital Audio Tape Recorder Act of 1990. By introducing this legislation, we hope to bring to an end the controversy surrounding introduction of this new technology into the U.S. consumers across the country should have the opportunity to enjoy this technological advancement in sound recording.

I am including in the RECORD today a section-by-section description of the bill. I am including along with it a technical reference document that sets forth certain standards and specifications mandated by the legislation. At this point, I thought it would be helpful to describe this technology and the need for this legislation.

A digital audio tape recorder [DAT] is a tape recorder that records information in digital form, similar to the compact tape disc player except on tape. In a digital recording, music is converted into electronic pulses for coding, in the same way a computer stores information—in contrast, a conventional analog tape recorder records music in the form of the sound waves that constitute music. These digital pulses are then "read" and converted back into music. Proponents of this type of recording claim that it has several advantages over conventional methods of recording. These purported advantages include that the dynamic range of the music—the difference between the loudest and softest portions—and the signal-to-noise ratio are superior to most analog methods; the recording process itself does not add any noise; and "wow" and "flutter"—mechanical errors induced in some analog recordings—are virtually eliminated.

Last Congress, Congressman ROBERT KASTENMEIER and I chaired joint hearings of our respective subcommittees on the problems presented by the introduction of this new technology. At that hearing, one of the main concerns voiced by recording industry representatives was that, by using a DAT to tape a compact disc, a consumer would be able to obtain a "digital master" or a "digital clone" every bit as good as the record producer's own digital master and that this recording could then be reproduced repeatedly in that form. Representatives of the consumer electronics industry testified that they had voluntarily configured the devices to prevent digital-to-digital cloning.

The focus of the hearing, however, was on a proposed technological addition to the DAT technology that would render the devices incapable of recording encrypted prerecorded software. This technology, called the copy-code scanner, was demonstrated by both the recording industry, who developed it, and the electronics industry. The results of the two demonstrations were markedly different. While the copy-code scanner demonstrated by the recording industry resulted in no discernible degradation in sound quality, the one utilized in the electronics industry presentation, however, obviously did adversely affect the quality. The committees were not able to determine which demonstration was more accurate and subsequently asked the National Bureau of Standards to test the copy-code scanner to determine its affect on DAT recorders. In addition, the two chairmen asked the Recording Industry Association and the Electronics Industry Association to try to resolve the dispute between themselves. The legislation I am introducing today represents the agreement that has been reached by the two long-term adversaries.

In fashioning this legislation, we have not included a surcharge provision to compensate artists and copyright holders for the possibility of loss of compensation that the sale of the machines may promote. The recording industry and others in the worldwide music community have long supported the imposition of a surcharge on blank tapes and recording devices. The consumer electronics industry, retail dealers and consumers have consistently opposed these efforts in the United States. In agreeing to recommend legislation to Congress, the industry representatives have put aside these differences. I applaud both sides for their efforts and for their willingness to compromise.

I am aware that there are groups who oppose the agreement represented by this legislation. These groups continue to believe that the only fair solution to the perceived problem of displaced sales is a distribution of moneys collected through the surcharge system. These parties also believe that the agreement sets a bad precedent by acknowledging for the first time in the copyright law, the existence of home taping. I have never supported the placing of such a surcharge on either software or hardware, but if this legislation is referred to my subcommittee, I will give this idea a fair hearing during consideration of the bill. In addition, language has been included in the legislation to clarify that Congress does not intend in adopting this approach to address the legality or appropriateness of home taping in general.

In agreeing to recommend SCMS, the industry representatives now seek to enable consumers to make digital-to-digital copies of prerecorded music, but to restrict the extent to which digital-to-digital copies of the copies can be made.

Under SCMS, the circuitry which controls the functions of a DAT will be programmed to read certain coding information accompanying the source material and, based on the particular combination of codes it reads, will permit unrestricted copying, permit copying but label the copy with a code to restrict further digital-to-digital copying, or disallow such copying. Under this system, a DAT will not be prevented from making first-generation digital-to-digital copies of original prerecorded music and other material from compact discs, prerecorded DAT cassettes, digital broadcasts, and other digital sources entering through a digital input, but will be unable to make second-generation digital-to-digital copies of the copies. In recognition of the fact that a DAT at present is unable to determine whether original prerecorded music or other material entering through an analog input has been coded for copyright protection, a DAT will be able to make a first-generation and a second-generation digital-to-digital copy of the source material, but will not be permitted to make a third-generation digital copy of the second-generation copy. In the event that technological developments permit the circuitry of a DAT to identify copyrighted material entering through an analog input, the same limitation on digital copies of copies should apply, but there will be no limitation on serial digital copying of analog material not coded for copyright protection.

The serial copy management system does not require any action by the consumer. No additional buttons or controls will complicate the recording process. Implementation of SCMS also will not require any changes to existing compact disc players or compact discs.

Home taping on conventional analog tape recorders will not be subject to SCMS. Thus, home taping on analog tape recorders will remain unaffected by this legislation. Moreover, the codes imbedded in digital sources to allow SCMS to work will not affect in any way the ability of analog tape recorders to record digital sources of music.

In my view, it is important that the DAT technology be available for American consumers. Therefore, the benefits of implementing SCMS for DAT's will be significant for consumers, the recording industry, the consumer electronics industry, and others in the United States. In furtherance of our goal of putting past controversy behind us, we introduce this legislation today. We look forward to the support of our Senate colleagues in moving this bill quickly.

I ask unanimous consent that the bill and the accompanying documents be inserted in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 2358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Digital Audio Tape Recorder Act of 1990".

SEC. 2. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the Congress has been expressly granted the power under article 1, section 8, of the Constitution to promote the progress of science and the useful arts;

(2) representatives of the consumer electronics and recording industries have jointly studied possible recommendations to governments about the functions of digital audio tape (hereinafter in this section referred to as "DAT") recorders;

(3) taking into account concerns raised in the worldwide music community regarding copyright protection, the industry representatives announced a worldwide agreement in 1989 to make joint recommendations to governments, including the United States Government, with respect to DAT technology;

(4) the industry representatives agreed to recommend for government implementation worldwide the serial copy management system (hereinafter in this section referred to as "SCMS"), a technical system for controlling so-called "serial" copying on DAT recorders;

(5) under SCMS, the circuitry which controls the functions of a DAT recorder will be programmed to read certain coding information accompanying the source material and, based on the particular combination of codes it reads, will not prevent unrestricted copying, will not prevent copying but label the copy with a code to restrict further digital-to-digital copying, or will disallow such copying;

(6) under SCMS, a DAT recorder will not be prevented from making first-generation digital-to-digital copies of original copyright-protected prerecorded music and other material from compact discs, prerecorded DAT cassettes, digital broadcasts, and other digital sources entering through a digital input, but will be prevented from making second-generation digital-to-digital copies of the copies;

(7) under SCMS, in recognition of the fact that a DAT recorder at present will be unable to determine whether original prerecorded music or other material entering through an analog input has been coded for copyright protection, a DAT recorder will not be prevented from making first-generation and second-generation digital-to-digital copies of the source material, but will be prevented from making third-generation digital-to-digital copies of the second-generation copies;

(8) in the event that technological developments permit the circuitry of a DAT recorder to identify copyrighted material entering through an analog input, equivalent limitations on digital copies of copies should apply, but there will be no limitation on serial digital copying of analog material not coded for copyright protection;

(9) home taping on conventional analog tape recorders will not be subject to SCMS and thus will remain unaffected;

(10) the benefits of implementing SCMS for DAT recorders will be significant for consumers, the recording industry, the consumer electronics industry, and others in the United States;

(11) in furtherance of the realization of those benefits and to encourage other governments to act accordingly, this Act implements SCMS for DAT recorders and provides mechanisms for regulatory implementation of solutions with respect to future issues and technological developments;

(12) representatives of the consumer electronics and music industries are expected to discuss copyright issues resulting from new technologies, including recordable and erasable compact disc players, and to study possible approaches, and to make recommendations to governments, including the United States Government, for applying SCMS or another system with greater copying restrictions than SCMS to these new technologies;

(13) this Act does not address or affect the legality of private home copying under the copyright laws;

(14) the enactment of this Act shall not prejudice consideration of whether or not royalties should be levied for private home copying of copyrighted music; and

(15) the enactment of this Act will promote the progress of science and the useful arts by encouraging the development of new technologically advanced products while providing copyright-related protection for creators of artistic works.

SEC. 3. DIGITAL AUDIO TAPE RECORDERS AND PHONORECORDS.

(a) PROHIBITION ON MANUFACTURE OR DISTRIBUTION.—(1) No person shall manufacture or distribute any digital audio tape recorder or digital audio interface device which does not conform to the standards and specifications to implement the serial copy management system that are either—

(A) set forth in the technical reference document; or

(B) established under an order by the Secretary of Commerce under section 4(b)(1) or (2).

(2) If the Secretary of Commerce approves standards and specifications under section 4(b)(3), then no person shall manufacture or distribute any digital audio tape recorder or digital audio interface device which does not conform to such standards and specifications.

(b) PROHIBITION ON CIRCUMVENTION OF SERIAL COPY MANAGEMENT SYSTEM.—No person shall manufacture or distribute any device, or offer or perform any service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent any program or circuit which implements, in whole or in part, the serial copy management system in a digital audio tape recorder or digital audio interface device.

(c) EXCEPTION FOR PROFESSIONAL MODELS.—(1) Notwithstanding subsections (a) and (b), the requirements of those subsections shall not apply to a professional model digital audio tape recorder. For purposes of this Act, the term "professional model digital audio tape recorder" means a digital audio tape recorder—

(A) which is capable of sending a digital audio interface signal in which the channel status block flag is set as a "professional" interface, in accordance with the standards and specifications set forth in the technical reference document or established under an order issued by the Secretary of Commerce under section 4;

(B) which is clearly, prominently, and permanently marked with the letter "P" or the word "professional" on the outside of its packaging, and in all advertising, promotional, and descriptive literature, with respect to the recorder, that is available or provided to persons other than the manufacturer, its employees, or its agents; and

(C) which is designed, manufactured, marketed, and intended for use by recording professionals, in the ordinary course of a lawful business.

(2) The capability in a digital audio tape recorder described in paragraph (1)(A), or the marking of a digital audio tape recorder described in paragraph (1)(B), shall not create any presumption that the recorder is a professional model digital audio tape recorder.

(3) In determining whether a digital audio tape recorder meets the requirements of paragraph (1)(C), factors to be considered shall include—

(A) whether it has features used by recording professionals in the course of a lawful business, including features such as—

(i) a data collection and reporting system of error codes during recording and playback;

(ii) a record and reproduce format providing "read after write" and "read after read";

(iii) a time code reader and generator conforming to the standards set by the Society of Motion Picture and Television Engineers for such readers and generators; and

(iv) a professional input/output interface, both digital and analog, conforming to standards set by audio engineering organizations for connectors, signaling formats, levels, and impedances;

except that the presence or absence of features referred to in this subparagraph shall not create any presumption as to whether or not a digital audio tape recorder is a professional model digital audio tape recorder;

(B) the nature of the promotional materials used to market the digital audio tape recorder;

(C) the media used for the dissemination of the promotional materials, including the intended audience;

(D) the distribution channels and retail outlets through which the recorder is disseminated;

(E) the manufacturer's price for the recorder as compared with the manufacturer's price for digital audio tape recorders implementing the serial copying management system;

(F) the relative quantity of manufacture of the recorder as compared to the size of the manufacturer's market for professional digital audio tape recorders;

(G) the occupations of the purchasers of the recorder; and

(H) the uses to which the recorder is put.

(d) ENCODING OF INFORMATION ON PHONORECORDS.—(1) No person shall encode a phonorecord of a sound recording with inaccurate information relating to the category code, copyright status, or generation status of the source material so as to improperly affect the operation of the serial copy management system.

(2) Nothing in this Act requires any person engaged in the manufacture or assembly of phonorecords to encode any such phonorecord with respect to its copyright status.

(e) INFORMATION TO ACCOMPANY TRANSMISSION IN DIGITAL FORMAT.—Any person who transmits or otherwise communicates to the public any sound recording in digital format shall not be required under this Act to transmit or otherwise communicate the information relating to the copyright status of the sound recording; except that any such person who does transmit or otherwise communicate such copyright status information shall transmit or communicate such information accurately.

(f) DEFINITION.—For purposes of this section, the term "manufacture or distribute" means to manufacture, assemble, sell, resell, lease, or distribute in commerce, or to offer for sale, resale, lease, or distribution in commerce.

SEC. 4. SERIAL COPY MANAGEMENT SYSTEM.

(a) PUBLICATION OF TECHNICAL REFERENCE DOCUMENT.—Within 10 days after the date of the enactment of this Act, the Register of Copyrights shall cause the technical reference document to be published in the Federal Register.

(b) ORDERS OF SECRETARY OF COMMERCE.—The Secretary of Commerce, upon petition by an interested party and after consultation with the Register of Copyrights, may issue an order to implement the serial copy management system set forth in the technical reference document as follows:

(1) The Secretary may issue such order for the purpose of permitting in commerce devices that do not conform to all of the standards and specifications set forth in the technical reference document, if the Secretary determines that such devices possess the same functional characteristics with respect to regulation of serial copying as, and are compatible with the prevailing method for implementation of, the serial copy management system set forth in the technical reference document.

(2) The Secretary may issue such order for the purpose of permitting in commerce devices that do not conform to all of the standards and specifications set forth in the technical reference document, if the Secretary determines that the standards and specifications relating generally to digital audio tape recorders and digital audio interface devices have been or are being revised or otherwise amended or modified such that the standards and specifications set forth in the technical reference document are not or would no longer be applicable, and that such devices conform to such new standards and specifications and possess the same functional characteristics with respect to regulation of serial copying as the serial copy management system set forth in the technical reference document.

(3) The Secretary may issue such order for the purpose of approving standards and specifications for a technical method implementing in a digital audio tape recorder the same functional characteristics as the serial copy management system so as to regulate serial copying of source material in the analog format in an equivalent manner as source material in the digital format.

SEC. 5. REMEDIES.

(a) CIVIL ACTIONS.—Any aggrieved person or the Attorney General of the United States may bring a civil action in an appropriate United States district court against any person for a violation of section 3.

(b) POWERS OF THE COURT.—In an action brought under subsection (a), the court—

(1) consistent with the limitation set forth in subsection (e), may grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain violations of section 3;

(2) shall award damages under subsection (c);

(3) shall direct the recovery of full costs, including awarding reasonable attorney's fees, by an aggrieved person, other than the United States, who prevails; and

(4) may grant such other equitable relief as it may deem reasonable.

(c) DAMAGES.—(1) An aggrieved person shall be entitled to recover damages for violations of section 3, which shall be computed, at the election of the aggrieved person at any time before final judgment is rendered, in accordance with one of the following, but in no event shall the judgment exceed a total of $1,000,000:

(A) The aggrieved person may recover the actual damages suffered by him or her as a result of the violation and any profits of the violator that are attributable to the violation which are not taken into account in computing the actual damages. In determining the violator's profits, the aggrieved person is required to prove only the violator's gross revenue, and the violator is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the violation.

(B) The aggrieved person may recover an award of statutory damages for each violation of subsection (a) or (b) of section 3 in the sum of not less than $1,000 nor more than $10,000 per device involved in such violation or per device on which a service prohibited by section 3(b) has been performed, as the court considers just.

(C) The aggrieved person may recover an award of statutory damages for each violation of subsection (d) of section 3 in the sum of not less than $10 nor more than $100 per phonorecord involved in such violation, as the court considers just.

(D) The aggrieved person may recover an award of statutory damages for each transmission or communication that violates subsection (e) of section 3, in the sum of not less than $10,000 nor more than $100,000, as the court considers just.

(2) In addition to making an award of damages under paragraph (1), in any case in which the court finds that a violation of section 3 was committed willfully and for purposes of direct or indirect commercial advantage or private financial gain, the court in its discretion may increase the award of damages, whether actual or statutory, by an additional amount of not more than $5,000,000.

(3) In any case in which the court finds that the violator was not aware and had no reason to believe that his or her acts constituted a violation of section 3, the court in its discretion may reduce the total award of damages to a sum of not less than $250.

(d) IMPOUNDING OF ARTICLES.—At any time while an action under this section is pending, the court may order the impounding, on such terms as it may deem reasonable, of any device or phonorecord that is in the custody or control of the alleged violator and that the court has reasonable cause to believe does not comply with, or was involved in a violation of, section 3.

(e) LIMITATION REGARDING PROFESSIONAL MODELS.—Unless a court finds that the labeling and distribution of a digital audio tape recorder as a professional model by a manufacturer, given the factors set forth in subsection (c) of section 3, were without a reasonable basis or not in good faith, the court shall not grant a temporary or preliminary injunction against the distribution of such devices by the manufacturer.

(f) REMEDIAL MODIFICATION AND DESTRUCTION OF ARTICLES.—As part of a final judgment or decree finding a violation of section 3, the court shall order the remedial modification, if possible, or the destruction of any device or phonorecord that does not comply with, or was involved in a violation of, section 3 that is in the custody or control of the violator or that has been impounded under subsection (d) of this section.

(g) DEFINITION.—For purposes of this section, the term "device" does not include a phonorecord.

SEC. 6. DEFINITIONS.

(a) IN GENERAL.—As used in this Act—

(1) the term "aggrieved person" means—

(A) any person engaged in the manufacture or assembly of any digital audio tape recorder or any phonorecord;

(B) any person who is a copyright owner of any work embodied in a phonorecord; and

(C) any association, representative, or agent of any person described in subparagraph (A) or (B);

(2) the term "commerce" means commerce between or among any of the States, or between any of the States and any foreign nation;

(3) the term "digital audio interface device" means any machine or device, whether or not developed as of the date of the enactment of this Act, and whether or not included with or as part of some other device, that supplies a digital audio signal through a "non-professional interface," as the term "non-professional interface" is used in the Digital Audio Interface Standard in part I of the technical reference document or in an order of the Secretary of Commerce under section 4(b) (1) or (2);

(4) the term "digital audio tape recorder" means any device, whether or not developed as of the date of the enactment of this Act, and whether or not included with or as a part of some other device, that is intended or marketed for the primary purpose of making a sound recording in a digital format on magnetic tape;

(5) the term "interested party" means any person engaged in the manufacture or assembly of any digital audio tape recorder or any phonorecord, or any association, representative, or agent of such person;

(6) the term "person" includes "anyone" as that term is used in section 501(a) of title 17, United States Code;

(7) the term "serial copy management system" means the system for regulating serial copying by digital audio tape recorders that is set forth in the technical reference document or in an order of the Secretary of Commerce under section 4;

(8) the term "State" means any of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States;

(9) the term "technical reference document" means the document entitled "Technical Reference Document for Digital Audio Tape Recorder Act of 1990", as such document appears under the proceedings of the Senate in the Congressional Record for March 28, 1990; and

(10) the terms "analog format", "copyright status", "category code", "generation status", and "source material" mean those terms as they are used in the technical reference document.

(b) COPYRIGHT DEFINITIONS.—Except as otherwise provided, all terms used in this Act shall have the same meanings as those terms are given in title 17, United States Code.

SEC. 7. EFFECT ON OTHER LAW.

This Act does not affect any right or remedy, or any limitation on such right or remedy, held by or available to any person under title 17, United States Code. Nothing in this Act creates or affords any greater or lesser rights with respect to private home copying of a copyrighted work than any rights afforded under title 17, United States Code.

SEC. 8. AMENDMENT TO TITLE 17, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by adding at the end the following:

"§ 511. Effect of Digital Audio Tape Recorder Act of 1990

"The Digital Audio Tape Recorder Act of 1990 does not affect any right or remedy, or any limitation on such right or remedy, held by or available to any person under this title. Nothing in the Digital Audio Tape Recorder Act of 1990 creates or affords any greater or lesser rights with respect to private home copying of a copyrighted work than any rights afforded under this title.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 5 of title 17, United States Code, is amended by adding at the end the following:

"511. Effect of Digital Audio Tape Recorder Act of 1990.".

SEC. 9. EFFECTIVE DATE.

This Act shall take effect on the date of the enactment of this Act, but shall not apply to any device or phonorecord manufactured or assembled before such date.

SECTION-BY-SECTION DESCRIPTION OF THE DIGITAL AUDIO TAPE RECORDER ACT OF 1990

Section 1 sets forth the title of the bill.

Section 2 sets forth certain findings that help put the legislation in perspective. Most of the findings describe the development of the serial copy management system (SCMS) for digital audio tape (DAT) recorders and how this system works. Other findings indicate that—

Enactment of the legislation will fulfill the constitutional power of Congress to promote the progress of science and the useful arts by encouraging the development of new technologically advanced products while providing protection for creators of copyrighted works;

Congress expects representatives of the consumer electronics and music industries to discuss copyright issues resulting from new technologies, including recordable and erasable compact disc players, to study possible approaches, and to make legislative recommendations for applying SCMS or another system with greater copying restrictions than SCMS to these new technologies; and

Enactment of the legislation will not address or affect the legality of private home copying under copyright law and will not prejudice consideration of whether or not royalties should be levied for private home copying of copyrighted music.

As a group, the findings provide background help for interpreting the SCMS standards and specifications mandated for DAT recorders and help put congressional consideration of the legislation into context.

Under SCMS, the circuitry which controls the functions of a DAT recorder will be programmed to read certain coding information accompanying the source material and, based on the particular combination of codes it reads, will not prevent unrestricted copying, will not prevent copying but label the copy with a code to restrict further digi-

tal-to-digital copying, or disallow such copying. Under this system, a DAT recorder will not prevent the making of first-generation digital-to-digital copies of original prerecorded music and other material from compact discs, prerecorded DAT cassettes, digital broadcasts, and other digital sources entering through a digital input, but will prevent the making of second-generation digital-to-digital copies of the copies. In recognition of the fact that a DAT recorder is presently unable to determine whether original prerecorded music or other material entering through an analog input has been coded for copyright protection, a DAT recorder will not prevent the making of a first-generation and a second-generation digital-to-digital copy of the source material, but will prevent the making of a third-generation digital-to-digital copy of the second-generation copy. In the event that technological developments permit the circuitry of a DAT recorder to identify copyrighted material entering through an analog input, equivalent limitations on digital copies of copies should apply, but there will be no limitation on serial digital copying of analog material not coded for copyright protection.

Home taping on conventional analog tape recorders will not be subject to SCMS. Thus, home taping on analog tape recorders will remain unaffected by this legislation.

Section 3 governs the manufacture and distribution of DAT recorders and phonorecords. Subsection (a)(1) provides that no person may manufacture or distribute a DAT recorder or digital audio interface device that does not conform to the standards and specifications to implement SCMS set forth in the technical reference document or established under an order by the Secretary of Commerce. (For purposes of this section, "manufacture or distribute" is defined broadly in subsection (f) to mean to manufacture, assemble, sell, resell, lease, or distribute in commerce, or to offer to do any of these in commerce.)

Subsection (a)(2) provides that, if the Secretary of Commerce approves standards and specifications under section 4(b)(3) to implement SCMS for source material in the analog format, then no person may manufacture or distribute a DAT recorder or digital audio interface device that fails to conform to such standards and specifications. At present, a DAT recorder is unable to determine whether original prerecorded music or other material entering through an analog input has been coded for copyright protection. Industry representatives are at work, studying the technical feasibility of implementing a system that would carry the copyright code in the analog, as well as the digital, format. If they develop a technical solution and if the Secretary then makes the required determination, future models of DAT recorders will have to implement the new technology before they may be sold in the United States.

Subsection (b) proscribes circumvention of SCMS. It provides that no person may manufacture or distribute a device, or offer to perform a service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent any program or circuit that implements, in whole or in part, SCMS in DAT recorders. Thus, the legislation is aimed at the sale of so-called "black boxes" and computer programs that will defeat the system, as well as at persons operating a service to circumvent the system.

Subsection (c) exempts professional model DAT recorders from the coverage of the legislation. This subsection contains a number of criteria for determining whether a particular device qualifies as a professional model. The intent is threefold: to ensure that recording professionals, such as musicians, recording studio engineers, broadcasters, and cable operators, may purchase DAT recorders that are not limited in their recording ability; to provide manufacturers with guidance for designing and marketing models for use by recording professionals; and to ensure that this exception does not become a loophole by which the unscrupulous seek to market "professional" models to consumers through traditional consumer outlets.

Subsection (d) provides that no person may encode a phonorecord of a sound recording with inaccurate information relating to the category code, copyright status, or generation status of the source material so as to improperly affect the operation of SCMS. This provision, however, does not require any person to encode a phonorecord so as to claim copyright protection. That remains a decision for each copyright holder to make.

Subsection (e) provides that a person who transmits or otherwise communciates to the public in digital form the copyright status of a sound recording must do so accurately. This provision does not require broadcasters or cable operators to transmit sound recordings in a particular digital format or to otherwise transmit information about the category code, copyright status, or generation status of a sound recording. Rather, it only requires that information about the copyright status of a sound recording be accurate if it is transmitted or otherwise communicated.

Section 4 sets forth the mechanisms for implementing SCMS in DAT recorders and digital audio interface devices. Subsection (a) provides that within 10 days following enactment of the legislation, the Register of Copyrights must publish the technical reference document in the Federal Register. The proposed text of this document is attached to this section-by-section description. It is a technical reference document that adopts certain of the standards proposed to the International Electrotechnical Commission (IEC) in "IEC 958: Digital Audio Interface" and "IEC XXX Part 6: Serial copy management system for consumer audio use DAT recorders." Irrespective of how the proposals are treated by the IEC, the standards and specifications set forth in the technical reference document are intended to be determinative for purposes of defining the technical requirements of this legislation.

The technical reference document establishes two sets of standards and specifications. The first set governs the composition of digital audio signals being sent to and received by a DAT recorder, known as the "Digital Audio Interface Standard." The second set governs the recording functions of consumer model DAT recorders, to be known as the "Serial Copy Management System Standard" or the "SCMS Standard."

Subsection (b) contains three "safety valve" mechanisms, all triggered upon petition of an interested party, to implement SCMS differently than provided for in the technical reference document. Upon receipt of a petition and before issuing an order under this provision, the Secretary of Commerce must consult with the Register of Copyrights. The first mechanism provides the Secretary with the authority to issue an order permitting in commerce DAT recorders that possess the functional characteristics of SCMS and are compatible with SCMS as prescribed under the technical reference document, but which do not meet all of the standards and specifications set forth in the technical reference document. The intent is to have a mechanism by which the Secretary can remedy any technical problems that develop in implementing SCMS using the technical reference document and to permit other technologies which may be developed which implement SCMS in some other way. The second provision gives the Secretary the authority to issue an order permitting in commerce DAT recorders that meet a new set of standards and specifications to implement SCMS, in the event that the overall standards for DAT recorders or digital audio interface devices are no longer applicable and are revised in the future. The third provision provides the Secretary with the authority to approve standards and specifications for applying SCMS to source material in the analog format in an equivalent manner as source material in the digital format.

Section 5 establishes remedies for violations of the legislation. Subsection (a) provides that an aggrieved person or the Attorney General may bring a civil action to redress a violation of section 3. Subsection (b) provides the court with authority to grant injunctions, award damages, direct the recovery of costs, and grant such other equitable relief as it may deem reasonable.

Subsection (c) sets forth mechanisms for calculating damages, subject to a limit of $1 million per judgment as established under paragraph (1). An aggrieved person has the option of recovering actual damages or statutory damages, subject to this limit. Paragraph (2) provides the court with the authority to make an additional award of damages, up to a maximum of an additional $5 million, if it determines that a violation of section 3 was committed willfully and for purposes of direct or indirect commercial advantage or private financial gain. Paragraph (3) gives the court the discretion to lower the damage award to $250 if it finds that the violator was not aware and had no reason to believe that his or her acts constituted a violation of section 3.

Subsection (d) provides the court with authority to impound devices that the court has reasonable cause to believe do not comply with section 3.

Subsection (e) limits the authority of a court to issue a temporary or preliminary injunction against the distribution of DAT recorders labeled as professional models. The court only may do so if it finds that the labeling and distribution of the devices by a manufacturer were without a reasonable basis or not in good faith. The intent is to permit a manufacturer to continue to distribute devices in commerce pending resolution of the case, unless it is clear that it could not reasonably or in good faith have labeled and distributed a device as a professional model.

Subsection (f) permits the court to order the remedial modification of any device or phonorecord that does not comply with section 3. The court also is given authority to order destruction of any device or phonorecord that does not comply with section 3.

Section 6 defines terms used in the legislation. Of these definitions, the most important one defines a DAT recorder. The intent is to limit the applicability of this legislation only to devices that are intended or marketed to consumers for the primary purpose of making a sound recording in a digital format on magnetic tape. The "primary

purpose" test is intended to ensure that only those products expected to be used principally for making audio recordings contain the circuitry or program to implement SCMS. In addition, by stating that the legislation covers devices included with or as part of some other device, the bill is intended to cover devices like "boom boxes" and to ensure that the requirements of the legislation may not be avoided merely by incorporating a DAT recorder into another device.

The bill defines a digital audio interface device as any machine or device, whether or not developed as of the date of the enactment of the Act, and whether or not included with or as part of some other device, that supplies a digital audio signal through a "non-professional interface" as that term is used in the Digital Audo Interface Standard in Part I of the technical reference document or in an order of the Secretary of Commerce pursuant to section 4(b) (1) or (2).

For drafting simplicity, the bill refers to the "technical reference document," the document appearing in the CONGRESSIONAL RECORD that sets forth the standards and specifications for implementing SCMS in DAT recorders and digital audio interface devices.

Finally, this section states that all other terms in the bill have the same meanings as those set forth in the Copyright Act of 1976, as amended. Such terms as "phonorecord" and "sound recording" appear throughout the bill. These and other terms have developed particular meanings through statutory amendments to the law and through judicial precedent. This provision preserves the interpretations developed under the Copyright Act.

Section 7 provides that the legislation is not intended to affect any right or remedy, or any limitation on any such right or remedy, held by or available to any person under the Copyright Act of 1976, as amended. Section 7 also provides that nothing in the legislation creates or affords any greater or lesser rights with respect to private home copying of a copyrighted work than any rights afforded under the Copyright Act.

Section 8 amends the Copyright Act to include the language set forth in section 7 in statutory form.

Finally, section 9 of the bill establishes the date of enactment as the effective date for the legislation, but specifies that the requirements for implementing SCMS do not apply to devices or phonorecords manufactured or assembled prior to that date. Thus, all devices and phonorecords currently in the hands of consumers or in the chain of distribution prior to enactment of the legislation will not be subject to it.

TECHNICAL REFERENCE DOCUMENT FOR THE DIGITAL AUDIO TAPE RECORDER ACT OF 1990

INTRODUCTION

This Technical Reference memorandum is provided to facilitate the implementation of legislation relating to digital audio tape ("DAT") recorders, known as the "Digital Audio Tape Recorder Act of 1990" (the Act").

This Technical Reference memorandum adopts those standards proposed to the International Electrotechnical Commission ("IEC") in "IEC 958: Digital Audio Interface" and "IEC XXX Part 6: Serial copy management system for consumer audio use DAT recorders", that are necessary to implement the Serial Copy Management System under the Act. However, compliance with the standards and specifications set forth herein may require adherence to additional IEC standards and specifications with respect to digital audio signals and/or DAT recorders. Regardless of whether the standards and specifications set forth in this or any other document are subsequently adopted or amended by the IEC, the mandatory standards and specifications set forth herein, as they may be amended pursuant to an order of the Secretary of Commerce under Section 4(b) of the Act, shall be considered determinative for the purposes of United States law.

Two sets of standards and specifications are established by this memorandum. The first set governs the composition of digital audio signals being sent to or by a DAT recorder via a nonprofessional interface, referred to hereinafter as the "Digital Audio Interface Standard." The second set governs the recording and play-back functions of non-professional model DAT recorders, referred to hereinafter as the "Serial Copy Management System Standard" or the "SCMS Standard."

PART I.—DIGITAL AUDIO INTERFACE STANDARD

Many devices are capable of producing digital audio signals. For example, compact disc players, DAT recorders, analog-to-digital converters and electronic musical instruments currently can issue digital audio signals; future devices may include digital video cassette recorders and digital microphones, among others. To enable communication between these different types of devices and a DAT recorder, it is necessary and desirable to establish a common protocol or "interface" that mandates the location and significance of particular bits of information in the digital audio output signal of each device. Such a standard already has been established in the document IEC 958.

Under IEC 958, inaudible information, known as "channel status data", accompanies a digital audio signal being sent to or by a DAT recorder. Like all digital data, channel status data consist of numerical information encoded as a series of zeros and ones. Each zero or one constitutes a "bit" of data in which both zero and one may impart information concerning the composition of the audio signal being sent to or by a DAT recorder. Bits represented in this memorandum as "X", rather than as zero or one, indicate that those bits may be either zero or one without affecting the standards set forth herein.

Channel status data bits are organized into units of information, known as "blocks," relating to both the left and right stereo audio channels. Each block contains 192 bits of information, numbered consecutively from 0 to 191. Most of these 192 bits currently are reserved for future use. Those channel status bits that are significant to the implementation of the Digital Audio Interface Standard and the Serial Copy Management System are included within channel status bits 0 through 15, as set forth in the remaining sections of this Part I.

A. Summary of mandatory digital audio interface standard

According to IEC 958, there are two basic types of interfaces for digital audio signals that can be sent by or by a DAT recorder. A "professional interface" is a digital audio signal that contains particular types of channel status data for such DAT recorders as would be used by recording professionals as contemplated by the Act ("professional model" DAT recorders). A "non-professional interface" is a digital audio signal that contains different types of channel status data. The channel status data sent in a non-professional interface are incompatible with the channel status data in a professional interface. Hence, a non-professional DAT recorder cannot record digital audio signals sent in a professional interface. Whether a digital audio interface is professional or non-professional is indicated by the setting of Bit O, known as the "Channel Status Block Flag", as set forth below.

This Digital Audio Interface Standard applies only to machines having a non-professional interface. To the extent that a professional model DAT machine also may have a non-professional interface, such a professional model DAT machine must send channel status data via its non-professional interface in accordance with the standards set forth herein. However, nothing in this Digital Audio Interface Standard shall be interpreted to prevent a professional model DAT recorder having a non-professional interface from permitting such channel status data bits to be set in accordance with the needs of a professional user.

This Digital Audio Interface Standard requires that all devices having a digital audio output capable of supplying a digital audio signal to a DAT recorder through a non-professional interface must implement five types of codes located between Channel Status Bits 0 and 15. Under the Digital Audio Interface Standard, Channel Status Bits 0 through 15 are supplied in a digital audio output signal, and are read by a DAT recorder. Those bits that are mandated under this Digital Audio Interface Standard are as follows:

1. Bit 0.—Bit 0 (the "Channel Status Block Flag"), one of the "Control" bits, shall identify whether the channel status bits are for a professional or non-professional interface. Where Bit 0 is set as "1", the signal contains the channel status data required for a professional interface. Where Bit 0 is set as "0", the channel status data is suitable for a non-professional interface. The remaining bit assignments under this Digital Audio Interface Standard are mandated only with respect to a non-professional interface, i.e., where Bit 0 is set as "0".

2. Bit 1.—Bit 1, another of the "Control" bits, shall identify whether the signal being sent to or by the DAT recorder is a digital audio or a digital data signal. Where Bit 1 is set as "0", the signal is a digital audio signal. Where Bit 1 is set as "1", the signal is a digital data signal.

3. Bit 2.—Bit 2 (the "C" Bit), another of the "Control" bits, shall identify whether copyright protection is asserted for the work being sent via the digital audio input signal. Where the C Bit is set as "0", copyright protection has been asserted over the material being sent to the digital audio input of the DAT recorder. Where the C Bit is set as "1", either that material is not protected by copyright or no copyright protection has been asserted by the owner of that material. For Digital Receivers (Category Codes 001XXXXL and 0111XXXL), the C Bit shall be set as "0", except that these devices shall send the C Bit as "1" only where the cable operator or broadcaster specifically transmits information indicating that no copyright protection has been asserted over the material. Where a device combines more than one digital audio input signal into one digital audio output signal (*e.g.*, in the case of a digital signal mixing device), and copyright protection has been asserted in the C Bit for at least one of the input signals, then the device must permit the assertion of

copyright protection over the resulting digital audio output signal (i.e., set the C Bit as "0").

There is no existing legal requirement that a copyright owner must assert protection over its work (and, therefore, set the C Bit as "0"). However, except as provided herein with respect to Digital Receivers, a copyright owner may not set the C Bit as "0" for works that are not copyrighted or are in the public domain.

4. Bits 3-7.—These bits are sent to and read by a DAT recorder, but specific bit settings for Bits 3-7 are not necessary for the implementation of the SCMS Standard set forth in Part II.

5. Bits 8-14.—Bits 8-14 shall specify a "Category Code" that identifies the type of device that produces the digital audio signal sent to or by a DAT recorder. Using various combinations of zeros and ones, Bits 8-14 can define Category Codes for as many as 128 different devices that can provide digital audio signals to a DAT recorder. According to IEC 958, the first three to five Category Code bits (numbered Bits 8-10 through 8-12) describe general product groups, and the remaining Category Code bits specify particular devices within each product group. IEC 958 has assigned particular Category Codes to existing and anticipated product groups and devices, and has reserved additional Category Codes for future devices.

The Category Code issued by each particular device must reflect the most specific code applicable to that device. There is one exception in the case of digital signal processing and mixing products, which receive digital audio signals from one or more sources and either process or combine them with other incoming digital audio signals. If all incoming signals are from an analog-to-digital converter having a Category Code "01100XXX", these devices should issue the Category Code of that analog-to-digital converter rather than of the digital signal processing or mixing device. This will permit two generations of copies from present-day analog recordings, which otherwise is permitted under the SCMS Standard.

The relevance of these Category Codes to the SCMS Standard is described below in Part II.

6. Bit 15.—Bit 15 (the "L" Bit) shall indicate the "generation status" of the digital audio signals being sent to or by a DAT recorder. "Generation status" means whether the signal emanates from a source that has been produced or published by or with the authority of the owner of the material, such as commercially released pre-recorded compact discs or DAT tapes or a digital broadcast (referred to herein as "original"); or whether the signal emanates from a recording made from such "original" material. In the latter case, a recording made directly from an "original" source is known as a "first-generation" copy; a recording made from a first-generation copy is a "second-generation" copy; and so forth.

For most products, if the L Bit is set as "0", the source is a recording that is first-generation or higher. If the L Bit is set as "1", the source is "original." For digital audio output signals from a laser-optical product, however, the definitions of the L Bit are reversed (i.e., L Bit="0" for "original" material and L Bit="1" for first-generation or higher recordings). For Digital Broadcast Receivers (Category Codes 001XXXXL and 0111XXXL), the L Bit always shall be set as "0"); except in the case of receivers for Electronic Audio Software Delivery, in which case such receivers shall send the L Bit as "1" only where the cable operator or broadcaster specifically transmits information indicating that the material should be treated as if it were first-generation or higher.

For devices that combine more than one digital audio input signal into one digital audio output signal (such as digital signal processors or mixers), the L Bit of the output signal must reflect the highest generation status of any input signal over which copyright protection has been asserted. Thus, where one or more of the constituent input signals is a first-generation or higher copy over which copyright protection is asserted, then the device must reflect in the L Bit of the digital audio output signal the generation status for a first-generation or higher copy. In all other cases, the device shall reflect in the L Bit that the output signal is original.

B. Mandatory digital audio interface standards

The following bit assignments for channel status data, as referenced in the provisions of IEC 958 ¶4.2.2 "Channel status data format for digital equipment for consumer use", shall be mandatory:

1. Bits 0-2 of the "CONTROL" Bits:

a. Bit 0 (the "Channel Status Block Flag")—

Bit 0="0"—Non-professional interface,

Bit 0="1"—Professional interface.

b. Bit 1—

Bit 1 = "0"—Digital audio signals,

Bit 1 = "1"—Non-audio (data) signals.

c. Bit 2 (the "C" Bit):

i. Case 1—

Bit 2 = "0"—Copyright protection asserted,

Bit 2 = "1"—No copyright protection asserted or not under copyright.

Exception to Case 1

For Digital Receivers (Category Codes 001XXXXL and 0111XXXL), the C Bit shall indicate:

Bit 2 = "0"—Copyright information transmitted and protection asserted, or no copyright information transmitted,

Bit 2 = "1"—Copyright information transmitted and no copyright protection asserted.

ii. Case 2—

Where a single digital audio output signal results from the combination of more than one digital audio input signal:

Bit 2 = "0"—Copyright protection asserted over at least one of the constituent digital audio input signals,

Bit 2 = "1"—For all of the constituent digital audio input signals, no copyright protection asserted or not under copyright.

2. Bits 3-7:

Specific bit settings for Bits 3-7 are not necessary for the implementation of the SCMS Standard set forth in Part II.

3. Category Code Bits 8-15:

a. Bits 8-15—

The Category Codes that follow are established for particular product groups. Where Bit 15 is represented by "L" rather than a zero or one, Bit 15 (the "L" Bit) can be either a zero or one without affecting the Category Code. Where Bit 15 is represented by "X" rather than a zero or one, the device is not capable of issuing status information concerning the L Bit.

00000000—General. This category applies to products that are capable of sending channel status data but are not programmed to send such data in accordance with the specifications set forth in this Memorandum, because the products were manufactured before the implementation of this Digital Audio Interface Standard and the Serial Copy Management System Standard. This General Category Code shall not be used for products manufactured after the effective date of the Act.

0000001L—Experimental products not for commercial sale.

100XXXXL—Laser-optical products, such as compact disc players (including recordable and erasable compact disc players) and videodisc players with digital audio outputs.

010XXXXL—Digital-to-digital ("D/D") converters and signal processing products.

110XXXXL—Magnetic tape or disc based products, such as DAT players and recorders.

001XXXXL and 0111XXXL—Digital reception of digitally-encoded audio signals with or without video signals, including Digital Cable or Digital Broadcast Receivers.

101XXXXL—Musical instruments, microphones and other sources that create original digital audio signals.

01100XXX—Analog-to-digital ("A/D") converters for analog signals without status information concerning the C Bit and the L Bit ("Present A/D converters").

01101XXL—A/D converters for analog signals which include status information concerning the C Bit and the L Bit ("Future A/D converters").

0001XXXL—Solid state memory based products.

Particular devices within each product group defined above shall be assigned specific Category Codes in accordance with IEC 958. Manufacturers of any device that is capable of supplying a digital audio input to a DAT recorder must use the most specific Category Code applicable to that particular device. However, digital signal processing or digital signal mixing products in Category Code product group "010XXXXL" should issue the Category Code for Present A/D converters where all the input signals have the Category Code for a Present A/D converter.

b. Bit 15 (the "L" Bit):

The L Bit shall be used to identify the generation status of the digital audio input signal as emanating from an "original" work or from a first-generation or higher recording.

1. Case 1—

For all Category Codes (except as explicitly set forth below), the L Bit shall indicate:

Bit 15="0"—First-generation or higher recording,

Bit 15="1"—"Original" work, such as a commercially released pre-recorded DAT tape—

a. Exception (a) to Case 1—

The reverse situation is valid for laser optical products (100XXXXL). For this Category Code the L Bit shall indicate:

Bit 15="1"—First-generation or higher recording,

Bit 15="0"—"Original" recording, such as a commercially released pre-recorded compact disc.

b. Exception (b) to Case 1—

For Digital Receivers (Category Codes 001XXXXL and 0111XXXL), Bit 15 always shall be set as "0"; except for receivers for Electronic Audio Software Delivery, for which the L Bit shall indicate:

Bit 15="0"—Generation status information transmitted as original status material or no generation status information transmitted,

Bit 15="1"—Generation status information transmitted as for non-original material.

c. Exception (c) to Case 1—

The L Bit has no meaning for A/D converters for analog signals that do not include status information concerning the C Bit and the L Bit (*i.e.*, A/D converters in Category Code 01100XXX).

2. Case 2—

Where a single digital audio output signal results from the combination of more than one digital audio input signal:

Bit 15="0"—One or more of those constituent digital audio input signals over which copyright protection has been asserted is first-generation or higher.

Bit 15="1"—All other cases.

II.—SERIAL COPY MANAGEMENT SYSTEM FOR "NON-PROFESSIONAL MODEL" DAT RECORDERS

The Serial Copy Management System Standard applies only to digital audio tape recorders that are not professional model DAT recorders as defined under the Act.

The general intention of the SCMS Standard is to prevent non-professional model DAT recorders from making second-generation or higher digital recordings of "original" digital audio input signals over which copyright protection has been asserted via the channel status bits. The SCMS Standard does not prevent the making of a first-generation recording of such "original" digital audio signals. As future technologies permit, the SCMS Standard will limit the digital recording by a DAT recorder of analog audio signals over which copyright protection has been asserted to the making of only a first-generation digital copy. However, because present technology does not identify whether analog audio signals are protected by copyright, the SCMS Standard will not prevent the making of a first and second-generation digital copy of such signals. The SCMS Standard will not restrict digital recording of material over which copyright protection has not been asserted via the channel status bits of the digital audio input signal.

A. Summary of mandatory serial copy management system standard

To implement the Serial Copy Management System, the SCMS Standard requires that a DAT machine must play-back and/or record specific inaudible data in a particular location on a digital audio tape. According to the IEC documents "IEC XXX part 1: Digital Audio Tape Cassette System (DAT) Dimensions and Characteristics" and "Part 6: Serial copy management system for consumer audio use DAT recorders," that particular location on the digital audio tape consists of two bits known as "subcode ID6 in the main ID in the main data area" ("ID6").

1. SCMS Operation When Playing a DAT Tape—

With respect to the play-back function, a DAT machine that is connected to another DAT recorder can provide digital audio output signals via a non-professional interface. In that circumstance, the DAT play-back machine functions as a digital audio interface device that must provide channel status data conforming to the Digital Audio Interface Standard set forth above in Part I. The SCMS Standard requires that when a digital audio tape is played back, the DAT play-back machine reads the information from ID6 on the tape and then sends the corresponding channel status data (concerning Bit 2 "the C Bit" and Bit 15 "the L Bit"), along with the Category Code for a DAT machine, in its digital audio output signal. The channel status data to be sent in response to the various settings of ID6 are as follows:

1. Where ID6 is set as "00", copyright protection has not been asserted over the material under the SCMS Standard. In response to ID6, the digital audio signal output of the DAT will provide the C Bit set as "1" and the L Bit set as "0".

2. Where ID6 is set as "10", copyright protection has been asserted over the material under the SCMS Standard and the recording is not "original". In response to ID6, the digital audio output signal of the DAT will provide the C Bit set as "0" and the L Bit set as "0".

3. Where ID6 is set as "11", copyright protection has been asserted over the material under the SCMS standard and the recording is "Original". In response to ID6, the digital audio output signal of the DAT will provide the C Bit set as "0" and the L Bit set as "1".

2. SCMS Operation When Recording on DAT Tape—

With respect to the recording function, the SCMS Standard governs the circumstances and manner in which a DAT recorder may record a digital audio input signal. A DAT recorder implementing the SCMS Standard must be capable of acknowledging the presence or absence of specific channel status information being sent to the DAT recorder via its digital audio input. The DAT recorder then responds to that channel status information by either preventing or permitting the recording of that digital audio input signal. If recording is permitted, the DAT machine records specific codes in ID6 on the tape, so that when the tape is played back, the DAT machine will issue the correct channel status data in its digital audio output signal. The settings of ID6 to be recorded in response to particular channel status bit information are as follows:

1. Where the C Bit of the digital audio input signal is set as "0" (copyright protection asserted), the DAT recorder shall not record the input, expect in three circumstances: (1) where the input is original material (i.e., where the digital audio input signal comes from one of the products on the "Category Code White List" set forth below in section C); (b) where the digital audio input signal contains an undefined Category Code (in which case only one generation of recording in permitted); or, (c) where the digital audio input signal comes from a product with a defined Category Code but the product currently is not capable of transmitting information regarding copyright protection (in which case, two generations of copying are possible). In circumstances (a) and (b) above, the DAT recorder will record "10" in ID6 to prevent further copying. In circumstance (c) above, the DAT recorder will record "11" in ID6 for the first-generation copy.

2. Where the C Bit of the digital audio input signal is set as "1" (no copyright protection asserted or not copyrighted), the DAT recorder will record "00" in ID6, and unlimited generations on copying will be permitted.

3. Where the C bit of the digital audio input signal fluctuates between "0' and "1" at a rate of between 4-10 Hz, the signal is coming from a recordable or erasable compact disc that is not an "original" and that contains material over which copyright protection has been asserted. The DAT recorder shall not record in this circumstance.

4. The condition "01" in ID6 has been assigned no meaning within the SCMS Standard. Therefore, to prevent circumvention of the SCMS Standard, the DAT recorder shall not record "01" in ID6 on the tape.

B. Mandatory standards for the serial copy management system

1. Mandatory Standards for Digital Audio Output Signals—

a. Category Code Bit 15 (the "L" Bit)—

All "non-professional mode" DAT recorders shall provide the Category Code "1100000L" in the channel status bits of the digital audio output signal. The status of the L Bit of the Category Code shall be provided in the digital audio output signal of the DAT recorder as follows, in accordance with the status of ID6:

When ID6 is "00", the digital audio output signal shall indicate in the L Bit of the Category Code that the output source is either a first-generation or higher DAT tape recorded from a "original" source, or an "original" commercially released prerecorded DAT tape of masterial over which copyright protection is not being asserted under the SCMS standard. In either of these cases, the L Bit shall be set as "0", and the complete Category Code would be "11000000".

When ID6 is "10" the digital audio output signal shall indicate in the L Bit of the Categorey Code that the output source is a first-generation or higher DAT tape recorded from an "original" source (*i.e.*, L bit = "0"). The complete Category Code in this case would be "11000000".

When ID6 is "11", the digital audio output signal shall indicate in the L Bit of the Category Code that the output source is an "original' source, such as a commercially released prerecorded DAT tape (*i.e.*, L Bit = "1"). The complete Category Code in this case would be "11000001".

b. Bit 2 (the "C" bit—

All non-professional model DAT recorders shall provide an output code in the C bit in the channel status bits of a digital audio output signal. The C bit shall be applied in the digital audio output signal as follows, in accordance with the status of ID6:

When ID6 is "00", the C Bit shall be set as "1".

When ID6 is "10" or "11", the C Bit shall be set as "0".

2. Mandatory Standards for Recording Functions—

The SCMS Standard with respect to recording functions performed by a non-professional model DAT recorder receiving digital audio input signals shall be implemented as follows:

1. Digital audio input signals in which the C Bit is set as "0" shall not be recored, except for the cases specified below in paragraphs 2, 4 and 5.

2. A DAT recorder may record a digital audio input signal in which the C Bit is set as "0", where the Category Code of the signal is listed in the "Category Code White List" set forth below. The DAR recorder shall record "10" in ID6 on the tape in this case.

3. For digital audio input signals in which the C Bit is set as "1", the DAR recorder shall record "00" in ID6 on the tape except for those cases specified below in paragraphs 4 and 5.

4. For digital audio input signals that contain Category Code information that is not defined in this memorandum, the DAT recorder shall record "10" in ID6, regardless of the status of the C Bit or the L Bit.

5. For digital audio input signals originating from an A/D converter with the Category Code "01100XXL", or from other sources such as from A/D converters with the Category Code for "General" ("00000000"), the

DAT recorder shall record "11" in ID6, regardless of the status of the C Bit or the L Bit. This requirement shall be applied to digital input signals that do not contain source information of the original signal before digitization, e.g., an A/D converter that does not deliver source information.

6. For digital input signals originating from an A/D converter with the Category Code "01101XXL", which can deliver original source information concerning the C Bit and L Bit even if the source is in analog format, the requirement stated above in paragraph 5 shall not be applied. The "Category Code White List" set forth below includes this Category Code.

7. A digital audio tape of "original" generation status over which copyright protection has been asserted shall contain "11" in ID6. A digital audio tape of "original" generation status over which no copyright protection as been asserted shall contain "00" in ID6.

8. A DAT recorder shall not record digital audio input signals where the C Bit alternates between "0" and "1" at a frequency of between 4 and 10 Hz and the Category Code is for a Compact disc digital audio signal ("10000000"), as in the case of digital audio input signals from recordable or erasable compact discs that are not "original" and that contain material over which copyright protection has been asserted.

9. A non-professional model DAT recorder shall not record digital audio input signals sent from a professional interface, i.e., where channel status Bit 0 is set as "1".

10. the condition "01" in ID6 is not to be used.

11. Category codes and the C Bit included in the channel status information of digital audio input signals being sent to or by a DAT recorder shall not be deleted or modified and shall be monitored continuously and acted upon accordingly.

C. "Category code white list"

100XXXX0—Laser optical product.

010XXXX1—Digital-to-digital converter and signal processing devices.

110XXXX1—Magnetic tape and disc based product.

001XXXX0 and 0111XXX0—Digital reception of digitally encoded audio signals with or without video signals, such as Digital Cable and Digital Broadcast Receivers.

101XXXX1—Musical instruments.

01101XX1—Future A/D converter (with status information concerning the C Bit and L Bit).

0001XXX1—Solid state memory based product.

00000011—Experimental products not for commercial sale.

PART III. APPLICATION OF THE DIGITAL AUDIO INTERFACE AND SCMS STANDARDS

The following charts apply and correlate those codes that are mandated by the Digital Audio Interface Standard and SCMS Standard under the Act, in those situations contemplated by these standards. The columns in each of these charts identify the following information:

The "Signal Source" column describes the type of product sending the digital audio signal to a DAT recorder.

The three columns under the heading "Digital Audio Input Signal" identify the correct channel status information in the C Bit, Category Code Bits 8-14 and the L Bit, respectively which correspond to each product. The "Digital Audio Input Signal" described below is the signal being sent to the DAT recorder.

The next three columns under the heading "DAT Recorder Response" identify the response of the DAT recorder to the corresponding digital audio input signal. The column "ID6" specifies the code that the DAT recorder will record on the tape in ID6 in response to the digital audio input signal. The last two columns set forth the correct channel status information in the C Bit and L Bit that are sent in the digital audio output signal of a DAT recorder in response to the setting of ID6.

Each of the appropriate codes is set forth in the cases described below:

CASE 1.—WHERE COPYRIGHT PROTECTION HAS BEEN ASSERTED OVER THE DIGITAL AUDIO INPUT, AND THE SOURCE OF THE INPUT IS "ORIGINAL" MATERIAL

[Only first-generation recording permitted]

Signal source	Digital audio input signal			DAT recorder response		
	C bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C bit (Bit 2)	L bit (Bit 15)
Laser optical	0	100XXXX	0	10	0	0
D/D converter	0	010XXXX	1	10	0	0
Magnetic prod	0	110XXXX	1	10	0	0
Musical instrum	0	101XXXX	1	10	0	0
Future A/D conv	0	01101XX	1	10	0	0
Digital receiver	0	001XXXX	o	10	0	0
Digital receiver	0	0111XXX	0	10	0	0
Experimental	0	0000001	1	10	0	0
Solid state dev	0	0001XXX	1	10	0	0

CASE 2.—WHERE COPYRIGHT PROTECTION HAS NOT BEEN ASSERTED OVER THE DIGITAL AUDIO INPUT, AND THE SOURCE OF THE INPUT IS "ORIGINAL" MATERIAL

[First-generation and above recording permitted]

Signal source	Digital audio input signal			DAT recorder response		
	C bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C bit (Bit 2)	L bit (Bit 15)
Laser optical	1	100XXXX	0	00	1	0
D/D converter	1	010XXXX	1	00	1	0
Magnetic prod	1	110XXXX	1	00	1	0
Musical instrum	1	101XXXX	1	00	1	0
Future A/D conv	1	01101XX	1	00	1	0
Digital receiver	1	001XXXX	0	00	1	0
Digital receiver	1	0111XXX	0	00	1	0
Experimental	1	0000001	1	00	1	0
Solid state dev	1	0001XXX	1	00	1	0

CASE 3.—WHERE COPYRIGHT PROTECTION HAS BEEN ASSERTED OVER THE DIGITAL AUDIO INPUT, AND THE SOURCE OF THE INPUT TO THE DAT RECORDER IS NOT "ORIGINAL" MATERIAL

[No recording permitted]

Signal source	Digital audio input signal			DAT recorder response		
	C bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C bit (Bit 2)	L bit (Bit 15)
Laser optical	0	100XXXX	1	00	1	0
D/D converter	0	010XXXX	0	00	1	0
Magnetic prod	0	110XXXX	0	00	1	0
Musical instrum	0	101XXXX	0	00	1	0
Future A/D conv	0	01101XX	0	00	1	0
Experimental	0	0000001	0	00	1	0
Solid state dev	0	0001XXX	0	00	1	0

CASE 4.—WHERE COPYRIGHT PROTECTION HAS NOT BEEN ASSERTED OVER THE DIGITAL AUDIO INPUT, AND THE SOURCE OF THE INPUT TO THE DAT RECORDER IS NOT "ORIGINAL" MATERIAL

[Second-generation and above recording permitted]

Signal source	Digital audio input signal			DAT recorder response		
	C bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C bit (Bit 2)	L bit (Bit 15)
Laser optical	1	100XXXX	1	00	1	0
D/D converter	1	010XXXX	0	00	1	0
Magnetic prod	1	110XXXX	0	00	1	0
Musical instrum	1	101XXXX	0	00	1	0
Future A/D conv	1	01101XX	0	00	1	0
Experimental	1	0000001	0	00	1	0
Solid state dev	1	0001XXX	0	00	1	0

CASE 5.—WHERE THE DIGITAL AUDIO INPUT SIGNAL INCLUDES CATEGORY CODE INFORMATION, BUT CANNOT PROVIDE INFORMATION CONCERNING COPYRIGHT PROTECTION OF THE SOURCE

[First- and second-generation recording permitted]

Signal source	Digital audio input signal			DAT recorder response		
	C bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C bit (Bit 2)	L bit (Bit 15)
General	X	0000000	0	11	0	1
Present A/D Con	X	01100XX	X	11	0	1

CASE 6.—WHERE THE DIGITAL INPUT SIGNAL DOES NOT INCLUDE A DEFINED CATEGORY CODE

[First-generation recording permitted]

Signal source	Digital audio input signal			DAT recorder response		
	C bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C bit (Bit 2)	L bit (Bit 15)
Undefined	X		X	10	0	0

CASE 7.—WHERE COPYRIGHT PROTECTION HAS BEEN ASSERTED OVER THE DIGITAL AUDIO INPUT FROM A RECORDABLE OR ERASABLE COMPACT DISC THAT IS NOT AN "ORIGINAL" BY FLUCTUATING THE C BIT AT A RATE BETWEEN 4–10 HZ

[No recording permitted]

Signal source	Digital audio input signal			DAT recorder response		
	C bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C bit (Bit 2)	L bit (Bit 15)
CD Player	0/1	1000000	0	—	–	–

CASE 8.—WHERE THE DIGITAL SIGNAL TRANSMITTED TO A DIGITAL RECEIVER DOES NOT INCLUDE INFORMATION CONCERNING COPYRIGHT PROTECTION

[Only first-generation recording permitted]

Signal source	Digital audio input signal			DAT recorder response		
	C bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C bit (Bit 2)	L bit (Bit 15)
Digital receiver	0	001XXXX	0	10	0	0
Digital receiver	0	0111XXX	0	10	0	0

CASE 9.—WHERE THE DIGITAL SIGNAL TRANSMITTED TO A RECEIVER FOR ELECTRONIC AUDIO SOFTWARE DELIVERY PROVIDES GENERATION STATUS INFORMATION AS IF THE STATUS WERE FIRST-GENERATION OR HIGHER

[No recording permitted]

Signal source	Digital audio input signal			DAT recorder response		
	C bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C bit (Bit 2)	L bit (Bit 15)
Digital receiver	0	001XXXX	1	—	–	–
Digital receiver	0	0111XXX	1	—	–	–

CONGRESS MUST ACT TO PROTECT THE CREATORS OF AMERICA'S MUSIC

Mr. WILSON. Mr. President, the development of technology brings with it great opportunities: To produce more with less effort, to solve complex problems as diverse as mapping distant planets and mapping our own genetic makeup, and to even enjoy with startling reality the artistic endeavors of musicians.

As these opportunities present themselves, they often are accompanied by challenges, especially to those of us with the responsibility to amend our laws to keep pace—to ensure that as technology serves to benefit some it does not endanger the rights of others.

This is the very situation we face with the advent of a new technology that allows perfect reproduction of prerecorded music.

For all of us all who marvel at the creativity of musicians and those

whose music they perform, digital technology—in the form of compact discs—has provided an opportunity to appreciate recorded music almost as though it is being performed in front of us.

Unfortunately, this same digital technology—now is the form of digital audio tape—is very much endangering the legitimate interests of those same composers and performers.

Ultimately, if these interests are not protected, we will all lose the opportunity to enjoy the rich diversity of America's music community.

Mr. President, the law must keep pace with technology, and it is our responsibility to see that it does.

Today, the Senator from Arizona, Senator DECONCINI, is introducing a bill that proposes a solution to the DAT problem. The Senator has shown great leadership on many intellectual property issues—such as bringing to the floor legislation implementing the Berne Convention, revising our trademark laws, and promoting protecting of our biotechnology industry—so it is not surprising that he is sponsoring this remedial copyright legislation.

Mr. President, I commend Senator DECONCINI for his efforts, for he brings to the attention of the Senate a thoughtful proposal to protect the interests of all of those who create music for us to enjoy. Just as clearly, they are entitled to be compensated for their artistic endeavors.

Music is art, but is also a business, and Congress must not, through inaction, allow technology to run rampant over composers, musicians, and all of the others in the music industry.

That is why we need legislation.

Those in the music industry who support the DeConcini bill feel it is needed as a stopgap measure to slow the hemorrhaging that this currently draining the support that a vital music industry requires. Yet, there are others in the music industry who fear that an endorsement of the DeConcini proposal would indicate an abandonment of a justly deserved royalty system.

Mr. President, there is an absolute consensus in the music industry that Congress must act to respond to the threat posed by digital recording technology—today it is from digital audio tape, tomorrow it will be from recordable compact discs. Similarly, there is a full consensus that a royalty system should exist to compensate composers, artists, and the others who bring us recorded music for the harm they suffer from the copying of their works.

So, there is an overall consensus on what needs to be achieved. Unfortunately, there is not yet a similar consensus on the tactics to be used to reach this goal.

Mr. President, we need a royalty system. When negotiators for the music and electronics industries reached an agreement last year in Athens, they implicitly acknowledged the legitimacy of a royalty system—but only in Europe.

Mr. President, American consumers are certainly as willing as Europeans to support the arts. A royalty system is certainly as important for us to adopt in the United States as it is for the Europeans.

Indeed, with the long-overdue emphasis in the GATT on the need to protect intellectual property rights, once the Uruguay round ends one can only wonder how long it will be before Europeans file a trade complaint over our unwillingness to fairly compensate their creators of music with a royalty system.

Mr. President, Congress should have been ahead of the curve, or at least on top of it, by passing a royalty system for copyright holders whose works are regularly reproduced. The sad truth is that Congress is very much behind the curve.

Many are rightfully willing to come to the floor of the Senate and the House to chastise other countries for failing to protect the interests of U.S. intellectual property right holders. Yet, when we are devouring our own, the Congress is unable or unwilling to act.

Mr. President, we should demand of ourselves the same respect for intellectual property rights that we demand from others.

Mr. President, time is certainly of the essence. Already, DAT machines are being sold in this country—even in my own State, in Santa Monica. Therefore, action must be taken this year.

Mr. President, it is my understanding that the bill being introduced by the Senator from Arizona will be referred to the Commerce Committee. I urge that committee to begin hearings on this issue at the earliest possible time. It should take testimony from all interested parties—both from interested industries and from the public.

What is most important is that all parties should come forward, in good faith, to reach a consensus. To this end, the DeConcini bill, as well as alternative proposals, should be given fair and thorough consideration.

I urge the Commerce Committee to bring DAT legislation to the Senate this session. In this way the threat of technology can be dissipated while the opportunities it presents can be made available to the American public.

The bottom line is that we should find the best solution and put it in place this year. Every day that a workable solution is not in place is another day that America's composers and musical performers, and America's entire music industry, are at risk. This serves no one's interests—not the music industry's and not the public's.

By Mr. ROCKEFELLER:

S.J. Res. 278. Joint resolution designating July 19, 1990, as "Flight Attendant Safety Professionals' Day"; to the Committee on the Judiciary.

FLIGHT ATTENDANT SAFETY PROFESSIONALS' DAY

● Mr. ROCKEFELLER. Mr. President, today I am introducing a resolution to designate July 19, 1990, "Flight Attendant Safety Professionals' Day." The purpose is to give highly deserved recognition to the role of our Nation's flight attendants in protecting the safety of the public.

Since 1952, the Federal Aviation Regulations have required flight attendants on board all commercial airliners to protect the well-being of passengers. Flight attendants are on board to help with in-flight fires, decompressions, severe turbulence, hijackings, terrorists' acts and medical emergencies, as well as during evacuation after crashes.

One year ago, I stood before you and introduced a similar resolution. At that time, I talked about the heroic actions of the flight attendants on United Flight 811 who calmed their passengers when a cargo door blew off over the Pacific Ocean. These flight attendants' professionalism during the 25 minutes it took to land in Hawaii, and during the evacuation, were crucial in saving hundreds of lives.

Today I stand before you with further tales of flight attendant heroism and courage. Last July 19, United Flight 232 crashed in Sioux City, IA killing 112 passengers aboard the flight. News coverage of this horrible incident was graphic and we were all amazed that so many of the 297 passengers survived the tumbling crash. Survivors of the fiery DC-10 crash credited the flight attendants aboard that flight for helping them escape the wreckage. Passenger after passenger praised the calm, courageous, and herioc work of the flight attendants on that flight. Of the 112 people who lost their lives, one was flight attendant Rene LeBeau who as several months short of completing her first year of service.

Less than 2 months later, during takeoff at LaGuardia Airport, USAir Flight 5050 slid off the runway and into the East River. Four flight attendants battled noxious fumes in the darkened cabin to quickly evacuate passengers in the freezing river. After making sure the passengers has seat cushions to keep them afloat, they called the passengers around them to maintain calm in the darkness until help finally arrived 30 minutes later.

Following each air disaster, we hear of the heroism of the flight attendants working the flight. Time and time again, we see the important safety role flight attendants play on the aircraft. That is why I am again introducing this resolution proclaiming July 19,

1990, as Flight Attendant Safety Professionals' Day.

For years, flight attendants have vigorously lobbied for safety improvements through the Federal Aviation Administration and within their airlines, and have worked diligently to educate the flying public of safety procedures. Flight attendants have given their lives to save passengers in emergency evacuations.

The passage of this resolution by Congress will pay tribute to flight attendant safety professionals and the important role they play in aviation safety. I urge all my colleagues in the Senate to join me in honoring the flight attendant safety professionals by cosponsoring this resolution.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RESOLUTION 278

Whereas Federal aviation regulations, since 1952, have required flight attendants on board all commercial airlines to safeguard the well-being of passengers;

Whereas flight attendants are trained to respond to medical emergencies and have assisted in saving passengers' lives in emergencies caused by strokes, heart attacks, and so forth;

Whereas flight attendants' professionalism and calmness in evacuations of crashed airplanes have saved thousands of lives that otherwise would have been lost;

Whereas flight attendants have given their lives to save passengers in emergency evacuations, sustaining an on-the-job fatality rate higher than that of police officers;

Whereas flight attendants have assisted in hundreds of in-flight emergencies due to hijackings, terrorist acts, decompressions, and severe turbulence; and

Whereas flight attendants have virgorously strived for safety improvements at their airlines and the Federal Aviation Administration and have worked diligently to educate the flying public of safety procedures: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 19, 1990 is designated as "Flight Attendant Safety Professionals' Day", and the President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 190

At the request of Mr. MATSUNAGA, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 190, a bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay without reduction in the amount of the compensation and retired pay.

S. 277

At the request of Mr. HUMPHREY, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 277, a bill to amend title 5, United States Code, to provide child adoption benefits for Federal Government employees.

S. 278

At the request of Mr. HUMPHREY, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 278, a bill to make permanent the authority of the Secretary of Defense to reimburse members of the Armed Forces for certain expenses incurred in the adoption of children.

S. 279

At the request of Mr. HUMPHREY, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 279, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income employee adoption assistance provided by the employer.

S. 619

At the request of Mr. SARBANES, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 619, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 849

At the request of Mr. DASCHLE, the names of the Senator from Michigan [Mr. LEVIN], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 849, a bill to repeal section 2036(c) of the Internal Revenue Code of 1986, relating to valuation freezes.

S. 874

At the request of Mr. FORD, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 874, a bill to establish national voter registration procedures for Presidential and congressional elections, and for other purposes.

S. 1006

At the request of Mr. LEAHY, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1006, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

S. 1273

At the request of Mr. BOREN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1273, a bill to amend the Internal Revenue Code of 1986 with respect to treatment by cooperatives of gains or losses from sale of certain assets.

S. 1405

At the request of Mrs. KASSEBAUM, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1405, a bill to ensure the eligibility of displaced homemakers and single parents for Federal assistance for first-time home buyers.

S. 1634

At the request of Mr. PRYOR, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1634, a bill to enhance drug interdiction in rural areas.

S. 1681

At the request of Mr. HUMPHREY, the names of the Senator from Texas [Mr. GRAMM], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 1681, a bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with knowledge that such abortion is being performed solely because of the gender of the fetus, and for other purposes.

S. 2048

At the request of Mr. SARBANES, the names of the Senator from California [Mr. CRANSTON], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 2048, a bill to provide for cost-of-living adjustments in 1991 under certain Government retirement programs.

S. 2056

At the request of Mr. HARKIN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2056, a bill to amend title XIX of the Public Health Service Act to provide grants to States and implement State health objectives plans, and for other purposes.

S. 2085

At the request of Mr. GORE, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 2085, a bill to amend the Organ Transplant Amendments Act of 1988 to change an effective date.

S. 2159

At the request of Mr. BOSCHWITZ, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 2159, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 2210

At the request of Mr. D'AMATO, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2210, a bill to provide for preservation of competitive rail freight service routes in the Northeastern United States.

S. 2222

At the request of Mr. BRADLEY, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Colorado [Mr. ARMSTRONG], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 2222, a bill to amend the Internal Revenue Code of 1986 with respect to the tax

treatment of payments under life insurance contracts for terminally ill individuals.

S. 2229

At the request of Mr. DODD, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2229, a bill to reauthorize the Head Start Act for fiscal years 1991 through 1994, and for other purposes.

S. 2256

At the request of Mr. HARKIN, the names of the Senator from Maine [Mr. COHEN], the Senator from Indiana [Mr. COATS], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 2256, a bill to amend title XIX of the Public Health Service Act to clarify the provisions of the allotment formula relating to urban and rural areas, and for other purposes.

S. 2313

At the request of Mr. BIDEN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2313, a bill to provide emergency Federal assistance to drug emergency areas.

S. 2315

At the request of Mr. MCCONNELL, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 2315, a bill to amend the Agricultural Act of 1949 to provide soybean producers with fair income and freedom of planting choice support, and to eliminate any indirect subsidization of foreign oilseed production.

S. 2317

At the request of Mr. MCCONNELL, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2317, a bill to require Federal, State, and local law enforcement agencies to report all cases of missing persons under age 18 to the National Crime Information Center of the Department of Justice.

SENATE JOINT RESOLUTION 195

At the request of Mr. D'AMATO, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Joint Resolution 195, a joint resolution proclaiming Christopher Columbus to be an honorary citizen of the United States.

SENATE JOINT RESOLUTION 224

At the request of Mr. BYRD, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of Senate Joint Resolution 224, a joint resolution to designate the month of May 1990 as "National Trauma Awareness Month."

SENATE JOINT RESOLUTION 265

At the request of Mr. DODD, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of Senate Joint Resolution 265, a joint resolution commemorating May 18, 1990, as the 25th anniversary of Head Start.

SENATE JOINT RESOLUTION 269

At the request of Mr. D'AMATO, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Joint Resolution 269, a joint resolution authorizing and requesting the President to designate the second week of March 1990 as "National Employ the Older Worker Week."

SENATE RESOLUTION 239

At the request of Mr. DECONCINI, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Arizona [Mr. MCCAIN], and the Senator from Utah [Mr. GARN], were added as cosponsors of Senate Resolution 239, a resolution expressing the sense of the Senate denouncing the military offensive in Angola and urging an immediate cease-fire.

AMENDMENT NO. 1330

At the request of Mr. SPECTER, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of amendment No. 1330 proposed to S. 1630, a bill to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

At the request of Mr. HEINZ, his name was added as a cosponsor of amendment No. 1330 proposed to S. 1630, supra.

AMENDMENTS SUBMITTED

CLEAN AIR ACT AMENDMENTS

FOWLER (AND OTHERS) AMENDMENT NO. 1396

(Ordered to lie on the table.)

Mr. FOWLER (for himself, Mr. HATFIELD, Mr. MCCLURE, and Mr. MATSUNAGA) submitted an amendment intended to be proposed by them to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes, as follows:

On page 413 of the amendment between Table A and line 1, insert the following new subsections:

"(e) RENEWABLE ENERGY TECHNOLOGY RESERVE.—(1) Notwithstanding any other provision of law, beginning on January 1, 1995, the Administrator may allocate from a Renewable Energy Technology Reserve a tonnage amount equal to a total of 80,000 tons of allowances for emissions of sulfur dioxide pursuant to section 403, in an annual amount to be determined by the Administrator subject to paragraph (2) to owners or operators of affected units at affected sources. Such allowances shall be allocated to an owner or operator described in this subparagraph in an amount calculated pursuant to paragraph (2) if, beginning on January 1, 1991, such owner or operator—

"(A) generates electricity at a new renewable energy power plant (as defined in paragraph (4)); or

"(B) purchases electric energy generated at a new renewable energy power plant owned or operated by any person other than the owner or operator of an affected source.

"(2) The Administrator shall allocate annual allowances from the Renewable Energy Technology Reserve pursuant to paragraph (1) as follows:

"(A) Any annual allowance allocated under this subparagraph shall be allocated in a tonnage amount equal to the number of kilowatt hours generated or purchased by the owner or operator (as described in paragraph (1)), multiplied by the emissions rate of the lowest emitting coal- or oil-fired unit of the operating company applying for the allowance (as defined by the Administrator in concurrence with the Secretary of Energy, and excluding any oil- and gas-fired unit with an average annual fuel consumption for calendar year 1985 that, on a Btu basis, exceeded 90 per cent consumption in the form of natural gas), divided by 2000. (The product of such calculation shall be divided by 100 to reflect the conversion rate between Btus and kilowatt hours, assuming a heat transfer of 10,000 Btus per kilowatt hour).

"(B) Allowances allocated under this paragraph shall be allocated in accordance with the order of receipt of applications for such allowances.

"(3) Beginning on January 1, 2000, the Administrator shall deduct an tonnage amount equal to 8,000 tons per year for a period of 10 years from the annual allocation of allowances for units subject to the requirements of section 405 on a pro rata basis. Such allowances shall be deposited in the Renewable Energy Technology Reserve. The pro rata share for each such unit shall be calculated on the basis of the allowances that would be allocated pursuant to paragraphs (1) and (3) of section 405(b), paragraphs (1), (2), and (3) of section 405(c), subsections (e) and (f) of section 405, paragraphs (1) and (2) of section 405(g), paragraph (1) of section 405(h), and the equivalent of the emissions limitations requirements of paragraphs (4) and (5) of section 405(d).

"(4) As used in this subsection, the term 'new renewable energy power plant' means a power plant for which construction is initiated on or after January 1, 1991, or which realizes a significant increase in energy output (as defined and determined by the Administrator, in concurrence with the Secretary of Energy) attributable to the replacement of renewable energy equipment (as defined and determined by the Administrator, in concurrence with the Secretary of Energy) installed prior to January 1, 1991, by more efficient or productive renewable energy equipment (as determined by the Administrator in concurrence with the Secretary of Energy), and that operates primarily on energy derived from—

"(A) solar sources;

"(B) geothermal sources;

"(C) biomass sources; or

"(D) wind sources.

"(f) APPLICATION FOR ALLOWANCES FROM THE RENEWABLE ENERGY TECHNOLOGY RESERVE.—The owner or operator of an affected unit under subsection (a) may submit an application to the Administrator at any time after January 1, 1991, for allowances from the Renewable Energy Technology

Reserve to be calculated using the formula described in subparagraph (A) of subsection (e)(2). Such application shall include—

"(1) the number of kilowatt hours the affected units generated or purchased from a new renewable energy power plant as defined in subsection (e)(4); and

"(2) documentation of kilowatt hours generated or purchased as recorded in a certified meter reading from the point of entry into the utility grid, or in an executed sales contract.

"(g) ACTION BY ADMINISTRATOR.—(1) The Administrator, in consultation with the Secretary of Energy, shall approve or disapprove an application submitted pursuant to subsection (f) not later than 6 months after receipt of the application. If an application proposal does not meet the requirements of subsection (f), the Administrator shall disapprove the application.

"(2) If the Administrator approves an application submitted pursuant to subsection (f), the Administrator shall notify the applicant in writing of the number of allowances to be received pursuant to this paragraph. On or after January 1, 1995, the Administrator shall allocate allowances for the affected units in accordance with amount specified in the written notification described in this subparagraph, upon written request by the owner or operator of the affected units at the affected source.

SANFORD (AND OTHERS) AMENDMENT NO. 1397

(Ordered to lie on the table.)

Mr. SANFORD (for himself, Mr. DURENBERGER, Mr. ADAMS, Mr. GORTON, Mr. KOHL, Mr. BUMPERS, Mr. PRYOR, Mr. LIEBERMAN, Mr. DODD, Mr. ROTH, and Mr. BOREN) submitted an amendment intended to be proposed by them to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 392, line 4, add the following new definition:

"(s) The term 'designated representative' means a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit."

On page 392, line 4, add the following new definition:

"(t) The term 'life-of-the-unit, firm power contractual arrangement' means a contractual arrangement under which a utility receives a specified amount or percentage of capacity and associated energy generated by a specified generating unit (or units) and pays its proportional amount of such unit's total costs, for the life of the unit."

On page 392, line 9, strike the words "to the owner or operator of the affected units at an affected source" and substitute "for the unit, to be held or distributed by the designated representative of the owner or operator of each affected unit at an affected source in accordance with this title,".

On page 393, line 22, insert the words "a designated representative of" before the words "an owner or operator".

On page 394, line 14, insert the words "designated representative of" before the words "owner or operator".

On page 394, line 23, strike the words "the applicant" and insert the words "in accordance with the approved application".

On page 396, line 20, insert the words "designated representatives of the" before the words "owners or operators".

On page 397, line 23, insert the words "designated representatives of" before the words "owners or operators".

On page 399, line 21, insert the words "designated representative of" before the words "owner or operator".

On page 399, line 22, strike the words "equal to" and insert the words "for no less than".

On page 400, line 6, insert the words "designated representative of the" before the words "owner or operator".

On page 429, line 5, delete the heading and insert the following before the words "Each permit":

"(b) PERMIT APPLICATIONS AND COMPLIANCE PLANS GENERALLY.—Permit applications required by this section shall be submitted by the designated representative of the owner or operator of the unit, shall identify each person on whose behalf allowances will be received, and shall specify the nature and extent of the interest of each person."

On page 429, line 6, insert the words "submitted by the designated representative of the owner or operator and shall be" before the words "accompanied by".

On page 430, line 5, insert the words "the designated representative of" before the words "the owner or operator".

On page 430, line 14, insert the words "the designated representatives of" before the words "the owners or operators".

On page 430, line 16, strike the words "they notify" and insert after "the Administrator" on line 17 the words "is given prior notification".

On page 432, line 14, insert the words "designated representative of the" before the words "owner or operator".

On page 433, line 9, insert the words "designated representative of the" before the words owner or operator".

On page 433, line 18, insert the words "designated representative of the" before the words "owner or" and substitute the word "operator" for the word "operator".

On page 434, line 19, insert the words "and its designated representative" before the words "(1) to fail to submit".

On page 435, between lines 2 and 3, add the following:

(h) MULTIPLE OWNERS.—No permit under this section shall be issued to an affected unit until the designated representative of the owner or operator has filed a certification concerning the holding and distribution of allowances. Where there are multiple holders of a legal or equitable title to or a leasehold interest in such a unit, or where a utility purchases power from an affected unit under life-of-the-unit, firm power contractual arrangements, the certification shall (1) state that allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual share or, (2) if such multiple holders have expressly provided for a different distribution of allowances by contract, state that allowances will be deemed to be held or distributed in accordance with the contract. A passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected until shall not be deemed to be a holder of a legal, equitable, leasehold or contractual interest for the purpose of holding or distributing allowances as provided in this subsection, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in an affected unit is held by a single person, the certification shall state that all allowances received by the unit are deemed to be held for that person."

MACK AMENDMENTS NOS. 1398 AND 1399

(Ordered to lie on the table.)

Mr. MACK submitted two amendments intended to be proposed by him to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

AMENDMENT NO. 1398

On page 416, line 16, beginning with the word "In" strike all through line 23.

On page 425, after line 12, insert the following:

(i) In addition to allowances allocated pursuant to this section, the Administrator shall allocate and issue, subject to the restrictions of section 403(a)(1), allowances not to exceed 40,000 annually, to units in States that—

(1) have experienced a growth in population in excess of 25 percent between 1980 and 1988 according to State Population and Household Estimates, With Age, Sex, and Components of Change: 1981-1988 issued by the United States Department of Commerce, and

(2) had an installed capacity of more than 30,000,000kw in 1988,

in an amount equal to the difference between (A) the number of allowances that would be allocated to the unit pursuant to the emissions limitation requirements of this section based on the unit's annual average fuel consumption on a Btu basis of any three consecutive calendar years between 1980 and 1989 (inclusive) as elected by the owner or operator and (B) the number of allowances allocated to the unit pursuant to the emissions limitation requirements of this section. If necessary for meeting the 40,000 ton restriction imposed under this subsection the Administrator shall reduce, pro rata, the additional annual allowances allocated to each unit under this subsection.

AMENDMENT NO. 1399

Amend committee substitute, title IV, section 405, page 416, by adding on line 11 after the words "1.20 lbs/mmBtu": "and units included in section 405(b)(3).".

Amend committee substitute, title IV, sec. 405, page 417, by adding on line 10 after the word "factor." the new section:

(3)(A) PROHIBITION UNITS UNDER THE POWER PLANT AND INDUSTRIAL FUEL USE ACT OF 1978 (FUA).—After Janaury 1, 2000, it shall be unlawful for any unit which was issued a prohibition order or a proposed prohibition order (from burning oil) and subsequently converted to coal between January 1, 1980 and December 31, 1985, to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's annual fuel consumption, on a BTU basis, at 65 per centum capacity factor and its actual emission rate during the first full calendar year after conversion, divided by 2,000 unless the owner or operator of such unit has obtained allowances equal to the emissions in excess

of those permitted under this section. In no case shall this subsection allow a utility system containing one or more of these untis to exceed an annual average sulfur dioxide emission rate of 1.2 lbs./mmBtu after December 31, 2000.

(B) The administrator is authorized to issue no more than 20,000 allowances more than would have been alloted to the affected units under section 405(b)(3)(A). If the number of additional allowances generated by section 405(b)(3)(A) is greater than 20,000 tons the administrator will distribute the additional allowances on a prorated basis to the utilities affected by 405(b)(3)(A) based on a ratio of the affected unit's baseline to the total baseline of all the effected units.

BYRD AMENDMENTS NOS. 1400 AND 1401

(Ordered to lie on the table.)

Mr. BYRD submitted two amendments intended to be proposed by him to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

AMENDMENT NO. 1400

Beginning on page 390, line 6, strike out all through page 437, line 24, and in lieu thereof insert the following:

"(1) For the purposes of section 409, (1) the term 'repowering' means replacement of an existing coalfired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or a derivative of one of these techniques, or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler generation efficiency and of achieving signficantly greater solid waste reduction relative to the performance of technology in widespread commercial use as of the date of the enactment of the Clean Air Act Amendments of 1989, as determined by the Administrator, in consultation with the Secretary of Energy.

"(2) For purposes of paragraph (1), the term 'replacement' means (A) the replacement of all or part of an existing unit with equipment or facilities utilizing a repowering technology listed in or pursuant to the first sentence of paragraph (1) of this subsection ('listed technology'), or (B) the replacement of an existing unit with a new designated unit which uses a listed technology and which is located at a different site, but only if (i) the designated replacement unit is identified under section 409(a) to replace such existing unit, (ii) the existing unit will be retired from service on or before the date on which the designated replacement unit enters commercial service, (iii) the designated replacement unit is located in the same air quality control region as the existing unit, and (iv) at such time as the designated replacement unit enters commercial operation, any allowances otherwise available to the existing unit pursuant to section 409(c) shall be transfered to the designated replacement unit.

"(m) The term 'State' means one of the forty-eight contiguous States and the District of Columbia.

"(n) The term 'unit' means a fossil fuel-fired combustion device.

"(o) The term 'actual 1985 emission rate', for electric utility units means the annual sulfur dioxide or nitrogen oxides emission rate in units of pounds per million Btu as reported in the NAPAP Emissions Inventory, Version 2, National Utility Reference File. For non-utility units, the term 'actual 1985 emission rate' means the annual average sulfur dioxide or nitrogen oxides emission rate in units of pounds per million Btu as reported in the NAPAP Emission Inventory, Version 2.

"(p) The term 'utility unit' means a unit that produces electricity for sale. For purposes of this title, a unit that cogenerates steam and electricity shall be considered a utility unit if the unit supplies more than one-third of its potential electric output capacity and more than twenty-five megawatts electrical output to any utility power distribution system for sale.

"(q) The term 'allowable 1985 emissions rate' means the emissions limitations for sulfur dioxide and oxides of nitrogen, expressed as a rate in units of pounds of emissions per million Btu, of a federally enforceable emissions limitation applicable to a unit in 1985. Where the emissions limitation for a unit is not expressed, or the averaging period of that emission rate is not expressed on an annual basis, the Administrator shall determine the annual equivalent of that emissions rate.

"(r) The term 'qualifying phase I technology' means a technological system of continuous emission reduction which achieves a 90 per centum reduction in emissions of a pollutant from the emissions that would have resulted from the use of fuels which were not subject to treatment prior to combustion.

"ALLOWANCE PROGRAM FOR EXISTING AND NEW UNITS

"SEC. 403. (a) ALLOCATIONS OF ANNUAL ALLOWANCES FOR EXISTING AND NEW UNITS.—(1) For the emission limitation programs under this title, the Administrator shall allocate annual allowances to the owner or operator of the affected units at an affected source in an amount equal to the annual tonnage emission limits calculated under sections 404, 405, 406, and 410 except as otherwise specifically provided in section 405(h)(1) and elsewhere in this title. Except as provided in sections 405(a)(2) and 410, beginning January 1, 2000, the allocation of allowances for the emissions of sulfur dioxide pursuant to section 405 shall not result in total annual emissions of sulfur dioxide from utility units in excess of 8.9 million tons, except that the Administrator shall not take into account allowances carried forward by owners and operators of affected units or by other persons after issuance in previous years. If necessary to meeting the restrictions imposed in the preceding sentence, the Administrator shall reduce, pro rata, the annual allowances allocated to each unit subject to the requirements of section 405. Subject to the provisions of paragraphs (2) and (3) of this subsection, the Administrator shall issue allowances for each affected unit at an affected source annually, as provided in paragraphs (2) and (3) and section 408. If an existing unit subject to the requirements of sections 404, 405, or 406 is removed from operation, such removal from operation shall not affect the number of allowances allocated or issued for the unit annually as provided in section 408.

"(2)(A) Beginning January 1, 1993, and during each calendar year thereafter, the Administrator, pursuant to regulations promulgated not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1989, shall offer for purchase, at a price of $1,500 per ton (adjusted for inflation based on the Consumer Price Index beginning on the date of enactment of the Clean Air Act Amendments of 1989 and annually thereafter), allowances not to exceed an annual total of one hundred thousand. Allowances purchased pursuant to this paragraph shall be issued to the purchaser on January 1 of the calendar year seven years after the year in which the allowances are offered and reserved for the purchaser.

"(B) The regulations promulgated pursuant to subparagraph (A) shall specify that an applicant for such sales shall demonstrate that (i) it is, or will be, an owner or operator of a unit subject to subsection (e), (ii) the owner or operator has entered into binding agreements to construct the unit for which the allowances are being sought or that the public service commission with jurisdiction over the unit has given its approval for the construction and operation of the unit and (iii) the owner or operator has failed, after a good faith effort, to secure the necessary allowances from owners and operators eligible to receive allowances under paragraph (1) of this subsection. Applications may be submitted beginning ninety days after promulgation of such regulations and shall be approved or disapproved by the Administrator not later than ninety days after submission of each completed application. Applications shall be approved in the order of submission and each applicant shall be required to pay 5 per centum of the total purchase price within six months of approval of the application. Upon the receipt of such payment the Administrator shall issue to the owner or operator a letter certifying that the owner or operator is eligible to purchase allowances as specified in the approved application.

"(C) Not later than one year prior to the calendar year for which the allowances have been offered for sale and reserved in accordance with an approved application, the owner or operator who wishes to purchase such reserved allowances shall pay to the Administrator the balance of the purchase price. The Administrator shall issue the allowances to the applicant and deduct, from the allowances allocated pursuant to subsections (b)(1), (c)(1) and (2), (e), (f), (g)(1), (g)(2) and the equivalent of the emissions limitations requirements of subparagraphs (4) and (5) of subsection (d) of section 405 for the calendar year for which the purchased allowances are issued, allowances in an amount equal to the number of purchased allowances issued.

"(3)(A) Beginning January 1, 1995, and during each calendar year thereafter, the Administrator, pursuant to regulations promulgated not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1989, shall auction, on a quarterly basis beginning January 1, 1995, and each calendar year thereafter, allowances in an amount not to exceed an annual total of one hundred thousand. Not later than thirty-six months after the enactment of the Clean Air Act Amendments of 1989, the Administrator, after consultation with the Secretary of the Treasury, shall promulgate regulations setting forth the method by which each auction shall be conducted. The regulations shall assure that the auction is open to any person who may hold allowances pursuant to this section and shall provide for quarterly sales of the allowances. The regulations shall not require

that a minimum price be met for the purchase of allowances from the reserve. Allowances awarded at auction may be used for any purpose subject to the provisions of this title but in no calendar year earlier than five years after the calendar year in which the allowances have been awarded pursuant to auction. Persons awarded allowances pursuant to each auction shall be required to pay 5 per centum of the total purchase price within six months of award. Upon the receipt of such payment the Administrator shall issue to the person a letter certifying that the person is eligible to purchase allowances as specified according to the bid and award.

"(B) Not later than one year prior to the calendar year for which the allowances have been auctioned and awarded, the owner or operator who wishes to purchase such awarded allowances shall pay to the Administrator the balance of the purchase price. The Administrator shall issue the allowances to the applicant and deduct, from the allowances allocated pursuant to subsections (b)(1), (c)(1) and (2), (e), (f), (g)(1), (g)(2) and the equivalent of the emissions limitation requirements of subparagraphs (4) and (5) of section 405 for the calendar year for which the purchased allowances are issued, allowances in an amount equal to the number of purchased allowances issued.

"(C) Within ninety days of receipt, all monies collected as a result of each auction shall be disbursed on a pro rata basis to the owners or operators of the affected units from whose allocation the allowances were withheld. The Administrator shall report the nature, price, and results of each auction including the prices of successful bids and shall record the transfers of allowances as a result of each auction and purchase in accordance with the requirements of subsection (b). Any holder of allowances may contribute to any auction allowances applicable for meeting compliance requirements in the year in which the auction is to be held and shall receive a pro rata share of monies collected. The holder of such allowances may specify a minimum sale price and time of payment provided that the Administrator finds that doing so would not interfere with the purposes and functioning of the auction.

"(D) The regulations promulgated pursuant to subparagraph (A) shall ensure that the operation of the auction is consistent with orderly functioning of a national market for allowances and with preservation of competition in the electric power industry. Pursuant to rulemaking after public notice and comment the Administrator may discontinue, or alter the frequency of, the auction if the Administrator finds that such auctions are not necessary to preserving the orderly functioning of a national market for allowances and competition in the electric power industry. Pursuant to the regulations promulgated pursuant to subparagraph (A), the Administrator may by delegation or contract provide for the conduct of auctions under the Administrator's supervision by other departments or agencies or by nongovernmental agencies.

"(b) ALLOWANCE SYSTEM.—Allowances issued under this title may be transferred among the owners or operators of affected sources under this title or any person who lawfully acquires such allowances, as provided by regulations to be promulgated by the Administrator not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1989. The Administrator shall promulgate regulations, not later than eighteen months after enactment, to establish the allowance system prescribed under this section, including, but not limited to, requirements for the issuance, transfer, and use of allowances under this title. Such regulations shall prohibit the use of allowances prior to the calendar year for which the allowances were issued, and shall provide, consistent with the purposes of this title, for the identification of unused allowances, and for such unused allowances to be carried forward and added to allowances allocated in subsequent years. Such regulations shall permit transfers only within each of the two major geographic regions of the country as defined by such regulations. Nothing in the regulations shall relieve the Administrator of the Administrator's permitting, monitoring and enforcement obligations under this Act nor relieve sources of their requirements and liabilities under this Act. Transfers of allowances shall not be effective until written certification of the transfer, signed by a responsible official of each party to the transfer, is received and recorded by the Administrator. Such regulations shall permit the transfer of allowances prior to the issuance of such allowances. Upon the recordation by the Administrator of such transfers, the Administrator, in the calendar year in which the allowances are issued, shall deduct the transferred allowances from the number of allowances issued to the transferor and add such allowances to those issued to the transferee. Such transfers shall not affect the prohibition contained in this subsection against the use of allowances prior to the year for which they are issued.

"(c) INTERPOLLUTANT TRADING.—Not later than January 1, 1994, the Administrator shall furnish to the Congress a study evaluating the environmental and economic consequences of amending this title to permit trading sulfur dioxide allowances, for nitrogen oxides allowances.

"(d) ALLOWANCE TRACKING SYSTEM.—The Administrator shall promulgate, not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1989, a system for issuing, recording, and tracking allowances and shall specify procedures and requirements. All allowance allocations and transfers shall upon recordation by the Administrator be deemed a part of each unit's permit requirements pursuant to section 408, but shall not require permit review and revision.

"(e) NEW UTILITY UNITS.—The owner or operator of each new utility unit must hold allowances equal to the annual tonnage of sulfur dioxide emitted by such unit after January 1, 2000. Such new utility units shall not be eligible for an allocation of sulfur dioxide allowances under subsection (a). Notwithstanding the geographic limitations on transfers of allowances in subsection (b), new utility units may obtain allowances from any unit allocated allowances under this title. After January 1, 2000, it shall be unlawful for any new utility unit to emit sulfur dioxide in an amount exceeding the allowances the owner or operator of such unit holds for such unit. The owner or operator of any new utility unit in violation of this subsection shall be liable for fulfilling the obligations specified in section 411 of this title.

"(f) NATURE OF ALLOWANCES.—An allowance issued under this title is a limited authorization to emit sulfur dioxide or nitrogen oxides in accordance with the provisions of this title. Such allowances may be limited, revoked or otherwise modified in accordance with the provisions of this title or other authority of the Administrator. Such allowance does not constitute a property right.

"(g) PROHIBITION.—It shall be unlawful for any person to hold or transfer any allowance issued under this title, except in accordance with regulations issued by the Administrator.

"PHASE 1 SULFUR DIOXIDE REQUIREMENTS

"SEC. 404. (a) EMISSION LIMITATIONS.—(1) After January 1, 1995, each source that includes one or more affected units listed in table A is an affected source under this section. After January 1, 1995, it shall be unlawful for any affected unit (other than an eligible phase I unit) to emit sulfur dioxide in excess of the tonnage limitation stated in table A for phase I unless the emissions reduction requirements applicable to such unit have been achieved pursuant to subsection (b) or (d) or the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions. The owner or operator of any unit in violation of this section shall be liable for fulfilling the obligations specified in section 411 of this title. The annual limitation for any unit totaled on Table A shall equal the product of each unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000.

"(2) Not later than December 31, 1991, the Administrator shall determine the total tonnage of reductions in the emissions of sulfur dioxide from all utility units in calendar year 1995 that will occur as a result of compliance with the emissions limitation requirements of this section, and shall establish a reserve of allowances equal in amount to the number of tons determined thereby not to exceed a total of 3.50 million tons. In making such a determination, the Administrator shall compute for each unit subject to the emissions limitation requirements of this section the difference between: (A) the product of its baseline multiplied by the lesser of each unit's allowable 1985 emissions rate and its actual 1985 emissions rate, divided by 2000, and (B) the product of each unit's baseline multiplied by 2.50 lbs/mmBtu divided by 2000, and sum the computations. The Administrator shall adjust the foregoing calculation to reflect projected calendar year 1995 utilization of the units subject to the emissions limitations of this section that the Administrator finds would have occurred in the absence of the imposition of such requirements. Not later than June 1, 1996, the Administrator shall adjust, if necessary, the allowances in the reserve to reflect the actual emissions reductions achieved by such units during calendar year 1995 as measured by continuous emissions monitoring pursuant to section 412. In making any such adjustment, the Administrator shall take into account, inter alia, whether emissions reductions achieved by any unit subject to the requirements of this section resulted from reduced utilization of the unit as compared with its baseline or from shutting the unit down and whether additional emissions of sulfur dioxide from units not subject to the emissions limitations of this section occurred as a result of those units' provision of electrical generation to compensate for the reduced output resulting from any affected unit's reduced utilization or shutdown. Pursuant to subsection (d), the Administrator shall issue allowances from the reserve established hereunder until the earlier of such time as all such allowances in the reserve are issued or December 31, 1999.

"(b) SUBSTITUTIONS.—The owner or operator of an affected unit under subsection (a) may submit a proposal to the Administrator to reassign, in whole or in part, the sulfur dioxide reduction requirements to any other unit(s) under the control of such owner or operator. Such proposal shall specify—

"(1) the designation of the substitute affected units to which any part of the reduction obligations of subsection (a) shall apply, in addition to, or in lieu of, the original affected units designated under such subsection;

"(2) the baseline, the actual 1985 sulfur dioxide emissions rate, and the authorized annual tonnage limitation stated in Table A for the original affected unit;

"(3) calculation of the calendar year 1985 annual tonnage emitted by the substitute units, based on the baseline for each unit, as defined in section 402(d), multiplied by the unit's actual 1985 emission rate;

"(4) the emission rates and the actual tonnage limitations that would be applicable to the original and substitute affected units;

"(5) documentation, to the satisfaction of the Administrator, that the reassigned tonnage limits will, in total, achieve the same or greater emissions reduction than would have been achieved without such substitutions; and

"(6) such other information as the Administrator may require.

"(c) ADMINISTRATOR'S ACTION ON A PROPOSAL.—

"(1) The Administrator shall approve or disapprove such substitution not later than six months after receipt of a substitution proposal that fulfills the requirements of this subsection. If a proposal does not meet the requirements of subsection (d), the Administrator shall disapprove it. The owner or operator of a unit listed in table A may not substitute another unit without the approval of the Administrator.

"(2) For an approved proposal, each substitute unit and source shall be deemed affected under this title, and the Administrator shall act on the submission in accordance with section 408. The Administrator shall allocate allowances for the affected units in accordance with the approved proposal pursuant to section 403. It shall be unlawful for any source or unit that receives allowances pursuant to this section to emit sulfur dioxide in an amount in excess of the allowances allocated to it. The owner or operator of any unit in violation of this subsection shall be liable for fulfilling the obligations specified in section 411 of this title. For a disapproved proposal, the Administrator shall issue allowances in accordance with subsection (a).

"(d) ELIGIBLE UNITS.—(1) Any unit subject to an emissions limitation requirement under this section may qualify for an extension of two years of the deadline for meeting such requirement. To qualify for such an extension a unit must employ a qualifying phase I technology, or transfer its phase I emissions reduction obligation to a unit employing a qualifying phase I technology. Such transfer shall be accomplished through submission of a compliance plan under section 408 that includes all units included in the transfer and satisfaction of the emissions reduction obligations imposed pursuant to an approved plan or permit.

"(2) The owner or operator of an affected unit under subsection (a) or (c) may submit a proposal to the Administrator requesting that such unit be designated an eligible phase I unit. Such proposal shall—

"(A) specify the unit proposed for designation as an eligible phase I unit;

"(B) provide an executed contract, which may be contingent upon the Administrator approving the proposal, for the design of the qualifying technology for the unit, or for the unit to which the unit's emission reduction obligation is to be transferred;

"(C) specify the unit's baseline, actual 1985 emission rate, allowable 1985 emission rate, and projected utilization for calendar years 1995 through 1999; and

"(D) specify the emission rate and number of allowances expected to be necessary for annual operation after the qualifying technology has been installed.

"(3) The Administrator shall review and approve or disapprove each proposal in order of receipt, and for an approved proposal designate the unit as as eligible phase I unit. Each eligible unit shall receive allowances determined under subsection (a)(1) or (c) of this section. In addition, the Administrator shall issue to each eligible unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between its projected emissions tonnage for calendar years 1995 and 1996 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu multiplied by a factor of 2, divided by 2000.

"(4) The Administrator shall reduce the reserve by the number of allowances calculated according to subparagraph (A) and (B) until either the reserve is consumed or all approved proposals have been acted upon. If the reserve is consumed before all proposals have been acted upon by the Administrator, any pending proposals shall be disapproved. The Administrator shall calculate allowances equal to—

"(A) the difference between the projected emissions tonnage for calendar years 1995 and 1996 of each eligible unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu; and

"(B) the difference between the product of each unit's baseline times an emission rate of 1.20 lbs/mmBtu, divided by 2000, and the tonnage level specified under subparagraph (D) of paragraph (2) of this subsection multiplied by a factor of 3.

"(5) After January 1, 1997, in addition to the liabilities imposed under section 411, if any eligible phase I unit employing qualifying phase I technology emits sulfur dioxide in excess of the annual tonnage limitation specified under subparagraph (D) of paragraph (2) of this subsection, the Administrator shall, in the calendar year following such excess, deduct allowances equal to the amount of such excess from such unit's annual allowance allocation.

"(6) In addition to allowances specified in paragraph (3), the Administrator shall issue to the owner or operator of each eligible unit employing qualifying phase I technology, for calendar years 1997, 1998, and 1999, additional allowances, from the allowance reserve created pursuant to subsection (a)(2), not to exceed the difference between (A) the product of each eligible unit's baseline times an emission rate of 1.20 lbs/mmBtu, divided by 2000, and (B) the tonnage level specified under subparagraph (D) of paragraph (2) of this subsection. However, the number of allowances issued shall be reduced, on a pro rata basis, as the result of any adjustment by the Administrator's June 1, 1996 recalculation of the level of the reserve under subsection (a)(2) of this section.

"Table A.—Affected Sources and Units in Phase I and Their Sulfur Dioxide Allowances (tons)

"State	Plant Name	Unit	Phase 1 Allowances	Phase 2 Allowances
"Alabama	Colbert	1	13,570	6,520
		2	15,310	7,350
		3	15,400	7,390
		4	15,410	7,400
		5	37,180	17,850
	E.C. Gaston	1	18,100	8,690
		2	18,540	8,900
		3	18,310	8,790
		4	19,280	9,250
		5	59,840	28,720
Florida	Big Bend	1	28,410	13,640
		2	27,100	13,010
		3	26,740	12,840
	Crist	6	19,200	9,220
		7	31,680	15,210
	Bartow	1	4,190	2,010
Georgia	Bowen	1	56,330	27,040
		2	54,770	26,290
		3	71,750	34,440
		4	71,740	34,430
	Hammond	1	8,780	4,220
		2	9,220	4,420
		3	8,910	4,280
		4	37,640	18,070
	J. McDonough	1	19,910	9,560
		2	20,600	9,890
	Wansley	1	70,770	33,970
		2	65,430	31,400
	Yates	1	7,210	3,460
		2	7,040	3,380

"Table A.—Affected Sources and Units in Phase I and Their Sulfur Dioxide Allowances (tons)—Continued

"State	Plant Name	Unit	Phase 1 Allowances	Phase 2 Allowances
		3	6,950	3,340
		4	8,910	4,280
		5	9,410	4,520
		6	24,760	11,890
		7	21,480	10,310
Illinois	Baldwin	1	42,010	20,170
		2	44,420	21,320
		3	42,550	20,430
	Coffeen	1	11,790	5,660
		2	35,670	17,120
	Grand Tower	4	5,910	2,840
	Hennepin	2	18,410	8,840
	Joppa Steam	1	12,590	6,040
		2	10,770	5,170
		3	12,270	5,890
		4	11,360	5,450
		5	11,420	5,480
		6	10,620	5,100
	Kincaid	1	31,530	15,130
		2	33,810	16,230
	Meredosia	3	13,890	6,670
		3	13,890	6,670
	Vermilion	2	8,880	4,260
Indiana	Bailly	7	11,180	5,370
		8	15,630	7,500
	Breed	1	18,500	8,880
	Cayuga	1	33,370	16,020
		2	34,130	16,380
	Clifty Creek	1	20,150	9,670
		2	19,810	9,510
		3	20,410	9,800
		4	20,080	9,640
		5	19,360	9,290
		6	20,380	9,780
	E.W. Stout	5	3,880	1,860
		6	4,770	2,290
		7	23,610	11,330
	F.B. Culley	2	4,290	2,060
		3	16,970	8,150
	F.E. Ratts	1	8,330	4,000
		2	8,480	4,070
	Gibson	1	40,400	19,390
		2	41,010	19,680
		3	41,080	19,720
		4	40,320	19,360
	H.T. Pritchard	6	5,770	2,770
	Michigan City	12	23,310	11,190
	Petersburg	1	16,440	7,890
		2	32,380	15,540
	R. Gallagher	1	6,490	3,120
		2	7,280	3,490
		3	6,530	3,130
		4	7,650	3,670
	Tanners Creek	4	24,820	11,920
	Wabash River	1	4,000	1,920
		2	2,860	1,370
		3	3,750	1,800
		5	3,670	1,760
		6	12,280	5,890
	Warrick	4	26,980	12,950
Iowa	Burlington	1	10,710	5,140
	Des Moines	7	2,320	1,110
	George Neal	1	1,300	620
	M.L. Kapp	2	13,800	6,620
	Prairie Creek	4	8,180	3,920
	Riverside	5	3,990	1,920
Kansas	Quindaro	2	4,220	2,020
Kentucky	Coleman	1	1,125	5,400
		2	12,840	6,160
		3	12,350	5,930
	Cooper	1	7,450	3,570
		2	15,320	7,360
	E.W. Brown	1	7,110	3,410
		2	10,910	5,240
		3	26,100	12,530
	Elmer Smith	1	6,520	3,130
		2	14,410	6,920
	Ghent	1	28,410	13,640
	Green River	4	7,820	3,750
	H.L. Spurlock	1	22,780	10,940
	Henderson II	1	13,340	6,410
		2	12,310	5,910
	Paradise	3	59,170	28,400
	Shawnee	10	10,170	4,880
Maryland	Chalk Point	1	21,890	10,520
		2	24,330	11,680
	C.P. Crane	1	10,330	4,960
		2	9,230	4,430
	Morgantown	1	35,260	16,930
		2	38,480	18,470
Michigan	J.H. Campbell	1	19,280	9,250
		2	23,060	11,070
Minnesota	High Bridge	6	4,270	2,050
Mississippi	Jack Watson	4	17,910	8,600
		5	36,700	17,620
Missouri	Asbury	1	16,190	7,770
	James River	5	4,850	2,330
	Labadie	1	40,110	19,250
		2	37,710	18,100
		3	40,310	19,350
		4	35,940	17,250
	Montrose	1	7,390	3,550
		2	8,200	3,940
		3	10,090	4,840
	New Madrid	1	28,240	13,550

"Table A.—Affected Sources and Units in Phase I and Their Sulfur Dioxide Allowances (tons)—Continued

"State	Plant Name	Unit	Phase 1 Allowances	Phase 2 Allowances
		2	32,490	15,590
	Sibley	3	15,580	7,480
	Sioux	1	22,570	10,840
		2	23,690	11,370
	Thomas Hill	1	10,250	4,920
		2	19,390	9,310
New Hampshire	Merrimack	1	10,190	4,890
		2	22,000	10,560
New Jersey	B.L. England	1	9,060	4,350
		2	11,720	5,630
New York	Dunkirk	3	12,600	6,050
		4	14,060	6,750
	Greenidge	4	7,540	3,620
	Milliken	1	11,170	5,360
		2	12,410	5,960
	Northport	1	19,810	9,510
		2	24,110	11,580
		3	26,480	12,710
	Port Jefferson	3	10,470	5,030
		4	12,330	5,920
Ohio	Ashtabula	5	16,740	8,040
	Avon Lake	8	11,650	5,590
		9	30,480	14,630
	Cardinal	1	34,270	16,450
		2	38,320	18,400
	Conesville	1	4,210	2,020
		2	4,890	2,350
		3	5,500	2,640
		4	48,770	23,410
	Eastlake	1	7,800	3,750
		2	8,640	4,150
		3	10,020	4,810
		4	14,510	6,970
		5	34,070	16,350
	Edgewater	4	5,050	2,430
	Gen. J.M. Gavin	1	79,080	37,960
		2	80,560	38,670
	Kyger Creek	1	19,280	9,260
		2	18,560	8,910
		3	17,910	8,600
		4	18,710	8,980
		5	18,740	9,000
	Miami Fort	5	760	360
		6	11,380	5,460
		7	38,510	18,490
	Muskingum River	1	14,880	7,140
		2	14,170	6,800
		3	13,950	6,700
		4	11,780	5,650
		5	40,470	19,420
	Niles	1	6,940	3,330
		2	9,100	4,370
	Picway	5	4,930	2,370
	R.E. Burger	3	6,150	2,950
		4	10,780	5,170
		5	12,430	5,970
	W.H. Sammis	5	24,170	11,600
		6	39,930	19,170
		7	43,220	20,750
	W.C. Beckjord	5	8,950	4,290
		6	23,020	11,050
Pennsylvania	Armstrong	1	14,410	6,920
		2	15,430	7,410
	Brunner Island	1	27,760	13,330
		2	31,100	14,930
		3	53,820	25,840
	Cheswick	1	39,170	18,800
	Conemaugh	1	59,790	28,700
		2	66,450	31,890
	Hatfield's Ferry	1	37,830	18,160
		2	37,320	17,920
		3	40,270	19,330
	Martins Creek	1	12,660	6,080
		2	12,820	6,150
	Portland	1	5,940	2,850
		2	10,240	4,910
	Shawville	1	10,320	4,960
		2	10,320	4,960
		3	14,220	6,830
		4	14,080	6,760
	Sunbury	3	8,760	4,210
		4	11,450	5,500
Tennessee	Allen	1	15,320	7,360
		2	16,770	8,050
		3	15,670	7,520
	Cumberland	1	86,700	41,620
		2	94,840	45,520
	Gallatin	1	17,650	8,470
		2	17,310	8,310
		3	20,020	9,610
		4	21,260	10,200
	Johnsonville	1	7,790	3,740
		2	8,040	3,860
		3	8,410	4,040
		4	7,990	3,830
		5	8,240	3,950
		6	7,890	3,790
		7	8,980	4,310
		8	8,700	4,180
		9	7,080	3,400
		10	7,550	3,630
West Virginia	Albright	3	12,000	5,760
	Fort Martin	1	41,590	19,960
		2	41,200	19,780
	Harrison	1	48,620	23,340

"Table A.—Affected Sources and Units in Phase I and Their Sulfur Dioxide Allowances (tons)—Continued

"State	Plant Name	Unit	Phase 1 Allowances	Phase 2 Allowances
		2	46,150	22,150
		3	41,500	19,920
	Kammer	1	18,740	9,000
		2	19,460	9,340
		3	17,390	8,350
	Mitchell	1	43,980	21,110
		2	45,510	21,840
	Mount Storm	1	43,720	20,990
		2	35,580	17,080
		3	42,430	20,370
Wisconsin	Edgewater	4	24,750	11,880
	La Crosse/Genoa	3	19,090	9,160
	Nelson Dewey	1	6,010	2,880
		2	6,680	3,210
	N. Oak Creek	1	5,220	2,510
		2	5,140	2,470
		3	5,370	2,580
		4	6,320	3,030
	Pulliam	8	7,510	3,600
	S. Oak Creek	5	9,670	4,640
		6	12,040	5,780
		7	16,180	7,770
		8	15,790	7,580

"PHASE II SULFUR DIOXIDE REQUIREMENTS

"SEC. 405. (a). APPLICABILITY.—(1) After January 1, 2000, each steam-electric existing utility unit as provided below is subject to the limitations or requirements of this section. Each utility unit subject to an annual sulfur dioxide tonnage emission limitation under this section is an affected unit under this title. Each source that includes one or more affected units is an affected source. In the case of an existing unit that was not in operation during calendar year 1985, the emission rate for a calendar year after 1985, as determined by the Administrator, shall be used in lieu of the 1985 rate. The owner or operator of any unit in violation of this section shall be liable for fulfilling the obligations specified in section 411 of this title.

"(2) Following the issuance of permits pursuant to section 408 to the owners or operators of units subject to the emissions limitation requirements of this section the Administrator shall calculate the total tonnage of reductions in the emissions of sulfur dioxide from all utility units in calendar year 2000, achieved as result of compliance by units subject to this section with the emissions limitation requirements of subsections (b)(1), (c)(1) and (2), (e), (f), (g)(1), (g)(2) and the equivalent of the emissions limitation requirements of subparagraphs (4) and (5) of subsection (d). In calculating such reductions the Administrator shall compute for each unit subject to the emissions limitation requirements of section 404 and included on table A the difference between: (A) the product of each unit's baseline multiplied by 2.50 lbs/mmBtu divided by 2000, and (B) the product of each unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2000. For each unit not included on table A of section 404, but subject to the emissions limitation requirements of subsections (b) and (c), the Administrator shall compute the difference between: (A) the product of each unit's baseline multiplied by the lesser of its allowable 1985 emissions rate and its actual 1985 emissions rate, divided by 2000, and (B) the product of each unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2000, and sum the computations, except for those units granted an extension pursuant to section 409. The Administrator shall adjust the foregoing calculation to reflect the utilization of such plants that the Administrator finds would have occurred in the absence of the imposition of emissions limitation requirements. The Administrator shall establish a reserve of allowances equal in number to the tons so calculated and adjusted to reflect the actual emissions reductions achieved during calendar year 2000 as measured by continuous emissions monitoring pursuant to section 412 up to a limit of 5.30 million allowances. If the Administrator determines that the total of actual emissions reductions achieved in calendar year 2000 is less than 5.30 million tons, the Administrator shall deduct from each unit's annual allocation its pro rata share of 10 per centum of the difference between 5.30 million tons and actual emissions reductions achieved in calendar year 2000. Each unit's pro rata share shall be calculated on the basis of allowances that would be allocated pursuant to subsections (b)(1), (c)(1) and (2), (d)(4) and (5), (e), (f) and (g)(1) and (2). Pursuant to section 403 and subsections (b)(2), (c)(3), (d)(3)(A) and (B), (g)(3), (h)(2) and section 406(a), the Administrator shall issue annually 530,000 tons from the reserve established hereunder for calendar years 2000 through 2009.

"(b) UNITS EQUAL TO, OR ABOVE, 75 MWE AND 1.20 LBS/MMBTU.—(1) After January 1, 2000, it shall be unlawful for any steam-electric existing unit with nameplate capacity equal to, or greater, than 75 MWe and an actual 1985 emission rate equal to or greater than 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2000 unless the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions. In the case of a unit which has decreased its emissions rate as of the date of enactment by 40 per centum or greater from 1980, and whose utility system's residential customer growth has increased by at least 3 per centum per year since 1980, such unit has the option of calculating its baseline, as defined in section 402(d)(1), using an average of any three consecutive years between 1980 and 1989.

"(2) Except for units subject to the second sentence of paragraph (1), after January 1, 2000, the Administrator shall allocate and issue annually to the owner or operator of a unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate greater than 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 per centum, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 per centum of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 per centum capacity factor.

"(c) COAL OR OIL-FIRED UNITS BELOW 75 MWE AND ABOVE 1.20 LBS/MMBTU.—

"(1) After January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is equal to, or greater than, 250 MWe to exceed an annual sulfur dioxide emissions limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2000, unless the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions.

"(2) After January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is less than 250 MWe to exceed an annual sulfur dioxide emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2000, unless the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions.

"(3) After January 1, 2000, the Administrator shall allocate and issue annually to the owner or operator of a unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 per centum, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 per centum of the difference, on a Btu basis, between the unit's baseline and the unit's

fuel consumption at a 60 per centum capacity factor.

"(d) COAL-FIRED UNITS BELOW 1.20 LBS/MMBTU.—

"(1) After January 1, 2000, it shall be unlawful for any coal-fired utility unit with an actual 1985 sulfur dioxide emissions rate of less than 0.60 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate, divided by 2000, unless the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions.

"(2) After January 1, 2000, it shall be unlawful for any coal-fired utility unit with an actual 1985 sulfur dioxide emissions rate equal to, or greater than, 0.60 lbs/mmBtu and less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2000, unless the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions.

"(3)(A) At the election an operating company, after January 1, 2000, the Administrator shall allocate and issue annually for such unit subject to the emissions limitation requirements of paragraph (1) allowances, including allowances from the reserve created pursuant to subsection (a)(2), in an amount equal to either (i) the product of the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate multiplied by the difference, on a Btu basis, between the unit's baseline and its fuel consumption at a 60 per centum capacity factor, or (ii) 20 per centum of the allowances allocated for the unit pursuant to paragraph (1) and section 403.

"(B) At the election of the operating company, after January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (2) allowances, including allowances from the reserve created pursuant to subsection (a)(2), in an amount equal to either (i) the product of the lesser of the unit's allowable 1985 emissions rate or its actual 1985 emissions rate multiplied by the difference, on a Btu basis, between the unit's baseline and its fuel consumption at a 60 per centum capacity factor, divided by 2000, or (ii) 20 per centum of the allowances allocated for the unit pursuant to paragraph (2) and section 403.

"(C) An operating company with units subject to the emissions limitation requirements of this subsection may elect only one formula for the allocation of allowances as provided under subparagraphs (A) and (B), which elected formula shall apply to the annual allowance allocation for each and every unit in the operating company subject to the emissions limitation requirements of this subsection. The Administrator shall issue allowances pursuant to subparagraphs (A) and (B) only in accordance with this subparagraph.

"(4) After January 1, 2010, it shall be unlawful for any coal-fired utility unit with an actual 1985 sulfur dioxide emissions rate of less than 0.60 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate and a numerical factor of 120 per centum, divided by 2000, unless the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions."

"(5) After January 1, 2010, it shall be unlawful for any coal-fired utility unit with an actual 1985 sulfur dioxide emissions rate equal to, or greater than, 0.60 lbs/mmBtu and less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate and a numerical factor of 120 per centum, divided by 2000, unless the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions.

"(6) For the purposes of this section, in the case of an oil- and gas-fired unit which has been awarded a clean coal technology demonstration grant as of January 1, 1991, by the United States Department of Energy, such unit may use any three consecutive years between 1980 and 1989 in calculating its baseline, as defined in section 402(d)(1).

"(e) OIL AND GAS-FIRED UNITS EQUAL TO OR GREATER THAN 0.6 LBS/MMBTU AND LESS THAN 1.20 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any oil and gas-fired utility unit with an actual 1985 sulfur dioxide emission rate equal to, or greater than, 0.60 lbs/mmBtu, but less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's allowable 1985 emissions rate or its actual 1985 emissions rate and a numerical factor of 120 per centum divided by 2000, unless the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions.

"(f) OIL AND GAS-FIRED UNITS LESS THAN 0.6 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any oil and gas-fired utility unit with an actual 1985 emission rate of less than 0.60 lbs/mmBtu whose average annual fuel consumption during 1985, 1986 and 1987 on a Btu basis was 90 per centum or less in the form of natural gas to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate multiplied by a numerical factor of 120 per centum, divided by 2000, unless the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions.

"(g) UNITS THAT COMMENCE OPERATION BETWEEN 1986 AND DECEMBER 31, 1995.—After January 1, 2000, it shall be unlawful for any utility unit that has commenced operation on or after January 1, 1986, but not later than September 31, 1990 to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the unit's allowable sulfur dioxide emission rate, divided by 2,000 unless the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions.

"(2) After January 1, 2000, the Administrator shall issue to the owner or operator of any utility unit that commences operation, or has commenced operation, on or after October 1, 1990, but not later than December 31, 1992 allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the federally enforceable emission limitation, in pounds per mmBtu, divided by 2000.

"(3) After January 1, 2000, the Administator shall issue to the owner or operator of any utility unit that has commenced construction before December 31, 1990 and that commences operation between January 1, 1993 and December 31, 1995, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the federally enforceable emission limitation, in pounds per mmBtu, divided by 2000.

"(h) OIL AND GAS-FIRED UNITS LESS THAN 10 PER CENTUM OIL CONSUMED.—(1) After January 1, 2000, it shall be unlawful for any oil- and gas-fired utility unit whose average annual fuel consumption during 1985, 1986 and 1987 on a Btu basis exceeded 90 per centum in the form of natural gas to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the unit's actual 1985 emissions rate unless the owner or operator of such unit has obtained allowances equal to the unit's total annual emissions.

"(2) Beginning January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2000.

"ALLOWANCES FOR STATES WITH EMISSIONS RATES AT OR BELOW 0.8 LBS/MMBTU

"SEC. 406. (a) ELECTION OF GOVERNOR.—In addition to allocations of allowances pursuant to subsections (b)(1), (c)(1) and (2), (d)(1), (2), (3)(A)(ii) and (3)(B)(ii), (e), (f), and (g)(1) and (2), upon the election of the Governor of any State, with a 1985 statewide annual sulfur dioxide emissions rate of 0.80 lbs/mmBtu, averaged over all fossil fuel-fired utility steam generating units, the Administrator, in lieu of allocations pursuant to subsections (b)(2), (c)(3), (d)(3)(A)(i) and (B)(i), (g)(3) and (h)(2) of section 405, shall allocate and issue allowances from the reserve created pursuant to section 405(a)(2) to all such units in the State in an amount equal to the unit's pro rata share of electricity generated at fossil fuel-fired utility steam units in all such States.

"(b) NOTIFICATION OF ADMINISTRATOR.—Not later than January 1, 1997, each Governor of a State eligible to make an election under paragraph (a) shall notify the Administrator of such election. In the event that the Governor of any such State fails to notify the Administrator of the Governor's elections, the Administrator shall allocate and issue allowances pursuant to section 405.

"(c) ALLOWANCES AFTER JANUARY 1, 2010.—After January 1, 2010, the Administrator shall allocate and issue allowances to units subject to the provisions of this section pursuant to section 405.

"NITROGEN OXIDES EMISSION REDUCTION PROGRAM

"SEC. 407. (a) APPLICABILITY.—On the date that a coal-fired utility unit becomes an affected unit pursuant to sections 404, 405 and 409, or on the date a unit subject to the provisions of 404(d) and 409(b), must meet the SO_2 reduction requirements, such units also shall become an affected unit for the purposes of this section and shall be subject to the emission rate limits for nitrogen oxides set forth herein.

"(b) EMISSION LIMITATIONS.—(1) Not later than eighteen months after enactment of the Clean Air Act Amendments of 1989, the Administrator shall by rule establish allowable emission rates for nitrogen oxides for the types of utility boilers listed below, which rates shall not exceed the rates listed below. The Administrator may, however, set a rate higher than that listed for cell burners if the Administrator finds that the maximum listed rate for that boiler type cannot be achieved using low NO_x burner technology for that type of utility boiler. The maximum allowable emission rates are as follows:

"(A) for tangentially-fired boilers, 0.450 lb/mmBtus;

"(B) for dry bottom wall-fired boilers and for cell burners, 0.50 lb/mmBtu. After January 1, 1995, it shall be unlawful for any unit that is an affected unit on that date and that is of the type listed in this paragraph to emit nitrogen oxides in excess of the emission rates set by the Administrator pursuant to this paragraph.

"(2) Not later than January 1997, the Administrator shall, by rule, establish preliminary allowable emission rates, on a lb/mmBtu, annual average basis, for nitrogen oxides for the following types of utility boilers:

"(A) wet bottom wall-fired boilers;

"(B) cyclones;

"(C) all other types of utility boilers.

The Administrator shall base such rates on the degree of reduction achievable through the retrofit application of the best system of continuous emission reduction, taking into account available technology, costs, the costs of nitrogen oxides controls on other boiler types, and the energy and environmental impacts. Such rates shall be subject to periodic review and revision by the Adminisrator. After January 1, 2000, it shall be unlawful for any affected unit to emit nitrogen oxides in excess of the emission rates set by the Administrator pursuant to this paragraph or paragraph (1).

"(c) REVISED PERFORMANCE STANDARD.—(1) Not later than January 1, 1993, the Administrator shall propose revised standards of performance pursuant to section 111 for nitrogen oxides emissions from fossil-fuel fired steam generating units, including both electric utility and nonutility units. Not later than January 1, 1994, the Administrator shall promulgate such revised standards of performance. Such revised standards of performance shall reflect improvements in methods for the reduction of emissions of oxides of nitrogen.

"PERMITS AND COMPLIANCE PLANS

"SEC. 408. (a) PERMIT PROGRAM.—This title shall be implemented by permits issued in accordance with the provisions of this Act. Any permit issued by the Administrator, or a State with an approved permit program, shall prohibit each of the following:

"(1) annual emissions of sulfur dioxide or nitrogen oxides in excess of the total allowances held by the affected unit or source,

"(2) exceedances of applicable sulfur dioxide or nitrogen oxide emissions rates, and

"(3) contravention of any other provision of the permit.

"(b) COMPLIANCE PLAN.—Each permit application shall be accompanied by a compliance plan for the source to comply with its requirements under this title. The compliance plan shall provide all necessary information on the schedule and means by which the source will obtain compliance with its annual tonnage limitation, or emission rate if applicable, including specification of the owner's or operator's intent to acquire any additional allowances beyond the initial allocation that will be used to achieve compliance and the owner or operator's certification that such owner or operator will comply with the requirements of this title in all circumstances, including, but not limited to, those in which such owner or operator fails to secure any such additional allowances necessary to achieve compliance. The Administrator may also require—

"(1) for a source, a demonstration of attainment of national ambient air quality standards, and

"(2) from the owner or operator of two or more affected sources, an integrated compliance plan providing an overall plan for achieving compliance at the affected sources.

"(c) FIRST PHASE PERMITS.—The Administrator shall issue permits to the affected sources under section 404—

"(1)(A) Not later than thirty months after the date of enactment of the Clean Air Act Amendments of 1989, the owner or operator of each affected source under section 404 shall submit a permit application and compliance plan for that source in accordance with regulations issued by the Administrator. The permit application and the compliance plan shall be binding on the owner or operator, and be enforceable for purposes of this Act, in lieu of a permit, until a permit is issued by the Administrator for the source pursuant to this section and title III of this Act. During pendency of the permit application and the compliance plan, the owners or operators may amend such applications or plans automatically provided that they notify the Administrator of such amendments.

"(B) In the case of a compliance plan for an affected source under section 404 for which the owner or operator proposes to meet the requirements of that section by reducing utilization of the unit by 20 per centum or more, as compared with the baseline prescribed in section 402(d), or by shutting down the unit, the owner or operator shall include in the compliance plan a specification of the units that will provide electrical generation to compensate for the reduced output of the affected source or a demonstration that such reduced utilization will be accomplished through energy conservation or improved unit efficiency. The source, and any unit to be used for such compensating generation, if not otherwise affected under section 404, shall be deemed affected under section 404, subject to the requirements of section 404 of this title, except that allowances shall be allocated to such unit in the amount of an annual limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emission rate or its allowable 1985 emissions rate, divided by 2,000.

"(2) The Administrator shall review each proposed compliance plan to determine whether it satisfies the requirements of this title, and shall approve or disapprove such plan within six months after receipt of a complete submission.

"(3) Not later than eighteen months after enactment of the Clean Air Act Amendments of 1989, the Administrator shall promulgate regulations consistent with regulations required to be promulgated under title III of this Act to implement a Federal permit program to issue permits for affected sources under this title. Following promulgation, the Administrator shall issue a permit to implement the requirements of section 404 and the allowances provided under section 403 to the owner or operator of each affected source under that section. Such a permit shall supersede any permit application and compliance plan submitted under paragraph (1). The permitting authority shall issue a permit to the affected source in accordance with title III.

"(d) SECOND PHASE PERMITS.—(1) To implement sections 405, 406, and 407, each State in which one or more sources subject to those sections are located, shall submit a permit program to the Administrator for approval. The Administrator shall approve any permit program meeting the requirements of section 351.

"(2) The owner or operator of each affected source under section 405 shall submit a permit application and compliance plan for that source to the permitting authority, not later than January 1, 1994.

"(3) Not later than July 1, 1995, each State with an approved permit program pursuant to title III of this Act shall issue permits to the owners or operators of existing affected sources under section 405 that satisfy the requirements of this Act. In the case of a State without an approved permit program, or a State that fails to issue permits to all of its existing affected sources by July 1, 1995, the Administrator shall, not later than July 1, 1996, issue a permit to the owner or operator of each such affected source that has not been issued a State permit.

"(4) Not later than July 1, 1996, the Administrator shall issue allowances to each affected source. These shall be deemed a part of the permit issued for that source, as provided in section 403. Allowances shall be issued each year by the Administrator to affected sources in accordance with sections 403 and 411.

"(5) The owner or operator of any unit subject to the requirements of section 407 shall submit a permit application for such unit to the permitting authority, not later than January 1, 1997. The Administrator shall, not later than July 1, 1998, issue a permit to the owner or operator of each such affected source that has not been issued a State permit. The permitting authorit, shall issue a permit to the owner or operator that satisfies the requirements of this title, including any appropriate monitoring and reporting requirements.

"(6) The owner or operators of any unit subject to the requirements of section 406 shall submit a permit application for such unit to the permitting authority not later than July 1, 1999. The permitting authority shall issue a permit to the owner or operator that satisfies the requirements of this title, including any appropriate monitoring and reporting requirements.

"(e) NEW UNIT PERMITS.—(1) Each State shall submit a comprehensive and enforceable permit program for new units to the Administrator for approval, as provided under title III. The Administrator shall approve or disapprove complete submittals within one year of receipt.

"(2) The owner or operator of each source that includes a new unit or units shall submit a permit application and compliance plan to the permitting authority not later than twenty-four months prior to January 1, 2000, or to commencing operation of the unit, whichever is later. The permitting authority shall issue a permit to the owner or operator of the unit that satisfies the requirements of this title.

"(f) AMENDMENT OF APPLICATION AND COMPLIANCE PLAN.—At any time after the submission of an application and compliance plan under this section, the applicant may

submit a revised application and compliance plan, in accordance with the requirements of this section.

"(g) PROHIBITION.—It shall be unlawful for an owner or operator (1) to fail to submit a permit application or compliance plan in accordance with the deadlines specified in this section or otherwise to fail to comply with regulations implementing this section, or (2) to operate any source subject to this title except in compliance with the terms and requirements of a permit application and compliance plan or permit issued by the Administrator or a State with an approved permit program.

"REPOWERED SOURCES

"SEC. 409. (a) AVAILABILITY.—Not later than December 31, 1997, the owner or operator of an existing unit subject to the requirement of section 405 may demonstrate to the permitting authority that one or more units will be repowered with a qualifying clean coal technology to comply with the requirements under section 405. The owner or operator shall, as part of any such demonstration, provide, not later than January 1, 2000, satisfactory documentation of a preliminary design and engineering effort for such repowering and an executed contract for the majority of the equipment to repower such unit and such other information as the Administrator may require by regulation.

"(b) EXTENSION.—(1) An owner or operator satisfying the requirements of subsection (a) shall be granted an extension of the emission limitation requirement compliance date for that unit from January 1, 2000, to December 31, 2003. The extension shall be specified in the permit issued to the source under section 408, together with any compliance schedule and other requirements necessary to meet second phase requirements by the extended date. Any unit that is granted an extension under this section shall not be eligible for a waiver under section 111(j) of this Act. Any unit receiving an extension until December 31, 2003 may elect to receive an additional two-year extension until December 31, 2005, provided that the allowances issued to that unit shall be reduced during such period after the unit is placed in service as the Administrator may prescribe (but not less than two years) by the excess of (A) the aggregate number of allowances which the unit received and used during the two-year period that the extension applied, over (B) the aggregate allowances to which the unit would have been entitled (but for the extension) under section 405.

"(2) If (A) the owner or operator of an existing unit has been granted an extension under paragraph (1) in order to repower such unit with a clean coal unit, and (B) such owner or operator thereafter satisfies the Administrator (i) that the clean coal technology to be utilized by such unit is economically or technologically infeasible, (ii) that by January 1, 2000, the owner or operator has demonstrated to the Administrator a good faith effort to achieve compliance with the requirements of subsection (a), and (iii) that such existing unit will be retrofitted or repowered with equipment or facilities utilizing another clean coal technology or other available control technology, then such extension shall be available until no later than December 31, 2003.

"(c) ALLOWANCES.—(1) For the period of the extension under this section, the Administrator shall issue to the owner or operator of the affected unit, annual allowances for sulfur dioxide equal to the affected unit's baseline multiplied by the lesser of the unit's federally approved State Implementation Plan limitation or its actual emission rate for 1995. Such allowances may not be transferred or used by any other source to meet emission requirements under this title. The source owner or operator shall notify the Administrator sixty days in advance of the date on which the affected unit for which the extension has been granted is to be removed from operation to install the repowering technology.

"(2) Effective on that date, the source shall be subject to the requirements of section 405. Allowances for the year in which the source is removed from operation to install the repowering technology shall be calculated by multiplying 1.20 lbs/mmBtu by the existing utility unit, divided by 2,000, and prorated accordingly, and are transferable.

"(3) Allowances for such existing utility units for calendar years after the year the repowering is complete shall be calculated by multiplying 1.20 lb./mmBtu of sulfur dioxide by the existing utility unit's baseline divided by 2,000.

"(4) Allowances issued to a new designated unit described in section 402(1)(2) shall be reduced during such period after the repowered unit is placed in service as the Administrator may prescribe (but not less than four years) by an amount equal to the excess of (A) the aggregate number of allowances issued under paragraph (1) and used by the existing unit during the extension period provided under subsection (b), over (B) the aggregate allowances to which the existing unit would have been entitled (but for this section) under section 405 during the calendar years that paragraph (1) applied.

"(d) CONTROL REQUIREMENTS.—Any source that is not a new designated unit described in section 402(1)(2), but qualifies for an extension under this section that does not increase actual hourly emissions for any pollutant regulated under the Act shall not be subject to any standard of performance under section 111 of this Act.

"(e) EXPEDITED PERMITTING.—State permitting authorities and, where applicable, the Administrator, are encouraged to give expedited consideration to permit applications under parts C and D for any source qualifying for an extension under this section.

"(f) PROHIBITION.—It shall be unlawful for the owner or operator of a repowered source to fail to comply with the requirement of this section, and any regulations to implement this section.

AMENDMENT No. 1401

On page 392, line 13, strike "in section 405(h)(l)".

On page 392, line 14, after "as provided in sections 405(a)(2)" insert: ", 406,".

On page 398, lines 13 through 15, strike the following: "Such regulations shall permit transfers only within each of the two major geographic regions of the country as defined by such regulations.

On page 401, line 9, strike "totaled" and insert in lieu thereof "listed".

On page 402, line 6, strike all beginning with the phrase "Not later than June 1, 1996," through the word "shutdown." on line 20.

On page 404, line 15, after "in accordance with section 408." insert the following: "Any unit listed in Table A for which the sulfur dioxide reduction requirements of subsection (a) are reassigned, in whole, to any other unit(s) under subsection (b), and for which such reassignment or substitution has been approved by the Administrator under subsection (c), shall no longer be deemed an affected unit under this section."

One page 406, line 14, after "equal to" insert "twice".

On page 406, lines 14 and 15, strike "projected emissions tonnage for calendar years 1995 and 1996" and insert in lieu there of: "average annual emissions in calendar years 1988 and 1989".

On page 406, line 17, strike "multiplied by a factor of 2".

On page 407, line 1, after "(A) the " insert "twice".

On page 407, lines 1 and 2, strike "projected emissions tonnage for calendar years 1995 and 1996" and insert in lieu there of: "average annual emissions in calendar years 1988 and 1989".

On pgae 407, line 5, after "rate of 2.50 lbs/mmBtu" insert ", divided by 2,000".

On page 407, line 11, strike "After" and insert in lieu thereof "Between".

On page 407, line 11, after "January 1, 1997" insert "and December 31, 1999".

On page 414, lines 17 through 19, strike "for each unit subject to the emissions limitation requirements of section 404 and included in Table A" and insert in lieu there of "for each affected unit under Section 404".

On page 415, lines 5 and 6, strike ", and sum the computations, except for those units granted an extension pursuant to section 409".

On page 415, line 17, strike "5.30 million tons" and insert in lieu there of "5.00 million tons".

On page 415, line 18, after "shall deduct" insert "during calendar years 2000 through 2009".

On page 415, line 20, strike "5.30 million tons" and insert in lieu there of "5.00 million tons".

On page 416, line 6, after "existing" insert "utility".

ROTH AMENDMENT NO. 1402

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 437 of the amendment, between lines 10 and 11, insert the following:

"(4) An owner or operator of an existing unit satisfying the requirements of subsection (a) while using petroleum coke as a fuel shall be eligible for the same regulatory incentives under section 415(b)(1) as a qualifying clean coal technology.".

McCONNELL AMENDMENT NO. 1403

(Ordered to lie on the table.)

Mr. McCONNELL submitted an amendment intended to be proposed by him to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

Amend committee substitute for S. 1630, title IV, section 405, page 416, by adding on line 11 after the words "1.20 lbs/mmBtu": "and units included in section 405(b)(3).".

Amend committee substitute, title IV, section 405, page 417, by adding on line 10 after the word "factor." the new section:

(3)(A) PROHIBITION UNITS UNDER THE POWER PLANT AND INDUSTRIAL FUEL USE ACT OF 1978 (FUA).—After January 1, 2000, it shall be unlawful for any unit which was issued a prohibition order or a proposed prohibition order (from burning oil) and subsequently converted to coal, between January 1, 1980 and December 31, 1985, to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's annual fuel consumption, on a BTU basis, at 65 per centum capacity factor and its actual emission rate during the first full calendar year after conversion, divided by 2,000 unless the owner or operator of such unit has obtained allowances equal to the emissions in excess of those permitted under this section. In no case shall this subsection allow a utility system containing one or more of these units to exceed an annual average sulfur dioxide emission rate of 1.2 lbs/mmBtu after January 1, 2000.

(B) The administrator is authorized to issue no more than 20,000 allowances more than would have been alloted to the affected units under section 405(b)(3)(A). If the number of additional allowances generated by section 405(b)(3)(A) is greater than 20,000 tons the administrator will distribute the additional allowances on a prorated basis to the utilities affected by 405(b)(3)(A) based on a ratio of the affected unit's baseline to the total baseline of all the affected units.

McCLURE AMENDMENT NO. 1404

(Ordered to lie on the table)

Mr. McCLURE submitted an amendment intended to be proposed by him to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

Amend amendment No. 1293:

(1)(A) on page 390, strike lines 6 through 19, and insert in lieu thereof the following:

"(1) The term (1) 'clean coal technology' means any technology included on a list to be published not later than December 31, 1992, and amended from time to time by Administrator, with the concurrance of the Secretary of Energy. Such list shall include—

"(A) the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, derivatives of one or more of these technologies, and any other technology capable of simultaneously reducing or removing emissions of sulfur oxides and oxides of nitrogen; and

"(B) any additional technologies with improved performance relative to the performance of technology in widespread commercial use as of the date of enactment of the Clean Air Act Amendments of 1989, as determined by the Administrator, with the concurrance of the Secretary of Energy, based upon consideration of the following criteria: efficiency of energy consumption, number of pollutants controlled, effect on the derating of a boiler, reduction of volumes of by-product solid and other wastes, and differences in availability dates.

"(2) 'clean coal unit' means a utility unit that utilizes a clean coal technology.

"(3) 'retrofit' means, for purposes of section 409, to install a clean coal technology at an existing utility unit with equipment or facilities utilizing a clean coal technology. Such term includes replacement of all or part of an existing utility unit with equipment or facilities utilizing clean coal technology at the same site.

"(4) 'replace' or 'replacement' means, for the purpose of section 409, to retire an existing utility unit and replace such unit with a new clean coal unit at the same or a different site, but only if—

"(A) the new clean coal unit is designated under section 409(a) by the owner or operator of the existing utility unit as replacing such unit,

"(B) the existing unit will be retired from service on or before the date on which the designated new unit enters commercial service, and

"(C) the new unit is located in the same air quality region as the existing unit.".

(B) On page 444, line 10, after "SEC. 415." delete existing subsection (a) and redesignate subsections (b) through (e) as new subsections (a) through (d), respectively.

(2) on page 435, strike from lines 3 through page 437, line 20, and insert in lieu thereof the following:

"RETROFIT AND REPLACEMENT

"SEC. 709. (a) AVAILABILITY.—Not later than December 31, 1997, the owner or operator of an existing unit subject to the requirement of section 405 may demonstrate to the permiting authority that one or more units will be retrofitted as a clean coal unit or replaced with a clean coal unit designated by the owner or operator of the existing unit, for the purposes of complying with the requirements under section 405. The owner or operator shall, as a part of any such demonstration, provide, not later than January 1, 2000, satisfactory documentation of a preliminary design and engineering effort for such retrofit or replacement and an executed contract for the majority of the equipment for such unit and such other information as the Administrator may require by regulation. If the owner or operator of an existing unit proposes to retrofit or replace such unit with a clean coal unit that uses a clean coal technology listed under section 402(l), and such proposed retrofit or replacement is incorporated in a compliance plan under section 408(b) and an approved permit under section 408(d), approval of such permit shall be deemed to satisfy the requirements of the first sentence of this subsection.

"(b) EXTENSION.—(1) An owner or operator satisfying the requirements of subsection (a) shall be granted an extension of the emission limitation requirement compliance date for the unit to be retrofitted or replaced from January 1, 2000, to December 31, 2005. The extension shall be specified in the permit issued to the source under section 408, together with any compliance schedule and other requirements necessary to meet second phase requirements by the extended date. Any unit that is granted an extension under this section shall not be eligible for a waiver under section 111(j) of this Act.

(2) If—

(A) the owner or operator of an existing unit has been granted an extension under paragraph (1) in order to retrofit or replace such unit with a clean coal unit, and

(B) such owner or operator thereafter staisfies the Administrator (i) that the clean coal technology to be utilized by such unit is economically or technologically infeasible, (ii) that by January 1, 2000, the owner or operator has demonstrated to the Administrator a good faith effort to achieve compliance with the requirements of subsection (a), and (iii) that such existing unit will be retrofitted or repowered with equipment or facilities utilizing another clean coal technology or other available control technology,

then such extension shall be available until no later than December 31, 2005.

"(c) ALLOWANCES.—(1) For the period of the extension under this section, the Administrator shall issue to the owner or operator of the affected unit, annual allowances for sulfur dioxide equal to the affected unit's baseline multiplied by the lesser of the unit's federally approved State Implementation Plan limitation or its actual emission rate for 1995. Such allowances may not be transferred or used by any other source to meet emission requirements under this title. In the case of any existing unit that is to to retrofitted as a clean coal unit, the source owner or operator shall notify the Administrator sixty days in advance of the date on which the affected unit for which the extension has been granted is to be removed from operation to install the clean coal technology.

"(2) Effective on that date, the source shall be subject to the requirements of section 405. Allowances for the year in which the source is removed from operation to install the clean coal technology shall be calculated by multiplying 1.20 lbs/mmBtu by the existing utility unit, divided by 2,000, and prorated accordingly, and are transferable.

"(3) Allowances for calendar years after the year the retrofit or replacement is complete shall be calculated by multiplying 1.20 lbs/Btu of sulfur dioxide by the existing utility unit's baseline divided by 2,000.

"(4) An owner or operator of an existing unit satisfying the requirements of subsection (a) while using petroleum coke as a fuel shall be elibile for the same regulatory incentives under section 415(b)(1) as a qualifying clean coal technology.

"(d) CONTROL REQUIREMENTS.—Any source qualifying for an extension under this section that does not increase actual hourly emissions for any pollutant listed as a criteria pollutant under section 108 of the Act shall not be subject to requirements of parts C and D of this Act for that pollutant.

"(e) EXPEDITED PERMITTING.—State permitting authorities and, where applicable, the Administrator, are encouraged to give expedited consideration to permit applications under parts C and D for any source qualifying for an extension under this section, that will increase its actual emissions as specified in section 409(d)."

"(g) APPLICABILITY OF NEW SOURCE REQUIREMENTS.—No existing utility unit or source subject to this title shall be subject to any standard under section 111(b) or be required to obtain a permit under sections 165 or 173 as a result of any physical or operational change that occurs at such unit or source after the date of enactment of this title provided that any such change in the unit's or source's physical and operational design does not increase the maximum potential capacity of the unit or source to emit criteria air pollutants under its physical and operational design.".

(3) on page 447 strike lines 12 through 14 and insert in lieu: "pollutant listed as a criteria pollutant under section 108 of the Act, except that potential post-repowering emissions from that pollutant do not exceed the potential pre-repowering emissions for that

pollutant as a result of the demonstration project.".

MURKOWSKI AMENDMENT NO. 1405

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

Section 402(1), on page 390, line 7, after "boiler" insert "or feedstock".

On page 390, line 12, after "other" insert "combustion or precombustion".

Section 402(r), on page 391, line 25, after "reduction" insert "or a feedstock treated with clean coal technology as defined in section 415(a).".

On page 392, lines 2 and 3, strike "use of fuels" and insert in lieu thereof "fuels used at the time of submission of a proposal pursuant to section 404(d)(2)".

ROTH (AND OTHERS) AMENDMENT NO. 1406

Mr. ROTH (for himself, Mr. KASTEN, and Mr. SYMMS) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 16, line 24, strike out "and".

On page 17, line 3, strike out the quotation marks and the last period and insert in lieu thereof a semicolon and the word "and".

On page 17, between lines 3 and 4, insert the following:

"(xv) program to encourage the voluntary removal from use and the marketplace of pre-1980 model year light duty vehicles and pre-1980 model year light duty trucks.".

SYMMS AMENDMENT NO. 1407

Mr. SYMMS proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

In amendment No. 1293, at the end of Title II insert the following new section:

"SEC. . ETHANOL SUBSTITUTE FOR DIESEL.—Within one year after the enactment of this Act, the Administrator shall contract with a laboratory which has done research on alcohol esters of rapeseed oil to evaluate the feasibility, engine performance, emissions, and production capability associated with an alternative to diesel fuel composed of ethanol and high erucic acid rapeseed oil. The Administrator shall submit a report on the results of this research to Congress within three years of the issuance of such contract.

SIMON (AND DIXON) AMENDMENT NO. 1408

Mr. SIMON (for himself and Mr. DIXON) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 88, line 6, strike out "two" and insert in lieu thereof "three".

On page 88, line 11, after "emissions." insert the following: "The Administrator shall commence such study not later than 60 days after the date of the enactment of this subpart.".

On page 89, line 11, strike out "three" and insert in lieu thereof "two".

SPECTER (AND HEINZ) AMENDMENT NO. 1409

Mr. SPECTER (for himself and Mr. HEINZ) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 242, line 16, strike the period and insert in lieu thereof a comma.

On page 242, before line 17, insert the following: "*Provide, however,* That none of the measures described in subparagraphs (A) through (D) shall compromise any patent or trademark or require the release of any trade secret or other intellectual property right.".

HELMS (AND OTHERS) AMENDMENT NO. 1410

Mr. HELMS (for himself, Mr. LOTT, Mr. SYMMS, and Mr. MCCLURE) proposed an amendment, which was subsequently modified, to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 559, line 6, strike "by contributing funds to" and insert in lieu thereof "and to assist".

On page 559, line 8, strike "such funding" and the text following through line 15.

MCCAIN (AND OTHERS) AMENDMENT NO. 1411

Mr. MCCAIN (for himself, Mr. ADAMS, Mr. DECONCINI, Mr. HATCH, Mr. MACK and Mr. WILSON) proposed an amendment to amendment No. 1293 (in the nature of a substitute) to the bill S. 1630, supra; as follows:

On page 567, after line 20, add the following:

TITLE VIII—SOLAR AND RENEWABLE ENERGY

INCENTIVES

SEC. 801. (a) DEFINITION.—For purposes of this section, solar and renewable energy means photovoltaic, solar thermal, wind, geothermal and biomasss technologies, or any other energy production technology, other than hydroelectric, recognized as "renewable energy" by the Department of Energy.

(b) FEDERAL RATE INCENTIVES.—(1) Within 24 months after enactment of this section, the Federal Energy Regulatory Commission shall complete a rulemaking to establish a demonstration program for regulatory incentives to promote and encourage solar and renewable energy. The regulatory incentives shall include—

(A) establishment of an incentive rate of return for solar and renewable energy development and distribution that recognizes their inherent risk; and

(B) allowance of a ten-to-twenty-year amortization period to recover the capital costs of solar and renewable energy technologies.

(2) The initial Federal Energy Regulatory Commission demonstration program shall be in effect for 5 years.

(3) At the end of the initial 5-year demonstration program, the Federal Energy Regulatory Commission shall review the merits of the program and determine whether to extend such program, including the establishment of a permanent program.

(c) FERC PREAPPROVAL OF PRUDENCE FOR SOLAR AND RENEWABLE ENERGY TECHNOLOGY COSTS.—The Federal Energy Regulatory Commission shall establish a process for negotiating with potential developers of solar and renewable energy technologies to agree upon costs caps for future projects and preapproval of the prudence of expenses for those projects if the expenses fall within the agreed-upon cap.

(d) ENCOURAGEMENT OF STATE INCENTIVE PROGRAMS.—Because the use of solar and renewable energy is in the national interest, States, including their agencies and political subdivisions which regulate public utility rates and charges, are encouraged to provide additional incentives for their implementation. Those incentives may include, but are not limited to—

(1) preapproval of recovery of capital costs and other expenses, within reasonable bounds agreed upon before project construction; and

(20 rapid amortization of solar and renewable energy expenditures.

DOMENICI AMENDMENT NO. 1412

Mr. DOMENICI proposed an amendment to amendment No. 1293 (in the nature of a substitute) to the bill S. 1630, supra; as follows:

On page 123, line 15, at the end of section 193(b), add new subsection (c):

"(c) Within three years after enactment, the Administrator shall review pertinent information and report to the Congress on the need to modify subsection (b) to take into account infeasible requirements that might be placed on certain rural areas of the country where a substantial percentage of ambient PM-10 concentration in the area is caused by the suspension of natural soils in the ambient air due to non-industrial, anthropogenic activities. Included in this review shall be a recommendation on whether exemptions from the 5 per centum annual reduction requirement should be granted to certain areas. In making such recommendations, the Administrator shall consider the presence and concentration of potentially toxic substances in the mix of particulate emissions in the area, and the technological and economic feasibility of various control measures."

MURKOWSKI (AND STEVENS) AMENDMENT NO. 1413

Mr. MURKOWSKI (for himself and Mr. STEVENS) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

Section 188(c), on page 103, line 22, add a new paragraph (3):

"(3) Nothing in this Act shall prohibit a State containing an area classified nonattainment pursuant to section 187(a) from revising its implementation plan to substitute an alternative control measure for an

existing control measure if the State demonstrates that:

(A) the alternative control measure—

(i) is not already included in the implementation plan;

(ii) is not otherwise required by this Act;

(iii) will provide an equal or greater degree of carbon monoxide emissions control as full implementation of the existing control measure would provide; and,

(iv) will be implemented not later than 18 months after the date of enactment of this Act; and,

(B) the existing control measure is not otherwise required under this Act or under guidelines or regulations issued by the Administrator.

When the State makes such a demonstration, the Administrator shall approve a revision to the implementation plan which incorporates the alternative control measure."

MURKOWSKI AMENDMENT NO. 1414

Mr. MURKOWSKI proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

Section 402(p), on page 391, line 8: Insert between "unit" and "that" the words "in any State".

REID (AND SIMPSON) AMENDMENT NO. 1415

Mr. REID (for himself and Mr. SIMPSON) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

At the end of the amendment, insert the following:

SEC. . RESEARCH, INVESTIGATION, TRAINING, AND OTHER ACTIVITIES.

Section 103 of the Clean Air Act is amended—

(1) by amending subsection (c) to read as follows:

"(c) In carrying out subsection (a), the Administrator shall conduct a program of research, testing, and development of methods for sampling, measurement, monitoring, analysis, and modeling of air pollutants. Such program shall include the following elements:

"(1) Consideration of individual, as well as complex mixtures of air pollutants and their chemical transformations in the atmosphere.

"(2) Development of improved monitoring and modeling techniques to increase understanding of the sources of ozone precursors, ozone formation, ozone transport, regional ozone trends, and physicochemical interactions of ozone with other pollutants. Emphasis shall be placed on those techniques which—

"(A) improve the ability to inventory emissions of volatile organic compounds contributing to urban air pollution, including anthropogenic and natural sources; and

"(B) improve the ability to identify and evaluate region-specific prevention and control options for ozone pollution.

"(3) Efforts to ensure the comparability of air quality data collected in different States and in different nations.

"(4) Periodic reports to the Congress which evaluate and assess the effectiveness of air pollution control regulations and programs using monitoring data collected pursuant to this subsection.";

(2) by amending subsection (d) to read as follows:

"(d)(1) The Administrator shall conduct a research program on the short- and long-term effects of air pollutants, including wood smoke, on human health. In conducting such research program the Administrator—

"(A) shall conduct studies, including epidemiological, clinical, and laboratory studies, as necessary to identify and evaluate effects of air pollutants on human health:

"(B) may utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers; and

"(C) shall consult with other appropriate Federal agencies to ensure that similar research being conducted in other agencies is coordinated and is not duplicative.

"(2) In conducting the research program under this subsection, the Administrator shall develop methods and techniques necessary to identify and assess the risks to human health from both routine and accidental exposures to individual air pollutants and combinations thereof.";

(3) by amending subsection (f) to read as follows:

"(f) In carrying out the provisions of subsection (a), the Administrator shall conduct a research program to improve the understanding of the causes, effects, and trends of natural resource damage from air pollutants. Such program shall include—

"(1) identification of regionally representative and critical ecosystems for research;

"(2) evaluation of risks to natural resources exposed to air pollutants, including characterization of the causes and effects of chronic and episodic exposures to air pollutants and determination of the reversibility of such effects;

"(3) development of improved atmospheric dispersion models and monitoring systems and networks for evaluating and quantifying exposure to and effects of multiple environmental stresses associated with air pollution;

"(4) evaluation of the effects of air pollution on water quality, including assessments of the short- and long-term ecological effects of acid rain and other atmospherically derived pollutants on surface water (including wetlands and estuaries) and ground water;

"(5) evaluation of the effects of air pollution, including acid rain, on forests, biological diversity, soils, materials, crops, and other terrestrial systems exposed to air pollutants; and

"(6) estimation of the ecological damages and their associated costs which have occurred as a result of exposure to air pollutants."; and

(4) by inserting at the end thereof the following new subsections:

"(g) Not later than 120 days after the date of the enactment of this subsection, the Secretary of Energy shall report to Congress on plans and procedures for entering into contracts and cooperative agreements with other Federal agencies, and private, public, and academic research organizations for use of the Liquefied Gaseous Fuels Spill Test Facility.

"(h)(1)(A) Not later than 180 days after the date of enactment of this subsection the Secretary of Energy shall establish and operate an air toxics emissions program to conduct research, development and technology demonstration activities in cooperation with the Liquefied Gaseous Fuels, Spill Test Facility in accordance with the provisions of this subsection.

"(B) Not later than 120 days after the date of enactment of this subsection the Secretary of Energy shall prepare and submit a report to the Congress on plans and deadlines to be implemented in carrying out the program described in paragraph (1)(A).

"(2) The research, development, and technology demonstration activities described in paragraph (1)(A) shall include—

"(A) developing and implementing improved procedures to predict behavior of dense gases including the transport and fate of such emissions;

"(B) developing new and improved analytical monitoring methods;

"(C) investigating and evaluating response methods to control toxic air emissions-related emergencies;

"(D) researching and evaluating monitoring techniques to improve knowledge of threats to human health and the environment with emphasis on cross-media effects of such emissions;

"(E) testing, development and demonstration of alternative or innovative technologies which may be utilized to control, abate, or minimize air toxic emissions.

"(3) In carrying out the provisions of this subsection, the Secretary of Energy, in consultation with the Administrator of Environmental Protection Agency, shall select at least two chemicals listed in section 112(b) of the Clean Air Act for research, development and technology demonstration activities pursuant to this subsection. The Secretary of Energy shall select two such chemicals annually for such activities. In selecting such chemicals, priority shall be placed on chemicals the Secretary of Energy determines pose the greatest threat to human health and the environment.

"(4) The Secretary of Energy shall make available to interested persons (including other Federal agencies and businesses) the use of the Liquefied Gaseous Fuels Spill Test Facility to conduct research and other activities in connection with the activities described in paragraph (2).

"(5)(A) In carrying out the provisions of this subsection, the Secretary of Energy is authorized to enter into contracts and cooperative agreements with, and make grants to, nonprofit entities affiliated with the University of Nevada and the University of Wyoming.

"(B) The agreement described in subparagraph (A) shall provide that such nonprofit entities—

"(i) may provide basic technical and management personnel; and

"(ii) shall provide permanent research institutes.

"(6) The research institutes described in paragraph (5) shall be authorized to make grants, accept contributions and enter into agreements with other entities to carry out the provisions of this subsection.

"(7) There are authorized to be appropriated to the Department of Energy $3,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year thereafter to carry out the provisions of paragraph (5). Such amounts shall remain available until expended.".

On page 512, line 17, strike "$90,000,000" and insert "$120,000,000".

SANFORD (AND OTHERS) AMENDMENT NO. 1416

Mr. SANFORD (for himself, Mr. DURENBERGER, Mr. ADAMS, Mr. GORTON, Mr. KOHL, Mr. BUMPERS, Mr. PRYOR, Mr. LIEBERMAN, Mr. DODD, Mr. ROTH, Mr. HEFLIN, and Mr. BOREN) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 392, line 4, add the following new definition: "(s) The term "designated representative" means a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit."

On page 392, line 4, add the following new definition: "(t) The term "life-of-the-unit, firm power contractual arrangement" means a contractual arrangement under which a utility receives a specified amount or percentage of capacity and associated energy generated by a specified generating unit (or units) and pays its proportional amount of such unit's total costs, for the life of the unit."

On page 392, line 9, strike the words "to the owner or operator of the affected units at an affected source" and substitute "for the unit, to be held or distributed by the designated representative of the owner or operator of each affected unit at an affected source in accordance with this title,".

On page 393, line 22, insert the words "a designated representative of" before the words "an owner or operator".

On page 394, line 14, insert the words "a designated representative of" before the words "the owner or operator".

On page 394, line 23, strike the words "the applicant" and insert the words "in accordance with the approved application".

On page 396, line 20, insert the words "designated representatives of the" before the words "owners or operators".

On page 397, line 23, insert the words "designated representatives of" before the words "the owners or operators".

On page 399, line 21, insert the words "designated representative of" before the words "owner or operator".

On page 399, line 22, strike the words "equal to" insert the words "for no less than".

On page 400, line 6, insert the words "designated representative of the" before the words "owner or operator".

On page 429, line 5, delete the heading and insert the following before the words "Each permit":

"(b) PERMIT APPLICATIONS AND COMPLIANCE PLANS GENERALLY—

Permit applicants required by this section shall be submitted by the designated representative of the owner or operator of the unit, shall identify each person on whose behalf allowances will be received, and shall specify the nature and extent of the interest of each person."

On page 429, line 6, insert the words "submitted by the designated representative of the owner or operator and shall be" before the words "accompanied by".

On page 430, line 5, insert the words "the designated representative of" before the words "the owner or operator".

On page 430, line 14, insert the words "the designated representatives of" before the words "the owners or operators".

On page 430, line 16, strike the words "they notify" and insert after "the Administrator" on line 17 the words "is given prior notification".

On page 432, line 14, insert the words "designated representative of the" before the words "owner or operator".

On page 433, line 9, insert the words "designated representative of the" before the words "owner or operator".

On page 433, line 18, insert the words "designated representative of the" before the words "owner or" and substitute the word "operator" for the word "operators".

On page 434, line 6, insert the words "designated representative of the" before the words "owner or operator".

On page 434, line 19, insert the words "and its designated representative" before the words "(1) to fail to submit".

On page 435, between lines 2 and 3, add the following:

(h) MULTIPLE OWNERS.—No permit under this section shall be issued to an affected unit until the designated representative of the owner or operator has filed a certification concerning the holding and distribution of allowances. Where there are multiple holders of a legal or equitable title to or a leasehold interest in such a unit, or where a utility purchases power from an affected unit under life-of-the-unit, firm power contractual arrangements, the certification shall (1) state that allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual share or, (2) if such multiple holders have expressly provided for a different distribution of allowances by contract, state that allowances will be deemed to be held or distributed in accordance with the contract. A passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected unit shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purpose of holding or distributing allowances as provided in this subsection, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in an affected unit is held by a single person, the certification shall state that all allowances received by the unit are deemed to be held for that person."

BUMPERS (AND OTHERS) AMENDMENT NO. 1417

Mr. BUMPERS (for himself, Mr. BREAUX, and Mr. BINGAMAN) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 447, line 17, strike the word "that" and insert the following: "notwithstanding the provisions of paragraph (1), any other utility unit pollution control project, including, but not limited to, alterations that allow the use of natural gas as a fuel, where such project constitutes a retrofit pollution control project and where such project".

EXON (AND OTHERS) AMENDMENT NO. 1418

Mr. EXON (for himself, Mr. KERREY, Mr. HARKIN, and Mr. MATSUNAGA) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 213, line 20, strike "1991" and insert in lieu thereof "1992".

On page 213, line 24, strike "may" and insert in lieu thereof "shall".

On page 213, line 24, strike "1991" and insert in lieu thereof "1992".

On page 213, line 25, immediately following "deadline" insert "annually".

On page 213, line 25, strike "two" and insert in lieu thereof "three".

On page 214, line 2, immediately following "that", insert "adequate".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., March 28, 1990, to receive testimony on S. 456 and H.R. 1109, on the provisions of the bill designating the California National Trails System; S. 465 and H.R. 1159, to amend the National Trails System Act by designating the Juan Bautista de Anza National Historic Trail, and for other purposes; and S. 1756, to provide for the preservation and interpretation of sites associated with Acadian culture in the State of Maine; S. 1864 and H.R. 76, to amend the Wild and Scenic Rivers Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the Wild and Scenic Rivers System; S. 2059, to establish the Weir Farm National Historic Site in the State of Connecticut; S. 2208, to provide for the issuance of a 7-day admission permit for the grand circle adventure comprising seven national parks in Utah, Colorado, and Arizona; and S. 1770, a bill to assess the suitability and feasibility of including certain Shenandoah Valley Civil War sites in the National Park System.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 28, at 2:30 p.m., to hold a hearing on famine in the Horn of Africa.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 28, at 4 p.m., to hold a hearing and mark up on supplemental assistance for Nicaragua and Panama, to mark up legislation authorizing housing guarantees for Israel, and to vote on pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Research of the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, March 28, 1990, at 3 p.m., to hold a hearing in preparation for the 1990 farm bill: noxious weeds.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Wednesday, March 28, 1990, at 2 p.m., to hold hearings on the nomination of Timothy Ryan, Jr., to be Director of the Office of Thrift Supervision.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, March 28, 1990, at 9 a.m., to hold a hearing entitled "Circle of Poison: The Pesticide Export Reform Act of 1990."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Armed Services Committee be authorized to meet in open session on Wednesday, March 28, 1990, at 9:30 a.m., to receive testimony on defense technology strategy and the defense critical technology plan in review of S. 2171, the Department of Defense Authorization Act of Fiscal Year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TOXIC SUBSTANCES, ENVIRONMENTAL OVERSIGHT, RESEARCH AND DEVELOPMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substance, Environmental Oversight, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, March 28, beginning at 9:30 a.m., to conduct an oversight hearing on the regulation of lawn chemicals.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on March 28, 1990, beginning at 2 p.m., in 485 Russell Senate Office Building, on S. 381, recognition of Mowa Band of Choctaw Indians; S. 1413, Aroostook Band of Micmacs Settlement Act; S. 1747, Ponca Restoration Act; and S. 1918, Jena Choctaw.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Armed Services Committee be authorized to meet in open session on Wednesday, March 28, 1990, at 2:30 p.m., to receive testimony on the plans, progress, and experience to date of the Defense Nuclear Facilities Safety Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EXPORT EXPANSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Small Business Committee's Subcommittee on Export Expansion be authorized to meet during the session of the Senate on Wednesday, March 28, 1990, at 2:15 p.m., the committee will hold a hearing on the effects of the 1992 European Community integration on United States small business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SUSTAINABLE AGRICULTURAL RESEARCH AND EDUCATION ACT OF 1990

● Mr. CONRAD. Mr. President, I am pleased to join my colleagues as a cosponsor of S. 2334, the Sustainable Agriculture Research and Education Act of 1990. This bill builds on the research successes of the 1985 Food Security Act and adopts reasonable methods of encouraging farmers to be the best possible stewards of the environment.

It is fundamentally important that our approach to minimizing agriculturally related effects to the environment rely upon positive-based incentives and not upon negatively oriented regulations and restrictions. For a positive approach to be successful, farmers need the best information available, they need economically viable choices, and they need the flexibility to respond to ever-changing markets.

This bill will ensure that the necessary research is carried out to provide information on viable sustainable agriculture methods in every part of the country. This bill provides an incentive for every State to focus some of its research dollars on sustainable agriculture by creating a Federal-State matching grant program.

To illustrate the importance of this research, I would like to briefly describe two research projects in North Dakota that have been funded under the current program. Their value for demonstrating the economic potential of sustainable agriculture to the Northern Plains region is clear.

Wheat growers traditionally leave fallow a portion of their land every year to conserve soil moisture and control weeds. Last year 18 percent of all North Dakota crop land and 25 percent of crop land in the Great Plains lay fallow. There are two big problems with this approach: Fallow land erodes easily and farmers are not getting any productive use out of that land. Researchers at the North Dakota State University Carrington Research Center and a group of farmers are experimenting with a wheat-legume production system that would overcome those problems. This LISA research project has the potential to reduce fertilizer and chemical use, soil erosion, and improve the long-term sustainability of farming in the Great Plains.

Another LISA research project in North Dakota is focused on diversifying the Northern Plains agricultural economy by integrating livestock onto low-input crop production farms. Also based at the Carrington Research Center, researchers and farmers are studying how to integrate ruminant livestock into a farming operation by utilizing otherwise wasted grain straw, weather-damaged grains, and idle labor. This project can help us understand how farmers who choose to adopt sustainable farming practices can maximize their income.

The education component of this bill is as important as the research itself. Rather than burdening farmers with onerous rules and regulations, this bill requires that Extension Service agents be trained in sustainable agriculture methods. The result is clear: Farmers will be better informed on their choices so they will be able to make better decisions.

I believe that farmers will adopt the best stewardship practices that are available provided they can do so profitably. That is why this bill is so important. It will help demonstrate which agricultural practices are both

environmentally and financially sound.

Again, I offer my congratulations to Senator LEAHY and his staff for crafting this fine bill. Demonstrating to farmers that they can earn a fair profit while using sustainable agriculture methods is one of the most important things we can do to safeguard our environment.●

EASY GUNS KILL ANEW

Mr. SIMON. Mr. President, I am not a regular reader of the Miami Herald, but I happened to pick up the newspaper the other day and read an excellent editorial titled, "Easy Guns Kill Anew."

It seems we are incapable of churning up enough courage to protect our people from needless carnage.

I wish we could follow the advice of the Miami Herald.

I ask to have printed the editorial into the RECORD at this point, and I urge my colleagues to read it.

The editorial follows:

[From the Miami Herald, Feb. 20, 1990]

EASY GUNS KILL ANEW

Again South Florida grieves. One of its protectors, Broward Sheriff's Deputy John W. Greeney III, is dead. A fellow deputy, Robert Sallustio, is hospitalized. He could have been killed too, but his bulletproof vest spared him.

These two officers were cut down by a hail of gunfire from a semiautomatic weapon early Saturday. They were shot while trying to stop a holdup in progress at a Church's Chicken restaurant on Broward Boulevard west of Fort Lauderdale.

In this instance, South Florida's sorrow is justifiably tinged with rage. Mr. Greeney, whose father and grandfather were policemen, is the *seventh* law-enforcement officer slain in South Florida within the past two years. He leaves a wife and three sons.

Meanwhile, his alleged killer—Lancelot Armstrong, 26—is wanted in Massachusetts for assault and rape. Even so, under Florida's inexcusably lax laws governing the sale of firearms, he had no trouble buying a deadly weapon. Police say that the receipt was still in his wallet when he was captured at a Maryland roadblock in a commendable display of solid police work.

Except for that police work, there is no redeeming feature to this tragedy. Words may console, but they cannot undo the evil that was done. A trial may convict the killer, but it cannot restore life to the victim.

Moreover, other police officers whose lives are daily at risk realize this. So this jolting reminder of the dangers of South Florida's mean streets is bound to have an impact upon even the most professional and prudent among them.

As a result, somewhere in South Florida in the months ahead, an officer in a potentially life-threatening situation, with a split-second to act, may err on the side of caution and take an innocent life. When that happens, it will be yet another casualty of the mind set that tolerates deadly weapons in the hands of felons and lunatics.

So the body count can be expected to climb in this escalating war between law enforcement and the lawless. Yet grieving after the death of a policeman is a poor substitute for action to curb the carnage.

The only satisfactory solution is to prevent such incidents in the first place. No single approach is foolproof, but the experience of societies with far-better records suggests that making it more difficult for the lawless to buy firearms would be a good place to start.●

NATIONAL MEDICAL RESEARCH DAY

● Mr. LAUTENBERG. Mr. President, yesterday several of my constituents were in town to observe National Medical Research Day and participate in the Advocacy/Mentor Training Conference sponsored by the National Health Council [NHC]. The third annual National Medical Research Day, which was observed on Monday, is part of a larger, ongoing collaborative campaign entitled "Medical Research: Invest in America's Health." The National Health Council is compromised of 39 voluntary health agencies [VHA's] and the Pharmaceutical Manufacturers Association who have organized to concentrate their collective energies on the need to stabilize and promote the growth of our Nation's overall medical research enterprise.

The National Health Council provides a significant voice on behalf of medical research efforts throughout the United States. This organization works hard to encourage a positive public policy environment to foster and increase private sector medical innovation.

To reinforce the good work of the National Health Council, we in the Congress must see that the Federal commitment to medical research remains strong. We must provide adequate funding for the four Federal centers for medical research—the National Institutes of Health [NIH], the Alcohol, Drug Abuse and Mental Health Association [ADAMHA], the Centers for Disease Control [CDC], and the medical research component of the Veterans Administration [VA].

The United States is well established as an international leader and innovator in the field of medical research. This status cannot be maintained, however, if we do not invest sufficient funds in basic research.

Clearly, an infusion of Federal dollars cannot and should not be seen as the only answer to every problem. However, adequate Federal investment in medical research is sound public policy, with priceless returns that can be seen in the many lives saved or made more comfortable through discoveries that ultimately enhance the quality of life nationally and internationally.

Medical research is the precursor to the discovery, diagnosis and treatment of disease. Despite the many advances in recent years, much remains to be done. We still need to know a lot more, for example, about exactly how viruses cause respiratory illness such as asthma, emphysema and bronchopulmonary dysplasia [BPT], a chronic disorder afflicting one in ten infants whose tiny lungs are scarred and functionally abnormal.

We need to take necessary steps to ensure this country's place as the world leader in medical research. Working jointly with the private sector, we need to continue to take this responsibility seriously and reconfirm our commitment to the medical research that will make life better for everyone.●

HUNGER PREVENTION ACT OF 1990

● Mr. CONRAD. Mr. President, I am pleased to join my colleagues as a cosponsor of S. 2310, the Hunger Prevention Act of 1990.

This legislation makes major strides in a very important area—that of food assistance to America's low-income persons. Too often, millions of Americans go to bed hungry, and millions of American children do not receive sufficient nutrition to ensure their health and well-being. So far, our response to this problem has been inadequate. Although the Government has created a number of excellent programs which provide food assistance to low-income individuals, too often these programs have been funded or administered in a haphazard or insufficient way. Too often, people in urgent need of food assistance are not reached.

During the 1980's, the combination of a brutal recession and cuts in Government benefits programs caused the number of impoverished persons in this country to rise dramatically. Under the Reagan administration, the poverty rate rose from 11.4 to a peak of 15.2 percent in 1983 before declining to 13.1 percent in 1988.

The Reagan track record on programs to assist low-income Americans is discouraging. President Reagan's first budget proposal included a request for an initial 20-percent cut in the Special Supplemental Food Program to Women, Infants, and Children [WIC], with additional cuts to occur in subsequent years. While Congress did not accept all of the President's recommended cuts, the WIC Program during the Reagan years never received adequate funds to meet its service requirements. Food stamp programs have also suffered dramatic reductions under the past administration. Approximately one-third of Reagan's recommended cuts in the Food Stamp Program were accepted by Congress. These cuts caused nearly 2 million eligible persons to be dropped from the food stamp services between 1981 and 1987.

Mr. President, cuts in programs to assist low-income Americans have

deepened the problem of hunger in America. Although many of us used to view hunger and malnutrition as problems characteristic of Third-World nations, these problems are rapidly becoming part of the American landscape. Area shelters and soup kitchens report record increases in the numbers of people who rely on these forms of assistance on a daily basis. It is estimated that 20 million people—1 of every 12 Americans—goes hungry at least once a month. Further, public assistance recipients note that as a greater proportion of their income must go for high housing costs, they find themselves unable to put adequate amounts of food on the table—forced to make a choice between eating and keeping a roof over their children's heads.

The bill that we are introducing today should help alleviate the problems which plague food assistance programs and ensure that impoverished persons receive the help they need. In the first place, it increases funding for highly effective programs like WIC so that these programs can better meet the needs of the people they were created to serve. Although the WIC Program's success has been well-documented, the program has never received funding allotments which would enable it to assist more than 50 to 60 percent of the women and children eligible for the program. My State ranks relatively high in WIC participation, but still serves only 50 to 60 percent of eligible persons. The Food Stamp Program, which, like WIC, has a good public assistance track record, rarely provides benefits that last the entire month, according to an overwhelming 93 percent of food stamp recipients surveyed. These statistics give us no cause for self-congratulation. They indicate the very great need for more assistance.

In addition to improving funds for food assistance programs, the bill eliminates many barriers to program accessibility and effectiveness. I understand that those who discuss public assistance programs most often invoke the specter of urban blight. However, as my colleagues from rural States well know, America's heartland is no stranger to poverty and hunger. Poverty is growing at an alarming rate among rural populations. In my own State, in one city alone, the number of hungry and homeless women and children increased by 37 percent in the last year.

Yet Federal programs are ill-equipped to meet the needs of rural areas where poor families often struggle in silence to obtain the basic human needs of food and shelter. In many cases, these families struggle alone because they do not know about the assistance programs which are available to them. In other cases, these low-income families simply are not able to utilize food assistance programs. The agencies which administer the programs may be located too far away to help families who do not have means of transportation, or may present other obstacles such as complicated and protracted application procedures.

Mr. President, our food assistance programs are serving as many people as current funding levels allow. However, that's not good enough when so many people are still going hungry. The legislation before us today could make a significant difference. I applaud the chairman of the Budget Committee, Senator SASSER, the chairman of the Agriculture Committee, Senator LEAHY, for the hard work they have put into this legislation, and for the insight and compassion with which they have dealt with this issue. I urge my colleagues to lend their support to this measure.●

TAKING CARE OF MOM AND DAD

● Mr. SIMON. Mr. President, population projections spell out a frightening national need for long-term health care for the elderly. By the year 2000, one in five people will be 65 years or over. Almost 6 million will be 85 or older, a group big enough to make two cities the size of Chicago. But the numbers alone do not give us the entire picture of what those needs are and what they will be. They do not spell out the human drama involved in every individual story.

The Commercial-News of Danville, IL, recently ran an excellent series called "Taking Care of Mom & Dad." Reporter Jean Byram has taken a sensitive, sometimes heart-warming, sometimes heartbreaking look at families in Danville living with the everyday need of long-term health and personal care. These are people who could easily be our own moms and dads. Chances are we will all face some crisis or some situation where we will have to make an agonizing decision on what kind of care our own parents will receive.

I ask to have one installment of the series reprinted in the RECORD.

The article follows:

IT CAN MAKE YOU BITTER—OR BETTER

(By Jean Byram)

Morning runs its fingers through the Friday sky. Verna Huckstadt, nurse's aide, has been up for two hours.

Shortly before 7, she will be knocking at the door of her first client of the day. By early afternoon, she will have brought aid to four elderly homebound residents and comfort to the relatives who care for them.

"We're the homekeepers," she says with pride.

She is not exaggerating.

Her work and that of six other certified nursing assistants employed by Vermilion County's CRIS Senior Services is the little bit of help that make it possible for many senior citizens to remain in their homes. Hospital and nursing home bills are saved; tax money is saved.

Twenty percent of the people in Vermilion County already are 60 or above. That's 18,000 people, people with the potential of needing short- or long-term care. Where will they find it? Will they find it? Who will pay for it?

Medical marvels lengthen lives. But what happens next? Who will care for those who cannot care for themselves?

These are questions that must be answered as we approach the year 2000.

The unrelenting grind of taking care of an invalid is tough work, mentally and physically. Many caregivers, not longer young themselves, have health problems of their own. They are not able to lift patients, give baths, develop an exercise routine, or make medical judgments.

For Verna Huckstadt, those things, repeated over and over each day she works, are a labor of love.

Verna, 57, is the oldest of the CRIS aides. To get to her share of the 27 clients, she has waded in waist-deep snows, maneuvered over icy country roads and climbed fences.

She spends 25 to 26 hours a week taking vital signs, checking medicines, assessing needs, taking patients through range of motion exercises and therapy, changing linens and clothes, emptying and cleaning commodes and giving baths in and out of tubs—"anyway I can give them."

If there is time, she will bring in her keyboard from the back of her gray station wagon and give an impromptu concert of a client's favorite songs. "They clap and sing along with me. That's therapy, too."

Verna's first patient of the day is Mary Stank, 80. Verna sees her three times a week.

Mary is seated at her wheelchair in her kitchen, finishing up her breakfast of cold cereal and milk.

Mary has no children. She lives alone.

She has had open heart surgery and two hernia operations. Eight years ago, her left leg was amputated because of poor circulation.

That devastation did not compare to the shock of the death of her husband, Jess, two years ago, less than 24 hours after a routine operation. He was not only her husband but her caretaker.

She does not wear a prosthesis.

"I got an artificial leg but I never could wear it. I'm a little off balance but I get along all right."

Getting along all right means that despite other health aggravations, including phantom pain in the foot and toes of the non-existent leg, she can do her own cooking from her wheelchair, get herself up from and into bed, and that she can keep on living in a place that is precious to her: the tidy four-room white-painted, wood-paneled block home she shared with Jess.

She could not do that if it were not for in-home care. Agency nurses are her surrogate children.

There is no charge here or in any of the homes visited but donations are encouraged.

A community care helper comes two hours a week to clean house. That program is administered by the Vermilion County Health Department. The health department makes assessments of need and ability to pay; workers are provided through a vendor based in Champaign. As with the nursing service, which has a waiting list, no one is turned down through inability to pay.

Mary's sister, Margaret Carrigan, does her laundry and comes every afternoon to perform other necessary chores.

Verna lifts Mary from her wheelchair into a rolling chair and wheels her into the bathroom, through the narrow area between tub and sink. Verna bought the chair at a rummage sale for 75 cents. Her husband, Ralph, retired from General Motors, outfitted it with wheels.

Without it, Mary could not get into the bathroom. Her wheelchair is too wide.

Verna transfers Mary onto a plastic bench set across the tub. The bath begins. Verna shampoos Mary's hair, too, pouring the rinsewater over her head with an old aluminum saucepan.

Mary's husband once took her to plays and musicals. Now it's Verna who takes her.

"She's more my friend than a nurse to me," Mary says.

There's a special picture on the mantel of the brick fireplace at Verna's next stop, the Brewer Road home of former West Lebanon, Ind., residents Rollin and Frances Watkins.

It is of Rollin, 75, and Frances, 71, on their 50th wedding anniversary. They are smiling. Rollin is in suit and tie. Frances wears a dress that is the clear pure blue of a summer sky. It is the exact shade of her eyes.

Frances rarely gets into the living room. A stroke has left her an invalid, bedfast except for a short period each day.

"I get her up at noon," Rollin says. "She stays up about two hours and then I put her back in bed."

Frances' hospital bed is in an end bedroom. Her face is thinner than that of the smiling woman in the picture. Her eyes are the same.

To prevent bedsores, Frances' bed is fitted with a pressure mattress of heavy blue plastic. The mattress has air pockets, bubbles really, that fill up and out as the mattress pulsates. Her body is never concentrated on a pressure spot.

Verna goes about her routines: the bed bath, the shampoo, the bedding change. For the shampoo, she places a rectangular plastic tray beneath Frances' head, covering it with a pad where the rim will touch skin. The tray has a spout that lets the water flow into a bucket. So that the water will not splash on the floor, Verna has set the bucket up as high and close to the bed as she can.

Last fall, the unthinkable happened. Rollin also had a stroke.

"I didn't know what was the matter," he says. "All of a sudden I couldn't see.

"It was a light stroke. But it affected my hearing, my eyes, my speech. I can't talk worth a damn."

Still, Rollin, 75, considers himself blessed. He has three supportive sons. His son Earl insisted that his parents move next door to his own family.

Rollin is happy that they did.

"I don't know what I'd do if we hadn't."

The stranger in the house of Wilma Schuster, 74, of Westville, is her husband Ben, 76.

They owned and operated Rogers Cartage Company. "One or the other of us, we were working 24 hours a day, seven days a week."

The Schusters looked forward to retirement, to time for travel and relaxation, to doing what they wanted when they wanted to do it.

They didn't reckon with neuralgia. Had they heard of it, they would have dismissed it as too seemingly simple an ailment to turn their lives inside out, drain their savings, and make them strangers.

Wilma says that the neuralgia struck Ben 10 years ago, affecting one side of his face.

"He said that it was like somebody was in there with a hot knife grinding it around his face."

Ben, who also has a heart condition, has had two surgeries to relieve the pain. A nerve has been cut; his face is partially paralyzed.

"The first time the doctors said an artery was laying on a nerve and that caused the pain," Wilma says. "They put a sponge in between. He was free of pain for six weeks. Then he fell. Evidently that moved the sponge because the pain started again. He's been the narcotic route, too. Finally I said, no, that's enough."

A brain stimulator has been inserted in Ben's head. Ridges under the skin of his forehead and the left side of his face trace its route.

"That's supposed to scramble pain signals," Verna says as she goes about her ministrations: taking the vital signs, giving the bath, changing the bedding and pajamas.

Ben unconsciously picks at his skin until it bleeds. He has raised, encrusted, bloody sores on his body. The sores never heal. Bandaging is nearly useless. Verna does it anyway.

Ben's weight has dropped form 185 to 130 pounds. His personality is erratic. It is probable that he does not know who Wilma is.

Certainly, Wilma says, it is not "her Ben" who yells commands, or demands the three big meals a day. "Ben was a person everybody liked. He was full of fun. He was a man who never gave anybody a cross word."

The one mercy, she says, is that he is unaware of his behavior.

"If he knew, he would be mortified."

It is what Ben was, what she still sees in the painful caricature he has become, that keeps her trying to keep their home together.

"But I can't let him alone a minute. It would be like leaving a child in the house. If there was a fire, he couldn't get out.

"We looked forward to retirement. I knew chances were we'd get something wrong with us. But I never visualized this head sickness."

Supplemental Medicare costs $2,000 a year, prescriptions average $1,600.

Until recently, Sandra Rusk, the Schusters' only child, lived next door. Last fall, her husband was transferred to the Alton area. She would like her parents to move there. Wilma is reluctant to leave familiar surroundings.

People are kind but visitors are few.

"I don't see too many people," Wilma says.

"They're not too enthusiastic about coming here."

Wilma's relief comes from in-home health care, the limited respite care also offered by CRIS, and an occasional babysitter.

"When I get the chance, I just get in the car and drive."

The fourth and last stop of Verna's Friday is to the rural Fairmount home of Lawrence "Buddy" Pate and his wife, the former Rubydean Black. Here, the procedure is more complicated than at other stops. It will take a fast-moving hour and a half for Verna to do it all.

Buddy breathes through a tracheotomy, which must be cleaned. He is fed through a tube. He spends most of his hours in a hospital bed in the living room.

Buddy, 66, and Rubydean, 63, are one of those second-time-around romances that promise everything for the golden years: love, mutual respect, companionship. All that's still there. But Buddy, except for his gentle manner, his luminous dark eyes, and his smile, is no longer an active part of it.

Rubydean, a music teacher in Westville schools, had been a widow 11 years when she and Buddy married in 1979. They honeymooned in Germany, thought of their two families of children and grandchildren as one, and had five years of happiness. Then the good times ended.

While at work on a construction job in Champaign, Buddy—who'd been feeling just fine the night before—suffered an aneurysm in his brain. He was in a coma 10 months, and at Burnham and Mercy hospitals in Champaign for a total of 15 months.

The deadly bursting of the blood vessel continued to wreak its havoc. Because it was in a section of the brain that governs the respiratory system, Buddy kept aspirating.

"He got pneumonia over and over," Rubydean says.

Doctors said the only thing that would save him was to suture his vocal chords. After agonizing indecision, she gave permission.

"It was the hardest thing I ever did."

Buddy would never talk again. But doctors say the procedure saved his life.

Not much more than halfway through Buddy's hospitalization, his care capped the $250,000 their hospital insurance covered.

"We had so many financial problems," Rubydean says. "Both hospitals sued."

At 10 one night, after a particularly grueling day at the hospital wondering whether Buddy would live or die. Rubydean had a telephone call that she would have to be in court the next day.

There was no way out. The Pates, who had thought they were financially prepared for everything, were not able to pay for a half-a-million dollar illness. They declared bankruptcy. They were allowed to keep their house but lost all other assets, including IRAs, CDs and bank accounts. Too young for Medicare, they then had the problem of finding other insurance. That was eventually obtained through Rubydean's teacher's union.

Family, friends, church and community rallied around the Pates. A benefit in Catlin brought in $4,000. The women's group of their church, tiny Fairview United Methodist, gave them $100 a month for months. Individuals, many of them anonymous, sent cards and money. One day Rubydean opened a card from the Judith Giacoma School in Westville, where she'd taught and "the money just fell out."

The children of both families, indeed the whole community, continue to be supportive. While Verna is there, a son calls to say he'll be over to take care of his father while Ruby—bothered with a cough—goes to the doctor. The cough turns out to be pneumonia; the doctor sends her to the hospital. Friends and family help, working schedules so that someone will be with Buddy until Rubydean can come home.

The boys also see that their dad gets exercise. "He can walk with support of two hefty guys," Verna said. "But Rubydean can't handle it alone."

An oxygen enricher that Rubydean bought secondhand for $3,000 moistens the air that passes into Buddy's trach. He cannot drink or eat by mouth. He cannot swallow. He is fed through a tube attached to a stoma, or hole, in his stomach. The liquid nutrient is given four times a day, 12 ounces at a time.

Buddy has suffered none of the personality changes that often mar the patient-caregiver relaltionship.

The nurses' aides "just love to come see Buddy," Verna says. "He has a beautiful smile."

Given the problems, the work, the loss of security, would Rubydean marry Buddy if she had it to do over again?

"Yes," she says. "I would. We had good years.

"Things like this can either make you bitter or better."●

OREGON DRUG ABUSE PROGRAM

● Mr. PACKWOOD. Mr. President, I would like to take this opportunity to recognize the outstanding efforts of an Oregon business in the war against drugs.

Elmer's Pancake and Steak House, a chain of restaurants based in Portland, OR, has dedicated over 50 percent of its entire advertising budget to a promotion aimed at preventing high school students from drinking and driving and using drugs.

Herman Goldberg, Elmer's president and CEO, is dedicated to preventing the tragic loss of life that so frequently accompanies drunk driving and drug use. Elmer's has implemented a $2,000 scholarship program for high school students through the use of videotapes—"The Victims" and "Dead End." The scholarship program, which was initiated in the Portland area, is now being set in motion in other areas of the State of Oregon.

"The Victims" is a very graphic video about the perils of drunk driving. After viewing the video, students write essays on how they feel about the video and drunk driving. One student entry from each participating Oregon county is randomly drawn to receive a $2,000 scholarship. One more student from each county is selected for a $500 scholarship based on content of the essay.

"Dead End" is a very touching video exposing the pain and problems of former teen drug addicts, parents who have lost a child to drug abuse, and the efforts of local law enforcement officials and high school drug counselors who are trying to combat the drug problem. The same scholarship program is set up for this video.

Both videos are very emotional, and they send a strong message to the viewer about the intense personal tragedy which often results from drug use and drinking and driving.

Local area media and vendors are this year donating time and space on television and milk cartons for antidrug messages produced by Elmer's. This is a promotion that is growing in size and, hopefully, effectiveness. It will be some time before the effect of prevention programs are fully realized, but my hunch is that this program will make a difference.

To Elmer's Pancake and Steak House—keep up the good work.●

DANIEL GREENE AND THE DAVID SCHOOL

● Mr. McCONNELL. Mr President, I rise to today to commend Mr. Daniel Greene for the establishment of and his continued work at the David School in David, KY. In February, Mr. Greene was recognized for his outstanding work by President Bush and named one of the President's daily "Points of Light."

Just over 20 years ago, Daniel Greene traveled to the Appalachian coal fields of eastern Kentucky. In response to a dropout rate of 40 percent, Mr. Greene established the David School with a vision of breaking the cycle of poverty and dependence on welfare by addressing the serious problem of school dropouts. The David School began in 1972, with 10 students in building with no heat and no plumbing. Over the last 15 years, the school has given a second chance to over 1,000 students and more than 95 percent of those students have completed high school. The David School adheres to the policies on curriculum and attendance established by the Kentucky Department of Education and maintains a staff of approximately 20 professionals, many of whom are volunteers.

The David School offers its students a nontraditional environment which was established to confront the problems of literacy, employable skills training, and socialization of the student. Students participate in individualized programs that combine basic educational classes with a work study program. The teacher to student ratio is 8 to 1 and every student is given the individual attention they need. Students participate in classroom studies during the mornings and each student is required to have a work responsibility. The David School owns and operates a full service gas station, grocery/carry-out store, and woodworking, carpentry shop where students are given on-the-job training. Additionally, all students are required to participate in community service projects.

In recent years, to meet other educational needs of the area, the David School has expanded its programs to include a licensed preschool/kindergarten which introduces children to sound educational values at an early age and an adult education program to address the problem of adult illiteracy.

Daniel Greene continues to be a guiding force behind the David School and its educational programs. Much of the success of the school can be attributed to his dedication and involvement. Mr. Greene visits the parents of the students in their homes and gets them involved with the educational programs of the school. Daniel Greene continues to make invaluable contributions to the lives of students throughout eastern Kentucky. His dedication to the education of these students should be a model for us all.

Daniel Greene is a perfect example of the President's "Points of Light." I congratulate him for his accomplishments at the David School and commend him for his continued dedication to the education of young people and adults in eastern Kentucky.●

CFTC JURISDICTION OVER FUTURES MARKETS AND INSTRUMENTS

● Mr. SIMON. Mr. President, I rise today to express my concern over a debate that is heating up in Congress regarding respective jurisdictions of the Commodity Futures Trading Commission and the Securities and Exchange Commission. What we have here is an ago-old turf war between New York and Chicago. What we also have is a great deal of misinformation. I think it's time to clear the air.

The White House appointed working group, headed by Secretary Brady, is testifying before the Subcommittee on Securities on Thursday, March 29. Secretary Brady has spoken of changing the current regulatory jurisdiction of the commissions and each of his proposals in some way weakens the authority of the CFTC. I think we should proceed with caution when it comes to making fundamental changes in the regulatory structure of our markets. Our markets are the envy of the world. The kinds of changes contemplated may threaten that stature. I'd like to take a moment to review some of my concerns.

The most frequently voiced concern is probably over margins. It is a shame, Mr. President, that margins are so poorly understood. I will return to the floor to discuss them in some detail on another day. Let me say for now, however, that most of the assertions turn out to be mistaken. Margins on futures contracts can provide as much or more security as do those elsewhere.

A second point that needs to be made, Mr. President, is regarding the leadership that the CFCT has provided in making our markets the dominant force they are in the world today. You don't get to the leading position our futures markets are in by allowing corruption and insider dealing. You get there by providing innovative, safe markets for investors.

There is no better example of this leadership than the market for the Treasury bond futures contract. The "T-bond" contract—as it is called—was designed in the Chicago markets under the guidance of the CFTC. In 10 years, it has become one of the leading futures contracts bought and sold in

Tokyo, London, Paris, and Sydney. Last year 9.7 trillion dollars' worth of U.S. Treasury bond related contracts were traded at the Chicago Board of Trade. Dealers in U.S. Treasury bonds can use the Chicago Board of Trade's T-Bond market to hedge their purchases and thereby offer the Treasury a better bid. Over time this saves the Federal Government billions of dollars in the financing of our national debt.

Another are that the CFTC has encouraged development is in worldwide, 24-hour trading. The Chicago markets have been hard at work on systems that may revolutionize trading across the globe. These systems simply would not have gotten off the ground without the kind of farsighted leadership that the CFTC has consistently provided.

The speed with which foreign countries have copied the products, trading systems, and technology developed by U.S. futures exchanges reveals the worldwide recognition that futures markets fill a key role in today's financial markets.

In addition to being innovative, the CFTC-controlled markets have been at the cutting edge in the development of enforcement tools. No system is perfect, but after the crash, the Chicago markets were able to provide data on their trading that in some cases has yet to become available from the equity markets. In fact, the New York markets used the trade tracking system as a model for their own system which is still being developed. This is but one example of the kind of leadership that the CFTC has exerted to assure investors that their dollars are well protected.

Frankly, I am skeptical of the assumption that the Securities and Exchange Commission will regulate the futures industry better than the Commodity Futures Trading Commission. Federal indictments within the futures industry involve miniscule amounts of money relative to the insider trading abuses at the stock exchanges. Ivan Boesky alone accounts for over $100 million. We have yet to get to the bottom of the problems at Drexel, but they may easily top the Boesky amount.

In addition, the SEC has not kept up with market developments. The fastest growing source of financing under SEC jurisdiction is in junk bonds. Yet, the SEC has collected virtually no data on these bonds. How can anyone assure investors that their money is safe when they don't even know the most basic information about the markets?

Finally, Mr. President, many of us have heard from constituents injured in penny stock scandals. Business Week recently estimated that penny stock fraud on the stock market costs investors hundred of millions of dollars per year. Yet, the SEC has only recently begun to devote any resources to this problem.

Certainly the futures industry has experienced its share of problems in the last year, and there is no question that serious trading abuses within the industry must be addressed. But the futures exchanges have responded vigorously and honorably to the challenge of self-regulation and made a commitment to putting an end to trading abuses. First, they have invested $5 million toward the development and implementation of an electronic audit trail device that achieves a fully accurate and verifiable audit trail. And, second, they have basically supported S. 1729, Senator LEAHY and Senator LUGAR'S bill that contains strict regulatory reform language.

Senator LEAHY'S bill goes above and beyond what the futures industry or the securities industry has implemented through self-regulation. And frankly, it's a hard pill to swallow. The legislation calls for a 50-percent increase in the CFTC's authorized budget, installation of new audit trail mechanisms, a new system of deficiency orders, authority to conduct undercover operations to investigate suspected abuses, increased authority for the CFTC to ban dual trading in cases of abuse, and the allowance of punitive damage recoveries against traders by customers. Early remedial actions by the Chicago MERC and the CBOT were, in fact, so extensive and impressive that the Brady Report recommended that the SEC follow suit.

Senator DODD has market reform legislation before the Banking Committee that addresses critical areas of regulatory reform such as large trader reports, trade tracking systems, and emergency powers. I applaud the SEC for taking these important steps. The CFTC, has for decades, been able to track each day the large traders. In fact, the futures markets already have the ability to track trades on a minute-by-minute basis. In addition, the CFTC has also always possessed emergency authority over its markets.

Mr. President, removing significant markets from the CFTC's jurisdiction would be a mistake. We have an excellent regulatory system that has proven itself again and again under most trying circumstances. I urge my colleagues to think long and hard before they leap to any drastic conclusions about changes to that regulatory structure.

Mr. President, an excellent op ed recently appeared in the Wall Street Journal that made all of my points much more eloquently than I ever could. I commend it to my colleagues and I ask to print the Wall Street Journal article by Karsten Mahlmann in the RECORD.

The article follows:

[From the Wall Street Journal, Mar. 23, 1990]

HOW TO IMPERIL FINANCIAL FUTURES

(By Karsten Mahlmann)

The longstanding debate over the respective jurisdictions of the Commodity Futures Trading Commission and the Securities and Exchange Commission again heats the halls of Congress, with the Bush administration fueling the fires. Should Congress respond precipitously, however, the U.S. economy, government and citizens will be exposed to unnecessary risk. A "do-something" mentality that stems from concern over the Oct. 13, 1989, stock market drop, the savings-and-loan crisis and the fall of Drexel Burnham Lambert can lead to legislative overreaction.

THE MEANS TO HEDGE

Treasury Secretary Nicholas Brady has offered four alternatives to "rationalize regulatory jurisdiction"—merging the SEC and CFTC; giving the SEC jurisdiction over all futures except "tangible" commodities; giving SEC jurisdiction over stock index futures; or mandating higher futures margins, which he characterized as a "piecemeal solution." Rep. Dennis Eckart (D., Ohio) and Rep. Dan Glickman (D., Kan.) have announced they will introduce legislation to form a single "super-regulator" to regulate securities and financial futures, opting for Secretary Brady's second alternative. That they felt such a shotgun marriage necessary leaves no doubt that the vision of the contemplated agency would be more SEC than CFTC.

Long an essential element of agribusiness, futures markets are now equally important to financial investment. They provide market participants with the means to hedge against adverse price movements, whether in the value of corn or of investment portfolios. To place their regulation in the hands of an agency with little or no understanding of their importance would be detrimental to the interests of every citizen.

None of these "solutions" offer the public investor any better regulation of either futures or securities markets. The most likely outcome would be futures markets more costly to use, less liquid and less responsive to market forces.

These proposals are based on two false premises—stock-index futures have caused surges in volatility: volatility has scared away the small investor.

The first premise turns reality upside down. Volatility in the stock market creates the need for futures as a hedge. As far as the second premise is concerned, the small investor had left the stock market as a direct participant by the mid-1970s, before the introduction of stock-index futures.

Individual investors have held only about 15% of their assets directly in stocks since 1974, down from 33% in 1968. The are still in the markets, but now indirectly as participants in pension funds, mutual funds, etc. This is an important trend and has occurred in all financial-industry segments—not just the stock market. Much direct participation by individual investors has been replaced by large-scale institutional investment.

Some brokerage firms have adapted and devised strategies to serve the needs of the institutional investor, including the use of futures and options. The individual investor benefits.

Naturally, retail brokerage firms that failed to adapt have lost. They appeal to the Bush administration and to Congress to

turn back the clock and to raise their competitors' costs. The individual investor will find the opportunities that institutional trading strategies have provided seriously diminished under a more constrictive regulatory environment.

The individual investor is not the only potential loser should the regulators be merged. The average consumer-taxpayer has more at stake than his pension fund. The general price stability in our economy is due in large part to the ability of providers of goods and services to limit their long-term price risks by using the futures markets. In recent months, consumer interest rates have remained stable even though government bond markets have been quite volatile, thanks to interest-rate futures markets at the Chicago Board of Trade. Consumers would feel the impact of high-cost, inefficient futures markets right in the wallet.

The same markets have saved the government billions of dollars in financing the federal budget deficit. Primary dealers in U.S. bonds can offer the Treasury better bids because they know they can hedge their purchases in the CBOT's T-bond futures market. Testifying before the House Subcommittee on Telecommunications and Finance in May 1988, Treasury Undersecretary George Gould said. "These risk-reducing benefits of futures markets lead to a reduction of the risk premium investors require on the underlying Treasury securities and thus lower interest costs for the federal government." The continued efficiency and liquidity of these markets will be just as crucial to the success of the government's funding of the S&L rescue.

What would happen to their liquidity and efficiency if margins were set at a 20% minimum, the so-called speed limit advocated by SEC Chairman Richard Breeden? The margin issue turns up again and again even though every government analysis following the 1987 stock market crash recognized the difference between securities margin and futures margin was due to the difference in their functions as elements of entirely different markets. The Subcommittee on Monetary Policy of the House Banking Committee, in its July 1988 report on futures margin regulation, asked: "If cash and futures margins differ sharply in function and purpose, why should regulation seek to 'harmonize' them?"

Indeed, at the time of Mr. Breeden's confirmation, he recognized those differences, saying he was comfortable with the current division of SEC and CFTC jurisdictions. Now he proposes blurring the distinctions by, at the very least, repealing the CFTC's exclusive right to regulate all futures contracts. He says CFTC exclusivity inhibits innovation in the securities industry.

INDEX PARTICIPATIONS

Nearly all innovation in financial instruments in the past 20 years has been in the form of new futures contracts or as a result of them. The securities industry thinks it is being innovative by crafting futures contracts called index participations. By including such features as dividends, the industry hopes to disguise them as securities, but they are futures contracts just the same.

As such, they must be regulated by the CFTC. The futures industry does not object to competing with such instruments as long as their regulation meets the stringent clearing, settlement and audit-trial requirements of the CFTC. Under SEC regulation, they do not.

Since the inception of financial futures, they have been part of investors' solutions, not a problem. Congress must not yield to "do-something" pressure from those who claim otherwise. In its deliberations, Congress should be very careful to determine whether something indeed needs to be done and, if so, then consider just as carefully what. The most efficient, responsive and innovative part of our financial system, our futures industry, is at stake.●

JORGE L. CÓRDOVA ENDORSES CONGRESSIONAL TERM LIMITATION

● Mr. HUMPHREY. Mr. President, in 1980, 39 Members of the House seeking reelection were defeated. In 1982, 27 were defeated. In 1984, 24 were defeated. In 1986, only nine were defeated, and in 1988 only seven were defeated. For a would-be challenger, elections against incumbents are increasingly becoming a waste of time and money. The odds are stacked against challengers. As a result, there is less and less real political competition for seats in the Congress. This year, for example, in the State of Texas, 12 of 27 incumbents will run for reelection without opposition.

Yet, as incumbents are being reelected at a rate of 98.5 percent in the House, public approval of Congress is at an all-time low. Even as incumbent invincibility keeps Members in office for lengthy tenures of tens of years, incumbent invincibility also pulls Members further from their districts and deeper inside the beltway, where the media access and special interest pandering entrench Members.

Mr. President, I would like to share with my colleagues a letter I have recently received from Mr. Jorge L. Córdova, a Resident Commissioner from Puerto Rico from 1969 to 1973, that endorses Senate Joint Resolution 235, a proposed constitutional amendment to limit congressional terms. I urge those 88 Senators who have not yet cosponsored this fundamental reform to examine this proposal. I ask that Mr. Córdova's letter may appear in the RECORD immediately following my remarks.

The letter follows:

MARCH 2, 1990.

Hon. GORDON J. HUMPHREY,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HUMPHREY: You are to be commended for the initiative which, together with Senator DeConcini, you have taken in introducing S.J. Res. 235 which would limit the term of office of Representatives to six full terms and those of senators to two full terms.

As former delegate from Puerto Rico for four years (1969-73) and as a citizen of our country I fully support your proposed limitation of congressional terms. Unlimited, unchecked seniority has inevitably bestowed on a few individuals power such as the founding father never meant them to possess, the corrupting power of which Lord Acton spoke, the power which has destroyed a colleague I admired, and forced him to resign as Speaker of the House.

I wish you all success, and only regret that as a voteless resident of Puerto Rico, and thus unrepresented in Congress as yet, I can now do no more.

Cordially yours,

JORGE L. CÓRDOVA.●

TRIBUTE TO A.J. "TONY" PASANT

● Mr. RIEGLE. Mr. President, on March 5, the State of Michigan and the city of Lansing lost one of their truly outstanding citizens, A.J. "Tony" Pasant. A native son of Michigan, Tony Pasant was a man of vision and conscience who's life was guided by the words of President Andrew Jackson—"One man with courage makes a majority." His legacy is the Jackson National Life Insurance Co., which he founded in 1961, and which now reigns as one of the largest, most progressive and innovative life insurance companies in the United States.

Jackson National Life was a dream that Tony brought to life in the face of many obstacles. Indeed had Tony followed the wishes of his mother upon his return to Michigan after distinguished service in the Pacific during World War II, he would have been a fireman. Instead, Tony enrolled at Michigan State University, where, as a 27-year-old freshman with a child on the way and the tin roof of a 14-foot trailer over his head, he began selling life insurance to meet the needs of a new family. It was during this time that the seeds of starting his own life insurance company were sewn.

In the years that followed, Tony, with the single-minded purpose of establishing his own company, learned the life insurance business from the ground up, taking advantage of every opportunity, even when it meant leaving a secure financial position as a top insurance agent for a position which offered no compensation beyond what he could make by creating products on his own and selling them through a new insurance agency he had formed. His success with the new venture encouraged him in 1960 to begin the daunting task of establishing the first life insurance company to be chartered in Michigan in nearly 30 years. The doors of Jackson National Life Insurance Co., named for President Andrew Jackson, were thrown open an agonizing year later and its biggest asset was the vision and innovative spirit of Tony Pasant.

With steady growth through the sixties, Jackson National was positioned to implement the marketing and product innovations that Tony had envisioned for years.

The success which followed was no surprise to Tony, who had always known that the desire to provide financial security for our families transcends all social and economic orders.

Tony's dream of making life insurance products more flexible and affordable brought financial security and peace of mind into hundreds of thousands of American homes.

Tony, like his hero Andrew Jackson, was a "man of the people." It was apparent in all of the life insurance products developed by Jackson National. Most recently the concept of the "living benefit" policy was pioneered in the United States by Jackson National. These policies offer protection from the financially debilitating expenses of catastrophic illnesses and crises, such as cancer, heart attacks and strokes. Tony Pasant's company recognized a problem, took charge, and responded.

Since 1961, Jackson National has taken a shoestring and a dream and has grown to have over $8 billion in assets with nearly $100 billion of individual life insurance in force. The vision of Tony Pasant lives on in its 1,300 employees, in the 85,000 insurance professionals who represent it, in his wife and children, and in the million plus of Jackson National Life Insurance Co., policyholders across this country.

Tony admired Andrew Jackson because his background and views reflected the common man. Tony Pasant was a rare man of uncommon vision. He will be missed.●

THE RETIREMENT OF A GREAT AMERICAN: GEN. JOHN L. PIOTROWSKI

● Mr. ARMSTRONG. Mr. President, this week marks the retirement of Gen. John L. Piotrowski, commander in chief of both the U.S. Space Command and North American Aerospace Defense Command—in Colorado Springs, CO.

General Piotrowski is the senior military officer stationed in Colorado and, consequently, I have come to know and deeply respect his insight and understanding on a broad range of defense issues. On Capitol Hill, he is considered to be a kind of quiet powerhouse—low key, direct and unassuming, and his effectiveness is easily traced to his strict reliance on facts.

CONSIDER WITH ME HIS MANY ACHIEVEMENTS

Commanding NORAD and U.S. Space Command is no small task. Any event anywhere that might be a threat to our Nation comes first to "General Pete," as he is affectionately known, who must then determine whether or it is in fact a threat. Last year U.S. fighters scrambled more than 300 times in response to threats to our security and more than 1,900 worldwide missile space launches occurred. Every event had to be analyzed by NORAD and a threat determination made. In every case, General Pete made the final decision on whether the threat was great enough to require the notification of the President and the other national command authorities.

In addition to his many daily activities that keep America safe, he has been an untiring advocate of a U.S. antisatellite weapon. When the general took over as the commander in chief of United States Space Command, Congress had passed a testing ban on any type of United States antisatellite, or Asat, weapon even though the Soviets continued then and continue still today to test the components of their own Asat system.

It is important to note at this point, the Soviet Union is in the midst of great change. We all hope the result will be increased freedom for the peoples of the Soviet Union, and an end to the pursuit of the Marxist-Leninist goal of worldwide Communist rule. Today however, the Soviets are still on the road to recovery. Their society in undergoing great turmoil and their military has not yet abandoned its former Marxist-Leninist goals. Even though many see a lessened threat, we Americans must continue our patient vigilance—and our commitment to keep our Nation secure.

General Piotrowski has demonstrated clearly that all Soviet military doctrine has yet to change, especially as it relates to space. Mastery of space in wartime is still a primary objective of the Soviet military. In fact, the Soviet Dictionary of Basic Military Terms states the "Mastery of space is an important prerequisite for achieving victory in war." And mastery of space is not just a rhetorical goal, as General Piotrowski has been careful to explain. The Soviet Union has developed, tested, and continues to test components of a ground-based coorbital intercepter that can attack all current low-altitude United States satellites, because the Soviets realize the importance of space-based platforms in an effective warfighting effort.

At the same time, the United States has nothing that might threaten the Soviet "eyes in the space"—a deficiency that is a direct threat to our own men and women in uniform. In the event of war, the Soviets will use their space platforms to collect and relay information on our troop positions and will use their Asat to deny us the same capability. Piotrowski, and many others like him, realized the great disadvantage resulting from America's lack of any similar Asat capability. As U.S. commander in chief of Space Command, Piotrowski took the lead in bringing this deficiency to America's attention.

General Piotrowski's careful attention to the facts and his diligence in bringing them to the attention of the American people again and again turned the tide of American public opinion. His efforts, together with those of many others, were the engine behind lifting the congressional ban against any type of testing for a U.S. Asat. Today—thanks to the efforts of General Pete and others—America is on its way to developing an effective Asat capability.

He put us over the top on the antisatellite debate and could have rested on his laurels, but the general did not shy away from further controversy. In his quiet, effective manner—he has taken a position at the forefront of America's most keenly debated topic: the need for a strategic defense.

It was General Pete's support, based on solid facts, that silenced Senate questioning during hearings on a strategic defense last year. It was those same solid facts that provided an effective counter to those in Congress who would have turned the strategic defense initiative into nothing more than a high-tech hobbyhorse. As the U.S. military commander in chief responsible for defending the United States against ballistic missile attack, he has effectively made the case again and again for a firm U.S. commitment to a strategic defense.

He has also spoken out on behalf of a space-based wide area surveillance system: one that will allow constant tracking of all planes, cruise missiles, and ships anywhere on the Earth's surface. General Piotrowski has been an effective spokesman on its behalf. It is a system he has convinced me and many others in Congress we must move ahead with.

General Piotrowski has served our Nation well. He deserves our highest praise. He is a man of conviction whose solid reliance on the facts has had a very real impact on American defense policy. He has earned our respect.

Not only Coloradans, to whom General Pete is a familiar face, but I am certain all Americans, join with me in thanking the General—and Mrs. Piotrowski too—for their service to our great country. We wish them all the best in their future challenges.●

GREEK INDEPENDENCE DAY

● Mr. SIMON. Mr. President, on March 25, 1990, citizens of Greece and Greek-Americans celebrated the 169th anniversary of the day the Greeks began their struggle for independence. I am proud to honor Greek Independence Day this year, as I have in the past.

Few other nations have contributed so much to Western civilization. In the words of Percy Bysshe Shelly, "We are all Greeks! Our laws, our literature, our religion, our art, have their roots in Greece."

The Greek nation's fight for freedom lasted nearly a decade. Just as we looked to ancient Greece for inspiration and for a model for our new nation during our Revolutionary War,

the 19th century Greeks held our young nation and the American Revolution as their model for struggle and their ideal nationstate. Our countries share a deep love of democracy and a profound commitment to liberty and justice. Many American volunteers traveled to Greece to join in the struggle, and our statesmen Jefferson, Monroe, and Adams all proclaimed their support for the cause of Greek independence.

Democracy in Greece is still vibrant, and Greeks continue to influence society and culture all over the world. During the early 1900's, many Greeks emigrated to the United States to begin a new life. They and their families made a strong and positive impact on this country. Their contributions in the fields of politics, religion, popular culture and entertainment, science, medicine, and the arts are extensive and impressive. Many Greek-Americans live in my home State of Illinois, and Chicago has hosted an annual Greek Independence Day parade since 1968.

It is with great pleasure that I invite my colleagues and all Americans to join me in commemorating Greek Independence Day. The spirit and patriotism of the Greek people and the Greek-American community have inspired and enriched our way of life.●

SUSPENDING SECTION 332 OF THE AGRICULTURAL ADJUSTMENT ACT OF 1938 FOR THE 1991 CROP OF WHEAT

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 4099, a bill to suspend section 332 of the Agricultural Adjustment Act for the 1991 crop of wheat, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4099) to suspend section 332 of the Agricultural Adjustment Act of 1938 for the 1991 crop of wheat.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment.

If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4099) was ordered to a third reading, was read the third time, and passed.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendars Nos. 487 and 488, en bloc; that the amendments, where appropriate, be agreed to; that the bills, as amended, be deemed read a third time and passed; that the motion to reconsider the passage of these bills be laid upon the table; that the title amendments, where appropriate, be agreed to.

Mr. President, I further ask unanimous consent that any statements relating to these calendar items appear at the appropriate place in the RECORD, and that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAMP W.G. WILLIAMS LAND EXCHANGE ACT

The Senate proceeded to consider the bill (S. 393) entitled the "Camp W.G. Williams Land Exchange Act of 1989," which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Camp W.G. Williams Land Exchange Act of 1989".

(b) DEFINITIONS.—As used in this Act—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "camp boundaries" means the exterior boundaries of Camp W.G. Williams after enactment of this Act, in Utah and Salt Lake Counties, Utah, as generally depicted on the map referenced in section 2(a) of this Act.

SEC. 2. EXCHANGE.

(a) OFFERS.—Notwithstanding any other provision of law, as soon as possible but not later than six months after the date of enactment of this Act, the Secretary shall offer to exchange lands identified as "FEDERAL LANDS OFFERED FOR EXCHANGE" on a map entitled "PROPOSED EXCHANGE FOR CAMP W.G. WILLIAMS, UTAH", dated August 25, 1989 (hereinafter referred to as the "map"), to the owners of tracts of private lands identified as "PRIVATE LANDS TO BE ADDED TO CAMP W.G. WILLIAMS BY EXCHANGE AND WITHDRAWAL" on such map. If the owners of any or all of such tracts of private lands accept the offer within two years after the date of enactment of this Act, then the Secretary as soon as practicable shall convey to such owner or owners or their designee title to so much of the identified land as is approximately equal in value to such tracts of private land as are simultaneously conveyed to the United States.

(b) Any lands, identified on the map as "FEDERAL LANDS OFFERED FOR EXCHANGE", not exchanged shall be returned to the public domain.

SEC. 3. BUREAU OF LAND MANAGEMENT LANDS.

Lands identified on the map as "PUBLIC LANDS AT CAMP W.G. WILLIAMS TO BE WITHDRAWN" shall be transferred to the Department of the Army.

SEC. 4. ARMY LANDS.

Subject to the provisions of section 7, lands identified on the map as "WITHDRAWN LANDS TO BE RETURNED TO PUBLIC DOMAIN" shall be transferred to the Department of the Interior, returned to the public domain and managed accordingly.

SEC. 5. ACQUISITIONS.

The Secretary, in accordance with applicable law, is authorized to acquire, solely by donation or exchange from a willing seller, lands that are identified as 2a and 2b on the map, and is directed to transfer such lands to the Department of the Army for the explicit purpose of addition to Camp W.G. Williams. The Secretary of the Army shall modify the camp boundaries so as to encompass lands acquired pursuant to this subsection.

SEC. 6. DEPARTMENT OF THE ARMY LANDS.

(a) All lands transferred, exchanged, or acquired by this Act within the camp boundaries shall immediately become a part of Camp W.G. Williams and shall be administered and managed by the Department of the Army in accordance with the same laws, regulations, and executive orders applicable to the lands under the jurisdiction of the Department of the Army adjoining such acquired tracts.

(b) Subject to valid existing rights, no lands owned by the United States within the camp boundaries shall be available for any form of settlement, sale, location, or entry under the general land laws, including the mining laws, but not the mineral or geothermal leasing laws, and such lands shall be administered and managed by the Department of the Army.

SEC. 7. REVOCATION OF EXECUTIVE ORDER, ETC.

(a) REVOCATION.—(1) Executive Order 1922 of April 24, 1914, shall be revoked, only insofar as it affects lands outside of the camp boundaries and only upon acceptance by the Secretary of an appropriate certification by the Secretary of the Army that such lands do not contain any hazardous materials or substances, as defined by applicable Federal law. Upon such revocation, affected lands shall be returned to the public domain and managed accordingly.

(2) The Secretary of the Army shall perform all inspections and other actions necessary to make the certification required in paragraph (1), and shall report his findings to the Secretary, within one year after the date of enactment of this Act. Thereafter the Secretary of the Army shall hold harmless the Secretary for any liability associated with any hazardous materials or substances as defined by applicable Federal law that were placed upon or reasonably appear to have been placed upon the land prior to the return of the subject lands to the public domain.

(b) LIABILITY.—Upon the acquisition by the United States of any lands or interest in land pursuant to this Act, any liability accruing to the United States as a result of such acquisition shall be deemed to vest in the United States Department of the Army.

In no event shall liability vest in the Department of the Interior.

SEC. 8. MAPS AND LEGAL DESCRIPTIONS.

As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a legal description of the lands proposed to be exchanged by this Act and shall file such maps and the legal descriptions with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time and passed.

The title was amended so as to read "A bill entitled 'Camp W.G. Williams Land Exchange Act'."

ADDITIONAL LANDS FOR KNIFE RIVER INDIAN VILLAGES NATIONAL HISTORIC SITE

The Senate proceeded to consider the bill (S. 1230) to authorize the acquisition of additional lands containing Indian burial grounds for inclusion in the Knife River Indian Villages National Historic Site, North Dakota, and to provide additional development funding for the historic site visitor center, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF ADDITIONAL LANDS.

(a) The Secretary of the Interior is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange the lands comprising approximately 465 acres and described in subsection (b) as an addition to the Knife River Indian Villages National Historic Site **[**North Dakota.**]** *North Dakota: Provided, That no such lands may be acquired without the consent of the owner thereof.*

(b) The lands referred to in subsection (a) are those lands depicted on the map **[**entitled "Proposed Boundary Map, Knife River Indian Villages National Historic Site", dated June 1988.**]** *entitled "Proposed Boundary Knife River Indian Villages National Historic Site" numbered 468-80,039 and dated June 1988.*

[(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

[SEC. 2. ADDITIONAL DEVELOPMENTAL FUNDING.

[Section 104(e) of Public Law 93-487 (88 Stat. 1461) is amended by striking "$2,268,000" and inserting "$4,000,000".**]**

SEC. 2. ADDITIONAL AUTHORIZATIONS

Section 104(c) of Public Law 93-486 (88 Stat. 1462) is amended by striking "$600,000" and inserting in lieu thereof "$1,000,000" and by striking "$2,268,000" and inserting in lieu thereof "$4,000,000.".

Mr. BURDICK. Mr. President, I would like to take this time to encourage swift passage of S. 1230. This bill, S. 1230, will expand the boundaries of the Knife River Indian Villages National Historic Site in North Dakota. The need for this expansion of the site is to protect adjacent land which, since the establishment of the site many years ago, has been found to contain a number of Indian burial mounds.

The Knife River Indian Village NHS was established by the 93d Congress to commemorate the culture and history of the Plains Indians, among them the Mandan and Hidatsa Tribes. However, since that time, it has been discovered that this area was occupied by a predecessor group during the prehistoric Woodland period, a period not now represented in the park. As a nation, we owe it to these early inhabitants of our land to protect forever their sacred burial grounds. Without this action, there is the grave possibility that the area in which the mounds are buried could be mined for gravel. We must prevent this from happening.

It is important to note that in appearing before the Senate Public Lands, National Parks, and Forests Subcommittee, the National Park Service testified in support of the bill, agreeing that these resources should be included in the site. I should also point out that under this legislation, the purchase of the additional acreage will be done on a willing-seller basis only.

The bill also raises the development ceiling at Knife River to accommodate construction of a new visitor center/administrative facility for which funds have already been appropriated.

In summary, S. 1230 is a very simple, yet important bill which will protect an important piece of our country's history. There is an exciting story to be told at Knife River about how these early inhabitants of the Northern Plains lived long before North Dakota became a State. With the new interpretive center now under construction and the addition of these burial mounds to the historic site, this story will finally be properly told.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time and passed, as follows:

S. 1230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF ADDITIONAL LANDS.

(a) The Secretary of the Interior is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange the lands comprising approximately 465 acres and described in subsection (b) as an addition to the Knife River Indian Villages National Historic Site, North Dakota: *Provided,* That no such lands may be acquired without the consent of the owner thereof.

(b) The lands referred to in subsection (a) are those lands depicted on the map entitled "Proposed Boundary Knife River Indian Villages National Historic Site" numbered 468-80,039 and dated June 1988.

SEC. 2. ADDITIONAL AUTHORIZATIONS.

Section 104(c) of Public Law 93-486 (88 Stat. 1462) is amended by striking "$600,000" and inserting in lieu thereof "$1,000,000" and by striking "$2,268,000" and inserting in lieu thereof "$4,000,000.".

The title was amended so as to read "A bill to authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes."

ORDERS FOR TOMORROW

RECESS UNTIL 9 A.M. TOMORROW; RESERVATION OF LEADER TIME; MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 a.m., Thursday, March 29; that the time for the two leaders be reserved for their use later in the day; and, that there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAUCUS. Mr. President, tomorrow under the agreement, beginning at 10 a.m., there will be 5 hours for debate on the Byrd amendment 1329, with a vote to occur relative to the amendment at 3 p.m. Other votes are very likely after the vote on the Byrd amendment, and I would again encourage Senators with amendments to come to the floor and offer them tomorrow.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BAUCUS. Mr. President, If the distinguished Republican leader has no further business, and if no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 9 a.m., Thursday, March 29.

There being no objection, the Senate, at 8:28 p.m., recessed until Thursday, March 29, 1990, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate March 28, 1990:

DEPARTMENT OF JUSTICE

DANIEL J. HORGAN, OF FLORIDA, TO BE U.S. MARSHAL FOR THE SOUTHERN DISTRICT OF FLORIDA FOR THE TERM OF 4 YEARS (REAPPOINTMENT).

HOUSE OF REPRESENTATIVES—*Wednesday, March 28, 1990*

The House met at 12 noon.

Mr. Joe VanDyke, minister of the Chisholm Hills Church of Christ, Florence, AL, offered the following prayer:

Our heavenly Father, for the privilege of life this day we give You thanks. For the privilege of being in this gathering we give You thanks. For the privilege of communing with You we give You thanks. Today as we assemble we do so with a keen awareness of Your supremacy in our world—our land—and our lives. For this governing and serving body we are very grateful. Help us to be mindful of the great institutions you have ordained, and, especially today, the institution of government. We pray that each man and woman here today will see themselves as Your ambassador to this Nation and to the world. May their thoughts, their plans, and their dreams for our Nation be those that reflect Your very nature. And, in that reflection, may the world see through them and us the glory and blessing that can come only from above. Father, may we feel humbled in Your presence, and may Your presence give us the power we need to live from day to day. In some way, great or small, may we make this world a prelude for an eternal existence with You. Through Christ, Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. McNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 299, nays 108, answered "present" 2, not voting 23, as follows:

[Roll No. 47]

YEAS—299

Ackerman	Foglietta	McCrery
Akaka	Ford (MI)	McCurdy
Alexander	Frank	McEwen
Anderson	Frost	McHugh
Andrews	Gaydos	McMillen (MD)
Annunzio	Gejdenson	McNulty
Anthony	Gephardt	Meyers
Applegate	Geren	Mfume
Archer	Gibbons	Miller (CA)
Aspin	Gillmor	Mineta
AuCoin	Gilman	Moakley
Barnard	Glickman	Molinari
Bartlett	Gonzalez	Mollohan
Bateman	Gordon	Montgomery
Bates	Gradison	Moody
Beilenson	Grandy	Morella
Bennett	Grant	Morrison (CT)
Berman	Gray	Morrison (WA)
Bevill	Green	Mrazek
Bilbray	Guarini	Murtha
Boggs	Gunderson	Myers
Bonior	Hall (OH)	Nagle
Borski	Hall (TX)	Natcher
Bosco	Hamilton	Neal (MA)
Boucher	Hammerschmidt	Neal (NC)
Boxer	Harris	Nelson
Brennan	Hatcher	Nielson
Brooks	Hawkins	Nowak
Broomfield	Hayes (IL)	Oakar
Browder	Hayes (LA)	Oberstar
Brown (CA)	Hefner	Obey
Bruce	Hertel	Olin
Bryant	Hoagland	Ortiz
Bustamante	Hochbrueckner	Owens (NY)
Byron	Horton	Oxley
Callahan	Houghton	Packard
Campbell (CO)	Hoyer	Pallone
Cardin	Hubbard	Panetta
Carper	Huckaby	Parker
Carr	Hughes	Patterson
Chapman	Hutto	Payne (NJ)
Clarke	Jenkins	Payne (VA)
Clement	Johnson (CT)	Pease
Coleman (TX)	Johnson (SD)	Pelosi
Collins	Johnston	Penny
Combest	Jones (GA)	Perkins
Condit	Jones (NC)	Petri
Conte	Jontz	Pickett
Conyers	Kanjorski	Pickle
Cooper	Kaptur	Poshard
Costello	Kasich	Price
Coyne	Kastenmeier	Pursell
Crockett	Kennedy	Quillen
Darden	Kennelly	Rahall
Davis	Kildee	Rangel
de la Garza	Kleczka	Ravenel
DeFazio	Kolter	Ray
Dellums	Kostmayer	Richardson
Derrick	LaFalce	Rinaldo
Dicks	Lancaster	Ritter
Dixon	Lantos	Robinson
Donnelly	Laughlin	Roe
Dorgan (ND)	Leath (TX)	Rose
Downey	Lehman (CA)	Rostenkowski
Duncan	Lehman (FL)	Roth
Dwyer	Lent	Rowland (CT)
Dymally	Levin (MI)	Rowland (GA)
Dyson	Levine (CA)	Russo
Early	Lewis (GA)	Sabo
Eckart	Lipinski	Saiki
Edwards (CA)	Livingston	Sangmeister
Engel	Lloyd	Sarpalius
English	Long	Savage
Erdreich	Lowey (NY)	Sawyer
Espy	Luken, Thomas	Scheuer
Evans	Manton	Schiff
Fawell	Markey	Schneider
Fazio	Martinez	Schulze
Feighan	Matsui	Schumer
Fish	Mazzoli	Sharp
Flake	McCloskey	Shaw
Flippo	McCollum	Shumway
Shuster	Swift	Walgren
Sisisky	Synar	Walsh
Skaggs	Tallon	Washington
Skeen	Tanner	Watkins
Skelton	Tauzin	Waxman
Slattery	Taylor	Weiss
Slaughter (NY)	Thomas (GA)	Weldon
Smith (IA)	Torres	Wheat
Smith (NJ)	Torricelli	Whitten
Smith (VT)	Towns	Wilson
Solarz	Traficant	Wise
Spence	Traxler	Wolpe
Spratt	Unsoeld	Wyden
Staggers	Valentine	Wylie
Stallings	Vander Jagt	Yates
Stark	Vento	Yatron
Stenholm	Visclosky	Young (FL)
Studds	Volkmer	

NAYS—108

Armey	Goodling	Murphy
Baker	Goss	Parris
Ballenger	Hancock	Paxon
Barton	Hastert	Porter
Bentley	Hefley	Regula
Bereuter	Henry	Rhodes
Bilirakis	Herger	Ridge
Bliley	Hiler	Roberts
Boehlert	Holloway	Rogers
Brown (CO)	Hopkins	Rohrabacher
Buechner	Hunter	Roukema
Bunning	Hyde	Saxton
Burton	Inhofe	Schaefer
Campbell (CA)	Ireland	Schroeder
Chandler	Jacobs	Schuette
Clay	James	Sensenbrenner
Clinger	Kolbe	Shays
Coble	Kyl	Sikorski
Coleman (MO)	Lagomarsino	Slaughter (VA)
Coughlin	Leach (IA)	Smith (TX)
Courter	Lewis (CA)	Smith, Robert (NH)
Cox	Lewis (FL)	Smith, Robert (OR)
Crane	Lightfoot	Snowe
Dannemeyer	Lowery (CA)	Solomon
DeLay	Lukens, Donald	Stangeland
DeWine	Machtley	Stearns
Dickinson	Madigan	Sundquist
Dornan (CA)	Martin (IL)	Tauke
Douglas	Martin (NY)	Thomas (CA)
Dreier	McCandless	Upton
Edwards (OK)	McDade	Walker
Fields	McGrath	Weber
Frenzel	McMillan (NC)	Whittaker
Gallegly	Michel	Wolf
Gallo	Miller (OH)	
Gekas	Miller (WA)	
Gingrich	Moorhead	

ANSWERED "PRESENT"—2

Pashayan	Smith (FL)

NOT VOTING—23

Atkins	Marlenee	Stokes
Craig	Mavroules	Stump
Dingell	McDermott	Thomas (WY)
Durbin	Owens (UT)	Udall
Emerson	Ros-Lehtinen	Vucanovich
Fascell	Roybal	Williams
Ford (TN)	Smith (NE)	Young (AK)
Hansen	Smith, Denny (OR)	

□ 1222

Mr. LEHMAN of Florida changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. FLAKE] please come forward and lead the House in the Pledge of Allegiance.

Mr. FLAKE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

TRIBUTE TO BROTHER JOE VANDYKE, MINISTER, CHISHOLM HILLS CHURCH OF CHRIST, FLORENCE, AL

(Mr. FLIPPO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLIPPO. Mr. Speaker, I want to recognize Brother Joe VanDyke, the minister of Chisholm Hills Church of Christ in Florence, AL, who has provided us with an inspirational prayer to guide our day's activities.

Joe VanDyke was born in Lexington, TN, and is the son of a gospel preacher. He is here today with his wife, Rita, and his sons, Will and Doug, and Mrs. Agnes Gossett, Rita's mother.

Joe is a graduate of David Lipscomb College and has undertaken graduate studies at the Harding Graduate School of Religion. He has also served as an instructor in psychology and counseling at the International Bible College in Florence, AL.

His many community activities include service to the Riverbend Mental Health Center and the Association for Retarded Citizens. He currently serves on the board of the American Red Cross in Florence, North Alabama AGAPE, a family counseling center, and he serves as resource minister for Day by Day, a support group for parents who have lost a child. He is also active in the Florence Civitans.

Brother VanDyke's ministry has helped to broaden the faith of everyone that he has touched. I am pleased he could be here today to share his faith and guidance with us.

SWEARING IN OF THE HONORABLE JOSÉ E. SERRANO, OF NEW YORK, AS A MEMBER OF THE HOUSE

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. JOSÉ E. SERRANO], be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER. Will the gentleman from New York [Mr. SERRANO], the Member-elect, along with the Members of the New York delegation come forward and will the Members please stand.

Mr. SERRANO appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are now a Member of the Congress of the United States.

INTRODUCTION OF THE HONORABLE JOSÉ E. SERRANO

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORTON. Mr. Speaker, as chairman of the New York delegation I am pleased to rise again today to introduce yet another new Member of the House of Representatives. A little over a week ago, on March 20, JOSÉ SERRANO was elected to Congress from the 18th Congressional District of New York, which covers the South Bronx. His election to this body comes after a very successful career in the New York State Assembly where he served from 1975 until early this year.

During his early years in Albany he established himself as an influential voice in educational matters. His diligence and leadership paid off when he was named chairman of the Assembly's Education Committee in 1983.

Having served in Albany for 15 years, he comes to the House of Representatives with a record of achievement of which most Members here would be very proud.

I am certain this body will benefit from his background in the field of education. I am also certain that he will have much to say about pending legislation which calls for a plebiscite to determine the political status of his native Puerto Rico.

In light of his heritage and due to the fact that New York is home to over 1 million Puerto Rican-Americans, he speaks with authority on the concerns of those citizens.

I wanted to point out to José that many Puerto Ricans live in upstate New York as well as New York City, including 30,000 in my district, which is in Rochester.

As you will come to learn, José, the 34 Members and two Senators of the New York congressional delegation work closely together and work together for the benefit of our State and for our Nation.

We are looking forward to working with you on a variety of issues that confront our Nation and our State.

José has five children, who are here with him today. We certainly want to welcome your children, José. I join with my colleagues in welcoming you and your wife Mary and I want to wish you well as you pursue this career in the House of Representatives.

Now it gives me a great deal of pleasure to introduce my colleague, the dean of the Democratic delegation from New York City, JIM SCHEUER. JIM, would you say a few words on behalf of our newly elected Member?

□ 1230

Mr. SCHEUER. Mr. Speaker, I am very happy and proud to be here, welcoming José. I have worked closely with him. He is a real professional. He is a mensch.

Mr. Speaker, before we have the new Congressman from the Bronx address the House, perhaps the Delegate from Puerto Rico could say a few words.

Mr. FUSTER. Mr. Speaker, I just want to say that all constituents in the Island of Puerto Rico, the 3½ million citizens that I represent, feel very proud of JOSÉ E. SERRANO. We know him well, and we are sure the great career he has had up until now will give him the kind of skills and leadership to do the same in the House. We are very confident of that.

Hermano, un abrazo, y bienvenido a esta Camara. (Brother, a hug and welcome to the House.)

Mr. HORTON. Mr. Speaker, it gives me a great deal of pleasure to introduce JOSÉ E. SERRANO, our new Member.

A BETTER TOMORROW

(Mr. SERRANO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SERRANO. Mr. Speaker, on March 28, 1952, a 31-year-old woman arrived in Idlewild Airport from Puerto Rico with two boys. She was met there at the airport by her husband who had come to New York a year earlier to look for work. Together, they raised two boys in New York City, first in the tenements, and then moving up to the public housing projects of Millbrook at 187th Street and St. Anne's. They took the two boys through public school, he as a sheet metal worker, and she as a member of the Garment Workers' Union. They struggled. They lived out their lives. He left too early, in 1982, and we lost her last September.

Today, 38 years to the day of the arrival from Puerto Rico, while her youngest son is in the gallery, her

oldest son is sworn in as a Member of the United States Congress.

I am honored today that I have been joined in this Capitol by a lot of people from my district and a lot of dignitaries from throughout this country. Let Members take the story of those two individuals who worked, so that their son could be a Member of the most important body in the freest country on Earth, and let the message go from here today to those children who live in the projects and to those children who are still on the street corners, that there is indeed a better tomorrow. I thank God Almighty for making this day part of my better tomorrow.

APPOINTMENT AS MEMBER OF ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

The SPEAKER. Pursuant to the provisions of section 3(a) of Public Law 86-380, the Chair appoints to the Advisory Commission on Intergovernmental Relations on the part of the House the gentleman from Texas [Mr. ARMEY].

RESIGNATION AS A MEMBER OF THE COMMITTEE ON SMALL BUSINESS

The SPEAKER laid before the House the following resignation as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 28, 1990.

HON. THOMAS S. FOLEY,
House of Representatives,
H-204, The Capitol,
Washington, DC.

DEAR MR. SPEAKER: In view of my appointment to the House Judiciary Committee, I herewith offer my resignation from the House Small Business Committee.

Best Regards,

Tom Campbell.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBER TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 367) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 367

Resolved, That Representative Molinari of New York be and is hereby elected to the Committee on Public Works and Transportation and the Committee on Small Business.

The resolution was agreed to.

A motion to reconsider was laid on the table.

VIDEO VIEWING OPPORTUNITY

(Mr. SAVAGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAVAGE. Mr. Speaker, I just won reelection in the primary last week against a network of television and dated newspaper reporters, and the Israel-American Public Affairs Committee, an illegally affiliated political action committee. As a consequence, I have been denounced by those, some in this body, who would be intimidated by this group who pledges loyalty to a foreign government disloyal to America.

Tomorrow at 10 a.m., in room B310, at 10 a.m. tomorrow I will screen the entire tape of the speech for which I have been charged with bigotry, for all Members of this House to see, and for any invited members of the Washington press corps, to find out who are the victimizers and who are the victims.

On tomorrow also, after the business of this House, I am going to lay out the facts for this Nation via C-SPAN so they can find out the dangers that democracy faces from this un-American organization. I hope to see all Members who are interested at 10 a.m. tomorrow morning in B310 of the Rayburn Building. Stay tuned for tomorrow evening, after the business of this House.

PRESIDENT WILL VETO DEMOCRATIC LEADERSHIP BILL

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, yesterday at 5 p.m. a member of the Democratic leadership told me I could go to the Committee on Rules and get a copy of the liberal Democratic leadership bill. I went upstairs, and after a 30-minute wait, I was given a Xeroxed copy. But that was not the bill being introduced. Another version of the liberal Democratic bill was delivered to the Committee on Rules at 7:08 p.m. I have been told there may have been a third version delivered this morning, but we are not sure.

Having a staff written, hastily thrown together bill on an issue of this importance is exactly how Congress produces a section 89 disaster. There has been no hearing, no markup, no scrutiny of a 119-page bill. This procedure threatens every individual Member. Despite these problems, we have analyzed the liberal Democratic bill. It is antireligious. It does have Federal regulations, and President Bush will veto the liberal Democratic bill if it passes the House.

UNLV WILL TAKE ATLANTA

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, yesterday Members of the Georgia delegation rose before this House to tell the Members of this House how great Georgia Tech is and how they would defeat UNLV on Friday.

In defense of my school, which I attended, I am here to tell Members that is wishful thinking. Just like Sherman took Atlanta in 1864, UNLV will take Atlanta in 1990.

□ 1240

Congressmen DARDEN and I have a bet. He will wear this T-shirt on Saturday all over Atlanta if UNLV wins. Congressman DARDEN should notice that it is extra large. After all the crow he is going to eat on Friday night, he will gain a lot of weight.

I would like to say, too, that Georgia Tech is a great team. It is one of the best teams east of the Mississippi River, but to win it all, to be the national champion, you have to be the best team in the entire country, and that team is the University of Nevada at Las Vegas.

CHILD CARE BILL FLAWED

(Mr. HENRY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, I would like to make it very clear to the Members here that having been able this morning to see the Democratic child care bill, I want to clarify the fact that it does not protect freedom of choice for parents in the choice of vendors under the title XX section. Yes, it does mandate the provision of vouchers or certificates for parents who so choose them. However, it does not mandate the widest possible choice for parents as to what they can do with those certificates.

Further, as we can see in the "Dear Colleague" letter Members will be receiving this afternoon, it imposes new restrictions under the Civil Rights Act, title VII, which further restricts the religious autonomy of religious day care providers that may in some cases be allowed to participate under this act. In other words, it narrows the latitude of options for religious day care centers rather than expanding them.

Mr. Speaker, I point that out because few of us have had an opportunity to read the act. I picked up the latest draft at 8:30 this morning through the staff of the Education and Labor Committee, and they told me it may yet be rewritten even though the rule has already been promulgated.

TRIBUTE TO THE NATIONAL HIGH SCHOOL PLAYER OF THE YEAR, DAMON BAILEY

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, Indiana is known for basketball and its basketball greats.

Nowhere in the State is this more true than in my area of southern Indiana where Larry Bird and Bob Knight have achieved greatness.

Thus it is no mean feat that young Damon Bailey has led Bedford North Lawrence to the Indiana State basketball championship while becoming the top high school player in State history.

He was selected the tournament's most valuable player and won the Trester Award for mental attitude. He was named the Naismith national high school basketball player of the year. Damon has also been named all-State four times.

Mr. Speaker, I extend congratulations to Coach Dan Bush and the Bedford North Lawrence Stars. They have never lost a home game during the Damon Bailey era. We wish Damon Bailey continued success as his education continues at Indiana University.

A KINDER AND GENTLER POSITION ON BROCCOLI

(Mr. BROWN of Colorado asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BROWN of Colorado. Mr Speaker, the President's position on broccoli has been greatly misunderstood.

As a kinder and gentler man, we can understand the President's deep concern over cutting off the legs of young broccoli in their prime. First chilled to near freezing and then boiled alive, the broccoli are finally suffocated with hot cheese.

How much must these innocent broccoli endure?

The President stands at the forefront of vegetable rights. Many of us here in Congress identify closely with vegetables. Members have the opportunity to join the Ways and Means Committee in balancing the budget of this Nation with tax increases. Members can join also and support the broccoli severance tax.

ENVIRONMENTAL POLICY

(Mr. LIPINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIPINSKI. Mr. Speaker, President Bush promised to fight the greenhouse effect with the White House effect. Well, as far as I can tell, the White House effect is nothing more that letting John Sununu change the President's speeches and alter report starts. As far as I can tell, the President speaks loudly and carries a toothpick.

Mr. Speaker, we thought we heard the President promise a nonpartisan debate on the creation of the Department of Environmental Protection. Unfortunately, we hear threats of vetos every time we try to give the department some clout. We hear complaints about broccoli, while developers make plans to turn Washington into a beach resort for the year 2000.

Mr. Speaker, summer is coming and the temperatures will rise. The air quality will worsen, and the air conditioners will be turned on. As we all look out over a smog covered Capital this July, I hope we won't be asking "Where was George?"

VENICE BEACH

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, in 1937 the U.S. Army Corps of Engineers built a jetty in southwest Florida. The purpose of the jetty was to help avoid dredging in the intracoastal waterway.

In this role, the jetty has done a good job. But at the same time it has created an unintended nightmare for the city of Venice—massive beach erosion.

In 1948 the Federal Government realized that it was going to have to do something to save the beaches and the infrastructure of the Venice community.

In 1986 the Federal Government authorized Federal commitment to a cooperative beach renourishment project for Venice.

Finally, nearly 40 years after the problem was first recognized and after Venice beaches have deteriorated to the point of disaster—this project did get partial funding last year. This year President Bush has requested additional funding for the project. I urge my colleagues' support.

Mr. Speaker, the people of Venice and the State of Florida have worked hard to meet their obligations in seeing this project through. It's time the Federal Government did the same—particularly since it is to blame for the problem.

Beach renourishment in Venice is not a matter of aesthetics. It's a matter of economic necessity. Each day the situation in Venice grows worse as the badly eroded shoreline threatens roads, sewer systems and the preservation of clean, white beaches which are accessible and enjoyed by constituents of all Members of Congress.

AMERICANS SUPPORT LITHUANIANS IN THEIR QUEST FOR FREEDOM

(Mr. JONES of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Georgia. Mr. Speaker, for decades, we have refused to recognize the forced annexation of the Baltic States by the Soviets, and for decades we have encouraged freedom and democracy in that region.

Now, as Soviet tanks roll through Lithuania, as patriotic young soldiers are brutally beaten there, as foreign journalists are threatened and intimidated, and as diplomats and foreigners are ordered out, the freedom loving people of that proud little Baltic country look to the United States for recognition and support.

While the White House equivocates, let us assure our brothers and sisters in Lithuania that our people do not equivocate. We are with you—we the people support you and recognize you, and join the world in admiration of your determination and your courage.

MUSCLE-FLEXING WILL NOT DETER LITHUANIANS' PURSUIT OF INDEPENDENCE

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I rise today to express my strong concern regarding the Soviet response to the Lithuanians pursuit of freedom under the spirit of glasnost. In the most striking contrast to date of the Soviet commitment to glasnost, armored personnel carriers rumbled into the Lithuanian capital of Vilnius, occupied the Communist Party building and raided a local hospital.

Mr. Speaker, this type of military intervention has already created adverse repercussions in the United States Congress and is counterproductive to improve United States-Soviet relations.

The American people are hoping for the success of glasnost and perestroika in the Soviet Union. We all want to see President Gorbachev succeed in reforming his country, but if the price of that success is the compromise of our most fundamental national principles—freedom and independence—then the price is too high and glasnost is merely a creature of the Soviet propaganda machine.

Fifty years ago, the world spoke its outrage after Stalin and Hitler moved to deny Lithuanians their national sovereignty. Today, the courageous people of Lithuania are standing up to repair this terrible injustice. To remain silent at this moment would make us accomplices in the second un-

forgivable Soviet effort to smother Lithuanian independence.

I urge my colleagues, and the Bush administration, to stand up and loudly commend the courage and determination of the Lithuanian people in their struggle for freedom against occupation and to recognize Lithuania as an independent and democratic state.

ANNOUNCEMENT OF RETIREMENT BY THE HONORABLE GEORGE W. CROCKETT, JR., OF MICHIGAN

(Mr. CROCKETT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. CROCKETT. Mr. Speaker, a few days ago the press carried the story of the death of the Honorable Harold Medina, who was the judge who presided over the famous Communist trial in New York back in 1949 and 1950. In the course of that trial Judge Medina sentenced the five defense lawyers to prison. I am the only living survivor of those five defense lawyers.

During the 4 months that I served in a Federal prison it never occurred to me that one day I would also serve in the U.S. Congress and be a member of the committee having oversight jurisdiction over all Federal judges and all Federal prisons.

□ 1250

Today, Mr. Speaker, I rise to inform my colleagues that I have decided to retire from the House at the conclusion of the 101st Congress. After 68 years of working, championing unpopular causes, I am hoping to enjoy a little time off.

Mr. Speaker, I will not miss running back and forth for the bells or the endless meetings this job entails, but I will miss the company of so many deeply committed men and women with whom I have had the pleasure to serve.

For the past decade, Mr. Speaker, I have been privileged to serve the people of Michigan's 13th District in this body, and it has been a challenge and an honor I will always cherish. I will also cherish the tireless support I have received from members of the religious, labor, and political communities in Detroit, the senior citizens, my friends, and our great mayor, Coleman Young, and our dedicated council president, Maryann Mahaffey, as well as my staffs both here and in Detroit.

There is a time, however, when each man or woman must decide to leave the day-to-day struggles to others. When this Congress ends in January, I will go on to other less challenging challenges.

[Applause, the Members rising.]

ADVANCING THE INAUGURATION OF MRS. CHAMORRO TO APRIL 1990 WAS A GOOD IDEA

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, reports of an agreement in Nicaragua between the Sandinistas and the newly elected Chamorro government are encouraging if it really means a reduction in the size of the army and that the army will be subject to civilian control and not the Sandinista Party.

Few seem to realize however that the outgoing Sandinista regime has been actively seeking to undermine the ability of the new government to carry out its program. International election observers report that weapons are being distributed in towns and on farms by the Sandinistas perhaps for the purpose of creating paramilitary groups that could cause problems in the future.

The Sandinistas are also distributing homes, vehicles, machines, and other government property to Sandinista Party loyalists before the April 25 transition as well as using up and selling off the scarce petroleum reserves that are vital to propping up the failing economy.

All this is occurring in the 2-month time span between the elections and the inauguration of Mrs. Chamorro. Think what would have happened if the Sandinistas had not been pressured into changing the original inauguration date from Janauary 1991 to April 1990.

WELCOMING OUR TWO NEW MEMBERS FROM THE STATE OF NEW YORK

(Mr. McNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McNULTY. Mr. Speaker, I just want to join with all of our colleagues on both sides of the aisle in welcoming our two new Members, both of whom I am proud to say are from New York. SUSAN MOLINARI was sworn in yesterday and will, I am sure, follow in the great tradition of her dad, our former colleague, Guy Molinari. JOE SERRANO, who was sworn in just a few moments ago, was a very close and special friend of mine. We served together in the State legislature. Joe served for 15 years in the New York State assembly and rose through the ranks to become the chairman of the education committee. He is, to put it quite simply, Mr. Speaker, one of the most capable and competent public servants I have had the privilege of knowing during my 20 years as an elected public official, and I am confident, as time goes on and our colleagues get to know him more intimately, he will become rightly recognized as one of the outstanding Members of this institution.

DO NOT DESECRATE THE AMERICAN FLAG

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, it has been said that a motion picture can leave an indelible impression on people. I found that to be true during the academy awards two nights ago when Denzel Washington received an Oscar for best supporting actor.

Mr. Washington's performance in "Glory" was exceptional. The climatic point in that movie was the development of his character, from a skeptical, cynical soldier to a proud patriot willing to fight and die for freedom and carry the American flag in battle.

That climatic point has been repeated in real life—from Valley Forge to Vietnam in every battlefield where ever American values have been attacked, the American flag has been the shining, eternal spirit of liberty.

Denzel Washington's scene is reminiscent of other tales veterans have told of similar conflicts.

Mr. Speaker, to desecrate the American flag is to desecrate the memory of the thousands of Americans who have sacrificed their lives to keep that banner flying, intact.

I urge my colleagues to sign a discharge petition, No. 7 offered by Congressman CHUCK DOUGLAS today. This petition, would bring the proposal for a constitutional amendment prohibiting flag desecration to the House floor.

WHY WASTE $500 MILLION?

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, why is the Bush administration rushing into an acid rain bill when we have before us the National Acid Rain Precipitation Assessment Program, a 10-year study costing $500 million, begun in 1980, to be concluded later this year? Why are they doing this? Why waste taxpayers' money to the tune of $500 million?

Mr. Speaker, it is strictly because Northeast politicians are frightened by the news media and by the environmentalists, the same environmentalists who brought us the ill-fated snail darters back a few years ago, and by the Western coal interests and by the Canadians who both stand to profit. They are afraid of this study, and what it is going to say, and let me just say that James Mahoney, the director, has said the study eliminates the view

that acid rain represents "an imminent environmental disaster," and indicates the damage is "less than we once thought and much less than the characterizations we sometimes hear."

So, Mr. Speaker, I ask my colleagues, "Why don't we wait until the full study is out, until we know the exact facts?"

Mr. Speaker, I think that we are wasting the taxpayers' money if we spend $500 million and then do not pay any attention to what they say.

LITHUANIA: GLASNOST TEST CASE

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, events in Lithuania are determining whether or not real change has indeed occurred within the Soviet Union. The freely elected Lithuanian legislation is exercising its right to pursue national self-determination and independence. The Soviet Government appears poised to continue to use force to maintain their illegal occupation of Lithuania which resulted from the Hitler-Stalin pact.

Mr. Speaker, if they do so, it would be the equivalent of saying goodbye to glasnost, which could well mean the resurrection of Stalinism in all its ugliness.

The United States can send a powerful signal to Moscow not to retreat into the past. We should recognize the sovereignty of the freely elected Government of Lithuania. At this crucial moment in history the Lithuanians are showing the world what courage means. Let us not let them down.

DISTORTED INTERPRETATIONS BY THE AMERICAN FAMILY ASSOCIATION ON NEA FUNDING

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, I know that many of my colleagues have been swamped by angry protests from constituents who have been misinformed as to congressional action on the National Endowment for the Arts. The American Family Association has been circulating distorted interpretations of the congressional votes related to NEA funding, and has misinformed its readership as to the nature of many NEA grants.

In fact, I voted to remove funding for the NEA equivalent to several controversial projects considered to be obscene. I am disappointed that the AFA chooses to deliberately misinform my constituency, and I am appalled that I should have to defend myself against falsely generated material.

LITHUANIAN VISAS FOR MEMBERS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, like millions of Americans of Eastern European descent, the events unfolding in Eastern Europe cause us to be excited that relatives and friends now will live free in democracy.

At the same time, we are concerned with the fate of our "cousins" to the north—the Lithuanians.

Mr. Gorbachev has been called the "Man of the Decades." Here is his chance to prove it.

Does Gorbachev's glasnost stretch to Lithuania, or are the borders the Baltic Republics closed to his policy of "openness"?

Congress should know.

Today, I am applying to the Soviet Embassy for an immediate visa to go to Vilnius; and, I ask my colleagues to join me.

A plane of Congressmen should go to Lithuania this weekend to see what truly is happening.

Members have been to Nicaragua, to El Salvador, to Eastern Europe; and we have had an effect.

Congress needs to know, especially if we are to consider an Soviet economic aid package.

Congress should give no Soviet aid until we know that glasnost embraces all of the people who have been under the paws of the Soviet bear most of this century.

□ 1300

AIR FORCE ASSISTANCE ASKED WITH NEW YORK FIRE VICTIMS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, today I have asked Air Force Secretary Donald Rice to please make available some Air Force transport planes to fly back to Honduras and to the Dominican Republic the bodies of so many of the people killed in last weekend's very tragic fire in the Bronx.

I think this would really be a tremendous humanitarian gesture to the families of the victims, and it would also express the deep sorrow of the United States for the tragedy and our affection for our neighbors in this hemisphere. I certainly hope that these planes can be made available.

The stories of them passing the hat in New York and doing all sorts of things to try to return people home are something I think that we could really help with.

EARTH DAY

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, this year marks the 20th anniversary of Earth Day. It is an important date to remember in light of the many environmental problems that all mankind faces. While these problems are severe and will take much work to correct, it is not too late to act and make a difference. We need to change the way that we view our world, and change our habits in order to accommodate the environmental realities that now face us. We must learn to stop using products that pollute our water, air, and ground. We must conserve our forests around the world, so that all living things benefit. We must transform our society from one that throws away everything into one that uses and reuses our valuable resources. All of us, Mr. Speaker, can do our part to make a difference. On Earth Day 1990, we need to start making conscientious efforts to change our habits and work for our planet. The planting of trees, the beginning of local or household recycling programs, and starting energy conservation efforts will make a big difference. Mr. Speaker, Earth Day is here to remind us of our responsibilities. Let's live up to them and make this Earth Day the best ever.

SUPPLIERS REJECT POISON GAS PROGRAM

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, yesterday's Washington Post headlines: "Suppliers Reject Poison Gas Program; U.S. May Act."

Well, with all the inaction in the Bush administration, why is it that the one time they might choose to act, to actually preempt private enterprise in our country or to go overseas to obtain a vital constituent of poison gas is in the area of producing gas instead of something of real benefit to this Nation?

The Bush administration, the paper goes on to say, is contemplating legal action against two chemical firms for refusing to sell an ingredient necessary for continued U.S. production of poison gas artillery shells. They are looking at foreign sources.

A quote from Mr. Wilcke of Mobay Chemical:

> In this day and age, who wants to be involved in providing chemicals that go into chemical weapons?

Who indeed. It is time to remove this threat, this shadow from the world, and also for the United States to be pure in its pledge to rid the

world of chemical weapons. Let us start here. Let us not force people to sell us these constituents. Let us stop producing chemical weapons and save the $47 million.

DEFENSE DEPARTMENT SHOULD STOP HARASSMENT OF CHEMICAL COMPANIES

(Mr. PORTER asked and was given permission to address the House for 1 minute.)

Mr. PORTER. Mr. Speaker, Department of Defense officials are poised to invoke a 1950 law to force two U.S. chemical companies to produce lethal chemicals for our 155-millimeter binary nerve gas artillery shell program. The two American companies, the only ones capable of producing the chemicals, have refused, stating that their policy is not to produce chemicals for any military purposes.

DOD has three choices, Mr. Speaker. The first is to compel the companies to produce the chemicals under a law designed to commandeer production in wartime. This would be outrageous. The second is to import the chemicals from a foreign manufacturer. This choice would seriously undermine the President's stated position on chemical weapons by making a mockery of our efforts to stop the proliferation of chemical weapons worldwide.

The third choice is the right choice, Mr. Speaker. The Defense Department should stop its harassment of chemical companies who refuse to produce nerve gas chemicals for military weapons. These companies, rather, should be applauded, not strong-armed, and our efforts should focus on nonproliferation and destruction of chemical weapons, and not on their continued production.

LOCKHEED ONE OF OUR NATION'S VITAL ASSETS

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, 2 weeks from now the space shuttle *Discovery* is scheduled to lift our Nation and our world into a new era of exploration.

Discovery will carry into space the most powerful telescope ever devised, the Hubble space telescope. Once in orbit, this eye in the heavens will offer mankind the opportunity to peer back into time and see the ends of the known universe.

The irony, Mr. Speaker, is that today as the Hubble space telescope is being readied for its historic flight, the company that built this technological masterpiece for our country is under attack. Lockheed is today at risk from a corporate takeover specialist focused not on the long-term future of the United States, but on short-term profit taking.

As a member of the Science, Space, and Technology Committee, and a former member of the Intelligence Committee, I believe that Lockheed is truly one of our Nation's vital assets. It is a company whose commitment to long-term investment in research and technology has paid off time and time again—not only for its employees and shareholders, but for the United States as a whole.

Mr. Speaker, it would be a tragedy were Lockheed's excellence to be sacrificed in the future for the sake of short-term profits and managerial expedience.

LITHUANIAN INDEPENDENCE

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, over the past 11 months, we have witnessed an incredible change which has taken place. I believed that Ronald Reagan and Lech Walesa are responsible for the change, but it is very clear that it would not have taken place had it not been for Mikhail Gorbachev. It was a year ago next month that we saw the roundtable talks in Poland lead the way toward that very historic June 4 election. Then following that, we all know what happened, the crumbling of the Eastern bloc.

Well, Mr. Speaker, it is very clear that we have some concerns which have come to the forefront in the past several weeks. On March 11, the people of Lithuania reaffirmed their independence, and I believe it is very clear that we may be jeopardizing the tremendous gains which have been made over these past 11 months in Soviet-United States relations.

Mr. Speaker, I am for General Secretary Gorbachev to allow the people of Lithuania to, in fact, implement their will and to move ahead with the kind of independence which the people around the world are successfully seeking.

PRESIDENT OFFERS ONLY AN INVISIBLE HAND TO EASTERN AIRLINES

(Mr. BOSCO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOSCO. Mr. Speaker, today's financial pages report the latest sorry episode in President Bush's invisible hand, laissez-faire approach to Eastern Airlines. You will recall earlier this month when Transportation Secretary Skinner and the bankruptcy examiner Shapiro pleaded with Congress to let well enough alone because an agreement had been reached for Frank Lorenzo to return half of what he misappropriated from Eastern, pay creditors 50 cents on the dollar and get back to managing the airline. Unfortunately, the House took this pie-in-the-sky advice.

Yesterday, Eastern announced that it is actually losing money at twice the rate it had previously admitted, breaking even the recordbreaking losses it had reported. As a result, more jets will be sold, more people will lose their jobs, creditors will get next to nothing and retired employees will have their health benefits scaled back.

It is too bad, Mr. Speaker, that when the decent, hard-working employees of Eastern Airlines needed the President's help, all he offered was the invisible hand.

TRANSFER OF U.S.S. "REQUIN" TO CARNEGIE INSTITUTE IN PITTSBURGH, PA

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of the Senate bill (S. 2151) to permit the transfer of the obsolete submarine U.S.S. *Requin* to the Carnegie Institute in Pittsburgh, PA, before the expiration of the 60-day waiting period that would otherwise be applicable to the transfer and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

□ 1310

The SPEAKER pro tempore (Mr. MCCLOSKEY). Is there objection to the request of the gentleman from Florida?

Mr. SPENCE. Mr. Speaker, reserving the right to object, I yield to the gentleman from Florida [Mr. BENNETT], my distinguished chairman of the Subcommittee on Seapower and Strategic and Critical Materials, so that he might explain the bill.

Mr. BENNETT. Mr. Speaker, I thank the gentleman for yielding. Mr. Speaker, S. 2151 would waive the 60-day waiting period before the transfer of an obsolete Naval submarine to a museum in Pittsburgh, PA. The Navy supports the transfer of the submarine *Requin*, and this bill has already passed the Senate. At this time, I would like to yield to the gentleman from Pennsylvania [Mr. COYNE] for a further explanation of the bill.

(Mr. COYNE asked and was given permission to revise and extend his remarks.)

Mr. COYNE. Mr. Speaker, I rise in support of legislation to facilitate the transfer of the U.S.S. *Requin*—an obsolete submarine—from the Navy to the new Carnegie Science Center in Pittsburgh.

I realize that transferring an obsolete submarine to a museum may sound a bit unusual, but it is actually part of a remarkable project that will transform the *Requin* into a floating museum. Indeed, I understand Carnegie will then be the only science museum in the United States to have a submarine as one of its facilities.

The Carnegie Science Center would be an appropriate home for the U.S.S. *Requin.* It was commissioned in the last months of World War II, and it served our country with distinction through the 1960's. But our Nation's military needs have changed over the years, and the *Requin* was struck from the Navy list nearly 20 years ago. It has been moored in the Hillsborough River in Tampa, FL, ever since.

Officials at the Carnegie Science Center envision an entirely new use for this fine old submarine. Once it is transported to a site on the Ohio River near the Center, visitors from around the country will be able to see what a World War II submarine was like—and they will also see demonstrations of the principles of density and ballast, as well as exhibits that will show how the *Requin*'s propulsion system and periscope worked.

The Navy no longer needs the *Requin.* Officials in Tampa are amenable to moving it to Pittsburgh. The Carnegie Science Center is eager to put it to good use.

The only snag right now is a technical problem. To get to Pittsburgh, the *Requin* must travel along the Mississippi and Ohio Rivers. The trip will take about 6 weeks; and the only time this year when the *Requin* can safely negotiate the journey is before June 30, when the waters of the Mississippi and Ohio are at their highest levels. Furthermore, the submarine needs some alteration before it can start for Pittsburgh.

Unfortunately, there is a legal requirement of a 60-day congressional waiting period before the *Requin* can be formally transferred from the Navy to the Carnegie Science Center. Under most circumstances, such a requirement is useful and appropriate—but in this particular situation, it could jeopardize the opportunity for the *Requin* to travel safely this year from Tampa to Pittsburgh.

It is for that reason that I support the U.S.S. *Requin* Safe Transfer Act. It would waive the requirement for the 60-day congressional waiting period in this case so that the *Requin* can make the journey to its new home in Pittsburgh this year during the safest possible time.

I urge my colleagues to support this legislation; and after the conversion of the *Requin* is complete, I invite all of my colleagues to visit both the *Requin* and other facilities of the new Carnegie Science Center, which together will make up one of the finest science museums in the country.

Mr. SPENCE. Mr. Speaker, I certainly support the request of the gentleman from Florida [Mr. BENNETT], and, with that, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF WAITING PERIOD.

Clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer by the Secretary of the Navy under section 7308(a) of such title of the obsolete submarine U.S.S. *Requin* to the Carnegie Institute in Pittsburgh, Pennsylvania, for use by the Carnegie Institute in connection with the Carnegie Institute Science Center in Pittsburgh.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2151, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DEPARTMENT OF ENVIRONMENTAL PROTECTION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 364 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3847.

□ 1311

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3847) to establish a Department of Environmental Protection, and for other purposes, with Mr. HARRIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, March 27, 1990, all time for general debate had expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3847

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Environmental Protection Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The health and well-being of the United States and its citizens is fundamentally dependent on the quality of the environment of the United States and the rest of the world.

(2) Despite significant progress in environmental protection over the past two decades, the natural and human resources of the United States continue to be lost, harmed, or inefficiently used at an alarming rate, requiring a much greater Federal commitment to prevent pollution and protect the environment for present and future generations.

(3) Environmental issues have achieved a new and important place on the international agenda of the world's nations, requiring extensive cooperation among many countries in order to find solutions to major problems such as potential global climate change and stratospheric ozone depletion.

(4) Since the Environmental Protection Agency was established in 1970, the scope of its functions have expanded significantly and agency staff and resources now exceed those of several major Cabinet-level departments.

(5) Environmental policies and programs affect nearly every agency of the executive branch yet they have not always been adequately integrated into other Federal policies and programs due in part to the lack of equal standing between the Environmental Protection Agency and other Federal agencies.

(6) It is necessary to consolidate and improve the collection and analysis of environmental data in order to fully comprehend the current state of our environment, to identify new environmental problems at the earliest possible date, and to determine the effectiveness of environmental policies and programs.

(7) Improved collection of environmental information, affirmative dissemination of such information, and presentation of such information in ways that support analysis and public understanding will assist efforts to protect the environment.

(8) Because environmental policies affect a wide range of citizens, businesses, and State and local governments, it is necessary to ensure that the agency primarily charged with protecting the environment, consistent with applicable statutes it administers, is responsive to the needs and concerns of the public.

(b) PURPOSES.—The purposes of this Act are the following:

(1) Establish a Department of Environmental Protection, which will carry out the current functions of the Environmental Protection Agency.

(2) Ensure that prevention of pollution and protection of the environment, consistent with applicable statutes, is firmly established at the highest level of Federal policymaking, and that a Secretary of Environmental Protection will be an integral part of the President's key advisory and decisionmaking process.

(3) Foster better international cooperative efforts to address global environmental issues and ensure that, when appropriate, United States representation in international environmental deliberations and meetings is at a level commensurate with the ministerial rank of foreign governments.

(4) Create a Bureau of Environmental Statistics which will identify, collect, and make accessible a comprehensive and standard-

ized set of environmental quality and related public health data to improve the effectiveness and objectivity of central environmental data collection and analyses and conduct other environmental studies as needed so that the President, the Congress, and the public can be adequately informed about conditions and trends in environmental quality and so that the Department can better manage and coordinate its environmental protection responsibilities and evaluate its programs.

(5) Promote the awareness, access, and use of environmental information resources by ensuring that information activities of the Department of Environmental Protection are conducted in such a manner as to (A) improve the quality of decisionmaking, regulation, and program management, (B) assist environmental and public health protection, and (C) encourage public use.

(6) Provide for the cooperation of, and consultation with, Federal, State, and local governments in the development and implementation of national environmental policies and programs under the jurisdiction of the Department.

(7) Ensure incorporation of national environmental protection goals in the formulation and implementation of other national programs, and advance the goals of restoring, protecting, and enhancing environmental quality, and assuring public health, while recognizing the importance of—

(A) policies that ensure that the industry, business, and agriculture of the United States, and the jobs they provide, will continue to improve economically and be competitive internationally; and

(B) policies that promote the interests of consumers and the continued good health of the small businesses of the United States.

TITLE I—REDESIGNATION OF ENVIRONMENTAL PROTECTION AGENCY AS DEPARTMENT OF ENVIRONMENTAL PROTECTION

SEC. 101. REDESIGNATION OF ENVIRONMENTAL PROTECTION AGENCY AS DEPARTMENT OF ENVIRONMENTAL PROTECTION.

(a) REDESIGNATION.—The Environmental Protection Agency is redesignated as the Department of Environmental Protection (hereinafter in this Act referred to as the "Department"), and shall be an executive department in the executive branch of the Government. The Department shall be headquartered at the seat of Government. The official acronym of the Department shall be "D.E.P.".

(b) SECRETARY OF THE ENVIRONMENT.—(1) There shall be at the head of the Department a Secretary of Environmental Protection (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) OFFICE OF THE SECRETARY.—The Office of the Secretary shall consist of the Secretary and the Deputy Secretary appointed under subsection (d), and may include an Executive Secretary.

(c) TRANSFER.—The functions, powers, and duties of the Administrator and other officers and employees of the Environmental Protection Agency are transferred to and vested in the Secretary.

(d) DEPUTY SECRETARY.—There shall be in the Department a Deputy Secretary of Environmental Protection, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe, and shall act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the Office of the Secretary.

(e) DELEGATION OF AUTHORITY.—Except as provided in this Act and other existing laws, the Secretary may delegate any functions, including the making of regulations, to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as the Secretary considers to be necessary or appropriate.

SEC. 102. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—Subject to sections 108, 109, and 110, there shall be in the Department such number of Assistant Secretaries, not to exceed 10, as the Secretary shall determine, each of whom—

(1) shall be appointed by the President, by and with the advice and consent of the Senate; and

(2) shall perform such functions as the Secretary shall prescribe.

(b) FUNCTIONS.—Subject to sections 108, 109, and 110, the Secretary shall assign to each Assistant Secretary of the Department such functions as the Secretary considers appropriate, including, subject to the discretion of and modification by the Secretary, the following: Pollution prevention, including resource recovery, recycling, and reuse; education; policy, planning, and evaluation; administration; resources management, including financial and budget management; information resources management; procurement and assistance management; personnel and labor relations; enforcement; compliance monitoring; research and development; air; radiation; water; pesticides; toxic substances; solid wastes; hazardous waste; hazardous waste cleanup; emergency response; congressional and legislative affairs; public affairs; intergovernmental affairs; and international environmental affairs.

(c) DESIGNATION OF FUNCTIONS PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as an Assistant Secretary under this section, the President shall state the particular functions of the Department (as assigned by the Secretary under subsection (b)) such individual will exercise upon taking office.

SEC. 103. DEPUTY ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department 20 Deputy Assistant Secretaries, or such number as the Secretary determines is appropriate.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) MINIMUM NUMBER OF DEPUTY ASSISTANT SECRETARIES WITH SERVICE IN CIVIL SERVICE.—(1)(A) Subject to paragraph (2), at least two-thirds of the number of positions established under subsection (a) and filled under subsection (b) shall be filled by individuals who have at least 5 years of service in the Federal civil service in the executive branch preceding their appointment under subsection (b) as a Deputy Assistant Secretary.

(B) For purposes of determining the service of an individual pursuant to subparagraph (A), there shall not be included any service by such individual in a position—

(i) in a Schedule C appointment in the Excepted Service, as such term is defined in section 2103 of title 5, United States Code;

(ii) in which such individual served as a noncareer appointee in the Senior Executive Service, as such term is defined in section 3132(a)(7) of title 5, United States Code; or

(iii) to which such individual was appointed by the President, with or without the advice and consent of the Senate.

(2) Not more than one-half of the positions required to be filled as provided in paragraph (1) may be filled by individuals not having at least 5 years of service in the Federal civil service, if each such individual has at least 5 years experience in environmental affairs, including experience administering or overseeing programs or developing policy with respect to environmental matters. Such individuals shall be selected from as broad a base as possible, including individuals having experience in the legislative or judicial branches, State and local government, academia, industry, or the public interest environmental community.

(d) FUNCTIONS.—Functions assigned to an Assistant Secretary under section 102(b) may be performed by one or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

SEC. 104. OFFICE OF THE GENERAL COUNSEL.

(a) GENERAL COUNSEL.—There shall be in the Department the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

(b) DEPUTY GENERAL COUNSEL.—There shall be in the Office of the General Counsel at least one Deputy General Counsel, who—

(1) shall be appointed by the General Counsel; and

(2) shall perform such functions as the Secretary shall prescribe.

SEC. 105. OFFICE OF INSPECTOR GENERAL.

The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978 (5 U.S.C. App.), is redesignated as the Office of Inspector General of the Department of Environmental Protection.

SEC. 106. REGIONAL ADMINISTRATORS.

There shall be in the Department not more than 11 of regional administrators, each of whom shall be appointed by the Secretary. Political affiliation or political qualification may not be the primary factor taken into account in connection with the appointment of any person to a position as a regional administrator of the Department. Each regional administrator shall—

(1) perform in accordance with applicable law such of the functions transferred or delegated to or vested in the Secretary as the Secretary shall prescribe in accordance with the provisions of this Act and other applicable law; and

(2) implement enforcement and other program policies and priorities as established by the Secretary, Assistant Secretaries, and Deputy Secretaries.

SEC. 107. CONTINUING PERFORMANCE OF FUNCTIONS.

(a) REDESIGNATION OF POSITIONS.—(1) The Administrator of the Environmental Protection Agency is redesignated as the Secretary of the Department of Environmental Protection.

(2) The Deputy Administrator of such agency is redesignated as the Deputy Secretary of the Department of Environmental Protection.

(3) Each Assistant Administrator of such agency is redesignated as an Assistant Secretary of the Department.

(4) The General Counsel of such agency is redesignated as the General Counsel of the Department.

(5) The Inspector General of such agency is redesignated as the Inspector General of the Department.

(b) NOT SUBJECT TO RENOMINATION OR RECONFIRMATION.—An individual serving at the pleasure of the President in a position that is redesignated by subsection (a) may continue to serve in and perform functions of that position after the date of the enactment of this Act without renomination by the President or reconfirmation by the Senate.

SEC. 108. OFFICE OF INTERNATIONAL ENVIRONMENTAL AFFAIRS.

(a) ESTABLISHMENT OF OFFICE.—There shall be in the Department an Office of International Environmental Affairs, which shall be headed by an Assistant Secretary for International Environmental Affairs.

(b) INTERNATIONAL AGREEMENTS.—In addition to exercising other international responsibilities under existing law, the Secretary is encouraged to assist the Secretary of State with carrying out the Secretary of State's functions as the official with primary responsibility for—

(1) negotiating conventions or other international agreements that are necessary to prevent pollution and protect the environment; and

(2) participating in the work of international organizations relevant to environmental protection.

(c) PUBLIC PARTICIPATION IN DELIBERATIONS.—Whenever in the opinion of the Secretary or his or her designee the circumstances permit, in preparing for Department of Environmental Protection deliberations on international agreements, the Secretary shall—

(1) consult with, and obtain the advice of, other Federal agencies, industry, agriculture, labor, environmental organizations, scientists, analysts, and others, on the technical, economic, and other impacts of such agreements; and

(2) ensure that the public is given an opportunity to comment.

(d) RESEARCH AND TECHNICAL ASSISTANCE.—The Secretary, in consultation with the Secretary of State and the Administrator of the Agency for International Development, and to the extent otherwise authorized by law, is authorized and encouraged—

(1) to continue the Department's major role in conducting research concerning the nature and consequences of international environmental problems and the actions needed to solve them; and

(2) to provide technical assistance to other nations and international bodies to improve the quality of the environment.

(e) PERFORMANCE OF OTHER ACTS.—The Secretary is encouraged to perform such other acts which are necessary to protect the international environment and not inconsistent with the functions of other departments of the executive branch of the Federal Government.

SEC. 109. OFFICE OF ENFORCEMENT.

(a) ESTABLISHMENT OF OFFICE.—There shall be in the Department an Office of Enforcement, which shall be headed by an Assistant Secretary for Enforcement.

(b) FUNCTIONS.—The functions of the Office shall include—

(1) monitoring compliance with the laws and regulations within the jurisdiction of the Department;

(2) investigating and taking enforcement action against violations of laws and regulations within the jurisdiction of the Department; and

(3) assuring that enforcement responsibilities delegated to States or other entities under laws and regulations within the jurisdiction of the Department are carried out in accordance with applicable law.

(c) REGIONAL ENFORCEMENT.—The Office of Enforcement shall maintain within each regional office of the Department a regional counsel and other enforcement staff who shall be responsible for compliance monitoring and enforcement within such region.

SEC. 110. OFFICE OF POLLUTION PREVENTION AND RECYCLING.

(a) ESTABLISHMENT OF OFFICE.—There shall be in the Department an Office of Pollution Prevention and Recycling, which shall be headed by an Assistant Secretary for Pollution Prevention and Recycling. The Office shall—

(1) be independent of the Department's single-medium program offices;

(2) have as its principal goals—

(A) the reduction of emissions, releases, waste disposal, and other discharges of pollutants to any environmental media;

(B) the promotion of a multimedia approach to source reduction; and

(C) the promotion of a multimedia approach to recycling.

(b) POLLUTION PREVENTION FUNCTIONS.—The pollution prevention functions of the Office shall include, in accordance with statutes administered by the Department—

(1) developing and implementing a strategy to promote source reduction;

(2) ensuring that the Department considers the effect of its existing and proposed programs on source reduction efforts;

(3) reviewing proposed regulations of the Department to determine their effect on source reduction;

(4) coordinating source reduction activities in each office of the Department;

(5) determining what capabilities the Department should have to measure multimedia pollution and pollution control practices in the United States, including determining to what extent, if any, changes are needed in existing Department practices with respect to the collection and handling of data regarding pollution measurement and control; and

(6) facilitating the adoption of pollution prevention techniques by businesses.

(c) OTHER FUNCTIONS.—The Secretary may—

(1) assign to the Assistant Secretary for Pollution Prevention and Recycling the additional functions of policy, planning, and evaluation, as described in section 102(b); and

(2) add such functions to the name of the Office.

SEC. 111. BUREAU OF ENVIRONMENTAL STATISTICS.

(a) ESTABLISHMENT.—There is established within the Department the Bureau of Environmental Statistics (hereinafter in this section referred to as the "Bureau").

(b) FUNCTIONS.—The functions of the Bureau include—

(1) identifying a comprehensive set of data for determining environmental quality and related public health matters over both the short and long term;

(2) promulgating guidelines for the collection of the data identified under paragraph (1) to ensure that the data are accurate, reliable, relevant, and in a form that permits systematic analysis;

(3) collecting, analyzing, and reporting the data identified under paragraph (1), except that the Bureau may not collect data if the Bureau determines that it can obtain equally reliable data more efficiently from another agency that is already collecting such data;

(4) reviewing data information needs in consultation with the Office of Research and Development and, at least annually, with the Science Advisory Board;

(5) making readily accessible or, to the extent practicable, disseminating all public data collected under paragraph (3) in a timely manner and using dissemination methods that will maximize the utility of the information to the public;

(6) collecting such other data as may be required by the Bureau to efficiently and effectively fulfill its responsibilities, or to identify new environmental problems;

(7) in cooperation with the Council on Environmental Quality and other Federal agencies, assisting in the preparation of the report required under section 201 of the National Environmental Policy Act of 1969 (42 U.S.C. 4341);

(8) conducting specialized analyses and preparing special reports on particular subjects whenever required to do so by the President, by law, or when considered appropriate by the Director of the Bureau of Environmental Statistics;

(9) coordinating the collection of data under paragraph (3) with related information-gathering activities conducted by other Federal, State, and local agencies; and

(10) making grants to and entering into contracts with State and local governments, as needed, to assist them in meeting the costs of collecting specific data or in short-term activities that relate to the functions described in paragraphs (1), (3), and (5).

(c) DIRECTOR OF ENVIRONMENTAL STATISTICS.—(1) The Bureau shall be under the direction of the Director of Environmental Statistics (hereinafter in this section referred to as the "Director"), who shall report directly to the Secretary.

(2)(A) The Director shall be appointed by the Secretary for a term of 4 years and may be reappointed as Director for additional terms.

(B) An individual may, at the request of the Secretary, serve as Director after the expiration of his or her term for not more than 3 months until his or her successor has taken office.

(C) An individual may be removed as Director by the Secretary only for malfeasance in office, maladministration, or neglect of duty.

(3) The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) An individual appointed as Director shall—

(A) be in the Federal civil service or in the Senior Executive Service and shall be a career appointee; and

(B) be well qualified through experience or training in the collection and analysis of environmental statistics.

(d) ASSOCIATE DIRECTORS.—There shall be in the Bureau such number of Associate Directors as may be specified and appointed by the Director.

(e) RESPONSIBILITIES OF DIRECTOR.—(1)(A) The Secretary shall delegate to the Director the functions vested in the Secretary by law which relate to gathering, analysis, and dissemination of environmental quality and related public health information, and the Director may act in the name of the Secretary for purposes of enforcement activities pursuant to those delegated functions.

(B) Any delegation of functions under this paragraph may be on an exclusive or nonex-

clusive basis, as the Secretary determines to be necessary to ensure the faithful execution of the Secretary's authorities and responsibilities under law.

(2) The Director shall not be required to—

(A) obtain the approval of any other officer or employee of the Department in connection with the collection, analysis, or dissemination of any information; or

(B) obtain, prior to publication, the approval of any other officer or employee of the United States with respect to the substance of any reports prepared in accordance with law.

(3) The Director shall establish and maintain the scientific, engineering, statistical, and other technical capability to perform analysis of environmental quality and related public health information to—

(A) verify the accuracy of items of environmental quality and related public health information submitted to the Director; and

(B) ensure the coordination and comparability of the environmental quality and related public health information in possession of the Bureau and other Federal agencies.

(4) The Director shall establish and maintain the professional and analytic capability to evaluate independently the adequacy and comprehensiveness of the environmental quality and related public health information in possession of the Bureau.

(5) Subject to other provisions of law, in carrying out responsibilities under this Act, the Director may collect data from such Federal agencies, State or local agencies or instrumentalities, businesses, and other individuals, persons, organizations, and institutions, as the Director considers appropriate. The Director may use the statistical method known as sampling to carry out this section.

(6) The Director may, upon request, provide technical assistance to offices of the Department and to other Federal agencies for the purpose of assuring the technical quality and the coordination of statistical activities of the Department. Such assistance may include reviewing data collection plans, survey designs, and pretests, management of data, and quality of data.

(7) The Director may use information collected by any Federal agency and may enter into interagency or intraagency agreements for the collection of statistics for the purposes of this section. Subject to applicable law, all Federal agencies (including agencies in the Department) shall provide to the Director any data that the Director requires to carry out responsibilities under this Act. The Director may arrange with any agency, organization, or institution for the cooperative collection of statistics for the purposes of this section and may assign employees of the Bureau to any such agency, organization, or institution to assist in such collection.

(8) The Director—

(A) may select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Bureau, subject to the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

(B) notwithstanding any other provision of this Act, may obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the equivalent daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title.

(f) STAFF.—(1) The Secretary shall ensure that the Bureau of Environmental Statistics has staff sufficient to enable the Director to efficiently carry out his or her duties.

(2) Any positions created pursuant to this subsection shall be career reserve positions.

(g) CONTINUING PERFORMANCE OF FUNCTIONS OF DIRECTOR PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by the Director may continue to perform such functions until such functions are assigned to an individual appointed as the Director under this Act.

(h) SPECIAL REPORTS.—(1) The Director—

(A) shall provide statistical records and make special statistical compilations, surveys, and reports for Committees of the House of Representatives and the Senate; and

(B) may provide statistical records, compilations, surveys, and reports to State and local officials, public and private organizations, and individuals.

(2) The Director may charge the actual cost of any special statistical records, compilations, surveys, and reports conducted for State or any local official, public or private organization, or individual. The Director may engage in joint statistical projects with nonprofit organizations and may share the costs equitably as determined by the Director. Any funds received in payment for work or services described in this paragraph shall be deposited in separate accounts which may be used, subject to annual appropriations, to pay directly the costs of such work or services, to repay appropriations which were used for any part of such costs, or to refund excess sums when necessary.

(3) The Director shall prepare and publish such information and documents as may be of value in carrying out the purposes of this section, including periodically by issuing a regular schedule of publications.

(i) CONFIDENTIALITY OF DATA.—Upon a showing satisfactory to the Director by any person that any information obtained under this section from such person would, if made public, disclose information exempt from disclosure pursuant to subsection (b)(4) of section 552 of title 5, United States Code, such information or portion thereof shall not be disclosed publicly, except that such information or portion thereof may be disclosed to—

(1) any delegate of the Director for the purpose of carrying out this Act;

(2) the General Accounting Office;

(3) any department or agency that requires the information in order to carry out its responsibilities under law; and

(4) the Congress, including to any committee or subcommittee of the Congress upon request of the Chairman thereof.

(j) ADVISORY COMMITTEE ON ENVIRONMENTAL STATISTICS.—(1) The Secretary shall establish an Advisory Committee on Environmental Statistics (hereinafter in this subsection referred to as the "Committee") to advise the Director and the Congress on the implementation of the functions of the Bureau detailed in subsection (b), and ensure that the statistics and analyses reported by the Bureau are of high quality, publicly accessible, and not subject to political influence.

(2) The Committee shall be composed of 11 members appointed by the Secretary. In appointing members of the Committee, the Secretary shall ensure that the Committee—

(A) is fairly balanced with respect to the points of view represented by members of the Committee;

(B) has members who have knowledge of, and experience with, environmental statistics and analysis; and

(C) includes members appointed from among individuals representing environmental organizations; public interest groups; academia; research organizations; industry; labor unions; Federal, State, and local governments; and other appropriate entities.

(3) The Secretary shall complete appointment of members of the Committee not later than 6 months after the date of the enactment of this Act.

(4)(A) Except as provided in subparagraph (B), members of the Committee shall be appointed for a 3-year term, and may be reappointed for one additional term.

(B) Of the members first appointed to the Committee—

(i) one-third shall be appointed for a one year term; and

(ii) one-third shall be appointed for a 2-year term.

(5) A member of the Committee shall receive no compensation for service on the Committee, but may be paid travel and transportation expenses by the Secretary under section 5703 of title 5, United States Code, in the same manner as an employee serving intermittently in Government service.

(6) The Secretary shall designate a member of the Committee as chairperson.

(7) The Committee shall meet at the call of the chairperson of the Committee, but in no case less often than 3 times each year.

(8) The Committee shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(k) PEER REVIEW OF PERFORMANCE OF BUREAU.—(1) The procedures and methodology of the Bureau shall be subject to an annual peer review of performance. Such review shall be conducted by a Peer Review Team, which shall prepare and submit to the President and the Congress a report describing its investigation and findings.

(2) The Peer Review Team shall consist of at least 6 professionally qualified persons who are officers or employees of the United States, of whom at least—

(A) one shall be designated by the Chairman of the Council of Economic Advisers;

(B) one shall be designated by the Commissioner of Labor Statistics;

(C) one shall be designated by the Administrator of Social and Economic Statistics;

(D) one shall be designated by the Chairman of the Securities and Exchange Commission;

(E) one shall be designated by the Administrator of the Energy Information Administration; and

(F) one who shall be designated by the Comptroller General.

(3) The member of the Peer Review Team appointed under paragraph (2)(F) shall be the Chairman of the Team.

(4) The Director and the Secretary—

(A) shall cooperate fully with the Peer Review Team; and

(B) notwithstanding any other provisions of law, shall make available to the Peer Review Team such data, information, documents, and services as the Peer Review Team determines are necessary for successful completion of its review of performance.

(l) SPECIFICATION IN BUDGET OF PROPOSED APPROPRIATIONS.—The President shall include as a separate line item in each budget submitted under section 1105 of title 31, United States Code, an estimate of appro-

priations necessary to carry out this section for the fiscal year covered by the budget.

SEC. 112. PUBLIC ACCESS TO INFORMATION RESOURCES.

(a) GUIDE TO INFORMATION SERVICES.—The Secretary shall develop and maintain a current, comprehensive, and detailed guide to the Department's environmental and related public health information services, products, and systems. The guide shall—

(1) describe each such service, product, and system, including the type of information available, the cost and other terms of public access, and the sources;

(2) be updated regularly on at least a quarterly basis;

(3) be disseminated as widely as possible in electronic and hard copy formats; and

(4) be printed at least annually.

(b) INTEGRATION AND AVAILABILITY OF SERVICES.—(1) The Secretary shall identify and develop policies, programs, and methods for integrating environmental quality and related public health information resources and services, so that public and private users can gain more effective access to, and make more effective use of, the information. The policies, programs, and methods that are considered for this purpose shall include—

(A) standard formats for data collection, retrieval, storage, and retention;

(B) integrating separate information resources;

(C) making readily accessible or providing for the prompt dissemination of publicly disclosable information generated by or submitted to the Department; and

(D) the use of computer telecommunications for public access.

(2) The Secretary shall report to the Congress on activities under this subsection one year after the date of the enactment of this Act and biennially thereafter.

(c) ADVISORY COMMITTEE ON PUBLIC ACCESS.—(1) The Secretary shall establish an Advisory Committee on Public Access (hereinafter in this subsection referred to as the "Committee") to provide recommendations on improving public access to departmental information.

(2)(A) The Committee shall be composed of 15 members appointed by the Secretary. In appointing members of the Committee, the Secretary shall ensure that the Committee—

(i) is fairly balanced with respect to the points of view represented by members of the Committee;

(ii) has members who have an understanding and appreciation of the need to make environmental information publicly accessible; and

(iii) includes members appointed from among individuals representing environmental organizations, public interest groups, academia, research organizations, libraries, labor unions, industry, State and local governments, and other appropriate entities.

(B) The Secretary shall complete appointment of members of the Committee not later than 6 months after the date of the enactment of this Act.

(C) A member of the Committee shall receive no compensation for service on the Committee, but may be paid travel and transportation expenses by the Secretary under section 5703 of title 5, United States Code, in the same manner as an employee serving intermittently in the Government service.

(3) The Secretary shall designate a member of the Committee as chairperson.

(4) The Committee shall meet at the call of the chairperson of the Committee, but in no case less often than 3 times each year.

(5) The Committee shall—

(A) make recommendations to the Secretary, the Advisory Committee on Environmental Statistics, and the Congress for establishing priorities for public access to departmental information and for implementing such priorities; and

(B) make any other recommendations regarding information collection and dissemination policies and practices that would contribute to making the public more informed about environmental quality and public health effects.

(d) PROMOTING PUBLIC ACCESS TO INFORMATION.—(1) The Secretary shall undertake a study of the use of computer telecommunications and other means to provide for dissemination of and public access to environmental information. The Secretary shall report to the Congress on the plan for the study not later than 3 months after the date of the enactment of this Act and shall report on the results of the study not later than 18 months after that date of enactment.

(2) The study required by paragraph (1) shall include—

(A) the potential use of geographical information systems;

(B) an evaluation of the role of CD-ROM (compact disk—read only memory) in fulfilling the public dissemination obligations of the Department;

(C) one or more pilot programs to expand existing online information dissemination programs to include additional data bases; and

(D) other relevant topics recommended by the Advisory Committee on Public Access established under subsection (c).

(e) USER FEES.—(1) Fees for dissemination of agency information products or services may not exceed the marginal cost of dissemination.

(2) The Secretary shall develop a policy permitting the Department to reduce or waive any user fees for access to departmental information in cases in which such reduction or waiver may enhance the mission of an agency.

(f) TRADE SECRETS.—The Secretary shall—

(1) not later than 12 months after the date of the enactment of this Act and subject to public notice and comment, develop a consistent policy with respect to trade secrets consistent with other laws the Department administers; and

(2) identify to the President and the Congress any statutory barriers to developing such a consistent policy.

(g) ANNUAL REPORT.—The Secretary shall annually report to the Congress on—

(1) pilot projects authorized under this section; and

(2) implementation of policies required to be developed under subsection (e).

SEC. 113. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

(a) LIMITATION ON NUMBER OF NONCAREER SENIOR EXECUTIVES.—Notwithstanding section 3134(d) of title 5, United States Code, the number of Senior Executive Service positions in the Department which are filled by noncareer appointees in any fiscal year may not exceed 10 percent of the total number of senior executives employed in Senior Executive Service positions in the Department at the end of the preceding fiscal year.

(b) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—Except as otherwise provided in this Act, political affiliation or political qualification may not be taken into account in connection with—

(1) the appointment of any person to any career position in, or to perform any services for, the Department; or

(2) the assignment or advancement of any employee of the Department.

SEC. 114. CONFLICTS OF INTEREST OF MEMBERS OF ADVISORY BODIES.

(a) CONFLICTS OF INTEREST REPORTING REQUIREMENTS.—Each member of an advisory body, including a committee, council, board, or panel, utilized by the Department shall file an annual written report disclosing—

(1) the member's principal employment;

(2) all other corporations, companies, firms, partnerships, business enterprises, research organizations, educational institutions, or other entities in or to which the member serves as an employee, officer, adviser, director, owner, or consultant, including the subject matter of the member's service, but only to the extent the entity or relationship is or may foreseeably become relevant to the purposes and functions of the advisory body; and

(3) the identity, but not the value or amount, of any sources of income or financial interests of the member that are or may be relevant to the purposes and functions of the advisory body.

(b) PUBLIC ACCESS TO REPORTS.—The Department shall, within 15 days after receiving any report under this section, permit inspection of such report by, or furnish a copy of such report to, any person requesting such inspection or copy, subject to the terms and conditions established by section 105 of Public Law 95-521.

(c) BALANCED REPRESENTATION REQUIREMENT.—The membership of each advisory body appointed by the Department shall be fairly balanced in terms of the points of view represented and the functions to be performed. In order to meet this requirement, each such advisory body shall have representatives of the following groups:

(1) The affected industry.

(2) Consumer, environmental, health, or other similar public interest groups.

(3) When appropriate, State or local governments or subunits.

These categories are not exclusive, and each of them may be waived by the appointment authority if a determination is made in writing explaining why the category is not germane to the work of the advisory body. This determination is subject to judicial review.

SEC. 115. INHERENTLY GOVERNMENTAL FUNCTIONS.

(a) PERFORMANCE BY GOVERNMENT OFFICERS AND EMPLOYEES.—Inherently governmental functions of the Department shall be performed only by officers and employees of agencies in the executive branch of the Government.

(b) LIMITATION.—This section does not prohibit persons who are not officers and employees referred to in subsection (a) from—

(1) performing research or studies;

(2) gathering information or data;

(3) providing technical services or advisory and assistance services; or

(4) rendering any other such support activities;

that are not inherently governmental functions.

(c) REGULATIONS.—The Secretary shall issue regulations implementing this section not later than 180 days after the date of the enactment of this Act.

(d) DEFINITIONS.—In this section—

(1) the term "advisory and assistance services" includes—

(A) management and professional support services;

(B) the conduct of studies, analyses, and evaluations; and

(C) engineering and technical services, excluding routing technical services; and

(2) the term "inherently governmental function" means any activity that is so intimately related to the public interest as to mandate performance by Government officers and employees, and includes activities which require either the exercise of discretion in applying Government authority or the use of value judgment in making decisions for the Government, such as—

(A) formulation of Government policy and management of Government programs;

(B) selection of program priorities;

(C) direction of Federal employees;

(D) regulation of the use of space, oceans, navigable rivers, and other natural resources; and

(E) regulation of industry and commerce.

SEC. 116. ORGANIZATIONAL CONFLICTS OF INTEREST.

(a) REGULATIONS.—(1) The Secretary shall promulgate regulations regarding organizational conflicts of interest pertaining to the award or potential award by the Department of any contract, grant, cooperative agreement, or other arrangement.

(2) Rules promulgated pursuant to paragraph (1)—

(A) shall require the contracting officer, or other appropriate individual within the employ of the Department—

(i) to identify and evaluate actual and potential organizational conflicts of interest relating to the award by the Department of any contract, grant, cooperative agreement, or other arrangement; and

(ii) to avoid, neutralize, or mitigate such actual and potential organizational conflicts of interest as soon as practicable prior to such award; and

(B) shall establish procedures and requirements for making determinations under subsection (b).

(b) PROHIBITION ON AWARDS.—(1) No contract, grant, cooperative agreement, or other arrangement shall be awarded by the Department to any person who has an actual or potential organizational conflict of interest unless, under regulations promulgated under subsection (a), the Secretary determines that—

(A) such award is essential to protect the interest of the Government;

(B) such actual potential organizational conflict of interest has been mitigated to the extent practicable; and

(C) such award is otherwise permitted by law, including the Federal Acquisition Regulation.

(2) The Secretary may not delegate the authority to make determinations under paragraph (1) to a level below that of the senior procurement executive of the Department designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

(3) The Secretary shall publish notice in the Federal Register before awarding any contract, grant, cooperative agreement, or other arrangement, to any person that has an actual or potential organizational conflict of interest. To the maximum extent practicable, such notice shall be published at least 30 days prior to the award and shall set forth the reasons supporting the Secretary's determination to make the award.

(c) ORGANIZATIONAL CONFLICT OF INTEREST DEEMED TO EXIST.—For purposes of this section, an organizational conflict of interest is deemed to exist in any case in which the nature of work to be performed under a contract, grant, cooperative agreement, or other arrangement may—

(1) result in an unfair competitive advantage to the person awarded the contract, grant, cooperative agreement, or other arrangement; or

(2) impair the person's objectivity in performing the work.

(d) DISCLAIMER.—Nothing in this section—

(1) precludes the Department from promulgating regulations to monitor potential organizational conflicts of interest after the provision of financial assistance; or

(2) shall be construed to authorize potential or actual organizational conflicts of interest that would otherwise be prohibited by law, regulation, or policy.

(e) CENTRAL FILE.—The Secretary shall promulgate regulations creating a central file of all notices published under subsection (b)(3) and comments received by the Department relating to implementation of subsection (b). Such file shall be made available for public inspection.

(f) RULES.—The Secretary shall publish final rules implementing this section not later than 180 days after the date of the enactment of this Act.

SEC. 117. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, reorganization plan, or delegation of authority, or in any document—

(1) to the Environmental Protection Agency is deemed to refer to the Department of Environmental Protection;

(2) to the Administrator of the Environmental Protection Agency is deemed to refer to the Secretary of Environmental Protection;

(3) to the Deputy Administrator of the Environmental Protection Agency is deemed to refer to the Deputy Secretary of Environmental Protection; and

(4) to an Assistant Administrator of the Environmental Protection Agency is deemed to refer to the corresponding Assistant Secretary of the Department of Environmental Protection who is assigned the functions of that Assistant Administrator.

SEC. 118. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, privileges, and other administrative actions—

(1) which have been issued, made, granted or allowed to become effective by the President, the Administrator or other authorized official of the Environmental Protection Agency, or by a court of competent jurisdiction, which relate to functions of the Administrator or any other officer or agent of the Environmental Protection Agency actions; and

(2) which are in effect at the time this Act takes effect;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—This Act shall not affect any proceeding, proposed rule, or application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, and such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—This Act shall not affect suits commenced before the effective date of this Act, and in all such suits proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall be abated by reason of the enactment of this Act.

(e) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be contracts, liabilities, records, property, and other assets and interests of the Department.

SEC. 119. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Environmental Protection".

(b) DEFINITION OF DEPARTMENT IN CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Environmental Protection.".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Secretary of Environmental Protection.".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking "Administrator of Environmental Protection Agency" and inserting in lieu thereof "Deputy Secretary of Environmental Protection".

(e) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking "Inspector General, Environmental Protection Agency" and inserting in lieu thereof "Inspector General, Department of Environmental Protection";

(2) by striking each reference to an Assistant Administrator, or Assistant Administrators, of the Environmental Protection Agency; and

(3) by adding at the end thereof the following:

"Assistant Secretaries, Department of Environmental Protection.

"General Counsel, Department of Environmental Protection.".

(f) COMPENSATION, LEVEL V.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Director, Bureau of Environmental Statistics.".

(g) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 11(1)—

(A) by inserting "Environmental Protection," after "Energy,"; and

(B) by striking "Environmental Protection,"; and

(2) in section 11(2)—

(A) by inserting "Environmental Protection," after "Energy,"; and

(B) by striking "the Environmental Protection Agency,".

SEC. 120. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and other appropriate committees of the Congress, the Secretary shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to the laws of the United States, to reflect the changes made by this Act. Such proposed legislation shall be submitted not later than 6 months after the effective date of this Act.

TITLE II—ADMINISTRATIVE PROVISIONS

SEC. 201. ACQUISITION OF COPYRIGHTS AND PATENTS.

The Secretary may acquire any of the following rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) Copyrights, patents, and applications for patents, designs, processes, and manufacturing data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before suit is brought, for past infringement of patents or copyrights.

SEC. 202. GIFTS AND BEQUESTS.

The Secretary may accept, hold, administer, and utilize gifts, bequests, and devises of real or personal property for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

SEC. 203. OFFICIAL SEAL OF DEPARTMENT.

On and after the effective date of this Act, the seal of the Environmental Protection Agency, with appropriate changes, shall be the official seal of the Department, until such time as the Secretary may cause an official seal to be made for the Department of such design as the Secretary shall approve.

SEC. 204. USE OF LIKENESS OF OFFICIAL SEAL OF DEPARTMENT.

(a) DISPLAY OF SEAL.—Whoever knowingly displays any printed or other likeness of the official seal of the Department, or any facsimile thereof, in or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

(b) MANUFACTURE, REPRODUCTION, SALE, OR PURCHASES FOR RESALE.—Except as authorized under regulations promulgated by the Secretary and published in the Federal Register, whoever knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the official seal of the Department or any substantial part thereof (except for manufacture or sale of the article for the official use of the Government of the United States), shall be fined not more than $250 or imprisoned not more than 6 months, or both.

(c) INJUNCTIONS.—A violation of subsection (a) or (b) may be enjoined by an action brought by the Attorney General in the appropriate district court of the United States. The Attorney General shall file such an action upon request of the Secretary or any authorized representative of the Secretary.

SEC. 205. USE OF STATIONARY, PRINTED FORMS, AND SUPPLIES OF ENVIRONMENTAL PROTECTION AGENCY.

(a) IN GENERAL.—The Secretary shall ensure that, to the extent practicable, existing stationary, printed forms, and other supplies of the Environmental Protection Agency are used to carry out functions of the Department before procuring new stationary, printed forms, and other supplies for the Department.

(b) LIMITATION.—Notwithstanding subsection (a), the Secretary may procure stationary, printed forms, and other supplies for the specific use of the Secretary and the Office of the Secretary.

TITLE III—COMMISSION ON IMPROVING ENVIRONMENTAL PROTECTION

SEC. 301. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the Commission on Improving Environmental Protection (hereinafter in this title referred to as the "Commission").

SEC. 302. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—The Commission shall be composed of 9 members, appointed not later than December 31, 1990, as follows:

(1) 3 members appointed by the President.

(2) 2 members appointed by the majority leader of the Senate.

(3) 1 member appointed by the minority leader of the Senate.

(4) 2 members appointed by the Speaker of the House of Representatives.

(5) 1 member appointed by the minority leader of the House of Representatives.

(b) QUALIFICATIONS.—(1) Individuals appointed under subsection (a) may be officers or employees of the executive branch or the legislative branch, or may be private citizens.

(2) Individuals who are appointed under subsection (a) shall be individuals who—

(A) are citizens of the United States; and

(B)(i) have extensive experience at the Federal or State level in administering or overseeing programs in the area of environmental administration; or

(ii) have experience managing programs in one or more of the following areas:

(I) Environmental science.

(II) Environmental statistics.

(III) Environmental public health.

(IV) Pollution control.

(V) Marine and water planning.

(VI) Atmospheric and climate control.

(VII) Land and wildlife management.

(c) CHAIRPERSON.—The President shall select a chairperson from among the members of the Commission.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(f) VACANCIES.—Any vacancy on the Commission—

(1) shall not affect its powers; and

(2) shall be filled in the manner in which the original appointment was made.

(g) PAY.—Each member of the Commission not otherwise in the employ of the United States Government shall receive the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which such member is actually engaged in the performance of the duties of the Commission. Each member of the Commission shall be allowed travel expenses in the same manner an individual employed intermittently by the Federal Government is allowed travel expenses under section 5703 of title 5, United States Code.

SEC. 303. FUNCTIONS OF COMMISSION.

(a) IN GENERAL.—The Commission in its report under subsection (c) shall address, analyze, report, and make specific recommendations on the following matters:

(1) The program or programs which currently are not within the jurisdiction of the Department but which relate to the mission of the Department.

(2) The benefits and detriments of consolidating those programs within the Department.

(3) The benefits and detriments of changes in organization of the Department by media and by function.

(4) Federal environmental research programs, including the adequacy and distribution of federally-funded environmental research at academic institutions.

(5) The benefits and detriments of creating a Department-wide Office of Ombudsman which would resolve complaints, disputes, and grievances that are not resolvable through normal departmental channels.

(6) The manner in which recommendations relating to matters referred to in paragraphs (1) through (5) should be implemented.

(7) The authorities which would have to be transferred or amended to adopt recommendations on matters referred to in paragraphs (1) through (3).

(8) The legal and other relationships of the Department with other organizations which are required as a result of establishing the Department.

(9) Any other matters related to reorganization and management which the Commission considers necessary.

(b) LIMITATION ON AUTHORITY.—Nothing in this title authorizes the Commission to address, analyze, report, or make recommendations as to the substantive regulatory responsibilities of the Department under existing or proposed law.

(c) FINAL REPORT.—(1) Not later than June 30, 1992, the Commission shall submit a final report to the President, the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the authorizing committees of the Congress which have jurisdiction over the laws and programs discussed in the final report. The report shall contain a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action that the Commission considers advisable.

(2) A recommendation may be made by the Commission to the President and to the Congress only if adopted by a majority vote of the members of the Commission.

(3) On May 30, 1992, the President may issue an order extending the date for submission of the final report to November 30, 1992.

SEC. 304. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this title, hold such hearings and sit and act at such times

and places, as the Commission may consider appropriate.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—(1) The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this title. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission.

(2) Upon request of the chairperson of the Commission, the Administrator of General Services shall provide, on a reimbursable basis, such office space, supplies, equipment, and other support services to the Commission and its staff as may be necessary for the Commission to carry out its duties under this title.

(3) Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a reimbursable basis, to assist the Commission in carrying out its duties under this title, except that any expenses of the Commission incurred under this subparagraph shall be limited to such amounts as are provided in appropriation Acts.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this title.

(f) STAFF.—Subject to such rules and regulations as may be adopted by the Commission and the availability of appropriations, the chairperson of the Commission may appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of such title or of any other law relating to the number, classification, and General Schedule rates of employees) of an Executive Director, and of such additional staff as the chairperson considers appropriate to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title. Any Federal employee subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege.

(g) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 305. EXPENSES OF COMMISSION.

(a) SUBJECT TO APPROPRIATIONS.—Any expenses of the Commission shall be paid from such funds as may be made available in appropriation Acts.

(b) GAO AUDIT.—Prior to the termination of the Commission under section 306, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine whether limitations established by this title on expenses of the Commission have been complied with, and the results of such audit shall be included in the report of the Commission.

SEC. 306. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report under section 303.

SEC. 307. RECOMMENDATIONS OF COMMISSION.

Any recommendation made by the Commission to the President or the Congress which would result in the abolition, transfer, or consolidation of one or more agencies, units of agencies, or functions of one or more agencies, may not be implemented unless authorized by existing statute.

SEC. 308. APPROPRIATIONS AUTHORIZATION.

There are authorized to be appropriated to carry out this title not more than $1,500,000 for fiscal year 1991 and not more than $2,500,000 for fiscal year 1992.

TITLE IV—STUDY OF EFFECTS OF ENVIRONMENTAL POLLUTION ON MINORITIES AND LOW-INCOME POPULATIONS IN THE UNITED STATES

SEC. 401. STUDY OF EFFECTS OF ENVIRONMENTAL POLLUTION ON MINORITY AND LOW-INCOME POPULATIONS IN THE UNITED STATES.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall request the National Academy of Sciences (hereinafter in this section referred to as the "Academy") to conduct a study and prepare a report to the Congress for the purpose of—

(1) determining whether minority and low-income populations in the United States are disproportionately impacted by environmental health hazards;

(2) evaluating the extent to which Federal environmental programs adequately address the priority environmental needs of such minority and low-income populations; and

(3) to the extent those programs fail to adequately address those needs, making recommendations for improvement.

(b) CONTENT.—A study and report under this section shall address, but shall not be limited to, the following issue areas:

(1) The nature and extent to which minority and low-income populations in the United States may be disproportionately exposed to environmental health hazards, including exposure in food, drinking water, indoor and ambient air, and occupational and housing settings.

(2) The nature and extent to which such minority and low-income populations may suffer disproportionate cumulative and synergistic adverse health effects resulting from such exposure.

(3) The degree to which identifiable minority and low-income populations or individuals in the United States may be more susceptible to adverse health effects resulting from exposure to environmental contaminants than would be average healthy adults in the United States, and the nature and extent to which these individuals or groups are more susceptible.

(4) The nature and extent to which minority and low-income populations in the United States may experience adverse health effects resulting from exposure to environmental health hazards as they relate, individually or cumulatively, to low-wage occupations, inadequate housing, and poor health care.

(5) Whether such minority and low-income populations are disproportionately affected by the siting of hazardous waste treatment and waste disposal facilities.

(6) Identification of long-term environmental trends related to, effects on, such minority and low-income populations.

(c) REPORT.—Not later than 18 months after the Secretary contracts with the Academy to conduct a study under this section, the Secretary shall submit a report describing the results of the study to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and other appropriate committees of the Congress. The report shall contain—

(1) a summary and evaluation of relevant publications and unpublished studies;

(2) a statement of methodologies and assumptions for estimating effects on particular populations;

(3) recommendations for future studies and evaluations; and

(4) recommendations for improving Federal environmental programs and policies which affect minority and low-income populations in the United States.

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this title not more than $600,000.

Amend the title so as to read: "A bill to redesignate the Environmental Protection Agency as the Department of Environmental Protection, and for other purposes.".

The CHAIRMAN. No amendments to said substitute are in order except pro forma amendments printed in House Report 101-429. Said amendments shall be considered in the order specified in House Report 101-429, may be offered only by the Member specified in the report, or the Member's designee, and shall not be subject to amendment except pro forma amendments for the purpose of debate. The amendments numbered 1 may be considered en bloc and shall not be subject to a demand for a division of the question.

It is now in order to consider amendment No. 1 printed in House Report 101-429.

AMENDMENTS EN BLOC OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendments en bloc offered by Mr. CONYERS:

In section 101(b) strike "SECRETARY OF THE ENVIRONMENT" and insert "SECRETARY OF ENVIRONMENTAL PROTECTION".

In section 101(b)(2) strike "OFFICE OF THE SECRETARY.—".

In section 101(b)(2) insert "appointed by the Secretary" after "Executive Secretary".

In section 103(a) insert "lesser" after "or such".

In section 103(c)(1)(A) strike "the Federal civil service in the executive branch" and insert "the civil service (as that term is defined in section 2101 of title 5, United States Code)".

In section 103(c)(2) strike "Federal civil service," and insert "the civil service (as that term is defined in section 2101 of title 5, United States Code),".

In section 103(c)(2) strike "administering or overseeing" and insert "administering, overseeing, or implementing".

In section 108(d) strike "and the Administrator of the Agency for International Development,".

In section 108(e) insert ", after consultation with the Secretary of State," after "to perform".

In section 111(b) strike paragraph (4) and redesignate the subsequent paragraphs in order as paragraphs (4), (5), (6), (7), (8), and (9), respectively.

In section 111(f) strike "(1)".

In section 111(f) strike paragraph (2).

In section 114(a) in the matter preceding paragraph (1) insert "with the Secretary" after "shall file".

In section 114(b) strike "The Department" and insert "The Secretary".

In section 114(b) strike "section 105 of Public Law 95-521." and insert "section 104 of the Ethics in Government Act of 1978 (2 U.S.C. 704) for reports filed under that Act.".

In section 118 insert before subsection (a) the following and redesignate the subsequent subsections in order as subsections (b), (c), (d), (e), and (f), respectively:

(a) POWERS AND AUTHORITIES.—Except as provided in sections 101(e), 108, 109, and 110, the department and its officers, employees, and agents shall have all the powers and authorities of the Environmental Protection Agency and its officers, employees, and agents, respectively.

In section 119 insert the following after subsection (d) and redesignate the subsequent subsections in order as subsections (f), (g), and (h), respectively.

(e) COMPENSATION, LEVEL III.—Section 5314 of title 5, United States Code, is amended by striking "Deputy Administrator of the Environmental Protection Agency.

In section 120 strike "After consultation" and all that follows through "and other" and insert "After consultation with".

In section 302(b)(2)(B)(ii) insert "extensive" after "have".

Amend section 307 to read as follows:

SEC. 307. RESTRICTION ON IMPLEMENTING RECOMMENDATIONS OF THE COMMISSION

Any recommendation of the Commission that would result in—

(1) the transfer of an agency, or of any unit or functio of an agency, of another executive department to the Department; or

(2) the consolidation of an agency, or of any unit or function or function of an agency, respectively, of the Department;

may not be implemented unless otherwise authorized by law.

In section 401(c) strike "the Committee on Government Operations" and all that follows through "and other".

Mr. CONYERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Chairman, the first amendment that is brought forward for this important measure are the technical and nonconforming amendments which have been made in order by the Committee on Rules. They are, of course, grammatical changes, and technical amendments of which we have numbered 19. They are strictly technical. I would ask that they be approved and that the exchange of letters between the Committee on Government operations and other relevant committees be included at this point in the RECORD.

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, March 19, 1990.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture, Washington, DC.

DEAR MR. CHAIRMAN: On Tuesday, March 13, the Committee on Government Operations ordered reported H.R. 3847, the "Department of Environmental Protection Act." I believe the enclosed reported version of the bill (together with additional amendments) reflects the concerns that you and other committee chairmen with jurisdiction over environmental statutes and programs have raised.

The Committee on Government Operations acknowledges your right to a sequential referral on selected parts of the bill, in particular Titles III and IV. The leadership has tentatively scheduled the bill for floor action next week. In the interest of time, I would be most grateful if your Committee would waive the right to a sequential referral so that this matter could be brought before the House as expeditiously as possible.

Sincerely,

JOHN CONYERS, Jr.,
Chairman.

COMMITTEE ON AGRICULTURE,
Washington, DC 20515, March 27, 1990.

Hon. JOHN CONYERS, Jr.,
Chairman,
Committee on Government Operations,
2157 Rayburn HOB,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of March 19 informing me that the Committee on Government Operations had ordered reported H.R. 3847, the "Department of Environmental Protection Act", and acknowledging the Committee on Agriculture's right to a sequential referral.

The Committee on Agriculture recognizes the importance of this legislation. As you know, as one of the Committees with jurisdiction over environmental statutes and programs, this Committee is interested in the provisions of H.R. 3847.

However, in the interest of expediting consideration of H.R. 3847, I do not intend to request referral of the bill to the Committee on Agriculture. This action is not intended to waive the Committee's jurisdiction over the matter, and should this legislation go to Conference, the Committee on Agriculture reserves the right to request to be included as conferees on any provisions within this committee's jurisdiction.

Thank you for your cooperation in this matter.

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, March 19, 1990.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, Washington, DC.

DEAR MR. CHAIRMAN: On Tuesday, March 13, the Committee on Government Operations ordered reported H.R. 3847, the "Department of Environmental Protection Act." I believe the enclosed reported version of the bill (together with additional amendments) reflects the concerns that you and other committee chairmen with jurisdiction over environmental statutes and programs have raised.

The Committee on Government Operations acknowledges your right to a sequential referral on selected parts of the bill, in particular Titles III and IV. The leadership has tentatively scheduled the bill for floor action next week. In the interest of time, I would be most grateful if your Committee would waive the right to a sequential referral so that this matter could be brought before the House as expeditiously as possible.

Sincerely,

JOHN CONYERS, Jr.,
Chairman.

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC, March 27, 1990.

Hon. JOHN CONYERS, Jr.,
Chairman, Committee on Government Operations, Washington, DC.

DEAR CHAIRMAN CONYERS: On March 13, 1990, the Committee on Government Operations reported a substitute to H.R. 3847, the Department of the Environment Act, with amendments. The principal purpose of H.R. 3847 is to elevate the Environmental Protection Agency (EPA) to a cabinet-level department. Today, the House is scheduled to consider the bill on the floor.

H.R. 3847 was referred solely to the Committee on Government Operations although it contains several provisions that are of interest to, and are within the jurisdiction of, the Merchant Marine and Fisheries Committee.

To expedite consideration of H.R. 3847 by the House of Representatives, I waived an assertion by the Merchant Marine and Fisheries Committee of its jursidiction over this bill in exchange for your acknowledgment of our jurisdiction and your willingness to continue to work with us on any needed refinements in the bill when it is considered in informal negotiations or conference with the Senate.

H.R. 3847, as reported, contains four titles: (I) Designation of Department of the Environment; (II) Administrative Provisions; (III) Commission on Improving Environmental Protection; and (IV) Study of Effects of Environmental Pollution on Minorities and Low-Income Populations. The Merchant Marine and Fisheries Committee is mainly concerned with titles I and III.

The central purpose of title I is to designate and organize EPA as a cabinet-level department. But, in so doing, the title also authorizes the new department to undertake a number of functions, some of which directly affect laws and programs within the jurisdiction of the Merchant Marine and Fisheries Committee. For example, the Office of International Environmental Affairs, in section 108(b) of the bill, is encouraged to assist the Secretary of State in carrying out the Secretary of State's primary responsibility for participating in the work of interna-

tional organizations relevant to environmental protection. This provision fails to acknowledge the need for the Secretary of Environmental Protection to cooperate with other agencies who also participate in the work of international environmental organizations.

The Coast Guard, for whose activities this Committee has oversight responsibility (House Rule X(1)(n)(3)) serves as the chief liaison to the International Maritime Organization (IMO) and is responsible for the development and implementation of international agreements on marine pollution, prevention, and safety. The National Oceanic and Atmospheric Administration (NOAA), another agency over whose environmental programs the Merchant Marine and Fisheries Committee has jurisdiction, also participates in the work of international organizations relevant to environmental protection, including the IMO and the United Nations. We would therefore appreciate an acknowledgement, either in the conference report or statement of managers that the Secretary should cooperate with these agencies as well as with the Secretary of State.

Section 110 of H.R. 3847, as reported, establishes an Office of Pollution Prevention. The principal goal of the new Office will be the reduction of emissions, releases, waste disposal, and other discharges of pollutions to any environmental media. To accomplish this objective, the Office will have to work through existing laws administrative by EPA, such as title I of the Marine Protection, Research, and Sanctuaries Act (MPRSA, 33 U.S.C. 1401 et seq.), which regulates the dumping of materials into ocean waters from vessels, and section 311 of the Clean Water Act (33 U.S.C. 1321), which regulates the discharge of oil into the navigable waters of the United States. The Merchant Marine and Fisheries Committee has jurisdiction over title I of the MPRSA and shares jurisdiction over certain portions of that title and the Clean Water Act with the Committee on Public Works and Transportation.

Section 111 of the bill establishes a Bureau of Environmental Statistics for the purpose of identifying a comprehensive set of data for determining environmental quality and related public health matters over both the short and long term. The Bureau is authorized to cooperate with the Council on Environmental Quality (CEQ) and other federal agencies in preparing the report required under section 201 of the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4341). The Committee on Merchant Marine and Fisheries asserts jurisdiction over CEQ, established by section 202 of NEPA. CEQ has the primary responsibility for preparing the annual Environmental Quality Report under section 201.

We recently reported, and the House passed, a bill reauthorizing the CEQ for fiscal years 1989 and 1990 (H.R. 1113, H.R. Rept. 101-219). We are pleased to see that H.R. 3847, as reported acknowledges CEQ's lead responsibility for preparation of the Environmental Quality Report. We also appreciate your willingness to have the Merchant Marine and Fisheries Committee offer an amendment to add the text of H.R. 1113 as passed by the House, with some technical modifications, to H.R. 3847. Representative Gerry Studds of our Committee has asked the Rules Committee to make in order an amendment to add a CEQ title to your bill and Rules has agreed to that request.

To carry out the functions of the Bureau of Environmental Statistics, its Director is authorized to collect environmental data from such other federal agencies as the Director considers appropriate. One source of these data will certainly be NOAA. NOAA collects and maintains a comprehensive data base on the quality of our ocean and coastal environment through its Status and Trends program, National Ocean Pollution Program Office, and National Environmental Satellite, Data, and Information Service, among other programs. We wish to ensure that the new Bureau does not duplicate or intrude on the data collection functions properly belonging to NOAA. At the same time we recognize the need for the Bureau to have access to data maintained by NOAA and other agencies in order to carry out its functions. To accomplish these objectives, we would have preferred to see the interagency coordinating council, authorized by section 110(b)(7) of the bill, as introduced, restored and NOAA added to the list of council members. Perhaps, this is a matter that can be addressed in the conference committee.

Title III of H.R. 3847, establishing the Commission on Improving Environmental Protection, is particularly important to the Merchant Marine and Fisheries Committee. By June 30, 1992, the nine-member Commission is to issue a report to the President and the Congress on, among other matters, the benefits and detriments of consolidating programs which are currently not within the jurisdiction of the Department of the Environment but which relate to its mission (section 303). A number of programs that meet this description fall within the jurisdiction of the Merchant Marine and Fisheries Committee. These programs are administered by NOAA, the Fish and Wildlife Service, the Coast Guard, and the Corps of Engineers. How they are managed and by which agency are issues of critical concern to this Committee.

While we recognize that the Commission's function is solely advisory, what the Commission recommends and how its recommendations are implemented is important to any future consolidation of other agencies and programs with the new department. For that reason, we appreciate the changes you have already made in the composition of the Commission's membership, the qualifications of its members, and identification of the Congressional committees to whom the Commission issues its report. We were deeply concerned about the need to ensure that the Congress and both our Committees are involved in making decisions on further reorganizations affecting environmental programs. This is particularly important in the case of NOAA, an agency created by executive action. Therefore, we are pleased that your Committee added new language to section 307 of the bill making certain that any future reorganizations between agencies and the department can be implemented only if otherwise authorized by law.

Finally, I would like to call to your attention a provision in title III of the Senate version of the Department of the Environment Act (S. 2006) that establishes an Interagency Committee on Global Environmental Change. While there is no comparable provision in H.R. 3847, it is similar to title II of H.R. 3332, the Global Environment Research and Policy Act of 1989, which I introduced and which the Merchant Marine and Fisheries Committee reported on September 26, 1989 (H.R. Rept. No. 101-394, Part 1).

I would appreciate your cooperation in having Members of the Merchant Marine and Fisheries Committee appointed as limited conferees to any House-Senate conference considering the adoption of title III of S. 2006, as well as for the purpose of considering the other provisions discussed above. I also would appreciate your cooperation in ensuring that Members of this Committee are included in any informal negotiation that takes place to reconcile differences in the House and Senate bills that affect the jurisdiction of the Merchant Marine and Fisheries Committee.

Thank you again for acknowledging this Committee's jurisdiction over various aspects of H.R. 3847 and for working so closely with us in the development of the final language of this bill. I would like to take this opportunity to express my appreciation for the cooperation and assistance Frank Clemente of your staff has provided us in this regard. Finally, I wish you well on the floor today and would like to indicate my support for the bill reported from your Committee.

With warm personal regards, I am

Sincerely,

WALTER B. JONES,
Chairman.

COMMITTEE ON
GOVERNMENT OPERATIONS,
Washington, DC, March 19, 1990.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: On Tuesday, March 13, the Committee on Government Operations ordered reported H.R. 3847, the "Department of Environmental Protection Act." I believe the enclosed reported version of the bill (together with additional amendments) reflects the concerns that you and other committee chairmen with jurisdiction over environmental statutes and programs have raised.

The Committee on Government Operations acknowledges your right to a sequential referral on selected parts of the bill, in particular Titles III and IV. The leadership has tentatively scheduled the bill for floor action next week. In the interest of time, I would be most grateful if your Committee would waive the right to a sequential referral so that this matter could be brought before the House as expeditiously as possible.

Sincerely,

JOHN CONYERS, Jr.,
Chairman.

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, March 21, 1990.

Hon. JOHN CONYERS, Jr.,
Chairman, Committee on Government Operations, Washington, DC.

DEAR JOHN: On March 13, 1990, the Committee on Government Operations ordered reported H.R. 3847, the "Department of Environmental Protection Act." By letter dated March 18, 1990, you have asked that the Committee on Energy and Commerce waive its right to a sequential referral so that this bill could be scheduled for floor consideration as expeditiously as possible.

Several provisions of the reported bill affect, and are within the jurisdiction of, the Committee on Energy and Commerce, including sections 108, 110, 111, 115, 116 and Titles III and IV. Further, the Energy and Commerce Committee will be seeking conferee status on those provisions of the companion Senate bill which are within the jurisdiction of the committee, including but not limited to the Establishment of an Interagency Committee on Global Environmental Change.

As a result of discussions between our two Committees which have led to a number of changes in the reported bill and your agreement to support additional changes during floor considerations, I am agreeing not to seek sequential referral of H.R. 3847 at this time so that the bill can be considered by the House.

I would appreciate your including this letter as a part of the record during consideration of this bill by the House. With every good wish, I am

Sincerely,

JOHN D. DINGELL,
Chairman.

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, March 19, 1990.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, Washington, DC.

DEAR MR. CHAIRMAN: On Tuesday, March 13, the Committee on Government Operations ordered reported H.R. 3847, the "Department of Environmental Protection Act." I believe the enclosed reported version of the bill (together with additional amendments) reflects the concerns that you and other committee chairmen with jurisdiction over environmental statutes and programs have raised.

The Committee on Government Operations acknowledges your right to a sequential referral on selected parts of the bill, in particular Titles III and IV. The leadership has tentatively scheduled the bill for floor action next week. In the interest of time, I would be most grateful if your Committee would waive the right to a sequential referral so that this matter could be brought before the House as expeditiously as possible.

Sincerely,

JOHN CONYERS, Jr.,
Chairman.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, March 23, 1990.

Hon. JOHN CONYERS, Jr.,
Chairman, Committee on Government Operations, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to your letter of March 19 regarding H.R. 3847, the Department of Environmental Protection Act, certain provisions over which the Committee on Foreign Affairs has jurisdiction.

The primary interests of the Committee on Foreign Affairs are in assuring that the existing foreign policy and foreign assistance authorities remain unaffected by the creation of a new Cabinet-level department. In this regard, the Committee has no objection to Titles III and IV of the legislation in their current form. With respect to section 108 dealing with the Office of International Environmental Affairs, the addition of clarifying report language in conjunction with a colloquy on the Floor, should be adequate to address the Committee's concerns.

Therefore, in order to expedite consideration of this legislation, the Committee on Foreign Affairs will waive its right to sequential referral of H.R. 3847, without prejudice to the jurisdiction of the Committee.

At this time, I wish to reserve judgment concerning a request that Committee on Foreign Affairs members be appointed as conferees on H.R. 3847, pending the outcome of the legislation in the Senate and on the House Floor. The Committee on Foreign Affairs, which has jurisdiction over international environment, will request joint referral on any future legislation that impacts upon the jurisdiction of the Committee.

I appreciate your efforts to accommodate the concerns of the Committee on Foreign Affairs during your Committee's consideration of H.R. 3847. I look forward to continuing to work with you on this legislation as it moves through the legislative process.

With best wishes, I am

Sincerely yours,

DANTE B. FASCELL,
Chairman.

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, March 19, 1990.

Hon. GLENN M. ANDERSON,
Chairman, Committee on Public Works and Transportation, Washington, DC.

DEAR MR. CHAIRMAN: On Tuesday, March 13, the Committee on Government Operations ordered reported H.R. 3847, the "Department of Environmental Protection Act." I believe the enclosed reported version of the bill (together with additional amendments) reflects the concerns that you and other committee chairmen with jurisdiction over environmenital statutes and programs have raised.

The Committee on Government Operations acknowledges your right to a sequential referral on selected parts of the bill, in particular Titles III and IV. It is not the intent of the Committee in Title I of the bill to change existing law regarding any program under the jurisdiction of the Committee on Public Works and Transportation. The Committee acknowledges that any such change would ordinarily provide the basis for a sequential referral.

The leadership has tentatively scheduled the bill for floor action next week. In the interest of time, I would be most grateful if your Committee would waive the right to a sequential referral so that this matter could be brought before the House as expeditiously as possible.

Sincerely,

JOHN CONYERS, Jr.,
Chairman.

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, March 21, 1990.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As you know, out of deference to the Leadership, the Committee on Public Works and Transportation waived its right to sequential referral of H.R. 3847, a bill to establish a Department of Environmental Protection.

Nonetheless, the Committee remains very concerned about various provisions in the bill which may go beyond what is necessary to establish the Department and, in so doing, may affect water pollution programs and laws under our jurisdiction.

Recognizing this and in anticipation of a quick resolution of the House and Senate bills, I respectfully request that the Committee on Public Works and Transportation be appointed conferees on the entire bill.

Sincerely,

GLENN M. ANDERSON,
Chairman.

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, March 19, 1990.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. CHAIRMAN: On Tuesday, March 13, the Committee on Government Operations ordered reported H.R. 3847, the "Department of Environmental Protection Act." I believe the enclosed reported version of the bill (together with additional amendments) reflects the concerns that you and other committee chairmen with jurisdiction over environmental statutes and programs have raised.

The Committee on Government Operations acknowledges your right to a sequential referral on selected parts of the bill, in particular Titles III and IV. The leadership has tentatively scheduled the bill for floor action next week. In the interest of time, I would be most grateful if your Committee would waive the right to a sequential referral so that this matter could be brought before the House as expeditiously as possible.

Sincerely,

JOHN CONYERS, Jr.,
Chairman.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, DC, March 20, 1990.

Hon. JOHN CONYERS, Jr.,
Chairman, Committee on Government Operations, Washington, DC.

DEAR MR. CHAIRMAN: I appreciate your cooperative efforts to resolve the few differences between our committees on the provisions of H.R. 3847.

My staff advises me that your committee intends to offer amendments which will solve our concerns satisfactorily as long as the record is clear that, in cases where recommendations and legislative proposals within the jurisdiction of the Committee on Interior and Insular Affairs are involved, it will be considered the "appropriate committee" with which the Secretary will consult and the committee to which proposed legislation will be referred.

In addition, it should be clearly understood that where any report is submitted by the Secretary which involves matters within the jurisdiction of the Committee on Interior and Insular Affairs, the committee will be considered the "appropriate committee" to receive such report and consider legislation related thereto.

As Chairman of the Committee on Government Operations, if you agree that the Committee on Interior and Insular Affairs would be an "appropriate committee" to which the report and recommendations should be referred, then I have no problem with expediting consideration of the proposed legislation.

I would greatly appreciate it if you would acknowledge the interests of this committee in your committee report, if possible, and incorporate an exchange of letters to this effect in the Congressional Record when the bill is considered by the House.

With kindest regards, I am

Sincerely,

MORRIS K. UDALL,
Chairman.

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, March 19, 1990.

Hon. ROBERT A. ROE,
Chairman, Committee on Science, Space and Technology, Washington, DC.

DEAR MR. CHAIRMAN: On Tuesday, March 13, the Committee on Government Operations ordered reported H.R. 3847, the "Department of Environmental Protection Act." I believe the enclosed reported version of the bill (together with additional amendments) reflects the concerns that you and other committee chairmen with jurisdiction over environmental statutes and programs have raised.

The Committee on Government Operations acknowledges your right to a sequential referral on selected parts of the bill, in particular Titles III and IV. The leadership has tentatively scheduled the bill for floor action next week. In the interest of time, I would be most grateful if your Committee would waive the right to a sequential referral so that this matter could be brought before the House as expeditiously as possible.

Sincerely,

JOHN CONYERS, JR.,
Chairman.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY,
Washington, DC, March 23, 1990.

Hon. JOHN CONYERS, JR.,
Chairman, Committee on Government Operations, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding H.R. 3847, the "Department of Environmental Protection Act," in which you acknowledge the jurisdiction of the Committee on Science, Space, and Technology over portions of the bill, particularly Titles III and IV, and request the Committee to waive its right to a sequential referral.

I share your desire to move this important legislation expeditiously to the floor. At the same time, we understand that the Committee's jurisdiction over present and possible future provisions in the bill relating to environmental research and global climate change issues is being clearly recognized, and that our prerogatives as conferees will be protected.

Therefore, I would propose to engage in a brief colloquy during floor consideration of the bill in which the Committee's jurisdiction is recognized and to insert copies of these letters in the record at that time.

I very much appreciate the cooperation we have received from you and your staff during the development of this bill, and look forward to continuing to work with you.

Sincerely,

ROBERT A. ROE,
Chairman.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York [Mr. HORTON], the ranking member of the committee.

Mr. HORTON. Mr. Chairman, I rise in support of this amendment. It is technical in nature, as the chairman stated. It makes minor changes in the bill as reported by the Committee on Government Operations. They were worked out in consultation with the minority. We support their adoption, and I urge their adoption.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Michigan [Mr. CONYERS].

The amendments en bloc were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report No. 101-429.

Mr. CONYERS. Mr. Chairman, I would yield to the gentleman from Oklahoma [Mr. SYNAR] for amendment No. 3. We are going to pass over amendment No. 2 at this point.

AMENDMENT OFFERED BY MR. SYNAR

Mr. SYNAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYNAR: Amend section 106 in the second sentence by striking "Political" and all that follows through the end of that sentence and insert the following: "Regional Administrators shall be selected and appointed on the basis of managerial competence and relevant professional and other experience pertaining to environmental protection, and not on the basis of political qualification.".

Mr. SYNAR. Mr. Chairman, the amendment I am offering is designed to clarify and strengthen language in the bill regarding the appointment of regional administrators.

As my colleagues know, EPA's 10 regional administrators have a great deal of discretionary authority. These are not token jobs, they are real jobs. Regional administrator's decisions can save or cost a regulated company millions of dollars. Their actions have an impact—for better or worse—on the health of our citizens and the environment. They are the people who determine what kind of relationship our State has with the Environmental Protection Agency. They are EPA's frontline.

Because of the complexity of our environmental laws, it only makes sense that the people who hold these jobs should come to the post with a solid knowledge of the laws and an appreciation of the consequences of their day-to-day actions.

Unfortunately, that is not always the case. While there are some good ones, we have also ended up with some very bad regional administrators who, to put it politely, have had some difficulty adjusting to their rules as servants for all the people, or who have had difficulty adjusting to the enormity and complexity of their task.

Mr. Chairman, these jobs are too important to be handed out like gifts to people who have no relevant experience. Yet, as it now stands, they can be and, in some instances, have been.

They are not subject to Senate confirmation proceedings, which would at least give us some opportunity to root out the demonstrably unqualified. While we could have required that, I do not think the administration or the Senate would have wanted that extra burden.

We could have restricted the posts to career civil servants. But that would have excluded from the pool of prospective candidates an enormous number of people from the private sector who have ample experience and qualifications.

We could address the problem by taking away most or all of the regional administrators' discretionary authority. But, clearly, that is an extreme and impractical solution, since we can't—and shouldn't—have all decisions made here in Washington.

So we are trying to deal with the problem in a sensible way, and my amendment simply says:

Regional administrators shall be selected and appointed on the basis of managerial competence and relevant professional and other experience pertaining to environmental protection, and not on the basis of political qualification.

It's as simple as that. The only issue at stake here is whether Congress, the regulated community and the American people have a right to insist that regional administrators have some demonstrable experience in environmental protection and be competent to do their jobs. Competence versus politics—that's the choice.

Before closing, Mr. Chairman, I just want to emphasize a couple of points with respect to the difference between my amendment and the language currently in the bill.

First, the bill uses the term "political affiliation" along with "political qualification." My amendment drops the term "political affiliation," since many people consider that to mean nothing more than party identification, and that was not the intent. If any President wants to have regional administrators of his own party, that is OK with me. The problem arises when other political factors, such as contributions and political connections, are considered in their selection.

My amendment goes directly to the heart of that problem by requiring that regional administrators be selected on the basis of managerial and environmental qualifications—not on the basis of these inappropriate political factors.

Mr. Chairman, there are plenty of people in the ranks of both political parties who would be qualified and competent to do these jobs. So, it's not that the amendment constrains the Secretary's ability to find good people to fill the posts. We're only asking that competence and quality prevail over politics.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Oklahoma. This amendment would prohibit the President from taking into account the political affiliation of a can-

didate for Regional Administrator of the Environmental Protection Agency. While political qualifications should not be the sole basis for appointment of senior officials within the Government, the President must be permitted to appoint individuals who are in fundamental agreement with the policies and goals of his administration. The Constitution provides for Presidential appointment of senior officials so as to ensure that the President will have the ability to carry out the programs and policies for which he was elected by the people. If the President is to be held accountable to the people for the manner in which the laws are implemented, then he must have the discretion and the power to appoint those senior policymaking individuals who are charged by law with carrying out the laws. Any attempt by Congress to prohibit the President from ever considering the political affiliations of such an individual is fundamentally at odds with the constitutional scheme as embodied in the appointments clause of article II. Moreover, this amendment has the potential of embroiling EPA in litigation over the legality of a regional administrative appointment in cases where a regional administrator must take action to enforce the environmental laws. Because I believe the amendment would unconstitutionally infringe on the President's appointment powers and because I believe it is an invitation to litigation on the legality of appointments, litigation which would detract from EPA's important health and environmental mission, I oppose this amendment.

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Mr. CONYERS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, this proposition advanced by the gentleman from Oklahoma [Mr. SYNAR] was given very considerable examination in the full committee, and we have language now in the bill brought before the committee which attempts to depoliticize the regional administrator's post.

What the gentleman from Oklahoma has now done further, which I think improves his intention, is to drop the term "political affiliation." In the first instance, there is no way conceivable that this could present a constitutional problem. I can assure anyone that is within a mile of a law library that there is no constitutional problem involved here.

But there is something involving our good judgment, and that is whether we want to take cognizance of the fact that regional administrators over the past several years in the Environmental Protection Agency have abused their post. The evidence of that, unfortunately, is all over the place.

So what we have attempted to do is to merely clear the air and say that the requisite for the nomination of regional administrators should be his or her experience in the field. It does not eliminate the fact that a person may have a political affiliation or even a political activity. We are not trying to bring in people who have no political experience. We are saying that that will not be the basis of the appointment.

Is there a Member in the Congress who would oppose a proposal as sensible and practical as this? I cannot believe that we would want to take this language out for any reason whatsoever.

It is true that political affiliation might be mistaken for simply being a Democrat or a Republican, and I think that the gentleman from Oklahoma has improved the language that he actually has brought forward in our substitute in the Government Operations Committee.

Let me say again that this is not micromanagement. This directive is necessary simply because our record shows that too many regional administrators have been appointed who have no relevant experience necessary to understand the laws and make the crucial judgments necessary for an affective environmental protection in the region in which they were appointed.

So for those reason I would join with our committee to support this modification of the Synar amendment which is now before the committee. I urge its adoption.

Mr. SYNAR. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Oklahoma.

Mr. SYNAR. Mr. Chairman, I appreciate the gentleman yielding. I did want to correct for the RECORD what the gentleman from New York said. He said that it was political affiliation. That is exactly what we are trying to get away from.

It is the intention of the gentleman from Oklahoma to make sure that the President would be able to appoint people from his own party, and I am very confident that there are plenty of people within the President's party who are competent to fit this post.

The other thing I wanted to point out was with respect to the gentleman from New York's statement that he saw this could be causing a lot more legal questions to arise. We had that same question at the Rules Committee, as the gentleman from New York is aware, and during that Rules Committee meeting, I promised the gentleman from California [Mr. PASHAYAN] that I would look into it. As a result, I have a memo here from the American Law Division of the Library of Congress, and I am happy to share this entire memo with the body. But let me just briefly tell my colleagues what it says.

It says that if standing and other prerequisites to sue are met, the Federal district court might entertain the challenge. However, it goes on to say that while a court might have jurisdiction in some circumstances, substantial obstacles to recovery would remain. It goes on to say that for practical purposes, success might depend upon the showing that there was nothing in the appointee's record that may be reasonably viewed as constituting relevant experience relating to environmental protection. And while it is conceivable that such circumstances could occur, and that a successful challenge could be brought, it does not seem to be likely.

I included for the RECORD the entire memo, because I think, as the gentleman from New York points out, we do not want to have a lot of legal challenges. We do not see this amendment causing them.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to my colleague, the gentleman from New York.

Mr. HORTON. Mr. Chairman, in answer to that I would hope that the gentleman would put that memo in the RECORD. I think that would be helpful to have in the RECORD, because some Members do have some concern about possible lawsuits which might evolve as a result of this.

Mr. SYNAR. Mr. Chairman, I include for the RECORD the memo from the American Law Division of the Library of Congress.

The memo referred to follows:

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, March 26, 1990.

To: Subcommittee on Environment, Energy, and Natural Resources, Attention: Steve Richardson.

From: American Law Division.

Subject: Possible Challenge to Appointment of Officer.

This responds to the request of Steve Richardson of the Subcommittee's staff for written summary of our telephone conversation of March 22, 1990, relating to the reviewability of appointment of Regional Administrators under a proposed amendment to H.R. 3847, a bill to convert the Environmental Protection Agency to a Department of the Environment.

The proposed amendment would read as follows:

"Regional Administrators shall be selected and appointed on the basis of managerial competence and relevant professional and other experience pertaining to environmental protection, and not on the basis of political qualification."

The amendment would replace current bill language providing that

"[p]olitical affiliation or political qualification may not be the primary factor taken into account in connection with the appointment of any person to a position as a regional administrator of the Department."

Under either wording, a federal court would most likely have jurisdiction over an action to determine whether a Regional Administrator was validly appointed. However,

success on the merits seems a remote possibility, given the broad discretion inherent in the qualification standards.

Federal district courts could entertain a challenge to a Regional Administrator's appointment under general federal question jurisdiction,[1] assuming that standing and other prerequisites to suit are met. The standing requirement might well be met by someone subject to an enforcement action undertaken by a Regional Administrator; standing in other contexts is more conjectural. That federal courts may enjoin regulatory actions by persons not properly appointed to an office of the United States is evidenced by the recent decision of a district court in *Olympic Federal Savings and Loan Ass'n v. Director, Office of Thrift Supervision*,[2] enjoining the Office from appointing a receiver or conservator for the S & L until a new Director is constitutionally appointed. The court held that the Office's first Director had been appointed in violation of the Constitution's Appointments Clause, that his successor Acting Director had also been appointed in violation of law, and that consequently neither had constitutional authority to act under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

While a federal court might in some circumstances have jurisdiction over a suit challenging appointment of a Regional Administrator, substantial obstacles to recovery would remain under the proposed amendment. No specific and easily verifiable qualifications for office are set.[3] Instead, an appointee's qualifications are, to a large degree, left to the discretion of the appointing official, the Secretary of the Environment. For example, what constitutes "managerial competence" is basically subjective; there is not even a requirement that the appointee have held a management position. Experience *is* required by the second factor ("relevant professional and other experience pertaining to environmental protection"), but seemingly any number of previous activities might satisfy that requirement. Importantly, the Secretary as the appointing official would have broad discretion to determine what is "relevant" experience, and what experience "relates to" environmental protection. For practical purposes, success might depend upon a showing that there is *nothing* in the appointee's record that may reasonably be viewed as constituting relevant experience relating to environmental protection. While it is conceivable that such circumstances could occur and that a successful challenge could be brought, it does not seem very likely.

GEORGE COSTELLO,
LEGISLATIVE ATTORNEY,
American Law Division.

Mr. SOLOMON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, in speaking against the amendment let me just speak to the point that was just made by the gentleman from Oklahoma [Mr. SYNAR]. I have read the CRS study as well, and I would point out that the study does indeed suggest that the criteria in section 106, with or without the Synar amendment, are subjective.

The study also indicates that appointees to the position of regional administrator could have their qualifications challenged in Federal court. The study also suggests that the criteria for appointment are sufficiently broad so as to make a successful challenge in court unlikely, and that is what the gentleman from Oklahoma [Mr. SYNAR] is saying; he is correct. But that is precisely the point. In this business, ambiguity goes a long way, and we live in an age in which litigation for the sake of litigation has become an end unto itself.

Trial by headlines has become in many cases much more significant a threat than trial by due process. The very fact that ambiguous, subjective language is floating out there as part of Federal statute will inevitably invite a challenge in court.

So I would suggest my colleagues just wait and see, let this language stay in the bill, and we will have all kinds of problems.

Section 106, with or without the Synar amendment, represents in my view an absolutely unprecedented intrusion on the President's prerogatives in appointing officers to serve his administration. Nowhere else in any department can we find this kind of restriction. This is the first time in history that a bill establishing a Cabinet-level department has contained such a provision; here we are writing whole new law.

The argument was made before the Rules Committee that setting forth some subjective criteria for the appointment of regional administrators is a middle way between the two alternatives of filling these positions with a career bureaucrat on the one hand or with full-blown Presidential appointees, with Senate confirmation, on the other hand. But the idea of requiring the appointment of career bureaucrats was ruled out, according to the gentleman from Oklahoma [Mr. SYNAR] and others, on the ground that we cannot get rid of a career person once he gets entrenched in office.

The idea of making these regional administrator positions full-blown Presidential appointments with Senate confirmation was ruled out, evidently on the ground that the Senate confirmation process would take too long.

What all these sophistries choose to ignore is the obvious fact that regional administrators have to be politically responsive. That is the nature of government itself. It is the nature of the gentleman's own congressional offices. Take a look at your congressional offices. Do any of the Democrats have a Republican on their staff? No. Does any Republican have a Democrat on the staff? No.

□ 1330

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the chairman of the committee.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, I want to say to my good friend from New York that I have no idea whether I have a Republican on my staff because I have not canvassed to make that definition clear or not. I doubt if many others, including the gentleman from New York, have done that. I certainly do not know if they are Democrats or not.

Mr. SOLOMON. Mr. Chairman, I would just say to the chairman I have not polled mine either to find out. But I will tell you what I do do: I sit them down, talk to them, I find out what their philosophy is, and if they are liberals I do not hire them. It is obvious, you know.

I suppose they could be conservative Democrats, but I do not think so.

Now let us not kid ourselves, and that is the really ironic factor here at stake in section 106.

Section 106, with or without the Synar amendment, is meant to protect the new Department of Environmental Protection from excessive or unwarranted political influence. But in fact, section 106, with or without the Synar amendment, is setting a table for politically motivated challenges to the President's appointments.

If you think a Senate confirmation hearing takes too long, wait until you see the litigation against regional administrators on the specious grounds that they do not meet the subjective criteria set forth in this bill.

It would be nice if taking care of the environment was not a political issue. But show me one thing in this day and age that is not a political issue.

With the press the way it is and all the special interest groups out there, we are just looking for trouble in this language if it stays in the bill.

Now let me tell all of you back in your offices and listening, if this amendment is adopted, it means that you, I and every Member of Congress cannot continue to act as an ombudsman for the constituents we represent.

Now Mr. SYNAR, with all due respect, and I have a great deal of respect for him, maybe he has a problem with the regional administrator in his area of the country. Maybe there is a Member from Michigan who has a problem with the regional administrator in that part of the country. There was a problem between me and the regional administrator in my area, and he was a schedule C political appointee.

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[1] 28 U.S.C. § 1331 provides that district courts have original jurisdiction of all civil actions arising under the laws of the United States.

[2] Civ. Action No. 90-0482 (RCL) (D.D.C., Mar. 21, 1990).

[3] Contrast, for example, the situation in People ex rel. Bird v. Galbraith, 163 Mich. 47, 127 N.W. 771 (1910) (a person appointed to a nursing board of registration had not, by occasionally performing nursing services, satisfied a statutory qualification of five years' nursing experience).

The CHAIRMAN. The time of the gentleman from New York [Mr. SOLOMON] has expired.

(By unanimous consent Mr. SOLOMON was allowed to proceed for 5 additional minutes.)

Mr. SOLOMON. I would just repeat that I have had problems with the regional administrator in my section of the country, but at least he was a political appointee and he had to sit down and listen to me. Since that regional administrator left office, not too long ago, and they put in a career bureaucrat as the acting director, the responses have been less forthcoming.

So I say to the gentleman from Oklahoma, if you think you've got problems, let your amendment be enacted into law and you'll get more problems than you've ever thought about.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I would be glad to yield to the chairman.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, that is a problem with political appointees. I mean you cannot get the phone picked up when you want to. If you had a person, I say to my dear friend from New York, who is there not to create policy but to implement programs, which is the regional director's job, the regional administrator has that responsibility. They are not elected like we are. The inspector generals are not elected like we are.

They have implementing prerogatives.

So I would urge that our Members reject this amendment.

Nothing would hurt us more than to go on record saying we want administrators who are political.

Mr. SOLOMON. Relcaiming my time if I might, the gentleman knows that every Member of Congress has two jobs: The job that he is elected to do is to enact laws in this Chamber; and the other demand on his time is to go back home and act as an ombudsman for his district, which takes up a great deal of time. There is nothing more frustrating than to have a career bureaucrat think he can ignore you.

Let me read to you the remarks of EPA Administrator, Bill Reilly, who is an environmentalist, who was taken out of the environmental field in the private sector and appointed as the EPA director:

> These people represent the administration in a very visible and special way. It seems to me fully appropriate that the regional administrator be directly responsible to me and be someone who can be moved along as agency administrations come and go, if necessary.

That is what Bill Reilly said before your committee, Mr. Chairman, on February 7, 1990.

Now, you know it just seems to me that you Democrats have thrown in the towel. I do not think you ever expect to elect another President of the United States of America. Therefore, you do not ever expect to have a Democrat as a regional administrator.

Well, that is not true. I really believe someday there is going to be another Democratic President, and you will be coming back here making the same arguments that I am making here today. So let us just defeat the Synar amendment and leave things the way they are, the way they are working well, so that you and I can represent our constituents.

Mr. TORRES. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the Synar amendment.

Mr. Chairman, over the past decade many appointments of regional Administrators have been made largely on political grounds with no requirement that they be qualified in any way. These are key positions in EPA's 10 regions charged with implementing and enforcing the Nation's environmental laws.

In some cases, their tenure has been shortened because of lack of managerial competence or overtly political conduct with regard to environmental decisionmaking. Such has been the case in the past with my region, region 9, and in surrounding regional offices.

I wholly concur with the statement just made by my colleague Mr. CONYERS. The chairman of the committee is attesting to the wide abuse of political conduct by regional administrators.

As the gentleman from Oklahoma [Mr. SYNAR] amendment properly does, it is time to put the emphasis on professional qualifications and environmental expertise in these key appointments, rather than on fund-raising expertise or political connections.

I urge support for the amendment offered by the gentleman from Oklahoma.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. SYNAR].

The amendment was agreed to.

The CHAIRMAN. Is the gentleman from New York [Mr. SOLOMON] offering his amendment?

Mr. SOLOMON. No, Mr. Chairman.

AMENDMENT OFFERED BY MR. GUNDERSON

Mr. GUNDERSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUNDERSON:

Amend the heading for section 109 to read as follows:

SEC. 109. OFFICE OF ASSISTANCE AND COMPLIANCE.

In section 109(a) strike "Office of Enforcement," and insert "Office of Assistance and Compliance,".

In section 109(a) strike "Assistant Secretary for Enforcement" and insert "Assistant Secretary for Assistance and Compliance".

In section 109(b) redesignate paragraphs (1), (2), and (3) in order as paragraphs (3), (4), and (5), respectively, and insert before paragraph (3) (as so redesignated) the following:

(1) issuing regulations under which persons who are subject to statutory requirements administered, and regulations issued, by the Department, shall be given adequate notice of those requirements and regulations before any enforcement actions may be taken;

(2) providing of such persons appropriate assistance in complying with those requirements and regulations;

In section 109(c) strike "Office of Enforcement" and insert "Office of Assistance and Compliance."

Mr. GUNDERSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. GUNDERSON. Mr. Chairman, the amendment before you actually has some drafting problems technically, but I think the concept is one that we have to review and it is the reason that I asked the amendment be brought forth at this point in time so we can discuss it.

As you look at the legislation before you and as we create this new Department of Environmental Protection, you will note that the bill requires that there be created three specific assistant secretaries, one for international affairs, one for enforcement, one for pollution prevention and recycling.

Then it allows up to seven other assistant secretaries from a whole host of particular areas.

□ 1340

As I looked at that part of the bill, and as I followed the language down through the regional administrations, and now the creation of the specific regional councils and enforcement staff, it became quite clear to me that we were frankly topheavy on the enforcement side of EPA. I would like to almost call my amendment the "attitude amendment," and that is, is EPA going to be an agency that works with the American public individually, local government and business, to improve the environmental land and the enforcement of the environmental laws of the land, or was it going to be an agency that was based almost totally on confrontation and litigation?

Let me share with Members an experience that I think almost every Member of Congress is enjoying at the present time. That is, every local township, village, and city that is trying to deal with land use regulations today has a terrible problem. EPA has said that based on date certain, if companies have not closed their landfills by that date when these regulations are

published, the hard, cold reality is that they will have to, when they close that landfill, meet much tougher standards, almost 10 times tougher.

Now, the typical legitimate response of a local government is to say, "Congressman or Congresswoman, can you find out for us when those regulations are going to be published, and when they go into effect?" I have tried. EPA says. "We don't know and we may or may not tell you."

So I have now told a whole host of local governments that we may or may not be able to inform them. That is the attitude problem that I think all Members in this room want to prevent, that we want to solve.

That is why I introduced this particular amendment changing it from a Bureau of Enforcement to, frankly, a Bureau of Assistance and Compliance, so that EPA would understand there are 2 parts of the equation. One part is to give adequate notice, education, technical information, and assistance in complying; and the second part and obviously necessary part is to deal with this whole issue of adequate compliance with the law.

The problem with the amendment as drafted is it is conditional. It says unless we give "adequate information and assistance," we cannot enforce the law. While I do not think there is any Member in this room that wants that, I have to tell Members that I do not want that. That is why the amendment in its present form is, I think, unacceptable to everyone, myself included. However, the concept is one that I think we do need to try to resolve.

I have talked to the chairman, the ranking member, about offering a substitute amendment, and the chairman has agreed with me that we have a problem, and believes we can solve it another way.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. Mr. Chairman, I yield to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, first of all, I do understand the gentleman's basic proposition involved in the amendment. He wants Members not to be onerous and oppressive, at every juncture enforcing environmental regulations, but to try to provide as much assistance for those who would like to come out of the shadow of the law, and who may not be fully aware of the provisions that are invovled in our Federal legislation on the subject.

It would seem to me that in view of the dilemma of drafting that the gentleman has been subjected to in the process, that we might engage, if the ranking minority leader of this committee were also willing, to consider report language that captures the essence of what the gentleman is trying to do. We could require that we study the use of an ombudsman who would help businesses and State and local governments to better comply with environmental regulations.

Would that move in the direction that gentleman would have gone in his original amendment, had it been able to come to the floor?

Mr. GUNDERSON. Mr. Chairman, I think the gentleman is clearly moving in the right direction. That is, that we made it very clear to EPA that they had a twofold process that is not only to enforce the law, but it is to work with local governments, individuals, and businessses, in understanding what is required to enforce the law.

Mr. CONYERS. If the gentleman will continue to yield, I can assure the gentleman that on this side we would be willing to put in very clear report language that would cover the gentleman's objectives.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. GUNDERSON] has expired.

(On request of Mr. HORTON and by unanimous consent, Mr. GUNDERSON was allowed to proceed for 2 additional minutes.)

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I share the gentleman's concern that persons subject to enforcement receive adequate notification of regulations, and they receive appropriate assistance in complying with the law. I think the gentleman is on the right track. We need to have more of that type of information.

I certainly want to indicate my support for what the chairman has just said, and I agree with that. As Members know, in the bill, we set up a commission on improving environmental protection, and I think that commission could well undertake the study of this particular point that we are making, and thus accomplish what the purpose of the gentleman's amendment would be. Therefore, I would join with the chairman and give the gentleman those assurances.

Mr. GUNDERSON. Mr. Chairman, I appreciate the support and the comments very much of both the ranking member and the distinguished chairman.

Mr. Chairman, on the assurances that both of the gentleman have made, as well as the gentleman from Oklahoma [Mr. SYNAR], I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MRS. MARTIN OF ILLINOIS

Mrs. MARTIN of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARTIN of Illinois:

At the end of section 109 insert the following:

(d) OFFICE OF CRIMINAL INVESTIGATION.—The Secretary shall increase the number of professional criminal investigators assigned to the Office of Criminal Investigations of the Department in each of the first 5 fiscal years commencing after the date of the enactment of this Act. The increase in each such fiscal year shall be at least equal to 30 percent of the aggregate number of criminal investigators assigned to that office during the prior fiscal year. For the first year commencing after the date of the enactment of this Act, and for the next 4 fiscal years, the Secretary shall provide additional support staff to the Office of Criminal Investigations.

(e) CIVIL INVESTIGATIONS.—The Secretary, as soon as practicable but no later than one year after the date of the enactment of this Act, shall hire 50 civil investigators to assist the Office of Enforcement in developing and prosecuting civil and administrative actions and carrying out its other functions.

(f) NATIONAL TRAINING INSTITUTE.—The Secretary shall, as soon as practicable but no later than one year after the date of the enactment of this Act, establish within the Office of Enforcement the National Enforcement Training Institute. It shall be the function of the Institute, among others, to train Federal, State, and local lawyers, inspectors, civil and criminal investigators, and technical experts in the enforcement of the environmental laws of the United States.

(g) FUND.—(1) There is established in the Treasury of the United States the Environmental Laws Enforcement Fund (hereinafter in this subsection referred to as the "fund").

(2) Commencing in the first full fiscal year after the date of the enactment of this Act, and each fiscal year thereafter, the Secretary of the Treasury shall transfer to the fund those moneys deposited in the general revenues of the Treasury during the preceding fiscal year from penalties imposed in connection with the violation of laws administered by the Department. Additional moneys necessary to fund provisions of subsections (d), (e), and (f) shall come out of the budget of the Department.

(3) Moneys in the fund shall be available, in such amounts as are provided in appropriation Acts, for use in carrying out the provisions of subsections (d), (e), and (f). Moneys in the fund, to the extent determined by the Secretary to be in excess of the amounts needed for purposes of those subsections, shall be returned to the general revenues of the Treasury.

(4) Nothing in this section shall be construed as reducing or otherwise limiting any other authorization for appropriations available to the Department.

(h) AUTHORIZATION.—For the purposes of meeting initial needs of subsections (d) through (g) during the fiscal year after the date of the enactment of this Act, there is authorized to be appropriated $5,000,000.

Mrs. MARTIN of Illinois (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be

considered as read and printed in the RECORD..

The CHAIRMAN. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. MARTIN of Illinois. Mr. Chairman, I would like to begin by congratulating the members of the Committee on Government Operations for their hard work in putting this legislation together and bringing it to the floor. In particular, the chairman and ranking member of the committee deserve thanks for the leadership they have provided and the gentleman from Oklahoma [Mr. SYNAR].

H.R. 3847, which creates a Cabinet-level Department of Environmental Protection, is a symbolically and substantively important statement of America's recognition that effective stewardship of our environment and natural resources has moved to the center of the national policy agenda. Debate and disagreement will continue within this body and in the Nation on precisely what paths to take and on how to most fairly allocate the costs. We can take heart, however, from the fact that we are making steady progress toward a commonly held objective: a clean and healthy environment for this generation of Americans and for the generations that will follow. The amendment which I am offering is consistent with this objective and will, if adopted, allow us to reach it more quickly and more surely.

My amendment does four things. All are intended to increase the criminal and civil investigation and enforcement capabilities of the new Department and to integrate enforcement functions more fully into its fabric.

First, it directs the new Secretary to increase, by 30 percent a year for 5 years the number of criminal investigators assigned to the new Department's Office of Criminal Investigations. The result would be about 215 criminal investigators within the Office.

The Environmental Protection Agency's criminal investigations arm consists of 10 regional offices which together comprise the Office of Criminal Investigations. Prior to the beginning of this fiscal year, incredibly, a less than grand total of 47 investigators were employed throughout the system—less, in other words, than a single criminal investigator per State of the Union. For the entire region that encompasses my State, Illinois, along with Michigan, Ohio, Indiana, Wisconsin, and Minnesota, five criminal investigators were assigned.

Investigators working in the regional offices, prosecutors working within the Department of Justice's Environmental Crimes Section, and many expert witnesses who earlier this year provided testimony on this proposal before the Senate Committee on Environment and Public Works have all been emphatic in stressing that the present number of criminal investigators in the system is inadequate.

As a result, there is a growing backlog of uninvestigated reports of environmental violations. Moreover, many violations that are in fact criminal are being referred for civil or administrative action.

Overall, the severe lack of manpower has forced OCI to adopt a reactive, rather than a proactive approach to its task. Many investigations are only initiated after substantial long-term environmental damage has been done. Many willful polluters are counting on a free ride and getting it.

Second, my amendment directs the new Secretary to hire 50 civil investigators to assist the Department's new Office of Enforcement in developing and prosecuting civil and administrative actions against polluters.

While the need for greater dedication to the criminal enforcement function is great, the majority of environmental law enforcement actions initiated through the Department will remain civil and administrative. EPA has relied heavily until now on independent outside consultants to develop civil and administrative cases. There is good reason to doubt that this will continue to be an effective way to assure the basis for a successful program of civil and administrative enforcement in the future.

A former director of EPA's National Enforcement Investigations Center, which has overseen both the criminal and civil investigations programs at EPA, testified that future patterns of misconduct will be technologically sophisticated and that successful investigation will require "trained specialists with diverse technical, scientific, and investigative backgrounds who must work in a coordinated and cooperative team approach." Adoption of my amendment will provide the resources out of which to build such a team.

Third, the amendment I am offering requires the new Secretary of the Department of Environmental Protection to establish a National Enforcement Training Institute. The Institute will offer Federal, State, and local prosecutors and investigators the special training that is becoming increasingly necessary for effective enforcement of the Nation's environmental laws.

In its resolution of support for this provision, the National District Attorney's Association stated that "local law enforcement has been hampered by the lack of investigators trained in the special techniques and procedures required for the successful prosecution of environmental crime." Adoption of my amendment will address this problem in a focused and direct manner.

Fourth and finally, my amendment directs the Secretary of the Treasury to establish an Environmental Laws Enforcement Fund.

All money deposited to the general revenues account of the Treasury from civil or criminal fines collected in connection with the violation of laws administered by the Department of Environmental Protection will be transferred to the fund. There is very good reason to believe that through this mechanism the provisions of the amendment will ultimately be self-financing.

Support for the legislation which provided the basis for my amendment is bipartisan in both the House and the Senate. It has received the endorsement of National District Attorney's Association, the Friends of the Earth, a former head of the Department of Justice's Environmental Crimes Section, and a former Director of EPA's National Enforcement Investigations Center, to name a few.

Mr. Chairman, I believe strongly that my amendment deserves the critical support of this body. By adopting this amendment we can add real teeth to existing law and signal, clearly and from the outset, our determination that the Department of Environmental Protection give enforcement a prominent and permanent place on its agenda.

□ 1350

The CHAIRMAN. The time of the gentlewoman from Illinois [Mrs. MARTIN] has expired.

(On request of Mr. LAGOMARSINO, and by unanimous consent, Mrs. MARTIN of Illinois was allowed to proceed for 2 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I rise today in support of the amendment authored by my colleague, LYNN MARTIN, and call for its passage.

By increasing the number of professional criminal and civil investigators assigned to the Office of Criminal Investigation, we will give the criminal investigative arm of the new Department the teeth it needs to bust environmental criminals. Also, by creating the National Enforcement Training Institute to train attorneys, inspectors, and investigators, we increase needed knowledge in enforcement of our Nation's environmental laws.

Despite scant resources, the Office of Criminal Investigation has proven it can be effective. The Martin amendment will increase that effectiveness and will decrease tolerance for environmental criminals. By increasing the number of investigators and providing increased training, the Martin amendment will ensure that those breaking environmental laws will be caught, prosecuted, and convicted.

Mr. Chairman, we need the resources to enforce our environmental laws. I urge my colleagues to vote for this important amendment.

Mr. Chairman, I want to also state support H.R. 3847 and urge my colleagues to vote for this important legislation.

By making the Environmental Protection Agency a Cabinet-level department we will ensure that environmental protection issues receive the stature and attention they deserve. The change in status will assist in heightening our domestic environmental concerns and, perhaps more importantly, will inform the rest of the world that the United States is serious about environmental protection and is dedicated to solving environmental problems.

It is not secret that environmental issues are very important to a majority of U.S. citizens. Those citizens deserve to know that the Department of Environment Protection is there to defend their right to a clean environment and to protect them from environmental harm.

H.R. 3847 is a good bill. Through the amendments we consider today, I hope we can make it even better. I commend the President for his endorsement of the new Department, I thank the members of the Government Operations Committee for moving so quickly on this legislation and I urge my colleagues to support H.R. 3847.

Mr. CONYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all, I would like to point out to the gentlewoman from Illinois that this amendment is undoubtedly the strongest amendment in terms of a prosecutorial thrust against environmental violators that has come to the attention of the committee, and in that respect I would like to congratulate her. We are talking now about adding prosecutors, using civil techniques to fight those who violate our Federal laws, and then, of course, adding a training institute and an enforcement fund to the provision. I think that this is tough medicine.

I would like to ask the gentlewoman, if this amendment is incorporated into the bill, whether she would be inclined to oppose any substitute at the end which would not only wipe out her work but the rest of the committee's as well.

Mrs. MARTIN of Illinois. Mr. Chairman, if the gentleman will yield, she would be so inclined.

Mr. CONYERS. Mr. Chairman, I am further encouraged about the appropriateness of this measure. I will not ask the gentlewoman where the money may come from in this, but I would yield to her for that explanation.

Mrs. MARTIN of Illinois. Mr. Chairman, I thank the chairman of the committee, and I also thank him for his kind words.

We can pass the toughest laws in the world, but if we do not do anything about enforcing them, they are laughed at. So let us pass this law and then enforce it.

We requested from the CBO their estimates of cost, and we are able, therefore, to tell the Members that in year one we believe the addition of criminal investigators will cost approximately $1.4 million. We are still waiting for the CBO's estimate on some of the others. We are estimating civilian investigative costs at $3 million, again using extrapolations from the figures on fines already achieved with a smaller force, and it would indicate after year one the fines themselves will pay for all investigators and for the institute that would help local and State prosecutors in the increasing complicated field of environmental law do the job they want to do.

Mr. CONYERS. The gentlewoman is not saying that it would bust the budget of EPA as a department?

Mrs. MARTIN of Illinois. No, in fact quite the opposite. It will be something I just read about this morning in the Post—pay as you go.

Mr. CONYERS. Mr. Chairman, I thank the gentlewoman very much.

Mr. PORTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by my colleague, the gentlewoman from Illinois [Mrs. MARTIN].

This amendment will help the new department's Office of Criminal Investigations by increasing the number of professional criminal investigators assigned to this office. Until this year we had not even one investigator per State. I wish our criminals were as sparse.

It is difficult to believe that as we work to construct environmentally and economically sound policies across the country, there is a group working just as hard to circumvent our intentions. These are people who are breaking the law and getting away with it. Worse yet, they are probably paying minuscule fines and still making a profit.

Americans recognize the costs of environmental compliance are high, Mr. Chairman. Nonetheless, they are ready to incur these costs. As responsible companies, large and small alike strive to meet the regulations and pay those costs, let us make sure they are not spending their money in vain while others get away with noncompliance and blatant illegalities.

We must make sure that those who do not shoulder the costs know we are serious about cleanup, and we have to make them pay the price, Mr. Chairman, and realize that criminals are going to get caught.

Mr. Chairman, as we elevate the EPA to Cabinet status, let us give it increased enforcement capabilities. The amendment offered by the gentlewoman from Illinois [Mrs. MARTIN] would do just this, and I commend her for her strong leadership in this area. I hope my colleagues will join me in support of this amendment.

Mr. SYNAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the gentlewoman from Illinois may know, through my Subcommittee on Environment, Energy, and Natural Resources, I have been extensively involved with EPA's enforcement program and in fact have been meeting recently with Jim Strock, the Assistant Administrator for enforcement and Hank Habicht, the deputy administrator, about the serious problems the gentlewoman is trying to address in her amendment, and also regarding their plans to reorganize the Office of Criminal Investigations.

I do not think any of us who have served in this body can disagree with the intent that we need additional resources in enforcement. But I have some concerns about the gentlewoman's amendment that I would like to explore, if I may get the attention of the gentlewoman. Could the gentlewoman from Illinois tell me if she is aware that the Department of Justice does handle a lot of criminal prosecutions, and whether there are estimates of the number of additional persons that department will need to hire in order to handle the increased cases? Has the gentlewoman talked to the Justice Department, which will be in charge of criminal prosecutions, to see whether or not they will have the resources?

□ 1400

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. Mr. Chairman, I hope the gentleman from Oklahoma [Mr. SYNAR] did hear my compliments about the work he is doing. A former head of that division indicated that this would be an appropriate amendment. We have checked with the administration, too, in terms of could this amendment be supported, and that would be through all the departments of the administration. It is my understanding, and I hope I am correct in saying this, that they believe it is handleable.

Mr. SYNAR. Mr. Chairman, if the gentlewoman from Illinois [Mrs. MARTIN] would further respond.

Mrs. MARTIN of Illinois. Of course.

Mr. SYNAR. Does the gentlewoman from Illinois [Mrs. MARTIN] have any concerns with the potential conflict which may arise because of her amendment, when we have the same division assessing the penalties that are to be used for their own salaries and office operations?

I mean does the gentlewoman from Illinois foresee any questions raised by the public and the persons who will have these penalties assessed on them, as to whether or not enforcers may be more aggressive in order to get better raises and more office funds?

Mrs. MARTIN of Illinois. Mr. Chairman, if the gentleman from Oklahoma [Mr. SYNAR] means, and I do not think he does, but it sounds as if he is saying that if they are doing a good job, will that be a problem?

Mr. Chairman, I would think we want them aggressive, but, as my colleagues know, there are limitations in what they can be paid already in loss, and so it is not as if someone is going to pay themselves a million dollars because they go after people, and it has to go right through the personnel system.

The concerns that I have, and the gentleman from Oklahoma [Mr. SYNAR] shares; so we have shared concerns here, is that, if we have law without aggressive pursuit, the law holds no forbidding aspect, and it should, and so although I hear the gentleman's concern, I must tell him that one is not overriding to me. The public eye will be upon this at all times, and so would, I might add, the excellent oversight of the subcommittee of the gentleman from Oklahoma [Mr. SYNAR].

So, Mr. Chairman, I cannot ever think that anything would happen that would go beyond his purview and without his knowledge, that he would be keeping a very careful watch.

Mr. SYNAR. Mr. Chairman, the gentlewoman from Illinois [Mrs. MARTIN] is going to kill me with kindness, I am sure.

Mrs. MARTIN of Illinois. We try, Mr. Chairman, we try.

Mr. SYNAR. Mr. Chairman, I think the gentlewoman from Illinois [Mrs. MARTIN] needs to understand that, since the amendment allows that office to be funded by the fines that are assessed, one would conclude that there is an added incentive by the office to do a more aggressive job than would be normal, and this concerns the gentleman from Oklahoma because clearly we do not want someone just running enforcement for the sole purpose of providing money for their budget.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. Mr. Chairman, I would certainly share that belief, although it seems to me, I must say, that that indicates a very low view of the caliber of people that we would want to have, both the gentleman from Oklahoma and I together, in that department. The gentleman from Oklahoma and I want an aggressive, assertive law enforcement. We also want it to be carefully monitored by the Congress and by the judicial system itself.

Mr. Chairman, I believe built in there, that combination of executive, judicial, and executive, almost as the Founding Fathers wanted it, that that balance will actually act as the correct offset for the concerns, rightfully stated concerns, of the gentleman from Oklahoma [Mr. SYNAR]. I know this person will be looking at it carefully.

Mr. SYNAR. Mr. Chairman, let me look at the specific numbers that were mentioned in the statement of the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Yes, do.

Mr. SYNAR. Mr. Chairman, we did some numbers crunching on the amendment by the gentlewoman from Illinois [Mrs. MARTIN], and it appears that over 5 years the number of criminal investigators would be increased from around 58 to at least 212.

Mrs. MARTIN of Illinois. The gentleman from Oklahoma [Mr. SYNAR] is correct.

Mr. SYNAR. In addition to that, Mr. Chairman, the amendment would increase the number of civil investigators by another 50.

Mrs. MARTIN of Illinois. The gentleman from Oklahoma is correct.

Mr. SYNAR. Mr. Chairman, that is a pretty big number, but it actually goes beyond that, as I think the gentlewoman from Illinois would agree.

Mr. Chairman, these investigators do not do the job by themselves. They have substantial backup from legal and technical people who do lab work and other things. In fact, I understand that it takes about 2⅓ additional technical and legal people to complement each one of these investigators, and that is about 350 additional support people over 5 years just for the criminal investigators. And an additional 50 civil investigators would need about the same amount of support.

Mr. Chairman, the amendment the gentlewoman from Illinois [Mrs. MARTIN] has provided us today requires the Secretary to provide additional support staff to the Office of Criminal Investigations.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. SYNAR] has expired.

(By unanimous consent, Mr. SYNAR was allowed to proceed for 2 additional minutes.)

Mr. SYNAR. However, Mr. Chairman, the amendment which the gentlewoman from Illinois [Mrs. MARTIN] offered today does not seem to authorize sufficient funds for these people.

The question I have is: Will the Secretary be required to take those people from other programs, and what programs would those be?

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. Mr. Chairman, we believe, and I truly did stop beating my husband, but I will go with the question anyway. I will repeat again, that the way we achieved our numbers, and I think the gentleman from Oklahoma [Mr. SYNAR] is very aware of that, was, one, we asked for this gradual increase, and again, getting back to the reason why we are doing it, I think it is important.

If we have only 50 investigators nationwide, we can have the world's toughest laws, and they are not going to do much good. When we got those numbers from CBO, we extrapolated from them. We also talked to the department itself. As the gentleman from Oklahoma knows, there are increases in the department budget.

Mr. Chairman, we also believed that there will be, will be, more than enough money in the fund from fines from these investigators; generally they produce more than 2½ times their salary, I think is what we were told, in fines, so that that does even provide for support staff.

So, Mr. Chairman, I believe we have tried to carefully balance the need for fiscal accountability with the need to have the law that the gentleman has worked so hard on be enforced, and we would hope that the gentleman would be willing to look at this amendment in the spirit in which it is offered to help make the law he cares about truly work.

Mr. SYNAR. Mr. Chairman, I have a couple of other questions.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. SYNAR] has expired.

(By unanimous consent, Mr. SYNAR was allowed to proceed for 2 additional minutes.)

Mr. SYNAR. Does the gentlewoman from Illinois [Mrs. MARTIN] intend by her amendment that the amounts deposited in the Treasury special fund to be the total amount of all fines and penalties assessed as a result of the action of EPA's enforcement?

Mrs. MARTIN of Illinois. Mr. Chairman, let me get the specific language on that and go to the amendment itself.

The fines that would come from the compliance would be deposited, and the Secretary of the Treasury is the depositor, if the gentleman will, for that particular fund.

Mr. SYNAR. Of all penalties that EPA assesses?

Mrs. MARTIN of Illinois. The penalties that come from the criminal investigation, yes, that is correct. From the criminal investigation.

Mr. SYNAR. All right.

Now, following up on that, the funds for the crime victims programs are deducted——

Mrs. MARTIN of Illinois. Mr. Chairman, may I quickly add that this would exclude, of course, Superfund. We are talking about the investigations.

Mr. SYNAR. Now, normally, funds for crime victim programs are deduct-

ed before criminal penalties are deposited with the Treasury's general fund. Does the gentlewoman from Illinois [Mrs. MARTIN] intend that the funds usually deducted from all criminal penalties for victims' funds and programs not be deducted from EPA?

Mrs. MARTIN of Illinois. No, Mr. Chairman, that is not correct. We would use current law for that.

Mr. SYNAR. Now, in directing the use of criminal penalties to the benefit of one agency, is the gentlewoman from Illinois [Mrs. MARTIN] intending to decentralize the funding and control of criminal prosecution?

Mrs. MARTIN of Illinois. Mr. Chairman, I am sorry. Would the gentleman from Oklahoma [Mr. SYNAR] repeat that?

Mr. SYNAR. Yes.

Is the gentlewoman in her amendment, by trying to direct the use of criminal penalties to the benefit of only one agency, intending to decentralize the funding and control of all criminal prosecutions?

Mrs. MARTIN of Illinois. Mr. Chairman, what we are attempting in the language of the amendment is quite clear, that those fines that are generated because of criminal pollution of our environment, discovered by these additional investigators and the sophisticated means that are now going to be required, go into this fund. That is quite correct, and that that fund pays for them. It does not go into the general fund. It is earmarked, and that is absolutely correct, and we believe that makes it possible to have what this person wants to see done, and that is real law really enforced.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. SYNAR] has expired.

(By unanimous consent, Mr. SYNAR was allowed to proceed for 2 additional minutes.)

Mr. SYNAR. Mr. Chairman, that will be the last time that request will be made.

Mrs. MARTIN of Illinois. Mr. Chairman, I welcome this. I enjoy speaking with the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Now finally, Mr. Chairman, does the gentlewoman from Illinois [Mrs. MARTIN] intend by her amendment that Congress would no longer have discretion in assessing the needs and priorities of EPA's civil and criminal enforcement divisions?

Mrs. MARTIN of Illinois. The gentleman from Oklahoma full well knows the Congress always has discretion. Ultimately it can change, it can move anything. I do not think anyone is suggesting at all, at all, that this will do anything except that which we are supposedly here for, setting up, not only new investigators, but setting up for local and State people a chance to be part of the sophisticated training they need to go against criminal polluters to set up a fund so that we do not either, A, break the budget, or, B, take from other necessary programs and so that we can protect our environment.

Now does the Congress always have oversight? Can the Congress always choose to change any single part of it? And the answer is obviously. "Yes, that's why we come here."

Mr. SYNAR. Just one final thing.

Mrs. MARTIN of Illinois. Sure.

Mr. SYNAR. I would just ask the gentlewoman from Illinois if these fines are not sufficient to cover the day-to-day operations, as the gentlewoman from Illinois intends, will she join with me and the gentleman from Michigan [Mr. CONYERS] and others to go to Appropriations and ask for the necessary funds to make up the difference?

Mrs. MARTIN of Illinois. I will certainly, although I may be on the other side of the rotunda at the time, but I look forward to working with the gentlemen to make sure that, not only does this fund work, but the environment gets better.

□ 1410

Mr. ERDREICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. ERDREICH. Mr. Chairman, I rise in support of H.R. 3847, legislation to establish the Department of Environmental Protection. Protecting the environment is one of the most important challenges of our time. Since the creation of the Environmental Protection Agency in 1970, we have made tremendous strides in the fight against pollution. Through the efforts of many individuals the public is now more aware than ever of the need to be environmentally conscious. We have had many successes but we have also had many failures. Many of our larger cities still do not meet the clean air standards. Toxic and hazardous waste continues to be a problem in many States. And we are approaching a crisis in solid waste disposal as landfill space rapidly diminishes.

Elevating the Environmental Protection Agency to Cabinet-level status signals a strong commitment on the part of the Federal Government to attack the problems of environment pollution on not only a national but an international scale. The Secretary of the Department of Environmental Protection will be able to confer with the coordinate environmental policy with environmental ministers from around the world. Elevating EPA to a department would create a closer relationship to the President and strengthen ties and coordination with other Federal agencies.

To be effective, however, the new Department of Environmental Protection must have several key capabilities. It must be able to independently collect reliable environmental and public health data. It must have an effective and well-staffed criminal and investigative arm to insure compliance with the law and to punish violators. It must have adequate research facilities that can help devise means of not only cleaning up pollution, but of reducing it at the source. The staff of the Department of Environmental Protection must be professionals who are well schooled in environmental research, policymaking and management. Most importantly, the Department of Environmental Protection must be well-funded to allow it to perform its mandated role of protecting the environment. If we are serious about our commitment to protecting and cleaning up the environment, then we must provide the Department of Environmental Protection with all the tools necessary to carry out its functions.

I urge my colleagues to support this long overdue legislation.

Mr. SMITH of Vermont. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Martin amendment. I will not take all my time today but I want to rise in support of H.R. 3847, and also the amendment of the gentlewoman from Illinois to that bill.

It is a special pride for me as a new Member of this body to see come to fruition an issue that is not only of enormous importance to America and to the world and to our structure of government, but one which as a candidate for the U.S. Congress just 2 years ago I made the centerpiece of my environmental platform as I ran for this body, and to see this bill on the floor of the House headed for passage and enactment is a great day indeed for America's environment.

The problem that this amendment addresses is a problem that we saw writ large just over a year ago with the *Exxon Valdez* tragedy in Prince William Sound.

The bottom line is when that tragedy occurred we were faced with a spectacle that no one had anticipated in the law effectively, in my mind. The message was that unless the polluters are absolutely certain that they are going to pay and that there are penalties and investigatory processes to make sure that they know that the judgments they receive will be swift, it will be sure and it will be appropriate to the pollution which has occurred, then in fact all the laws in the world do not make a difference.

The problem that we see is that in this agency which we are about to elevate to Cabinet status or Cabinet level, only 1 out of almost every 300 employees is an investigator. What the gentlewoman from Illinois has done is simply come up with a small solution

to a big problem that is going to make a big difference.

As the gentleman from Oklahoma noticed and mentioned, it is going to be a four-times increase in the number of investigatory personnel in the field.

The cost is minimal in the scale of things around here. The benefits are going to be enormous if in fact we want this new Cabinet-level agency to be able to fulfill the promise which Americans have for it.

If in fact we are going to have tough laws and if in fact all the entities in this country who pollute now are going to be put on notice, then in fact we owe it to the people of this country and to the new EPA Cabinet level to give them the enforcement personnel they need.

Mr. LIPINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am here today to give my support to the amendment offered by my friend and colleague the gentlewoman from Illinois [Mrs. MARTIN]. After 9 long years of environmental neglect, I am pleased to be able to join in this bipartisan effort to add effective enforcement capabilities to the Department of Environmental Protection.

The elevation of the EPA to Cabinet-level department is long overdue. The fate of our planet rests with the ability of lawmakers not only to enact strong environmental protections, but also to make sure that these provisions will be adequately enforced.

The amendment offered by Mrs. MARTIN takes an important step toward adding substance to the threat of criminal penalties. Increasing the number of criminal investigators will not only significantly enhance the ability of the Department of Environmental Protection to find criminal violations, but it will also put polluters on notice that their time is limited. It will, in short, act as a deterrent to future violations of environmental protections.

The world is waking up to the necessity of tough environmental protections. The 1980's was a decade in which the environment was all too often subject to regressive policies and short sightedness. In the 1990's, as America moves away from seeing red, I hope it will move toward seeing green. I am confident that we can work together to produce effective protections of our natural environment. It makes no sense, however, for Congress to continue passing legislation without giving the President the resources to enforce the law.

I urge my colleagues to supply these resources and show some common sense by supporting the Martin amendment to H.R. 3847.

Mr. BROWN of Colorado. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Martin amendment to increase the number of criminal investigators by 30 percent a year for 5 fiscal years the EPA employs in its Office of Criminal Investigation.

The task of enforcing our Nation's environmental laws facing EPA is a staggering one. The Superfund toxic waste sites on the National Priorities List alone number 1,200 and according to EPA, 900 more may be added to the list in the next decade. The Office of Technology Assessment recently released a report entitled, "Coming Clean: Superfund Problems Can Be Solved * * *." In its report, OTA recognizes the need to expand the work force of EPA if we are to proceed with restoring our environment.

The law which created Superfund is a good law but it will not serve the purpose that Congress intended unless it is enforced. By adding a greater number of well-trained criminal investigators to the EPA work force, we can give our Nation's environmental laws the teeth they need and EPA the ability to protect public health and the quality of our environment.

One of a government's most important roles is the protection of the environment. We need to make our environmental laws more than just rhetoric. We need to give EPA the capability to carry out the mandates of Congress and to protect the health and safety of our citizens.

Increasing the number of EPA's criminal investigators may also serve as a deterrent to potential pollutors and a preventive step against environmental damage. As we vote to elevate EPA to Cabinet-level status, recognizing the importance of preserving our environment, let us give the new Department the ability to carry out its mission.

Mr. Chairman, I yield to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Chairman, I rise in support of the Martin amendment.

A number of important provisions are included in the Martin amendment, as the gentlewoman from Illinois had outlined. I would like to take the remainder of my time, however, to address that provision which addresses clearly the criminal aspect of this. Throughout this country, we all know there is a tremendous amount of toxic waste that is being generated on a daily basis. Dangerously, this increase is being coupled with limited and expensive disposal options. While we are trying to deal with the situation on a national level and the bill that will come before us tomorrow will go a long way toward that, there still exists the situation in my area, for example, where financial incentives for illegal disposal greatly outweigh the burden imposed by obeying the law. This amendment will go a long way toward insuring that effective criminal deterrence exists and that those who dump illegally face a good chance of being prosecuted.

We know the program enforced by the EPA and the Department of Justice works. Last year, for example, criminal convictions reached an all-time high with 75 percent of the defendants being convicted. While this program has been successful, the resources that have been allocated have been terribly inadequate, given the demand that it faces. We put strong criminal penalties in our environmental laws in recent years, yet we are not providing the resources necessary to make these criminal provisions the strong deterrents they should be. This amendment I believe boldly moves to strengthen our enforcement of environmental laws and it deserves the support of this body.

In conclusion, with regard to the issue of cost, I submit that in the long run there is no more cost-effective measure than we as self-proclaimed environmentalists in this Congress can in fact enact than the Martin amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois [Mrs. MARTIN].

The amendment was agreed to.

□ 1420

The CHAIRMAN. The amendment of the gentleman from Illinois [Mr. HASTERT] is next in order.

AMENDMENT OFFERED BY MR. THOMAS A. LUKEN

Mr. THOMAS A. LUKEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMAS A. LUKEN: Amend section 115(d)(2) by inserting at the end of the following: "Such term includes but is not limited to preparation of testimony, development and drafting of rules, regulations, standards, and policies, and enforcement of statutes and regulations.".

Mr. THOMAS A. LUKEN. Mr. Chairman, the amendment which I am offering today is intented to limit the use of private contractors by the new Department of Environmental Protection. This amendment is needed to ensure that the basic functions of the Department are entrusted solely to officers and employees of the Federal Government, rather than handed over to private contractors. The extent of the problem is set forth in the OTA report of January 29, 1989.

During the last 8 years, the Superfund Program has been increasingly dependent upon contractors, who have received between 80 and 90 percent of its funds each year. Over that time, private contractors have received $4 billion from the Superfund Program.

Section 115 of H.R. 3847 specifies that "inherently governmental functions" of the Department of Environ-

mental Protection must be carried out only by Government employees. The amendment which I am offering clarifies this provision by specifying that these inherently governmental functions include: First, preparation of testimony; second, the development and drafting of regulations, standards; third, policies, and fourth, enforcement of laws and regulations. Thus my amendment would limit the use of private contractors and ensure that these basic Government policy functions are carried out only by Government employees, not beltway bandits.

This amendment addresses a serious, long standing problem. EPA has farmed out so much of its work to outside contractors that much of the Agency's basic functions are being performed not by Government employees but by an invisible bureaucracy of contractors and consultants.

This amendment addresses a growing scandal.

In the committee report on this bill, the Committee on Government Operations, chaired by my good friend Mr. CONYERS, noted that there have been situations where private contractors have been hired by EPA to do such things as formulate and analyze policy options, evaluate the performance of EPA regional offices, and write Agency regulations. Outside contractors have even been used to prepare congressional testimony and to write annual reports to Congress which EPA was required to submit by law.

While EPA cops out, consultants who are loaded down with the burden of conflicts of interest, selectively enforce the law and regulations.

As a member of the Energy and Commerce Committee and the chairman on the Subcommittee on Transportation and Hazardous Materials, which has jurisdiction over the solid waste laws, including the Resource Conservation and Recovery Act [RCRA] and Superfund, I note that we have found these same problems.

For example, we have found cases in which private contractors were hired by EPA to formulate regulatory policy on hazardous waste when these same contractors were doing work for the very companies to which the regulations would have applied.

This flagrant misuse of contractors compromises and jeopardizes the EPA's mandate to carry out environmental laws. Clearly, key Agency activities, such as writing regulations, should always be performed by Government employees.

The use of private contractors mistakenly substitutes the judgment of contractors, who may have multiplicity of conflicting interests, for the impartial judgment of Government employees who are bound by the single purpose of serving the public interest.

The Office of Management and Budget recognizes this fundamental principle. OMB has issued a directive prohibiting Federal agencies from hiring private contractors to carry out inherently governmental functions. But EPA has blatantly ignored even this mandate from within the executive branch.

We are just spelling out, making clear the OMB policy.

My amendment to limit the use of outside contractors by the new Department is consistent with the intent of the Committee on Government Operations. The committee report states that the committee intends that the Department will be precluded from contracting out for the drafting of Agency rules, regulations, or policies, or for the implementation and enforcement of Agency regulations. However, in the face of EPA's history of flouting this principle, I believe that it is crucial that we include precise language in the legislation itself.

This amendment would not prohibit the hiring of outside contractors by the new Department of Environmental Protection. Certainly, nonpolicy functions such as technical and scientific work, cleanup of hazardous waste sites, research, and data collections can be performed by contractors where appropriate. But environmental decisionmaking should be performed by the Agency itself, by employees who are directly accountable to the Congress and the President, and whose loyalty is not to private employers.

Elevating EPA to Cabinet-level status, in keeping with the greater awareness of—and deep concern about—the environment, which we are experiencing throughout America, may be a good idea. But, if we do, we must make sure that the act of conferring Cabinet-level status will not enhance the opportunity of the new Department of Environmental Protection to use beltway bandits to carry out basic policy.

I urge my colleagues to support this important amendment.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. THOMAS A. LUKEN. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, first of all, the experience of the gentleman from Ohio on the Energy and Commerce Committee is standing him in very good stead.

We on the Committee on Government Operations are indebted to him for making even more clear that we want to prevent to the maximum extent possible the conflicts of interest that have already been discovered by the gentleman in his own committee work, so I am prepared to accept this amendment and congratulate the gentleman from Ohio [Mr. THOMAS A. LUKEN] for his excellent work.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. THOMAS A. LUKEN] has expired.

(By unanimous consent, Mr. THOMAS A. LUKEN was allowed to proceed for one-half additional minute.)

Mr. THOMAS A. LUKEN. Mr. Chairman, in view of that, I will abbreviate any further remarks.

I thank the chairman for supporting this amendment. I believe that it is totally consistent with, and spells out, helps out, to make it clear, because when we are adopting regulations, when we are giving governmental authority to carry out regulations, the clearer they are, the more binding they are, the more likely they are to be enforced.

Mr. CONYERS. Mr. Chairman, I thank the gentleman.

Mr. KANJORSKI. Mr. Chairman, I rise in support of the Luken amendment which would expand the definition of "inherently governmental functions" when contracting out at the Department of Environmental Protection.

As chairman of the Subcommittee on Human Resources of the Committee on Post Office and Civil Service, I have extensively reviewed the concept of contracting out. One important area of my review was the contracting out of functions considered to be inherently governmental. This consists of anything from privacy issues, such as contracting for the security clearances, or the act of governing, such as the disbursement of grant money for the Federal Government. As my colleague has pointed out, the preparation of testimony, the development and drafting of rules, regulations, standards, and policies, and the enforcement of statutes and regulations are and should be considered inherently governmental functions.

During my subcommittee's hearings, several scholars in the area of public policy testified that contracting out has finally gotten out of control by allowing the private sector to control public policy. They cited several examples of where the Government has no set standards or controls on what contractors are permitted to do and how much money is spent on private contractors and consultants.

I have heard of many instances where private sector contractors are performing functions that they should not be performing. For example, the Department of Energy has a private contractor prepare testimony, congressional briefings, and virtually all of the Department's public affairs functions. Why are they paying exorbitant fees to a contractor when civil servants can and should be performing these functions? In fact, the Department of Energy has private contractors prepare studies on whether or not to have a private contractor perform a function. There is also little oversight or economic control over these contractors. For example, the Internal Revenue Service now wants to contract out for the processing of tax returns.

Whether or not you believe that the private sector can perform every function more efficiently than the public sector is not the question. The question is whether or not you want the private sector controlling public policy. I

say no and I urge my colleagues to also say no.

What we end up doing is not reducing the size of the Federal bureaucracy but just creating a new bureaucracy of so called Beltway Bandits that end up controlling public policy. Let us not let this happen at the Department of Environmental Protection. I urge you to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN].

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. LOWEY OF NEW YORK

Mrs. LOWEY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. LOWEY of New York:

Insert at the end of title I the following new section:

SEC. 121. SENSE OF CONGRESS ON DEPARTMENT OF ENVIRONMENTAL PROTECTION BUDGET.

(a) FINDINGS.—Congress finds that—

(1) In the year of Earth Day 1990, it is vital that the United States commit adequate resources to administer the many important environmental laws enacted by Congress since Earth Day 1970;

(2) an important reason for elevating the Environmental Protection Agency to cabinet status is that the agency's job has grown significantly since 1979 with the passage of several major environmental laws and the requirement to regulate thousands more pollution sources, research thousands more potentially toxic chemicals, and oversee implementation of hundreds of additional regulations;

(3) the Federal Government has a responsibility to pay a reasonable share of the costs to state and local governments to meet environmental requirements imposed by the federal government;

(4) the total operating budget of the Environmental Protection Agency in fiscal year 1990 is lower in constant dollars than it was in fiscal year 1979, and the budget request for fiscal year 1991 would only raise the Environmental Protection Agency operating budget to roughly the same level as in fiscal year 1979;

(5) the budget request for the Environmental Protection Agency capitalization of the State Revolving Fund for fiscal year 1991 is more than $400 million below the level enacted by the Congress for fiscal year 1990, and $800 million below the level authorized for fiscal year 1991, even though the 50 States report combined needs of about $43 billion for this program over the next five years; and

(6) the funding levels enacted for fiscal year 1990 for the Superfund and Leaking Underground Storage Tank trust funds are below the level in the budget request for fiscal year 1990 as necessary to achieve maximum effective results.

(b) SENSE OF CONGRESS.—It is the sense of Congress in the year of Earth Day 1990 that—

(1) the total budget level enacted for the Environmental Protection Agency for fiscal year 1990 is inadequate to properly implement the environmental protection laws enacted by Congress;

(2) the total budget request for the Environmental Protection Agency for fiscal year 1991 would underfund several proven and important programs, and such total budget level for fiscal year 1991 should be increased significantly, with increases targeted to those programs which address the greatest needs and can spend increases most effectively;

(3) the President should request for future fiscal years after 1991 a budget for the Department of Environmental Protection that is adequate to carry out the significantly increased responsibilities of the Department of Environmental Protection to protect public health and safety.

Mrs. LOWEY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. LOWEY of New York. Mr. Chairman, this amendment simply expresses the sense of Congress that the Department of the Environment will need greater funding to properly carry out the jobs we have given it. Basically, the amendment say that the EPA needs more than a promotion—it needs a raise, too.

Before we talk about what the amendment does, I would like to make one thing clear. I strongly believe that the actual funding decisions on the new department must be made by Congress through the normal authorization, appropriation, and budget committees. This is a sense of Congress amendment that leaves full discretion to those committees.

The amendment recommends no specific funding levels or programs. It just calls for a significant increase in the overall funding level of the EPA, with increases targeted to those programs which address the greatest needs and can use additional resources most effectively. The amendment simply gives Congress an opportunity to express its general feeling that more funding will be necessary if the new department is to live up to our high hopes for it.

Mr. Chairman, I would hope that all Members can support this amendment, whether they favor or oppose making the EPA a department.

Some Members favor creation of a new department as a good first step toward dedicating more money and attention to solving our environmental problems. This amendment is consistent with that. It says that we understand what the second step is—giving the new department enough money to do its growing job.

Other Members oppose creation of a new department because they do not think the bill goes far enough. They feel that a seat at the Cabinet table is no substitute for a commitment to cleaning up our air and water. This amendment is 100 percent consistent with that. This amendment says, let's not kid ourselves. Cleaning up our air and water is going to require more commitment and more money.

Some Members may be asking themselves, does the EPA need a bigger budget? Let me tell you the facts.

The EPA operating budget is now lower in real terms than it was 13 years ago in fiscal 1979? Measured in constant 1991 dollars, the EPA operating budget was $2.12 billion in fiscal year 1979. In the current fiscal year, 1990, it is $1.99 billion expressed in the same fiscal 1991 dollars. Even President Bush's budget request would only raise it to $2.15 billion—just barely back to where we were more than a decade ago.

This most important part of the EPA budget is lower than it was in 1979, even though EPA's workload has doubled since then. Congress has passed six major environmental laws since then, including the Safe Drinking Water Act of 1986, Clean Water Act Amendments of 1987, Resource Conservation and Recovery Act Amendments of 1984, Superfund Amendments of 1986, just to name a few.

The EPA operating budget is lower than it was 13 years ago, even though EPA now must regulate thousands more pollution sources than it did 13 years ago. It is lower, even though the Agency must research thousands more potentially toxic chemicals and oversee implementation of hundreds more regulations written to enforce the laws we passed.

It almost makes you wonder whether the laws are actually being carried out. Well, some of them surely are not being carried out as well as Congress intended. Take the Nonpoint Source Water Pollution Control Program. This is an important EPA program enacted 4 years ago in the 1987 amendments to the Clean Water Act. The program is supposed to combat water pollution from runoff from fields and streets, which usually doesn't get any treatment. According to EPA, more than half of the contaminants that enter our water today come from this kind of runoff. This poison runoff is a major polluter of the Long Island Sound, Chesapeake Bay, Great Lakes, and many rivers and other bodies of water all over the country.

This poison runoff control program was authorized to receive a total of $400 million over the 4-year period from fiscal 1988 to 1991. But total funding for that period, including that proposed in the President's fiscal 1991 request, will be less than $70 million. I don't think we're trying hard enough.

Funding for EPA's State Revolving Loan Fund Sewage Treatment Program is significant below the authorized funding level. The current funding level for fiscal 1990 is about almost exactly $2.0 billion, and the President's requested funding level for

fiscal 1991 is $1.6 billion. This request is $400 million less than the current level and $800 million less than the authorized level.

The 50 States report combined needs of about $43 billion for this program over the next 5 years. In New York, where the need for more sewage treatment facilities is particularly serious, the cost of funding this program will run as high as $5.6 billion over the next 5 years.

Small communities will be especially hard hit by funding shortages here because they frequently cannot get bond ratings or secure affordable financing independently.

There are now over 1,200 sites on the Superfund national priorities list, and many more are expected to be added. These are the worst and most dangerous sites in the country, and they are truly a menace.

Last year the President requested $1.75 billion but we could only find $1.53 billion for this program.

This amendment does not call for throwing money at the problem. The amendment says that increases should be "targeted to those programs which address the greatest needs and can spend increases most effectively."

Mr. Chairman, there are some people who might think that giving the EPA a promotion is a way to avoid giving it a raise. We should be clear with the American people that we understand that this isn't so, and that we intend to do better.

Earth Day is coming and we all share the high hopes of the President and millions of Americans that elevation of the EPA to the Cabinet will be a big step toward achieving the ideals that inspire Earth Day 1990. But we should not fool ourselves that a promotion and a new title alone will get the job done. This new department will need a raise, or it will fall short of our aspirations. I ask my colleagues to be true to the ideals of Earth Day and support this amendment.

□ 1430

Mr. HORTON. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY of New York. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I certainly want to indicate my support for the sense of Congress resolution of the gentlewoman from New York [Mrs. LOWEY]. I think all Members realize there is a need for additional funding. This is a sense of Congress resolution. I think it would be appropriate for us to accept it, and I do accept it.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York [Mrs. LOWEY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROE

Mr. ROE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROE:

Insert after section 303(c) the following new subsection:

(d) NATIONAL ENVIRONMENTAL RESEARCH INSTITUTE STUDY.—The Commission shall contract with the National Academy of Sciences to conduct a study for the Commission to develop recommendations on establishing a National Environmental Research Institute which would support long-range fundamental and applied research through competitive grants to interdisciplinary research teams and individual investigators. The Academy shall report to the Commission and the appropriate Committees of Congress on the recommendations regarding the structure and functions of the Institute, the relationship of the Institute to federal agency and other research entities conducting environmental research, and the appropriate levels and sources of funding for the Institute. There are authorized to be appropriated such sums as may be necessary for carrying out the provisions of this subsection.

Mr. ROE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ROE. Mr. Chairman, the amendment I am offering today with several of my colleagues requires the National Academy of Sciences to conduct a study on establishing a National Environmental Research Institute.

The credit for this idea goes largely to my distinguished colleague from the great State of New Jersey, Mr. SAXTON, who has previously introduced legislation to launch a similar study.

Mr. Chairman, let me spend just a minute explaining why this amendment is important.

We are growing ever more aware of the threats to the health and habitability of our planet. Problems such as acid rain, toxic chemicals, ozone depletion, ocean pollution, and global warming are front page news today.

Yet in many ways, we really don't know how sick our planet is—or what our prospects are for getting well. Our understanding of Earth's ecological systems is still too rudimentary.

As the Council on Environmental Quality concluded back in 1985, we really don't have the scientific institutions in place to begin to answer these questions. Agencies such as the National Science Foundation and the National Institutes of Health tend to fund basic research, not research which is intended to help policymakers make decisions. EPA's own environmental research program is driven by both its limited budget and pressing regulatory needs into a short-term, technical support type of mission.

A National Environmental Research Institute, insulated from the constraints of seesaw budget fluctuations and short-term research needs, could assess long-term ecological effects, predict environmental problems before they do irreversible harm, develop technologies and strategies for enhanced stewardship of the Earth, and provide a basic understanding of the fragile ecological web that sustains life.

How best to structure such an institute is still being discussed and debated.

I can think of no better qualified group of thoughtful and experienced scientists to look at this very question than the National Academy of Sciences.

I expect that within approximately 1 year the academy will provide the Commission and Congress with a comprehensive analysis of several alternative structural configurations for a National Environmental Reseach Institute. This study will include an assessment of the potential for each option to improve and enhance our Nation's ability to conduct long-term, interdisciplinary, basic, and applied ecological research.

Once Congress has the benefit of such a study, I believe Congress should act swiftly to enact legislation establishing the institute so that we can get on with the important business of understanding and protecting the fragile ecological systems that support our very existence.

It is foolish to continue to pollute and perturb nature's balance, to experiment with natural processes and systems which have carefully evolved over the millennia, without understanding how the planet's system works.

By supporting this amendment, we are calling attention to the urgent need for ecological research, research which will help provide answers crucial to our ability to ensure the future health of our environment.

I want to again commend my colleague, Mr. SAXTON, and Representatives JIM SCHEUER and CLAUDINE SCHNEIDER, chairman and ranking minority member, respectively, of the Subcommittee on Natural Resources, Agricultural Research, and Environment, for their work in developing this amendment through hearings.

Mr. CONYERS. Mr. Chairman, I rise to support the amendment.

My distinguished chairman, who has given us great guidance on matters dealing with science and technology and transportation across the years, has an amendment that seems to me to try to end the cycle of environmental problems that we seem to always be coming into. There is always something new happening that nobody ever thought of before which presents an immediate ecological crisis, and it seems to me that this kind of an institute and academy might be able to get on top of that.

Do I correctly determine the thrust of the amendment of the gentleman from New Jersey [Mr. ROE]?

Mr. ROE. Mr. Chairman, if the gentleman will yield?

Mr. CONYERS. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, the gentleman from Michigan [Mr. CONYERS] has made some splendid comments here. The gentleman is absolutely right in his observation.

Mr. Chairman, I wonder if I might exchange a bit of colloquy with the chairman of the Committee on Government Operations.

Mr. CONYERS. Mr. Chairman, reclaiming my time, if I could just finish my point here, because, as the gentleman knows, a few years ago there was the discovery of a huge hole in the stratospheric ozone over the Antarctic. Before that there was discovery that acid rain was killing our lakes and forests. Now it is global warming. Somewhere along the line we have to get on top of these kinds of major questions.

It seems to me that a National Academy of Sciences would provide a mechanism, an environmental research institute, to do the long-range environmental research that can help us better understand how the planet itself works. Nowhere is this currently provided for in the bill, even in the Cabinet level operations that we now propose.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, the gentleman from Michigan is totally correct. In fact, I think that the bill today that the gentleman has been sponsoring with the amendments is probably one of the most important environmental moves we have made in the last 10 or 15 years, because it will truly establish a functional operation in the Government, in our National Government, that will be able to provide the resources and understanding and knowledge. The institute we are speaking to now will provide a seat of knowledge, a seat of learning, a seat of expertise, where people can look for the right answers to the environmental problems we are facing today. I compliment the gentleman from Michigan [Mr. CONYERS] on his extraordinary good work.

Mr. Chairman, in the colloquy which we spoke to, as the gentleman is aware, under the rules of the House, the Committee on Science, Space, and Technology has jurisdiction over environmental research. Does the gentleman from Michigan [Mr. CONYERS] acknowledge that portions of H.R. 3847, the Department of Environmental Protection Act, lie within the jurisdiction of this committee, particularly title III and IV?

Mr. CONYERS. Mr. Chairman, I want to tell the gentleman from New Jersey that first of all I do, of course, but there were seven major committees which like the gentleman from New Jersey [Mr. ROE], the chairman of the Committee on Science, Space, and Technology, were totally cooperative in allowing us to bring this measure as expeditiously as we have to the floor. It is for that reason that I not only acknowledge his committee's jurisdiction, but urge that the gentleman continue the oversight that is within his prerogative, because we are going to need it. Obviously elevating an agency to a department does not change the nature of the beast. We just have a more organized Federal operation with which to fight it.

I believe that the job and jurisdiction of the gentleman on the Committee on Science, Space, and Technology is as important and valuable as it was before this bill came to the floor.

Mr. ROE. Would the gentleman from Michigan further acknowledge that the prerogative of the committee as conferees will not be prejudiced as to those portions of the bill that may be within the jurisdiction of the committee?

Mr. CONYERS. Mr. Chairman, I can again assure the gentleman from New Jersey [Mr. ROE] that the rights of the conferees on the gentleman's committee will be fully protected.

Mr. SAXTON. Mr. Chairman, I rise in support of the amendment.

It was last September that I first introduced legislation calling for the establishment of a national institute on the environment.

Since then, there has been a groundswell of support within the scientific community and within this body, for a research institute.

And today, I am particularly grateful to my colleague from New Jersey, Mr. ROE, for his wholehearted support; to Mr. SCHEUER, who chairs the Subcommittee on Jurisdiction; and, to the gentlewoman from Rhode Island [Mrs. SCHNEIDER], who is cosponsor of this amendment.

I hope that I can convince the Members of the House that—despite the broad, esoteric language before them—that this amendment deals with a very simple subject: research.

It is all fine and well that we are recognizing the growing importance of clean air, land, and water by raising the EPA to the President's Cabinet. But this amendment takes us a step further, and declares that it is time to end the practice of plugging the discharge pipe after the pollution has already been spilled.

As policy makers, we need facts to make responsible decisions affecting the environment. We need innovative alternatives. We need to prevent pollution before it occurs.

In other words, we need long-term basic research.

Mr. Chairman, our current funding for research is dependent on political mood swing and watever happens to be the crisis de jour.

I offer a case in point: Since the Alaskan oilspill of 1 year ago, we have been trying to put together tougher oilspill laws. Why did we have to wait for an 11-million-gallon spill to realize our provisions for response and cleanup were so inadequate?

I offer another case in point: an estimated half the Atlantic stock of bottle-nosed dolphins died in 1987. We still don't know why. Currently, dolphins are dying over three times the normal levels in the Gulf of Mexico. Why? We still don't know.

I offer another case in point: black mayonnaise. That's what we call the disgusting black filth that coats our harbor floors. This sediment is contaminated with PCB's and other toxins. You can't dredge without stirring it up. And once you do, there's no place to put it. How do we treat it? We still need an answer.

The fact of the matter, Mr. Chairman, is that there is a multitude of problems confronting the environmental today, and we still don't have any concrete answers or solutions.

Nonpoint pollution from sewage plants and other sources continue to foul our bays and estuaries. Can we prevent and manage this pollution? Can we even identify it?

Controversy has arisen over the alleged threat of global climate change. Is it happening now? Can we reverse it?

Similarly, ozone has been identified as a real and present danger. Can ozone be replenished? What are the alternatives to CFC's?

Solid waste is a crisis that translates into landfills the size of mountains. What are the safe alternatives? How can we enhance recycling efforts?

Over half of our Nation's wetlands have been lost, and many species of wildlife along with it. Despite the policy of no net loss, we still really don't know how to replace wetlands.

We have a great Superfund law, but few alternatives for safely disposing of hazardous waste. Can these wastes be recycled or reduced or rendered benign?

Fears that our fishing stock could be depleted are all too real. Can we learn to better conserve our fish? Can we learn to harvest from the sea more responsibly?

This is not to suggest that no one is researching these problems. Much research is taking place.

For example, Government agencies are exploring global warming, and ozone depletion.

Private industry is deeply involved in the so-called clean-up technologies of

bioremediation, of cogeneration and resource recovery, and of recycling.

Our universities and colleagues are involved in ecological research, fisheries research, and that all-too-often controversial subject of acid rain.

And private organizations, like the Smithsonian Institute are deeply involved in the research of biodiversity, endangered species, and the ecological sensitivities of the Antarctic.

Mr. Chairman, what we need is one independent body which can coordinate all this information, and make it available to those of us in the policymaking arena.

This amendment is simple enough. It provides for a study. And that study will reveal to us what a National Institute on the Environment should look like, and identify the environmental problems deserving of intense long-term research.

An environmental institute can work. In fact, this institute has a good model to follow.

For over 100 years the National Institutes of Health have been researching and finding solutions and cures for diseases and medical problems that have confronted us.

Whether it is arthritis, diabetes, or AIDS, we all benefit for medical research. And, we are all involved in supplying the necessary resources and innovation for that research.

It is now time that we find new medicine for the environment by providing it with the same national focus that NIH has given to the health of our citizens.

I am not belittling the work of the EPA. But the fact of the matter is that the EPA is principally a regulatory agency. It either can't or doesn't dedicate its energies and financial resources to research.

A study that the EPA itself contracted out in 1989 found that Federal agencies fund only about $81 million a year for investigator-initiated, policy relevant, environmental research.

Two-thirds went for environmental health research, leaving only $26 million for nonhealth research.

Many words, many big ideas, and many problems, that's what this amendment is about.

But once again, Mr. Chairman, it is really about one word, and one concept—research—environmental research.

And if we don't start dedicating more of our attention to the enhancement and coordination of this Nation's resources, we will be looking down the road at a litany of stopgap solutions of the environmental crises of the future.

Again, my appreciation to the cosponsors of this amendment.

Mr. SCHEUER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Jersey.

Over the last decade, environmental research has fallen on hard times. The Reagan Office of Management and Budget slashed funds for most environmental research on the theory that if we knew more, we would have to do more.

On the other hand, when the environmentalists wanted the administration to do something, the administration would claim it didn't know enough and that more research was needed.

Thus, over time, environmentalists have come to think of research solely as an excuse for not taking strong action.

This view is most unfortunate, because effective environmental protection requires sound science and research.

Indeed, without a sound scientific foundation, even our most well-intentioned efforts to save the environment are doomed to failure.

It is time to recognize that environmental research is not only just as important as environmental regulation; indeed it is an essential precondition to sound, thoughtful cost effective environmental regulation.

The proposal to establish a National Environmental Research Institute is an important step in the rehabilitation of our neglected environmental research infrastructure.

At the same time that the Office of Technology Assessment has warned us that the demand for the supply of qualified environmental experts will quintuple in the 1990's, the supply of new graduate students in environmental science and engineering is dramatically declining.

The funds to train these students has dried up.

Out of the $9 billion of federally supported R&D at our Nation's universities and colleges, EPA funds only $58 million. That's a little more than 1 percent of the funding given out by Department of Health and Human Services alone.

A National Environmental Research Institute may well be the answer to this problem. Recent hearings before the Environment Subcommittee of the Science Committee generated enthusiastic support.

As the Commission in H.R. 3847 debates the future structure of Department of Environmental Protection, we also need to be thinking about revitalizing our environmental research capability.

The National Academy study in this amendment will help move us along that course.

Mr. Chairman, I want to commend the gentleman from New Jersey, and the other gentleman from New Jersey [Mr. SAXTON], who got the ball rolling with his legislation. I also want to commend the ranking Republican member of the subcommittee, CLAUDINE SCHNEIDER, for her support.

□ 1440

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. ROE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, on behalf of the gentleman from North Carolina [Mr. JONES] and myself, I offer an amendment made in order under the rule.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: After Title IV, insert the following new Title V:

TITLE V—OFFICE OF ENVIRONMENTAL QUALITY REAUTHORIZATION ACT

SEC. 501. CLARIFICATION OF NATIONAL ENVIRONMENTAL POLICY.

(a) STATEMENT OF GENERAL ENVIRONMENTAL POLICY.—Section 101(b) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)) is amended—

(1) in paragraph (5) by striking "and" following the semicolon;

(2) in paragraph (6) by striking the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) provide world leadership in ensuring a healthy and stable global environment.".

(b) ENVIRONMENTAL IMPACT STATEMENTS.—Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is amended—

(1) by striking clause (iii) and inserting in lieu thereof the following:

"(iii) reasonable alternatives to the proposed action that achieve the same or similar public purposes, including alternatives that avoid the adverse impacts described in clause (ii) and alternatives that otherwise mitigate those adverse impacts,"; and

(2) by inserting "and the public" immediately before the second period.

(c) FEDERAL AGENCY ACTION REGARDING GLOBAL ENVIRONMENT.—Section 102(2)(F) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(F)) is amended to read as follows:

"(F) work vigorously to develop and implement policies, plans, and actions designed to support national and international efforts to enhance the quality of the global environment;".

(d) IMPLEMENTATION OF MITIGATION MEASURES.—Title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 106. Environmental mitigation and monitoring measures and other conditions discussed in a detailed statement or other document prepared under section 102(2)(C) and selected by an agency as part of its final decision to undertake an action shall be implemented by the appropriate agency.".

SEC. 502. PRESIDENT'S STRATEGY FOR ENVIRONMENTAL PROGRESS.

Section 201 of the National Environmental Policy Act of 1969 (42 U.S.C. 4341) is amended to read as follows:

"SEC. 201. Not later than January 31 of each year, the President shall transmit to Congress a report which—

"(1) describes the President's strategy for implementing the policy and objectives set forth in section 101 during that year;

"(2) describes areas of new or heightened environmental concern:

"(3) proposes initiatives to strengthen and improve Federal environmental programs;

"(4) sets priorities for national action to protect the environment; and

"(5) analyzes issues associated with the implementation of this Act and the effectiveness of measures specified in detailed statements of Federal agencies under section 102(2)(C) to mitigate the adverse environmental impacts of Federal actions.".

SEC. 503. REGULATORY AUTHORITY.

Section 204 of the National Environmental Policy Act of 1969 (42 U.S.C. 4344) is amended—

"(1) by striking "and" at the end of paragraph (7);

"(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

"(3) by adding at the end of new paragraph:

"(9) to promulgate regulations governing the implementation of this Act by all Federal agencies (including independent regulatory commissions) which include provisions for public review and comment on the detailed statements required by section 102(2)(C) and, as appropriate, on other documents prepared pursuant to this Act.".

SEC. 504. REVIEW FUNCTIONS OF COUNCIL.

(a) ISSUANCE OF GUIDELINES FOR AGENCY REVIEW OF CERTAIN ENVIRONMENTAL IMPACT STATEMENTS.—Not later than 6 months after the date of the enactment of this Act, the Council on Environmental Quality (hereinafter in this Act referred to as the "Council") shall issue guidelines under which each Federal agency shall review a statistically significant sample of detailed statements prepared by the agency under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) in which measures were specified for the mitigation of any adverse impact on the environment that was predicted to occur as a result of agency action.

(b) CONTENT OF GUIDELINES.—Guidelines issued by the Council under subsection (a)—

(1) shall establish the timing and frequency of reviews to be conducted by agencies under the guidelines; and

(2) shall require that Federal agencies examine—

(A) the accuracy of predictions of adverse impact which were included in such statements, including predictions of impacts on fish and wildlife populations and habitats;

(B) the extent to which mitigation measures specified in statements under section 102(2)(C) of the National Environmental Policy Act of 1969 were implemented; and

(C) the effectiveness of those implemented mitigation measures.

(c) AGENCY REVIEWS.—Each Federal agency shall carry our reviews in accordance with guidelines issued by the Council under this section, and shall promptly submit to the Council the results of those reviews.

(d) SUMMARY OF RESULTS IN ANNUAL REPORT.—The President shall include a summary of the results of the review carried out by Federal agencies under this section with the annual report transmitted to the Congress under section 201 of the National Environmental Policy Act of 1969 (42 U.S.C. 4341).

SEC. 505. IMPACT OF AGENCY ACTIONS ON THE ENVIRONMENT OUTSIDE UNITED STATES JURISDICTION.

(a) ISSUANCE OF REGULATIONS BY COUNCIL.—Not later than 1 year after the date of the enactment of this Act, the Council shall issue regulations under which each Federal agency shall—

(1) ensure the consideration, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), of the significant effects of its major actions on the environment of the global commons outside the jurisdiction of any nation; and

(2) ensure the formal assessment, in a manner that furthers the objectives of the National Environmental Policy Act of 1969, of the significant effects of its major actions, including extraterritorial actions, on the environment outside the jurisdiction of the United States and its territories and possessions.

(b) CONTENTS OF REGULATIONS.—The regulations issued by the Council under paragraph (1) shall—

(1) be consistent with the national security and foreign policy of the United States; and

(2) include guidance for Federal agencies for assessing the effects (including cumulative effects) of proposed major actions, on—

(A) global climate change;

(B) depletion of the ozone layer;

(C) the loss of biological diversity;

(D) transboundary pollution; and

(E) other matters of international environmental concern.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374) is amended by adding at the end of the following:

(E) $3,000,000 for each of the fiscal years 1991 and 1992."."

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, this amendment incorporates the text of H.R. 1113, a bill to authorize funds for the Office of Environmental Quality and to make a number of clarifying amendments to the National Environmental Policy Act.

The substance of this proposal should not be controversial, for it was approved by the House under suspension of the rules last October 10. I offer the amendment in order to provide the other body with a convenient vehicle for completing action on it, should it so desire, and because the amendment is thoroughly consistent with the overall purpose and spirit of this Department of the Environment bill.

The amendment authorizes $3 million annually for the next 2 years for the Council on Environmental Quality, a Presidential advisory panel which nearly expired from neglect during the previous decade, but which has shown at least some signs of life under the leadership of its new Chairman, Michael Deland.

CEQ advises the President on the full range of environmental issues, but it's primary responsibility remains the enforcement of NEPA. That law, now in its 20th year, is without question the most important environmental statute in the world. It has been tried and tested and proven at home and it serves increasingly as a model for nations and international organizations abroad.

Like the Constitution, NEPA may need some improvement from time to time, but it's hard to quarrel with the general idea. All NEPA requires is that Federal agencies think in advance about the environmental effects of the actions they propose to take and that they consider alternatives that avoid or minimize environmental harm.

We are concerned now—as we were when NEPA was enacted—about polluted rivers, dirty air and unplanned development. But we did not worry then that the Earth might someday suffer an even greater loss—the loss of the very features that distinguish it from its interplanetary neighbors: a healthy ozone layer; a proper balance between oxygen and carbon dioxide in the atmosphere; and the ability to sustain human life.

That is why the time has come to apply the principles of NEPA not just to our national environment, but to the global environment, as well. This amendment takes the first steps in that direction.

The amendment eliminates any doubt that NEPA applies—as I believe it always has applied—to major Federal actions having a significant environmental impact on the atmosphere, the oceans, Antarctica and other areas that make up what is commonly referred to as the global commons.

Second, it requires CEQ, consistent with the national security and foreign policy of our country, to issue regulations requiring Federal agencies to consider the impact of their actions, including extra-territorial actions, on global climate change, depletion of the ozone layer, the loss of biological diversity, transboundary pollution and other matters of international environmental concern.

That sounds like common sense. But the fact is that Federal agencies currently make long-range decisions about agriculture, forestry, water resources, coastal zone resources and energy policy with little or no regard for the cumulative impacts of those actions on the global climate.

We seek, if the President is to be believed, to take the lead on international environmental issues. But today, it is we who are the world's largest generator of the emissions that cause global warming. We are the largest user of the CFC's that deplete the ozone layer. We are by far the world's largest consumer of fossil fuels. And yet, a recent survey by CEQ indicated that not one Federal action was systematically reviewed for its impact on the international environment—as required by NEPA—during the last decade.

Leadership must begin at home. This amendment offers Members an opportunity to go on record in support of action to protect our planet from the poisons that endanger it, and to back up American rhetoric with American action on global environmental issues.

Finally, I want to thank Chairman CONYERS for his leadership and coop-

eration on this bill and I include at this point in the RECORD a letter to him from the chairman of the Committee on Merchant Marine and Fisheries concerning something even more important than Earth's survival—committee jurisdiction.

Mr. Chairman, I urge adoption of the amendment.

□ 1450

The letter to which I referred is as follows:

COMMITTEE ON MERCHANT MARINE AND FISHERIES
Washington, DC, March 27, 1990.

Hon. JOHN CONYERS, Jr.,
Chairman, Committee on Government Operations, Washington, D.C.

DEAR CHAIRMAN CONYERS: On March 13, 1990, the Committee on Government Operations reported a substitute to H.R. 3847, the Department of the Environment Act, with amendments. The principal purpose of H.R. 3847 is to elevate the Environmental Protection Agency [EPA] to a cabinet-level department. Today, the House is scheduled to consider the bill on the floor.

H.R. 3847 was referred solely to the Committee on Government Operations although it contains several provisions that are of interest to, and are within the jurisdiction of, the Merchant Marine and Fisheries Committee.

To expedite consideration of H.R. 3847 by the House of Representatives, I waived an assertion by the Merchant Marine and Fisheries Committee of its jurisdiction over this bill in exchange for your acknowledgment of our jurisdiction and your willingness to continue to work with us on any needed refinements in the bill when it is considered in informal negotiations or conference with the Senate.

H.R. 3847, as reported, contains four titles: (I) Designation of Department of the Environment; (II) Administrative Provisions; (III) Commission on Improving Environmental Protection; and (IV) Study of Effects of Environmental Pollution on Minorities and Low-Income Populations. The Merchant Marine and Fisheries Committee is mainly concerned with titles I and III.

The central purpose of title I is to designate and organize EPA as a cabinet-level department. But, in so doing, the title also authorizes the new department to undertake a number of functions, some of which directly affect laws and programs within the jurisdiction of the Merchant Marine and Fisheries Committee. For example, the Office of International Environmental Affairs, in section 108(b) of the bill, is encouraged to assist the Secretary of State in carrying out the Secretary of State's primary responsibility for participating in the work of international organizations relevant to environmental protection. This provision fails to acknowledge the need for the Secretary of Environmental Protection to cooperate with other agencies who also participate in the work of the international environmental organizations.

The Coast Guard, for whose activities this Committee has oversight responsibility (House Rule X(1)(n)(3)) serves as the chief liaison to the International Marine Organization [IMO] and is responsible for the development and implementation of international agreements on marine pollution, prevention, and safety. The National Oceanic and Atmospheric Administration [NOAA], another agency over whose environmental programs the Merchant Marine and Fisheries Committee has jurisdiction, also participates in the work of international organizations relevant to environmental protection, including the IMO and the United Nations. We would therefore appreciate an acknowledgment, either in the conference report or statement of managers that the Secretary should cooperate with these agencies as well as with the Secretary of State.

Section 110 of H.R. 3847, as reported, establishes an Office of Pollution Prevention. The principal goal of the new Office will be reduced of emissions, releases, waste disposal, and other discharges of pollutants to any environmental media. To accomplish this objective, the Office will have to work through existing laws administered by EPA, such as title I of the Marine Protection, Research, and Sanctuaries Act (MPRSA, 33 U.S.C. 1401 *et seq.*), which regulates the dumping of materials into ocean waters from vessels, and section 311 of the Clean Water Act (33 U.S.C. 1321), which regulates the discharge of oil into the navigable waters of the United States. The Merchant Marine and Fisheries Committee has jurisdiction over title I of the MPRSA and shares jurisdiction over certain portions of that title and the Clean Water Act with the Committee on Public Works and Transportation.

Section 111 of the bill establishes a Bureau of Environmental Statistics for the purpose of identifying a comprehensive set of data for determining environmental quality and related public health matters over both the short and long term. The Bureau is authorized to cooperate with the Council on Environmental Quality [CEQ] and other federal agencies in preparing the report required under section 201 of the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4341). The Committee on Merchant Marine and Fisheries asserts jurisdiction over CEQ, established by section 502 of NEPA. CEQ has the primary responsibility for preparing the annual Environmental Quality Report under section 201.

We recently reported, and the House passed, a bill reauthorizing the CEQ for fiscal years 1989 and 1990 (H.R. 1113, H.R. Rept. 101-219). We are pleased to see that H.R. 3847, as reported, acknowledges CEQ's lead responsibility for preparation of the Environmental Quality Report. We also appreciate your willingness to have the Merchant Marine and Fisheries Committee offer an amendment to add the text of H.R. 1113 as passed by the House, with some technical modifications, to H.R. 3847. Representative Gerry Studds of our Committee has asked the Rules Committee to make in order an amendment to add a CEQ title to your bill and Rules has agreed to that request.

To carry out the functions of the Bureau of Environmental Statistics, its Director is authorized to collect environmental data from such other federal agencies as the Director considers appropriate. One source of these data will certainly be NOAA. NOAA collects and maintains a comprehensive data base on the quality of our ocean and coastal environment through its Status and Trends program, National Ocean Pollution Program Office, and National Environmental Satellite, Data, and Information Service, among other programs. We wish to ensure that the new Bureau does not duplicate or intrude on the data collection functions properly belonging to NOAA. At the same time, we recognize the need for the Bureau to have access to data maintained by NOAA and other agencies in order to carry out its functions. To accomplish these objectives, we would have preferred to see the interagency coordinating council, authorized by section 110(b)(7) of the bill, as introduced, restored and NOAA added to the list of council members. Perhaps, this is a matter that can be addressed in the conference committee.

Title III of H.R. 3847, establishing the Commission on Improving Environmental Protection, is particularly important to the Merchant Marine and Fisheries Committee. By June 30, 1992, the nine-member Commission is to issue a report to the President and the Congress on, among other matters, the benefits and detriments of consolidating programs which are currently not within the jurisdiction of the Department of the Environment but which relate to its mission (section 303). A number of programs that meet this description fall within the jurisdiction of the Merchant Marine and Fisheries Committee. These programs are administered by NOAA, the Fish and Wildlife Service, the Coast Guard, and the Corps of Engineers. How they are managed and by which agency are issues of critical concern to this Committee.

While we recognize that the Commission's function is solely advisory, what the Commission recommends and how its recommendations are implemented is important to any future consolidation of other agencies and programs with the new department. For that reason, we appreciate the changes you have already made in the composition of the Commission's membership, the qualifications of its members, and identification of the Congressional committees to whom the Commission issues its report. We were deeply concerned about the need to ensure that the Congress and both our Committees are involved in making decisions on further reorganizations affecting environmental programs. This is particularly important in the case of NOAA, an agency created by executive action. Therefore, we are pleased that your Committee added new language to section 307 of the bill making certain that any future reorganizations between agencies and the department can be implemented only if otherwise authorized by law.

Finally, I would like to call to your attention a provision in title III of the Senate version of the Department of the Environment Act (S. 2006) that establishes an Interagency Committee on Global Environmental Change. While there is no comparable provision in H.R. 3847, it is similar to title II of H.R. 3332, the Global Environment Research and Policy Act of 1989, which I introduced and which the Merchant Marine and Fisheries Committee reported on September 26, 1989 (H.R. Rept. No. 101-394, Part 1).

I would appreciate your cooperation in having Members of the Merchant Marine and Fisheries Committee appointed as limited conferees to any House-Senate conference considering the adoption of title III of S. 2006, as well as for the purpose of considering the other provisions discussed above. I also would appreciate your cooperation in ensuring that Members of this Committee are included in any informal negotiation that takes place to reconcile differences in the House and Senate bills that affect the jurisdiction of the Merchant Marine and Fisheries Committee.

Thank you again for acknowledging this Committee's jurisdiction over various aspects of H.R. 3847 and for working so closely with us in the development of the final language of this bill. I would like to take this opportunity to express my appreciation

for the cooperation and assistance Frank Clemente of your staff has provided us in this regard. Finally, I wish you well on the floor today and would like to indicate my support for the bill reported from your Committee.

With warm personal regards, I am

Sincerely,

WALTER B. JONES,
Chairman.

Mr. CONYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this amendment offered by Messrs. JONES and STUDDS really incorporates a provision that was overwhelmingly approved only 5 months ago by the House and it certainly underscores the importance of the funding level for the Office of Environmental Quality. It amends the National Environmental Policy Act to require the President to submit to Congress annually a strategy for achieving our national environmental objectives and reviews the effectiveness of environmental mitigation measures identified in previous environmental impact statements.

So we really have a already existing position of the House that is being incorporated appropriately into this bill for the Senate's continued consideration.

I urge support of this measure.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ECKART

Mr. ECKART. Mr. Chairman, under the rule, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKART: And at the end of the bill the following new title:

TITLE V. FEDERAL FACILITIES COMPLIANCE

SEC. 501. SHORT TITLE.

This title may be cited as the "Federal Facilities Compliance Act of 1990".

SEC. 502. APPLICATION OF CERTAIN PROVISIONS TO FEDERAL FACILITIES.

(a) IN GENERAL.—Section 6001 of the Solid Waste Disposal Act (42 U.S.C. 6961) is amended—

(1) by inserting "(a) IN GENERAL.—"after "6001.";

(2) in the first sentence, by inserting "and management" before "in the same manner";

(3) by inserting after the first sentence the following: "The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines."; and

(4) by inserting after the second sentence the following: "For purposes of enforcing any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order, or civil or administative penalty or fine) against any such department, agency, or instrumentality, the United States hereby expressly waives any immunity otherwise applicable to the United States. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal or State solid or hazardous waste law with respect to any act or omission within the scope of his official duties. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including but not limited to, any fine or imprisonment) under any Federal or State solid or hazardous waste law, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction.".

(b) ADMINISTRATIVE ENFORCEMENT ACTIONS.—(1) Such section is further amended by adding at the end the following new subsection:

"(b) ADMINISTRATIVE ENFORCEMENT ACTIONS.—(1) The Administrator may commence an administrative enforcement action against any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government pursuant to the enforcement authorities contained in this Act. The Administrator shall initiate an administrative enforcement action against such a department, agency, or instrumentality in the same manner and under the same circumstances as an action would be initiated against another person. Any voluntary resolution or settlement of such an action shall be set forth in a consent order.

"(2) No administrative order issued to such a department, agency, or instrumentality shall become final until such department, agency, or instrumentality has had the opportunity to confer with the Administrator.

"(c) LIMITATION ON STATE USE OF FUNDS COLLECTED FROM FEDERAL GOVERNMENT.—Unless a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government from penalties and fines imposed for violation of any substantive or procedural requirement referred to in subsection (a) shall be used by the State only for projects designed to improve or protect the environment or to defray the cost of environmental protection or enforcement.".

SEC. 503. DEFINITION.

"(a) PERSON.—Subtitle F of the Solid Waste Disposal Act is amended by adding at the end the following:

"SEC. 6005. DEFINITION OF PERSON.

"For purposes of this Act, the term 'person' wherever used in this Act, shall be treated as including each department, agency, and instrumentality of the United States.".

"(b) TABLE OF CONTENTS.—The table of contents for such subtitle F is amended by adding the following new item at the end:

"Sec. 6005. Definition of person.".

SEC. 504. APPLICABILITY WITH RESPECT TO A FEDERAL WASTEWATER TREATMENT WORKS AT MARINE CORPS AIR STATION, CHERRY POINT, NORTH CAROLINA.

(a) APPLICABILITY.—Subtitle F of the Solid Waste Disposal Act is amended by adding at the end the following:

"SEC. 6006. APPLICABILITY TO A FEDERAL WASTEWATER TREATMENT WORKS AT MARINE CORPS AIR STATION, CHERRY POINT, NORTH CAROLINA.

"(a) APPLICABILITY.—(1) A wastewater treatment works at the Marine Corps Air Station, Cherry Point, North Carolina, that receives and treats waste, a majority of which is domestic waste generated by a department, agency, or instrumentality of the Federal Government—

"(A) shall be considered to be managing a solid waste, but not a hazardous waste, for purposes of this Act, if such a wastewater treatment works and all discharges to the treatment works comply with the pretreatment program requirements established pursuant to section 307 and 402(b)(8) of the Federal Water Pollution Control Act (33 U.S.C. 1317 and 1342(b)(8)); and

"(B) shall be subject to enforcement only under the Federal Water Pollution Control Act for any violation of such pretreatment program requirements.

"(2) Removal of solid waste from any unit that is part of a wastewater treatment works as described in paragraph (1), whether or not such solid waste was defined as a hazardous waste before the date of the enactment of this section, shall not be required unless the removal is part of a corrective action taken in response to a release from the unit.

"(b) RELATIONSHIP TO FEDERAL WATER POLLUTION CONTROL ACT.—Nothing contained in this section may be construed as defining a wastewater treatment works owned by a department, agency, or instrumentality of the Federal Government as a publicly owned treatment works for purposes of the Federal Water Pollution Control Act.".

(b) TABLE OF CONTENTS.—The table of contents for such subtitle F, as amended by section 3, is further amended by adding the following new item at the end:

"Sec. 6006. Applicability to a Federal wastewater treatment works at Marine Corps Air Station, Cherry Point, North Carolina.".

Mr. ECKART (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ECKART. Mr. Chairman, the Eckart-Schaefer amendment before this House today is a replay of an earlier piece of legislation, H.R. 1056, which passed this body with its overwhelming support by a vote of 380 to 39.

The reason that Mr. SCHAEFER and I bring this amendment here today to you is that we believe that raising EPA to a Cabinet-level status should mean more than just pulling up another chair to the already-crowded Cabinet table.

Cabinet-level status should mean a full partnership, full empowerment to an agency that already has a very full plate.

Many of us are thoroughly familiar with things that our moms and dads used to tell us when we were children. It used to be, "Make your bed, brush your teeth, have a good time and behave yourself." Also, "Eat your vegetables," Mr. President.

Or, "If I have told you once I have told you a million times." Yet I would like to add one more, one that I think is very appropriate in the consideration of this debate, and that is, "Do as I say, not as I do."

For the fact of the matter is that like our parents, the Federal Govern-

ment has walked around in the arena of the environment telling people, "Do as I say, not as I do." The fact remains that thousands and thousands of pounds of environmentally unacceptable materials are released by Federal agencies into our air, into our water, and they seep into the ground. If these releases had been caused by a private party, by a municipal or State government or by a business, they would be subject to penalty, legal actions and possibly even criminal charges.

The Federal Government has been saying, "Do as I say, not as I do," and created the hypocrisy of having taxpayers pay to pollute and then asking them to come forward and clean up.

Adding H.R. 1056 to H.R. 3847 tells the American people we will hold this new Department of Environmental Protection to a tough standard, not a double standard. We will say clearly and unequivocally that the Nation's environmental laws apply to the Federal Government as well and that a double standard which says that private citizens, communities and businesses have to live up to one set of laws but the Federal Government does not, just will not cut it anymore.

That is, the last plantation standing free from environmental protection will come tumbling down.

It has been absolutely clear to Mr. SCHAEFER and my colleagues and I that the Federal Government has been much less than a good neighbor Sam. We have polluted people's back yards in the name of running the Nation's business. The DOE and the Department of Defense are among the worst offenders. DOD lists 8,000 active sites at 897 installations, and there are 3,700 sites under the Department of Energy at 17 facilities, all of which require important environmental remediation.

My colleagues, this legislation before us gives real meaning to the words of our President uttered so eloquently in May 1988 on the campaign trail. Let me quote them to you once again: "Unfortunately some of the worst offenders are our own Federal facilities," then Vice President Bush said. He continued: "As President, I will insist that in the future Federal agencies meet or exceed environmental standards. Government should live within the laws that it imposes on others."

We say that if in fact the Environmental Protection Agency is going to be raised to Cabinet level, we are going to put the President's words where his campaign pledges have been. And that is, as this Nation's environmental President, Mr. Bush's words will be taken at face value by those of us who have worked on this measure for some years.

My colleague from Colorado, who has worked hard on this matter and will speak in his own right, can assert with terrible clarity the problems that have occurred in his own home State, where the FBI was required to, under the cloak of darkness, seize records at Federal facilities because of their intransigence.

Now, Mr. Chairman, "Do as I say, not as I do," will not work in the arena of environmental protection anymore. Passing a Cabinet-level bill that looks good but does not do good is small solace for those who find Uncle Sam not being a very good neighbor.

The inclusion of H.R. 1056 which, with but a few dissenting voices, just a few short months ago stated the priorities of this Congress to require that Federal facilities be held up to the standards of national enforcement of the same Federal laws of others, is long overdue.

I thank my colleagues for their time.

Mr. CONYERS. Mr. Chairman, I move to strike the last word and would only say that the gentleman from Ohio [Mr. ECKART], whose measure was indeed H.R. 1056, passed only last year overwhelmingly by this House, that required Federal facilities to be the first to apply and support the environmental protection laws of the land, is so appropriate that I am very, very pleased to incorporate it within the context of our bill before the membership.

□ 1500

Mr. Chairman, I urge its support.

Mr. SYNAR. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Oklahoma.

Mr. SYNAR. Mr. Chairman, as chairman of the Subcommittee on Environment, Energy, and Natural Resources, who had done most of the hearings in this area, I rise in support of this amendment.

I rise in support of the amendment for the following reasons:

First, the amendment simply incorporates a bill already passed by the House earlier this Congress:

The Eckart amendment incorporates a bill, H.R. 1056, which was overwhelmingly approved by the House 380 to 39 on July 19, 1989, after being approved by the Energy and Commerce Committee by a vote of 38 to 5.

Second, this amendment is necessary to address an immediate and serious problem; the failure of Federal agencies to comply with the Federal hazardous waste laws:

Both my Subcommittee on Environment, Energy and Natural Resources of the Government Operations Committee, which reported this bill, and the Energy and Commerce Committee, which reported H.R. 1056, have held extensive hearings on environmental problems at Federal facilities. From these hearings and investigations conducted by the U.S. General Accounting Office we know of extensive hazardous waste problems at Federal facilities. For example: 28 of 45 major Department of Energy sites—sites not individual facilities—will require corrective actions under RCRA and more under Superfund. At the Hanford site alone there are over 1,000 individual facilities or spills requiring cleanup. Cleanup costs at DOE sites are estimated at between $35 billion and $60 billion.

Third, the amendment would correct a regulatory vacuum created by the courts and the Justice Department:

The Justice Department argues that EPA can't take enforcement action against other Federal agencies under RCRA. At the same time, Justice has also convinced some courts that the States can't either. Consequently, we are left, in some cases, with no effective enforcement. This amendment would restore both EPA's authority and the States' authorities to regulate as Congress originally intended.

Fourth, the EPA Cabinet bill is the right vehicle to solve this problem:

We are passing this bill to elevate EPA to a Cabinet level agency precisely because we want there to be no doubt about the national importance of protecting the environment and the importance of EPA's role. Congress would be remiss if we did not take this opportunity to clear up the existing ambiguity over EPA's authority to enforce RCRA.

Fifth, Eckart amendment will end the double standard for hazardous waste regulation:

The Eckart amendment will end the double standard for hazardous waste regulation where States, municipalities, and private corporations are subject to civil penalties levied by EPA for RCRA violations, but not other agencies of the Federal Government.

Sixth, Eckart amendment is consistent with new DOE policy on contractor accountability:

Earlier this year, DOE proposed changes to its procurement policy to make contractors liable for fines and penalties for violations of environmental laws. The Eckart amendment would simply add RCRA to the list of environmental statutes containing fines and penalties which DOE now acknowledges are important tools to assure contractor accountability for environmental protection. The Department of Defense already holds its contractors responsible for paying such fines.

Seventh, H.R. 1056 is supported by all 50 State attorneys general, the National Conference of State Legislatures, and the Western Governors Association:

All 50 State AG's signed a joint letter last summer during debate on the H.R. 1056. The Western Governors Association passed a resolution last summer calling for the enactment of H.R. 1056. And the National Conference of State Legislatures has sent a letter to all Members of the House urging them to adopt the Eckart amendment.

Mr. SCHAEFER. Mr. Chairman, I rise in support of the Eckart amendment.

Mr. Chairman, I am pleased to join the gentleman from Ohio, [Mr. ECKART] in offering this important amendment. His commitment to ensuring that our Federal facilities are operated in an environmentally safe manner is unparallelled and greatly appreciated.

Last July, in passing H.R. 1056, we in the House sent a message to our Fed-

eral facilities. And we did it in a manner that could not be misunderstood. By a vote of 380 to 39, we placed our Government agencies on notice—that disregard for the Nation's environmental laws would no longer be tolerated.

But strong words alone aren't enough. Over time, their forcefulness fades and their impact diminishes. Little incentive is left for Federal facilities to comply, outside of setting a good example for their private counterparts. Despite its merits, the past has proven that principle woefully inadequate.

It is a past that won't be soon forgotten by those living near the Rocky Flats plant just outside my district. They saw their trust in the Federal Government betrayed when 70 FBI agents raided the plant to investigate a host of suspected environmental violations. Nine months and a new contractor have done little to comfort those who feared for the value of their homes and more importantly, the health of their families. For those individuals, many of which are my constituents, nothing we do today can erase the events of last June.

But we can see that it doesn't happen again. We need to ensure that Government agencies act in an environmentally responsible fashion even when the watchful eye of Congress is focused elsewhere. That is the intent of this amendment.

Its premise is simple—that Federal facilities should meet the same requirements as private, and be subject to similar sanctions if they do not. As with other critical environmental statutes, like the Clean Air Act and Safe Drinking Water Act, States could for the first time levy fines and penalties against those violating the law—even if the guilty party is the Federal Government. It only makes good sense.

Clearly, that was the conclusion of my colleagues—both Democrat and Republican—when we approved similar legislation so convincingly last year. To date, the other body has failed to recognize our wisdom. That is why it is essential that we take this opportunity to again express our firm commitment to environmental compliance at our Federal facilities. I look forward to an equally decided outcome.

Again, I cannot say too often how much I thank my friend and colleague the gentleman from Ohio for his great work and dedication to this legislation.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. SCHAEFER. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, once again I rise in strong support of the Federal Facilities Compliance Act as an amendment to H.R. 3847. Each year, Federal facilities generate millions of tons of hazardous waste. I find it unconscionable that some of the most horrifying stories of noncompliance with our hazardous waste laws deal with Federal facilities. This amendment correctly recognizes the fact that this Nation's ground water cannot tell the difference between Federal pollution and the rest of the country's pollution.

For this reason, last July this body overwhelmingly passed this language as a free-standing bill. Unfortunately, the august body across the Capitol, the U.S. Senate does not feel that this is a priority. They have chosen to ignore this environmental double standard. So today we must reaffirm our commitment to this language by attaching it to the bill to elevate the Environmental Protection Agency to Cabinet status.

This amendment clarifies the existing waiver of sovereign immunity in section 6001 of the Resource Conservation and Recovery Act [RCRA] to provide that Federal facilities are subject to the same enforcement sanctions, including civil penalties, that apply to State and local governments and private companies. It also restores that Environmental Protection Agency's ability to use administrative orders to resolve regulatory violations at Federal facilities. For too long, Federal facilities have been like the coach's son—not forced to do the drills like the rest of the team. Well, this bill puts an end to favoritism. It tells the Federal facilities: "Practice what you preach."

This is not a radical concept. Congress has clearly waived sovereign immunity under the Clean Air Act, the Safe Drinking Water Act and the Medical Waste Tracking Act. Under these laws States have shown reasonable, responsible behavior. I expect no different under this legislation. Of course, the best way of preventing any problems would be for the Federal facilities to be in compliance with the laws from the start.

This bill is a much needed tool to work for enforcement of our hazardous waste laws. I urge my colleagues to vote for fair play and a healthy environment. I urge their support of this amendment so that this issue may finally get the attention that it deserves from the Senate.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to enter into a colloquy with my friend my colleague, the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. If the gentleman will yield, Mr. Chairman, I will be more than willing to enter into a colloquy.

Mr. RICHARDSON. Mr. Chairman, according to USA Today which obtained unreleased military documents, the Pentagon intends to ask the President to exempt the military from clean air laws. Citing national security reasons, the military will reportedly request that all aircraft, spacecraft, wheeled and tracked vehicles, vessels, and weapons be exempt from the Clean Air Act.

Additionally, the Pentagon will request an exemption for the burning or detonating of munitions and ordnance as well as an exemption from emissions requirements on paints and chemicals used to repair or refurbish military vehicles.

It is estimated that the Army alone has over 800,000 cars, trucks, tanks, and other vehicles. Clearly, many of the actions for which these exemptions are being sought (i.e. the regulations of cars, trucks, and paint and chemical emissions) are significant sources of air pollution. They emit ozone precursors, carbon monoxide, and a variety of toxic compounds.

Because the current exemption in section 118 of the Clean Air Act is overly broad, I am concerned that the Pentagon will seek exemptions for emissions sources which are totally unrelated to national security. Moreover, as a member of the Energy and Commerce Committee which is currently reauthorizing the Clean Air Act, I am concerned that the Pentagon intends to thwart our best efforts to provide clean air for the Nation by seeking an exemption under current law after Congress enacts the legislation.

Mr. ECKART. I too am concerned. The Federal Government should set an example for the rest of the country. If Congress establishes a law regulating air pollution from important sources, it should not then turn around and exempt its own facilities for regulation. This sends the wrong signal to private industry which doesn't have the option of obtaining an exemption.

Mr. RICHARDSON. I would hope that I could work with my colleague, Mr. ECKART, the chairman of the full Committee on Energy and Commerce, and with my colleagues on Armed Services to arrive at a solution which is amenable to all during floor consideration of H.R. 3030, the Clean Air Act amendments.

Mr. ECKART. I pledge to work with the gentleman toward that end.

Mr. RICHARDSON. Mr. Chairman, at this point in the RECORD I would like to insert a letter from the chairman of the Committee on Energy and Commerce, the gentleman from Michigan, [Mr. DINGELL], the text of which is as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, March 21, 1990.

Hon. JOHN CONYERS, Jr.,
Chairman, Committee on Government Operations, 2157 Rayburn House Office Building, Washington, DC.

DEAR JOHN: On March 13, 1990, the Committee on Government Operations ordered reported H.R. 3847, the "Department of Environmental Protection Act." By letter dated March 19, 1990, you have asked that the Committee on Energy and Commerce waive its right to a sequential referral so that this bill could be scheduled for floor consideration as expeditiously as possible.

Several provisions of the reported bill affect, and are within the jurisdiction of, the Committee on Energy and Commerce, including sections 108, 110, 111, 115, 116 and Titles III and IV. Further, the Energy and Commerce Committee will be seeking conferee status on those provisions of the companion Senate bill which are within the jurisdiction of the Committee, including but not limited to the Establishment of an Interagency Committee on Global Environmental Change.

As a result of discussions between our two Committees which have led to a number of changes in the reported bill and your agreement to support additional changes during floor consideration, I am agreeing not to seek sequential referral of H.R. 3847 at this time so that the bill can be considered by the House.

I would appreciate your including this letter as a part of the record during consideration of this bill by the House. With every good wish, I am

Sincerely,

JOHN D. DINGELL,
Chairman.

In conclusion, Mr. Chairman, I would like to urge my support for this good amendment. I think it is something that is needed. It should have been adopted in the other body. I appreciate the colloquy with my colleague, the gentleman from Ohio [Mr. ECKART].

Mr. BROWN of Colorado. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the opportunity to speak today in favor of the Eckart-Schaefer amendment which overwhelmingly passed the House in July by a margin of 380 to 39 in the form of H.R. 1056, the Federal Facilities Compliance Act of 1989.

The reasons behind the original passage of this measure remain the same; the Federal Government should be held accountable to the same environmental laws that apply to private industry. Instead of serving as a leader in compliance with environmental laws, the Federal Government has continued to be a flagrant violator of our environmental statutes. It is time for the Federal Government to act responsibly. This amendment will ensure just that.

The Eckart-Schaefer amendment will make it clear that Federal facilities are subject to the same regulations regarding management, treatment, and disposal of hazardous and solid waste as private entities. If this amendment is passed, the Federal Government will no longer be able to ignore the environmental laws that protect the health and safety of our citizens.

There are countless examples across the Nation where the Federal Government has ignored these laws. In my congressional district lies Rocky Mountain Arsenal touted as one of the most polluted parcels in the Nation.

In 1984, TCE was discovered in excessive levels in drinking water wells neighboring the arsenal. When one of the sources of contamination was confirmed as emanating from the arsenal grounds, the Army was initially reluctant to fund a filtration system to ensure a safe drinking water supply for the Adams County community. This is not the kind of example the Federal Government, whose primary responsibility should be to uphold the law, should be to private entities.

It is the responsibility of all entities: Private, State, municipal or Federal to protect the health and safety of our citizens, the quality of our environment and to uphold the law. The Eckart-Schaefer amendment is a step forward in ensuring that this responsibility is not ignored.

□ 1510

Mr. MCMILLEN of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to commend the gentleman from Ohio [Mr. ECKART] and the gentleman from Colorado [Mr. SCHAEFER] for advancing this amendment relating to the Federal Government.

Most assuredly, the Federal Government should live up to its word in the name of environmental standards, and I think it is very, very important that the Federal Government live by the same standards we require the private sector, the States and localities to uphold.

I would like to talk about an example of this in the State of Maryland which existed really in our own back yard. The Bainbridge Naval Complex in Cecil County, MD, which served as a naval training facility until 1976, has had a number of complicated environmental problems associated with it that went unabated long after that facility closed down. In addition to the presence of a pesticide landfill and large amount of asbestos in decaying buildings, Bainbridge had a series of underground storage tanks that were in danger of leaking.

I would like to say that it was only after the gentleman from the First District of Maryland [Mr. DYSON] went after a lackadaisical Department of Defense that anything was done, and that was 10 years after the facility was closed. That kind of standard would never have been permitted in the private sector.

So, Mr. Chairman, I just hope that we can move this amendment forward and have the Federal Government live up to the Environmental Protection Code that it requires of others in the private sector and in the States and localities. I urge adoption of the amendment.

Mr. BILIRAKIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of H.R. 3847, legislation which will redesignate the Environmental Protection Agency as the Department of Environmental Protection, a Cabinet-level Government Department, and in support of the Eckart-Schaefer amendment to this bill.

The serious environmental challenges we are presently facing require that we recognize the vital importance of environmental issues in the framework of Federal policymaking. Elevating EPA to Cabinet-level status would place protection of the environment and reduction of the risks of pollution at the top of the Federal agenda—a position which is commensurate with the realities of the day and the need to protect our citizens from environmental hazards.

Mr. Chairman, it has been almost 20 years since we first began to recognize the need to take significant action to halt the environmental destruction wrought by the excesses of our modern, industrial society. On April 22 of this year, we will celebrate the 20th anniversary of the first Earth Day, a point making the coalescence of the environmental movement in this country.

Twenty years ago, we entered an era in which this body took a bold, new legislative course, resulting in the passage of a series of laws to protect the quality of our air and water, and to ensure the proper disposal of hazardous wastes. We are also approaching the 20th anniversary of the creation of the Environmental Protection Agency, the Agency charged with directing the mission set forth in these ambitious legislative mandates. Today we should take the next step and bring EPA into the inner circle of Government. We should reserve a place at the Cabinet table from which environmental concerns can be assessed in the discussion of all pressing national issues.

Mr. Chairman, the results of this Nation's efforts at environmental protection over the last two decades have been impressive: The emission of certain categories of dangerous air pollutants has been curtailed and a number of indicators of water quality have shown marked improvement. In addition, we have created the Superfund Trust Fund to address the threats posed by uncontrolled hazardous waste sites. We can look at these gains

and see that progress has been made on numerous fronts.

However, much more remains to be done. Studies on the effects of greenhouse gases and global climate change along with the stark pictures portraying the despoilation of the Alaskan coast by the *Exxon-Valdez* oilspill and the systematic destruction of the tropical rain forests demand our attention. Issues such as these have helped bring about a resurgence of environmental awareness in this country, and more importantly, in the international arena. In addition to the work still to be done on previously recognized hazards, we now realize that we are faced with a new generation of environmental problems which will require even greater initiative. As William K. Reilly, present Administrator of EPA, points out, problems such as global warming, acid rain, stratospheric ozone depletion, and the loss of valuable habitats severely threaten the health of the world in which we live.

I believe, Mr. Chairman, that the far-reaching, global implications of our many environmental problems requires the inclusion of environmental issues on the President's Cabinet. The head of EPA should maintain an institutional seat at the top of the Federal hierarchy to work with national and international leaders in meeting the complex, multifaceted environmental challenges that we face.

In addition, I urge my colleagues to support H.R. 1056, the Federal facilities Compliance Act, offered as an amendment by my colleagues Messrs. ECKART and SCHAEFER.

The Federal Facilities Compliance Act will assure greater compliance by Federal facilities with the Resource Conservation and Recovery Act, known as RCRA. As you know, RCRA regulates the management, treatment, storage, and disposal of hazardous waste. The Department of Defense and the Department of Energy facilities together generate approximately 20 million tons of hazardous or mixed hazardous and radioactive waste annually.

The Eckart-Schaefer amendment will accomplish two goals. First, it will clarify that states have the authority to assess civil fines and penalties against Federal facilities from noncompliance with RCRA requirements. Until this time, States have been divided with regard to the authority to levy fines and penalties against Federal facilites. The State courts in California, Washington, and North Carolina and the Department of Justice state that Congress did not clearly and unambiguously waive sovereign immunity of the United States with respect to civil penalties.

Other State courts in Ohio and Maine have resolved this differently and have in fact found the RCRA clearly permits the recovery of civil penalties. The amendment will remove any ambiguity and permit States to assess fines and penalties against Federal facilities just as municipalities, individuals, and private facilities are subject.

In addition, this amendment explicitly grants the Environmental Protection Agency [EPA] the authority to bring administrative enforcement actions against Federal facilities. It will act to define "person" under RCRA to include each Department, Agency and instrumentality of the United States. Therefore, RCRA will now parallel the Clean Air Act, the Safe Drinking Act, Superfund, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act, all of which treat Federal agencies as "persons".

During consideration of H.R. 1056 last July, I offered an amendment which was agreed to by the House Energy and Commerce Committee. This amendment requires that States use any fines collected for violations of the Resource Conservation and Recovery Act [RCRA] by a Federal facility for environmental restoration projects. Instead of these Federal taxpayers' dollars going into the State's General treasury to be spent in any manner, as is the current law, I believe these moneys should be returned to the environment. My amendment assured this would be the case; it is part of this amendment.

Altogether, let us recognize 20 years of enviornmental awareness with substantive accomplishment. Let us pass the Eckart/Schaefer amendment and H.R. 3847. Let us follow two decades of environmental concern with environmental action.

Mr. JONES of North Carolina. Mr. Chairman, one part of the Eckart amendment will clarify a troubling interpretation of the Solid Waste Disposal Act, or RCRA, for the wastewater treatment works at Marine Corps Air Station, Cherry Point, NC. This language is identical to an amendment I offered successfully when the House passed H.R. 1056 on July 19, 1990.

With respect to Cherry Point, the problem arose just as the Navy had completed construction of its multimillion dollar state-of-the-art electroplating facility. The plating facility is designed so that rinse water from the facility would be treated first at an industrial pretreatment plant owned by the Navy. After electroplating sludges are removed, the treated effluent from the industrial pretreatment plant would be discharged into a Navy-owned waste water treatment works which further treats the effluent before it is discharged into surface water pursuant to a permit under the Federal Water Pollution Control Act—also the Clean Water Act. Some sludge has built up over time in polishing ponds at the treatment works site; other sludge has been land applied pursuant to State of North Carolina permits.

Just as the facility was ready to open, the EPA advised the Navy that the sludge in the ponds would constitute a listed hazardous waste under RCRA because the sludge could contain small amounts of metals from the plating facility's rinse water. Since the ponds did not have a RCRA permit to handle hazardous waste, the rinse water from the plating facility could not be discharged in the treatment works. To prevent a violation of RCRA, the new plating facility has not opened.

What makes this situation ironic is that if the same plating facility were to discharge the same rinse water into a waste water treatment works that was owned by a State or municipal government, the waste would be completely exempt from RCRA. I will briefly explain.

RCRA applies to solid waste but does not include solid or dissolved material in domestic sewage—section 1004(27). As construed by the EPA, any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works for treatment falls within the domestic sewage exclusion. But, EPA has defined publicly owned treatment works for purposes of the domestic sewage exclusion as limited to those owned by a State or municipality. This interpretation is based on EPA's reading of the Clean Water Act, and in particular its concern that federally owned treatment works should not be eligible for construction grants under that act.

In short, under EPA's interpretation of the domestic sewage exclusion, different laws and standards apply to sewage treatment works depending on whether they are owned by the Federal Government or by a State or local government. The practical result of this construction has been the inability of the Navy to open its new plating facility at Cherry Point.

To resolve its problem at Cherry Point, the Navy has considered various design alternatives, including a closed loop system so that no waste water is discharged and building new storage tanks at the waste water treatment works. But, these alternatives are all costly and would require a few years and millions of dollars to complete. I have therefore concluded that the best solution is to amend RCRA to clarify its applicability to the treatment works at Cherry Point.

My amendment adds a new section 6006 to RCRA, as follows:

First, the federally owned waste water treatment works at Marine Corps Air Station, Cherry Point, NC that receives and treats waste, a majority of which is domestic waste generated by federal installations, shall be considered to be managing a solid waste but not a hazardous waste for purposes of RCRA, provided the treatment works and all discharges to the treatment works comply with the pretreatment requirements of section 307 and 402(b)(8) of the Clean Water Act;

Second, if, in the future, the treatment works violates the pretreatment requirements of the Clean Water Act, it shall be subject only to an enforcement action under the Clean Water Act for the violation;

Third, removal of solid waste from any unit of the waste water treatment works will not be required by EPA or the State unless the removal is part of a corrective action taken in response to a release from the unit into the surrounding environment; and

Fourth, the federally owned waste water treatment works at Cherry Point shall not be considered a publicly owned treatment works for purposes of the Clean Water Act by virtue of this amendment to RCRA.

The amendment only applies to the federally owned waste water treatment works at Cherry Point which treats a majority of domestic waste. By majority, I mean that most or at least 51 percent of the waste is of domestic origin. By domestic origin, I mean untreated sanitary wastes.

The amendment enables the Navy to exercise an option as to which Federal law should apply to its waste water treatment works at Cherry Point. The choice is to stay within the purview of RCRA and comply with all of RCRA's provisions, or to be exempt from the hazardous waste provisions of RCRA provided that the treatment works and all discharges to the treatment works meet the pretreatment requirements of the Clean Water Act. The treatment works will qualify for the RCRA exemption when it meets all of the pretreatment program requirements of the Clean Water Act. The pretreatment requirements are those established by EPA and the States pursuant to sections 307 and 402(b)(8) of the Clean Water Act.

Should the waste water treatment works fall out of compliance with the pretreatment requirements in the future, the exclusive remedy for a violation of such requirements is an action under the Clean Water Act to enforce the pretreatment provisions.

To ensure that the environment is completely protected, the amendment explicitly provides that EPA retains its authority to bring a corrective action against the waste water treatment works for a release into the environment. The emphasis is on release as opposed to simply the presence of a solid waste in a unit. EPA cannot require the removal of a solid waste from the unit just because, prior to the enactment of this amendment, the waste would have been technically considered a hazardous waste. The Navy will be required to clean up any releases into the ground or ground water from its solid waste managment units that cause environmental harm but will not be required to spend money unnecessarily on the cleanup of ponds and other applications of sludge that were deemed in the past to contain hazardous wastes. A corrective action may be brought under RCRA or the Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA].

Finally, the amendment makes clear that the federally owned waste water treatment works shall not be considered a publicly owned treatment works for purposes of the Clean Water Act. Although the amendment provides parity between the treatment of a federally owned treatment works for purposes of RCRA's hazardous waste provisions and requires that the federally owned treatment works comply with the pretreatment requirements of the Clean Water Act to achieve this parity, it is not thereby considered to be a publicly owned treatment works for purposes of the Construction Grants Program or any other provisions of the Clean Water Act.

The bottom line is that my amendment will resolve a confusing issue, the applicability of RCRA to the federally owned waste water treatment works at Cherry Point Marine Corps Air Station. It will give the Navy an important option for treating waste from its industrial and domestic waste water treatment plants at Cherry Point. I am confident this option will enable Cherry Point Marine Corps Station to comply with the law and open its new plating facility.

I wish to thank Chairman DINGELL, Mr. ECKART, Mr. LUKEN, and staffer Richard Frandsen, for their cooperation and help in resolving this troubling situation. I also appreciate the willingness of EPA and the Navy to be consulted on technical aspects of this amendment. Without all their help, the Navy's $15 million plating facility would continue to remain idle and the Navy would be forced to spend millions of dollars on redesign and construction with no clear environmental benefit.

I urge my colleagues to support my amendment.

Mr. FAZIO. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Ohio [Mr. ECKART]. The amendment will help improve Federal facility compliance with the Resource Conservation and Recovery Act [RCRA], the primary Federal statute governing the management, treatment, storage, and disposal of hazardous and solid waste.

The need for greater compliance is well documented. The Department of Energy and the Department of Defense alone generate approximately 20 million tons of hazardous or mixed hazardous and radioactive waste annually. And past mismanagement of these hazardous materials has created a huge cleanup—upwards of $145 billion by current estimates—that we will be paying for decades to come.

The Eckart amendment offers us an opportunity to improve the management of hazardous waste by the Federal agencies and thereby slow the creation of new hazardous waste sites and even larger cleanup bills for future generations. The amendment gives Federal and State regulatory authorities access to all of the compliance and enforcement tools available under RCRA, something they have not had access to in the past. The most important of these tools is the authority to levee penalties and assess civil fines. This has proven to be a critical lever for EPA to induce compliance and deter future misconduct in the private sector and with State and local governments. If we are to encourage greater compliance and improve the management of hazardous waste by our Federal agencies, EPA must also have this authority in its dealings with Federal facilities.

Mr. Chairman, this amendment removes any doubt that the Federal Government is to be held to same standard of compliance as any private business or any State or local government. The fairness and equity of this amendment cannot be disputed, and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. ECKART].

The amendment was agreed to.

Mr. HORTON. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 48]

Ackerman	Derrick	Hoyer
Akaka	DeWine	Hubbard
Alexander	Dickinson	Huckaby
Anderson	Dicks	Hughes
Andrews	Dingell	Hunter
Annunzio	Dixon	Hutto
Anthony	Donnelly	Hyde
Applegate	Dorgan (ND)	Inhofe
Armey	Dornan (CA)	Jacobs
Aspin	Douglas	James
Atkins	Downey	Jenkins
AuCoin	Dreier	Johnson (CT)
Baker	Duncan	Johnson (SD)
Ballenger	Durbin	Johnston
Barnard	Dwyer	Jones (GA)
Bartlett	Dymally	Jones (NC)
Barton	Dyson	Jontz
Bates	Early	Kanjorski
Beilenson	Eckart	Kaptur
Bennett	Edwards (CA)	Kasich
Bentley	Edwards (OK)	Kastenmeier
Bereuter	Emerson	Kennedy
Berman	Engel	Kennelly
Bevill	English	Kildee
Bilbray	Erdreich	Kleczka
Bilirakis	Espy	Kolbe
Billey	Evans	Kolter
Boehlert	Fascell	Kostmayer
Boggs	Fawell	Kyl
Bonior	Fazio	LaFalce
Borski	Feighan	Lagomarsino
Bosco	Fields	Lancaster
Boucher	Fish	Lantos
Boxer	Flake	Laughlin
Brennan	Flippo	Leach (IA)
Brooks	Foglietta	Leath (TX)
Broomfield	Ford (MI)	Lehman (CA)
Browder	Frenzel	Lehman (FL)
Brown (CA)	Frost	Lent
Brown (CO)	Gallegly	Levin (MI)
Bruce	Gallo	Levine (CA)
Bryant	Gaydos	Lewis (CA)
Buechner	Gejdenson	Lewis (FL)
Bunning	Gekas	Lewis (GA)
Burton	Gephardt	Lightfoot
Bustamante	Geren	Lipinski
Byron	Gillmor	Livingston
Callahan	Gilman	Lloyd
Campbell (CA)	Glickman	Long
Campbell (CO)	Gonzalez	Lowery (CA)
Cardin	Goodling	Lowey (NY)
Carper	Gordon	Luken, Thomas
Carr	Goss	Lukens, Donald
Chandler	Gradison	Machtley
Chapman	Grandy	Madigan
Clarke	Grant	Manton
Clay	Green	Markey
Clement	Guarini	Marlenee
Clinger	Gunderson	Martin (IL)
Coble	Hall (OH)	Martin (NY)
Coleman (MO)	Hall (TX)	Martinez
Coleman (TX)	Hamilton	Matsui
Collins	Hammerschmidt	Mavroules
Combest	Hancock	Mazzoli
Condit	Hansen	McCandless
Conte	Harris	McCloskey
Conyers	Hastert	McCollum
Cooper	Hatcher	McCrery
Costello	Hawkins	McCurdy
Coughlin	Hayes (IL)	McDade
Courter	Hayes (LA)	McDermott
Cox	Hefley	McEwen
Coyne	Hefner	McGrath
Craig	Henry	McHugh
Crane	Herger	McMillan (NC)
Crockett	Hertel	McMillen (MD)
Dannemeyer	Hiler	McNulty
Darden	Hoagland	Meyers
Davis	Hochbrueckner	Mfume
de la Garza	Holloway	Michel
DeFazio	Hopkins	Miller (CA)
DeLay	Horton	Miller (OH)
Dellums	Houghton	Miller (WA)

Mineta	Ridge	Solomon
Moakley	Rinaldo	Spence
Molinari	Ritter	Spratt
Mollohan	Roberts	Stallings
Montgomery	Robinson	Stangeland
Moody	Roe	Stearns
Moorhead	Rogers	Stenholm
Morella	Rohrabacher	Stokes
Morrison (CT)	Ros-Lehtinen	Studds
Morrison (WA)	Rose	Sundquist
Mrazek	Rostenkowski	Swift
Murphy	Roth	Synar
Murtha	Roukema	Tallon
Myers	Rowland (CT)	Tanner
Natcher	Rowland (GA)	Tauke
Neal (MA)	Roybal	Tauzin
Nelson	Russo	Taylor
Nielson	Sabo	Thomas (CA)
Nowak	Saiki	Thomas (GA)
Oakar	Sangmeister	Thomas (WY)
Oberstar	Sarpalius	Torres
Obey	Sawyer	Torricelli
Olin	Saxton	Towns
Ortiz	Schaefer	Traficant
Owens (NY)	Schiff	Traxler
Owens (UT)	Schneider	Unsoeld
Oxley	Schroeder	Upton
Packard	Schuette	Vander Jagt
Pallone	Schulze	Vento
Panetta	Schumer	Visclosky
Parker	Sensenbrenner	Volkmer
Parris	Serrano	Vucanovich
Pashayan	Sharp	Walgren
Patterson	Shaw	Walker
Paxon	Shays	Walsh
Payne (NJ)	Shumway	Watkins
Payne (VA)	Sikorski	Waxman
Pease	Sisisky	Weber
Pelosi	Skaggs	Weiss
Penny	Skeen	Weldon
Perkins	Skelton	Wheat
Petri	Slattery	Whittaker
Pickett	Slaughter (NY)	Whitten
Pickle	Slaughter (VA)	Williams
Porter	Smith (FL)	Wilson
Poshard	Smith (IA)	Wise
Price	Smith (NE)	Wolf
Pursell	Smith (NJ)	Wolpe
Quillen	Smith (TX)	Wyden
Rahall	Smith (VT)	Wylie
Rangel	Smith, Robert (NH)	Yates
Ravenel	Smith, Robert (OR)	Yatron
Ray	Snowe	Young (AK)
Regula	Solarz	Young (FL)
Rhodes		
Richardson		

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The CHAIRMAN. Four hundred and thirteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Chair recognizes the gentleman from Illinois [Mr. HASTERT].

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HASTERT

Mr. HASTERT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HASTERT: Strike all after the enacting clause and insert the following:

TITLE I—REDESIGNATION OF ENVIRONMENTAL PROTECTION AGENCY AS DEPARTMENT OF ENVIRONMENTAL PROTECTION

SEC. 101. REDESIGNATION OF ENVIRONMENTAL PROTECTION AGENCY AS DEPARTMENT OF ENVIRONMENTAL PROTECTION.

(a) REDESIGNATION.—The Environmental Protection Agency is redesignated as the Department of Environmental Protection (hereinafter in this Act referred to as the "Department"), and shall be an executive department in the executive branch of the Government. The Department shall be headquartered at the seat of Government. The official acronym of the Department shall be "D.E.P.".

(b) SECRETARY OF THE ENVIRONMENT.—(1) There shall be at the head of the Department a Secretary of Environmental Protection (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) OFFICE OF THE SECRETARY.—The Office of the Secretary shall consist of the Secretary and the Deputy Secretary appointed under subsection (d), and may include an Executive Secretary.

(c) TRANSFER.—The functions, powers, and duties of the Administrator and other officers and employees of the Environmental Protection Agency are transferred to and vested in the Secretary.

(d) DEPUTY SECRETARY.—There shall be in the Department a Deputy Secretary of the Environmental Protection, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe, and shall act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the Office of the Secretary.

(e) DELEGATION OF AUTHORITY.—Except as provided in this Act and other existing laws, the Secretary may delegate any functions, including the making of regulations to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as the Secretary considers to be necessary or appropriate.

SEC. 102. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Secretaries, not to exceed 10, as the Secretary shall determine, each of whom—

(1) shall be appointed by the President, by and with the advice and consent of the Senate; and

(2) shall perform such functions as the Secretary shall prescribe.

(b) FUNCTIONS.—The Secretary shall assign to each Assistant Secretary of the Department such functions as the Secretary considers appropriate, including, subject to the discretion of and modification by the Secretary, the following: Pollution prevention, including resource recovery, recycling, and reuse; education; policy, planning, and evaluation; administration; resources management, including financial and budget management; information resources management; procurement and assistance management; personnel and labor relations; enforcement; compliance monitoring; research and development; air; radiation; water; pesticides; toxic substances; solid wastes; hazardous waste; hazardous waste cleanup; emergency response; congressional and legislative affairs; public affairs; intergovernmental affairs; and international environmental affairs.

(c) DESIGNATION OF FUNCTIONS PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as an Assistant Secretary under this section, the President shall state the particular functions of the Department (as assigned by the Secretary under subsection (b)) such individual will exercise upon taking office.

SEC. 103. DEPUTY ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department 20 Deputy Assistant Secretaries, or such number as the Secretary determines is appropriate.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) CAREER SENIOR EXECUTIVE SERVICE.—At least one-half of positions established under subsection (a) and filled by under subsection (b) shall be in the career Senior Executive Service.

(d) FUNCTIONS.—Functions assigned to an Assistant Secretary under section 102(b) may be performed by one or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

SEC. 104. OFFICE OF GENERAL COUNSEL.

(a) GENERAL COUNSEL.—There shall be in the Department the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

(b) DEPUTY GENERAL COUNSEL.—There shall be in the Office of the General Counsel at least one Deputy General Counsel, who—

(1) shall be appointed by the General Counsel; and

(2) shall perform such functions as the Secretary shall prescribe.

SEC. 105. OFFICE OF INSPECTOR GENERAL.

The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978 (5 U.S.C. App.), is redesignated as the Office of Inspector General of the Department of Environmental Protection.

SEC. 106. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

(a) LIMITATION ON NUMBER OF NONCAREER SENIOR EXECUTIVES.—Notwithstanding section 3134(d) of title 5, United States Code, the number of Senior Executive Service positions in the Department which are filled by noncareer appointees in any fiscal year may not exceed 12 percent of the total number of senior executives employed in the Senior Executive Service positions in the Department at the end of the preceding fiscal year.

(b) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—Except as otherwise provided in this Act, political affiliation or political qualification may not be taken into account in connection with the appointment of any person to any position in the career civil service or in the assignment or advancement of any career civil servant in the Department.

SEC. 107. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, reorganization plan, or delegation of authority, or in any document—

(1) to the Environmental Protection Agency is deemed to refer to the Department of Environmental Protection;

(2) to the Administator of the Environmental Protection Agency is deemed to refer to the Secretary of Environmental Protection;

(3) to the Deputy Administrator of the Environmental Protection Agency is deemed to refer to the Deputy Secretary of Environmental Protection; and

(4) to an Assistant Administrator of the Environmental Protection Agency is deemed to refer to the corresponding Assistant Secretary of the Department of Environmental Protection who is assigned the functions of that Assistant Administrator.

SEC. 108. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, privileges, and other administrative actions—

(1) which have been issued, made, granted or allowed to become effective by the President, the Administrator or other authorized official of the Environmental Protection Agency, or by a court of competent jurisdiction, which relate to functions of the Administrator or any other officer or agent of the Environmental Protection Agency actions; and

(2) which are in effect at the time this Act takes effect;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, Secretary, or other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—This Act shall not affect any proceeding, proposed rule, or application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, and such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—This Act shall not affect suits commenced before the effective date of this Act, and in all such suits proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall be abated by reason of the enactment of this Act.

(e) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be contracts, liabilities, records, property, and other assets and interests of the Department.

SEC. 109. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Environmental Protection".

(b) DEFINITION OF DEPARTMENT IN CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Environmental Protection.".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Secretary of Environmental Protection.".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking "Administrator of Environmental Protection Agency" and inserting in lieu thereof "Deputy Secretary of Environmental Protection".

(e) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking "Inspector General, Environmental Protection Agency" and inserting in lieu thereof "Inspector General, Department of Environmental Protection";

(2) by striking each reference to an Assistant Administrator, or Assistant Administrators, of the Environmental Protection Agency; and

(3) by adding at the end thereof the following:

"Assistant Secretaries, Department of Environmental Protection.

"General Counsel, Department of Environmental Protection.".

(f) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 11(1)—

(A) by inserting "Environmental Protection," after "Energy,"; and

(B) by striking "Environmental Protection,"; and

(2) in section 11(2)—

(A) by inserting "Environmental Protection," after "Energy"; and

(B) by striking "the Environmental Protection Agency,".

SEC. 110. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and other appropriate committees of the Congress, the Secretary shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to the laws of the United States, to reflect the changes made by this Act. Such proposed legislation shall be submitted not later than 6 months after the effective date of this Act.

TITLE II—ADMINISTRATIVE PROVISIONS

SEC. 201. ACQUISITION OF COPYRIGHTS AND PATENTS.

The Secretary may acquire any of the following rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) Copyrights, patents, and applications for patents, designs, processes, and manufacturing data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before suit is brought, for past infringement of patents or copyrights.

SEC. 202. GIFTS AND BEQUESTS.

The Secretary may accept, hold, administer, and utilize gifts, bequests, and devises of real or personal property for the purposes of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

SEC. 203. OFFICIAL SEAL OF DEPARTMENT.

On and after the effective date of this Act, the seal of the Environmental Protection Agency, with appropriate changes, shall be the official seal of the Department, until such time as the Secretary may cause an official seal to be made for the Department of such design as the Secretary shall approve.

SEC. 204. USE OF LIKENESS OF OFFICIAL SEAL OF DEPARTMENT.

(a) DISPLAY OF SEAL.—Whoever knowingly displays any printed or other likeness of the official seal of the Department, or any facsimile thereof, in or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

(b) MANUFACTURE, REPRODUCTION, SALE, OR PURCHASES FOR RESALE.—Except as authorized under regulations promulgated by the Secretary and published in the Federal Register, whoever knowingly manufacturers, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the official seal of the Department or any substantial part thereof (except for manufacture or sale of the article for the official use of the Government of the United States), shall be fined not more than $250 or imprisoned not more than 6 months, or both.

(c) INJUNCTIONS.—A violation of subsection (a) or (b) may be enjoined by an action brought by the Attorney General in the appropriate district court of the United States. The Attorney General shall file such an action upon request of the Secretary or any authorized representative of the Secretary.

SEC. 205. USE OF STATIONERY, PRINTED FORMS, AND SUPPLIES OF ENVIRONMENTAL PROTECTION AGENCY.

(a) IN GENERAL.—The Secretary shall ensure that, to the extent practicable, existing stationery, printed forms, and other supplies of the Environmental Protection Agency are used to carry out functions of the Department before procuring new stationery, printed forms, and other supplies for the Department.

(b) LIMITATION.—Notwithstanding subsection (a), the Secretary may procure stationery, printed forms, and other supplies for the specific use of the Secretary and the Office of the Secretary.

SEC. 206. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on such date during the 6-month period beginning on the date of enactment, as the President may direct in an Executive order. If the President fails to issue an Executive order for the purpose of this section, this Act and such amendments shall take effect on January 20, 1991.

Mr. HASTERT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HASTERT. Mr. Chairman, first of all, I want to congratulate, com-

mend, and praise the chairman of the Government Operations Committee, the gentleman from Michigan [Mr. CONYERS], and certainly the ranking member, the gentleman from New York [Mr. HORTON] for bringing this issue before the House, and that is raising the Environmental Protection Agency to full Cabinet status.

Mr. Chairman, I think the issue at hand is what do we have and what are we raising to the full Cabinet level? The bill that we are reporting this afternoon and discussion is not a pure and simple elevation of the Environmental Protection Agency to Cabinet level.

□ 1540

What we have is a bill that is loaded down with a great deal of extraneous material, a bill that is loaded down with commissions and changes to laws that have been the law of our land for a number of years, for example, the RCRA law that we all deal with day in and day out.

Mr. Chairman, one of the things that I want to say is that for the past 3½ years that I have been a Member of this body, day in and day out that I have been in this Congress, I have had to deal with environmental problems in my district. I have had to deal with the EPA, and I have had to deal with the Corps of Engineers, and I have had to deal with the wetlands issues and the National Regulatory Commission, et cetera, and on and on and on.

What we need, Mr. Chairman, is an agency that we can get response from, that is clean, that does not have the encumbrances of commissions and the political tags that we put on this bill. Mr. Chairman, what we need is an agency that is clean and responsive.

The Members, as well as I, who have to deal with these agencies and especially the EPA day in and day out need somebody who is accountable to Members of Congress. We need an agency that when we knock on their door or pick up the telephone we can get a clear and concise answer back.

The reason for elevating the EPA up to Cabinet level is so that we can have the dialogue on the Presidential basis, on the Cabinet level, to raise it where it belongs, but when we start to wrap in bureaucracies within a bureaucracy, all of a sudden from my experience we prohibit our ability to deal with that agency. We prohibit the ability to get a straight answer. We prohibit the ability of the agents of that agency or division of government to start to answer our problems on a timely basis and get tied in with shifting of bureaucratic concerns from one agency to another, from one commission to another.

I think we need to keep this bill and this agency clean. Mr. Chairman, accountability is the issue, being able to answer the questions that we have, the concerns that we have in this Congress.

For instance, in my district alone, we have over 13 million cubic feet of thorium tailings that need to be moved. I have naturally occurring radium in the water that needs to be cleaned up. These are the types of issues that I have worked on.

But the problem of not having the EPA on a Cabinet level prohibits us to get a swift and concise answer. To tie the EPA in with the added bureaucracy that this bill offers, the amendments that we have just accepted, will prohibit us from a timely and concise answering process.

Mr. Chairman, my name is on this amendment because I believe that we should keep the process clean. Our enviromental issues are simply too important to be given short shrift. Let us debate these issues openly in the appropriate committees of jurisdiction. This bill has come through. We have bypassed the committee of jurisdiction. We have added on very substantive amendments today, very substantive amendments today that really change the way that we operate and that the EPA operates. I think that we did that in a very quick and not a very deliberative order.

Mr. Chairman, I think we should reevaluate, and if we do add on to the responsibilities of the EPA, if we do add on the commissions and the extra agencies that we have added on, then we ought to do that in a deliberative order in the committees of jurisdiction.

Mr. Chairman, one other point, and that is the cost. My bill will cost approximately less than $100,000 to elevate the EPA to a Cabinet level. The bill, as it stands now, will add costs of $50 million to approximately $100 million new dollars of costs to implement the bill as we have it before, us at this time.

Mr. Chairman, I ask for open and concise debate. I ask the Members of this body to consider what we are doing. We are going beyond what the President has asked us to do and move the EPA into just up to the Cabinet level. We are in a position where we have a bill that is burdened down with a great deal of extraneous amendments, and certainly consideration of my substitute amendment will make the bill clean. It will make it expedient, and certainly on the President's desk for signing by Earth Day.

□ 1550

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HASTERT] has expired.

(At the request of Mr. SYNAR and by unanimous consent, Mr. HASTERT was allowed to proceed for 3 additional minutes.)

Mr. SYNAR. Mr. Chairman, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Oklahoma.

Mr. SYNAR. Mr. Chairman, the gentleman from Illinois makes an eloquent speech today about what we are trying to do. I think all Members are in agreement we want to raise EPA to a Cabinet level position. I have been here since 1 o'clock this afternoon. We have gone through around 13 amendments. The gentleman from Illinois [Mr. HASTERT] sat here through the 13 amendments, and yet not one time has spoken against any of the amendments, nor asked for a vote on any of the amendments.

Is it now the position of the gentleman from Illinois that he is opposed to every amendment we accepted?

Mr. HASTERT. Mr. Chairman, it has been the gentleman's position that we should have a choice if we want to move a clean bill, a clean bill as it was originally introduced, to Cabinet level.

Mr. SYNAR. Would the gentleman from Illinois explain why the gentleman did not ask for one vote on any amendment during the last 3 hours then?

Mr. HASTERT. Mr. Chairman, it was the gentleman's understanding that the amendments were agreed to and the bill in its present form that came, before it was amended, in my judgment, needed to be changed. That is why I offered this rule several days ago before we even had the amendments added on. It is the gentleman's position that we need to be able to move the bill clean without the extraneous amendments that were put on in committee.

Mr. SYNAR. If the gentleman would yield further, is it not true that under the rule that the gentleman from Illinois had an opportunity to offer an amendment to do exactly what he wanted to do, which was to strike provisions which he found cumbersome, but did not take that opportunity also?

Mr. HASTERT. Mr. Chairman, the gentleman from Oklahoma is correct. The gentleman had an amendment to deal with the statistical agency. It was the opinion of the gentleman that I would prefer to move a clean bill to the desk of the President, and that is what I have chosen to do. Besides, I think some of those amendments are pretty bad legislation. I think it should be the rule of the House that Members have an option or an opportunity to move a clean bill.

Mr. SYNAR. Mr. Chairman, I would just say in conclusion that after 3 hours of what I think has been productive bipartisan debate, when the gentleman from Illinois [Mr. HASTERT] had 13 opportunities to ask for a vote on any objections, that now the gentleman says he is opposed to all this, and in one instance where the rule allowed the gentleman to offer his

amendment he did not take that opportunity, shows the genuineness of the argument of the gentleman. I hope that our colleagues will consider that as we vote on this amendment.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute.

Mr. Chairman, I rise to oppose the amendment of the gentleman from Illinois [Mr. HASTERT], a valuable member of the Committee on Government Operations who has served with great diligence. This amendment would undo simply everything that the committee and this body has just agreed to do and should, therefore, be emphatically rejected.

The entire Committee on Government Operations, save one member, voted in favor of the reported version of the bill. This amendment would not only repeal all of their good work, but it would repeal the bipartisan amendments that have been allowed by the Committee on Rules and supported here on the floor virtually without dissent.

Now, Members should remember the Committee on Rules allowed every amendment of any Member in Congress to have been included in a modified closed rule.

So we come here at the close of debate on elevating this agency to Cabinet level, to create a department, and we now have the suggestion that we reject everything, the entire work of the Committee on Government Operations, six other standing committees and the Committee on Rules, which allowed 13 amendments to be presented, most of which were agreed to. Now we come to the close of debate and we say well, let us just name a Cabinet level head and forget about the rest of the structure that is so clearly needed.

Mr. Chairman, I would argue that the work that we have done, which incidentally has been favorably commented on by the existing Administrator of the EPA, Mr. Bill Riley, who testified before the committee, leaves me with, of course, no other alternative but to ask that the Hastert substitute be recognized for what it is: environmentalism on the cheap. It simply offers to change the name and a salary increase for the top few people at the agency, but does nothing toward improving our environmental protection efforts.

Countless witnesses worried before the committee that elevating EPA would be a meaningless, insignificant, symbolic act, and if we did what is being proposed under this substitute, that is exactly what would happen. We would put an end to the independent nonpartisan data collection bureau at the Department. We would do away with the newly created offices of International Environmental Affairs, the Office for Enforcement and Pollution Prevention, and we would continue business as usual, with the outside contractors who have conflicts of interest that are not even publicly revealed. They would limit public access.

Join me, please, in repudiating this amendment, a substitute amendment, which would gut the work of this committee and the work on the floor that has gone on to date.

Mr. Chairman, at this point, I am entering into the Record, a Congressional Research Service legal memorandum on the constitutionality of the independence of the Bureau of Environment Statistics:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS, AMERICAN LAW DIVISION,
Washington, DC 20540, March 26, 1990.

Hon. JOHN CONYERS, Jr.,
Chairman, House Committee on Government Operations.

CONSTITUTIONAL OBJECTIONS TO AN INDEPENDENT BUREAU OF ENVIRONMENTAL STATISTICS

Section 111 of H.R. 3847, the Department of Environmental Protection Act, would establish a Bureau of Environmental Statistics [Bureau] within the new Department of Environmental Protection [DEP]. The purpose of the Bureau is to identify, collect, analyze, and report data on environmental quality and related public health matters and to coordinate its information collection activities with other Federal agencies and with State and local agencies. It is intended that the Bureau be an independent entity within DEP in order to assure that environmental data collection, monitoring and reporting be comprehensive and reliable so that Congress and the President may make timely and appropriate decisions on environmental issues and environmental regulators may engage in informed enforcement activities.

The statutory independence of the Bureau is accomplished in the following manner: The Bureau is to be headed by a Director of Environmental Statistics who is appointed by the Secretary of DEP for a four-year term and may be reappointed by him for additional terms. Section 111 (c)(2)(A). The Director may be removed by the Secretary "only for malfeasance in office, maladministration or neglect of duty." Section 111 (c)(2)(C). The Secretary is directed to delegate to the Director all functions currently vested in the Secretary which relate to the gathering, analysis and dissemination of environmental quality and related public health information. The Director may act in name of the Secretary for purposes of enforcement activities pursuant to those delegated functions. Section 111 (e)(1)(A). The Director is not required to obtain prior approval of any DEP officer or employee with respect to the collection, analysis or dissemination of any information, nor the approval prior to publication of any other officer or employee of the United States with respect to the substance of any reports prepared in accordance with law. Section 111 (e)(2).

On March 22, 1990, the Office of Management and Budget (OMB) issued a Statement of Administration Policy which objected to these provisions on the grounds that they "raise constitutional concerns and severely restrict Executive branch oversight of the new Bureau" and advised that it would recommend a presidential veto if the provisions are not "deleted or modified satisfactorily." The OMB statement cites no legal authority in support of its constitutional objections. You have inquired whether there is any substantial legal basis for these objections. We conclude that a court reviewing the issues that might be raised is likely to uphold the proposed scheme in its entirety. In view of the short deadline imposed, our supporting analysis is necessarily brief and summary in nature.

It is well settled that Congress in legislating pursuant to the powers granted it under Article I, section 8 of the Constitution, as well as powers granted in other parts of the Constitution, has the authority, under the Necessary and Proper Clause, Art. I, § 8, cl. 18, to create the bureaucratic infrastructure of the Executive Branch and to determine the nature, scope, power and duties of the offices so created. *Buckley* v. *Valeo*, 424 U.S. 1,138 (1976). Moreover, as a general matter, the Supreme Court has spoken very broadly of the legislative power over offices. Where Congress deals with the structure of an office—its creation, location, abolition, powers, duties, tenure, compensation and other such incidents—its power is virtually plenary. See, e.g., *Crenshaw* v. *United States*, 134 U.S. 99, 105–06 (1890); *Morrison* v. *Olson*, 108 S.Ct. 2597 (1988); *Mistretta* v. *United States*, 109 S.Ct. 647 (1989). Only where the object of the exercise of the power is clearly seen in the particular situation as an attempt to effect an unconstitutional purpose, e.g., *supra; Bowsher* v. *Synar*, 478 U.S. 714 (1986), have the courts felt constrained to intervene.

The Supreme Court's most recent pronouncements have indicated that in separation of powers cases where aggrandizement is not in issue, it will weigh justifications for the congressional scheme in question, including the necessity to maintain "Congress' ability to take needed and innovative action pursuant to its Article I powers," against the degree of intrusion on the ability of the President to perform his assigned functions. *Commodity Fixtures Trading Commission* v. *Schor*, 478 U.S. 833, 851 (1986). *De minimis* disruptions are insufficient to block an otherwise legitimate congressional objective. *Id.* at 852. In *Morrison* v. *Olson*, *supra*, the Court broadly confirmed Congress' ability to insulate officers appointed by the President who perform "purely executive" functions from at-will removal and dealt a severe blow to the notion of a unitary executive. In *Mistretta* v. *United States*, the Court underlined the breadth of its rulings in *Schor* and *Morrison* by upholding the location in the judicial branch of an independent agency composed of judges and non-judges whose sole function was the promulgation of binding policy with respect to sentences that may be imposed by judges. The emphatic nature of these decisions, as well as the long history of consistent congressional practice of controlling the ordering and arrangement of administrative agencies, make it likely that the constitutional objections raised by OMB to H.R. 3847 respecting the independence of the Director of the Bureau, the delegation of information collection authority, and the insulation from prior executive review of information collection and dissemination decisions and reports required by law would not be sustained by a reviewing court.

More particularly, it may be noted that the litigation involving the removability of members of independent regulatory agencies focused on presidential appointees confirmed by senatorial consent. See, e.g., *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935). *Morrison*, however, dealt with Congress' power to vest the appointment of

independent counsels in the courts, subject to removal only for cause by the Attorney General. In upholding that authority the Court adverted to and reaffirmed that it had long recognized Congress' power to limit the Executive's power to remove inferior officers where it chooses to vest appointments in the President alone, department heads or the courts. The Court explained:

Indeed, this Court has never held that the Constitution prevents Congress from imposing limitations on the President's power to remove all executive officials simply because they wield "executive power". Myers itself expressly distinguished cases in which Congress had chosen to vest the appointment of "inferior" executive officials in the head of a department. See 272 U.S., at 161-163, 164, 47 S.Ct., at 40-41, 41. In such a situation, we saw no specific constitutional impediment to congressionally imposed restrictions on the President's removal powers. See also *United States* v. *Perkins*, 116 U.S. 483, 485, 6 S.Ct. 449, 450, 29 L.Ed. 700 (1886) (" 'The constitutional authority in Congress to thus vest the appointment [of inferior officers in the head of departments] implies authority to limit, restrict, and regulate the removal by such laws as Congress may enact in relation to the officers so appointed' ") (quoting the Court of Claims' decision in the case).

Morrison v. *Olson*, *supra*, 108 S.Ct. at 2618 note 27. Moreover, in rebutting the argument of dissenting Justice Scalia that any officer exercising any part of the executive power must be subject to at-will removal by the President, the *Morrison* Court again relied on the precedent of *United States* v. *Perkins:*

The dissent says that the language of Article II vesting the executive power of the United States in the President requires that every officer of the United States exercising any part of that power must serve at the pleasure of the President and be removable by him at will. Post, at 2626. This rigid demarcation—a demarcation incapable of being altered by law in the slightest degree, and applicable to tens of thousands of holders of offices neither known nor foreseen by the framers—depends upon an extrapolation from general constitutional language which we think is more than the text will bear. It is also contrary to our holding in *United States* v. *Perkins*, 116 U.S. 483, 6 S.Ct. 449, 29 L.Ed. 700 (1886), decided more than a century ago.

Morrison v. *Olson*, *supra*, at 2618 note 29.

With respect to the insulation from executive review of particular decisions or reports required by law, judicial precedent and historical congressional practice is plentiful. The Court in *Morrison*, for example, reaffirmed Congress' authority to require the submission of reports and other information to it from officials, and the exercise of oversight over agencies, "as functions that we have recognized generally as being incidental to the legislative function of Congress." *Morrison* v. *Olson*, *supra*, 108 S.Ct. at 2621, citing *McGrain* v. *Daugherty*, 273 U.S. 135, 174 (1927). Previously, the Court had occasion to note that "there is abundant statutory precedent for the regulation and mandatory disclosure of documents in the possession of the Executive Branch" and that "[s]uch regulation of material generated in the Executive Branch has never been considered invalid as an invasion of its autonomy." *Nixon* v. *Administrator of General Services*, 433 U.S. 425, 445 (1977). There the Court cited with approval the Freedom of Information Act, the Privacy Act of 1974, the Government in the Sunshine Act, and provisions dealing with census data and tax returns as appropriate instances of such regulation. In *Nixon* itself, the Court upheld the Presidential Recordings and Materials Preservation Act, which regulates, *inter alia*, public access to former President Nixon's presidential papers, against presidential claims of violations of the doctrine of separation of powers and executive privilege. And c.f., *Public Citizen* v. *Burke*, 655 F.Supp. 318 (D.D.C. 1987), *aff'd*, 843 F.2d. 1473 (D.C. Cir. 1988) (executive interference with discretionary duties vested in Archivist with respect to administration of Presidential Recordings and Materials Preservation Act held unlawful).

In addition, Congress has long and frequently exercised the authority to require simultaneous or unaltered submission of budget requests and legislative proposals and comments that have limited OMB review of budget requests, legislative proposals, review of proposed agency rules, and other required reports and documents. See compilation in Rosenberg, Congress' Prerogative Over Agencies and Agency Decisionmakers: The Rise and Demise of the Reagan Administration's Theory of the Unitary Executive, 57 George Washington L. Rev. 627, 672-75 (1989) (copy attached).

Finally, there would appear to be no question as to the authority of Congress to direct the delegation of functions from one officer to another. As indicated previously, Congress' power to create administrative entities and to vest them with duties and functions is virtually plenary. The concomitant power to reorganize such entities and to add and subtract from their powers and duties is similarly broad. See, e.g., *Shoemaker* v. *United States*, 147 U.S. 282 (1893).

MORTON ROSENBERG,
Specialist in American Public Law.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. ANDERSON. Mr. Chairman, section 115 provides that inherently governmental functions of the Department shall be performed only by officers and employees in the executive branch. It also provides, however, that it does not prohibit persons who are not officers and employees from providing technical services or advisory and assistance services. Am I correct in assuming that section 115 does not affect the Department's existing authority to seek and obtain peer review?

Mr. CONYERS. Mr. Chairman, the gentleman is entirely correct. Peer review where it exists within the existing authority of the Department is permissible, and section 115 would allow for the continued provision of technical and advisory and assistance services.

Mr. HORTON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, if H.R. 3847 as introduced by the chairman and myself were what was before this Congress now, I do not think we would have any problem. That was a bipartisan approach. It was signed on by many Members on both sides of the aisle.

What happened when we went to the full committee was we made some substantial changes, changes that are objectionable as far as the administration is concerned, and it concerned me.

One of them that is very important, and nobody is saying that we should not have this Bureau of Statistical Information, but the agency head, the head of that Bureau, would have no control whatsoever. It would be a different type of organization than any other agency has now in existence.

The Department of Energy has statistical information. I read a letter yesterday from the Environmental Control Administrator in which he said, "The current version of H.R. 3847 would require delegation of all of the Department's data gathering, analyzing and disseminating functions to the Bureau. This delegation would commingle the Bureau's information functions with the Department's important regulatory enforcement and compliance monitoring functions. Such a step significantly compromises the Department's ability to implement environmental protection statutes by making it dependent on the Bureau for information it will need to fulfill its mission. Accordingly, while I support an independent bureau, I cannot support the wholesale delegation of the Department's data gathering authorities to the Bureau."

Mr. Chairman, that is the problem that we have with that particular department. It was changed in the full committee. The agency head would have no control over that. As a matter of fact, and I would urge everyone to look at this very carefully, it does not matter whether it is a Republican or a Democrat in the White House.

□ 1600

But whoever is in charge of that bureau now could do whatever he or she wanted without any control whatsoever. I could really be counteractive to what we have tried to do here in the legislation that we have provided, and I think that there is a good point in trying to eliminate that.

Some other things were added, and I have no objection with some of the amendments. As a matter of fact, I indicated my support for some of the amendments. I think they should be considered. But unfortunately, that is not the choice we now have.

Now we have a bill that if it goes over to the Senate, and it goes to the President, it is going to be vetoed, and we will not have a department. This substitute that is being offered by the gentleman from Illinois [Mr. HASTERT] would purely and simply elevate this agency to a department level, which is the very same thing we did when we created the Department of Veterans Affairs. If Members will recall, we did not get into all of this policy.

I can understand everybody in this Chamber and everybody in the Con-

gress being concerned about the environment. We are all concerned about the environment and we want to do something about it. I have no problem with people trying to put policy into the elevation of this agency to a department. That is always what happens, and that is why the Government Operations Committee has jurisdiction for just creating a department and that is all the jurisdiction we have.

But when we get into these other areas, which is what we have done, that is how we get all of the other committees involved, the Committee on Public Works and Transportation, the Committee on Energy and Commerce, the Judiciary Committee, whatever the committee is that has jurisdiction over the subject matter of what we are trying to do in this particular bill, and it brings together those committees because they are concerned about getting their policy into this bill. I have no quarrel with the Members who have tried to offer amendments, because this is a good place to try to do that.

What the gentleman for Illinois [Mr. HASTERT] is trying to do is clean it all up, and say all we are going to do is elevate the Environmental Protection Agency to a Department. What it does is it establishes the Office of the Secretary, not more than 10 Assistant Secretaries, the Office of General Counsel, the inspector general. In other words, it does exactly what the President and the bipartisan group that met with the President said that we wanted to do; namely, elevate the Agency to a Cabinet status. It is done in the same way we did with the Veterans Affairs Department.

There should not be any controversy in what this gentleman is offering. I do not know how any Member could oppose it unless they want to put in all of these other issues, hazardous waste, statistical analysis, and other policy questions.

So I urge my colleagues to join me in cleaning it up, and let us support the Hastert substitute.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the environmental crisis facing this Nation and this planet should force all of us in Congress to take the most expeditious and decisive action possible. We are at a turning point today in meeting this crisis, and raising the Environmental Protection Agency to Cabinet-level status is certainly a step forward. But it is not sufficient in and of itself.

The amendment offered by the gentleman from Illinios [Mr. HASTERT], takes major steps backward in a number of different areas. Let me address just one. The Hastert amendment would weaken the ability of the Director of Bureau of Environmental Statistics to collect, analyze, and disseminate needed environmental data by making the collection of that information optional, and not mandatory

Further, this aspect of the Hastert amendment would destroy the independence and effectiveness of the Bureau by making the Director's collection and dissemination of environmental information subject to the control of the Secretary of Environmental Protection and other Federal officials.

As written, this bill represents a bipartisan effort in creating a Department of Environmental Protection, which would address the pressing environmental problems we face. The Bureau of Environmental Statistics simply ensures that the new Department has the proper infrastructure and adequate information to carry out the crucial task of protecting the environment. I urge my colleagues to vote against the Hastert amendment and to proceed with the business of protecting and improving our environment.

Mr. Chairman, also, at the request of the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], I have a statement to enter into a colloquy with the distinguished gentleman from Michigan [Mr. CONYERS].

The gentleman from Florida [Mr. FASCELL] expresses his appreciation to the distinguished chairman of the Committee on Government Operations for his willingness to address the technical and jurisdictional concerns of the Committee on Foreign Affairs. In that regard, I ask for the gentleman's indulgence in clarifying certain provisions of the legislation.

In authorizing H.R. 3847, it is important to reiterate that nothing in the bill alters the responsibilities assigned to any Federal agency under current law. A primary concern is to assure that the existing foreign policy and foreign assistance authorities remain unaffected by the creation of a new Cabinet-level department.

Section 108 officially establishes the Office of International Environmental Affairs within the new Department of Environmental Protection, to be headed by an Assistant Secretary. Section 108 also describes various international activities in which the new Department is expected to participate.

I would like to point out that the Secretary of State is responsible for formulating U.S. foreign policy. Foreign aid programs are then carefully crafted by the Agency for International Development in consultation with the Secretary of State, in the overall context of U.S. foreign policy. I wish to emphasize that AID is vested with responsibility as the lead agency for coordinating and implementing U.S. foreign assistance programs, including research and technical assistance.

It is important to underscore the intent of the bill that any international activities of the new Department or Secretary or his/her designees shall not be undertaken independently, but in consultation with and through existing channels which presently have responsibility and authority for international policy and assistance activities.

Is this interpretation the understanding of the distinguished chairman of the Committee on Government Operations?

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I want to first of all thank my friend, the gentleman from New York [Mr. WEISS], who serves so ably on our Committee on Government Operations as a subcommittee chairman and is a former member of the Foreign Affairs Committee.

His interpretation, and that of the chairman of the Foreign Affairs Committee, the gentleman from Florida, Mr. FASCELL, is precisely correct. We appreciate the cooperation that was extended in the jurisdictional resolutions that had to go on between that committee and six others, and that authority and jurisdiction will remain under the new provisions of making this agency now a department.

Mr. WEISS. I thank the distinguished chairman for his response.

At this point I will include the pertinent provisions relating to international agreements referred to in the colloquy.

[Information follows:]

SEC. 108(B). INTERNATIONAL AGREEMENTS

This provision recognizes a role for the new Department in participating in international agreements and relevant international organizations. The preference of the Committee on Foreign Affairs would have been to delete the vague and imprecise phrase "in addition to exercising other international responsibilities under existing law,". However, the provision does make clear the Secretary of State's primary responsibility for negotiating international instruments, and participating in international organizations. EPA's international activities to date have been coordinated and implemented as a component of US foreign policy under the direction of the Secretary of State, as are international activities of all Federal agencies. Sec. 108(b) of the bill reinforces that structure by authorizing the Secretary of the Environment to "assist" as the Secretary of State carries out his primary responsibility with regard to negotiating international agreements (including treaties, conventions, and protocols), and participating in international organizations.

SEC. 108(C). PUBLIC PARTICIPATION IN DELIBERATIONS

This provision recognizes the benefit of public participation in internal deliberations of the Department of Environment in preparing for international agreements. It gives the Secretary of Environment the authority to consult with a wide range of interested persons, including the public, at his discretion. This section applies only to internal

deliberations of the Department of Environmental Protection. It is not intended that this provision authorize independent action by the Secretary of the Environment once interagency consideration of possible positions for the US government has begun. Coordinating decisions to consult the public, among others, is part of the Secretary of State's responsibilities, and this legislation does not alter it.

SEC. 108(D). RESEARCH AND TECHNICAL ASSISTANCE

This provision recognizes the current, and significant activities of the EPA in conducting research on global environmental problems and in providing technical assistance overseas to improve environmental quality. It encourages continuation of this role by the new Department in consultation with the Secretary of State.

Under this provision, deletion of the words "and the Administrator of the Agency for International Development" should not be interpreted to alter the existing role and responsibilities of AID with respect to international research and technical assistance activities, in particular, and foreign assistance activities in general.

The Agency for International Development is vested with responsibility as the lead agency for coordinating and implementing US foreign assistance programs. AID serves as the major contractor of foreign aid, and often delegates its authority to other agencies to implement aid activities overseas. It is expected that the new Environmental Department will continue to implement international research and technical assistance activities in consultation with both the Secretary of State and the Administrator of AID, as in the past. This provision in no way diminishes the existing authorities of AID with regard to foreign assistance activities, but is meant to assure streamlined and effective delivery of aid through a single coordinating entity.

SEC. 108(E). PERFORMANCE OF OTHER ACTS

This provision encourages the Secretary of the Environment "to perform, after consultation with the Secretary of State, such other acts which are necessary to protect the international environment and not inconsistent with the functions of other departments . . ." of the US government. Although the provision seems unnecessary, the Committee on Foreign Affairs appreciates the addition of the language regarding consultation with the Secretary of State to clarify that this does not alter existing foreign policy authorities.

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. RAY. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Georgia.

Mr. RAY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise today in support of the Hastert amendment which would bring this bill back to its original intent, namely—elevating the EPA to Cabinet level and departmental status.

Over the past 20 years, we have seen a dramatic rise in the Nation's awareness of environmental problems. The 1990's have been labeled "The Decade of the Environment". It is only fitting that the Federal department charged with the carrying-out of the Nation's environmental initiatives be a full-fledged member of the President's Cabinet. Virtually every decision we make on a national level has environmental significance, and the President should be fully briefed on such impacts while decisions are still in the discussion stage.

Additionally, Mr. Chairman, as chairman of the Environmental Restoration Panel of the House Armed Services Committee, I have seen the need for an organized and elevated environmental policy. In fact, I have repeatedly urged the Secretary of Defense to elevate the Department's environmental person to the Assistant Secretary or Under Secretary level.

However, Mr. Chairman, this bill, as it stands now, is not intended to create a new EPA department. Rather, this bill is intended to cause political embarrassment to the administration. With all these amendments and add-ons, this measure is intended to force the President to use his veto pen and not allow him to reach his goal of an EPA department by Earth Day, which is April 22. Well, the only lasting embarrassment will be to the United States which will continue to have its environmental problems being handled by a non-Cabinet level, non-department. I think that is wrong, and I urge my colleagues to do away with such partisan shenanigans.

Many of the provisions currently within H.R. 3847 are non-germane or deal with subject matters that are better handled in other committees at other times. Let's deal with those provisions in a more straightforward manner at a later date. Today, we should do what we started out to do in the first place, and move quickly in granting Cabinet-level status to EPA.

Enacting the Hastert amendment will cleanse the bill of this excess material. The Nation deserves a Cabinet-level department to carry out its environmental practices, and it deserves to have such a department as soon as possible.

□ 1610

Mr. CLINGER. Mr. Chairman, I rise in support of the Hastert substitute to simply elevate the Environmental Protection Agency to Cabinet-level status. Preservation of our environment for future generations of Americans dictates that we work to ensure that our air is breathable, our waters swimmable and drinkable, and our soil tillable and productive. Elevating EPA to the Cabinet will help ensure that each of these desirable objectives is achieved. President Bush was right on the mark when he announced his support for elevating EPA.

What does elevating EPA to Cabinet level mean? Many may argue that elevation is largely a symbolic statement. I believe that elevation goes beyond symbolism. Giving the Administrator of the Environmental Protection Agency added stature can only ensure that environmental issues receive necessary Presidential attention. In addition, elevating the Administrator of EPA to Secretary will place our Nation's chief environmental protection officer on equal footing with environmental ministers from other countries. This is important as we begin to realize that pollution "knows no boundaries" and as it becomes apparent that a global response is necessary to effectively protect the environment.

Unfortunately, H.R. 3847 as currently drafted is not what the President envisioned when he embraced the elevation concept in January. Nor is H.R. 3847 what many of us on Capitol Hill envisioned when we first began discussing elevation legislation. Early on, I had reservations about any legislation that would go beyond elevating EPA. Looking at H.R. 3847 today, I realize that my reservations were well-founded. Understandably, the Administration has gone so far as to threaten to veto H.R. 3847 if some of the more burdensome and unrelated language is not removed. I am concerned that the legislation has been "loaded up" with language that has nothing to do with elevating EPA to Cabinet-level status. It is disappointing that some of my colleagues have turned the issue of the environment and a well-intentioned concept into a game of political football.

As currently drafted, H.R. 3847 establishes extraneous permanent advisory committees, provides sweeping and almost unchecked authority to the Director for Environmental Statistics, limits Presidential discretion in making appointments, overzealously requires disclosure information from individuals participating on scientific advisory boards, and is overly restrictive of the Agency's ability to contract out for certain services. In summary, H.R. 3847 has evolved from what the President termed a good concept into a bill that will be more costly to the American taxpayer and make the EPA more bureaucratic.

In an effort to evaluate whether executive branch agencies would be better managed under the Department of Environmental Protection, H.R. 3847 establishes the Commission on Improving Environmental Protection. I can appreciate the stated desires of Commission supporters to determine whether consolidation of executive branch agencies is warranted. Achieving better management and coordination in the executive branch are desirable goals. However, I am concerned that recommendations by the Commission will eventually inhibit Cabinet debate, thus limiting the choice of options available to the President. Quite

conceivably the concerns of these agencies may be overridden by the Secretary of the Department on Environmental Protection. Often cited as candidates for consolidation under the new Department of Environmental Protection are the National Oceanic and Atmospheric Administration, the Office of Surface Mining, and the Army Corps of Engineers. In addition to these agencies, I am certain that the Commission will consider executive branch agencies currently under the jurisdiction of other Departments for inclusion under the Department of Environmental Protection. It would be ironic that as we work to ensure the Environmental Protection Agency has a voice in the Cabinet, we dampen concerns that other agencies might have.

In summary, the Environmental Protection Agency should be elevated to Departmental status. This increased stature will ensure that issues of environmental significance will receive the President's personal attention. The Hastert substitute adeptly avoids the problems in H.R. 3847 and accomplishes our goals in the most expenditious and concise manner.

I would urge my colleagues to vote in support of the Hastert substitute.

Mr. TORRES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to express my strong opposition to the substitute being offered by Mr. HASTERT.

Congress has the responsibility to create a Department of Environmental Protection with the internal structure to do the job right—to do the job that Congress thinks is necessary to protect the environment. That should be our first priority, to protect the environment.

I resent being asked to simply approve a name change.

I will not be a party to a scheme for contracting out to the President's Chief of Staff the critical job of organizing the Department of Environmental Protection.

This body is not in the business of rubber stamping public relations ploys, even if they are being done in the name of Earth Day.

The creation of the Department of Environmental Protection is too important to be reduced to a simple name change.

I would urge my colleagues to vote against this substitute, and to vote in favor of final passage of the committee's excellent legislation.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I obviously rise in support of the amendment offered by my good colleague, the gentleman from Illinois [Mr. HASTERT].

Someone once said that most problems arise in Washington because Congress wants to give the President direction and the President wants Congress to give him discretion.

H.R. 3847 is a monument to the congressional obsession with giving directions to Presidents.

Mr. HASTERT's amendment strips away the various accretions, and additions, and mandatory requirements and gets to the heart of the matter.

And what is the heart of the matter? It is to raise the Environmental Protection Agency to a Cabinet-level Department.

That is what we are here to do. We are not here to fine-tune, micromanage, or impose our esoteric philosophies of management on the President.

There is a wonderful word of Yiddish origin that captures the spirit of those who have added on all these various directives.

The word is "kibitzer," defined as "one who looks on and often offers unwanted advice and comment."

H.R. 3847 has become the House kibitzer protection bill.

Given the fact that our own institution needs serious management reform, you would think we would be the last people in the world to load up this bill with defective directives.

But, no, the temptation to kibitz is too much for some of us.

Let us return to the pristine simplicity of the original idea of creating a Department of the Environment.

Mr. HASTERT's amendment is a model of legislative environmental quality itself; pure unpolluted by extraneous legislative matter, safe to vote for, and protective of the endangered species known as congressional common sense.

A vote for Hastert will be a vote for clean, swift, effective action something that is as rare around here as our own gifts for micromanaging anything.

Mr. WOLPE. Mr. Chairman, I move to strike the requisite number of words and I rise in strong support of the legislation to elevate the Environmental Protection Agency to Cabinet-level status and in strong opposition to the Hastert amendment to H.R. 3847.

I fully support elevating EPA to Cabinet-level status, but it is important that improvements be made in the agency's organization and responsibilities. I believe that H.R. 3847 makes many of the improvements and that these positive changes should be made in the legislation.

If the Hastert amendment were to pass, all of these enhancing provisions would be eliminated and we would be left with little more than a name change and an extra chair at the table.

Now I have no doubt whatsoever as to Mr. Reilly's own commitments to the environment. I think the selection of Mr. Reilly to head up the EPA was a marvelous choice by the President. But we have seen time after time again in the last several months where Mr. Reilly has been overruled either by Mr. Sununu or Mr. Darman at OMB. In many instances the budget commitments for EPA programs that have been offered up by Mr. Reilly have been totally gutted as the budget moved through the administrative process.

Therefore, so we have to in this Congress make clear that we expect more than lip service, that we are looking for more than simply a name change.

In my view, one of the most critical additions that this legislation would accomplish is a statutory creation of the assistant secretary for pollution prevention and recycling.

I want to commend my good friend and colleague, the gentleman from Michigan [Mr. CONYERS] for his foresight in establishing that office and the assistant secretary in statutory form.

Additionally I support my colleagues Mr. TORRES and Mr. CONYERS in the colloquy that they had yesterday in which they stressed the intent of Congress that the primary function of this new office be exclusively pollution prevention activities.

I have been on this floor many times before talking on the critical importance of pollution prevention, and I will continue to seek every opportunity to promote that concept, through research and technology transfer, through industry reporting requirements and through other means.

We simply must begin to change old habits and attitudes that have been cemented over the past several decades and have focused almost exclusively on end-of-the-pipe solutions.

We have a crisis orientation when it comes to dealing with the environment.

□ 1620

What we need to do is shift our policy. We are beginning to talk about stopping the creation of waste products at the first-of-the-pipe, before they enter the environment. That is why it is so important that the EPA begin to take seriously the commitment to prevention. We have been told that EPA supports the waste management hierarchy in which prevention is at the top of the list. However, the reality is less than 1 percent of EPA's R&D activities over the past several years have been centered on pollution prevention. Ninety-nine percent of everything that has been gone to the EPA has focused on the crisis response and the end-of-the-pipe approach. Therefore, we must establish, in statutory form, an office that will provide the bold, highly visible actions so necessary to promote pollution prevention.

It turns out that not only is pollution prevention the most environmentally sensitive approach, it also makes enormous business sense for industry

and for the society. We also have to stop the shell game of transferring pollution from one medium to another. The establishment of an Assistant Secretary for Pollution Prevention and Recycling better provides for a comprehensive approach to the issue of pollution prevention. This legislation will send an explicit message to other EPA offices, to other Federal and State and local agencies, to industry, and to the public that the Federal Government is finally serious about first reducing or eliminating the contaminants before they enter our environment, and second, recycling as much of the remaining wastes as possible. We are saying this is not just a passing fad, but a serious, long-term commitment.

Just as important as creating this position of Assistant Secretary for Pollution Prevention and Recycling is the need for this office to maintain a clear, unequivocal mission, unencumbered by additional responsibilities.

I urge my colleagues to oppose the Hastert amendment and support H.R. 3847.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Hastert substitute. If the goal of the Congress is to mire the Department in jurisdictional battles with other agencies and departments in an attempt to consolidate power, then the committee bill has the very real potential to do just that.

If the goal of the Congress is to elevate EPA to a Cabinet-level agency—the Hastert substitute does the job simply, clearly, and expeditiously.

Mr. Chairman, this contains a highly controversial Advisory Commission on Improving Environmental Protection. The purpose of this Commission is clear—to enlarge the power and scope of the Department at the expense of agencies already in place, already working, and already fulfilling their mandate.

Proponents of the Commission have expressed an interest in extending the Department's jurisdiction to encompass the National Oceanic Atmospheric Administration, the Office of Surface Mining, and the Army Corps of Engineers, to name a few.

By consolidating the various offices that now have jurisdiction over environmental issues within the Department of Environmental Protection, we run the risk of stifling debate on policy questions within the executive branch. The Hastert substitute ensures that policy questions and information on environmental issues will continue to flow freely from one agency to another.

Mr. Chairman, I urge my colleagues to support the Hastert substitute which elevates the EPA to a Cabinet level without holding other agencies and offices hostage to an unfriendly takeover.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the legislation. As a member of the Committee on Government Operations, I want to commend our chairman, the gentleman from Michigan [Mr. CONYERS], and the ranking member, the gentleman from New York [Mr. HORTON] for their leadership in bringing this legislation to the floor.

I rise in support of H.R. 3847 because I think it is necessary. Throughout the history of our country, the growth and needs of our country have been reflected by the growth in the Cabinet. As we prepare for the future and prepare for the year 2000, in order to leave the proper legacy for our children and our grandchildren, it is necessary for that Cabinet to be expanded to include the full protection of our environment.

This should not be a symbolic action. For that reason, I oppose the Hastert substitute, and ask my colleagues to vote against it in support of the bill that has been reported out of the Committee on Government Operations.

Again, I thank the chairman, the gentleman from Michigan [Mr. CONYERS], and the ranking member, the gentleman from New York [Mr. HORTON].

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

I rise in strong support of the gentleman from Illinois [Mr. HASTERT] amendment. This amendment would return Members to the goal stated by the leaders of both sides and by the President of the United States.

We would elevate the EPA, clean and simple. Debating the merits of these other amendments is useful, but frankly, it threatens to get Members off target. In the vernacular of southwest Florida, it is hard to remember your purpose is to drain the swamp when we are up to our elbows in alligators. This bill now faces the risk of becoming so bogged down by extraneous and possibly unconstitutional provisions that we literally might lose the forest for the trees.

If the goal is to elevate the EPA to Cabinet status, and it is, then we should stick to that goal and pass a clean bill. A number of amendments our colleagues have offered today are very worthy and deserve consideration in other proper context. Now, however, is not the time.

A little over 2 years ago, this body voted to elevate the Veterans' Administration to Cabinet level. That status came about without weighting down the new Department with new responsibilities that had not been adequately studied. The result? The Department of Veterans Affairs has received good marks for its performance and contribution to the community. Much of its success can be attributed to a smooth, unencumbered transition to the President's Cabinet table.

The value of elevating the EPA lies in transforming the role from an administrative line agency to a highly visible national and international advocate for the environment. Unfortunately, many of the previous amendments run the risk of causing the EPA to focus literally on a myriad new bureaucratic structures, rather than allowing it to look upward. Maybe, to put it topically in Washington language—there is getting to be too much "broccoli" in this bill.

Mr. Chairman, the Department of Environmental Protection needs to hit the ground running. We should not bog down Secretary Reilly at the very point when he can least afford to be bogged down.

There is another bit of lore in southwest Florida that comes to mind today. Old-timers down our way say "Never try to teach a pig to sing. It frustrates you, and irritates the pig." That is good advice. I cannot see any reason to ignore it. We do not need any singing pigs. We do need a Secretary of Environment.

I strongly urge my colleagues to cast a vote for clean environment and a strong Department of Environment for protection, and support the Hastert amendment.

Mr. HEFLEY. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the Hastert amendment. I would like to take a couple of moments to say a word in support of the Hastert amendment.

I think environmental issues, indeed as has been stated over and over here this afternoon, will be some of the most important issues that we deal with in the next decade, both in this Congress and across the world. We need to clean up our air. There is no question about that. The brown clouds need to go. We need to get rid of the acid rain problem and quit dumping waste in streams and lakes, and deal with the problem of solid waste which is about to bury everyone. Every man, woman, and child produces 4½ pounds of solid waste a day in newspaper and junk. We do not know where to put it. We cannot find enough landfills to fill it up. Also, on a global basis where the cutting and burning of the rain forest is completely unacceptable. Our planet will not tolerate much more of that. We need an Environmental Protection Department that can sit at the table on an equal basis with similar departments of other world leaders, when we are trying to deal with these worldwide environmental problems.

□ 1630

That is the question. That is why we got into this debate. That is why the President recommended that we elevate the Environmental Protection Agency. He did not say, "Come in and help me to see how we can better protect the environment." He said, "Let us elevate this so that we will have an agency that can sit on an equal footing with other such agencies around the world."

But today we are playing politics with this very important issue of the environment. We see a Christmas tree, we plug on the lights, and we see all these great ideas, good and bad ideas about amendments that we can attach to this bill so they will go cycling through and we can get them passed.

We do not need this as a vehicle for that kind of political game-playing. We need it to be a cabinet level position, and the way to do that is to pass the Hastert amendment. Let us pass a bill that the President can sign and will sign, not one that is designed to embarrass him and force him to veto, but one that he can and will sign. Let us pass the Hastert amendment. When we do that, we will know that we have the Department elevated to Cabinet status, and we can deal with each of these other issues on their own merits.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I may, I would pose a question to the author of the amendment.

We have heard a lot of discussion here this afternoon about the relative advantages of the gentleman's amendment versus the amendment that has been offered by the committee. I think one of the questions many of us want absolutely clarified is the question of the cost of these two different approaches.

Can the gentleman estimate for me what the cost is of implementing his bill?

Mr. HASTERT. Mr. Chairman, if the gentleman will yield, my understanding from the OMB is that the cost of implementing the pure escalation of the EPA to Cabinet status will be about $30,000.

Mr. WALKER. The cost would be $30,000, and that would take care of all the new signs?

Mr. HASTERT. And the seals and accessories.

Mr. WALKER. The seals and all that. So there would be no additional expense involved?

Mr. HASTERT. That is my understanding.

Mr. WALKER. Mr. Chairman, let me ask the gentleman, is there an estimate of what the committee bill would cost to elevate it to Cabinet status?

Mr. HASTERT. The estimate on the committee bill as it came to the floor today is about $50 million. That is the OMB estimate.

Mr. WALKER. Did the gentleman misstate himself? Did he mean $50,000 as compared to $30,000?

Mr. HASTERT. No, $50 million.

Mr. WALKER. All right. And that is $50 million for this new department?

Mr. HASTERT. That is correct.

Mr. WALKER. Now, about the amendments we have added on the floor today, do they add any expenses beyond that?

Mr. HASTERT. I am sure they did add expense. I do not have any current update, but probably from the estimates we have, they may double the price or the cost of the bill.

Mr. WALKER. So we have the potential in what we are voting here that the difference between the gentleman's amendment is the difference between $30,000 and $100 million?

Mr. HASTERT. Well, there are two issues. First of all, we have just the cost of the bill, plus the bureaucracy that the $100 million will buy and that we have to cut through to get answers from the EPA.

Mr. WALKER. But at the very least, according to OMB, the difference is between $30,000 and $50 million?

Mr. HASTERT. That is exactly right.

Mr. WALKER. And it could be as much as $100 million. So we are talking about real numbers here.

Is there any pay-as-you-go in this process where we have come up with the money to handle $100 million worth of cost?

Mr. HASTERT. It is my understanding that there was one provision in the amendment offered by the gentlewoman from Illinois [Mrs. MARTIN] that any recaptured funds from enhanced enforcement would go back into the pot. But that is all I know about.

Mr. WALKER. But that would go back into the pot for enforcement, would it not?

Mr. HASTERT. That is right.

Mr. WALKER. It would not pay for the cost of $100 million that would elevate it to Cabinet status?

Mr. HASTERT. That is my understanding.

Mr. WALKER. So what we have in the bill is this: We have no pay-as-you-go, and it would add $50 million to $150 million of cost to the Federal Government?

Mr. HASTERT. That is correct.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Michigan?

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding.

Mr. Chairman, I would like to bring to the gentleman's attention a document signed March 26 by Robert Grady, the associate director for natural resources for OMB.

He said that the administration expects incremental costs associated with the elevation to be small. He pointed out that the administrator's salary would be about $10,700 to $107,300, and the deputy administrator's salary would be $7,600 to $96,000. So we have a very tiny increase.

But the report itself on page 16 gives us a more total appropriations authorization in section 308. It says: "There are authorized to be appropriated to carry out this title not more than $1.5 million for fiscal year 1991 and not more than $2.5 million for fiscal year 1992."

Mr. Chairman, I think the gentleman should be advised of those figures.

Mr. WALKER. I thank the gentleman, but I am a little confused by the figures. I do not know what the administration may be calling small amounts of money. Maybe somebody down there thinks that $50 million is a small amount of money, but I do have some CBO costs before me that indicate that just the Bureau of Statistics in this bill is $5.2 million in 1991; the access to information resources is $2.5 million in 1991; the computer pilot program is between $250,000 and $1.5 million; the advisory committee on access begins at $300,000 a year; the commission on improving environmental protection is $1.5 million in 1991; the minority pollution study is another $600,000.

That adds up to some big bucks, I would say to the chairman of the committee. Somebody might call that little amounts of money. To me it sounds like significant sums.

Is the gentleman saying that CBO is wrong here,

Mr. CONYERS. Mr. Chairman, if the gentleman will continue to yield, this is what we are going to go forward with. In other words, what we may do is save a lot of money from the CBO estimates, because this is all we are seeking. This is the bottom line. So I would not concern myself about the variety of estimates. We have three so far, and this is what is in section 308.

Mr. WALKER. What is the bottom line on how much the gentleman said he is going to charge for getting this department started?

Mr. CONYERS. The bottom line for fiscal year 1991, referring to page 16 of our report, is $1.5 million for fiscal year 1991.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. So, Mr. Chairman, if I understand the gentleman correctly, by his estimates, which CBO seems to

disagree with, it is going to cost $1.5 million under his bill, whereas the Hastert approach is going to cost $30,000. Back in Pennsylvania Dutch Country there is a big difference between $30,000 and $1.5 million. Even that is a very significant difference in moneys, but that seems to not take into account this Bureau of Statistics figure of $5.2 million.

Is the gentleman saying the Bureau of Statistics can be done within the $1.5 million he is talking about?

Mr. CONYERS. No, sir. What I wanted to remind the gentleman of is that on an amendment that was passed and offered by the gentlewoman from Illinois [Mrs. MARTIN], we put additional prosecutors who earn 2½ times their own salary in recoveries in terms of criminal and civil suits. So we think these things are going to balance out.

But if the gentleman wants only this—and apparently the gentleman from Illinois does, and the gentleman from Pennsylvania might too, for all I know—if these gentleman really want to elevate the head of the agency to a Cabinet level and leave the rest alone, they are on solid ground.

Mr. WALKER. No.

Mr. CONYERS. Mr. Chairman, if the gentleman wants to make the kinds of corrections that are dictated by experience, including those the present director, Mr. Reilly brought to our attention and which we have converted into the bill now before us, then we will have to make those corrections, and it may carry this price tag with it.

In other words, what the gentleman seems to be saying to me is that indeed the price tag may be a good deal more than this, and somehow we are going to magically come up with the money. But there is a real difference between what the gentleman is proposing and $30,000. The price tag here is somewhere between $1.5 million and $50 million or $100 million, depending upon who makes up the figures. My guess is that probably $30,000 is more like what we can afford.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois [Mr. HASTERT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HORTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 266, not voting 6, as follows:

[Roll No. 49]

AYES—161

Archer	Ballenger	Barton
Armey	Barnard	Bateman
Baker	Bartlett	Bentley
Bereuter	Hiler	Paxon
Bevill	Holloway	Petri
Bliley	Hopkins	Pickett
Broomfield	Horton	Pursell
Bunning	Houghton	Quillen
Burton	Hunter	Ravenel
Byron	Hutto	Ray
Callahan	Hyde	Regula
Campbell (CO)	Inhofe	Rhodes
Chandler	Ireland	Ridge
Chapman	Johnson (CT)	Ritter
Clinger	Jones (GA)	Roberts
Coble	Kasich	Robinson
Coleman (MO)	Kolbe	Rogers
Combest	Kyl	Rohrabacher
Coughlin	Lagomarsino	Roth
Courter	Laughlin	Saiki
Cox	Leath (TX)	Sarpalius
Craig	Lent	Schiff
Crane	Lewis (CA)	Schulze
Dannemeyer	Lewis (FL)	Sensenbrenner
Davis	Lightfoot	Shaw
DeLay	Livingston	Shumway
DeWine	Lowery (CA)	Shuster
Dickinson	Lukens, Donald	Sisisky
Dornan (CA)	Madigan	Skeen
Duncan	Marlenee	Slaughter (VA)
Edwards (OK)	Martin (NY)	Smith (NE)
Emerson	McCandless	Smith (TX)
Fawell	McCollum	Smith, Robert (OR)
Fields	McCrery	Solomon
Fish	McDade	Spence
Frenzel	McEwen	Stallings
Gallegly	McGrath	Stangeland
Gekas	McMillan (NC)	Stearns
Geren	Meyers	Stenholm
Gingrich	Michel	Sundquist
Goodling	Miller (OH)	Tallon
Goss	Mollohan	Thomas (CA)
Gradison	Montgomery	Thomas (WY)
Grandy	Moorhead	Upton
Grant	Morrison (WA)	Vander Jagt
Gunderson	Myers	Volkmer
Hall (TX)	Nielson	Vucanovich
Hammerschmidt	Olin	Walker
Hancock	Oxley	Whittaker
Hansen	Packard	Wolf
Hastert	Parker	Wylie
Hayes (LA)	Parris	Young (AK)
Hefley	Pashayan	Young (FL)
Herger	Patterson	

NOES—266

Ackerman	Condit	Gaydos
Akaka	Conte	Gejdenson
Alexander	Conyers	Gephardt
Anderson	Cooper	Gibbons
Andrews	Costello	Gillmor
Annunzio	Coyne	Gilman
Anthony	Crockett	Glickman
Applegate	Darden	Gonzalez
Aspin	de la Garza	Gordon
Atkins	DeFazio	Gray
AuCoin	Dellums	Green
Bates	Derrick	Guarini
Beilenson	Dicks	Hall (OH)
Bennett	Dingell	Hamilton
Berman	Dixon	Harris
Bilbray	Donnelly	Hatcher
Bilirakis	Dorgan (ND)	Hayes (IL)
Boehlert	Douglas	Hefner
Boggs	Downey	Henry
Bonior	Dreier	Hertel
Borski	Durbin	Hoagland
Bosco	Dwyer	Hochbrueckner
Boucher	Dymally	Hoyer
Boxer	Dyson	Hubbard
Brennan	Early	Huckaby
Brooks	Eckart	Hughes
Browder	Edwards (CA)	Jacobs
Brown (CA)	Engel	James
Brown (CO)	English	Jenkins
Bruce	Erdreich	Johnson (SD)
Bryant	Espy	Johnston
Buechner	Evans	Jones (NC)
Bustamante	Fascell	Jontz
Campbell (CA)	Fazio	Kanjorski
Cardin	Feighan	Kaptur
Carper	Flake	Kastenmeier
Carr	Flippo	Kennedy
Clarke	Foglietta	Kennelly
Clay	Ford (MI)	Kildee
Clement	Frank	Kleczka
Coleman (TX)	Frost	Kolter
Collins	Gallo	Kostmayer
LaFalce	Oberstar	Slaughter (NY)
Lancaster	Obey	Smith (FL)
Lantos	Ortiz	Smith (IA)
Leach (IA)	Owens (NY)	Smith (NJ)
Lehman (CA)	Owens (UT)	Smith (VT)
Lehman (FL)	Pallone	Smith, Robert (NH)
Levin (MI)	Panetta	Snowe
Levine (CA)	Payne (NJ)	Solarz
Lewis (GA)	Payne (VA)	Spratt
Lipinski	Pease	Stark
Lloyd	Pelosi	Stokes
Long	Penny	Studds
Lowey (NY)	Perkins	Swift
Luken, Thomas	Pickle	Synar
Machtley	Porter	Tanner
Manton	Poshard	Tauke
Markey	Price	Tauzin
Martin (IL)	Rahall	Taylor
Martinez	Rangel	Thomas (GA)
Matsui	Richardson	Torres
Mavroules	Rinaldo	Torricelli
Mazzoli	Roe	Towns
McCloskey	Ros-Lehtinen	Traficant
McCurdy	Rose	Traxler
McDermott	Rostenkowski	Udall
McHugh	Roukema	Unsoeld
McMillen (MD)	Rowland (CT)	Valentine
McNulty	Rowland (GA)	Vento
Mfume	Russo	Visclosky
Miller (CA)	Sabo	Walgren
Miller (WA)	Sangmeister	Walsh
Mineta	Savage	Washington
Moakley	Sawyer	Watkins
Molinari	Saxton	Waxman
Moody	Schaefer	Weber
Morella	Scheuer	Weiss
Morrison (CT)	Schneider	Weldon
Mrazek	Schroeder	Wheat
Murphy	Schuette	Whitten
Murtha	Schumer	Williams
Nagle	Serrano	Wilson
Natcher	Sharp	Wise
Neal (MA)	Shays	Wolpe
Neal (NC)	Sikorski	Wyden
Nelson	Skaggs	Yates
Nowak	Skelton	Yatron
Oakar	Slattery	

NOT VOTING—6

Ford (TN)	Smith, Denny (OR)	Stump
Hawkins	Staggers	
Roybal		

□ 1700

The Clerk announced the following pair:

On this vote:

Mr. Stump for, with Mr. Ford of Tennessee against.

Messrs. MARTINEZ, FLAKE, TAUKE, HENRY, and DERRICK changed their vote from "aye" to "no."

Messrs. LEWIS of California, VOLKMER, and MILLER of Ohio changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. No further amendments are in order under the rule.

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a subsitute, as amended, was agreed to.

Ms. SCHNEIDER. Mr. Chairman, I rise in strong support of the Environmental Protection Agency becoming elevated to Cabinet rank, and commend President Bush for expediting implementation of this effort. When we take a moment to realize how environmental concerns pervade our daily lives, whether at

home, work, school, or during our recreation, it is clear that this is a long overdue step. In the 20 years since Earth Day there has been a steady rise in the public's call for maintaining clean air and water, preventing toxic chemicals from entering our food and soils, protecting our oceans, bays, and coastline from contamination, and strongly supporting energy conservation and pollution prevention as top priorities for preserving the environment and maintaining our quality of life. Constituents in my home State of Rhode Island hold our natural heritage in very high regard, and place a special premium on protecting the integrity of these natural assets.

At the same time, there is an increasing awareness among the voters that the environmental problems we face are no longer limited to the community or State, or even the Nation, we live in. We now face a rash of global environmental threats to humanity, among them massive extinction of plant and animal species, destruction of the ozone layer, and global warming.

Each of these problems poses serious risks to ongoing economic prosperity for all nations. As a number of astute observers have noted, our failure to address these problems also compromises national security. The tens of millions of environmental refugees who now cross national boundaries in search of food and escape from famine is a stark manifestation of how ecology and security overlap.

The value of EPA as a Cabinet-level agency is its ability to bring into full relief the environmental conditions essential for maintaining a vibrant economy. As the cofounder and cochair of the Congressional Competitiveness Caucus, I have had the opportunity to observe firsthand the recognition by corporate leaders that environmental concerns must be an integral part of every company's practices. Pioneering companies like 3M, with the 3P program, Pollution Prevention Pays, have demonstrated beyond any about that bottom line profits can be achieved through reducing, reusing and recycling pollutants.

I can think of no finer Cabinet Secretary for EPA than Bill Reilly. As the former head of the Conservation Foundation World Wildlife Fund, Bill brings to this position a consummate understanding of environmental issues. I have the utmost respect for his dedication to breathing new life into EPA, and for his keen insight that sound environmental management is essential for a prosperous economy, not inimical to it. I look forward to working with Secretary Reilly on the many legislative issues before us.

Mr. SKAGGS. Mr. Chairman, I want to express my strong support for H.R. 3847, the Department of Environmental Protection Act. By voting to establish a Department of Environmental Protection [DEP], I hope we are signaling the beginning of a new philosophy and seriousness about our responsibilities to this Earth.

The bill sent us by the Government Operations Committee is a good one. It will start things out on the right track: broadening and strengthening EPA's research, regulation, and enforcement mandate, while minimizing political influence on these critical areas. Environmental protection—like law enforcement—should not bow to the changing political winds of different administrations or their particular constituencies. Therefore, I urge my colleagues to defeat amendments designed to undercut the new department's independence, and turn back other amendments intended to weaken its strong proenvironment charter. This is a chance to do things right. Let's make a clear and determined statement in this bill, and do so proudly.

If, on the other hand, after passing this bill, we leave this Chamber thinking we've fulfilled our responsibility to the environment, then creating this Department will have been an empty exercise—a victory of symbol over substance. We must all continue to fight for the environmentally sound policies we've charged the Department of Environmental Protection with enforcing. It can't do it without our support.

Earth Day is April 22. But each and every day in Congress we have the special opportunity and responsibility to craft policy that protects the Earth. In the long run, the actions we take now to protect the future of our country and our planet will do as much to advance our national security as any item in the defense budget. I, for one, pledge to do everything I can to shape law to cleanup, protect, and preserve our air, our water, and our lands.

The scientists can't yet tell us how forgiving of our environmental assaults the Earth ultimately will be. They can't tell us if human activity may already have pushed the planet past the point of no return. We're walking on the margin of error, and if we exceed it, we destroy our future.

Mr. KANJORSKI. Mr. Chairman, although I rise today in support of H.R. 3847, I would like to share with my colleagues a complaint that I fear is all too commonplace.

Far too frequently large sums of Superfund money are spent on public relations, lawyer fees, and studies while not enough is going toward actually cleaning up hazardous and toxic sites.

Of the nearly $4.5 billion spent on the Superfund Program to date, only $1.6 billion has been used for the actual cleanup. Most of the money is spent on studies, legal fees, and public relations. The result: less than 2.5 percent of existing Superfund sites have been removed permanently from the list. Furthermore, this list continues to grow by leaps and bounds.

In my district two Superfund sites offer excellent illustrations of the inadequacies within the Superfund Program. The first is the Butler Mine Tunnel which was placed on the Superfund list in 1981. In this instance, abandoned mine tunnels were being used as illegal dumps because unscrupulous people flushed toxic materials down a borehole that led to the series of tunnels.

In 1982, the EPA declared the site cleaned up. However, as a result of heavy rains from Hurricane Gloria in 1985, approximately 100,000 gallons of contaminated oil spilled from the Butler Mine Tunnel into the Susquehanna River.

Since then, the site has been returned to the Superfund list. However, no real action has been taken to resolve the continuing health hazard. The people of northeastern Pennsylvania have heard reports of numerous studies and law suits, but we have seen no action.

The second case involves the cleanup of the C&D recycling center, which was placed on the Environmental Protection Agency's Superfund list in August of 1985. Since that time, very little has been done to actually clean up the site, and it appears now as if further delays lie ahead.

Since late 1985, residents with property adjacent to the C&D site have not been able to drink their tap water for fear of lead contamination. Furthermore, until very recently, these same residents were increasingly frustrated due to an almost complete lack of communication between themselves and the EPA.

While the EPA has, recently, attempted to be more receptive to the residents' questions and concerns, little substantive progress has been made. Moreover, if the present plan is followed, the site is not likely to be cleaned up for at least 5 more years.

As part of its effort to improve relations and communication betwen the EPA and the community, the EPA has hired the consulting firm of Booz, Allen. While I applaud their intentions, I question whether this step will, in the long run, help either the project or the EPA's standing with the community.

At this point, the residents simply want the site cleaned, and there is a great fear that by hiring Booz, Allen the process will only be prolonged. The EPA has lost the respect and the confidence of the people, and concrete action is the only way that it will be restored.

I believe that the EPA's handling of the C&D Recycling and Butlers Mine Tunnel sites are all too common examples of many of the problems currently facing the Superfund Program. While reading the recent report issued by the Office of Technology Assessment on the Superfund Program, I was struck by the similarity between frustrations documented by OTA and those experienced by the residents near the C&D and Butler Mine Tunnel sites.

Mr. Chairman, the EPA's record in cleaning up Superfund sites is a disgrace. While I believe that the important work of this agency merits departmental status, I hope we do not lose sight of the crying need to revamp the Superfund Program so that more progress is made on cleaning up hazardous sites and less attention is paid to hiring public relations firms to make excuses for EPA's failure to perform.

Mr. UDALL. Mr. Chairman, today, I will vote against the elevation of the Environmental Protection Agency to Cabinet status. As a Congressman, I've been privileged to play a part in one of the most important movements of this century, the crusade to protect the environment. Like many of my colleagues, I believe there is great danger that mankind may make this planet uninhabitable. I would agree with many of my colleagues on the need for greater attention to the poor condition of our environment. That being said, I will vote against this legislation.

As a student of Congress for quite some time, I've learned a few rules and fundamental truths. I've discovered that in complicated human affairs one leader can only supervise on a daily, routine basis a crew of four to six individuals. You will see this throughout Government in differing terms. In the Army, there is one general and four or five top assistants. Many of my colleagues operate their offices in

this fashion. Any increase in this small number of assistants tends to produce a breaking point, a collapse of communication.

When I came to Washington the President's Cabinet meeting was a relatively small affair. Now I wonder if the White House has enough chairs for everyone. I've witnessed the creation of four new Cabinet posts and I have come to recognize that the creation of bureaucracy is a one-way street, that going back is not a possibility. In regards to this style of governing, I am casting my vote as a form of protest.

Mr. GALLO. Mr. Chairman, I am very pleased that the House is considering today H.R. 3847, which would establish a Department of Environmental Protection.

As an original cosponsor of this legislation, I believe that passage of this bill brings the needed recognition that the United States, on a bipartisan basis, is committed to environmental protection in this country and to the world environment.

When I first came to Congress, we were debating Superfund to assist in cleaning up our Nation's toxic waste sites that were created during our industrial revolution, when environmental awareness was put on the back burner. Since then we have begun to make headway in the need for environmental protection.

Today, as we move into the 21st century our planet is still plagued with many global environmental problems. The quest for clean air and water, concerns about global warming and the growing solid waste disposal crisis has placed an even greater importance on preserving our environment and natural resources.

We have come a long way since the creation of the Environmental Protection Agency in the 1970's, however, it is time for the United States to take the next step and create the Department of Environmental Protection. I think the Government's chief environmental protection office should have the same authority and influence as the other U.S. departments and therefore should be granted the appropriate status.

H.R. 3847 would provide for a closer working relationship with the President, a strengthening and balancing of the Department's interrelations with other Federal agencies and an equal standing with foreign environmental ministries.

This bill is a commitment to protecting the environment and I am proud to support it.

Mr. GEPHARDT. Mr. Chairman. I want to commend Chairman CONYERS for his strong leadership and for bringing legislation to the floor today that will elevate the Environmental Protection Agency to Cabinet-level status.

Since the Environmental Protection Agency was established 20 years ago, its responsibilities have greatly increased. Elevating the Agency to Cabinet-level status, as Chairman CONYERS proposed early this year, will strengthen our ability to protect the environment, both at home and internationally.

The Government Operations Committee bill, and many of the amendments under consideration, go farther than simply lengthening the size of the Cabinet table to accommodate another chair.

These proposals will strengthen environmental protection, and insulate the proposed department from partisan influence and special interest control. Adopting them will ensure the new Department stands with the people, and against the polluters, and for helping to protect working families from environmental hazards in our land, water, and air.

Our bill establishes an independent Bureau of Environmental Statistics. The Bureau will collect and disseminate facts on environmental hazards, and this data will be protected from the kind of number cooking in which OMB and others have typically engaged.

Our bill seeks to limit the contracting out to private interests of functions that should be conducted by Department employees—and this will prevent polluters from exerting an unhealthy influence on the policymaking process.

Other reforms deserve our support as well. Department of Energy and Department of Defense facilities—and those of every other Federal agency—should comply with the hazardous waste standards we require of the private sector. The new Department's personnel should be appointed on the basis of competence rather than politics.

These proposals are all aimed at strengthening the Department, they are aimed at ensuring the symbolic importance of elevating EPA to Cabinet-level status is not undermined by politics or special-interest favor. These concerns are not academic in nature. We want to prevent a repetition of the kinds of political gamesmanship which occurred during the 1980's under Administrator Gorsuch and others.

For these reasons, I was particularly disappointed that the administration has issued a veto threat against our bill, simply because it attempts to assure the Department is an independent watchdog for and protector of the environment.

It would be a sham and a shame to place another chair around the Cabinet table with a law that places a gag on that Department's ability to protect the environment in an effective, non-partisan way.

I urge my colleagues to support these reforms. This is a reasonable step for good government and for an effective, non-partisan approach solving the Nation's environmental problems.

Mr. HOYER. Mr. Chairman, today I rise in support of the H.R. 3847, the Department of Environmental Protection Act, redesignating the Environmental Protection Agency as the Department of Environmental Protection which elevates it to Cabinet status. I would like to thank and commend the chairman for expeditiously bringing this legislation to the floor.

Mr. Chairman, in less than 1 month we will be commemorating the 20th anniversary of "Earth Day" which will be celebrated and recognized throughout the world. In addition, the Congress of the United States is in the final stages of passing monumental clean air legislation for the first time in 10 years. This is clearly the decade of the environment. What better way to serve the best interest of our country's environment by elevating the Environmental Protection Agency to Cabinet status. It is vitally important that if we are to protect this country's greatest natural resource we need to give the regulating authority the status and credibility it needs to facilitate the operations of the Department.

I would like to take this opportunity to applaud some of the key provisions of H.R. 3847. The experience and proficiency of professional employees will be guaranteed by appointing individuals based primarily on their experience on environmental concerns rather than on the basis of their political affiliations. This provision preserves the intent of the legislation by ensuring that employees have the professional experience and knowledge to competently serve the Department.

The establishment of three offices within the Department of Environmental Protection, each headed by an assistant secretary will serve to efficiently regulate the concerns within their respective jurisdictions.

The Office of International Environmental Affairs will allow the Secretary to effectively participate in the work of international organizations, and negotiate environmental conventions. Canada, our neighbor to the north, is keeping a watchful eye on our clean air bill and their concern with acid rain generated by this country validates the need for establishing this office.

The Office of Enforcement will monitor compliance with existing regulations and new laws resulting from clean air legislation. The office will investigate regulation violations and assist in correcting many of the deficiencies in current environmental enforcement action.

The Office of Pollution Prevention and Recycling will implement programs for reducing the quantity of pollution already being generated, coordinated efforts to prevent pollution, and promote recycling programs.

Mr. Chairman, our Nation's minority and low-income populations have sadly been exposed to health hazards and adverse environmental conditions as a result of their environment. The legislation before us today authorizes $600,000 for a National Academy of Sciences study and report to Congress to determine the extent to which minority and low-income populations are disproportionately affected and exposed to environmental pollutions. In addition, the academy is required to make recommendations in order to solve the problem.

Mr. Chairman, we have an opportunity today to recognize the importance that the environment has to our country. If this is to be the decade of the environment we need to make every effort to improve the quality of our environment. I urge all of my colleagues to join with me today in support of the Department of Environmental Protection Act.

Mr. DREIER of California. Mr. Chairman, it's easy to argue that the EPA deserved Cabinet status as the Department of Environmental Protection. Since its inception 20 years ago, the EPA has been a regulatory force guarding the safety and quality of our air, land, and water.

The EPA administers the comprehensive protection laws vital to our Nation's environment, among them Superfund, the Resource Conservation and Recovery Act, the Federal Insecticide, Fungicide, and Rodenticide Act, and the Clean Air Act, passage of which we

all look forward to celebrating next month on Earth Day.

The responsibility of protection our environment deserves treatment equal to that of preserving our interior or of maintaining our energy resources. The EPA presently lacks important access to the President not missed by the Departments of Interior and Energy, not to mention the other 12 Cabinet Departments.

The President endorsed the idea of a Department of Environmental Protection, and I understand he will support H.R. 3847, given specific improvements. I urge my colleagues to support the President's efforts to create a structure for the new Department of Environmental Protection along the lines of the other Cabinet-level agencies.

Supporting the promotion of the EPA to Cabinet status need not reflect a desire to a balloon the size and scope of bureaucracy. Some of my colleagues wish to amend this bill to open the door to increased Department spending, close the door to the private sector, and build fortified, independent microbureaucracies instead of a cohesive, responsive, directed Department of Environmental Protection.

The last 25 years have seen 5 new Cabinet Departments, and in our entire history not one of our current 14 Departments has ever been reduced or eliminated. We show good judgment by elevating the EPA. Let us also show good judgment by not forgetting the need for restraint in our action.

After the EPA's promotion we should consider streamlining the Cabinet. One option is to merge the Departments of Interior, Energy, and Environmental Protection to form one Department of Resource Management. Such a move would unify the Departments' objectives and eliminate both redundant and contradictory divisions that exist in the three separate Departments. Surely, the EPA merits Cabinet status, but the status of the Cabinet also merits serious consideration.

Mr. BORSKI. Mr. Chairman, I rise today to voice my support of H.R. 3847, bipartisan legislation to establish the Department of Environmental Protection.

Environmental protection will be one of the major issues of the 1990's, both in this country and abroad. The time is right to recognize the importance of giving the environment priority by elevating the Environmental Protection Agency [EPA] to Department level status.

The EPA already has a larger budget than the State Department or the Commerce Department and employs more people than the Education Department or the Department of Housing and Urban Development [HUD]. And that is good.

But the EPA lacks something that State, Commerce, Education, and HUD have: clout. H.R. 3847 will give the new Department of Environmental Protection more influence in the White House, more pull with other Government agencies and more power for enforcing environmental regulations.

The Secretary of Environmental Protection will have a seat at the President's Cabinet table, not a seat by the door. The Secretary will be able to negotiate global environmental treaties and accords. And, the Secretary and Department employees will have the authority necessary to ensure compliance with the environmental laws passed by Congress.

H.R. 3487 will not solve all of our environmental problems. But it will move us toward resolution of those problems.

The United States has made a lot of environmental progress in the last two decades. With the 20th anniversary of both Earth Day and the creation of the EPA upon us, H.R. 3847 will ensure that environmental progress continues for decades to come.

Mr. HOCHBRUECKNER. Mr. Chairman, I rise in strong support of H.R. 3847, to establish a Cabinet-level U.S. Department of Environmental Protection. I am delighted to be a cosponsor of this long-overdue legislation.

First of all, I want to recognize the diligence and hard work of our colleague from Michigan [Mr. CONYERS]. The gentleman is to be commended for his foresight and skill in preparing this landmark legislation and bringing it to the floor in such a timely fashion.

Thanks are also due to our former colleague from New Jersey [Mr. FLORIO], who sponsored similar legislation last year. I am sure that he is pleased that the House is moving on this legislation today.

I want to call my colleagues' attention to a particular provision of H.R. 3847—the establishment of an Office of Pollution Prevention and Recycling within the new Department of Environmental Protection. This is a critical provision. Many of our colleagues have called for the creation of a central Federal office or "clearinghouse" that would be equipped to coordinate waste reduction and recycling programs, disseminate information to the public, and work to facilitate the adoption of pollution prevention and recycling programs nationwide. H.R. 3847 realizes this important objective while elevating the Federal Government's environmental office to the highest level.

Mr. Chairman, we all recognize that our Nation faces a severe garbage crisis. Americans collectively throw away over 160 million tons of trash every year, 80 percent of which is landfilled. Since 1983, over 3,000 landfills have closed for environmental or capacity reasons. By 1992, one-third of all remaining solid waste dumps will be closed. Over the next several years, more than half of all States will face critical landfill capacity problems. Clearly, we are running out of places to hide our waste.

My own district currently faces difficult choices. New York State law requires that all public landfills on Long Island must close permanently this coming December. In other words, under current State law, the principal waste management tool will be forever unavailable to my constituents less than 9 months from now. As a result of that State law, as well as increased local interest in protecting Long Island's fragile environment, many of my constituents are promoting recycling and composting as principal waste management techniques to help meet the region's needs into the 21st century.

As I see it, the chief obstacle to expanded recycling efforts is the uncertainty of markets for recycled materials. As municipalities adopt waste collection programs designed to increase recycling, they face the persistent problem of locating recycling facilities willing to accept post-consumer waste and ensuring that there will be markets in the manufacturing industry for recycled materials. We need to work to change that situation.

Federal guidance is also needed on ways to perfect waste collection and sorting methods and systems for transporting recyclables from the point of waste generation to the processing plant. We must assist towns, counties, and States in implementing recycling programs without incurring unreasonable costs. We need to implement model programs across the country such as curbside pickups of recyclables in residential neighborhoods; backyard composting and/or separate pickups of food and yard waste for municipal composting; and in-house trash separation at restaurants and other commercial establishments. Finding our way out of the garbage crisis will require waste managers and consumers to make shifts in the way they handle refuse. It need not, however, require a complete overhaul of existing local governments services.

I am delighted at the interest that has been demonstrated by Members of the 101st Congress in developing a national strategy for maximizing recycling of post-consumer wastes. As Members are aware, I have introduced a comprehensive waste recycling bill, entitled the Recyclable Materials Science and Technology Development Act—H.R. 500—which is cosponsored by 144 of our colleagues from both sides of the aisle. I believe that H.R. 500 is consistent with the action being considered by the House today.

I ask that the Members of this body support H.R. 3847, along with the strengthening amendments that have been proposed by Mr. CONYERS, Mr. SYNAR, Mr. LUKEN, Ms. LOWEY, Mr. ROE, Mr. STUDDS, and Mr. ECKART. It is high time that the Congress recognize the importance of environmental protection by enacting an appropriate restructuring of the executive branch of Government. Thank you, Mr. Chairman.

Mr. BRENNAN. Mr. Chairman, I strongly urge you to support this bill. I have always believed that we as a society have a deep responsibility to leave our air, land, and water cleaner than we found them. Raising the EPA to Cabinet level symbolizes the importance of our Nation's commitment to this important goal.

We have come to realize that environmental policy affects many other issues: health, labor, small businesses, and the budget, to name just a few. It is, therefore, fitting, and necessary, that this new Department be an integral part of the President's Cabinet.

The creation of the Department of Environmental Protection is a significant step forward in our efforts to fight pollution. With Cabinet status, the DEP will focus public attention on domestic issues such as clean air legislation, and the creation of the Office of International Environmental Affairs within the new Department will give our Government greater credibility and leverage in our efforts to combat world environmental problems, such as ozone depletion and global warming.

I am proud to be a cosponsor of this landmark legislation. By passage of this bill, we are sending an important message to the public, and to the world: That we are committed to the task of protecting our environment,

and that we are determined to leave our children a cleaner and healthier world. I urge my colleagues to support this task, and this bill.

Mr. MACHTLEY. Mr. Chairman, today, we have the opportunity to bring the Environmental Protection Agency to the Cabinet table where it belongs by creating a new Department of the Environment.

This important event is made more historic as we commemorate the 20th anniversaries of both the Environmental Protection Agency and of Earth Day.

Recently, its seems as protecting the environment has come into style. We are seeing individuals, communities, and States—on their own—taking important steps for the environment.

And now the Federal Government is falling in step.

Establishing an executive department slated for protecting the environment sends an international message that the issues facing the environment are a top priority with us.

Guaranteeing environmental issues this clout is especially important as we begin to move toward a more global understanding of the impact of the environment—and our shared responsibility for protecting our planet.

I commend this administration's efforts to guarantee environmental protection a consolidated base of authority and action for now and for the future. I urge my colleagues to join me in support of this momentous legislation.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. GEPHARDT] having assumed the chair, Mr. HARRIS, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3847) to establish a Department of Environmental Protection, and for other purposes, pursuant to House Resolution 364, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

It is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore, announced that the ayes appeared to have it.

Mr. HORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 371, nays 55, not voting 7, as follows:

[Roll No. 50]

YEAS—371

Ackerman	Dyson	Lagomarsino
Akaka	Eckart	Lancaster
Alexander	Edwards (CA)	Lantos
Anderson	Emerson	Leach (IA)
Andrews	Engel	Leath (TX)
Annunzio	English	Lehman (CA)
Anthony	Erdreich	Lehman (FL)
Archer	Espy	Lent
Aspin	Evans	Levin (MI)
Atkins	Fascell	Levine (CA)
AuCoin	Fawell	Lewis (FL)
Ballenger	Fazio	Lewis (GA)
Barnard	Feighan	Lipinski
Bartlett	Fields	Lloyd
Bateman	Fish	Long
Bellenson	Flake	Lowery (CA)
Bennett	Foglietta	Lowey (NY)
Bentley	Ford (MI)	Luken, Thomas
Bereuter	Frank	Lukens, Donald
Berman	Frenzel	Machtley
Bevill	Frost	Manton
Bilbray	Gallegly	Markey
Bilirakis	Gallo	Martin (IL)
Bliley	Gaydos	Martin (NY)
Boehlert	Gejdenson	Martinez
Boggs	Gephardt	Matsui
Bonior	Geren	Mavroules
Borski	Gibbons	Mazzoli
Bosco	Gillmor	McCloskey
Boucher	Gilman	McCollum
Boxer	Gingrich	McCurdy
Brennan	Glickman	McDade
Brooks	Gonzalez	McDermott
Broomfield	Goodling	McGrath
Browder	Gordon	McHugh
Brown (CA)	Goss	McMillan (NC)
Brown (CO)	Gradison	McMillen (MD)
Bruce	Grant	McNulty
Bryant	Gray	Meyers
Buechner	Green	Mfume
Bunning	Guarini	Miller (CA)
Bustamante	Gunderson	Miller (WA)
Byron	Hall (OH)	Mineta
Campbell (CA)	Hamilton	Moakley
Campbell (CO)	Hammerschmidt	Molinari
Cardin	Harris	Mollohan
Carper	Hastert	Moody
Carr	Hatcher	Morella
Chandler	Hayes (IL)	Morrison (CT)
Chapman	Hefley	Morrison (WA)
Clarke	Hefner	Mrazek
Clay	Henry	Murphy
Clement	Hertel	Murtha
Clinger	Hiler	Nagle
Coble	Hoagland	Natcher
Coleman (MO)	Hochbrueckner	Neal (MA)
Coleman (TX)	Hopkins	Neal (NC)
Collins	Horton	Nelson
Condit	Houghton	Nowak
Conte	Hoyer	Oakar
Conyers	Hubbard	Oberstar
Cooper	Huckaby	Obey
Costello	Hughes	Ortiz
Coughlin	Hutto	Owens (NY)
Courter	Hyde	Owens (UT)
Cox	Inhofe	Oxley
Coyne	Ireland	Pallone
Crockett	James	Panetta
Darden	Jenkins	Parris
Davis	Johnson (CT)	Pashayan
de la Garza	Johnson (SD)	Patterson
DeFazio	Johnston	Paxon
Dellums	Jones (GA)	Payne (NJ)
Derrick	Jones (NC)	Payne (VA)
DeWine	Jontz	Pease
Dickinson	Kanjorski	Pelosi
Dicks	Kaptur	Penny
Dingell	Kasich	Perkins
Dixon	Kastenmeier	Petri
Donnelly	Kennedy	Pickett
Dorgan (ND)	Kennelly	Pickle
Dornan (CA)	Kildee	Porter
Douglas	Kleczka	Poshard
Downey	Kolbe	Price
Dreier	Kolter	Pursell
Durbin	Kostmayer	Rahall
Dwyer	Kyl	Rangel
Dymally	LaFalce	Ravenel
Regula	Shaw	Thomas (CA)
Rhodes	Shays	Thomas (GA)
Richardson	Sikorski	Thomas (WY)
Ridge	Sisisky	Torres
Rinaldo	Skaggs	Torricelli
Ritter	Skeen	Towns
Roberts	Skelton	Traficant
Robinson	Slattery	Traxler
Roe	Slaughter (NY)	Unsoeld
Rogers	Slaughter (VA)	Upton
Ros-Lehtinen	Smith (FL)	Valentine
Rose	Smith (IA)	Vander Jagt
Rostenkowski	Smith (NE)	Vento
Roth	Smith (NJ)	Visclosky
Roukema	Smith (TX)	Volkmer
Rowland (CT)	Smith (VT)	Walgren
Rowland (GA)	Smith, Robert (NH)	Walsh
Roybal	Snowe	Washington
Russo	Solarz	Watkins
Sabo	Solomon	Waxman
Saiki	Spence	Weber
Sangmeister	Spratt	Weiss
Sarpalius	Stallings	Weldon
Savage	Stangeland	Wheat
Sawyer	Stark	Whittaker
Saxton	Stearns	Whitten
Schaefer	Stokes	Williams
Scheuer	Studds	Wilson
Schiff	Swift	Wise
Schneider	Synar	Wolf
Schuette	Tallon	Wolpe
Schulze	Tanner	Wyden
Schumer	Tauke	Wylie
Sensenbrenner	Tauzin	Yates
Serrano	Taylor	Yatron
Sharp		Young (FL)

NAYS—55

Applegate	Hayes (LA)	Nielson
Armey	Herger	Olin
Baker	Holloway	Packard
Barton	Hunter	Parker
Burton	Jacobs	Quillen
Callahan	Laughlin	Ray
Combest	Lewis (CA)	Rohrabacher
Craig	Lightfoot	Schroeder
Crane	Livingston	Shumway
Dannemeyer	Madigan	Shuster
DeLay	Marlenee	Smith, Robert (OR)
Duncan	McCandless	
Early	McCrery	Stenholm
Edwards (OK)	McEwen	Sundquist
Gekas	Michel	Udall
Grandy	Miller (OH)	Vucanovich
Hall (TX)	Montgomery	Walker
Hancock	Moorhead	Young (AK)
Hansen	Myers	

NOT VOTING—7

Bates	Hawkins	Staggers
Flippo	Smith, Denny (OR)	Stump
Ford (TN)		

□ 1721

The Clerk announced the following pair:

On this vote:

Mr. Ford of Tennessee for, with Mr. Stump against.

Mr. GLICKMAN and Mr. DERRICK changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to redesignate the Environmental Protection Agency as the Department of Environmental Protection, and for other purposes.".

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3847, DEPARTMENT OF ENVIRONMENTAL PROTECTION ACT

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3847, the Clerk be authorized to correct section numbers, punctuation, and cross references, and to make such other conforming changes as may be necessary to reflect the actions of the House in amending and adopting the bill, H.R. 3847.

The SPEAKER pro tempore (Mr. SKAGGS). Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3847, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

NATIONAL CAPITAL TRANSPORTATION AMENDMENTS OF 1989

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 366 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 366

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1463) to amend the National Capital Transportation Act of 1969 relating to the Washington Metrorail System, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on District of Columbia, the bill shall be considered for amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such as I may consume.

Mr. WHEAT. Mr. Speaker, House Resolution 366 is an open rule providing for 1 hour of general debate, to be equally divided between the chairman and ranking minority member of the Committee on the District of Columbia, on H.R. 1463, to amend the National Capital Transportation Act of 1969, relating to the Washington Metrorail System.

The resolution provides that each section of the bill is to be considered as having been read, and it makes in order one motion to recommit.

The current legislative authority for the Washington Metrorail System provides enough funding for Metrorail to complete construction of 89.5 miles of the adopted regional system.

Today, of the 103 miles of the planned system, 70 miles and 64 stations are operating and construction continues on another 19.5 miles. There remains to be built 13.5 miles of the adopted regional system.

H.R. 1463 seeks to authorize additional Federal funds of $2.16 billion to be appropriated in $200 million increments over an 11-year period, which is the current projected cost for construction of the remaining 13.5 miles.

In 1966 with the support and earlier endorsements by Presidents Eisenhower, Kennedy, and Johnson, Congress created a Federal/local partnership designated as the Washington Metropolitan Area Transit to construct a rail system for the Nation's Capital.

Two States—Maryland and Virginia—the District of Columbia, and eight local jurisdictions comprise the Washington metropolitan compact and despite the diversity, these political jurisdictions have consistently adhered to their commitment to fund annual operating subsidies and to provide the local match for Federal capital grants.

The signatories of the regional agreement have supported and contributed to the construction of the system with the expectation that all segments would eventually be built.

The challenge for the coming decade is the completion of the full 103-mile metrorail system. Only a continued strong Federal commitment to the project will enable this rapid transit system to become the reality envisioned over 30 years ago.

House Resolution 366 provides the opportunity for all Members to offer amendments to the bill. I am aware of no controversy with regard to this rule. Therefore, I recommend a favorable vote by my colleagues on its passage so that we may proceed to consideration of this important legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, today we are bringing to the House an increasingly rare commodity, a completely open rule. There are no restrictions on the normal amending process. There are no waivers of the Budget Act. There are not even any waivers of the House Rules. This is exactly the kind of rule we should be using most of the time.

I would like to commend the chairman and the ranking Republican member of the District of Columbia Committee, the gentleman from California [Mr. DELLUMS] and the gentleman from Virginia [Mr. PARRIS] for their hard work on this bill. They agreed in requesting this open rule and in support of the bill.

I would be remiss if I failed to note that not everyone agrees on this bill, however. At the time of the Rules Committee meeting on this bill, the administration sent a statement noting that if this bill were presented to the President in its current form, the Secretary of Transportation and the Director of OMB would recommend that the bill be vetoed. Among other things, the administration objects that the bill would authorize $2.16 billion for an additional 13.5 miles for the Metrorail system. This equates to an average Federal construction cost of $160 million per mile. According to the administration, it would make the extension the most expensive transit project in the country on a Federal cost-per-mile basis.

Mr. Speaker, I will support this open rule, so that the House can get down to the business of debating and amending this bill to authorize appropriations for the Washington Metrorail System.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I simply would like to thank the gentleman for his complimentary remarks. We appreciate the cooperation in expeditiously bringing this rule to the floor. I thank my colleague.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 366, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1463.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the

Whole House on the State of the Union for the consideration of the bill (H.R. 1463) to amend the National Capital Transportation Act of 1969 relating to the Washington Metrorail System, with Mr. WHEAT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. DELLUMS] will be recognized for 30 minutes, and the gentleman from Virginia [Mr. PARRIS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I yield myself such time as I may consume.

H.R. 1463 amends the National Capital Transportation Act of 1969 which established the Washington Area Metrorail System. The purpose of H.R. 1463 is to authorize an additional Federal contribution in order to complete construction of the total 103-mile regional Metrorail system as originally planned. It is anticipated that $2.16 billion in Federal funds will be appropriated over the next 11 years in increments of approximately $200 million per year. The local match will be $540 million over this 11-year period.

This new authorization is predicated on the same reasoning and justification for the previous bipartisan support that Metro has enjoyed since its inception during the administration of President Eisenhower. Every President since has promoted Metro.

The Federal commitment to Metro recognizes the unique Federal-local partnership which has brought this very efficient award-winning rapid transit system so near to completion. The Federal Government should not turn back now. This Federal commitment was not as some opponents of reauthorization have claimed, a commitment to a dollar amount or to the current 89.5 miles. Rather it was a commitment to complete the full adopted regional system.

Metrorail is an essential part of our National Capital transportation system. There are numerous ways in which this system serves the operation of the Federal Government: First it is an integral part of the Nation's Capital coordinated transportation system which daily carries a large part of the 400,000 Federal employees in the region; second, it transports thousands of persons conducting business with the Federal Government; third, it serves many of the 17 million tourists from across the country and around the world who visit the Nation's Capital each year; fourth, it carried over 600,000 people on inaguration day, fifth, it has over half of the existing stations located in such a way as to directly serve Federal facilities such as the Pentagon, the Federal Triangle Office Buildings, the Capitol, and the Smithsonian Institution. The remaining 13.5 miles to be constructed will serve three major Federal facilities, including Andrews Air Force Base; and sixth, it carries over 500,000 riders daily. Ridership has exceed all original estimates.

Included in the remaining 13.5 miles to be completed is the final portion of the inner green line, which will serve the most transit dependent population of the region. It is unfortunate that the neediest will be the last to have access.

In considering the question of why an additional authorization is needed, the committee thoroughly reviewed the testimony of WMATA and other witnesses from the region. It is clear that numerous unavoidable delays in contruction contributed to cost escalations.

The Federal Government conceived metro 30 years ago and began construction 20 years ago. We must now strengthen our resolve to complete metro by 2001. For the Federal Government not to participate in the completion of Metro is tantamount to desertion of a much needed service as well as a national treasure. Let's not break our promise to the people of this region and the Nation.

□ 1730

Mr. Chairman, I reserve the balance of my time.

Mr. PARRIS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, today, I rise in support of H.R. 1463, legislation reauthorizing the Washington Metrorail Program and providing for the completion of this model mass transit system. All of my colleagues, as at least part-time residents of this metropolitan area, are well aware of the convenient, low-cost and environmentally sound transit service that Metrorail provides. It is important to recognize, however, that the benefits of this system extend far beyond the beltway, to every corner of the Nation, earning the system its familiar designation as "America's Subway."

The most obvious benefit to the public at-large arises from the simple fact that Washington is a "company town," and that company is in the business of government. Washington is the corporate headquarters for the executive, legislative, and judicial branches, as well as the national defense infrastructure, and the tens of thousands of private contractors who support the operations of the Federal Government. As the chairman stated as long ago as President Eisenhower, he spoke of the need for an effective transportation infrastructure to ensure the unimpeded functioning of the Federal Government. Because of the foresight of President Eisenhower and of his successors in that office, 350,000 civil servants now move more easily through the Washington area to do the business of the Nation.

My colleagues who use the Metrorail system will recognize amidst the civil servants another familiar constituency of Metro tourists. In 1989, more than 19 million tourists visited America's Capital City. These travelers included families and student groups, who came to learn about their seat of government. Many of our politically active constituents came as well, arriving at Capitol South and Federal Center Southwest with strong views on important issues. There were also travelers from every part of the globe, who left Washington with a lasting impression of American efficiency and technology. Mr. Speaker, America's subway is here for all of them.

Despite the unquestioned success of this system, the job is not yet complete. Thousands of area residents, including many of our most transit-dependent citizens, await access to the system. Today, we have an opportunity to complete America's subway. H.R. 1463 enjoys broad support from across the political spectrum and across the country. Expressing support for the bill are transit providers from the Nation's major metropolitan areas—San Francisco, Denver, Atlanta, Minneapolis, Miami, Hartford, Pittsburgh, Memphis, among others. This support comes from Metrorail's very competitors for Federal transit dollars under UMTA's section 3 program. These transportation planners recognize Metro as a model of Federal-local cooperation in the provision of high-quality transportation services. Mr. Speaker, Metrorail is a project of national importance and a source of pride to all Americans. I urge my colleagues to end this success story in a fitting way—with the completion of America's subway.

Let me very quickly call the attention of my colleagues to these charts on my left. I requested my staff on March 16 of this year, about 2 weeks or so ago, to go out to the subway stop at the corner of the Cannon Office Building for 1 hour. I asked them, on a Friday morning, to just count the number of people that came out of the subway and inquire did they work on Capitol Hill and, if so, where and what they did for a living.

The results are astounding. On this chart, ladies and gentlemen, you will see of the total of 1,214 persons—now this is a nonlegislative day—262 were other categories, including the Library of Congress, 126 tourists, and 826 Hill staff people.

Now, I do not suggest that the Members of Congress enjoy unique benefits from the subway system, but we have an enlightened self-interest to make this system work, and, to provide serv-

ices to our constituents and our staff, it is critical to that.

I think there is a management requirement for the accomplishment of effective Government functions that you will notice from the other pie chart which shows that our staff makes up 70 percent of the people who get off of the subway system in 1 hour.

Now, if we are going to run this place in any kind of an effective manner, how are they going to get here if we do not have a viable subway system?

I submit to you that we have a responsibility at least in this instance to create some kind of an effective management decision and the subway system extension is one of those.

Mr. DELLUMS. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, let me say this bill, H.R. 1463, reauthorizes the final 13.5 miles of the 103-mile system expanding service into the most public-transit dependent areas of Washington, DC and Maryland, and providing greater transit use for suburban Marylanders and Virginians.

This is not just a bill to benefit our region—your constituents also use the system. About 19.5 million tourists use metrorail when they visit Washington. They come and stay with my constituents.

The system itself demonstrates that the Federal Government's commitment to transit is not wasted. It is efficient, it is affordable, and most important—people use it.

I would encourage you to support this bill.

Let's not contradict ourselves here. In a very short time, we will be looking at clean air legislation. Our air is in terrible shape. What better way to show our commitment to clean air than getting people out of their cars and putting them on metro.

The Washington Metropolitan Area Transit Authority [WMATA] estimates that without metro, an additional 90,000 private cars would be driving into Washington each day, with your contituents and mine in them.

□ 1740

Mr. PARRIS. Mr. Chairman, I yield 2½ minutes to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I rise in strong support of H.R. 1463. No one will dispute that metro runs well, it runs efficiently, it is easy to use, indeed it is a pleasure to use. A great deal of today's debate will center around the usual issues of cost and how this legislation could affect others throughout the country.

I would like to shift that focus for just a moment to the environment. I serve on the Committee on Energy and Commerce where we are presently in the midst of marking up major clean air legislation. The Washington metropolitan area is a nonattainment area and it will remain so unless we take steps to reduce the number of automobiles traveling the highways every day. Metro plays a role—and with passage of this legislation will play an even greater role—in reducing air pollution in the Nation's Capital.

If you're concerned about clean air, I'd like you to consider a couple of important facts:

Every day the current metrobus and metrorail system removes 600,000 cars from the road and with the completion of the 103 mile system that number will be 1 million cars not on the road—an additional 400,000.

That translates into a current savings of 100 million gallons of gasoline annually and 150 million gallons when the system is complete.

The bottom line for the environment—the current system reduces hydrocarbon, carbon monoxide and nitrogen oxide emissions by 7 million tons annually—the completed system will raise that total to 11 million tons.

If you want to dump an extra 4 million tons of pollutants into the air, then vote against this bill. If you want to improve air quality and help move the Nation's Capital toward attainment, vote for H.R. 1463.

Mr. Chairman, a vote for H.R. 1463 is a vote for clean air. A vote against H.R. 1463 is a vote to dump an extra 4 million tons of pollutants into the air each year. I urge my colleagues to cast an important pro-environment vote.

Mr. DELLUMS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Chairman, I am pleased to join so many of my colleagues today in support of H.R. 1463, a bill to authorize funds for the Washington Metrorail.

Our plan to have the Nation's finest subway rail system is close to fruition. Presently, we have almost 70 miles of a 103-mile system completed. A reauthorization of the 1969 Stark-Harris Act is critical now to ensure that metrorail is built according to the regional plan agreed to by the signatories—District of Columbia, Maryland, Virginia, and, last but not least—the Federal Government. We are so close to finishing what many refer to as "America's subway"—let's complete the task—without the final 13.5 miles, the system would be incomplete and would operate at less than optimal efficiency. Importantly, the most public transit dependent portions of the metro region will depend on extensions of the green, yellow, and red lines to fully integrate them into the regional transport system.

The Washington Metrorail has a set of responsibilities unlike any other mass transit system in the country—it is called on to convey over 19 million visitors to the Nation's Capital every year—people from all 50 States, U.S. territories, and hundreds of foreign lands. Dozens of Congressmen and hundreds of their personal and committee staff take advantage of Metro's efficient operation every single day. The Federal Government operates more smoothly in large measure because metrorail allows Federal workers to expedite their business travel around the metro area.

Dozens of metro and transit authorities from around the country—from Albuquerque to Atlanta—have written us telling us of their support for the final construction stages of the Washington Metrorail. They know that successful completion of the District of Columbia area metro sets a precedent for future mass transit projects of this magnitude. Additionally, the American Public Transit Association, representing over 900-member organizations has lent its support to this worthwhile infrastructure.

Mr. Chairman, the Washington Metrorail System would not be complete—and consequently would not operate as efficiently—without the construction of the final 13½ miles. Successive Congresses and administrations since the days of Ike have been behind the completion of the planned Metro—now is our time to fulfill our commitment and fund the final portion of the Washington Metrorail.

I urge the adoption of H.R. 1463.

Mr. PARRIS. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. ROHRABACHER], a member of the committee.

Mr. ROHRABACHER. Mr. Chairman, I rise in strong opposition to H.R. 1463, the Washington Metrorail construction bailout bill. This bill is a $2 billion budget buster which takes tax dollars from all parts of the country to help one of the richest areas of the country solve its local transportation problems.

Mr. Chairman, if the Federal Government is ever going to get its budget deficit under control, we in Congress have to take a stand and pay for only those things which are absolutely necessary. Our deficit spending situation is so critical that leaders on the other side of the aisle are seriously proposing freezing Social Security and other programs which affect the lives and health of our citizens. When we are considering these kinds of drastic cutbacks, it's time to think twice about whether it is absolutely necessary for the Federal Government to spend $2

billion more for the Washington area's local subway system.

In addition, H.R. 1463 is unfair to every other region of the country that wants to build or expand a mass transit system. Whether the Federal share in this bill turns out to be 80 percent or 75 percent. It will be the largest share any system in the country will ever receive. No other system in the country could hope to be guaranteed the maximum level. Even if the Federal Government does not spend one more dime on this local subway system, it will have already spent $7.7 billion—more than we have spent for construction of all other transit systems combined.

Every dollar of the $2 billion authorized by this bill that is beyond the Washington region's fair share will come directly out of the money that other regions can expect. Those of my colleagues who have received letters from their local transit authorities supporting this bill should know that your local people have been sold a bill of goods about where the money comes from.

Even though this bill is separate from the Public Works Committee's deliberations on the money for other region's systems, the appropriations for the Washington Metro come from the same appropriations pot as everyone else's system. Every excess dollar given to Washington will come from someone else's hide. I hope members will listen carefully to the gentleman from Pennsylvania [Mr. COUGHLIN], the vice chairman of the Transportation Appropriations Subcommittee, when he explains the financial facts of life about transit system funding.

Mr. Chairman, I would like to point out that in spite of the claims of this bill's supporters, there is no commitment on the Federal Government's part to pay any more for the Washington area's local transportation than what has already been authorized. Just because the Congress has already spent over $7 billion on Metrorail construction does not mean we have to keep pouring in Federal money until construction is done. No one ever promised that Congress would pay the lion's share of constructing the entire 103-mile system no matter how much it costs.

I would also like to address the argument that the Federal Government should give the Washington area far more money than anyone else because of tourist traffic. This is nonsense. The part of southern California which I represent also contains major tourist attractions, which also bring in visitors from all over the country. These tourists are a major economic benefit to my district, and all of southern California. I would never think of asking for preferential treatment and extra money for southern California because we attract so many visitors.

Finally, I would like to point out, especially to my Republican colleagues, that the Bush administration strongly opposes this bill. I would urge my colleagues to read the statement of administration policy, which clearly threatens a veto if this bill passes the Congress.

Mr. Chairman, I urge my colleagues to vote "no" on H.R. 1463. Do not take $2 billion from your and my constituents just so this area, a rich area, will not have to pay its fair share for local transit.

□ 1750

Mr. Chairman, I include the statement of the administration's policy, as follows:

STATEMENT OF ADMINISTRATION POLICY

H.R. 1463—NATIONAL CAPITAL TRANSPORTATION AMENDMENTS

If H.R. 1463 were presented to the President for signature in its current form, the Secretary of Transportation and the Director of OMB would recommend that the bill be vetoed.

By the end of its current authorization, Washington Metrorail will have benefited from $7.7 billion in Federal appropriations from general revenues for completion of the 89.5-mile system. If additional Federal funding is to be provided for Metrorail, it should be provided as part of the national mass transit assistance program, competing with other mass transit projects. No other jurisdiction has a separate and discrete Federal fund for construction of a mass transit system, and no other system is financed from general taxpayer revenues.

The Administration further objects to the new authorization for reasons of equity:

H.R. 1463 would allow Washington area jurisdictions to pay for only 20 percent of the construction costs or the Metrorail system. Other communities with comparable systems are paying a substantially higher proportion of the costs of their projects—in most cases over 50 percent.

H.R. 1463 would authorize $2.16 billion in appropriations for an additional 13.5 miles for the Metrorail system. This equates to an average Federal construction cost of $160 million per mile. It would make the extension the most expensive transit project in the country on a Federal cost-per-mile basis.

Upon completion of the 89.5 miles of the Metrorail system in 1993, the Metrorail system will have received far more Federal construction assistance than any other new transit system—and more than all other new systems combined. Since 1968, Washington Metrorail has received 60 percent of the $12.9 billion Federal investment nationwide for construction of new systems.

Mr. PARRIS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I take this time to remind my colleagues and my friend, the gentleman from California, that this is an authorization bill, not an appropriation bill. The Congressional Budget Office, in the report they have included in the material here, estimated the cost to the Federal Government in 1991 to be $2 million and in 1992 to be $14 million. The budget expenditures are measured by outlays, and the Congressional Budget Office clearly indicates that this is not a budget buster.

Mr. DELLUMS. Mr. Chairman, I yield myself such time as I may consume, and I will be very brief.

I would like to say to my distinguished colleague, the gentleman from California, who is a member of the committee that is reporting this bill to the floor, that I will call my colleague's attention to page 10 of the report of our committee that is available to every single member of the committee, including the distinguished gentleman from California. With respect to budget authority, it simply underscores the comments made by my distinguished colleague, the gentleman from Virginia [Mr. PARRIS] and it says:

This legislation for the District of Columbia creates no new budget authority or tax expenditure by the Federal Government. Therefore, a statement required by section 308(a) of the Congressional Budget and Impoundment Control Act of 1974 is not necessary.

Mr. Chairman, I am sure that my distinguished colleague, the gentleman from California, misspoke himself when he called this a budget buster. This is an authorization that requires no new budget authority.

With that explanation, Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Mr. Chairman, I rise in support of H.R. 1463.

Mr. Chairman, I come from a large rural area. My district is larger than 9 of our States. Yet with that size, we do not have a single mass transit system in my congressional district. So you may ask, "Why do you support this bill?"

Mr. Chairman, as the distinguished gentleman from Virginia and the distinguished gentlewoman from Maryland pointed out, each day I have constituents from the 14th District of Texas in my office. Some of them are here on business, and, yes, some of them are here as tourists, and each day some of those Texans tell me they have ridden this Metro system and they wonder how they could get around this city, with all the visitors we have in this city, if we did not have the Metro system. And yes, a part of that American Public Transit Association that supports this bill comes from Texas.

In fact, all three transit systems there support this bill—the one from Houston, the one from Dallas, and the one from Fort Worth.

Mr. Chairman, I urge my colleagues to support this bill.

Mr. PARRIS. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, I rise today in support of this legislation to authorize the Federal funds necessary

to complete construction of the Washington Metro system.

The Washington Metro—America's subway—has received the support of six Presidents and the bipartisan support of Congress for more than three decades. And it deserves our continued support.

Not because it has helped the Washington metropolitan area deal with its increasing traffic congestion. Clearly, it has. Not because the system has been helpful in the economic prosperity this region has experienced. It has helped in that area as well.

The reasons for supporting this reauthorization go right to the heart of why throughout the world this is known as America's subway.

Nineteen and a half million visitors come to the Washington area from around the country and 50 percent or more of these visitors—your constituents—ride Metro to see the Nation's Capital region.

Metro serves the Federal Government by transporting millions of Federal employees to and from the agencies they work for every year. More than half of all Metro stations are at Federal facilities—the Pentagon, Smithsonian, Federal Triangle, Federal Center, Capitol South—these all serve the Federal Government and they serve your constituents as well.

Last, Mr. Chairman, Metro was originally envisioned as a model transit system befitting our Nation's Capital. It was carefully designed to be as the Washington Post editorialized yesterday: "a working symbol of this country's commitment to mass transportation * * *" And that is part of the reason nearly three dozen organizations—including many other transit systems from across the country—support this reauthorization.

When Metro was conceived under the leadership of President Eisenhower, who we honored in this Chamber yesterday, it was understood that the Federal Government was committed to construction of a first-rate system that the Nation could be proud of.

We have a first-rate system. One that the Nation is proud of. This bill will allow the system to be completed as originally envisioned and as originally promised. It is the right thing to do and I urge Members to join me in supporting it.

METRO REAUTHORIZATION, H.R. 1463, IS ACTIVELY SUPPORTED BY:

California.—Cubic Western Data Corp., Los Angeles County Transportation Commission, Metropolitan Transportation Commission. (MTC-San Francisco), Santa Clara County (CA) Transit District.

Colorado.—Regional Transportation District (Denver, CO).

Connecticut.—Greater Hartford Transit District (Conn.)

Florida.—CSX Corporation (Jacksonville, FL), Metro-Dade Transit Agency (Miami, FL).

Georgia.—Metropolitan Atlanta Rapid Transit Authority (Atlanta).

Idaho.—Morrison-Knudsen (Idaho).

Illinois.—Chicago Transit Authority, De Leuw, Cather & Co., Harry Weese & Association (Insurance for WMATA).

Massachusetts.—Massachusetts Bay Transportation Authority (Boston).

Minnesota.—Metropolitan Transit Commission (Minneapolis, MN).

Missouri.—State Development Agency (St. Louis Transit).

New Jersey.—New Jersey Transit.

New Mexico.—City of Albuquerque, NM (Suntran).

New York.—New York Metropolitan Transit Authority.

Ohio.—Central Ohio Transit Authority.

Pennsylvania.—Port Authority of Allegheny Co. (Pittsburgh, PA), Southeastern Pennsylvania Transportation Authority (SEPTA), Bethlehem Steel Corp.

Tennessee.—Memphis Area Transit Authority (Tennessee).

Texas.—Texas Transit Assoc. (Including all Texas Transit Authority), Dallas Area Rapid Transit (DART), Fort Worth (TX) Transportation Authority.

Washington.—Washington State Transit Association.

West Virginia.—Tri-State Transit Authority (TTA-Huntington, WV).

General support.—American Public Transit Association (APTA), American Public Works Association (ACEC), League of Women Voters, Transportation Engineering Management Association, Amalgamated Transit Union (AFL-CIO, CLC), Conference of Minority Transportation Officials.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. WOLF] has expired.

Mr. PARRIS. Mr. Chairman, I yield 1 additional minute to the gentleman from Virginia [Mr. WOLF].

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield for a question?

Mr. WOLF. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, I wonder if my colleagues could describe or explain why, if gridlock would result in not developing this system, why the gridlock here is so much more important than a gridlock in other parts of the country when we are taxing this money from other people who also have gridlock problems.

Mr. WOLF. Mr. Chairman, I would say to my friend, the gentleman from California, that all the metro systems around the country bar none support this bill. They understand that to deal with transportation issues in metropolitan areas we need mass transit. We literally have to get people out of their automobiles and into buses and into metro systems.

I would tell the gentleman that Los Angeles and other metropolitan areas want to move toward metro systems. Last year, this system received the transit award as the best system in the country, and I think that is clearly the answer.

Mr. Chairman, as the gentleman from Virginia [Mr. BLILEY] said, from an air quality point of view, this is a good, positive environmental vote.

Mr. DELLUMS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Chairman, I appreciate the opportunity to make a few comments at the beginning of this floor debate regarding the reauthorization of Federal funds for the completion of the remaining 13.5 miles of the Washington Metrorail system as originally planned.

I am honored to join with my House colleagues from Maryland and Virginia to confirm formally here today our cooperative commitment to the passage of H.R. 1463. The legislation which we introduced in mid-March 1989 to provide for the reauthorization of funds to complete the Metrorail system of the Nation's Capital.

I was privileged to be among the community leadership nearly 30 years ago which helped forge the initial partnership among the various metropolitan Washington area governmental jurisdictions that ultimately resulted in the creation by Congress in 1967 of the Washington Metropolitan Area Transit Authority [WMATA]. For more than 20 years now, the WMATA partnership has demonstrated remarkable success in the construction and management of an exemplary mass transit system, including the regional Metrorail system, of which 70 miles are already operational, with 19.5 additional miles currently under consideration.

The completion of the remaining 13.5 miles of this model Metrorail system will thus be the culmination of an unprecedented working partnership among WMATA, the Federal Government, the District of Columbia, the State of Maryland, the Commonwealth of Virginia, and the eight local jurisdictions served—a partnership founded on mutual responsibility and accountability. In the next 11 years, with the funding authorized under H.R. 1463, we can anticipate a completion of the remaining 13.5 miles of metrorail as originally planned, an achievement which will maximize the system's efficiency and enhance mass transit service for millions of area residents and visitors to our Nation's Capital each year.

As the Member of Congress representing the people of Washington, DC, it gives me particular satisfaction to note that these final 13.5 miles of the Metro system include the long-delayed inner green line. Once completed, the green line as originally planned will connect the U Street and Fort Totten stations, with intermediate stops at Columbia Heights and Georgia Avenue, linking some of the most economically disadvantaged residents of the District to employment opportuni-

ties existing throughout the metropolitan area. In addition, the extended green line in Southeast Washington will connect the Anacostia station with Branch Avenue near the beltway in southern Prince Georges County, permitting convenient access to Andrews Air Force Base, two area hospitals, and a major U.S. Government complex.

Indeed, to many people in Washington, DC, the completed Metrorail system will constitute a lifeline to economic opportunity. For the tens of thousands of District of Columbia residents who will be directly served by the green line, this improved access to our modern Metrorail system will make the critical difference between today's often frustrating dependence on cumbersome and time-consuming bus-rail-bus transfer arrangements and tomorrow's swift, comfortable, convenient, safe, and affordable transportation to employment opportunities throughout the area. Completion of the green line will also encourage the development of commercial, residential, and recreational opportunities, as well as social services, within the neighborhoods contiguous to the Metrorail stations, enhancing both the economy and the community pride in some of our more depressed areas.

Mr. Chairman, from the outset we have promised the people of Washington, DC, that the Metro system was also for them. We promised the residents of Anacostia, of Congress Heights, of Naylor Road and Alabama Avenue out in Southeast Washington—we promised the people who live in Columbia Heights and along Georgia Avenue and in Shaw—my old neighborhood—up in the north central part of the city—we promised them that Metrorail would serve them. Mr. Chairman, we promised them that their young people would be able to take the subway to UDC and to Howard and George Washington Universities, that their families would be able to take advantage of low-cost, fast, safe subway transportation to jobs and schools and shopping centers throughout Metropolitan DC.

But after so many years, Mr. Chairman, these promises remain largely unfulfilled. After more than 20 years of waiting, most of these residents continue to wait for the completion of vital lines that will link them to the rest of the Metrorail system and to the opportunities that system brings within their reach.

Thus, Mr. Chairman, it is with great seriousness and resolve that I join today with my colleagues in the Congress; with Government officials from the District of Columbia, Maryland, Virginia, and related local jurisdictions; with WMATA officials; and with representatives from our business community as we unite in a spirit of commitment and progress to call for the Federal Government's full cooperation in reauthorizing the funds necessary to complete the WMATA Metrorail system: a model of mass transit for the Nation.

□ 1800

Mr. PARRIS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, it seems to me that, as a Member of the Virginia delegation, but representing a part of the State remote from the District of Columbia and the Washington metropolitan areas, that I might be able to cast this matter in a slightly more correct perspective than I have heard it from some. My colleagues would believe from the opponents of this bill that there was something remarkable about the Federal Government having participation in a local mass transit system. There is certainly nothing remarkable about that. Local transportation systems, mass transit systems, receive Federal assistance. My community certainly has.

Mr. Chairman, if there is any mass transit system in the United States that deserves the assistance of the Federal Government, why not the Washington metropolitan area, which is more close to and impacts more fully upon that system because of the presence of the Federal Government here?

I am not sure that in the interest of peninsular transit authority, whom we rely upon for mass transit, I want to throw the District of Columbia and the metropolitan area, notwithstanding its intense Federal connection, into a pot from which we compete for whatever is left of the same amount of transit dollars from mass transit support throughout the United States, and, quite frankly, I think it is very obvious why so many transit authorities throughout the country are supporting H.R. 1463, and I, too, rise to support it.

Mr. Chairman, I would also suggest that it was 21 years ago that the Congress entered into a partnership between the Federal Government, the D.C. government, the Virginia government, the Maryland government, and eight local political subdivisions to construct the 103-mile subway system. I see no reason why the Federal Government should renege in that partnership, and that this bill should be passed and this authority should be granted.

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I appreciate the gentleman from California [Mr. DELLUMS] yielding this time to me, and I will use maybe most of it, but not all of it. I have some prepared statements, but I think I would rather just try to talk to my colleagues for a few minutes from the heart.

Mr. Chairman, I realize that this measure with the distinguished advocates that have graced this well is going to pass, and I do not really have any problems with that. I understand and recognize the fact that the District of Columbia is a special place, that mass transit in this area is perhaps to some extent the responsibility of all the people in the United States of America.

Mr. Chairman, I asked for this time to say that I am going to oppose the legislation. As I said, I do not think that will make that much difference really, but I want to talk to my colleagues a minute about an inequity that the Congress should proceed to address at this session.

Mr. Chairman, this $2 billion or so that we are appropriating here will be paid for by the taxpayers in the State of North Carolina and in over 25 other States in the Union that do not get any benefit to speak of from the funds that they pay into the Federal Government of mass transit.

There are all kinds of mass transit needs, Mr. Chairman. The State of North Carolina with all of its problems, with all of its difficulties, with all of its high illiteracy rate, with all its trouble and problems with public health, for every dollar that we pay into the mass transit fund that goes into the highway trust fund we get back a nickel. We get back 5 cents out of every dollar. Mr. Chairman, I have a list here that shows that there are about 25 States in the Union that are in almost the same condition.

So, what we are doing now is we are paying for this fine system, and the others around the country, by taxpayers, many of whom live below the poverty level in the United States. We cannot get any money from the Federal Government to create bus systems in rural North Carolina, and I suggest the same thing applies to South Carolina, Arkansas, and other places.

So, Mr. Chairman, I ask my colleagues, I implore them in the spirit of fairness, to help us address this problem. It is not fair, and I am talking about over the past year and something like $40 billion from the State of North Carolina goes into this fund, and we get about $2 million back.

Now there are other problems with other formula that exist, but I suggest to my colleagues that that is a shame, that that is unworthy of the people's Representatives, and I ask my colleagues to help us address this problem at the appropriate time.

Mr. DELLUMS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Mississippi [Mr. PARKER].

Mr. PARKER. Mr. Chairman, I rise in strong support of the bill that is

before us. I think that it has become somewhat popular to be against Washington, DC, and we see that on a day-to-day basis, not only sometimes in this House, but we see it throughout this country.

Now the bill that we have before us is not an appropriations bill. It is an authorization bill, and it needs to be kept separate primarily for one reason, because of the national security interests that are involved as far as transporting the Federal work force.

Mr. Chairman, we in a small State like Mississippi, we in a southern rural State, we do not have a lot of transportation systems at all. We are in the situation where we cannot compete with the national security interests that this subway system would have.

Mr. Chairman, I urge my colleagues to join me in supporting this bill.

Mr. DELLUMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just speak to this notion. First, I indicated to my distinguished colleague from North Carolina [Mr. VALENTINE] that, based upon our computer printouts, the distinguished gentleman's district receives in excess of $31 million in contracts related to Metrorail construction. The gentleman's State receives in excess of $40 million in contracts related to Metrorail in the District. The distinguished gentleman from California should know that the State of California receives $775 million in contracts related to Metrorail construction.

I would now like to very briefly, Mr. Chairman and members of the committee, deal with this question, this notion as if in some way the metropolitan region is in some way ripping off the Atlantic States. This is a bizarre notion.

First of all, where did we come to this us-versus-them idea? I thought that this was our capital, the capital of the entire United States.

□ 1810

What is this notion of us versus them? Since 1968, Mr. Chairman, you should know some very factual information. Local governments in this region have contributed over $1.3 billion for Metrorail construction and have transferred an additional $2.2 billion, not million, $2.2 billion in interstate highway grants for Metrorail construction, so here is $1.3 billion that local governments have contributed for Metrorail construction and they have transferred money that could have built highways in order to accommodate the development of the Metrorail system.

For those of my colleagues who parade into the well, Mr. Chairman, and talk about their ecological orientation and their commitment to the environment, here is a local community that has contributed on one level or another $3.5 billion.

So this idea that in some way this region is ripping off the American taxpayers is a bizarre and absurd idea, and I would like to stamp that out at this moment.

During that same time period, Mr. Chairman, local governments have contributed $2.3 billion to operate the Metro system. By the year 2,000, operating subsidies by the local government will reach in excess of $500 million annually. These folks are paying their way.

So this is a partnership between the local government and indeed the Federal Government. We have thousands of Federal workers here. So what do we do? How do they get to work?

The gentleman from Virginia is correct. Do we engage in gridlock or do we attempt to open up this matter?

I would like to see the Metrorail in every urban metropolitan center in this country. We have to start somewhere, and if these folks in Washington, DC, have put together a model system, than rather than play games on the floor of the Congress about who ought to fund it, whether it is local or Federal, we ought to try to finish this project and make it a model for the entire Nation.

At some point we need to get past the military budget and start funding programs to preserve the integrity of the fragile nature of our ecological system, and Metrorail is an important aspect of that.

Mr. PARRIS. Mr. Chairman, I yield myself 30 seconds, and I do so simply to add to those very articulate comments by my friend, the gentleman from California [Mr. DELLUMS] to say that those of us who are privileged to serve on the District of Columbia Committee in regard to the Nation's Capital and some of its operations take the constitutional requirement very seriously for that obligation, as do the balance of our colleagues.

Article 1, section 8, clause 17, says that the Congress of the United States shall be responsible for the legislative authority of the Nation's Capital, and this is it. This is a critical part of it, and I submit to you that is an important function of this debate.

Mr. PARRIS. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, this is a difficult bill to oppose, but it is the right thing to do to oppose it.

I love my colleague, the gentleman from Virginia [Mr. PARRIS] like a brother. We have done lots of things together and shared a lot together, including service during the Korean war.

The distinguished chairman of the committee is a great American, a distinguished American, and I respect him.

My colleague, the gentleman from Maryland [Mr. HOYER] and I have shared a lot together, too, including visiting dissidents overseas at a time when that was pretty risky.

The gentleman from Virginia [Mr. WOLF] and I serve on the same subcommittee together. He came from my home town in Philadelphia.

I love our Nation's Capital. I have been on the D.C. Appropriations Subcommittee, or had been, longer than anyone except the distinguished gentleman from Kentucky, whom I see sitting out here.

But my friends, I cannot sit here idly by and watch us have a $2 billion raid on the Federal Treasury. I cannot vote and I would not think most of my colleagues could vote to give the Washington metropolitan area a better deal than any other place in the country.

The Washington Post is a fine newspaper. It opposes pork. It says that we should not have transit projects or airports or other projects in other parts of the country, but when it comes to a $2 billion special authorization for the city of Washington, DC, and for the Washington metropolitan area, that is not pork. That is mother's milk. That is also pure hypocrisy.

I am sure that San Francisco or Los Angeles or St. Louis or Chicago would love to have a $2 billion authorization of their own. A $2 billion authorization would do a lot for the city of Philadelphia or for New York, but they do not have those, only for Washington, DC.

Let us just look at some facts. It has been pointed out that Washington, DC, has already received $7.7 billion in Federal dollars for the model system, more than 60 percent of all the funds spent for all the jurisdictions in all the United States; but even more important is what we are asking here. Because of current constraints on the budget, we are asking other communities around the Nation to contribute up to 50 percent and more in a local match. The Washington metropolitan area says, "We are only going to contribute 20 to 25 percent as a local match." That is unfair. It is wrong and it should not be.

Washington has the ability, like any other metropolitan area, like any other system, to compete with other systems for the pot of money that is already available.

Let me say to those people in the other transit authorities around the country that they are really misguided because they do not understand that the Washington Metropolitan Area Transit Authority will take money away from their systems because they are all competing for the same pot of money. They are all competing. We have the same section 302 allocation to our subcommittee. They are com-

peting but Washington, DC's money will come off the top. That is not right.

Now, Metro is called America's subway. It is necessary to serve visitors to the Nation's Capital, and that is fine. However, these very same visitors are an enormous economic benefit to this area, an enormous economic benefit that has brought this area wealth and prosperity that should enable this area to produce a larger share and to compete with other communities across the country for very scarce Federal dollars.

I urge a vote against this bill so that Washington, DC, can be in the same position as every other community across the United States and compete in the same way for the limited Federal dollars.

Mr. CARR. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to my colleague on the subcommittee, the gentleman from Michigan.

Mr. CARR. Mr. Chairman, I thank the gentleman for yielding to me. I would like to associate myself with the crux of his remarks.

It is hard to oppose this bill because it comes from many friends, both on the committee and in the delegation here.

I think it has to be noted, and I do note as we did in the committee the other day, that the Washington Metro System is among the best run in the country, as our colleague, the gentleman from northern Virginia [Mr. WOLF] indicated. I think the management of this transit property is outstanding. It is not fun to stand here and oppose it.

In the final analysis, as a member of the Subcommittee on Transportation, I will work to make sure that the Metro is funded and completed.

Mr. COUGHLIN. As will I, I might add.

Mr. CARR. As I know the gentleman does, we have talked about that. So we are not talking about stopping Metro or preventing it from happening. It is just that after all these years, it seems to some of us there are some important parts of this that should be seriously considered.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. COUGHLIN] has expired.

Mr. PARRIS. Mr. Chairman, I yield 1 additional minute to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to my colleague, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, could the gentleman indicate to us how much money is typically in the account from which this money would come?

Mr. COUGHLIN. It varies. We have in the area of $600 to $700 million, if I recall properly, last year in the account. However, Washington, DC, has always gotten their fair share, and more.

Mr. WALKER. It is $700 million?

Mr. COUGHLIN. That is correct.

Mr. WALKER. In the total account?

Mr. COUGHLIN. Yes.

Mr. WALKER. And this bill would anticipate about $195 million or $180 million of it going each year to Metro?

Mr. COUGHLIN. That is approximately correct.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

Mr. CARR. Mr. Chairman, will the gentleman yield further?

Mr. COUGHLIN. I yield to the gentleman from Michigan.

Mr. CARR. Mr. Chairman, I would just say this bill in my judgment calls upon us to continue preferential treatment for the Washington metro area long beyond its needs. I think they have the support in the Congress and in the committee to fully fund the completion of metro, but it is time that metro joins the rest of the transit properties in America and comes to the Congress in the Appropriations Subcommittee on an equal footing.

Mr. COUGHLIN. I share the gentleman's belief and urge defeat of the bill so thay can compete with the rest of the country.

□ 1820

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise in support of this legislation for a number of reasons, particularly because I think, given the fact that this is a 20-year-old-authorization, the formula that I understand we will be using is 75-percent/25-percent cost-sharing formula, which is very consistent with what we have been doing across the country, but more importantly, because what I would like to say to my colleague, the gentleman from California [Mr. ROHRABACHER], is very relevant.

We are not talking here about one type of infrastructure in a vacuum. Orange County, for example, where the home of the gentleman from California [Mr. ROHRABACHER] is located, is going to be receiving over $1 billion in energy and water development funds out of the Committee on Appropriations because they have an extremely serious flood-control problem.

The rest of the country is not beggaring its neighbors by saying, "We cannot afford to help Orange County." We know Orange County is one of the wealthiest counties in this Nation, but I think we are probably going to be providing the funds to Orange County because they have a serious problem.

I would just simply want to focus my colleagues on the overall needs to appropriate public works based on need and not on some basis related to wealth or cost-sharing alone.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, does the gentleman think that the traffic problems here in the Nation's Capital and in this area are so much greater than those problems that we face in California and throughout the country?

Mr. FAZIO. Reclaiming my time, I do not think they are unique in the sense that there are many around the country, but they are very severe, and I think we are following through on a long-term commitment to this region, a 20-year-old-authorization, and I think a 75-percent/25-percent cost-sharing is consistent with our desire to complete this project before we go on to others in other parts of the country.

Mr. ROHRABACHER. If the gentleman will yield further, if they are not unique and the problems of gridlock and of traffic problems are spread throughout the country in major urban areas, why should we commit ourselves, as we have heard, of so much of the transportation money pot which is committed right off the top to this area?

Mr. FAZIO. Let me start by going back to a point that was made. I know the gentleman was preoccuppied, and I do not deny him the need to be, but let me just simply say that if we took the same attitude on the Santa Ana River Project, we simply would tell Orange County to come up with far more money than we are going to ask in local cost-sharing simply because there are other areas in the State let alone in the country that need flood control. I think it has to mean that consistency here requires us to, on occasion, make a major investment, certainly for a period of time in an infrastructure issue, in a public works project that has clear need, and so Orange County deserves the larger share.

Mr. ROHRABACHER. Has there not already been a major commitment by the Federal Government into the traffic problems here in the District of Columbia and the surrounding area? Is not $7.7 billion already a major commitment?

Mr. FAZIO. It is a major commitment, and I think we are making major commitments in other areas, too, because in order to get the project done in a timely way and keep it from costing even more than it has already, we ought to finish the job. We ought

to finish it here in the District of Columbia on transit, and we ought to finish flood control in Orange County. We cannot take a beggar-thy-neighbor approach here in this country.

Mr. DELLUMS. Mr. Chairman, I yield 4¾ minutes to my distinguished colleague, the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the very distinguished chairman of the Committee on the District of Columbia, who has been a long-time supporter of this system and of our region. I would be remiss, indeed, if I did not recognize on the floor of the House one of the giants not only of this Congress but an expert about the District of Columbia and about the Washington metropolitan region, the distinguished gentleman from Kentucky [Mr. NATCHER].

I would like to speak about some points that have been raised here. The gentleman from Pennsylvania, whom I deem to be one of the finest Members of this Congress, with whom I have worked closely both on the Committee on the District of Columbia and on his Committee on Transportation; this is not a raid on the Treasury of the United States. It is a project of great importance to the people of the United States. Dwight David Eisenhower said that, not specifically in those terms. Gerald Ford, as a Member of the House, supported that policy. Presidents since that time have supported that policy until this decade when President Reagan, on at least one occasion, wanted to zero-fund the Metro system.

We talk about competition with others throughout the country. The President proposed zero-funding the Metro system. This Congress overwhelmingly rejected that proposal. This Congress has indicated year in and year out its support, its 1952, 1969, and 1979 commitment.

Metro is going to be funded. That is not the issue, I suggest to the Members, and I suggest to my good friend, the gentleman from Pennsylvania who indicates to the gentleman from Pennsylvania the $700 million, $700 million because of the 302(b) allocation. Every year that the subcommittee has had a 302(b) allocation, the Committees on the Budget has included a specific sum for Metro. We do not have to follow them, that is true, but I suggest to the Members that that may not be quite as large if Metro is not a component of the budget resolution.

The budget resolution is affected by the perception of the Committee on the Budget that this is America's subway, and that it is appropriate that Americans help pay for it just as this region has paid for it, almost $600 million.

Let me speak to the $7.7 billion figure. My good friend, the gentleman from Pennsylvania, unfortunately has gotten that from the Secretary of Transportation. The Secretary of Transportation, and I wish the gentleman from California [Mr. ROHRABACHER], perhaps, would listen to me, because he has used this figure as well. It is wrong, dead wrong.

Let me tell the Members what the figures are and what they are composed of. First of all, there was a $2 billion figure that is being ascribed to that $7.7 billion which was this region's interstate highway money, that we decided, because we believed that it was in the interests of the metropolitan area not to necessarily have more roadways but to have a much more efficient and effective commuting system which we call Metro. That was part of it. But we would have spent that anyway. That was not some largesse. That was interstate money that our region got just as other regions got.

The gentleman from Orange County, I am sure, probably knows off the top of his head his interstate money. It is very high. We know that.

In addition, the Secretary of Transportation says that we have gotten $2 billion when actually we have gotten $750 million, so he is $1.2 billion off.

Actually when we take those figures out, this region has gotten $3.7 billion. That is a lot of money. We thank everyone for that. That was important to move this system ahead.

New York, I want to advise my friend, the gentleman from Pennsylvania, has gotten as of 1988, and how many times have we heard that this system has gotten more than any other system, and New York has gotten $8 billion as of 1988. The Washington metropolitan region is not begrudging them that. They have a lot of people.

Our system is the second largest in the country.

Mr. Chairman, this is America's subway; 19½ million Americans from throughout the country come here, and, sure, they go to Orange County.

Let me tell the Members that there is a difference here. If we have added costs, we cannot raise the property taxes of the major employer in our region, because it is us. It is the people of America. We call it the Federal Government.

Support this authorization. It is good for America and good for this region and good for the country.

□ 1830

Mr. PARRIS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, today I speak in strong support of H.R. 1463, a bill which would authorize funds to complete America's subway. The 13.5 miles, which remain to be built, are critical to the 103-mile system. The Metrorail system was designed as a whole, and these final miles contain necessary storage yards, inspection facilities, and traffic intercepts which are vital to assure the efficient and effective operation of the system. Besides completing the system, the lines to be built serve some of the most transit dependent citizens in the region.

This legislation will allow the extension of the red line from Wheaton, MD to Glenmont, MD, the site of an existing Metrorail inspection yard. This final portion of the red line is a vital part of the remaining 13.5 miles to be built. It will provide badly needed transportation to the upper Georgia Avenue corridor. This corridor is experiencing rapid growth in housing and office development. Montgomery County has initiated efforts to manage traffic demand in this area, and they have had some success, but the continual increase in automobile trips has reduced mobility on most of the arterial streets in the Glenmont area.

The demand for Metrorail is shown by the high use of park and ride lots and shuttle bus service to the Silver Spring Metrorail Station. Montgomery County's plans to construct additional parking facilities to provide auto users more access to Metrorail demonstrates the need to complete Metrorail to Glenmont.

The Glenmont portion of the Metrorail system must be built. It provides a badly needed transportation alternative in one of the fastest growing corridors in Montgomery County and the region. It will provide mobility to transit dependent riders form Howard County, Baltimore County, and other local jurisdictions to the north of Montgomery County. Without this portion of the red line, there will be enormous traffic problems.

The Metro system will improve the quality of life.

Traffic conditions in Metro corridors are much improved: 600,000 fewer cars on the road each weekday, projected to rise to 1 million when Metrorail system is finished. Increases in traffic congestion less inside the beltway with Metrorail service than outside the beltway.

Air quality much improved—7 million fewer tons of pollutants annually today will grow to 11 million fewer tons of pollutants annually when Metrorail system is finished.

Does anyone doubt that the 20 miles that will be opened over the next 3 years and the 13.5 miles that this bill will help build will create economic development and job opportunities for thousands of people in the National Capital region, including many of the least fortunate among us?

One of the primary causes of a lower quality of life in any growing metropolitan area is suburban sprawl—it is a

direct cause of traffic congestion and pollution, among other ills. Metrorail concentrates commercial, retail, and residential development at station sites and along rail corridors, resulting in lower automobile usage and pollution.

Finally, Washington, DC, and its environs is a National and international capital—it is a place where a nation puts its best foot forward and shows off the best it has to offer—Metrorail, with its soaring architecture, cleanliness, high service standard, and crime-free environment is the standard we should show the world. The least this Congress can do is finish what we started over 20 years ago.

Mr. Chairman, I urge my colleagues to support the bill H.R. 1463. Let us finish the subway that serves the 400,000 civilian and military Federal employees in the region and the 19 million tourists who visit the Nation's Capital annually. Passage of H.R. 1463 will permit the realization of the vision by Congress of building the full 103-mile Metrorail system.

Mr. PARRIS. Mr. Chairman, I yield myself such time as I may consume.

The CHAIRMAN. The Chair advises the gentleman from Virginia that he has 4½ minutes remaining.

Mr. PARRIS. Mr. Chairman, the Metro has been under construction in this city for more than 20 years. The Metro has 70 miles currently in service, and by the year 1993 it will be 89½ miles in service. That is more miles than any other system that is under construction and still growing, including the cities of Los Angeles, San Francisco, and Atlanta.

In this region 400,000 Federal employees use the Metropolitan Washington subway every day. Metro removes, as has been said, 100,000 cars from the highways of this region every day. If this system is not viable, where would they park when they get here?

I think one could make the case, Mr. Chairman, that this is a cost-effective proposal, if in fact one assumes that the Federal Government has an obligation to manage its business in some kind of an effective way.

I urge my colleagues to support this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. DELLUMS. Mr. Chairman, in closing the debate I would make two final points. In finishing this system, the last 13.5 miles, we are trying to serve the transit-dependent people. This is their vehicle to economic development.

A final comment: there are moments, Mr. Chairman, I say to the members of this committee, that require our highest and our best judgment. There are moments when we should rise above the narrow confines of our parochial interests. On the basis of dignity and compassion and good judgment, we should make decisions that are indeed in the Federal interests of the United States.

The legislation before us today is a classic case in point. Let us rise above the narrow confines of our parochial interests. I challenge my colleagues to their highest and their best, and ask them to join with me in passing the legislation before us.

Ms. PELOSI. Mr. Chairman, I rise in support of H.R. 1463, which would reaffirm the Nation's commitment to the Washington Metropolitan Area Transportation Authority. It is appropriate that we consider this bill after voting to elevate protection of the environment to Cabinet-level status.

As we enter the decade of the 1990's, we are confronted with very real environmental problems—problems, such as air pollution and global warming, which cannot be solved without changes in environmentally destructive behavior. To clean the air, we must encourage Americans to move out of their cars and on to transit.

Since its inception, Washington Metro has done just that—today the Metro system provides nonpolluting transportation for 1 million passengers a day. This means an estimated 600,000 less cars on the road each day. It means a reduction in automobile-produced air pollutants of 7 million tons per year.

Mr. Chairman, now is not the time to pull the financial rug out from under Metro. Rather, it is time to promote clean air by supporting mass transit in our Nation's Capital. I urge my colleagues to support H.R. 1463.

Mr. DELLUMS. Mr. Chairman, I yield back the balance of my time.

Mr. PARRIS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate having expired, pursuant to the rule, the bill is considered under the 5-minute rule by sections. Each section shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is a follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Capital Transportation Amendments of 1989".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. AMENDMENT TO NATIONAL CAPITAL TRANSPORTATION ACT OF 1969.

Effective October 1, 1989, the National Capital Transportation Act of 1969 (Public Law 91-143; 83 Stat. 320) is amended by adding at the end thereof the following new section:

"AUTHORIZATION OF ADDITIONAL FEDERAL CONTRIBUTIONS FOR CONSTRUCTION

"SEC. 17. (a) The Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized by sections 3 and 14, for the purpose of financing in part the cost of construction of the Adopted Regional System.

"(b) Federal grants under subsection (a) for the Adopted Regional System shall be subject to the following limitations and conditions:

"(1) The work for which such grants are authorized shall be subject to the provisions of the Compact and shall be for projects included in the Adopted Regional System.

"(2) The aggregate amount of such Federal grants made during any fiscal year shall be matched by the local participating governments by payment of capital contributions for such year in a total amount that is not less than 25 percent of the amount of such Federal grants and shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or revenues available in cash, or new capital.

"(3) Such grants shall be subject to terms and conditions that the Secretary may deem appropriate for constructing the Adopted Regional System in a cost-effective manner.

"(c) In addition to funds authorized under section 14, there is authorized to be appropriated to the Secretary of Transportation for the purpose of making grants to complete the Adopted Regional System as provided in subsection (a) an aggregate amount not to exceed $2,160,000,000.

"(d) Amounts appropriated pursuant to the authorization under subsection (c)—

"(1) shall remain available until expended; and

"(2) shall be in addition to, and not in lieu of, amounts available to the Transit Authority under the Urban Mass Transportation Act of 1964 and section 103(e)(4) of title 23, United States Code.".

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee Amendment: Page 3, line 21, strike the period and insert the following: ", with such amounts to be made available in increments for 11 fiscal years, or until expended, beginning in fiscal year 1991.".

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 2?

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 3, after line 13, insert the following:

"(4) The Transit Authority shall conduct in accordance with the regulations issued by the Secretary of Transportation under subsection (c) testing of its employees responsible for safety-sensitive mass transportation functions for the illegal use of controlled substances.

"(c) Not later than 6 months after the date of the enactment of this section, the Secretary of Transportation, in the interest of mass transportation safety, shall issue regulations establishing a program which requires the Transit Authority to conduct testing (including random testing) of its employees responsible for safety-sensitive mass transportation functions for the illegal use of controlled substances (as such term is defined under section 102 of the Controlled Substances Act

Page 3, line 14, strike "(c)" and insert "(d)".

Page 3, line 22, strike "(d)" and insert "(e)".

Page 23, line 22, strike "(c)" and insert "(d)".

Mr. SOLOMON. Mr. Chairman, I thank the gentleman from California [Mr. DELLUMS], the chairman of the Committee on District of Columbia, and the gentleman from Virginia [Mr. PARRIS], the ranking member.

One of the most serious problems facing our Nation today is the use of illegal drugs, which is maiming our young children, killing them. Now the problem is spreading not only just in the metropolitan areas of our country, but out into the suburbs and the rural areas that I represent.

Mr. Chairman, this amendment would simply require mandatory random drug testing of people involved in the transit system with the safety sensitive mass transportation.

I offer this amendment as a series of amendments that I have offered to the State Department legislation, to many authorization bills, even the CIA, in an effort to try to cut down on the demand for illegal drugs. The only way we are ever going to deal with this serious problem is to reduce the demand, which will take away the profits from those who want to produce illegal drugs and sell illegal drugs to our young people throughout this country.

Mr. Chairman, I will not bother to go into the amendment, but I would ask that the amendment be accepted.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I will be glad to yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding. On this side of the aisle we are significantly aware of the fact my distinguished colleague has offered this amendment successfully on a number of pieces of legislation, and he has been very consistent in that regard. We are prepared to accept the amendment of the gentleman from New York on this side of the aisle.

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the ranking member, the gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, this amendment is consistent with Secretary Skinner's regulations. Metro has already drafted a plan to effectively implement the regulation. We support the amendment and urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. WALKER. Mr. Chairman, on that I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. A recorded vote has been demanded. Does the gentleman insist on his point of order?

Mr. WALKER. Mr. Chairman, I do insist on my point of order.

The CHAIRMAN. The Chair will count for a quorum.

Mr. WALKER. Mr. Chairman, I withdraw my demand for a recorded vote. It would be my intention to get a separate vote on this amendment when we get to the House.

□ 1840

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. ANDERSON

Mr. ANDERSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON: page 3, line 2, strike out "25" and insert in lieu thereof "33⅓".

Page 3, line 8, strike out "revenues" and insert in lieu thereof "reserves".

Page 3, line 19, strike out "$2,160,000,000" and insert in lieu thereof "$2,025,000,000".

Mr. DELLUMS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ANDERSON. Mr. Chairman, this amendment reduces the Federal share of the cost of construction of the Washington Metrorail System from 80 percent to 75 percent, which is the percentage currently authorized by Federal law for the construction of all other new rail systems in this country. When Stark-Harris funds were last authorized for Metrorail in 1980, the federally authorized share was 80 percent for these systems.

Therefore, the Stark-Harris bill reflected that percentage. Subsequently, when the Congress reauthorized the Surface Transportation Assistance Act in 1982, the percentage share was reduced to 75 percent. This occasion is the first opportunity that we have had to address the inconsistency which now exists between the Federal share for the Washington system and the provisions of the relevant authorization act.

Therefore, this amendment is absolutely necessary out of equity and fairness to bring the additional Metrorail funding contained in this bill into conformity with the federally authorized share of costs for other new rail projects under the Surface Transportation Assistance Act.

I urge my colleagues to adopt the amendment and to support H.R. 1463, as amended.

Mr. COUGHLIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment, but remain in opposition to the bill.

The amendment would raise the local share from 20 percent to 25 percent. We are asking other transit authorities around the country to put up a local share of 50 percent or more. Metro is still asking for a 75 percent Federal contribution toward the system here.

The important issue that is before us is that not one single other transit authority in the country has a special authorization like this, not one single one. There is no need for Metro to have a special authorization because at the time the original Stark-Harris legislation was passed we did not have the sophisticated in-place system for funding transit systems that we have now. Metro is entitled to and we ask Metro to apply for funds under section 3 for discretionary grants. They get funds under section 9 for formula grants which can be used for construction, which can be used for capital projects. There is no need, there is no need for Metro to have a special authorization.

Most importantly, there is no reason why Metro should be treated more favorably than any other transit system in the country.

So I continue in opposition to the bill.

Mr. PARRIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise for two reasons. I want to thank the chairman of the Committee on Public Works and Transportation, the gentleman from California, [Mr. ANDERSON], for his thoughtful insight on this matter, and I am in support of his amendment.

This effectively brings the Metro system into conformance with Federal participation levels in other transit properties under the Federal Urban Mass Transit Administration Action 3 Program. We on this side of the aisle urge its adoption and suggest that it is an important addition to this bill. We thank the gentleman for his contribution.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding and rise simply to first, associate myself with the remarks of my distinguished colleague from Virginia [Mr. PARRIS]; and second, to simply say that we were clearly aware of the fact that the gentleman from California [Mr. ANDERSON] would be offering this amendment. We perceived it as a friendly amendment. We knew that it would come from the floor, and this side of the aisle is prepared to accept the gentleman's amendment.

Mr. PARRIS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ANDERSON].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer two amendments, and I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio.

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. TRAFICANT: Page 4, after line 4, insert the following:

SEC. 3. BUY-AMERICAN PROVISION.

(a) REPORT TO CONGRESS.—The Washington Metropolitan Area Transit Authority shall report to Congress (1) on contracts which the Transit Authority enters into with foreign entities with respect to its rail system in fiscal years 1991 and 1992 and which are subject to the Buy American provisions of the Surface Transportation and Assistance Act of 1982 or the Surface Transportation and Uniform Relocation Assistance Act of 1987, and (2) on the number of such contracts which meet the requirements of such provisions but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.

(b) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If the Secretary of Transportation determines that any person intentionally affixes a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall declare that person ineligible to receive a Federal contract with the Washington Metropolitan Area Transit Authority for its rail system for a period of not less than 3 years and not more than 5 years. The Secretary may bring action against such person to enforce this subsection in any United States district court.

Page 4, after line 4, insert the following:

SEC. 3. RESTRICTIONS ON CONTRACT AWARDS.

No foreign government shall be eligible to receive a contract with the Washington Metropolitan Area Transit Authority for its rail system if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which result in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

Mr. TRAFICANT. Mr. Chairman, this is the Buy America amendment.

Mr. Chairman, I want to thank both the chairman and vice chairman of the committee for accepting the amendments.

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, I thank the gentleman for yielding.

The minority has no problem with this amendment and urge its adoption. I thank the gentleman for his cooperation in this regard.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, we accept the gentleman's amendment on this side of the aisle and see it as a friendly amendment. We thank the gentleman for his diligence.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendments were agreed to.

The CHAIRMAN. Are there other amendments to the bill?

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I usually do not complain about authorization bills from a budget standpoint because they are only the first half of the process. But I think in this case an exception ought to be made.

We are talking here about an awful lot of money, billions, a couple of hundred million in BA annually, and it is for a particular region of the country at a time when our economy cannot afford many other important programs that many of us think should be starting out. It is at a time when we are enduring an enormous, several hundred billion deficit, and have been enduring that deficit for about a half a dozen years.

Under these circumstances, Mr. Chairman, it seems to me that it is absolutely inappropriate for the House to be encouraging this kind of spending, even though an authorization does not itself mean that we are expending the funds. It seems to me that this House and the Members thereof would be well advised to get rid of this problem right now, and worry about concentrating on the deficit and the other kinds of priorities that we need to face immediately.

I urge a vote against the bill, and I yield back the balance of my time.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. WHEAT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1463) to amend the National Capital Transportation Act of 1969 relating to the Washington Metrorail System, pursuant to House Resolution 366, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. WALKER. Mr. Speaker, I demand a separate vote on the so-called Solomon amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 3, after line 13, insert the following:

"(4) The Transit Authority shall conduct in accordance with the regulations issued by the Secretary of Transportation under subsection (c) testing of its employees responsible for safety-sensitive mass transportation functions for the illegal use of controlled substances.

"(c) Not later than 6 months after the date of the enactment of this section, the Secretary of Transportation, in the interest of mass transportation safety, shall issue regulations establishing a program which requires the Transit Authority to conduct testing (including random testing) of its employees responsible for safety-sensitive mass transportation functions for the illegal use of controlled substances (as such term is defined under section 102 of the controlled substances act.

Page 3, line 14, strike "(c)" and insert "(d)".

Page 3, line 22, strike "(d)" and insert "(e)".

Page 23, line 22, strike "(c)" and insert "(d)".

Mr. WALKER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 405, nays 3, answered not voting 25, as follows:

[Roll No. 51]

YEAS—405

Ackerman	Armey	Bates
Akaka	Atkins	Beilenson
Alexander	AuCoin	Bennett
Anderson	Baker	Bentley
Andrews	Ballenger	Bereuter
Annunzio	Barnard	Berman
Anthony	Bartlett	Bevill
Applegate	Barton	Bilbray
Archer	Bateman	Bilirakis

Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Roe
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Weber
Weiss
Wheat
Whittaker
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—3

Dingell
Perkins
Washington

NOT VOTING—25

Aspin
Callahan
Coleman (TX)
Coyne
Crockett
Dwyer
Dymally
Fascell
Flippo
Ford (TN)
Hall (OH)
Harris
Jenkins
Lent
Miller (WA)
Moody
Rose
Smith (NJ)
Smith, Denny (OR)
Staggers
Stump
Waxman
Weldon
Whitten
Wilson

□ 1911

Mr. McEWEN changed his vote from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. MURTHA. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 260, nays 150, not voting 23 as follows:

[Roll No. 52]

YEAS—260

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Atkins
AuCoin
Baker
Bateman
Bates
Beilenson
Bentley
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Chapman
Clarke
Clay
Clement
Coleman (MO)
Collins
Condit
Conte
Conyers
Cooper
Courter
Craig
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dymally
Dyson
Eckart
Edwards (CA)
Engel
Erdreich
Espy
Evans
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Gray
Green
Hall (TX)
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Hughes
Hutto
Ireland
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken, Thomas
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Parris
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Pickett
Pickle
Price
Rangel
Ravenel
Ray
Richardson
Ridge
Rinaldo
Roberts
Roe
Ros-Lehtinen
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schumer
Serrano
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (VT)
Solarz
Spratt
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tanner
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Vento
Visclosky
Walgren
Walsh
Washington
Weber
Weiss
Wheat
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (FL)

NAYS—150

Annunzio
Archer
Armey
Ballenger
Barnard
Bartlett
Barton
Bennett
Bereuter
Bilirakis
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Campbell (CA)
Carr
Chandler
Clinger
Coble
Combest
Costello
Coughlin
Cox
Crane
Dannemeyer
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Early
Edwards (OK)
Emerson
English
Fawell
Fields
Fish
Frenzel
Gallegly
Gekas
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Grant
Guarini
Gunderson
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Houghton

Hubbard	Neal (NC)	Shuster
Huckaby	Nielson	Skeen
Hunter	Packard	Smith (NE)
Hyde	Pashayan	Smith (TX)
Inhofe	Patterson	Smith, Robert (NH)
Jacobs	Paxon	Smith, Robert (OR)
James	Penny	Snowe
Kasich	Petri	Solomon
Kyl	Porter	Spence
Lagomarsino	Poshard	Stearns
Leach (IA)	Pursell	Sundquist
Lewis (CA)	Quillen	Tallon
Lewis (FL)	Rahall	Tauke
Lightfoot	Regula	Thomas (CA)
Lipinski	Rhodes	Thomas (WY)
Livingston	Ritter	Upton
Lowery (CA)	Robinson	Valentine
Lukens, Donald	Rogers	Vander Jagt
Machtley	Rohrabacher	Volkmer
Marlenee	Rostenkowski	Vucanovich
Martin (IL)	Roth	Walker
McCandless	Russo	Watkins
McCollum	Schiff	Whittaker
McEwen	Schuette	Williams
McMillan (NC)	Schulze	Wylie
Meyers	Sensenbrenner	Young (AK)
Miller (OH)	Sharp	
Moorhead	Shaw	
Myers	Shumway	

NOT VOTING—23

Aspin	Ford (TN)	Smith (NJ)
Callahan	Hall (OH)	Smith, Denny (OR)
Coleman (TX)	Harris	Staggers
Coyne	Jenkins	Stump
Crockett	Lent	Waxman
Dwyer	Miller (WA)	Weldon
Fascell	Moody	Whitten
Flippo	Rose	

□ 1927

The Clerk announced the following pair:

On this vote:

Mr. Moody for, with Mr. Stump against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1463, NATIONAL CAPITAL TRANSPORTATION AMENDMENTS OF 1989

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1463, the Clerk be authorized to correct section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in the passage of the bill, H.R. 1463.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1463, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

HOUR OF MEETING ON THURSDAY, MARCH 29, 1990

Mr MOAKLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on Thursday, March 29, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3, CHILDHOOD EDUCATION AND DEVELOPMENT ACT OF 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-436) on the resolution (H. Res. 368) providing for the consideration of the bill (H.R. 3) to authorize appropriations to expand Head Start programs and programs carried out under the Elementary and Secondary Education Act of 1965 to include child care services, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST H.R. 4404, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-437) on the resolution (H. Res. 369) waiving certain points of order against consideration of the bill (H.R. 4404) making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes, which was referred to the House Calendar and ordered to be printed.

□ 1930

U.S. NAVAL RESERVE MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 266) designating March 1990, as "United States Naval Reserve Month" and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. HATCHER). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I do so simply to acknowledge the work of the gentleman from Florida [Mr. MCCOLLUM], who is the chief sponsor of House Joint Resolution 413.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 266

Whereas March 1990, is the 75th anniversary of the establishment of the Federal Navy Reserve Force;

Whereas thousands of men and women of the United States have served the Nation as "Twice the Citizens" by serving with the United States Naval Reserve;

Whereas thousands of Reserve members have been a critical component of the Fighting Force of the United States Navy;

Whereas 600,000 individuals were members of the Naval Reserve during World War I and 80 percent of Naval personnel were reservists during World War II;

Whereas, in the Berlin Crisis, Korea, Vietnam, and most recently in the Persian Gulf, Naval reservists played vital roles;

Whereas the United States Naval Reserve continues to serve the Nation in peace time by maintaining military readiness and contributing to fleet support;

Whereas the reservists serve as part-time regular Navy personnel which economically fulfills important military missions and expands the operational abilities of the Navy around the world;

Whereas thousands of employers throughout the United States and the families of reservists have contributed to the support and encouragement needed for a successful Reserve program;

Whereas many Naval reservists have died while serving the Nation; and

Whereas in recognition of great sacrifice of Naval reservists during peace time and during war: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1990, is designated as "United States Naval Reserve Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the Nation to observe the day with appropriate ceremonies and activities in recognition of the 75th anniversary of the United States Naval Reserve.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL RECYCLING MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 250) designating April 1990 as

"National Recycling Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I do so again simply to acknowledge the work of the gentleman from California [Mr. HAWKINS] who is the chief sponsor of this resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 250

Whereas the continued generation of enormous volumes of solid waste each year presents unacceptable threats to human health and the environment;

Whereas several regions of the United States are experiencing a severe shortage of disposal capacity for municipal solid waste;

Whereas as a result of the inability to find sites for new solid waste management facilities, many communities are managing waste in facilities that were not designed with the best available environmental controls;

Whereas the generation of hazardous waste and solid waste must be reduced and as much remaining waste as possible must be recycled to protect human health and the environment and to minimize treatment and disposal capacity problems;

Whereas a significant amount of waste can be diverted from disposal by the utilization of source separation, mechanical separation, and community-based recycling programs;

Whereas local governments should be an integral component of the decisionmaking process regarding the management of municipal solid waste;

Whereas developing a system of waste management that, to the greatest extent practicable, separates elements of the waste stream that require special management or that are in demand for reuse or recycling will enhance the economic feasibility and environmental safety of all management methods, including recycling, incineration, and land disposal;

Whereas source reduction and recycling represent the most environmentally sound means of managing municipal solid waste and can often be carried out with a lower cost than is incurred by other means;

Whereas recycling preserves limited landfill capacity and reduces the amount of solid waste intended for incineration;

Whereas recycling can save energy and avoid the pollution created from extracting resources from their natural environment;

Whereas the revenues recovered by recycling programs offset the costs of solid waste management;

Whereas a well-developed system of recycling scrap metals, paper, and glass already exists and is significantly reducing the quantity of solid waste entering landfills or incinerators;

Whereas the technology for recycling plastic is currently under development, and progress continues toward increasing potential markets;

Whereas many consumer products are designed without sufficient regard for safe and efficient recycling after disposal;

Whereas Federal, State, and local governments should promote the design of products that can be recycled safely and efficiently;

Whereas Federal, State, and local governments should enact legislative measures that will increase the amount of solid waste that is recycled;

Whereas Federal, State, and local governments should encourage the growth of incremental markets for materials recovered from recyclable goods;

Whereas Federal, State, and local governments should establish incentives for household separation of waste to encourage recycling;

Whereas the success of source reduction and recycling programs depends on the participation of an informed public; and

Whereas the people of the United States should be encouraged to participate in educational and legislative endeavors that promote waste separation methods, community-based recycling programs, and expanded utilization of recovered materials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1990 is designated as "National Recycling Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The Senate joint resolution was order to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EDUCATION DAY, U.S.A.

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 500) to designate April 6, 1990, as "Education Day, U.S.A.," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

Mr. MICHEL. Mr. Speaker, I welcome this opportunity to say a few words about House Joint Resolution 500, requesting the President to designate April 6, 1990, as Education Day, U.S.A.

Along with the distinguished majority leader, Richard Gephardt, I am sponsoring this resolution. The majority leader and I joined forces last year and I am happy to be a part of this worthy venture today.

As I said last year, I think it is fitting that the majority and the minority leaders should cosponsor such a resolution. It deals with a subject that transcends partisan consideration.

We are seeing a rebirth of the old American idea of progress through education for all Americans. That's still a great idea.

April 6 also happens to be the 88th birthday of the internationally renowed and respected religious leader, Rabbi Menachem Mendel Schneerson.

This year marks the fourth decade of the Rebbe's leadership of the Lubavitch Movement which actively promotes education programs at more than 150 centers in the United States.

The Lubavitch Movement, founded in the 18th century, has as its philosophical foundation three basic elements: Wisdom, understanding, and knowledge.

It is, therefore, appropriate that the movement, under the inspired leadership of the man called the Rebbe, has been so active in promoting education.

Looking over my remarks from last year, I came upon a fact I want to share with you today.

The movement which the Rebbe heads takes its name from the Russian city, Lubavitch, which translated into English means, "city of love."

In the final analysis it is love of one's religious heritage, love of learning—that is at the heart of the Lubavitch Movement and at the heart of our resolution.

I'm pleased once again to honor a great man and to support such a noble idea.

Mr. Speaker, I would also like to mention that a letter signed by 51 Senators was sent to the President requesting the proclamation ceremony be performed on the White House grounds this year. This would allow leaders of Lubavitch from each of its major U.S. cities, as well as my colleagues who take pride in representing these leaders in their districts, to participate in such a worthy proclamation. I would like to join my friends from the Senate and urge the President schedule a public ceremony.

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Joint Resolution 500 to designate April 6, 1990, as "Education Day, U.S.A.," and commend my colleagues Mr. MICHEL and Mr. GEPHARDT for introducing this measure.

The quality of education is essential to our American heritage of cultural and political freedom. Our schools are instrumental in providing for our scientific and technical competence. Education holds the key to the future. By designating April 6, 1990, as "Education Day, U.S.A." we will call the attention of the American people to the necessity of improving our educational system, which promotes good moral and ethical values.

Mr. Speaker, the future of our Nation, our way of life, and our democratic system of Government is dependent on a highly educated citizenry, a citizenry that must be equipped to compete with other nations of the world. We must nurture our desire for learning and to motivate students and teachers to assure that we maintain leadership to continue our American democracy.

House Joint Resolution 500 calls attention to the Lubavitch movement, which promotes many of our ethical values and principles upon which the educational system of our great Nation was founded.

In choosing April 6, 1990, we are also honoring Rabbi Manachem Mendel Schneerson, the leader of the Lubavitch movement who will be celebrating his 88th birthday and the 40th anniversary in which the rebbe ascended to the world leadership of the Lubavitch movement.

Mr. Speaker, I strongly urge my colleagues to join me in supporting this resolution which fo-

cuses attention on the educational values which are so vital to the future of our Nation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 500

Whereas Congress recognizes the historical tradition of ethical values and principles which are the basis of civilized society and upon which our great Nation was founded;

Whereas these ethical values and principles have been the bedrock of society from the dawn of civilization, when they were known as the Seven Noahide Laws;

Whereas without these ethical values and principles the edifice of civilization stands in serious peril of returning to chaos;

Whereas society is profoundly concerned with the recent weakening of these principles that has resulted in crises that beleaguer and threaten the fabric of civilized society;

Whereas the justified preoccupation with these crises must not let the citizens of this Nation lose sight of their responsibility to transmit these historical ethical values from our distinguished past to the generations of the future;

Whereas the Lubavitch movement through its over one hundred and fifty centers in the United States and many more the world over has fostered and promoted these ethical values and principles throughout the world;

Whereas Rabbi Menachem Mendel Schneerson, leader of the Lubavitch movement, is universally respected and revered and his eighty-eighth year will be seen as the year of continued "turn and return", the year in which we continue to turn to an education which will return the world to the moral and ethical values contained in the Seven Noahide Laws:

Whereas, this year of 1990 (5750 on the Hebrew calendar) is the "Fortieth Anniversary" in which the Rebbe enters the fifth decade since his ascension to the world leadership of the Lubavitch movement and spiritual guidance of world Jewry; and

Whereas this has been reflected in the "International Scroll of Honor" which has been signed by the President of the United States and other heads of state: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 6, 1990, the eighty-eighth birthday of Rabbi Menachem Schneerson, leader and head of the worldwide Lubavitch movement, is designated as "Education Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities. We also call on heads of state of the world to join our President in this tribute by signing similar scrolls of honor which will be presented in their respective countries this year of the "Fortieth Anniversary" entering the fifth decade of leadership. On this occasion we would also welcome the cooperation of the Department of State in extending the good office of the United States missions to the Lubavitcher emissaries.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

VACATING OF SPECIAL ORDER

Mr. McEWEN. Mr. Speaker, I ask unanimous consent that the 60-minute special order granted for today for the gentleman from Georgia [Mr. GINGRICH] be vacated.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE LIBERAL DEMOCRATIC CHILD CARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, I wanted to take this time to talk briefly about the liberal Democratic child care bill which will come to the floor tomorrow to urge every Member to read that bill carefully and to point out that the bill has a number of facts in it that are not exactly as reported in the newspaper.

The bill does not have adequate religious freedom language. It would, in fact, with the current language allow discrimination against people who want to practice their religion. It would, in fact, set up circumstances in which the children could not pray before they ate their cookies. It would, in fact, set up a standard in which in many ways 3-year and 4-year-olds would be limited by their government; but there is a deeper principle involved.

The liberal Democratic child care bill is one more step toward a large bureaucratic welfare state approach, toward a federal bureacracy, toward Federal regulations, toward the kind of control from Washington which makes less and less sense to the average American.

On the other hand, the Stenholm-Shaw bill provides that parents will have the power to decide over their children, that parents will be able to decide what kind of child care they should put their children in, and that parents will be the ultimate judge of the appropriate quality and the appropriate circumstances.

I think this draws a clear discrimination between the liberal Democrats and the conservative Democrat-Republican coalition that is trying to apply common sense to find a positive solution for child care.

My concern is that this bill has come out so late, the printed version only became available today, the Rules Committee only adopted the rule late this afternoon, that the average Member will not have had enough time to thoroughly look at the liberal Democratic bill.

It is not, in fact, as good as the Senate bill. It is much worse. It is much more antireligious than the Senate bill and it is much more proregulation than the Senate bill.

Let me carry the Members a stage further. There will be an amendment offered tomorrow which, in effect, would strip out all the freedom of religious language in both the Stenholm-Shaw and the liberal Democratic bill.

In particular I want to urge my colleagues to vote against that amendment. I believe that it is very, very important, that we reestablish the right of parents to voluntarily choose where their children go and what they do in terms of child care, and I think it is very important that we recognize, for example, that in the innercity something like two-thirds of all the black innercity child care is provided by church-based providers.

It is important that we recognize that in many parts of the country that there are people who feel strongly that at 3 and 4 years of age that they should have a child care program which is more than just another public bureacracy, more then just another arid sterile secular room, that they, in fact, what some kind of value structure, that they are concerned about their children growing up in a value framework.

We decided that we would work from President Bush on down in favor of allowing parents to have that choice, allowing parents to make that decision.

President Bush has been very clear all along. He is committed to passing a child care bill. He is committed to signing a child care bill, but President Bush has certain very basic standards.

First, President Bush is committed to allowing mothers to stay at home with no discrimination, because he feels strongly that mothers who want to stay at home with their child should be afforded that opportunity when the child is very young. It is part of why he is in favor of the toddler tax

credit. It is part of why he has worked to insure that parents who want to stay at home have that opportunity.

Second, President Bush is committed to using vouchers to empower parents so that they have the choice of whether to allow their child to stay with their relatives, their grandmother, their aunt, their sister, their cousin, to allow them to choose a local private child care center, to allow them to choose a local church- or synagogue-based center, or to allow them if they want to, to pay them a supplement to use a local public school or a local public facility.

□ 1940

But the parent could choose by using the voucher where the parent wanted the child to go. In addition, President Bush has pledged consistently that he was opposed to any left-wing proposal which was secular and antireligious. He was committed to not allowing us to raise taxes on all Americans in order only to subsidize nonreligious circumstances, and he felt deeply that it is inappropriate to exclude religion, to exclude the right to pray, to exclude the American people, 3- and 4-year-olds, from having an opportunity to have a values-oriented child care center in which one knows that their child is not just getting fed but they are, in fact, being nurtured, being taken care of by people you believe in, whose values you share.

Finally, President Bush indicated clearly he opposed Federal regulations. Child care should be as close to the parents as possible, as close to the local community as possible, as close to the State as possible in terms of the State government, but the idea of having a Federal bureaucrat sitting in Washington writing regulations which would then define the quality of child care in Phoenix, AZ, the quality of child care in Carrollton, GA, or the quality of child care in Schenectady, NY, is the opposite of President Bush's beliefs.

ORDER OF BUSINESS

Mr. WALKER. Mr. Speaker, I ask unanimous consent that my special order for today scheduled for 60 minutes be made a 5-minute special order.

The SPEAKER pro tempore (Mr. HATCHER). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

FAIRNESS IN THE CLEAN AIR DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. POSHARD] is recognized for 5 minutes.

Mr. POSHARD. Mr. Speaker, our economic future, and our future as the leading society in the world, depends on our ability to adequately educate our children.

But I am very fearful that doing that for the students of southern Illinois will be infinitely more difficult if we are forced to live under some provisions of the clean air legislation being considered.

So I am asking for just a moment of your time to consider arguments on behalf of fairness in the clean air debate.

Without a more equitable formula for cleaning the air and spreading the costs more evenly, the Midwest will pick up a hugely unfair portion of the cleanup tab. We will pay with higher utility rates and higher unemployment.

And our children will pay, because we will be able to offer them less due to a depressed economy.

Here is what we fear. The clean air bill forces utility companies to reject the high sulfur coal produced in my area. The companies don't need the workers and the local economy doesn't get the activity generated by the coal mines.

Over the past decade we have lost 7,000 coal mining jobs in my district. But through technology and efficiency, production has remained basically the same. The damage has been severe, though in some ways controllable.

But now we are looking at a situation where demand and production actually go down and the hundreds of businesses that supply the mines and their employees lose as well.

So here we sit on top of America's most bountiful and dependable resource and no one wants it.

People are forced to move away and look for jobs, accept jobs that don't pay near what they are working for now, or accept the completely unattractive alternative of unemployment as their last resort.

You are probably thinking they can just go get another job. But here is the reality, according to the dean of technical careers at Rend Lake College, Mr. Carroll Turner.

He says the challenge is to identify educational programs that have sufficient job opportunities once the training is done.

The growth in the job market cannot keep pace with the current decline we're already experiencing and he does not forsee any improvement in the future. We have not recovered from previous coal job losses and now people face prospects that are even worse.

And what happens to their children? What happens in the local schools?

I asked Dr. Allan Patton, superintendent of Benton Community Consolidated School District No. 47 what would happen. I will enter his remarks, which were made to a subcommittee hearing in my district, into the RECORD.

Here is the scenario he anticipates.

In Franklin County, where Benton is located, more than 25 percent of all employed persons are coal miners. And about a 1,000 of them risk losing their jobs under proposals that don't spread the cost of compliance.

That jumps the present unemployment rate of 12 to 15 percent all the way up to 20 or 25 percent. OK, so what does that do to the people who have to live that way.

Dr. Patton suggests that an additional 2,500 Franklin County students will be products of an unemployed family.

The student population will go down by almost 36 percent. Schools which are reimbursed in the State aid formula at the rate of about $2,400 a student, will lose almost $6 million.

Franklin County will lose 100 teachers because of declining enrollment. Schools will be forced to consolidate, limit their courses, eliminate extracurricular activities, in general, offer our students few of the things we need to give them to compete in a modern world.

As a former teacher, I know how important it is to have the resources at your disposal to make the most of a school day, and the end result of an unfair clean air bill will be to put students in the high sulfur coal producing areas of this country at an unfair disadvantage.

Nobody wins that way. Areas that do not have to pay as much under this cleanup will pay one way or another. They will have to support the people who, because they were not given the ability to compete, become a drag on the economy of the Nation.

People in my area want to work. They want to earn a living, educate their kids, give them the opportunity to succeed, and participate in the American dream. They cannot do that without the education to let them reach their potential. And I am fearful that an unfair approach to clean air legislation will create that barrier to their success.

We support clean air. We accept our share of the responsibility. Please join us in a spirit of cooperation and fairness, it benefits us all.

The remarks referred to follow:

STATEMENT OF DR. ALLAN D. PATTON, SUPERINTENDENT BENTON COMMUNITY CONSOLIDATED SCHOOL DISTRICT NO. 47 ON ACID RAIN LEGISLATION ON WORKERS AND SMALL BUSINESS IN THE HIGH SULFUR COAL INDUSTRY

Mr. Chairman, Congressman Poshard, distinguished members of the Congressional Subcommittee, it is a pleasure and an honor for me to be here and welcome you to southern Illinois. Indeed, it is a special privilege for me to be in the company of my longtime friend Congressman Glenn Poshard. We in the education community are keenly aware of his commitment to a strong public education, and thank him for his dedication.

Mr. Chairman, I appreciate this opportunity to share with the committee the educational issues of Acid Rain legislation that is now pending before this body. In my opinion, President Bush's comprehensive clean air bill emphasizes the power of the marketplace to protect the environment. However, House Resolution 3030, the Clean Air Act Amendments of 1989, ignores the indirect impact on the nation's schools. In high sulfur coal producing states like Illinois, reduced demand for coal will cause significant adverse economic impacts. The state will not only lose coal mining jobs, but it will also lose jobs in mining-related business and service industries. In a realistic scenario, Illinois would lose approximately 19,000 direct and indirect coal jobs, predominantly in southern Illinios.[1]

Before going into the reasons that I believe that this legislation is not warranted, I would like to discuss the importance of education to our nation's goals. On October 15, 1989, in a letter from the White House, Mrs. Barbara Bush stated that, "Nothing is more important than education * * * the future of America depends on it. Education and our schools are everybody's business." One thing is abundantly clear in the closing years of the 20th century: To be poorly educated is to be condemned to a life of unfulfilled potential. President Thomas Jefferson, in a letter to a friend, wrote that a "nation that hopes to be ignorant and prosperous hopes for something that never was and never will be." Without an educated citizenry American business is in deep trouble. Without an educated work force, business cannot compete.

During the past few years the schools of Benton, and Franklin County, Illinois, have suffered through a major period of declining enrollment. The overriding factors that have contributed to this problem are the reduced birth rate and the stagnate local economy. Within this period of time, statistics reveal that the county unemployment rate has fluctuated between 12 and 15 percent, two to three times greater than the state and national average.

It is important to note that more than 25 percent of all employed persons, 16 years and over, that reside within Franklin County are coal miners.[2] Of these 3544 individuals, approximately 1000 are destined to lose their jobs if the proposed acid rain legislation is enacted in its present form. The estimated impact on the economy of Franklin County would be an added eight percent unemployment rate—a total of 20-25 percent.

Data reveals that the average American family is composed of 2.5 children. By utilizing this count and extending it by the predicted number of miners that may lose their jobs due to the acid rain bills, we are able to extrapolate the economic impact on the schools of Benton and Franklin County. The Legislation would have the following repercussions:

An additional 2500 Franklin County students would be products of an unemployed family.

The Franklin County student population would reduce by 35.8 percent, from 6978 to 4478.[3]

Schools within Franklin County and Benton would lose $5,955,000 in state funding. Schools are reimbused at the rate of $2,383 per student.

Approximately 100 Franklin County teachers would be released due to the decline in student enrollment.

The economy of Franklin County would decline by 2.8 to 3.0 million dollars due to the lay-off of teaching personnel.

Several small communities would lose their local schools due to forced consolidation.

Many schools would be forced to lessen their curriculum to compensate for the decline in student enrollment and the economic impact of reduced state funding. The academic areas that are the most vulnerable are the arts, music, advanced mathematics, and advanced sciences.

Rend Lake and John A. Logan community colleges would experience a devastating financial impact, much as the public school.

The above statements must be placed in the proper perspective. All of the data and the perceived economic affect, describes only the schools of Franklin County and Benton, Illinois. In a memorandum from the office of James R. Thompson, Governor of Illinois, it was stated that the State of Illinois would lose nearly 19,000 coal positions. Therefore, these examples depict only $\frac{1}{10}$ of the possible damage to the economy of the State of Illinois.

On September 27, 1989 the President and the nation's Governors met in an education summit at the University of Virginia. Some of the agreements of that historical meeting were:

A better educated citizenry is the key to the continued growth and prosperity of the United States.

As a nation, we must have an educated work force, second to none, in order to succeed in an increasingly competitive world economy.

Education has always been important, but never as important as it is today.

The overriding objective is to develop an ambitious, realistic set of performance goals that reflect the views of those with a stake in the performance of our education system.

Generally, it is agreed that education is one of the most critical issues facing the nation. Our children do not just deserve a good education, they deserve a world class education—the best we can give them. However, the problem is stark: how can Congress develop acid rain standards on one hand, and provide equal educational opportunities on the other. We must weigh environmental considerations more heavily as we make educational decisions. Acid rain legislation should not centralize the burden on a few industrial states, but spread the burden among all states. We cannot pour money into one problem at the detriment of another.

Finally, the bottom line is, American's fight for long term competitiveness ultimately will be won or lost not in the halls of Congress—not in the board rooms around the world—but in America's classrooms. I urge you, the members of Congress, not to prematurely impose new acid rain standards that are unrelated to children, but require States to spend tax money that could otherwise go to education.

Again, thank you very much for your time Mr. Chairman, I would be pleased to answer your questions.

[1] Memorandum, "Impact of Acid Rain Legislation on Illinois," Washington, DC, September 1989.

[2] Greater Egypt Regional Planning and Development Commission. "Population Data." October 1989

[3] Regional, Superintendent of Schools, Franklin County, Illinois, October 1989.

MESSING WITH THE SOCIAL SECURITY SYSTEM GOES ON AND ON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, several nights ago, I took to the floor to remind my colleagues of that moment during the President's State of the Union Message when the whole House rose in a standing ovation when President Bush told us that we should not be messing with Social Security, and I reminded my colleagues that since that time there has been a good deal of messing going on, and I have come to the floor tonight to suggest that the messing goes on and on and on.

First, we had a plan advanced by the senior Senator from New York to undercut the Social Security System by jeopardizing the trust fund with a tax cut aimed at reducing the amount of revenue going into the reserve to pay Social Security benefits in the future. Then we had Members coming to the floor arguing that there ought to be a differential between what employers and employees pay, that the tax system ought to be made fairer, they said, but what they were really talking about was changing the way in which the tax system works in terms of who pays what into the Social Security System; at least that is the only interpretation one can put on the figures they use to talk about a regressive tax system that has emerged over the last decade.

The only way that one can get to those figures is to put the Social Security increases in, understanding that those Social Security increases were a part of an entire program that was agreed to bipartisanly.

The problem with that differential that they are talking about is that they really are moving toward making Social Security into just another welfare system, precisely the opposite of everything we have told the American people for years about what Social Security should be.

Then we had the chairman of the Committee on Ways and Means come forward with his plan for deficit reduction that called for an elimination of the cost-of-living system for at least 1 year under Social Security.

We now have the Democratic National Committee that has weighed in on the issue, and the Democratic National Committee has come out in favor of the Moynihan plan. In other words, they have come out in favor of undermining the 1983 bipartisan compromise to ensure the integrity of the Social Security System.

□ 1950

The Democratic National Committee meeting this past weekend took the

stand that they are in favor of reducing the amount of money coming into the reserve by reducing the schedule of payments due the system. Therefore, what the Democrats have decided to do as a party, as a national party, they have decided now to jeopardize the integrity of the Social Security System.

The Social Security trust fund is one of those things which is in pretty good shape. We have very few things in the Federal Government that are in good shape at the present time. The Social Security trust fund happens to be one of them. As a result of what we did in 1983, we have been building up that reserve. That reserve now stands at an ability not only to pay benefits to present retirees, but to pay benefits in the future, to ensure the people in the next century now paying the bill that they will have a Social Security System that will protect them.

What the Democrats are suggesting and what their national committee suggested this week is that we ought to eliminate some of that integrity, eliminate some of the payments coming into the system, and thereby jeopardize the future of the Social Security System.

I am a little bit stunned that a party that ran for several years talking about "Save Social Security, vote Democratic," is now in the process where leader after leader of that party comes forward with plans for messing with Social Security, and now the Democratic National Committee goes on record as being in favor of messing with the Social Security System.

I would suggest that it is time we follow the advice of President Bush, that some of the leadership who are now talking about destroying and undermining the Social Security System and so on ought to back off. We ought to take the advice of President Bush. The advice of President Bush to this body ought to be followed. We ought not be messing with Social Security. The standing ovation that was given on the House floor that night ought to be followed. We ought not be messing with Social Security.

It is time that this House goes on record and makes the American people understand we are not going to mess with the Social Security system. But the last few weeks have been disturbing, and the recent vote by the Democratic National Committee to do a lot of messing with Social Security is most disturbing.

THE U.S. DEFENSE BUDGET

The SPEAKER pro tempore (Mr. HATCHER). Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 60 minutes.

Mr. LIPINSKI. Mr. Speaker, tonight I am joined by friend and colleague, the gentleman from Illinois [Mr. SANGMEISTER], and the topic of our special order is the United States defense budget.

Mr. Speaker, I yield to the gentleman from Illinois [Mr. SANGMEISTER] as much time as he may consume in his presentation.

Mr. SANGMEISTER. Mr. Speaker, I thank my colleague from Illinois once again for being invited this evening to speak on this special order.

Mr. Speaker, before I get into my discussion concerning what America's national security policy should be, I would like to take this time to commemorate a man who has contributed as much to preserving this Nation's liberty as any other individual. Yesterday, a joint session of Congress was held to honor this man's 100th birthday. I am referring to the former Supreme Allied Commander of the Allied Forces during World War II and twice-elected President—Dwight David Eisenhower. President Eisenhower embodied courage, leadership, and loyalty to his country. He has certainly been an inspiration to me and I hope his wisdom lives on in our Nation's collective memory for years to come.

On the advent of the most dramatic movement toward democracy in Eastern Europe and the Soviet Union, I believe we should take this occasion to reflect upon some remarks made by President Eisenhower during his farewell address on January 17, 1961. President Eisenhower said: "In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist. We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted. Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together."

What President Eisenhower was driving at was the danger of not adjusting our military commitments to the actual threats that America faces any given time. In a democracy that depends on a vigorous economy to keep the system strong, military strength is not the single issue when considering our national security needs. The two pillars of a strong democracy are a vibrant economy and a sufficient defense. The idea of weakness and strength of a nation is a relative balance between military and economic power depending on what the specific threats are. Funding the military at a low level in the face of a mightier enemy obviously invites danger and is an intolerable situation for the United States to place itself in. On the other hand, devoting excessive funds to the military at a time when the economy is in trouble also ignores the responsibility of the Government to keep the economic pillar from tumbling. Throughout history, great nations have fallen as much from the inside as from the outside.

Mr. Speaker, it is the job of the elected officials to strike the right balance between non-military and military commitments when the time comes to pass a budget. I believe the President's budget proposal has tipped that balance away from forcefully addressing our urgent economic and other domestic problems such as drugs, education, environment, and protecting our senior citizens.

The President has called for a 2.6 per cent decrease from the 1990 level, once the effects of inflation are taken into account. I applaud the President for understanding the importance of reducing the military budget, but as Senator SAM NUNN, chairman of the Senate Armed Services Committee, said last week, the Defense Department has failed to develop a new military strategy in response to the changes in the Soviet Union and Europe.

Testifying before the House Armed Services Committee on March 1 of this year, CIA Director William Webster said: "Revolutionary changes are sweeping what we once called the Soviet bloc of nations. Communist parties and Marxist doctrines are collapsing or already lie in ruins * * * as these upheavals continue to gain momentum they will be progressively more difficult to suppress. In fact, the changes are probably already irreversible in several critical respects: Perhaps most importantly, there is little chance that Soviet hegemony could be restored in Eastern Europe."

Mr. Speaker, I would be the last person to support any defense plan that was unworthy of the label "defense." A strong, capable defense is fundamental in the protection of our freedoms. But I call out for some common sense. After 10 years of extremely high military spending and with revolutionary changes in the heart of our adversaries camp, how can the President not allow a peace dividend?

I believe the President needs to take a closer look at how much we spend on defense in comparison with our allies. Western Europe and Japan spend far less per capita on their own defenses then we do. Our resources are being devoted to countries around the world that have as strong or even stronger economies than we do and yet they spend less on defense. Is it any wonder that our economy is lagging in the arena of international trade? Why does the President plan on closing down mostly domestic military bases

while proposing to build a large base in Italy?

Besides simply reducing the military budget further, we need to restructure our priorities. Why are we spending billions of dollars on extravagant weapon systems like the B-2 bomber and SDI when we have soldiers that can barely read at a fourth grade level? As the nuclear threat diminishes with further arms control agreements, we must pay more attention to the quality and readiness of our conventional force structure. With the reduction of American Forces in Europe and in Asia, the Reserves and the National Guard should play a greater role.

Mr. Speaker, we can no longer push problems like the budget deficit under the rug, because soon our rug will be repossessed. By restructuring our priorities through burden sharing with our allies, eliminating funding for unnecessary programs, and improving the quality of our conventional forces, Americans can maintain confidence in our national defense.

Mr. LIPINSKI. Mr. Speaker, I want to thank the gentleman from Illinois [Mr. SANGMEISTER] for his very insightful comments here in regard to our national defense situation. I would like to now express my feelings along those lines.

There's something curious about the monumental tides sweeping through the Soviet Union and Eastern Europe in recent days and months. These movements of global change seem to stop short of the United States shore.

Nowhere is this barrier against meaningful change more apparent than the administration's defense budget projections. With President Gorbachev unilaterally cutting conventional forces, with Soviet troops being removed from newly democratic nations like Czechoslovakia, the world's military theaters are drastically changing. While it seems obvious that the U.S. military mission, and its budget, should be changing as well, the Bush administration has yet to see this reality.

It is time Congress and the White House work together to do what is right—gradually cut defense spending to reasonable and necessary levels, reflecting today's realities. This should not be done to produce a peace dividend to spend at home—although it will eventually free up resources.

It should not be done under the premise that military power is obsolete and economics is all that matters—although this fundamental redirection is underway. Rather, we should reduce defense spending because it is the logical and reasonable step to take militarily, and because it reflects the world's new realities.

The framework for military spending has changed at an alarming pace. Throughout the 1980's, the United States was involved in an ideological battle with an aggressive Communist empire. I was a proponent of the consolidation of American military power under the Reagan administration. I believe a strong military was essential to containing Soviet expansionism in the Third World and played a vital role in the recent liberalization of Eastern Europe. For 50 years, the United States military mission justifiably focused on containing Soviet Communist influence by matching Soviet military power, and matching Warsaw Pact military preparedness with NATO firepower.

But with the demise of Communist governments in Poland, Hungary, Czechoslovakia, and East Germany, the Warsaw Pact is defunct. Not only is the threat of Soviet military aggression vanishing because of political realities under Gorbachev, given the state of the Soviet economy, the threat of the Soviet Union mounting a potent attack on the West is largely folly.

Soviet troops would first have to battle through Eastern European democracies. In essence, America's national security interests can now be defined as promoting stability rather than preparing for confrontation. The ideological goal of combating communism can be replaced by the goal of nurturing democracy.

The change in framework from providing for stability rather than confrontation is subtle, but the implications for U.S. military priorities are profound. Containing communism focused on maintaining destructive nuclear powers to match the Soviets', maintaining a huge conventional army in Western Europe to match the Soviet standing army in Eastern Europe, and constantly modernizing conventional and strategic weapons of every sort. Nurturing democracy changes the focus considerably: The United States must still have a sufficient nuclear deterrent while continuing arms control reductions. We must maintain some troops in Western Europe for stability, while concentrating on light, highly mobile troops to react to global hotspots. But in nurturing democracy, the nonmilitary American role will prove far more important than military strength. Given the goal of promoting stability and nurturing democracy, it is in the United States best interest to spend less on the military, more on economic initiatives to stabilize new democracies, and more on solving our domestic problems and increasing America's international competitiveness. The U.S. defense budget must reflect these realities.

I do not take defense budget reductions lightly. But clearly the military mission must be restructured: There's no longer any sense in preparing United States troops in West Germany for an East German attack, let alone stationing short-range nuclear weapons there which can only reach Eastern Germany. So the budget must be restructured.

STRATEGIC FORCES

I find the choices to be made in the strategic nuclear weapons realm are the least difficult. Now more than ever, the primary role of nuclear weapons is deterrence. The desire for first strike capability is an irresponsible holdover from the most bitter days of the cold war. Rather than modernize existing forces and continuing to build new attack power, we should decide what strategic forces are the optimal deterrents and ensure their effectiveness. And as long as we maintain our highly effective deterrent, ambitious arms control agreements should place everything else on the table.

In general, arms control agreements are a vital complement to sizing down our strategic forces because they codify changes in force levels for the future, guarding against changes in Soviet leadership.

As for me, I find the U.S. submarine-launched ballistic missiles the ultimate deterrent. In the theoretical realm of nuclear confrontation, our nuclear submarines not only assure retaliation, but provide our most potent strategic offense. So, I feel the maintenance of our existing fleet of 17 LA-class subs, and perhaps biannual production of new subs, is the key to U.S. deterrence. Our LA-class fleet holds 3,264 nuclear warheads. Since START negotiations will likely limit the superpowers to 4,900 warheads, subs fill the majority of the U.S. quota. The submarine nuclear force should be complemented by highly accurate land-based ICBM's.

Beyond maintenance of our SLBM's and some ICBM's there is little need for strategic modernization and new projects. Although the Soviets have mobile ICBM's in the SS-18 and SS-20, those weapons do not approach the mobility and secrecy of subs. The United States should continue an uphill struggle to eliminate mobile ICBM's through arms control, there is no need to mobilize our ICBM's. If Congress failed to fund Midgetman and the MX throughout the 1980's, I am sure we can afford to drop those programs in the 1990's.

Most importantly, Congress should use common sense and halt the production of the untested and tremendously expensive B-2 Stealth bomber. B-2 proponents argue that it can destroy mobile targets, which the Defense Department cannot verify. They say it assures retaliation after the doomsday first strike, which is unimportant because subs do as well. The argument for a conventional role for the Stealth shows just how unclear and unnecessary the B-2's mission is. I am a cosponsor of HR 3978 which

would halt B-2 production. This approach is a way to save $70 billion without undermining the needs and mission of our Nation's defense.

Finally, the strategic defense initiative would require the United States to withdraw from the ABM Treaty if ever deployed, which would certainly be a step in the wrong direction. Frankly, star wars served its purpose—along with the rest of the Reagan military buildup, it spent the Soviet Union into the ground. The Soviet Union can no longer afford massive offensive modernization programs, and we should move toward strengthening ABM agreements not spending billions on the slight chance of deploying SDI. Once again, the Defense Department's change in concept toward "Brilliant Pebbles" calls into question the reality of SDI's original form and goal.

Satellite or space-based strategic defense can be continued as a small part of overall defense technological development, but the dream of SDI deployment should be abandoned. Again, because it's unnecessary.

CONVENTIONAL FORCES

After guaranteeing a strong nuclear deterrent, we move on to the tougher task of American troops and conventional forces. Although high-profile projects like SDI and the B-2 justifiably attract a great deal of attention, it is important to remember the enormous costs of maintaining a large standing military. The traditional support for large conventional forces is even more engrained than the high-technology system needs of the military-industrial complex. Once again, I point to worldwide political and military realities to justify restructuring our conventional military priorities.

The Soviet Union has begun to withdraw significant numbers of troops from the Warsaw Pact nations, and many countries have made it clear they will demand all Soviet troops end the occupation of their homeland. Gorbachev began with unilateral cuts almost 2 years ago. Like recent world events, the Soviet troop cuts have accelerated. The fact that Gorbachev has accepted a higher number of NATO troops over Warsaw Pact troops in Europe highlights that Soviet plans for a conventional attack on the West do not exist. Furthermore, the CIA has recognized that the warning time for a Soviet attack on the West has increased dramatically and will continue to rise.

Needless to say, our conventional forces need not maintain the mission of preparing for a ground war in Europe. Just as we do not need to modernize missiles designed to reach the eastern part of Germany from the western part of Germany, the United States should not keep 250,000 troops in West Germany. President Bush has supported troop levels of 195,000. I do not believe we should create magic numbers like 195,000 or 100,000. Rather, if a NATO country would like American troops to remain, we can arrive at a reasonable number. The same process should apply to Korea. But if our allies like the security offered by American troops, I would like them to help the United States sustain our troops abroad.

If America transfers the military expenditures of keeping troops in Europe toward industrial and technological funds to enhance U.S. economic competitiveness, the United States will still maintain a great presence in those countries. However, the American profile will be in the form of economic power rather than military presence. This is a move that must be made, the sooner the better.

In the short term, the United States can cut troop levels in Europe by 50 percent, and then arrive at permanent levels in cooperation with our allies.

Our large standing army abroad should be changed to lighter, highly mobile forces prepared to react to "hot spots" worldwide. Light, moble forces will best serve stability worldwide, whether in Central America, the Persian Gulf, the South Pacific, or Europe. So our budget priorities should be redirected toward short-term, low intensity conflicts, concentrating on mobility, sealifting and airlifting capabilities, not tanks or troops abroad. Reserves will play an ever greater role in military preparedness. A light, potent force should be complemented by increased concentration on intelligence. Increasing intelligence capability is naturally compatible with decreasing the number of standing troops in Europe, and will aid adequate military preparedness.

In general, the time will soon be upon us when we must make real decisions on our national defense priorities. We must make choices of what is militarily necessary, not rely on accounting gimmicks or "management improvements". Secretary Cheney's defense plan, which supposedly includes heavy cuts, does offer some inflation-adjusted decreases. But observe that the administration's 1990 budget is 32 percent larger than the fiscal year 1980 budget. The 1995 proposal would still be 22 percent greater than 1980. Those numbers are adjusted for inflation.

As a proponent of strong and necessary defense who has closely examined global changes, I am prepared to undertake significant reductions in defense budget. I believe we should halt B-2 production, the MX, Midgetman, and Lance modernization. We should not allow the Department of Defense to build a new Air Force base in Italy while decreasing United States troops in Europe and closing bases at home. We should maintain an adequate light conventional force for stability.

Quite simply, the world has changed, and the United States will serve its interests best by taking advantage of global military change, redirecting our resources to a stronger, more competitive America and nurturing democracies worldwide.

I realize the process of restructuring the military budget will be gradual. In order to be fair and successful, it will include defense conversion to redirect defense firms toward successful commercial ventures. It should include educational and training benefits to displaced soldiers. This conversion will take time. Nevertheless, 1990 is the time to begin making the hard choices.

If we continue to put off these choices, we continue to ignore the realities of a changing world. It is time that Congress make changes in the Soviet Union, Eastern Europe, and all the world for the benefit of the American people. Nowhere is this more clear than in the defense budget, and its time for action.

□ 2010

TEXT OF SPEECH OF JACK MOSELEY

The SPEAKER pro tempore (Mr. HATCHER). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, last week, I came on the floor of the House to ask my colleagues to join me in paying tribute to one of the leaders of the Baltimore business community, Jack Moseley.

Since 1982, Jack has served as the chairman of the board, president, and chief executive officer of the United States Fidelity and Guarantee, a prominent Baltimore-based insurance firm.

I chose last week to come to the floor and pay tribute to Jack because last Wednesday, the Sellinger School of Business and Management at Loyola College honored Jack as their "Business Leader of the Year for 1990."

There is certainly no one more deserving of this honor than Jack Moseley, who has been an anchor in Baltimore's business community for so many years.

There are very few people in Jack's position who give so much of their own personal time and resources to help other people. Jack serves on the boards and is an active participant in charitable and civic organizations too numerous to mention.

On Wednesday, at his award dinner, Jack again showed his selflessness and commitment to others by dedicating his remarks to what he so rightly points out as one of the biggest problems facing our Nation today: The in-

adequacy of many aspects of our educational systems.

Mr. Moseley's comments were very timely and appropriate, and hit at the crux of the problems plaguing education of the United States. I would like to share his thoughts with you because they are so on target and I think they would be of interest to every Member of this body who shares my concerns about education.

Because Mr. Moseley's message is so vital to the most important foundation of our Nation, I have chosen to present it orally here this evening.

Loyola's choice of "Business Leader of the Year 1990," Mr. Speaker, started off his remarks with a few statistics that bluntly stake out what ought to be an overriding concern for business well into the next century.

America's literacy rate ranks 48th out of the 149 nations.

Of the 15 most developed nations, our students placed 14th in algebra and last in biology.

Nearly half of our 17-year-olds can't perform junior high school math—and a third can't calculate change from an order at MacDonald's.

700,000 functional illiterates receive a high school diploma each year—and another 750,000 have already dropped out of the same class by graduation.

Mr. Speaker, that means that 1½ million students a year are just not making it—a very high number.

Continuing Mr. Moseley's remarks, he pointed out:

There's an expert around each corner who can tell you how we got there. But certainly a big part of the blame belongs to my generation who mistook the fading economic momentum from the 1950s and 60s for the enormous productivity demanded for the 1970s and 80s. It was my generation that failed to prepare our children for the enormous changes that the world would take—and to warn of the terrible challenges that now face our grandchildren as they enter school. We didn't keep turning the screws on quality—and efficiency.

Mr. Speaker, Mr. Moseley emphasized that:

We failed to check the spread of the education bureaucracy—and the great experiments that went awry. We raised a generation to believe that a good education was an American guarantee. That if you paid your taxes and made sure Johnny had all his books when he left the house, he'd get a good education.

I sometimes wish we could have a bloodless war—or a depression that didn't deprive for long—just to confront this country with the tough realities the rest of the world knows all too well. That the difference between surviving and excelling is a national conscience born of the fear of hard times.

We're raising kids who get most of their history from Erol's Video—kids who find the amazing rush of events abroad of little interest because they have no basis to measure them. Forty percent of America's high school seniors think that Israel is an Arab country. They don't know where the Berlin Wall came from. They don't know that Russia was our ally during World War II. Too many can't even tell you when, and over what, the war was fought—the war that established the world's political and economic mosaic over the last half century.

At its worst, America's education system—from the White House to the one-room schoolhouse has long validated failure. We have lowered the bar to a point where the least qualified can jump over. Hundreds of thousands of functional illiterates cross the stage each spring to be handed a diploma—to have their ticket stamped by a system that is too clogged with bureaucracy and tedium to say "no." Why? Because saying "yes" to mediocrity is much easier.

And the problem gets passed on and on—from one grade to the next—until it's too late to start over—until we've sentenced another kid to the dark side of society, unable to make a good life for his family, never mind for the world around him.

That's a terrible indictment of our public schools, but the statistics have already begun to eat away at our national strength. It's the old story of the kingdom being lost for lack of a horseshoe nail. Excellence starts at the bottom. A corporation is not better than the last employee hired to do the least job.

At USF&G we know that to fill a clerical job we'll have to sort through 100 applications to find five with promise—and that of those five, only one will truly have the skills to do the job. That's one in one hundred. That's why we're now running TV ads to do our recruiting. For a company that's made its reputation of foresight and service, that's a grim statistic.

That is a shocking figure, Mr. Speaker: One out of 100. I have heard from other companies in New York and elsewhere that interviewed 60,000 persons to get 3,000 qualified persons—almost the same proportion as at USF&G. Banks report similar startling numbers in searching for good employees. The Loyola honoree continued:

And it's not only at the entry level, we interview too many applicants coming out of good colleges with good grades who speak poorly—and write worse. We're not looking for actuaries who can quote Wordsworth—but we want someone who has the ability to think, and the pride to present thoughts clearly.

And the demographics of America hold little promise that things will get better—unless we make some radical changes in our standards. Over the next decade fewer kids will be going to school. Fewer adults will enter the workplace. Fewer jobs will open to marginal workers.

A recent study shows that five years ago non-military jobs required an average language proficiency of 3 on scale of 1 to 6—typical of skilled construction workers or retail clerks. Today, tests reveal that the average young adult in America is reading at a 2.6 level. Jobs, like telephone operators or assembly line workers, now require a working knowledge of computers.

And the odds of matching workers to jobs will continue to shrink—unless we can convince kids that a first rate education is worth all the work—and that we have teachers and the facilities (and the system) in place to give them the education they're willing to work for.

The alternative is for corporations to get into the education business. By one recent count, American business is spending $50 billion a year on training employees—and half of that is spent to train entry level employees rudimental skills—from reading to using a keyboard to how to dress.

At USF&G we conduct a similar program for some of our employees called I CAN. But we shouldn't be in the business of education. The economy and our stockholders are much better off if we stick to what we do best—and that's providing insurance and financial services.

He continued:

The solutions? I would only raise a few ideas that may not sit well with the education establishment.

His suggestions for solutions are:

First, we ought to raise the walls around an education—to make it harder to get from one grade to another—to make it harder to get a diploma. When confronted with a 10-foot wall, most people figure there's no way over—and give up trying. But a few find a way over—because the wall is either blocking something they want—or they simply want to see what's on the other side.

We've got to urge our educators to build higher walls. And we've got to convince our kids to want to climb them.

America simply has to ask more of its teachers. And parents have to ask more of their kids. Standards have got to be raised—and they have to be uniform. We can't afford the great disparity that pervades our education system—where two schools with the same budget turn out students of a very different caliber. We can't tolerate two math teachers—teaching side by side on the same corridor—with one class excelling on standard tests—and the other class flunking. The walls that divide success and failure have to be the same height.

Raising standards will be a shock to poor students who have been passed along from one grade to the next because the system is designed to keep everybody moving. At first, the failure rate will be high. It will take some time to convince our children and grandchildren that they've got to climb the wall by themselves—that nobody's going to come along with a ladder. It's going to take time to find the best teachers—and free them up to teach, rather than keep order.

He cited an interesting perspective on education from California businessman William J. Hume:

According to the Gallup poll, most parents think that their children are doing well; and, in general, they are satisfied with their schools. Other schools may have trouble but not their school.

And then Mr. Hume asked:

Why is there no national perspective at the local level? Who is telling the parents that their children are doing well? The school district. What standard of performance is most commonly given to the parents? The report card. What does the report card do? Compare one child's performance with another's in the given class. Where is the comparison of the child's performance at the local level versus National and International standards? There is none, and therefore there is no focused attention of the parents on the larger picture.

Ultimately, standards will be a combination of the perceived needs of business and society. Standards have to be driven by what you want the final outcome to be; i.e., what educational attainment, what skills and knowledge, do you want the 12th grader to possess?

"Standards by themselves will not cause the educational establishment to change.

"Assessment mechanisms must be developed at the same time as standards and goals are developed."

Mr. Moseley's comment was:

If I've learned one thing in this free country of ours, it's that you may not get everything you want—but you certainly won't get more than you demand. And we've got to demand higher standards up and down the line.

His second suggestion followed this statement:

A lot of money doesn't guarantee a good education—any more than a big bat makes a good hitter. America today spends more per pupil than any other country in the world, yet over the last quarter century, education performance has dropped. It's how the money is spent that counts. Heaping millions of dollars on an already top-heavy administrative structure just creates more paperwork for teachers. Nor does more money have much effect on classroom teaching. For years, studies have concluded that higher salaries don't make better teachers.

And third, I think this country ought to treat education like a job—as if kids were going to work from first grade on.

Today I'm more convinced than ever that education ought to run on the same track as free enterprise—with the same challenge and the same promise. If you work hard—if you have a better idea—if you're willing to compete against the best—then there ought to be just compensation.

There ought to be the very real understanding that earning high marks in school is an automatic promotion that carries all the way through life. That to do well in school opens the doors wide open to a good job—not just a well-paying job, but a job that demands your best. We've got to convince our kids that from good education flows respect—and the great satisfaction of giving back a part of that education to society.

As the head of an American corporation, I have the obligation to produce the best product and the best return to our shareholders. We've got fine and talented people at USF&G—many of them from this very college, sitting here in front of me. But my successors will have a terrible time maintaining today's performance unless we change the course of education in America.

As bleak as the statistics are across the country, I sense an awareness—and a turning. There's no reason—other than apathy—why America cannot graduate the finest students in the world. We've met tougher tests. But it's going to take all of us pushing for higher standards and a new work ethic. And it's got to start now.

Mr. Speaker, I think its very evident that Jack Moseley's remarks were not only very well thought out and reasoned, but from the heart.

Who would better know about the status of the education that our young people are receiving than this man who gives so many of them their first job out of school?

If Jack Moseley is concerned about this problem as it affects the future of his corporation, how much more concerned should we be as Members of Congress, whose responsibility it is to find ways to improve upon our educational system.

I urge each of my colleagues in the House to read and reread the text of Jack Moseley's remarks in the CONGRESSIONAL RECORD, because they are so accurate and so timely with respect to a crisis that we must open our eyes and face.

And finally, I would again like to recognize and commend my very dear friend, Jack Moseley, and thank him for his excellent presentation, and a job well done.

TWO VISIONS OF CHILD CARE: STENHOLM-SHAW VERSUS HAWKINS-DOWNEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. MCEWEN] is recognized for 60 minutes.

Mr. MCEWEN. Mr. Speaker, tomorrow we are expected to vote on two competing child care bills which represent dramatically different approaches in meeting the child care needs of America's families. The gentleman from Texas [Mr. STENHOLM], a Texas Democrat, and the gentleman from Florida [Mr. SHAW], a Florida Republican, are cosponsors of the bipartisan Family Choice and Child Care Improvement Act, H.R. 4294, which gives parents the right to choose the child care setting they wish, including child care that includes religious activities.

By contrast, two Democrats on the other side of the aisle, the gentleman from California [Mr. HAWKINS] and the gentleman from New York [Mr. DOWNEY], have cosponsored legislation similar to the measure they introduced in the House in the last session. It would limit severely parental choice and effectively prohibit the funding of child care programs with any religious activities.

Now, the President has said that he will veto any child care bill which fails to guarantee real parental choice as embodied in our Stenholm-Shaw substitute.

□ 2040

The two House bills are headed toward a showdown on the House floor because they are irreconcilable. The Hawkins-Downey approach reflects the belief that social service bureaucrats in Washington, not parents, should choose how children are raised. It seeks to replace religious values and institutions with secular values and institutions by using tax dollars to help the secular institutions and to penalize the religious institutions. Because this approach is so unpopular with grassroots Americans, the Hawkins-Downey bill is expected to be rushed to a vote with little opportunity to debate its provisions.

In fact, Mr. Speaker, the print was not made available until just a matter of minutes or a couple of hours ago. The Stenholm-Shaw bill, however, was introduced on March 15, and enjoys broad bipartisan support. Over 2 years after the better child care bill was introduced, placing child care on the national agenda, the Stenholm-Shaw bill attracts the broadest public and political support because it is the only child care proposal that respects fully parents' rights to raise their children free from State interference.

Well over 90 percent of American preschoolers are in the care of their parents, relatives, neighbors, or church-based programs. The Stenholm-Shaw bill respects the wishes of the vast majority of parents who have made these child care choices; the bill thus ensures that Federal assistance is available to all parents. The liberal left approach, by contrast, ignores parental preferences. Its main concern, it seems, is to fund child care arrangements that meet with the needs of such special interests as the National Education Association, State child care bureaucrats, and child development professionals.

There are four key principles to sound legislation to help American parents raise young children.

No. 1, a Federal child care bill must guarantee that all parents assisted by the program have the right to choose who cares for their own children and to determine the moral and religious principles by which their children will be raised. Each parent must be guarantee choice among a wide variety of providers, including grandparents, neighbors, private sector and public sector day care centers, and churches.

No. 2, a Federal child care bill must guarantee that parents will be able to use government assistance at religious day care providers, including those that offer hymns, prayers, and Bible stories as part of their child care programs.

No. 3, a Federal child care bill must preserve diversity among child care providers. The current child care system is composed primarily of neighbors, churches, and private sector day care providers, such as the 4,000 Montessori centers throughout the United States. These facilities should not be driven out of business by unfair competition from a new taxpayer-subsidized government day care system. The key to preserving his diversity is to guarantee parental choice rather than to provide arbitrary support only to those parents whose children attend public sector or government-sponsored day care programs.

No. 4, a Federal child care bill should not create a bloated new day care bureaucracy nor expand Federal regulatory control over day care.

The Stenholm-Shaw bill meets all four of these fundamental criteria. The Hawkins-Downey substitute on the other side, the liberal left provision, violates all four.

The Stenholm-Shaw bill guarantees parental choice among a wide variety

of care givers; the Hawkins-Downey bill effectively prohibits choice as it allows bureaucrats and special interests, not parents, to determine how children will be raised. The Stenholm-Shaw guarantees assistance to parents who want child care that includes religious activities for their children; the Hawkins-Downey bill will effectively deny assistance to these families. The Hawkins-Downey bill establishes a new government day care system in the public schools, subsidized by taxpayers, which ultimately will drive most private and religious day care program out of business because they will be virtually denied government funds and will be unable to compete against this new subsidized public day care system.

Mr. Speaker, my colleagues and I know what has happened to the educational system in the last 20 years. Many of us believe that private choice should be protected for those that are not into school yet and that are still under provisions of family choice day care. Under the provision that will be on the floor tomorrow from the leadership, what they choose to do to young children in day care is what they have done to America's educational system in recent years.

Mr. Speaker, our bipartisan Stenholm-Shaw bill has three major provisions.

First, the bill increases by $2¼ billion Federal grants to the States for child care over 5 years through the existing title XX program, also called the social service block grants, which now gives the States almost $3 billion per year for child welfare, job training, child care, and other social services needs. The Stenholm-Shaw bill restructures the title XX program by ensuring that all parents receiving Federal child care assistance have the option of obtaining a child care certificate that enables them to choose who cares for their child.

Second, the Stenholm-Shaw bill expands the existing earned income tax credit, which supplements the take-home wages of low-income parents, including those parents that care for their own children in the home. The bill also contains a new Infant Child tax credit, with a maximum value of $430 per year for low-income mothers caring for their own children under age 1 in the home.

Third, the Stenholm-Shaw bill offers an additional authorized expenditure of $3.2 billion over 5 years for Head Start.

Those of us who support Stenholm-Shaw argue that moderate-income and poor parents, as well as rich parents, should be able to choose how their children are raised. The child care programs of our bill thus have been designed to guarantee parental choice. The Stenholm-Shaw title XX program expansion allows State governments to provide grants to day care centers to increase day care supply in areas short of day care facilities. States may even use funds to provide day care in public schools. But, ultimately, parents will decide who cares for their own child. Each parent assisted under the title XX program has the option of receiving a day care certificate; if they do not like the government-selected day care program, they may choose to use the certificate from the government to reimburse a provider of their choice.

The Stenholm-Shaw bill contains three indispensable parental choice provisions, all absent from the liberal left position. Under Stenholm-Shaw, each parent receiving assistance is:

One, guaranteed the right to a certificate;

Two, guaranteed the right to use the certificate among a wide variety of providers, including grandparents, neighbors, churches, and private sector day care programs; and

Three, guaranteed the right to use certificates in child care programs that include religious activities.

Now States will retain the freedom to determine at what income levels families become eligible for title XX assistance. As in existing law, the Stenholm-Shaw bill gives States the right to set standards for care givers receiving certificates.

Mr. Speaker, the State sets the standards, not Washington bureaucrats, but no State could prohibit parents from using these certificates for whatever they were to choose.

The Stenholm-Shaw provisions are designed to accommodate the way American parents now use day care. Some 65 percent of childen under age 5 are cared for by parents in the home. Another 11 percent are cared for by aunts and grandparents while the parents are employed, an arrangement favored by inner-city families. Another 13 percent of children are cared for by small, informal providers, generally neighbors caring for one or two children in their own homes.

Another 11 percent of children under age 5 are cared for by small, informal day care centers. Among these day care centers some 80 percent are for-profit, private sector programs or churches.

The Stenholm-Shaw title XX parental choice provisions also respect the parental preferences revealed by polls. Most parents prefer parental care for their children. When parental care is not feasible, parents prefer: first, care by relatives; second, care by friends and neighbors; third, care by churches. All of these real preferences of parents are incorporated into our bill which will be on the floor tomorrow, but they are excluded by the Hawkins-Downey leadership provisions that will be up tomorrow as well. Only 6 percent of parents would prefer to place their children in the secular day care programs which would be the primary recipients of the funds under Hawkins-Downey.

The Hawkins-Downey ABC bill purports to solve the alleged problem of a widespread shortage in day care. In fact, many existing day care programs have vacancies. Examples: the major day care chains, La Petite Academy, Gerbers, and Kindercare, have average vacancy rates nationwide of 25 percent. In fact, the Boston Globe reported this month that "throughout the country, day-care providers are facing an excess of slots, notably at the preschool level." Child care expert Gary Neugebauer, publisher of The Childcare Information Exchange, estimates that there are two licensed day care slots for each child actually enrolled in day care.

□ 2050

Now, while the Supreme Court has held that the Government may not give funds directly to institutions engaged in religious activities and instruction, it also has ruled that the Government may give funds to individuals who in turn use these funds in those religious institutions.

Example: An elderly person receiving Social Security from the Federal Government may place these funds directly in the collection plate of any church or synagogue without violating the separation of church and State as prescribed in the first amendment. The G.I. bill, moreover, has provided benefits to millions of veterans to attend public and sectarian educational institutions.

Similarly, the Supreme Court has ruled in Mueller versus Allen and Witters versus Washington Department of Services for the Blind that if the Government gives educational assistance to individuals through mechanism like tax credit or vouchers, the individual may freely use those funds for education that includes religious instruction. The court has held that as long as the individual, not the Government, determines where the funds are used, the separation of church and State has not been violated. These rulings make the provisions in the Stenholm-Shaw bill with respect to child care in religious settings constitutionally sound.

Last year's Hawkins-Downey bill, which passed the House on October 5 as placed in the Omnibus Budget Reconciliation Act was in effect nullified when the House and Senate agreed to strip all nonbudgetary items out of the Budget bill. The original bill virtually prohibited parental choice. The bill's public school day care program, which would provide child care assistance to families earning up to $33,000 per year, prohibited choice completely. The title XX provisions allegedly permitted choice by allowing States, in

accord with their law, to offer certificates to parents, but States were free to prohibit choice completely under the program if they wished. The result: choice under such a system would have been very limited at best. The reason: under the current title XX program nearly half the States offer no certificates at all. Instead the bureaucrats select which day care programs receive the subsidies. In those States that offer certificates, the certificate programs generally are very limited. Only two States offer certificate programs statewide, programs often are restricted elsewhere to a single county; nor do the certificates themselves offer true choice to parents. In most cases, the certificates can only be used with one or two day care centers that are selected by the bureaucrats.

Now, advocates of the leadership bill coming up tomorrow from the left and supporters of the original Hawkins-Downey bill claim that their legislation permitted churches to participate in federally-funded day care programs. This claim was misleading because the public school day care program prohibited religious activities entirely, and we know that. The other day care programs permitted churches to receive funds only if the church purged itself of all religious content, such as prayers, hymns, bible stories, or anything else from its day care program.

The public school programs and the day care programs under titles III and IV of the ABC legislation expressly prohibited funds from being used for day care which included religious activities. The title XX section did not contain an explicit prohibition, but instead maintained "silence" on religion. Yet since neither DOWNEY nor HAWKINS said that they intended title XX certificates to be used for day care that included religious activities, and since the "silence" provision was offered an alternative to explicit provisions which we preferred in other bills, courts would have been forced to conclude that it was the intent of Congress in enacting this provision that we expected to prohibit such use or we would have stated otherwise. Many nonchurch private sector day care programs also have religious activities and they, too, would have had to be purged from their programs as well.

The swell of popular support for our provisions over the last week apparently has convinced the sponsors on the other side that it will be difficult to pass legislation tomorrow overtly restricting parental choice and discriminating against parents who wish religious care for their children. So in order to make their bill appear more palatable, they have incorporated two "choice" provisions in their bill. While their bill's $2.5 billion public school child care provision will prohibit choice altogether, my colleagues have altered the title XX section to contain provisions borrowed from the Senate, including: First, a guarantee that any parent receiving assistance under title XX has the option of receiving a certificate instead of placing the child in a government-selected child care center subsidized by direct grants.

Second, a statement which would authorize States to permit parents to use certificates that include religious activities, but would not guarantee parents this option.

Let us look at both of these. At first glance these provisions could improve this year's bill. At second glance, the improvement dissolves. Even with the Senate provisions, the Hawkins-Downey title XX program will not guarantee parental choice. In reality, choice will be severely limited. This would be so for four reasons:

First. While the Stenholm-Shaw bill guarantees that parents could use certificates with a wide range of providers, the "new" bill that was introduced today will not. Permitting the States to restrict the parents' use of certificates to one or two child care centers offered almost no real choice. Since the majority of existing certificates under the title XX program appear to be limited in this manner, therefore even with the addition of the Senate language the Hawkins-Downey bill will not guarantee choice.

Second. While the Stenholm-Shaw bill guarantees that parents assisted under title XX are free to choose child care by grandparents, neighbors, and private sector child care centers, the new bill would allow bureaucrats to prohibit from using certificates to pay for secular child development, to pay for a child by a grandparent. Restrictions of this sort are nearly universal under the existing title XX program.

Third. While Stenholm-Shaw gives parents receiving assistance the right to select church child care that includes religion, Hawkins-Downey, even with the new Senate language, allows States to deny assistance to any parent seeking religious child care for their children, and there is nothing in their bill that would prevent it.

Fourth. Now, while the Stenholm-Shaw bill provides all its child care funds in programs that guarantee choice, the Hawkins-Downey bill would dispense nearly half of its child care funds through a public school program that as we all know expressly prohibits choice. Over time the highly organized NEA union would press successfully to expand the public school child care program, but the title XX program, while better serving the needs of parents, will not have the organized interest to promote it, and thus the certificate programs even under the limited title XX part will remain limited, while the antichoice public school child care system will continue to mushroom.

Even if parents are allowed certificates under the Hawkins-Downey bill, restrictions would make it difficult or impossible for parents in many States to use their certificates for religious child care.

One Hawkins-Downey restriction, for example, requires State governments to impose a wide array of secular regulations on churches receiving certificates. This would create real problems in the 13 States that currently partially or fully exempt religious child care from State licensing and regulation. The States are Alabama, Florida, Illinois, Indiana, Maryland, Mississippi, Missouri, New Jersey, North Carolina, North Dakota, Pennsylvania, South Carolina, and Virginia. Churches in these States would not be willing to relinquish their present autonomy from secular regulation in order to receive certificates. The result: parents in the States would not be able to use certificates in existing religious care programs. Thus the Hawkins-Downey religious "solution" would be no solution precisely in those southern States where public concern for equal treatment of religious child care is the strongest.

A second Hawkins-Downey restriction, if the bill currently including the Senate language is passed, requires a church receiving even one child care certificate for a disadvantaged child to secularize much of its child care program. Contrary to the legal principles published in the Civil Rights Act of 1964, churches thus would be forced to replace their own religious criteria in hiring child care workers with secular standards. This, for example, would force the church to replace Sunday School teachers with individuals trained in child development and would force churches to replace administrators trained in Christian education with individuals trained in secular child development. Though some of these results might be mitigated through costly litigation, the apparently intended effect of the Senate provisions would be to profoundly discourage churches from accepting vouchers.

A third Hawkins-Downey restriction would prevent a church that receives a certificate for one child care slot to show a preference for children of their own religion.

□ 2100

A fourth Hawkins-Downey restriction would force churches that accept even one certificate to relinquish control over their employment standards throughout the entire church organization to the Federal Government. This means that churches might be required to hire alcoholics or drug users or others whose conduct violates the churches' teachings. Few churches would be willing to submit to such sec-

ular control of their internal operations. To remain independent, therefore, the churches almost surely would be forced to refuse the certificates under the Hawkins-Downey bill of which they will be speaking so boldly tomorrow.

In contrast, our bill does not require churches receiving certificates to employ persons whose conduct violates their religious tenets of their church.

In addition to restricting parental choice, the Hawkins/Downey bill would create a bloated new day care bureaucracy. For example, the original ABC bill imposed 183 new Federal mandates on State governments and local recipients of funds. Many of these new mandates such as the requirement that programs be developmentally appropriate would be expanded into voluminous detailed Federal regulations, mandated nearly 120,000 reports on day care by the year 2000, and micromanaged every aspect of State day care programs.

Now, one of the most far-reaching regulations that would have been imposed on State governments by the original ABC bill was the ratchet provision which, in my reviewing the legislation which had just come off the press this afternoon, and I have not been able to find it in their new bill, and I, of course, will know by tomorrow, but under their original bill, States receiving Federal day care funds could at any future point make their day care regulations more severe, but they could not relax any regulation without the express written approval of the Federal Department of Health and Human Services. Example: Some States require day care workers in facilities receiving State funds to have 15 college courses in child development. Under their provisions, the State could not reduce this requirement to 14 without Washington's express approval. In effect, this provision would transfer total authority for the regulation of day care from State legislatures to the Federal HHS bureaucracy, not the Congress, but to the Health and Human Services bureaucrats.

Over 60 percent of children live in States where a grandmother caring for even one neighbor's child in her own home is required to be licensed or regulated. For the most part, these State requirements are nominal with no serious attempt being made to enforce them.

This would have been changed dramatically by the ABC bill as passed last year. It required States to enforce vigorously all regulations and prohibited States from reducing the regulation scope or severity. The bill would force States to create a huge day care police to ferret out the hundreds of thousands of mothers and grandmothers who, in their own homes, care for one or two neighborhood children without government regulation and oversight.

States that failed to stamp out this unregulated care would lose their Federal funds to the entire State.

The original ABC bill not only required States to impose existing regulations on grandmothers, but also required new health, safety, and nutrition regulations on small in-home providers even when no government funds were received. Thus, under the bill, in States where nearly 60 percent of children reside, a grandmother caring for even one neighbor's child and receiving no government funds would be required to be licensed or regulated, would be forced to fill out periodic reports on the nutrition content of meals and snacks given to children.

In response to this regulatory intrusion, many of the 1.6 million women providing informal care for one or two children in their own home would be simply forced to leave the market. The original Hawkins-Downey bill mandated the creation of nearly 38,000 local day care commissions. The result of that would be to create a permanent political infrastructure funded by the taxpayers to lobby for future increases in government day-care spending as has worked so well for community action organizations, and this is typical 1960's new-age programs fit to a T, now an anachronism in 1990, and it can be and must be killed tomorrow.

This is the way it works: Create a program, fund it with Federal dollars, make sure there are all kinds of boards and commissions at every place on the local level, allow those people to use those funds or Federal dollars to come to Washington and lobby for the maintenance of that Federal spending program, because it is not their dollars, it is Federal tax dollars, and let the taxpayer pay for it. They come in, and that is what January, February, March, and April are all about; you line up at the Congressman's door, coming in pleading for more Federal dollars that are being paid for, the whole infrastructure is financed, by the Federal Government, the taxpayer, and that is who they propose to have maintain the bureaucracy for the maintenance of this new day-care lobby.

Even one of the sponsors criticized this feature of the bill, saying it showed it was concerned less about caring for the children and more about guaranteeing that there are armies of lobbyists for child care spending in the future. Yet, despite this criticism, the offending provisions remained in the original legislation.

There were even those who complained about the ratchet provision of which I just spoke, and yet it remained in there as well.

The Heritage Institute has done a great deal, the Heritage Foundation, in bringing the information about the differences between the two bills before us to the attention of the American people.

Robert Rector, policy analyst, has prepared most of the information that many of us have depended on in recent days in order to keep track of what was moving on the other aisle, because it was not available to us until just this afternoon.

I happen to believe, however, that if there were a national referendum of parents and if we asked them if they prefer a child care policy guaranteeing them a wide range of choices in how their children are raised or a policy severely limiting choice while expanding the public schools to care for their preschoolers as well, there is no doubt how parents would respond. Public opinion polls show that only 6 percent of parents would prefer to have their children cared for in secular daycare programs that would receive nearly all of the money under the liberal left program proposed tomorrow.

Obviously parents have had no role in designing the Hawkins-Downey child care bill. The bill's authors apparently believe social science professionals, and not parents, should choose how children are raised. The Hawkins-Downey bill would create a new government daycare system that prohibits or severely restricts parental choice and would drive much religious private-sector Montessori child care out of business.

This is not the case with the bipartisan Stenholm bill. It seeks to assist parents while guaranteeing that they, and not the bureaucrats, choose who will care for their children. The Stenholm-Shaw bill guarantees that those who seek religious child care are given equal treatment, and as such, the Stenholm bill serves parents and children and not the special interests.

Mr. Speaker, you know that throughout the 1960's and 1970's there was a real competition as to who could create the most boards, bureaus, commissions, and new Federal agencies and who could have them last the longest.

We have kind of gotten out of that tradition in recent years, but tomorrow we have a real test. We have a typical 1960's idea that "Washington knows best," and "The poor people that go to work every day, pay their taxes, raise their children and pull the wagon just are not quite bright enough to know how to handle things and, therefore, what we need is to have a Federal bureaucracy that will set up a Federal agency, that will set up local institutions, that will be regulated, controlled, and financed from Washington," and that, of course, we will take that person who supposedly cannot make their own decisions, and that we will take that money and finance it out of their pocket each week

on Friday at paycheck time, we will take it out in taxes, and then we will fund it and say, "If you want to have day care, you go over here, and we will decide who works there and what they are taught, and God forbid that someone asks a prayer over cookies, or God forbid that there should be a Bible story told or that they should be taught some of the basic, fundamental moral values that were used in our schools, up until 20 years ago."

The parents have said, "No, we do not like that idea. We do not need any more Federal programs. We do not need any more Federal regulators. We do not need any more new ideas out of Washington. We know how to handle this. If you want to help us, then you allow us to choose on our own by lowering taxes or by giving us the voucher, and when you give us the voucher which lowers our taxes and allows us to have the wherewithal regardless of whether we work in or outside the home, we will then be able to use it in the best interests of our children."

I firmly believe that parents are the best source of deciding what is good for their own children, and regardless of the commitment of some Washington bureaucrat, they simply cannot have the care and commitment as to the welfare of a child living in Hillsboro, OH, as that parent has.

Tomorrow we will make a very simple question, and we will give a very simple answer. Will Washington decide, or will parents decide? Stenholm-Shaw says parents should decide.

The old leftover remnant ideas of the past, the 1960's, government-knows-best ABC bill can and must be defeated.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FORD of Tennessee (at the request of Mr. GEPHARDT) for today on account of personal business matters.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCEWEN) to revise and extend their remarks and include extraneous material:)

Mr. CRANE, for 60 minutes, on March 29.

Mr. MCEWEN, for 60 minutes, today.

Mr. GINGRICH, for 5 minutes, today.

Mr. DOUGLAS, for 5 minutes, today and for 60 minutes on March 29.

Mr. KYL, for 5 minutes, today.

Mr. BARTON of Texas, for 5 minutes, today.

Mr. MACHTLEY, for 60 minutes, on April 5.

Mrs. BENTLEY, for 60 minutes each day, on April 5, 18, and 19.

(The following Members (at the request of Mr. POSHARD) to revise and extend their remarks and include extraneous material:)

Mr. POSHARD, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SAVAGE, for 60 minutes each day, on March 29 and on April 3, 4, and 5.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. KANJORSKI, in two instances in the Committee of the Whole, on H.R. 3847, today.

(The following Members (at the request of Mr. MCEWEN) and to include extraneous matter:)

Mr. SAXTON in two instances.

Mr. LAGOMARSINO in two instances.

Mr. PARRIS.

Mr. DOUGLAS.

Mr. BALLENGER.

Mr. BLILEY.

Mr. PORTER.

Mr. GRADISON.

Mr. SHUMWAY.

Mr. BARTON of Texas.

Mr. THOMAS of California.

Mr. HYDE.

(The following Members (at the request of Mr. POSHARD) and to include extraneous matter:)

Mr. NEAL of Massachusetts.

Mr. HAMILTON.

Mr. HOYER.

Mr. GUARINI in two instances.

Mr. RAHALL.

Mrs. SCHROEDER.

Mr. RANGEL.

Mr. UDALL.

Mr. DONNELLY.

Mr. FRANK.

Mr. RAY.

Mr. WAXMAN.

Mrs. KENNELLY.

Mr. DURBIN.

Mr. ERDREICH.

Mr. SWIFT.

Mr. PALLONE.

Mr. DIXON.

Mr. TRAFICANT.

Mr. FOGLIETTA.

Mr. AKAKA.

Mrs. BOXER.

Mrs. OAKAR.

Mr. DARDEN.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2692. An act to amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life shall be members of the Board of Trustees of the Woodrow Wilson International Center for Scholars.

ADJOURNMENT

Mr. MCEWEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, March 29, 1990, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees and other miscellaneous interparliamentary groups concerning the foreign currencies and U.S. dollars utilized by them during the first, third, and fourth quarters of 1989 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1989

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Romano Mazzoli	10/28	10/29	West Germany		187.00						187.00
	10/29	10/30	Belgium		183.00						183.00
Commercial transportation							968.99				968.99
Stephen Lynch	10/28	10/29	West Germany		187.00						187.00
	10/29	10/30	Belgium		183.00						183.00
Commercial transportation							606.92				606.92
Mary Frances Uelses	10/26	10/29	West Germany		[3] 496.79						[3] 496.79
	10/29	10/31	Belgium		[3] 245.72						[3] 245.72
Commercial transportation							606.92				606.92
Diane Worthington	10/26	10/29	West Germany		561.00						561.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1989—Continued

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	10/29	10/31	Belgium		366.00						366.00
Commercial transportation							606.92				606.92
Committee total					2,409.51		2,789.75				5,199.26

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents refund of unused per diem.

JOHN J. LaFALCE, Chairman, Mar. 2, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE 81ST INTERPARLIAMENTARY UNION CONFERENCE, BUDAPEST, HUNGARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 11 AND MAR. 19, 1989

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. John Conyers	3/11	3/19	Hungary		1,454.99		[3] 2,567.49				4,022.48
Hon. Martin Frost	3/11	3/19	Hungary		1,160.00		[3] 2,567.49				3,727.49
Delores Snow	3/11	3/19	Hungary		960.00		[3] 2,567.49				3,527.49
Julie Illsley	3/11	3/19	Hungary		960.00		[3] 2,567.49				3,527.49
Martin Sletzinger	3/11	3/19	Hungary		1,065.89		[3] 1,283.75				2,349.64
William Long	3/11	3/19	Hungary		1,060.48		[3] 2,567.49				3,627.97
Colleen Early	3/11	3/19	Hungary		960.00		[3] 2,567.49				3,527.49
Delegation expenses:											
Control room and supplies					1,875.18						1,875.18
Official meals					1,676.26						1,676.26
Local transportation							900.00				900.00
Embassy personnel, drivers (overtime-American and FSN).									286.56		286.56
Miscellaneous									690.53		690.53
Committee total					11,172.80		17,588.69		977.09		29,738.58

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] DOD transportation provided pursuant to 31 USC 22A.

JAMES H. SCHEUER, Chairman, Mar. 7, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE 82D INTERPARLIAMENTARY UNION CONFERENCE, LONDON, ENGLAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 1 AND SEPT. 9, 1989

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. George Brown	9/1	9/9	England		2,068.51		[3] 3,254.53				5,323.04
Hon. James Scheuer	9/1	9/9	England		1,659.25		[3] 3,254.53				4,913.78
Hon. Ben Blaz	9/1	9/9	England		2,122.49		[3] 3,254.53				5,377.02
Hon. John Paul Hammerschmidt	9/1	9/7	England		1,422.23		[3] 1,627.26				4,368.49
							[3] 1,319.000				
Donnald Anderson	9/1	9/9	England		1,971.29		[3] 1,319.00				5,225.82
Dallas Dendy	9/1	9/9	England		1,972.84		[3] 3,254.53				5,227.37
Spencer Oliver	9/4	9/7	England		786.11						786.11
Ann Fletcher	9/1	9/9	England		1,971.29		[3] 3,254.53				5,225.82
Martin Sletzinger	9/1	9/9	England		1,972.52		[3] 3,254.53				5,227.05
Julie Illsley	9/1	9/9	England		1,922.22		[3] 3,254.53				5,176.75
Delegation expenses:											
Control room and supplies					3,402.84						3,402.84
Official meals					2,260.29						2,260.29
Local transportation							5,750,90				5,750.90
Embassy personnel, drivers (overtime-American and FSN).									1,677.72		1,677.72
Miscellaneous									20.16		20.16
Committee total					23,531.88		34,733.40		1,697.88		59,963.16

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] DOD transportation provided pursuant to 31 U.S.C. 22A.

GEORGE E. BROWN, JR., Chairman, Mar. 7, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE INTERPARLIAMENTARY UNION SYMPOSIUM ON WOMEN, GENEVA, SWITZERLAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 21 AND NOV. 25, 1989

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Mary Rose Oakar	11/21	11/25	Switzerland		1,500.00		[3] 635.00				2,135.00
Committee total					1,500.00		635.00				2,135.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Commercial round trip.

MARY ROSE OAKAR, Mar. 9, 1990.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2853. A letter from the Assistant Secretary of the Army (Research, Development and Acquisition), transmitting a draft of proposed legislation to authorize the use of DOD appropriations for payments under equipment operation and equipment maintenance contracts that cross fiscal years; to the Committee on Armed Services.

2854. A letter from the U.S. National Commission on Libraries and Information Science, transmitting a draft of proposed legislation to improve the operation of the U.S. National Commission on Libraries and Information Science, and for other purposes; to the Committee on Education and Labor.

2855. A letter from the Secretary of Energy, transmitting a copy of a report entitled "Enforcement Actions and Comprehensive Status of Exxon and Stripper Well Oil Overcharge Funds"; to the Committee on Energy and Commerce.

2856. A communication from the President of the United States, transmitting the report on adherence of the United States to arms control treaty obligations and on problems related to compliance by other nations with the provisions of arms control agreements to which the United States is a party, pursuant to 22 U.S.C. 2592; to the Committee on Foreign Affairs.

2857. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting the Secretary's certification and justification regarding the eligibility of certain East European countries and Yugoslavia to receive ESF funds, pursuant to Public Law 101-243, section 201(b)(1) (104 Stat. 10); to the Committee on Foreign Affairs.

2858. A letter from the Chairman, National Labor Relations Board, transmitting a report on the Board's activities under the Freedom of Information Act, during calendar year 1989, pursuant to 5 U.S.C. 552; to the Committee on Government Operations.

2859. A letter from the Secretary to the Board, Railroad Retirement Board, transmitting the Board's annual report of its compliance with the Government in the Sunshine Act during calendar year 1989, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2860. A letter from the Secretary of Transportation, transmitting the Department's 15th annual report on its activities under the Freedom of Information Act, during calendar year 1989, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

2861. A letter from the Chairman, Federal Election Commission, transmitting 35 recommendations for legislative action, pursuant to 2 U.S.C. 438(a)(9); to the Committee on House Administration.

2862. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of Defense, on Nogales Wash and Tributaries, AZ, together with other pertinent reports, pursuant to section 6 of the Flood Control and Protection Act of 1938 (H. Doc. No. 101-165); to the Committee on Public Works and Transportation and ordered to be printed.

2863. A letter from the Secretary of Veterans Affairs, transmitting a report on the extent of contractor performance of activities at VA health-care facilities during fiscal year 1989, pursuant to 38 U.S.C. 5010(c)(7) (96 Stat. 1449); to the Committee on Veterans' Affairs.

2864. A letter from the Acting Director, Office of Government Ethics, transmitting a draft of proposed legislation to amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics, pursuant to 31 U.S.C. 1110; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2571. A bill to provide for the designation of certain national wildlife refuge lands as wilderness in the State of Arizona; with an amendment (Rept. 101-435, Pt. 1). Ordered to be printed.

Mr. FROST: Committee on Rules. House Resolution 368. Resolution providing for the consideration of H.R 3, a bill to authorize appropriations to expand Head Start programs and programs carried out under the Elementary and Secondary Education Act of 1965 to include child care services, and for other purposes (Rept. 101-436). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 369. Waiving certain points of order against consideration of H.R. 4404, a bill making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes (Rept. 101-437). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DONNELLY (for himself, Mr. MOAKLEY, and Mr. FRANK):

H.R. 4405. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for fees for sewer and water services; to the Committee on Ways and Means.

By Mr. DYMALLY:

H.R. 4406. A bill to ensure participation of disadvantaged business concerns in Federal contracts, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs; the Judiciary; Government Operations; Education and Labor; and Post Office and Civil Service.

By Mr. ERDREICH:

H.R. 4407. A bill to require Federal, State, and local law enforcement agencies to report all cases of missing persons under age 18 to the National Crime Information Center of the Department of Justice; to the Committee on the Judiciary.

By Mr. FLIPPO (for himself, Mr. SCHULZE, Mr. SUNDQUIST, Mrs. KENNELLY, Mr. ANTHONY, Mr. JENKINS, Mr. MCGRATH, Mr. RANGEL, Mr. FORD of Tennessee, Mr. MATSUI, Mr. GUARINI, and Mr. VANDER JAGT):

H.R. 4408. A bill to amend the Internal Revenue Code of 1986 to make permanent the provisions permitting certain small issues of tax-exempt bonds; to the Committee on Ways and Means.

By Mr. HUBBARD:

H.R. 4409. A bill to require the Army Corps of Engineers to perform necessary channel modifications on the lower Cumberland River in the State of Kentucky; to the Committee on Public Works and Transportation.

By Mr. LEACH of Iowa:

H.R. 4410. A bill to amend the Support for East European Democracy [SEED] Act of 1989 to authorize the reduction of official debt owed to the U.S. Government by any East European country that meets certain criteria, and for other purposes; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. RUSSO:

H.R. 4411. A bill to amend the Internal Revenue Code of 1986 to impose a tax on income and gain from providing leveraged buyout and other financing to certain businesses; to the Committee on Ways and Means.

By Mr. SABO:

H.R. 4412. A bill to amend the Internal Revenue Code of 1986 to permit the Secretary of the Treasury to authorize States to collect delinquent Federal income taxes and retain a portion of the amount collected; to the Committee on Ways and Means.

By Mr. SCHUMER (for himself and Mr. WAXMAN):

H.R. 4413. A bill to amend title XIX of the Social Security Act to provide for adjustment of payment under the Medicaid Program to hospitals with a disproportionate share of inpatients with AIDS; to the Committee on Energy and Commerce.

By Mr. SOLOMON (for himself, Mr. WALSH, Mr. WOLF, Ms. KAPTUR, Mr. HUGHES, Mr. GUARINI, Mr. EMERSON, Mr. LAGOMARSINO, Mr. HASTERT, Mr. MURPHY, Mr. RANGEL, Mr. HORTON, Mr. NIELSON of Utah, Mr. BUSTAMANTE, Mrs. PATTERSON, Mrs. COLLINS, Mr. SHUMWAY, Mr. MCNULTY, and Mr. PALLONE):

H.J. Res. 532. Joint resolution authorizing and requesting the President to designate the second full week in March 1991 as "National Employ the Older Worker Week"; jointly, to the Committees on Post Office and Civil Service and Education and Labor.

By Mr. MICHEL:

H. Res. 367. Resolution electing Representative Molinari of New York to the Committee on Public Works and Transportation and the Committee on Small Business; considered and agreed to.

By Mr. DOUGLAS (for himself and Mr. BARTON of Texas):

H. Res. 370. Resolution providing for the consideration of the joint resolution (H.J. Res. 268) proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

337. By the Speaker: Memorial of the Senate of the State of Michigan, relative to a review of Federal laws pertaining to asbestos and asbestos removal to make them consistent with new scientific information; to the Committee on Energy and Commerce.

338. Also, memorial of the Nitijela of the Marshall Islands, relative to the recommendations submitted to the U.S. Congress by the Rongelap Atoll local government at the November 16, 1989, oversight hearing on the safety and habitability of Rongelap Atoll; jointly, to the Committees on Interior and Insular Affairs and Foreign Affairs.

339. Also, memorial of the Nitijela of the Marshall Islands, relative to the implementation of the phase 2 comprehensive and independent study mandated by the Compact of Free Association; jointly, to the Committees on Interior and Insular Affairs and Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of the rule XXII,

Mr. SHUMWAY introduced a bill (H.R. 4414) to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Co.; which was referred to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 90: Mr. JOHNSON of South Dakota.

H.R. 159: Mr. BORSKI.

H.R. 378: Mr. GALLEGLY.

H.R. 567: Mr. ASPIN.

H.R. 775: Mr. VALENTINE.

H.R. 857: Mr. MRAZEK.

H.R. 933: Mr. MOODY and Mr. GAYDOS.

H.R. 965: Mr. SCHEUER, Ms. PELOSI, and Mr. SMITH of Florida.

H.R. 1136: Mr. FAZIO.

H.R. 1175: Mr. RHODES.

H.R. 1227: Mr. PARRIS, Mr. TALLON, Mr. COX, Mr. BILIRAKIS, and Mr. GALLEGLY.

H.R. 1236: Mr. MINETA, Mr. SAXTON, Mr. DYSON, Mr. DELLUMS, Mr. MILLER of Washington, Mr. BOEHLERT, and Mr. RINALDO.

H.R. 1381: Mr. FUSTER and Mr. RANGEL.

H.R. 1663: Mr. HUGHES, Mr. DEFAZIO, Mr. EVANS, Ms. SLAUGHTER of New York, and Mr. STOKES.

H.R. 1875: Mr. BOUCHER.

H.R. 2202: Mr. BEVILL, Mr. LANCASTER, Mr. NEAL of North Carolina, and Mr. NEILSON of Utah.

H.R. 2285: Mr. ROBERTS, Mr. WISE, Mr. FOGLIETTA, Mr. MURPHY, Mr. DERRICK, and Mr. CRANE.

H.R. 2540: Mr. MORRISON of Washington and Mr. SWIFT.

H.R. 2584: Mr. CARPER, Mr. SMITH of New Hampshire, Mr. JOHNSTON of Florida, Mr. MCGRATH, Mr. FORD of Tennessee, Mr. SKELTON, and Mr. SPRATT.

H.R. 2787: Mr. RICHARDSON and Mr. SHUMWAY.

H.R. 2974: Mr. HEFNER, Mr. HANCOCK, Mr. AKAKA, Mr. FLIPPO, Mr. KLECZKA, Mr. OXLEY, Mr. SABO, Mr. CAMPBELL of Colorado, Mr. MANTON, Mr. NOWAK, Mr. LEWIS of Florida, Mr. POSHARD, Mr. WOLPE, Mr. ARMEY, and Mr. SMITH of Texas.

H.R. 3123: Mr. BROWN of Colorado, Ms. OAKAR, and Mr. STAGGERS.

H.R. 3154: Mr. VALENTINE, Mr. RAVENEL, Mr. MORRISON of Washington, Mr. FASCELL, and Mr. MCCURDY.

H.R. 3191: Mr. SIKORSKI, Mrs. LOWEY of New York, Mr. NEAL of Massachusetts, and Mr. ESPY.

H.R. 3278: Ms. SLAUGHTER of New York, Mr. DEFAZIO, and Mr. BILBRAY.

H.R. 3343: Mr. GORDON.

H.R. 3412: Mr. ANDREWS and Mr. RICHARDSON.

H.R. 3423: Mr. AUCOIN.

H.R. 3440: Mr. HERGER.

H.R. 3595: Mr. HERGER, Mr. KYL, Mr. RIDGE, and Mr. PARRIS.

H.R. 3604: Mr. MICHEL and Mr. SPENCE.

H.R. 3686: Mr. DREIER of California and Mr. ROBERT F. (BOB) SMITH.

H.R. 3733: Mr. FRANK, Mr. FUSTER, Mr. MILLER of California, Mr. OWENS of Utah, Mr. SAVAGE, Mr. TRAFICANT, Mr. VALENTINE, and Mr. RAHALL.

H.R. 3734: Mr. LIPINSKI, Mr. ATKINS, Mr. POSHARD, Mr. ROWLAND of Connecticut, Mr. LEWIS of Georgia, Mr. SAXTON, Mrs. BYRON, and Mr. HERTEL.

H.R. 3745: Mr. WHEAT, Mr. SAVAGE, Mr. MATSUI, Mr. TORRES, Mr. DYMALLY, Mr. FORD of Tennessee, Mr. RANGEL, Mrs. COLLINS, Mr. BATES, Mr. CROCKETT, and Mr. HAYES of Illinois.

H.R. 3798: Mr. BURTON of Indiana, Mr. DELAY, Mr. PARRIS, and Mr. ROGERS.

H.R. 3852: Mr. WHEAT.

H.R. 3857: Mr. ATKINS.

H.R. 3895: Mr. ATKINS.

H.R. 3901: Mr. FISH and Mr. LEWIS of Georgia.

H.R. 3905: Mr. GIBBONS and Mr. FASCELL.

H.R. 3933: Mr. TORRES, Mr. BRENNAN, Mr. JONTZ, Mr. HAYES of Illinois, Mr. ATKINS, Mr. MURPHY, Mr. KILDEE, Mr. OWENS of Utah, Mr. JENKINS, and Mrs. LLOYD.

H.R. 3961: Mr. KILDEE.

H.R. 3980: Mr. POSHARD.

H.R. 4003: Mr. COLEMAN of Texas.

H.R. 4025: Mr. GRANDY.

H.R. 4037: Mr. HENRY, Mr. MADIGAN, Mr. MILLER of Washington, and Mr. UPTON.

H.R. 4057: Mr. PEASE, Mr. TOWNS, Mr. SMITH of Florida, Mr. RAHALL, Mr. FAUNTROY, Mr. BRUCE, Mr. FAZIO, and Mrs. UNSOELD.

H.R. 4060: Mr. SHAYS, Mr. BOEHLERT, and Mr. KILDEE.

H.R. 4088: Mr. PETRI.

H.R. 4100: Mr. CLINGER, Mr. FUSTER, Mr. HYDE, Mr. MACHTLEY, Mr. ROWLAND of Connecticut, and Mr. TALLON.

H.R. 4274: Mr. DERRICK, Mr. WALSH, Mr. SHUMWAY, Mr. MCNULTY, Mr. NIELSON of Utah, Mr. RAHALL, Mr. EVANS, and Mr. HATCHER.

H.R. 4250: Mr. NEAL of Massachusetts.

H.R. 4319: Mr. CHAPMAN, Mr. RAVENEL, Mr. OLIN, Mr. LEATH of Texas, Mr. RITTER, Mr. THOMAS of Wyoming, Mr. OXLEY, Ms. KAPTUR, Mr. ATKINS, Mr. LAFALCE, and Mr. ROGERS.

H.R. 4363: Mr. JONTZ.

H.R. 4369: Mr. OWENS of Utah.

H.J. Res. 28: Mr. JAMES.

H.J. Res. 439: Mr. ENGLISH, Mr. GUARINI, Mr. PALLONE, Mr. PAXON, and Mr. HOYER.

H.J. Res. 475: Mr. ROWLAND of Connecticut, Mr. HAYES of Illinois, Mr. DE LUGO, Mr. TAUKE, Mr. VANDER JAGT, Mr. GRAY, Mr. UPTON, Mr. QUILLEN, Mr. GEREN, Mr. SMITH of Vermont, Mr. SKAGGS, Mrs. MARTIN of Illinois, Mr. OBEY, Mr. HASTERT, Mr. ANNUNZIO, Mr. DICKS, Mr. MARTIN of New York, Mrs. VUCANOVICH, Mr. MCCOLLUM, Mr. HUNTER, Mr. LOWERY of California, Mr. THOMAS of Wyoming, Mr. DONNELLY, Mr. KANJORSKI, Mr. MCDADE, Mr. IRELAND, Mr. MOORHEAD, Mr. LEWIS of Florida, Mr. MCCRERY, Mr. PASHAYAN, Mr. CARDIN, Mrs. BYRON, Mr. SCHUETTE, Mr. ROBINSON, Mr. STUMP, Mr. PURSELL, Mr. INHOFE, Mr. DONALD F. LUKENS, Mr. SKEEN, Mr. TORRES, Mr. BILBRAY, Mr. ATKINS, Mr. MCDERMOTT, Mr. SPRATT, Mr. BORSKI, Mr. PETRI, Mr. SMITH of Texas, Mr. BUSTAMANTE, Mr. SAXTON, Mr. MILLER of Ohio, Mr. FEIGHAN, Mr. FALEOMAVAEGA, Mr. DINGELL, Mr. SLATTERY, Mr. BENNETT, Mr. PACKARD, Mr. SOLARZ, Mr. CLARKE, Mr. MORRISON of Connecticut, Mr. JOHNSON of South Dakota, Mr. FORD of Tennessee, Mr. FRENZEL, and Mr. DORNAN of California.

H.J. Res. 486: Mrs. COLLINS, Mr. PAYNE of New Jersey, Mr. NIELSON of Utah, Mr. DIXON, Mr. GRANT, Mr. GONZALEZ, Mr. POSHARD, Mr. FISH, Mr. MARTINEZ, Mr. LEWIS of Georgia, Mr. BLILEY, Mr. FASCELL, Mr. ROWLAND of Connecticut, and Mr. BRENNAN.

H.J. Res. 487: Mr. BEVILL, Mr. FAWELL, and Mr. WALSH.

H.J. Res. 492: Mr. DYSON, Mr. BLILEY, Mr. ERDREICH, Mr. ROBINSON, Mr. FLIPPO, Mr. WHEAT, and Mr. LEWIS of Florida.

H.J. Res. 519: Mr. MFUME and Mr. BILBRAY.

H. Con. Res. 522: Mr. FROST and Mr. BUSTAMANTE.

H.J. Res. 530: Mr. WALGREN, Mr. RANGEL, Mr. BLILEY, Mrs. BOXER, Mr. NEAL of North Carolina, Mr. OWENS of New York, Mr. SKELTON, Mr. BUNNING, Mr. LEWIS of California, Mrs. JOHNSON of Connecticut, Mr. ROWLAND of Connecticut, Mr. FAUNTROY, Mr. HANSEN, Mr. HUGHES, Mr. HORTON, Mr. EVANS, and Mr. ROE.

H. Con. Res. 2: Mr. MCDADE.

H. Con. Res. 98: Mr. UPTON, Mr. WELDON, Mr. COUGHLIN, Mr. BEREUTER, Mr. SOLOMON, and Mr. SHAW.

H. Con. Res. 177: Mr. NEAL of Massachusetts.

H. Con. Res. 224: Mr. SMITH of Florida.

H. Con. Res. 270: Mr. GEJDENSON, Mr. COSTELLO, Mr. ATKINS, Mr. FAZIO, Mr. SOLARZ, and Mrs. MORELLA.

H. Con. Res. 273: Mr. THOMAS A. LUKEN, Mrs. MARTIN of Illinois, Mr. MCNULTY, Mr. DIXON, Mr. DEFAZIO, Mr. FAZIO, Mr. BONIOR, Mr. SHAYS, and Mr. MAVROULES.

H. Con. Res. 281: Mr. FAUNTROY and Mr. JONES of Georgia.

H. Con. Res. 285: Mr. GALLO, Mr. STOKES, Mr. BORSKI, Mr. FAUNTROY, Mr. PAYNE of New Jersey, Mr. HOUGHTON, Mr. BILBRAY, Mr. SCHEUER, Mr. GORDON, Mr. BOSCO, Mr. RANGEL, Mr. DEFAZIO, Mr. WHEAT, Mr. SMITH of Florida, Mr. MCNULTY, Mr. WALSH, Mr. CARPER, Mrs. MARTIN of Illinois, Mr. LAGOMARSINO, Mr. DIXON, Mr. FAZIO, Mr. RINALDO, Mr. SIKORSKI, Mr. MARLENEE, Mr. PETRI, Mr. FOGLIETTA, Mr. DELLUMS, Mrs. MORELLA, Mr. MCDERMOTT, and Mr. MORRISON of Connecticut.

H. Con Res. 289: Mr. PALLONE, Mrs. KENNELLY, Mr. ROSTENKOWSKI, Mr. HAYES of Illinois, Mr. DOUGLAS, Mr. MORRISON of Connecticut, Mr. WALGREN, Mr. SAXTON, Mr. SCHUETTE, Mr. HERGER, Mr. EDWARDS of Oklahoma, Mr. BEREUTER, Mr. HYDE, Mr. EMERSON, Mr. SMITH of New Jersey, Mr. GILMAN, Mr. LEACH of Iowa, Mr. ROTH, Mr. DONALD E. LUKENS, Mr. BURTON of Indiana, Mr. GALLEGLY, Ms. SNOWE, Mr. JONES of Georgia, Mr. KANJORSKI, Ms. ROS-LEHTINEN, Mr. BONIOR, and Mr. HEFLEY.

H. Con. Res. 290: Mr. BERMAN, Mr. CARDIN, Mr. FALEOMAVAEGA, Mr. JONTZ, Mr. MOODY, Mrs. MORELLA, Mr. NATCHER, Ms. SCHNEIDER, Mr. SIKORSKI, and Mr. TANNER.

H. Res. 354: Mr. KILDEE, Mr. FOGLIETTA, Mr. AUCOIN, and Mr. LANTOS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

145. The SPEAKER presented a petition of the City Council, Compton, CA, relative to the President's proposal to eliminate and restrict priority municipal programs in order to offset the national budget deficit; which was referred to the Committee on Government Operations.

EXTENSIONS OF REMARKS

A REPORT ON THE SITUATION IN EL SALVADOR

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. HYDE. Mr. Speaker, I would like to bring to your attention an important report that has just been released by five of my colleagues who traveled to El Salvador in February to investigate the killings of the six Jesuit priests in November 1989.

The report, which was prepared by Congressmen SHUSTER, DREIER, MCEWEN, DORNAN, and MCCOLLUM, found that the Salvadoran Government has competently and efficiently proceeded with the investigation of the Jesuit killings. Further, the Salvadoran Government continues to investigate allegations that there may have been a coverup within the military. In this regard, it is important to note that no convincing evidence was brought forward during the visit to show that any Salvadoran Government officials were involved in the crime beyond those who have been charged and arrested. Significantly, within 2 months of the deaths of the priests, eight Salvadoran soldiers were arrested and charged. A ninth subject deserted his military unit and is reportedly now in Mexico City talking with representatives of the Cuban-backed Salvadoran guerrillas [FMLN].

As you know, Mr. Speaker, the deaths of the priests took place at the height of the FMLN final offensive. There is a general and widespread belief that religious persecution in El Salvador has increased. This allegation is not substantiated by the facts. Most of the searches took place during the first 10 days of the offensive, when up to one-third of San Salvador City was controlled and occupied by the guerrillas. Some churches and religious facilities were searched, and in two well-documented cases, weapons were found.

On the other hand, the FMLN also engaged in human rights abuses, the most egregious of which was the well-documented use of civilians as shields. Doug Farah noted in his Washington Post outlook section article of March 3, 1990, that "The insurgents have used inaccurate artillery in heavily populated areas * * *" that led to needless casualties. These facts and others on the FMLN should also receive attention.

I strongly urge my colleagues to read this report. It is thorough, in depth, and I insert the report into the RECORD:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 7, 1990.

Hon. ROBERT H. MICHEL,
Republican Leader,
Washington, DC.

Subject: El Salvador: The Human Rights Situation, with Emphasis on the Jesuit Murders—CODEL Moakley/Shuster Trip Report.

SUMMARY

Since the death of six Jesuit priests on the night of 16 November 1989, there has been intense and rekindled focus on the human rights situation in El Salvador. A 15-Member Congressional delegation just completed a visit from 11 through 14 February of which we were members. [The composition of the group is attached at TAB A.] We found that the Salvadoran Government had competently and efficiently proceeded with the investigation of the Jesuit murders. The first phase of the case was completed on 17 January with the arrest of eight Salvadorans charged with complicity in the murders, including Colonel Guillermo Benavides. [A ninth soldier is a deserter who has been indicted in absentia.] Further, the Salvadoran Government continues to investigate whether anyone in the high command ordered the murders or, following their perpetration, attempted to cover them up. In this regard, no convincing evidence was brought forward during the Congressional visit to show that any Salvadoran Government officials were involved with the crime beyond those who had been charged and arrested.

The death of the six Jesuits is a major human rights case that deserves the attention it is receiving. However, respect for human rights in El Salvador has improved dramatically since the low point of the early 1980's, when up to 800 to 1,000 people were killed or disappeared each month. According to most recent U.S. Embassy figures of August 1989, 14 individuals were disappearing per month under mysterious circumstances in El Salvador. These included deaths attributed to the FMLN as well as right-wing death squads. This said, there is still a justified fear on the part of left-wing activists in El Salvador as to their personal safety. However, President Cristiani is committed to providing for their personal safety and insuring that an environment exists in the country which will permit them to peacefully advocate their political views.

From its own sources, the Salvadoran Army learned of the planned November offensive. From 9 November on the High Command was meeting continuously in expectation of a major offensive. However, no one predicted the scope of the offensive. Later it became clear that major attacks were about to take place throughout the country. Because a decision was made to minimize civilian casualties in recapturing poor neighborhoods in San Salvador, the Army was ordered to proceed carefully in clearing out the FMLN guerrillas in the city. As a result, the process took longer than anyone had anticipated. It was clear to both Democratic and Republican staff from tours of the poor neighborhoods that the Salvadoran Government has used force discriminately and discretely to minimize collateral damage to civilian neighborhoods. This conclusion is supported by America's Watch in their latest report on El Salvador.

There has been a general and widespread belief that religious persecution in El Salvador has increased since the beginning of the FMLN offensive. This is not substantiated by the facts. Most of the charges of indiscriminate searches and harassment took place during the first 10 days of the FMLN offensive, when up to one-third of San Salvador City was controlled and occupied by FMLN guerrillas. During the process of clearing them out, churches were searched and religious workers were arrested or expelled from the country. While in most cases, these searches did not reveal anything more than FMLN propaganda, in two well-documented cases weapons were found.

First is the highly publicized Jennifer Casolo case. It is clear that arms were buried at her house, that these were not placed there by the Salvadoran Government, and that Jennifer Casolo had some involvement with FMLN logistical operations. Second, in the case of an Episcopal Church located in San Salvador, the parish priest, Luis Serrano Lorente, was arrested for complicity in the attack on the offices of the Chiefs of Staff on 30 October 1989. Lorente permitted the FMLN to load two trucks with homemade guerrilla mortars in the church parking lot. This incident also has been verified by America's Watch in its latest report.

On the issue of conditioning aid, this is an underlying theme that was explored first in January during the staff visit, and more specifically, during our trip in February. [A copy of the staff report is included at Tab B.] It is our opinion that the conditioning of aid of the Government of El Salvador will aggravate rather than improve the human rights situation by playing into the hands of the FMLN. It would serve to confirm in the minds of Salvadoran Government officials that no matter what they do, including a prompt, good-faith resolution of the Jesuit case, that the United States is bent on punishing them. The Jesuit Provincial for Central America, Father Tojeira, with whom the delegation spoke during the trip, stated that while he advocated that the United States cease providing military aid to El Salvador, he recognized that this can not be done as long as the Nicaraguans and other foreign powers were providing assistance to the FMLN. One side cannot be armed and the other disarmed. Congressman Moakley specifically stated during his press conference that he had not yet made up his mind on the issue of conditioning of aid.

Below, you will see under major headings the major subject areas that we covered during our trip.

JESUIT MURDERS

President Cristiani is committed to investigating fully the murder of the six Jesuit priests and the two women on the night of 15 and 16 November 1989. The Special Investigative Unit (SIU), which is U.S. financed and trained and manned by Salvadorans, conducted a thorough investigation that led to the initial breakthroughs in the

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

case. When sufficient evidence was developed to convince him that the Army was involved, President Cristiani went on T.V. on 7 January and announced that he had determined that members of the Atlacatl Batallion were involved. On 17 January 1990, eight members of the El Salvador armed forces, seven of whom were members of the Atlacatl Batallion, were arrested. A ninth had previously deserted. Those arrested included four officers—Colonel Guillermo Benavides, two lieutenants and one sub-lieutenant.

The Salvadoran General Staff assures us that it is fully committed to investigating this crime. No evidence was presented to the Members which implicated the General Staff. On the evening of 15 November, a General Staff meeting took place at which Colonel Benavides was present. There is no evidence that an order was given to kill the priests at that meeting. Indeed, from the evening of the 9th on through the 15th, the General Staff met in almost continuous session in response to the FMLN offensive.

While a preliminary investigation has been completed, including the arrest of the individual's who were actually involved in the crime, the investigation is not yet completed. No convincing evidence was brought forward that anyone in the High Command sanctioned, either directly or indirectly, the killing of the priests; and following the murders, whether any individuals had knowledge of the Atlacatl Batallion's involvement in the crime and failed to report it. To this end, the U.S. Government continues to investigate a report from a U.S. Army Major assigned to El Salvador that a Salvadoran Colonel Aviles received information fourth-hand that Colonel Benavides was involved in the crime. Both Aviles and the Major have been polygraphed and deception has been indicated in both of their statements. It is unclear how much of the information that the Major reported is accurate. The Pentagon continues to investigate this case and has already made the Major available for interviews by House Intelligence Committee staff. Congressman Moakley has been greatly incensed at this, and has insisted that Defense Department make the Major available to his staff at the earliest possible date. Congressman Studds plans to explore a possible subpoena through the Foreign Affairs Committee.

Judge Zamora, the presiding judge in the Jesuit case, has stated that he believes that the existing evidence presented to him is adequate to bring Colonel Benavides and the others to trial and to convict them. In previous human rights cases involving co-conspirators, it has been difficult, if not impossible, to convict them of the crime because under Salvadoran law one conspirator cannot testify against another. Two options are being explored by the prosecution to improve their case. First, there is a possibility that charges against one of the eight men arrested in the case will be dropped and his testimony will be used against the others. Secondly, additional circumstantial information which links Benavides to the crime will be assembled and should be sufficient to convict him. Judge Zamora believes he already has enough evidence, but wishes to tighten his case.

RELIGIOUS PERSECUTION

Serious allegations of increased persecution of religious groups arose during the FMLN offensive. In the main, the charges stem from searches that were conducted during the first 10 days of the offensive when the FMLN controlled up to one-third of San Salvador City and other major municipal areas such as San Miguel. In rooting out FMLN guerrillas from the poor neighborhoods of San Salvador, it was found that the guerrillas had used church facilities for refuge. Up to 20 Catholic churches were actually searched by the military out of a total of 300 in San Salvador City. FMLN propaganda was found in many of them, but no weapons. After widespread criticism, President Cristiani ordered that either he or members of the general staff must specifically approve searches of religious facilities before they occur. Since that time, the number of incidents reported in the press have diminished significantly.

Despite the fact that many of the searches of religious facilities did not yield weapons, two prominent cases did tie religious workers directly to the FMLN: Jennifer Casolo and Father Luis Lorento Serrano, an Episcopal priest.

Jennifer Casolo: Significant new information was developed during the trip on Jennifer Casolo which clearly convinced us of her involvement with the FMLN. First, she lived in a very small house where the weapons were found. The weapons were buried in holes that were approximately five feet deep and were carefully hidden just a few feet from her bedroom window. Second, personal documents of hers were actually found mixed in with the arms. The Embassy Consulate Officer, David Ramos, was present when the weapons were dug up. Third, Jennifer made several incriminating statements as the weapons and documents were being discovered, including the fact that she acknowledged on a contemporaneously filmed videotape that the documents did belong to her. Fourth, the guerrilla who identified Jennifer's house as being a weapons cache, positively identified her as being at the house during one of three occasions in which he was removing arms. Jennifer gave this guerrilla water. Further, this same guerrilla was captured in the possession of a silenced AK-47. The assault rifle was made in North Korea, the silencer was of Russian origin. [The rifle has been brought back to Washington.] The same guerrilla identified three other locations of arms. One, his own house, did contain the arms. The two other locations when searched revealed empty caches.

Many Salvadorans remarked on what they perceived as a double standard being imposed on them. On the one hand, when sufficient evidence existed to bring Jennifer Casolo to trial, she was released due to enormous outside pressure. On the other hand, the Salvadoran Government is expected to be relentless in its investigation of the Jesuit case. It is asked to run down every rumor, story of cover-up or conspiracy when there is no hard evidence to support such allegations. Many find this selective application of justice offensive.

Father Luis Lorento Serrano: Father Serrano permitted weapons to be held on his Episcopal Church grounds which were used in an attack on the Chief of Staff offices on 30 October 1989. The 14 other Episcopalians that were arrested with Father Serrano have subsequently been released for lack of evidence. He is, however, still being held because eye witnesses identified him as having had some involvement with allowing the loading of the weapons on the truck, which was used in the attack. Further, in its most recent report, America Watch confirmed that this incident took place.

Allegations of religious persecution have, by and large, come from a small, discreet element of Salvadoran society. There are large, mainstream religious organizations affiliated with the Catholic Church, Baptist Church, and others in El Salvador and they do not claim any religious persecution. Indeed, we met with Catholics and Baptists from these groups and they stated clearly that religious persecution does not exist. Salvadoran Archbishop Rivera y Damas, who is a vocal critic of the military, acknowledged on 22 January 1990 that persecution against the Church in general had decreased. Most prominent of those complaining about religious persecution is a Lutheran Bishop Gomez. Gomez is the head of a small Lutheran group representing approximately 1,000 individuals inside of El Salvador. He, however, has been the primary funnel for Lutheran assistance provided to El Salvador. He left the country shortly after the offensive began and is still trying to return to the country. There are many who say that he and his religious followers are heavily involved in providing aid and support to the FMLN, and that their mission organizations are regular supply routes for the FMLN guerrillas.

SALVADORAN MILITARY: RESPONSIVENESS TO HUMAN RIGHTS

The Salvadoran military provided us with access to any member of the military with whom we wished to speak. If there was a question, they tried to answer it immediately. If they could not provide an answer, follow-up information was made available as soon as possible. The Chief of the Joint General Staff, Colonel Emilio Ponce, was questioned regarding a general staff meeting held on November 15, 1989, the same evening on which the Jesuits were killed. There have been allegations that something was said at this meeting, which Colonel Benavides construed as authority to kill the Jesuits. Ponce was very clear about what took place on that evening. He referred to his personal notebook, stated the time the meeting took place and the subject matters discussed, including the increased use of artillery and air support to assist military units in rooting out pockets of FMLN resistance in the poorer neighborhoods. President Cristiani had been asked to sign an order permitting the use of heavier weapons, which he did. Colonel Aviles and Colonel Benavides were both present at the meeting. No order, however, was given to kill the Jesuits, according to Ponce, or any other order that could have been construed to encourage such action. There is no convincing evidence that there were any other incidents that evening or shortly thereafter which could be used to confirm that such an order was given. Although Congressman Bonior stated that Bishop Gomez from the Lutheran Church and his organization did receive some harassment that night, this was never confirmed.

With regard to the allegations made by U.S. Army Major that Colonel Aviles had gone to him with fourth-hand information concerning the killing of the Jesuits. Colonel Ponce could not shed any light on this. Three other Salvadoran officers were implicated as being in the chain of knowledge: Colonel Benavides; Lt. Colonel Rivas; and Colonel Lopez y Lopez. It is noteworthy that Aviles was present at the General Staff meeting on the 15th of November. Yet while Aviles is alleged to have told the Major about Benavides' alleged involvement in the Jesuit murders, Aviles made no mention of any orders on the night of the 15th which

could have been interpreted as an order to kill the Jesuits.

With regard to allegations made by a private in the Salvadoran Army, Joya Martinez, that he was involved in officially sanctioned death squad activities, the Members went to the First Brigade where the alleged incidents took place and spoke with the Brigade Commander, Colonel Elena Fuentes. Colonel Fuentes was well prepared to address the concerns of the Members, particularly those of Congressman Studds. He answered fully and completely each question. He provided documentary evidence that Joya Martinez was being investigated for human rights violations and that nobody in the Brigade had any knowledge of his activities. Indeed, on the 5th of July 1989, Colonel Fuentes filed a full and complete report to Colonel Ponce, outlining that Martinez was under investigation for human rights violations. Martinez had been turned in by lieutenants of the Atlacatl Battalion for having captured eight prisoners, who all appeared to have been severely beaten. Finally, Joya makes very serious allegations with regard to the alleged knowledge of U.S. military personnel of Joya's involvement in death squads and extra-judicial interrogations that violated the Geneva Conventions. The House Intelligence Committee is investigating Joya's allegations and will soon receive a detailed report addressing the involvement of American military personnel. At this point, Martinez's allegations of U.S. military involvement appear to be baseless. It is acknowledged by all, however, that he was indeed involved in the deaths of two Salvadoran civilians in July of 1989 for which he is currently wanted in El Salvador and for which the Salvadoran Government is seeking his extradition from the United States. Joy's attorneys here in the United States have agreed to allow him to be interviewed by the FBI. At that time he will submit to a polygraph examination.

With regard to human rights allegations in general, the Salvadoran Army is very sensitive to these charges and seeks to investigate them fully when they are levied. The problem is that in many cases it is difficult to reconstruct exactly what happened. For example, while the Codel was in El Salvador, we learned of an alleged bombing incident which resulted in the deaths of five Salvadoran citizens in Chalatenango Province near the Honduran border. Two Members attempted to investigate these allegations. One, Congressman Dreier, flew in a military helicopter to a nearby town. He was unable to get in to personally look at the village because the FMLN was still operating in the area. On the other hand, Congressman McDermott was driven from San Salvador by car and was able to pass through several government roadblocks and enter the area without any problem. There he was given "evidence" of a military bombing of one house which resulted in the deaths. Had the building been bombed, as was reported, it would have disappeared and not have been still standing. It is possible, however, that it was hit with a rocket fired from a Salvadoran Air Force plane or helicopter. It must be noted, however, that the guerrillas ambushed a government patrol and were fighting from well-constructed trenches 30 meters outside the hamlet. They fled through hamlet as they left the area. The house may have been hit by an errant rocket at this time. Conversely, the Army states that the house was blown up the the FMLN with dynamite. In any case, the SIU will investigate. The difference between this case and that of the killing of the Jesuits is that the deaths of the civilians may have been an accident whereas the Jesuit murders were clearly premeditated.

PROSPECTS FOR A NEGOTIATED SETTLEMENT

Throughout the trip, Members asked repeated questions concerning what the prospects were for a negotiated settlement to the war. It was noted by a captured high ranking guerrilla that the Salvadoran FMLN prepared for the 11 November offensive for nearly two years. The final preparations were made in September and October of 1989 while the FMLN allegedly was negotiating with the Government in good faith.

Members met with and debriefed a captured member of the PRTC, one of the constitutent groups of the FMLN. This individual, Gustavo, is a member of PRTC Central Committee and holds the rank of commandante. He stated that from the FMLN's standpoint, one cannot consider political and military situations separately. The FMLN will negotiate when they are militarily weak. When they have regrouped and reequipped themselves, they begin to fight again. Their military/political strategy is designed with one goal in mind, and that is to take over power from the Government. At this time, according to Gustavo, the FMLN is in a negotiating phase because morale is low following the offensive; and because they have expended large amounts of ordnance in the offensive. Gustavo, who received 11 months of training in Cuba, stated that the Nicaraguans are only an intermediary stop for support for the war. The Cubans are the masterminds behind the war and the operations in El Salvador. Weapons are received from North Korea, Vietnam, Bulgaria and other Eastern Bloc countries. Another member of the PRTC, who was interviewed by the Members, stated that he had been involved in the total re-equipping of the FMLN with arms that were brought in from Nicaragua via Honduras, some by sea and a small amount by a new route through Guatemala. But the principal route, however, was with large trucks with concealment devices passing from Nicaragua into Honduras and then into El Salvador.

Despite all the evidence that the FMLN may not be seriously conducting good faith negotiations with the Salvadoran Government, President Cristiani is giving every bit of support he can to the effort to end the war. He has asked the Secretary General of the United Nations, Perez de Quellar, to act as mediator between the FMLN and the Salvadoran Government.

CONDITIONING OF AID

Currently there are a number of proposals, including one introduced by Senator Dodd and five other Senators, which condition aid to the Government of El Salvador. All of the proposals are based on concern over an alleged resurgence of human rights problems in El Salvador and a desire to force negotiations between the Government and the FMLN through the conditioning of U.S. military assistance.

All parties are advocating negotiations, including President Cristiani. But the key is whether good faith negotiations will actually take place. It must be remembered that the FMLN negotiated while it was preparing for the November offensive and now, severely weakened, they are ready to negotiate once again while they rest and regroup for the next offensive.

Many Salvadoran parties advocate negotiations as well, but they realize than a cutoff or a dimunition in U.S. assistance would not be productive unless the FMLN was also to receive fewer supplies. It is important to note that the U.S. Government has provided extensive resources to cut Nicaraguan arms shipments to El Salvador, an effort which has not been successful. The arms which have been seized en route from Nicaragua to El Salvador has only been detected through fortuitous events. Large amounts still continue to get through.

Conditioning of aid is a slap in the face to the Cristiani Government as well as the people of El Salvador. U.S. military aid has brought about a significan improvement in the human rights situation. While some church leaders would say that the military mind set has remined the same and only the numbers have gone down, it is impossible to disagree with the figures of a decrease from 800 to a 1,000 per month to 14 per month as being a significant improvement.

Our best policy is to continue supporting the Government of El Salvador, pressing them to bring to justice the perpetrators of the Jesuit killings, and perhaps most importantly, exerting maximum leverage on the Soviet Union to disengage their clients, Cuba and Nicaragua, from supporting the FMLN guerrillas.

BUD SHUSTER,
BOB MCEWEN,
BILL MCCOLLUM,
DAVID DREIER,
ROBERT K. DORNAN,
Members of Congress.

A TRIBUTE TO C.A.R.E.S.

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to some of the great citizens of this country who have served their community in extraordinary ways. Today, I ask my colleagues to join me in paying tribute to the volunteers of C.A.R.E.S., the Crestwood Assistance Referral Employment Services.

C.A.R.E.S., the volunteer-run, non-profit assistance program for the occupants of Crestwood Village Retirement Home, has demonstrated dedication through providing transportation and other services to the community of 17,000 senior citizens. These contributions help to increase the quality of life for the people residing in the home at a time when barriers may need to be overcome.

One of the main services furnished by C.A.R.E.S. is the dial-a-ride taxi, which consists of station wagons and wheel chair vans for the handicapped that will transport the residents anywhere they need to go. Many take advantage of this successful program. In fact, the total number of passenger trips in 1989 was 27,503; miles driven totaled 72,739.

C.A.R.E.S. also contains an employment service which, for a fee, will do small jobs or give referrals. They lend physical aides when needed, and help with the calculation of bills and financial analysis. Once a month a specialist is available to handle questions concerning anything from passports, to wills and estates, veteran issues, or insurance-Medicare supplements. The C.A.R.E.S. contributions of

knowledge and support help to make the golden years of retired citizens shine bright.

I call on my colleagues in the House to join with me, along with the people of the 13th Congressional District of New Jersey, in extending our gratitude and appreciation to C.A.R.E.S., for its 15 years of dedication to the senior citizen community of Crestwood Village Retirement Home.

FELIX J. SCHEFFLER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. LAGOMARSINO. Mr. Speaker, this Saturday, March 31, Felix J. Scheffler will retire from Martin Marietta Corp. after 31 years of service. For the past 6 years, Mr. Scheffler has been director of Vandenberg operations for Martin Marietta Denver Aerospace, where is he directly responsible for the management and direction of Titan programs and common support to all Martin Marietta projects at Vandenberg Air Force Base in Santa Barbara County in my district.

Felix joined Martin Marietta in 1958 at Denver, CO, as a senior electrical engineer for Titan. His career at Vandenberg spans 19 years—1959 through 1977 and 1984 to the present. During that time, he has held a number of positions on the Titan program, including test engineer, test conductor, launch site operations chief and test operations manager. He was test conductor for the first operational Titan I launch from Vandenberg Air Force Base. From 1975 to 1977, he was director of Vandenberg operations. Additionally, he was director of Canaveral operations from April 1977 through December 1982 and at Denver, until his return to Vandenberg in February 1984, assuming his present position. The Titan continues as the most successful expendable space launch booster in industry.

Felix was born in Gretna, LA, in 1921. He earned a bachelor of electrical engineering degree at the University of Southern California in 1956. He is a member of the American Institute of Aeronautics and Astronautics, the Air Force Association, USC Alumni Association, the board of directors of the United Way of the Central Coast, Inc., the North Santa Barbara County Industry Council, the board of trustees of the Western Spaceport and Science Museum, the Economic Development Plan Committee, city of Lompoc, and a charter member of the Martin Marietta Management Club.

Felix has been recognized numerous times for outstanding performance. He is a recipient of the corporate Jefferson Cup Award. He is a three-time recipient of the Denver Operational Performance Award and has received the Vandenberg Operations Gold Medallion Award on two occasions. The Silver Knight of Management Award was presented to Scheffler by the National Management Association for outstanding achievement as a professional manager.

Mr. Speaker, Felix Scheffler has had an outstanding professional career and a remarkable record of service to the community and his country. On behalf of the U.S. House of Representatives, and the Northern Santa Barbara County community, I extend to Felix, and his wife, Bonnie, our warmest congratulations and appreciation. It has truly been a privilege to know him.

ADMINISTRATION'S REPORT ON PLO "SELECTIVE AND DISTORTED"

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. FRANK. Mr. Speaker, I believe that pressing for peace in the Middle East on equitable terms is one of the most important tasks for the American Government, and I believe that some of the efforts undertaken by President Bush and Secretary Baker to achieve that goal have been constructive. I was one of those who welcomed the announcement by the Government of Israel in 1989 that it was willing to have elections in the West Bank and Gaza Strip so that the local populations could select representatives who would be given some autonomy to run the day-to-day affairs of those entities, not only to improve current conditions but in the hope that some broader settlement might evolve from the working relationship established. And I thought it was constructive for the American Government to work with the Egyptian and Israeli Governments to establish rules for those elections which would genuinely advance the peace process.

Sadly, however, recently the Bush administration has blundered seriously in this area, by comments and policies which are not only unfair to Israel and fail to take Israel's legitimate interests into account, but also jeopardize the peace process by creating doubts in the minds of the Israeli electorate as to America's steadfastness on certain important points.

The most serious of these mistakes was President Bush's gratuitous and inaccurate reference to East Jerusalem when discussing the question of settlements. By calling into question Israel's right to maintain a unified Jerusalem as its capital, the President greatly undermined America's ability to be a construction force for peace.

After that, the administration further erred when the State Department put out a report on the PLO which the Anti-Defamation League correctly called selective and distorted. Part of the framework in which we have been working for peace was a commitment by the administration to work to see that the PLO ended its campaign of terrorism against Israel. The recent report by the State Department exonerating the PLO despite significant evidence of terrorism by PLO elements therefore further undercuts this peace effort.

Mr. Speaker, the Anti-Defamation League put out a very thoughtful statement in which it summarized the glaring defects in the State Department's exoneration of the PLO. Because it is important in the advance of the peace process for us to make clear our willingness in America to stand by the commitments we have given, I very much regret this administration report and I ask that the ADL analysis of its inadequacies be printed here.

STATEMENT OF THE ANTI-DEFAMATION LEAGUE

New York, NY, March 20—The Anti-Defamation League today called a new State Department report "selective and distorted" in its analysis of PLO compliance with American conditions for the U.S.-PLO dialogue.

Abraham H. Foxman, ADL's national director, said the report "sends a message that the PLO is not to be held accountable for its many acts of violence and inflammatory rhetoric which clearly violate the terms of the dialogue. Such an approach," Mr. Foxman went on, "reduces incentives for the PLO to take meaningful steps toward peace and hinders the building of trust and confidence essential to resolution of the conflict."

ADL documented at least ten flaws in the report including the following:

PLO acts of violence are excused because they were not formally authorized by the PLO Executive Committee.

The report cites PLO compliance with the political program passed at the November 1988 Algiers Palestine National Council meeting but fails to mention that the Algiers program was not considered sufficient by the U.S. to initiate a dialogue with the PLO.

Selective in its list of PLO rhetoric: Omits numerous PLO statements which contradict Arafat's pledge to recognize Israel's right to live in peace and security.

Acknowledges that PLO leaders have not denounced PLO acts of violence—a condition that was stipulated by the U.S. at the time of the initiation of the dialogue.

Fails to recognize that "armed struggle" has long been a code word for terror operations and that it is standard PLO practice to label violent assaults against civilians and civilian centers as "military operations" and "armed struggle."

Fails to mention 12 Fatah-sponsored grenade attacks against Israeli civilians since December 14, 1988.

Ignores additional PLO-sponsored cross-border attacks and downplays Arafat's refusal to publicly condemn these operations or his failure to discipline those PLO leaders responsible for them.

Omits evidence PLO involvement in the execution of fellow Palestinians deemed "collaborators," Arafat's public sanctioning of such activities and repeated statements by senior aides of Arafat's Fatah faction endorsing such assassinations.

Omits the failure of the PLO to affirm Arafat's Geneva pledges in any official or unofficial context.

PORNOGRAPHY AND VIOLENCE IN THE COMMUNICATIONS MEDIA—A PASTORAL RESPONSE

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. BLILEY. Mr. Speaker, I would like to sumbit for the RECORD a statement by the Pontifical Council for Social Communications entitled "Pornography and Violence in the Communications Media—A Pastorial Response."

While the technological advances we have seen in telecommunications and other media have brought much good to mankind, they have also been used as channels to spread corruption, degradation, and hopelessness. This document recognizes the influences prevalent in communications media which are destructive of family life and family values in our Nation and throughout the world. Pornography and violence have a purely material view of humanity, portraying our fellow human beings as objects to be used, abused, and discarded.

The Catholic Church has long been a defender of the dignity and value of each human being at every age and stage of development. In this document, the council offers direction to all those involved in or affected by the communications media. Regardless of our situation in life, we must use our resources to respond to these harmful influences. We must simultaneously work to prevent further disruption of family life by pornography and violence, and to strengthen the moral education of children.

I believe this is a thoughtful, helpful document and I recommend it to my colleagues and their constituents.

PORNOGRAPHY AND VIOLENCE IN THE COMMUNICATIONS MEDIA—A PASTORAL RESPONSE

INTRODUCTION

1. There has been a worldwide revolution in the perception of moral values in recent years, involving profound changes in the way people think and act. The communications media have played and continue to play a major role in this process of individual and social change as they introduce and reflect new attitudes and life-styles.[1]

2. Some of this change has been for the better. Today, as Pope John Paul II recently noted, "The first positive note of the full awareness among large numbers of men and women of their own dignity and of that of every human being * * *. At the same time, in a world divided and beset by every type of conflict, the conviction is growing of a radical interdependence and consequently of the need for a solidarity which will take up interdependence and transfer it to the moral plane".[2] The communications media have contributed much to these changes.

3. Many changes, however, have been for the worse. Along with old abuses, new violations of human dignity and rights and of Christian values and ideals have occurred. Here, too, the media bear part of the responsibility.

4. The communications media are involved because, as the Second Vatican Council stated, if it is true that "they bring valuable assistance to the human race," it is equally certain "that individuals can use these means (of communication) in a manner contrary to the commandments of the Creator and can convert them into instruments of evil".[3]

5. Among the alarming developments of these years has been the widespread increase of pornography and wanton violence in the media. Books and magazines, recordings, the cinema, the theatre, television, videocassettes, advertising displays and even telecommunications frequently offer a representation of violent behaviour or of permissiveness in sexual activity that reaches the point of being openly pornographic and morally offensive.

6. As reflections of the dark side of a human nature marred by sin, pornography and the exaltation of violence are age-old realities of the human condition. In the past quarter century, however, they have taken on new dimensions and have become serious social problems. At a time of widespread and unfortunate confusion about moral norms, the communications media have made pornography and violence accessible to a vastly expanded audience, including young people and even children, and a problem which at one time was confined mainly to wealthy countries has now begun, via the communications media, to corrupt moral values in developing nations.

7. Thus, the communications media which can be such effective instruments of unity and understanding can also sometimes be the vehicles of a deformed outlook on life, on the family, on religion and on morality—an outlook that does not respect the true dignity and destiny of the human person.[4] In particular, parents in many areas of the world have expressed understandable concern about the films, videocassettes and television programs their children can see, about the records their children can hear and about the publications their children can read. They rightly do not want to see the moral ideals inculcated in the home undermined by objectionable materials all too easily accessible in all too many places—often through the communications media.

8. We wish here to describe the more serious effects of pornography and violence on individuals and society, to indicate some of the principal causes of the problem as it exists today and to point to remedial steps which need to be taken by professional communicators, by parents, by educators, by youth, by the general public, by public authorities and by churches, religious bodies and groups in the private sector.

EFFECTS OF PORNOGRAPHY AND VIOLENCE

9. Ordinary experience confirmed by studies conducted around the world has recognized the evil effects of pornography and violence in the media.[5] Pornography in the media is understood as a violation, through the use of audiovisual techniques, of the right to privacy of the human body in its male or female nature, a violation which reduces the human person and human body to an anonymous object of misuse for the purpose of gratifying concupiscence; violence in the media may be understood—especially in this context—as a presentation designed to appeal to basic human instincts of actions contrary to the dignity of the person and depicting intense physical force exercised in a deeply offensive and often passionate manner. Specialists may disagree among themselves about how and to what degree particular individuals and groups are affected by these phenomena, but the broad outlines of the problem are stark, clear and frightening.

10. While no one can consider himself or herself immune to the corrupting effects of pornography and violence or safe from injury at the hands of those acting under their influence, the young and the immature are especially vulnerable and the most likely to be victimized. Pornography and sadistic violence debase sexuality, corrode human relationships, exploit individuals—especially women and young people, undermine marriage and family life, foster antisocial behaviour and weaken the moral fibre of society itself.

11. Thus, one of the clear effects of pornography is sin. Willing participation in the production or dissemination of these noxious products can only be judged a serious moral evil. Likewise, production and dissemination of these materials could not continue if there were not a market for them, so those who use such materials not only do moral harm to themselves but contribute to the continuation of a nefarious trade.

12. Frequent exposure to violence in the media can be confusing to children, who may not be able to distinguish readily between fantasy and reality.

At a later stage, violence in the media can condition impressionable persons, especially those who are young, to regard this as normal and acceptable behaviour, suitable for imitation.

13. It has even been said that there can be a psychological link between pornography and sadistic violence, and some pornography is itself overtly violent in theme and content. Those who view or read such material run the risk of carrying over such attitudes and behaviour into their own relationships and can come to lack reverence and respect for others as precious children of God and as brothers and sisters in the same human family. Such a link between pornography and sadistic violence has particular implications for those suffering from certain forms of mental illness.

14. Even so called "soft core" pornography can have a progressively desensitizing effect, gradually rendering individuals morally numb and personally insensitive to the rights and dignity of others.

Exposure to pornography can also be—like exposure to narcotics—habit-forming and can lead individuals to seek increasingly "hard core" and perverse material. The likelihood of anti-social behaviour can grow as this process continues.

15. Pornography can foster unhealthy preoccupations in fantasy and behaviour. It can interfere with personal moral growth and the development of healthy and mature relationships, especially in marriage and family life, where mutual trust and openness and personal moral integrity in thought and in action are so important.

16. Indeed, pornography can militate against the family character of true human sexual expression. The more sexual activity is considered as a continuing frenzied search for personal gratification rather than as an expression of enduring love in marriage, the more pornography can be considered as a factor contributing to the undermining of wholesome family life.

17. In the worst cases pornography can act as an inciting or reinforcing agent, a kind of accomplice, in the behaviour of dangerous sex offenders—child molesters, rapists and killers.

18. A fundamental message of pornography and violence is disdain, the consideration of others as objects rather than as persons. Thus, pornography and violence can eat away at tenderness and compassion and can foster insensitivity and even brutality.

CAUSE OF THE PROBLEM

19. A fundamental reason for the spread of pornography and violence in the media would seem to be a pervasive moral permissiveness, rooted in the search for personal gratification at any cost. Associated with this is a kind of despairing moral emptiness, which makes sense pleasure the only happiness humans beings can attain.

20. A number of more immediate causes also contribute to the escalation of pornography and violence in the media. Among them are these:

[1] Footnotes at end of article.

The profit motive. Pornography is a lucrative industry. Some segments of the communications industry have tragically succumbed to the temptation of exploiting human weakness, including the weakness of young and impressionable minds, in order to make money from productions of pornography and violence. In some societies, the pornography industry is so lucrative that it has been linked to organized crime.

Bad liberation arguments. Freedom of expression is said by some to require the toleration of pornography, even at the cost of the moral welfare of the young and of the right of all members of society to privacy and to an atmosphere of public decency. Some even falsely say that the best way to combat pornography is tc legalize it. Faulty liberation arguments are sometimes espoused by small groups who do not represent the moral values of the majority and who fail to recognize that every right carries with it a corresponding responsibility. The right to freedom of expression does not exist in a vacuum. Public responsibility for promoting the welfare of the young, for fostering respect for women and for the protection of privacy and public decency indicates that liberty cannot be equated with license.

The lack of carefully prepared laws or the ineffective enforcement of laws which already exist to protect the common good, especially the morals of the young.

Confusion and apathy on the part of many persons, including members of the religious community, who erroneously consider themselves either as unaffected by pornography or violence in the media or as powerless to contribute to a solution to the problem.

RESPONSES TO THE PROBLEM

21. The spread of pornography and violence in the communications media does injury to individuals and society and creates an urgent problem requiring realistic responses from many persons and groups. The legitimate rights to free expression and free exchange of information must be respected, but so must the rights of individuals, families and society itself to privacy, public decency and the protection of basic values.

22. We shall speak here of seven sectors with obligations in this matter: professional communicators, parents, educators, youth, the general public, public authorities, and the Church and religious groups.

23. Professional communicators. It would be unfair to suggest that all communications media and all communicators are involved in this noxious trafficking. Many communicators retain high personal and professional standards and seek to fulfill their responsibilities with a strong commitment to moral norms and the common good. Their efforts—especially the efforts of those who seek to provide wholesome family entertainment—deserve recognition and encouragement.

We urge these communicators to join in formulating and applying ethical codes for the communications media and for advertising which respect the common good and promote sound human development. Such codes are particularly necessary for television, which makes it possible for images to enter directly into the home where children may often be alone and unsupervised. Effective self-control is always the best control, and self-regulation by the media can be the first and best line of defense against those who would corrupt the media and society itself by seeking to profit from pornography and violence.

We also urge communicators to help make better known through the media the steps which can be taken to stem the tide of pornography and the exaltation of violence in society.

24. Parents. Parents must re-double their efforts to provide for the sound moral formation of children and youth. This includes inculcation of healthy attitudes toward human sexuality based on respect for the dignity of every person as a child of God, on the virtue of chastity and on the practice of self-discipline. A well-ordered family life in which the parents are obviously faithful and committed to each other and to their children provides the best school for the formation of sound moral values.

Today, too, children and young people must be taught how to be discriminating, informed consumers of media. Parents, in particular influence their children through the example they give in this matter; parental passivity or self-indulgence in regard to media teach false and damaging lessons to the young. Of particular importance to young people is the example their parents give of true love and tenderness in marriage and of readiness to discuss matters of concern to their children in a loving and gentle manner. It must not be forgotten that, in matters of human formation, "more is obtained by reasoned explanation than by prohibition".[6]

25. Educators. The chief collaborators with parents in the moreal formation of young people must be educators. Schools and other educational programs should support and inculcate the social and ethical values that promote the unity and health of families and of society itself.

Of particular value are programs in media education to develop in young people a critical attitude and properly formed skills of discernment in using television, radio and other media, so that they might know how to resist manipulation and how to avoid merely passive listening and viewing habits.

It is also important that schools emphasize the need for respect for the human person, the value of family life and the importance of personal moral integrity.

26. Youth. Young people themselves can help to stem the tide of pornography and violence in the media by responding positively to the initiatives of their parents and educators and by taking responsibility for their own moral decisions in the choice of entertainment.

27. The public. The general public also needs to make its voice heard. Individually and collectively, concerned citizens—including young people—should make their views known to producers, commercial interests and public authorities. There is an urgent need for continuing dialogue between communicators and representatives of the public so that those involved in the communications media may learn more about the real needs and interests of those whom they serve.

28. Public authorities. Legislators, administrators, law enforcement officials and jurists should recognize and respond to the problem of pornography and violence in the media. Sound laws must be enacted where they are lacking, weak laws must be strengthened, and existing laws must be enforced.

Because the production and distribution of pornographic material has international implications, action should also be taken on the regional, continental and world levels to control this insidious traffic. Those who have already taken such initiatives deserve support and encouragement in their efforts.[7]

Law and the agents of law have as their most sacred duty the protection of the common good, particularly as it pertains to youth and the most vulnerable members of the community.

We have already noted some of the harmful effects of pornography and violence, and we can conclude that the common good has indeed been harmed and continues to be harmed where such materials are produced, exhibited and distributed without responsible restriction or regulation.

Public authorities must feel obliged to take prompt action to deal with this problem where it already exists and to prevent it from arising in places where it may not yet have become an urgent matter.

29. The church and religious groups. For the Church, the first responsibility is the constant, clear teaching of the faith, and therefore, of objective moral truth, including the truth about sexual morality. In an era of permissiveness and moral confusion, this requires that the Church be a prophetic voice and, often a sign of contradiction.

The so-called "ethic" of immediate personal gratification is fundamentally opposed to integral human growth and fulfillment. Education for family life and indeed for responsible life in society requires formation in chastity and self-discipline. By contrast, pornography and wanton violence can blind individuals to the divine image in the human person, can weaken marriage and family life and can do serious harm to individuals and to society itself.

Wherever possible, the Church must join with other churches, denominations and religious groups in teaching and fostering this message. It must also make the best possible use of its own institutions and personnel to give education and formation concerning the media of social communications and their proper role in individual and social life. Special attention should be given to assisting parents in their efforts.

Thus, media education belongs in Catholic schools and other educational programs, in seminaries,[8] in formation programs of religious and secular institutes, in the continuing formation of priests and in parish programs for youth and adults. Priests and Religious in pastoral and educational work should themselves be discriminating consumers of media who give good example in what they read and view.

30. Finally, a merely censorious attitude on the part of the Church toward the media is neither sufficient nor appropriate. Instead, the Church should be engaged in continued conversation with repsonsible communicators to encourage them in their work and to provide assistance where it is needed or requested. Catholic communicators and their professional organizations,—with their special insights and experience—can play a key role in these continuing conversations.

31. As they conscientiously evaluate productions and publications in accordance with clean and consistent moral principles. Catholic critics and communications organizations can offer valuable assistance both to communications professionals and to families. In fact, the guidelines on the communications media present in existing Church documents, including recent reflections by many bishops on the problems of pornography and violence, deserve extended study and systematic application.

32. This document is intended to address the widely expressed concerns of families and of the shepherds of the Church and to

invite even more general reflection of an ethical and practical nature on the problem of pornography and violence in the communications media and to encourage all to follow the injunction of St. Paul: "Do not be overcome by evil, but overcome evil with good" (*Rom* 12, 21).

Pontifical Council for Social Communications.

Vatican City, May 7, 1989.

XXIII World Communications Day.

JOHN P. FOLEY
President.

MONS. PIERFRANCO PASTORE
Secretary.

FOOTNOTES

[1] *Communio et progressio,* 22.

[2] *Sollicitudo rei socialis,* 26.

[3] *Inter mirifica,* 2a.

[4] *Familiaris consortio,* 76; cf. JOHN PAUL PP. II, *Message for World Communications Day,* May 1, 1980.

[5] Among those can be cited: 1) *The Longford Report on Pornography* (original title, *Pornography: The Longford Report*), Ricerche-Mursia, Milan (Italy), 1978; 2) *Final Report of the Attorney General's Commission on Pornography,* Rutledge Hill Press, Nashville, Tennessee (U.S.A.), 1986; 3) ISPES (Istituto di Studi Politici, Economici e Sociali), *I e II Rapporto sulla Pornografia in Italia,* Rome, (Italy), 1986 and 1988.

[6] *Communio et progressio,* 67.

[7] The EEC (European Economic Community), the Council of Europe and UNESCO, among others, have taken action in this sense.

[8] CF. CONGREGATION FOR CATHOLIC EDUCATION, *Guide to the Training of Future Priests concerning the Instruments of Social Communication,* Vatican City, 1986.

HOPE FOR NICARAGUA

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mrs. UNSOELD. Mr. Speaker, there is hope for Nicaragua.

Yesterday, the Nicaraguans again defied the pessimists. A new agreement, in a land know mainly for disagreements, calls for repatriation of the Contras and a peaceful transition of power by the Sandinistas. Both the army and the police force will be turned over to the civilian government.

I commend Nicaragua's Roman Catholic Cardinal Obando y Bravo for mediating an immediate and unconditional cease-fire in this ongoing shooting war, something many feared could not be achieved.

Pessimists said fair elections would never happen in Nicaragua.

They said President-elect Violeta Chamorro would never win.

They said a defeated Daniel Ortega would never concede.

They said the Contras would never give up power.

We have seen fair elections, a victory for democratic reform, a concession of loss by the Sandinistas. Let us hope for an end to the fighting and a peaceful transition of power.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 16, 1990.

Her Excellency VIOLETTA CHAMORRO,
Office of the President, Managua, Nicaragua.

DEAR MADAM PRESIDENT: I wish to offer you my sincere congratulations on your recent victory. The success of UNO proves that non-violent opposition can win. The opinion polls failed to predict what was in the hearts of the Nicaraguan people. Like the people of Eastern Europe, they sought to become a part of the movement towards democracy and prosperity. The ninety-percent turnout of registered voters and your large margin of victory showed this to be true. I commend you and the Nicaraguan people on their choice and your mission to bring peace, democracy, and economic well-being to your country.

My interest in human rights is long-standing, particularly in Latin America. I have long supported a peaceful solution to the end of the war in your country, including the Arias Peace Plan and the $400,000 for election monitoring. I will continue to support your efforts to bring peace to your troubled nation, to repatriate the Contra forces, to rebuild your economy, and to heal the wounds that divide your people.

As a woman newly elected to federal office and as a widow, I can identify with some of the challenges you face. My heart goes out to you and your people; your great courage and leadership are an invaluable asset at this juncture in your nation's history.

I understand that you have already sent an envoy to the Contra leadership to negotiate their return. I have joined many of my colleagues in urging President Bush to cease all sustaining support to the Contra forces and to require these forces to disarm as a condition of receiving any further U.S. assistance. I strongly agree with your sentiments that the continued existence of the Contra forces poses a threat to a successful transfer of power and the transition to democracy.

I also support efforts to end trade embargos directed at your country and will encourage our administration to move quickly to grant Nicaragua most favored nation status.

I wish you the best as you prepare to take office on the 25th of April. I am confident that this will be the beginning of a new era of cooperation and understanding between our nations.

Sincerely,

JOLENE UNSOELD,
Member of Congress.

INTRODUCTION OF LEGISLATION TO ALLOW A DEDUCTION FOR FEES FOR SEWER SERVICE

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today which will be of enormous benefit to middle-class homeowners across the country. My legislation will allow property owners to deduct, in the same manner as local property taxes, fees for sewer and water services.

Mr. Speaker, my legislation is prompted by the actions of a recently created State agency in Massachusetts. The Massachusetts Water Resources Authority, the agency charged with the cleanup of the Boston Harbor, will soon become the largest bond issuer in the country. The agency will pay off the bonds with proceeds from user fees charged to homeowners in the greater Boston area. Although I have in the past criticized the arrogance of the MWRA and the luxurious offices out of which they operate, it has become increasingly clear that homeowners in the Boston area will soon be saddled with the highest water rates in the country. As a Member of Congress representing that area, I have an obligation to respond, and my legislation does so.

The bill does so in a generic way, by allowing all homeowners to deduct fees for sewer and water service. Middle-class homeowners in this country are being taxed by State and local government agencies in the form of user fees for services. It is wrong that these fees are not deductible in the same manner as property taxes. In the coming decade, as America meets the challenge of cleaning up our water supply, fees will increase across the Nation. This legislation does something about it, by providing some measure of relief to the middle-class homeowner.

Mr. Speaker, let me say in closing that, as a member of the Committee on Ways and Means, I am more than willing to find the revenues necessary to pay for this legislation. I submit a technical description of the bill for the RECORD.

PRESENT LAW

Section 164 of the Internal Revenue Code allows as a deduction from adjusted gross income certain taxes paid, including State and local real property taxes. The term "tax" has been defined by the Internal Revenue Service as "an enforced contribution, exacted pursuant to legislative authority in the exercise of the taxing power, and imposed and collected for the purpose of raising revenue to be used for governmental purposes." (Rev. Rul. 77-29, 1977-1 CB 44).

The Internal Revenue Service has consistently taken the position that fees imposed for sewer and water services are not deductible as local or State real property taxes (*see,* e.g., Rev. Rul. 79-201, 1979-1 CB 97, Situations 2 and 3; Rev. Rul. 75-346, 1975-2 CB 66; Rev. Rul. 75-455, 1975-2 CB 68).

EXPLANATION OF PROPOSAL

Under the bill, fees imposed by a local government, State government, or the District of Columbia for sewer or water services would be deductible in the same manner as local real property taxes. Thus, a deduction would be allowed from adjusted gross income (i.e., as an itemized deduction) for sewer and water fees.

EFFECTIVE DATE

The provision would be effective for taxable years beginning after December 31, 1990.

A TRIBUTE TO THE BROAD STREET UNITED METHODIST EPISCOPAL CHURCH

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. SAXTON. Mr. Speaker, I rise today in recognition of the 220th anniversary of the Broad Street United Methodist Church of Burlington, NJ. Founded on December 14, 1770, the church has the honor of being the first Methodist congregation in the great State of New Jersey.

The church was first called the Broad Street Methodist Episcopal Church when it began as a small society lead by Joseph Toy, a layman. At this time services were held in the homes of members.

In 1784, the church was organized as a denomination at the famous Christmas Conference in Baltimore. A building for the church was finally built on Library Street in Burlington after James Sterling, an active member, and Maj. Joseph Bloomfield, who later became the Governor of the State, made an agreement to carry out the project.

With the continued growth of the church, a new building became necessary. In 1819, a committee was formed for this purpose and acquired the land where a jail used to stand. This was the same site where, almost 40 years earlier, according to tradition, retired British Army officer Captain Webb preached the Methodist doctrine. Executions were public in these times, and Webb was able to gain many followers.

Although the church has been rebuilt since then, it still remains on the same land. In 1924, the church name officially became Broad Street Methodist Episcopal Church of Burlington.

The church has had a long exciting history—a fact that proves it has been able to preserve its faith. From the early Methodist preachers that used the church alter such as Bishop Francis Asbury, to the current Rev. Karl R. Kraft, the church has been a strong part of the community. Today, the congregation has over 500 members, one of which is over 107 years old.

Mr. Speaker, it is my pleasure to proudly acknowledge the more than two centuries that the Broad Street United Methodist Church has served its church members. I ask my colleagues to join me and wish them continued success in the future and another century of growth.

SHERIFF JOHN W. CARPENTER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. LAGOMARSINO. Mr. Speaker, on March 31, Sheriff John W. Carpenter will retire as sheriff-coroner of Santa Barbara County, a position he has held since he was first elected in 1970.

Sheriff Carpenter has had a remarkable and rewarding career in law enforcement. A graduate of California State University with a degree in criminology, he started his career with the city of Hermosa Beach Police Department, where he served 12 years, rising to the rank of lieutenant. Moving to Santa Barbara County, he served as the first chief of police for the then newly incorporated city of Carpinteria. In 1970, after 4 years as chief of police, he was elected sheriff-coroner of Santa Barbara County. He was re-elected four times.

Sheriff Carpenter is a graduate of the FBI National Academy in Washington, DC; the Police Management Institute of the University of Southern California; and the Delinquency Control Institute at USC.

He has served in numerous professional capacities, including tricounty coordinator of the President's Organized Crime Drug Enforcement Task Force; chairman of the County Law Enforcement Chief's Association; mutual aid coordinator for the tri-counties; member of the executive steering committee for the National Narcotics Border Interdiction System, Pacific Region (Vice President's Committee); member of the U.S. Attorney's Law Enforcement Coordinating Committee; and member of Senator William Campbell's Committee on Fire, Police, Emergency, and Disaster Services for California.

I might note, Mr. Speaker, that Sheriff Carpenter provided exemplary service in protection of President Ronald Reagan during the President's many stays at his ranch in Santa Barbara County, and in fact continues to do so. Mr. Speaker, it is with a great sense of pride and personal friendship that I extend to Sheriff John Carpenter, on behalf of the U.S. House of Representatives and the community of Santa Barbara County, our warmest congratulations and appreciation to him and his wife, Linda, and our best wishes for continued success.

THE 1990 CENSUS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 28, 1990, into the CONGRESSIONAL RECORD:

THE 1990 CENSUS

On April 1, 1990, the United States government will ask Americans to stand up and be counted. The 1990 Census will mark the 21st time that the federal government has undertaken its constitutional requirement to count the number of people in the United States every ten years. The 1990 Census will be the most complex, the most expensive, and, if the Census Bureau is right, the most accurate in our history.

The census is extremely important. While the original intent of the census was to count the number of people in the country to determine congressional districts, the census has expanded in several significant ways. The national census provides data on housing, employment, transportation, income, education, energy usage, and other issues that are used widely by the public and private sectors. The federal government will use the census statistics to allocate more then $80 billion in aid. Funding levels for unemployment assistance, low-income housing, elementary and secondary education, and a variety of other programs are decided partly on the basis of census information. School districts use census data to decide where to build schools, and rural and urban planners use the information to plan housing, roads, and economic development. Census information allows businesses to know more about potential customers, and companies use it to plan everything from mail-order marketing to the best location of new shopping centers.

Because so much is at stake in the numbers obtained by the census, there is a great deal of concern over the accuracy of the count. The 1980 Census missed an estimated 3.2 million persons, or roughly 1.4% of the population. Indiana receives an average of $165 in federal aid for every Hoosier each year. Since the 1990 Census will be more accurate than the off-year census tabulations that follow until the 2000 Census, a person missing the 1990 count could result in losses to the state and local government of at least $1,650 over a ten-year period.

Potential undercounts are especially important to mayors of large cities with concentrations of minorities. As many as 6% of blacks and 8% of Hispanics were missed in the 1980 Census. This probably resulted in an undercount in Texas of 220,000 persons, and New York City alone may have missed 500,000 persons. For 1990, the Census Bureau has agreed for the first time to conduct a "post-enumeration survey" to check for an undercount. During this survey the Census Bureau conducts a door-to-door population count of an area and compares it to the results from the earlier, mailed-in census questionnaires. The final census count could then be adjusted, but it is not yet clear if the Census Bureau will use the post-enumeration survey for such a purpose.

The problems of counting ourselves are enormous. The Census Bureau will be trying to gather information on approximately 250 million people in 106 million housing units. Many persons believe the census questions are an invasion of their privacy (although all responses are kept confidential), and persons who are hiding from the government, such as illegal aliens, do not want the government to know about them. The homeless also are difficult to count, and the Census Bureau has increased efforts to account for all persons with transient lifestyles.

Fortunately, the census questionnaire is not difficult to fill out. Five households out of six will receive the short form, a quesionnaire of 14 questions that should take about 15 minutes to complete. One out of six families, however, will receive the long form containing about 60 questions that will take roughly 45 minutes.

The Census Bureau is taking several steps to improve the accuracy of the 1990 count. More than 95% of the population will receive mailed questionnaires. Census enumerators, persons who go door to door to ask census questions, will concentrate on rural areas where it is difficult to obtain complete mailing lists. The number of enumerators will be increased substantially from 203,000 in 1980 to about 300,000 this year. In addition to counting rural areas, enumerators will follow up on persons who do not send in their census forms and will canvass places missed in the past, such as bus stations and mission houses where many transient people live.

Other efforts to improve accuracy include implementing a new computerized mapping

system and giving local governments greater opportunity to review maps and counts to check for inaccuracies. With these improvements, the Census Bureau expects the 1990 Census to be the most accurate ever. To meet this goal, the Census Bureau plans to spend more money on the 1990 Census than for any previous effort. From 1984 to 1993, the total cost of planning, carrying out and providing the results of the census will be about $2.6 billion. More than half will be spent this year.

In 1990, the Census Bureau estimates that Indiana will have about 5.6 million persons, roughly 2.3% more than in 1980. The 9th Congressional District will contain about 571,000 Hoosiers, an increase of roughly 26,000 from 1980. Because of Indiana's low population growth rate compared to other states—some sunbelt states have population increases of over 20%—we are on the list of states which may lose a congressional seat. After the reapportionment following the 1980 Census, Indiana lost its 11th congresional seat by only 7,000 persons, and there was some initial concern that Indiana might lose another seat after the 1990 Census. Recent projections, however, indicate that Indiana will keep its 10th seat.

The 9th District will have a special role in the 1990 Census. The Data Preparation Division in Jeffersonville is one of the Census Bureau's main processing facilities. Established as a temporary facility in 1958, it covers a million square feet, employes thousands of Hoosiers, and supports over 150 Census Bureau projects. The Jeffersonville facility will process about one-third of all the 1990 Census data.

The 1990 Census will be an important event in our country, and its outcome will have a profound effect on planning for the future, on the distribution of federal aid, and on the make-up of congressional districts in the next decade. I urge evey person to participate in the census and make it as accurate as possible.

WEST VIRGINIA'S NEW RIVER RANKED AMONG NATION'S 13 BEST

HON. NICK JOE RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. RAHALL. Mr. Speaker, the March 1990 issue of Outside Magazine carries an article entitled "The Torrents of Spring" on, according to the magazine, the 13 best springtime rivers in America from the perspective of river recreationists. I am pleased to note that the mighty New River, in southern West Virgina, is among those listed.

In southern West Virginia, we have the largest network of federally protected rivers in the Eastern United States. The segment of the New River described in the article was designated a National River in 1978 as a result of legislation advanced by myself and our West Virginia Senators in the Congress. Building upon the success of the New River Gorge National River, in 1988 we designated several tributaries of the New River—the premier whitewater segments of the Gauley and Meadow Rivers and a segment of the Bluestone River—as units of the National Park System as well.

Today, these developing park units stand as a testament not only to our commitment to preserving the outstanding natural resource heritage of southern West Virginia, but to the benefits that can accrue to the regional economy through conservation measures.

Following, is the portion of the magazine article on the New River:

THE NEW RIVER, WEST VIRGINIA

Cutting northward through North Carolina and southwest Virginia, the New River comes into its frothy finest in West Virginia. The upper reaches of the West Virginia section begin in the town of Hinton at the base of Bluestone Dam, and the next 35 miles below the dam are a shoal-filled stretch that offers moderate whitewater and some gorgeous Appalachian scenery. Then, downstream from the once-thriving coal town of Thurmond, the river drops into a thousand-foot-deep gorge that's filled with house-size boulders and raft-eating rapids. The 15-mile run of chasm-bound river between Thurmond and Fayette Station is considered one of the wildest spring paddling stretches in the east. There are 19 rapids, Class I to Class V, in the gorge, and in the spring eight-foot standing waves and monstrous compression holes are the norm. Only experts, using rafts or decked boats, should attempt this run during high-water periods, although as the year goes on and the waters subside, intermediates may find that roaring Class V rapids like Double Z and Greyhound Bus Stopper have been reduced to manageable Class IIIs.

Rafting season on the New usually runs from April to October, with the biggest water—and the lightest traffic—coming in April and early May. Class VI River Runners Inc. (Box 78 Ames Heights Road, Lansing, WV 25862; 304-574-0704) is one of many local outfitters that offer one- to three-day oar and paddle raft trips. Prices start at $60 per day.

DOES GOD STILL BELIEVE IN PEOPLE?

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. HUGHES. Mr. Speaker, Sidney Ascher has been a friend of mine for some time, and I have often enjoyed reading the insightful ideas and observations contained in his columns. Apparently I am not alone in this endeavor, for his "Best Years" column is carried by 147 newspapers, 37 newspapers carry "Sid Ascher's World," and his remarks are often quoted in Reader's Digest.

One of his recent columns focuses on a frequent topic of debate, belief in God, and changes the question to, "Does God still believe in people?" I would like to bring this thoughtful column to my colleagues' attention, and I ask that it be included in the RECORD.

DOES GOD STILL BELIEVE IN PEOPLE?

(By Sid Ascher)

Recently a survey was conducted by April S. Anastasi to determine if people still believed in God. It showed that well over 93 percent are God fearing individuals, but it seems to me the question really should have been, "Does God still believe in people?" It would be nothing short of miraculous if God still does believe in people.

He knows of the never ending warfare, of greed, selfishness, callous indifference to the sufferings of our fellow man, and man's cruel inhumanity to man. He witnesses growing disrespect and lack of consideration for our aged, and He is aware of the shocking violations of His Ten Commandments and disregard for the Golden Rule.

He gave us wonderous land, sparkling clear waters, bountiful crops, and then added intelligence and great imagination to enable us to prosper and progress. He gave these precious gifts to ALL mankind, not merely to the strong who conquer through violence and fear.

And what have we done in return? We have polluted the pristine waters, defiled the air, and ravaged the land, choose to ignore the warning signs of disaster. We continue on our path of self-destruction and now, to compound our arrogance we ask not if God still believes in us, but if we believe in God.

In reality, we should pray that God still believes in us.

HONORING THE ESTEEMED JOURNALIST BERNARD ROSENBERG

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. GUARINI. Mr. Speaker, a constituent of mine, Mr. Bernard Rosenberg, recently retired from a very distinguished newspaper career. He was a valued member of the staff of the Jersey Journal for over 40 years, following in the tradition of his eminent father, Rosie Rosenberg, who served as sports editor of the Bayonne Times for many decades. Mr. Rosenberg also happens to be the cousin of our esteemed colleague, Mr. FRANK of Massachusetts, who takes great pride in his Bayonne roots and strong family ties.

I insert the Jersey Journal article detailing Bernie Rosenberg's impressive career here in the CONGRESSIONAL RECORD:

"BERNIE BAYONNE," A NEWSPAPER LEGEND IN HIS OWN LIFETIME

(By Joseph J. Casey, Jr.)

A second generation of service to newspaper readers ended yesterday when wire editor Bernard Rosenberg retired after a 40-year career—38 years of which he devoted to The Jersey Journal.

He followed in the footsteps of his father, Morris L. "Rosie" Rosenberg, for many years sports editor of The Bayonne Times. Bernie's son, Steve, currently is following the family tradition as a Jersey Journal sports reporter.

Although as wire editor his chief concern has been international, national and state news, Rosenberg has never lost touch with what was happening locally, and fledgling reporters often were referred to "Bernie Bayonne" for facts and local lore, not only about his hometown but also the county in general.

As a young boy, Rosenberg and his younger brother, Henry, used to accompany their father to The Bayonne Times, recalls his brother, in the days when World Series and other scores were written on a giant scoreboard outside the newspaper and broadcast

over loudspeakers at 26th Street and Avenue C as they came over the ticker tape.

Morris L. Rosenberg for a generation wrote the Rosie's Roundup column, which always was accompanied by the latest in a series of pictures of him with a cigar in his mouth.

He became a fulltime sports reporter right out of high school, and a few years later, when the paper expanded, he became sports editor and served in that position for decades almost until his death in 1970.

After starting college at Purdue, Bernie Rosenberg was drafted during World War II, recalls his brother, Henry, and just as he was finishing basic training, was put under the Army Specialized Training Program and sent to Texas A&M to study electrical engineering.

The ASTP was an Army program to make use of college students' specialized talents. After the war Rosenberg was able to get into the University of Missouri under the GI Bill of Rights.

One week after basic training, his brother recalls, Rosenberg's original battalion was in the centerfold of Life magazine in combat in Europe.

Rosenberg joined the Long Island Star Journal in 1949, right out of the University of Missouri School of Journalism, starting as a cub reporter.

At the Jersey Journal, he began by covering North Bergen and then the county courthouse. He was The Journal's "Mr. Fixit" for two years before becoming a copy editor in 1964.

He was Bayonne editor from 1966 until 1971 when he returned to Journal Square as makeup editor. In 1974 he took over as wire editor.

"When I think of the phrase 'a real newsman' I think of Bernie Rosenberg. During his years as Bayonne editor, he covered Bayonne like a glove, with tremendous dedication to the remarkable community where he lives," said Steve Newhouse, editor of The Jersey Journal.

"And the hallmark of Bernie's success as wire editor has been his great curiousity about state, national and world affairs, and his ability to relate them to the interests of our readers," he added.

"I know Bernie well, as I knew his father 'Rosie'," said Mayor Dennis P. Collins, "and the apple certainly didn't fall far from the tree.

"While I've always known Bernie to be a low-key person, I've always found him to be very thorough in getting the story, as well as fair and objective.

"I'd like to thank him for his many years of providing news to the residents of Bayonne and for his contribution to journalism, and he has my every best wish for his future," Collins said.

"Bernie's always been a dedicated, loyal citizen of Bayonne," said Council President Neil A. DeSena, "and always gave 100 percent; he's always been a credit to the city of Bayonne, the paper and himself.

"I've always found him to be a very sensitive and sincere individual and although I have not had a day-to-day relationship with him, he is someone I'd call a friend."

I am sure that my colleagues here in the House of Representatives will join me in honoring Bernie Rosenberg for his outstanding career and wishing him well in his retirement.

WHY I AM PROUD OF AMERICA

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. BALLENGER. Mr. Speaker, each year, the Veterans of Foreign Wars of the United States and the ladies' auxiliary conduct the Voice of Democracy speechwriting contest. Over 137,000 secondary school students participated in the contest this year in competition for 12 national scholarships totaling $56,000. The 12 winners will receive money to go toward their college education. The theme of the contest this year was "Why I Am Proud of America."

I would like to take this opportunity to submit for the RECORD the text of the speech that will represent the State of North Carolina in the contest. The speech was written by Jennifer Anne Neale of Valdese, NC. Jennifer is from the 10th district of North Carolina that I so proudly represent.

I am proud of Jennifer and all of the students who participated from across the country. Also, I would like to thank the sponsors of the contest for giving these students the opportunity to say why they are proud of America.

WHY I AM PROUD OF AMERICA

(By Jennifer Neale, North Carolina Winner of the 1989/90 VFW Voice of Democracy Scholarship Program)

I live in an area to the "west." It's a beautiful home, new and shiny. Yet, from its windows I view the follies of my neighbors, and am saddened by their pain. But perhaps I appreciate my home all the more by observing these examples of injustice, and enjoy the freedoms I am granted in my home: the right to think as I wish, speak when I might, and be whatever kind of individual I may aspire to become.

No, the home I'm discussing doesn't have a white picket fence or a garden. There's no welcome mat on the front porch, and no dog to greet me at the door. But I hold more pride in this home than I could in any mere building which could be constructed from man-made materials. Because I'm talking about my home, the United States of America. "Give me liberty, or give me death."

All who have heard Patrick Henry's famous words are struck by the weight behind them. This man's love for a group of colonies, not even yet a country, is inspiring—to say the least. For a greater love and yearning lay beyond them . . . a desire for liberty, for freedom, and for choice without fear!

And so, through countless battles and countless deaths, our ancestors took up their weapons—and laid down their lives—for this shining star of hope. Because of these victories, America has not only survived, but has become better, stronger . . . yet it is still the people's haven of justice and security. Is this not a home of which to be proud?

America's foundation is built from the rugged stone of democracy, and thus, everyone who is a citizen of the country has a right to freedom. However, it is possible, that we, having always been willed this right, could not know what it is like not to have the luxury of sovereignty.

To best illustrate life without independence, we must first picture ourselves enclosed in a tiny cubicle, with instructions telling us what we are to say—or do—being shoved in through a small slot on the side. A frightening scene, is it not? But, of course, we are not in danger of such an occurrence. Yet, look to our neighbors in the East. Observe Tiennamen Square. The blood of marchers has been washed away, but the pain remains.

Why did this happen? Because Chinese students without liberty looked upon our happiness, and acted in order to gain the freedom of speech. This right may be called the windows of our home, from which we shout our views without fear, for we know that we are protected by the secure walls which our government has erected.

Secondly, in Nicaragua, newspapers have been shut down and reporters' lives are endangered by their government. Yet here, in America, the press is respected as the doors of information, leading from one area to another, and to the rest of the world.

The freedom of religion completes our home, providing the roof over our heads and protection from those who would take this right from us. Yet, again, others are not so fortunate. In Lebanon, the Christians, Jews, and Moslems have fought for years in order to gain power over one another. However, in America, religions exist together, no one higher than the others. We are truly blessed.

America: melting pot of the world, land of opportunity, mother to all . . . the symbols, rights, and most importantly, the people, make up the solid bricks of the United States, bonding together the family living in this home of justice where all may find peace—always expanding, always growing, opening itself to everyone.

True, there are no streets paved with gold, and not everyone is rich and prosperous; but all who ask are fed and clothed; and all who strive can become what they wish. It is America that grants these dreams, and America that leads the world.

Proud? Yes, I'm proud of America. I am proud of my home.

TRIBUTE TO OUR AMBASSADOR TO GREECE, MICHAEL SOTIRHOS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. RANGEL. Mr. Speaker, I'd like to call to your attention the following article which appeared in the international edition of the Miami Herald on January 4, 1990, about our Ambassador to Greece, Mr. Michael Sotirhos. Since assuming his post in September, he has caught the eyes of many and has won the approval, respect and wonder of the Greek public. Ambassador Sotirhos has done much to improve what have been tense relations between Greece and the United States. Often mingling with a crowd, his open, enthusiastic and down-to-earth style and charisma have helped create a better image and acceptance of Americans and the United States. He also practices and encourages better commmunication and openness among diplomatic leaders. Proudly showing the American flag nearly everywhere he goes, he is the first Greek-American to serve as Ambassador to Greece.

SHOWING THE FLAG: BOLD U.S. ENVOY CAPTIVATES GREEKS

(By Paul Anastasi)

ATHENS, GREECE.—Reversing America's low-profile diplomacy in Greece, he insists upon braving the threat of terrorism by displaying the American flag wherever he goes.

He does not hesitate to step into the crowd to cheer at basketball games, and he jokingly reassures Greeks that he, like most of them, is an islander—from the island of Manhattan.

After 15 years of strained relations between the United States and Greece, both members of NATO, easing tensions between the two nations well may have a lot to do with the unorthodox tactics of a Greek-American New Yorker: Michael Sotirhos, the American ambassador to Greece.

Sotirhos, 61, arrived in Greece in September and, much to the dismay of the traditionally hostile Greek press, has plunged into a public relations campaign that his predecessors never would have attempted. In several cases, he has left his Greek audience crying for more.

Greece first got a hint of the ambassador's new approach when he turned up at the funeral of Pavlos Bacoyannis, the chief spokesman in Parliament of the conservative New Democracy Party who was killed by terrorists in September.

For the first time in years, the American flag flew from the ambassador's armored limousine. Mourners broke ranks and burst into applause at the sight.

Similarly, it was front-page news when the ambassador scored another first by visiting Communist Party headquarters to talk with the party leader. He next turned up at a hastily summoned town hall reception for Boris Yeltsin, the maverick Soviet legislator, while the Soviet ambassador failed to appear.

Not only has the ambassador been shaking up the political status quo with his maneuvering, but also has managed to capture the public's attention with his style.

Recently, Sotirhos broke with protocol by strolling onto the court to greet the stars of Greece's best basketball team. On another occasion, he mingled with fans at a heated soccer game. In both cases he was applauded and even embraced by fans.

As evidence of his adherence to the Greek Orthodox faith, Sotirhos attends Mass every Sunday at churches in Athens and sometimes sings along with the choir. Always, he wears an American flag pin in his lapel.

"We're going to take every necessary security precaution, but we're not going to hide," a diplomat recalls the ambassador telling staff members. "Having armored cars and bodyguards, that's security. Not flying the flag is hiding."

The ambassador's new approach differs considerably from diplomatic practices adopted since 1974, when simmering anti-Americanism and terrorist attacks compelled most Americans to maintain a low profile.

Now, Sotirhos has ordered that the American flag fly on all occasions. He has encouraged diplomatic personnel to widen the circle of leaders whom they meet to include Communists and to seek contact with the general public.

At meetings with American servicemen, he urges them to emphasize rather than hide their official American status. "Go out, go to the countryside, find the mayor and introduce yourself as an American," he told personnel, according to the diplomat.

"Anti-Americanism has been declining for the past few years," another foreign diplomat said.

"But the new ambassador is accelerating the gradual decline of anti-American sentiment and taking it one step further to revive traditional pro-Americanism among Greeks."

While developments in Eastern Europe and the decline of Communist domination might be one coincidence explaining Sotirhos' warm reception, the ambassador also enjoys the advantage of being the first Greek-American in the post.

His wife, Estelle Manos, also is Greek-American, and both speak Greek fluently.

The advantage of language and the ethnic connection is evident.

One witness recounted an incident when Sotirhos, questioned by an elderly couple in the streets of a small town, informed them that his father was from the island of Kythira and his mother from the island of Milos.

"So you are *nisiotis*, an islander, like us?" the couple asked him.

"Yes," the ambassador replied. "I'm from Manhattan."

JENNIFER KALEINANI BRANCO, HAWAII'S WINNER IN VOICE OF DEMOCRACY

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. AKAKA. Mr. Speaker, I rise today to commend a truly gifted and talented individual, Jennifer Kaleinani Branco. Jennifer was recently named the State finalist in Voice of Democracy, a scholarship program conducted by the Veterans of Foreign Wars.

Jennifer is a senior at Saint Joseph High School on the Island of Hawaii, and was recently selected as class valedictorian. Her essay on "Why I'm Proud of America" was insightful, and I would like to share it with my colleagues. I kindly ask that Jennifer's composition be included for the RECORD.

I wish to extend my appreciation to the Veterans of Foreign Wars. Under their leadership, the Voice of Democracy Program has grown to include 137,000 students from over 8,000 schools. The program provides 12 national scholarships, including a first-place scholarship award of $18,000.

It was indeed a pleasure to meet Jennie while she was in Washington, she is a wonderful and intelligent individual. I would like to congratulate her on her accomplishments and extend my best wishes for her endeavors.

WHY I'M PROUD OF AMERICA

(By Jennifer K. Branco)

I am a woman eighteen years old. I live in America, not because I have to, but because I want to. I am young—a free spirit attending school—not by force, but by choice. I can join with others and discuss what goes on outside my home. I am not secluded, isolated or kept in the dark. I am informed through the media, and can interpret what is said, my way. I am provided for and in return can provide for others. I can change my home by voting; through democracy I have an equal say about what goes on when, where and how. I may disagree with politics in my country or the way my government proceeds; and if enough people feel the same way, we can take steps to change things peaceably—without our opinions and actions being held against us. There are times when I am unsure of myself. I choose to call upon God to help me, and legally He may. Rules are set to protect me and "justice" is heard on the lips of all. Yet, I am still free to live my life the way I want.

TIME GOES BY . . . .

I am twenty-one and learning about life. Fufilling dreams and opportunities that arise. I am now married to the man I wanted and love. I have a child, a young boy. And, I will raise him with my own values, my own ideals—teaching him right from wrong as I see fit within the laws that support and protect my family. My child may attend school, learn at home, and learn from books, or learn from Big Bird.

I have a job. I am a mechanical engineer, but not the only one in my field. I work hard to advance and am able to do that because of motivation, incentive, pride in my craft and the reassuring fact that I am happy doing what I do and no one has the power to constrict my goals or dreams.

I don't need to depend on anyone to support me, for I have the ability to provide for myself. But, if one day I do need a "helping hand" I know my government is there to help me go on with life. Walk hand in hand with me through the streets of hardship till the day when I can again walk alone.

I am not a criminal, but find comfort in the fact that if I was ever in need of aid, the arms of justice would reach out and embrace me. I have no fear of justice, only that of injustice.

TIME GOES BY . . . .

I am now forty. My son is nineteen, facing all the choices and decisions I did. For questions never change, only answers to them do. I tell my son to explore his dreams, his goals, to question, to interpret. And, I reassure him of these "gifts" that he has; but not because I am his mother, but because he lives in America. I tell him to defend it's pride, America, what it stands for. To accept its few faults in return for its vast provisions. (And) my son, he tells me standing proudly in his uniform, that he is so proud of his country that he is willing to die for it. His father and I watch as we lose our son, but not to drugs, corruption or violence, but to a provider, a father, a comforter, a healer, to America.

TIME GOES BY . . . .

I am now seventy years old, and I still remember why I live in America. Why I'm proud of America; because it's my home, my father. It is freedom, it is choices and decisions all of which I have the control of. That's why I'm proud of America.

CHILD CARE LEGISLATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mrs. SCHROEDER. Mr. Speaker, as we again attempt to define the ideal relationship between Federal funding for child care and religiously affiliated child care providers, I hope that my colleagues will keep in mind the arguments of those groups and agencies that will be most effected by our decisions.

I would like to submit for the RECORD a letter from the National School Board Association.

NATIONAL SCHOOL BOARD ASSOCIATION,
Alexandia VA March 27, 1990.

Member, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE: The national School Boards Association represents the 97,000 members of the nation's 15,350 local school boards. Our members govern America's public schools.

When you vote on child care legislation, please keep in mind the following:

(1) The bill that passes should include an education component. NSBA supports the option of school-based programs. We oppose the Stenholm bill.

(2) No provision of the bill should permit education funds to go to sectarian programs. NSBA continues to oppose the use of any federal funds for education or developmental programs for sectarian purposes.

NSBA recognizes the importance of federal support for safe, high quality child care that is affordable and accessible to all who need it. A good child care program for children ages two and older includes a developmental/educational component. Thus, while infant and toddler care might be considered strictly custodial, any progrm for older children is subject to the same constitutional strictures in regard to separation of church and state as are elementary and secondary education programs.

Your vote on the bill before the House of Representatives may be a difficult one, particularly if the bill contains elements such as constitutionally suspect church/state language. We urge you to voice your views during debate, so that a continuing strong record of Congressional opposition to any federal education funding for sectarian programs is established.

We ask that you keep in mind, as you decide how to vote, that H.R. 3 as passed by the Education and Labor Committee would have permitted federal funds to flow to church-run day care programs, even with the bill's strong language prohibiting funding of sectarian programs. The overwhelming majority of church-run day care programs are not sectarian: they provide child care, rather than inculcate young children in a particular creed; they hire staff without regard to religious affiliation; and they admit children without regard to their parents' religious preference. There is, therefore, no need to place language of questionable constitutionality in the bill.

Very truly yours,

JAMES R. OGLESBY,
President.
THOMAS A. SHANNON,
Executive Director.

COUNTDOWN TO EARTH DAY

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. UDALL. Mr. Speaker, 25 days from today we will celebrate "Earth Day," which recognizes the 20th anniversary of the first Earth Day, as well as, renews our commitment to environmental concerns that exist today.

The popularity of this event is attaining levels well beyond everyone's expectations. According to Earth Day 1990 headquarters, they are receiving an average of 1,000 phone calls a day and 3,500 to 4,000 pieces of mail weekly. They are aware of more than 1,200 events in this country alone. This doesn't even include those events that have not been reported to the Earth Day organization.

Just as exciting are the events being planned around the globe. Mr. Speaker, I would like to share some of the reports sent in to Earth Day 1990 from around the world. I do not attempt to mention every country that has Earth Day events planned, but rather mention these as simply a means to make the point that this event will truly be celebrated worldwide.

EARTH DAY

AFRICA

Morocco: The "L'Institut Scientifique des Peches Martitimes" in Casablanca, has contacted the Moroccan media and Moroccan associations interested in the evnironment to ensure Earth Day participation. They are planning a beach clean-up of oil residues, plastics and mercury, a visit to a modern farm, and a roundtable discussion with Moroccan groups interested in the environment.

Nigeria: The "African Centre for Science and Development Information" is unveiling a chilling photo exhibition depicting the filth and pollution in Nigeria's highly industrialized and urbanized areas on April 22. They will also publish posters and car stickers, hold a press conference, and conduct a workshop on environmental reporting.

South Africa: The "Umgeni Valley Project" has translated Earth Day news into Zulu and Afrikaans and will translate the materials into other languages as well, so that all southern Africans can learn about Earth Day.

Uganda: The "Uganda National Parks" and its subsidiary, the "Wildlife Clubs of Uganda," are launching a countrywide campaign to enhance and protect the environment, including tree planting in degraded areas.

MIDDLE EAST

Jordan: The "Ministry of Education" plans morning speeches, lectures, local public meetings, nature excursions, drawings, essay writing, and research contests stressing the environmental concerns in Jordan. Clean-up campaigns will be directed at collecting plastic refuse and nonbiodegradable litter and camping sites are planned to be erected in areas of natural importance. The "Ministry of Education," in collaboration with the "Ministry of Agriculture," plans to plant trees in areas threatened with desertification.

Saudi Arabia: The "Meteorology and Environmental Protection Administration" intends to increase public awareness of environmental threats and to teach practical individual solutions to protect and enhance the environment via a coordinated mass media campaign.

ASIA

China: The "Fujian Centre of Environmental Education" is planning an evening banquet with music and dance, along with street-corner broadcasts of environmental messages, distribution of pamphlets, and children walking the streets wearing green and the Earth Day logo.

India: Particular programs planned for Earth Day include lectures, films, an essay and debate competition, wall writings, nature camping, performance of street plays, the establishment of "Himalayan Nature Clubs" in the universities and colleges, tree planting, a socio-ecological audit of the Tehri Dam project, and the flying of the Earth Day flag. Large scale tree planting is planned for each state, and there will be an environmental symposium in New Delhi.

Japan: A large scale Earth Day Eve Festival will be held in Osaka, and will include concerts, artists' installations, and citizen's exhibits about the preservation of the environment. On Earth Day there will be concerts and a parade, along with other events yet to be finalized.

Philippines: Planning continues for an impressive array of events to promote public awareness of environmental problems and their solution. Their activities include: "Noah's Arkful of Animals," a traveling public exhibition of zoo animals along with talks about wildlife, conservation, and the appreciation of Nature; an Earth Walk with tree-planting; a youth conference on the environment; and the launching of a comprehensive campaign to save the endangered Filipino Eagle which will include a marathon dance fundraiser.

NORTH AMERICA

Canada: Some of the events planned for Earth Day Canada include an Earth Day sunrise/flag-raising ceremony in Ottawa, Inner Harbour, St. John and Charlottestown, an Earth Day Litter Walk in New Brunswick, "Light up the Earth" on the waterfront in Halifax, and an Earth Day Festival and a "Walk for Peace and Planetary Survival" in Vancouver.

Mexico: In Mexico City there will be activities with private businesses, schools, institutions, chambers of commerce, industries, etc. There will be an ecological bazaar on April 22 in the national park, "Manantial de Pena Pobre." There will also be a meeting of all the national ecologists to form a National Committee and put together an ecological directory.

CENTRAL AMERICA

Nicaragua: "PeaceTrees Nicaragua" is planning a planting of 10,000 fruit trees in Bluefields by young people from the U.S., USSR, Nicaragua, and Costa Rica.

Panama: Several organizations are planning, among other things, a symbolic planting of trees throughout the main neighborhoods of the capital city. They will also be creating a town square to commemorate St. Francis of Assisi which will provide a green area in the heart of the Casco Viejo District in Panama City.

SOUTH AMERICA

Columbia: The National Board of Earth Day has already begun an informative campaign which is being covered nationwide in the newspapers, radio, and television. It is expected to reach some 10,000,000 people.

Ecuador: Local high schools, and possibly the national army, will help to plant native trees close to the rivers that surround Cuenca industrial park. These events will be coordinated with the local media.

EUROPE

Bulgaria: The Institute of Forestry Research will provide saplings for planting. The Geographical Institute is dedicating to Earth Day the Foundation of a Physico-geographical landscape polygon for experimental research.

Czechoslovakia: Arboretum-Bila Lhota has prepared a week's program for visitors including lectures on wildlife, ecological films, and a tree-planting ceremony.

East Germany: Minister Steinback has been gathering signatures with one mark for each signature since mid 1989 to protest the tremendous pollution from the Espenhaim coal-fired electrical and chemical plant. He plans to present these to the government on Earth Day as a symbolic first payment for the removal of the plant.

France: There are hundreds of events planned all over France. They include an 800 km. human chain along the Loire River, a giant ice sculpture in the form of a thermometer to the "mer de glace" glacier at Chamonix, a 2000-kites arch over the Char River at Tours, a bicycle race on the Parie highway, and of course, cleaning and recycling, including CFC aerosols.

Poland: The Student's ECONET plans a film festival, a bicycle demonstration against the traffic problem, a marathon run, a rock concert, an ecotramway and tree planting.

USSR: Denis Hayes, the Chairman of Earth Day, met with Earth Day coordinating groups in both Leningrad and Moscow, as well as, being interviewed by Pravda and a major television program. The committee in Leningrad is planning a diverse array of events, including both child and adult demonstrations, a concert, seminars with experts, street and shoreline clean-ups for Earth Day.

Mr. Speaker, Earth Day, and the environmental concerns that go along with it, is recreating the world down to what Marshall McLuhan termed the "global village".

TRIBUTE TO BEN AND LILA DWOSKIN

HON. HENRY A. WAXMAN

OF CALIFORNIA

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. WAXMAN. Mr. Speaker, we rise today to commend Ben and Lila Dwoskin for their devoted service to the Jewish community.

Ben serves as general manager of Mount Sinai Memorial Park which is owned and operated by Sinai Temple in Los Angeles. As manager, he has made many innovations in cemetery and mortuary operations that better meet the life cycle needs of the Jewish community. In addition to his outstanding work at Mount Sinai Memorial Park, Ben has been actively involved in charitable work on behalf of the community for 45 years.

Lila also has an active professional life. After raising their three daughters, Lila returned to school and earned a bachelor's degree in English with a minor in history. She then went on to complete her master's degree in social work. Lila currently serves as case work supervisor in the Russian Immigration and Resettlement Department of Jewish Family Service. In this position, Lila works with hundreds of families who are beginning a new life in the United States.

Mr. Speaker, we would like to say thank you to the Dwoskins for their dedication and hard work—they richly deserve the recognition. May the Mount Sinai Temple dinner dance in their honor be a great success.

TRIBUTE TO ST. BENEDICT'S PREPARATORY SCHOOL'S SOCCER TEAM

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to ask my colleagues here in the House of Representatives to join me in offering congratulations to the soccer team from St. Benedict's Preparatory School in Newark, NJ. They finished the 1989-90 season ranked No. 1 in Essex County and the State of New Jersey. Furthermore, they were selected as the No. 2 high school soccer team in the entire United States by the Gatorade/USA Today National High School Poll.

This outstanding team composed of 25 young men earned their No. 1 ranking by ending the season with an unblemished 22-0 record. St. Benedict's set a State record for shutouts in a season by blanking 21 of their 22 opponents.The team averaged almost 5 goals per game for a season total of 104. Amazingly, their defense yielded only 1 goal during the entire season.

With such exemplary play on the field, St. Benedict's was crowned the champion of three soccer tournaments: the 1989 Essex County Tournament, the 1989 Sectional State Champions Parochial "B," and 1989 State Champions Parochial "B."

St. Benedict's has a history of success on the soccer field. In 1988 the team set a State record for consecutive shutouts with 17 in a row. For the last five seasons, the team record is 99-8-3 with 83 wins by shutout.

The success of St. Benedict's Soccer Team would not be possible without great coaching and support from the school administration. I would like to take this opportunity to recognize those members of the coaching staff and school administration who are responsible for St. Benedict's athletic accomplishments: Rick Jacobs, head coach; Henry Cordeiro, assistant coach; Bill Schweitzer, assistant coach; James Hamer, junior varsity coach; Micheal DiPiano, athletic director; and Father Edwin Leahy, headmaster.

The members of the 1989-90 St. Benedict's Soccer Team are Stephen Plauski, Veron Gatling, Chris Clax, Telmo Nunes, Paulo Nunes, Leo Rios, Joshua Morgan, Gregg Berhalter, Richard Dunn, Sean McAtee, Pedro Lopes, Joseph Almedia, Claudio Reyna, Chris Cotton, Raul Ventura, Richard Bustamente, Michael Anabul, Raheem Drayton, Hector Ortiz, Seth Morgan, Willie Schweitzer, Kubi Appiah, James Wandling, Barry Keenan, and Chris Rodriguez. Two of these players, Pedro Lopes and Claudio Reyna, were selected as members of Parade Magazine's All-American Soccer Team.

St. Benedict's Preparatory School has been operated since 1868 by the Benedictine Monks of Newark Abbey to provide college prep education to youths from the Newark area. In addition to their success in soccer, I am proud of their rich tradition of quality education.

The soccer team is visiting Washington to learn about how our Government works. By touring the FBI Building and visiting our Chambers today, these students are able to see firsthand how our Nation's laws are made and enforced.

I hope that the spirit of teamwork and success which these students have cultivated will help them meet the challenges of life after high school. Mr. Speaker, I know my colleagues join me in congratulating this outstanding group of young men and in saluting their accomplishments as a team.

A COLLEAGUE'S RESPONSE TO CHANGES IN EASTERN EUROPE

HON. HARRY A. JOHNSTON II

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. JOHNSTON of Florida. Mr. Speaker, the first time I met DAVE MCCURDY, I noticed in his office several biographies of George C. Marshall. I informed DAVE that I had gone to Virginia Military Institute where Marshall had graduated at the beginning of the century, and I had the pleasure of meeting him here in Washington. I later sent him a picture of General Marshall and me. In January this year, DAVID was invited to address a prestigious group at the George C. Marshall Foundation in Lexington, VA, on the campus of Virginia Military Institute. I have read and studied his speech, and it is not only profound, but prophetic and I would like to include his speech in the CONGRESSIONAL RECORD.

CHANGE IN THE SOVIET BLOC: A CALL FOR NEW DIRECTIONS IN U.S. FOREIGN AND DEFENSE POLICY

(Remarks by U.S. Representative Dave McCurdy before the George C. Marshall Foundation, Jan. 29, 1990)

It is a great honor for me to speak today before the George C. Marshall Foundation and to be in the company of such a distinguished group of professors from the Virginia Military Institute and Washington and Lee University, as well as other citizens of this fine community.

As some of you may know, General Marshall has long been one of the figures in American history I admire most. In these fascinating times, we can only imagine what General Marshall might have to say about them. My own reading of the man leads me to conclude that not only would he marvel at what has happened over the last several years, but that he would, with customary humbleness, take a certain amount of satisfaction at his own contributions of some forty years ago to the present state of world affairs.

Indeed, his contributions to the revival of a devastated Western Europe after the war were such that now, as the other half of Europe is finally liberated from the grip of communism, we hear his name invoked again as some call for another Marshall Plan, one which will bring Eastern Europe into the late twentieth century. We can debate the wisdom of pursuing such a policy at this early moment in Eastern Europe's liberation; but it should come as no surprise

that, once again, people are looking to the genius of this great soldier/statesman in their efforts to bring freedom, prosperity, and stability to the European continent.

After a distinguished 45-year career in the Army, General Marshall's appointment as Secretary of State in January 1947 was a welcome one. For then, as now, the intentional situation was one of great change and uncertainty, one which demanded American leadership to ease the transition to a new world order. His name meant a sober and steady control of events, regardless of their complexity. His old boss, Secretary of War Henry L. Stimson, perhaps best conveyed the relief felt by many in the foreign policy community in a letter to General Marshall: "Your appointment as Secretary of State has filled me with a great sense of security so far as our country is concerned. Mr. Truman made a very wise as well as a very shrewd appointment."

As his critics were often pleased to point out, General Marshall at times found the transition from soldier to statesman difficult. But he had the trust and respect of the one person who counted. "General," President Truman once said to him, "if you feel that something has to be done, and needs to be done in a hurry, do it. Don't wait for me or for Congress. I'll settle it with them later."

Notwithstanding President Truman's brief irreverence for proper consultation with Congress, today I have been asked to make a few remarks on the events that have recently swept across Eastern Europe and the Soviet Union. I will conclude by offering a few thoughts on the future of the U.S. military as we reassess our foreign policy and defense strategy.

As most politicians are often wont to do, let me begin by stating some of the more obvious thoughts that come to mind.

To say now that the events that have unfolded during the last six months are fascinating and welcomed might, at this point, be an understatement. An entrenched, totalitarian system of control, despised by its people for over forty years and maintained only by brute force, has disintegrated before our eyes in Poland, Hungary, East Germany, Czechoslovakia, Bulgaria, and Romania with a speed none of us could have imagined. However, once this revolution got underway with the formation of a Solidarity-led government in Poland, it was accomplished with surprisingly little bloodshed. Romania, of course, was the notable exception.

These events, it seems to me, are the most important since the end of World War II, for it was the imposition of communist rule in Eastern Europe that has been at the heart of the Cold War. The vivid images of November 9, 1989, the day the Berlin Wall began crumbling, were probably the most emotional. As people flooded through Checkpoint Charlie, I remembered my own visit to the Wall in 1984 and the sad impact it had on me. Now that ugly scar, the ultimate symbol of a failed tyranny, is being dismantled and is up for sale.

But if communism has indeed collapsed, what of Eastern Europe's future? Will liberal democracies arise from the rubble of totalitarianism? While there is considerable room for hope and optimism, a number of uncertainties, even if they are only temporary, should give us all pause for thought.

For the moment, there is only one genuinely democratic head of state in Eastern Europe, Vaclav Havel of Czechoslovakia. In Hungary, which is still ruled by communists with a new Socialist name, we recently saw the remnants of the police state at work tapping telephones, bugging offices, and placing informers in the ranks of the new democratic parties. In Poland, Solidarity is running the government, but communists still control the police and the military. East Germany's communist prime minister came under fire for claiming that a secret police was still needed. Yesterday he was forced to move up the date for national elections and agree to a coalition government with opposition parties.

Bulgaria, which has been free for about six weeks, is experiencing difficulty protecting the rights of its Turkish minorities. The National Salvation Front in Romania is loaded with former active participants in Ceausescu's reign of terror. And in each of these countries, the bureaucracy remains firmly in the hands of the old guard.

All of this, we hope, will change with the elections that have been promised or are scheduled to take place in the coming months. The people of Eastern Europe, I am convinced, want to be governed by democratically elected leaders. They made this abundantly clear when they took to the streets by the hundreds of thousands late last year.

As these elections approach, however, the East Europeans are going to need our support and democratic experience even more. Already, the National Democratic Institute for International Affairs, I am pleased to note, has sent numerous political advisors and election experts to Hungary, Poland, and Czechoslovakia to train people in the intricacies of democratic elections. Private organizations such as Freedom House are being asked by the leaders of these countries for help in building democratic institutions. And last year, Congress, with subsequent approval by the President, provided an enormous economic aid package for Poland and Hungary.

But in all the euphoria, as essayist Charles Krauthammer has noted, we must caution our friends in Eastern Europe about the potential for disillusionment with democracy. For they will soon find, just as we in the United States have always known, that democracy is glorious in the abstract, but often difficult in practice. They are about to gain firsthand experience with Churchill's observation in the House of Commons in 1947: "Democracy is the worst form of government except for all those others that have been tried from time to time."

The people of Eastern Europe will soon realize that with elections come political parties—Czechoslovakia, at last count, had 51 parties. And where there are political parties there will be campaigns. As we saw in the 1988 race for the White House, campaigns are not always a benchmark of democracy's ability to perform. In Hungary, a dispute broke out last year between the Democratic Forum and the Free Democrats over the timing and method of picking a president. The Free Democrats have since accused the Forum of anti-semitism and ultra-nationalism. The Forum, if you can imagine, countered with charges of McCarthyism!

But if democracy does not offer a solution to all of Eastern Europe's many ills, it does promise a better and freer life. As Jefferson is thought to have said: "Democracy is cumbersome, slow and inefficient, but in due time, the voice of the people will be heard and their latent wisdom will prevail."

The prospects for liberal democracy and a market economy are far less certain in the Soviet Union, where *Time* magazine's "Man of the Decade" is finding the new decade much more challenging than the last.

Before looking more closely at these challenges facing Mikhail Gorbachev, we should take a moment to give credit where it is due. Many of these political advances in Eastern Europe would have been unthinkable without the consent and, in some instances, active encouragement of Mr. Gorbachev. His recognition of the limits of Soviet imperial power have opened the door for many of these changes, and he should be commended for demonstrating realism and farsightedness.

The "new thinking" in Soviet foreign policy has opened fresh opportunities for reaching strategic and conventional arms control agreements. It has generated a better atmosphere for finding ways to settle the so-called "regional conflicts." Tensions between the United States and the Soviet Union and the likelihood of a major confrontation in Europe are at their lowest point in forty-five years.

At home, Mr. Gorbachev's policy of glasnost has opened a tidal wave of debate and self-appraisal that would have filled the gulags of Siberia just a few short years ago. Now it seems that no institution or policy, including Lenin, the Communist Party, the KGB, and the military, is above reproach or critical analysis in the official and non-official press. Solzhenitsyn is now being published. Andrei Sakharov lived long enough to move from internal exile in Gorki to become a leading member of the Congress of People's Deputies. Stalin is now routinely denounced. And up to one million Soviet Jews are expected to emigrate within the next ten years.

But if glasnost has created new openings in Soviet society, it also has unleashed a nationalist fervor among the disparate peoples of the Soviet Union that, as we have seen in recent weeks, threatens to unravel the Soviet empire within its own borders. Moreover, glasnost has exposed the poor performance of the other half of Mr. Gorbachev's reform program. Perestroika, Mr. Gorbachev's attempt to rejuvenate the torpid Soviet economy, has failed on most counts to deliver a better standard of living for the Soviet people, and there seems little hope on the horizon that it will improve to any significant extent.

Part of the problem for perestroika's lack of success can be attributed to the unwillingness of Mr. Gorbachev to go all the way, as it were, and introduce a free market economy. He has, instead, continued his search for a "third way" between a command economy and one based on market principles. In so doing, a number of halfway measures have been introduced that permit some workers to dabble in private enterprises, and also to encourage limited joint cooperatives with Western business. But even these narrow steps have been used unevenly, and in a number of instances they have been retracted making the situation even worse.

It is fair to assume that Mr. Gorbachev has so far refused to take the steps necessary to move toward a market economy because it would ultimately lead, as it has in the rest of Eastern Europe, to the elimination of the Communist Party's leading role in Soviet society—a consequence he does not yet appear ready to accept.

Elsewhere, Mr. Gorbachev faces the serious prospect of being overcome by the rising sense of nationalism in many of the 15 Soviet Republics. Lithuania, Latvia, and Estonia stand ready to withdraw from the

Soviet Union, at least in part if not entirely. We cannot be sure yet now he will respond to this pressure, but we should not rule out the likelihood that some members of the Soviet leadership will want to employ force to stave off this possibility. In Armenia and Azrbaijan, we see Soviet troops actively fighting Azeri nationalists as the government attempts to quell ethnic violence. And it is perhaps only a matter of time before similar nationalist sentiments will rise to the surface in the Ukraine.

To put it mildly, Mikhail Gorbachev is not in an enviable position. He continues to ride the proverbial tiger, but the tiger is becoming restless and hungry. Nonetheless, as George Kennan recently noted, it is difficult to imagine that any of Mr. Gorbachev's opponents in the Soviet leadership would want to assume these burdens of office any time soon.

The question arises, then, about how the United States should respond to these developments? What should our policies be in the new world order?

As one who comes from the Jackson wing of the Democratic Party, Senator Henry "Scoop" Jackson, that is, I think it is essential that we avoid the isolationist tendencies of both the far right and the far left in American politics. Where Democrats such as Chuck Robb and I have had to fight isolationists in our party who fear American involvement abroad, the Republican Party must now contend, as General Marshall did, with the likes of traditional, conservative isolationists who argue ironically that, with the communist beast now slain in Eastern Europe, "America should come home."

I believe we should be as active as possible in Eastern Europe in promoting democratic institutions and market economies. We cannot afford to remain a mere spectator standing on the sidelines as our political, military, and perhaps most important, our economic relationships around the world are being reshaped.

But to remain engaged does not mean simply sending more and larger amounts of money, if for no other reason than our own resources are limited. In addition to any future aid we send, we can offer advice on how to build permanent democratic institutions and to create new opportunities for American investment. Once these countries have free market economic policies in place, we can assist them in obtaining development loans at the World Bank and IMF.

Besides our moral interests in helping Eastern Europe get on its feet, though, we have an economic interest as well. We should see in Eastern Europe a huge, untapped market opened for American products, technologies, and investments. This will mean that we will have to relax some restrictions on COCOM, such as the Administration's recent decision to permit the export of certain computer systems. But it will also mean that American manufacturers must be more competitive in marketing their products in all of Europe since the competition is likely to be fierce among our allies.

Our policy toward the Soviet Union, however, will require a more deliberate approach. For some time now, there has been considerable debate in this country about what we can or should do for Mr. Gorbachev as he attempts to implement his reforms. Some argue that perestroika is doomed to fail since it only involves measures designed to make the communist system work better. Helping Mr. Gorbachev with significant trade concessions and large loans, as we did in Poland 15 years ago, would only prolong the agony of communism's exit from the Soviet Union.

Opponents of this view maintain that Mr. Gorbachev's actions, both foreign and domestic, deserve a positive response from the West. His personal future, they argue, is instrumental to further reform, and the likely alternative to Mr. Gorbachev would be far worse for Western interests.

I generally come down somewhere between these two positions. Clearly, we do not want to be too generous in offering assistance to the Soviet Union if it can be demonstrated that such help will retard the prospects for additional economic and political reforms. At the same time, standing idly by and watching Mr. Gorbachev's potential demise is also not in our interest.

Therefore, we should carefully examine Mr. Gorbachev's economic and political reforms and target our trade policies specifically at those areas that will offer the best return for our investment and which will promote more political pluralism. We should encourage the establishment of free economic zones with their own convertible currency in such places as the Baltic states, Armenia, or in the Soviet Far East. The hope would be that by pursuing such a policy, we can stimulate the spread of these reforms across the Soviet Union.

We also must pursue the improved opportunities for serious arms control agreements with the Soviet Union which will be mutually beneficial in both strategic and economic terms. I would argue that it is in the arms control arena that the changes in Eastern Europe have created the most important opportunities for East-West relations.

We now face the real prospect of the disintegration of the Warsaw Pact as we have known it for forty years. President Havel has asked the Soviets to have all of their 70,000 troops out of Czechoslovakia by the end of the year. Poland, which has 40,000 Soviet troops, and Hungary, with 60,000, have begun discussions with the Soviets on removing all foreign forces from their soil. For good measure, Hungary indicated that its army would no longer only face West, but would be prepared to resist "any foreign intervention or aggression." A Soviet military spokesman announced two weeks ago that the Warsaw Pact's supreme political body, which was the main instrument of Soviet control over the Pact, was being disbanded.

This means, therefore, that with my good friend, James Woolsey, as head of the conventional arms reductions talks in Europe, our CFE negotiating strategy must evolve and keep pace with the rapid evaporation of the Soviet threat in Europe. But just as importantly, I would like to see CFE become the strategic framework we will need when dealing with the demands for cuts in defense spending.

In our Strategic Arms Reductions Talks, I hope we can take advantage of a new Soviet willingness to achieve not only significant reductions in the overall number of nuclear weapons, but also in the mix of forces that are the most destabilizing. I support General Brent Scowcroft's recent proposal that we offer to give up deployment of our rail garrison MX system in return for the dismantlement of the Soviet Union's SS-24 missiles. In addition, we should continue our research efforts is SDI, but at greatly reduced levels and without the pressures for near-term deployment.

Part of the problem with our military build-up in the 1980s concerned the fact that it was not accompanied by a coherent and comprehensive military strategy designed to meet the actual threats we faced. In the Pentagon's Planning, Programming, and Budgeting System, commonly known as PPBS, the first "P" was usually ignored. Whereas General Marshall used his genius to develop a defense strategy that served as a blueprint for integrating the four services into "an efficient team of land, naval, and air forces," the last Administration and many members of Congress opted to concentrate on budget figures, production lines, and pork for the district. It was unwise to build up our military without a strategy, but it will be dangerous to build down without one.

In formulating this comprehensive strategy, there are a few fundamental points I believe we should keep in mind before we pull out the hatchet in search of a "peace dividend."

First, we should avoid "budgeting by headlines"—a tactic successfully employed by former Secretary of the Navy John Lehman—and look at reducing spending levels in those areas where the threat to American interests has actually subsided. At the moment, this would be in the European theater. This principle should be based, however, on a thorough net assessment of our own military capabilities as well as those of our adversaries. It was my amendment to the Nichols-Goldwater Defense Reorganization Act which required the Chairman of the Joint Chiefs of Staff to perform such a net assessment. This came about after we saw the many operational flaws in our military intervention in Grenada.

Although the first net assessment submitted to Congress by Admiral William Crowe in 1988 was a good step, we have not fully integrated this planning procedure into the programming and budgeting system. Moreover, as the military threat recedes in Europe we must fully assess other potential threats such as international drug trafficking and terrorism in the Third World.

Secondly, our strategy must emphasize our own enduring strengths as a military power. These would include the high quality and readiness of our armed forces personnel, and the need to ensure that they are well-trained with unit cohesion, leadership, and discipline. If General Marshall could have accompanied me to Panama last month and talked to the soldiers who performed so valiantly and with such a sense of mission, he would have been proud of and impressed with today's men and women in uniform. In my opinion, we should be prepared to reduce the overall size of our force structure if that is what it takes to avoid losing the individual quality of our forces. A smaller, lighter and more deployable force will be the order of the day.

Thirdly, we need to emphasize our ability to project power around the globe in this rapidly changing environment. The greatest symbol of U.S. power projection is in our carrier battle groups. However, even though we have two keels under construction today, the Navy must be prepared to contend with fewer battle groups as it takes on new roles, such as protecting our economic interests around the world. And if the Navy is ordered to protect any more oil tankers in the sea lanes of the Persian Gulf, it should not forget the importance of bringing along quality minesweepers.

But projecting American forces around the world will also require a modern airlift capability, as we saw in Panama. The C-17 will be the most modern, efficient, and in

the long-run, most cost effective aircraft for the job.

Finally, we must continue to employ the power of our technological resources as an integral part of our defense strategy. No country brings technology to the soldier in the field better than the United States. Maintaining this capability will mean continuing and enhancing our long-range research and development efforts. With the proliferation of more lethal weapons in the Third World, such as ballistic missiles and chemical weapons, we cannot assume that superior numbers of forces or old technology will do the job.

But instead of automatically going into costly production, we might store this technology to hedge against any future uncertainties. In the meantime, we can make some of this non-classified technology available to private industry. If we are wise, over the next five years we can shape a military that is leaner, more capable, and better prepared to meet new contingencies.

Before closing, I would like to take just a few minutes to address some of the other challenges facing us as we get into the 1990s. As we redefine our military strategies in a new world, we should also remember that a country's strength is not only measured by its military power. The Soviet Union today is a contemporary example of a country placing all its eggs in the military basket.

Our economic strength and moral principles have always been at the core of our influence in the world. While our moral principles remain intact, to an extent we have let that strength slip away.

A recent poll indicated that Americans perceive the economic power of Japan as a greater threat to the United States than the military power of the Soviet Union. This poll, I think, indicates the uncertainty many Americans feel about our ability to compete in the global economy.

It is easy for some politicians to point to the economic success of Japan and to decry its trade and cultural barriers as the root cause of our trade deficits. Others convey a deep concern about Japanese investment in this country and demand that we impose restrictions.

In my view, this is shortsighted, if not dangerous. As Sun Tsu said in *The Art of War,* it is not enough to know your enemy. You must know yourself as well.

A brief look in the mirror will tell us that we have chosen over the past decade to focus on our competitors while avoiding the difficult steps required to build up our own competitiveness and economic strength. We have gotten out of shape by living off of our equity and borrowing against the future. With huge leveraged buyouts and corporate mergers, we have racked up huge debts, looked only at quarterly balance sheets, and ignored long-term investment. Our fiscal policy has been based on smoke, creative accounting, and a refusal to make hard choices.

We have a consumer policy, not an investment policy. While we debate and chip away at our scientific budgets for superconductivity, HDTV, and the National Aerospace Plane, the Japanese simply move along the path to production and prosperity. We win the Nobel Prizes in physics and engineering, while the Japanese win the market share.

We talk about quality education, but refuse to require high performance or pay for it. We demand rights, benefits, and freedoms, but refuse to serve as citizens under a National Service program such as the one Senator Nunn and I introduced in Congress last year.

With the economic integration of Europe just two years away, I would argue that we cannot afford to be spectators satisfied with the status quo. Nor can we ignore the demographic trends in the Third World which promise to put new strains on the world economy. By the year 2025, the population of Africa will outnumber the combined populations of North America, Europe, Japan, and the Soviet Union. India, not China, will be the most populous nation.

Finally, we cannot leave a healthy legacy if we refuse to live up to our responsibilities to protect our fragile environment.

These are but a few of the problems that we must overcome. As a superpower, we certainly have the qualifications to resolve many of them. But while some preach that we are incapable of rising to these challenges, I would remind them of the goosebumps I felt as Lech Walesa, a humble Polish electrician, addressed a joint session of Congress and told of how the principles of Abraham Lincoln and the Founding Fathers are at the heart of the Solidarity movement. They would do well to recall that it was a replica of the Statue of Liberty that the Chinese students in Tiananmen Square held up as a symbol of their aspirations.

We have not, as some have said, reached the end of history, but rather we are at the beginning of a new future. We can act wisely, or we can fail. Forty years ago, Walter Lippman told a reunion class at Harvard:

"You took the good things for granted. Now you must earn them again. For every right you cherish, you have a duty which you must fulfill. For every hope that you entertain, you have a task that you must perform. For every good that you wish to preserve, you will have to sacrifice your comfort and your ease. There is nothing for nothing any longer."

Knowing his courage and willingness to sacrifice, I believe General Marshall would agree.

TOM SHEA REMEMBERED

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. NEAL of Massachusetts. Mr. Speaker, in 1940 the late Scottish author Lord Tweedsmuir suggested that "politics is still the greatest and most honorable adventure." For 64 years, Thomas John Shea lived that adventure to the fullest, leaving behind a legacy that shines brightly 1 year after this untimely passing. To all, he was a friend and a mentor whose spirit we will never forget.

For many years Tom successfully managed my campaigns, but he learned his trade, as did many of Springfield's political veterans, during John Fitzgerald Kennedy's historic campaign for the Presidency in 1960. For this proud son of County Cork, the election of Jack Kennedy as America's first Irish-Catholic President, served to reinforce his love of politics, heritage, and country.

From that defining moment he attacked each successive campaign, from city council to Congress, and from State representative to mayor, with his trademark wit and candor. He spoke knowingly of the political trenches and street fight campaigns. He was an operative from the old school who knew who his friends were, and of his enemies, he would say simply, "they're not with us."

Like all experienced campaign managers he could talk political strategy with ease for he knew every street and precinct in the city. But what was truly unique about Tom was that he never forgot those whom he called the foot soldiers, the dedicated souls who held the signs on election day, who stuffed envelopes at the headquarters, and who collected the nomination signatures. These were his people, and he appreciated their time and effort. More importantly, he respected their dedication. For above all else, Tom Shea was a man who fiercely valued the quality of loyalty.

As a young man, Tom served his country with distinction in the Navy, participating in the Guadalcanal, Solomon Islands, and Okinawa campaigns during World War II. Following his discharge, he began a career as a firefighter for the city of Springfield, a career which would last until retirement in 1971. After his retirement he turned his energies to the activities of many social clubs including American Legion Post 430, the Marconi Club, and the John Boyle O'Reilly Club. He was, perhaps, most proud of his nomination in 1985 to the board of directors of the Friends of the John F. Kennedy Presidential Library at Boston's Columbia Point.

Mr. Speaker, it has been 1 year since Tom's passing. To those he left behind, particularly his wife, Elaine, two sons, Thomas J. Jr., and Cornelius, two daughters, Mary and Theresa, two brothers, Patrick and John, and a sister, Mary Garvey go my thoughts and prayers as they mark this anniversary.

While I am sure that Tom is resting comfortably, I can say with confidence that he is still missed by those fortunate enough to have known him. Indeed, as the campaign season begins to heat up once again, I am sure that Tom is looking down on the political playing field ripe with advice for his candidate, blasting the motives of his opponents, and asking the inevitable question to one and all, "What do ya hear?"

THE APPEAL OF THE LITHUANIANS FOR RECOGNITION

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Ms. OAKAR. Mr. Speaker, when the Red army occupied the Baltic States in 1940, we refused to recognize their incorporation into the Soviet Union. Lithuania, Latvia and Estonia had been sovereign republics and members of the League of Nations The had exchanged ambassadors with countries throughout the world, including the United States, and had participated in the Olympic games. The Soviet annexation of these countries—the result of a cynical deal between Stalin and Hitler—was enforced with mass arrests, deportations and executions.

For 50 years, the United States has affirmed support for Baltic independence and

opposition to aggressive expansion. By act of Congess, all United States Government maps and publications relating to Estonia, Latvia and Lithuania clearly state our policy affirming their status as occupied countries with every right to political independence. Every year, the administration and Members of Congress affirm the support for freedom and independence for the Baltic States. Frequently, we came to the defense of brave individuals who challenged Moscow and the KGB by speaking the truth in their own languages—languages that were under constant assault from Soviet Russification policies.

Earlier this year, the Lithuanian people voted in thier first firee election in two generations and chose their representatives. On March 11, the freely elected Lithuanian Parliament unanimously affirmed the will of the people and declared the restoration of their country's independence. The dream the United States had supported for 50 years became a reality. Sadly, the dream could become a nightmare as a result of Soviet hostility and military aggression.

I urge President Gorbachev to respect the sovereignty by immediately ceasing political and military harassment and violence and to enter into negotiations on an equal basis with Lithuania on their future relations as neighboring countries. While the Soviet Union and Lithuania differ over whether Lithuania was legally incorporated into the Soviet Union, even the Soviet Constitution recognizes the right to secession. Differences over the semantics of independence can be worked out. The point is, that the principle of Lithuanian independence be upheld.

It is also imperative that our country play a positive role in the Lithuanian independence movement. This is a brave nation that has applied the nonviolent tactics and principles of Mahatma Gandhi and Martin Luther King to restore its independence, and they are calling for our support.

I urge President Bush to respond positively to the appeal of the Lithuanian people for recognition. This would keep faith with the position we have consistently taken for the past 50 years and it would strengthen the negotiating hand of President Landsbergis at the time when he and his nation are most vulnerable. Our support and attention can make the critical difference between independence and the loss of liberty and lives. Extending our hand to the new Lithuanian Republic would also negate the bitter fruits of the infamous nonaggression pact, struck by history's greatest mass murderers more than half a century ago.

In the past year we witnessed the continuation of the decolonization process, which was set into motion following World War II with the end of the British and French Empires. Moscow will have to accommodate itself to the loss of its empire as well. Our country, itself a product of decolonization, must recognize the positive currents of history and support their flow toward freedom and self-determination. The brave Republic of Lithuania has taken a firm and unequivocal stand for independence; a stand that is firmly based on international law and the organized free will of the people. For two generations, we supported the aspirations of the Baltic peoples. This generation of Lithuanians now affairs its right and its intention to rejoin the community of sovereign nations. As a nation of free men and women, we cannot forget our own origins and we cannot ignore our abiding commitment to freedom and independence. The United States now has the obligation to tell the Lithuanian people that we understand their struggle, we support their efforts, and we recognize their republic.

LEGISLATION CONFIRMING TITLE TO FORMER RAILROAD RIGHT-OF-WAY LAND

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. SHUMWAY. Mr. Speaker, today I am introducing legislation that if enacted, would legalize, validate, and confirm, as far as U.S. Government interest is concerned, the conveyance of certain lands in California that were granted by the United States to the Central Pacific Railway through the act of July 1, 1982. Forty-seven parcels of land in two counties are covered under the bill, all of which formed parts of the 400-foot wide right-of-way granted to the Central Pacific, now known as the Southern Pacific Transportation Co.

The need for this legislation arises from the terms of the 1862 act, under which the Federal Government provided land grants to individuals to encourage the development of railroads. The Central Pacific Railway, during the late 1800's and early 1900's transferred the titles of unneeded land along the 400-foot wide right-of-way to private property owners whose land abutted the railway. However, because congressional consent was not obtained at the time of these transfers, the titles remain clouded; only through legislation such as that I am proposing can the owners obtain clear title to the land they have held and paid taxes on for decades.

While the legislation may appear to be minor, the lack of congressional validation has created a host of difficulties to both communities and individuals along the railroad. In Truckee, CA, the right-of-way extended to the opposite side of a river from where the railroad was built—clearly, that land was never needed by the railroad and was transferred to the adjacent property owners. To this day, though, their titles remain in question.

The question has been raised as to whether the Government should obtain fair market value for the parcels of land covered by the bill; however, these small strips of land have little value to anyone but the adjacent property owners. For example, the total amount of land involved in this legislation in the Truckee area is about 2.035 acres of land. Unfortunately, this relatively small piece of property affects, I believe in a disproportionate manner, the title of 39 property owners in Truckee. Furthermore, it would cost the Federal Government more to conduct the appraisals necessary to attempt to determine the fair market value of each parcel than it could possibly get for the land, creating only an administrative nightmare.

Another issue that might be raised with respect to the conveyances in this bill is that of third party interest in the land. Southern Pacific, however, has carefully researched the history of each property before issuing quitclaim deeds in order to ensure that claims to the property were not in contest and that only the successors in interest received the deed to the land. In addition, this legislation protects third party claimants through language in section 7 which exempts any conveyance arising out of adverse possession from validation.

Mr. Speaker, only congressional action on this legislation can finally resolve the title uncertainties set in motion 100 years ago. In light of the long delay endured by the individual property owners along the railway in obtaining clear title to the lands they have long believed to be legally their own, I urge my colleagues to support this legislation.

AIRPORT SAFETY PROJECT: CONGRATULATIONS TO A SUCCESSFUL FAA-AAAE VENTURE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. OBERSTAR. Mr. Speaker, recently the Federal Aviation Administration [FAA] and the American Association of Airport Executives [AAAE] jointly sponsored for the first time an Airport Safety and Operations Specialist [ASOS] school. The program commenced March 5, 1990, and was attended by over 190 personnel on the front line of airport operations and safety. This school is an excellent example of how government and industry can work together on a voluntary basis to increase awareness of Federal regulatory requirements and enhance safety at our Nation's airports. From snow removal and ice control to airport emergency planning, the participants in this inaugural school discussed for 3 full days the issues critical to the safe and efficient operation of our air transportation system. The faculty for the school not only included FAA headquarters staff and airport executives but also airline pilots, air carrier and fixed base operator representatives, and State aviation officials.

This was the first of many successful ASOS schools which will continue year round. AAAE and the FAA are to be commended for their joint efforts in sponsoring these continuing education forums that will no doubt make the world's safest aviation system even better.

A SHORT HISTORY OF EDUCATION IN AUSTELL

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. DARDEN. Mr. Speaker, Austell, GA, this year is celebrating 100 years of excellence in public education. For the past century, Austell has been a leader in education in the State of Georgia, and that legacy is continuing with the

united support of parents, teachers, students, and the entire community. Austell Elementary School offers a clear example of the community's commitment to quality education, and Austell is rightfully proud of their school system. As Austell celebrates a century of excellence and pride, I am confident that this legacy will continue and grow as the community remains dedicated to quality education.

A SHORT HISTORY OF EDUCATION IN AUSTELL

(By Douglas R. Davis)

Established in 1882 as a junction for two railroad systems connecting Atlanta to the west and north, Austell grew and prospered as both an important rail center and, with nearby Lithia Springs, as a resort of national fame. In this same year, Glenn O. Mozley, founder of Austell, donated a lot to trustees, who soon erected a small structure, called "the academy", which became the new town's first school, with Luke W. Mizell as teacher. Austell was incorporated in 1885 and by 1888 the school had 55 pupils.

In 1889 citizens of the town asked the Georgia General Assembly to authorize the creation of free public schools in Austell, and upon unanimous approval of both houses, an act establishing the Austell Public School System was approved on November 11th of that year. The act required the approval of at least two-thirds of Austell voters, and on January 23, 1890 it passed "without a dissenting vote", making Austell the first municipality in Cobb County to establish a public school system.

The voters of Austell also approved in 1890 a bond issue of $5,000 for the construction of a two story, brick schoolhouse. All the bonds were bought by Mrs. Francina Austell, widow of Alfred Austell, for whom the town was named.

The school was administered by a Board of Education of five members appointed by the Mayor and Council, and one of first actions of the new Board was to elect Professor Nathan A. Fessenden as the first principal. Fessenden was a native of Massachusetts and had attended Harvard University. The new school became an immediate success and by 1893 there were 100 students and in 1902 there were 150.

The school continued to improve and by 1915 Wm. P. Davis, Chairman of the Board, reported to the city council that there were 155 pupils and 6 graduates; that Principal Urben Bowen was paid $1,022 per year and that each of the 3 teachers (Lilla Perkerson, Cora White and Mina White) each received $360 per year. Some of the other early principals were: T.M. Pierce, G. McLarty, J.J. Greer and J.M. White. Some members of the Board were: Dr. J.M. Strickland (whose house still stands across from the school), Dr. Luke G. Garrett, Sr. (for whom Garrett Middle School is named), and A.H. Irvine (1st merchant).

In 1921 the proposal of the Cobb County School System to take over the Austell school was accepted by the city council, and in 1922 city voters approved the termination of city control.

Under the country system more funds were available and Austell School District Trustees administered the school. Dr. Garrett, S.E. Berry. L.L. Ragsdale, and E.R. Perkerson were early Trustees. In 1928 a badly needed new building was erected and the old structure was demolished. Austell School also become accredited, permitting graduates to enter college without an examination. The number of teachers increased from 5 to 8 and students from 237 to 302, with an 11th grade added for the 1st time.

In 1939 a separate high school building was built (the present main structure) which was used until 1952 when Austell High and Mableton High were consolidated into the new South Cobb High School. The 7th, 8th and 9th grades were then moved into this building. When Garrett Middle School came into existence in 1972 it took Austell's 6th through 8th grades, and the 1st through 5th moved to the 1939 building, with new structures built around it over the next several years. Also at this time the 9th grade moved into South Cobb High School.

In 1976 the old 1928 building was leased to the City of Austell for 20 years at $1 per year and was named the Kate Westmoreland Center, in honor of Miss Kate's 43 years as teacher in all three buildings until her retirement in 1965.

The Austell Elementary School is the historical successor of the Austell Public School System, and today we celebrate a century of quality education in Austell, with parents, teachers and students beginning a second century dedicated to continuing excellence in education.

SUPPORT OF THE V-22 OSPREY

HON. FRANK McCLOSKEY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. McCLOSKEY. Mr. Speaker, I would like to request that the attached two editorials in support of the V-22 Osprey, and of the overall benefits of tilt rotor technology, be printed in the RECORD.

These editorials from the Indianapolis News clearly indicate that versatility of tilt rotor aircraft, such as the V-22, in both civilian and military activities.

The House will determine in the near future whether or not to cancel the V-22 Program as Secretary Cheney has recommended and I urge all of my colleagues to examine these two editorials. Tilt rotor technology would not only give the Marine Corps and other branches of the service a versatile and effective aircraft, it would ensure American competitiveness in international aviation technology. America needs the Osprey.

AN OSPREY FOR PEACE

When the V-22 Osprey tilt engine troop carrier aircraft was unveiled in Arlington, Texas, on May 23, 1988, Marine Commandant Alfred M. Gray, Jr. termed it the Marine Corps' "number one aviation priority."

The Marine Corps is not normally given to high-tech equipment. But the Osprey, for all of its innovations, is in reality a low-tech solution to the problem of moving troops quickly and safely to battlegrounds where elaborate landing fields are not available.

The Marines planned to buy 552 Ospreys. The Air Force wanted 55 for search-and-rescue operations. The Navy was interested in 50 for hunting submarines.

If Secretary of Defense Richard Cheney's budget proposal stands, however, there will be no Osprey for any military agency. There will be no Osprey, period. In a defense budget-cutting move, Cheney has ordered the Osprey project scrapped just as it is nearing the production stage.

What is unfortunate about his edict is that the Osprey not only holds promise for the military in the types of hot conflicts throughout the globe this nation is likely to face. It also holds promise in what may prove to be a more important battle this nation is engaged in—an economic one.

The Osprey is not only well suited for military operations. With a slightly different pressurized fuselage, it is ideally suited as a short-to-medium-range commuter plane.

Jim P. Schwalbe, senior vice president of the Bell Boeing joint program office, told The News that a commercial variant of the Osprey would be ideally suited in a nation that is woefully short of runway space. The Osprey can take off from a rooftop or parking lot, fly at speeds twice as fast as a helicopter over a range of about 400 miles without fueling, then land in the busiest downtown area.

It has promise as the ideal commuter plane or craft for hauling passengers to hub airport terminals for connections to longer flights by conventional aircraft.

Unfortunately, no single domestic airline can afford the financial risk of continuing development or production of this aircraft.

The Japanese are interested, however.

Schwalbe said the Japanese have indicated that if the Defense Department drops the project, they would like to pursue it. Japan, after all, is a country critically short of land for landing strips. They recognize the commercial potential of this craft worldwide.

And, if they acquired it, they would be able to build upon a lot of high-tech research into composite material aircraft body structures, computerized mechanical systems and a revolutionary tiltable engine being developed here by Allison.

According to Schwalbe, there is also a consortium of European nations working on a similar type of aircraft.

Aside from its military and commercial potential, the Osprey holds promise as a weapon against drug smugglers. Schwalbe noted that it is difficult to interdict drug shipments by air into this country because smugglers frequently land on makeshift landing fields which can be blocked off to thwart pursuers in conventional fixed wing planes. Helicopters are too slow for pursuit. By the time they arrive on the scene, the drug smugglers are long gone.

The Osprey, however, is fast enough for pursuit and maneuverable enough to land under just about any circumstances.

Able to fly under most weather conditions, the Osprey also has excellent potential as a rescue vehicle during natural disasters.

The Osprey's namesake, a majestic bird that chooses high, solitary perches, was also once on the list of birds that were nearly extinct. Through the efforts of conservationists, it is making a comeback.

Congressional leaders should override the secretary of defense on this one and bring the V-22 Osprey back from the brink of extinction.

It is a badly needed aircraft in war and in peace.

AN OSPREY FOR WAR

If it looks like a fixed-wing airplane and it flies like a helicopter, then it must be a. . . .

Well, it's not a duck. That's for sure. Nor is it a helicopter. Nor a conventional, fixed-wing airplane. It's a V-22 Osprey.

Earlier this month, Defense Secretary Richard Cheney shot the Osprey down.

In testimony before the defense subcommittee of the House Appropriations Committee, Cheney said the entire Osprey pro-

gram was being eliminated in an effort to pare $150 billion from the nation's defense budget over the next five years. He told the committee:

"I've come forward reluctantly as secretary and had to recommend that we not go forward with the V-22. As I've said before this committee and in many conversations with you, that all other things being equal, I'd like to be able to buy the V-22. It has a lot of potential applications.

"My problem is one of affordability."

With a major national budget deficit, a substantially reduced Soviet threat worldwide, and the achievement of arms and troop reduction agreements, U.S. defense spending needs to be cut. Cheney's $150 billion cut proposal over the next five years represents a realistic target.

But continued development and deployment of the Osprey should not be included in the cuts.

The Osprey is, on the one hand, a revolutionary, high-tech aircraft. It has a unique tilt motor, being developed here at Allison's, that enables it to take off vertically from a rooftop and then turn its engines horizontally to fly as a conventional fixed-wing plane. It has a new, tough, composite shell, enabling it to withstand substantial enemy firepower. The Osprey also employs some new computerized gadgetry that makes it extremely easy to fly.

But the Osprey is also a low-tech solution to the type of warfare the United States is most likely to encounter in the years to come.

The U.S. attempt to rescue American hostages in Iran during Jimmy Carter's presidency failed because it relied on helicopters that have a short flight range and had to be refueled in the middle of an inhospitable desert. A squadron of Ospreys, however, could have each carried 24 special forces from aircraft carriers in the Persian Gulf to the rooftop of the American embassy in Tehran, landed and then returned to the carrier on a single tank of fuel.

An Osprey will fly about twice as fast and go four times as far as the CH-46 Marine helicopter it is designed to replace.

Maj. Gen. Charles H. Pitman, the Marine director of aviation, says the Osprey is the only fast troop transport craft that could survive the defenses even Third World countries are acquiring, such as Soviet heat-seeking SA-7 antiaircraft missiles that can easily down a helicopter.

If downed, the Osprey can give troops onboard a chance to survive. Because it has wings, it will not flip upside down like a disabled helicopter.

The Osprey is also designed to briefly float on water, giving troops an opportunity to evacuate.

Because of its speed and range, the Osprey introduces an element of surprise into battle.

Panamanians may have been tipped off to the American invasion because huge cargo planes were seen arriving at American bases ferrying in helicopters that then had to be assembled. With Ospreys, the assault could have largely been launched from aircraft carriers beyond the horizon with little chance of tipping off the enemy.

The Iranian hostage rescue attempt, Grenada and Panama all suggest that the type of conflict American forces are most likely to be involved in is a limited type of engagement requiring rapid deployment, surprise and a high degree of flexibility.

That is exactly what the Osprey is designed for.

TRIBUTE TO THE SLOVAK FREEDOM DINNER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the people who are of Slovak heritage from my 17th Congressional District of Ohio. The American-Slovak Cultural Association of Mahoning Valley will be holding a Slovak Freedom "Slovenska Sloboda" dinner-dance on March 29, 1990.

The American-Slovak Cultural Association actively supports the Slovak people in Czechoslovakia in their quest for freedom and their own state. The association has a variety of reasons to celebrate, the most important of these being the fall of the Communists in Czechoslovakia. The wave of freedom in Central Europe gives the Slovaks new hope in their quest for autonomy.

Since the ninth century the Slovak people have been under the rule of a variety of governments. The Slovaks experienced a brief period of autonomy before World War II but since that time have been under the oppression of Hitler's Germany and the rule of the Communists. However, with the election of a new government in Czechoslovakia led by President Vaclav Havel, the Slovak people have a chance at a self-determined democracy.

The American-Slovak Cultural Association of Mahoning Valley wholeheartediy supports the efforts of the Slovak people in their quest for their own democratic nation. The Slovaks as well as the other peoples of central Europe have been through a great deal in the last 40 years and now, as we enter the final decade of the 20th century, they have a chance to exercise their right of self-determination. With the help of organizations such as the Slovak-American Cultural Association of Mahoning Valley, the dream of freedom and self-rule may come true for millions of people.

Mr. Speaker, I would like to take this opportunity to commend the American-Slovak Association of Mahoning Valley on their efforts on behalf of the Slovak people. It is our duty as Americans to help the countries of central Europe as well as the rest of the world in their struggle for democratic societies. I am proud to represent these concerned citizens and support them in their efforts to bring democracy to the rest of the world.

COMMENDATION OF LIONEL "L-TRAIN" SIMMONS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. FOGLIETTA. Mr. Speaker, as we continue to glory in "Final Four" fever, I rise today to pay special tribute to an outstanding individual who resides in my district. Lionel Simmons, better known as "L-Train" in the world of college basketball, shines as a beacon of hope and achievement.

For those of you who may not be familiar with Lionel, let me acquaint you with this fine, talented, young man. Lionel went to South Philadelphia High School before enrolling at La Salle University and embarking on an outstanding college basketball and academic career.

Lionel entered the freshman class at La Salle in the fall of 1986 and began his stellar basketball career. His freshman season, Lionel averaged 20 points a game and was named both the "Big Five and the MAAC Player of the Year." As a sophomore, Lionel continued his success. He averaged 23 points a game and was named the "Big Five and the MAAC Player of the Year." As a junior, Lionel continued to impress everyone by averaging 28 points a game. Once again, the young man, from my district in south Philly, was named the "Big Five and MAAC Player of the Year." This past season, Lionel concluded his career just as he began it, with a flourish. He averaged 7 points per game. This enabled Lionel to become the fifth player in NCAA history to score over 3,000 points. Lionel was named the "Player of the Year," by not only the Big Five and MAAC, but also the UPI, Eastman Kodak, Naismith, and the World Almanac to name a few, Furthermore, Lionel is a finalist for the John Wooden and Pete Maravich Awards as well as being a finalist for the "AP Player of the Year."

However, Lionel's accomplishments do not end on the basketball court. In May, Lionel will receive a bachelor of arts degree in criminal justice at La Salle. Over the past 4 years, Lionel has maintained a cumulative grade point average of 2.7.

Mr. Chairman, I am honored and proud to commend Lionel Simmons today. It is fine men and women such as Lionel who provide hope and inspiration to young people. I commend Lionel and wish him continued success.

CONGRESSMAN SERRANO: A PUERTO RICAN SUCCESS STORY

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. FUSTER. Mr. Speaker, as I pointed out in my remarks on the floor of the House earlier today when I introduced the newest Member of this body, the Honorable JOSÉ E. Serrano of the 18th Congressional District of New York, this is a special day for Hispanics in general and Puerto Ricans in particular. Congressman SERRANO is a great native son of Puerto Rico who will bring credit to this body.

As the only Member of Congress representing the 3.5 million American citizens who live in Puerto Rico, I look forward to working with Congressman SERRANO. Obviously, there are areas of interest between me and Congressman SERRANO, and I am sure he will be a positive force for Puerto Rico, and for the United States as a whole, in this body.

Congressman SERRANO represents perhaps the most heavily Puerto Rican district on the U.S. mainland, that of South Bronx. Although he was born in Mayaguez, Puerto Rico, he

came to the mainland at age 7 and spent most of his life in the Bronx. Congressman SERRANO, in fact, represented his district in the New York State Assembly from 1975 to this year, serving with distinction and becoming chairman of its education committee in 1983.

Assemblyman SERRANO'S influence over the budget for State education programs helped win school aid increases for New York City. He also pushed through bills for bilingual education programs and for a project to reduce the high dropout rate in New York City.

In a congressional district that is heavily plagued by unemployment and crime, Mr. SERRANO is an up-from-poverty success story, and I join my colleagues in welcoming him to the U.S. Congress.

INTRODUCTION OF LEGISLATION IMPOSING A TAX ON INCOME AND GAINS FROM PROVIDING LEVERAGED BUYOUT AND OTHER FINANCING TO CERTAIN BUSINESSES

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. RUSSO. Mr. Speaker, I rise to introduce a bill to amend the Internal Revenue Code of 1986 to prevent small businesses investment companies from providing leveraged buyout and other financing to business which have a significant amount of assets.

Mr. Speaker, small business investment companies are private, Government-sponsored entities. These Government-sponsored entities were established by the Congress for the purpose of supplying loan funds and equity capital to independent small business concerns. The Federal Government, through the Small Business Administration, may purchase or guarantee debentures of these small business investment companies, and such guarantees carry the full faith and credit of the United States. In addition, the Internal Revenue Code contains several beneficial provisions for small business investment companies, including special rules allowing full deductibility of dividends received by the entity, in order to promote the goal of supplying capital to small businesses.

It has come to my attention that the goals of this Federal program may be circumvented by small business investment companies because of a loophole in the definition of a small business that can qualify to receive the equity investment or loans. The current rules allow funds to be supplied by small business investment companies to entities with net equity of $6 million or less and average after-tax earnings for the preceding 2 years of $2 million or less. Under these rules, the potential exists for a large company to qualify for a loan as a small business because of a leveraged buyout or other transaction which significantly reduces the equity and increases the debt of the corporation. In other words, the benefits of Government guaranteed loans can go to large corporations in a leveraged buyout and other debt driven transactions through small business investment companies. Loans to large, highly-leveraged corporations may diminish the amount of financing available to truly small businesses.

Mr. Speaker, this abuse must be stopped. Congress certainly did not intend through this program of small business assistance to subsidize large companies undergoing leveraged buyouts or other debt driven transactions.

The bill I introduce today would require that a small business which receives the benefits of this program be truly small. Under this bill, if a small business investment company makes a loan to a business which is not truly small, then any income or gain received by the small business investment corporation from the nonqualified business would be subject to a tax equal to 15 percent of such disqualified income. This additional tax is designed to be approximately equivalent to the Federal Government benefits received by the small business investment corporation which are being improperly directed to large businesses. A qualified small business under this legislation is defined as under current law, with the additional requirement that the cash and the aggregate adjusted tax bases of property of a qualified small businesses can be no more than $10 million.

Mr. Speaker, I have asked the chairman of the Committee on Ways and Means to refer this legislation to a subcommittee for the purpose of holding hearings on this legislation. In order to be reasonable and fair in this legislation, I have asked for the hearings to review the appropriateness of the bill's test of a qualified small business. In addition, I have delayed the effective date of the bill until the full Committee on Ways and Means has approved this legislation. If, however, small business investment companies continue to make loans to large companies undergoing leveraged buyout or other debt driven transactions that abuse these rules, I will recommend that the full committee adjust the effective date of the legislation to stop truly abusive transactions occurring after the date of introduction of this legislation.

I have attached a copy of the legislation, and a technical explanation of the bill to my statement, and ask that they be printed in the RECORD at the end of this statement. Mr. Speaker, I hope that this legislation and the hearings to be held in the Committee on Ways and Means will put an end to this abuse and allow the tax benefits and the benefits of financing with the full faith and credit of the United States to be directed to truly small businesses deserving this Nation's assistance.

TECHNICAL EXPLANATION OF THE BILL

PRESENT LAW

The Small Business Investment Act of 1958 (15 U.S.C. 661, et. seq., "the Act") authorizes the licensing of small business investment companies (SBICs). SBICs are privately-owned corporations and limited partnerships and are intended by the Act to supply equity capital, loans, and management assistance to qualifying small business concerns. Small business concerns are generally defined by the Small Business Administration as companies with net equity of $6 million or less and average after-tax earnings for the preceding two years of $2 million or less. A corporation with a significant amount of gross assets may be able to meet the $6 million net equity test by having a large amount of debt.

Subject to certain limitations, the Small Business Administration may purchase or guarantee debentures of a SBIC. Such guarantees carry the full faith and credit of the United States. Thus, SBICs have access to funds at a rate that approximates the borrowing rate of the Federal government.

SBICs organized as corporations or limited partnerships generally are subject to Federal income tax in the same manner as are corporations or limited partnerships that are not SBICs, with exceptions for certain particular items.[1]

EXPLANATION OF PROVISION

The bill would provide, in addition to all other taxes, a tax equal to 15 percent of the disqualified income of a SBIC. Disqualified income would be the sum of gross income from any disqualified investment plus any net gain attributable to the disposition of a disqualified investment. A disqualified investment would be (1) any investment in a small business concern (as defined by the Small Business Act) if the amount of cash and aggregate adjusted tax bases of other property held by such concern exceeds of $10 million or (2) any investment not permitted under the Small Business Investment Act of 1958 (or the regulations thereunder). The determination of whether a small business concern has cash and other property in excess of $10 million would be made immediately after the SBIC investment and would take into account the proceeds of the SBIC investment. In the case of a SBIC organized as a partnership, the tax would be imposed at the entity level.

The bill would be effective for investments made after the date of approval of the provision by the House Committee on Ways and Means, for taxable years ending after such date.

THE RURAL ECONOMIC DEVELOPMENT ACT

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. SWIFT. Mr. Speaker, the forest products industry in the Northwest is going through very difficult times. All the issues relating to the spotted owl and ancient forests, the issues surrounding the forthcoming Forest Service plans, and the effort to assure a long-term and reliable timber supply into the future are critical to small towns and communities throughout this region. The Washington State congressional delegation is working to bring that stability to the wood products economy within responsible environmental guidelines.

In the past several years, there has been little or no timber being cut from our national forests. Last year, Congress passed legislation that permits some timber to be harvested, but not at the rate it has been harvested in the past. As new forest plans are released this summer, the harvest level is expected to drop even lower for the next decade.

[1] For example, dividends received by a SBIC are allowed a 100 percent dividends received deduction (sec. 243(a)(2)) and losses on certain investments in, and of, SBICs are treated as ordinary rather than capital losses (secs. 1242 and 1243).

The situation has become so critical that we have to operate on more than one solution. We need separate, parallel tracks to assure the economic survival of many of these communities.

Congressman SID MORRISON has introduced a bill, H.R. 3997, to assist some of the smaller timber dependent communities that are facing economic havoc with the reduction in Federal timber harvests. This bill has been incorporated into H.R. 3581 as title IX.

Title IX allows these small towns which are dependent on national forest resources to obtain loans and assistance to boost economic diversification. It establishes guidelines for a program to aid small communities that are dependent on timber harvests from national forests to diversify their economies. This is accomplished through the Forest Service working with each community to determine its particular needs. Community economic analysis, retooling existing industries, creating new industries, and training of workers for new skills are all possibilities that would be available to a community. Also, this bill sets up a loan program for these communities to implement their plans.

Along with continued efforts to assure a reliable timber supply that is environmentally sound, this legislation is something I support because so many of our small towns in this region of the country may well need to benefit from the innovative approach it offers for rural economic development. I am pleased that the House passed H.R. 3581 with title IX intact.

I would also like to state my support for title VII, the rural electrification provisions, and in particular section 722 which recognizes the need for rural telephone systems to be made fully capable of transmitting data as well as voice messages. In 1934 we recognized through the Communications Act the need to make telephone service a national goal. In 1990 we need to ensure that all citizens have the right to share in the newly emerging information services that can be carried through telephone lines. These cannot be services offered only to those in urban areas, or only those who decide to buy personal computers. Universal service must remain the national policy as we enter the Information Age, and I commend the authors of this legislation for recognizing that need in this bill.

CONGRATULATIONS TO LOYOLA MARYMOUNT LIONS

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. DIXON. Mr. Speaker, I rise today to honor the accomplishments of an outstanding educational institution that is located in my congressional district—the 28th District of California. Loyola Marymount University and its basketball team's courageous spirit has captured the hearts of sports fans across America.

Although the Loyola Marymount University Lions' remarkable season came to an end last Sunday in the finals of the NCAA West Regionals, each player distinguished himself in a season marked with triumph and tragedy.

On March 4, the Lions' captain, Hank Gathers, tragically died of heart failure while playing in the team's last game before the NCAA Tournament. Hank Gathers was more than one of the Nation's finest college basketball players. He was an outstanding human being and role model not only for students on Loyola's campus, but throughout the country.

It was the dream of Hank Gathers and the Loyola Marymount team to win the NCAA Tournament and become the national champions. In the wake of his death, the team dedicated itself to playing for the memory of their fallen captain.

Everyone knew that Loyola Marymount had a very good team, for their fast-break style of basketball had shattered scoring records all year. However, the pundits and prognosticators never really gave them much of a chance—not without Hank.

But when Loyola Marymount defeated highly regarded New Mexico State 111–92, toppled the defending national champion University of Michigan 149–115, and fought back to overcome the clever slow-down tactics of the University of Alabama 62–60, the pundits and prognosticators had to scratch their heads and take notice. Amazingly, Loyola Marymount had come within three victories of the national championship.

What they did not understand was that Hank Gathers was still playing for Loyola Marymount. His spirit was with them and his team was playing inspired basketball. His spirit united not only the team, but the entire campus community.

In the finals of the NCAA West Regionals against the University of Nevada-Las Vegas, the remarkable season of the Loyola Marymount Lions came to an end. However, the accomplishments of a little team from a little school, when the odds were all against them, will not be forgotten. Nor will we forget Hank Gathers.

Mr. Speaker, I wish to recognize the relentless determination and unyielding spirit of the Lions' players—Bo Kimble, who led the Nation in scoring, Jeff Fryer, Per Stumer, Tony Walker, Chris Knight, Terrell Lowrey, Tom Peabody, Greg Walker, Chris Scott, Jim O'Connell, Brian McCloskey, Marcellus Lee, Jeff Rosco, and Marcus Slater. I also wish to congratulate Coach Paul Westhead on an outstanding job, as well as his assistant coaches Jay Hillock, Bruce Woods, Judas Proda, and Paul Westhead, Jr.

TRIBUTE TO DON FREYMILLER

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. THOMAS of California. Mr. Speaker, I rise today to call the attention of my colleagues to a good friend, Don Freymiller, chairman of the board and chief executive officer of Freymiller Trucking, Inc., of Bakersfield, CA. Today he has been elected president of the Interstate Truckload Carriers Conference, which represents the truckload, irregular route, common, and contract motor carriers of the United States and is affiliated with the American Trucking Association. It is an extremely important organization and has been in existence for more than half a century.

This is another important accomplishment achieved by Don Freymiller in a career that represents a commitment to hard work, discipline, and integrity. Don started his trucking business with one truck, in 1968. Freymiller Trucking now employs more than 1,000 people and has revenues over $69 million. And I am proud to say that Freymiller Trucking is headquartered in Bakersfield, CA. Don resides there with his wife Maxine and his four children, and is active in local organizations such as the Rotary Club, the Sierra Scouts, and the Greater Bakersfield Chamber of Commerce.

I am proud that Don Freymiller has been chosen to lead the Interstate Truckload Carriers Conference. It is yet another tribute to a man who is a monument to entrepreneurial spirit and determination. Don Freymiller is a tribute to Bakersfield, to the trucking industry, and to this Nation.

LITTLE HAS CHANGED IN EL SALVADOR

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mrs. KENNELLY. Mr. Speaker, 10 years ago, on March 24, 1980, Archbishop Oscar Romero, the Catholic archbishop of El Salvador, was murdered in cold blood while saying mass at the chapel of a cancer hospital in San Salvador. He was a good man—a man who spoke out repeatedly against the violence and political repression that plagued El Salvador. He loved his country and was dedicated to making a difference for the people there. This conviction and determination was shared by the six Jesuit priests who were brutally murdered on November 16, 1989.

The Romero murder case has long been cited by United States and Salvadoran officials as a test case for Salvadoran justice. It is interesting that 10 years later the same semantics should be used to describe the Jesuit case.

The years 1980 to 1990—a decade passed, yet little has changed. As a member of the Speaker's Task Force on El Salvador charged with overseeing the investigation of the Jesuit murders, I was in El Salvador in February of 1990. Ten years and over $4 billion U.S. taxpayer's money later and nothing has really changed.

The policy of our Government in El Salvador, as all our foreign policy, should be realistic while reflecting our belief in sanctity of human rights. Our policy in El Salvador should foster a negotiated settlement and an end to the hostilities in that nation. Our present policy of providing the Salvadoran Government with over $1.5 million a day—a government that has proven repeatedly that it does not control its military—does neither.

The anniversary of the assassination of Archbishop Oscar Romero reminds us of how much time has passed, yet how little progress has been made in El Salvador. 1980 to

1990—the death of Archbishop Romero, the death of six Jesuit priests, the harassment, torture, and murder of thousands of civilians in the years between should prove that cases in El Salvador are not tests; 1980 to 1990—still a judicial system that barely functions, still heinous violations of human rights, still severe political repression. The evidence is conclusive.

On this most tragic anniversary, I urge my colleagues to reflect honestly about our policy in El Salvador, where we are headed, and what is happening to the people of that country.

TRIBUTE TO HAROLD DODD

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. DURBIN. Mr. Speaker, I rise today to honor Harold Dodd, a good friend and an outstanding agricultural leader, who is retiring from his position as president of the Illinois Farmer's Union after 16 years of dedicated service.

Harold Dodd started his career as an active proponent of the family farmer in 1954 when he joined the Farmer's Union as a charter member. Since that time his contributions to American agriculture have been significant. As a member of the Governor's agriculture advisory board, and the Illinois Department of Agriculture's advisory board, he represented the interests of Illinois farmers. As chairman of the National Farmer's Union's executive board for 2 years, he led the cause nationally for the family farmer. As traveling diplomat to China, Bulgaria, and Jordan, and as host to numerous foreign dignitaries, Harold has been a leader in teaching progressive agricultural practices around the world.

Harold's involvement in the community has not stopped with agriculture. His positions as a board member of St. John's Hospital and the Illiteracy Council attest to his strong belief in and service to the people of this community.

Harold's retirement does not signify the end of his legacy. Rather, he will continue his important work as he embarks on a 2-year term as chairman of the board for the Illinois Farmer's Union.

On the occasion of Harold Dodd's retirement, I call on my colleagues in the House to join with me and the people of Illinois' 20th District in extending our congratulations and best wishes to Harold Dodd for his contributions to the preservation of the family farm and the enrichment of agriculture in Illinois.

NATIONAL CHILD SEARCH ASSISTANCE ACT

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. ERDREICH. Mr. Speaker, today I am introducing legislation to require States to provide missing children information to the National Crime Information Center of Washington in order to improve methods for locating missing children. At the present time 48 States have developed clearinghouses to locate missing children, with the remaining 2 States well on the way to establishing similar programs. With the assistance of these clearinghouses, parents and local authorities have been able to locate thousands of missing children.

Unfortunately, efforts to locate missing children through the National Center for Missing and Exploited Children, a nonprofit clearinghouse set up by the Government in 1984, have been hindered by the lack of a national network to provide easy access to State clearinghouse information. Under my bill, State authorities would be required to provide missing children information to the National Crime Information Center in Washinton. This information could then be easily accessed so that State information could be quickly available nationwide.

My bill is the companion to legislation introduced by Senator MCCONNELL and is the product of discussions with the Department of Justice, the International Association of Chiefs of Police, the FBI, and numerous childrens' organizations. These groups support centralizing information from the State clearinghouses into the National Crime information Center and believe it will help the National Center for Missing and Exploited Children to better locate missing children.

It is my hope this legislation will provide a cohesive and coordinated network that will give us the best chance to return our missing children to a safe, loving, and healthy environment. I urge my colleagues to support this important legislation.

LITHUANIA'S MOMENT IN HISTORY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. PALLONE. Mr. Speaker, Lithuania's March 11 declaration of its national sovereignty and independence should be accorded full honor and recognition by the Government of the United States.

As a result of my strong support for Lithuanian independence, I have joined as a cosponsor of House Concurrent Resolution 292, sponsored by Representative WILLIAM S. BROOMFIELD, Republican of Michigan, stating that, among other things, the United States should immediately establish diplomatic relations with the new Government of the Republic of Lithuania.

The United States has never recognized the forcible incorporation of Lithuania, or its Baltic neighbors Estonia and Lativia, into the Soviet Union. These lands, with their proud histories and distinct languages and cultures, have traditionally been considered under the unique category of captive nations. They are the victims of a cynical deal cut by two of history's most vicious mass murderers, Adolf Hitler and Joseph Stalin. Soviet domination of these lands has no historic legitimacy. On the practical level, 50 years of Moscow's rule has not succeeded in building genuine public support among the populace in Lithuania for continued membership in the U.S.S.R. Now that the brave Lithuanian people are breaking out of their captivity it is time for the United States to put into practice our longstanding official stance.

Concerns are raised about the threat that the break-up of the Soviet empire will have on President Gorbachev's reform efforts. While I want to see reforms take root in the U.S.S.R., the very notion of the Red Army forcibly exercising control over an unwilling population is contrary to the goal of reforming the system. If Mr. Gorbachev accepts the Lithuanian secession, he will lose a disgruntled and restive Soviet Republic, and gain a stable, friendly, peaceful neighboring country.

Mr. Speaker, if there were any doubt that the Lithuanian people need our help, this week's bloody arrests of so-called deserters—proud and patriotic young Lithuanians who refuse to serve in the army of a foreign power—proves what the Lithuanians are up against. We can only imagine the horrors that these young men will be subjected to upon their return to their army units, and our prayers are with them. We cannot allow this fate to be visited on the rest of the Lithuanian people. America's recognition of Lithuania's independence will send a clear signal to the Soviet leadership that the consequence of armed intervention will be international isolation. I hope the leaders in the Kremlin will see that it is in their best interests to call off their current intimidation tactics against the Lithuanians and begin a process of peaceful coexistence.

Last year, we cheered as one by one the nations of Central Europe threw off their oppressive Communist systems. Now it is Lithuania's moment in history. We owe it to the Lithuanians, to ourselves and to the entire free world to stand on the side of freedom and self-determination for the Lithuanian people.

TRIBUTE TO COLONEL JAMES I. DAILY

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. RAY. Mr. Speaker, I rise today to pay tribute to Col. James I. Daily, who will be retiring as chief of staff of the U.S. Army Infantry Center on March 30, 1990. He has served in this distinguished position since April 30, 1987.

Colonel Daily was born in New Albany, IN, and graduated from Western Kentucky University in 1964 with a bachelor of science degree in education. Upon graduation, he was designated a distinguished military graduate and entered the Regular Army as a second lieutenant of infantry.

He served in Vietnam with the 1st Cavalry Division as a reconnaissance platoon leader and company executive officer. He was assigned as an instructor at the Florida Ranger Camp at Eglin Air Force Base upon returning to the United States. In 1968, he returned to

Vietnam and served as a rifle company commander and brigage assistant operations officer in the 101st Airborne Division.

Colonel Daily returned to the United States after being assigned to the ROTC unit at Ohio University in Athens, OH. During this tour, he received a master's degree in education. He was then reassigned to the 101st Airborne Division which had returned to Fort Campbell, KY. In 1977, he was assigned to the United States military training mission as a training adviser to the Saudi Arabian land forces.

Following this tour in Saudi Arabia, he assumed command of the 1st Battalion, 29th Infantry, at Fort Benning, GA. He then served with the 197th Infantry Brigade at Fort Benning as its executive officer. From 1982 to 1984, he was assigned to the U.S. Military Academy as a regimental tactical officer. He returned to Fort Benning and served as the director of training and doctrine in the infantry school until his appointment as chief of staff of the center.

Colonel Daily's military education include the infantry officer advanced course, the U.S. Army Command and General Staff College, and the U.S. Army War College. He has been awarded the Bronze Star with V device with oakleaf cluster, the Meritorious Service Medal with oakleaf cluster, the Air Medal with V device, the Purple Heart, and the Army Commendation Medal with oakleaf cluster. He also wears the Combat Infantryman Badge, the Master Parachutist Badge, the Ranger Tab, and the Air Assault Badge.

Col. James Daily has made a lasting impact on Fort Benning and the infantry center in his capacity as chief of staff. I am proud to represent Fort Benning and the Third Congressional District. It has been a privilege to support "the Home of the Infantry", a shining star of the U.S. Army, and the best quality soldiers in the world such as Col. James Daily.

CUSTOMER SATISFACTION: THE FORGOTTEN PRECEPT AT THE U.S. POSTAL SERVICE

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. GRADISON. Mr. Speaker, on March 6, the U.S. Postal Service [USPS] formally requested the Postal Rate Commission to approve a 20-percent rate increase for delivery of first-class mail. The Postal Service has estimated that this rate increase will increase the average American's postage cost by $10 a year. This extra cost is particularly vexing in light of poor service and mismanagement within the Postal Service. Many of my constituents have contacted me in recent months to express anger or concern over late and misdelivery of mail, declining services, and slow and unfriendly counter service. The proposed rate increase has served only to heighten public dissatisfaction with USPS.

The Postal Service's natural monopoly is protected and supported by a set of Federal laws called the Private Express Statutes. The original protections were enacted in 1792 by the Second Congress, on the grounds, still widely accepted today, that only the Federal Government could provide complete nationwide postal service and that as a public service, it should not be subject to, and potentially fragmented by, competition. These statutes were designed to bind the Nation together through universal letter mail service and rates.

In 1970, the Postal Service was converted into a quasi-independent agency as part of the Postal Reorganization Act. The 1970 act gave the President strong discretion to establish rules and regulations to promote a business type of operation, and required that revenues approximatley equaled the total estimated cost of postal service, less congressional appropriations for subsidized postal classes. In addition, the act established the Postal Rate Commission to determine, at the request of the Postal Service, the necessity of rate increases. As a result of these measures, effective congressional oversight of USPS has declined. This, I believe, is terribly unfortunate.

The intent of the act was to provide a business-like environment where postal officials could improve the quality and scope of service and achieve financial self-sufficiency over a period of years. Although the intent was good, time has shown that it hasn't worked. Services have declined while costs have increased, well above the rate of inflation.

In the face of rising costs and stabilizing mail volume, the Postal Service has reevaluated its existing service areas and standards. New service areas will result in slower mail delivery for mail service outside regional zones. In addition, the Postal Service has been painfully slow to utilize high-technology sorting machines which could provide substantial cost savings. A report issued by the Postal Inspection Service in December 1989 found that the Postal Service had achieved only one-third of the expected savings from their investment in these machines. In some cases, the Postal Inspection Service noted that mail that could have been processed by the sorting machines was diverted to less-efficient machines and manual processing in order to keep mail clerks busy.

For the last 2 years, the Postal Service has regularly delivered bonuses to its general managers even though postal costs rose at twice the rate of inflation in 1988 and the Postal Service barely broke even in 1989. In 1989, bonuses which are based on service, human relations, and financial management records ranged from $3,200 for those with the poorest records and $11,200 for the best. All 75 division managers received a bonus. At the same time, the Postal Service squandered approximately $6.2 million on meetings and conferences for division managers in Hawaii, Florida, and Arizona. I believe there are less exotic and expensive meeting sites for entities in need of a 20-percent rate increase.

Last November, the Congress and the President agreed to move the U.S. Postal Service off-budget, a move I strongly opposed. Was this move a reward for good management? No, it was a move for budget accounting expediency. As a result, the Postal Service has become even more independent while maintaining its quasi-monopoly status. In effect, the budget agreement which reduced the Federal budget deficit $1.77 billion—the amount of the USPS deficit—has further limited congressional oversight of postal operations.

Congress has acted to rid itself of responsibility for the Postal Service. If there is to be no accountability for postal operations, it is clear that the Postal Service must give up its monopoly position in the increasingly competitive communications marketplace.

CONGRATULATING MR. GEORGE JOHNSON, SR.

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. PARRIS. Mr. Speaker, I rise today to salute one of Virginia's noblest citizens. Mr. George Johnson, Sr. of Alexandria, VA, will celebrate his centennial birthday on April 9, 1990. George was born in Newberry, SC, the grandson of slaves. His paternal grandfather, Tom Higgins, worked as a slave for the Confederate Army under the command of Colonel Johnson. Mr. Higgins changed his surname to Johnson in honor of the colonel under whom he had served. George Johnson, Sr. was married on December 30, 1912 to the late Lou Emma Jesse Johnson and together they reared 11 children.

George was educated in the elementary church schools of his native home State and has worked as a sharecropper, a lumber bearer, in an oil mill, as a gardener, on a gun press, and for a railroad company. He has worked all of his life in his beloved southland and through the years has provided not only for his family but also for friends and relatives.

George, who is a man of deep Christian faith, has served God all his life and found strength in his beliefs. He has served as a deacon in the Welch Baptist Church in Newberry, and as superintendent of it's Sunday school. He has also served as a deacon in the Mt. Pleasant Church in Alexandria, VA. George, as head of five generations, has proven he is a man of faith and wisdom who has a reverence for life and love of his family and fellowman.

Edward Bortz said, "It is only in the later years that the full flowering of the finest essence of the human spirit becomes a reality." Mr. Speaker, George Johnson, Sr. has demonstrated throughout his life the "finest essence of the human spirit." I am proud to have George as my constituent and I join his family and friends in saluting him on his 100th birthday. May God bless this extraordinary man and grant him many more years of health, love, and happiness.

THE SMALL ISSUE INDUSTRIAL DEVELOPMENT BOND PROGRAM

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. FLIPPO. Mr. Speaker, I am today introducing legislation that would permanently extend the Small Issue Industrial Development

Bond Program. These bonds, which are now carefully targeted to smaller manufacturers, provide a critical source of the financing necessary for these businesses to establish new plants or modernize existing facilities. For many companies, the bonds have become a key component of a trade strategy, offering the only form of Federal assistance to help combat heavily subsidized foreign competition.

In my State of Alabama, we have used this program as an essential ingredient of our efforts to encourage economic growth. Over the past 3 years, these bonds have helped finance the investment of over $200 million in plant and equipment in manufacturing facilities in Alabama. This investment has led to the creation or retention of over 5,700 jobs for our people.

Projects financed by these bonds are found in every part of the State, from Opelika to Livingston to Gadsden. This tax-exempt financing has been particularly helpful in promoting economic growth in smaller, rural communities.

While my interest in IDB's arises from the compelling experience we have had with them in Alabama, I think it important to note that projects financed with small-issue IDB's have created literallly thousands of jobs in every part of the Nation. Since 1976, for example, the New York City Industrial Development Agency has issued bonds for 484 companies, creating or retaining roughly 68,000 jobs. From 1983 to 1988 bonds issued by the Illinois Development Finance Authority financed 50 projects in Chicago, providing 4,575 jobs.

The tax bills of 1984 and 1986 have made major changes in the Small Issue Bond Program, eliminating perceived abuses, targeting the bonds to smaller manufacturers, subjecting them to a tight volume cap, and requiring greater public participation in the process of deciding which projects should receive tax-exempt financing. The result is a strong, reformed, and responsible program that contributes to job creation and retention in 49 States.

Mr. Speaker, as you know, last year the House voted for a 2-year extension of the program, but in the negotiations over the budget reconciliation package, that extension was reduced to 9 months. I think it is time we made this program permanent, that we allow it to operate, and that we get away from having to deal with an extension each year.

The uncertainty that these year-to-year extensions create make it difficult for economic development officials and businesses to make rational, long-term plans for major expansions or new plants. And, when we consider the concerns of this body about our competitive position in the world marketplace, this financing program—targeted to the Nation's smaller manufacturers—should be a permanent and reliable source of investment capital to meet this challenge.

The fact that last year Congress made no further changes in the program suggests that we have now achieved a consensus on how this program should operate. Now that we have reformed it like we want it, we should extend it and let it work. Should abuses emerge in the future, Congress can always go in and reexamine how the bonds are being used.

I am pleased that a number of groups representing State and local officials also advocate the extension of small-issue bonds. The National Governors' Association Economic Development Committee, chaired by Gov. Ray Mabus, has listed an extension of small issue bonds as one of its priority items. The National Association of Counties and the National League of Cities are also on record in support of this program. These officials recognize the importance that these tax-exempt bonds play in encouraging economic growth in their areas.

Mr. Speaker, the small issue bond provision is sound, prudent public policy. I urge my colleagues to join me in supporting this bill.

NATIONAL MEDICAL RESEARCH DAY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. HOYER. Mr. Speaker, March 27, 1990 marks an important day to our Nation. It is National Medical Research Day and the week of March 26–30 has been dedicated to raising awareness of the importance of medical research to our country. It is my pleasure to offer this floor statement to support our Nation's investment in medical research.

It is my firm belief that the continued success of our Nation's medical research efforts will depend upon the fundamental leadership of and commitment by our Federal Government. During the past decade, the private sector investment in our Nation's medical research efforts has experienced an unprecedented annual growth. Voluntary health associations have been devoting more of their charitable contributions to medical research and in absolute dollars, this Nation's pharmaceutical companies invest more in research than the total annual funding of the National Institutes of Health. Still, the demand for medical research outstrips the supply of research dollars.

This Congress must make a commitment now to increasing the support of biomedical research in this Nation. It only takes a few examples to illustrate the logic of this commitment. Within my lifetime, the polio and rubella vaccines were discovered saving the lives of millions of Americans. Insulin was discovered over 60 years ago and has enabled millions of individuals with diabetes to live nearly normal lives. AZT is showing promise to forestall some of the devastating effects of AIDS. Witness chemotheraphy for cancer, bypass surgery for coronary artery disease, and hip replacement surgery for arthritis. These are only a few examples of how medical research has touched our lives. Even the wisdom of our mothers urging us to eat a balanced breakfast is now being borne out by medical research. The list is virtually unending. But we have a lot more to do. Cures and better treatments are still needed for many diseases—diabetes, cancer, epilepsy, multiple sclerosis, and depression, to name only a few.

In 1987, the National Health Council [NHC], which represents 39 voluntary health associations, established the "Medical Research: Invest in America's Health" campaign. The campaign focuses its efforts on four Federal centers for medical research—the National Institutes of Health [NIH], the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA], the Centers for Disease Control [CDC], and the medical research component of the Veterans Administration [VA].

On National Medical Research Day, volunteers from across the Nation bring a strong collective voice to Capitol Hill, educating members of Congress about the importance of medical research and our Nation's commitment to it, and demonstrating that the coalition of private sector organizations cooperating on this issue is a growing force.

Can any of my colleagues in Congress introduce me to one individual who has not benefited from medical research? The simple answer is no. And the equally simple fact is that medical research not only helps every American live a better life, it has helped us achieve the preeminent world status we have so long enjoyed. The challenge clearly is before us: to make a strong national commitment now to medical research.

NATIONAL MEDICAL RESEARCH DAY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. PORTER. Mr. Speaker, I rise to recognize National Medical Research Day which we are celebrating this week. I want to relate the story of the Skinners, a family which has benefited from biomedical research.

In 1981, Rosa Skinner, pregnant with twins, learned that one of the fetuses had a potentially fatal urinary tract blockage. In order to save the child without harming its twin, Rosa Skinner's doctors decided to attempt a medical first: in utero surgery. On April 25, 1981, doctors Mitchell Golbus and Michael Harrison successfully performed the first surgery to correct a birth defect before the birth of the child. Today Mrs. Skinner is the proud mother of 8-year-old Mary and her very fortunate twin brother, Mike.

Medical miracles do not happen in a vacuum. They are founded upon years of medical research, and pave the way for even greater advances in improving the health of our Nation.

I urge members of the Budget Committee to support funding of $9.237 billion for our Nation's preeminent research facilities, the National Institutes of Health [NIH]. This level of funding would allow NIH to fund 30 percent of approved research grant applications, and would allow NIH to keep pace with biomedical research inflation. Tomorrow's Mike Skinners depend on our continued support of biomedical research funding.

RECOGNITION OF PROF. ALBERT P. BLAUSTEIN, RUTGERS UNIVERSITY LAW SCHOOL

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 28, 1990

Mr. HUGHES. Mr. Speaker, it is my pleasure today to bring to my colleagues' attention the work of Prof. Albert P. Blaustein of the Rutgers University Law School. Professor Blaustein was one of my law professors, and he has become known internationally for drafting constitutions. I would like to take this opportunity to pay tribute to him for his work, particularly in Third World nations where he has helped many nations develop constitutions.

Most recently, Professor Blaustein has worked with the Federal Republic of Nigeria to develop a constitution that will take effect on October 1, 1992. This momentous occasion has been somewhat obscured by the breathtaking developments in Eastern Europe, but we should note that freedom and democracy are sweeping across Africa as well as Europe and Central America. In fact, the restoration of civilian, constitutional government to Nigeria will bring democracy to more people than any of the governmental changes in Europe. Nigeria is the world's eighth most populous country, and its population is equal to that of Poland, Romania, Bulgaria, Hungary, Czechoslovakia and East Germany combined.

Nigeria's new Constitution is a revised version of one drafted with Professor Blaustein's assistance in 1979. The 1979 Constitution was widely praised for its bill of rights and its enforcement provisions to protect those rights. Unfortunately, the original Constitution did not prevent the first civilian government from using vote-fixing and corruption to maintain its control over the country. That government was finally overthrown in a popular coup, and the current military regime of General Ibrahim Babangida is paving the way for reinstating the Constitution and returning to civilian rule. He has taken steps to address the country's economic crisis and to remove governing authority from the Armed Forces Ruling Council.

Americans can look with pride at the Nigerian Constitution, for much of it was inspired by our own U.S. Constitution, that glorious document that I and my colleagues in the House are sworn to protect. The revised Nigerian Constitution calls for the establishment of an executive Presidency, a bicameral legislature with a Senate and a House of Representatives, and an independent judiciary. The revised document addresses the vote-fixing problems of the past by establishing election tribunals and by requiring candidates to disclose their assets and liabilities. In addition, the Constitution provides for recall procedures for members of both the Federal and state legislatures.

Elections will be based upon a strict two-party system. Groups seeking approval to become one of the two parties must agree not to advocate regional or religious causes and must establish innocence of tribal bias. The selection of the two parties will take place this September. Other steps in the transition are proceeding, and all indications are that the military supports the transition to civilian rule and will not prevent the eventual election winners from taking office.

Mr. Speaker, too often we take for granted the freedoms brought to us by our Constitution. As we watch the development of young democracies in Nigeria and around the world, we should be thankful for that great document and grateful for the work of Professor Blaustein, who is helping other countries secure similar constitutional protections for their citizens.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 29, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 30

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 639, to establish a research and development program for the development of a domestic hydrogen fuel production capability.
SD-366

Labor and Human Resources
Disability Policy Subcommittee
To hold hearings on proposed legislation authorizing funds for the Developmental Disability Act.
SD-430

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Agriculture, focusing on the Farmers Home Administration, Federal Crop Insurance Corporation, and the Rural Electrification Administration.
SD-138

Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Library of Congress, and the Office of Technology Assessment.
SD-116

Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings on S.J. Res. 246 (pending on Senate calendar), requesting the United Nations to repeal General Assembly Resolution 3379, which equates Zionism with racism.
SD-419

10:30 a.m.
Judiciary
To hold oversight hearings on immigration issues, focusing on the General Accounting Office's report on discrimination and employer sanctions.
SD-226

APRIL 2

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on deficiency payment problems associated with barley.
SR-332

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Bureau of Land Management, Department of the Interior.
S-128, Capitol

10:30 a.m.
Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for military construction programs, focusing on the Air Force.
SD-192

2:00 p.m.
Armed Services
Defense Industry and Technology Subcommittee
To resume hearings on S. 2171, to authorize funds for fiscal year 1991 for military functions of the Department of Defense, and to prescribe military personnel levels for fiscal year 1991, focusing on defense manufacturing technology and quality assurance programs.
SR-222

4:00 p.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Henry J. Cauthen, of South Carolina, and Lloyd Kaiser, of Pennsylvania, both to be members of the Board of Directors of the Corporation for Public Broadcasting.
SR-253

APRIL 3

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Energy and Natural Resources
To hold oversight hearings on the Department of Energy's Decision Plan relating to the opening of the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico, and on proposed legislation to withdraw the public lands surrounding the WIPP site.
SD-366

Judiciary
To hold hearings on proposed legislation authorizing funds for fiscal year 1991 for the Department of Justice.
SD-226

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on Air Force posture.
SD-192

2:00 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to review the U.S. global change research program and NASA's program, the Earth's Observing System.
SR-253
Commission on Security and Cooperation in Europe
To hold hearings on German unification and the Conference on Security and Cooperation in Europe.
SD-226

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. bilateral assistance.
SD-192

APRIL 4

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 1880, to revise title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates.
SR-253

9:30 a.m.
Armed Services
Readiness, Sustainability and Support Subcommittee
To resume hearings on S. 2171, to authorize funds for fiscal year 1991 for military functions of the Department of Defense, and to prescribe military personnel levels for fiscal year 1991, focusing on environmental programs.
SR-222
Veterans' Affairs
To resume hearings on S. 1398 and S. 1332, bills to establish a Commission on the Future Structure of Veterans Health Care.
SR-418

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Agriculture, focusing on Agricultural Stabilization and Conservation Service, Foreign Agricultural Service, General Sales Manager, and Soil Conservation Service.
SD-138
Appropriations
Energy and Water Development Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SD-192

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SD-192
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 626, to revise the Lanham Trademark Act to prohibit the importation or sale of goods manufactured outside the United States and bearing an identical trademark of goods manufactured within the United States.
SD-226
Small Business
To resume hearings on the President's proposed budget request for fiscal year 1991 for the Small Business Administration.
SR-428A

2:30 p.m.
Judiciary
To hold hearings on the nominations of Joseph M. Hood, to be U.S. District Judge for the Eastern District of Kentucky, Raymond C. Clevenger, III, of the District of Columbia, to be U.S. Circuit Judge for the Federal Circuit, Robert E. Jones, to be U.S. District Judge for the District of Oregon, and D. Brock Hornby, to be U.S. District Judge for the District of Maine.
SD-430

APRIL 5

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To resume hearings on S. 1400, to regulate interstate commerce by providing for a uniform product liability law.
SR-253
Energy and Natural Resources
To hold hearings on S. 324, to establish a national energy policy to reduce global warming and promote energy conservation and efficiency.
SD-366

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on Navy and Marine posture.
SD-192
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Highway Traffic Safety Administration and the Research and Special Programs Administration.
SD-138
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the U.S. Postal Service, and the National Archives.
SD-116
Finance
To hold hearings to examine the security of retirement annuities provided by insurance companies.
SD-215

2:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Emergency Management Agency.
SD-192
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2117 and H.R. 2570, bills to designate certain lands as wilderness in the State of Arizona.
SD-366
Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

APRIL 6

9:30 a.m.
Finance
Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee
To hold oversight hearings on the implementation of the Omnibus Taxpayer Bill of Rights (P.L. 100-647).
SD-215
Governmental Affairs
Government Information and Regulation Subcommittee
To resume hearings on the quality of U.S. health promotion statistics.
SD-342

APRIL 18

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETS, the Vietnam Veterans of America, the Veterans of World War I, and the Non-Commissioned Officers Association.
SH-216

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Housing and Urban Development.
SD-138

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Park Service, Department of the Interior, and the National Gallery of Art.
S-128, Capitol

APRIL 19

9:30 a.m.
Select on Indian Affairs
To hold hearings on S. 1289, to improve the management of forests and woodlands and the production of forest resources on Indian lands.
SR-485

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Small Business Administration, and the Legal Services Corporation.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak).
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of Management and Budget, and the Executive Office of the President.
SD-116

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on multilateral development banks.
SD-138

Commerce, Science, and Transportation
To hold hearings on the nomination of John K. Lauber, of Maryland, to be a member of the National Transportation Safety Board.
SR-253

2:15 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for the Department of Energy, focusing on atomic energy defense programs.
SD-116

APRIL 23

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Forest Service of the Department of Agriculture.
SD-192

Select on Indian Affairs
To hold oversight hearings on the Indian Federal acknowledgment process, including S. 611 and S. 912, bills to establish administrative procedures to determine the status of certain Indian groups.
SR-485

APRIL 24

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on the National Guard and Reserves.
SD-192

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Transportation Safety Board and the Federal Highway Administration.
SD-138

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's superconducting super collider program.
SD-366

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on refugee programs.
SD-138

APRIL 25

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of the Attorney General.
S-146, Capitol

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the General Services Administration.
SD-116

2:00 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1981, to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 370, to establish the American Heritage Trust to provide funding for the preservation of America's natural, historical, cultural, and outdoor recreational heritage.
SD-366

APRIL 26

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Aeronautics and Space Administration.
S-126, Capitol

10:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for defense intelligence programs.
S-407, Capitol

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of State.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the General Accounting Office.
SD-138

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume oversight hearings on the Department of Energy's Decision Plan relating to the opening of the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico, and on proposed legislation to withdraw the public lands surrounding the WIPP site.
SD-366

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 1957, to provide for the efficient and cost effective acquisition of nondevelopmental items for federal agencies.
SD-342

APRIL 27

9:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1991 for the Federal Aviation Administration.
SR-253

APRIL 30

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for fossil energy and clean coal technology programs of the Department of Energy.
S-128, Capitol

Select on Indian Affairs
To hold oversight hearings on provisions of S. 1203, to provide tax incentives for businesses on Indian reservations, and S. 1650, to allow an Indian employment opportunity credit for qualified employment expenses of eligible employers on Indian reservations; to be followed by a business meeting to mark up S. 143, to establish the Indian Development Finance Corporation to provide development capital for Indian businesses.
SR-485

MAY 1

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's uranium enrichment program.
SD-366

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Supreme Court of the United States, the Judiciary, and the Federal Trade Commission.
S-146, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on eastern Europe.
SD-138

MAY 2

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.
S-146, Capitol

MAY 3

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on strategic programs.
S-407, Capitol

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Bureau of Mines, all of the Department of the Interior.
S-128, Capitol
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the U.S. Coast Guard.
SD-138

10:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Council on Environmental Quality, the National Space Council, and the Office of Science and Technology Policy.
SD-116

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Corps of Engineers.
SD-192

MAY 4

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Resolution Trust Corporation.
SD-138

MAY 7

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Minerals Management Service and the Office of Surface Mining, Department of the Interior.
S-128, Capitol

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings to examine the Indian health service nurse shortage.
SR-485

MAY 8

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on tactical airpower.
SD-192

2:15 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1848, to implement and provide financial assistance for a research and demonstration program for natural gas and coal cofiring technologies.
SD-366

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. military assistance.
SD-138

MAY 9

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 1981, to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment.
SR-253

MAY 10

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on initiatives for Indian programs for the 1990s.
SR-485

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on land warfare.
SD-192
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Veterans Administration.
S-126, Capitol
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Aviation Administration.
SD-138

2:00 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1991 for the Federal Aviation Administration.
SR-253

MAY 14

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for activities of the Secretary of the Interior, the Secretary of Energy, and the Secretary of Agriculture.
S-128, Capitol

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on S. 1021, to provide for the protection of Indian graves and burial grounds, and S. 1980, to provide for the repatriation of Native American group or cultural patrimony.
SR-485

MAY 15

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on seapower.
SD-192

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans' Affairs, Housing and Urban Development, and independent agencies.
SD-138

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on population policy and resources.
SD-138

MAY 16

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans' Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 17

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on space programs.
S-407, Capitol

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on semi-conductors and the future of the U.S. electronics industry.
SR-253

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans' Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 22

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for the Department of Defense, focusing on classified programs.
S-407, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on the global environment.
SD-138

MAY 24

9:00 a.m.
Appropriations
Defense Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for defense programs.
SD-192

JUNE 5

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense.
SD-192

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
SD-138

JUNE 7

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 2203, to settle certain claims of the Zuni Indian Tribe, S. 2075, to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality, and S. 1934, to revise the United States Housing Act of 1937 to provide for the payment of fees for certain services provided to Indian Housing assisted under such Act.
SR-485

JUNE 12

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on organization and accountability.
SD-138

JUNE 19

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
Room to be announced

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
Room to be announced

JULY 12

9:30 a.m.
Select on Indian Affairs
To hold hearings to examine protective services for Indian children, focusing on alcohol and substance abuse programs.
SR-485

CANCELLATIONS

MARCH 29

10:00 a.m.
Finance
To hold hearings to examine possible causes for the decline of corporate income tax revenues, and to compare the U.S. corporate tax burden with that in other industrialized countries.
SD-215

MARCH 30

9:00 a.m.
Banking, Housing, and Urban Affairs
HUD/Moderate Rehabilitation Subcommittee
To hold hearings on the Department of Housing and Urban Development's internal controls, focusing on self-evaluation.
SD-538

POSTPONEMENTS

MARCH 29

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1966, to implement a research, development, and demonstration program for the generation of commercial electric power from nuclear fission.
SD-366

APRIL 2

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on S. 1966, to implement a research, development, and demonstration program for the generation of commercial electric power from nuclear fission.
SD-366

SENATE—*Thursday, March 29, 1990*

(Legislative day of Tuesday, January 23, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. The prayer this morning will be offered by our guest Chaplain, Dr. Paul Dovre, who is the president of Concordia College in Moorhead, MN.

PRAYER

Dr. Paul Dovre, president, Concordia College, Moorhead, MN, offered the following prayer:

Let us pray:

For I know the plans I have for you, says the Lord, plans for welfare and not for evil, to give you a future and a hope.

Lord, these words of promise to exiles of another millennium both haunt us and cheer us. They haunt us because we are so busy with our own plans. Our mastery of mind and matter lead us to believe we are both the creators and adjudicators of the future. In a world of ego and id we become exiles of the spirit. The wreckage of our exile is both in us and about us in our broken promises, our inconsistent conduct and our commitment to expediency. Merciful God, have mercy on us.

God give us a vision of the future You have in store for us, a future in which the wounded are bound up, the prisoners are freed, the homeless are housed, the hungry are fed, nature is restored, and the guilty find mercy in Your grace. Give us eyes to see Your vision of the future, ears to hear it, the spirit to accept it, and the will and strength to do it. Yea, Lord, make us instruments of Your future and Your hope in our time, in this place, on this day of grace. God of the future, hear our prayer. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 29, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. MITCHELL. I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators, there will now be 1 hour of morning business under the control of Senator NUNN, which will be devoted to a discussion by him and other Senators of defense policy matters.

At 10 a.m. the Senate will resume consideration of the clean air bill under the previous order. The pending amendment will be the Byrd amendment with respect to which there will be a vote at 3 p.m. today.

Beginning at 4 p.m., the Senate will be in position to consider so-called allowance amendments to the clean air bill. Consideration of the clean air bill will continue throughout the day. It is my hope that we can continue to make progress on that bill. Senators are encouraged to offer their amendments today. As all Senators know by now, we are operating under a unanimous-consent agreement, pursuant to which the vote on final passage of the clean air bill will occur not later than 8 p.m. on next Tuesday evening. So if Senators have amendments they wish to offer, today and tomorrow and Monday and Tuesday will be the time to offer them. I encourage them to do so promptly.

Mr. BOSCHWITZ addressed the Chair.

The ACTING PRESIDENT pro tempore. Senator BOSCHWITZ.

THE GUEST CHAPLAIN

Mr. BOSCHWITZ. Mr. President, I want to comment briefly, if I may, about the prayer and the very distinguished Minnesotan who has come here this morning and has given the prayer. It is Dr. Paul Dovre, president of Concordia College in Moorhead, MN, as you mentioned, Mr. President, in your introduction.

Moorhead is at the northwestern end of our State, near Fargo, ND, and Concordia is an unusual college. It is not a large college; but Concordia is a college that is imbued with a spirit that is unusual, in my experience. It is a real gift. People who go there become enamored of the college in such a way that their lives are changed by having gone to this college. The spirit almost possesses them, in a sense, in a very positive way, and they become devotees of their college for their lifetime.

It is a college that is unique in many ways, unique not only in spirit, but in the quality of the education it gives its students and the esteem in which it is held by Minnesotans, and certainly by myself.

Some years ago they needed $400,000 to build a library, when libraries still cost that amount. Since they had no donors that could possibly give that amount, they got together 400 people to give $1,000 each and formed an organization that built a library and made history. I became involved with the college as a donor, not at the very beginning, but some years ago. Concordia's C-400 Club, as it is called now, has over 12,000 members. It has been a glue that brought people back to the college and has involved the entire community.

This college is involved in the community in a way that is really second to none, in my experience. It is just a fine institution. It is an institution that is affiliated with the Lutheran Church, an institution that is of great benefit to not only the northwestern part of our State, but to all of our States. Concordia students come from every sector of this country and from all corners of the Earth.

It has been a special privilege to listen to Dr. Dovre this morning. He spoke, in his prayer, about restoring

nature, and that is what we will do, hopefully, for the rest of the day as we consider the Clean Air Act that is before us here in the Senate.

I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CHANGED THREAT ENVIRONMENT OF THE 1990'S

Mr. NUNN. Mr. President, in his eloquent address to a joint session of Congress last month, Czechoslovak President Vaclav Havel perceptively observed that events in Eastern Europe and the Soviet Union have moved so rapidly that "we have literally no time even to be astonished."

I. INTRODUCTION

As legislators, our responsibilities do not allow us the luxury of waiting for things to slow down before making hard decisions about needed adjustments in our Nation's defense strategy, our defense posture, and our defense budget. The deadlines associated with the budget, authorization, and appropriations process are independent of the dizzying pace of world events, the schedule of elections in Eastern Europe, the dates of party congresses in the Soviet Union, or the pace of unification in Germany.

In remarks to the Senate last week, I discussed five specific shortcomings in the administration's fiscal year 1991 defense budget request and its 5-year defense plan:

First, I described the threat blank;

Second, the strategy blank;

Third, the dollar blank;

Fourth, the force structure blank; and

Fifth, the program blank.

In a speech at the National Press Club delivered shortly after I spoke, Secretary Cheney disputed the existence of some of these blanks. Secretary Cheney also insisted that in designing the defense budget from fiscal years 1992 through 1997, the Defense Department is taking into account the dramatic events in the Kremlin and Eastern Europe of the last year, as well as a number of other assumptions about arms control and the future course of democratization in Europe. I welcome this news.

It is critical to note, however, that Secretary Cheney made no claim that the administration's fiscal year 1991 budget request reflects these assumptions. He made no claim that this year's budget that we are now deliberating reflects these basic assumptions that he now says have been plugged into the review of the 1992 to 1997 budget. I think it is very important for us to understand that. That is a big distinction because our committee and the Senate are going to be asked this year to vote on the 1991 budget. We need to see the longer term to know whether the 1991 budget makes sense, and the 1991 budget itself needs to be based on a new threat assessment and needs to be based on an evolving if not new military strategy.

This is the budget on which we are now required to make decisions. Moreover, the joint military net assessment submitted to the Congress this month does not include as part of its calculations the recent disintegration of the Warsaw Pact—a development of profound significance to the conventional balance in Europe.

I hope the Defense Department will quickly fill in these blanks and submit a new 5-year defense plan, as required by statute. Absent administration decisions concerning our strategy, major programs, and force structure, however, the committee will have to rely on our own best judgments. To arrive at the appropriate level of defense spending we must not simply pull a number out of the air. Rather we must recommend a figure only after analyzing the threat, determining the major changes that should be made in our strategy in light of these changes in the threat, and deciding what force structure and weapons programs we need to carry out this revised strategy.

Mr President, today I will address another step in this process—that of assessing the major changes in the nature of the threat. I want to commend the many expert witnesses who have testified before the committee on this subject over the last 2 months. They gave us much to ponder and made an enormous contribution to our deliberations. Mr. President, I ask unanimous consent to print in the RECORD at the conclusion of my remarks a list of the witnesses who appeared in our series of strategy hearings.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. Mr. President, the principal conclusions I have reached concerning recent changes in the world scene and their implications for the threat environment of the 1990's, based on the testimony we had before our committee plus a large number of other conversations, are as follows:

First, the threat of a large-scale Warsaw Pact attack against Western Europe has virtually been eliminated, and the chances of any Soviet go-it-alone attack across Eastern Europe against the West are very remote.

Since over half of our defense budget has traditionally been spent on forces deployed in Europe, earmarked for the early reinforcement of Europe, or available for later arriving reinforcement, these developments have enormous consequences for the size of defense budgets and our conventional force structure. We must remember, however, that our policy has been one of "if you can skin the cat, you can skin the kitten." We have assumed, in other words, that United States-based forces designated for Europe are also available for non-European contingencies or conflicts. That is a distinction that has been missed many times in the debate so far.

Second, any Soviet effort to reestablish a credible threat of a large-scale conventional attack on NATO would be very difficult and would require a vast and extended mobilization, thereby giving NATO many months of warning time. Since warning time drives strategy and strategy drives the budget, this too is a profound development.

Third, the positive trends we have witnessed at the conventional level are not matched by developments at the strategic nuclear level. Soviet strategic nuclear forces remain the paramount military threat to United States national security.

Fourth, the longstanding danger of unauthorized or accidental use of nuclear weapons has been heightened by the turmoil and tension of the Soviet Union.

That is a subject that I have worked on for years with Senator WARNER from Virginia, who is on the floor. I still believe that is one of our most important and often neglected subjects. I will have more to say about it during the course of these remarks.

Fifth, possible contingencies in and around the Persian Gulf, on the Arabian Peninsula, and in Southwest Asia continue to pose serious risks to United States security interests. Having been driven out of Afghanistan, the Soviet Union will for the next several years not likely pose a credible threat to launch a large-scale invasion in that region to seize Persian Gulf oil resources. However, other threats to Western access to oil resources in the region could emerge, and border conflicts between the Soviet Union and other states and among other states in this region are possible.

Sixth, North Korea continues to pose an invasion threat against our ally, South Korea.

Seventh, the United States faces serious risks, some of which are growing, in other regions and other areas. For example, there is the increasing proliferation into the Third World of weapons of mass destruction and the means of delivering them at long ranges;

there is the danger that large arms reductions in Europe and the Soviet Union will lead to increased arms sales to the Third World by NATO and Warsaw Pact countries; there is the risk of war between India and Pakistan—a war which could turn nuclear; there remains the possibility of another Arab-Israeli war; there is the danger of future instability in China; there are a number of potential instabilities in the Pacific region, Latin America, and Africa; and there is the threat posed by international narcotics trafficking. In each of these cases, the problem is one of managing risks which, if not contained, could develop into direct threats to our national security interests.

II. CHANGES IN THE WARSAW PACT CONVENTIONAL THREAT

Turning to the changes in the Warsaw Pact conventional threat, without question the most profound change in the threats confronting our security in the last year has been the virtual elimination of the threat of a large-scale Warsaw Pact attack against Western Europe. Three separate factors have contributed to this development:

First, the increase in warning time recognized before 1989;

Second, the Soviet and Warsaw Pact unilateral reductions begun in 1989 and scheduled for completion before 1991; and

Third, the disintegration in recent months of the Warsaw Pact as a war-fighting coalition.

In addition, the emerging NATO/Warsaw Pact arms reduction agreement on conventional forces in Europe [CFE] will, if successfully concluded, make the threat of a Soviet attack on Western Europe even more remote.

First, the increase in warning time before 1989.

In the fall of 1989, the committee learned that the U.S. intelligence community had for at least a year believed that NATO would have substantially longer to prepare for a major Warsaw Pact invasion of Western Europe than had previously been assumed. Let me review this chronology:

Last March, an internal Defense Department study concluded that before the developments of 1989 there was "wide agreement within the United States intelligence community that the Soviet forces in Eastern Europe are not now postured for a standing start or short-warning attack against NATO."

In November, this study was obtained by the media and widely quoted in press reports. According to these reports, the study concluded that the intelligence community believed we would have some 33 to 44 days of warning time to respond to Warsaw Pact preparations for an attack, instead of the 10 to 14 days which had been NATO's standard planning assumption for years.

In December, at the committee's first hearing in its series of hearings on strategy, Under Secretary of Defense Paul Wolfowitz confirmed that the conclusions stated in the Defense Department study were consistent with the findings contained in the just-completed version of the national intelligence estimate on warning time [NIE 4-1]. According to Under Secretary Wolfowitz, the intelligence community had concluded that due to the efforts of the United States and its NATO allies over the last 10 years to improve its conventional readiness and capabilities, the Warsaw Pact would "have to take longer to prepare the forces we believe they would think they need for a sustained, successful offensive thrust into Western Europe." At the same hearing, the national intelligence officer for warning, Charles Allen, confirmed that this assessment had evolved before President Gorbachev announced his far-reaching unilateral Soviet conventional force reductions in December 1988 and before the Warsaw Pact began to unravel in late 1989.

Second, unilateral reductions.

In a speech to the United Nations on December 7, 1988, President Gorbachev announced that by 1991, the Soviet Union would unilaterally reduce its armed forces by 500,000 men, 10,000 tanks, 8,500 artillery pieces, and 800 combat aircraft. Phil Karber, a highly respected defense expert, has pointed out that the unilateral Soviet withdrawals from Eastern Europe alone, which include six tank divisions and 5,300 tanks, will be greater than the entire United States 7th Army and 20-percent greater than the most ambitious proposal that NATO ever made in the long and disappointing 14-year history of the mutual and balanced force reduction talks, the predecessor to the current negotiations on conventional forces in Europe, or CFE.

In other words, Gorbachev unilaterally announced a withdrawal larger than anything NATO had offered for 14 years in terms of a mutual reduction.

In addition to these Soviet reductions, other Warsaw Pact nations announced at about the same time unilateral reductions of their own totaling five divisions and 2,700 tanks. Since then the newly democratic Governments of Hungary and Czechoslovakia have announced even deeper unilateral reductions.

In a recent appearance before the House Armed Services Committee, a senior JCS official, Maj. Gen. John Robinson, confirmed that the unilateral Warsaw Pact reductions would have a dramatic impact on warning time. Once the unilateral withdrawals are fully implemented, General Robinson declared that the estimate of warning time contained in NIE 4-1 would have to be increased by "a factor of four or five." In addition, General Robinson acknowledged at the hearing that the 1990 joint military net assessment did not include as part of its calculations the recent disintegration of the Warsaw Pact.

The third point is the disintegration of the Warsaw Pact.

Over the decade of the 1980's, the Soviet Union's allies in Eastern Europe provided almost half of the Warsaw Pact forces deployed in Central Europe on a day-to-day basis. While the probability that the Soviet Union would be supported in an attack on Western Europe by its East-bloc allies was always open to question, NATO could not assume that the Soviets would be denied such support.

In our hearings, the witnesses were unanimous in expressing the view that the Warsaw Pact exists now in name only. As former Secretary of Defense Schlesinger testified:

> How long the Warsaw Pact may survive as a political association is an open question, but its role as a military alliance and a military threat has been largely broken.

Or, as Jean-Michel Boucheron, chairman of the Defense Committee of the French National Assembly, put it in testimony before our committee:

> The Warsaw Pact today is merely occupying troops that are being forced to withdraw under popular pressure.

The evidence of the Warsaw Pact's disintegration is overwhelming:

Non-Communist coalitions have taken power in Poland, Hungary, Czechoslovakia, and East Germany;

President Havel has negotiated an agreement with President Gorbachev for the complete removal of all Soviet forces from Czech soil within a year;

Hungary has also negotiated an agreement with President Gorbachev requiring the complete withdrawal of Soviet forces by next summer, and its Foreign Minister even suggested that Hungary might ask to join NATO;

The East German army has been racked by desertions, strikes, and poor morale and is now, in the words of one NATO official, "devoid of any operational capability;"

Soviet General Chervov has revealed that the Warsaw Pact's military command apparatus would no longer be governed through Communist Party channels, but rather through heads of state or government, thus eliminating the Soviet Union's principal mechanism for direct control of the military forces of its allies.

Assessing the implications for the Soviet Union of these developments within the Warsaw Pact, the Director of Central Intelligence, Judge Webster, told our committee in January that "Moscow is not likely to be confident" of the reliability of its former

allies. Two months later, he told the House Armed Services Committee that the Soviet Union "could not count on" receiving support from these nations in a conflict with NATO. The implications of this development for NATO are very significant.

First, it means that the Soviet Union is extremely unlikely to entertain seriously the idea of a "go-it-alone" attack. The problem for Moscow is not just that it would no longer have the assets of its Warsaw Pact allies in the order of battle. More importantly, its lines of communications and forward logistics staging areas in Eastern Europe would not be secure. In short, a Soviet attack, in James Schlesinger's words, can now only be conceived of an "an act of supreme folly."

As General Soyster, Director of the Defense Intelligence Agency, noted in his appearance before the committee:

> If Moscow judges its allies forces to be unreliable, they would likely be forced now to adopt a defensive posture in the event of a crisis that could lead to war. In light of these developments, I believe the Soviets would consider large-scale theater operations against NATO with only their own forces as highly risky, if not impractical.

Or, as former Assistant Secretary of Defense Richard Perle testified:

> It is simply no longer possible to imagine a cohesive Warsaw Pact, led by Soviet troops, forcing its way through the center of Europe in a massive invasion of NATO territory. The canonical threat against which a defensive NATO alliance has long been poised is no longer credible.

Mr. President, I might note at this point that one of our colleagues, who serves ably as the chairman of our Conventional Forces and Alliance Defense Subcommittee, pointed out this achilles heel of the Soviet conventional threat before it became obvious for the world to see. In a 1988 report entitled "Beyond the Bean Count," Senator LEVIN emphasized the Soviets' lack of confidence in their Warsaw Pact allies, terming this "perhaps the single most significant variable affecting the conventional balance in Europe." Senator LEVIN's report made a valuable contribution to the debate when it was released. I believe that the events of the last year have proven that his conclusions on the unreliability of the Warsaw Pact allies and the implications of that for the conventional balance were perceptive.

Fourth, implications of CFE.

The current NATO/Warsaw Pact conventional balance will be even more significantly altered in NATO's favor if we conclude the emerging CFE agreement. Under this prospective accord, the Soviet Union will be required to demobilize over 300,000 soldiers and destroy tens of thousands of tanks and other weapons systems critical to offensive operations. According to Secretary Cheney, the military services have been directed to assume a successful outcome in CFE as they prepare their portions of the new 5-year defense plan.

At the recent House Armed Services Committee hearing on the 1990 joint military net assessment, General Robinson stated that in post-CFE conditions of parity not only would the warning time be even greater, but NATO actually "does quite well" in terms of who would win the war. Indeed, said General Robinson, the 1990 joint military net assessment reflects a combat outcome in post-CFE conditions of parity so favorable to NATO that it raises the question of why the Soviets "would choose to attack in the first place."

Turning to changes in Soviet naval operations.

Changes in the Soviet conventional threat have not been confined to the European mainland. In September, the Defense Department reported that Soviet naval activity outside home waters had dropped by 15 percent. On February 1, General Powell, Chairman of the JCS, testified that "their fleet out-of-area deployments will continue to decline." A week later, Admiral Kelso, commander in chief of the U.S. Atlantic Command amplified on General Powell's observation:

> The Soviets have decreased out-of-area operations substantially in the last few years. * * * We see very few submarine patrols in the Atlantic any more. They have scaled down the number of forces they have in the Mediterranean, therefore we see fewer transducing back and forth to the Mediterranean. They have reduced their deployments to Cuba. * * * I think they pulled back to support that idea of a defensive doctrine.

At another hearing, Admiral Hardisty, commander in chief of the United States Pacific Command, confirmed decreased operating tempos by the Soviet Navy in the Pacific, as well as their pull-back of various units from forward deployments in the region, including at Cam Rahn Bay in Vietnam.

Mr. President, I think it is important for us to understand that all of this does not mean the Soviet Union does not have continuing strengths. They do.

None of this is to suggest that the Soviet Union has or soon will be demoted from the superpower ranks in terms of its conventional forces. The Soviet armies which will remain deployed in the Western Military Districts of the U.S.S.R. even after all CFE reductions are carried out will still dwarf those of any other army in Europe and will constitute a force many times more formidable than the army which Adolf Hitler threw against the low countries in 1941.

Moreover, although Soviet tank production has been cut in half, the Soviets will still turn out twice as many tanks each year as the United States. Soviet defense spending finally appears to be headed downward, but it is starting from a remarkably high level.

The Director of Naval Intelligence, Rear Admiral Brooks, recently pointed out that Soviet production of new submarines, measured in tonnage, was greater last year than any year since 1980, and its production in 1989 of surface combatants, again measured in tonnage, exceeded that of any year in more than 20 years. The Soviet Navy has adopted a more defensively oriented posture, but we should remember that those ships could again sail in the open oceans after some preparation. In contrast to the extraordinary diminution in the conventional threat in Central Europe, recent changes in the Soviet naval threat, while significant, are far less dramatic and much easier to reverse.

What does all this mean?

In assessing the implications of these continuing Soviet military strengths, it is critically important to distinguish between, on the one hand, conventional forces which are prepositioned and poised for immediate offensive operations against NATO, and, on the other, conventional military power which, absent large-scale mobilization and forward deployments, does not pose an offensive threat to Western security. Since Soviet conventional power seems to be moving steadily in the direction of the latter status, we must address the question of the likelihood that it might reverse course back toward the former condition.

That gets to the all-important question of reversibility.

G. REVERSIBILITY OF CURRENT TRENDS

In recent weeks, an important fault line has developed within the administration on the critical question of the reversibility of current downward trends in the Soviet threat. Testifying in his capacity as the head of the U.S. intelligence community, CIA Director Webster told the House Armed Services Committee on March 1 that the dramatic changes in the Warsaw Pact threat to NATO "will be increasingly difficult to reverse." Furthermore, said the CIA Director:

> Even if a hardline regime were able to retain power in Moscow, it would have little incentive to engage in major confrontations with the United States. New leaders would be largely preoccupied with the country's urgent domestic problems, and would be unlikely to indulge in a major military buildup.

Appearing before another House committee on that same day, Secretary Cheney testified that a future Soviet regime "could reverse military course decisively." This statement was consistent with the views the Secretary expressed in the annual report which he submitted to our committee on February 1, particularly his assertion that, quoting again from Secretary Cheney:

Soviet policy declarations reflect changes in Soviet intentions, but they are only just beginning to be implemented and are still *relatively easy* to reverse.

Secretary Cheney stated during a television interview a few days later that he wished the Director of Central Intelligence had shown more restraint in stating his views and that his testimony was not helpful to the President's policies.

Mr. President, I was privileged to serve with Senator Symington, Senator Stennis, Senator Jackson, and a number of other legislators who were instrumental in establishing the CIA. One of the fundamental reasons for wanting an independent assessment was to ensure that we heard the frank and candid views from our intelligence community, even if they differed from the prevailing policy of the time or the official position of any particular administration. The strength of the CIA is that since it is not pushing a particular program, policy, or weapons system, it can and must be objective and candid. If CIA Director Webster were not to give his independent view, that would be the quickest way I know of to destroy the credibility of the intelligence community, and in the long run to work against the national security interests of the United States.

The testimony before our committee strongly indicates that CIA Director Webster's assessment is closer to the mark than Secretary Cheney's. As Jim Schlesinger told our committee:

The lines of force that have governed international relations in the postwar period have now been *permanently* altered. To proceed as if transformation had not occurred would ultimately be self-defeating.

H. MAINTAINING CONVENTIONAL DETERRENCE

In the long run, only history can fully determine the correctness of these conclusions. In terms of our defense planning and our defense posture, though, the critical point is this: Even if one deems it necessary to hedge against the possibility, however remote, of a re-establishment of a Soviet invasion threat against Western Europe, it does not necessarily follow that the appropriate precaution is to maintain huge American standing armies on guard in Europe.

Test pilots talk of turning inside your opponent when they speak of one aircraft's capability to outmaneuver another. I believe a similar standard should now serve as NATO's measure for judging the adequacy of its defense posture. We can not determine as an absolute matter whether the greatly diminished Soviet threat is reversible. This is a highly subjective judgment of intentions.

NATO's criterion should be whether the alliance is capable of maintaining deterrence at lower levels and mobilizing and rebuilding to higher levels in time should a Soviet buildup being.

In short, it is a question of the West mobilizing faster than the enemy can get ready for war. This, to me, has got to be the future measure of the adequacy of our future conventional forces and conventional posture. This requires a different concept of warning time—that is, warning that the Russian bear is no longer hibernating but is emerging from his den.

I. IMPLICATIONS OF INSTABILITY

There are many implications of the instability that we see every day in Europe. As recent events in Lithuania have demonstrated, the possibilities for instability are manifold as Eastern Europe and the Soviet Union move into the uncharted waters of resurgent democracy.

I said back in September of last year we must plan for and expect some steps backwards. If we do not, we are naive and we ignore history.

The risk of armed Soviet intervention into Lithuania requires forceful and skillful diplomacy by the NATO Alliance. It requires in some cases quiet but very firm diplomacy. I hope and trust that that is going on.

President Gorbachev must understand that such an action would undermine the basis for Western assistance to his program of perestroika. President Bush should carefully consider Senator MOYNIHAN's suggestion of requesting United Nations and World Court of Justice assistance in resolving this dangerous confrontation peacefully.

There are a number of other disturbing scenarios that could unfold and thus require close Western attention and consultation. Four hundred years of European history suggest that future tensions are likely, if not inevitable. These could include the possible breakup of Yugoslavia, with attendant difficulties for relations between Bulgaria and Turkey, an escalation in the disputes we are seeing between hungary and Romania over the large ethnic minority of Hungarians inside Romania, tensions between Poland and Germany over border issues, or other secession efforts by various Soviet republics.

In light of these potential instabilities, caution and prudence are clearly in order as we build down our military presence. American troops in Europe can and should play a stabilizing role during this period of transition. It would be wrong, however, to assume that United States or NATO combat forces are an appropriate instrument to deal directly with instabilities or crises in Eastern Europe, much less the Soviet Union. NATO has never been designed or equipped for such purposes—politically or militarily.

As a result of the triumph of democracy in Eastern Europe, the Warsaw Pact is now unsuited for coordinated action in such contingencies. And, as was demonstrated during the fighting in Romania, the Soviet Union at this stage, is unlikely to dispatch the Red army to suppress regional or ethnic hostilities outside its borders or to use such instability as a pretext for reestablishing a forward-based offensive posture against NATO.

That does not mean that NATO should sit idly on the sidelines. Our objective should be to anticipate such flareups and to attempt to prevent them from getting out of hand. Our challenge is to put in place effective mechanisms for risk management to ensure that prospective instabilities do not end up overturning the recent gains for democracy in Europe. The events in Lithuania should give urgency to our efforts to establish mechanisms now that might prevent such a reversal.

This leads one to ask what multilateral or international organization could perform such a peacekeeping function? Could the CSCE or the European Economic Community evolve in this direction? Or is this more appropriately a function of the United Nations? This difficult but important issue must be thought through carefully by the United States and its allies, and in the case of Lithuania, quickly.

III. CHANGES IN SOVIET STRATEGIC THREAT

A. IMPROVEMENTS IN CAPABILITIES

Turning to the Soviet strategic threat, in contrast to the momentous reductions in the Soviet conventional threat, Soviet modernization of its strategic nuclear forces has tended to continue apace. As CIA Director Webster informed our committee:

The bulk of the evidence about Soviet strategic forces and programs shows a vigorous, broad-based modernization effort that is improving their overall strategic capabilities.

Ongoing deployment programs include three ICBM types, two of which are mobile, two nuclear-powered ballistic missile submarines armed with new types of MIRV'd SLBM's, and two new strategic bombers. In addition, the Soviets continue to invest heavily in strategic defensive forces, included large-scale expenditures in the area of ballistic missile defense.

It is indeed troubling, if not inexplicable, that notwithstanding the political and economic crises affecting the Soviet Union, the modernization of Soviet strategic forces remain relatively unimpaired. The Soviet strategic program is a matter of continued serious concern, and it continues to represent the paramount military threat to United States national security.

Nonetheless, in characterizing Soviet strategic programs the administration has tended to overstate its case. For example, Secretary Cheney has repeatedly stated that there has been no change in Soviet strategic nuclear forces. He has also stated that the

only change we see see in Soviet strategic programs is an improvement in their capability.

In contrast, CIA Director Webster testified before the committee in January that:

Important changes *have occurred* in the strategic arena. Last year for the first time there was a reduction in the number of Soviet strategic launchers as older systems were retired more rapidly than new ones were introduced START force levels have become the baseline for Soviet strategic planning, and new Soviet programs have been altered accordingly.

CIA Director Webster also testified that U.S. intelligence had detected a cutback in the Blackjack bomber production "that goes beyond what is required by START." Two other recent positive developments at the strategic level that were not mentioned by Director Webster are the cessation by the Soviets of Yankee-class SSBN patrols off our coasts and the halting of nuclear-armed Bear-H bomber patrols to the north of Canada.

In years past, the briefings conducted by the intelligence community featured charts on Soviet strategic nuclear weapons showing curves climbing dramatically higher in the "non-START-constrained" scenario. The assumption then was that in the absence of arms control, the Soviets would face virtually no bounds in turning out even higher numbers of launchers and warheads. Now, we are seeing a different trend. As CIA Director Webster confirmed in his testimony, the Soviets are beginning to throttle back in their strategic production in anticipation of the early successful conclusion of START.

However, Soviet strategic forces are still massive—and will remain so even if all reductions under START are fully achieved. In fact, the much-touted 50-percent cut in START will actually turn out to be more on the order of 30 to 35 percent. Under most projections, the Soviet Union can retain a force of upwards of 9,000 strategic nuclear bombs and warheads under START. The United States will be allowed by the treaty and should retain a comparable inventory.

C. RELATIONSHIP BETWEEN CONVENTIONAL AND STRATEGIC THREAT

There is a relationship, Mr. President, between the conventional threat diminishing and the strategic threat, and I think it is an important relationship.

The decrease in the Soviet conventional threat holds important implications for the Soviet strategic threat. Since the possibility of a Soviet "bolt from the blue" strategic nuclear attack can never be ruled out, an important part of our strategic deterrent must be designed to deter such an attack, however remote. However, most analysts have long thought that a strategic nuclear exchange would be far more likely as the outgrowth of a conventional war, particularly in Europe, which escalated to the nuclear level. As the likelihood of a conventional war in Europe has significantly decreased, a nuclear war originating from escalation of a European conflict has also significantly diminished. As General Robinson testified, "The risk of nuclear deterrence failing is assessed as decreasing."

Turning to Soviet motivations, the Soviet economic crisis clearly affects Moscow's thinking about military conflict and military spending. President Gorbachev's unilateral military cuts, his intention to cut Soviet defense expenditures, his emphasis on conversion of military to civilian production all point in this direction.

As Richard Perle, testified:

[T]he Soviet ability to continue to grind out strategic weapons mindlessly as it faces economic collapse is not a threat to be regarded with the seriousness with which we had to take it ten years ago.* * * [W]ith every passing month the pressure on the Soviet leadership to reduce these weapons unilaterally even increases.

Glasnost and perestroika have inevitably begun to affect Soviet attitudes toward the use of force outside its borders. This has been underscored by popular Soviet resentment over the war in Afghanistan, by the growing interest of Soviet legislators in exercising oversight of military and intelligence operations, and by growing indications of the deterioration of some components of the Soviet military. These trends cannot but help to have implications in terms of greater Soviet awareness at the societal level of the consequences of nuclear war.

Turning to the subject that I alluded to earlier, control of nuclear weapons. Even before the recent turmoil in the Soviet Union, one of the most important concerns I have had was that some of the tens of thousands of Soviet nuclear weapons could fall into the wrong hands or be launched by accident. As I have read reports of the ethnic unrest in Azerbaijan and elsewhere in the Soviet Union, my concern has been heightened.

If nationalists or terrorists overran a Soviet nuclear storage site in one of the republics, how would we react and how would the Soviets react? Is there any mechanism for the superpowers to coordinate their actions? Have we thought through the problem of how we could respond to nuclear blackmail by a terrorist group with a nuclear bomb in an American city? What would each side do if there were an unexplained nuclear detonation at a site in the Soviet Union? Who would the Soviets suspect, and how would they react, particularly in a time of turmoil and crisis internally?

I have also long felt that our methods and procedures in handling our nuclear weapons need periodic thorough reviews by qualified experts who are not part of the nuclear chain of command, an outside professional, knowledgeable review. For these reasons, I believe we should encourage the Soviets to join with us in conducting separate but parallel top-to-bottom reviews of our positive control and fail-safe mechanisms. I have met with General Powell and the service chiefs on this subject and look forward to working closely with Secretary Cheney, General Powell, and the Department of Defense as we pursue this matter further. The Senate Armed Services Committee plans to review this area in the months ahead.

I cannot think of a more meaningful arms control agreement than a simple one-page letter on the part of President Bush and President Gorbachev that would say, "We are each going to review internally and separately our own nuclear chain of command and all of our failsafe mechanisms." To me that would be more important than many of the arms control deliberations now underway.

An important step in the mutual interest of the United States and the Soviet Union would be to utilize the nuclear risk reduction centers to conduct a dialog about how the two nations would handle such contingencies to avoid an inadvertent nuclear war. We must prevent the lethal combination of nuclear weapons and terrorism. It is clearly in the mutual interest of both superpowers to first prevent and second deal jointly with nuclear terrorism if, God forbid, it ever occurs.

Turning to regional threats, although the dramatic events in Eastern Europe and the Soviet Union have commanded center stage over much of the last year, we must assess the status of threats to United States and allied security in other regions of the world. Foremost among these is the threat of hostilities in the Persian Gulf or elsewhere in the Middle East.

A. PERSIAN GULF

Secure Western access to Persian Gulf oil resources has been a U.S. priority since enunciation of the Carter doctrine in 1980. Today, the economies of Western Europe and Japan remain critically dependent on this oil, and regrettably dependence by the United States has been growing in recent years.

In 1989, U.S. domestic oil production registered its steepest 1-year decline in history, and U.S. petroleum imports rose to a 10-year high. CIA Director Webster testified that by the year 2000, the Persian Gulf will provide 40 percent of the oil used by the United States and its allies, compared to 30 percent today. U.S. dependence on oil from this region will rise to 25 percent, compared to 10 percent today and 5 percent in 1973, when the West was faced with the oil embargo.

For a decade, U.S. policy has required our armed services to develop, train, and equip forces capable of ensuring Western access to these oil resources. U.S. planning under the Carter doctrine has focused on two separate contingencies: The first, an attempt by any indigenous nation, such as Iran, to block the sea-lanes along which travel the tankers carrying oil to the West; and second, a Soviet move into the region to seize oil fields.

From July 1987 until September 1988, we successfully dealt with the first contingency by deploying 16,000 servicemen and scores of naval combatants to escort tankers navigating the gulf under the threat of Iranian mines, torpedo boats and antiship missiles. While a state of truce currently exists between Iran and Iraq, the root causes of that war have not even begun to be resolved. Hostilities could once more flare up, again threatening Western access to these vital resources and necessitating a coordinated allied military response.

In terms of military requirements, however, the second contingency—that of a Soviet move against Iran or the oil-producing countries of the gulf to seize oil resources—has posed far more daunting challenges to U.S. planners. For example, as conceived in the early 1980's, the Rapid Deployment Force [RDF] envisioned up to 200,000 troops and several carrier battle groups moving to the region to attempt to halt any Soviet invasion of Iran at the Zagros Mountain area. The United States has never acquired capabilities sufficient to implement this strategy, but we have aimed in that direction.

It was, therefore, with particular interest that the committee this year examined the question of this administration's planning assumptions with regard to this threat.

At a recent hearing before our committee, General Schwarzkopf, commander in chief of the Central Command, testified that he had changed "what I considered an unrealistic strategy to a far more realistic strategy."

This, too, has profound implications.

General Schwartzkopf provided this elaboration:

> Given what had happened in Afghanistan, given what was happening all over the world, it just did not seem likely that the Soviet Union would be invading Iran any time while I was in the position of CINCCENT, or perhaps a few years after that. So I looked very hard at that situation and made a decision that I felt the real threat we would have to face over there in the near term, not the long term but the near term, was going to be one of these regional conflicts overflowing its boundaries, just like happened in the Iran-Iraq war.

I agree with General Schwartzkopf that for the next several years the threat of the Soviet Union moving into the Middle East or the Persian Gulf region to seize oil fields is of such low likelihood that it should not be the focus of our military planning. I also believe that it makes no sense to imagine that the fundamentalist Moslem regime in Teheran would ask America to intervene with tens of thousands of troops or that the American people would support our doing so even if a future President were so disposed. As a result, I agree that our strategy for Southwest Asia should now be focused on scenarios requiring fewer forces and material.

B. OTHER MIDDLE EAST THREATS

That is not to say, of course, that U.S. military force may not be required in the Middle East region. Despite decades of American diplomatic efforts to help the nations of the region conclude an enduring peace, the Arab/Israeli confrontation could at any time again escalate into open, large-scale warfare. New indigenous threats to Western access to Persian Gulf oil could emerge. Terrorist contingencies remain an ever-present danger throughout the region and elsewhere.

Tensions in this region have also been exacerbated not only by the growing proliferation of chemical weapons but also of the means of delivering them at great ranges. At our January 23 hearing, CIA Director Webster testified that by the year 2000, at least six Third World countries probably will have missiles with ranges up to 5,500 kilometers. The horrors of chemical weapons use was vividly illustrated during the Iran-Iraq war. More recently, the potential for hostilities associated with chemical weapons was highlighted in Libya.

Before the recent fire, United States intelligence confirmed that the Libyan facility at Rabta had begun actual production of chemical weapons. Presidential spokesman Marlin Fitzwater stated that the administration would not have ruled out the use of military force as one option for halting this activity. This and other plausible scenarios in the region might well require U.S. military intervention using appropriately tailored contingency forces.

C. NORTH KOREA

In Asia, the foremost regional security threat remains North Korea. The invasion tunnel discovered recently under the DMZ and the reports of North Korea efforts in the nuclear area are stark reminders of that regime's hostile intent. While the announced transfer of power from Kim Il Sung to his son may provide an opportunity for progress toward rapproachment, it may also be a catalyst for greater instability.

To meet this threat, South Korea has developed a large, modern military that has advanced with the country's growing economy and national budget. As far as the future is concerned, I believe that South Korea enjoys long-term advantages that will enable it to continue military improvements and continue to deter aggression. For example, its total population is twice as large as that of North Korea, and its gross national product is about six times larger. South Korea's total trade turnover in 1987 amounted to about $87 billion, which is almost 22 times larger than that of North Korea.

These structural advantages now make it possible for the United States to reassess the future of its military presence in South Korea. The Armed Services Committee initiated this review last year—Senator WARNER and I, Senator MCCAIN and others—by directing the President to report to the Congress by April 1 on changes that could be made in coordination with South Korea that would enable it to assume a greater role in its own defense, in addition to offsetting substantially United States costs associated with our Korean deployment.

We are about to receive a report on that subject from the Department of Defense and I am hopeful that the report will point the way toward a U.S. force structure that will be more oriented toward tactical air power, fire power, and intelligence roles. I will have more to say about that in the future.

D. PACIFIC REGION

In contrast to the direct threat posed by North Korea to our vital security interests on the Korean Peninsula, a survey of the Pacific region reveals a number of continuing risks which, if not adequately managed, could in time threaten important United States interests. There is the risk of massive instability in the world's most populous nation, China, as its repressive Government continues to resist the yearning of its people for reform. There is the risk represented in the continuing unresolved status of Taiwan. There are the risks attendant in the Chinese takeover of Hong Kong. There are the risks inherent in the unsettled situation in Cambodia. There is the risk of Sino-Soviet hostilities over border issues, although that risk is being reduced. Of course, there is instability in the Philippines and from time to time in Indonesia. And there is the risk of Japanese-Soviet tensions over the northern islands, although I hope that will also diminish.

E. LATIN AMERICA

With the successful conclusion of Operation Just Cause in Panama and the election of a democratic government in Nicaragua, the threat to peace in Central America has diminished. The restoration of democracy in those countries is only just beginning, however, and a great deal of effort and nuturing, including economic assistance will be required.

The ongoing struggles against narcotics traffickers and Marxist and other insurgencies in the Andean region still pose a major problem to democratic regimes. Ninety percent of the cocaine that reaches the United States comes from coca grown in Bolivia and Peru and processed in Colombia. Opposing forces there not only present a persistent military or paramilitary threat, they pose a substantial threat to the economic, political, and social well-being of the countries involved. These conflicts also compound our difficulty in encouraging the local police and military to fight the drug war.

El Salvador is beset not only by a violent leftist insurgency but also, as is often common in such situations, human rights violations from the right.

Cuba stands out as the odd man out in our hemisphere. Like Kim Il-Sung in Korea, Castro condemns the emergence of democracies throughout the globe and clings desperately to Marxism. Cuba, moreover, still is virtually unchanged and there are no signs that Castro has any intention of abandoning his effort to export Marxism and armed revolution in our hemisphere.

Economic instability and the drug trade in the region require our urgent attention. The United States must carefully craft a trade policy that will facilitate legitimate exports of the Andean nations and we must play a leading role in organizing an international effort to ease the Andean nations' debt problems. U.S. military assets are not directly relevant to the economic situation. The appropriate role for the U.S. military in drug source countries is to provide communications, training, and logistical support to host nation forces and to U.S. law enforcement agencies in source countries. Additionally, the U.S. military does have a significant detection and monitoring mission to perform in conjunction with U.S. Federal and local law enforcement agencies to interdict the flow of drugs into America. And the National Guard, while under State control, continues to have a major role in the fight against drugs.

V. ECONOMIC COMPONENT OF SECURITY

Mr. President, to this point I have stressed national security as narrowly defined by direct military threats and other regional and global risks. There is, however, another critical dimension to this review of the threats to our national security. That is the economic component of national security. This threat assumes many forms.

There is the genuine threat that if we do not get our fiscal house in order, we may well be paying such a bill on our staggering national debt that we will simply not have sufficient funds remaining to provide for the common defense and our nondefense needs. Testifying on our staggering national debt earlier this month, the Comptroller General, Charles Bowsher, said:

> If we continue along this same path, we can expect the national debt to increase to $4.5 trillion by fiscal year 1995. A debt of this magnitude would require annual interest payments of over $335 billion and would represent the largest single item in the Federal budget.

The interest payments on the $3 trillion debt we have already accumulated—$2 trillion of which was added just in the last 10 years—are increasing by $15 billion a year. Unless there are radical changes in fiscal policy, the savings in defense we are able to make will be largely consumed by the increased interest payments required to service a Federal debt that, according to CBO projections, will grow by 8 percent a year for the next 5 years. And this estimate assumes interest rates will fall steadily over the next 5 years—an assumption few outside experts support.

Suffice it to say the largest I have heard anybody talk about cutting defense outlays this year is about $15 billion. Interestingly enough, the interest on our national debt goes up approximately $15 billion this year, that is just the interest on the debt, and just the increase.

There is also the all-too-clear recognition that due to our fiscal woes, we are simply failing to respond with an appropriate level of assistance to the newly restored democracies in Eastern Europe and Central America. President Vaclav Havel told us: "The millions you give to the East today will soon return to you in the form of billions in savings."

If we can find neither the resources nor the political will to free up those millions, we will indeed have missed a historic opportunity to secure the peace and to avoid billions in defense expenditures and more importantly to avoid young Americans dying on the battlefields of tomorrow.

As we look to the year 2000, we can envision a range of other global factors which will bear on our national security and well-being. These include threats to the world's environment, Third World debt, overpopulation, poverty, and despair, the particular threats posed by radical Moslem fundamentalism, and the growing competitiveness of other industrialized nations. To improve United States competitiveness against the new economic superpowers such as Japan and Germany will require major investments at home—in our decaying infrastructure; in the education of tomorrow's workers, especially in math and the sciences; and in arresting the decline of savings and investments in industrial productivity and in reducing the high cost of capital to United States business.

VI. CONCLUSION

Mr. President, in presenting this threat assessment I do not want to imply that the diminishing likelihood of direct East-West military conflict necessarily means that the world is going to become tranquil and peaceful. I hope that it will. But neither past history nor current events provide grounds for unbridled optimism.

Nationalism, for centuries the traditional cause of international conflict, is likely to reassert itself as the international order moves away from superpower confrontation and toward multipolar distribution of power and influence. During the postwar period of confrontation, nationalistic tensions were largely suppressed in Eastern Europe and the Soviet Union. Today we see sharp ethnic conflicts and tragic bloodshed in many corners of the world.

In looking to the decade ahead, our challenge is to distinguish between threats and risks. We must recognize and counter the continuing threats that still directly challenge our vital interests—and by that I mean those interests we are prepared to send our soldiers to die for. At the same time, we and our allies must manage regional or global risks which, if left unaddressed, could threaten important U.S. interests.

An up-to-date threat assessment is a condition precedent to addressing the critical question of "how much is enough?" How much is enough to deter or defend against these threats and protect our security interests? To answer this question, we cannot simply take our lead from opinion polls. We cannot simply grab a number out of the air. Nor can we necessarily rely on past policies or historical precedents. There is no precedent for the collapse of communism. Nor can we ask the American people to pay for a defense posture that is based on yesterday's threat. Our assessments must be based on today's realities and not yesterday's stereotypes.

Our strategy must be revised to reflect the changed threat environment. We must then determine what forces and what level of defense spending are required to implement our revised strategy.

Mr. President, I intend to address these issues in future speeches.

EXHIBIT 1

THREAT AND STRATEGY HEARINGS BEFORE THE SENATE ARMED SERVICES COMMITTEE

TUESDAY, DECEMBER 12, 1989

The Committee met in open session in Room SH216, to review recent studies of warning time in Europe and the process by which the Defense Department revises threat estimates, defense strategy and budgets.

Witnesses: Hon. Paul D. Wolfowitz, Under Secretary of Defense for Policy; Lt. Gen. Lee Butler, USAF J-5, Joint Chiefs of Staff;

Mr. Charles Allen, National Intelligence Officer, Warning, Central Intelligence Agency.

TUESDAY, JANUARY 23, 1990

The Committee met in open session in Room SH216, to receive testimony on the changing nature of the threat facing the United States and its allies.

Witnesses: Hon. William H. Webster, Director, Central Intelligence Agency; Lt. Gen. Harry E. Soyster, USA Director, Defense Intelligence Agency; Brig. Gen. Richard J. O'Lear, USAF Director of Intelligence, U.S. European Command.

The Committee met in top secret-codeword session in Room SH 219, and continued to receive testimony as indicated above. In addition to the witnesses listed above, the following also testified.

Witnesses: Dr. Larry Gershwin, Central Intelligence Agency; Brig. Gen. David Armstrong, USA National Intelligence Officer for General Purpose Forces, Central Intelligence Agency; Mr. Arthur Zuehke, Defense Intelligence Officer on Soviet Union and East Europe, Defense Intelligence Agency.

WEDNESDAY, JANUARY 24, 1990

The Committee met in open session in Room SH 216, to receive testimony on changes in the Soviet threat.

Witnesses: Mr. Phillip A. Karber, Senior Vice President for National Security Programs, the BDM Corp.; Mr. Richard Perle, Resident Fellow, American Enterprise Institute; Dr. Edward L. Warner III, Senior Defense Analyst, the Rand Corp.

THURSDAY, JANUARY 25, 1990

The Committee met in open session in Room SH 216, to receive testimony on allied perceptions of the Soviet threat.

Witnesses: Dr. Karl Kaiser, Director, Research Institute for the German Society for Foreign Affairs; Ambassador Francois de Rose (Ret.), Former French Permanent Representative to NATO; Dr. Masashi Nishihara, Professor of International Relations, National Defense Academy of Japan; Malcolm Mackintesh, Senior Fellow, International Institute for Strategic Studies.

FRIDAY, JANUARY 26, 1990

The Committee met in open session in Room SR232A, to receive testimony from the Sub-Committee on Defence Co-Operation of the North Atlantic Assembly.

Witnesses: Hon. William V. Roth, Jr., U.S. Senator, Delaware; Mr. Patrick Duffy, United Kingdom President, North Atlantic Assembly and M.P., United Kingdom; Mr. Karsten Voigt, Federal Republic of Germany Chairman, Military Committee, North Atlantic Assembly and M.P., Federal Republic of Germany; Mr. Peter Petersen, Federal Republic of Germany Chairman, Sub-Committee on Defence Cooperation North Atlantic Assembly and M.P., Federal Republic of Germany; Mr. Jean-Michel Boucheron, M.P., France; Mr. Geoffrey Johnson Smith, M.P., United Kingdom; Mr. Michael Jopling, M.P., United Kingdom; Mr. Rodrigo de Rato, M.P., Spain; Mr. Thijs van Vlijmen, M.P., Netherlands; Mr. Zeki Yavuzturk, M.P., Turkey.

TUESDAY, JANUARY 30, 1990

The Committee met in open session in Room SR 222, to receive testimony on the implications of changes in the Soviet Union and Eastern Europe for western security.

Witnesses: Dr. James R. Schlesinger, former Secretary of Defense, Secretary of Energy and Director, Central Intelligence Agency.

THURSDAY, FEBRUARY 1, 1990

The Committee met in open session in Room SH 216, to receive testimony on the Amended Defense Authorization Request for Fiscal Year 1991 and the Five Year Defense Plan and to receive a net assessment from the Chairman, Joint Chiefs of Staff.

Witnesses: Hon. Richard B. Cheney, Secretary of Defense; Gen. Colin L. Powell, USA Chairman, Joint Chiefs of Staff.

FRIDAY, FEBRUARY 2, 1990

The Committee met in open session in Room SH 216, to continue to receive testimony on the implications of changes in the Soviet Union and Eastern Europe for western security.

Witnesses: Adm. William J. Crowe, Jr., USN (Ret.) former Chairman, Joint Chiefs of Staff; Gen. David C. Jones, USAF (Ret.) former Chairman, Joint Chiefs of Staff; Gen. John W. Vessey, Jr., USA (Ret.) former Chairman, Joint Chiefs of Staff.

TUESDAY, FEBRUARY 6, 1990

The Committee met in open session in Room SR 222, to continue to receive testimony on the implications of changes in the Soviet Union and Eastern Europe for western security.

Witnesses: Dr. Harold Brown, former Secretary of Defense.

WEDNESDAY, FEBRUARY 7, 1990

The Committee met in open session in Room SH 216, to receive testimony on the military strategy and operations requirements for NATO defense.

Witnesses: Gen. John R. Galvin, USA Commander in Chief, U.S. European Command; Adm. Frank B. Kelso II, USN Commander in Chief, U.S. Atlantic Command.

THURSDAY, FEBRUARY 8, 1990

The Committee met in open session in Room SH 216, to receive testimony on the military strategy and operations requirements of commands oriented to Pacific defense.

Witnesses: Adm. Huntington Hardisty, USN Commander in Chief, U.S. Pacific Command; Gen. Louis C. Menetrey, USAR Commander, U.S. Forces, Korea.

THURSDAY, FEBRUARY 8, 1990

The Committee met in open session in Room SH 216, to receive testimony on the military strategy and operation requirements of the unified commands oriented to Third World defense and unconventional warfare.

Witnesses: Gen. James J. Lindsay, USA Commander in Chief, U.S. Special Operations Command; Gen. H. Norman Schwarzkopf, USA Commander in Chief, U.S. Central Command; Gen. Maxwell R. Thurman, USA Commander in Chief, U.S. Southern Command.

WEDNESDAY, FEBRUARY 21, 1990

The Committee met in open session in Room SR 222, to receive testimony on the military strategy and operational requirements for rapid reinforcement and associated transportation requirements.

Witnesses: Gen. Edwin H. Burba, Jr., USA Commander in Chief, U.S. Forces Command; Gen. Hansford T. Johnson, USAF Commander in Chief, U.S. Transportation Command.

THURSDAY, FEBRUARY 22, 1990

The committee met in open session in Room SR 222, to continue to receive testimony on the implications of changes in the Soviet Union and Eastern Europe for western security.

Witnesses: Hon. Frank Carlucci, former Secretary of Defense.

TUESDAY, FEBRUARY 27, 1990

The Committee met in open session in Room SR 253, to receive testimony on the Amended Defense Authorization Request for Fiscal Year 1991 and on the Fiscal Years 1991-1995 Five Year Defense Plan.

Witnesses: Hon. Michael P.W. Stone, Secretary of the Army; Hon. H. Lawrence Garrett III, Secretary of the Navy; Hon. Donald B. Rice, Secretary of the Air Force.

WEDNESDAY, FEBRUARY 28, 1990

The Committee met in open session in Room SD 106, to receive testimony on the Amended Defense Authorization Request for Fiscal Year 1991 and on the Fiscal Years 1991-1995 Five Year Defense Plan.

Witnesses: Gen. Carl E. Vuono, USA, Chief of Staff, U.S. Army; Adm. Carlisle A.H. Trost, USN, Chief of Naval Operations; Gen. Alfred M. Gray, Jr., USMC, Commandant of the Marine Corps; Gen. Larry D. Welch, USAF, Chief of Staff, U.S. Air Force.

THURSDAY, MARCH 1, 1990

The Committee met in open session in Room SD 192, to receive testimony on the Fiscal Year 1991 Budget, the Five Year Defense Plan and recommendations to improve the efficiency of Defense Department operations.

Witnesses: Hon. Charles A. Bowsher, Comptroller General, U.S. General Accounting Office.

WEDNESDAY, MARCH 7, 1990

The Committee met in open session in Room SR 222, to receive testimony on operational requirements and military strategies for strategic forces.

Witnesses: Gen. John T. Chain, USAF, Commander in Chief, Strategic Air Command; Gen. John L. Piotrowski, USAF, Commander in Chief, U.S. Space Command.

Mr. NUNN. I yield the floor. I thank my colleagues.

(During the preceding remarks; the following colloquy occurred, which at the request of Mr. NUNN, appears at this point.)

Mr. NUNN. Mr. President, I ask unanimous consent that I have an additional 10 minutes.

Mr. COATS. Mr. President, reserving the right to object, I ask a question here because I do not quite understand the procedure. I certainly do not want to raise an objection to a unanimous-consent request for additional time.

My understanding, though, is that the Byrd amendment, which is the next pending business, is allocated under a time limitation, and that time has been allocated to various Members to speak for or against that particular amendment.

I am wondering if the unanimous-consent request would include an extension of time for discussion under the Byrd amendment, so that all of those who——

Mr. NUNN. Mr. President, I cannot do that. I withdraw the request and yield the floor.

Mr. WARNER. Mr. President, in the absence——

The PRESIDING OFFICER. The Chair advises that the period for morning business has expired.

Mr. WARNER. Mr. President, first I ask will the Chair inform the Senate as to the standing orders issued by the leaders?

The PRESIDING OFFICER. Under the previous order, the Senate is scheduled to resume consideration of the clean air bill at 10 a.m. There will be 5 hours of debate equally divided.

Mr. WARNER. Mr. President, I regret to say this Senator was unable to hear with the clarity I desire what the Chair stated. Could the Chair restate the order.

The ACTING PRESIDENT pro tempore. At 10 a.m. there are 5 hours of debate under the Byrd amendment, equally divided, with the vote scheduled for 3 p.m.

Mr. WARNER. Mr. President, I wonder if we might resolve this in a manner to accommodate all interests here. Would the Chair inform the Senate as to what time the hour of morning business was to conclude?

The ACTING PRESIDENT pro tempore. At 10 a.m.

Mr. WARNER. Was there not an allowance made for the leader for some time within this period?

The ACTING PRESIDENT pro tempore. The time of the Republican leader was reserved under the previous order.

Mr. WARNER. Mr. President, I propound the unanimous-consent request that the hour for morning business be extended, say, 15 minutes, with 10 minutes being accorded the senior Senator from Georgia and 5 minutes to be accorded the Senator from Virginia.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. LEVIN. Reserving the right to object, I am wondering whether it is possible, first of all, to clear that with the persons involved in the clean air debate to make sure that they are protected; second, if they have no objection, whether I might also have 5 minutes.

Mr. WARNER. Mr. President, it seems to me at this time we might suggest the absence of a quorum for the purpose of allowing the leadership to help those of us there on the floor resolved in a manner to allow the chairman of the Armed Services Committee to continue for a few minutes and for other Senators who wish to address remarks with the chairman to have a few minutes.

The ACTING PRESIDENT pro tempore. A unanimous-consent request is pending. Does the Senator withdraw his unanimous consent?

Mr. WARNER. The Senator from Virginia withdraws that unanimous-consent request and also puts another one, that the Senator from Virginia be allowed to put the statement in the RECORD if time is not permitted this morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

Mr. WARNER. Mr. President, I think we have reached a mutual understanding that there is the sum of 10 minutes available and these would be allocated, 5 minutes to the chairman, the distinguished Senator from Georgia; 3 minutes to the Senator from Virginia; and 2 minutes to the Senator from Michigan.

The PRESIDING OFFICER. Does the Senator make that a unanimous-consent request?

Mr. WARNER. The Senator propounds that.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

The Senator from Georgia [Mr. NUNN] is recognized.

(Conclusion of earlier colloquy.)

Mr. WARNER. Mr. President, I join with the distinguished chairman of the Senate Armed Services Committee in observing that this year we will have perhaps the most intense, the most in-depth debate we have had since I have been privileged, for nearly 12 years, to serve in the Senate, on issues regarding our national defense and security.

While many of us may have differences with the distinguished chairman, we have no difference in the fact that he has undertaken to present to the Senate, and to all of those who have an interest in this subject, a very carefully prepared in-depth analysis this morning of the threat assessment, as he views it, across the world.

I underline his last remarks, which, in my judgment, are key, and that is while there have been dramatic changes in Eastern Europe, for which we all rejoice for that particular section of the world, those developments cannot cloud the thinking nor override the judgments independently which must be made on other areas of the world.

The President has provided Congress with a document entitled the National Security Strategy of the United States, which has just been received. In addition, the President has forwarded, through the Department of Defense, the analysis by the Joint Chiefs of Staff, the annual military net assessment, being a classified document. It is available to all Senators in S-407.

The presentation by the chairman today basically sets forth the facts throughout the world, and I think it is a reasonably accurate and fair presentation of those facts. Senators will find differences within the analysis to be drawn from those facts, the weight to be accorded, how we interpret intentions versus military capabilities. Herein will be the debate, and it will be an important one.

I again commend the chairman and the members of his staff who worked so hard, together with members of the minority staff of the Armed Services Committee, in trying to present to the Senator our analysis.

Mr. President, I join the chairman of the Senate Armed Services Committee in coming to the floor of the Senate today to share with the Senate our views about the threats facing our Nation. An understanding of the various types of threats which we face today and will face in the future is necessary for the Senate to reach wise decisions concerning our defense requirements. The President, Secretary of Defense and chairman of the joint Chiefs of Staff have initiated this debate with a cautious, pragmatic approach, with which I agree. There are however refinements and adjustments, which, in some instances are required by changes occurring since the administration's initial presentation that must be made. In brief, the facts are constantly changing, more so than ever before, in the annual planning cycle; but we must do our best to provide for a revised defense structure to meet the threats of today and of tomorrow.

Mr. President, there is no doubt that the threat facing the United States today is different than the threat we faced just a year ago. But that fact, of course, is of little value in making decisions about our defense needs. Rather, the real question is, how has the threat changed worldwide. We are a global power, and no matter how dramatic changes may be in one area of the world, those changes do not dictate that adjustments be made elsewhere in the world.

In central Europe, I believe there is general agreement that today the threat of the Soviet Union launching a conventional war against NATO is less than it was in the past. Yet, at the same time, we are aware that while promised reductions of Soviet forces in Eastern Europe are being carried out, the equipment that is remaining are the most modern and capable. Indeed, some systems that are being removed are, in fact, being replaced with far more modern and capable systems. Military, this may well mean that Soviet capabilities to launch a conventional attack against NATO have

changed very little. But we do recognize that the non-Soviet Warsaw Pact nations would today not likely be cooperative and might, in fact, actually oppose any advance of Soviet forces through their territory toward NATO. It is this geographic buffer zone, as well as the probable removal of non-Soviet Warsaw Pact forces from the equation, that results in the changed threat in Central Europe.

There also is general agreement that the United States and its NATO allies would have increased warning time of any Soviet moves to launch a conventional attack in Eastern Europe. Warning time, however, is elusive. Increased warning time is of value in judging the threat only if we and our allies can and will recognize early indications of possible hostilities, only if we can and will act on those indications, and only if we have the capabilities to respond appropriately. So, to a large degree, our intelligence and military capabilities are a major factor in warning time. We also must understand that a potential enemy's perception of our willingness and capability to respond can alter warning time. That is to say, warning time is a function of the activities of both sides of the equation.

National intentions are also part of the threat equation. But intentions are much more difficult to judge than are military capabilities. Because an analysis of intentions is so much more subjective than is an analysis of military capabilities, we must recognize the higher degree of uncertainty about a threat in which intentions are considered a major factor. Furthermore, we, as a peace-loving Nation, must constantly guard against making emotional analyses of other nations' intentions. We hope and want to believe that other nations prefer peace, but none of us will successfully see the future if we forget the past.

Today, we all hope and want to believe that Soviet intentions are changing—that the Soviet Union may now be prepared to enter the community of nations who prefer to settle their disputes peacefully. I hope that is the case.

But our hopes cannot be allowed to cloud the fact that, in 1989, the year that Mr. Gorbachev announced planned reductions in military production, the Soviets produced 6,500 armored combat vehicles, an increase of 8 percent over the previous year. We cannot forget that, in 1989, the Soviets produced 2,600 pieces of artillery, almost 10 times more systems than were produced by the United States. We cannot forget that, in 1989, the Soviets produced almost 3 times more tanks than did the United States.

All of this occurred after Mr. Gorbachev announced his intentions to reduce military production. And all of this happened at a time when each of these three systems—armored combat vehicles, artillery pieces, and tanks—are being proposed for strict limitations under a CFE treaty. So, while we have statements of intentions which we hope are true, we also have facts about capabilities which appear to be contradictory to those stated intentions.

Turning now to the area of strategic forces, every bit of information available to this Senator indicates that there is no slow-down or reversal of the major Soviet strategic modernization programs, although that program now appears to be conducted within the framework of the proposed START treaty. The Soviets continue to deploy two mobile ICBM systems and the highly lethal SS-18, for which there are no United States counterparts. The Soviets continue to produce two classes of ballistic missile submarines and SLBM missiles. They also continue to produce two modern bombers and an advanced cruise missile system. All of this modernization is coupled with the unabated expansion of their enormously expensive deep underground shelter systems. So once again, while we hope that Soviet intentions are to move toward more cooperation and peaceful relations with all nations, there is no doubt that Soviet strategic forces are and will be modern and lethal, and for the foreseeable future, the Soviet Union will remain the only potential enemy who is capable of annihilating the United States.

With respect to Soviet naval operations and production, it is true we have seen a slight reduction in the tempo of operations of the Soviet navy. Nevertheless, construction of surface combatant ships and submarines continues apace and may actually increase over the next several years. The nine combatant submarines launched by the Soviet Union in 1989 equals or exceeds the numbers of submarine launches in each of the previous 7 years. Soviet naval aviation is also being expanded and modernized. In short, the Soviet navy is continuing to modernize, thereby compensating for reductions in their operating tempo and improving their capabilities across the board.

Even while we see these changes in the Soviet threat, there are new military threats emerging around the world. Old ethnic and border disputes are again arising in Eastern Europe, which always have the possibility of erupting into general war. Chemical and nuclear weapons continue to be developed and produced by more and more countries. More and more countries, particularly in the Middle East, continue to develop the capability to deliver weapons of mass destruction through the use of ballistic missiles. Drugs continue to be a worldwide problem and acts of terrorism continue to increase.

Mr. President, there is no doubt that the world is changing. The military threats to the United States are changing. Likewise, there can be no doubt that we must reevaluate and in some cases change our defense capabilities. However, we must be cautious in our analysis of these changes in the threat, and any changes we propose to make in our defense capabilities must reflect the real world. In some cases, those changes in our capabilities could cost more, not less, than we presently spend in our defense budget. I urge each of my colleagues to carefully consider what we see and know about the changes occurring in the world. If we are careful in our analysis and in our decisions today, our opportunities to reap rewards for our Nation in the future will be much higher.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me first commend our chairman for an extraordinary effort; he has brought his amazing intellect to this process over the years. These remarks of his over the last few days are a very major contribution to our discussion.

Mr. President, the collapse of the Warsaw Pact as a cohesive military force has reduced the likelihood of conventional conflict. It has been widely acknowledged that the most likely path to nuclear war was a consequence of conventional conflict with the Warsaw Pact and, therefore, because that likelihood has been reduced, superpower nuclear conflict has also been reduced as a likelihood.

But the budget that has been sent to us is out of sync with these existing and lightening threats. The President has proposed elimination of about 20 conventional weapon systems, but at the same time the administration is asking for an increase in every single nuclear weapons system, even though the threat of nuclear war has also been reduced.

The Secretary of Defense has proposed cuts of $2.9 billion in conventional weapons systems, but in the same budget, he is proposing an increase over last year of $4.6 billion in nuclear programs. He is requesting more for the MX, more for Midgetman, more for SDI, on and on and on.

The world has changed, yet this defense budget only partially responds to the new reality. Our current strategic nuclear systems are survivable and robust. Even if the Soviets launched a nuclear attach today, with no warning, we would have over 4,000 surviving nuclear warheads on our aircraft and ballistic missile submarines with which to retaliate. The important point is that even if the Soviets doubled the number of warheads that were target-

ed on us, we would still have 4,000 strategic nuclear weapons for retaliatory purposes, because our alert aircraft and our ballistic missile submarines at sea would still survive that attack.

Yet, this budget asks for significantly more money for nuclear weapons. It does not respond to the reduced threat. It is wasteful fiscally, and I believe this will be the major battleground in both the Armed Services Committee and on this floor. Again, I commend our chairman for his extraordinary contribution.

THE MILITARY THREAT

Mr. LEVIN. Mr. President, we are at the threshold of a new era in international security—one that by all signs will be marked by decreased East-West military tensions. The changes in Eastern Europe have been dramatic, and as many experts have testified, almost certainly irreversible. The world that we have lived in since the end of World War II is in the process of changing and as it does we will move beyond old rivalries and encounter new challenges.

As we move from a bipolar to a multipolar world, we will inevitably be faced with threats to our national security that fall outside the scope of traditional United States-Soviet rivalry. Global economic competition, terrorism, the proliferation of sophisticated weapons in the underdeveloped portions of the world, and political instability in regions vital to U.S. Interests are just some of the challenges that the United States will face in the future.

It is clear that the most significant change in the U.S. security equation is that the threat of attack by the Warsaw Pact against NATO is at the lowest point since the formation of that military alliance. The collapse of the Warsaw Pact as a cohesive military alliance has been hastened by the rapid demise of Communist regimes in Eastern Europe. The Soviets cannot rely on their allies to act in concert with them in an attack against Western Europe.

The reliability of the Warsaw Pact allies has been in doubt for some time—for example a 1988 study of the military balance in Europe that I conducted pointed out that the Soviets faced a serious cohesiveness and reliability problem at that time. The grassroots demand for democracy in Eastern Europe has not only shattered the military tie to Moscow, it has dramatized the lack of reliability of Warsaw Pact allies that previously had existed beneath the surface.

Since it has been widely acknowledged that the most likely path to nuclear war was as a consequence of conventional conflict with the Warsaw Pact—the threat of superpower nuclear conflict has also been significantly diminished.

We can take credit for having built the network of strategic and conventional deterrence that has helped keep the peace in Europe for over 40 years. We can now look forward to a future which should allow us to maintain national security at significantly reduced levels of armaments. One way to codify a reduction of armaments is through the arms control process. And we are expecting a conventional force reduction agreement and a START agreement this year.

But, I am afraid the defense budget that has been sent to the Congress is not in sync with our new national security needs.

The administration is proposing the termination of 20 conventional weapons—many of them currently first-rate systems which may be needed some day—at the same time it is asking for an increase in every nuclear weapon system.

The Secretary of Defense has proposed $2.9 billion in savings by terminating conventional weapons such as the F-15 fighter, Apache helicopter, and M-1 tank. In the same budget he has proposed an increase of over $4.6 billion in nuclear programs.

For example, this budget requests twice the amount appropriated last year—over $2 billion—for the MX and Midgetman mobile ICBM's. It asks for almost $1 billion more for SDI over last year's level. It even includes an $80 million increase for the Lance missile replacement—a weapon that most knowledgeable experts predict will never be deployed in Germany. West German Foreign Minister, Genscher, has flat out said so.

The world has changed but this defense budget only partially responds to the new reality. Our current strategic nuclear systems are survivable and robust. Even if the Soviets launched a nuclear attack today with no warning we would have over 4,000 surviving nuclear warheads on our aircraft and ballistic missile submarines with which to retaliate. And if the number of warheads that the Soviets targeted on United States nuclear weapons were doubled, we would still have about 4,000 strategic nuclear weapons for retaliatory purposes because our alert aircraft and ballistic missile submarines at sea would still survive the attack. That is the key—if the Soviets increase their strategic forces, the number of our survivable retaliatory forces is not significantly affected.

Just as a purely static bean count of weapons made no sense when evaluating the level of conventional defense in Europe—it makes no sense when evaluating the level of nuclear deterrence. The key to evaluating nuclear deterence, is not determining whether the United States or Soviets have more nuclear warheads (the United States does at the moment). It is the number of survivable warheads that determines the robustness of your deterrence.

The MX rail garrison system is a perfect example of the ongoing overemphasis on nuclear weapons that is wasting billions of dollars while adding little to our existing robust level of nuclear deterrence.

In the President's proposal, billions will be spent to move our 50 existing MX missiles from the hardened silos in which they are currently deployed, and placed on unhardened trains. In this new configuration, the MX missiles and the rail road cars on which they will sit will be significantly more vulnerable to surprise attack than in current silos.

In a recent letter to me, the Congressional Research Service [CRS] stated that the MX missile deployed on trains and sitting in the open was hardened to about 5-10 pounds per square inch [PSI]. In its garrison the PSI would only be slightly higher the CRS said. By comparison, the MX in silos is estimated to be hardened to 2,200 PSI. So, in its silo, the MX is presently 220 times as hard as; that is, 220 times as survivable, as it will be in the rail garrison configuration that the President is proposing.

The issue of vulnerability is especially important for those who believe the strength of the MX lay in its mobility. In fact, the MX will rarely be mobile. It will not be able to survive a surprise attack. Stability comes from survivability, and the MX in rail garrison will be less survivable than it is now, except in those rare cases when our forces are generated. Yet, its destructive potential actually makes MX an especially inviting target for a surprise attack. The reason is that the 4 trains, each carrying 2 missiles with 10 warheads, are all deployed in unhardened shelters within a one-quarter mile area. As a result of this configuration, a few enemy warheads could eliminate 80 of ours—4 times 2 times 10. That is a very inviting target—a 40:1 ratio that is very destabilizing.

In current silos, each 10-warhead MX missile is no closer than three miles apart. It would take 2 attacking warheads to destroy 10 of ours. This is a 5:1 ratio which is much more stabilizing. The status quo is more stable than the change that is proposed because the proposed mobility only rarely exists and during all the other times the MX is a more vulnerable, more attractive target than it is now.

The MX proponents argue that the MX rail garrison will survive in times of crisis when our nuclear forces are generated. At this time, the MX train is supposed to pull out of the station and leave its vulnerability behind. What exactly is a time of crisis? Thirty years ago, the United States

created the DEFCON or Defense Condition system. Since then, on three occasions worldwide U.S. nuclear forces were placed on a high state of alert. These events occurred in May 1960 during the Paris Summit Conference; October 1962 during the Cuban missile crisis; and October 1973 during the war in the Middle East.

But it is in those rare times of crisis we need the MX least—because our airplanes and submarines are generated, are deployed, in a time of crisis and we have more than twice as many survivable warheads available as in times of calm. The numbers here are important. In normal times, as I have pointed out, some 4,000 of our nuclear warheads could survive a surprise attack on the United States. In times of crisis, more than 8,000 warheads would be survivable after our forces were put on a higher state of alert.

The fact is that for either a surprise attack or an attack that came during a crisis, the United States has more than enough nuclear weapons to launch a totally devastating counterattack against any enemy. This is the essence of deterrence, and every military official that has testified before the Armed Services Committee in past years has stated that we have sufficient nuclear deterrence. And, this scenario of a potential attack on our ICBM's does not include the nuclear weapons possessed by our allies, or our nuclear-tipped cruise missiles on ships at sea.

As generals and administration officials have testified, it would be totally irrational for a Soviet leader to launch a nuclear attack when faced with such certain and potent retaliation. It would be irrational to launch a surprise attack against us when we would have 4,000 survivable warheads and irrational to launch a nuclear attack against us after we have generated 8,000 warheads capable of retaliation. By the way, just one of the 192 survivable warheads on one Trident submarine has about 6.5 times the destructive power of the Hiroshima bomb and each Trident sub has 192 warheads.

Some will argue that we need to build more modern nuclear systems because the Soviets continue to modernize their nuclear forces. This argument might have some logic if we are willing, for instances, to stop Soviet modernization by agreeing not to build our own—again, for instance, to eliminate the deployment of the Soviet railmobile SS-24 missiles by agreeing not to build our MX rail garrison system.

But we have refused to do that—our position is that MX's be allowed in a new agreement. We are rushing ahead at great cost to make them mobile in order to match the Soviet capability, rather than to use them as a bargaining chip to eliminate the Soviet capability.

The MX is not only wasteful because it is not needed for nuclear deterrence. It is doubly wasteful because the Air Force is moving forward to buy trains before the rail garrison concept has been fully developed and tested. For the last two years the GAO has been reporting to the Congress that the MX rail garrison program has a significant overlap between its development and production phases. This overlap, known as concurrency, has been cited by GAO as a significant factor in excessive weapon system cost, schedule delays, and performance problems.

Concurrency usually occurs when systems are rushed into production before being adequately tested. This was the case with the B-1B bomber and it has cost the United States hundreds of millions of dollars to correct the problems that were caused by building large numbers of aircraft before we knew if the plane could meet the requirements that were written for it. The MX rail garrison procurement plan is another example of this "buy before you fly" policy that has cost this country so much money in recent years.

In fact, the GAO has pointed out four unique characteristics of the MX rail garrison program that they say require testing before we purchase large numbers of MX trains. These include: First, the capability of the train to withstand missile launch; second, the launch effects on commercial railroad trackbeds and the ability of the train to resume mobile operation after launch; third, the capability of the guidance and control system to recover specified levels of accuracy following rail transit; and fourth, the effects of horizontal basing and rail movement on MX missile performance and reliability.

At a time when the defense budget is going to be reduced at a minimum of 2 to 3 percent per year, we cannot afford to waste money on the wrong defense priorities. We will need to manage defense reductions wisely and apply the savings in a way that strengthens our nation's security by meeting the challenges of tomorrow.

These future threats are not likely to come from our traditional adversaries in Eastern Europe and the Soviet Union, but instead will be generated by civil unrest, political instability, and the proliferation of sophisticated weapons in the underdeveloped regions of the world.

As the United States-Soviet competition relaxes and superpower intervention in regional conflicts decreases, Third World nations increasingly are building up their military establishments. In an attempt to dominate a region or to maintain a military balance, these nations are seeking more lethal conventional weapons, purchasing ballistic missiles, manufacturing chemical and biological weapons, and working on nuclear weapon programs. Just yesterday, it was reported that a shipment of nuclear bomb triggers bound for Iraq was interdicted in Great Britain.

While the United States-Soviet arms race may be slowing, regional arms races are heating up—and these developments can have serious implications for United States security. We must be ready to act if action is necessary and appropriate to protect our interests in a variety of Third World lands, be it oil supplies in the Persian Gulf or American lives in Panama.

We will also need to guard the lives of our citizens from extremists and fanatics who use terrorist tactics to further their political goals. As we have seen in the past, the Eastern bloc and Soviet Union were very willing to support terrorist regimes and organizations. While that is changing, the threat of terrorism will remain for the forseeable future. We must invest in military technology that will be useful in uncovering the shadowy trail of terrorist organizations and individuals so their actions can be preempted, or if tragedy strikes, will allow us to bring the guilty parties to justice.

These are among the most challenging military threats that the United States will face in the coming century. They are problems that have traditionally been viewed through the lenses of United States-Soviet competition for influence around the world. However, irrespective of United States-Soviet competition, these issues will be extremely important for the preservation of United States national security goals. Increasing the number of nuclear weapons that we possess are irrelevant to achieving these goals.

The administration's defense budget does not meet our most likely future needs. The most challenging threats that we will face in the future will not require the continued buildup of nuclear weapons as the President has proposed. It will require a ready military force that is equipped with the tools and equipment needed to deter a wide variety of conventional and unconventional military threats, and to defeat these threats if deterrence fails.

Because we are talking today about military security, I want to spend more than a moment stating what is becoming increasingly apparent—the challenge to our security is becoming more and more economic and less and less military.

While our allies have allowed us to shoulder most of the military burden for the last 45 years they have devoted their savings to becoming more competitive. The nations of East Asia, especially Japan, South Korea, and Taiwan, have recorded a phenomenal rate of economic growth. As Europe reduces its barriers and encourages the free flow of goods and labor, it too

will become an extremely strong economic power.

The measure of a nation's power is in its economic strength. A healthy American economy is essential if this nation is to continue in its role as the leader of the free world. We now have the opportunity to apply military savings to other purposes and we must focus on honing our competitive edge in the global economy.

Mr. President, I would like to congratulate my colleague, Senator NUNN, for the excellent speech that he has given here on the floor today, and also commend him for having the courage to outline a view of our security that takes into account the recent changes in the world. At this point in history we need to look forward to the future and the challenges we are likely to face, not dwell on the threats of the past which are disappearing quickly.

DEPARTMENT OF DEFENSE ACTION ON MILITARY PERSONNEL REPROGRAMMINGS

Mr. NUNN. Mr. President, yesterday the House Appropriations Committee reported H.R. 4404, the fiscal year 1990 supplemental appropriations bill. This bill includes $870 million for assistance to Panama, Nicaragua and other countries, and for refugee assistance.

Since we have already exceeded the deficit target for fiscal year 1990, this supplemental appropriations bill must be "outlay neutral" so as not to increase the fiscal year 1990 deficit. In other words, Congress and the administration must work together to pay for the Panama, Nicaragua, and refugee assistance by taking the money from funds already appropriated for other programs in fiscal year 1990.

Mr. President, I was disappointed to learn that the Defense Department recommended to the House Appropriations Committee that the funds which the Department of Defense requested just last month be reprogrammed into the military personnel accounts to avoid large layoffs and other adverse personnel actions this year now be used instead as a source of funds for Panama aid, Nicaragua aid, refugee assistance, and other items.

Members will recall that after refusing to use the Presidential authority to exempt the military personnel accounts from the Gramm-Rudman sequester last year, the Defense Department last month submitted reprogramming proposals to transfer funds from other areas of the Defense budget into the military personnel accounts to reduce the impact of the sequester on military personnel programs this year.

The Defense Department mounted a full court press on the Congress to approve these reprogramming requests. If these requests were not approved—we were told—thousands of military personnel would be involuntarily separated from the military services, promotions would be frozen for the rest of the year, and military people serving overseas would not be able to come home on schedule.

The Armed Services Committee was critical of the administration's original decision not to exempt the military personnel accounts. That decision by the administration created a great deal of uncertainty and concern among military members and their families, and created the very real possibility that large numbers of military members and their families would be adversely affected by layoffs or other adverse personnel actions as a result of the sequester.

Because of our concerns for the men and women in uniform, the Armed Services Committee approved the Department's proposal to reprogram $795 million into the military personnel accounts on March 8, 85 percent of the amount requested by the Pentagon.

Now, Mr. President, to learn that the Defense Department has proposed using the funds for the military personnel reprogrammings to pay for the Panama, Nicaragua, and refugee assistance supplemental raises real questions in my mind about what is really important to the Defense Department.

Last month they told us that congressional approval of these military personnel reprogrammings was their first priority. Now they have taken the sources of funds in these reprogrammings and told the House Appropriations Committee to spend them on aid to Panama, Nicaragua, and refugees.

Where does that leave our men and women in uniform? Has the Department decided not to reprogram funds into the military personnel accounts in fiscal year 1990 to offset the adverse impact of the sequester?

A few weeks ago, Mr. President, I received an impassioned letter from Lt. Gen. Thomas Hickey, the Air Force Deputy Chief of Staff for Personnel, outlining why Congress needed to act on the Department's military personnel reprogrammings. General Hickey said in his letter:

> Our people read the newspapers and are very well informed. When they perceive that some of your colleagues are more concerned with taking care of the people in Eastern Europe, Nicaragua, and Panama than "our own" in the military, they will leave us. I know you understand this and can see why the reprogramming is so vital.

Mr. President, General Hickey needs to make these arguments to the senior leadership of the Defense Department and the White House, not to the Congress and certainly not to the Armed Services Committee. I will ask unanimous consent that the full text of General Hickey's letter to me be inserted in the RECORD at the conclusion of my remarks.

Defense Department officials have repeatedly said that military personnel are their highest priority. Their actions in this case suggest that their attitude on the needs of our military personnel are stronger on rhetoric than on substance.

I have serious reservations about this approach. I will do what I can to see that our military personnel are given a better break than they seem to be getting from the Pentagon at the moment. I hope the Defense Department will make clear what their future plans are for the military personnel reprogrammings now that they have proposed using the funds for these reprogrammings for aid to Panama, Nicaragua, and refugee assistance.

I ask unanimous consent that the letter to which I earlier referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE AIR FORCE,
Washington, DC, March 6, 1990.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR NUNN: With all of the recent publicity about the Services' Personnel reprogramming requests, I want to share with you my concerns on what disapproval of the reprogramming means in terms of our people's welfare and the impacts to readiness. I hope you will share these concerns after reading my letter. If not, the troops will pay the price. They are the ones, and their families, who will suffer.

The Air Force started FY90 with a coherent and workable MPA game plan but as the months went by, new "bills to pay" related to Congressional marks, entitlements authorized but not funded, OSD PBDs and Gramm-Rudman-Hollings sequestration continued to mount. As you know, there are only a few ways to adjust for large dollar shortfalls in the Air Force MPA—reduced accessions, officer and enlisted early release programs, reduced PCS moves, reenlistment denials, promotion freezes, SERB's and RIFs. There are basically no other ways to reduce expenditures since approximately 94% of the account is driven by statutory rates and entitlements. Our flexibility is limited to the remaining 6% of the total account. Most adjustments have a direct effect on end strength and unfortunately result in non-programmatic reductions. That's the worst possible way to garner dollars to pay bills, particularly when the force structure (iron on the ramp) remains basically constant. As a result, we build a hollow force and readiness is directly affected.

When the senior leadership in the Air Force looked at the total shortfall ($601 million), they elected to solve over half of it internally within the MPA. That solved over $373 million, but forced us to early release over 11,000 troops in '90, delay or cancel over 13,000 PCS moves and cut accessions by over 18,000 from programmed levels. In actuality, that exceeded the Gramm-Rudman-Hollings bill of $179 million out of the MPA. The sequester issue was clearly not our central problem. However, the draconian measures that would have had to be taken against our people, over and above

the $373 million, convinced us to reprogram from other accounts to ease their pain. As you know, such reprogramming actions have occurred on nearly a yearly basis. If the reprogramming is not approved, we have several dichotomies as well as problems. One is that we and you have fought hard for new entitlements that were granted but came without funding. In effect, with no reprogramming, we will kick troops out to save money to provide funds to make the financial quality of life better for those that remain. It's tough to explain that to the commanders in the field who will be severely undermanned.

A major area of concern is the PCS account. We virtually bankrupted it as we worked the solution to the $601M problem. As I mentioned earlier, we have already involuntarily extended our troops, many with families, in our oversea locations for up to two months. In doing so we have built ourselves an $80+ million PCS bow-wave in FY91 that will have to be paid. That bill, coupled with other FY91 actions on the horizon (base closures, changes of tour lengths in Panama and Guam), were not budgeted for and will exacerbate our PCS problems next year. Some of your colleagues seem to believe there is no cost associated with reducing troop levels overseas. That is just not so and our FY91 PCS budget will be testimony to that fact.

The negative impacts of these actions on retention and readiness are extremely dangerous. We saw the beginning of this when we had over 17,000 airmen apply for early release from the Air Force. Many of these airmen had between four and nine years of service. They walked in and signed up to leave. Granted, we waived some training commitments, but we could not allow all of them to go. It showed us that there are rumblings out there that could cost us dearly in retention. We keep advertising the all-volunteer theme but when our folks realize they are bearing the brunt for any "peace dividend", the changing world situation, or a political tug-of-war, who knows what their reaction will be? It may well take over a generation to recover. Our people read the newspapers and are very well informed. When they perceive that some of your colleagues are more concerned with taking care of the people in Eastern Europe, Nicaragua and Panama than "our own" in the military, they will leave us. We can't afford that and still maintain an all-volunteer force. I know you understand this and can see why the reprogramming is so vital.

Because Congress has historically approved reprogramming requests into the MPA, we have executed almost six months of this year's MPA based on the likelihood it would again be approved. We were even more convinced when the authorizations committee language stated that expectation for FY90. We had to change course considerably in the first three months of this fiscal year to "pay the bills" for $373 million. To come up with an additional $228 million with only six months of the execution year left will have catastrophic impacts on the force. Some Congressmen have spoken out against the reprogramming. As one of the key committee chairmen, I hope you are able to convince them this is not a prudent or responsible action.

You are a critical part of this decision process, and I am at your disposal. I consider the reprogramming to be my highest budget priority and stand ready to assist you in any possible way to secure its approval. I have talked to Admiral Mike Boorda and General Al Ono and I know they feel the same way. We just not allow the troops to bear this burden.

Sincerely,

THOMAS J. HICKEY,
Lieutenant General, USAF,
Deputy Chief of Staff, Personnel.

DIVERTING FUNDS FOR THE NICARAGUAN-PANAMA SUPPLEMENTAL

Mr. GLENN. Mr. President, I emphatically agree with the statement made by the chairman of the Senate Armed Services Committee this morning about the shell game that the Department of Defense is playing with the money it previously said it needed to prevent the wholesale layoff of military personnel this year. Diversion of these funds to fund the Nicaragua-Panama supplemental directly contradicts the claim by Secretary Cheney that military personnel are the top Defense priority. The Department of Defense is playing a dangerous game of Russian roulette with the welfare of our men and women in uniform and their families. This time, the Department of Defense may run out of time and money to stop the gun before it goes off.

HOOSIER HEROES: A SALUTE TO "DOC" COUNSILMAN

Mr. COATS. Mr. President, on March 29-31 the NCAA swim meet will be held in Indianapolis. Although Indiana University's fine swimmers are not expected to win, this event will mark the last meet at which the Hoosiers will compete under their legendary coach, for James "Doc" Counsilman is retiring.

Doc Counsilman has been the swimming coach at IU for 33 years. During that tenure he has coached many fine swimming squads at Royer Pool, including 23 Big Ten and six NCAA championship teams. He has known and trained the best, including the great Mark Spitz and several Olympic gold medal-winning teams. He has not only coached them to victory, but has inspired them to do their very best in life as well as in the pool. Not surprisingly, Doc attributes his successes solely to the prowess of the athletes rather than to his own motivational and tutorial skills. And Doc's successful methods are known universally, for he approaches physical education scientifically and applies a technical system to his sport that he wrote about in his 1968 best seller, "The Science of Swimming."

Those of us who follow Hoosier sports and root for Indiana teams are in awe of this living legend. As an IU alumnus, I sincerely regret Doc's decision to retire from regular coaching duties. Fortunately he will remain busy and active around Bloomington, teaching an advanced athletic training seminar and continuing to provide inspiration and a few pointers to aspiring swimmers.

Doc Counsilman is a genuine Hoosier hero whose IU swimming legacy will be studied by coaches everywhere. I wish him well in his retirement.

Mr. President, recently Frederick C. Klein wrote an interesting tribute to Coach Counsilman in the Wall Street Journal that I wish to bring to the attention of my colleagues. I think this article captures the personality and spirit of the man, and I ask unanimous consent that the complete text be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 2, 1990]

ON SPORTS: INDIANA'S GREAT SWIM COACH

(By Frederick D. Klein)

BLOOMINGTON, IN.—James "Doc" Counsilman was saying how, a few weeks ago an official of Indiana University, where he coaches swimming, came by Royer Pool here to chat during a team practice.

"While we were talking, he was watching the boys do their laps. Finally he said, 'Up and back, up and back! How do you stand the monotony?' I laughed, and answered with a joke because I wasn't in the mood to lecture. But he really couldn't have been more wrong."

"That same week, we did endurance and speed work in the water. We did speed-assisted work with flippers to get faster stroke turnover. We lifted weights and did other aerobic and anaerobic land exercises. If all there was to this business was 'up and back,' I'd never have gone into it."

But now, after 33 years at Indiana, the 69-year-old Counsilman is retiring. The next NCAA swim meet, March 29-31 in Indianapolis, will be his last. His team won't win it—schools with better facilities than antiquated Royer Pool have come to dominate the field—but chances are that the team that does win will have benefitted indirectly from his teaching.

Counsilman, whose nickname is earned (he holds a Ph.D. in human-performance physiology and is a professor in IU's department of physical education), wrote the the book on the sport. First published in 1968, it's called "The Science of Swimming," and has been translated into some 20 languages. Every swimming coach worth his stopwatch has read it.

When Doc has the horses (or, rather, the dolphins), his teams won big: Photographs of his 23 Big Ten championship teams line his pool's balcony, and six of those squads also won NCAA crowns. The 1964 U.S. Olympic men's team he coached captured eight of 11 gold medals at Tokyo, and two of the three that escaped it were taken by Australians he'd tutored at Indiana. He led another U.S. men's team to the 1976 Olympics at Montreal, where it won 12 of 13 golds.

He coached Mark Spitz, winner of seven gold medals at the 1972 Munich Games and perhaps the greatest swimmer ever. Scores of his other Indiana pupils were Olympic-medal winners, world-record holders, or both. And he practices what he preached: In 1979, at age 58, he became the oldest person to swim the English Channel.

He has been bothered of late by arthritis, and the talent at his command isn't what it used to be, but he insists that the fun hasn't left his coaching. "I get as much of a kick out of seeing a swimmer establish a personal best as break a record," he says. Still, he admits to liking winning as well as the next man, and remarks that he "slept better" when the likes of Spitz, Gary Hall, John Montgomery and John Kinsella wore Hoosier-red Speedos.

"You know, I listen to that Dick Vitale on the basketball telecasts, saying how this or that coach carries his team, and I wonder what he's talking about," Counsilman mused. "I think it's the other way around—that great athletes make their coaches look good. I give myself maybe 20% of the credit for my team's success in a good year, and 10% in an ordinary year. I haven't yet scored a point for Indiana in a meet.

"Sure, we instruct technically, and that's important. It was the technical side of swimming that got me interested not only in coaching but in education as a whole. I was a poor student in high school—bottom 3% of my class. All I wanted was to get a job and earn some money, and that's what I did for four years after I graduated. But then I took up swimming, and it both appealed to my competitive instincts and enlarged my curiosity. It got me into college, and kept me there as a student until I was 31 years old, for goodness sakes.

"But the main thing we coaches do is try to motivate our athletes," he went on. "There are a lot of approaches to do this. The fellow who coached basketball here [Bob Knight], who I'm fond of, by the way, does it with fear and anxiety. Maybe I'd do the same if I were in his shoes. He only has his boys for five months a year, and most of them have big heads from being overpraised all their lives. I work with my swimmers 10 or 11 months a year, and two-thirds of 'em aren't even on scholarship.

"I let my kids know that we're a unit and share the same goal, which is their improvement. I try to give them what everybody needs, which is attention, affection, a sense of belonging and a feeling of accomplishment. I succeed to the extent they do. It's as simple as that."

When the athlete is Mark Spitz, it's even simpler, Counsilman continued. "I've always thought it was remarkable that Mark came to Indiana," he said. "He was a California boy, and it snowed the weekend he visited us for his recruiting trip. He even fell on the ice.

"But he enrolled, and what a swimmer! He was flexible physically, and that helped, but he had the most perfect natural stroke I ever saw. I'd been thinking about the application of Bernoulli's Principle to human propulsion in water, and when I first watched Mark doing the butterfly, I thought, 'Eureka! That's what he's doing!' I may have said those very words aloud. I went ahead and wrote an article on the subject.

"Mark was a nice person and a dream to coach. He had tunnel vision about swimming; he was dedicated to the point of being something of a bore. He was shy, and private, and never handled the news people well. That hurt him once he got into the limelight. But in school, and in the pool, he was the best."

Spitz, now 40, recently returned to training with an eye toward swimming in the 1992 Olympics. Doc talks to him regularly and has more than a rooting interest in his comeback try. The coach plans to update "The Science of Swimming" in retirement, and continue to study and lecture on advanced athletic training, the subject of the graduate seminar he teaches at Indiana.

"Mark's convinced he can do it, and if anyone can, it's him," Counsilman noted. "Meantime, we'll be learning a lot about the potential of middle-aged people."

THE INCREASE IN THE MINIMUM WAGE

Mr. KENNEDY. Mr. President, this Sunday, after a 9-year wait, the minimum wage finally goes up. For millions of low wage workers, this increase is long overdue.

Since January 1, 1981, the minimum wage has been stuck at $3.35 an hour. In the years since then, its purchasing power has declined by close to 40 percent.

In my view, it is a disgrace that this increase is so small. It is too little to restore the lost purchasing power. But in all candor, it is the best we could do against an antiworker administration that refuses to do justice for America's working poor.

The driving point behind the minimum wage is as valid in 1990 as it was when the minimum wage was first enacted in 1938—if you work for a living, you should not have to live in poverty.

Supporters of the minimum wage yielded a great deal in the notorious compromise of 1989, by accepting a smaller increase and by agreeing to an expanded training wage. But in a small victory for workers, we were able to obtain concessions from a hostile White House that made the amount of the increase somewhat larger and the provisions of the training wage somewhat less harsh than the administration proposed.

Let the administration be on notice. The increase in the minimum wage that takes place on Sunday is not enough. We intend to raise the issue in the next Congress and I hope that we will succeed in raising the minimum wage to a level that is fair to millions of workers who are being unfairly exploited now.

Never in the half century history of the minimum wage has this long a period elasped without an increase. As chairman of the Senate Labor and Human Resources Committee, I intend to do all in my power to ensure that the working poor never have to wait this long again.

COLTS CHARITIES SCORE IN INDIANA

Mr. COATS. Mr. President, one cannot say enough about the contribution that professional football has made to the social welfare of this country. For instance, NFL Charities was founded in 1973 by the clubs of the National Football League to make collective grants to worthy national charities. Since then NFL Charities have made grant disbursements totaling almost $10 million to over 100 different needy organizations. The largest gift is a $2 million, 20-year commitment to the Vince Lombardi Cancer Research Center at Georgetown University in Washington, DC.

In 1985, Commissioner Pete Rozelle and the NFL were recipients of the distinguished Robie Humanitarian Award of the Jackie Robinson Foundation for the league's support for the advancement of minorities in pro football and the NFL's involvement in educational programs at predominantly black colleges. This past year NFL Charities donated $1 million to United Way of America to be used specifically for victims of the October earthquake that struck northern and central California.

Beyond this beneficence, the individual clubs and owners participate in raising funds and make individual contributions to organizations and worthy causes for which they have a special interest. Since moving to Indianapolis the Colts have brought much cheer to sports fans and joy to many Hoosier charities. Last year the Colts raised approximately $600,000 for Indianapolis area organizations alone. The largest beneficiary was the Mental Health Association of Indiana which received in excess of $100,000 from a benefit dinner.

Other charities that have benefited from the Colts generosity are the Noble Center, Indiana Black Expo, Christamore, Little Sisters of the Poor, and the Indiana School for the Blind. In addition, the United Way has received for distribution to needy kids and families two free tickets to every Colts game played at the Hoosier Dome in Indianapolis. During the 1989 season the Colts donated $100 for every touchdown, split evenly between the Noble Center and Indianapolis Athletic Club Sports Foundation.

Summing up his philantropic philosophy, Indianapolis Colts owner Robert Irsay stated:

> We have made a commitment to be actively involved in the charitable causes of the city * * * It's important to put money back into the community, to do the right thing.

Based on the team's record of charitable contributions in Indianapolis during the past 5 years, Mr. Irsay has proven that he and his players have hearts as big as the Hoosier Dome. Congratulations to Bob Irsay and the Colts! May you score as well on the gridiron as you have done to help Indiana's needy.

WILLIAM R. DAVIE: SOLDIER, STATESMAN, MASON, AND FATHER OF UNC

Mr. HELMS. Mr. President, North Carolina's history is replete with remarkable men and women who con-

tributed so much to the building of our State and its great institutions. One of them will be honored, possibly before the year is out, for his many achievements, one of which was the founding of the University of North Carolina.

William Richardson Davie was born in 1756 in England, but he is a legend in North Carolina. Among other things, he became a leader in the Masonic Order. For 7 years he was grand master of Masons of North Carolina and in that capacity, on October 12, 1793, he laid the cornerstone of the "Old East" building on what was to become the sprawling campus of the University of North Carolina at Chapel Hill.

Mr. President, I have a very special friend in Greenville, NC. His name is James W. Brewer. Jimmy Brewer's career in Masonry is remarkable, and his contributions to it cannot be measured. He is a past grand master of the Grand Lodge of North Carolina Masons, and he also served as treasurer of the Grand Lodge.

Jimmy Brewer has been fascinated with the life and career of William R. Davie. As long ago as 1961 he was researching and writing about William R. Davie. Just recently I ran across a most interesting paper written by Jimmy Brewer in 1961, and I want to share it with my colleagues and make it a part of the RECORD.

Therefore, Mr. President, I ask unanimous consent that Mr. Brewer's paper on William R. Davie be printed in the RECORD at the conclusion of my remarks. I make the same request regarding a news story published in the Greenville Reflector in December 12, 1989, headed "UNC Founder Gets Belated Recognition."

There being no objection, the material was ordered to be printed in the RECORD as follows:

WILLIAM RICHARDSON DAVIE: THE SOLDIER, THE STATESMAN, THE MASON, AND THE FATHER OF UNC

William R. Davie was the son of Archibald Davie and was born at Egremont, Cumberland County, England, on June 20, 1756. His mother, whose maiden name was Richardson, named him for her brother, the Reverend William Richardson and at that time a Presbyterian clergyman in South Carolina.

In 1763, the Treaty of Paris put an end to the Seven Years War, or as it was known in America, the French and Indian War. Mr. Davie then visited America, and among other places, went to the Waxhaw settlement on the Catawba River, where Mr. Richardson was living. There he left William Richardson Davie under his uncle's care. The latter had no children and becoming fond of his nephew, the uncle adopted him as his son and heir.

From this time on, nothing is known of the boy's relationship with his father or the rest of his immediate family. Davie's early education was received from his uncle, but he was later sent to Queen's College, an academy in Charlotte. About 1772, he entered Nassau Hall at Princeton. Dr. John Witherspoon was at this time President of the college and was famous for his patriotic ideas. Dr. Jon Witherspoon was a great influence on Davie's life as to his patriotic endeavors.

The first service that Davie rendered to the Patriots' Cause and his first military service was before his graduation in the summer of 1776. With the full approval of Dr. Witherspoon, a party of students volunteered for service in New York and were in the army for several months.

In the autumn, upon his return to Princeton, he took his examinations and was granted a Degree of Master of Arts with first Honor.

Before he could reach South Carolina, then the home of his adopted father, Mr. Richardson had died; and Davie was thus left practically alone in the world. He had already settled upon law as his profession and soon commenced the study of it in Salisbury, North Carolina.

He was naturally suited to the profession and soon became much absorbed in his studies, but they were not to continue very long at this time. In the early winter of 1777, Charleston was threatened by the British; and he joined a detachment raised in North Carolina and put under the command of General Allen Jones. The threatened attack being abandoned, Davie was back in Salisbury in about three months and resumed his interrupted studies.

In the autumn of 1778, it was discovered that the British were planning a southern campaign. The Continental Congress called upon North Carolina to furnish 2,000 troops. Early in 1779, a troop of cavalry was raised from Salisbury; and Davie became one of the Lieutenants. He was commissioned by Governor Caswell April 5, 1779. He served under the command of General Lincoln. In a short period of time he was a captain, then later a Major.

He was wounded in the battle of Stona. He was saved from capture and possible death by an unknown soldier, who at the risk of his own life, carried Davie off the field. He was taken to a hospital in Charleston; and because his wound would not heal, he found military service would be an impossibility for a considerable period of time. Thereupon, he returned to his legal study in Salisbury, NC.

In September 1779, he received his license to practice law before the county courts. The following spring, he was admitted to practice in the superior courts.

In the spring of 1780, he returned to the cause of country; he raised a troop of cavalry and two companies of mounted infantry. He equipped these with his inheritance from his uncle's estate. He showed great daring and military skill in his engagement with the enemy. He was appointed a colonel by Governor Nash and given authority to raise a regiment. For a time, his was the only organized and armed body in the South in active opposition to the British.

In September of 1780, he and his men held Cornwallis in check at Charlotte for several hours; and though compelled in the end to withdraw, he did so in good order. He was a part of the American success at King's Mountain and caused Cornwallis to retreat into South Carolina again in November of 1780—the term for which his men's enlistment expired. They went home and left him without a command.

However, so valuable a man was not long to be absent from important service. When General Nathaniel Green took command of the Southern Army, he met Davie and offered him the Office of Commissary, from which Colonel Thomas Polk has just resigned, saying it was impossible to feed the army.

In 1781, Davie entered upon the duties of the office. Through his successful efforts, he did contribute much to the success of General Green's army. Four months later, he was made Commissary General of North Carolina. Overcoming great obstacles, he fed not only the N.C. troops, but he also fed those of the State of Virginia. Failure to procure supplies at this time would have probably meant the failure of the American Cause. Davie continued in his office until the close of the war, after which Colonel Davie resumed the practice of law.

In 1783 he met and married Miss Sarah Jones, a daughter of General Allen Jones, and made Halifax his place of residence. At this time, Halifax was one of the most important towns in the State.

William Richardson Davie was a great lawyer and orator of his day and ranked among the fine orators the American nation had produced.

In 1786 and 1787, he represented the borough of Halifax in the House of Commons. On January 6, 1787, Davie was elected a delegate to the Philadelphia Convention; and his influence was felt in drafting the Constitution. However, just before the Convention adjourned, Davie went home to attend the fall courts and consequently did not sign the Constitution. He played a bit part in getting North Carolina to ratify it.

When the General Assembly met in Fayetteville in November 1787, he, serving as a member of the House Commons, helped gain the ratification of the Constitution. Also at this session of the General Assembly, William Davie presented a bill to establish the University of North Carolina. On December 11, 1789, the act was passed. He was an earnest advocate of the education of the young and had much to do with the establishment of the Warrenton Academy and headed its board of trustees.

He was very active in the work of getting the University started: raising money, choosing the site, selecting professors, and the proper course of study. On October 12, 1793, as Grand Master of Masons of North Carolina, which position he held for seven consecutive years (1792-1799) he laid the cornerstone of the "Old East" building at Chapel Hill. In 1798, in the same capacity, he laid the cornerstone for the "South" building. In many ways, by numerous acts of service, did he show his deep interest in the young and struggling institution. Well does he serve the title given him by the Trustees as early as 1810—"The Father of the University."

In 1811, the University conferred upon him the honorary degree of L.L.D., the first in its history.

[From the Greenville (NC) Daily Reflector, Dec. 12, 1989]

UNC FOUNDER GETS BELATED RECOGNITION

Rarely is William R. Davie's name mentioned in any of the histories of higher education. But the Revolutionary War hero founded the nation's oldest state-funded university—the University of North Carolina. He's about to receive some recognition.

In the next five years, as UNC-Chapel Hill celebrates its bicentennial, Davie's efforts will be the object of considerable attention.

Although the bicentennial observance won't officially begin until October 1993, the university marked the passage of a bill

that established its charter 200 years ago and the state's signing of the U.S. Constitution with a Bicentennial Issues Forum on Monday night at Fayetteville State University.

"Why he has never gotten more recognition, I'll never know," Blackwell P. Robinson, Davie's biographer and a retired associate professor of history at the University of North Carolina at Greensboro, said. "He's never been given the honor he should have as founder of the university."

Yet his ideas on public education were clearly ahead of their time. And the University of North Carolina at Chapel Hill, which he helped to found, preceded Thomas Jefferson's University of Virginia in Charlottesville, Va., by more than a quarter of a century.

In addition to being a champion of public education, Davie also was a Revolutionary War hero, framer of the U.S. Constitution, North Carolina governor, statesman and jurist.

Davie introduced the university's charter bill in the Legislature—which then met in Fayetteville—and guided its passage Dec. 11, 1789.

Just weeks earlier on Nov. 21, the Halifax resident was instrumental in persuading the delegates of the N.C. Constitutional Convention, also meeting in Fayetteville, to ratify the U.S. Constitution and the Bill of Rights.

University leaders and historians consider these events—the ratification of the Constitution and the chartering of the university—two of the most significant milestones in the state'e history.

CHARLESTON WELCOMES A DISTINGUISHED SON OF VIRGINIA

Mr. HOLLINGS. Mr. President, with the wisdom that comes only with ripe late middle age, James J. Kilpatrick is departing his native Virginia to take up residence in my home town of Charleston. Of course, Jack is part of a demographic trend. The experts now predict that by the year 2000 every living Republican in the United States will have moved to the State of South Carolina, where they will duly establish voting residency. I regret that I have but one political career to sacrifice for the economic vitality of my State.

Jack has claimed for 24 years now that he lives in a place called Scrabble. I can't vouch for the veracity of this claim. Judging from Jack's idyllic vignettes, the place sounds just too good to be true. Anyway, Scrabble sounds too tumble-down and Democratic. Monopoly would have been more in keeping with Jack's elite, Tory tastes.

In any case, that is all academic now. He's leaving the rustic charms of Virginia for an elegant house on Charleston's South Battery. Apparently, Jack got wind of a Southern plot to renew the siege of Fort Sumter, and he wanted to be in on the action. I must say, my friend is going to be mighty disappointed to discover that Sumter is now in possession of the U.S. Park Service, and the battery itself has largely been taken over by Yankees.

In any case, Virginia's loss is South Carolina's great gain. I have valued Jack Kilpartrick's wit and friendship for more decades that I care to recount. I relish the thought of having him as a neighbor, and I can tell him that the whole city of Charleston welcomes him with open arms.

Mr. President, James J. Kilpatrick's final dispatch from the Scrabble address is a model of a refined writing and sensibility. For those of our colleagues who did not have the pleasure of reading it, I ask that it be printed in the RECORD.

There being no objection, the article was orderd to be printed in the RECORD, as follows:

[From the Charleston (SC) Evening Post, Mar. 26, 1990]

LAST LOOK AT HIS HOME IN THE HILLS

(By James Kilpatrick)

SCRABBLE, VA.—When Marie and I bought the Corbin place 24 years ago this month, the old gentleman who owned it wept tears of parting. Now I know how he felt. My first Scrabble dateline was in November of 1966. This is my last.

Many readers were skeptical about the dateline. They figured Scrabble was something I had made up, like Camelot or Yoknapatawpha County. A lawyer for the popular word game wrote me a hoity-toity letter; he was going to sue if I didn't knock it off. I wrote back that Scrabble had been on the map for a hundred years before anyone thought of landing an "X" on a triple-word. That shut him up.

So Scrabble is real. The community is located about 13 miles west of Culpeper, nine miles east of Sperryville, 64 miles and a few light-years east of the Washington Beltway. Scrabble had its own post office until Jim Farley economized it out of existence in 1937. The little building still stands, just across the road from the Mount Lebanon Baptist Church (founded 1833). Mosby's Raiders, gray as ghosts, once cantered along the winding road that goes from Scrabble to Laurel Mills. From almost any point along the road, you get a great view of the blue Ridge Mountains.

We were talking the other evening about the best of all seasons. It was like Lancelot singing to Guinevere. You remember. He couldn't bear to leave her in spring time, nor in summer, winter or fall.

Maybe spring is best. This year spring came bounding in like a Labrador puppy. We had a week of temperatures in the 80s. Then an inch of rain fell, and overnight—just in time for St. Patrick's Day—the fields were Kelly green. A teasing breeze swirled the skirts of the willows. The peepers, tiny tree frogs, launched into their evening serenades. Suddenly we had flowers—narcissus, daffodills, tiny anemones in the rock garden—and the birds of spring returned. A pair of phoebes, yelling their heads-off, came back to nest again outside the office.

Summers also have been wonderful here. We look back to the summer that granddaughter Heather was 4, running about the backyard at dusk in search of fireflies. She would capture them in a Mason jar and release them when it got dark so they could go home to their mothers. On August nights we would sit outside under the chestnut oak, watching for shooting stars.

My own vote probably would go to autumn. The Blue Ridge is blessed not only by dark masses of pines but also by hardwoods in abundance. The dogwood and gum trees turn first, mottled as an old man's hand; then the maples go to scarlet and the poplars change to gold. Walking a country road in October is like walking through an old cathedral, with shafts of sunlight pouring through stained glass and ruined choirs. The air has the tang of hard cider. It smells of open fires.

There is even something to be said for winter in the mountains. We don't get a great deal of snow, but when it comes it transforms the countryside. The snow stays clean, unsmudged by city soot, and it piles up in scallops of whipped cream. The mountains sleep, old men with white hair, and nothing much moves but the deer and the somnolent cattle. On clear nights, through the bare and bony trees, you can see a billion stars. Maybe two billion. Only a passing plane, bound for Dulles International, provides a reminder of the world outside.

We have been like Lancelot: We never could leave it at all. So we believed when we shook hands with Mr. Corbin. At 45 the spavins and wheezes of age are not even passing thoughts. But one day there comes the sudden painful thump, the sharp imperative reminder of mortality, and the metaphorical heart says stay, but the literal mind says go.

We move this week to a house on South Battery in old Charleston, with a view from the bedrooms to the sea. It is a city of great charm and friendliness—Charlestonians call it the Holy City—and I will have a comfortable office to work in. This is not retirement. That comes a few years hence. I will be commuting constantly to Capitol Hill. Ultimately I may try my hand at teaching. Who knows?

On the Friday before St. Patrick's, I made my last drive out from Washington. I had hoped for a gorgeous spring day, with every budding tree just perfect, but the skies came up gray as gravel. I paused at a favorite spot west of Amissville, where Route 211 makes a long climbing turn. Ordinarily the whole panoply of the Blue Ridge comes into view, but that afternoon I saw the mountains through a blur of rain. Only it wasn't rain.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CLEAN AIR ACT AMENDMENTS OF 1989

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1630, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Mitchell amendment No. 1293, in the nature of a substitute.

(2) Baucus amendment No. 1307 (to Amendment No. 1293), to grant Administrator authority to authorize limited produc-

tion of halons after the year 2000 if necessary for aviation safety purposes.

(3) Byrd further modified amendment No. 1329 (to amendment No. 1293), to provide benefits for terminated coal mine workers.

AMENDMENT NO. 1329, AS FURTHER MODIFIED, TO AMENDMENT NO. 1293

The PRESIDING OFFICER. Pursuant to the previous order, the pending question is amendment 1329, as further modified, offered by the Senator from West Virginia [Mr. BYRD]. There will be 4 hours and 45 minutes of debate on the amendment, equally divided and controlled in the usual form. The vote on or in relation to amendment number 1329 will occur at 3 p.m. today.

Who yields time?

Mr. BYRD. Mr. President, I yield 15 minutes to the very distinguished Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, I thank the distinguished Senator from West Virginia for yielding me 15 minutes of time to speak on this bill and particularly on the amendment which is before us.

We have traveled a very long road in the effort to make amendments to the Clean Air Act. I joined the House of Representatives early in 1981 and served on the Energy and Commerce Committee for 8 years. As a member of that committee, I was part of many failed efforts to bring forward amendments to the Clean Air Act.

Those attempts failed, in my opinion, because they did not achieve what I thought to be a necessary balance between needed improvements to our environmental laws to clean up the environment, and a recognition that such improvements would have an impact on our economy potentially force many people out of work.

Those two goals, improving the environment, maintaining economic growth and providing jobs for Americans, are two very worthy goals and two goals that ought to be pursued. Achieving a balance between desired environmental improvements and continued increases in employment for all Americans is the balance that I think should shape our debate, help shape the decisions that were made in the early 1980's and mid-1980's as to where we would go with the clean air amendments. It ought to be an essential part of how we address the bill before us. Because proposals presented to us in those 8 years, 1980 to 1988, would not provide that balance, I think the legislation failed.

It was clear that in 1988, subsequent to the elections, that the dynamics had changed and that we would now move forward with clean air legislation. That is exactly what we are doing. I think most people would acknowledge that this is the time and this is the session of Congress that we will go forward with amendments to the Clean Air Act.

In this body we were presented with a work product out of the committee that I believe did not achieve this balance, did not recognize these two important goals. Most conservative cost estimates for the bill presented by the Environment and Public Works Committee reached a total of a $40- to $45-billion cost to the economy per year for each of 10 years. The Business Round Table Commission had an independent study which calculated the cost running as much as a $100 billion-a-year economic impact on the industries of this Nation. That was clearly unacceptable. It would have devastated my State of Indiana, I suggest, and the economy of the industrial Midwest and the economy of this country.

We would have faced a serious economic recession as a result of the imposition of the provisions in the proposal brought to this Senate floor. This Nation is already spending nearly $35 billion a year to cleanup the environment.

There are goals that Americans support. We have committed to cleaning the environment, both the land and the water as well as the air, and we are moving forward with that.

Adding up to $100 billion of cost to that per year would have placed American industry in a much less competitive position than they are now and it would not have improved productivity. It would have a serious economic impact, and particularly an impact on the jobs of hundreds of thousands if not millions of Americans.

Now we entered into some very tough backroom negotiations to deal with the bill that was before us. I commend all parties to those negotiations, those from the committee, the administration, those of us who were trying to press the case that we needed a balance in this. Those negotiations were long. They were arduous. They are difficult. But I think they produced a compromise that moved us toward finding that proper balance.

We were able to preserve major environmental gains in the areas of air toxics, and areas of acid rain, and areas of nonattainment. We provided the flexibilities under the mobile source requirements that are needed. We provided some safety concerns. The Byrd-Bond amendment pressed the need for technology as a way to deal with the burning of coal in this country.

We have moved what is projected as double-digit rate increases for consumers and residents in Indiana down to single-digit rate increases. Nevertheless, that is something that we ought not to accept lightly. We have gone to studies that will determine what health standards ought to be employed in the year 2000 and beyond. So we made some major strides.

Throughout all of that, throughout that period of the eighties in the House of Representatives in the Energy and Commerce Committee, and throughout the negotiations, and here on this floor, I along with others have been trying to focus attention on the economic impact and more directly on the job loss impact that this bill would impose, because there are two sides to this equation. Yes, there are health concerns that need to be addressed, but there are also economic concerns that need to be addressed.

It was not until the Senator from West Virginia offered his amendment that we are dealing with now that the attention of this body became focused on the second half of that equation, became focused on the very real potential loss of jobs that might occur under this bill.

So I commend the Senator from West Virginia for his determined effort to force Members of this body to address a question that in my opinion had not been seriously enough addressed during all the negotiations in committee and during the negotiation that brought the bill to this floor. It is the Byrd amendment which we are now dealing with that finally turned the debate to an area that had not been in my opinion adequately addressed.

We heard last week and before some remarkable debate on this Senate floor not about just the health standards that need to be imposed and the environmental gains that will be achieved through this goal, but also about the impact on individual lives, on the lives of families and communities that would be affected by this particular bill. It is only the Byrd amendment that has allowed us and focused our attention on that.

Having done that, we have understood that while the health risks exist that we all want to address, and that is why we are here with these amendments, there is also a very human risk that exists in terms of loss of jobs and loss of employment.

Senator BYRD has eloquently articulated the devastating impact that this bill might have on many families, individuals and communities in West Virginia. I can add to that in southwest Indiana where 19 counties mine coal that impact is just as real as it is in West Virginia. Those people need representation and those people need a voice standing up saying: "We too will be affected."

Yes, we are concerned about the health of our families and our communities. We are also concerned about the cost to our families and communities of the loss of jobs. Let us not make the mistake of saying this will not cost jobs. This will impact on jobs. This will have a very human impact on jobs.

It is the Byrd amendment that has forced us to face up to this very real

question. Senator BYRD has compromised on this bill. The amendment now before us is, I think, a very reasonable compromise from what was originally proposed. It provides job retraining. It provides continuing education. It recognizes that there may be people out of work. It provides a very real safety net for those people to move them from a previous level of employment to find new employment.

In the coal fields it is not easy to go out and find a new job. Often these coal mining activities take place in remote areas of the country, take place in the rural areas of Indiana where you just do not drive a few miles and find new job opportunities. Because of geography, because of the skills that are employed by coal miners, starting a new career is not an easy task. It would be wrong for us in this body not to recognize that, and the Byrd amendment forces us to look at the very human side of the impact of this bill.

Mr. President, as I have said, we have made some major strides in terms of negotiation with this bill. We have addressed some of the concerns that I have had about finding ways to employ technology to burn coal that is an ample domestic resource in this country and use that as a source of powering our industries and powering the heavy duty concerns that produce the heavy duty materials and the durable goods that are so important to the economy of this country.

We have not made all the strides that I would have hoped. I think there is more that needs to be done. I believe that as this bill moves to the House of Representatives and then in the conference we can continue to address these concerns. Employing technology to burn coal, domestic resources of coal, is a goal that we should pursue and should be a part of this bill. It does not make sense to increase our ever-increasing dependence on foreign oil. It makes a great deal of sense to utilize existing resources that are available to us.

Finding a way to burn coal cleanly ought to be a very real part of the legislation before us. We have made some changes; we have improved that situation. I regret that we lost on the amendment yesterday to provide a tax credit for the utilization of technology to burn coal cleanly, but with the credit system in place and the 2-for-1 credits that will be available to industries that are reducing their emissions, we have taken a step in the right direction. With the extensions available for utilization of clean coal technology we have taken a step in the right direction.

I think more can be done.

In the auto area we have taken steps to apply reasonable studies to determine where we go with round two. We all know providing that last incremental improvement in air quality is very, very expensive. We are not starting at zero here. The auto industry mobile sources have made remarkable gains in the last two decades in terms of controlling emissions. In fact, hydrocarbons emissions out of mobile sources have been reduced 96 percent. It is going after that last 3 or 4 percent that is so enormously expensive. We need to do that but, yes, we also need to do it in a way that we can afford it and will not put us at a competitive disadvantage, and that it will not so negatively impact productivity that the United States will find itself with clean air but no one working. So finding that balance is important.

Mr. President, I intend to vote for this bill. I think it continues us down a very long road in terms of making our environment safer, making it safer for all Americans. As I said earlier in my statement, it is a worthy goal and a goal that we should pursue.

This bill after the compromise amendments—three of which were mine, were adopted, and now part of this bill—makes an unbalanced bill more balanced. It is not all that we can do. It is not all that anybody wants. I think both sides can say we did not get all we want. That is the nature of compromise. But I intend to vote for this because it continues a process that ought to continue.

But I very much hope that this bill will include the Byrd amendment.

Again, I commend the Senator from West Virginia for forcing all of us to look at a side of the question that had not been adequately addressed. It has taken a great deal of time. It has taken the Senate's time, but it is time well worth spent. It has produced debate that is extremely important to the future of this Nation. It has allowed us to focus on a side of the equation in terms of the human costs, the human lives in terms of lost jobs, and the impact that it has on individuals, on families, on communities, that this Senate deserves to address and address in a very real way.

I watched the anguish and the pain of friends in the recession of the early eighties, many of whom lost jobs for the very first time in their life. They had employed skills that they had learned though applied to a particular profession or particular job that could not easily be replaced. They had to go through agonizing periods of time when they had to learn new skills. It was a time of great challenge. It was a time for great distress for a lot of people. I do not want to ever see that again.

We have a duty to understand, to recognize, and try to accommodate in a reasonable way the very real loss that occurs when people lose their jobs and when laws that are mandated by Congress affect people where they live. The Byrd amendment does that. It reaches beyond coal. It provides trade adjustment assistance to steelworkers, chemical workers, and auto workers who may lose jobs as a result of this bill.

I trust that my colleagues will support the Byrd amendment as it comes for a vote in the Senate.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator for a fine presentation. I thank him for his cooperation throughout this whole effort, going back for a period of over many, many weeks and months, back to the fall of last year, in our joint effort on the part of Republicans and Democrats who come from States in the Midwest and Appalachia who represent constituencies that are going to be hurt by the passage of this bill. I thank him very much.

Mr. President, I yield now to the distinguished Senator from Illinois [Mr. DIXON] for 10 minutes.

Mr. DIXON. Mr. President, I thank the distinguished President pro tempore for yielding to me briefly to support his amendment which is designed to address a very serious, social, and economic problem that will be direct outgrowth of the passage of this clean air bill.

Before I briefly address that issue, Mr. President, may I take the liberty to express, on behalf of the people of my State who will be directly affected by this legislation, the profound appreciation of this Senator for the work that has been done by the distinguished senior Senator from West Virginia in connection with this amendment. His tenacity, his singleness of purpose, his devotion to the principle involved in this legislation, this amendment, is a great monument to his long service to his State and to his country. As his friend and admirer, I express to him my deep feeling of appreciation for the outstanding work that he has done.

Mr. President, in the course of this debate, several times I have talked about the fact that no one here knows how much this bill will ultimately cost business interests in America and no one here knows how many jobs will be lost—good jobs—to working people in America by the passage of this bill.

On a prior occasion, or perhaps on several prior occasions, Mr. President, I referred to the Hahn-Steger report that has received considerable currency in national publications. That report suggests that this bill could cost 3,760,000 jobs in America, 195,000 jobs in my State. But I think we would all agree that there is a good deal of sheer speculation in what is said in this report, such that the Senate cannot respond in a realistic way to that kind of anticipated job loss.

But every Senator here knows, without any shadow of a doubt, that thou-

sands and thousands and thousands of soft coal miners in America, particularly those mining high-sulfur coal, which is the kind of coal mined in my State of Illinois, are going to lose their jobs almost immediately on the passage of this legislation. May I say that those coal miners know that and the supporting economic institutional groups with them know that. There is no doubt about the job loss that will occur for high sulfur coal miners by any Member of the Senate of the United States.

I think one of the best debates I have ever heard here was the debate the other night that lasted until past midnight when my friend, the great President pro tempore, the Republican leader, and others engaged in a very, very spirited discussion about the nature of this amendment—some claiming it is too narrowly defined, and the fact that there will be other job losses. I think it scared a lot of people who had not thought about it much before.

But the one given, the one given, is that coal miners who mine down in the bowels of the Earth in the most dangerous jobs known to mankind to mine soft, high-sulfur coal will lose their jobs.

My friend comes here and says, be understanding, be responsive. He says, when you are passing a bill that everybody says it is conceded will cost tens of billions of dollars, would you not give a pittance to those who will positively, as a known fact, lose their jobs as a consequence of what we do here? What we do as Senators in the casting of our votes next Tuesday night at 8 o'clock determines that job loss.

My friend from West Virginia only asks that, in the compassion of each of us, we respond to the needs of those stricken from gainful employment by what we do here. How could that be regarded by anyone as an unfair thing to request of our colleagues? Those of us who have stood here many times and cast our votes to address national concerns, with reference to hurricanes and earthquakes and all kinds of things that have occurred, are asking now that our own colleagues act not to respond to an act of God but act to respond to their own act. How could one question that?

Nine States, including the State of my colleague from West Virginia and this Senator's State, nine in the country are asked to respond with over 90 percent of the costs of this acid rain problem that is still somewhat debatable. My friend from Ohio, Senator GLENN, so eloquently showed that the other day. And if we are to respond, I ask you to have the compassion to understand that people will suffer for that.

I do not know whether my friend will carry the day with his amendment. I know no one could have worked so assiduously for so long a time as my friend from West Virginia. What a man he is and what a fight he has fought. Sometime today we will know whether he has won the day. But whether he has won the day or not, what he has done here stands, I think, as a continuing tribute to the thoughtfulness of those Senators who acknowledge when we embark upon a course in this Congress, we ought to be compelled to do the responsible and decent thing once the consequences of that course are known to us.

Mr. President, I say to my colleagues, come here to this table and do for those who will be hurt and who will suffer as a consequence of our passage of this bill next Tuesday, do for them today what we would do if called upon in other circumstances. This is, in my view, the most important vote that will be cast on this bill to determine the course of this legislation.

Whether I will vote for the bill in the end, I do not know. I may, in the hope that the House, where some of our States are more represented, can moderate some of the things that are being done here. That is my hope, frankly.

But I ask my colleagues to give us a chance to consider voting for this bill by the adoption of this amendment.

I thank, again, my colleague, the distinguished senior Senator from West Virginia. I thank my colleagues who may have listened to these remarks and who may consider them in deciding how they will vote.

I think the vote is close. I ask those who are still agonizing over what they will do on this amendment to thoughtfully and prayerfully consider one more time doing the right thing to support the consequences of what happens in the passage of this bill.

I thank my friend from West Virginia and I yield the floor.

Mr. BYRD. Mr. President, I thank my friend from Illinois for his caring speech.

Caesar, at the Battle of Pharsala, approached a centurion. He said, "What will our fortunes be today?" The centurion answered, "You will be victorious. As for me, whether I live or die, when the day is done I shall have deserved the praise of Caesar."

Whatever the outcome here, the Senator from Illinois shall have deserved the praise of this people. And I thank him for an excellent statement.

Mr. President, I ask unanimous consent—this consent has been cleared—that whatever time was consumed prior to resuming consideration of the Byrd amendment, be charged to the opponents.

The PRESIDING OFFICER. Is there objection?

Mr. DURENBERGER. Mr. President, reserving the right to object, let me say, having been present here at the point of that particular discussion and recognizing the nature of that discussion, there is no objection on our side to the 15 minutes being charged to the opponents.

Mr. BYRD. May I say I was authorized by the distinguished majority leader to make the request.

The PRESIDING OFFICER. Without objection, that is the order.

Mr. BYRD. I thank the Chair.

Mr. President, I yield to the distinguished Senator from Ohio [Mr. METZENBAUM] 10 minutes.

Mr. METZENBAUM. I thank the Senator from West Virginia. I join my colleague from Illinois in commending him for his leadership on this issue. He has worked, zealously, vigorously, day in and day out in an effort to adopt this amendment. I am hopeful it will be agreed to. It should be agreed to. It is the only right thing to do.

It disturbs me much that we have to pass it, or try to pass it—and it will pass or fail on the basis of one vote or two votes, when I would have hoped that the administration and the managers of the bill would have recognized the validity, the correctness of this piece of legislation.

Frankly, I wish we did not have to have such a measure before us. I have many coal miners in my own State. My coal miners are not anxious for this amendment to be adopted, but they want it and they need it even though they are not anxious to have it. They would rather work. They are not looking for compensation in lieu of work. They go into those mines every day. They are difficult, dirty jobs, but they do them because they love their families and because that is the only source of employment they have, in many of these areas.

I wish we were not about to rob thousands of coal miners of this country of their jobs. But that is what we are doing with the acid rain title of this legislation. The EPA's own figures, and I believe they are low, put the coal mining job loss at somewhere between 3,000 and 5,000 by 1995, and by the year 2000 EPA estimates that 35 percent of all high-sulfur coal jobs will be gone because of this legislation.

Unfortunately, most of these job losses will occur in my own State, and in West Virginia, and in Pennsylvania, the States where high-sulfur coal is mined. Ohio has an abundance of high-sulfur coal. There is enough energy in that high-sulfur coal to keep this country going for 200 years. That is the reality, that is nature's handiwork, that it happens to be high sulfur.

But I am not going to argue that we should not clean it up. We should. But I also think we should not forget how Ohio coal fueled the industrial growth of this Nation. It fueled the furnaces that made the steel that went into our

cars and our bridges, and, yes; helped us win World War I and World War II.

Yet the clean air bill before us forgets all of that. "We do not need to worry about that steel, we do not need to worry about that coal. We are doing great out in the West here and everything is going fine." The miners of this country, the miners of my State, are happy that this Nation is doing well. But they love their families every bit as much as any other working person in this country loves his or her family. And this bill does harm to them. It means they are going to be out of work.

This amendment, of which I am a cosponsor, is not going to solve their problem. No, it is going to try to ameliorate it a little bit.

Make no mistake about it, every mine that closes and every direct mining job that is lost has an impact upon the entire community. I can say to my colleagues without fear of contradiction that when this legislation that is before us, the clean air bill, has its full impact, we will not only lose the jobs of the miners who will be put out of work, but two nonmining jobs will go down the drain each time one mining job is lost.

The fact is that small communities and towns in southeastern Ohio will be absolutely devastated. They do not have six different industries in those communities. They have one industry; it is the mining industry. There is no hope that somebody else is going to come there and build a new plant. So what we are doing is we are wrecking the entire community.

It is sad to say this amendment will not save those communities. No, this amendment is only temporary help. It is a compassionate way, a kind way, to say that we in the Congress want to provide some transitional assistance, recognizing what we are doing to you who work in the mines.

These coal miners would much rather keep their jobs than receive this compensation. They are not parading out here with signs saying "give us compensation instead of our jobs." No. They want their jobs. No one is jumping for joy because of this amendment. But it is a way of our saying this body has compassion.

I stood on the floor of the Senate when we passed a $1.3 billion bill on hurricane aid without a hearing, and I did not fight about it and neither did any other Member of the Senate. It went through, boom, no hearings, because we knew it was the right thing to do; $1.3 billion.

And when the earthquake caused great harm out in San Francisco we did not take a lot of time to figure out what to do. We had compassion in our hearts. I believe we sent out something in the area of $2 billion or $4 billion or $6 billion, I do not remember the exact number, but suffice it to say far more by many times what this bill will cost.

I do not take great pleasure in supporting the Byrd amendment. Rather, I support it because it is the only decent thing to do. We tried very hard to soften the blow of the acid rain title in other ways. We tried to save coal mining jobs.

The managers of the bill and the administration stood resolute and they said, "No, we are not going to help."

Yes, there was a little movement. It helped some. Senator BYRD and Senator BOND were able to make some effort, and it was partially successful. But the fact is it did not solve the problem.

When Senator SPECTER and I yesterday tried to pass a tax credit proposal that would help utilities that have installed scrubbers—it would have helped preserve current coal markets, it would have saved coal jobs—we did not do well. We knew we were not going to do well. We had only 26 votes. When we have the administration and the managers of the bill against us, it is pretty hard to prevail, but we knew we had to make the fight.

The tax credit proposal developed when our efforts to promote traditional cost sharing fell flat. We in the Midwest met for months trying to work on something to help coal miners and ratepayers in our region. We kept hearing that we could not get cost sharing through because it was a tax.

That is unadulterated bull.

Under the leadership of Senators BYRD and BOND we did manage, as I said, to come up with a modest compromise, which was accepted, involving bonus allowances for installing technology.

But that only chipped away at the problem. The Midwest is still going to take it on the chin because of the acid rain provisions of this bill. Coal miners are still going to lose their jobs. Electricity rates are still going to go up.

The arguments against this amendment do not make sense. I have heard it is too expensive but, at most, the coal mine workers protection provision has between $300 million and $500 million. How does that compare with $1,300,000,000 that we sent down to South Carolina, Puerto Rico, and the islands to help with respect to the havoc that had been wreaked by the hurricane?

I have heard it is unfair to workers outside the coal industry, but Senator BYRD's modification now provides some modest relief to non-coal-mine workers who lose their jobs because of this legislation.

I also heard opponents say losing one's job is the risk one faces in a free market economy. Is that not a great statement? Is that not a great argument to make against this bill?

In response, I would like to say the coal miners we are talking about are not going to lose their jobs because of the workings of the market; they are going to lose their jobs because of Government action we are about to take. We will cause the loss of the jobs. We are passing legislation that will put them out of work.

There is ample precedent for such assistance that we propose. We did it for Conrail workers; we did it for Amtrak workers. And when we expanded the Redwood National Park in California, we helped out timber workers.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. METZENBAUM. Mr. President, I ask unanimous consent for 2 additional minutes.

Mr. BYRD. Mr. President, I yield 2 additional minutes to the Senator.

Mr. METZENBAUM. I thank the Senator from West Virginia.

Mr. President, let us do the right thing again today. Let us vote for the Byrd amendment and provide assistance to coal miners.

There are many who probably at this moment are inclined to vote no; no because the administration does not want it; no because the managers of the bill do not want it; some tell me it might be a deal breaker. I am not really concerned about deal breakers or deal makers. I am concerned about the miners; the miners will lost their jobs.

So I say to them—not nearly as passionately or eloquently as my colleagues from Illinois said it just a few minutes ago—I say to my colleagues, think about these men. These are people just like the people you represent. They are only asking for some consideration when we in the Senate, we in the Congress, put them out of work. These are decent, fine Americans wanting to perform a full day's work for a decent wage. They are doing that now. They are risking their lives. We are going to put them out of their jobs. Let us not risk their economic future. At least let us give them some transitional funds.

I implore those who are inclined at the moment to vote no, those who are committed to vote no, to reassess the situation and think about what is the compassionate, what is the human, what is the right thing to do. Think about how we helped those who were hurt by the hurricane; think about how we helped those who were hurt by the earthquake; and think about the miners who will be hurt by this legislation.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Ohio for his very fine statement, which is an appeal for justice and which is made out of the earnestness of his heart, because his people are going to

be hurt by the passage of this legislation. I thank him.

Mr. METZENBAUM. I thank the Senator.

Mr. BYRD. Mr. President, I hope the other side will furnish some speakers. While we are waiting to see if someone on the other side wants to speak—I have some speakers. I had anticipated that the other side would furnish some speakers. Consequently, I left a few windows in my own chart.

While waiting, I have a letter in my hand which is addressed to all Senators by the department of legislation, the AFL-CIO organizations, signed by the director of the department of legislation, Mr. Robert M. McGlotten, expressing the support of the AFL-CIO. I shall read it:

The AFL-CIO supports the goal of improving air quality for all Americans. We believe that these goals can and must be met with minimum job loss and dislocation.

That is why the AFL-CIO urges support for the amendment to S. 1630 that will be offered by Senator Robert C. Byrd. Senator Byrd's revised amendment of 3 years of declining percentage benefits for coal miners coupled with the equivalent of 1 year of trade adjustment assistance for non-coal miners is a modest and fair response to the documented dislocations that will spring from the achievement of the acid rain goals of S. 1630.

Permanent unemployment for tens of thousands of workers should not be the inevitable result of Federal efforts to improve air quality. To the extent that such drastic, extensive, and pervasive job loss flows from the congressional clean air mandate, there should be an accompanying cushion of relief for those workers paying an economic price for these goals.* * *

In conclusion, the AFL-CIO urges your support for the Byrd amendment to S. 1630 as a just and important element of the clean air legislation.

Mr. President, I ask unanimous consent that the entire letter and an enclosure which accompanied it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, AS FOLLOWS:

AFL-CIO,
Washington, DC, March 28, 1990.

DEAR SENATOR: The AFL-CIO supports the goal of improving air quality for all Americans. We believe that these goals can and must be met with minimum job loss and dislocation (please see attached Executive Council statement dated August 8, 1989).

That is why the AFL-CIO urges support for the amendment to S. 1630 that will be offered by Senator Robert C. Byrd (D-W.VA). Senator Byrd's revised amendment of three years of declining percentage benefits for coal miners coupled with the equivalent of one year of trade adjustment assistance for non-coal miners is a modest and fair response to the document dislocations that will spring from the achievement of the Acid Rain goals of S. 1630.

Permanent unemployment for tens of thousands of workers should not be the inevitable result of federal efforts to improve air quality. To the extent that such drastic, extensive, and pervasive job loss flows from the Congressional Clean Air mandate, there should be an accompanying cushion of relief for those workers paying the economic price for these goals.

During the course of building the hearing record on the Clean Air Act the Environmental Protection Agency testified that significant unemployment would occur in high sulfur coal areas of northern Appalachia and the midwest. The E.P.A. estimated Acid Rain emission controls would cost 14,000 to 16,000 coal mine jobs by the year 2000. The United Mine Workers estimated that their direct job losses will exceed 20,000, and that related industries will suffer additional job losses two or three times that number.

In conclusion the AFL-CIO urges your support for the Byrd Amendment to S. 1630 as a just and important element of the Clean Air legislation.

Sincerely,

ROBERT M. MCGLOTTEN,
Director,
Department of Legislation.

STATEMENT BY THE AFL-CIO EXECUTIVE COUNCIL ON THE CLEAN AIR ACT, AUGUST 8, 1989, CHICAGO, IL

The Clean Air Act of 1970 set ambitious goals for improving the nation's air quality and protecting citizens against hazardous pollutants. Cleaner air is in the nation's best interest, and the attainment of this goal is an objective the AFL-CIO strongly supports.

While the Clean Air Act has significantly improved air quality in the United States, its goals have yet to be fully realized. Numerous metropolitan areas remain in noncompliance with the national ambient air quality standards for ozone, carbon monoxide and fine particulates. Acid rain threatens forests, streams and lakes in some parts of the country, and toxic emissions from smokestacks pose substantial health risks.

Strong and effective measures are needed to mitigate these threats to the health of Americans and to preserve and enhance the quality of life on our planet. With a realistic timetable and a proper regard for economic growth, the goals of the Clean Air Act can, and must, be met without significant job loss or dislocation.

Recently, the Administration and Congress began the process of rewriting and reforming the Clean Air Act. We believe this overhaul should include passage of amendments that will improve attainment with national ambient air quality standards, limit acid rain emissions, strictly control the release of toxic substances into the air, and prevent major catastrophic chemical accidents.

The AFL-CIO will cooperate with congressional leaders in the development of legislation that will significantly improve the environment for workers, families and communities, while fully recognizing the need to enhancew the vitality of, and maintain employment opportunities in, America's construction, industrial and mining base.

Mr. BYRD. Mr. President, we have heard talk of tests of leadership. This amendment is not a test of anyone's leadership.

I have noted some of the news stories that have surfaced within the last little while. That charge is simply facetious. It is a spurious charge. It has no basis. It has no life. The only thing that this amendment tests is not anyone's leadership, but the economic survivability of 5,000 American coal miners and their families and communities. That is the test.

Only in Washington, DC, could the claim that somebody's leadership is being tested become significant when weighed against the human cost of 5,000 jobs.

In my view, that claim trivializes what is really at issue. The issue is simply that this Senate is consciously, and with full knowledge aforethought, making decisions that will eliminate, we are told by EPA, the jobs of from 3,000 to 5,000 coal miners. That is just in the first phase. That is all we are talking about in this amendment. This amendment goes to the first phase. We have not even touched the second phase, which will mean a total, cumulative cost in jobs to coal miners, based on EPA estimates, of 14,000 to 16,000 jobs caused by this legislation.

Let us not forget that. We are only talking about the first phase. The question is then, do we need to do something to try to cushion the blow, or do we simply turn our face aside and turn a blind eye to the consequences of our actions—not an act of God but an act of man.

Consequences ought to be considered in this body. We rush to try to ameliorate the consequences of earthquakes, of storms, of floods, of famine, drought, all of those God-made acts. They are acts of God. We immediately rush to aid the victims of an act of God. Then, why do we not likewise feel compelled to address the consequences of our own acts, the actions of this Senate, the acts of men and women here? The decisions made by this body and by the other body and by the executive branch that impact upon our fellow citizens can likewise produce suffering and pain and hardship and loss, just as can the acts of God.

So when members of the legislative branch know from the beginning that, as in this case, our action will cause severe hardships on an identifiable group of men and women and children. I submit that we, as legislators, have a responsibility to try to alleviate the pain and suffering of our own acts, the acts of men upon other men and women.

Mr. President, I understand that my distinguished friend from North Carolina [Mr. SANFORD] wishes 10 minutes. I am privileged to yield 10 minutes to my friend, the former Governor of North Carolina, a fine Senator, and a man who has a heart. I am delighted to yield to him.

The PRESIDING OFFICER (Mr. ROBB). The Senator from North Carolina is recognized for 10 minutes.

Mr. SANFORD. Mr. President, I am pleased to come to the floor to support Senator BYRD in his determination to see that the coal miners of this country, who will be so immediately put at

disadvantage by the passage of this very fine legislation, do not suffer unnecessarily beyond our capacity to help lessen that suffering.

Mr. BYRD. Mr. President, may we have order in the Senate? I would like for everyone to hear this distinguished Senator, who is a cosponsor of the legislation even though he does not have coal mining in his State, or, if he does, not very much.

Mr. SANFORD. If we do have, I do not know where it is. I suppose that I have always felt that North Carolina was blessed in many ways, and it turns out that maybe is a blessing we do not have coal mining because I remember when I was Governor and we were looking at some of the basic problems of America. One of those problems was the Appalachian region—what could we do about it? The young, new, vigorous President seeking out the new frontiers, John Kennedy, was in office. We were determined to do those things that needed to be done across America to build a stronger nation.

The Appalachian region had suffered for years and years. It was a distressed area from the top to the bottom, ranging from Pennsylvania all the way down to Alabama. The great difference between the Appalachian region in North Carolina and the Appalachian region in West Virginia and Kentucky was that we had never had a coal mining industry that could collapse and change the entire economy around it. We needed roads, we needed to open up our part of the mountains, and it seemed to me then, as it does now, that the people living in West Virginia, western North Carolina, eastern Tennessee, eastern Kentucky, up and down this mountain range, that was the first barrier as the new settlers in America moved westward, the people that had settled those mountains were the pioneer stock of the original settlers of America. They were rough and rugged and independent and willing to work hard and moved on to new territories. And then, all of a sudden, they became the people who were not doing well, who did not have much of a chance, who had not developed their own economies and their own regions and parts of their States as others had. And so what was the reason?

The reasons were multiple, of course. For one thing, we had them cut off from the rest of the world. It was so expensive to build roads in the mountains that most States, certainly North Carolina, had neglected to open up the mountains of our region, and so we attempted to work there with representatives from the Governor's office of all the Appalachian States and with the Kennedy administration and then later with the Johnson administration to find ways to give those people an opportunity to do something for themselves. We had programs that gave them possibilities to build health care centers. We found money for industrial education. We built roads and a road network that would let the trucking industry move in and out and therefore support industries. But we never did do very much for the collapsed economies of western Kentucky and West Virginia because the coal mining industry was such that it was very, very difficult to revive. I learned then, as I worked with the then Governor of West Virginia, how difficult the lives of West Virginia coal miners had always been, difficult in terms of the daily toll, the danger involved, difficult in terms of the hope that they might have in life. Where would they expect their children to go to, to come out better than they had come out? What was the future for these people in the coal mines of West Virginia, Kentucky, and the other areas? It was very, very bleak.

My sympathies went out to them then and continue to go out to them now. One of the reasons it has been so difficult to get clean air confronted as a piece of needed legislation has been that this great body of American workers would be so immediately disadvantaged. They do not quite have even the security of workers in manufacturing plants. They are going to have to do something to conform, spend money to conform to this new legislation, or going to perhaps to have to lay off people, and perhaps here and there maybe a plant that cannot be properly renovated will have to be closed.

So there will be a lot of suffering economically, a lot of belt tightening, if we are going to do what has to be done to preserve the environment, preserve the quality of the air, and keep the globe livable.

So we have to pay a price. I suppose we do not mind paying that price but we should not put an unfair share of that burden on one segment of the economy. We have now a place, and reiterated in this legislation, for the proper retraining and relocation of anyone losing a job because of the clean air legislation. We have more specific and direct benefits for the coal miners because there is not any hope that we are going to clean up their situation. There is not any hope that we are going to be able to mine and use this coal, make it an economic and viable part of the communities, and a means of livelihood for these people.

I do not think there is any question that they are entitled to our special concern, our special considerations, and our special provision for them in this period of readjustment.

We will lose jobs in North Carolina. We expect to take care of those situations by bringing in new industry. We expect to have a natural advantage because of the diversity of our economic base and our industry in North Carolina. But in the Virginia-West Virginia coal mine region you do not have that diversity. There is not a possibility of going across town in very many instances. The challenge of rebuilding and expanding the West Virginia economy in those areas is very, very doubtful—just the chance of doing it.

So how do we help them in a period of readjustment beyond the regular programs that we have and programs that will be available to other workers in other industries? How do we help them. They need some special immediate help unlike any other industry as I view it.

So Senator BYRD's approach is, I think, well justified. Surely it is going to cost money. But we knew that it was going to cost money to readjust if we were going to pay the price.

One reason we have not done this sooner is we worried too much about the cost. But if we are going to have a clean environment and a safe globe, we have to pay some costs.

This is it. We knew it was going to cost. Part of this cost ought to be borne by the taxpayers generally when it impacts so heavily on one particular segment.

So I have been convinced, Mr. President, that this is a totally justifiable cost of the transaction from a nation that did not care very much about protecting the environment and clean air to a nation that now has become far more determined to do what is necessary, and to pay what price they must in order to clean up the air.

Part of that price is making certain that we do not once again thrust the heavy burden on people who have always had to carry too heavy a burden in life, compared to most of the rest of us.

So, Mr. President, I hope we can follow the leadership of the distinguished Senator from West Virginia, and that we can indeed see this problem as a problem for all of us, a burden for all of us, a great tragedy for a great many of our fellow citizens if we do not help them pick up their share of the burden.

Mr. President, I thank you. I thank the distinguished chairman from West Virginia.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield myself such time as I may consume. I thank the distinguished Senator who has demonstrated a real compassion for people. That is what we are talking about here.

His heart is as stout as the Irish oak and as pure as the lakes of Killarney.

We are both from North Carolina originally. I have always felt very close to the Senator. And I, and the people of the Midwest and Appalachia, who

are involved here will likewise feel very grateful to the Senator for his support.

Mr. President, I yield now to the distinguished Senator from Kentucky, which is a neighboring State to West Virginia, and produces a great deal of coal. Kentucky is No. 2, as of last year, in coal production. West Virginia is number three. Wyoming is No. 1.

I thank the able Senator from Kentucky, and yield him 10 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 10 minutes.

Mr. FORD. I thank the Chair. I thank my good friend from West Virginia, the chairman of the Appropriations Committee and President pro tempore of the Senate.

Mr. President, this is going to be an unusual day. It is going to be unusual if we turn down the so-called Byrd amendment. It will be the usual day if we pass it. The reason I say that is we have precedents all over our record where this Senate has been compassionate with those who by reason of Federal legislation lost their jobs.

So, Mr. President, fairness and balance has been the recurring theme in this debate. At times there has been an element of kick them while they are down in the remarks on the floor. Some have asserted with vigor that western U.S. coal has suffered under the 1977 Clean Air Act. My Kentucky miners would suffer like the western coal miners under the 1977 act.

Wyoming has now surpassed Kentucky and West Virginia as the leading coal-producing State. That has not seemed to me to hurt Wyoming much. Wyoming coal has been test burned and will be used by some of our Kentucky utilities. There will be no jobs lost in Western States as a result of 1630. There certainly will be in Kentucky.

As the distinguished Presiding Officer who has been Governor understands what Governors do every once in a while, and how they work, my State paid for the transportation and cost of western coal, primarily Wyoming coal, to bring it to Kentucky to be test burned in the "H" Process, the method of turning coal into oil. We tried to be fair with all of the country, but as soon as the Reagan administration came in, they canceled all of those projects and took the money and spent it. Now we find ourselves trying to grab ahold of something to keep from going down the drain. Fifty-four percent of the oil we use in this country every day comes from offshore. In 1973, I believe, when we had the embargo, we only used 28 percent of foreign oil. We find ourselves getting into more trouble all the time.

Mr. President, Kentucky has two coal regions. Western Kentucky, with basic high-sulfur coal and eastern Kentucky with the low-sulfur coal. Under the bill before us, coal mining employment in western Kentucky could be, and I feel it will be, cut in half. Coal mining jobs are vital to west Kentucky's economy.

The Congressional Research Service investigated the importance of coal in five counties of west Kentucky that account for 90 percent of the coal produced and found in that area. Here are the results: The mining industry employs more than any other, accounting for one of every four jobs. Twenty-five percent of the jobs in the western Kentucky area go to the coal fields. Mining jobs account for over 40 percent of the personal income in those counties. The second and third largest categories are service and government—mostly school teachers—which are very dependent on the coal industry.

Together, Mr. President, these three largest employment categories account for 67 percent of the area's personal income. The Congressional Research Service report concluded:

> Indeed, it is unclear whether the communities within these counties would exist without coal. And hence in discussing mining jobs, one is discussing more than individual jobs. Rather, one is talking about the economic viability of selected communities.

Mr. President, a study by Arthur H. Little estimated the likely response of unemployed workers in western Kentucky. Only 8 percent would find new jobs in the area, 40 percent would be unemployed for an extended time or drop out of the work force, and 11 percent would move out of State.

Mr. President, eastern Kentucky coal markets will also be significantly disrupted. As an indicator, eastern Kentucky coal averaged below the 1.2-pound-per-million Btu's generated at only 3 of its top 20 market plants. The market for the coal at the other plants could be lost, and probably will be, regardless of how utilities reduce their emissions. If these utilities switch to lower sulfur coal, the market would be lost. If these utilities install flue gas desulfurization, the markets would likely be lost as the utilities switched to lower-priced coal. Overall, less than one-fourth of the eastern Kentucky coal currently delivered to utilities meets the 1.2-pounds-per-million Btu emission rate. In other words, the current market for 3 out of every 4 tons could be lost.

The ICF study projects that increased production of low-sulfur coal would offset the losses, the medium sulfur coal and result in net production and employment gains in eastern Kentucky. This would occur, Mr. President, through significant disruption of current markets and employment. Further, there are several reasons that ICF's projections may not occur.

Western U.S. coal may capture a large share of the market for low sulfur coal. Western U.S. coal is already capturing an increasing share of the eastern utility market. Western U.S. coal was selected as the fuel source for a plant in Indiana that can be seen from my back door in my hometown. Many Eastern utilities have successfully tested Western U.S. coal; Western U.S. coal is significantly lower in sulfur, even when its lower Btu content is considered.

Due to the tonnage cap provisions of the President's acid rain bill, many utility units will have to achieve an emission rate of less than 1.2-pounds-per-million Btu's generated. Very little eastern Kentucky coal can meet emission rates below the 1.2 standard. For example, only 4 percent of eastern Kentucky's current utility deliveries meet a 1.0-pounds-per-million Btu limit. By comparison, Mr. President, I want you to think about this. When the distinguished Senator from Wyoming stood up and said his State was raped by the 1977 clean air bill, the coal in Wyoming, 74 percent of Wyoming's utility deliveries meet the limit.

Think about it now. Imported coal. Let us talk about deficit and balance of trade. Imported coal will also be competing for low-sulfur markets. The coal industries in countries in which production costs are relatively low by Government investment, low taxes, and low labor costs may be expected to gain an increased share, and they are on our shore now, because we funded the plant in Colombia for Exxon. Overall demand for coal can be expected to decline due to increased costs of coal-fired electricity. Thus, eastern Kentucky may pay a large slice of a smaller pie.

Mr. President, the Byrd amendment seeks to cushion the shock of inevitable job loss. It seeks to give my people a chance to survive, just as the Congress did in the Urban Mass Transit Transportation Act of 1964, the 1970 Amtrak legislation, and Conrail legislation in 1973.

Mr. President, regarding the Redwood National Park Expansion Act of 1978, let me read just a section of the report on that, if I may:

> In comparison with the benefits that would be provided, terminated mine workers under the Byrd-Bond amendment to the Clean Air Act Amendments of 1989, the benefits provided to affected timber workers under title II of the Redwood National Park Expansion Act of 1978 were, in general, more generous than what we are doing for the miners.

Mr. President, 28 Senators that are now in the U.S. Senate voted for that generous help for the Redwood people and the lumbermen in that area.

So, Mr. President, I hope that the 28 current Members of the Senate who voted for that bill, the final passage of the Redwood bill, show the same con-

sideration and same compassion for the coal miners, and that they will support the Byrd amendment. We are not asking for anything more than what is fair, a procedure that will help these people.

As I said earlier, Mr. President, all you have to do is walk to the center of town in Harlan, KY, and look at that white marble with almost 1,400 names on it of men and women who have lost their lives in the coal mines.

Very few in here outside of the two of us—maybe others—have gone 3 to 5 miles underground with a coal miner.

Let us look at the Harlan Boys Choir that sang for the inauguration last year. When I was Governor I helped a younger group of them go to Geneva, and they won in international competition. The President and Mrs. Bush thought so much of them they asked them to sing at the inauguration.

At Harlan, KY, the person who conducts the boys choir also sings and coaches the basketball team.

Do you think they want us to give a handout? No. The would like to have a job.

Let us prepare them, Mr. President, so that in the next 3 years they can have something to sustain them with an opportunity to be retrained for a new job.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BYRD. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 75 minutes and 16 seconds under has control.

Mr. BYRD. How much time does the opposition have?

The PRESIDING OFFICER. 135 minutes.

Mr. BYRD. Does the opposition have a speaker?

We have done very well on our side of the question. We have some other speakers, but I had anticipated there would be windows which would be taken by the opposition. So my other speakers are not here. I have no problem filling in. I can talk all the rest of the time, but I do not want to do that.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, there are Senators who indicated to me they would like to speak. They are not here now. I can get the word to them to come to the floor to speak. In the meantime, if the chairman of the Appropriations Committee would like to speak a little bit longer, I will try to get them here.

Mr. BYRD. My problem is I may speak a little bit longer and then all my time runs out and the opposition has the time.

Mr. BAUCUS. I will get them here very quickly.

The PRESIDING OFFICER. The Chair recognizes the President pro tempore, the Senator from West Virginia [Mr. BYRD].

Mr. BYRD. Mr. President, I hope speakers will come to the floor. I yield myself such time as I may require.

The list of cosponsors of the original amendment which would have cost $1.3 billion were the following: Senators ROCKEFELLER, FORD, MCCONNELL, GLENN, METZENBAUM, SIMON, DIXON, COATS, BOND, BURDICK, DANFORTH, SPECTER, SANFORD, KENNEDY, HEFLIN, and SHELBY. The two modifications that were submitted subsequently to that first offering, brought the total price tag down. I do not want the impression to be that this is only a Byrd amendment or that only West Virginia is affected here. Several other States are involved in which coal miners are going to be hurt by this legislation.

I thank my friend from Kentucky, Senator FORD, who has been a leader in this body for his State and other Midwestern and Appalachian States. He does an excellent job in representing his people, and in this instance, the people of other States as well.

His remarks are telling, They are incisive. They are thought-provoking and they are factual. So I am very appreciative.

Mr. President, seeing no one else at the moment ready to speak, let me address my comments for a moment to a newspaper story which I saw earlier today and which quoted someone in the administration as saying that this amendment was not good environmental policy. I do not know whether the quote is accurate or not. The quote appears in the newspaper as follows:

> Environmental Protection Agency head William Reilly told USA Today's editorial board Wednesday that Byrd's proposal was "bad public policy, bad environmental policy," citing additional expenses.

Mr. President, let me debunk, let me attempt at least to debunk this idea that my amendment is bad public policy or bad environmental policy.

Mr. President, that is a statement that ought to be put aside almost preemptorily but I will not do so. My amendment is not bad environmental policy. This is not an environmental amendment. It does nothing about the environment. It is not a clean air amendment. How can it be bad environmental policy?

So one can dismiss that charge out of hand.

The other portion of the statement by Mr. Reilly that the amendment is bad public policy. Mr. President, is it bad public policy in this country to help people who are going to get hurt as a result of our actions on this legislation? The objective of the legislation is good. We are all for clean air. But this is not a clean air amendment.

Is it bad public policy to try to help people? I tell you what is bad public policy. It is bad public policy to hurt people and to disregard the suffering that is going to be caused by legislation which targets a group of people and which will unceremoniously dump them out of their jobs. That is bad public policy—not to respond to the needs of people. The reason why we have government is to help people, not hurt them. Tiberius Sempronius Gracchus was the son of Cornelia. Cornelia was a very proud Roman matron, the daughter of Publius Cornelius Scipio Africanus, the elder. Cornelia had 12 sons and daughters. She lost all but three of her children—two sons and one daughter. The two sons were named Tiberius Sempronius Gracchus and Gaius Sempronius Gracchus.

A neighbor came by one day to visit Cornelia, and the neighbor proudly showed to Cornelia her jewels and then haughtily turned to this great Roman woman, the mother of the Gracchi, and said, "Have you any jewels?" To which Cornelia replied, pointing to her two remaining sons, "These are my jewels."

Tiberius Gracchus was a tribune. A tribune was one of those 10 individuals who were elected to represent the plebians' interests, the common people to protect them against the patricians.

Tiberius stood up for the poor, and he said:

> The wild beasts of Italy have their caves to retire to but the brave men who spill their blood in her cause, who die to advance the wealth and luxury of the great, they are without houses, and they wander from place to place with their wives and children.

These are the coal miners. The wild beasts of the Appalachian mountains have their caves to retire to, but what is going to happen to the coal miners who will wander from place to place with their wives and children looking for work? Illinois, Pennsylvania, and other States are going to suffer greater losses than West Virginia.

When the coal miner sits down at night, his body knows the pain of the day's work. He knows the sweat, the toil, the back-breaking drudgery that went into the earning of that dollar. Money is a kind of blood. And the miner knows what he has had to give amid the black dust and in the dark subterranean cavities of the Earth to produce that dollar. For him, it is a heavy dollar.

When we spend that miner's dollar we lift the weight of that dollar. But here in this great city, where, by the skid of a pen or a lucky rise in the exchange rates, the dollar is light, we think little of how the worker has to toil for his hard-earned dollar.

Those miners will not be denied. They are not going to be put aside. They are not asking for welfare. Nobody asked for this amendment.

Rich Trumka did not ask me for this amendment. The United Mine Workers of America did not ask me for this amendment. No labor organization asked me to offer this amendment. Nobody in West Virginia asked me to offer this amendment. I have nothing politically to gain by pushing this amendment.

Anyone who looks at the polls in West Virginia and sees my standing among the coal miners knows that I do not have to offer this amendment to gain their support. It is of no political benefit to me at all. This amendment was generated down in my office by my staff and myself, and we ran it by the other Senators from the coal-producing States before I brought it to the floor.

But those miners in the Midwest and Appalachia are what we Senators are thinking about, and their families, and their communities. And they will not be denied. They may be denied their jobs, but we cannot get rid of those people. They will not be denied.

We may think, if we reject this amendment, it will be a net gain to the taxpayers. If this amendment is denied, the taxpayers are still going to pay. They will pay in welfare, in food stamps. So there is no getting away from the problem or the cost. There is no net gain to the Government by denying these people who do not want welfare who do not want food stamps, who want to earn their bread by the sweat of their brow for their families. Look into the sad eyes of a hungry miner's child. There will not be any net gain for the taxpayers if this amendment is defeated.

There is going to be another cost, and that is the demoralizing, degrading, demeaning feeling of poverty—helpless poverty—the human cost. The miner wants to work to earn his crust of bread, and we are going to remove his job.

Poverty demoralizes. To the extent that a man is forced to go into debt, it is to that extent that he is a slave. This amendment seeks justice for the coal miners and nonmine workers who are about to lose their livelihoods.

Mr. President, I see my friend from Pennsylvania, Mr. HEINZ, is here.

Mr. HEINZ. Will the Senator yield?

Mr. BYRD. Yes, I am happy to yield. How much time does the Senator wish?

Mr. HEINZ. I would ask for 10 minutes.

Mr. BYRD. I yield 10 minutes to my friend.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 10 minutes.

Mr. HEINZ. Mr. President, I come to the floor in support of the amendment of the Senator from West Virginia. I want to make two fairly simple and straightforward points that I think are very critical to the Senate's decision on this amendment.

The first point is about a point of attack of the opponents, namely, the cost of the amendment, and the second relates to the policy behind our amendment.

I have heard some Senators come to the floor on previous days and say that the Federal Government cannot afford this amendment, that the retraining and income support provided by the Byrd-Heinz amendment and others, our cosponsors, could cost as much as $700 million a year. Some people say it could be a lot more than that; over the life of the amendment, it could be billions of dollars, $2 billion, $3 billion, $4 billion.

Whether you agree with those figures or not—and I and my cosponsors believe that they are grossly overestimated—we are still asking for a significant amount of help. And we are asking for that help because no matter what the cost of this amendment, the cost that is going to be borne by our miners and their families, by the communities in which they live and the States that have jurisdiction over the communities, are going to be infinitely more, many times more than the cost of the Byrd-Heinz amendment.

We are not asking for a handout. We are asking for some help. When people come to us with a problem, with an earthquake in California or a hurricane in the Carolinas, our taxpayers support that emergency assistance.

When the agricultural and farm community came to our taxpayers in 1985 and said the first year cost of the farm bill is going to be $26 billion, we were willing to help.

When people come for help on hydroelectric projects and others, we step up and say that it is in our national interest, even if it is not in our backyard.

When the savings and loan crisis took place, and it was principally concentrated in three States, California, Texas, and Oklahoma, we supported the passage of the savings and loan reform and bailout legislation. That was $50 billion right up front.

Mr. President, we have done our share to help solve the problems that other areas of the country encountered.

I brought here today a fairly recent study that those of us in the Northeast/Midwest Coalition recently released. It is a study of the flow of Federal funds from 1981 to 1988.

In sum and substance, for the Midwest specifically, it shows that over that 8-year period, our region contributed in taxes some $232.8 billion more than we received in Federal spending. That is a pretty large number. I will repeat it: $232.8 billion.

What that means is that over that 8-year period, we, on average, got back only 80 cents for every dollar we sent to Washington, DC. We have improved it a little bit. We now, as of today, get 83 cents back on every dollar we send, as a region, to Washington, DC, to redistribute to the victims of earthquakes, to the victims of hurricanes, to farmers who are having a tough time competing, to help reestablish the security of our financial markets.

So, we do not think we are asking for anything that is out of line. Indeed, as I said before, the costs that are going to be visited upon our region are going to be many times more than the cost of the Byrd amendment, whatever that might be.

If we do succeed with the Byrd amendment and we do get some help with training and transition costs, the question is, what other costs are our States going to have to bear? They are considerable.

That brings me to the second point I would like to make about the national policy behind our amendment. In program after program, where people stand to be hurt by an action that we take, we usually make efforts to create a specific safety net for them.

When we passed the 1974 Trade Act, we created a Trade Adjustment Assistance Program. We did not know where the casualties were going to be from that act, so we created a broad program. Our commitment, however, was one we did not keep because people axed the Trade Assistance Adjustment Program and rendered it either broke or inoperative; so there is no confidence in that program anymore. Nonetheless, the original intent of Congress expressed in that act was that when we hurt people, by virtue of laws we pass, we take care of them. We do not just throw them on some kind of human refuse heap.

I would like to take a specific example, Mr. President, of exactly what takes place in a community when disaster hits. We are talking about an industry that, when a coal mine closes, may be the sole or major source of employment in that community. The Chair is a native of the State of Virginia, and he knows whereof I speak.

The fact of the matter is, when that major source of employment closes, that coal mine closes, or as I learned 10 years ago when steel mills started closing in Pennsylvania, when that mill closes, the first thing that happens is that the town has no source of revenue, in addition to the men or the women having no source of income.

The first thing that happens, therefore, is that public services are virtually eliminated. My first real exposure to that, over 10 years ago, was when the Crucible Steel Division of Colt Industries, located in Midland, PA, was closed cold turkey by Colt Industries, located up in Connecticut somewhere.

Suddenly, 3,000 people, by far the single largest source of moneys for

that community, were thrown out of work. And the next day the town had to lay off most of the police department; and public services, for all intents and purposes, evaporated.

I tell the Chair this, not because the Chair is not familiar with it, but because, Mr. President, I do not think most of our colleagues understand that what may be an incident, an unemployment incident expressed in a few numbers, is a catastrophe for the people, for the communities who have contributed so much to our society in a very dangerous and dirty profession.

Mr. President, I must say it is vital we have this amendment. I also want to say one other thing. There was a kind of an offer made to the chairman of the Appropriations Committee, the senior Senator from West Virginia, regarding an alternative approach which alleged to build on the Trade Adjustment Assistance Program.

Mr. President, time does not permit me to say everything that I would like to say about that so-called offer. The fact of the matter is that that offer, if that is a term worthy of it, was so deeply flawed that it would have required first, States, then firms, then workers to jump through an increasingly narrowing and virtually unending set of hoops through which, if they got to the end, they would get just about nothing.

The PRESIDING OFFICER (Mr. FORD). The time yielded to the Senator has expired.

Mr. HEINZ. Mr. President, I thank the Senators for their attention.

May I have 2 more minutes?

Mr. BYRD. I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania has 2 additional minutes.

Mr. HEINZ. Mr. President, I thank the distinguished Senator from West Virginia for the additional time. I will just elaborate briefly on what I started to say about this unending series of hoops in this so-called offer that, frankly, I think is an insult to the workers it purports to help.

One of the conditions, or hoops, applies to firms. If you have a national firm like Du Pont which owns Consolidated Coal, which operates mines in my State but has a lot of other operations, as we well know, if the overall firm, Du Pont, does not have a decrease in revenues or production, then the affected miners get no help. If the workers do not happen to be in a State where the insured unemployment rate over the prior 24 months exceeded 140 percent of the national average, again, no help. Do you know how many States qualify? Two. Two plus Puerto Rico: West Virginia, Mississippi, and Puerto Rico.

Finally, only workers in an industry that lost more than 18 percent of its total work force, in that State, in the prior 24 months would qualify. Mr. President, I had my staff research that issue. We have yet to find an industry any time, anyplace with that type of catastrophic level of unemployment. I say that, even with respect to the steel industry when the bottom dropped out of it in the early 1980's and the streets of western Pennsylvania, West Virginia, and many others were lined with unemployed steelworkers.

So, Mr. President, what has been floated as a counteroffer, in my judgment, is a sham. I think that the work of the Senator from West Virginia [Mr. BYRD] has been critical and important in bringing this issue to the Senate. His proposal merits our support. Our region merits the help, and I urge our colleagues not only to stand with him but to stand with us.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Pennsylvania for his lucid, cogent, very persuasive, succinct, incisive statement.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 44 minutes, 30 seconds.

Mr. BYRD. How much time remains to the opposition?

The PRESIDING OFFICER. 134 minutes 22 seconds.

Mr. BYRD. Mr. President, I hope the opposition will take some time.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield 15 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I wish to explore, if I might, this legislation and see if I understand it thoroughly. If the distinguished senior Senator from West Virginia could correct me if I am in error on my understanding of this legislation, I would greatly appreciate it.

It is my understanding, first of all, that it is solely coal miners who receive the benefits that are set forth in regard to the 70 percent, 60 percent, 50 percent, solely coal miners who have lost their jobs due to the Clean Air Act. Other workers—petrochemical, whatever it might be, wood finishing plants—receive a different type of benefit, which perhaps could be described loosely as being similar to the Trade Adjustment Assistance Act, or, indeed, an extension of unemployment compensation. Is that a fair characterization?

Mr. BYRD. The Senator is correct. It does that because the miners are going to take a direct, sure, immediate, severe hit. And, furthermore, because of their hazardous work, their pay is higher than is ordinary. Their work is more hazardous, likewise, than ordinarily is the case throughout the country.

Mr. CHAFEE. I hate to cut off the Senator, but I presume this is on my time?

Mr. BYRD. Oh, I would think so. But the Senator has plenty of time.

Mr. CHAFEE. No, I do not. The Senator who is controlling the time has plenty of time, but I have 15 minutes. So, if the distinguished Senator could perhaps correct me if I am wrong without perhaps an elaboration. So, therefore, my understanding is correct: Coal miners are the only ones who receive these unique benefits.

The next point I would like to make is—and if I am in error, I will be glad to be corrected—that the coal miners will receive in the first year 70 percent of his, let us assume it is a male, his previous year's base pay, plus fringe benefits; the next year, 60 percent; and the next year, 50 percent. Taxes would still be applicable to the benefits received.

Mr. BYRD. That is correct.

Mr. CHAFEE. However, Social Security would not be applicable to this type of benefit. I just know that as a fact, that Social Security would not be applicable to this since it is not earned income. It is a benefit.

Mr. President, I point out that this yields very interesting results because, in the first year, the coal miner would be receiving more in take-home pay than he would when he worked. Let me point out how that comes about.

In a highly unionized industry, such as the coal mining industry, fringe benefits roughly are 35 percent of base pay. Sometimes it is 40 percent, sometimes 30 percent. Basically, I have taken the figure of 35.

So you take 70 percent of base pay, which is 100, plus 35. Seventy percent of 135 comes to 94.5. In other words, if it is $1,000 or $100, whatever the base pay is, the worker is receiving, in his first year, 94.5 of his base take-home pay. If he were working, he would receive 100 percent, minus 7.5 percent, which is the Social Security, or he would be taking home 92.5 percent. So the individual's take-home pay in the first year is greater than it is when he was working.

I am free to admit, yes, that he is not receiving the fringe benefits. In other words, the health insurance is not still there, the retirement benefits, insurance—whatever it might be. But the actual receipt, the check that comes from the Federal Government, in the first year will be greater than the check that the worker received when he was working full time.

So it goes in the second year. He would be receiving 60 percent of his base pay plus fringe benefits, which is 81 percent of his take-home pay. The third year it would be 67.5 percent.

Those kinds of benefits are hardly the type of benefits to encourage one to go out and seek other employment. On top of it all, there is a provision of 20 percent if one goes into some type of retraining program. So that would mean that in the first year and the second year, assuming the individual in the second year was in a training program, he would be receiving just about the same as he received in his take-home pay.

Admitting that that does not include the fringe benefits that he does not receive in a pay envelope; in other words, the health insurance is not covered, the retirement benefits, and any, perhaps, insurance that might also be included in the package.

Mr. President, I myself find it extremely difficult to understand why we treat one segment of our society in this preferred fashion and another segment of our society, somebody who has lost his or her job due to the Clean Air Act, in a totally different fashion. For example, under the extended unemployment compensation in our State, that might be equal to $167 a week; whereas, under this proposal, the benefits could well be, in the third year, as much as $500 a week.

As the distinguished proponent of the amendment has pointed out, coal miners earn a lot, maybe as much as $1,000 a week. So that to me is a gross inequity. And the explanation is given: The coal miners are engaged in a dangerous occupation.

Nobody is buying that. But they are not engaged in a dangerous occupation when they are not working. Somehow to justify the fact that they receive these wildly disproportionate payments, which nobody else in the country receives, because they were working in a dangerous occupation does not follow. I think that is probably the grossest flaw in this particular proposal.

Now, whether I would be supportive if everybody received the extended unemployment compensation, I am not saying that now. But I certainly have great trouble, and I think most of us do, with this disparate treatment of two groups of Americans.

I would like to point out how other people are treated in the country. I come from a State where we have workers engaged in the most dangerous occupation in the United States of America. The most dangerous occupation in the United States of America is commercial fishing. There is no question about that. Commercial fishing is the most dangerous occupation. Next is coal mining.

We have had commercial fishermen thrown out of work due to the actions of the United States. Let me give you an example. There was a boundary dispute in 1984. The United States took the case, to The Hague Commission. Where is The Hague Commission? The International Court of Justice in The Netherlands.

The argument was between Canadian fishermen and United States fishermen, who could fish where. The decision that was given in October 1984 was that the Canadians got the finest part of the fisheries that existed off the Grand Banks. The U.S. fleet lost access to the bank's richest and most durable source of many fisheries: Scallops, 35 percent of all the scallop resources known; lobsters, ground fish, redfish, haddock, pollack, cod, yellowtail flounder, and on the list went.

So our fishermen were displaced. There was no special legislation passed for them. I suppose that the Senator could justifiably say, you never came and asked for it. That is true. That is exactly true. We did not come and ask for it. We thought that this was a situation that came about through a decision. It was not in the hands of these fishermen. But I must say the idea of coming to the Senate and getting a special privilege for a special group of fishermen seemed to me unacceptable.

Now we are getting a new approach. Maybe we will all learn something. Maybe any time our individuals are affected—we have lost textile jobs; we have lost 80 percent of our textile jobs in the past 20 years. We are losing some of our jewelry industry, gold chain industry to competition from Israel and overseas. Maybe there is a whole new approach.

Under the Free Trade Act, we are going to lose some of these jobs. Maybe the approach should be when the Federal Government takes any action, we depart from our traditional method of handling unemployment in our Nation; that we come for a special targeted program, not something like an extension of unemployment compensation such as is provided for under the Trade Adjustment Assistance Act but a special approach.

I find it very difficult to agree. We have to recognize that in the past 88 months—that is 7 years—in the past 7 years, every single month the United States has increased the number of jobs by 250,000—250,000 new jobs have been created in this country every single month for the past 88 months, an extraordinary record. More new jobs than Japan, Great Britain, West Germany, France, Australia, and New Zealand put together have been created in this country. And so we have taken the view, the traditional view, that we have these forms of assistance for those who lose their jobs under unemployment compensation. That is set by the States. The States can increase the amounts if they choose. We have also, in some instances, extended that unemployment compensation, affected by unusual circumstances such as the Trade Adjustment Assistance Act.

Mr. President, it is for these reasons that I find this amendment a very, very difficult one to understand. I do not get the rationale that we treat one group of Americans this way and another group of Americans in an inferior way, vastly inferior. They are not getting, in effect, 100 percent of their take home pay, this group over here. It is nothing like that. It is for these reasons, Mr. President, that I will vote against the proposal of the distinguished Senator from West Virginia and the President pro tempore.

I thank the Chair.

Mr. BYRD. Mr. President, I thank the distinguished Senator. He referred to the increase in the number of jobs in this last few years. What kind of jobs? That is a rhetorical question. Selling hamburgers, working at K Mart, working at Sears Roebuck? And I say that with no reflection on those who do have those jobs.

I am delighted that we are increasing the number of service jobs in this country. But what is happening to our manufacturing-industrial base? We are not increasing jobs there. Yet, we hear all of this talk about a big increase in jobs. What has happened to our steel industry, our pottery industry? Who is making the television sets? Who is making the bicycles? Who is making the radios? Look overseas to Japan for the answer.

The distinguished Senator talks about how his people have been hurt by imports. We have seen our steel mills close their furnaces in West Virginia. We have seen our pottery plants go. We have seen our footwear industry go. We used to have a half dozen plants in West Virginia that made shoes. They are gone. We once had the largest ax factory in the world, the largest synthetic rubber plant in this country, Those jobs are gone. And while it may not be said that they are gone because of the action of our Government, it can be said with fervor that these jobs and these industries are gone because of the inaction of our own Government.

I do not say that in any partisan manner. Because of the inaction of Democratic and Republican administrations, in failing to stand up to the Japanese, who are tough bargainers, we have seen our manufacturing base go overseas, the smokestack industries have suffered. It may be better for the environment, but we are talking about American jobs. There is no environmental free lunch, and that is what this is all about. So let it be the action or the inaction of Government; we in West Virginia have lost our jobs, too—because of the inaction of our own Government in not standing up to the Japanese and others.

Now, the Senator talks about fringe benefits. When did health insurance ever become a fringe benefit?

When did health insurance become a fringe benefit? I assume that those

men who go out on boats off the rocky coast of Maine or Rhode Island, wherever it is, and fish in those troubled waters, I suppose they have health insurance. It is a pretty essential factor in their lives. That is not a fringe benefit. That is a necessity for people who work in dangerous occupations.

The Senator says this amendment is something different, something unique. Well, let us see how unique it is. In the case of Conrail, title IV of the act guarantees to employees of the railroads incorporated into Conrail that their pay and benefits continue in amounts not less than the level of the jobs previously held. Employees who had 5 years or more of railroad service on January 1, 1974, were protected until age 65. That is truly unique. My amendment provides only for 3 years, not until age 65.

So perhaps I came up with a shortsighted amendment. Why should I not have asked for these dislocated coal miners in West Virginia, Kentucky, Pennsylvania, and the other States, why should we not have provided for them until age 65?

Let us see what else is unique about this amendment. Take Amtrak; there we provided for the payment of wages equivalent to the monthly guarantee for a period of the length of the employee's service of up to 6 years, not 3 years, but 6 years—continuation of seniority, health and welfare benefits, pension plan, and so forth, during the protected period. So there is another precedent when it comes to the loss of jobs.

Also on Conrail, in Conrail the cost of living was taken into consideration. Yet, we are not suggesting in this amendment that the benefits be increased to follow the cost of living. But in Conrail, the cost of living was taken into consideration as well. Perhaps we should have included that in this amendment. Look at the monthly benefits under Conrail: April 1, 1976, $2,705; October 1, 1976, $2,975 monthly benefits; July 1, 1977, the maximum per month, $3,093; April 1, 1978, $3,185. Going up all the time. October 1, 1978, $3,250 monthly benefits; July 1, 1979, $3,380; July 1, 1980, $3,548; January 1, 1981, $4,087. So the maximum per month under Conrail went up in accordance with the cost of living and the annual maximum per worker rose from $32,460, April 1, 1976, to $49,044 on January 1, 1981.

We are not asking for cost-of-living increases here in our amendment. Let us look at the Redwood National Park Employment Security Program, which provided "continuing entitlement to health and welfare benefits and accrual of pension rights and credits based upon length of employment, and/or amounts of earnings to the same extent as and at no greater cost to said employees than would have had been applicable had they been actively employed."

So let it not be said here, Mr. President, that the representatives of coal producing States are coming in here and asking for fringe benefits that were never before included for someone else.

Mr. President, I see there are other Senators on my side. Does the distinguished Senator on the other side wish time?

Mr. CHAFEE. Yes. Mr. President, if I might have 4 minutes.

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, obviously the illustrations that the distinguished President pro tempore gave are valid ones, the Redwoods individuals, the Amtrak, Conrail. And I would not be surprised if there are not others out there.

But my point is this: I doubt if in any of this legislation that he cited he could find within that—within the Conrail employees, within the Amtrak employees, within the Redwood Forest individuals—one group which was treated in one fashion, and another group treated in another fashion.

That is the troubling part of this legislation. Here we have a group of individuals across the Nation affected by the Clean Air Act. That is why this is part of the Clean Air Act. It refers to those who lose their jobs due to the Clean Air Act. And the proposal is that a mass of individuals out there are affected by this act, but some of them get very substantial benefits as compared to the others. That is where we bog down. At least I bog down and am unable to understand the rationale.

We did not do that with Conrail. Whether you agree or not with Conrail, everybody was treated the same. You might not agree with the approach in Amtrak. But everybody was treated the same.

You might not approve of what was done in the Redwoods, but everybody was treated the same. You did not say those over there were left-handed, treated this way, those who are formerly ax men were treated such a way, or those who were engineers were treated in one fashion but if you were a trainman you were not. They all were treated the same. Whether we like it or not; you are 65, you are guaranteed you kept your term fringe benefits.

There is nothing denigrating about fringe benefits. That is a term of art. That is, anything above one's basic wages whether it is insurance, whether it is health insurance, whether it is retirement, it is a term of art. Fringe benefit, that is what it is known as. Maybe there should be a more lofty term, necessary benefits. But that is not before us now, Mr. President.

So if somebody could explain to me examples or rationale for why if you are a coal miner you get this treatment, if you work in a petrochemical plant you are treated in this fashion. That is the difficulty with this legislation.

Mr. BYRD. Mr. President, the bill itself makes that distinction when it singles out coal miners for heavy job losses. We are told by EPA that 35 percent of those people are going to lose their jobs. We are also told that the bill, as amended, is practically taking care of everybody else. It is the bill that singles the miners out.

If the miner's wages are $35,000 a year or $40,000 a year—and he certainly is entitled to every dollar that he earns—his family budget is going to be commensurate therewith. If someone else's salary is lower, say, $15,000 a year, or $20,000 a year, and he loses his job because of this act, his family budget is going to be commensurate with his salary.

What you are saying to the coal miner, those who are on high wages, because they do dirty, dangerous work, you are saying to him, "You are out of a job." If he has a family budget that is screwed to his pay, he also has a mortgage on the house that is likewise adjusted to his pay, and he is going to lose his house and his car. One can see what is going to happen to his mortgage, because his budget went under.

I yield 10 minutes to the distinguished Senator from Ohio [Mr. GLENN].

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I appreciate the consideration of the distinguished Senator from West Virginia. I rise today as an original cosponsor of the amendment that he is proposing. I think it is imperative that we take this step to address the needs of those who will lose their jobs as a direct consequence of the Clean Air Act.

Last year when we started work on this bill, we felt that Ohio and the Midwest was being dealt with very unfairly. We tried to get some form of burden sharing. Such a fee or electric generation to help pay some of the cleanup costs.

We needed help; after having provided assistance to other States around this Nation. So then we tried to get some help for the people involved that are going to definitely lose their jobs. We could not get help directly with a fee or an appropriation or the tax credits that we tried to get through, and so we are down to a last resort here. We are trying to help those people who definitely will be thrown out of work because of this legislation. As the distinguished Senator from West Virginia pointed out, there is ample precedent for this.

My State will be hard hit by the acid rain provisions in the bill. In fact, Ohio will be more severely impacted than any other State by acid rain control. This fact has been overlooked in this debate.

We have heard a lot about the need for growth allowances for the West. We need survival allowances in the East. We hear about the need for saving lakes in the Northeast. We hear about the need to protect industrial emissions in the South.

Mr. President, I want to see acid rain and all the other emissions cleaned up just as fast as we possibly can. I want to see this just as much as any Senator in this Chamber. But, my State has needs, too. My State built the cars, the tools, and the appliances that were sold around this world. The people in my State helped the victims of the floods and the tornadoes and the hurricanes. We did not complain about this. That is part of being a part of the country that developed the industrial heartland for this country.

But now, Mr. President, the people of my State need some help. They are not asking for a handout. We already went to work and spent $2.1 billion more than any other State in the Nation cleaning up pollution.

We are willing to do our share, if that share is a fair share. That has been the issue ever since we started this—what is fair? We will have, just in my State, approximated 10,000 mining and related jobs that could be lost. Coal miners in Ohio want to work. Coal miners in Ohio are proud of the work they do and proud of the role their work has in their community.

Entire communities and small towns in southeastern Ohio will be devastated by the loss of these jobs. These communities depend on the mining jobs for their survival. The lives of the people in these communities will be drastically disrupted by the loss of mining jobs.

The arguments for this amendment go beyond the needs of coal miners and their specific communities. High-sulfur coal is a major economic and energy resource to the Midwest and to the Nation. Coal is our Nation's most abundant energy resource, providing over 57 percent of our electrical power. Continued use of this coal is vital to America's energy security by ensuring that we do not increase our dependence on foreign oil.

The crux of this issue, Mr. President, is equity—equity for coal miners, ratepayers, and for industry. This amendment does not solve all of the problems, but it certainly is a step in the right direction, and it is the right thing to do. I want to support this amendment. I urge my colleagues to join me in supporting this amendment.

Mr. President, one other thing I want to mention. I held the floor 4 hours 2 days ago to address this. Even at this late stage in the game what environmental benefits do we find after putting all these requirements on? I will tell you. The NAPAP study, National Acid Precipitation Assessment Program, conducted over the last 10 years at the request of Congress, funded by Congress, as the best scientific group ever put together on this acid rain study ever, at any time has escalated this issue.

What did they come up with? We now have that information available to us. As I pointed out on the floor the other day, we find that the effect on the forests, the ecosystems that have been assumed for a generation, are not there. Between 1973 and 1987 we reduced the emissions out of the Midwest by some 24 percent. And what do we find in acid rain precipitation? They cannot see any difference. They cannot see any difference. There is no direct correlation between the reduction and environmental improvement.

I read into the RECORD the other day a series of statements from the NAPAP report, which I have in my briefcase this morning. Some of it is summarized this morning once again in the Washington Times by Warren Brookes in his column. I ask unanimous consent that that article be printed in the RECORD at conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. The article points out how we do not know much about this issue. It will not do any good to make a big impact on business—some $7 billion a year and make us less competitive in trade without an environmental benefit. We are, in effect, shooting ourselves in the foot.

We have gone through a lot of work these past several years in trying to be fair about this, trying to make sure that the heartland of this country, is being dealt with fairly. Yet, we are being hit very unfairly by this bill. That is the reason I am glad to support the amendment of the Senator from West Virginia. I hope everybody will read that article by Warren Brookes in this morning's Washington Times, because it encapsulates the points I made on the floor at great length a couple of days ago.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. GLENN. Mr. President, I yield back the remainder of my time.

EXHIBIT 1

ACID RAIN'S COST CLOUDBURST

(By Warren Brookes)

As Senate Majority Leader George Mitchell drives toward passage of the Clean Air Act, he is running into growing concern that the economic costs of this act—now estimated at $45 billion a year—far exceed any environmental benefits.

That is particularly true of Title IV, the acid-rain section, which will force utilities and industry to spend up to $7 billion a year in a crash program to remove 10 million tons of sulphur dioxide annually from their emissions by the year 2000.

That would be worth it if there were no other way to achieve as good a result, or if the magnitude of the problem warranted it. Neither is the case, and Congress knows it.

As Lawrence Kulp, former director of the federal National Acid Precipitation Assessment Project, writes in Regulation magazine: "The crash effort to reduce emissions . . . is estimated to cost on the order of $100 billion over the next 20 years and will not permanently solve the problem," because it would "preclude the use of advanced technologies now being developed."

In fact, the crash program degrades the ecosystem by forcing limestone scrubbing in old plants instead of allowing utilities to phase in new clean coal-burning technologies. Not only does scrubbing generate three tons of sludge for every ton of sulphur dioxide removed (generating a 30-million ton disposal problem costing $2.5 billion per year—$80 to $90 a ton) but it puts an added ton of carbon dioxide into the atmosphere for every ton of sulphur dioxide removed. Worse, it makes it economically impossible to substitute the reduction of the much more environmentally dangerous nitrous oxide for sulphur dioxide cuts.

By contrast, Mr. Kulp points out, "An alternative policy which consists of tightening the New Source Performance Standards (on new plants) . . . to take full advantage of the new advanced technologies and setting a reasonable age limit (40 years) beyond which old boilers must be shut down or controlled, could eliminate the acid rain problem at a net cost that is close to zero."

(See Table.)

THE $100 BILLION ACID RAIN SCANDAL

[Tons of sulphur dioxide (Cumulative added costs in billions of dollars)]

	New source phase-in only		Crash retrofit scrubbing	
	SO2 tons	Costs	SO2 tons	Costs
1990	22	$0	22	$0
2000	17	0	12	50
2010	13	0	12	100
2020	10	0	13	150

Source: Regulation Magazine—Lawrence Kulp, February 1990.

The only difference between the two outcomes is that the New Source Performance Standards approach would cut emissions by 10 million tons in 20 years—not 10 years. To see how little environmental difference that would make, consider what current NAPAP Director James Mahoney wrote on Feb. 7 to House Energy and Commerce Chairman John Dingell:

"It is unlikely that differential environmental effects over large regions could be measured between cases where national emission levels would differ by 1 or 2 million tons." In fact, the target of 10 million tons was picked out of the air by President Bush himself, without any scientific basis. If cutting the 10-million ton reduction goal to 8 million would have no effect, neither would stretching it out.

James Mahoney, current director of the 10-year $600 million NAPAP study, admit-

ted to the Senate Environment Committee last October: "If there were no change in acid deposition from current levels, we would expect that in the Northeast the chemical status of the lakes would stay approximately the same over the next 50 years." When asked what would happen if we doubled acid deposition, he answered, "Not much."

In short, the $600 million NAPAP study for which you and I paid shows acid rain is a modest problem to start with and isn't getting any larger. Yet NAPAP's final 28 papers have not even been studied by Congress, and Environmental Protection Agency Administrator William Reilly is saying nothing about their devastating conclusions.

Forests: "Acidic deposition has not been shown to be a significant factor contributing to current forest health problems in North America . . . There is no evidence of widespread forest damage from current levels of acidic rains in the United States."

Crops and vegetation: "Acidic precipitation at ambient levels in the United States is not responsible for regional crop yield reduction. Sulphur dioxide is rarely associated with crop damages near point sources and is not a regional scale problem."

Lakes and streams: "Acidic lakes were a relatively small percentage of the National Surface Water Survey. The percentage of total lake surface area that was acidic (was) 2.1 percent . . ."

While the study concluded acid rain had caused some small-lake acidification, it also showed the median acidity of all Adirondacks lakes has gone down since preindustrial times.

NAPAP concluded it would take at least 50 years of sulphur-dioxide reduction to deacidify only 75 lakes nationwide. That's a cost of more than $4 billion per lake. By contrast, it said, "The mitigation strategy most effective for restoring acidic surface waters is the addition of base materials [lime] to lakes."

We could lime all acidic lakes in the U.S. Northeast for $1 million a year or 0.02 percent the cost of the Bush/Senate bill. Instead, the Senate is determined to do real harm to the environment—while charging us $7 billion a year and killing 250,000 jobs to do it.

It is as stupid a bill as was catastrophic insurance.

The PRESIDING OFFICER. The Senator from West Virginia controls the time.

Mr. BYRD. Mr. President, I yield to Mr. SPECTER 10 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished Senator.

Mr. President, I support the pending amendment because I believe that the legislation will result in very, very substantial unemployment in the soft coal industry, added to very high unemployment figures at the present time, and that this kind of measure is necessary in light of the fact that the legislation as it is now crafted does not take into account the concerns of a seven-State area.

We had engaged in very extensive efforts to see to it that there would be appropriate attention to Pennsylvania, West Virginia, Kentucky, Ohio, Illinois, Missouri, but our efforts were of no avail because the States controlled only 14 votes, and as a matter of happenstance, no one from the seven States was a member of the key committee.

This Senator, as the record will show, made an effort yesterday, through an investment tax credit amendment, to direct relief for this seven-State area in a very constructive way which woud have allowed those utilities which took on air pollution devices to have a tax break and would have permitted the clean burning of high-sulfur coal. This was an effort to allow those who would put on these cleaning devices in the future to have the same tax advantages which utilities had in the past.

The amendment was strenuously resisted on technical grounds that it was a tax measure, notwithstanding the fact that there were ample precedents to keep the bill at the desk as we had with the child care bill, as we had with the savings and loan bill, as we had with the black lung bill, and the amendment was defeated 72 to 25.

Arguments were made of a highly specious nature, such as that the savings would not be passed on to the ratepayers, a fallacious argument because it is obvious, as the text of the bill provided, that there would be provisions for investment tax credits which would lower the cost to utilities and those benefits would be passed on to the ratepayers.

It is still my hope that before this bill becomes law there will be a sensible accommodation of the interests of these seven States and when the distinguished Senator from West Virginia has put forward his amendment, which is being very much opposed by the administration and by the leaders, the managers of the bill, because of its high cost, I am not sure that we have exactly the right figure and I am not sure exactly what is going to come out of conference, but I believe that the distinguished Senator from West Virginia has gotten the attention of the administration and has gotten the attention of the managers of this bill, which the 14 Senators could not do.

You, Mr. President, as the distinguished Senator from Kentucky, sat in those meetings hour after hour. I never attended so many meetings for such a long period of time over so many days. And we sat down with Senator MITCHELL, the distinguished majority leader, and Senator BAUCUS, the manager of the bill on the Democratic side, for an hour and a half in late November. And at the conclusion of the meeting Senator BAUCUS commented he had never seen so many Senators sit so still for so long.

But notwithstanding all of those efforts, we were not able to attract the attention of those who ultimately crafted this bill. I think their attention has now been attracted.

It is my hope that before we are through we will find a way to see to it that high-sulfur coal can be produced. I hasten to add that this Senator has consistently agreed with the managers of the bill on the necessity and desirability of taking 10 million tons a year of sulfur dioxide out of the atmosphere. I agree that we need a strong clean air bill. But the question has been who is going to pay for it. And that is why we have tried so hard to get a rational approach that would not put an unfair burden on the seven States, my State included.

Mr. President, I could go down a long list of counties which have ununemployment in excess of 10 percent in Pennsylvania. On Monday of this week I was in southwestern Pennsylvania, Fayette County, in Uniontown, and Washington County, in Washington, PA, and the distinguished Senator from West Virginia has spoken in graphic terms of the problems of the mines. I have visited several coal mines in western Pennsylvania and it is quite an experience to go 160 feet, 16 stories into the Earth, and then to drive in a car for several miles underground, and you have to keep your head down, and you go to the end of long tunnels that are filled with dust, grime, and dirt, and you wonder, notwithstanding the overhead supports, that there may be a mine cave-in at this particular moment. It is highly hazardous work and it is an industry that suffered gravely.

In Pennsylvania we had 39,000 coal miners in 1979, and are down to 17,000 coal mining jobs at the present time. Regrettably, the clean air bill is targeted in a very direct fashion at the miners in the soft coal industry, and that is why I am supporting the amendment which the distinguished Senator from West Virginia is offering.

There is still a long way to go between this point and the ultimate legislation which we are to have, and this legislation does not deal with the shopkeeper, does not deal with the membership in the United Mine Workers, does not deal with the lives and vitality of the coal mining towns, and does not deal with a real necessity to have a strong coal industry in this country, which we need as a matter of national oil policy because of the uncertainties of OPEC oil and because of the problems in the nuclear field.

But this is only one step, and I think that we are facing an important amendment and that is why I support it and hope that my colleagues will similarly support this amendment as part of our way to getting a strong bill which will protect the air and a bill which will not impact unfairly on one segment of our population, the coal

miners, and yet may be able to structure a way where we will keep the coal mines alive and perhaps return to a 10-percent, 20-percent investment tax credit.

But at this stage I submit this amendment ought to be adopted.

I thank my colleague from West Virginia for allocation of time, and I yield the floor.

Mr. BYRD. Mr. President, I thank my friend from Pennsylvania for his fine statement and his excellent cooperation that he has given to the whole working group of Senators from coal-producing States in the Midwest and Appalachia throughout these many, many months. I appreciate very much his contributions.

I yield to the Senator from Illinois [Mr. SIMON] 5 minutes.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Illinois.

Mr. SIMON. Mr. President, I am pleased to join in support of the Byrd amendment.

Let me deal with one point that my distinguished colleague from Rhode Island mentioned here just a few minutes ago, and that is the inequity of helping one group more than another group. Part of that has been addressed by Senator BYRD. There is no question, according to EPA, the group that is hit the hardest by this bill are the coal miners. But let me add two other points.

One, the fact that everyone is not treated equally and there may be some others who are not in this that ought to be in it and are not in it, therefore we will deny justice and equity to everyone is not in and of itself in my opinion a very logical conclusion.

Second, we do not in our other programs provide complete equity in terms of what we grant. If I may use the Medicaid Program as an example, under Medicaid, because we go according to what the State does, if the State of New Mexico spends more money on Medicaid the Federal Government matches it, or Illinois, or New York, or Kentucky, or whatever the State may be. So the Federal Government in fact provides more medical assistance in some areas than in other areas. That is an inequity. But if you want to eliminate that inequity you either have a national program, which we are not prepared to do, or you have an equity in not giving benefits to anyone and that is clearly not fair.

There is one other important distinction with coal miners and that is you are dealing in areas that already are pockets of poverty. You show me a county in Illinois that is a coal mining county and I will show you a county that has above average unemployment. It is the nature, part of the heritage of these areas. I hope that can change. But that is the way it is today.

Then you devastate these areas even more by knocking these coal mines out and you are really causing great, great damage.

Finally, the argument will be used that just this area of the Nation, the Midwest region of the Nation will benefit. I doubt that there is a single Member of this Senate, certainly anyone who has served here very long, who has not gone to Senator BYRD and said, "I need help for my area," and if it can be squeezed into the budget and the appropriations and into the time of the Senate, he has provided assistance.

We provided assistance. When South Carolina has a hurricane, all of us provide help. When California has an earthquake, all of us provide help.

My friends, what you are causing is an earthquake in the coal mining industry in the Midwest, and we ask for your help. And it seems to me it is simple justice to do it.

Finally, let me just add that the authorization is money that will in part be saved. When you provide money for coal miners for this purpose, you are going to be reducing welfare costs and some other costs that otherwise are going to come along with this bill.

What Senator BYRD and those of us who are cosponsoring this bill are asking for is justice for coal miners, justice for people who are in the most dangerous industry in this country. I have probably been in coal mines more than any Senator, other than Senator BYRD. I think I have some understanding of the feeling of coal miners, and the importance of what they contribute to this Nation, at great danger.

We are saying let us improve the air that we breathe in this Nation—and that is a laudatory arm—but let us not do it at the expense of coal miners, who at great danger have been providing energy to this country. Let us not do it by devastating communities where coal mines are, for all practical purposes, the only source of income in those communities.

Senator BYRD and those of us who are cosponsoring this amendment are asking for justice, nothing more, nothing less, and I hope we can get it.

Mr. President, I yield back the remainder of my time.

Mr. BYRD. Mr. President, I thank my friend from Illinois for his constant strong support on not only this amendment, but also for the whole effort that we have made for months to try to come up with legislation that would reduce the job losses that are bound to flow from the enactment of this legislation.

Mr. SIMON. If I may reciprocate, I thank my colleague, who is President pro tempore. He is in a position of leadership, but he has been providing leadership in more than name.

I also observe, in the course of all of this, the Senator's hair has gotten a little whiter in the process of fighting this struggle here.

Mr. BYRD. Well, Mr. President, the beauty of old men is in their gray heads. That is from the Scriptures.

Mr. President, I am almost at a point where I must throw my poor self upon the opposition and plead for mercy.

The quality of mercy is not strain'd;
It droppeth as the gentle rain from heaven
Upon the place beneath: it is twice blest;
It blesseth him that gives and him that takes:
'Tis mightiest in the mightiest: it becomes
The throned monarch better than his crown;
His sceptre shows the force of temporal power,
The attribute to awe and majesty,
Wherein doth sit the dread and fear of kings;
But mercy is above this sceptred sway;
It is enthroned in the hearts of kings,
It is an attribute to God himself;
And earthly power doth then show likest God's
When mercy seasons justice.

Would the opposition have mercy please, may I plead on bended knee, would the opposition yield some time to my side of the aisle? [Laughter.]

Mr. CHAFEE. It would take an incredibly cold heart to resist a plea such as that. [Laughter.]

When in disgrace with fortune and men's eyes, I all alone beweep my outcast state.

It seems to me that—about how many minutes?

Mr. BYRD. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from West Virginia has 9 minutes and 29 seconds; the opposition has 117 minutes.

Mr. BYRD. I must say, I have been unhorsed; I am without shield; I have thrown my spear away; I have only a broken sword, and I am at the complete mercy of my opposition.

Mr. CHAFEE. Well, I recognize your spear is gone; your horse is disabled; your helmet is askew. How many votes do you have, though? [Laughter.]

Just take whatever time you want.

Mr. BYRD. I thank my friend. He is gracious, indeed.

My situation now is this. I have Senator ROCKEFELLER, who has yet to come to the floor. Senator MCCONNELL is coming to the floor, and I may have another Senator.

I, myself, have not yet spoken, except to the extent of filling in time when the opposition could furnish no speakers.

Mr. CHAFEE. Why do we not do this? I think if we save—what do we have, 117 minutes?

The PRESIDING OFFICER. The opposition has 116 minutes.

Mr. CHAFEE. Because I do not know what the leader wants to do, will you let us know when there is only 40 minutes left? We will just see what you need and see how it goes.

Mr. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished Senator. He certainly is fair, and very reasonable. I simply tried to fill in the time with speakers, and I am grateful on behalf of my speakers.

Mr. President, Senator ROCKEFELLER is due at 1 o'clock. It is about 3 until 1. I will take these 3 minutes to read a letter which has just been delivered to me, and which I myself have not read.

This letter comes from the National Clean Air Coalition. It is addressed to me. It reads as follows:

DEAR SENATOR BYRD: We support your efforts to add a worker adjustment assistance program to the pending Clean Air Act. The National Clean Air Coalition has as its mandate the protection of public health and welfare from air pollution. We believe that this objective is served by the addition of a program to address potential employment effects of this legislation.

Despite the claims of the polluters, the American people have always believed—and the experience of the past 20 years has demonstrated—that a clean environment and a growing economy go hand in hand. But every major national program can have microeconomic effects. It is certainly appropriate for Congress to consider ways to respond to these localized effects in the context of the Clean Air Act. Indeed, the debate over acid rain control has been dominated by just these considerations.

It is generally recognized that control programs designed to minimize the cost to consumers in high sulfur coal states could have an impact on high sulfur coal mine jobs. Your amendment is one approach among many that attempt to ameliorate localized coal mine job losses that could result from acid rain control. Other Members of Congress have taken different approaches to mitigate the impact of acid rain control on mine workers, power consumers and the utility industry. These alternative approaches have included mandatory technology requirements, utility rate relief and pollution fees.

Over the past 10 years, the NCAC has endorsed a variety of approaches to acid rain control that have addressed this equation in different ways. We have endorsed several approaches that attempt to minimize shifts in coal use. We have also endorsed the acid rain title of the pending legislation. There appears to be a consensus in Congress in support of the approach dubbed the "least cost" control program. More accurately, the latter approach attempts to minimize direct abatement costs. Numerous studies also suggest this approach might have a negative impact on high sulfur coal demand, depending on individual utility compliance decisions.

Given Congress' apparent preference for the approach that minimizes direct abatement costs, it is appropriate in our view for Congress to adopt a standby worker assistance and job retraining program for coal miners.

The Byrd Amendment would establish an extended—but limited—unemployment benefit program and job retraining opportunities for high sulfur coal miners affected by the acid rain control program.

We have testified repeatedly over the years that we were prepared to support any one of a variety of approaches to ameliorate the economic impact of acid rain, as long as the fundamental structure of the program is sound—if it achieves the necessary reductions on an accelerated timetable. We could support the acid rain title of the Leadership substitute, as amended by the Byrd Amendment, consistent with our longstanding position.

We believe it is also good policy to establish a standby federal environmental adjustment assistance program for workers in other fields who lose their jobs as a direct result of compliance with the Clean Air Act. Such cases are rare, and the need for this provision will be minimal. On balance, the Clean Air Act has had a positive impact on our economy. The Clean Air Act creates jobs—jobs in construction, engineering, specialty chemical manufacture and other fields.

Some may ask why the National Clean Air Coalition is addressing itself to this particular amendment. We are a broadly based coalition involving environmental, labor, religious, public health and citizen organizations. We have alway formulated our positions on environmental matters mindful of the concerns and interests of all our members. We have also learned from the experience of the past 20 years. The utility industry used the threat of minor job losses to weaken air pollution controls in Midwestern states under the 1970 law, resulting in the pollution control failure that make the current amendments necessary. Amendments that address mining job losses will remove this rhetorical weapon from the hands of the polluters.

The current Clean Air Act already addresses the threat of economic blackmail through other worker protection provisions. Adjustment assistance and job retraining programs such as those established by the Byrd Amendment can build a bridge between yesterday's job and tomorrow's opportunity.

We note you have modified your amendment substantially and agreed to an absolute ceiling on costs. And we understand you are working with Senate leaders and the managers of the bill in an attempt to develop a consensus approach to worker protection. We fully support those efforts and encourage all parties to go forward in a spirit of compromise.

We believe the Byrd Amendment can be and ought to be accommodated in the pending bill.

Sincerely,

RICHARD E. AYRES,
Chairman.

So, as I did in the case of the letter from the AFL-CIO, I ask unanimous consent that this letter also be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL CLEAN AIR COALITION,
Washington, DC, March 29, 1990.

Hon. ROBERT C. BYRD,
U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: We support your efforts to add a worker adjustment assistance program to the pending Clean Air Act. The National Clean Air Coalition has as its mandate the protection of public health and welfare from air pollution. We believe that this objective is served by the addition of a program to address potential employment effects of this legislation.

Despite the claims of the polluters, the American people have always believed—and the experience of the past 20 years has demonstrated—that a clean environment and a growing economy go hand in hand. But every major national program can have microeconomic effects. It is certainly appropriate for Congress to consider ways to respond to these localized effects in the context of the Clean Air Act. Indeed, the debate over acid rain control has been dominated by just these considerations.

It is generally recognized that control programs designed to minimize the cost to consumers in high sulfur coal states could have an impact on high sulfur coal mine jobs. Your amendment is one approach among many that attempt to ameliorate localized coal mine job losses that could result from acid rain control. Other Members of Congress have taken different approaches to mitigate the impact of acid rain control on mine workers, power consumers and the utility industry. These alternative approaches have included mandatory technology requirements, utility rate relief and pollution fees.

Over the past 10 years, the NCAC has endorsed a variety of approaches to acid rain control that have addressed this equation in different ways. We have endorsed several approaches that attempt to minimize shifts in coal use. We have also endorsed the acid rain title of the pending legislation. There appears to be a consensus in Congress in support of the approach dubbed the "least cost" control program. More accurately, the latter approach attempts to minimize direct abatement costs. Numerous studies also suggest this approach might have a negative impact on high sulfur coal demand, depending on individual utility compliance decisions.

Given Congress' apparent preference for the approach that minimizes direct abatement costs, it is appropriate in our view for Congress to adopt a standby worker assistance and job retraining program for coal miners.

The Byrd Amendment would establish an extended—but limited—unemployment benefit program and job retraining opportunities for high sulfur coal miners affected by the acid rain control program.

We have testified repeatedly over the years that we were prepared to support any one of a variety of approaches to ameliorate the economic impact of acid rain, as long as the fundamental structure of the program is sound—if it achieves the necessary reductions on an accelerated timetable. We could support the acid rain title of the Leadership substitute, as amended by the Byrd Amendment, consistent with our longstanding position.

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Some may ask why the National Clean Air Coalition is addressing itself to this particular amendment. We are a broadly based coalition involving envirfonmental, labor, religious, public health and citizen organizations. We have always formulated our positions on environmental matters mindful of the concerns and interests of all our members. We have also learned from the experience of the past 20 years. The utility indus-

try used the threat of minor job losses to weaken air pollution controls in Midwestern states under the 1970 law, resulting in the pollution control failure that make the current amendments necessary. Amendments that address mining job losses will remove this rhetorical weapon from the hands of the polluters.

The current Clean Air Act already addresses the threat of economic blackmail through other worker protection provisions. Adjustment assistance and job retraining programs such as those established by the Byrd Amendment can build a bridge between yesterday's job and tomorrow's opportunity.

We note you have modified your amendment substantially and agreed to an absolute ceiling on costs. And we understand you are working with Senate leaders and the managers of the bill in an attempt to develop a consensus approach to worker protection. We fully support those efforts and encourage all parties to go forward in a spirit of compromise.

We believe the Byrd Amendment can be and ought to be accommodated in the pending bill.

Sincerely,

RICHARD E. AYRES,
Chairman.

Mr. BYRD. Mr. President, Senator MCCONNELL is here. How much time does Senator MCCONNELL wish?

Mr. MCCONNELL. Mr. President, 10 minutes?

Mr. BYRD. I yield 10 minutes to the distinguished Senator, with the concurrence——

Mr. CHAFEE. Mr. President, I wonder if a more orderly way to proceed on the time would not be if we yield it in blocks? Say 20 minutes here. I do not know who will appear on this side. There will be plenty of time, I can assure the distinguished leader. Or 30 minutes, if he would like, to start with.

Why do we not start with a block of 20 minutes. Would that be convenient?

Mr. BYRD. To me? Yes. I thank the Senator, and I yield 10 minutes.

Mr. CHAFEE. Then at the end of that, when he will let us know the 20 minutes is up we will do another 20 minutes, so we have some idea in order to take care of those who might come on our side.

Mr. BYRD. I yield 10 minutes to Mr. MCCONNELL from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I want to address the Senate for the third time today on the Byrd amendment. At the outset, Mr. President, I would like to once again commend the outstanding work of the chairman of the Appropriations Committee, Senator BYRD, on this amendment.

Senator BYRD has been our leader. He has made the point time and time again that what this issue is about is compassion, compassion for those who are engaged in an extraordinarily dangerous work, that of extraction of coal which feeds the electric generators of this country and provides power for an awful lot of people who assume that electricity just mysteriously appears without any effort.

This is a serious economic crisis that we have before us, and the Senator from West Virginia, the distinguished chairman of the Appropriations Committee, has been our leader, has understood it, has spoken forcefully on its behalf. I want to commend him once again for his truly outstanding leadership in this whole area.

As has been made clear by the speakers who preceded me this morning, this amendment is designed to provide some relief to the thousands of coal miners who will pay the ultimate price for reducing acid rain in this country—their jobs.

The importance of this amendment to coal miners and their families is evident by the bipartisan support it enjoys. Mr. President, this is not a partisan issue. It is not one that pits Republicans against Democrats. It is not an ideological issue. Rather, Mr. President, this is an issue of compassion—compassion for the hard-working men and women of the Midwest coal mines who will suffer so that the rest of this country and our Canadian neighbors can have clean air.

My distinguished colleague from Kentucky spoke eloquently this morning on the impact this bill will have on certain communities of Kentucky.

Let me take just a moment to reiterate the point the senior Senator from Kentucky made about this impact. I do so to make it perfectly clear why this amendment has bipartisan support in Kentucky and in the other midwest coal-producing States of this Nation.

The economic impact of this acid rain title on coal communities will be concentrated due to the nature of the coal industry. Small communities which develop around coal-mining sites are, by definition, almost exclusively dependent on the mining operation for their economic viability.

I know, Mr. President, that we have seen a multitude of reports and studies produced recently which show the economic impacts of the clean air bill. Unfortunately, many of these reports are produced by groups with a policy stake in the debate and are, therefore, inevitably biased. However, I think we all would agree that the Congressional Research Service is an objective, unbiased organization. So I will be quoting CRS.

Mr. President, the CRS has produced a startling and disturbing report which describes the dependence of certain counties in western Kentucky on the coal industry. This report shows that 90 percent of the high sulfur coal produced in western Kentucky is mined in five counties. CRS points out that one out of every four jobs in these counties is a coal-mining job and that the second and third largest categories of jobs are in the service and Government sectors, both of which closely support the coal industry. The CRS study estimates that, under the original Bush bill or Environment Committee bill, these five counties would lose 40 to 50 percent of their coal production.

The Congressional Research Service points out that a discussion of coal jobs in these five communities is really a discussion about the economic viability of these communities. The study concludes that—

> Indeed, it is unclear that these communities would exist without coal.

The compromise acid rain package we have developed here helps alleviate this impact to some extent. I am told this compromise will reduce job losses by one-half to one-third over the committee proposal. However, thousands of jobs will still be lost in western Kentucky.

While much of eastern Kentucky stands to experience a short-run job gain in coal jobs as a result of this legislation, pockets of this region of my State will also be hard hit.

Mr. President, I recognize the odds we supporters of this proposal face. In fact, because the coal-mining impacts will be so concentrated, the rest of the country as a whole will probably not even realize it is occurring. It will be easy, therefore, for my colleagues to look the other way. They will not have to go home and face the economic devastation which will be wrought from this bill. Instead, they can go home and crow about the great vote they cast to clean up the air. They can even brag about how they made sure that none of the costs incurred to clean that air will be felt by citizens of their particular States.

Unfortunately, Mr. President, the Senator from Kentucky and other midwestern coal State Senators do not have that luxury. The citizens of our States will feel the impact.

Indeed, Mr. President, the environmental benefits of reducing acid rain will be enjoyed by many, but the costs of those benefits will be borne by a few. And so, Mr. President, I urge my colleagues today, as I have urged them many times before: Please, before you cast that all-important clean air vote to look with compassion on those who will pay the real cost of that vote and also vote in favor of the Byrd amendment.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I yield 15 minutes to my distinguished colleague, Senator ROCKEFELLER.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I thank my distinguished senior colleague from West Virginia.

Mr. President, the Senate knows that the amendment of that same distinguished senior colleague of mine from West Virginia deserves to be adopted. In our hearts, we know it does, both because it is right and because it is in the interest of the entire country.

This is not a plea for relief from a natural disaster, to which the Senate would undoubtedly quickly respond. This is a stronger case than a natural disaster. It is a request to mitigate the disproportionate economic impact intentionally imposed in the acid rain section of this bill on a distinct minority of States.

Let me emphasize this point. Mr. President, it may not be understood, even at this late date in the debate, what is going on in this bill. The authors and the principal proponents of the acid rain title, including President Bush, intentionally require the States of the industrial Midwest and Appalachia to reduce emissions by more than the percentage of total nationwide emissions that they, in fact, contribute. The rationale behind this approach is that removing a pound of sulfur dioxide from the air from a large coal-fired utility in the Midwest is less expensive than removing it from the air in a State like Texas where the sources emitting sulfur dioxide are more dispersed, although no less damaging. But, and I say this is a big "but," if Congress intentionally imposes an extra reduction requirement on the Midwest and Appalachia, beyond its contribution to the problem, the country, as a whole, should be ready and, indeed, eager to pay to mitigate the impact in the Midwest and Appalachia. The country should be eager to do this because the country is getting a bargain by so doing.

Let me repeat that. This amendment is a bargain. If each State were required to pay cleanup of its own actual share, it would cost the States more than, indeed, paying to mitigate the impact on the Midwestern and Appalachia States that are doing the job for the other States.

The issue is what is right for the country. Is there a jobs problem or not? If there is, it will not be addressed by trying to ignore it. In fact, those who say we should ignore the jobs problem so that we can have clean air have the situation exactly backward. If there is a jobs problem, ignoring the problem is not the way to get clean air. Ultimately, you will not get clean air, Mr. President, in this country, unless the problem of jobs is addressed and addressed seriously.

The point is that those of us who do want a cleaner environment have to have a broader focus than just the environment. This may not be good news to some who have been toiling to advance environmental legislation, but, in the long run, I think it is better to be working with an accurate understanding of what one is really facing. What this really means is that the job of cleaning up the environment is, in fact, even harder than we have all expected. It is harder because unless we can prevent serious economic damage, public support for cleaning up the environment will not be sustained.

So it is true that the issue of jobs adds some difficulty to achieving clean air, but some seem to be saying that dealing with the jobs issue is just too difficult to be done and would rather not do it. I have been startled to hear some opposing this amendment because they have suddenly discovered that not only coal miners, but other jobs, could be affected. Where will it all end, they say? And, in fact, who knows. Perhaps now that the Senate is really focusing on the issue, we might wind up doing what is really fair and makes sense for the country. At least that is what I hope.

We can and we should have both jobs and clean air, Mr. President. That entails a cost, some will say. Of course, it entails a cost. That is what this amendment is all about. But costs are involved either way we go. Not cleaning the air entails costs in the quality of the environment that we live in. I faithfully subscribe to that. But not dealing with job dislocation also entails costs in the lives of our citizens. It entails costs in the waste of the human resources that we need in order to not only have our citizens have a decent life, but to compete economically in the world. It entails costs in insurance, welfare, AFDC, alcoholism, broken families and the tragedy that happens when jobs are taken away from communities that are utterly destroyed, which is what could happen if this bill passes without improvement.

Compare our hesitant approach to worker retraining, to the approach of other nations. We worry and we argue about whether we can afford to be compassionate. While we are arguing, those who know the importance of a trained work force and who consider unemployment a stupid policy will defeat us and are in the process of so doing in global economic competition.

Everything costs, Mr. President. The real question is what will happen if we fail to pay the price. Let us stop complaining that this or that is going to cost, and let us find out which costs we have to pay to avoid greater problems and to achieve a decent life for all Americans.

We hear that much of the public has become skeptical of our Government institutions. I do not blame the citizens for that skepticism when people in Washington seem to have difficulty setting what would seem to be fairly clear priorities and throw up their hands and say, nothing can be done. That is what those who want to defeat the Byrd amendment are saying: that nothing can be done about this.

There is a lengthening agenda of things, Mr. President, that the public wants its Government to do. Let me suggest that it is not as hard to set priorities as is sometimes argued. We can begin this afternoon.

When a Federal law targets a given area of the country and a given industry, and particularly when it targets it in a way in which it is expected to produce job loss in that region, and a region with limited job alternatives at best, the law should provide readjustment assistance.

It is said that the limited cost of this amendment somehow constitutes valid objection to it, but that position turns upsidedown our national priorities. If the Government may throw people out of work to achieve environmental objectives, should we give priority to compensating people who are in fact thrown out of work or should we give priority to proposals by those who urge us to provide tax breaks for people in top tax brackets? That would seem to me not a difficult choice.

What expenditure is more warranted, adjustment assistance for hard-working people whom we need to enlist in the battle for international markets or the purchase of those missiles whose only purpose is to be launched from West Germany to strike targets in East Germany? And yes, they are requested in the budget that we have before us. That is not a difficult choice, Mr. President.

The list goes on and on. In fact, the point is that when it comes to priorities, adjustment assistance for working people thrown out of work by direct action of the Government should be at the top of any list of priorities, ahead of everything else.

The real truth is that there should have been significant cost sharing in this bill. I am furious that that was not adopted. It was a political deal and it is done. Whether or not it remains possible to achieve cost sharing, it should have been done in the first place. Cost sharing, so that the industrial Midwest would not be required to pay more than its share for cleanup. Absent that, whether to pay modestly for those unemployed by this bill is not a difficult choice at all.

There should be no complaining about paying the amounts in this amendment. There should be no hand wringing about how we cannot do anything because of all the expenditures that we are being pressed to consider. These jobs come first. Today the impact of Government action is concentrated in my region of the country, and we will suffer. Tomorrow it may be in your region of the country. This amendment, Mr. President, should be uncontroversial.

Where does the Senate stand? Is the Senate willing to pay for clean air or is it not? Is the Senate serious or is the Senate not about the need to protect our human resources, rather than waste them, in the battle for international markets? Is the Senate willing to accept responsibility for the consequences of its actions or are we not? Is the Senate prepared or are we not to put jobs ahead of tax breaks for the already privileged and all the other luxuries on which we are asked to spend taxpayer money? And that list is long. I believe, and I certainly hope, that these questions answered themselves.

I commend my distinguished senior colleague from West Virginia for his leadership on this amendment and on so many other causes. I commend this most important amendment to my colleagues in a most favorable manner.

I thank the Chair. I thank my senior colleague. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I thank my colleague for the strong, steady, constant companionship he has given in this effort over the many months that we have been wrestling with the clean air legislation, hoping to reduce and minimize the job cuts. He has been very effective and I deeply appreciate his support. I am sure our people do likewise.

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I represent the State of Montana. Montana is known as the Treasure State. Our State's economy is predominately shaped by agriculture. We are a forest product State. We are a mining State. We are an outdoor State. We are a natural resource State.

My State is no stranger to the cruel shifts of a free market economy. In the last decade, Montana has witnessed the loss of the Milwaukee Railroad—entirely gone, no Milwaukee Railroad anymore. We have also witnessed a significant loss of portions of our only remaining railroad, the Burlington Northern.

In 1980, just 10 years ago, the Anaconda Co., historically the dominant private employer in the State of Montana, closed its copper mining, closed its smelting operations, and closed refining operations in our State. In little over a century, the richest hill on Earth, in Butte, MT, which produced 20.1 billion pounds of copper and over 2 million ounces of gold totaling over $22 billion—that is in 1984 dollars—had become one of the largest Superfund sites in the Nation. From being the richest hill on Earth to being one of the largest Superfund sites in the Nation.

Since 1980, Montana has lost 12,000 workers in agricultural, mining and construction sectors. Total workers' earnings from these sectors have declined by a quarter. In September 1980, literally overnight, 65 percent of the State's primary metals production has vanished. Sixty-five percent of the State's primary metals production has vanished. Per capita income has declined to 80 percent of the national average compared with 100 percent in 1950. A decade ago, roughly 12 percent of Montanans lived below the poverty level. Today that is up to 16 percent, well above the national average. Since 1984, nearly 30,000 Montanans have left the State in search of a job. There were nearly 10,000 miners in Montana in 1950, and today there are fewer than 6,000.

It is a virtual certainty that our State will lose one of its two seats in the U.S. House of Representatives following this year's census.

Indeed, Montanans are intimately familiar with the cruel realities of a free market economy. We have witnessed job losses. We have witnessed dislocation. We have seen the resulting increases in alcohol and drug abuse, spouse and child abuse, and we have seen whole communities literally decline and vanish.

So I speak today with a great deal of firsthand experience and a great deal of empathy of those who see their jobs potentially threatened by the passage of this bill. I know what it is like to go to a town meeting and face whole communities desperate for work and economic security.

This amendment is not the solution. This amendment is unwise economic policy, and it is unworkable environmental policy. Under the proposal, there is no mechanism to distinguish between coal mining jobs actually lost as a result of the acid rain provisions of the bill and job losses which resulted from normal economic free market changes. Between 1950 and 1960 the number of miners in America's bituminous coal fields fell from a high of 400,000 miners to 160,000 miners. In just a little over a decade, 60 percent of the jobs in the bituminous coal mining regions of the country were lost.

These job losses occurred well before the passage of the landmark Clean Air Act of 1970—well before the passage of the 1970 Clean Air Act. Three hundred thirty-nine thousand coal jobs were lost between 1950 and 1970. Since the enactment of the Clean Air Act, only 29,000 jobs have been lost in the bituminous coal industry.

Factors other than environmental regulation resulted in the loss of these jobs. Indeed, mechanization in the coal industry and the national shift to other sources of energy and development of low sulfur coal deposits contributed to slacking demand in the bituminous coal industry.

So, Mr. President, I say to you that this amendment is not the solution. In many ways, if enacted, this amendment could be a self-fulfilling prophecy. It could well be the excuse needed to close marginal mines and allow the taxpayers to pay for the consequences.

Most of the copper workers who lost their jobs in the State of Montana and other areas of the West during the 1980's received only the minimal unemployment compensation and related benefits, to which they were entitled. There was no special treatment for these workers.

In the coming months, this Congress will confront similar difficult economic dislocations as a result of changing budget priorities. Is every civilian employee of the Defense Department entitled to similar compensation when job losses result from military base closings? Are employees of defense contractors entitled to special unemployment and education benefits because of the decline in defense production and procurement? What are we going to do, Mr. President, when certain procurements are discontinued, whether it is the Bradley fighting vehicle or the M-1 tank? What are we going to do for those workers? Are they entitled to receive similar benefits?

These job losses are the result of changing public priorities and Federal budget shifts. Should we compensate the thousands to be added to the unemployment lines as a result of the defense budget cutbacks? What about highway funding reallocations? What happens if this Congress next year passes a new highway authorization bill? It will result in some job losses in some parts of the country. It may move funds from highway to mass transit, a move which I might say I do not favor.

There is no guarantee that when that highway bill passes there will not be some shifts in allocation of highway dollars. The result may be some workers are going to be out of jobs. Are we going to give them the same benefits? That is legislation passed by this Congress. Are we going to give those workers the same benefits?

What happens when we pass an appropriations bill that has a cut in some project or some program? Are we then going to add another appropriations bill to give compensation to those people who are out of work because the first appropriation was a cut?

What about the S&L fiasco? This Congress, the President, and the regulatory agencies are responsible for the S&L fiasco which has resulted in the job dislocations around this country. Are we going to give those people the

same benefits that are provided for in this bill?

Mr. President, we all know the current Clean Air Act, at least those of us in the West know this, presently discriminates against low-sulfur coal. Consequently, most of the powerplants in the West have been required to add costly scrubbers even though they burn clean, low-sulfur coal. The existing act has permitted aging powerplants in other parts of the country, particularly the Midwest, with no pollution controls, or only minimal pollution controls, to continue to burn dirty, high-sulfur coal. The current act discriminates against the West, and we have taken steps to remove this injustice in this legislation.

The compromise that has been worked out over the last several weeks concerning acid rain is just that. It is a compromise. It is a compromise in the very best sense of the word. No one got everything on this wish list. But by the same token, every region in the country was given fair consideration, and every major concern was addressed.

I might say, Mr. President, the Midwest was treated fairly in our negotiations. The new marketable allowance system, for example, established in the bill will benefit the Midwest significantly in defraying the cost of pollution controls.

In the West, we were not given allowances when we modernized our electric generating facilities. We paid for them the old-fashioned way. Our electric ratepayers paid and continue to pay with the cold, hard cash.

The adoption of the pending amendment upsets the delicate balance which I and others associated with this legislation have endeavored to craft over the past decade. The amendment however adds salt to the festering regional wounds which resulted in the unfair percentage reduction requirements in 1977 that are contained in the current law.

I must say, Mr. President, this amendment also does not make environmental sense. It does not make environmental sense because the concerns and allowance allocations were fully addressed in the compromise we reached. No one ever said a national clean acid rain reduction program would be cheap. No one ever said that. But we have endeavored to be sure that the burden is distributed fairly and evenly across the board, particularly on a regional basis.

The allowance system in the substitute will go a long way to assist in the implementation of this program. Those costs are not unlike the costs incurred by other regions of the country over the past decade.

Mr. President, the current act has been unfair to the West, and we have paid the price for our clean air. We have paid dearly. In the compromise the balance allocates emissions allowances in a fair way so that the Midwestern utilities, the dirtiest utilities in the Nation, the utilities that have to clean up are going to get a major break because about 25 to 30 percent of the cost is going to be paid for by other electric ratepayers in the country.

The allowance system is going to go a long way to find a balance between western low-sulfur coal and eastern high-sulfur coal. This compromise is just that. It is a compromise.

Mr. President, that to go further, as far as the pending amendment would go, not only adds salt to the wounds in the compromise, but it is very unfair. It is unfair because there are existing programs that can help people who are out of work. But it is not right; it is not fair to give that much more additional compensation to only one set of workers in primarily one part, of the country. It is just not fair. It is not fair to the rest of the country.

The best solution is one that strikes a bit of a balance between the present amendment that is offered, cut that back significantly, so that all workers around the country basically get decent compensation if they are out of work but not at such a rich rate that it is unfair to the rest of the people in this country.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from West Virginia controls 25 seconds.

Mr. BYRD. Mr. President, I thank the Chair.

The PRESIDING OFFICER. Who yields time?

If no one yields time, it will be deducted equally from each side.

Mr. BAUCUS. Mr. President, I yield 10 minutes to the distinguished minority leader.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I thank the manager.

Mr. President, I have tried to listen to all the different speakers this morning. You know I could not be on the floor all the time listening to the majority leader on the radio or watch the television. There were not any surprises. I mean those from coal States are obviously for super benefits and some others have not decided.

Again, I think we should agree with the Senator from West Virginia: this is not the vote on the environment, but this is a vote on a national policy. We have to make a judgment whether we want to start some new national policy of super benefits that may carry over into everything else we do when it comes to somebody losing a job. Base closings will be the next ground. Are we going to have super benefits for people who lose their jobs because of that?

Contrary to what the Senator from West Virginia would have us believe, this legislation does impose broad, new requirements on all major industrial sectors of the economy. Thus, any justification that high-sulfur coal mining should be singled out from other industrial sectors and industries for preferred and special treatment just does not make sense. Other industries facing increased requirements include autos, steel, chemicals, refineries, utilities, rubber, paint, coatings, solvents, plastics, to name but a few and there are many more. Indeed, this legislation is so far-reaching, it goes from the Fortune 500 clear down to Main Street, U.S.A., including dry cleaning facilities, bakeries, printing plants, and gas stations.

As I have said before, this clean air bill is the most significant legislation we are going to tackle all year. The industries I have just mentioned, including many others, have all these problems with the bill, all these compliance problems, and it is going to affect everybody. The auto industry, for example, has to produce vehicles meeting extensive new control requirements. The steel industry will have to significantly reduce its emissions, and in order to do so may be forced to close certain facilities. The chemical industry will have to meet stringent new requirements that reduce both air and toxics emissions, emissions which contribute to smog. The utility industry will have to slash its sulfur dioxide emissions by close to 50 percent over the next 10 years. Oil companies will not only have to meet air toxic and nonattainment smog requirements, they will also have to reformulate their products such as gasoline and diesel fuel. This list, of course, is much longer.

The point I am trying to make is that the economic impact falls on other industrial sectors, too, and does not, as the Senator from West Virginia would have you believe, target, in his words, "Big Bertha" on high-sulfur coal miners.

Everyone knows that each of these industries has thousands of jobs at risk. You could quarrel with the estimates, but the estimates by Hahn and Steger suggest that the toxics provision alone may affect about 1 million jobs. Some will say that is too high, but that is their projection. They estimate that between 100,000 and 200,000 jobs could be lost in various industrial sectors.

I might say, this study was done before we made improvements in the bill, before we in effect helped balance the bill, as opposed to the committee bill we originally brought to the floor.

For example, in transportation equipment, Hahn and Steger estimate that approximately 300,000 jobs may be affected, 30,000 to 60,000 which could be lost.

These workers are largely found in 16 States, including Kansas, Indiana, Ohio, Tennessee, Texas, and Washington.

In the chemical industry, approximately 125,000 jobs may be affected; 12,000 to 25,000 could be lost. These workers are largely found in 19 States, including West Virginia, Illinois, Kentucky, Louisiana, Missouri, Ohio, Texas, Virginia, and others.

In the primary metals industry, approximately 120,000 jobs may be affected, 19,000 to 24,000 of which could be lost. These workers are largely found in 12 States, including West Virginia, Alabama, Illinois, Indiana, Kentucky, and Pennsylvania.

In the paper products industry, approximately 60,000 jobs may be affected, of which 6,000 to 12,000 could be lost. These workers are largely found in 10 States, including Alabama, Kentucky, Maine, and Ohio.

In the electronics industry, approximately 55,000 jobs may be affected, and could lose between 5,500 and 11,000. Again, these workers are largely found in four States, consisting of Alabama, California, Connecticut, and Nebraska.

So, as I have said repeatedly, a lost job is a lost job. What happens if coal miners lose their jobs and because of the loss in jobs somebody at the J.C. Penney store is laid off, and they are the breadwinner in the family, and they have children and bills and rent to pay and they are not getting the higher wages that the coal miners receive? They are out of work; they do not get any protection. They get regular unemployment, 26 weeks at an average of $164 a week or $4,277.

I have great empathy for the coal miners, and I have listened to my friend from West Virginia, but I cannot rationalize how we can say, they are the highest paid workers—maybe with the exception of steel industry—but anyway, we ought to give them bigger benefits, super benefits, because they may have lost their job.

They are losing their jobs now because of technology. They lost thousands and thousands of jobs in the coal industry because of the change in technology, not because of the Clean Air Act. Even if we do not pass the Clean Air Act, there are going to be thousands of jobs lost in the coal sector because of new technology. Why are they being targeted for special benefits? I ask, why should a coal miner from West Virginia receive economic benefits that a steel worker from Pennsylvania or, for that matter, West Virginia, would be denied under this proposal?

I also emphasize that, to his credit, the Senator from West Virginia has been making a case, and his concern for coal miners has not fallen on deaf ears, as he would have you believe. This legislation contains many provisions intended to protect high-sulfur coal-mining jobs over the long haul, and these provisions include the following: clean coal technology financial incentives. These provisions give special financial incentives for clean coal technology projects, and almost all of these projects encourage the use of high-sulfur coal.

Clean coal technology regulatory incentives. These provisions for clean coal technology relax existing environmental requirements for these projects.

Clean coal technology repowering projects, almost all of which will use high-sulfur coal, receive a 4-year compliance delay under the compromise, and this extension is a tremendous incentive for utilities to continue using high-sulfur coal instead of switching to low-sulfur coal.

In phase one, any plant which scrubs high-sulfur coal will receive a 2-year compliance extension. This is yet another big incentive to continue using high-sulfur coal instead of switching to low-sulfur coal.

The Byrd-Bond provisions also grant extra emission allowances—so-called 2-for-1 credits—to utilities using scrubbers with high-sulfur coal. This incentive encourages utilities to continue using high-sulfur coal.

Finally, all of these provisions in the compromise are in addition to the existing Clean Coal Technology Demonstration Program. This program provides for $5 billion worth of subsidies for the development of clean coal technology. Half of this money comes from the Federal Government, and almost all of it will be spent on technologies intended to facilitate sustained use of high-sulfur coal. Needless to say, much of this coal will come from West Virginia.

So I do not want to leave the impression, and I hope the impression is not made, that we said we are not going to worry about the coal miners or high-sulfur coal or those States in which it is produced. This bill is replete with provisions that benefit that industry.

Senator MITCHELL and myself made a proposal last Thursday to the distinguished Senator from West Virginia. We tried to come to grips to see whether we could find some proposal and a good faith effort which would provide, yes, generous benefits for workers who lose their jobs as a primary result of the Clean Air Act amendments, with additional benefits to be provided in certain cases involving high unemployment. Such additional benefits were carefully crafted to meet the needs and concerns of the coal workers expressed by the Senator from West Virginia and other Senators. This proposal has not been accepted.

I want to take a couple of minutes to point out that that proposal and the so-called Byrd, et al. amendment that is pending, is very clear, painfully clear; the offer made was a very generous offer and exceeded considerably what a worker who lost his job otherwise would receive under typical unemployment programs. Keep in mind that based on the State average it is $164 a week. That happens to be what we receive in my State. I have a list of all 50 States. Some are lower, some are higher. West Virginia is $245 a week. New York is about $245 a week.

With respect to basic benefits, under the Mitchell-Dole proposal, all workers are entitled to benefits if the loss of their jobs is the result of the Clean Air Act amendments, the same as in the Byrd amendment. You start off the same.

In addition, the amount of basic benefits is the same under the Byrd amendment. In addition, there are an additional 52 weeks of unemployment insurance benefits, plus training, plus job search and relocation allowances.

Thus, under the Byrd amendment and the proposal made by the distinguished majority leader and myself, benefits are provided for those who lose their jobs, benefits to live, plus assistance with respect to finding a new job, training assistance for that job, and relocation assistance to move to a new job.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. DOLE. Will the Senator yield me 3 additional minutes?

Mr. BAUCUS. I yield 3 additional minutes to the Senator.

Mr. DOLE. In addition, the Byrd amendment provides super benefits to coal workers only, 70 percent of their wages, and you have another 20 percent. So it is almost as much as they are making in the first place in the first year.

The proposal made last week to the distinguished Senator from West Virginia provides additional benefits to workers in all States with unemployment exceeding 140 percent of the national average and in industries which lose more than 18 percent of the work force within a 24-month period.

The amendment was intended to target those States suffering unemployment above the national average with industries which are experiencing increased unemployment.

This proposal was crafted with the intention of providing additional benefits to workers who truly need this type of additional assistance, that is, in high-unemployment States who are working at hard-hit industries, that combination.

I firmly believe that the proposal will provide such workers with benefits and assistance that they will need to make the transition to a new job.

While the amount of the benefits provided under the Byrd amendment and under the proposal differ in amount, the benefits provided under the proposal are available for all workers in all States, not just for coal miners. In other words, while the amount of benefits under the Mitchell-Dole proposal are smaller on a per-worker basis, they are available for all workers and are not available just to coal workers who as we know are a small minority of the many workers who will be or could be hit by this legislation.

It is my belief what the Byrd amendment translates into is for the Federal Government to provide super benefits to coal workers and to no one else other than coal workers.

For example, during the first year of eligibility, the Byrd amendment will provide the average West Virginia coal miner with approximately $33,000 without any requirement whatsoever that such displaced worker enter a training program or seek alternative employment.

Again, keep in mind that for one who loses his job, just losing his job, what does he get over a 6-month period? He gets $4,277 a year. That would be about $8,500 compared to $33,000.

Again, I would say what would happen if you lost your job in West Virginia or Kansas or somewhere else—maybe you are working in a grocery store; maybe a cleaning store, somewhere else; you lose your job because employment is down at Boeing Aircraft or somewhere else—you are going to get the big sum of $164 a week, while somebody else, somewhere else, will get $33,000 a year.

So it seems to me that when you get $33,000 without the requirement that the displaced worker enter a training program or seek alternative employment, that is a pretty good super benefit.

If such worker is enrolled in a training program, such worker would receive approximately $43,000 because you get more if you get into a training program; $43,000 per year, and in that one year.

Here is the super benefit made available just to coal miners: They do not have to make any attempt to find work, no attempt for training. And it seems to me it already creates a disincentive for anybody finding a job. Why would you want to work if you can make $43,000 a year for not working?

Under the Mitchell-Dole proposal, which is still very generous, the West Virginia coal miner would receive approximately $19,000 during the first 1½ years of eligibility, and with the value of training included, such worker would receive approximately $23,000 during the first 1½ years of eligibility.

In addition, under our proposal, all eligible workers nationwide would receive on an average approximately $13,000 during the first 1½ years, and approximately $17,000 with training. So there is a little discrepancy between that benefit for those directly related and not.

So, Mr. President, in response to the debate and the efforts by the distinguished President pro tempore, we have tried to come up with a satisfactory solution, not supported by the White House, I might add, but one we are prepared to propose as a leadership amendment.

I do not know how many people would vote for the leadership amendment. But we wanted to make certain we were in good faith. We did not think there ought to be discriminatory programs. There ought to be some standards and guidelines set where workers in my State would have a chance, or workers in Minnesota, Montana, or other States that might be affected by this bill would have the same opportunities.

But we did provide for average wages, and we also provided in those States hard-hit—that might be West Virginia; it might be some other State—that there would be an advantage as far as benefits were concerned.

Mr. President, I am noting we tried to provide a safety net for all the workers.

Mr. BYRD. Mr. President, will the distinguished Republican leader yield?

Mr. DOLE. Yes.

Mr. BYRD. I am out of time.

Will the Senator answer a question?

Mr. DOLE. If I can.

Mr. BYRD. What States would qualify for the benefits under the White House joint leadership proposal that was given to me?

Mr. DOLE. As I understand—and I have the list; I will be glad to put it in the RECORD—it would be four States: Texas, Louisiana, West Virginia, Alaska, and also Puerto Rico. That is at 140 percent.

If you lower that to 120 percent, you pick up about 5 or 7 or 8 or 10 additional States.

Mr. BYRD. I thank the distinguished Senator.

Mr. FORD. Will the Senator also yield for another question?

The PRESIDING OFFICER. Does the Senator yield?

Mr. DOLE. I am happy to yield.

Mr. FORD. The Senator said in his statement that his sources and his figures were prior to the new package substitute, the Mitchell-Dole substitute, as to loss of jobs in the various fields. The Senator took that, I guess, from the Congressional Research Service figures?

Mr. DOLE. No. We took ours from the Hahn-Steger survey.

Mr. FORD. The CRS—and I hope I am correct. But the CRS statement says the compromise thus even using the established methods in the report, the effect of the Senate compromise package would be to eliminate most or all of the direct employment impacts from the $1½ million risk standard.

So, if that is true, I say to my distinguished friend, if they would check it, then they would find out that it just leaves the coal industry. So when the ink is dry, they will immediately have the problem, and the other industries are virtually home free.

Mr. DOLE. I will just indicate, first of all, the point I was trying to make is that the study by Hahn and Steger looked only at air toxics to start with and did not look at acid rain. It looks at air toxics.

Second, they were basing their assumption on the bill reported out of the committee, not the Mitchell-Dole substitute.

Mr. FORD. That is right. But the figures the Senator reported were from the bill reported from the committee. I understood the Senator to say that his figures were prior to this substitute.

Mr. DOLE. Yes, I did say that.

Mr. FORD. So the Senator's figures are erroneous if the substitute passes.

Mr. DOLE. Not necessarily.

Mr. FORD. The Senator said that himself.

Mr. DOLE. I said it could be smaller because it was after the bill. It still indicates there are people at risk other than coal miners in Kentucky, in my State and every other State.

Mr. FORD. But the Senator left Kentucky out in the proposal he submitted to us as a compromise, and that got a little bit touchy for me when the Senator eliminated us and only took care of four or five States.

Mr. DOLE. We hope that nobody loses their job because of the Clean Air Act.

Mr. FORD. You can rest assured the coal miners will lose their jobs.

Mr. DOLE. Also rest assured, they are going to lose jobs in any event because of new technology. They are losing jobs in the coal mining industry because of new technology.

Mr. FORD. That is correct. There is competition.

There are 28 Senators here that voted for lumbermen and redwood forests, to give a much more generous support than this amendment asked for. I hope they will give us the same support on this.

Mr. DOLE. Let me correct the answer I gave to the distinguished Senator from West Virginia. Alaska, West Virginia, Louisiana, and Mississippi—I think I said Texas rather than Mississippi.

If you lower that, of course, you pick up additional States. If you go down to 115 percent, you add Alabama, Arkansas, Texas, Colorado, Illinois, Montana, and Wyoming.

But it is at 140 percent in the proposal we gave the distinguished Senator from West Virginia.

Mr. BYRD. I thank the Senator.

Mr. President, if I may say one word, the Senator from West Virginia is not interested in any approach that just benefits West Virginia and one or two others, and does not benefit all of the coal-producing States that are going to be hurt by this amendment. This is not pork.

I am in this fight with all the other Senators who have been working on this amendment for many weeks. If they cannot have a place in the lifeboat, I will not elect to stay in it either.

Mr. DOLE. I thank the Senator from West Virginia.

Again, I want to credit the Senator from West Virginia. Had I offered an amendment like this, I would not get five votes. But in any case, it indicates the strength of the Senator from West Virginia that comes with seniority and other things. But I know how you count votes and I know how you get votes, and the Senator from West Virginia has certainly worked that.

I do know this is bad policy. I am not certain the trade adjustment assistance really helped people, but we had it, and we still have it. So the distinguished majority leader and myself tried to pattern something after trade adjustment assistance so it would be fair and across the board.

Again, maybe the coal miners are in the most hazardous work of anybody in a America. Maybe not. Maybe the people in the coke ovens think they have it pretty hard there, too, and they may be in hazardous work and those in the steel industry and related industries. But to single out and say we are going to have a superbenefit for this group and different benefits for everybody else is pretty hard to sell, even if you wanted the program.

Again, there may be another modification. I am not certain, but I understand there may be a third modification to the amendment. If that is the case, then the argument I made may not apply, or it may apply. But again, when you start paying somebody 70 percent of their regular wage in unemployment benefits, I think it is very hard to justify.

What are we going to do when we start base closing? What are we going to do next time we have something come up or somebody else loses a job? Why should they not all look to the Federal Government? So, it seems to me, we have a good program in place. We have unemployment compensation available for a minimum of 26 weeks; it varies State by State. We have trade adjustment assistance still in operation in some States. I hope that my colleagues will take a look at their State and take out the Byrd amendment and see what your unemployed workers are going to receive, if anything. It is a question of fairness to our workers in our States.

It is also a question of cost. This is going to cost, over the lifetime, $800-some million. Again, I do not know what the modification is, but I have suggested to the White House, at least they have suggested this is a very serious amendment and if it should come out of conference in this fashion, it would certainly be a good candidate for a veto.

I yield the floor. I know other Members want to speak. I hope to have a chance to speak a few minutes more before 3 o'clock.

The PRESIDING OFFICER. The Senator from Montana controls 56 minutes, 48 seconds.

Mr. BAUCUS. Mr. President, I yield 1 minute to the Senator from Texas.

Mr. GRAMM. Mr. President, I spoke at some length on this amendment the night that it was offered. I am not going to repeat all of those arguments. I think this amendment is poor public policy. I deeply respect our distinguished President pro tempore. I think the fact that this amendment is broadly supported is more a testament to him than it is to the quality of the amendment.

But I want my colleagues to know that if this amendment is offered, if this is good policy for the coal miner, then it is good policy for the petrochemical worker, and it would be my intention to follow this amendment with a simple amendment that would simply say, "Notwithstanding any other provision of this act, the term terminated coal mine worker shall mean any terminated worker without regard to the industry in which such worker was employed."

Under that case, the 84,000 people in the petrochemical industry whose jobs are jopardized by this bill would be afforded the same protection as the people in the coal mining industry. Those in small business, in laundries and drycleaners, in all of the other industries that would be affected would be treated the same.

I want my colleagues, in looking at how they are going to vote on this amendment, to look at the impact of having the Federal taxpayer indemnifying every worker in America. I think this is a bad amendment. It is a bad policy. It is well intended, but it is very poor public policy. But poor public policy or no poor public policy, people in other States are not going to be treated better than the people in Texas.

I yield the floor.

The PRESIDING OFFICER (Mr. ADAMS). Who yields time?

Mr. BAUCUS. I yield 15 minuts to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I will oppose the amendment offered by my colleague, the senior Senator from West Virginia, and I do so reluctantly.

I have long supported cost sharing for acid rain controls. In fact, in 1983 and again in 1985, I introduced legislation to impose a fee on all sources of sulfur dioxide and nitrogen oxide emissions with the revenues to be used to assist with the cost of pollution control technology installed at powerplants in the Midwest.

I continue to believe that cost sharing is justified, although it is not a popular concept with business and industry in my State. My State of Minnesota has already spent hundreds of millions of dollars to clean up its sulfur dioxide emissions. In the 1960's and 1970's, we were burning high-sulfur Illinois coal without scrubbers. We have installed several scrubbers. We have switched to low-sulfur coal. We have constructed three nuclear-fueled powerplants. All of that has significantly increased the cost of electric energy to our industries and commercial businesses in the State of Minnesota.

The acid rain legislation pending before the Senate will not have any impact in Minnesota, because we have already implemented an acid rain control program. Under this bill, Minnesota is allocated 125,000 tons of allowances for sulfur dioxide emissions. By State law, we have a cap on emissions at 93,000 tons. So business and industry in Minnesota will not face higher electric costs because of this bill. We have already paid our share. And our businesses don't see much justification for contributing to the cost of cleanup in other parts of the Nation.

But there is a case to be made for assisting the Midwest States. The Senator from West Virignia has made that case here on the Senate floor with great eloquence and substantial feeling. In his State and in other Midwestern States, the issue is not only the impact on electricity rates, but the impact on coal mining jobs, as well. Coal mining communities tend to be dominated by that single industry. I have an iron range in Minnesota in which all they do is mine the iron ore that, when combined with the coal and the coke, becomes the steel of this country. I know that well.

The whole economy in each community turns on the productivity of the coal miners. If they are out of work, the impact on the community is devastating.

The nature of these impacts has, as every one knows, galvanized the Midwest in opposition to acid rain control legislation.

As a Minnesotan, I want an acid rain control program for the whole Nation like the one that my State has already implemented. Minnesotans care deeply about this issue. It has always seemed to me that it is possible to have jobs in the coal fields of the Midwest and to reduce acid rain at the same time. It can be done with pollution control technologies which are available today. The only question is whether the Nation is willing to invest in that technology or not. For it would take a national investment, some cost sharing, a contribution by all of us to make that strategy a political possibility here in the Senate. You just cannot order up the scrubbers and say that the polluter pays. That is not a strategy that would pass the Senate.

So, I have supported cost sharing. I believe that Minnesotans would support a program of that kind, if it could break the political deadlock and get a clean air bill enacted.

I think they would be willing to contribute to a cost-sharing program if it meant a significant reduction in national sulfur dioxide emissions, because it is we, our lakes and our forests, that would benefit from reducing the atmospheric pollutants that begin in the Midwest.

But, since the beginning of this Congress and with a new President, the debate has moved away from the practical control of acid rain, in the other direction, the direction favored by various fossil fuel products in this country. It is a strategy called fuel switching. Those who favor a fuel switching strategy have moved the debate here in the Senate to the point where explicit cost sharing for pollution control technology is not a viable option.

The low-sulfur coal and natural gas interests are clearly going to get a piece of the national pie. That is just a political reality.

The jobs which the senior Senator from West Virginia is concerned about are not lost because this bill reduces economic activity. They are not lost because we will use less domestic energy. They are not lost because there will be fewer people employed in the energy industry in America. The jobs he is concerned about are lost because this bill will cause a shift in fuel sources from high-sulfur coal to low-sulfur coal and natural gas.

I do not think a massive dose of fuel switching is a necessary part of an acid rain control bill, except here. It is not even a good idea when looked at from a solely parochial Minnesota perspective, because we use natural gas to heat our homes in Minnesota and to the extent more of it is used to produce electricity as a way to avoid sulfur dioxide emissions, prices to heat homes in Minnesota will increase. A strategy that fires utility boilers with natural gas is not a strategy that is good for my State. So I was willing to support pollution control technology cost sharing.

I might say there is some cost sharing in this bill already. The allowance system has been modified so excess allowances will go to those who invest in pollution control technology during the first phase of this program. The senior Senator from West Virginia has already won a great victory with that amendment. It was his amendment. His folks will be assisted as a result of that amendment. There will be more scrubbing, lower electricity rates and more coal jobs in the Midwest as a result of that amendment.

So I am on record, Mr. President, as being willing to support cost sharing for pollution control with my votes. But a comprehensive unemployment compensation program, I must say, is another matter. Clean air does not equal economic ruin. That is a principle that if I do not stand for it today, I will not be able to stand for it the next time we have an environmental bill before us. Clean air does not equal economic ruin. And I am deeply troubled that the directions of the debate in this body suggests that the environment and economy must inevitably be in conflict.

This body has, on occasion, seemed to be on the verge of accepting that equation as a fact, and I am here to say it is not a fact. A few days ago, our colleague from Washington, SLADE GORTON, proposed an import tariff to protect American jobs that might be lost to foreign production because of the cost of air pollution control.

That some of us would blindly accept the premise of that amendment to me is astounding. Clean air does not mean lost jobs. In a country like ours, we can do both.

There have been all kinds of claims made about the economic impact of this bill; some very large numbers for economic cost, for health care costs. They have all been thrown around on all sides, so it is kind of hard to sort out those claims. But, if we take the job losses which the Bush administration has projected, and put those numbers in context, 5,000 coal miners may lose their jobs as a result of the acid rain battle. Those jobs will shift to other parts of the American energy industry as other fuels are used in place of high-sulfur coal.

But employment in the coal fields has declined by tens of thousands over the past decade. Not because of any environmental law here in the U.S. Senate; largely because of mechanization and because of a series of environmental control laws, passed in States like mine.

If my colleagues were here this morning, they heard the senior Senator from Kentucky talk about the fact that Wyoming is now the No. 1 coal producer. We know that did not come about because of anything we did here in the U.S. Senate. That came about because over time, mechanization and a series of other State level environmental laws have accumulated in this country, which have favored Wyoming coal over coal in other parts of the country. But no unemployment compensation bill has passed through this body or through my legislature in Minnesota, to compensate for this rather enormous loss of jobs in the high-sulfur coal States.

Coal production over that period has still increased dramatically. But the jobs have decreased. The industry has made great strides in productivity, which have had a profound effect on unemployment and life in the coal community.

That is a very important social issue, one which we can see across the face of West Virginia. But it has nothing to do with this legislation.

On air toxics, the administration has estimated that the air toxics legislation reported by the committee, not the compromise now before us but the bill reported by the committee, might reduce unemployment by 11,000 to 14,000 jobs. That impact was based on the assumption that no new pollution control technology would be developed between now and the year 2005, when the health standards would become effective under the bill. Even the administration paper called that assumption unreasonable.

New technologies will save those jobs, I am sure. Every job is important. We do not want to pass legislation here in the Senate which negatively impacts anyone's job. And I am confident that the toxics provisions in the bill can be implemented also, without job losses.

But the number of jobs that we are talking about here is a blip in an economy the size of ours. The American economy is in a constant state of flux. Some industries are dying, some are growing. Old plants are replaced with new plants. Well-managed companies are expanding share while other firms decline. Every day, every week, every month, thousands of jobs turnover in this country. Last month, a 28-day-month, 370,000 new jobs were created, including many in the State of West Virginia. That was on top of the millions of new jobs that had been created since the end of the last recession in 1982—millions of new opportunities.

The notion that 11,000 or 14,000 or 5,000 jobs nationwide is a big impact for a bill of this kind is just plain wrong.

How it triggered the debate we are having here in the Senate is beyond my understanding.

Clean air does not mean the loss of jobs. Competition among regions for the future of this country, for the future of the energy marketplace, will have impact. In my view, we could

have kept that competition out of this debate. It is not a clean air issue. I cannot vote for an amendment premised on the note that environmental protection is a threat to our economy and that is why I will have to vote against the Byrd amendment.

It is not that I doubt the impact nor that I am unsympathetic with the impact nor that I am unwilling to pay for my State to reduce pollution from others, not that I believe that the Senator from West Virginia is unreasonable. He has a reasonable right to make this case.

If this bill creates winners and losers in the energy marketplace, and it will create winners and losers as it is currently written, it is not because of the environmental goals set in this bill. It is because this body chose the strategy to reach those goals with a fuel switching rather than a pollution-control technology. The Senate and the administration have explicitly chosen the least-cost strategy, knowing that jobs would be shifted from one part of the energy industry to another.

So be it. Let us not turn that decision into a massive unemployment compensation program which is not justified by the facts. We, in the land of 10,000 lakes, believe it is possible to have tough pollution control laws and a sound economy. We are proof of that point. We have already implemented the acid rain program which this legislation now proposes for the country as a whole. We are pleased the whole Nation will be joining us in the effort to clear our air.

We do not find that effort an unbearable burden. We are quite proud of our accomplishments, as we are sure the Nation will be when this bill is fully implemented. We, in Minnesota, will share in the costs of environmental improvement. We will not, however, pay the costs of job switching in the fuel industry.

I am reluctant to oppose this amendment because it does offset the large costs that West Virginia will pay in the short term so that we all may benefit. But I must, Mr. President, and I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Does the Senator from West Virginia wish to proceed?

Mr. BYRD. Mr. President, I thought I might have one additional speaker. I am not sure now that I will. Since I do not have him at the moment I cannot produce him. So I suggest the Senator proceed.

Mr. BAUCUS. Might the Senator from West Virginia, later?

Mr. BYRD. I might.

Mr. BAUCUS. Mr. President, at this time, we do not have additional speakers. There are one or two others who may speak in opposition to the amendment, in addition to the statement by the distinguished majority leader. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent for 2 minutes.

Mr. BAUCUS. I yield 2 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I had the privilege earlier in the morning of discussing with the distinguished senior Senator from West Virginia this legislation. Of course, the principal point of contention was the fact that it is a dual track system of paying individuals in the country who lose their jobs due to the Clean Air Act. No. 1, the coal miners are treated in one fashion and all others who lose their jobs in another fashion.

I have been brooding over the explanation that was given to me. It is, to me, very, very difficult to understand. I think I am quoting the distinguished senior Senator from West Virginia, the sponsor of the measure, correctly when I say that one of his justifications for this special treatment of the coal miners was the fact that they are earning a lot of money to start with. Therefore, when they lose their jobs, they are pegged to a higher cost of living where their mortgages might be high and their standard of living and, thus, I think it is fair to say the distinguished Senator's justification was that they should be treated in a more favorable manner, in a higher payment manner. I believe I am correct in saying that. I remember it fairly clearly.

That, to me, is a very, very strange way of proceeding in this Nation that, in effect, the wealthy get treated better than the poor. Sure, under our unemployment compensation it is geared, to some degree, to one's previous pay. But the differences are modest. In other words, somebody who is working at the minimum wage in our State would get maybe $147, and somebody who is working at a higher rate might get $164 per week, but the difference in the total amount is very modest, where the differences in this, as has been pointed out, is monstrous.

In other words, it could be the difference between unemployment compensation which the noncoal miner gets of $146 a week and the coal miner getting $500 a week, not for 6 months, which the unemployment comp person gets, but for 3 years. The rationale in favor of this that that person is wealthier and has been working at a higher wage and, thus, has higher mortgage payments is to me completely contrary to any system we have had previously.

Mr. BYRD. Will the Senator yield?

The PRESIDING OFFICER. The time of the Senator from Rhode Island has expired.

Mr. BAUCUS. I yield 1 additional minute to the Senator.

Mr. CHAFEE. I will be glad to yield.

Mr. BYRD. I thank the distinguished Senator. That was just one reason.

Mr. CHAFEE. I recognize that.

Mr. BYRD. There are many others. This hits that group and for each mining job lost, there can be two nonmining jobs lost. In many of the counties in these areas, 40 percent or more of the income is coal mining. We are not just looking at the coal miners. We are looking at the communities that are likewise going to suffer.

So to keep that economy from total disruption, we need to make that, if the Senator wants to use the word, disparity.

Mr. CHAFEE. Mr. President, I believe I pointed out that this was one of the reasons that the distinguished Senator gave for this special treatment. But I find even citing that reason extraordinary in that, and I think I am quite correct in saying, that the well off get treated better than the less well off. That is contrary to any system we have had in this country under this form of payment.

The PRESIDING OFFICER. The time of the Senator has once again expired. The Senator from Montana.

Mr. BAUCUS. Mr. President, how many minutes does the Senator desire?

Mr. DOLE. Three or four minutes.

Mr. BAUCUS. I yield 5 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Republican leader is recognized for 5 minutes.

Mr. DOLE. Mr. President, again, I just want to make a basic case for fairness. Again, I commend the distinguished Senator from West Virginia. He has done an outstanding job.

I do not agree with him on policy. I agree with him this is not a clean air amendment. But it is bad policy. This amendment is expensive, and it is excessive. This amendment gives special preferential treatment, super benefits to one group and not to others. It is going to cost per worker $94,000 for each coal miner over the 3-year period—$94,000 as compared to a normal person who might be unemployed if they get benefits that long, about $24,000, and it is pretty hard to justify. It is a question of fairness, and that, I think, we ought to consider.

They say, well, we are going to put a cap on it. It is $500 million. We do not know what the other program will cost. I understand the Senator is not going to modify his amendment again.

I think it is unnecessary, it is duplicative.

We have an unemployment insurance program. We pay out $15 billion a year in unemployment insurance—$15 billion; trade adjustment payments, an average benefit of just under $200 to an estimated 16,000 workers weekly.

So it is not that we do not have benefits. We already have benefits in place. But I guess what I would come back to, the bottom line is this is just not fair. It is inequitable. So we are going to single out some who are displaced because of pollution control efforts.

What about those workers displaced by other causes like increased competition, shifting tastes, changing economic trends? They do not get these super benefits. They get the basic benefit, $164 a week average. That is it.

The program is perverse. They are going to delay readjustment There is no incentive, if you are going to get $94,000 over 3 years, to go out and look for a job. Job retraining is not required. So it is going to hinder anybody who wants to make an adjustment.

So I just think for all the reasons that I have stated, again in all due respect to my friend and colleague from West Virginia, it is going to be hard to sell this package because I assume if this amendment is adopted, we will next hear from the chemical workers and every other group that might lose jobs because of this legislation.

If this amendment is adopted, how can we vote against anybody else? Or say, oh, we have a different rule for coal miners than if you work for J.C. Penney or some other clothing or retail business and you lose your job. You get $164 a week as opposed to 500-something dollars a week.

So, Mr. President, the bottom line is, it is unfair; it is inequitable; it is excessive; it will probably lead to the veto of this legislation. I just conferred with someone from the White House who said this ought to be applied to everybody if it is going to be applied to the coal miners. If it is, it is going to raise the cost of this bill by billions of dollars. If it comes out of conference that way, I do not see how the President could sign it.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, I yield the remainder of the time to the distinguished majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President and Members of the Senate, I oppose the pending amendment. I commend the distinguished chairman of the Appropriations Committee for the diligent effort with which he has pursued this matter in behalf of his constituents. The people of West Virginia know, as they have known for many years, that they have in Senate Senators who fight for their interests. The Senator from West Virginia surely has done that, and I commend him for it.

We have had the opportunity over the past weeks and days to discuss this amendment and alternatives to it. We talked about it several times. I have indicated to the distinguished chairman of the Appropriations Committee the reasons why I oppose the amendment, so what I am about to say will come as no surprise to him because we have discussed it. But I believe I should share my views with all of my colleagues so that those Senators who are voting on this amendment and those who are voting for this amendment will understand precisely what it is they are voting for because it has serious implications for national policy.

I favor some form of job protection for persons who lose their jobs as a consequence of direct Federal action. I believe that we should have a comprehensive policy, one that is fair to all concerned, one that is reasonable, one that is responsible.

I oppose this particular amendment because I believe that it unfairly discriminates against workers other than coal miners in eligibility for the higher benefits that it provides. Under this amendment, coal miners and only coal miners are eligible for higher benefits if they lose their jobs as a result of this legislation. Chemical workers, steelworkers, a whole host of other workers, whose jobs may be in jeopardy, who may lose them, receive no such higher benefits.

As our colleagues will recall, one of the most hotly contested provisions of this bill was the provision relating to toxic air pollutants, those emitted from chemical industries and with respect to which the opponents of the legislation have urged will cause wholesale closure of factories and loss of a large number of jobs. I do not believe those estimates to be accurate, but I cannot say for certain that they are inaccurate. Therefore, that possibility exists, and those workers would be discriminated against. They would not be eligible for the additional benefits.

Second, I believe the amendment is inequitable in the differential in the benefits provided as a consequence of the different eligibility standards. The amount of benefits provided I believe is without precedent in American law.

Finally, I am concerned about the fiscal effects of the amendment because there is no overall cap on expenditures. There is a cap on the amount of expenditures that can be made to the coal miners, but there is no cap with respect to others who may qualify for the lower level of benefits, and, accordingly, there is no one who today can say what this amendment may or may not cost.

Mr. President, let me address each of these points in more detail.

First, the discrimination.

Right now, the average wage of coal miners in this country is just over $36,000 a year. That is the cash income, not including fringe benefits. It is a little bit higher in West Virginia. Right now the average wage nationally for chemical workers is also just a little bit more than $36,000.

So you have two groups of workers, both making about the same amount of money and both engaged in difficult, hazardous occupations.

The distinguished chairman has described for the Senate in considerable detail the hazards faced by coal miners, and I believe he has done so accurately. But chemical workers face hazards as well. They are dealing with toxic materials. It is a different type of hazard but one perhaps that may be even more serious because of the uncertainty that exists with respect thereto. And yet, Mr. President, if Senator BYRD's amendment is adopted and a chemical worker and a coal miner each lose their job as a result of this legislation, both of whom are making $36,000 a year in cash, in the first year after they lose their job, the coal miner would receive in cash $41,240 a year.

The chemical worker would receive on average nationwide $8,500 a year in cash. Let me repeat that. If Senator BYRD's amendment is adopted, a coal miner who loses his job could receive $5,000 a year more in cash than he received while he was working. There is no precedent for that in our law. There is no compensation system which we have ever adopted that has said that a person who loses his job will actually receive a higher level of cash than that which he received while he was working.

Let me describe how that result would occur. Under Senator BYRD's amendment a coal miner who lost his job as a result of this bill could receive 70 percent of his total compensation in the first year, 60 percent the second year, 50 percent of third year. Total compensation means the cash income he receives plus the value of all other benefits. In addition, that person could receive an extra 20 percent if he elected to participate in a job training program. So he would therefore be eligible for 90 percent of his total compensation package which is more cash than he was actually receiving while working.

I ask my colleagues in the Senate: Are Senators prepared to write this policy into law?

Mr. BYRD. Will the majority leader yield for a question?

Mr. MITCHELL. Yes.

Mr. BYRD. What about the income taxes?

Mr. MITCHELL. You have to pay taxes on the income.

Mr. BYRD. What about the case when others receive benefits? They do not have to pay income taxes on it. Right? But in this case, that coal miner is going to have to pay income taxes on the whole amount—his compensation and the benefits—including that portion that dislocated workers do not have to pay income taxes on in the other laws that have heretofore cites.

Mr. MITCHELL. I thank my colleague.

As I indicated, there is no precedent for this in our law. Are we prepared as Members of the Senate to write this precedent into law without the kind of very thorough consideration and deliberation over its implications that it might have?

Second, with respect to the differential, I repeat. You have a coal miner and a chemical worker. It could be in the same community. Both lose their jobs as a result of this bill. Both make about $36,000 a year. In the first year after the loss of jobs the coal miner would receive $41,000, a little bit more than that in cash income; the chemical worker would receive about $8,500 a year in cash income plus $4,000 of the value of benefits, not cash, but training which is valued at $4,000.

Mr. President, I submit we should not write such a standard into our law. I believe that any Senator who votes for this amendment must ask himself a question whether he is prepared to have that kind of a precedent written into law which will undoubtedly come back again on other legislation.

Mr. President, let me deal specifically with West Virginia because, as I indicated, their levels of compensation are somewhat higher. Let me provide you the comparable figures. The average wage of a West Virginia coal miner now in cash exclusive of benefits is $37,800 a year; 90 percent of the total compensation package is $42,525 a year. So if a coal miner in West Virginia who now on average receives in cash $37,800 a year lost his job as a result of this bill, he could receive in cash the first year out of work $42,525.

What about workers in other States in other industries? I respect the effort of the distinguished Senator from West Virginia in behalf of his constituents. But what about other Senators who do not have coal miner in their States?

Well, Mr. President, as a distinguished Republican leader has indicated, they would be eligible for unemployment compensation. The averages just about $164 a week. That is what they would be entitled to.

So a Senator who comes in here and votes on this amendment, who is presumably as concerned about the interests of his constituents and his workers who may be affected by this bill, would be voting, if he voted for this amendment, for a provision that would say that a coal miner in West Virginia who lost his job would receive nearly $5,000 a year more than he received when he was working.

But the worker in the other State, if not a coal miner, whatever his or her occupation, would get $146 a week on average. It varies, and some are higher and some are lower. Some States have as low as $126 a week. Some are over $200 a week. But that is what they would be getting.

So the question each Senator must ask is who does he or she represent. What are his or her constituents interests? And a Senator must be prepared to respond to his constituents' concerns who will say how could you have voted to provide someone in another State, in another industry, $5,000 more than they were getting when they are working, as much as $42,500 in the first year, while I, your constituent, am getting $164 a week or about $8,000 a year?

That is the question each Senator must ask for himself or for herself.

Now, in his arguments for this amendment, he pressed vigorously and very forcefully, and the distinguished chairman of the Appropriations Committee justified the additional amount for coal miners on three grounds. He said first they were engaged in dangerous work, therefore were paid more; and, therefore their compensation if they lose their jobs should be more. Second, he said they will be particularly hard hit by this bill. I believe he described it as the Big Bertha making a hit on the coal industry. Third, he said that many of these effects will be felt in areas which already have high unemployment such as the State of West Virginia. Each of those is a valid point. Each of those makes sense.

But the problem with this amendment is that it concludes that only coal miners will meet these criteria. Instead of writing a law which has standards in it, and which says that anyone who meets the standards will be eligible for this additional assistance, the law presumes that coal miners will meet the standard, and no one else. But we do not know that. No one can know that.

So when we discussed this, and Senator DOLE and I proposed an alternative, it was an effort to write into the law standards based upon the arguments made by the distinguished chairman of the Appropriations Committee, but simply to say surely coal miners will meet these standards. But if anyone else meets them they ought to have the same level of benefits so you do not have the discrimination against those persons who are not coal miners.

For example, as I noted earlier, chemical workers are engaged in hazardous work, and the greater because of the uncertainty. The risk is just now becoming clear to many people, including the workers themselves. It is a different danger than coal miners, but it still is a danger.

Many argued when we were dealing with the toxic air pollutant provision that it was the chemical industry that was singled out, and is hard hit by this bill; and, therefore, if some of these predictions come true about wholesale plant closures, there may be many workers in that industry affected. They may very well occur in areas of previously high unemployment. If that is so, then why should not those workers be entitled to the same level of benefits if they meet the same criteria?

That is why we should not be writing laws which specify in the law one group and one group alone should receive benefits, but we should be writing laws that set forth certain criteria for standards so that if anyone meets those criteria or standards they would be eligible. That is the way I believe this type of law should be written. This amendment does not do so.

In fairness to the distinguished chairman of the Appropriations Committee, we discussed this at some length and he, in our discussions, indicated he might be willing to modify this amendment in some of these respects. We could not reach agreement. We went back and forth with proposals and counterproposals, and I regret that. These are some of my concerns.

Finally, the question of the overall cap of expenditures. I see the former chairman of the Budget Committee here. Very soon, the budget resolution will be upon us, and if there is one thing that is as certain as the Sun rising and the Sun setting, it is that we are going to hear a lot of talk in this Chamber about the budget deficit. We are going to hear a lot of talk about how we have to deal with that budget deficit.

Mr. President, as each Senator comes to the floor to vote for this amendment, he should ask himself or herself about the consequences of a program like this on the budget deficit. This creates an entire system of benefits, without any knowledge of what the ultimate cost will be. It creates a level of benefits that, to my knowledge, is without precedent in our law.

That is, for the first time, we will have a system where people get more cash income after losing their job than they were receiving while they were working, and all without any cap overall.

Mr. President, I ask my colleagues, those who are already preparing their speeches on the budget deficit, those who have stood in this Chamber and time and time again told us about the

concerns of the deficit, to think about that as they vote on this.

When we get to the budget resolution and when we hear the speeches, let all of us bear in mind how the vote on this amendment went, so that we can keep in context the statements being made by Senators about the deficit, to determine whether there is some kind of match between statements and votes, so that we can see what the effect is in practice and in the reality of legislation as opposed to in speeches and rhetoric about the deficit.

So, Mr. President, I regret that I must oppose this amendment. I regret it very much. The distinguished chairman of the Appropriations Committee has been unfailingly courteous and kind to me over the past year, and we have established a good personal working relationship, which I hope and I am confident will continue.

I do not like to stand up and oppose the distinguished chairman's amendment, because I know how important it is to him, and I respect him for the intensity and vigor with which he pursued this amendment.

But Senators must realize what it is we are voting on, what the effects would be, not just in terms of this bill, but in terms of the implications for policy in our society and in our Nation, with respect to how we are going to deal with future circumstances in which the possibility of job loss, direct or indirect, as a result of Federal action, will be before us, and how we are going to deal with the budget deficit, which we know will be before us very shortly.

I encourage my colleagues, in conclusion and in summary—and I regret to some degree in repetition—to consider the facts which I have stated.

This amendment discriminates against all workers who are not coal miners. It provides an inequitable level of benefits based upon that discrimination. It establishes a new system of compensation that is unique and without precedent, and I suggest creates a new policy for our society which has not been thought through or considered. For the first time, to my knowledge—and I will stand corrected if incorrect, and I have been advised by staff as a result of research—a person would actually receive more cash income for not working than he received for working. I submit that that is the kind of policy we ought to think through carefully, if we want to adopt it.

I do not believe that all the amendments of the Senate have focused on that particular aspect of this prior to this vote. I do not believe that they have thought through the consequences and the implications of adopting such a policy now, and what it will mean with respect to future action.

Finally, I believe that the amendment is deficient in not providing an overall cap, and therefore creating the possibility of substantial expenditures which cannot now be estimated by anyone.

Mr. President, I notice the Senator from New Mexico is here. I have a few more minutes, and I would be pleased to yield.

Mr. DOMENICI. Mr. President, I do not want to take time from somebody who has been a principal participant. If there is 1 or 2 minutes, I will use it.

Mr. MITCHELL. I will yield 2 minutes.

Mr. DOMENICI. Mr. President, I say to the distinguished majority leader, about 8 days ago on a CBS newscast, there was a show about a steel mining town, about a steel mining town that had gone through the changes in steel production, and they were now in their schools talking about their children's futures.

There was exhilaration in the community because the schools were training these young people to be in the competitive market of the future. And what they were talking about is they did not want their children to have to go through what we have gone through in the past.

Obviously, what we are talking about here is precedent setting with reference to the future economy. The majority leader said it right. We really ought to be making sure that we adopt policies that give the United States the best chance to grow and prosper in the future, and that means that a new precedent setting policy such as this could indeed cause us to be years away from balancing a budget and getting on with getting the deficit under control. That is the best way to provide for America's economic future and for the children of every State to have a real future.

I know that the distinguished Appropriations Committee chairman has worked diligently, and none of us fault him for it. He has a cause, and he served the cause well. But I submit that on a Clean Air Act we should not change policy with reference to unemployment, changing technology, and new measures of productivity in this country that bring us into this next decade of prosperity. I think it is too risky to put this kind of precedent on top of the American economic system when we are just about to get ourselves in a competitive posture with the rest of the world.

It has been a tough one for a lot of people—tough for this Senator. It is time to adopt a new Clean Air Act, and I hope we will do it without risking our economic future, without risking a veto of the Clean Air Act.

I thank the majority leader for yielding.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader still has the floor.

Mr. MITCHELL. I understand that the proponents of the legislation are out of time and that I have 2 minutes left.

I ask unanimous consent that the vote be delayed until 3:05, and that the distinguished chairman of the Appropriations Committee might have an additional 5 minutes to address the Senate.

I reserve my 2 minutes until after that.

The PRESIDING OFFICER. Is there objection? The majority leader has 1 minute, 32 seconds remaining.

Mr. MITCHELL. I will reserve that time, and yield 5 minutes to the distinguished chairman of the Appropriations Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished majority leader.

I am in a situation where I have no time, simply because we used our time earlier, and we did it because it is said that "he who is diligent in his business shall stand before kings."

I was diligent in my business of lining up speakers, and they came to the floor to speak. The other side did not have speakers. So we used our time. It was better that way than to let the time run and not let the speakers have it.

Mr. President, there are a good many arguments that have been made here by both leaders, and I respect those two leaders greatly, but, in my opinion, I think I can offer a fair rebuttal to anything that has been said if I had some more time. I think there have been some inaccuracies stated by both leaders, and it would take longer than the 5 minutes for me to address those inaccuracies.

For example, the distinguished majority leader spoke about the additional money that the coal miner would take in cash income over and above what others would take. This point should be made: In the case of others if their wages are, say, 65 percent and their benefits are 35 percent and the employer pays those benefits, the wage earner does not pay income tax on that 35 percent. He pays income tax only on the 65 percent that he takes home. But in this amendment, the miners who receive those additional benefits are going to pay an income tax on those benefits, because the employer does not pay them any longer when the job is gone. The miner has to continue to pay his health insurance, for example, to receive the benefit.

So if he is going to have to pay income tax on the benefit, why should we not say 70 percent of his compensation and benefits? There is nothing new about benefits being included.

I stood here on the floor already and mentioned Amtrak, Conrail, the redwoods, and the Urban Mass Transportation Act; all these are precedents.

Finally, and this is all that I will have time to address, the distinguished majority leader says each Senator must ask himself or herself a question when he votes on this amendment.

I agree, let each Senator ask himself a question: Is this fair? Remember what the President said about ours being a kinder, gentler Nation? Does kinder and gentler stop at the edge of the coal field? Let us think of kinder and gentler in terms of those who are by this very legislation going to be dumped from their jobs.

The distinguished majority leader mentions the budget. He says, let those who come in now and vote for this Byrd amendment think about what they are going to ask when questions concerning the budget come up. Let me ask the question for all of us, and I shall ask it now. What about the $500 million that is being requested for Panama? That money will be spent in Panama. The administration wants it in a hurry. It wants it by the Easter break. It cannot wait. And it cannot substantiate, in my judgment, the justifications for $500 million. It cannot tell us why it needs it now or for what it will be spent. But yet it wants the whole $500 million.

So, I say to the distinguished majority leader, let each Senator when he votes on this amendment or when she votes on it, ask himself or herself how they are going to respond to the administration's request for $500 million for Panama and $300 million for Nicaragua. Compare that budget request with the request we are making here for people who sweat and bleed to make this country great and who have given and sacrificed in war and in peace and who will spend that money here in our own country, not in Panama.

When each Senator asks himself or herself about the budget impact of $500 million for American miners, ask also about the $500 million that the administration wants for Panama.

Mr. President, I thank the distinguished majority leader. He is my friend.

I ask for one additional minute and ask for one additional minute for him also.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I have stated on this floor that when the majority leader runs again he has my vote. I state it again right now.

Mr. President, I ask unanimous consent to have printed in the RECORD my statement at the press conference that was held when the Mitchell-Dole substitute was unveiled. I said then that I would probably offer some amendments on the floor, and that I retained my rights as a Senator from a coal producing State to try to improve the bill if I could.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRANSCRIPT OF CLEAN AIR PRESS CONFERENCE, MARCH 1, 1990

Senator BYRD. I add my congratulations to those that have been expressed by others with reference to our two leaders, Sen. Mitchell and Sen. Dole, and as to the members of the committee, Mr. Baucus, Mr. Chafee, and others and also I want to thank those people in the Administration who gave to the committee through many long hours the best advice that they could give. They certainly were fair to me, and they tried to give us the objective facts, and they did so.

As a Senator who comes from a major coal producing state, one that has been hit hard economically for a good many years, I have to say that I think we came a long way in this legislation. I was concerned not only about acid rain, but also about air toxics.

Now, we haven't gotten everything that we want by any means. I don't think any Senator can say that he is 100 percent satisfied with this piece of legislation. But there are regional and economic clashes that are inevitable. This is not a partisan matter. There are regional problems with respect to high sulfur and low sulfur coal that no person here had any control as to where low sulfur would appear and high sulfur coal would appear in these United States. We had to take it as we found it. And I am pleased that although the bill does not go as far as I would hope, and perhaps it can be improved on the floor, and I hope in the other body, yet I think that we have come a long way. And I think that we have taken steps to protect the emerging new clean coal technologies which are extremely important if we hope to continue to produce the kind of volume of coal and produce it and burn it in an environmentally acceptable manner.

And so while I will atttempt to perhaps improve the bill to some extent on the floor if I can, I support those provisions that are not in the bill. I want to pay tribute to my colleague Kit Bond. What is called the Byrd-Bond amendment dealing with acid rain is in the bill. And finally let me say that to the other Appalachian and eastern and southern and midwestern coal state Senators, I want to thank them for the many, many meetings that we have had in our efforts to have some input into this legislation. I also want to thank the western Senators who had their problems as well. Finally let me just pay special tribute to Sen. Mitchell. He has been eminently fair, reasonable, and helpful. I had hoped to try to get legislation at the close of my last tenure as Majority Leader. And Sen. Mitchell worked many, many days and weeks and hours in that effort. It was not successful. It was productive to some extent. And I think he is entitled to the greatest credit of any Senator in this body. And I join with others in saluting the President as well. It is time we have to clean up the air. There is no question about that. The time has come. The Clean Air Act that is on the books served a good purpose, but we have to move on. The problem has been that of doing so in a way that would avoid as much as possible the clash between and among the economic, the energy and the environmental interests. This group is entitled to my thanks and the thanks of my people. I thank you all.

Question. Roger Porter suggested that signatories to this agreement will support it throughout the Senate process, yet you said that you would fight for some improvements on the Senate floor. Does that mean that you will not be part of this process, and part of the substitute?

Sen. BYRD. I am not a signatory. I am still concerned about job losses and economic dislocation, but I think that the package that has been brought here and which will be introduced as a substitute goes a long way. I'm not going to engage in any filibuster. I naturally would like to see some improvements in the legislation. I will have one or more amendments of my own. There are still a few little ends to be tied, especially with regard I believe to clean coal technology. I understand that the staffs are working on those and we will probably be able to resolve them. I don't know how I can better say what I have already said. I'm not going to simply sign on and say this is it, I don't want any changes. But at the same time, I think we all have to be reasonable men and women and I think that this thing has come a long way. It is better than the committee bill, and it is better than the Administration bill were in many respects. And it is the result of bipartisan efforts and cooperation on the part of the leadership, on the part of the members of the committee, on the part of members who are not on the committee, and I think it's a remarkable demonstration of the art of compromise. Now I don't know how I can better answer than that.

Question. Does this bill as it stands right now present disadvantages to the coal operators and to the people you are concerned about in West Virginia?

Sen. BYRD. Of course there are disadvantages. But at the same time I think we all have to rise to the occasion and deal with a national and international problem. We all recognize that. And we'll do whatever we can to try to improve this bill in some ways. But as it stands today, it's a great improvement over what it was when it came to the floor. And I intend to give my support to the leadership. At the same time I will retain my rights as a Senator from a coal producing state to try to improve it if I can. Both leaders understand that and would expect it. They too gave up a good bit.

Mr. BYRD. Mr. President, if there is no objection I ask unanimous consent to print in the RECORD the proposal that was given to me and the coal State senators by the White House and the joint leadership.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROPOSED ALTERNATIVE TO BYRD AMENDMENT

Trade Adjustment Assistance benefits to workers:

In a firm if a signifiicant number or portion of its workers have been totally or partially separated or are threatened to become so, and

Sales or production of the firm have decreased, and

Clean Air Act Amendments of 1989 was the direct and primary cause of the job loss.

Additional benefits (as defined below) to workers:

In States that have average unemployment rate at least 140 percent of national average for the prior 24-month period;

In industry that has lost at least 18 percent of its work force in the State within the prior 24-month period.

Additional benefits: 26 weeks of additional TAA benefits; and

TAA benefit tied to average wage of workers in the affected industry within the State (rather than average wage of all workers in the State), not to exceed 150 percent of maximum UI benefit in State.

No application for benefits after December 31, 1995.

Authorization for appropriations not to exceed $125 million annually.

Mr. BYRD. Let us see what Senators, what States and what constituencies would have met those standards.

Mr. President, I thank the distinguished majority leader for his courtesy in giving me that additional time.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

The Senator from Maine, the majority leader has 1 minute.

Mr. MITCHELL. Mr. President, I think my colleague, the distinguished chairman of the Appropriations Committee.

Mr. DOLE. I wonder if I might have 1 minute so the majority leader may have the last word.

Mr. MITCHELL. I yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Chair was correct. They have been given 2 minutes, so the Senator is recognized. The majority leader had yielded to the Senator from Kansas. He is recognized.

Mr. DOLE. I have 1 minute, right?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. DOLE. We are down to that stage of the proceeding. It is going to be a very tight vote. I have nothing but respect for the Senator from West Virginia but I want my Republicans to vote with me. This is very important to the President of the United States. This could kill this bill because if this amendment is adopted why should anybody else not be covered with super benefits, $40,000-some a year, chemical workers, rubber workers, iron workers? Why not put then all in and I will vote for it?

So this is a very important vote. It is not an environmental vote. It is bad policy.

I want to urge my colleagues on this side. I do not have the influence the Senator from West Virginia has, but I have a little. I want my colleagues, whether on the Appropriations Committee or not, to take a look at the policy and then cast a vote against this amendment. The amendment makes no sense. It is going to start us down a road we are going to regret in 10 or 15 years.

Mr. President, this is one amendment that ought to be defeated not because of its author; he ought to be promoted, but the amendment ought to be defeated.

Mr. HELMS. Mr. President, I have rarely been described as indecisive on issues coming before the Senate, but in the instance of Senator BYRD's amendment I confess that I have been doing a balancing act in seeking to weigh the arguments for and against it.

Part of my problem, I acknowledge, is that BOB BYRD has been my friend since the morning of January 3, 1973, when I took the oath of office the first time as a Senator. And long before I ever met him, I was proud of his skill as a Senator. Perhaps Senators are not aware of it, but Senator BYRD was born in North Carolina.

I will tell the Senate precisely what I have told Senator BYRD—that by proposing his amendment he has helped focus public attention upon an aspect of this clean air legislation that has been virtually obscured in the clamor of the news media for—and I emphasize "a"—a clean air bill. With rare exception, the awesome toll this kind of legislation is certain to take on the working people and small businesses of America—this has been obscured.

So, Mr. President, Senator BYRD is right in seeking to protect his miners of West Virginia. That is his responsibility, as he sees it, and no one can say that he has not done it effectively and diligently. He has sent a message, loud and clear, that there is a downside, perhaps a disastrous downside, to this bill. Certainly it will be a disaster for all those who lose their jobs and their ability to feed and clothe and house and educate their children.

Those are the people in West Virginia for whom BOB BYRD is speaking. He is sending a message—a clear message, an accurate message, a compassionate message.

I have been sorely tempted to join him in sending that message. But as I have told the distinguished Senator, the nature of his amendment is a contradiction of where I have stood on countless issues in the Senate. It will cost a half billion dollars minimum, added to the national debt. It does not propose to provide the same benefits to the hundreds of thousands—perhaps millions—of other Americans who will be adversely affected in other jobs and industries.

Mr. President, I think my friend from West Virginia knows that I have given an enormous amount of thought, sincerely seeking a way that I could justify in my own mind engaging in a contradiction of the previous positions I have taken, votes I have cast, speeches I have made. But, much as I understand Senator BYRD's motivation; much as I admire his dedication to serving the people he represents in his State of West Virginia, I have reached the conclusion that I would not be true to myself if I supported his amendment. Because he is my friend I hope he will understand.

THE BUDGET ACT IMPLICATIONS

Mr. SASSER. Mr. President, I rise today to discuss the budget implications of the Byrd amendment. After careful review of the amendment as currently written. I have determined that it has no budget act problems. I commend Senator BYRD for his hard work on this issue and his sensitivity to budget considerations as he drafted his proposal.

In making a determination as to the Budget Act implications of this amendment, the Budget Committee had to consider how this new program would be treated in the budget if this amendment were enacted into law. If the amendment created an entitlement, a point of order under sections 311(a) and 401(b)(1) of the Budget Act would lie against it. If the new program were a discretionary program subject to annual appropriations action, there would be no Budget Act problem with this amendment.

After careful review of the proposed language, it appears that the Budget Committee would consider spending for the program as a discretionary appropriation within the province of the congressional Appropriations Committees.

The foundation for this determination can be found in section 610(b)(1) of the amendment which states:

In any fiscal year, the Secretary shall limit the total benefits payable under this title to any amount not in excess of the appropriation provided in advance for such fiscal year. If the requirements of sections 605 and 606 of this title exceed the limitation set herein, benefits shall be reduced to the extent necessary to comply with such limitation.

This passage clearly subjects funding control of this program to the limits enacted by the Appropriations Committees of Congress. Because appropriations will retain direct control over the level of the program, it would be a purely discretionary program and would be scored as a discretionary program now and in future years.

Because the program would be discretionary, no budget act point of order would lie against the Byrd amendment.

Again, I commend the distinguished chairman of the Appropriations Committee for his hard work as well as his ongoing attention to the budget concerns.

Mr. SIMPSON. Mr. President, I would like to commend the exceedingly credible job of my colleagues Senator BYRD, Senator MITCHELL, and Senator DOLE in this splendid debate.

The vote today on the Byrd amendment is one of the most important votes on this legislation that we will cast.

This vote is about sound public policy and it is not sound public policy to provide money for a small group of

miners in the manner the Byrd amendment would accomplish.

I have been on record as supporting some type of job retraining assistance to displaced coal miners, but I am not able to support this amendment in its present form.

We have already provided assistance to the high-sulfur coal industry in the negotiated agreement. We provide allowances that may be converted to cash to help insure that scrubbers and high-sulfur coal will be used in some areas. We have provided significant scrubbing incentives in phase I much to the chagrin of some of my constituents.

Then we have the Clean Coal Program which will provide over $2 billion—primarily to the high-sulfur coal industry. There have been three rounds of solicitations under the DOE Clean Coal Program and after those three rounds were completed DOE has funded 32 projects east of the Mississippi and eight west of the Mississippi.

Than let's look at something no one has discussed yet—historical coal production of all States. The high-sulfur coal producing States have been producing coal for over 100 years. They have reaped the huge economic benefits that have come from this historic production.

You don't have to go back 100 years to realize that the low-sulfur producing States only recently began to produce significant amounts of coal. Let us just look at historic coal production since 1968. If we take three representative States—Kentucky, West Virginia, and Wyoming—and look at what those States have produced since 1968 we find some rather interesting statistics.

According to figures supplied to me by the National Coal Association these three States have the following coal production and sales in millions of short tons since 1968.

Kentucky, 2,929.3 million tons.

West Virginia, 2,329.7 million tons.

Wyoming, 1,413.9 million tons.

So we can easily see that just over the last 22 years the high-sulfur coal States have out produced the leading low-sulfur-producing State by a factor of 2. This in turn has resulted in millions of dollars going into the high-sulfur State coffers and economies. But, I don't hear any reference to these facts.

Prior to 1968, Wyoming wasn't even on the screen as far as coal production was concerned. So the high-sulfur States had even more production since the turn of the century up to 1968 and this historic production translated into money for those States.

Then we have had the good old percentage reduction requirement that the United Mine Workers and their friends in Congress put in the Clean Air Act in 1977 in order to ensure high-sulfur coal production would stay artifically high.

Senator BYRD has stated that he wasn't responsible for that legislative scheme to gimmick the marketplace—and I fully accept that. However, there are some in this chamber who were responsible for this provision and they are here today pleading for relief when they helped to create this situation of assuring artificially high dirty coal production in the first place.

We hear a great deal about the potential loss of 3,000 to 5,000 jobs in the high-sulfur sector. These are EPA numbers and they have been quoted often by Senators from the high-sulfur coal States. Unfortunately, there are other EPA estimates that never get reported. EPA also estimates that there will be an increase of 3,000 to 5,000 jobs in the eastern low-sulfur coal production sector that will offset the high-sulfur job loss. Part of the reason those figures are not bandied about is because many of the mines that produce eastern low-sulfur coal are not United Mine Worker Union mines. And then we hear the increase in low-sulfur jobs being discounted by those who say this coal will be produced with technology not people. But this argument is not valid because EPA took all that into account and still predicts job increases in the eastern low-sulfur sector.

We do not have an environmental issue—we have a social and an economic issue. Some of these people may receive more cash for not working than for working.

I know how tough it is today. But think how you will defend this? When you go home how do you explain this one—that you did this for 3,000 to 5,000 people. The people in your own State who are hurting saw you cast that vote. That's worse than losing the "greenie" vote in a 30-second spot.

So, I would urge my colleagues to weigh some of these facts that haven't been discussed previously to any great degree and to vote against this very poor public policy.

Mr. KERRY. Mr. President, I am very concerned that the amount of compensation is too high and the breadth of the coverage too great in the amendment currently before us. I am also concerned with the weak linkage between compensation, retraining, and work as provided for in this program—the incentive to return to work must be greater than it is in this amendment.

However, the amendment before us at this time has as its goal a noble one and one that I have long supported. Namely, if as a direct and immediate result of a major public policy decision, workers lose their jobs then we have a responsibility to assist them in every reasonable way with the education and job training they need to once again become productive workers. And, reasonable public support during such a retraining period is necessary.

More specifically, since I began my effort to get a national acid rain control program adopted nearly 10 years ago, I have always and explicitly supported the need to assist coal miners affected by this policy get the training and support needed to become productive workers again.

But, even though the net cost to the Treasury is much less than the gross cost—because unemployed coal miners would be receiving unemployment compensation, food stamps, Medicaid, and in some cases, AFDC and/or general relief—this cost, even after the modification from the earlier proposal, seems to me to be excessive.

So, this is a difficult vote for me to cast. In principle, I am for helping these workers, just as I expect the author of this amendment will be if it is defense contractor employees in Massachusetts at some future date. But, I am very concerned about the size and scope of this amendment.

I have decided to support this amendment because of my long-term commitment to the principles it reflects and with the knowledge that it will be changed and improved dramatically in the conference committee that will produce the final bill. I urge the author and the administration and the committee leadership to use this as an opportunity to design the serious and cost-effective job retraining program that can serve as a model for all dislocated workers for years to come.

Mr. BAUCUS. Mr. President, I ask unanimous consent that a letter by the National Wildlife Federation concerning the Byrd amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL WILDLIFE FEDERATION,
Washington, DC, March 29, 1990.

Hon. MAX BAUCUS,
Hon. JOHN CHAFEE,
U.S. Senate, Washington, DC.

DEAR SENATORS BAUCUS AND CHAFEE: The National Wildlife Federation does not support the Byrd Amendment, but rather would like to see a program along the lines of the Mitchell-Dole worker protection proposal.

We do not believe that environmental protection comes at the cost of jobs over the long term. While there may be short-term dislocations, we must be careful how we fashion worker protection in these instances.

On behalf of the 5.8 million members and supporters of the National Wildlife Federation, we urge you to oppose the Byrd Amendment.

Sincerely,

JAY D. HAIR.

The PRESIDING OFFICER. The majority leader has 1 minute remaining under the unanimous consent request.

The majority leader is recognized.

Mr. PRYOR. I do not want to take time of the leader. There was too much noise in the gallery. I wonder if we could ask the officials in the gallery to at least temporarily close the doors until all the debate is ended.

The PRESIDING OFFICER. As requested the Sergeant at Arms will restore order in the galleries. Those in the galleries will take their seats. The Sergeant at Arms will close the doors so Senators may hear the debate. The Senate will be in order.

The majority leader is recognized for 1 minute.

Mr. MITCHELL. Mr. President, I believe all that needs to be said or can be said has been said. I thank my colleague, the distinguished chairman of the Appropriations Committee. I thank all of our colleagues. None of us like the choice we now face but that is one of the benefits of public office. I merely ask my colleagues as they vote to consider the public interest and to consider their constituents.

I thank my colleagues, and I yield back the remainder of the time.

The PRESIDING OFFICER. The Chair will state the vote will occur now.

The yeas and nays have not been requested.

Mr. MITCHELL. Mr. President, I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I have been asked by Senator JOHNSTON to announce that if he were here he would vote for the amendment. He has been unavoidably detained. He had to attend a funeral today and because of the weather was unable to be here for the vote.

The PRESIDING OFFICER. The request is recognized by the Chair and will be spread on the record.

Under the previous order, the question now occurs on amendment No. 1329, as further modified, offered by the Senator from West Virginia [Mr. BYRD] which is to the amendment No. 1293 to the committee substitute amendment to the bill S. 1630.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. JOHNSTON] is necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana [Mr. JOHNSTON] would vote "yea."

The PRESIDING OFFICER (Mr. KERRY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—49

Adams	Ford	McClure
Bentsen	Glenn	McConnell
Bingaman	Gore	Metzenbaum
Bond	Grassley	Mikulski
Bradley	Harkin	Moynihan
Bryan	Hatfield	Pell
Bumpers	Heflin	Reid
Burdick	Heinz	Rockefeller
Byrd	Hollings	Sanford
Coats	Inouye	Sasser
Cochran	Kennedy	Shelby
Conrad	Kerrey	Simon
Cranston	Kerry	Specter
Danforth	Kohl	Stevens
DeConcini	Lautenberg	Wirth
Dixon	Lieberman	
Exon	Matsunaga	

NAYS—50

Armstrong	Gorton	Nickles
Baucus	Graham	Nunn
Biden	Gramm	Packwood
Boren	Hatch	Pressler
Boschwitz	Helms	Pryor
Breaux	Humphrey	Riegle
Burns	Jeffords	Robb
Chafee	Kassebaum	Roth
Cohen	Kasten	Rudman
D'Amato	Leahy	Sarbanes
Daschle	Levin	Simpson
Dodd	Lott	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Wallop
Durenberger	McCain	Warner
Fowler	Mitchell	Wilson
Garn	Murkowski	

NOT VOTING—1

Johnston

So the amendment (No. 1329) was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Montana.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The President pro tempore is recognized.

Mr. BYRD. Mr. President, it is easy to be magnanimous in winning. I want to be magnanimous in defeat. I thank all Senators on this side of the aisle who voted for the amendment. I thank all Senators on the Republican side of the aisle who voted for the amendment.

It is not a party issue, Mr. President. It never was. It is not a partisan issue. It never was. There were partisans on both sides, but not political partisans. It was a bipartisan amendment, and it represented what Republican and Democratic cosponsors and supporters thought was fair and reasonable and just.

It is pretty tough to have to be confronted by the administration and the joint leadership. But that is life in the Senate. That is life, and I knew that when I started out with the amendment—almost when I started out. I soon afterward learned that. So I felt a little like Edward III at the Battle of Crecy in 1346. He was outnumbered by the French 3 to 1. And a little like Henry V of England at the Battle of Agincourt in 1415 when he was similarly outnumbered. But both of them won in spite of their being outnumbered. I didn't. [Laughter.]

So I thought, well, perhaps we can win, too. But win or lose, we coal-State Senators did what we thought was right. I have no regrets. I must say that I am sorry I lost the vote because the administration threatened that it would veto the bill, if this amendment were adopted.

But I have encountered that argument before, and we have discussed it here. I always pretty much rejected it out of hand for the simple, common, good sense reason that the President knows, if this bill does not make it because he vetoes it, he probably will not get another one, or if he got one, it may not be as much to his liking as this one.

But nevertheless, I do not hold that against the President. He has to do what he thinks he has to do. He has the right to veto the bill and he would have to take the responsibility for it. He has the right to call Senators, and he has the right to call them on both sides of the aisle, just as I went on both sides of the aisle. It was not a party matter. If it had been a party matter, I would have stayed over on this side because I would recognize that my friends on the other side would not appreciate my attempting to come over the fence in a matter of that kind. This was not a party matter, so I felt I could go over there, and did. I was received well. So the President did what he thought he had to do, and that is that.

I thank the Senators on both sides who met with me during all those many weeks in an attempt to develop legislation that would reduce the job losses in the high-sulfur coal fields. I also thank the majority leader and the Republican leader and those others on the task force who worked for many days and nights, and the people at the White House who accepted the Byrd-Bond approach which did alleviate our losses to some extent, in the first phase, but not in the second phase—not to the fullest extent we would like, of course, or that we ought to have had. Nevertheless, they did help, and I am appreciative.

Having said that, I want to thank the staffs who have worked so diligently and who have been most help-

ful to me and other coal-State Senators.

I want to thank those Senators on both sides who voted for this amendment, but who are not from coal-producing States and come from other areas of the country. I was amazed that in many instances they came to our aid, even though they did not represent coal-producing States. Yet, they will have questions directed to them—why did you vote for this amendment? They have been subject to some pressures in that regard. I am grateful for their nonwavering support. They recognized what they saw as the justice of this cause, and I am deeply grateful to them.

Finally, may I say I am most particularly appreciative of the effort that SPARKY MATSUNAGA made to come and cast his vote today. He could easily have avoided this vote. He has no coal in his State. He gave this vote out of his dedication to a belief in what is just, and he made that same strong fight for justice when he was talking to all of us many months ago about the Japanese-Americans who had been wrongly treated by this country in World War II. He carried his case to every Senator. He went individually to every Senator. Senators listened and they supported his amendment. Today, he did what he wanted to do, and at some inconvenience and cost to himself. I want to say clearly here that I never urged SPARKY to come and vote. I did not feel I should urge him to come and vote, but he knows that I do appreciate it. There is a man. When comes another?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, there is a reason why I voted the way I did, in light of the fact that I was at least one of those people whom the White House called. I want to make it clear, there are two votes I have cast on this clean air bill thus far that, given a different set of circumstances, I would have supported them. But in light of the fact that I was convinced that if either one of them had become part of this bill, the clean air bill would fail, I voted against both of them. One was the Wirth amendment relating to auto emissions, and the other was the Byrd amendment.

I had indicated to Senator BYRD that my sympathies were with his position—I, like him, would like to help the coal miners—and if this were not a deal buster, if this would not kill this bill, I would vote with him. But if it would, I would not.

I heard a good deal of discussion characterizing whether it would or would not kill this bill. I acknowledge that the phone call I received was incredibly timely, but, nonetheless, I received a phone call and spoke to Mr. Sununu. I asked him point blank: First, did they see this as a deal buster and, not going around the barn; second, would they, in fact, guarantee to me they would veto this; is that what they were saying?

And the answer was yes. First, they thought it was a deal buster because it pushed up the total dollar cost of this bill which he said they agreed to. And, secondly, he guaranteed me the President was going to veto the bill. I was not ready to take the chance because it has been too many years since there has been a clean air bill, and I believe passage of a bill this year is necessary to deal with acid rain and other pollution problems that are hurting my State and so many others in this country.

Frankly, I am not so sure the President wants this bill so badly. I want it badly, but I am not sure the President wants it badly.

I am also not so sure that there are not a lot of other people on this floor who are not so crazy about the bill.

So the Byrd amendment was the second amendment to the bill that I voted against that if the vote had been only on the merits of the individual amendment, I would have voted aye. I just want to make the record clear that I do not blame my vote or give credit for my vote to the White House or Mr. Sununu. It is my vote. I voted that way. I would vote that way again because I believe we must have a clean air bill. The rationale for my vote is as it stands, and I was not prepared to take a chance that in fact the administration was not in fact telling the truth. I took them at their word that they would veto the bill.

I thank the Chair for this point of personal privilege.

Mr. MITCHELL. Mr. President, I thank the President pro tempore for his kind and gracious remarks. I join with him in thanking all Senators for the consideration which they gave to both sides. It was a difficult vote, controversial, but it is now behind us and I hope we can proceed promptly to enact this legislation.

I am particularly respectful of the effort and intensity with which the chairman of the Appropriations Committee offered this amendment, sought to obtain support for it, and did obtain support for it. I think it is an enormous tribute to him, to his capacity.

As I said in my remarks earlier, there is one thing the people of West Virginia know, that they have two Senators in the Senate who fight for their interests. The chairman of the Appropriations Committee is foremost in that regard. So, Mr. President, I thank the Senator very much for his kind and gracious remarks.

Mr. DOLE. Mr. President, I congratulate the Senator from West Virginia. Somebody said we need the joint leadership and the President. I said that is not enough; we are fighting ROBERT BYRD—not ROBERT BYRD, but the amendment. We never fight ROBERT BYRD.

But I do agree with the distinguished majority leader. I know sometimes votes slip away. I lost one because I could not get a Member's amendment accepted to the clean air bill. I take the blame for it, I guess. But, in any event, I have been saying it is going to be close, it will be 1 vote. And it would have been 50-50 if Mr. JOHNSTON had been here. So it was about as close as you could come on an amendment.

But again I want to thank the distinguished majority leader. Everything was on the table. I think it was fairly done, effectively done, I would say to my colleague from West Virginia.

As the Republican leader, I did the best I could to fulfill my responsibility on this side of the aisle to support the administration, and I hope that it is done without any longstanding damage to our friendship. We will be friends long after this bill is gone. There will be another bill up next week. Hopefully we will be on the same side.

Mr. BYRD. Mr. President, I will not belabor the point. May I assure Mr. DOLE, my good friend, that this, in no way, will ever impinge upon our friendship. Here, the Senate works its will, and the Senate spoke today. I accept that verdict. I have only the kindest of feelings for the Senator. He and I have had to stand across from each other many times in debate, and many times he has lost. He has always been a good loser, and that I admire.

I appreciate the kind words of my own leader as well. In view of the fact that the White House told a Senator that the amendment was a deal-buster and the bill would be vetoed, I will ask unanimous consent that a UPI story, which appeared in the Charleston, WV, Gazette, appear in the RECORD at the conclusion of what I am going to say now, and I will merely read one paragraph from it. I select this paragraph to show—I do not know whether it is an accurate quote or not, but I believe it is and I believe it is what the majority leader believes. I do not presume to speak for him. He is here to speak for himself. But I want to read what it says the majority leader said about the amendment:

> Mitchell also said he did not consider Byrd's amendment a "deal-buster" that could upset the compromise bill worked out between Senate leaders and the administration, which is concerned about the cost of the Byrd proposal.

It went on to state some reasons why Senator MITCHELL did not feel he would support the amendment. That is all right. Here is the majority leader who, if anybody does, has his heart in

this bill. He stated it was not a deal-buster.

Of course, it was not a deal-buster. It was never a part of any deal. It was not a clean air amendment. It was not part of any deal. So it could not have been a deal-buster.

Mr. President, I close by saying to my leader and everyone here that we in the coal-producing States in the Midwest and Appalachia have fought a good fight. We have finished our course. We have kept the faith.

Mr. President, I ask unanimous consent that the article be printed in the RECORD simply to show that my own leader apparently did not believe the amendment was a deal-buster.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Charleston (WV) Gazette, Mar. 29, 1990]

SENATE REJECTS PLAN TO EASE IMPACT OF ACID RAIN REDUCTION

WASHINGTON.—The Senate rejected a plan Wednesday that would have eased the impact of acid rain control on coal miners by giving utilities tax incentives to encourage the environmentally sound use of high-polluting Eastern coal.

The Senate voted 72-25 against the amendment to the clean air bill as several hundred miners from Alledonia, Ohio, rallied outside the Capitol to protest job losses that would result from the legislation.

In emotional remarks to the protesters, Sen. Robert Byrd, D-W.Va., the chairman of the Senate Appropriations Committee, vowed to use all his influence to help them.

"I grew up in a coal miner's home," Byrd said. "I slept in a coal miner's bed. I married a coal miner's daughter."

"The man who used to pick the banjo with me when I played the fiddle died in a slate fall. . . . I carried the heavy coffins of coal miners on the steep hills of West Virginia.

"My heart has always been with you," Byrd told the miners, his voice rising dramatically. "You are my roots and you will always be my roots. I will never, never, never forget you."

Byrd later met with local miner families and promised he would press his legislation to provide special unemployment benefits to miners and other workers who lose their jobs because of the clean air bill.

Senate leaders, concerned about the minimum $500 million price tag of Byrd's amendment, have proposed a compromise plan, but Byrd told reporters the offer was unacceptable to him.

"The counterproposal does not do what needs to be done," Byrd said.

But he said that negotiations are not dead. "The door is not closed," he said.

Byrd's amendment is scheduled for a floor vote Thursday, but Senate Democratic leader George Mitchell of Maine said he still hoped to reach an agreement with Byrd.

Mitchell also said he did not consider Byrd's amendment a "deal-buster" that could upset the compromise bill worked out between Senate leaders and the administration, which is concerned about the cost of Byrd's proposal.

Mitchell said he favors some form of job protection for miners and other workers but Byrd's amendment was not structured the right way.

Senators rejected another proposal to help coal miners Wednesday, voting down an amendment by Sen. Arlen Specter, R-Pa., which would have granted a 20 percent investment tax credit to utilities that put smokestack "scrubbers" on coal burning power plants in order to reduce sulfur dioxide emissions.

Sulfur dioxide is a primary component of acid rain, which has been linked to forest and lake damage in the Northeast and Canada.

By using scrubbers, utilities could continue burning high-sulfur coal and avoid laying off miners in the coal fields of Appalachia and Midwestern states such as Ohio, Indiana and Illinois.

The proposal, estimated to cost $1 billion over five years, was designed to dissuade Midwestern and Appalachian utilities from switching from high-sulfur Eastern coal to low-sulfur Western coal as a low cost way of meeting the acid rain reduction provisions of the clean air bill.

The bill requires a 10 million ton reduction in sulfur dioxide emissions by the turn of the century, with virtually all the reductions coming from about 100 coal burning power plants in Appalachia and the Midwest.

Without any incentives to keep using high-sulfur coal, the Environmental Protection Agency estimates 3,000 to 5,000 miners in the East will lose their jobs because of the diminished utility demand for high-sulfur coal.

In addition to saving coal miner jobs, the tax credits would help affected utilities hold down electricity rate increases stemming from costly acid rain control measures.

Specter and other supporters of the tax credit plan argued that Midwestern and Appalachian states deserve financial assistance because they were being required to do more than their fair share of acid rain control.

Specter said that nine Midwestern and Appalachian states would have to achieve 90 percent of the acid rain reductions required under the clean air bill through 1995, even though they were responsible for only 51 percent of total sulfur dioxide emissions nationwide.

The disproportionate burden, they said, resulting from placing all acid rain control requirements on utilities and exempting factories from any cuts. They said states such as Texas had substantial industrial sulfur dioxide emissions that would remain untouched by the clean air bill.

But opponents said the tax credit plan was unfair in that it rewarded Midwest utilities that had dragged their feet on acid rain cleanup while effectively penalizing "clean" utilities that had reduced their emissions without any federal aid.

Mr. MITCHELL. Mr. President, if I may merely comment on the most recent comment of the distinguished chairman of the Appropriations Committee. I did make the statement to which he referred, and it is an accurate statement. But in fairness to the White House, it should be made clear that although this provision was not the subject of negotiation, and therefore not part of the agreement, the administration made clear throughout the negotiations and afterwards that their primary concern was the cost of the bill.

Although we did not reach an agreement with respect to cost, the administration made amply clear throughout proceedings that if at any time the cost of the bill exceeded by any significant degree the amount the President felt was appropriate for this legislation, they would regard that as a subject matter for disapproval by the President.

So I think it ought to be clear we did not reach an agreement, but from the very first to the very last discussion, the administration made clear that their primary concern was cost and they would reach agreement and continue to support the legislation only if the costs were, in fact, within the limits that the administration had established. So it did not bust the deal in a sense that it was not the subject matter in the negotiations.

We never discussed job security. But it clearly would have resulted in the bill exceeding the cost which the administration had made clear throughout they regarded as essential to sustain the support for this legislation.

It is for that reason that I have opposed this and other amendments. And I might say, Mr. President, for the information of my colleagues in the Senate, I have spent the past 9 years working to get this bill passed. I believe very strongly that our Nation needs a new clean air bill. There have been very many difficult hurdles to overcome, and we have had to work out a lot of subjects in which there is a great deal of controversy. This was one of them.

I hope very much that now we can move forward on the legislation and produce what I believe will be strong, fair, comprehensive legislation which will be approved by the Senate and ultimately enacted into law. I thank all of my colleagues for their contributions to that effort.

Mr. SIMPSON. If the majority leader will yield? I want to commend the majority leader, and I want to commend Senator BYRD and Senator DOLE. In my 11 years here I have never seen all three of them more galvanized and active, as we might say. And then it must have rubbed off on me because I, too, became very active. Senator BYRD was awesome in his activities because of his deep belief and love of his State.

And it was truly something to witness. Senator MITCHELL, with his commitment of 9 years' worth; Senator DOLE, with his commitment of delivering votes from our side of the aisle; we all doing our share. That was what was being done there.

But I want to say that I happened to be the courier of that message to the front. I felt like Henry V. I said that the Chief of Staff would be pleased to

tell Senator BIDEN that indeed the bill would be vetoed if that Byrd amendment was there.

And I expressed that message while Senator BYRD was right there within 2 feet—not a very happy experience. I am still thinking about the fence near the elk refuge—that $60,000. But hopefully we can keep them in there. And I will talk with him later about that.

I do want to say that when I served as acting leader of our party for several weeks while our able senior colleague, ROBERT DOLE, was seeking the Presidency. During that time, ROBERT BYRD—Senator BYRD—treated me with utmost fairness and the utmost courtesy. Let me tell you, I was thrown into heavy water. And he was not only courteous and fair; he assisted me greatly in my task.

So I have great admiration for him. I have great admiration for the way in which the debate was conducted, and the intensity and skill with which the parties participated. That is truly the legislative system in its purest form, win or lose.

It is much more difficult to be gracious in defeat than in victory, and Senator BYRD has expressed that so masterfully once again. And I thank him.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that I might be permitted to proceed as if in morning business for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOUTH AFRICA TODAY—POLICY AND PROMISE

Mr. WALLOP. Mr. President, the years 1989 and 1990 will go down in history as years of dramatic and historic change. Like most Members I am thrilled to see the trend continue in 1990, but unlike many who have commented on these changes, I do not foresee victory or triumph just yet. To borrow a phrase from Winston Churchill, I submit we have seen only "the end of the beginning."

Among the dramatic changes this year, one has come from South Africa. In Capetown, on February 2, at the opening of the new session of the South African Parliament, President F.W. de Klerk announced a number of measures which constitute major breakthroughs in the process toward national reconciliation in that country. Although no one thinks—not does President de Klerk claim—that his proposals will solve all of South Africa's problems, his speech was nonetheless momentous. It clearly signaled the South African Government's willingness to discuss all of the issues related to ending apartheid. Furthermore, the breadth of the action taken indicated the degree to which real reform is desired within South African society.

The de Klerk speech announced the following initiatives:

An end to the banning of the African National Congress [ANC], the Pan African Congress [PAC], the South African Communist Party [SACP] and subsidiary organizations;

The release of all political prisoners, including Nelson Mandela;

An end to most of the emergency regulations governing the activities of the media and education sectors;

An end to restrictions on the activities of 33 organizations, including the South African National Students Congress, the Congress of South African Trade Unions [COSATU], and the United Democratic Front [UDF].

Mr. President, it is entirely conceivable that broader freedoms will reach South Africa in the not too distant future. The release of Nelson Mandela and the unbanning of the various organizations has had an immediate and positive impact on South African politics. It will take time before many of the reforms produce tangible results, but the grounds to delay negotiations with the government are fading fast. Nevertheless, various factions on the left and the right will seek to undermine the genuine efforts of moderate South Africans to bring peace, freedom, and prosperity to their nation.

There has already been a strong reaction to de Klerk's reforms from the rightwing. Nelson Mandela and other ANC leaders have made equivocal statements about the future of the "armed struggle" in South Africa. Even should the ANC abandon the armed struggle and commit itself to negotiations, there will continue to be violence committed by the extreme left. It is incumbent upon individuals with leadership roles in South Africa to respond to these challenges forcefully and responsibly.

There must be reconciliation within the South African black community itself. Previously banned or restricted organizations will need a period of adjustment to prepare for negotiations with the government. The ANC recently announced its decision to move operations back inside South Africa. Yet they are clearly not the sole spokesman for South African blacks or even the spokesman for a majority. It was encouraging to see Nelson Mandela deliver a speech in the Natal Province, calling on forces loyal to him to cease their attacks on the members of the Inkata organization led by chief Gatsha Buthelezi.

Key individuals and groups are only beginning to discuss the guidelines for "talks about talks", as the preliminary negotiations are being called. Although not complacent about the changes which have thus far taken place I think most South Africans appreciate the need to progress at a gradual but persistent rate of reform. Mr. President, the process of reform in South Africa is not wholly new. It has been proceeding steadily for roughly 10 years.

Yet many people still dictate to South Africa about the pace of reform and the agenda for negotiations. Forgetting or ignoring the fact that the ANC by no means speaks for all South African blacks or for minority factions, they press on with their singular view. These self-proclaimed moralists have for years been orchestrating and manipulating political reaction around the world to events in South Africa. Unlike the generally favorable black reaction inside South Africa to President de Klerk's reform package, this sanctions lobby seems determined to make headlines at the expense of sound policy.

Their clarion call has already begun for continued or even strengthened sanctions against South Africa. Any suggestion that President de Klerk's reforms warrant either repeal, suspension or modification of sanctions is met with consternation and denunciation. Singularly courageous in bucking this trend is British Prime Minister Margaret Thatcher who, to her credit, has responded to President de Klerk's initiative by lifting some of Great Britain's sanctions against South Africa.

United States sanctions against South Africa were enacted over President Reagan's veto in 1986. The comprehensive Anti-Apartheid Act—often referred to as the "C-Triple A"—anticipated continual change in South Africa. The legislation itself included a list of options for the United States to respond to reforms made by South Africa. The South African Government has complied with most of the conditions necessary to terminate sanctions. If the Government of South Africa complies with the remaining conditions, the sanctions provided for in the "C-Triple A" would end—period. That is the letter of the law.

Mr. President, in addition to its provisions for automatic termination of sanctions, the "C-Triple A" contains provisions which allow the President to respond to a partial implementation of the reforms demanded. Depending on the actions taken by South Africa, the President of the United States has, subject to a congressional resolution of disapproval, the option of either modifying the sanctions or suspending them for a period of time.

It would be my hope that the South African Government will simply take the necessary steps to terminate all sanctions. The conditions set forth in the "C-Triple A" are specific and the termination mechanism automatic. The South African Government knows what steps will be recognized and acknowledged. Most importantly, the conditions enumerated in the C-AAA delineate are precisely those obstacles preventing genuine dialog between the government and black South Africans.

The reforms enacted thus far in South Africa justify a reexamination of our sanctions policy. Regrettably, the same forces of domestic politics which prevented a rational debate in 1986 will tend to prevent a sensible discussion of the matter in 1990. In 1986 the sanctions lobby advocated bringing all factions in South Africa to the negotiating table without precondition. It appears they have now changed their goal. Now. they want to maintain sanctions until there is a complete transfer of power to a black government—this without regard to the fate of any minorities in South Africa: tribal, colored, Indian, or white.

The sanctions lobby never imagined the South African Government would satisfy the conditions set forth in the "C-Triple A." Having seriously miscalculated the Government's dedication to reform, they now find it necessary to change the rules of the game. How ironic that while the South African Government becomes more moderate, the sanctions lobby grows increasingly radical.

By now claiming sanctions represent the leverage to force the current Government from power, the sanctions lobby shows its real motive. They never were interested in national reconciliation or self-determination. They are only concerned with power. There is no dedication to nonracial democracy—or even democracy at all. These people are the first to demand the protection of minority rights in this country—and rightfully so. America was founded on the principle of the fundamental right of a minority to be protected from the tyranny of the majority. When it comes to South Africa, why is the concept of protecting minority rights so repugnant?

The sanctions lobby has repeatedly expressed its willingness to destroy South Africa by way of reconstituting it. By keeping sanctions in place until there is so-called black rule, the sanctions lobby is unconcerned by consequences. They do not dispute that hundreds of thousands—perhaps millions—of blacks have lost their livelihoods because of the economic downturn created by sanctions. The sanctions lobby merely proclaims it is a price South African blacks are willing to pay. Easy enough when there is nothing for them to pay and only a harvest of sanctions credit to reap.

The sanctions lobby is willing to abandon all South Africans to the fate of democratic forces in Eastern Europe: the legacy of a ravaged economy. In the case of Eastern Europe, those economies were ruined by the Communist policies of the respective totalitarian regimes. In South Africa, the economy will have been destroyed by our basic interference—not to black South African—domestic American political gain.

Can the sanctions lobby not see how sanctions worsen the economic disparity between blacks and whites? Having seen socialism fail on a worldwide scale, they must nonetheless intensify their demand for the policies of socialism and nationalization in South Africa? Do these people honestly believe foreign investment will be attracted to a socialist South Africa? Do they care? Will some South African black leaders—and the Americans who support them—ignore the lessons learned in Eastern Europe, Central America, and the rest of the African Continent?

Mr. President, some South African blacks already equate capitalism with apartheid, whether through convenience or mistrust. Such a notion is not only wrong, it is dangerous. Yet, the sanctions lobby is determined to perpetuate that myth—knowing full well the consequences of its failure worldwide.

Mr. President, no one who opposes continuing sanctions wants to see our country disrupt the process of reform occurring in South Africa. No one is proposing we bail out the Government there with massive amounts of economic assistance. This Senator would simply like to know why free enterprise democracy is good for Eastern European and Asian countries, but not for African nations?

America has committed itself to sending huge amounts of investment and economic assistance to Eastern Europe. The United States is even planning to support some of these nations before they have truly begun to reform. We seem only too willing to bail these countries out. Yet most people believe the opening of economic ties with the People's Republic of China helped create the democratic spirit which was so brutally crushed last June by the Communist Chinese Government. Why is it that free enterprise and American investment will not have identical effects in South Africa?

In order to help Mikhail Gorbachev stay in power many Members of Congress—even some former Presidential candidates—are prepared to give the Soviet Government credits, untied loans, and other economic assistance. They are prepared to subsidize the Soviet Government despite massive new personal powers ceded to Mr. Gorbachev to rule by decree. While some people are placing such high priority on helping Mikhail Gorbachev succeed, why are they also prepared to go for the jugular in South Africa?

Mr. President, what are we prepared to do to help President de Klerk succeed? President de Klerk has embarked on a bold and courageous initiative in order to promote peace and national reconciliation in his country. The nationalist party has indicated its willingness to negotiate itself out of power. They freely admit that in 5 to 10 years a black government will probably run the country. Mr. de Klerk certainly faces a considerable challenge from his rightwing—probably more genuine than that faced by Mikhail Gorbachev.

Are we prepared to recognize their efforts and to make a gesture of appreciation? Not the sanctions lobby. They are outraged that President Bush would even extend President de Klerk an invitation to visit the White House—despite the fact that President Bush has also asked Nelson Mandela to come for a meeting.

Let me here commend President Bush for his handling of the developments in South Africa. He has properly recognized the boldness of President de Klerk's initiatives. President Bush has congratulated Nelson Mandela on his release and asked for his assistance in bringing about national reconciliation in South Africa. However, the President must recognize that, despite the popularity of sanctions in the United States, in the long run they decrease the likelihood of freedom and democracy in South Africa.

The President nonetheless should make clear his opposition to any effort to increase sanctions or to any change in the mechanism for lifting sanctions. The people in South Africa affected most by sanctions—blacks working to support their families, young progressive whites entering the work force, and the moderate Afrikaners trying to bring peace and prosperity to their beloved nation—these are precisely those individuals most dedicated to seeing democracy and freedom in South Africa. If the level of reform eventually meets the requirements for lifting sanctions, what signal would increasing the sanctions or passing further conditions send to the moderates in South Africa—both black and white?

Mr. President, there can be a South Africa where blacks, whites, Indians, and coloreds, work together in business, in the arts, in sports, in social settings, and in government. Together they can take a country already blessed with the most productive, most advanced economy on the continent of Africa and use it for their own betterment and that of their neighbors. None of this will happen if the sanc-

tions lobby is allowed to wage economic warfare on the people of South Africa at the very moment when the process of negotiation and reconciliation looks most promising.

Mr. President, the colloquy between the distinguished Senator from Idaho Senator SYMMS and myself which will appear immediately following my remarks, discusses the sanctions legislation passed by Congress in 1986, and addresses the conditions in the law for the termination or suspending sanctions in light of the reforms taking place in South Africa.

Mr. President, I yield the floor.

Mr. SYMMS. Mr. President, will the senior Senator from Wyoming yield to me for the purpose of several questions? Perhaps they will shed some light on the course the United States should take in responding to recent events in South Africa.

Mr. WALLOP. Mr. President, I am delighted to yield to my distinguished colleague from Idaho.

Mr. SYMMS. I thank my friend.

Mr. President, all Americans are delighted by the recent reforms in South Africa. Unfortunately, our enthusiasm does not conceal the level of disagreement which still exists in this country about what action we as a nation ought to take.

Mr. President, the sanctions legislation passed by Congress in 1986 contained provisions for responding to certain reforms enacted by the South African Government. Different combinations of reforms implemented by the South African Government could lead to different responses from our Government. The options available to the United States include termination, suspension, or modification of the sanctions enacted in the Comprehensive Anti-Apartheid Act also known as the C-AAA.

If my friend from Wyoming has a copy of the sanctions law available, I think it would be helpful to remind our colleagues what actions the South African Government would need to take in order to elicit various responses from our Government. Could the Senator outline which reforms are necessary to prompt a complete termination of the sanctions.

Mr. WALLOP. Mr. President, according to the Comprehensive Anti-Apartheid Act—Public Law 99-440, section 311(a)—the sanctions shall terminate if the Government of South Africa:

First, releases other political prisoners and Nelson Mandela from prison;

Second, repeals the state of emergency in effect on the date of enactment of this act and releases all detainees held under such state of emergency;

Third, unbans democratic political parties;

Fourth, repeals the Group Areas Act and Population Registration Acts; and

Fifth, publicly commits itself to good faith negotiations with truly representative members of the black majority without preconditions.

Let me reiterate for the benefit of my colleagues. The actions I have just listed are the specific reforms necessary to terminate the sanctions imposed against South Africa in 1986 by the C-AAA.

Mr. SYMMS. I thank the Senator from Wyoming. Mr. President, it is my understanding that, were the measures just enumerated by the Senator from Wyoming enacted, the sanctions contained in the C-AAA would cease immediately and automatically—there need not be any intervening action taken by either Congress or the President. Is that also the understanding of the Senator from Wyoming?

Mr. WALLOP. Mr. President, it is this Senator's opinion that the distinguished Senator from Idaho is entirely correct. If the South African Government takes the actions prescribed in section 311(a), the sanctions are terminated. No intervening action by any branch or department of this Government would be necessary for the sanctions imposed by the C-AAA to simply stop.

Mr. SYMMS. If my friend would continue to yield, it appears to this Senator that three of the five conditions you previously delineated have already been met. Of the conditions, listed, the remaining ones to be met pertain to the repeal of the State of Emergency and the repeal of the Group Areas Act and Population Registration Act. Would my colleague from Wyoming agree that this appears to be the case?

Mr. WALLOP. I certainly would, Mr. President. If the reforms announced in South African President de Klerk's address before Parliament are implemented as expected, that would leave the two conditions just referred to by the Senator from Idaho as the only obstacles preventing the termination of the sanctions contained in the C-AAA.

These last two issues certainly are not small matters, Mr. President. However, with respect to the state of emergency, President de Klerk has already stated his intention to lift the restrictions if no major acts of violence or terrorism are committed in the aftermath of the current reforms. As for the repeal of the Group Areas Act and the Population Registration Act—the pillars of the apartheid system—this Senator is unable to predict the likelihood of the South African Government repealing either of these in the near future.

Mr. SYMMS. If my distinguished friend from Wyoming would yield further, I think it would be similarly helpful to our colleagues to examine the provision of the C-AAA which deals with the suspension or modification of sanctions. Would he be willing to describe to our colleagues how the C-AAA treats these issues?

Mr. WALLOP. Mr. President, I would be happy to accommodate the Senator's request.

Section 311(b) of the C-AAA states that the President of the United States "may suspend or modify" any of the sanctions enacted if he reports to Congress that the Government of South Africa has: Released Nelson Mandela and other political prisoners; has complied with three of the four aforementioned conditions; and—I am now quoting from the law—"made substantial progress toward dismantling the system of apartheid and establishing a nonracial democracy."

I might just add, Mr. President, that Congress would have the option of rejecting any attempt by the President to suspend or modify the current sanctions regime. The C-AAA contains a provision for the expedited consideration of a joint resolution of disapproval to block any change in U.S. policy.

Mr. SYMMS. Mr. President, I thank my friend for his thorough answer.

If he would continue to yield, this Senator is concerned with the inclusion of rather vague language in the section dealing with the suspension or modification of sanctions. What type of reform would the Senator from Wyoming consider sufficient to meet the standard defined as "substantial progress toward dismantling the system of apartheid and establishing a nonracial democracy"?

Mr. WALLOP. Congress chose not to define what reforms constitute substantial progress in these areas. Despite our desire to see democratic reform and an end to apartheid in South Africa, any subsequent debate on sanctions ought to hinge on what constitutes substantial progress toward achieving these goals.

It appears each individual Member of Congress will have to determine for him or herself how to define this standard if and when this issue comes before us. In all honesty, this Senator is unsure how to interpret this standard. Regrettably, many proponents of sanctions have already decided that nothing short of a complete transfer of power will be sufficient to justify an end to sanctions.

Mr. SYMMS. I thank my friend from Wyoming. In the process of answering the question, he actually makes my point.

The C-AAA does not require South Africa to dismantle apartheid or establish a nonracial democracy before the President can request a suspension or modification of sanctions. The C-AAA only requires there be substantial progress toward these ends.

But how likely is it 535 Members of Congress will agree on what consti-

tutes substantial progress? This provision is supposed to provide the President flexibility in responding to changes in South Africa. I think the opposite is the case.

Certain Members of Congress have made it clear they will not be satisfied with the pace and substance of reform in South Africa until there is black rule—whatever that means. Such a stance contradicts the letter and the spirit of the law. It also represents the intractable nature of the prosanctions forces. Their approach cripples the executive branch's ability to react to positive changes in South Africa.

Surprisingly, the conditions stipulated in the suspension and modification section of the C-AAA are possibly more onerous than those necessary to completely terminate the sanctions. Terminating sanctions may initially appear more difficult since the reforms demanded are specific. However, this exactness is the very advantage. The South African Government knows what their actions will accomplish. Absent passage of a new law, the mechanism for ending sanctions is beyond the control of Congress or the President.

On the other hand, the ability of the President to utilize the suspension and modification language is uncertain. It offers the South African Government changes in sanctions commensurate to the reforms they enact. However, Congress retains the power to negate any attempt by the President to take appropriate, incremental action.

Judging by how emotional previous sanctions debates have been, I am not confident Congress will respond prudently. In assessing what constitutes substantial progress, Members of Congress will exploit the existing sensitivities surrounding this matter. Many Members appear uninterested in or incapable of objectively assessing the De Klerk government's commitment to ending apartheid.

Does the Senator from Wyoming consider these concerns valid?

Mr. WALLOP. Mr. President, indeed I do. The Senator makes important points.

This Senator has often questioned the efficacy of economic sanctions. If you are going to impose sanctions, it is imperative they be designed to achieve specific goals. It is difficult for any sanctions to produce specific results if the targeted party is unsure what actions are desired.

I think the authors of the C-AAA believed the South African Government would never meet the requirements contained in the law. Now that it appears the De Klerk government may, in fact, meet the necessary criteria, I hope the Congress will honor its commitment and respond accordingly by lifting sanctions.

Mr. SYMMS. Mr. President, if my distinguished colleague would yield for one last comment, let me just say his insight and analysis are much appreciated.

We both share a deep concern for the region of southern Africa. We similarly share a dedication to the people of South Africa to try and assist them in this difficult period of national reconciliation.

Finally, let me convey my appreciation to the Senator for taking the time to come to the floor today and help bring to the Senate some knowledge and understanding of this matter.

I thank the distinguished senior Senator from Wyoming.

Mr. WALLOP. I thank my friend and colleague, the distinguished Senator from Idaho, for his remarks and valuable contribution. The Senator has helped us all understand how the recent changes in South Africa will affect United States policy.

At this time, I am prepared to yield the floor.

MAKING A POSITIVE DIFFERENCE IN SOUTH AFRICA

Mr. McCLURE. Mr. President, for many years debate in this country has been the best way for the United States to help promote an end of apartheid in South Africa. Two administrations have correctly said that all Americans agree on the goal, but we have differences in how to accomplish it.

Congress and two Presidents have agreed that reform and negotiation are the goals in South Africa. For years it seemed that the doors to these options were shut by the South African Government. But recently, the doors have been opened wide. I believe that President Bush and Congress should actively pursue steps to acknowledge and reward the twin priorities of reform and negotiation.

Fortunately, the President and the State Department have been saying positive things about the need for peaceful reform and negotiations involving all parties and interested groups. The South African President, F.W. de Klerk, has been welcomed to come to the United States on an official state visit. I believe this should be arranged as soon as practical. After his visit, it will be appropriate for political opponents of the South African Government, such as Nelson Mandela and Chief Minister Buthelezi, to take President Bush's invitation and come to Washington. Perhaps these two antiapartheid crusaders should come together. These visits could be powerful steps to encourage the ends which all Americans agree on.

President Bush, and yes, even the State Department should be commended for their emphasis in the past few weeks. Now Congress must echo that positive message.

U.S. policy is clearly outlined in the Comprehensive Anti-Apartheid Act of 1986. I supported President Reagan's veto of that legislation, but it is the law of the land. In that legislation, there is a clear set of conditions imposed on the South African Government. The Bush administration has strongly indicated that if provisions of the law are fulfilled, punitive measures will end.

It is too bad that a few people in and out of Congress are critical of President Bush's reasonable approach to end apartheid by encouraging reform and negotiation. They act as if they will settle for nothing but extremes, including imposing a single solution on South Africa without reform and precluding real negotiations with everything on the table. No more sticks are required to threaten or punish South Africa.

South African President de Klerk took a considerable risk with the plan he announced in his February 2, 1990, speech and by releasing Nelson Mandela. He has legalized the South African Communist Party and its close affiliate, the African National Congress. He has released all individuals who were jailed for their political beliefs. He has loosened the state of emergency and looks forward to a day in the near future when it can be completely repealed. And President de Klerk has announced his intention to begin serious negotiations soon.

The forces of revolution and reaction in South Africa are unsatisfied. They oppose both negotiation and reform. Inaction by Congress would inevitably be seen as encouraging renewed division and violence when a peaceful end of apartheid is in sight.

President George Bush is correct in applauding these actions and in welcoming Nelson Mandela into the full political life of the country. Congress can do no less than to respond warmly to the quick thaw in South Africa with positive, concrete actions that back our President's stand.

Mr. President, bearing in mind that the following article from the American Spectator was written before Mandela's release, I urge my colleagues to read it. Micah Morrison, in the "The Mandela Dilemma" points out some of the nuances of South Africa's antiapartheid political factions. We must be aware of those factions if we are to propose positive solutions to South Africa's problems.

UNITED STATES POLICY TOWARD SOUTH AFRICAN SANCTIONS

Mr. COATS. Mr. President, I rise today to urge the Congress to renew debate on the United States policy of sanctions against South Africa. Given the dramatic developments in South Africa over the last several months, culminating with the release of Nelson Mandela, it seems appropriate to review what the Congress intended to achieve through the Comprehensive Anti-Apartheid Act, what we still

expect from sanctions, and what changes are needed in United States-South Africa policy.

Although I have long had reservations about the usefulness and long-term consequences of comprehensive sanctions, I supported such legislation in 1985 and 1986, culminating with a vote to override President Reagan's veto of the Comprehensive Anti-Apartheid Act of 1986—H.R. 4868, Public Law 99-440. In my view, the system of apartheid is morally indefensible and ultimately must be dismantled. I believe, however, that the process of positive change must be orderly and peaceful. Economic collapse and violent revolution in South Africa would serve only the interests of the most radical factions within and outside of South Africa.

The quest for political and social equality in South Africa will occur peacefully only if propelled by economic empowerment of the black population and a commitment to a negotiated settlement by both sides. I am encouraged by Mr. Mandela's recent statements demonstrating a willingness to engage in negotiations with the South African Government, although his apparent reluctance to abandon violence is disturbing. The African National Congress' continuing commitment to Marxist doctrine is equally troubling, and quite ironic in light of events in Eastern Europe. I am convinced that once the ANC abandons its Marxist agenda and follows a path of political pluralism and free market principles, it will find the South African Government to be a more cooperative and conciliatory negotiating partner.

President Frederik de Klerk also deserves praise for his contribution to national reconciliation. In his speech to the South African Parliament in early February, President de Klerk unveiled several major initiatives that demonstrate serious commitment to real reform of the apartheid system, including the legalization of several black political organizations, the release of all political prisoners, and significant reductions in emergency regulations. These measures, once fully implemented, will fulfill many of the requirements set forth in the Comprehensive Anti-Apartheid Act of 1986. Of the five provisions for termination of sanctions listed in this legislation, only two will remain: The lifting of the state of emergency and the repeal of the group areas and population registration acts. I do not mean to minimize the importance of these provisions, or the obstacles associated with them. I do not suggest that we abandon sanctions before these goals are realized. But I do believe that very substantial progress has been made—perhaps enough to begin considering a modification in our sanctions policy. The Comprehensive Anti-Apartheid Act of 1986 states explicitly that if Nelson Mandela is released, if three of the other four provisions for termination of sanctions are met, and if South Africa makes "substantial progress toward dismantling the system of apartheid and establishing a nonracial democracy" the President of the United States "may suspend or modify" any of the sanctions. While this is clearly a decision for President Bush to make, Congress' role in approving or rejecting modifications in our sanctions policy demonstrates the importance of establishing a mutually acceptable approach.

In my view, we should seek modifications in United States sanctions policy that are designed to promote the economic empowerment of South Africa's black population. In June 1986, I supported an amendment to the Comprehensive Anti-Apartheid Act that would have exempted from the bill's sanctions U.S. companies that comply with the so-called Sullivan principles, which include the following: nonsegregated work facilities; equal and fair employment practices; equal pay for equal work; increased number of blacks, coloureds, and Asians in management and supervisory positions; and improved quality of employees' lives outside the work environment.

It may now be appropriate to think about applying this approach, or to consider new and creative ways to achieve its intent.

President de Klerk has demonstrated a commitment to reform. At considerable risk to his political welfare, he has shown a willingness to begin dismantling the apartheid system through negotiations. It is in America's interest, de Klerk's interest, and the interest of South Africa's black and coloured population to see that this effort succeeds. Unfortunately, President de Klerk faces seriouis opposition from radical supporters of apartheid and his reforms are far from invulnerable. For this reason, it would be unwise and potentially dangerous to increase the burden of sanctions. If we reward de Klerk's reforms with a more onerous burden he will have little incentive to proceed along his charted path, especially given the growing movement in South Africa that seeks to undermine reform.

The United States should encourage the South African Government to fulfill the final two provisions for an end to sanctions. Yet President de Klerk must feel confident that if he does lift the state of emergency and repeal the group areas and population registration acts that we will fulfill our part of the bargain, as explicitly defined in the Comprehensive Anti-Apartheid Act of 1986—section 311. At the same time, we should seek to foster political and economic policies toward South Africa that boost the economic power of the black population. We should attempt to convince all South Africans that the free market can bring political freedom, and that the road of violent revolution serves only the interests of those who wish to set back the clock of history by establishing a Marxist regime. South Africa has the most advanced and productive economy in Africa, an asset that can be used to bring freedom to all South Africans.

A balanced United States sanctions policy has played a role in bringing about change in South Africa. Those Members of Congress who have advocated an incentive system that rewards reform and discourages the status quo in South Africa deserve credit. In this regard, the senior Senator from Indiana, Senator RICHARD LUGAR, must be singled out. His leading role during 1985 and 1986 and the legislation he sponsored provided a balanced alternative to the more radical approaches that sought to devastate the South African economy.

Mr. President, I hope that the United States will seek to work as a force for reconciliation in South Africa. We should demonstrate firmness in insisting that apartheid be abandoned, yet a willingness to reward positive change as it comes. We must work to establish a system where all racial groups can live side by side, each enjoying political and social freedom and the benefits of a prosperous and open economy.

Mr. WALLOP. Mr. President, I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1419 TO AMENDMENT NO. 1293

Mr. SYMMS. Madam President, I am going to speak on an amendment that I hope to offer in a few moments. I will not offer the amendment until the managers are prepared. But I thought I would explain the amendment I am going to offer at this point.

Supposedly, 377,000 of the 10 million tons in sulfur dioxide reduction attribute to the provisions of this bill are assumed to come from the desulfurization of diesel. The bill itself requires that diesel used on-highway be desulfurized to a level of no more that 0.05 percent sulfur by weight.

I say supposedly because I would like to challenge that SO_2 reduction

assumption. According to the EPA, desulfurization of "on-highway" diesel only yields a total SO_2 reduction of 140,000 tons. So, the remaining 260,000 tons must be assumed to be achieved by the desulfurization of "off-highway" diesel.

The "grand keepers of the SO_2 numbers," in making such an assumption, simply concluded that refineries would almost completely replace their off-highway distillate with desulfurized product.

This is a faulty assumption. First of all, the marketplace will certainly not encourage this. The desulfurized on-highway diesel will be between 2 cents—EPA's estimate—and 5 cents—refiner's estimate—more expensive than nondesulfurized diesel.

Second, for diesel markets that are served principally by small refineries and farm co-ops, EPA's own rule on diesel desulfurization has this to say:

Investments required for fuel control might be difficult for some small refiners to finance, causing some small refiners to discontinue the production of highway diesel fuel. This should not be an insurmountable problem, however, since there refiners should be able to shift their product slates to meet "off-highway" distillate needs in their geographic areas.

In fact, the EPA rule counts on there existing an even greater delineation between on-highway and off-highway diesels, and proposes to require that one of the two be dyed so as to help prevent misfueling.

In other words, while the assumption is made that SO_2 reductions will occur from wide-scale desulfurization of off-highway diesel, there is nothing in the clean air amendments before us to make that happen, there are few incentives in the marketplace that would make it likely, and EPA's own rulemaking counts on it not happening.

The problem that small diesel refiners would face in attempting to desulfurize is well known to the Environment and Public Works Committee. In fact, in 1987, the committee unanimously adopted a provision that completely exempted certain small refiners from the desulfurization requirement for several years.

A report done by the National Petroleum Refiners Association [NPRA], and presented to our committee at that time, revealed that the total capital expenditure for desulfurization required by this bill would be approximately $2.2 billion. According to a survey by the NPRA, 37 refiners nationwide reported "that they would not be able to make the necessary capital investment." Not surprisingly, all of these refineries fell in the medium to small categories.

As mentioned before, EPA's response was simply to point out that these small refiners could redirect their product to a separate and distinct off-highway market. Their August 24, 1989 rule suggests that "any diesel fuel in the control of a regulated party is on-highway diesel fuel and subject to the [desulfurization] requirement, unless it is visibly dyed," thus further distinguishing one market from the other.

But dying the off-highway diesel will not provide for any greater SO_2 reduction, neither is it a fool-proof guarantee that off-highway diesel will not be used on-highway. In fact, the incidence of misfueling is even greater in farm and rural areas—precisely the areas most likely supplied by the small refineries and co-ops who are least likely to desulfurize. Consequently, the price differential, coupled with the supply, will make "cross-fueling" very likely in these areas. This, of course, would be illegal—but according to my own Idaho Department of Environmental Quality—it would also be virtually unenforceable.

Furthermore, it may only exacerbate SO_2 even beyond the fact that high-sulfur fuels will be used in those areas. Part of the sulfate particle control strategy being developed by EPA, and required by this bill, requires engine manufacturers to install particulate traps on their engines sold on and after 1993. These traps can be fouled by the use of high-sulfur diesel. The continued presence of such diesel in remote rural areas, the incentives for cross-fueling, and the difficulty of enforcement, could end up making a significant number of traps disfunctional—resulting in continued sulfur oxide emissions even when that particular vehicle operates in areas with a prevalence of desulfurized fuel.

I hope it is evident that there are a number of problems associated with the bill's desulfurization requirement. Most of these problems could be solved by one thing—making it more cost-effective for small refiners to desulfurize.

In an attempt to do this, I have drafted an amendment that credits to small refiners, as defined in the Clean Air Act already, the SO_2 emissions reductions that would occur from their desulfurization. These refineries, of course, would not be able to use those allowances, but they could be sold to compensate for the capital cost of the desulfurizing equipment.

Small refiners account for 8.5 percent of all diesel. Since EPA estimates the total SO_2 emissions due to all diesel to be 497,000 tons, the absolute maximum number of allowances that could be available for small refiners would be 34,000, and this, of course, assumes that every small refiner in the Nation will opt to desulfurize its entire distillate.

For every small refiner that does desulfurize because of this incentive, the amendment allows the accompanying SO_2 reductions to be caught permanently. The amendment limits the time period in which these allowances are granted, terminating them by the year 2000. Once the capital cost of the desulfurizing is captured, it will continue to be in a refiner's interest to desulfurize even without the allowance incentive.

Also, to ensure that larger small refineries do not game the allowance system by vastly increasing throughput during the years being credited, each refinery is capped at no more than 1,500 allowances per year.

And finally, to ensure that a refinery does not use extra-sour crudes in order to artificially increase the projected SO_2 reduction, the amendment only credits those sulfur reductions below the national average of 0.274 percent by weight.

AMENDMENT NO. 1419 TO AMENDMENT NO. 1293

(Purpose: To provide an incentive for small diesel refineries to remove sulfur from diesel sold for off-highway and home heating purposes)

Mr. SYMMS. Madam President, I have explained the amendment, and now on behalf of myself, Mr. SIMPSON, Mr. BOREN, Mr. GARN, Mr. HATCH, Mr. MCCLURE, Mr. REID, Mr. BINGAMAN, Mr. WALLOP, and Mr. BREAUX, I send an amendment to the desk.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment?

Mr. SYMMS. Is there an amendment pending?

The PRESIDING OFFICER. The Baucus amendment is pending.

Mr. SYMMS. I ask unanimous consent the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report the Symms amendment.

The bill clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for himself, Mr. SIMPSON, Mr. BOREN, Mr. GARN, Mr. HATCH, Mr. MCCLURE, Mr. REID, Mr. BINGAMAN, Mr. WALLOP, and Mr. BREAUX, proposes an amendment numbered 1419 to amendment No. 1293.

Mr. SYMMS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 438 of amendment No. 1293, at line 12 insert the following new subsection:

"(h) SMALL DIESEL REFINERIES.—The Administrator shall issue allowances to owners or operators of small diesel refineries who produce diesel fuel after October 1, 1993 meeting the requirements of subsection 211(i) of this Act.

(A) ALLOWANCE PERIOD.—Allowances may be issued under this subsection only for the period from October 1, 1993 through December 31, 1999.

(B) ALLOWANCE DETERMINATION.—The number of allowances issued pursuant to this paragraph shall equal the annual

number of pounds of sulfur dioxide reduction attributable to desulfurization by a small refinery divided by 2000. For the purposes of this calculation, the concentration of sulfur removed from diesel fuel shall be the difference between 0.274 per centum (by weight) and 0.050 per centum (by weight).

(C) REFINERY ELIGIBILITY.—As used in this subsection, the term "small refinery" shall mean a refinery or portion of a refinery—

(i) which has bona fide crude oil throughput of less than 18,250,000 barrels per year, as reported to the Department of Energy, and

(ii) which is owned or controlled by a refiner with a total combined bona fide crude oil throughput of less than 50,187,500 barrels per year, as reported to the Department of Energy.

(D) LIMITATION PER REFINERY.—The maximum number of allowances that can be annually issued to a small refinery pursuant to this subsection is 1500.

(E) LIMITATION ON TOTAL.—In any given year, the total number of allowances issued pursuant to this subsection shall not exceed 35,000.

Mr. SYMMS. Madam President, it is my understanding that the majority and minority leadership of the committee have accepted this amendment. I yield to them for their comments.

Mr. BAUCUS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SYMMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Madam President, I withdraw my amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator's amendment is withdrawn.

The amendment was withdrawn.

Mr. SYMMS. Madam President, I would say it is my understanding from the Senator from Montana that he would prefer not to handle the amendment at this time. Although this does not have a net loss on allocations, he would prefer to do this some time after 5 p.m. today. I have an appointment that will cause me to be off the floor, so I will leave it to Senator BAUCUS and Senator CHAFEE to offer it at the appropriate time. I thank those two Senators. I am sure that the Senators who are cosponsors thank them also.

Mr. BAUCUS. Madam President, the Senator from Idaho is absolutely correct.

I ask the Senator if I could be added as a cosponsor of his amendment.

Mr. SYMMS. Madam President, I ask unanimous consent that when the amendment is reoffered that Senator BAUCUS be listed with the cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Madam President, I believe this amendment is perfectly fine and will be accepted. I do not think there will any problem with it. However, there is a technical matter we must clear first and once that is cleared—and I do expect it to be cleared—we will offer the amendment on the Senator's behalf.

Mr. SYMMS. I thank the Senator, and I thank the Senator from Rhode Island.

Mr. BAUCUS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Madam President, I rise to express my concern with the treatment of oil and natural gas-fired dual fuel units in the acid rain title of the Mitchell-Dole substitute to S. 1630, the Clean Air Act Amendments of 1989.

Under section 405(h) of this bill, dual fuel units that burned 90 percent gas during the period 1985-87 are treated as "gas dominated units," despite the fact that the units historically relied heavily on oil. During the years 1985-87, when natural gas was plentiful and reasonably priced, utilities with dual fuel units consumed more gas than oil. These utilities are being penalized by this bill. These units are given virtually no allowances.

This inequity is illustrated by the case of the largest utility in my State of Mississippi. The pending legislation will impede the growth of Mississippi Power & Light Co. because it is too clean. The utility will not have the allowances it needs to operate and expand.

The time period used to determine whether a unit is oil dominated is not representative. A longer, more historical timespan would offer a more accurate picture of historical oil usage. Fuel usage at a facility during 1980-89, for example, would be more representative, since the lengthened time period would cover the full range of operations and energy supply conditions.

Madam President, I am not going to offer an amendment to correct this problem at this time. The distinguished majority leader and minority leader have worked very hard to produce a compromise on this bill that can achieve the goal of reducing sulfur dioxide emissions by 10 million tons, and I do not want to upset that compromise at this late date.

Nonetheless, I want everyone to recognize the unfairness of this provision, and I want to express my hope that we can correct the problem at some stage of the legislative process. I understand that several proposals being considered by the House of Representatives contain provisions to use a longer, more representative period for determining whether a unit is oil dominated.

Should this issue be visited in conference, I strongly urge the Senate conferees to be mindful of my conerns.

Mr. BAUCUS. Madam President, it is now 4:25. There are no pending amendments. There is technically an amendment pending that is kind of a gatekeeper amendment, but that will be laid aside if other Senators come forth and offer their amendments. We know of a few amendments that Senators wish to offer and would strongly urge that those amendments be brought up.

Again I remind Senators that now is the time. There are 2 or 3 hours here within which amendments can be taken up and considered and passed and included in this bill. Of course, not all amendments will be accepted, but at least Senators have an opportunity to bring up their amendment and have their amendment debated if they wish their amendment to be included in this bill. Otherwise, we face the prospect of maybe late tonight or perhaps even late Tuesday night until we finally pass this bill.

I hope we do not work late Tuesday night. But the probability of not working late, say, Tuesday night, are enhanced the more we bring up and process and act upon amendments at a time as strong as this one. It is an opportune time for Senators to come to the floor and offer their amendments.

Mr. CHAFEE. Madam President, I would like to have a brief colloquy if I might with the floor manager of the bill to see where we stand.

First of all, I want to say to all those on the Republican side, come on over with your amendments. Now is the time. We are not doing anything. We have nothing scheduled. It is an ideal chance to present the amendments. We might take them. If we do not take them, we can vote on them. Here is your chance.

Working backward, the plan on Tuesday is to vote on amendments that we might debate on Monday and stack up. There will be no votes on Monday. As I understand it, we will be in session tomorrow, for a while anyway. Am I correct in that understanding?

Mr. BAUCUS. Yes, the Senator is correct. We will be in this evening and we will be in tomorrow as well.

Mr. CHAFEE. I would not want to encourage people to drift over here about 9 o'clock tonight and get their amendment in. Frankly, if we do not do any business at this store, we might as well close the doors and go home. I hope that if nothing happens and we

have no business before 6, that seems like a nice time to quit.

Mr. BAUCUS. Quite frankly, I think the Senator makes a good suggestion. There is no point us staying here this evening if there is no work to be done.

Mr. CHAFEE. The help is getting tired.

Mr. BAUCUS. The help is getting very tired. I must say, it is not only the help that is getting tired.

Mr. CHAFEE. Furthermore, there is no overtime in this job, so we might as well shut the doors and go home and get a nice night's sleep and come back refreshed, probably to do nothing tomorrow at the rate things are going.

Mr. BAUCUS. I might also say to the Senator, if Senators were to come over now and offer their amendment, they would probably be even more favorably received than if they offered it later.

Mr. CHAFEE. That is right. They have us in a weak mood. We are in an amiable mood. So if the Senator from Connecticut has an amendment, here is an ideal chance to present it.

Mr. DODD. Will my colleague yield?

Mr. CHAFEE. Yes.

Mr. DODD. The Senator does have an amendment. He is waiting to see if it can be cleared on the minority side. The administration apparently is looking at it, as well. I am prepared to offer it. It should be a noncontroversial one. I am told it falls in that category. I am prepared to to it. I would rather have you look at it and then call it up.

Mr. BAUCUS. Might I ask the Senator, I do not see the Senator's amendment listed.

Mr. DODD. It is still outstanding.

Mr. BAUCUS. I do not see it on the list.

Mr. DODD. I do not know if it is listed under my name or not.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, I think it would be helpful to some of those who might be listening, as to whether there are any definite votes scheduled for today. As I understood the previous announcement, the Daschle amendment was going to come up following the Byrd amendment. But I now understand that the sponsors of the Daschle amendment will not be ready until tomorrow? Is that the plan? The Daschle amendment will come tomorrow, will it?

Mr. BAUCUS. I would like to see the Daschle amendment come up this evening. I understand the authors of the amendment may not be ready today, so, therefore, it would have to come up at a later date. Maybe tomorrow.

I also understand the distinguished minority leader is inclined to wait until tomorrow before offering that amendment.

Mr. CHAFEE. It might be helpful to everyone who is listening, because the Daschle amendment clearly will be a vote and will involve Senators who have strong views, why do I not try to ascertain on the Daschle amendment whether it is coming up tonight and then we will be able to make an announcement.

Mr. BAUCUS. That will be fine.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Madam President, I ask unanimous consent that I may proceed for a period of time as in morning business to introduce some legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. I thank the Chair.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 2365 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolution.")

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LAUTENBERG). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. BAUCUS. Mr. President, there are two or three remaining somewhat major issues to be disposed of yet in this bill in addition to the large number of other amendments which may or may not be offered.

One of those somewhat major issues is the acid rain emissions allocations amendment. There are several amendments offered by Senators with respect to either specifically a plant or two or utility system in their States or a bit more generically dealing with certain classes of utility plants.

Each of the amendments have the effect of increasing allowance emissions but not adding to the cap; that is, each of the amendments, if they were to be enacted to become law, would have the effect of subtracting, on a proportionate basis, on a pro rata basis, the allowance emissions to be available to other plants.

We, under no circumstances, would be breaking the 8.9-million-ton cap that is set forth in the bill. In an effort to reach a resolution, however, of all of these amendments—and there are not many—there are maybe six or seven, approximately, in an effort to reach a successful resolution, I have been talking with the Senator from New Mexico, Senator DOMENICI, who has been very helpful in helping us find a solution here. The Senator from New Mexico was a very able and helpful participant in the negotiations on many parts of this bill, particularly the acid rain title.

The Senator informs me he has spoken with various other Senators, and he makes a suggestion I think is quite a good one. His suggestion is that Senators who have allowance amendments meet together in the same room, and with other interested Senators, to see if we can put together a package. Senator DOMENICI met this afternoon with a good number of Senators, while we were working on other matters. I thank the Senator from New Mexico for taking a lot of time on his own to help fashion an agreement here on allowance amendments.

He suggests—and I think it is a good idea—that Senators with allowance amendments meet tomorrow morning at 9:30 in S-224 with a view toward putting together a package that will then be submitted to the Senate as an amendment. We are not certain that we can put this package together, but that would be the intent.

It is our thought that if we can do so, it would be a package which would not jeopardize one allowance amendment in favor of another. It would be a package that would not discriminate in favor of one over another but would rather be fair to all Senators. That is our thought.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. First, let me thank Senator BAUCUS for his kind words, and let me suggest that we do not want to bother Senators that do not have to be disturbed tomorrow morning. We only need those who have an amendment on the allowances.

We plan to have a meeting at 9:30 in S-224, right here outside of the Senate Chamber, where we negotiated this agreement. Those of us who have been looking at the amendments and are familiar with them, and a number of staff on both sides of the aisle, and a number of Senators, have already reduced them to one document so we know what they are. We think that in looking at the overall list, there are grounds to be somewhat upbeat about

the possibility of resolving most of them, if not all.

Senators should familiarize themselves with the negotiations thus far, because some have had their staffs work on various issues, and we have already looked at what they recommended. But I quickly indicate to the Senators that are involved, that want to be notified, and I would state their names: Senator BOND wants to be notified, Senator MCCONNELL, Senator GRAHAM from Florida, Senator GRAMM from Texas, Senator MACK from Florida, Senator BOSCHWITZ from Minnesota, Senator SPECTER from Pennsylvania, both Wisconsin Senators, Mr. KASTEN and Mr. KOHL. I believe that is it.

Mr. BAUCUS. Senator Fowler.

Mr. DOMENICI. Excuse me, Senator FOWLER. Senator WIRTH, Senator JOHNSTON, both Ohio Senators, Senator METZENBAUM and Senator GLENN. Senator HATFIELD is on one of the amendments as cosponsor. If he wants to be there, I believe we have been talking with his staff and with the principal author, but he is the Republican cosponsor of an amendment. Before I yield the floor, might I say to Senator CHAFEE, I think our idea, which he supported, to handle this this way is going to work out.

The Senators are free to do what they want, technically, under the unanimous consent, but I do believe we have now seen the spectrum, and most are generic amendments, I say to the two managers. The overwhelming number are generic, in the sense that most are not asking for something specific for their State but rather for a kind of problem that would run across the gamut of States. I think we can resolve it by clearing a number of amendments or putting them all in one package for those who had amendments to offer, tomorrow sometime.

Mr. BAUCUS. Is Senator KOHL on the list?

Mr. DOMENICI. Yes.

Mr. CHAFEE. Mr. President, I want to commend the distinguished Senator from New Mexico, because he was the one that about a week ago tonight brought this to the attention of everybody, when the first attempt was made to get the unanimous-consent agreement and pointed out that unless we got these allowances under control and presented them as a package at the end of the negotiations here, or at end of the voting, we would have broken the ceiling long before that time. The Senator from New Mexico has done an excellent job.

I just have one minor point. After having listened to that list of Senators and knowing the size of the room, S-224, I suggest you get a bigger hall.

We have all spent a lot of time in S-224. I counted 57 people in there. Maybe there is some incentive. Winston Churchill said, when the House of Commons was burned down through the bombing in World War II and it came to design and rebuild the House of Commons—and there were only seats for 240 in the House of Commons, and there are 600 members—the people said, "build it for 640, a seat for everyone." Churchill said, "no, keep it small, so that when there is a great debate and all the members come, the hall is packed and it gives a sense of excitement." That may be what you are looking for tomorrow; I do not know. But you will achieve it, I think, with that number of Senators. It will be standing room only.

Mr. COCHRAN. Will the Senator yield for an observation?

Mr. DOMENICI. Yes.

Mr. COCHRAN. Even though some of us who feel that there is a lot of unfairness in this allowance section we are not on that list because we do not have amendments, because we could not get anywhere trying to get changes made, and we basically had to give up. I put a statement in the RECORD earlier today identifying what I think are some serious inequities in that part of the bill.

I am not on the amendment list. I am not going to be on the list, but I hope that when the managers of the bill get to conference with the House, that they will look at this section. Maybe House Members will be more persuasive than we have been in trying to get the attention regarding some of these provisions.

I congratulate the Senator from New Mexico in taking the lead and trying to wrestle through some of these problems. But there are still some of us who feel like we have been treated unfairly, that our States have been treated unfairly in this section.

Mr. LOTT. Mr. President, I want to reaffirm the comments offered by the senior Senator from Mississippi. I share his concerns for those oil/natural gas dual units who were treated as gas dominated units on the basis of their fuel usage during a short and unrepresentative timeframe. I am also concerned for those clean coal units which were using low-fulfur coal and operating at a low capacity factor during the same restrictive baseline years. Under section 405(f) duel fuel units are granted allowances based on their fuel usage from 1985 to 1987, a time when gas was probably the cheapest and most available it has been in the history of the United States. Consequently, gas was used almost exclusively by every utility that had access to natural gas. A decade earlier, the situation was inverted. Natural gas was scarce and expensive and oil was used extensively.

If this bill were based on the fuel usage during the mid-1970's, the result would have been equally unrepresentative. It makes more sense to use a longer, historical time period to determine the true emissions of a unit for the purposes of this bill. Because of the relative low capacity factor of these units and their use of natural gas or low-sulfur coal during the baseline years, the allowable emissions from these clean units are unfairly restricted. It would be more fair to use a longer timeframe from which to determine that baseline years in order to more properly reflect true emissions from a unit and the capacity at which that unit would operate.

I sincerely hope that my colleagues will recognize the inequities of this provision and want to express my desire to have this problem corrected as this bill continues through the legislative process.

Mr. DOMENICI. Let me say to my friend from Mississippi that we have never had a situation like this, where we had to allocate these kinds of allowances, a brand new thing in environmental law. I think that we are all in the process of getting information, and the House will have some, perhaps, plant-by-plant updates that we did not have.

We tried very hard, I say to my good friend, to be fair. I did not do it all. I tried to work on one kind of State that I thought was unfairly treated. Another amendment addressed the South and particular States like the Senator's in an effort to redress something we thought was unfair. I do not necessarily disagree with the Senator that more could be done. But I believe on these amendments that Senators put in, there is room for serious negotiation and working it out. We are going to try our best so we can get this bill moving.

I thank the Senator for his kind words and for his concern because there still could be a lingering concern. There is nothing that we cannot work out. It will get worked out before we finish, I am sure.

Mr. COCHRAN. If the Senator will yield for a last comment, the basis of our concern is we are going to be locked into a position where we cannot grow without violating the provisions of this law, or raising to unnecessarily and intolerably high rates the cost of electricity, and compliance with this law will be economically burdensome on areas that really are considered to be fairly clean in comparison with other parts of the country. I think that is the condition our State is in. It is a real threat to our future economic vitality to see this bill designed in the way it is with this allowance section as it now stands.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I very much hear the Senator from Mississippi and understand what he is saying.

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There are several States that are so-called clean States. And Mississippi is basically in that category and is legitimately concerned therefore about future growth. The State of Montana is in the same category, as are other States.

It is our hope and full intention that the additional allowances that were generated by accelerating the date of phase one as well as phase two and taking those allowances and distributing them to clean States and to other Midwest States as well will meet those concerns.

This is not the end of this bill. As the Senator says, the House will yet look at the allowance system. There is a conference and plenty of opportunities as we refine this bill to iron out some of the imperfections that are likely to occur. The Senator from Mississippi might very well put the finger on one. The Senator has my assurance, and I am sure the assurance of the Senator from Rhode Island, to take those concerns into consideration as the bill proceeds

Mr. COCHRAN. I thank the Senator from Montana for that assurance and wish him well in the effort to draft a bill that does meet these concerns that many of us still have.

Mr. BAUCUS. I thank the Senator.

Again Mr. President, the meeting will be at 9:30 tomorrow in room S-224 for those Senators will allowance amendments and other Senators who are also interested.

Mr. COCHRAN. Mr. President, does the Senator yield the floor at this point?

Mr. BAUCUS. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, what is pending right now before the Senate?

The PRESIDING OFFICER. The pending amendment is amendment No. 1307, an amendment by the Senator from Montana.

AMENDMENT NO. 1423 TO AMENDMENT NO. 1293

Mr. HARKIN. Mr. President, as long as there is nothing pending on the floor, I want to talk about an amendment on clean air that Senator DASCHLE and I and also Senator DOLE will be offering, along with a number of other cosponsors. It is an amendment that Senator DASCHLE and I have been working on for some time dealing with reformulated gasoline.

Mr. President, sometimes we get too involved with the details of an issue to see the complete picture. Take air pollution from automobiles. We have been concentrating for years on preventing ozone-forming gases from leaving the vehicle, either through evaporation, refueling, or actual running of the engine.

We have ignored the source of this pollution—the gasoline that goes into the tank. As someone once said, "You put garbage in, you get garbage out."

Removing ozone-forming and toxic chemicals at the refinery can complement or add to our efforts to cut emissions from motor vehicles.

Consider next the constituent components of today's gasoline. We often think of gasoline as a monolithic fuel, much like an element such as hydrogen, or a compound like methane. But gasoline is really a witches brew of many different, complex hydrocarbons, and the brew has been growing toxics in recent years.

One class of ingredients in gasoline are so-called aromatics. I know it sounds pleasing, sounds like it makes it smell nice. The reality of aromatics is much different.

The aromatic hydrocarbons in gasoline include benzene, toluene, and xylene.

Benzene is a known carcinogen, one of the worst air toxics. Eighty-five percent of all benzene in the air we breath comes from motor vehicle exhaust.

Xylene, another aromatic, is highly photoreactive—meaning that it forms ozone very rapidly in sunlight. Xylene from automobile exhaust in the morning rush hour will form ozone in sunlight to choke our lungs by the afternoon trip home.

Toluene, another aromatic, usually forms benzene during the combustion process and thus becomes carcinogenic along with benzene in the gasoline.

Today, about 33 percent of gasoline is composed of aromatics by volume. Some higher octane gasoline may contain 45 percent or more aromatic hydrocarbons.

Worse yet, the aromatics tend to reduce the effectiveness of catalytic converters. Above 25 percent aromatics, the ceiling set by the amendment that will be offered by Senator DASCHLE amendment, emissions of nitrous oxides, volatile hydrocarbons, benzene, and carbon monoxide all increase sharply.

I use this chart, Mr. President, to show that. These lines represent the NO_x, the hydrocarbons, and the carbon monoxide. The dotted line represents the benzene that is in the gasoline. You can see that at about 45 percent octane you get high levels of emissions of NO_x, the hydrocarbons, and the carbon monoxide. The dotted line represents the benzene that is in the gasoline. You can see that at about 45 percent octane you get high levels of emissions of NO_x, hydrocarbons, and carbon monoxide. The national average for aromatic hydrocarbons is about 33 percent. The amendment reduces the level of aromatics to no more than 25 percent. So as you can see by reducing the amount of aromatics by volume, you substantially reduce the amount of carbon monoxide, hydrocarbons, and nitrogen oxide emitted into the atmosphere way below the levels that are being emitted right now.

So again by putting a ceiling of 25 percent, as the Dashchle-Dole-Harkin amendment does, it is going to substantially reduce the emissions of hydrocarbons, carbon monoxide, and oxides of nitrogen.

Another 10 to 25 percent of gasoline, over and above the 35 to 45 percent that is now made up of aromatics, consists of olefins. Many olefins are even more photoreactive than xylene, forming ozone rapidly.

So because of these components, gasoline, when burned, is a major source of toxic air pollutants, ozone, and carbon monoxide. We know that, but no one has really focused on the aromatics that make up a third, and sometimes a half if you are using high octane gasoline.

Gasoline has not always been this highly toxic with these levels of aromatics. In 1979, the average aromatic content of gasoline was only 22 percent. The average, as I pointed out, is now 33 percent. The high octane gasolines have about 45 percent or higher aromatic hydrocarbons.

However, when we correctly mandated the removal of lead from gasoline, other components were added to keep octane levels high: The octane enhancer of choice was aromatic hydrocarbons.

In retrospect we corrected one problem—lead poisoning—but created another; toxic chemicals and ozone.

But this historical error can be corrected. We can return to previous aromatic levels.

Fortunately, there are other choices than aromatics to maintain octane level in gasoline.

Guess what they are? The oxygenated fuel additives.

To date, EPA has approved six fuel additives which are all combinations of alcohols, such as methanol, or ethanol, or the ethers derived from those alcohols. These oxygenated fuel additives not only replace toxic and ozone forming compounds, but they reduce carbon monoxide.

Mr. President, I have been working with my friend and colleague from South Dakota [Mr. DASCHLE] for some time to improve alternatives to removing toxic and ozone forming chemicals in the gasoline. Earlier this year, we recommended to the Environment and Public Works Committee that the quickest and cheapest method for cleaning up our air would be to remove the toxic chemicals from gasoline. We recommended a plan to phase out pollutants in gasoline, a plan that would eventually bring cleaner gasoline and, therefore, cleaner air to all Americans.

Our original schedule would require clean octane gasoline in, No. 1, all ozone nonattainment areas by 1992; No. 2, all cities with population above

100,000 by 1995; and No. 3, all gasoline by the year 2000. In other words, clean octane gasoline would have had to been used in all cities by the year 2000, under the original schedule that we promoted.

I still believe that this plan would be one of the most cost-effective methods to clean up our air in the short term. However, there has been reluctance and some resistance to the acceptance of this plan.

Well, I do not fully understand that resistance or that unwillingness to accept cleaner burning gasoline. I can understand the oil companies not wanting to accept it because, obviously, they are the ones that are putting the aromatic hydrocarbons in the gasoline now. The big oil companies do not want to go to oxygenated fuels. So I can understand that from the standpoint of some, not all, of the oil companies. But because there has been resistance to this, we agreed to reduce reformulated gasoline coverage to just the ozone nonattainment areas in the provision that we placed in the Wirth-Wilson alternative fuels and clean vehicle amendment to the clean air bill which, as we know, was defeated here last week.

The Wirth-Wilson amendment, had it been agreed to, would have brought clean gasoline to 101 cities which consume about 60 percent of all gasoline. This would have tripled or quadrupled the market for ethanol, the clean-burning fuel additive made from corn. Other provisions of the Wirth-Wilson amendment would have opened up the market for clean fueled vehicles run on ethanol or methanol. Finally, the Wirth-Wilson amendment was one of the key environmental votes of 1990, actually supported by all environmental organizations. That is why I worked for and voted for the Wirth-Wilson amendment.

Well, the Wirth-Wilson amendment, as we know, was defeated by a narrow margin, with 46 Senators voting for passage. Even a few farm State Senators voted against this amendment. So Senator DASCHLE and I and others have taken that reformulated part of the Wirth-Wilson amendment and we will be offering that here on the floor of the Senate as a separate amendment.

The reformulated gasoline or the clean octane fuel amendment that Senator DASCHLE and I and Senator DOLE and others will be offering is more modest than the provisions of the Wirth-Wilson amendment. It would cover only the nine worst ozone nonattainment areas in the country.

We went from 101 nonattainment areas down to 9. Well, I know that sounds like quite a drop, and that is quite a drop. Yet the amendment before us today still covers about 25 percent of all the gasoline in America. That is a big drop from 60 percent in the Wirth-Wilson amendment, but it is still one-fourth of all the gasoline. Around here you take what you can get. I wish we had more.

In addition, this compromise amendment also reduces the limits that we originally suggested. We had recommended earlier an aromatic content of less than 20 percent. In other words, a 20-percent cap on the amount of aromatics that could go into reformulated gasoline.

The amendment that we are offering raises that limit to 25 percent. We initially recommended an oxygen content of at least 3.1 percent by weight. The amendment that we are offering calls for 2.7 percent, another drop.

We also initially recommended that the xylene content be limited to 5 percent or less. The compromise amendment has no direct limit on xylene.

We recommend olefin content of no more than 5 percent. Again, I repeat that olefins are the most highly photoreactive components of gasoline. They form ozone very rapidly in the sunlight. The compromise contains no direct limits on olefins.

Initially we recommended no more than eight-tenths percent benzene, a known carcinogen. The amendment sets the benzene ceiling at 1 percent rather than eight-tenths of a percent.

In other words, we have had to reduce both the number of cities covered and the actual gasoline specifications to reach a compromise that we hope will be acceptable to the managers of the bill.

I would only state, again, Mr. President, I would much prefer stricter limitations on the toxic poisons in gasoline. I think we ought to have a 20-percent limit on aromatics, and I think we ought to cover 101 cities. But evidently there is too much resistance to that. I would much prefer that all Americans, no matter where they live, could avoid breathing toxic chemicals from the cars and trucks they drive.

But I understand political reality. We have opposition to a more comprehensive reformulated gasoline amendment, and so we have to take what we can get. But I would point out that at least this amendment will provide a significant start for clean octane gasoline. As I pointed out, the nine cities consume about 24 percent of all the gasoline sold in the United States.

I am hopeful that, with the 24 percent, the oil companies will begin making even more reformulated gasoline using the oxygenated fuels, either the ethanols or the methanols or the ethers.

The underlying clean air amendment before us, amendment No. 1293, does not place any limit on aromatic hydrocarbons and it does not specify the use of clean burning oxygenated fuels in ozone nonattainment areas.

The underlying amendment does not put any limit on aromatic hydrocarbons. We put a limit of 25 percent. It does not specify the use of clean burning oxygenated fuels. We do in this amendment.

The underlying amendment does call for reformulated gasoline, but it appiles only to new cars sold in nine cities and has no ceilings on gasoline pollutants.

Now, I wish someone would tell me how that is going to operate. The underlying amendment calls for reformulated gasoline but only for new cars sold in nine cities.

I inquired around about how that might operate. And the only feasible way is if they put another hose and another pump in the gasoline stations. I suppose it would have to be a different diameter. We would have another pump and another hose, further confusing the public and costing more money. Thus the underlying amendment has very weak reformulated gasoline provision that applies only to new cars in nine cities.

However, the Daschle-Dole-Harkin amendment will impose significant restrictions that will help to reduce toxic and ozone forming chemicals and carbon monoxide, as all cars and trucks, old and new, will spew out less pollution in those nine worst ozone nonattainment areas. Our amendment will cover all cars and trucks, in those nine cities.

There is one other important aspect of the amendment: An opt-in clause—not opt-out—an opt-in clause which will allow States to include clean octane gasoline in their State implementation plans as one tool to fight urban smog.

So while we have not mandated clean gasoline in the 101 cities as in the Wirth-Wilson amendment, we have mandated clean gasoline in nine cities. The States can opt into this clean gasoline plan if they would like to, to implement their plans. So we could go up to 101 cities if the States want to do so. I think that is an important aspect of this amendment.

Mr. President, we may revisit this issue of clean air and clean fuel for automobiles in the future. We probably will do so. It is my hope EPA will itself strengthen the specifications on gasoline in the years ahead as allowed by the bill. I hope EPA will restrict olefins and that they will phase in lower aromatic content.

It is also my hope that many cities that are not covered by our amendment will opt into the reformulated gasoline program. And it is my hope the oil companies will voluntarily remove toxic chemicals from their gasoline products.

Mr. President, I have heard all kinds of stories floating around here about how much this amendment would cost to reformulate gasoline, and how much more it would cost the con-

sumer. But, Mr. President, five companies have already introduced or announced plans to introduce cleaner fuels with no increase in price.

Let me just read some of those. Arco sells reformulated EC-1 with 20 percent aromatics, not the 25 percent that is in our compromise amendment, but the 20 percent that we originally proposed. Arco sells their EC-1 with 20 percent aromatics at the same cost as regular nonleaded gasoline. No increase in price.

Diamond Shamrock sells their RG-87 with 20 percent aromatics. Again 20 percent, not 25 percent.

Phillips sells 20-percent aromatic gasoline in Colorado.

Conoco sells 25-percent aromatic reformulated gasoline, also in Colorado.

Marathon Oil Co. announced on March 15 that all gasoline sold in Detroit would meet the 25-percent aromatic content in all their grades of gasoline—all grades, high octane, low octane, mid-octane. This clean gasoline will be sold with no increase in price.

So, five oil companies, as I said, have already offered or plan to offer reformulated gasoline. I have heard rumors floating around here that some industry officials have said that this is going to cost $100 billion. EPA estimated the cost to be about $2 billion. But here are five companies offering it at no additional cost to the consumer.

Obviously they can do it if they want to do it. We will reduce our health care costs. We can have reduced farm support costs. And reduced oil imports. So, any way we look at it, if we have reformulated gasoline with the cleaner additives rather than the toxic additives that are in there now, we are better off in every aspect.

This compromise amendment is less than I wanted and I think many wanted, but it will still open up a large market for cleaner burning fuel additives such as ethanol, ETBE, and MTBE, and this compromise will begin the process of removing toxic chemicals at the source, before they enter the fuel distribution system, the motor vehicles, and ultimately the air that we breathe.

Mr. President, it is my understanding that we are using about 900 million gallons per year of ethanol in our motor vehicle fleet in America. It has been estimated that if the Daschle-Dole-Harkin amendment—is agreed to, it could double the amount of ethanol used a year to almost 2 billion gallons of ethanol a year.

That is going to take a lot of grain from the marketplace. It is going to reduce the need for farm program costs. It is going to mean we have cleaner burning fuel and we will have cleaner air. So, any way we look at it, this kind of amendment makes sense and I am hopeful the managers of the bill will accept the amendment and make it a part of the underlying amendment.

I can absolutely see no reason why we should not do it. From a cost basis, as I said, five oil companies have already offered or plan to introduce these cleaner burning fuels, and some at lower levels than we are even suggesting in the amendment. It is certainly going to reduce health costs and it will clean up our air in the nine worst ozone nonattainment cities in America.

So, from just about every standpoint it is about time that we focused on this one aspect in the clean air bill. We always focus on what is coming out the tailpipe, how the engines work, putting in catalytic converters; we are looking at smoke stacks and we are looking at utilities. But we have to look at what goes into that gasoline tank. What is in the gasoline that comes out the exhaust pipe? As I said earlier, garbage in, garbage out. Well, let us take the garbage out of the input and we reduce the garbage coming out the back end.

I am informed, Mr. President, this reformulated gasoline amendment offered by Senator DASCHLE—which again I hope will be accepted by the managers of the bill—is supported by the National Corn Growers Organization, the Sierra Club, the National Clean Air Coalition, the Renewable Fuels Association, State and Territorial Air Pollution Program Administrators, and the American Agriculture Movement. I know the staffs of the managers are looking at it and I hope this amendment will be accepted.

I yield the floor.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, if the Senator will withhold the quorum call for 1 minute, I have just been notified that Senator WIRTH, presently occupying the Chair, is also a cosponsor. I did not mean to leave that off.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri is recognized.

Mr. BOND. I thank the chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 2366 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. CHAFEE. Mr. President, on behalf of Senator WALLOP and Senator SIMPSON, I send an amendment to the desk.

First I ask, Is there anything we have to set aside?

The PRESIDING OFFICER. The Senator from Montana has pending amendment No. 1307.

Mr. BAUCUS. Mr. President, I ask unanimous consent the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1420 TO AMENDMENT NO. 1293

(Purpose: To amend title II of the Toxic Substances Control Act)

Mr. CHAFEE. Mr. President, on behalf of Senators WALLOP and SIMPSON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. WALLOP (for himself and Mr. SIMPSON), proposes an amendment numbered 1420 to amendment No. 1293.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VI, add the following new section: Asbestos in Schools:

"SEC. 612. (a) Section 203(d) of title II of the Toxic Substances Control Act is amended by adding the following new paragraph at the end thereof:

" '(7) EPA INFORMATION OR ADVISORY.—The Administrator shall, not later than 30 days after enactment of this paragraph, publish and distribute to all local education agencies and State governors information or an advisory to—

" '(A) facilitate public understanding of the relative risks associated with in-place asbestos-containing building materials;

" '(B) promote the least burdensome response actions;

" '(C) describe the limited circumstances in which asbestos removal is necessary to protect human health; and

" '(D) describe the relative risks associated with removal of asbestos-containing building materials.

Such information or advisory shall be based on the best available scientific evidence and shall be revised, republished and redistributed as appropriate, to reflect new scientific findings.

"(b) Title II of the Toxic Substances Control Act is amended by adding the following new section at the end thereof:

"'Sec. 216. Asbestos Health Effects Study

"'The Administrator in conjunction with the Health Effects Institute shall conduct a study to identify, characterize, and quantify risks to human health from exposure to each form of asbestos, including but not limited to the health effects of serpentine and amphibole fibers, and report to Congress within twenty-four months after enactment of this section. Not later than 90 days after completion and submission of such study, the Administrator shall report to Congress with recommendations for modifications or changes, if any, to statutory or regulatory requirements under this Act. Such recommendations shall be based on the findings of the study prepared under this section and such other information as the Administrator deems appropriate."

Mr. CHAFEE. Mr. President, what this amendment does is two things. First, it requires EPA to issue advisories which emphasize that an active in-place management program for asbestos in schools is very often preferable, both in terms of safety and cost, to removal. In other words, we send out these advisories.

Second, it requires that EPA conduct a study to evaluate the relative health effects from two distinct types of asbestos: serpentine and amphibole.

And then it requires the administration to recommend statutory and regulatory changes which should be made based on the results of this study.

This amendment will serve to dissuade schools from undertaking unnecessary and costly asbestos removal and will definitively answer a question raised in a recent Science magazine article regarding the health risks from a common type of asbestos.

Mr. President, I think this amendment makes a lot of sense.

As you know, there has been increased concern not only over the expense of the removal of asbestos but also the damaging aspects that come from the removal, the stirring up of the asbestos, and finally, when you take it out, what do you do with it? Next, there is a concern over whether all types of asbestos are the same. What this amendment does is require EPA to notify the schools that maybe it is better to just leave it alone rather than stirring it up and, second, to undertake this study to ascertain more about asbestos.

Mr. President, it is a good amendment, and I certainly agree with it. It is cleared on this side.

Mr. BAUCUS. Mr. President, the managers on this side have had an opportunity to examine the amendment, and we accept it. I think it is a very helpful endeavor because there have been a lot of questions about the removal of asbestos and under what circumstances. This amendment by the Senator from Wyoming will help clear up a lot of questions, a lot of confusion, and hopefully, as a consequence of this amendment, the Asbestos Program will be much more efficient and the health effects will be more directed than they have been in the past. We accept the amendment.

Mr. WALLOP. Mr. President, the amendment I am offering today should be considered the second volley in what promises to be a long struggle to bring into equilibrium a destabilizing Federal program. The issue is asbestos, and the relevant Federal program is the Asbestos Hazard Emergency Response Act of 1986. Earlier this month, I and my colleagues, Senator SIMPSON and Senator SYMMS, introduced S. 2248, a bill to repeal AHERA and to undertake a health risk assessment of the various forms of asbestos.

My interest in this issue was prompted by two events, as I have described previously. The first event is the ongoing asbestos removal project at Kelly-Walsh High School, in Casper, WY. AHERA is a program directed at public and private schools. The act requires that schools with asbestos-containing construction material to develop plans to prevent exposure to any asbestos which may become airborne in the school. This program has been a nightmare for the schools. They have to expend limited resources to abate a health risk with techniques that can increase exposure to the health risks. That is the situation at Kelly-Walsh High School. They are in the midst of a $4 million asbestos removal program which has closed down the school for at least this school year. We are hopeful that the school will be able to reopen next fall. The disruption in that community has been incredible. But, it is not an isolated incident. Since the introduction of our bill, I have received calls from schools all over the country regarding the problems they have had with this statute, and the need for reform. State legislatures, responding to the problems raised by this legislation, have been passing resolutions urging repeal. Even California, the eco-state, now supports repeal.

The current removal activity is estimated to cost up to $6 billion, money that our schools could better use to meet the incredibly ambitious Goals 2000 that we have recently established by national concensus. It has never been the intent of Congress or EPA that the asbestos in schools program be interpreted as biased in favor of removal. However, that is how the regulations are being interpreted, particularly by self-serving asbestos consultants.

For example, some consultants incorrectly use the Clean Air Act's section 112 requirements, which require asbestos removal prior to building demolition, as a rationale for removing asbestos now. Congress never intended, nor does it intend now, that this section in any way affect how or when local education agencies decide to respond to asbestos-containing materials in their buildings.

The second event arousing my interest was the publication of an article in Science magazine in January. The article dealt with the health risk of exposure to the two different mineral forms of asbestos. It represented the end of a scientific consensus on the health effects of asbestos. The article has also been very controversial, invoking strong reactions from people on both sides of the issue. The authors relied on their conclusions, in part, on work that had been done for the EPA study of asbestos exposure issues as required by AHERA. As a result of this article, and related commentaries, additional research will be undertaken to investigate the health risk of asbestos.

We are finally beginning to focus on the issue of risk. A conclusion of the scientific studies is that the "Available data do not support the concept that low-level exposure to asbestos is a health hazard in buildings and schools." These studies also conclude that different types of asbestos have different potency and that asbestos removal is being done haphazardly even though it is rarely necessary to protect building occupants, particularly if asbestos management programs are implemented.

One of the problems I have with the AHERA program in the schools, is that we have no health risk standards for exposure to asbestos. Monday's Washington Post contained a news story on the uncertainty associated with trying to measure the dangers of exposure to the world around us. And, exposure to asbestos is not a man-made event. Asbestos occurs naturally in the air, so we breathe asbestos every day. I would ask that the Post article and several recent editorials from Science be included in the RECORD at the end of my statement. We have a program, but we do not know what the risk is.

As a result of these two events, I introduced S. 2248. I announced at the time that I intended to offer this proposal as an amendment to the clean air reauthorization bill. My staff has had discussions with the Environment Committee staff and with EPA about this issue over the past few weeks. We have worked out language which is acceptable to all sides. We are not going to repeal AHERA. That is a drastic step, which at some future date may be necessary.

The amendment achieves two objectives. First, we require EPA to provide clear guidance to local schools and the States on the proper response actions to an asbestos problem. Second, we require a study of the health risk of asbestos, including the issues raised by the Science article. A report and recommendations on revisions in the statute will be provided to Congress.

The intent of the amendment is to discourage unnecessary and expensive

asbestos removals when long-term management programs will suffice. It requires EPA to publish advisories, based on the most current scientific studies, for local education agencies to use as a decision tool in the selection of response actions and a communications tool to address questions and concerns of parents, teachers and other school employees. EPA should make available recently published exposure studies and comparative risk evaluations which corroborate the Agency's own statements regarding the health risk of asbestos. EPA must also communicate more clearly the fact that AHERA rarely requires removal, and that removal is not the preferred response action.

As I said, this is the second volley in this battle. The Environment Committee will be holding hearings on the school-based asbestos problem in late April. This will be a very interesting forum to discuss the various problems with the program. Later this year, we will be reauthorizing the 1984 legislation to assist schools with loans and grants to abate asbestos. This program also needs to be improved. So, there will be other opportunities to consider this program this year. I look forward to working with the schools, with EPA, and with the Environment Committee in developing a program which deals with the actual health risk of asbestos exposure.

I would like to thank the two managers of this bill, Senator CHAFEE and Senator BAUCUS, and their staff for their assistance in developing this amendment.

I ask unanimous consent that the articles to which I referred be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 26, 1990]

MEASURING CHEMICALS' DANGERS: TOO MUCH GUESSWORK?

(By Malcolm Gladwell)

When scientists calculate whether pesticide residues kill little children or automobile exhaust causes cancer, there comes a point when they put aside their hard data and their complex theorems and make a guess.

They know the effect of massive doses of each chemical on rats and mice. But public policy is about humans, not animals, and it must apply to chemicals often found in very small amounts. To draw any conclusions about the real world from what they have seen in the laboratory, scientists have had to speculate.

For 20 years, toxicologists have lived with this uncertainty in trying to measure the dangers posed by the chemicals we eat, drink and breathe. But when rising public concern about potentially dangerous chemicals is in conflict with rising costs of eliminating risk, society is faced with increasingly difficult choices. Many scientists are beginning to argue that the guesses made in the name of risk assessment are no longer good enough.

"Many of the leading people in the field are getting very suspicious about animal tests and what they mean," said Bruce Ames, director of the environmental health center at the University of California at Berkeley. "I think we may be being led down the wrong path."

A LINEAR ASSUMPTION

The problem arises from the fact that the risk of developing cancer from typical exposure to many toxic chemicals may be in the range of one in a million or even less. That means that for a laboratory animal experiment to have a chance of detecting a chemical's carcinogenicity at realistic doses, it would have to use millions of animals.

Because that is hardly practical, scientists do the next best thing. They feed a far smaller group of rats or mice a much higher than normal amount of the chemical. It is understood that this creates an unrealistically high incidence of cancer. Then the researchers extrapolate backwards to estimate how many cancers would have been caused at a more realistic dose.

In extrapolating, both the Environmental Protection Agency and the Food and Drug Administration make what is called a linear assumption. For example, if 50 out of 100 rats got cancer from eating a bowl of a particularly nasty chemical every day, then federal health officials assume that at half a bowl a day, half as many would get cancer, and at quarter bowl, a quarter would get sick and so on down to the point where if the rats were nibbling on the chemical only once a month, just one or two would develop tumors.

This is called a linear assumption because a graph of it, called a dose-response curve, would be as straight as a yardstick (see diagram).

Here is where the controversy begins. Although it seems logical that the risk of cancer should change in proportion to the chemical dose, that is only a guess—a guess that is now being called into question.

"When it comes right down to it, why should we expect nature to give us dose-response curves that follow any predictable mathematical formula?" said John Bailar, a toxicologist at Montreal's McGill University. "Why should they follow a straight line or some regular curve? I don't think you can make an iron law about these things."

What if, for example, a chemical is so potent that it poses a grave risk in even the smallest amounts? If low doses do about as much damage as is possible, then large doses could not make much difference. The dose-response curve in this case would be shaped like a kind of street lamp, rising very sharply in the beginning and leveling off at higher doses. If policy decisions are made on the assumption of a straight-line relationship, the risk of intermediate doses would be underestimated.

It may be that a bowlful of this chemical every day, like the hypothetical nasty chemical, still kills 50 our of 100 rats. But a nibble every month, which the linear assumption guessed was killing just one or two, might actually cause cancer in 15 or 20 rats.

Or consider the opposite. What if high doses of a chemical are needed to trigger the complex chain of events that cause cancer? This is a well-known phenomenon among some carcinogens. Formaldehyde is an example. In such cases the risk of cancer would look like a hockey stick, increasing only slightly until the critical mass of the chemical is reached and then rising sharply.

Here as well the typical extrapolations about the dangers of low doses might be wrong. A bowl of this chemical, like the hypothetical nasty chemical, might still kill 50 out of 100 rats. But a quarter dose might not come close to killing a quarter of the rats. If that quantity fell below the cancer threshold, it wouldn't be any more dangerous than a monthly nibble.

The differences among various dose-response curves have implications for policymaking. A chemical the government thinks is safe for human consumption might not be safe at all if its curve resembles the street lamp. Hockey stick chemicals, on the other hand, could be pronounced unacceptable risks when in fact at realist doses they are virtually harmless.

Large sums spent to reduce exposures to a hockey-stick chemical to extreme lows might buy very little added safety. The money might be better spent redoubling efforts to protect society against street-lamp chemicals.

A "DEFAULT POSITION"

How might chemicals deviate from the yardstick model? Vinyl chloride, a street lamp chemical, is dangerous because the body processes it into another substance that causes potentially cancerous mutations. But the body can only metabolize a limited amount of vinyl chloride at one time. While cancer risks from the chemical rise steeply at lower doses, they level off as the body can no longer process any more of it.

At the same time, recent research into how cancer begins lends some credence to the idea that some chemicals may have a hockey stick shaped-curve. For example, the greatest risk of cancer from chemical toxins, appears to be when cells are dividing rapidly, replacing cells killed by the toxin.

But low levels of a chemical might not cause enough cell damage to kill cells and cause rapid cell proliferation. In many cases, wholesale cell killing—with its accompanying increased risks of cancer—occurs only when a toxin reaches a critical level in the body.

The problem, however, is that scientists understand very few chemicals well enough to know which model they fit, if any.

"Our position is that linear dose extrapolations are the only ones we can justify as a general principle," said David Gaylor, director of the biometry staff of the National Toxicology Program. "It's a default position unless there is convincing evidence to the contrary, which there rarely is. It would be very risky to assume hockey sticks as a rule."

"In most cases the [government's] procedure probably overestimates cancer risks," said John Graham, a professor at Harvard University's School of Public Health. "In some cases they are probably underestimating it, and sometimes they might be right on the mark. But what we have to keep in mind is that no one really knows the right answer."

[From Science Magazine, Mar. 2, 1990]

THE ASBESTOS REMOVAL FIASCO

(By Philip H. Abelson)

Removal of asbestos from buildings could cost as much as $50 to $150 billion. The content of asbestos fibers in the air of buildings containing asbestos is harmlessly small and essentially the same in outdoor air.[1] Asbes-

[1] B.T. Moorman *et al., Science* 247, 294 (1990).

tos in buildings, unless damaged, does not shed fibers. The removal process releases asbestos fibers which could result in more cancer in the workmen than would have resulted in the usual occupants had the asbestos been left in place.

A puzzling defect in federal legislation and regulations is an arbitrary lumping together of disparate minerals and calling the lot of them asbestos. As a result, chrysotile, a serpentine mineral, is tarred with association with the dangerous amphibole crocidolite. The two minerals differ in composition, color, shape, solubility, and persistence in human tissue. Chysotile is a white mineral with composition $Mg_6Si_4O_{10}(OH)_8$. It tends to be soluble and to disappear in tissue. Fibers tend to be curly and excluded from the periphery of the lung. Crocidolite is blue, has the formula $Na_2(Fe^{3+})_2(Fe_{22+})_3Si_8O_{22}(OH)_2$, and is relatively insoluble. It persists in tissue. Its fibers are long, thin, and straight and penetrate narrow lung passages. About 95 percent of the asbestos in place in the United States is chrysotile.

Another puzzling defect in federal performance is failure to give sufficient weight to epidemiological experience relating to chrysotile mines in Quebec. These mines have been operating since before 1900 and have produced about 40 million tons of chrysotile. In keeping with the lax practice of earlier days, mining operations were accompanied by large amounts of chrysotile dust. Wives of miners were heavily exposed; they dwelt in homes near the mines. Four epidemiological studies of the Quebec chrysotile mining localities show that lifelong exposure of women to dust from nearby mines caused no statistically significant excess disease.

The Environmental Protection Agency has fostered the view that a single fiber can cause cancer. This hypothesis is unproven. We live on a planet on which there is an abundance of serpentine and amphibole-containing rocks. Natural processes have been releasing fibers throughout Earth history. We breathe in about 1 million fibers a year.

Another puzzle is a lack of expeditious effort by the EPA to obtain rigorous measures of indoor and outdoor levels of fibers. It is only recently that appropriate measurements have been made using transmission electron miscroscopy. Use of this equipment permits identification and quantitation of asbestos fibers. One would think that in a $50- to $150-billion program the first priority would be an accurate assessment of the problem. This lack of concern about determining the facts of expose is also reflected in EPA policies with respect to schools.

Public and private school are required to inspect for asbestos and to inform parents if asbestos-containing materials are present. Schools must submit a plan detailing how they will deal with damaged asbestos. They can be fined $5000 per day for failing to meet deadlines. The EPA has recommended bulk sampling and visual inspection to determine a course of action rather than measurement of airborne levels of fibers.

The removal process releases fibers into the air, sometimes creating greater concentrations of them than before the abatement work began. Remedial workers are being exposed to high occupational levels. EPA itself estimates one half of all asbestos removal projects are done improperly.

Panic has not been confined to schools. Building owners broadly have been ripping out asbestos. If anything, the rush to remove asbestos is accelerating. EPA requires that asbestos be taken out of buildings before they are demolished or renovated. In addition, some owners have noted that the presence of asbestos has made it difficult to lease, sell, or insure asbestos-containing buildings. *The Environmental Contractor* has published an estimate that this year $7 billion will be spent on asbestos abatement—an increase of more than 30 percent during 1989. The estimate for 1993 is $11.5 billion.

The credibility of EPA has already been damaged. Unless policies are modified, the sums wasted in abatement and litigation will proliferate. Regulations should be modified to take into account the greatly differing hazards of the various asbestiform minerals. Standards for indoor air should be based on actual measurements of types and amounts of fibers.

[From Science magazine, Feb. 16, 1990]

PRIORITY ONE: RESCUE THE ENVIRONMENT

(By Daniel E. Koshland, Jr.)

President Bush has recommended that the Environmental Protection Agency be elevated to cabinet status and Congress is likely to approve. As a symbolic move to increase the visibility of our environmental crisis, the change is most welcome. However, unless a slipshod and emotional approach to environmental policy is replaced by a well-planned and scientific one, the EPA hero galloping to rescue the environmental damsel in distress is likely to fall off his horse.

In fact, EPA's change in status should be approved only on condition that improvements in its procedures be made. A major hurdle in protecting the environment is the cost of even partial solutions. Implementing provisions of the Clean Air Act will cost billions, as will disposal of toxic wastes and protection of the water supply. Our environmental dilemma calls for extraordinary thoughtfulness, good research, and careful choices based on cost-effectiveness. At present, priorities often seem to reflect random publicity, and research analysis is an unwanted guest hustled out the back door.

How can we change to a more rational policy? We can start by ensuring that the cost of each object includes the cost of an environmentally protective disposal. Like in mining, manufacturing of a beer bottle or a plastic toy should be subject to laws relating to incineration or recycling which would be supported by the cost of the object. In such circumstances, the manufacturers would have an incentive to devise more environmentally appropriate products, and consumers would have a voice in the cost-effective solutions.

The need to think through the entire cost of a product requires an element of overall planning currently lacking in environmental policy. If, for example, car emissions are reduced by 50 percent to obtain the minimal acceptable level for health, urban communities cannot allow more cars to enter their cities, thus nullifying the effect of the required technolgical changes. A farmer in Iowa might rightly say, "I shouldn't have to spend more for my car until the urban centers have a plan that makes my sacrifice worthwhile."

Part of a more rational approach to confronting environmental problems is to rely more on facts and be willing to modify policies as new facts are uncovered. Asbestos provides one good example. When asbestos was discovered it was hailed as a marvelous insulator and building material. As the industry grew, disturbing signs of adverse health effects on asbestos workers were swept under the rug, with tragic effects on health and life. The banning of asbestos then seemed logical, but recently, evidence has appeard to indicate that different forms of asbestos may have different pathological effects—one form is dangerous, the other relatively harmless at usual concentrations (see B. T. Mossman *et al., Science,* 19 Jan., p. 294). If this is so, we may be spending between $50 billion and $150 billion needlessly. The dollars might be better spent to improve our water supplies and to provide prenatal care to underprivileged mothers.

Is there a way to institutionalize rational and informed environmental decisions? There is, and the time is now. A large and effective research arm should be put in place in the EPA at the same time that the organization is raised to cabinet level EPA now does some research (approximately $424 million worth annually), and to give credit where it is due, some EPA officials are already aware that they need more long-range planning. But present research by the agency is almost always directed toward immediate remedies, such as cleaning a specific dump site; as a result we are wasting billions on poorly devised general policy. To provide an effective recycling policy, for example, research in the chemistry of glasses is needed. To develop a policy for effective clean air requires transportation research among other things. Before many plastics can be recycled safetly, polymer and combustion research are needed.

A basic research budget for environmental problems at least four times bigger than the present one could provide the kind of information needed to set priorities, stimulate novel ideas, and ensure mutually consistent overall policies. This plan would engage such diverse disciplines as engineering, geophysics, biology, epidemiology, and economics, and would include both Washington-based and university-based research, with the National Institutes of Health as a model. A cabinet-level EPA could then base environmental policy on facts and rational goals, rather than on sloganeering and lobbying. Such a comprehensive approach could provide for environmental research the same kind of stature and competence that we now have in our work in biomedicine and might make giant strides toward the rescue and rehabilitation of our beleaguered planet.

[From the Wall Street Journal, Sept. 18, 1989]

PUNCTURING A PANIC

The long-running scare over asbestos is turning out to be the "War of the Worlds" of environmental panics. As with Orson Welles's famous scary radio broadcast, the asbestos panic has been whipped up by endless evening news reports about how the nation's schools were cancer traps. A group of specialists on asbestos and disease gathered at Harvard recently and their report concluded what most serious scientists already knew: "Using conservative (pessimistic) assumptions, mesothelioma and lung-cancer risk projections from exposures to indoor asbestos for school-age children and the general population were generally agreed by all the symposium participants to be quite small."

The cost, however, has been quite large. According to Kate Herber, legislative counsel for the National School Board Associa-

tion, asbestos-removal costs could for elementary and secondary schools be as high as $6 billion. This figure is only for removal costs for 671 of the more than 15,000 public-school districts around the country who answered a survey.

The cost of compliance of just the surveyed schools from fiscal 1986 to fiscal 1990 will approach $64 million. "A lot of money that used to go to educational programs is now going to comply with EPA regulations," says Ms. Herber.

According to the Harvard report, the average levels of airborne asbestos in buildings where the asbestos is intact are "extremely low," and it suggests that the emphasis should be on maintenance of asbestos, since removal, if improperly done, usually is more dangerous than just leaving it alone. The report goes on to say that cigarette smoke or radon pose a much greater risk than in-place asbestos. Interestingly, the report shares the school boards' concern that what the symposium called "fiber phobia" may be diverting money from other pressing needs. One that springs to mind is the schools' war on drugs.

If there is an architect of this expensive public-policy fiasco it is Democratic Congressman Jim Florio of New Jersey. Mr. Florio was the principal sponsor of the Asbestos Hazard Emergency Response Act of 1986, which mandates that schools inspect their buildings for asbestos and take appropriate action. The principal effect of the Florio bill, of course, has been to publicize its flawed premise—that asbestos in buildings is a significant cancer threat. It simply isn't.

For reasons of its own, the Environmental Protection Agency hasn't made much effort to put the asbestos issue into proper scientific perspective, even in the wake of the Harvard report. Charles Elkins, an EPA spokesman, says that the findings of the Harvard report is a position "we've taken for a good number of years." This surely is news to a lot of private and public schools that have torn apart their budgets to satisfy the asbestos mandates.

Indeed, the politicians' phobia over asbestos continues. New York City for instance, is considering a removal law. The costs would be prohibitive. According to a spokesman for the World Trade Center, removal costs would be $300 million to $350 million for just the trade center.

The one group that might conceivably be at some risk from asbestos is workers, such as plumbers or electricians, who might spend time around asbestos that's being dislodged. But the Occupational Safety and Health Administration imposes regulations that, though stringent, concede the relative harmlessness of casual exposure to most asbestos.

In 1986, OSHA issued revised standards that said that "countless maintenance operations involving the handling of asbestos-containing materials are conducted . . . and those operations, which are small in scale and of short duration, are vastly dissimiliar in degree of hazard to many other asbestos-related construction operations, such as asbestos-abatement projects." In other words, if anyone's in danger, it is people around projects that are tearing out asbestos.

Despite all this, Rep. Florio now wants to extend his law to all private and public buildings and has introduced an amendment to the 1986 act. Some of his colleagues, however, have received an earful from their local school boards, and Congress has hired a consultant to do a two- to three-year study of the potential effects of the bill. After these accomplishments, Mr. Florio is pursuing the current logic of upward mobility in American politics; he's running for the governorship of New Jersey.

The asbestos story is an archetype of how in our time negligible health hazards are blown up into plague-sized problems. Scientists are starting to use a phrase to describe the politicans' response: too much money chasing too little risk.

Mr. SIMPSON. Mr. President, I want to express my strong support for my friend, Senator WALLOP's amendment dealing with the mineral asbestos. We, in Wyoming, have had some sad experiences with the Federal asbestos legislation which I do not think are unique.

Because of the asbestos in schools legislation Congress and EPA have unleashed a monster on the American public. Schools have initiated inspection and removal programs because of this law and that has resulted in more asbestos being released into the schooi environment than would have even been released under normal circumstances. This, in turn, has placed severe economic burdens on school districts that cannot afford to deal with this expensive problem and it has caused extraordinary hardships for communities all over the country.

We, in Congress, are to blame for enacting a law that was not really needed and EPA is to blame for coming up with a financial aid distribution formula that is very flawed. The result is schools have been closed and school districts are going broke. I don't think that is what those of us in Congress ever intended.

Senator WALLOP's amendment makes real progress in two important areas. EPA will now be required to provide clearer guidance to school districts regarding proper response actions. Second, the amendment requires a study on health risks posed by various forms of asbestos. This will help to ensure more responsible actions by EPA and school districts in the future.

The Environment and Public Works Committee will again be holding hearings on the asbestos issue as we begin to reauthorize the asbestos in schools legislation. I trust that all of the horror stories will be laid out and that we can begin to reform or repeal this legislation. We surely made a mistake.

I urge adoption of the amendment.

Mr. REID. Mr. President, the amendment offered by my colleague from Wyoming, Senator WALLOP, addresses an important issue with respect to implementation of the asbestos abatement program in schools. It is my sense that in many cases schools are electing to undertake expensive, and disruptive asbestos removal projects when they may not be necessary or warranted.

Asbestos abatement is too often misconstrued to mean asbestos removal. In fact, in-place management of asbestos is generally the preferred approach to protecting the health of students and school employees. There are several techniques including enclosure and encapsulation which are completely effective in preventing the release of asbestos into the air. Only in cases where the asbestos containing material is seriously damaged and cannot be encapsulated or enclosed is removal the primary option.

In many cases, I believe, schools have opted to remove asbestos because they do not fully understand that less disruptive options exist. This is an issue I have requested the General Accounting Office to look into. I am concerned that there may be a bias in either the Asbestos Hazard Emergency Response Act [AHERA] or the implementing regulations which fosters removals over less drastic measures. In addition, I intend to pursue this matter in a hearing in April on asbestos issues.

In the meantime, the amendment offered by the Senator from Wyoming will help promote the message to schools that in-place management techniques are often preferable to large scale asbestos removals. The second part to the amendment addresses an ongoing health effects research effort by EPA and the Health Effects Institute.

An article that appeared in Science Magazine in January raised the issue of potentially differing health effects from exposure to various forms of asbestos. While this issue is not new, the Health Effects Institute is looking into the matter as part of a larger asbestos study cofunded by EPA and the private sector. The amendment will require that the study be submitted to Congress in 24 months. It further requires that EPA provide recommendations to Congress based upon the findings in the study and other pertinent information for modifications, if any, to either the AHERA statute or the regulations.

I am willing to support the amendment, and look forward to a full discussion of asbestos issues when my Subcommittee on Toxic Substances, Environmental Oversight, Research and Development conducts its hearing in April.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1420) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, is there a pending amendment?

The PRESIDING OFFICER. The amendment of the Senator from Montana is pending.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1421 TO AMENDMENT NO. 1293

(Purpose: To require certain sources of coke emissions to make available to the public certain risk assessments, and for other purposes)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1421.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 282, line 25, after "date," insert "and complies with the provisions of clause (iii)"

On page 283, between lines 12 and 13, insert the following:

"(iii) Sources of coke oven emissions qualifying for an extension under this subparagraph shall make available not later than January 1, 2000 to the surrounding communities the result of any risk assessment performed by the Administrator to determine the appropriate level of any emissions standard established by the Administrator pursuant to subsection (f) or the results of the risk assessment performed by such source pursuant to paragraph 3 or 4.".

On page 283, line 15, insert ", and which was in operation on January 1, 1990" before "may".

On page 284, line 13, insert "and which complies with the provisions of subparagraph (A)(iii)" after "(iii)".

Mr. METZENBAUM. Mr. President, I rise to offer an amendment dealing with the steel fix contained in the air toxics substitute. My amendment will prevent the steel fix from being exploited.

Under the substitute, coke ovens, a key part of the steelmaking process, are extended special preferential treatment.

Coke operators can avoid the basic health protection standard—1 in 10,000 cancer risk—for 30 years.

This health-based standard has already been revised by the substitute to take into consideration a study by the National Academy of Sciences. That study will determine the appropriate risk assessment for plant-specific emissions.

So here we are giving the steel industry the advantage of a revised risk assessment standard and an additional 30-year extension. Thirty years.

This is truly disturbing. Of all the industries emitting cancer-causing pollutants, coke ovens pose the highest risk of cancer. Yet, other high risk sources get no longer than 10 to 18 years to meet a health-based obligation.

Why are we giving coke operators such a break? They do not need it. An EPA study suggests that 36 percent of present coke capacity can already meet the 1-in-10,000-health-risk standard.

I do not buy the argument that the steel industry will have to shut down its coke operations because they cannot meet a health-based obligation 15 years from now or 30 years from now. I do not believe there will not be further control improvements. I do not believe there will be plant closings and job layoffs. And neither do the steelworkers.

Make no mistake, emissions from coke ovens are very dangerous. They contain benzene and some 200 other suspected and confirmed carcinogens.

The risk to the community and to workers has moved the United Steelworkers of America, the International Chemical Workers Union and the Oil, Chemical and Atomic Workers Union to support the imposition of controls on coke oven operators.

Mr. President, the 30-year extension for meeting health-based standards is deeply troublesome. So is the extra special treatment provided independent coke producers by the substitute.

This substitute treats independent coke operators who represent about 10 percent of all coke-making capacity, differently from integrated steel producers who operate their own coke-ovens.

Independent coke operators are subjected to even weaker compliance requirements.

The substitute gives coke operators three possible compliance options. Each option includes a requirement that coke operators meet a specific technology-based obligation in the short term. Unfortunately, this obligation is not uniform.

Under option one, coke coperators can make only a few minor technological adjustments early on to partially reduce toxic emissions. If they choose this option, however, they are then supposed to meet the health-based standard of assuring no more than a 1 in 10,000 health risk by the year 2000.

This option will be appealing to those who are phasing out operations in the next 10 years anyway. They will not have to do much.

Under option two, coke facilities owned and operated by integrated steel mills could select another more effective control technology known as LAER—lowest achievable emission rate—which, if installed by 1995 and maintained, would entitle the operator to avoid any further controls on residual emissions for another 25 years—unitl the year 2020.

The third option allows independent coke operators to avoid meeting the health-based standard until 2020 but does not require them to adopt the more effective LAER technology required of the integrated steel producers.

This latter option, which is eligible to some 10 percent of coking capacity, has the potential of causing not only additional health impairments for the communities but also employment dislocations for workers at integrated plants. Integrated steelmakers could shift some of their demand for coke from their own facilities to the independents, thereby resulting in closures.

Mr. President, my amendment will achieve two objectives.

It will require EPA to prepare and disclose a health risk assessment for coke ovens just as they will be required to do for any other facility under the air toxics substitute. It maintains the steel fix because it will not require coke operators to install additional control strategies before the year 2020. It simply provides the communities with important information regarding their health risks.

The second part of the amendment would restrict the option which allows independent coke producers to adopt weaker control strategies to those independents in operation January 1, 1990. This will prevent integrated producers from shifting production to these facilities.

The PRESIDING OFFICER. Is there further discussion on the amendment?

Mr. BAUCUS. Mr. President, I think the amendment is a good one. Essentially it requires risk assessments be made and also the information be made available to local communities. I think it is a good idea, and I accept the amendment.

Mr. METZENBAUM. I thank the Senator.

Mr. CHAFEE. Mr. President, we approve the amendment on this side.

Mr. METZENBAUM. I thank the Senator from Rhode Island.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1421) was agreed to.

Mr. METZENBAUM. I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I thank the managers of the bill for their cooperation.

AMENDMENT NO. 1422 TO AMENDMENT NO. 1293

(Purpose: To provide an incentive for small diesel refineries to remove sulfur from diesel sold for off-highway and home heating purposes.

Mr. CHAFEE. Mr. President, on behalf of Senator SYMMS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], (for Mr. SYMMS) (for himself, Mr. SIMPSON, Mr. BOREN, Mr. GARN, Mr. HATCH, Mr. MCCLURE, Mr. REID, Mr. BINGAMAN, Mr. WALLOP, Mr. BAUCUS, and Mr. BREAUX), proposes an amendment numbered 1422.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 438 of amendment no. 1293, at line 12 insert the following new subsection:

"(h) SMALL DIESEL REFINERIES.—The Administrator shall issue allowances to owners or operators of small diesel refineries who produce diesel fuel after October 1, 1993 meeting the requirements of subsection 211(i) of this Act.

(A) ALLOWANCE PERIOD.—Allowances may be issued under this subsection only for the period from October 1, 1993 through December 31, 1999.

(B) ALLOWANCE DETERMINATION.—The number of allowances issued pursuant to this paragraph shall equal the annual number of pounds of sulfur dioxide reduction attributable to desulfurization by a small refinery divided by 2000. For the purposes of this calculation, the concentration of sulfur removed from diesel fuel shall be the difference between 0.274 per centum (by weight) and 0.050 per centum (by weight).

(C) REFINERY ELIGIBILITY.—As used in this subsection, the term "small refinery" shall mean a refinery or portion of a refinery—

(i) which has bona fide crude oil throughput of less than 18,250,000 barrels per year, as reported to the Department of Energy, and

(ii) which is owned or controlled by a refiner with a total combined bona fide crude oil throughput of less than 50,187,500 barrels per year, as reported to the Department of Energy.

(D) LIMITATION PER REFINERY.—The maximum number of allowances that can be annually issued to a small refinery pursuant to this subsection is 1500.

(E) LIMITATION ON TOTAL.—In any given year, the total number of allowances issued pursuant to this subsection shall not exceed 35,000.

Mr. CHAFEE. Mr. President, the distinguished Senator from Idaho has spoken on this before, so I will not go into detail. Basically, the facts are these: The large refineries will desulfurize. The small refineries will not desulfurize because the equipment is expensive. However, what this does is say to the small refineries, "If you do desulfurize, then you will receive some allowances for doing so." These are very modest allowances because these small refineries are defined as refineries with crude oil stock, feedstock capacity of 50,000 barrels per day or less, which is a very small refinery.

So, actually, this is a good environmental amendment because, by getting these few allowances, it will encourage them to do something they would not normally have done, namely, desulfurize. Thus, more sulfur will be taken out of the diesel fuel.

So it is a good amendment, Mr. President. I urge its adoption.

Mr. BAUCUS. Mr. President, likewise we accept the amendment. We, essentially, find that the refineries which install desulfurization equipment are entitled to allowances and EPA also estimates that after the year 2000 this will result in increase total SO_2 control by up to 15,000 tons.

I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 1422) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am advised by the managers that Senator DASCHLE is prepared to offer his amendment which will be contested, and which will require a vote.

Accordingly, Senators should be aware that there will be another rollcall vote this evening not later than 7:15, possibly earlier if all of the time is not used and some is yielded. That will be the only other vote this evening.

Then the managers will be taking additional amendments which have been accepted, and we will return to session tomorrow to consider the amendments with respect to the allowance system, and other amendments that will be offered at that time.

So there will be one more vote this evening. That will be not later than approximately 7:15, possibly earlier, and then tomorrow we will be in session with votes possible as we continue to consider amendments as they are offered by Senators.

I thank the managers for their cooperation. I thank Senator DASCHLE very much for his cooperation.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I will have the draft of the amendment momentarily.

Until it arrives I think I will begin debate of the amendment.

Mr. MCCLURE. Mr. President, parliamentary inquiry. Is it possible for us to start the allocation of the 1-hour time limit on the amendment so people may be informed the vote will not be beyond 7:15?

Mr. DASCHLE. I ask unanimous consent that the vote occur at 7:15.

The PRESIDING OFFICER. Without objection, it is so ordered. The vote on the Daschle amendment will occur at 7:15.

Mr. MCCLURE. Mr. President, I wonder if the Senator will reformulate that request. I do not mean to delay the consideration. Under the unanimous-consent agreement, as I understand, each amendment that is in order is limited to 1 hour of general debate. Fixing a general time for when we would hold or start using the time now would achieve the same objective, but still ensure people that indeed if time is yielded back the vote could occur before 7 o'clock.

Mr. DASCHLE. I amend my unanimous-consent request in that regard, that it be held no later than 7:15, and possibly earlier.

Mr. BAUCUS. Mr. President, I reserve the right to object.

Mr. President, these negotiations concerning this bill cover many subjects. One of the subjects covered was the alternative fuels including performance requirements and specifications of gasoline. It is clear that this amendment offered by the Senator from South Dakota is the amendment which covers a subject that was very exhaustively covered.

Consequently, as the manager of the bill, as the participant in those negotiations, I feel constrained to say, which I have already said privately to the Senator from South Dakota, that this is an amendment which is a deal breaker. It breaks the deal.

Therefore, I feel further constrained to ask that the vote, if there be a vote either at 7:15 or earlier, be either on or in relation to the amendment so that I can move to table. I will only move to table at the appropriate time because consistent with all other

amendments which in my judgment are deal breakers just as I moved to table those amendments I feel constrained also consistently to move to table this amendment as well.

So therefore I ask that the vote be either on or in relation to.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I do not mean to delay this, but I wonder if I can ask unanimous consent that the time on the Daschle amendment start running at this time and the vote thereon occur in the normal course of events under the previous order?

The PRESIDING OFFICER. Is there objection? The chair hears none. The Chair will then announce that the vote concerning the Daschle amendment will occur no later than 7:20.

Who yields time?

Mr. DASCHLE. I thank my colleagues, and I yield such time as I may consume.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

AMENDMENT NO. 1423 TO AMENDMENT NO. 1293

Mr. DASCHLE. Mr. President, the amendment I am offering, with Senators DOLE, HARKIN, DURENBERGER, MCCLURE, DIXON, GRASSLEY, SIMON, EXON, KERREY, BURNS, and CONRAD, would improve air quality by cleaning up the gasoline that all of us burn every day in our cars. Specifically, this amendment seeks to use oxygenated fuels and other benign additives to replace the toxic aromatics that are now used to boost octane in gasoline.

We are not proposing a sweeping change. In fact, our amendment would merely roll back gasoline aromatics levels to those present only a decade ago. It would apply only to the nine cities that have been designated the most severe ozone nonattainment areas in the country.

At the outset, I would like to make particular mention of the contribution that Senators HARKIN and DOLE have made to the development of this amendment Senator HARKIN has been an articulate advocate for the establishment of the strongest possible reformulated gasoline standard from the beginning, and his involvement in this effort has been invaluable. Senator DOLE the distinguished Republican leader, played a pivotal role in negotiations with the administration on this amendment, and his initiative in that area has helped bring this issue to the Senate floor. Both Senator HARKIN and Senator DOLE are well known not only as leaders of the effort to stimulate national demand for agriculturally derived fuels, but also as early proponents of the value of alternative fuels as a vehicle for improving air quality and reducing our country's dependence on imports of foreign oil. I very much appreciate their help on this amendment.

Also, before proceeding with the debate, I ask unanimous consent that an explanation of responses to concerns about this amendment be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DASCHLE. Mr. President, it is important to note that this amendment is a compromise drafted after a series of negotiations with EPA and White House officials. The original draft of this amendment covered all 101 ozone nonattainment areas, and we have also discussed the option of covering the 41 serious to extreme ozone nonattainment areas. We could easily justify coverage of all 101 areas, but in acknowledgement of the concerns of others and in the spirit of cooperation, we have deferred to EPA's request that the clean octane standard be applied only to the nine most severe ozone nonattainment areas, with the proviso that other communities could opt into the program. This is the minimum we can do if we are serious about tackling the problem of air toxins from mobile sources.

This modest compromise has attracted a broad range of support, as indicated by the distinguished cosponsors of the amendment as well as the endorsement of the following organizations: the National Governors Association, the National Clean Air Coalition, the Sierra Club, Citizen Action, the Renewable Fuels Association, the National Corn Growers Association, Renew America, Farm Bureau Federal, American Agriculture Movement, SAFER—safer air through fuel enhancement, reformulation and reforestation—National Farmers Union, National Farmers Organization, Arizonans for Clean Air Now, the Idaho Ethanol Fuel Association, and the Clean Fuels Development Coalition.

The thrust of the Clean Air Act legislation before the Senate is to make the air cleaner by making cars cleaner. While cars can and should produce less pollution, it is simply unfair to heap the burden of pollution control solely on the automakers when the gasoline that cars burn produces 50 percent more pollution than gasoline of only a decade ago. This amendment would achieve substantial clean air benefits without requiring costly modification of our automobiles. Moreover, it would implement what many of the more far-sighted oil companies are already beginning to do in select regions of the country.

In the context of the Clean Air Act, it has been well documented that more than 50 percent of urban pollution comes from the combustion and evaporation of motor fuels. Mobile sources account for more than 90 percent of carbon monoxide emissions and at least half of the harmful ground level ozone formation. Also, data from the Environmental Protection Agency [EPA] shows that 55 percent of air toxins come from mobile sources. More than 80 percent of airborne benzene comes from mobile sources, as does a remarkable 98 percent of 1,3 butadiene.

If anyone has any doubts about the real world health effects of these facts, they need only ask EPA. EPA reports that more than 50 percent of the annual cancer deaths attributed to air toxics come from mobile sources.

As my colleagues from California and New York are well aware, risk from air pollution does not stop in the great outdoors. According to a May, 1989 study by the South Coast Air Quality Management District in California, commuters traveling congested roads and freeways are exposed to levels of cancer-causing air pollutants inside their cars that are up to four times higher than the levels outdoors.

In terms of cost effectiveness and immediate clean air benefits, there is no more important step we can take than cleaning up the gasoline used in conventional automobiles. This amendment would do just that by establishing an improved, cleaner gasoline standard.

There has been a great deal of discussion about what reformulated gasoline is, and everybody seems to define it differently. The generic term "reformulated gasoline" refers to changing the concentration of certain gasoline components in order to allow the gasoline to burn more cleanly. In simple terms, the focus of that effort has always been on the components used to enhance gasoline octane. In this amendment, the term "reformulated gasoline" could just as accurately be described as clean octane.

Gasoline was first reformulated when lead was phased out as a gasoline octane enhancer. While health considerations clearly necessitated this initiative, EPA failed to monitor the resulting change in gasoline composition to ensure that one poison was not replaced by another. That is exactly what happened.

In order to replace the octane lost by lead phase-outs, gasoline refiners increased the aromatics and olefin content of gasoline and raised the volatility of the gasoline. Moreover, recent octane wars, designed to increase market share, have exacerbated the problem. While the aromatics content of gasoline prior to lead phase-out was around 20-volume percent, the average aromatics content of gasoline today is greater than 32-volume percent. Premium unleaded gasoline can

have an aromatics content greater than 50-volume percent.

The primary aromatics used in gasoline are benzene, toluene and xylene, all of which are EPA-listed hazardous chemicals. The amount of benzene emitted from the tailpipe is directly related to the amount of benzene found in gasoline. However, a gasoline can have no benzene and still produce benzene exhaust because of the chemical transformation that toluene and xylene undergo during the combustion process.

Recent data compiled by ARCO Chemical further demonstrates the environmental consequences of high aromatics gasoline. In an article published in the Oil and Gas Journal, December 4, 1989, ARCO scientist William Piel cites data that clearly indicates that gasoline containing more than 25-percent aromatics content results in dramatically increased levels of carbon monoxide [CO], hydrocarbons [HC] and nitrogen oxides [NO_x]. The relationship between aromatics and toxics and, in particular, benzene, has been well documented by EPA and others.

Mr. Piel concludes that high aromatics gasoline literally disables an automobile's catalytic converter, thereby resulting in the nonlinear relationship between aromatics and emissions.

The implications of the ARCO data on emissions points out the danger of relying solely on vehicle control technology for emissions reductions. It does not matter how many levels of tailpipe standards were required if the technology cannot handle the gasoline.

I want to stress to my colleagues why it is so important to adopt this clean octane standard. If the Clean Air Act amendments are passed without such a standard for existing cars in ozone nonattainment areas, overall air quality could get worse, not better, despite the well-intended efforts of those who have done such an admirable job contructing the current compromise.

Allow me to elaborate on the statement.

In ozone nonattainment area, gasoline refiners will be required to lower the volatility of gasoline in order to reduce ground level ozone. To meet the new volatility standards, gasoline refiners will remove the most volatile components of gasoline and replace them with less violatile ones. Butane is the primary component likely to be removed in order to meet the new standards. If left to their own discretion, petroleum refiners will almost certainly turn to even higher levels of aromatics to fill this gap because aromatics are relatively high octane, low volatility components.

Therefore, in our most polluted cities, we face the strong likelihood that gasoline volatility could be reduced, but at the unintended expense of increased toxics, carbon monoxide, unburned hydrocarbons, and even nitrogen oxide.

The most significant single step that can be taken to improve urban air quality is to limit aromatics content in gasoline to no higher than 25-volume percent. Further steps can and should be taken to stipulate what the reformulated gasoline should look like.

This amendment requires that gasoline in all serious, severe, and extreme ozone nonattainment areas have the following parameters:

No more than 25-volume percent aromatics hydrocarbons (including no more than 1.0-volume percent benzene);

A 15-percent reduction in ozone-forming emissions as compared to a similar automobile fueled by conventional gasoline; and

An oxygen content of at least 2.7-volume percent, based on averaging as specified in section 218 of the act.

The aromatics and oxygen content requirements would be phased in over 3 years, and other communities would be allowed to opt into the program.

Such a standard would allow refiners flexibility in making gasoline, while ensuring that one poison is not replaced by another—an unfortunate and unintended result of lead phaseout.

Some oil companies will claim that they cannot meet this standard and that, if they are forced to try, it will bankrupt the American consumer. But these arguments are false, and can easily be refuted.

One of the most important attributes of a clean octane program is that it can be implemented immediately. In fact, there are 11 EPA-approved octane-enhancers that can be used to replace aromatics, including MTBE, ETBE, ethanol and other oxygenates. The ethers, especially MTBE and ETBE, are expected to be major components of meeting a clean octane program. Isobutylene availability is important in overall ether supply, as isobutylene is mixed with methanol or ethanol to produce MTBE and ETBE, respectively. Isobutylene is a natural by-product of refinery operations, and it can be made from butane.

According to the General Accounting Office, isobutylene supply will expand to meet the market. As butane is in tremendous surplus today because of the new fuel volatility requirements, the availability of the feedstocks for isobutylene is all but guaranteed. MTBE is the world's fastest growing chemical, with projected supply expected to increase by more than 20 percent for the next 5 years. Given the availability of isobutylene and the expanding capacity for ether production—not to mention the current surplus in ethanol production capacity—conservative estimates put the anticipated oxygenate supply at nearly double the projected demand based on this amendment.

Of course, refiners could simply choose to make a lower aromatics gasoline and reduce octane. This would not require any new investment, and would actually save a large amount of oil. It should be pointed out that 90 percent of the automobiles in America get no benefit from an octane rating above 87. No car needs an octane rating above 91. The current octane wars are an advertising sham designed at increasing market share and profit for the major oil companies.

The claim that oil companies cannot make the clean gasoline required by this amendment is undermined by the facts of the current marketplace. Clean octane gasolines are being used today across the country. In California, ARCO has had tremendous success with their EC-1, a clean octane gasoline made with MTBE. Phillips Petroleum has announced the introduction of its "Super Clean Unleaded Plus" in Colorado. Diamond Shamrock currently sells "RG-87," a low aromatics, unleaded, and low volatility gasoline. Earlier this month, Marathon Oil announced that it was introducing clean gasoline, in all three grades, in all 161 service stations in Metropolitan Detroit. There are many other examples of clean octane gasoline, both on the market and soon to be introduced.

It is important to note that these gasolines are price competitive with traditional gasolines in the marketplace. According to comparative cost estimates prepared by Information Resources, Inc., a well-known industry consulting group, the average cost of a clean octane gasoline consistent with the standard proposed in this amendment would be only 1 to 3 cents per gallon more for regular grades. For premium grades, reformulated gasoline could result in no additional cost and may, in fact, be cheaper.

Late last week, in a hastily called press conference, the American Petroleum Institute [API] charged that the Daschle amendment will cost $100 billion and that meeting its requirements "will likely add 25 cents a gallon to consumer's fuel costs." These grossly inflated cost figures, disseminated by the major oil companies' national trade association, simply do not jibe with estimates from the EPA and other credible industry sources. They smack of the recycled horror stories that the oil industry repeatedly resorts to in its efforts to block natural gas and grain-derived fuels from entering the marketplace.

At their press conference, API also claimed that "no one knows if this amendment will help improve air quality." Yet, it is interesting to note the actions of one of API's members, Marathon Oil. Last Friday, March 23, 1990, in an article entitled "Marathon

Oil Has a Cleaner-Burning Gasoline," the New York Times reported that:

Emissions from engines using Marathon's fuel will be lower in carbon monoxide and in unburned hydrocarbons that cause the formation ozone, a prime component of smog. Marathon said the new gasoline would result in a 20 percent reduction in unburned hydrocarbon emissions and a 14 percent reduction in carbon monoxide.

The pollution fighting potential of clean octane gasoline is enormous. If all the gasoline used in the United States each year were to be reformulated, substantial reductions in ozone—at least 15 percent, carbon monoxide—20 to 30 percent, toxics—40 to 60 percent, and even nitrogen oxides would be achieved, at only a fraction of the cost of other control technologies currently being debated.

While the technology and products necessary to replace aromatics in gasoline currently exist—and while some gasolines have already been reformulated—we are sensitive to the fact that it will take some readjustment in the overall refining industry to implement this change in fuel standards. Therefore, the amendment would phase in the proposed clean octane gasoline program over 3 years for the oxygen requirement and 5 years for the aromatics reduction.

The oil industry will tell you that they favor cleaner gasoline, but that we should let them do it themselves, or let EPA design a workable program. First, it is a bit far-fetched to assume that the oil industry will improve overall gasoline composition on its own. One need only review the history of the last 10 years to see that gasoline has gotten dirtier, not cleaner. Second, we cannot simply assume that EPA will do the job, either.

With all due respect to Administrator Reilly, for whom I have great admiration and respect, it simply is not enough to make the gasoline standard subject to EPA discretion. EPA has known about the aromatics and toxics relationship resulting from lead phasedown for a decade, but has failed to act. I will cite the record of reducing benzene as an example.

Benzene was listed as a hazardous air pollutant by EPA in 1977. In November 1983, then-Administrator William Ruckelshaus made a commitment to accelerate substantially the regulatory process under section 112 of the Clean Air Act. Mr. Ruckelshaus stated that "We intend to make decisions on benzene * * * emissions standards as quickly as possible." Mr. Ruckelshaus stated that he hoped the regulations would be completed by the end of 1985. EPA openly states that more than 80 percent of the benzene in the atmosphere comes from mobile sources.

The regulations were completed on February 27, 1990. With great fanfare, EPA announced that it was implementing regulations to reduce benzene emissions by 93 percent. But if you read the fine print, the EPA regulations cover only stationary sources. The regulations address less than 20 percent of the sources of benzene emissions. Very simply, EPA has known about the problem for more than a decade and has failed to take any meaningful action.

To summarize, the Nation has a tremendous opportunity to address a chronic public health and environmental problem by mandating a strong clean octane gasoline standard. Moreover, the health and environmental standard would be implemented in an extremely cost-effective manner with minimal dislocation to the refining industry and to consumers.

According to the Motor Vehicles Manufacturers Association [MVMA], the national trade organization of automakers, cleaning up gasoline "offers the quickest and cheapest way to obtain air quality improvements of any potential alternative fuel. Its use does not require any change in the fuel distribution infrastructure and the new fuel can immediately be used in the entire gasoline vehicle fleet because no engine modifications are required."

Mr. President, this amendment makes good public policy sense and should be adopted.

EXHIBIT 1

CLEAN OCTANE GASOLINE CONCERNS AND RESPONSES

You are telling the gasoline refiners how to make gasoline. It is not this simple. Congress should not be in the business of specifying what the content of a product should be.

First, our amendment does not lock refiners into any particular fuel composition. Like the evaporative emissions fuel specifications in Section 211 of the bill, or the oxygen content fuel requirements in Section 218, our amendment seeks to control major causes of pollution that are inherent in today's high octane gasoline by establishing simple parameters on fuel quality in dirty air areas. These parameters are primarily maximum aromatics levels and minimum oxygen content. Refiners can decide how they want to get octane without using the toxic aromatics. They can decide how to achieve the oxygen standard.

Congress should set goals and not micromanage private industry. Any attempt to reduce mobile source emissions should specify the goals of the program, which in turn should be implemented by the EPA. Specifications should be avoided, and a general percentage reduction approach should be adopted.

If this were a perfect world, I would agree that EPA and not the Congress should implement broad pollution reduction goals. Unfortunately, EPA has known about this problem for more than a decade and has repeatedly failed to address it. Despite the face that mobile source toxics account for more than half the air pollution-related cancer deaths annually, EPA does not regulate mobile source toxics. I simply do not trust EPA to implement a program that has been stonewalled for more than a decade. Congress shares the blame—oversight of this problem has been nearly non-existent.

The oil industry is one of the most powerful industries in the world. The Environmental Protection Agency is not immune to pressure, both from well financed lobbying and from divergent interests within the Administration itself. The well publicized rifts in the Administration over global warming and wetlands policy, for example, do not give me comfort that the public interest will be best served in the regulatory process. Given the EPA's history on mobile sources toxics reductions, I feel very strongly that Congress should help the EPA by providing guidelines as opposed to just giving them complete discretion.

The amendment will cost billions. Such cost estimates are absurd—pure scare tactics by the oil companies. Clean octane gasoline (with some stricter specifications than what is being offered here) is already being sold in various markets across the country at prices competitive with traditional gasoline.

Oxygenates are price competitive octane enhancers.—Using oxygenates instead of aromatics for octane has several advantages. First, they are a price-competitive octane substitute. MTBE is used in approximately 15 percent of the gasoline sold today to boost octane, and MTBE production capacity is predicted to expand by 20 percent every year. ETBE and ethanol also boost octane at prices competitive with traditional gasoline. Many others oxygenates are in production and available.

By lowering aromatics, the nation will save oil.—Today, refiners primarily get their octane by running their reformers at a more "severe" level. This increases aromatics and octane. But it is also energy intensive, and you get less gasoline as an end product. For each point increase in aromatics (i.e. 91 octane to 92 octane) in the nation's aromatics pool, more than 1 billion barrels of gasoline are lost every year.

By lowering reformer severity and aromatics content as a means of achieving octane, and replacing it with high octane oxygenates, you conserve large quantities of oil in two ways—first, savings in gasoline because of the lower severity of the refining operation of the base gasoline; and second, straight physical displacement of gasoline by oxygenates.

For example, a 2.7 oxygen percent using MTBE displaces 15 percent of the gasoline. Using ETBE, the displacement would be 17 percent. Therefore, replacing octane from aromatics with octane from oxygenates is good for energy security and our balance of trade, as well as the environment.

This amendment will save millions of barrels of oil every year.

If you assume the current octane pool is maintained, the likely cost of the amendment will be from 1 to 3 cents per gallon.—If you assume that the current octane pool is maintained (60 percent regular 87 octane, 10 percent mid-grade 89 octane, and 30 percent premium 91 and above octane), cost estimates by Information Resources, Inc., a respected oil industry analysis group, predict that gasoline prices need only increase 1 to 3 cents per gallon. As I stated, this assumes that the present octane pool is maintained. Less than 10 percent of the cars on the road need a gasoline with an octane of 91 or above. However, 30 percent of the gasoline sold is premium or super premium. This is a huge waste of money that is a direct consequence of oil company hype and advertising "octane wars." If the overall octane pool

were reduced, then costs would be even less—possibly even no net cost.

Clean gasoline is being sold today at prices the same as traditional gasoline.—On Thursday, March 15, Marathon Oil announced that it was introducing reformulated gasoline (with a 25 percent aromatics level) into all of its grades (regular unleaded, mid-grade, and premium) in the entire Detroit metropolitan area. This gasoline will be price competitive with traditional gasoline. ARCO's EC-1, sold in Southern California, costs less than 2 cents more than regular gasoline to make, and is sold for the same price as regular gasoline. Would Marathon, for example, introduce reformulated gasoline into an entire metropolitan market if it costs them 30 cents more per gallon to make? I doubt it.

A report made to EPA states that it would only cost 1 to 6 cents per gallon to have the entire U.S. gasoline pool contain 15 percent MTBE.—A report for EPA by Sobotka and Co., Inc., obtained from EPA, estimates that it would only cost 1 to 6 cents per gallon to have every gallon of gasoline sold in the US contain 15 percent MTBE, which equals 2.7 percent oxygen. Our amendment only calls for 9 cities!

But the Department of Energy estimates that your amendment will cost 100 billion!

Let's examine the DOE estimate's basic assumption—that every drop of gasoline sold in the United States must meet these specifications. There are so many factual errors and fallacious assumptions in the DOE estimate that it is not even worth debating.

There is already a portion of the compromise amendment that requires the use of reformulated gasoline in our dirtiest cities. Your amendment is redundant and unnecessary.

It is true that there is a section on reformulated gasoline in the compromise amendment, and I commend the Majority Leader and the Republican Leader for persevering to make sure that cleaning up gasoline was a part of cleaning up urban air. But very simply, more needs to be done.

The provision in the compromise bill would require reformulated gasoline in the 9 dirtiest cities in the country, just as this amendment would. But this amendment addresses cleaning up gasoline used in today's cars; the compromise addresses only new cars. The standards would be phased in with new cars beginning in 1995. Therefore, the gasoline would not be fully integrated into the marketplace until 2005, assuming a 10 year fleet turnover.

By requiring a year round oxygen standard, this amendment will actually raise NO_x emissions and therefore contribute to the ground level ozone problem and acid rain.

More fantasy from the oil companies. There is not a single reputable study that links using oxygenates to increases in NO_x. In fact just the opposite is true.

I would like to cite a December article in the Oil and Gas Journal that clearly states that using oxygenates, and in particular ethers (such as ETBE and MTBE), dramatically lowers emissions of NO_x. There are several reasons for this: aromatics displacement; ethers have a lower boiling point than hydrocarbon gasoline; and oxygenated fuels burn more cleanly. Morever, there is express language in the bill that prohibits an increase in NO_x as a result of this amendment.

Some people claim that if you splash blend ethanol in summer conditions you will get more evaporative emissions because ethanol has a higher vapor pressure than gasoline. While several studies have disproved this theory, I will not debate that here. Even if splash blended ethanol did cause more evaporative emissions—an admission I am not willing to make—it cannot increase ozone under terms of this amendment. This amendment requires a 15 percent reduction in ozone forming emissions. If splash blended ethanol causes more NO_x, and therefore ozone, it cannot be used. Period. I repeat—NO_x, which is a precursor of ozone formation, and ozone formation must be reduced by the amendment.

There is not enough isobutylene [the product that ethanol and methanol are mixed with to form ETBE or MTBE, respectively] nor ethanol to supply the demand that would be mandated by the amendment.

Untrue. Isobutylene is a natural byproduct of the refining process, and it is manufactured by converting butane and isobutane into isobutylene. Because of the mandated reductions in gasoline vapor pressure across the nation, refiners are having to remove butane from their gasoline to make it less volatile. Therefore, there is a huge surplus in the butane supply today, and this will only grow.

Ethers provide an outlet for this butane. Rep. Phil Sharp, Chairman of the House Energy Committee's Subcommittee on Energy and Power, and I asked GAO to look into this very question, and GAO reported back that isobutylene supply would not be a limiting factor in an aggressive expansion of ether-based fuels.

As methanol is made from natural gas, there is clearly no shortage of methanol. The ethanol industry could comfortably quadruple today's level of production, meaning that at least 4 billion gallons of ethanol could be sold. Given the availability of feedstocks for ethers, and the existence of other oxygenates, the supply will easily meet the anticipated demand.

The burden of this amendment will be the hardest felt by small refineries, many in the Midwest, which may go out of business.

Exactly the opposite is true. The small refineries and the independent refiners are in a position to benefit from this amendment. The average aromatics content of the big, multinational, oil companies (formerly the Seven Sisters) is about 35 or 36 volume percent. The average aromatic content of gasoline from the independent refiners is about 26 or 27 percent. Many of the independents have not been able to afford the expensive capital investments required to make high aromatics gasoline. They instead have sold lower octane gasoline or have blended oxygenates to get their octane. They are positioned perfectly to benefit from the amendment.

This is just another attempt by the Midwestern Senators to expand the market for federally subsidized ethanol, especially since the amendment requires oxygen in gasoline.

Ethanol, and ethanol as ETBE, is clearly one of the fuels that will benefit from cleaning up gasoline. This is because ethanol and ETBE are well proven pollution fighters. But to claim that this is an ethanol amendment is wrong. The 2.7 percent oxygen standard is fuel neutral. My colleague from New Jersey, Senator Lautenberg, who I disagreed with in the debate over the oxygen standard for CO non-attainment areas, will readily admit that 2.7 is fuel neutral, as will the major oil companies.

The Oxygenated Fuels Association recently petitioned the EPA to approve all ethers or mixtures of ethers to meet the 2.7 percent oxygen standard. To quote their request, "We believe that this expansion will result in a number of significant environmental benefits without any detrimental effects in vehicle performance or materials compatibility."

Will vehicle modification be required to use the clean octane gasoline that you propose?

No. Every car in the country will run, and run better, on cleaner gasoline.

Your amendment calls for 1 percent benzene. Benzene is a naturally occurring element in gasoline. This means that refiners will actually have to take the benzene out of the gasoline. This is expensive and will create a potential hazardous waste problem.

Untrue. Our amendment had originally proposed a 0.8 percent benzene standard, which is better environmentally, but does require extracting benzene from the gasoline. A 1.0 standard does not generally require benzene extraction. California, New York and possibly other States are or will be implementing 0.8 standard for benzene. The oil industry already knows this is coming, and is preparing for it. The EPA should have implemented the benzene standard long ago. When 85 percent of the nation's benzene emissions come from mobile sources, the problem has to be addressed. As far as creating a waste problem, the nation currently imports almost 300 million gallons of benzene, primarily for chemical uses. Obviously benzene has a market, and claims to the contrary are simply not true.

The 1.0 standard in our amendment is not restrictive.

There is currently a joint oil/auto research program underway to determine the comparative benefits of using reformulated fuels. Why mandate a specific reformulation when even the industry does not know the pros and cons of reformulated gasoline?

As it is commonly known, the joint oil/auto research program is an attempt by these industries to show that simple fuel reformulation can achieve many of the same benefits of requiring cars to run on M-85 (85 percent methanol-15 percent regular gasoline), without requiring modifications in the cars. This study will no doubt produce many very valuable results, but if the Congress were to wait for industry to do their own research before enacting policy, we'd probably still be waiting for a lead phase-out.

While the specific reformulations of gasoline will no doubt vary between refiners and localities, there are certain specifications that should be included in any attempt to make a cleaner gasoline, namely reduced aromatics content (including benzene) and increased oxygen content. These are the basic characteristics that have been the cornerstones of current clean octane gasolines in the marketplace.

A more effective manner of controlling pollution is through stricter controls on automobiles and a better inspection and maintenance program for cars.

While cars can and should be cleaner, it takes approximately 10 to 15 years for a vehicle fleet to turn over. Moreover, high aromatics gasolines are poisoning modern pollution control devices. Let's try and give Detroit a little help. According to paper presented jointly by ARCO and SUN representatives at a recent conference in Detroit, "(B)ecause of their compatibility with existing vehicles, reformulated fuels can produce an immediate impact on vehicle emissions and resulting ozone formation."

According to the Motor Vehicles Manufacturers Association (MVMA), the national

trade organization of automakers, "Reformulated gasoline offers the quickest and cheapest way to obtain air quality improvements of any potential alternative fuel. Its use does not require any change in the fuel distribution infrastructure and the 'new' fuel can immediately be used in the entire gasoline vehicle fleet because no engine modifications are required."

Mr. DASCHLE. I reserve remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask the Senator if he will offer his amendment.

Mr. DASCHLE. I will.

Mr. BAUCUS. It would be helpful so Senators could see what is in the amendment.

Mr. DASCHLE. The amendment has just arrived.

At this time I send the amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself, Mr. DOLE, Mr. HARKIN, Mr. MCCLURE, Mr. DIXON, Mr. DURENBERGER, Mr. GRASSLEY, Mr. SIMON, Mr. EXON, Mr. KERREY, Mr. BURNS, Mr. CONRAD, Mr. WIRTH, Mr. LEAHY, and Mr. PRESSLER, proposes an amendment numbered 1423 to amendment No. 1293.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) on page 214, line 21, delete "specific"; and

(b) on page 215, strike from line 5, through page 216, line 2, and insert the following:

"(2) CLEAN FUELS FOR CONVENTIONAL VEHICLES.—(A) Within one year of enactment of the Clean Air Amendments of 1990, the Administrator, pursuant to paragraph (1), shall promulgate regulations establishing specifications for reformulated gasoline to be used in conventional gasoline fueled motor vehicles in any nonattainment area with a 1989 ozone design value equal to or exceeding 0.18 parts per mission. Such regulations shall prohibit any person from selling, offering for sale, dispensing, supplying, offering for supply, transporting or introducing into commerce in such area or areas any gasoline not meeting the requirements of this paragraph for use in gasoline fueled motor vehicles. Such regulations shall take effect in accordance with the phase in schedule set forth in subparagraph (B). Such regulations shall be incorporated in the final regulations promulgated pursuant to paragraph (1).

"(B) Subject to the limitations set forth in subsection (h) and section 212(a)(11), the specifications for fuel quality promulgated pursuant to subparagraph (A) shall, at a minimum, provide for—

"(i) a maximum aromatic hydrocarbon content by volume of not greater than 30 percent as of January 1, 1992; of not greater than 28 percent as of January 1, 1994, and of not greater than 25 percent as of January 1, 1996;

"(ii) a maximum benzene content by volume which shall be the lowest concentration of benzene accompanying the maximum aromatic hydrocarbon content under clause (i) that can be achieved without additional capital investment but, in no event may such maximum benzene content be greater than 1.0 percent by volume;

'(iii) during the high ozone season (as defined by the Administrator), a 15-percent reduction in the ozone-forming potential of volatile organic compounds and no increase in oxides of nitrogen emitted from existing vehicles (as determined by the Administrator) using such fuel compared to conventional gasoline with a Reid vapor pressure of 9.0 pounds per square inch sold in calendar year 1989; and

"(iv) subject to paragraph (D), an oxygen content by weight equal to or greater than 2.0 percent as of January 1, 1992, 2.5 percent as of January 1, 1993, and 2.7 percent as of January 1, 1994, except where a higher oxygen content is required under section 211(1) or section 188, except as provided in subparagraph (D).

"(C) The regulations promulgated under paragraph (A) shall include procedures under which the Administrator shall certify fuels as complying with the specifications established pursuant to paragraph (B).

"(D) The Administrator may waive, in whole or in part the requirements of paragraph (2)(B)(iv) upon a determination by the Administrator that the use of oxygenated fuels would prevent or interfere with the attainment by such area of a national primary ambient air quality standard (or a State or local ambient air quality standard) for any air pollutant other than carbon monoxide.

"(E) Sellers of fuels subject to this paragraph with an oxygen content higher than percentages specified in subparagraph (B)(iv) shall be eligible for credits in accordance with the terms and conditions of section 211(l)(2).

"(F) The regulations promulgated under this paragraph shall include procedures under which the Administrator may certify fuels as complying with the specifications established pursuant to subparagraph (B). The regulations shall establish a procedure by which the Administrator may certify a gasoline as complying with such specifications if such gasoline (i) complies with the specification in clauses (iii) and (iv) of subparagraph (B) and (ii) achieves equivalent or greater emission reductions that are achieved by a gasoline meeting the specifications established pursuant to clauses (i) and (ii) of subparagraph (B).

"(3)(A) Any State in which there is a moderate or serious ozone non-attainment area may propose as a revision of the applicable implementation plan for such area or areas a requirement that reformulated gasoline sold, offered for sale, dispensed, supplied, offered for supply, transported or introduced into commerce in such area or areas for use in gasoline fueled motor vehicles shall be subject to all the requirements of this subsection beginning on the date specified in the revision.

"(B) For the purposed of paragraph (A), the Administrator may delay, for not to exceed three years, the date on which reformulated gasoline which meets the specifications in paragraph 2(B) is to be offered for sale or sold in order to provide adequate lead time for such fuel to be made available in necessary quantities. The decision of the Administrator to provide such delay shall be accompanied by an explanation of the reasons for such delay.".

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Mr. President, I make two arguments against the amendment.

No. 1, it violates the bipartisan agreement that has formed the foundation of this bill and which brings us, for the first time in a decade, to the brink of improving the clean air standards in America.

The second argument I make is that this amendment is bad policy and it is piracy. It is piracy aimed at benefiting one industry relative to another, and its objective has absolutely nothing to do with clean air.

Mr. President, let me begin by reading from our clean air fuel standards section of the bipartisan Senate clean air agreement.

The emissions reductions will be met primarily through the use of cleaner fuels. By January 1992, EPA is to issue specifications for various alternative fuels, including ethanol, methanol, CNG, electricity, LPG as well as reformulated gasoline that will achieve the emissions reductions required in conventional vehicles. The performance standards will be fuel neutral.

Mr. President, this amendment violates the basic foundation of the bipartisan agreement because this amendment fundamentally changes the nature of this bill and violates our commitment that it be fuel neutral.

Second, what this amendment is doing is aiming at forcing society to make a choice. The whole foundation of this bill is based on the fact that we are trying to improve the environment and we are trying to do it at the lowest possible cost by allowing free choice in terms of technologies and free choice in terms of fuel. Changing the standards as is set in the Daschle-Harkin amendment has one and only one objective and that is to bump some of the competitors off the track, to eliminate competition, and to benefit one producer of alternative fuels.

Now, Mr. President, we have already done this once. I remind my colleagues that to begin with, the bill was skewed to help one particular fuel. Then we had an amendment related to carbon monoxide which in that area skewed the bill further.

Now we are talking about the ozone section of the bill. We are talking about a large number of potential cities affected and we are talking about further narrowing the competition.

Mr. President, our whole objective here has been to try to prevent this kind of piracy. We earlier defeated an amendment that would have given coal special treatment as an industry

that would be affected by this bill as compared to all other industries.

This amendment is bad public policy and it ought to be defeated for two reasons: One, it violates the bipartisan agreement, and if we start violating this agreement, the bill is going to come apart at the seams.

Second, it is bad public policy. It is bad public policy because it aims to benefit one particular industry at the expense of the whole economy. There is no reason that we should tilt the solution toward one particular industry.

Mr. President, in my own case I assume that to one degree or another many of these fuels might be produced in my State. But this policy decision that would be embodied in this amendment is poor policy for America, it is piracy, it is exactly the kind of special interest that we should keep out of this bill, and I urge my colleagues to vote for the motion to table this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I respond to our colleague, the Senator from Texas, by saying a couple things.

First, Senator DOLE is a cosponsor of this amendment. He was part of that agreement, and I doubt very much that if he felt it was a deal breaker, he would have seen fit to have been the prime cosponsor of my amendment. I do not want to speak for him. I am sure he will come to the floor and he is certainly capable of speaking for himself. He is a cosponsor of the amendment, and I remind my colleagues of that fact.

Second, it does not benefit one industry. There are a number of options that the oil companies have with regard to additives they can use to reformulate gasoline. They can use ethanol. They can use methanol. They can use a whole range of aromatic substitutes that provide them options in improving gasoline quality.

I will remind my colleagues one more time, it is important we understand what we are talking about here. We are simply talking about going back to the basic standards the oil companies had 10 years ago themselves. Reducing toxic aromatics to where they were only a decade ago is neither restrictive nor impractical. It is a common-sense approach to a glaring problem.

I yield the Senator from Idaho 5 minutes.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 5 minutes.

Mr. McCLURE. Mr. President, I rise in support of the pending amendment.

Our continued national reliance on the automobile for our principal source of transportation has significant energy and environmental implications for all Americans. During this debate, there has been a great deal of discussion about reformulated gasoline and its potential role in cleaning our air.

Reformulated gasoline, as a generic term, refers to gasoline in which the concentration of its constitutent components has been changed to allow the gasoline to burn more cleanly. In recent years, the composition of gasoline was changed to reduce air pollution. However, in some instances, because the aromatic content was increased there have been accompanying increases in carbon monoxide, hydrocarbons and nitrogen oxides. In other efforts to reformulate gasoline, alternative fuel components such as ethanol have been used. Each constituent has its own unique characteristics and customer acceptance.

Since the gasoline lines of the 1970's, the Department of Energy has examined several alternatives. Among these are alcohol fuels, which have received the most attention.

Since Federal economic incentives were provided in 1978 for the production and sale of ethanol, sales have continually climbed. In 1988, 8 percent of all gasoline sold in the United States was a 10-percent gasohol blend. About 320 million bushels of corn were consumed annually to make this ethanol. This is not only good for our national energy security and environmental quality, but it is also good for our Nation's farmers.

The objective of this amendment is to reduce the pollutants associated with present formulations of conventional gasoline by more clearly defining reformulated gasoline. A year-round standard for reformulated gasoline can aid control in cities where ozone pollution is a problem. There is a potential both to produce air quality benefits and to provide new markets for agriculture products.

No other clean fuel option can be implemented as quickly and demonstrate such significant air quality improvements in ozone and carbon monoxide nonattainment areas. No other fuels option can be as effectively used in conventional vehicles at such a nominal cost to consumers.

Because there currently is a limited capacity in this country to supply oxygenates and limited refinery flexibility without further capital investment, the amendment limits the program to the nine critical ozone non-attainment areas. A phase-in of oxygenate requirements over 3 years from 1992 through 1994 is provided. A phase-in of aromatic requirements over 5 years also is required.

In the event that there are insufficient supplies of reformulated gasoline to meet market demands, the Administrator may delay the effective date of specific State implementation programs until the necessary quantities of reformulated fuels can be made available.

Success in our quest to find alternatives to conventional gasoline as our transportation fuel can serve as an important and critical element in our national energy strategy for the reduction of oil imports. Of course, it is intended that reformulated gasoline marketed under this amendment must be consistent with the overall requirements for protection of public health set forth in the Clean Air Act.

Mr. President, let me respond just briefly to the statement made here that this violates the agreement. There is no truth in that argument as far as I am concerned, because the argument that was used is that the agreement was intended to be fuel neutral. It was fuel neutral built around an M-85 standard but instead of saying M-85 is required, certain standards had to be met. It says any kind of fuel that could meet those standards would be permitted.

All this does is change the standards slightly to increase the likelihood, the reality, as a matter of fact, that we get better clean air performance out of the revised standard. But any fuel that can meet the standard is eligible.

Now, certainly there are some fuels that are disadvantaged in that. But if you want to talk about the lack of fuel neutrality, let me point to one thing that is very cute in this bill, very cute indeed. Formaldehyde is an air toxic under the air toxics section but it is not an air toxic under the tailpipe standard. Why? Because you cannot burn ethanol without producing formaldehyde and the committee and the bipartisan agreement did not want to disqualify M-85 or M-100 or other ethanol-based fuels. In order to do that they had to say what is bad for the health of the public coming out of an industrial plant is bad for your health, and formaldehyde comes out in the air, it is an air toxic, but only if it comes out the tailpipe of a car. Talk about fuel neutrality, talk about the pollution effects of this bill that was done specifically for a single industry, for a single area, for a single fuel. So let us not get diverted in this argument about whether or not the bill is fair or the amendment is fair.

This amendment does something for air quality and cleanup in the most polluted areas of our country that is not done under the bill. This enhances the cleanup. And I do not think that is against the bipartisan agreement. I do not think it is against the EPA's position. I do not think it is against the administration's position. I have not thought it was against the committee's position.

This is a good amendment. I am proud to support it. I urge my colleagues to support it. Again, it is not fuel specific. It sets a standard. Any fuel that can meet the standard is eligible for competition in the market-

place, just as every other fuel is eligible to meet the competition in the marketplace. It is good public policy. It is good clean air policy, and I urge the adoption of the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield such time to the Senator from Louisiana as he may consume.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I probably will not need that much time. I thank the chairman for yielding to me.

I normally am in agreement with our good friend from South Dakota on most of his amendments. We differ on this. I think truly those of us who sat in that room for about 20-some-odd days trying to work out some compromise with all the competing interests, those of us who were there clearly know that this amendment is in fact a deal-breaker. There is no question about that.

We talked extensively about trying to be fuel neutral and the product that we are going to present to the floor. This amendment is in direct contradiction to what we agreed to do and the approach that we agreed to in the committee.

In addition to being a clear deal-breaker which threatens the coalition that is supporting this bill, in addition to that, it is not good public policy.

Let me make just a couple comments in that regard. The oxygen content requirement of the legislation is clearly a let's buy more corn proposal. And if we wanted to let us buy more corn we should have this in the farm bill, not in a clean air bill. Because not only do the oxygenate provisions of this amendment not help the environment and not help the quality of clean air, it actually has a great potential to do great violence to the quality of the air and particularly to increase the amount of ozone that is formed as a result of burning fuels with this particular oxygenate requirement.

There is no question that the requirement on the oxygenate content in this amendment can do severe damage to those areas that are nonattainment for ozone problems. There is no dispute by any scientist that would differ with that proposition. So if we are talking about let us buy more corn, it should be in the farm bill. If we are talking about cleaning up the environment, this one is contrary to what we are trying to do.

If you have an oxygenate requirement of 2.7, you would have a very difficult time using that type of fuel in ozone nonattainment area without doing grave violence to the quality of air in the ozone areas.

For instance, the net effect of an ethanol blend is likely to be about a 13-percent VOC increase. These are EPA estimates. What am I talking about? We are talking about dramatically increasing the evaporation of the fuel as it is loaded into the vehicle that is going to be using it, thereby dramatically increasing the ozone problems.

So the point I make, in addition to being a deal-breaker, the oxygenate requirements in the amendment would cause more problems in the nonattainment areas with regard to ozone formation problems than we have currently. So instead of being a progressive step toward cleaning up the air in nonattainment areas that are there because of ozone problems, it will greatly add to the potential damage to the environment.

The other thing that I would point out is the tremendous costs that we are talking about. Are we ready to tell the consumers in this country that they are looking at gasoline that is going to cost maybe 20 or 30 cents more than they would normally be paying? I think not. We are talking about increasing the tax on gasoline already. Many States are already using that and here we are getting ready to tell people that we are going to adopt an amendment on the floor that is going to increase the cost of gasoline by a substantial margin. I doubt we want to do that by adopting this amendment.

With all of the possibilities that are in this amendment, if all the cities that it would allow to come in under this program were to, in fact, exercise an option which this amendment gives them the right to do, the estimates from the Congressional Research Service, the Library of Congress—certainly not a partisan organization at all—but when they were asked to comment on this they said that they would estimate that it would cost $25 billion to $50 billion to install the necessary equipment capacity to produce the fuels that are mandated by this amendment. At $25 billion to $50 billion, at that price it would cost about 10 to 15 cents per gallon, by their analysis and by their estimates.

If you factor in the other cities that could come in under this program you are looking at doubling, or even more than that, the price of fuel in this country. Therefore, first, it is far too expensive to be of any value when you consider the value that you get from this amendment.

Second, rather than helping to clean up the air in ozone nonattainment areas it causes much greater problems.

And, third, it is clearly outside the scope of the agreement and the deal that was put together to try to come up with something that is fuel neutral.

Mr. McCLURE. Will the Senator yield for a question?

Mr. BREAUX. Certainly.

Mr. McCLURE. Is the Senator aware of the waiver provisions that would respond to two of the three questions that the Senator has raised?

With respect to the quantity of fuel required, there is a waiver provision that simply says if that occurs, the administrator waives the provision.

Is the Senator aware——

Mr. BREAUX. I am well aware of the waiver provisions, but it simply says you still have the ability, under the amendment, for any State to come in and require the provisions—any State. The Senator talks about nine cities.

The amendment clearly says any State may impose and/or require this type of reformulated gas be adopted.

Mr. McCLURE. Will the Senator yield further on that point?

Mr. BREAUX. I will be happy to yield.

Mr. McCLURE. But it also says if you cannot meet that volumetric requirement because of too many people coming in, the administrator can suspend that application.

Mr. BREAUX. I agree with the Senator's comment, but only to the point it says if they cannot meet the volume. They can meet the volume. It is a question, at what cost? We can produce enough, but at what cost? How many refineries are we going to have to rebuild in this country?

Mr. McCLURE. That is certainly a different question.

Is the Senator also aware of the fact that you cannot use these fuels if VOC's go up? That is specifically provided for in the amendment.

Mr. BREAUX. The point I would make in response to the Senator, there is a waiver, yes. The waiver applies if you cannot produce the volume of fuel that is required by this amendment.

The problem is not that they cannot produce it. The problem is, at what cost? Are we going to rebuild every refinery in America in order to produce a product which in fact can cause more potential harm to the clean air in nonattainment ozone areas than we have with the current situation?

Mr. DASCHLE. Will the Senator yield?

Mr. BREAUX. I will be happy to yield, in just a second.

There are a number of reasons why I think this amendment, there is no question, will produce more corn and will sell more corn. But I think it should be part of the agriculture bill and not part of the clean air bill.

I will be happy to yield.

Mr. DASCHLE. I thank the Senator for yielding.

On page 2 of the amendment, it says that none of the fuels we are addressing here can be certified unless they reduce the ozone-forming potential by at least 15 percent.

With that provision, I cannot see how this amendment could actually cause more problems. It will not even

be certified unless we can bring the ozone-forming potential down by 15 percent.

So clearly, having the very concern in mind that the Senator has addressed, we stipulated in the amendment that it would not even be a legitimate additive unless it reaches that kind of capability.

I think it more than adequately addresses the legitimate concern the Senator has, and I thank him for yielding.

Mr. BREAUX. Let me conclude. I appreciate the Senator's point.

I will admit he has improved the amendment by some of the requirements addressing some of the concerns that I have been expressing.

The point is, I think, in opposition to the amendment, we are really talking here about an amendment that is aimed at trying to increase the purchase of corn in this country in order to produce a fuel-specific gasoline, which is based on ethanol.

I think that may be an admirable proposition for someone to consider. But I do not think it is appropriate and proper to be considering it in discussion of the clean air bill. I think any benefits that are derived from a reduction in aromatics and the benzene content are really minimal if compared to the problems and costs associated with the new refinery modifications, and the new construction of refineries that is going to have to be undertaken as a result of this amendment.

I think the better course of action would be to support the compromise that was reached over a 20-some-odd-day period of intense negotiations with people who represented, I say, all of the interests that we have represented on the floor today.

It is a deal breaker, and I think the subcommittee chairman has made that point very, very clear.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. I yield 4 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 4 minutes.

Mr. GRASSLEY. Mr. President, I rise to urge my colleagues to support our amendment presented to the Senate by Senators DASCHLE and DOLE. I praise their hard work to bring their individual proposals regarding reformulated fuel standards together into a reasonable, workable package that we can all support. A lot of thought and effort has been devoted to addressing various concerns and objections.

I say with no hesitation that the final product being offered today as the Daschle-Dole amendment greatly improves the Clean Air Act's ability to reduce fuel-source pollution in a cost-effective manner.

Mr. President, it simply does not make sense to phase out leaded gasoline in the name of cleaning up the air, only to have lead replaced by aromatics that are highly toxic and carcinogenic.

But that is exactly what many in the oil industry have done. Replacing one poison with an even worse poison is not our idea of improving air quality.

Our amendment, by setting fair, and I emphasize, very achievable, standards for reformulated fuel, we take a major step in removing high concentrations of toxic aromatics from our air supply.

Mr. President, first, our amendment is limited in application. It affects only the nine worst ozone nonattainment cities in the country.

Second, our amendment phases down the aromatic hydrocarbon content from 30 percent to 25 percent by January 1, 1994. By 1994, oxygen content standards will be phased in to 2.7 percent by weight.

Third, our amendment also limits to 1 percent by volume the amount of benzene content allowed.

Mr. President, there has been considerable misinformation circulated about our amendment. We have been told that this amendment mandates one oxygenated fuel additive over others. That simply is not true.

What this amendment does do is provide the means to clean up the dirty air in nine cities—cities which face the most severe ozone nonattainment problems. It does this by restricting the use of: First, toxic aromatics; and second, requires, instead, the use of octane enhancers that will not poison our air.

The oil industry says, "No, Congress should not tell us how to reformulate gasoline."

Their argument is persuasive. But it is something we have heard from every sector of industry which finds itself impacted by the Clean Air Act. Let us be frank. That's what this Clean Air Act is all about, it is telling us Americans how to clean our air. We all want clean air but we don't want to be told how to do it. And we do not want to pay for it. Let someone else pay for it.

Mr. President, this is a modest attempt at improving air quality. I say "modest" because the Daschle-Dole version we are offering is far less imposing on the oil industry than what we really ought to be discussing here.

Our amendment allows a 25-percent cap on aromatics. It should be 20 percent, but in deference to the oil industry's concerns, we have made concessions.

Our amendment should apply to all 101 nonattainment cities. But it doesn't. In deference to the oil industry's concerns, we limit it to only nine cities.

That is still not enough to satisfy the oil companies.

So, what should we in Congress do?

We can vote in favor of the Daschle-Dole amendment to not only help nine cities clean up their air, but also prove to the world that it can be done cost-effectively.

Or, we can vote against the Daschle-Dole amendment and let the oil industry continue on its merry way polluting the air with toxics and carcinogens and rely upon their promises to clean up their act.

Mr. President, the Daschle-Dole amendment improves the Clean Air Act. It is a modest proposal. I am proud to have been able to make a contribution, and urge my colleagues to support it.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. I might ask, Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Montana has remaining 15 minutes and 30 seconds. The Senator from South Dakota has remaining 6 minutes and 20 seconds.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Oklahoma is recognized for 5 minutes.

Mr. NICKLES. I thank my friend and colleague from Montana.

Mr. President, I rise in strong opposition to the amendment offered by my good friend, Senator DASCHLE, and Senator GRASSLEY. I heard their comments. I respect their position. I understand they are trying to help corn, primarily, and I respect them for it. But I think they are making a serious mistake.

I also heard my friend and colleague, Senator MCCLURE from Idaho, and I have great respect for him. He is very knowledgeable on energy issues, and probably almost all the time I would agree with him. But I just vigorously disagree with him in this case. I think he is wrong.

Mr. President, right now there are studies being done by the auto and oil industries trying to figure out how to make improvements in various types of gasoline. They are actually conducting road tests right now on 26 different types of so-called reformulated gasoline.

The Senator's amendment addresses one. Maybe others would qualify, but certainly not all 26. The Senator from South Dakota has already mentioned this is the one he wants. For some reason, he knows better than the industry tests that are now going on what standards need to be made. I think that is a serious mistake. Already the energy industry and auto industry said, "Let us see what we can

do in reformulated gasoline. We think some improvements can be made."

The Senator's amendment says we want to stipulate one type which is different than the other 25 that are being studied. Why should we on the floor of the Senate have the idea that we can be making this decision much better than the engineers who are really professional and really know what they are talking about when they use terms such as aromatics or autonates or MBTE or EBTE and how much is it going to cost?

Adoption of this amendment is going to cost taxpayers a bundle. You need to be aware of that. I believe I heard a Senator say it will not cost anything. This amendment applies to these nine worst ozone cities. But one of the other ozone nonattainment cities that will opt into it—and no telling how many will be eligible; perhaps all 100 cities could opt into it. API, which manufactures the gasoline, says it will cost 24, 25 cents a gallon. I do not know if they are right or wrong. I asked DOE, and they said it would cost 7 cents, maybe 10 cents.

We have a study from CRS that just came out. I think Senator JOHNSTON is going to print it in the RECORD, but in case he does not, I will. On the last line, it says the API's $100 billion estimate begins to sound like a realistic estimate of potential cost to the industry. People need to be aware, if we are going to be passing something, that it is going to mandate a $100 billion cost. I do not know if it is $100 billion. DOE says it could be $8 to $16 billion if it is confined to 25 percent of the national total volume of gasoline, but if it goes up to 40 or 60 percent, the cost could easily go to $35 to $75 billion. Then you are talking about anywhere from 15 cents a gallon. I do not know that American citizens are saying they want to have a 25-cent-per-gallon gasoline tax increase. Maybe so.

What improvements will they be getting in the environment? Will this be the best way to spend that money? Maybe we can spend it in another way to get greater environmental reduction than having this kind of a gasoline tax or gasoline cost going up. So I think we need to be aware of the cost and the inflexibility of the approach taken in this amendment.

What are we doing? We are right now trying to mandate one specific type of reformulated gasoline when many others are being tested. Maybe others will be much more successful. I personally think it is a little bit of a mistake for us to be trying to impose or presume that we have the knowledge to make that decision.

Mr. HARKIN. Will the Senator yield for a question on that?

Mr. NICKLES. I am on limited time. I am not quite through with my statement. Then I will be happy to yield.

In addition to that, we are talking about significant loss to the Treasury. The loss to the highway trust fund will be $1.4 billion every year if gasohol is the primary means of complying with this amendment.

Most ethanol is made by one company. I do not have anything against ADM. It is a great company. I like them. They are a great company. But that is where much of the benefits are going to go. Perhaps more of the benefits will go to them than the corn farmers.

Mr. FORD. Will the Senator yield at that point?

Mr. NICKLES. Just a second. I have 5 minutes.

Mr. FORD. Little farmers down my way are making ethanol. Exxon, all those and others, may have a corner on it.

Mr. NICKLES. I heard my good friend from Kentucky say something about drinking ethanol. I didn't know little farmers were making it.

Mr. FORD. People who do not understand good whiskey drink ethanol.

Mr. NICKLES. I understand my colleague's wisdom. Mr. President, I think adopting this amendment will be a serious mistake.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NICKLES. Will the Senator give me 30 seconds?

Mr. BAUCUS. 30 seconds.

Mr. NICKLES. DOE estimates this will cost 7 cents a gallon. API estimates it will cost up to 20, 25 cents a gallon. They estimate the cost of each refinery to be $1 billion. I think we need to look at the cost. I am not sure this would be a wise amendment to mandate one specific formulated gasoline.

Mr. President, I ask unanimous consent to have printed in the RECORD the CRS memorandum to the Senate Energy and Natural Resources Committee at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, March 28, 1990.

MEMORANDUM

To: Senate Committee on Energy and Natural Resources. Attn: Joel Saltzman.
From: David E. Gushee, Senior Specialist in Environmental Policy.
Subject: Composition of Gasoline.

This responds to your request for a discussion of how a requirement that gasoline contain 2.7% oxygen in ozone nonattainment areas would interact with a requirement that gasoline have a maximum volatility of 9 psi as measured by Reid Vapor Pressure (RVP).

For an RVP 9 gasoline, MTBE, ETBE, and ethanol (with its 1 psi volatility waiver and the proper blendstock properties) can provide the necessary oxygen. In the start-up years, ETBE would probably be reserved for lower volatility areas, because of limited capacity to produce it. Currently, there is not enough MTBE capacity in the U.S. to supply the volumes required. Over the past year or more, a number of refiners have announced plans to build new MTBE capacity in domestic refineries (similar announcements are being made about capacity in Europe and the mid-East). There will be plenty of butane available from the RVP reductions. However, there is not enough isobutylene capacity to feed the MTBE units, so new isobutylene-from-butane capacity would also be needed. Also, there is not enough ethanol capacity to supply the volumes which would be required under the proposed mandate.

For gasolines with RVP below 9, MTBE cannot be the major oxygen source, because its RVP is about 9. ETBE or mixed alcohols or ethers would be required (Octamix, for example, is a mixed alcohol product from which mixed ethers can be made, although at least some of the methanol in it would have to be removed to meet the vapor pressure requirement). However, there is essentially no capacity in place today to make large quantities of either, so construction for either would be required.

For low-RVP gasolines, indications are that significant changes in refinery operations would be necessary, at significant cost. The more stringent are the emission requirements, the greater the cost in refineries, for the least cost approach would be to produce more reformate, which unfortunately seems to cause greater tailpipe emissions. And tailpipe emissions make up most emissions, because at these low volatilities, evaporation contributes only a minor share of the total ozone-formers to the air.

Depending on the start-up schedule, it is possible that much of the additional ethanol would be imported until domestic production capacity could be built up and corn supplies arranged for. Similarly, it is likely that MTBE would be imported in the early years and maybe even for a long time, depending on how the economics of adding methanol, isobutylene, and etherification capacities turn out. And probably methanol would always be imported, even if the MTBE were made domestically.

The Clean Fuels Development Coalition (CFDC) testified before Senate Energy Committee 11/14/89 that 5-6 billion gallons of ETBE capacity would cost $5 to $7 billion, take 3 to 5 years, and add about 2 cents per gallon to gasoline price. For 2.7% oygen, ETBE content has to be about 17%, MTBE about 15%. The 100 ozone nonattainment areas have about 40% of the national gasoline consumption. If all the gasoline in those areas had 17% ETBE, the need would be about 7 billion gallons of ETBE, which would need about 3 billion gallons of ethanol. If it were all MTBE, it would be 6 billion gallons of MTBE, or about 1.8 billion gallons of methanol (all imported). Other major shifts in refinery hardware and operations would also be required.

It could all be done in the 1990's, assuming that the Title I ozone controls and the Title V permits would allow it. I would estimate it would cost $25 to $50 billion to install the necessary butane isomerization and dehydrogenation capacity, added alkylation capacity, added distillation capacity and miscellaneous other fixes to balance refinery operations (API says up to $100). At $25 to $50 billion, it would cost about 10 to 15 cents per gallon, by analogy with CFDC's estimate.

Some specialists knowledgeable about industry operating practices say that 20% or 40% of total gasoline volume required to meet prescribed specifications by regulation,

whether seasonally or year-round, in an integrated national market means all of it, in order to supply and resupply the whole infrastructure. If it does, then API's $100 billion begins to sound like a realistic estimate of potential cost to the industry.

Mr. CHAFEE. Mr. President, as one who was part of the negotiations where, under the agreement, we have a program for alternative fuels and we made an agreement that we stick by it, I intend to vote against the amendment because, in my judgment, it is indeed a deal-breaker.

As I say, we have a program for alternative fuels. Also, let me say, Mr. President, it seems to me that this is levying a tremendous expense upon the Nation when we mandate that all cars within these nine cities have the alternative fuels that are provided here, as opposed to the new cars, as we have provided under the agreement.

So, Mr. President, whether indeed they can meet that, I am doubtful. Whether refineries will be able to make that conversion in time, regardless of the expense that is required, I am extremely doubtful.

Second, Mr. President, I point out that under our program, under the agreement, the Mitchell-Dole proposal we have before us, the States, indeed, can get into this. That is, if the States where the nine affected cities are involved and other cities wish to opt into the program, they are entitled to do so. So that is something that is reserved for those cities. It is not mandated by the Federal Government.

So, Mr. President, because it violates the agreement, because it is an option that is available to the cities who choose to go into the program, and because of the intense concern that the refineries will not be able to meet this mandate on time, I will vote against the amendment.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I have fond respect for the Senator from Rhode Island. He has done an exemplary job of managing this bill. With real deference, I want to clarify a couple points in this amendment. First of all, we do not add one city in this amendment beyond what the bill does itself. Secondly, we ensure not 3 years, but 5 years. We give oil companies 5 years to lock their aromatic characteristics into their gasoline. So there are all kinds of time for them to adapt to the situation.

Third, let me remind my colleagues that eight oil companies today are on the street marketing the very product we are suggesting that we have for everybody else in 5 years. So it does not seem to me that we are asking too much. I feel, as a result of all of the compromises we have made, there really is not any reason for people to think that this is something out of the realm of possibility for any oil company marketing gasoline today.

I also will clarify one point. I have been advised that the California Air Resources Board is a strong supporter of this amendment and wants to be listed as such. I ask unanimous consent that Senators WIRTH and LEAHY be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I yield 2 minutes to the Senator from Colorado.

Mr. WIRTH. I thank the distinguished Senator from South Dakota for yielding. Mr. President, I am proud to be a cosponsor of this amendment. This is very similar, almost exactly the same as one of the parts of the Wirth-Wilson amendment which the other day received 46 votes and I think probably would have won the other day had the opponents of the Wirth-Wilson amendments not told a whole variety of people that the problem with the Wirth-Wilson amendment was that the reformulated issue was not that at all, it was all for ethanol. The arguments made in opposition to this amendment, as it was part of Wirth-Wilson a week ago, was that it was all methanol.

I have been sitting in the chair, and I listened to just the opposite. The arguments made against it today are that it is too heavy ethanol. I know consistency is not necessarily the mother's milk of the business we are in. What is it? What it is is precisely what Senator HARKIN has suggested, and others, it is fuel neutral. That is what the Wirth-Wilson amendment was, and that is what this one is.

Clearly, this is the right thing to do or it would not be attacked from two different angles with two different pieces of information. That always tells you you are on the right attack when one day you get attacked with one argument and the other day precisely the opposite argument. This is a fuel-neutral amendment and the right thing to do.

The second thing we ought to recognize is this is the only part in the bill that helps our extraordinary dependence on imported oil. Mr. President, last month we imported 53 percent of the oil that we used in the United States—53 percent. The Department of Energy tells us that if we continue on current patterns, we are going to be about two-thirds by the turn of the century, two-thirds dependent on such wonderfully stable individuals as Qadhafi, the Ayatollah—a wonderful place to be in. The opponents say this is a bad deal because maybe an American company like ADM might benefit from it. Come on, let us look at the potential.

I ask unanimous consent for 30 additional seconds.

Mr. DASCHLE. I yield the Senator 30 seconds.

Mr. WIRTH. This is the only opportunity we have in the whole bill to really encourage domestic fuels. That is what we ought to be doing. That is sound, forward-looking policy rather than looking in the rear view mirror as we have too often, in the whole mobile standards area, looking in the rear view mirror as if this were the 1950's and 1960's.

I thank the distinguished Senator from South Dakota for yielding and I am proud to be a sponsor of this amendment.

Mr. DASCHLE. I thank my colleague. I yield 2 minutes to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, my reluctance in rising is not because I think this is a deal breaker but because of the respect that I have for the junior Senator from Louisiana, who more than anybody in this whole Chamber has been forced to ride a bucking bronco to the edge of the cliff so many times that I hate to be in the position of throwing a saddle on another one. But as I best recall the so-called deal in the negotiations, there is a part of this amendment which one might consider a deal breaker, and it is the requirement in the amendment that the fuel reduce ozone-forming emissions by 15 percent in the 9 cities.

We did discuss that issue and the bipartisan agreement establishes a standard that is different from that included in the amendment. However, that standard is simply where we would be anyway, according to the deal, by the year 2000. So we are talking about a time element.

What is important about this amendment is the way in which it deals with the aromatic content and the oxygen content of the fuel. That is a very different dimension. That is not an ozone issue. That was not discussed in the negotiations. An aromatic standard is outside the scope of the agreement that we reached, and so is oxygen.

Senator LAUTENBERG, as we know, offered an amendment on oxygen on the floor. That amendment did not break the deal, and the oxygen requirement here in this amendment does not either.

This amendment will make an important addition to the air quality program which the committee has reported. I commend the sponsor on the amendment and his consistent efforts in this area of public policy.

Gasoline is a complicated mixture of some 200 different chemical compounds. The exact mixture of these compounds varies over a wide range by brand and grade of gasoline. The variation in the mixture of gasoline can have an impact on air quality. Some gasoline is cleaner from an air quality perspective than other gasoline.

Motor vehicles contribute a substantial portion of the air pollution in the United States. They emit 40 to 70 percent of the pollutants contributing to ozone nonattainment and 90 percent of the carbon monoxide. Vehicle emissions account for 55 percent of the cancers attributable to air toxics and 25 percent of the global warming gases, principally carbon monoxide. All of this pollution begins with the fuel and can be affected by the characteristics of the fuel.

Over the 20-year history of the Clean Air Act most of the regulatory effort has focused on the vehicle itself with requirements for new pollution control technology like the catalytic converter or the evaporative canister system. Very little attention has been paid to fuel quality during that same period. Lead has been phased down because it interferes with the operation of the catalytic converter. In other respects, however, fuels have actually become dirtier in the last 20 years. The octane provided by the lead has been replaced with octane from aromatic hydrocarbons which are toxic and have other negative air pollution effects. And the volatility of gasoline has increased dramatically causing increased evaporative emissions.

The bill reported by the committee already addresses some of these fuel quality issues. It bans lead completely. It reduces RVP to 9 pounds per square inch in summer months. It requires oxygen additives in carbon monoxide nonattainment areas in winter months. And it requires detergent additives to prevent deposits in fuel and engine components.

But it is possible to accomplish much more pollution reduction by focusing on the fuel. The most aggressive approach is to require alternative fuels like methanol, ethanol, compressed natural gas and electricity in the most severe nonattainment areas. These fuels would be used in new vehicles designed for that purpose. We have made a few steps in that direction with the compromise proposal that is pending. Especially, the fleet program in this legislation will encourage new fuel/vehicle systems that are dramatically different from cars and fuels of today.

A less aggressive, but equally important step, is to clean up the gasoline that is used by the cars which are out there already. This strategy has come to be called reformulated gasoline. The oil companies have become interested in reformulated gasoline, perhaps because of the more aggressive alternative fuels program in this bill. ARCO has begun to sell a reformulated gasoline which it calls EC-1 in southern California.

The Daschle amendment calls for a cleaner gasoline which would meet several specifications. One would be a benzene limit.

Benzene is a component of gasoline averaging about 2 percent of this volume. It was a smaller portion of gasoline before lead was removed. It is a known human carcinogen. It is one of the most widely dispersed air toxics. Risks of early death from lukemia caused by benzene exposure reach 1 in 1,000 in some urban corridors; 50 percent of the benzene emissions come from benzene in the fuel and 50 percent come from the transformation of other compounds to benzene when the fuel is burned. The staff of the California Air Resources Board has proposed a 0.8-percent benzene limit for all gasoline sold in that State. The Daschle amendment would limit benzene content to 1 percent.

A second specification relates to the aromatic content. Aromatic compounds are a substantial portion of gasoline fuel. They average 32 percent of the volume but in premium fuels may reach up to 54 percent by volume. Aromatic compounds include benzene, toluene and xylene. All three are air toxics listed in title III of this legislation. They contribute to ozone formation with xylene being especially reactive. Fuels high in aromatics cause deposits in combustion chamber interfering with combustion and increasing emissions. Aromatics have a higher carbon content than the rest of gasoline, so gasoline high in aromatics contributes more to global warming. Aromatics were only about 20 percent of the fuel in 1970, but percentages have increased substantially because the aromatics have been used to replace the octane that was lost as a result of the lead phase down. The specification for aromatics in this amendment is a cap at 25 percent of the volume of the fuel.

There is another way to replace the octane lost with the lead phasedown. Oxygenated fuels can make up the octane deficit. Oxygenates including ethanol, MTBE, methanol, and ETBE. Fuels with these additives are somewhat more expensive than simply increasing the aromatic content, but from the perspective of air quality, the oxygenates are damatically cleaner. This amendment requires a 2.7 percent oxygen content on average. That level is consistent with the proposal to hold aromatics to 25 percent. There will be more than sufficient octane in the fuel pool with these specifications.

Gasoline fuels may also include detergent additives which prevent deposits in the fuel system, in the carburetor or fuel injector and in the combustion chamber. Deposits increase emissions by interfering with combustion. These deposits also reduce fuel economy increasing the cost of transportation to the vehicle owner and increasing carbon monoxide emissions.

Mr. President, in closing let me highlight the environmental benefits we could expect by adopting this amendment.

The first benefit is realized in reduced emissions of air toxics. Benzene is a potent cancer-causing substance. Every American experiences an increased cancer risk because of exposure to benzene in the air. Some face substantially higher risks. Eighty-five percent of the benzene in the air comes from gasoline. This amendment would reduce benzene pollution substantially.

The second benefit is realized in urban areas with smog problems. Reformulated gasoline can make a substantial contribution in reducing emission of the highly reactive hydrocarbons including xylene and olefins. Better fuels can also mean better performing engines so that all of the hydrocarbons are more completely burned.

Third, the fuel mandated by this amendment would reduce carbon monoxide emissions. The increased oxygen provides that benefit and it will be a benefit in cities beyond the 44 which are currently in nonattainment. It will help others maintain the standard in the face of increasing trips and vehicle miles, and will provide a margin of safety for the current standard which, according to some recent evidence, may not be sufficient to protect those most sensitive to carbon monoxide pollution.

And fourth, this amendment will have global warming benefits. Fuels high in aromatics contain more carbon, relative to hydrogen, than fuels which contain alcohols like ethanol and methanol. The more of the energy in the fuel that comes from burning carbon, the more carbon dioxide—the principal greenhouse gas—will be emitted. This reformulated gasoline will cut CO_2 emissions.

With that, Mr. President, I will conclude by once again congratulating the sponsor on this amendment and encouraging my colleagues to support it.

The PRESIDING OFFICER. The time of the Senator from South Dakota has expired.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, has all time expired.

The PRESIDING OFFICER. The Senator from Montana controls 7 minutes 30 seconds.

Mr. BAUCUS. Has time on the other side expired?

The PRESIDING OFFICER. All time on the other side has expired.

Mr. PRESSLER. Mr. President, I rise today to support the Daschle-Dole amendment to the Clean Air Act. The reduction in carbon monoxide [CO] is directly related to the amount of oxygen in gasoline. Many cities may avoid a serious CO problem in the reformulated gasoline from the onset.

Mr. President, the most exciting feature of this amendment is that it promotes the use of a renewable resource and improves the quality of the air we breathe by reducing carbon monoxide emissions. This amendment establishes specifications for reformulated gasoline which would be required in certain nonattainment areas.

Ethanol, made from corn, is a home grown renewable resource. Increased use of ethanol could enhance and promote our rural economy and, I believe, lessen our dependence on foreign oil imports.

The recent GAO study regarding the economic benefits of an expanded ethanol industry is exciting, projecting a net annual positive budgetary impact of over $800 million in a moderate growth scenario. Thousands of jobs could be created, and a reduction in our balance of trade deficit will be realized.

This amendment is a positive step toward cleaner air and increased ethanol and gasahol use. We in South Dakota are not burdened with the air pollution problems of the heavily populated metropolitan areas. I strongly support my colleague's amendment and am a cosponsor because I believe it will serve as a tool to enhance our rural economy and help ensure clean air for future generations.

The PRESIDING OFFICER. Who yields time.

Mr. BAUCUS. Mr. President, I yield 1 minute to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 1 minute.

Mr. HARKIN. I thank the Senator from Montana for his generosity. I wanted to make two points. One in regard to what the Senator from Oklahoma said earlier about the increases in prices.

Arco, Diamond Shamrock, Phillips, Conoco, and Marathon are all selling or planning to sell 20 to 25 percent aromatics reformulated at no increase in price. So much for the increases in prices that will come about because of the Daschle amendment.

Second, the California Air Resources Board, as the Senator from South Dakota has said, does indeed support this amendment. My good friend, the Senator from Louisiana, said that this amendment would increase ozone. Well, if it increases ozone, I can assure you the California Air Resources Board would would not be supporting the amendment. They are supporting the amendment regardless of what you may hear from outside these doors.

I congratulate and compliment my colleague from South Dakota for all the work and effort he has put into this great amendment. It deserves support and deserves to be passed for the benefit of all Americans.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield myself such time as I consume.

Mr. President, there has been some discussion back and forth as to whether this amendment does or does not break the deal. Frankly, Mr. President, I have no ax to grind on that subject as some Senators say; and as some others often say I have no dogs in this fight. But my State of Montana has some oil and gas, some wheat, some barley. My State is not directly affected one way or the other. Yet, as manager of the bill and as one involved in these negotiations, it is my judgment, for those Senators who care about whether this is or is not a deal breaker, that in fact this is a deal breaker. That is my judgment because we did discuss alternative fuels. We set standards, formal standards for alternative fuels in the bipartisan agreement. We also bent over backwards to come up with a fuels-neutral bipartisan solution.

Obviously, there are various parts of this country that prefer one fuel over another. Gasoline, compressed natural gas, ethanol, methanol, you name it, some part of the country favors one fuel or another.

The best evidence that this amendment is a deal breaker, Mr. President, would be if this amendment were offered in the bipartisan negotiation. This debate is an indication that this amendment would not be agreed to, would not be part of the deal. Certainly the Senators from Oklahoma, Texas, and Louisiana would not have agreed to this amendment. It might have been modified slightly, but certainly this amendment in the present form, in the form it is offered now, would not have been agreed to. That is the best evidence that this amendment in fact is a deal breaker.

I might add that the bipartisan agreement allows cities, allows States to opt up and opt in. That is, if a city wishes to have the reformulated gasoline standards provided for in this amendment, a city could choose to do so. Not only the nine cities that are the severest in nonattainment but the serious or even the moderate areas could opt in under the bipartisan agreement and adopt the same standards under the agreement if they were to choose to do so.

Moreover, I might say to Senators that the bipartisan agreement also includes an oxygenated fuel provision, 3.1 percent of oxygen content. That would be required in carbon monoxide nonattainment areas during winter months. That is a big boost to ethanol production in this country. It is not required in all nonattainment areas. It is only the carbon monoxide nonattainment areas, but nevertheless it is a boost.

Let me conclude again by saying I oppose this amendment because it does break the deal. There is some judgment on that but in my personal judgment, to be fair and honest about it all, I think it does break the deal.

I at the appropriate time, therefore, will move to table.

Mr. DOLE. Mr. President, I do not want to extend this. I can use my leader's time but is there any time remaining?

Mr. BAUCUS. Mr. President, I yield the time I have remaining to the distinguished minority leader.

Mr. DOLE. I know a number of Members have other commitments. How much time is remaining?

The PRESIDING OFFICER. A minute, 47 seconds.

Mr. DOLE. I may use a couple of minutes of my leader time.

The PRESIDING OFFICER. The Senator has that right.

Mr. DOLE. Mr. President, I think this amendment is going to make a significant advancement in cleaning the air of our worst polluted cities.

The PRESIDING OFFICER. If the Senator will suspend for one moment. The Senate will be in order. If we could please direct the attention of Senators and staff to the Republican leader.

Mr. DOLE. I thank the Chair.

Before proceeding any further, let me state from the outset that this amendment has been significantly changed from the first Daschle amendment, which I had not cosponsored. Many of you might have seen the letter from the Department of Energy stating that amendment would cost $100 billion. I am not sure if that was accurate, but was a lot of money. I know it frightened a lot of people.

That amendment mandated reformulated gasoline in 101 cities, this amendment deals only with the nine cities in which the bill already mandates that reformulated gasoline be made available. Therefore, reformulated gasoline is not mandated for any city that will not already have reformulated gasoline due to the underlying substitute.

There are two differences between this amendment and the substitute. First, under the Daschle-Dole amendment, all gasoline-burning automobiles in the nine most polluted cities will be required to burn reformulated gasoline—not just new vehicles as is proposed in the substitute.

Second, the amendment places three limits on what can constitute reformulated gasoline. It places a phased-in 25-percent limit on the amount of aromatic hydrocarbons that may be used, a phased-in 2.7-percent oxygen content, and limits benzene—a carcinogenic aromatic hydrocarbon to 1 percent by volume.

There have been many accusations about the problems this amendment will bring. Let me address a few of the major ones. I am certain they have been addressed by Senator DASCHLE and others.

Some have charged that there will be no way to get the fuel mandated by the Daschle-Dole amendment to market. But, the substitute already mandates the sale of reformulated gasoline in the same cities covered by this amendment. The difference is volume. I suspect most oil companies will use the product pipeline capacity, tank farm space and retail pumps currently dedicated to leaded gasoline for reformulated gasoline.

Others have charged that we have so limited the definition of reformulated gasoline that the fuel may be environmentally damaging. However, we have included a waiver for the limitations if the administrator of EPA determines a fuel made under these broad specifications do lead to environmental damage.

Finally, I have heard that oil refiners will not have sufficient lead time to make these fuels available. Therefore, we have delayed the more severe aromatic limitations by 2 years, and provided for a 3-year delay in the so-called opt-in provisions for areas beyond the original nine cities.

Mr. President, the amendment will help both methanol and clean-burning, domestically produced ethanol and is strongly supported by the National Corngrowers and Renewable Fuels Association. Both organizations responsibly opposed to earlier amendments several days ago, but have worked vigorously for this much more responsible and achievable amendment.

Again, as to whether the amendment is a "deal breaker," I voted against a lot of the amendments because I was told they were deal breakers even though I wanted to support the amendments. I am certain that the definitions of reformulated gasoline were not discussed in the negotiations. Further, the amendment does not expand but rather exactly tracks the language for reformulated fuel availability in polluted cities. And for that reason, and for the reasons stated on the floor by many of my colleagues, I hope we will vote against the motion to table.

I yield the floor.

Mr. CONRAD. Mr. President, I rise to express my support for the Dole-Daschle reformulated fuels amendment to the Clean Air Act. I want to commend Senator DASCHLE for his strong leadership on this issue. This amendment provides much needed improvements in the formulation of gasolines used in our most heavily polluted cities.

I support this amendment becasue it will reduce the toxic aromatics currently used to boost octane in gasoline; it will reduce ozone-forming automobile emissions; it will begin to reduce our dependence on imported oil; and it will enhance rural and farm economies. These improvements will be accomplished by strict, environmentally sound performance standards for gasoline.

When the EPA required a phaseout of lead in gasoline, refiners replaced that additive with aromatic compounds that have subsequently been shown to be toxic or highly reactive in the environment. This amendment will require reductions in those harmful additives. It will encourage the use of environmentally compatible octane enhancers such as MTBE, ETBE, and ethanol blends.

Mr. President, it is particularly important to note that the reformulation requirements of this amendment can be achieved by reducing harmful gasoline additives and replacing them with ethanol and ETBE, an ethanol-derived additive. Because ethanol is made from corn and other grains, its use in reformulated fuels has additional benefits. Use of ethanol will reduce our dependence on imported oil and will boost rural and farm economies across our country.

For these reasons, Mr. President, I am pleased to be an original cosponsor of the Dole-Daschle amendment to the Clean Air Act.

Mr. JOHNSTON. Mr. President, I strongly oppose the Daschle amendment that would legislate a recipe for reformulated gasoline. This amendment would fly in the face of a principle that formed the foundation of the compromise on mobile sources: that is, that performance standards be set covering total mobile source emissions, including tailpipe, evaporative and running loss emissions, thereby allowing the refiners and automobile scientists and engineers, overseen by EPA and DOE technical experts, to develop the most cost-effective approach to achieve this result.

This amendment would put undue constraints on that approach, thereby costing refiners, and ultimately, gasoline consumers an estimated $100 billion. These costs would result from the need for widespread and substantial new facilities at refineries, imports of oxygenates, massive tax breaks for ethanol and ETBE producers, and shortages of engineers, construction firms, skilled labor, and vendor supplied equipment.

New large refinery facilities would be required for extraction, separation, and further processing to meet the numerous recipe requirements contained in the amendment. Refinery configurations would have to be changed, possibly triggering time-consuming new permit procedures. Since much U.S. oil production is heavy crude, higher in aromatic content, many U.S. refineries are tuned to process this oil. Many refineries will not be able to make the modifications necessary in the short time allowed under this amendment, and they will attain the reductions by importing more oil lower in aromatics. Further, ingredients like alkylate, a high octane, low Reid vapor pressure substance that transforms ozone-forming olefins into a promising, environmentally superior additive would be disfavored if this prospective amendment were adopted.

Other large, new facilities would have to be engineered and constructed in a great hurry to meet the oxygenate requirements. Ethanol cannot be transported in oil products pipelines and so must be added near the end of the distribution chain. Separate new production, transportation and storage facilities will have to be built just to meet this mandate. Further, the credits provision in the amendment significantly encourages even more demand, increasing the potential for spot shortages and costly imports of MTBE, ETBE, and ethanol.

These added incentives for oxygenates distort markets, and create artificial demand. According to CRS, oxygenates can increase corrosivity and gum-forming deposits, necessitating more detergent additives and higher octane requirements. This needlessly wastes crude oil, and raises prices to motorists as more additives become required.

Moreover, the amendment could actually exacerbate ozone problems due to the added encouragement to splash blend ethanol year round, which increases fuel volatility and emissions of oxides of nitrogen. Air toxic emissions of aldehydes also increase. At present, there is great scientific dispute as to whether total hydrocarbon emissions might actually go up with high oxygenate levels as are encouraged by this amendment. Most importantly, the scientist and engineers do not even know whether the combination of requirements ordered in this amendment are technically achievable of cost effective.

It is bad energy and environmental policy to prejudice an outcome where the scientific data is hotly disputed. It is bad refinery policy to dictate numerous specifications nationwide without knowledge of the interaction of the elements of these disparate requirements, or without regard to the varied configurations in refinery designs.

EPA testified before the Energy Committee that it will soon be issuing an advanced notice of proposed rulemaking on fuel quality and air toxics to request information from experts on environment, refineries, and automotive technology in order to develop specifications for cleaner fuels. This notice and comment process must consider all significant environmental,

technological, and economic factors in designing new generations of fuels. The advantages and disadvantages of various approaches will be scientifically evaluated. To adopt this amendment would unduly constrain and delay this important process.

The proponents of this amendment will argue that the $100 billion estimates are high. They will contend that DOE estimates contained in a March 27, 1990, letter from the Deputy Secretary of DOE to Senator DASCHLE are also highly inflated. But a Congressional Research Service analysis concludes that the $100 billion estimates are quite realistic.

For example, the nine cities that this amendment would automatically affect now consume approximately one-quarter of the Nation's gasoline. Under the Daschle proposal, other areas could opt in to the program, significantly increasing the percentage of the gasoline pool to which the mandate would apply. CRS believes that, due to the tremendous capital investments needed, and the presence of an integrated national market for gasoline production and distribution, even a seasonal or regional requirement of this magnitude equates to a year round national mandate for the expensive recipe.

Some researchers have concluded that higher oxygen content has only been shown to have a significant effect on carbon monoxide emissions from older cars. Moreover, carbon monoxide nonattainment is a problem that only occurs in a few cities during the winter months. CRS concludes that "reduction benefits from fuel oxygenation will decline as the fleet turns over and will become too small to make a difference after a number of years". This oxygen mandate is therefore overly broad, and would only correct a temporary problem until older cars are removed from the road. Yet despite these facts, the amendment has no phaseout for this requirement. Further, a phaseout would not be realistic because massive capital investments would already have been made.

Another implication of the amendment has not been considered. The U.S. Department of Agriculture wrote the Energy Committee that it takes 75,000 to 95,000 Btu's of energy to produce 1 gallon of ethanol, which in turn contains only 76,000 Btu's of energy. Forty-five thousand to sixty-five thousand Btu's of this energy is derived from coal combustion, which fuels the ethanol manufacturing plants. Since ethanol manufacturing plants would be exempt from emissions constraints as industrial sources under this bill, the adverse effects of this amendment on air quality could be significant.

The impacts on the trade deficit must be considered. According to the Congressional Research Service, the shortfall in capacity to produce oxygenates, especially in the early years, would be met by imports of MTBE, methanol, and even ethanol and ETBE, until domestic production capacity could be built, and sufficient corn supplies are produced. If drought, or other events reduce corn yields, as occurred in 1988, tighter grain supplies would exacerbate the spike in gasoline prices that will likely result from this amendment. Consumers will blame the refiners and Congress for causing these dramatic price increases.

Shouldn't the EPA, DOE, and auto and refinery engineers develop cleaner gasoline in the most cost-effective manner through the dispassionate process of scientific investigation, and notice and comment rulemaking rather than typing the experts' hands by requiring a gasoline recipe? Should the Congress be making such monumental and costly intrusions into refinery and energy policies, subjects clearly within the Energy Committee's jurisdiction, without full and thoughtful committee consideration of its implications? The answer to both questions is "No."

I ask unanimous consent that copies of letters from the Deputy Secretary of Energy and the Congressional Research Service be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF ENERGY,
Washington, DC, March 27, 1990.

Hon. THOMAS DASCHLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: Thank you for your letter to Secretary Watkins asking us to explain the basis of my March 20, 1990 letter to Senator Dole. In that letter, I set forth the Department of Energy's analysis of reformulated gasoline requirements contained in both the Wirth-Wilson and the Daschle clean fuels amendments. I welcome the opportunity to discuss our analysis with you.

The Daschle amendment (based on the version that we had as of March 20, 1990) would require reformulated gasoline in all nonattainment areas of the United States. This would include 101 metropolitan areas with a population comprising about 60 percent of the United States and a corresponding percentage of motor fuel consumption.[1]

As I pointed out in my letter to Senator Dole, because of the nature of our gasoline refining and distribution system, such a broad requirement would be tantamount to a nationwide mandate for the specified reformulated gasoline. It would be quite difficult for refineries to supply reformulated product to only the 101 metropolitan areas, while supplying all areas outside those boundaries with a conventional product. Therefore, our capital cost estimates were based on reformulating all of the gasoline in the U.S. to meet the specifications provided in the amendments.

The Department's cost estimates were partly derived from an independent study by Turner, Mason and Company, published by Information Resources, Inc., (*U.S. Gasoline Outlook, 1989-1994: Changing Demands, Values and Regulations, 1990,* p. VIII-12). Based on our review of the Turner, Mason and Company analysis, $4 billion of capital investment in existing refineries is required to achieve an aromatic reduction of 10 percentage points. DOE estimates that gasoline currently averages about 35 percent aromatics. DOE therefore calculated that this $4 billion investment would be necessary to meet the required reduction of aromatics in gasoline to 25 percent.

Additional capital investment is also required for MTBE and methanol production facilities. Based on Turner, Mason and Company's estimate of the cost of MTBE production, facilities, and a Department of Energy study of the cost of methanol production facilities (*Assessment of Costs and Benefits of Flexible and Alternative Fuel Use in the U.S. Transportation Sector, Technical Report 3: Methanol Production and Transportation Costs,* DOE/PE-0093, November 1989) additional investments of $13 billion (MTBE plants) and $4 billion (methanol plants) will be required, or a total investment in such facilities of $17 billion.

Finally, based on analysis provided by the Office of Technology Assessment (*Alternative to Conventional Liquid Fuels in Automobiles, Special Report,* Review Draft, December 21, 1989), the cost of reducing benzene to 0.8 percent would be 2.5 cents per gallon, which translated into an equivalent capital cost, would be $13 billion. Therefore, our total estimated cost to achieve, on a nationwide basis, the reformulation of gasoline that would be required in the Daschle amendment, assuming use of MTBE, is $35 billion.

If ETBE is used to achieve the oxygenate levels in the Daschle amendment, the costs could be substantially higher. For example, accounting for the ethanol that is currently produced, and accounting for the existing methanol used in MTBE, an additional 7.5 billion gallons of ethanol would be required to oxygenate all gasoline to the levels required in the Daschle amendment. Approximately 150 relatively large dry milling ethanol plants (50 million gallons per year) would be required to supply the additional ethanol. Based on capital cost and output data for the New Energy Company of Indiana ethanol plant, $36 billion (1990 dollars) of total investment in new ethanol production facilities would be required. We also estimate that the cost of the required ETBE production facilities would be $15 billion.

Considering the recent extension of the blenders tax credit to use of ethanol in ETBE, ETBE may be an economically attractive oxygenate to meet the requirements of the proposed amendment. Use of ETBE instead of MTBE could raise the estimated capital cost required to satisfy the Daschle amendment from $35 billion to $69 billion. These cost estimates do not include additional transportation and distribution infrastructure costs.

Under the Daschle amendment, these investments would be required within a 3-year period. Obviously, such a requirement is impractical. For example, these reformulation requirements would require an additional 14 billion gallons of MTBE or 16 billion gallons of ETBE, or some combination of the two. To produce an additional 14 billion gallons

[1] The Wirth-Wilson amendment required reformulated gasoline in fewer cities, and with a 4-year lead time instead of a 3-year lead time. These requirements were cited in my letter to Senator Dole.

of MTBE, 101 large scale (10,000 barrel per day) MTBE plants and 16 world scale (2,500 metric tons per day) methanol plants would have to be constructed. To produce an additional 16 billion gallons of ETBE, 116 large scale (10,000 barrel per day) ETBE plants and, as pointed out above, 150 large dry milling ethanol plants (50 million gallons per year) would have to be constructed. If Federal legislation required that these facilities be constructed in less than 3 years time, we estimate that the capital costs of such a project would be substantially increased. Shortages of architectural, engineering, and construction firms, skilled labor, and vendor supplied equipment would cause all costs to increase substantially. We do not actually believe that it would be possible to build all of this additional capacity within the three-year timeframe; but if it were, the cost penalty could easily be as high as 50 percent. Therefore, taking all of the above factors into consideration, we concluded that the capital cost estimates of these reformulated gasoline requirements "*range up to* $100 billion."

We cannot comment on the EPA and private industry estimates that you mentioned in your letter because those analyses have not been made available to us.

Clearly, if the requirements for reformulated gasoline were reduced to a smaller number of cities, and adequate lead time were provided, the costs of providing reformulated gasoline would be lower. However, compared to the reformulated gasoline program contained in the Senate-Administration compromise, the reformulated gasoline program required in the Daschle amendment could be very costly. This is becasue the fuel specifications contained in the Daschle amendment exclude less costly reformulated gasoline that would otherwise meet the ozone and toxic emission reduction requirements of the Seante-Administration compromise. Once overall toxic and ozone reducing requirements have been set, additional requirements on aromatics, oxygenate levels, or specific toxic components can only increase the cost of reformulation without achieving significant additional environmental benefits.

The department of Energy is moving aggressively to develop cost effective alternative transportation fuels, not only to improve air quality, but to reduce the transportation sector's near total dependence on oil. But time and trial is needed to determine what kind of reformulated gasoline or alternative fuel will work best. With the Nation's refinery capacity and fuel distribution infrastructure operating at near peak capacity, careful and accurate analysis is needed of the costs, benefits, and consequences of any new gasoline requirements. Moving too abruptly risks price and supply disruptions that none of us want.

The reformulated gasoline program contained in the Senate-Administration compromise is carefully crafted to introduce a clean gasoline in the cities that most need it as quickly as possible. We are concerned that moving too quickly would be counterproductive to the energy and environmental benefits that we both seek.

With kindest personal regards, I remain

Sincerely yours,

W. HENSON MOORE.

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, March 28, 1990.

MEMORANDUM

To: Senate Committee on Energy and Natural Resources. Attn: Joel Saltzman.

From: David E. Gushee, Senior Specialist in Environmental Policy.

Subject: Composition of Gasoline.

This responds to your request for a discussion of how a requirement that gasoline contain 2.7% oxygen in ozone nonattainment areas would interact with a requirement that gasoline have a maximum volatility of 9 psi as measured by Reid Vapor Pressure (RVP).

For an RVP 9 gasoline, MTBE, ETBE, and ethanol (with its 1 psi volatility waiver and the proper blendstock properties) can provide the necessary oxygen. In the start-up years, ETBE would probably be reserved for lower volatility areas, because of limited capacity to produce it. Currently, there is not enough MTBE capacity in the U.S. to supply the volumes required. Over the past year or more, a number of refiners have announced plans to build new MTBE capacity in domestic refineries (similar announcements are being made about capacity in Europe and the mid-East). There will be plenty of butane available from the RVP reductions. However, there is not enough isobutylene capacity to feed the MTBE units, so new isobutylene-from-butane capacity would also be needed. Also, there is not enough ethanol capacity to supply the volume which would be required under the proposed mandate.

For gasolines with RVP below 9, MTBE cannot be the major oxygen source, because its RVP is about 9, ETBE or mixed alcohols or ethers would be required (Octamix, for example, is a mixed alcohol product from which mixed ethers can be made, although at least some of the methanol in it would have to be removed to meet the vapor pressure requirement). However, there is essentially no capacity in place today to make large quantities of either, so construction for either would be required.

For low-RVP gasolines, indications are that significant changes in refinery operations would be necessary, at significant cost. The more stringent are the emission requirements, the greater the cost in refineries, for the least cost approach would be to produce more reformate, which unfortunately seems to cause greater tailpipe emissions. And tailpipe emissions make up most emissions, because at these low volatilities, evaporation contributes only a minor share of the total ozone-formers to the air.

Depending on the start-up schedule, it is possible that much of the additional ethanol would be imported until domestic production capacity could be built up and corn supplies arranged for. Similarly, it is likely that MTBE would be imported in the early years and maybe even for a long time, depending on how the economics of adding methanol, isobutylene, and etherification capacities turn out. And probably methanol would always be imported, even if the MTBE were made domestically.

The Clean Fuels Development Coalition (CFDC) testified before Senate Energy Committee 11/14/89 that 5-6 billion gallons of ETBE capacity would cost $4 to $7 billion, take 3 to 5 years, and add about 2 cents per gallon to gasoline price. For 2.7% oxygen, ETBE content has to be about 17%, MTBE about 15%. The 100 ozone nonattainment areas have about 40% of the national gasoline consumption. If all the gasoline in those areas had 17% ETBE, the need would be about 7 billion gallons of ETBE, which would need about 3 billion gallons of ethanol. If it were all MTBE, it would be 6 billion gallons of MTBE, or about 1.8 billion gallons of methanol (all imported). Other major shifts in refinery hardware and operations would also be required.

It could all be done in the 1990's, assuming that the Title I ozone controls and the Title V permits would allow it. I would estimate it would cost $25 to $50 billion to install the necessary butane isomerization and dehydrogenation capacity, added alkylation capacity, added distillation capacity and miscellaneous other fixes to balance refinery operations (API says up to $100). At $25 billion to $50 billion, it would cost about 10 to 15 cents per gallon, by analogy with CFDC's estimate.

Some specialists knowledgeable about industry operating practices say that 20% or 40% of total gasoline volume required to meet prescribed specifications by regulation, whether seasonally or year-round, in an integrated national market means all of it, in order to supply and resupply the whole infrastructure. If it does, then API's $100 billion begins to sound like a realistic estimate of potential cost to the industry.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. All time has expired.

Mr. BAUCUS. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana to lay on the table the amendment of the Senator from South Dakota. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA], is necessarily absent.

The result was announced—yeas 30, nays 69, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—30

Armstrong	Gorton	Mitchell
Baucus	Graham	Moynihan
Bentsen	Gramm	Murkowski
Biden	Hatch	Nickles
Boren	Heflin	Riegle
Breaux	Humphrey	Rudman
Chafee	Johnston	Shelby
Cochran	Levin	Stevens
Domenici	Lott	Wallop
Garn	Mack	Warner

NAYS—69

Adams	Ford	McClure
Bingaman	Fowler	McConnell
Bond	Glenn	Metzenbaum
Boschwitz	Gore	Mikulski
Bradley	Grassley	Nunn
Bryan	Harkin	Packwood
Bumpers	Hatfield	Pell
Burdick	Heinz	Pressler
Burns	Helms	Pryor
Byrd	Hollings	Reid
Coats	Inouye	Robb
Cohen	Jeffords	Rockefeller
Conrad	Kassebaum	Roth
Cranston	Kasten	Sanford
D'Amato	Kennedy	Sarbanes
Danforth	Kerrey	Sasser
Daschle	Kerry	Simon
DeConcini	Kohl	Simpson
Dixon	Lautenberg	Specter
Dodd	Leahy	Symms
Dole	Lieberman	Thurmond
Durenberger	Lugar	Wilson
Exon	McCain	Wirth

NOT VOTING—1
Matsunaga

The motion to lay on the table was rejected.

The PRESIDING OFFICER. The question is now on agreeing to amendment No. 1423 offered by the Senator from South Dakota.

The amendment (No. 1423) was agreed to.

Mr. DASCHLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN. Mr. President, I would like to enter into a colloquy with the distinguished chairman of the Subcommittee on Environmental Protection, Mr. BAUCUS.

We have an unusual situation in Iowa, since a major power plant was shut down for over 10 months during the 1985–87 period due to a tornado. This plant, George Neal 4, is a clean plant, emitting less than 0.8 pounds of sulfur dioxide per million Btu.

And yet, because of the 10-month shutdown due to tornado damage, this plant could not operate near full capacity after the emission cap goes into effect, if it is limited to an artificially lowered baseline—in this case because of the tornado-induced shutdown. I am sure it is not the distinguished manager's intent for this bill effectively to force a clean plant to limit operation, while dirty plants with plenty of allowances could continue operating at higher emission rates.

Section 402, paragraph (d)(1) of the substitute amendment 1293 does offer potential relief: this section states that "The Administrator may exclude periods during which a unit is shut down for a continuous period of four months or longer."

This is reassuring, but I would much prefer that this sentence be changed to the "Administrator shall" exclude such down periods, or at least the "Administrator shall exclude such periods if caused by natural disasters."

But I understand that this language change is not acceptable to the committee.

Mr. BAUCUS. Mr. President, the Senator from Iowa is correct. We cannot mandate this 4-month downtime exclusion, since some peak shaving plants may not operate for longer periods. Excluding these plants that are not routinely used full time would break the allowance and emission cap. We must therefore give the EPA Administrator the flexibility to separate the special cases from the normally low capacity units.

Mr. HARKIN. Mr. President, I then ask the Senator from Montana if it is the intent of this language in section 402 to exclude plants shut down unexpectedly by natural disasters such as a tornado?

Mr. BAUCUS. Yes, and my staff has discussed this very issue with representatives from EPA. They understand and concur that plants that were shut down by natural disasters such as the tornado in Iowa would qualify for the exclusion of section 402 for down-time.

Mr. HARKIN. Then it is the Senator's intent that the baseline for this plant would be determined by excluding those months when the plant was not operating due to tornado damage. That is, the average capacity during the other months in the 1985–87 time period would be used to determine the baseline to compute the plant's phase two emission allowances?

Mr. BAUCUS. That is correct.

Mr. HARKIN. I thank the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAUCUS. What is the pending amendment?

The PRESIDING OFFICER. The Baucus amendment No. 1307.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senator BREAUX be added as a cosponsor of the Symms small refinery amendment adopted earlier this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

AIRPORT SAFETY

Mr. FORD. Mr. President, I would like to take this opportunity to applaud the Federal Aviation Administration [FAA] and the American Association of Airport Executives [AAAE] for recently sponsoring a school designed to enhance safety and improve operations at our Nation's airports. With over 190 airport personnel from all sizes of airports in attendance, the inaugural Airport Safety and Operations Specialist [ASOS] School is a fine example of how cooperation between the Federal Government and the aviation industry can lead to a safer and more efficient air transportation system.

The ASOS School's diverse and impressive facility, ranging from FAA headquarter's officials to airport executives to airline pilots, presented 3 full days of intensive sessions on issues of critical importance to airport operations, such as aircraft rescue, fire fighting techniques, and control of runways incursions.

I commend FAA and AAAE for their excellent efforts to improve our country's aviation system and wish them continued success in future ASOS Schools.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

NOMINATION OF T. TIMOTHY RYAN

Mr. RIEGLE. Mr. President, I rise to address an issue of particular importance to members of the Senate Banking Committee with respect to the nomination of T. Timothy Ryan to be Director of the Office of Thrift Supervision.

In talking today with various members of the committee and ranking minority member, Senator GARN, recently on the floor, I want to review this situation because we may very well bring this nomination forward tomorrow for action and disposition in the Senate Banking Committee at 10:30 in the morning.

I say that is a tentative matter because I have not settled that as yet and I want to continue my discussions with other members of the committee.

But here are the circumstances, and it is very important that they be understood.

I received a letter from Secretary Brady on March 23 addressed to me asking that the committee expedite the consideration of Timothy Ryan, the nominee to be the Director of the Office of Thrift Supervision.

Our request for expedited action stems from recent court decisions in which injunctions have been entered against OTS based on Constitutional arguments. In order to avoid any delay or uncertainty in forging ahead with the critical work of OTS under the 1989 FIRREA legislation, an OTS Director, nominated by the President and confirmed by the Senate needs to be on the job. This is the fastest and surest way that Congress and the Executive Branch can address the current uncertainty.

I know that working together we can and will address this situation, and I thank you for your cooperation and assistance.

That is an unusual procedure and we treat this kind of a request with great respect. Certainly I do, and the committee has.

So on last Friday we received the papers of the nominee and within 3 working days had scheduled and conducted yesterday the nomination hearing. Obviously, in order to do that on such short notice other things had to be set aside and rearranged in terms of the committee schedule to respond to this unusual request of the Secretary, but we did so because of our feeling that what he requested was appropriate and that we should move as rapidly as possible. So that hearing was held yesterday and it went on at some length.

News stories, as many of you may have read today in various papers,

cover the content or at least some of the content of that discussion yesterday.

When he testified it became apparent to many members of the committee that they had grave reservations concerning Mr. Ryan's qualifications to assume the office for which he had been nominated. Mr. Ryan freely admitted in his testimony that he has no experience working in or with financial institutions. He has never been involved in financial institutions regulation and, further, he professed no opinion on the future of the thrift industry, the adequacy of thrift capital standards, the Federal deposit insurance system, and other issues fundamentally important to the position.

Following that hearing, it became apparent to me that a substantial possibility existed that the committee might very well reject Mr. Ryan's nomination.

Recognizing that possibility, I have communicated that view to people in the administration so they are fully apprised of that situation. And also, in keeping with the Secretary's request and in consultation with others, it is my view as chairman that we ought to try to move as quickly as we can in response to this initial request from the Secretary, and to deal with and dispose of the nomination in one fashion or another.

I might say that the rules of the committee require and allow the waiver of the usual notice requirements for scheduling a markup if exigent circumstances exist. And there are such circumstances, at least five of them, that, as I see it, would apply in this case. So I will not lay those out just now.

But I wanted to put Senators, particularly those on the Senate Banking Committee, on notice that we may very well be in tomorrow morning for a vote on this nomination at the hour of 10:30. I want to continue my discussions with Senators before making a final judgment.

But as soon as that issue is clear, I will so state. But that is my present inclination, and so that may very well be the course of action that we take.

I would further say that my sense of the canvass of the votes would be—and it is not complete, and I have not talked with every Member directly—but I think, based on the vote count that I have, that there are not the votes to confirm this nomination. But that would await, of course, a rollcall in the committee.

So in any event, whatever the disposition, I think we are under some obligation to move as rapidly as the Secretary has asked us to move. We have moved faster on this nomination than any that we have dealt with at his request. We want to continue to move with the same speed.

So with the Senate on that notice, and based on further conversations when I have more to report, I will do so.

Mr. WIRTH. Will the Senator yield?

Mr. RIEGLE. Yes.

Mr. WIRTH. I thank the Senator.

I wanted to thank the distinguished chairman of the Banking Committee for moving expeditiously on this. We do have an obligation to move very rapidly. This is an extraordinarily important appointment.

We are faced with perhaps the biggest set of scandals and problems in our financial industry since the Great Depression, and we must have somebody of the highest quality right away to take over this enormously important job.

Unhappily, from listening to the very extensive discussions that were held in the hearing that the chairman scheduled right away at administration's request—we had almost all the members of the Senate Banking Committee there—I think, as the press reported extensively this morning, the nominee did not impress very many members of the committee with his knowledge of the issues, with his sense of worthiness to where he is headed in the future, and with his ability to cope with this extraordinarily difficult problem.

I know we are going to move on this very rapidly. If this gentleman, Mr. Ryan, is not confirmed, then I would hope that the administration would send up to us somebody of the highest quality who really knows this situation as well as it must be known.

I again commend the distinguished chairman of the committee for moving as quickly as he possibly could. I cannot imagine the Banking Committee moving any more rapidly on this, and I think he did a very good job.

I thank the distinguished chairman for yielding.

Mr. RIEGLE. I thank the Senator for his personal comments.

I might say one other thing. It is very important to understand that with respect to this position, the nominee, whoever is finally confirmed, not only becomes the Director of the Office of Thrift Supervision, and therefore is responsible for resolving the enormous number of problem situations in that industry, but this person also gets two other very major top-level jobs.

He becomes a member of the FDIC, overseeing the entire insurance system that underlies our banking and savings and loan system, and as well becomes a member of the RTC, the Resolution Trust Corporation that has the responsibility of disposing of an enormous amount of property and assets that have been accumulated by the Government.

These are three top-level financial positions of enormous responsibility and consequence at this particular time. It is against the standard of that requirement and that outstanding problem that this nominee has been assessed in the committee and by members of the committee.

It is very important, I think, that these facts be openly and widely shared among ourselves, because we are operating under an extraordinary request for speed and we want to respond in that fashion.

I might say as well that there is now an acting director, Mr. Martoche who serves on an acting basis. So there is a person in that capacity who can continue to act while the judicial stay is in place. And should this nomination not be approved and sent forward, I hope the administration will choose somebody, maybe somebody who presently serves in the administration with an extensive background in top-level financial activity not necessarily in the savings and loan business, but certainly of a substantial financial weight and breadth and experience base, could be found to be sent forward in that eventuality, in which case the Banking Committee is prepared to move with the same speed.

I am prepared to set anything else aside next week that we have before us in order to take up this matter in any other form that it may be presented because we want to be responsive, and I intend to be responsive.

I would finally conclude by saying that I think we have had an excellent working relationship with the administration from the very first day of this Congress. I prize that relationship and I intend to maintain it.

We have operated on a fully open and equal bipartisan basis within the committee, and that is the way I intend to continue to operate the committee.

I want to make sure that we are communicating directly and openly back and forth on a matter of this consequence. I have taken this time now for that purpose, and I hope that is clear. When I have more to report, I will do so.

I thank the Chair, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President I ask unanimous consent that I be permitted to proceed in morning business for a period not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized.

Mr. WILSON. I thank the Chair.

(The remarks of Mr. WILSON pertaining to the introduction of Senate Joint Resolution 282 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I make an inquiry to the distinguished manager of the bill and ask, are we in a position where I can offer an amendment now that has been cleared on both sides?

Mr. President, I ask unanimous consent to lay the pending amendment aside.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

AMENDMENT NO. 1424 TO AMENDMENT 1293

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposed an amendment numbered 1424 to amendment No. 1293.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 107 at page 80 is amended by striking "(A)" at line 4, by striking the word "each" at line 6, by inserting the letter "s" following the word "employee" at line 6, by striking the word "a" at line 7, by inserting the letter "s" following the word "space" at line 7, by striking the semicolon on line 7, and by striking the words "and" through the word "cost" on lines 7 to 10.

Section 108 at page 112 is amended by striking "(1)" at line 18, by striking the word "each" at line 20, by inserting the letter "s" following the word "employee" at line 21, by striking the word "a" at line 21, by inserting the letter "s" following the word "space" at line 21, by striking the semicolon on line 22, and by striking the words "and" through the world "cost" on lines 22 to 24.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, this is a compromise amendment I worked out with the leadership on both sides. I had originally intended to offer an amendment that was a little more blunt in repealing the mandates of this bill with respect to carpooling.

First, I would say I support car pooling. I think carpooling is a very brilliant idea, and I think we should recognize carpooling did not come as some ingenious idea thought up by the Federal bureaucracy. Carpooling is something people have done any time they are traveling in the same direction and do it on a regular basis. It saves gas, wear and tear, there are many good reasons to carpool.

This amendment, rather than striking the portion of the bill that referred to carpooling, as I had originally intended to do, simply states and modifies the position to say if a company has employees, rather than just ordering them to carpool, it simply encourages them to spend as much money to encourage and enhance carpooling as they do paying for parking.

I think it is a fair compromise. What it will really do is it will really be an incentive for companies to encourage their employees to carpool by paying bonuses and so forth, some mileage allotments, because in many many ways this will save a lot of money. If people carpool, they will not have as big a parking problem. I thank the leadership of the committee. I see the distinguished Senator from Vermont is here, and I yield the floor.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Vermont.

Mr. JEFFORDS. Mr. President, as I understand the amendment, and I think it is a useful one, the methodology for trying to determine as to whether or not a person complies with this section was rather confusing and difficult to show.

This simplifies the situation by saying that as long as an employer is spending as much on carpooling or other ways of sharing rides as he, the employer, is on the aspects of parking, then he is in compliance with this section.

I checked with both sides of the aisle, and this amendment is agreeable.

Mr. LIEBERMAN. Mr. President, I want to support the amendment offered by Senator SYMMS. I also want to describe the importance of the ridesharing provisions in sections 107 and 108 of the committee amendment No. 1293. During this debate on the Clean Air Act, perhaps the clearest message to emerge is that motor vehicles are the principal source of the Nation's smog and carbon monoxide problem, contributing about 50 percent of the ozone problem and about 90 percent of the carbon monoxide problem.

Unfortunately, vehicle emissions are expected to increase at the end of this decade for two important reasons.

First, people are driving more. There are 140 million cars on the Nations' highways today—over 50 million more than in 1970, driving 40 billion more miles per year. In 1987, passengers in private automobiles alone drove 1.49 trillion miles. Moreover, a recent article in the New York Times reported that while people outnumbered cars by 2.5 to 1 in 1970, by 1988, there were just 1.7 people per car. Half of the automobile trips made in the United States carry only the driver, and 87 percent of all trips involve no more than two passengers. Americans—only 5 percent of the world's population—own 35 percent of the world's cars and actually drive as many miles each year as the rest of the world combined.

Past predictions have been that the annual number of vehicle miles traveled would increase by about 2-3 percent per year from now through 2005. According to the Congressional Office of Technology Assessment, using this figure would mean that there would be a 40-60 percent cumulative increase. But the most recent estimates have shown that the annual rate in many areas is more than double these predictions. The president of the Highway Users Federation recently stated that the growth in many urban areas exceeds 6 percent annually. Another recent study concluded that the average annual increase exceeds 6 percent in four cities, including Portland, OR, Sacramento, CA, San Diego, CA, and Atlanta, GA. Thus, even though individual cars are getting cleaner, the ever growing number of cars and the number of miles they travel smother the gains we are trying to get from making cleaner cars.

Second, congestion is also increasing. Large increases in vehicle miles traveled, combined with even modest expansion of our transportation system, will result in significant congestion and substantial increase in emissions. The Highway Users Federation has reported that "congestion already delays Americans more than 2 billion hours a year at a cost of $75 billion in lost productivity." The General Accounting Office recently issued a report concluding that urban congestion levels will increase nearly 300 percent over 1985 levels by the year 2005, barring changes in drivers' behavior or the introduction of measures to reduce congestion.

These cars and trucks are the single largest contributor to the Nation's smog and carbon monoxide problems, emitting 40-50 percent of the Nation's hydrocarbons and nitrogen oxides and 90 percent of the carbon monoxide.

Motor vehicles also account for one third of all U.S. carbon dioxide emissins. The United States generates more carbon dioxide from motor vehicles alone than most other developed countries produce from all sources. If the current rate of vehicles miles travelled continues in the United States, transportation-related CO_2 emissions will increase by 30 percent by the year 2000.

The new Clean Air Act will require that the automobiles produced in the future be cleaner than today's cars.

But if we are ever to reduce or even simply avoid increases in vehicle pollution, it is not enough to control only the pollution which each car emits. The use of the car must be examined as well because the growth in vehicle

miles traveled threatens to overwhelm what can be achieved through even the toughest tailpipe standards. Even as our cars get cleaner, it is clear that we must deal head-on with the problem underneath the problem—the increasing number of cars on the road and the increasing number of miles these cars travel.

In the past, the Congress has elected to simply keep hitting Detroit with ever-greater tailpipe standards at even greater costs. It has ducked the issues of vehicle use. The bill before the Senate tries in a very modest way to change this pattern. It includes some very small measures which are intended to reduce future growth of vehicles miles traveled, but at the same time provide enhanced mobility to serve increasing travel demands.

Before discussing the specific provisions of the bill which relate to employee ridesharing, it is important to place them in the context of the other requirements of the bill.

The bill requires all industries to do more and in fact poses technological challenges to many industries to develop processes which will result in less pollution. In contrast, the Office of Technology Assessment has concluded that transportation control measures are a technologically simple way to lower emissions which can result in very large improvements. They are also far more cost effective than other pollution control efforts. For example, OTA notes that the implementation of transportation control measures in Los Angeles is expected to reduce highway vehicle VOC emissions by a total of 30 percent by 2010, compared to levels projected without the controls.

The committee's efforts to take this leading role have been supported by numerous groups in the testimony last year and in letters to Congress. The State and local air pollution control officials, the clean air working group made up of 2,000 small and large businesses, the Clean Air Coalition, the umbrella organization of environmental groups, the American Public Transit Association, the Northeast States for Coordinated Air Use Management, the National Association of Railroad Passengers, the State of New York Metropolitan Transportation Authority, all have expressed support for these provisions. The clean air working groups, composed of American businesses, supported the transportation provisions in their testimony on the Senate bill. They said: "CAWG endorses (the bill's) emphasis on the role of * * * TCM's. It is important to recognize that new automobiles have very low emissions levels. * * * CAWG suggests, however, that attention to automobile use issues should be extended still further. For example, TCM's might be an alternative in moderate and serious (nonattainment areas), not just in the worst two classes." In other words, this group of 2,000 small and large companies most affected by this bill feel that the transportation provisions in it did not go far enough.

The provision on employee vehicle occupancy programs contained in section 107 of the bill aims to reduce the number of vehicles on the road during rush hours and the time the remaining cars spend idling or operating at inefficient low speeds, and thereby to reduce the emissions of hydrocarbons, carbon monoxide, and NO_x.

The results of this provision could be dramatic because more than 80 percent of our population commutes to work in automobiles. We could save 33 million gallons of gasoline each day and significantly reduce air pollution if the average commuter passenger load were increased by just one person.

This provision applies only in ozone areas classified as severe or extreme and in carbon monoxide areas classified as serious. These are the areas of the country, including Connecticut, where the public health threat from ozone and carbon monoxide is the worst. Therefore, this provision is only going to apply in about 15 cities. This is not a national program—it will apply in only the very worst areas.

The bill requires that major employers—those with more than 100 employees—achieve a reduction of 25 percent improvement in commuting vehicle occupancy above a baseline in the affected area for ridership on all such trips. This program is modeled on programs long in place in California.

Affected employers will have complete flexibility in the types of incentive programs, services and facilities to encourage employees to share commuting trips. Some examples which have been successful at California companies where these programs have been instituted include: ride-matching services, vehicles provided for use during the day for employees who ride-share, rides home in the event of an emergency, ride-matching services, parking assistance for carpoolers, preferential parking for carpools, passes for transit users, and local shuttle services.

Importantly, there is no absolute requirement in the bill that this increase in ridership be met by the employer. This amendment clarifies that an employer who subsidizes parking for employees at the employer's workplace, which would include the employer's own parking facility or at a commercial facility, can demonstrate compliance with the requirement even if the increase is not achieved if the employer can show that it is making expenditures on the ridesharing program equal to the amount which the employer is spending on providing employees' parking spaces. This, I believe, is a fair and reasonable compromise on this expenditure issue.

Some will undoubtedly argue that the ridesharing provisions in this legislation, even as amended, would result in large economic costs to both large and small industries. But the evidence is to the contrary: Employer ridership programs make economic sense for both the employees and employers.

For example, studies in California show that trip reduction programs result in savings to the employers who previously subsidized parking because they are paying for fewer spaces. For example, the California South Coast District estimates that an administrative center employing 1,259 people and spending $365,500 on employee parking would save $115,000 annually by increasing the number of ridesharers by 18 percent.

The trip reduction program in the Los Angeles area also has resulted in savings to the employees. For example, the program at Arco's facility resulted in estimated annual savings of $1.77 million to the company's 1,475 employees, assuming a savings of approximately $2,000 per employee per year.

In other words, California employers find that ridesharing programs are far cheaper than providing employee parking.

The evidence also is that where trip reductions programs have been implemented they are successful. OTA reports that some companies have increased the proportion of their employees who do not ride alone to more than 80 percent of their work force. The most far-reaching program in effect is in Los Angeles. Los Angeles' regulation, in effect, requires that average ridership be increased from the current level of 1.13 to a new level of 1.3 to 1.75 per vehicle, depending upon the location of the company. The ordinance applies to employers of 100 or more employees and affects more than 8,000 businesses. According to OTA, the regulation is expected to reduce the number of private motor vehicle trips made each day by about 10 percent, resulting in reductions in volatile organic compounds of 4 percent of current highway vehicle emissions. In the field of clean air where we spend most of our energy fighting to just keep emissions from growing, getting a 4-percent reduction in such a cost-effective manner is extraordinarily significant.

In Pleasanton, CA, a 1984 ordinance set a goal of reducing peak hour commuting traffic by 55 percent—far above the modest level proposed in this bill—from a baseline that assumed everyone drives alone. Employers are expected to achieve a 15-percent reduction in the first year and additional reductions of 10 percent in each of the next 4 years. According to OTA, in the second year of the program, only 3 of the many companies complying failed

to achieve the targeted 25 percent reductions, and 12 companies had already exceeded the fourth year target of 45 percent.

One means to comply with the requirement will be to encourage greater use of mass transit—which counts as an increase in the occupancy of the transit vehicle—thereby decreasing the number of cars on the road. One of the incentives which employers may choose to use to encourage employees not to drive to work is to provide mass transit passes as alternatives to parking spaces. A 1984 study by the Port Authority of New York and New Jersey showed that 64 percent of New York City-bound motorists crossing the Hudson who participated in the survey were subsidized by their employer for the trip, typically through employer-provided parking. The study disclosed that 28 percent of Holland Tunnel work commuters and 26 percent of Lincoln Tunnel work commuters—two of the most important routes into the highly congested New York area—switch to public transit if their employer subsidized in whole or in part their mass transit trip. This is dramatic evidence that the employer ridership program now in the bill will have an important effect on pollution levels.

This port authority data also underscores the effect of the existing Federal tax subsidy that the Federal Government now provides for parking which is nothing less than a direct subsidy on single occupancy auto use. Employees, in turn, receive free parking from an employer as a tax-free fringe benefit and this Federal subsidy for parking further exacerbates urban area congestion. Employers in the small number of cities that will face this ridership provision are already on the Federal tax gravy train through this tax subsidy; the ridership provision in the bill simply provides that they will have to take a few modest steps in return for this tax break. It is a modest attempt to offset some of the very adverse environmental effects of the Federal tax subsidy.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 1424) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. RIEGLE. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BIRTHDAY OF JAMES MADISON

Mr. LEAHY. Mr. President, in recent months, we have watched as one Communist regime after another has crumbled in the face of overwhelming demands for democracy. Years of cold war between the Communist and free worlds have given way to a shared belief in a free, cooperative future. We have conquered these closed, oppressive societies not by force, but by example. We have shown them that freedom is the greatest impetus for change.

On March 16, we in the United States celebrated the 239th birthday of James Madison, whose commitment to the principles of open government is a lasting legacy to the American public. It was Madison who said:

> A diffusion of knowledge is the only guardian of true liberty.

Madison knew then, as we know today, that a legitimate democratic government is possible only if it is fueled by an informed electorate. Our government, of, by, and for the people is an empty guarantee if the people know not what the government is doing in their name. We must ensure that the public is fully informed because we are a society of free individuals with not only the right, but the duty to govern ourselves.

The Freedom of Information Act is a superb tool for ensuring that the public has access to government information and thereby the power and knowledge to govern effectively. It is a great weapon against government secrecy, public ignorance, and widespread complacency.

The FOIA embodies our commitment to liberty and self-determination. It represents faith in our ability and right to govern ourselves. The significance of the act has not gone unnoticed by the world's new struggling democracies.

A leadership group of the Hungarian opposition party, Alliance of Free Democrats [FIDESZ], visited the United States to study our system of government. These Hungarians were so impressed with the notion of every citizen having the right to government information, that they decided to draft legislation in the spirit of our FOIA. Imagine a member of the Warsaw Pact enacting a Freedom of Information Act.

Our values, principles, and ideals are sweeping the world. Our belief in democracy is shared by those who have known the misery of living without it. In the face of these changes it is time to renew our commitment to the FOIA and the ideals it represents.

In just the last year, the FOIA has been used successfully by journalists to reveal: Details of the scandal at the Department of Housing and Urban Development, discriminatory practices against blacks and Hispanics by savings and loan institutions, lapses in airport security as documented by the Federal Aviation Administration, accidents at the Rocky Flats nuclear weapons plant, and details of the *Exxon Valdez* oil tanker accident.

Despite frequent delay and agency intransigence, reporters, and in turn the American people, prevailed in these instances. The FOIA worked. And the promise of government accountability was realized.

Abraham Lincoln once said:

> While the people retain their virtue, and vigilance, no administration, by any extreme of wickedness or folly, can very seriously injure the government, in the short space of four years.

Extreme folly is no stranger to government, but vigilance by the people and the press has tempered many potential excesses. That vigilance is crucial to the control of a government that has grown exponentially since its inception. It is true that there are times when government secrecy is necessary, but those times are rare and require full justification by those who assert it. It is too tempting to shroud mistakes, embarrassments, and political miscalculations behind the veil of government silence. A responsible government must resist that temptation.

MINORITY OWNERSHIP AMENDMENT TO THE CLEAN AIR ACT

Mr. GORTON. Mr. President, I rise today as an original cosponsor of Senator SANFORD's minority ownership amendment to the Clean Air Act. This amendment will clarify a potential conflict between majority and minority owners or operators of generation projects regarding the allocation of allowances. Because allowances will be produced by pollution controls paid for by all joint owners, this amendment will ensure that the granted allowances must be allocated in proportion to ownership.

Many electric utilities across the country participate in the ownership of jointly funded generation. In my home State of Washington we have several coowned and operated electric generating facilities. Minority owners share both the burdens and risks of

these facilities with the majority owners and the costs of emissions controls. Since they will pay a proportionate share of the costs of emissions reductions, minority owners should be entitled to a proportionate share of emissions allowances.

Without this amendment, the existing language could lead to disputes between joint owners. Contracts governing joint power projects were written years ago in negotiations similar to the one in which we presently find ourselves. If EPA allocates all allowances to the majority owner or operator, minority owners would have to go back to the bargaining table over this issue, and in many cases be forced to pay a premium to obtain their fair share of allowances. This would be time consuming, costly, and unfair.

I appreciate the cooperation of the leadership on this important amendment and thank Senator SANFORD for his leadership on this issue.

A CALL FOR SUPPORT FOR THE U.N. CODE ON TRANSNATIONALS

Mr. PELL. Mr. President, action at the United Nations on the proposed Code of Conduct for Transnational Corporations has reached a critical stage. After more than 10 years of discussions, the matter has reached the point where its early completion is imperative.

The code proposes a voluntary set of guidelines that, if enacted, would maximize the positive contributions of corporations that operate across national borders. The code would also minimize the negative aspects of multinational corporate activities.

Mr. President, recently an informative article on the code appeared in the United Nations Association publication, the Interdependent. The article was authored by Esther Peterson, the International Organization of Consumers Unions Representative to the U.N. Economic and Social Council. Mrs. Peterson has had a long and distinguished career in public service, and she is well known to many of us in the Senate for her service in the Kennedy, Johnson, and Carter administrations.

As Mrs. Peterson points out, our changing global situation has made the need for the code all the more apparent. A new order is emerging in Europe, and it will be important to implement standards of good behavior for international businesses and for host countries. In addition, the code would make an invaluable contribution to international environmental protection, an issue that should be a priority for the United States and the international community.

Mr. President, I believe Mrs. Peterson sends an important message about the code to the administration and to interested observers. I also believe that my colleagues in the Senate would benefit from her words, and I ask unanimous consent that Mrs. Peterson's article in the Interdependent be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Interdependent, Spring 1990]

NEW SUPPORT FOR CODE ON TRANSNATIONALS

(By Esther Peterson)

At a November hearing of a congressional subcommittee that has been examining U.S. policy toward the proposed U.N. Code of Conduct for Transnational Corporations, a strong plea was made for members to persuade the United States Mission to the U.N. to change the administration's stance from one of footdragging to that of active support. Chairman Gus Yatron (D-Pa.) of the House Subcommittee on Human Rights and International Organizations and Congressman Wayne Owens (D-Ut.) sent a joint letter to President George Bush urging him to support the Code "as representing good practices and good conscience in the world's marketplace."

The Code, which is being negotiated before the U.N. Commission on Transnational Corporations (TNCs), would spell out guidelines both for TNCs in their dealings with countries and for the host country in its treatment of TNCs. The Code, a voluntary set of norms, would benefit the public in every country by setting up standards of decency, of fair competition, fair market prices, and greater honesty in the operation of businesses across national boundaries.

This is promising material for those of us who watch current happenings with genuine concern—the dumping of hazardous wastes, destruction of natural resources, intrusions on national sovereignty and on cultural patterns, and the exploitation of citizens in developing countries. At present we have no minimum standards, no inclusive international yardstick for measuring responsible conduct.

However, as the world economy is growing and as new democracies are emerging, standards for good corporate and nation-state behavior are definitely called for. The Code could prove especially valuable to the Eastern European countries as they move into market economies and increase their activities as host to foreign investment. The Code is not designed as a business-bashing instrument. Initially conceived as a set of standards for the behavior of corporations that invest across national borders, it has since evolved to include standards for host country dealings with foreign investors as well. Among the guidelines established by the Code are respect for national sovereignty, observance of human rights, observance of social and cultural values, environmental and consumer protection, abstention from corrupt practices, and fair and equitable treatment in countries in which the TNC operates.

The United States was the first to propose a U.N. agreement on standards for foreign investment, way back in 1948. Work on the Code at the U.N. began in 1977. During the last decade agreement has been reached on about 80 percent of the Code, including some important provisions on environment and consumer protection. Unfortunately, the United States has been anything but a strong supporter over the last years. In 1987, President Reagan's Assistant Secretary of State for International Organization, Alan Keyes, said that negotiations on the Code were "bogged down." and last November the Bush administration testified that it saw little hope for an early agreement on the Code. Fortunately, however, increasing congressional and nongovernmental organization interest, developments in the EEC, and a strong commitment to passage of the Code by members of the Commission on TNCs (including support from the Group of 77) have given new hope for a successful adoption of the Code.

After reaching agreement on the great majority of its provisions, the Code negotiations have indeed been deadlocked on one or two issues concerning the standard of compensation for expropriation and the formulation of an "international law" standard. It is mostly agreed, however, that these are antiquated agruments that have lost much of their meaning in today's investment climate. A committee of international experts has proposed solutions to those outstanding issues; what is needed now is the political will to complete the work.

The Code is becoming more and more relevant to Americans at home as the U.S. becomes a major host country for foreign investment. The Code not only serves to protect U.S. corporations against discriminatory practices throughout the world but is also a vital instrument for the U.S. In its role as a recipient of non-U.S. goods and services. Additionally, it will help to secure a predictable climate for Americans seeking to invest abroad.

During the congressional hearings in November, hope was expressed that, in light of recent compromises favorable to the U.S., the administration would take a more supportive role vis-á-vis the Code. However, in their letter to President Bush, Congressmen Yatron and Owens said: "We were somewhat disappointed by the Administration's unenthusiastic approach toward achieving an acceptable Code in the near future. We were hoping that, as a former U.N. ambassador, your support for this endeavor would be stronger than your predecessor's. We are appealing to you to direct the State Department and the U.S. Mission to the U.N. to reconsider your policy and assume greater international responsibility in the development of fair and reasonable standards of corporate and financial activities carried across national boundaries."

The proposed Code is now on the agenda for the March/April meeting of the U.N. Economic and Social Council's (ESOSOC's) Commission on TNCs.

RECOGNITION OF INDEPENDENT LITHUANIA

Mr. HELMS. Mr. President, this morning, the President of Independent Lithuania once again pleaded with the United States Congress to give strong support for the formal recognition of his government. Even now, the Soviet tanks are in his streets, Soviet KGB troops are occupying public buildings, and Mr. Gorbachev is demanding that the Lithuanian declaration of independence be rescinded. The failure of the world to act, the failure of the United States to act, is inviting Mr. Gorbachev to crush the fledgling independent Republic.

President Landsbergis, in a special message of Senators and Congressmen this morning, stated as follows:

Now the freedom of Lithuania is in great danger.

For this reason, I would like to state very clearly:

Support for Lithuania is support for freedom and democracy in Eastern Europe. This support will also undoubtedly help Mr. Gorbachev: it would stop him from making a great mistake.

The recognition of the government of the reestablished Republic of Lithuania that we request is a very important step towards strengthening peace in the world. As we wait with strong hearts and with no weapons in our hands, we await your help in this difficult struggle against militarism and aggression, in this struggle for peace and justice.

Mr. President, that is an eloquent plea for help from a brave man representing a brave people. How is it possible to say that these brave people are wasting their courage, and are failing to understand their situation? It is possible that a statement so eloquent is at the same time misguided? Is it possible that people who are putting their lives and their freedoms on the line have miscalculated in their bravery?

Mr. President, I do not think so. I think that the Lithuanian people know exactly what is good for them. Only firm resolve, only the courage of conviction can win out against oppression. Immediate recognition of the Lithuanian Government is the only measure that can save the Lithuanian people from disaster.

For that reason, Mr. President, the reluctance of the United States to recognize the freely elected government of independent Lithuania is a tragic indecision that may very well lead to dangerous consequences. The situation in Lithuania hangs in a very delicate balance. The Soviet dictator, Mr. Gorbachev, has his hands on that throat of a peaceful and independent country. He could throttle it at any moment, or he could slowly strangle a free country over a period of months. And he will do either without remorse so long as he believes he has no significant opposition from the United States.

Of course, we cannot use armed force to dissuade Mr. Gorbachev from his aims. But we don't have to. We have the power of persuasion, and it is a powerful form of persuasion. We can deny Mr. Gorbachev the very things he needs the most: International recognition as a member of the civilized family of nations; participation in worldwide markets on advantageous terms; Western financing of Soviet economic problems. If we were to recognize the independence of Lithuania immediately, we would no longer have to persuade Mr. Gorbachev that we are really in earnest. He would see that the very things he desperately seeks from the West would be in jeopardy.

President Bush has suggested that the recognition of the government of Lithuania might encourage his friend, Mr. Gorbachev, to use military force against Lithuania. But if the President were to think things through, he might well conclude that an international leader who threatens such force, especially the dictator of a country that brandishes massive military force for illicit means, can hardly be a friend of the United States.

Mr. President, whether Mr. Gorbachev himself stays or falls may very well be irrelevant to the United States. Mr. Gorbachev's military policies at this moment constitute a greater threat to the United States than 5 years ago, despite perestroika or perhaps because of perestroika. The consolidation of Mr. Gorbachev's powers in the Soviet Union is hardly an advantage to the United States. We did not make Mr. Gorbachev, nor can we unmake him. Another leader may come who is better or worse than Mr. Gorbachev; the important thing is that the United States follow realistic policies in dealing with a Communist system that has been proven to be an historic danger to freedom.

It is said that the recognition of Lithuania might lead to the disintegration of the Soviet Empire. If so, so be it. The Soviet system is one conceived in force, imposed by bloodshed, and is collapsing internally because its system is diametrically opposed to nature of man. We do not need to take steps to hasten its collapse, but neither should we do the slightest thing to prevent its collapse. All over the Soviet Union, one nation after another yearns to be free from the hateful system of communism. They do not look upon the so-called reform of communism as a blessing, but as an opportunity to seize upon its weaknesses to get out.

So, Mr. President, I say let Lithuania out. Let all the Baltic states out. Let the Ukraine out, if it so desires. Let Georgia out. Let Armenia out. Let Moldavia out. Let all the Asiatic republics out. The disintegration of the Communist Soviet empire will be good for all those nations, and it will be good for the United States. It will even be good for what's left of the Soviet Union. Mr. Gorbachev may stay, or he may go, but it may even give what's left of the Russian republics a chance to rip out communism root and branch, instead of being saddled with alleged "reform."

My feeling, therefore, is that to recognize Lithuania will not trigger bloodshed; rather, the failure to recognize Lithuania will invite bloodshed. If we, as a nation, abandon principle in order to court the favor of the unprincipled, then we give a stamp of approval to aggression.

There is only one way to avoid tragedy in Lithuania. That way is recognition of the independent government of Lithuania. There is only one way to bring about national self-determination—not only for Lithuania, but for all the nations of Eastern Europe and all the nations forcibly incorporated in the Soviet empire. That way is recognition of Lithuania. The whole future of the world hangs in the balance.

Mr. President, the recognition of Lithuania is the right thing to do, no matter what the consequences. But if we fail to do the right thing, the consequences for our own Nation will be tragic indeed.

Mr. President, I ask unanimous consent that the statement of President Landsbergis of today, March 29, as well as his earlier statement of March 26, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPEAL OF THE SUPREME COUNCIL OF THE REPUBLIC OF LITHUANIA TO THE SIGNATORIES OF THE HELSINKI FINAL ACT

(Received March 28, 1990 via telex from Vilnius)

The armed forces of the Soviet Union are pursuing aggressive military actions against the Republic of Lithuania. Civilian buildings are being taken over by force, hospitals are being ravaged, citizens and even patients under the protection of the Lithuanian state and the Lithuanian Red Cross are being abducted by brutally violent forces. A Lithuanian militiaman was cruelly beaten while in the line of duty.

When Soviet armed forces enact similar operations in their own territory, their actions are qualified as unconstitutional and contrary to the laws of the Soviet Union. Such behavior of Soviet military troops within the sovereign territory of the Republic of Lithuania and directed against defenseless Lithuanian citizens is a brutal violation of human and civil rights and a breach of universally recognized principles of international law—sovereignty of states; territorial inviolability; and the observance of the policy of non-interference with respect to the internal affairs of states.

The government of the Republic of Lithuania has demanded that the government of the Soviet Union immediately discontinue the aggressive activities of the Soviet armed forces and return all recently abducted Lithuanian citizens. The Supreme Council of the Republic of Lithuania urges the governments and parliaments of nations which are signatories to the Helsinki Final Act to put forth every effort that the aforementioned actions taken by the Soviet government and directed against the Republic of Lithuania be terminated.

VYTAUTAS LANDSBERGIS,
President of the Supreme Council of the Republic of Lithuania.

VILNIUS, *March 27, 1990.*

LITHUANIAN GOVERNMENT APPEALS TO U.S. CONGRESS

NEW YORK, March 29, 1990. President Vytautas Landsbergis of Lithuania has issued a call for recognition of his government to the U.S. Congress, reports the Lithuanian Supreme Council Information Bureau from Vilnius in a telex to the Lithuanian Information Center of New York. Following is the text of his message.

DEAR SENATORS AND CONGRESSMEN: By the will of the people of Lithuania, we, the Supreme Council of Lithuania, were elected on a platform to reestablish the Republic of Lithuania, continuing its statehood, returning it to Europe and to the family of free nations. And we have done it. But now the freedom of Lithuania is in great danger.

For this reason, I would like to state very clearly:

Support for Lithuania is support for freedom and democracy in Eastern Europe. This support will also undoubtedly help Mr. Gorbachev: it would stop him from making a great mistake.

The recognition of the government of the reestablished Republic of Lithuania that we request is a very important step towards strengthening peace in the world. As we wait with strong hearts and with no weapons in our hands, we await your help in this difficult struggle against militarism and aggression, in this struggle for peace and justice.

Yours, with trust and hope,
VYTAUTAS LANDSBERGIS,
President of the Supreme Council of the Republic of Lithuania.

VILNIUS, *March 29, 1990.*

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,839th day that Terry Anderson has been held in captivity in Beirut.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment;

S.J. Res. 250. Joint resolution designating April 1990 as "National Recycling Month"; and

S.J. Res. 266. Joint resolution designating March 1990, as "United States Naval Reserve Month."

The message also announced that the House has passed the bill (S. 1036) to improve the economic, community, and educational well-being of rural America, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1463. An act to amend the National Capital Transportation Act of 1969 relating to the Washington Metrorail System; and

H.J. Res. 500. Joint resolution to designate April 6, 1990, as "Education Day, U.S.A.".

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 4:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 2151. An act to permit the transfer of the obsolete submarine U.S.S. *Requin* to the Carnegie Institute in Pittsburgh, Pennsylvania, before the expiration of the 60-day waiting period that would otherwise be applicable to the transfer;

S.J. Res. 250. Joint resolution designating April 1990 as "National Recycling Month"; and

S.J. Res. 266. Joint resolution designating March 1990 as "United States Naval Reserve Month".

The enrolled bill and joint resolutions were subsequently signed by the Acting President pro tempore [Mr. KOHL].

ENROLLED BILL SIGNED

At 8:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4099. An act to suspend section 332 of the Agricultural Adjustment Act of 1938 for the 1991 crop of wheat.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1463. An act to amend the National Capital Transportation Act of 1969 relating to the Washington Metrorail System; to the Committee on Governmental Affairs.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore [Mr. KOHL] reported that on today, March 29, 1990, he had signed the following enrolled bill, which was previously signed by the Speaker of the House:

H.R. 2692. An act to amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life shall be members of the Board of Trustees of the Woodrow Wilson International Center for Scholars.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, March 29, 1990, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 2151. An act to permit the transfer of the obsolete submarine U.S.S. *Requin* to the Carnegie Institute in Pittsburgh, Pennsylvania, before the expiration of the 60-day waiting period that would otherwise be applicable to the transfer;

S.J. Res. 250. Joint resolution designating April 1990 as "National Recycling Month"; and

S.J. Res. 266. Joint resolution designating March 1990 as "United States Naval Reserve Month".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 30: A bill to provide for certain requirements relating to the conversion of oil shale mining claims located under the General Mining Law of 1872 to leases, and for other purposes (Rept. No. 101-259).

H.R. 2392: A bill to amend section 37 of the Mineral Leasing Act relating to oil shale claims, and for other purposes (Rept. No. 101-260).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 2364: An original bill to authorize supplemental economic assistance to support democracy in Panama, Nicaragua, and sub-Saharan Africa, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered,

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of March 20, 1990, at the end of the Senate proceedings.)

*Lt. Gen. Ronald W. Yates, USAF, to be general (Reference No. 956)

*Maj. Gen. Thomas R. Ferguson, Jr., USAF, to be lieutenant general (Reference No. 961)

*Maj. Gen. David J. Teal, USAF, to be lieutenant general (Reference No. 962)

**In the Marine Corps there are 187 appointments to the grade of lieutenant colonel and below (list begins with William G. Byrne, Jr.) (Reference No. 1154)

Total.—190.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEFLIN (for himself and Mr. FOWLER):

S. 2361. A bill to revise and extend programs to provide price support and production stabilization for peanuts, soybeans and upland cotton, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSTON (for himself, Mr. INOUYE, Mr. MCCLURE, and Mr. MURKOWSKI):

S. 2362. A bill to enhance the survivability and recovery of the Insular Areas from severe storms; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. PELL, and Mr. SIMON):

S. 2363. A bill to establish a Head Start Transition Project; to the Committee on Labor and Human Resources.

By Mr. PELL:

S. 2364. An original bill to authorize supplemental economic assistance to support democracy in Panama, Nicaragua, and sub-Saharan Africa, and for other purposes; from the Committee on Foreign Relations; placed on the calendar.

By Mr. DECONCINI (for himself and Mr. D'AMATO):

S. 2365. A bill to amend the Controlled Substances Act to prohibit advertisements intended to promote or facilitate the distribution or transfer of a Schedule I controlled substance; to the Committee on the Judiciary.

By Mr. BOND (for himself, Mr. HEFLIN, Mr. COCHRAN, Mr. LOTT, Mr. DANFORTH, Mr. BINGAMAN, Mr. CHAFEE, and Mr. SHELBY):

S. 2366. A bill to encourage States to establish Parents as Teachers Programs; to the Committee on Labor and Human Resources.

By Mr. PRYOR (for himself, Mr. COCHRAN, Mr. BOREN, Mr. MCCONNELL, Mr. FOWLER, Mr. HELMS, Mr. BUMPERS, Mr. WILSON, and Mr. LOTT):

S. 2367. A bill to provide a price support program for the 1991 through 1995 crops of cotton, rice and oilseeds; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MOYNIHAN:

S. 2368. A bill to establish a national policy for the conservation of biological diversity; to support environmental research and training necessary for conservation and sustainable use of biotic natural resources; to establish mechanisms for carrying out the national policy and for coordinating related activities; and to facilitate the collection, synthesis, and dissemination of information necessary for these purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. HEINZ, and Mr. ROCKEFELLER):

S. 2369. A bill to initiate actions under section 310 of the Trade Act of 1974 with respect to the trade barriers of Japan that are the subject of the Structural Impediments Initiative; to the Committee on Finance.

By Mr. SIMON (for himself and Mr. LEAHY):

S. 2370. A bill to amend section 107 of title 17, United States Code, relating to fair use, to clarify that such section applies to both published and unpublished copyrighted works; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2371. A bill to direct the National Academy of Sciences to conduct a study of the feasibility of an umbrella research arm to support research on a variety of environmental issues; to the Committee on Environment and Public Works.

By Mr. SPECTER:

S.J. Res. 279. Joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week"; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. CRANSTON, Mr. HATCH, and Mr. DECONCINI):

S.J. Res. 280. Joint resolution approving the findings of the Comptroller General of the United States contained in the General Accounting Office (GAO) report, dated March 29, 1990, regarding employer sanctions; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself, Mr. THURMOND, and Mr. JOHNSTON):

S.J. Res. 281. Joint resolution to designate September 13, 1990, as "National D.A.R.E. Day"; to the committee on the Judiciary.

By Mr. WILSON:

S.J. Res. 282. Joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SASSER:

S. Con. Res. 110. Concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1991, 1992, and 1993; to the Committee on the Budget.

By Mr. HARKIN (for himself, Mr. PACKWOOD, Ms. MIKULSKI, Mr. COHEN, Mr. SIMON, Mr. CRANSTON, and Mr. LIEBERMAN):

S. Con. Res. 111. Concurrent resolution to express the sense of the Congress with respect to contraception and infertility; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEFLIN (for himself and Mr. FOWLER):

S. 2361. A bill to revise and extend programs to provide price support and production stabilization for peanuts, soybeans and upland cotton, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SOUTHERN AGRICULTURAL ACT

● Mr. HEFLIN. Mr. President, today I rise to introduce the Southern Agriculture Act of 1990. This bill reauthorizes the present agricultural price support program for peanuts and cotton, establishes a marketing loan for soybeans, establishes a Southern Institute for Agricultural Resource Policy, provides for the expansion of plant science research, and allows for double-cropping flexibility on set-aside lands.

The purpose of this bill is to reaffirm America's commitment to our Nation's family farmers. The 1985 farm bill has helped to stabilize farmer income while keeping domestic products competitive abroad. In fact, agricultural products have increased in their export value by over 10 percent a year since the 1985 farm bill was inacted. Furthermore, the American farmer still provides the American consumer with the cheapest and safest food supply in the world.

This bill establishes a target price floor of 75 cents per pound for cotton. It also allows for upward adjustments in target price levels for cotton and adjustments in loan rates for peanuts due to increases in costs or production. This legislation calls for a loan rate formula with a 55-cent-per-pound minimum price floor for cotton and maintains current loan levels for peanuts.

The Southern Agricultural Act of 1990 instructs the Secretary of Agriculture to consider adjustments in actual yields for farming situations where technological production practices have changed and for situations where farm ownership or the operator has changed. The Secretary is further instructed to implement a 50/100 program for cotton with a deficiency payment guarantee as well as 0/100 program for cotton in disaster years.

A flexibility provisions provided for in this bill allow producers to make up to a 10-percent crop-specific base shift between program crops with a snapback provision. It eliminates cross-compliance requirements for program crops with no loan or deficiency payment benefits available for those program crops planted beyond their normal allotted acreage base. This bill allows a program crop producer to certify a zero planting without loss of program base. The producer would then be able to plant any another crop on this acreage provided that the producer receives no loan or deficiency payment benefits. My bill also eliminates the ARP requirement for non-program crops that are double-cropped with program crops. Double-cropping is a common farming practice used extensively throughout the deep South.

The Southern Agricultural Act of 1990 establishes a marketing loan for soybeans at the base rate of $6.24 per bushel. The Secretary may also establish a marketing loan for any other oilseed at a comparable level of support for that crop.

In summary, the establishment of a marketing loan for soybeans will provide a small level of income support for American producers while increasing our marketing share abroad. The reauthorizing of the present cotton title of the 1985 farm bill will help to maintain cotton's competitive world price and expanding world markets

against heavily subsidized foreign competition. And last, the extension of the 1985 peanut title will ensure a safe edible product with little if any cost to U.S. taxpayers.●

By Mr. JOHNSTON (for himself, Mr. INOUYE, Mr. MCCLURE, and Mr. MURKOWSKI):

S. 2362. A bill to enhance the survivability and recovery of the insular areas from severe storms; to the Committee on Energy and Natural Resources.

INSULAR AREAS RECOVERY ACT

● Mr. JOHNSTON. Mr. President, it has been an especially difficult past 2 years for many of our fellow Americans who live in the insular areas of the Pacific and Caribbean. Hurricanes and typhoons have been occuring with great frequency, and hitting with great force.

Most of us are aware of the extensive damage caused by Hurricane "Hugo" in the Virgin Islands, Puerto Rico and the Carolinas last October. But few of us know of typhoons Tusi and Ofa, which tore through the Samoas, or Roy which devastated parts of the Marshalls, or Koryn which recently wrecked the Marianas. Each of these islands has recently been declared a disaster area by the President. In response, each has, with the excellent assistance of the Federal Emergency Management Agency, begun the road to recovery. However, there are special circumstances in these islands which complicate recovery, and which I believe warrant special attention. The frequency of these severe storms has convinced me that a special effort must be made to "harden" certain infrastructure against future storm damage. It simply doesn't make sense to keep rebuilding to existing standards only to have facilities blow down again. I can't remember exactly how many times the taxpayers have paid to reinstall wooden power poles in Saipan, but I'm certain that it would have been less expensive to put in hardened steel or concrete poles many years ago.

A second problem in the islands is their extreme vulnerability to damage to the communications and transportation systems. Unlike the mainland, when a disaster strikes in the islands neighboring communities can't load up trucks with supplies and drive to provide assistance. Docks and airports are usually heavily damaged and assistance is delayed during the first critical days. In the Virgin Islands conditions of near panic followed in the wake of Hugo and the collapse of all communications. Public Health and safety must be protected with special efforts to assure the survival of essential infrastructure during disasters.

A third problem which some of the islands have is a severe shortage of trained government and private sector personnel to negotiate and manage reconstruction contracts. Most of these island communities are simply too small, too remote and too underdeveloped to cope with the stress of a disaster. FEMA does as good a job as can be expected—but remember, FEMA assumes the presence of a wide range of Federal agencies, a sophisticated and experienced State government, and a well developed private sector to do most of the actual work of reconstruction. Unfortunately, in the islands these assumptions are usually invalid.

It is in response to these problems, Mr. President, that I am today introducing the Insular Areas Recovery Act of 1990.

This bill would greatly enhance the ability of the islands to survive disasters by encouraging the "hardening" of essential infrastructure before a severe storm strikes. The bill would also assist the islands in recovering from disasters by giving the President and the Governors greater flexibility in meeting costs and in providing needed technical assistance.

The principal feature of this measure, section 3, is an authorization for appropriations to construct facilities, such as civil defense shelters, to help assure the survival of the most basic governmental functions, such as communications. This authorization would also allow appropriations to supplement FEMA and local funds so that essential infrastructure could be rebuilt to withstand future storms, and thus break the costly cycle of rebuilding facilities to old standards only to have them destroyed again.

Section 4 would allow the island Governors to use certain Federal grants to meet emergency recovery needs. Often a Governor's recovery options are limited by a lack of local matching funds. This authority would allow the Governors to shift certain Federal grants, such as Low Income Energy Assistance grants, to higher priority disaster needs and would thus help to keep options available that would otherwise be foreclosed by the lack of local funding.

Section 5 requires the President, upon the declaration of a disaster in an insular area, to assess the capability of the insular area government to respond to disaster. If the President finds that the local government lacks capabilities essential to the recovery effort, such as the ability to manage the subtstantial increase in contracting and funding activity, then the President shall provide the necessary technical assistance. This seciton is intended to require a review of local government capabilities, and to require that appropriate technical assistance be provided so as to assure an efficient and well managed recovery effort. As stated earlier, FEMA assumes certain capabilities exist with the local government and can be relied upon in the recovery effort. However, the local government is usually a State government. In the case of the insular areas, remoteness, small size, and an often underdeveloped economy, makes this basic assumption doubtful.

Prudence requires that a review of local capabilities be made as financial assistance is sent to the area. Prudence also requires that the technical assistance necessary for a smooth recovery effort be provided to the local Governor through agencies such as the Army Corps of Engineers or the Department of the Interior. It is intended that the cost of this technical assistance would be borne by FEMA or the agency providing the assistance.

Section 6 would authorize the President to waive certain funding and local hiring requirements of the Robert T. Stafford Relief and Emergency Assistance Act in recognition of the special circumstances found in the islands. Such flexibililty may make the difference in getting a project done in the most cost effective manner and to the necessary standards.

For example, section 404 of the Stafford Act limits FEMA expenditures for hazard mitigation—so-called hardening—to no more than 10 percent of all public assistance grants made under section 406 of the act. In the case of typhoon Ofa, which recently hit American Samoa, the local government had wisely taken out insurance against a disaster. This means that FEMA's public assistance grants will be substantially lower than if the local government had not taken out insurance. Ironically, the local government, after saving FEMA millions of dollars in assistance grants, has severely limited its eligibility for hazard mitigation grants since these grants are limited to 10 percent of the public assistance grants. Section 6 of this bill would allow the President to waive the 10 percent limit under section 404 of the Stafford Act, among other provisions, if the President finds that such a waiver would promote reconstruction so as to enhance survivability in the event of future disasters.

Section 7 of this act would make certain technical corrections to the Robert T. Stafford Relief and Emergency Assistance Act to clarify the applicability of the act to the jurisdictions of the former Trust Territory of the Pacific Islands. It does not alter the coverage of the act.

Finally, section 8 would authorize the Administrator of the Rural Electrification Administration [REA] to provide financial assistance to the insular areas for 5 years following a Presidential disaster declaration. This provision is very narrow, and is intended only to authorize additional REA assistance in cases of extreme hardship, following a disaster, and when the REA assistance would be cost ef-

fective because it would provide for the hardening of electrical systems against future storm damage.

There have been discussions with the administration regarding the policy and budget implications of section 8. The administration has been opposed to REA loans and has policy concerns regarding the expansion of REA's loan authority. While I appreciate this concern, I would hasten to point out two things. First, Congress has consistently supported REA, so it is safe to assume that the program will continue. Second, if REA is going to be making loans, then why not make loans that will reduce other Federal expenditures, in this case, FEMA grants to disaster areas?

I also appreciate the administration's budget concerns regarding this bill. Our initial discussions with CBO indicate that this bill would have no budget impact, with the possible exception of section 8. I plan to continue to work with CBO and OMB in an effort to determine the budget impact of section 8. I hope that OMB will keep an open mind with respect to this section until all of the necessary budget information is available from CBO.

Finally, I would like to acknowledge the efforts of the Governors and the Delegates from the insular areas to resolve the many problems they face when disasters strike. The chairman of the House Subcommittee on Insular and International Affairs, RON DELUGO, has been dealing with an enormous crisis in the Virgin Islands. He has worked closely with FEMA and his colleagues in the House on ways to respond to this crisis and get St. Croix back on its feet. Many of the ideas in this act derive from legislation he was able to pass out of the House of Representatives last year. I look forward to working with him on getting this bill enacted as soon as possible.

Mr. President, this bill reflects many years of experience in dealing with the particular circumstances of our insular areas. I look forward to working with others who are concerned with the island's welfare in fashioning a bill to meet these special conditions.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2362

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress Assembled, That this Act may be referred to as the "Insular Areas Recovery Act of 1990".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) the term "Insular Areas" means the United States Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Freely Associated States;

(2) the term "disaster" means that the President has declared a disaster under Section 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 3. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as may be necessary to construct facilities to protect public health and safety, and to enhance the survivability of essential infrastructure in the event of disasters in the Insular Areas. Such sums shall remain available until expended and shall be considered local funds for the purposes of Federal-local matching requirements.

SEC. 4. USE OF CERTAIN FUNDS.

(a) For a period of two years from the date on which a disaster is declared by the President, the Governor of the affected Insular Area may transfer up to 100 percent of that Insular Areas's respective allotment under Section 2604(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(b)) for the fiscal year in which the disaster occurred, for use in disaster recovery or in enhancing the survivability of essential infrastructure in the event of future disasters. Such funds shall be transferred to a State Energy Conservation Program established pursuant to Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), and such use of these transferred funds shall be deemed to be consistent with the purposes for which such program was established. The Governor of the Insular Area shall inform the Secretary of any such transfer of funds. Puerto Rico shall be considered to be an Insular Area for the purposes of this subsection.

(b) During the 2-year period following a disaster in Puerto Rico, it shall be deemed to be an "Insular Area" for the purposes of section 501 of the Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes", approved October 18, 1977, (48 U.S.C. 1496a) when in the judgment of the appropriate agency head the consolidation of grants would facilitate recovery from disaster damage.

SEC. 5. TECHNICAL ASSISTANCE.

(a) Upon the declaration by the President of a disaster in an Insular Area, the President shall assess, in cooperation with the Secretary and the Governor of such Insular Area, the capability of the Insular Area government to respond to the disaster, including the capability to: assess damage; coordinate activities with other agencies, particularly the Federal Emergency Management Agency (FEMA); develop recovery plans, including recommendations for enhancing the survivability of essential infrastructure; negotiate and manage reconstruction contracts; and prevent the misuse of funds. If the President finds that the Insular Area government lacks these, or other capabilities essential to the recovery effort, then the President shall provide technical assistance to the Insular Area government which the President deems necessary for the recovery effort.

(b) One year following the declaration by the President of a disaster in an Insular Area, the Secretary shall report to Congress on the status of the recovery effort, including: an audit of Federal funds expended in the recovery effort; and recommendations on how to improve: public health and safety, survivability of infrastructure, recovery efforts, and effective use of funds, in the event of future disasters.

SEC. 6. WAIVERS.

(a) HAZARD MITIGATION.—The President may waive any cost contribution requirements or conditions under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) with respect to expenditures in an Insular Area if the President finds that such a waiver would promote reconstruction in the disaster area so as to enhance the survivability of essential infrastructure, or would enhance public health and safety, in the event of future disasters.

(b) USE OF LOCAL FIRMS.—

The President may waive the requirement of section 307 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in an Insular Area if the President finds that the disaster has exceeded the capability of local firms to respond to the disaster.

SEC. 7. TECHNICAL AMENDMENT.

Section 102(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended by inserting after the words "American Samoa," the following: "Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Freely Associated States".

SEC. 8. ELECTRIFICATION LOANS.

(a) The Administrator of the Rural Electrification Administration is authorized to make loans, or provide other financial and technical assistance under the Rural Electrification Act (7 U.S.C. 901 et seq.), including sections 4, 5, 305, and 306 of such Act (7 U.S.C. 904, 905, 935, and 936) in any Insular Areas in which the President declares a disaster, for the purposes set forth in such Rural Electrification Act, including the financing of the construction and operation of generating plants, electric transmission and distribution lines or systems to provide electricity to any persons who are resident in such territory. Such authority shall expire 5 years after the date on which the President declared the disaster.

(b) Nothing in this section shall be deemed to affect any program of Federal financial assistance that may otherwise be available under any provision of law.●

By Mr. KENNEDY (for himself, Mr. DODD, Mr. PELL, and Mr. SIMON):

S. 2363. A bill to establish a Head Start Transition Project; to the Committee on Labor and Human Resources.

HEAD START TRANSITION PROJECT ACT OF 1990

● Mr. KENNEDY. Mr. President, today I am introducing legislation to help us preserve the investment our Nation has made in the Head Start Program. Despite many setbacks over the last quarter-centry, Head Start today is regarded by Democrats and Republicans alike as one of our most effective social programs. The President has proposed a $500 million increase in Head Start; I hope that the actual increase will be closer to $1 billion so that we may substantially increase the percentage of eligible chil-

dren served by the program and enhance its quality.

Head Start provides more than simply an early educational start. It addresses the needs of the whole child. All too often, policymakers have responded to the symptons and not the cause of educational failure. A child whose homelife is not stable because of unemployment, poverty, or substance abuse faces many obstacles. A child whose parents do not read will face the greatest risk of future illiteracy. A child who goes to school hungry or who lacks dental and medical care may not flourish under the kindest, brightest teacher. Those are simple facts, and the Head Start Program, by focusing on the health, mental health, and social service needs of at-risk children and their families has made a difference in the lives of millions of Americans.

Parents should be children's best advocates. Sadly, many parents, themselves struggling to get by, fail to fill this role. More and more families are torn apart by drug abuse. Other parents are little more than children themselves, and are unable to respond to the great responsibility of parenthood. Many parents have difficulty using the help that is available—navigating through the myriad of Federal, State, and local bureaucracies that provide these services is no simple task. Sometimes something as simple as lack of transportation or child care can prevent a parent from obtaining free services for her child available through a community agency. Head Start, by coordinating the provision of supportive services, has assisted families to take care of their children's basic needs.

Equally important, children need the active involvement of their families to achieve their fullest educational potential. Parents must play an active, not adversarial, role in the educational process, reinforcing learning at home and helping the teacher understand the child's unique needs. Few Government programs have been as successful as Head Start in bringing the concept of parental involvement to life. Head Start parent Lula Malone explained the role that Head Start played in her life two decades ago, when she found herself an 18-year-old mother of three and a high school dropout: "Head Start gave me new hope. I learned that I wasn't the only young mother or dropout as I started putting time in at the class. The teacher would give me work to do with the children. I remember picking up a book to read to the children and the fear I felt. I realized that I needed Head Start." Head Start inspired Ms. Malone to get her GED. Later, she became a lab technician, and her children have gone on to successfully graduate from high school. Malone's experience with Head Start is typical. For every five children enrolled in Head Start, four parents volunteer services to the program. According to studies, Head Start parents read to their children more, and show more interest in their children's reading and writing skills than non-Head Start parents. Often parents themselves are inspired to continue their own education, many finding paid employment in the Head Start centers they had once volunteered in.

Although Head Start has succeeded in achieving parental involvement and in addressing the health, mental health, nutrition, social services, and educational needs of at-risk children, all too often, public schools have neglected the noneducational needs of students and their families. As with all points of transition in a child's life, the child's movement from Head Start to kindergarten is critical. It is at this point that experts believe some of the gains of Head Start are lost as the child—and parent—moves from a supportive environment that addresses the needs of the whole child to a new setting where noneducational and family needs are often left at the schoolhouse door.

This transition point is the focus of this legislation. Numerous reports and studies indicate that several elements that are critical to continuing the benefits of Head Start into the elementary grades. First, it is essential that supportive services, such as health, mental health, and social services, continue to be addressed. Second, the school must foster real parental involvement that encourages and enables low-income parents to be advocates and teachers for their children. Third, there should be continuity of the educational program, which can be achieved by ensuring that both the Head Start Program and elementary school use developmentally appropriate curricula. Finally, a strong line of communication must be established between the Head Start Program and public school.

Our proposal builds on these principals. The legislation would authorize the Administration on Children, Youth, and Families to make grants to Head Start agencies or local educational agencies working in partnership with one another. The program sponsor would employ a team of family services coordinators who would be charged with facilitating communication among low-income families and the schools, helping these families obtain services, and ensuring that there is developmental continuity between the early childhood and elementary school programs. Local applications would be jointly developed by the Head Start and local educational agencies, after consultation with community agencies that provide supportive services. Ten million dollars would be authorized to provide at least one demonstration program in each State. An evaluation of the program would be completed 4 years from the date of enactment.

Public schools are ready to take on this challenge. In a 1988 report entitled "Right from the Start," the National Association of State Boards of Education recognizes that there is a "lack of planning and collaboration to ensure a smooth transition for children between early childhood programs in the community and programs in the schools." As a remedy, the report encourages collaborative planning, ongoing communication, and use of a developmentally appropriate "curriculm and classroom environment that responds to learning patterns of children within a given age range, to individual differences among children, and to cultural and linguistic diversity among children."

I hope that the concepts embodied in this legislation will extend beyond the transition program. My proposal requires the local educational agency to conduct a self-assessment of their services to all at-risk children, not just those who benefited from Head Start. "Right from the Start" advocates that elementary schools adopt "features from high quality programs for young children, such as active parental involvement, family support services, and comprehensive services for children." The Committee for Economic Development [CED], an organization of leading business executives, goes even further. In their 1987 report, "Children in Need," CED suggested that "schools serving disadvantaged students * * * undergo fundamental restructuring" so schools and their communities could "reach beyond traditional boundaries of education in order to provide the comprehensive services and sustained effort needed by disadvantaged children and youths." In its description of such a "community school," "Children in Need" suggested that we "make schools the focal point for a variety of community activities and social services targeted to children."

This modest demonstration program can help us bridge the gap between Head Start and elementary school. If successful, it has potential to help schools rethink traditional boundaries of education.

I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2363

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Head Start Transition Project Act".

SEC. 2. HEAD START TRANSITION GRANTS.

(a) IN GENERAL.—The Secretary is authorized to pay the Federal share of the costs of making demonstration grants to Head Start agencies and local educational agencies to develop and operate programs that assist low income elementary school students aged 5 through 8 and their families in—

(1) obtaining supportive services that build on the strength of families, including, health, immunization, mental health, nutrition, parenting education, literacy, and social services (including substance abuse treatment, education, and prevention services); and

(2) supporting the active involvement of parents in their children's education.

(b) TERM OF GRANT.—Grants awarded under this Act shall be for a period of 5 years.

SEC. 3. ELIGIBILITY.

(a) HEAD START AGENCY.—A Head Start agency shall be eligible for a grant under this Act if such Head Start agency has formed a consortium with one or more local educational agencies serving children who have been served by such Head Start agency.

(b) LOCAL EDUCATIONAL AGENCY.—A local educational agency shall be eligible for a grant under this Act if such agency has formed a consortium with one or more Head Start agencies serving children who will enroll in the schools of such local educational agency.

(c) COOPERATING AGENCY.—A nonprofit agency or institution of higher education with experience in child development may participate in any consortium formed under subsection (a) or (b) in developing, operating, and evaluating programs assisted under this Act.

SEC. 4. REQUIREMENTS.

(a) IN GENERAL.—The Secretary shall award grants under this Act to Head Start agencies and local educational agencies in both rural and urban areas.

(b) SPECIAL RULE.—The Secretary shall award at least one grant in every State before the Secretary may award a second grant within any one State.

(c) CONSIDERATION.—In awarding grants under this Act, the Secretary shall consider—

(1) the commitment of the Head Start agency and local educational agency to the program;

(2) the quality of the Head Start program operated by a Head Start agency desiring financial assistance under this Act, as measured by compliance with Head Start program performance standards;

(3) the number of low-income children in the area served by the Head Start agency or local educational agency compared to the number of non-low-income children in the area served by the Head Start agency or local educational agency;

(4) the ability of the proposed program to serve as a model for other programs;

(5) the quality of information and plans in the application; and

(6) the commitment of the community to the program.

SEC. 5. APPLICATION.

(a) IN GENERAL.—Each Head Start agency or local educational agency desiring a grant under this Act shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall include—

(1) a description of the activities and services for which assistance is sought;

(2) a description of members of the consortium established in accordance with section 3, including any cooperating agency;

(3) an assessment of the Head Start agency's or local educational agency's program to address the health, immunization, mental health, nutrition, parenting education, literacy, social service (including substance abuse treatment, education, and prevention), and educational needs of low-income students and their families, including the use of a developmentally appropriate curriculum;

(4) a plan for the development of a supportive services team of family service coordinators to—

(A) assist families, administrators and teachers to respond to health, immunization, mental health, nutrition, parenting education, social service and educational needs of students;

(B) conduct home visits and help students and their families to obtain health, immunization, mental health, nutrition, parenting education, literacy, and social services (including substance abuse treatment, education and prevention), for which such students and their families are eligible;

(C) coordinate a family outreach and support program, in cooperation with parental involvement efforts undertaken pursuant to chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), and the Education for all Handicapped Children Act of 1975;

(D) assist families, administrators, and teachers in enhancing developmental continuity between the programs assisted under the Head Start Act and the transition into elementary school; and

(E) prepare a plan for the transition of each child from Head Start to kindergarten, including—

(i) a meeting of the Head Start teacher with the kindergarten teacher;

(ii) the transfer of knowledge about the child including the transfer of written records from the Head Start teacher to the kindergarten teacher; and

(iii) the formulation of an individual education plan for the child with the participation of the parents, the Head Start teacher and the kindergarten teacher;

(5) the designation of a member of the supportive services team described in paragraph (4) who will serve as the supervisor of such supportive services team:

(6) assurances that State agencies, local agencies, and community-based organizations that provide supportive services to low-income students served by such Head Start agency or local educational agency have been consulted in the preparation of the plan described in paragraph (4);

(7) assurances that State agencies, local agencies, and community-based organizations that provide supportive services to low/income students served by such Head Start agency or local educational agency will designate an individual who will act as a liaison to the supportive services team described in paragraph (4);

(8) a description of the target population to be served by the supportive services team described in paragraph (4) including families previously served under the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), or comparable early childhood development programs;

(9) a description of the supportive services to be provided, directly or through referral;

(10) a plan to ensure the smooth transition of children served under the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), Education of the Handicapped Act, and comparable early childhood development programs to public schools;

(11) assurances that, and a plan describing how, families will be involved in the design and operation of the program;

(12) a description of the Federal and non-Federal resources that will be used to carry out the program;

(13) assurances that the supportive services team described in paragraph (4) will be equipped to assist children and families with limited English proficiency and disabilities, if appropriate;

(14) a plan describing how the program will be sustained after the grant has expired;

(15) program goals; and

(16) such other information as the Secretary may reasonably require.

(b) SPECIAL RULE.—Each supportive services team developed pursuant to paragraph (4) of subsection (a) shall include at least 1 family service coordinator for every 25 children to be served.

SEC. 6. EVALUATION AND REPORT.

(a) EVALUATION.—The Secretary shall, through grants, contracts or cooperative agreements, provide for the continuing evaluation of the programs assisted under this Act in order to determine the effectiveness of such programs in achieving stated goals, the impact of such programs on related programs, and the implications of the design and operation of such programs for the effective delivery of services.

(b) LOCAL EVALUATION AND INFORMATION.—(1) Each Head Start Agency or local educational agency receiving a grant under this Act shall carry out an evaluation of the program funded under this Act in order to determine the effectiveness of the program in achieving stated goals, the impact of the program on the families served and the community, the problems encountered in the design and operation of the program and ways in which such problems were addressed, and the impact of the program on the Head Start Agency and local educational agency.

(2) Each Head Start agency or local educational agency receiving a grant under this Act shall furnish to the Secretary any information the Secretary shall request in order to carry out the evaluation described in subsection (a).

(c) REPORT.—The Secretary shall, not later than September 30, 1995, prepare and submit to the Congress a report on the evaluations conducted pursuant to subsections (a) and (b), including the strengths and weaknesses in the design and operation of programs assisted under this Act and the effectiveness of such programs in achieving stated goals.

SEC. 7. PAYMENTS; FEDERAL SHARE.

(a) PAYMENTS.—The Secretary shall pay to each Head Start agency or local educational agency having an application approved under section 5, the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—(1) The Federal share shall be 80 percent.

(2) The non-Federal share of payments under this Act may be in cash or in kind fairly evaluated, including planned equipment or services.

SEC. 8. DEFINITIONS.

For the purposes of this Act—

(1) the term "developmentally appropriate curriculum" means a curriculum that is appropriate for the child's age and all areas of the individual child's development, including educational, physical, emotional, social, cognitive, and communications;

(2) the term "family services coordinator" means an individual who is trained to assist families in obtaining supportive services;

(3) the term "Head Start agency" means any agency designated as a Head Start agency under the Head Start Act;

(4) the term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965;

(5) the term "Secretary" means the Secretary of the Deparment of Health and Human Services; and

(6) the term "supportive service" means service that will enhance the physical, social, emotional, and intellectual development of low-income children, including providing necesssry support to their parents and other family members.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $10,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993, 1994, 1995, and 1996, to carry out the provisions of this Act.●

● Mr. DODD. Mr. President, I rise to urge support of the Head Start Transition Project Act of 1990, which I am pleased to cosponsor. I commend Senator KENNEDY for his creativity in crafting this legislation. This bill takes the most important principles of Head Start and begins transferring them to the schools where disadvantaged children will continue their education.

Few would disagree that Head Start is one of the most successful poverty programs in history. One key to Head Start's success is its recognition that we cannot help the child outside the context of the family. So, in addition to developmental services, Head Start coordinates comprehensive social services to children and families and encourages parent involvement.

I cannot emphasize enough the importance of these features. Many disadvantaged families are overwhelmed by constantly having to trudge from place to place for the social services they need. Unfortunately, many parents also are discouraged by their own lack of education from taking an interest, much less an active role, in their children's education.

Head Start has changed all this for millions of children and families. It is one of the few poverty programs that seeks to weave a seamless garment of social services for families.

Parents find their own lives changed as significantly as their children's. At a Head Start hearing I chaired a few weeks ago, a former Head Start parent told how her close relationship with the Head Start staff gave her badly needed confidence, first, to become involved with the program's Parent Committee and, then, to get a degree in Child Development. The woman who made those statements was Eugenia Boggus, today the president of the National Head Start Association.

Some parents, like Ms. Boggus, continue their progress when their children leave Head Start. Others, however, are cut off from the support system formed by other Head Start parents and staff. Their children enter a school system that often ignores the context from which the child comes, the family situation that is a major determinant in the child's development.

Mr. President, the Head Start Transition Project Act would begin in a modest way to remedy this problem. It authorizes $10 million for demonstration projects to carry the Head Start principles of a comprehensive, family oriented approach and parent involvement forward into kindergarten and elementary school. Under the projects, family services coordinators in the schools would help parents become effective advocates for their children and obtain the range of services they need. The bill thus complements the Head Start Expansion and Quality Improvement Act of 1990, S. 2229, which I introduced along with Senator KENNEDY a few weeks ago. One objective of S. 2229 is to improve the coordination of social services to families while their children are in the Head Start Program.

The bill requires Head Start agencies and local educational agencies to work together to obtain the grants, thus forging a link between the two that now seldom exists. This link will help foster communication and developmental continuity from early childhood programs to elementary schools. Our hope is that these demonstrations will plant the seeds for a more family-oriented approach to education for all disadvantaged children, not just those lucky enough to be coming out of Head Start.

Mr. President, much is made of the success of Head Start. I hope we will not let the accomplishments of that program wither as children move into schools that address only one dimension of their needs. This bill is a small step toward ensuring that those early accomplishments, nurtured in Head Start, will flourish in elementary school. I urge my colleagues to support this legislation.●

● Mr. PELL. Mr. President, I am very pleased to join Senators KENNEDY and DODD in introducing the Head Start Transition Project Act. This program serves to provide an important linkage between the Head Start Program and formal elementary school instruction. It seeks to build upon the progress begun under the Head Start Program, by facilitating a smooth transition from early childhood education to instruction in elementary school.

The tremendous success of the Head Start Program has been well documented. Some studies have even suggested that for every dollar invested in the Head Start Program, this Nation receives $5 in return as measured by its prevention of costs such as welfare and crime, and by producing a subsequent increase in the student's productivity. Services provided in the early years to a child in poverty under the Head Start Program are continued in later years under the chapter I program of the Elementary and Secondary Education Act. The chapter I program provides compensatory education such as additional reading and mathematics tutoring to students in greatest need. In most school districts, these important services target students beginning in kindergarten.

The success of the chapter I program parallels that of Head Start. An investment of this nature in the early years of a student's academic growth can have untold benefits in later years, both by increasing academic abilities and by preventing learning difficulties before they become entrenched. It is important to note that many of the students served by the Head Start Program continue to be served under the chapter I program. However, since the providers of Head Start are typically not school districts, there is little institutional coordination between services under Head Start and services under chapter I. This is a critical problem because the transition between Head Start and elementary school can often be extremely threatening to a small child, and may well imperil that child's learning progress.

I believe that an investment in the Head Start Transition Project Act would prevent such a danger by protecting the gains established through Head Start. It would enable chapter I to build upon Head Start rather than duplicate material already covered. This transitional program would bridge a linkage between Head Start agencies and local educational agencies. It would encourage a coordination of programming and of curriculum. It calls upon families, parents, administrators and teachers to respond to the wholistic needs of the students, including their health, nutrition, education and other social service needs. And it uses the total resources of the community to ensure that the transition from Head Start to formal schooling is smooth.

In short, this bill would forge a cooperative concern among all parties involved in the educational, health, and social development of our students—a partnership that would begin in the very early years, and would reach well beyond into the elementary school grades. Such linkages can only enhance the learning potential and

achievement of our students, which in turn will serve us all. For it is the education of our citizenry which makes our Nation strong, and the quality of that education will in large part be determined by the approach to—and advances in—learning in a student's early years.

By Mr. DECONCINI (for himself and Mr. D'AMATO):

S. 2365. A bill to amend the Controlled Substances Act to prohibit advertisements intended to promote or facilitate the distribution or transfer of a Schedule I controlled substance; to the Committee on the Judiciary.

PROHIBITION OF ADVERTISEMENTS OF CONTROLLED SUBSTANCES

Mr. DECONCINI. Mr. President, I rise today to introduce legislation that will make illegal a practice which I believe sends the wrong message about this Nation's commitment to wage an effective offensive against the production of marijuana in the United States.

We are all well aware that marijuana is illegal. It remains the most widely used illegal narcotic in the United States—used by an estimated 20 million Americans. For most drug addicts, it is the gateway drug to cocaine and heroin.

Nevertheless, you can walk into most book stores and find magazines like "High Times" that include advertisements on how and where to send away for the finest seeds for growing marijuana.

Let me explain an exhibit I have. This is a magazine you can pick up at your local news store. I am not here to advertise the magazine. This is an ad for General Champion, 1989, for a seed bank. Indeed, if you write to this address, you end up getting marijuana seeds.

Although marijuana is not always mentioned in these ads, there is no question about what is being offered.

The Drug Enforcement Administration is the Federal Government's lead agency for marijuana eradication. As part of this mission, the DEA must coordinate among others, State and local law enforcement agencies, the U.S. Forest Service, the Department of Interior, and the National Guard in conducting domestic eradication operations. What kind of crazy signal are we sending the courageous law enforcement officers who put their lives on the line daily attempting to put marijuana growers out of business when, at the same time, we allow these advertisements to continue?

We must demonstrate a total commitment to a war on drugs and stop shooting ourselves in the foot. These marijuana seed distributors are positioning the United States to be the leading producer of marijuana in the world. Despite the increased efforts of the DEA over the past 10 years, the percentage of marijuana available in the United States which is domestically grown has increased substantially. The DEA estimates that more than 25 percent of the marijuana available in the United States is grown here, compared to about 7 percent in 1980. It is estimated that approximately 4,500 metric tons of marijuana were harvested in the United States in 1988.

Once virtually ignored by marijuana users, U.S.-grown marijuana now has a reputation as among the most potent available. The substantial profit from domestic marijuana, ranging from $1,000 to $3,500 per plant, continues to entice growers into the illicit business. The most selective cannabis product is sinsemilla which is prepared from the unpollinated female cannabis plant. It is becoming increasingly common to find THC concentrations of 14 or 15 percent in U.S.-grown sensemilla. This is double to triple the THC content of Mexican and Colombian marijuana.

To avoid eradication measures, fear of detection, and theft, many marijuana growers have turned to Federal lands to cultivate their illegal crops. In 1989, the National Forest Service eradicated more than 400,000 marijuana plants from 4,100 cultivation sites—a 25-percent increase in cultivation sites over the past year.

The increase in activity on public lands has caused serious problems for Federal land agencies. The American public who visit the National Forest System continue to be endangered by the presence of marijuana cultivation sites and activities. In 1989, 13 individuals were assaulted physically by growers. The total number of booby traps increased by more than 50 percent, and the number of weapons seized from suspects and cultivation sites doubled. More than 300,000 acres of National Forest Service land are considered unsafe for public use.

Growers have also turned to cultivating indoors. Such greenhouse operations often utilize the latest horticultural techniques. The DEA reported more than 1,200 greenhouse seizures in 1988. A recent seizure reported by the DEA resulted in the largest indoor sensemilla production operation ever detected in the United States—over 9,500 plants along with 550 pounds of processed high-grade marijuana. The DEA believes that a substantial number of the sensemilla plants seized were germinated from seeds bought from foreign suppliers who openly advertise their products in U.S. magazines.

Mr. President, my legislation would take a major step toward cutting off growers from their source of information on the latest illegal drug growing techniques and the availability of marijuana seeds. This bill would prohibit advertisements intended to promote or facilitate the distribution or transfer of a Schedule I controlled substance. There is no doubt that such advertising is not protected by the first amendment. In fact, these advertisements probably could be prosecuted under current law. However, because these ads are often associated with conduct which enjoys first amendment protection, legislation which is specific to the problem is critical.

Relying on Central Hudson, the Court in *Village of Hoffman* v. *Flipside*, 102 S.Ct. 1186 (1982), unpheld a city ordinance licensing and regulating the sale of drug paraphernalia displayed with or within proximity of literature encouraging illegal use of illegal drugs. After holding that if there was any commercial speech interest implicated it was at most an attenuated interest in displaying merchandise in the manner the retailer desires. "The ordinance is expressly directed at commercial activity promoting or encouraging illegal drug use. If that activity is deemed 'speech,' then it is speech proposing an illegal transaction, which a government may regulate or ban entirely." Id. at 1192.

In *Pittsburgh Press* v. *Pittsburgh Com'n on Human Rel.*, 93 S.Ct. 2553 (1973), the Supreme Court upheld an ordinance which prohibited newspapers from carrying sex designated advertising columns against the newspaper's claim it violated its first amendment rights. According to the Court, "[d]iscrimination in employment is not only commercial activity, it is illegal commercial activity under the Ordinance. We have no doubt that a newspaper constitutionally could be forbidden to publish a want ad proposing a sale of narcotics or soliciting prostitutes." Id. at 2560.

I urge my colleagues to add their names as cosponsors of this bill. It is time we sent a message to the officers we have asked to fight the battle against illegal drugs that we are ready to close the loopholes and that they have our complete support.

By Mr. BOND (for himself, Mr. HEFLIN, Mr. COCHRAN, Mr. LOTT, Mr. DANFORTH, Mr. BINGAMAN, Mr. CHAFEE, and Mr. SHELBY):

S. 2366. A bill to encourage States to establish Parents as Teachers Programs; to the Committee on Labor and Human Resources.

PARENTS AS TEACHERS: THE FAMILY INVOLVEMENT IN EDUCATION ACT

Mr. BOND. Mr. President, today on behalf of myself, Mr. HEFLIN, Mr. COCHRAN, Mr. LOTT, Mr. DANFORTH, Mr. BINGAMAN, Mr. CHAFEE, and Mr. SHELBY, I am introducing legislation to expand Missouri's highly successful Parents as Teachers Program nationwide.

All of us are aware of the great needs and problems facing our coun-

try's educational system. Our Nation's Governors, the President, and we in Congress have focused increasing attention on the first few years of life, before school even starts, as crucial in the development of a child's language skills, social skills, and personality.

We also know that parental involvement in the education of their children appears to be the key to long-term gains for youngsters. Parents are their children's first and most important teachers. What parents do to help their children learn is far more important to their academic success than the parents' well-being or how wealthy the family is.

I believe every new parent would agree that their child could use some help in finding ways to maximize their development and ability. This measure we are introducing today is designed to provide the tools to the parents so they can help their children develop.

With a limited Federal investment, we can help parents get their children off to the right start in their life by exporting successes of Missouri's program.

The parents as teachers program is an all-in-one early intervention, parent education, and early childhood education program which addresses a variety of needs for young families.

In our State, school districts are required to provide the program. Participation is optional with the parents. The curriculum starts early—in some States, it started as early as prior to conception—to strengthen the foundations of later learning, to lay the groundwork of how to encourage language and intellectual development, curiosity, and social skills.

In addition, by providing health screening for very young children participating in this preschool program, we are able to detect potential health problems, mental health problems, and other learning impairments early on.

The strength of the program is that it is community and family based. It is administered at the State level and at the local level. It has been successful in Missouri in urban, rural, and suburban areas. We now have some 50,000 families in Missouri participating in it.

An independent evaluation of those children whose families participated in the program showed that the children in the program consistently scored significantly higher on all measures of intellectual achievement, auditory comprehension, verbal ability, and language ability than their peers who did not participate.

Parents participating in the program obviously were better skilled in the talents of raising children. Parents as teachers staff have been able to intervene in numerous at-risk situations and to encourage families to seek medical or other assistance to deal with their children's problems.

One of the national goals adopted at the education summit and two of the objectives adopted at that summit by the Governors in February are directly related to this program.

The first goal on the list is by the year 2000, all children in America will start school ready to learn. The two objectives under that goal this program addresses are, No. 1, that ever parent in America will be the child's first teacher and devote time each day to helping his or her preschool child. The parents will have access to training and support they need.

The second objective is that children will receive the nutrition and health care needed to arrive at school with healthy minds and health bodies.

Mr. President, the parents as teachers legislation is a great way for the Federal Government to work with Governors to meet this goal.

Briefly, the legislation would set up a $20 million competitive grant program for States who wish to begin or expand parents as teachers programs. We believe that providing seed money to expand proven effective programs is an appropriate role for the Federal Government.

Down the road, States will be able to muster political support they need. Local communities which have parents involved in the program will find out how it works and be able to determine the continuation of the program.

I have a personal interest in this program. It was started with a bit of Federal seed money in 1969. Four Missouri school districts participated. When our son Sam was born, we participated in the information provided by the program and saw how it could help. From 1981 through 1984, I recommended the program to the Missouri Legislature, and in 1984, it was adopted statewide.

I believe that this legislation is significant because it does not direct its attention to any specific population or income level for assistance. There is no stigma attached because parents at all social and economic levels in our State, and I suspect throughout the Nation, need to have better training in the skills to educate and to stimulate the learning intelligence of their children.

It has been Missouri's experience that more hard-to-reach populations are willing to participate in the program because it is not stigmatized. The good news of the program is spreading. A number of other States are interested in the program, and I believe a little Federal seed money will go a long way toward laying a foundation for young children, minimizing developmental problems which might interfere with future learning and providing children better able to learn when they reach school.

That means down the road these kids are less likely to end up in costly remedial education programs, correctional systems, on the Government dole. We found that it is a good way, in addition, to help prevent child abuse. It was identified as the most effective child abuse prevention program we could develop in Missouri. We will all be better off for showing a little foresight.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Parents as Teachers: the Family Involvement in Education Act of 1990".

SEC. 2. FINDINGS.

The Congress finds—

(1) increased parental involvement in the education of their children appears to be the key to long-term gains for youngsters;

(2) providing seed money is an appropriate role for the Federal Government to play in education;

(3) children participating in the parents as teachers program in Missouri are found to have increased cognitive or intellectual skills, language ability, social skills and other predictors of school success;

(4) most early childhood programs begin at age 3 or 4 when mediation may already be necessary; and

(5) many children receive no health screening between birth and the time they enter school, thus such children miss the opportunity of having developmental delays detected early.

SEC. 3. STATEMENT OF PURPOSE.

It is the purpose of this bill to encourage States to develop and expand parent and early childhood education programs in an effort to—

(1) increase parents' knowledge of and confidence in child-rearing activities, such as teaching and nurturing their young children;

(2) strengthen partnerships between parents and schools; and

(3) enhance the developmental progress of participating children.

SEC. 4. DEFINITIONS.

For the purposes of this Act—

(1) the term "developmental screening" means the process of measuring the progress of children to determine if there are problems or potential problems or advanced abilities in the areas of understanding and use of language, perception through sight, perception through hearing, motor development and hand-eye coordination, health, and physical development;

(2) the term "eligible family" means any parent with one or more children between birth and 3 years of age, or any parent expecting a child;

(3) the term "lead agency" means the office or agency in a State designated by the Governor to administer the parents as teachers program authorized by this Act;

(4) the term "parent education" includes parent support activities, the provision of resource materials on child-development and parent-child learning activities, private

and group educational guidance, individual and group learning experiences for the parent and child, and other activities that enable the parent to improve learning in the home;

(5) the term "parent educator" means a person hired by the lead agency of a State or designated by local entities who administers group meetings, home visits and developmental screening for eligible families, and is trained by the Parents As Teachers National Center established under section 8; and

(6) the term "Secretary" means the Secretary of Education.

SEC. 5. PROGRAM ESTABLISHED.

(a) IN GENERAL.—The Secretary is authorized to make grants to States to pay the Federal share of the cost of establishing, expanding, and operating parents as teachers programs.

(b) SPECIAL RULE.—Any State operating a parents as teachers program which is associated with the Parents As Teachers National Center located in St. Louis, Missouri, shall be eligible to receive a grant under this Act.

SEC. 6. PROGRAM REQUIREMENTS.

(a) IN GENERAL.—(1) Each State receiving a grant pursuant to section 5 shall conduct a parents as teachers program which—

(A) establishes and operates parent education programs including programs of developmental screening of children; and

(B) designates a lead State agency which shall—

(i) hire parent educators who have had supervised experience in the care and education of children;

(ii) establish the number of group meetings and home visits required to be provided each year for each participating family, with a minimum of 4 group meetings and 8 home visits for each participating family;

(iii) be responsible for administering the periodic screening of participating children's educational, hearing and visual development, using the Denver Developmental Test, Zimmerman Preschool Language Scale, or other approved screening instruments; and

(iv) develop recruitment and retention programs for hard-to-reach populations.

(2) Grants awarded under this Act shall only be used for parents as teachers programs which serve families during the period of time beginning with the last 3 months of a mother's pregnancy and ending when a child attains the age of 3.

SEC. 7. SPECIAL RULE.

No person shall be required to participate in any program of parent education or developmental screening, or in any program for developmentally delayed children, pursuant to the provisions of this Act.

SEC. 8. PARENTS AS TEACHERS NATIONAL CENTER.

The Secretary shall establish a Parents As Teachers National Center to disseminate information to, and provide technical and training assistance to, States establishing and operating parents as teachers programs.

SEC. 9. EVALUATIONS.

The Secretary shall complete an evaluation of the State parents as teachers programs within 4 years from the date of enactment of this Act.

SEC. 10. APPLICATION.

Each State desiring a grant pursuant to the provisions of this Act shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall describe the activities and services for which assistance is sought.

SEC. 11. PAYMENTS AND FEDERAL SHARE.

(a) PAYMENTS.—The Secretary shall pay to each State having an application approved under section 10 the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—(1) The Federal share—

(A) for the first year for which a state receives assistance under this Act shall be 100 percent;

(B) for the second such year shall be 100 percent;

(C) for the third such year shall be 75 percent;

(D) for the fourth such year shall be 50 percent; and

(E) for the fifth such year 25 percent.

(2) The non-Federal share of payments under this Act may be in cash or in kind fairly evaluated, including planned equipment or services.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out the provisions of this Act.

Mr. CHAFEE. Mr. President, first of all, I want to commend the Senator from Missouri for his initiative that he is taking with this legislation which he just introduced. It certainly is a fine one.

The whole idea of getting young children started early on education and good health precedures and getting the parents so deeply involved as he proposed is an excellent one.

I support it.

Mr. COCHRAN. Mr. President, research shows that the parent-child relationship is the critical factor in a child's success in the early school years. The child is deeply influenced by parents' belief in the value of education, interest in school progress, encouragement of reading, and development of other skills at home.

I am pleased to be an original cosponsor of the Parents as Teachers Act, which will authorize the Secretary of Education to make grants to States on a competitive basis to establish programs for at-risk children and their families to enable parents to be their child's first teacher in the transition from infancy to independence.

The bill will authorize $20 million to enable States to establish or expand Parents as Teachers Programs similar to the Missouri initiative which has proven so successful. States may receive grants with a modest average cost of $15,000 per year, allowing participation by school districts serving thousands of students and families.

Recognizing that States should eventually pick up the cost of Parents as Teachers Programs, this legislation phases out Federal funding over a 5-year period. Federal funds will cover 100 percent of the cost during the first year, declining to 25 percent in the fifth year.

The aim of Parents as Teachers is to start at an early age to improve the foundation for later learning by strengthening language skills, intellectual development, social skills, and health care. There is also an attempt to reduce the incidence of adolescent pregnancy and to combat adult illiteracy.

The program funded under the Parents as Teachers Act will be open to families with children age 3 and under, regardless of socioeconomic status. The legislation will also establish a Parents as Teachers national center to provide information, training, and technical assistance to participating States.

Parents as Teachers was one of 10 national winners in the 1987 Innovations in State and Local Governments Awards Program, sponsored by the Ford Foundation and the John F. Kennedy School of Government. In 1989, Parents as Teachers was 1 of 8 recipients of the Innovations Award granted by the Council of State Governments.

In 1989, the Center for Family Education in Jackson, MS, affiliated with the Missouri program to become my State's first Parents as Teachers agency. The center, a private, not-for-profit agency, was established by the Junior League of Jackson with funding provided by the league, the Field Cooperative Association, the Child Care Food Program of the U.S. Department of Agriculture, the Purchase of Care Program of the Mississippi Department of Human Services, and Frito Lay, Inc.

The center provides a number of programs, beginning with Parents as Teachers for children aged 3 and under. It promotes Parents as Teachers in school districts, among child care providers, and in agencies seeking to prevent teen pregnancy and drug abuse. Parents as Teachers has been selected as the model family literacy program in all education reform legislation currently before the Mississippi legislature.

Mr. President, I urge Senators to join in this effort to improve our educational process by cosponsoring the Parents as Teachers Act.

Mr. HEFLIN. Mr. President, I am pleased to join my colleague and friend, Senator BOND, in introducing the Parents as Teachers Act. I am proud to be an original cosponsor of this legislation, which, as you know, will encourage States to establish Parents as Teachers Programs.

Parents as Teachers provides guidance and support to parents, encouraging them to best nurture their infant's overall development, with special emphasis on the abilities essential for later school success. Data collected in a 13-year study of early development [1965–78] by the Harvard University preschool project, indicate that language, curiosity, social skills, and cog-

nitive intelligence lay the foundation for learning. The study further shows that, with few exceptions, the development of these skills in a 6-year old can be predicted at age 3. An official who headed several departments in the Mobile County Public School System in my home State of Alabama told a group of State legislators and business persons:

We weep when we see the condition some of the 4- and 5-year-old children are in when they come to us. They don't understand simple directions, are afraid of adults and other children, and have low receptive and expressive language. They are simply not ready either for kindergarten or first grade.

The time and effort involved in helping children try to "catch-up" are staggering. Parents as Teachers is even more critically needed than Head Start because so much of human development is at-risk during infancy. By beginning at the beginning, preventing can replace remediation.

Individuals from 27 States of our Union have participated in training programs in Missouri. Martha Semon was the first such individual from Alabama to participate. The practicality and success of the Missouri program inspired Mrs. Semon to initiate a similar program in Alabama. A pilot program in the beautiful port city of of Mobile, AL, is now approaching its first anniversary.

This point program is funded in large party by the children's trust fund of Alabama based upon the anticipated effectiveness of the program in preventing child abuse. Additional support has been provided by Scott Paper Co., the University of South Alabama, and its college of medicine, the Mobile Community Foundation, and a few private donors. Approximately 70 adults and 37 babies are currently participating.

Mr. President, I would like to see Parents as Teachers Programs available to parents and infants statewide and nationwide. This program has proven itself effective in helping young people develop their intelligence, language, curiosity, and social skills, all of which are at-risk during infancy and critically important for a child's success in the school system. In all probability, the program will also prove itself to be an effective deterrent to child abuse, I am sure that my colleagues agree that an ounce of prevention is worth a pound of cure.

Mr. President, I strongly urge my colleagues to consider the potential of this program, to investigate it for themselves. Talk to Senator BOND about his participation in the program after the birth of his first child. Then, join us in support of legislation which will encourage States to establish Parents as Teachers Programs.

By Mr. PRYOR (for himself, Mr. COCHRAN, Mr. BOREN, Mr. MCCONNELL, Mr. FOWLER, Mr. HELMS, Mr. BUMPERS, Mr. WILSON, and Mr. LOTT):

S. 2367. A bill to provide a price support program for the 1991 through 1995 crops of cotton, rice, and oilseeds; to the Committee on Agriculture, Nutrition, and Forestry.

COTTON, RICE, AND OILSEEDS ACT

Mr. PRYOR. Mr. President, today I rise to introduce a bill that is the result of lengthy considerations resulting from advice and guidance of many farmers from across my State of Arkansas and other areas of the country. In an effort to develop legislation that would contribute to the security of a stable food supply, the increase of agriculture's competitiveness in domestic and international markets, improvement of agronomic practices for the benefit of the environment, and a positive future for producers, we have developed the Cotton, Rice, and Oilseeds Act of 1990.

This legislation attempts to accomplish the goals we originally set out to address by focusing on the principal weakness of the 1985 Food Security Act, which was a lack of planting flexibility for producers. Flexibility has gained the attention of many, but the type of flexibility we provide is a matter of serious debate. To simply suggest we can afford to increase flexibility with a normal crop acreage approach while support levels are continuing to decline is unreasonable, and I am concerned that it is misdirected. We cannot expect our farmers to remain competitive if adequate support levels are not maintained, at least not as long as foreign competitors continue to unfairly subsidize their agricultural interests. Flexibility, in proper amounts, can prove to be a valuable solution to numerous problems, but wide open flexibility in and of itself is not the answer; in truth, it would only compound the problems faced by the stewards of America's lands.

A balanced and responsible approach to flexibility that remains sensitive to the budget could allow producers to respond to market signals and enhance their ability to utilize techniques which would have a positive impact on the environment. I believe that this legislation would accomplish these very needs.

Realizing that flexibility should serve a need instead of providing an incentive, we have crafted a number of provisions that will place a great deal of flexibility in the producer's hands without neglecting some of the traditional supply management tools. The critical point of this flexibility approach is that the decision to implement these flexibility measures will be made by the producer, thus the name, Farmer's Choice. Farmer's Choice would be easily understood by producers, and straightforward to administer. Farmer's Choice has been developed by combining familiar flexibility measures with provisions of the 1985 Food Security Act that have been highly successful. This combination is a healthy one indeed.

Specifically, we have called for the elimination of modified cross compliance, mandate of the 10-percent crop acreage base shifts, implementation of the modified flexible ARP, mandating the planting of nonprogram crops on permitted acreage, and the elimination of an ARP for certain nonprogram crops in particular double cropping situations. We have not only kept the cotton and rice programs in place, but used them as a model in developing a marketing loan for oilseeds, in hopes of returning those commodities to a stronger position in U.S. production.

In developing this legislation I have worked side by side with Senator COCHRAN of Mississippi. The knowledge and grasp of agricultural issues the Senator carries have made this process enjoyable and helped to arrive at a point that we believe can serve as a practical framework for the entire commodity title of the 1990 farm bill. It has been a pleasure working with Senator COCHRAN, and I look forward to advancing our legislation through the farm bill debate in hopes of achieving the most workable, beneficial, and responsible farm bill available. The contributions made by some of our other colleagues, on and off the Senate Agriculture Committee, have not only made this legislation possible, but have given us reason to be excited about the possibilities this bill holds. I am especially pleased that Senator KERREY of Nebraska, in the commodity bill he has introduced, has included the same oilseed language we developed for this legislation. It is encouraging, indeed, to see a majority of the members of the Agriculture Committee unite behind provisions that address oilseeds. It certainly offers hope that we can eventually center behind similar policy that would address the overall issue of flexibility in this farm bill.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE COTTON, RICE, AND OILSEEDS ACT OF 1990

FARMER'S CHOICE

Flexibility

This legislation would address one of the principal weaknesses of the 1985 Food Security Act by offering producers significant flexibility to respond to market signals, adopt sound conservation practices, and/or organize their farming operations into a more efficient configuration employing new technology. By utilizing familiar concepts the legislation would be easily understood by producers, relatively straight-forward to administer, and budget responsible. The

proposal would also allow traditional supply management measures to function in times of significant inbalance. The combination of eliminating cross compliance, allowing moderate base shifts, utilizing a modified contract in times of short supply, and a permanent 0/25 oilseed planting provision should, when administered in a fair and reasonable manner, result in market oriented production in an economically and environmentally sound process.

Specifically, the legislation includes the following:

Cross Compliance.—Eliminates existing authority to require producers to limit plantings of program crops for which no benefits are received as a condition of eligibility for program benefits on another program crop. This will allow producers to respond to positive market signals without gains or losses in program benefits.

Crop Base Acreage Shift.—Producers would be allowed to shift up to 10% of a program crop base to another crop provided there is a corresponding adjustment to the respective bases. The provision would automatically restore the crop bases to the original level at the end of each year to ensure that the shifts respond to markets rather than program benefits.

Modified Flexible ARP.—Producers would be authorized to increase plantings in excess of permitted acreage, up to 98% of the crop acreage base, provided the payment acreage is reduced by an amount equal to the acreage planted in excess of the permitted level. This provision allows producers to identify a production level which maximizes return on capacity utilization. By limiting the "over planting" 98% of crop acreage base, the provision would not result in uncontrolled production or large increases in budget outlays.

Oilseed Planting Provision.—Producers may choose to devote up to 25% of a crop acreage base to oilseeds and certain other nonprogram crops. The producer would not be penalized with a loss of crop base history and could shift a percentage of production capacity to respond to market demand. The net result would be reduced budget outlays without penalizing producers or resorting to decoupling benefits from production.

To round out "Farmer's Choice" flexibility provisions, the legislation would restore a producers ability to certify zero acreage planted to a program crop in return for considered planted credit. This provision would allow a producer to elect not to plan a program crop, which may be surplus, and forgo all program benefits in return for the ability to plant an alternative crop. This provision offers significant budget advantages and would be utilized in resource conservation practices. "Farmer's Choice" also eliminates a troublesome provision in current law which imposes an ARP on certain non-program crops in certain double cropping situations.

Cotton provisions

"Farmer's Choice" legislation builds on a highly successful 1985 farm bill by continuing most provisions of the cotton title and modifying certain key provisions to enhance farm income and enhance U.S. cotton's competitive position in domestic and international markets.

Loan.—The loan would continue to be established based on a market oriented formula with a limit on annual fluctuation and a minimum level. The loan terms would be 10 months with an 8 month extension whenever the price is not more than a specific level.

Marketing Loan, Adjusted World Price, Competitiveness.—The legislation continues the authority to operate a marketing loan program based on the adjusted world price. During periods when U.S. cotton is not competitive the Secretary would be required to make adjustments in the world price to ensure U.S. cotton would move to market.

Target Price and Deficiency Payments.—The target price would be frozen at current levels with a provision for adjustment to reflect increases in input costs. Deficiency payments would be calculated on a calendar year basis.

Acreage Reduction Program.—Provide the Secretary with the authority to establish an unpaid diversion requirement of up to 25%. In order to access more accurate data, the legislation calls for the Secretary to make an initial announcement on November 1, and a final adjustment being offered on January 1, as needed.

Carryover Target.—Recognizing the need for sufficient stocks to sustain continued growth in cotton markets, the legislation requires the Secretary to establish an ARP at such level required to maintain carryover stocks equal to the higher of 4 million bales or 33% of total disappearance.

55-100 and 0-100.—The legislation continues the concept of allowing producers to rotate land for a variety of sound agronomic reasons while receiving some program benefits. The successful 50-92 program authorized in 1985 is restored to the original level of 50-100, with a provision to ensure predictable deficiency payment rates. The 50-100 concept allows producers to maximize the efficiency of resource utilization on an individual basis. The legislation authorizes a 0-100 provision for producers prevented from planting so that producers are not required to plant in order to qualify for benefits.

Miscellaneous.—The legislation reauthorizes a seed cotton loan, mandates a cotton seed loan at a level that recognizes the traditional market relationship with other oilseeds and simplifies the CCC resale procedure and requires a competitive bid procedure.

Rice provisions

Loan.—The legislation maintains current market oriented formula, with limit on annual fluctuation, and a minimum level.

Marketing Loan.—This proposal would extend the current world price competitiveness embodied in the marketing loan provision of the Food Security Act of 1985.

Target Price.—The target price would be frozen at a level not less than current law under this legislation.

Acreage Reduction Program.—Provide the Secretary with the authority to establish an ARP up to 35%. The initial announcement must be made no later than January 31.

Carryover Target.—Recognizing the need for sufficient stocks to sustain continued growth in rice markets, both domestic and international, the legislation requires the Secretary to establish an ARP at such level required to maintain carryover stocks equal to 20% of the average of total rice use for the three preceeding years.

50-100 and 0-100.—The legislation continues to allow producers to rotate land for a variety of sound agronomic reasons while receiving some program benefits. The 50-92 program authorized in 1985 is restored to the original level of 50-100 with a provision to ensure a guaranteed payment rate. The 50-100 concept allows producers to maximize efficiency in the utilization of their land resources on an individual basis. The legislation authorizes a 0-100 program for producers prevented from planting so that they are not required to plant in order to qualify for benefits.

Oilseeds provision

Marketing Loan.—In order to provide an adequate level of support for oilseeds so that they may remain a staple crop, a marketing loan of $6.25 for soybeans and an equitable amount for other oilseeds would be implemented for 100% of the crop. A triggering mechanism would be incorporated which would give the Secretary discretion to reduce the support level up to 10% based on consideration including, but not limited to the following: domestic support programs; domestic ARPs; U.S. stocks; global outlook on supply and demand; cost of inputs; budget outlays. The same criteria would be used in consideration of setting the support level for the other oilseeds. If there is a reduction in the marketing loan level, the non-recourse loan returns to the $6.25 level at the beginning of each year for the life of the authorization of the bill.

Mr. COCHRAN. Mr. President, I join my distinguished colleague from Arkansas, Senator PRYOR, in cosponsoring the Cotton, Rice, and Oilseeds Act of 1990. This bill continues commodity price support programs for the 1991 through 1995 crop years by fine-tuning the basic provisions of the Food Security Act of 1985. In addition, the bill includes increased planting flexibility provisions for the Nation's farmers.

Senator PRYOR and I sponsored the marketing loan program provisions for upland cotton and rice in 1985. This bill extends the basic provisions of the marketing loan program which will allow the United States to continue to play a dominant role in international markets for these commodities. An extra-long staple cotton title is included that maintains the current law established in the 1985 Act. Our bill mandates a marketing loan program for soybeans as well as other oilseed commodities.

The success of the 1985 farm bill is clear. Net farm income has increased steadily and was estimated at a record $48 billion in 1989. Last year, U.S. agricultural exports reached $40 billion. Burdensome stock levels of most commodities, which prevailed during the development of the 1985 legislation, have shifted from government stocks to domestic and foreign markets.

The U.S. cotton and rice industries have witnessed a dramatic turnaround in terms of larger domestic consumption and export shipments. This, in turn, has increased acreage and more efficient use and management of our cotton and rice production base. For example, after 4 years under the 1985 Farm Bill, U.S. cotton offtake increased nearly a third to 14.5 million bales. A similar scenario can be documented for rice.

Competitive pricing of U.S. upland cotton and rice through the marketing loan programs has resulted in in-

creased domestic demand and a larger U.S. share of world trade. The farm value of upland cotton averaged $4.5 billion during the last 3 years, up about $1 billion from the 4 years prior to the 1985 act. The farm value of U.S. rice production has increased in each of the past 4 years and is expected to total $1.1 billion for the 1989/90 marketing year. Larger production, demand, and farm revenue have occurred under the auspices of the 1985 act while Government expenditures for upland cotton and rice have accounted for only 10 and 6 percent, respectively, of the total Government outlays on all commodity programs. The relative program costs for upland cotton and rice have remained approximately constant since the mid-1970's.

Cotton and rice are extremely important for Mississippi. According to the 1987 Census of Agriculture, upland cotton was produced on 4,225 farms, with 75 percent of these farms depending on cotton as their primary source of income. In 1989, cotton production totaled 1.6 million bales. Estimated farm value of this production totaled $576 million and represents 17 percent of the revenue generated from Mississippi's agricultural production.

Similarly, in 1987 rice was produced on 800 farms in Mississippi and was the major source of revenue on over 40 percent of these operations. In 1989, rice production totaled 13.4 million hundredweight and the estimated farm value totaled nearly $143 million. There can be no doubt that the health of the rice and cotton industries has a significant impact on the overall well-being of the Mississippi economy.

The successful turnaround for the cotton and rice industries has not occurred for the producers of our Nation's oilseeds. For example, although the U.S. share of world trade in soybeans and soybean products reached nearly 60 percent in the early 1980's, by 1989 our share is expected to drop to 35 percent, the lowest of the decade. It is becoming increasingly clear that current policies and programs for oilseeds must be changed if we are to continue to have a competitive oilseed sector. We believe a marketing loan program similar to the one that has worked so well for upland cotton and rice should be expanded to include soybeans and related oilseed crops.

This would serve to protect farm income, allow the United States to be price competitive, discourage further expansion of soybean acreage in Brazil, Argentina, and other countries, and enable our Nation's producers to capture a fair share of the world market.

Major provisions of our upland cotton and rice titles include maintaining target prices at their current levels of $0.729 per pound for cotton and $10.71 per hundredweight for rice. In addition, upward adjustments in target prices may be made on the basis of increased production costs. Target prices have already been reduced by 10 percent under the 1985 Farm Bill, while the cost of inputs used to produce cotton and rice have risen by about the same percent. Current target prices are necessary to provide the minimal acceptable level of income protection necessary for commercial farming operations.

Minimum loan rates for upland cotton of 50 cents per pound and $6.50 per hundredweight for rice are maintained in our bill. The formula loan rate floors were established under the 1985 act. Current loan rate minimums are justified, since there is adequate flexibility under the marketing loan provisions to provide for orderly marketing. This will also ensure that we continue to be price competitive. For many producers, the loan is not only a marketing tool, but also assists in obtaining needed credit.

Our bill continues the current law for the Commodity Credit Corporation's 10-month nonrecourse loan program for upland cotton and includes the existing provision for an 8-month extension under certain conditions. For rice, the 9-month loan term is maintained. The marketing loan provision allows producers to repay their upland cotton and rice at the lesser of the loan rate or the prevailing world market price as determined by the Secretary of Agriculture.

This legislation continues the current law for establishing cotton and rice program base acreage. Program yields would also remain frozen at the level established for the 1990 crop year. The Secretary of Agriculture would have discretion, however, to adjust program yields in farming situations where changes in production practices or farm ownership necessitate a modification.

The soybean title of our farm bill mandates a marketing loan program for soybeans and other related oilseed commodities similar to upland cotton and rice programs. Our soybean program directs the Secretary of Agriculture to support the price of soybeans through nonrecourse marketing loans throughout the 1991 through 1995 marketing years.

The support price for soybeans shall be $6.25 per bushel, which takes into account the relative support for alternative program crops. In addition, the Secretary may reduce the loan level each marketing year by a maximum of 10 percent. The Secretary will be able to maintain the support level of soybeans relative to support levels of alternative crops, taking into account any acreage reduction programs in effect. Adequate authority to discourage excessive planting of soybeans and potential buildup of excessive stocks should also be provided. The soybean program will allow the United States to maintain a viable and competitive domestic soybean industry at a reasonable cost to the Federal Government.

In addition to the cotton, rice, and soybean titles in our farm bill, the other major component addresses planting flexibility issues. Under the 1985 act, producers had only limited alternatives available if they chose to participate in Federal commodity programs. Senator PRYOR and I have developed flexibility provisions which increase the producer's choices in developing economically sound and environmentally sensitive farm plans. While no one feature of our program would necessarily achieve the desired goals, in combination they provide farmers with the needed flexibility to improve the efficiency and productivity of their operations.

Our approach to increased planting flexibility requires the Secretary of Agriculture to allow producers the option to shift up to 10 percent of their commodity specific acreage bases annually. Any upward adjustment in a crop base would be offset by an equivalent downward adjustment in one or more other crop acreage base. Any such adjustment would only apply to a single crop year and revert back to the original established crop specific bases after that crop year. Producers would be eligible for loan protection and program benefits on the adjusted acreage. Similarly, another feature would allow producers to plant up to 98 percent of a crop specific acreage base. If an acreage reduction program is in effect for that crop, however, program benefits would be reduced for each additional acre planted above a producer's permitted acreage.

Our flexibility program eliminates planting cross-compliance requirements for program crops. By eliminating this provision, farmers will be able to more effectively react to market conditions without jeopardizing eligibility for program benefits. Another feature would allow producers to certify zero plantings, maintain their established bases, and plant any other alternative crop on the acreage, although producers would be ineligible for loan protection and program benefits on this acreage.

Our flexibility package includes a provision which allows producers to plant up to 25 percent of their established program acreage to selected nonprogram crops without the loss of their program base. The legislation will eliminate the acreage reduction requirement for nonprogram crops which are doublecropped with program crops. In total, this approach to planting flexibility should offer producers sufficient latitude in responding to commodity price signals.

I urge Senators to support this legislation to enchance the ability of the Nation to compete in international markets, to provide for orderly commodity marketing, and to protect incomes from our Nation's cotton, rice, and oilseed producers.

By Mr. MOYNIHAN:

S. 2368. A bill to establish a national policy for the conservation of biological diversity; to support environmental research and training necessary for conservation and sustainable use of biotic natural resources; to establish mechanisms for carrying out the national policy and for coordinating related activities; and to facilitate the collection, synthesis, and dissemination of information necessary for these purposes; to the Committee on Environment and Public Works.

NATIONAL BIOLOGICAL DIVERSITY CONSERVATION AND ENVIRONMENTAL RESEARCH ACT

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to initiate a research program on biological diversity. The bill is a companion to a similar bill which has been introduced in the House by my friend, Congressman JAMES SCHEUER.

Biological diversity is a term which we did not hear until just a few years ago. Biological diversity refers to the full range of all living organisms, plants and animals, and of the ecological communities in which they live. Diversity is defined as the number of different items and their relative frequency. We are concerned with the diversity of all levels of biological resources, from the molecular composition of genetic material, to individual species, to complete ecosystems.

Only recently have we begun to fully recognize the often subtle biological impacts of our activities—how we can upset delicate ecological balances. Often, the losses of biological diversity are unintended. Sadly, many of the losses may even go unnoticed. There are about 1.4 million species of plants and animals which have been identified and given scientific names. But scientists think that there are actually between 5 and 80 million species. We don't even know the amount of diversity on the planet to the nearest order of magnitude.

I would not say that we can, or should even try to, prevent all losses of biodiversity. Clearly there have been many natural extinctions over the history of the Earth. Biological systems are dynamic—they are always evolving and changing. But the things that we do, we should do with understanding. The National Science Board estimates that the rate of extinction over the next few decades is likely to rise to at least 1,000 times the normal background rate of extinction—that being the term we use to describe typical and expected patterns of extinction. Scientists estimate that from one-quarter to one-half of the Earth's species will become extinct in the next 30 years. We are losing these plants and animals even before we can learn their potential value or how they fit into their ecological niche.

The bill which I am introducing today will help us understand the magnitude and impact of the loss of biological diversity. It establishes conservation of biological diversity as a national goal. The bill also establishes a National Center for Biological Diversity and Environmental Research. This Center will be the focal point for research, data compilation, and dissemination of information on biological diversity. Since biological diversity is, by its scope, a multidisciplinary, multiagency issue, the bill also creates an interagency working committee to develop a coordinated Federal strategy for conservation of biological diversity. A National Scientific Advisory Committee is established to oversee the implementation of the national strategy.

Mr. President, I very much hope that we can rapidly consider this bill, and I urge my colleagues to join with me in the effort to enact it. I ask unanimous consent that the text of my legislation be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2368

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Biological Diversity Conservation and Environmental Research Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Earth's biological diversity is being reduced at a rate without precedent in human history, and this rate is certain to increase greatly in the near future;

(2) most losses of biological diversity are unintended and largely avoidable consequences of human activity;

(3) while the most rapid losses of biological diversity are occurring outside the United States, biological impoverishment is also a serious problem within the country;

(4) humans depend on biological resources, including plants, animals, and microganisms, for food, medicine, shelter, and other important produts;

(5) biological diversity is valuable as a source of intellectual and scientific knowledge, recreation, and aesthetic pleasure;

(6) reduced biological diversity may have serious consequences for human welfare as resources for research and agricultural, medicinal, and industrial development are irretrievably lost;

(7) reduced biological diversity may also endanger the functioning of ecosystems and critical ecosystem processes that moderate climate, govern nutrient cycles and soil conservation and production, control pests and diseases, and degrade wastes and pollutants;

(8) reduced biological diversity will diminish the raw materials available for scientific and technical advancement, including the development of improved varieties of cultivated plants and domesticated animals;

(9) existing information regarding the abundance and distribution of biological diversity is inadequate, often inaccessible, and frequently inapplicable to conservation management, thus hampering the effeciency of resource policy and management decisions;

(10) existing conservation laws largely address the protection of individual species that have already suffered declines, rather than focusing on maintaining ecosystem conditions that are necessary for sustaining healthy diversity across a broad range of species;

(11) maintaining biological diversity through habitat preservation is often less costly and more effective than efforts to save species once they become endangered;

(12) existing laws and programs relevent to the loss of biological diversity in the United States are largely uncoordinated and inadequate, and sometimes result in duplication of efforts, conflicts in goals, and gaps in geographic and taxonomic coverage;

(13) a comprehensive and coordinated Federal strategy is needed to arrest the loss of biological diversity and also, where possible, to restore biological diversity both through natural recovery and active management;

(14) increased biological and ecological research is needed to provide the knowledge to maintain biological diversity, to protect and manage ecosystems, and to ensure the sustainable use of natural resources;

(15) a policy that will contribute to a biological inventory, determine the rate and scale of the depletion of biological diversity, and provide a model for the conservation of biological diversity is needed;

(16) increased understanding and appreciation by the public of the importance of biological diversity is necessary for effective conservation; and

(17) because it cannot be predicted which biological resources will be most important for future needs, maintaining the diversity of living organisms in their natural habitats is prudent policy.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "biological diversity" means the full range of variety and variability within and among living organisms and the ecological complexes in which they occur, and encompasses ecosystem or community diversity, species diversity, and genetic diversity;

(2) the terms "conserve", "conserving", and "conservation" refer to protective measures for maintaining existing biological diversity and active measures for restoring diversity through management efforts, in order to protect, restore, and enhance as much of the variety of species and communities as possible in abundances and distributions that provide for their continued existence and normal functioning, including the viability of populations throughout their natural geographic distributions;

(3) the term "ecosystem or community diversity" means the distinctive assemblages of species and ecological processes that occur in different physical settings of the biosphere and distinct parts of the world;

(4) the term "genetic diversity" means the differences in genetic composition within and among populations of a given species;

(5) the term "species diversity" means the richness and variety of native species in a particular location of the world; and

(6) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

SEC. 4. PURPOSES.

It is the purpose of this Act—

(1) to conserve biological diversity by protecting, restoring, and enhancing as much of the variety of species and communities as possible in abundances and distribution that provide for their continued existence and normal functioning;

(2) to require explicit assessment of effects on biological diversity in all evaluations of the environmental effects of major Federal actions significantly affecting the quality of the human environment;

(3) to establish a Federal strategy for the conservation of biological diversity;

(4) to establish mechanisms for encouraging and coordinating Federal, State, and private efforts to preserve biological diversity and natural environments;

(5) to undertake a nationally coordinated effort to collect, synthesize, and disseminate adequate data and information for—

(A) the understanding of biological diversity;

(B) assessing the rate and scale of the depletion of biological diversity; and

(C) identifying elements of biological diversity that are in significant decline or otherwise warrant special attention;

(6) to support basic and applied research necessary for the conservation of biological diversity; and

(7) to educate the citizens of the United States regarding the importance of biological diversity and foster actions that prevent biological impoverishment and preserve biological diversity and natural resources; and

(8) to integrate domestic efforts with international efforts to conserve biological diversity.

SEC. 5. NATIONAL BIOLOGICAL DIVERSITY AND ENVIRONMENTAL POLICY.

(a) POLICY.—It is the public policy of the United States that conservation of biological diversity domestically and globally is a national goal, and conservation efforts are a national priority.

(b) BIOLOGICAL DIVERSITY CONTEXTS.—In implementing the policy set forth in subsection (a), biological diversity of the entire biosphere shall be considered in global, national, regional, and local contexts.

(c) CONSISTENCY OF FEDERAL ACTION.—The actions, policies, and programs of all Federal agencies shall be consistent with the goal of conservation of biological diversity, to the maximum extent practicable.

(d) CONSERVATION OF BIOLOGICAL DIVERSITY ON FEDERAL LANDS AND WATERS.—All Federal lands and waters shall be managed to conserve biological diversity within the context of the purposes for which those areas were established. Nothing in this section shall diminish the duties to maintain biological diversity established under existing law.

(e) AGENCY REVIEW PROCESS.—

(1) Each Federal department or agency shall, within 1 year after the date of the enactment of this Act and annually thereafter—

(A) review its programs, both individually ands comulatively, for consistency with the conservation of biological diversity in accordance with this Act, paying particular attention to especially endangered biological systems; and

(B) report the results of such review to the President, the Council on Environmental Quality, and the Congress.

(2) With respect to a program found to be inconsistent with the conservation of biological diversity in accordance with this Act, the relevant department or agency shall—

(A) undertake any modifications within its authority to eliminate such inconsistency;

(B) propose any legislation which may be necessary to eliminate such inconsistency; and

(C) submit a statement in its annual budget request to the Congress explaining any continuation of program elements that have adverse effects on biological diversity.

(f) COUNCIL ON ENVIRONMENTAL QUALITY.—

(1) ESTABLISHMENT OF GUIDELINES.—The Council on Environmental Quality shall, within 1 year after the date of enactment of this Act, establish guidelines, in consultation with the National Scientific Advisory Committee on Biological Diversity established under section 10 (hereafter in this Act referred to as the "Scientific Advisory Committee"), for consideration of biological diversity in the preparation of environmental impact statements.

(2) IDENTIFICATION OF COMMUNITIES, SPECIES, AND POPULATIONS IN SIGNIFICANT DECLINE.—The Council on Environmental Quality shall identify, in consultation with the National Center for Biological Diversity and Conservation Research established under section 6 (hereafter in this Act referred to as the "Center") those biotic communities, species, and populations that appear to be in significant decline or in imminent danger of loss of viability, or are otherwise of special concern, and shall include such information in its annual report. Information acquired pursuant to this paragraph shall be considered in the assessment of the impacts of major Federal actions on biological diversity under section 102 of the National Environmental Policy Act of 1969.

(3) CRITERIA, REVIEW, AND RECOMMENDATIONS.—The Council on Environmental Quality shall, in consultation with the Scientific Advisory Committee—

(A) develop criteria for the preparation of reports required by subsection (e)(1);

(B) review such reports;

(C) make recommendations regarding the efficiency and success of programs described in such reports; and

(D) recommend improvements to such programs that are necessary to acheive the purposes of this Act.

(g) REVIEW OF ENVIRONMENTAL IMPACT STATEMENT BY EPA.—

(1) REVIEW.—In reviewing environmental impacts under Section 309 of the Clean Air Act (42 U.S.C. 7609), the Administrator of the Environmental Protection Agency shall consider an action to be "unsatisfactory" for the purposes of said section if such action is likely to result in a significant reduction of biological diversity.

(2) SIGNIFICANT REDUCTION OF BIOLOGICAL DIVERSITY.—For the purpose of this subsection (g), "a significant reduction of biological diversity" means the loss of significant components of the ecosystem, including—

(i) losses of individuals of species with respect to which a finding is made under section 4(b)(3)(B)(iii) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(B)(iii));

(ii) losses of more than 10 percent of the geographic populations within any State of a native species that has been found by the Council on Environmental Quality or such State to be rare or of special concern on a State, National, or global level;

(iii) losses of more than 10 percent of the geographic populations within any State of a native species that has been found by the Council on Environmental Quality to appear to be in significant decline or in imminent danger of loss of viability;

(iv) losses of native floral or faunal communities that have been found by the Council on Environmental Quality or an affected State to be rare or of special concern on a State, National, or global level;

(v) losses of floral or faunal communities that have been found by the Council on Environmental Quality to appear to be in significant decline or in imminent danger of loss of viability; and

(vi) losses of more than 20 percent of the geographic populations within any State of a native species, or of occurrences of a floral or faunal community.

(B) This subsection shall take effect upon issuance of guidelines under subsection (f)(1).

(h) EFFECT ON OTHER LAWS.—Nothing in this Act shall be construed to amend or otherwise alter the requirements of the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973.

SEC. 6. NATIONAL CENTER FOR BIOLOGICAL DIVERSITY AND CONSERVATION RESEARCH.

(a) ESTABLISHMENT AND PURPOSE.—There is established within the Smithsonian Institution, in cooperation with the Environmental Protection Agency, a National Center for Biological Diversity and Conservation Research (the Center), whose primary purpose shall be to set research priorities and provide leadership and coordination for the understanding and promotion of knowledge of the biota with respect to its composition, systematics, distribution, status, biological properties, ecological relationships (including environmental significance), and economic value, and the effects, including the rate and scale of depletion, on the biota of the activities of people, and to make this knowledge accessible to the people of the United States, and others working to conserve biological diversity throughout the world.

(b) FUNCTIONS.—The functions of the Center shall be—

(1) to summarize and enhance the knowledge of the distribution, status, and characteristics of the biota, as described in subsection (a), in a manner that can be used in conservation and management;

(2) to prepare, with the assistance of agencies and other sources, lists and, where appropriate, maps of—

(A) biotic communities, species, and populations that appear to be in significant decline or in imminent danger of loss of viability;

(B) areas of outstanding ecological or biotic importance;

(C) communities, species, populations, and areas that warrant special concern; and

(D) factors, including ownership status and applicable laws, affecting the protection of such communities, species, and populations;

(3) to provide information useful to—

(A) the Interagency Working Committee on Biological Diversity established under section 7 (hereafter in this Act referred to as the "Interagency Committee") in the preparation of the Federal strategy for conservation of biological diversity described in section 8; and

(B) the various agencies responsible for the implementation of such strategy;

(4) to publish information, such as floral and faunal treatises, resource inventories, vegetation maps, atlases, and guides for practical use of biological information, and especially publications that synthesize information relevant to national goals of understanding and conserving biological diversity;

(5) to identify taxonomic groups, ecological communities and geographical areas in need of study, and to develop a strategic plan for, initiate, and provide financial support toward an ongoing survey of the biota;

(6) to provide for the conducting of field surveys and research, through contracts or otherwise, by Federal, State, and private agencies, institutions, organizations, and individuals;

(7) to make recommendations with respect to the use of the latest technology for data collection, storage, and retrieval;

(8) to provide training and technical assistance regarding collection and interpretation of biological data; and

(9) to conduct supplementary research, as appropriate.

(c) DIRECTIVES.—In carrying out its functions under subsection (b), the Center shall—

(1) establish a cooperative network of Federal, State, and private agencies, institutions, and organizations for the collection and coordination of information regarding the status of biological diversity;

(2) oversee a review of existing information on biological diversity, including data bases;

(3) collect data and develop biotic information, with respect to aquatic and marine systems as well as terrestrial systems, that is relevant and applicable to resource management and conservation decisions;

(4) work closely with the national network of State natural heritage programs;

(5) cooperate with international data collection and coordination centers; and

(6) raise additional funds as necessary to support the activities of the Center.

(d) STRUCTURE AND MEMBERSHIP.—

(1) ADVISORY BOARD.—The Center shall have an advisory board, which shall assist in setting the policies for and directing the Center.

(2) MEMBERSHIP.—

(A) The advisory board shall consist of 12 members, including—

(i) 1 representative of the Smithsonian Institutions;

(ii) 1 representative of the Fish and Wildlife Service;

(iii) 1 representative of the National Marine Fisheries Service;

(iv) 1 representative of the National Science Foundation;

(v) 1 representative of the Department of Agriculture;

(vi) 1 representative of the Environmental Protection Agency;

(vii) 1 representative of State biological surveys;

(viii) 1 representative of private organizations that maintain large data bases oriented toward biological conservation;

(ix) 2 scientists from nonprofit research institutions or universities; and

(x) 2 representatives from institutions with collections of biological specimens.

(B) Members listed under clauses (vii) through (x) of subparagraph (A) shall be appointed by the President from a list of nominees recommended by the National Academy of Sciences. Such list of nominees shall include not more than twice as many names as there are positions available.

(3) TERMS.—Members of the advisory board shall serve for terms of 5 years, and may serve more than one term.

(4) PER DIEM.—Members of the advisory board who are not employees of the United States shall each be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-16 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the advisory board.

(5) CHAIRMAN.—The members of the advisory board shall select 1 member to serve as chairman.

SEC. 7. INTERAGENCY WORKING COMMITTEE ON BIOLOGICAL DIVERSITY.

(a) ESTABLISHMENT.—There is established an Interagency Working Committee on Biological Diversity (the Interagency Committee).

(b) MEMBERSHIP.—The Interagency Committee shall consist of 1 representative each from—

(1) the Bureau of Land Management;
(2) the National Park Service;
(3) the Fish and Wildlife Service;
(4) the Forest Service;
(5) the Department of Defense;
(6) the Environmental Protection Agency;
(7) the National Marine Fisheries Service;
(8) the National Science Foundation;
(9) the Agricultural Research Service;
(10) the Soil Conservation Service;
(11) the Center;
(12) the Army Corps of Engineers;
(13) the Council on Environmental Quality; and
(14) any other agency or department of the United States that the President, or the Chairman of the Interagency Committee, considers appropriate.

Each such representative shall be designated by the head of the entity named.

(c) CHAIRMAN.—The member of the Interagency Committee representing the Council on Environmental Quality shall serve as Chairman of the Interagency Committee.

(d) FUNCTION.—The function of the Interagency Committee shall be to prepare a coordinated Federal strategy for conservation of biological diversity described in section 8.

(e) INTERNATIONAL COORDINATION.—The heads of the following entities shall designate representatives who shall work with the Interagency Committee to ensure coordination of domestic efforts with the existing U.S. strategy on conservation of biological diversity internationally (as required by Section 119 of the Foreign Assistance Act) and with international treaty obligations with respect to biological diversity—

(1) State Department;
(2) Agency for International Development;
(3) Treasury Department; and
(4) Man and the Biosphere Program.

(f) DISSOLUTION.—The Interagency Committee shall be dissolved after the submission to the Congress of the Federal strategy required under section 8(f)(2) and the submission to the Congress of any regional strategy under section 8(c).

SEC. 8. FEDERAL BIOLOGICAL DIVERSITY STRATEGY.

(a) DEVELOPMENT.—The Interagency Committee, with the advice and guidance of the Scientific Advisory Committee, shall develop a coordinated Federal strategy for the conservation of biological diversity (hereafter in this Act referred to as the "Strategy").

(b) CONTENTS.—The Strategy shall address—

(1) the responsibility of each Federal agency to conserve biological diversity;

(2) methods of interagency cooperation, such as bioregional management of ecosystems;

(3) Federal involvement in non-Federal sectors;

(4) conservation through protective measures to maintain existing biological diversity, and through active measures to restore biological diversity;

(5) identification of habitats of special concern and methods to protect them;

(6) prevention of anthropogenic biological extinctions and endangerment;

(7) provisions for the long-term viability of ecosystems and escosystem processes;

(8) maintenance of gene pools through combination of in situ and ex situ techniques;

(9) use of demonstration areas, such as biosphere reserves;

(10) enhancement of scientific knowledge through improved and more complete biological surveys;

(11) research programs to identify factors limiting population viability or persistence;

(12) improvement of management techniques based on scientific knowledge;

(13) methods to encourage conservation-oriented thinking and ecological awareness in public and private decisionmaking;

(14) broad-based educational efforts regarding the importance of biological diversity and the need for conservation;

(15) consistency with the Strategy in international actions of Federal agencies;

(16) development of criteria for evaluating the progress of Federal agencies toward implementing the Strategy;

(17) reduction of the impact of global climate change on biological diversity;

(18) priorities for conservation, including financial priorities; and

(19) methods by which Federal employees can receive rewards or other incentives for activities for the conservation of biological diversity.

(c) STRATEGIES FOR REGIONAL ECOSYSTEMS.—The Interagency Committee shall—

(1) identify and delineate very large ecological regions within the United States and its territories and possessions; and

(2) prepare an interagency strategy for conservation of biological diversity within each such region, which shall—

(A) address the issues referred to in subsection (b); and

(B) emphasize management on a regional level, taking into account linkages between habitats.

(d) AGENCY PLANS.—

(1) PREPARATION.—Each agency represented on the Interagency Committee shall prepare a plan for implementing those elements of the Strategy, and any regional strategy prepared under subsection (c), which apply to such agency.

(2) SUBMISSION.—A plan prepared under paragraph (1) shall be signed by the head of the preparing agency, and by the Secretary of any Department of which the preparing agency is a part, and shall be submitted to the Congress along with the report required by subsection (f)(2).

(3) MONITORING, EVALUATION, AND MODIFICATION.—Each plan prepared under paragraph (1) shall include provisions for monitoring and evaluating the success of the plan, along with procedures for modification of the plan as science provides new methods for the conservation of biological diversity.

(e) PUBLIC PARTICIPATION.—The public shall be provided with opportunities to par-

ticipate in the preparation of, and to comment on, the Strategy and any regional strategies prepared under subsection (c).

(f) REPORTS.—

(1) Within one year after the date of the enactment of this Act, the Interagency Committee shall submit to the Congress a report detailing progress made toward development of the Strategy.

(2) Within two years after the date of the enactment of this Act, the Interagency Committee shall submit to the Congress a report containing the completed Strategy, including written comments by the Scientific Advisory Committee and the public, and including a statement explaining any difference between the completed Strategy and the recommendations of the Scientific Advisory Committee. Such report shall be signed by the head of each agency represented on the Interagency Committee.

(3) At least once every two years after the submission of a report under paragraph (2), the head of each agency which was represented on the Interagency Committee shall submit to the Congress a report—

(A) detailing progress in the implementation of the Strategy, including written comments by the Scientific Advisory Committee and the public; and

(B) including a statement explaining any difference between the implementation of the Strategy and the recommendations of the Scientific Advisory Committee.

SEC. 9. GRANTS, RESEARCH, AND TRAINING.

(a) BIOLOGICAL DIVERSITY GRANTS.—

(1) GRANTS.—Each agency which was represented on the Interagency Committee may engage in partnership grants with pulbic agencies, including State natural heritage programs and State natural resource agencies, private individuals, and organizations for projects to maintain or restore biological diversity through research, resource management, personnel training, public education, or otherwise.

(2) SMALL-SCALE PROJECTS.—Grants issued under paragraph (1) shall include small-scale projects by private individuals and grassroots organizations.

(3) GUIDELINES AND REVIEW PROCEDURES.—Agencies issuing grants under this subsection shall cooperate through the Scientific Advisory Committee in setting guidelines and competitive review procedures for grant proposals.

(4) MATCHING FUNDS.—Federal funds made available for grants under this subsection must be matched in cash or in kind on at least an equal basis by the grantee, except in the case where the grantee is a State or where the grant is provided for research.

(b) ENVIRONMENTAL RESEARCH AND TRAINING.—

(1) PRIORITY.—Each agency, as well as cooperating entities designated in Section 7(e), which was represented on the Interagency Committee shall, where appropriate to its mission, give high priority to research and personnel training towards implementation of the Strategy.

(2) ADEQUACY ASSESSMENT.—Without two years after the date of the enactment of this Act, each agency which was represented on the Interagency Committee shall conduct an assessment of its environmental research and training programs to determine their adequacy for—

(A) long-term ecological research and monitoring;

(B) development of programs to train personnel in basic principles of ecology and systematics; and

(C) public education regarding biological diversity.

and shall improve those programs determined to be inadequate. The results of such assessment, and a summary of actions taken to improve such programs, shall be included as part of the final report of the Interagency Committee submitted under section 8(f)(2).

(c) NATIONAL SCIENCE FOUNDATION.—The National Science Foundation shall provide support for research that integrates fundamental and applied science toward the conservation of biological diversity.

(d) DEPARTMENT OF AGRICULTURE.—The Secretary of Agriculture is directed to:

(1) research the potential of increased utilization of biological diversity in agriculture, including

(a) alternative crops and other products;

(b) biological control of pests and integrated pest management; and

(c) use of native prairie grasses on conservation acreages;

(2) undertake longterm studies of agroecosystems; and

(3) assess the impact of agricultural and forestry practices on biological diversity and recommend improvements as appropriate.

SEC. 10. NATIONAL SCIENTIFIC ADVISORY COMMITTEE ON BIOLOGICAL DIVERSITY.

(a) ESTABLISHMENT.—There is established a National Scientific Advisory Committee on Biological Diversity (the Scientific Advisory Committee), which shall be constituted by the National Academy of Sciences as a permanent entity.

(b) FUNCTIONS.—The functions of the Scientific Advisory Committee shall be—

(1) to oversee the implementation of the Strategy;

(2) to provide scientific and technical advice and counsel to the Interagency Committee in the preparation of the Strategy to ensure that the best possible scientific information is used in developing the Strategy;

(3) to provide scientific and technical assistance to the agencies of the United States responsible for the implementation of the Strategy;

(4) to assist in the coordination of interaction between the agencies represented on the Interagency Committee and the Center;

(5) to provide scientific and technical assistance in—

(A) the evaluation of the impacts of proposed Federal actions on biological diversity;

(B) the review of Federal programs for consistency with the conservation of biological diversity; and

(C) the assessment of the adequacy of Federal programs in environmental research and training; and

(6) to provide a general reference and scientific and technical advisory resource for the Nation in matters relating to conservation of biological diversity.

(c) MEMBERSHIP AND STRUCTURE.—

(1) MEMBERSHIP.—

(A) The Scientific Advisory Committee shall consist of 15 members, including—

(i) the Director of the Center;

(ii) one representative of the advisory board of the Center;

(iii) one representative of the Smithsonian Institution;

(iv) one representative of the Environmental Protection Agency; and

(v) 11 scientists from Federal or State agencies, universities, nonprofit research institutions, nongovernmental organizations, and natural resource industries with particular expertise in the area of biological diversity.

(B) Members listed under clause (v) of subparagraph (A) shall be appointed by the President from a list of nominees recommended by the National Academy of Sciences. Such list of nominees shall not include more than twice the number of positions available. The President shall make such appointments so as to ensure that the Scientific Advisory Committee membership is diverse disciplinarily and geographically.

(2) TERM OF OFFICE.—

(A) Except as provided in subparagraph (B), members of the Scientific Advisory Committee shall be appointed for 3-year terms, and no member may serve more than 2 consecutive terms.

(B) Of the members initially appointed under paragraph (1)(A)(v), 3 shall be appointed for 1-year terms and 4 shall be appointed for 2-year terms.

(3) CHAIRMAN.—The members of the Scientific Advisory Committee shall elect 1 member to be chairman.

(4) PER DIEM.—Members of the Scientific Advisory Committee who are not employees of the United States shall each be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay in effect for grade GS 15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Scientific Advisory Committee.

(d) REPORTS.—Within 3 years after the date of the enactment of this Act, and once every two years thereafter, the Scientific Advisory Committee shall submit a report to the Congress and the Council on Environmental Quality describing activities taken under this Act.

(e) ADMINISTRATIVE AND STAFF SUPPORT.—The Scientific Advisory Committee shall receive from the Council on Environmental Quality such administrative and staff support as may be necessary to carry out its functions.

SEC. 11. INTERNATIONAL CONSERVATION ACTIVITIES

(a) The Agency for International Development, Department of State, Fish and Wildlife Service, National Park Service, National Marine Fisheries Service, Environmental Protection Agency, Forest Service, and Department of Agriculture are directed to encourage conservation of biological diversity globally through—

(1) fully supporting and coordinating implementation of existing obligations and programs that contribute to the conservation of biological diversity globally, including—

(A) Convention on Trade and Endangered Species (CITES)

(B) World Heritage Convention

(C) Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere

(D) Convention on Wetlands of International Importance, Especially as Waterfowl Habitat (Ramsar)

(E) Man and the Biosphere Program—U.S.

(2) supporting basic and applied research towards understanding ecological systems and applying that knowledge for sustainable development and the conservation of biological diversity internationally, including cooperative research and scientific exchange with governmental, educational and research institutions.

(3) increasing training, education, and technical assistance related to conservation

of biological diversity and sustainable development;

(4) providing assistance that promotes sustainable development and global environmental stability including research on and implementation of:

(A) alternative land use practices in areas adjacent to natural areas of significant ecological value;

(B) measures to increase productivity of degraded and altered lands and waters in order to relieve the pressures on natural ecosystems.

(5) cooperating with one another and with appropriate international organizations and governments in developing and in implementing these obligations, research, and conservation programs.

(b) The Agency for International Development is directed to hire, as opportunity permits through attrition or otherwise, U.S. direct-hire technical staff in environmental and natural resources with extensive formal training in conservation of biological diversity and sustainable development.

(c) The Congress finds that Sections 118 and 119 of the Foreign Assistance Act provide a significant basis for addressing the problems of tropical deforestation and loss of biological diversity. The Congress reaffirms its support for these provisions and directs that AID give high priority to their implementation.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated for the activities of the grants program under section 9 and for the activities of the Center under section 6—

(1) $10,000,000 for the fiscal year ending September 30, 1990;

(2) $15,000,000 for the fiscal year ending September 30, 1991; and

(3) $20,000,000 for the fiscal year ending September 30, 1992.

(b) LIMITATION.—Expenditures in any fiscal year of funds appropriated under this section for grants under section 9 shall not exceed 10 percent of the total amount appropriated under this section for such fiscal year. Funds appropriated under this section shall be in addition to sums authorized and appropriated under any other Act.●

By Mr. BAUCUS (for himself, Mr. HEINZ, and Mr. ROCKEFELLER):

S. 2369. A bill to initiate actions under section 310 of the Trade Act of 1974 with respect to the trade barriers of Japan that are the subject of the structural impediments initiative; to the Committee on Finance.

JAPANESE TRADE BARRIERS

Mr. BAUCUS. Mr. President, I rise today to introduce legislation that directs the President to initiate a new round of trade negotiations with Japan if the current trade talks fail to open the Japanese market.

Last spring—in conjunction with the announcement of Super 301 priorities, the administration launched the structural impediments initiative or SII. SII was conceived as a broad discussion between the United States and Japan of various trade and economic problems, including land use, fiscal policy, savings rates, business practices, and the Japanese distribution system. The talks are scheduled to conclude this summer.

I have held four hearings on SII as chairman of the Senate Finance Committee's International Trade Subcommittee.

THE JAPANESE TRADE PROBLEM

In light of the testimony at those hearings, I believe SII is the most important trade initiative the United States has ever undertaken.

It is the only effort that gets at the heart of the United States trade problem—the closed Japanese market which may be costing the United States as much as $30 billion in lost exports annually.

Mr. President, let me explain what that means to America.

In international trade, we sometimes lose sight of the forest for the trees.

We focus so much on the individual products that are involved in trade disputes that we lose sight of the bigger picture.

When lumber mill workers in Montana, computer makers in California, or auto workers in Michigan lose their jobs because of unfair Japanese practices they are not able to purchase agricultural products, consumer goods, and services that the rest of the United States produces. We all lose.

If America is driven out of leading edge industries by unfair Japanese competition, the United States economic base is undermined. We all lose.

If the closed Japanese market undermines the long-term economic health of the United States, we all lose.

In short, addressing Japanese trade problems is not just a concern to States that produce beef, semiconductors, satellites, or forest products. The economic fate of all 50 States is linked. No State is an island unto itself. If 1 State loses, all 50 will eventually lose.

Therefore, trade with Japan is a concern for all States and all Americans. It should be an interest of every Member of this body and opening the Japanese market should be one of the United States' top policy priorities.

PROGRESS IN SII

Unfortunately, very little concrete progress toward opening the Japanese market has been achieved in the SII talks.

After three rounds of SII negotiations, U.S. negotiators stated they were very disappointed with the lack of progress in SII. Apparently, the Government of Japan has failed to take SII seriously. Unfortunately, the lack of clear structure and deadlines to the SII negotiations reinforces the perception that the United States is not serious about obtaining results from SII.

The mid-term report for the SII negotiations is due in early April. If SII is to yield results, this report must demonstrate concrete progress. If it does not at least lay a mutually agreed blueprint for progress in SII, there is little chance of a substantive agreement by this summer.

There have been various reports in the press in recent weeks that Japan may be considering substantial concessions in SII. I hope these reports are true. If they are true, they are encouraging. But we cannot base policy on leaks to the press. These could as easily be test balloons as serious proposals.

Certainly, I hope that SII succeeds on schedule. But if it does not succeed the United States must pursue other options. And early public discussion of the alternatives should SII fail sends the message that the United States will demand results from the SII.

SUMMARY OF LEGISLATION

In that light, I am today introducing legislation to mandate that the trade-related issues in SII be pursued through section 301 investigations should the SII fail to yield results. The authors of the 1988 Trade Act intended for "Super 301" to be used to address the trade issues now being discussed in SII. We must give SII a chance to succeed. But should SII fail, it is logical to fulfill the original intent of Congress and address these issues under section 301.

Certainly, not all SII issues can be addressed under section 301. Some of the issues, such as Japanese savings rate and land policy, are not primarily trade issues and would not fit well into the framework of section 301. Other issues, however, including the Japanese distribution system, administrative guidance, and exclusionary business practices, can quite easily be pursued under section 301. We must distinguish between these two types of SII issues in discussions of alternatives.

The legislation I am proposing would not take effect until September 1, 1990—after the scheduled conclusion to the SII talks. The legislation would require the President to certify to Congress that SII had succeeded in addressing Japanese structural trade barriers by September 1, 1990. If he fails to make this certification, the U.S. Trade Representative must identify those issues in the SII that can be best addressed under section 301 and self-initiate section 301 cases on these issues by October 1, 1990.

The legislation also contains a provision requiring the administration to monitor the implementation of any agreements reached under SII. If the President makes an affirmative Certification to Congress on September 1, 1990, to avoid initiating section 301 cases, 18 months later he must certify to Congress that: First, the agreement has been faithfully implemented, and second, U.S. exports have risen accordingly. If the President is unable to make that certification, the U.S. Trade Representative must initiate section

301 investigations into the outstanding trade issues that we not adequately addressed by SII. For example, if the President is unable to certify that substantive reforms are underway in the Japanese distribution system by early 1992, a section 301 investigation must begin on the Japanese distribution system.

Aside from the changes described, the legislation makes no changes in either section 301 or the super 301 provision of the 1988 Trade Act. The 1989 and 1990 rounds of super 301 determinations will go forward unaltered and no changes are made in the time limits or retaliation requirements of section 301.

This legislation is cosponsored by Senator HEINZ and Senator ROCKEFELLER. A companion measure is being introduced in the House of Representatives by Congressman GUARINI.

CONCLUSION

I am a strong supporter of SII. As I have been arguing for several years, the United States and Japan can best address their economic problems through mutual give and take. Certainly, there are problems in the United States that might usefully be addressed through SII. Further, we would see much more improvement in the overall trade imbalance between the United States and Japan if we addressed a range of bilateral economic problems at the same time that we lower Japanese trade barriers. In fact, more than 3½ years ago I suggested an approach very similar to SII in a speech to the Tokyo Press Club.

Unfortunately, it appears that the United States and Japan may not be able to muster the political will to make SII succeed.

But the problems being discussed in the SII are too important to simply ignore.

If SII does not succeed we must look for second-best alternatives.

Ideally, these issues might be addressed in a multilateral forum, such as the current round of GATT talks. But as Ambassador Williams—the current Deputy USTR—points out, these issues are not the agenda for the GATT talks. We have no alternative but to explore bilateral and unilateral measures.

I believe the legislation I am today introducing is the most attractive second-best option available.

It is always unfortunate when the United States and Japan are not able to resolve their trade differences in an amicable manner. Unfortunately, Japan has been very slow to open its markets. United States pressure has been necessary to stimulate trade reform in Japan.

Above all else, this legislation should demonstrate to both United States and Japanese negotiators that the United States Congress remains committed to opening the Japanese market.

By Mr. SIMON (for himself and Mr. LEAHY):

S. 2370. A bill to amend section 107 of title 17, United States Code, relating to fair use, to clarify that such section applies to both published and unpublished copyrighted works; to the Committee on the Judiciary.

CLARIFICATION OF FAIRNESS DOCTRINE UNDER THE COPYRIGHT LAWS

● Mr. SIMON. Mr. President, today I introduce a bill important to scholarly research and the preservation of history, involving both constitutional first amendment rights and copyright law. The issue in a nutshell is this: How do we balance the interests of accurate scholarship or journalism against the right of authors to control the publication of their own unpublished work? Some Federal courts appear to have adopted a rule that would tip the scales against critical historical analysis. This bill is an attempt to restore the appropriate balance.

Mr. President, one of the fundamental tenets of sound scholarly research is this command: Go to the original source. As an amateur historian and author myself, I know how important it is for scholars to cite directly from authentic documents. Sometimes only a person's actual words can adequately convey the essence of a historical event.

Of course, there can be abuse of this kind of citation. No one would argue that I could publish a draft of Stephen King's next thriller on the pretext of "reporting" the results of my "research." There has to be a balance.

That balance has already been struck under the fair use clause of the Copyright Act of 1976, at section 107. By enacting that clause, Congress in effect ratified a doctrine that the courts have long recognized: That there can be limited fair use of copyrighted material for purposes such as scholarship or news reporting without infringing on the author's copyright. The courts have developed a complex and sophisticated test for interpreting whether a particular use is fair. That test already includes factors relevant to the consideration of unpublished works, such as the nature of the copyrighted work, and the effect of the use upon the potential market for the work.

Unfortunately, the Court of Appeals for the Second Circuit, which has jurisdiction over many of the Nation's major publishing houses, has recently issued decisions that begin to upset this careful balance. The case of New Era Publications versus Henry Holt involves the use of unpublished letters and diaries in a critical biography of L. Ron Hubbard, founder of Scientology. In that case, the court suggests that virtually any quotation of unpublished materials is an infringement of copyright, and not fair use.

This is an unfortunate interpretation of language from Harper & Row versus Nation Enterprises, an earlier case in which the Supreme Court held extensive quotation from the unpublished memoirs of President Ford to be an infringement of copyright. However, Harper & Row involved quotes from a purloined manuscript that was soon to be published, in an article that was intended to scoop the scheduled authorized publication of excerpts from the book in a competing news magazine.

In Salinger versus Random House, the second circuit expanded on the Supreme Court's decision in Harper & Row, barring the publication of an unauthorized biography of writer J.D. Salinger that quoted extensively from unpublished letters written by Salinger that were collected in university libraries. The Supreme Court declined to hear an appeal of either the Salinger case, or, just recently, the New Era case.

As chair of the Judiciary Committee Subcommittee on the Constitution, I am particularly concerned about the impact these cases will have on the first amendment right to free speech. These decisions have created something of an uproar in the academic and publishing communities. The spectre of historical and literary figures and their heirs exercising an effective censorship power over unflattering portrayals appears to have already had a chilling effect. Books that quote letters, even those written directly to the authors, have been changed to omit those quotations. At least one other lawsuit has been filed against a biographer. If scholars and historians can be prohibited from citing primary sources, their work would be severely impaired. Ultimately, I think it's no exaggeration to state that if this trend continues, it could cripple the ability of society at large to learn from history and thereby to avoid repeating its mistakes.

Mr. President, this is a simple bill which would merely direct the courts to apply the full fair use analysis to all copyrighted works, rather than peremptorily dismissing any and all citation to unpublished works as infringing. This bill is not intended to allow unlimited pirating of unpublished materials. Just as it does now, the law would still generally prohibit a writer from copying the expressive content of an author's work; it would still prevent a writer from quoting more than a minimal amount of an original work; a work could still not be quoted for other than limited purposes.

Nor is the bill intended to render the unpublished nature of a work irrelevant to fair use analysis under the four statutory factors. Courts would

still consider the unpublished nature of a work in assessing the nature of the work, or in determining the effect of the use upon the potential market for the work. Courts should generally retain full flexibility in applying the fair use test to various particular situations that may arise. All the bill says is that the unpublished nature of a work alone should not determine whether a particular use of it is fair. I hope only to forestall the adoption of a broad and inflexible judicial rule against fair use of unpublished works.

It may be that the Supreme Court, or the second circuit itself, will eventually modify these decisions by limiting their application to a narrower category of cases. I would welcome that development. Nonetheless, we should not rely on the possibility that they will act. The modest language in this legislation can help to direct their actions.

A broad coalition of individual authors, publishers, and trade organizations has reached a general consensus in support of this bill. As they have strong interests in protecting authors' copyrights as well as in encouraging scholarly research, I believe this approach is a balanced one. I have also heard from parties who are concerned about the unintended consequences this bill might have on certain unpublished scientific works that embody trade secrets, such as computer source codes. This bill is not intended to provide new fair use access to those works, and I will work closely with those who have concerns to see that it does not. Congressional hearings will flesh out the record regarding the need for legislation. I am open to suggestion as to how this bill can be improved, and I welcome hearing from all parties involved in this important issue.●

Mr. LEAHY. Mr. President, I am pleased to join the distinguished Senator from Illinois in the introduction of this important legislation. This bill would strike a fair balance of the right to privacy, the rights ensured by the first amendment, and the protections designed to foster the creative spirit of our Nation.

American copyright law has its origins in the Constitution, which gives to Congress the power:

> To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

Our Founding Fathers recognized that in the absence of legal protection, ingenuity and, in turn, progress would wither. The Constitution and laws of the United States protect that ingenuity and the result has been two centuries of innovation and unmatched creativity.

Copyright, however, is not an absolute right. It is an attempt to balance the rights of the author or inventor with the "progress of science and useful arts." One exception to exclusive copyright protection is the fair use doctrine, which allows subsequent authors to build on the work of others. The Copyright Revision Act of 1976 provides that "the fair use of a copyrighted work * * * for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright." (17 U.S.C. section 107)

Should the fair use doctrine apply to unpublished materials? A series of decisions in the second circuit pinpoint the difficulties raised by this question. In New Era Publications versus Henry Holt, the court suggested that almost any quotation or use of unpublished material would constitute a copyright infringement. The Supreme Court declined to review this second circuit decision.

In an earlier decision, the Supreme Court found copyright infringement when Nation magazine published a leaked copy of President Gerald Ford's memoirs immediately before they were scheduled for publication by Time magazine. The Court held that the Court of Appeals erred in overlooking the unpublished nature of the work and the resulting impact on the potential market for first serial rights of permitting unauthorized prepublication excerpts under the rubric of fair use." *Harper & Row* v. *Nation Enterprises,* 471 U.S. 539, 569 (1984).

In Salinger versus Random House, the second circuit relied on the Harper & Row decision in holding that "Salinger has a right to protect the expressive content of his unpublished writings for the term of his copyright, and that right prevails over a claim of fair use under 'ordinary circumstances.'" 811 F.2d 90, 100 (1987). In this decision, the court found that the balance tipped in favor of Salinger's right to privacy as well as the right of his heirs to retain the option to profit from the publication of his materials.

This trend toward restricting the use of unpublished works must be examined carefully because it implicates significant competing interests. I commend the distinguished Senator from Illinois for his commitment to this debate.

Senator SIMON's proposed legislation would clarify current copyright law by specifically including unpublished material in section 107 of the Copyright Act. It would not remove copyright protection from unpublished material. It would require that courts determine whether the use of unpublished material qualifies as a fair use under the act. Thus, the same standard would apply to both published and unpublished material: The purpose of the use, the nature of the copyrighted work, the amount of the work used, and the effect of the use upon the potential market for the copyrighted work would be examined by the court.

I believe that this approach is a reasonable effort to balance the competing interests of the creator's copyright, the public's right to the broadest dissemination of information, and the original author's right to privacy.

Members of the computer industry have expressed concern that the protection of their computer source codes might be jeopardized by this legislation. That is not our intent with this legislation and we will work with the industry to ensure that it is not the effect.

As Justice Brennan once said, "A broad dissemination of principles, ideas, and factual information is crucial to * * * robust public debate and [an] informed citizenry." *Harper & Row* v. *Nation Enterprises,* 471 U.S. 539, 582 (1984) (Brennan, J., dissenting). I look forward to working with Senator SIMON to ensure that our basic first amendment liberties and our privacy rights are preserved. The chilling effect of recent court decisions cannot be permitted to censor journalists and authors. The richness and breadth of our history is too important to the future of the country—it helps to define us by educating our children and reminding our leaders of their place in history.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2371. A bill to direct the National Academy of Sciences to conduct a study of the feasibility of an umbrella research arm to support research on a variety of environmental issues; to the Committee on Environment and Public Works.

NATIONAL INSTITUTE FOR ENVIRONMENTAL RESEARCH

● Mr. BRADLEY. Mr. President, it is an unfortunate fact of life that most of our environmental policy is reactive: it is the disasters which repeatedly show our inadequacies and our imperfect understanding of man's relationship to the environment.

Not long ago, I stood on the banks of the Arthur Kill in New Jersey. This heavily traveled waterway was the site of not one but multiple oilspills just within the last month. And each of these exposed loopholes in the laws that protect our environment.

Today, my hope is to look to the future, to build a foundation to address the major environmental challenges we will face and to assess what steps we can take now to prevent environmental disasters tomorrow. We know too well that our everyday actions have implications far beyond this or next week, the next election, or even the next decade. The Superfund law—of which I'm quite proud—is a multibillion-dollar effort to address an unfortunate inheritance of industrial

and public environmental neglect. This sort of inheritance is not what I have in mind for our children. We can do better and a National Institute for Environmental Research is part of that effort.

Mr. President, the legislation I am introducing today promotes a simple concept: a rational and steadfast approach to long-term environmental research. It's time to acknowledge through a comprehensive research program that we humans have many cohabitants on this planet. We have many neighbors, who too often are overlooked or harmed by our actions. If we are to continue living in a healthy world, with its diversity of species and natural beauty, we need to learn better how to treat our collective home with respect and understanding.

Clearly, this effort is intended as a necessary supplement and complement to the existing environmental research efforts. These efforts, which must continue, have been dominated by media-specific issues—for example, air to water pollution—or human health concerns. Ecological and global concerns are glaring holes in our research agenda. For example, our efforts to address oilspills focus on short-term aquatic effects. But in the estuarine ecosystem, oil wastes often settle and destroy shellfish, disrupt the food chain, obliterate nesting areas, and kill off food sources for birds and important sport and commercial fishes. These subtle effects are often easy and convenient to disregard. If we underestimate the costs of our actions, both inadvertent or otherwise, we will inadequately safeguard our natural legacy. We can not estimate these costs until we appreciate the subtle effects and changes in natural systems.

Mr. President, I believe there is emerging a consensus in the scientific community that the National Institutes of Health [NIH] can be an effective model for these efforts. I believe the National Institute can, like NIH, consist of problem-oriented institutes or centers. The institutes will encourage and support funding for competitive research by academic institutions, non-profit organizations, and industry. These efforts will yield two positive results. Competitive research efforts always promise the best use of funding. And by working through our educational institutions, we ensure the development of a necessary intellectual infrastructure. As we consider the mounting challenges ahead, this last component should not be underestimated.

Mr. President, my legislation calls on the National Academy of Sciences to examine these issues and report to Congress on the feasibility and merits of this National Institute. This report will be due in one year. Although I believe the merits of this effort are transparent, it is likewise clear that many agencies can and should play a role in the establishment of this Institute. The EPA, the National Oceanic and Atmospheric Administration, the National Science Foundation, the U.S. Geological Survey, the Forest Service, the Fish and Wildlife Service, and the President's Council on Environmental Quality are among the many Federal groups that have a legitimate role to play and deserve the opportunity to contribute to the Institute's development.

This legislation parallels efforts in the House of Representatives that are being spearheaded by New Jersey Congressmen ROE and SAXTON. I have urged them onward in their efforts, which are bearing fruit in the House, and I will work in the Senate toward the same goal. I urge my colleagues to consider my legislation carefully and to support these efforts.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY.

(a) The National Academy of Sciences shall conduct a study of the feasibility of an umbrella research arm, the National Institutes for Environmental Research, which would support training in the environmental sciences and fundamental and applied environmental research on a wide variety of disciplines, including biology, ecology, geology, and engineering through intramural and extramural research activities, including competitive grants to institutions and organizations that support interdisciplinary research teams and that support investigator-initiated proposals.

(b) The National Academy of Sciences shall evaluate the current state of extramural research support and undergraduate and graduate training relevant to such issues as tropical deforestation, species extinction, ecosystem degradation, biological restoration, use of underutilized resources, economic consequences of environmental change, sustainable resource use, and the human impact on the environment and of environmental impact on human endeavors.

(c) Within the 12-month period following the date of the enactment of this Act, the National Academy of Sciences shall report to the appropriate committees of Congress on its recommendations regarding mechanisms that can be used to advance environmental research and training, their relationship to existing Government programs and other research entities conducting environmental research, and appropriate levels and sources of funding.

(d) There is authorized to be appropriated $500,000 to carry out the provisions of this Act.●

By Mr. SPECTER:

S.J. Res. 279. Joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week"; to the Committee on the Judiciary.

NATIONAL REHABILITATION WEEK

Mr. SPECTER. Mr. President, today I am introducing a joint resolution to designate the week of September 16, 1990, as "National Rehabilitation Week."

National Rehabilitation Week is an opportunity to celebrate the victories and determination of the more than 36 million disabled people in America. It is also a time to salute the dedicated health care professionals who provide rehabilitation care and to call attention to the unmet needs of our Nation's disabled citizens.

As my colleagues know, there are significant areas where the needs of individuals with disabilities have not been met. The designation of a week as National Rehabilitation Week provides the people of this Nation an opportunity to celebrate the victories, courage, and determination of individuals with disabilities. It is also an excellent opportunity to recognize the dedicated health care professionals who work daily to help such individuals achieve independence.

Reports indicate that stroke, amputation, brain injury, birth defects, serious illnesses, or other injuries affect one-third of our Nation's population. Experts estimate that 66 percent of those people never seek rehabilitation assistance. The widespread importance of rehabilitation is further evidenced by reported statistics that one out of every two Americans will need some form of rehabilitation therapy in his or her lifetime.

As the ranking minority member of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, I am particularly concerned that we continue to work toward providing sufficient resources to help the disabled. Therefore, for the benefit of all American citizens, National Rehabilitation Week would provide a forum for education and promotion of a broader awareness of the effective resources that rehabilitation facilities provide.

I am pleased that my own State of Pennsylvania is home to the headquarters of one of the largest providers of health care services in the United States—Allied Services. Allied provides a community of resources for the physically and mentally disabled, the elderly, and the chronically ill.

Having personally toured Allied's facilities in Scranton, PA, I have seen firsthand the important contributions that such rehabilitation services provide. Since 1976, Allied has led the country in celebrating Rehabilitation Week. As part of this week, Allied has honored exceptional individuals for their commendable personal accomplishments and their work on behalf of the disabled. Past recipients have

included former Presidential press secretary James S. Brady, pitcher of the California Angels Jim Abbott, internationally renowned violinist Itzak Perlman, and Rick Hansen, who traveled by wheelchair across 25,000 miles throughout Europe and the United States.

This annual effort to focus attention on the courage and determination of the disabled and on the valiant and successful efforts of those professionals who are working to help them is, indeed, worthy of national attention and praise.

Mr. President, I can think of no nobler nor more estimable task than endeavoring to restore disabled individuals to independent, productive, and fulfilling lives. All who are engaged in these efforts have my admiration and respect.

Accordingly, I urge my colleagues to join me in support of the disabled person and the dedicated professional, both of whom personify the philosophy that disabilities can be turned into possibilities and successes.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 279

Whereas the designation of a week as "National Rehabilitation Week" gives the people of this Nation an opportunity to celebrate the victories, courage, and determination of individuals with disabilities in this Nation and recognize dedicated health care professionals who work daily to help such individuals achieve independence;

Whereas there are significant areas where the needs of such individuals with disabilities have not been met, such as certain research and educational needs;

Whereas half of the people of this Nation will need some form of rehabilitation therapy;

Whereas rehabilitation agencies and facilities offer care and treatment for individuals with physical, mental, emotional, and social disabilities;

Whereas the goal of the rehabilitative services offered by such agencies and facilities is to help disabled individuals lead active lives at the greatest level of independence possible; and

Whereas the majority of the people of this Nation are not aware of the limitless possibilities of invaluable rehabilitative services in this Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the week of September 16, 1990, through September 22, 1990, is designated as "National Rehabilitation Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities, including educational activities to heighten public awareness of the types of rehabilitative services available in this Nation and the manner in which such services improve the quality of life of disabled individuals; and

(2) each State governor, and each chief executive of each political subdivision of each State, is urged to issue proclamation (or other appropriate official statement) calling upon the citizens of such State or political subdivision of a State to observe such week in the manner described in paragraph (1).

By Mr. KENNEDY (for himself, Mr. CRANSTON, Mr. HATCH, and Mr. DECONCINI):

S.J. Res. 280. A bill approving the findings of the Comptroller General of the United States contained in the General Accounting Office [GAO] report, dated March 29, 1990, regarding employer sanctions; to the Committee on the Judiciary.

JOB DISCRIMINATION UNDER THE 1986 IMMIGRATION ACT

Mr. KENNEDY. Mr. President, the Comptroller General has today released a report to the Senate Immigration Subcommittee finding a widespread pattern of job discrimination in the implementation of the Immigration Reform and Control Act of 1986.

The GAO report confirms exactly what many of us in Congress feared when employer sanctions were enacted in 1986. The sanctions would be discriminatory against Hispanic-American citizens, Asian-American citizens, and other ethnic minorities, and it would be difficult to implement the law is a way that avoids such discrimination.

Under the terms of an amendment that I added to the 1986 act, the General Accounting Office was required to make three annual reports. The third and final report—which we will review tomorrow in detail with the Comptroller General—is clearly the most important.

Under the law, if the Comptroller General determines that a widespread pattern of discrimination has resulted from the law, expedited procedures are provided requiring Congress to consider a joint resolution within 30 days.

If the joint resolution is adopted and signed by the President, employer sanctions are terminated.

Today, the Comptroller General has made that determination, and I am introducing a Senate joint resolution to approve the findings and terminate the sanctions under the expedited procedures.

I am doing so to require Congress to deal with the serious issues raised by the GAO report. These issues can be ignored no longer. Our fears of 1986 have become the reality of 1990. Congress and the country cannot tolerate the discrimination that has been found.

Tomorrow the Judiciary Committee will hold a hearing, as required under the statute, to review the Comptroller General's report and consider appropriate recommendations to deal with this intolerable situation.

Discrimination in the enforcement of the employer sanctions is intolerable. Unless Congress finds a way to end this discrimination, the sanctions must be repealed.

Mr. President, I ask unanimous consent that the text of the joint resolution may be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 280

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, pursuant to section 274A(l)(1)(B) of the Immigration and Nationality Act, the Congress approves the findings of the Comptroller General of the United States contained in the General Accounting Office (GAO) report entitled "Immigration Reform: Employer Sanctions and the Question of Discrimination", dated March 29, 1990 (identification number GAO/GGD-90-62).

By Mr. DECONCINI (for himself, Mr. THURMOND, and Mr. JOHNSTON):

S.J. Res. 281. Joint resolution to designate September 13, 1990, as "National D.A.R.E. Day"; to the Committee on the Judiciary.

NATIONAL D.A.R.E. DAY

Mr. DECONCINI. Mr. President, for the third year in a row I am pleased to introduce a joint resolution designating September 13, 1990 as "National D.A.R.E. Day." D.A.R.E. is an acronym for drug abuse resistance education, a semester-long program which teaches fifth and sixth grade children how to resist pressure to experiment with drugs and alcohol. The D.A.R.E. Program was originally developed in Los Angeles by Police Chief Daryl Gates as a cooperative effort between Los Angeles Police Department and the Unified School District. Police Chief Gates deserves a great deal of credit for putting this program together. I compliment him for this effort.

Today, this exciting program has expanded into more than 2,000 communities in 49 States. The D.A.R.E. message is being received by over 4.5 million students in 100,000 classrooms during the 1989-90 school year, double the number of classrooms taught last year. Additionally, the D.A.R.E. Program has been adopted for use internationally in the Department of Defense's dependent schools.

The D.A.R.E. Program is also offered for kindergarten and junior high school students and their parents. It provides parents with the skills necessary to further the development and reinforce the decision of their children to lead drug free lives. The program has proven effective because it targets children who are young enough not to have received maximum exposure to illegal drugs, yet are old enough to fully comprehend the dangers of drug use.

In my home State of Arizona, we now have 74 separate agencies that are

involved in D.A.R.E. and nearly 500 trained officers. During this school year alone, these officers will reach over 30,000 students in 300 public schools. These numbers are even more impressive when you consider that this is a 17-lesson series, taught once a week over the course of a semester.

When the University of Michigan's 15th annual national drug abuse survey of high school seniors was recently released, the report showed a continued decline in teen drug use. The Michigan survey reported a decrease in cocaine use for the third year in a row. Among high school seniors, the proportion of users of cocaine fell by more than half between 1986 and 1989, from 6.2 to 2.8 percent. The Michigan survey, which is funded by the National Institute on Drug Abuse, reported that illegal use dropped last year among all three categories of young people surveyed, and that casual use among high school seniors and college students is about half what it was a decade ago. These encouraging results occurred at a time when those surveyed reported significant increases in the perceived availability of illegal drugs.

In contrast, a recent drug abuse survey of high school students conducted in Arizona by the Criminal Justice Commission found cocaine use by high school seniors higher than the national average, but lower in the use of alcohol and marijuana. Although 4 percent of Arizona high school students surveyed had tried cocaine in the past 30 days, this is a significant improvement over last year's figure of 7 percent. The drug abuse trend is slowly declining. However, an effective, long-term program is critical in continuing the education of our children on the perils of illegal drugs.

I believe these surveys tell us we still have a long way to go in our efforts to rid society of these deadly poisons. We must fight harder—implementing greater preventive measures and creating greater community awareness. President Bush has requested $10.6 billion in his fiscal year 1991 budget for antidrug programs. Although the President's budget represents an increase of more than $1 billion over this year's funding level, the budget increases drug education funding by less than $50 million. The President's funding request for drug education falls far short of what is needed in this country if we are to provide a drug education curriculum for every child, in every classroom, in every school in America. Programs like D.A.R.E. have proven effective and must be utilized.

An evaluation completed by the U.S. Department of Justice reveals great enthusiasm among school principals and teachers who say that D.A.R.E. students are less accepting of substance use and better prepared to deal with peer pressure as a result of the innovative drug education. Moreover, educators are finding that the D.A.R.E. program has contributed to improved study habits and grades, decreased vandalism and gang activity and has generated greater respect for police officers.

Our acceptance of drugs is at the root of the illicit drug problem in America. This acceptance has permeated the Nation's youth—it is not enough to simply hand them a ready-made cliche—"Just Say No." We must cognitively teach them to resist the subtle pressures that cause them to experiment with dangerous substances.

Mr. President, the D.A.R.E. Program is one that works. The program is producing unprecedented results. Hopefully, we will acknowledge the merit of this program for the third straight year by designating September 13, 1990 as "National D.A.R.E. Day." I urge my colleagues to show their support by cosponsoring this meaningful resolution.

I want to give a special thanks to Adena Bernstein, of my staff, for her fine work on this resolution.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 281

Whereas D.A.R.E. (Drug Abuse Resistance Education) is a comprehensive program under which children from kindergarten through the 12th grade are taught how to resist the pressures of experimenting with drugs and alcohol;

Whereas the D.A.R.E. program provides parents with the information and techniques necessary to reinforce and further develop the decisions of their children to lead drug free-lives;

Whereas the D.A.R.E. program targets children at ages when they are most vulnerable to extreme peer pressure to try drugs and alcohol and teaches them how effectively to resist pressure to engage in negative behavior;

Whereas the D.A.R.E. program is now conducted in local schools in more than 2,000 communities in 49 States and in Department of Defense Overseas Dependent Schools worldwide;

Whereas more than 4,500,000 school children will be reached through the D.A.R.E. core curriculum in 1990;

Whereas school children are sometimes more street wise about substance abuse than are classroom teachers, the D.A.R.E. program is taught by veteran police officers having direct experience with cases involving criminal drug offenses and with people whose lives have been ruined by substance abuse;

Whereas each police officer who teaches the D.A.R.E. program completes an 80-hour training course that includes instruction in teaching techniques, relationships between officers and schools, self-esteem development, child development, and communication skills;

Whereas the D.A.R.E. curriculum, developed by the Los Angeles Police Department and the Los Angeles Unified School District, helps school children understand self-image, recognize and manage stress without using drugs or alcohol, analyze and resist media presentations about drugs and alcohol, evaluate risk-taking behavior, resist gang pressure, apply decision-making skills, and evaluate the consequences of the choices facing them;

Whereas independent research shows that the D.A.R.E. program has exceeded its goal of helping students combat peer pressure to use drugs and alcohol by contributing to improved study habits and grades, by reducing vandalism and gang activity, and by instilling greater respect for police officers; and

Whereas the D.A.R.E. program has achieved outstanding success teaching positive and effective approaches to one of the most difficult problems facing young people today, namely drug and alcohol abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 13, 1990, is designated as "National D.A.R.E. Day", and the President is requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

By Mr. WILSON:

S.J. Res. 282. Joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child"; to the Committee on the Judiciary.

DECADE OF THE CHILD

Mr. WILSON. Mr. President, we will call upon our children entering kindergarten today to provide the leadership necessary to compete in a global marketplace tomorrow, because tomorrow will come all to soon.

The question that presents itself is: will our children be prepared to successfully confront the challenges of that global marketplace, indeed the challenges of the future on all fronts, or will they lack the self-esteem and the confidence needed to try to succeed.

Will our children meet the requirements of an increasingly technological job market? Will they find that American business must look abroad to build our human resource base? Well, these and many other questions necessarily must be confronted. And, in fact, those answers must be found, because the clock is running.

As a nation, we have to ask ourselves, will we meet the needs of our children in the next decade, providing them the kind of individual attention, the caring, the support, the guidance which can in fact change young attitudes, change young lives, and produce productive adults?

Will we feel secure in the knowledge that we have done all within our ability to meet our greatest hopes and our ambitions for those children? Mr. President, I do not have a crystal ball, but I can predict with some degree of certainty that, unless current trends are reversed, we may miss our rendezvous with destiny by failing America's children.

Each day in America, over 1,800 children are abused, over 2,700 teenagers become pregnant, 1,300 drop out of

high school. If these statistics alone do not compel us to carefully reexamine our policies and programs affecting children, consider these facts, Mr. President:

Each year in America 1,300,000 children run away from home, 2,100 teenagers commit suicide, close to 600,000 of our youth enter adult jails, and 3,200 die at gunpoint.

What promise does the future hold for the victim of child abuse, for the unwed teenage mother, for the high school dropout, or the juvenile offender?

Just as important, what promise do these children hold for the Nation? Because what we are saying is that these ills that I have recited afflict not only the individual child, but as each child is lost, as the potential of each is wasted, our society as a whole suffers the loss of energy and talent that we cannot afford to lose.

How much better, Mr. President, to prevent child abuse than to suffer the next generation of child abusers and violent criminals, to end a cycle of pain and suffering. How much better to keeep a kid in school and off the street. How much better to channel energy into productive activities and away from crime.

The answer is that prevention is far more cost effective, because it is far more effective. For that reason, prevention is infinitely more humane and much less expensive. Much more expensive, much less likely of success, are remedial actions. The kinds of problems we are talking about are not intractable; they are difficult problems, but the truth is they are preventable if detected early and in a timely manner. This, truly, is a time when an ounce of prevention is worth 100 pounds of cure.

Solutions which emphasize early intervention have proven far more certain of success, far more humane than the most well-intentioned remedial efforts. As parents, as policymakers, as community leaders, as businessmen and women, our focus must be upon the educational and the developmental and the health needs of America's children before it is too late.

We must act before a child takes his or her first sip of alcohol, his or her first hit of crack, before a child becomes so demoralized as to think that he or she really does not have much value, before a child reaches that point of despair and feels that there is no hope and takes his or her life with his or her own hands.

So, how do we steer our children down the path toward a fulfilling and fulfilled existence? There is no universal answer. Each child brings with him or her a unique quality which cannot be captured with broad strokes. But I submit there are basic issues: A safe and secure home environment in which to grow, high quality education and health care, a life that at a minimum is free of the influence of drugs and alcohol. These, Mr. President, I submit are the bare minimum conditions which America must seek to guarantee to every child in this Nation if we are to be fair to those children, and if we are to improve our chances of meeting, not only the child's needs but America's needs, for all of our children and all of our futures.

As a first step to define this common ground, those basic issues, today I am introducing a joint resolution to declare the decade of the 1990's as the decade of the child, the decade in which America focuses unprecedented attention upon the unfinished business of seeing to it that America's children enter life and go through childhood with every break going for them; that every one, at least, that we can effect, be a conscientious and timely action.

If we do so, we will make an investment in our future. Indeed, we will cut the costs of the kind of remedial, half measures that otherwise will be the certain response to our failure to engage in adequate prevention.

Let me close by asking my colleagues to join me in support of the decade of the child. This is simply a first step, an invitation to my colleagues to join with me, as I will join with many of them, in the specific steps that are required to make good on this commitment to America's children and America's future.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 282

Whereas the ability of our Nation to compete in a global marketplace depends on our ability to produce confident, caring adults who possess both job and social skills;

Whereas an investment in our children is an investment in the future of our Nation;

Whereas all children need, and are entitled at a minimum to, a safe and secure environment in which to live, beginning with the healthy, drug- and alcohol-free pregnancy of their mothers, and a home environment without child abuse, alcoholism, or drug use by their parents;

Whereas all children must be healthy, both in mind and body, to lead productive lives;

Whereas all children need the best educational system our Nation can provide in order to be stimulated to learn;

Whereas all children must have role models to provide individual attention, caring, and guidance and to foster greater self-esteem, pride of accomplishment, and initiative;

Whereas preventive programs such as early childhood education and prenatal care reduce costs to the Nation in terms of human suffering, taxes, and private expenditures;

Whereas efforts to eradicate the scourge of illegal drugs from the Nation reduce a threat to the lives of all Americans, especially those of our youth;

Whereas social and child development services for which we now pay taxes too often fail to reach the children for whom they are intended, requiring much improved intra- and inter-governmental coordination and communication in order to benefit our Nation's children;

Whereas the complex problems that affect our children require comprehensive solutions, continually reinforced by all of society including family, community, government, and the private sector;

Whereas the declaration of the Decade of the Child will focus the Nation's attention on the educational, developmental, and health needs of our children: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the decade beginning January 1, 1990, is designated the "Decade of the Child"; and

(2) the President is authorized and requested to issue a proclamation calling on all public officials and the people of the United States to observe the decade with appropriate programs and activities.

ADDITIONAL COSPONSORS

S. 101

At the request of Mr. SANFORD, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 101, a bill to mandate a balanced budget, to provide for the reduction of the national debt, to protect retirement funds, to require honest budgetary accounting, and for other purposes.

S. 137

At the request of Mr. BOREN, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 137, a bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

S. 434

At the request of Mr. REID, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 434, a bill to prohibit a State from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that State.

S. 776

At the request of Mr. BRADLEY, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 776, a bill to amend the Internal Revenue Code of 1986 to disallow deductions for advertising expenses for tobacco products.

S. 1006

At the request of Mr. LEAHY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1006, a bill to encourage innova-

tion and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

S. 1041

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1041, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers who realize capital gain on the transfer of farm property to satisfy an indebtedness, and for other purposes.

S. 1212

At the request of Mr. SANFORD, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1212, a bill to amend title II of the Social Security Act to provide for a more gradual period of transition—and a new alternative formula with respect to such transition—to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927—and related beneficiaries—and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 1273

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1273, a bill to amend the Internal Revenue Code of 1986 with respect to treatment by cooperatives of gains or losses from sale of certain assets.

S. 1557

At the request of Mr. ROTH, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 1557, a bill to amend title 17, United States Code, to permit the unlicensed viewing of videos under certain conditions.

S. 1883

At the request of Mr. KENNEDY, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Oregon [Mr. HATFIELD], the Senator from Massachusetts [Mr. KERRY], the Senator from Oregon [Mr. PACKWOOD], the Senator from Ohio [Mr. GLENN], the Senator from Alaska [Mr. STEVENS], the Senator from Maine [Mr. COHEN], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 1883, a bill to amend the Public Service Act to establish a center for tobacco products, to inform the public hazards of tobacco use, to disclose and restrict additives to such products, and to require labeling of such products to provide information concerning such products to the public, and for other purposes.

S. 2021

At the request of Mr. DOLE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2021, a bill to amend title 11, United States Code, to ensure that the bankruptcy laws are not used to prevent restitution to, or recovery of, failed bankruptcy institutions.

S. 2149

At the request of Mr. BOSCHWITZ, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2149, a bill to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments, and for other purposes.

S. 2198

At the request of Mr. BRADLEY, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2198, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program.

S. 2210

At the request of Mr. D'AMATO, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 2210, a bill to provide for preservation of competitive rail freight service routes in the Northeastern United States.

S. 2241

At the request of Mr. GRAHAM, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2241, a bill to provide scholarships to law enforcement personnel who seek further education.

S. 2290

At the request of Mr. HEINZ, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2290, a bill to amend titles II and XVI of the Social Security Act to improve widow's and widower's eligibility for insurance benefits and children's eligibility for Supplemental Security Income benefits.

S. 2307

At the request of Mr. RIEGLE, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2307, a bill to require the Secretary of Health and Human Services to provide intensive outreach and other services and protections to homeless individuals.

SENATE JOINT RESOLUTION 263

At the request of Mr. HELMS, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to designate October 11, 1990, as National Society of the Daughters of the American Revolution Centennial Day.

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. HATFIELD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of the Congress with respect to achieving common security in the world by reducing reliance on the military and redirecting resources toward overcoming hunger and poverty and meeting basic human needs.

SENATE RESOLUTION 239

At the request of Mr. DECONCINI, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of Senate Resolution 239, a resolution expressing the sense of the Senate denouncing the military offensive in Angola and urging an immediate ceasefire.

SENATE CONCURRENT RESOLUTION 110—CONGRESSIONAL BUDGET FOR FISCAL YEARS 1991, 1992, AND 1993

Mr. SASSER submitted the following concurrent resolution; which was referred to the Committee on the Budget:

S. CON. RES. 110

Resolved by the Senate (the House of Representatives concurring), That the Congress determines and declares that the concurrent resolution on the budget for fiscal year 1991 is established and the appropriate budgetary levels for fiscal years 1992 and 1993 are set forth.

MAXIMUM DEFICIT AMOUNTS

SEC. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985 and the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution;

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1991: $1,169,900,000,000.
Fiscal year 1992: $1,248,000,000,000.
Fiscal year 1993: $1,336,500,000,000.

(2) The appropriate levels of total budget authority are as follows:

Fiscal year 1991: $1,420,300,000,000.
Fiscal year 1992: $1,454,500,000,000.
Fiscal year 1993: $1,532,200,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1991: $1,233,900,000,000.
Fiscal year 1992: $1,270,200,000,000.
Fiscal year 1993: $1,307,300,000,000.

(4) The amounts of the deficits are as follow:

Fiscal year 1991: $64,000,000,000.
Fiscal year 1992: $22,200,000,000.
Fiscal year 1993: $29,200,000,000. (surplus)

DEBT INCREASE AS ONE MEASURE OF DEFICIT

SEC. 3. The amounts of the increase in the public debt subject to limitation are as follows:

Fiscal year 1991: $190,900,000,000.
Fiscal year 1992: $165,100,000,000.
Fiscal year 1993: $127,600,000,000.

DEFICIT LEVELS EXCLUDING TRUST FUND SURPLUSES

SEC. 4. (a)(1) The amounts of the surpluses of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:
Fiscal year 1991: $74,200,000,000.
Fiscal year 1992: $85,100,000,000.
Fiscal year 1993: $97,300,000,000.

(2) The amounts of the deficits excluding the receipts and disbursements of the Federal Old-Age Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:
Fiscal year 1991: $138,200,000,000.
Fiscal year 1992: $107,300,000,000.
Fiscal year 1993: $68,100,000,000.

(b) The amounts of the deficit excluding the receipts and disbursements of all Federal trust funds are as follows:
Fiscal year 1991: $202,400,000,000.
Fiscal year 1992: $167,100,000,000.
Fiscal year 1993: $125,300,000,000.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 5. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1990, October 1, 1991, and October 1, 1992:

(1) The recommended levels of Federal revenues are as follows:
Fiscal year 1991: $861,000,000,000.
Fiscal year 1992: $918,300,000,000.
Fiscal year 1993: $984,300,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:
Fiscal year 1991: $14,500,000,000.
Fiscal year 1992: $14,600,000,000.
Fiscal year 1993: $14,700,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:
Fiscal year 1991: $74,600,000,000.
Fiscal year 1992: $79,600,000,000.
Fiscal year 1993: $85,100,000,000.

(2) The appropriate levels of total new budget authority are as follows:
Fiscal year 1991: $1,111,300,000,000.
Fiscal year 1992: $1,124,600,000,000.
Fiscal year 1993: $1,179,600,000,000.

(3) The appropriate levels of total budget outlays are as follows:
Fiscal year 1991: $999,200,000,000.
Fiscal year 1992: $1,025,600,000,000.
Fiscal year 1993: $1,052,400,000,000.

(4) The amounts of the deficits are as follows:
Fiscal year 1991: $138,200,000,000.
Fiscal year 1992: $107,300,000,000.
Fiscal year 1993: $68,100,000,000.

(5) The appropriate levels of the public debt are as follows:
Fiscal year 1991: $3,316,600,000,000.
Fiscal year 1992: $3,478,700,000,000.
Fiscal year 1993: $3,606,300,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1990, October 1, 1991, and October 1, 1992, are as follows:
Fiscal year 1991:
(A) New direct loan obligations, $20,900,000,000.
(B) New Primary loan guarantee commitments, $106,100,000,000.
(C) New secondary loan guarantee commitments, $85,400,000,000.
Fiscal year 1992:
(A) New direct loan obligations, $17,700,000,000.
(B) New primary loan guarantee commitments, $109,900,000,000.
(C) New secondary loan guarantee commitments, $88,800,000,000.
Fiscal year 1993:
(A) New direct loan obligations, $18,100,000,000.
(B) New primary loan guarantee commitments, $112,600,000,000.
(C) New secondary loan guarantee commitments, $92,300,000,000.

(b) The Congress hereby determines and declares that the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, new primary loan guarantee commitments, and new secondary loan guarantee commitments for fiscal years 1991 through 1993 for each major functional category are:
(1) National Defense (050):
Fiscal year 1991:
(A) New budget authority, $281,000,000,000.
(B) Outlays, $291,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $280,900,000,000.
(B) Outlays, $286,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $280,900,000,000.
(B) Outlays, $281,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(2) International Affairs (150):
Fiscal year 1991:
(A) New budget authority, $18,400,000,000.
(B) Outlays, $16,600,000,000.
(C) New direct loan obligations, $1,800,000,000.
(D) New primary loan guarantee commitments, $6,700,000,000.
(E) New secondary loan guarantee commitments, $400,000,000.
Fiscal year 1992:
(A) New budget authority, $18,400,000,000.
(B) Outlays, $17,200,000,000.
(C) New direct loan obligations, $1,900,000,000.
(D) New primary loan guarantee commitments, $7,000,000,000.
(E) New secondary loan guarantee commitments, $400,000,000.
Fiscal year 1993:
(A) New budget authority, $18,500,000,000.
(B) Outlays, $17,000,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $7,300,000,000.
(E) New secondary loan guarantee commitments, $400,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 1991:
(A) New budget authority, $16,600,000,000.
(B) Outlays, $16,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $17,300,000,000.
(B) Outlays, $17,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $18,000,000,000.
(B) Outlays, $17,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(4) Energy (270):
Fiscal year 1991:
(A) New budget authority, $5,900,000,000.
(B) Outlays, $4,100,000,000.
(C) New direct loan obligations, $1,900,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $5,300,000,000.
(B) Outlays, $3,900,000,000.
(C) New direct loan obligations, $1,600,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $4,700,000,000.
(C) New direct loan obligations, $1,900,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(5) Natural Resources and Environment (300):
Fiscal year 1991:
(A) New budget authority, $17,700,000,000.
(B) Outlays, $18,400,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $18,800,000,000.
(B) Outlays, $18,900,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $19,400,000,000.
(B) Outlays, $19,400,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(6) Agriculture (350):
Fiscal year 1991:
(A) New budget authority, $18,900,000,000.
(B) Outlays, $15,100,000,000.
(C) New direct loan obligations, $9,100,000,000.
(D) New primary loan guarantee commitments, $7,000,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:

(A) New budget authority, $21,500,000,000.
(B) Outlays, $16,100,000,000.
(C) New direct loan obligations, $8,900,000,000.
(D) New primary loan guarantee commitments, $7,300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $18,900,000,000.
(B) Outlays, $14,700,000,000.
(C) New direct loan obligations, $8,700,000,000.
(D) New primary loan guarantee commitments, $6,700,000,000.
(E) New secondary loan guarantee commitments, $0.
(7) Commerce and Housing Credit (370):
Fiscal year 1991:
(A) New budget authority, $45,000,000,000.
(B) Outlays, $44,900,000,000.
(C) New direct loan obligations, $6,200,000,000.
(D) New primary loan guarantee commitments, $63,300,000,000.
(E) New secondary loan guarantee commitments, $85,000,000,000.
Fiscal year 1992:
(A) New budget authority, $14,900,000,000.
(B) Outlays, $4,500,000,000.
(C) New direct loan obligations, $3,500,000,000.
(D) New primary loan guarantee commitments, $65,500,000,000.
(E) New secondary loan guarantee commitments, $88,400,000,000.
Fiscal year 1993:
(A) New budget authority, $26,900,000,000.
(B) Outlays, $14,700,000,000.
(C) New direct loan obligations, $3,600,000,000.
(D) New primary loan guarantee commitments, $67,900,000,000.
(E) New secondary loan guarantee commitments, $91,900,000,000.
(8) Transportation (400):
Fiscal year 1991:
(A) New budget authority, $31,900,000,000.
(B) Outlays, $30,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $100,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992.
(A) New budget authority, $33,600,000,000.
(B) Outlays, $32,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $25,000,000,000.
(B) Outlays, $33,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1991:
(A) New budget authority, $7,700,000,000.
(B) Outlays, $7,800,000,000.
(C) New direct loan obligations, $1,100,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992.
(A) New budget authority, $7,400,000,000.
(B) Outlays; $7,100,000,000.
(C) New direct loan obligations, $1,100,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $7,500,000,000.
(B) Outlays, $7,000,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
(E) New secondary loan guarantee commitments, $0.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1991:
(A) New budget authority, $46,700,000,000.
(B) Outlays, $42,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitment, $12,800,000,000.
(E) New secondary loan guarantee commitments, $0.
(A) New budget authority, $47,600,000,000.
(B) Outlays, $46,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,500,000,000.
(E) New secondary loan guanantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $48,700,000,000.
(B) Outlays, $48,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,800,000,000.
(E) New secondary loan guarantee commitments, $0.
(11) Health (550):
Fiscal year 1991:
(A) New budget authority, $65,300,000,000.
(B) Outlays, $64,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $72,800,000,000.
(B) Outlays, $72,200,000,000.
(C) New direct loan obligations, 0.
(D) New primary loan guarantee commitments, $300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $80,200,000,000.
(B) Outlays, $79,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
(E) New secondary loan guarantee commitments, $0.
(12) Medicare (570):
Fiscal year 1991:
(A) New budget authority, $123,400,000,000.
(B) Outlays, $102,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $134,200,000,000.
(B) Outlays, $115,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $147,000,000,000.
(B) Outlays, $128,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1991:
(A) New budget authority, $202,400,000,000.
(B) Outlays, $156,000,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $210,600,000,000.
(B) Outlays, $164,900,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $218,300,000,000.
(B) Outlays, $175,900,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(14) Social Security (650):
Fiscal year 1991:
(A) New budget authority, $3,800,000,000.
(B) Outlays, $3,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $4,400,000,000.
(B) Outlays, $4,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $4,900,000,000.
(B) Outlays, $4,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1991:
(A) New budget authority, $31,900,000,000.
(B) Outlays, $31,300,000,000.
(C) New direct loan obligations, $600,000,000.
(D) New primary loan guarantee commitments, $15,500,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $32,700,000,000.
(B) Outlays, $32,300,000,000.
(C) New direct loan obligations, $500,000,000.
(D) New primary loan guarantee commitments, $15,900,000,000.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1993:
(A) New budget authority, $33,600,000,000.
(B) Outlays, $33,400,000,000.
(C) New direct loan obligations, $500,000,000.
(D) New primary loan guarantee commitments, $16,200,000,000.
(E) New secondary loan guarantee commitments, $0.
(16) Administration of Justice (750):
Fiscal year 1991:
(A) New budget authority, $13,100,000,000.
(B) Outlays, $13,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $13,800,000,000.
(B) Outlays, $14,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $14,400,000,000.
(B) Outlays, $14,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1991:
(A) New budget authority, $12,200,000,000.
(B) Outlays, $10,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $13,000,000,000.
(B) Outlays, $11,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $13,500,000,000.
(B) Outlays, $12,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(18) Net Interest (900):
Fiscal year 1991:
(A) New budget authority, $204,200,000,000.
(B) Outlays, $204,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $213,200,000,000.
(B) Outlays, $213,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $224,100,000,000.
(B) Outlays, $224,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(19) The corresponding levels of gross interest on the public debt are as follows:
Fiscal year 1991: $275,400,000,000.
Fiscal year 1992: $288,800,000,000.
Fiscal year 1993: $300,900,000,000.
(20) Allowances (920):
Fiscal year 1991:
(A) New budget authority, −$3,400,000,000.
(B) Outlays, −$2,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, −$3,600,000,000.
(B) Outlays, −$3,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, −$3,800,000,000.
(B) Outlays, −$3,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(21) Undistributed Offsetting Receipts (950):
(A) Fiscal year 1991:
(A) New budget authority, −$31,400,000,000.
(B) Outlays, −$71,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, −$32,200,000,000.
(B) Outlays, −$49,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, −$32,400,000,000.
(B) Outlays, −$75,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

RECONCILIATION

SEC. 6. (a) Not later than June 15, 1990, the committees named in subsections (b) and (c) of this section shall submit their recommendations to the Committees on the Budget of their respective Houses. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b)(1) The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $1,179,000,000 in budget authority and $1,179,000,000 in outlays in fiscal year 1991; $1,282,000,000 in budget authority and $1,282,000,000 in outlays in fiscal year 1992; and $1,286,000,000 in budget authority and $1,286,000,000 in outlays in fiscal year 1993.

(2) The Senate Committee on Armed Services shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce outlays: $216,000,000 in fiscal year 1991; $301,000,000 in fiscal year 1992; and $320,000,000 in fiscal year 1993.

(3)(A) The Senate Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $56,000,000 in budget authority and $554,000,000 in outlays in fiscal year 1991; $127,000,000 in budget authority and $900,000,000 in outlays in fiscal year 1992; and $200,000,000 in budget authority and $772,000,000 in outlays in fiscal year 1993.

(B) The Senate Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction sufficient to increase revenues: $90,000,000 in fiscal year 1991; $94,000,000 in fiscal year 1992; and $97,000,000 in fiscal year 1993.

(4) The Senate Committee on Commerce, Science, and Transportation shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $295,000,000 in budget authority and $295,000,000 in outlays in fiscal year 1991; $317,000,000 in budget authority and $317,000,000 in outlays in fiscal year 1992; and $327,000,000 in budget authority and $327,000,000 in outlays in fiscal year 1993.

(5) The Senate Committee on Energy and Natural Resources shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce authority and outlays as follows: $204,000,000 in budget authority and $153,000,000 in outlays in fiscal year 1991; $214,000,000 in budget authority and $209,000,000 in outlays in fiscal year 1992; and $214,000,000 in budget authority and $214,000,000 in outlays in fiscal year 1993.

(6) The Senate Committee on Environment and Public Works shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $206,000,000 in budget au-

thority and $206,000,000 in outlays in fiscal year 1991; $228,000,000 in budget authority and $228,000,000 in outlays in fiscal year 1992; and $236,000,000 in budget authority and $236,000,00 in outlays in fiscal year 1993.

(7)(A) The Senate Committee on Finance shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce outlays: $3,001,000,000 in fiscal year 1991; $4,898,000,000 in fiscal year 1992; and $6,588,000,000 in fiscal year 1993.

(B) The Senate Committee on Finance shall report changes in laws within its jurisdiction sufficient to increase revenues: $14,300,000,000 in fiscal year 1991; $14,300,000,000 in fiscal year 1992; and $14,400,000,000 in fiscal year 1993.

(8) The Senate Committee on Governmental Affairs shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce outlays: $1,703,000,000 in fiscal year 1991; $1,501,000,000 in fiscal year 1992; and $838,000,000 in fiscal year 1993.

(9)(A) The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $0 in budget authority and $65,000,000 in outlays in fiscal year 1991; $0 in budget authority and $65,000,000 in outlays in fiscal year 1992; and $0 in budget authority and $67,000,000 in outlays in fiscal year 1993.

(B) The Senate Committee on Labor and Human Services shall report changes in laws within its jurisdiction sufficient to increase revenues: $108,000,000 in fiscal year 1991; $229,000,000 in fiscal year 1992; and $280,000,000 in fiscal year 1993.

(10) The Senate Committee on Small Business shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $50,000,000 in budget authority and $50,000,000 in outlays in fiscal year 1991; $52,000,000 in budget authority and $52,000,000 in outlays in fiscal year 1992; and $54,000,000 in budget authority and $54,000,000 in outlays in fiscal year 1993.

(11) The Senate Committee on Veterans' Affairs shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $386,000,000 in budget authority and $366,000,000 in outlays in fiscal year 1991; $425,000,000 in budget authority and $426,000,000 in outlays in fiscal year 1992; and $455,000,000 in budget authority and $464,000,000 in outlays in fiscal year 1993.

HOUSE COMMITTEES

(c)(1) The House Committee on Agriculture shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $1,179,000,000 in budget authority and $1,179,000,000 in outlays in fiscal year 1991; $1,282,000,000 in budget authority and $1,282,000,000 in outlays in fiscal year 1992; and $1,286,000,000 in budget authority and $1,286,000,000 in outlays in fiscal year 1993.

(2) The House Committee on Armed Services shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce outlays: $216,000,000 in fiscal year 1991; $301,000,000 in fiscal year 1992; and $320,000,000 in fiscal year 1993.

(3)(A) The House Committee on Banking, Finance and Urban Affairs shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $56,000,000 in budget authority and $554,000,000 in outlays in fiscal year 1991; $127,000,000 in budget authority and $900,000,000 in outlays in fiscal year 1992; and $200,000,000 in budget authority and $772,000,000 in outlays in fiscal year 1993.

(B) The House Committee on Banking, Finance and Urban Affairs shall report changes in laws within its jurisdiction sufficient to increase revenues: $90,000,000 in fiscal year 1991; $94,000,000 in fiscal year 1992; and $97,000,000 in fiscal year 1993.

(4) The House Committee on Education and Labor shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $0 in budget authority and $65,000,000 in outlays in fiscal year 1991; $0 in budget authority and $65,000,000 in outlays in fiscal year 1992; and $0 in budget authority and $67,000,000 in outlays in fiscal year 1993.

(B) The House Committee on Education and Labor shall report changes in laws within it jurisdiction sufficient to increase revenues: $108,000,000 in fiscal year 1991; $229,000,000 in fiscal year 1992; and $280,000,000 in fiscal year 1993.

(5) The House Committee on Energy and Commerce shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $401,000,000 in budget authority and $401,000,000 in outlays in fiscal year 1991; $445,000,000 in budget authority and $445,000,000 in outlays in fiscal year 1992; and $463,000,000 in budget authority and $463,000,000 in outlays in fiscal year 1993.

(6) The House Committee on Interior and Insular Affairs shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $204,000,000 in budget authority and $153,000,000 in outlays in fiscal year 1991; $214,000,000 in budget authority and $209,000,000 in outlays in fiscal year 1992; and $214,000,000 in budget authority and $214,000,000 in outlays in fiscal year 1993.

(7) The House Committee on Merchant Marine and Fisheries shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, and other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $100,000,000 in budget authority and $100,000,000 in outlays in fiscal year 1991; $100,000,000 in budget authority and $100,000,000 in outlays in fiscal year 1992; and $100,000,000 in budget authority and $100,000,000 in outlays in fiscal year 1993.

(8) The House Committee on Post Office and Civil Service shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce outlays: $1,703,000,000 in fiscal year 1991; $1,501,000,000 in fiscal year 1992; and $838,000,000 in fiscal year 1993.

(9) The House Committee on Small Business shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $50,000,000 in budget authority and $50,000,000 in outlays in fiscal year 1991; $52,000,000 in budget authority and $52,000,000 in outlays in fiscal year 1992; and $54,000,000 in budget authority and $54,000,000 in outlays in fiscal year 1993.

(10) The House Committee on Veterans' Affairs shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $386,000,000 in budget authority and $366,000,000 in outlays in fiscal year 1991; $425,000,000 in budget authority and $426,000,000 in outlays in fiscal year 1992; and $455,000,000 in budget authority and $464,000,000 in outlays in fiscal year 1993.

(11)(A) The House Committee on Ways and Means shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce outlays: $3,001,000,000 in fiscal year

1991; $4,898,000,000 in fiscal year 1992; and $6,588,000,000 in fiscal year 1993.

The House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to increase revenues: $14,300,000,000 in fiscal year 1991; $14,300,000,000 in fiscal year 1992; and $14,400,000,000 in fiscal year 1993.

SALE OF GOVERNMENT ASSETS

SEC. 7. (a) It is the sense of Congress that—

(1) from time to time the United States Government should sell assets to nongovernment buyers; and

(2) the amounts realized from such asset sales will not recur on an annual basis and do not reduce the demand for credit.

(b) For purposes of allocations and points of order under section 302 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be allocated to a committee and shall not be scored with respect to the level of budget authority, outlays, or revenues under a committee's allocation under section 302 of that Act.

(c) For purposes of reconciliation under section 310 of the Congressional budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be scored with respect to the level of budget authority, outlays, or revenues reconciled under section 6 of this resolution.

(d) For purposes of this section—

(1) the terms "asset sale" and "prepayment of a loan" shall have the same meaning as under section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987); and

(2) the terms "asset sale" and "prepayment of a loan" do not include asset sales mandated by law before September 18, 1987, and routine, ongoing asset sales and loan prepayments at levels consistent with agency operations in fiscal year 1986.

RESERVE FUND FOR MEDICAID

SEC. 8. (a) It is assumed that, in the Senate, budget authority and outlays may be allocated to the Senate Committee on Finance for increased Medicaid funding if the Committeee on Finance or the committee of conference reports Medicaid funding legislation that—

(1) will, if enacted, make funds available for that purpose; and

(2) to the extent that the costs of such legislation are not included in this resolution, will not increase the deficit in this resolution for fiscal year 1991, and will not increase the total deficit for the period of fiscal years 1991 through 1993.

(b) Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on such legislation (if such a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution. The Committee on Finance shall report revised allocations pursuant to section 302(b) of such Act for the appropriate fiscal year (or years) to carry out this section.

RECONCILIATION OF REVENUES

SEC. 9. (a) The Congress finds that, according to estimates provided by the Congressional Budget Office, the revenue sources proposed by the President in his budget submission would actually result in $4,700,000,000 less revenue than the amount of revenue that he proposed in his budget.

(b) It is the sense of the Congress that the President should propose revenue sources that would result in the amount of revenue increases that he proposed in his budget submission.

(c) If the President proposes additional revenue sources that would result in the amount of revenue increases that he proposed in his budget submission, then it is assumed that the Committee on Finance and the Committee on Ways and Means shall increase the amounts of revenues that they will achieve pursuant to the reconciliation instructions in section 6 by the amount of $4,700,000,000.

Mr. SASSER. Mr. President, today I am submitting Senate Concurrent Resolution 110, a multiyear budget resolution which both meets the 1991 deficit targets of Gramm-Rudman-Hollings and which provides for a balanced budget in 1995 under the realistic economic and budget estimates provided by the Congressional Budget Office.

Within the past several weeks, the distinguished chairman of the House Ways and Means Committee, DAN ROSTENKOWSKI, has presented the Congress with a multiyear budget plan which is designed to put our fiscal house in order.

Now while I do not agree with all aspects of the Rostenkowski proposal, he does deserve great credit for presenting an ambitious and comprehensive budget plan.

The Bush administration has offered a 1991 budget that purports to reduce the 1991 deficit by $37 billion though the Congressional Budget Office estimates real savings to be actually $30 billion. Moreover, the Bush administration has yet to chart out a convincing budget plan that realistically and equitably reduces the deficit and brings the budget in balance over the long term.

My plan has several relatively simple elements that can help us eliminate our deficit problems.

First, on defense we achieve about $15 billion in outlay savings in 1991 and then institute a budget authority freeze from 1991 through 1995.

This means that in 1995 we will still be spending about $278 billion for national defense. That represents a $228 billion spending level in 1990 dollars—about $8 billion above the average level of defense spending for postwar peace-time years, namely, the period after the Korean war and the period after the Vietnam conflict prior to the defense buildup of the 1980's.

Over the 5 years that this plan is in effect, we will save some $232 billion in defense spending.

For 1991, this resolution contemplates some $14 billion in additional revenues, exactly the level proposed by the President in his 1991 budget. This policy change, contained in the President's budget will yield some $70 billion in additional revenues over the next 5 years. Indeed, if the administration and Congress agreed, $45 billion of this amount could come from eliminating the tax bubble in the current Tax Code.

The plan also calls for spending restraint on the domestic side. Nondefense discretionary spending and entitlement spending is reduced by $9 billion in 1991 and by a total of about $43 billion through 1995.

While this plan does provide spending restraint on the domestic side, it does not freeze Social Security cost-of-living adjustments as does the Rostenkowski plan.

Finally, the plan achieves some $44 billion in interest cost savings due to reduced deficits.

I offer this plan as one possible means of meeting our Gramm-Rudman-Hollings budget target in 1991 and the years beyond. It is a plan that calls for spending restraint on domestic programs, a prudent but realistic build-down of defense spending in light of reduced world tensions, and a moderate level of new revenues—the level called for in the President's 1991 budget—for the next several years.

In the next several weeks the House and Senate Budget Committees will hammer out constructive deficit plans.

We can do the best job possible by adopting a budget plan that has many of the features of the plan that I have enumerated here. The deficit reduction for 1991 contained in Senate Concurrent Resolution 110 will enable us to meet deficit target in 1991 and will lead to a balanced budget by 1995.

The budget plan contained in Senate Concurrent Resolution 110 will bring about real and substantial deficit reduction in both the long and short term. That, in the final analysis, is the only way we can put our fiscal house in order, raise our national savings rate, and end our persisting overdependence on foreign capital to keep our economy growing.

Mr. President, I ask unanimous consent that an outline of this prepared plan be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BALANCED BUDGET PLAN

[In billions of dollars]

	1991	1992	1993	1994	1995	5-year total
CBO baseline deficit	161.5	124.4	132.1	121.4	110.3	

BALANCED BUDGET PLAN—Continued

[In billions of dollars]

	1991	1992	1993	1994	1995	5-year total
Deficit reduction:						
Defense	−15.2	−31	−47.2	−62.1	−76.9	−232.4
Non-Defense	−9	−8.2	−8	−7.9	−9.7	−42.8
Revenues [1]	−14.5	−14.6	−14.7	−14.6	−14.6	−73
Offsets	−1.5	−3.1	−4.6	−4.7	−5.9	−19.8
Debt Service	−1.3	−4.3	−8.1	−12.6	−17.8	−44.1
Total reduction [2]	−38.6	−55.2	−73.6	−92.6	−113	−373
Resulting deficit [2]	−122.9	−69.2	−58.5	−28.8	[3] −2.7	

[1] Revenue increases are shown as minuses because they reduce deficits.
[2] Totals may not add due to rounding.
[3] Surplus in 1995.

SENATE CONCURRENT RESOLUTION 111—RELATIVE TO CONTRACEPTION AND INFERTILITY

Mr. HARKIN (for himself, Mr. PACKWOOD, Ms. MIKULSKI, Mr. COHEN, Mr. SIMON, Mr. CRANSTON, and Mr. LIEBERMAN) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 111

Whereas the incidence in the United States of both unintended pregnancy and abortion is substantial and unacceptable;

Whereas there is a significant incidence of infertility in the United States;

Whereas studies estimate that 31,800,000 women nationwide are at risk of unintended pregnancy, and that, for a variety of reasons, 13 percent of these women are not using any form of contraception;

Whereas there is a substantial need for the development of new contraceptive drugs and devices, but only 1 private pharmaceutical company based in the United States is conducting research toward such development;

Whereas if a variety of safe and effective options with respect to contraception are widely available, significant benefits for women and their families accrue, including a reduction in the number of low-birthweight births and a reduction in the number of premature births, leading to a reduced incidence of maternal and infant mortality;

Whereas it is estimated that 1 out of 6 couples in the United States is infertile or fails to conceive within 1 year of deciding to have a child;

Whereas the Centers for Disease Control estimates that 20 percent of cases of infertility in the United States are caused by sexually transmitted diseases;

Whereas cases of infertility resulting from sexually transmitted diseases are the most preventable of such cases;

Whereas with respect to the problems of contraception and infertility, the obstacles to making an effective response to such problems are many and include a lack of consistent funding, the political controversy concerning abortion, the lengthy and complex procedures for the approval by the Food and Drug Administration of new drugs and devices, the costs of liability insurance for research and for the marketing of drugs and devices, and a shortage of scientists in the relevant fields; and

Whereas family planning is universally recognized as a human right: now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress should—

(1) establish a program of research for the development of new and improved methods of contraception and new and improved methods of diagnosing and treating infertility, including the establishment of research centers for such purposes;

(2) provide adequate long-term resources for the program to ensure that the program is among the principal Federal research priorities and that the United States is a world leader in research with respect to contraception and infertility;

(3) ensure that Federal programs with respect to the prevention, diagnosis, and treatment of sexually transmitted diseases adequately respond to the role of such diseases in cases of infertility;

(4) ensure that the public is educated with respect to contraception and infertility, including education on new and improved drugs and devices;

(5) establish as Federal goals the development, by the year 2010, of—

(A improved barrier methods to protect against unintended pregnancy and sexually transmitted diseases;

(B) new methods of contraception for use by men;

(C) a vaccine-like drug for women that prevents unintended pregnancy for a significant period of time without disrupting the menstrual cycle or causing adverse metabolic or cardiovascular effects; and

(D) new and improved techniques of diagnosing and treating infertility;

(6) require the Secretary of Health and Human Services to take prompt action to reestablish the Ethical Advisory Board (terminated in 1980) in order to facilitate research with respect to infertility;

(7) review the policies and procedures of the Food and Drug Administration to determine the extent to which the process of approving drugs and devices for use by the public, especially with respect to contraception and infertility, can be expedited with a reasonable degree of safety, including consideration of the role of conducting ongoing surveys and studies of the effects on the public of drugs and devices that have been so approved; and

(8) determine to what extent measures can be implemented by public or private entities to resolve liability issues regarding persons conducting research into, or marketing, drugs and devices with respect to contraception and infertility.

AMENDMENTS SUBMITTED

CLEAN AIR ACT AMENDMENTS

SYMMS (AND OTHERS) AMENDMENT NO. 1419

Mr. SYMMS (for himself, Mr. SIMPSON, Mr. BOREN, Mr. GARN, Mr. HATCH, Mr. MCCLURE, Mr. REID, Mr. BINGAMAN, Mr. WALLOP, and Mr. BAUCUS) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes; as follows:

On page 438 of amendment No. 1293, at line 12 insert the following new subsection:

"(h) SMALL DIESEL REFINERIES.—The Administrator shall issue allowances to owners or operators of small diesel refineries who produce diesel fuel after October 1, 1993 meeting the requirements of subsection 211(i) of this Act.

(A) ALLOWANCE PERIOD.—Allowances may be issued under this subsection only for the period from October 1, 1993 through December 31, 1999.

(B) ALLOWANCE DETERMINATION.—The number of allowances issued pursuant to this paragraph shall equal the annual number of pounds of sulfur dioxide reduction attributable to desulfurization by a small refinery divided by 2,000. For the purposes of this calculation, the concentration of sulfur removed from diesel fuel shall be the difference between 0.274 per centum (by weight) and 0.050 per centum (by weight).

(C) REFINERY ELIGIBILITY.—As used in this subsection, the term "small refinery" shall mean a refinery or portion of a refinery—

(i) which has bona fide crude oil throughput of less than 18,250,000 barrels per year, as reported to the Department of Energy, and

(ii) which is owned or controlled by a refiner with a total combined bona fide crude oil throughput of less than 50,187,500 barrels per year, as reported to the Department of Energy.

(D) LIMITATION PER REFINERY.—The maximum number of allowances that can be annually issued to a small refinery pursuant to this subsection is 1,500.

(E) LIMITATION ON TOTAL.—In any given year, the total number of allowances issued pursuant to this subsection shall not exceed 35,000.

WALLOP (AND SIMPSON) AMENDMENT NO. 1420

Mr. CHAFEE (for Mr. WALLOP, for himself and Mr. SIMPSON) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

At the end of title VI, add the following new section:

ASBESTOS IN SCHOOLS

SEC. 612. (a) section 203(d) of title II of the Toxic Substances Control Act is amended by adding the following new paragraph at the end thereof:

"'(7) EPA INFORMATION OR ADVISORY.—The Administrator shall, not later than 30 days after enactment of this paragraph, publish and distribute to all local education agencies and State governors information or an advisory to—

"'(A) facilitate public understanding of the relative risks associated with in-place asbestos-containing building materials;

"'(B) promote the least burdensome response actions;

"'(C) describe the limited circumstances in which asbestos removal is necessary to protect human health; and

"'(D) describe the relative risks associated with removal of asbestos-containing building materials.

Such information or advisory shall be based on the best available scientific evidence and shall be revised, republished and redistribut-

ed as appropriate, to reflect new scientific findings.' "

(b) Title II of the Toxic Substances Control Act is amended by adding the following new section at the end thereof:

" 'SEC. 216. ASBESTOS HEALTH EFFECTS STUDY.

" 'The Administrator in conjunction with the Health Effects Institute shall conduct a study to identify, characterize, and quantify risks to human health from exposure to each form of asbestos, including but not limited to the health effects of serpentine and amphibole fibers, and report to Congress within twenty-four months after enactment of this section. Not later than 90 days after completion and submission of such study, the Administrator shall report to Congress with recommendations for modifications or changes, if any, to statutory or regulatory requirements under this Act. Such recommendations shall be based on the findings of the study prepared under this section and such other information as the Administrator deems appropriate.' "

METZENBAUM AMENDMENT NO. 1421

Mr. METZENBAUM proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 282, line 25, after "date," insert "and complies with the provisions of clause (iii)".

On page 283, between lines 12 and 13, insert the following:

"(iii) Sources of coke oven emissions qualifying for an extension under this subparagraph shall make available not later than January 1, 2000 to the surrounding communities the results of any risk assessment performed by the Administrator to determine the appropriate level of any emissions standard established by the Administrator pursuant to subsection (f) or the results of the risk assessment performed by such source pursuant to paragraph 3 or 4.".

On page 283, line 15, insert ", and which was in operation on January 1, 1990" before "may".

On page 284, line 13, insert "and which complies with the provisions of subparagraph (A)(iii)" after "(iii)".

SYMMS AMENDMENT NO. 1422

Mr. CHAFEE (for Mr. SYMMS, for himself, Mr. SIMPSON, Mr. BOREN, Mr. GARN, Mr. HATCH, Mr. MCCLURE, Mr. REID, Mr. BINGAMAN, Mr. WALLOP, Mr. BAUCUS, and Mr. BREAUX) proposed an amendment to amendment No. 1230 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 438 of amendment No. 1293, at line 12 insert the following new subsection:

"(h) SMALL DIESEL REFINERIES.—The Administrator shall issue allowances to owners or operators of small diesel refineries who produce diesel fuel after October 1, 1993 meeting the requirements of subsection 211(i) of this Act.

"(A) ALLOWANCE PERIOD.—Allowances may be issued under this subsection only for the period from October 1, 1993 through December 31, 1999.

"(B) ALLOWANCE DETERMINATION.—The number of allowances issued pursuant to this paragraph shall equal the annual number of pounds of sulfur dioxide reduction attributable to desulfurization by a small refinery divided by 2000. For the purposes of this calculation, the concentration of sulfur removed from diesel fuel shall be the difference between 0.274 per centum (by weight) and 0.050 per centum (by weight).

"(C) REFINERY ELIGIBILITY.—As used in this subsection, the term 'small refinery' shall mean a refinery or portion of a refinery—

"(i) which has bona fide crude oil throughput of less than 18,250,000 barrels per year, as reported to the Department of Energy, and

"(ii) which is owned or controlled by a refiner with a total combined bona fide crude oil throughput of less than 50,187,500 barrels per year, as reported to the Department of Energy.

"(D) LIMITATION PER REFINERY.—The maximum number of allowances that can be annually issued to a small refinery pursuant to this subsection is 1500.

"(E) LIMITATION ON TOTAL.—In any given year, the total number of allowances issued pursuant to this subsection shall not exceed 35,000.".

DASCHLE (AND OTHERS) AMENDMENT NO. 1423

Mr. DASCHLE (for himself, Mr. DIXON, Mr. DURENBERGER, Mr. GRASSLEY, Mr. SIMON, Mr. EXON, Mr. KERREY, Mr. BURNS, Mr. CONRAD, Mr. WIRTH, Mr. PRESSLER, and Mr. LEAHY) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

(a) on page 214, line 21, delete "specific"; and

(b) on page 215, strike from line 5, through page 216, line 2, and insert the following:

"(2) CLEAN FUELS FOR CONVENTIONAL VEHICLES.—(A) Within one year of enactment of the Clean Air Amendments of 1990, the Administrator, pursuant to paragraph (1) shall promulgate regulations establishing specifications for reformulated gasoline to be used in conventional gasoline fueled motor vehicles in any nonattaiment area with a 1989 ozone design value equal to or exceeding 0.18 parts per million. Such regulations shall prohibit any person from selling, offering for sale, dispensing, supplying, offering for supply, transporting or introducing into commerce in such area or areas any gasoline not meeting the requirements of this paragraph for use in gasoline fueled motor vehicles. Such regulations shall take effect in accordance with the phase in schedule set forth in subparagraph (B). Such regulations shall be incorporated in the final regulations promulgated pursuant to paragraph (1).

"(B) Subject to the limitations set forth in subsection (h) and section 212(a)(11), the specifications for fuel quality promulgated pursuant to subparagraph (A) shall, at a minimum, provide for—

"(i) a maximum aromatic hydrocarbon content by volume of not greater than 30 percent as of January 1, 1992; of not greater than 28 percent as of January 1, 1994, and of not greater than 25 percent as of January 1, 1996;

"(ii) a maximum benzene content by volume which shall be the lowest concentration of benzene accompanying the maximum aromatic hydrocarbon content under clause (i) that can be achieved without additional capital investment but, in no event may such maximum benzene content be greater than 1.0 percent by volume;

"(iii) during the high ozone season (as defined by the Administrator), a 15 percent reduction in the ozone-forming potential of volatile organic compounds and no increase in oxides of nitrogen emitted from existing vehicles (as determined by the Administrator) using such fuel compared to conventional gasoline with a Reid vapor pressure of 9.0 pounds per square inch sold in calendar year 1989; and

"(iv) subject to paragraph (D), an oxygen content by weight equal to or greater than 2.0 percent as of January 1, 1992, 2.5 percent as of January 1, 1993, and 2.7 percent as of January 1, 1994, except where a higher oxygen content is required under section 211(l) or section 188, except as provided in subparagraph (D).

"(C) The regulations promulgated under paragraph (A) shall include procedures under which the Administrator shall certify fuels as complying with the specifications established pursuant to paragraph (B).

"(D) The Administrator may waive, in whole or in part, the requirements of paragraph (2)(B)(iv) upon a determination by the Administrator that the use of oxygenated fuels would prevent or interfere with the attainment by such area of a national primary ambient air quality standard (or a State or local ambient air quality standard) for any air pollutant other than carbon monoxide.

"(E) Sellers of fuels subject to this paragraph with an oxygen content higher than the percentages specified in subparagraph (B)(iv) shall be eligible for credits in accordance with the terms and conditions of section 211(l)(2).

"(F) The regulations promulgated under this paragraph shall include procedures under which the Administrator may certify fuels as complying with the specifications established pursuant to subparagraph (B). The regulations shall establish a procedure by which the Administrator may certify a gasoline as complying with such specifications if such gasoline (i) complies with the specification in clauses (iii) and (iv) of subparagraph (b) and (ii) achieves equivalent or greater emission reductions that are achieved by a gasoline meeting the specifications established pursuant to clauses (i) and (ii) of subparagraph (B).

"(3)(A) Any state in which there is a moderate or serious ozone non-attainment area may propose as a revision of the applicable implementation plan for such area or areas a requirement that reformulated gasoline sold, offered for sale, dispensed, supplied, offered for supply, transported or introduced into commerce in such area or areas for use in gasoline fueled motor vehicles shall be subject to all the requirements of this subsection beginning on the date specified in the revision.

"(B) For the purposes of paragraph (A), the Administator may delay, for not to exceed three years, the date on which reformulated gasoline which meets the specifications in paragraph 2(B) is to be offered for sale or sold in order to provide adequate lead time for such fuel to be made available in necessary quantities. The decision of the Administrator to provide such delay shall be accompanied by an explanation of the reasons for such delay.".

SYMMS AMENDMENT NO. 1424

Mr. SYMMS proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bills S. 1630, supra, as follows:

Section 107 at page 80 is amended by striking "(A)" at line 4, by striking the word "each" at line 6, by inserting the letter "s" following the word "employee" at line 6, by striking the word "a" at line 7, by inserting the letter "s" following the word "space" at line 7, by striking the semicolon on line 7, and by striking the words "and" through the word "cost" on lines 7 to 10.

Section 108 at page 112 is amended by striking "(1)" at line 18, by striking the word "each" at line 20, by inserting the letter "s" following the word "employee" at line 21, by striking the word "a" at line 21, by inserting the letter "s" following the word "space" at line 21, by striking the semicolon on line 22, and by striking the words "and" through the word "cost" on lines 22 to 24.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a bill has been added to the hearing before the full committee on Energy and Natural Resources scheduled to take place Thursday, April 5, 1990, at 9:30 a.m., in room SD-366 of the Senate Dirksen Office Building. In addition to S. 324, the National Energy Policy Act of 1990, the Committee will also receive testimony on S. 2191, the Federal Energy Management Amendments of 1990.

For further information, please contact Leslie Black of the committee majority staff at 202/224-9607 or Richard Grundy of the committee minority staff at 202/224-7847.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing to consider the nomination of John C. Foltz to be Administrator of the Federal Grain Inspection Service on Tuesday, April 3, 1990, at 11:30 a.m., in SR332. Senator DASCHLE will preside. For further information contact Rob Wise of Senator DASCHLE's staff at 224-2321.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on issues related to jurisdiction between the CFTC and the SEC on Wednesday, April 25, at 2:00 p.m., in SR332. For further information, please contact Ken Ackerman of the committee staff at 224-2035.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on S. 2205, the Maine Wilderness Act 1990, on April, 19, at 2:00 p.m., in SR485. For further information contact Ben Yarbrough of the committee staff at 224-5207.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full committee on Energy and Natural Resources.

The hearing will take place Friday, April 20, 1990, at 9:30 a.m., in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony from Thomas L. Sansonetti, nominee for Solicitor of the Department of the Interior.

For further information, please contact Rebecca Murphy at (202) 224-7562.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on Thursday, March 29, 1990, at 9:30 a.m., to hold a hearing on the reauthorization of the National Earthquake Hazards Reduction Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on Thursday, March 29, 1990, at 2 p.m., to hold a hearing on the committee staff draft substitute to S. 1880, the Cable Television Consumer Protection Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts, and Humanities of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, March 29, 1990, at 10 a.m., for a hearing on reauthorization of the National Endowment for the Arts.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY AND THE LAW

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Technology and the Law of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, March 29, 1990, at 9:30 a.m., to hold a hearing on competitive issues facing the semiconductor industry and the impact of joint ventures.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. RIEGLE. Mr. President, I ask unanimous consent that it be in order that the full committee hearing originally scheduled for March 8, 1990 on the Department of Energy's decision plan related to the opening of the waste isolation pilot plant in New Mexico has been rescheduled. The hearing will take place on March 29, 1990, at 9:30 in SD-366.

Please make this change on your schedule. If you have any questions concerning the schedule please call Marilyn Pedretti at 4-7569.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Thursday, March 29, 1990, at 9:30 a.m. to hold hearings on the administration's proposed housing legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN, FAMILIES, DRUGS, AND ALCOHOLISM

Mr. RIEGLE. Mr. President I ask unanimous consent that the Subcommittee on Children, Families, Drugs, and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, March 29, 1990, at 1:30 p.m. for a hearing on the Low Income Home Energy Assistance Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Thursday, March 29, 1990, at 10 a.m. to hold hearings on SEC/CFTC jurisdiction and margin.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURE RESEARCH

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Research of the Committee on Agriculture, Nutrition, and Forestry be allowed to meet

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during the session of the Senate on Thursday, March 29, 1990, at 9:30 a.m. to hold a hearing in preparation for the 1990 farm bill: agricultural research.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, March 29, 1990, at 2 p.m. to hold a hearing in preparation for the 1990 farm bill: conservation title.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, March 29, at 10 a.m. for a markup on: S. 444, the Federal Advisory Committee Act Amendments; S. 1742, the Federal Information Resources Management Act, and other pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, March 29, 1990, at 10 a.m. to hold a hearing on the implications of the open skies talks.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RECALL OF UNITED STATES AMBASSADOR TO GUATEMALA

● Ms. MIKULSKI. Mr. President, it is not often that I praise this administration for its actions in Central America, but today I want to commend the President for recalling our Ambassador to Guatemala.

The temporary recall was prompted by United States displeasure over the Guatemalan Government's unwillingness to clamp down on the military-linked death squads which have been responsible for the assassinations of several high-level opposition leaders recently.

These killings were shocking because of the status of the victims, but we should be even more concerned about the long-term campaign against Indians, social workers, human rights workers, and opposition groups, which has resulted in nearly 150,000 deaths over the past 20 years.

By any estimate, Guatemala has the worst human rights record in a region that has set abysmal standards on human rights. There are daily murders and kidnapings; 100,000 Indians have fled to refugee camps in Mexico; hundreds of thousands of Indians are forced into civil patrols. No military officer has ever been investigated or punished in spite of well-documented massacres by the army.

The recall gesture was a welcome shift of policy for this administration, whose last Ambassador to Guatemala referred to political murders and kidnapings as so-called human rights violations. The action was necessary to make it clear that the United States cannot condone the acquiescent policy of the Guatemalan Government.

Ambassador Stroock has since returned to Guatemala after consultations here in Washington, and I urge him and our State Department to keep a very close watch on human rights issues in Guatemala and to offer support and protection to victims of political crimes. I look forward to working with the administration to promote real human rights improvements in the region.●

ESSENTIAL AIR SERVICE

● Mr. CONRAD. Mr. President, on Tuesday I joined my distinguished colleague Senator BAUCUS in introducing legislation to finally place the Essential Air Service Program on firm footing. It is my hope that this important legislation will pass this year.

The legislation we introduced would make the EAS Program an entitlement. Last year, during consideration of the Department of Transportation appropriations legislation, Senator LAUTENBERG and I engaged in a colloquy about the difficulties posed by uncertain funding for the EAS Program. In 1989, the EAS Program was proposed for elimination by the administration, substantially cut by the House Appropriations Committee, and underfunded to the extent of needing a supplemental appropriation. I believe this near-yearly battle is extremely hazardous. Carriers cannot rely on their contracts, communities cannot rely on their needed air service, and many rural communities face the threat of isolation if EAS proponents lose one of these battles.

We are all aware of the serious ramifications this uncertainty has for the program. While the Bush administration's budget does request $24 million for the EAS Program, there are indications that the perennial funding battle will continue. They have announced their intention to seek a 5-year phase-out of the program. Making the program an entitlement will hopefully spare the program these yearly battles and give participants in the program—both communities and air carriers—some assurances that the EAS Program will remain viable throughout the life of its authorization.

Mr. President, guaranteeing continued commitment to this program is crucial. EAS enjoys broad support in this body for a number of reasons. When Congress adopted the Airline Deregulation Act of 1978, it stressed the importance of maintaining air service to small communities and isolated areas. The EAS Program was established to guarantee that such communities—which might otherwise have lost commercial airline service—would continue to receive a minimum level of air transportation. The Congress believed then—and continues to believe now—that providing air service to those communities where there are not enough passengers for profitable operations is of substantial enough public benefit to justify Government subsidies. In 1987, Congress reaffirmed its commitment to EAS by overwhelmingly reauthorizing the program.

In today's world of instantaneous communications and global competition, isolating these communities from the Nation's air transportation network would effectively doom their economies to stagnation and decline.

In North Dakota, three communities received subsidies under the EAS program. Commercial air transportation for Jamestown, Williston, and Devils Lake is a gateway to the economic infrastructure of our Nation. Economic prosperity for these communities, and all of North Dakota, depends on the continuation of these vital transportation links. The importance of EAS to North Dakota cannot be overestimated. In Devils Lake and Jamestown, small manufacturing firms have captured military contracts. They may be forced to close their doors without EAS. The Williston Oil Basin is a crucial part of this Nation's search for energy independence. Without air service, this national goal could be jeopardized.

These communities are working hard to attract new businesses and diversify their economies. Still reeling from the farm crisis, these communities would suffer greatly from the loss of air service now provided by the EAS Program. Business development prospects would be stymied if potential employers saw these air routes disappear.

Mr. President, this legislation will protect EAS for the future. Instead of a yearly, communities served by EAS routes will know that the Federal Government's commitment to the program will remain firm. The legislation will fulfill the promise made long ago to these rural and isolated communities. If adopted, the legislation will allow rural communities—like Jamestown, Devils Lake, and Williston in North Dakota—to continue the important work of revitalizing their economies.

I urge my colleagues to support this legislation.●

DELTA STATE UNIVERSITY LADY STATESMEN REPEAT AS NATIONAL CHAMPIONS

● Mr. COCHRAN. Mr. President, for the second consecutive year, the Delta State University Lady Statesmen from Cleveland, MS, are the NCAA Division II national collegiate basketball champions. In claiming the national title, Delta State has also established a new record for national championships. The Lady Statesmen have now won five national crowns in the last 15 years.

Under the very capable leadership of head coach Lloyd Clark, Delta State cruised through this year's post-season tournament play, winning by an average of 29.4 points over five opponents. Their season culminated in a decisive 77–43 win over Cal Poly Pomona in the championship game. That margin of victory also broke a record, held by Delta State in last year's championship game over the same opponent.

The Lady Statesmen were winners of 28 straight games this season—the longest wining streak in the Nation for men's or women's teams. Their 32–1 won loss record for the year was the Nation's best for any team, men's or women's. Delta State led in the Nation in outscoring opponents by a 26 point margin, and the team was ranked No. 1 all season.

Mr. President, I am especially proud that all 12 players on the Lady Statesmen roster are Mississippians. My State produces some truly outstanding basketball talent, and Delta State's success story certainly supports that claim. In fact, Lady Statesman Crystal Hardy, a senior from Meridian, MS, was selected as the NCAA Division II "National Player of the Year" and as a member of the first team Kodak All-America squad. Ms. Hardy has also distinguished herself by maintaining a 3.55 grade point average, including a perfect 4.0 last term, and has been named to the GTE Academic All-America Team. Seniors Pam Lockett and Anita Robinson have also been named to various all-star teams.

As the Lady Statesmen continue their winning ways in collegiate women's basketball, excellence in the sport has become synonymous with Delta State University and its outstanding tradition of excellence—on the court and in the classroom. I congratulate the Lady Statesmen, their coaches, and Delta State University president, Kent Wyatt, for repeating as national champions. They have brought distinction to themselves, the university, the State of Mississippi, and the outstanding community that supports them.●

HONORING BRYNHILD HAUGLAND

● Mr. BURDICK. Mr. President, I would like to share with my colleagues a brief tribute to Brynhild Haugland, the longest serving State lawmaker in the Nation. After 52 years of distinguished service in the North Dakota House of Representatives, Brynhild has decided to retire.

District 40/50 in Minot first elected Brynhild Haugland to the House in 1939. As the long-time chair of the Social Services and Veterans Affairs Committee, this Republican woman has been a true workhorse, never a show horse. Her commitment to human services and the people of North Dakota can be seen time and time again in programs passed by the North Dakota Legislature in the last half decade.

As one of the first women in elective office, Brynhild Haugland served as a role model for thousands of women in North Dakota. A farm owner, she helped bridge the gap between farm interests and business concerns. Thanks in great part to Brynhild, North Dakota boasts the International Peace Garden and the International Music Camp on the border with Canada.

Brynhild is now 84 and she has decided not to run for the 28th time. I respect her decision. She can be proud of her long list of accomplishments in the legislature as she continues to serve the Minot area as a private citizen.

The words Brynhild used in announcing her retirement reflect her wonderful attitude toward public service: "It has been a great privilege and a joy to represent the people of this area. They are progressive, forward-looking and well informed. They are innovative, and they are concerned and caring."

Brynhild is all of that and more. I would like to take this opportunity to thank her for all her hard work for North Dakota and to wish her well in the future.●

FELIX ROHATYN'S VIEWS ON LEADERSHIP

● Mr. MOYNIHAN. Mr. President, recently the well-known and highly respected investment banker, Felix Rohatyn, addressed the Woman's National Democratic Club. The subject of his remarks was leadership.

Mr. Rohatyn knows much about this topic. He and I were both members of the National Economic Commission and were mandated to recommend solutions for our fiscal problems. We were prepared. But, as Mr. Rohatyn tells us, the administration was not ready to do away with the deficit. Indeed, he has hit upon a most important point. The deficit itself is not the problem. Rather, the problem is our policy to have a deficit.

Mr. Rohatyn also offers a most important analysis of how we need to invest an additional $1 trillion over the next decade. To save the money he recommends a combination of military cuts, a 50-cent gasoline tax, a small rise in the income tax top bracket, and some modest spending cuts. He would dedicate $500 billion to bringing down the Federal deficit; the other $500 billion would be spent on infrastructure and assistance to State and local governments. A bold plan and clearly on target. Mr. Rohatyn urges us to rediscover our need for "active government." He reminds us of the responsibility of government to provide leadership.

Mr. President, I ask that the full text of Mr. Rohatyn's remarks be placed in the RECORD along with a Hobart Rowen article from the March 22 issue of the Washington Post.

The remarks of Mr. Rohatyn and the article of Hobart Rowen follow:

REMARKS BY FELIX G. ROHATYN

From Johannesburg to Moscow, the winds of freedom are blowing all over the world. In country after country, in Poland, Hungary, Czechoslovakia and Bulgaria, the model for the revolution is the American system. The combination of political freedom and an economic system that seems to guarantee an ever-rising standard-of-living, has made of America the model for every one of these struggles for democracy. It is important to recognize that it is American democracy, and not Japanese discipline or German efficiency, that these countries are striving for. Whether and how these countries will achieve their goals is impossible to predict; their struggle will be long and not always peaceful. It is worth examining, however, whether their model is all that they think it is or whether, like many an astronomer, they are seeing the light of a distant star which, sometime ago, may have ceased to shine so brightly.

As we approach the 21st Century, we have to face the reality that military power is no longer the ultimate test for influence in the world. As the Soviet Union struggles simply to survive, the competition we face is no longer communist ideology or military expansion, but European and Japanese financial and economic power. The so-called American century lasted barely 25 years. We are still, in many ways, the richest and most powerful country in the world. However, since the mid-1970s, our competitive position in the world has steadily eroded, our position as the world's largest creditor has turned into the world's largest debtor, and our dependence on foreign capital has become worrisome to many. It is ironic that, as one country after another strives for freedom, or our economic independence is more and more constrained as a result of our borrowing needs. We are rather smug about the fact that "we beat communism", and without any question, the strength and steadfastness of the Western Alliance had a great deal to do with it. Credit must also be given to President Carter's emphasis on the importance of human rights. But if the command economies have failed, our own experiment with total free market and deregulated economics is far from a complete

success. Communism mostly self-destructed because it is philosophically untenable and economically unviable in the modern world. In many ways, communism was defeated by the ideal of America, rather than by our reality. We should try to become what those countries think we are and what they are trying to become.

First and foremost, as they are striving to do, we should become a real multiparty political system. At the very least, we should have two functioning political parties; this is no longer the case today. I have been a Democrat ever since I came to this Country in 1942, at the age of 14, from occupied France. There was never any question about it in my mind—FDR; Truman; Stevenson; Kennedy; Johnson. These men stood for the Democratic Party and stood for what I believed in: Internationalism and the defense of freedom; equality of opportunity; fairness in the distribution of wealth. The Republican Party, it seemed to me, was a party of the status quo and of the Establishment; of isolationism; and of the simple, unadulterated pursuit of wealth. Today the political choice, if there is any, is quite different. The Republican Party is internationalist and expansionary militarily and economically; it is rigorously conservative, if not to say reactionary, on social issues such as abortion, school prayer, gun control, etc.; it is dedicated to the pursuit of wealth through lower taxes and the absence of regulation without any seeming concern for the appropriate role of government. What does the Democratic Party stand for, as an alternative to this program? It is exceedingly hard to tell because the Democrats are not an opposition party. The Democrats share power, they do not seek it. Seeking power requires submitting alternatives to the voters and competing for their allegiance; sharing power is an entirely different role. The Democratic leaders in the Congress are men of intellect and character, of decency and strength. But, they are part of an existing power structure, almost a coalition government with a Republican Administration. Congressman Dan Rostenkowski's proposal to cut the budget deficit and eliminate the Gramm-Rudman law is a courageous exception to this situation. However, in the main, we are no longer a true multiparty system, certainly not at the national level.

The true legacy of Ronald Reagan, which has totally paralyzed the Democratic Party, is twofold:

(1) The conviction, throughout America, that, this Country is overtaxed with a 28% top income tax rate;

(2) The conviction that Government is the enemy.

The result of these convictions is that two important notions have been completely eliminated from the political dialogue. The dreaded "T-word" (i.e. taxes), which means that no rational discussion of resource allocation or of fairness can take place; and the dreaded "L-word" (i.e. liberal), which means that no rational discussion of an active governmental role anywhere can take place.

The Republican Administrations of the 1980s together with the Democratic Congresses are jointly responsible for the present situation. Excessive tax cuts together with steep increases in defense-spending created huge deficits which were financed with $2 trillion of debt. The low domestic savings pool resulted in high real interest rates and the sale of more and more domestic assets to make up financing shortfalls. Haphazard deregulation brought about the fiasco of the S&L's, the casino practices of the securities industry, the demise of half of our airlines, the degrading of the environment.

In order to create a facade of fiscal responsibility, the Administration and the Congress enacted the Gramm-Rudman-Hollings Act, a piece of accounting fantasy both cynical and grotesque. We solemnly go through this charade every year which gives the executive and the Congress the excuse to borrow another $200 billion, and to pretend that we are reducing the deficit. It is also an excuse to hide behind the process in order to do nothing about our real problems, other than to suggest that state and local governments deal with them. The most recent example of this policy is the suggestion by the Secretary of Transportation Skinner for the States to pay for a larger proportion of the Federal highway program through higher local fuel taxes.

The events occurring in the world today afford us a unique opportunity to deal with our internal problems and, by doing so, retain the role of leader of the West which is rapidly slipping away from us. This will require massive new domestic investment both in the private and the public sectors; a significant reduction in the cost of capital to our businesses; and a willingness on the part of the federal government to play an active role, in partnership with local governments as well as with business, to deal with many of these problems.

With or without the addition of Eastern Europe, Western Europe will be a more formidable competitor even though they will face significant problems getting from here to there. With a unified market, a common currency, financial institutions more powerful than ours, massive investment in public facilities, higher educational standards, and a strong social safety net, Europe will be a powerhouse in the 21st Century. So will the massive financial and industrial power of Japan and the Pacific rim, with financial institutions and manufacturing enterprises moving significantly beyond our reach. And, unless we begin to change the way we conduct ourselves, we will gradually slip into the position of a large, less-than-first rate economic power, still powerful militarily, but less and less competitive, burdened by huge levels of debt and astride a continent equally burdened by debt and declining living standards. This does not have to happen but it will, unless there is a consciousness in this Country that a national effort must be made. The leadership of the Democratic party, in the Congress and in the Statehouses, must come forward with such a positive program, even if this means defying the conventional political wisdom.

Our Country, today, has gigantic problems. These include lack of infrastructure, deficient public education, drugs, runaway health care costs, lack of housing and many others. Dealing with these problems is inhibited by the federal deficit and the need to remain within the totally artificial arithmetic of the Gramm-Rudman law. Even though the social, physical and economic problems which we face are daunting and deep seated, our fiscal problems are really not. To deal with our fiscal problems would require relatively little real sacrifice. I was a member of the late National Economic Commission which was mandated to come up with recommendations in that regard, and a decisive bipartisan majority of the Commission was ready to propose a program of budget cuts and new taxes which would have accomplished the objective. The Administration was not interested in such a program, the Congressional leadership could not take it on without presidential support, and the Commission was disbanded. But it is relatively easy to do if the political will is there to do it; certainly easy compared to the risks and hardships that are being taken on in Eastern Europe and the Soviet Union. Dan Rostenkowski's recent proposal would certainly be one way to do it.

What could have been done by the NEC in 1989, with relatively little pain, can be done ever more readily in 1990 given the new realities of the world situation. Therein lies our greatest opportunity.

The so-called "peace dividend" is not something that will magically appear, like Athena fully-armed from the brow of Zeus. The peace dividend will become reality when it is decided upon, planned for and managed, over a period of years, as a matter of national policy. How much it will be need not be left to chance; it is up to us, as a nation, to decide. Furthermore, the peace dividend will not by itself provide the needs of new public investment in America; nor will cutting the deficit, by itself, do the job. They should, however, form an important part of an ambitious objective: To invest an additional $1 trillion (in today's dollars) in America by the year 2000; to cut our real cost of capital significantly; and to reduce the tax burden of state and local government.

Such an objective is not really as far fetched as it sounds. Military spending, at current levels in today's dollars, would amount to $3 trillion over the decade. Reducing this by $500 billion or slightly over 15% does not appear to be overly ambitious. In addition to the defense-savings, another $500 billion, over ten years, can easily be generated by a combination of gasoline taxes (50¢ per gallon alone would accomplish it), a small increase, to say, 33% in the maximum income tax rate and slowing the growth of entitlement programs moderately. Health care costs are growing at three times the rate of inflation and must be brought under control. Our increasing dependence on foreign oil, alone, would justify the gasoline tax as a conservation measure; it would still leave our fuel costs at less than half of Europe's and Japan's. Appropriate safeguards would be provided to the poor. In addition, the reduction in interest costs to the individual and corporate borrower and the increased value of assets ranging from securities portfolios to real estate, would more than make up for the costs of the tax increase to individuals and businesses.

Is it exceedingly bold to suggest investing an additional $1 trillion in our economy over the next decade? Not if you look at Europe investing $100 billion in high speedrail alone. Not if you look at the savings rate of the Japanese economy and at the fact that the cost of capital to Japanese companies is about half of our own capital costs in real terms. Not if you look at the state of our infrastructure, with an estimated need for $2 trillion to bring our roads, our cities, our airports to an acceptable condition; not if you look at the fact that state and local governments are, in many cases at the limits of their fiscal capabilities to deal with many of these problems. One trillion dollars is probably a minimum.

Obviously, to talk seriously about this kind of objective involves two subjects that are presently taboo insofar as political dialogue is concerned. The first is active government. A significant reduction in military

spending must be actively managed if it is to produce the hoped-for savings and, at the same time, avoid serious industrial and social dislocations domestically. This requires some level of planning between the federal government, local communities and the defense industry. The industry should be encouraged, through tax benefits or direct contracting, to develop non-military activities such as rapid rail and mass transit systems; development of a large supersonic commercial airplane; large scale waste disposal systems; and, possibly, if the political climate changes, the development of cheap, safe, standardized nuclear power generation. The anti-trust laws should be reviewed to permit mergers among large contractors facing significant cutbacks. Personnel reductions should be planned far ahead of time and cushioned by retraining and relocation programs. If any of this smacks of another dreaded word, i.e. "industrial policy", so be it.

The second political taboo is, obviously, taxes. No one likes to pay taxes, especially if the money seems to be wasted in fraud, corruption and political waste. However, taxes are also the price one pays for a civilized society, for clean and safe streets, a decent education system, a viable health care system and a real social safety net. No advanced western industrialized democracy functions today with a top income tax rate of 28% or with gasoline prices less than double our own. And yet Japan and West Germany outproduce us, outsave us and provide at least as much security to their citizens. We must break out of this trap.

Recently, Senator Moynihan attempted to do so by suggesting a cut in the Social Security payroll tax. Moynihan was trying to point out a harsh reality: Since 1981, we have cut income taxes and increased military spending by some $3 trillion and we have financed this program with increases in payroll taxes, domestic and foreign borrowing of $2 trillion, and increases in State and local taxes to make up for federal cutbacks. This is socially regressive and economically self-destructive. Moynihan and the Democratic leadership were, however, inhibited from stating the logical conclusion from this reality; if payroll taxes are to be cut, income taxes or other taxes must be increased.

Tax increases must be considered, but this should be done as part of a long-term, aggressive domestic public investment program which will, simultaneously lower the cost of capital to American business and reduce the fiscal pressure on local governments.

The high cost of capital in America is due, in large part, to the huge borrowing requirements of the government and to the propensity to use debt by the private sector within a framework of low national savings. This Country's overall debt structure is a financial San Andreas fault which puts the entire economy at risk. This was compounded in the 1980s by financial deregulation, high levels of speculation and the massive use of junk bonds and other forms of credit in takeovers and corporate restructurings. Financial deregulation together with lax oversight and unbelievable corruption produced the scandal of the S&L's. Using federally guaranteed deposits to save an industry that should have been liquidated a decade ago, will ultimately cost the taxpayers $300-500 billion; ten years ago, it could have been done for maybe $10 billion. The colossal amounts of money wasted by this industry, in worthless real estate, in junk bonds, in speculation and corruption of all kinds, could have been invested in new, productive investments. The huge capital drain caused by the S&L's is one reason for our high cost of capital.

Another is the more general substitution of debt for equity of the 1980s. The invention of the junk bond, regulatory and credit relaxation in general, and the rush for high immediate returns by financial institutions led to the huge wave of debt-financed takeovers, LBO's and restructurings of the last decade. In the last five years alone, some $500 billion of equity disappeared as companies were acquired or bought back their own shares, and was replaced by debt. The leading edge of this wave was the junk bond.

The junk bond, because of its lack of convenants or any real restrictions on the borrower, for the first time gave almost any raider, no matter how small, the ability to acquire almost any company, no matter how big. All it needed was large scale institutional demand for junk bonds created by very high interest rates (quite often beyond any historical profitability of the underlying business) and the promise of something like a functioning market. The S&L's, banks, pension funds, insurance companies rushed to acquire over $200 billion of this paper, and together with the commercial banks, created the boom of the 1980s. A slowing economy, an increasing number of large bankruptcies, the collapse of the junk bond market and the demise of Drexel Burnham brought the world back to harsh reality: First; there was no real junk bond market, only an agglomeration of financial institutions holding questionable paper; second, far from being into innovative new way to finance American growth, the excessive use of junk bonds is in the process of destroying both borrowers and lenders, at great cost to the U.S. economy. It was a destructive experiment which also had, as its effect, raising the cost of capital to American business. But it was not the free market alone that belatedly started the demise of junk bonds; it was regulation tightening the use of bank credit and legislation taking the S&L's out of junk bonds over the next five years. These actions were way overdue.

Additional regulation and legislation are probably required to reduce the cost of capital by making equity financing more attractive than debt. Making dividends tax deductible should be studied as part of alternative programs to capital gains tax reductions, which offer no real overall economic benefits. This should obviously be related to overall budgetary considerations. In addition, to restore full confidence in our financial institutions, regulation of the financial markets should be tightened by increasing the capital requirements of the securities firms and adopting the initial recommendations of the Brady Commission.

Ultimately, significant reductions in capital costs require significant reductions in real interest rates. This can only occur with reductions in U.S. government borrowing requirements, together with meeting the concerns about huge capital requirements for the development of Eastern Europe. We can only deal with the former; Germany, the European Community and Japan will have to deal with the latter.

If we were to free up to $1 trillion in new resources over the next decade through a combination of new taxes and military and other expenditure cuts, one half, or $500 billion, should be dedicated to bring down the deficit and to reduce the borrowing requirements of the U.S. Government. This should allow the Federal Reserve System to bring interest rates down significantly. Such a reduction in the real cost of capital would have a dramatic effect on economic growth; our objective should be a 5% prime rate of interest within two years. In addition, such a reduction would bring down significantly the ultimate cost of the S&L bailout, the existing problems of the banks with Third World and real estate loans, and the problems of companies struggling with high leverage.

The arguments about including or excluding Social Security from the Federal budget are not really relevant. Social Security is, and always will be, a pay-as-you-go system with the level of taxes and benefits set by future Congresses. We should not get fascinated by the accounting mirrors of the Gramm-Rudman law. The real issue here is the net borrowing requirement of the Government. For the five years from FY 1986 through FY 1990, the National Debt held by the public grew by almost $900 billion despite the existence of Gramm-Rudman. It will probably continue to increase at between $150-200 billion per year as a result of continued deficits together with greater financial requirements of the S&L bailout. The reduction in interest rates and the increase in national savings of a national program will also accelerate real budget balance, and could cause a significant rise in the securities markets, lowering the cost of capital further and stabilizing the dollar. Both our balance of trade and our ability to invest abroad will be strengthened.

The balance of $500 billion should be returned to the States to be invested one half in infrastructure projects and one half in assistance to state and local governments. If $250 billion were devoted to infrastructure over the decade, it would still only represent a fraction of our total needs. New York City, alone, projects a requirement of $40-$50 billion for the next decade. However, annual increases in infrastructure investment by the States would be of significant help to the overall economy. The funds dedicated to infrastructure should be deposited in State Trust Funds solely earmarked for such purposes.

The balance of the funds, about $250 billion, would be used for direct assistance to local governments. Enormous pressure has been put on state and local governments to deal with social problems that are national in scope: education, healthcare, crime, housing, the environment, etc. With a slowing national economy and the eternal federal cutbacks, local governments have had to raise taxes and cut services time and time again. The new Federalism has consisted of transferring responsibilities to local governments and having them financed locally. This is terribly destructive. A national investment program would assist local governments by making it possible for them to reduce their own taxes by an amount equal to the Federal contribution. These consist of local sales taxes, property taxes and income taxes. Such a program, a different version of revenue-sharing, would stimulate local economies and allow them to devote more resources to cope with national problems, while causing a rollback in some of the more regressive local taxes. Local governments should be given the option of using up part of the Federal funds for high priority areas of social need such as public education and the fight against drugs. It is not enough for the President and the Nation's Governors to set ambitious goals for public education by the year 2000. The

States have to be given the means to carry out those goals.

If we continue on our present road, of borrowing and spending and selling our national assets; of neglecting our environment, our cities and our children; of giving up one industry after another to foreign competition, we will surely see a decline in this Country's position in the world whether or not we have a financial crisis. We will not be in a position to play an important role in the reconstruction of Eastern Europe, or to regain a position of world leadership. We will also see a steady erosion in our standard-of-living and in the polarization of our society. Dealing with our budget problems is easy; we should simply stop acting like a poor country. However, for a change to occur, political leadership will have to come forward. The Democratic party should produce that leadership, at some political risk, by proposing to invest in this Country and by defining an active role for our government in partnership with other constituencies. We will have to develop a national consensus to manage our affairs differently as we approach the year 2000 if we are to retain a position of world leadership. The world is changing very rapidly and, in Japan as well as in Europe, we can see governments working in partnership with business without creating corporatism or government domination of the economy. We cannot afford an ideological isolationism that leaves us less and less competitive. There is always a risk in saying: "The emperor has no clothes", but that risk is small compared to the risks run every day by the Lech Walesas, the Vaclav Havels, the Mikhail Gorbachevs, the Nelson Mandelas and F.W. deKlerks and by the people demonstrating in the streets. The Democrats should raise their sights, and ask this Country to live up to the ideal the rest of the world is striving for.

[From the Washington Post, Mar. 22, 1990]

AN IRRELEVANT PARTY

(By Hobart Rowen)

Felix Rohatyn, the investment banker who helped save New York City from bankruptcy 15 years ago, came to town a few days ago and tried to snap a decadent Democratic Party out of the doldrums. It was a wake-up call from a lifelong Democrat.

"Ever since I came to this country, at the age of 14 from occupied France," he said at the Woman's National Democratic Club, "the Democratic Party stood for what I believed in: internationalism and the defense of freedom, equality of opportunity and fairness in the distribution of wealth."

But in recent years, Rohatyn charged, Democrats have been echoing the GOP's "conservative, if not reactionary" stands on abortion, school prayer and gun control, as well as its commitment to the wealthy through tax cuts and deregulated markets.

He asked: "What does the Democratic Party stand for as an alternative to this [Republican] program? It is exceedingly hard to tell because the Democrats are not an opposition party. The Democrats share power, they do not seek it. . . . [In Congress] they are part of an existing power structure, almost a coalition government with a Republican administration."

Rohatyn charged that today's Democratic officeholders, secure on Capitol Hill and in the statehouses, have fallen into a Republican trap by shunning the dreaded T-word (taxes) and equally feared L-word (liberal). That means that "no rational discussion of resource allocation or of fairness can take place . . . [and] that no rational discussion of an active governmental role anywhere can take place."

The joint Republican-Democratic abandonment during the 1980s of a cohesive role for government produced today's sad state of economic affairs: the country is broke, unable to help finance the great victory of democracy over communism in Eastern Europe. The United States sits by helplessly as the S&L fiasco drains the Treasury, and Western Europe and Asia increase their domination of the global economy.

An overflow crowd of loyalists at the Democratic club, accustomed to being fed Pablum-like reassurances from party leaders, was held spellbound by the disillusioned Rohatyn. At the end, they gave him an ovation.

But Democratic Party pols don't take kindly to Rohatyn's challenge. The party pros would rather remind you that they have controlled the House since 1957, have a majority in the Senate and 29 of the 50 governorships.

But not the White House.

There, the Democrats have been shut out since Jimmy Carter lost to Ronald Reagan a decade ago. And given George Bush's popularity, no leading Democratic politician is making an open bid for the dubious honor of the 1992 Democratic presidential nomination. Ambitious Democrats would prefer to battle Dan Quayle in 1996—a chance they may not be granted by more clever Republicans.

The Democrats should be dealing with the real world of today, not some dream scenario of the future. But every time some venturesome Democrat pokes his head out of the trenches in an effort to rally the troops, he's shot down by the congressional leadership. Aware that many middle-class Americans think the Democrats too inattentive to their economic interests, Sen. Pat. Moynihan of New York proposed a cut in Social Security taxes that would not only benefit middle America, but force both parties to pay serious attention to the budget deficit.

Moynihan was hooted down by his fellow Democrats. Then came Ways and Means Committee Chairman Dan Rostenkowski, who offered a comprehensive plan to cut military and civilian spending and to raise the top tax from 28 percent to 33 percent—cutting the deficit by $500 billion in five years. The idea evinced at least a glimmer of interest from Bush, but has been cold-shouldered by the Democratic Party bosses on Capitol Hill. Read House Majority Leader Richard Gephardt's lips: "It is not the position of the Democratic Party to raise taxes."

Now is the time when the Democratic Party should have something to say, but it has all but vanished from the scene as a national force. Instead, it is a synthesis of irrelevancy, deserving only to lose.

Rohatyn's message is that there still is a way out for the Democratic Party, if it chooses to reassert itself. It would require backing a plan to invest an additional $1 trillion of our own money in America by the year 2000. About half of that—$500 billion—would come from a 15 percent cut in projected defense expenditures of $3 trillion in the next decade. The other $500 billion would be generated by tax increases and spending cuts (with safeguards for the poor), along lines suggested by Rostenkowski.

Such a Democratic program would crank money into a decaying road system, relieve congestion at airports, brake mounting health costs, and do something concrete about the failing education system. Rohatyn also backs a form of industrial policy, including modification of antitrust laws.

Few will agree with everything on the platter Rohatyn served to the Democratic club. But it's a starting point for an urgently needed debate: Democrats have become complacent, unresponsive to change and too willing to allow Republicans to hold the presidency, so long as Democrats are comfortably ensconced in Congress.●

REAUTHORIZATION OF THE NATIONAL ENDOWMENT FOR THE ARTS

● Mr. CHAFEE. Mr. President, one issue has received a great deal of attention lately: Federal funding of the arts via the National Endowment for the Arts [NEA].

Last year, as we all remember, the NEA came under intense public and congressional scrutiny for having indirectly supported certain distasteful exhibits by two artists: Robert Mapplethorpe and Andres Serrano. As a result of the uproar, Congress struggled for months with the question of just what the relationship between art and Government should be.

Finally, after numerous hearings, heated floor debate, several rollcall votes, and a lengthy House/Senate conference, an uneasy compromise—based in part on the now-famous Helms amendment—was forged. Yet the compromise left a bad taste in everyone's mouth.

I was active in last year's Senate debate on the NEA, and was one of the two Members who rose last July to speak against the first Helms amendment. Why? Not because I am a big fan of the Mapplethorpe portfolio. Not because I think art should be offensive, or pornographic. And not because I believe lascivious artists should live high off the hog on taxpayers' money.

I rose because the amendment came dangerously close to prescribing what constitutes art. And for me, that comes dangerously close to censorship—a very, very slippery area. I certainly do not endorse pornography. But I also do not endorse attempts to douse our much-admired American spirit, our ability to express ourselves freely and creatively. As President Bush said recently:

> I would prefer [not to] risk censorship, or [get the] Federal Government into telling every artist what he or she can paint, or how he or she might express themselves.

There is another argument expressed—that the Government has no business funding the arts at all, especially in this time of budget deficit. Reinforcing that view is the constant reference made to the sick art and immoral trash funded by the NEA. Those references gave many the impression that a radical, independent agency known as the NEA has been

running amok promoting offensive art since 1965.

I agree that we must be careful to spend money on only those programs that are worthwhile. But I do not think that the majority of people realize to what extent the NEA has touched their communities. It is an agency that has proven itself to be not only worthwhile, but exemplary.

The NEA was created with bipartisan support in 1965 with the goal of fostering professional excellence of the arts in America, and helping create a climate in which the arts may flourish. To that end, the NEA has successfully provided 85,000 grants since its inception in 1965. Of these, less than 25 have been the subject of controversy. That is a track record to be very proud of.

My home State of Rhode Island is small in size, but rich in cultural and artistic activity. For us, the NEA has had a far-reaching and positive impact on our children, our communities, and even our economy. Last year, all 39 cities and towns in Rhode Island participated in arts programs, and more than 2.6 million people attended nonprofit arts events sponsored in part by the NEA. Rhode Island received $796,000 in fiscal year 1989 NEA moneys, benefiting 128 organizations, 500 schools, and 60 artists. The net result? A flourishing, popular public arts program, and a boost of $72 million to the Rhode Island economy.

I might add that NEA moneys are often matched 3 to 1 by private sector funds, thus generating a tremendous amount of support for, and stimulating public/private partnerships in, the arts. Those partnerships bring communities together for the enjoyment and benefit of all involved.

Furthermore, contrary to popular belief, NEA funds are not reserved exclusively for artists and art institutions. In fact, the broad, diverse range of individuals and groups that receive NEA support would come as a very big surprise to most. Schools, churches, community groups, groups for those with mental or physical handicaps, libraries, boys and girls clubs, parks, theatres, and even prisons receive help for their arts and arts-related programs.

NEA-sponsored projects are not elite, radical activities that are of interest to only a very few. They are projects that are accessible to everyone, projects that improve the quality and richness of our—and our children's—lives. Most of us have probably taken part in NEA-sponsored events without ever realizing it. For example, here are just some of the hundreds of NEA-sponsored Rhode Island projects:

"Project Discovery," which allowed 18,500 students to attend 41 performances at Trinity Repertory Co. in Providence;

The Westwarwick "chance to dance" afterschool activity for 100 fifth- and sixth-graders;

Museum tours and programs for 12,000 students at the R.I. Museum of Design;

A Pawtucket art program for persons with cerebral palsy;

The Providence first night celebration;

The Newport Folklore Society;

The Cranston "Big Sister" Association; and

The Boston Museum of Fine Arts' Renoir exhibit.

That is an impressive list.

If there is any debate today about the importance of the NEA, it should be framed in terms of the overall record of the agency, not in terms of a few individual grants that may have escaped careful scrutiny. A few rotten apples in the bunch should be viewed for what they are—anomalies—instead of being used as the yardstick by which the entire agency is judged.

Let us let the fires of originality burn. Sure there will be some singeing, but I think that is a risk worth taking if we want to allow American creativity to shine. I do not think we want to see safe art—that of the lowest common denominator—become the only art supported by the NEA. The NEA has helped our arts programs flourish. That is what it was created to do. And it is working.●

CENTERS FOR DISEASE CONTROL'S SELECTED CANCERS STUDY OF VIETNAM VETERANS

● Mr. MURKOWSKI. Mr. President, today Secretary of Veterans Affairs Ed Derwinski took quick action to compensate Vietnam veterans ill with non-Hodgkin's lymphoma. His action came in the wake of an announcement by the Centers for Disease Control [CDC] that the CDC Selected Cancers Study [SCS] found an association between service in Vietnam and the subsequent development of non-Hodgkin's lymphoma, a form of cancer. Secretary Derwinski had announced in January that he would make a decision on compensation for non-Hodgkin's lymphoma when the results of the SCS became available.

I commend Ed Derwinski for his quick and decisive action. He has once again demonstrated that he is more than a mere advocate for veterans. He has shown that he will back up his words with action.

It has been a decade since the Congress became concerned with a possible association between service in Vietnam and subsequent disease. The Congress long ago gave VA the authority to administratively determine that compensation should be paid if such an association is actually demonstrated. The study released today, which found a 50-percent increased risk for non-Hodgkins lymphoma, and which also provides no evidence to support the hypothesis that soft tissue sarcoma or other cancers can be associated with service in Vietnam, will be the most complete study on this question we will ever have.

The Centers for Disease Control study, mandated by Public Law 96-151, is a case control study designed to determine if there is an increase among Vietnam veterans in the incidence of several serious, but relatively rare, cancers—lymphoma, including non-Hodgkin's and Hodgkin's lymphoma, soft tissue sarcoma, and nasal, nasopharyngela, and primary liver cancers.

According to Report 101-82, published by the Senate Committee on Veterans' Affairs to accompany S. 1153, the selected cancers study is an extremely powerful one. It has a 98 percent chance of identifying a doubled risk of soft tissue sarcoma and a 99 percent chance of finding a doubled risk of non-Hodgkin's lymphoma. The study design and implementation were monitored by the Office of Technology Assessment [OTA], an independent arm of the U.S. Congress. In a letter dated March 27, 1990, OTA reported the study is "very well designed, conducted, and analyzed."

In September 1987, when I introduced S. 1692—the first Senate bill to call for automatic compensation for veterans with non-Hodgkin's lymphoma—I said: "The evidence is not perfect, but it will never be perfect * * * The essence of leadership is to know when the data are adequate to act. Leadership is a willingness to take action in the face of incomplete and imperfect data, rather than accepting the paralysis inherent in a never ending wait for perfect understanding." Those words were true in 1987 when the selected cancers study was 2½ years in the future. Secretary Derwinski's January decision to defer action until the selected cancers study became available was a responsible and understandable one given the short delay imposed by that decision. Now, with the benefit of the best data we will ever have, I am not surprised that Secretary Derwinski took prompt action to resolve the question of compensation for this disease in favor of Vietnam veterans.

Mr. President, I think Ed Derwinski's action is evidence that the system works. The Congress, America's veterans, and all of the American people should be pleased that VA acted promptly, decisively, and compassionately when it received credible evidence that Vietnam veterans do have an increased risk of developing a disease.

I also think veterans should be pleased that the study also confirms that, in general, their health experi-

ence is good. The increased risk of non-Hodgkins lymphoma found by CDC translates into an additional 150 cases of this disease per year. These veterans have earned our compassion for their illness as well as our gratitude for their service. At the same time we can take some comfort in the fact that 150 cases a year in a population of about 3 million is not evidence of widespread poor health.

The lack of a finding of a statistically significant increase in the other cancers studied confirms other studies which have also not supported the hypothesis that Vietnam veterans are disproportionately ill. This is also good news for veterans.

Mr. President, I ask that the executive summary of the CDC report and the statement of Secretary Derwinski be printed in the RECORD at the conclusion of my remarks.

The summary follows:

THE ASSOCIATION OF SELECTED CANCERS WITH SERVICE IN THE U.S. MILITARY IN VIETNAM—EXECUTIVE SUMMARY

THE SELECTED CANCERS COOPERATIVE STUDY GROUP

The Selected Cancers Study (SCS) is one of several studies undertaken to assess the effects of military service in Vietnam and exposure to herbicides of the subsequent health of American veterans of that conflict. In this population-based, case-control study, we examine the risk of (1) non-Hodgkin's lymphoma, (2) soft tissue and other sarcomas, (3) Hodgkin's disease, and (4) nasal, (5) nasopharyngeal, and (6) primary liver cancer among Vietnam veterans. These malignancies were chosen because of published studies suggesting an association with phenoxyherbicide exposure. Agent Orange, which was used extensively in Vietnam, is a combination of two phenoxyherbicides. Because of the difficulty in estimating Agent Orange exposure in individual veterans, we only indirectly evaluated Agent Orange exposure. We focused our analysis, instead, on the association of Vietnam service and cancer. Other studies on the risk of these cancers in association with Vietnam military service or with nonmilitary exposure to phenoxyherbicides have produced inconsistent results.

In the study, the case group was restricted to men who would have been between the ages of 15 and 39 in 1968, at the peak of U.S. troop strength in Vietnam. All men who were diagnosed in a 4-year period (late 1984–late 1988) as having any of the six cancers and who lived in the geographic areas covered by eight tumor registries were eligible for this study. These areas, encompassing three states (Connecticut, Kansas, and Iowa) and five large metropolitan areas (Miami, Detroit, San Francisco, Seattle, and Atlanta), included about 10% of the U.S. population. The comparison group of controls was scientifically drawn from households with telephones and included men of the same age who did not have any of the six cancers.

Information on military service in Vietnam, along with relevant medical and occupational history was collected from both case and control subjects via a telephone interview using a standardized questionnaire. Interview participation rates were high both for men with cancer (87%) and for controls who completed the selection process (83%). Cancer diagnoses were confirmed by a panel of pathologists who are experts in each of the six cancers. The U.S. Army and Joint Services Environmental Support Group, of the Department of Defense, attempted to verify reported military service in Vietnam. The group was unaware of the case or control status of the subject whose record was being reviewed.

For several of the six cancers, the SCS is the largest such study ever conducted on men in this relatively young age range that has included confirmation of diagnosis by a review pathologist panel and extensive collection of data through a standardized interview.

The strength of the association between military service in Vietnam and each of the sites and types of cancer was assessed by the odds radio (OR), an estimate of the relative risk. This method estimates whether cancer is more likely to develop in men who served in Vietnam than in men who did not.

Results

We found an increased risk of non-Hodgkins's lymphoma (NHL) among Vietnam veterans relative to men who did not serve in Vietnam, but no increased risk for the other five cancers. After taking into account other factors that might influence the development of NHL among Vietnam veterans, we found these men to be at a roughly 50% increased risk for NHL (OR=1.47). This is a statistically significant increase (p=0.01), with the 95% confidence interval ranging from 1.09–1.97. When we restricted the comparison population to men who had served in the military, but not in Vietnam, or further restricted it to those who had served during the time of the Vietnam conflict, we found little change in the estimate of 50% increased risk. Thus, the increased risk appears to be specific to Vietnam veterans, rather than being associated with military service in general.

The data suggested a higher relative risk for veterans who had served a longer time in Vietnam, although the result was not statistically significant (p=0.10). An examination of several characteristics of Vietnam military service, however, provided no evidence that NHL was more likely to develop in one group of Vietnam veterans than in another. In particular, the risk differed only slightly by dates of service, age at entry on duty in Vietnam, rank, or type of unit the veteran served in (combat, combat support, or support). Differences in risk by branch of service (with risk higher for the Navy and Marines than for the Army or Air Force) were not statistically significant. Viewed by itself, however, the increased risk for men who served in the Navy in Vietnam was statistically significant (OR=1.89), 1.11–3.24). Further, the relative risk was slightly higher (OR=2.17) among the 84% of all Navy men who had served on ocean-going ships.

We found no evidence that the increased risk of NHL might be related to exposure to Agent Orange in Vietnam. The pattern of risk among subgroups of Vietnam veterans seemed to be the opposite of the pattern for use for Agent Orange in Vietnam: Navy veterans who served on ocean-going vessels tended to be at higher risk than Vietnam veterans based on land, and Vietnam veterans who served in III Corps, the region of heaviest Agent Orange use, tended to be at somewhat lower risk than Vietnam veterans who served in other regions. Only 1 of the 99 Vietnam veterans with NHL reported that he had handled equipment or containers used with Agent Orange, and none reported having sprayed defoliants. These data, along with evidence from other studies regarding the likelihood of Vietnam veterans' exposure to Agent Orange, make it quite unlikely that the increased risk of NHL among Vietnam veterans result from exposure to herbicides. In our study we did not identify any other factor as being responsible for that risk. Most known and suspected risk factors for NHL (immunodeficiency, the use of drugs to prevent malaria, and use of intravenous drugs, for example) were examined and none explained the increase in risk for Vietnam veterans. We were unable to determine why these men are at higher risk for NHL.

The risk estimate identified in our study is not high. It is, however, of the order of size the study was designed to be able to detect. The possibility that our finding is entirely explained by chance can never be completely ruled out, but it is highly unlikely. There is only a 1 in 100 likelihood that the study result for NHL is due to chance, if this result is viewed by itself. While our study was designed to examine the associations between military service and six malignancies, whether or not to adjust for multiple comparisons is controversial. However, the probability of observing one or more (out of six) associations as extreme as that observed for NHL (when in fact no associations exist) is at most 7 in 100.

Although a risk of this magnitude may be due to unrecognized bias or uncontrolled confounding, an examination of several recognized potential sources of bias or confounding produced little evidence that these factors had an appreciable effect on our results. For example, the lack of an association between Vietnam service and any of the other malignancies limits the likelihood that the observed association with NHL is due to underascertainment of Vietnam veterans in the control group. Since we studied all cancers simultaneously using the same design and an identical group of control subjects, several biases concerning selection and information quality should have similarly affected the risk estimate for each of the six cancers.

The risk estimates for the other five cancers were 1.14 (95% CI, 0.71–1.83) for Hodgkin's disease, 1.00 (0.63–1.58) for soft tissue and other sarcomas, 0.66 (0.15–2.91) for nasal carcinoma, 0.53 (0.16–1.77) for nasopharyngeal carcinoma, and 1.16 (0.50–2.68) for primary liver cancer. None of the estimates were significantly different from 1.0, the value indicating that the risk among Vietnam veterans is identical to that among men who did not serve in Vietnam. Of particular interest is our finding of no increased risk for sarcoma, a group of cancers that has been of great concern among Vietnam veterans; restricting the cancer group to soft tissue sarcoma yielded a relative risk of 0.94. We found no indication that any particular subclass of sarcoma was increased after Vietnam service or that any subgroup of Vietnam veterans was at increased risk of sarcoma. As with NHL, we found no indication that the pattern of distribution of sarcoma among the 26 Vietnam veterans with sarcoma was related to the pattern of Agent Orange use in Vietnam.

EDWARD J. DERWINSKI—SECRETARY OF VETERANS AFFAIRS

NEWS CONFERENCE OPENING STATEMENT—MARCH 29, 1990

Good afternoon, ladies and gentleman. I have a brief statement I would like to read,

and then I will gladly answer your questions.

You may recall that last May, I announced that VA would not appeal a Federal court's ruling that VA's regulations concerning disability claims based on Agent Orange exposure were, in the court's words, too strict. We immediately went to work revising our regulations, publishing them for public comment and put them into effect on November 1st. On November 3, our Veterans Advisory Committee on Environmental Hazards completed the first of several reviews it will conduct in compliance with Judge Henderson's ruling. The Committee reviewed 31 papers from the scientific literature dealing with herbicide exposure and a rare family of cancers known as non-Hodgkin's lymphoma commonly referred to as N-H-L.

The committee's conclusion at that time was that although it did not find enough evidence to show a significant statistical association between NHL and exposure to herbicides, it—to use the Committee's words—"cannot rule out such an association." Several members of the committee also expressed the belief that the results of a study of cancer among Vietnam veterans being conducted by the Centers for Disease Control could have had a bearing on their conclusions. I elected to wait for the results of the CDC study.

Yesterday, I was provided with a full briefing by CDC prior to their release at noon today of the study findings. Those findings included the following statement: "Results of this study strongly suggest that Vietnam veterans have a roughly 50 percent increased risk of developing non-Hodgkin's lymphoma about 15 to 25 years after military service in Vietnam. The results do not show a similar increased risk among veterans who served in other locations during the Vietnam Era; this finding suggest that the association is specific to Vietnam service rather than military service in general."

On the basis of this report and all other available literature, and following consultation with the President, I am exercising my authority as Secretary of Veterans Affairs to make a determination that in my judgment there is at the present time a relationship between Vietnam service and non-Hodgkin's lymphoma. I am instructing that regulations be immediately drafted to establish that the disease is service-connected for the purposes of disability compensation. And, we will extend as much latitude as possible in awarding retroactive benefits and in assisting the widows and children of those veterans whose deaths were due to NHL. The exact application of this ruling will be spelled out in the proposed regulation which we hope to have ready for publication in the Federal Register by May 1.

I want to make clear that my decision is not a scientific decision and should not be seen as that by anyone. My decision and the President's support for it is a policy determination. As Secretary of Veterans Affairs I have a responsibility, if not an obligation, to serve the best interests of the Nation's veterans. We at VA are especially dedicated to those who suffer disabilities as a direct performance of military duty. Those veterans who will now be compensated are most deserving of our care and concern. It is my hope that this action will help begin to mend the divisiveness and controversy that has surrounded this issue for many years.

Now, I will be happy to take your questions.●

UNIVERSITY OF NEVADA-LAS VEGAS BASKETBALL TEAM

● Mr. BRYAN. Mr. President, I would like to take this opportunity to congratulate the University of Nevada at Las Vegas basketball team and coach on advancing to the Final Four in Denver, CO. After defeating Ball State and Loyola Marymount at the NCAA West Regional in Oakland, the UNLV Running Rebels are on their way to the Final Four for the third time in their school's history.

These fine players had an exceptional season with a 16-2 record in the Big West. The Rebels were the winners of the Big West Tournament held in March with a decisive win over Long Beach State, taking their sixth Big West Tournament championship. In addition they earned cochampion honors with New Mexico State, making it UNLV's eighth consecutive Big West regular season.

For the third time under Coach Jerry Tarkanian the Rebels will attend the Final Four. A 17-year veteran of the UNLV program, he is the winningest active coach by percentage, and I am proud to have him lead our team to victory.

This Saturday the Rebels will be playing Georgia Tech in the first round of the Final Four tournament. On behalf of the entire State of Nevada and other Runnin' Rebel fans, we commend them on their outstanding dedication and fine ability on which UNLV's reputation is based. We wish the team best of luck and the most successful of tournaments.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 673, with reference to Mr. Robert G. Joseph; Calendar No. 674, with reference to John J. Maresca; Calendar No. 675, with reference to Everett E. Briggs; Calendar No. 676, with reference to Edward M. Rowell; and Calendar No. 677, with reference to Herman J. Cohen.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Robert Gregory Joseph, of Virginia, for the rank of Ambassador during his tenure of service as U.S. Commissioner on the U.S.-U.S.S.R. Standing Consultative Commission.

John J. Maresca, of Connecticut, a career member of the Senior Foreign Service, class of minister-counselor, for the rank of Ambassador during his tenure of service as head of the U.S. Delegation to the Conference on Confidence and Security Building Measures [CSBM].

Everett Ellis Briggs, of New Hampshire, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Portugal.

Edward Morgan Rowell, of California, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Luxembourg.

AFRICAN DEVELOPMENT FOUNDATION

Herman Jay Cohen, an Assistant Secretary of State, to be a member of the Board of Directors of the African Development Foundation for the remainder of the term expiring September 22, 1991.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

FEDERAL ENERGY REGULATORY COMMISSION MEMBER TERM ACT

Mr. RIEGLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 388.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 388) entitled "Act to provide for five-year, staggered terms for members of the Federal Energy Regulatory Commission, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Energy Regulatory Commission Member Term Act of 1990".

SEC. 2. FIVE-YEAR TERMS FOR MEMBERS OF THE FEDERAL ENERGY REGULATORY COMMISSION.

(a) IN GENERAL.—Section 401(b) of the Department of Energy Organization Act is amended by striking "four years" in the third sentence and inserting "5 years".

(a) STAGGERED TERMS.—Section 401(b) of such Act is amended by—

(1) inserting "(1)" after "(b)";

(2) striking the fourth sentence;

(3) amending the seventh sentence to read, "A Commissioner may continue to serve after the expiration of his term until his successor is appointed and has been confirmed and taken the oath of Office, except that such Commissioner shall not serve beyond the end of the session of the Congress in which such term expires."; and

(4) adding at the end thereof the following:

"(2) Notwithstanding the third sentence of paragraph (1), the terms of members first taking office after the date of enactment of the Federal Energy Regulatory Commission Member Term Act of 1990 shall expire as follows:

"(A) In the case of members appointed to succeed members whose terms expire in 1991, one such member's term shall expire on June 30, 1995, as designated by the President at the time of appointment.

"(B) In the case of members appointed to succeed members whose terms expire in 1992, one such member's terms shall expire on June 30, 1996, and one such member's term shall expire on June 30, 1997, as designated by the President at the time of appointment.

"(C) In the case of the member appointed to succeed the member whose term expires in 1993, such member's term shall expire on June 30, 1998.".

(c) APPLICABILITY.—The amendments made by this section apply only to persons appointed or reappointed as members of the Federal Energy Regulatory Commission after the date of enactment of this Act.

Mr. RIEGLE. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EDUCATION DAY, U.S.A.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 500, designating April 6, 1990, "Education Day, U.S.A." just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 500) to designate April 6, 1990, as "Education Day, U.S.A."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 500) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REPAYMENT TERMS FOR THE WOLF TRAP FOUNDATION FOR THE PERFORMING ARTS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 489, S. 1859, the Wolf Trap Foundation bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1859) to restructure repayment terms and conditions for loans made by the Secretary of the Interior to the Wolf Trap Foundation for the Performing Arts for the reconstruction of the Filene Center in Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, today, the Senate will unanimously pass S. 1859, a bill I introduced at the end of the last session of Congress. S. 1859 is designed to assist a national treasure located in the Commonwealth of Virginia—Wolf Trap Farm Park. Unfortunately, through a series of misfortunes, Wolf Trap now finds itself unable to repay debts owed to the United States. The legislation to be approved today would address Wolf Trap's problem.

Mr. President, I would like to recount for Members of the Senate the history of Wolf Trap Farm Park's creation and the source of its financial difficulties. In 1966, Mrs. Catherine Filene Shouse donated approximately 100 acres of her northern Virginia farmland and provided $1.7 million to the U.S. Government for the construction of an original outdoor amphitheater and related structures. These gifts, accepted by the 89th Congress, Public Law 89-671, created America's only national park dedicated to the performing arts, Wolf Trap Farm Park.

Under the terms of a cooperative agreement, the Wolf Trap Foundation, a private 501(C)(3) foundation, provided the programming, fundraising, marketing, and related education programs for 10 successful years in partnership with the National Park Service. The foundation's educational programs have expanded nationally, reaching substantial numbers of preschool children through the arts.

In April 1982, the Filene Center, Wolf Trap's outdoor amphitheater, burned to the ground. The exact cause was never determined. At the time, like all Government buildings, the center was self-insured by the U.S. Government.

Mindful of the lengthy process normally associated with the rebuilding of a Government facility, the foundation worked closely with the administration and Congress to reach an agreement, which was codified in Public Law 97-310, to share equally in the reconstruction effort. At the time, the cost of reconstructing the facility was estimated to be $18 million.

During the reconstruction effort, representatives from the National Park Service and the foundation approved necessary change orders for structural enhancement, safety, and fire protection that escalated the original estimated cost to $26.4 million. Moneys raised by the foundation, totaling almost $7.4 million, which were to be used to retire the debt, were channeled into the reconstruction effort.

In January 1985, near the end of the reconstruction, a main girder fractured. To repair the fractured girder, the foundation raised an additional $4 million in advances from contractors, an insurance carrier, and additional borrowing from the National Park Service, as well as $.7 million contributed by the foundation. The foundation instituted litigation against the contractor, subsequently receiving a partial settlement on advanced moneys.

Reconstruction and repair of the Filene Center has spanned approximately 5 years. During that time the foundation has consumed significant time, energy, and resources to assist in providing construction and repair administration for a Government facility.

The Filene Center has reopened and is once again providing high-quality programs and a truly unique park experience for hundreds of thousands of visitors.

Mr. President, at this point three facts are clear:

For a variety of reasons, rebuilding the facility cost more than the original estimates;

The Wolf Trap Foundation raised almost $7.5 million of private funds which has of necessity been used to rebuild the facility instead of for payment of its debt to the U.S. Government; and

The U.S. Government and the American people have a first-class and truly unique facility for the performing arts.

Mr. President, S. 1859 acknowledges the significant contribution that the Wolf Trap Foundation has made to the public and acknowledge the unforeseen difficulties it has encountered by restructuring the debt obligation to the U.S. Government in a manner that contributes to its education programs which serve the public interest throughout the Nation.

Mr. President, the legislation approved by the Senate waives repayment obligations for one-half of the

total amount owed by the foundation in principal and interest as of the date of enactment of this act and stops the running of interest upon the date of enactment of this act. In addition, the legislation provides that the remaining obligations shall be repaid in 10 years with cash, property, or credits—including credits for the continuing educational programs for the Wolf Trap Opera Company, Wolf Trap Institutes for Early Learning Through the Arts, and the programs and activities of the education division.

Mr. President, I thank all those who have worked so hard to bring this legislation to this point. I am especially grateful to Senators ROBB, JOHNSTON, and MCCLURE for their efforts on this legislation.

Thank you, Mr. President.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1859

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of subsection (b) of Public Law 99-310, as amended (16 U.S.C. 284c) the terms and conditions of any unpaid obligations of the Wolf Trap Foundation for the Performing Arts (hereinafter referred to as the "Foundation") resulting from loans made by the Secretary of the Interior (hereinafter referred to as the "Secretary") to the Foundation to complete reconstruction of the Filene Center of the Wolf Trap Farm Park in Fairfax County, Virginia are hereby restructured as follows:

(a) The Secretary shall waive repayment obligations for one-half of the total amount owed by the Foundation in principal and interest as of the date of enactment of this Act.

(b) The Secretary shall not assess interest on any remaining unpaid obligations owed by the Foundation after the date of enactment of this Act.

(c) Any remaining unpaid obligations shall be repaid in full by the Foundation within 10 years after the date of enactment of this Act with cash, property, or credits. Such credits are to be jointly determined by the Foundation and the Secretary, and may be derived and created by the foundation in its continuing educational programs for the Wolf Trap Opera Company, Wolf Trap Institute for Early Learning through the Arts, and the programs and activities of the Education Division.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, before the majority leader had to part, I had a conversation with him about the schedule for tomorrow. We are coming in at 10:30. There will be a meeting at 9:30 with all those who have allowance amendments. There is no reason to come in at that time. We could not take up those amendments in any event.

There have been questions raised on both sides about votes tomorrow and again I do not know whether or not there will be votes. The majority leader does not know. We do not know what amendments may be out there and what amendments may be offered tomorrow. I know there is one on incinerators that I am concerned about—so is the Presiding Officer—that may require a vote. I hope we can work that out. I think the Senator from Alabama [Mr. HEFLIN] has an amendment on utilities. If there were to be a vote tomorrow, I suggest we could have it at a later time.

So I would say to those on this side and the other side, I guess, who have been asking about votes tomorrow, we do not know. That is the best we can say at this time. Perhaps the majority leader will be able to give us some more definitive reading by, say, tomorrow noon.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

NOMINATION OF T. TIMOTHY RYAN

Mr. RIEGLE. Mr. President, I indicated earlier that the Senate Banking Committee might well take up the nomination of Timothy Ryan on tomorrow morning at 10:30 a.m., to vote on that nomination and deal with it. I want to indicate now, though it is a very late hour and Members are at different locations, that we will in fact meet tomorrow morning at 10:30 for that purpose in the Banking Committee. I have discussed this with all parties. Senator GARN is on the floor now and we have had our discussions about it, and the nominee has been so informed.

With that, I just want to make sure the announcement is clearly known and to stress again that we are moving precisely as we were requested by the administration in writing to do, and that is to move on an expedited basis. It is an unusual situation. I think the committee is ready to render a judgment, and we should do so without any further delay. We will take the matter up at 10:30 tomorrow morning.

ORDERS FOR TOMORROW

RECESS UNTIL 10:30 A.M.; MORNING BUSINESS

Mr. RIEGLE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m., Friday, March 30; that following the time for the two leaders, there be a period for morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is also ordered.

SCHEDULE

Mr. RIEGLE. Mr. President, tomorrow the Senate will resume consideration of the clean air bill at 11 a.m. At that time, the managers hope to be able to dispose of any allowance amendments, as well as other amendments, which might be offered. Rollcall votes are possible during tomorrow's session.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senate now stand in recess under the previous order until 10:30 a.m., Friday, March 30, 1990.

There being no objection, the Senate, at 9:04 p.m., recessed until Friday, March 30, 1990, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 29, 1990:

DEPARTMENT OF STATE

DON MELVIN NEWMAN, OF INDIANA, FOR THE RANK OF MINISTER DURING HIS TENURE OF SERVICE AS THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE COUNCIL OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION.

DEPARTMENT OF EDUCATION

MICHAEL L. WILLIAMS, OF TEXAS, TO BE ASSISTANT SECRETARY FOR CIVIL RIGHTS, DEPARTMENT OF EDUCATION, VICE LEGREE S. DANIELS, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 29, 1990:

DEPARTMENT OF STATE

ROBERT GREGORY JOSEPH, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U.S. COMMISSIONER ON THE U.S.-U.S.S.R. STANDING CONSULTATIVE COMMISSION.

JOHN J. MARESCA, OF CONNECTICUT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AM-

BASSADOR DURING HIS TENURE OF SERVICE AS HEAD OF THE U.S. DELEGATION TO THE CONFERENCE ON CONFIDENCE AND SECURITY BUILDING MEASURES (CSBM).

EVERETT ELLIS BRIGGS, OF NEW HAMPSHIRE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PORTUGAL.

EDWARD MORGAN ROWELL, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LUXEMBOURG.

AFRICAN DEVELOPOMENT FOUNDATION

HERMAN JAY COHEN, AN ASSISTANT SECRETARY OF STATE, TO BE A MEMBER OF THE BOARD OF DIRECORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 22, 1991.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, March 29, 1990*

The House met at 10 a.m.

The Reverend Dr. Donald F. Christian, Office of the Bishop, Washington, DC, Metro Synod, Evangelical Lutheran Church in America, offered the following prayer:

O God, our Father, we pause to remember this day those who have taken this journey of life before us, whose examples provide light for our path, and whose spirits offer a lamp for our way.

There are the great names of history, O God, You have called to significant roles of leadership for peoples and nations. But there are also the lessor known names to each of us who have become our own personal beacons.

We remember this day: mothers, fathers, teachers, friends.

O God, as we remember and, therefore, thank You and them in our hearts, let us also remember that we, each one, are today's examples for the future and that our spirits will guide tomorrow's generation.

Hear our prayer, O God, and bless our efforts this day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from South Carolina [Mr. RAVENEL] will come forward and lead the House in the Pledge of Allegiance.

Mr. RAVENEL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4099. An act to suspend section 332 of the Agricultural Adjustment Act of 1938 for the 1991 crop of wheat.

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT ACT OF 1990

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 368 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 368

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3) to authorize appropriations to expand Head Start programs and programs carried out under the Elementary and Secondary Education Act of 1965 to include child care services, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed two hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, and with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 4381, as modified by the amendment printed in section 2 of this resolution, as an original bill for the purpose of amendment under the five-minute rule. Said substitute, as modified, shall be considered as having been read and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute, as modified, shall be in order except those amendments printed in this report of the Committee on Rules accompanying this resolution, said amendments shall be considered in the order and manner specified in said report, shall be considered as having been read, shall not be subject to amendment except as specified in said report, and shall be debatable for the time specified in the report, to be equally divided and controlled by the offeror and a Member opposed thereto. All points of order against the amendments printed in the report are hereby waived. It shall be in order to consider the amendments offered by Representative Gephardt of Missouri, or his designee, printed in the report of the Committee on Rules as pending simultaneously to the amendment offered by Representative Stenholm of Texas and to the amendment in the nature of a substitute made in order as original text by this resolution, and said amendments shall be considered en bloc and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. The Chairman of the Committee of the Whole shall put the question on the amendments en bloc as one question. It shall be in order to consider the amendments offered by Representative Edwards of California, or his designee, printed in the report of the Committee on Rules as pending simultaneously to the amendment offered by Representative Stenholm of Texas and to the amendment in the nature of a substitute made in order as original text by this resolution, and said amendments shall be considered en bloc and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. The Chairman of the Committee of the Whole shall put the question on the amendments en bloc as one question. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

SEC. 2. At the end of the bill add the following new title:

"TITLE VII—SENSE OF THE CONGRESS AS TO DEFICIT EFFECT

"It is the sense of the Congress that the congressional budget resolution should assume an increase in revenues or a reduction in spending, or a combination thereof (beyond those otherwise needed for deficit reduction) sufficient to offset the net deficit effect of this Act and amendments made by this Act for the first 5 fiscal years beginning after September 30, 1990.".

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 368 is a modified closed rule providing for the consideration of H.R. 3, the Early Childhood Education and Development Act of 1989. The rule waives all points of order against consideration of the bill and provides for 2 hours of general debate on the bill. The general debate time is to be divided in the following manner: 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor; and 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

House Resolution 368 provides that in lieu of the amendments now printed

in the bill, that it shall be in order to consider an amendment in the nature of a substitute consisting of the text of H.R. 4381, as modified by the amendment printed in section 2 of this resolution, as an original bill for the purpose of amendment when the bill is considered for amendment under the 5-minute rule. Section 2 of the resolution is a new title VII expressing the sense of the Congress that for the first 5 fiscal years beginning after September 30, 1990, the budget resolution should assume spending reductions or revenue increases sufficient to offset the net deficit effect of the costs of this legislation. The rule provides that the substitute, as modified, shall be considered as having been read. All points of order against the substitute, as modified, are waived by the rule.

Mr. Speaker, H.R. 4381 is a package bill which incorporates provisions of the child care legislation originally reported last year by the Committee on Education and Labor and the Committee on Ways and Means. Briefly, the package expands Head Start, provides before- and after-school care for both preschool and school-aged children, increases and earmarks funding for title XX Social Services Block Grant child care programs and provides an expansion of the Earned Income Tax Credit. H.R. 4381 requires each State education agency to establish appropriate standards for child care programs. The package also incorporates language found in the Senate-passed child care bill relating to sectarian child care by requiring States receiving title XX child care funds to establish a voucher system for child care which could be used for care provided by church-based child care programs. This provision does not, however, override any State law or State constitutional provision prohibiting the expenditure of public funds by or in sectarian institutions.

Mr. Speaker, only those amendments printed in the report accompanying House Resolution 368 are made in order by the rule and the rule provides that those amendments shall be considered in the order and manner specified in the report. The rule also provides that the amendments shall be considered as having been read and shall not be subject to amendment except as specified in the report.

Specifically, the report makes in order an amendment to the substitute to be offered by the gentleman from Texas [Mr. STENHOLM]. One hour of debate is provided on this amendment and that time is to be equally divided between Mr. STENHOLM and a Member opposed to the amendment. The Stenholm amendment is a substitute to the text of H.R. 4381 and differs from the provisions of H.R. 4381 in several respects. First, the Stenholm amendment does not provide for before- and after-school care for preschool and school-aged children, does provide additional Head Start funds but only permits 50 percent of those funds to be used to expand Head Start into a full-day, year-round program, and does not require States to develop day care quality standards. The Stenholm amendment does provide additional earmarked funds for title XX and increases the EITC but differs from H.R. 4381 by providing an additional credit for families with infants. Like H.R. 4381, the Stenholm amendment requires States receiving title XX funds to establish a voucher system for child care. Those vouchers could be used by parents at any eligible child care provider, including religious child care programs which permit religious activities, as is permitted by the package introduced as H.R. 4381. Both the bill and the Stenholm substitute permit religious child care providers to require their employees to adhere to the religious tenets or teachings of the organization.

The report also specifies that it shall be in order to consider en bloc amendments to be offered by the gentleman from Missouri [Mr. GEPHARDT] or his designee and an en bloc amendment to be offered by the gentleman from California [Mr. EDWARDS] or his designee. Thirty minutes of debate is provided for the Gephardt en bloc amendment to be equally divided and controlled by the offeror of the amendment and a Member opposed and 40 minutes of debate is provided for the Edwards en bloc amendment, also to be equally divided and controlled by the offeror and a Member opposed.

The rule provides that the en bloc Gephardt amendments shall not be subject to a division in the House or in the Committee of the Whole. In addition, the rule provides that it shall be in order to consider the Gephardt amendments as pending simultaneously to the Stenholm amendment and to the amendment in the nature of a substitute made in order as original text by the rule and that the Chairman of the Committee of the Whole shall put the question on the en bloc amendments as one question. In other words, when the question is taken on the Gephardt en bloc amendments, the vote will be on amending both the original text and the Stenholm amendment.

The Gephardt en bloc amendments would amend the voucher programs found in both H.R. 4381 and the Stenholm amendment by making the State voucher program permissive, rather than requiring the States to provide for a voucher program.

Mr. Speaker, the rule further provides that the Edwards en bloc amendments shall not be subject to a division in the House or in the Committee of the Whole. When the Edwards en bloc amendments are considered, House Resolution 368 provides that it shall also be in order to consider that amendment as pending simultaneously to the Stenholm amendment and to the amendment in the nature of a substitute made in order as original text by the rule and that the Chairman of the Committee of the Whole shall put the question on the en bloc amendments as one question. Again, as in the case of the Gephardt en bloc amendments, when the question is taken on the Edwards en bloc amendments, the vote will be on amending both the original text and the Stenholm amendment.

The Edwards en bloc amendments eliminates the provisions in both H.R. 4381 and the Stenholm amendment relating to sectarian care, including the language permitting preferential hiring and admissions, and language permitting sectarian child care providers to require their employees to adhere to their religious tenets. The Edwards amendments provide that no Federal funds, including vouchers for child care, could be used for sectarian child care programs.

Finally the rule provides that at the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion except one motion to recommit.

Mr. Speaker, the Members of the House are in agreement that the provision of safe, quality, and affordable day care is a problem that desperately needs to be addressed. The questions raised by the child care debate seem to involve the scope of the provision of day care rather than the need to provide day care. No one can argue with the statistics of modern day life—over half of the mothers with infants younger than age 2 are in the work force, nearly 57 percent of mothers with preschool children are in the work force, and nearly 65 percent of all mothers with children under age 18 work outside the home. Unfortunately, the world of June Cleaver and Margaret Anderson no longer exists; today, more and more mothers are working outside the home only because it is an economic necessity. Oftentimes a mother's paycheck is all that stands between her family and poverty.

Mr. Speaker, the House needs to address the day care issue. The bill we will consider today, as well as the Stenholm amendment, provide the House a choice of options. The amend-

ments to both the bill and the Stenholm amendment provide the House an opportunity to address the church-state question. House Resolution 368 provides a forum for debate on this most important national question, and I urge its adoption.

□ 1010

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, the gentleman from Texas [Mr. FROST] has ably explained the provisions of the rule.

But Mr. Speaker, this rule is not fair. It absolutely cuts off Republicans. It is one of the worst rules ever reported in this session of the Congress, and I hope the previous question is voted down so that our Republican leader may be able to offer his amendment.

It is not fair first because it fails to allow a number of amendments which should have been considered by this House, and fails to allow any amendment at all presented by a Republican. The record will show that there were a significant number of amendments requested by Republican Members of the House in the Rules Committee.

The Republican leader in the House, the gentleman from Illinois [Mr. MICHEL] wrote a letter requesting an amendment. In the Rules Committee meeting yesterday, I offered an amendment to the rule to allow consideration of the Michel amendment, and it was rejected by a party line vote.

The gentleman from Wisconsin [Mr. PETRI], a member of the committee with primary jurisdiction over this bill, asked to have two amendments made in order. In the Rules Committee meeting yesterday I offered an amendment to the rule to allow consideration of the Petri amendment. It was rejected.

The gentleman from Texas [Mr. BARTLETT] also a member of the committee of primary jurisdiction requested an open rule. The gentleman from Minnesota [Mr. FRENZEL] spoke in support of the Michel amendment. The gentleman from Pennsylvania [Mr. GEKAS] requested an amendment.

Clearly there were plenty of Republicans requesting to have amendments made in order, but none were included.

On the other hand, one of the amendments that was included was never requested by anybody. The rule provides for consideration of an amendment to be offered by the gentleman from Missouri [Mr. GEPHARDT], but he never appeared in the Rules Committee to ask for any amendment. We were not given a copy of any letter from him requesting that an amendment be made in order. And yet a Gephardt amendment was included when we finally got to see the rule a few minutes before we had to vote on it.

Where is the balance in this procedure? How can we talk about bipartisanship when one party is cut out of even having amendments offered by its Members considered on the floor of the House?

□ 1020

And then, as if to rub salt in the wound, the minority is being denied its one traditional last chance to have its position considered. There will be no motion to recommit with instructions under this rule. We can have a straight motion to recommit, but we are denied the right to make any change in the bill through the use of instructions. Mr. Speaker, this rule is not fair.

The proposals offered from the Republican side were not unreasonable proposals. The one offered by the Republican leader sounds remarkably like an idea many Democrats have professed to believe in for some time. The Michel amendment would provide for a pay-as-you-go approach to child care. It would provide that before new money could be spent there would have to be either new revenue to pay for the additional cost or offsetting cuts in other programs. If we do not have the Michel amendment, this bill will only serve to provide a giant increase in the deficit. The bill does not provide sufficient funding to pay its projected cost. If we mean what we say about the need to control the deficit then we have got to have something like the Michel amendment.

There is a way that this House can have an opportunity to vote on the Michel amendment. The House can vote "No" on the motion for the previous question. If the motion for the previous question is defeated, I will then be prepared to offer an amendment to the rule to allow consideration of the Michel amendment, the pay-as-you-go amendment.

It simply is not fair to deny the Republican leader an amendment to this measure. When an amendment has been added without any hearing on it at all, without any request from the gentleman from Missouri [Mr. GEPHARDT] it is not fair to deny all Republican amendments.

Mr. Speaker, I ask for a "no" vote on the previous question and then if we fail in that effort, and I hope we do not, then a "no" vote on the rule itself.

And, Mr. Speaker, I have several requests for time, I would like to advise the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I yield such time as he may consume to the chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS].

(By unanimous consent Mr. HAWKINS was allowed to speak out of order.)

CORRECTION OF LIST OF COSPONSORS

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the list of additional cosponsors to H.R. 4000, which I submitted on Monday, March 26, be corrected to remove the name of Mr. HALL of Texas and include, instead, the name of Mr. HALL of Ohio.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding this time.

I hope the members of the press who are not up here in the gallery are listening, and I certainly hope that every Member of this Congress, of this House of Representatives, is listening in their offices because, Mr. Speaker, this is the worst rule that has ever come before this House in the 12 years that I have been a Member of this body.

It is an abuse which is almost unbelievable.

You know, democracy is breaking out all over the world; it is spreading all over the world, everywhere except in this House of Representatives.

Let me read you two statements that I have put together because of my respect for Speaker TOM FOLEY and my deep respect for Chairman JOE MOAKLEY of the Committee on Rules.

Let me take your time for a minute.

There are two brochures that I was very proud to put together. Here is a picture of TOM FOLEY and the statement that he made, his opening statement, when he became Speaker of this House on June 5, 1989.

Let me read you the statement. It says:

> I will do what I can every day that I serve in this office to insure that the rights and the privileges of each Member of the House are respected and to insure that the procedure is fair to all.

You go on to say, Mr. Speaker, "I understand the responsibility of the Speaker of the House as other Speakers have understood it and practiced it to be a responsibility to the whole House and to each and every individual Member, undivided by that center aisle." Mr. Speaker, you went on to say, "I look forward to working with you, BOB MICHEL in a spirit of cooperation and increased consultation," increased consultation, gentlemen, "as we address the problems facing this House and the Nation." Mr. Speaker, we took you at your word and we all do respect you. What happened to that statement?

Let me also read you the statement that my good friend JOE MOAKLEY made.

Here is what JOE MOAKLEY said to the National Journal on August 5,

1989, and to the Washington Post on September 12, 1989. Washington Post, it is in your paper out there; dig it out and look at it.

It says:

I think we should all be distressed by the rising number of rule requests that seek restrictions for no justifiable reasons. I don't do any of these things in a vacuum. I consult with my committee, and, you know, we try to do the best thing for mankind.

JOE MOAKLEY goes on to say:

On the big bills—

And I assume this is a big bill—

We've called the Republicans, sat down with them, listened to their problems, and we gave them some of the things they wanted rather than the old style of saying, "Hey, we've got the votes. Let's vote. The heck with you."

Mr. MOAKLEY goes on to say:

You know, I don't play that game because we have an old Irish proverb—the people you meet on the way up the ladder are the same people you meet on the way down. I would like to be treated by some of these people the way I think I am treating them.

Mr. Speaker, and Mr. MOAKLEY, what happened to those statements? As I look at this rule, no Republican amendment was allowed, and yet Mr. GEPHARDT, the majority leader, has an amendment in order; Mr. EDWARDS of California has an amendment made in order; Mr. STENHOLM has an amendment made in order. And worse than that, Mr. PANETTA has an amendment made in order, not only made in order but self-executing in the rule, so that no amendment can be allowed to the Panetta amendment.

Even worse than that, if you want to know how bad this rule is—

Mr. DOWNEY. How bad is it?

Mr. SOLOMON. I am going to tell you right now. You should not be a smart aleck about it because you ought to be serious about it.

The rule goes on to provide that the vote on each amendment is deemed to apply to both the substitute made in order as original text and the Stenholm amendment. Do you know what that is? That is ducking the religious test, the choice of freedom of religion in this bill.

You are depriving not only Republicans on this side of the aisle but conservative Democrats on your side of the aisle.

It is just a shame that this House cannot work its will. I am not going to go on and belabor this thing, but I will tell you what I am going to do, I am going to take this picture of TOM FOLEY and his statement and I am going to draw an X through it. OK?

JOE MOAKLEY you are a good friend, but let's X out your statement, too. Could the two of you come on this floor and explain what happened to your statements and your commitments to fairness in this House?

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I would be more than glad to yield if I have the time, to my good friend.

The SPEAKER pro tempore. The time for the gentleman has expired.

Mr. FROST. Mr. Speaker, I yield 1 minute to the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Speaker, to my dear friend from New York. I hope this does not mean that he takes me off his Christmas card list.

Mr. SOLOMON. Absolutely not. I am still going to try to convert you, JOE.

Mr. FROST. Mr. Speaker, reclaiming my time, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

□ 1030

Mr. PANETTA. Mr. Speaker, I do want to make reference to the inclusion in the rule of some very important language that relates to how we cover the cost of this legislation. The rule itself provides language that ensures that whatever version of the child care bill passes, whether it is the leadership package or the Stenholm package, that we will be directed in the context of the congressional budget resolution to assume either an increase in revenues or reduction in spending, or a combination thereof, sufficient to offset the net deficit effect of a child care bill over the next 5 years.

As many Members know, I have introduced legislation which would require the President and the Congress to follow a pay-as-you-go budget process. Very simply, that would require that any new initiative or any new tax reduction should be paid for over a period of 3 to 5 years. I believe pay-as-you-go will provide the discipline to reduce the deficit while allowing Members to deal with those initiatives that we think are important to our society. It is important to apply this principle to this new program of child care.

The sense-of-Congress language contained in the rule will direct the Committee on the Budget to ensure that the outyear costs of the bill are paid for, and this can be accomplished with spending cuts or revenue increases. It does not require any particular House committee to pay for the bill. However, it will require Members in the budget resolution to acknowledge how those costs will be covered.

The practical effect of this language is to require that the deficit targets are still met in the budget resolution while accommodating the additional expenditures contained in this bill. The reconciliation proposal or bill from last year basically acknowledged this, although within reconciliation it said "except to the extent that the costs of this legislation exceed the costs of the child care provisions contained in the bill" which was part of the reconciliation bill.

The reality is that this bill, under either version, exceeds those costs. Therefore, it is our goal to try to cover those costs. Indeed, it is our goal to cover the costs of the education and labor portion of the child care bill as well. The conference report language from last year's reconciliation bill only dealt with the Committee on Ways and Means portion. It is important for Members to cover the costs of both, and that is what this language would do.

The Committee on the Budget will take this report language and deficit reduction achieved in last year's reconciliation bill into consideration as we develop a budget resolution which complies with the sense-of-Congress language in the rule. Under either version of this bill it ought to be paid for, and the language that is included in the rule will direct Members to do just that.

For that reason, I urge support of the rule.

Mr. Speaker, H.R. 3 is an important initiative and I am pleased that we in the House are moving forward with legislation to address our Nation's need for child care. But while the need to improve the ability of families to obtain quality, affordable child care is important, so too is the need to move steadily and responsibly toward a balanced budget and to be sure that new initiatives are paid for.

I am pleased to note that with passage of this rule, sense-of-the-Congress language will be included in whichever version of child care passes today directing the congressional budget resolution to assume an increase in revenues or a reduction in spending, or a combination thereof, sufficient to offset the net deficit effect of the child care bill over the next 5 fiscal years.

NEED FOR PAY-AS-YOU-GO PROCESS

As many of you know I have introduced legislation which would require the President and the Congress to follow a pay-as-you-go budget process. Very simply this process would require new spending programs and tax reductions to be paid for over a 5-year period.

I believe pay-as-you-go will provide the discipline to reduce the deficit while allowing us to enact badly needed new initiatives. Today we have an opportunity to apply this principle to an important new program: Child care.

COST OF CHILD CARE BILLS

Let me review the basic numbers regarding the cost of the leadership bill and the Stenholm substitute including authorizations.

[IN BILLIONS OF DOLLARS]

Leadership bill:	
Total cost of bill over 5 years	27.4
Total amount offset over 5 years	14.4
Net cost of bill	13.0
Stenholm-Shaw bill:	
Total cost of bill over 5 years	20.0
Total amount offset over 5 years	14.0
Net cost of bill	6.0

Because of the shortfall in both bills it is important that the House make a commitment to pay for the child care legislation which eventually emerges from a House-Senate conference.

PURPOSE OF SENSE-OF-CONGRESS LANGUAGE

The sense-of-the-Congress language contained in the rule will direct the Budget Committee to ensure that the outyear costs of the bill are paid for. This can be accomplished with spending cuts or revenue increases. It does not require any particular House committee to pay for the bill.

The practical effect of the language is to require that the deficit targets are still met in the budget resolution when spending for this bill is assumed.

RECONCILIATION CONFERENCE REPORT LANGUAGE

Let me also address an issue relating to conference report language in last year's reconciliation bill, stated as follows:

The conferees intend that an extension of the telephone excise tax shall be the exclusive and only required source of funding of child care legislation that may be enacted in the second session of the 101st Congress, except to the extent that the costs of such legislation exceed the costs of the child care provisions contained in Title XI of the House passed reconciliation bill.

First I must point out that the telephone excise tax did not pay for last year's Ways and Means version of the child care legislation. In fact it left $4.8 billion unpaid for. In this year's version the extension of the telephone excise tax and the revenues attributable to the dependent care credit modification pay for $14.4 billion of the $21.4 billion Ways and Means component of the leadership bill over 5 years. That leaves $7 billion of the Ways and Means portion of the bill yet to be paid for.

Having said that, and assuming that the conference report language is binding on the Congress, at the very least we would expect the cost of the Ways and Means portion of the 1990 bill above and beyond the cost of the 1989 bill to be paid for. This amounts to some $6 billion over 5 years.

Finally the House should reserve the right to address the issue of paying for the Education and Labor portion of the child care bill, which is $6.1 billion over 5 years. The conference report language in last year's reconciliation bill covered only title XI of the House-passed reconciliation bill, which was the Ways and Means title. That language in no way deemed the Education and Labor authorizations to have been paid for.

The House Budget Committee will take this report language and deficit reduction achieved in last year's reconciliation bill into consideration as we develop a budget resolution which complies with the sense-of-Congress language contained in the rule.

I urge that Members support the rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I rise in opposition to the rule providing for the consideration of H.R. 3. I strongly oppose the proposed rule on the grounds that it: waive all points of order under the Budget Act; does not allow consideration of an important pay-as-you-go amendment requested by the Republican leader; and denies the minority of the right to offer a motion to recommit the bill with instructions.

First of all, this rule would waive all points of order under the Budget Act. Both the Democrat amendment to H.R. 3 and the Stenholm amendment violate section 303(a)(2) of the Budget Act which prohibits consideration of amendments that decrease revenues in a fiscal year before the budget resolution for such fiscal year is adopted. Both of the child care packages would increase the earned income tax credit and cap the dependent care tax credit beginning in fiscal year 1991 before Congress has passed the fiscal year 1991 budget resolution. The two amendments also provide new entitlement authority first effective in fiscal year 1991, again before the fiscal year 1991 budget resolution is adopted in violation of section 303(a)(4) of the Budget Act.

Second, the rule does not make in order an important amendment requested by the Republican leader, BOB MICHEL. Mr. MICHEL's amendment would have provided that no new money would be obligated or revenues reduced for fiscal year 1991 through 1995 until offsets have been found to cover the entire cost over those 5 years. I am relieved to see that at least Chairman PANETTA's amendment—a sense-of-Congress amendment that the fiscal year 1991 budget resolution would assume sufficient offsets to cover the 5-year cost of the bill—has been made part of what is passed by the House. I am disapppointed, however, that we cannot have a vote on the specific issue that the full costs of this bill must be offset in some manner by this body.

Although both the leadership and Stenholm-Shaw amendments obtain some savings through capping the dependent care tax credit and extending the telephone excise tax, they are insufficient to cover the full cost of the competing child care substitutes. Even with the offsets, the 5-year deficit impact of just the entitlement provisions of the leadership bill is almost $7 billion and that of the Stenholm-Shaw substitute about $3 billion. The table following reveals the hideous truth about the enormity of this fiscal disaster.

I am not certain we truly appreciate the magnitude of the numbers involved. The leadership bill would cost over $27 billion over 5 years if we assume full appropriations of the authorized programs. Moreover, most of this money is for entitlement programs over which Congress has virtually no control.

Third, I oppose the rule because it does not allow motion to recommit the bill with instructions—a right of the minority which should not be denied. This is particularly outrageous in view of the fact that the bill has been open to the scrutiny of Congress for little more than a day. I think that most of us have sufficient respect for the democratic process to preserve the rights of the minority.

I urge my colleagues to defeat this unwise and unjust rule.

COMPARISON OF DEFICIT IMPACT OF THE HAWKINS-DOWNEY AND STENHOLM-SHAW CHILD CARE BILLS

[Outlays, revenue loss and deficit impact in millions of dollars]

	Fiscal years—					
	1991	1992	1993	1994	1995	5 yr
HAWKINS/DOWNEY						
Direct spending:						
Title XX	270	456	568	594	708	2,596
EITC	412	4,049	4,353	4,676	5,017	18,507
Total direct spending	682	4,505	4,921	5,270	5,725	21,103
Discretionary spending:						
Business incentive grants	5	27	26	25	25	108
School-based child care	51	345	436	462	481	1,775
Grants for child care	78	290	299	287	298	1,252
Grants for standards	19	70	75	75	75	314
Federal administrative costs	4	4	3	3	4	18
Head Start	306	593	647	673	700	2,919
Total discretionary spending	463	1,329	1,486	1,525	1,583	6,386
Offsets:						
Dependents care tax credit and section 129	(52)	(285)	(333)	(389)	(458)	(1,517)

COMPARISON OF DEFICIT IMPACT OF THE HAWKINS-DOWNEY AND STENHOLM-SHAW CHILD CARE BILLS—Continued

[Outlays, revenue loss and deficit impact in millions of dollars]

	Fiscal years—					
	1991	1992	1993	1994	1995	5 yr
Telephone excise tax	(1,520)	(2,570)	(2,748)	(2,936)	(3,135)	(12,909)
Total offsets	(1,572)	(2,855)	(3,081)	(3,325)	(3,593)	(14,426)
Gross spending: (direct plus discretionary spending)	1,145	5,834	6,407	6,795	7,308	27,489
Net spending: (gross spending minus offsets)	(427)	2,979	3,326	3,470	3,715	13,063
Net direct spending: (direct spending minus offsets)	(890)	1,650	1,840	1,945	2,132	6,677
STENHOLM/SHAW						
Direct spending:						
Title XX	270	396	450	450	450	2,016
EITC	0	448	4,470	4,904	5,257	15,079
Earnings test exemption	15	15	15	20	20	85
Total direct spending	285	859	4,935	5,374	5,727	17,180
Discretionary spending:						
Head Start	302	584	637	663	689	2,875
Small business grants	5	27	26	25	25	108
Total discretionary spending	307	611	663	688	714	2,983
Offsets:						
Dependent care tax credit and section 129	0	(53)	(333)	(389)	(458)	(1,233)
Telephone excise tax	(1,520)	(2,570)	(2,748)	(2,936)	(3,135)	(12,909)
Total offsets	(1,520)	(2,623)	(3,081)	(3,325)	(3,593)	(14,142)
Gross spending: (direct plus discretionary spending)	592	1,470	5,598	6,062	6,441	20,163
Net spending: (gross spending minus offsets)	(928)	(1,153)	2,517	2,737	2,848	6,021
Net direct spending: (direct spending minus offsets)	*1,235)	(1,764)	1,854	2,049	2,134	3,038

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I rise in opposition to this rule because it denies me an opportunity to offer an important amendment.

The amendment would be offered both to the Hawkins-Downey provisions and to the Stenholm-Shaw substitute and would provide that money received from the earned income tax credit [EITC] would count as income for purposes of determining eligibility for means tested entitlement programs such as AFDC. As they now stand, both substitutes provide that EITC amounts would not count as income for this purpose.

I believe this amendment is important for several reasons. In the first place, we have a whole complicated series of interacting income transfer programs and rules affecting low-income people, and we are just asking for trouble if we do not call things what they are. If something is green, has Presidents' pictures on it, and can be used to buy stuff, it is income. If we do not treat it as income, my constituents will wonder what in the world we're doing here.

In the second place, failing to count EITC as income will seriously undermine welfare reform efforts. Most of my constituents regard welfare not as a great thing for everyone to have, but as a necessary evil. They think handing out money on a long-term basis to able-bodied people who do not work is profoundly demoralizing. It's demoralizing both to the welfare recipients themselves and to the nonwelfare working poor, and it is an open invitation to abuse.

The solution is to enable or require able-bodied needy people to take jobs, even publicly provided jobs if necessary. Then if what they can earn in the work force is not enough to meet their needs, society can supplement those earnings according to need as determined by family size. The family size-adjusted EITC is the best vehicle to provide that supplement, and that has always been a principal argument for adopting it.

The Welfare Reform Act of 1986 made an important stride in the right direction by allowing States to require welfare recipients to take jobs, but only if the jobs paid as much as the people could receive on welfare. Now under those provisions, if you do not count as income the EITC that supplements the job's wages, in many cases you will not be able to require people to work at all.

In my opinion, it is ridiculous to make an income comparison in which you do not count up to $2,200 of income on one side of the comparison. But that is what we will be doing without my amendment, and it will seriously undermine welfare reform efforts.

We will be putting in place a wonderful welfare reform tool, the family size-adjusted EITC, and then telling States they can not use that tool for one of its principal purposes. Because the rule before us does not allow us to fix this problem, I urge all my colleagues to defeat it.

The SPEAKER pro tempore (Mr. MCNULTY). The Chair will state that the gentleman from Texas [Mr. FROST] has 17 minutes remaining and the gentleman from Tennessee [Mr. QUILLEN] has 15 minutes remaining.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Speaker, I rise in support of the Shaw-Stenholm substitute to the child care bill, but I also rise to oppose the manner in which this legislation was brought to the floor. Republicans and conservative Democrats have been working together for the last 2 or 3 years to try to create a good, workable child care bill, and not the leadership on the Democratic side has brought forth its own bill.

However, I am very disturbed about the fact that neither I nor most of the other Members of the House had the opportunity to see the legislation that the Democratic leadership came up with, until yesterday. This is one of the most important bills we have dealt with this year, yet the Democratic leadership hid it under a cloak of secrecy until just before floor consideration.

□ 1040

Over the last few weeks it has become the "stealth child care" bill. What bombs did it carry? No one has known.

Why was this bill rushed through the Rules Committee and onto the floor with no chance for other Members to develop specific amendments based on the bill? This is not the same legislation that went through the committee process, and Members deserve the chance to read it and respond to it before being forced to vote on it.

On the other hand, because the Shaw-Stenholm bill was introduced openly, specific amendments were made in order to change specific portions of the bill.

Mr. Speaker, we cannot have it both ways. You cannot launch surgical strikes at the Shaw-Stenholm bill while at the same time keeping your own bill shielded from the same kind of close examination and the same kind of specific amendments.

Several Republican amendments were not made in order by this rule. The Republican leader developed an amendment to require the cost of the child care bill to be offset by other, equal, spending reductions, and it is unfair to every Member of the House and a misuse of the process when any responsible and germane amendment such as the Michel amendment is not made in order.

At the very moment in world history that this body is being looked to by emerging democracies as the beacon of democracy, the Democratic leadership of this House has worked to circumvent the will of the many Members of this House in favor of the will of a few. How can we be the example of free and open debate when legislation is not made available to Members of Congress early enough before floor consideration for it to be read, understood, and criticized or amended?

Finally, while I oppose the procedure under which this legislation reached the floor, I do support this Shaw-Stenholm bill. It represents a well-reasoned, responsible approach to the child care problems many families are facing. I urge my colleagues to support the Shaw-Stenholm substitute.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the rule to accompany H.R. 3, the Early Childhood Education and Development Act of 1990.

The rule is fair and equitable. This is a very complex issue. When Congress began debating child care 4 years ago, during the many hearings and debate in those child care hearings, several issues came to the surface. This rule provides for adequate debate and determination of those issues that came to the surface.

First, should Congress provide some direction to States to insure the health and safety of children cared for with Federal dollars? We do address that. There is a clear decision this House can make on this question.

Second, should parents be given a choice to use child care certificates in religious care settings? That choice clearly is given to this House. We have a choice to decide that.

Next, in all these 4 years of hearings there was this question: If we use vouchers, should those vouchers be optional for the States, or should they be mandatory? These are the three issues that emerged as we had these 4 years of hearings. We give this House the opportunity to address the issues, to go on the record, and to vote on those issues.

I think the rule is clear and equitable. I know my good friend, the gentleman from New York, does not agree with that. I think he is sincerely wrong on that.

Mr. Speaker, this is a complex bit of legislation. I think the Rules Committee has given us a chance to speak to every one of these major issues in this legislation.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, we have just been told that this rule is fair and equitable. It is no wonder that there were smiles on that side when that statement was made.

This rule cannot even pretend to be fair and equitable. A number of Republicans, including the Republican leader, came to the Rules Committee and asked for an amendment to be made in order. Not one Republican amendment is made in order in this rule—not one.

Now, there is a substitute that most of the Members on our side are going to support. But guess what? As a part of this rule, an amendment was made in order by the anti-religious left on the Democratic side to strip not only the bill of its religious language but to strip our substitute of its religious language. That is fair and equitable? Is it fair and equitable that in one fell swoop we can strip not only the bill they bring to the floor, which is a horrendous piece of legislation, but that in one amendment the gentleman from California [Mr. EDWARDS] is going to be allowed to come to the floor and strip the Stenholm bill?

That is fair and equitable? Come on, guys. Somewhere along the line, admit the fact that you have decided to run this House like a petty little dictatorship, that you have the votes and you are going to use the votes to muscle whatever you want, whenever it is important to you. That is exactly what you are showing us with this rule.

This rule comes nowhere near being fair and equitable. This rule is simply an attempt to apply muscle, and apply muscle at our expense. So smile all you want and kid all you want over there about this rule, but the fact is that what you have done is broken the comity and the partnerships that we have been trying to develop. And some of us have worked fairly hard at that over here in the last few months.

What you have done with this rule is said that the old days are back, that whenever it is important to us and whenever we can't get our act together on our side, what we will do is design a rule that allows us to muscle our position on the House floor.

That is what you have done here. I think it is a sad day for the House, but I think it is going to be a much sadder day if this becomes the pattern. And I am afraid, with what we have seen over the last few days, that is exactly the pattern that we will see develop. This rule is not fair and equitable. This rule is vicious.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, if you think it is a gloomy day outside, you ought to see what it is like in the Chamber of the House of Representatives.

We have set aside all precedent for fairness and decorum in this rule to ram through one of the most important, one of the most controversial, and one of the biggest pieces of legislation we are going to debate in this Congress not only this year, not only this session, but for a long period of time.

We talk about the process. This rule was written a long time ago. It was written earlier, but we waited and waited, with the process of holding a Rules Committee hearing, until we could work out the details of the so-called Democratic compromise.

Here we are dealing with a $20 billion to $28 billion spending program. This is no small piece of change, no small piece of budget policy. And do you know what? We deny the Republican leader the opportunity to offer an amendment to deal with the cost and the financing of a $20 billion to $28 billion proposal. But we say we will provide an amendment and we will waive all points of order so that Democratic leaders can have an amendment to hold up and auction off to the highest bidder to get the necessary votes so we can come down here and win this for the party's sake regardless of public policy, regardless of the opportunity for a full and honest debate.

Is that any way to run a legislative body? Is that any way to deal with the children of this country?

Then we get to the religious issues. If you want to be anti-religious in your compromise, go ahead. You have every right to do that in a free and open society, but if some people want to offer a substitute that offers a definitive difference between your concept of where Federal dollars can go and our concept of where Federal dollars can be used, then give us at least that opportunity to win or lose on a fair, open, honest debate over issues and over concepts.

This rule is a sad commentary on the House of Representatives and our legislative process, and it is a sad beginning to what ought to be one of the most serious open debates, because we are not talking about Members of Congress here; we are talking about America's next generation, and here we have before us a closed rule.

□ 1050

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. HAWKINS], the chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Speaker, this is certainly the most amazing exhibition that I have witnessed in several generations.

There are charges made of secrecy. Yet, these issues before us today have been around for 4 years before several committees.

Mr. Speaker, this process is the most amazing I have ever heard being suggested by those who want to defeat the rule, who want to use process as a means of defeating a child care bill.

It would be very simple for all of us, any of us, to wait until a matter goes before the Committee on Rules to get the idea that we want to offer substitutes rather than work with committees. It would be a very easy process, it seems to me, for those who claim that they support the Stenholm-Shaw bipartisan bill to discuss their issues, to put amendments into that bill, their so-called bipartisan bill, and bring them to the floor. They have had plenty of opportunity to do it.

Mr. Speaker, are they denying now they had the opportunity to craft what they wanted.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just like to ask the gentleman from California [Mr. HAWKINS] about rules of the House allowing substitutes to be offered on the floor of this House. They allow an amendment process so that 435 Members can be heard.

Mr. Speaker, is the gentleman from California [Mr. HAWKINS] suggesting that everything should go through the committee? We should do away with the floor amendments and floor substitutes? I am just asking the gentleman.

Mr. HAWKINS. Mr. Speaker, I am not suggesting, I am saying, that one should not wait until a bill goes to the Committee on Rules in order to try to get their bills in or to get their amendments into bills. Why have the standing committees?

Mr. Speaker, the Education and Labor and Ways and Means Committees have worked for 4 years on this issue. Not only that, last year we passed essential this same bill. I do not know whether the gentleman from New York [Mr. SOLOMON] voted for it. He probably did not vote for it then. Perhaps, that is why he won't vote for the rule today.

This issue has been around as long as any issue in this House. It is a matter of whether or not we are going to do something for the children, and that is what the gentleman from New York [Mr. SOLOMON] is not remembering.

This is a child care bill. We should not be engaging in partisan bickering. Let us get on to the merits of child care for those children.

The SPEAKER pro tempore (Mr. MCNULTY). The time of the gentleman from California [Mr. HAWKINS] has expired.

Mr. FROST. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. HAWKINS. What I want to indicate, however, is that the issue before us today is one of child care. It is the melding of the recommendations of two of the standing committees of this House. We have, as an alternative, another proposal before the House, the Stenholm-Shaw substitute.

Mr. SOLOMON. Mr. Speaker, would the gentleman yield?

Mr. HAWKINS. No, Mr. Speaker, I will not—the Stenholm-Shaw substitute has never been considered by a single committee except the Committee on Rules. My point is, and I ask the gentleman, "Why didn't these gentleman and others go before the standing committees to help us to craft a proposal? Why wait until we get before the Rules Committee?

Mr. Speaker, it seems to me the issue is, What are we going to do for the children of America? The President, in the State of the Union Message, favors some of the provisions incorporated in the leadership package before the House. We are now trying to implement the education goals that he spoke of.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. HAWKINS] has expired.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, I want to welcome my colleagues to the Democrats' procedural equivalent of the NCAA Final Four Basketball Tournament. Only this rule is not the road to Denver. The rules of decorum prevent me from telling you where this road really leads; and even then it is not paved with good intentions.

The problem is that our conference—that's the Republican conference—has not even been invited to play. No, the Democratic leadership is telling us in this rule that it is their ball and their court, and they will impose their rules and only let their people play. Under this rule the final four are: MOAKLEY, GEPHARDT, EDWARDS of California, and STENHOLM—Democrats all. Those are the only amendments allowed.

Mr. Speaker, this is not so much a tournament as it is a slam-dunk contest—without the contest. The Democrats in this rule are slamdunking the minority and, more ironically, the Democrats are slamdunking democracy.

Mr. Speaker, I realize that this is a childcare bill, but that does not mean we should be treated like children in considering the bill. We are adults in this House—adults who can be trusted to act fairly and maturely, and who are capable of exercising independent judgment. And yet this rule is child's play—a tantrum befitting the terrible-twos.

The Democrats in the Rules Committee even rejected my motion to allow the minority its traditional right to offer a motion to recommit with instructions. We were told that the majority leader did not want us to retain even that basic right. Can you imagine, someone who claims to have a vision of democracy in Eastern Europe turning around and not allowing democracy to operate freely in this, the U.S. House of Representatives? What have we come to? There are 178 Republicans in this House who represent 90 million Americans. When it comes to amendments, this rule disenfranchises the entire House Republican membership and the millions of Americans it represents. Is this your vision of democracy, Mr. Majority Leader?

And the interesting thing is, Mr. Speaker, that in the process of developing this new Democratic leadership substitute, the Democrats have apparently made the bill worse rather than better than it was. After waiting around all these days for what was promised to be a new and improved child care bill, we are left to wonder whether we have have been the victims of false labors. I have yet to have anyone explain to my satisfaction how any of these various substitutes will help the average working family in small-town America.

Oh, we will be pumping more billions into this, that and the other thing. But when all is said and done, will anything more be done for that average working mother in rural America, for instance, in terms of finding safe and affordable childcare? I frankly do not know. All I do know is this process will not allow us to fully debate, deliberate, and formulate some satisfactory answers and solutions to those very fundamental questions. I therefore urge a resounding defeat of this awful rule, and ask unanimous consent to insert certain extraneous materials.

OPEN VERSUS RESTRICTIVE RULES, 95TH–101ST CONGRESSES

Congress (years)	Total rules granted [1]	Open rules [2]		Restrictive rules [3]	
		No.	Percent	No.	Percent
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101th (1989–90)	53	29	55	24	45

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rules, and rules providing for consideration in the House as opposed to the Committee of the Whole.

Note.—The above data differs slightly from that published in previous Congresses because it is based on a rule-by-rule examination and not just on summary tables from committee surveys for the 95th–99th Congresses as was previously done. Moreover, appropriations rules (which only provide for waivers) and original jurisdiction measures are no longer counted.

Sources: Rules Committee Calendars and Surveys of Activities, 95th–100th Congresses; "Notices of Action Taken," Committee on Rules, 101st Congress, as of March 29, 1990. (Prepared by the Minority Counsel, Subcommittee on the Legislative Process, Committee on Rules).

RULES GRANTED IN THE 101ST CONGRESS

[Providing for the initial consideration of legislation]

Rule No. H. Res.	Date granted	Rule type	Bill No. and subject
108	3–14–89	MO	H.R. 1231: Emergency Strike Board.
111	3–21–89	O	H.R. 1369: Mansfield Business Center.
112	3–21–89	MC	H.R. 2: Minimum Wage.
117	4–4–89	O	H.R. 18: Uniform Voting Time.
126	4–11–89	MO	H.R. 1487: State Dept. of Authorization.
127	4–12–89	C	H.R. 1750: Contra Aid.
135	4–25–89	O	H.R. 2072: Supplemental Appropriations.
138	4–25–89	O	H.R. 1486: Maritime Adm. Authorization.
143	5–2–89	O	H.R. 7: Voc. Ed. Act Extension.
145	5–2–89	MC	H. Con. Res. 106: Budget Resolution.
155	5–16–89	O	H.R. 643: Oil Shale Claims.
160	5–23–89	C	H.R. 2442: SDI for Drugs Transfer.
161	5–23–89	O	H.R. 2392: Oil Shale Claims.
165	6–1–89	MC	S.J. Res. 113: FSX Agreement.
173	6–13–89	MC	H.R. 1278: Financial Institutions Reform.
179	6–20–89	MO	H.R. 2655: Foreign Aid Authorization.
195	7–11–89	O	H.R. 2022: Soviet and Indochinese Refugees.
196	7–11–89	O	H.R. 989: Tongass Timber Reform Act.
198	7–13–89	O	H.R. 1549: NRC Authorization.
199	7–13–89	O	H.R. 1484: Park System Review Board.
200	7–13–89	O	H.R. 828: BLM Authorization.
202	7–17–89	O	H.R. 1056: Federal Waste Disposal.
211	7–21–89	MO	H.R. 2461: DoD Authorization.
217	7–28–89	C	H.R. 3024: Debt Limit Increase.
224	8–4–89	O	H.R. 1668: NOAA-Coastal Authorization.
228	8–4–89	C	H.R. 1594: MFN Status for Hungary.
230	8–4–89	O	H.R. 2427: NOAA-Satellite Authorization.
234	9–7–89	O	H.R. 1759: NASA Authorization.
235	9–7–89	O	H.R. 2869: Commodity Futures Improvements.
236	9–7–89	O	H.R. 1659: Aviation Security Act.
245	9–21–89		H.R. 3299: Budget Reconciliation.
249	9–26–89	MC	
246	9–25–89	C	H.J. Res. 407: Continuing Appropriations.
254	10–3–89	O	H.R. 2748: Intelligence Authorization.
255	10–3–89	O	H.R. 1495: Arms Control Authorization.
256	10–3–89	C	H.R. 3385: Nicaragua Election Assistance.
266	10–17–89	O	H.R. 3402: Polish/Hungarian Initiative.
267	10–17–89	O	H.R. 2494: International Development.
270	10–19–89	O	H.R. 2459: Coast Guard Authorization.
271	10–23–89	MC	H.J. Res. 423: Continuing Appropriations.
273	10–24–89	C	H.R. 45: Central American Studies.
275	10–26–89	O	H.R. 3443: Airline Acquisition Review.
277	10–31–89	O	H.R. 1465: Oil Spill Liability.
278	10–31–89	C	H.R. 2710: Minimum Wage.
289	11–13–89	O	S. 974: Nevada Wilderness.
290	11–15–89	C	H.R. 3660: Ethics Reform Act.
295	11–19–89	MC	H.R. 3743: Foreign Assistance Approps.
309	1–30–90	MC	H.R. 2190: Voter Registration Act.
338	2–20–90	O	H.R. 2570: Arizona Wilderness Act.
355	3–7–90	MO	H.R. 3581: Rural Economic Development.
360	3–20–90	O	H.R. 644: Wild and Scenic Rivers Amends.
364	3–22–90	MC	H.R. 3847: Dept. of Environ. Protect.
366	3–27–90	O	H.R. 1463: Capital Metrorail System.
368	2–28–90	MC	H.R. 3: Childhood Ed. and Develop.

Code: A completely open amendment process is provided by an open rule (O). Restrictive rules are those which provide for less than a completely open amendment process and include: closed rules (C), modified closed rules (MC), and modified open rules (MO).

EXCERPT FROM, THE MOTION TO RECOMMIT IN THE HOUSE: THE MINORITY'S MOTION

(By Ilona B. Nickels, Analyst in American National Government, Government Division, Congressional Research Service, August 18, 1988)

UNDERLYING PRINCIPLES OF THE MOTION

The fundamental purpose of the contemporary motion to recommit was stated clearly by House Speaker Frederick H. Gillett on October 7, 1919:

"A motion to recommit is intended to give the minority one chance to express fully their views so long as they are germane. The whole purpose of the motion to recommit is to provide a record vote on the program of the minority." [16]

On April 27, 1904, Speaker Joseph Cannon expressed another rationale for the motion to recommit when he told the House its purpose was to give the House a last chance to ". . . cure a mistake, if perchance any had been made in the engrossment of a bill, or a mishap to it." [17]

Cannon's remark reflects the original purpose of a recommittal motion: to provide the committee with the opportunity to regain possession of the measure under floor consideration in order to make technical and other corrections to the text. In the early years of the House, the motion to recommit was most often offered by the chairman of the committee—a member of the majority party.

It was not until House Rule XVI was amended in 1909 that the Speaker was enjoined to recognize Members opposed to a measure to offer the motion to recommit. The change was part of a procedural reforms that led to the downfall of Speaker Cannon a year later. At the time, Speaker Cannon stated:

"The object of this provision was, as the Chair has always understood, that the motion should be made by one friendly to the bill, for the purpose of giving one more chance to perfect it, as perchance there might be some error that the House desired to correct. But since the adoption of the late rule upon this subject, the Chair is compelled, provided someone arises and moves to recommit the bill, to submit the question: 'Is the Gentleman opposed to the bill'?" [18]

The 1909 amendment to House Rule XVI thus changed the tenor of the motion to recommit from a last-minute technical tool of correction for the majority, to a policy tool of last resort for the minority.

USE OF THE MOTION

What makes the modern use of the motion to recommit most significant to the minority party is the distinction between the procedures of the House and those of the Committee of the Whole. The House debates and amends most major measures in the parliamentary forum known as the Committee of the Whole. After the completion of the amendment process, the Committee of the Whole resolves itself back into the House for the purpose of voting on the question of final passage. While a separate vote may be demanded in the House on any amendments adopted in the Committee of the Whole, the House ordinarily does not consider amendments rejected in the Committee of the Whole. The previous question is routinely applied in the House, usually via the provisions of a special rule, thus precluding the consideration of any further amendments in the House. While this practice promotes the efficient processing of legislation, it also favors the majority position on amendments.

Before passage of the Legislative Reorganization Act of 1970, amendments in the Committee of the Whole were voted either by voice, division, or unrecorded teller vote. Observers have noted that the minority party most frequently used the motion to recommit with instructions in the House to gain a record vote on amendments considered in the Committee of the Whole. Since the 92nd Congress, it has been possible to obtain recorded votes in Committee of the Whole. The minority party's use of the motion to recommit with instructions subsequently shifted toward the current emphasis: a final forum to raise its legislative position.

The increase in the number of closed and otherwise restricted special rules in the last two Congresses further enhances the significance of the motion to recommit with instructions to the minority party.[19] Because such special rules preclude or restrict the opportunity for individual Members to offer floor amendments in Committee of the Whole, the motion to recommit with instructions remains the last, and perhaps only, method by which an amendment might be offered. It also gives the minority another opportunity to offer amendments previously rejected in Committee of the Whole.[20] In fact, the motion to recommit with instructions may be the only avenue through which amendments rejected can again be brought before the House. This is because special rules from the House Rules Committee routinely provide for the previous question to be ordered through final passage, thus precluding any further debate or amendment of the measure once the Committee of the Whole has resolved back into the House and agreed to the amendments proposed by the Committee.

Motions to recommit with instructions are also used to demonstrate conditional support for final passage. A roll-call vote ordered on a motion to recommit with instructions might be used as a way of obtaining for the record the views of Members unhappy with a controversial provision of the measure, while still permitting them the opportunity for an affirmative vote on final passage. Thus, a vote for the motion to recommit with instructions, linked with a vote for final passage of the measure, provides a way for Members to indicate less than total support for a measure.

Finally, the House occassionally uses the motion to recommit with instructions to require one or more of its committees to take certain actions, such as hold hearings or conduct studies on a specified subject. During the 8 years examined in this report, only 6 such motions were offered out of a total of 105 motions to recommit with instructions.

RESTRICTIONS ON THE MOTION

While the motion to recommit is meant to give the minority a final opportunity to ex-

[16] Cannon, Clarence. Cannon's Procedure in the House of Representatives. Washington, G.P.O., 1963. (Document, House, 87th Congress, 2d session, no. 87-610). p. 308.

[17] 2 Hinds' Precedents, sec. 1456.

[18] 8 Cannon's Precedents, sec. 2762.

[19] Lott, Trent. Extension of Remarks in the House. Congressional Record, v. 133 [daily ed.], Oct. 30, 1987, p. E4268.

[20] 8 Cannon's Precedents, sec. 2700 and 2728, and, e.g., Congressional Record, v. 125, December 12, 1979, p. 35544.

press itself, there are situations where that right is restricted to avoid conflict with other procedural principles of the House.

For example, through its instructions the motion to recommit has the potential of doing indirectly what may not be done directly during the amendment process. To do so would violate clearly established House precedents on the amending process.[21] Therefore, House precedents on the motion to recommit forbid instructions (1) which are not germane, (2) which strike out an amendment already adopted, (3) which seek to further amend a provision already once amended, (4) which propose an amendment containing legislative language to a general appropriations bill, (5) which propose an amendment containing appropriations to an authorization bill, or (6) which violate a special rule prohibiting under any circumstances the offering of amendments to a certain title of a measure.[22]

While the effect of these prohibitions is to avoid conflict with other House procedures, the House has chosen to favor the motion to recommit in two procedural areas. First, the House normally forbids the reoffering of a defeated amendment. Yet, as noted above, a motion to recommit with instructions incorporating such an amendment could be in order.

Second, in the usual amendment procedure, when the House has adopted an amendment in the nature of a substitute which offers a full text alternative to a measure, no further amendments to the measure are in order. However, in instances where such amendments in the nature of a substitute have been offered, the special rule governing the measure has often expressly permitted a motion to recommit "with or without instructions." The minority is thereby granted the opportunity to propose further amendments in a situation which otherwise would preclude any. The House Rules Committee has also reported special rules which expressly permit motions to recommit with instructions in an otherwise "closed rule" situation prohibiting any floor amendments.[23]

As noted earlier, the Rules Committee has also on occasion taken the converse position. It has reported special rules which prohibit the offering of a motion to recommit with instructions, while continuing to allow a simple motion to recommit (as mandated by House Rule XI, clause 4(b)). For example, on Oct. 29, 1987, the House rejected H. Res. 296, providing for the consideration of H.R. 3545, the 1987 Budget Reconciliation Act. This rule had provided for "one motion to recommit, which may not contain instructions."

In an additional restriction, at least one rule-making statute, the Congressional Budget Act of 1974, in section 305(a), expressly prohibits the offering of motions to recommit to either concurrent budget resolutions or conference reports thereon.

CONCLUSION

Simple motions to recommit, while of symbolic significance to the minority party, rarely win. The House has demonstrated that it prefers to defeat a measure directly on the question of final passage, not indirectly by adopting a motion to recommit the measure to the committee of jurisdiction.

However, the motion to recommit with instructions has on occasion gone beyond being a vehicle for simply raising issues, and become a vehicle through which the minority party can change a measure's provisions. When the motion to recommit with instructions actually succeeds, its adoption can have profound consequences. The most recent such example was the aforementioned motion to recommit with instructions containing a substantive and major revision of the Nation's criminal code offered in 1984 to H.J. Res. 648, the Continuing Appropriations Act for Fiscal Year 1985. The measure, known as the Comprehensive Crime Control Act, had passed the Senate in two prior Congresses, but had never been reported out of committee on the House side in omnibus form. In this instance, the minority party was able to circumvent the House committee system and avoid extensive floor debate and amendments to the proposal through the use of a motion to recommit.

The appendix to this report lists and describes motions to recommit with instructions offered from 1979 to 1987 (96th Congress through the First Session of the 100th Congress), including their outcome. Simple motions to recommit are not included because they are not so much substantive as symbolic of opposition. As noted earlier, Members prefer to defeat a measure directly on the question of final passage, rather than indirectly on a motion to recommit.

The rate of adoption for motions to recommit with instructions has in general declined over the five Congresses examined: 17% of those offered were adopted in the 96th Congress, 21% in the 97th, 13.3% in the 98th, 11.7% in the 99th, and 12.5% in the first session of the 100th Congress.

The number of motions to recommit with instructions offered has also dropped during the time period studied. In the 96th Congress, 35 such motions were offered; 19 were offered in the 97th; 30 in the 98th; 17 in the 99th; and 8 in the first year of the 100th Congress. The decline may have been influenced by an increase in the number of special rules reported from the House Rules Committee which specifically prohibit or limit motions to recommit with instructions. In the 100th Congress to date (as of May 17, 1988), 14% of all special rules denied recommittal instructions, and 12% denied them in the 99th Congress. This is a marked increase over the 97th and 98th Congress, when none were denied. In the 96th Congress, recommittal instructions were denied in 0.5% of all special rules granted.[24]

Although the motion to recommit, either simple or with instructions, is not often a successful mechanism for substantive legislative change, it remains an important manifestation of the underlying purpose of the rules of the House—to strike a balance between the rights of the minority to be hard and the necessity of the majority to rule. For this purpose, the motion to recommit has been protected and maintained for the last seven decades.

[21] 5 Hinds' Precdents, sec. 5529-5541, and 8 Cannon's Precedents, sec. 2705.

[22] House Rules Manual, sec. 788; Deschler's Procedure, Chap. 23, sec. 15.3 and 15.7; Deschler's Precedents, Chap. 23, sec. 25; and 8 Cannon's Precedents, sec. 2856.

[23] If a measure is debated under a closed rule, a motion to recommit with instructions may still be permitted unless the rule explicitly prohibits amendments in the House as well as in the Committee of the Whole. If a rule does prohibit amendments in the House, a motion to recommit with instructions would be permitted only if the rule so specifies.

[24] Data compiled by the Minority Counsel, Subcommittee on the Legislative Process, House Committee on Rules. Congressional Record [daily ed.], v. 134, May 24, 1988, p. H3578.

Mr. QUILLEN. Mr. Speaker, I advise the gentleman from Texas [Mr. FROST] that I have one remaining speaker.

Mr. Speaker, I urge a no vote on the previous question so that the amendment of our minority leader, the gentleman from Illinois [Mr. MICHEL] can be added.

Mr. Speaker, pay as you go sounds good to me, and it should to all of us.

Mr. Speaker, to conclude the debate on this side, I yield the balance of our time to the gentleman from Illinois [Mr. MICHEL].

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MICHEL] is recognized for 6 minutes.

Mr. MICHEL. Mr. Speaker, I rise in opposition to this rule, and I do so for two reasons.

The first, Mr. Speaker, is that the majority with its apparently craven fear of free debate has crafted a disgraceful rule that is a mockery of democratic procedure. Never before in the history of the House of Representatives has there been a rule that allows an amendment that simultaneously amends two different propositions at once. We have done so by unanimous consent, but never before in this House have we done it in the way the rule provides. The normal way to amend a bill is through an orderly procedure by way of a substitute, an amendment to the substitute, or an amendment to the main proposition. So we are breaking new ground here today, and it is bad ground.

However, Mr. Speaker, that is precisely what this rule gives the majority leader, as the gentleman from Oklahoma [Mr. EDWARDS] has pointed out.

Mr. Speaker, if Mr. Gorbachev did something like this in the Soviet Union, we would be decrying his dictatorial ways. But we have no glasnost in this House. Do I have to say that we do not even have comity anymore? The Majority has turned this House into a den of inequity.

The second reason I oppose this unprecedented rule is that the rule does not allow my proposed pay-as-you-go amendment.

Did my colleagues happen to see the Washington Post yesterday? Mr. Speaker, emblazoned in broad, big headlines, is "Pay as You Go; Democrats Sense New Opportunities in Old Idea." "Sense" is exactly the word.

This rule does not contain any pay-as-you-go provision. It contains a sense of the Congress that the budget resolution should cover the cost of the bill. "Sense of the Congress" means to me: refuse to do anything, but we want to say something nice out there. In other words, Mr. Speaker, when it comes to pay as you go, the majority is all mouth, but no teeth.

□ 1100

My amendment states that to the extent funding in the bill exceeds the fiscal year 1990 spending levels or revenues fall below fiscal year 1990 revenue levels, the funds cannot be obligated until they are offset by other spending reductions or revenue increases.

And yet here we are facing a debate on a program whose costs are estimated at $28 billion over 5 years, but the majority refuses to allow a real pay-as-you-go amendment.

As in so many other cases, their rhetoric is pay-as-you-go, but their politics is "spend-as-we-please."

And then to add insult to injury, the meaningless "sense of the Congress" statement is incorporated in a self-executing rule, and makes no mention of reconciliation.

Again, it is so obvious that the majority does not want to give this House a straight up or down vote on what my amendment would have called for, a real, meaningful pay-as-you-go provision.

They are afraid of a vote, because what they said here would have to be put to the test on the floor of this House, instead of just mealy-mouthed mouthings on the television screen or wherever.

You know, I am dismayed at what is happening in this House. Controversial issue as this is, yes, discussed for months, but who knows about all those little intricate arguments that are carried on behind closed doors. This is the people's House where it ought to be discussed in the open, not behind closed doors. We have all the time in the world. We could have had this thing scheduled for a couple of weeks and let everybody have their say.

I do not know if I would win. Is it absolutely necessary that you win?

I would like to think that a meaningful child care proposition would be a win for all of us, but I will tell you, when you are so darn afraid of free debate and bringing matters to a yea or nay vote, you demean the democratic principles of the House.

I long for the old days. When I first came here, we used to take an issue like this and beat up on it for a couple weeks. We stayed around here and did our work. That is what this House is all about.

Is it a clash of ideas? Sure, it is, and wills and views and expressions, differing views on my side, differing views on your side. What is wrong with having them all discussed and brought together and eventually coming to some consensus? That is what this House is all about, but here again with a rule of this kind that really stifles debate and stifles the opportunity for the people out there to have their Representatives express themselves with a clean up-or-down vote.

Folks, I have got to ask you to vote against the previous question in order to make it possible to include our own amendment, which will really get the job done.

Then, if we fail on the previous question, I would ask my colleagues to vote against the rule.

The SPEAKER pro tempore. The gentleman from Illinois has yielded back 1 minute, so the gentleman from Tennessee has 1 minute remaining.

Mr. QUILLEN. Mr. Speaker, I urge a no vote on the previous question, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

We are now approaching a vote on this important issue. This is a major piece of legislation. It represents real progress for the country.

The Members on the other side of the aisle have stirred up a lot of dust, have made some statements that are not entirely accurate. That is their right to do.

I would like to make two points——

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. FROST. No, I do not yield to the gentleman.

Mr. WALKER. Well, the gentleman has accused us of making inaccurate statements.

Mr. FROST. Mr. Speaker, I do not yield to the gentleman. They have yielded back all their time and I am making my concluding remarks. I do not yield.

On the church-state issue, the language of the base bill and of the Stenholm amendment are virtually identical on the church-state issue. This is not a question of Stenholm and the Republicans being on one side of church-state and the base bill being on the other side. That is simply not the case.

Now, the Edwards amendment is different. There is no question that the Edwards amendment is different from the base bill on church-state and is different from the Stenholm-Shaw approach. Those people who like churches playing a role in day care will vote against the Edwards amendment and will support the base bill and the Stenholm approach. Those people who do not approve of the churches playing a role in day care will have the opportunity to vote for the Edwards amendment. That will either pass or fail, but the base bill and the Stenholm amendment are very, very similar on the church-state issue and provide for a significant role for churches to play in day care.

Second, there is a Republican substitute made in order. The gentleman from Florida [Mr. SHAW] is the coauthor with the gentleman from Texas [Mr. STENHOLM]. It is embraced by the White House. It will be supported by the majority of the Republicans. There is an opportunity for those with a different view to be heard on this issue.

Now, I urge that this rule be adopted and that we proceed to consideration of this very critical issue that faces the country.

Mr. Speaker, at this point for purposes of a unanimous-consent request, I yield to the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Ways and Means Committee.

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that my remarks be included in the RECORD at this point.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Illinois?

Mr. FROST. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to make certain that we clarify the point that the gentleman made.

The gentleman accused this side of making inaccurate statements. I would like to know what the gentleman is referring to where this side made inaccurate statements.

Mr. FROST. Mr. Speaker, a parliamentary inquiry.

Mr. WALKER. Mr. Speaker, I am reserving the right to object.

Mr. FROST. Mr. Speaker, they have used all their time.

Mr. WALKER. Mr. Speaker, I am reserving the right to object.

Mr. FROST. Mr. Speaker, I have made this very clear in my statement. The gentleman does not have time.

Mr. WALKER. Mr. Speaker, I have reserving the right to object and I do not yield to the gentleman.

The SPEAKER pro tempore. The gentleman from Pennsylvania has reserved the right to object to the request of the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. WALKER. Mr. Speaker, I have reserved the right to object and I asked the gentleman a question. It is not a parliamentary inquiry. It is a question to the gentleman.

What are the inaccuracies that he is accusing this side of having made in the course of the debate?

Mr. FROST. Mr. Speaker, if the gentleman were listening, rather than forming his question, he would have heard that I said they made inaccurate statements on church and state. They made inaccurate statements on the question of day care—excuse me, of the substitute. I have answered the gentleman's question, and the gentleman from Illinois [Mr. ROSTENKOWSKI] has made his unanimous consent request.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, the fact is we made no inaccurate state-

ments. The gentleman made an inaccurate statement. At one point he said that the Stenholm language is exactly the same as the leadership bill.

Furthering reserving the right to object, Mr. Speaker, the gentleman is absolutely wrong. The Stenholm language and the bill that the leadership brings to us are not the same on religious language. He corrected his statement later on, but his first statement was absolutely inaccurate. Now, I do not think he can accuse us of being inaccurate on the statements.

Mr. FROST. Mr. Speaker——

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I have not yielded to the gentleman.

Mr. FROST. Mr. Speaker——

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALKER] has the floor.

Mr. FROST. Regular order, Mr. Speaker.

Mr. WALKER. Reserving the right to object, Mr. Speaker——

The SPEAKER pro tempore. Regular order has been demanded. Is there objection to the request of the gentleman from Illinois [Mr. ROSTENKOWSKI]?

Mr. WALKER. I do not object, Mr. Speaker.

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in opposition to the rule. I do so reluctantly because the Rules Committee and the leadership have worked hard to develop a fair rule. However, my opposition is provoked by inclusion under the rule of a new title VII to the bill, a sense of the Congress as to deficit effect. It is my strong feeling that this sense-of-the-Congress provision is gratuitous and totally contrary to an explicit understanding reached in the conference on the Omnibus Budget Reconciliation Act of 1989.

During the conference on last year's reconciliation bill, the conferees from the Budget Committee repeatedly urged me to produce a clean reconciliation conference report, one stripped of so-called extraneous matters. The Budget conferees were particularly insistent that the child care provisions contained in the House reconciliation bill be dropped in the interest of someone's notion of budgetary purity. With great reluctance, the Ways and Means conferees agreed to drop the child care provisions.

I want to be absolutely clear, Mr. Speaker, that the House-passed child care provisions were fully financed in last year's reconciliation bill. Consistent with its longstanding budgetary commitment, the Ways and Means Committee worked long and hard to fully pay for its child care provisions on a pay-as-you-go basis. When, at the insistence of the Budget conferees, the child care provisions were dropped in conference, the conferees agreed that revenues in the reconciliation bill would be fenced off to pay for this year's child care bill. Having fully paid for child care once, the Ways and Means Committee did not want to have to pay for child care a second time this year.

Mr. Speaker, I want to stress that this understanding about the financing of this year's child care bill was clear and explicitly stated in last year's reconciliation conference report as follows:

The conference agreement does not include the House bill provision. *The conferees intend that an extension of the telephone excise tax shall be the exclusive and only required source of funding of child care legislation that may be enacted in the second session of the 101st Congress, except to the extent that the costs of such legislation exceed the costs of the child care provisions contained in Title XI of the House-passed reconciliation bill.* It is the intent and understanding of the conferees that the revenues contained in this reconciliation bill are sufficient to cover any costs in excess of the telephone excise tax. The fencing off of these revenues does not prejudge in any way the substance or structure of the child care package." (Italic added.)

This financing issue was discussed at length with the Budget conferees and the leadership. In my view, the conferees' understanding is binding on all parties who signed the conference report including the 10 House Budget conferees, Budget Chairman PANETTA and Majority Leader GEPHARDT who was the leadership's representative on the conference, as it is on me.

Mr. Speaker, the only expanded cost in this year's child care bill over last year's House-passed reconciliation bill is approximately $1.15 billion of additional funding for title XX. Consistent with my conference commitment to fully pay for such additional costs, however, I have agreed to include a phase-out of the dependent care tax credit as a new financing provision in this year's bill. This new financing provision will raise approximately $1.5 billion over the next 5 years, and will fully offset the additional costs of $1.15 billion from the further expansion of title XX. Thus, I feel strongly that the Ways and Means Committee has fully discharged its commitment made in last year's reconciliation conference.

Others, however, appear intent to have the Committee on Ways and Means pay for child care twice by choosing to ignore the commitments and understandings of last year. Let me be absolutely clear. Having paid for child care once, the Ways and Means Committee has no intention of paying for child care a second time.

Mr. Speaker, the Ways and Means Committee has a long history of budgetary prudence and responsibility—a history of which we are collectively and justifiably proud. The committee has developed its legislation on a pay-as-you-go basis for the last 9 years—long before it was fashionable elsewhere. But our commitment to pay-as-you go financing does not mean that the Budget Committee can insist that you pay-as-we-go-for-more this year.

The sense-of-the-Congress language contained in the rule is highly objectionable to me and my committee, having fenced off in good faith additional revenues for child care last year—revenues that exceeded our revenue reconciliation instruction. It is for this reason, Mr. Speaker, that I must oppose this rule.

Mr. FROST. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 251, nays 171, not voting 11, as follows:

[Roll No. 53]

YEAS—251

Ackerman	Evans	McCloskey
Akaka	Fascell	McCurdy
Alexander	Fazio	McDermott
Anderson	Feighan	McHugh
Andrews	Flake	McMillen (MD)
Annunzio	Foglietta	McNulty
Anthony	Ford (MI)	Mfume
Applegate	Frank	Miller (CA)
Aspin	Frost	Mineta
Atkins	Gaydos	Moakley
AuCoin	Gejdenson	Mollohan
Barnard	Gephardt	Montgomery
Bates	Geren	Moody
Beilenson	Gibbons	Morrison (CT)
Bennett	Glickman	Mrazek
Berman	Gonzalez	Murphy
Bevill	Gordon	Murtha
Bilbray	Gray	Nagle
Boggs	Guarini	Natcher
Bonior	Hall (OH)	Neal (MA)
Borski	Hall (TX)	Neal (NC)
Bosco	Hamilton	Nelson
Boucher	Harris	Nowak
Boxer	Hatcher	Oakar
Brennan	Hawkins	Oberstar
Brooks	Hayes (IL)	Obey
Browder	Hayes (LA)	Olin
Brown (CA)	Hefner	Ortiz
Bruce	Hertel	Owens (NY)
Bryant	Hoagland	Owens (UT)
Bustamante	Hochbrueckner	Pallone
Byron	Hoyer	Panetta
Campbell (CO)	Hubbard	Parker
Cardin	Huckaby	Patterson
Carper	Hughes	Payne (NJ)
Carr	Hutto	Payne (VA)
Chapman	Johnson (SD)	Pease
Clarke	Johnston	Pelosi
Clay	Jones (GA)	Penny
Clement	Jones (NC)	Perkins
Coleman (TX)	Jontz	Pickett
Collins	Kanjorski	Pickle
Condit	Kaptur	Poshard
Conyers	Kastenmeier	Price
Cooper	Kennedy	Rahall
Costello	Kennelly	Rangel
Coyne	Kildee	Ray
Crockett	Kleczka	Richardson
Darden	Kolter	Roe
de la Garza	Kostmayer	Rose
DeFazio	LaFalce	Rostenkowski
Dellums	Lancaster	Rowland (GA)
Derrick	Lantos	Roybal
Dicks	Leath (TX)	Russo
Dingell	Lehman (CA)	Sabo
Dixon	Lehman (FL)	Sangmeister
Donnelly	Levin (MI)	Sarpalius
Dorgan (ND)	Levine (CA)	Sawyer
Downey	Lewis (GA)	Scheuer
Durbin	Lipinski	Schroeder
Dwyer	Lloyd	Schumer
Dymally	Long	Serrano
Dyson	Lowey (NY)	Sharp
Early	Luken, Thomas	Sikorski
Eckart	Manton	Sisisky
Edwards (CA)	Markey	Skaggs
Engel	Martinez	Skelton
English	Matsui	Slattery
Erdreich	Mavroules	Slaughter (NY)
Espy	Mazzoli	Smith (FL)

Smith (IA)	Taylor	Washington
Solarz	Thomas (GA)	Watkins
Spratt	Torres	Waxman
Staggers	Torricelli	Weiss
Stallings	Towns	Wheat
Stark	Traficant	Whitten
Stenholm	Traxler	Williams
Stokes	Udall	Wilson
Studds	Unsoeld	Wise
Swift	Valentine	Wolpe
Synar	Vento	Wyden
Tallon	Visclosky	Yates
Tanner	Volkmer	Yatron
Tauzin	Walgren	

NAYS—171

Archer	Hancock	Quillen
Armey	Hansen	Ravenel
Baker	Hastert	Regula
Ballenger	Hefley	Rhodes
Bartlett	Henry	Ridge
Barton	Herger	Ritter
Bateman	Hiler	Roberts
Bentley	Holloway	Robinson
Bereuter	Hopkins	Rogers
Bilirakis	Horton	Rohrabacher
Bliley	Houghton	Ros-Lehtinen
Boehlert	Hunter	Roth
Broomfield	Hyde	Roukema
Brown (CO)	Inhofe	Rowland (CT)
Buechner	Ireland	Saiki
Bunning	Jacobs	Saxton
Burton	James	Schaefer
Callahan	Johnson (CT)	Schiff
Campbell (CA)	Kasich	Schneider
Chandler	Kolbe	Schuette
Clinger	Kyl	Schulze
Coble	Lagomarsino	Sensenbrenner
Coleman (MO)	Leach (IA)	Shaw
Combest	Lewis (CA)	Shays
Conte	Lewis (FL)	Shumway
Coughlin	Lightfoot	Shuster
Courter	Livingston	Skeen
Cox	Lowery (CA)	Slaughter (VA)
Craig	Lukens, Donald	Smith (NE)
Dannemeyer	Machtley	Smith (NJ)
Davis	Madigan	Smith (TX)
DeLay	Marlenee	Smith (VT)
DeWine	Martin (IL)	Smith, Robert (NH)
Dickinson	Martin (NY)	Smith, Robert (OR)
Dornan (CA)	McCandless	Snowe
Douglas	McCollum	Solomon
Dreier	McDade	Spence
Duncan	McEwen	Stangeland
Edwards (OK)	McGrath	Stearns
Emerson	McMillan (NC)	Sundquist
Fawell	Meyers	Tauke
Fields	Michel	Thomas (CA)
Fish	Miller (OH)	Thomas (WY)
Frenzel	Miller (WA)	Upton
Gallegly	Molinari	Vander Jagt
Gallo	Moorhead	Vucanovich
Gekas	Morella	Walker
Gillmor	Morrison (WA)	Walsh
Gilman	Myers	Weber
Gingrich	Nielson	Weldon
Goodling	Oxley	Whittaker
Goss	Packard	Wolf
Gradison	Parris	Wylie
Grandy	Pashayan	Young (AK)
Grant	Paxon	Young (FL)
Green	Petri	
Gunderson	Porter	
Hammerschmidt	Pursell	

NOT VOTING—11

Crane	Laughlin	Savage
Flippo	Lent	Smith, Denny (OR)
Ford (TN)	McCrery	
Jenkins	Rinaldo	Stump

□ 1130

Mr. MACHTLEY changed his vote from "yea" to "nay."

Mr. WISE changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 246, noes 176, not voting 11, as follows:

[Roll No. 54]

AYES—246

Ackerman	Ford (MI)	Montgomery
Akaka	Frank	Moody
Alexander	Frost	Morrison (CT)
Anderson	Gaydos	Mrazek
Andrews	Gejdenson	Murphy
Annunzio	Gephardt	Murtha
Anthony	Geren	Nagle
Applegate	Gibbons	Natcher
Aspin	Glickman	Neal (MA)
Atkins	Gonzalez	Neal (NC)
AuCoin	Gordon	Nelson
Barnard	Gray	Nowak
Bates	Guarini	Oakar
Beilenson	Hall (OH)	Oberstar
Bennett	Hall (TX)	Obey
Berman	Hamilton	Olin
Bevill	Harris	Ortiz
Bilbray	Hatcher	Owens (NY)
Boggs	Hawkins	Owens (UT)
Bonior	Hayes (IL)	Pallone
Borski	Hayes (LA)	Panetta
Bosco	Hefner	Parker
Boucher	Hertel	Patterson
Boxer	Hoagland	Payne (NJ)
Brennan	Hochbrueckner	Payne (VA)
Brooks	Hoyer	Pease
Browder	Hubbard	Pelosi
Brown (CA)	Huckaby	Penny
Bruce	Hughes	Perkins
Bryant	Hutto	Pickett
Bustamante	Johnson (SD)	Pickle
Byron	Johnston	Poshard
Campbell (CO)	Jones (GA)	Price
Cardin	Jones (NC)	Rahall
Carper	Jontz	Rangel
Carr	Kanjorski	Ray
Chapman	Kaptur	Richardson
Clarke	Kastenmeier	Roe
Clay	Kennedy	Rose
Clement	Kennelly	Rowland (GA)
Coleman (TX)	Kildee	Roybal
Collins	Kleczka	Sabo
Condit	Kolter	Sangmeister
Conyers	Kostmayer	Sarpalius
Cooper	LaFalce	Savage
Costello	Lancaster	Sawyer
Coyne	Lantos	Scheuer
Crockett	Leath (TX)	Schroeder
Darden	Lehman (CA)	Schumer
de la Garza	Lehman (FL)	Serrano
DeFazio	Levin (MI)	Sikorski
Dellums	Levine (CA)	Sisisky
Derrick	Lewis (GA)	Skaggs
Dicks	Lipinski	Skelton
Dingell	Lloyd	Slattery
Dixon	Long	Slaughter (NY)
Dorgan (ND)	Lowey (NY)	Smith (FL)
Downey	Luken, Thomas	Smith (IA)
Durbin	Manton	Solarz
Dwyer	Markey	Spratt
Dymally	Martinez	Staggers
Dyson	Matsui	Stark
Early	Mavroules	Stenholm
Eckart	Mazzoli	Stokes
Edwards (CA)	McCloskey	Studds
Engel	McCurdy	Swift
English	McDermott	Synar
Erdreich	McHugh	Tallon
Espy	McMillen (MD)	Tanner
Evans	McNulty	Tauzin
Fascell	Mfume	Taylor
Fazio	Miller (CA)	Thomas (GA)
Feighan	Mineta	Torres
Flake	Moakley	Torricelli
Foglietta	Mollohan	Towns
Traficant	Volkmer	Whitten
Traxler	Walgren	Wilson
Udall	Washington	Wise
Unsoeld	Watkins	Wolpe
Valentine	Waxman	Wyden
Vento	Weiss	Yates
Visclosky	Wheat	Yatron

NOES—176

Archer	Hastert	Rhodes
Armey	Hefley	Ridge
Baker	Henry	Ritter
Ballenger	Herger	Roberts
Bartlett	Hiler	Robinson
Barton	Holloway	Rogers
Bateman	Hopkins	Rohrabacher
Bentley	Horton	Ros-Lehtinen
Bereuter	Houghton	Rostenkowski
Bilirakis	Hunter	Roth
Bliley	Hyde	Roukema
Boehlert	Inhofe	Rowland (CT)
Broomfield	Ireland	Russo
Brown (CO)	Jacobs	Saiki
Buechner	James	Saxton
Bunning	Johnson (CT)	Schaefer
Burton	Kasich	Schiff
Callahan	Kolbe	Schneider
Campbell (CA)	Kyl	Schuette
Chandler	Lagomarsino	Schulze
Clinger	Leach (IA)	Sensenbrenner
Coble	Lewis (CA)	Sharp
Coleman (MO)	Lewis (FL)	Shaw
Combest	Lightfoot	Shays
Conte	Livingston	Shumway
Coughlin	Lowery (CA)	Shuster
Courter	Lukens, Donald	Skeen
Cox	Machtley	Slaughter (VA)
Craig	Madigan	Smith (NE)
Dannemeyer	Marlenee	Smith (NJ)
Davis	Martin (IL)	Smith (TX)
DeLay	Martin (NY)	Smith (VT)
DeWine	McCandless	Smith, Robert (NH)
Dickinson	McCollum	
Dornan (CA)	McCrery	Smith, Robert (OR)
Douglas	McDade	Snowe
Dreier	McEwen	Solomon
Duncan	McGrath	Spence
Edwards (OK)	McMillan (NC)	Stangeland
Emerson	Meyers	Stearns
Fawell	Michel	Sundquist
Fields	Miller (OH)	Tauke
Fish	Miller (WA)	Thomas (CA)
Frenzel	Molinari	Thomas (WY)
Gallegly	Moorhead	Upton
Gallo	Morella	Vander Jagt
Gekas	Morrison (WA)	Vucanovich
Gillmor	Myers	Walker
Gilman	Nielson	Walsh
Gingrich	Oxley	Weber
Goodling	Packard	Weldon
Goss	Parris	Whittaker
Gradison	Pashayan	Williams
Grandy	Paxon	Wolf
Grant	Petri	Wylie
Green	Porter	Young (AK)
Gunderson	Pursell	Young (FL)
Hammerschmidt	Quillen	
Hancock	Ravenel	
Hansen	Regula	

NOT VOTING—11

Crane	Jenkins	Smith, Denny (OR)
Donnelly	Laughlin	
Flippo	Lent	Stallings
Ford (TN)	Rinaldo	Stump

□ 1146

The Clerk announced the following pair:

On this vote:

Mr. Stallings for, with Mr. Stump against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to House Resolution 368 and rule XXIII, the Chair declares the House in the Committee of

the Whole House on the State of the Union for the consideration of the bill, H.R. 3.

□ 1148

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3) to authorize appropriations to expand Head Start programs and programs carried out under the Elementary and Secondary Education Act of 1965 to include child care services, and for other purposes, with Mr. MCHUGH in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. HAWKINS] will be recognized for 30 minutes, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3, the Early Childhood Education and Development Act of 1990, will provide needed child care services for America's low-income families and will improve the quality of those services. H.R. 3 builds on effective, existing programs such as Head Start and early childhood education, and enhances efforts by the States to address critical issues of affordability, availability and quality of child care. This comprehensive child care bill establishes a quality system that is accessible to poor families and includes a diverse network of providers.

The need for expanded child care services has never been greater. Today, three out of five mothers with children under the age of 6 work outside the home. By the end of the decade, 80 percent of all American children will have mothers in the work force. With increasing demand, the cost of child care, particularly for low-income families, has become prohibitive. Current estimates indicate that nationally the average cost of full-time child care is approximately $3,000 per child annually. Families with incomes of $10,000 spend 25 percent or more of their incomes on child care. Thus, the impact of child care costs on low-income working parents is most severe in proportion to their income.

A recent report by the National Research Council [NRC] underscores the fact that we are not investing enough to care for our children. As a result, the future health of our Nation is at risk. The NRC report shows existing child care services are inadequate, fragmented and unable to meet the needs of parents and children. H.R. 3 attacks this problem by increasing the availability of child care, providing support for families to meet the costs of day care and by helping States improve the quality of child care services.

H.R. 3 emphasizes early childhood education and development through such programs as Head Start. Title I authorizes funds for Head Start grantees to provide full-day/full-year developmentally appropriate services to eligible children. In addition, H.R. 3 specifically earmarks funds for States to establish or expand early childhood education programs. Twenty-seven States have implemented programs to increase the early social and cognitive development of children likely to be at risk of school failure.

The importance of early childhood education is broadly supported by the business community as well as others who are concerned about our Nation's education. A 1985 study on preschool education by the Committee for Economic Development, an organization of Fortune 500 companies, states, "It would be hard to imagine that society could find a higher yield for a dollar of investment than that found in preschool programs for its at-risk children."

H.R. 3 specifically addresses the desperate needs of the Nation's 10 million latchkey children. Title II of the bill earmarks funds for local education agencies to provide directly or to contract for before- and after-school programs for school children whose parents work or are in training or education. Inadequately supervised children are at a greater risk of falling prey to experimenting with drugs, alcohol and teenage pregnancy.

H.R. 3 also provides funding to States to improve the quality of care through training of child care workers, enhanced enforcement of health and safety and other services. Poor quality care inevitably damages children while quality care has been shown to compensate for disadvantaged family environments. The long term costs of poor and inadequate care are measured in unskilled youth, school dropouts, lower incomes and permanent economic dependency.

Finally, H.R. 3 recognizes the need to provide incentives for businesses to become more involved in meeting the family needs of employees. Currently, only 11 percent of all employers provide some types of child care assistance. H.R. 3 authorizes $25 million in matching grants for businesses to pay start-up costs associated with providing child care services.

Twenty years ago, a Presidential veto blocked the establishment of a Federal child care policy. Who can calculate what our failure to act has cost this Nation? Now, we are again on the threshold of historic legislation. We must not let this opportunity pass us by. I urge you to fulfill the dream we almost realized two decades ago.

□ 1150

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa [Mr. TAUKE], who has been in the forefront of child care for many years.

Mr. TAUKE. Mr. Chairman, I come here today on the one hand with the feeling that we have before us a great opportunity to enact good child care legislation and with the recognition that this is the culmination of years of work on the part of many of the Members who are currently in the Chamber; at the same time I come here with a sense of concern because I think much of the work we have done over the last 3 years has gone down the tubes.

The legislation that is before us, Mr. Chairman, is not a good bill. It is a poorly drafted piece of legislation, cobbled together at the last minute with provisions in it that are directly contradictory to one another. It is just poorly written.

But beyond that, the legislation that is before us is not legislation that has much of a chance of becoming national policy. Last week many of us in this Chamber were sitting around the table for hours and hours working out an agreement. We did work out an agreement on child care legislation which involved the earned income tax credit expansion use of title XX funds, and a before and after school program, and we had the White House signing off and Members of both parties in the House signing off. But the Democratic leadership in this institution failed us after that agreement was reached.

Now, either the leadership decided they would rather have an issue than a policy on child care or they simply did not have the guts to stand up to the special interests who were badgering this body for certain provisions in child care legislation. I choose to think that it was the latter.

In any event, it is a tragic failure because it means it is going to be much more difficult for us to get a child care policy enacted into law in this Congress, and it means it is going to be much more difficult for us to get a child care policy that will work.

The major issue that we face, Mr. Chairman, as we develop child care legislation is not really how much money we are spending. Oh, we will argue about that, but that is not the key issue. The key issue is not whether or not the Federal Government should have a role in child care. We will argue about what that role should be, but es-

sentially we are all agreed that the Federal Government should have a role. The major issue is, who makes the decision as to what is appropriate child care for children?

Those of us who are going to be backing the Stenholm-Shaw substitute say that when all is said and done, the parents should be the ones to decide what is appropriate child care for children, and that if a parent in Holy Cross, IA, wants to work out an arrangement with his or her next door neighbor, that ought to be OK, and that if a parent in Holy Cross, IA, wants to have a grandmother take care of the kids, that ought to be all right, and that if they want to use their local church-based child care center, that ought to be OK, too. We believe that the parents should be making that decision.

Those who are backing the bill that is before us take the view that it is Government that is better able to make the judgment as to what is appropriate child care than the parents.

That ultimately is the philosophical choice before this body. The question is, do you have more faith in Government making the decision as to what is appropriate child care, or do you have more faith in parents making the decision as to what is appropriate child care for their kids? I go with the parents, and I hope the majority of this body will.

Unfortunately, H.R. 3 as it is drafted before us does not give parents the choice.

The regulatory requirements—and there are 40 pages of them in this bill—and the mandates that are contained in this legislation reduce the choices available to parents. Despite all the rhetoric coming from the other side of the aisle, the fact is that the mandated voucher system in the bill does not work, and the parents in at least half the States in the Nation are not going to have a realistic choice of choosing a church-based child care program, or because of the regulatory requirements relating to standards that are going to be imposed eventually on the Federal level, with the training of child care workers, and so on, choosing one's next door neighbor is not a realistic option under this legislation.

And to those of us from rural areas and those who represent rural areas, let me say this: I ask my colleagues from rural areas to pay attention to this. This is particularly troublesome. In Postville, IA, or Luxenburg, IA, or Holy Cross, IA, or in a variety of other places, we do not have a YWCA setting up a child care center, and we do not have other institutions setting up a child care center. The choice in those communities is the church or a nextdoor neighbor.

□ 1200

My colleagues, why do we want to prohibit those choices from being available to the parents in those communities, many of whom need the choices? And why do we want to regulate the providers to such an extent that we force the costs up? Why do we want to take away from the States the ability to adjust their regulations as they see fit? I do not understand those kinds of policies contained in this legislation.

Mr. Chairman, I just suggest to my colleagues that they not listen solely to the rhetoric. Start reading the bill, and understand that this bill is very different from the Stenholm-Shaw substitute, and understand that it is in many ways worse than the legislation that was being considered last year, and understand that the decision as to what is appropriate child care is made in substantial part by Government officials, not by parents.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will advise the spectators that they are here as guests and would please refrain from applause or other emotional outbursts.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of the House leadership compromise on H.R. 3, the Early Childhood Education and Development Act of 1990.

After long but productive negotiations between the Committee on Education and Labor and the Committee on Ways and Means, the leadership has developed a compromise which serves our ultimate goal: To help low- and moderate-income working families with their child care needs.

The leadership compromise will accomplish our goal in several ways. In particular, provisions crafted by the Committee on Ways and Means will guarantee Federal support to the States for child care services and increase current Federal efforts to supplement the incomes of low-income, working families.

Federal support for child care services would be increased under title XX of the Social Security Act by $450 million in fiscal year 1991. This funding would rise gradually to $700 million in fiscal year 1995 and subsequent years. The additional child care funds are directed to a proven child care delivery system, and States are given the authority to deal with their child care problems. For fiscal years 1991 through 1998, an additional $75 million per year would be authorized for grants to States to assist them in improving State child care standards.

The leadership compromise also contains a major expansion of the earned income tax credit. Lowering the tax burden for the working poor by $18.5 billion over the next 5 years will have the biggest financial impact of any provision in the bill. By expanding the earned income tax credit, adjusting it for family size, and providing a supplemental credit to families with young children, we send a powerful message to America's families. Their children represent our future, and we want them to have the opportunities promised by the American dream.

Mr. Chairman, the child care debate has been long and contentious. Now it's time to vote. I support the leadership compromise on H.R. 3 and urge its adoption by the House.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, all of us are familiar with the saying that there are two things people should never have to watch being made—sausage and laws.

Mr. Chairman, watching the development of this child care bill over the past 2 years—it occurs to me that that comment is a terrible thing to say about sausage makers.

The first budget submitted to Congress by President Bush last year contained a child care initiative which carried a price tag of a little less than $7 billion over 4 years.

At the time, many of us wondered whether child care was a problem that required a new $2 billion a year Federal solution—especially in view of the fact that the Federal Government was already spending well over $6 billion a year on child care.

In the ensuing months, we were treated to a numbing series of increases in the cost of various child care proposals, and what amounted to a bidding war ensued.

Like Olympic pole vaulters, the competing interests kept reaching for new highs, breaking one multibillion spending barrier after another.

Today we may still not have reached the pinnacle. We're being asked to vote for a bill—crafted in Keystone Kops fashion by a disorganized House majority—that for starters costs the taxpayers $29 billion over 5 years. Conservatively estimated, it will add $14½ billion to the Federal deficit in that time.

Even worse, when fully implemented, the bill would cost a minimum of $8 billion a year. That's more in each year than the President's proposal, which started the debate, would have spent over 4 years.

I don't envy the fair weather pay-as-you-goers on the other side of the aisle who have to stand up today and try to defend that kind of budget-busting debacle.

I don't envy those who've got to explain their refusal even to allow a vote on an amendment proposed by our distinguished minority leader to put the

program on a real, mandatory, pay-as-you go basis.

The sense-of-the-Congress alternative in title VII of the bill is a nice cosmetic touch, but it's really more of a fig leaf which underscores the fact that recent Democrat calls for a responsible pay-as-you go budget strategy are pure baloney.

It appears that the Democrat leadership has met Chairman ROSTENKOWSKI's challenge by heading into full retreat from fiscal responsibility.

The truth of the matter is that, with or without title VII, the threat of Gramm-Rudman sequester will force us to deal with the $14½ billion deficit increase this bill creates.

The majority just doesn't want to face up to telling the American people today which additional taxes they're going to try to raise later to pay for the $14.5 billion shortfall. Do it on down the road in reconciliation, or sequestration, where it becomes someone else's problem and gets conveniently hidden in a much larger package.

If I sound somewhat cynical about this process we're going through, it's because I am. I think what we're being asked to do is irresponsible and hypocritical, and we have no business playing that game when we're struggling to make our Gramm-Rudman targets as it is.

It seems to me that if we're going to embark on an expansion of Federal child care spending, we'd be far better off beginning with an expansion on the scale of the one that President Bush originally proposed. If there's really a compulsion to raise the revenues this bill contains, use the excess $7 billion or so for deficit reduction.

In the long run, $7½ billion of deficit reduction might seem awfully well spent, compared to what we're likely to see happen with much of the additional spending in this bill.

In all candor, I'm not thrilled with the cost of the Stenholm-Shaw amendment either. But importantly, it's an $8½ billion improvement over the bill it seeks to replace. That's a big difference, and I support it. As an improvement to what otherwise might pass the House.

It contains numerous provisions which are far preferable to those in the Democrat leadership's bill—on basic issues like States rights, parental rights and religious freedom.

Significantly, the Bipartisan Stenholm-Shaw substitute has been available for public inspection and comment for 2 weeks. The final version of the bill it seeks to replace has been public for less than a day.

I know that a number of speakers are ready and able to highlight the important differences in the two measures.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, all of us are familiar with the saying that there are two things that people should never have to watch in the process of manufacture: sausage and legislation.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I rise in support of H.R. 3, the Early Childhood Education Development Act of 1990.

Mr. Chairman, during the past 4 years much of what we learned in hearings we found in a 2-year report funded in part by the U.S. Department of Health and Human Services and conducted by the National Academy of Sciences to determine the state of child care in America.

That study, a nonpartisan study, states:

> The existing child care services in the United States are inadequate to meet current and likely future needs of children, parents and society as a whole.

The Academy calls upon Congress to take action in three key areas: affordability, accessibility, and quality. H.R. 3 does address those elements.

The bill is deliberately flexible, carefully flexible, as to how States design health and safety protections, and the Congress provides the money for implementation for those States to monitor their own standards.

H.R. 3 responds to the need for improved accessibility to child care services by authorizing funds to expand Head Start programs to full-day, full-year programs, and to expand school-based programs and to recruit new child care providers.

We also address affordability in this bill. We make it affordable by helping those families in poverty to have adequate child care and on a sliding scale basis to provide child care for low- and moderate-income families.

I have worked hard also on this bill, so hard that I have succeeded probably in getting both sides angry at me. I have worked hard to maintain the role of churches in this bill. It has been a difficult task, but we have done that. We have maintained the role of churches even in those areas where there is religious content, and I have borne bruises from both sides in this, but both these bills contain that. H.R. 3 contains that.

It has been a pleasure, Mr. Speaker, to work with the gentleman from California [Mr. HAWKINS] on this. Nearly 60 years ago the gentleman from California [Mr. HAWKINS] began his career in the California legislature by introducing a child care bill. We have worked hard on this. I think it is a great tribute to him that today we are debating a bill that can, I believe, become law in this country. I think we have such a bill. The dynamics are such that we want to send a bill to the President that can receive his signature. I think when this process is over we will have such a bill, and I urge your support for H.R. 3.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in support of Stenholm-Shaw and opposed to the Downey bill as presented. There are a number of items that one could discuss in such a massive piece of legislation. I want to mention several and focus on one.

First, the bottom line is that the Stenholm bill provides up to $2,500 of money into the pockets of low-income parents with children. The Downey bill provides only up to $2,100 to those same parents, and yet the Stenholm-Shaw bill does that by spending a total of $8 billion less by the Government.

Stenholm-Shaw provides $2,500 in payments to parents; Downey provides $2,100. Stenholm-Shaw does that for $8 billion less in cost to the Government.

No. 2, we thought that standards were taken care of. Standards are taken care of all right. In the Stenholm-Shaw bill there are no standards in the legislation. In the Downey bill there are 41 pages of new Federal mandates and standards in the legislation, at last count up to 200 individual mandates.

I want to focus, though, on the section with regard to religious providers. It does seem to me, whether consciously or subconsciously, there has been somewhat of a bait-and-switch approach in the legislation. Remember that the Downey bill was not offered to Congress until the close of business after 5:30 on Tuesday afternoon, and yet the sponsors of that bill had told some who were concerned about using certificates in religious-based providers that they could do so even under the Downey legislation. I am here to report to you that the way the legislation is finally drafted, that is simply not the case. It is not the case in two parts.

First, under the Stenholm-Shaw bill, the legislation explicitly says that a parent can choose where to use their certificate, including a religious-based provider. The Downey bill, merely a statement that the prohibition against sectarian activities shall not apply for that particular subsection, but the fact is there is still a problem.

Second and more importantly, in the case of 13 specific States, the Downey bill prohibits the use of certificates in religious-based providers because the Downey bill requires, on page 43, that those providers shall be required to be licensed and regulated. The Downey bill requires licensing of religious-based providers before they can use their certificates.

Mr. DOWNEY. Mr. Chairman, I yield myself such time as I may consume.

There is a wonderful quotation from a poet, and it says that each child that is born is a reminder to us of God's faith in mankind. I believe that to be true and I suspect that all of us who are here debating believe that to be true.

The time has come for us to put our money where our mouths are, to stand up and to recognize, as we often do in the speeches that we give, that children are our most important natural resource in this country, and that for too long we have neglected them.

Happily, both the Stenholm substitute and that of the majority recognize some very fundamental principles. They recognize the principle of parental choice. They recognize the important role that the States will have in providing money to assure both the quality of child care and its availability.

The earned income tax credit, which was also proposed by my Republican colleague, the gentleman from Wisconsin [Mr. PETRI], has found its way here in a different and larger form. It will provide substantial amounts of money to working poor families to help them afford the child care that they desire. That is in both bills. There are some differences, but the lion's share of the provisions are the same. It is the heart of both bills.

Further, my Republican and conservative friends have made the point over and over to us, and not without some appreciation on our part, that it is time to trust the States to do a good job with money, to give them the widest possible latitude in how they spend the money for child care, and we have done that.

The gentleman from California [Mr. MILLER] and myself had a disagreement with the gentleman from Florida [Mr. HAWKINS] in the Education and Labor Committee about whether or not we should do ABC or use title XX. That debate has been resolved. We have decided to use the existing mechanism of law, title XX, which will guarantee the money to the States to provide child care. This will not be child care on a wing and a prayer. States will not have to worry about whether they will receive money or not once programs are started. It will be there.

Ours imposes, as has been pointed out and I suspect will be throughout the debate today, some minor restrictions on how that money is to be spent, and herein lie some very fundamental differences of opinion about child care. Many of us believe that there should be some standards, but we recognize the important responsibility of the States in setting them out.

So what have we done? We have said that the States shall develop standards, but that they can be the ones to make that determination. All that we say is that for child care providers, there should be a requirement for training.

Now, the religious issue has raised itself here. I notice that a number of my colleagues have written speeches that would have been appropriate to the ABC debate, but are inappropriate to this debate. They talk about the restrictions on how money can go to States. They talk about the fact that their bill presents parental choice and ours does not.

Here is the bill. Show me where it does that. Notwithstanding the erroneous statement of the gentleman from Texas about the licensing of religious providers, the fact is that the widest possible latitude is there for church-based providers to receive money and to be involved.

□ 1220

There is no way to construct the language to conclude, as the gentleman has suggested, that religious providers are prohibited. He can read it all he wants and say all he wants, the fact is that both bills will allow the widest possible range of choices.

Last, let me say one more thing about this debate. I lament the fact that this could not be a bipartisan bill, and I worked hard to make it one. My colleagues on the other side know that. I think it would have been better for everyone had we not had a battle, but we are here, and there are differences. The differences will be highlighted I hope honestly and fairly.

Do not mislead people about what is in our bill. It does not do you any credit. Recognize that our small desire for standards has nothing to do with an attempt to interfer with States, but is born out of our concern for the children of this country.

I would say one other thing with respect to this process. When there were religious differences, my conservative friends said, "Vote for me. We will fix them." And we accommodated their concerns. When there were concerns about vouchers, we fixed them. We now hear there are concerns about money. This reminds me most of the Saturday Night Live character the late Gilda Radner presented to us, Roseanne Roannadanna, who used to say, "It's always something." I submit to my colleagues it is always something with you, the grasping at straws about what we provide and what we do not provide, which is one indice of this, and another is this argument about the budget.

The gentleman from Texas [Mr. BARTLETT] talked about a figure of $2,500 under this version of the EITC, which spends $3 billion less over a shorter period of time. It must be the light beer equivalent of our bill, where somehow spending less money means more money for individuals, no mean trick if you can figure it out. But what is not mentioned in this is that almost $4.5 billion of the savings is a result of a delay of the earned income tax credit for 1 year. We differ with you on this.

We see the need to help working poor families immediately, not in a year's time, not when their children are a little older, but today, now, 1991, as soon as it can be put into law. That is where part of the budget savings is.

The other portions of the budget differences have to do with the fact that we believe that after-school programs, which have been actually done by the Committee on Education and Labor, are an important part of the building blocks of greater opportunities for children. That is another difference, and I am happy to highlight it.

We are saying to middle-class families all cross this country, "We are not going to forget about you. We recognize the fact that you drop your child off at a school, and it is convenient for you to have that child be safely and well cared for at that school, and we are going to provide some money so that it can be done."

What do you say? You say, "Well, we have less money, and you can fight with the other people as to how it can be allocated." You wash your hands of the middle class. We do not. We recognize the 5 to 10 million children who will need after-school care, and we care for them.

Therein lies the differences between our bill and your bill. Our bill is for all American children. Our bill is for all American parents. It provides the widest possible range and latitude. It richly deserves the support of this Chamber.

Mr. ARCHER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA]

Mrs. ROUKEMA. Mr. Chairman, I thank my colleague, the gentleman from Texas, for yielding me this time.

Mr. Chairman, I must reluctantly oppose the majority's day care bill, H.R. 3, and the Stenholm-Shaw substitute as well.

Time permits only an abbreviated explanation for my opposition, but I ask unanimous consent to revise and extend my remarks.

If we are to have a new Federal Child Care Program, I do not oppose vouchers for centers sponsored and operated by religious groups. Clearly the Federal Government already funds a variety of programs that are based in churches and synagogues. These programs work and they are not challenged on constitutional grounds. I believe that is a phantom argument. Moreover, we cannot ignore the fact that church-based groups supply an estimated 40 percent of all child care available outside the home. Any child

care bill passed by us needs to recognize this fact and make funding available to build on these successful programs.

As for the substitute backed by the administration, they want diversity and choice—and tax credits—but inexplicably they don't want to associate this program with the schools, except to the extent that Head Start continues. They do not wish to expand the program for before and after school programs for "latchkey" children.

Fundamentally, we do not have the right to create not one, but two new entitlement programs conservatively estimated to cost $28 billion over the next 5 years. This at a time when both parties are pledging no new taxes * * * when nobody except Mr. ROSTENKOWSKI—who is disavowed by his party leadership—will even touch the subject of meaningful, real world deficit reduction. And talk of a pay as you go package is nice but I do not see it anywhere in these bills.

Perhaps this is the way we are to spend the peace dividend which the administration tells us doesn't even exist? If so, I want to know it up front.

And finally, Mr. Chairman, you know that as surely as night follows day, this entitlement is bound to grow. This is only the downpayment.

Now to return to the programs proposed by these bills, namely title XX, block grants, Head Start expansion, and so on, I would take a very different and more cautious approach. My approach to the issue of child care proposes grants to the States in the form of seed money to develop programs at the State and local level cooperatively with community groups, local school systems and business. A meaningful startup could be accomplished with a grant program of approximately $300 million. In addition to being a program we can afford, it also has merit in stimulating innovation and in keeping direction and choice as close to home as possible—with the State, community, school, business, and parents—rather than a federally directed, mandated program.

This seed money could be used to initiate and build on model programs such as those established in Independence, MO, and in my home town of Ridgewood, NJ. The program in my hometown, established by Cathy Marino, was created and thrives today without the benefit of Federal funds.

Like the program in New Jersey, the Independence, MO, program is the result of the combined efforts of the community, business, the school system, and parents. By using the already available school facility, child care providers and parents have entered into a partnership that provides child care at an affordable price while giving quality and parent involvement top priority.

I urge my colleagues to keep in mind the successes of the Independence, MO, and Ridgewood, NJ programs. In our effort to help working parents pay for quality child care, we must not destroy the very kind of child care programs that we want, and ought, to encourage. With these new proposals before us today, we will do just that.

Again, I stress that we should encourage child care programs in States and communities across the country that have responded to the needs of working parents. The best way to do that is through block grants to the States as seed money to expand and build on the successful programs.

Any child care legislation that Congress passes should do four important things:

First, keep direction and choice as close to home as possible—with State, community, school, business, and parents.

Second, inspire and invest in innovation suitable for local needs.

Third, give flexibility to integrate existing programs in the public schools as well as church-sponsored programs.

Fourth, given our enormous budget deficit, child care legislation must be consistent with the objectives of a pay as you go system and the overarching need for deficit reduction.

The bills we have before us today do none of these.

Mr. ARCHER. Mr. Chairman, I yield 6 minutes to the gentleman from Minnesota [Mr. FRENZEL], a member of the committee.

Mr. FRENZEL. Mr. Speaker, I yield to the distinguished gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to point out a couple of things at this point in the debate as a followup to the eloquent presentation by the gentleman from New York [Mr. DOWNEY] on the majority bill.

One thing is absolutely clear, and I can point it out, paragraph and line, if the gentleman or anyone here in these chambers would like for me to do so.

The majority bill requires the States to regulate the child care facilities, whether they was to or not, if the vouchers are redeemable at those locations, and there are a number of States, some 13 or 14 States, that do not regulate religious day care centers that they would be required to regulate under this bill, and the authority on that can be found at the bottom of page 33, continuing on to 34 and into the sections that are referred to in those particular lines.

Another thing I would like to refer to is the recklessness of this House imposing standards on the States even though they are broad and, I am sure, well meaning. One of the standards provided requires that the care providers provide parents with unlimited access to their children whenever children of such parents are in the care of providers. That sounds great until you think about what kind of parents might be out there, and the fact that there may even be some restraining orders for child molesters who are parents, and I can tell you, and I can bring you into any city in this country and show you very disastrous occasions of that.

When we start regulating and telling these States, and we start writing the regulations up here in Washington, we are in for a world of trouble. We should not do this. It is a dangerous precedent.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his splendid contribution.

Mr. Chairman, I am horrified and terrorized by the escalating costs of the child care bills before us. The Democratic leadership's bill, H.R. 4381, is estimated to cost about $30 billion over 5 years. The substitute offered by Representatives STENHOLM and SHAW is expected to cost about $20 billion over 5 years.

There is a difference. Stenholm-Shaw is merely overpriced. The Downey-Hawkins leadership bill is obscene.

It is the same old story for Congress. The more Congress talks, and Congress has been talking about child care for some time now, the more it spends. It is again trying to stamp out the alleged "crisis in child care" by throwing more money at certain corners of the problem.

So here we are, confronted by two versions of a child care proposal that most of our citizens don't want, and at a cost, that very few of our citizens believe we can afford.

Last year when child care was being debated we were looking at $14.1 billion—over 5 years—for the Republican substitute, $17.2 billion for the Stenholm-Shaw proposal and a whopping $22.7 billion for the Democratic bill. Those prices were far too expensive then.

In the usual congressional bidding competition we have added nearly 50 percent more cost to last year's bloated bills. That is supposed to make the proposals "more attractive." But, ask any taxpayer. That is no way to deal with serious legislation like child care, nor to deal with a more serious issue like the budget deficit.

You have heard me time and time again on this floor criticizing our unwillingness to decrease, or even marginally scale back, spending. Despite your unwillingness to heed my warnings, I must make them again.

Passing expensive bills as these child care bills can only cause long-term harm. The children we are trying to help will inevitably bear the costly burden of our follies. It is a wierd form of child care that forces a huge debt on to the backs of our children and their children.

Even with offsetting receipts from the dependent care, tax credit and the telephone excise tax, the leadership bill would still cost taxpayers $14.5 billion and the Stenholm-Shaw bill would cost $6.4 billion. That is a huge difference and a clear distinction. The Stenholm-Shaw compromise is the only acceptable approach.

With the Gramm-Rudman targets looming over the horizon, $6.4 billion cannot be taken lightly. This body cannot begin to reduce the deficit or pass a sensible bill until it gets its own

fiscal house in order. Passing multi-billion dollar spending bills is not a step in the right direction.

I am amazed at the cost increases since President Bush first came out with his child care initiative. At that time it had a price tag of $7 billion. Stenholm-Shaw has tabled it. Metro-Goldwyn-Downey-Hawkins has quadrupled it. The Bush plan included many of the programs we are debating today, an increase in Head Start, a new child tax credit, phasing out the dependent care tax credit as well as making it refundable.

We have come a long way from this original initiative. It has taken brilliant Democrat leadership intervention to get the price up to $30 billion. That is what has been called the penalty of leadership.

Let us not lose sight of the main objective—the children and their well-being in child care settings. Our main goal is to give families some assistance while providing maximum flexibility, so they can make their own decisions about child care. I share my constituents primary goal of freedom of choice as a key factor in child care legislation. Thus, I strongly reject the idea of mandating requirements such as ones in the leadership bill.

Fifteen hours of training is an example of Federal encroachment into State rights that does not guarantee better child care. My State leadership, as determinedly Democrat as the leadership of this House tells me to get rid of that requirement. It can handle its own training.

The build up of a bureaucracy, such as H.R. 4381 proposes to do like its predecessor H.R. 3 before it, cannot guarantee quality in child care. What it does guarantee is that exactly the opposite will occur; decreased quality, increased costs, and yet another layer of Federal bureaucracy.

As much as I agree with my colleagues that child care is an important need, I find it awfully hard to swallow the large costs of these child care proposals. I agree that in order to give low-income working families choice in child care, that tax credits need to be strengthened. I further agree that using existing programs and allowing states the flexibility through title XX is the right approach. The wrong approach, however, is to require State mandates in child care facilities. Whenever did Federal mandates make a program safer or better? The parents, first of all, should be given the resource to make the child care decisions.

The costs of these two bills are a perfect example of Congress' good intention gone haywire, and of its manifest inability to manage the affairs of the people. I ask my colleagues to carefully weigh the funding implications and different approaches in these bills before casting a vote. The only possible fiscal conclusion is a vote for Stenholm-Shaw, and eventually, a vote against either.

□ 1230

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I rise in opposition to the Stenholm-Shaw substitute and in support of the compromise version of the Early Childhood Education and Development Act.

Mr. Chairman, It has been about 4 months since this body had the opportunity to finish what it started to do late last year—pass meaningful child care legislation. The closed door negotiations are over, the compromises have been made. Unfortunately, as is usually the case, the only people who suffer are those who can least afford to pay—our Nation's children and their parents.

While we debate the merits of this historic measure, thousands upon thousands of children suffer from a lack of adequate and safe child care services. Hopefully, since this measure was last on the floor, many of you have taken the time to visit with, and listen to your constituents. I would say the vast majority of you have heard the same stories—the supply of affordable, and I emphasize, affordable, child care is severely limited, and in many cases, nonexistent.

Representing the South Side of Chicago as I have since 1983, I have seen first hand, the needs of working families and the needs of those who cannot find work. The unfortunate reality of life in my district is that many children are growing up in single parent, female headed, households. Households with little to no income coming in to help put food on the table, clothes on their backs or shoes on their feet. Many of these women are unemployed and if they can find employment, cannot take advantage of it due to a lack of child care services.

The unemployed sincerely want to find a job at a livable wage. The myth that they want to live off Government assistance is just that—a myth. What they want is the opportunity to work at decent wages and provide for their families. But what becomes of their families while they are at work? All too often the children are placed in unsafe, uninspected and uncertified holding facilities because their working parents either cannot afford to put them in approved child care centers, or cannot find such facilities.

This Congress has an obligation to provide for those in our society who cannot do for themselves. My constituents cannot afford for this compromise to go half way, if that much, as called for in the Stenholm-Shaw substitute. The substitute simply fails to meet the true needs of American's working and nonworking families.

The substitute, unlike the compromise, does not address the quality of child care programs. It does not set aside funds for the thousands of children known as "latchkey" children. And it would continue the short-changing of the Head Start Program. Meaningful programs essential to enhancing real access to, and improving the supply of, quality child care, cannot be shortchanged. The Stenholm-Shaw substitute must be defeated.

My constituents are in desperate need of affordable and safe child care services. H.R. 3 provides opportunities for them to not only reenter the mainstream of society, but to also ensure the well being of their children. We cannot afford any further delay in passing this legislation. Far too many people are looking to Congress for leadership in this area and I urge the Members of this Chamber to defeat all substitutes and pass this much needed legislation.

Mr. GOODLING. Mr. Chairman, I yield myself 30 seconds to enter into a colloquy with the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Is it the understanding of the gentleman from Pennsylvania [Mr. GOODLING] that on page 43 if the language there relating to the child care funded by the State under the title were in fact in place, that the religious child care providers in our State of Pennsylvania would be ineligible for any money under the committee bill?

Mr. GOODLING. Mr. Chairman, I would respond to the gentleman by saying that the first I saw this legislation was at midnight last night, and as I read page 43, the gentleman is correct.

Mr. WALKER. In other words, the religious child care provisions that are in the committee bill are a total phony with regard to the State of Pennsylvania.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I rise in strong support of the Stenholm-Shaw provisions in the substitute that is going to be offered for a number of reasons. First and foremost, let us ask the question: In the era of deficit reduction in this country, since when did $20.5 billion not become a lot of money?

I am astonished by the rhetoric we hear on the floor here today that somehow suggests that we are cheap on child care because we are only spending $20 billion.

I have to say in all honesty, I am afraid there are some Members around here who are so drunk on spending dollars that their only key is how much more can we spend than the other side.

The second question and point I have to bring up is on the religious issue. There is no debate about Stenholm-Shaw. I am not here to suggest a final resolution about the Downey-Hawkins bill, because I do not think it has been resolved yet. But I know that there is no debate about Stenholm-Shaw on the religious issue.

The third question that I bring up is the whole issue of Federal regulations. Whether you like it or not, there are 41 pages of Federal standards that every State must meet, and for a State to receive any funds under this particular proposal, within 3 years you have to develop regulations.

I am struck by the education groups that are saying:

Well, we cannot allow vouchers for child care because that is a foot in the door for vouchers for education.

Do you want to talk about a foot in the door? You ought to talk about the 41 pages of standards that are in this bill, because once you mandate State set standards, you are going to mandate within 3 years that the State standards are not good enough and we have got to make Federal standards for child care. Mark my word.

Mr. DOWNEY. Mr. Chairman, I am going to take 2 minutes and end this legal scholarship on the floor about what pages 43 and 33 mean, so we can put this to bed and Members can find something else to argue about.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would like to ask the gentleman from New York [Mr. DOWNEY], the language that is contained as the gentleman referred to on page 43 and page 33, the language there, especially on lines 23 and 24 of page 33 and on lines 10 and 11 of page 43, does that mean that the State is required to license and regulate all child care centers, including religious?

Mr. DOWNEY. No, it does not require the State to license religious providers.

Mr. VOLKMER. If the gentleman will yield further, it means that if the State does elect to license or regulate religious child care providers, then they must use the standards?

Mr. DOWNEY. Mr. Chairman, that is correct.

Mr. VOLKMER. If the gentleman will yield further, it also says, as I read it and as the gentleman from New York reads it as the author of it, does the gentleman agree that no State will be required to license?

Mr. DOWNEY. Mr. Chairman, that is correct. Let me state it once and for all. The gentleman is correct.

Mr. VOLKMER. If the gentleman will yield further, the gentleman is the author of it. I want to have his interpretation.

Mr. DOWNEY. Mr. Chairman, I want to make it clear on the record, I know Members are anxious to hear it, so let me say it so Members understand it, because there are other things to talk about. The bill says that if a State chooses not to license religious providers, they may do that. The bill further states that in the process of not requiring that license, they are still eligible for title II money. One may not agree with it but that is what it says.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, today has been a long time in coming. There were times some of us wondered if today would ever come. But that is understandable, an acceptable day care bill means different things to different people.

However, the committee bill before us means the bottom line is we have come through all the changes and still have a comprehensive bill. It includes: First, an extended earned income tax credit—not exactly day care per say but a great deal of help to low-income families with young children; second, increased block grant money to States for child care services; third, expanded Head Start, a proven successful day care program for disadvantaged children; and fourth, before and after-school site day care.

Oh we do not agree on everthing.

This proposal also requires States to have day care standards in certain areas of health, safety, and quality within 3 years.

I guarantee we will be back before that wishing we had done more. This is only sensible. I wish there were more standards. It does seem ludicrous to be allocating this amount of funding and not insisting on more safety standards.

Also, many of us wish the bill had more day care staff training and more increased day care sites. However, I know others wish we did not even need this bill and mothers would stay home and take care of their children.

But neither extreme happened. Instead, the bill before us experienced a multitude of compromises, a year of negotiations, and most recently the result is comprehensive day care.

If passed, many children in the United States will receive additional day care and multitudes of parents will breathe easier. I say that is not bad.

□ 1240

I think that is a good job. So let us just vote for it and get on with it and join all of those other nations.

Mr. SHAW. Mr. Chairman, I would like to invite the House to listen closely to what the gentleman from New York [Mr. DOWNEY] said. What he is saying is that the committee bill does not require States to regulate religious day care centers. He is correct, but if those vouchers are redeemable there, they darn well are required to regulate them; that is what the bill said, and I am sure the gentleman from New York will agree with me on that.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], a member of the Ways and Means Committee, who has worked long and hard on this particular bill before us.

Mrs. JOHNSON of Connecticut. Mr. Chairman, as we debate some of the details of this bill, which indeed are very important, I do not want Members to lose track of the enormous significance of this day for America's women and children. Not only do we have the chance today to provide significant new resources to enable our poorest children to receive better care, but at long last we have the opportunity to adopt a family support policy that will directly attack poverty in working families.

We know from experience with another income support program, Social Security, that poverty can be reduced through income support policies, and indeed poverty among seniors is the lowest of any group in America. So today, with the expansion of the earned income tax credit, we take a giant step forward by adopting an income support policy that is not only sensitive to income and size of the family, but also, if we adopt the Stenholm-Shaw amendment, sensitive to the most vulnerable members in our society: infants.

Through the Stenholm-Shaw program we powerfully attack the problem of children in poverty, but we also empower parents to make the choice of caring for their own children. By expanding family income we make part-time work an option, we make it even possible for one parent to concentrate exclusively on caring for children if the other parent is employed.

When children are young and parents' responsibilities are many, expanding the incomes of America's lowest earning families is indeed sound policy and will encourage the building of strong families and the creation of greater fairness throughout our society. There are regulatory issues in this bill that deserve and need addressing. In the course of our debate we must get to them, because they could dramatically reduce the availability of service for those very same poor fami-

lies. But at this time let me urge your support for the Stenholm-Shaw substitute because it provides the most generous income support policy for America's working poor families.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I rise in support of the leadership bill, H.R. 4381, which is a rewrite of the Hawkins bill, H.R. 3.

At the outset, I want to say that no one ever in my 25 years here has worked longer and harder in trying to get day care legislation such as we have before us today than the gentleman from California [Mr. HAWKINS]. We have some late volunteers here who are sudden experts in the field, but there are people on both sides of the aisle, Democrats and Republicans on that committee, who have been wrestling with the problem for a long time.

The protracted debate over child care in this Congress has created unfortunate confusion about the proposals under consideration today. At issue today is not whether or not federally funded child care programs are needed. There is a general consensus that, while the Congress may not be able to completely solve the Nation's child care crisis, it most certainly can and must make an important contribution toward lessening it. Nor does the child care debate focus on how much money should be spent on child care. The general consensus is that child care is important enough to spend several billion dollars from the start. The alternatives we will consider today—the leadership package and the Stenholm/Shaw substitute—are not vastly different. The discussions today will illustrate their many similarities along with their few differences.

Today we are considering two proposals: H.R. 4381, which is a modified version of the Education and Labor Committee's bill, H.R. 3, and a substitute to that bill offered by Congressman STENHOLM and SHAW. Some have characterized the Stenholm-Shaw substitute as a wholly different approach to child care, arguing that only Stenholm-Shaw is "pro-family" and only Stenholm/Shaw offers parents "choice" in the care of their children. In truth, the Early Childhood and Education Development Act and the Stenholm-Shaw proposals are far more similar in this regard than they are different. Both proposals authorize an increase in Head Start appropriations for full-day, full-year services for low-income families. Both proposals give a tax credit to families with young children by expanding the earned income tax credit program. Both proposals would help finance this tax benefit for low-income families with children by limiting the amount upper income families can earn and still qualify for the dependent care tax credit. Both proposals would establish an assured set-aside for child care under the existing program, title XX of the Social Security Act. Both bills reinforce parental choice through the use of the vouchers through this title XX program. Both bills provide a modest amount of funding for loans to small businesses which wish to offer child care services.

Having named the similarities, I would like to concentrate on the differences, which is why I support the Early Childhood Education and Development Act unequivocably. There are three primary reasons to support H.R. 4381.

First, the bill requires that each State receiving the funds earmarked under title XX must establish its own child care standards in specified areas, such as the ratio of children to adults, and providers must meet those State standards to qualify for Federal funding. This offers minimum protections for children who are being cared for by those other than their parents.

Second, the bill authorizes, at the discretion of each State, various activities to help improve the quality of child care, such as developing resource and referral programs, providing training to providers, providing loans to improve facilities. From countless studies, including the acclaimed Perry Preschool Study from my district, there is documented proof that a high-quality child care program has positive and long-lasting effects on children who have participated in these programs.

Third, and most importantly, the leadership's bill offers an additional title, title II, to create school-based programs for before and after school care and preschool care.

The leadership bill authorizes $429 million in 1991 for title II to establish programs operated at or through schools for early childhood development or before and after school care. The program does not create a new bureaucracy. Rather it builds on the existing structure established through chapter I of the Elementary and Secondary Education Act, which sends Federal support directly to local educational agencies. Such programs would be designed to assure working parents that child care would be provided for all their children regardless of age, at one location for the entire working day. Children from families who are at the poverty level would be provided services free of charge. Families who earn up to 160 percent of the State's lower living standard could receive a Federal subsidy for child care, based on a sliding fee scale.

Mr. Chairman, child care programs must be able to take the place of the working mother, who spends 8 or more hours a day away from home to pay for her family's food and housing. By the year 2000 75 percent of all two-parent families will have both parents in the out-of-home work force. This means there will be 2 million infants, 9 million children between age 1 and 5, 7 million school children ages 5 to 9 and 8 million 10 to 14 year olds with mothers in the work force. By the year 2000 these 26 million children will need child care either during the entire workday or before and after school. It is essential that any Federal initiative passed by this Congress include a strong educational component as is reflected in the leadership's package so that the youngest among these children will be ready to derive the maximum benefits from school and the school-aged children will use their out-of-school time wisely through both recreational and school-related activities.

I would like to call the Members' attention to the fact that there is a real irony involved in this bill. I am not going to hold myself out as a constitutional expert, but I have been studying the church-state decisions of the courts for a long time. I have no doubt in my mind that the language that is in this bill, and the language that is in the Stenholm bill, is unconstitutional. There is one way for those who are sincere, not in grandstanding for any bloc of religions, but who are sincere about giving access to children to church-related day care centers, and particularly to the educationally based programs in nonpublic schools. These Members should support the Edwards amendment, because I have the suspicion that the adoption of the Edwards amendment, contrary to popular thought on this floor, might sanitize this legislation to the point where it would pass constitutional muster. If Members vote down the Edwards amendment, they are going to learn about the glory of a strict constructionist court, because I can predict the outcome of that litigation, and predict that it will be very prompt after the President signs the bill, if he chooses to do so.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. PETRI], Mr. EITC himself.

Mr. PETRI. Mr. Chairman, I thank the gentleman for yielding me this time. I also would like to thank my colleague, the gentleman from New York [Mr. DOWNEY] for his generous remarks in his earlier statement on the floor.

Mr. Chairman, I note that most of the money provided by each of the two alternative child care bills before us would be spent on an expanded EITC adjusted for family size.

In my opinion, that represents major progress. I have been arguing, along with others, for several years now that the fairest and most efficient

way to help low income families with children is EITC reform.

The problem is insufficient income with which to support children. And the solution is to supplement wages directly, according to need as determined by famiy size.

The basic principle here is to provide needy working parents more income and let them decide how to spend it. There is now broad support for that. We could pass a separate EITC bill in the twinkling of an eye. In fact we could have passed one long ago.

What's holding up this bill, and will probably hold it up some more even after we finish here today is the rest of the bill—the part that tries to tell people how to spend their money.

There's no need for all the wrangling over those issues. Just take whatever money we're going to spend and give it to neeedy working parents through the EITC.

We could and should have done that long ago. We could and should do it today. Still, I am happy that at least we seem to be moving in the right direction.

I'd also like to point out that on my reading of both the base bill and the Stenholm substitute, nothing in either bill would prevent a State from using up to 90 percent of its new earmarked title Twenty money for a State level earned income tax credit if the State so chose.

In case a State chose to do that, surely the requirement to offer a certificate option to parents would be superfluous, since the EITC would be simpler and more flexible than a certificate.

Mr. Chairman, just as most of the Federal money for child care is likely to be provided through the Federal EITC, it seems to me the simplest thing for the States to do would be to follow our example. Surely this is the best way to help needy working parents.

□ 1250

Mr. DOWNEY. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Subcommittee on Human Resources, the gentleman from Tennessee [Mr. FORD.]

Mr. FORD of Tennessee. Mr. Chairman, I am pleased to come to the floor today in support of H.R. 3, the Early Childhood Education and Development Act.

I would like to commend my chairman of the Committee on Human Resources for a job well done, along with the gentleman from California [Mr. HAWKINS] who is also chairman of the Committee on Education and Labor in this Congress.

Mr. Chairman, this bill is of vital concern to millions of Americans and is based upon the premise that all of society benefits when the Government helps strengthen the ability of families to address the needs of their children of this great Nation.

Mr. Chairman, current estimates indicate that nationally the average cost of full-time child care is approximately $3,000 per child annually, with infant care dramactically higher. The impact on low-income working parents is even more severe in proportion to their income. For low-income families, child care expenses consume 20 percent of family income as compared to 5 percent for more affluent families.

Child care is no longer a luxury for the rich, but a necessary service for many Americans. The demand for child care is increasing and is expected to rise significantly higher by the end of the decade.

However, Mr. Chairman, in addition to high cost, parents seeking child care services face many other barriers: limited supply and inconsistent quality. These factors limit child care choices and often force parents to settle for whatever is available rather than what is needed.

Parents with few options face the real prospect of having to leave their children in unsafe and unhealthy places during their work hours. The lack of quality child care has reached such crisis proportions that we cannot continue to address it with a band aid approach.

This bill today is a real response to the health care needs of this Nation. Rather, we must begin to establish a child care system that is reliable, accessible to all children, and becomes part of the very structure of society.

Mr. Chairman, I believe H.R. 3 is the answer. The issue here today is not a matter of church-state or vouchers but the welfare and best interest of our children. Religion should not be the focal point of this bill.

This is a children's bill, a bill about the welfare of children. America's children cannot afford expensive lobbyists, do not contribute to political campaigns, and cannot vote for their representatives.

But they do deserve the support of their representatives on the floor. If we do not care for our children today, they will not be able to care for themselves later. Our children's future and certainly our Nation's depends on what we do here this afternoon.

Mr. Chairman, I urge my colleagues to give full support to H.R. 3 today on the House floor.

Mr. SHAW. Mr. Chairman, may I ask how much time remains for each speaker?

The CHAIRMAN. The gentleman from California [Mr. HAWKINS] has 18 minutes remaining, the gentleman from Pennsylvania [Mr. GOODLING] has 16½ minutes remaining, the gentleman from New York [Mr. DOWNEY] has 12½ minutes remaining and the gentleman from Florida [Mr. SHAW] has 15½ minutes remaining.

Mr. SHAW. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. CHANDLER], a member of the Committee on Ways and Means.

Mr. CHANDLER. Mr. Chairman, if I may, I would like to address the question of religion in day care in the context of this debate and an amendment that we will see later today.

I want to make it clear that I favor choice, I favor parents deciding what is best for their children. We need to consider some facts.

The fact is in the State of Washington, which I represent, and in the rest of the country, approximately a third—it ranges, 30 percent, some higher—of all the day care takes place in churches, synagogues, temples, religious-based day care. This is good quality, dependable, safe, reliable day care.

It is overwhelmingly the first choice of parents, poll after poll has indicated that.

It is also a fact that parents who will qualify under title XX do or will desire to have their children in religious day care.

Now, the Constitution of the United States prohibits the establishment of a State religion. It also prohibits restriction, limitation, inhibition of any kind of a religious practice by the Government.

Now, does Stenholm-Shaw violate that separation of church and state? My view is no.

If an individual takes their child along with a voucher, a certificate, that is not a decision by the Government, that is a decision by the individual. It neither establishes a religion nor does it interfere with religion.

We do not tell an AFDC recipient, a welfare recipient, that, "You can't take a dollar of that money even if it is your only source of income and put it in a church collection plate." That is none of our business, that is their property.

It is my view that a voucher or a certificate is exactly the same thing when it is being used for day care.

Specific to the Edwards amendment that we will face later on: My understanding of that amendment, if it is adopted to amend Stenholm-Shaw, if a parent walks up to a religious day care center and presents that voucher, that day care center, then makes an important decision. It either says, "No, you cannot bring your child here," or it says, "Yes, you can. We will take your voucher and we are going to completely change our practice as a result of having done so or face a lawsuit." Clearly.

And that change that would be necessary would be to take the crosses or any other religious symbol off the walls, no prayer, no limitations on hiring. Catholics would have to hire Jews, Jews would have to hire Catho-

lics and so on. And that removes choice.

I urge my colleagues to support Stenholm-Shaw. If there is a constitutional question about this, and there may be, as my colleague from Michigan points out, let us the court decide it and not prejudge that issue today.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentlewoman from California, [Mrs. BOXER].

Mrs. BOXER. I thank the gentleman for yielding.

Mr. Chairman, I think our House soars when we do something that addresses the hopes and the dreams of our people.

Today, by passing H.R. 3, we do something to make those hopes and these dreams possible.

What are these dreams? To be productive members of society, to provide for ourselves and our children, to help our families give our children the support they need to grow up strong and assured and healthy.

When our families are searching for quality child care and cannot find it, that is a negative. When our families feel that child care will not have basic standards of care, that is a negative. When our families have to pay a quarter of their income for child care, that is a negative.

Today we can change all that by passing the Democrat bill that has training standards, that has before- and after-school care, that gives States wide options to build the programs to suit their particular activities.

I am proud to be here today to see that vision achieved.

Mr. HAWKINS, Mr. MILLER of California, Mr. DOWNEY, Mr. KILDEE, they deserve our thanks for getting us to this point.

And to the children of America, I have a message for you: You are moving up on America's priority list. And, who knows, maybe you will even surpass the Stealth bomber.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. ROBINSON].

Mr. ROBINSON. Mr. Chairman, first let me state that I am not a constitutional lawyer and on this particular day I am thankful to God that I am not.

But I am the parent of six children and the grandparent of seven grandchildren.

I have listened to the debate today, and I was reflecting back early on in my marriage in which my wife and I were both working. We chose to put our six children at a religious day care center because we wanted our children to learn something about religion. We wanted them to learn how to pray and to be thankful for God, early on in their lives.

□ 1300

As I look at the Democratic proposal today, I have to just shake my head and wonder why, in a body that we start our each and every day with a prayer, Members look up here and it says "In God We Trust." Why would they submit an antireligious day care bill? It is beyond my comprehension.

We have three daughters that are young, working mothers. One of their biggest expenditures is child care. They want their children and our grandchildren in a religious day care center because they think we have too many, too many day care centers that really do not care about religion, they do not care about the formation in the early years of our grandchildren's lives, about teaching them the difference between right and wrong.

I will say this: That if we pass the Democratic bill today, it will be a sad commentary on the integrity of this institution. We can argue constitutional law all we want to, but I can state with a clear conscience that I think there are more of us than there are of you, and that is why I support the Stenholm-Shaw amendment.

Mr. DOWNEY. Mr. Chairman, I yield 2½ minutes to the gentleman from Ohio [Mr. PEASE]

Mr. PEASE. Mr. Chairman, as a member of the Committee on Ways and Means, the Subcommittee on Human Resources, I am pleased and proud to stand here today and support this leadership package, and particularly to commend our subcommittee chairman, the gentleman from New York [Mr. DOWNEY], for what I consider to be a magnificent job of leadership over the last few months. It has been a long and difficult path to where we are today. It was not easy to find compromises between the Committee on Ways and Means' version and the Committee on Education and Labor's version of child care legislation.

After some months, we did find those compromises, and the leadership package before Members today is that product. It deserves your support. The leadership package will be strengthened by the Price and Edwards amendments, and I urge your support for them.

The leadership package will not be strengthened, it will be weakened by the Stenholm-Shaw amendment. I urge Members to oppose it.

The leadership bill, my friends, is prochild, directly through an expansion of title XX, directly through school-based care provisions, and directly through Head Start expansion. It is also profamily through the EITC, the earned income tax credit provisions, which will allow families to get additional cash in their pockets and make their own decisions about where they want to spend those dollars, whether they want to spend those dollars in a central day care center, or with a neighborhood baby sitter, or whether they want to encourage the father or the mother to stay home and take care of those children.

It is also proworking Americans, again, because of the earned income tax credit. The last 10 years have seen terrible things happen to low-income Americans in terms of unfair taxes. This earned income tax provision of this bill, as a bonus, helps to redress that situation. All in all, this bill is a good bill, an excellent bill, richly deserving of your support. I hope Members will support Price, support Edwards, oppose Stenholm, and vote for a final passage of this bill.

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Chairman, Alabama is one of the States that grants religious freedom, and I rise in support of Stenholm-Shaw.

We have had several weeks to examine the Stenholm-Shaw proposal, and only a few hours of rumors in the Cloakroom to get a vague idea of what is in the partisan Democrat package.

From what I've heard about the Democrat bill, there is no doubt that the Stenholm-Shaw proposal is the best of the two, primarily because it clearly allows parents to select the day care providers of their choice, including religious day care programs.

Churches and other religious organizations provide an estimated one-third of all center-based care and in many areas, especially rural areas, offer the only care available. Yet, it is unclear in the Democrat proposal as to whether parents will be given an opportunity to buy whatever sort of care they want for their children.

Parents should be able to decide where they are going to send their children, and if they want to send them to a church child care facility, then they should be eligible for the same Federal assistance as if they send them to an ABC child care facility.

I would have liked to have seen the Democrat proposal before I arrived on the floor this morning, but the unfortunate trend that is developing in the House did not allow me. It seems that the rush to judgment in secrecy is becoming a habit of a few, led by those who believe that a deliberative, reasoned evaluation can only impede their agenda.

I hope that the House will return to the method of thoroughly analyzing the issues, especially when dealing with such sweeping legislation as child care.

It is clear that parents will be given freedom of choice through Stenholm-Shaw, but nobody seems to know if parents are protected by the Democrat proposal. Vote yes for the family, and vote yes for Stenholm-Shaw.

Mr. SHAW. Mr. Chairman, I yield 2 minutes to a member of the Committee on Ways and Means, the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. Mr. Chairman, I thank the gentleman for yielding time to me.

The argument today is not about whether we have child care or not. I have not heard any person speak yet as to whether we ought to have child care or not have child care. We all agree we need to have child care. That is not the question.

One of my colleagues quoted from "Saturday Night Live," "It is always something." Well, it is always something.

Let me tell Members what that something is. It is a question of cost, and it is a question of choice. The cost is a good deal more, $8 billion, as the gentleman from Texas [Mr. ARCHER] said earlier. We do not measure love for our children by how much we spend, my friends. It does not mean we love our children more when we spend more money. We need the best kind of child care bill for the best price. We need to invest in our children a balanced budget, and less deficit, and I say to Members if we vote for the majority child care bill, Members are going to be voting for a bigger deficit, we are going to be voting, probably for a tax increase. Let Members vote on what is needed.

The second point is choice. The choice is, who decides what kind of care we have? Is it the parents, or is it the Federal Government? I do not know if other Members have been getting phone calls like I have been getting phone calls, but I have been getting many, many calls on behalf of Stenholm-Shaw. I support that, and I urge Members to vote for that. I think it is in line with the majority of people in the country. Be careful and vote against the Gephardt amendment, against the Edwards amendment, because it will, in fact, gut Stenholm-Shaw. Members cannot vote for those and satisfy the constituents at home who are urging Members to vote for Stenholm-Shaw.

Therefore, friends, let Members make the right choice, let Members vote for Stenholm-Shaw.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, I rise in support of H.R. 3. If there were no other reason to vote for it, I would argue that it comes down to the question that when the school bell rings, every kid should have a safe place to go.

Many go home to mom. But for many others, mom's not home yet.

She may want to be. I wish every mom could make that choice.

But some moms are the only adult in their family.

Other moms and dads both have to work, just to give their kids a home, food, and clothing.

For many American families, have a parent home after school means more than giving up luxuries. It means living in poverty or going on welfare.

Today more than 15 million school kids live in families where every adult works.

And that number is skyrocketing.

The amount of awake time that school kids spend out of school each year exceeds the amount they spend in school.

The quality of the care that these kids receive before and after school has a significant affect on their lives.

The National Research Council's recent report on child care policy cited two studies which compared children in a model after school program with a program of much lesser quality.

The kids who were in a high quality after school program were getting higher grades in school, and had higher standardized test scores.

More important to the kids themselves, these same studies showed that their teachers rated them as among the best in their classrooms at making and keeping friends.

What does all this mean? It means kids need a safe place to go. They need care just like mom would give them if she could—care that teaches and nurtures.

This bill will give these kids a chance to get that kind of care—in trusted community settings, like schools and Y's in churches and homes.

A vote for the Early Childhood Education and Development Act is a vote for Congress' most significant legislation in a quarter of a century. The kids and the country need it.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, let me simply say I am deeply concerned about not just the religious issues in the bill, but the evident religious bias in the bill.

□ 1310

Why would we use such strong words? I use such words because the committee bill actually has new restrictions on religiously affiliated organizations that do not presently exist in current Federal law. These are new restrictions.

So much of the debate has been: Are we going to open up through certificates the eligibility of parents to choose religious providers? What is being missed is that there are new restrictions on religious providers.

For example, there is a new test. There is a prohibition on funding any sectarian purpose or activity under title III of the bill other than the certificates. That is any sectarian purpose or activity. There is absolutely no other precedent in statute law for that kind of blanket restriction. It exceeds the lemon test. The lemon test gives us three goals:

You have to have a valid secular purpose if you are going to be dealing with the State; you have to be sure you do not have a primary effect of advancing religion; and you have to be sure you do not have excessive entanglements of church and state.

That language goes beyond the existing lemon test, and it is a restriction on the ability to utilize religiously affiliated organizations.

Second, the bill puts restrictions on the title VII protections for religiously affiliated organizations in terms of the Civil Rights Act, title VII, protections for religious organizations.

I want to point out that that is new language. It is a restriction on religiously affiliated day care providers. In both cases it is a retreat from present law.

I think we should broaden choice, and I think we should allow for religious providers. After all, they account for 30 percent of the day care out there, and poll after poll tells us they are the first provider of choice of the parents.

But when we point out then that we have not guaranteed the choice of the parent through that so-called certificate system, that it is really buried elsewhere in other parts of the bill and there are restrictions on the use of those certificates, when we consider that and put these other portions in the bill, I would submit, Mr. Chairman, that this is genuinely antireligious in terms of putting in new constraints that our religious providers hitherto have not had to comply with, including under title XX.

We have existing title XX programs. Many departments of social services contract with religiously oriented groups. They do it in other areas, too. We do it for drug abuse, health screening, and neighborhood health centers. My church started a drug rehabilitated program, and it probably is incidentally or inadvertently involved with some sense of mission toward society that is religiously inspired.

Does that mean it should not be allowed to service community needs? According to the language in this bill, in title III, section 2012, any such funding whatsoever will be prohibited.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HENRY] has expired.

Mr. GOODLING. Mr. Chairman, I yield 30 additional seconds to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, let me also point out that there are a lot of people who feel that both bills, the committee bill and the Stenholm-Shaw bill, mandate vouchers. That is correct, they both mandate vouchers, but the committee bill leaves up to State law what the vouchers can be

used for, whereas the Stenholm-Shaw bill allows that voucher to be utilized for any appropriate day care provider under State law. That is to say any lawful provider of day care can receive that certificate. The committee bill denies that choice to the parent.

So the debate is not specifically in terms of whether or not you get a certificate. The issue is what you can do with it, and the committee bill does not give to the parent the ability to choose the vendor of his or her choice.

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I support this legislation and applaud those who constructed it. I think it makes sense, and it is a good piece of legislation.

Missing in this legislation, however, is an ingredient that would provide child care funds on Indian reservations. Nowhere is the need more acute for child care than on Indian reservations. We must solve that problem. We must in conference deal with this issue.

We talk about children generically. Let me put a face to these issues. About 4 weeks ago I met with 4-year-old Tamara DeMaris, she had a broken nose, broken arm, broken leg, and hair pulled out by the roots. This was child abuse of the severest kind. No, it was not in a child care facility; it was in a foster home.

But child care issues for the defenseless among us, the children, are critically important. We must protect them. This child care bill is very important, and I am going to support it. But we must go further. We must provide child care moneys for Indian reservations. If we fail to do that, we will have missed our mark, in my judgment.

So, Mr. Chairman, I hope for cooperations when we go to conference to solve this problem on behalf of Tamara and all the other children who need that help.

Mr. SHAW. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. STENHOLM], co-author of the Stenholm-Shaw substitute.

Mr. STENHOLM. Mr. Chairman, I want just to touch quickly on one of the major differences between H.R. 3 versus the Stenholm-Shaw substitute.

I would quickly point out that there is 95 percent agreement from this Member to the Ways and Means Committee provisions, but there is a lot of interesting language in H.R. 3 that was borrowed from or inserted by the Education and Labor Committee. The new H.R. 3 mandates that States apply standards and enforcement policies, tailored to detailed Federal specifications, to all child care funded under title XX. That has major implications for Alabama, Florida, Illinois, Indiana, Maryland, Mississippi, Missouri, New Jersey, North Carolina, North Dakota, Pennsylvania, South Carolina, and Virginia, the States that exempt religious child care providers from State regulation. If you happen to represent a district in one of those 13 States, read the language in the bill. Do not listen to the debate, read the language in the new H.R. 3 as it pertains to your State and the status quo. That bill requires State standards and enforcement policies as a condition of Federal assistance—including vouchers. The language is convoluted and some may think it can be read either way. But look at Stenholm-Shaw and you will see that our language is very clear, very specific. It does not have an excess of words. It does not take a lot of interpreting by lawyers. And it doesn't change the rights of States under the status quo to choose to regulate or exempt. Just read the bills.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Chairman, I rise today to express my support for this compromise child care package, although I do want to express disappointment at the way this issue has been handled. Frankly, if the child care legislation were an actual child, Congress would be charged with both abuse and neglect.

And who has paid the price for these needless delays? The families of America, that is who. According to one estimate, Congress' footdragging has cost working families with small children some $900 already.

I hope that today's process will expedite the House-Senate conference. I want to urge my colleagues to support the Hawkins-Downey compromise package. I say so because it is the only proposal before us that gets to a key child care problem—the quality, the health, and the safety factors in child care. This is not just the opinion of one Member. I ask the Members to listen to what the National Research Council of the National Academy of Sciences had to say recently on this issue:

> Of greatest concern is the large number of children who are presently cared for in settings that do not protect their health and safety, and do not provide appropriate developmental stimulation * * * poor quality care, more than any single type of program or arrangement, threaten children's development.

They go on to say this: "A great deal of available out-of-home child care appears to be of poor quality." This poor quality care early in life, the Council pointed out, leads to developmental problems later in life.

The Council is unequivocal in terms of how to solve the crisis:

> The Federal Government should initiate a process to develop national standards for child care * * * incentives must be created to encourage State development of standards.

In the Hawkins-Downey package, States are given incentives to create their own quality standards. This bill, quite modestly, does not create or mandate national standards.

In contrast, proponents of the Stenholm amendment abandon the issue of quality and seem to say that quality is incompatible with parental choice.

Hawkins-Downey provides for a wide range of choices. There are real choices among options that will meet at least minimal quality standards. Parents should have this choice if they cannot fall back on relatives to whom they can entrust their children. Having standards means that parents will have some confidence that their children are being cared for properly or that parents will have the right to visit their children unannounced—one of the best methods of preventing child abuse.

And they are standards that, from a fiscal responsibility perspective, ensure that the billions of taxpayer dollars are being used for services of basic acceptability. We demand that of every other Federal program. Why not for our children?

Mr. Chairman, the families of this Nation have had to wait an unacceptably long time for Congress to enact child care legislation. For example, I introduced my first bill some 6 years ago. We are finally on the verge of passing a bill. Let us make sure it is child care legislation that American parents both want and need.

□ 1320

Mr. GOODLING. Mr. Chairman, I yield myself 3 minutes.

First of all, Mr. Chairman, I want to congratulate the gentleman from Iowa [Mr. TAUKE] and the gentleman from Michigan [Mr. KILDEE], two people who worked hard on child care legislation long before it became such a popular issue and long before everybody got into the act.

I also want to say, "thank you," to my chairman. We worked very closely up until 3 weeks ago trying to work out what I thought would be a good child care proposal.

In doing that, Mr. Chairman, we agreed on title I, we agreed on title II, we agreed to get rid of the Federal prescriptions in title III, we agreed to title V.

I will admit it was not my committee who now brought some of those disagreements back into play. It was the other committee, and those things that came back into play that I really had problems with deal with Federal prescriptions.

Mr. Chairman, when we started this whole debate, it was my feeling that child care was very important for one particular segment of our society, as

far as the Federal Government was concerned, and that our Federal responsibility was to make sure the working poor could continue to work, and that is where I thought our responsibility ended from the Federal level.

My second concern was that there were those who were going to somehow or another believe that we could federally prescribe not allowing to happen in day care centers what has happened throughout this country, that somehow or another we could take those horror stories off of the front pages of the newspaper if only we could write a bunch of prescriptions, and I am here to tell my colleagues that those horror stories generally happened in the States that had the most prescriptive day care rules and regulations throughout the entire country.

Mr. Chairman, there is no way we can federally prescribe that those horror stories will not happen, and so I now have problems with title III because I believe it is federally prescriptive. I have problems with title VI because I also believe, and we sort of negotiated this out of the Education and Labor package, that that is a backdoor approach to eventually having the Federal prescriptions that I do not believe should be in place.

So, Mr. Chairman, I now find myself in a position, having worked a long, long time to try to improve the Education and Labor bill, that putting the two together I find it an unacceptable bill.

I also have a real problem, I suppose, with $30 billion. I would hope that somehow, and I am not sure how that will happen, that by the time we finish this year we will have a bill that I can wholeheartedly support, and what happens today will have a lot to do with that, and what happens then in conference will also have a lot to do with that.

Mr. DOWNEY. Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. MILLER], the distinguished chairman of the Select Committee on Children, Youth, and Families.

Mr. MILLER of California. Mr. Chairman and members of the committee, let me begin by thanking everyone who has been working on this legislation, the gentleman from Michigan [Mr. KILDEE], and the gentleman from California [Mr. HAWKINS], and the gentleman from Iowa [Mr. TAUKE], and the gentleman from Pennsylvania [Mr. GOODLING] from the Committee on Education and Labor, and the gentleman from Illinois [Mr. ROSTENKOWSKI], the gentleman from New York [Mr. DOWNEY], and the gentleman from Florida [Mr. SHAW] from the Committee on Ways and Means. I also want to thank the staff of the Select Committee on Children, Youth, and Families, which I chair. For over 7 years, this staff has developed a seminal body of knowledge on child care that has educated and energized the Congress and the Nation.

Mr. Chairman, we are going to have a child care bill. That in and of itself is a milestone. When we complete the debate, we will have probably the most significant act that this Congress has passed on behalf of children since the public school acts of the 1960's.

However, Mr. Chairman, there is a distinction between these bills. Let us remember that. There is a distinction, as the gentlewoman from Maine [Ms. SNOWE] said, about how they address the health and the safety of our children and the quality of those child care programs.

Many have taken this well today and suggested to us that standards are bad, that we should reject this bill because of standards. They claim that standards are abhorrent to us.

But those same individuals have voted for standards throughout their entire career in the Congress. They voted for Head Start performance standards, so we would know we were getting a dollar's worth of services for a dollar paid. They voted for air traffic control standards so planes do not collide in the air. They have voted for work rules for pilots. They have voted for work rules for doctors and nurses. They have set Federal standards, and were proud of it, when they went home and said that we do not put our parents in unlicensed facilities in nursing homes, proud of it when they had quality controls in hospitals.

However, Mr. Chairman, now, for America's children, they suggest that somehow standards are immoral. Not only have they voted for standards for health and safety on behalf of working men and women and our elderly: They have voted for standards on behalf of America's animals.

Mr. Chairman, they have voted for the Livestock Transportation Act which says that animals may not be transported or confined without proper feeding, watering and rest for more than 28 hours. They must be humanely unloaded in properly equipped pens for rest. They must be given space to lie down. They must have rest periods at least for 5 hours out of every 28 hours.

I say to my colleagues, "Mind you, this is a mandated Federal standard, and it's harsh." So what did my colleagues do? They put in an exemption for sheep. Sheep can be transported a little bit longer than can other animals because it was a harsh, federally mandated standard.

Now, they have also decided they were concerned about the amount of feed that these animals would get. They are concerned about the cleanliness of the water in their troughs, so they have specified standards. They are concerned about the temperature of the water in their troughs, so they said it must be sufficiently warm as to prevent ice from forming on it.

Yes, we see that not only do they care about the living animals, but they have been concerned about the slaughter of those same animals. There are restrictions on the discomfort of an animal that is slaughtered, although it is hard for me to imagine how they enforce that standard. They require a postmortem inspection. They regulate the methods of slaughter.

For poultry, they have decided how much care we should give to chickens. They have decided how much disinfectant should be in their pens. They have decided the method and the means by which we will clean out the manure from those pens. They have decided that the disinfectant shall be federally mandated and written to such an extent that there shall only be 4 fluid ounces of disinfectant to 1 gallon of water.

Mr. Chairman, are my colleagues starting to get the picture? This is not a philosophical argument about Federal standards. This is an attack on America's children and on quality day care. They cannot elevate this to a philosophical argument when they mandated farmers, and they mandated truckers, and they mandated shippers, and they mandated growers, and they still do it today, and they will soon have the farm bill out here.

But somehow, if we want trained people to watch our children, that is evil. Somehow, if we want to make sure that parents have access to the care centers that is taking care of their children, that is wrong.

But they didn't think it was a great philosophical point in 1984, when many of these same people who have taken the well voted for my bill that required Federal training for day care workers in specific instances. Why did they support that bill in 1984? Because children were being molested, children were being harmed in day care settings.

Mr. Chairman, they came to me and said, "What can you do? I've got to do something for my district back home."

We conditioned the money on identification checks of day care workers, on fingerprinting for day care workers, on background checks for day care workers. We asked that the States establish those standards as a condition of Federal child care funding, and the States did. And in this bill today, we do not mandate specific standards. We ask that the States establish their own standards in several critical areas, and the States will do it. Many States have. These are not Federal standards. This is a Federal mandate that States, in a 3-year period of time, have the

minimal standards available if they want to utilize Federal funds.

□ 1330

So the question for you in the next few minutes before you vote is, are America's children as important as America's poultry? Are America's children as important as America's pigs? Are America's children as important as America's cows? And the answer has to be yes, but there is only one bill that would afford these children that kind of protection, and that is the bill of the gentleman from California [Mr. HAWKINS] and the gentleman from New York [Mr. DOWNEY], because the other bill believes it is immoral to suggest that our children have quality care.

We saw 87 young people burn up in the Happy Land fire because of bad standards and bad enforcement. What do we need, a Happy Land child care tragedy? Do we need another baby Jessica to fall down a well in another unlicensed facility before you are back here covering your political tails asking for standards?

Mr. SHAW. Mr. Chairman. I yield 1 minute to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I will just take an additional minute. The Speaker a moment ago was decrying the lack of child care and the lack of how long it has taken us to get here. You know, we have 28 child care bill provisions already in force in the Federal Government that cost $7 billion already.

Now, Mr. Chairman, we are talking also about standards and improvements of quality. I do not argue against standards. There is nothing in my bill that says there are not going to be standards. What we argue against is having them federally mandated. I have problems with the list that the gentleman from California [Mr. MILLER] just read off, like he did. I would like to eliminate some of those mandates. They are unnecessary and unneeded.

I also have problems with the idea that the Federal Government is the only entity that can provide these standards for adequate child care development skills.

Mr. Chairman, throughout the lengthy period during which the child care issue has been before the House, continually we have heard pleas for quality or quantity improvements in child care programs. In particular we have heard about the need for improvements in care provider training, updating of their skills and knowledge, and the need for greater parent involvment in all aspects of child care.

I would like to bring to the attention of the House two recent developments that have originated in the proprietary or for-profit child care sector: the establishment of two new national organizations for teachers, the American Association of Early Childhood Educators, and for parents, the National Childcare Parents Association. Both of these organizations are aimed at improving the quality of child care development for children. The other important development is the recent effort to train proprietary sector teachers in groups so that they may qualify for the Child Development Associate credential or its equivalent. Through the efforts of the Southwest Training Institute in Phoenix, AZ, over 800 preschool teachers are completing such courses and the training program soon will include over 1,000 teachers in the State of Texas.

These are noteworthy and very responsible endeavors coming from the proprietary sector, and I would like to submit for the RECORD two articles describing these important ventures.

NCCA ANNOUNCES START OF TWO NEW ORGANIZATIONS—AMERICAN ASSOCIATION OF EARLY CHILDHOOD EDUCATORS, AND NATIONAL CHILDCARE PARENTS ASSOCIATION

After a year-long study of the concept and need, the NCCA Board of Directors, at its last meeting, formally decided to develop two new national affiliates—one for center directors, teachers and aides (AMERICAN ASSOCIATION OF EARLY CHILDHOOD EDUCATORS), and the other for parents with children in child care centers (NATIONAL CHILDCARE PARENTS ASSOCIATION). "The time has come to branch out and support our professional educational staffs, and parent customers", declared NCCA President Gary Mohler in announcing the decision.

The NCCA Board has established a three person Oversight Committee to coordinate the development of both programs, with Mark Walsh (New York-Chairman), Mark Rosenberg (Maryland) and Nick Craft (Georgia). The new organizations will contract with Associated Child Care Consultants, Ltd. in Annandale, Virginia to facilitate the start-up, promotion, administration, and provision of membership services for the new tax-exempt national organizations.

Start-up, seed funding is being provided by the NCCA and from a generous grant from Hardee's Food Systems, Inc. "Hardee's demonstrated commitment to quality child care, through their variety of financial and service support, has allowed the NCCA to expand the services that we can offer our members and the child care community at large," Mohler stated.

"The main benefits of the teachers' group (AAECE)," noted Chairman Mark Walsh, "will be to offer a variety of valuable services, and the opportunity for group training to qualify for the CDA credential, or its professional equivalent. The parents' group (NCPA) also will offer a number of services and low-cost benefits as well as conferences and other parenting materials from Parent Care, Inc. based in Rockville, Maryland." Newsletters and government representation on many issues also will be provided to members of the new organizations.

"These national associations" continued Walsh, "will have extremely reasonable, charter membership rates. The NCCA is committed to providing ever-expanding services to our fast growing membership, and we envision these two new groups as a great first step. The coming months and years will require that the proprietary child care industry work together as we face the local and national challenges."

[From Center Management, April 1990]

A BETTER PROCESS FOR CREDENTIALS

(By William Tobin)

The sign reads, "Wanted: Skilled Labor." Businesses hire employees who have the necessary training and experience to handle the demands of the job. Child care centers are not as fortunate. Directors find they must hire staff members with little or no training and experience in child care. Many centers hope that on-the-job training will develop the professional skills of their workers.

In the child care world, the nationally recognized professional credential is the Child Development Associate, or CDA. If caregivers are skilled individuals with a specific educational background, at least 42 states and the District of Columbia will issue them credentials.

Parents can rest assured that directors and caregivers with CDA certifications are qualified to care for their children. Getting CDA certification, however, has been a slow, self-directed, individual process, which has kept the number of CDAs lower than may have been hoped for. Since the accreditation program began in 1975, only 32,000 CDAs have been granted. A new development spearheaded by private child care centers, however, promises to expand the number of CDA-credentialed caregivers.

The call for better-quality child care programs and more-prepared personnel has grown louder in recent years as the nation moves toward a new federal child care policy. Steps must be taken to meet the needs and increase the number of qualified caregivers.

During the February 1989 congressional hearings on the Act for Better Child Care, known as the ABC bill, Deborah Phillips, assistant professor of psychology at the University of Virginia, and a well-known researcher in the study of early childhood, testified that quality care "makes a tangible difference in children's lives."

"Stable caregivers who are trained in child development and work in programs that make reasonable demands on their expertise and energy—by keeping groups small and ratios high—offer children the supervision and responsive, stimulating interactions that promote positive developmental outcomes," Phillips said.

Her testimony underscores the need for up-to-date training for caregivers in the field of early childhood development.

For the past 15 years, the CDA credential has gained more national acceptance as the professional certificate awarded to skilled caregivers. Though viewed as an entry-level certification, CDA provides an incentive for workers to acquire an advanced degree in the early childhood field. According to Carol Phillips, executive director of the Council for Early Childhood Professional Recognition, the Washington, DC-based nonprofit independent agency solely responsible for awarding the CDA credential, candidates must participate in four "experiences," such as inservice training or workshops.

A four-person local assessment team, including the candidate, has to collect and approve "firsthand observational evidence." The candidate is rated on six competency goals, which include establishing and main-

taining a safe and healthy learning environment and advancing children's physical and intellectual competence.

When all the information is gathered, a CDA representative (appointed by the council) schedules an assessment meeting. At that time, a final vote of recommendation for the credential is taken. After the meeting, the assessments are forwarded to Washington for processing. Accreditation does not required formal course work and assigned readings. The observation period takes place over a period of 12 weeks.

Responding to the call for improvements in the quality of caregiver preparation, a new partnership has been forged recently between the proprietary child care center sector and the Southwest Training Institute in Phoenix.

According to its president, Ray Minshall, the institute chose to enhance participation by developing two 15-week-training courses designed for caregivers to take in their own centers.

CDA accreditation training is offered for three hours per week, in addition to the regular working hours. After center directors have received a week's worth of specialized training, during one Saturday a month, they are trained by the institute to serve as paid instructors.

The institute also offers courses in CPR techniques and Red Cross training. Federal government grants cover the costs for the group training programs. The institute awards scholarships to individuals unable to qualify for grants.

As an added benefit for center owners, federal and state unemployment insurance premiums do not have to be paid during the training period, a savings reported to total at least $350.

As a result of the initial training offered last fall and winter, more than 500 child care providers graduated in the middle of March in Phoenix, and almost all qualified for CDA accreditation.

Similar mass training programs are being planned for several Texas cities during the coming year. These developments point to encouraging signs that this group training program affiliated with the for-profit sector of child care, ultimately will produce more CDAs in less time than the total awarded over the past 15 years under the older, self-driven system.

Perhaps as a response to these initiatives, the national council itself has announced plans to upgrade its CDA requirements during 1991 by offering the credential through the direct observation process, requiring more extensive caregiver service hours with children, or through a professional proparation program affiliated with local postsecondary institutions.

The expansion and improvement of the CDA accreditation program is well on track. The child care industry, parents, and children all will benefit from the outcome.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, when we first enacted, that is, first proposed to enact a child care bill in 1971, 30 percent of the children of this country under 6 years of age had mothers who worked. Today, 19 years later, half of them have mothers who work. That is more than 10 million children. If current trends continue, 70 percent of the mothers of preschool children will be working by the end of the decade.

We need this bill. The families and children of America have waited long enough for this day care bill. Although I have some problems with it, I think it is the only thing available and I certainly will support it and oppose the Stenholm amendment.

I have a factsheet here on the need for child care that I would like to include in my statement because of the limitations of time. Also, I have a fact sheet on the earned income tax credit. I think much has been made of that, but we should recognize the fact that the earned income tax credit just gives back to poor people the money we have taken away from them under Social Security. The payroll tax has taken that away. I hope we will give it back and find other ways to give more of it back in accordance with some of the proposals of Senator MOYNIHAN; but the earned income tax has very little significance in terms of providing an amount of money significant to fund child care for families.

I also would like to put on the record my comments on the wrongness of the funding stream via title XX. Title XX, it has been said, is a more reliable funding stream than the appropriations-driven process. Over the last decade, however, the facts are quite different. They show something very different. In the last decade, appropriations-driven programs for the disadvantaged have fared much better in the budget process than the so-called entitlements under title XX. Since 1980, for example, funding for title XX has dropped. We have lost funding when the adjustment is made after inflation of about 42 percent. The cut has been about 42 percent.

In contrast, the real value of appropriations for chapter 1 programs for poor children has dropped only 3 percent.

We have suffered greatly, but title XX has suffered much more. Appropriations for education for the handicapped have actually gone up by 3 percent after inflation adjustments, and, of course, the Pell grants, an appropriations-driven program, has gone up 35 percent, but we have gone down 42 percent under title XX for child care.

Also, I know that certain Members of the other body continue to be adamantly opposed to this title XX approach. I hope that ultimately it will be killed in conference, because I think it is not protecting the interests of children. It is holding out hope when the facts show that the substance is not there.

I have had research done by the Congressional Research Service, some tables that I would also like to include along with the factsheets, which show year by year what the social services block grant amount has been and it shows that there has been a minus 42.4 percent drop in the funding since 1980, while at the same time for chapter 1, for Pell grants, and for the education of the handicapped programs, we have fared much better under the appropriations-driven process. In fact, several of those programs have gone up.

THE NEED FOR CHILD CARE

When we first tried to enact a child care bill in 1971, 30 percent of the children in this country under 6 years old had mothers who worked. Today, 19 years later, half of them have mothers who work. That's more than 10 million children. If current trends continue, 70 percent of the mothers of preschoolers will be working by the end of the decade.

Families are struggling to meet the cost of child care. Surveys have found that after taxes and housing, child care costs are the single largest household expense for working familes. The average cost of care in this country is about $3,000; in major cities like New York, it's even higher—sometimes as much as $8,000 per year.

Families are having trouble finding adequate care for their kids. In a recent poll of voters, 74 percent said it was difficult to find affordable, quality child care, 63 percent said there wasn't enough child care period—at any price.

Poor families, in particular, have been shut out of quality child care. Only 40 percent of children from families with incomes under $10,000 are enrolled in early childhood development programs; by contrast, two out of three children in families earning more than $35,000 are enrolled in such programs.

THE EARNED INCOME TAX CREDIT

We have been hearing so much from the Ways and Means Committee about how terrific the EITC provisions of this bill are that I was surprised to discover just how modest they really are when I took a closer look. Some Members have indicated that these provisions are actually going to lift some families out of poverty. The Ways and Means Committee report even asserts that some working parents will be able to quit their jobs and stay home with the children if these provisions are enacted. I wish that were so, but the truth is much different.

We tend to lose sight of the fact that the purpose of the EITC was and is to try to offset the impact of the regressive Social Security payroll tax on low-income workers. It would have been a lot easier on poor people if we had just made Social Security taxes progressive in the first place so they would not unduly burden the poor, but failing that, the EITC is one way of undoing some of the damage. So in essence, most of the money we're talking about giving to poor workers is actually money that should never have been taken from them in the first place. Poor people are glad to get their money back, of course, but they are probably more than a little dismayed at all the Congressmen in Washington who are busy congratulating themselves for being so generous and compassionate.

The EITC provisions in this bill will put a little more money in the pockets of low-income working families, but it will not be of much help in meeting child care expenses

and it certainly will not be enough to enable a working parent to stay home.

A family with a child over 6 years old which earns $10,000 annually in adjusted gross income would receive the maximum credit of $1,217 in 1991. That's just $215 per year more than they would have received under current law. And if you subtract from that the amount their Social Security taxes have gone up in the past 2 years—$50 annually—their net gain is a mere $165 per year. That's an embarassingly meager $3.17 more per week.

A family earning the same income with one child under age 6 would receive an additional $430 annually, for a net total increase in EITC benefits of $595. That's somewhat more generous, but it still only adds up to $11.44 more per week.

Whether you are getting $3 or $11 more per week, you are still nowhere near meeting the costs of child care, which averages about $60 a week and in places like New York is often considerably higher than that. Nor is likely that many working parents will be moved by that $3 or $11 more to quit their jobs and stay home with the children.

TITLE XX IS THE WRONG FUNDING STREAM FOR THIS BILL

I want to take a few moments to express my concern about the use of title XX as the funding stream for the child care program in this bill. I think it is important to correct for the record the many misperceptions about the ongoing dispute between the Ways and Means Committee and Education and Labor over this issue and to express my support for striking this provision from the bill in conference.

SO-CALLED CLASH BETWEEN NEW AND OLD IDEAS

Some Ways and Means members have told the press that this dispute is some kind of clash between new and old ideas, branding Education and Labor as somehow old-fashioned and outmoded. But unless you consider vanity and self-promotion to be new ideas, the debate had nothing to do with any of that. What it was really about was the Ways and Means' desire to usurp jurisdiction over the child care issue rather than share it.

THE EDUCATION AND LABOR BILL WAS A CONSENSUS BILL

Literally hundreds of groups from around the country were involved in the process of drafting and refining this child care bill in an open and democratic process. The legislation our committee reported had the support of a broad-based, bipartisan coalition of organizations. The only opponents of the bill were conservatives—and a handful of members of Ways and Means.

THIS WAS NOT A MODERATE VERSUS LIBERAL DEBATE

Some Members have represented the alternative sought by Ways and Means as somehow less liberal and more mainstream than the bill we reported. But read the bills and you'll find that, except for the funding source, the language of the two alternatives is identical. Both would create child care block grants with few mandates or restrictions. Education and Labor's would have been paid for by yearly appropriations. Ways and Menas would have been carved out of title XX. Neither would have entailed creating any new bureaucracy on the State level.

WHY AN APPROPRIATIONS-DRIVEN APPROACH IS SUPERIOR

Ways and Means has claimed that as a so-called capped entitlement, title XX is a more reliable source of funding than an appropriations-driven program. That's at odds with recent history.

Over the last decade appropriations-driven programs for the disadvantaged have fared much better in the budget process than so-called entitlements like title XX. Since 1980, funding for title XX has dropped more than 42 percent after inflation. In contrast, the real value of appropriations for the chapter 1 program for poor children has dropped only 3 percent. Appropriations for the education of the handicapped have gone up 3 percent after inflation and risen 35 percent for the Pell grant program for low-income college students.

STRIKE TITLE XX IN CONFERENCE

I know that certain Members of the other body continue to be adamantly opposed to the title XX approach and I hope that ultimately it will be killed in conference. It should be axed not just because the Ways and Means Committee's arguments are meritless, but because it is the children, who should come first for once.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, March 28, 1990.

To: Hon. Major Owens, Attention: Braden Goetz.

From: Carol O'Shaughnessy and Rich Rimkunas, Specialists in Social Legislation, Education and Public Welfare Division.

Subject: Social Services Block Grant Funds.

Per your request, we have prepared a table on funding for the title XX social services block grant program.

The following table presents outlay amounts FY 1980-1990; percent change; outlay amounts after applying the implicit price deflator for State and local government purchase of non-capital goods and services; percent change after application of the deflator; and the requested appropriation amounts FY 1980-1991. Also presented is the cumulative change 1980-1990 and the compound annual rate of change.

Note that the title XX program became a block grant program in 1982 under the 1981 Reconciliation Act. Budget request amounts shown for 1980 and 1981 show amounts for grants to States for social services and for State and local training activities.

We hope this information is of assistance to you.

SOCIAL SERVICES BLOCK GRANT BUDGET DATA

[Dollars in millions]

Fiscal year	Outlays	Percent change	Constant outlays [1]	Percent change	Budget request (appropriations)
1980	$2,763.3		$2,763.3		[2] $2,575.8
1981	2,646.2	−4.2	2,414.3	−12.6	[3] 2,616.0
1982	2,567.5	−3.0	2,162.6	−10.4	1,974.1
1983	2,507.8	−2.3	1,988.8	−8.0	[4] 1,974.1
1984	2,789.0	11.2	2,102.7	5.7	2,500.0
1985	2,742.8	−1.7	1,975.1	−6.1	2,700.0
1986	2,670.7	−2.6	1,858.5	−5.9	2,700.0
1987	2,687.8	.6	1,792.8	−3.5	2,700.0
1988	2,665.8	.8	1,697.1	−5.3	2,700.0
1989	2,670.6	.2	1,619.7	−4.6	2,700.0
1990	2,761.1	3.4	1,591.7	−1.7	2,700.0
1991 request					2,800.0
Cumulative change FY 1980–FY 1990 [5]		−0.1		−42.4	

SOCIAL SERVICES BLOCK GRANT BUDGET DATA—Continued

[Dollars in millions]

Fiscal year	Outlays	Percent change	Constant outlays [1]	Percent change	Budget request (appropriations)
Compound average annual rate of change FY 1980–FY 1990 [6]		−0.01		−5.37	

[1] Rate of inflation as measured by the Office of Management and Budget (OMB) implicit price deflator for State and local government purchase of goods and services. FY 1990 inflation rate is estimated based on OMB projections, Jan. 1990. The use of a different inflation measure or the use of different FY 1990 inflation assumptions will affect the trend displayed in this table.

[2] Includes $2.475 billion for grants to States for social services and $100.8 million for State and local training.

[3] Includes $2.5 billion for grants to States for social services and $116 million for State and local training.

[4] The Administration proposed to consolidate a number of Office of Human Development Services (OHDS) programs, including grants to States for social services, into a consolidated block grant program, totalling $3.8 billion. The amount shown is the request for the title XX program.

[5] Cumulative change represents the change between FY 1980–FY 1990. This figure is sensitive to the size of the amount in the base year (FY 1980).

[6] The compound annual rate of change represents the percentage change that would need to be applied each year with compounding to the FY 1980 spending level to reach the FY 1990 level. This summary measure is analogous to the annual interest rate on a savings account. This measure is sensitive to the spending level in the base year and the number of years in the spending series.

Note: Appropriation amounts as shown in the requests are not strictly comparable to outlays. Appropriation amounts may not be outlayed in the year in which funds were appropriated.

Source: All outlay information was obtained from U.S. Budget documents, Historical Tables of the Budget, "Outlays for Federal Aid to State and Local Governments, by Function, Agency, and Program." Table 12.3. U.S. Budgets for 1990 and 1991. All budget request information was obtained from the OHDS Justifications of Appropriations for various years.

TABLE 1.—COMPENSATORY EDUCATION FOR DISADVANTAGED CHILDREN

Fiscal year	Appropriation (in thousands)	Percent change from FY 1980	Percent change from FY 1980 adjusted for inflation [1]	Budget request (in thousands)
1980	$3,215,593			$3,478,382
1981	3,104,317	−3.5	−11.4	3,686,772
1982	3,033,969	−5.6	−19.2	[2]
1983	3,200,394	−.5	−19.6	1,942,000
1984	3,480,000	8.2	−17.6	3,013,969
1985	3,688,163	14.7	−16.0	3,480,000
1986	3,529,572	9.8	−23.4	3,646,615
1987	3,944,163	22.7	−18.6	3,688,163
1988	4,327,927	34.6	−15.1	4,144,163
1989	4,570,246	42.1	−14.1	4,566,065
1990	5,358,783	66.6	−3.4	4,721,549
1991 request	5,604,361	74.3	−3.1	5,604,361

[1] Appendix A of CRS Report for Congress 89-144 EPW, U.S. Department of Education: "Major Program Trends, Fiscal Years 1980-1990" (Mar. 1, 1989), describes adjustment for inflation.

[2] The budget request proposed program termination and replacement with a $3.6 billion local education block grant and a $0.7 billion State education block grant. The Congress enacted a $0.5 billion education block grant instead, but this program was not included in it.

TABLE 2.—EDUCATION OF THE HANDICAPPED, STATE GRANT PROGRAM

Fiscal year	Appropriation (in thousands)	Percent change from FY 1980	Percent change from FY 1980 adjusted for inflation [1]	Budget request (in thousands)
1980	$874,500			$862,000
1981	874,500	0	−8.3	992,000
1982	931,008	6.5	−8.9	[2]
1983	1,017,900	16.4	−5.9	771,685
1984	1,068,875	22.2	−7.0	998,000
1985	1,135,145	29.8	−4.9	1,069,000
1986	1,163,282	33.0	−7.2	1,135,000
1987	1,338,000	53.0	1.5	1,135,100
1988	1,431,737	63.7	3.3	1,259,381
1989	1,475,449	68.7	2.0	1,474,239
1990	1,542,610	76.4	2.3	1,525,614
1991 request	1,615,125	84.7	2.6	1,615,125

[1] Appendix A of CRS Report for Congress 89-144 EPW, U.S. Department of Education: "Major Program Trends, Fiscal Years 1980-1990" (Mar. 1, 1989), describes adjustments for inflation.

[2] The budget request proposed program termination and replacement with a $3.6 billion local education block grant. The Congress enacted a $0.5 billion education block grant instead, but this program was not included in it.

TABLE 3.—PELL GRANTS

Fiscal year	Appropriation (in thousands)	Percent change from FY 1980	Percent change from FY 1980 adjusted for inflation [1]	Budget request (in thousands)
1980	$2,441,328			$1,796,000
1981	2,604,000	6.7	0.3	2,159,000
1982	2,419,040	−.9	−10.8	2,187,680
1983	2,419,040	−.9	−14.3	1,400,000
1984	2,800,000	14.7	−4.4	2,713,800
1985	3,862,000	58.2	28.4	2,800,000
1986	3,579,716	46.6	14.3	2,681,000
1987	4,187,000	71.5	28.0	3,250,000
1988	4,260,430	74.5	24.1	2,710,000
1989	4,483,915	83.7	25.1	5,011,000
1990	4,804,478	96.8	28.5	4,740,000
1991 request	5,277,000	116.2	35.3	5,277,000

[1] Appendix A of CRS Report for Congress 89–144 EPW, U.S. Department of Education: "Major Program Trends, Fiscal Years 1980–1990" (Mar. 1, 1989), describes adjustments for inflation.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, much has been said during the course of this debate, and the debate on the formal section of the bill is winding down. I want to bring several of the items of debate into sharp focus, because the fact is during the course of this debate a number of things have become clear.

The first thing that should be clear is that there are a number of Members who had agreed to vote for the Downey bill and agreed to vote against the Stenholm substitute earlier this week before they got a chance to read what was in the real bill.

The fact is, there has been a colossal bait-and-switch during the course of this week. Now that the bill has been disclosed, what many of those Members believed they were voting for is not in the Downey bill. What they want to vote for is still in the Stenholm bill.

Let me be specific. First, the Stenholm-Shaw bill as prepared by those two gentlemen provides more money to low-income parents with children and does so at a lesser cost to the Government, and that is because the Stenholm-Shaw bill does not provide large new programs of categorical grants of money going to States and to governments and bureaucracies and the providers.

Stenholm-Shaw puts money in the hands of low-income parents with children.

Second, the Stenholm-Shaw bill guarantees that the certificates can be used in religious-based providers. It guarantees it because it says it explicitly. It says it in black and white.

By contrast, the Downey bill not only does not make that guarantee at all, it goes further and clearly says that religious providers cannot use these certificates unless they are licensed and regulated by the States in very clear and specific fashion, a set of regulations that goes on for pages, 41 pages' worth of regulations beginning on page 43 in the legislation.

I urge Members who had agreed to vote against Stenholm, before they do, go read the bill and determine what it is they are voting for and what is in the two bills.

Last, the Stenholm bill contains no new Federal standards. The gentleman from California [Mr. MILLER] said it clearly. He said he was for Federal standards. The majority of this House are not for Federal standards. The fact is the Stenholm bill leaves that up to the States and local governments, indeed allows title XX money to be used to fund the preparation and the implementation of those standards, but the standards are left up to the States and local governments, and that is the way it should be.

The bill that we saw a year ago contained 185 new Federal mandates under child care. This bill is getting worse. By last count on these 41 pages, the Downey bill has over 200 specific mandates every single year regardless of circumstances.

□ 1340

So for those three reasons, I hope the Members do not fall for a bait-and-switch, and that they do not wake up with a headache in the morning, and that they vote for the Stenholm substitute.

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise today to express my support for the Stenholm-Shaw amendment and to express my concern with H.R. 3, the majority leadership bill, and the way it has been brought to the floor.

Certainly, the majority leadership has fashioned a more palatable bill than the original one, but unfortunately our political palates are unable to taste much of this legislation as it is being procedurally forced down our throats. I suggest that the taste is now bitter-sweet.

As a mother of 5 now-grown children, a grandmother of 15 and a great-grandmother of 1, I have a strong interest in public policy affecting child care in our country.

The child care issue is about familes and freedom: freedom from big government, freedom from welfare, freedom from taxes, and freedom of religion.

The child care debate has come a long way from the initial debate 3 years ago, but H.R. 3 is not the panacea many would have us believe. This bill includes Federal regulations and fails to consider fully the impact of these regulations on our parents, families, spouses who choose to work out of the home, and religious institutions. The majority leadership bill is a wolf in lamb's clothing.

The Stenholm-Shaw amendment would include many of the provisions in H.R. 3 which are well-intended, while empowering parents to make decisions concerning their famileis themselves and protecting religious-based child care centers.

H.R. 3 represents an exercise in backroom, make-shift policymaking which is not government by, for and of the people but an exerciese in machine-style politics and our families and children are the losers

I will support the Stenholm-Shaw amendment and urge my colleague to do the same.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Chairman, I am delighted to see that we are today working on child care legislation again.

Some 10 years ago when I introduced child care legislation, it was not the kind of issue that is roaring in America today. It was one that was coming into focus, but many people did not see the need for it; and for that reason not a great deal was done about it.

Today, however, everybody understands that the care of our children is the most important thing that we can do for our Nation as a whole. Additionally, we find that this is not just a children's issue, but it is a national economic issue. It is one that is necessary so that our economy can begin to grow stronger and so that the parents of children can work with the satisfaction of knowing that their children are going to be well provided for.

Certainly the Federal Government has a role in this, and it is a role that I think all of us recognize. I am pleased to see that the principal features of my legislation are some of the key features that are in the leadership package that we are discussing today.

These features include the focus on: First, priority of services for children from needy families, from families of the working poor; second, a sliding payment scale based on family income; third, high quality standards for child care services including training requirements for those who are in personnel, and fourth, coordination and sharing of information with the States, including the establishment of model child care standards for a national body.

A lot of work has been done on this legislation; a lot of compromises have been made. I am pleased to see the tax-credit provisions that were contributed by the Committee on Ways and Means as well.

As I have indicated in my bills, although tax credits are not sufficient by themselves, they are an appropriate addition to a broader child care approach, and that is what we are all

about here today. Therefore, I want to compliment all of those who have worked on this legislation.

The national need for child care services is well documented. Presently, over 55 percent of all women work outside the home and over 60 percent of them have children under 18. Nearly 50 percent of American mothers return to work before their baby's first birthday, and 70 percent of mothers who have school aged children are working or looking for work. If current trends continue, in 1995, two-thirds of all preschool children will have mothers in the work force. According to a Department of Labor report released on April 15 of this year, in 1950, only 35 percent of women age 25 through 34 were working; now, that figure has doubled to 70 percent. In 1950, only 12 percent of mothers with children under the age of 6 were working; now, that figure has exploded to 57 percent. In 1950, the typical American family was thought of as the family where the father worked and the mother stayed at home with the children; now, only 10 percent of American families fit this description. Considering that the "Baby Boom" generation is having children now, these percentages translate to huge numbers.

In Chicago and elsewhere, employment opportunities multiply greatly with the presence of adequate child care services.

Child care services that are easily accessible and affordable will give many people the liberty to find regular jobs and, in the process, uplift many of them out of the welfare system.

Child care services benefit the employer as well as the employee. Studies have shown that when parent-employees know that their children are being well cared for during working hours, those employees are less distracted and more productive. Similarly, absenteeism and tardiness are greatly decreased. In addition to these day-to-day benefits, recruitment efforts are greatly enhanced and worker turnover is reduced by a strong company child care program. The net effect is a national economic boost that will be concrete and substantial.

Over the years, I have called for an expanded Government role in increasing the availability, quality and affordability of child care for middle-class families as well as the poorest of Americans, and I take this time to mention efforts of which I am extremely proud.

As chairwoman of the Government Activities and Transportation Subcommittee of the Committee on Government Operations, I have been in the forefront of efforts to impel the establishment of onsite child centers by agencies of the Federal Government.

The Congress had the vision, in 1985, to enact and later reenact, authority to allot space and services in Federal controlled buildings for child care services, predominantly to Federal employees. In addition, the statute provided that the space and also services, such as heat, electricity and office equipment, could be furnished without charge to the child care providers. This law can be found in section 490b of title 40, United States Code.

The basic authority for this function is vested in the General Services Administration [GSA], over which the Government Activities and Transportation Subcommittee has oversight jurisdiction.

In 1987, our subcommittee conducted hearings and issued a report recommending that GSA's Administrator appoint a high-level official with specific responsibility for onsite child care; that GSA work with Federal agencies throughout the country to survey Federal workers concerning their interest in and need for onsite child care; and that GSA distribute a handbook to assist those interested in establishing day care facilities.

At the time of our report, only 10 onsite child care centers had been established. The then Administrator of General Services, Terence Golden, responded with enthusiasm to make GSA the catalyst in promoting onsite child care centers for Federal workers. The number of centers in GSA buildings nationwide jumped to 35. But, when Mr. Golden left GSA in March 1988, GSA's efforts appeared to dwindle.

In March 1989, our subcommittee requested testimony from the Acting Administrator, Mr. Austin, who is still Acting, although his confirmation hearings are now underway. Both I and the subcommittee's able ranking minority member, the gentleman from Utah, [Mr. NIELSON] expressed concern lest the momentum that had been developed in the previous year be lost. There had been indications that support for the program in OMB was weak.

I am glad to say that the Acting Administrator has taken significant action since then. He recently reported that there are now 672 centers in operation. In the planning stage are 36 centers, 17 of which are expected to open this year. He has appointed a well-qualified person as Associate Administrator for Child Care and Development Programs. I commend him, but, let me return to the bill at hand, H.R. 3. There is little doubt that young, lower-salaried parents must have help with child care; and H.R. 3 is designed to provide that through expansion in 1991 of the earned income tax credit about which I have already spoken. Not only is the amount of tax credit increased, but it is adjusted upward for eligible families with more than one child. And more significant in terms of parents with preschool children, the bill includes an added refundable tax credit for children under age 6.

I would like to compliment many of my colleagues in the House on their endurance and tireless commitment to child care, without which we would not be discussing this measure today. Chairman HAWKINS, Representative GOODLING, Chairman KILDEE, and Representative TAUKE have all made tremendous contributions to the child care effort which cannot be understated. I would also like to thank my Chicago neighbor, Chairman ROSTENKOWSKI, as well as Chairman DOWNEY for further propelling child care to the forefront.

The language in the compromise is an appropriate, badly needed and long overdue Federal voice in the child care debate. Consequently, I must stress that any weakening of this language—such as through the Stenholm/Shaw amendment—would be an obvious, disastrous regression. Any weakening would amount to an insensitive, inadequate answer to a compelling problem. Those who want to weaken the bill suggest that the bill goes too far. Their solution seems to be to help those in high tax brackets with their child care needs while offering only a crumb to the poor. That reflects a failure to understand the problem, an insensitivity to the people in need and a basically un-American attitude.

There is, however, one issue which the compromise still does not resolve. It simply does not make sense to prohibit religious discrimination yet allow child care providers to require that their employees "* * * adhere to the religious tenets and teachings of such organization." Nor does it make sense to allow providers to discriminate in selecting children, whether or not the particular slot is federally funded. The opportunities for abuse are too profound, even beyond the obvious absurdity. Thus, I strongly support the amendment being offered by our colleague, Representative DON EDWARDS, that would cure this cancer. As the Edwards amendment would permit, child care providers run by religious organizations should be eligible to receive Federal benefits. But allowing them to discriminate would be unconscionable.

Mr. Speaker, today we are witnessing a landmark transformation. Today is the official recognition by the House of Representatives of child care's valuable place in American society. I urge my colleagues to do what is overdue. I urge my colleagues to support the bill and the Edwards amendment without any weakening amendments.

Finally, I want to compliment all of the Members of Congress who recognize that this is a needed piece of legislation, that without it we are not going to be doing a service for our

families, we are certainly not going to be servicing our children, and we are certainly not going to be doing what is best for the United States of America.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes, the remainder of my time, to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Chairman, members of the committee, during the course of this discussion, we have not had much attention paid to title II of the program, which provides grants for school-based child care. Obviously the intention of providing school-based child care is a good one, but as an old professor of mine used to say, "The road to hell is paved with good intentions," and this is a well-intentioned section of the bill which, in my judgment, creates significant problems.

First of all, grants under this title must be provided for Monday through Friday care, school holidays, and vacation periods, or, as the bill says, year round. It has to be provided for the full calendar year.

I do not understand how you have before and after school care during the summer vacation months where there is no school program, but the legislation says it has to be a calendar-year package.

Second, it requires that the school districts provide the services for an unlimited age group. There is no age limit on it. But it says that they have to provide them for 4 year olds. So you not only have those who are attending school but also those who are not yet in school.

Those who are 4 year olds have to have an early childhood development program. It is not entirely clear what the early childhood development program is, but we do know this, that no church institutions are eligible for any of the funding, although this is a third, one-third, of the appropriated dollars. It must cover early childhood development for 4 year olds. There is no question about it in this section; no dollars can go to a church institution.

Also, no dollars can go to for-profit day-care centers. So here we have a situation where we are going to say to local school districts, "You have to provide services year round, and if you are going to provide them for anybody, you have got to include in your program coverage for 4 year olds with an early childhood development program."

I harken back to what I said in my last statement. This is legislation that does not serve rural America very well. Ladies and gentlemen, in rural America, this is not the kind of program we need. We maybe do need a before and after school program, but we are not going to be able to qualify if it is a before and after school program that has to be calendar year round, that has to include service for 4 year olds.

I might also observe that under this section of the bill there is no stipulation that low-income families are first in line. Instead, this is a section of the bill which provides services to a wide-ranging group of incomes, and there is no indication that the low income have to be first. We could have a good before and after school program, but as is the trouble with many portions of this package, what we could have had and what in some cases is advertised is not what we are getting.

The second thing that I would like to focus a moment on is the State child-care standards. I keep talking to my colleagues as they roam in and out of the Chamber, and it has not yet penetrated the thinking of many Members of the House that this bill requires State child care standards. Each State under the legislation must have standards in certain areas that are outlined on pages 43, 44, and 45, but what is most important, I think, are two things. One is that in those standards everybody has to meet a minimum training requirement.

This brings me back to the days when we had discussions in our subcommittee about people who would have to meet certain training requirements. When you impose those kinds of training requirements, what you do is one of two things: You force some child-care providers underground, because meaning that they are going to stop registering with the State, being licensed with or by the State, which is a major problem in those States that have regulations, or otherwise you put legitimate child care providers out of business.

That is a problem that we have seen before. The only comprehensive study that I know of that has been done on day care requirements, which was done in 1978 by the Federal Interagency Task Force, said that the average monthly cost per child would rise significantly if we had this kind of requirement imposed.

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You would as a result set up a bigger problem with the two-tier system than we have today, meaning you would have one tier of child care available to the very wealthy and those who are subsidized more or less completely by the Federal and State Governments, and then you would have another tier for everybody else.

I think this legislation, instead of solving our problem in that regard, tends to exacerbate it. So I urge support for Stenholm-Shaw as a better drafted, more reasonable package.

Mr. HAWKINS. Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I would like to take a moment to remind all of us just what it is we are trying to accomplish here today. American families and the lives of our children have changed dramatically since most of us in this Chamber were youngsters. Ozzie and Harriet may live with us still in television reruns, but the reality of life for most American families is far different from that which the Nelson family once enjoyed.

For example, last year, the Children's Defense Fund reported to me that 49 percent of mothers in Delaware with children under 6 are working; 10,000 of Delaware's 47,000 children under 5 live in poverty. But poor working mothers are unlikely to find the child care they need. Fewer than one-fourth of Delaware children living in poverty are receiving care assistance—that is down 6 percent from 1981 levels.

Delaware is not alone in facing a crisis in affordable child care. The statistics in our State are echoed throughout the Nation. Affordable child care has become one of the most vexing domestic problems facing our country. Much of the answer lies in efforts by employers to accommodate the child care needs of their work force. But for many of the working poor, the solution requires the help we provide in the child care bill before us today.

We clearly do not all agree on some parts of this legislation. But I think we do all agree on the importance of expanding programs like Head Start and tax credits to increase the availability of child care for the working poor in ways that will allow parents the discretion they should have. We should not lose sight of the fact that increasing child care opportunities is what this bill is all about.

Mr. SHAW. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I think we are moving in precisely the wrong direction with the Downey-Hawkins bill. If you look at the world, and I want to disagree with the previous speaker, the world is not moving away from what you might call the Ozzie and Harriet era. The world is moving away, and if you look at the people climbing the walls in Eastern Europe, it is away from governments that give cradle-to-grave social programs, including child care programs. The world is moving toward a world in which the individual and the family and the control of that family over their own destiny has primacy.

Let me just say the relationship between a 3- or a 4- or a 5-year-old and their mother or their father, their grandparents, is a very personal relationship. Most Americans in our communities want their child care relationship to be an extension of their own personal relationship with their sons or daughters.

I have here dozens of pages of regulations that will be imposed and interjected between these family members under the Downey-Hawkins bill.

Mr. Chairman, let me just say I do not believe Government can impose itself and interject itself in this family relationship without damage.

Now, the gentleman from California [Mr. MILLER] said it is a wonderful thing for children to have standards and for States to impose standards. I can remember going to Nebraska several years ago where there was a little church school that had excellent teachers, but were church teachers not certified by the State. In that little school the children of that little community had a chance to watch their mothers and fathers being arrested by officers of the State and dragged away forcibly because they insisted on carrying on a church school in which the teachers were not certified. Now, they met all of the requirements on an academic basis, they got high grades, but they were not certified.

I would suggest to the gentleman from California [Mr. MILLER] that there are many countries in the world that have as many standards for the education of children and for day care as they have for livestock regulation, and it is not necessarily good. Mr. Chairman, I just want to quote, because there has been a lot of argument about this, from page 43 of the bill.

* * * each State which receives a payment under this subtitle shall have in effect child care standards in each of the categories described in this subsection, which shall apply to child care funded in the State under this title and all child care services delivered by providers in the State who receive public funds for child care services and are required by the State to be licensed or regulated.

Mr. Chairman, let us maintain the primacy of the family in controlling the child care of their own children. Keep Government out of it, and let us move to Stenholm-Shaw.

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I want to discuss at a little greater length this issue of mandatory standards. The Shaw-Stenholm bill requires that all providers meet standards. We just allow States to set those standards. What is dangerous and concerning to me in the other bill is that we are requiring States to set standards in specified categories that we have used in the past, the categories of family day care provider, centers, and group homes. Those categories and that regulatory system is failing us. In States where we have really implemented that policy, we are struggling and we are drowning under the paperwork and administrative costs of that system.

Day care is an industry that is going to expand dramatically to serve the needs of the children in America. We will not be having family homes, group homes, and group centers necessarily in the future. We are likely to have child care development centers that have a series of satellites around them of smaller providers. The center will provide the quality assurance and staff training. The 15-hour training standard will be obsolete as will likely be the categories of group homes, family homes, and centers.

In other words, I do not mind requiring that all the concerns in the committee bill that need to be addressed be addressed, but let us not impose a straitjacket of regulation, a format, on the States to address those issues. Let us particularly not impose a regulatory structure that repeats past experience, that is failing in the present, and that cannot meet the challenge of the future.

That is the case that I make against your bill. It is too specific. It tells States to do it the old way. The old way has failed. It will not meet the dramatic expansion of this service industry in the future, and we cannot demand that States be tied to it.

Second, in your bill you say that if States experiment with regulation and have to change their regulations you will withdraw, deny, all Federal funds from them.

Under your bill Connecticut would have lost all Federal funding every year in each of the last 4 years because we are a progressive State with high standards. That is in your bill. I will quote you line and verse if we can do it on your time. But I point out to you that the regulatory provisions in your bill are looking at the past and not speaking to the future. This is one of the major reasons we must adopt the more flexible approach in the Stenholm-Shaw amendment and reject the micromanagement of the committee bill.

□ 1400

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, we have heard a lot today about bait and switch, waking up in the morning with headaches, all kinds of comments, and it is so easy to lose sight of what this debate is really all about: the future of our Nation's children.

Our Nation's families face a serious shortage of safe, affordable child care. There is a growing crisis out there which affects millions of parents across our Nation.

The question before us today is whether we want to make a real difference for our children for the next generation. The leadership package provides more child care, safe child care, affordable child care, and it provides more choices for American families.

We expanded Head Start, we support school-based child care, and how important that is for many parents across our country who bring their children to school and have to go to work early, and get home late. They want to be sure those children are going to get these services this bill provides.

We increase the title XX social services block grants, we expand the earned income tax credit, and I am particularly pleased that the bill contains an essential amendment which I authored to help create public-private partnerships in the child care field. Under this amendment, businesses will be eligible for matching grants to create or expand child care services either on site or nearby. Many businesses already recognize that child care services are an important factor in productivity and competitiveness, and by increasing private sector involvement we can provide more and better child care without large new Federal expenditures. We have just got to get the private sector involved, because Government cannot do it all. We just do not have those resources.

If we are really interested in supporting our families, if we are really interested in building the future of the next generation, the leadership child care bill should be approved.

I am a parent. My children are grown now, but oh how well I remember and how well I understand the concerns of parents, mothers, and fathers throughout this Nation who worry when they go to work, who worry about who is taking care of their children, who worry about whether that caregiver is properly trained, whether that caregiver can respond to that child in the event of an emergency. We all want to be sure that the person taking care of our children is well qualified and well prepared.

I remember so well when my children were young. I know parents across this Nation want what is best for their children. They want us to pass this bill, H.R. 3. Anything less, anything less than this bill is second-best, and when it comes to our children we should never settle for second best.

Mr. DOWNEY. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. MATSUI], a member of the subcommittee.

Mr. MATSUI. Mr. Chairman, I am rising today in support of H.R. 3, the Early Childhood Education and Development Act and in opposition to the Stenholm substitute. Passage of H.R. 3 will great help ease the critical shortage of child care faced by millions of American families every day.

The United States is in the midst of a severe child care shortage. Presently, 3 out of 5 mothers with children under the age of 6 work outside the home. It is estimated that the number of children requiring care outside the home will grow from 6 million now, to 14.6 million by 1995.

H.R. 3 takes a significant step toward meeting this growing child care need. This legislation makes an investment in the future of America's children by putting money into expanding the Head Start Program: providing before- and after-school child care; improving the quality of child care, increasing the title XX social services block grant for child care services, and encouraging employer-sponsored child care. The Stenholm substitute fails to meet this need.

The substitute being offered today does nothing to protect the health and safety of american children. It is irresponsible not to put into place a minimum assurance that children are cared for in a safe environment by individuals who are properly trained. The Stenholm substitute includes no such guarantee. Without the health and safety assurances provided by H.R. 3, we will surely see more children like Jessica McClure in Texas who fell down a well being cared for in an unlicensed day care center.

The Stenholm substitute also does nothing for children who are in school and whose parents work, the children we call latchkey kids. These kids are more suseptible to becoming substance abusers and more likely to become juvenile defenders. By authorizing funds for school-based care, H.R. 3 takes a step toward easing the minds of parents who spend their day worrying about whether their child has made it home safely or if their child is in danger of abuse.

When we vote today, I urge my colleagues to support a child care package that really makes an investment in the future of American children and a commitment to their health and well-being. I urge you to vote against the Stenholm substitute and vote for the Early Childhood Education and Development Act.

Mr. DOWNEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill that the gentleman from California [Mr. HAWKINS], and I have brought here has been widely mischaracterized, and not withstanding the firmness of belief often stated, that does not make beliefs facts. There are some stubborn things about facts, as President Reagan was wont to say. One of the facts has to do with the amount of money that the working poor will get. It is not possible, you see, to spend less money and deliver more to the working poor, not withstanding the generous view of the gentleman from Texas. It is not true now and it shall not be true when the bill is implemented. Nor is it fair or accurate to suggest that theirs is the only bill that allows church-based providers to receive money under title XX. That is not so. Only a willful misreading of the language would lead one to that conclusion.

The fact is our bill provides the widest possible latitude for church-based providers to receive benefits under this bill. There is nothing in our bill that requires church-based providers to be licensed, and in the absence of a license, the standards do not apply. Churches will be able to have the money from the States in an appropriate way.

Lastly, let me say one thing about the finishing line that has been erected up here. The standards that are here pay homage to the point that has been made by my colleagues on the right about the States being able to have standards. That is what we do. We require the States to have some standards, and the only time that we impose our heavy hand, and it is not such a heavy hand, is to say please, provide training to the people who will be with the children. Is that so much to ask, that the people who will care for America's children will understand something about them? That is what we do.

That is why our bill richly deserves Members' support.

The CHAIRMAN. The time of the gentleman from New York [Mr. DOWNEY] has expired.

Mr. SHAW. Mr. Chairman, may I inquire as to the time on the other side?

The CHAIRMAN. The gentleman from Florida [Mr. SHAW] has 2 minutes remaining, and the gentleman from California [Mr. HAWKINS] has 2 minutes remaining. The gentleman from California has the right to close debate.

Mr. SHAW. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, as this debate ends, I would urge Members to read the bill carefully. Read the bill. Read exactly what it says.

Among other things, Members will find in the bill a list of standards of 41 pages. I have prepared and will enter into the RECORD the 212 separate mandates and standards that are contained in this legislation. I call to the attention of the House floor these standards that are printed out on this computer printout we have unfolded so Members can have the full impact of the Federal Government standards and regulations that are mandated by the Downey bill that is before us.

The Stenholm bill allows States to adopt standards. The Downey bill mandates what those standards would be.

The document refered to follows:

REGULATIONS IMPOSED BY THE HAWKINS-DOWNEY CHILD CARE BILL—THE EARLY CHILDHOOD EDUCATION AND DEVELOPMENT ACT OF 1990

TITLE I—EXPANDED HEAD START

1. Requires that Head Start be expanded to a full calendar year program instead of expanding the program so it can meet its current need.

2. Requires that Head Start be expanded to a full-working-day program to meet parents' child care needs, when the Head Start program is much more than child care.

3. Requires that Head Start funds be expended on other developmentally appropriate child care services rather than concentrating scarce funds on serving all Head Start eligible children.

TITLE III—CHILD CARE

1. Requires that States lose their eligibility for funds under Subtitle B of Title III if the State cannot demonstrate that all child care providers in the State receiving funds under this title, or who receive any public funds for child care services, are not licensed or regulated as required by State or local law.

2. Requires that States lose their eligibility for funds under Subtitle B of Title III if the State cannot demonstrate that all child care providers in the State receiving funds under this title, or who receive any public funds for child care services, are in compliance with the minimum child care standards established by the State in accordance with section 2012(c) of the Act.

3. Requires that States lose their eligibility for funds under Subtitle B of Title III if the State cannot demonstrate that all child care providers in the State receiving funds under this title, or who receive any public funds for child care services, are subject to the applicable enforcement provisions of section 2012(i) of the Act.

4. Requires that the State agency with primary responsibility for child care in the State shall administer the use of all payments made to the State under subtitle B.

5. Requires that no financial assistance received under Subtitle B of Title III be expended for any sectarian purpose or activity.

6. Prohibits any financial assistance provided under subtitle B of Title III to be expended for any services provided to students enrolled in grades 1 through 12 during the regular school day.

7. Prohibits any financial assistance provided under subtitle B of Title III to be expended for services provided to students enrolled in grades 1 through 12 for which such students receive academic credit toward graduation.

8. Prohibits any financial assistance provided under subtitle B of Title III to be expended for services provided to students enrolled in grades 1 through 12 for such students to receive any instructional services which supplant or duplicate the academic program of any public or private school.

9. Requires that any financial assistance provided under subtitle B of Title III shall constitute Federal financial assistance for purposes of Title VI of the Civil Rights Act of 1964 and the regulations issued thereunder.

10. Requires that any financial assistance provided under subtitle B of Title III of the Early Childhood Education and Development Act of 1990 shall constitute Federal financial assistance for purposes of Title IX of the Education Amendments of 1972 and the regulations issued thereunder.

11. Requires that any financial assistance provided under subtitle B of Title III of the Early Childhood Education and Development Act of 1990 shall constitute Federal financial assistance for purposes of the Rehabilitation Act of 1973 and the regulations issued thereunder.

12. Requires that any financial assistance provided under subtitle B of Title III shall constitute Federal financial assistance for purposes of the Age Discrimination Act of 1975 and the regulations issued thereunder.

13. Prohibits any religious discrimination in employment, except that a sectarian organization may require that employees adhere to the religious tenets and teachings of such organization.

14. Prohibits any religious discrimination in employment, except that a sectarian organization may require their employees adhere to rules forbidding the use of drugs or alcohol.

15. Prohibits any child care provider receiving assistance under subtitle B of Title III from discriminating against any child on the basis of religion in providing child care services.

16. Prohibits a child care provider who receives assistance under subtitle B of Title III from discriminating in employment on the basis of the religion of the prospective employee if such employee's primary responsibility will be working directly with children providing child care services.

17. Requires that if any provision of subtitle B of Title III, of the application thereof to any individual or circumstance, is held invalid, the invalidity shall not effect other provisions or applications of this subtitle which can be given effect without regard to the invalid provision.

18. Requires that nothing in subtitle B of Title III shall be construed to supersede or modify any provision of a State constitution or law that prohibits the expenditure of public funds in or by sectarian institutions.

19. Requires that after two years of enactment of subtitle B each State receiving funds under the subtitle will offer a child care certificate program.

20. Requires that each State receiving funds under subtitle B of Title III use 90 percent of the amount to provide child care services, with 10 percent to be used for the administration, training and enforcement of child care services.

21. Prohibits States from utilizing child care financial assistance under subtitle B of Title III unless such services meet all applicable child care standards and licensing and registration requirements.

22. Requires that, after three years of enactment, each State receiving funding under subtitle B of Title III, or any other public funding, have in effect child care standards for each of the categories listed below.

The following State child care standards must be in place after three years of enactment for center-based child care services:

23. Requires a child care standard addressing group size limits in terms of the number of caregivers to the number and ages of children.

24. Requires a child care standard addressing the maximum appropriate child to staff ratios.

25. Requires a child care standard on preservice qualifications and background of child care personnel.

26. Requires a child care standard on the requirements for inservice training in areas appropriate to the provision of such child care services.

27. Requires a child care standard on health and safety requirements for children and caregivers.

28. Requires a child care standard on requirements for parental involvement in licensed and regulated child care services.

The following State child care standards must be in place after three years of enactment for family child care services:

29. Requires a child care standard on the maximum number of children for which child care services should be provided and the maximum number of infants for which child care services should be provided.

30. Requires a child care standard on the minimum age for caregivers.

31. Requires a child care standard on requirements for inservice training in areas appropriate to the provision of such child care services, or participation in a provider organization that addresses child development and management issues.

32. Requires a child care standard on health and safety requirements for children and caregivers as appropriate for family child care services.

The following state child care standards must be in place after three years of enactment for group home child care services:

33. Requires a child care standard addressing the maximum appropriate child to staff ratios.

34. Requires a child care standard on the mixmum number of children for which child care services should be provided and the maximum number of infants for which child care services should be provided.

35. Requires a child care standard on the minimum age for caregivers.

36. Requires a child care standard on requirements for inservice training in areas appropriate to the provision of such child care services, or participation in a provider organization that addresses child development and management issues.

37. Requires a child care standard on health and safety requirements for children and caregivers as appropriate for family child care services.

38. Requires each State receiving assistance under subtitle B of Title III or any other public assistance after two years of enactment shall require all child care providers, and the caregivers employed by such providers, to complete an annual average of 15 hours of training.

39. Requires States to reimburse child care expenses at market rates, with higher reimbursements for infants and toddlers, children with disabilities and comprehensive child care programs for children of adolescent parents.

40. Requires each State to establish a sliding fee scale, based on income, for determining the amount a family will be required to pay for child care received under this title.

Each State receiving funding under subtitle B of Title III shall not reduce the following:

41. the categories of child care providers licensed or regulated,

42. the level of standards applicable to child care services, unless the State can justify their actions based on positive developmental practice, or necessary to increase access to and availability of child care providers.

Beginning three years after enactment, each State receiving payment under subtitle B of Title III shall put in effect enforcement policies that apply to all child care funded, e.g.:

43. Requiring child care inspectors to receive training in child development, health and safety, child abuse prevention and detection, the needs of children with a disability, program management and relevant law enforcement.

44. Requires, to the maximum extent possible, that all individuals responsible for inspection of child care facilities have inspection responsibilities exclusively for children's services.

45. Requires child care inspectors to make at least one unannounced inspection annually of each center-based child care provider in the State, and periodic unannounced inspections of licensed and regulated family child care providers.

46. Requires that the State's supply of child care licensing inspectors be maintained at a rate permitting timely inspections.

47. Requires licensed or regulated child care providers to have written policies and program goals available to parents.

48. Requires licensed or regulated child care providers to provide parents unlimited access to their children.

49. Requires States to implement a procedure for addressing complaints.

50. Requires that consumer education information be available to parents and the general public.

51. Requires that the child care provider post on the premises the telephone number of the appropriate licensing or regulatory agency.

52. Requires States to maintain records of parental complaints, make this information available to the public upon request.

53. Requires that State expend their funds in such fiscal year or in the succeeding fiscal year, or any unexpended funds must be returned to the Secretary.

TITLE 2—EARLY CHILDHOOD DEVELOPMENT AND SCHOOL-RELATED CHILD CARE

54. Requires the Secretary to make grants to eligible States.

55. Requires that a certain percentage of the appropriation be allocated to U.S. Territories.

56. Requires that a certain percentage of the appropriation be allocated to the Secretary of Interior for purposes of serving the Indian population.

57. Requires the Secretary of Health and Human Services to promulgate regulations that will carry out the purposes of this title as it relates to U.S. Territories.

58. Requires the Secretary of Health and Human Services to determine eligibility for local education agencies to grants in each fiscal year.

59. Requires that the amount of grants in this title not be below $15,000 (or $5,000 in certain circumstances).

60. Requires that someone in the federal government figure out the sentence that reads: "Each State shall receive under this paragraph an amount that bears the same relationship to such remaining amounts as the amount received by all local educational agencies in such State under Chapter 1 of Title 1 in the preceding fiscal year bears to the amount made available to carry out such chapter in such fiscal year, except that in any fiscal year no State may receive any amount under this paragraph that, when added to the amount received under paragraph 1 in such fiscal year by all local educational agencies in such State, would total more than an amount that bear the same relationship to the amount made available for purposes of carrying out this Title for such fiscal year as the amount received by all local educational agencies in such state

in the preceding fiscal year under Chapter 1 of Title 1 bears to the amount made available to carry out such Chapter in such fiscal year."

61. Requires each State to give preference to local educational agencies with high concentrations of low income families.

62. Requires each State to give preference to local educational agencies that will use the funds to supplement, not supplant, non-Federal funds used for the purposes of this Act.

63. Requires each State to give preference to local educational agencies that are located in areas designated to be in the greatest need according to the needs assessment required under this Act.

64. Requires that each State grant amounts no less than $5,000 to local educational agencies.

65. Requires that children age 4 in a local educational agency be counted in a formula allocating funds under this Title.

66. Requires that the Federal Government not exceed certain levels of allocation when providing funds to the States.

67. Requires that local educational agencies who want to be eligible for federal assistance submit an application to the State that includes a 2 year plan describing how they would use the funds.

68. Requires that each local educational agency who submits an application per the mandate above meet requirements related to the area of persons served.

69. Requires that each local educational agency who submits an application meet requirements restricting the eligible parents to parents who work outside the home or are in educational or training programs.

70. Requires that the local educational agency application offer the program at no cost for 4 year olds from families whose income is not more than 100% of poverty.

71. Requires that local agency program must consist of services that are provided during such time of the day when regular instructional services are not in session.

72. Requires that services be available during the full working day for 4 year olds.

73. Requires that before and after school care be available for the calendar year, Monday through Friday, excluding legal public holidays.

74. Requires that each local early childhood development program be in compliance with State standards for health and safety.

75. Requires that each local early childhood development program be in compliance with applicable State standards for program quality.

76. Prohibits the use of norm referenced and criterion referenced standardized testing.

77. Requires each program to be developmentally appropriate.

78. Requires each program to meet the diverse recreational needs of school-aged children.

79. Requires each program to meet the diverse social needs of school-aged children.

80. Requires each program to meet the diverse emotional needs of school-aged children.

81. Requires each program to meet the diverse cultural needs of school-aged children.

82. Requires each program to meet the diverse educational needs of school-aged children.

83. Requires that services include providing adequate and nutritious meals and snacks.

84. Requires that services include, if practicable, social services.

85. Requires that services coordinate, for early childhood development programs, health and nutrition services available from other agencies.

86. Requires that services coordinate, for early childhood development programs, referrals to health and social services for which an enrolled child may be eligible.

87. Requires that information, programs, and activities for parents be made available in a language and a form that parents understand.

88. Requires that all fees collected be retained and used solely to carry out this title.

89. Requires that each local educational agency coordinate with all other public and private nonprofit organizations involved with providing similar services, including programs receiving assistance under Section 619 of the Education of the Handicapped Act.

90. Requires that the local educational agency give priority to programs located in public school buildings, if the costs are comparable to the costs offered in other facilities.

91. Requires that a private non profit community-based organization provides assurances that the organization is able to and willing to enroll racially diverse children.

92. Requires that the private organization described above provides assurances that the organization is able to and willing to, or has a history of enrolling, enroll ethnically diverse children.

93. Requires that the private organization described above provides assurances that the organization is able to and willing to, or has a history of enrolling, enroll linguistically diverse children.

94. Requires that the private organization described above provides assurances that the organization is able to and willing to, or has a history of enrolling, enroll economically diverse children.

95. Requires that the private organization described above provides assurances that the organization is able to and willing to (or has a history of enrolling) enroll children with disabilities.

96. Requires that the private organization described above is in compliance with Section 654 of the Head Start program.

97. Requires that any contract for these services be subject to Title IX of the Education Amendments of 1972.

98. Requires that any State meet the requirements in paragraphs (2) and (5) of Section 435 of the General Education Provisions Act.

For purposes of early childhood development programs:

99. Requires that any State will establish standards relating to group size limits for the number of staff members.

100. Requires that any State will establish standards relating to group size limits for the number of children.

101. Requires that any State will establish standards relating to group size limits for the ages of children.

102. Requires that any State will establish standards relating to the maximum appropriate child-staff ratios.

103. Requires that any State will establish standards relating to qualifications of staff members.

104. Requires that any State will establish standards relating to the background of staff members.

105. Requires that any State will establish standards relating to health requirements of children and staff members.

106. Requires that any State will establish standards relating to nutrition requirements of children and staff members.

107. Requires that any State will establish standards relating to safety requirements for children and staff members.

108. Requires that any State will establish standards relating to parental involvement.

For purposes of before and after school child care programs:

109. Requires that any State will establish standards relating to inservice training of staff members.

110. Requires that any State will establish standards relating to health requirements of children and staff members.

111. Requires that any State will establish standards relating to nutrition requirements of children and staff members.

112. Requires that any State will establish standards relating to safety requirements for children and staff members.

113. Requires that any State will establish standards relating to parental involvement.

114. Requires that local educational agencies and State agencies comply with any applicable statutory and regulatory provisions pertaining to this Title.

115. Requires any local educational agency to submit a 2-year plan should they apply for funding in this Title.

116. Requires that the State establish a sliding fee scale within some parameters that is periodically revised.

117. Requires the Secretary to make payments on a timely basis to the States.

118. Requires that the State shall distribute not less than 97% of the amount paid to it from the Federal government to the local educational agency.

119. Requires that an early childhood development program is one that provides educational services that are appropriate for the child's age and all areas of the individual child's development, including physical, emotional, social, cultural, cognitive and communication and including services appropriate to meet the needs of children with disabilities.

120. Requires that the State report to Washington before it expends any amount of money as to the intended uses for this money.

121. Requires that the State make the report described immediately above public.

122. Requires that any unexpended funds be reported to Washington.

123. Requires an annual report from the State on the activities carried out with funds from these subtitles.

124. Requires that this report be made public and available for public inspection.

125. Requires that this report be transmitted to the Secretary.

126. Requires that this report shall be provided to any interested public agency.

127. Requires that each report include the number of children receiving service, grouped according to the average income of families of such children as a percentage of poverty for center-based care.

128. Requires that each report include the number of children receiving service, grouped according to the average income of families of such children as a percentage of poverty for group home child care services.

129. Requires that each report include the number of children receiving service, grouped according to the average income of families of such children as a percentage of poverty for family child care services.

130. Requires that each report include the number of children receiving service, grouped according to the average income of

families of such children as a percentage of poverty for relative care services.

131. Requires each report to include the average cost and market rate, by geographic area for center based care.

132. Requires each report to include the average cost and market rate of group home child care services.

133. Requires each report to include the average cost and market rate of family care.

134. Requires each report to include the average cost and market rate of relative care.

135. Requires each report to include the out-of-pocket costs for such services provided in center based care.

136. Requires each report to include out-of-pocket costs for such services provided in group home care.

137. Requires each report to include out-of-pocket costs for such services provided in family based care.

138. Requires each report to include out-of-pocket costs for such services provided in relative care settings.

139. Requires each report to include whether the recipients of each type of service specified receive public assistance benefits, the extent to which these benefits are taken into account and the effect of public assistance benefits on the child care service.

140. Requires the report to include income eligibility guidelines, sliding fee scales, requirements for enrollment in school or training programs and any other criteria for eligibility or priority in receiving services.

141. Requires each report to include the methods by which each type of service specified in the requirements 8 through 19 above are required.

142. Requires the State to specify in the report the state standards in effect relating to requirements 8-19 described above.

143. Requires the State to specify in the report the State licensing and regulatory requirements in effect in the state relating to requirements 8-19 described above.

144. Requires the State to specify in the report the State enforcement policies and practices in effect relating to requirements 8-19 described above.

145. Requires the Secretary to establish uniform reporting requirements for the States to offer their reports to Washington.

146. Requires State audits, no less than every 2 years, of expenditures.

147. Requires these audits to meet certain specifications.

148. Requires employers to require employees to furnish a signed earned income eligibility certificate or a signed statement that the employee does or does not meet certain specifications.

TITLE 4—CHILD CARE QUALITY IMPROVEMENT

149. Requires State that desires to receive funds to designate a State agency to act as the lead agency to perform administrative functions.

150. Requires a State to submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule to be eligible for funds.

151. Requires state application to include an assurance that the State will comply with specific requirements described in the bill and comply with a State plan (to be implemented during a 5-year period meeting the requirements below).

152. Requires the plan to identify the lead agency designated in accordance with the bill and contain assurances that—

153. Requires funds received under this subchapter by the State to be administered by the lead agency; and

Requires the lead agency to comply with the following:

.154. Review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulated child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 3-year period ending on the date of the enactment.

155. Within 18 months after the date of the enactment prepare and submit a report to the chief executive officer of the State.

Requires the report to contain—

156. A statement of the findings and recommendations that result from the review carried out, including a description of the current status, and recommendations for improvement, of child care licensing, regulating, monitoring, and enforcement in the State; and

157. Recommendations regarding standards that should apply to local educational agencies that receive funds under title VIII of the Elementary and Secondary Education Act of 1965 to provide child care services.

158. Requires the plan to provide that the State shall use funds received under this subchapter to do 1 or more of the following:

"(A) Provide financial assistance to establish or expand local resource and referral programs under section 658F.

"(B) Improve the quality of child care services and early childhood development programs in the State by providing training in accordance with the requirements of section 658G.

"(C) Improve the quality of child care services by improving the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

"(D) Improve salaries and other compensation paid to full- and part-time staff who provide child care services—

"(i) for which assistance is provided under the Head Start Act or title VIII of the Elementary and Secondary Education Act of 1965; and

"(ii) to the extent practicable, in other major Federal and State child care programs, except programs conducted pursuant to part A of title IV of the Social Security Act; to the extent that such salaries and other compensation are inadequate.

159. The plan shall provide that the State may use not more than 5 percent of the funds received under this subchapter to do 1 or more of the following:

A. Make low-interest loans to eligible child care providers and family child care providers to make renovations and improvements in existing facilities to be used to carry out child care programs.

B. Make grants or low-interest loans to child care providers to assist such providers.

C. Make grants to local public libraries (If Title V funds are not appropriated, make grants to business to carry out the purpose of the title).

E. Develop and implement state tax credits and incentives.

160. Enforcement of Licensing and other Regulatory Requirements (Including Registration requirements)—Requires the plan to provide that within 3 years of enactment, the State have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that:

161. Require personnel who perform inspection functions with respect to licensed or regulated child care services to receive training in child development, health and safety, child abuse prevention and detection, the needs of children with a disability, program management, and relevant law enforcement;

162. Impose personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and, to the maxium extent feasible, have inspection responsibility exclusively for children's services;

163. Require personnel who perform inspection functions with respect to licensed or regulated care services to make not less than 1 unnanounced inspection of each center-based child care provider in the State annually;

164. Personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections periodically, and during normal hours of operation, of licensed and regulated family child care providers in the State; and

165. Require the ratio of licensing personnel to child care providers in the State to be maintained at a level sufficient to enable the State to conduct inspections of child care facilities and providers on a timely basis and otherwise to comply with the enforcement requirements of this section;

Require licensed or regulated child care providers (including registered child care providers) in the State—

166. To have written policies and program goals and to make a copy of such policies and goals available to parents; and

167. To provide parents with unlimited access to their children whenever children of such parents are in the care of such providers;

168. Implement a procedure to address complaints of parents and child care providers;

169. Prohibit the operator of a child care facility to take any action against an employee that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure to comply with any applicable licensing or regulatory requirement;

170. Make consumer education information available to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

171. Require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

172. Require the State to maintain a record of parental complaints and to make information regarding substantiated parental compliants available to the public on request.

173. Requires the plan to provide that not more than 2 percent of the funds received under this subchapter will be used to pay administrative costs incurred by the lead agency to carry out the above requirements.

174. Requires the plan provide by December 31, 1992, and at 2-year intervals thereafter, that the State will submit to the Secretary a report—

175. Specifying the uses for which the State expended funds; and

176. Specifying, in each specific category, the amount of such funds expended;

177. Stating the reasons supporting the selection of each such use and the amount of such funds expended for each use;

178. Identifying the extent to which other resources of the State were expended for each of the activities; and

179. Containing data designed to show—how the child care needs of families in the State are being fulfilled, including information on—

180. the number of children being assisted with funds provided under this subchapter, and under other State and Federal child care programs, except programs conducted pursuant to part A of title IV of the Social Security Act;

181. the type and number of child care programs, child care providers, caregivers, and support personnel located in the State; and

182. salaries and other compensation paid to full- and part-time staff who provide child care services; and

183. the extent to which the availability of child care services has increased; during the 2-year period for which such report is required to be submitted.

SEC. 658I. FEDERAL ENFORCEMENT.

184. Requires the Secretary to review and monitor State compliance with enforcement and the plan approved under section 658E for the State.

185. If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan; or

in the operation of any program or project for which assistance is provided under this subchapter there is a failure by the State to comply;

requires the Secretary to notify the State of the finding and that no further payments may be made to such State under this subchapter . . .

186. Additional Sanctions available including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under the bill.

187. The notice *required* under the noncompliance provisions shall include a specific identification of any additional sanction being imposed.

Requires the Secretary to establish by rule procedures for—

188. Receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any other requirement; and

189. Imposing sanctions under this section.

190. Requires the Secretary to establish, within 60 days of enactment, the National Advisory Committee on Recommended Child Care Standards.

191. Requires the Committee to review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

192. Requires the Committee (within 180 days) to submit proposed recommended standards taking into account the different needs of infants, toddlers, and preschool and school-age children; and

193. Requires the Committee to develop and make available to lead agencies (for distribution to resource and referral agencies in the State) recommended requirements for resource and referral agencies.

194. The proposed standards submitted shall consist of ("only") the following:

Center-Based Child Care Services—

195. group size limits in terms of the number of caregivers and the number and ages of children;

196. the maximum appropriate child-staff ratios;

197. qualifications and background of child care personnel;

198. health, nutrition, and safety requirements for children and caregivers;

199. inservice training in areas appropriate to providing such child care services, including the minimum number of hours of such training; and

200. parental involvement in licensed and regulated child care services.

Requires family child care services standards to include:

201. the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

202. the minimum age for caregivers;

203. health, nutrition, and safety requirements for children and caregivers; and

204. inservice training in areas appropriate to providing such child care services, including the minimum number of hours of such training.

Requires group home child care services to include:

205. the maximum appropriate child-staff ratios;

206. the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

207. the minimum age for caregivers;

208. health, nutrition, and safety requirements for children and caregivers; and

209. inservice training in areas appropriate to providing such child care services, including the minimum number of hours of such training.

210. Requires the Secretary to prepare notice of proposed rulemaking and issue rules establishing recommended child care standards within 180 days after standards are published.

211. The standards shall include nutrition requirements.

212. The Secretary may not amend any standard, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, child care has been discussed, debated and dragged through the mud. Finally, Congress again has the opportunity to vote for a reasonable child care bill. The Stenholm-Shaw bill better meets the needs of the American public without creating a new bureaucracy. There are a few facts that need to be brought to light.

Both bills are costly. However, H.R. 3 has a 5-year funding shortfall of $14.5 billion, over twice the shortfall of the Stenholm-Shaw amendment. This is clearly irresponsible.

Second, H.R. 3 creates a new grant program with the potential to grow into a burgeoning new bureaucracy. This is an antimarket, even somewhat socialistic, approach to providing child care. H.R. 3 gives priority to the public sector to provide child care. Under the Stenholm-Shaw bill, States may use title XX funds to initiate a school-based child care program if States indeed prefer school-based care.

Third, H.R. 3 authorizes $1.4 billion for a new grants program. Its primary purpose will be to expand child care grant programs and to establish a National Advisory Committee on Child Care Standards. In addition to being a considerable amount of money, this provision has the potential of blossoming into a new layer of State and national government.

Fourth, and finally, H.R. 3 has broad and complicated religious language which risks an unconstitutional church-state entanglement. Furthermore, the language in H.R. 3 will deter and even prevent religiously affiliated providers from accepting Government assistance. The Stenholm-Shaw bill guarantees Americans their right of choice for religious day care. It is specific in its language and will not endanger church-based care.

The Stenholm-Shaw bill is more flexible, equitable, and does not contain mandates that would reduce the supply of child care and increase its costs. I encourage my colleagues to vote in favor of the Stenholm-Shaw bill.

Mr. SHAW. Mr. Chairman, I yield myself such time as I might consume.

The CHAIRMAN. The gentleman from Florida is recognized for 1½ minutes.

Mr. SHAW. Mr. Chairman, unfortunately in this debate we have concentrated on what divides us and not what brings us together. We do have an opportunity here on the floor today, in the House of Representatives to pass historic legislation. It is legislation for the first time that will reward people for working. It will go to the working poor, those people who are struggling to work their way out of poverty, those people who are poor, working and happen to have kids, which is an added expense, and have day care. That is what brings us together.

Unfortunately, we do have to talk about what divides us, and we have spent an extraordinary amount of time talking about regulations and people trying to say it is a Stealth issue. It is not. We have seen the list. It is up before us.

The question is as to what it provides for, and I will read down from page 43 of the bill starting at paragraph (c). It says, "State Child Care Standards.—Beginning 3 years after the date of the enactment of this subtitle, each State which receives a payment under this subtitle shall have in effect child care standards in each of the categories described in this subsection, which shall apply to all child care funded in the State under this title, and all child care services delivered by providers in the State who receive public funds," "public funds," "public funds" are State funds as well as Federal funds, "for child care services and are required by the State to be licensed or regulated." And then it goes on to state how these are going to

be, and that language is incorporated back under title XX.

I would ask the Members to think carefully about imposing the federally mandated standards upon their individual States.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SHAW] has expired. The gentleman from California [Mr. HAWKINS] has 2 minutes remaining.

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Mr. HAWKINS. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. I thank the gentleman very much.

Mr. Chairman, I certainly rise in strong support of the bill before us. I think we are seeing, colleagues, the liberation of Eastern Europe, the struggle of the Lithuanian people, the Chinese people, et cetera; I think Americans are asking where is our revolution?

I really believe that it is in quality-of-life issues, certainly starting with the quality of life in training and care for our children.

That is why this issue is an anchor issue, this issue is landmark, this legislation is landmark legislation and we certainly would be remiss if we did not pass it in its present form.

I want to commend all the people who worked so hard on this bill and who have worked on this bill for years.

But I especially wanted to commend the distinguished chairman of the full committee, the gentleman from California, Chairman HAWKINS, who has paved the way to providing not only this landmark legislation but when I came to Congress we were talking about the Humphrey-Hawkins bill, and a bill for full employment for every American.

Take a look at the educational issues that have been before us and you will see GUS HAWKINS and other names associated with Head Start, student loans, equal access to educational needs.

Take a look also at legislation such as the Older Americans Act.

I want to just say "Thank you" to GUS HAWKINS, who has announced his retirement. He has been a public servant for more than 62 years, I believe. He looks a lot younger than most of us.

But these are the Members of Congress that sometimes we never hear about. The American people ought to know of a genuine hero right on this House floor.

The CHAIRMAN. The gentleman from California [Mr. HAWKINS] is recognized for 1 minute to close debate.

Mr. HAWKINS. Mr. Chairman, I would like to just simply remind the Members, despite all the charges and countercharges, of one thing as we close, who would benefit under the leadership proposal but not under the Stenholm substitute. But let me make one final plea for 10 million latchkey children, because the Stenholm substitute does not earmark funds for this group. At the close of the school day, children between the ages of 6 and 16 will be left adrift. When they leave the school grounds, they either go home to empty houses or go out into the streets where they will be exposed to various risks of drugs, alcohol, teenage pregnancy, gang activity, and so forth.

I say let us not allow those children of America to be exposed to those risks. We cannot possibly do that, it seems to me, in a civilized society.

Let us oppose Stenholm.

Mr. BORSKI. Mr. Chairman, I rise today in strong support of H.R. 3, the Early Childhood Education and Development Act. I also commend the Democratic leadership for drafting this much-needed comprehensive child care package.

With the dramatic rise in the number of mothers of young children in the labor force, child care has changed in just one generation from a topic regarded as strictly a private matter to one of intense public debate.

I am committed to the passage of legislation which will improve the quality as well as the availability and affordability of child care for working families. I believe H.R. 3 is a positive first step in addressing the child care needs of America's working families. Child care has become a pressing concern for millions of working parents and a Federal response is urgently needed.

I believe that a comprehensive and systematic approach to child care should include an array of services: Grants to States to fund affordable child care; before- and after-school care programs; expanded Head Start; financial incentives to enhance the quality of their system; model child care standards to assist counties and States to develop a quality system; and tax credits to increase the money available for child care for working families.

Federal investment in child care is necessary if my State of Pennsylvania is to meet the growing demand for child care. In Pennsylvania, 37 percent of mothers with children under 6 are working. Moreover, 157,000 Pennsylvania children under age 5 live in poverty, yet only 26,823 received child care assistance last year. The $74 million earmarked for Pennsylvania in the bill will begin to address these dire statistics.

The cost of child care is not the only issues at stake here. America's parents are deeply concerned about the safety and quality of child care available to them. They need basic assurances that their children will be safe and protected when they must work outside the home. H.R. 3 should give working parents that peace-of-mind because it establishes common sense health and safety protection for children in day care.

Standards for regulating the care and handling of animals are well known and, for the most part, strictly adhered to throughout the agricultural industry. Should we be less demanding when it comes to developing safety and quality standards for the welfare of our most precious resources, our children?

For example, Pennsylvania's regulations do not address a parent's right to visit and/or observe their child in a child care center or family day care home. They do not establish limits on the number of children that can be cared for in group centers. Pennsylvania has no on-going training requirements for either teachers in child care centers or family day care providers.

H.R. 3 addresses public concerns about the safety and quality of child care. Under the legislation, States—not the Federal Government—will develop safety and quality standards assuring parents that their children are in healthy and safe settings which protect them and promote their development and well-being.

These provisions assure that parents will have a right to visit their child care program at any time; parental complaints about child care programs will be recorded and made available to the public; and regulatory staff will be trained in child abuse prevention.

Affordability is another concern that many working low and middle income families are facing. Pennsylvania has not changed its title XX income eligibility guidelines since 1981. A family of three must have an income not in excess of $17,500 in order to be eligible for child care benefits. The high cost of care has kept many families from accepting promotions and pay raises do not meet the cost of child care in order to remain eligible for title XX benefits.

Lack of day care is a major barrier to employment for one out of five Philadelphia families. These 26,000 parents had to leave a job, refuse an employment opportunity, or not engage in a job training or education program because they could not find adequate or affordable day care for their children.

H.R. 3 would not be complete without a before- and after-school child care provision. In Philadelphia alone, nearly 25,000 school-age children come home to an empty house after school.

The lack of good child care is a national problem, demanding a comprehensive solution. The Early Childhood Education and Development Act establishes a partnership between the Federal Government and the States that will ensure that low- and middle-income families across the Nation will have greater access to safe and affordable child care.

H.R. 3 is a significant response to the mounting child care crisis. I urge my colleagues to support the Early Childhood Education and Development Act.

Mr. CONYERS. Mr. Chairman, I rise in support of H.R. 3.

The inaccessibility of child care is one of the most distressing obstacles facing women who work and families where both parents work. Passage of legislation to remedy this situation is of particular importance to African-Americans.

Over half of all African-American children live in single parent families. A single mother cannot afford to take a job or take advantage of education or training opportunities if she cannot find someone to help her with her current job—caring for her children. One in four black children has a teen mother who needs child care in order to return to and finish

school. A single mother needs child care in order to be able to work at all.

If we are committed to breaking the cycle of poverty, we must act now.

Even for two-parent African-American families, a second income is key to economic self-sufficiency: Between 1967 and 1985, wives' contributions to family income for two-parent African-American families rose from 19.4 to 30 percent—one third of a family's income. For many African-American families the loss of a mother's salary would put them below the poverty line.

Families should not have to choose between buying shoes, or heating their home and the child care that they need to hold a job. They should not be forced to leave their children in substandard or unsafe situations. Right now we have young children—7, 8 years old—staying home from school to babysit so that their mothers can go to work.

We are on the verge of losing two generations of black children to drugs, violence, and poverty. We need to provide as strong an early childhood foundation as possible. This is in all of our self interest. By the year 2000 one third of our Nation's children will be minority. We cannot afford to squander their lives and talents.

This is critical legislation for African-American and all families. Access to safe, affordable, convenient and quality child care is a necessity. Providing for our children is the best national security investment we can make.

Mr. CONTE. Mr. Chairman, I rise today on behalf of the parents of young children throughout this great land, who find themselves caught in the complexities of wanting to care for their children, needing to work in order to meet those obligations, and lacking quality care for their children.

We all represent families that desperately need our help. Families that are facing the gut-wrenching challenge of finding child care that is safe and affordable.

By voting for H.R. 3, the early Childhood Education and Development Act of 1989, we can take a step toward easing the pain that too many working parents experience everyday.

Under H.R. 3 we will invest $1.75 billion in direct support for child care. Of this $600 million would go to caring for headstart children with parents who work, $438 million would go to before and after school care and preschool care, we'd have $450 million for infant and toddler care, and $263 million to improve the quality and availability of care. In addition to the $1.75 billion, $25 million would be made available to encourage businesses to provide day care for their employees and $75 million would go to the States to upgrade the quality of their care.

H.R. 3 is the result of over 3 years of thought, discussion and compromise, compromises many of us wish we didn't have to make. But that's what it takes to get things done around here. The bill responds to the legislative concerns that have been expressed and it addresses the needs of our working families in a manner that works for everyone—parents, States, churches, and the Federal Government.

H.R. 3 represents a significant investment in child care, an investment that will give us many good returns because it targets the families with greatest need, working families with latch-key children and children in Head Start. And it provides for quality care, an issue that keeps parents awake at night worrying about whether their children are being poorly served or mistreated.

This package has broad-based support and it provides enough resources to meet the needs of those families most in need. H.R. 3 is a good bill and it deserves our support.

Mr. SHUMWAY. Mr. Chairman, I rise today in strong opposition to the leadership's so-called compromise child care bill. Last week, I prepared some lengthy remarks to deliver in opposition to the anticipated measure but, since its changing contents have continued to remain something of a mystery, I will confine my remarks to general opposition.

In my view, this is another example of what I call "applehood" bills—measures which have noble-sounding titles designed to defy negative votes. Unfortunately, the nobility of the Childhood Education and Development Act begins and ends in that title.

As the father of six children and grandfather of six more, I strongly believe that decisions concerning appropriate child care should be left up to parents. Some choose to have their children cared for at home, or in the homes of relatives or neighbors. Others prefer to leave their children in church-based daycare centers, while some may elect more formal, structured centers outside the home. That is as it should be. The leadership bill would impede parental choice, as well as reduce the present responsive variety of child care methods available. Its effect on the right to choose church-based daycare remains unclear. For those reasons alone, I would oppose it. However, extending the restrictive hand of the Federal Government directly into the nursery is not the measure's only flaw.

This is a time of serious budget constraints. Any action we take must reflect a responsible commitment to budget reduction; fulfilling that commitment virtually precludes the establishment of costly new programs. The leadership's child care bill ignores that fact. This is not the time for advocates of public school-based child care to fulfill their long-term agenda, nor is it an appropriate moment to expand and enhance the size and scope of Federal control.

In my view, the Federal Government should stay out of family decisionmaking, and this compromise possesses few redeeming features. Moreover, it perpetuates a procedural tradition which I have never condoned, by presenting us with a last-minute surprise. We have no business voting on a measure which has neatly bypassed the usual process, and which comes to us devoid of legislative history. I could not support it under any circumstances. Fortunately, those among my colleagues who share my view will at least be offered an alternative.

No doubt many of those colleagues have experienced the same flood of angry telephone calls from parents as I have this past week. Literally hundreds of them have made it clear that they don't want the Federal Government interfering with their decisions in raising their families and, if some Government involvement is inevitable, they would prefer the so-called Stenholm-Shaw II language.

In contrast to the leadership version, Stenholm-Shaw II preserves parental choice. It treats all family situations equally. It provides low-income parents with both freedom and buying power to select an appropriate child care method. Maximum flexibility is extended to States to target child care money where it is most needed, without the burden of Federal mandates. No new bureaucracy is created.

Public policies should encourage the healthy and responsive diversity in child care which is now available, not restrict it. I believe the alternative recognizes that goal, while minimizing cost, maximizing relief, and preserving free choice. It is not perfect, but certainly it is vastly superior to the compromise.

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in support of the child care legislation that the Democratic leadership has brought to the floor today. When the House first considered child care legislation last year as part of the Omnibus Budget Reconciliation Act of 1989 there were some unresolved problems. First there were two competing versions relating to the kind of funding the new Federal child care program would involve. Second, there was language in the bill that would have prohibited child care providers housed in religious institutions from receiving child care funding.

The Congress has deliberated child care legislation for the past few years. During this time, I have had two fundamental concerns: First, I feel that the new Federal child care program must utilize the least amount of Government bureaucracy as possible. Families and states do not need heavy handed Federal regulation—they need Federal assistance. My second concern has been to allow religious institutions to continue providing child care services and allow these institutions to receive Federal funding to continue providing child care services. Church and synagogue child care programs represent as much as one-third of all child care centers in the United States. These programs have contributed in significant ways to meeting pressing child care needs in this country; some of the finest examples of child care today are found in local churches and synagogues.

I am pleased that these issues have been resolved in the leadership bill. The use of an existing bureaucracy, the social services block grant, will be less complicated and should provide a reliable and familiar system to fund child care services.

I am also pleased that the leadership bill incorporates the Senate-passed languages dealing with sectarian child care. The bill will require states receiving title XX child care funds to establish a voucher system for child care. This will permit families to have the freedom to choose where their children will receive child care. The bill will also allow the status quo to continue in religious-based child care services. I do not support amendments that attempt to restrict the freedom of religious institutions in their hiring and admission practices for child care services. It is very important that families be permitted to select the child care setting of their choice, and that should include sectarian care, if that is their

wish. The language in the leadership bill not only recognizes that religious-based child care should be allowed to receive Federal funding but it also grants them the freedom to provide that care as they have in the past—with faithfulness to their own tenets.

I think that this legislation is long overdue. Those who have waited have reason to rejoice. Those who were concerned about religious freedom can be assured that this freedom has been protected and their child care services will be utilized in this new Federal child care program.

Mrs. BENTLEY. Mr. Chairman, we are about to pass legislation that is of historic importance to working families throughout this Nation—namely child care. Very few can dispute that the number of women in the workplace is increasing at a dramatic pace and the need for safe and cost efficient child care is of paramount importance. Unfortunately, jurisdictional, mechanical, and philosophical debates have bogged us down for much too long. As such, I rise today to commend my colleagues for bringing a bill to the floor, and to lend my support to the substitute legislation.

First, I am firmly convinced that the best method of delivering child care funds to the working family is through a vehicle that already exists—the earned income tax credit—rather than by setting up a whole new bureaucracy to undertake the task. Lord knows, the last thing we need is another bureaucracy to foul things up. ABC would have done just this: Create yet another bureaucratic monument to inefficiency. The Soviets are struggling to free themselves from 73 years of bureaucratic bottlenecks; we should learn from their failures.

I have consistently supported legislation to expand the earned income tax credit for low income families because it offers families the freedom and buying power to choose the type of child care that they—not the government—think is best for them. In addition, this approach gives families the important option of not having to put a child in day care at all—maximum flexibility that makes good sense.

The Stenholm-Shaw substitute recognizes both these points and retains the emphasis on a tax credit while expanding the Head Start and social services block grants, again using proven programs rather than creating new ones.

Also, there are the issues of vouchers and religious-based day care. The Senate took the right tack, but the substitute being considered today goes one small step further in terms of giving parents additional flexibility, and isn't this our desired goal?

Many people harbor reservations about the issue of separation of church and State and the like, but let's face reality: 30 percent of the center-based day care in this country is run through religious institutions. To exclude them would mean fewer choices for parents than exists under current law.

Many of us have been very concerned about ABC's initial unreasonable licensing regulations that would be imposed providers of informal care, including churches and grandmothers. I concur with the statement made by the gentleman from Texas [Mr. STENHOLM] last week, when he said: "We simply reject the premise that licensed and regulated strangers guarantee better care than trusted friends and relatives."

This is a kernel of truth that cannot be discounted and it is simply outrageous to think that institutionalized and overregulated child care is good for America, or any country for that matter. Look at the example of Czechoslovakia. To compensate for serious labor shortages in the immediate postwar period, they set up a mammoth network of institutionalized day care centers so that women could go out and work. What happened? Well, 20 years later they were taking drastic steps to dismantle the same institutionalized system due to the dramatic impact it had on child development.

Now, of course we are not Czechoslovakia, but one thing is crystal clear—our goal should be to increase rather than decrease options available to the family. The bottom line is that Stenholm-Shaw does a better job meeting this goal and it is for this reason that I support the substitute.

Mrs. SCHROEDER. Mr. Chairman, you've got a BMW 850, a dinner at Jean Louis, a Lear jet, a commissioned piece of art, a $3,000-a-year child care bill, and an oriental rug. In the words of the "Sesame Street" gang, "Which one of these is not like the other?" The answer is child care expenses.

Although child care expenses are legitimate business expenses, the leadership package and the Stenholm substitute propose phasing out the dependent care tax credit for families with an income of $70,000. In many States, $70,000, translates in to a family headed by two police officers or two teachers.

More than 64 percent of workingwomen find that dependent care is an ordinary and necessary expense of carrying out a business. Our tax law imposes a tax on NET business income, and permits a deduction for all other ordinary and necessary business expenses. However, we choose to discriminate against dependent care expenses in favor of Lear jets.

No other business expense, including BMW 850's and business lunches at Jean Louis, are subject to an income ceiling. Until our tax policy limits the deduction of other business expenses at upper income levels, it doesn't make sense to single out child care expenses. Do we want to tell American families that the U.S. Government is more interested in their office furnishings than their children or their family?

Mr. KOLBE. Mr. Chairman, there is no more important natural resource than the children of our Nation. We are now focusing on the care of young children because our society has been hit by a double whammy of dealing with a changing work force and the growing realization that early childhood experiences shape the individual for the rest of their life.

The work force has changed. More women with children work. Family structure has changed. There are fewer nuclear families—fewer intergenerational families meeting the emotional and physical needs of children. Conversely, there are more single parents struggling to balance these needs for their children. These changes have dramatically increased the demand for child care.

We are struggling with drug problems, juvenile gangs, quality of education, soaring health care costs, the deterioration of traditional values. We have learned that many problems that engulf children follow them to adulthood. We understand better today that these tragedies might have been avoided with earlier intervention.

When I served in Arizona's legislature, I remember very well tackling these very issues of child care in committee and on the floor. I think we did a good job of setting State requirements and enforcement procedures. But, we did it based on conditions in Arizona, not New York or California. It is ludicrous for the Federal Government to force, yes, force States to adopt its list of recommended standards.

Our task is to create more child care, not less. The claims that this bill will create more child care slots are just plain false. The heavy doses of regulations and reports will inevitably restrict the number of child care providers. Requiring States to set training and ratio requirements and requiring them to file reports on every possible infraction will shrink the number of current day care providers. All H.R. 3 will do is drive up prices and diminish the supply of care.

Another particularly troubling provision in H.R. 3 is the expansion of school-based child care for 3 and 4 year olds. Many teachers I talked with tell me special skills are needed for teaching this age group. They worry about the burden this will placed on our already overburdened school systems. And they are right.

We do have an option available to us that would help provide more and more affordable child care, provide more choice for parents, and resist the urge to strangle child care providers in Federal red tape. The Stenholm-Shaw amendment will allow the maximum choice for parents without restricting the child care market. Expanding the earned income tax credit puts more money into the pockets of the working poor, not the pockets of bureaucrats and administrators.

The Stenholm-Shaw amendment also puts more funds into the successful Head Start and Social Service Block Grant Programs. This allows parents to exercise all of their options while encouraging State and local government to find ways to increase day care slots. It won't require the creation of a massive bureaucracy to oversee and administer child care as H.R. 3 does.

I urge my colleagues to seriously consider which option will best meet the real need that exists for more accessible and affordable health care. We can focus on the children and the parents or we can build another Federal bureaucracy. Let us not repeat the mistake of catastrophic health legislation by completely misreading the needs and desires of those we are trying to help. Surely, if we pass this monstrosity we will be back a year from now attempting to fix it or repeal it. We can save ourselves a lot of grief by adopting the Stenholm-Shaw amendment today.

Mr. MFUME. Mr. Chairman, I rise today in strong support of H.R. 3, the Early Childhood Education and Development Act. Mr. Speaker, over the last two decades, the economic reali-

ties within this Nation have fueled an incredible increase in the number of women within our Nation's labor force. According to the Department of Labor, women made up 45 percent of America's total labor force in 1988.

In fact, Mr. Chairman, the number of women entering America's labor force due to economic necessity continues to rise as does the proportion of families headed by single mothers. I submit at this point that the stereotypical housewives or the June Cleavers of America are quickly becoming an image of the past. Sadly, the concomitant ill effects of this national phenomenon has been the devastating price America's children have had to pay.

The question before us today is not whether we should create a national child care plan, but rather which plan do we adopt? I for one support H.R. 3, and urge like-minded Members of the House to support this measure over the Stenholm-Shaw substitute.

Mr. Chairman, I am sure that many of my colleagues have received dozens of phone calls over the last week from their constituents urging them to support Stenhom-Shaw. Calls I have received claim that H.R. 3 does not provide parental choice and discriminates against church-based child care centers.

The charge that H.R. 3 limits choice is false because there is no language in H.R. 3 that in any way limits parents in selecting a provider. Mr. Speaker, the American public has somehow been hoodwinked into believing that H.R. 3 was designed to exclude the parent from the day care center of their choice and discourage the selection of a church-based institution. I find this a misrepresentation of the facts and urge the American people and Members themselves not to be duped by these accusations.

The child care bill that I support seeks to expand the availability of day care for working parents by expanding Head Start to a full-day, year-round program, which proposes to use schools to provide child care and by encouraging businesses to provide care for the children of their employees.

Mr. Chairman, essentially my problems with Stenholm-Shaw is that it does not provide adequate funding to ensure quality day care. Additionally, this substitute under funds crucial programs that contribute to the development of our Nation's youth. I could continue to go on and on regarding the differences between these two measures but will conclude that the House compromise on H.R. 3 is clearly beneficial, offering quality and choice. It is time for the Congress to get serious about this issue and move to protect the future of our Nation—the children.

Mr. FAUNTROY. Mr. Chairman, I rise in strong support of H.R. 3, the Early Childhood Education and Development Act which is the leadership package. This package makes a sound and significant investment in our children by authorizing $1.75 billion in child care while targeting funds to areas of special need in our country such as latchkey children.

This measure builds on the success of the Head Start Program by authorizing $611 million in fiscal year 1991 to expand the time children can spend daily in the program, covering a full working day of at least 10 hours daily. Head Start would also be expanded to cover the full calendar year with the exception of weekends and holidays. Under present constraints this extremely successful program is most often a half-day program with only 6 percent of the children served enrolled in a full-time experience. The expansion of Head Start is also required because under present operations less than 20 percent of eligible children are served.

Importantly, this Head Start expansion will encourage parents who are seeking to improve themselves by opening enrollment opportunities to eligible children provided their parent or parents are engaged in an education or training program.

Under the leadership package $429 million would be authorized in fiscal year 1991, for the provision of State grants to school districts to expand, establish, or operate early childhood development programs. Programs structured under these grants will provide access for working parents to child care, at one location for an entire working day. These school-based programs would be required to provide child care without charge for economically deprived families that reside in the school district and whose parents are employed or are pursuing further education or training.

While this leadership package does contain important provisions that will assist States to improve the safety, quality, and supply of child care and includes State developed health and safety protections, I would hope that the model standards criteria originally developed by the Committee on Education and Labor version would receive reconsideration when this legislation goes to conference.

Additionally, this leadership package contains significant tax credits to assist low-income parents, including mothers who choose to stay at home as well as child care incentives to businesses.

Provisions of this legislation that do require modification are those that would authorize the dissemination of Federal funds in the form of vouchers to religious institutions for religious instruction and also provide Federal funds for day care centers run by religious institutions that discriminate in the hiring of employees and in the admission of children to the program. I am in agreement with my distinguished colleague, Chairman DON EDWARDS of the Subcommittee on Civil and Constitutional Rights, that this otherwise worthy bill should be amended to accord with constitutionally mandated standards separating church and State. Under Chairman EDWARDS' amendment, troubling provisions would be stricken and religious organizations would be eligible for Federal funding for child care programs carried out on a nonsectarian basis. The amendment builds upon and enhances our constitutional fealty by requiring that Federal funds may not be used to promote religious instruction or to discriminate on the basis of religious belief, while permitting religious organizations to continue to provide quality child care in accord with the stipulations of our Constitution. I would urge my colleagues to support this amendment.

Mr. Chairman, families across our Nation are in desperate need of gaining access to safe and healthy, quality early childhood education and development programs. This leadership package makes great strides in meeting this fundamental and most important national need, a need that is most acutely reflected in the District of Columbia where we are experiencing a 45-percent dropout rate among students enrolled between grades 9 and 12. I know this legislation will make a difference in our Nation and in the District of Columbia. I urge the passage of the leadership package that will give all of our children a chance.

Mr. VENTO. Mr. Chairman, I rise today in strong support of the child care provisions contained within the Early Childhood Education and Development Act, H.R. 3. This legislation represents a lifeline to our Nation's struggling parents. It is also an opportunity to correct our past neglect. If we were to miss this chance today, we would fail to provide not only for the well-being of our children, but for the future of our Nation. We will have lost the means to implement a range of national laws and policies which we embraced as recently as the last Congress.

Mr. Chairman, when we stood here back in the fall of 1988 we passed a comprehensive welfare reform act with the belief that it would change the public assistance system from passive to active. We expected that it would break the cycle of public assistance dependency by assisting families in supporting themselves through education and job training to promote independence and self-sufficiency. Many of us believed that the legislation would work because we believed that Congress was committed to making it work. However, inherent to the ultimate success of welfare reform were the promises that we made to ensure full support in all the areas with which workers newly emerging from the welfare rolls would find themselves struggling. Not only education and training is necessary, but government assistance in other vital areas like affordable housing, comprehensive health care, and more readily available and safe child care. We have failed to followthrough and fulfill our commitment so far, Mr. Chairman—but today we can begin to change that.

It has been 20 years since any legislation has held this magnitude of hope and promise for children. Rapidly occurring changes in our society have now brought the lack of affordable, quality child care to the level of a national crisis. We can no longer deny that the escalating costs of raising healthy and literate children have taken their toll. By 1995, four out of five school age children will have working mothers. While for some, this is an elected choice, for many others it is an economic necessity. One-quarter of our working mothers in this country are the sole supporters of their children. Thankfully, however, the child care provisions reported by the Committee on Education and Labor and the Committee on Ways and Means offer a ray of hope. Combining some of the essential ingredients necessary to produce a successful program, the Hawkins-Downey provisions address many of the most crucial child care needs of our Nation's parents: affordability and quality. I would like to have seen the ABC provisions retained within the bill, because I believe that they more adequately addressed the critical issue of the availability of child care. In comparison, the provisions which remained in H.R. 3 are

merely a down payment on the problem rather than a permanent solution. None the less, we must choose the best choice available and that is the Early Childhood Education and Development Act.

Mr. Chairman, it is crucial that we address each of these issues while we have the opportunity. To do less would be an injustice both to many of the Nation's children and to those whose hopes we raised with the passage of welfare reform and the JOBS Program. Yet as we stand here today and declare the urgent need for child care we are simultaneously considering a substitute amendment that would diminish or simply remove the most important provisions of child care remaining within H.R. 3.

Mr. Chairman, we must take care. The amendment offered today by my colleagues Mr. STENHOLM and Mr. SHAW is woefully inadequate. Although it is being portrayed as an alternative to the child care provisions crafted by the Committee on Education and Labor and the Committee on Ways and Means, it doesn't come close to meeting current child care needs. None of us are here today to harm families or to hurt children. Nor are we here to limit parents choices, such as for church centered child care. I recognize the essential role that religious affiliated providers have played, and will continue to play, in providing child care. This bill would not reduce that role. I find it ironic that the Stenholm substitute is being touted as the profamily bill, as though H.R. 3 is intended to be antifamily. The irony, Mr. Chairman, is that, of the choices before us today, one bill would indeed do significantly less to alleviate the child care needs in America and it is the Stenholm-Shaw substitute.

The adoption of the Stenholm-Shaw amendment would eliminate the minimal training standards which would ensure that our children are being cared for by professionals in a safe environment. It would eliminate the provision which would allow parents to drop by and determine first hand the type of care their children are receiving. It would fail to provide for before and after school child care to help the growing numbers of latchkey kids. And it even fails to fund to the same level the Title XX and Headstart Programs that it has in common with H.R. 3, which itself is still too low. Clearly, Mr. Chairman, the Stenholm substitute amendment would fail to meet the most basic child care needs of American families.

If we vote today to accept the alternative and not the provisions offered by the Committee on Ways and Means and the Committee on Education and Labor we will have demonstrated our inability to understand the lesson which has been taught to us many times. Providing funding without guidelines to ensure that it is spent in the intended manner is a certain way to fail in obtaining the purpose of public policy. Good intentions are not enough—we must make the law effective and workable. We do no less for any other program, should we do any less for our children?

Mr. Chairman, I specifically urge my colleagues to oppose the Stenholm-Shaw substitute. Over 150 major organizations—including most of the Nation's major labor, education, children's, and religiously affiliated groups—have seen fit to support the provisions within the leadership compromise package. The House should support it as well.

We have already failed during the 101st Congress to provide for almost half of those who are eligible to receive WIC funding. We have very nearly enacted an overly generous bill with the capital gains tax policy change. Congress failed to override President Bush's veto of the minimum wage law capable of providing the working class poor in this country the opportunity to raise themselves above the poverty level. And we failed to protect the most rapidly growing sector of our society from unforeseen illness when this House recommended full repeal of the Catastrophic Health Care Act. The House has still not attempted to enact the provisions in that catastrophic act that provided for the essential expansion of key Medicare programs.

Mr. Chairman, this is not a good response, it is a record of avoiding problems, and I fear indifference. But today we have a chance to begin to change the score. We can and must address the needs of families. Millions of Americans need our assistance and not our indifference to their everyday concerns and dreams. Not since the early 1970's has Congress been this close to enacting serious, comprehensive child care legislation. The tireless efforts of the grassroots groups who brought us to this point can not go unattended—American children should not continue to be inadequately cared for. Today, let's make the most of this opportunity and support the child care provisions of H.R. 3. Vote against the Stenholm amendment and for final passage of the leadership compromise. Ensure that child care is made not only more affordable, but that it is provided by qualified personnel in a safe environment. This is essential if we are to realize a renewed commitment to the American family. We must keep this ray of hope alive for children today and tomorrow.

Mrs. ROUKEMA. Mr. Chairman, I must reluctantly oppose the majority's day care bill, H.R. 3 and the Stenholm-Shaw substitute as well.

Time permits only an abbreviated explanation for my opposition, but I ask unanimous consent to revise and extend my remarks.

If we are to have a new Federal child care program, I do not oppose vouchers for centers sponsored and operated by religious groups. Clearly the Federal Government already funds a variety of programs that are based in churches and synagogues. These programs work and they are not challenged on constitutional grounds. I believe that is a phantom argument. Moreover, we cannot ignore the fact that church-based groups supply an estimated 40 percent of all child care available outside the home. Any child care bill passed by us needs to recognize this fact and make funding available to build on these successful programs.

As for the substitute backed by the administration, they want diversity and choice—and tax credits—but inexplicably they don't want to associate this program with the schools, except to the extent that Head Start continues. They do not wish to expand the program for before and after school programs for latchkey children.

On the issue of tax credits, I want it made clear that I am not fundamentally opposed to them. However, we are using the earned income tax credit in this case as Federal child care policy, which I believe is a misapplication of tax credits. If we are to consider earned income tax credits, we should be doing it in terms of national tax policy and incomes policy, but not as child care policy since there is no guarantee that this money will be used for child care expenses.

Fundamentally, we do not have the right to create not one, but two new entitlement programs conservatively estimated to cost $28 billion over the next 5 years. This at a time when both parties are pledging no new taxes, when nobody except Mr. ROSTENKOWSKI—who is disavowed by his party leadership—will even touch the subject of meaningful, real world deficit reduction. And talk of a pay-as-you-go package is nice but I do not see it anywhere in these bills.

Perhaps this is the way we are to spend the peace dividend which the administration tells us doesn't even exist. If so, I want to know it up front.

And finally, Mr. Chairman, you know that as surely as night follows day, this entitlement is bound to grow. This is only the downpayment.

Now to return to the programs proposed by these bills, namely title XX, block grants, Head Start expansion, and so on, I would take a very different and more cautious approach. My approach to the issue of child care proposes grants to the States in the form of seed money to develop programs at the State and local level cooperatively with community groups, local school systems and business. A meaningful startup could be accomplished with a grant program of approximately $300 million. In addition to being a program we can afford, it also has merit in stimulating innovation and in keeping direction and choice as close to home as possible—with the State, community, school, business, and parents—rather than a federally directed, mandated program.

This seed money could be used to initiate and build on model programs such as those established in Independence, MO, and in my hometown of Ridgewood, NJ. The program in my hometown, established by Cathy Marino was created and thrives today without the benefit of Federal funds.

Like the program in New Jersey, the Independence, MO program is the result of the combined efforts of the community, business, the school system, and parents. By using the already available school facility, child care providers and parents have entered into a partnership that provides child care at an affordable price while giving quality and parent involvement top priority.

I urge my colleagues to keep in mind the successes of the Independence, MO, and Ridgewood, NJ, programs. In our effort to help working parents pay for quality child care, we must not destroy the very kind of child care programs that we want, and ought, to encourage. With these new proposals before us today, we will do just that.

Again, I stress that we should encourage child care programs in states and communities across the country that have responded to the needs of working parents. The best way to do that is through block grants to the

States as seed money to expand and build on the successful programs.

Any child care legislation that Congress passes should do four important things:

First, keep direction and choice as close to home as possible—with State, community, school, business, and parents.

Second, inspire and invest in innovation suitable for local needs.

Third, give flexibility to integrate existing programs in the public schools as well as church sponsored programs.

Fourth, given our enormous budget deficit, child care legislation must be consistent with the objectives of a pay as you go system and the overarching need for deficit reduction.

The bills we have before us today do none of this.

Mr. FRENZEL. Mr. Chairman, as indicated several times on this floor, it is my intention to vote for the Stenholm-Shaw amendment on the grounds that it is more reasonably priced than the $27½ billion H.R. 3, that it has no regulation compared to 212 bureaucratic regulations in H.R. 3, and that it provides more parental choice than H.R. 3.

However, Stenholm-Shaw also costs more than $20 billion over 5 years. I supported the Presidents $7 billion program when it was introduced. I could go a little higher, but I will not support a bill three times as expensive. If it prevails over H.R. 3, I would expect to vote against it.

If I am obliged to leave before the vote, I shall be paired, if possible, as noted above.

Mr. STOKES. Mr. Chairman, I rise today in support of H.R. 3, the Childhood Education and Development Act. I want to commend my friend and colleague, Chairman AUGUSTUS HAWKINS, for the extraordinary job he has done in developing this bill. He has brought real leadership to Congress on behalf of our Nation's children.

This legislation, as you know, is the first comprehensive child care bill ever, designed to help expand the range of good child care choices available to working families. H.R. 3 is the product of many years of effort by parents, educators, child care providers, and many others. It spells promise and hope to millions of American families and children.

Unfortunately, I might add, this is a good news/bad news situation. The good news is that we are finally moving ahead on an initiative that in my opinion is a national priority. This issue is the pressing need for safe, affordable, child care for our Nation's families. The bad news is that it has taken us so long—with months of unnecessary quarreling and delay—to move forward on this initiative.

Mr. Chairman, that is why, as a cosponsor of H.R. 3, I am pleased today to join with Chairman HAWKINS and so many other of our colleagues in support of this crucial measure. Ultimately, passage of this bill doesn't hinge on a question of affordability or differing ideologies and viewpoints, but on the question of whether we can afford not to enact meaningful child care legislation now.

Mr. BUNNING. Mr. Chairman, I think it is important to understand what is being debated today in this Chamber.

Virtually all of us agree that the Federal Government should provide a policy to encourage the development of adequate, affordable, readily available child care facilities in this country. Few if any of us question that.

The debate here today is about something even more basic. The debate today centers around the single question: Should the Federal and State governments determine what kind of care the children of our country should receive—or should the parents of our country determine what kind of care their children should receive?

That is it. That is what this debate is all about. It's about choice.

Stenholm/Shaw provides choice to the parents.

H.R. 3 as amended does not provide choice.

It is that simple.

Some changes have been made in H.R. 3 to make it appear that it provides choice but it is still basically what it has always been, blatant Federal intrusion into the American family.

The proponents of H.R. 3 say it does not establish Federal standards for child care—but it contains 41 pages of standards and mandates—minimum training requirements, child-staff ratios, qualifications and background of staff. Those sound like Federal standards to me.

The proponents of H.R. 3 say that it offers choice—but it fails to guarantee parental choice by permitting States to prohibit use of certificates for religious child care.

Stenholm/Shaw guarantees all parents who receive a child care certificate the freedom to use that certificate with any child care provider the parents choose. Including those with sectarian activities.

And to make the antireligious related child care bias of H.R. 3 even more obvious, H.R. 3 limits religious preference in hiring.

Stenholm/Shaw permits preference in hiring based on religious beliefs.

On every count—on every issue—Stenholm/Shaw provides choice—H.R. 3 does not.

So, for me, the issue is very clear. I believe in choice. And I am going to vote for choice. I believe that parents should have the right to determine what kind of environment they want their children to be raised in. And I don't believe that the Government—the Federal Government or any State government—has the right to make that decision for parents.

That is why I am voting for Stenholm/Shaw. And that is why I am going to vote against H.R. 3.

It's all a matter of choice.

Ms. LONG. Mr. Chairman, I rise to address the issue of child care, which the House is considering today. Since coming to Congress, I have been an advocate of moving forward on child care legislation, which is urgently needed by our Nation's families.

Many provisions of the proposals we are considering today are excellent. These provisions will help ensure that our Nation's children have the care they need to get a good start in life and that families are provided with the financial assistance they need in order to give their children a strong foundation on which to grow. Moreover, these provisions ensure that parents maintain control over the type of care their children receive.

In fact, among the provisions I support most strongly are those that allow parents to choose the type of care they want for their children. I am pleased that provisions in the proposals being considered will allow child care funds to be used to pay for all types of child care, including family-provided care, group care, and church-based care.

I also strongly support the provisions that increase the funding levels for Head Start and that expand Head Start to a full-day, year-round program. This excellent program has already proven to be of great assistance to those who are given the opportunity to benefit from it. Research shows that children who have a quality preschool experience are less likely to be involved in a teen pregnancy, less likely to be arrested and face incarceration, more likely to finish high school, more likely to continue with post-high-school education, and more likely to find employment. By increasing the funding levels we will enable more children to benefit from Head Start. By providing for full-day, year-round care, I believe we will further improve the results of Head Start.

Similarly, I believe that by providing for school-based care before and after school hours, we will be able to provide care for the school-age children who truly need it. Sadly, more and more of our Nation's children are now without supervision during after school hours. Without supervision, many end up in trouble. By providing for school-based care, we will enable these young people, as well as their younger brothers and sisters, to receive quality care at a single location. With care of this nature available, parents will no longer have to make the anguished choice between the job they and their families need and the children they love.

Finally, I am strongly supportive of the proposals to increase the earned income tax credit [EITC]. By increasing the EITC and adjusting it to family size, we will help lower income parents, many of whom are overwhelmed by the costs of raising children. The adjustment for family size and the supplemental credits for young children and infants will make the EITC even fairer, by providing additional help to those who must provide for larger families.

Because of my strong support for these provisions, I deeply wish that I could vote in favor of child care legislation today. But I cannot. I cannot support either of the proposals before us because each contains provisions that will increase the taxes paid by many Americans. Both proposals would extend the 3-percent excise tax on telephone services that was instituted as a temporary tax. This tax was scheduled to expire at the end of this year, but under these proposals it will become a permanent addition to our tax system.

Moreover, both proposals would eliminate or reduce the dependent care tax credit for families in specific income categories. The result of this change would be to increase the amount of taxes paid by these families. I have stated that I do not support increasing taxes and this remains my position. I do not believe that we need to increase taxes, and I will not support legislation that does so.

As strongly as I support child care legislation and as much as I believe that we must provide for the support of our Nation's chil-

dren, I cannot vote for either proposal before the House today.

I am hopeful that child care legislation without any tax increases will emerge from the Congress this year, and I look forward to supporting such a measure wholeheartedly.

Mr. ENGEL. Mr. Chairman, I rise today to urge my colleagues to support the comprehensive child care package proposed by the House leadership and to oppose the inadequate substitute offered by Representatives STENHOLM and SHAW.

Child care is an issue of importance for all of us. Sixty percent of all working women have children under age 6, and half of all married mothers with infants under age 1 are in the labor force. There are three critical issues to child care that must be addressed: the high cost of services to low-income families; a shortage of facilities and services in most States; and the lack of minimum standards for child care services. The Stenholm-Shaw substitute does not address these needs. This proposal provides at least $700 million less than the leadership package. How can we stand up here and even consider making monetary cuts in an area so important such as child care. We owe our children the best possible care available—and it is not permissible to cut corners in providing that care.

The Stenholm-Shaw proposal seriously thwarts the goals of H.R. 3. Specifically, it fails to provide guidelines for safe, quality child care programs; it eliminates funding for before and after school programs for latchkey children—leaving them more exposed to the pressures of alcohol and drug abuse; and it does not require that care givers be subject to any minimum licensing standards or requirements.

The leadership package, on the other hand, is a comprehensive, national child care policy. It provides sufficient funding to extend child care services to the working poor and to develop guidelines for program quality and safety. Additionally, it extends Head Start to a full-time, year-long program; creates before and after school programs for elementary school children; increases child care worker salaries and provides resource and referral programs. The leadership package is clearly designed to help American families care for their children in a safe, reliable way.

Mr. Chairman, as a father and former teacher, I feel it is very important to provide child care for America's youth. Work demands and family responsibilities have increasingly come in conflict as mothers have become a large and permanent part of the work force and fathers have begun to share in the caregiving responsibilities. With the changing nature of the American family and work force, many parents are not able to stay home full time to care for their children. The need for both parents to work, coupled with raising children, has left many families with their hands tied behind their backs. By not providing affordable, reliable child care, the strong family structure of America is threatened. It is up to the Government to help and it is important to provide children with educational and developmental opportunities. Mr. Chairman, a vote for the leadership package is a vote in favor of families and children.

Mr. KLECZKA. Mr. Chairman, I strongly support the revised child care bill, H.R. 4381, which would finally make comprehensive day care services affordable for America's low- and middle-income working families.

Let me emphasize that this legislation is particularly important to nearly half of the working women in Wisconsin, who are also the mothers of children under age 6 requiring day care. According to the children's defense fund, 3,500 Wisconsin families were on waiting list for subsidized day care in 1989. The waiting period for an open day care slot is still months long in many counties. The combined licensed capacity of day care centers and family care providers is less than 60,000 now in Wisconsin. Yet, children requiring public assistance for day care services increased 62.3 percent between fiscal years 1981 and 1988. Indications are that the demand for safe, affordable child care will continue to increase in Wisconsin. H.R. 4381 would bring much-needed Federal child care relief directly to hard-working families throughout Wisconsin.

It is notable that H.R. 4381 and the Stenholm-Shaw bill—H.R. 4294—are now quite similar in many aspects. Both bills expand the earned income tax credit [EITC] to help working families with a stay-at-home parent or a single head of the household. In addition, the bills maximize choice by allowing parents to send their children to a school-based program or a private day care center.

Clearly, H.R. 4381 and H.R. 4294 provide parents with a broad range of child care options. But it is wholly inappropriate for these bills to require States to establish voucher systems, and to endorse their use at facilities which permit religious worship, instruction and employment discrimination.

The Edwards amendment and Price amendment, which address these glaring constitutional defects in the bills, have my full support.

First, forcing States which do not now have voucher systems in place to create them abrogates the States' rights. Second, a Federal voucher for religious day care clearly violates the principle of separation of church and state—and would be found unconstitutional if brought to a test in a court of law. This is because a Federal voucher for religious day care is equivalent to Government support for the establishment of religion. This opens the door to Federal subsidization of religious education at all grade levels. For more than two centuries, the wall between church and state in this Nation has remained intact. This wall of separation, designed by our Nation's founders to protect religious freedom, has served us well. It should remain in place.

These last few days, my office has received many letters and phone calls regarding the child care bills. Most of the people who contacted me said they should be able to send their child to a religious child care facility and still receive Federal assistance to subsidize what is a very private choice.

In this regard, I would like to share with my colleagues a portion of a letter from the National Council of Churches and other religious groups, who last summer wrote to Congress in opposition to tax support of religious programs. Their letter declared:

> We respect the right of churches, synagogues and other religious organizations to offer specifically sectarian programs and child care. * * * But such care should be supported by those who share their specific beliefs and experiences and not by government funds.

I agree.

Mr. WEISS. Mr. Chairman, one of the central concerns of the American family, and of this Nation, is the good care of our children. This country's future depends on how we treat our children today. Now, a long overdue opportunity to address the child care crisis that threatens the development of the children of this country stands before us. The Early Childhood Education and Development Act represents one of the most important and urgently needed domestic programs to face us in this Congress. I strongly support many of the significant steps this plan takes to alleviate the child care crisis.

Our Nation's child care crisis has reached alarming proportions. Finding adequate child care represents a grave problem for millions of Americans. Today, 26.5 million children have insufficient day care. Between 60 to 80 percent of children in this country who need day care do not have it. One out of every four working mothers stands as the sole provider for her children; these mothers, on an average, spend $211 per month on child care, an amount almost on par with that spent by business executives.

In light of this crisis, Congress must pass a substantive, comprehensive child care bill that can meet the child care challenge. Such a bill must invest significant sums of money. H.R. 4381 does; it responds to American families with $1.7 billion in direct support for child care for the first year. In addition, the bill would assist low-income families with children through the expansion of the earned income tax credit and the title XX child care program.

The substitute offered by Representatives STENHOLM and SHAW would only invest $450 million in the first year. In addition, the substitute authorizes less for title XX child care funds. The substitute's insufficient funding would deny child care to hundreds of thousands of children. And, by spreading far fewer dollars across the full range of age groups, the substitute amendment would prevent significant action on any of the critical child care fronts: infants and toddler, latchkey children at risk of drug and alcohol abuse, and wrap-around care for Head Start youngsters whose parents work outside the home.

Numerous studies have proven that children who have attended quality early childhood development programs are more likely to be literate; are more likely to be employed; and are more likely to be enrolled in postsecondary education. These children are less likely to be school dropouts; are less likely to be dependent on welfare; and are less likely to be arrested for criminal activity than those who have not attended such programs. Clearly, a large investment in child care now will save us billions in the future.

The Stenholm-Shaw substitute not only fails to provide the funds necessary to meet our Nation's escalating child care crisis, but it also fails to provide even minimal assurances to American families that their children will receive quality care. American families have demonstrated in survey after survey that qual-

ity is the issue most important to them. While the substitute remains silent on this most vital issue, H.R. 4381 provides funding to help States address the issue while giving them complete freedom to devise whatever standards they deem appropriate.

Unfortunately, despite the bill's many noteworthy provisions, it contains language that is clearly unconstitutional. As written, the bill permits religious favoritism for child care providers who receive less than 80 percent of their funds from Federal and State sources. This means that most child care providers would be free to discriminate on the basis of religion, since very few programs would be publicly funded at the 80 percent level. Such favoritism blatantly violates the establishment clause of the Constitution. No matter how important the issue, no matter how exceptional the piece of legislation, no matter how delicate the negotiations that have led to this point, there is no excuse to pass a bill that clearly violates the Constitution of the United States.

Therefore, I strongly support the Edwards amendment which bars the use of Federal funds for sectarian activities and prohibits discrimination on the basis of religion. As important as this piece of child care legislation is, without passage of the Edwards amendment, I cannot support its final passage. I strongly urge my colleagues to support the Edwards amendment and to oppose the Stenholm-Shaw substitute.

Mr. STUMP. Mr. Chairman, today, the House will consider two types of legislative options for child care programs and services—H.R. 3, the Early Childhood Education and Development Act, and the Stenholm-Shaw child care substitute amendment.

I am strongly opposed to the passage of H.R. 3. The most disturbing element of the legislation is title II which authorizes $2.3 billion to create a new school-based child care program. This measure gives the public schools an unprecedented role in caring for very young children. It will create a Federal child care bureaucracy which will limit parental choice of child care programs, and restrict assistance to most parents whose children are cared for by relatives, neighbors, the private sector, or church based centers.

Ninty-eight percent of our children under age 5 are cared for by parents, relatives, neighbors, or private sector day care centers, while less than 2 percent are cared for in public schools. However, under H.R. 3, the public schools are guaranteed 37 percent of child care funds and are eligible to receive an additional 46 percent of funds provided under Social Service Block Grants. It is clearly not in the best interests of parents, or their children, to have Government bureaucrats dictate or limit their child care choices.

While the Stenholm-Shaw substitute is a better alternative as it expands parental choice, it also raises concerns in that its costs are not sufficiently offset. In light of our massive deficit and the continual battles not to increase taxes, I honestly cannot see how we can increase Federal spending for child care at this time.

It is my feeling that Congress should not preempt the prerogative of the family, by creating incentives to move children out of home settings and into Government-controlled institutions.

Mr. MARLENEE. Mr. Chairman, there is an increasing number of working mothers in our Nation's labor force, and child care is a growing politically important issue. Today, the House will once again be faced with two competing versions of child care. I encourage my colleagues to support the child care substitute offered by my good friends, Representatives CHARLES STENHOLM and CLAY SHAW?

The new version of last year's H.R. 3, which would have established massive child care bureaucracies in every State has evolved and improved a great deal, but I believe it still has a long way to go. The flaws in H.R. 4381, the latest incarnation of H.R. 3, are still there—they are just more clerverly disguised.

First, the child care alternative offered by Representatives AUGUSTUS HAWKINS and THOMAS DOWNEY will create 41 pages of standards and mandates that will apply to all 50 States. Once again, Big Brother leaves Montana citizens out of control of their own destiny.

The Stenholm-Shaw substitute, H.R. 4294, imposes no Federal day care standards, and leaves this arena up to the States, where it properly belongs using the funds provided under the proven title XX program to implement these standards. This substitute will not usurp States' rights on this critical issue.

Second, the Hawkins-Downey package fails to protect parental choice by permitting States to prohibit the use of vouchers or certificates for day care in churches and synagogues. Because I support giving the greatest freedom to parents to determine the destiny for their children, I believe parental rights are superior to any governmental entity—local, State, or Federal. That's why I endorse the Stenholm-Shaw substitute, which uses the resources of the Federal Government to reinforce parental rights.

It is generally accepted among day care experts that religious institutions provide about one-third of all child care in the United States. If we don't protect parents' rights in this arena, it is possible parents who choose day care in religious facilities will not be able to receive any benefits under this program. Oftentimes in rural Montana, the local church or synagogue is the best and only suitable day care facility.

The profamily Stenholm-Shaw substitute lets parents decide who will care for their children by offering vouchers to them by selecting any form of day care they desire—whether at home, among relatives, in an informal neighborhood setting, in a religious institution, or in a secular day care center. Mr. Chairman, parental choice is key to why I support the Stenholm-Shaw approach to day care.

H.R. 4294 also permits religious institutions to hire those who subscribe to their beliefs. The Hawkins-Downey package limits the rights of ministers to hire day care providers who adhere to their religious beliefs. This was a problem I saw with the Grove City legislation in 1988, where religious freedom was eroded in favor of the liberal agenda of the American Civil Liberties Union [ACLU]. We are now reaping the bitter fruit of this debate where churches and synagogues are under attack for hiring only people who agree with their religious beliefs. Stenholm-Shaw protects the time-honored principle of religious freedom, which is a cornerstone of our constitutional protections.

Another amendment offered by Representative DON EDWARDS to Stenholm-Shaw would be even more destructive to religious freedom. His provision would require that all religious day care providers remove all references to sectarian practices. In blunt terms, a church or synagogue child care worker couldn't talk about God during the day care session, and that person would have to remove every cross and every star of David to participate in this program.

Mr. Chairman, this is outrageous. The liberal effort to enforce separation of church and State is so misguided to the point that they would effectively bar participation in day care in religious facilities. Are they afraid that children will learn to respect authority and become productive citizens? At a time when the Federal Government, through the National Endowment for the Arts, funded antireligious art and obscenity, it is unconscionable that churches and synagogues cannot particpate in a Federal day care program. I encourage my colleagues to vote against the Edwards amendment.

Third, there are also several funding issues at the heart of this debate. Both child care bills would provide a $600 million annual increase for the praised Head Start Program. This program provides half-day care for prekindergarten children from poorer neighborhoods. If we can get these children excited about education, they can advance themselves up the ladder of achievement. Study after study has shown that Head Start has a proven track record of success.

I support this funding increase, but the liberal package is misguided once again. The increase in Head Start funding in Hawkins-Downey would expand the program to offer a full day, year-round program which would overburden our Nation's educators. According to Hawkins-Downey, this funding boost would not increase the number of children served under Head Start. The Stenholm-Shaw substitute is much more realistic by expanding existing programs to serve more children.

Fourth, both bills would authorize spending $100 million over the next 5 years for child care "incentive grants." However, the liberal package authorizes only a minor portion of this for grants to businesses to establish child care programs with the majority of the money going to States to establish and improve State child care standards. The Stenhom-Shaw substitute would spend all the money on grants to businesses, thus eliminating a layer of Government bureaucracy.

Finally, much has been made in this House about the need for day care among poor women. I am pleased that the Democrat leadership adopted a Republican idea to boost the earned income tax credit [EITC]. Plus, I was delighted to learn that the dependent care tax credit will be targeted more toward poorer families by phasing out this tax break to families earning over $70,000 per year.

However, I was surprised to see that under Stenholm-Shaw, low-income families with three children would receive a tax credit of up

to $2,500 while the Hawkins-Downey version provided only $2,100 for an identical family. Who is really on the side of the working poor? Who wants to craft a day care package targeted for these low-income families? It's the conservatives who recognize that creating bureaucracy and regulations will not solve the day care problem. Empowering poor people to make decisions for themselves will do more to help them obtain child care than all of the great programs we can dream up in Washington.

Mr. Chairman, I would like to emphasize my belief that the Hawkins-Downey day care package is terribly misguided. Its passage will result in removing parental choice in day care and will create bloated bureaucracies. Let's enact a sensible day care policy by voting for the day care substitute package offered by Representatives STENHOLM and SHAW.

Mr. WOLPE. Mr. Chairman, I rise in strong support of the Early Childhood and Development Act of 1990. Today, we are accomplishing the most significant legislative achievement on behalf of our children in decades. Indeed, the passage of comprehensive child care legislation is a milestone in our Nation's effort to make American families healthy, productive, and strong.

The legislation before us is the product of long debate and negotiation between differing groups and individuals all deeply committed to the welfare of our children. What has emerged is a blend of the most constructive ideas from competing child care proposals, while those measures whose actual effect would have limited availability, creativity, and freedom to choose have been discarded.

Clearly, families across the country are in desperate need of comprehensive child care. Our society has undergone significant changes in the past few decades and, increasingly, two salaries are needed just for a family to survive. Since 1966, the number of women in our work force has increased by 100 percent, and nearly 60 percent of women with children under the age of 6 are in the work force. For many, the child care crisis has become a personal nightmare, forcing parents to make difficult choices between leaving their children in substandard care while they work, or returning to the welfare rolls.

This child care package provides important assistance to America's families. By expanding the Head Start Program to a full day, yearround program, and by using schools to provide child care, parents will be able to leave their children at one location throughout the entire day, without worry, in an environment which enhances their development.

Furthermore, the legislation provides much needed funding to low-income families. By expanding the earned income tax credit [EITC] and adjusting the amount of the credit for family size, child care choices are placed in the hands of parents, where they should be. Families in which one spouse works at home will not be penalized.

This legislation represents an important investment in the American family and in America's future. I urge its passage.

Mr. SMITH of New Jersey. Mr. Chairman, given the opportunity, most parents would elect to care for his or her own child rather than seek someone beyond the immediate family to provide that attention. However, there are simply circumstances where parents are denied such ideal conditions. Single parenthood or economic situations frequently require parents to seek work outside the home. Many of today's families, therefore, must turn to child care.

If we, as elected leaders, are to design and vote upon child care legislation, we must remember that no parent lightly chooses a child care provider. Whatever child care bill is sent to the President, must be legislation that would give the parent the option to use child care services that most accurately reflect the care they would provide themselves.

Mr. Chairman, the Stenholm-Shaw Family Choice and Child Care Improvement Act is the legislation that would offer parents the greatest choice among child care providers.

The expansion of the earned income tax credit [EITC], the creation of certificate or voucher programs in the States, and the Social Services Block Grants, each offer needed assistance to parents and child care centers. Moreover, these funds and credits are not limited to secular child care services by the Stenholm-Shaw proposal.

The variety of choices available to parents is impressive. Moneys from grants would support child care established by State and local governments, public schools, small businesses, not-for-profit organizations, and employee associations. Voucher programs, as well as tax credits, would make care offered by religious organizations available to parents as readily as public-sponsored secular child care.

I believe that the benefits of Federal child care assistance should not be denied to parents who want this religious care. They too, pay taxes and deserve the aid this legislation offers. With fully one-third of all child care centers based in churches, legislation lacking such aid would be incomplete. In short, American parents want to exercise individual freedom in selecting the care their precious children need.

Some have raised questions about child care standards and regulatory requirements. Clearly, commonsense standards are necessary for the safety of our children. Those standards, however, will be set by the States under Stenholm-Shaw. Just as our local school boards establish educational standards, the States are better qualified to address child care standards. Washington does not have all the answers and State and local governments frequently know what standards best serve their own constituencies.

Mr. Chairman, I have been a firm advocate of child care legislation. I am proud to cast my vote today in favor of the bipartisan measure authored by my colleagues, CHARLIE STENHOLM and CLAY SHAW. They showed great vision in crafting this equitable bill. President Bush has endorsed their measure and has specifically sought these provisions providing parental choice.

I urge support for this amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. HAWKINS] has expired.

All time has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of the bill, H.R. 4381, as modified by the amendment printed in section 2 of House Resolution 368, shall be considered as an original bill for the purpose of amendment and shall be considered as having been read.

The text of the amendment in the nature of a substitute consisting of the bill H.R. 4381, as modified, is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Early Childhood Education and Development Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Authorization of appropriations.

TITLE I—EXPANDED HEAD START

Sec. 101. Definitions.
Sec. 102. Financial assistance for Head Start programs.
Sec. 103. Conforming amendment.
Sec. 104. Allotment of funds.
Sec. 105. Federal share.
Sec. 106. Participation in Head Start programs.
Sec. 107. Establishment and revision of sliding fee scale.
Sec. 108. Technical amendment.

TITLE II—EARLY CHILDHOOD DEVELOPMENT AND SCHOOL-RELATED CHILD CARE

Sec. 201. Grants for State and local programs.

"TITLE VIII—EARLY CHILDHOOD DEVELOPMENT AND SCHOOL-RELATED CHILD CARE

"Sec. 8001. Program authorized.
"Sec. 8002. Amounts of grants.
"Sec. 8003. Local program requirements.
"Sec. 8004. State program requirements.
"Sec. 8005. Establishment and revision of sliding fee scale.
"Sec. 8006. Payments to States.
"Sec. 8007. Payments to local educational agencies.
"Sec. 8008. Definitions."
Sec. 202. Technical Amendment.

TITLE III—CHILD CARE

Sec. 301. Grants to States for child care.
"Sec. 2000. Purpose of title; limitation on entitlement.

"Subtitle B—Grants to States for Child Care

"Sec. 2011. Payments to States.
"Sec. 2012. State administration.
"Sec. 2013. Child care allotments.
"Sec. 2014. Reports and audits.

"Subtitle C—Applicability of Other Law

"Sec. 2021. Applicability of other law."
Sec. 302. Expansion of earned income tax credit.
Sec. 303. Phaseout of dependent care credit and exclusion for dependent care assistance.
Sec. 304. Telephone excise tax made permanent.

TITLE IV—CHILD CARE QUALITY IMPROVEMENT

Sec. 401. Coordinating activities.

"SUBCHAPTER C—CHILD CARE QUALITY IMPROVEMENT
"Sec. 658A. Short title.
"Sec. 658B. Authority to provide financial assistance.
"Sec. 658C. Amounts reserved; allotments.
"Sec. 658D. Lead agency.
"Sec. 658E. Application and plan.
"Sec. 658F. Resource and referral programs.
"Sec. 658G. Training and related activities.
"Sec. 658H. Limitations on use of financial assistance.
"Sec. 658I. Federal enforcement.
"Sec. 658J. National Advisory Committee On Recommended Child Care Standards.
"Sec. 658K. Definitions."
TITLE V—BUSINESS INVOLVEMENT IN MEETING EMPLOYEE CHILD CARE NEEDS
Sec. 501. Establishment of grant program.
Sec. 502. Eligible businesses.
Sec. 503. Application.
Sec. 504. Selection of grantees.
Sec. 505. Definitions.
Sec. 506. Authorization of appropriations.
TITLE VI—CHILD CARE STANDARDS IMPROVEMENT INCENTIVE GRANT PROGRAM AND DEMONSTRATION PROJECT
Sec. 601. Child care standards improvement incentive grant program; demonstration project.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services and early childhood development programs to expand child care options available to all families who need such services;

(3) to assist States and Indian tribes to work with businesses to find innovative ways to provide employee child care services through the workplace;

(4) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services and early childhood development;

(5) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(6) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(7) to provide assistance to States and Indian tribes to improve the quality of, and coordination among, child care programs and early childhood development programs;

(8) to increase the opportunities for attracting and retaining qualified staff in the field of child care and early childhood development to provide high quality child care services to children; and

(9) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the purposes specified in subsection (b) $1,300,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, 1994, and 1995.

(b) AVAILABILITY OF APPROPRIATIONS.—Of the aggregate amount appropriated under subsection (a) for a fiscal year—

(1) 47 percent shall be available to provide developmentally appropriate child care services under the Head Start Act, as amended by title I of this Act;

(2) 33 percent shall be available to carry out title VIII of the Elementary and Secondary Education Act of 1965, as added by title II of this Act; and

(3) 20 percent shall be available to carry out the Child Care Quality Improvement Act, as added by title IV of this Act.

TITLE I—EXPANDED HEAD START

SEC. 101. DEFINITIONS.

Section 637 of the Head Start Act (42 U.S.C. 9832) is amended by adding at the end the following:

"(4) The term 'full calendar year' means all days of the year other than Saturdays, Sundays, and legal public holidays.

"(5) The term 'full-working-day' means at least 10 hours per day.

"(6) The term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor.

"(7) The term 'sliding fee scale' means the sliding fee scale established and revised under section 658.".

SEC. 102. FINANCIAL ASSISTANCE FOR HEAD START PROGRAMS.

Section 638 of the Head Start Act (42 U.S.C. 9833) is amended—

(1) in subsection (a)—

(A) by striking "and (2)" and inserting "(2)"; and

(B) by inserting the following before the period at the end: "; and (3) may provide developmentally appropriate child care services in accordance with this subchapter"; and

(2) in subsection (b) by striking "subchapter E" and inserting "subchapter G".

SEC. 103. CONFORMING AMENDMENT.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended by inserting "(other than the provisions relating to child care services referred to in section 638(a)(3))" after "subchapter".

SEC. 104. ALLOTMENT OF FUNDS.

Section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1) by inserting "and the amount made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1990" after "section 639";

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A) by inserting "under section 639" after "appropriated";

(B) in the second sentence by inserting "under section 639" after "appropriation";

(C) in the last sentence by striking "such funds appropriated under this subchapter" and inserting "such funds reserved under this paragraph";

(D) by inserting before the last sentence the following: "The Secretary shall reserve 8 percent of the amount made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1990 for any fiscal year, for use in accordance with subparagraphs (A) and (B).";

(3) in paragraph (3)—

(A) by striking "The Secretary" and inserting "After reserving the amounts required by paragraph (2), the Secretary"; and

(B) by striking "remaining 87 percent of the amounts appropriated" and inserting "remainder".

SEC. 105. FEDERAL SHARE.

Section 640(b) of the Head Start Act (42 U.S.C. 9835(b)) is amended—

(1) in the first sentence by striking "Financial" and inserting "Except as provided in paragraph (2), financial";

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end the following:

"(2) Financial assistance extended under this subchapter to a Head Start agency, attributable to funds made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1990, shall be 100 percent of the approved costs of the developmentally appropriate child care services for which such assistance is provided.".

SEC. 106. PARTICIPATION IN HEAD START PROGRAMS.

(a) CHILD CARE SERVICES AND EXPANDED HEAD START ELIGIBILITY.—Section 645(a) of the Head Start Act (42 U.S.C. 9840(a)) is amended—

(1) in the second sentence of paragraph (1) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following:

"(3)(A) Funds allotted under section 640 that are attributable to funds made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1990 shall be expended only in accordance with this paragraph.

"(B) Funds allotted under section 640 that are attributable to funds made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1990 may be expended to enable Head Start programs to provide developmentally appropriate child care services throughout the full calendar year to children who are eligible under paragraphs (1) and (2) to participate in, and are participating in, Head Start programs so that such children receive full-working-day services if such child care services are provided to meet the needs of parents each of whom is working, or attending a job training or educational program.

"(C) Subject to subparagraph (D) and subsection (b)(2), funds allotted under section 640 that are attributable to funds made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1990 may be expended to enable Head Start programs to provide throughout the full calendar year both Head Start services (other than services specified in section 638(a)(3)) and developmentally appropriate child care services to children—

"(i) who are ineligible under paragraphs (1) and (2) to participate in Head Start programs; and

"(ii) whose family income is greater than the poverty line but less than 125 percent of the poverty line;

so that such children receive full-working-day services if such services are provided to meet the needs of parents each of whom is working, or attending a job training or educational program.

"(D)(i) For purposes of carrying out this paragraph, funds allotted under section 640 that are attributable to funds made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1990 may not be expended for a fiscal year for the purpose specified in subparagraph (C) unless developmentally appropriate child care services are provided under

subparagraph (B) for such fiscal year to all children who are eligible to receive such services and whose parents request such services.

"(ii) For any fiscal year, an amount not to exceed 20 percent of the funds allotted under section 640 that are attributable to funds made available under section 3(b)(1) of the Early Childhood Education and Development Act of 1990 may be expended for the purpose specified in subparagraph (C).".

(b) FEES.—Section 645(b) of the Head Start Act (42 U.S.C. 9840(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2) Parents of children who receive Head Start services (including developmentally appropriate child care services) under the authority of subsection (a)(3)(C) shall pay a portion of the cost of such services, based on a sliding fee scale. Payments received under this paragraph shall be retained by Head Start agencies and shall be expended by such agencies only to carry out this subchapter.".

SEC. 107. ESTABLISHMENT AND REVISION OF SLIDING FEE SCALE.

The Head Start Act (42 U.S.C. 9831-9852) is amended by adding at the end the following:

"ESTABLISHMENT AND REVISION OF SLIDING FEE SCALE

"SEC. 658. The Secretary shall establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing between the Federal Government (acting indirectly through Head Start agencies) and the families that receive services for which assistance is provided under the amendments to this Act made by Early Childhood Education and Development Act of 1990. Such fee scale shall be based on the services provided to, and the income of the families (adjusted for family size and extraordinary medical expenses paid by the family as a result of a disability of a family member) of, eligible children who receive such services, except that families whose income does not exceed the poverty line (as determined under section 652) may not be required to pay a fee for such services.".

SEC. 108. TECHNICAL AMENDMENT.

Section 652(b) of the Head Start Act (42 U.S.C. 9847(b)) is amended by inserting "For All Urban Consumers" after "Consumer Price Index".

TITLE II—EARLY CHILDHOOD DEVELOPMENT AND SCHOOL-RELATED CHILD CARE

SEC. 201. GRANTS FOR STATE AND LOCAL PROGRAMS.

The Elementary and Secondary Education Act of 1965 is amended—

(1) by redesignating title X as title IX;

(2) by redesignating sections 8001 through 8005 as sections 9001 through 9005, respectively; and

(3) by inserting before title IX (as redesignated by paragraph (1)) the following new title:

"TITLE VIII—EARLY CHILDHOOD DEVELOPMENT AND SCHOOL-RELATED CHILD CARE

"SEC. 8001. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary shall make grants to eligible States to assist in the expansion or establishment of before- and after-school child care or early childhood development programs that offer services that—

"(1) are intended to provide an environment which enhances the educational, social, cultural, emotional, and recreational development of children; and

"(2) in the case of before- and after-school child care—

"(A) are provided Monday through Friday, including school holidays and vacation periods other than legal public holidays, to children attending half-day early childhood development programs, kindergarten, or elementary or secondary school classes during such times of the day and on such days that regular instructional services are not in session; and

"(B) are not intended to extend or replace the regular academic program.

"(b) AVAILABILITY OF APPROPRIATIONS.—Amounts shall be available to carry out this title as provided in section 3(b)(2) of the Early Childhood Education and Development Act of 1990.

"SEC. 8002. AMOUNTS OF GRANTS.

"(a) GRANTS FOR TERRITORIES.—

"(1) The Secretary shall reserve 1 percent of the amount made available for purposes of carrying out this title in each fiscal year for payments to—

"(A) Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for grants under this title; and

"(B) the Secretary of the Interior in the amount necessary—

"(i) to make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this title with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior, in amounts determined by the Secretary in accordance with the provisions of section 1005(d)(1); and

"(ii) to meet the needs of Indian children on reservations serviced by elementary and secondary schools for Indian children operated with Federal assistance or operated by the Department of the Interior, pursuant to an agreement between the Secretary and the Secretary of the Interior made in accordance with the provisions of section 1005(d)(2).

"(2) The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Secretary determines will best carry out the purposes of this title.

"(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND THE COMMONWEALTH OF PUERTO RICO.—

"(1)(A) In each fiscal year, the Secretary shall determine which local educational agencies in a State are eligible to receive a grant under subparagraph (B) and the amount of the grant each such local educational agency is eligible to receive in accordance with the provisions of subsections (a) through (c) of section 1005, section 1403(b), and subparagraph (B).

"(B) Except as provided in paragraph (2), and subject to the availability of appropriations, in any fiscal year a local educational agency shall receive a grant under this subsection only if the amount of the grant which such local educational agency is eligible to receive, as determined under subsections (a) through (c) of section 1005 and section 1403(b)—

"(i) is not less than $15,000; or

"(ii) is not less than $5,000, in the case of a local educational agency which has under its jurisdiction children at least 30 percent of whom are eligible to be counted under section 1005(c).

"(2)(A) In each fiscal year, amounts remaining from amounts appropriated for the purpose of making grants under this title after carrying out subsection (a) and paragraph (1) shall be allocated to the States for the purpose of making grants to local educational agencies that did not receive a grant under paragraph (1) for such fiscal year. Each State shall receive under this paragraph an amount that bears the same relationship to such remaining amounts as the amount received by all local educational agencies in such State under chapter 1 of title I in the preceding fiscal year bears to the amount made available to carry out such chapter in such fiscal year, except that in any fiscal year no State may receive any amount under this paragraph that, when added to the amount received under paragraph (1) in such fiscal year by all local educational agencies in such State, would total more than an amount that bears the same relationship to the amount made available for purposes of carrying out this title for such fiscal year as the amount received by all local educational agencies in such State in the preceding fiscal year under chapter 1 of title I bears to the amount made available to carry out such chapter in such fiscal year.

"(B) Subject to subparagraphs (C) and (D), in each fiscal year each State shall, from amounts made available to it under this paragraph, make grants to local educational agencies that did not receive a grant under paragraph (1) for such fiscal year, for the purposes specified in section 8001.

"(C) Each State shall give priority for grants under subparagraph (B) to local educational agencies—

"(i) that have under their jurisdiction the greatest concentrations of children whose families have very low income;

"(ii) that will use amounts made available under the grant to supplement, not supplant, non-Federal funds being used before the grant is received for the purposes for which the grant is provided; and

"(iii) that are located in areas in greatest need of child care and early childhood development services, taking into consideration the needs and resources assessment conducted under section 659F of Public Law 97-35.

"(D) The State may not make a grant under this paragraph for an amount that is less than $5,000.

"(3) For purposes of determining the amount that a local educational agency in a State would be eligible to receive under this title, the Secretary shall include children aged 4 in the count conducted under section 1005(c).

"(4) For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(c) LIMITATION.—Notwithstanding the provisions of this section, the amount paid to any State under this title for any fiscal year shall not exceed 150 percent of—

"(1) the amount received by such State under this title in the preceding fiscal year; or

"(2) an amount that bears the same relationship to the amount made available to carry out this title as the amount received by all local educational agencies in such State under chapter 1 of title I in the pre-

ceding fiscal year bears to the amount made available to carry out such chapter in such fiscal year.

"SEC. 8003. LOCAL PROGRAM REQUIREMENTS.

"(a) APPLICATION.—A local educational agency that desires to receive funds under this title shall submit an application to the State that includes a 2-year plan describing how the local educational agency will use such funds to carry out the purposes of this title.

"(b) USE OF FUNDS.—Each local educational agency that receives funds under this title shall use such funds to expand, establish, or operate an early childhood development program or before- and after-school child care program, or both, in accordance with the application and plan approved by the State. Each such program shall meet the following requirements:

"(1)(A) An early childhood development program shall be provided at the costs described in subparagraph (C) for children described in subparagraph (B).

"(B) Children described in this subparagraph are children from families—

"(i) within the area served by the local educational agency; and

"(ii) in which the parent or parents work or are in education or training programs.

"(C) The program described in subparagraph (A)—

"(i) shall be provided at no cost for 4-year-old children from families within the area served by the local educational agency with income of not more than 100 percent of the poverty level (to the extent such services are not available under the Head Start Act); and

"(ii) may be provided, from not more than 25 percent of the funds provided under this title that will be used to provide such program—

"(I) on a sliding fee scale for 4-year-old children from families within the area served by the local educational agency with income of more than 100 percent of the poverty level but not more than 160 percent of the lower living standard income level; and

"(II) on a full-fee basis for children from families within the area served by the local educational agency with income of more than 160 percent of the lower living standard income level.

"(2) At the option of the local educational agency, an early childhood development program may be provided for 3-year-old children under the terms described in paragraph (1).

"(3)(A) A before- and after-school child care program shall provide such care at the costs described in subparagraph (C) for children described in subparagraph (B). Such program shall consist of services that—

"(i) are provided during such times of the day when regular instructional services are not in session; and

"(ii) are not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment that enhances the social, educational, cultural, emotional, and recreational development of school-age children.

"(B) Children described in this subparagraph are children from families within the area served by the local educational agency and in which—

"(i) the parent or parents work or are in education or training programs; and

"(ii) the children are attending early childhood development programs, kindergarten, or elementary or secondary school classes.

"(C) The care described in subparagraph (A)—

"(i) shall be provided at no cost for children from families within the area served by the local educational agency with income of not more than 100 percent of the poverty level; and

"(ii) may be provided, from not more than 25 percent of the funds provided under this title that will be used to provide such care—

"(I) on a sliding fee scale for children from families within the area served by the local educational agency with income of more than 100 percent of the poverty level but not more than 160 percent of the lower living standard income level; and

"(II) on a full-fee basis for children from families within the area served by the local educational agency with income of more than 160 percent of the lower living standard income level.

"(4)(A) Services shall be available during the full working day for 4-year-olds (and for 3-year-olds, where offered). Such services may only include an early childhood development program or before- and after-school care, or both.

"(B) Before- and after-school care shall be available for the calendar year, Monday through Friday, excluding legal public holidays.

"(5) The local educational agency shall provide for the inclusion in each program of eligible children enrolled in private early childhood development programs and in private kindergarten and elementary and secondary schools in accordance with the provisions of chapter 1 of title I relating to the participation of children enrolled in private schools.

"(6) Each early childhood development program shall be in compliance with—

"(A) applicable State regulatory standards for health and safety; and

"(B) applicable State standards for program quality.

"(7) With respect to early childhood development programs, norm-referenced and criterion-referenced standardized tests shall not be administered.

"(8) With respect to before- and after-school child care programs—

"(A) each such program provided shall be developmentally appropriate and meet the diverse recreational, social, emotional, cultural, and educational needs of school-aged children; and

"(B) each such program shall be in compliance with—

"(i) applicable State regulatory standards for health and safety; and

"(ii) applicable State standards for program quality.

"(9) A smooth transition of children shall be encouraged—

"(A) from early childhood development programs to kindergarten; and

"(B) from kindergarten to grade 1.

"(10) Services shall include—

"(A) adequate and nutritious meals and snacks;

"(B) if practicable, social services; and

"(C) in the case of early childhood development programs—

"(i) coordination of such health and nutrition services as are available from other agencies for children in such programs; and

"(ii) referrals to health and social services for which an enrolled child and the family of such child are eligible under Federal, State, or local law.

"(11) Information, programs, and activities for parents shall be provided, to the extent practicable, in a language and form the parents understand.

"(c) FEES.—Payments received by local educational agencies from parents of children who receive early childhood development services under the authority of subsection (b)(1)(C)(ii) or before- and after-school child care services under the authority of subsection (b)(3)(C)(ii) shall be retained by such agencies and shall be expended by such agencies only to carry out this title.

"(d) COORDINATION WITH EXISTING PROVIDERS.—Each local educational agency that receives funds under this title shall coordinate the program carried out with such funds with other public entities and private nonprofit community-based organizations that provide before- and after-school child care and early childhood development programs in the area served by the local educational agency, including entities and organizations that provide programs with assistance received under section 619 of the Education of the Handicapped Act.

"(e) CONTRACTING AUTHORITY.—

"(1) A local educational agency may provide a before- and after-school child care program or early childhood development program in accordance with the provisions of this title through grants to or contracts with other public entities and eligible private nonprofit community-based organizations that provide before- and after-school child care programs or early childhood development programs, as appropriate. In making a grant or entering into a contract under the authority of the preceding sentence, a local educational agency shall give priority to a program offered in a public school building, if the cost of such program is comparable to the costs of programs offered in other facilities.

"(2) To be eligible for a grant or contract under this subsection, a private nonprofit community-based organization shall provide assurances that—

"(A) the organization is able to and willing to enroll in the program, or has a history of enrolling, racially, ethnically, linguistically, and economically diverse children and children with disabilities;

"(B) the organization will ensure that the program is in compliance with section 654 of the Head Start Act; and

"(C) the organization will comply with other reasonable requirements established by the local educational agency consistent with the purposes of this title.

"(3) Title IX of the Education Amendments of 1972 shall apply to any program or activity provided with assistance under this title to the same extent and in the same manner as any program or activity included within the meaning of such term under such title IX. References in this title to section 654 of the Head Start Act shall be construed so as to be consistent with such title IX.

"SEC. 8004. STATE PROGRAM REQUIREMENTS.

"(a) STATE EDUCATIONAL AGENCY ASSURANCES.—In order for a State to participate under this title, the State shall submit to the Secretary, through its State educational agency, assurances that the State educational agency—

"(1) will meet the requirements in paragraphs (2) and (5) of section 435 of the General Education Provisions Act, relating to fiscal control and fund accounting procedures;

"(2) will establish, before the expiration of the 3-year period beginning on the date of the enactment of the Early Childhood Education and Development Act of 1990—

"(A) standards for early childhood development programs for which funds are received under this title, which shall include standards relating to—

"(i) group size limits in terms of the number of staff members and the number and ages of children;

"(ii) the maximum appropriate child-staff ratios;

"(iii) qualifications and background of staff members;

"(iv) health, nutrition, and safety requirements for children and staff members; and

"(v) parental involvement; and

"(B) standards for before- and after-school child care programs for which funds are received under this title, which shall include standards relating to—

"(i) inservice training for staff members;

"(ii) health, nutrition, and safety requirements for children and staff members; and

"(iii) parental involvement;

"(3) will ensure that its local educational agencies and State agencies receiving funds under this title comply with any applicable statutory and regulatory provisions pertaining to this title; and

"(4) will require any local educational agency that desires to receive assistance under this title to submit an application for such assistance that includes a 2-year plan describing how the local educational agency will carry out the objectives of this title.

"(b) LIMITATION ON STATE PROGRAM COSTS.—The State educational agency may, from the amounts paid to it pursuant to section 8006, use not more than 3 percent of such amounts for costs of administration related to carrying out this title.

"SEC. 8005. ESTABLISHMENT AND REVISION OF SLIDING FEE SCALE.

"The State shall establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing between the Federal Government (acting indirectly through the State and local educational agencies) and the families that receive child care or early childhood development services for which assistance is provided under this title. Such fee scale shall be based on the services provided to, and the income of the families (adjusted for family size and extraordinary medical expenses paid by the family as a result of a disability of a family member) of, eligible children who receive such services, except that it shall apply only to services received by children from families with income of more than 100 percent of the poverty level but not more than 160 percent of the lower living standard income level.

"SEC. 8006. PAYMENTS TO STATES.

"The Secretary shall pay to each State on a timely basis, in advance or otherwise, the amount which it and the local educational agencies of such State are eligible to receive under this title.

"SEC. 8007. PAYMENTS TO LOCAL EDUCATIONAL AGENCIES.

"Each State educational agency shall distribute not less than 97 percent of the amounts paid to it pursuant to section 8006 to the local educational agencies of the State which are eligible to receive grants under this title and which have applications and plans approved by the State.

"SEC. 8008. DEFINITIONS.

"For purposes of this title:

"(1) The term 'community-based organization' means an organization that—

"(A) is representative of the community or significant segments of the community; and

"(B) provides child care, preschool programs, or early childhood development programs.

"(2) The term 'early childhood development program' means a program to provide educational services that are appropriate for the child's age and all areas of the individual child's development, including physical, emotional, social, cultural, cognitive, and communication, and including services appropriate to meet the needs of children with disabilities.

"(3) The term 'full working day' means at least 10 hours per day.

"(4) The term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor.

"(5) The term 'poverty level' means the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index For All Urban Consumers.

"(6) The term 'sliding fee scale' means the sliding fee scale established and revised under section 8005.".

SEC. 202. TECHNICAL AMENDMENT.

The first sentence of section 1005(c)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711(c)(2)(B)) is amended by inserting after "Consumer Price Index" the following: "For All Urban Consumers".

TITLE III—CHILD CARE

SEC. 301. GRANTS TO STATES FOR CHILD CARE.

(a) ESTABLISHMENT OF PROGRAM.—Title XX of the Social Security Act (42 U.S.C. 1397 et seq.) is amended—

(1) by inserting after the title heading the following:

"SEC. 2000. PURPOSE OF TITLE; LIMITATION ON ENTITLEMENT.

"(a) PURPOSE OF TITLE.—The purpose of this title is to provide Federal assistance to States for a range of social services, with additional funds set aside for child care services.

"(b) LIMITATION ON ENTITLEMENT.—For payments to which States are entitled under this title, there shall be available to the Secretary—

"(1) $3,250,000,000 for fiscal year 1991, of which $450,000,000 shall be for payments under subtitle B; and

"(2) $3,350,000,000 for fiscal year 1992, of which $550,000,000 shall be for payments under subtitle B; and

"(3) $3,400,000,000 for each of fiscal years 1993 and 1994, of which $600,000,000 shall be for payments under subtitle B; and

"(4) $3,550,000,000 for each fiscal year after fiscal year 1994, of which $700,000,000 shall be for payments under subtitle B.

"Subtitle A—Grants to States for Social Services"; and

(2) by adding at the end the following:

"Subtitle B—Grants to States for Child Care

"SEC. 2011. PAYMENTS TO STATES.

"(a) ENTITLEMENT.—

"(1) IN GENERAL.—Each State which is eligible for payments under this subtitle for a fiscal year shall be entitled to payments in an aggregate amount equal to the child care allotment of the State for such fiscal year.

"(2) ELIGIBILITY.—

"(A) FIRST 3 YEARS.—During the 3-year period beginning on the date of the enactment of this subtitle, each State is eligible for payments under this subtitle.

"(B) AFTER 3 YEARS.—After the end of such 3-year period, a State shall be ineligible for any payment under this subtitle if the State has not demonstrated to the Secretary that all child care providers in the State who receive funds under this title and all other providers in the State who receive public funds for child care services—

"(i) are licensed or regulated as required by State or local law;

"(ii) comply with the minimum child care standards established by the State in accordance with section 2012(c); and

"(iii) are subject to the applicable enforcement provisions of section 2012(i).

This subparagraph shall not be construed to require the training or licensing of any individual who provides child care solely to members of the family of the individual.

"(b) PAYMENTS.—The Secretary shall make payments to each State which is eligible for payments under this subtitle for a fiscal year from the child care allotment of the State under this subtitle for such fiscal year, in accordance with section 6503 of title 31, United States Code.

"SEC. 2012. STATE ADMINISTRATION.

"(a) ADMINISTRATION.—

"(1) IN GENERAL.—The State agency with primary responsibility for child care in the State shall administer the use of all payments made to the State under this subtitle.

"(2) LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.—

"(A) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this subtitle shall be expended for any sectarian purpose or activity, including sectarian worship and instruction, except that this subparagraph shall not apply to funds received by any eligible provider resulting from the distribution of a child care certificate to a parent under this subtitle. Financial assistance provided under this subtitle shall not be expended in a manner inconsistent with the Constitution.

"(B) Subparagraph (A) shall not apply to funds received by an eligible child care provider who provides child care solely to members of the family of such provider.

"(C) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subtitle shall be expended for—

"(i) any services provided to such students during the regular school day;

"(ii) any services for which such students receive academic credit toward graduation; or

"(iii) any instructional services which supplant or duplicate the academic program of any public or private school.

"(3) NONDISCRIMINATION.—

"(A) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under this subtitle, including a loan, grant, or child care certificate, shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

"(B) RELIGIOUS DISCRIMINATION.—

"(i) IN GENERAL.—Nothing in this paragraph shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion, except

that a sectarian organization may require that employees adhere to the religious tenets and teachings of such organization and further, such organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

"(ii) DISCRIMINATION AGAINST CHILD.—

"(I) IN GENERAL.—A child care provider that receives assistance under this subtitle shall not discriminate against any child on the basis of religion in providing child care services.

"(II) NON-FUNDED CHILD CARE SLOTS.—Nothing in this paragraph shall prohibit a child care provider from selecting children for child care slots that are not funded directly with assistance provided under this subtitle because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

"(iii) EMPLOYMENT IN GENERAL.—

"(I) PROHIBITION.—A child care provider that receives assistance under this subtitle shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

"(II) QUALIFIED APPLICANTS.—If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this subtitle, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

"(III) PRESENT EMPLOYEES.—This clause shall not apply to employees of child care providers receiving assistance under this subtitle if such employees are employed with the provider on the date of enactment of this subtitle.

"(iv) EMPLOYMENT AND ADMISSION PRACTICES.—Notwithstanding clauses (ii) and (iii), if assistance provided under this subtitle, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this subtitle unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate against any individual in employment, if such employee's primary responsibility is or will be working directly with children in the provision of child care, or admissions because of the religion of such individual.

"(v) SEVERABILITY.—If any provision of this subtitle or the application thereof to any individual or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this subtitle which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subtitle shall be severable.

"(C) EFFECT ON STATE LAW.—Nothing in this subtitle shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions.

"(4) METHODS FOR PROVIDING CHILD CARE SERVICES.—Each State which receives funds under this subtitle—

"(A) shall design and carry out its child care services program in a manner which maximizes parental choice; and

"(B) may provide child care services pursuant to this subtitle—

"(i) directly;

"(ii) through child care providers, by using grants, purchase of service contracts, or issuing child care certificates; or

"(iii) through such other arrangements as the State agency described in paragraph (1) deems appropriate.

"(5) CHILD CARE CERTIFICATES.—Beginning 2 years after the date of the enactment of this subtitle—

"(A) each State which receives funds under this subtitle shall offer a child care certificate program in accordance with this subsection;

"(B) each parent or legal guardian who receives assistance pursuant to this subtitle shall have the option of receiving such assistance in the form of a child care certificate; and

"(C) any parent or legal guardian who receives a child care certificate pursuant to this subtitle may use such certificate with any eligible child care provider.

"(6) DEFINITIONS.—As used in this subsection:

"(A) CHILD CARE CERTIFICATE.—The term 'child care certificate' means a certificate issued by a State directly to a parent or legal guardian to authorize payment for child care services provided by an eligible child care provider.

"(B) ELIGIBLE CHILD CARE PROVIDER.—The term 'eligible child care provider' means any child care provider which meets applicable standards of State and local law.

"(b) USE OF PAYMENTS.—

"(1) IN GENERAL.—

"(A) 90 PERCENT FOR CHILD CARE SERVICES.—Each State which receives a payment under this subtitle shall use 90 percent of the amount of such payment to provide child care services in accordance with this subtitle.

"(B) 10 PERCENT FOR ADMINISTRATION, TRAINING, AND ENFORCEMENT.—Each State which receives a payment under this subtitle shall use 10 percent of the amount of such payment for child-care related administration and training, and for enforcing in accordance with subsection (i) the child care standards established by the State in accordance with subsection (c).

"(2) LIMITATIONS.—

"(A) CHILD CARE PROVIDERS AND SERVICES MUST MEET STATE STANDARDS AND REQUIREMENTS.—Each State which receives a payment under this subtitle may not use any part of any grant made under this subtitle for any child care services unless such services meet all applicable child care standards and licensing and registration requirements—

"(i) during the 3-year period beginning on the date of the enactment of this subtitle, as established by State and local law; and

"(ii) after such 3-year period, as established by State and local law pursuant to subsection (c).

"(B) NO SUPPLANTING OF OTHER PUBLIC FUNDS FOR CHILD CARE SERVICES.—Each State which receives a payment under this subtitle shall not use such payment to supplant any other Federal or State funds used for child care services.

"(c) STATE CHILD CARE STANDARDS.—Beginning 3 years after the date of the enactment of this subtitle, each State which receives a payment under this subtitle shall have in effect child care standards in each of the categories described in this subsection, which shall apply to all child care funded in the State under this title and all child care services delivered by providers in the State who receive public funds for child care services and are required by the State to be licensed or regulated. Such categories are as follows:

"(1) CENTER-BASED CHILD CARE SERVICES.—Such standards with respect to child care services provided by center-based child care providers shall be limited to—

"(A) group size limits in terms of the number of caregivers and the number and ages of children;

"(B) the maximum appropriate child-staff ratios;

"(C) preservice qualifications and background of child care personnel;

"(D) requirements for inservice training in areas appropriate to the provision of such child care services;

"(E) health and safety requirements for children and caregivers; and

"(F) requirements for parental involvement in licensed and regulated child care services.

"(2) FAMILY CHILD CARE SERVICES.—Such standards with respect to child care services provided by family child care providers shall be limited to—

"(A) the maximum number of children for which child care services should be provided and the maximum number of infants for which child care services should be provided;

"(B) the minimum age for caregivers;

"(C) requirements for inservice training in areas appropriate to the provision of such child care services, or participation in a provider organization that addresses child development and management issues; and

"(D) health and safety requirements for children and caregivers as appropriate for family child care services.

"(3) GROUP HOME CHILD CARE SERVICES.—Such standards with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

"(d) MINIMUM TRAINING REQUIREMENT.—Each State which receives a payment under this subtitle after the expiration of the 2-year period beginning on the date of the enactment of this subtitle shall require all child care providers (and the caregivers employed by such providers) who receive public funds for child care services and are required to be licensed or regulated in the State to complete annually an average of 15 hours of training. Such training shall be tailored to the needs of the State and the providers.

"(e) MARKET RATES.—Each State which receives a payment under this subtitle shall reimburse child care expenses at market rates, with higher reimbursements for infants and toddlers, children with disabilities, and comprehensive child care programs for children of adolescent parents.

"(f) SLIDING FEE SCHEDULE.—Each State which receives a payment under this subtitle shall establish a sliding fee schedule, based on income, for determining the amount a family will be required to pay for the delivery of child care services under this title.

"(g) CHILD CARE SERVICES TO BE PROVIDED AT NO COST TO FAMILIES WITH INCOMES BELOW POVERTY LINE.—Each State which receives a payment under this subtitle shall ensure that child care services which are provided to any family with income below

the poverty line shall be provided at no cost to such family.

"(h) POLICIES AND PROCEDURES.—Each State which receives a payment under this subtitle shall develop policies and procedures designed to ensure that the State will not reduce—

"(1) the categories of child care providers licensed or regulated by the State on the date of the enactment of this subtitle; or

"(2) the level of standards applicable to child care services provided in the State and to the matters referred to in subsection (c), even if such standards exceed the standards required to be established by the State in accordance with subsection (c), unless the State demonstrates, to the satisfaction of the Secretary, that the reduction is—

"(A) based on positive developmental practice; or

"(B) necessary to increase access to and availability of child care providers, and will not jeopardize the health and safety of children.

"(i) ENFORCEMENT.—Beginning 3 years after the date of the enactment of this subtitle, each State which receives a payment under this subtitle shall have in effect enforcement policies and practices that will apply to all child care funded in the State under this title, including policies and practices that—

"(1) require personnel who perform inspection functions with respect to licensed or regulated child care services to receive training in child development, health and safety, child abuse prevention and detection, the needs of children with a disability, program management, and relevant law enforcement;

"(2) impose personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and, to the maximum extent feasible, have inspection responsibility exclusively for children's services;

"(3) require personnel who perform inspection functions with respect to licensed or regulated child care services to make—

"(A) not less than 1 unannounced inspection annually of each center-based child care provider in the State; and

"(B) unannounced inspections, periodically and during normal hours of operation, of licensed and regulated family child care providers in the State;

"(4) require the ratio of licensing personnel to child care providers in the State to be maintained at a level sufficient to enable the State to conduct inspections of child care facilities and providers on a timely basis and otherwise to comply with the requirements of this subsection;

"(5) require licensed or regulated child care providers (including registered child care providers) in the State—

"(A) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

"(B) to provide parents with unlimited access to their children whenever children of such parents are in the care of such providers;

"(6) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the agency described in subsection (a) or any program or activity assisted under this subtitle or, to the extent funds are used for child care services, under subtitle A, to be heard by the State;

"(7) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

"(8) make consumer education information available to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this subsection;

"(9) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

"(10) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

"(j) TIMING OF EXPENDITURES.—Except as provided in section 2013(c)(1), each State receiving a payment under this subtitle for a fiscal year shall expend such funds in such fiscal year or in the succeeding fiscal year.

"SEC. 2013. CHILD CARE ALLOTMENTS.

"(a) FORMULA FOR DETERMINING CHILD CARE ALLOTMENTS.—The child care allotment of any State which is eligible for payments under this subtitle for a fiscal year shall be—

"(1) the State share for such fiscal year; multiplied by

"(2) the child care set aside for such fiscal year.

"(b) DEFINITIONS.—

"(1) STATE SHARE.—The term 'State share' means, with respect to a State and a fiscal year—

"(A) the regular allotment of the State under section 2003 for such fiscal year; divided by

"(B)(i) the amount specified in section 2003(c) for such fiscal year; minus

"(ii) the aggregate of the regular allotments, under section 2003 for such fiscal year, of the States which are not eligible for payments under this subtitle for such fiscal year.

"(2) CHILD CARE SET ASIDE.—The term 'child care set aside' means—

"(A) $450,000,000 for fiscal year 1991;

"(B) $550,000,000 for fiscal year 1992;

"(C) $600,000,000 for each of fiscal years 1993 and 1994; and

"(D) $700,000,000 for each fiscal year after fiscal year 1994.

"(c) REDISTRIBUTION OF UNEXPENDED CHILD CARE ALLOTMENTS.—

"(1) REMITTANCE TO THE SECRETARY.—Each State which receives any payment under this subtitle for a fiscal year shall remit to the Secretary that part of such payment which the State intends not to, or does not, expend in such fiscal year or in the succeeding fiscal year.

"(2) REDISTRIBUTION.—The Secretary shall increase the child care allotment of each State not remitting any amount to the Secretary for a fiscal year pursuant to paragraph (1) by an amount equal to—

"(A) the aggregate of the amounts so remitted; multiplied by

"(B) the adjusted State share for such fiscal year.

"(3) ADJUSTED STATE SHARE.—The term 'adjusted State share' means, with respect to a fiscal year—

"(A) the child care allotment of the State for such fiscal year (before any increase under paragraph (2)); divided by

"(B)(i) the child care set aside for such fiscal year; minus

"(ii) the aggregate of the amounts remitted to the Secretary for such fiscal year pursuant to paragraph (1).

"SEC. 2014. REPORTS AND AUDITS.

"(a) REPORTS ON INTENDED USES OF CHILD CARE ALLOTMENTS.—

"(1) IN GENERAL.—Before any State expends any payment made to the State under this subtitle for any fiscal year, the State shall report to the Secretary on the intended uses of such payment (including information on the types of activities to be supported, and the categories and characteristics of individuals to be served) and on any part of such payment which the State intends not to expend in such fiscal year or in the succeeding fiscal year.

"(2) PUBLICATION IN THE STATE.—The State shall make the report required by paragraph (1) public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during the development of the report and after the completion of the report.

"(b) NOTICE TO SECRETARY OF UNEXPENDED CHILD CARE SET ASIDE.—Each State which has not completely expended the payments made to the State under this subtitle for a fiscal year in such fiscal year or the succeeding fiscal year shall notify the Secretary of any amount not so expended.

"(c) REPORTS ON ACTUAL USE OF CHILD CARE SET ASIDE.—

"(1) ANNUAL REPORTS.—

"(A) IN GENERAL.—Each State shall prepare reports annually, beginning with fiscal year 1993, on the activities of the State carried out with funds made available under this subtitle or (to the extent funds made available under subtitle A are expended for child care services) under subtitle A, covering the most recently completed fiscal year.

"(B) FORM AND CONTENT.—Each report required by subparagraph (A) shall be in such form and contain such information (including the information specified in paragraph (2)) as the State finds necessary—

"(i) to provide an accurate description of such activities;

"(ii) to secure a complete record of the purposes for which funds made available under this subtitle were spent; and

"(iii) to determine the extent to which such funds were spent in a manner consistent with the reports required by subsection (a).

"(C) AVAILABILITY OF COPIES.—The State shall make copies of each report required by this section available for public inspection within the State, shall transmit a copy of each such report to the Secretary, and shall provide a copy of each such report, on request, to any interested public agency.

"(D) SUBMISSION TO CONGRESS.—The Secretary shall annually compile the State reports transmitted to the Secretary pursuant to subparagraph (C), and submit such annual compilation to the Congress.

"(2) REPORTS TO CONTAIN CERTAIN SPECIFIC INFORMATION.—Each report prepared and transmitted by a State under paragraph (1) shall set forth with respect to child care services funded under this subtitle or subtitle A (for the fiscal year covered by the report)—

"(A) showing separately for center-based child care services, group home child care services, family child care services, and relative care services—

"(i) the number of children who received such services paid for, in whole or in part, with funds made available under this subtitle or subtitle A, grouped according to the average income of the families of such children as a percentage of the poverty line;

"(ii) the average cost and market rate, by geographical area, for child care services funded, in whole or in part, with funds made available under this subtitle or subtitle A; and

"(iii) the out-of-pocket costs for such services funded, in whole or in part, with funds made available under this subtitle or subtitle A, grouped according to the average income of the families of the children receiving such services as a percentage of the poverty line;

"(B) whether the recipients of each type of service specified in subparagraph (A) receive public assistance benefits, the extent to which such benefits are taken into account in determining the child care services benefit, and the effect of public assistance benefits on the child care services benefit;

"(C) income eligibility guidelines, sliding fee schedules, requirements for enrollment in school or training programs, and any other criteria applied in determining eligibility for, or priority in receiving, each type of service specified in subparagraph (A);

"(D) the methods by which each type of service specified in subparagraph (A) was provided;

"(E) the child care standards in effect in the State with respect to each type of service specified in subparagraph (A);

"(F) the child care licensing and regulatory (including registration) requirements in effect in the State with respect to each type of service specified in subparagraph (A); and

"(G) the enforcement policies and practices in effect in the State which apply to licensed and regulated child care providers (including providers required to register).

"(3) UNIFORM REPORTING REQUIREMENTS.—Within 12 months after the date of the enactment of this subtitle, the Secretary shall establish uniform reporting requirements for use by the States in preparing the information required by this subsection, and make such other provision as may be necessary or appropriate to ensure that compliance with this subsection will not be unduly burdensome on the States.

"(4) INTERIM REPORT.—The Secretary shall issue an interim report on the matters described in paragraphs (1) and (2) with respect to fiscal year 1992, based on information made available by the States.

"(d) AUDITS.—Each State shall, not less often than every 2 years, audit the expenditures of the State from payments made under this subtitle. Such audits shall be conducted by an entity independent of any agency administering activities funded under this subtitle, in accordance with generally accepted auditing principles. Within 30 days after each such audit is completed, the State shall submit a copy of such audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts ultimately found not to have been expended in accordance with this subtitle, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subtitle.

"(e) DEFINITIONS.—As used in this subtitle:

"(1) CENTER-BASED CHILD CARE PROVIDER.—The term 'center-based child care provider' means a child care provider that provides child care services in a nonresidential facility, and may include a nonprofit institution of higher education.

"(2) FAMILY CHILD CARE PROVIDER.—The term 'family child care provider' means 1 individual who provides child care services to a child who does not reside with such individual, as the sole caregiver and in the private residence of such individual.

"(3) GROUP HOME CHILD CARE PROVIDER.—The term 'group home child care provider' means 2 or more individuals who jointly provide child care services in a private residence to a child who does not reside with any of such individuals.

"(4) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965, except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978.

"(5) POVERTY LINE.—The term 'poverty line' has the meaning given to such term in section 673(2) of the Community Services Block Grant Act.".

(b) MISCELLANEOUS AND CONFORMING AMENDMENTS.—

(1) Title XX of such Act (42 U.S.C. 1397 et seq.) is amended—

(A) by striking "this title" each place such term appears (except in section 2001 and the 3rd place such term appears in section 2002(d)) and inserting "this subtitle";

(B) by inserting "regular" before "allotment" each place such term appears;

(C) in section 2003(c)—

(i) in paragraph (4), by striking "and";

(ii) in paragraph (5), by striking "each fiscal year after fiscal year 1989." and inserting "fiscal year 1990;"; and

(iii) by adding at the end the following:

"(6) $3,250,000,000 for fiscal year 1991;

"(7) $3,350,000,000 for fiscal year 1992;

"(8) $3,400,000,000 for each of fiscal years 1993 and 1994; and

"(9) $3,550,000,000 for each fiscal year after fiscal year 1994."; and

(D) in section 2006(a), by striking "each such agency may provide its views on these reports" and inserting "the Secretary shall annually compile the reports transmitted to the Secretary and submit such annual compilation".

(2) The heading of section 2001 of such Act (42 U.S.C. 1397) is amended by striking "TITLE" and inserting "SUBTITLE".

(3) The heading of section 2003 of such Act (42 U.S.C. 1397b) is amended by inserting "REGULAR" before "ALLOTMENTS".

(4) Effective January 1, 1991, section 402(a)(18) of such Act (42 U.S.C. 602(a)(18)) is amended by inserting "and (viii)" after "(8)(A)(v)".

(c) APPLICABILITY OF OTHER LAW.—Title XX of such Act (42 U.S.C. 1397 et seq.) is amended by inserting after the subtitle added by subsection (a)(2) of this section the following:

"Subtitle C—Applicability of Other Law

"SEC. 2021. APPLICABILITY OF OTHER LAW.

"Sections 658E and 658J of the Child Care Quality Improvement Act shall not be construed to impose any requirement relating to licensing, training, compliance, enforcement, salaries, recommended standards, or the making of grants or loans, or to authorize the expenditure of any funds, with respect to child care services provided pursuant to this title.".

SEC. 302. EXPANSION OF EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Subsections (a) and (b) of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the earned income for the taxable year as does not exceed $5,714.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under this subsection for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of $5,714, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(b) PERCENTAGES.—

"(1) IN GENERAL.—For purposes of subsection (a)—

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child.....	17	12
2 qualifying children..	21	15
3 or more qualifying children.	25	18.

"(2) SUPPLEMENTAL YOUNG CHILD CREDIT.—In the case of a taxpayer with a qualifying child who has not attained age 6 as of the close of the calendar year in which or with which the taxable year of the taxpayer ends—

"(A) the credit percentage shall be increased by 6 percentage points, and

"(B) the phaseout percentage shall be increased by 4.25 percentage points.".

(b) QUALIFYING CHILD DEFINED.—Subsection (c) of section 32 of such Code is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFYING CHILD.—The term 'qualifying child' means any child (within the meaning of section 151(c)(3)) of the eligible individual if—

"(A) such individual is entitled to a deduction under section 151 for such child (or would be so entitled but for paragraph (2) or (4) of section 152(e)), and

"(B) such child has the same principal place of abode as such individual for more than one-half of the taxable year.".

(c) ADVANCE PAYMENT PROVISIONS.—

(1) PAYMENT BASED ON NUMBER OF QUALIFYING CHILDREN.—

(A) Subsection (b) of section 3507 of such Code is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) states the number of qualifying children (as defined in section 32(c)(3)) of the employee for the taxable year and whether any such child is described in section 32(b)(2).".

(B) Paragraph (2) of section 3507(c) of such Code is amended—

(i) by striking "14 percent" in subparagraphs (B)(i) and (C)(i) and inserting "the credit percentage",

(ii) by striking "subsection (b)" in subparagraph (B)(ii) and inserting "subsection (a)(2)", and

(iii) by adding at the end thereof the following new sentence:

"For purposes of this paragraph, the determination of the credit percentage under section 32(b), and the determination of the amounts referred to in subparagraph (B)(ii), shall be made on the basis of the information specified in the earned income eligibility certificate.".

(C) Clause (i) of section 3507(e)(3)(A) of such Code is amended by inserting before ", or" the following: "(or changing the percentages applicable to the employee under section 32(b) for the taxable year)".

(2) EXPANDED PARTICIPATION IN ADVANCE PAYMENT PROGRAM.—Subsection (e) of section 3507 of such Code (relating to furnishing and taking effect of certificates) is amended by adding at the end thereof the following new paragraph:

"(6) EMPLOYERS REQUIRED TO COLLECT CERTIFICATE OR STATEMENT OF INELIGIBILITY, ETC.—On or before the date of commencement of employment with an employer, the employer shall require the employee to furnish to the employer a signed earned income eligibility certificate or a signed statement that such employee does not meet the requirements of paragraphs (1) and (2) of subsection (b). As of the beginning of each calendar year, the employer shall require each employee with respect to whom an earned income eligibility certificate is in effect to determine whether there has been a change in circumstances requiring a new certificate or revocation of such certificate.".

(3) REPEAL OF CALENDAR YEAR LIMITATION ON EFFECTIVENESS OF CERTIFICATE.—

(A) Subparagraphs (A) and (B) of section 3507(e)(1) of such Code are each amended by striking "had been in effect for the calendar year" and inserting "is in effect".

(B) Paragraph (2) of section 3507(e) of such Code is amended—

(i) by striking "for any calendar year", and

(ii) by striking "during such calendar year".

(d) COORDINATION OF EARNED INCOME CREDIT WITH MEANS-TESTED PROGRAMS.—Section 32 of such Code is amended by adding at the end thereof the following new subsection:

"(j) COORDINATION OF CREDIT WITH MEANS-TESTED PROGRAMS.—

"(1) FEDERAL MEANS-TESTED TRANSFER PAYMENTS TREATED AS SUPPORT PROVIDED BY TAXPAYER.—Solely for purposes of determining whether any credit is allowable to an individual under this section (and the amount of credit so allowable), expenses paid with Federal means-tested payments shall be treated as provided by such individual.

"(2) CREDIT DISREGARDED IN DETERMINING BENEFITS UNDER OTHER MEANS-TESTED PROGRAMS.—Any refund of tax by reason of this section, and any payment made by an employer under section 3507, shall not be taken into account as income or receipts for purposes of determining the eligibility (for the month in which such refund or payment is made or any month thereafter) of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds. The preceding sentence shall apply only if the individual (or the family unit of which the individual is a member) is a recipient of benefits or assistance under such a program for the month before the month in which such refund or payment is made.".

(e) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 32(f) of such Code is amended—

(A) by striking "subsection (b)" each place it appears in subparagraphs (A) and (B) and inserting "subsection (a)(2)", and

(B) by adding at the end thereof the following new sentence:

"Separate tables shall be prescribed for taxpayers with 1 qualifying child, 2 qualifying children, 3 or more qualifying children, and any qualifying child who has not attained age 6.".

(2) Subparagraph (A) of section 32(i)(2) of such Code is amended by striking "or (ii)" in clause (i) and by striking "clause (iii)" in clause (ii) and inserting "clause (ii)".

(3) Subparagraph (B) of section 32(i)(2) of such Code is amended by striking clauses (i), (ii), and (iii) and inserting the following:

"(i) the $5,714 amounts contained in subsection (a), and

"(ii) the $9,000 amount contained in subsection (a)(2)(B).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 303. PHASEOUT OF DEPENDENT CARE CREDIT AND EXCLUSION FOR DEPENDENT CARE ASSISTANCE.

(a) PHASEOUT.—Paragraph (2) of section 21(a) of the Internal Revenue Code of 1986 (defining applicable percentage) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means 30 percent reduced (but not below zero) by the sum of—

"(A) 1 percentage point for each $2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $10,000 but does not exceed $30,000, and

"(B) 1 percentage point for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $70,000."

(b) EXCLUSION FOR DEPENDENT CARE ASSISTANCE.—Paragraph (2) of section 129(a) of such Code is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) PHASEOUT OF EXCLUSION FOR TAXPAYERS WHOSE ADJUSTED GROSS INCOMES EXCEEDS $70,000.—

"(i) IN GENERAL.—If the taxpayer's adjusted gross income for the taxable year exceeds $70,000 ($35,000 in the case of a separate return by a married individual), the applicable dollar amount in subparagraph (A) shall be reduced (but not below zero) by $250 for each $1,000 (or fraction thereof) of such excess.

"(ii) COORDINATION WITH OTHER PROVISIONS.—For purposes of clause (i), adjusted gross income shall be determined without regard to this subparagraph and after the application of sections 86, 135, 219, and 469. This subparagraph shall not be taken into account in applying such sections."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 304. TELEPHONE EXCISE TAX MADE PERMANENT.

(a) GENERAL RULE.—Paragraph (1) of section 4251(a) of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by striking "the applicable percentage" and inserting "3 percent".

(b) CONFORMING AMENDMENT.—Subsection (b) of section 4251 of such Code is amended to read as follows:

"(b) COMMUNICATIONS SERVICES.—The term 'communications services' means—

"(1) local telephone service,

"(2) toll telephone service, and

"(3) teletypewriter exchange service."

TITLE IV—CHILD CARE QUALITY IMPROVEMENT

SEC. 401. QUALITY IMPROVEMENT.

Chapter 8 of subtitle A of title VI of Public Law 97-35 (42 U.S.C. 9871-9877) is amended—

(1) by redesignating subchapters C, D, and E, as subchapters D, E, and F, respectively; and

(2) by inserting after subchapter B the following:

"Subchapter C—Child Care Quality Improvement

"SEC. 658A. SHORT TITLE.

"This subchapter may be cited as the 'Child Care Quality Improvement Act'.

"SEC. 658B. AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.

"The Secretary may provide financial assistance to eligible States, and to Indian tribes and tribal organizations, to carry out this subchapter.

"SEC. 658C. AMOUNTS RESERVED; ALLOTMENTS.

"(a) AMOUNTS RESERVED.—

"(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount made available under section 3(b)(3) of the Early Childhood Education and Development Act of 1990 in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

"(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount made available under section 3(b)(3) of the Early Childhood Education and Development of 1990 in each fiscal year, to carry out subsection (c) regarding Indian children.

"(b) STATE ALLOTMENT.—

"(1) GENERAL RULE.—From the remainder of the amount made available under section 3(b)(3) of the Early Childhood Education and Development Act of 1990 for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of the following:

"(A) Fifty percent of the amount that bears the same ratio to such remainder as the product of the young child factor of the State and the allotment factor bears to the sum of the corresponding products for all States.

"(B) Fifty percent of the amount that bears the same ratio to such remainder as the product of the school lunch factor of the State and the allotment factor bears to the sum of the corresponding products for all the States.

"(2) LIMITATIONS.—If a sum determined under paragraph (1)—

"(A) exceeds 1.2, then the allotment factor of that State shall be considered to be 1.2; and

"(B) is less than 0.8, then the allotment percentage of the State shall be considered to be 0.8.

"(3) DETERMINATION OF ALLOTMENT FACTOR.—

"(A) IN GENERAL.—The allotment factor for a State means—

"(i) the per capita income of all individuals in the United States; divided by

"(ii) the per capita income of all individuals in the State.

"(B) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

"(i) determined at 4-year intervals;

"(ii) applied for the 4-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

"(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

"(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

"(1) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of an Indian tribe or tribal organization, enter into a contract with or make a grant to such Indian tribe or tribal organization for a period of 2 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this subchapter. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655-657), that are relevant to such programs and activities.

"(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

"(d) REALLOTMENTS.—

"(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 658E, in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

"(2) LIMITATIONS.—(A) The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 658E.

"(B) The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

"(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subchapter, any amount reallotted to a State under this subsection shall be deemed to be part of the allotment made under subsection (b) to the State.

"(e) DEFINITION.—For the purposes of this section, the term 'State' means any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico.

"SEC. 658D. LEAD AGENCY.

"The chief executive officer of a State that desires to receive funds under this subchapter shall designate, in an application submitted to the Secretary under section 658E(a), a State agency to act as the lead agency to perform administrative functions to carry out this subchapter. The State agency so designated shall be the State agency that has primary responsibility for child care in the State.

"SEC. 658E. APPLICATION AND PLAN.

"(a) APPLICATION.—To be eligible to receive funds under this subchapter, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

"(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this subchapter and a State plan that is designed to be implemented during a 5-year period and that meets the requirements of subsection (c).

"(c) REQUIREMENTS OF THE PLAN.—

"(1) LEAD AGENCY.—(A) The plan shall identify the lead agency designated in accordance with section 658D and contain assurances that—

"(i) funds received under this subchapter by the State will be administered by the lead agency; and

"(ii) the lead agency will comply with the requirements of subparagraph (B).

"(B)(i) The lead agency shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 3-year period ending on the date of the enactment of the Early Childhood Education and Development Act of 1990.

"(ii) Not later than 18 months after the date of the enactment of the Early Childhood Education and Development Act of 1990, the lead agency shall prepare and submit a report to the chief executive officer of the State. Such report shall contain—

"(I) a statement of the findings and recommendations that result from the review carried out under clause (i), including a description of the current status, and recommendations for improvement, of child care licensing, regulating, monitoring, and enforcement in the State; and

"(II) recommendations regarding standards that should apply to local educational agencies that receive funds under title VIII of the Elementary and Secondary Education Act of 1965 to provide child care services.

"(2) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.—The plan shall provide that the State shall use funds received under this subchapter to do 1 or more of the following:

"(A) Provide financial assistance to establish or expand local resource and referral programs under section 658F.

"(B) Improve the quality of child care services and early childhood development programs in the State by providing training in accordance with the requirements of section 658G.

"(C) Improve the quality of child care services by improving the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

"(D) Improve salaries and other compensation paid to full- and part-time staff who provide child care services—

"(i) for which assistance is provided under the Head Start Act or title VIII of the Elementary and Secondary Education Act of 1965; and

"(ii) to the extent practicable, in other major Federal and State child care programs, except programs conducted pursuant to part A of title IV of the Social Security Act;

to the extent that such salaries and other compensation are inadequate.

"(3) OTHER ALLOWABLE ACTIVITIES.—The plan shall provide that the State may use not more than 5 percent of the funds received under this subchapter to do 1 or more of the following:

"(i) Make low-interest loans to eligible child care providers that are nonprofit child care providers and family child care providers to make renovations and improvements in existing facilities to be used to carry out child care programs.

"(ii) Make grants or low-interest loans to child care providers to assist such providers to meet Federal, State, and local child care standards, giving priority to such providers that serve children of families that have very low income.

"(iii) Make grants to local public libraries (and elementary and secondary school libraries, as appropriate) to improve the quality of early childhood learning resources and to expand the availability of such resources to eligible child care providers (particularly family child care providers) that provide child care services to preschool children, and to the preschool children and their families served by such providers.

"(iv) If funds are not appropriated to carry out title V of the Early Childhood Education and Development Act of 1990 in a fiscal year, make grants in such fiscal year to businesses for the purpose, and under the terms and conditions, specified in such title.

"(v) To develop and implement State tax credits and other policies designed to encourage businesses to offer child care assistance.

Amounts (including interest) received by the State for the repayment of loans made under this paragraph shall be used by the State to carry out this subchapter.

"(4) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 3 years after the date of enactment of the Early Childhood Education and Development Act of 1990, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

"(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to receive training in child development, health and safety, child abuse prevention and detection, the needs of children with a disability, program management, and relevant law enforcement;

"(B) impose personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and, to the maximum extent feasible, have inspection responsibility exclusively for children's services;

"(C) require—

"(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider in the State annually;

"(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections periodically, and during normal hours of operation, of licensed and regulated family child care providers in the State; and

"(D) require the ratio of licensing personnel to child care providers in the State to be maintained at a level sufficient to enable the State to conduct inspections of child care facilities and providers on a timely basis and otherwise to comply with the enforcement requirements of this section;

"(E) require licensed or regulated child care providers (including registered child care providers) in the State—

"(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

"(ii) to provide parents with unlimited access to their children whenever children of such parents are in the care of such providers;

"(F) implement a procedure to address complaints of parents and child care providers;

"(G) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

"(H) make consumer education information available to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

"(I) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

"(J) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

"(5) LIMITATION ON ADMINISTRATIVE EXPENSES.—The plan shall provide that not more than 2 percent of the funds received under this subchapter will be used to pay administrative costs incurred by the lead agency to carry out this subchapter.

"(6) REPORT.—The plan shall provide that not later than December 31, 1992, and at 2-year intervals thereafter, the State will submit to the Secretary a report—

"(A) specifying—

"(i) the uses for which the State expended under paragraph (2) funds received by the State; and

"(ii) with respect to each use specified under clause (i), the amount of such funds expended;

"(B) stating the reasons supporting the selection of each such use and the amount of such funds expended for each such use;

"(C) identifying the extent to which other resources of the State were expended for each of the activities described in subparagraphs (A) through (D) of such paragraph; and

"(D) containing data designed to show—

"(i) how the child care needs of families in the State are being fulfilled, including information on—

"(I) the number of children being assisted with funds provided under this subchapter, and under other State and Federal child care programs, except programs conducted pursuant to part A of title IV of the Social Security Act;

"(II) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State; and

"(III) salaries and other compensation paid to full- and part-time staff who provide child care services; and

"(ii) the extent to which the availability of child care services has increased;

during the 2-year period for which such report is required to be submitted.

"SEC. 658F. RESOURCE AND REFERRAL PROGRAMS.

"(a) RECOGNITION.—Each State that desires to provide assistance under subsection (b) shall recognize a community-based organization, a public organization, a unit of general purpose local government, or a public agency that represents a combination of units of general purpose local government as the resource and referral agency for a particular geographical area in the State.

"(b) FUNDING.—Each State that receives funds under this subchapter for a fiscal year may provide assistance, in such fiscal year, to the organizations recognized under subsection (a) to enable such organizations to carry out resource and referral programs—

"(1) to identify existing child care services;

"(2) to provide to interested parents information and referral regarding such services;

"(3) to provide or arrange for the provision of information and training to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

"(4) to provide information on the demand for and supply of child care services located in a community.

"(c) REQUIREMENTS.—To be eligible for recognition as a resource and referral agency for a designated geographical area in a State, an organization shall—

"(1) have or acquire a database of information on child care services in the geographical area that the organization continually updates, including child care services provided in centers, nursery schools, and family child care settings;

"(2) have the capability to provide resource and referral services in the designated geographical area;

"(3) be able to respond in a timely fashion to requests for information or assistance;

"(4) be a public agency, or a community-based organization, located in the geographical area to be served; and

"(5) be able to provide parents with a checklist to identify quality child care services.

"(d) DUTY.—An organization recognized under subsection (a) as a resource and referral agency shall gather, update, and provide information concerning child care services available from eligible child care providers in the geographical area served by such organization.

"(e) LIMITATION ON INFORMATION.—An organization recognized under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not licensed or regulated, and not exempted from licensing and regulation, by the State.

"SEC. 658G. TRAINING AND RELATED ACTIVITIES.

"(a) GRANTS AND CONTRACTS FOR TRAINING.—A State may make grants to and enter into contracts with public agencies, nonprofit organizations, and institutions of higher education to develop and carry out child care training programs under which preservice and continuing inservice training is provided to—

"(1) staff who provide child care services for which assistance is provided under the Head Start Act or title VIII of the Elementary and Secondary Education Act of 1965; and

"(2) staff of eligible child care providers and staff of resource and referral programs involved in providing child care services in the State.

"(b) TRAINING AND OTHER ACTIVITIES RELATING TO FAMILY CHILD CARE ENHANCEMENT.—

"(1) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—A State may make grants to and enter into contracts with public agencies and nonprofit organizations (including resource and referral organizations, child care food program sponsors, and family child care associations) to enable such organizations to develop and carry out child care training programs under which preservice and inservice training is provided to eligible child care providers that are family child care providers.

"(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS.—To be eligible to receive a grant or enter into a contract under paragraph (1), a nonprofit organization shall—

"(A) recruit and train individuals to become family child care providers, including providers with the capacity to provide night-time child care services and emergency child care services at irregular hours (as well as emergency care for sick children);

"(B) provide ongoing training to individuals who are family child care providers, including specialized training in working with infants;

"(C) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

"(D) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

"(E) provide such other services to family child care providers in the communities of such organization as the lead agency determines to be appropriate.

"SEC. 658H. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE.

"(a) SUBSTITUTION OF FUNDS.—Funds received under—

"(1) the amendments to the Head Start Act made by the Early Childhood Education and Development Act of 1990;

"(2) title VIII of the Elementary and Secondary Education Act of 1965; or

"(3) this subchapter;

by the State may be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of the activities for which such funds are received.

"(b) EXISTING FACILITIES.—No financial assistance provided under the provisions of law specified in subsection (a) may be expended to renovate or repair any facility unless—

"(1) the child care provider that receives such financial assistance agrees—

"(A) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this subchapter, bears to the original value of the renovation or repair; and

"(B) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to pro-

vide child care services in such facility in accordance with this subchapter;

if such provider does not provide child care services in such facility in accordance with this subchapter throughout the useful life of the renovation or repair; and

"(2) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed as a result of such provisions of law.

"SEC. 658I. FEDERAL ENFORCEMENT.

"(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658E for the State.

"(b) NONCOMPLIANCE.—

"(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

"(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 658E for the State; or

"(B) in the operation of any program or project for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subchapter (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

"(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this subchapter.

"(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

"(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

"(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and

"(2) imposing sanctions under this section.

"SEC. 658J. NATIONAL ADVISORY COMMITTEE ON RECOMMENDED CHILD CARE STANDARDS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of the Early Childhood Education and Development Act of 1990, the National Advisory Committee On Recommended Child Care Standards the members of which shall be appointed from among representatives of—

"(A) persons who carry out various types of child care programs;

"(B) persons who carry out resource and referral programs;

"(C) child care and early childhood development specialists;

"(D) early childhood education specialists and specialists in the education of children with a disability and children whose English language proficiency is limited as a result of their non-English language background;

"(E) individuals who have expertise in pediatric health care, nutrition, disabilities, and related fields;

"(F) organizations representing child care employees;

"(G) individuals who have experience in the regulation of child care services;

"(H) parents who have been actively involved in child care programs; and

"(I) States.

"(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 21 members of which—

"(A) 7 members shall be appointed by the President;

"(B) 4 members shall be appointed by the majority leader of the Senate;

"(C) 3 members shall be appointed by the minority leader of the Senate;

"(D) 4 members shall be appointed by the Speaker of the House of Representatives; and

"(E) 3 members shall be appointed by the minority leader of the House of Representatives.

Not less than one-third of the members of the Committee shall be appointed from among individuals described in paragraph (1)(H).

"(3) CHAIRMAN.—The Committee shall appoint a chairman from among the members of the Committee.

"(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

"(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

"(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its duties.

"(2) REIMBURSEMENT.—Members of the Committee who are not regular full-time employees of the United States Government, while away from their homes or regular places of business on the business of the Committee, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

"(c) DUTIES.—The Committee shall—

"(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

"(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed recommended standards described in subsection (d) for child care services, taking into account the different needs of infants, toddlers, and preschool and school-age children; and

"(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, recommended requirements for resource and referral agencies.

"(d) RECOMMENDED CHILD CARE STANDARDS.—The proposed recommended child care standards submitted pursuant to subsection (c)(2) shall consist of only the following:

"(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

"(A) group size limits in terms of the number of caregivers and the number and ages of children;

"(B) the maximum appropriate child-staff ratios;

"(C) qualifications and background of child care personnel;

"(D) health, nutrition, and safety requirements for children and caregivers;

"(E) inservice training in areas appropriate to providing such child care services, including the minimum number of hours of such training; and

"(F) parental involvement in licensed and regulated child care services.

"(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

"(A) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

"(B) the minimum age for caregivers;

"(C) health, nutrition, and safety requirements for children and caregivers; and

"(D) inservice training in areas appropriate to providing such child care services, including the minimum number of hours of such training.

"(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

"(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

"(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the Committee, the Secretary shall—

"(A) publish in the Federal Register—

"(i) a notice of proposed rulemaking concerning the recommended standards proposed under subsection (d) to the Secretary; and

"(ii) such proposed recommended standards for public comment; and

"(B) distribute such proposed recommended standards, for comment, to each lead agency.

"(2) ESTABLISHMENT OF RECOMMENDED CHILD CARE STANDARDS.—(A) The Secretary shall, in consultation with the Committee—

"(i) take into consideration any comments received by the Secretary with respect to the recommended standards proposed under subsection (d); and

"(ii) not later than 180 days after publication of such standards, shall issue rules establishing recommended child care standards for purposes of this subchapter. Compliance with such standards shall be at the option of the States. Such standards shall include nutrition requirements.

"(B) The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

"(3) ADDITIONAL COMMENTS.—The Committee may submit to the Secretary and to the Congress such additional comments on the recommended child care standards estab-

lished under paragraph (2) as the Committee considers appropriate.

"(f) TERMINATION OF COMMITTEE.—The Committee shall cease to exist 90 days after the date the Secretary establishes recommended child care standards under subsection (e)(2).

"SEC. 658K. DEFINITIONS.

"As used in this subchapter:

"(1) CENTER-BASED CHILD CARE PROVIDER.—The term 'center-based child care provider' means a child care provider that provides child care services in a nonresidential facility, and may include a nonprofit institution of higher education.

"(2) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization'—

"(A) means a private nonprofit organization that—

"(i) is representative of the community or of significant segments of the community; and

"(ii) provides child care, preschool programs, or early childhood development programs; or

"(B) has the meaning given it in section 4(5) of the Job Training Partnership Act (29 U.S.C. 1503(5)).

"(3) DISABILITY.—The term 'disability' means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or subparagraph (A) or (B) of section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1472(1)).

"(4) EARLY CHILDHOOD LEARNING RESOURCES.—The term 'early childhood learning resources' includes books, audio and video tapes, films, educational toys and games and other materials designed principally for use by or with children who are less than 6 years of age.

"(5) ELIGIBLE CHILD CARE PROVIDER.—The term 'eligible child care provider' means—

"(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

"(i) is licensed or regulated under State law; and

"(ii) satisfies—

"(I) the Federal requirements; and

"(II) the State and local requirements;

applicable to the child care services it provides; and

"(B) a child care provider who provides child care services only to an eligible child who is, by affinity or consanguinity, the grandchild of such provider if such provider satisfies the State requirements (if any) applicable to such services.

"(6) FAMILY CHILD CARE PROVIDER.—The term 'family child care provider' means 1 individual who provides child care services to any eligible child who does not reside with such individual, as the sole caregiver and in the private residence of such individual.

"(7) GROUP HOME CHILD CARE PROVIDER.—The term 'group home child care provider' means 2 or more individuals who jointly provide child care services in a private residence to any eligible child who does not reside with any of such individuals.

"(8) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given it in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

"(9) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

"(10) LEAD AGENCY.—The term 'lead agency' means the agency designated under section 659D.

"(11) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

"(12) PUBLIC LIBRARY.—The term 'local public library' has the meaning given that term in section 3(5) of the Library Services and Construction Act.

"(13) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' includes an Indian tribe and a tribal organization.

"(14) NON-ENGLISH LANGUAGE BACKGROUND.—The term 'non-English language background' means the experience of living in a home in which the primary language spoken is not English.

"(15) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(16) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(17) STAFF.—The term 'staff' means an individual who provides a service directly to an eligible child on a person-to-person basis.

"(18) STATE.—The term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau.

"(19) TRIBAL ORGANIZATION.—The term 'tribal organization' has the meaning given it in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

"(20) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term 'unit of general purpose local government' means a city, county, town, parish, village, or other general purpose political subdivision of a State.".

TITLE V—BUSINESS INVOLVEMENT IN MEETING EMPLOYEE CHILD CARE NEEDS

SEC. 501. ESTABLISHMENT OF GRANT PROGRAM.

The Secretary of Health and Human Services shall establish a program to make grants to eligible businesses—

(1) to pay start-up costs incurred to provide child care services; or

(2) to provide additional child care services;

needed by the employees of such businesses.

SEC. 502. ELIGIBLE BUSINESSES.

To be eligible to receive a grant under section 501, a business shall submit to the Secretary an application in accordance with section 503.

SEC. 503. APPLICATION.

The application required by section 502 shall be submitted by a business or consortium at such time, in such form, and containing such information as the Secretary may require by rule, except that such application shall contain—

(1) an assurance that such business shall expend, for the purpose for which such grant is made, an amount not less than 200 percent of the amount of such grant;

(2) an assurance that such business will expend such grant for the use specified in section 501, as the case may be;

(3) an assurance that if the employees of such business do not require all the child care services for which such grant and the funds required by paragraph (1) are to be expended by such business, the excess of such child care services shall be made available to families in the community in which such business is located;

(4) an assurance that such business will employ strategies to provide such child care services at affordable rates, and on an equitable basis, to low- and moderate-income employees; and

(5) an assurance that the provider of such child care services will comply with all State and local licensing requirements applicable to such provider.

SEC. 504. SELECTION OF GRANTEES.

For purposes of selecting eligible businesses to receive grants under this title, the Secretary shall give priority to businesses that have fewer than 100 full-time employees. To the extent practicable, the Secretary shall make grants equitably under this title to businesses located in all geographical regions of the United States.

SEC. 505. DEFINITIONS.

As used in the title:

(1) BUSINESS.—The term "business" means a person engaged in commerce whose primary activity is not providing child care services.

(2) CHILD CARE SERVICES.—The term "child care services" means care for a child that is—

(A) provided on the site at which a parent of such child is employed or at a site nearby in the community; and

(B) subsidized at least in part by the business that employs such parent.

(3) CONSORTIUM.—The term "consortium" means 2 or more businesses acting jointly.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $25,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out this title.

TITLE VI—CHILD CARE STANDARDS IMPROVEMENT INCENTIVE GRANT PROGRAM AND DEMONSTRATION PROJECT

SEC. 601. CHILD CARE STANDARDS IMPROVEMENT INCENTIVE GRANT PROGRAM; DEMONSTRATION PROJECT.

(a) GRANT PROGRAM.—

(1) IN GENERAL.—On October 1, 1990, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall establish a child care standards improvement incentive grant program to make grants to eligible States to assist such States in improving State child care standards in the categories described in section 2012(c) of the Social Security Act.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, the State desiring the grant shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary shall require, including—

(A) an assurance that the State will meet the requirements of paragraph (4)(C);

(B) information that shall—

(i) describe the present level of child care standards that are in effect in the State;

(ii) describe the prospective use of such grant; and

(iii) describe the expected improvement in the child care standards of the State;

(C) an assurance that the State will use any amounts received under a grant under

this subsection to specifically improve its child care standards; and

(D) any other information that the Secretary determines appropriate.

(3) CONSIDERATION AND AWARDING OF GRANTS.—

(A) INITIAL GRANTS.—The Secretary shall consider applications submitted by States under paragraph (2), and shall award the initial grants under this section to States on a competitive basis after considering the following criteria:

(i) The relative quality of the existing child care standards of the State as described in the application in comparison to such standards of other States that submit applications.

(ii) The level of child care standards that the State desires to adopt and the State plans for achieving this improved level of standards.

(iii) The relative fiscal capacity of the State in comparison to that of other States that submit applications.

(B) SUBSEQUENT GRANTS.—In determining whether a State that submits an application under paragraph (2) for a subsequent grant under this subsection after the expiration of the previous grant, the Secretary shall award such grant based on the compliance of the State with the application for the previous grant. The Secretary may award a subsequent grant to a State that has not complied with such application of the State if the Secretary determines that factors beyond the control of the State significantly contributed to such noncompliance.

(4) AMOUNT OF GRANT.—

(A) IN GENERAL.—The Secretary shall pay each State awarded a grant under the program established under this subsection 80 percent of the costs to be incurred with respect to activities carried out under the grant.

(B) STATE CONTRIBUTION.—Each State awarded a grant under the program established under this subsection shall, from non-Federal sources, pay 20 percent of the costs to be incurred with respect to activities carried out under the grant.

(C) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under title XX of the Social Security Act to contribute in cash or in kind to the State contribution required by subparagraph (B).

(5) USE OF GRANTS.—

(A) IN GENERAL.—Each State that receives a grant under this subsection shall use amounts provided under such grant to specifically carry out the State's application for improving child care standards, as submitted by the State under paragraph (2).

(B) SPECIFIC USES.—In meeting the requirement of subparagraph (A), a State may use such amounts for any activity which is directly related to the State's application for improving child care standards.

(6) ADMINISTRATIVE PROVISIONS.—

(A) TERM OF GRANTS.—Grants made under the program established under this subsection shall be for a 2-year period with no State receiving more than 3 consecutive grants.

(B) TERMINATION.—The grant program established under this subsection shall terminate 8 years after the date of the enactment of this Act.

(b) DEMONSTRATION PROJECT.—

(1) AUTHORITY TO MAKE DEMONSTRATION GRANTS.—The Secretary may make grants to not more than 10 eligible public agencies and private entities, in urban and rural areas, to administer child development models.

(2) APPLICATION FOR GRANT.—To be eligible to receive a grant under paragraph (1), a public agency or private entity (in this subsection referred to as the "applicant") shall submit to the Secretary an application that contains at least the following:

(A) Information demonstrating that the applicant has established, or will establish, a child development model.

(B) A detailed plan for the recruitment, training, and support of family child care satellites that will participate in such model.

(C) An assurance that each family child care satellite will be required by the applicant, as conditions of participating in such model—

(i) to pay to the applicant a minimal annual fee; and

(ii) to enter into a contract with the applicant requiring such satellite to provide high quality child care services to children for whom it provides child care services.

(D) A detailed plan for the continuing evaluation of such model and such satellites.

(E) A plan specifying in detail the expenditures the applicant will make, as part of administering a child development model, with such grant throughout a 2-year period.

(F) An assurance that resource materials acquired by such model with a grant received under paragraph (1) will be made available to any child care provider in the community.

(G) An assurance that with respect to each of the following categories of children, there is at least 1 participating satellite that will provide child care services:

(i) Children who are ill but not terminally ill.

(ii) Children who do not speak English as their primary language, if there is a reasonable number of such children in the geographical area in which such model will be administered.

(iii) Children who have a handicapping condition.

(H) An assurance that the applicant will recruit, train, monitor, and provide support for not fewer than 20, and not more than 35, family child care satellites.

(I) An assurance that the applicant will provide to each participating satellite training with respect to the following:

(i) Basic child development, including physical development, social and emotional development, intellectual development, and language development.

(ii) Developmentally appropriate activities.

(iii) Developmentally appropriate problem solving.

(iv) Providing family child care services as a business.

(J) Information describing the demographics of the population in the geographical area in which such model will be administered.

(K) An assurance that the applicant will prepare and submit to the Secretary, by such date as the Secretary may specify, the report required by paragraph (3)(B).

(L) Such information and assurances as the Secretary may require by rule.

(3) EVALUATION AND REPORT.—

(A) EVALUATION.—Each applicant that receives a grant under paragraph (1) shall evaluate each family child care satellite that participates in the child development model administered by the applicant. Such evaluation shall include—

(i) a determination, based on making monthly visits (with and without advance notice to such satellite), whether—

(I) the child care services provided by such satellite are appropriate for the ages of the children to whom such services are provided;

(II) the interaction of the staff of such satellite with such children is of good quality; and

(III) such satellite is providing nutritional food to such children to satisfy their needs;

(ii) a determination of the extent to which the community cluster of which such model is a part—

(I) expands the availability of quality child care for working families;

(II) encourages quality and professionalism in child care;

(III) encourages the emotional security of sustained relationships between children and child care providers;

(IV) serves as a model and information center for current and potential child care providers; and

(V) educates family child care providers on matters relating to quality child care; and

(iii) such other information as the Secretary may require by rule.

(B) REPORT.—In accordance with rules issued by the Secretary, submit to the Secretary a detailed description of the results of the evaluation conducted under subparagraph (A).

(4) REPORT BY THE SECRETARY.—Not later than April 1, 1993, the Secretary shall submit to the Congress a report describing the operation of the child development models that received grants under paragraph (1) and summarizing the evaluations received under paragraph (3)(B) by the Secretary.

(5) DEFINITIONS.—As used in this subsection:

(A) CHILD CARE DEVELOPMENT CENTER.—The term "child care development center" means a center-based child care provider that provides child care services that include educational activities that are appropriate to the ages of participating children.

(B) CHILD DEVELOPMENT MODEL.—The term "child development model" means—

(i) a child care development center that—

(I) provides child care services at a single site (or at multiple sites in reasonably close proximity) to infants, toddlers, preschool children, and school-age children; and

(II) is capable of providing training and on-going assistance to satellites that provide child care services to sick children or to exceptional children; or

(ii) a high quality child care program that is capable of—

(I) recruiting, training, supporting, and monitoring family child care providers; and

(II) providing training and on-going assistance to satellites that provide child care services to sick or exceptional children.

(C) COMMUNITY CLUSTER.—The term "community cluster" means a child development model together with not fewer than 20, and not more than 35, family child care satellites.

(D) FAMILY CHILD CARE SATELLITE.—The term "family child care satellite" means a licensed or unlicensed family child care provider who is—

(i) capable of providing high quality child care services, as defined by such child development model; and

(ii) monitored and evaluated regularly by such child development model.

(E) HIGH QUALITY CHILD CARE PROGRAM.—The term "high quality child care program" means a child care program in which—

(i) participating children are well nourished;
(ii) the health of participating children is monitored;
(iii) participating children are supervised;
(iv) participating children have adequate space;
(v) ample equipment for learning is provided to participating children;
(vi) materials are incorporated into the child care environment in ways that are appropriate to the ages of participating children;
(vii) staff members who carry out such program have training in child development and teaching methods;
(viii) appropriate salaries and benefits are available to staff members;
(ix) such program is well planned and well organized;
(x) such program provides to parents unlimited access to their children while their children are receiving child care services provided by such program;
(xi) the number of participating children is appropriate; and
(xii) the ratio of staff members to participating children is appropriate.

(F) RESOURCE MATERIAL.—The term "resource material" means printed or nonprinted material relating to—
(i) child development or providing child care services; or
(ii) practical or legal matters applicable to the operation of a child care provider, including management, taxation, and insurance;

(G) SUPPORT.—The term "support" means—
(i) access to a toy lending library;
(ii) regular inservice programs on topics related to providing child care services;
(iii) development of a family child care satellite support group; and
(iv) regular visits from a resource specialist.

(c) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—
(1) IN GENERAL.—For grants under this section, there are hereby authorized to be appropriated to the Secretary not to exceed $75,000,000 for each of fiscal years 1991 through 1998.
(2) DEMONSTRATION PROJECT.—2 percent of the amounts appropriated for each fiscal year pursuant to paragraph (1) shall be used to make grants under subsection (b) in such fiscal year.

TITLE VII—SENSE OF THE CONGRESS AS TO DEFICIT EFFECT

It is the sense of the Congress that the congressional budget resolution should assume an increase in revenues or a reduction in spending, or a combination thereof (beyond those otherwise needed for deficit reduction) sufficient to offset the net deficit effect of this Act and amendments made by this Act for the first 5 fiscal years beginning after September 30, 1990.

The CHAIRMAN. No amendment to said substitute, as modified, shall be in order except those amendments printed in House Report 101-436. Said amendments shall be considered in the order and manner specified in said report, shall be considered as having been read, and shall not be subject to amendment except as specified in said report. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto.

It shall be in order to consider the amendments offered by the gentleman from Missouri, Mr. GEPHARDT, or his designee, printed in House Report 101-436, as pending simultaneously to the amendment offered by the gentleman from Texas, Mr. STENHOLM, and to the amendment in the nature of a substitute made in order as an original text by House Resolution 368. Said amendments shall be considered en bloc and shall not be subject to a demand for a division of the question. The Chair shall put the question on the amendments en bloc offered by the gentleman from Missouri or his designee as one question.

It shall be in order to consider the amendments offered by the gentleman from California, Mr. EDWARDS, or his designee, printed in House Report 101-436, as pending simultaneously to the amendment offered by the gentleman from Texas, Mr. STENHOLM, and to the amendment in the nature of a substitute made in order as an original text by House Resolution 368. Said amendments shall be considered en bloc and shall not be subject to a demand for a division of the question. The Chair shall put the question on the amendments en bloc offered by the gentleman form California as one question.

It is now in order to consider amendment No. 1 printed in House Report 101-436.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. STENHOLM: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Choice and Child Care Improvement Act of 1990".

TITLE I—EXPANSION OF HEAD START

SEC. 101. DEFINITION.

Section 637 of the Head Start Act (42 U.S.C. 9832) is amended by adding at the end the following:

"(4) The term 'adjusted appropriation' means the amount appropriated under section 639(a) for the preceding fiscal year as adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers, issued by the Bureau of Labor Statistics, during the 1-year period ending June 30 immediately preceding the fiscal year with respect to which an authorization of appropriations is being determined under section 639(b)(1).".

SEC. 102. AUTHORITY TO PROVIDE CHILD CARE SERVICES.

Section 638(a) of the Head Start Act (42 U.S.C. 9833(a)) is amended—
(1) by striking "; and (2)" and inserting ", (2)"; and
(2) by inserting the following before the period at the end: ", and (3) may provide developmentally appropriate child care services throughout the full calendar year to children who are eligible under section 645 to participate in, and are participating in, Head Start programs so that such children receive full-working-day services if such child care services are provided to meet the needs of parents each of whom is working, attending a job training or educational program, or seeking employment (but may not use for this purpose funds appropriated under this subchapter other than funds made available pursuant to section 639(b)(2))".

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended—
(1) by inserting "(a)" after "SEC. 639.";
(2) by inserting "(other than the provisions relating to child care services referred to in section 638(a)(3))" after "subchapter"; and
(3) by adding at the end the following:
"(b)(1) If for fiscal year 1991, 1992, 1993, 1994, or 1995 the amount appropriated under subsection (a) exceeds the adjusted appropriation for such fiscal year, then there is authorized to be appropriated, in addition to any amount authorized by subsection (a) to be appropriated, to provide Head Start services under paragraphs (1), (2), and (3) of section 638—
"(A) $600,000,000 in the case of fiscal year 1991; or
"(B) such sums as may be necessary in the case of fiscal year 1992, 1993, 1994, or 1995.
"(2) Not more than fifty percent of the amount received by a Head Start agency from funds appropriated under paragraph (1) for any fiscal year shall be available to provide child care services under section 638(a)(3).".

SEC. 104. HEAD START RESEARCH STUDY.

(a) RESEARCH AND REPORTS.—After consulting with experts in research design and preschool programs, the Secretary of Health and Human Services shall conduct a longitudinal research study on the effects of Head Start on children's development. Such study, which shall be conducted on a nationally representative sample, shall include information on school grades, grade retention, special education placement, high school graduation, delinquency, teenage pregnancy, welfare participation, college attendance, employment, and similar outcomes deemed appropriate by the Secretary. Such sample shall be followed for at least 20 years, during which time the Secretary shall make periodic reports to the Congress on the study's findings. Such study shall begin not later than September of 1991.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (a) $2,000,000 for each of the fiscal years 1991 through 2011.

TITLE II—SMALL BUSINESS INVOLVEMENT IN MEETING EMPLOYEE CHILD CARE NEEDS

SEC. 201. ESTABLISHMENT OF GRANT PROGRAM.

The Secretary of Health and Human Services shall establish a program to make grants to eligible small businesses—
(1) to pay start-up costs incurred to provide child care services; or
(2) to provide additional child care services; needed by the employees of such businesses.

SEC. 202. ELIGIBLE SMALL BUSINESSES.

To be eligible to receive a grant under section 201, a small business shall submit to the Secretary an application in accordance with section 203.

SEC. 203. APPLICATION.

The application required by section 202 shall be submitted by a small business (separately or jointly with 1 or more other small businesses) at such time, in such form, and containing such information as the Secretary may require by rule, except that such application shall contain—

(1) an assurance that such small business shall expend, for the purpose for which such grant is made, an amount not less than 300 percent of the amount of such grant;

(2) an assurance that such small business will expend such grant for the use specified in section 201, as the case may be;

(3) an assurance that if the employees of such small business do not require all the child care services for which such grant and the funds required by paragraph (1) are to be expended by such small business, the excess of such child care services shall be made available to families in the community in which such small business is located;

(4) an assurance that such small business will employ strategies to provide such child care services at affordable rates, and on an equitable basis, to low- and moderate-income employees; and

(5) an assurance that the provider of such child care services will comply with all State and local licensing requirements applicable to such provider.

SEC. 204. DEFINITIONS.

As used in the title:

(1) SMALL BUSINESS.—The term "small business" means a person that—

(A) is engaged in commerce and whose primary activity is not providing child care services; and

(B) has fewer than 50 full-time (or the equivalent) employees.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $25,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out this title.

TITLE III—BLOCK GRANT CHILD CARE PROVISIONS

SEC. 301. EXPANDED TITLE XX CHILD CARE.

(a) IN GENERAL.—Title XX of the Social Security Act (42 U.S.C. 1397 et seq.) is amended—

(1) by inserting after the title heading the following:

"SEC. 2000. LIMITATION ON ENTITLEMENT.

"For payments to which States are entitled under this title, there shall be available to the Secretary $3,250,000,000 for each fiscal year after fiscal year 1990, of which $450,000,000 shall be for payments under section 2007,"; and

(2) by adding at the end the following:

"SEC. 2007. CHILD CARE.

"(a) PAYMENTS TO STATES FROM SPECIAL ALLOTMENTS.—

"(1) ENTITLEMENT.—Each State which is eligible for funds under this section for a fiscal year shall be entitled to payments in an aggregate amount equal to the special allotment of the State for the fiscal year.

"(2) PAYMENTS.—The Secretary shall provide funds to each State which is eligible for funds under the section for a fiscal year from the special allotment of the State for the fiscal year, in accordance with section 6503 of title 31, United States Code.

"(3) SPECIAL ALLOTMENTS.—The special allotment of each State for any fiscal year equals the amount that bears the same ratio to the amount specified in section 2000 for payments under this section for such fiscal year, as the number of children who have not attained the age of 13 years residing with families in the State bears to the total number of children who have not attained the age of 13 years residing with families in all States, determined on the basis of the most recent data available from the Department of Commerce at the time the special allotment is determined.

"(4) EXPENDITURE OF FUNDS BY STATES.—Except as provided in paragraph (5)(A), each State which receives funds under this section for any fiscal year shall expend such funds in such fiscal year or in the succeeding fiscal year.

"(5) REDISTRIBUTION OF UNEXPENDED SPECIAL ALLOTMENTS.—

"(A) REMITTANCE TO THE SECRETARY.—Each State which receives funds under this section for a fiscal year shall remit to the Secretary that part of such funds which the State intends not to, or does not, expend in such fiscal year or in the succeeding fiscal year.

"(B) REDISTRIBUTION.—The Secretary shall increase the special allotment of each State not remitting any amount to the Secretary for a fiscal year pursuant to subparagraph (A) by an amount equal to—

"(i) the aggregate of the amounts so remitted; multiplied by

"(ii) the adjusted State share for such fiscal year.

"(C) ADJUSTED STATE SHARE.—As used in subparagraph (B)(ii), the term 'adjusted State share' means, with respect to a fiscal year—

"(i) the special allotment of the State for such fiscal year (before any increase under subparagraph (B)); divided by

"(ii)(I) the special allotments of all States for such fiscal year; minus

"(II) the aggregate of the amounts remitted to the Secretary for such fiscal year pursuant to subparagraph (A).

"(b) LEAD AGENCY.—

"(1) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized under this section shall designate, in an application submitted to the Secretary under subsection (c), an appropriate State agency that carries out the responsibilities described in paragraph (2) to act as the lead agency.

"(2) RESPONSIBILITIES.—

"(A) ADMINISTRATION OF FUNDS.—The lead agency shall administer the funds made available to the State under the section to support programs and services authorized under the section.

"(B) COORDINATION.—The lead agency shall coordinate with State and local governments in developing the State plan required under subsection (c) to provide services under this section.

"(C) INTERAGENCY COORDINATION.—The lead agency shall establish procedures for assuring that appropriate State agencies work together to carry out the purposes of this section.

"(c) STATE PLAN REQUIREMENTS.—

"(1) APPLICATION.—To be eligible to receive funds under this section for a fiscal year, a State shall prepare and submit an application to the Secretary that shall be subject to the approval of the Secretary and that complies with the requirements of paragraph (3).

"(2) APPROVAL.—Not later than 90 days after the date of the submission of the State application under paragraph (1), the Secretary shall either approve or disapprove such application. If the Secretary disapproves the application, the Secretary shall provide the State with an explanation and recommendations for changes in the application to gain approval.

"(3) STATE PLAN REQUIREMENTS.—The application submitted under paragraph (1) shall contain a plan which—

"(A) identifies the lead agency in accordance with subsection (b);

"(B) describes the activities the State will carry out with funds provided under this section for the fiscal year;

"(C) provides assurances that the funds provided under this section will be used to supplement, not supplant, State and local funds as well as Federal funds provided under any Act and applied to child care activities in the State during fiscal year 1989;

"(D) provides assurances that the States will not expend more than 7 percent of the funds provided to the State under this section for the fiscal year for administrative expenses;

"(E) provides assurances that the State will give priority to programs that serve low-income families and geographical areas;

"(F) ensures that child care providers reimbursed under this section meet applicable standards of State and local law;

"(G) provides assurances that the lead agency will coordinate the funds provided under this section with other Federal resources for child care provided under this Act, and with other Federal, State, or local child care and preschool programs operated within the State; and

"(H) provides for the establishment of fiscal and accounting procedures that may be necessary to——

"(i) ensure a proper accounting of Federal funds received by the State under this section; and

"(ii) ensure the proper verification of the reports submitted by the State under subsection (e)(2).

"(d) USE OF FUNDS.—

"(1) IN GENERAL.—Funds provided under this section shall be used to expand parent choices in selecting child care, to address deficiencies in the supply of child care, and to expand and improve child care services, with an emphasis on providing such services to low-income families and geographical areas. Subject to the approval of the Secretary, States receiving funds under this section shall use such funds to carry out child care programs and activities through grants to or contracts with public or private entities and through child care certificates given directly to families.

"(2) SPECIFIC USES.—Each State which receives funds under this section may expend such funds for—

"(A) child care services, including services for infants, sick children, children with special needs, and children of adolescent parents;

"(B) after-school and before-school programs and programs during nontraditional hours for the children of working parents;

"(C) programs for the recruitment and training of day care workers, including older Americans;

"(D) grant and loan programs to enable child care workers and providers to meet State and local standards and requirements;

"(E) child care information and referral services;

"(F) child care programs developed by public and private sector partnerships;

"(G) liability insurance pools to serve child care providers;

"(H) programs to promote and ensure the health and safety of children and caregivers, to improve the quality of all types of child care, and to train child care providers in health and safety practices;

"(I) State efforts to provide technical assistance designed to help providers improve the services offered to parents and children; and

"(J) other child care-related programs consistent with the purpose of this section and approved by the Secretary;

"(3) METHODS OF FUNDING.—Funds for child care services under this title shall be for the benefit of parents and shall be provided through contracts or grants with public or private providers or through child care certificates given directly to parents.

"(4) PARENTAL RIGHTS OF CHOICE.—Any parent who receives a child care certificate under this title may use such certificate with any child care provider, including those providers which have religious activities, if such provider is freely chosen by the parent from among the available alternatives.

"(5) CHILD CARE CERTIFICATES.—

"(A) IN GENERAL.—For purposes of this title, a child care certificate is a certificate issued by a State directly to a parent or legal guardian for use only as payment for child care services furnished by any provider eligible to receive funds under this Act.

"(B) EQUAL TREATMENT.—If the demand for child care assistance for families qualified to receive services from a State under this Act exceeds the fund available for such assistance, the State shall ration assistance to obtain such services using procedures that do not disadvantage parents using child care certificates, relative to other methods of financing, in either the waiting period or the pecuniary value of such services.

"(C) COMMENCEMENT OF CERTIFICATE PROGRAM.—

"(i) IN GENERAL.—Subject to clause (ii), beginning not later than 2 years after the date of the enactment of this section, each State that receives funds under this title shall offer a child care certificate program in accordance with this section.

"(ii) EXTENSION OF PERIOD.—The Secretary may delay the application of clause (i) to any State by extending the 2-year period described in clause (i) for not more than 1 additional year if the Secretary determines that the State is making a good faith effort to establish a child care certificate program.

"(D) AUTHORITY TO USE CHILD CARE FUNDS FOR CERTIFICATE PROGRAM.—Each State that receives funds under this title may use the funds provided to the State under this title which are required to be used for child care activities to plan and establish the State's child care certificate program.

"(6) OPTION OF RECEIVING A CHILD CARE CERTIFICATE.—Each parent or legal guardian who is to receive assistance pursuant to this title shall be provided with the option of enrolling his or her child with an eligible child care provider that receives funds through grants or contracts, or of receiving child care certificates provided under this title. Such parent shall have the right to use such certificates to purchase child care services from an eligible provider of his or her choice.

"(7) RIGHTS OF RELIGIOUS CHILD CARE PROVIDERS.—Notwithstanding any other provision of law, a religious child care provider who receives funds under this title, is described in section 501(c)(3) of the Internal Revenue Code of 1986, and is exempt from taxation under section 501(a) of such Code may require adherence by employees to the religious tenets or teachings of such provider.

"(8) ELIGIBLE CHILD CARE PROVIDERS.—Any child care provider which meets applicable standards of State and local law for that type of care shall be eligible to receive funds or accept certificates under this title. As used in this paragraph, the term 'child care provider' shall include—

"(A) units of State and local governments, and elementary, secondary and post-secondary educational institutions;

"(B) nonprofit organizations under subsections (c) and (d) of section 501 of the Internal Revenue Code of 1986;

"(C) professional or employee associations;

"(D) consortia of small businesses; and

"(E) proprietary for-profit entities, relatives, informal day care centers, religious child care providers, day care centers, and any other entities that the State determines appropriate subject to approval of the Secretary.

"(9) PROHIBITED USES.—Any State which receives funds under this section may not use any of such funds—

"(A) to satisfy any State matching requirement imposed under any Federal grant;

"(B) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility; or

"(C) to provide any service which the State makes generally available to the residents of the State without cost to such residents and without regard to the income of such residents.

"(e) REPORTING REQUIREMENTS.—

"(1) NOTICE OF SECRETARY OF UNEXPENDED FUNDS.—Each State which has not completely expended the funds received by the State under this section for a fiscal year in such fiscal year or the succeeding fiscal year shall notify the Secretary of any amount not so expended.

"(2) STATE REPORTS ON USE OF FUNDS.—Not later than 18 months after the date of the enactment of this section, and each year thereafter, the State shall prepare and submit to the Secretary, in such form as the Secretary shall prescribe, a report describing the State's use of funds received under this section, including—

"(A) the number, type, and distrbution of services and programs under this section;

"(B) the average cost of child care, by type of provider;

"(C) the number of children served under this section;

"(D) the average income and distribution of incomes of the families being served;

"(E) efforts undertaken by the State pursuant to this section to promote and ensure health and safety and improve quality; and

"(F) such other information as the Secretary considers appropriate.

"(3) GUIDELINES FOR STATE REPORTS; COORDINATION WITH REPORTS UNDER SECTION 2006.—Within 6 months after the date of the enactment of this section, the Secretary shall establish guidelines for State reports under paragraph (2). To the extent feasible, the Secretary shall coordinate such reporting requirement with the reports required under section 2006 and, as the Secretary deems appropriate, with other reporting requirements placed on States as a condition of receipt of other Federal funds which support child care.

"(4) REPORTS BY THE SECRETARY.—

"(A) REPORTS TO THE CONGRESS OF SUMMARY OF STATE REPORTS.—The Secretary shall annually summarize the information reported to the Secretary pursuant to paragraph (2) and provide such summary to the Congress.

"(B) REPORTS TO THE STATES ON EFFECTIVE PRACTICES.—The Secretary shall annually provide the States with a report on particularly effective practices and programs supported by funds received under this section, which ensure the health and safety of children in care, promote quality child care, and provide training to all types of providers.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1990.

(c) CONSTRUCTION.—If the highest court of a State holds that any provision of subsection (d) of section 2007 of the Social Security Act or the application thereof to any person or circumstance is inconsistent with the constitution of that State, the remainder of such subsection and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE IV—TAX CHANGES RELATING TO CHILD CARE

SEC. 401. EXPANSION OF EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Subsections (a) and (b) of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the earned income for the taxable year as does not exceed $5,714.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under this subsection for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of $5,714, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(b) PERCENTAGES.—

"(1) IN GENERAL.—For purposes of subsection (a)—

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	17	12
2 qualifying children	21	15
3 or more qualifying children	25	18.

"(2) SUPPLEMENTAL YOUNG CHILD CREDIT.—In the case of a taxpayer with a qualifying child who has not attained age 6 as of the close of the calendar year in which or with which the taxable year of the taxpayer ends—

"(A) the credit percentage shall be increased by 6 percentage points, and

"(B) the phaseout percentage shall be increased by 4.25 percentage points.

"(3) SUPPLEMENTAL INFANT CREDIT.—

"(A) IN GENERAL.—In the case of a taxpayer with a qualifying child who has not attained age 1 as of the close of the calendar

year in which or with which the taxable year of the taxpayer ends—

"(i) the credit percentage shall be increased by 6 percentage points (4 percentage points in the case of a taxable year beginning before January 1, 1994), and

"(ii) the phaseout percentage shall be increased by 4.25 percentage points (2% percentage points in the case of a taxable year beginning before January 1, 1994).

The percentages under this paragraph shall be in addition to the percentages determined under paragraph (2) with respect to such child.

"(B) ELECTION BETWEEN DEPENDENT CARE CREDIT AND CREDIT FOR CHILD CLAIMED UNDER THIS PARAGRAPH.—If the taxpayer elects to take a child into account under this paragraph, such child shall be treated as not being a qualifying individual under section 21.".

(b) QUALIFYING CHILD DEFINED.—Subsection (c) of section 32 of such Code is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFYING CHILD.—The term 'qualifying child' means any child (within the meaning of section 151(c)(3)) of the eligible individual if—

"(A) such individual is entitled to a deduction under section 151 for such child (or would be so entitled but for paragraph (2) or (4) of section 152(e)), and

"(B) such child has the same principal place of abode as such individual for more than one-half of the taxable year.".

(c) ADVANCE PAYMENT PROVISIONS.—

(1) PAYMENT BASED ON NUMBER OF QUALIFYING CHILDREN.—

(A) Subsection (b) of section 3507 of such Code is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) states the number of qualifying children (as defined in section 32(c)(3)) of the employee for the taxable year and whether any such child is described in paragraph (2) or (3) of section 32(b).".

(B) Paragraph (2) of section 3507(c) of such Code is amended—

(i) by striking "14 percent" in subparagraphs (B)(i) and (C)(i) and inserting "the credit percentage",

(ii) by striking "subsection (b)" in subparagraph (B)(ii) and inserting "subsection (a)(2)", and

(iii) by adding at the end thereof the following new sentence:

"For purposes of this paragraph, the determination of the credit percentage under section 32(b), and the determination of the amounts referred to in subparagraph (B)(ii), shall be made on the basis of the information specified in the earned income eligibility certificate.".

(C) Clause (i) of section 3507(e)(3)(A) of such Code is amended by inserting before ", or" the following: "(or changing the percentages applicable to the employee under section 32(b) for the taxable year)".

(2) EXPANDED PARTICIPATION IN ADVANCE PAYMENT PROGRAM.—Subsection (e) of section 3507 of such Code (relating to furnishing and taking effect of certificates) is amended by adding at the end thereof the following new paragraph:

"(6) EMPLOYER REQUIRED TO COLLECT CERTIFICATE OR STATEMENT OF INELIGIBILITY, ETC.—On or before the date of commencement of employment with an employer, the employer shall require the employee to furnish to the employer a signed earned income eligibility certificate or a signed statement that such employee does not meet the requirements of paragraphs (1), (2), and (3) of subsection (b). As of the beginning of each calendar year, the employer shall require each employee with respect to whom an earned income eligibility certificate is in effect to determine whether there has been a change in circumstances requiring a new certificate or revocation of such certificate.".

(3) REPEAL OF CALENDAR YEAR LIMITATION ON EFFECTIVENESS OF CERTIFICATE.—

(A) Subparagraphs (A) and (B) of section 3507(e)(1) of such Code are each amended by striking "had been in effect for the calendar year" and inserting "is in effect".

(B) Paragraph (2) of section 3507(e) of such Code is amended—

(i) by striking "for any calendar year", and

(ii) by striking "during such calendar year".

(d) COORDINATION OF CREDIT WITH MEANS-TESTED PROGRAMS.—Section 32 of such Code is amended by adding at the end thereof the following new subsection:

"(j) COORDINATION OF CREDIT WITH MEANS-TESTED PROGRAMS.—

"(1) FEDERAL MEANS-TESTED TRANSFER PAYMENTS TREATED AS SUPPORT PROVIDED BY TAXPAYER.—Solely for purposes of determining whether any credit is allowable to an individual under this section (and the amount of credit so allowable), Federal means-tested payments shall be treated as support provided by such individual.

"(2) CREDIT DISREGARDED IN DETERMINING BENEFITS UNDER OTHER MEANS-TESTED PROGRAMS.—Any refund of tax by reason of this section, and any payment made by an employer under section 3507, shall not be taken into account as income or receipts for purposes of determining the eligibility (for the month in which such refund or payment is made or any month thereafter) of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds. The preceding sentence whall apply only if the individual (or the family unit of which the individual is a member) is a recipient of benefits or assistance under such a program for the month before the month in which such refund or payment is made.".

(e) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 32(f) of such Code is amended—

(A) by striking "subsection (b)" each place it appears in subparagraphs (A) and (B) and inserting "subsection (a)(2)", and

(B) by adding at the end thereof the following new sentence:

"Separate tables shall be prescribed for taxpayers with 1 qualifying child, 2 qualifying children, 3 or more qualifying children, any qualifying child who has not attained age 1, and any qualifying child who has not attained age 6.".

(2) Subparagraph (A) of section 32(i)(2) of such Code is amended by striking "or (ii)" in clause (i) and by striking "clause (iii)" in clause (ii) and inserting "clause (ii)".

(3) Subparagraph (B) of section 32(i)(2) of such Code is amended by striking clauses (i), (ii), and (iii) and inserting the following:

"(i) the $5,714 amounts contained in subsection (a), and

"(ii) the $9,000 amount contained in subsection (a)(2)(B).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(g) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the changes made by this section in section 3507 of the Internal Revenue Code of 1986 to determine whether such changes have resulted in an undue administrative or paperwork burden on taxpayers or the Internal Revenue Service. Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives a report of such study together with any recommendations such Secretary may have (including recommendations with respect to alternatives to such section 3507).

SEC. 402. PHASEOUT OF DEPENDENT CARE CREDIT AND EXCLUSION FOR DEPENDENT CARE ASSISTANCE.

(a) DEPENDENT CARE CREDIT.—Subsection (a) of section 21 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(3) PHASEOUT OF CREDIT FOR TAXPAYERS WHOSE ADJUSTED GROSS INCOMES EXCEEDS $70,000.—If the taxpayer's adjusted gross income for the taxable year exceeds $70,000, the applicable percentage shall be reduced (but not below zero) by 1 percentage point for each $1,000 of such excess.".

(b) EXCLUSION FOR DEPENDENT CARE ASSISTANCE.—Paragraph (2) of section 129(a) of such Code is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) PHASEOUT OF EXCLUSION FOR TAXPAYERS WHOSE ADJUSTED GROSS INCOMES EXCEEDS $70,000.—

"(i) IN GENERAL.—If the taxpayer's adjusted gross income for the taxable year exceeds $70,000 ($35,000 in the case of a separate return by a married individual), the applicable dollar amount in subparagraph (A) shall be reduced (but not below zero) by $250 for each $1,000 of such excess.

"(ii) COORDINATION WITH OTHER PROVISIONS.—For purposes of clause (i), adjusted gross income shall be determined without regard to this subparagraph and after the application of sections 86, 135, 219, and 469. This subparagraph shall not be taken into account in applying such sections.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE V—CHILD CARE EARNINGS EXCLUDED FROM EXCESS EARNINGS TEST

SEC. 501. CHILD CARE EARNINGS EXCLUDED FROM WAGES AND SELF-EMPLOYMENT INCOME FOR EXCESS EARNINGS TEST.

(a) WAGES.—Section 203(f)(5)(C) of the Social Security Act (42 U.S.C. 403(f)(5)(C)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(iii) the amount of any payment made to an employee who has attained retirement age (as defined in section 216(l)) by an employer for child care services (including indirect services) performed by such employee after the month in which such employee initially becomes entitled to insurance benefits under this title.".

(b) SELF-EMPLOYMENT INCOME.—Section 203(f)(5)(D) of such Act (42 U.S.C. 403(f)(5)(D)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii),

(3) by inserting immediately after clause (ii) the following new clause:

"(iii) an individual who has attained retirement age (as defined in section 216(l)) who has become entitled to insurance benefits under this title, any income attributable to child care services (including indirect services) performed after the month in which such individual becomes entitled to such benefits,", and

(4) by striking out "royalties or other income" and inserting in lieu thereof "royalties or income".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to wages or income earned after the date of the enactment of this Act.

TITLE VI—TELEPHONE EXCISE TAX MADE PERMANENT

SEC. 601. TELEPHONE EXCISE TAX MADE PERMANENT.

(a) GENERAL RULE.—Paragraph (1) of section 4251(a) of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by striking "the applicable percentage" and inserting "3 percent".

(b) CONFORMING AMENDMENT.—Subsection (b) of section 4251 of such Code is amended to read as follows:

"(b) COMMUNICATIONS SERVICES.—The term 'communications services' means—

"(1) local telephone service,

"(2) toll telephone service, and

"(3) teletypewriter exchange service.".

SEC. 602. ACCELERATION OF DEPOSIT REQUIREMENTS FOR TELEPHONE EXCISE TAX.

(a) IN GENERAL.—Subsection (e) of section 6302 of the Internal Revenue Code of 1986 (relating to mode or time of collection) is amended—

(1) by inserting "COMMUNICATIONS SERVICES AND" after "TAXES ON" in the heading and

(2) by inserting "section 4251 or" after "imposed by" in the text.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments of taxes considered collected for semimonthly periods beginning after September 30, 1990.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. STENHOLM] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

Mr. STENHOLM. Mr. Chairman, I ask unanimous consent that my time be equally divided with the gentleman from Florida [Mr. SHAW].

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Is there a Member in opposition?

Mr. HAWKINS. Mr. Chairman, I yield 15 minutes of my 30 minutes that I understand I have to the Committee on Ways and Means.

The CHAIRMAN. Without objection, the gentleman from California [Mr. HAWKINS] will be recognized for 15 minutes and the gentleman from New York [Mr. DOWNEY] will be recognized for 15 minutes in opposition.

There was no objection.

The CHAIRMAN. Does the gentleman from Texas [Mr. STENHOLM] wish to withhold at this moment?

Mr. STENHOLM. Mr. Chairman, I ask unanimous consent to withhold my time at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. For what purpose does the gentleman from North Carolina [Mr. PRICE] rise?

AMENDMENTS EN BLOC OFFERED BY MR. PRICE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STENHOLM AND TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE AS MODIFIED MADE IN ORDER AS ORIGINAL TEXT

Mr. PRICE. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Chair will inquire, is the gentleman from North Carolina [Mr. PRICE] the designee of the gentleman from Missouri [Mr. GEPHARDT]?

Mr. PRICE. I am, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. PRICE to the amendment in the nature of a substitute offered by Mr. STENHOLM and the amendment in the nature of a substitute, as modified, made in order as original text:

The amendment to the amendment in the nature of a substitute offered by Representative Stenholm.

In section 2007(d)(1) of the Social Security Act, as proposed to be added by the amendment made by section 301(a)(2) of the bill, strike "and" the 5th place such term appears and insert "or".

In section 2007(d)(5) of the Social Security Act, as proposed to be added by the amendment made by section 301(a)(2) of the bill, amend subparagraph (C) to read as follows:

"(C) AUTHORITY TO OFFER CERTIFICATE PROGRAM.—Each State that receives funds under this title may offer a child care certificate program in accordance with this section.

In section 2007(d) of the Social Security Act, as proposed to be added by the amendment made by section 301(a)(2) of the bill, amend paragraph (6) to read as follows:

"(6) AUTHORITY OF STATE TO OFFER PARENTS OPTION TO SELECT FORM OF ASSISTANCE.—

"(A) IN GENERAL.—Each State may offer each parent or legal guardian who is to receive assistance pursuant to this title the option of enrolling his or her child with an eligible child care provider that receives funds through grants or contracts, or of receiving a child care certificate provided under this title.

"(B) EFFECT OF ELECTION TO RECEIVE ASSISTANCE IN THE FORM OF A CHILD CARE CERTIFICATE.—If a State offers an option described in subparagraph (A), each parent or legal guardian who elects to receive a child care certificate from the State shall have the right to use any such certificate provided by the State to the parent or legal guardian to purchase child care services from an eligible provider of his or her choice.

The amendment to the amendment in the nature of a substitute made in order as original text by this resolution.

Strike paragraph (5) of section 2012(a) of the Social Security Act, as proposed to be added by the amendment made by section 301(a)(2) of the bill, and redesignate paragraph (6) of such section 2012(a) as paragraph (5).

The CHAIRMAN. The gentleman from North Carolina [Mr. PRICE] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

The Chair will inquire which Member seeks to be recognized in opposition.

Mr. SHAW. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from North Carolina [Mr. PRICE] will be recognized for 15 minutes and the gentleman from Florida [Mr. SHAW] will be recognized for 15 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer an amendment to both H.R. 4381, the Early Childhood Education and Development Act, and the Stenholm-Shaw alternative. My amendment will restore to the States the ability effectively and efficiently to serve the child care needs of families in this country.

Specifically, my amendment will remove the compulsory language in both proposals that require voucher programs in every State, but it will leave intact the provisions that create a voucher-certificate option.

Both H.R. 4381 and the Stenholm-Shaw proposal share a commitment to giving States, and families within those States, the greatest flexibility in choosing the type of child care they want. Under both bills, families can benefit from an expanded earned income tax credit. Under both bills, States receive funding under an expanded title XX block grant program and can use these funds for a variety of purposes. These provisions are designed to increase the flexibility of States and parents in choosing the most appropriate type of child care—whether it is for a parent staying at home with their child or a family with both parents working, whether using day-care centers run by churches or synagogues or other kinds of facilities.

Unfortunately, this flexibility ends when it comes to child care certificates or vouchers. Under both bills, States are mandated to make available child care certificates to its citizens. But this mandate ignores local conditions which may or may not make certificates an effective way to provide child care services in any particular State.

My amendment will remedy this situation. It gives States the option of offering child care certificates to parents. This option is important to maintain, because in many areas of the country, certificates are a well-accepted and appropriate form of assistance.

They give families maximum latitude of choice and avoid the legal and other difficulties of direct subsidies to providers. Church-operated centers may be prevalent in these areas, and families under this bill, and under my amendment, can use these certificates to subsidize the cost of care in these centers.

But in other areas of this country, a different form of assistance may be more appropriate, and I do not think it is constructive for the Federal Government to be telling States they must offer this or that type of assistance. We will maximize our resources, and benefit the most people, if we ensure that the assistance is tailored to specific circumstances. Under my amendment, if they choose not to use vouchers, States will still be able to use all of their title XX funds in other ways.

I know that some of my colleagues are skeptical of any use of certificates or vouchers. I would agree with them that they are not the best alternative in other areas of public policy like public school education. But I would remind them that we are not trying to create today a child care system based on the model of public education. Instead, we are trying to make child care more available and affordable, to stengthen and expand a system of providers, some one-third of which are church-related. Certificates are a viable way to strengthen this system and meet these needs.

I also know that some of my colleagues may have a powerful attraction to vouchers or certificates and are ready to solve every problem through a voucher. But let me remind them that even our former colleague, Jack Kemp, has said publicly that he does not want to be known as the Secretary of Vouchers but instead as the Secretary of Housing. His statement is true in this setting also. This is a child care bill, not a voucher or certificate bill. Let us not lose sight of our main goal because of rigid dogma.

This amendment, I believe, is both reasonable and consistent with the intent of both H.R. 4381 and Stenholm-Shaw. I urge my colleagues to join me in supporting it. No one model of child care is ideal for every family and community. If you want to increase flexibility and choice for States and families, this amendment will help to achieve that end.

□ 1420

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, let me say this: The heart of this issue is that of freedom. The freedom of a parent to choose that form of child care or that vendor that the parent believes is most appropriate for his or her child's need.

The question is not the freedom of the State to impose the vendor on the child or on the parent. The question is the freedom of the parent. Why ought not a parent have a choice, a very elemental choice, as to whether or not the child care vendor is located close to where the mother, in this case, works, as opposed to where the mother may live? So if the child becomes sick or involved in an injury, she has the choice as to what is the most adroit means of addressing the emergency needs of that child.

The legislation does not require the use of a voucher or certificate by the parent. It simply gives the parent the right to exercise such a choice, should the parent not be satisfied with the arrangements that the State has provided in State-vended child care services. I am not opposed to State-vended child care services. However, I think a parent ought to have the right, we ought not to discriminate on behalf of one form of child care as opposed to another, nor are we to intervene in a decision as close and as precious to a parent as to who the vendor of services ought to be for a young preschool child. That is the issue.

The issue is, yes, freedom of choice, freedom of access, availability of a range of services. It is permissive to the parent, permissive, only by making it mandatory in the State that such a permissive choice be made available to the parent. Surely the gentleman, in light of what is happening across Central Europe and Eastern Europe, in the rising tide against statism, against excessive governmental interference in the way in which people seek to order their private lives, would not seek to deny such choices to American citizens, to American mothers, and American fathers. Who knows best—Uncle Sam or the mother?

The CHAIRMAN. The gentleman from North Carolina [Mr. PRICE] has 11 minutes remaining.

Mr. PRICE. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, in the process of trying to weigh what would make sense for parents and States, and to provide maximum flexibility today and when the House originally dealt with this in the fall, we used the title 20 approach. We recognized that some States had voucher programs that worked very well for them, and we felt that it was appropriate that the States make a determination about vouchers.

We have just heard at least an hour explaining why States should be trusted to provide all sorts of standards for their children in child care, and that it is not and should not be a Federal mandate to do these things. Up there is a list of the floating number of standards that the minority feels would be imposed upon the States by Mr. HAWKINS and myself. Yet, when it comes down to vouchers, suddenly we do not trust the States. Suddenly, we think that the States will not be responsive to parents, and that the States will somehow ignore the wishes and needs of their own citizens.

How preposterous. How absurd. The whole idea is to trust the States. We trust the States. If the States have a program that works with vouchers, let them have it. If they have a program that works differently without vouchers, let them do that. When it comes to being trusting, when it comes to being flexible, the Price amendment will improve both bills. If Members believe that the Federal Government should not be on the backs of the States, then vote for the Price amendment.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

This amendment cannot be considered really a gutting amendment as to either one of the bills. However, I think it is important that we reflect on the question of States rights.

It would appear on the surface, to be an inconsistent position. However, I would submit to the House that what we are doing here is a balance. We are balancing parents' rights against States' rights. That is what is important.

We are opposed to this particular amendment, and have come up on the side of parents' rights. We feel that they should have a mandated position in the State law that if the States are going to receive the money, that they must have a voucher provision, and that these voucher provisions must give to the parents the widest latitude of choice as to where to send these kids.

I can remember my wife and I, at a very early time, putting our youngsters into a child-care facility. We had the funds to do it. However, we chose a religious-based child-care facility. We are Catholics, but we chose a Protestant child-care provider. It gave this Member a great deal of comfort to know that this child-care provider was a religious affiliated institution.

With that memory in mind, I feel that the poor who cannot afford it themselves, should be given the same kind of choice that we should, and that mandatory vouchers must be in the law if we are going to accomplish the ends that we want to, despite the fact that admittedly, it is a violation, or it does somewhat trespass onto the whole concept of States' rights.

Mr. Chairman, I reserve the balance of my time.

□ 1430

Mr. PRICE. Mr. Chairman, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Yes, indeed, this really is about whether or not we trust the States. I hear people talking about how this looks on the surface. Well below the surface or any other way you look at this, we are going to mandate what the States do. I think we should give the States flexibility. That has been the law in the past. We gave the States flexibility. Why do we want to take States options away now?

It is conceivable there is a whole range of other options the States may wish to choose from. They may choose deductions from the State income tax system. There are many varieties of options and I think that parents are closest to the State government and, therefore, they will have the most influence in determining what is the best and most efficient way to deliver services. That is all this is about. So we cannot have it both ways. We cannot scream on one side that we do not want choices, and on the other side that we do.

I think the really important thing we are trying to do here today is to give the States a menu, a menu of options. Then they can look at their State and decide which menu choice fits them the best. It is very conceivable to me that Alaska may select an entirely different choice than maybe Hawaii, or maybe New York will select a very different choice than Alabama. But I think it all depends on how many rural areas you have, what your urban complex looks like, what your tax base looks like, what the average income is, and a whole range of things. Not only that, but you have to look at what you have been doing in the past with the title XX money.

Why would we mandate now that States have to start producing vouchers? They have not done it in the past, and they have had other alternatives. So I do not see any reason why we would want to mandate that they have to eat certain things on the menu but not others. After all, we have a President now who wants to refuse to eat broccoli. If we vote against this, we would really be mandating that he has got to eat broccoli, and I do not think we want to do that.

So let us give them this choice. Let us give this choice to the States and let us say that we trust them to put together the best way to deliver services. And let us be perfectly honest. The amount of money here so de minimus. We are not going to come close to really meeting the child care needs of States anyway. So what we really want them to do is to be as efficient as possible and find the things that fit their areas in the best possible way. We do not want to have something they can hide behind, saying they did this rather than the other thing because we ordered them to do it. We want it to be the best and the most efficient system, and with the most input from the parents locally.

Mr. Chairman, I salute the gentleman from North Carolina [Mr. PRICE] for offering the amendment. I think it makes all the sense in the world, and I hope the Members vote aye on the amendment.

Mr. SHAW. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. BARTLETT.]

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, in the first place, this amendment may not matter with regard to the underlying Downey bill because it is clear to most of us who have read the bill that there is no guarantee that the vouchers or certificates in the Downey bill would be usable in any but federally sponsored and regulated child care centers in any event. But his amendment does matter profoundly to the Stenholm-Shaw substitute because the Stenholm-Shaw substitute without the Gephardt-Price amendment would permit vouchers to be used at places of the parents' choice.

This is another example of the bait-and-switch technique that has been used through this legislation. On October 5, 1989, in the last debate on child care, the gentleman from Missouri [Mr. GEPHARDT], the majority leader, said in the RECORD:

> My feeling from listening to the debate today is that we should move toward the Senate language because it would continue to allow religious institutions to have child care within their institutions.

The majority leader went on to say:

> The Democratic side is committed to a conference report on this issue that deals with this question in a way that would be appropriate for the religious institutions where you could have children in church basements and children in religious institutions.

Yet it is the Gephardt amendment, as offered by the gentleman from North Carolina [Mr. PRICE], that would take away that freedom, that would take away that minimum freedom that is in the Senate bill. So, No. 1 it is part of the bait-and-switch approach.

No. 2, Mr. Chairman, we have the "States' right" issue. I would contend that this country settled the States' rights issue the right way in 1964 and 1965. During those times we heard the issue of "States' rights," from the South largely. At that time States' rights meant segregation. But the people of the United States, both North and South, said, No. Personal freedom comes first. Personal freedom to decide on the terms and conditions of one's own life, of one's own family, comes way before the right of a State to deny that personal freedom. So in those days the people of the United States said no to Jim Crow and no to segregation and no to States' rights if States' rights mean segregation.

With this amendment, States' rights would mean no personal choices for parents who are choosing to raise their children the way they want to with regard to Federal money through these vouchers. And the people of the United States will also say no, and they should say no to this denial of personal freedom.

The question is this: If the Federal Government wants to assist low-income parents in providing for their own child care, should the Federal Government assist those parents in the way the parents want the assistance, or should the Federal Government, as per the Gephardt-Price amendment, try to assist State governments or State bureaucracies to take away freedoms from individuals?

There are comparable Federal programs to mandatory children vouchers. We have food stamps that the States help in administering, but we do not allow States to require people to only use their food stamps in State-operated commissaries. We have Pell grants that go to post-secondary students in colleges and universities, and those students can take a Pell grant to any college or university of their choice. We do not allow a State to restrict a Pell grant to only be used in a State-designated community college.

The issue here is parental freedom, versus the freedom of the Government to impose its own conditions on people. The issue is this: Are we going to allow people freedom, or are we going to allow States and the Federal Government and bureaucracies to take that freedom away? The issue is an issue of diversity. Institutional child care works well for a lot of people, for about 50 percent of the child care in this country, but 30 percent is offered by religious-based child care, and it works well, too, for those who choose that. And relative-based child care works well for others, and in-home child care works well for others. One parent or the other staying at home with their children during their early years works well for others, and grandmother works well for others, and the lady up the street works well for others. The issue is diversity and the parent's right to choose from among those diverse choices.

The CHAIRMAN. The Chair wishes to state that the gentleman from Florida [Mr. SHAW] has 7 minutes remaining and the gentleman from North Carolina [Mr. PRICE] has 7 minutes remaining.

Mr. PRICE. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I support the Price amendment.

Mr. Chairman, I do consider this a States' rights issue. I say to my friend, the gentleman from Texas, that I also consider it an issue affecting the diversity of State child care programs.

I want to give the Members an example of what happens in my own State of Kansas in order to let them know that if we do not pass the Price amendment, we sill squelch the diversity of the many ways child care is treated in some of the States.

Kansas is a good example, Kansas has a system that is like a voucher system, but it may be different than in other States. Rather than physically giving parents vouchers, each eligible family registers with its local State human resources office and gets a credit in their account.

Any licensed day care provider may apply for a purchase of services contract to be eligible to provide child care to families registered through the State office. By getting a purchase of services contract, a provider also agrees to accept the fee schedule for reimbursement from the State and cannot balance bill the families for any difference in reimbursement.

Kansas also makes in-home care available for reimbursement, and the reimbursement will come from the States' human resources department account that is reserved for the parents.

Because Kansas does not have a traditional paper voucher system, but rather the State reimburses providers and homemakers directly and draws it against the parents' account, it is likely that Kansas would not comply with the mandatory voucher system contained in this bill. It is not absolutely clear, but it is likely that we would not comply or we would have to change our system dramatically in order to comply. The mandatory voucher provision was included in the bills to force the establishment of a voucher system in States that do not currently provide vouchers.

□ 1440

However, Mr. Chairman, since Kansas already has an effective voucher-type program in effect, why jeopardize its effectiveness by supporting a mandate that may force the State to do things in an entirely different and very costly and regulatory manner? I submit to my colleagues that there are States all over this country that are in similar conditions to my own State of Kansas that will find it extraordinarily difficult to conform with a mandatory requirement.

So, Mr. Chairman, I urge my colleagues to support the Price amendment. My State's voucher system provides for parental choice. People can place their children and have the State pay for it at home, and at religious institutions, and at licensed day care centers. There is no reason to take that freedom of choice away from them in the way the statute applies in Kansas.

Finally, I would like to say the following:

I intended to oppose the Edwards amendment. I think the church child care is good, often the best in this country. But I say to those of my colleagues who really want to see that church-related child care provided, "I would warn you that requiring the State to furnish vouchers on a mandatory basis might create the compulsion that a court in this country might find makes the whole issue unconstitutional."

So, Mr. Chairman, for those of my colleagues who want to preserve the constitutionality of the church-state-related issues in this Child Care Program, they are in much better shape by supporting the amendment of the gentleman from North Carolina [Mr. PRICE].

Mr. SHAW. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I would like to use my time to respond to the previous comments from the gentleman from Kansas [Mr. GLICKMAN]. I respect his insights on what the State of Kansas has done. Some of it is very innovative, very attractive. I wish my State had done the same.

What I want to point out, however, is that there is nothing in mandating vouchers which would interfere with that program whatsoever. Nothing would stop the State of Kansas, or any other State, from doing whatever program they wish to have, whatever range. It simply says that a State must, as well, give ultimate choice and responsibility back to the hands of the parent. In the State of Kansas, those parents who are satisfied with that program in that State, if it wishes to continue to run the program, continues to run the program, those parents can continue to utilize it.

But what we do is we allow the parent to decide. Perhaps the attractiveness of the program is that other programs have not been there. I do not know; I am not suggesting that.

On the issue of mandates, it is very awkward when people say, "Oh, you've opposed all the regulatory mandates. Now you're mandating something on the States. You are mandating everything on the system except choice, choice for the parent."

This does not eliminate any choice existing. It insures, however, that the ultimate choice is in the hand of the consumer.

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I do not believe this is a matter of those who support States rights and those who oppose States rights. I would remind my colleagues that the Moakley bill requires States to accept mandates on States, that they regulate day care, family day cares, group homes, and centers. Many States reject that regulatory structure. They do not regulate group homes. They do not allow group homes. They only allow centers and family day care providers.

The Moakley bill is mandating a regulatory system on States that many States have already rejected as unwise policy. You are also mandating on States 15 hours of training. People who work in centers are under the direct supervision of the center director. They have daily training, day in and day out. States ought to have a right to decide how they're going to manage the upgrading of the professional knowledge of those who take care of children.

Mr. Chairman, States are capable of governing child care services. Many are doing extremely well. We only need to encourage others to do so, but we ought not to be mandating the specifics of any particular system.

What we should be willing to require is parental choice. In Connecticut, my State, that didn't allow any other parents choice, we adopted a certificate program for Hispanic parents. Why? Because Hispanic parents in Connecticut did not want their children in non-Hispanic homes. There were not enough Hispanic homes that met the rather rigid criteria of our licensing system, to take care of all those children wanting care. So, the State, to go around its own licensing mandates, set up a program of vouchers for Hispanic families so that they could have the choice that they needed to provide care for their children.

Mr. Chairman, I say everyone ought to have a right to that choice, and, furthermore, constitutionally, I believe that the only way to get around the church-state issue is to mandate that parents have the right to a voucher and spend it with the provider they think best—just like they have a right to get food stamps and spend them in supermarkets or the corner store.

Mr. Chairman, I attended a long seminar on the subject at Harvard, and the one thing the lawyers on each side of this debate agreed on was that certificates were the only legitimate way to allow public monies to be expended in religious day care.

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman and Members, the reason I asked for some time on this is so that I could follow up on some comments made earlier reflecting to the other side of the aisle that this might seem a convenient tactical move for the moment,

but it is totally inconsistent with the commitment their leadership made last October when we debated this issue earlier.

Mr. Chairman, at that time nobody less than the gentleman from Missouri [Mr. GEPHARDT], the majority leader, said, and I quote:

I know there's a great deal of concern among Members on the question of church and state. My feeling, from listening to the debate today, is we should move toward the Senate language because it would continue to allow religious institutions to have child care within their institutions.

Mr. Chairman, the leadership on the Democratic side is committed on this issue to a conference report that deals with this question in a way that would be appropriate for the religious institutions that are now delivering child care.

This is no different than the concept of a Pell grant. This is not a Pell grant, however, for higher education. This is a Pell grant for child care. No one in this room would suggest that we ought to create a means of grants, and loans and higher education, but the only way to get them is if one goes to a State university college.

That is what the amendment of the gentleman from North Carolina [Mr. PRICE] will do. It will say:

You and your State will be able to limit the availability of a voucher or certificate, and in essence the only way it will be done is through those certificates.

That is not what anybody is asking for here. We are asking for the choice to be given, not to the State, but to the family. If they want to take this to a religious-based child care, fine. If they want to take it to a school-based child care, fine. If they want a family base, fine. But give them that choice.

Mr. Chairman, if we deny them that choice by denying certificates, then the only people who get the Federal dollars are those who are involved in the federally regulated child care that we are going to create over the next 3 years under the proposal of the gentleman from Massachusetts [Mr. MOAKLEY].

That is not what the Democratic leadership committed itself to last October. That is not what I believe the majority of my colleagues want today. And that is why, unfortunately, the amendment that is now before us ought to be rejected, so we can go back home and say that we have enhanced the opportunity and the choice of the parents to make that decision.

The CHAIRMAN. The gentleman from North Carolina [Mr. PRICE] has 3 minutes remaining, the gentleman from Florida [Mr. SHAW] has 2 minutes remaining, and the gentleman from North Carolina is entitled to close debate.

Mr. SHAW. Mr. Chairman, I yield such time as I have remaining to the gentleman from Texas [Mr. STENHOLM].

The CHAIRMAN. The gentleman from Texas is recognized for 2 minutes.

Mr. STENHOLM. Mr. Chairman, this amendment is fundamental to the argument on child care today. The gentleman from Kansas [Mr. GLICKMAN] a moment ago made an eloquent statement regarding the program in Kansas. There is nothing in the Stenholm-Shaw amendment that changes Kansas one iota, and I hope the gentleman from Kansas would acknowledge that. It is H.R. 3 that he was referring to.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, there is more flexibility on this issue in Stenholm-Shaw, but I do not think there is total flexibility of what I would like to see by the discretionary option.

Mr. STENHOLM. Mr. Chairman, the amendment—everybody can read it—is on page 14. However, Mr. Chairman, I rise in opposition to the Price amendment, which its supporters characterize as making vouchers voluntary, rather than mandatory, as they would be in either my amendment or the committee bill.

Mr. Chairman, it is not a piece of paper—a voucher or a certificate—which we believe must be mandated. It is not participation of religious providers in a Federal child care program that must be mandated.

It is parental choice which must be mandated.

It's funny how the word "mandate" is only a bad word when it applies to the other side's priorities.

So, you can think of these voucher provisions as a mandate—or you can regard them—as I do—as a guarantee of the fundamental right of parents to choose the kind of care their children receive.

Vouchers do not in any way bias a parent toward one kind of care over another. They may be used in the widest possible variety of child care providers. They simply guarantee that the parents will be able to choose how they want to care for their children, rather than having the Government make those choices.

If certain providers and interest groups were not afraid of some good healthy competition in the child care field, they wouldn't worry about parents being able to freely choose their child care. There is no doubt in my mind that with child care, as with other services, an open market is one of the best ways to improve quality, which the other side says they are so concerned. Competition and guaranteed choice to parents are keys to quality.

Both the Stenholm-Shaw substitute and the committee substitute guarantee that parents be offered the option of a voucher. Only Stenholm-Shaw also guarantees that parents have the a wide range of choices among providers.

The Stenholm-Shaw certificates accomplish one thing: We treat religious providers just the same as every other provider—community nonprofits, proprietors, schools, family members, and trusted neighbors—fairly. We guarantee a level playing field to providers and ensure the maximum range of choices to the parents.

I urge my colleagues to oppose the Price amendment and assure parents the choice we have promised them.

Mr. PRICE. Mr. Chairman, in debating this amendment, there does seem to be agreement that somehow choice and diversity are at issue, but there I am afraid the agreement stops.

The gentleman from Florida said that the position of the opposition might appear inconsistent. I think that is true, because that position is inconsistent.

We in this bill that is before us, and for that matter the Stenholm-Shaw substitute, have moved toward increased diversity, increased freedom of choice. Both bills contain these tax credits of which all parents can take advantage.

Both bills contain title XX aid which the States can use in a wide variety of ways, and both bills have moved away from some of the regulatory schemes that were suggested earlier.

We have heard a lot of talk about the need to give flexibility and give choice. My amendment is totally consistent with that thrust.

Despite what has been said here today, the bill that is before us is a provoucher bill. It not only permits, it encourages vouchers. Despite what the gentleman from Texas says, the bill specifically provides for the use of title XX funds for certificates, and it specifically provides that the certificates may be redeemed at church-run centers.

That is not the issue. The issue is whether a single model, a single kind of program will be mandated, will be imposed on the States.

The gentleman from Kansas raises a very legitimate issue. What about our program in North Carolina where social services contracts with providers and provides a few slots? Is that a voucher or a certificate system or is it not? Who would say?

Some day care regulator would dictate exactly what form that program must make, dictate exactly whether North Carolina's program is legitimate or not. I do not think that is what we want. I think we want variety. We want discretion. We want States to be

able to use their own best judgment in setting up programs that best meet their needs.

This amendment, I believe, is moderate and reasonable and consistent with the intent of both H.R. 4381 and Stenholm-Shaw.

No one model of child care is ideal for every family and every community and every State. Surely we have had enough dogmatism, enough extreme positions articulated in debating this bill. There is too much of this suggesting that one answer is right for every family, one answer is right for every community. Let us remain consistent with our professions of respect for freedom of choice and diversity. No one model of child care is ideal for everyone.

The virtue of this bill and the virtue, for that matter, of the Stenholm-Shaw substitute is the diversity that it provides, and if you want to increase flexibility and choice for States and families this amendment will help us all achieve that end.

The CHAIRMAN. All time has expired.

The question is the amendments en bloc offered by the gentleman from North Carolina [Mr. PRICE] to the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. STENHOLM] and the amendment in the nature of a substitute, as modified, made in order as original text.

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PRICE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 243, not voting 8, as follows:

[Roll No. 55]

AYES—182

Ackerman	Clement	Frost
Akaka	Coleman (TX)	Gejdenson
Alexander	Collins	Gephardt
Anderson	Conyers	Gibbons
Applegate	Cooper	Glickman
Aspin	Coughlin	Gonzalez
AuCoin	Coyne	Gordon
Bates	Crockett	Gray
Beilenson	Davis	Hamilton
Bennett	de la Garza	Hawkins
Berman	DeFazio	Hayes (IL)
Bilirakis	Dellums	Hefner
Bonior	Derrick	Hertel
Borski	Dicks	Hoagland
Bosco	Dingell	Hochbrueckner
Boucher	Dixon	Hoyer
Boxer	Downey	Johnson (SD)
Brennan	Dymally	Johnston
Brooks	Eckart	Jones (GA)
Browder	Edwards (CA)	Jontz
Brown (CA)	Engel	Kastenmeier
Bruce	Evans	Kennedy
Bryant	Fascell	Kennelly
Bustamante	Fazio	Kleczka
Campbell (CO)	Feighan	Kostmayer
Cardin	Flake	Lancaster
Carper	Foglietta	Lantos
Carr	Ford (MI)	Leach (IA)
Clarke	Ford (TN)	Lehman (CA)
Clay	Frank	Lehman (FL)
Levin (MI)	Owens (UT)	Smith (FL)
Levine (CA)	Panetta	Solarz
Lewis (GA)	Patterson	Staggers
Long	Payne (NJ)	Stark
Lowey (NY)	Payne (VA)	Stokes
Machtley	Pease	Studds
Markey	Pelosi	Swift
Martinez	Penny	Synar
Matsui	Perkins	Torres
Mavroules	Pickle	Towns
McCloskey	Price	Traficant
McDermott	Rahall	Udall
McMillen (MD)	Rangel	Unsoeld
Meyers	Rose	Valentine
Mfume	Rostenkowski	Vento
Miller (CA)	Roybal	Visclosky
Mineta	Russo	Walgren
Mollohan	Sabo	Washington
Moody	Sangmeister	Waxman
Morella	Savage	Weiss
Morrison (CT)	Sawyer	Wheat
Mrazek	Saxton	Whitten
Murphy	Scheuer	Williams
Nagle	Schneider	Wilson
Neal (MA)	Schroeder	Wise
Neal (NC)	Schumer	Wolpe
Nelson	Serrano	Wyden
Oberstar	Sikorski	Yates
Obey	Sisisky	Yatron
Olin	Skaggs	Young (FL)
Owens (NY)	Slattery	

NOES—243

Andrews	Frenzel	Lloyd
Annunzio	Gallegly	Lowery (CA)
Anthony	Gallo	Luken, Thomas
Archer	Gaydos	Lukens, Donald
Armey	Gekas	Madigan
Atkins	Geren	Manton
Baker	Gillmor	Marlenee
Ballenger	Gilman	Martin (IL)
Barnard	Gingrich	Martin (NY)
Bartlett	Goodling	Mazzoli
Barton	Goss	McCandless
Bateman	Gradison	McCollum
Bentley	Grandy	McCrery
Bereuter	Grant	McCurdy
Bevill	Green	McDade
Bilbray	Guarini	McEwen
Bliley	Gunderson	McGrath
Boehlert	Hall (OH)	McHugh
Boggs	Hall (TX)	McMillan (NC)
Broomfield	Hammerschmidt	McNulty
Brown (CO)	Hancock	Michel
Buechner	Hansen	Miller (OH)
Bunning	Harris	Miller (WA)
Burton	Hastert	Moakley
Byron	Hatcher	Molinari
Callahan	Hayes (LA)	Montgomery
Campbell (CA)	Hefley	Moorhead
Chandler	Henry	Morrison (WA)
Chapman	Herger	Murtha
Clinger	Hiler	Myers
Coble	Holloway	Natcher
Coleman (MO)	Hopkins	Nielson
Combest	Horton	Nowak
Condit	Houghton	Oakar
Conte	Hubbard	Ortiz
Costello	Huckaby	Oxley
Courter	Hughes	Packard
Cox	Hunter	Pallone
Craig	Hutto	Parker
Crane	Hyde	Parris
Dannemeyer	Inhofe	Pashayan
Darden	Ireland	Paxon
DeLay	Jacobs	Petri
DeWine	James	Pickett
Dickinson	Jenkins	Porter
Donnelly	Johnson (CT)	Poshard
Dorgan (ND)	Kanjorski	Pursell
Dornan (CA)	Kaptur	Quillen
Douglas	Kasich	Ravenel
Dreier	Kildee	Ray
Duncan	Kolbe	Regula
Durbin	Kolter	Rhodes
Dyson	Kyl	Richardson
Early	LaFalce	Ridge
Edwards (OK)	Lagomarsino	Rinaldo
Emerson	Leath (TX)	Ritter
English	Lent	Roberts
Erdreich	Lewis (CA)	Robinson
Espy	Lewis (FL)	Roe
Fawell	Lightfoot	Rogers
Fields	Lipinski	Rohrabacher
Fish	Livingston	Ros-Lehtinen
Roth	Smith (NJ)	Taylor
Rowland (CT)	Smith (TX)	Thomas (CA)
Rowland (GA)	Smith (VT)	Thomas (GA)
Saiki	Smith, Robert (NH)	Thomas (WY)
Schaefer	Smith, Robert (OR)	Torricelli
Schiff	Snowe	Traxler
Schuette	Solomon	Upton
Schulze	Spence	Vander Jagt
Sensenbrenner	Spratt	Volkmer
Sharp	Stallings	Vucanovich
Shaw	Stangeland	Walker
Shays	Stearns	Walsh
Shumway	Stenholm	Watkins
Shuster	Sundquist	Weber
Skeen	Tallon	Weldon
Skelton	Tanner	Whittaker
Slaughter (NY)	Tauke	Wolf
Slaughter (VA)	Tauzin	Wylie
Smith (IA)		Young (AK)
Smith (NE)		

NOT VOTING—8

Dwyer	Laughlin	Smith, Denny (OR)
Flippo	Roukema	Stump
Jones (NC)	Sarpalius	

□ 1518

The Clerk announced the following pair:

On this vote:

Mr. Jones of North Carolina for, with Mr. Dwyer against.

Messrs. TALLON, NOWAK, ROE, SHARP, PALLONE, McHUGH, Ms. SLAUGHTER of New York, Messrs. GUARINI, and CONDIT changed their vote from "aye" to "no."

Messrs. DAVIS and CARDIN changed their vote from "no" to "aye."

So the amendments en bloc to the amendment in the nature of a substitute offered by Mr. STENHOLM and the amendment in the nature of a substitute as modified, made in order as original text were rejected.

The result of the vote was announced as above recorded.

□ 1520

AMENDMENTS EN BLOC OFFERED BY MR. EDWARDS OF CALIFORNIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STENHOLM AND THE AMENDMENT IN THE NATURE OF A SUBSTITUTE, AS MODIFIED, MADE IN ORDER AS ORIGINAL TEXT

Mr. EDWARDS of California. Mr. Chairman, I offer two amendments en bloc made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. EDWARDS of California to the amendment in the nature of a substitute offered by Mr. STENHOLM; and the amendment in the nature of a substitute, as modified, made in order as original text.

The amendment to the amendment in the nature of a substitute offered by Representative STENHOLM.

In section 2007(d)(4) of the Social Security Act, as proposed to be added by the amendment made by section 301(a)(2) of the bill, strike "including those providers which have religious activities,".

In section 2007(d) of the Social Security Act, as proposed to be added by the amendment made by section 301(a)(2) of the bill, strike paragraph (7) and redesignate para-

graphs (8) and (9) as paragraphs (7) and (8), respectively.

In section 301 of the bill, strike subsection (c).

At the end of title III of the bill, insert the following:

SEC. 302. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under subtitle B of title XX of the Social Security Act shall be expended for any sectarian purpose or activity, including sectarian worship and instruction. Financial assistance provided under such subtitle shall not be expended in a manner inconsistent with the Constitution of the United States.

(b) LIMITATION.—Subsection (a) shall not apply with respect to funds received by an eligible family child care provider.

SEC. 303. NONDISCRIMINATION.

(a) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under subtitle B of title XX of the Social Security Act shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 794 et seq.), the Age of Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

(b) RELIGIOUS DISCRIMINATION.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion, except that a sectarian organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

(2) DISCRIMINATION AGAINST CHILD.—A child care provider that receives assistance under subtitle B of title XX of the Social Security Act shall not discriminate against any child on the basis of religion in providing child care services.

(3) EMPLOYMENT IN GENERAL.—

(A) PROHIBITION.—A child care provider that receives assistance under this subtitle B of title XX of the Social Security Act shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

(B) PRESENT EMPLOYEES.—This paragraph shall not apply to employees of child care providers receiving assistance under this subtitle B of title XX of the Social Security Act if such employees are employed with the provider on the date of enactment of this Act.

(4) SEVERABILITY.—If any provision of this section or the application thereof to any individual or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without regard to the invalid provision or application, and to this end the provisions of this section shall be severable.

(c) EFFECT ON STATE LAW.—Nothing in this section of subtitle B of title XX of the Social Security Act shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions.

The amendment to the amendment in the nature of a substitute made in order as original text by this resolution.

In section 2012(a) of the Social Security Act, as added by 301(a)(2) of the bill, strike paragraphs (2) and (3), and insert the following:

"(2) LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.—

"(A) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this subtitle shall be expended for any sectarian purpose or activity, including sectarian worship and instruction. Financial assistance provided under this subtitle shall not be expended in a manner inconsistent with the Constitution of the United States.

"(B) LIMITATION.—Subparagraph (A) shall not apply with respect to funds received by an eligible family child care provider.

"(3) NONDISCRIMINATION.—

"(A) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under this subtitle shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 794 et seq.), the Age of Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

"(B) RELIGIOUS DISCRIMINATION.—

"(i) IN GENERAL.—Nothing in this paragraph shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion, except that a sectarian organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

"(ii) DISCRIMINATION AGAINST CHILD.—A child care provider that receives assistance under this subtitle shall not discriminate against any child on the basis of religion in providing child care services.

"(iii) EMPLOYMENT IN GENERAL.—

"(I) PROHIBITION.—A child care provider that receives assistance under this subtitle shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

"(II) PRESENT EMPLOYEES.—This paragraph shall not apply to employees of child care providers receiving assistance under this subtitle if such employees are employed with the provider on the date of enactment of this Act.

"(iv) SEVERABILITY.—If any provision of this paragraph or the application thereof to any individual or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this paragraph which can be given effect without regard to the invalid provision or application, and to this end the provisions of this paragraph shall be severable.

"(C) EFFECT ON STATE LAW.—Nothing in this subtitle shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions."

The CHAIRMAN. The gentleman from California [Mr. EDWARDS] will be recognized for 20 minutes, and a Member opposed will be recognized for 20 minutes. Does the gentleman [Mr. HENRY] seek recognition in opposition?

Mr. HENRY. Mr. Chairman, I am opposed.

The CHAIRMAN. The gentleman from Michigan [Mr. HENRY] will be recognized for 20 minutes.

The Chair recognized the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I yield myself as much time as I use.

Mr. Chairman, this issue is older than our country, older than our Nation. Our founders thought they had resolved this issue 200 years ago when the Constitution was written and when the Bill of Rights was made a part of the Constitution. Thomas Jefferson was the real author of it. He put it into the Virginia Constitution, the principle of separation of church and state. Mr. Jefferson said that if you intertwine church and state, the government and religion both are destroyed.

That is what this amendment does, it take both propositions, the Stenholm bill and the leadership bill and makes them constitutional.

My amendment deals only with religious child care providers and has to do with the church-state issue. The church-state issue provisions in the bill before us are similar to the ones in the Senate bill. My amendment would replace these provisions with language which would enable church-based child care programs to receive Federal funds as long as they complied with the Constitution.

My amendment represents a middle ground between those who would deny Federal funds to religious entities in every case, and those who want to provide Federal money for religious instruction and worship, which is a violation of the Constitution. Under my amendment, church-based child care programs are eligible for Federal funds, but the Federal fund could not be used for any sectarian purpose or activity, including worship or instruction, nor would church-based programs be allowed to discriminate on the basis or religion against either the pupils or the faculty.

I am concerned, Mr. Chairman, that unless this amendment is adopted, implementation of the bill, if enacted, will be delayed many years as it fights its way through the courts, and during that time every child care program will be unable to receive funds.

The Senate bill would end up hurting church-based programs. My amendment would help them. My amendment is a pro-child-care amendment.

To my friends on the conservative side, this is a conservative amendment, and I think that all of them would support it. Conservatives quite generally support the Constitution, support the Bill of Rights, and this is a Bill of Rights issue: freedom of worship.

So I would hope that many of my colleagues who consider themselves conservative would support this amendment. Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The gentleman from California [Mr. EDWARDS] has consumed 4 minutes.

Mr. HENRY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is without doubt one of the most critical issues we will face today, and I will try to square on the issue as honestly and directly as I can.

The amendment of the gentleman from California [Mr. EDWARDS] in fact establishes a new standard and new limitations and new restrictions relative to the relationship of affiliated religious institutions and the intersection of Federal funds. I want so stress that, Mr. Chairman, because this is not an attempt to get balance, to ensure that exiting tests are honored. It is in fact a new standard and restricted standard that hitherto has not appeared in comparable legislation.

First of all the amendment of the gentleman from California would put an absolute barrier, an absolute wall between any Federal financial assistance directly or indirectly received, including indirectly received, and that which may have any sectarian purpose or activity which may in fact be incidential to the primary purpose.

I want to point out that that violates two very established tests for standards. One, the distinction between direct consequences of a government policy; the other, as opposed to indirect aid or indirect consequences.

The threefold limit tests says if in fact there is incidential or religious activity associated with a publicly funded program, it is not ipso facto inherently unconstitutional so long as it meets the threefold test that it has a valid sectarian purpose, that it does not have a primary effect of advancing religion, and does not create excessive entanglement of church-state.

□ 1530

Mr. Chairman, the bill before us seeks to meet those tests. Mr. EDWARDS would impose a new test. Not only that, the Edwards amendment would go beyond existing language in existing title XX provisions.

We already have another section in title XXII which has standards relative and constitutional requirements relative to any potential intermixture of Federal funds in religiously associated or supported activity.

The language presented to us is in fact a different standard, a more stringent, a tighter standard, a higher wall, a thicker wall between church separation.

Now he may be right, but let us at least be sure we understand what it does. This is not a reaffirmation of the decisions of the court; it is new language.

Secondly, the amendment takes away existing protections to religion. Let me emphasize that: It takes away existing protections to religiously affiliated institutions as protected under title VII of the Civil Rights Act.

Title VI of the Civil Rights Act, which deals with discrimination in employment, specifically allows religious bodies and religiously affiliated entities to establish a religious test for employment in keeping with the tenets of that body's religious tradition.

Very clearly, very clearly the amendment strikes at religious tenets exemption.

I just want to be sure that we are clear as to what is happening, and the gentleman from California agrees with me, but I also point out that that is moving away from the existing protections and exemptions given to religious entities today under title VII.

Third, I want to point out that it would also affect the use of a voucher.

So we are now talking not just about directly vended child care, the ability of your department of social services to contract with a religiously affiliated or oriented child care protector but also it would strike directly at the right of a recipient of a voucher to use that.

So once again it establishes a new legal entanglement or standard or barrier relative to indirect support which do not have the primary effect of advancing religion and which may in fact have a valid secular purpose and which in fact avoid excessive entanglements of church and state.

Finally, Mr. Chairman, if I may, one other brief comment: The tragedy associated with the rule, and I do not want to beat a dead horse but I do want to make very clear that the consequences of the amendment will affect not only the committee bill but the Shaw-Stenholm substitute. In that sense, I would suggest this is really a poison pill, and I urge my colleagues to oppose the amendment.

Mr. EDWARDS of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I rise in support of the Edwards amendment.

Congressman EDWARDS is a very distinguished constitutional scholar and chairman on the Judiciary Committee, and this amendment I think is absolutely essential if we are going to make this bill constitutional.

First of all, we just heard some debate over here that I would like to answer. The gentleman on the other side said there is new language in the Edwards amendment. Yes, there is new language in the Edwards amendment because we did not have this kind of language when we dealt with these issues before.

If you look at the legislation dealing with Head Start, you will find that we did not put language in on things dealing with the religious issue because it was assumed that the Constitution and the court language would be applied.

Therefore, what we are talking about here is a codification of the court standards. I think it is so important to say to this body there has been so much misinformation on this issue that it is tragic. Let us look at Head Start.

Head Start is all federally funded, we know that. And I would bet you that 90 percent of Head Start facilities are in churches. There is nothing wrong with having these things in churches.

Where the problem is is if you are paying religious dollars to do religious instruction. That is where the problem comes.

In Head Start we let the law stand. Here there is language that the gentleman is trying to deal with to make sure that it is constitutional and complies in the same way that Head Start did.

So when people say that you cannot have them in the facilities in your community, that is wrong; when they say that you cannot do religious instruction with Federal money, that is right. That is what our forefathers fought for, and it goes back clear to the Constitution, to our Constitution.

Second, some of these are in rural areas, and in rural areas it is the only place where young children can go. And surely you would not want them to be discriminated against.

Mr. HENRY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California. I understand and agree the amendment is well-intentioned. But it is unnecessary, and it tortures the letter of the Constitution in an attempt to enforce a misguided reading of the spirit of the Constitution.

I remind my colleagues that there are two parts to the first clause of the first amendment:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

There is no intent on the part of the supporters of the Stenholm-Shaw substitute—or, indeed, the authors of the Senate language in the committee substitute—to use public resources to establish religion or favor religious entities in any way.

We must realize that the Federal Government spends an amount every year equal to 22 percent of the gross national product. It touches every aspect of national life and touches, in some way, every citizen and resident. If we were to insist that every transaction, every institution, every endeavor tainted by an indirect dollar from the Federal Government then had to be purged of all religious content, there would be no religion left that could be exercised freely.

The certificate—or voucher—program in Stenholm-Shaw—and the

committee substitute—passes Constitutional muster under the established, commonsense tests.

Under the Supreme Court's Lemon versus Kurtzman decision, a constitutional statute "must be one that neither advances or inhibits religion." In Mueller versus Allen, the Court said:

Where, as here (in an education tax deduction program), aid to parochial schools is available only as a result of decisions of individual parents no "imprimatur of state approval" can be deemed to have been conferred on any particular religion, or on religion generally.

In its Witters decision, the Court upheld a student aid program because

Any aid provided under Washington [State's] program that ultimately flows to religious institutions does so only as a result of the genuinely independent and private choices of aid recipients.

The authors of Stenholm-Shaw took great pains to ensure that our certificate program relies on the independent choices of the parents receiving assistance. There is a reason our bill is entitled the "Family Choice and Child Care Improvement Act." We took pains to make clear that child care with religious activities is listed as one of many options we want to ensure are available to parents. We list religious providers as one of many types of eligible providers. And we use the certificate program to make sure and avoid the problem of funds going directly from the Government to a provider with religious activities.

I wonder if anyone here today would argue that Pell grants should not be allowed to go to students at colleges with religious activities. Like Food Stamps or Pell grants, the key feature of child care certificates relevant to this debate is where the point of decisionmaking occurs. When the family is the beneficiary and the parents choose where to spend the certificate, there is no government establishment or support of religion.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the distinguished chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I rise in strong support of the Edwards amendment. Religious organizations provide over one-third of child care services in this country and are often the only providers in low-income neighborhoods and rural communities. It is essential that religious institutions continue to participate in federally funded nonsectarian programs; but they must do so in a way which is constitutionally sound. The Edwards amendment permits church sponsored child care under this act, but protects such child care from constitutional challenge. Such a provision will provide the same protection that H.R. 3 bill already offers to expanded Head Start programs and before and after school education programs.

The Edwards amendment also protects child care workers and children from discrimination. The Edwards amendment prohibits discrimination on the basis of religion by child care providers in employment and admissions. Such a provision is crucial to families who lack access to other types of child care.

I urge Members to ensure that religious institutions can continue to provide federally assisted nonsectarian care. Support the Edwards amendment.

□ 1540

Mr. HENRY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, if I could have the attention of the chairman of the subcommittee, the gentleman from California [Mr. EDWARDS], I think that part of our problem here is a lack of understanding precisely what the gentleman's amendment accomplishes, and particularly the word "sectarian purposes and activities."

I would like to ask the gentleman some questions. Under the current provisions of the title 20 program, church-based day care centers do qualify to receive funding, and one of the purposes of this legislation before Members is to increase the level of available child care. Would the Edwards amendment that is before Members now affect those centers which are currently receiving title 20 funds, or in any way impact on their ability to operate?

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from California.

Mr. EDWARDS of California. The answer is no.

Mr. FISH. Mr. Chairman, do I understand correctly that the Edwards amendment does not prohibit the new moneys in the two bills before Members from going to additional church-based day care providers that are otherwise qualified?

Mr. EDWARDS of California. If the gentleman will continue to yield, if they qualify, and it would be nonsectarian, then new church establishments would be perfectly all right.

Mr. FISH. Am I to understand fully that the Edwards amendment only specifies that the new moneys cannot be used for religious worship or instruction, in otherwise qualified child church-based day care centers?

Mr. EDWARDS of California. That is correct.

Mr. FISH. Finally, does the amendment deal with the issue of vouchers?

Mr. EDWARDS of California. No, it does not deal with the issue of vouchers. It does not eliminate vouchers.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, I do not know whether this bill is constitutional or not, but my guess is that the gentleman from California [Mr. EDWARDS] is right, that it is probably not constitutional unless we adopt this language, but there is a broader public policy question here.

In both the Stenholm bill and in the majority bill, we allow religious institutions in the name of religion, to discriminate in the hiring of people to teach children. That is crazy. That violates every American ideal that I know about. It violates what this country had done for 200 years. It has been very difficult for Americans as a people to learn to live together. We are black, we are white, we are brown, we are yellow, we are 120 different religions, and at least that many different ethnic groups. It has been a struggle for Americans to be inclusive. Now, both bills are saying, "Turn back the hands of time. It is OK to discriminate. It is all right to only have one religious group teach another religious group."

I cannot think of a more dangerous public policy than the one we are putting in both these bills today, quite apart from the constitutionality.

We have a stewardship as public policymakers to make sure that the institutions of this society which receive tax money do not engage in invidious discrimination. Any time we craft a law that supports or encourages, however, subtly, elitism, exclusivity, prejudice, or religious intolerance, we communicate to the next generation a carelessness and shortsightedness about the most precious values in American life.

The Bible tells Members something about this in Proverbs. It says:

Train up a child in the way he should go, and when he is old, he will depart from it. The rich ruleth over the poor, and the borrower is servant to the lender. He that soweth inequity shall reap vanity, and the rod of his anger shall fail.

That was Proverbs, Chapter 22, Verse 628 in the King James Version of the Bible.

Please accept the Edwards language. Make this bill constitutional. Make it consistent with the values that made this country what it is.

Mr. HENRY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, first I want to make it clear, as I read the gentleman's amendment, it does affect the voucher section of the bill because it strikes the language in the Stenholm substitute, in section 2007(d)(4), that does refer to parental choice for vouchers.

Second, I would observe that in my judgment, in the judgment recently received by the American Law Division of the Congressional Research Service, the amendment probably does not matter very much for the original Downey bill. In that bill the vouchers are not usable anyway for religious-based providers. And specifically for 13 States that used religious-based providers. I will subsequently enter into the RECORD a legal opinion from the Congressional Research Service which summarizes in the last sentence, "After three years"—according to the Congressional Research Service—"all providers receiving public funds must comply with the minimum standards set under section 2012(c), or the State becomes ineligible for further payments under this subtitle."

So for the original Downey bill, the Edwards amendment probably does not matter at all because those vouchers will be unusable anyway.

However, in the Stenholm substitute, which this amendment also affects, the gentleman's amendment would say is that parents who choose to use religious-based providers be unable to do so. Thirty percent of the parents who use child care in the country today choose to go to the church of their choice. The Edwards amendment would prohibit certificates or vouchers that are given to them by the Federal Government from being used for religious-based care. If the Edwards amendment is adopted, then those parents would be stopped from choosing religious-based child care for their own children. That is wrong. We should reject this amendment.

THE LIBRARY OF CONGRESS,
Washington, DC, March 29, 1990.

To: House Committee on Ways and Means.
Attention: Honorable E. Clay Shaw, Jr.
From: American Law Division.
Subject: Exemption of Religious Child Care Providers From Standards Requirement of Title III of H.R. 4381.

This is in response to your request for an interpretation of the language contained in Title III of H.R. 4381 regarding standards for child care. More specifically, you asked whether that language would require that the States that currently exempt religious day care centers from licensing or regulation would have to eliminate the exemption.

Title III would amend Title XX of the Social Security Act. Section 2011(2)(B) of the amendment provides that a State would be ineligible for assistance after three years if it

has not demonstrated to the Secretary that all child care providers in the State who receive funds under this title and all other providers in the State who receive public funds for child care services—

(i) are licensed or regulated as required by State or local law;

(ii) comply with the minimum child care standards established by the State in accordance with section 2012(c); . . . .

Section 2012(c), in turn, requires that after three years each State receiving a payment under this subtitle shall have in effect child care standards in each of the categories described in this subsection, which shall apply to all child care funded in the State under this title and all child care services delivered by providers in the State who receive public funds for child care services and are required by the State to be licensed or regulated.

This language would not appear to require the States that now exempt religious child care providers from licensing to repeal the exemption. It would appear to require, however, that all child care providers that receive public funds under this bill or otherwise must meet the minimum child care standards the States are required to set under Section 2012(c). That requirement does not appear to exclude religious day care providers that might be exempt from licensing or regulation under State law. To be eligible to receive public funds under this bill or otherwise, in other words, day care providers would have to comply with the minimum standards created under Section 2012(c).

A contrary interpretation would have to assume that the last words of Section 2012(c)—"and are required by the State to be licensed or regulated"—apply as a limitation on both of the categories of child care previously mentioned, i.e., "all child care funded in the State under this title" and "all child care services delivered by providers in the State who receive public funds for child care services." While that might be arguable, the language of Section 2011(2)(B) seems explicit: After three years all providers receiving public funds must comply with the minimum standards set under Section 2012(c), or the State becomes ineligible for further payments under this subtitle.

I hope the above is responsive to your request. If we may be of additional assistance, please call on us.

DAVID M. ACKERMAN,
Legislative Attorney.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I rise today to urge my colleagues to support the amendment being offered by Representative DON EDWARDS to the comprehensive child care bill. This amendment is necessary to assure the constitutionality of the bill by requiring the separation of church and state.

Many of the day care centers in this country are church-run, and we all agree that Federal funds should be provided to them. The problem lies with Federal funds being used in a sectarian manner, based on religious affiliation. In the spirit of the first amendment of the Constitution, Americans pride themselves in maintaining a distinct division between the church and the state. This amendment would state explicitly that religious organizations can receive Federal funds for child care programs conducted on church property only if the program itself is nonsectarian.

Mr. Chairman, the separation of church and state in this country dates back to our Founding Fathers. We know and understand the law well. Why should we pass new legislation which obviously contradicts the first amendment? We are inviting legal battles to determine whether or not this bill is constitutional. This will take time, money, energy, and will prevent church-based child care centers from receiving any funds at all while the court challenges proceed.

The Edwards amendment would set boundaries within which churches could participate fully in a federally funded child care program without risking violation of the principle of separation of church and state.

Mr. Chairman, I urge my colleagues to prevent further disagreement on the constitutionality of providing Federal funds to church-run child care centers and vote "yea" for the Edwards amendment.

Mr. HENRY. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I am going to oppose the amendment of my good friend from California [Mr. EDWARDS] with whom I almost always agree. I guess I am less sure of what the current U.S. Supreme Court would do on this or almost any other issue, than many of my colleagues. I am not sure what will be held by them to be constitutional.

However, there are public policy questions here. First, I would not be supporting the bill as written, if I thought it was going to provide for discrimination against the children or employment. On page 37 of the bill, and I agree that our friends in the other body have not on this occasion been a model of lucidity, but there are very clear statements here, and it says that:

Discrimination against a child and provisions of services on the basis of religion is prohibited, and discrimination in employment is prohibited for those who are primarily working in child care.

□ 1550

What it then does, given those antidiscrimination provisions, is to make what seems to me a reasonable accommodation. The gentleman from Texas pointed out that Pell grants and student loans are used for religious schools. I think my friends at the NEA and elsewhere make a mistake if they see this as a precedent.

Where the public has provided a universal network like the public education network, then I am not for subsidizing competition with it in this way. But we do not have a public child care network, and we are not likely to have one. We are talking about two very different things, and they make a mistake, those who are opposing the notion of a widespread voucher system in the public education sector to make these arguments, because the use of vouchers where there is not widespread network is very different than public policy, and I believe constitutionally, than where it is. The fact is that where we do not have a public

network, churches provide a great deal.

Yes, my friend does allow the churches to do it, but under conditions, I fear, that many of them would find so restrictive and so intrusive that they would not have much of an incentive to do it. A lot of us would wish a lot of things were different. In the current reality and given that this bill as it now stands without the amendment offered by the gentleman from California, which prohibits discrimination in employment and discrimination in admissions, I think this is the best accommodation, and I hope the amendment is defeated.

Mr. EDWARDS of California. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, each of us who serves in this great body brings to it our differences, be they regional, political, or personal. One force that binds us all, though, is the oath we take to uphold the Constitution of the United States.

For this reason, Mr. Chairman, I rise to support the Edwards amendment which would allow the use of Federal funds for child care centers based in religious facilities but would not provide funds for religious worship or teaching.

I appreciate the value of religious education. My husband and I and our five children have just recently surpassed our 100th year of formal Catholic education—in most cases from kindergarten to college. We are still waiting to hear from graduate schools.

That Catholic education taught us to respect our own beliefs and those of others and the Constitution of the United States.

That experience is a source of strength to us. It is a reason for us to be proud. It is not a reason for us to compromise the oath that we have taken, us, in this body to uphold the Constitution of the United States—when it is difficult as well as when it is easy.

For this reason, Mr. Chairman, I urge my colleagues to support the Edwards amendment. I would also like to thank the chairman of the committee, the gentleman from California [Mr. HAWKINS], the gentleman from California [Mr. MILLER], the gentleman from New York [Mr. DOWNEY], and all those who worked so hard to bring the child care bill to the floor, a bill which is so important to the future of our children.

The children and the working parents of our country have been waiting for their Government to assist them in providing affordable, safe, and quality child care. Today, we can begin helping families by passing a comprehensive child care bill.

I want to take this opportunity to commend Chairman HAWKINS and my colleagues on the Committee on Education and Labor, Chairman GEORGE MILLER of the Select Committee on Children, Youth, and Families and Chairman TOM DOWNEY of the Ways and Means Subcommittee on Human Resources for their diligent work on the child care bill. We all know they have spent much time and energy to develop the best child care bill possible for our families.

Dramatic changes in the family have made child care a necessity for our country. Only 18 percent of our children live in what was once a typical situation with a father working and a mother at home full time. Now, 57 percent of working mothers have children under age 6 and this percentage is expected to climb. In the city of San Francisco which I represent, we have the highest rate of single parent families in the bay area. It is for these reasons, that we need to pass a comprehensive child care bill.

Not only must we allocate more funds for child care, but we must set quality and safety standards for the care of our children. At present we have child care that varies from State to State and from provider to provider. We must at least set some basic safety and quality standards so that parents will not have the burden of worrying about the safekeeping of their child. It should be understood that all child care centers are safe and teachers are qualified to be with their children.

It is imperative that we include funding before and after school programs and Head Start. Studies have shown that Head Start participants have had fewer grade delays, special education placements, lower absenteeism and that Head Start provides a stable and safe environment for children while their parents must work.

There has been great concern over the constitutionality of the child care bill due to the church-state provisions. I urge my colleagues to vote in DON EDWARDS' amendment which would allow the use of Federal funds for child care centers based in religious institutions, but would not include religious worship or teaching.

We cannot afford to wait any longer to assist in providing affordable and safe child care for our children and working families. They have waited long enough. Many women do not have the luxury of making the decision of whether or not they should work—they must work. They have no choice. Let us at least give families a choice in the child care they want for their children and pass H.R. 3—a comprehensive child care bill. I urge my colleagues to support this bill and vote no on the Stenholm/Shaw substitute.

Mr. HENRY. Mr. Chairman, I yield myself 45 seconds.

Mr. Chairman, I commend our colleagues for keeping this discussion so rational, given the difficulty and the importance of the issue.

The question was raised as to whether or not the Edwards amendment would effectively strike any possibility of using a voucher or certificate for parents. Let me simply point out that what the amendment does is to eliminate this protection in the committee bill. It eliminates the language saying that "except that this qualification shall not apply to funds received by any eligible provider resulting from the distribution of a child care certificate to a parent under this subtitle."

So it clearly is meant in part to eliminate or to cut the legal eligibility of a voucher.

The second thing I want to do is simply to indicate to my good friend, the gentleman from California, that it is beyond existing court standards.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, there is an old saying in life itself that says, "If it ain't broke, don't fix it."

The provisions of the committee bill and the provisions of the Stenholm-Shaw amendment do not entail a constitutional problem that needs to be fixed.

I quote from the case of Bowen-Kendrick decided in 1898 by the U.S. Supreme Court which said in part:

> We note in addition that this Court have never held religious institutions are disabled by the First Amendment from participating in publically sponsored social welfare programs.

The philosophies that are in conflict on this issue are quite simple. My good friend, the gentleman from California [Mr. EDWARDS], is essentially urging the point of view of freedom from religion. That is the interpretation that we citizens should take with respect to the first amendment of the Constitution of the United States.

Mr. Chairman, the position that this Member from California is advocating is that the first amendment guarantees to all of us freedom of religion. The distinction is great, and we should recognize it in rejecting this solution that is not needed.

Mr. EDWARDS of California. Mr. Chairman, I yield 1½ minutes to the distinguished gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of the amendment offered by Mr. EDWARDS.

Our Nation is founded on certain fundamental principles. One of those principles, embodied in the Bill of Rights, is the freedom to worship as we please. This freedom was especially important to the founders of our Nation who were fleeing religious persecution abroad.

And in order to ensure that the new land that they came to would not also impose a national religion or otherwise interfere in the freedom to worship, the founders of the new Nation insisted on a strict separation of church and state.

These principles of the freedom to worship and the separation of church and state are among the chief building blocks of our democracy. These building blocks cannot be tampered with or

compromised without affecting the entire structure. In fact, as public servants, it is our sworn duty to uphold them in the best way that we know how.

The vote on the Edwards amendment should be a simple one for those who understand that duty. The use of Federal funds for sectarian child care is not consistent with the principles for which our Nation stands. It is not constitutional.

There are those who make the assertion that this amendment is antireligious. But they are turning the issue upside down. The first amendment protects religious freedom. The separation of church and state protects religious freedom. And this amendment also protects religious freedom. It is the provisions of the current bill which do damage to this precious right.

There are those who continue to contend that this amendment will interfere with the ability of churches and synagogues to conduct child care programs. But this amendment does not prevent a single synagogue or a single church from offering child care services. It simply states that those programs must be nonsectarian in nature if they use Federal funds.

There is another concept which is absolutely fundamental to our Nation—and that is the concept of equal opportunity. The long battle to provide all individuals in our Nation with fundamental civil rights continues today. And we should not even contemplate a step backward.

But the provisions of the current bill do contemplate a step backward. They contemplate permission to discriminate in the hiring of child care workers and in the admissions of children in child care programs which use Federal funds. This also should not be tolerated, and the Edwards amendment will accomplish this important task.

Should we send Federal funds to a religious child care center which, on the basis of a religious precept, discriminates against blacks or jews or any other American citizen? Or refuses to admit children on this basis? The answer of this Congress should be a resounding no.

Mr. Chairman, this amendment goes to the heart of what we stand for as a democracy. Freedom of religious worship. Separation of church and state. And equal opportunity for all of our citizens.

I urge the prompt adoption of the Edwards amendment, which preserves the principles on which our Nation is founded.

The CHAIRMAN. The Chair wishes to state that the gentleman from Michigan [Mr. HENRY] has 5 minutes and 15 seconds remaining and the gentleman from California [Mr. EDWARDS] has 7 minutes remaining.

Mr. HENRY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I believe our Constitution is anti the establishment of a religion but is not antireligion or neutral in regard to the importance of faith and morality in our lives and in the life of the Nation.

If we are going to enter upon an era in which more and more children are going to be cared for out of homes, I certainly do not want to be a part of preventing them from being cared for in morally governed environments. When I raised my children, my primary responsibility was not to change their diapers. My primary responsibility was to teach them how to deal with conflict and how to deal with resolving their differences with others. That is moral guidance.

If I were going to have my child cared for out of my home, I would certainly want to have the right to choose an environment that was, frankly, morally laden, in harmony with those principles that I believe in. I think we all ought to take note of the materials that have been distributed amongst us, which make clear that the Supreme Court has upheld the constitutionality of programs that result in the indirect funding of religious educational institutions.

□ 1600

Mr. Chairman, in Mueller versus Allen, the Supreme Court upheld a State tax relief program for elementary and secondary students, not just those who attended nonpublic schools. The key factors in the Court's decision were that the benefits went to a broad spectrum of groups, and by providing the benefit to all parents, the program was neutral in its treatment of religion.

In Witters versus Washington Department of Services to the Blind, the Supreme Court reversed a lower court ruling that barred tuition assistance under a State program to a blind student who wanted to attend a Christian college. The Court said that eligible students used this financial assistance at the school of their choice and that there was no evidence that a significant portion of the assistance under the program as a whole would go to religious institutions.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I want to commend the gentleman from California [Mr. EDWARDS], my good friend, for offering an extremely important amendment which is, in fact, necessary in this legislation to protect against discrimination both in employment, and in admissions and to insure that this bill is, in fact, constitutional.

Mr. Chairman, religious liberty and freedom of choice is enshrined in the Bill of Rights and is a founding principle of American citizenship, and without this amendment to this legislation we would find that a constitutional problem clearly exists which must be fixed. Under section 122 of this bill, if less than 80 percent of the funds are Federal funds, these institutions would be able to discriminate both in employment and in admissions.

Mr. Chairman, I believe we have the responsibility to enact sound public policy. It would clearly not be sound public policy to pass legislation prohibiting certain religious sects from entering the public school system, and yet, without this amendment, we would be enacting such a policy in our private schools.

Mr. Chairman, I strongly urge the support of this amendment to make this bill constitutional.

Mr. Speaker, religious liberty and freedom of choice is enshrined in the Bill of Rights, and is a founding principle of American citizenship. I know that we in Congress are sworn to preserve and uphold this freedom.

I rise in support of the Edwards amendment because its passage is necessary to protect those rights. Passage of this amendment will protect children and child care staff from discrimination in hiring and admittance to day care programs, speed implementation of this much-needed legislation and ensure that tax dollars are not wasted on a series of lawsuits which will inevitably result from passage of the bill the way it is now written.

As lawmakers, we have the responsibility of enacting sound public policy. Would it be sound policy to pass legislation prohibiting certain religious sects from entering the public school system, either as employees or as students? No. Yet unless the Edwards amendment is enacted we run the risk of subsidizing, with Federal dollars, exactly such practices in our private schools. We must refrain from passing legislation that has either that language or that effect. The Edwards amendment would preserve a hard-won heritage by prohibiting discrimination on the basis of religion both in employment and admissions practices. Without it we will be sanctioning descrimination in hiring and admittance and supporting such discriminatory practices with Federal dollars.

Second, we must ensure maximum freedom of choice to Americans—a task which encompasses the child care issue. Currently, parents receiving child care subsidies can choose among a variety of child care arrangements. Many providers housed in religious institutions currently offer nonreligious care to both their own members and to the entire community, thereby serving a diverse population. Without the Edwards amendment, these providers would be encouraged with Federal funds to accept children of a certain faith only. Thus parents would be faced with an unacceptable choice: Either take his or her child out of this arrangement to look for another program,

which, if it exists, may be out of reach, or reluctantly send his or her child to a program which, if it even decides to accept this child, indoctrinates children in beliefs the parent does not uphold.

We must spare parents from having to make such a decision. The best way to do so is to make Government-funded child care nonsectarian. Parents have a right to be free of possibly unwanted constraints and judgments on their values. That right should extend to every American child.

Finally, working parents and children need child care now. They simply cannot wait any longer. But the Supreme Court has declared that religious discrimination by a sectarian institution may be sufficient reason to strike an otherwise constitutional program. If this legislation does not prohibit religious discrimination, we run the very real risk of tying up child care progress in long and costly litigation procedures while the state of child care gets no better. Again, on this issue, the Edwards amendment preserves the status quo.

Educational programs traditionally have had to comply with explicit nondiscrimination statutes. These programs include the Elementary and Secondary Education Act, the Higher Education Act, the Jobs Training Partnership Act, the Adult Education Act, the Health Professions Educational Act, and Head Start, a program that has been in place for 25 years and is the model Early Childhood Education Program. We know from experience that this system works. There is not only no reason to change the system, the Constitution mandates that we do not.

Let us not lose sight of the purpose of this legislation so many have worked so hard to bring to the floor. It is to address the pressing need for an adequate child care system—one that includes the components of quality, availability, and affordability. Government support of religious education will ultimately limit, not expand, parental choice. The Government has an obligation to help parents by supporting child care programs that meet their needs. But it does not have the right to inhibit their religious beliefs.

The Edwards amendment would allow funds to go to sectarian institutions that provide nonsectarian care, providing they do not discriminate on the basis of religion. The Edwards amendment is sound public policy and I urge my colleagues to join me in support of it.

Mr. HENRY. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. PERKINS].

Mr. PERKINS. Mr. Chairman, I have no question that the gentleman from California [Mr. EDWARDS] is well-intentioned. I know indeed that in my district in eastern Kentucky there are very few options for those who want to be involved in child care. The option that is most prevalent is that that is a religious base. Those are the only real options that we have across rural America today, and what concerns me greatly is that what we are talking about doing with this particular amendment is going into those areas, reaching within those organizations, whatever they are, and telling them how they are going to be running their particular operations. K through 12, we have a public organization.

Mr. Chairman, I do not support vouchers, and I will not support vouchers in the future. College and before, we do not have that established organization. I would ask people to consider very strongly whether it is right to ask that we deprive people an opportunity to learn a particular piece of information because that is something that is concerned with beliefs within an individual area. That is, it seems to be the question that we are dealing with today.

Mr. Chairman, I know this is a difficult question. Anytime we talk about church and state it is a difficult question. But what we are talking about is deprivation here, and that is something that concerns me greatly.

Mr. EDWARDS of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, the time has come to move child care legislation along. I rise in support of the Edwards amendment, which I believe would protect child care programs in churches and synagogues. Under the Edwards amendment, churches and synagogues could provide child care services and receive Federal assistance as long as they refrain from religious teaching in the program. Child care providers would be hired on the basis of their qualifications. To do otherwise will throw the legislation into the courts and delay implementation.

Certainly, we recognize the importance of the child care services provided by our religious institutions. National statistics tell us that one-third of the child care centers in the United States are based in churches and synagogues. However, federally subsidized programs must meet constitutional requirements and comply with nondiscrimination statutes. Programs such as Head Start already are subject to such standards. And many States, such as my State of Maryland, do not give funding to child care centers that engage in religious teaching.

I believe that the use of Federal funds for sectarian child care would lead to a long-drawn out court procedure. I want rapid implementation of child care assistance to low-income working parents. According to the children's defense fund, almost two-thirds of all mothers in the workforce are single, widowed, divorced, separated or have husbands who earn less than $15,000 per year. The need for quality child care is apparent.

The Edwards amendment is supported by the National Council of Churches. The American Baptist Churches, the American Jewish Committee, the United Church of Christ, Evangelical Lutheran Church in America, United Methodist Church, among many other groups deeply concerned about quality child care.

Mr. Chairman, I urge adoption of the Edwards amendment, which would protect the child care services offered by churches and synagogues. Let us move child care legislation to conference.

Mr. HENRY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I rise in opposition to the amendment of the gentleman from California [Mr. EDWARDS].

Mr. Chairman, I rise in strong opposition to the Edwards amendment that would eliminate Federal funding or sectarian church based child care programs.

I believe it is essential that the child care legislation enacted today should not be biased against religious providers. Indeed, it is imperative that church based day care centers are recognized for the loving and thoughtful care they provide to so many of our children. The inclusion of this language is particularly important to my own congressional district in Tennessee where many church based centers are in operation and doing an outstanding job—in providing essential child care services.

The voucher provisions contained in the Stenholm proposal, for low-income families to send their children to day care facilities in religious institutions, acknowledge that at least one-third of all child care in this country is provided by religious facilities. This language will firmly guarantee family choice and ensure the rights of many Americans who choose religious based care as their best option for child care services.

I believe that any legislation adopted by the House must be inclusive of this very important segment of our child care providers and that adoption of the Edwards amendment would only serve to unduly penalize those parents who entrust their children to church based care.

I urge my colleagues to join with me in voting against the Edwards amendment and to maintain the Stenholm language on church based care which gives all parents the choice to send their children to whatever programs they feel are most appropriate—including those providing religious activities.

Mr. HENRY. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I rise in support of the amendment offered by Mr. EDWARDS. Passage of this language would significantly improve the child care legislative package. I commend the gentleman for offering the amendment.

This amendment would strike the church-state language of the child care bill as currently drafted, child care centers would be allowed to discriminate on the basis of religion with Federal dollars. This is an assault on Principle of Freedom of Religion. Separation of church and state is a bedrock concept of our Constitution. In addition, Federal money should not be used to promote discrimination of any kind. Allowing religiously sponsored

child care centers to discriminate in hiring and admissions with Federal funds, opens the door to allow discrimination in other areas. If the current church-state language were to become law, it would set a precedent for other issues of church and state.

Make no mistake, I want religious organizations to play a significant part in meeting the child care needs of working parents, even with Federal assistance. But as long as these centers are receiving Federal money, they must provide care which is appropriate for all families in their service areas. The Edwards amendment would create a child care proposal that would serve the public good—not specific religious purposes. Specifically, sectarian programs should gather their support from those who share the specific beliefs of the program. If religious centers want to discriminate, they should do so with their own money, not money that has been collected from all taxpayers.

I am in favor of this amendment also because I believe that the church-state issue in the child care debate should not be settled in the courts. We need clear language to settle the issue here and now. As Members of Congress, we must protect against undue entanglement of church and state in the child care arena. The Edwards amendment will do this.

I urge my colleagues to support this amendment, and I again commend it's sponsor.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I thank my colleague, the gentleman from California [Mr. EDWARDS] for yielding.

Mr. Chairman, I strongly support the amendment of the gentleman from California [Mr. EDWARDS] because it reaffirms a principle upon which our great Nation was founded, the principle of separation of church and state. I also support the amendment of the gentleman from California [Mr. EDWARDS] because it affirms another great principle, the principle of nondiscrimination.

Mr. Chairman, I stood 25 years ago at the Pettus Bridge in Selma, AL, bloody, my head beaten in, and I almost died, not to come here in the well of the House to vote for religious institutions to discriminate against child care hiring and admissions. It is wrong for our Government to subsidize discrimination. We are not about the business of discrimination. But we are about the business of dealing in interracial democracy in America, and that is what this bill is all about, not separation, but togetherness.

So, Mr. Chairman, I say, "support the Edwards amendment."

The CHAIRMAN. The gentleman from Michigan [Mr. HENRY] has 2 minutes and 15 seconds remaining, and the gentleman from California [Mr. EDWARDS] has 3 minutes remaining. The gentleman from California has the right to close debate.

Mr. HENRY. Mr. Chairman, I yield myself the balance of our time.

The CHAIRMAN. The gentleman from Michigan is recognized for 2 minutes and 15 seconds.

Mr. HENRY. Mr. Chairman, I thank the gentleman from California [Mr. EDWARDS] for the character and quality of our debate.

In closing, let me just illustrate again one or two key points. The issue here is whether or not we are going to impose new and additional restrictions on the relationship between the Federal Government and religiously affiliated institutions, not whether or not we are going to honor existing restrictions.

Second, Mr. Chairman, the issue is whether or not the additional restrictions will eliminate the ability to have certificated child care provided by religious institutions, and clearly the vast majority of religious-based child care, even through a voucher or certificate, would be stricken practically as a consequence of this amendment.

I want to make very, very clear that this goes beyond the basic Bowen Kendrick or Lemon versus Kurtzman standards in terms of what the existing court standards are for undue entanglement or interference in related church-state issues. We are going beyond the constitutional test, and, therefore, the amendment has the practical effect of discriminating against religious institutions, and in that sense it is every bit as unconstitutional as should I come down here and try to violate the terms of the Constitution in the other direction by suggesting or urging my colleagues to adopt something that did not honor the court's standards.

□ 1610

Second, on the hiring standards and the religious tenets exemption, the denial of the religious tenets exemption is new language. It is a rewriting for all practical intents of the title 7 provisions which we have honored consistently.

To my very good friend, the gentleman from Georgia, this has nothing to do with admissions practices whatsoever. It does not establish any criteria on admissions. Both the committee bill and the Stenholm substitute are clear on admissions in terms of demanding a nondiscriminatory admissions policy.

What is at issue is whether a religious institution can make religious tenets a criteria of hiring for their purposes. That has been recognized under the same Civil Rights Act which we both hold dear, and this amends that language as it affects religious institutions in this instance.

So I would plead with the Members to deny this amendment and see the similarity. If we are striking this, we might as well strike the Pell Grant Program. We might as well take churches out of the McKinney Act as well. It is exactly the same principle.

Mr. EDWARDS of California. Mr. Chairman, one would think from the other side that most of the churches in America are against my amendment. On the contrary, most of the mainline churches in America strongly support this amendment, the Methodists, the Presbyterians, the Lutherans, the American Baptists, the Unitarians, the Jewish churches, the United Churches of Christ—the list is almost endless.

Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, without this language, we will be violating the long historic and unbroken national commitment to maintain a clear separation between church and state. Without this language, this legislation is so informed as to be in violation of the establishment clause of the Constitution of the United States. The establishment clause has without exception been found by the Supreme Court to ban Federal funds from being provided to pervasively sectarian institutions churches for the purpose of early childhood education.

The child care bill before us provides not simply for the warehousing of America's children, but also for their early education. We all know that child care includes, of course, an education component for children. America's churches throughout the long glorious history of this country have taught many of our children, and for the most part they have done a good job and without exception we have never mandated that the American people pay for the education task those churches have accomplished

My colleagues, let us protect the churches from entanglement with the Federal Government. This amendment will allow child care to go forward in the basement of America's churches, but it will keep the Federal Government out of those basements.

A year ago the White House asked the Department of Justice for its view of the Senate language, and as you know, without the Edwards amendment our bill basically falls back to the Senate language. The Justice Department wrote a 12-page letter to the Oval Office and the Justice Department concluded with this:

> We seriously question the appropriateness of exposing our churches and their religiously affiliated child care centers to the kind of oppressive government oversight that would likely be required by this bill.

You heard not long ago from the National Council of Churches in a letter. Let me quote from that letter to you from the National Council of Churches:

> We respect the right of churches, synagogues, and other religious organizations to

offer specifically sectarian programs of child care, but such care should be supported by those who share their specific beliefs and experiences, but not by government funds.

Accept this amendment and protect America's churches

Mr. SKAGGS. Mr. Chairman, I would like to take this opportunity to express my strong support for H.R. 3, the Early Childhood Education and Development Act. It is vital that we pass child-care legislation now—vital for parents, vital for businesses, and most important, vital for our children.

The first few years in a child's life are the foundation for future learning and achievement. Right now, thousands of children are starting off life with marks against them and against their chances of success. These children are being denied an environment early on that guarantees basic health and nutritional needs. They start school ill-prepared to learn, and many will fall further and further behind. Without an adequate education, these children cannot develop the skills necessary to enter the work force, earn a living, and contribute to society.

It is certainly not news to anyone that changes in the American work force are putting new demands on families with children. We're seeing a growing number of women in the work force, an increase in families with two working parents, and an increase in the number of single-parent families. Studies show that 60 percent of school-age children have mothers who work outside the home.

For most of these families, child care is essential. For low- and middle-income families, the burden of increasing child-care costs can be overwhelming.

Parents shouldn't have to trade quality for affordability in obtaining care for their kids. Nor should they have to sacrifice a safe environment for affordability. And they shouldn't have to choose between leaving their children home alone or going on welfare.

It's our responsibility to change that. I believe this legislation takes us a long way toward meeting that responsibility.

Under this bill, many more families with real needs will be able to arrange adequate, affordable care for their children. The bill responds to concerns about quality without imposing Federal requirements—letting families and caregivers decide how to care for their children. Parents will be able to go to work knowing that their children are safe and secure.

Further, this bill recognizes the important fact that child care is only part of the picture. The bill would expand Head Start, making this proven program available to more children. It would also link quality child care and quality education by expanding before and after school programs.

There is one issue, however, on which I disagree with the committee version of the bill, and I hope to see it resolved through an amendment to the bill. Everyone recognizes that churches, synagogues, and other religiously affiliated institutions are important providers of child care. We've got to make sure that any legislation we pass allows Federal funds to go to nonsectarian, church-based programs. But we also have to remember that even the most comprehensive child-care bill won't do anyone any good if it's struck down by the courts as unconstitutional.

That is why I intend to vote in favor of an amendment offered by my colleague, Mr. EDWARDS. This amendment, which would prohibit Federal funds from being used for sectarian activities, would protect the constitutional principle of separation of church and state. It would still allow Federal assistance for child care provided by churches and other religious organizations, so long as the child-care services do not include religious instruction.

Mr. Chairman, I'm enormously pleased to see this legislation before the House today. Two and a half years ago, I joined many of my colleagues in introducing the Act for Better Child Care, or ABC bill, because of my commitment to improving the affordability, quality, and availability of child care. I hope that what we do today will lead quickly to the enactment of a comprehensive child-care package that has the support of parents and of providers.

I urge every one of my colleagues to remember that behind every statistic, every number, and every penny that we are talking about here is a child—a child who is depending on all of us to make sure he or she is prepared to meet the challenges of the future. And that child cannot wait any longer.

Mr. MINETA. Mr. Chairman, today we have the opportunity to nurture this Nation's greatest resource—our children. The House of Representatives has the responsibility to forge the framework for adequate and available child care options.

Children too often are left with a latchkey for after school guidance. We must each look into our hearts, look past political debate, and look to a future where our children thrive in a safe and healthy environment.

H.R. 3, The Early Childhood Education and Development Act, works to meet the Nation's child care needs. It emphasized educational and developmental activities, not merely custodial care, for young children of various ages.

This legislation makes sense. It builds upon existing systems which have proven their worth over more than two decades. To truly benefit our children, we must not simply warehouse them in front of televisions and video games. Through the existing elementary and secondary school structure, we can provide a school-based program for 4-year-old children and before school and after school care for the school age children. The extremely successful Head Start Program will provide full day service for children 3 years of age and older.

Mr. Chairman, this bill reaches out to all kinds of families. States will have voucher systems which greatly increase a parent's option in selecting the care they want for their children, including church-based care.

This child care package sets reasonable, minimum standards for care providers who receive Federal money. Why on Earth should the people who mean the most to us be left unprotected?

Mr. Chairman, it is essential that we adopt the amendment offered by the gentleman from California [Mr. EDWARDS]. His amendment is thoughtful and fair.

This amendment recognizes the importance of the role of religious organizations in providing quality care to children.

Equally important, it retains the separation of church and state by providing Federal funds for religious child care providers for nonsectarian care programs only. This is a fundamental principle in the basis of our Constitution: A document that guarantees us the freedom to practice the religion of our choice.

As the representatives of the people, the Congress cannot allow any institution receiving Federal funds to engage in discrimination. We must not turn our heads at this blatant disregard for constitutional law. And most important, we must not teach our children that they should not respect the beliefs of others.

Mr. Chairman, when the future of our children is at stake, the future of our country is at stake. I urge my colleagues to support the Edwards amendment and the Early Childhood Education and Development Act.

Mr. COLEMAN of Texas. Mr. Chairman, I rise today in support of H.R. 3, the Early Childhood Education and Development Act, and in support of the Edwards amendment, which assures adherence to the first amendment and the principles of separation of church and state.

Current family situations indicate there is a chronic shortage of child care services facing parents. It is unfortunate that over 2 million children between the ages of 5 and 13 spend time without supervision. Although less than 1 percent of employees receive child care benefits, 67 percent of working women with preschool children and 73 percent with school children work full time.

There are several significant provisions in this bill, including a significant investment in child care, funding to areas of special need, such as latchkey children, assistance to States to improve safety, quality and supply of child care, and the ability for States to develop health and safety protections. The bill also proposes to reauthorize the existing Head Start Program as well as expand it to provide day long services. The Head Start Program is widely recognized as one of the most successful Government programs, serving as a public investment in providing an opportunity for disadvantaged children to become productive citizens. This program provides education, nutrition and health services for about 448,000 low-income 3- and 4-year-olds. This body has overwhelmingly supported increases in the funding authorized for this program, and I am pleased to see its inclusion in this bill.

"Freedom of choice" is one of the most important issues in this debate. But I would argue that it is the committee bill before us that provides the widest possible freedom of choice available under the Constitution. While the Stenholm-Shaw substitute purports to provide freedom of choice, I am concerned that it fails to address the chronic shortage of child care services that faces American parents today. "Freedom of choice", while a pleasant sounding term, does no good if there is no affordable and quality child care available in the first place. While everyone concerned in this debate supports the "freedom" part, we must not lose sight of the "choice" part, either. We must have the choice—the wide range of child

care options, from formal programs to staying at home with a child—to be able to exercise the freedom. Stenholm-Shaw, important though it may be in many regards, does not go far enough to provide that range of choices. Both the bill and the substitute promote freedom, but only the committee bill goes the extra mile to ensure choice.

Further, I reject the premise of those who have made the argument to me that I should oppose this bill because most women are joining the work force for selfish reasons at the expense of neglecting their children. It is a fact that women are working for economic survival. Two-thirds of women working outside the home are either the sole providers for their families or have husbands earning less than $15,000 per year. The tax credit of $400 per year would not provide the additional income these families need.

I am especially pleased to be able to support the Edwards amendment because it brings the bill into compliance with the Constitution. As brought to the House floor, the bill includes provisions similar to companion legislation in the Senate which authorize Federal funds in the form of vouchers being paid to religious institutions for religious instruction. In addition, funds are authorized for day care centers operated by religious institutions that discriminate in the hiring of employees and in the admission of children to the program. As a Member of Congress, I do feel it is my duty to defend the U.S. Constitution. The Edwards amendment proposes to eliminate these provisions from the bill. Instead, it would be plainly stated that religious organizations can receive Federal funds to provide child care services conducted on church property only if the program itself is non-sectarian. I have no doubt but that the use of vouchers for religious child care and discrimination based on religion would be ruled unconstitutional, and should such a finding occur, church-based child care providers would be prohibited from receiving any Federal funds at all.

Adoption of the amendment would permit religious organizations to continue providing quality child care in compliance with the Constitution, and most importantly, would carry forth principles established in public education and other Federal programs that Federal funds cannot be used to promote religious instruction or to discriminate on the basis of religious belief.

I urge my colleagues to carry out their oaths of office and defend constitutional principles and adopt the Edwards amendment and of H.R. 3 as adopted.

The CHAIRMAN. All time has expired.

The question is on the amendments en bloc offered by the gentleman from California [Mr. EDWARDS] to the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. STENHOLM] and to the amendment in the nature of a substitute, as modified, made in order as original text.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 125, noes 297, not voting 11, as follows:

[Roll No. 56]

AYES—125

Ackerman	Gray	Pelosi
Akaka	Hawkins	Pickett
Anderson	Hayes (IL)	Pickle
AuCoin	Hertel	Poshard
Bates	Hoagland	Rangel
Beilenson	Hochbrueckner	Roybal
Berman	Horton	Russo
Boehlert	Hoyer	Sabo
Bonior	Johnston	Savage
Boxer	Jontz	Sawyer
Brennan	Kaptur	Scheuer
Bruce	Kastenmeier	Schiff
Campbell (CO)	Kennedy	Schneider
Cardin	Kleczka	Schroeder
Carr	Kostmayer	Schumer
Clay	Lantos	Serrano
Clement	Leach (IA)	Shays
Coleman (TX)	Lehman (CA)	Skaggs
Collins	Lehman (FL)	Slaughter (NY)
Conyers	Levin (MI)	Smith (FL)
Costello	Levine (CA)	Smith (IA)
Coyne	Lewis (GA)	Stark
Crockett	Lowey (NY)	Stokes
Davis	Machtley	Studds
DeFazio	Martinez	Swift
Dellums	Matsui	Synar
Dicks	Mavroules	Torres
Dixon	McDermott	Towns
Downey	McNulty	Udall
Dymally	Mfume	Unsoeld
Edwards (CA)	Miller (CA)	Vento
Engel	Mineta	Washington
Evans	Moody	Waxman
Fascell	Morella	Weiss
Fazio	Morrison (CT)	Wheat
Feighan	Mrazek	Williams
Fish	Neal (MA)	Wilson
Flake	Nelson	Wolpe
Ford (MI)	Olin	Wyden
Ford (TN)	Owens (NY)	Yates
Gejdenson	Payne (NJ)	Young (AK)
Gonzalez	Pease	

NOES—297

Alexander	Carper	Fawell
Andrews	Chandler	Fields
Annunzio	Chapman	Foglietta
Anthony	Clarke	Frank
Applegate	Clinger	Frost
Archer	Coble	Gallegly
Armey	Coleman (MO)	Gaydos
Aspin	Combest	Gekas
Atkins	Condit	Gephardt
Baker	Conte	Geren
Ballenger	Cooper	Gibbons
Barnard	Coughlin	Gillmor
Bartlett	Courter	Gilman
Barton	Cox	Gingrich
Bateman	Craig	Glickman
Bennett	Crane	Goodling
Bentley	Dannemeyer	Gordon
Bereuter	Darden	Goss
Bevill	de la Garza	Gradison
Bilbray	DeLay	Grandy
Bilirakis	Derrick	Grant
Bliley	DeWine	Green
Boggs	Dickinson	Guarini
Borski	Dingell	Gunderson
Bosco	Donnelly	Hall (OH)
Boucher	Dorgan (ND)	Hall (TX)
Brooks	Dornan (CA)	Hamilton
Broomfield	Douglas	Hammerschmidt
Browder	Dreier	Hancock
Brown (CA)	Duncan	Hansen
Brown (CO)	Durbin	Harris
Bryant	Dyson	Hastert
Buechner	Early	Hatcher
Bunning	Eckart	Hayes (LA)
Burton	Edwards (OK)	Hefley
Bustamante	Emerson	Hefner
Byron	English	Henry
Callahan	Erdreich	Herger
Campbell (CA)	Espy	Hiler
Holloway	Molinari	Sensenbrenner
Hopkins	Mollohan	Sharp
Houghton	Montgomery	Shaw
Hubbard	Moorhead	Shumway
Huckaby	Morrison (WA)	Shuster
Hughes	Murphy	Sikorski
Hunter	Murtha	Sisisky
Hutto	Myers	Skeen
Hyde	Nagle	Skelton
Inhofe	Natcher	Slattery
Ireland	Neal (NC)	Slaughter (VA)
Jacobs	Nielson	Smith (NE)
James	Nowak	Smith (NJ)
Jenkins	Oakar	Smith (TX)
Johnson (CT)	Oberstar	Smith (VT)
Johnson (SD)	Obey	Smith, Robert (NH)
Jones (GA)	Ortiz	Smith, Robert (OR)
Kanjorski	Owens (UT)	Snowe
Kasich	Oxley	Solarz
Kennelly	Packard	Solomon
Kildee	Pallone	Spence
Kolbe	Panetta	Spratt
Kolter	Parker	Staggers
Kyl	Parris	Stallings
LaFalce	Pashayan	Stangeland
Lagomarsino	Patterson	Stearns
Lancaster	Paxon	Stenholm
Lent	Payne (VA)	Sundquist
Lewis (CA)	Penny	Tallon
Lewis (FL)	Perkins	Tanner
Lightfoot	Petri	Tauke
Lipinski	Porter	Tauzin
Livingston	Price	Taylor
Lloyd	Pursell	Thomas (CA)
Long	Quillen	Thomas (GA)
Lowery (CA)	Rahall	Thomas (WY)
Luken, Thomas	Ravenel	Torricelli
Lukens, Donald	Ray	Traficant
Madigan	Regula	Traxler
Manton	Rhodes	Upton
Markey	Richardson	Valentine
Marlenee	Ridge	Vander Jagt
Martin (IL)	Rinaldo	Visclosky
Martin (NY)	Ritter	Volkmer
Mazzoli	Roberts	Vucanovich
McCandless	Robinson	Walgren
McCloskey	Roe	Walker
McCollum	Rogers	Walsh
McCrery	Rohrabacher	Watkins
McCurdy	Ros-Lehtinen	Weber
McDade	Rose	Weldon
McEwen	Rostenkowski	Whittaker
McGrath	Roth	Whitten
McHugh	Rowland (CT)	Wise
McMillan (NC)	Rowland (GA)	Wolf
McMillen (MD)	Saiki	Wylie
Meyers	Sangmeister	Yatron
Michel	Saxton	Young (FL)
Miller (OH)	Schaefer	
Miller (WA)	Schuette	
Moakley	Schulze	

NOT VOTING—11

Dwyer	Jones (NC)	Sarpalius
Flippo	Laughlin	Smith, Denny (OR)
Frenzel	Leath (TX)	
Gallo	Roukema	Stump

□ 1635

Messrs. RICHARDSON, RIDGE, and GILMAN changed their vote from "aye" to "no."

Mr. WILSON and Mr. GONZALEZ changed their vote from "no" to "aye."

So the amendments en bloc to the amendment in the nature of a substitute offered by Mr. STENHOLM and the amendment in the nature of a substitute, as modified, to the original text were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The gentleman from Texas [Mr. STENHOLM] is recognized for 15 minutes.

Mr. STENHOLM. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, unfortunately too many people on all sides of this issue have gotten bogged down in arguing for a particular method or lifestyle which they claim is the preferable way to raise children. The fact is that social engineering from the Federal level, whether you want to engineer it from the right or from the left, from the liberal direction or the conservative direction, is a bad idea. The point the gentleman from Florida [Mr. SHAW] and I have tried to make with the amendment we now have before you is to retain individual freedom, the opportunity to exercise that sacred Judeo-Christian concept of free will, to the greatest extent socially possible.

Liberal economist Robert Samuelson made the point eloquently in a Newsweek column when the Federal child care debate was still young. Samuelson wrote,

> The point is not that parental care is superior to child care or vice versa. It is that we don't know, or that it may be different for different families . . . Why children turn out as they do is one of life's mysteries. It involves personality, talent, parents, culture, income, life experiences, schools, luck (good and bad) and so much more. Government can't prescribe competent child-rearing.

□ 1640

There is a big difference between H.R. 3 and the Stenholm-Shaw amendment, and over these next few minutes we are going to hear those differences outlined. There are big differences in some areas and very small ones in others, I might say in all honesty.

There are differences in the religion language. While both versions require States to make certificates, vouchers available to parents, only Stenholm-Shaw guarantees they can use those certificates with the provider of their choice, including providers that may have religious activities.

There is a continued bias in H.R. 3 in title II that allows schools to contract out for services for latchkey children and 3- and 4-year-olds. But in H.R. 3, the opportunity to contract is limited to not for profits only, and for profit providers may not compete for those title II contracts under H.R. 3. Is that what we want to do?

Even though churches may compete for these contracts in title II of H.R. 3, vouchers do not extend to this title. This means that any church-provided care must be absolutely stripped of any religious vestiges—including prayer before lunch and symbols on the wall.

Currently 55 percent of all center-based care is provided by for profit, usually small, proprietorships; 30 percent is provided by religious organizations. Yet, one-fourth of the grant money—one-third of the authorizations—in H.R. 3, title II, is restricted to use in a new program that ignores and competes with the type of care preferred by 85 percent of the current day care users.

We have heard a lot about the money, and I will just touch on that. Our bill costs $20 billion over 5 years, and it is going to be tough finding $20 billion. We have the excise telephone tax, we have the elimination of the DCTC tax credits for those earning over $90,000, and I would propose in the spirit of the truth in legislating bill that we have sponsored, and in spirit of the pay as you go process that so many of my colleagues on both sides are saying we should have, that the cost of our bill can be paid for, and I would submit should be paid for by repealing the Davis-Bacon Act, an antiquated labor law that has no business continuing to siphon money in that area that could go for child care and could pay for either of the two bills today.

Let me quickly say in summation there is another big difference between the two bills, and this is in the Washington-knows-best area. We have talked about who has mandated regulations and standards; we've heard they do and we do not. We do have them. Just read our bill. We are not suggesting that we send a blank check to anyone. We are just suggesting that the local governments and the State governments are the best determiners of what those standards ought to be. Common sense would tell us that we need standards in the care of children. That is not a real item debate. It is how we do it, and whether we specify it, a, b, c.

Finally, we find in H.R. 3 the needless duplication and bureaucracy and questionable priority differences, again in title II. A ground breaking, potentially huge new program is masked in H.R. 3 behind a common-sense-sounding idea, and I have to agree with that idea. But title II is not just a latchkey program and not just day care, my colleagues. Much of it is an early childhood education and development program which will move thousands of 3- and 4-year-olds into public school facilities, and it should be given scrutiny in a separate education bill.

Title II would compete with and provide many of the same services that Head Start does, although more non-poor children would be admitted. We should more completely serve low-income families through existing programs before starting a new one.

Let me just say in summary there are very few differences between the two versions of Head Start. We make it possible for the Head Start Program to be utilized for full day care at the State and local option. We agree on the EITC, and that is landmark legislation. For the first time since I have been in Congress, and that is 11 years, we are going to begin rewarding individuals who work instead of continuing to reward individuals who choose to be on welfare. That is an admirable goal, and with those who suggest that this EITC expansion is not child care, again I have a fundamental disagreement. I happen to believe if we can put more money into the hands of those parents who wish to work and provide for their families, the children will do better, and that is in both of our bills.

We have one other difference, over taking a fundamental, first little step in improving tax policy with the wee tots tax credit. We believe those who choose to stay home with their children should not be penalized, and we have that philosophy in our bill, and Members will hear more about that later also.

The CHAIRMAN. The gentleman from Texas [Mr. STENHOLM] has consumed 6 minutes.

The gentleman from California [Mr. HAWKINS] is recognized for 15 minutes.

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to the Stenholm-Shaw substitute. For millions of families across the country in desperate need of child care services, this substitute provides less choice, less money, and less quality of care than the leadership package.

The substitute provides less choice because it does not specifically earmark funds for early childhood education programs and before and after school care. Numerous studies provide convincing evidence on the effectiveness of high quality early childhood education for at-risk 3-, 4- and 5-year-olds. A 1985 report by the Committee for Economic Development on preschool education called the program an extraordinary economic buy.

The Stenholm-Shaw substitute does not adequately address the before and after school care needs of this Nation's 10 million latchkey children. Rather, the substitute authorizes before and after school care as an optional use of funds. Research demonstrates that unsupervised children are more prone to experimenting with drugs and falling prey to gangs, alcohol abuse, and teenage pregnancy. The lack of adequate supervision is also manifested by a child's poor performance in school and other health and developmental problems.

The substitute provides $700 million less in assistance for parents to pay for child care services and to help States and localities improve the quality of care. In fact, under Stenholm, States need not spend $1 on direct services or increase the supply of child care by even one slot.

The substitute provides less quality because it fails to offer any assistance for States to improve quality child care without mandating any State standards and offers nothing more than custodial care. Poor quality child care programs threaten a child's development as well as the child's safety and health.

The leadership package does much more to enhance affordable, available, quality child care. I urge my colleagues to vote against the Stenholm-Shaw substitute, as they did last October when the Stenholm-Shaw substitute was then before the House. There is no reason why we should today reverse our position today.

The CHAIRMAN. The gentleman from California [Mr. HAWKINS] has consumed 3 minutes.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to lead off by complimenting and thanking my colleague, the gentleman from Texas [Mr. STENHOLM] and his staff as well as my own staff and our colleagues on both sides of the aisle who have come together and formulated a bill that I think really brings together the thoughts of the American people. I would also like to compliment the gentleman from New York, Mr. DOWNEY, and the gentleman from California, Mr. GEORGE MILLER. We worked tirelessly last week, and in fact we have worked tirelessly over the last month or two in trying to craft a compromise bill. Last Thursday we worked closely with the White House, and I want to thank Governor Sununu who worked closely with us, and we came that close to crafting a compromise bill that I believe would have given this House a great deal of satisfaction, and I believe would have been one of the high water marks here in the House of Representatives from a legislative history standpoint. Unfortunately, that compromise came unraveled over the weekend, and early in this week, and I believe it was not until Tuesday evening that a bill from the majority side finally emerged.

One of the problems with that bill is it has been sitting in the dark collecting dust. It has been written, rewritten, and it has not gotten out for the Members to see it, and for the people across the United States to see it. It is as a result of being hidden away that it is badly flawed. Many of those flaws are being seen for the first time here on the House floor today.

□ 1650

To begin with we talk about the question of regulation. There has been a great debate on it this morning. I quite frankly think my colleagues on the Democratic side who are supporting the Democratic bill, the committee bill, were surprised to find that in doing so they were regulating religious day care providers who were receiving vouchered funds, that became part of the debate this morning.

I think as a result of that we asked the Congressional Research Service of the Library of Congress, we said, "Listen, you give us an opinion. Where does it stand?" I would like to read you pertinent part of this provision. They are referring to page 43 of the majority bill, section 2012(c).

It says;

> This language would not appear to require the States that now exempt religious care providers from licensing to repeal the exemption. It would appear to require that all child care providers that receive public funds under this bill or otherwise must meet the minimum child care standards the States are required to set under section 2012(c).

Public funds; my friends, we are not only talking about Federal funds, we are talking about State funds, we are talking about county funds, we are talking about city funds. We are sticking our nose so far into the affairs of States that it is unbelievable.

It already has been set out what these regulations are. I can tell you they are being drafted up here in Washington. This is not a question of saying the States have to draft their own regulations. We then go tell them what the regulations have to say.

Now that is a blatant disregard for States' rights.

My colleagues, I would earnestly urge you read the bill. For those of you who have concern, this leter from the Library of Congress, do not take it from me, read it. It is their words. They are available here at the minority desk. They will be available during the entire debate and during the vote.

I urge you to come by and take a look at them. These are not my words, these are the words of the majority bill. It is badly flawed. It is a bad way to legislate to hide your bill until it goes to the Rules Committee.

I would sincerely tell you that the Stenholm-Shaw bill has been out there since March 15 for all to see. I would urge you to support the Stenholm-Shaw substitute.

Mr. Chairman, I reserve the balance of my time.

Mr. DOWNEY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 3—the leadership child care package—and in opposition to the Stenholm substitute.

What we are addressing today is not only a family issue. It is an economic issue. The fact is that by 2000, women will make up half of the country's labor market. In the future, two-thirds of all new jobs will go to women.

At a time when our country has to adapt to the new challenges in the world marketplace, and keep our economic strength from eroding, we must make every effort to maximize the potential of our work force. The United States cannot remain competitive without adequate child care.

Because most of our economic battles in the next century will be fought in the Sun Belt States, the issue of sufficient child care is particularly important to the South.

It is also an economic issue for our families. Today working women keep many families above the poverty line.

In my home of Houston, the shortage of affordable, quality child care has become so serious that parents have to plan for day care before they plan to have the child. In Texas there are more than 2 million children under the age of 13 who need child care or after school care, but there are only 600,000 spaces in licensed day care facilities.

The availability crisis is particularly acute among children of the working poor. A Harris County program that subsidizes child care only reaches a tiny fraction of the 91,000 children eligible. Statewide, less than 10 percent of the children of working parents who live below the poverty line receive child care assistance.

This debate is about finding the best day care policy for our Nation's children. Clearly, this problem is so pervasive and so complex that no single approach will resolve it. The needs of American families are as diverse as this House. The Stenholm-Shaw substitute is not deficient in what it does, but in what is does not do. The titles and different approaches in the leadership package reflect the diversity of needs which face us.

For instance, the Stenholm-Shaw bill does not adequately address the needs of latch-key children and their working parents. In Texas, 1978 population data stated that "an estimated 30,900 children under age 6 may be left to care for themselves while their parents work." This does not even begin to describe the problem for children over age 6.

In both title II, which involves school-related child care, and in the Head Start title of the leadership package, funds are concentrated on this very problem. The Parents and Teachers Association [PTA], and the National School Boards Association have endorsed the leadership package because they have seen first hand the need for before and after school programs. The American public trusts our schools, why let this resource go to waste as the Stenholm-Shaw bill would have us do?

In addition, the Stenholm-Shaw bill provides no funds to improve or coordinate for child care programs. In Houston, some of the most critical work involves expanding local resource

and referral programs. A nonprofit program called Initiatives for Children is one of Houston's new solutions to the problem of access to quality care. Initiatives for Children acts as a referral center for both the individuals and corporations. For a small fee, employers can offer these referral services as an employee benefit. This program and the funding from title IV are essential because of the scarcity of child care services.

But above all the Stenholm-Shaw substitute ignores the question of standards. The American people are not just demanding child care, they are asking the Federal Government to ensure that where they leave their children during the day is a safe, clean place.

The model standards in the leadership package are a simple means to encourage State to improve the quality of child care. They lay down uniform national ground rules for how Federal funds are spent on child care.

We set standards for the workplace, for airlines and even for animals. Why in the world would we not do so for our most precious resource—our children?

My State of Texas already has standards for day care centers and registered family homes in every category required by the leadership package. Without these standards, Texas children would have no guarantee of a clean, healthy day care center or a nutritious meal. They could face overcrowded centers where they are neglected or unsupervised. And finally, without these standards, they could be left to someone who lacks the faintest idea about child care—or worse, a convicted felon.

Texas also has a training requirement equal to that in the bill. Staff at a Texas day care center are required to take 15 hours of training a year to improve job performance. This training requirement is not a burden on Texas, it is peace of mind for Texas parents.

There is no doubt that we owe this to our children and the American taxpayer.

Clearly, the earned income tax credit and title XX provisions help the neediest get child care, but without the rest of the leadership package we're only addressing a fraction of the issues that need our attention. Finally, excluding the tax credits and business grants, the Stenholm-Shaw bill will cost Texas over $48 million in assistance for day care.

This legislation should not pose a difficult choice. Lyndon B. Johnson in an earlier time said:

What it adds up to is meeting America's needs, facing America's problems, meeting them and facing them now, not deferring them until they have multiplied beyond the power of the next generation to ever cope with them at all.

Today over 23 percent of Texas children live in poverty, a 25-percent increase in the last 8 years. We cannot afford to defer their chance for hope any longer. Decent child care is the first and necessary step toward changing these kids' lives and ending the cycle of poverty.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, time after time, again, when I meet with my elected officials from the State of Tennessee, I have received several complaints, numerous complaints that too often Congress passes sweeping legislation which mandates difficult and very expensive rules and regulations for our State to administer.

Not too long ago my Governor came to Washington to express his concern about the excessive rules and regulations and the costs to our States. I can tell you unequivocally that the people in the Third District of Tennessee have a better idea about the kind of day care they need and how they should have a greater say in how this should be administered. The Stenholm amendment gives us the freedom to target our child care funds where they are needed the most.

My colleague from Texas just spoke about the problems in the State of Texas. Under the Stenholm language you can target this money where you need it, to address your specific concerns in your State, whether you need the money to expand on infant care, school-based day care, you can put your money where you need it with the Stenholm language.

By leaving these important decisions up to the State we can give them the autonomy to implement the programs that really address their specific needs.

Basically, it gives our States the freedom to choose their priorities in their programs without excessive bureaucratic redtape.

You know, we can only spend our money one time and we have the opportunity today to craft a good day care bill. We need this.

My friends, as we spend our money, we can vote for the 212 regulations that come along with H.R. 3, or we can vote for the Stenholm substitute and give our money to the kids.

My colleagues, let us give one to the kids today.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. I thank the gentleman for yielding.

Mr. Chairman, I rise to oppose the Stenholm-Shaw substitute. We have a good bill in H.R. 3. We do address the church-state issue, I think, well in this.

The U.S. Catholic Conference, in a letter written just today, having poured over this legislation—writes to us saying:

We urge you to support H.R. 3 unamended. It is a significant step forward in meeting the diverse child-care needs of our Nation's families.

□ 1700

The churches, I think, really will use this bill in a way to continue to deliver those services they have delivered well in the past.

Another point, the Stenholm substitute does not require the State to address the health and safety issues, and therein lies a serious problem because we see that. I have had hearings for 4 years on this bill, and the thing that recurs time and time again is serious health and safety issues. We had, for example, one instance where 47 children, over half of whom were under the age of 2, were being cared for by one adult caretaker in a basement.

Now, some women had to choose that type of child care. That is no choice at all. If it is a choice, it is a cruel choice. We cannot tolerate that.

We have to give the States, then, some money to monitor their own standards, help them, encourage them, to raise their own standards, and give them some help to monitor their standards. H.R. 3 does not. The Stenholm-Shaw substitute does not do that.

Mr. SHAW. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mr. RIDGE. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Chairman, I thank the gentlewoman for yielding.

There is certainly one group of people whose vested interest in child care and standards is greater and more meaningful than that of this Congress and the Federal Government. That happens to be the mothers and fathers who give birth, nurture, raise, educate, and love those children.

Give them their choice. Let them set the standards. Vote for Stenholm-Shaw.

Mr. Chairman, I rise in strong support of the Stenholm-Shaw amendment. It is most responsive to those who matter the most in this debate—the children and their parents.

Stenholm-Shaw builds on existing institutions and programs, it does not create new ones. It better protects the option of parents to use child care providers related to religious organizations. Stenholm-Shaw empowers people, not Government. It makes parents the ultimate judge of whether or not a particular center meets the standards they require for their children.

My colleagues, currently 15 States, including Pennsylvania, exempt religious day care centers from regulation. H.R. 3 infringes on that relationship and in doing so creates po-

tential constitutional problems that need not exist. The Stenholm-Shaw amendment protects that relationship as well as the option of parents to use vouchers for those facilities without Government interference.

The proponents of H.R. 3 cannot resist the temptation to address another social and economic problem with a new and expensive program. It is troubling that some of my democratic friends believe Government interference in the decision to bear children is unconscionable, but advocate Government intrusion in child care. Freedom of choice to bear, but not for child care.

Proponents of H.R. 3 argue for more money, more bureaucracy, more regulations, but sadly, less choice for States and parents. Federal assistance is critical in breaking the cycle of poverty that plagues millions and in helping low- and moderate-income families. We do not need to establish a Federal day care business to accomplish that goal. Stenholm-Shaw uses existing programs and parental choice. Fewer regulations, more options—a better approach.

H.R. 3 empowers bureaucrats. It empowers Government. Shaw-Stenholm empowers people. It is insulting, arrogant, and wrong for Congress to conclude that regulators or bureaucrats can set better standards than parents. Parents are in the best position to decide on adequacy of a child care facility and its staff. The Federal Government, no matter how big or powerful, is not a parent and should not limit the child care choices of parents.

Finally, the question of standards. H.R. 3 as amended provides 40-plus pages of standards and mandates. Once again, traditional and misplaced emphasis on input and quantity. In the minds of some, more standards equates to better care and safer facilities. I, for one, dont' accept that logic in child-care legislation.

There is one group of people whose vested interest in child care and standards is greater and more meaningful than that of this Congress or the Federal Government. Those are the mothers and fathers who give birth, nurture, educate, and love their children. Give them the choice. Let them set the standards. Vote for Stenholm-Shaw.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the Stenholm-Shaw amendment and want to address the very serious problems for States and child care providers that the regulatory framework in the Moakley bill would create.

As I have only a few brief minutes to focus your attention on provisions that could strangle the positive development of child care services in your State, let me address the three most glaring problems.

First, the Moakley bill would force States to set standards that regulate day care according to provider categories States have used in the past. Yet this system is failing States today and is totally inadequate for the future. It is unwise, from Washington, to impose a regulatory framework on a service sector that must grow and change if the needs of children and families are to be met.

States are already finding that the existing categories of family providers, group homes and centers, and the mechanisms of licensing each small provider and making frequent visits to each facility are unworkable. New provider groups are emerging through which sophisticated providers are assuring quality throughout a network of satellite providers. There is even a demonstration project establishing this kind of innovative arrangement in the Moakley bill.

Just as new developments and new thinking are opening up new possibilities for assuring quality, involving parents and expanding services, we in Washington are going to straightjacket States by imposing a regulatory system modeled on the past and already failing in the present.

Second, as States struggle to find new ways to oversee a rapidly growing industry, we threaten to cut off Federal monies if they change their standards—even if those changes keep new standards well above the national average or Federal model guidelines.

That is simply absurd, and yet it is true. This bill would have cut off all Federal child care aid to Connecticut—one of the Nation's most regulated States—because we changed the ratio of children to caregivers in home care settings. We did it to keep our providers economically viable and still have one of the toughest ratios in the Nation. Nonetheless, this bill would have cut off all Federal child care aid to Connecticut because we would have degraded our standards.

Finally, a word about the bill's recommended standards. Did you know that the legislation directs the National Advisory Committee on Recommended Child Care Standards to make the guidelines available for public comment, and then, specifically, in law, prohibits those recommendations from being changed to reflect those public comments?

What if the Committee's recommendations were developed in an ivory tower, and set a ratio of three children per family day care providers? Even if the comments of every provider in the Nation opposed this ratio—which would make home care an uneconomic alternative to out-of-home work—it could not be changed. Read the language on page 98. It uniquely prohibits government from responding to public comment in the rulemaking process. A truly undemocratic and dangerous precedent.

Mr. Chairman, we in Washington must learn to trust State and local government to care about child care services for their people—our people. The public servants closest to the people should have the ability to crack the tough problems of overseeing service expansion and assuring quality.

The Stenholm-Shaw bill provides States with that ability. No money goes to providers who do not meet State standards. But we do not dictate a new regulatory framework that is a product of past experience, is failing us in the present, and cannot meet the future. Most importantly, we do not penalize States experimenting with new oversight approaches as the child care industry grows and changes. And we do not distort the rule-making process to prevent the opinions of our citizens from influencing the decisions of government.

Those of you who cherish the role of State and local government in our democracy should support the Stenholm-Shaw amendment and provide both the money and flexibility to enable your State to serve the needs of your people, so that your constituents can make the choices that are best for their children.

Mr. DOWNEY. Mr. Chairman, I yield myself such time as I may consume.

We have talked a great deal about what is and what is not in this bill. Let me try and focus our findings on some of the more contentious parts and deal with, I think, what is the fundamental difference.

The titles that deal with the earned income tax credit, are for the most part similar, with the exception of when it would start and being a little richer. So, working poor people will be able to get more money.

There has been a great deal of concern raised by my colleagues on the other side about the fact of whether church-based providers would be eligible for this money, and language was read that suggested there was ambiguity. I and the other author of the bill sense no ambiguity. As far as I am concerned, the language is clear. It says that church-based providers are eligible, if the States decide not to license them, that is a State decision. They are eligible for title III funds.

Now, we will deal with the major differences between the bills. That has to do with title II, the afterschool care program. I suspect that in your districts, there are people who earn more than $25,000, who are concerned about child care, and would like to see this bill do something for them. You wash your hands of those people. There is nothing in your bill for middle class people. You will say to the children who you have all seen, if you have ever driven by a school in the morning that does not have a K program, they are huddled together in the schools waiting for the doors to open, or they are playing on a playground, with keys around their neck. Do you ever see that? I have. I have seen that. Then they leave the school to go home alone. Sometimes to dangerous city apartments. They would prefer to be in school, and their parents would prefer to have them there.

Eighty-nine percent of the children in America go to public schools. There are 10 million of them, 10 million of them who are latch-key children. We are concerned about them. We have a plan for them. We will say to parents: "You can drop your child off in the morning and there will be a teacher, there will be somebody at the school or at some other center to take care of them, and if you have to pick them up later on in the evening, they can stay in the classroom or in the cafeteria or in the gymnasium." They do not have to walk home alone. They do not have to be alone. That is the difference.

We are concerned about the poor, the working poor, and the middle class. This bill, a Democratic bill, addresses itself to the middle class, and that is why it deserves your support. It is for all of America's children, not just the poor and the working poor.

The CHIAIRMAN. The gentleman from New York [Mr. DOWNEY] has consumed 3 minutes.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Chairman, I rise today in support of the Stenholm-Shaw bill, and I oppose H.R. 3.

There are a number of differences. The draft notices and supporters of H.R. 3 have been telling me they have incorporated in a whole lot of the Stenholm-Shaw bill into H.R. 3 and it is a good bill. There are some differences, Mr. Chairman.

H.R. 3 is a good bill, but it is a Cadillac bill at a time when this country owes $3.2 trillion. I guess Stenholm-Shaw would be more like a Chevrolet bill, and we could move up to a Cadillac when the country is more able to afford it.

There are some differences. There is an $8.9 billion difference. Not many people in this body know how big a billion dollars is, but less than 2 billion minutes ago, Julius Caesar was ruling Rome. Now we have a situation where we have an $8.9 billion differences over 5 years. Therefore, I urge my colleagues to support Stenholm-Shaw.

I want to commend my colleagues, Congressman STENHOLM and Congressman SHAW, for offering their amendment, and I urge my colleagues to support the Stenholm-Shaw amendment.

There are two major differences between H.R. 3 and the Stenholm-Shaw amendment which I believe Members should focus on. One is the difference in cost between the two bills. H.R. 3 would cost $28.9 billion over 5 years. The Stenholm-Shaw proposal would cost $20 billion. So Members should note that the substitute amendment is a third less costly than H.R. 3. Thirty percent less dollars are required.

The other major difference concerns the religious day care issue. The provisions contained in H.R. 3 would place restrictions on the hiring and admissions by religious child care providers. These new restrictions limit hiring and admissions more so than current law does.

There are 15 States which currently exempt church-based child care providers from State regulation. The language in H.R. 3 would mandate their coverage under State regulations. The Stenholm-Shaw substitute provides flexibility to the States to set different types of care.

It is important to note the differences between H.R. 3 and then Stenholm-Shaw substitute. I believe a close analysis of these differences will lead Members to vote for the Stenholm-Shaw amendment, and I strongly encourage my colleagues to do so.

I thank the gentleman for yielding me time.

□ 1710

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I extent my accolades to all who have worked to bring us to this point.

The United States has been conspicuous among advanced industrialized countries in failing to develop national policies responsive to the needs of families.

Today we are about to set a new national policy for early childhood education and development, and we shift our spending priorities to invest in the future of our children and to recognize that the best child care has a strong educational component.

All of us want a strong vital America, but we seldom stop to realize that the security of our nation depends upon the health and prosperity of our economy in relation to our families.

In creating new child care policy for America's working family, there are four reasons why we should vote no on this substitute and yes on Hawkins-Downey. The leadership package includes provisions that seek to expand the availability of child care for working parents by, No. 1, expanding the Headstart Program into a full-day, year-round program, and, No. 2, by using schools to provide child care so that working parents could leave their children at one location throughout the entire day, No. 3, the leadership package also expands the earned income tax credit now rather then next year, and, No. 4, it directs States to set their own standards for health and safety.

American working families want their children to have child care with standards for safety and health.

Mr. Chairman, for the children of this Nation and for America's future families, let us vote on this amendment and yes for the Early Childhood Education and Development Act of 1990.

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Chairman, virtually all of the speakers who have come up here to speak in opposition to Stenholm-Shaw have cited title XX of H.R. 3 relating to the school-based program.

First, I want to point out that the Stenholm-Shaw substitute includes as one of the principal uses of funds having a before and after school program, and it allows the States to structure that program. But the second thing I point out to the Members is that the way the bill is structured and the way it has come before us today, we have a poorly structured package that is not going to work for the vast majority of areas of the country.

First of all, we should understand that one-third of the appropriated dollars goes into the school-based program. Second, we should understand that the schools are mandated to provide for before and after school care, not just for the school year but year round. I asked earlier during the debate, how do we provide for before and after school care during the summer periods and during vacation periods when there is no school? To date, there has been no answer.

There also is a requirement in here that any school which provides the before and after school care must offer care to 4-year-olds, and the 4-year-old program must be an Early Childhood Development Program. That is a mandate under this legislation. That is duplicative, of course, of the Headshart Program that we already have, but it also is a requirement that will preclude many school districts, particularly in rural areas, from being able to take advantage of the program.

Lastly, I would point out to the Members that churches may not participate in this program, for profit organizations may not participate in this program, and as the gentleman from Texas pointed out earlier, 85 percent of the child care in the country falls into that category. Yet they will not be able to participate.

The private schools, the parochial schools, will not be able to participate in this Before and After School Program. There are so many that cannot participate, and for those who could participate the requirements are so stiff they will not, especially in rural areas, be able to take advantage of it.

So, Mr. Chairman, I urge the Members to go with the more flexible Stenholm-Shaw approach to before and after school care.

Mr. ANDREWS. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, we are coming down to the closing moments of this argument. There are in fact differences between these two bills. Those differences go

essentially to how we view our children and the importance we place on them.

The Members heard me earlier talk about standards and related issues, and some Members have repeated them again in their support for the Stenholm measure.

Let us remember what we are talking about. We are talking about the care of our children. I am sure that almost each and every one of the Members here has stood before an audience in their districts and elsewhere and said that these children are the future of our Nation, that these children are our most valuable resource, and yet they are then fully prepared to turn around and put these children into a system, spend $20 billion to put children into a system where we do not speak about the quality of that system or we do not make an effort to improve the system because we are convincing ourselves that somehow we are committing ourselves to an ideological point of view which, as Ronald Reagan used to say, would "get the government off our backs."

Just like there are a lot of bad savings and loans out there, there is a real lot of bad child care, and most of us would not put our children in that child care.

This bill makes a minimal effort toward asking the States to protect our children and to provide for quality child care.

One of the things we know and one of the things we have learned over the last decade is that bad child care is bad for children and good child care is good for children, and we are wasting our money on bad child care and we will be wasting the taxpayers' money.

H.R. 3 makes an effort to encourage the States to promulgate standards for the health and safety of our children, all of our children. H.R. 3 makes an effort to provide protection for parents whose children are of school age and to provide for after school care. Vast numbers of parents tell us that they would prefer, when their children are of school age, to in fact be able to leave their children another hour after school or until 5 o'clock or, as in my district, a suburban district where people commute, maybe until 6 o'clock when they get home so they do not have to worry about their children taking transportation to find another child care arrangement. In some cases they do not want their children walking down dangerous streets. So we say, why should we not just use the facility where the children already are? We say that that is a priority, because that is where the children are.

Now, that after school program under the bill of the gentleman from California [Mr. HAWKINS], can be run by the Campfire Girls, and in some cases it is. It can be run by a Boy's Club, and in some cases it is. In my district, it is run by the YMCA.

Is that really so terrible? Is it so terrible that we would make that priority and an option, that we would say that our children are so important that we are trying to provide quality programs?

Many of us have said time and again that we cannot solve these problems by throwing money at them. We are about to throw money at a problem and we will not be successful if we adopt the Stenholm amendment because we have no assurances of quality and we are really defying all of the serious research on the well-being of children in child care and our chances of increasing the opportunities for success of these children.

I ask, why do we not just once commit ourselves to quality in the care of our children, our neighbors' children, and our constituents' children? If we do not, Members will be back here with horror stories about what went wrong with bad child care? We have an opportunity here to prevent that.

The CHAIRMAN. The Chair wishes to advise that the gentleman from Texas [Mr. STENHOLM] has 6 minutes remaining, the gentleman from Florida [Mr. SHAW] has 6½ minutes remaining, the gentleman from California [Mr. HAWKINS] has 8 minutes remaining, and the gentleman from Texas [Mr. ANDREWS] has 5 minutes remaining.

□ 1720

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, I rise in full support of the substitute offered by Representatives STENHOLM and SHAW. All of us realize the need to provide improved day care assistance to the American family. Above all other concerns to the American family is their ability to choose the type of care that best reflects their values and ideals. Stenholm-Shaw satisfies those concerns without excluding any group or organization.

At least one-third of all child care is provided by religiously affiliated organizations and any child care policy must recognize those organizations. Both the Stenholm-Shaw substitute and H.R. 3 require States to make vouchers available to parents. Only Stenholm-Shaw guarantees they can use those certificates with the provider of their choice, including providers that may have religious activities.

Further bias against church and private day care providers still exists within H.R. 3. Title II of H.R. 3 allows schools to contract out for 3- and 4-year-olds and latchkey care. But, for-profit providers may not compete for those contracts, nor are the vouchers extended to those contracts. Thus, religious providers are also discriminated against.

We face many issues that affect the American family. However, what is important to the average American family is too often ignored. When considering child care, remember little children need their parents. The American family wants to freely choose the care that best serves their needs and the Stenholm-Shaw substitute provides that choice. I wholeheartedly support Stenholm-Shaw and I urge my colleagues to do so as well.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER], the chairman of the Democratic Caucus.

Mr. HOYER. Mr. Chairman, I want to associate myself with the remarks of the gentleman from California [Mr. MILLER]. There is probably no group more in trouble in America than children. As the gentleman from California [Mr. MILLER] pointed out, who has the principal focus in the House on the issue of children, we have all stood and said that this is one of our greatest resources. America will not be competitive in the next century if we do not provide for full educational opportunities and safe havens for our children.

Mr. Chairman, today there are 6 million preschool children who require child care. In 5 years the number will grow to 14.6 million children. By the year 2000, four out of five children under 1 year of age will have mothers who work outside the home.

There is no doubt, therefore, that this is one of the most critical issues confronting our Nation's welfare and the welfare of each and every person in America who will rely on these children to insure the quality of life in the next century. We need to care for them well.

My time is brief, and, therefore, I will not expand upon the statistics that have already been read on this floor. However, Mr. Chairman, I am in support of H.R. 3 and in opposition to the substitute offered by my two friends, the gentleman from Texas [Mr. STENHOLM] and the gentleman from Florida [Mr. SHAW] for the reasons really that were referenced by the gentleman from Georgia [Mr. RAY].

Mr. Chairman, the gentleman from Georgia [Mr. RAY] got up and said that the children ought not to have a Cadillac, they ought to have a Chevrolet. Well, I think we could argue that example. But let me suggest this to the gentleman from Georgia: They ought to have a Chevrolet, but that Chevrolet needs to be, as H.R. 3, custom equipped with a spare tire, access for working families. It needs to come with a seatbelt, before and after school care, and it needs to come with a catalytic converter which provides

safety factors and minimum standards for those children. So, I suggest that perhaps we can only afford a Chevrolet, and, whether it is $20 or $27 billion, it is not enough for the crisis that confronts America in caring for its children and educating its children.

So, let us make sure that we vote for H.R. 3, which is a fully equipped Chevrolet.

Mr. Chairman, I rise in strong support of H.R. 3, which reflects the leadership compromise on child care and against the substitute amendment offered by the gentleman from Texas.

There is a clear choice before the House today. We can support the enactment of comprehensive child care legislation or we can continue to ignore the needs of millions of American families.

Today, there are 6 million preschool children who require child care. By 1995, the number will grow from 6 million to an estimated 14.6 million children. By the year 2000, four out of five children under 1 year of age will have mothers who work outside the home.

The comprehensive child care provisions in the bill before us are the results of years of study, research and development by the committees involved, representatives of the child care community and parents from across the Nation. The child care provisions in H.R. 3 offer parents a full range of choices in their day care while ensuring that quality day care is available to the broadest number of children. Furthermore, the leadership bill builds on the existing structure in the public schools to respond to the needs of latchkey children. No longer will children be forced to leave school to walk through dangerous streets to empty homes.

The legislation before us today provides States and communities with the flexibility and the resources to build upon and improve existing child care services. And it provides the resources and the structure to support the development of a multitude of care settings from which a parent can choose the most appropriate setting for their child.

The substitute offered by the gentleman from Texas does not provide adequate assistance for low-income parents and school age latchkey children. These children live in families who most need our support. However, the substitute would serve far fewer children than H.R. 3. In fact, my State of Maryland would receive $10.3 million less to respond to the needs of families under the substitute amendment.

By striking the provisions for before and after school care and limiting the expansion of Head Start, the substitute leaves poor parents with few choices. And of even greater concern to most American parents, the substitute does not give parents any assurances that their children will be cared for in a safe environment. America, which ensures that cattle are kept in pens humanely should do no less for her children.

Under the bill, States have the primary responsibility for establishing and meeting quality assurance standards for child care. States are provided with funding to develop standards, but are also allowed the freedom to develop standards which are most appropriate for them. The American people overwhelmingly support quality assurances. In fact, as reported in a recently released Lou Harris poll, Americans are increasingly concerned about safety. Yet, if the Stenholm substitute is adopted, when parents go to work and leave their children in day care, they will have no assurance that their child will be safe.

There are few in this House today who do not believe that we must develop a national, child care policy. The question before us today is how to accomplish that goal. H.R. 3 will provide working Americans with a wide spectrum of choice in the type of child care they choose. It will assure parents that their children are provided care in a safe and healthy environment. It will ensure that parents do not have to worry about where their children are after school.

I commend the gentleman from Texas and the gentleman from Florida for their effort. Unfortunately, however, the substitute fails to meet the needs of America's families. Key early childhood education provisions, which build on existing effective programs are dropped. The structure of the amendment restricts the range, single working parents who are most in need of our help, will have fewer options. Finally, the funding authorized in the amendment is inadequate to address the needs of working Americans.

Mr. Speaker, the United States cannot afford to allow our children to continue in their current status. Millions of young children are without any adult supervision for far too much of the day. For children who are in supervised environments, the quality of the care is often unacceptable. Our poorest children are those with the fewest options. The leadership bill gives us the opportunity to increase the availability of after school programs which will keep these kids off the street and away from the dealers.

Mr. Speaker, if we do not help our children today, we cannot be shocked at the problems of tomorrow. According to a recent poll by the analysis group, 91 percent of Americans want substantial increases in funding to educate a more literate and productive work force. This education begins early with early childhood education and reliable, affordable child care. If we do not reach out to these citizens during their youngest years, America will not be able to depend on them when they are adults.

We are the ones who will be responsible if we leave our youngest, most impressionable citizens alone, in unsafe places or in unstimulating environments when we have the opportunity to offer them so much more. We will only have ourselves to blame when these children turn to the easy money of drug dealing, the despair of the dropout, the ignorance of illiteracy and the hopelessness of the untrained and uneducated.

Mr. Speaker, the eyes of the future, the eyes of our children are upon us. I urge my colleagues to look into those eyes and say yes, to the children, say yes to the working families of America. I urge my colleagues to oppose the substitute and support the Early Childhood Education and Development Act.

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I yield to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, if our children could cast votes on this child care legislation today, how would they vote?

Would they choose to be cared for by a Federal Government enforcing a 41-page Government regulations manual?

Would they choose to require their grandmothers who care for them to get licenses and be subject to home inspections?

Or would they choose a system in which they could go to loving family members' homes?

Or to programs at their churches or synagogues with care-givers and other children who share their values?

As the father of two children, I am certain that they would choose the latter.

Who are we passing child care legislation for—our children and their parents or the special interests and their wallets?

Our children are precious, and we must give them our complete consideration.

One trait of children is that they are trusting. Let's not betray that trust.

The Stenholm-Shaw substitute trusts the parents, who know and love their children more than anyone.

The Stenholm-Shaw substitute is by far the best choice for children, parents, and the future.

Mr. ARMEY. Mr. Chairman, it is my privilege today to stand in this debate on behalf of the gentleman from Minnesota [Mr. FRENZEL], the distinguished ranking Republican member of the Committee on the Budget.

Mr. Chairman, this debate has been a lively debate which has had, no doubt, feelings running strong, and well they should because this debate, like so many debates we have here, indeed in my estimation all debates that we carry out here, is over how we will spend taxpayers' money on behalf of the children of America and, in a most particular sense, care for the children of America.

Unfortunately, Mr. Chairman, we must always come to the point in these debates when we do express our love for our children, and want to do so much for our children and, in fact, would want to do everything we can for our children, where we must realize we cannot do all we would like to do and, therefore, must, in fact, look at the comparative cost of alternatives.

Mr. Chairman, let me just look at these two alternatives. In the next 5 years, H.R. 3 will spend $21.4 billion in entitlements. The Shaw-Stenholm will spend $17.2. In discretionary spending H.R. 3 will spend $3.6 billion; the Shaw-Stenholm, $3 billion. The total expenditure for H.R. 3 will be $27.5 billion; the Shaw-Stenholm, $20.2 billion. They will offset that expenditure in both cases with $14.4 billion, leaving a net increase of the debt that must be repaid by these very children of $13.1

billion in H.R. 3 and only $6 billion in the Shaw-Stenholm alternative.

The fact is for those of us who care to do the very, very best we can for our children and leave them with a world in which they can afford to pay the debt that is left behind, the Shaw-Stenholm is the better alternative, and I recommend a yes vote on the Shaw-Stenholm because it is the best way to spend our children's money on their behalf.

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, I do not know how I am going to vote on this amendment. I have been given so much bad information, and shame on us. We should be here talking about children.

Mr. Chairman, I have three grandchildren, if my colleagues will permit me to be personal, one infant, and one 3-year-old and one 4-year-old. Two of them are in a church-supported day care, and the information floating around, simply to get a few votes, it is wrong. People are given information now that is totally wrong in order to win, and that is bad. We should be thinking about children.

Now what I will decide on this and what I see here is that the church-state language is basically the same, and the argument is being made about the money for the latchkey children and all these others. They need day care. It is not just church people that go to church-supported day cares. It is all children. Shame on us, trying to get a few votes and giving out bad information to Members of this House that has not had the time to have been researched.

□ 1730

Shame on us, because we are trying to get a bill for children. I said in this House once before when we talked about day care and we got the promise that this House would move toward the Senate language, and they delivered on that.

We should be thinking about children, to who is going to have a 30-second blip to say you are against church and state, you are not for letting children go to church-supported day care centers. That should not be what it is all about. It should be about the single-working mothers who are trying to put their children in day care to give them a decent standard of living. That is what it should be about.

Shame on us, any of us who would put out half information and false information and misrepresent the facts in this day care bill. Shame on us. Let us try to get a good day care bill for our children and forget about the 30-second cuts on television on the news tonight.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise in opposition to the amendment and in support of the bill.

Mr. Chairman, after many months of intense discussion and debate, I am pleased that we have before us a comprehensive and viable bill to address the critical need of quality child care.

Unfortunately, we have had little leadership from the previous and present administration in putting together a Federal child care program. It has been left to the Congress to address this critical need and concern of so many American families.

More and more mothers are working out of economic necessity. Often a mother's paycheck is all that stands between her family and poverty. Over half of all mothers with infants younger than age 2 are in the work force; 56.7 percent of all mothers with preschool-age children work; and, 64.7 percent of all mothers under age 18 work outside the home. Further, about one-quarter of today's working mothers are the sole source of support for their children. It is expected that by 1995, two-thirds of all preschool children and four out of five school-age children will have mothers who work outside the home.

Child care is an essential part of the solution to helping poor families become self-sufficient through work. Unless mothers have access to free babysitting by relatives, their annual child care costs make up one of the largest household budget items, comparable to housing and taxes.

In addition, although child development experts agree on the key factors which determine quality child care, the quality of child care that is available varies widely from State to State and from provider to provider and is often so inadequate that it threatens the well-being of the children served. These variations include: the family day care provider to infant ratio; parental access to family day care homes; and, requirements for experience or training for family day care providers.

Quality child care is vital to our children. In fact, it has been shown that high quality preschool and child care programs can provide children—especially those from low-income families—with the foundation they need to do better in school and lead more productive lives. For example, $1 of Federal funds invested in preschool education returns $6 in savings because of lower special education and welfare costs and higher worker productivity.

Adequate child care can also lead to better worker productivity on the part of parents. More and more working parents are having trouble finding quality child care and are going to work worried about the adequacy of their child care arrangements. Concerns about adequate child care have led to absenteeism and unproductive work time among employees with small children.

H.R. 4381 addresses all of these important concerns. Its provisions would: expend Head Start to a full-day, year-round program; establish a new program that would use schools to provide care for pre-school children and before and after school care for school-aged children; expand the title XX block grant program to include funds for child care; expand the earned income tax credit to help low-income families obtain child care; direct states to improve the quality of child care; and encourage private businesses to provide care for their employees' children.

My home State of California, with its critical child care needs, will greatly benefit by these additions. For example, California will receive an additional $146 million for child care: $57 million for title I (Head Start) $40 million for title II (development) and $49 million for title III (title XX).

It is crucial that this legislation be approved by Congress and signed into law. We cannot afford to turn our backs on the Nation's families and their child care needs. This legislation is a responsible bill, one which deserves my colleagues' support.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, back when the child care issue was debated last year, I supported the first Stenholm-Shaw substitute in opposition to H.R. 3, often referred to as the ABC bill. After weeks of negotiations, H.R. 3 has come a long way and significant improvements have been made. It is not at all the same as the ABC bill which I have long argued against.

In its current form, H.R. 3 provides funds for the Head Start program so that extended day and full year care may be provided. This is what I have pressed for in my own Head Start expansion legislation. It is essential that we full utilize this successful program for low-income families and that we make it day and year long.

H.R. 3 authorizes a program to provide school-based day care for preschoolers and for school-aged children before and after school. It is fiscally responsible to use existing facilities for child care. Further, the public schools have proven that they are capable for caring for the Nation's children.

H.R. 3 expands the earned income tax credit [EITC], based on family size, so that low-income families will have additional funds to meet child care or other family expenses. This is a tax break that also helps those families who have a parent at home. This EITC expansion would become effective in 1991, whereas the EITC expansion included in the Stenholm-Shaw subsitute would be delayed until 1992. EITC expansion is good policy all around and should not be delayed. If they choose, families can use this extra income to purchase the type of child care they prefer, including religious centers.

H.R. 3 earmarks increases in title XX social services block grant to States—an effective way to assist without establishing a new Federal program. Rather than setting Federal standards with a mile-long list of regulations, H.R. 3 simply requires States to be accountable for the Federal

funds they receive. This provision would also allow States to offer voucher to be used by families who prefer private or church-based child care. Personally, I think value-based, religious day care is among the best child care available in our society.

These are significant improvements when compared to the original version of this legislation. As redesigned, H.R. 3 now incorporates three basic principles which I believe are correct and worthy of support. First, the new H.R. 3 focuses attention on existing programs—like title XX and Head Start—not new programs. Second, the bill emphasizes parental choice through tax breaks that improve family income—not Federal child care subsidies. Finally, the new bill offers the States flexibility, not Federal mandates. We have moved a long way in the right direction with these changes in H.R. 3.

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I wish I could stand before this body and suggest in good conscience that all the religious problems have been addressed in the committee bill with the defeat of the Edwards amendment. Unfortunately, I cannot do so. I will try very briefly to highlight three very serious problems in the church-state area with H.R. 3. That is why I am voting for the Shaw-Stenholm substitute, because the Shaw-Stenholm substitute addresses all three of these problems.

The committee bill still establishes a new statutory standard under the title III new chapter 20 programs for child care. It distinguishes now between voucher or certificate use in which existing tests are maintained, but it still imposes a new test for other uses of the title XX moneys directed toward child care.

For those of you who voted against the Edwards amendment by a margin of 125 to 297, who believe that a new standard should not be imposed across the board because the Edwards language would impose that standard on everything in title XX, we struck the Edwards language from the voucher portion of title XX, but the remaining restriction remains for other uses of that money. It is still there and it discriminates against religious providers.

No. 2, the language still has problems on religious preference in hiring. Take a look at page 36 in the act and page 37. Page 36 has the traditional title VII language in it. Page 37 has the Edwards language in it.

What the gentleman from California [Mr. EDWARDS] sought to do was to strike the page 36 language, the traditional language, leaving in page 37. We defeated that. We left the traditional title VII language in, but the new title VII restrictions are still in the bill.

Third and finally, this House convincingly defeated the Gephardt-Price amendment. That was an amendment trying to make vouchers optional for the States. We defeated it because the majority felt that vouchers should be mandatory so that people could have a choice.

The committee bill, however, makes the providing of religious day care under a voucher system optional to the State, as opposed to the Shaw-Stenholm substitute, which says that all lawful providers in the State shall be in the voucher program.

Mr. HAWKINS. Mr. Chairman, I yield 1 minute to the gentleman from Maine [Mr. BRENNAN].

PARLIAMENTARY INQUIRY

Mr. SHAW. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SHAW. It was my understanding, Mr. Chairman, since this is the Stenholm-Shaw amendment, that the gentleman from Texas [Mr. STENHOLM] was going to have the right to close.

The CHAIRMAN. No, the committee manager in opposition has the right to close. The Chair will give the gentleman from Texas [Mr. STENHOLM] the right to speak next to last.

Mr. SHAW. This was not, I believe, the order of speaking on the previous amendments, Mr. Chairman.

The CHAIRMAN. There was no discernible committee position. The committee position was diffused on the last amendment. The Chair could not clearly ascertain what the committee position was.

Mr. BRENNAN. Mr. Chairman, I thank the gentleman from California for yielding me this time.

Mr. Chairman, it may have taken us nearly 20 years, but we finally are ready to approve the Nation's first comprehensive child care package.

We have come a long way since 1971 when President Nixon opposed a major child care initiative as antifamily. For many two-earner or single-parent families who are struggling to make ends meet, clearly child care is not just an option, it is absolutely a necessity.

As I travel across my home State of Maine, I am often approached by parents who are concerned about the quality of child care. They want to see more after-school care. They want to see incentives for employer-sponsored child care. They want to see more tax credits for working families.

The Hawkins-Downey legislation before us today emphasizes these priorities, and it also recognizes the large role that churches play in child care.

Mr. Chairman, I support the leadership proposal which does more for child care quality, and child care quality is something we cannot ignore. I think it is important. It is in the legislation that we ultimately will pass, and I oppose the Stenholm-Shaw substitute amendment.

□ 1740

Mr. SHAW. Mr. Chairman, I yield myself 2½ minutes, the remainder of my time.

Mr. Chairman, it has been a long day. I think we have had a very good debate.

We started this morning with the gentleman from New York [Mr. DOWNEY] recognizing, quite properly so, that our children are our greatest natural resource. On that we certainly agree.

But the question then comes down in the comparison of these bills as to whose custody were these children put into. I would submit that it is a higher authority than the U.S. Congress that put these children in the custody of their parents, and I would also say to my colleagues that the Stenholm-Shaw bill gives to this custodian the maximum amount of decisionmaking ability in deciding where that child is to go.

Mr. Chairman, in looking at the two bills, I would tell the Members to, please, look and see which bill gives the parent the decisionmaking authority. We in the Congress do not want to be a party to taking this decisionmaking authority away from the parent, and the standards that have been put in the majority's bill do exactly that. It also rewrites it for the States, and it says that the States are going to have to comply if they use public funds, including their own tax dollars.

Where did we get that authority? Where did we get that authority?

Also, the question has been made by the gentleman from Georgia [Mr. RAY], who was talking about a Chevrolet next to a Cadillac, and the gentleman from Maryland [Mr. HOYER] was talking about, well, let us equip it with all the extras. I want to tell the Members that if they put all the extras on there, they are not going to put any gas in the tank. The country is running out of gas.

On our side, our bill is over $20 billion. Not to be outdone, the majority made their bill $30 billion. Where are you going to get it? Where are you going to get it?

No one has yet come up and said that they are going to get $30 billion. We talked about the telephone excise tax; that is in both bills. We talked about the dependent care tax credit, making alterations, and that is in both the bills. But there is no one here who has come to the well of this House and told us where $30 billion are going to come from.

I would urge my colleagues to be fiscally responsible, to be honest with the taxpayers and voters of this country. Let us not vote for something that we know right well we cannot afford

when we are running a deficit of $100 to $150 billion a year.

Let us take care of our kids. Let us leave the decisionmaking privilege in the hands of the parents where it should be, and let us be fiscally responsible and bring sanity to this House tonight.

Support the Stenholm-Shaw substitute.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes, the remainder of my time, to the gentleman from Kentucky [Mr. PERKINS].

Mr. PERKINS. Mr. Chairman, colleagues, my dear friends, today we have in front of us an important piece of legislation that marks a landmark in terms of what we are doing for the children of this country.

It makes me proud to be a Member of this body when today we are approaching something that is going to change so many lives in such a fashion. There has been a great deal that has gone on this week that has changed the composition of what we are going to vote on today.

One of the things has been the change in the church-state language that was, indeed, changed just this week that included the Senate position as opposed to what you have been getting your telegrams on for the last week.

What this position states, purely and simply, is that we in America who want to have the right out in the rural areas or urban areas to see religious education that occurs in preschools and pre-preschools are going to have that funding out there and, purely and simply, that is what we are at today.

Some people may not like that on my side of the aisle, but, purely and simply, that is what we are going to vote for today.

I will tell the Members frankly that I stood here and I opposed the Edwards amendment, as many of the Members will recall. I am standing here and telling the Members that I am for this bill, because it is more comprehensive. What it does is it goes out and takes care of the latchkey kids, and if we think that is not the biggest difference between the committee bill and the other bill, then we are wrong. The latchkey kids in this country are a significant problem. The committee bill goes out and reaches to those children and gives them an option that they are going to be able to be taken care of. The other side does not do so.

Members may vote against this bill on budgetary grounds, they may vote against this bill because they feel that it is too much money to accept the committee's bill, but do not make the mistake, my friends, of voting against this bill because you think it is not going to allow us religious freedom in America, because it will.

I want to tell the Members something, we should be proud to be involved in this historic occasion today where we are addressing for the first time a bill and a piece of legislation that is going to make the children of America much better off tomorrow than they are today, and that is something that I think we can all be proud of.

Mr. Chairman, we should commend the people who have worked so hard and diligently on this bill, and we should be thankful for the opportunity today to support the committee bill and, in fact, to pass legislation that is going to make a better tomorrow for America.

Mr. DOWNEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I rise in support of the committee bill.

Mr. Chairman, the House is on the verge of voting for the largest package of assistance for our Nation's children in many years. Today in America enormous obstacles are keeping our children from thriving. One in five children live in poverty. One in five children live with a parent who never graduated from high school. One half of all preschoolers have mothers in the work force.

The time is ripe for the House to address the needs of working parents and the welfare of their children. Passage of this legislation marks a giant step forward in bringing children to the top of our national agenda. This action is long overdue.

This historic legislation targets assistance to the neediest population—our Nation's children—by utilizing proven and effective programs. Head Start's ability to promote the health and development of children has been demonstrated many times over, yet only one in five eligible preschoolers receives services. The legislation before us today builds upon the successes of this program. Expansion of the title XX social services block grants allows States the flexibility to develop child care programs that best meet the needs of their citizens.

Two years ago this Congress passed landmark welfare reform legislation that reaffirmed our commitment to get families off the welfare rolls and into jobs. Today we make another stride toward that goal by assuring poor, working mothers that their children will receive appropriate and safe care as they prepare to enter the workforce.

Mr. Chairman, families searching for day care in our country have not one concern, but three. They care about affordability, they care about availability and they care about quality. Today we have an opportunity to address each of these needs. I urge my colleagues to support the Early Childhood Education and Development Act of 1990.

Mr. DOWNEY. Mr. Chairman, I yield the balance of my time, 3 minutes, to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, members of the committee, I think it is appropriate as we close this debate to try to remember what is at stake this afternoon and what this is all about.

We have had a lot of good argument about often arcane details, specifics, important all, but I think we have to remember that what we are talking about may be the most important issue we are going to deal with this year.

The world has changed. Parents, families need and want child care. They want to know, as they go off to work, that their child is going to be safe, that they are going to have a lunch, that they are going to be cared for as they would care for them. There are millions of parents all over this country today who do not have that kind of child care and spend most of the day worrying about whether their youngster is going to be cared for properly.

The issue we are deciding in this vote is whether or not there is going to be more of that child care provided for more of those families, or there is going to be less.

One of the good arguments that has been made is that the money has not been provided. That is not true. We passed this child-care bill last year. We put taxes in last year's reconciliation bill. We put language in the report that said that should be dedicated to child care, and that money is still there, along with the telephone tax and the change we have today in the tax code, so the money in the Democratic bill that has been presented by the committee is there. The money is up, not a whim; it is not something that is going to happen in the future.

Second, the point has been made over and over again that we have to worry about latchkey kids. The committee bill takes care of that in title II. The Stenholm-Shaw substitute does not.

What are we going to say to the children who are in school, that we are going to have a program before school and after school: "You do not get child care; you do not happen to have that in your community. Sorry. It does not exist."

I think we want that, and the committee bill does that.

Third, there is more money. I had a meeting in my district the other day at a child care facility in my district that has been there for over 100 years.

□ 1750

They pay their workers minimum wage. The head of the school, who is wonderful, bright, energetic human being, dedicated to what she does, committed to the family, proud of what she does, they have been doing it for over 100 years, a volunteer institution, she took me into her office.

She said, "Congressman, I want you to look at what I have got in my desk drawer." She pulled out the list of kids that have applied of families that want child care at her institution, and she cannot provide it.

She said:

I have been listening to this long debate you have been having in the Congress. Do you want to know the truth? It is irrelevant. Give us the tools to get the job done, and I can get more of these kids into my child care facility.

Mr. Chairman, this is the time to put up or shut up. The Democratic bill gives more child care to more families in this country. Please vote against the substitute. Vote for the Democratic alternative.

Mr. STENHOLM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, much of what my leader has just said I certainly concur with, particularly the emphasis on child care. The remarks of the gentleman from Kentucky [Mr. PERKINS] a moment ago, I was hoping the gentleman was supporting my amendment, but I think maybe he was not.

We all agree that families and children need more assistance. That has been the reasoning and the logic and the extra umph behind the activities of this Member and the gentleman from Florida [Mr. SHAW] in coming up with what we believe is a compromise.

The money is perhaps there, but there is going to have to be some difficult decisions made in finding the difference of the $8 billion. But if the dedication of this body is there to make the challenges and the changes, it will be there, and I will not argue with that.

To the gentleman from North Carolina [Mr. HEFNER] who a moment ago expressed a lot of anger because of the misinformation that has been circulated around, I would hope that most of my colleagues would agree that if there is misinformation concerning the Stenholm-Shaw bill that was introduced on March 15, 2 weeks ago, and has not changed since, the 32 pages that we have before you and which have been before you for more than 2 weeks to look at and to analyze, 32 pages worth. H.R. 3, that has been before all of us for 2 days, has 113 pages. And to those Members who suggest that maybe there is misinformation, maybe there is a logical reason, when you do not have something before you that you can read during that period of time. But I do not choose to say that anyone has made deliberate attempts to misinform any of my colleagues on either side.

In the heat of debate sometimes we say things that we believe, but we find out later that maybe it just was not quite that way. I am reminded now of the words of the late Will Rogers, when he said:

It ain't people's ignorance that bothers me so much, it is them knowing so much that ain't so that is the problem.

I think we all get a little carried away from time to time.

You know, my colleague talking about the Cadillac and the Chevrolet, and then we need to add the catalytic converter, et cetera, I had to smile on that because the number of pastures and wheat fields that have been burned up in my country because of catalytic converters. We have got mixed emotions about that. And maybe, just maybe, differences in that vehicle, maybe some of us need Cadillac, some of us need a Chevrolet, and maybe some of us need a motorcycle. And that has been the whole impetus behind Stenholm-Shaw, that there are differences and different needs in different parts of our States.

Those that have suggested that the Stenholm-Shaw bill just has no regulations, no requirements. I want to enter into the RECORD right now the listing of the requirements and the guidelines that are in our bill. We do not give blank checks. Again, I put it into the RECORD, apparently a lot of Members have not read our bill in the 2 weeks they have had to go over it with a fine-tooth comb, what we have attempted to do.

To those that suggested Federal guidelines are the magic answer, I would just respectfully like to have had you with me about a year ago when I was confronted in a rest home in my district by a little old lady that had spent the last 5 years working in that nursing home as a baby sitter, getting paid minimum wage. But all of a sudden the Federal guidelines, that the wisdom of this body had imposed on nursing homes, said that she had to drive 56 miles a day for 6 days for 12 hours of supervision and training.

She said, "I cannot do that, Congressman. I cannot do that."

Really, does that make sense? No one would agree that it does. But that is the danger we get into when we believe the infinite wisdom of this country is present inside the Beltway. That has been the heart of Stenholm-Shaw all along. We believe that State and local governments, but more particularly the parents, are the prime deciders. We have given moneys in the Head Start Program, and on the latchkey question we put $500 million in our bill that will be made available to the States to takes care of the latchkey problem.

Now, is that enough? Could we spend more? I am sure we could. But again, we look at the bottom line, and the bottom line is we are going to have difficulty paying for a lot of programs.

I will conclude this by saying that since there seems to be such a contention on money, why is it that we currently have 28 programs dealing with child care in which we are already spending $7 billion? Maybe we ought to take a look at those 28 programs and see if we can do a better job with those. Maybe then we will find some of the money to fund some of the other additional programs that this Member might be persuaded a year from now to make more logical sense.

Mr. Chairman, I urge Members' support for the Stenholm-Shaw compromise substitute. It is a bill that the President will sign.

REQUIREMENTS AND GUIDELINES IN THE STENHOLM CHILD CARE SUBSTITUTE

In general, the Stenholm substitute attempts to provide adequate resources to states and families in order that availability and quality of child care are improved. Resources from the federal level are delivered through the Title XX social services block grant program and the Earned Income Tax Credit. Guidelines are provided and parameters are set, but in a way intended to maximize flexibility and responsiveness at the state, community and family levels, while improving the quality of care.

Sec. 11901 (Expanded Title XX for Child Care) stipulates that:

States must designate a lead agency which must:

Administer the funds.

Coordinate with state and local governments in developing the state plan.

Establish procedures for assuring that appropriate state agencies work together.

State plans must:

Identify the lead agency.

Describe the activities the state will carry out.

Provide assurances that the federal funds used will supplement, not supplant other state and local child care funds.

Provide assurances that the state will not spend more than 7% for administrative expenses.

Provide assurances that the state will give priority to programs that serve low-income families and geographical areas.

Ensure that child care providers reimbursed by Title XX meet state and local standards and laws.

Provide assurances that the lead agency will coordinate these federal funds with other federal, state and local funds.

Ensure that proper accounting procedures are used with these federal funds.

These Title XX funds must be used:

To improve the availability of child care services.

To improve and ensure quality of child care services.

To promote and ensure health and safety of children and caregivers.

To provide for training of care givers.

To focus services on low-income families and geographical areas.

Through direct grants, certificates, contracts with families or public or private entities as the State determines appropriate.

These funds may be used for:

Infants, sick children, children with special needs and children of adolescent parents.

After-school and before-school programs for children of working parents.

Programs for the recruitment and training of day care workers, including older Americans.

Grant and loan programs to enable child care workers and providers to meet State and local standards and requirements.

Information and referral services.

Certificate programs that, consistent with current law, may be used by parents to obtain child care from, among other sources, sectarian providers (sense of the Congress language as to Constitutionality).

Child care programs developed by public and private sector partnerships.

Liability insurance pools to serve child care providers.

Other child care related programs consistent with the purposes of this bill.

Each State must report annually to the Secretary of Health and Human Services, providing the following information:

Number, type and distribution of services and programs.

Average cost of child care.

Number of children served.

Average income and distribution of incomes of the families being served.

Efforts undertaken to promote and ensure health and safety of children and caregivers, and to improve the quality of child care services.

The Secretary of Health and Human Services will:

Collect and disseminate information useful to providers on particularly effective practices and programs which help ensure health, safety and quality in the delivery of child care services.

Report annually to Congress on the states' implementation of this program.

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the leadership's child care amendment which has been made the original text of H.R. 3. Although I oppose the leadership amendment for both policy and budgetary reasons, I speak to you today primarily in my capacity of vice chairman of the Budget Committee.

I begin by reminding my colleagues that we are considering legislation of tremendous budgetary significance. The Democratic leadership amendment increases entitlement spending by more than $21.1 billion over the next 5 years. Another $6.4 billion would be authorized for discretionary programs. Taken together, these entitlement and discretionary provisions could cost a staggering $27.5 billion over the next 5 years.

In fact, by fiscal year 1995 the Federal Government would be spending more on this program than we do on job training programs and a little less than half as much as we do on all elementary, secondary, and vocational education programs.

We should also recognize that three-fourths of this package is for two entitlement programs over which Congress has little control. Neither title XX nor the earned income tax credit is subject to the control of the appropriations process. Once expanded, these programs will be virtually on automatic pilot unless Congress takes action to curtail the spending in the future, which appears unlikely when looking at the significant growth of entitlement programs over the last years.

It has been pointed out that much of the cost of these programs are offset by capping the dependent care tax credit and extending the telephone excise tax. Unfortunately, these two offsets fall far short of what will be needed to cover the costs. If we assume that Congress appropriates the full amount for the discretionary programs, the Democratic leadership package would still increase the deficit by more than $13 billion over the next 5 years. In truth, Congress is unlikely to appropriate the full authorization amount. Even if we count only the entailment provisions, the offsets leave uncovered, over 5 years, $6.7 billion of the leadership bill and $3 billion of the Stenholm-Shaw substitute.

I should add that the offset from the extension of the telephone excise tax is more apparent than real. First, it does not cover expenses after fiscal year 1991. Congress has continuously imposed an excise tax on telephone operations since 1932. Regardless of whether this bill is enacted, Congress is certain to extend this tax. Now that you have spent it for child care, cross it off for future budget consideration.

Unfortunately, we lost a perfect opportunity to pay for this legislation. The Republican leader, BOB MICHEL, offered an amendment at Rules Committee which would not allow new funding to be obligated or revenues to be reduced until offsets were found to cover the entire 5-year cost of this legislation. Unfortunately, the Rules Committee did not see fit to provide the House the opportunity to vote on the pay-as-you-go requirement.

The Rules Committee did decide to make Chairman PANETTA'S amendment part of what the House finally agrees to. Chairman PANETTA'S amendment states that the fiscal year 1991 budget resolution shall assume offsets to pay for the 5-year costs of this legislation in addition to deficit reduction otherwise required.

In truth, we really do not know how much this bill will ultimately cost. Unanticipated growth may have long-term budgetary consequences. One need only recall a modest assistance program for poor widows which mushroomed into the $310 billion program we know as Social Security.

In conclusion, I ask my colleagues to carefully consider the budget implications of the amendments before us along with their substantive merits.

Mr. DREIER of California. Mr. Chairman, I rise in support of the Stenholm-Shaw amendment.

With 57 percent of mothers with young children at work, child care is an issue that must be addressed. I think it is important, however, that we consider why parents cannot afford child care. One reason is cumbersome State regulations which drive costs up and discourage providers. As much as 80 percent of care provided in family day care situations are unlicensed because of the paperwork and inspections required. A second reason is excessive Federal taxes. Since 1980, the Federal income tax paid by the median family has increased by 52 percent, leaving families with a greater need for two incomes and less money to spend on child care.

But the fundamental issue, in my mind, is are we going to let parents decide what child care setting is best for their children. The Stenholm-Shaw amendment ensures parental rights by requiring a voucher for parents to use in the way they see fit, including religious centers, which make up one-third of all centers; it protects States rights and religious freedom; and it is $8.5 billion less.

Finally, Mr. Chairman, I am very disappointed in the manner in which this legislation has been handled. We have been kept in the dark on what was in the Democratic leadership bill until late yesterday, and today we are expected to vote on one of the largest expansions in the Federal Government we may see this year. The Stenholm-Shaw amendment, on the other hand, has been available for weeks for public scrutiny. Let me suggest that this is an irresponsible and unwise way to legislate.

Mr. LAGOMARSINO. Mr. Chairman, I rise today in strong support of the Stenholm-Shaw substitute and urge my colleagues to support this important legislative measure.

One of the major issues we are debating today is the freedom of choice. At the Federal level, we must allow those closest to child care issues to make the essential choices pertaining to local child care. We must give parents the freedom to chose whether they would like to send their children to child care centers or to care for them at home. We must also give parents the freedom to choose which child care center they would like their children to attend and give religious groups, businesses, local governments, and others the freedom to make decisions on the needs of the families they serve.

By expanding the earned income tax credit, the Stenholm-Shaw substitute provides needed tax relief for families regardless of the employment status of the mother. The substitute also contains the wee tots credit which provides an additional 6-percent credit to parents during one of the hardest times, when their child is under the age of 1. The substitute also provides for the creation of a voucher system which directs money to families in need while providing those families with the greatest flexibility in choosing the method of child care they feel is most appropriate.

Further, the Stenholm-Shaw substitute contains flexible grant programs such as Head Start, title XX, and child care business incentives. These flexible programs improve our Nation's child care while excluding regulations and provisions which take child care decisions away from families and child care providers.

Rather than dictate and regulate the child care needs of families, the Federal Government should nurture and assist innovative ideas in child care which are being conceived in my district and around the Nation. Above all, the Federal Government should allow parents to make vital choices pertaining to child care for their children. I believe the Stenholm-Shaw substitute provides for that freedom while addressing our Nation's child care needs.

I ask my colleagues to support the Stenholm-Shaw substitute.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in opposition to the Stenholm substitute.

The provisions of the leadership compromise have all the merits of the Stenholm substitute—without all the problems.

Both versions would allocate money to the States for day care under title XX of the Social Security Act. The leadership compromise guarantees that 90 percent of the funds will be made available to families for child care services. Under the Stenholm substitute, however, the title XX funds can be used for a wide variety of activities with no guarantee that parents will get the child care help they need. When all is said and done, the leader-

ship compromise earmarks $2.9 billion for title XX child care services over the next 5 years. Who knows how much will actually be spent on child care if the Stenholm substitute prevails.

Both the Stenholm substitute and the leadership compromise would greatly expand aid to low-income working families through the earned income tax credit. The tax credit provisions of the Stenholm substitute, however, have serious flaws.

In addition to the tax credit expansions in the leadership compromise, the Stenholm substitute would create an additional credit for families with infants, and require families to choose between the infant credit and the dependent care tax credit. Some of my colleagues will support this policy because it makes it easier for them to oppose a parental leave bill later. Or because they want to restrict the availability of the dependent care tax credit. In so doing, they're willing to make the tax code so complex that we jeopardize the ability of struggling families to claim the earned income credit. I will not be a party to a strategy that will undermine the earned income credit for such narrow political reasons.

The restriction on receiving both the dependent care tax credit and the infant credit would also punish low-income mothers who go to work. Just 2 years ago, many of my colleagues were calling for mandatory work programs during the welfare reform debate. Now, many of those same individuals want to punish single mothers that choose to work, in order to help stay-at-home mothers in two-parent families. The American people expect better of us.

The Stenholm substitute also contains a provision that would exempt from the social security earnings limit the wages of seniors who perform child care. This provision would lead us down a path I don't wish to follow. What other equally meritorious earnings will we exempt from the earnings limit—work in nursing homes, work with drug addicts? This provision—which would create different rules for different jobs—can only make it more difficult for the Federal Government to make accurate and timely social security payments to the elderly.

Child care is important to America's families. Many of them can't afford decent care and can't find a safe place to leave their children while they are working. The Stenholm substitute offers more empty promises, inadequate resources, and a cynical and complex tax policy. With the leadership compromise we can deliver on our promise. I urge my colleagues to oppose the Stenholm substitute.

Mr. OWENS of New York. Mr. Chairman, I rise in strong opposition to the Stenholm substitue which would gut the child care provisions of this legislation.

The substitute would eliminate all of the bill's $429 million in funding for school-based preschool and afterschool programs. The rationale for this is unclear. Some of the groups supporting the substitute, such as Concerned Woman for America, are right-wing fringe groups which oppose all school-based preschool programs because they believe that children should not go to school until they're at least 8 years old. They are entitled to their opinion, of course, and if they do not need or want school-based care, either preschool or after-school, they do not have to use it. But many of our constituents both need and want school-based programs and they should not be denied them because of the paranoia and prejudices of a few.

One of the key reasons the Education and Labor Committee developed a title to support school-based preschool programs was our concern that we invest not just in custodial care for our children, but in developmentally appropriate care that addresses the educational needs of young children. This is particularly critical for disadvantaged children. We know from experience that every dollar invested in high-quality preschool programs with educational components saves $6 in lowered costs for special education, remedial education, public assistance, and crime later on. Low-income children enrolled in these programs are more likely than other poor children to be literate, employed, and enrolled in post-secondary education. They are less likely to be school dropouts, teen parents, dependent on welfare, or arrested for criminal activity. Investing in quality preschool programs has become a national imperative. As one of our more enlightened Republican Presidents, Theodore Roosevelt, once put it:

> Each of these children represents either a potential addition to the productive capacity and enlightened citizenship of the Nation, or, if allowed to suffer from neglect, a potential addition to the destructive forces of the community. The ranks of criminals and other enemies of society are recruited from children bereft of their natural homes and left without sufficient care. The interests of the Nation are involved in the welfare of this army of children no less than in our great material affairs.

The Stenholm substitute also attacks the bill's funding for the expansion of Head Start in some communities into a full-day, full-year program. This provision is essential to helping to assure that Head Start is available to every child who needs and is eligible for it. I have heard from many parents in my district who had wanted to enroll their children in Head Start but could not because they worked all day and the only programs in our area are part-day. Later in the year we will take up the reauthorization of Head Start when, I hope, we will authorize sufficient funding over the next several years to make Head Start available to all eligible children on at least a part-day basis. The funding in this legislation is a vital complement to that reauthorization and will help assure that no child is shut out of Head Start because his or her parents work full-time.

I urge my colleagues to support the leadership bill and defeat this destructive substitute.

Mr. DENNY SMITH. Mr. Chairman, family choice should be the key to any child care bill. The Stenholm-Shaw proposal provides and protects family choice while keeping Oregon's child care initiative fully intact.

The Stenholm-Shaw bill addresses the needs of all parents. By including an earned income tax credit, a social service block grant, and increasing Head Start, this bill addresses the problem of making quality child care available to every American family.

Oregon has one of the best, and most innovative, child care programs in the country. By allowing the States maximum flexibility in retaining their regulatory authority Oregon's program would not be superseded by arbitrary Federal guidelines. I feel strongly that Oregonians, both those working in the child care industry and those working in the home, can best assess the child care needs of our State. I trust Oregonians and I feel that they will be fiscally responsible in allocating these block grants toward resource and referral, provider training, liability insurance risk pools and child care facilities, and other areas where it is needed.

Furthermore, the Stenholm-Shaw proposal does not discriminate against the religious child care providers who currently supply one third of all day care.

Finally as a member of the Budget Committee, I feel this bill responsibly allocates child care money. By earmarking funds to existing programs and expanding existing resources, we increase the supply of child-care services without diverting scarce resources into a Federal bureaucracy. In addition, the Stenholm-Shaw bill saves $1 billion through capping the department care tax credit at $70,000 and eliminating it at $90,000.

Stenholm-Shaw's bill has something for everyone. It puts money into the hands of those Oregonians who understand the child care needs of our State. In the face of our Nation's changing economy, Stenholm-Shaw upholds fundamental family values which are timeless.

Mr. MILLER of Washington. Mr. Chairman, I rise today in support of the rights of families. Families deserve to choose how they wish to care for their children. And they must be given the resources and the options to make those choices. Mr. Chairman, the Stenholm-Shaw proposal gives families the ability to make those individual choices.

Parents must have all options available, including church-based child care. The Stenholm amendment gives parents that option. It also gives religious child care providers the freedom to hire church members as employees.

Mr. Chairman, my constituents do not want an expensive, Federal bureaucratic system. They do not want a system which mandates Federal child-care standards or limits their choices. The Stenholm amendment is less expensive. It gives needed flexibility to the States.

I have continually fought for the rights of stay-at-home mothers and the Stenholm measure protects their rights. Mr. Chairman, for the first time, families with children less than 1 year old, would have a supplemental tax credit.

The issue here is parental choice. My constituents support this and they have let me know that choosing their own child care option will strengthen their families.

Mrs. LLOYD. Mr. Chairman, time and time again when I have met with distinguished officials from the State of Tennessee, who are working very hard to see that the needs of our State are addressed by the U.S. Congress, I have been beseiged by complaints that the Congress far too often passes sweeping legis-

lation which mandates difficult and expensive regulations for the States to administer.

We should all be sensitive to our States' concerns and I am supporting the Stenholm amendment today, as a strong and viable alternative to the leadership's child care package, because of my interest in seeing that States are given the tools they need to put their priority child care programs into place, without the burden of federally mandated directives.

The Stenholm amendment gives the States the freedom to target their child care funds where they are needed most. Whether that is infant care, day care worker training, school-based care for kids or public-private child care partnerships. By leaving these important decisions up to the States we are giving them the autonomy they seek to implement and pursue the programs which have proven successful to them. The Stenholm proposal gives States the freedom to choose to pursue their priority programs without burdensome regulatory mandates. This is the hallmark of the Stenholm proposal and one which I believe is worth strong congressional support.

I think I can state unequivocally that my constituents, in every town and municipality that I represent in the Third Congressional District of Tennessee have greater knowledge of their particular child care needs, and should have a greater say on how their own State administers their programs of choice, than the Federal bureaucracy.

Individuals, as well as the States, want the freedom to choose whatever child care method is most appropriate for their own needs and another major component of the Stenholm plan are provisions to grant good tax incentives to families so that they can choose to stay at home with their young children, or leave them with a family member or other appropriate caretaker if they so choose. I believe that every family should have the right to make decisions on their child care needs based on their own criteria, not on what the Federal Government mandates is appropriate and this, too, is the strength of our bill.

We must give our States the opportunity to concentrate their valuable resources on providing quality child care, not in administering complicated, bureaucratic red tape. The Stenholm proposal recognizes that our Federal resources are limited. And, yes, it recognizes that we do have a Federal budget deficit to consider when enacting major legislation of this nature. Because of our firm belief that these dollars should be spent as efficiently as possible, the Stenholm proposal targets Federal support on children. Not on new programs. We have good, solid programs in already in existence in every State. Programs that States have created and administered because they match their own needs.

Let's give our States the opportunity to build on what they have and grow. Let's not spend our limited resources on contributing to a bureaucracy that has already forced many of our State agencies into spending much of their dollars administering complex Federal regulations when they would rather be serving our children who are in need.

The Stenholm plan not only spends less of our tax dollars, it clearly does more for our children in terms of concentrating our limited resources on their care. It is a balanced approach, which is as fair and equitable to families in all circumstances, as we could possibly fashion. The Stenholm proposal provides a greater degree of flexibility for the States, and a more substantive level of parental choice, than any of the alternatives which have been brought forth in the Congress. The Stenholm proposal lends the greatest support possible to our children's needs—not to administrative overhead—which is where the leadership would put it's money—as evident by the 212 Federal mandates they included in their bill.

By adopting the Stenholm proposal we are steering a clear and straight course for our Nation's future which depends on what thought we give to our children's care today. I urge my colleagues to join with me in supporting the Family Choice and Child Care Improvement Act. Support the Stenholm-Shaw amendment.

Mr. HOUGHTON. Mr. Chairman, I would like to say a few words about child care and the Stenholm amendment. To introduce this subject, let me say first that without taking undue credit Corning Glass Works—of which I was chairman—started one of the first day care-child care centers in the Nation. We believed in the concept. I believe in the concept, and would like to espouse day care for now and for the future. That means Federal involvement and Federal funds. Day care is very expensive, and as such needs extra funds. In today's world those funds most probably should come from the Federal treasury.

Now there are two roads to travel today—the so-called leadership route and the Stenholm route. Let me ask you a question: Suppose I asked you to judge between approach "L" and approach "S".

Approach "S"—Stenholm—cares for children in a way that local communities and families can understand, can decide on. It gives your home State the flexibility to put funds where they are most needed. There is a minimum of regulation and while caring in a full and humane way for young children, it costs $8 million less than the other approach.

Approach "L"—leadership—on the other hand, dictates from above—from Washington—virtually the entire program plus a brand new delivery system. In rural communities, like my own hometown, it forces a family to make very difficult choices, and usually the right ones aren't available. The care system is vastly more expensive—and who pays for this extra expense? Also it mandates in-school programs which may or may not help the rural family members, who cannot always get to the allocated buildings.

Now I ask you if you had the choice which way would you go—approach "S" or approach "L"?

To me there is not the slightest question. Approach "S"—the Stenholm amendment—is the clear choice.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. STENHOLM].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHAW. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 195, noes 225, not voting 13, as follows:

[Roll No. 57]

AYES—195

Archer	Hansen	Petri
Armey	Harris	Porter
Baker	Hastert	Pursell
Ballenger	Hatcher	Quillen
Barnard	Hayes (LA)	Ravenel
Bartlett	Hefley	Ray
Barton	Henry	Regula
Bateman	Herger	Rhodes
Bennett	Hiler	Ridge
Bentley	Holloway	Ritter
Bereuter	Hopkins	Roberts
Bevill	Houghton	Robinson
Bilirakis	Hubbard	Rogers
Bliley	Huckaby	Rohrabacher
Boehlert	Hunter	Ros-Lehtinen
Broomfield	Hutto	Roth
Browder	Hyde	Rowland (CT)
Brown (CO)	Inhofe	Rowland (GA)
Buechner	Ireland	Saiki
Bunning	James	Saxton
Burton	Jenkins	Schaefer
Byron	Johnson (CT)	Schiff
Callahan	Jones (GA)	Schuette
Campbell (CA)	Kasich	Schulze
Chandler	Kolbe	Sensenbrenner
Clinger	Kyl	Shaw
Coble	LaFalce	Shumway
Coleman (MO)	Lagomarsino	Shuster
Combest	Lancaster	Skeen
Cooper	Leath (TX)	Skelton
Coughlin	Lent	Slattery
Courter	Lewis (CA)	Slaughter (VA)
Cox	Lewis (FL)	Smith (NE)
Craig	Lightfoot	Smith (NJ)
Crane	Lipinski	Smith (TX)
Dannemeyer	Livingston	Smith, Robert (NH)
Darden	Lloyd	Smith, Robert (OR)
DeLay	Lowery (CA)	Solomon
Derrick	Lukens, Donald	Spence
DeWine	Madigan	Stallings
Dickinson	Marlenee	Stangeland
Dornan (CA)	Martin (IL)	Stearns
Douglas	Martin (NY)	Stenholm
Dreier	McCandless	Sundquist
Duncan	McCollum	Tauke
Edwards (OK)	McCrery	Tauzin
Emerson	McDade	Taylor
English	McEwen	Thomas (CA)
Erdreich	McMillan (NC)	Thomas (GA)
Fawell	Meyers	Thomas (WY)
Fields	Michel	Upton
Fish	Miller (OH)	Vander Jagt
Gallegly	Miller (WA)	Vucanovich
Gekas	Montgomery	Walker
Gillmor	Moorhead	Walsh
Gingrich	Morrison (WA)	Watkins
Goodling	Myers	Weber
Goss	Nielson	Weldon
Gradison	Ortiz	Whittaker
Grandy	Oxley	Wolf
Grant	Packard	Wylie
Green	Parker	Young (AK)
Gunderson	Parris	Young (FL)
Hall (TX)	Pashayan	
Hammerschmidt	Patterson	
Hancock	Paxon	

NOES—225

Ackerman	Bates	Brooks
Akaka	Beilenson	Brown (CA)
Alexander	Berman	Bruce
Anderson	Bilbray	Bryant
Andrews	Boggs	Bustamante
Annunzio	Bonior	Campbell (CO)
Anthony	Borski	Cardin
Applegate	Bosco	Carper
Aspin	Boucher	Carr
Atkins	Boxer	Chapman
AuCoin	Brennan	Clarke

Clay	Kaptur	Pickett
Clement	Kastenmeier	Pickle
Coleman (TX)	Kennedy	Poshard
Collins	Kennelly	Price
Condit	Kildee	Rahall
Conte	Kleczka	Rangel
Conyers	Kolter	Richardson
Costello	Kostmayer	Rinaldo
Coyne	Lantos	Roe
Crockett	Leach (IA)	Rose
Davis	Lehman (CA)	Rostenkowski
de la Garza	Lehman (FL)	Roybal
DeFazio	Levin (MI)	Russo
Dellums	Levine (CA)	Sabo
Dicks	Lewis (GA)	Sangmeister
Dingell	Long	Savage
Dixon	Lowey (NY)	Sawyer
Donnelly	Luken, Thomas	Scheuer
Dorgan (ND)	Machtley	Schneider
Downey	Manton	Schroeder
Durbin	Markey	Schumer
Dymally	Martinez	Serrano
Dyson	Matsui	Sharp
Early	Mavroules	Shays
Eckart	Mazzoli	Sikorski
Edwards (CA)	McCloskey	Sisisky
Engel	McCurdy	Skaggs
Espy	McDermott	Slaughter (NY)
Evans	McGrath	Smith (FL)
Fascell	McHugh	Smith (IA)
Fazio	McMillen (MD)	Smith (VT)
Feighan	McNulty	Snowe
Flake	Mfume	Solarz
Foglietta	Miller (CA)	Spratt
Ford (MI)	Mineta	Staggers
Ford (TN)	Moakley	Stark
Frank	Molinari	Stokes
Frost	Mollohan	Studds
Gaydos	Moody	Swift
Gejdenson	Morella	Synar
Gephardt	Morrison (CT)	Tallon
Geren	Mrazek	Tanner
Gilman	Murphy	Torres
Glickman	Murtha	Towns
Gonzalez	Nagle	Traficant
Gordon	Natcher	Udall
Gray	Neal (MA)	Unsoeld
Guarini	Neal (NC)	Valentine
Hall (OH)	Nelson	Vento
Hamilton	Nowak	Visclosky
Hawkins	Oakar	Volkmer
Hayes (IL)	Oberstar	Walgren
Hefner	Obey	Washington
Hertel	Olin	Waxman
Hoagland	Owens (NY)	Weiss
Hochbrueckner	Owens (UT)	Wheat
Horton	Pallone	Whitten
Hoyer	Panetta	Williams
Hughes	Payne (NJ)	Wilson
Jacobs	Payne (VA)	Wise
Johnson (SD)	Pease	Wolpe
Johnston	Pelosi	Wyden
Jontz	Penny	Yates
Kanjorski	Perkins	Yatron

NOT VOTING—13

Dwyer	Jones (NC)	Stump
Flippo	Laughlin	Torricelli
Frenzel	Roukema	Traxler
Gallo	Sarpalius	
Gibbons	Smith, Denny (OR)	

□ 1814

The Clerk announced the following pairs:

On this vote:

Mr. Gallo for, with Mr. Dwyer against.

Mr. Frenzel for, with Mrs. Roukema against.

Mr. Denny Smith for, with Mr. Stump against.

Messrs. LANTOS, SHAYS, and McGRATH changed their vote from "aye" to "no."

Messrs. MICHEL, DERRICK, and LAFALCE changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute as modified, made in order as original text.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

(By unanimous consent Mr. GEPHARDT was allowed to speak out of order.)

LEGISLATIVE PROGRAM

Mr. GEPHARDT. If Members will pay attention for a moment, it is our thought that since it is now 6:20, we will not go to the supplemental appropriations but will stop after this bill.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] had demanded a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 263, noes 158, not voting 12, as follows:

[Roll No. 58]

AYES—263

Ackerman	Dymally	Kleczka
Akaka	Dyson	Kolter
Alexander	Early	Kostmayer
Anderson	Eckart	LaFalce
Andrews	Engel	Lancaster
Annunzio	English	Lantos
Anthony	Espy	Leach (IA)
Applegate	Evans	Lehman (CA)
Aspin	Fascell	Lehman (FL)
Atkins	Fazio	Levin (MI)
AuCoin	Feighan	Levine (CA)
Bates	Fish	Lewis (GA)
Bellenson	Flake	Lipinski
Bennett	Foglietta	Lowey (NY)
Berman	Ford (MI)	Luken, Thomas
Bilbray	Ford (TN)	Machtley
Bilirakis	Frank	Manton
Boehlert	Frost	Markey
Boggs	Gaydos	Martin (IL)
Bonior	Gejdenson	Martinez
Borski	Gephardt	Matsui
Bosco	Geren	Mavroules
Boucher	Gibbons	Mazzoli
Boxer	Gillmor	McCloskey
Brennan	Gilman	McCurdy
Brooks	Glickman	McDade
Brown (CA)	Gonzalez	McDermott
Bruce	Gordon	McGrath
Bryant	Grant	McHugh
Bustamante	Gray	McMillen (MD)
Byron	Green	McNulty
Campbell (CA)	Guarini	Mfume
Campbell (CO)	Hall (OH)	Miller (CA)
Cardin	Hall (TX)	Miller (WA)
Carper	Hamilton	Mineta
Carr	Hatcher	Moakley
Chapman	Hawkins	Molinari
Clarke	Hayes (IL)	Mollohan
Clement	Hayes (LA)	Moody
Coleman (TX)	Hefner	Morella
Collins	Hertel	Morrison (CT)
Condit	Hoagland	Morrison (WA)
Conte	Hochbrueckner	Mrazek
Conyers	Horton	Murphy
Costello	Hoyer	Murtha
Coughlin	Hughes	Nagle
Coyne	Jacobs	Natcher
Crockett	James	Neal (MA)
Darden	Jenkins	Neal (NC)
Davis	Johnson (CT)	Nelson
de la Garza	Johnson (SD)	Nowak
DeFazio	Johnston	Oakar
Derrick	Jones (GA)	Oberstar
Dicks	Jontz	Obey
Dingell	Kanjorski	Ortiz
Dixon	Kaptur	Owens (NY)
Donnelly	Kastenmeier	Owens (UT)
Dorgan (ND)	Kennedy	Pallone
Downey	Kennelly	Panetta
Durbin	Kildee	Patterson
Payne (NJ)	Sawyer	Tanner
Payne (VA)	Saxton	Tauzin
Pease	Scheuer	Thomas (GA)
Pelosi	Schiff	Torres
Penny	Schneider	Towns
Perkins	Schroeder	Traficant
Petri	Schumer	Udall
Pickle	Serrano	Unsoeld
Poshard	Sharp	Valentine
Price	Shays	Vento
Rahall	Sikorski	Visclosky
Rangel	Sisisky	Volkmer
Ravenel	Skaggs	Walgren
Richardson	Slaughter (NY)	Walsh
Ridge	Smith (FL)	Washington
Rinaldo	Smith (IA)	Watkins
Roe	Smith (NJ)	Waxman
Ros-Lehtinen	Smith (VT)	Weiss
Rose	Snowe	Weldon
Rostenkowski	Solarz	Wheat
Rowland (CT)	Spratt	Whitten
Rowland (GA)	Staggers	Wilson
Roybal	Stallings	Wise
Russo	Stark	Wolpe
Sabo	Studds	Wyden
Saiki	Swift	Yates
Sangmeister	Synar	Yatron
Savage	Tallon	

NOES—158

Archer	Hancock	Pickett
Armey	Hansen	Porter
Baker	Harris	Pursell
Ballenger	Hastert	Quillen
Barnard	Hefley	Ray
Bartlett	Henry	Regula
Barton	Herger	Rhodes
Bateman	Hiler	Ritter
Bentley	Holloway	Roberts
Bereuter	Hopkins	Robinson
Bevill	Houghton	Rogers
Bliley	Hubbard	Rohrabacher
Broomfield	Huckaby	Roth
Browder	Hunter	Schaefer
Brown (CO)	Hutto	Schuette
Buechner	Hyde	Schulze
Bunning	Inhofe	Sensenbrenner
Burton	Ireland	Shaw
Callahan	Kasich	Shumway
Chandler	Kolbe	Shuster
Clay	Kyl	Skeen
Clinger	Lagomarsino	Skelton
Coble	Leath (TX)	Slattery
Coleman (MO)	Lent	Slaughter (VA)
Combest	Lewis (CA)	Smith (NE)
Cooper	Lewis (FL)	Smith (TX)
Courter	Lightfoot	Smith, Robert (NH)
Cox	Livingston	
Craig	Lloyd	Smith, Robert (OR)
Crane	Long	Solomon
Dannemeyer	Lowery (CA)	Spence
DeLay	Lukens, Donald	Stangeland
Dellums	Madigan	Stearns
DeWine	Marlenee	Stenholm
Dickinson	Martin (NY)	Stokes
Dornan (CA)	McCandless	Sundquist
Douglas	McCollum	Tauke
Dreier	McCrery	Taylor
Duncan	McEwen	Thomas (CA)
Edwards (CA)	McMillan (NC)	Thomas (WY)
Edwards (OK)	Meyers	Upton
Emerson	Michel	Vander Jagt
Erdreich	Miller (OH)	Vucanovich
Fawell	Montgomery	Walker
Fields	Moorhead	Weber
Gallegly	Myers	Whittaker
Gekas	Nielson	Williams
Gingrich	Olin	Wolf
Goodling	Oxley	Wylie
Goss	Packard	Young (AK)
Gradison	Parker	Young (FL)
Grandy	Parris	
Gunderson	Pashayan	
Hammerschmidt	Paxon	

NOT VOTING—12

Dwyer	Laughlin	Stump
Flippo	Roukema	Torricelli
Frenzel	Sarpalius	Traxler
Gallo	Smith, Denny (OR)	
Jones (NC)		

□ 1834

So the amendment in the nature of a substitute, as modified, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. McHUGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3) to authorize appropriations to expand Head Start programs and programs carried out under the Elementary and Secondary Education Act of 1965 to include child care services, and for other purposes, pursuant to House Resolution 368, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO COMMIT OFFERED BY MR. GINGRICH

Mr. GINGRICH. Mr. Speaker, I offer a motion to commit with instructions.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. GINGRICH. I am opposed to the bill, yes, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to commit.

The Clerk read as follows:

Mr. GINGRICH moves to commit the bill, H.R. 3, jointly to the Committee on Ways and Means and the Committee on the Budget with instructions to hold hearings on the bill and the net deficit effect of this Act and amendments made by this Act for the first 5 fiscal years beginning after September 30, 1990, and to report promptly back to the House their recommendations on how to offset any such net deficit effect.

The SPEAKER. The gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes in support of his motion to commit.

POINT OF ORDER

Mr. FORD of Michigan. Mr. Speaker, I reserve a point of order against the motion. My understanding of the rule is that it did not provide for a motion to recommit with instructions.

Mr. GINGRICH. Mr. Speaker, I would ask, is the gentleman making a point of order?

Mr. WALKER. As a parliamentary inquiry, Mr. Speaker, I would ask, is the gentleman reserving a point of order or making a point of order?

Mr. FORD of Michigan. Mr. Speaker, I will make the point of order and ask for a ruling.

The SPEAKER. The gentleman from Michigan [Mr. FORD] makes a point of order against the motion to commit on the ground that it provides for instructions contrary to the resolution adopted by the House.

Does the gentleman from Pennsylvania [Mr. WALKER] or the gentleman from Georgia [Mr. GINGRICH] wish to be heard on the point of order?

Mr. GINGRICH. I do, Mr. Speaker.

It is my understanding, Mr. Speaker, that it is within the rules of the House to offer a motion to recommit with instructions that do not provide for forthwith reporting back, that this motion is in fact within the standard rules of the House.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. WALKER] wish to be heard on the point of order?

Mr. WALKER. Yes, I do, Mr. Speaker.

That would be the point I would make, Mr. Speaker, that the instructions in the rule were that we could not have instructions on a motion that would report back to the House forthwith. This particular motion does not do that, so, therefore, it is perfectly within the rules of the House for the gentleman to offer the motion.

The SPEAKER. It is the Chair's opinion that the resolution prohibits a motion to recommit with instructions which have the effect of further amending the bill which has been amended in its entirety and ordering its reporting back with that amendment. The language in the motion to recommit does not propose an amendment to the bill, but a relevant procedural action upon committees of the HOUSE, and the Chair believes that it is within the rules of the HOUSE and the permissible scope of the motion to recommit under the resolution adopted by the HOUSE, and the Chair over the point of order.

The gentleman from Georgia (Mr. GINGRICH) is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, I simply want to make the following point, and I will not take all of the 5 minutes.

First, Mr. Speaker, I do want to report to the House that the President has been consulted with and that the bill in its current form will be vetoed. Members should be aware of that when they vote on final passage.

Mr. Speaker, since the House may not have been paying attention, let me just repeat what I have said.

We have checked with the White House and with the President, and the bill in its current form will be vetoed, and Members may want to keep that in mind as we vote on final passage.

But let me say on this particular motion that this is in essence the spirit of the Michel pay-as-you-go motion.

Mr. Speaker, I say this particularly to our friends on the Democratic side: I noticed a rather large article in the Washington Post yesterday about how many Democrats are not interested in pay as you go, and the intent of this motion is to allow those Democrats and those Republicans who believe that pay as you go is a good idea to have a first opportunity to vote on that concept here in the House.

So, Mr. Speaker, I would urge a yes vote to allow us to begin to implement the concept that the gentleman from Illinois [Mr. MICHEL] offered as an amendment which was not made in order, but to allow the Committee on the Budget to look at this bill and to refer back on how pay as you go might operate on this particular measure.

Mr. Speaker, I yield back the balance of my time.

Mrs. ROUKEMA. Mr. Chairman, I must reluctantly oppose the majority's day care bill, H.R. 3 and also the Stenholm-Shaw substitute as well.

If we are to have a new Federal child care program, I do not oppose vouchers for centers sponsored and operated by religious groups. Clearly the Federal Government already funds a variety of programs that are based in churches and synagogues. These programs work and they are not challenged on constitutional grounds. I believe that is a phantom argument. Moreover, we cannot ignore the fact that church-based groups supply an estimated 40 percent of all child care available outside the home. Any child care bill passed by us needs to recognize this fact and make funding available to build on these successful programs.

As for the substitute backed by the administration, they want diversity and choice—and tax credits—but inexplicably they don't want to associate this program with the schools, except to the extent that Head Start continues. They do not wish to expand the program for before and after school programs for latchkey children.

On the issue of tax credits, I want it made clear that I am not fundamentally opposed to them. However, we are using the earned income tax credit in this case as Federal child care policy which I believe is a misapplication of tax credits. If we are to consider earned income tax credits, we should be doing it in terms of national tax policy and incomes policy, but not as child care policy since there is no guarantee that this money will be used for child care expenses.

Fundamentally, we do not have the right to create not one, but two new entitlement programs conservatively estimated to cost $28 billion over the next 5 years. This at a time when both parties are pledging no new taxes * * * when nobody except Mr. ROSTENKOWSKI—who is disavowed by his party leadership—will even touch the subject of meaningful, real world deficit reduction. And talk of a pay as you go package is nice but I did not see it anywhere in these bills.

Perhaps this is the way we are to spend the peace dividend which the administration tells us doesn't even exist. If so, I want to know it up front.

And finally, my colleagues, you know that as surely as night follows day, this entitlement

is bound to grow. This is only the downpayment.

Now to return to the programs proposed by these bills, namely title 20, block grants, Head Start expansion, and so on, I would take a very different and more cautious approach. My approach to the issue of child care proposes grants to the States in the form of seed money to develop programs at the State and local level cooperatively with community groups, local school systems, and business. A meaningful startup could be accomplished with a grant program of approximately $300 million. In addition to being a program we can afford, it also has merit in stimulating innovation and in keeping direction and choice as close to home as possible—with the State, community, school, business, and parents—rather than a federally directed, mandated program.

This seed money could be used to initiate and build on model programs such as those established in Independence, MI, and in my home town of Ridgewood, NJ. The program in my hometown, established by Cathy Marino, was created and thrives today without the benefit of Federal funds.

Like the program in New Jersey, the Independence, MI, program is the result of the combined efforts of the community, business, the school system, and parents. By using the already available school facility, child care providers and parents have entered into a partnership that provides child care at an affordable price while giving quality and parent involvement top priority.

I urge my colleagues to keep in mind the successes of the Independence, MI, and Ridgewood, NJ, programs. In our effort to help working parents pay for quality child care, we must not destroy the very kind of child care programs that we want, and ought, to encourage. With these new proposals before us today, we will do just that.

Again, I stress that we should encourage child care programs in States and communities across the country that have responded to the needs of working parents. The best way to do that is through block grants to the States as seed money to expand and build on the successful programs.

Any child care legislation that Congress passes should do four important things:

First, keep direction and choice as close to home as possible—with State, community, school, business, and parents.

Second, inspire and invest in innovation suitable for local needs.

Third, give flexibility to integrate existing programs in the public schools as well as church-sponsored programs.

Fourth, given our enormous budget deficit, child care legislation must be consistent with the objectives of a pay as you go system and the overarching need for deficit reduction.

The bills we have before us today do none of this.

Mr. RAHALL. Mr. Chairman, I rise in strong support of the leadership bill on child care which is before us today.

As a member of the Education and Labor Committee, and a cosponsor of H.R. 3, the well-known ABC bill, I want to say for the record that I stand behind the committee bill as reported, which I believe was carefully crafted, would have expanded on proven successful programs such as chapter 1 for before-and-after school care, and Head Start for preschoolers, but most importantly would have provided direct grants to the States for assisting them in providing more child-care opportunities. That title, making direct grants to States, to all intents and purposes has been dropped from the bill before us. This was the title for the working poor and middle-income families—giving them child care that was of quality, that was provided in a safe environment, and that was affordable.

In addition to strongly supporting H.R. 3, I also supported an expansion of the earned income tax credit for poor families with children, which tax rebate could be used by them for the purchase of child care, or for other than child care purposes. With this additional source of funding, mothers who choose to remain at home and care for children rather than go to work, receive the benefit of added income for their families.

But I want to stress here and now, that there are mothers who are just as caring and just as concerned for their children's welfare who have had to join the work force—not because they just want a career, or just don't want to stay at home and care for their children on a full-time basis—but who have entered the work force because they need to have a second income as an economic necessity. Often working mothers are the only breadwinner—whether because of being single parents, or because their husbands are unemployed or underemployed—they have to work, and because of that, we wanted them to have a quality, safe, affordable place to leave their children as they go off to work each day.

I know the economic conditions in my State, in my district, are not as strong as they should be, as they can be, or as they will be.

I know why many more West Virginia women, mothers of children who are preschool age, and who are school age latchkey children, have gone to work for the first time in their lives, or are returning to jobs they held prior to getting married and beginning a family. In West Virginia, 31.6 percent, or 39,780 of mothers working have children under the age of 6; those working mothers with children between age 6 and 17 represent 45.9 percent, or 68,158 of all women in West Virginia's work force. Children in single parent families in West Virginia represent 17.8 percent of all children, and 155,000 of those children live in families earning incomes below the established poverty level. For you, this bill represents safe, affordable care for your children while you go off to work—not by choice, but due to the need to put food on your tables, or to keep a roof over the heads of your loved ones, to keep them warm and to keep them properly clothed.

Mr. Chairman, I will not support the Edwards amendment today. I have struggled over this amendment. I have spoken with parents who deeply believe that striking the church-state language somehow leaves them of the stream of the child care funding we plan to send to the States in its various forms. They are still eligible under the bill, under both bills, but regrettably they have been convinced otherwise by misinformation given out on the floor of the House of Representatives, and by electronic ministries who have been given the same deliberate misinformation about this bill. I hope I have been clear to them that leaving the church-state language in the bill, that by defeating the Edwards amendment, could place this bill in our court system for years, during which time churches could receive not a penny of these funds.

Today I will also support an amendment to be offered that makes State use of vouchers for the delivery of child care permissible, and not mandatory. Just as there are no mandated child care standards in this bill, there should be no mandated voucher requirements. If states wish to use vouchers, then this bill should permit them to do so. But no State, and especially not my State, should have them imposed. States know what works for them—and vouchers may not be the way to proceed with providing child care. Some States with demonstration voucher programs report that the costs of implementing the use of vouchers is very high, and may not be affordable. West Virginia is already struggling to find revenues for other human services programs—I doubt if they can afford to implement a voucher program mandated by Washington.

There is no early childhood education component in the Stenholm bill. There is no quality of care component in the Stenholm substitute.

There is no before and after school care in the Stenholm substitute.

The leadership bill provides for the expansion to a full day, year round in Head Start programs, and requires the full participation of the parents of Head Start children.

The leadership bill provides for both the expansion of early childhood education programs, or before-and-after school programs, or both. It includes providing services for 4-year-olds, and at the option of local educational agencies, it can provide services for 3-year-olds whose parents need child care.

As stated above with regard to standards we are said to be imposing on the States, let me clarify for the record that the standards in this bill are at the option of the States, not mandates on them. The standards recommended are intended to serve as models for those States that have few child care standards in place for the protection of the health and safety of the children being cared for.

I urge my colleagues to support the leadership bill, and to oppose the Stenholm substitute.

The SPEAKER. The gentleman from New York [Mr. DOWNEY] is recognized for 5 minutes.

Mr. DOWNEY. Mr. Speaker, there is one issue that has been around here for 5 months, and we all know what it is. It is this issue. We need no further hearings. We have not allowed the S&L's to wait for their money. We should not force the children to wait for theirs.

Please vote this motion down.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Without objection, the previous question is ordered on the motion to commit.

There was no objection.

The SPEAKER. The question is on the motion to commit.

The question was taken; and the Speaker announced that the noes appeared to have it.I90[H29MR0-882]{H1338}GINGRICH

Mr. GINGRICH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 152, nays 259, not voting 22, as follows:

[Roll No. 59]

YEAS—152

Archer	Hancock	Petri
Armey	Hansen	Porter
Ballenger	Hastert	Pursell
Bartlett	Hefley	Quillen
Barton	Henry	Ravenel
Bateman	Herger	Ray
Bentley	Hiler	Regula
Bereuter	Holloway	Rhodes
Bilirakis	Hopkins	Ridge
Bliley	Horton	Ritter
Broomfield	Houghton	Roberts
Brown (CO)	Hunter	Rogers
Buechner	Hyde	Rohrabacher
Bunning	Inhofe	Ros-Lehtinen
Burton	Ireland	Roth
Callahan	James	Saiki
Campbell (CA)	Johnson (CT)	Schaefer
Chandler	Kasich	Schiff
Clinger	Kolbe	Schuette
Coble	Kyl	Schulze
Coleman (MO)	Lagomarsino	Sensenbrenner
Combest	Leach (IA)	Shaw
Conte	Lent	Shumway
Coughlin	Lewis (CA)	Shuster
Courter	Lewis (FL)	Skeen
Cox	Lightfoot	Slaughter (VA)
Craig	Livingston	Smith (NE)
Crane	Lowery (CA)	Smith (TX)
Dannemeyer	Lukens, Donald	Smith, Robert (NH)
DeLay	Madigan	
DeWine	Marlenee	Smith, Robert (OR)
Dornan (CA)	Martin (IL)	
Douglas	Martin (NY)	Solomon
Dreier	McCandless	Stangeland
Duncan	McCollum	Stearns
Edwards (OK)	McCrery	Sundquist
Emerson	McDade	Tauke
Fawell	McEwen	Thomas (CA)
Fields	McMillan (NC)	Thomas (WY)
Fish	Meyers	Upton
Gallegly	Michel	Vander Jagt
Gekas	Miller (OH)	Vucanovich
Gillmor	Miller (WA)	Walker
Gingrich	Moorhead	Weber
Goodling	Morrison (WA)	Weldon
Goss	Myers	Whittaker
Gradison	Nielson	Wolf
Grandy	Oxley	Wylie
Grant	Packard	Young (AK)
Green	Parris	Young (FL)
Gunderson	Pashayan	
Hammerschmidt	Paxon	

NAYS—259

Ackerman	Borski	Collins
Akaka	Bosco	Condit
Alexander	Boucher	Conyers
Anderson	Boxer	Cooper
Andrews	Brennan	Costello
Annunzio	Brooks	Coyne
Anthony	Browder	Crockett
Applegate	Brown (CA)	Darden
Aspin	Bruce	Davis
Atkins	Bryant	de la Garza
AuCoin	Bustamante	DeFazio
Barnard	Byron	Dellums
Bates	Campbell (CO)	Derrick
Beilenson	Cardin	Dicks
Bennett	Carper	Dingell
Berman	Carr	Dixon
Bevill	Chapman	Donnelly
Bilbray	Clarke	Dorgan (ND)
Boehlert	Clay	Downey
Boggs	Clement	Durbin
Bonior	Coleman (TX)	Dymally
Dyson	Levine (CA)	Rowland (GA)
Early	Lewis (GA)	Roybal
Eckart	Lloyd	Russo
Engel	Long	Sabo
English	Lowey (NY)	Sangmeister
Erdreich	Luken, Thomas	Savage
Espy	Machtley	Sawyer
Evans	Manton	Saxton
Fascell	Markey	Scheuer
Fazio	Martinez	Schneider
Feighan	Matsui	Schroeder
Flake	Mavroules	Schumer
Foglietta	Mazzoli	Serrano
Ford (MI)	McCloskey	Sharp
Ford (TN)	McCurdy	Shays
Frank	McDermott	Sikorski
Frost	McGrath	Sisisky
Gaydos	McHugh	Skaggs
Gejdenson	McMillen (MD)	Skelton
Gephardt	McNulty	Slattery
Geren	Mfume	Slaughter (NY)
Gibbons	Miller (CA)	Smith (FL)
Gilman	Mineta	Smith (IA)
Glickman	Moakley	Smith (NJ)
Gonzalez	Molinari	Smith (VT)
Gordon	Mollohan	Snowe
Gray	Montgomery	Solarz
Guarini	Moody	Spratt
Hall (OH)	Morella	Staggers
Hall (TX)	Morrison (CT)	Stallings
Hamilton	Mrazek	Stark
Harris	Murtha	Stenholm
Hawkins	Nagle	Stokes
Hayes (IL)	Natcher	Studds
Hayes (LA)	Neal (MA)	Swift
Hefner	Neal (NC)	Synar
Hertel	Nelson	Tallon
Hoagland	Nowak	Tanner
Hochbrueckner	Oakar	Tauzin
Hoyer	Oberstar	Taylor
Hubbard	Obey	Thomas (GA)
Huckaby	Olin	Torres
Hughes	Ortiz	Towns
Hutto	Owens (NY)	Traficant
Jacobs	Pallone	Udall
Jenkins	Panetta	Unsoeld
Johnson (SD)	Parker	Valentine
Johnston	Patterson	Vento
Jones (GA)	Payne (NJ)	Visclosky
Jontz	Payne (VA)	Volkmer
Kanjorski	Pease	Walgren
Kaptur	Pelosi	Walsh
Kastenmeier	Penny	Washington
Kennedy	Perkins	Watkins
Kennelly	Pickett	Waxman
Kildee	Pickle	Weiss
Kleczka	Poshard	Wheat
Kolter	Price	Whitten
Kostmayer	Rahall	Williams
LaFalce	Rangel	Wilson
Lancaster	Richardson	Wise
Lantos	Rinaldo	Wyden
Leath (TX)	Roe	Yates
Lehman (CA)	Rose	Yatron
Lehman (FL)	Rostenkowski	
Levin (MI)	Rowland (CT)	

NOT VOTING—22

Baker	Jones (NC)	Smith, Denny (OR)
Dickinson	Laughlin	
Dwyer	Lipinski	Spence
Edwards (CA)	Murphy	Stump
Flippo	Owens (UT)	Torricelli
Frenzel	Robinson	Traxler
Gallo	Roukema	Wolpe
Hatcher	Sarpalius	

□ 1858

The Clerk announced the following pairs:

On this vote:

Mr. Roukema for, with Mr. Dwyer against.

Mr. Denny Smith for, with Mr. Traxler against.

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. DOWNEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 265, noes 145, not voting 23, as follows:

[Roll No. 60]

AYES—265

Akaka	Gallegly	Molinari
Alexander	Gaydos	Mollohan
Anderson	Gejdenson	Moody
Andrews	Gephardt	Morella
Annunzio	Geren	Morrison (CT)
Anthony	Gibbons	Morrison (WA)
Applegate	Gillmor	Mrazek
Aspin	Gilman	Murtha
Atkins	Glickman	Nagle
AuCoin	Gonzalez	Natcher
Bates	Gordon	Neal (MA)
Bennett	Grant	Neal (NC)
Bereuter	Gray	Nelson
Berman	Green	Nowak
Bevill	Guarini	Oakar
Bilbray	Hall (OH)	Oberstar
Bilirakis	Hall (TX)	Obey
Boehlert	Hamilton	Ortiz
Boggs	Harris	Owens (NY)
Bonior	Hawkins	Pallone
Borski	Hayes (IL)	Panetta
Bosco	Hayes (LA)	Parris
Boucher	Hefner	Pashayan
Boxer	Hertel	Patterson
Brennan	Hoagland	Payne (NJ)
Brooks	Hochbrueckner	Payne (VA)
Browder	Horton	Pease
Brown (CA)	Hoyer	Pelosi
Bruce	Hubbard	Penny
Bustamante	Hughes	Perkins
Byron	Jacobs	Petri
Campbell (CA)	James	Pickle
Campbell (CO)	Jenkins	Poshard
Cardin	Johnson (CT)	Price
Carper	Johnson (SD)	Rahall
Carr	Johnston	Rangel
Chapman	Jones (GA)	Ravenel
Clarke	Jontz	Richardson
Clement	Kanjorski	Ridge
Coleman (TX)	Kaptur	Rinaldo
Collins	Kastenmeier	Roe
Condit	Kennedy	Ros-Lehtinen
Conte	Kennelly	Rose
Conyers	Kildee	Rostenkowski
Costello	Kleczka	Rowland (CT)
Coughlin	Kolter	Rowland (GA)
Coyne	Kostmayer	Roybal
Crockett	LaFalce	Russo
Darden	Lagomarsino	Sabo
Davis	Lancaster	Saiki
de la Garza	Lantos	Sangmeister
DeFazio	Leach (IA)	Savage
Derrick	Lehman (CA)	Sawyer
Dicks	Lehman (FL)	Saxton
Dingell	Levin (MI)	Scheuer
Dixon	Levine (CA)	Schiff
Donnelly	Lewis (GA)	Schneider
Dorgan (ND)	Lowey (NY)	Schroeder
Downey	Luken, Thomas	Schumer
Durbin	Machtley	Serrano
Dymally	Manton	Sharp
Dyson	Markey	Shays
Early	Martin (IL)	Sikorski
Eckart	Martinez	Sisisky
Engel	Matsui	Skaggs
English	Mavroules	Slaughter (NY)
Erdreich	Mazzoli	Smith (FL)
Espy	McCloskey	Smith (IA)
Evans	McCurdy	Smith (NJ)
Fascell	McDade	Smith (VT)
Fazio	McGrath	Snowe
Feighan	McHugh	Solarz
Fish	McMillen (MD)	Spratt
Flake	McNulty	Staggers
Foglietta	Mfume	Stark
Ford (MI)	Miller (CA)	Studds
Ford (TN)	Miller (WA)	Synar
Frank	Mineta	Tallon
Frost	Moakley	Tanner

Tauke	Visclosky	Wilson
Tauzin	Volkmer	Wise
Thomas (GA)	Walgren	Wolpe
Torres	Walsh	Wyden
Towns	Washington	Wylie
Traficant	Watkins	Yates
Udall	Waxman	Yatron
Unsoeld	Weldon	Young (FL)
Valentine	Wheat	
Vento	Whitten	

NOES—145

Ackerman	Hansen	Pickett
Archer	Hastert	Porter
Armey	Hefley	Pursell
Ballenger	Henry	Quillen
Barnard	Herger	Ray
Bartlett	Hiler	Regula
Barton	Holloway	Rhodes
Bateman	Hopkins	Ritter
Beilenson	Houghton	Roberts
Bentley	Huckaby	Rogers
Bliley	Hunter	Rohrabacher
Broomfield	Hutto	Roth
Brown (CO)	Hyde	Schaefer
Buechner	Inhofe	Schuette
Bunning	Ireland	Schulze
Burton	Kasich	Sensenbrenner
Callahan	Kolbe	Shumway
Chandler	Kyl	Shuster
Clay	Leath (TX)	Skeen
Clinger	Lent	Skelton
Coble	Lewis (CA)	Slattery
Coleman (MO)	Lewis (FL)	Slaughter (VA)
Combest	Lightfoot	Smith (NE)
Cooper	Livingston	Smith (TX)
Courter	Lloyd	Smith, Robert (NH)
Cox	Long	Smith, Robert (OR)
Craig	Lowery (CA)	Solomon
Crane	Lukens, Donald	Stallings
Dannemeyer	Madigan	Stangeland
DeLay	Marlenee	Stearns
Dellums	Martin (NY)	Stenholm
DeWine	McCandless	Stokes
Dornan (CA)	McCollum	Sundquist
Douglas	McCrery	Swift
Dreier	McDermott	Taylor
Duncan	McEwen	Thomas (CA)
Edwards (OK)	McMillan (NC)	Thomas (WY)
Emerson	Meyers	Upton
Fawell	Michel	Vander Jagt
Fields	Miller (OH)	Vucanovich
Gekas	Montgomery	Walker
Gingrich	Moorhead	Weber
Goodling	Myers	Weiss
Goss	Nielson	Whittaker
Gradison	Olin	Williams
Grandy	Oxley	Wolf
Gunderson	Packard	Young (AK)
Hammerschmidt	Parker	
Hancock	Paxon	

NOT VOTING—23

Baker	Hatcher	Sarpalius
Bryant	Jones (NC)	Shaw
Dickinson	Laughlin	Smith, Denny (OR)
Dwyer	Lipinski	Spence
Edwards (CA)	Murphy	Stump
Flippo	Owens (UT)	Torricelli
Frenzel	Robinson	Traxler
Gallo	Roukema	

□ 1916

The Clerk announced the following pairs:

On this vote:

Mr. Dwyer for, with Mr. Shaw against.

Mr. Traxler for, with Mr. Dickinson against.

Mr. Jones of North Carolina for, with Mr. Frenzel against.

Mr. Torricelli for, with Mr. Denny Smith against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. CLEMENT. Mr. Speaker, during the House's consideration of child care legislation, I inadvertently cast an "aye" vote on the Edwards amendment—rollcall No. 56.

Mr. Speaker, I meant to cast a "no" vote on the Edwards amendment because I believe that a parent's right to select the kind of facility in which their children will be cared for during the day should be protected.

Mr. Speaker, I have long been concerned about this issue. In fact, I met with the Democratic leadership on precisely this issue long before this bill came to the floor to voice my concerns about protecting church-based day care programs. In my home district, which includes Nashville, TN, over half of all day care provided is church-based. I think these programs are doing an outstanding job, Mr. Speaker, and I do not feel that they should be penalized, nor should families be penalized, vis-a-vis other types of day care programs in their eligibility for Federal funds.

We are not mandating that parents send their children to church-based programs, Mr. Speaker, nor are we offering preferential treatment to such programs. Rejection of the Edwards amendment is a matter of treating church-based programs fairly and, most especially, a matter of treating fairly families who need to work and choose to have their children cared for in such programs. This is the American way, Mr. Speaker.

Thank you, Mr. Speaker. I appreciate the opportunity to correct the RECORD.

LEGISLATIVE PROGRAM

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I ask for this time to seek the schedule for next week.

Mr. FROST. Mr. Speaker, will the gentleman from New York [Mr. SOLOMON] yield?

Mr. SOLOMON. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, the House will not be in session tomorrow. The schedule for next week is on Monday, April 2, the House meets at noon. There is no legislative business.

On Tuesday, April 3, the House meets at noon to consider H.R. 4404, the Dire Emergency Supplemental Appropriation for fiscal 1990. As the gentleman from New York knows, a rule has already been reported that waives certain points of order.

Suspensions that day, there are seven bills. Recorded votes on suspensions will be postponed until after debate on all suspensions. The suspensions are:

House Concurrent Resolution 271, expressing the sense of Congress that the President should make the release of Americans held hostage a high priority and accelerate efforts to this end;

H.R. 4009, Federal Maritime Commission authorization for fiscal year 1991;

H.R. 2571, Arizona Wildlife Refuge Wilderness Act;

S. 1813, providing that funds used under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters;

S. 1096, conference report providing for the use and distribution of the Seminole Indian award;

House Concurrent Resolution 275, providing for the publication of a volume pertaining to Christopher Columbus; and

H.R. 4073, to amend the Labor Management Relations Act of 1947 to permit parties to establish trust funds for employee housing.

The House meets at noon on Wednesday, April 4, 1990, and at 11 a.m. on Thursday, April 5, 1990. The following bills will be considered:

H.R. 2015, reauthorizing the Economic Development Administration and the Appalachian Regional Commission, subject to a rule;

H.R. 644, to amend the Wild and Scenic Rivers Act by designating the East Fork of the Jemez and Pecos Rivers in New Mexico, open rule, 1 hour of debate; and

H.R. 1236, Retail Price Maintenance Act subject to a rule.

On Friday, April 6, 1990, the House will not be in session. The Easter District work period begins. At the close of the week's business, the House will adjourn until noon on Wednesday, April 18, for the Easter District work period. Conference reports may be brought up at any time. Any further program will be announced later.

□ 1920

Mr. SOLOMON. I thank the gentleman.

If I might inquire of the gentleman while he is on his feet, the dire supplemental is going to be taken up on Tuesday before the suspensions or after the suspensions?

Mr. FROST. Before the suspensions; that is correct. It will be taken up the first order of business.

Mr. SOLOMON. And there will be a vote? There will be a rule?

Mr. FROST. The gentleman is correct.

Mr. SOLOMON. Will there be a vote on the rule and a vote on the supple-

mental before we go to the suspensions where the votes are going to be postponed until the end of the day?

Mr. FROST. If there are votes, the votes will occur in the natural order. Of course, it would be up to the minority if they request votes on the rule and on the appropriations bill. But it is my understanding they will occur prior to the suspensions.

Mr. SOLOMON. So that Members could possibly expect votes sometime around 1 o'clock or 1:30 on Tuesday?

Mr. FROST. That is certainly possible. The House goes in at noon. The first order of business is the rule, and the maximum amount of time on a rule is 1 hour. It depends if there is other business prior to that, but certainly there could be votes that early; that is correct.

Mr. SOLOMON. Might I just ask one further question. On the first suspension, No. 1, there was some question of whether that bill had come out of what committee. The ranking member of the Foreign Affairs Committee was not familiar with it when he was here on the floor earlier, and I wondered where that bill came from or how it got on the Suspension Calendar?

Mr. FROST. It did come from the Foreign Affairs Committee, that is correct.

Mr. SOLOMON. It was reported out of the Foreign Affairs Committee?

Mr. FROST. That is my impression, yes.

Mr. SOLOMON. I thank the gentleman for his time.

ADJOURNMENT TO MONDAY, APRIL 2, 1990

Mr. FROST. Madam Speaker, I ask unanimous consent that when the House adjourns today it adjourns to meet at noon on Monday next.

The SPEAKER pro tempore (Ms. SLAUGHTER of New York). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, APRIL 4, 1990

Mr. FROST. Madam Speaker, I ask unanimous consent that when the House adjourns on Tuesday, April 3, 1990, it adjourns to meet at noon on Wednesday, April 4, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUEST TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FROST. Madam Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. SOLOMON. Madam Speaker, reserving the right to object, I have not objected to these other unanimous-consent requests, but I would just observe that the gentleman who was kind enough to give us the schedule for next week is a member of the Rules Committee. He happens to be my good friend, the gentleman from Texas, who carried this rule which deprived Republican Members of their reasonable right to offer amendments on the floor of this House in a timely manner. I just want to put the House on notice on behalf of the Republican Members of this House that we are not going to take this rolling over. We were deprived, and we have to do something. We are going to fight, and the first way we begin to fight is to object to this Calendar Wednesday unanimous-consent request.

With all due respect, Madam Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

TRIBUTE TO MOLLY TURNER, A REMARKABLE SOUTH FLORIDIAN

(Mr. LEHMAN of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN of Florida. Madam Speaker, because the month of March is Women's History Month, I thought it would be appropriate to say a few words about a remarkable woman who broke the gender barrier in south Florida television: my special friend, Molly Turner.

Molly was the first woman television news anchor in Miami. In her 37 years in broadcasting, she did it all: Interview shows, investigative reporting, the weather—and developed a national reputation as a consumer issues reporter. She made time to serve on the boards of many community organizations, including United Way, Salvation Army, and United Cerebral Palsy.

In the 1950's, I owned and operated a used car lot. I advertised on a country and western musical show, Sunset Ranch. Molly was one of the stars, a hayseed character named Cousin Effie. That is how I got to know her.

Madam Speaker, south Florida is home to a number of remarkable men and women, but few have done so much as Molly Turner to make south Florida a better place for us all.

POLAND

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Madam Speaker, I rise today to pay tribute to Poland, a country that continually impresses the world with its raw courage and tenacious commitment to the causes of freedom and democracy.

Four nights ago in my home State of New York, Polish Prime Minister Tadeusz Mazowiecki announced that Poland will provide emigrating Soviet Jews with an air route to Israel—a path to freedom. This is a significant and courageous offer. What irony! Poland, once site of the Nazis' most atrocious and horrific death camp, Auschwitz, is now a beacon of freedom to Soviet Jewry, a bridge from a life of fear and persecution to a promising new life in the land of Israel.

But the Polish people have done more than provide a humanitarian service. They have done something that the Hungarians and the Soviets have not done. They have joined the fraternity of courageous nations that say "no" to terrorists. Poland's leaders know that to give in to terrorists is to embolden and empower them.

It is a lesson that Hungary and the Soviet Union would do well to learn. These two nations recently capitulated to threats of terrorism, scaling back the number of flights to Israel available to Soviet Jews. Such submission to the threats of terrorism is a tragic betrayal of democracy that endangers us all.

Once again, I applaud the courage, the leadership, and the commitment to justice that Poland has demonstrated in this offer to help usher Soviet Jews out of persecution.

CONGRESSMAN DENNY SMITH SUPPORTS STENHOLM-SHAW AMENDMENT

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute.)

Mrs. BENTLEY. Madam Speaker, my distinguished colleague, the gentleman from Oregon, Mr. DENNY SMITH, could not be here with us today because he is receiving medical attention at home. He did call from Oregon today and ask that I enter for the RECORD his unequivocal support for the bipartisan Stenholm-Shaw Family Choice and Child Care Improvement Act, and he has submitted a statement which will appear under general leave in the RECORD today.

□ 1930

EMPLOYER SANCTION REPEAL JOINT RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from California [Mr. ROYBAL] is recognized for 5 minutes.

Mr. ROYBAL. Madam Speaker, today I am introducing a House joint resolution to repeal the employer sanctions provisions of the Immigration Reform and Control Act of 1986 [IRCA] and to approve the findings of the General Accounting Office [GAO] report that employer sanctions have caused a widespread pattern of discrimination against U.S. citizens and others eligible to work in this country.

When employer sanctions were debated in Congress, some of my colleagues and I expressed deep concern that employer sanctions would cause employment discrimination against U.S. citizens and others who are authorized to work in the United States, but who happen to look foreign or speak English with an accent. Three years after the implementation of employer sanctions, I regret to say that our concerns have been confirmed by reports of the General Accounting Office [GAO], U.S. Commission on Civil Rights, the California Employment and Housing Commission, the New York City Commission on Human Rights, and various other major organizations.

The evidence that employer sanctions have caused a widespread pattern of discrimination is clear. The General Accounting Office concludes that "the employer survey results are sufficient to conclude that a widespread pattern of discrimination has resulted against eligible workers."

The GAO report found that nearly 20 percent of employers surveyed had discriminated on the basis of national origin and citizenship as a result of employer sanctions. Similarly, the U.S. Commission on Civil Rights, and the California and New York reports found that employers discriminated against U.S. citizens and other eligible workers out of fear of employer sanctions.

Under an expedited process provided by section 247(1) of the Immigration and Nationality Act [INA], the employer sanctions provisions are terminated if: First, the General Accounting Office concludes that these sanctions have caused a widespread pattern of discrimination against citizens and nationals of the United States or against eligible workers seeking employment and, second, Congress passes a joint resolution approving the Comptroller General's findings within 30 days of the transmittal of the report to Congress.

Today, I am introducing such a resolution which calls for the repeal of the employer sanctions provision of IRCA. As a country with a rich history of immigration, and an abhorrence for discrimination, we cannot continue implementing a program that has been used as a vehicle for employers to discriminate against U.S. citizens and other legal workers. I strongly urge my colleagues to cosponsor this legislation.

REQUEST TO SUBSTITUTE SPECIAL ORDER

The SPEAKER pro tempore. For what purpose does the gentleman from Illinois rise?

Mr. SAVAGE. Madam Speaker, I ask unanimous consent to speak in place of the gentleman from New York [Mr. OWENS].

Mrs. BENTLEY. Madam Speaker, reserving the right to object, I have about 15 minutes altogether and I do have an event in my district that I need to get back to. Since I am next on the list——

Mr. SAVAGE. Madam Speaker, I withdraw my request.

A TRIBUTE TO GEN. DRAZA MIHAILOVICH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Madam Speaker, I am pleased that the distinguished gentleman from Illinois, Congressman PHILIP CRANE, suggested that we use this special order today to discuss a very heroic and courageous man, Gen. Draza Mihailovich.

Today's special order is a very timely one, Madam Speaker. Today marks the 42d anniversary of General Mihailovich being posthumously awarded the Legion of Merit Award by President Harry Truman.

And 2 days ago, on the 27th of March, we commemorated what would have been General Mihailovich's 97th birthday.

Unfortunately, however, most of our Nation's citizens do not even know who this brave freedom fighter for democracy was.

Perhaps more telling than anything else about General Mihailovich is the fact that he was the bitter enemy of both the Nazi occupiers of Yugoslavia during World War II and the dictatorial Communist government of Broz Tito who ruled Yugoslavia after the war.

It was Tito's government that was eventually responsible for the mock trial in a kangaroo court that culminated in the execution of General Mihailovich.

What better day is there than this one to remember why President Truman posthumously awarded the Legion of Merit Award to General Mihailovich?

While World War II was raging in central Europe, over 500 American airmen were shot down behind enemy lines in Nazi-occupied Yugoslavia.

These men were rescued, protected, and returned to safety by the freedom-fighting Chetnik forces under the command of Draza Mihailovich, whose forces fought first against the Nazi occupiers and then against the Communist forces that held sway over Yugoslavia.

I would like to quote from a letter sent to me recently from Maj. Richard L. Felman, U.S. Air Force, retired. Major Felman was one of these American airmen whose life was saved by General Mihailovich.

Major Felman includes in his letter a public thank you to General Mihailovich, saying, "Thank you, General Mihailovich, for saving the lives of over 500 of our boys while they were serving in the defense of our country. No one else has ever done that and we as a people and a nation are mighty grateful!"

Mr. Speaker, Major Felman is indeed correct in stating that no one has done so courageous a deed for American soldiers behind enemy lines as Gen. Draza Mihailovich.

When President Truman awarded General Mihailovich the Legion of Merit Award on March 29, 1948, the brave general was already dead.

Mr. Speaker, we have only recently been able to officially confirm this high honor bestowed upon the general. This information became available after the records in the National Archives were opened to the public 40 years after the end of World War II. Here is a copy of the award on the front cover of a Serbian publication "Pogledi."

LEGION OF MERIT CHIEF COMMANDER

General Dragoljub Mihailovich distinguished himself in an outstanding manner as Commander-in-Chief of the Yugoslavian Army Forces and later as Minister of War by organizing and leading important resistance forces against the enemy which occupied Yugoslavia, from December 1941 to December 1944. Through the undaunted efforts of his troops, many United States airmen were rescued and returned safely to friendly control. General Mihailovich and his forces, although lacking adequate supplies, and fighting under extreme hardships, contributed materially to the Allied cause, and were instrumental in obtaining a final Allied Victory.

HARRY S. TRUMAN

MARCH 29, 1948.

General Mihailovich was tried and executed by Communist authorities on the grounds that he collaborated with the Nazis during the war.

The American airmen who were under the general's protection knew that this was a patent lie, and had the evidence to disprove it.

Not only did the Yugoslav Communist government refuse the American airmen permission to come testify, but they also disallowed any use of their written testimony altogether.

Over 600 pages of sworn testimony by American airmen were presented by our State Department to the general's legal counsel, and thrown out at his trial.

Mr. Speaker, a great injustice has been done against the name of Draza Mihailovich. But time has proved what our boys, shot down in Nazi-occupied Yugoslavia, knew all along.

General Mihailovich was both a Yugoslav patriot and freedom fighter, not the traitor that the Communists executed him as.

I urge all Members of Congress to join me in commemorating the life of

Gen. Draza Mihailovich on this very special anniversary.

Madam Speaker, I yield to the gentleman from Illinois, [Mr. CRANE].

Mr. CRANE. I thank the gentlewoman for yielding, and I commend her for taking this special order on this important occasion.

Madam Speaker, on this day 42 years ago, President Harry S. Truman upon the recommendation of the Supreme Allied Commander Gen. Dwight D. Eisenhower, posthumously awarded the Legion of Merit—Chief Commander, to Gen. Draza Mihailovich. This award, which is the highest military honor that can be bestowed upon a foreign national, was granted in recognition of the general's role during World War II. In the words of President Truman:

General Dragoljub Mihailovich distinguished himself in an outstanding manner as Commander-in-Chief of the Yugoslavian Army Forces and later as Minister of War by organizing and leading important resistance forces against the enemy which occupied Yugoslavia, from December 1941 to December 1944. Through the undaunted efforts of his troops, many United States airmen were rescued and returned safely to friendly control. General Mihailovich and his forces, although lacking adequate supplies, and fighting under extreme hardships, contributed materially to the Allied cause, and were instrumental in obtaining a final Allied Victory.

Madam Speaker, I would only pause for a moment on this point, having read that citation from President Truman, and, as I say, upon the recommendation of General Eisenhower, to say that our State Department to this day continues to parrot the falsehood that there is not documentation to support the award that was made by President Truman upon the recommendation of General Eisenhower, and since the Soviets have come clean about the Katyn massacre, I think it is about time our State Department comes clean on this issue.

Madam Speaker, the reason for our tribute to General Mihailovich is first and foremost our gratitude to him and the Serbian people for saving the lives of over 500 American airmen. Despite having been betrayed by the Western Allies as a result of a misinformation campaign spearheaded by the Soviet Union, General Mihailovich orchestrated the rescue of those very same men whose governments had turned their backs on him.

At the end of the war, the Committee of American Airmen Rescued by General Mihailovich was established for the purpose of erecting a monument to the general, in Washington, DC, or its environs, in recognition of the role he played in saving the lives of the 500 American airmen. The committee of airmen will finance the project in its entirety, including construction and any subsequent maintenance costs.

In 1974, the airmen petitioned Congress for permission to erect the monument on public land. Legislation to this end has been introduced in every session of Congress since. I have been the chief sponsor since 1984. In the past, the legislation has had as many as 90 cosponsors in the House. Hearings have been held on it, and twice it has been passed in the Senate by voice vote. Although it has the support of such organizations as the AFL-CIO, the American Legion, and the Air Force Association, the debate over how it will be received by the Yugoslav communist government has been a major stumbling block.

The purpose of this ongoing legislative effort is not so much to make amends for a great historical injustice, or to clear General Mihailovich's name, but more simply, to provide retired American servicemen with the opportunity to recognize someone who sacrificed his life to save theirs. After 45 years of delays and inaction, the least we can do is provide these remaining rescued airmen with an adequate means to express their appreciation.

Mr. KLECZKA. Madam Speaker, I congratulate my colleague, Congressman PHILIP CRANE of Illinois for holding today's special order commemorating the courage of Gen. Dragoljub Mihailovich.

During World War II, General Mihailovich and his guerrilla army of Chetniks were renowned for their unrelenting opposition to the brutal Nazi occupation of Yugoslavia. At a time of great suffering, this brave man offered hope to his beleaguered people.

The U.S. Government has recognized General Mihailovich's services to the war effort by awarding him the Legion of Merit—Chief Commander citation.

Upon posthumously awarding this tribute in 1948, President Harry S. Truman stated that "General Mihailovich and his forces, although lacking adequate supplies and fighting under extreme hardships, contributed materially to the Allied cause, and were instrumental in obtaining final Allied victory."

Tragically, General Mihailovich was unable to receive this award or to enjoy the blessings of peace for which he had so valiantly struggled. Regrettably, he was unjustly executed at the end of the war by Marshal Tito's Communist forces.

On a more personal level, General Mihailovich is warmly remembered in the United States for the role he played in saving the lives of over 500 American airmen downed in Yugoslavia during the war. Without his efforts, these men surely would have been captured, tortured, and killed.

Over 40 years later, these grateful survivors still work to honor the memory of the general who was responsible for saving their lives. The National Committee of American Airmen Rescued by General Mihailovich has lobbied vigorously to erect a monument to him so that all will know of his heroic deeds. The Serbian-American community also has worked hard to inform Congress and others of the importance of such a memorial.

Aware of General Mihailovich's place in history, I am proud to be an original cosponsor of House Joint Resolution 156, legislation introduced by Congressman PHILIP CRANE to authorize the erection of a memorial in Washington, DC, to the general.

I urge my colleagues to join Congressman CRANE, 24 other Members of Congress, and myself in cosponsoring this resolution which would give long overdue recognition to General Mihailovich.

□ 1940

LAYING OUT THE FACTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. SAVAGE] is recognized for 60 minutes.

Mr. SAVAGE. Madam Speaker, I rise tonight to deal with the problem that occurred in my recent primary election, the one in which—let me just say that I was successful, despite this problem. However, I want to bring it to the attention of our Nation tonight. For while I mention it in reference to my own experience in the recent primary election, I am convinced that it constitutes a danger for all America and threatens to rip the fabric of our democracy.

I represent the Second Congressional District in Illinois. It is not an inner-city district. It consists mainly of bungalows, semi-professional, and blue collar workers, second and third generation families there. It is approximately 30 percent suburban, approximately 30 percent nonblack. It is an industrial district that has housed most of the heavy industry in Illinois—automobile assembly plants, stamping plants, three steel mills, at one time, four.

In this campaign a strange thing occurred. A column was written by a columnist in the Sun-Times, the Chicago Sun-Times newspaper, by the name of Vernon Jarrett, that raised questions about who really was my opponent, because of what appeared to be a strange tilt in the sources of his campaign funding.

I want to share some facts with Members here this evening, that perhaps could be shared by some others who have been targeted, apparently as I was in this primary, and unfortunately, they lost their reelection bid.

After seeing this column, I began to check the records in the Federal Election Commission report of my opponent for this year, which was available only for January and February, of course, and began to check the identities of those who had contributed to his campaign. I want to let Members know what I found.

It relates to an organization called the American-Israel Political Affairs Committee. So before I begin to give numbers, amounts, let me first familiarize Members with the American-

Israel Political Affairs Committee, because it is not well-know beyond Capitol Hill in Washington, DC, and your elected representatives. It is indeed a rather shadowy operation, and I want to not just try to describe the American-Israel Political Affairs Committee, better known as AIPAC, and I will refer to it from the initials, A-I-P-A-C, AIPAC. This is not to be confused, incidentially, with the term "PAC"—referring to political action committees, as Members know, are those organizations under the Federal Election Commission that organize to contribute money to campaigns for Federal candidates and others. However, AIPAC means the American-Israel Political Affairs Committee, not a PAC—has no right to contribute money to candidates, therefore, but rather than to try to describe it myself, I want to just read excerpts to Members from newspapers reports that I discovered when I began to pursue this matter. In the process, I began to realize that I had been targeted for defeat by AIPAC.

First, The Wall Street Journal, June 24, 1987, an article by John J. Failka, and reads just in part, refers to the American-Israel Public Affairs Committee, or AIPAC, as "one of Washington's most powerful lobbying organizations." He points out in the article that "According to a computer-aided analysis of 1986 Federal Election Reports, despite AIPAC's claims of noninvolvement in political spending, no fewer than 51 pro-Israel PAC's, most of which draw money from Jewish donors"—I am reading a quote from The Wall Street Journal—"Jewish donors and operate under obscure-sounding names are operated by AIPAC officials, or people who hold seats on AIPAC's two major policy-making bodies". Continuing this article, "The analysis shows that three of seven regional chairpersons at AIPAC direct PACs"—meaning political action committees, those who can legally contribute money and do—"three of seven regional chairpersons of AIPAC direct PAC's, political action committee, and 26 more political action chairmen or treasurers sit on AIPAC's 131-member executive committee which meets four times a year and set overall lobbying strategy.

"Twenty-two more political action committee leaders hold seats on the second advisory body or AIPAC, a 200-member national council."

□ 1950

And it concludes: "While the pro-Israel PACs"—that is political action committees, not AIPAC—"represent diverse and supposedly bipartisan Jewish committees in almost every major city and region in the country, their spending patterns are remarkably similar."

I ask you to bear with me as I read from three or four clippings briefly to lay the ground work to understand this obscure operation, because however obscure and disguised, if you will bear with me you will learn what should be of great concern to us all. Here is the next clipping—and I am going to relate these down the line—is from the Washington Times newspaper, January 13, 1989.

It says in part: "A group of prominent Americans concerned about Washington's diplomatic tilt toward Israel filed a complaint yesterday with the Federal Elections Commission charging in a 100-page complaint that AIPAC has worked so closely"—I am just reading—"with legally established PAC's to target political candidates on the basis of their positions toward Israel, that the PAC's"—political action committees—"are in effect affiliates of the lobby group."

That would be illegal. That would be in violation of the Federal election laws. It would be in violation of what AIPAC contends are the limits of its own activities. And I continue from the same clipping: "AIPAC's formidable ability to monopolize congressional support is based not upon an appeal to American nation interests"—now, get this—"but upon threats by a special interests that has resorted to conspiracy and conclusion." That is a quote.

That is Richard Curtis, formerly the Chief Inspector of the U.S. Information Agency and one of the plantiffs in this case.

"The complaint supported by more than two dozen exhibits"—this is not longer the quote; this is in the newspaper clipping or the report—"demands that the FEC force AIPAC to register as a political action committee and disclose its activities. Such a ruling would hamper the effectiveness of the lobby which operates behind the scenes to recruit support for Israel, the largest recipient of United States aid, with $3 billion annually, and to oppose weapons sales to Arab foes of the Jewish state."

Now, that is from the Washington Times, by Isaiah Poole.

I have just a couple more, because I will bet that most of you are not familiar with AIPAC nor any of this that I am reading. This is from the Washington Post, November 14, 1989, an aritcle by Charles R. Babcock. It says:

Internal AIPAC documents made available to the Washington Post, however, show that the group's top political operative was actively involved with pro-Israel political action committees—PACS—trying to help raise money for several condidates in the 1986 Senate races.

A memo from Elizabeth A. Schrayer, then AIPAC's deputy political director, five weeks before that election urged an assistant to call several pro-Israel PACs and "try" to get $500 to $1,000 donations for five specific Senate candidates.

In the Sept. 30, 1986, memo, Schrayer listed nine pro-Israel PACs and noted that some had not contributed to certain candidates.

Four other documents are 1985 letters from Schrayer to individuals in Massachusetts, California and Hawaii. In them, she offers to provide fund-raising ideas and arrange speakers for a new pro-Israel PAC, sends a sample solicitation letter and list of pro-Israel PACs to a fund-raiser for Evans, and volunteers to answer questions about starting a PAC.

AIPAC's major goal is maintaining the level of foreign aid to Israel, now $3 billion a year. * * * and defecting arms sales to Arab countries.

Now, what this is beginning to show you is that the interest or the purpose of AIPAC is to promote a foreign nation, not in America's interest, an organization operating within America composed of Americans, in the interest of a foreign nation interfering in the internal affairs and the elections of this Nation.

Let me go a little further now. Here, this is again from the Washington Post, dated October 7, 1988. Let us see what kind of interference this is. For what purpose, and who do they attack? Let us watch this. This article is written by the same Charles Babcock. It says this: Now listen closely.

The American-Israel Public Affairs Committee (AIPAC), the nation's chief pro-Israel lobby, has become a subject of attention twice in the past week because of reports of partisan involvement or personal attacks in the 1988 political campaign.

One case centers on a year-old internal AIPAC staff memo urging that Jewish reporters raise questions about Jesse L. Jackson's sex life and finances.

That is AIPAC pursuing the interests of a foreign government, beginning to try to develop surreptitious means of hurting and damaging a Presidential candidate in this Nation. This gets closer and closer, as you would notice, to something un-American.

Now, here in a special report of the Washington Report on Middle East Affairs of July 1989, it points out—and I am reading again—"70 active pro-Israel political action committees"—now, those are PAC's that give money to influence the outcome of elections—"spent $3,870,052 in direct contributions * * * in the 1988 elections."

I am skipping over and just reading excerpts.

"There are several factors * * * that make pro-Israel PAC's unique. The first is their names."

Now, you might ask, what is in a name? Why try to name something in a way as to not reveal its purpose and its function?

It continues in this article: "* * * Edward Roeder, whose Sunshine News Service publishes PAC's Americana—that is a book—"to draw this admission from Robert Golder, president of Delaware Valley PAC."

That is Robert Golder, president of the Delaware Valley PAC. That is an innocent sounding name, Delaware Valley PAC. That could be about

nature. It could be about streams or whatever else might attract people to the small State of Delaware. It could be about the headquarters, about the many corporations that are located there.

But what does Golder, the president of the Delaware Valley PAC say? This is from the article: "This PAC is a group of American Jewish people working for a strong American position on Israel * * * I don't know that it's necessary for outsiders to know who we are * * * it's a small group of Jewish fundraisers raising money from mostly Jewish contributors, and we can explain who we are to them."

□ 2000

The article, and I am no longer quoting Golder, but the article by Richard Curtis, continues that, "If 70 pro-Israel PAC's active in 1988 coordinated their giving," and to do that through AIPAC would be illegal, "coordinated their giving, internal AIPAC documents instructing employees to contact named PACs and tell them to give designated amounts to named candidates which have fallen in the hands of both the Washington Post and the TV show, Sixty Minutes."

Mr. Speaker, you may recall the show when Mike Wallace exposed AIPAC. They indicated that coordination involving at least 20 of the major pro-Israel PAC's took place in 1988 and that such coordination makes AIPAC and those PAC's into a single PAC, circumventing the law that limits donations to a single candidate.

Now let us, after I got through that, described a PAC to you and make you a bit more familiar with AIPAC; so now let me go back to where we started and relate it to my recent primary.

Here is a letter dated February 28, 1990, from a Robert H. Asher, 211 East Chicago Avenue, Chicago, IL. Now I am going to tell you, and I will identify for you, this Robert H. Asher later. Let me first read this letter that was mailed by Robert H. Asher.

Let me just tell you right now so I do not hold you in suspense. Robert H. Asher was the president of AIPAC. But let us read.

"GUS SAVAGE has one of the worst attendance records in Congress."

Well, now of course that is untrue. The records of how often one votes in Congress is a matter of public records in print, and though many of you may know that in newspapers and television for the past 8, 9 years, whenever—many times when they just mentioned my name they say, "GUS SAVAGE who has such a poor attendance record," and, if I say that is in print, then they can find out just what that record is, and they would discover that record was not poor except for the few months of bereavement when in 1981, I lost my wife of 34 years to a very excruciating ailment, that except for that, nowhere near poor. But yet he says this, and, as I said, I will explain later why it might be interesting to note that the press has been saying this for the past 8 or 9 years knowing that it was not true and knowing that you would have, perhaps, no interest enough to check to find out whether it was true or not and just accepted it.

And he says that, "Since he is consistently anti-Israel," GUS SAVAGE, "anti-Semitic, pro-PRO, pro-Farrakhan, his lack of attendance is probably a good thing."

That is a bit scandalous, but let us see what his purpose of disseminating such falsehoods is.

"If SAVAGE is not defeated this time, he'll be in Congress as long as he wants."

Well, I hope he was correct in that regard at least.

Then he concludes, "Please send your check payable to the Committee to Elect Mel Reynolds in the enclosed envelope. The primary is less than a month away. Sincerely, Robert H. Asher."

I wonder why he is so interested in AIPAC in influencing the outcome of a primary election in the Second District of Chicago? The main issue in the Second District in Chicago is not Israel. It is about jobs. These are unemployed steelworkers, unemployed automobile workers. Jobs. Working conditions. Wage rates. Federal assistance to avoid mortgage foreclosures as a consequence of unemployment resulting from the structural economic changes in our country. Not Israel. Why then would he be so concerned about the outcome of that election? Let us see just how concerned he actually is.

Now what I am going to do is where I really feel the point I wanted to reach that makes this all relevant. I have here a list of the executive board of AIPAC, an executive board of AIPAC and its national council and officers. That is how I know who Robert H. Asher is. What I intend to do here now is to take the Federal Election Commission report filed by my then opponent, Mel Reynolds, filed here, his signature, for January and February of this year, the only one, the latest one that is available.

Now I am making this statement because I want my colleagues to conclude or agree with me that we need to strengthen the Federal election laws. We need to enforce that which now exists against AIPAC, and we need to be concerned about an agency whose main concern is the interest of a foreign government, taking advantage of the rights and privileges of American citizenship to influence your Congress.

Now, Reynolds had to file this, as all candidates do, and, incidentally, let me say that when I go to point out to you how much money he raised, you will find during that period, though they say incumbency is protected by our capacity to raise so much money; in that period I only raised $15,000, but Reynolds raised $51,000, more than three times as much. Never held office before in his life. Did not live in the district until a couple of years ago.

What about all of this money? Well, I can tell you something about money. I was, during our break in January, taking a little time off. I play golf; at least I claim I do. Some of those who play with me deny that. But at least I try, and I enjoy it, find it relaxing.

So, there is a great golf course down in the Bahamas called Paradise Island. So, I went to Nassau to play golf. And, after you finish a round of golf, you go back to the hotel resort, as some of you have done, I hope, and you go outside because it is such a wonderful climate there, and there is an outside bar; a refreshment stand may be a better way of putting it. You go out, and you refresh yourself, and they have entertainment outdoors there by the bar, and in this instance there is calypso singing which is very common in this part of the world, and a fellow was singing a song, a calypso song. I had not heard it before, but I do remember the lyrics because it was so interesting, and they are applicable here.

As my colleagues know, calypso is like the blues to African Americans. It is their complaining about personal problems, and in this song that is what he was complaining about. According to the lyric of this song, this man was complaining about his woman, not uncharacteristic of calypso songs, nor of the blues. Apparently she had come home very late one night. In fact, she stayed out all night long, and, as they say, the sunshine had caught up with her. The song indicates that she came in, fell asleep, and the man was so concerned and distraught, a very poverty-stricken family, and he started checking to see was she all right. And he noticed her purse, which was usually bare, was just chock full of something, just bulging, a bulging purse, and he opened the purse, and money just fell out. All kinds of money, and that is what the song says, all kinds of money from all kinds of places.

Well, of course in a resort like Nassau people come from all over the world, and, as the song goes, he tried to awake her to ask her, "Where did you get all of this money?" That is the title of the song. And it goes, "Where did you get"—I cannot sing, unfortunately. Some people say I do not speak too well either, but let me just talk it.

□ 2010

It says, "Where did you get this money, American money, German money, Japanese money, Jewish money, where did you get all of this money?" That was the question I

asked myself when I saw that my opponent had raised so much more money than did I. Where did he get it, all of that money?

Well, fortunately, the FEC report requires that anyone who gives you $200 or more, any individual, must be listed by name and address and any PAC, that is a political action committee that gives you money, must also be listed by name and address and the name of its treasurer shown.

All right. Now, I was a journalist before I was ever elected to office for some 20 years, an award-winning journalist, learned a lot about how to do research and, of course, it was not hard to research this, so I took this list. I looked at his individual contributors, and let me give you these figures. Just bear with me, if you please.

Now, of that amount that he had raised, $8,250 of it was itemized as individual contributors, meaning people who gave him $200 or more. Of that $8,250 let us see how much came from where. To do that I refer back to this list from AIPAC, now blown up, so you can see listed under executive committee and national council and officers. I wanted to see how many people who contributed this money, the large sums, also are on the executive committee of the national council or as an officer of AIPAC. It is called cross-checking, you know.

Let us just go down and see. First of all, the contributor is that same Robert Asher. Now, the most an individual can give to a candidate is $1,000. The most that a PAC can give to a candidate, however, is $5,000. Private corporations cannot give money. Unions cannot give money out of a union fund.

Now, let us just check it. Robert Asher, as I told you, is the President of AIPAC. His address is 5100 Oakmont Road, Highland Park, IL. That is not in the second district, not even in Chicago, but he is interested in the second district to the tune of $1,000.

Let me just read this list.

Mary Jane Asher, $1,000, Highland Park, IL.

Daniel Asher, $1,000, Highland Park, IL.

Howard David Sterling, Beverly Hills, CA, $250.

Louis A. Morgan, $500, Highland Park, IL.

Susan Asher, $1,000, Highland Park, IL, and on and on. I will not read it all to you; but I took these names, the Ashers, Robert Adler, $500.

Louis Morgan.

Irvin Wein, $500.

I took all those names and found that they were all on the Executive Committee of AIPAC, not living in Chicago, let alone in the Second Congressional District, but board members of AIPAC who were not supposed to try to finance campaigns, not legally. They do not have the legal authority.

When I added it all up, as you can, if you would like to check this, because everything I have mentioned is relative to you. AIPAC is listed in the FEC report of my opponent. All this is available to you.

Add it up. It shows the sum of $8,250 from individual contributors, itemized contributors, $6,750 was from these.

In other words, 82 percent. I am not saying that he got a few contributors who like AIPAC or love Israel to give him some money, nothing unusual at all about that, but not 82 percent of all of those contributions for people affiliated with AIPAC, one organization, not in the Second District, the primary purpose concerned about the interest of a foreign nation.

Now, from PAC's, political action committees, people organized to give money to campaigns, he received from those $20,500. So I wanted to check to see what PAC's. Well, you have again, all of this is easy if you know your research, and I hope you are following me so you can practice some of this yourself. It is surprising what you learn sometimes, just in a little time.

This is the almanac of Federal tax, published right here in Washington. This is a reference book. It lists all the PAC's and their officers; but more than that, it groups them by purpose. If you have a good labor record, such as I do, you would want naturally to solicit funds from the labor unions, so they list all the labor unions and you can go solicit your money.

It also groups them by whether they are pro-Israel or not in this almanac of Federal PAC's, 1990.

Let us see. It says, "The emergence of a network of pro-Israel PAC's as an important source of campaign funds for Federal candidates has become an issue of intense controversy even among American Jews who want to promote Israel's security, but don't want to be perceived as being driven by a single issue."

I did not say that. That is what the book says.

It goes on, "There is little doubt that contribution decisions are centralized either through a formal or informal arrangement," and then it proceeds to list these pro-Israel PAC's.

It says, "It is well-documented that many of the pro-Israel PAC's were created with AIPAC's encouragement."

AIPAC, despite its name, is not a PAC, but a lobbying organization. Under Federal election law, PAC's are deemed to be affiliated if they are established, directed, or controlled by a common organization or if they have the same officers, vendors, or contributors. Then it lists these pro-Israel PAC's affiliated with AIPAC.

So I took this list, you see, and compared it to his list of PAC contributors. The total he received was $20,500. Let us see how much of that $20,500 came from these pro-Israel PAC's affiliated with AIPAC, AIPAC of which most of you have never heard, but which influences who represents you in this august body.

Now, let us go and take a look.

PAC's, $5,000 to candidate for Congress from the Joint Action Committee PAC. The Joint Action Committee PAC, listed right here. Let me get the list here. Listed right here. Joint Action Committee PAC, Highland Park, IL, affiliated with AIPAC, a pro-Israel PAC, according to this almanac, this reference work, rather, that I did not write.

Washington PAC, $1,000 to Reynolds for Congress, Morris Amitay, treasurer, Washington, DC, in this list.

Multi-issue PAC, $1,000 Highland Park, IL, in this list.

Citizens Organization PAC, $5,000, Los Angeles, CA, in this list, I haven't got to the Second District yet, you notice.

Look at these names. Nothing says anything about pro-Israel in these names, obscure names. Why?

Citizens Organization PAC, Los Angeles, CA, $5,000.

Hudson Valley PAC, Spring Valley, NY, not in the Second District of Illinois, Spring Valley, NY, no steelmills up there, $1,500 Reynolds for Congress.

Americans for Good Government, $1,000, Jasper, AL, in this list.

East Midwood PAC, $250; Garden State PAC, Union, NJ, $1,000, in this list; Desert Caucus PAC, Tucson, AZ, $1,500, in this list; Heartland PAC, Cleveland, OH, $2,500, in this list.

□ 2020

What does it all mean? It means of the $20,500 that he received from PAC's, $19,750 came from PAC's with obscure names, affiliated with AIPAC, an organization whose main concern is the interests of Israel, not America, be that interest good or bad, right or wrong, but a foreign government. That amounts to 96 percent of all his receipts from PAC's. That means practically all of that money in that purse or his purse, practically all came indirectly from AIPAC, more than $9 of every $10 of the money for one to challenge me in the Second District of Illinois, where Israel's interests are far from being primary.

Now, let me say something about my position regarding Israel that may explain the concern, but certainly does not justify a body with no legal right to do so whose primary concern is a foreign nation rather than the interests of America, trying to determine the outcome of an American election for Congress. That, my friends, Mr. and Mrs. America, is dangerous, indeed.

Israel receives almost one-third of all the United States' foreign assistance, $3 billion in the foreign assist-

ance bill, and usually $400 million or $500 million more tacked on here and there, roughly $3.5 billion a year. That is not the Government's money. That is your money, your tax dollars.

We do not have enough money to maintain full funding for student grants and student loans for those in need to attend the colleges of their choice, for which they are qualified, not enough money to create jobs programs for those pockets of poverty in our Nation, not enough funds for long-term Medicare for our senior citizens in need, but $3½ billion of your tax dollars to one little nation, Israel, a nation with only about 3½ million citizens. That means then that you are giving $1,000 a year to every man, woman, and child citizen of Israel. Think about that.

Since I am particularly concerned about the welfare of the Third World, since it is the poorest part of our Earth, one on which we are dependent and benefit greatly, this Nation; we benefit greatly from the natural resources of the 45 sub-Saharan African nations. Now, while Israel only has 3½ million citizens roughly, there are some 350 million citizens in the 45 sub-Saharan African nations.

How much do we give them out of our foreign aid? A $550 million only, which comes to, compared to the $1,000 per Israeli, $1.57. Our resources are there, but our money goes to Israel. It seems to me we should drop some of the pollen where we get the honey. Even bees know that.

My position is that that is upside down. We should give the larger amount to the larger group of people who are in greater need and from whom we benefit the most materially in Africa, give the $3.5 billion to Africa, and let the $550 million go to Israel, but more than that, $1.8 billion of that $3.5 billion is for war, military aid. Well, my God, military aid? To Israel? A nation that holds in prison presently some 9,000 Palestinians unfairly, unjustly, many without charges? Military aid to a nation that in the past 3 years has killed unarmed, defenseless 650 men, women, and children of Palestine?

Why not better take that military aid and take it over to Zambia in Africa, give it to the African National Congress so they can be sufficiently armed to chase off the face of the Earth the last remaining vestige of fascism, the apartheid regime of South Africa? That is my position.

Someone said, "Well, Gus, you receive money from PAC's, almost always labor PAC's, but PAC's, organized labor unions. The checks often come out of Washington, DC. That is not the Second District. Why is that not the same?"

It is not the same because American trade unions do not represent the interests of a foreign power. They represent the interests of American workers. That is an American interest. Some 40,000 citizens of the Second District of Illinois are members of trade unions, because I said that that is an industrial district, and PAC contributions, while maybe from Washington, come on the recommendation and request of their local affiliate, the United Automobile Workers. The United Automobile Workers give you a contribution from here, but it is because of the recommendation from its region 4 back in my district. So it has a right to be involved, and its interests are not un-American. It is not putting the interests of another nation above its own. No comparison, indeed.

If I may, before concluding, point out this connection between this interest, this insidious interest, and the mass media in this country. You may think you know something about mass media, because you are exposed to it so in television, but really it is, in many ways, as obscure and mysterious as AIPAC.

Ask yourself who owns CBS. Who is the president of ABC? Who are the board members of NBC? Where does Tom Brokaw live?

You know where I live. You know what is my salary. You know my marital stautus. You know where I went to school. You know my views. You know my children's names.

You know Tom Brokaw far better than you know GUS SAVAGE, or you think you do. Is he married? What is his salary? What are his views? For all you know, he may be one of those running around with a hood burning crosses, because you do not know. Powerful man. Controls your airwaves, determines whether GUS SAVAGE can go on the air or not, determines what is said about GUS SAVAGE, good or bad, right or wrong, true or false, unaccountable to you.

□ 2030

You cannot fire him, you cannot unelect him. You did not pick him.

I want to say something about the campaign coverage, because it was rather strange. It may not be correlated by AIPAC, but the apparent influence of a network of reporters across this country and the major daily newspapers and the television stations operating in the same way, telling the same lies simultaneously, makes one wonder.

My campaign, the Chicago Tribune, that is the major daily newspaper, largest circulation in Chicago, has a Pulitzer Prize columnist named Mike Royko, who wrote a column during this campaign strongly condemning me, and falsely so.

He said in the column that I had phoned him and told him that what appears to be my concerns are really false. I am not really concerned about civil rights, racism, and so forth in America. I just use that to help stir people up.

He said when I told him that on the phone that he felt this, and then he told me what he said to me and what I said back and what he said, and so on. But the problem is, I never talked to Mike Royko in my life, by phone or otherwise. In other words, he made up the column.

When I protested to the editor of the Chicago Tribune and said, "Look, I never talked to this guy in my life. How could he write this falsehood? Would you ask him to retract it or explain it or prove it?"

Never, never, never a reply. Unaccountable.

The political editor of the Chicago Sun Times, same thing. Steve Neal. Same thing. Called me all kinds of names. I have never met him, never talked with him.

When you have, and I do not want to say that the people who may be part of such a network would be these columnists. Generally the white press would have at least one apparent African-American columnist to jump on an African-American too in case the African-American hollers too loud and says, "well, these columnists jumping on me are white." So you have got a page in the Chicago Tribune, a Raspberry in the Washington Post, and all, and that is typical. It is the same kind of columns.

I was on "Cross Fire" on CNN. Some of you may have seen it. And you saw what a time Robert Novak gave me. I am sure if you saw it you could see it was not fair. How much does he earn? Where is he married? Does he not attend church? Has he ever been a member of the Ku Klux Klan? I am not saying that he is. I am not saying that he is married. What are his sexual preferences? I know none of that.

All I am saying is we do not know anything about these powerful bosses or spokesmen or talking heads on television and columnist in the most powerful newspaper of our land. And democracy depends upon a free and fair press.

I held a hearing to try to save the Economic Development Administration that the President has asked to be eliminated. I held a hearing in Pennsylvania, the coal mining area, where because anthracite coal has such high sulfur content people have unemployment, are suffering unemployment in double digits. I held it in Chicago, because there the African-American community suffers unemployment in double digits and have not enjoyed the prosperity that other parts of the country has, that the country in general has enjoyed in the past 8 or 9 years. We need economic development projects in such areas.

I went into Chicago to hold one such hearing, trying to stir up interest in saving EDA, and the press would not even cover it. Not in Chicago.

I will tell you, I have been treated better by the press in Johannesburg, South Africa, than in Chicago, IL.

I sponsored the biggest set-aside in the history of this country, an amendment to the 1986 Defense Authorization Act, that could mean some $8 billion a year to disadvantaged minority-owned businesses. I am very proud of that. It is the largest set-aside of all the others combined.

During this campaign channel 2 in Chicago, the CBS affiliate, a reporter named Mike Flannery insisted right there on television that GUS SAVAGE did not sponsor that legislation.

I said, "Well, wait a minute. Wait a minute. I will give you a CONGRESSIONAL RECORD. I will get it to you tomorrow. If you are wrong, would you go on your news show tomorrow and admit that you are wrong? And, of course, if I am wrong, go on there and point that out too."

I sent him the CONGRESSIONAL RECORD showing, of course, that he was wrong. He never used it. Never another word. Unaccountable. Nothing I can do.

I am the sponsor of legislation for a third Federal building in Chicago, a project costing $153 million and employing some 50,000 people in the construction trades and the spinoff jobs that will result from that—$45 million of that amount in subcontract to small disadvantaged businesses.

On that same television interview show he insisted that I did not do that either. It is easy to ascertain whether I did or not. You have got a CONGRESSIONAL RECORD. Reporters are certainly familiar with it. Admit that that was a deliberate deceit.

Well, that kind of effort to disinform the electorate is also a danger to our democracy, and to the extent that it relates to activities such as the ones I have described from AIPAC, it makes you wonder are these connected up? In which case the danger would be enhanced.

Look at the strange attacks across this land on African-American leaders. You say, "Oh, well, that one was found guilty, and that one was found guilty."

I do not mean whether they were guilty or innocent, but the intensity and the frequency with which they are pursued.

Finally, let me say that I hope I have given you enough information already to cause you some concern. We operate in an atmosphere today that is not favorable to civil rights and racial equality. You might call it high-technology racism, the kind of racism that would cause a movie like "Driving Miss Daisy" to be named the best movie of the year. "Driving Miss Daisy." Because maybe there are those in America who would like to turn back race relations to the old days where blacks did do the driving and Miss Daisy rode in the back.

But those days, my friends, are gone forever. Some of us may have to drive Miss Daisy, but we do not love it. And it does not make a very good movie, for it is insulting to too large a segment of the American population at a time of high-technology racism—"Driving Miss Daisy."

I wonder how my American Jewish friends would feel if there was a movie about during the Holocaust where some Jewish man who was compelled because of imprisonment or whatever the reasons under the Holocaust to be a chamber maid for some Nazi general, and the movie was about how much he enjoyed that, which of course would not have been true, any more than "Driving Miss Daisy," how much he enjoyed that, and that movie received an Academy Award. I wonder how they would feel.

That is just how African-Americans in the main also feel. We are losing an understanding of each other, when we need to understand each other more than ever. Because America is losing its competitiveness in world trade. It has become a debtor rather than a creditor nation. And part of the reason is worsening race relations, where the number of male blacks in college is falling down. The number in prison is going up. Unemployment has remained at double digits for the past 10 years. More than 50 percent of black children live in single parent families. The black family is being destroyed to the disadvantage not just of blacks, but of all America.

□ 2040

When we have a nation that operates in such a way as this high-technology racism that when a black becomes Miss America that the first thing that black feels it is necessary to say is that, "Being black is the least that I am;" if you were Irish, Swedish, Jewish and you happened to win Miss America, how would you feel if the Irish victor got up and said the least thing I am is Irish or Jewish, or the victor said the least thing I am is Swedish? Why does she feel such compulsion? It is because she is trying to survive in this high-technology racist society.

So they create an image of me, a myth, that is no more accurate, no more real than Heathcliff Huxtable.

In the South I understand after World War II—and I will tell you this little bit and I will be through—in the South after World War II they said that a black veteran, and back then in the South often lynch mobs would come after blacks, you see, and a lynch mob came after this black veteran. He still has his M-1, and he was a sharpshooter, shot down 17 of the mob before they got him. And guess what? You would think they would have taken him out and lynched him twice, but no they did not, they did not even arrest him. They did not even put him in jail. Instead they put him in the insane asylum because they wanted it to appear that he was crazy. And that is what they tried to do to many outspoken blacks who said what I have said today, they say he is just crazy, in order to keep you away from him, and try to smear you, but I tell you to check the facts and you will agree with me.

I hope the following column by Vernon Jarrett, from the Chicago Sun-Times, and a letter to the editor, of the Chicago Tribune, will help you understand my renomination in the recent, controversial primary election:

[From the Chicago Sun-Times, Mar. 29, 1990]

WHY GUS SAVAGE KEEPS WINNING

(By Vernon Jarrett)

What makes a man like Gus Savage keep running . . . and winning?

"Why would you [black] people want to keep a troublemaker like Gus in office, when you can elect a highly educated young man, a *healer* like Mel Reynolds?"

"How can you [meaning this columnist] tolerate that man's ranting and raving about racism when there are more *moderate* voices in your community?"

The above represents a summary of the questions from whites directed to me ever since Rep. Gus Savage was elected to Congress from the 2nd Congressional District.

Savage keeps winning because he has two ingredients that many black voters miss in most of Chicago's "moderate" black leaders.

I speak from the experience of having participated in two campaigns to unseat Savage, who is in his fifth term.

Here's what I've learned from direct contact with black voters:

Savage's orations don't turn on that many people. They're with him because he "always has had the guts to speak out," to express *our outrage* against common injustices—while moderate blacks, as defined by whites, remain silent.

Gus may be strident, but he's not for sale. Even though black "moderates" also win elections, their silence and cooperation with known enemies of black political empowerment has been sickening.

Example: In 1955, when a Mississippi mob lynched a teenage Chicagoan named Emmet Till, blacks throughout the nation demanded federal action. Yet Chicago's lone black congressman, William L. "The Man" Dawson, refused to utter one strong word of protest. Dawson, a "moderate," was the late Mayor Richard J. Daley's black lieutenant.

It was a little band of standup crusaders, including Gus Savage and the late union leader Willoughby Abner of the NAACP, who picketed Dawson, the Congress and the White House and later met with Vice President Richard Nixon.

Dawson and Daley attempted to maintain silence by ordering hundreds of black precinct captains to take membership in the NAACP and control future NAACP elections. For years, all prospective candidates for the presidency of the local NAACP had to vow not to criticize the Machine.

Years later, the Chicago Defender could describe black members of the City Council as "the Silent Six." And shortly before the election of Mayor Harold Washington, it was not uncommon to see black aldermen not only remain silent, but also vote against black interests. On Nov. 30, 1980, it was pathetic watching nine blacks vote for a racist ward map concocted by Mayor Jane Byrne and Ald. Edward Vrdolyak (10th). The actual motion to accept that map was made by a "moderate" black alderman and committeeman named Wilson Frost (34th), who was a Machine sponsor of Mel Reynolds.

At the same time, blacks are continuously presented Democratic Party slates of candidates who are out to curtail black political empowerment.

"If we are asked to ignore all the faults of our enemies and phony friends, why can't we do the same for an old friend that we *know* we can trust?" a Savage supporter asked me.

MORE AT STAKE

CHICAGO.—As one of a handful of whites who supported the re-election of U.S. Rep. Gus Savage, I want to respond to the Tribune's unwarranted attacks on him.

There was much more at stake in this election than a simple race between Gus Savage and Mel Reynolds. The central question was one of self-determination of the mostly black voters in the district and whether they were going to be allowed to choose their own representation or return to the era of plantation politics.

As for your newspaper finding Mel Reynolds so attractive because he was a Rhodes scholar, note that Gus Savage attended law school.

Savage has fought racism all his life. He earned his way into Congress. His opponent has never been active in the black community or held any office. I had never heard of him until he ran for Congress two years ago.

The black community didn't start racial politics, and it is not up to the black community to end racial politics.—KEVIN KITCHEN.

ATTEMPED TAKEOVER OF LOCKHEED

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DARDEN. Madam Speaker, a minority stockholder is currently attempting to seize control of the Lockheed Corp., America's sixth largest defense contractor. Over the past several months, I have used this forum to express my concerns about the negative effects of hostile corporate takeovers, whether through a proxy fight or an outright buyout. Once again, we are confronted with such an attempt.

The defense industry is somewhat unique because of the necessity to make considerable investments in the future. To meet the demands for future requirements, defense contractors must invest a great deal of their own funds in research and development programs. This is not conductive to making money in the short term. I believe this particular effort to gain control of Lockheed is not based on long-range strategic policy, but is an attempt to recover prior losses by either raiding the employees' pension fund, selling off various subsidiaries of the corporations, or bringing in foreign investors.

Fifty percent of Lockheed stock is currently controlled by investment houses. These investment house holdings are crucial in this proxy fight. I urge the investment houses to not concentrate only on the quick money they can make by the sale of the company's assets, or raiding the pension funds of the hardworking individuals of Lockheed, but to keep the national security need and the long-term goals of our Nation in mind when voting.

[From the Los Angeles Times, Mar. 27, 1990]

IT'S BAD FOR LOCKHEED—AND AMERICA

(By Frank J. Goffrey, Jr.)

In the newly released film "Pretty Woman," a beautiful prostitute is rescued Pygmalion-style by an unscrupulous corporate raider who, in turn, forswears the lucrative practice of acquiring companies simply for the purpose of selling off their assets. For the wheeler-dealer, the turning point comes when he declines to cannibalize the holdings of a defense contractor, instead joining forces with the firm's existing management to produce needed material for the U.S. armed forces.

We should all hope that life imitates art with a similar transformation in Texas billionaire Harold C. Simmons. Simmons is a real-life corporate raider with serious designs on a real-life defense contractor, Lockheed Corp. He hopes soon to control the board of directors as the result of a bitter proxy fight.

Should Simmons succeed, he will, if past practice is any guide, shortly dismember the corporation, stripping so-called surplus funds from its pension plan, selling off its less-profitable parts and diverting cash from expensive activities like research and development.

Unfortunately, Lockheed is an inviting target for such a raid. It is said to have a $1-billion net surplus in its pension plan. The company has valuable real-estate holdings in California and subsidiaries that theoretically could be sold off to produce an immediate infusion of cash.

In addition, a great deal of Lockheed's capital gets plowed back into relatively unprofitable research and development. For example, more than $100 million off bottom-line profits last year was invested in long-term and often highly classified R&D for U.S. government agencies performed by Lockheed organizations like the famous "Skunk Works," which produced the U-2 and SR-71 spy planes and the F-117 "stealth" fighter.

When Lockheed's management last year wrote off about $500 million against some of its fixed-price military programs, it barely broke even for the year. That angered institutional investors, who hold more than 50% of its stock. The Simmons bid holds out the promise of improved returns on investment in the short term.

But the national interest will almost certainly by very badly served by a takeover of Lockheed by Simmons. Should he proceed to raid the pension fund, divest the company of unprofitable subsidiaries and otherwise reduce the corporate investment in long-term research and development, the consequences are predictable:

Corporate raids on "over-funded" pension plans typically result in the liquidation of assets held by such plans and their partial replacement with annuities or other instruments worth far less. In this manner, Simmons in the 1980s stripped more than $200 million from the pension funds of three companies he acquired (NL Industries, Baroid and Amalgamated Sugar).

On paper, the sum of Lockheed's component parts would seem to be worth more than the whole. The breakup values of its assets are almost certainly overstated. In the present climate, the defense sector seems certain to contract a number of companies or subsidiaries are already on the block and demand is sluggish.

More important from the national perspective, experience has shown that frequently subsidiaries of defense contractors cannot survive, or perform as needed, if severed from the parent company. The synergy between corporate divisions, the transferability of intellectual and capital resources and the possibility that less profitable entities can be "carried" by more profitable ones naturally disappear when such enterprises are obliged to stand alone.

Finally, Simmons' corporate assault on Lockheed is likely to exacerbate a trend all too common in American business; the sacrifice of basic research and development so vital to long-term U.S. competitiveness. The National Science Foundation recently determined that corporate investment in such R&D has slipped below the level of inflation for the first time in 14 years. In part prompted by the threat of corporate takeovers, companies have instead been trying to demonstrate short-term profitability by diverting resources to applied or product-specific research and development—areas far less likely to produce fundamental technical breakthroughs, which determine national standing in terms of state of the art.

Nowhere is this trend likely to have more catastrophic results than in the area where America's qualitative superiority has traditionally mattered most—its military capabilities. Were Lockheed's demonstrated, prodigious capacity for innovation to be sacrificed to a corporate raider's insatiable appetite for quick cash, it would be hard to overstate the lasting and adverse impact on the national security.

In short, a great deal is riding on the proxy fight for control of Lockheed's board of directors. If it is too much to hope that Harold Simmons might follow Hollywood's script and simply lose his ambition to acquire—and probably destroy—Lockheed, it is imperative that the company's stockholders appreciate the damage his control would inflict on both their investment and the country's larger interests.

CONFERENCE REPORT ON S. 1096, PROVIDING FOR USE AND DISTRIBUTION OF SEMINOLE INDIAN AWARD

Mr. RAHALL submitted the following conference report and statement on the Senate bill (S. 1096) to provide for the use and distribution of funds awarded the Seminole Indian in dockets 73, 151, and 73-A of the Indian Claims Commission:

CONFERENCE REPORT (H. REPT. 101-39)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1096) to provide for the use and distribution of funds awarded the Seminole Indian in dockets 73, 151, and 73-A of the Indian Claims Commission, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 1 and 2.

MORRIS K. UDALL,
GEORGE MILLER,
GEORGE (BUDDY) DARDEN,
MEL LEVINE,
ENI F.H. FALEOMAVAEGA,
DON YOUNG,
ROBERT J. LAGOMARSINO,
JOHN J. RHODES,
Managers on the Part of the House.

D.K. INOUYE,
DENNIS DECONCINI,
TOM DASCHLE,
KENT CONRAD,
HARRY M. REID,
JOHN MCCAIN,
FRANK H. MURKOWSKI,
THAD COCHRAN,
SLADE GORTON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1096) to provide for the use and distribution of funds awarded to the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission submit the following joint statement of the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Committee of Conference recommends that the House recede from its amendments and agree to the Senate language.

S. 1096 provides for the use and distribution of certain funds appropriated in satisfaction of an award to the Seminole Indians against the United States by the Indian Claims Commission. The award in docket 73-A is a small sum and is solely for the Seminole Indians of Florida. That sum is not involved in the matter in conference.

The funds awarded in consolidated dockets 73 and 151 were for additional compensation to the Seminole Indians for lands ceded to the United States by treaties of 1823 and 1832. Funds in satisfaction of the award were appropriated in 1976 in the amount of $16,000,000. After the payment of attorney fees and litigation expenses and with the addition of accrued earned income, the fund now totals approximately $47,172,000 and is being held in trust for the Seminole Indians pending authorization for distribution.

The long delay in distributing these funds to the Seminole Indians has been occasioned by the complete inability of the Seminole Nation of Oklahoma, on the one side, and the three Seminole Indian tribes of Florida to agree upon a formula for division of the funds.

S. 1096, as passed by the Senate, provided that 75.404 percent would be apportioned to the Oklahoma tribe and the remainder, 24.596, would be divided among the three Florida entities. The only matter in disagreement is the change of the formula for division approved by the House which provided 73 percent for the Oklahoma tribe and 27 percent for the Florida tribes.

As a general rule, when it becomes necessary to divide Indian judgment funds between or among present-day successor tribes to a historical tribe, the funds are divided on the basis of the relative populations of the contending tribes, based upon the most accurate census or membership roll records of the tribes nearest to the time when the injury or damages were incurred. This method has been accepted in the past by both the Congress and the Administration. Variance from this method would be the exception.

The Seminole Indians were aboriginally located in what is now the State of Florida. The land cession treaty of 1832 provided that the Seminole would cede all of their remaining lands in the State of Florida and remove to Indian Territory in what is now the State of Oklahoma. After strong initial resistance to such removal, including the waging of the second Seminole War under the leadership of Osceola, most of the Seminole did move or were moved to Oklahoma. Their descendants now constitute the Seminole Nation of Oklahoma.

A small number of Seminole refused to relocate and fled to the Everglades to escape efforts to forcibly relocate them. Their descendants now constitute the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and the independent Seminole Indians of Florida.

The percentage split in S. 1096 as passed by the Senate, 75.404%-24.596%, was proposed by the Secretary of the Interior in 1976 and is based upon respective census or population counts of the Seminole Indians in Oklahoma and Florida during the period 1906 to 1914. In 1906, the Bureau of Indian Affairs, pursuant to statute, developed a roll of the Oklahoma Seminole which numbered 2,146. The Florida Seminole count was developed by the BIA following the Indian Claims Commission award and is based upon the Bureau's "reconstruction" of the Florida census of 1914. The total number of Florida Seminole was placed at 700.

The Secretary determined that a division of funds based on relevant populations from 1906-1914 was the most equitable because: (1) at that time, most Oklahoma Seminole were of one-half blood quantum or more of Seminole ancestry; (2) the first formal census of Florida Seminole was taken in 1913-1914 and this census was reconstructed and supplemented by the Florida Seminole Tribe in 1977; and (3) to use either nineteenth century population data, which is sketchy at best, or contemporary populations would substantially diminish the Florida Seminole share.

Both the House and the Senate, in their Committee reports, found no reason to challenge the validity of the Secretary's findings. The formula for division proposed by the Secretary and included in the Senate-passed bill fell within the general rule. If a variance was to be accepted, the burden of supporting the exception fell upon the Florida Seminole. Documentation and testimony presented on their behalf did not meet that burden.

The House Committee report on S. 1096, in explaining the adoption of the Committee amendments, noted that there was a reluctance to make an exception to the general rule in this case as, from a substantive viewpoint, there was no justification for such an exception. However, to bring to an end the protracted dispute and to advance the bill in the legislative process, the House amendments were adopted as a compromise.

Upon consideration of the issue, both the House and Senate managers in conference agreed that these compromise amendments were not appropriate. The funds in question are not public funds nor appropriated Federal funds where such a compromise might be appropriate. The funds involved are private funds, the property of the Seminole Indians awarded for inadequate compensation for the taking of their lands. While Congress, in the exercise of its constitutional plenary power over Indian affairs, has some leeway in dealing with the property of Indian tribes, it nevertheless should adhere to standards of basic fairness and equity. The general rule adopted for the division of judgments was intended to permit Congress and the Executive branch to achieve those standards. In this case, there was simply not enough contrary evidence to support a variance in the rule.

MORRIS K. UDALL,
GEORGE MILLER,
GEORGE (BUDDY) DARDEN,
MEL LEVINE,
ERIC F.H. FALEOMAVAEGA,
DON YOUNG,
ROBERT J. LAGOMARSINO,
JOHN J. RHODES,
Managers on the Part of the House.

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DENNIS DECONCINI,
TOM DASCHLE,
KENT CONRAD,
HARRY M. REID,
JOHN MCCAIN,
FRANK H. MURKOWSKI,
THAD COCHRAN,
SLADE GORTON,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RINALDO (at the request of Mr. MICHEL), until 2:30 p.m. today, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. MCEWEN, for 5 minutes, today.

Mr. MCCANDLESS, for 5 minutes, on April 3.

Mr. RIDGE, for 30 minutes, on April 3, 4, and 5.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. LEHMAN of Florida, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. ROYBAL, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes each day, on April 2 and 5.

Mr. TRAFICANT, for 60 minutes, on April 3.

Mr. BROWN of California, for 30 minutes, on April 4.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SKAGGS, prior to the vote on Edwards of California amendment to H.R. 3 in the Committee of the Whole today.

Mr. COLEMAN of Texas, immediately prior to the vote on the Edwards of California amendment to H.R. 3 today.

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous material:)

Mrs. ROUKEMA in two instances.
Mr. BROOMFIELD in two instances.
Mr. HYDE.
Mr. DOUGLAS.
Mr. SCHUETTE in three instances.
Ms. ROS-LEHTINEN.
Mr. COX.
Mr. BUNNING.
Mr. COBLE.
Mr. DENNY SMITH.
Mr. SOLOMON.
Mr. MCCANDLESS in two instances.
Mr. IRELAND.
Mr. EMERSON.
Mr. GALLEGLY.
Mr. LIVINGSTON.
Mr. GREEN.
Mr. RIDGE.
Mr. COUGHLIN.
Mr. WOLF.
Mr. GEKAS.
Mr. SUNDQUIST.
Mr. HORTON.
Mr. MILLER of Washington.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. WILLIAMS.
Mr. JACOBS.
Mr. TRAFICANT.
Mr. GUARINI.
Mr. PENNY.
Mr. BONIOR.
Mr. BRYANT.
Mr. DINGELL in two instances.
Mr. DYSON.
Mr. LEVINE of California.
Mr. KOSTMAYER.
Mr. ENGEL.
Mr. MAZZOLI.
Mr. MILLER of California.
Mr. STOKES.
Mr. VENTO.
Mr. TRAXLER.
Mr. MATSUI.
Mr. SCHROEDER.
Mr. DE LUGO.
Mr. TRAXLER in two instances.
Mr. MOODY.
Mr. DURBIN.
Mr. VISCLOSKY.
Mr. HOCHBRUECKNER.
Mr. SYNAR.
Mr. STUDDS.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4090. An act to suspend section 332 of the Agricultural Adjustment Act of 1938 for the 1991 crop of wheat.

SENATE ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolutions of the Senate of the following titles:

S. 2151. An act to permit the transfer of the obsolete submarine U.S.S. *Requin* to the Carnegie Institute in Pittsburgh, Pennsylvania, before the expiration of the 60-day waiting period that would otherwise be applicable to the transfer;

S.J. Res. Joint resolution designating April 1990 as "National Recycling Month"; and

S.J. Res. 266. Joint resolution designating March 1990, as "United States Naval Reserve Month.".

ADJOURNMENT

Mr. DARDEN. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 45 minutes p.m.) under its previous order, the House adjourned until Monday, April, 2, 1990, at 12 noon.

OATH OF OFFICE, MEMBERS, RESIDENT COMMISSIONERS, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose or evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 101st Congress, pursuant to the provisions of 2 U.S.C. 25:

Hon. SUSAN MOLINARI, 14th District of New York.

Hon. JOSÉ E. SERRANO, 18th District of New York.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2865. A communication from the President of the United States, transmitting amendments to the fiscal year 1991 request for appropriations for the Department of State, Department of the Treasury, Department of Veterans Affairs, General Services Administration with advance appropriations for fiscal years 1992 and 1993, America the Beautiful Initiative, and the legislative branch, pursuant to 31 U.S.C. 1107 (H. Doc. No. 101-166); to the Committee on Appropriations and ordered to be printed.

2866. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report in rescissions and deferrals of budget authority as of March 1, 1990, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 101-167); to the Committee on Appropriations and ordered to be printed.

2867. A letter from the Secretary of Health and Human Services, transmitting the annual report, fiscal year 1988, describing the activities and accomplishments of programs for persons with developmental disabilities pursuant to 42 U.S.C. 6006(c); to the Committee on Energy and Commerce.

2868. A letter from the Acting Director, Defense Security System, transmitting an addendum to the listing of all outstanding letters of offer to sell any major defense equipment for $1 million or more; an addendum to the listing of all letters of offer that were accepted as of December 31, 1989, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

2869. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting the 18th 90-day report on the progress of the investigation into the death of Enrique Camarena, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico, pursuant to Public Law 99-93, section 134(c) (99 Stat. 421); to the Committee on Foreign Affairs.

2870. A letter from the General Counsel, Federal Mediation and Conciliation Service, transmitting the annual report of the agency's activities under the Freedom of Information Act, calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2871. A letter from the Executive Director, Interstate Commission on the Potomac River Basin, transmitting notification that the agency has elected not to establish an Office of Inspector General; has employed the services of an independent firm to ensure that audits are conducted; to the Committee on Government Operations.

2872. A letter from the Attorney General, Department of Justice, transmitting a report of the Department's determination not to defend the constitutionality of that portion of section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73, 103 Stat. 183, that designated then-Chairman of the Federal Home Loan Bank Board, M. Danny

Wall, to be Director of the Office of Thrift Supervision, pursuant to Public Law 96-132, section 21(a)(2) (93 Stat. 1050); to the Committee on the Judiciary.

2873. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, section 5004(a)(3)(A), United States Code, to raise the Department of Veterans Affairs' minor construction cost limitation from $2 million to $3 million and for other purposes; to the Committee on Veterans' Affairs.

2874. A letter from the Comptroller General of the United States, transmitting the third and final annual report which describes the initial efforts to implement and enforce the employer sanctions provisions of the Immigration Reform and Control Act, pursuant to 8 U.S.C. 1324a; jointly, to the Committees on the Judiciary and Education and Labor.

2875. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend two sections in part I of subtitle E of title V of the Omnibus Trade and Competitiveness Act of 1988 regarding establishment of a National Trade Data Bank to give the Secretary of Commerce greater flexibility in assessing user fees to defray the cost of disseminating data and in developing an index of indicators for measurement of service sector activity; jointly, to the Committees on Banking, Finance and Urban Affairs; Foreign Affairs; Energy and Commerce; and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 2015. A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965; with amendments (Rept. 101-388, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2571. A bill to provide for the designation of certain national wildlife refuge lands as wilderness in the State of Arizona; with an amendment (Rept. 101-435 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 1236. A bill to establish evidentiary standards for Federal civil antitrust claims based on resale price fixing (Rept. 101-438). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee of conference. Conference report on S. 1096 (Rept. 101-439). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DINGELL (for himself, Mr. LENT, Mr. MARKEY, and Mr. RINALDO):

H.R. 4415. A bill to amend the Communications Act of 1934 to protect and promote carriage on cable television of distinctive noncommercial, educational television services, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GONZALEZ (for himself, Mr. WYLIE, Mr. FAUNTROY, and Mr. LEACH of Iowa):

H.R. 4416. A bill to provide for further participation by the United States in the International Development Association; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ACKERMAN (for himself, Mrs. BENTLEY, Mrs. BOXER, Mr. BRENNAN, Mr. BUSTAMANTE, Mr. CAMPBELL of Colorado, Mr. CARDIN, Mrs. COLLINS, Mr. COSTELLO, Mr. DE LA GARZA, Mr. FAUNTROY, Mr. FROST, Mr. GILMAN, Mr. HORTON, Mr. HYDE, Mr. JACOBS, Mr. JONTZ, Mr. LANCASTER, Mr. LANTOS, Mr. MANTON, Mrs. MORELLA, Mr. MRAZEK, Mr. NEAL of Massachusetts, Mr. QUILLEN, Mr. SMITH of Florida, Mr. TORRES, and Mr. WHEAT):

H.R. 4417. A bill to amend section 411f of title 37, United States Code, to authorize the provision of round-trip travel and transportation allowances for parents of a deceased member of a uniformed service to enable the parents to attend the burial ceremonies of the member; to the Committee on Armed Services.

By Mr. APPLEGATE (for himself, Mr. MCEWEN, Mr. MONTGOMERY, and Mr. STUMP):

H.R. 4418. A bill to amend title 38, United States Code, to revise the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, to make certain improvements in veterans' compensation and pension programs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BRENNAN (for himself, Mr. ATKINS, Mr. BORSKI, Mr. BOUCHER, Mr. DELLUMS, Mr. FLAKE, Mr. JAMES, Mr. MINETA, and Mr. WHEAT):

H.R. 4419. A bill to authorize appropriations for the Congregate Housing Services Program for fiscal year 1991; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WILLIAMS (for himself, Mr. ACKERMAN, Mr. AUCOIN, Mr. BERMAN, Mr. BONIOR, Mrs. BOXER, Mr. CLAY, Mrs. COLLINS, Mr. CONDIT, Mr. CROCKETT, Mr. DEFAZIO, Mr. EVANS, Mr. FAUNTROY, Mr. FRANK, Mr. FUSTER, Mr. HAYES of Illinois, Mr. JAMES, Ms. KAPTUR, Mr. KLECZKA, Mr. LEVINE of California, Mr. LEVIN of Michigan, Mr. MILLER of California, Mr. MORRISON of Connecticut, Mr. OWENS of New York, Ms. PELOSI, Mr. PERKINS, Mr. POSHARD, Mr. RAHALL, Mr. RANGEL, Mr. SAVAGE, Mr. SCHEUER, Mrs. SCHROEDER, Mr. STOKES, Mr. STUDDS, Mr. TORRES, Mr. TRAFICANT, Mrs. UNSOELD, Mr. WEISS, and Mr. WYDEN):

H.R. 4420. A bill to prevent the sterilization of employees as a condition of employment by employers involved in or affecting interstate commerce; to the Committee on Education and Labor.

By Mr. BRYANT:

H.R. 4421. A bill to amend the Immigration and Nationality Act to extend the requirement for an annual GAO report on the impact of employer sanctions and to authorize a public information regarding antidiscrimination protections; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. CHANDLER (for himself and Mr. SWIFT):

H.R. 4422. A bill to amend title II of the Social Security Act to provide for an exemption from the 2-year waiting period for divorced spouse's benefits following the divorce in cases of prior receipt of spouse's benefits; to the Committee on Ways and Means.

By Mr. DE LUGO (for himself, Mr. LAGOMARSINO, Mr. MILLER of California, Mr. FUSTER, Mr. BLAZ, and Mr. FALEOMAVAEGA):

H.R. 4423. A bill to enhance the survivability and recovery of the insular areas from severe storms; jointly to the Committees on Interior and Insular Affairs, Public Works and Transportation, Education and Labor, Energy and Commerce, and Agriculture.

By Mr. EMERSON (for himself, Mr. SKELTON, Mr. SHUMWAY, Mr. BROOMFIELD, Mr. DICKINSON, Mr. IRELAND, Mr. MYERS of Indiana, Mr. PORTER, and Mr. ROGERS):

H.R. 4424. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Education and Labor.

By Mr. FEIGHAN (for himself and Mr. LEVINE of California):

H.R. 4425. A bill to amend the Export Administration Act of 1979 to require the Secretary of Commerce to establish a performance-based indexing system for the definition and control of supercomputer exports; to the Committee on Foreign Affairs.

By Mr. FRENZEL:

H.R. 4426. A bill to include photoreceptors and assemblies containing photoreceptors within the temporary suspension of duty on parts of certain electrostatic copying machines, and to extend the suspension until January 1, 1993; to the Committee on Ways and Means.

By Mr. GALLEGLY (for himself, Mr. LAGOMARSINO, Mr. HUNTER, and Mr. SMITH of Texas):

H.R. 4427. A bill to provide for 1,000 additional border patrol agents for military personnel displaced by defense realignment; to the Committee on the judiciary.

By Mr. GUARINI (for himself, Mr. FAUNTROY, Mr. HALL of Texas, Mr. HAMILTON, Mr. JOHNSON of South Dakota, Mr. LIPINSKI, Ms. SLAUGHTER of New York, Mr. SOLARZ, Mr. STUDDS, Mr. WOLPE, Mr. WYDEN, Mr. YATRON, Mrs. LLOYD, Mr. DWYER of New Jersey, Ms. KAPTUR, Mr. DERRICK, Mr. RUSSO, Mr. LANCASTER, Mr. PALLONE, Mr. BONIOR, Mr. ATKINS, Mr. DELLUMS, Mr. LEVIN of Michigan, Mrs. COLLINS, Mr. SIKORSKI, Mr. ROE, Mr. CONDIT, Mr. JONTZ, Mr. BRYANT, Mr. STALLINGS, Mr. KLECZKA, Mr. FRANK, Mr. TALLON, Mr. DONNELLY, and Mr. HUGHES):

H.R. 4428. A bill to initiate actions under section 301 of the Trade Act of 1974 with respect to the trade barriers of Japan that are the subject of the structural impediments initiative; to the Committee on Ways and Means.

By Mr. LAGOMARSINO:

H.R. 4429. A bill to disclaim all right, title, and interest of the United States in and to certain private lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat. 11, 36), and for

other purposes; to the Committee on Interior and Insular affairs.

By Mr. MARTIN of New York (for himself and Mr. LEATH of Texas):

H.R. 4430. A bill to amend the Demonstration Cities and Metropolitan Development Act of 1966 to extend the assistance program for homeowners adversely affected by base closures to employees of a nonappropriated fund instrumentality of the Department of Defense: jointly, to the Committees on Banking, Finance and Urban Affairs and Armed Services.

By Mr. MATSUI (for himself, Mr. RANGEL, Mr. FORD of Tennessee, Mr. THOMAS of California, Mr. FLIPPO, Mr. CHANDLER, Mrs. KENNELLY, Mr. SUNDQUIST, Mr. COYNE, and Mr. CARDIN):

H.R. 4431. A bill to amend the Internal Revenue Code of 1986 to generally treat bonds issued for section 501(c)(3) organizations in a manner similar to governmental bonds; to the Committee on Ways and Means.

By Mr. MOODY (for himself and Mr. HALL of Ohio):

H.R. 4432. A bill to amend the Hunger Prevention Act of 1988 to require the Secretary of Agriculture to purchase, process, and distribute milk to States for distribution through soup kitchens; to the Committee on Agriculture.

By Mr. PAXON (for himself and Mr. SYNAR):

H.R. 4433. A bill to disqualify any individual or business concern who violates a Federal environmental law, or who holds a beneficial business interest in a person who has violated such a law, from being eligible to receive certain benefits from the Environmental Protection Agency for a period of 10 years; to the Committee on Energy and Commerce.

By Mr. PENNY:

H.R. 4434. A bill to amend the Fair Labor Standards Act of 1938 to permit nurses to make additional arrangements respecting the overtime requirement of such act; to the Committee on Education and Labor.

By Mr. SAVAGE (for himself and Ms. OAKAR):

H.R. 4435. A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965; jointly, to the Committees on Banking, Finance and Urban Affairs and Public Works and Transportation.

By Mrs. SCHROEDER (for herself and Mr. MARTIN of New York) (both by request):

H.R. 4436. A bill to provide for the transfer of the jurisdiction, custody, control over, and responsibility for the operation of the Pentagon Reservation to the Secretary of Defense; jointly, to the Committees on Armed Services and Public Works and Transportation.

By Mr. SENSENBRENNER:

H.R. 4437. A bill to amend the Internal Revenue Code of 1986 to exempt certain distributions used to pay expenses of higher education from the additional tax on early distributions from qualified retirement plans; to the Committee on Ways and Means.

By Mr. SHUMWAY (for himself and Mr. DAVIS) (both by request), Mr. YOUNG of Alaska, Ms. SCHNEIDER, Mr. SAXTON, Mr. WELDON, Mrs. SAIKI, Mr. GOSS, Mr. HERGER, and Mr. RAVENEL):

H.R. 4438. A bill to reauthorize and amend the Coastal Zone Management Act of 1972; to the Committee on Merchant Marine and Fisheries.

By Ms. SNOWE:

H.R. 4439. A bill to authorize the reconstruction of the new chancery building of the United States Embassy in Moscow; to the Committee on Foreign Affairs.

By Mr. DEFAZIO (for himself and Mr. LIGHTFOOT):

H.J. Res. 533. Joint resolution designating July 19, 1990, as "Flight Attendant Safety Professionals' Day"; to the Committee on Post Office and Civil Service.

By Mr. ROYBAL:

H.J. Res. 534. Joint resolution approving of findings of the Comptroller General relating to widespread discrimination resulting from imposition of employer sanctions and repealing employer sanctions and related antidiscrimination provisions in the Immigration and Nationalty Act; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. LEVINE of California (for himself and Mr. WOLF):

H.J. Res. 535. Joint resolution designating September 13, 1990, as "National D.A.R.E. Day"; to the Committee on Post Office and Civil Service.

By Mr. ACKERMAN (for himself, Mrs. BENTLEY, Mr. BEREUTER, Mr. BEVILL, Mr. BOUCHER, Mrs. COLLINS, Mr. DWYER of New Jersey, Mr. ECKART, Mr. ESPY, Mr. FAZIO, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. FROST, Mr. GIBBONS, Mr. HUGHES, Mr. JONTZ, Ms. KAPTUR, Mr. KLECZKA, Mr. LAFALCE, Mr. LEVINE of California, Mr. LEWIS of Georgia, Mr. MANTON, Mr. MCNULTY, Mr. NEAL of North Carolina, Mr. PANETTA, Ms. PELOSI, Mr. PURSELL, Mr. RANGEL, Mr. RAVENEL, Mr. ROE, Mr. SANGMEISTER, Mr. SAVAGE, Mr. SHAW, Mr. SMITH of Vermont, Mr. STUDDS, Mr. WALSH, Mr. WAXMAN, and Mr. WHEAT):

H. Con. Res. 294. Concurrent resolution to express the sense of the Congress regarding a national agenda for extending and improving foreign language instruction in the elementary schools of the Nation; to the Committee on Education and Labor.

By Mr. STANGELAND:

H. Con. Res. 295. Concurrent resolution expressing the sense of the House of Representatives with regard to restoring confidence in the Federal Crop Insurance Program pending consideration of legislation on the program; to the Committee on Agriculture.

By Mr. SWIFT:

H. Res. 371. Resolution relating to unfair practices in international trade resulting from differing national environmental policies, standards, and controls; jointly, to the Committees on Ways and Means and Energy and Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

340. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to a constitutional amendment to permit the States and the Federal Government to prohibit flag desecration; to the Committee on the Judiciary.

341. Also, memorial of the Senate of the State of Utah, relative to the limitation of congressional terms; the 10th amendment to the Constitution; proposed amendment to the Constitution to prohibit physical desecration of the American flag; to the Committee on the Judiciary.

342. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to trade barriers which may be causing an unfair balance of trade between the United States and Japan; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MORRISON of Connecticut introduced a bill (H.R. 4440) for the relief of Mary P. Carlton and Lee Alan Tan; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 50: Mr. AKAKA, Mr. DEFAZIO, Mr. KOSTMAYER, Mr. LEHMAN of Florida, Mr. LEWIS of Georgia, Mr. MARKEY, Mr. STUDDS, Mrs. UNSOELD, Mr. WAXMAN, Mr. WEISS, and Mr. YATES.

H.R. 60: Mr. TANNER, Mr. SOLOMON, Mr. HEFLEY, Mr. DYSON, Mr. CONTE, Mr. SMITH of New Jersey, Mr. MAZZOLI, Mr. BROWN of Colorado, and Mr. DORNAN of California.

H.R. 140: Mrs. UNSOELD.

H.R. 290: Mr. WILSON, Mr. GAYDOS, and Mr. SOLOMON.

H.R. 372: Ms. SCHNEIDER.

H.R. 446: Mr. NEAL of Massachusetts, Mr. EARLY, and Mr. ROTH.

H.R. 747: Ms. PELOSI.

H.R. 933: Mrs. UNSOELD, Mr. JENKINS, AND MR. FALEOMAVAEGA.

H.R. 2168: Mrs. BOXER, Mr. SKAGGS, Mr. GUNDERSON, Mr. MCCURDY, Mr. UDALL, Mr. PENNY, Mr. LEHMAN of California, Mr. LANTOS, and Mr. MRAZEK.

H.R. 2460: Mr. BONIOR.

H.R. 2870: Mr. LANTOS, Mr. KASICH, Mr. LIPINSKI, Mr. JONES of North Carolina, Mr. JONTZ, and Mr. TORRICELLI.

H.R. 2902: Mr. KLECZKA.

H.R. 3004: Mr. CARR and Mr. CLAY.

H.R. 3080: Mr. SLAUGHTER of Virginia, Mr. BOUCHER, and Mr. BLILEY.

H.R. 3210: Mrs. LOWEY of New York.

H.R. 3409: Mr. KENNEDY, Ms. KAPTUR, Mrs. UNSOELD, and Mr. APPLEGATE.

H.R. 3423: Mr. FLAKE.

H.R. 3533: Mr. GALLEGLY and Mr. WILLIAMS.

H.R. 3582: Mr. PACKARD and Mr. ROE.

H.R. 3732: Mr. LIPINSKI, Mr. PACKARD, Mr. NAGLE, Mrs. VUCANOVICH, Mr. DANNEMEYER, Ms. SCHNEIDER, Mr. GILMAN, Mr. PAYNE of Virginia, Mr. KLECZKA, Mr. ROTH, and Mr. COX.

H.R. 3735: Mr. DURBIN, Mr. SLAUGHTER of Virginia, Mr. BERMAN, and Mr. KASTENMEIER.

H.R. 3776: Ms. PELOSI, Mr. FAUNTROY, Ms. KAPTUR, Mrs. LLOYD, and Mrs. MORELLA.

H.R. 3789: Mr. BONIOR, Mrs. UNSOELD, Mr. FALEOMAVAEGA, and Mr. OWENS of Utah.

H.R. 3827: Mr. OWENS of New York.

H.R. 3828: Mr. OWENS of New York.

H.R. 3857: Mrs. UNSOELD.

H.R. 3859: Mr. SIKORSKI.

H.R. 3906: Mr. KLECZKA, Mr. FISH, Mr. SPRATT, Mr. BATEMAN, Mr. HEFNER, Mr. LEWIS of Georgia, Mr. TRAFICANT, Mr. VAL-

ENTINE, Mr. WILLIAMS, Mr. STANGELAND, and Mr. FALEOMAVAEGA.

H.R. 3958: Mr. FISH and Mr. HANSEN.

H.R. 3972: Mr. LEACH of Iowa, Mr. SCHIFF, Mr. BARTLETT, Mr. HOLLOWAY, Mr. ROBERT F. SMITH, Mr. KASICH, Mr. DEWINE, Mr. PASHAYAN, Mr. CAMPBELL of California, and Mr. MCCRERY.

H.R. 3979: Mr. BATES, Mr. SCHEUER, Mr. WALSH, and Mr. TORRICELLI.

H.R. 4000: Mr. HALL of Ohio.

H.R. 4040: Mrs. VUCANOVICH, Mr. LAGOMARSINO, Mr. HANSEN, Mr. SCHIFF, and Mr. BONIOR.

H.R. 4081: Mr. PACKARD.

H.R. 4083: Mr. WYDEN and Mr. DORGAN of North Dakota.

H.R. 4101: Mr. JOHNSTON of Florida.

H.R. 4120: Mr. ATKINS and Mr. HERTEL.

H.R. 4130: Ms. PELOSI, Mr. FAZIO, Mr. FOGLIETTA, Mrs. LLOYD, Mr. BILBRAY, and Mr. WALSH.

H.R. 4144: Mr. BONIOR, Mr. LAFALCE, and Mr. OWENS of Utah.

H.R. 4146: Mr. FRENZEL, Mr. GALLEGLY, Mr. SOLOMON, and Mr. HERGER.

H.R. 4250: Mr. YATRON, Mr. BONIOR, and Mr. LAGOMARSINO.

H.R. 4300: Mr. BORSKI.

H.R. 4347: Mr. BOEHLERT and Mr. BILBRAY.

H.R. 4369: Mr. OBERSTAR.

H.R. 4374: Mr. SUNDQUIST, Mr. HUGHES, and Mr. BUECHNER.

H.R. 4397: Mr. MILLER of California, Mr. LAGOMARSINO, and Mr. MORRISON of Washington.

H.R. 4401: Mr. OWENS of Utah, Mr. HUGHES, Mr. BUSTAMANTE, Mr. ROWLAND of Connecticut, Mrs. BENTLEY, Mr. MACHTLEY, Mr. HERGER, and Mr. SHUMWAY.

H.J. Res. 156: Mr. FISH and Mr. BUECHNER.

H.J. Res. 431: Mr. HYDE, Mr. HOUGHTON, Mr. DOUGLAS, Mr. KOLTER, Mr. GOSS, and Mr. HUNTER.

H.J. Res. 460: Mr. JENKINS, Mr. MCDERMOTT, Mr. HUGHES, Mr. SCHEUER, Mr. LEWIS of Florida, Mr. MARTINEZ, Mr. HANSEN, Mr. VOLKMER, Mr. CARDIN, Mr. SKAGGS, Mr. ROBINSON, Mr. STOKES, Mr. HUBBARD, Mr. NELSON of Florida, Mr. HOPKINS, Mr. DENNY SMITH, and Mr. SHAW.

H.J. Res. 464: Mr. BOEHLERT, Mr. BRENNAN, Mr. BROWN of Colorado, Mr. ENGEL, Mr. INHOFE, Mr. LEWIS of Georgia, Mr. NEAL of North Carolina, Mr. ROYBAL, Mr. SCHIFF, Mr. SLATTERY, and Mr. THOMAS of Wyoming.

H.J. Res. 482: Mr. CARR, Mr. DEFAZIO, Mr. JONES of North Carolina, Mr. BROOMFIELD, Mr. BENNETT, Mr. BOSCO, Mr. KILDEE, Mr. MONTGOMERY, Mr. LANCASTER, Mr. SPRATT, Mr. WAXMAN, Mr. FIELDS, Mrs. VUCANOVICH, Mr. EMERSON, Mr. BOUCHER, Mr. HUBBARD, Mr. STAGGERS, Mr. RIDGE, Mr. WEISS, Mr. SMITH of New Jersey, Mr. COURTER, Mr. PAYNE of New Jersey, Mr. INHOFE, Mr. HERTEL, Mr. CLAY, Mr. WILSON, Mr. NEAL of North Carolina, Mr. FAWELL, Mr. SABO, Mr. PANETTA, and Mr. KANJORSKI.

H.J. Res. 487: Mr. WOLF.

H.J. Res. 505: Mr. BRENNAN, Mr. DE LUGO, Mr. FUSTER, Mr. HATCHER, Mrs. JOHNSON of Connecticut, Mr. KILDEE, Mrs. LOWEY of New York, Mr. MFUME, Mr. MILLER of California, Mr. MOODY, Mr. TOWNS, Mr. JONTZ, Mr. APPLEGATE, Mr. FRANK, Ms. PELOSI, Mr. RANGEL, and Mr. WHEAT.

H. Con. Res. 23: Mr. JENKINS, Mr. SMITH of New Hampshire, Mrs. UNSOELD, Mr. LEWIS of Georgia, Mr. COX, Mr. DENNY SMITH, Mr. HUTTO, and Mrs. JACOBS.

H. Con. Res. 207: Mrs. LOWEY of New York.

H. Con. Res. 265: Mr. CAMPBELL of California.

H. Con. Res. 281: Mr. GAYDOS.

H. Con. Res. 289: Mr. MCEWEN, Mr. GALLO, Mr. DANNEMEYER, Mr. SOLOMON, Mr. PACKARD, Mr. BILIRAKIS, Mr. APPLEGATE, and Mr. LEWIS of Florida.

H. Con. Res. 290: Mr. BROWN of Colorado, Mr. CRANE, Mr. DANNEMEYER, Mr. DWYER of New Jersey, Mr. HOCHBRUECKNER, Mr. HUNTER, Mr. MCEWEN, Mr. MRAZEK, Mr. SMITH of New Hampshire, and Mr. WEBER.

H. Con. Res. 291: Mr. LANTOS, Mrs. LLOYD, Mr. GILMAN, Mr. SUNDQUIST, Mr. MORRISON of Connecticut, Mrs. UNSOELD, Mr. INHOFE, Mr. JONTZ, Mr. SOLOMON, Mr. NOWAK, and Mr. LENT.

H. Res. 358: Mr. ECKART, Mr. GEJDENSON, Mr. HORTON, Mr. SMITH of Texas, Mr. UPTON, Mr. LEHMAN of Florida, and Mr. FALEOMAVAEGA.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4000: Mr. HALL of Texas.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

146. By the SPEAKER: Petition of the Otsego County Board of Representatives, Cooperstown, NY, relative to the restoration of community services block grant funding to the levels of fiscal year 1990; to the Committee on Education and Labor.

147. Also, petition of the Board of County Commissioners, Citrus County, Iverness, FL, relative to the deauthorizing of the Cross Florida Barge Canal; to the Committee on Public Works and Transportation.

EXTENSIONS OF REMARKS

United States POLICY TOWARD CUBA

HON. GEORGE MILLER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. MILLER of California. Mr. Speaker, the following article on United States policy toward Cuba warns that recent and continued hostilities by our Government against Cuba will not bring about the desired democratic changes in that island nation. The author, an expert on Cuba, argues that the lesson from United States policy toward Cuba since the revolution in 1959 is that aggressive attacks against Cuba only hardens its alliance with the Soviet Union and unnecessarily separates the United States and Cuba. I submit this article by Saul Landau in the San Francisco Chronicle for the benefit of all of our colleagues.

Mr. Speaker, I submit also, as the most recent example of the aggressive United States policy toward Cuba, an article from the Washington Post on the insistence of the United States to broadcast TV Marti into Cuba despite Cuba's insistence to jam the signal because it argues the show is a violation of Cuba's sovereignty:

[From the San Francisco Chronicle, Feb. 26, 1990]

WILL THE ELUSIVE CUBAN DOMINO FALL?

(By Saul Landau)

Flush with perceived triumphs in Eastern Europe and Panama, the Bush administration appears eager to take on its next domino: Castro's Cuba.

In late January, a Coast Guard vessel riddled a Cuban-chartered vessel with bullets in international waters when its captain refused a demand to board and search for drugs. In a subsequent search of the ship in a Mexican port, no drugs were found. Cuban officials complain that there is a pattern of harassment, including an increased number of military flights and incursions into Cuban waters.

In addition, President Bush is planning to beam new television programs onto the island. Telemarti is expressly designed to undermine Castro's authority, by presenting news and political analysis from a pro-U.S. point of view. It will complement Radio Marti, which for several years has been sending the U.S. version of reality on AM radio in Cuba.

TURNING THE SCREWS

U.S. thinking on Cuba is that the Castro regime is in deep trouble and by turning the screws it will force it to crack.

Neither the thinking nor the current aggressive posture toward the Castro regime is new. What is striking is how little the administration has learned from the past. Bush is the eighth president who has tried to destroy the Cuban Revolution and remove its leader, Fidel Castro, from power. The attacks on Cuba, however, have tended to strengthen Fidel and hurt the United States. In the 1960s and into the early 1970s, the CIA attempted assassinations, sabotage and, the Cubans charge, biological warfare.

President Bush might reflect on the past, including the lessons of the 1962 missile crisis, when the United States and the Soviet Union terrified the world over the issue of Soviet nuclear weapons on the island. The reason for all this activity was to remove Soviet influence in Cuba.

Now, ironically, after all of this effort, the United States is demanding that Castro restore Soviet influence, lock, stock and perestroika. Castro, predictably, is having none of it. In addition to his customary, and apparently valid charges against the United States for its imperialist behavior, he is accusing Soviet leaders of political irresponsibility: for bringing chaos and capitalism to their land and Eastern Europe.

"CIRCLING THE WAGONS"

Castro sees attacks coming from both superpowers, one anxious to recover its former albeit unofficial colony, the other, desirous of shedding economic burdens that it can ill afford in its current internal reform phase. As one Cuban diplomat admitted, "Fidel is circling the wagons." And like the sterotyped Indians in the old Westerns, the U.S. government is increasing the pressure.

Lots of wishful thinking is going on in Washington and in Miami's Cuba exile circles, that Castro will fall from the East European domino effect, that the economy will crack because the Soviet and Eastern bloc nations withdraw aid, that the Cuban masses will pour into the streets and create an ungovernable situation where the 63-year-old president will be forced to resign Comparisons with Eastern Europe are misleading. The Cuban Resolution was an indigenous process, not one propelled by the occupying Soviet Army as was the case in Eastern European communism.

Although Castro is ideologically alone in the Communist world today, he has separated his Marxism-Leninism from state diplomacy and trade policy. Foreign investors have not flocked to the island, nor have they boycotted it. Spanish entrepreneurs are constructing several hotels, while Argentine, German and Canadian businessmen are putting together joint tourist ventures with the Cuban government.

AMERICAN FOIL

Castro has used U.S. hostility as a foil to put Cuba in the mainstream of world history. Fidel is seen in much of Africa as a hero. Cuba's decisive defeat of South African forces in Angola in 1988 at the battle of Cuito Cuanavale forced the apartheid regime to come to the bargaining table, a process that led to Namibian independence.

In 1990, all but the most subservient of U.S. clients have restored relations with Cuba, or have announced plans to do so, Even the ingratiating Honduran regime invited a Cuban parliamentary delegation to visit last year. Cuba enjoys relations with 110 countries, double the number in 1959, when the U.S. backed Batista dictatorship governed.

For all of his external and internal accomplishments, Fidel—and the Cuban Revolution—are facing their most serious challenge. Shifting Soviet priorities have damaged an economy already in trouble from inefficiency and from the plagues of most Third World countries: unpalatable debt to Western and Eastern banks and the yearly imbalance between what it receives for its basic exports, like sugar and coffee, and what it must pay for imports.

Dissent and demoralization are spreading, and Castro has responded with increased repression as he did especially in the early years of revolution. But by increasing attacks against Cuba, Bush hands Castro precisely the weapon with which he has historically been able to mobilize the population: anti-Americanism. The captain of the ship attacked by the Coast Guard has returned to Havana to a hero's welcome.

WHAT U.S. SHOULD DO

President Bush should look to Soviet behavior in Eastern Europe for Cuba-policy guidance. There, people began their process of self-determination only after Soviet President Gorbachev assured them, and the world, that he would abide by international law and not intervene in their political processes.

The United States has given quite the opposite message to people in the Caribbean Basin. Castro like the rest of Latin America, has noted the 1989 U.S. invasion and military occupation of Panama and the interference in the electoral process in Nicaragua.

"We have every reason to fear U.S. intervention," a high-level Cuban diplomat told me. "If the Soviet Union was our neighbor who knows what kinds of open processes might be occurring in Cuba?"

[From the Washington Post, Mar. 27, 1990]

TV MARTI: IGNITING WAR OF AIRWAVES.—AS THREE-MONTH TEST NEARS, CUBA THREATENS RETALIATORY JAMMING

(By Laura Parker)

MIAMI, March 26.—As Cuba attempts to avoid the tumult sweeping the rest of the communist world, a U.S. plan to bombard the island with television images from outside has touched off a war of the airwaves.

TV Marti, named after Cuba's 19th century national hero, Jose Marti, and modeled on the five-year-old Radio Marti, is poised to begin a three-month test run of game shows and basketball games to Havana several hours a day.

But TV Marti does not plan to stay with the soft stuff for long. Visions of Tiananamen Square and bloody revolution in Romania are just around the corner, and Cuban President Fidel Castro apparently is steaming. He has threatened to jam TV Marti's signal and disrupt U.S. television and radio if the telecasts proceed.

Friday evening, in what American broadcasters viewed as a "warning shot," a radio speech by Castro was beamed toward the U.S. mainland, disrupting six AM radio stations along the Florida coast. Castro came in loud and clear on radio at 11:00 AM in Miami, and radio announcers as far away as Nashville reported picking up portions of the three-hour speech.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"It certainly appears to be a warning shot," said Susan Kraus, spokeswoman for the National Association of Broadcasters, which opposes TV Marti broadcasts. "Cuban officials made it very clear that they intend to retaliate if TV Marti goes on the air."

Indeed, the Cuban government regards TV Marti as a violation of international law and broadcast regulations. Cuban newspapers are full of condemnations of TV Marti by government officials. Students at the University of Havana, featured in news stories, said they consider TV Marti to be "immoral" and showing a "lack of respect."

"We are prepared to block it totally. We are sure we can," said Gary Gonzalez, vice president of the Cuban Institute of Radio and Television, the Miami Herald reported.

At TV Marti headquarters in Washington, officials discounted Friday's disruption as minor.

"The Cubans have done this periodically for years," said Michael Schoenfeld, spokesman for the Voice of America. "Every once in a while, they crank up their transmitters." He said plans to put TV Marti on the air have not changed and added, "We're looking at several possible ways to overcome the jamming, if there is jamming."

He noted that the Cuban government threatened to jam U.S. radio stations when Radio Marti went on the air five years ago but did not.

The start-up date and channel selected for TV Marti have been kept secret by the U.S. Information Agency, which oversees Radio Marti and TV Marti. But Cuban exiles here, who monitor every nuance of the highly politicized project, expect the telecasts to start any day.

TV Marti's supporters say successful broadcasts will weaken Castro's 31-year hold on the island. "Cubans in Miami feel that, by showing the Cuban people what really is happening around the world, it will be a lot harder for Castro to maintain control," said Frank Calzon, a human-rights activist in Washington. "Cubans remember that Radio Rebelde, Fidel's short-wave station in the mountains, played an important role in mobilizing public opinion against Batista during the revolution." Fulgencio Batista ruled Cuba from 1934 until Castro's guerrillas forced him into exile Jan. 1, 1959.

The trial telecasts are to involve transmitting signals from an Air Force balloon tethered 10,000 feet above the Florida Keys. If the $7.5 million experiment is successful, TV Marti plans to add programming, including nightly news broadcasts prepared by Cuban exiles in a small Miami news bureau.

Some of those segments are to include reports about the Cuban human-rights movement, Nicaraguans considering returning home from here after the recent election defeat of the Sandinistas and Haitian reaction here to the fall of Lt. Gen. Prosper Avril.

The news broadcasts are to feature veteran Cuban newscasters in U.S. exile. Gilberto Rosal, a Radio Havana broadcaster in the 1960s and 1970s, is to be a news anchorman, and William Valdes, another Cuban radio and television broadcaster, who fled Cuba in 1982, a Miami correspondent.

TV Marti also plans a steady diet of American programming. For instance, "Alf," with its extraterrestrial star, will be dubbed in Spanish, as will "Kate and Allie."

The programming content has been a source of controversy in the Cuban exile community, where powerful factions have warred to gain political control of the fledgling station. The news director of Radio Marti, abruptly removed from his job this month, accused the powerful Cuban American National Foundation of muscling him out in order to gain control over Radio Marti and TV Marti.

Aside from the political implications, many technical experts expressed doubt that TV Marti, which is expected to cost $40 million over two years, will be a technical success. Broadcasters contend that the signal can be jammed easily and inexpensively.

Since Friday's jamming, other U.S. broadcasters have expressed renewed concerns about the effect of TV Marti on radio stations in 30 states.

"We are very vulnerable in the United States," Kraus said. "TV Marti could provoke a radio war. . . ." The Cubans can "jam our radio stations by using giant transmitters that can reach as far north as the Canadian border and as far west as Utah."

One of Cuba's three Soviet-built radio transmitters has 1 million watts of power, and the other two each have 500,000 watts, Kraus said. U.S. transmitters are limited to 50,000 watts of power.

Msgr. Bryan O. Walsh, director of Catholic Community Services here, said in a recent interview that the premise behind TV Marti and Radio Marti is "based on myth . . . that Cuba is hermetically sealed. You can hear 40 radio stations in Cuba. The BBC, Radio Netherlands. These broadcasts are in Spanish. You can buy Le Monde in Havana."

In fact, Cuban government officials estimate that one-third of Cuba's television programming is foreign and that almost half of movies shown there are from the United States. Some television programs shown there are purchased; others are nabbed from satellite transmissions.

Gonzalez criticized the United States for trying to "decide" what Cubans will watch on the small screen.

"What are you going to tell us?" he asked. "That we don't have enough food? We know that. That we don't have enough shoes? We know that."

A TRIBUTE TO DAVID JAICKS

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mrs. ROUKEMA. Mr. Speaker, I would like to take this opportunity to honor the career and efforts of David P. Jaicks, who is retiring as chairman of American Home Food Products, Inc., after a distinguished 26 years.

David Jaicks is the prototype of the self-made man. He started his career as an office trainee at the Leo Burnett Advertising Agency in Chicago. He rose through the ranks of Leo Burnett and then General Foods before joining American Home Food Products 26 years ago. He has guided American Home Food Products for 15 years and is responsible for building his company into one of America's largest prepared food manufacturers. But David Jaick's contribution goes well beyond his business achievements. As much as he earned the respect of his colleagues as a leader of business, so has David Jaicks developed a reputation of sincere concern for his community and his Nation.

Following his graduation from high school, he answered his country's call when his country needed him. He enlisted in the U.S. Navy and served in the Pacific during World War II.

Today, David Jaicks is an active supporter of many local, State, and national organizations as well as the benefactor of numerous other charities. In fact, I first came to know David as we both worked to improve the public education system in our respective communities. He served as past president and trustee of the Waldwick, NJ Board of Education.

Across the country, communities are struggling to improve the quality of their schools. I would suggest that had communities across our country had the benefit of their own local David Jaicks, our American education system would not be mired in mediocrity. His energy and his fundamental good sense has paid dividends year after year.

Subsequently, we worked with other civic-minded community leaders in the Ridgewood Association for Good Schools, volunteer programs to preserve open space and led efforts to reform Government to referenda.

Mr. Speaker, David Jaicks is a man who understands the value of service. In his role as a business leader, he has fostered economic development and created valuable jobs for Americans. In his role as community leader, he has worked to develop the strong neighborhood roots that form the foundation of our society.

It has been my honor to recognize the accomplishments of a man who is respected as much for his compassion and abiding concern for others as his superior business skills. We owe David Jaicks a debt of gratitude. He has truly enriched the lives of those who know him.

A TRIBUTE TO THE INDEPENDENT NATION OF LITHUANIA

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. SCHUETTE. Mr. Speaker, ladies and gentlemen of the House, my purpose before you today is threefold. First, I would like to praise the people of Lithuania in their ongoing quest for democracy and their recent proclamation of sovereignty; second, I want to strenuously condemn the force which continues to occupy and terrorize these citizens against their will, the Red army of the United Soviet Socialist Republics; and third, I want to urge the administration to formally recognize the independent state of Lithuania and the Lithuanian people's right to self-determination.

I was privileged to be present at the Berlin Wall when those joyous first winds of freedom and liberty began to blow down that stark symbol of repression of the free human spirit.

The events of the past year in Eastern and Central Europe have proven to the World what we in America have always held as true—that given an honest choice, voters choose freedom, not repression; embrace democracy, not domination. We have seen this proven recently with the fair elections in

Poland, Hungary, Czechoslovakia, and East Germany, and I envision similar results in the upcoming elections in Bulgaria, Yugoslavia, and Romania.

This same yearning to be free has overcome Lithuania. The Baltic States have never accepted their 1940 incorporation into the U.S.S.R. Their long-sought right to self-determination led the nation of Lithuania to proclaim its independence on March 11, 1990.

This should be occasion for us to celebrate with the nation of Lithuania her rebirth.

But all is not well. At this very moment, Soviet troops continue to mobilize, occupy prominent Government buildings, and conduct a campaign of intimidation against Lithuanians by dropping antisecessionist literature from military helicopters. Though I deeply hope Mr. Gorbachev's reputed desire for a peaceful solution is a true one, one need only recall the Soviet actions against Czechoslovakia in 1948 and 1968, and Hungary in 1956, to know what disaster Soviet military intervention can bring.

Mr. Speaker, and my fellow colleagues, please join with me today in congratulating President Landsbergis and the people of Lithuania in their new-found democracy. Self-determination is a right we Americans hold dear. The brave people of Lithuania should be accorded the same right.

WE NEED A STRAIGHT ELEVATION OF EPA, CLEAR AND SIMPLE

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. McCANDLESS. Mr. Speaker, I support elevation of the Environmental Protection Agency [EPA] to Cabinet-level status and I voted in favor of the elevation when the matter came before the Committee on Government Operations earlier this year. As I have stated earlier on the House floor and in committee, I feel that the EPA should be a coequal part of our govenmental system with a voice in the President's Cabinet. Unfortunately, H.R. 3847, the bill which was passed in the House of Representatives goes far beyond the scope of the President's original proposal, and my support for a straight elevation of the EPA. For this reason, it was with regret that I could not support H.R. 3847.

The legislation which passed the House has excess provisions, eight additional amendments, and is seriously out of sync with the bill's original intent. Most troublesome to me are the provisions in H.R. 3847 which give a disproportionate and unchecked degree of power to a newly created entity in this legislation called the Bureau of Environmental Statistics. I am very concerned about the mandatory delegation of all information collection, analysis, and distribution from the Secretary of Environmental Protection to this new Bureau. Another serious problem is the requirement for broad disclosure of data collected by the newly created Bureau of Environmental Statistics. This disclosure is to occur without regard for effective confidentiality safeguards and without final approval from the Secretary of Environmental Protection or the President of the United States. This bill actually prohibits review of disseminated data within the Department or from the executive branch. A requirement such as this disclosure of unchecked data will seriously impact the ability of the Department of Environmental Protection to collect the highly sensitive information necessary to formulate sound policy or to conduct monitoring activities.

The President supports an unencumbered elevation and has stated that he will veto H.R. 3847. The Senate has already passed legislation providing for the unadorned elevation of EPA. Furthermore, my colleague, Mr. HASTERT, offered, as a substitute to H.R. 3847, a straight elevation of EPA to the Department of Environmental Protection. I supported the Hastert amendment because it eliminated all of the extraneous provisions surrounding some individuals' idea of what elelvation of the Agency is all about. Because H.R. 3847 contained such an outrageous conglomeration of unnecessary provisions, I was constrained to vote against the passage of the bill.

I support the elevation of EPA. It was with regret that I voted against H.R. 3847, and I can only hope that Representatives appointed as conferees will accept the Senate version of EPA elevation. I look forward to a clean version of the President's initiative which I can support. Any legislation as important as that which creates a new Department and Cabinet-level position should be passed on its own merits without any extra baggage.

RAY GOULDING MADE US LAUGH

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. JACOBS. Mr. Speaker, for nearly a half a century Ray Goulding made us laugh.

Now, for his encore, he is making us cry.

RAY GOULDING OF "THE BOB AND RAY SHOW" DIES

Ray Goulding, half of the gently offbeat Bob and Ray comedy team, died in his sleep March 24 in Manhasset, N.Y., after a long battle with kidney failure. He was 68.

Mr. Goulding was best known for his part in "The Bob and Ray Show" which the Lowell Mass., native created in Boston in the late 1940s with partner Bob Elliott.

The two, who played a wide variety of characters, brought their radio and television act to New York City in the early 1950s. They went on to appear in numerous radio and television productions, motion pictures and commercials.

The pair created such classic characters as newsman Wally Ballou; the befuddled Mr. Science; Mary Backstage; Noble Wife; and Jack Headstrong, All-American American.

They did commercials for bogus businesses as well as real ones. Among them were "Height Watchers International: Offering six ample servings of low vitamins and nutrients in artificial colorings" and "Einbinder Flypaper: The brand you've gradually grown to trust over the course of three generations."

The men made separate starts in Boston radio about 1940, then entered the military during World War II. They met in 1946 at radio station WHDH, were Elliott was a disc jockey and Mr. Goulding was a newscaster. Their early-morning quips soon put them in demand as a team.

"We were on the same wave-length, and these things just sort of developed naturally," Mr. Goulding once said.

Mr. Goulding's films include "Cold Turkey" in 1969 and "Author! Author!" in 1982. He and Elliott also appeared in the Broadway play "The Two and Only," which ran from 1970 to 1971.

The pair also wrote the book "From Approximately Coast to Coast . . . It's the Bob and Ray Show," which was published in 1983.

Their humor earned them Grammy nominations in 1987, for the record "A Night of Two Stars Recorded Live at Carnegie Hall," and in 1988, for "The Best of Bobby & Ray—Volume One."

Mr. Goulding is survived by his wife of 45 years, Elizabeth Goulding; six children; and six grandchildren.

THE SPREADING OYSTER BLIGHT

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. DYSON. Mr. Speaker, this morning I testified before the House Appropriations Subcommittee on Commerce, Justice, State and the Judiciary, about a problem of grave concern to the constituents of Maryland's First Congressional District and to every community where commercial oystering has been a traditional livelihood.

Native stocks of American oysters are now being decimated by two diseases that long ago eliminated Pacific coast oyster beds, those of the once thriving Delaware Bay, and now threaten to destroy the oyster beds in the Chesapeake Bay, where over 80 percent of the oyster beds are infected, and where mortality rates for infected beds are between 80 and 90 percent.

I testified in favor of a request to appropriate $3 million for a multi-year, nationwide program of basic research into oyster diseases and innovations into natural resource management. I have worked to have authorizing language included in the appropriate legislation, and will continue my efforts to have that authority funded.

The challenge we face is nothing less than the preservation of the native American oyster as a commercial resource. The effort will require the combined expertise of our best marine scientific research and resource management specialists, guided by the insights and experience of commercial oystermen.

It will also require funding. The Commerce Department's National Oceanic and Atmospheric Administration has provided considerable support for research over the past few years. That support has enabled the scientific community to join with public natural resource managers in forging a comprehensive program for oyster disease research and response.

In the testimony that I will now submit for inclusion in today's RECORD, I describe the progress we have already achieved and point to the direction that future research efforts will follow in the effort to defeat the spreading oyster blight.

TESTIMONY OF HON. ROY DYSON

Good morning Mr. Chairman, thank you for providing me this opportunity to review a problem that threatens to make the native American oyster extinct as a commercial resource.

I will be brief, Mr. Chairman. Among the programs operated by the Department of Commerce is the National Sea Grant Program of Strategic Research. This year, the administration has requested funding so that this program can continue its scientific research activities.

I am requesting that the subcommittee appropriate an additional $3 million for activities that have not yet been included in the administration proposal.

Mr. Chairman, as you know, stocks of native American oysters have been decimated by two distinct types of oyster diseases. The only things we know for certain about these diseases is that they pose no threat to human beings and they are absolutely lethal to productive oysters beds.

I have appeared before you in past years to draw the subcommittee's attention to the devastation these diseases have wrought, throughout the the rural water-dependent communities of the Chesapeake Bay, and in every coastal community where oystering is a traditional livelihood.

I've described the complete elimination of all oyster stocks in the Delaware Bay. I've reported on the spread of these diseases from Long Island to North Carolina, how they have been detected in the Gulf of Mexico and how they altogether wiped out the Pacific Coast oyster a decade ago.

Each year I have requested this subcommittee to appropriate funds for a full-fledged scientific assault on these diseases, and you have been supportive. I appreciate your support, especially during these extremely cost-conscious times.

Your support has helped to intensify the scientific investigation into the origin and lifecycle of these diseases. We now know appreciably more about transmission and mortality rates. We are, I believe close to the point where natural resource specialists, marine biologists, and commercial oystermen will be able to forge a comprehensive strategy for overcoming the effects of these diseases.

Last year, in part with the support your subcommittee provided, two important symposia were held on the problem of oyster diseases. One of these convened last September at the Virginia Institute of Marine Science, a second at Annapolis in conjunction with the Maryland State Department of Natural Resources.

These symposia brought together public fisheries management officials and marine scientists from across the country and overseas. After intense discussion and debate, these symposia have produced a battle plan for future research efforts needed to defeat the spreading oyster blight.

It is this program that I strongly urge you to fund, Mr. Chairman. I have taken the steps to see that the sea grant program is authorized to launch a comprehensive oyster disease research strategy. The best minds available for carrying that strategy out are in agreement and ready to begin field and laboratory experiments, monitoring and commercial innovations.

But without the necessary funding, we cannot expect to bring this strategy to victory.

The funds that I am requesting will help us restore the native American oyster as a commercial resource. The funds will help to generate new contributions to basic and applied research on marine diseases. We will learn more about genetic research into hybrid species and provide a boost for the technical innovations needed to germinate new aquaculture enterprises.

But if these funds are used as planned, in a concerted effort linking science with public management of public resources, they will also help to preserve a way of life that has been the unique signature of rural, coastal fishing communities since before this Nation was founded.

The watermen in my district, Mr. Chairman, practice a livelihood many inherited from their fathers and their grandfathers before them. They lead a solitary life of fierce independence. They take to the waters of the bays and coves of the Chesapeake each fall, and throughout the long winter they pluck their fortunes from the bay's once teeming fishing grounds.

Many of the bays resources have fallen victim to decades of pollution and mismanagement. The oyster, over the years, has become the staple of the watermen's livelihood. Now that livelihood is threatened, and there are few other resources available to the traditional waterman.

We can help, Mr. Chairman. We can let these men and women know that they are not alone in the battle against an unknown and invisible enemy. We have the science, the equipment, the imagination and the battleplan.

Grant this funding request, Mr. Chairman, and I am convinced that we can yet ensure that the Chesapeake Bay, and native oyster beds along the seaboard, will yet revive.

ARGUMENTS AGAINST ABORTION ON DEMAND

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. HYDE. Mr. Speaker, on Tuesday, March 27, my colleague Representative CHRISTOPHER SMITH testified before the Senate Labor and Human Resources Committee on the Freedom of Choice Act. I commend his excellent remarks to my colleagues, and urge that they strongly consider his arguments against aborton on demand.

TESTIMONY OF REPRESENTATIVE CHRISTOPHER H. SMITH BEFORE THE SENATE LABOR AND HUMAN RESOURCES COMMITTEE, MARCH 27, 1990

Mr. Chairman, the time is fast approaching when historians will look back at America's unseemly abortion culture of today with a mix of incredulity and sorrow.

They will wonder how a society that paid so much attention to civil rights at home and human rights abroad could have allowed—even promoted—the violent destruction of over 25 million children.

They will weigh the misleading cliches, slogans, and euphemisms of our day proffered by the abortion lobby against the brutal reality of abortion—literal dismemberment of the baby and poison shots—and wonder how an ostensibly sane, compassionate society could have been so deceived.

All of this will be particularly perplexing in light of the tremendous advances made during the 70's and 80's in society's understanding of human life before the "event" of birth. And in any discussion of this issue all should be intellectually honest enough to acknowledge that birth is an event and only an event in a baby's life—it is not the beginning of a child's existence.

While it is true that the abortionists cloak their killing in the language of humanitarianism and basic rights, the fact of the matter is that abortion is child abuse. Children who suffer this abuse are cut and dismembered, and millions have been killed by injections of poison. This is not an issue of choice or "who decides." This is an issue of child abuse. And that is not a matter of choice in a civilized society.

Mr. Chairman, in a common method of abortion known as vacuum aspiration, a loop shaped knife attached to a high powered suction machine rips and shreds the unsuspecting child to pieces. The body parts are then vacuumed into a bottle and they're disposed of. The power of the vacuum is said to be about 30 times that of a household vacuum cleaner.

In a D&C and D&E abortion, the child is dismembered, literally dismembered, by a surgeon's scalpel without even the benefit of anesthesia.

In saline abortions, Mr. Chairman, usually done in the second trimester, the unborn child, the unborn baby, has his or her life purposely snuffed out by an overdose of injected salt water. A baby terminated in this way dies a very slow, excruciating and painful death. After the salt is injected by a hypodermic needle into the infant's amniotic sac, the child breathes in the fluid and gets sick. The salt burns the outer layer of the skin and gets into the blood stream, and kills the vital organs of the child. A day or two later, the mother goes into labor and gives birth to a chemically burned baby whose appearance resembles the first degree burn victim.

This, Mr. Chairman, is the horrific reality of abortion—dead babies.

Every abortion stops a beating heart.

At a time when serious reevaluation of abortion on demand is underway in the several States, S. 1912 and its companion measure in the House (H.R. 3700) seeks to rob States of their ability to protect life and restrict abortion.

This legislation is extreme, it is unwarranted and discriminates against children. It reduces unborn babies to the status of property and regards them in law as objects.

Mr. Chairman, let me also note here that I consider it outrageous that the abortion lobby is trying to mislead the public by drawing parallels between efforts to protect unborn life in America to the deplorable policies of Romanian dictator Nicolae Ceausescu.

Mr. Chairman, as a member of the Helsinki Commission and House Foreign Affairs Committee, I along with Rep. Frank Wolf (R-VA) and Tony Hall (D-OH) led the fight to end United States support for the Ceausescu regime. I was prime sponsor of the legislation to suspend Most Favored Nation (MFN) trading to Romania because of human rights abuses which was adopted after a bitter three-year fight. Senator Armstrong offered it in the Senate.

39-059 O-91-49 (Pt. 4)

Ceausescu, like the population control fanatics in the People's Republic of China, used draconian measures to force women to have children.

Romania, like China, imposed quotas. In China, the Communists rigidly enforce a one child per family quota and employ forced abortion and involuntary sterilization to ensure compliance. In Romania, the government quota was at least five children per family and Ceausescu, who cared nothing for freedom or human rights, imposed harsh penalties on those who didn't produce children for the State. That policy, like China's, is inhumane and indefensible.

I was in Romania again a few weeks ago and I saw substantial evidence that, like here in the U.S., the issue will be debated and focused upon in the near future—perhaps after the May 20th election of a new government. No one here, or in Romania, suggests a return to Ceausescu-like government child quotas. As in Poland, where human rights leaders Lech Walesa and many in Solidarity have begun pushing to enact meaningful protections for the unborn, Romania will revisit this issue.

PRESIDENT LANDSBERGIS' MESSAGE

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. COX. Mr. Speaker, earlier today, President Vytautus Landsbergis of Lithuania issued a message to the United States Congress urging recognition of the Government of the Republic of Lithuania. It is my privilege formally to present President Landsbergis's message.

VILNIUS, *March 29, 1990.*

DEAR SENATORS AND CONGRESSMEN: By the will of the people of Lithuania, we, the Supreme Council of Lithuania, were elected on a platform to reestablish the Republic of Lithuania—continuing its statehood, returning it to Europe and to the family of free nations. And we have done it. But now the freedom of Lithuania is in great danger.

For this reason, I would like to state very clearly:

Support for Lithuania is support for freedom and democracy in Eastern Europe. This support will also undoubtedly help Mr. Gorbachev: it would stop him from making a great mistake.

The recognition of the government of the reestablished Republic of Lithuania that we request is a very important step towards strengthening peace in the world. As we wait with strong hearts and with no weapons in our hands, we ask your help in this difficult struggle against militarism and aggression, in this struggle for peace and justice.

Yours, with trust and hope,

VYTAUTAS LANDSBERGIS,
President of the Supreme Council of the Republic of Lithuania.

A TRIBUTE TO BOB HUGHES

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. SCHUETTE. Mr. Speaker, I would like to take this opportunity to honor Mr. Bob Hughes on the occasion of the "Open House" to be held in his honor on April 14, 1990, by the Gladwin County VFW, Post 7303.

By honoring Mr. Hughes, the Gladwin County VFW recognizes him as a paradigm of service to both his community and his country. He exemplifies the ideals embodied in the VFW's articles of confederation. He has maintained true allegiance to the United States and her Constitution, endeavored to preserve and defend our country from her enemies, helped to maintain and extend the institution of American freedom, and, to the best of his abilities, fought to preserve and defend our country from her enemies.

Mr. Hughes has served our country in a myriad of ways. During the Second World War, he served in the 94th Army, 376th Infantry Division, Europe. While there, he was selected as both post commander and 11th district commander. He also assisted as a member of the department, district, and post honor guards. He now adds district service officer and quartermaster of the post to the many committee chairmanships and offices he has held in the past.

A graduate of Beaverton High, Robert Hughes was a leader at home as well as the field. Married in 1946 to Miss E. Willa Dean Thomas, the Hughes brought three children into this world, Randa, Robert, Jr., and Janet, who in turn blessed their parents with nine grandchildren.

I ask you, Mr. Speaker, and our colleagues in the House to join me in congratulating Bob Hughes upon this occasion of the "Open House" given in his honor. America owes a great debt to her soldiers and veterans, and Mr. Hughes' commitments and accomplishments serve as an example to us all.

WHY I AM PROUD OF AMERICA

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. McCANDLESS. Mr. Speaker, each year the Veterans of Foreign Wars of the United States, and its ladies auxiliary, conduct the Voice of Democracy broadcast script-writing contest. This year more than 137,000 students participated in the contest competing for the 12 national scholarships. The contest theme this year was "Why I Am Proud of America."

I am proud to say that a young man from Corona, CA, in my district, has been awarded eighth place honors in this national contest. He is Joshua Thomas Burgess, a senior at Corona High School. I want to commend him for his evident dedication to democracy, and I insert the text of his winning script in the CONGRESSIONAL RECORD.

"WHY I AM PROUD OF AMERICA"

(By Joshua Thomas Burgess)

The darkening night pressed down harshly as the rain fell to the ground all around the mall. After some disoriented searching, I found what I was looking for. At other malls, people were shopping, looking for articles of clothing, but at this special mall I was searching the list of 58,175 names carved in a granite wall. I was at the Vietnam Veterans' Memorial in Washington, D.C.

Finally, I found the name of a high school friend of my parents. He had been the same age as my father, and now I was staring at this deceased friend's name on that granite wall. My father had served, too, but this man had paid the supreme sacrifice. I was thankful to him, and proud that such a man stood for America.

The following day, I joined a crowd of several hundred respectful mourners at the Tomb of the Unknown Soldier. But it wasn't all sadness at the tomb. There was pride, pride in the United States and her people.

More than a century ago, Senator Daniel Webster said, "I was born an American; I will live as an American; I shall die an American." Many men and women have died as Americans, fighting for their land on foreign soil. Yes, those men and women were proud of the United States; they were proud enough to die. Through war after war, the people of America have risen to the call to arms in times of need.

I am proud of America because of those soldiers who willingly chose to lay down their lives for the United States. Such displays of patriotism caused the English Statesman William Pitt to say, "You cannot conquer America." Who is this? It's because of the unceasing willingness of Americans to sacrifice for the good of their country.

My comments would be meaningless were it not that they are shown to be demonstrably true by history. A 1951 recruiting poster pictured a U.S. soldier and said, "But for him * * * words would be sterile, meaningless things * * * words like freedom, liberty, justice, equality * * * words that make pacts, proclamations, constitutions, charters* * * hopes for a better more peaceful future." Because of the faithful souls who have lived and died to protect our liberty, I am proud of America.

The people of the United States have always stood up and been counted for America. From the Revolution to the present, America has shown herself worthy of respect. A parent's pride in a child grows as the youngster develops into maturity, pursuing excellence. In the same way, our pride in America has grown as our nation has matured, seeking after excellence in every way. America has always risen above its troubles . . . social, economic, or political . . . to show itself to be the greatest nation in the world. This is why I am proud of America.

Yet, there are still more reasons to be proud of the United States. Consider this: homeowners will tell you that it is pride of ownership that causes them to take good care of their houses. The same is true for our democracy. Because Americans have pride of ownership in this great land, we protect our investments, our equity, our heritage to be passed on to future generations. This incomparable heritage was purchased with tears, sweat, and blood.

In 1989, thousands of persons fled Eastern Europe for freedom in the West. Many of these refugees will not rest until they have come to our nation of open borders, the

land of the free, the home of the brave. It is democracy which fosters freedom and America, the strongest democracy in the world, still stands as a beacon of liberty to a beleaguered people. That's another reason why I am proud of America.

And more recently, when a terrible hurricane ripped through the east coast and a 7.1 earthquake devastated portions of the San Francisco Bay area, the people of America banded together to help one another. They showed that the people of this country have heart and compassion for their fellow man. That is why I am proud of America.

For all these reasons, I take pride in my right and responsibility to vote . . . for I thereby help preserve freedom here and abroad.

I could easily keep going as the reasons to be proud of America are countless. These are but a few. But, if these few reasons truly were the only reasons to be proud of America, I would still be bursting at the seams with pride. America is certainly the greatest nation on our planet. With good cause, I echo the pride of that great patriot Daniel Webster, who declared, "Thank God, I am an American."

IT'S TIME TO END DISCHARGE PETITION SECRECY

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. DOUGLAS. Mr. Speaker, I have filed discharge petition No. 7 to bring to the House floor BOB MICHEL's resolution that proposes a constitutional amendment to ban desecration of the American flag. We were promised by the Democrat leadership last fall that we would get a floor vote on this resolution—but we all saw how valid that promise turned out to be.

It's time for my colleagues to put up or shut up in regards to their support for an amendment to protect the flag.

As we all have seen, the Flag Protection Act passed by this Congress last year was a sham. Two Federal courts have already ruled that a mere statute to protect the flag will not work, so an amendment is needed to get the job done. Let's give the 50 State legislatures a chance to express their views on whether they believe the American flag deserves protection as a unique national symbol of what brave Americans have fought and died for.

But perhaps we will never really know how some Members of this House will actually vote on this question. The secrecy of the discharge petition allows these Members the best of the both political worlds: They can publicly say they support a measure, while quietly withholding their names from the petition that would accomplish just that.

This faker protection prevents Americans from knowing where their elected representatives really stand. Unlike John Hancock, they can sign or not sign in complete secrecy. Thus are hyprocrites protected.

Following are more detailed objections to secrecy:

[From Roll Call, Mar. 29, 1990]

IT'S TIME TO END DISCHARGE PETITION SECRECY

(By Hon. Chuck Douglas)

There is a secret list in Congress. Under strictly controlled conditions, Members can see it, but they are not supposed to disclose the names on the list, nor reveal their number.

This covert list is part of the House discharge petition process, a special procedure designed to move bills that have become "stuck" in committee because of the opposition of the chairman. Established in 1931 in its current form, the discharge petition is intended to permit a majority in Congress, by signing the petition, to work its will, and as such the procedure is consistent with effective, democratic government.

A discharge petition is kept in a drawer in the clerk's desk at the front of the House chamber. The press and public cannot see it; Members cannot copy it, nor get a photocopy of it. Thus are hypocrites protected.

The secrecy of the petition, until it gains the required 218 signatures, is at odds with our system of honest and open government. Article I of the Constitution states, for example, that "each House shall keep a Journal of its Proceedings." The House Parliamentarian has ruled, however, that names of the discharge petition may not be printed in the Journal. In fact, when Members ask to see the petition, they are presented with a printed statement from the Speaker informing them that "publication or release" of the names is "strictly prohibited."

The root cause of the problem lies in the power of committee chairmen or the Speaker to refuse a vote on any measure they oppose. In my state of New Hampshire, with a four hundred member House of Representatives, we require every bill to 1) receive a fair hearing, 2) be voted on in committee, and 3) be allowed an open floor vote. This protects minority views from abuse. That change here in the U.S. House would make us more responsive and democratic, rather than dictatorial and autocratic. As fellow former judge George Mitchell said last fall to visitors from the Supreme Soviet studying legislative rules: "Don't copy our rules."

On Wednesday, I filed a discharge petition for H.J. Res. 350, Congressman Michel's proposed Constitutional amendment to permit Congress and the states to pass laws banning the burning and desecration of the American flag. Two lower federal courts have already ruled that a mere statute to protect the flag will not work, and so an amendment is needed to get the job done effectively.

The secrecy of the discharge petition, however, allows Members the best of two political worlds: they can publicly say they support a measure, like protecting the American flag, while quietly withholding their names from the petition that would accomplish just that. The resulting "faker protection" prevents Americans from knowing where their representatives really stand. Unlike John Hancock, they can sign or not sign in complete secrecy.

Congress should lift the veil of secrecy that surrounds the discharge petition, so the people can distinguish the true supporters of an issue from the fakers.

This is especially the case with regard to House Joint Resolution 268 that would amend the Constitution to require a balanced budget. It has 246 cosponsors, well over the majority in the House, yet the Judiciary Committee refuses to report the measure to the House floor. I intend to file a discharge petition soon for H.J. Res. 268, and will disclose the names of all who claim to support it but *fail* to sign the petition.

It is surprising that at a time when Congress is demanding ever greater access to Executive branch documents in the name of open government—to the point of demanding President Reagan's personal diaries—it ignores its own advice and clings to a system of outdated, and deceptive, covert lists.

IMPORTANT NOTICE

The publication or release of the names of Members who have signed this or any other discharge petition, before the petition has obtained the requisite number of signatures and been placed on the calendar of motions to discharge committees, is strictly prohibited under the precedents of the House. The prerogative of individual Members to determine when and whether to sign a discharge petition, and to remove their signatures until the petition has been signed by a majority of Members, is in the nature of a private and serious agreement among Members to invoke a special procedure of the House, which must not be diminished by the premature release of either the names or number of names contained on the petition.

DONNALD K. ANDERSON,
Clerk.

The Chair trusts that all Members will comply with this time-honored principle on their own responsibility.

THOMAS S. FOLEY,
Speaker.

CHURCH, STATE, AND ABORTION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. LAFALCE. Mr. Speaker, the much publicized rift between the Catholic church and New York State Gov. Mario Cuomo over the issue of abortion has been extensively covered but, unfortunately, mischaracterized. Commentary on this issue has almost exclusively focused on the propriety of the Catholic bishops involvement in this issue. Governor Cuomo, however, recognizes the church's right to speak publicly on abortion and other moral issues once those issues have entered the political arena.

I would like to insert in the RECORD the following article, "Cuomo, Taney and the Bishops" by Charles Krauthammer, printed in the Friday, March 23, Washington Post. This article provides an enlightening historical perspective on this very current controversy and addresses some of the spurious assertions regarding the propriety of the Catholic church's articulations on the issue of abortion in our pluralistic society. I commend the following article to my colleagues for its clarity and insight.

[From the Washington Post, Mar. 23, 1990]

CUOMO, TANEY AND THE BISHOPS

(By Charles Krauthammer)

In 1857, Chief Justice Roger B. Taney handed down the Dred Scott decision upholding and extending slavery. Taney's opinion was, it is generally agreed, "the worst constitutional decision of the 19th century" (the words are Robert Bork's). Yet

there is a curious and little known fact about Judge Taney. More than 30 years earlier he had freed his own slaves. Today, therefore, we would say that while he was "personally" opposed to slavery he did not want to "impose" his views on others.

The Taney contradiction—privately opposed to but publicly tolerant of some widespread social practice—is the preferred position on abortion of pro-choice Catholic politicians today. This view does not sit well with the Catholic Church. It holds, quite plausibly, that the Taney position is as morally incoherent when applied to abortion as it was when applied to slavery.

At the center of the debate is New York Gov. Mario Cuomo, who personally believes that abortion is sinful but as governor has supported no abortion restrictions, indeed has advocated state funding of abortions for poor women. For this, one New York Bishop has said that Cuomo is in danger of losing his soul and going to hell. Another New York Bishop barred Cuomo from any church function in his diocese (later modified as a ban on discussing abortion at any church function). Cardinal John O'Connor of New York has backed up his two bishops, continuing the argument he started with Cuomo in 1984 about whether it is possible to have it both ways, Taney-like, on abortion.

Liberal commentary has rushed into the breach to argue not so much the merits of the issue, but the propriety of the bishops' getting involved in the first place. The claim is that these clerical admonitions constitute an assault on the separation of church and state, a denial of religious pluralism, a form of religious tyranny. These prelates, writes Arthur Schlesinger, "seem to be doing their best to verify the fears long cherished by . . . a succession of anti-Catholic demagogues that the Roman Catholic Church would try to overrule the American democratic process."

This idea of overruling is outright nonsense. The Catholic Church is in no way compelling anyone to do anything, let alone interdicting the will of the majority. If it does manage to persuade a majority of Americans that abortion is wrong and ought to be banned, how is that different from any other group persuading a democratic majority to ban, say, polygamy or drug-taking?

As for the "threats" to Cuomo, they are entirely self-imposed. The force of the bishops' moral appeal derives exclusively from Cuomo's own freely offered profession that "I am a governor, I am a Democrat, but I am a Catholic first—my soul is more important to me than my body." Unlike President Kennedy, Cuomo is more than a nominal Catholic. His profession of faith makes him subject, voluntarily, to the teachings of his church. For the church to which he voluntarily adheres to repeat to him its position on abortion as well as the penalties the church believes are due those who violate it is hardly an act of imposition. It is an act of religious teaching that Cuomo himself invites when he says "I—and many others like me—are eager for enlightenment, eager to learn new and better ways to manifest respect for the deep reverence for life that is our religion and our instinct."

The other liberal complaint is that since the Catholic position on abortion is religiously derived, if it ultimately becomes law, that constitutes an imposition of religion. This argument is nonsense too. Under American concepts of political pluralism, it makes no difference from where a belief comes. Whether it comes from church teaching, inner conviction or some trash novel, the legitimacy of any belief rests ultimately on its content, not on its origin. It is absurd to hold that a pro-abortion position derived from, say, Paul Ehrlich's overpopulation doomsday scenario is legitimate, but an antiabortion position derived from scripture is a violation of the First Amendment. The provenance of an opinion has nothing to do with its legitimacy as a contender for public opinion—and as candidate for becoming public law.

Moreover, it is particularly hypocritical for liberals to profess outrage at the involvement of the Catholic Church in this political issue, when only a few decades ago much of the civil rights and antiwar movements were run out of the churches. When Martin Luther King, Jr. invoked scripture in support of his vision of racial equality and when the American Catholic Bishops invoked Augustine in their pastoral letter opposing nuclear deterrence, not a liberal in the land protested that this constituted a violation of the separation of church and state.

To his credit, Cuomo does not join the liberal chorus in denying the prelates a right to speak as they wish on abortion. Not so for many of his backers. When it suits their political purposes they approve, they demand, that the church stand up for right. When it does not suit them, Schlesinger comes forward to warn darkly that such outspokenness risks stirring up anti-Catholic bigotry.

On the face of it, I would say it already has.

THE INCREDIBLE SEASON OF THE RENSSELAER RAMS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. SOLOMON. Mr. Speaker, It's a lucky athelete who is part of a team that people talk about 10, 20, 30 years after the final whistle of the final game is blown.

A team that puts together a magic season that inspires an entire community, makes everyone set aside his own problems and, for a few hours on a Friday night, feel the excitement that dreams are made of.

And for years afterward, everyone will talk about the last-minute basket that won a game, about the player who rose above his skill level to secure yet one more heart-stopping victory.

Mr. Speaker, something like that happened this year to the Rensselaer Basketball Team in the 24th District of New York, which won the Class C section 2 championship before losing in the State federation tournament a week later.

But the loss to a tough Buffalo Nichols team couldn't tarnish the luster of a 28–1 season.

The Rams won more games than any other team in section 2 history, went farther than any other section team in post-season play, and tied the State public high school record for single-season victories.

The people of Rensselaer have already given their team a parade, but Mr. Speaker, today it is my pleasure to ask the entire House to join me in saluting the Rensselaer Rams, and everyone associated with them, for a superb season.

THE RENSSELAER MIDDLE HIGH SCHOOL BASKETBALL TEAM, "THE RAMS"

1989–90

Players: Lateef Duncan (Tri-Captain), Charles Bauer (Tri-Captain), Anthony Holloway (Tri-Captain), Christopher O'Grady, Thomas James, Akili Duncan, Kevin Filipello, Edward Welsh, Joseph Sousa, Marc Cannon, Brian Lord, Joseph Hennessey, Kevin Ninstant, Germain Mallory, and Nichoas DeJulio.

Coaches: Richard McCabe, James Kisselburgh, John Smith, and Robert Stranahan.

Statisticians: Scott Lawson, Felicia Nobles, and Brian Lewis.

Cheerleaders: Vanessa Allert (Captain), Jennifer Haggerty, Victoria Weidman, Bonnie Howland, Tina Osment, Lisa Van Vorst, Amy Bridgeford, Linda DeThomasis, Amy Chapman, and Crystal Bauer (mascot).

Cheerleader Coaches: Mary Relyea and Kim Crawford (assistant).

WHY I AM PROUD OF AMERICA

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. LIVINGSTON. Mr. Speaker, every year, the Veterans of Foreign Wars and its Ladies' Auxiliary conduct the Voice of Democracy broadcast scriptwriting contest for secondary school students.

This year, more than 137,000 secondary school students participated in the contest, the theme of which was "Why I am proud to be an American."

Mr. Speaker, the winner from the great State of Louisiana is 20-year-old Raymond Oliver "Ross" Squires of the Clifton L. Ganus School. I believe his essay is a fine tribute to our American values and I insert it into the RECORD:

WHY I AM PROUD OF AMERICA

(By Raymond Oliver Squires, Louisiana Winner of the 1989/90 VFW Voice of Democracy Scholarship Program)

A friend of mine once said, "I'm just a pawn in this game of life." This commonly used phrase aroused my philosophical interest, and gave me an incentive to think. So, I began to contemplate about this statement and applied it to the basis of my pride in America opportunity!

Think about it! In the game of chess, if a pawn, be it black or white, reaches its adversary's last row, it may be redemed for a piece of higher value, except for the king of course; that minute expendable pawn could turn the tables of the game simply by sacrificing itself only to be reborn again as either a queen, bishop, knight or castle. That pawn was given the opportunity to change through the player's discretion, of course; but still, it was given that chance to better itself for the advancement in the game.

Now, let's apply this principle to our modern American society. No matter what a person's social status may be, one is given the choice to decide one's own future. We are given the choices of education, profession, and/or travel; all of this and more simply by being born in this glorious country. So, any individual can enroll in a col-

lege, if he meets the required criteria, so that he could be trained for the hardships in the job market and the world at large. We, as American individuals, are granted the privilege of deciding our own profession, even if a job isn't desired. Also, one could change his profession if the job has become displeasing to that person per se; quicker than you could say "capitalism". The job transition could be completed simply and effectively through our freedom of opportunities. Now, the opportunity of travel comes to my mind. Americans need quality time outside their vocations, so travel agencies were born, which created vacation.

Education, vocation, and travel; these are just some basic opportunities Americans have, but are they truly noticed as such? Sure, I know what you're thinking; all democracies are the same and grant the same rights; not so I say. In retrospect, Athens, the birthplace of democracy, did not grant women or slaves suffrage. But for the sake of my argument, I'll redefine suffrage as the opportunity of governmental voice or action. On the other hand, all American citizens have the right of suffrage.

This opportunity is the most crucial to our society, and yet, some people neglect its importance. But, I can honestly boast that when it comes time for me to flick those ballot machine levers, I'll hold my head high in pride knowing that I, a pawn, could have made an important move for the betterment of society's chess board. Most Americans don't feel this way and take for granted our most common freedom, opportunity.

The person who once said, "Opportunity knocks but only once," obviously was not a United States citizen because opportunity floods through our doors, and we overlook them. Yes, I can truly believe in this aspect of our culture, and opportunity is the basis for my pride in America; because if I choose to quit school yesterday, you wouldn't be hearing my words today. And that dear friends could ruin my future plans with a definite checkmate!

A TRIBUTE TO MR. JOHN A. CHURCH

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. SCHUETTE. Mr. Speaker, I have the privilege today of commending a distinguished citizen of Michigan, Dr. John A. Church, on the occasion of his retirement as president of the Wolverine Federal Savings and Loan Association.

Dr. Church joined the board of directors of Wolverine Federal Savings and Loan Association in 1957, was elected chairman in 1976, and president in 1980. First chartered in November 1933 as the Midland Federal Savings and Loan Association, Wolverine Federal Savings and Loan Association was Michigan's first federally chartered savings and loan. From its original Midland office, Wolverine now claims a total of six offices in four different cities, including Cadillac, Sanford, and Frankenmuth, with combined assets exceeding $100 million.

Dr. Church also serves as a trustee of the Northwood Institute, with which he has been associated since 1969. In 1986, Northwood granted Mr. Church a honorary doctor of laws degree.

Dr. Church graduated in 1942 from Michigan State University with a bachelor of arts degree in journalism. Following his 3-year tenure with the U.S. Army from 1942 to 1945 in the Pacific theatre, Lieutenant Church married Miss Hannah Baker in 1946. They were blessed with eight children, four daughters, and four sons: John, Mary, Susan, William, Sarah, Thomas, James, and Margaret.

Dr. Church is a former 9th district commodore of the U.S. Coast Guard Auxiliary, as well as a founding director, past president, and life member of the Coast Guard Foundation. In 1981, Dr. Church was awarded the U.S. Coast Guard's Distinguished Public Service Award. Dr. Church belongs to Memorial Presbyterian Church, as well as the Midland Rotary.

Mr. Speaker, and my colleagues in the House, please join me in honoring Dr. John A. Church for his service and leadership both to his community and country. Please join me in offering our congratulations and best wishes to Dr. John A. Church and his family on this joyous occasion.

WOMEN'S HISTORY MONTH

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. DINGELL. Mr. Speaker, I rise today in recognition of Women's History Month celebrated nationally during the month of March. Historically, women have played an important, and yet often unrecognized, role in the development of our society. Their involvement in all walks of life, including education, politics, the arts and humanities, and leadership in the sciences, to name a few, has played a critical part in America's emergence as a world leader.

A number of women from the State of Michigan have been leaders in their respective fields and their recognition during Women's History Month is deserved in light of their lifetime contributions. In particular, Michigan is home to such politically active women as Martha Griffiths, Lieutenant Governor of the State of Michigan and former U.S. Representative; Helen Milliken, currently serving on the board of directors of the Women's Research and Education Institute, wife of former Michigan Gov. William G. Milliken, and politically active with women's issues and the arts; Helen Thomas of Detroit, dean of the White House Press Corps and White House Bureau Chief for United Press International; and Mary Coleman of Battle Creek, MI, former chief justice of the Michigan Supreme Court. Indeed, time does not permit me to mention all of the fine women currently serving in the State legislative, executive, and judicial branches.

Throughout Michigan's 153 years as a State, the list of prominent women goes on and on, many of whom have been recognized by the Michigan Women's Historical Center and Hall of Fame. The list ranges from leaders in our Nation's past to leaders in today's medical field. From Sojourner Truth—1797–1883—a slave who became a nationally recognized crusader for human rights and author of the famous speech "Ain't I a Woman," to Alexa Canady, M.D., chief of neurosurgery of Children's Hospital in Detroit, 1 of 50 women neurosurgeons in the United States and 1 of 10 women specializing in pediatrics.

These women, and countless more, deserve our recognition during Women's History Month. As a member of the "Congressional Caucus for Women's Issues," I applaud these women for their outstanding lifetime achievements and for serving as role models for both women and men alike.

REBUILDING AMERICA'S INFRASTRUCTURE: A TWO-PRONGED BATTLE

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. TRAXLER. Mr. Speaker, I would like to share with my colleagues an article from a recent newsletter that I sent to the members of my congressional district. In the article I suggest that the improved world climate now gives us the opportunity to do what the economic future of the United States requires: increase investment in our physical and human infrastructure.

So far the response from my constituents on the newsletter article has been very positive. With that in mind, I would strongly encourage all of my colleagues to take time to carefully review my views on this important matter.

[From the Washington Report of Congressman Bob Traxler, December 1989]

REBUILDING AMERICA'S INFRASTRUCTURE: A TWO-PRONGED BATTLE

America is in crisis. We face multi-billion dollar trade and budget deficits. Many U.S. industries have lost the competitive advantage which made this nation the world's economic leader. Drugs are widely available in urban and rural America. Escalating healthcare costs have reduced healthcare availability to millions of low income and elderly Americans. Cheap Third World imports have seriously damaged our industries and eliminated the jobs of hundreds of thousands of highly skilled, well-paid workers. In our universities there is a continuing decline in the number of science and engineering enrollments. Even more startling is the fact that over half of our science PhD candidates are foreigners, most of whom return to their country after completing their education in the United States to become our greatest competitors. While the dollar is currently strong, the Japanese and Germans have become the international financiers to the world. While we have been spending hundreds of billions of dollars each year on the defense of Europe and Japan, they have been investing billions of dollars in building their industrial and human infrastructure in preparation for the economic contest of the 1990's and the next century—an economic contest in which the United States is no longer prepared to compete.

To make our nation stronger, we must know where we have been and where we are going. Most importantly we must continue

to maintain the foundation upon which this great country was originally built. This means that we must begin to decrease the amount of money that we are currently spending on defense and place greater emphasis upon rebuilding America's infrastructure—both physical and human.

Defense expenditures economically benefit only limited sections of the country. Public works, on the other hand, reach every state, city, and village in the nation. They increase demand for contractors, pipe manufacturers, cement producers, steel and heavy equipment manufacturers, and truck manufacturers. Public works also provide well paying jobs to various types of skilled and unskilled workers. The economic spinoff from all this activity is very positive for national and local businesses.

Infrastructure is the underlying base of essential elements necessary to build and maintain a strong nation. Physical infrastructure is our public works—highways, buildings, public transit systems, railroads, airports, solid waste facilities, sewer and water systems built by the government at public expense for public use. Human infrastructure, on the other hand, might best be described as "people power"—i.e., the ability of a country's citizens to become self-sufficient and productive members of the society in which they live.

Knowing the importance of a strong physical infrastructure, our American predecessors built railroads, highways, bridges, airports and transit systems that allowed people to move freely from one end of the country to the other. They built dams and water supply systems that supplied water and electricity to our farms as well as our cities.

For years our transportation networks fueled our industry and promoted economic growth. The past investment in constructing and maintaining our physical infrastructure employed hundreds of thousands of people ranging from truck drivers to engineers. During these periods our entire country prospered from such public expenditures.

Today, however, we find that America is literally falling apart. Bridges, roads, airports, mass transit systems, and sewer and water systems are wearing out faster than they are being repaired or replaced. Treatment of solid and hazardous wastes is a growing problem which needs research dollars and innovative technological solutions.

The Congressional Budget Office and the Joint Economic Committee project that $50-to-$65 billion in annual infrastructure spending will be necessary between 1989 and 2000. The National Council for Public Works Improvement recommends that annual real capital spending over the next decade for new and existing public works should double from the 1985 level of $45 billion. The Association of General Contractors has estimated that rebuilding the physical infrastructure of the United States to a predetermined set of engineering standards will cost $112 billion a year between 1989 and 2000.

But while so much money appears to be necessary to rehabilitate America's physical infrastructure, growth in spending on our infrastructure has slowed dramatically. Total public spending for our nation's physical infrastructure—capital and maintenance—dropped from 3.5% of the Gross National Product (GNP) to 2.5% between 1960 and 1985. Even more frightening is the fact that since 1985 we have witnessed a total reduction in federal infrastructure spending of over $3 billion in 1980 dollars.

In 1984, federal, state, and local governments together devoted only 6.8% of their budgets to public works, a decrease from 19% in 1950. From 1962 to 1987 total federal outlays for physical infrastructure dropped from 10.9% of total non-defense spending to 4.5%.

Clearly we must reevaluate our priorities. In recent years the erosion of our infrastructure has hampered our growth and productivity. Deteriorated highways and bridges have slowed the transportation of goods, while air and highway delays have added to labor costs. It is time to launch a major effort to rebuild our country, striving to leave America in better shape than we find it today.

According to David Aschauer, Senior Economist at the Federal Reserve Bank of Chicago, defense spending has a neutral effect on productivity growth. This is not the case, however, for physical infrastructure spending. Aschauer estimates that a $50 billion annual increase in our physical infrastructure spending would, in turn, lead to an increase in the productivity growth rate of one percent a year. This alone, says Aschauer, will go a long way in helping to reduce the productivity slump which the U.S. has experienced since the early 1970's. However, that's not all. Aschauer's figures also suggest that the same $50 billion increase in public investment would cause a subsequent $1.25 billion increase in private investment, for a net increase in national investment of $62.5 billion.

It is interesting to note that between the Group-of-Seven-Countries (the United States, our European allies and Japan), Germany and Japan have the highest rates of productivity growth. When compared to the United States these two countries devote a much larger share of their gross national product to infrastructure investment while they spend much less on defense.

As we have seen from the Soviet Union, spending money on weapons does not always make for a strong economy. Perhaps it's time that we learn from the Soviet example and start spending money to actually make our country strong as opposed to spending money to appear that we are strong.

Repairing our public works is only the first of a two-pronged battle that we must wage in order to rebuild America's infrastructure. The second prong of our attack must be directed towards rebuilding our human infrastructure. We must develop literacy programs targeted at youth to ensure that all Americans have the ability to read. We must develop programs to strengthen families, prevent child abuse, and teach life skills to our young people. We must work to promote a sense of community and to achieve a spirit of volunteerism in both urban and rural sectors of our society. Above all else, we must have a common definition of America and collectively work to achieve it as the Japanese and Germans have done with their societies.

Of course, the question then becomes one of how do we accomplish this seemingly insurmountable task. We should stop asking what the problems are and begin looking at the aspirations of our youth and start developing programs that will let them achieve their goals. When asked about aspirations, the typical group of youth will respond that they want to:

Be healthy;
Feel good about themselves;
Be cared for and loved;
Be sensitive to the needs of others;
Develop positive human relationships;
Be able to get a job; and
Have the freedom to be creative.

It is interesting to me that a majority of studies conducted in inner cities focus on the prevalence of crime and drugs. Why, we must ask ourselves, are we not focusing our attention towards looking at the success stories in these areas—those families who are able to survive and make a go of things. These are the families where aspirations and hope still exist. If we are to be successful, we must begin to study what these families are doing different from the rest.

Because we focus on failures as opposed to success, we tend to prescribe "band-aid" solutions. These "band-aid" approaches treat the symptoms rather than root causes of our problems, and thus, they are unsuccessful. It is time for us to realize that we will not solve our nation's problems just by running programs for pregnant teenagers, providing drug and alcohol treatment, setting up more programs for dropouts, and constructing more prisons and correctional facilities. While these programs are necessary and important, they should not be the entire focus of our efforts to rebuild the human infrastructure.

One of the keys to success in rebuilding our human infrastructure is early intervention and prevention. According to recent estimates by the National Alliance of Business, every dollar spent on intervention/prevention programs for youth will save $4.75 in reduced remedial education, welfare and crime costs. Other studies have estimated returns as high as $6-$8 for every dollar spent on preventing programs. Contrast this to the cost of expanding the federal prison system which is approximately $51,340 for each new bed space.

Aside from the family, one of the major driving forces in our early intervention/prevention efforts is our schools. In recent years the tendency has been to blame our schools for all of society's ills. The continuation of such an attitude, however, will only serve to make things worse—not better—for the effectiveness of our schools represents the priority given to education within a society. If our schools are not effective, we have no one to blame but ourselves.

To supplement the efforts in our schools, we need to utilize the media more effectively—especially television. Studies have shown that by the time of graduation an average student has spent more time in front of a television set than in front of a teacher. With some exceptions, the tremendous potential of television as a value-forming, character-building tool has never been fulfilled. We must achieve a positive balance between education and entertainment, using television to impart positive values to our nation's youth. Careful attention to positive children's programming is a vital component in developing today's young people into value conscious and productive citizens.

However, we must not place too great of a burden upon the media. For each program on television there is a sponsor. Until business begins to be more selective in what it sponsors—to look at the content of programs opposed to the number and nature of the viewers who watch them—there is little hope that we will be able to expand the level of educational television programming. This should be our goal.

We must get business more heavily involved in our education and prevention efforts. In recent years, all too often we have heard business state that we are producing an increasingly nonproductive and unedu-

cated work force. Yet part of this very problem has been caused by the fact that Wall Street has encouraged business to focus on the bottom line with no incentive for community reinvestment. American business must come to realize that a strong human infrastructure is one commodity that it cannot do without and one that is worthy of its investment.

Finally, and perhaps most importantly, we must work to restore the foundations of community and family support which have always made our country strong. This can be done by focusing our attention on keeping youth in schools so that they have the opportunity to develop their potential and fulfill their aspirations. We must target resources to the highest-need communities and expand successful education programs that focus on at-risk youth. We must train more youth professionals and volunteers to work with young people, families, neighborhoods, and the larger community to prevent and treat problems. We must establish coalitions to deliver and support comprehensive community prevention programs to reach parents, youth, and community leaders. Through such efforts we can keep hope alive for a young child who might otherwise drop out of school or turn to drugs.

I believe now is the time to begin to rebuild America's infrastructure. Each dollar that we invest today will be returned to us many times over in the years to come. It is clear that the dramatic changes taking place in the Soviet Union and Eastern Europe today will permit us to reduce our military presence in Western Europe and in the Pacific. These billions of dollars in annual savings should be first directed to deficit reduction. In order to avoid a severe recession, the rebuilding of a physical and human infrastructure should go forward. We cannot continue to pour billions of dollars into the defense of our great nation at the expense of the very foundation upon which the nation was built. If this continues to be the direction that we choose to take, I am afraid that we may wake up to the realization that there is no nation left to defend.

NATIONAL DRUG ABUSE RESISTANCE EDUCATION DAY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. LEVINE of California. Mr. Speaker, I rise to introduce, along with my distinguished colleague from Virginia, FRANK WOLF, legislation designating September 13, 1990, as National Drug Abuse Resistance Education Day. This resolution, which was signed into law in 1988 and 1989, recognizes D.A.R.E. as an outstanding drug abuse education and prevention program.

The D.A.R.E. Program consists of a 17-week curriculum, taught once a week over the course of a semester. It includes such subjects as drug use and misuse, decisionmaking and risktaking, resistance techniques, and assertive response styles. Other D.A.R.E. classes help students understand self-image, recognize stress and manage it without taking drugs, and analyze and resist media presentations about alcohol and drugs. The semester-long program was originally targeted to fifth and sixth graders, but now reaches younger grades and does followup instruction in junior high and high school as well.

The classes are taught by specially trained veteran police officers who have direct experience with the tragedies and crime caused by drug abuse. Each police officer completes an 80 hour D.A.R.E. training program including instruction on teaching techniques, development of self-esteem in children, and communication skills. In addition, the D.A.R.E. Program offers the opportunity for law enforcement, teachers, and school administrators to work together in a collective effort to curb drug abuse.

Originally developed as a cooperative effort of the Los Angeles Police Department and the unified school district, the D.A.R.E. program now reaches 4.5 million students in 49 States and the District of Columbia, and has been adopted for international use in the Department of Defense dependent schools.

Independent research has confirmed the success of D.A.R.E. Graduates of the program are both less accepting of drug use and more able to resist peer pressure to use drugs. The program also contributes to improved grades and study habits, decreased vandalism and gang activity, improved relations between ethnic groups, and a more positive attitude toward the police and school.

The success of D.A.R.E. is also demonstrated in a student-parent survey taken in the Los Angeles Unified School District. Before participating in the D.A.R.E. Program, 51 percent of the students surveyed equated drug use with having more friends. After completing the program, only 8 percent of the students made this association. Similarly, before witnessing the D.A.R.E. presentation, 61 percent of parents thought that there was nothing that parents could do to prevent their children from using drugs. After the D.A.R.E. presentation, only 5 percent of the parents still held this belief.

D.A.R.E. has become one of our most effective weapons in combating the war on drugs. It has set the national standard for drug education programs because it is innovative, cost-effective, and it works. For parents and students on the front lines of our drug crisis, D.A.R.E. sends a beacon of hope. I am pleased to have the opportunity to recognize this outstanding program once again.%

THE BUSH ADMINISTRATION'S PLO COVER-UP

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. GREEN. Mr. Speaker, as the following piece points out, "Refusal to criticize the PLO has now become a cornerstone of Bush administration policy."

The State Department's refusal to hold the PLO accountable for its many acts of violence and inflammatory rhetoric is outrageous and clearly in violation of the terms established for the dialog the United States has entered into with the PLO. Such as approach greatly reduces incentives for the PLO to take meaningful steps toward a nonviolent resolution of the conflict, and erodes the development of trust and confidence which is essential to progress in the peace talks.

I commend the following piece from the Wall Street Journal to my colleagues, and I urge the administration to cease this senseless policy of blindly protecting the PLO from criticism or accountability.

Steven Emerson, formerly a senior editor for U.S. News and World Report, was awarded the Investigative Reports and Editors Award in 1988. Mr. Emerson specializes in national security and intelligence affairs, and is coauthor of the forthcoming book, "The Fall of Pan Am 103: Inside the Lockerbie Investigation."

[From the Wall Street Journal, Mar. 22 1990]

THE BUSH ADMINISTRATION'S PLO COVER-UP

(By Steven Emerson)

A month ago, terrorists opened fire on a bus of Israeli tourists near Cario. Nine Israelis were machine-gunned to death. When the Palestine Liberation Organization issued a statement that appeared to justify the attack, the Egyptian government made its fury known to the PLO and the world media. And what was the official American reaction to the PLO statement? Nothing. Not a word.

Refusal to criticize the PLO has now become a cornerstone of Bush administration policy. The latest manifestation of this disposition to white-wash the Palestinian group is the report the State Department presented to Congress on Monday, as required by the PLO Commitments Compliance Act enacted last month.

In December 1988, Yasser Arafat told the world that he "renounced" terrorism and "recognized" the state of Israel. By uttering those magic words, Mr. Arafat immediately gained the recognition of the U.S. But Mr. Arafat has a long history of saying one thing and doing another. In fact, just one month before, Mr. Arafat had been denied a visa to the U.S. by the Reagan State Department because it found that, despite his claims that he had abandoned terror, he was directing terrorist acts through such front groups as Force 17 and the Hawari Organization.

CONDEMN TERROR

At the first meeting between U.S. and PLO representatives in December 1988, the Americans told the PLO—according to a list of "taking points" recently published by the Israeli government—that the dialogue would be broken off if the PLO resumed terrorism: "No American administration can sustain the dialogue if terrorism continues by the PLO or any of its factions." In addition, the U.S. required the PLO to "publicly disassociate" itself from "terrorism by any Palestinian groups operating anywhere." Finally, the U.S. said that it expected the PLO to condemm any terrorist act carried out by "any element of the PLO" and to expel that element from the PLO.

The Bush administration maintains that the PLO has met those conditions. Monday's State Department report says, "the PLO has adhered to its commitment undertaken in 1988 to renounce terrorism."

But what about the numerous terrorist attacks on Israel since December 1988? The State Department report reluctantly acknowledges that nine "border attacks"—the new diplomatic euphemism for terrorist at-

tacks—against Israel have been-launched by "constituent groups of the PLO" over the past 14 months. Those incidents do not invalidate the report's conclusion, the report says, because "the intended target of the attack in which the report concedes that "civilians appeared to be the target." But the three attacks directed at civilians were, the report insists, neither authorized nor approved by Mr. Arafat or the PLO Executive Committee.

All of this is dangerously misleading or positively untrue. The State Department report omits any mention of the multiple terrorist attacks carried out by groups that sit on the PLO Executive Committee, including raids by Mr. Arafat's Fatah group. Constituent groups of the PLO have openly taken credit for more than 18 attempted terrorist attacks on Israel from Lebanon, Egypt, Jordan and the Mediterranean over the past 14 months. In the West Bank and Gaza, many Palestinians have been murdered at the explicit—and documented—direction of the PLO and Fatah.

As for the nine PLO acts that the State Department report does acknowledge, it is not true that there is no evidence about their targets. There is clear and compelling evidence that the intended target of each one of them was civilian.

To take just one example: On Jan. 26, three guerrillas armed with machine guns, grenades and explosives attempted to penetrate the northern Israeli border from Lebanon. Intercepted by Israeli soldiers, the squad was killed in a shootout. In the terrorists' possession, besides weapons, was a map revealing one—and only one—target: a kibbutz called Misgav Am. The group that claimed responsibility for the abortive Misgav Am attack—as well as five others that were equally unsuccessful—is the Democratic Front for the Liberation of Palestine, which sits on the PLO Executive Committee. One of the DFLP's senior officials, Yasser abd al-Rabbu, is the head of the PLO delegation to the U.S.-PLO dialogue in Tunis.

Confronted with this accumulation of evidence, State Department spokesman Adam Shub averred: "None of the cross-border attacks has succeeded, so we don't know what the targets would have been. Therefore we can't call them terrorist. We don't know what they were planning." The State Department dismisses the written evidence from the Misgav Am raid as "inconclusive." When offered transcripts of the confessions of captured terrorists by the Israeli government, the State Department said that the interrogations were not "reliable." When offered an opportunity to interview the captured guerrillas firsthand, the U.S. refused.

When the Bush administration finds itself unable to deny that an attack occurred, it blames some rogue Palestinian element, never the PLO itself. As Monday's report puts it, "We have no evidence in those cases or any others that the actions were authorized or approved by the PLO Executive Committee."

But this is to misunderstand how the PLO works. The PLO is an umbrella organization, and its central committees do not attempt to control the operations of its member groups. The issue is not, what does the PLO Executive Committee order or authorize; the issue is, are the groups that constitute the PLO complying with the commitment they collectively made to the U.S. in December 1988? As State Department spokesman Charles Redman said in March 1989, "If the PLO cannot or will not exercise such control, it raises questions concerning the commitment undertaken in the name of the PLO—indeed, questions about the PLO's ability to carry out its commitments."

The Bush administration is particularly at pains to avoid criticism of Mr. Arafat's own Fatah wing of the PLO. On Dec. 5, five guerrillas infiltrated the Israeli Negev from the Egyptian Sinai. They carried no identification and the labels in their clothes have been cut out—all they had were Kalashnikov rifles, explosives and 51 grenades. Israeli soldiers intercepted them.

Faced with incontestable documentation that the five were affiliated with Fatah, John Kelly, assistant secretary of state for Near East and South Asian Affairs argued before Congress three weeks ago that while "there may have been Fatah members involved," they were "operating without sanctions from their leadership." In private conversation, though, State Department officials have admitted Fatah sponsorship of the attack. It is highly unlikely that Mr. Arafat, a man who insists on approving the smallest actions of his Fatah organization, down to the purchase of its fax machines, could have been unaware of it. The attack is not mentioned in the State Department report.

The contortions the Bush administration goes through to protect the PLO can verge on the grotesque. Last August, a Palestinian fundamentalist from Gaza wrenched the steering wheel of an Israeli bus away from the driver. The bus plunged into a ravine; 15 Israelis and one American were killed. The terrorist act was captured on television, and within six hours of the incident, the Israeli government had provided a detailed accounting of the attack.

The usual unnamed State Department official termed the event "senseless" and "tragic"—but categorically refused to label it an act of terrorism.

WHY THE DELAY?

Only after two days had elapsed—and after a bitter Israeli protest that the Bush administration's failure to condemn the murder gave a "license to kill to every Palestinian individual or organization"—did the State Department see fit to label it a terrorist attack. Why the two day delay? A State Department spokesman said at the time that the U.S. had only belatedly acquired the necessary information. But in fact, according to a senior U.S. official, the real reason was that the Bush administration was afraid that the mass slaying had been a PLO operation. Only when PLO responsibility was ruled out did the administration feel free to call it a terrorist operation.

Last summer, the Israelis dispatched Yigal Carmon, the Israeli government's adviser on counter-terrorism, to Washington with proof—maps, documents, leaflets—that, despite the American "talking points," PLO groups had not ceased their terrorist raids. He also brought tapes of speeches in Arabic by Mr. Arafat in which he condoned terrorist attacks.

State Department officials at first refused to meet with Mr. Carmon, before finally agreeing to a perfunctory meeting. But the Bush administration apparently did not feel confident that others would find Mr. Carmon's documents quite so uninteresting—so he was instructed not to speak to Congress and the media.

On March 1, Secretary of State James Baker testified before Congress, ". . . we have not received or seen evidence of complicity or encouragement or acquiescence by [Mr. Arafat] of terrorist activity." If Mr. Baker has not seen the evidence, it is because he has ordered his underlings not to collect it.

WHY I AM PROUD OF AMERICA

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. IRELAND. Mr. Speaker, I rise today to commend the winner from the State of Florida of the Voice of Democracy broadcast scripwriting contest. Jennifer C. Raynor of Bradenton, FL, was chosen by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary as the winning contestant from the State of Florida for her script, "Why I Am Proud of America." More than 137,000 students nationwide participated in this year's competition. Here is what she had to say about our great country:

Yes, I am an American. I say the pledge every morning and sing the Star Spangled Banner at the sporting events. But, really, that's only a small representative part of being an American.

Remembering back to American civics class or the family vacation to Washington, D.C., most people have read or heard this statement: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness . . ." This part of the preamble to the Declaration of Independence represents a country who, in the words of Marvin Karp, has from the time of its birth until now, has withstood the test of financial panic, economic depression, a civil war that temporarily divided it, two World Wars and other military involvements, even corruption in high places. Out of these trials and tribulation has emerged one of the world's superpowers.

This nation is the United States of America. It is a land where any person can be proud of his heritage and culture; for it has given this citizen freedom. The freedom to live his dreams regardless of race, origin or religion.

Americans both young and old relate to the reassurance of knowing their country stands firm on its beliefs and promises. The political responsibility of listening to its public, working for the people, and promoting justice is a common practice among the nation. America protects is citizens' rights.

Citizens of other countries revolt and struggle everyday for a simple freedom of speech. Something Americans may openly express as they walk down the street. The joyous jubilation over the recent tearing down of the Berlin wall made such an impact on the German citizens. It was a celebration of both our countries, because they no longer must risk escape. But other countries aren't as fortunate.

The fact is, New York City holds more Italians than Rome and more Jews live there than Tel Aviv. You see, more and more immigrants cross the United States border every day for the hope of even one of our freedoms. They come expecting a nation with visions of justice. They expect from their new country an honorable character and enduring beliefs. These people endure

personal tragedies and private griefs when they feel our nation itself is worthy.

Our forefathers fought hard for our rights. America is proud of their accomplishments and does stand worthy in the eyes of these aliens. They seek our pride in the work we accomplish and actions we take. Americans do stand tall and proud of what their country represents.

We have so much to feel proud of. Not just personal rights and freedom of choice, but also a nation who listens to what its people have to say. Where one person can make a difference in the lives of many. This is the kind of country whose citizens are proud to say they belong. Americans don't have to hide their opinions or run towards freedom. It is already ours. And it is something that any American may be proud of.

Yes, we are Americans. We say the pledge every morning and sing the National Anthem at every sports event. But we don't do it because we have to . . . we do it because we want to . . . and are proud to.

Mr. Speaker, I am proud of Jennifer Raynor and her clear understanding of the common bonds of goals and beliefs that set Americans apart from the rest of the world. It gives me great pleasure to know that she, and many others like her, will strive to preserve those goals and beliefs for future generations.

HONORING ARTHUR J. HILL, GOVERNMENT NATIONAL MORTGAGE ASSOCIATION PRESIDENT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, today at 4 p.m., Mr. Arthur J. Hill will be sworn in as the 10th president of the Government National Mortgage Association [GNMA]. This is a particuarly special occasion for myself and the citizens of Greater Miami, for Mr. Hill has made invaluable contributions for the betterment of our community. Mr. Hill is one American who I am very proud to recognize as a dedicated community leader and a role model for youngsters.

Born on the Fourth of July, 1948, he grew up in Jacksonville, FL. Mr. Hill moved to Miami in 1968 and eventually went on to receive his bachelor of science degree in business administration and economics from Florida Memorial College, and his master's degree in agricultural economics from the University of Florida. Mr. Hill then received a graduate diploma from Southern Methodist University's Graduate School of Banking which launched him into a very prosperous business career.

Mr. Hill began his career at Southeast Bank, NA in Miami, FL, where he spearheaded the development of the bank's money market department and served as vice president of corporate lending. He later served as vice president and regional manager for corporate lending at the Amerifirst Federal Savings and Loan in Miami. Immediately prior to his nomination as GNMA's president, Mr. Hill was chairman, president, CEO and a director of the Peoples National Bank of Commerce in Miami, FL. With his tremendous leadership abilities, the financially distressed institution was totally recapitalized and returned to a profitable position.

Mr. Speaker, each day we are bombarded with news from across the globe which reminds us of the tremendous evils existing in our society. At the same time, we in America are comforted by the many successful citizens who use their talents to help those who are less fortunate. This is the true spirit of being an American, and Mr. Hill embodies this spirit. He is a tireless public servant of Greater-Miami, his most noted accomplishment was being a founding member of the Greater-Miami Chamber of Commerce's Drug Free Workplace Program, which has become a model for other organizations across the Nation. Efforts such as those of Mr. Hill encourages all of us to discipline ourselves and work for the good of our entire Nation.

Other of Mr. Hill's honors include membership in the 1989 Business Leadership Hall of Fame, sponsored by Junior Achievement of Greater Miami, and his selection as one of 24 Americans who participated in the British-American "Successor Generation" project sponsored by the Johns Hopkins School of Advanced International Studies, the Royal Institute of London, and the Pew charitable trust. He was also State chairman of black Republicans for Bush in 1988. With his tremendous experience, I am certain that Mr. Hill will be an excellent leader as president of the GNMA in furthering the availability of housing for those in need.

Mr. Hill is one of the uncountable success stories we have in this great Nation of ours. As Americans we have an obligation to help others who are less fortunate, for in the end, it enables our Nation to maintain its excellence. Join me today in honoring a truly great gentleman who embodies a congenial spirit we should all emulate.

THE PUBLIC TELEVISION CABLE CARRIAGE ACT OF 1990

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. DINGELL. Mr. Speaker, I am introducing, together with my colleagues, Mr. LENT, Mr. MARKEY, and Mr. RINALDO, the Public Television Cable Carriage Act of 1990. This legislation establishes a framework for the carriage of public television stations by cable systems operators. It is a good compromise, balancing the compelling national interest in making public television available to all Americans with the rights of cable system operators.

Historically, the Federal Communications Commission required cable system operators to carry the signals of all local broadcasters. Due to a series of court decisions, however, the FCC regulations are no longer in force. A statutory replacement is necessary.

Commercial broadcasters and cable system operators have, from time to time, attempted to agree on a statutory must-carry framework to replace the FCC regulations. These negotiations have not yet yielded any results.

While I believe that a responsible must-carry bill would be sound public policy, I am most concerned about the vulnerability of public television stations in the absence of must-carry. These are stations in which taxpayers have made substantial investments. Many are licensed to units of Government. Others are licensed to educational institutions. All do an outstanding job providing programming—especially children's programming—to the public.

It is my hope that our introduction of this bill will stimulate the commercial broadcasters and the cable operators to resume their discussions and reach an agreement on a statutory must-carry provision. Failing that, however, it is my intention to move forward with this legislation, and secure the position of public television stations on the cable systems of the Nation.

I would like to commend the public television community, especially the National Association of Public Television Stations, and the National Cable Television Association for their willingness to work out this compromise. I look forward to working with them as the legislation moves through the House.

THE WEARING OUT OF AMERICA

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. TRAXLER. Mr. Speaker, I am taking this opportunity to call the attention of my colleagues to a recent column by George Will titled "The Wearing Out of America," which appeared in the March 9 edition of the Detroit News. In the column, Mr. Will discusses the decaying state of our country's physical infrastructure. Drawing upon the transportation policies of previous conservative Presidents, Mr. Will also questions the Bush administration's understanding of the need to spend money to build and maintain our Nation's physical infrastructure. Given the importance of this matter, I strongly urge that all Members of Congress take the time to review this column.

[From the Detroit News, Mar. 9, 1990]

THE WEARING OUT OF AMERICA

(By George Will)

On March 9, 1832, a 23-year-old candidate for the Illinois General Assembly told Sangamon County voters "my sentiments with regard to local affairs." His first sentiment was "the public utility of internal improvements," particularly "the opening of good roads (and) the clearing of navigable streams." Thus did Abraham Lincoln's public life commence with concern about what is now called "infrastructure."

Today Transportation Secretary Samuel Skinner, from Illinois, has the challenging task of selling a taxaphobic nation on the rationality of spending much more on infrastructure. Americans already spend $800 billion for transportation products and services each year. Eighteen percent of GNP is spend on transportation, which employs one-tenth of the workforce. It is perhaps natural that the public considers infrastructure a banal subject. Natural, but unhistorical.

In 1816, John Calhoun introduced legislation for a federal program of internal improvements as a means of avoiding disunion. President Madison, believing Congress not constitutionally empowered to do such things, vetoed it. So prosperous Northern states built their own improvements and the South sank into inferiority and increasing dependence on slavery.

Historican James McPherson writes that prior to 1815 most roads were rutted paths impassable in wet weather. "Commerce depended on sailing ships and riverboats. The cost of moving goods 30 miles inland equaled the cost of moving them across the Atlantic. Trans-Atlantic trade exceeded inland commerce and economic growth barely exceeded population growth.

But then came all-weather macadamized roads. The Erie Canal ignited construction: 3,700 miles of canal by 1850. Next, railroads freed commerce from frozen canals in winter, cut travel time from New York to Chicago from three weeks to two days, and cut the price of shipping a ton of wheat from Buffalo to New York from $100 to $10. The difference between the wholesale price of pork in Cincinnati and New York plummeted from $9.53 to $1.18. Suddenly urban workers had more money to spend on manufactured goods.

Today the condition of the infrastructure is just as dramatically connected with economic vitality. Unfortunately, the wearing out of America, which is one aspect of today's incontinent pursuit of current consumption, is accelerating. Since 1960, investment in infrastructure has fallen more than 50 percent as a percentage of GNP, which explains much of America's drop in productivity. Illustrations abound.

Of America's 575,000 highway bridges, 42 percent are structurally deficient (closed or restricted to light traffic) or functionally obsolete. A bridge fails every two days. Consider one bridge with a light load of 2,000 cars and 200 trucks a day: If trucks must detour, adding five miles to their routes at 50 cents a mile, costs increase $182,500 per year. If cars must detour (figuring 20 cents a mile), the annual cost is $730,000.

During the last two decades, traffic has grown five times faster than highway capacity. In the next two decades, congestion is projected to become five times worse. Airports anticipate a 72 percent increase in passenger volume in this decade; by 1997, 33 major airports are expected to experience, cumulatively, 20,000 hours of delays annually. More billions of gallons of gasoline and billions of dollars worth of aircraft fuel and fight crew time will be wasted yearly.

Time is indeed money and already billions of dollars are being lost because people and freight are congealed in traffic. There are three million truck, bus, taxi and delivery vehicle drivers stuck there, being paid by the hour. Transportation is 15 to 30 percent of the price of agriculture products. A worker delayed by even 10 minutes each during 45 years of commuting wastes the equivalent of two working years. Slow, unpredictable traffic prevents businesses from relying on "just in time" delivery of raw materials and parts, a technique for reducing inventory costs.

You get the picture. The first Republican president certainly did. A crimson thread of consistency connects Lincoln's passion for internal improvements with his later mission of binding the nation together as a land of opportunity. The ninth Republican president, in his exuberance, understood the value of infrastructure abroad: Teddy Roosevelt built the Panama Canal.

Transportation and other infrastructure issues should bring out a strong Hamiltonian streak in American conservatives who too often talk the anachronistic language of Jeffersonian small-government sentimentality, of nostalgia for another America. In the debate now beginning about transportation policy, we shall see if the 18th Republican president is the kind of conservative who understands the need to spend in order to conserve and enlarge the nation's sinews.

SOLVING OUR LANDFILL CRISIS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. CLEMENT. Mr. Speaker, I would like to share with my colleagues an essay written by an eighth grade middle-school student in Nashville, TN, the district which I represent.

Like many other cities throughout America, Nashville is confronting a crisis with the disposal of solid waste. Jill Tygard is a 13-year-old whose interest in this issue was due, in part, to her father being a member of the Metro Council in Nashville.

I applaud Jill for her acute sense of awareness and concern for the protection of our ecology.

Jill's essay was written as a class assignment for Mrs. Judy Therber's language arts class. I believe that when my colleagues read Jill's essay, like me, they will marvel at the writing proficiency, thorough research, depth of understanding and obvious concern for our planet that Jill displays.

Jill comes to the conclusion that "there is no one answer to the garbage problem," but focuses on recycling and other alternatives which are all parts of the answer to a difficult problem.

To borrow the final phrase of Jill's essay, "We can no longer afford to support our throwaway society."

She is absolutely correct.

I pay tribute today to a bright student and a young lady concerned about the future of our planet.

I submit her essay for the RECORD, and ask my colleagues to join me in this tribute:

SOLVING OUR LANDFILL CRISIS

(By Jill Tygard)

Our society has a problem. The United States generates more and more wastes every year, but there are fewer and fewer landfills to hold it.[1] Our society is called the Disposable Society because Americans make the most wastes. Landfills will always be necessary because there will always be some items that cannot be burned, recycled, or composted, but with the help of individuals, businesses, governments, and scientists the need for large landfills could be decreased.[2]

Between 1860 and 1986 the amount of American garbage grew eighty percent and is expected to increase twenty-two percent by the year 2000.[3] Each person in the United States throws away one thousand five hundred forty-seven pounds of garbage per year.[4] One hundred thirty-three million pounds of waste are hauled away annually and ten billion tons of waste are produced per year in the United States. One days' solid waste produced by Americans fills sixty-three thousand garbage trucks.[5]

Ninety percent of this garbage is trucked to landfills. However, in the past ten years, more than seventy percent of United States' landfills have closed, with five thousand five-hundred remaining open.[6] By 1995, half of those will be closed due to full capacity. For example, Chicago has only four years before its thirty-three dumps will be full.[7] New sights are available, but it is harder and harder to find suitable locations because no one wants to live close to a landfill. Half the dumps that are open are operating illegally, because they fail to meet governmental standards. According to Paul Montrone, chairman of the Wheelabrator Technologies, the United States' number two waste-to-energy company, "The states keep them open because there is no other place to put the garbage." [8]

Not only are citizens concerned over reduction of property values, the unsightliness of garbage, the smell, and the presence of rodents, but they are also concerned about physical harm that can come from landfill gases, microorganisms, and toxins.[9] Two of the more notable harmful elements are methane gas and leachate.[10] Both of these substances can harm the environment and are produced by the waste that is deposited in a landfill.[11]

Before 1970, landfills were put in convenient locations and on cheap land. Common sites included wetlands, marshes, and gravel pits. Some of these locations have proven to be unsuitable. Improvements to landfills in the future could include liners in the basin to form a "leachate bathtub" to prevent seepage. Ways of reducing water in landfills to control leachate include sloping land, materials to divert precipitation, and vegetation. The landfill should be covered daily, have monitoring systems installed, and the full landfills should be maintained for thirty years after closing.[12]

Although only ten percent of the United States' garbage is currently being recycled, it is estimated that seventy-five percent could be. Even a simple program can achieve thirty to fifty percent recycling of wastes. Recycling is most successful when made convenient, such as providing pickup schedules and special bins. Some wastes, such as the fifty percent that is paper and yard waste, is more readily recyclable than the forty percent that is metal, glass, food, and plastic, and the ten percent that is wood, rubber, and leather.

Recycling success delays the day when landfills cannot take anymore trash. The problem with recycling is that most Americans refuse to be bothered with sorting and separating the garbage into recyclable nad non-recyclable parts. New Jersey, Rhode Island, and Oregon have mandatory recycling. The Japanese recycle sixty-five percent of their waste and burn the rest.[13]

Educating the public to recycle and learning how to separate is only part of the solution. If there is not a demand for recycled products, then nothing has been accomplished. Recycling is expensive, and if there is no way to sell the product, then there is no economic reward.

Some states have already turned to refundable deposits on such items as glass. This provides a market for the brought-back item. This is an example of how the government can promote recycling. Economists estimate that if a moral responsibility appeal were made to Americans, recycling would reach eighty percent. It is interesting to

Footnotes at end of article.

note that if businesses learned to use sturdier packages, banned use of non-recyclable items, and consumers chose reliable, non-wasteful products, then recycling would increase and the need for landfills would decrease. There is no incentive for companies to enter the recycling business if no one will buy more expensive, lower-grade products. This is why the government needs to step in and offer the business and consumers an advantage for participating in recycling.[14]

Incineration once offered the best chance of solving the waste disposal problem quickly and efficiently. One advantage of incineration is that it extends the life of the remaining landfills by reducing the volume of garbage by as much as ninety percent. It is cheaper because byproducts, such as steam and electricity, can be sold to local utilities. Another advantage is that incinerators can burn unsorted, unprocessed solid waste.[15]

However, incineration is now slowing due to dropping energy prices, elimination of tax incentives, and environmental concerns which bring about expensive safety measures. Additionally, incinerators take three to five years to construct. There also must be a need within the community for the supply of energy produced. Even worse, incineration has an impact on the environment. Gases released include hydrochloric acid, nitrous oxides, dioxins, and furans. Also, the ash that is produced ends up in the landfills.[16]

There is no one easy solution to the landfill problem. Simple solutions such as shipping American garbage elsewhere do not work because no one else wants somebody else's garbage. In the past, Miami has shipped their garbage to Venezuela under a special contract. This is not a long-term solution because the garbage has really not disappeared and it is expensive to move it across the world.[17] Realistic, long term solutions require a combination of features. Individuals must reduce their creation of waste. They are going to have to participate in recycling programs. Cash prizes for participating may even be developed. Waste disposal practices that are environmentally safe should be encouraged. Cities must take an approach that addresses all aspects of managing municipal solid waste.

According to James Cook, "One thing is clear. To find its way out of the garbage crisis, it is going to cost the United States consumer money, and lots of it. Some idealists would like to have us return to a simpler life with less packaging. That would mean that Americans would have to give up disposable diapers and TV dinners. It will not happen. Those mountains of garbage are the price we pay for our standard of living."

As a nation, the cost, risk, and impact of municipal solid wastes will continue to increase until Americans begin to take personal and public responsibility for limiting waste production, or until we can no longer afford to support our throwaway society.[18]

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FOOTNOTE

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[3] G.J. Church, "Garbage, garbage, everywhere." *Time*, September 5, 1988, p. 81.
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[5] P.R. O'Leary, "Managing Solid Waste." *Scientific American*, December 1988, p. 39.
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[9] O'Leary, 40.
[10] Janet Raloff, "Are landfills a major threat to climate?" *Science News*, March 7, 1987, p. 150.
[11] O'Leary, 44.
[12] *Ibid.*, 42.
[13] Church, 82.
[14] O'Leary, 39.
[15] Cook, 175.
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[17] Budiansky, 58.
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IT'S NOT ALL MACRO

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. RIDGE. Mr. Speaker, all too often the discussion on national trade policy is like a one-way street. Policymakers, the Congress included, spend a lot of time worrying about unfair trade practices while all but ignoring the critical need for this Nation to become an aggressive salesman in the international marketplace. If we are truly serious about trade deficit reduction, increasing U.S. exports must be an important part of that turnaround.

Yet the lack of seriousness the United States takes toward exporting is all too evident to our trading competitors. The perception exists among many of our foreign competitors that they have sufficiently opened their markets and, in any case, even fully open markets wouldn't make a difference because American business is simply not serious about competing overseas.

Unfortunately, we give our competitors little reason to think differently. In the case of the Federal Government, we have for too long, aided and abetted by ignoring the need to actively promote American goods and services and to encourage American businesses to compete abroad.

Federal export infrastructure is crippled by a host of problems, not the least of which are a lack of coordination, duplication of effort, and counterproductive turf disputes. In addition, the U.S. ranks last or near last in nearly all measures of financial commitment to exporting when compared to our industrialized competitors.

I do not contend that a Federal policy to encourage exporting can supplant a national commitment by business to do so. But I strongly believe that the very strength of our economy depends greatly on our ability to think of exporting, not casually, but as a national necessity and way of life.

With this in mind, I commend to my colleagues the following piece by Howard Lewis of the National Association of Manufacturers on the need for the United States to launch a major export drive. I think that my colleagues will be surprised to discover how the Federal Government, in many instances, acts as an inhibitor to exporting rather than a facilitator. Our work impacts not only on exports but, ultimately, on our international competitiveness position. We need to keep that in mind.

IT'S NOT ALL MACRO

(By Howard Lewis III)

(Howard Lewis is NAM's vice president for international economic affairs. The following article is adapted from his speech to the American Foreign Service Association Conference on November 30, 1989.)

I want to talk about American competitiveness, I want to put macro and microeconomic policies in perspective. And I want to talk about an export drive, why we need one and what it should contain.

I recall a conversation I had about a year and a half ago with the chairman of one of this country's major corporations. I was trying to convince him that the United States should launch a major export drive as one element of an overall plan to address our trade deficit. After listening to me, this executive, with whom I have worked on a number of issues and for whom I have a lot of respect, shook his head and said that an export drive was just so much tinkering around the edges. The real solution to the trade deficit, he said, lay in the area of macroeconomic policy.

While I don't for a minute dismiss the importance of achieving a better balance in this country's macroeconomic policies, I was, nonetheless, startled by his response. I have worked on a number of export-related policy issues over the past decade and have been constantly amazed by the amount of U.S. trade affected by these policies. I have become increasingly skeptical of the argument that macroeconomic policies hold the total answer to our problems. Put another way, it seems doubtful that the tremendous economic success enjoyed by countries such as Japan, Korea and Taiwan over the past decade rests entirely on the mismanagement of American macroeconomic policies. I think a good case can be made that important non-macroeconomic factors—both on our side of the table and on the other side—are also at play. I would like to focus on some of these factors that are on our side of the table in terms of U.S. government policies that are more or less directly related to U.S. exports.

First, though, I would note that I am not alone. My skepticism is shared by a number of other people. The Massachusetts Institute of Technology recently published a study, *Made in America*, which concluded that manipulation of macroeconomic policies alone would not solve the United States' trade and productivity problems.

After examining eight industrial sectors, the authors of this study identified a half dozen non-macroeconomic factors that they believe have a decisive influence on the competitiveness of American industry. These factors included outdated business strategies, short corporate time horizons and weaknesses in taking technology from

the research stage to development and production.

I would suggest that the extent to which we need to look beyond macroeconomics in explaining the shortcomings in corporate operations also applies to looking at the shortcomings in government policies aimed at correcting U.S. trade problems. Indeed, too much focus on macroeconomics as the explanation of our trade problems can blind us to important aspects of the way in which U.S. trade really works below the macroeconomic surface. We run the risk of treating everything below this macro surface as a kind of "black box" whose mechanisms we don't really need to understand. As an example of this phenomenon, I would point to the fact that until June of this year, for example, there was no profile of U.S. exporters broken down by average value of export shipments. Yet that is basic information.

We now have such a study. It was done by the Commerce Department. It is the type of report everybody in Washington should be able to handle: a press release on one side and a chart on the other.

One point leaps out at the reader: Only a tiny percentage of U.S. exporters—2.5 percent—sell big-ticket items, those that average $100,000 or more. Yet these large shipments account for 25 percent of the total value of U.S. exports. At the other end of the scale, the study found that the vast bulk of U.S. exporters—nearly 60 percent—have export shipments averaging less than $10,000 but accounting for only about 7 percent of the total value of our exports. In between, we have the rest, with average shipments between $10,000 and $100,000. These account for 38 percent of the total number of U.S. export shipments and about 60 percent of the value of American exports.

What does this tell us? Certainly it should tell us that decimating Eximbank's direct loan program over the past decade was not the wisest of policies, especially since our competitors were keeping export-finance programs strong.

If the value of U.S. export shipments were concentrated at the bottom end of the scale—$10,000 and less—the policy the U.S. government pursued might not have made much of a difference, since not many shipments of this size would be financed with 10-year loans for Eximbank. But that is not the case, and I think we are paying dearly for our neglect and our ignorance of this non-macroeconomic policy issue.

We are foolish to dismiss specific export-related policies as so much tinkering around the edges. Large amounts of trade are heavily influenced by so-called narrow trade policies as these examples show:

Approximately $5 billion in exports is generated each year by the foreign source tax rule on exports which the Treasury Department over the past several years has wanted to change.

Last year, the industrial nations increased direct credit export financing by 55 percent: from $8.0 billion to $12.5 billion. If the United States is lucky, our Eximbank will be able to book new direct loan business this year equal to only 4 percent of this total.

A recent Eximbank study on mixed credits found that the lack of a U.S. mixed credit program meant that U.S. companies were shut out of a $4-6 billion capital goods market in the Third World each year. That is equal to 20-30 percent of total U.S. capital goods exports to the LDCs.

Under our national security export controls, more than 40 percent of U.S. manufactured exports must get prior approval from the government before leaving the country.

An additional 5 percent of U.S. exports is caught up on U.S. export controls imposed for foreign policy reasons, according to the State Department's own publications. And, finally—

The United States provides the least amount of support in terms of export promotion and assistance of any industrial nation. The U.S. government spends 50 cents per capita, compared with about $2 in West Germany, $4 in France, $5 in Japan and nearly $8 in Canada.

The point I am trying to make here is that a large amount of U.S. trade is affected by these non-macroeconomic policies.

This fact is barely recognized in debates over these policy matters themselves, to say nothing of how quickly it is glossed over in general discussions of U.S. international economic policy.

I doubt, for example, that members of Congress realize the degree to which they are voting on a matter for or against American manufactured exports when they vote on the Export Administration Act. They tend to think about this as affecting only the thin edge of the technology wedge. In reality, we are talking about 40 percent of U.S. exports, including many "ordinary" products. From these examples, it should be clear what policies I would include in the export drive this country needs to launch:

Beef up the U.S. export promotion programs in the Foreign Commercial Service. Protect U.S. commercial interests overseas in such areas as product standards;

Strengthen U.S. official export financing with a credible mixed credit program and reexamine U.S. support for capital projects in the U.S. foreign assistance programs;

Drop counterproductive policies, such as the recent Treasury proposals for changes in taxes on export income;

Examine all major policy actions in terms of their impact on U.S. competitiveness; and

Eliminate unnecessary export disincentives, beginning with a major effort to streamline the export control system both for commercial products and munitions.

Each of these recommendations represents a large subject, with many concomitant policies in each. And these are not the only areas that require action. We also need to examine a range of other policies affecting U.S. exports, including greater use of trading companies, improved trade relations with Eastern Europe and the Soviet Union, arms exports policy and antitrust reform.

Let me leave you with one additional thought about the importance of export drive. If we do it right, it will be a symbol of our commitment to international competitiveness and to the international trading system. Widespread skepticism exists around the world about this and with good reason. We are telling the world that we have a problem; yet, we are doing relatively little to support and encourage exports. We are signaling that we are not that serious about competing or protecting our international commercial interest. When we send that signal, we not only hurt ourselves economically, we undermine the international trading system that we are now so desperately trying to strengthen.

INTRODUCTION OF THE INSULAR AREAS RECOVERY ACT OF 1990

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. DE LUGO. Mr. Speaker, I rise to speak on two important pieces of legislation that have been developed in response to the tragic consequences of Hurricane Hugo and other natural disasters that have recently ravaged the U.S. Virgin Islands, Puerto Rico, and other islands of the Eastern Caribbean, as well as the United States insular areas of the Pacific.

I am introducing the Insular Areas Recovery Act of 1990 to provide a permanent, federally funded mechanism that will speed up recovery from future disasters that hit the vulnerable U.S. islands in the Caribbean and the Pacific. These disasters can devastate small, isolated islands like the Virgin Islands, Guam, American Samoa, and others. When 200-mile-per-hour winds hit these islands, unlike mainland communities, these local governments cannot draw on the resources of a larger State or adjacent communities that easily truck in emergency supplies. This bill recognizes the special vulnerability of these U.S. islands, and sets up a special, long-term funding mechanism that will enable the insular governments to speed up their recovery efforts.

In addition, I strongly support Chairman CROCKETT'S legislation in the Supplemental Appropriations bill that will provide $20 million in disaster relief and economic support for the small independent islands of the Eastern Caribbean, which were so heavily damaged by Hurricane Hugo and which are such good friends of the United States. A total of $15 million will be available for economic support for the independent islands that have complied with U.S. standards to become eligible for the Caribbean Basin Initiative programs, and $5 million would be designated for Hurricane Hugo relief for the islands of St. Kitts, Nevis, Antigua, Barbuda, and Dominica.

Chairman CROCKETT has been a true friend to the Caribbean. I admire his determination to help our friends in the Eastern Caribbean even though the U.S. Agency for International Development has ignored prior congressional mandates to provide hurricane assistance. I am saddened to hear of his plans for retirement, which will deprive me of a good neighbor in the Rayburn Building and will deprive this House of a great leader who is committed to fairness and justice for the people of our country and people around the world.

Mr. Speaker, the primary purpose of the Insular Areas Recovery Act that I am introducing today is to set up a fund to be available for the unpredicatable moment when a hurricane, typhoon, or comparable disaster hits the U.S. islands in the Caribbean or Pacific. The fund would be designated for special purposes that not only enhance immediate recovery, but also reduce the severity of damage in future disasters by "hardening" essential public facilities such as civil defense shelters and emergency communications equipment. It

makes much more sense to "harden" these items so they survive future disasters, which can come with great frequency, instead of repairing them over and over again.

This kind of approach, with the emphasis on effective long-term recovery, is being taken by Governor Alexander Farrelly and Lieutenant Governor Derek Hodge in the U.S. Virgin Islands. Today, more than 6 months since Hugo hit, the Virgin Islands is still recovering from a disaster of unprecedented magnitude that wiped out our communications, electricity, and other vital services for several months, and will hurt our community, especially St. Croix, for years to come. Governor Farrelly and Lieutenant Governor Hodge are working exceptionally hard to develop the kind of recovery program that this legislation would help provide. I also want to commend the members of Governor Farrelly's special task force, who are devoting themselves to the long-term recovery of the Virgin Islands so we will be better equipped to survive future disasters.

The special fund established by the Insular Areas Recovery Act would be built up over a period of years through annual appropriations to be approved by this Congress and to be available only when the President declares a disaster in one of the insular areas. In such a situation, the local governor would be able to draw on the insular area's portion of the fund for eligible projects without any delay. That's the kind of fast action that is essential in major disasters in isolated insular areas, where the Federal Emergency Management Agency, despite its tremendous recent performance, cannot go into action immediately. Given our Federal budget restraints, this disaster fund would have to be built up over a period of years, but it is essential to get that process started and begin preparing ourselves for future disasters.

The Insular Areas Recovery Act provides other forms of aid and flexibility as well. It would allow insular governors to shift certain Federal grants, such as low-income energy assistance, to high priority disaster needs when demanded by an emergency. It would enable the President, in consultation with the Secretary of Interior and local governor, to provide greater technical assistance if an emergency overwhelms an insular government and if the assistance is necessary to assure a smoother recovery.

Furthermore, the act would lift certain ceilings for disaster mitigation programs. Under current law, FEMA's hazard mitigation funding for any area is limited to 10 percent of FEMA's total public assistance to the area. Sometimes that limitation is counterproductive. Sometimes, it makes more sense, and provides more long-term savings, to provide hazard mitigation funding that will be used to improve the survivability of essential public facilities so they will withstand future disasters and break the cycle of constant repairs to damaged facilities. This bill does not assure the waiver, but it authorizes the President to waive the 10 percent ceiling if the President finds that it would be beneficial.

Finally, the act would authorize the Rural Electrification Administration to provide financial assistance to insular areas for 5 years after the President declares a disaster. This provision also enhances future disaster mitigation by authorizing REA to make loans for the "hardening" of electrical distribution systems or the construction and operation of power plants that have been damaged by the disaster. Again, as with the proposed waiver, this bill simply authorizes REA to evaluate the situation and make loans if it determines they are proper and necessary.

Mr. Speaker, I am introducing this bill on the same day that that good friend of the insular areas, Senator J. BENNETT JOHNSTON, Chairman of the Energy and Natural Resources Committee, introduces it in the other body. Chairman JOHNSTON is a longstanding friend and champion of the insular areas, and I look forward to working closely with him to assure that this legislation passes rapidly to become law.

STRUCTURAL IMPEDIMENTS INITIATIVE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. GUARINI. Mr. Speaker, today, I join with Senator MAX BAUCUS and 34 of my colleagues to introduce legislation that will put teeth into our structural impediments initiative with Japan. My bill would put the SII under the rubric of section 301 and provide a mandate for acting to eliminate severe structural impediments to trade.

The administration's decision last May to enter into negotiations with the Japanese on structural barriers to trade was a critical step in rectifying our trade problems with Japan. For a number of years, we have been negotiating with Japan on a sector-by-sector basis under section 301 of the Trade Act of 1974. That approach, however, has not helped rectify problems that cut across many key industries which unsuccessfully try to penetrate the Japanese market. The SII negotiations provide a mechanism to address major areas of concern in the Japanese economy including land use policies, interlocking directorships, the distribution system, pricing mechanisms, exclusionary business practices, and the lack of investment in public infrastructure.

Both the United States and Japan have a great deal to gain from the successful conclusion of the SII negotiations. Addressing the United States concerns would increase the purchasing power and improve the standard of living for all of Japan's citizens. One-third of the houses in Japan are not connected to sewer systems. Japan's roads and parks are far below those of other OECD countries. Its medical facilities are substandard. This is particularly critical in light of Japan's rapidly aging population.

Moreover, Japan's monopolistic business practices and multilayered and inefficient distribution system make prices of United States and Japanese goods much higher in Japan than in other countries. Japan's system of land use whereby land near major cities is reserved for farmers makes the cost of warehouses and distributorships near the cities prohibitive. It has a similar impact on residential housing. These practices which serve to lower the Japanese standard of living also promote Japan's huge global trade surplus.

If the Japanese address United States concerns, we should see positive benefits for both of our countries. If Japan increases investment in public works projects, repeals the large-scale retail store law, strengthens the Anti-Monopoly Act, makes tax policy neutral with regard to alternative uses of land and limits the mutual holding of noncontrolling stock among Japanese firms, not only will foreign producers be able to sell more products in the Japanese market, but Japanese consumers will have better variety, and lower prices. They'll have better roads, parks, and medical care. The United States and other foreign businesses will enjoy the type of access and opportunities in the Japanese market which Japanese companies have enjoyed in foreign markets for years.

In the United States, our staggering budget deficit, the high cost of capital, the short-term outlook of U.S. businesses, and the lack of training and education of our work force severely drain our Nation's competitiveness. Deficit reduction must continue to be our No. 1 priority. We must lower the cost of capital for our companies and give them incentives to develop long-term strategies. We must invest more in the training and education of our workers and encourage more joint research and development. I'm willing to support measures to address all of these issues which the Japanese have cited as barriers to trade. I believe that the Japanese must do likewise.

If past experiences are an indicator, however, without outside pressure, the threat of sanctions, or mandated targets, the United States does not have sufficient leverage to generate action to implement the types of reforms required. We can negotiate with the Japanese until we are blue in the face, but not achieve results. And if we are lucky enough to be able to reach an agreement, there is no mandate to abide by it.

That's why a mandate for action and an enforcement mechanism for the SII is critical. My bill provides that mandate. It provides that enforcement mechanism. Under the bill, the USTR is required to initiate a section 301 investigation if no agreement is reached by September 1, 1990. If an agreement is reached, the bill mandates a section 301 investigation 18 months after the date of the agreement to ensure that the agreement has been faithfully implemented and that United States exports have increased accordingly.

The SII represents a unique opportunity to address severe trade barriers that hurt the competitiveness of many key United States industries both in Japan and the United States. We have a large stake in the successful outcome of these negotiations. This bill will help ensure that success and put Japan on notice that the United States is seriously pursuing a world of freer trade in goods and services. I urge my colleagues to lend their strong support for this measure.

STERILIZATION OR YOUR JOB

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. WILLIAMS. Mr. Speaker, I rise today to introduce legislation to prevent the sterilization of employees as a condition of employment by employers involved in or affecting interstate commerce.

This legislation would protect America's workers from being forced to choose between either keeping their job or being sterilized. The bill would provide relief, in addition to that already provided by existing civil rights laws, to any worker, male or female, faced with such a choice. It would include access to prompt remedies to prevent abuses by employers, and when employers fail to comply, it would provide damages to employees. Help is needed quickly to ensure that workers are not forced to make this choice. I will consider and pursue whatever legislative method will ensure the most rapid enactment of these necessary protections.

My bill makes it unlawful for any employer to:

First, directly or indirectly, to require, request, suggest, or cause any employee or prospective employee to submit to sterilization or a fertility test, or to refrain from procreation, as a condition of employment, promotion or transfer;

Second, to use, accept, refer to, or inquire concerning the results of any fertility test, or to inquire about the procreative ability or history of any employee or prospective employee;

Third, to discharge, discipline, discriminate against in any manner, or deny employment or promotion to, or threaten to take any such action against any employee or prospective employee who refuses, declines, or fails to take or submit the sterilization or a fertility test, or to refrain from procreation, or any employee or prospective employee on the basis of the results of any fetility test.

This legislation is partially in response to the Johnson Controls decision in the seventh circuit and is modeled after the Employee Polygraph Protection Act. This decision upheld the policy of excluding women of childbearing age from certain jobs. The court of appeals held that employers can exclude women who do not present proof of sterility in order to preclude the possibility of fetal harm. That court ignored the evidence of a variety of serious health effects including cardiovascular and reproductive risks to male workers. One of the dissenting judges called the case "the most important sex discrimination case in any court since 1964," and estimated that the majority opinion in the case could result in closing 15 to 20 million industrial jobs to working women.

I am delighted that the Supreme Court announced on Monday, March 26, that it decided to review the decision of the seventh circuit in this case and plans to respond in 1991. It is my hope and expectation that the Supreme Court will faithfully implement title VII and reverse the seventh circuit's erroneous decision.

The legislation that I am introducing today does not amend title VII and indeed goes beyond the specific statutory sex discrimination issues raised by the Johnson Controls case which the Court will review. So that we are both prepared to act expeditiously and are fully advised on the state of the background title VII law, I intend to urge my chairman to hold hearings on this bill this year, but not to consider this legislation until after the Supreme Court issues its opinion in 1991.

My bill would provide the minimum workplace standards described above to protect men and women who wish to safeguard their right to have children. This legislation offers gender-neutral protection and does not require a worker to demonstrate discimination in order to invoke the bill's protections. These hearings will explore the need for this legislation and whether males and females alike need the assurance that their potential vulnerability to workplace hazards will not be used as an excuse to deny them employment or infringe on their right to privacy.

This legislation is supported by the United Auto Workers, the American Federation of State, County, and Municipal Employees, the American Civil Liberties Union.

LEGISLATION TO REQUIRE EPA TO SCREEN DISPOSAL FIRMS AND INDIVIDUALS

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. PAXON. Mr. Speaker, Americans have suffered for far too long from toxic and hazardous waste that has been dumped along their highways, poured in their rivers, and buried in their neighborhoods.

People in western New York and the Finger Lakes region know this suffering all too well. We have had more than our share of environmental disasters in our small corner of the country, disasters that have led to death and disease in our own communities and families.

What is most appalling about these disasters is that the unscrupulous people who create them by polluting our soil, water, and air are the very people who very often are contracted by our Government to clean them up.

Mr. Speaker, I have introduced today a piece of legislation that I feel will empower the EPA with the authority it needs to identify and remove violators of environmental laws from the waste disposal business.

I am extremely pleased that my colleague from the State of Oklahoma, Mr. SYNAR, the distinguished chairman of the Subcommittee on Environment, Energy, and Natural Resources, has joined me in sponsoring this important, bipartisan legislation.

Mr. SYNAR has conducted extensive investigations into the problem of "Bad Actors"—firms or individuals that have been convicted of environmental violations and then turn around, and under a new name, receive Government contracts to do additional EPA work. The subcommittee chaired by Mr. SYNAR reported that despite the fact that investigators often knew of past violations, they were incapable of preventing these firms from getting new EPA contracts.

I became aware of this heinous problem when a company in western New York with close financial and managerial ties to other companies and individuals guilty of numerous environmental violations and other criminal activities, received a contract to do a cleanup project in my congressional district—one of the costliest Superfund cleanup projects ever in New York State.

Mr. Speaker, my legislation would require that all firms and individuals seeking contracts or other benefits from the EPA disclose extensive information about the owners, executives, managers, key employees, and others involved in the company. This information will be used by the EPA to screen these firms and individuals in the waste disposal business.

Any found to have violated serious environmental laws would be banned from receiving EPA contracts or other benefits for a period of up to 10 years.

This legislation will give the Environmental Protection Agency the authority it needs to keep dangerous "Bad Actors" out of the toxic and hazardous waste disposal business.

Mr. Speaker, I wish to once again thank my colleague, Mr. SYNAR, and urge our other colleagues from both sides of the aisle to join us in this critical effort to help protect our families, communities and environment from "Bad Actors."

Additionally, Mr. Speaker, I would like to insert two articles from the Buffalo News regarding the Buffalo firm I referred to into the RECORD at this point:

[From the Buffalo News, Dec. 10, 1989]

FIRM GETS JOB IN BRANT DESPITE PROBE INTO TIES—FEDERAL DOCUMENTS REVEAL LINK TO COMPANY INVOLVED WITH MOB

(By Douglas Turner)

WASHINGTON.—A company that documents show is closely tied to a Buffalo firm with a history of mishandling dangerous chemicals and links to organized crime will perform one of the costliest Superfund cleanup jobs ever awarded in New York State.

Wide Beach in Brant, a summer resort on Lake Erie that was contaminated by tainted oil sprayed on roads to keep down dust, is the site marked for cleaning under the federal government's Superfund. The cost of cleaning up the PCBs—or cancer-causing polychlorinated biphenyls—is $15.5 million.

The firm that won this massive cleanup job is Kimmins Thermal Corp. of Niagara Falls. It is tied in organization and money to Envirosure Management Corp. of Buffalo.

Federal investigators testified last year that Envirosure had connections to organized crime and had repeated violations that resulted in $2.4 million in fines for mishandling PCBs in the Kansas City, Mo., area.

According to congressional testimony and federal documents, the common thread running through Kimmins Thermal and Envirosure is the Williams family of Niagara Falls, mainly James H. "Harry" Williams and his brother Francis M. Williams.

Williams relatives are officers in both companies and the two brothers are personally guaranteeing Kimmins Thermal on the Wide Beach job through a $15.5 million performance bond and a $2.5 million penalty bond. Insurance companies refused to grant the bonds.

The Williams family denies the allegations that it is tied to the Kansas City operations as well as charges that James H. Williams has a role in Kimmins.

"To say the (Williams) family, which is 100 people strong, had something to do with some jerks in Kansas City is unconscionable," said Francis Williams, chief executive officer of Kimmins Thermal.

But Rep. Mike Synar, D-Okla., chairman of the House Government Operations Subcommittee on the Environment that investigated Envirosure for more than two years, was infuriated when he learned that the landmark Wide Beach contract had been awarded to a new company with links to Envirosure.

A report by Synar's subcommittee from 1988 contains accusations that Envirosure began with a $1 million loan from James H. Williams, a charge he denies. James H. Williams does acknowledge being a consultant to the organization in late 1988.

"In 1986, 1987 and 1988, our subcommittee had extensive hearings involving the Envirosure complex of companies and EPA's failure to heed their own investigators' report of criminal activity by officers and principals of those companies," Synar said.

Testimony before the subcommittee showed how little interest the administration had in policing bad actors who, when caught violating the hazardous waste law under one firm name, would fold the errant company only to open up a brand-new disposal business.

Emanuel Duke, who represents the Williams brothers' business interests, said they have been smeared by Synar's subcommittee.

The testimony at the 1988 hearings, Duke charged, "was totally guilt by association . . . It's the old McCarthy routine. . . . I'm outraged by some of the statements Synar made."

The Army Corps of Engineers, the Defense Logistics Agency and the Environmental Protection Agency all had a crack at stopping Envirosure or its offshoots along the way, but didn't.

Official reactions from the EPA, which is responsible for the Wide Beach cleanup, range from embarrassment to evasiveness. There is no law barring repeat violators from getting new EPA jobs, and the EPA hasn't asked for one.

DOCUMENTS REVEAL TIES

An EPA spokesman in Washington, Sean McIlhenney, said the agency "is interested in" the Wide Beach contract award and "is looking into it."

Documents obtained by The Buffalo News through Freedom of Information Act requests and congressional testimony indicate a pattern of relationships between Envirosure and the newly organized Kimmins Thermal Corp.

Despite these documents, the Williams family insists there are no business ties.

Francis Williams says he has no managerial or decision-making connection with Envirosure. Although he conceded in an interview that there appear to be connections between Kimmins Thermal and Envirosure, he also insisted the two companies are entirely distinct entities.

He also said his brother, James, is not an investor in Kimmins Thermal nor does James have any policy-making authority in Kimmins. James also said in an interview that he "has nothing to do with the management" of Kimmins.

However, the names of both James and Francis Williams appear on bonding documents that played a key role in Kimmins Thermal's winning government approval on the Wide Beach job.

In addition, Francis Williams is chief executive and majority stockholder of Kimmins Environmental Service Corp., which owns Kimmins Thermal. The name Kimmins derives from Kimmins Construction Co., which was founded in Buffalo 60 years ago. It was acquired in 1973 by Land Reclamation Inc., whose president was James Williams.

There are other connections. Their brother-in-law, Roger C. Bennett, was a vice president for Envirosure and was the financial vice president of Kimmins Thermal when it was organized. And an Envirosure prospectus shows that in 1984 stock worth $60,000 was held in trust by Bennett for his niece, the daughter of James Williams.

That holding grew to $7 million when Envirosure's over-the-counter stock hit a high of 43 cents a share. It last sold for about a penny a share, but the current value is unknown because Envirosure has not filed required financial statements with the Securities and Exchange Commission since May 1988, according to its underwriter, Blinder Robinson Co.

PURSUIT BY FEDERAL AGENCIES

Persons and companies associated with Envirosure have at various times in the past four years been pursued by the FBI, the EPA and the special investigations branch of the U.S. General Accounting Office, as well as Synar's subcommittee.

Synar's panel said Envirosure in 1986 acquired another company, Environmental Resource Management Corp., about the same time it was assessed another $1.56 million in EPA fines. Witnesses at Synar's hearing accused still another Envirosure subsidiary in Niagara Falls, Frontier Chemical Waste Process Inc., of falsifying its waste-disposal record.

In addition, James Williams was named in a civil suit brought under interstate racketeering laws, charging he bribed Donald O'Hara, one-time Niagara Falls city manager, to obtain a Love Canal remedial contract. The suit is still pending.

Despite the record accumulated by these agencies on the officers and financial backers of Envirosure, the government on Oct. 16 in a pre-award survey said it has "no reason to question" the integrity of Kimmins Thermal's corporate parent, Kimmins Environmental.

The EPA's Kansas City office initially awarded contracts to Envirosure-related companies in the early 1980s for several government cleanup projects in the Midwest.

During this period, Envirosure obtained $6 million worth of contracts from the Defense Logistics Agency to clean PCB-contaminated electric transformers and capacitors from military bases. Envirosure was the exclusive marketing agent for PCB Inc. and CB Oil Inc., which did the work.

The most pressing problem from work on these Envirosure contracts was that federal inspectors repeatedly cited CB Oil and PCB Inc. for either contract or health-code violations.

Parts of the contaminated electrical equipment from the military bases were to be buried in licensed landfills. One employee of PCB Inc. testified he was ordered to take 10 to 15 truckloads a week and dump them in rivers and lakes around the Kansas City area. The testimony was later challenged by the EPA and the Defense Department.

Other witnesses testified in 1987 that tainted transformers, which were supposed to be neutralized by a chemical process, were still contaminated when sold as scrap to unwary salvage yards.

As a result of the sloppy PCB-disposal and slipshod record-keeping at those sites, the EPA levied fines totaling $2.4 million against these companies associated with Envirosure. Eventually, though, the EPA let them settle the cases for only $100,000—or 3 percent of the maximum.

CORPS DENIES KNOWING OF LINKS

On the Wide Beach cleanup, Kimmins Thermal, working with a Syracuse subcontractor, Galson Remediation, Inc., will scrape up about 20,000 tons of PCB-contaminated road and cook it in a kind of chemical stew. Work is scheduled to start in the spring.

The novel process is supposed to make PCBs harmless.

In awarding this new project at Wide Beach, the EPA used the Kansas City office of the U.S. Army Corps of Engineers to review proposals and give out the contract.

The corps rated Kimmins' "business and financial reputation and integrity" as satisfactory. The corps gave the same rating to Kimmins' "past record of performance."

To assess the track record of Kimmins Thermal, which is less than a year old, the Army pulled a Dun & Bradstreet financial report and questioned one of Kimmins' customers.

Corps officials said a key factor in deciding a firm's reliability is its ability to obtain a contract performance bond.

But Kimmins Thermal could not get a performance bond from an insurance company and instead offered the personal surety of the Williams brothers on the $15.5 million performance bond and on a $2.5 million penalty bond.

Col. John Atkinson, the Army's district engineer in Kansas City, said the corps had no idea there might be a connection between Kimmins and Envirosure.

Reacting, Synar exploded.

"If the corps doesn't have any knowledge," the congressman said, "we have another example of the left hand of the government not knowing what the right hand is doing."

WHAT HAPPENED WITHIN EPA

The Envirosure network of firms operating in the Kansas City area was aided by the perplexing secretiveness of a special investigations division of the EPA during the Reagan administration.

The EPA's special investigations division had damaging information about Envirosure affiliates. But for a year and a half, it refrained from reporting the companies' shoddy records to a sister office in the EPA that cleared waste-handling permits.

EPA's special intelligence office, the National Enforcement Investigations Center in Denver, was so stingy with unpleasant information about hazardous-waste handlers that a congressional committee ordered that the agency be investigated by the General Accounting Office.

The GAO's top investigator testified before Synar's subcommittee that the EPA's intelligence agency had access to the following information:

Persons associated with Envirosure were, according to the GAO's congressional testimony, linked "with members of the La Cosa Nostra families in Buffalo . . . and in Kansas City."

Another officer of PCB Inc. was the sales manager of a meat company identified as a front for organized crime. It was controlled by the head of La Cosa Nostra in Kansas City.

"(Kansas City area) officers of PCB Inc. and CB Oil were suspected of involvement in narcotics, prostitution, pornography, illegal gambling, fraud, extortion (and) arson."

A former president of CB Oil, Michael Canova, had been convicted of tax evasion and mail fraud in Kansas City. James Williams once loaned Canova more than $10,000.

An officer of one of the two Kansas City companies had ties to Martha C. Rose Chemical Inc., which abandoned 13 million pounds of PCB-tainted items in the Missouri town of Holden.

Synar's frustrations boiled over during an August 1988 hearing he called on Envirosure.

Questioning Thomas Gallagher, head of the EPA's intelligence section, about why he didn't alert the EPA's licensing unit in the mid-1980s about these companies, Synar demanded:

"What good are you?

"What good were you in this case, to let these companies continue to operate, given all this information? . . . When you did find information, you didn't share it with anybody."

Gallagher retired in February.

But EPA's chief criminal enforcement officer in the Bush administration, Paul B. Thompson, said: "We have only 46 EPA criminal investigators to cover the whole country. It would be ludicrous for us to get deeply involved in prosecuting organized crime."

Thompson said the EPA can bar a company from getting a hazardous-waste permit, but only if the firm has been convicted of a crime related to disposal.

Rick Young, an aide on Synar's subcommittee staff, said in an interview, "I've heard Thompson's song and dance before."

The EPA "never makes the effort" to nail firms with ties to organized crime, Young said.

"We are two steps behind the criminal element because there is no coordinated federal effort to keep track of them," Young said.

BAN ON WASTE BUSINESS JOBS EYED FOR BIDDERS WITH TIES TO VIOLATORS

(By Douglas Turner)

WASHINGTON.—Rep. Bill Paxon, R-Amherst, announced plans last week to introduce legislation barring "bad actors" in the hazardous waste business from obtaining more federally funded contracts.

Paxon's legislation is based on New Jersey's tough law, which allows that state's attorney general to bar a contractor if he has reason to believe the bidder is tied to firms with a long record of violations.

The congressman said in an interview he became interested in such legislation after The Buffalo News disclosed allegations from congressional testimony and other federal documents that link a Buffalo-based company, Envirosure Management Inc., to a new firm that has been awarded a major Superfund contract at Wide Beach, a community along the Lake Erie shoreline in the Town of Brant.

Companies owned by or controlled by Envirosure were fined more than $54 million in proposed EPA penalties in 1986 and 1987 for violations in the Kansas City, MO.

Wide Beach is in Paxon's 31st Congressional District. In mid-October, the Army Corps of Engineers awarded a $15.5 million contract to cleanse 20,000 tons of road dirt in the community. The roads had been sprayed with oil containing cancer-causing polychlorinated biphenyls, called PCBs.

The Army corps, the contracting agency for the Environmental Protection Agency, awarded the project to Kimmins Thermal Corp. Using a process developed by Galson Remediation Inc., of Syracuse, Kimmins Thermal intends to reduce the PCBs to an inert, biodegradable form by putting the substance through a kind of chemical pressure cooker.

Francis M. Williams, chief executive officer and majority stockholder of Kimmins Environmental, said in an interview that neither he nor his brother, James H. "Harry" Williams, had any role in the management of Envirosure prior to 1988, and maintained that the company was not a family enterprise. Francis Williams said there is no link between Envirosure and Kimmins.

"This legislation will disqualify companies from receiving grants, contracts or licenses, if found to have repeatedly violated EPA laws, and regulations," Paxon said.

Paxon's legislation will require all applicants for contracts and funds to file detailed personal disclosure forms.

The forms will include such questions as present and former business relationships, the names or key employees and stockholders, firms that do business with the applicant listing violations, prosecutions, and convictions of current and former employees, and links to labor union and trade associations.

New Jersey's tough law was outlined in 1988 hearings conducted by the House Government Operations Subcommittee on the Environment, conducted by Rep. Mike Synar, D-Okla.

New York has a bad-actors statute but only contractors that have been convicted of environmental crimes can be barred. It does not permit debarment on reasonable suspicion as New Jersey's law and Paxon's proposed legislation do.

Paxon said his bill provides that "if an applicant was found to be associated with an organization that has violated an EPA law, or there is reasonable suspicion that an association exists, the applicant's request for a license, contract or grant will be disqualified."

LEGISLATION TO REQUIRE EPA TO SCREEN DISPOSAL FIRMS AND INDIVIDUALS

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. SYNAR. Mr. Speaker, I am pleased to join with my colleague from New York, Mr. PAXON, in introducing bipartisan legislation designed to help us ensure the integrity and competence of persons and companies involved in the waste disposal industry.

This issue has been an important focus of investigation by my Subcommittee on Environment, Energy, and Natural Resources over the past few years. Mr. Speaker, the Environmental Protection Agency currently has no effective procedure for tracking and cross-checking the environmental or criminal records of persons and companies appying for permits to handle, store, treat, and dispose of hazardous wastes. As a result, our subcommittee investigations have uncovered numerous instances, for example, of EPA-permitted PCB disposal companies who were suspected of extensive criminal activity, who had ties to organized crime, and/or had repeated environmental violations.

Based on the extensive investigations and hearings by my subcommittee, the Committee on Government Operations last year approved a report which forcused on the ways in which this failure has manifested itself with respect to EPA's efforts to adequately enforce its PCB regulatory program. Among other findings, the commitee concluded that:

EPA's criminal investigators within the National Enforcement Investigations Center [NEIC] were in some cases actually aware that owners and operators of EPA-permitted PCB disposal companies were suspected of involvement in extensive criminal activity, but did not share that information with agency personnel responsible for ensuring that the companies complied with PCB regulations. As a result, the companies continued to operate in violation of the regulations.

EPA had made little, if any, effort to identify disposal companies that exhibited some common traits or patterns of operation which would have made them suspect or might have evidenced control by individuals suspected of involvement in criminal activity. EPA did not have an effective policy or procedure for assessing financial relationships of companies and individuals participating in the hazardous waste industry, because no kind of financial disclosure was required of an applicant for a PCB or hazardous waste permit.

The agency does not have an effective policy or procedure for investigating the integrity of individuals or companies seeking EPA permits or to determine whether company officials requesting permits have been involved in other companies with serious environmental compliance problems. In fact, the agency had no formal policy for denying permits to companies or individuals that have exhibited repeated regulatory noncompliance.

Mr. Speaker, given the serious environmental threats posed by improper disposal of hazardous wastes and the costs imposed upon society in cleaning up these messes, it is essential that the Agency have at least some mechanism for keeping track of and weeding out the unscrupulous individuals and companies in this industry. The State of New Jersey has taken the lead in addressing this problem by establishing a system of background investigations of companies and individuals holding or seeking PCB or other hazardous waste permits. The New Jersey program precludes individuals or companies from participating in the waste industry if the applicant can not demonstrate reliability and competence. The State reports that the program has resulted in the voluntary forfeiture of hazardous waste licenses by organized crime operative anxious to avoid further investigation.

The concept of full disclosure which lies at the heart of the bill Mr. PAXON and I are introducting today will go a long way toward helping the Agency identify and root out those in-

dividuals and companies not fit to participate in the hazardous waste industry.

Mr. Speaker, this legislation would require those seeking permits to fully disclose: who runs the company; who actually owns equity in the company; what other waste companies are owned by those parties; information relevant to the applicant's experience and competence in the waste business; and information on, and an explanation of, certain environmental offenses for which the applicant and related parties have been convicted. This information is essential to allowing an informed decision by EPA about the reliability, competence, and integrity of the applicant. I believe it may be the least burdensome means available to us for preventing permits from being granted to parties demonstrably unfit to hold them.

Finally, Mr. Speaker, I want to emphasize two important points about the legislation. First, the program of full disclosure is designed to identify serious violations of the law on the part of an applicant, not relatively minor compliance problems such as paperwork violations. Second, the legislation contains provisions allowing the Agency to waive the ineligibility requirements in cases where it can be demonstrated that an individual or company has rehabilitated its integrity. There is no intention on our part to deny environmental permits to those who have taken appropriate action to clean up their act.

I would also note parenthetically that the full disclosure requirements are very similar to the disclosure requirements contained in H.R. 252, the hazardous waste export legislation which many of us recently introduced in the House of Representatives.

Mr. Speaker, this bill represents an important step in our efforts to get unscrupulous parties out of the hazardous waste industry. I hope our colleagues will join us in support of it so that we can enact the proposal during the current session.

FOREST SERVICE AND BUREAU OF LAND MANAGEMENT "IN LIEU" SELECTION BILL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. LAGOMARSINO. Mr. Speaker, I am today introducing a bill to begin the process of resolution of land title issues on Federal lands in the States of Arizona, California, Colorado, Idaho, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming. This bill addresses an issue which has been outstanding for 93 years.

This issue arose in 1897 with the passage of an act (30 Stat. 11, 36) which was intended to consolidate lands within the newly created national forest system. This 1897 act was the first of a number of statutes authorizing the exchange of Federal and non-Federal lands to promote more efficient Federal land management. Unfortunately, the wording of the 1897 act suggested that the landowner first had to relinquish the private tract to the United States as a condition of selecting Federal land in exchange—rather than authorizing the simultaneous exchange of deeds, which has become the modern exchange procedure—and the Secretary of the Interior imposed that requirement by regulation.

In any event, many private land-owners relinquished their lands to the United States by a formal conveyance as a condition to the selection of the Federal "in lieu" lands. However, for a variety of reasons—at least in part because subsequent laws restricted the kinds of land available for selection—many private landowners never made a formal selection of the compensating Federal lands, or if they did, their selection was not approved. Since that time, a number of actions by the administration, courts, and Congress have addressed by the thousands of outstanding title questions through a variety of solutions. Congress currently deals with the situation on a case-by-case basis through private bills.

It is currently estimated that clouded titles exist on approximately 19,000 acres of land managed by the Forest Service and 8,000 acres of land managed by the Bureau of Land Management. These lands are owned by some 2,300 separate owners. Both agencies are aware of these title problems and desire to resolve them.

The bill which I have introduced was drafted by the Forest In Lieu Selection Committee which represents many of these private owners. Thus, it is intended as a discussion draft which will be reviewed in detail through the hearing and markup process. The final bill will provide a solution to this issue which is equitable for both the Government and private land owners. I look forward to working with my colleagues on this measure which will resolve these title questions both comprehensively and consistently.

A CONGRESSIONAL SALUTE TO HELEN MONNETTE AMESTOY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding individual who has devoted many years of her life to the betterment of the Los Angeles and Lakewood communities. Helen Monnette Amestoy, librarian in charge at the A.M. Iacoboni Library, is retiring after 25 years with the Los Angeles County Public Library and 22 years in Lakewood. In recognition of this achievement, she will be honored on Friday March 30, 1990, at the Lakewood Country Club. This occasion gives me the opportunity to express my sincere appreciation for her many years of hard work and unending commitment.

Helen Amestoy received both her B.A. degree in history of art, and her masters in library service of art from UCLA. She began her career in the UCLA engineering library, and later moved to the Los Angeles County Public Library located in Carson. She later left Carson and began working at the Lynwood Library. In October of 1968, Mrs. Amestoy came to Lakewood. While she forged a successful professional career working with the Los Angeles County public libraries, she is also well respected in local professional, social and civic organizations.

A past president of the Pan American Association, she has served on the board of directors of the Greater Lakewood Community Hospice. She was a member of the women's division of the Lakewood Chamber of Commerce, the Lakewood Coordinating Council, The Friends of the Lakewood Libraries, and honorary life member of the Pilot Club of Lakewood and many more. Within the context of professional library related organizations, she served as the 1982 president of the California Society of Librarians, a chapter of the California Library Association [CLA]. She served on the intellectual freedom committee and the government relations committee of the CLA. In 1980 Helen was honored as Librarian of the Year by the Los Angeles County Library.

The hard work and dedication of Helen Amestoy will be missed by the community of Lakewood, and especially those associated with the Los Angeles County Public Library. My wife, Lee, joins me in extending our congratulations to this caring and giving woman. She is truly a remarkable individual who has devoted her talents and energies to providing a better education and way of life for the people of Lakewood. We wish Helen, her husband, Michael, their children, Margot, Michele, and Kami, all the best in the years of come.

CASTRO SHUTS OUT THE TRUTH: TV MARTI

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. BROOMFIELD. Mr. Speaker, who is afraid of letting the Cuban people see American soap operas and the World Series?

Who doesn't want families in Havana to watch "Kate and Allie" and music video chips?

Who denies the citizens of that country the right to see how good life is beyond Cuba's shores?

You know the answer. Castro, the last of the old-line revolutionaries, is the culprit.

A few days ago, he jammed TV Marti's first test broadcast after only a few minutes of transmission.

Castro has much to fear. Cuba's economy is a disaster. He is growing isolated in the world. By any standard, his Cuban revolution is a failure. A democratic revolution is sweeping the world. Is there any wonder that he fears the free flow of information?

Castro can block television signals, but he can't stop the rising tide of freedom that will someday sweep over the shores of Cuba. Then, Castro will be but a bad memory for the Cuban people.

GATT SHOULD CONSIDER ENVIRONMENTAL FACTORS

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. SWIFT. Mr. Speaker, I am introducing today a resolution recognizing the growing need for coordinated action among nations in order to succeed in the fight against worldwide pollution.

Our country has had to spend large sums to clean up our own environment. We have had no choice in the matter. There is a compelling need to rid our Nation of toxic pollutants. And we are making significant and continuing progress in cleaning up our air, water, and land resources. But as we spend a multitude of dollars in this task, many other nations refuse to spend even pennies to clean up their own environment.

It is becoming increasingly clear that problems of pollution do not begin or end at national borders. We are all dependent upon a healthy Amazon basin for the ultimate quality of the air we breathe for example, and upon the health of the world's seas and oceans for the water we drink and the food we eat. The environment of the entire Earth stands in jeopardy from the pollution created by growing worldwide industrial activity. And these problems can only be addressed effectively if all nations work in concert.

There is another economic burden that our country has had to shoulder in the fight against pollution; but unlike the necessary costs of environmental cleanup that we must assume, this burden has been both unfair and unnecessary. That is the fact that our U.S. manufacturers must compete at a disadvantage when the necessary costs of meeting national environmental standards are not costs that our foreign competitors must also undertake to meet.

When foreign competitors pollute, they not only degrade the global environment that we all live in, they also are able to undercut American producers by avoiding pollution control costs that our manufacturers rightfully have to meet. So we as Americans are in double jeopardy; foreign pollution affects both the health of our citizens and the health of our economy.

I am introducing today a resolution calling upon the President to seek, through existing and prospective trade negotiations, agreements with our trade partners on the reduction of the competitive disadvantages resulting from the gap between our national environmental standards and those of other nations. It should become a stated policy of the United States that nations who do not require reasonable and necessary pollution controls of their manufacturers shall not be able to use any of such savings in their cost of manufacturing to underprice American manufacturers.

Nearly every day it seems, we discover new examples of the fragility of our global environment, and how widespread are the effects of worldwide industrial pollution. We need to create disincentives for others to pollute; we also need to ensure that our manufacturers are not penalized for acting responsibly in meeting our own environmental goals. I hope Members will join with me in supporting this resolution to help keep the global environment clean and international trade competitive.

INTRODUCTION OF THE LANGUAGE OF GOVERNMENT ACT

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. EMERSON. Mr. Speaker, America is a nation of immigrants. As President Franklin Delano Roosevelt once said, "All of our people all over the country—except the pure-blooded Indians—are immigrants or descendants of immigrants, including those who came over here on the Mayflower."

Indeed, we are a diverse lot. We are a country of many peoples, each with an individual cultural heritage and tradition. It is not often that people of so many varying cultures and backgrounds can live together in harmony, for human nature often leads us to resist and fear those who are different from us. Yet despite our differences, we do have a common bond. We have a common tongue, the English language, that connects us to one another and creates our national identity. It is this unity in diversity that defines us as uniquely American.

Today, Representative SKELTON and I are introducing the "Language of Government Act," legislation that would declare English to be the official language of the Federal Government. Let's ensure that every American has access to his or her Government through a single official language. Let's promote and encourage the use of a unifying language, and let's make sure that every American has the opportunity to learn English and to fully participate in our society.

The legislation introduced today will not stifle or prohibit the use of languages other than English in this country. It will not ask immigrants to give up their varied cultures and native languages. What this bill would do is reaffirm that one language above all others is the common tongue, the unifying element in our society, and it is the one language in which our official business should be conducted.

As Americans, we should not remain strangers to each other, but must use our common language to develop a fundamental and open means of communication and to break down artificial language barriers. By preserving the bond of a unifying language in Government, this Nation of immigrants can become a stronger and more unified country.

PAGE PIRATES COMPLETE PERFECT BASKETBALL SEASON

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. COBLE. Mr. Speaker, perfection is rarely found in life. We all strive to achieve it, but few do. Perfection was achieved recently by a high school basketball team in our district. The Page Pirates of Greensboro, NC, completed a perfect basketball season on March 24, 1990, with a victory in the Class 4-A State championship.

The Page Pirates finished a remarkable season with a 31-0 record. Thirty-one times they took to the basketball hardwood this season and 31 times they came away with a victory. That is a remarkable achievement in itself. What makes this perfect season even more remarkable is the fact that the Pirates had a combined grade-point average of 3.8. This team inserted the word student back into the concept of student-athletes.

This was a special team for another reason. Everyone involved with the Pirates this season spoke of family. From head coach Mac Morris to each member of the squad to the coaching and support staff, the Pirates worked together like a closely knit family. This togetherness culminated at the championship game as Page defeated Wilson Fike High School 46 to 43 to capture the State 4-A basketball crown. "We have talked all year about being a family," Coach Morris told the Greensboro News & Record, "and I think tonight may have been the culmination of the family effort. This is absolutely the proudest moment I can ever imagine."

Congratulations must begin with Mac Morris, who in his 22d year of coaching turned a team with 12 losses the previous year into a squad with a 31-0 record. It was quite an accomplishment, but Coach Morris will be the first to tell you that it was a team—a family effort. Congratulations also to each member of the squad: Marc Lewis, the most valuable player in the title game; Brad Roland, Pearce Landry, Kevin Ryan, Alfred Hamilton, Billy Kretzer, Chris Lowe, James Bassett, Herb Connor, Burnhardt Frazier, Rick Gardner, Patrick Hamm, Derrick Steele, and Ronnie Wimberly. Special thanks must also go to the other members of the Pirate family who contributed to this perfect season. We salute assistant coach Clayton Nance; team physician, Dr. Jeff Todd; team trainer, Tim Via; student trainers, Nick Gregory and David Greaves; team managers, Rod Harrelson and Scott Woodard; video assistant, Laurie McElhone; and statistician, Will Rothschild.

In 1979, the Pittsburgh Pirates sang "We Are Family" as they won the World Series over the Baltimore Orioles. In 1990, the Page Pirates said they played together like a family. Pirates and family—the two terms seem to go together. It certainly worked for the Page Pirates. Each member of the Pirate family, including their countless fans, can take pride in what was accomplished this season. Perfection does not come along often in life; today we celebrate the perfect season of the Page Pirates basketball program.

INTRODUCTION OF THE PUBLIC TV CABLE CARRIAGE ACT OF 1990

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. RINALDO. Mr. Speaker, I am proud to be an original cosponsor of the Public TV Cable Carriage Act of 1990. I am joined in this effort by the chairman of the Energy and Commerce Committee, the gentleman from Michigan [Mr. DINGELL]; the ranking Republican member of the committee, the gentleman from New York [Mr. LENT]; and the chairman of the Telecommunications Subcommittee, the gentleman from Massachusetts [Mr. MARKEY].

Our bill would require cable TV systems to carry their local public television stations. This legislation is necessary because the Federal Communications Commission's must-carry rules, which guaranteed that local broadcast TV stations would be seen on local cable systems, were struck down by a Federal court 5 years ago. There now is no requirement that cable TV systems, which serve nearly 6 out of 10 Americans, carry any local broadcast TV stations. Public TV stations may have been harmed the most by the court's elimination of must-carry; it is estimated that more than 100 public TV stations have been dropped from cable TV systems over the past 5 years.

The lack of must-carry rules for public TV stations is particularly unfortunate, because it often results in making public TV programming unavailable to the same people who directly support it through their tax dollars and their generous contributions. Congress now appropriates over a quarter of a billion dollars annually to support public broadcasting. Those funds are used to provide educational and informational programming to supplement the programming available from commercial television.

Our substantial investment in public broadcasting gives us a uniquely compelling national interest in making sure that public television programming is available to all our citizens.

I continue to support must-carry rules that would apply to all local television stations, as do my cosponsors. We have waited patiently for the broadcasting and cable industries to strike an agreement so that must-carry legislation can move forward. That patience is beginning to pay dividends. Our bill incorporates a must-carry agreement between the cable television industry and public television stations that was concluded just yesterday. I commend both groups for working in good faith to resolve their differences and arrive at a compromise which we can recommend to the House today.

I hope that their agreement, and our introduction of this legislation today, will set the stage for subsequent must-carry agreements between cable and commercial broadcasters that will put must-carry rules that apply to all local broadcasters in place once and for all.

SERVICES PROGRAM FOR ELDERLY AND DISABLED WORKS AND DESERVES FUNDING

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. BRENNAN. Mr. Speaker, today I am introducing legislation which will authorize appropriations of $12 million for the Congregate Housing Services Program. The President has proposed to eliminate funding for this successful program in his fiscal year 1991 budget—an action which I regard as highly imprudent.

Since 1978, the Congregate Services Program has provided elderly and disabled residents of public housing and section 202 housing for the elderly and handicapped with meals, housekeeping, transportation to and from appointments, personal assistance, and other services which allow them to maintain a level of independence in a home environment. For most of the residents who rely on this program daily, any cessation of funding would almost surely mean institutionalization.

Certainly we all realize that there are many, many elderly and disabled people who are not in need of constant medical attention, who are not in need of institutional care, but who do require assistance with some of the daily tasks that you or I might take for granted. For such people to enter nursing homes makes no sense at all, especially considering the vast discrepancies in many areas of the country between the demand for nursing home beds and the availability of spaces.

Even more compelling perhaps is the financial sense which the Congregate Services Program makes. One recent study estimates a savings of $5,000 per person, per year in comparison to institutional care, although even this figure is a conservative one, and in some areas of the country the savings could be even greater. In my home State of Maine, residents of congregate housing in Brunswick, Rockland, and Old Town could be saving as much as $20,000 per year.

I recently met with elderly Maine residents who benefit from this program. As one woman explained, "I had a stroke, and I thought I could manage my life by myself but I couldn't. [This program] makes all the difference in the world. I'm 84 and you don't have many friends left. I feel very independent."

I urge my colleagues to support legislation to reinstate funding for the Congregate Housing Services Program—a program with demonstrated success which should be allowed to continue and expand.

INTRODUCTION OF PENTAGON TRANSFER LEGISLATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mrs. SCHROEDER. Mr. Speaker, Congressman DAVID MARTIN and I are today introducing, at the request of the administration, a bill to transfer jurisdiction, custody, and control of the Pentagon from the General Services Administration [GSA] to the Department of Defense [DOD].

This issue was hotly contested, largely on jurisdictional grounds, in last year's conference committee on the defense authorization bill. The committees which oversee GSA felt blind sided by the inclusion of this language in the defense authorization bill. So, the transfer language was dropped and the conference report told GSA to come up with a plan to fix up the Pentagon. GSA developed a plan, but when the Office of Management and Budget saw the $1.2 billion price tag, OMB decided that the building should be transferred and the military construction budget would pay for renovation.

I have not decided what the right solution is. I do know that the Pentagon is in terrible shape. Something has to be done. So, the Subcommittee on Military Installations and Facilities, which I chair, will hold a hearing next Wednesday at 2 p.m. on this legislation. We will work with the other committees to develop a rational approach to renovate the Pentagon and protect the taxpayer.

IMPORTANT CONTRIBUTIONS OF THIS EPA

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. SANGMEISTER. Mr. Speaker, the task of preserving our environment has taken a back seat for too long in this country. The Envrionmental Protection Agency has fought for years to enforce clean air and water legislation, administer the Superfund cleanup program, and promote recycling and conservation efforts. Regrettably, this agency has had to address these monumental tasks with limited resources and limited respect. Mr. Speaker, yesterday this body voted overwhelmingly to elevate the Environmental Protection Agency to Cabinet level. By acknowledging this Agency's important contributions, we have set the stage for a more focused national environmental agenda.

Since the preservation of planet Earth cuts across political lines, I am heartened the bill clarifies that political affiliation will not be the primary factor taken into account when appointing regional administrators. Again, I applaud this initiative and would like to take this opportunity to acknowledge a constitutent who had the foresight to recognize the importance of preserving our environment before it became fashionable to do so. Mr. Jim Marzuki, a resident of Park Forest, IL, cared about the environment throughout the Reagan era, when many environmental problems were virtually ignored. Now that Americans have become more environmentally aware, he has continued to help educate the citizens in his community.

As one of the original organizers of the Thorn Creek Preservation Society, Mr. Marzuki was instrumental in having nearly 900 acres of woodland set aside as an Illinois nature preserve. He also served on the board of direc-

tors of the Illinois Environmental Council and as conservation chair for the Thorn Creek Audubon. Currently, he is a member of the National Audubon, the Illinois Audubon, the Thorn Creek Audubon Open Lands Project, the National Wildlife Federation, and the Sierra Club—as a member of the legislative committee for the Sauk-Calumet chapter. I applaud Mr. Marzuki's energy and accomplishments—his efforts serve to underscore that individuals can make a difference in the fight for a clean, safe environment.

HONORING THE NEW JEFFERSON COUNTY CHILD SUPPORT ENFORCEMENT OFFICES

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. MAZZOLI. Mr. Speaker, on March 16, I was pleased to take part in the dedication of the new Jefferson County Child Support Enforcement Office located in downtown Louisville.

In my remarks at the ceremony, I commended Jefferson County Attorney Mike Conliffe and director of the Child Support Enforcement Division, David Cathers, for their dedication and hard work in making the Jefferson County Child Support Enforcement Office one of the most successful operations in the Nation.

Currently, the Jefferson County Child Support Center handles 35,000 claims annually and collects at least $20 million annually in delinquent child support payments.

The office's clients actually are the children whose parent or parents refuse to provide them with the court-ordered support for the food, shelter, and clothing they need. Thus, the child support office does great good for the children of our community.

Many counties in the Commonwealth use the pioneering procedures of the Jefferson County Child Support Enforcement Center in their child support collection efforts and have become more efficient and effective as a result.

Because of the contributions the child support office makes to our community's children and to the Commonwealth, I was pleased to assist County Attorney Conliffe in obtaining $204,000 in Federal matching funds to upgrade the child support office's computer system.

Originally, his funding request of $140,000 had been denied. However, when Mike and David came to Washington, I arranged for Federal officials to come to my office to review the county's request. Once these officials had the opportunity to talk with Mike and Dave directly and study the proposal, the Federal officals granted the $140,000 and an additional $64,000 for good measure.

Mr. Speaker, I wish to commend Jefferson County Attorney Mike Conliffe and Child Support Enforcement Director David Cathers and their staff on a job well done, and I look forward to working with them to continue and improve our efforts in behalf of the children of Louisville and Jefferson County.

INTRODUCTION OF THE BUSH ADMINISTRATION'S COASTAL ZONE MANAGEMENT ACT REAUTHORIZATION BILL

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. SHUMWAY. Mr. Speaker, I rise, as the ranking minority member of the House Oceanography Subcommittee, to introduce, along with a number of my Republican subcommittee colleagues, the President's legislation to reauthorize and amend the Coastal Zone Management Act of 1972.

The President and the new leadership at NOAA are to be commended for their efforts in support of reauthorizing this important statute which for nearly 20 years has played an important role in ensuring that coastal protection and development have taken place in a balanced fashion.

This act was originally a Republican-sponsored initiative and it properly places the role of coastal management decisionmaking control in the hands of the coastal States themselves.

As the House sponsors of this administration bill, we recognize that there are many areas of concern and even controversy which will undoubtedly be addressed during committee and House consideration of CZMA reauthorization legislation. Moreover, we recognize that Chairman JONES has introduced his own comprehensive legislation to reauthorize this act, and that his bill, H.R. 4030, is the proper vehicle for congressional action. Nonetheless, we believed it important that the administration's effort be formally introduced both to recognize their important leadership on this issue and to ensure that it is given the proper attention it deserves by the Merchant Marine and Fisheries Committee and the House as the reauthorization process moves forward.

THE HUNGER PREVENTION AND NUTRITION EXPANSION ACT OF 1990

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. MOODY. Mr. Speaker, I am today introducing legislation that takes an important and necessary step toward providing the homeless and needy with an essential nutritional dietary component: milk. The Hunger Prevention and Nutrition Expansion Act of 1990 amends the Hunger Prevention Act of 1988 to direct the Secretary of Agriculture to purchase and distribute 10 million dollars' worth of milk to soup kitchens for each of the years 1991 through 1995. This money would be in addition to the current $32 million annual authorization for the Soup Kitchen Commodities Program.

My bill is designed to serve as a bridge to the already existing Federal School Lunch Program and Special Milk Program by providing milk to needy families and individuals at meal sites throughout the country.

I am honored to be joined in introducing this needed legislation by the distinguished chairman of the Select Committee on Hunger, TONY HALL, of Ohio.

Homelessness is on the rise, and the ranks of people living below the poverty line have swelled over the last decade. Soup kitchens have played an increasingly important role as one of the few sources of support left for needy people. According to the U.S. Conference of Mayors, requests for emergency food assistance have increased 19 percent in each of the last 2 years. Sixty-one percent of those seeking assistance are families with children.

The old stereotypes about the homeless no longer accurately reflect the demographics of those seeking assistance these days. The poor now include many working families who struggle month to month to make ends meet on minimum-wage paychecks.

Most soup kitchens are run by community and church groups and rely upon donations of time, food, and money. Federal commodity programs administered under the soup kitchen and TEFA titles of the Hunger Prevention Act have helped meet some needs by channeling food to soup kitchens and food pantries. However, beginning in 1982 with the curtailment of the Special Milk Program, dairy products have played a smaller role in commodity distribution programs. This has been especially true in the last year and a half because Government CCC surpluses of cheese and nonfat dry milk have disappeared, effectively eliminating that flow of dairy products to the needy.

The Milwaukee Meal Coalition in my district, representing over 22 meal programs across the metro area and serving around 696,000 meals annually, has had difficulty providing milk. In some cases, water has been served when a soup kitchen was unable to afford milk.

The problems experienced in Milwaukee are repeated throughout the country where the number of homeless and needy persons outweigh the combined Government and private resources to alleviate hunger.

Nutritional needs do not stop at the end of a school day, nor do they end when a person turns 18. Many young children, needy adults, and elderly citizens rely on soup kitchens to provide them with a nutritional dinner. For far too many people, that evening meal at a soup kitchen may be the only full hot meal of the day. It is important that the nutritional needs of the homeless and the needy are being met and milk is a vital component to any healthy balanced diet. In my district of Milwaukee, some soup kitchens have had to serve water with their meals because money is tight and the meal sites have not been receiving Government or private donations of dairy products. My bill would make it easier for soup kitchens to serve milk on a regular basis.

This bill is good for the dairy industry which has seen its role in providing milk and other dairy products to the needy through Government programs diminished in recent years—just the opposite of what should be happening. This legislation will guarantee a stable supply of milk so that soup kitchens won't have to ride along with the dairy industry on the roller coaster ride of market supply and demand, surplus, and shortage. Both the dairy

industry and the soup kitchens could be assured of a constant, consistent channel of milk.

Mr. Speaker, expansion of the Soup Kitchen Commodities Program is of great benefit to the millions of needy Americans—young and old, urban and rural—who rely on soup kitchens for a hot meal each day and to those dedicated people who run the meal sites around the country.

Mr. Speaker, I hope my colleagues will join TONY HALL and me in expanding the current soup kitchen commodities list to include $10 million of milk.

THE 50TH ANNIVERSARY OF THE "SOCIETA SAN SILVERIO DEI PONZESI"

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. ENGEL. Mr. Speaker, April 1, 1990, marks the celebration of the 50th anniversary of the Societa San Silverio dei Ponzesi, which, was founded on February 26, 1940, by its first president, Mr. Silverio DeLuca.

The society was located originally on Morris Avenue, in the Bronx, the very same street on which I was born. The society acted as a place for immigrants from the island of Ponza to meet and organize. This made it easier for many of the new immigrants to adjust to life in the United States. In addition, the society helped to promote pride in one's culture and heritage.

As you know, Mr. Speaker, this Nation was founded by immigrants. These immigrants brought with them a wide variety of cultural backgrounds which added to the cultural mosaic that now makes America the great country that it is.

For the past 50 years this organization has helped foster pride and create a sense of community for the immigrants of Ponza now residing in the New York metropolitan area. I would like to congratulate the society on its community service and express my hope for its continued success.

Under its current president, Mr. Luigi Mazzella, and with help from active members like Silverio Iodice, the society continues to service the large Ponza community within the New York metropolitan area.

FLEXIBILITY IN WORK SCHEDULES

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. PENNY. Mr. Speaker, today I am introducing legislation that was suggested by nurses at St. Mary's Hospital in Rochester, MN, but should assist many other health care professionals. The legislation, which would amend section 7(j) of the Fair Labor Standards Act, allows workers more flexibility in work schedules that are more amenable to the needs of family and child care arrangements.

Health care workers employed by hospitals, nursing homes, and other inpatient facilities are required, by nature of the work, to provide 24-hour, 7-day-a-week staffing of these facilities. The demands of shift work and weekend work, which do not often accommodate personal schedules, have contributed to the current difficulties in recruiting and retaining nurses and other health care professionals. Health care facilities have begun to lengthen work periods, such as expanding an 8-hour shift to 10 or 12 hours of duty, with workers being given compensatory days off. For example, rather than being assigned to work every other weekend, a nurse can be assigned every third week-end and receive additional days off during the week. This type of scheduling is particularly attractive to two-income families who are attempting to balance work and child care responsibilities.

The problem that has occurred is that under current law, employers are required to adhere strictly to a 40-hour work week, designed around a traditional 8-hour work day and including 5 working days per week. To protect the worker, the law requires that health care facilities pay overtime for work in excess of 8 hours in any work day and in excess of 80 hours in a 14-day period. This precludes the type of scheduling which many health care workers would prefer.

My legislation expands the number of shift hours allowed and the cycle over which the work may be completed while still protecting the rights of the worker. This expansion would be allowed only if the workers and the employer agreed to the change in writing. I believe this bill allows flexibility while still protecting workers' rights.

A TRIBUTE TO THE MEMORY OF JERRY CLARK

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. BUSTAMANTE. Mr. Speaker, it is with great sadness that I learned of the passing of one of the great political leaders in America's labor movement—Jerry Clark, political action director for the American Federation of State, County, and Municipal Employees.

Many of us who are privileged to serve in this Chamber knew Jerry and benefited from his advice and counsel. As candidates, one of the first orders of campaign business was to call Jerry and inform him the campaign plans for the upcoming election. After you were finished meeting with him, Jerry Clark made sure that AFSCME played a key role in helping the campaign reach its goals. He always delivered. That's the kind of man he was—always, reliable; always there when needed.

Jerry was responsible for developing AFSCME's political action department and for making AFSCME the political force it is today. But he was responsible for more than making AFSCME's political action program one of the best in the country. Jerry also induced many young people—young men and women from all walks of life—to become involved in the political process. He had great confidence in their ability to shape our political future for the better. From that confidence he projected, Jerry inspired a sense of loyalty in those he introduced to the American political scene. Jerry's influence on the political landscape will continue as the young people who received their political training under AFSCME's political action program assume positions of leadership in their own right.

I express my condolences to his family, to his coworkers and staff of AFSCME's political action department, to AFSCME International President Gerry McEntee and Secretary-Treasurer William Lucy, and to the brothers and sisters of AFSCME.

We have lost a good and dear friend, and we will miss him dearly.

LEGISLATION TO BENEFIT PRIVATE COLLEGES AND UNIVERSITIES

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. MATSUI. Mr. Speaker, I rise today to introduce legislation which will make two vital changes in the Internal Revenue Code's tax-exempt bond rules for private, nonprofit colleges and universities. I am pleased to be joined by nine of my colleagues on the Committee on Ways and Means.

There are approximately 1,600 accredited independent colleges and universities in the United States. These institutions enroll approximately 2.65 million students, of which in 1987 nearly 30 percent of the freshmen were in the first generation of their families to attend college.

The tradition of private, nonprofit higher education dates from the earliest days of our country, and the United States is the only country in the world with this tradition. Yet despite this long practice, the Internal Revenue Code's tax-exempt bond rules characterize these colleges and universities as "private businesses". Yes, Mr. Speaker, private educational institutions treated just like for-profit corporations! In addition, a special $150 million limit on the amount of bonds that any single institution could have outstanding included in current tax law precludes any use of tax-exempt bonds to finance such facilities as dormitories, classrooms, and libraries at 24 of our best research universities.

This legislation corrects this misunderstanding of the role of independent colleges and universities by treating tax-exempt bonds for section 501(c)(3) organizations the same as bonds for State and local governments. In tax-exempt bond parlance, bonds for these organizations would no longer be treated as "private activity bonds." Simply stated, the tax-exempt bond rules would recognize that the activities of independent colleges and universities are indistinguishable from those of their governmental counterparts.

Second, my bill also would repeal the special $150 million limit on outstanding bonds for independent colleges and universities. As I

stated previously, this limit totally prevents 24 of our prominent universities from benefiting from any additional tax-exempt bonds. These 24 institutions represent 20 percent of the independent doctorate-granting universities. This limit makes no sense in an era when new jobs increasingly require post-secondary education as the United States moves to a high-technology economy in today's intensely competitive world marketplace.

A recent report by the National Science Foundation maintains that despite current facilities needs, colleges and universities are deferring $3.60 of repair and renovation work for every $1 spent on such work they undertake. Of all expenditures, repair and renovation work is probably the most dependent on debt financing. Institutions frequently find that other funding sources, such as gifts, are much more readily available for new construction activities because of their greater visibility. Put more bluntly, roof or heating system repairs are less likely to attract large donations than a new building.

Our Federal budget deficit prevents our providing new direct assistance for these important projects. Yet, if the United States is to remain competitive in the rapidly changing world economy, the urgent facilities needs of our independent colleges and universities must be met. This legislation provides relatively inexpensive, yet effective assistance for these worthy purposes.

Mr. Speaker, I would like to thank my colleagues on the Ways and Means Committee for joining with me to introduce this legislation, and I urge my colleagues in the House to join in this effort.

IN HONOR OF GEORGE MORRIS

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. KOSTMAYER. Mr. Speaker, it is with great pleasure that I draw the attention of my colleagues to the estimable accomplishments of Mr. George Morris of Levittown, PA.

For 35 years, Mr. Morris has been a member of the Pennsylvania Lions Club in Multiple District 14A. During that span, he has attended every meeting without fail. Now, after a distinguished career, he is retiring from active service to the club.

Although he is retiring, George Morris achievements will not be forgotten. In his 14-year service as club treasurer and fund raising chairman, he succeeded in raising over $700,000 for Lion projects and needy families. Truly, the unceasing dedication of Mr. Morris to many worthwhile charitable causes is a point of light at which we can all gaze with admiration. His work has helped out people in need and enriched his community and his country.

Mr. Speaker, it is my honor to pay tribute today to Mr. George Morris and his valuable and patriotic contributions to his community as a life member of the Lions Club.

IRCA ANTI-DISCRIMINATION AMENDMENTS ACT OF 1990

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. BRYANT. Mr. Speaker, the IRCA Anti-Discrimination Amendments Act of 1990 addresses the critical need for the Government to strengthen its efforts to combat immigration-related discrimination against citizens and other legal job applicants.

The Immigration Reform and Control Act of 1986 [IRCA] prohibits employers from hiring undocumented illegal immigrants and includes tough antidiscrimination provisions. As a result, it is not only illegal for employers to hire and exploit illegal workers, but also for employers to discriminate in hiring because of an applicant's race or accent or other unfounded suspicion that the person is an undocumented worker.

Unfortunately, preliminary General Accounting Office reports, required by IRCA, as well as studies in New York and California, indicated that many employers are disciminating against legal job applicants because of their appearance or their manner of speech. It is likely that the next GAO report will come to even more disturbing conclusions about the extent of immigration-related discrimination.

The IRCA Anti-Discrimination Amendments Act of 1990 will address this problem by requiring the Immigration and Naturalization Service to launch an extensive public education campaign designed to inform potential employees about their rights and remedies under the antidiscrimination provisions of IRCA and advise employers of their responsibilities under the law.

This measure requires the Office of the Special Counsel, charged under IRCA antidiscrimination enforcement, to establish regional offices more accessible to the victims of discrimination and to more aggressively pursue those who violate the law. The GAO would continue to monitor immigration-related discrimination for an additional 2 years.

The effort to stop the exploitation of undocumented immigrants by unscrupulous employers—one of the purposes of IRCA—must be continued. But we must also assure every legal job applicant that he or she will not be discriminated against. Any unlawful discrimination in employment is inexcusable and intolerable. I have introduced legislation today to combat this discrimination, and I invite my colleagues to join me in cosponsoring this important measure.

TRIBUTE TO WILLIAM JOHNSTON

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to William Johnston who passed away on February 26, 1990, at the Cleveland Clinic. Bill was involved in my 17th Congressional District and served his country in the Marine Corps.

Bill was born on August 11, 1934 in New Castle, PA, to Herman "Red" and Margaret Johnston. While serving in the Marine Corps, he served as a White House guard under President Dwight D. Eisenhower. Bill was also the chairman of the Inland Water Way Authority and chairman of Intermodal Transportation of Tennessee-Tombigbee Waterway. From 1982 until his death, he owned and operated the Trailstar Manufacturing Co., of Alliance, OH, which manufactures aluminum semi- and dump-trailers. He was also a member of the Alliance Chamber of Commerce and chairman emeritus of the Dump Trailers Industry Association.

Besides his parents, Bill leaves behind his wife Pauline, and four children: Eric, Aaron, Yvonne, and Desiree, as well as two grandchildren.

Mr. Speaker, I would like to take this opportunity to recognize William Johnston. I had the honor to know Bill, he was a caring and dedicated man who will be missed by all.

A CONGRESSIONAL SALUTE TO JOHN E. BOOKER

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. FAUNTROY. Mr. Speaker, I rise today to pay tribute to an outstanding individual who has devoted 30 years of his life in service to and defense of this great country. Today, master chief cryptologic technician—administration—John E. Booker retires from active duty with the U.S. Navy.

Master Chief John E. Booker, a native of Cumberland, VA, commenced his naval career nearly 30 years ago. He has had the opportunity to serve in Puerto Rico, Philippines, Okinawa, and Washington, DC, (4 tours). He has also seen duty in Spain, Florida, South Carolina, Japan and Guam, plus numerous TEMADD stations. His decorations and awards include the Overseas Ribbon—four awards; National Defense, Meritorious Unit and Navy Unit Commendation—three awards; Good Conduct—seven awards; and the Navy Achievement Medal. He has spent over 17 years in the human resources management field earning NEC's 9515—equal opportunity program specialist—and 9528—human resource management specialist. He was the first cryptologist to attend the DOD's Defense Race Relation Institute. Master Chief Booker made naval security group history when he was the first black to be promoted to CTACS only to break that record 3 years later when he was promoted to CTACM. Today he is one of the two blacks ever to hold the grade of CTACM.

A graduate of the Navy's Senior Enlisted Academy in 1983, Booker also hold degrees in social psychology and sociology from Los Angeles Community College and the University of Maryland respectively. He came to Washington from a short stint at NAVCAMS WESTPAC Guam, and serves as special as-

sistant for NATO and joint staffs to the master chief petty officer of the Navy.

He is married to the former Agnes Ivory, of Ivy, VA. They have two daughters, Stacy, a junior at St. Paul's College, Lawrenceville, VA, and Leslie who attends Robert E. Lee High School, Springfield, VA.

Mr. Speaker, I am honored today to salute master chief John E. Booker, for giving in his life of service a brilliant and scintillating personification of the profound commitment to mission that has made our Nation great.

SUPPORT BIOMEDICAL RESEARCH

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. DURBIN. Mr. Speaker, when we are feeling well, it is easy to take our health for granted. But it is only through medical research that any one of us can enjoy good health. What we often forget is that every modern advance in medicine and health can be attributed to medical research. That is why we take time to observe March 27 as National Medical Research Day and devote the week of March 26 to raising awareness of the importance of medical research to our country. It is my pleasure to offer this statement to support our Nation's investment in medical research.

Congress needs to renew its commitment to the health of our Nation. This can only be realized through increased support of medical research. The truth is that the number of worthy projects for biomedical research has outgrown the current allocation of research dollars. We are at the brink of major research breakthroughs for diseases such as cancer, diabetes, and AIDS, to name only a few. This Nation cannot afford to be complacent when there is so much potential. The logic behind a commitment to increased support of biomedical research is well-founded. There are few Federal investments that can return so much in dividends. Even at times of budget deficits and belt tightening, we must continue to invest in the future of our Nation. How else can we ensure a healthy and productive country?

In 1987, the National Health Council, which represents 39 voluntary health associations, established the Medical Research: Invest in America's Health campaign. Since then, the campaign has found a variety of ways to draw attention to the legacy and promise of medical research. One such way is a yearly brochure that takes a unique focus. Instead of examining biomedical research and its impact from a scientist's perspective, the brochure looks at the immeasurable benefits of such research from our perspective—the consumers of biomedical research.

On National Medical Research Day, individuals from voluntary health agencies and the pharmaceutical industry come together to bring a strong collective voice to Capitol Hill focusing on the importance of medical research and our Nation's commitment to it.

I ask my colleagues to take a moment to consider the immediate and long-term needs of our Nation. Medical research plays a critical role in making our Nation preeminent in all fields of endeavor. The time has come for us to reaffirm our commitment to support biomedical research this year and in the years to come.

PERU'S "DISAPPEARED"

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. STUDDS. Mr. Speaker, one of the little noticed human rights tragedies of our time is taking place in Peru. That country has been wracked by violence; violence from the Sendero Luminoso—the terrorist guerrilla group which regularly targets civilians for assassination—and violence from government forces which are combating Sendero Luminoso in Peru's Indian highlands.

Mr. Speaker, Sendero Luminoso is one of the most ferocious terrorist movements in the world. The Peruvian Senate reported that Sendero committed 1,526 assassinations in 1989. The 1989 State Department Country Reports on Human Rights reported that the victims included teachers, engineers, development and human rights workers, Indian peasants, and political candidates, as well as government, police, and ruling party officials. But Sendero Luminoso's abuses against innocent noncombatants and its attacks on Peru's civilian institutions do not justify comparable abuses against civilians by the government. Human rights violations by the Peruvian military and intelligence police, including torture and "disappearances" of civilians following their arrest by the security forces have mounted dramatically in recent years. Respected human rights organizations, such as Amnesty International and Americas Watch as well as serious human rights organizations within Peru have reported on the country's growing human rights disaster.

The phenomenon of "disappearance" appears to be a deliberate and systematic policy of the armed forces, particularly in the country's emergency zones, where constitutional rights have been suspended and military powers have been enhanced. A disappearance occurs when persons are arrested by the security forces, and they then simply vanish off the face of the Earth. While some of those disappeared eventually reappear—usually in military custody—most are never heard from again, and their families are left to mourn the loss of loved ones without even havng a body to bury. The 1989 State Department Country Report notes that:

The bodies of disappearance victims are rarely found. Based on the testimony of survivors, it appears that most victims are taken to military bases for interrogation. Some are turned over to the police after lengthy detentions and are later freed for lack of incriminating evidence. Human rights groups argue persuasively that the rest are summarily executed by the armed forces.

In the past year, Peruvian human rights groups have compiled the names of 306 unarmed citizens who were arrested and disappeared. An additional 135 persons were abducted by the security forces but later reappeared. Many of them reported that they were tortured or mistreated by the Peruvian security forces during their detention.

The military's purpose in "disappearing" those it arrests is to absolve itself from accountability for the people it held in detention. It is one of the cruelest human rights violations because family members live in terror, and at the same time, keep on hoping that their loved ones will reappear. One way we can help keep faith with the disappeared and their grieving families is to recount their names, and call upon the Peruvian authorities to investigate the disappearances and provide a full accounting of their whereabouts. We also call upon the authorities to initiate a thorough and independent investigation of the phenomenon of disappearances, and bring to justice those members of the security forces who order and engage in such practices.

Attached is a list of 306 Peruvian citizens who "disappeared" in the past year, compiled by the Lima-based Comision de Derechos Humanos.

PERU'S "DISAPPEARED"

1. Cristobal Achayca.
2. Casimiro Achayca Llactas.
3. Lenoncio Aguilar Espinoza.
4. Manuel Aguilar Huicho.
5. Leoncio Aguilar sulca.
6. Victor Aguirre Espinoza.
7. Pascual Aguirre Farfan.
8. Ruben Alarcon Anaya.
9. Maxi Alata Vaderrama.
10. Milo Almandoz Leandro.
11. Elisa Alsa Luna.
12. Santox Alzamora.
13. Leonardo Antay Anca.
14. Cipriano Arando Arteaga.
15. Juan Cansio Arando Arteaga.
16. Petronila Arias Huaman.
17. Saturnio Arone.
18. Carlos Arones Palomino.
19. Leonel Arones Palomino.
20. Juan de Dios Atachauhua Garay.
21. Martin Avalos Laime.
22. Victor Ayala Coronado.
23. Pedro Ayala Diaz.
24. Giraldo Ayala Sayas.
25. Timoteo Aymetupa Llachua.
26. Daniel Azareno.
27. Manuel Azareno Leon.
28. Ebert Azareno Papa.
29. Elias Azareno Toribio.
30. Jose Aznaran Castro.
31. Leoncio Azurin Garcia.
32. Marcelino Barbaran.
33. Javier Barbaran Galindo.
34. Tania Bautista Navarro.
35. Berna Jimenez.
36. Glavio Bilbao Valenzuela.
37. Hugo Bilbao Valenzuela.
38. Rosel Cahuana Castro.
39. Juna Camacho Cervantes.
40. Margarita Camacho Meza.
41. Gergorio Canales Nalvarte.
42. Americo Canrina Sulca.
43. Zosimo Carbajal N.
44. Jose Cardenas Garcia.
45. Cirilo Cardenas Vallejos.
46. Glicerio Carhuas N.
47. Jose Carrion Chavez.
48. Paulino Cartagena Caceras.
49. Wenceslao Castaneda Chiccila.
50. Ismael Castaneda Mandoza.
51. Feliciano Castillo Peralta.
52. Antero Castillo Pezo.
53. Fernando Ccasani Aroni.

54. Santos Ccasani Villafuerte.
55. Leandro Ccente Josme.
56. Dionisio Cervantes Pena.
57. Cirsologo Cervantes Sarmiento.
58. Victor Cespedes Monzon.
59. Epifanio Cisneros Cuadros.
60. Teofilo Cisxeros Cuadros.
61. Simeon Claudio Artieta.
62. Pedro Colos Sulca.
63. Jose Gabriel Condena Meneses.
64. Rosario Condori Alzamora.
65. Beatriz Condori Coaquira.
66. Victor Cordova Bohorquez.
67. Agrepito Coronado Leon.
68. Javier Rafael Crispin Colina.
70. Maria Salome Cruz Amcco.
71. Ramon Amador Cuba Santoyo.
72. Lucas Cubarrubias Espinoza.
73. Wilfredo Cuellar Chavez.
74. Elimpio Bernabe Curi Huamani.
75. Jorge Curi Morales.
76. Lorenzo Cusi Yupanqui.
77. Feliciano Cusi Martinez.
78. Temistocles Cusi Riveros.
79. Braulio Chacon Valverde.
80. Ermitanio Challco Palomino.
81. Porfirio Challco Palomino.
82. Rosario Challco Palomino.
83. Saturnino Challco Palomino.
84. Maximo Chancha Condori.
85. Florentino Chavez.
86. Edgar Augusto Chavez Obando.
87. Mariano Chicila Mendoza.
88. Santos Chillca Taype.
89. Salvador Chipana Nahuinlla.
90. Javier Chipinos.
91. Zosimo Chuchon Rua.
92. Isaac Chumpisuca Damian.
93. Luis Chumpisuca Taype.
94. Jorge Damian Alata.
95. Santos Damian Alata.
96. Harry Davila Tarazona.
97. Juan de la Cruz Gonzales.
98. Juan de la Cruz Orihuamachi.
99. Necasio Diaz Huaman.
100. David Diaz Naupari.
101. Mario Diaz Quispe.
102. Remigio Espinoza Alvarez.
103. Eduardo Espinoza Cotrina.
104. Emilio Espinoza Melendez.
105. Andres Estrada.
106. Cuzman Estrada.
107. Wenceslao Estrada Laguna.
108. Herberth Estrada Pascual.
109. Incias Estrada Pascual.
110. Juan Maximo Felipe de la Cruz.
111. Francisco Ferro Valderrama.
112. German Glores Correa.
113. Basilio Glores Pillaca.
114. Justiniano Flores Santa Cruz.
115. Victor Galindo Osco.
116. Aurelio Gamarra Jara.
117. Jose Manuel Gamarra Ramos.
118. Antonio Gamboa Garibay.
119. Jorge Luis Gayoso Velasquez.
120. Jesus Armando Godoy Caceres.
121. Fortunato Godoy G.
122. Ruben Godoy G.
123. Jose Gonzalez Aymara.
124. Juan Gonzales Cardenas.
125. Jesus Gonzales Loayza.
126. Balbino Gonzales Monzon.
127. Benigno Gozme Castro.
128. Bonifacio Wilfredo Guerrero Rojas.
129. Julian Gutierrez Gozme.
130. Cirilo Gutierrez Juarez.
131. Timoteo Gutierrez Yuera.
132. Amadeo Hinostroza Garcia.
133. Segundo Hoyos.
134. Fortunato Huallpa Sosa.
135. Manuel Huaman Infante.
136. Rosaura Huaman Jara.
137. Teofilo Huaman Samalloa.
138. Bailio Huaman Zamalloa.
139. Sergio Huamancusi Ramos.
140. Jorge Huamani.
141. Santos Huamani.
142. Agustin Huamani Curhuamachi.
143. Agustin Huamani Gonzales.
144. Grimaldo Huamani Gonzales.
145. Salvador Huamani Gonzales.
146. Pablo Huamani Gutierrez.
147. Timoteo Huamani Huillccaya.
148. Santos Huamani Martinez.
149. Paulino Huamani Mena.
150. Jacinto Huamani Rimachi.
151. Silvano Huamani Tineo.
152. Jesus Huamani Villavicencio.
153. Candelario Huamani Yaurica.
154. Juan Huaraca Carbajal.
155. Manuel Huaraca Carbajal.
156. Leonidas Huarancca Huaman.
157. Agustin Huillca Jaquima.
158. Demetrio Infante Cuadros.
159. Emilio Infante Romani.
160. Wilfredo Janampa Janampa.
161. Indalecio Jancce Huamani.
162. Manuel Jaquima Quispe.
163. Santiago Jaquima Quispe.
164. Alejandro Jehua Martinez.
165. Linda Giovana Juan de Dios Gargate.
166. Abilio Lagos Ore.
167. Eugenio Laime Sanchez.
168. Faustino Lapa Navarro.
169. Reynaldo Laura Huarcaya.
170. Gil Ronald Leandro Paucar.
171. Cornelio Leon Solorzano.
172. Mauro Leon Villar.
173. Alberto Ligas Bellido.
174. Asunta Lima Benito.
175. Nemisio Limasca Huarca.
176. Juan Limasca Jarhuas.
177. Leonardo Limasca Layme.
178. Agapito Limasca Sintaya.
179. Santiago Loayza.
180. Segundo Abrahan Lozano Pandur.
181. Arturo Llacsa.
182. Arcialde Llacta.
183. Epifanio Llanos Quispe.
184. Saturnino Llicahua Velasquez.
185. Luciano Mamani Condori.
186. Victor Mamani Zevallos.
187. Lucho Manrique Escobar.
188. Alexander Mansilla Morales.
189. Jose Carlos Mansilla Morales.
190. Edgar Martinez Gomes.
191. Julian Martinez Gozme.
192. Mauro Lucas Martinez Leon Solorzano.
193. Eustaquio Matos.
194. Abel Melendez Cabello.
195. Samuel Mendoza Cardenas.
196. Teodoro Meneses Gomez.
197. Ruben Merino Lagos.
198. Celso Merino Capcha.
199. Benjamin Misahuaman Huaman.
200. Federico Monzon Chacon.
201. Avelina Monzon Ortiz.
202. Emiliano Munoz Cunto.
203. Faustino Alfredo Navarro Bues.
204. Avelino Naupa Araujo.
205. Amadeo Naupa Cruz.
206. Pablo Naupa Cruz.
207. Antonio Naupa Naupari.
208. Julian Naupari Chavez.
209. Leandro Olivera.
210. Juan de Dios Onofre Rico.
211. Maximo Ceberiano Ore Ancco.
212. Augusto Ortiz Fanola.
213. Matilde Pacheco Ruiz.
214. Caledonio Palomino Auqui.
215. Victoria Palomino Garcia.
216. Santos Palomino Infante.
217. Gregorio Palomino Riveros.
218. Emilio Pampanaupa Enciso.
219. Mario Pancorvo Cuellar.
220. Juan Pablo Pancorvo Jara.
221. Diogenes Pariona Quispes.
222. Jorge Parraga Catillo.
223. Hugo Urbano Pillaca Lujan.
224. Hilario Pinares.
225. Juan Carlos Pocco Contreras.
226. Cirilo Pena Ovalle.
227. Paulino Pena Ovalle.
228. Favio Perales Martines.
229. Hilarion Perales Melandez.
230. Wilber Perez Quispes.
231. Santiago Perez Salon.
232. Maximo Pezua Coritoma.
233. Epifanio Pinto Saavedra.
234. Hector Orlando Puga Cull.
235. Bernabe Quicana Runto.
236. Julio Gregorio Quintana Monzon.
237. Roberto Quispe Achata.
238. Alejandro Quispe Atao.
239. Andres Quispe Guillen.
240. Marcelino Quispe Gutierrez.
241. Juan Quispe Huaman.
242. Lino Andres Quispe Huaman.
243. Olga Ramirez Galvan.
244. Medardo Remon Tenorio.
245. Rene Augusto Reynoso Quispe.
246. Victoria Rios.
247. Ciprian Rios Espinoza.
248. Santos Rivas Altamirano.
249. Bernave Roca Cuba.
250. Juan Andres Rojas Cruz.
251. Santos Rojas Quispe.
252. Mauro Rojas Sanchez.
253. Carlos Rojas Soto.
254. Oscar Rojas Valverde.
255. Elisa Rosales Soto.
256. Martha Sahuina.
257. Seferino Salazar Machaja.
258. Nelson Salgado Evangeslista.
259. Raul Alberto.
260. Francisco Rafael Santiago Quispe.
261. Herberth Santos.
262. Segunda Sarmiento Achaica.
263. Luis Sarmiento Pinares.
264. Pedro Sayas Ayala.
265. Adrian Serrano Gonzales.
266. Francisco Serrano Quispe.
267. Victor Sierra.
268. Luis Sierra Aedo.
269. Cirilo Soccaytaype Acuna.
270. Edwin Soccaytaype Oscco.
271. Genoveva Solano Ancco.
272. Gabino Solis Portillo.
273. Julio Solis Portillo.
274. Eusebio Sosa Quispe.
275. Luis Soto Ayala.
276. Eulogio Soto Pacheco.
277. Simeon Soto Joledo.
278. Antonio Suarez Hinostroza.
279. Jesus Taipe Curihuamani.
280. Luis Taipe Oscco.
281. Leoncio Tinco Rondinell.
282. Alinio Torrealba.
283. Vicenta Torres Fernandez.
284. Samuel Torres Ore.
285. Geodelia Torres Pizarro.
286. Segundo Tomas Torres Suarez.
287. Edgar Tucner Perez.
288. Fredy Tucner Perez.
289. Gregorio Utani Damian.
290. Raul Valdeiglesias Cocco.
291. Isaac Valdivia.
292. Vicente Valencia Mallqui.
293. Onorato Valenzuela.
294. Marlene Rita Valer Munaylla.
295. Cecilio Valladolid Salvatierr.
296. Victor Vargas Cotasi.
297. Enrique Vargas Espinoza.
298. Hilda Vega Huillca.
299. Bernabe Velasquez Mendoza.
300. Francisco Velasquez Rios.
301. Teodoro Vilca Casafranca.
302. Gregorio Vilchez Huaman.
303. Estalin Villacorta.
304. Lucio Yaca Aguirre.
305. Jose Carlos Yaranga Palomino.

306. Guzman Zamalloa Mina.

IN RECOGNITION OF 100 YEARS OF SUCCESSFUL BUSINESS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. GEKAS. Mr. Speaker, I ask my colleagues to join me in congratulating a local business in my congressional district upon its 100th anniversary.

Millers Mutual Insurance Co. was founded in Harrisburg on March 26, 1890, by a locally-organized group of flour and grain millers. As a "mutual plan" insurer, the company was owned by its policyholders. That tradition continues to this day. Also continuing to this day is Millers' reliance on the basic principles on which it was founded.

Millers employs 88 people, has 350 independent agents in the middle Atlantic region and provides special agri-business risk management services in 36 States.

Mr. Speaker, our country was founded on farming and agriculture. The values of this industry—hard work, quality production, and love of the land—are fortunately still with us as we enter the 21st century. By insuring agricultural properties, Millers provides Pennsylvanians with a vital service—it allows our farmers to go about their important work without fear of a disaster wiping out their savings. Thus, Millers helps preserve those values so dear to Pennsylvanians and all Americans.

I congratulate Millers Mutual Insurance Co. on work well done.

A TRIBUTE TO FATHER EDWARD GLYNN, PRESIDENT OF ST. PETER'S COLLEGE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. GUARINI. Mr. Speaker, an outstanding educator and an outstanding member of the religious order of the Society of Jesus, has recently been assigned as provincial of the Maryland province of the order. As a point of reference, the Society of Jesus directs in excess of 4,000 educational institutions worldwide.

For the last 12 years, Father Edward Glynn S.J. has served as the president of St. Peter's College in Jersey City, NJ located in the heart of the district I represent. Alas, while we are saddened by his departure on June 30, 1990, we take great pride in his assumption of this new leadership role.

On Wednesday, April 4, 1990, colleagues, associates and friends of Father Glynn will gather at the Loew's Glenpointe Hotel in Teaneck, for a farewell dinner and tribute to his many years of service in the community.

Father Glynn has served as the 19th president of St. Peter's College. This institution was founded in 1978 by the Order of Jesuits with the express purpose of providing a value-oriented liberal arts education to the members of the local community. Father Glynn succeeded my friend Father Victor Yanitelli in this position.

Father Glynn's dynamic personality and leadership as a servant of God has touched the lives of thousands of individuals not only in New Jersey, but worldwide. Sons and daughters of St. Peter's College have entered into, and indeed, excelled, in numerous professions including: medicine, law, accounting, and business. Some of America's largest corporations leaders hail from St. Peter's College.

I believe that the feeling of the members of St. Peter's faculty and student body, as well as those of the Jersey City community, were best expressed by the chairman of St. Peter's College Board of Trustees, Thomas M. Timlen, when he said:

Father Glynn's resignation was accepted by the trustees with a sense of true loss, coupled with deep appreciation for his extraordinary contributions to all facets of life at St. Peter's—academic, administrative, and athletic. His leadership will be missed not only on the campus of St. Peter's, but in many academic, professional, and governmental groups with which he has served.

The provincial of the New York province of the Jesuits, Rev. Joseph A. Novak, S.J. stated:

St. Peter's College has been singularly blessed to have Father Edward Glynn as its president during these past twelve years of growth and development. Not only has he guided the college in continuing to emphasize its strong liberal arts tradition, but he has creatively shaped its educational mission to respond to the particular needs of the urban community which the college is privileged to serve. As Provincial of the Jesuits of the New York Province, I realize that Father Glynn's, accomplishments during his years in office are many. I am especially proud, however, of his commitment to the Jesuit mission of serving the faith and promoting justice. On behalf of the Province, as well as on my own behalf, I want to express our deepest gratitude for his outstanding leadership and contribution to the excellence that is St. Peter's. He will be missed.

It has been my honor and pleasure to serve as a member on the board of regents for St. Peter's College—a champion of the rightful role that private higher education has played, and must continue playing, in the State of New Jersey and throughout our Nation.

A number of community leaders have expressed their sentiments regarding Father Glynn's departure.

Bernard M. Hartnett, Jr., former chairman of the St. Peter's College Board of Trustees, now a member of the board of regents remarked:

Father Glynn's leaving will be a great loss to the college, to Hudson County and to New Jersey higher education.

Jersey City Mayor Gerald McCann, an alumnus of St. Peter's, stated:

Not many people have given as much to Jersey City as Ed Glynn. He has provided students from all economic and social backgrounds with the opportunity to pursue higher education. We will miss his dedication to local youth.

Dr. William Maxwell, president of Jersey City College, said:

This is a great loss to higher education in New Jersey, and especially to our community. I have valued Ed's good counsel and advice on many matters for the last dozen years, and will miss that.

Father Glynn was installed as president of St. Peter's College on July 1, 1978. His tenure is one which has been marked with distinction and achievement. Under his guidance, the college successfully attained its goal of raising $14.375 million in the school's campaign for the second century. Further through Father Glynn's initiative, the New Jersey Legislature passed a bill establishing and funding the "Will and Ariel Durant Chair for the Humanities." The bill was later signed into law by former Gov. Thomas H. Kean.

In 1984, Father Glynn established the school's first residence facilities. Prior to this event, St. Peter's College had been solely utilized by commuters since the school's founding in 1872. Recently, the college purchased a building on Glenwood Avenue for the express purpose of expanding the current residence facilities. Presently, 185 of the school's 3,164 full- and part-time students take advantage of St. Peter's oncampus housing in Jersey City.

In 1989, St. Peter's received the $2 million challenge grant. This grant was crucial in establishing the Institute for the Advancement of Urban Education. Upon receipt of this grant, Glynn declared this event marked an affirmation of the school's successful efforts to improve the quality of urban life and education.

In addition to his successful fundraising programs, Father Glynn successfully expanded the breadth of St. Peter's educational spectrum. With the reintroduction of graduate programs, after an absence of almost 50 years, the school now offers masters degrees in business, management information systems, and a joint program of the two fields. In addition, the school also boasts a bachelors program in nursing and health care management.

A final tribute to Father Glynn's determination to improve student facilities was officially opened this spring: The Joseph J. Jaroschak Field. This athletic facility, dedicated to the school's outdoor athletic teams, covers 14 acres of land. It is used by the school's football, baseball, soccer, and softball teams.

A worldly man, Father Glynn is a native of Clarks Summit, PA. Educated in that community's public schools and later in the Scranton Preparatory School, Edward Glynn attended the University of Scranton before entering the Jesuit Novitiate and Juniorate at Wernersville, PA; Fordham University's College of Arts and Sciences, Shrub Oak, NY; and Woodstock College, Woodstock, MD—where he was ordained a Roman Catholic priest in June 1967. He also holds advanced degrees from the Yale Divinity School, New Haven, CT, and the Graduate Theological Union, Berkeley, CA.

Prior to assuming the presidency of St. Peter's College in Jersey City, Father Glynn's responsibilities as an educator have taken him all over the United States. He taught Greek, Latin, and religion at Gonzaga High School in Washington, DC before moving on to Misercordia College, Dallas, PA. He has also served as an assistant professor at Georgetown University, Washington, DC; director of the Woodstock Theological Center, Washington, DC; acting director, of the Churches'

Center for Theology and Public Policy, Washington, DC; and the academic vice president, Gonzaga University, Spokane, WA.

In addition to these academic positions, Father Glynn has also served as a trustee for a number of institutions of higher learning. Listed among these distinguished institutions are: The University of Scranton; Fordham University; Canisius University, Buffalo, NY; LeMoyne College, Syracuse, NY; John Carroll University, University Heights, OH; and St. Louis University, St. Louis, MO. He has also served as a trustee for the St. Joseph's Preparatory School, Philadelphia, PA and the St. Peter's Preparatory School, Jersey City, NJ.

However, it is another side of Father Edward Glynn which, in my estimation, shows greatness: his service on a number of public commissions and committees. He was a two-time appointee to the Hudson County Waterfront Commission by Gov. Brendan Byrne and Thomas Kean. He was also a member of the Commission for Higher Education of Middle States Association of Colleges and Schools, as well as a member of the National Collegiate Athletic Association's President's Commission and the Advisory Committee on Professional Ethics of the Supreme Court.

Further, Father Glynn has worked on the search committees of Georgetown University and a host of the previously mentioned institutions. While at Georgetown, he served on the Faculty Senate Steering Committee, the Academic Appeals Hearing Board, the Medical School Recommendations Committee of the College of Arts and Sciences, and he was a faculty representative to the NCAA from 1973–77. The generosity of these activities were augmented by his commitments to numerous other commissions and committees.

True to the Jesuit tradition of serving the local community, Father Glynn's dedication to his community is unequalled and has touched the lives of a cross-section Hudson County's diverse economic picture. He has done yeoman work with Christ Hospital, the United Way of Hudson, served as chairman of the Urban League of Hudson County, as well as a member of the chamber of commerce and industry. He has chaired the Jersey City Development Corp. worked with the Action for Sickle Cell Anemia Committee, and with the Liberty State Park Development Corp. All of these activities were pursued while Father Glenn was also a participant on an active committee seeking to develop and provide low-cost affordable housing for the residents of Hudson County.

Truly, Father Glenn has been a man of all people, for all people. Indeed, a man for all seasons. Above all else, he will be renowned for his ability to make friends and to help all who are in need.

On a personal note, I want to take this opportunity to publicly thank Father Edward Glenn for his cooperation and vision in helping to establish a scholarship providing a student from Poland attendance at St. Peter's College. With the fast-paced changes occurring, as we speak, in Eastern Europe, Father Glynn's scholarship offer is a noteworthy one—one we hope will be replicated throughout the educational world for Poland, and other countries entering a new and crucial period in their histories. We all recognize how difficult it is to maintain a free society under the best of conditions, but we must also take the time to appreciate the many complications involved for countries moving from repression toward freedom, and the difficulties they will endure. We hope and pray that this gesture will mark the beginning of a program that is a means to a fulfilling way of life, one which is rife with security and dignity, for all individuals involved.

I am sure my colleagues, here in the House of Representatives, will join me in an expression of gratitude, and salute Father Edward Glynn, S.J. a true servant of God and his fellow man, in a job well done.

A TRIBUTE TO TWO ORDINARY WOMEN WHO HAVE DONE EXTRAORDINARY THINGS

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. FAUNTROY. Mr. Speaker, I rise to pay tribute to two ordinary women who have done extraordinary things.

E. Lavonia Ingram Allison and Claronell Keturah Trapp Brown have devoted themselves to improving the quality of life in the community of Durham, NC. On Saturday, March 31, 1990, the Durham Committee on the Affairs of Black People will pay special tribute to these women for their "wisdom, commitment, caring and sharing" demonstrated over the years.

From 1974 until June 1989, Mrs. Allison served as the director of the North Carolina Health Manpower Development Program, an interinstitutional program based in the division of health affairs of the University of North Carolina at Chapel Hill. The major goals of the program are to increase the number of underrepresented minorities in the health profession to improve the availability and accessibility of health care services to the poor, and to improve the quality of health care services to minority persons.

For a 16-year period, from 1960 to 1976, Mrs. Brown served as a teacher of science and mathematics. She headed the mathematics department at Whitted Junior High School and taught that subject at Durham High and Hillside High School in Durham, NC. At Whitted Junior High School, she helped set up the Junior Education Work Training Program [JEWT].

Both these women have a long and rich background of volunteer community service, undertaken once each had been prudently prepared professionally. Mrs. Allison after completing high school as salutatorian, graduated cum laude with a bachelor of science degree from Hampton Institute; Magna cum laude with a master of arts from New York University; and summa cum laude with a doctor of education from New York University. Mrs. Brown received a bachelor of science degree in home economics and mathematics, followed by a master of arts degree in education. She subsequently continued to broaden her education, receiving a range of certificates in diverse areas from a variety of universities.

The awards and recognition these two women have received, over a period which spans nearly five decades have been many. Their accomplishments however have been more. It is for that reason, Mr. Speaker, that I believe that Mrs. Allison and Mrs. Brown are deserving of our recognition. They serve as an instructive example for America of the kind of dedication to civic duty, commitment to the common cause, and determination to make a difference that is too rarely found these days.

A writer once observed that, "each must make ere' life is flown, a stumbling block or a stepping stone." The lives and work of E. Lavonia Ingram Allison and Claronell Keturah Trapp Brown have caused stepping stones to be laid, making smooth the path of many of their fellow citizens who, without their patient presence, would possibly have faced insurmountable difficulties. It is that kind of "wisdom, commitment, caring and sharing" that is truly the measure of a man or woman.

THE HUNGER PREVENTION AND NUTRITION EXPANSION ACT OF 1990

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. MOODY. Mr. Speaker, I am today introducing legislation that takes an important and necessary step toward providing the homeless and needy with an essential nutritional dietary component: milk. The Hunger Prevention and Nutrition Expansion Act of 1990 amends the Hunger Prevention Act of 1988 to direct the Secretary of Agriculture to purchase and distribute $10 million worth of milk to soup kitchens for each of the years 1991 through 1995. This money would be in addition to the current $32 million annual authorization for the soup kitchen commodities program. My bill is designed to serve as a bridge to the already existing Federal School Lunch Program and Special Milk Program by providing milk to needy families and individuals at meal sites throughout the country. I am honored to be joined in introducing this needed legislation by the distinguished chairman of the Select Committee on Hunger, TONY HALL of Ohio.

Homelessness is on the rise, and the ranks of people living below the poverty line have swelled over the last decade. Soup kitchens have played an increasingly important role as one of the few sources of support left for needy people. According to the U.S. Conference of Mayors, requests for emergency food assistance have increased 19 percent in each of the last 2 years. Sixty-one percent of those seeking assistance are families with children. The old stereotypes about the homeless no longer accurately reflect the demographics of those seeking assistance these days. The poor now include many working families who struggle month-to-month to make ends meet on minimum-wage paychecks.

Most soup kitchens are run by community and church groups and rely upon donations of time, food and money. Federal commodity programs administered under the soup kitchen and TEFAP titles of the Hunger Prevention Act have helped meet some needs by channeling food to soup kitchens and food pan-

tries. However, beginning in 1982 with the curtailment of the Special Milk Program, dairy products have played a smaller role in commodity distribution programs. This has been especially true in the last year and a half because Government CCC surpluses of cheese and nonfat dry milk have disappeared, effectively eliminating that flow of dairy products to the needy.

The Milwaukee meal coalition in my district, representing over 22 meal programs across the metro area and serving around 696,000 meals annually, has had difficulty providing milk. In some cases water has been served when a soup kitchen was unable to afford milk. The problems experienced in Milwaukee are repeated throughout the country where the number of homeless and needy persons outweigh the combined Government and private resources to alleviate hunger.

Nutritional needs do not stop at the end of a school day, nor do they end when a person turns 18. Many young children, needy adults and elderly citizens rely on soup kitchens to provide them with a nutritional dinner. For some, that evening meal at a soup kitchen may be the only full hot meal of the day. It is important that the nutritional needs of the homeless and the needy are being met and milk is a vital component to any healthy balanced diet. In my district of Milwaukee some soup kitchens have had to serve water with their meals because money is tight and the meal sites have not been receiving Government or private donations of dairy products. My bill would make it easier for soup kitchens to serve milk on a regular basis.

Mr. Speaker, I hope my colleagues will join me and TONY HALL in expanding the current soup kitchen commodities list to include $10 million of milk. This is good for the dairy industry which has seen its role in providing milk and other dairy products to the needy through Government programs diminished in recent years—just the opposite of what should be happening. My legislation will guarantee a stable supply of milk so that soup kitchens would not have to ride along with the dairy industry on the roller coaster ride of market supply and demand, surplus and shortage. Both the dairy industry and the soup kitchens could be assured of a constant, consistent channel of milk. Most of all, expansion of the Soup Kitchen Commodities Program is of great benefit to the millions of needy Americans—young and old, urban and rural—who rely on soup kitchens for a hot meal each day and to those dedicated people who run the meal sites around the country.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hunger Prevention and Nutrition Expansion Act of 1990".

SEC. 2. DISTRIBUTION OF MILK TO SOUP KITCHENS.

Section 110(c) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c(C)) is amended—

(1) by inserting "(1)" after "AMOUNTS.—", and

(2) by adding at the end the following:

"(2) In addition to the amounts required by paragraph (1) or any other provision of law to be spent to provide food assistance, in each of the fiscal years 1991, 1992, 1993, 1994, and 1995, the Secretary shall spend $10,000,000 to purchase, process, and distribute under this section milk to soup kitchens that provide nutrition to relieve situations of emergency and distress through the provision of food and meals to needy persons.".

LEGISLATION TO PROMOTE THE COMPETITIVENESS OF THE U.S. COMPUTER INDUSTRY

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. FEIGHAN. Mr. Speaker, today I am introducing legislation to promote the competitiveness of the U.S. computer industry. The legislation calls upon the Secretary of Commerce to establish a performance-based indexing system for the definition and control of supercomputer exports.

When a machine is classified as a supercomputer, security safeguard procedures [SSP's] are required. These plans were developed at the time of the first supercomputer, almost 15 years ago, and are appropriate to guard against the misuse of machines with extraordinary computing power. SSP's may include 24-hour security, detailed machine use logs and end-user certifications. The competitiveness of the U.S. computer industry is at issue, however, because such procedures are required for normal commercial transactions. Meanwhile, Japanese and western European competitors have moved aggressively into a market where the United States has always held a dominant position.

The 1988 Omnibus Trade and Competitive Act mandated that the administration define a supercomputer to determine which machines should be exported pursuant to security safeguard plans. Today, almost 2 years later, the administration has been unable to do so. As a result, it has continued to use the rule of thumb, developed 15 years ago, to define a supercomputer as a machine whose performance equals or exceeds 100 MFLOP's—million floating point operations per second. While 15 years ago, such a machine filled an entire room, today it sits atop a desk.

Regulatory requirements must have some relationship to the technology that they are designed to control. My legislation would respond to this problem by developing an index based on the average performance of the two most powerful commercially available supercomputers. For machines shipped to Cocom countries, no SSP's would be required for machines that perform at 25 percent or less of the top performing machines. For machines shipped to non-Cocom, free world destinations, no SSP's would be required at a level of 10 percent or less.

This performance-based indexing system restores regulatory balance. While an export license will still be required, extraordinary controls will only be placed on our highest performance machines. The indexing system allows our export control regime to move in tandem with the advance of technology. And most important, it does so in a way that does not impinge on the competitiveness of the U.S. computer industry in seeking normal commercial business.

A copy of the text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the export Administration Act of 1979 (50 U.S.C. 2404(a)) is amended by adding at the end thereof the following:

"(7)(A) With respect to the definition of 'supercomputer' under paragraph (6), the Secretary shall, not later than 6 months after the date of the enactment of this paragraph, establish and publish in the Federal Register a performance-based indexing system in order to ensure that such definition and all controls and security safeguard procedures on supercomputer exports and reexports are commensurate with technological advances in the supercomputer industry. Such indexing system shall include the following:

"(i) For destinations in countries which maintain export controls cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k) of this section, no security safeguard procedures may be required in connection with any export or reexport of a supercomputer with a peak performance at or below 25 percent of the peak performance of the average of the two most powerful supercomputers currently available commercially in the United States or elsewhere.

"(ii) For destinations in any other country other than a controlled country, no security safeguard procedures may be required in connection with any export or reexport of a supercomputer with a peak performance at or below 10 percent of the peak performance of the average of the two most powerful supercomputers currently available commercially in the United States or elsewhere.

"(B) In developing the performance-based indexing system under subparagraph (A), the Secretary shall seek the views of the appropriate technical advisory committees and other interested parties. Not later than 2 weeks after publication of such system in the Federal Register, the Secretary shall submit a written report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate, that includes—

"(i) the text of the Federal Register notice,

"(ii) a summary of the views expressed by the technical advisory committees and other interested parties with respect to the performance-based indexing system, and

"(iii) a description of how the performance-based indexing system addresses the views of the technical advisory committees and other interested parties.

"(C) For purposes of this paragraph, the term 'security safeguard procedures' means procedures that are required by the Department of Commerce, as a condition to an authorization to export or reexport a supercomputer, primarily to restrict access to and resale of such supercomputer.".

THE PUBLIC TELEVISION CABLE CARRIAGE ACT OF 1990

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. MARKEY. Mr. Speaker, today I am pleased to join with my colleagues Mr. DINGELL, Mr. LENT, and Mr. RINALDO in introducing the Public Television Cable Carriage Act of 1990. Many of the proudest moments in American broadcasting history have been produced by public broadcasters and presented on public radio and television stations. Historically, public television has provided and currently provides the American people excellent public service, educational, and cultural programming free of charge.

Taxpayer support for public television makes it unique in our video marketplace. For that reason, it is essential that Americans have unimpeded access to that programming—regardless of the medium by which the programming is distributed. The legislation we are introducing today would ensure such access. In short, this must-carry proposal would guarantee continued carriage of local public television stations on local cable systems. In addition, it would help to ensure full and equal access to television for all Americans by requiring program-related information, such as descriptive video services for blind and visually impaired viewers and closed captioning for deaf and hearing-impaired viewers, also to be transmitted by cable operators.

I commend the National Association of Public Television Stations and the National Cable Television Association for their hard work in producing the agreement that forms the basis of this legislation. I am hopeful that further inter- and intra-industry compromises can be negotiated as the Congress progresses toward a legislative response to cable-related issues.

Our system of public broadcasting was created in an effort to endow the American audience with greater choice in programming. I am proud to support this legislation today, to ensure that public broadcasters can fulfill the mission articulated by the architects of the public broadcasting system more than 20 years ago. I urge my colleagues to join me in promoting diversity and quality programming for the American viewer.

TRIBUTE TO MAURICE AND BERNICE LYONS ON THE OCCASION OF THEIR 50TH WEDDING ANNIVERSARY

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. BUECHNER. Mr. Speaker, I rise today in tribute to Maurice and Bernice Lyons, two people who recently celebrated one of the most noteworthy milestones of married life: their golden wedding anniversary.

The rabbinical scholar Zohar once said "God creates new worlds constantly be causing marriages to take place." Such a new world began on February 18, 1940, when the young couple wed. In the 50 years that followed, God bestowed upon them many blessings, the best of which was their son, Smicha Lyons, who, along with his wife, Tiki, has given them still more blessings in their grandchildren, Yakov, David, Avi, Jenny, and Benjamin. During this marriage a family business, Raskas Foods, thrived and became famous throughout the world for its quality kosher products.

The Lyons have also been pillars of the St. Louis community, with Mrs. Lyons serving as a dedicated member of the Jewish Council for the Aged, the St. Louis Jewish Federation, and working with Jewish family and children's services organizations. Aside from his community service, Rabbi Lyons is a noted rabbinical lecturer and an oustanding biblical scholar in the St. Louis area. Rabbi Lyons' wisdom and spiritual guidance served as an inspiration for his son, Simcha, who also has become a rabbi. Both father and son are among the leading spokesmen for the Jewish community in St. Louis.

The Lyons family has also been active in St. Louis politics. Their smiling faces are evident at most major Republican events, while father and son are in constant demand to give the invocation. Both have a unique way reminding the audience that God helps those who have the ability to work and who do so. With a wink they may even ask for good weather on election day.

All of the Lyons' are constant advocates of traditional family values and the welfare of the community. In fact, Maurice and Bernice eptitomize the substance of America as it should be: religion, the family, the small business, and the community.

Mr. Speaker, I believe we all have something to learn from the Lyons family and the values that have brought them through 50 years together. I wish them all the best for the future, and I know they will continue to be valuable assets to the St. Louis community. If, as the proverb says, "The heart sees better than the eye," this couple has a vision so strong it cannot be measured. In honor of their 50th wedding anniversay, I ask the assembly to join me in wishing "Mazel Tov" to Maurice and Bernice Lyons.

WHY DOES JAPAN REJECT UNITED STATES INVESTORS?

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. SUNDQUIST. Mr. Speaker, last fall I introduced House Concurrent Resolution 216 to express the Congress' concern that, despite full and free access to America's market, Japan continues to erect barriers to full, free participation by American firms in its own market.

There is no better example of Japan's policy of exclusion than the difficulty Boone Co. has had winning shareholder rights in Japan despite its very substantial interest in a leading Japanese manufacturer.

T. Boone Pickens, president of Boone Co., has written about his difficulties in a recent edition of the Wall Street Journal. I insert his entire account in the CONGRESSIONAL RECORD as an example of just why Congress needs to act soon to pass House Concurrent Resolution 216.

[From the Wall Street Journal, Mar. 28, 1990]

SECRETS KOITO HOPED TO HIDE BY KEEPING ME OFF ITS BOARD

(By T. Boone Pickens)

As the largest shareholder of one of the major suppliers of Toyota, I have been learning first hand just how Japan's *keiretsu* (kay-ret-su) system operates, and the threat these interlocking relationships among corporations and their suppliers, distributors, bankers and insurers poses to America's free market.

A year ago, my investment company, Boone Co., bought a 20% interest in Koito Manufacturing Co., which makes auto lighting systems primarily for Toyota. We have since increased our stake to 26%.

We purchased the Koito stock to share in the long-term growth and management of a Japanese company. We had no intention of taking over Koito, which is virtually impossible anyway, because between 60% and 65% of Koito's stock is locked up by Toyota's keiretsu. (Toyota itself owns 19% of Koito; Nissan Motor, 5.9%; Matsushita Electric, 5.3%; Nippon Mutual Life, 4.1%; Dai-Ichi Mutual Life, 3.3%; Matsushita Real Estate, 2.5%; Japan Securities Finance, 2.3%; and Mitsubishi Bank, Sumitomo Bank and Dai-Ichi Kangyo Bank each own 1.5%.)

All we asked for as Koito's major shareholder was four seats on the 20-member Koito board of directors. We also asked for detailed financial records of the company, a right afforded by Japanese law to any shareholders who own 10%. Both requests have been repeatedly refused. Boone Co. has now filed suit in Tokyo District Court for the financial information.

Koito's management could always outvote us on the board. So, why don't they want me? The only answer I can figure is that they have something to hide. They don't want me or any outsider to see the inner workings of their cartel.

For example, we have reason to believe that Toyota forces Koito to restrict its profit margin when Toyota wants to increase its profits. (This may reveal a great deal about how Toyota has built up its incredible cash position: Toyota reportedly has reserves of $25 billion in liquid assets, which puts the company at a decided advantage in world-wide auto manufacturing competition.) We also believe that some of Koito's top managers, most of whom are former Toyota employees, enjoy certain benefits that they would find quite embarrassing if revealed to their workers. For example, Koito's president—a 31-year Toyota veteran—enjoys a $1 million country club membership purchased by the company and lives in a beautiful house on the club grounds.

In the Japanese press, there have been reports that if we do succeed in getting on Koito's board, Toyota will cut off purchases from the company. Managers of other auto parts suppliers have complained anonymously in the Japanese press about their keiretsu's dictatorial ways.

The Japanese claim their keiretsu system is deeply embedded in their culture and history. To me and a lot of other businessmen

around the world who have come up against the keiretsu system, they look and act just like old-fashioned cartels. These cartels permit Japanese corporate managers to develop their famous "long-term" growth and market domination strategies. With approximately 65% to 75% of a company's stock secured by fellow members of a keiretsu, corporate managers don't have to worry about responding to the wishes of shareholders.

When I criticized the keiretsu system in a recent speech to the Japan Society in New York, someone asked how I could disagree with an economic system that has been so efficient and successful. My response was that as an economic system, indentured servitude also was very efficient and successful. It was also wrong.

Their cartels force Japanese consumers to pay more for the goods they produce than foreigners do. A Toyota car costs $15,000 more in Japan than it does in the U.S. A Sony television costs two and one-half times as much in Japan as in the U.S.

Criticism of the keiretsu system cannot be dismissed as "Japan bashing." Several recent economic studies, by what cannot be considered anti-Japanese groups, have focused on these cartels as the root of the world's trade problems with Japan. Even the Japanese press and some government officials have started to criticize the cartel's domination of the Japanese economy.

An October 1989 study by the Organization for Economic Cooperation and Development called the keiretsu system a major impediment to world trade and economic competition. A similar study released at the same time by the Institute for International Economics in Washington points out that Japanese manufacturers in the U.S. tend to buy more from their traditional Japanese suppliers, while European manufacturers have an open competitive situation with their suppliers in the U.S.

But the keiretsu system's final victim may be Japan itself. The Japanese stock market is highly inflated. Since most of the corporate stock is locked up by the keiretsu, Japanese shares trade at price-to-earnings ratios 10 times higher than American corporate shares.. The Dow Jones industrial average would be 25,000 if American companies traded at the same multiples.

Meanwhile, the average dividend yield on Japanese stocks is less than one-half of 1%. To get to a 3% yield, the American average, Japanese stock prices would have to fall 84%. The spreading realization among international investors that the Japanese stock market is overvalued has a lot to do with its recent volatility.

I am not opposed to Japanese investment in the U.S. I am opposed to Japanese cartels in our markets. If the Japanese are to continue to invest in the U.S., the keiretsu system must be dismantled, just as American monopolies were. Until the Japanese lift their foreign investment restrictions, we should consider the reciprocity legislation now pending in Congress. The U.S. would then have the power to adopt restrictions similar to those Americans are facing in Japan.

TRIBUTE TO THE UNIVERSITY OF ROCHESTER YELLOWJACKETS NCAA DIVISION III BASKETBALL CHAMPIONS

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. HORTON. Mr. Speaker, during the past week, we have seen the gentleman from Georgia and the gentleman from Nevada stand in the well and make predictions about the NCAA Basketball Tournament. The gentleman from Las Vegas boasted of his "Running Rebels," while the gentleman from Atlanta boasted of his "Yellowjackets."

With all due respect to my colleague from Nevada, I stand here today to tell you that I am partial to the Yellowjackets. In fact, I would submit that the Yellowjackets have the NCAA title already sewn up.

I know some of my colleagues are scratching their heads and asking how I can make this statement. To those unbelievers, I am referring to the University of Rochester Yellowjackets who won the NCAA Division III Basketball Title last Saturday with a 43–42 victory over DePauw University.

Led by coach Mike Neer, this team of hard working student-athletes toiled in obscurity over the season while compiling a 27–5 record. While those other Yellowjackets may have "Lethal Weapon Three," the NCAA Champion University of Rochester Yellowjackets are a team which relies on each member to be successful. They are also a team which works hard in the classroom.

So today I tip my hat to the NCAA Champions from the University of Rochester. They are: Mark Foley, Lou Palkovics, Brian Janiak, Matt Parrinello, Chris Johnson, Rodney Morrison, Michael Coleman, Chris Fite, Erik Rausch, John Kelly, Adam Petrosky, Martin Ryan, David Beck, and Greg Krohner. Head Coach Mike Neer, his assistants Mike Blackwell and Ray Farrell, and team manager Vasiliki Mitakas also deserve congratulations. They have done an outstanding job this year. I join other fans from the city of Lilacs in anticipation of next season.

SUPPORT OF THE DOWNEY-HAWKINS BILL

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. SYNAR. Mr. Speaker, today I supported the compromise child-care bill offered by Congressman AUGUSTUS HAWKINS and Congressman TOM DOWNEY. I supported the Downey-Hawkins child-care bill for three reasons:

First, it provides families with more money to spend on child care than the Stenholm-Shaw substitute. Nationwide, Downey-Hawkins provides an additional $700 million. Oklahoma alone will receive an additional $8.4 million under the Downey-Hawkins compromise.

Second, it provides families with the maximum amount of choice in deciding what type of day care is best for their children. The bill expands the successful Head Start Program to an all-day, all-year program. It provides money to States, which can then issue vouchers to families who may then use them at the day-care center of their choice, including religious-based care. It also expands the earned income tax credit and makes it available to more families.

The Downey-Hawkins bill gives Oklahoma the option of providing two new, school-based child-care programs. The first would provide all-day care for 3- and 4-year-olds. The second program would provide before- and after-school care for latchkey children. These children are more at risk to become involved in drugs and crime than those whose parents are able available to supervise their actions. The Stenholm-Shaw version did not create these much-needed programs.

The third reason I supported the Downey-Hawkins bill has to do with standards. The greatest concern I have heard from parents about day care is the lack of quality assurances in programs throughout the Nation. Under the compromise, standards must be set up in areas such as health, nutrition and safety requirements. The bill requires that States such as Oklahoma decide for themselves what these standards should be; they are not mandated at the Federal level. The Stenholm-Shaw substitute did not have any such quality of care assurances.

I voted for the Price amendment because I believe that States should be able to decide for themselves whether or not to provide child-care vouchers. In Oklahoma, such vouchers would be made available. If other States chose not to use vouchers, they would not be forced to do so.

I voted for the Edwards amendment because I have serious concerns that provisions in the child-care bill which allow the use of Federal funds for sectarian child care are unconstitutional. This vote was consistent with the positions I have taken on similar issues throughout my career.

I have contacted a large number of religious-based child care providers in Oklahoma. The Edwards amendment would have allowed Federal moneys to go to the majority of these religious-based day-care programs. This is because most of these programs are run in a nonsectarian fashion. They do not discriminate in their admissions or hiring policies. These programs also do not instruct their children in a particular religion.

Those religious-based centers that choose to discriminate in their hiring and admissions policies could still do so even if the Edwards amendment had passed. They would simply not be allowed to receive Federal funds to do so.

BORDER CONTROL THROUGH PLACEMENT OF FORMER MILITARY PERSONNEL

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. GALLEGLY. Mr. Speaker, I am introducing today a bill that will strengthen protection of our borders while at the same time offering an opportunity to displaced members of our armed services to serve their country as border patrol agents. I urge immediate action on my bill by the committee with jurisdiction, and I invite my colleagues to join as cosponsors.

For over four decades, the military power of the United States has been substantially deployed overseas to protect our interests. This was appropriate because the front-line countries were considered to be in Europe and Asia. However, recent international developments have resulted in Department of Defense recommendations of personnel cutbacks and realignment. It is anticipated that active-duty troop reductions will exceed 37,000 in 1991.

We should now be coming to the realization that threats to our sovereignty are happening right here at home. I am speaking of unacceptable numbers of illegal immigrants defying U.S. law and crossing our borders, resulting in significant social and economic costs to the Nation. Worse, illegal immigration often coincides with other criminal behavior, including shipment of illegal drugs. This was recognized in the President's national drug control strategy, which highlighted drug smuggling and illegal crossings over the Southwest border as a major concern worthy of increased attention and commitment of resources.

Mr. Speaker, my legislation would take into account and address these trends. It would authorize an increase in the number of border patrol agents by 1,000, and it would require that the new positions be filled by former active-duty military personnel who were involuntarily discharged under honorable conditions. Of course, applicable skills and experience would also be necessary. The bill provides that the Attorney General, working with the Defense Secretary, would be responsible for actively recruiting such qualified individuals.

This approach is sensible because it seeks to utilize the skills of persons who have already received a high degree of training at significant expense to the taxpayer and who are likely to possess the skills, experience, and motivation to be effective agents. It is fiscally responsible because it is only authorizing the hiring of a small percentage of the total number of troops that will be displaced.

I cannot overemphasize the importance of addressing this problem. The manpower promised for border control efforts under the Immigration Reform and Control Act has simply not materialized. After talks with border patrol officials, and my own inspection tours of the border, there is absolutely no question in my mind that we need more agents.

In the San Diego sector of the border, which is historically where the largest number of illegal immigrants cross on their way to Metropolitan Los Angeles, smugglers run trucks through unfenced sections at high speed and aliens run across the border in numbers too large to catch in the early morning hours. Yet the number of border patrol agents there has hit a 4-year low. According to the most recent figures from the Immigration and Naturalization Service, apprehensions of illegal aliens along the Southwest border were up in each of the last 10 months, compared with the same months a year ago. This is one of the best indicators that overall illegal crossings are increasing at a steady rate, most of which are probably going undetected.

It is my hope that this bill can be enacted expeditiously to address and resolve this threat to our borders.

HOUSE FOREIGN AFFAIRS COMMITTEE CALLS FOR WITHDRAWAL OF TROOPS FROM CYPRUS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. BROOMFIELD. Mr. Speaker, yesterday, the House Foreign Affairs Committee voted overwhelmingly in support of an amendment to a 1991 foreign assistance authorization bill that called for the withdrawal of troops from Cyprus. Congressman YATRON and I crafted the amendment which also commended the Secretary General of the United Nations for his commitment to the Cyprus peace process, encouraged the President to continue to support a policy toward Cyprus that was consistent with United Nations' resolutions, and asked the Republics of Turkey and Greece and all other parties to the dispute to cooperate with the Secretary General and the United States in resolving the Cyprus problem. In reference to the sensitive question of troops, the amendment called upon the President to pursue a policy aimed at the withdrawal from Cyprus of all foreign troops, other than those permitted by international agreements, and settlers.

The key to peace on Cyprus is flexibility about the troop issue. Since 1974, over 30,000 Turkish troops have occupied the northern part of that island. There has, however, been no significant reduction in the Turkish troop levels on Cyprus. They are well armed with equipment supplied by the United States for NATO defensive purposes. The Turkish Government is funding the maintenance of those troops and is also supporting the so-called government of northern Cyprus at a great financial cost. U.S. dollars may be indirectly helping this effort. Our Government is proposing for fiscal year 1991 an assistance package for Turkey that totals about $598 million. About $545 million of that total is for foreign military financing assistance. To make matters worse, 60,000 Turkish settlers were sent to northern Cyprus. They were probably enticed to go to Cyprus with an attractive package that may have included financial assistance. Let us hope that no U.S. assistance was involved in that arrangement. Despite repeated calls for their return to Turkey, their levels remain constant.

In essence, the American taxpayers are helping to fund the Turkish occupation of the northern tier of that divided island. While we give these massive assistance programs to the Turks, the administration and the Congress are at the same time trying to convince Turkey, through diplomatic and legislative means, to take those troops off Cyprus. In a sense, we reward Turkey for its illegal occupation of a sovereign island. There has been no willingness to compromise on the troop level issue by Turkish authorities.

There has also been a lack of flexibility in the intercommunal talks. Last July, Mr. Denktash, the leader of the Turkish Cypriot community, rejected a draft outline concerning the Cyprus issue that had been prepared by Perez de Cuellar, the United Nations Secretary General. That rejection essentially halted the intercommunal talks. Last month at the United Nations, Mr. Denktash again scuttled the talks and attacked the Secretary General for his role in the discussions. There is a real need for him to show good faith in future negotiations and not merely go through the motions. Once again, little or no real commitment to the peace process was seen on the part of Denktash.

I have to draw one conclusion from these recent events. Neither Mr. Danktash nor his supporters in Ankara are really serious about reaching a settlement of the Cyprus conflict. They have been hardline and inflexible on these vital issues. Diplomatic approaches and congressional resolutions appear not to phase Mr. Denktash nor his Turkish backers. Entreaties from the United Nations and the European Community fall on deaf ears. Inflexibility appears to be the key to Turkish and Denktash negotiating strategy.

There is one approach that might work. I would like to propose significant cuts in Turkey's military assistance levels. If this does not get the attention of Ankara and Mr. Denktash, nothing will. Friends help friends. Turkey is surely not being helpful with this important United States foreign policy problem. It is time for movement on the Cyprus problem. I believe that Ankara and Denktash must get serious about this ongoing tragic division of a lovely island. The time for peace on Cyprus is now.

TRIBUTE TO GEBRAN S. ANTON

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a distinguished individual, Gebran S. Anton. Mr. Anton is being honored as "Business Citizen of the Year" by the Mount Clemens, MI, Business Association.

Mr. Anton, a lifelong resident of Mount Clemens, is credited with much of the new downtown development. He was founder of Anton's Gentlemen's Apparel, a company he sold in 1988 to New York clothiers Hart, Schaffner and Marx.

Mr. Anton now has two other business interests: Anton, Zorn and Associates, a real estate company, and Gebran S. Anton Development Co. Both are headquartered in Mount Clemens.

In addition to his professional contributions to the Mount Clemens community, Mr. Anton is an exceptional humanitarian. He serves as chairperson of the board for St. Joseph Hospital in Mount Clemens. He also earned honors from the Clinton Valley Council, Boy Scouts of America for his work on the executive board.

He has been a member of many civic and fraternal organizations, including the Mount Clemens Historical Society and the Art Association. He is also actively involved as a member of the Elks and Knights of Columbus.

I commend Mr. Anton on his exceptional community involvement. He will long be remembered as a true friend of Mount Clemens.

NATIONAL MEDICAL RESEARCH DAY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. WOLF. Mr. Speaker, I rise today to bring to my colleagues' attention the designation this week of "National Medical Research Day" on March 27 and to underscore the importance of our continued diligence in providing Federal funding for medical research.

Every scientific advancement brings us closer to finding treatments for serious illnesses. As our medical knowledge increases, so do our chances for curing such debilitating and life-threatening afflictions as cancer, Alzheimer's disease, Huntington's disease, juvenile diabetes, and countless others.

Nevertheless, such breakthroughs can be stifled by the lack of sufficient funds to continue the strides we have made in medical research. I support responsible Federal funding for medical research so that these ailments can be fully understood and treated. We are fortunate to have the best medical researchers at work at the National Institutes of Health, and their efforts must be recognized, supported, and encouraged if we are to progress in our struggle to find treatments and cures for disease.

Victims of incurable illnesses, as well as their families, can be devastated emotionally and financially. I believe it is vital to support medical research which today in so many fields of medicine is poised on the brink of discoveries that can help ease such suffering, save millions of lives, and restore countless people to productive careers.

MARY EWING OUTERBRIDGE: INTRODUCED TENNIS TO AMERICA

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. COUGHLIN. Mr. Speaker, as we celebrate National Women's History Month, I would like to take this opportunity to pay tribute to a woman who changed the face of sports in the United States and the world.

Mary Ewing Outerbridge, an American sportswoman, is given credit for introducing the game of tennis into the United States in 1874.

While on vacation in Bermuda, Mary Ewing Outerbridge noticed several British officers playing the game of tennis, which had recently been invented in Europe. Intrigued by the game, she purchased the necessary equipment from the British Army and returned to the United States.

She used the equipment to set up the first U.S. tennis court on the grounds of the Staten Island Cricket and Baseball Club in New York City. As tennis became more popular in the United States, the game soon disseminated to other parts of the United States, with prominent tennis clubs being built in Newport, RI, and Philadelphia.

Tennis continued its early success in the United States and the first U.S. Tennis Championship was held in Newport, RI, just 7 years after the game was introduced to Americans. The U.S. Championship, now part of the "Tennis Grand Slam," was played in various cities throughout the country—including in my district at the Germantown Cricket Club from 1921 to 1923—before finding a permanent home in New York City.

Today, tennis ranks as one of the world's most popular spectator sports, as well as a favorite participant sport for both amateurs and professionals. And the popularity of tennis is still growing.

Thanks to the enthusiasm and efforts of Mary Ewing Outerbridge, an estimated 20 million Americans now play tennis, either competitively or informally and millions more just enjoy watching the game.

THANKS TO BILL McGOVERN

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. ECKART. Mr. Speaker, I rise today to offer thanks to Mr. Bill McGovern. Bill has been a member of my staff since 1987 and is leaving next month to attend law school.

During his tenure in my office, Bill has performed a valuable service for the people of northeast Ohio. Bill came to my office as a college intern, but his quick grasp of the issues and the needs of Ohio quickly resulted in a full-time post. In addition, his enthusiasm for making government work for the people made him an extraordinary public servant. Bill's work ethic has always been stellar; often the first to arrive, Bill was always willing to do whatever was needed to get the job done.

Bill will long be remembered for several of the causes that he espoused such as wildlife protection and more educational opportunities for children. He also worked with environmental experts, water commissioners, and others to improve our water quality and to address pollution. Perhaps Bill's most significant accomplishment has been his work on behalf of schoolchildren throughout the Nation in trying to improve schoolbus safety.

With the many issues that confront us today, good staff members prove invaluable, and I wish to commend Bill for a job well done. Again, my thanks and good wishes in all of his future endeavors.

SALUTING JIM BROWN AND HIS EFFORTS TO BENEFIT THE SOUTHEAST YOUTH DEVELOPMENT PROGRAM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. STOKES. Mr. Speaker, Jim Brown is undoubtedly one of the greatest athletes of our time. During his professional football career, he set a single season yards gained record that stood for 10 years, and a career rushing record that stood for nearly 20 years.

Jim Brown is more than a great athlete, however. He is an individual who has been committed to the youth in our society, caring about their development, and providing a positive role model for them.

On Sunday, April 1, 1990, Jim Brown will visit Washington, DC, to help raise funds for the Southeast Youth Development Program. The program which was founded by Rev. William Roundtree, a former coach at Spingarn High School, has been in existence for approximately 10 years. The goal of the Youth Development Program is to help youth achieve their greatest potential by providing counseling services, day care, scholarships, camp experience, and other youth activities. The Southeast Youth Development Program has proven effective and successful as youth from the community benefit from opportunities to excel.

Mr. Speaker, I am pleased to note the National Football League legends Bobby Mitchell, Roy Jefferson, Lonnie Sanders, Calvin Hill, Johnny Sample, Lenny Moore, Art Shell, Brig Owens, Charlie Taylor, Ozzie Clay, as well as a host of leaders from the business and civic community will be present on April 1 to assist Jim in this fundraising effort.

I want to take this opportunity to salute my longtime friend, Jim Brown, and the many others who have been dedicated to this project and played such a pivotal role in its success. Because of their efforts, our youth are provided positive role models, they are given the necessary support for them to succeed, and most importantly, they are instilled with the desire to reach their highest potential.

JERRY CLARK—POLITICAL STRATEGIST

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to pay tribute to Jerry Clark, a great American who pioneered political strategies to give a voice to the working people of the United States. Jerry Clark, political director for

the American Federation of State, County and Municipal Employees, AFL-CIO [AFSCME], died this past Monday after a long illness. Jerry had a long and illustrious career in politics and will be missed by many of us in this Chamber today.

A native of Wisconsin, Jerry served in World War II and was decorated for his actions in the Battle of the Bulge. After the war, he was graduated from Marquette University with a degree in journalism. Soon after, he joined the Kenosha Evening News as a reporter, and in 1953 he organized the editorial department as a local of the American Newspaper Guild, AFL-CIO.

Jerry Clark entered national politics in 1957 as cochair of William Proxmire's Senate Campaign Committee. He then served as Senator Proxmire's chief of staff in Washington, DC until 1962, though he took some time off in 1960 to work for John F. Kennedy's Presidential candidacy in the Wisconsin primary. From 1963 to 1967, Jerry worked at the Department of Defense in the Equal Opportunity Office.

Jerry Clark joined AFSCME in 1967 and was made political director in 1971, a position he held until his death. Under Jerry, AFSCME became known for its sound political strategy and strong support for worker's issues. Jerry was a compassionate voice in the sharp world of politics and often gave support when few others had faith. Jerry was a good friend and true Democrat, and I will miss him.

TRIBUTE TO THE LATE GIRARD P. CLARK

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. DYSON. Mr. Speaker, I rise today to honor a man of high ideals and sterling accomplishments. Girard P. Clark was a respected leader of the labor movement and a veteran of compaign politics. He died on Monday, March 26, succumbing to a pulmonary disease with which he had battled for some months. Mr. Clark had insisted on working until only a few days before his death. His dedication should serve as an inspiration to us all.

I had the honor of meeting Mr. Clark and was impressed by his knowledge of politics, his sense of humor, but most of all, by the warmth and humanity with which he approached his work.

Girard Clark was born in Wisconsin and lived for many years in my own state of Maryland, where his children and grandchildren remain. Mr. Clark began his career as a journalist and worked for many years in and around Capitol Hill. In 1967 he joined the American Federation of State, County, and Municipal Employees, and for the last 20 years headed their political action wing.

Mr. Clark's dedication to the ideals of the American labor movement were an inspiration to those who worked with him. More importantly, by maintaining a commitment to fair play and decency amidst the jungle of electoral politics, Gerry Clark set an example for all of us. We will all be lessened by his departure.

SUPPORT UNEMPLOYMENT INSURANCE FUND APPROPRIATION

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1990

Mr. VISCLOSKY. Mr. Speaker, today, the House of Representatives is considering a supplemental appropriation measure to meet the needs of several important programs, both domestic and foreign. Included in the legislation is a provision that earmarks $96 million for State unemployment offices. This appropriation is necessary because of a shortfall in the fiscal year 1990 unemployment insurance fund.

Due to the shortfall, one unemployment insurance office has been closed and two others are now open only 1 day per week in the congressional district I represent. The State of Indiana has closed 17 of the 44 offices statewide and been forced to lay off over 100 trained staff people. Claimants sometimes have to wait in line at those offices that have not closed for an average of 1½ to 2 hours. Needless to say, I am greatly distressed about the hardships and inconvenience these actions have caused for my constituents and all Hoosiers. Indiana would receive $1.4 million to help offset the severity of the cutbacks and personnel caused by the shortfall.

On February 20, I drafted a letter, on behalf of the Indiana delegation, that was sent to the chairman of the Appropriations Committee, to inform the committee of the situation in Indiana and ask for their assistance in addressing this problem. I would like to commend the chairman and members of the Appropriations Subcommittee on Labor, Health and Human Services and Education as well as the chairman and members of the Appropriations Committee for their fine efforts.

I am aware that Secretary of Labor Dole has voiced her strong opposition to this particular provision and that the Bush administration does not consider the shortfall to be a dire emergency. In closing, I would ask that my colleagues join with me to ensure its approval in the Senate and enactment by the President. These funds are needed to maintain the integrity of every State's unemployment insurance programs.